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PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, SECOND SESSION

SENATE—*Monday, October 5, 1992*

(Legislative day of Wednesday, September 30, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Rev. Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Lord shall preserve thee from all evil; he shall preserve thy soul. The Lord shall preserve thy going out and thy coming in from this time forth, and for evermore.—Psalm 121:7-8.

Gracious God, our Father in heaven, this morning let this generous promise from the Psalms be real and relevant for every Member of the Senate, every staff person, and the families of all who work in the Senate. As they are scattered, involved in the election or related issues, let Thy special blessing rest upon each one. Grant that they may have the sense of divine guidance in all their involvements and activities.

Grant that all who are running for reelection, whether in the administration or Congress, enjoy the sense of God-direction each day as they pursue whatever responsibility is laid upon them. Grant them grace for each moment, each step of the way—an awareness of the presence of God with them at all times, protection as they travel, labor or play, and a safe return to the tasks which await them when the 103d Congress opens.

In His name who is the Lord of Life and History. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 5, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of the proceedings have been approved to date?

The ACTING PRESIDENT pro tempore. That is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, today the Senate will take up a number of measures in an effort to complete action prior to adjournment. Among those matters which we must resolve today are the remaining appropriations conference reports. Those include the legislative, Department of Defense, and foreign operations measures. In addition, the energy conference report is expected to be taken up and acted upon by the House this morning.

We have the tax bill-urban aid package that is expected to be completed shortly, action on that measure, as well as the pending measure when the Senate returns to legislative session, the National Institutes of Health authorization report, and what remains unresolved, also, on the so-called Brady bill. So Senators can expect a full schedule today, with the possibility of votes occurring at any time and a session extending late into the evening, if necessary.

I ask my colleagues for their patience and cooperation in this matter as we attempt to complete action on these important measures prior to adjournment.

Under the previous order, there will now be a period for morning business until the hour of 10 a.m., at which time, I inquire of the Chair whether or not the pending business would be the National Institutes of Health reauthorization bill.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. MITCHELL. I thank the Chair and I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business.

The Chair recognizes the Senator from Washington [Mr. ADAMS] for up to 30 minutes.

THE OPPORTUNITY OF A LIFETIME

Mr. ADAMS. Mr. President, as the 102d Congress of the United States moves closer to adjournment, I want to take a few minutes to reflect upon my service here in the Senate, revisit a few of the issues that occupied my time and attention, and to express my appreciation to the people of the State of Washington for having granted me the opportunity of a lifetime: a term of service in the Senate of the United States.

A little over 6 years ago, I left the private practice of law to seek the Democratic Party nomination in my State for the U.S. Senate. In traveling around my State, I found communities that had not flourished during the economic boom of the early 1980's.

Chief among those was the tricity area of central Washington, Richland,

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Pasco, and Kennewick, a region that had nearly 50 years of dependence on Federal spending at the Hanford Nuclear Reservation.

Although the breathtaking changes that have occurred over the last few years could not have been anticipated at that time, it was clear to me that the future economic stability of the tricities rested in moving beyond cold war weapons production and into a more diverse employment base.

With a campaign theme calling on the people of Washington State to "step up to the future" our message resulted in a close, hard fought upset victory.

During my 6 years in the Senate, I have watched with great pride as the community in the tricities has accepted the challenges brought by a changing world: Today there are more people working in a rapidly diversifying local economy than were working at Hanford before Federal cutbacks began.

The future of Hanford is now in high technology research labs, in cleanup of the defense-related waste at the site, and in a leadership role in developing technologies to assist the world in stepping back from the brink of nuclear war.

In our lifetimes, we will see the nuclear genii that was released at Hanford under the Manhattan project in the early 1940's safely contained and channeled into peaceful scientific endeavors that benefit mankind rather than threaten its very survival.

I am proud to have kept that promise to the citizens of Washington, and to the families in the tricities, in helping them step up to the challenge of an uncertain future, a future that today holds great promise.

The lesson of the Hanford experience is that those who look toward the future will be rewarded with opportunity: Those who yearn for a past that cannot be recreated will be frustrated. There is no turning back.

When I was a candidate for this Senate seat, the timber communities of my State were likewise in an era of transition. Despite record log harvests occurring in the early 1980's, brought about by severe storms, and by the Mount St. Helen's blowdown, over 25,000 jobs were lost, due primarily to increased automation, changes in technology and continuing exports of raw logs to foreign mills.

In all those many months on the campaign trail, not one single voter ever mentioned a shy little bird called the spotted owl. Yet today, to hear the rhetoric, you would think he was public enemy No. 1, responsible for locking up the forests, destroying families and towns, and creating a climate of economic chaos.

Such a strange way to look at a little bird whose unfortunate role it is to serve as an indicator species warning us of impending disaster in the ancient forest ecosystems, if we do not change our ways in harvesting old growth timber from public lands. Like the miner's canary, the spotted owl warns us of the deadly consequences that will follow the destruction of the fragile, old-growth ecosystems.

Who would have thought, 6 years ago, that the Pacific Yew tree was anything more than just a nuisance undergrowth, to be slashed and burned in the course of clearcutting yet another section of the forest? Today we hear that the humble Yew may hold the secret to curing some forms of cancer.

Should we not ask ourselves: What other great secrets, and answers to human mysteries, rest hidden in the ancient forests of the Pacific Northwest? By what right does this generation destroy the opportunity of a future generation to unlock those secrets? I am proud to have fought to protect what is left of those great forests in my State and the Pacific Northwest.

The fight is not yet over. I leave to my successor the responsibility to protect the public interest in this debate.

I hope the next session of Congress provides a climate where responsible legislation will heed the warning of the spotted owl. By providing meaningful protection for the fragile ecosystem that is home to the owl, the salmon, and the old-growth trees, the timber communities can survive.

But like their counterparts in the tricities, citizens of Forks, Grays Harbor, Skamania, and Pend Oreille must look to the future rather than to the past. The Federal Government has a responsibility to help: I hope to see an expansion of the New Beginnings Program that has been such a phenomenal success in meeting the retraining needs of women in timber households in Forks, WA.

And I hope the 103d Congress will revisit the proposal I advanced, with the courageous and enlightened support of the Senator from Vermont [Mr. LEAHY], to redirect Federal tax policy toward reinvestment, and new business capital, in those timber dependent communities.

Their futures depend on innovative and thoughtful approaches that look forward, not on a politically motivated siren song promising a return to a past that is gone forever.

During the time I have served in this body, it has sometimes seemed as though the pace of current events has been on fast forward. Who would have predicted, 6 years ago, that we would witness the breakup of the Soviet Union and the collapse of international communism?

That a peaceful election would bring a return of democratic institutions to Nicaragua? Or that tiny, war torn El Salvador would at last begin to heal the wounds inflicted by a cruel civil war?

This great institution is sometimes called upon to exercise its own responsibilities under the Constitution in determining whether American men and women will go to war. It was during my term in the Senate, I am glad to say, that we reaffirmed once again that only Congress under the Constitution has the power to declare war.

I am proud to have stood on this floor on several occasions, whether discussing the reflagging of Kuwaiti tankers, or responding to the President's initiative in August 1990 when Iraq invaded Kuwait, debating congressional responsibility under the War Powers Act. There are many who say the debate that preceded our vote to authorize U.S. participation in the Persian Gulf war was the Senate and the House at their best.

If history records it as such, and if the pattern of this Nation's future deliberations on the issue of war follows a similar course, I will consider my efforts rewarded. In upholding the sole power to declare war under article I, section VIII, we avoided repeating the mistakes of past executive branch wars that led to so much national turmoil.

During my Senate term, I have been fortunate to serve on five Senate committees, working with many of my colleagues from both sides of the aisle. In the 100th Congress, I had the great honor of serving on the Foreign Relations Committee, under the able leadership of Senator CLAIBORNE PELL.

My longtime interest in national transportation issues was enhanced as a member of the Committee on Commerce, Science and Transportation, chaired by my friend, the senior Senator from South Carolina [Mr. HOLLINGS]. And during my entire term I had the pleasure of serving on the Senate Rules Committee, under the capable stewardship of the Senator from Kentucky, Senator WENDELL FORD.

On the Senate Labor and Human Resources Committee these past 6 years, it has been my distinct pleasure to participate closely in legislative work that touches the lives of all Americans. The health, educational, and workplace interests of working Americans; the needs of our disabled and elderly; the hopes of those suffering from AIDS and other dread diseases are all gathered within the jurisdiction of that committee. I salute and appreciate the hard work and determined leadership that Senator TED KENNEDY displays as chairman of that committee.

I enjoyed being a part of the many health initiatives of the committee, with particular pride in the several womens' health initiatives Senator BARBARA MIKULSKI and I cosponsored and brought before the Senate.

Mr. President, I am very proud of my tenure as chairman of the Labor Committee's Subcommittee on Aging. During the little more than 2 years that I have chaired the subcommittee, I believe we have contributed substantially to addressing the needs of our Nation's elderly. I am frankly at the diversity of the issues we have tackled through the subcommittee. I am also proud of my dedicated and hard-working staff of the subcommittee.

A partial list of our accomplishments include the reauthorization of the Older Americans Act and a great deal of work on issues affecting the health care needs of middle-aged and older women. The Congress is on the verge of enacting my legislation to establish national standards for screening mammography. I held the first congressional hearing concerning menopause. And, the subcommittee also addressed other critical issues such as pension reform, malnutrition among the elderly, the quality of care in nursing homes, long-term care, and the need to prohibit physicians from referring patients to the health care businesses in which they have financial interests. I leave knowing that the subcommittee has a solid foundation for continued action on these and other crucial matters affecting older Americans.

And of course, I have deeply appreciated the chance to sit on the Senate Appropriations Committee, and to chair the Subcommittee on the District of Columbia. Nearly 20 years ago, as a Member of the other body, in chairing the Subcommittee on Constitutional Law of the House District Committee, I helped bring home rule to the District of Columbia.

In my more recent role, I have come to see, up close, the challenges presented to a local government that must depend on the fair-mindedness and generosity of Federal legislators whose primary obligation is to the voters of their own States.

No single example better defines the frustration confronting a chairman of the District Appropriations Subcommittee than the recent veto of a bill that would allow the local government to use its own local funds to provide abortion services for some of this Nation's poorest women. Presidential meddling into this local issue, and congressional acquiescence in that action cries out for a remedy.

I have now come to the conclusion that the remedy for this imposed second class citizenship is statehood for the citizens of Washington, DC.

I know the citizens of my State appreciate the benefits that have flowed from my membership on the Senate Appropriations Committee. And although the subcommittee chairmanship I held might seem remote from their interests, a U.S. Senator has an obligation to serve the national interest in addition to the interests of his or her State.

The important benefit of that subcommittee chairmanship includes participation on all conferences within the committee's jurisdiction. It was a great honor. Chairmanship of the District of Columbia Subcommittee can be a source of frustration, or it can be a labor of love.

For me, it has been the latter, in large measure because some of my more senior colleagues recognized the difficulty of the task, and were sources of encouragement. They remembered their own years chairing the subcommittee.

I refer to the Senator from Hawaii [Mr. INOUYE] and to the Senator from West Virginia, Chairman BYRD.

Under the chairmanship of Senator ROBERT BYRD of West Virginia, the Senate Appropriations Committee has, during my 4 years as a member, struggled to do the best of things in the worst of economic times.

My own personal priorities, particularly funding of AIDS treatment under the Ryan White CARE Act, womens' health initiatives, worker retraining, public transportation alternatives, and the agricultural needs of my State have always gotten a fair hearing and a decent level of funding.

The obligation to allocate among the numerous competing interests, to remain within the constraints of a budget that is unfairly burdened with the debt heaped upon it by the folly of the early 1980's, and to meet the current needs of America's families, its elderly and its children, has fallen to the senior Senator from West Virginia.

His service in this body began over 33 years ago; he is the Senate's President pro tempore. But his love of this institution and its rules, his appreciation of the history of democracy from the ancient Greeks and Romans up to our present time, and his unswerving loyalty to the Constitution, all point to special talents and interests apart from seniority and tenure.

Like my colleagues on both sides of the aisle, when I look back with fondness on the time I have spent here, it will remain a matter of pride to recall that I served in the U.S. Senate with ROBERT C. BYRD.

I have spoken this morning of the changes that have come to my State, and the changes that have occurred around the world during my term in the U.S. Senate.

When the 103d Congress meets in a few short months, change will also come to this institution. In some important ways, the U.S. Senate will come to more closely resemble the face of America, and in subsequent years, I hope, will continue to see more women, more minorities, more sons and daughters of working families, bringing their range of skills and experience to the Senate.

For my part, I hope the new Senators who take the oath of office in January will help this body continue to grow, and to face up to the future with the kind of courage and vision the Founders expected.

The State of Washington is heavily dependent on the quality of that vision. Our State is home to great industries that welcome the opportunity to compete in the emerging, new world economic order.

Firms like Microsoft and Boeing have the work forces and management to do business anywhere in the world, but we must insist that our trading partners are willing to compete on a level field. With its location at the gateway to the Pacific rim, my State is eager to invite foreign capital, such as Nintendo, to find a home in the Pacific Northwest. National policies should encourage that participation.

From the perspective of having spent four decades of adult life in the private practice of law, in Congress, in a Presidential Cabinet, private business, and now the Senate, I see a great need for change in the way this Nation deals with the issue of the Federal budget.

Several of my colleagues who are also retiring have expressed their views on this topic in recent days. I hope it is not just the liberated feeling of those now longer standing for election that provokes such introspection and candor.

But it is beyond dispute that the national debt, the yearly deficit, and the growing interest on the debt that is currently the fastest growing category of domestic spending pose a serious threat to our Nation's future. We will be strapping an ever growing 800-pound gorrilla onto the backs of our children and grandchildren we as a nation do not face up to the future by paying as we go in the present.

Having served as the first chairman of the House Budget Committee from 1975 to 1977, I have personal knowledge of the time when our Federal budget was under control. During the years I was in the private sector in the early 1980's, I watched with horror as the wave of mergers, acquisitions and binge economic policies created an illusion of prosperity for which the bills are now coming due.

As this Nation faces up to the future, we need to embark on a serious national discussion, defining the relationships between America's generations, and our common obligation to ensure that each is fairly treated.

In the upcoming months, I plan to devote some time to considering the elements of an honest and realistic budget. By clearly defining the relationship between our Nation's past investment and debt, present operating and capital budgets, and our investments in this Nation's future, we can chart the course out of the current budget mess.

As my thoughts on this topic develop, those of you who will grapple with the deficit monster can expect to hear from me. The solution to this problem must become our most urgent priority.

Finally, Mr. President, I must say that my long record of public service could not have been possible without the many friends and supporters from the State of Washington, who sent me to Congress seven consecutive times, and later elected me to the Senate.

Friendships that began on the playing fields of Seattle, and in the classrooms of Broadway High School and the University of Washington have endured these years of change.

Above all else, I have had the love and friendship of my wife Betty and four children in good times and bad. What more could anyone ask?

Here in the Senate, I am grateful to have been assisted by a loyal, talented, and dedicated staff that shared my desire to serve the public interest.

They have proof that the younger generation coming to the forefront of American political life has the skills and the idealism to continue carrying our Nation forward.

To my colleagues on both sides of the aisle, and to the dedicated men and women who serve the U.S. Senate in staff capacities, I extend my deepest appreciation for the 6 years we have worked together.

And I look forward to many more years of remaining active in the public discussion of the great issues that distinguished this Nation from all others.

Thank you, Mr. President.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, is my understanding correct that leader time has been reserved?

The ACTING PRESIDENT pro tempore. That is correct.

SALUTE TO JAKE GARN

Mr. DOLE. Mr. President, we all know that voters are frustrated with Congress and frustrated with Washington, DC.

They look at the Capitol and see an institution which is unwilling and unable to deal with the most pressing problems of our day.

For the past 18 years, Senator JAKE GARN has served as a voice for the people's frustration. And for the past 18 years, JAKE GARN'S honesty and courage have served Utah and America very well.

Senator GARN'S years in the Senate have been ones of both tragedy and triumph. We grieved with him over the tragic death of his wife, Hazel. We rejoiced with him when he married Kathleen.

And we marveled at his courage when he flew aboard the space shuttle *Discovery*, and when he underwent a major operation to donate one of his kidneys to one of his children.

The courage exhibited by Senator GARN in his personal life, could also be seen in his service in the Senate.

Senator GARN has always called them as he saw them, and he has never been afraid to let this body know when it has failed in its duty.

From banking deregulation to export controls, JAKE GARN has tackled the tough issues, and he has made the Senate a better place.

We all know that many Members of Congress are retiring involuntarily this year. That is not the case with JAKE GARN. He won his last two elections with over 70 percent of the vote, and there is no doubt he could have been re-elected with a similar margin this year.

But Senator GARN has always known that the view from his home in Park City was far better than the view from his office on Capitol Hill.

And perhaps Senator GARN said it best when he said:

> The Founding Fathers did not intend that we stay in session from January to December every year. * * * I think they expected that we might live and work with the people who elected us to represent them.

And now that Senator GARN will be living with the people who elect us, I know he will keep speaking out on issues with the same courage and forthrightness that have become his trademark.

SALUTE TO STEVE SYMMS

Mr. DOLE. Mr. President, along with many of my colleagues, last week I attended a salute to our good friend, STEVE SYMMS.

There was a lot of good-natured ribbing, and a lot of one-liners. More importantly, however, there were a lot of kind words—from both sides of the aisle—for Idaho's senior Senator.

I was honored to be asked to share some of my thoughts and memories about STEVE SYMMS and his 12 years in the Senate.

I spoke of his loyalty and friendship to me, and the fact that he has stood beside me, solid as a rock, through some of the toughest times of my political life.

I spoke of his courage on a sweltering day in Nicaragua, when Senator SYMMS faced the dictator, Daniel Ortega, in his stage-managed confrontation with our Senate delegation.

And I spoke of the simple fact that STEVE SYMMS is a man who sticks to his principles.

There is no more staunch patriot in the Senate than STEVE SYMMS. For the past 12 years in the Senate, and 8 years before that in the House, STEVE has been a leader in the efforts to keep America strong, to win the cold war, and to bring democracy to nations all around the world.

And all those who know STEVE know that when he retires from the Senate, he will not retire from the give and take of public debate. Rather, he will be where he loves to be—in the middle of the argument, standing up for America and standing up for freedom.

THE CONTINUED PLIGHT OF THE HAITIAN PEOPLE

Mr. PELL. Mr. President, a year ago this week, Haitian President Jean Bertrand Aristide was dragged from the Presidential Palace by members of the armed forces and forced into exile. Although President Aristide had an overwhelming mandate—over 67 percent of the popular vote in Haiti's Presidential elections—he had little protection from the wrath of the armed forces. As a result, Haiti's 7-month experience with democracy was abruptly halted.

At that time, I joined in introducing a resolution condemning the coup and calling upon international organizations to promote the restoration of democracy. The United States and the Organization of American States responded quickly, calling for the return of constitutional democracy and implementing an economic embargo against the impoverished country. Sadly, the implementation of that policy has proven far more difficult than anyone imagined. Today, the military continues to rule the country by force and Haitians live in a climate of fear, insecurity, and lawlessness.

In the year since the coup, it is estimated that more than 2,000 civilians have been killed, more than 37,000 have fled the country, and more than 15,000 have applied for refugee status at the U.S. Embassy. Tens of thousands are in hiding and thousands more have been victims of illegal arrests, torture, and harassment. According to a recent report by Amnesty International, extortion is an increasing form of repression as citizens are forced to pay to avoid arrest or ill-treatment, to secure better prison conditions, or to be released from detention.

The recent agreement to send 18 OAS observers to Haiti to monitor the human rights situation and evaluate needs for humanitarian assistance is a small step in the right direction. However, there is concern that the enormity of their task far outweighs their limited numbers. Unfortunately, President Aristide's original proposal of sending 500 observers was scaled down to 18 in negotiations between representatives of the de facto government and President Aristide.

There are no easy answers to Haiti's problems. The immediate issue, however, of the appalling lack of respect of human rights and personal security, must be addressed. Through continued international pressure, we must remind all Haitians that they will be held to internationally recognized standards of human rights. The United States, in conjunction with the Organization of American States, must continue to work for the restoration of constitutional order.

In the longer term, the international community must begin to work with Haitians to address the fundamental issues that have crippled democratic effort for decades. Any long lasting solution must include bringing the security forces under civilian authority, and separating and professionalizing the military and police. These steps along with the establishment of the rule of law and strengthening democratic institutions must be priorities in Haiti, otherwise many more Haitian democrats will meet the same fate of President Aristide and his supporters.

A NEW CHALLENGE FOR RHODE ISLAND LABOR LEADER EDWARD McELROY

Mr. PELL. Mr. President, it gives me great pleasure to call the attention of the Senate to the appointment of Edward J. McElroy, one of Rhode Island's most respected and influential leaders of organized labor, to the post of secretary treasurer of the American Federation of Teachers [AFT] here in Washington, DC.

In his new position Mr. McElroy will be the second in command of the 800,000-member AFT, one of the Nation's largest, most innovative and progressive education organizations. Its president is the venerable Albert Shanker who is known to so many of us for his superb leadership, incisive thinking, provocative writing, about education in this country.

For 30 years, Ed McElroy has dedicated himself to the best interests of Rhode Island's working men and women, first as a leader of the Warwick Teachers Union, then as president of our State's AFT and, since 1972, as president of the Rhode Island AFL-CIO. His contributions are immense and, while my State will miss his leadership and energy, the AFT and, indeed, our Nation will benefit enormously from his vision and his talent.

A native Rhode Islander, Ed McElroy graduated from Providence College in 1962 and promptly began teaching social studies and English at Lockwood Junior High School in Warwick, RI. It was then and there that he began his involvement with organized labor as a member of the Warwick Teachers Union.

As the son of a union man, Ed McElroy understood the vital role that organized labor plays in protecting the rights of working men and women and he was determined to work to expand those rights, especially in the case of public employees. He quickly rose to be president of the Warwick Teachers Union and was instrumental in securing passage by the Rhode Island General Assembly of legislation to give all Rhode Island teachers important new rights to bargain collectively.

Having demonstrated in the Warwick post his leadership ability, his understanding of the Rhode Island educational—and political—systems and his knack for building consensus, Ed McElroy was elected president of the Rhode Island Federation of Teachers in 1971.

The Rhode Island Federation of Teachers represents elementary and secondary school teachers in cities and towns across my State, as well as faculty and staff at Rhode Island College, professional staff at the Rhode Island Department of Education and some health care professionals. When Ed McElroy became the Rhode Island Federation of Teachers president, the Federation had 2,500 members. Today, it represents almost 10,000 Rhode Island teachers and other education professionals in 11 communities.

As president of the Rhode Island Federation of Teachers, Ed McElroy has been an avid and determined advocate for improving the quality of education in our State. He has vigorously opposed education budget cuts, has worked to improve the standards and training for Rhode Island teachers and has fought to give teachers a direct voice in creating better schools for Rhode Island's children. Ed McElroy has been a staunch and tireless warrior for the Rhode Island teacher, protecting their rights, improving their working conditions, and increasing the pay of a profession that should be the proudest and most rewarding one can pursue.

Ed McElroy's style of quiet, effective leadership and consensus building gained statewide recognition and respect. As a result, in 1972 he was elected president of the Rhode Island AFL-CIO, a position he has filled ably while continuing as president of the Rhode Island Federation of Teachers.

The Rhode Island AFL-CIO represents 80,000 Rhode Island workers and in a very real way, it also watches over the interests of all Rhode Island working people whether or not they happen to be a member of a labor union. Ed McElroy's 20 years as president of the Rhode Island AFL-CIO have been especially challenging because labor, both in Rhode Island and nationally, has been buffeted by aggressive opponents and by tough economic times.

In each battle, whether at the bargaining table or in the State House, Ed McElroy has been an indefatigable advocate, his energy boundless, his arguments persistent and persuasive. While he and organized labor have not won every skirmish, the fact that Rhode Island's AFL-CIO remains today a strong, proud, and effective force is a tribute to the quality and tenacity of Ed McElroy's tenure as president.

Ed has faithfully served Rhode Island in other important ways for many years through his participation in the United Way, the Narragansett Bay Commission, Meeting Street School, Work Force 2000, and the Swearer Commission. I would also note that in addition to everything else, he has been a good friend and wise adviser to me for many years.

During his years serving Rhode Island, Ed McElroy has, in my view, been motivated by one principal vision: The belief that the quality of American education should be second to none in the world.

I salute the American Federation of Teachers for recognizing what we, in Rhode Island, have known for years; namely, that Ed McElroy is a rare and special breed of person. Never has he forgotten why he was chosen to lead. And never has he forgotten that his leadership is the vessel to help those who bestowed the responsibility of leadership upon him.

We, Rhode Islanders, will undoubtedly gain from his new role on the national scene. But, while we take pride in that accomplishment, we also feel a sense of loss in our hearts. For now we must share him, where once he was our special treasure, and ours alone.

TRIBUTE TO BROCK ADAMS

Mr. PELL. Mr. President, with the retirement of our colleague BROCK ADAMS at the end of the 102d Congress, the State of Washington and the U.S. Senate will be losing the service of a gifted public servant whose career has covered an exceptionally broad spectrum of issues and concerns.

It has been my privilege to share the same committee assignments with Senator ADAMS for at least part of his Senate career, and I can attest at first hand to his genuine concern for dealing constructively with major issues in each committee jurisdiction.

He served on the Committee on Foreign Relations during his first 3 years in the Senate and became deeply involved in our deliberations over protection of navigation in the Persian Gulf during the volatile final years of the Iran-Iraq war.

Senator ADAMS was a leading and sometimes lonely figure in challenging what he perceived to be the folly of reflagging and escorting Kuwaiti tankers through the mine-choked waters of the gulf. I particularly admired and supported his valiant efforts to invoke the War Powers Act in that connection.

On the Committee on Labor and Human Resources he has been at the forefront of creative action on important social issues, most notably in his capacity as chairman of the Subcommittee on Aging and as sponsor of the reauthorization of the Older Americans Act. He has been a key proponent of fetal tissue transplantation research, an endeavor that holds promise of alleviating debilitating and painful diseases such as Parkinson's disease.

He has also been a strong advocate of increased attention to women's health issues and has pressed the National Institutes of Health to increase its research activities in this area.

Senator ADAMS has also been an active member of the Committee on Rules and Administration on such issues as the uniform poll closing legislation which is so important to the Western States.

My association with BROCK ADAMS predates his arrival in the Senate. During his tenure as Secretary of Transportation in the Carter administration he was particularly helpful in advancing my interest in the improvement of rail passenger service in the Northeast corridor between Washington and Boston.

One aspect of that project to which he was especially attentive involved the realignment of the Amtrak right of way through downtown Providence, resulting ultimately in the virtual reconstruction of the heart of the city. Secretary ADAM's attentiveness and consideration were much appreciated by Rhode Island.

Mr. President, I have touched on only a few high points of Senator ADAM's multifaceted career. He has contributed richly and constructively to a very broad range of programs and issues. I regret his departure from the Senate and wish him well in all future endeavors.

TRIBUTE TO THE LATE GEN. JAMES A. VAN FLEET

Mr. THURMOND. Mr. President, I rise today to pay tribute to a great man, a great soldier, and a great patriot, Gen. James A. Van Fleet, who recently passed away at the age of 100.

General Van Fleet had a long and distinguished career as an Army officer, beginning with his graduation from the U.S. Military Academy in 1915. His class also included two other great Army officers, Gens. Dwight D. Eisenhower and Omar N. Bradley. Upon graduation, Van Fleet accepted a commission in the infantry, the "Queen of Battle," and was soon involved in hostile action as the commander of a machine gun battalion during World War I.

In the years between World War I and World War II, the young officer held a number of assignments in the United States and the Panama Canal zone, the most interesting being a double assignment as both an ROTC instructor and the football coach at the University of Florida.

The peace following World War I was brief, and it was not long before the winds of conquest were fanning the flames of war throughout the world. Japanese expansion in Asia and Germany's actions in Europe made it only a matter of time before we once again found ourselves involved in global conflict.

During World War II, General Van Fleet spent 3 years commanding the 8th Infantry Regiment, 4th Infantry Division, conducting combat training and amphibious exercises at a number of stateside forts, including Fort Benning, the home of the infantry. In 1944, the division was sent to England where Van Fleet's regiment was selected to spearhead the landing of the 4th Division at Utah Beach in Normandy. Incidentally, I first met General Van Fleet during the D-day invasion when his unit linked up with the 82d Airborne Division, of which I was a member, in the town of St. Marie Eglise. General Van Fleet continued to serve in the European Theater in several different units, participating in some of the conflict's most crucial and key engagements. After the surrender of Germany to the Allied Forces, the General was slated to be sent to the Pacific Theater. He was in the United States when the war with Japan came to an end.

Despite the end of armed conflict with the Axis Forces, the United States and the free world faced a new and equally dangerous and ambitious enemy—our former Communist allies in the Soviet Union, Southeast Asia, and China. General Van Fleet soon found himself back in Europe, this time in Greece where he was the director of the Joint U.S. military advisory and planning group. The general's strategy and tactics soundly defeated the Communist insurgency, and the plan he implemented in Greece has been cited as an excellent example of how to defeat guerrilla forces.

The threat of Communist expansion was truly global, and on the Korean peninsula, American and South Korean forces were waging a vicious war against the North Korean Army which had invaded its southern neighbor without provocation. In April 1951, Van Fleet found himself in Korea, in command of the Eighth Army. During the 2 years he was in command, Van Fleet built up and maintained the morale of his troops at a high level. This was no easy task, considering that they had been pushed to Pusan Harbor, fought their way to the Yalu River, and then were forced back past the 38th Parallel where a static, almost trench war developed. In February of 1953, Van Fleet turned over command of the Eighth Army and retired, after having served our Nation for 38 years.

In his almost four decades of soldiering, General Van Fleet compiled an impressive record of awards and to this day, he is considered to be one of the outstanding combat commanders of World Wars I and II, as well as a brilliant tactician. President Truman once called General Van Fleet "the greatest general we have ever had."

Mr. President, James Van Fleet enjoyed a long and full life and made many important contributions to the safety and future of the free world. We are all indebted to this great man and we shall miss him.

DACOTAH CHAPTER AFA AWARD

Mr. PRESSLER. Mr. President, I take this opportunity to congratulate the Sioux Falls, SD, Dacotah chapter of the Air Force Association. The Dacotah chapter has received the first annual North Central Region Chapter of the Year Award. The award is based on the chapter's performance in programs, newsletters, membership, and reports.

The Dacotah chapter also has received the Golden Community Partner Award, which is a national membership award. Its membership currently stands at 280. The Dacotah chapter is one of 337 chapters throughout the world, which together comprise the Air Force Association, an independent, civilian, nonprofit organization that promotes national defense through the use of aerospace technology and a volunteer total force Air Force. Worldwide membership is nearly 200,000.

The Dacotah chapter conducts programs to support several activities. Its members educate the public about aerospace defense by providing speakers, programs, and newsletters. The chapter administers support programs for the 114th Tactical Fighter Group of the South Dakota Air National Guard.

Another important part of the Dacotah chapter's mission is to provide support not available from Air Force sources. It assists recruiters and supports the South Dakota State University Air Force ROTC Detachment and the Arnold Air Society in ways the Air Force cannot. The organization also is an important supporter of the South Dakota Civil Air Patrol. The local chapter provides funding to the AEF Visions of Exploration Program at local elementary and junior high schools. It also sponsors civil leader tours to USAF bases.

The Air Force Association is an admirable organization. It was formed as an organization in which people could address the defense responsibilities of our Nation using the dramatic advances in aerospace technology. The association also educated its members and the public on how technology can contribute to the peace and security of the world.

Mr. President, I congratulate the Dacotah chapter and all those involved in attaining this honor, including President Charles Nelson, Vice President D.K. Koller, Secretary Dale Faeth, Treasurer Frank McQuire, and all the other hardworking members of the Dacotah chapter of the Air Force Association.

YEAR OF RECONCILIATION EVENTS

Mr. PRESSLER. Mr. President, I am pleased Congress has adopted and the President has signed into law a resolution which I coauthored declaring 1992 a National Year of Reconciliation between American Indians and Non-Indians. This proclamation marks the culmination of a combined effort by members of both the Indian and non-Indian communities. This joint effort is an example of how we should proceed in achieving greater reconciliation.

Mr. President, the resolution should facilitate efforts for reconciliation across the Nation. As the senior Senator from South Dakota, I would like to see the residents of South Dakota, and especially our young people, actively participate in reconciliation by building bridges of understanding between American Indians and non-Indians.

To encourage this effort, I contacted more than 12,000 teachers in my home State to encourage their students to participate in the Spirit of Reconciliation. Students are sending me either a poster or an essay based on this theme. All participants will receive a certificate of merit for their individual efforts toward reconciliation. In addition, every essay and poster I receive will be displayed in my offices—both here in Washington, DC, and in my State offices.

The first essay received is an excellent example of the mail I am receiving. The essay was written by Kari Nicole Cox. She is a second grader at the Hawthorne School in Sioux Falls, SD. Kari ended her essay with this sentence: "Reconciliation is a big word, but my heart is big too." This reflects the attitude of many of the students I am hearing from. I ask unanimous consent that Kari Cox's complete essay be entered in the RECORD.

I will be holding a listening meeting with South Dakota tribal leaders in the near future. Listening meetings, such as this one, are important in keeping abreast of all the latest developments in Indian country.

In closing, I urge my colleagues to join me in taking an active role in reconciliation during the remainder of this year and on into the future.

SIOUX FALLS, SD.

During this National Year of Reconciliation I have an Indian friend. I think she is beautiful. She thinks I am too. I am mixed race. I know that people can get along if we all try. That is my wish. *Reconciliation* is a big word, but my heart is big too.

Love,

KARI COX.
Second grade, Hawthorne School.

CORN PALACE CELEBRATES CENTENNIAL

Mr. PRESSLER. Mr. President, the World's Only Corn Palace, located in Mitchell, SD, is celebrating its 100th anniversary. This one-of-a-kind landmark was created in 1892. For 100 years it has been one of South Dakota's greatest tourist attractions.

The Corn Palace is a castle-like structure decorated with over 3,000 bushels of colored corn, as well as grains and grasses. Its exterior murals are changed each spring to express the year's chosen theme, which is selected by the Corn Palace Committee.

The manner in which the palace is decorated is well planned and similar to a paint-by-numbers approach. First the palace artist sketches and color-codes the designs which are enlarged and transferred onto sheets of roofing paper attached to the exterior panels. Then the corn and other decorative items are nailed or stapled to the panels to create the mural designs.

An official pictorial record is displayed inside the palace, showing each year's decorative theme since its inception. For years the murals were designed by Oscar Howe, a famous South Dakota artist. Mitchell artist and educator, Cal Schultz, has been designing the murals since 1977.

The history of the Corn Palace has been researched in depth by Clyde Goin, who is known as the Corn Palace historian. Mr. Goin's findings are contained in "The Corn Palace Story," which reports that the Corn Palace was created to revitalize immigration to South Dakota to convince the Corn Belt farmer that corn and wheat could be grown in abundance in South Dakota. Mr. President, I ask unanimous consent that "The Corn Palace Story" be printed in the RECORD immediately following my remarks.

While the Corn Palace may have been created to attract settlers to the area, it has since grown to serve a multitude of purposes. In addition to drawing over 750,000 visitors each year, the Corn Palace is the focal point of the Mitchell community. It serves as a center for entertainment—over the years attracting such stars as Bob Hope, Red Skelton, Lawrence Welk, and the Mills Brothers. The Corn Palace also has hosted politicians, including John Kennedy in 1960. In fact, President Bush stopped at the Corn Palace during his first Presidential race.

The Mitchell Corn Palace serves as the sporting arena for the athletic teams of Mitchell High School and Dakota Wesleyan University as well as for many of the State regional sporting events. It also houses the Mitchell Teen Center.

The annual Corn Palace week celebration each September is a favorite highlight for the community. This week-long event provides daily entertainment, including the Polka Festival, which brings visitors from 40 States.

The Corn Palace is world renowned and I am pleased to tell my colleagues its features have been included in the "Seeds of Change" exhibit currently displayed at the Smithsonian's Museum of Natural History. In fact, the exhibit's Director has confirmed the Mitchell Corn Palace was the inspiration for the grand entrance to the "Seeds" exhibit. The "Seeds of Change" exhibit runs through May 1993.

Mr. President, recently the Corn Palace was presented with the 1992 Special Achievement Award by the Black Hills, Badlands & Lakes Association, South Dakota's largest private tourism organization. The award appropriately recognizes the Corn Palace for its 100 years as a premier visitor attraction. I ask unanimous consent that the award announcement as printed in the Rapid City Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CORN PALACE GETS AWARD

The Black Hills, Badlands & Lakes Association 1992 Special Achievement Award was presented to the Corn Palace Saturday night.

Jim Sellars, Corn Palace general manager, accepted the award from BHB&L President Bill Honerkamp.

Honerkamp said the award was given in recognition of the Corn Palace's 100 years as a premier South Dakota visitor attraction.

"For 10 decades, this architectural showcase has captured the imagination of visitors and showcased America's foremost performers," Honerkamp said. "The Corn Palace is a monument to South Dakota ingenuity and to one community's quest to create and preserve a landmark that is singular on this planet."

THE CORN PALACE STORY

On July 26, 1892, in executive session, the Corn Belt Real Estate Association initiated plans to revitalize immigration to South Dakota to convince the Corn Belt farmer that corn and wheat could be grown in abundance in South Dakota. The idea of a Corn Belt Exposition was accepted by the association membership and presented to leading businessmen of Mitchell's commercial sector the following day. The major problem was the lack of a suitable building for such a venture.

With the real estate association's commitment to underwrite part of the expense, Mitchellites picked up on Sioux City, Iowa's Corn Palace which had been cancelled for 1892. In deference to the Corn Belt Real Estate Association, which had initiated the idea, it was to be called the Corn Belt Exposition.

An out-of-state band was engaged along with several free street acts. Each of the 26 counties represented in the real estate association purchased booth space to exhibit the crops produced and goods manufactured in their county—and to tout the fertility of their land and the productivity of its people—just a great place to live!

From the day of its inception, July 26, 1892, until the first day of the Exposition, the City of Mitchell and the Corn Belt Real Estate

Association had joined forces. An Exposition building had been built and decorated from top to bottom with native grasses and grains and a variety of colored corn. Entertainment had been booked and the entire city was decked out in nature's finest raiment. The doors opened on September 28, 1892—only 64 days later!

The venture was a great success! Plans were immediately underway for 1893. The building was enlarged to accommodate more purveyors as well as larger audience. The designs would again be mostly geometric patterns. The second year was equally successful

By early 1894, economic conditions in the country were disastrous; severe drought conditions gripped the entire farm belt. The Exposition was cancelled. Economic conditions worsened and the celebration was set aside until 1900, when it was revived only to be dropped again for 1901. The year 1902 saw a resurgence of the economy. The Corn Belt Exposition was back for good!

By 1905, the twice-enlarged original building had served its purpose. Plans were formulated for a new building, which was located one block north of the original building. It was completed in 55 days, time enough for the 1905 celebration. This building stood until the very early spring of 1920. During the winter months of 1919–1920 the dirt floor had been flooded providing Mitchellites with South Dakota's first indoor ice skating rink.

In 1919, concern for safety precipitated laws governing buildings and their use. Large groups of people could no longer congregate in wooden structures. The third and present building made entirely of steel and concrete, was designed by architects Rapp & Rapp of Chicago who also designed Radio City Music Hall in New York City, as well as many other famous theatrical buildings throughout the United States.

It was obvious early in 1920 that complications would not allow construction to be completed in time for the 1920 fall Festival. Construction was planned for 1921. Time for the Festival was rapidly approaching with no building, so plans were made to stage the show with circus theme in a huge tent two blocks north of the new building site. The plan met with great enthusiasm but foul weather held crowds to a minimum. The new building was completed in 1921 just in time for the show. The first performance was delayed approximately two hours so some final touch-up painting could be completed.

The general condition and existing inconveniences of the Palace dictated a general overhaul in 1964. A bond issue of $395,000 was passed by the people and new seating, lighting, air circulation, stage props and a sizeable addition, to include modern dressing rooms, gave the Palace new life. In 1987, the Corn Palace lobby and infrastructure received another $650,000 worth of renovations.

In 1979, the Palace experienced its only major disaster. A fire near the largest minaret, located on the roof directly above the front entrance, blazed nearly out of control. The amount of water necessary to extinguish the blaze cascaded through the roof entrance, down the stairs and spread throughout the building. Plaster walls and ceilings were devastated along with the parquet basketball floor. Damage was well over one million dollars. To this day the community owes a great debt of gratitude to our local fire fighters who literally "saved the Palace".

DECORATING THE PALACE

Decorations on the Palace consisted of dock, wild oats, brome grass, blue grass, rye straw and wheat tied in bunches and nailed in attractive designs with corn of different colors, sawed in half, lengthwise, and nailed flat-side to the Palace. All grains and grasses were applied in pre-determined design. Usually the earlier Palaces had sugarcane as the bottom decoration due to its hardiness and easy replacement.

Until the 1979 fire, the Palace was always decorated from top to bottom. However, since that time any flammable material must be at least eight feet above ground level. Over time the hammer and nails have given way to air nailers and staplers, the old wood scaffolding has been replaced by tubular steel, and the hand saw method of cutting corn has bowed to a specially designed table saw. Normally, decorating starts in mid summer and is completed in mid-September. The total annual cost of decorating can vary from $25,000 to $60,000, depending on the amount of surface to be worked.

ENTERTAINMENT

The entertainment during the early years was, by popular demand, the concert bands—Pat Conway, Karl King and John Philip Sousa to name a few. By the early 1920's stage revues were in demand. The first of the "big band" era to play the Palace was Benny Meroff's Orchestra in 1931. Virtually all the big bands played the Palace at least once through 1959. For the next 20 years, the greatest of the "standup" comedians and entertainers held sway. Recent years have seen a shift to shows with several different entertainers for one day stands, leaning toward country western. The history of Palace entertainment mirrors the change in entertainment over the past century.

The Corn Palace is more than just the home of a festival or a point of interest for tourists. The Palace is a practical structure adaptable to many purposes. It is a convention center, a facility for dances, stage shows, meetings, and industrial displays. One of the most important functions is as a sports arena for local and area schools. Sports for all age groups from elementary school to college constantly use the facilities. Time was, the Palace's main purpose was to attract people to South Dakota. Today, the Palace strives to stop folks so they may enjoy a bit of what is now a 100 year old tradition.

RECOGNITION OF JANET KRAMER DICKERSON OF MADISON, SD

Mr. PRESSLER. Mr. President, I rise today to recognize the outstanding research completed by Janet Kramer Dickerson, extension home economist for Lake County, SD, residents, headquartered in Madison, SD. Her research paper, entitled "Use and Care of Protective Clothing by Certified Private Pesticide Applicators: A South Dakota Study," was presented during the National Association of Extension Home Economists [NAEHE] conference held last week in Washington, DC. During the NAEHE conference, Mrs. Dickerson received a national home laundering award from her peers for this outstanding research.

Mr. President, agriculture is the driving force behind the economy and plays an important role in the lives of the people in my home State of South Dakota. It is well known that agricultural production is increased through the use of pesticides. The purpose of Mrs. Dickerson's study was to identify the attitudes of South Dakota certified private pesticide applicators toward the use and care of clothing worn during the handling, mixing, and application of pesticides.

Research findings indicated that reading and following directions on pesticide labels could greatly reduce health risks related to pesticide exposure. The South Dakota Cooperative Extension Service incorporated this data into statewide training seminars conducted for commercial and private pesticide applicators. Each seminar participant received a magnet, similar to a refrigerator magnet, which can be attached to a washing machine. The magnet clearly outlines the correct procedures for laundering pesticide contaminated clothing.

Funding for the project was provided by the Environmental Protection Agency through the South Dakota Department of Agriculture, the South Dakota State University Research Station, and the South Dakota State University Cooperative Extension Service.

I commend Mrs. Dickerson for identifying this problem and finding a creative way to deal with it. It is estimated that 12,000 magnets have been distributed to homes throughout South Dakota in the past 2 years. This type of education is helpful in protecting worker safety.

In 1960, Mrs. Dickerson—nee Kramer—a 4–H member from Spink County, and I attended the National 4–H Club Congress in Chicago, IL, as a member of the 4–H delegation from South Dakota. That experience had a significant impact on both of our lives. It was a pleasure to meet with her and other South Dakota extension home economists last week.

Mr. President, I ask unanimous consent that an abstract of Mrs. Dickerson's research on the proper handling of pesticide-contaminated clothing be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Dickerson, Janet A. "Use and Care of Protective Clothing by Certified Private Pesticide Applicators: A South Dakota Study." Thesis, Master of Science, 1991, South Dakota State University, Brookings.

Purpose. The purpose of this study was to identify the attitudes of South Dakota Certified Private Pesticide Applicators toward the use and care of clothing which is worn for the handling, mixing and application of pesticides. Information related to the effectiveness of the educational information presented by the South Dakota Cooperative Extension Service at the Private Pesticide Certification seminars and through the home study examination is also included in the study.

Method. A two part survey questionnaire was mailed in November, 1990, to 2680 of the 21,297 certified private pesticide applicators in South Dakota. These individuals were identified during the systematic sample, stratified by county procedure. Part I of the survey, consisting of 34 questions was designed to be completed by the certified private pesticide applicator. Part II of the survey, consisting of 36 questions was designed to be completed by the individual in the household who is responsible for the laundry of the clothing worn while handling, mixing and applying pesticides. Results were analyzed using the Statistical Analysis System computer program. Methods of statistical analysis used included frequencies and cross tabulations. Chi-square was used for the statistical test as the data collected was discrete. The P≤.01 probability level for chi-square test was selected as criteria for identifying statistically significant differences.

Findings. Results of this study indicated applicators generally feel the use of pesticides for increased crop production highly outweighs the human health risks and that the reading and following of directions on the pesticide label could greatly reduce health risks related to pesticide exposure. Although both the launderer and the applicator perceived that there were health risks involved due to exposure to pesticides, data collected for this study does not imply that all precautions were taken to eliminate exposure. The applicators (>80%) identified protective clothing choices as long sleeved shirts, jeans or work pants, leather or canvas shoes and baseball style caps with 63.1% selecting vinyl/rubber gloves for use when handling, mixing and applying pesticides. 88.6% of the launderers reported washing pesticide contaminated clothing separate from the family laundry and of these same individuals only 19.3% reported wearing vinyl/rubber gloves while handling these clothes. Effectiveness of the educational information received through certification training processes was rated by respondents as 81.2% to 95.8% very adequate to adequate.

Implications for Extension. Using research data obtained through the study, the South Dakota Cooperative Extension Service incorporated the data into the training seminars conducted for commercial and extension staff/field agents beginning winter 1992. Research data in the form of transparencies with script were provided for the extension agent's use in conducting the seminars for the private pesticide applicators. Emphasis for education to applicators was placed in the areas of protective clothing selection, laundry, communication and thorough reading of pesticide labels.

15,000 magnets were produced which outline the correct procedures for laundering clothing worn by the applicator of pesticides. These magnets have been distributed to those individuals receiving private and commercial pesticide certification in 1992. It is estimated that 10,000 of these magnets are in South Dakota homes.

Results of the research were shared with all individuals participating in the survey.

Results from the laundry segment of the research were published in the fall edition of the South Dakota Farm & Home Research, 42(3), 13–15, Agricultural Experiment Station, South Dakota State University, Brookings.

Further use of the research will be incorporated into the protective clothing, laundry and safety aspects of pesticide usage as a means of preventing human health risks associated with pesticide usage. Information will be distributed to the public via measures which must be observed to protect all humans from the health risks associated with pesticides.

LAUNDER DAILY ALL CLOTHING WORN BY PESTICIDE APPLICATORS

Follow these steps:

Prerinse or presoak separately.

Wash in hot water.

Use heavy-duty liquid detergent.

Use the full water level.

Use the maximum wash cycle.

Line dry clothing.

Rinse machine using detergent and complete cycle.

Wear rubber gloves.

Wash separately from family clothing.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, the Senate now proceed to the consideration of Calendar Order No. 749, S. 3282, a bill to require a waiting period before the purchase of a handgun; that when the bill is considered, it be considered under the following limitation; that there be 2 hours for debate on the bill, equally divided in the usual form; that no amendments or motions to commit be in order; and that, when all time is used or yielded back, the Senate, without any intervening action or debate, vote on passage of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, on Friday, the Senate was unable to complete action on a comprehensive crime control bill. Although 55 Senators voted for it and only 43 voted against it, under the rules of the Senate, that was not enough to end the filibuster against the bill by Republican Senators. So the crime bill is dead. It will not be passed this year. It cannot be passed this year.

But there is one part of that bill that might still be passed this year. I have just tried to get consent to let the Senate consider and vote on the Brady bill this year, but Republican Senators objected. It is obvious that the only way the Brady bill can be passed is if President Bush is willing to help. So, I address an appeal directly to President Bush.

Mr. President, you have said that you are for the Brady bill if it is part of a broader bill. It was part of a broader bill, but that broader bill has been killed by Republican Senators.

Last night, on national television, you said that you support the improved version of the Brady bill that Senator DOLE and I and Senators METZENBAUM and KOHL worked out last year. The Senate approved it by a vote of 67 to 32.

I ask you to support and work for enactment of that improved version of the Brady bill now on its own.

Presidents Nixon, Ford, Carter, and Reagan recently urged the Senate to pass the Brady bill. These four former Presidents—three of them Republicans—urged us to put aside partisan politics and do what is right for the American people.

Every major police organization in America has asked the same thing. So did Jim and Sarah Brady. So have six former Attorneys General of the United States.

Consider that; four former Presidents, six former Attorneys General, every major police organization in America has asked the same thing. I join them. I ask now. There is not much time. But with your direct and active involvement, we can pass it now, by itself, no filibuster, no other crime provisions. Without your help we all know it cannot be done. It is up to you, Mr. President. I hope that for the American people you will say yes. If you do say yes, I will do everything in my power as majority leader to get it done.

I now ask unanimous consent that there be placed in the RECORD, an open letter to the U.S. Senate from former Presidents Nixon, Ford, Reagan, and Carter, and an article which appeared in Saturday's Washington Post written by six former Attorneys General of the United States.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[An advertisement from Roll Call, Sept. 28, 1992]

SEPTEMBER 28, 1992.

To the U.S. Senate:

It is not often that the four of us agree on a major issue of the day. But we share common ground on the desperate need to pass the Brady Bill before the 102d Congress adjourns.

We were proud to join together last year in urging passage of this commonsense measure, and gratified that both Houses passed the legislation with broad, bi-partisan support. But the Brady Bill, requiring a national waiting period and background check for handgun purchases, has been tied up in the debate over an omnibus crime bill for nearly ten months. And as each day passes, we lose 63 more American men, women and children to handgun fire.

Every major law enforcement group in the nation, and dozens of medical, civic, professional and religious organizations, have urged Congress to help save some of these lives by passing the Brady Bill.

The time has come to put aside partisan politics and do what is right for the American people. You will soon have an opportunity to show your commitment to this lifesaving legislation. We strongly urge every Senator to stand up for the nation's law enforcement community, as well as for public safety, by voting for the Brady Bill and sending it immediately to President Bush, whom we urge to sign this important bill.

Sincerely,

RONALD REAGAN.
GERALD FORD.
JIMMY CARTER.
RICHARD NIXON.

[From the Washington Post]

IT'S TIME TO PASS THE BRADY BILL

As individuals who have had the privilege of serving as attorneys general, we watched with dismay as the congressional debate about the crime bill became increasingly partisan and divisive. This is not to say that we all agree on the difficult issues that defined the debate, such as habeas corpus reform or expansion of the federal death penalty. Our dismay, rather, has been directed at the failure to pass an anti-crime measure on which we all agree: the Brady bill's national waiting period and background check for handgun purchasers.

The Brady bill was a key part of the Omnibus Crime Control Act, which had been stalled by a Senate filibuster since November 1991 and failed to survive a closure vote yesterday. It can, and still should be, enacted without delay.

Handgun violence in America is a national tragedy. According to the Justice Department, handguns are involved every year in more than 600,000 violent crimes, including an average of 9,200 murders, 12,100 rapes, 210,000 robberies and 407,600 assaults. Despite this record of mayhem, our laws continue to tolerate the instantaneous, over-the-counter sales of these deadly instruments of crime to anyone who can pay the price.

Handguns are sold to anyone who fills out a form denying that he or she is a convicted felon, drug abuser or other prohibited buyer. In most states, no one checks the veracity of the buyer's answers before the gun is sold. In short, we have an "honor system" for handgun sales in which those who already have committed serious crimes are trusted to tell the truth about their past.

In states that already have waiting periods, criminals attempting to buy guns have been stopped in their tracks. California, which has a 15-day waiting period applicable to all firearms, stopped more than 5,800 prohibited persons from buying guns in 1991 and another 1,300 during the first quarter of 1992. These prospective buyers included 760 people convicted of drug violations, 47 of homicide, 30 of sex crimes, 418 of burglary, 132 of robbery, 10 of kidnapping and 3,613 of assault.

Despite the proven success of waiting periods in states such as California, the black market in handguns will continue as long as other states permit "cash and carry" sales. It is hardly surprising that the handguns used in crime in cities and states with strict gun control laws originate in jurisdictions without such laws. A study by the Bureau of Alcohol, Tobacco and Firearms showed that between 1987 and 1990, 94 percent of the guns used in crime in New York City came from out-of-state sources. The primary source states were Virginia, Texas, Florida, Georgia, South Carolina and Ohio, all of which have weak gun laws. Only federal legislation will ensure that nowhere in our country can convicted felons buy handguns over the counter with no questions asked.

Of all the arguments advanced by opponents of the Brady bill, surely the most specious is the charge that it would infringe a constitutional right. For more than 200 years, the federal courts have unanimously determined that the Second Amendment concerns only the arming of the people in service to an organized state militia; it does not guarantee immediate access to guns for private purposes. The nation can no longer afford to let the gun lobby's distortion of the Constitution cripple every reasonable attempt to implement an effective national policy toward guns and crime.

Congress knows what needs to be done. It knows that, according to a Gallup poll, 95 percent of the American people want the Brady bill to become law. It knows that the Brady bill has been endorsed by every major police organization in the country. It knows that among its own members, the Brady bill enjoys remarkable bipartisan support. In May of last year, the Brady bill passed the House of Representatives by 53 votes; it later passed the Senate by a margin of 67 to 32 and was incorporated into the crime bill.

The question now is whether Congress has the will to do what needs to be done. Since the crime bill filibuster began last November, thousands of Americans have lost their lives to handgun violence. It's time for Congress to pass the Brady bill and send it to the president. The American people have been waiting too long.

NICHOLAS DEB.
KATZENBACH.
RAMSEY CLARK.
ELLIOT L. RICHARDSON.
EDWARD H. LEVI.
GRIFFIN B. BELL.
BENJAMIN R. CIVILETTI.

(The writers are former attorneys general of the United States.)

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be 1 hour for debate on this matter, with the time to be controlled by Senator CRAIG and Senator METZENBAUM.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho [Mr. CRAIG] is recognized.

Mr. CRAIG. Mr. President, we have just heard the majority leader speak of the overwhelming support that he has so characterized around a provision that has come to be known nationwide as the Brady bill, or a 7-day waiting period for the purchase of a firearm.

While that particular provision does hold some support, I think it would be grossly unfair to characterize S. 3282—or the provision that was, in fact, attempted in its introduction here a few moments ago, and it is the issue at hand at this moment—to be one that is widely supported. Because I think that is simply false.

Why would I suggest that the majority leader might in some way be misportraying the issue before us? Let me make myself as clear as I can, Mr. President.

While his arguments were directed at the Brady bill, the provision before us is not the Brady bill. In fact, it is not even the compromise that was worked out by Senators in the crime provision, which was to be a 5-day waiting period and then a move toward an instantaneous background check. The language in S. 3282 did not appear in any Senate crime bill. The language in S. 3282, certain portions of it, did not even appear in the House provisions of the crime bill.

What happened was some magic sleight-of-hand that occurred during the crime conference which brought about some unique language that the law enforcement community had argued they wanted in the crime bill if there was to be a waiting period for the acquisition of a firearm.

It is so interesting that this Senate is wanting to vote on something that would take away the civil rights of the average American citizen, that would grant an openness, or a nonliable environment for a law enforcement person who would be charged with the responsibility of building a background check on an individual during a waiting period of time which would clear them to acquire a handgun.

I can understand why the law enforcement community does not want to be held liable. They really did not want to be held liable in the issue of Rodney King. But the American citizens said we must hold them responsible for their acts. They cannot be exempt when it comes to taking away the civil liberties of an individual citizen of this country.

While I totally respect the law enforcement community of our country and find them so necessary and appropriate, I cannot grant them absolute immunity from any liable or libelous act that they might enter into in the enforcement of law.

What am I talking about? That seems to be a pretty serious charge, Mr. President, but that is exactly what the language of the provision speaks to. It is what is embodied in S. 3282. Let me read a little bit. It says that:

> A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for dangers or for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

What does that all mean? Well, it all means that in the process of the information clearing, if you had a law enforcement officer who simply did not want handguns to move in his or her jurisdiction, they could find reason to disallow the clearing of a background check or to put a cloud over it, which would stop the sale. And then a law-abiding citizen would have to go to court, spend his or her money and employ lawyers to argue that they were, in fact, law-abiding citizens and, therefore, were eligible to acquire a handgun

Now, we know that a criminal would not follow this procedure. In fact, criminals do not live by the law. They never have. So, we really are not talking about blocking handguns or firearms from the criminal element. We are really talking about a new loophole, or not a loophole—I guess a loophole for the law enforcement community—but a whole new series of jumps and hurdles and processes that the law-abiding citizen, under his or her constitutional right, must now abide by if we are, as this lawmaking body, to pass a Brady-type bill.

Now, you can see why these new provisions were not in the original Senate provision. They would not have passed muster here, Mr. President. It is why they were not in the House provision. It is why they thought they might slip them through in a conference report on the crime bill, except for a few of us who spend some of our late hours reading the fine print.

Section (2), subsection (B)(7) (A) and (B) of one section of the law speaks just exactly to that. The effect of granting this immunity is to give law enforcement authorities unlimited and unqualified power to disapprove—to disapprove—any firearms sale to any law-abiding citizen.

I did not think the test was on the citizen. I did not think that a citizen ought to be tested for living within the Constitution. But that is what is about to be argued here if we are, in fact, to try to move forward on the provision, or the bill, separate from the crime bill that was introduced by the majority leader, S. 3282. That is what is at issue here today.

The President supports the Brady bill? Well, he has spoken to that. Does he support these new provisions? No; he has not spoken to that. Law enforcement organizations, yes, some of them do support it. But I would like to provide for the RECORD ample information that shows that there are literally thousands of law enforcement personnel out across America today who do not support the idea of violating the second amendment to the Constitution simply because the courts of this country have failed to handle and prosecute lawbreakers over the last good many years.

That is the issue at hand, Mr. President. That is why we are here today; not to debate a crime bill, because we decided not to do that, but to debate, really, an entirely new set of language around the Brady bill concept, something that has never been debated on this floor or discussed. And I think as the debate goes on, Mr. President, you will see why—because it could not stand the open test of the committees, because these committees, I do believe, would not intentionally create the kind of loophole that we are granting the law enforcement community, in an arbitrary way, and fail to grant to law-abiding citizens their constitutional rights.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?.

Mr. METZENBAUM. Mr. President, I yield 5 minutes to the Senator from Wisconsin, who has been resolute in his support for the Brady bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. KOHL. Mr. President, if anyone wonders why people do not trust Government, the answer lies in what we have done with gun control. What Government has done, Mr. President, is worse than nothing. What it has done is fooled people.

A year ago—now over a year ago—both the House and Senate voted for the Brady bill. Now, the way most people learn basic Government, and the way we teach it in the "How Our Laws Are Made" brochure we send to thousands of our constituents every year, if both Houses of Congress pass a bill, then it should go to the President.

But that did not happen here. Not at all.

The House passed the Brady bill as a freestanding measure and sent it to the Senate. Instead of taking up that freestanding bill, the Senate passed the Brady bill as part of a larger crime bill. Then the House approved the Brady bill again as a part of the conference report on the crime bill. But the Senate did not act on the conference report. And now, the Senate has declined to act on the freestanding Brady bill.

So there we are. Two votes in favor of the Brady bill in the House. Two votes in favor of the Brady bill in the Senate. No Brady bill sent to the President. And no Brady bill signed into law.

"How Our Laws Are Made."

Mr. President, some of the 15,000 American citizens murdered by firearms since the Senate passed the Brady bill 465 days ago might still be alive if we had made a law rather than played a political game. Now those lives have been lost. But other lives can still be saved if we stop playing the game.

Sixty-seven Senators voted for the Brady bill. Ninety percent of the American people support the Brady bill. Every major law enforcement organization has endorsed it. Even the President has said that he would sign it as part of a comprehensive crime bill, and more recently he said that he was flexible about the Brady bill standing alone.

So, we will soon find out it the President meant what he said.

There has been an objection to moving to the bill today. Unless that objection can be removed, the bill will die when the Congress adjourns. But between now and then, the President can exercise some leadership. Between now and then, the President can call upon Republican Senators who have objected to step aside and let this bill become law. Between now and then, the President can translate his rhetorical support for the Brady bill into action. He can call, as former Presidents Ford, Nixon, Carter and Reagan have, for action. He can exercise his leadership. He can make it happen.

The people of America deserve and need his help now. I hope President Bush will hear our call, free the Brady bill, and save some lives.

I thank the Chair.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I yield myself 10 minutes.

Mr. President, let us not kid ourselves what the issue is on the floor today. The issue has nothing to do with the specious question raised by the Senator from Idaho. I will address myself to that later. He is one of those unalterably opposed to the Brady bill.

The crime bill is dead, and there is only one reason the crime bill is dead, it is by reason of a filibuster by the Republican Members. And, Mr. President, let us make it clear, the reason we do not have a Brady bill or a crime bill is that the President has not put his shoulder to the wheel. If the President did, he could cause the Brady bill to become law before we adjourn. It is his responsibility; it is on his doorstep. He can get the few extra votes needed to cut off a filibuster.

But the President is not willing to do that. First he said he would support the Brady bill only as a part of the crime bill. So we put it into the crime bill. And we still cannot pass the crime bill because of a filibuster from the other side of the aisle.

Sixty-seven Senators on June 28, 1991, indicated their support for the Brady bill. Ninety percent of Americans have indicated their support for the Brady bill. And in a Time-CNN poll, 87 percent of gunowners support the Brady bill. But a few over on that side of the aisle, too many, enough to keep us from moving forward, will not join in helping us pass the Brady bill.

The President is the only one who has the persuasive powers to use in order to bring those Senators in line. Every law enforcement group in this country supports the Brady bill. These men and women, day in and day out, are out on the front lines fighting for their lives and fighting to protect the lives of all Americans. They want this bill. They want it very badly. They know that the fewer guns that are on the street, the more protected will they be, and they know that the only way to move in that direction is to pass the Brady bill. It has already been stated. Four former Presidents, three of them Republicans, six former attorneys general, all support the Brady bill.

Every year there are 24,000 people killed in this country with handguns.

That means 65 people today, 65 people tomorrow, 65 people the next day and 65 people yesterday. This is a question that is in the hands of the President.

I say to the President of the United States, and I do not do this often, "Mr. President, I plead with you. Mr. President, I appeal to you, I cajole you, I entreat with you, I ask you in every humanly possible way, help us pass the Brady bill at this moment in time. You are the only person in the United States who can cause the Brady bill to become law. You owe it to Jim Brady. We all owe it to Jim Brady. We all owe it to law enforcement officers in this country who are out there every day and week fighting to protect the lives of Americans. We owe it to the American people. Mr. President, do not let the people down. Do not let them stand in the way of passing the Brady bill. You can do it if you will do it."

Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that an op-ed piece in the Washington Post of October 3, 1992, be printed in the RECORD. I believe the majority leader made this request. I make it as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IT'S TIME TO PASS THE BRADY BILL

As individuals who have had the privilege of serving as attorneys' general, we watched with dismay as the congressional debate about the crime bill became increasingly partisan and divisive. This is not to say that we all agree on the difficult issues that defined the debate, such as habeas corpus reform or expansion of the federal death penalty. Our dismay, rather, has been directed at the failure to pass an anti-crime measure on which we all agree: the Brady bill's national waiting period and background check for handgun purchasers.

The Brady bill was a key part of the Omnibus Crime Control Act, which had been stalled by a Senate filibuster since November 1991 and failed to survive a cloture vote yesterday. It can, and still should be, enacted without delay.

Handgun violence in America is a national tragedy. According to the Justice Department, handguns are involved every year in more than 600,000 violent crimes, including an average of 9,200 murders, 12,100 rapes, 210,000 robberies and 407,600 assaults. Despite this record of mayhem, our laws continue to tolerate the instantaneous, over-the-counter sales of these deadly instruments of crime to anyone who can pay the price.

Handguns are sold to anyone who fills out a form denying that he or she is a convicted felon, drug abuser or other prohibited buyer. In most states, no one checks the veracity of the buyer's answers before the gun is sold. In short, we have an "honor system" for handgun sales in which those who already have committed serious crimes are trusted to tell the truth about their past.

In states that already have waiting periods, criminals attempting to buy guns have been stopped in their tracks. California, which has a 15-day waiting period applicable to all firearms, stopped more than 5,800 prohibited persons from buying guns in 1991 and another 1,300 during the first quarter of 1992. These prospective buyers included 760 people convicted of drug violations, 47 of homicide, 30 of sex crimes, 418 of burglary, 132 of robbery, 10 of kidnapping and 3,613 of assault.

Despite the proven success of waiting periods in states such as California, the black market in handguns will continue as long as other states permit "cash and carry" sales. It is hardly surprising that the handguns used in crime in cities and states with strict gun control laws originate in jurisdictions without such laws. A study of the Bureau of Alcohol, Tobacco and Firearms showed that between 1987 and 1990, 94 percent of the guns used in crime in New York City came from out-of-state sources. The primary source states were Virginia, Texas, Florida, Georgia, South Carolina and Ohio, all of which have weak gun laws. Only federal legislation will ensure that nowhere in our country can convicted felons buy handguns over the counter with no questions asked.

Of all the arguments advanced by opponents of the Brady bill, surely the most specious is the charge that it would infringe a constitutional right. For more than 200 years, the federal courts have unanimously determined that the Second Amendment concerns only the arming of the people in service to an organized state militia; it does not guarantee immediate access to guns for private purposes. The nation can no longer afford to let the gun lobby's distortion of the Constitution cripple every reasonable attempt to implement an effective national policy toward guns and crime.

Congress knows what needs to be done. It knows that, according to a Gallup poll, 95 percent of the American people want the Brady bill to become law. It knows that the Brady bill has been endorsed by every major police organization in the country. It knows that among its own members, the Brady bill enjoys remarkable bipartisan support. In May of last year, the Brady bill passed the House of Representatives by 53 votes; it later passed the Senate by a margin of 67 to 32 and was incorporated into the crime bill.

The question now is whether Congress has the will to do what needs to be done. Since the crime bill filibuster began last November, thousands of Americans have lost their lives to handgun violence. It's time for Congress to pass the Brady bill and send it to the President. The American people have been waiting too long.

NICHOLAS DEB. KATZENBACH.
RAMSEY CLARK.
ELLIOT L. RICHARDSON.
EDWARD H. LEVI.
GRIFFIN B. BELL.
BENJAMIN R. CIVILETTI.

Mr. WELLSTONE. Mr. President, this was written by six former Attorneys General.

Handgun violence in America is a national tragedy. According to the Justice Department, handguns are involved every year in more than 600,000 violent crimes, including an average of 9,200 murders, 12,100 rapes, 210,000 robberies and 407,600 assaults. Despite this record of mayhem, our laws continue to tolerate the instantaneous, over-the-counter sales of these deadly instruments of crime to anyone who can pay the price.

Mr. President, I have attended two press conferences in the last 2 weeks with Sarah and Jim Brady, with Senators KOHL, METZENBAUM, BIDEN, and with law enforcement officials representing law enforcement people all across this country. I have to say that these have been two of the most emotional press conferences I have ever been to, at least in my experience in politics.

The words that people spoke were so real, not just Sarah Brady and not just Jim Brady, but the law enforcement officials. The reason that there were tears in people's eyes is because 90 percent of the people in this country, or thereabout, support the Brady bill. The law enforcement people know what it means to have somebody with a history of violence to be able to go in and obtain a gun with no check whatsoever, no waiting period. They know what it means to have a fellow officer murdered as a result of that.

Mr. President, the arguments have been made back and forth, back and forth. I respect the Senator from Idaho. He knows that. He will say what he believes. But I think ultimately what we have today in the Senate as we come near the end of our session is a test case of who in the world owns the Congress, who owns the Senate. If 75, 80 or 90 percent of the people say it is reasonable to have the waiting period, if 75, 80, or 90 percent of the people say stop the violence, if 75, 80, or 90 percent of law enforcement people say it is the right thing to do, then is it the National Rifle Association that owns the Senate, is it the National Rifle Association that owns the House of Representatives, or do the people in this country?

This is once again a test case of whether or not we have democracy for the few or democracy for the many. We should have democracy for the many. People have instructed us that they want to see the Brady bill passed. It is time to pass the Brady bill.

Mr. President, we have passed arms control agreements in the Senate. Let us do something about arms control in our own country. This is absolutely insane for people to come in with no check whatsoever and be able to obtain these handguns. Now is the time to take the action.

Mr. President, I heard President Bush last night live, on the "Larry King Show," say he was in favor of this compromise bill that had been worked out. I think it is now time for the President of the United States to instruct all of us in the Senate and in the House to pass this piece of legislation. It is good Government policy. It is what the people in this country want.

We can no longer be run by one or two powerful financial organizations. It is time we start listening to what people are telling us. It is time we move beyond what the President has called gridlock.

I support what the Senator from Ohio said. There is only one person in the United States of America who can make the Brady bill the law of the land, and that is President Bush, and he can do it today. He can pick up the phone; he can exert the leadership; and we will pass this piece of legislation. When we pass this piece of legislation, people in the country will say this is what we thought it was all about. This is real representative democracy. We spoke. You listened. That is what we have to do, Mr. President.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, a good many of us have wondered for some time why the leadership and Members on the other side of the aisle did not bring up the crime bill more quickly than this. Why would they wait until the final days of the Senate, or, more importantly, why would they wait until the final days of a Presidential campaign to raise such critical and important issues? I think now we know. We just heard it: Only the President of the United States can solve this problem.

Let me suggest to you, Mr. President, that the President of the United States is not a Member of this body. No, only this body, with properly worded language, with a proper compromise can solve this issue, not running at the last minute to the floor with language that was never seen on this floor, creating a massive loophole in the law that will allow law enforcement officers to create their own law in their own environment. That is what we are talking about today.

Let me tell you what happened in Los Angeles, or have we forgotten so quickly that the days following the tragic Rodney King decision brought violence to that great city, and thousands upon thousands of people poured to gun shops to buy firearms to protect themselves and their property, only to find out that a 15-day waiting period stopped them. They grew violent about it. Even the law enforcement community of California said we wish we could bend the law. We cannot protect the law-abiding citizens. And they had to resort to law-abiding citizens protecting themselves, their lives, and their property.

How quickly we forget why our Founding Fathers in fact put the second amendment into the Constitution, for the situations like Los Angeles when law enforcement broke down and could no longer protect the private citizen and the private citizen must protect oneself. And that is what it is all about.

None of us in any way justify, or attempt to justify, the kind of violence that goes on in the streets of America today. We all know it is tragic. But we also know we must stand for the vast majority of law-abiding citizens who otherwise would have their constitutional rights trampled by those who would represent this type of legislation.

Mr. President, I would now like to yield to my colleague from New Hampshire 6 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Chair. I thank my colleague from Idaho for yielding.

With all due respect to my colleagues on the other side of this issue, the basic premise of the Brady bill is that all of the violent people in America who own guns, who have an intention of committing a crime with that weapon, are going to line up and voluntarily register their weapons. That is what the premise of this whole debate is, that the violent people who intend to commit crimes are simply going to say: "I will register; I will wait 7 days before I pick up my weapon to commit the crime."

Mr. President, with all due respect, that is ridiculous. It is simply not going to happen.

As Senator CRAIG has already stated, what is going to happen is that millions of innocent, law-abiding American citizens, many of whom are the victims that the other side has been talking about, are simply going to have to go through a hassle to be able to have a weapon for recreation, sport or even self-defense.

Mr. President, I am not going to be a part of that. It is about time Congress realizes what the American people realize, that we need to control crime, not guns.

Frankly, this is just a smokescreen because this Congress does not want to deal with the criminal. It is the criminal that is causing the problem in America today. We will not deal with that criminal. We do not want to pass the mandated sentences that are necessary for the repeat offenders who over and over again commit crimes with a gun.

It is very easy to get these people off the street so that we can walk across the street from our offices or other people around this country can walk around the larger cities of this Nation without being threatened and intimidated by guns. It is the person behind that weapon. Should we ban baseball bats? How about cars? They kill 50,000 people a year. Do we want to have a 7-day waiting period to buy an automobile?

Obviously, it is the intent of the individual behind the weapon that causes the crime.

Mr. President, because roughly 80 percent of all illegally used firearms are acquired illegally, gun control will do little to curb the incidence of crime and violence on America's streets. This reality is illustrated even more clearly by the fact that virtually every jurisdiction which has enacted or extended its waiting period for a firearm purchase, including States like Connecticut, California, and Washington, has witnessed an increase in violent crime substantially exceeding the national average, an increase substantially exceeding the national average.

So if a waiting period works, why has it not worked, for example, in Indiana, California, Minnesota, New York, and Connecticut, all of which have waiting periods. For the period between 1967 and 1989, these waiting period States all witnessed homicide increases exceeding the national average. In Indiana, homicide rates rose 70 percent; in California, 82 percent; Minnesota, 56 percent; Connecticut, 146 percent; in New York, gun control nirvana, the homicide rate increase was 131 percent.

Mr. President, consider the homicide rates over the same time period in States with no waiting period. In Alaska—we are talking about the rates now, not the number of people—rates were down 16 percent; in Nevada, down 24 percent; prior to its adoption of a waiting period, Delaware homicide rates dropped 35 percent; Vermont, 39 percent down; Idaho, down 40 percent.

Violent crime statistics tell the same story. States with waiting periods have experienced vast increases in violent crime compared to States without them. In New Jersey, violent crime rose 223 percent between 1967 and 1989; in Massachusetts, 429 percent; and in Connecticut the rate of violent crimes soared 434 percent.

Now, the nonwaiting period States over the same period: In Virginia, the crime rate was up a relatively modest 63 percent compared to those numbers; in West Virginia, 51 percent; Montana, 38 percent.

I am not happy with the rates of violent crime in any State, but the fact is the average rate increase in those States, three nonwaiting period States, was 51 percent, and the average in New Jersey, Massachusetts, and Connecticut, the three waiting period States, was 362 percent. The statistics do not back up the argument of the opposition, Mr. President.

Will a 7-day waiting period cut down on crimes of passion? The answer according to the statistics is "no", a resounding "no." According to FBI supplementary homicide reports, the average rate of domestic homicide in cities with waiting periods is 2½ times the average rate of domestic homicide rates in cities without waiting periods.

Do the people of America want a 97-percent increase in homicide rates, a sevenfold increase in violent crime, a 2½-percent increase in domestic violence? Of course they do not. The American people want to decrease this, and the way to do it is to take the criminal off the street.

A comprehensive study exhaustively researched and written by ACLU spokesman David B. Kopel shows why waiting periods are more dangerous to the public than they are helpful: Waiting periods distract law enforcement officials from criminals, fail to keep guns out of the hands of felons, and violate "prior restraint" and "least restrictive means" principles protecting citizens under the Bill of Rights.

Mr. President, I ask unanimous consent that Mr. Kopel's study be printed in the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Independence Institute, Denver, CO., Mar. 25, 1991]

WHY GUN WAITING PERIODS THREATEN PUBLIC SAFETY

(By David B. Kopel)

EXECUTIVE SUMMARY

"Honey, I forgot to duck." Remember the day Ronald Reagan was shot? The President, grinning up from his hospital bed on March 30, 1991, was able to joke about a gunman's attempt on his life. But his press secretary, James Brady, fared much worse; shots from the same pistol left him permanently disabled. The nation was shocked, the gun control movement galvanized.

This month's observance of ten years since the day Reagan and Brady were shot by John Hinckley is an occasion for renewed consideration of what can realistically be done to keep firearms from falling into the wrong hands and being used for the wrong purposes.

The leading proposal before Congress and state legislatures is to require that any retail purchase of a handgun be preceded by a waiting period, during which a background check on the purchaser's criminal and mental record could be conducted.

A waiting period has strong initial appeal. The tradeoffs appear positive: relatively small costs in exchange for significant gains in public safety.

But an exhaustive study of the issue by attorney and gun control expert David Kopel concludes that his perception is misleading. When all the evidence is dispassionately weighed, all the consequences traced, Kopel finds that there is a very real possibility that gun waiting periods *threaten* public safety.

The reason: law enforcement resources diverted and law-abiding citizens disarmed. Proponents are doubtless right in saying that a federally imposed waiting period would save at least one life somewhere, the author concedes. But he says that is beside the point if America as a whole would be marginally less secure against crime, violence, and fear as a result of the new restriction. Kopel's research and analysis show why the waiting period's vast cost is likely to more than cancel its apparent benefits.

Advocates of the waiting period use the Hinckley case as a symbol, opinion polls to suggest momentum, criminological studies and state experience for empirical validation. None of the four stands up to scrutiny, however. The proposed law would not in fact have halted purchase of the gun used to shoot Reagan and Brady. Polling results turn out to be flawed and mixed. No criminologist has shown that waiting periods work. California and other states with waiting periods show only a minuscule arrest rate and widespread unfairness to the law-abiding.

There is shock value in the scenario of guns "too easily bought" by drug dealers, psychotic killers, persons bent on killing a spouse or themselves, or purchasers intending to use them in hot blood. Yet hard data and common sense show little benefit from a waiting period even in such lurid situations.

Against the meager-to-nil impact of waiting periods on crime control must be set their clearly negative impact on the average American's ability to count on police protection or protect himself.

Specifically: Is it desirable to have law enforcement agencies bogged in a vast new paperwork morass and harried with lawsuits over insufficient background checks? To have a threatened person face dangerous, sometimes indefinite, delays in obtaining a self-defense gun? To set in place a mechanism for *de facto* universal gun registration and a political stepping stone to outright gun prohibition? To legislate in disregard of the "no prior restraints" and "least restrictive means" principles that should safeguard not only the Second Amendment, but the whole Bill of Rights? All these are foreseeable effects of the proposal.

Alternatives to the waiting period proposal might include a Virginia-style instant phone check on the purchaser's background, creation of a firearms owner ID card, or adding one's fingerprint to a computerized driver's license (the so-called "smart card"). These measures are preferable in many respects, since they are at least as effective as waiting periods at disarming criminals, and are less likely to be used to disarm citizens. Yet these alternatives, like the waiting period, are subject to evasion by criminals and abuse by government administrators, and create serious risks of privacy violations.

Ultimately, the Kopel study concludes, practicality and constitutionality are best served by strategies that aim to cut gun crime not by targeting the legitimate retail firearms trade, but instead by aiming at the black market where most criminals get most of their guns.

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INTRODUCTION

Waiting periods: Many states already have them; most national police organizations, most people, and most gun owners are for them. In the 1970s, even the National Rifle Association supported the idea of a carefully-crafted state waiting period. So who could be opposed?

This paper suggests that sometimes a majority of NRA members, a majority of gun owners, and even a majority of all the people may not always be right.

Waiting periods come in two basic shapes. The "limited" waiting period is a relatively short wait for retail handgun purchases. Proposals for such a law have attracted many co-sponsors in Congress, and lost by margins that (while not narrow) are far from the landslides usually thought to be the National Rifle Association's norm in crushing gun control. The wide support for a limited handgun waiting period in Congress reflects the growing persuasiveness of Handgun Control, Inc., the anti-gun lobby.

The more comprehensive waiting period applies to all guns, including long guns, and applies to all transfers, including gifts between family members. The wait itself is much longer. The comprehensive wait is also supported by Handgun Control, Inc. (HCI). HCI has persuaded legislatures in California, Connecticut, and Rhode Island to adopt a comprehensive wait, supplanting the existing limited handgun wait in those states.

Although HCI backs the new comprehensive waits in California and other states, the ultimate goal is an even stronger comprehensive wait. In 1990, Colorado State Senator Pat Pascoe introduced a waiting period bill which HCI Chair Sarah Brady called "everything on my wish list."[1] The bill provided:

As in California, a comprehensive background check and waiting period on both handguns and long guns, for all transactions, including intra-family gifts.

Each gun purchase would require a background check of up to two weeks, followed by a waiting period of one week. An applicant would then be given a permit to purchase, good for 60 days.

The applicant would pay a fee of up to $20 for each purchase permit.

There would be no exception for a person who needed a firearm for self-defense. In fact, even if the police strongly wanted the citizen to acquire a gun because of imminent deadly threats, a one week delay would still be mandatory.[2]

Presently the only state with a law that is more severe than Colorado's very strict proposal is New Jersey.

The waiting period concept (both limited and comprehensive) reflects the belief that there should be a police check before a person buys a gun. In the form of an instant telephone check, the National Rifle Association is essentially willing to accept the police assent principle, providing the system is structured properly. The instant check is currently in effect in Virginia, with few apparent problems (and some successes) so far. Hand Control, Inc. accepted the instant check in Virginia, and opposed it in Ohio.

Since the instant telephone check is sometimes offered as an alternative to the waiting period, the telephone check is discussed in this paper. Other regulatory alternatives to a waiting period are considered.

The paper discusses the following issues: Would a waiting period have stopped John Hinckley? What do the polls of police and of citizens say about waiting periods, and what implications should be drawn from the results? What have the criminologists learned about waiting periods? What good have they done in states where they already exist? If a waiting period could save at least one life (and it certainly could) isn't it a good idea? What are the disadvantages and risks of waiting periods and other police permission systems like the instant telephone check? Are there meritorious alternatives to waiting periods? The paper also offers suggestions about how a waiting period should be structured, if a legislature elects to enact one.

The views of Handgun Control, Inc. on waiting periods and gun control are discussed throughout, because, as HCI puts it, the waiting period is the group's "flagship" bill and HCI is by far the most important gun control lobby.

I. JOHN HINCKLEY

Synopsis: Handgun Control, Inc. claims that a waiting period and background check "certainly" would have stopped John Hinckley, who attempted to assassinate President Reagan. Yet Hinckley had no felony record, and no public record of mental disability. HCI asserts that Hinckley was not a resident

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Footnotes at end of article.

of Texas, the state where he bought the gun, and that a background check would have revealed that he was illegally buying a handgun in state where he was not a resident. The evidence indicates that Hinckley was a legal Texas resident. In any case, HCI's proposed background check involves only criminal and mental records, and not an address check. Accordingly, it is very unlikely that the background check would have affected Hinckley.

The national waiting period is commonly known as "the Brady Bill." Its supporters named it after Sarah Brady, the Chair of HCI. To many people, the fact that a waiting period would have stopped John Hinckley from shooting President Reagan and crippling his Press Secretary Jim Brady is reason enough to enact such a law.

Both the perpetrator and the main victim of Hinckley's attack agree that a waiting period would have prevented the crime. Currently under indefinite commitment to St. Elizabeth's mental hospital in Washington, John Hinckley has petitioned to be allowed access to reporters so that he can speak out for handgun control and for a waiting period. Hinckley explains that he was in "a valium depression" when he acted, and a waiting period might have given his better self time to reassert control. But in fact, Hinckley bought the assassination gun in October 1980, months before the assassination attempt. A wait would obviously have had no impact.

Legislators usually pay little attention to the policy suggestions of the criminally insane. The more persuasive spokesperson for the waiting period is Sarah Brady, wife of the man crippled by Hinckley. "Had a waiting period been in effect seven years ago, John Hinckley would not have had the opportunity to buy the gun he used," says Mrs. Brady.[3]

Mrs. Brady bemoans the fact that Hinckley was able to buy the gun with no waiting period to see if he had a criminal or mental illness record.[4] But Hinckley had no public record of mental illness; hence a mental records check would have done no good.[5]

As for a criminal records check, a police background check was run on Hinckley a few days before he bought the gun, and nothing turned up. Hinckley was caught trying to smuggle a gun aboard a plane on October 9, 1980, in Nashville. His name was run through the National Crime Information Center, which reported, correctly, that he had no felony convictions in any jurisdiction. He was promptly released after paying a fine of $62.50 and pleading guilty to a misdemeanor.[6]

Although Mrs. Brady complains about the lack of a criminal/mental check on Hinckley, she does not explicitly affirm that such checks would have affected him. Instead, Mrs. Brady's detailed explanation involves Hinckley's residence status.

On October 13, 1980, John Hinckley walked into Rocky's Pawn Shop, in Dallas, Texas, and walked out shortly thereafter with two .22 caliber RG revolvers. As with the retail purchase of any gun, the gun dealer was required to complete a federal form which listed Hinckley's address. Because Hinckley was buying two guns in the same five-day period (in fact, at the same moment), the dealer also filled out another federal form. That federal form was sent to the local office of the Bureau of Alcohol, Tobacco, and Firearms.

By federal law, the dealer was required to verify that Hinckley was a resident of Texas, the state in which he was buying the handgun. When asked for identification, Hinckley offered his Texas driver's license.[7]

Mrs. Brady details how a background check might have helped: "He lied about his address and used an old Texas driver's license to purchase that revolver. He was not a Texas resident. A police check would have stopped him from buying a handgun in Texas."[8] As she puts it, "He lied on his purchase application. Given time, the police could have caught the lie and put him in jail."[9]

Accordingly, Mrs. Brady states: "A simple check would have stopped him . . . John Hinckley might well have been in jail instead of on his way to Washington."[10] Indeed, her assurance that the waiting period would have stopped Hinckley is often unequivocal: "There's no doubt that he would not have been able to purchase that gun."[11] Or, "John Hinckley would never have walked out of that Texas pawnshop with the handgun that came within an inch of killing Ronald Reagan."[12]

But the facts are hardly as clear-cut as Mrs. Brady asserts.

Hinckley moved around a great deal, from one Texas address to another. The Lubbock address he listed on his federal gun form (the address for a rooming house) was different from both his driver's license address and his address in the then-current Lubbock phone book.[13] Of course moving frequently is not a federal crime. Because the only purpose of the driver's license is to prove residence in the state, there is no federal requirement that a handgun purchaser reside at the street address shown on his license, as long as the address is in the same state. Even if Hinckley had deliberately made a false statement about his address, the act would not have been illegal; a false statement on the federal form is illegal only if it relates to the purchaser's eligibility.[14] While a person's state of residence does relate to eligibility, address within that state does not.

In other words, Hinckley's purchase would have been illegal under federal law only if he was not a resident of Texas. Merely offering a Texas driver's license with a street address that was no longer current and was different from the address put on the federal form was not in itself illegal.

Was Hinckley a Texas resident? Contrary to what Handgun Control implies, it has never been determined that Hinckley was not. During the previous summer, he had attended both summer sessions at Texas Tech in Lubbock. According to federal rules, a university student is considered a resident of the area where he attends school, and may purchase firearms there.[15] Notably, when Hinckley was arrested in Nashville (a few days before he bought the handguns), he identified himself as a Texas resident.

Significantly, Hinckley, after the assassination attempt, was the subject of an intensive federal investigation. The federal government used every resource possible to ensure Hinckley's conviction. Notably, Hinckley was not charged with illegally purchasing the handguns in Texas. Had the prosecutors believed that Hinckley was guilty of an illegal gun purchase, the charges would likely have been brought. After all, Hinckley would then have had to convince a Texas jury that he was insane not just on the day of the assassination, but six months beforehand.

If the full resources of the Department of Justice did not find enough evidence even to charge Hinckley with an illegal gun purchase, it is not realistic to claim that a 7-day background check would have found the exact same transaction illegal.

Moreover, law enforcement authorities already had an opportunity to run a check on Hinckley. Because Hinckley bought two handguns on the same day, his purchase was immediately reported to the Bureau of Alcohol, Tobacco and Firearms, as required by federal law. BATF reportedly runs name checks as standard procedure, but does not run detailed background checks on multiple handgun purchasers (such as Hinckley) even though it has the legal authority to do so. Perhaps BATF has concluded that the expense of running the checks exceeds the likely benefits.

Let us hypothesize the fact that Mrs. Brady assumes (but for which the Justice Department apparently had no evidence): Hinckley was no longer a Texas resident. Assume that the address listed on the federal form was false. Would the assassination have been prevented by a background check? Almost certainly not.

How would the police have found Hinckley's "lie"? If they had looked in the phone book, they would have seen Hinckley listed as a Lubbock resident. To ascertain that Hinckley did not reside in Texas, the police would have had to visit his purported residence at least once. Since many police departments do not have the time to visit the scene of residential burglaries, it is not realistic to assume that they would have bothered to verify the address listed on Hinckley's residence.

Most importantly, the police never would have found the "lie" about Hinckley's address, because they would not be checking addresses. Under the Brady Bill (and the similar state proposals), the police would not be verifying anyone's address. The Brady Bill does not discuss any kind of address/residence check. As one of Handgun Control's key Congressional supporters explicitly insisted during the debate on the 1988 proposal, "The 'investigation' is limited to the review of police and court records."[16]

Thus, at the same time that Handgun Control's Congressional forces were reassuring Congress that the "Brady bill" involved solely a criminal/mental records check, and not an address or other check, Mrs. Brady was imploring the public to support her bill because an address check would have stopped John Hinckley.

Assume that, despite the evidence to the contrary, Hinckley actually was not a Texas resident, and further assume that the Texas police would have found it worthwhile to do what the federal BATF did not, and run a background check; and further assume that although the background check was intended to be run according to HCI's description, and to apply only to criminal/mental records, the Texas police would have expanded the background check and tried to verify Hinckley's address; and additionally assume that the police would have committed the manpower necessary to verify that Hinckley was not a Texas resident. If all these assumptions are valid (and if any one of the assumptions were incorrect, Hinckley clearly would not have been stopped), would Hinckley have been stopped? Perhaps.

Assuming the police found that Hinckley was trying to make a purchase without the proper residency status, would they have arrested him for that offense? Would he have been imprisoned for more than a day, if that long? Only a few days before Hinckley bought the Texas guns, he had been caught attempting to smuggle a gun onto a plane, and had been released from custody almost immediately, having pleaded guilty to a misdemeanor. Unless Hinckley were imprisoned for a term of years for the out of state gun purchase, he would have speedily been back on the streets. He could have taken any of the other handguns which he owned, and gone on to Washington for the assassination with one of them. (Among the guns he could have used was the .38 special he bought in Colorado, in full compliance with the law. Had he used that gun, rather than the .22 from Texas, President Reagan and Mr. Brady would likely have been killed.)[17]

Handgun Control, Inc.'s version of the assassination is false in other details as well. For example, one Handgun Control, Inc. advertisement depicts Mrs. Brady saying "A $29 dollar handgun shattered my family's life."[18] Actually, Hinckley's gun cost $47.[19] The difference is of no real importance, except that it shows the Handgun Control copywriters to be unwilling to offer a truthful presentation of even the most basic facts of the case.[20]

Handgun Control, Inc. and Sarah Brady have garnered substantial press support by claiming that the "Brady Bill" would have stopped John Hinckley.[21] Indeed, the strength of the push for the waiting period is very largely based on Sarah Brady and her assassination story. Sarah Brady heads Handgun Control, Inc., and HCI's fundraising letters are mostly personal testimonies by Mrs. Brady and her husband. The image of a man crippled by an assassin, but who could have been saved by "The Brady Bill" is compelling to press and politicians alike.

To say the least, the evidence suggesting that a waiting period would have stopped John Hinckley is underwhelming. Yet Mrs. Brady insists: "[T]his shooting could have been prevented if legislation such as that proposed here and been in force in 1981."[22] The unequivocal assertion is, in light of the facts, quite close to a fraud. Only a very unlikely set of events would have enabled police armed with a "Brady Bill" to stop John Hinckley. It is perfectly proper for victims of gun crimes to campaign for gun control. They should do so truthfully.

II. PUBLIC AND POLICE OPINION

Synopsis: Polling data show that large majorities of American citizens, as well as of big-city police chiefs, favor a waiting period. Polls of command-rank officers find them skeptical about waiting periods. For all the polling, flaws in the wording of the questions probably exaggerates the extent of public support and command-rank police hostility. In any case, polls are poor guides to public policy, particularly when Constitutional rights are involved. The reflexive hostility of some police officials towards the Second, Fourth, and Fifth Amendments to the Constitution should not be entitled to much weight in the deliberative process.

A. Police

Handgun Control, Inc. and its Congressional allies claim that a waiting period is supported by "every major police organization" in the country.[23] The assertion is based on a selective definition of "major police organization." The American Federation of Police, with 103,000 members, is the second-largest rank and file police organization in the United States, and is headed by Saginaw County Deputy Dennis Ray Martin, who has won awards from President Bush for anti-drug work. Martin and the American Federation of Police oppose a waiting period. The National Association of Chiefs of Police, with 10,000 members, is the second-largest command rank organization in the United States. It opposes a waiting period. Apparently neither of these organizations, being merely the second-largest in their field qualifies as a "major police organization."[24]

Many important police organizations do support a waiting period.[25] Yet a very few of these police organizations have actually bothered to ask the police what they think. One group that did ask was the Police Executive Research Forum (PERF), a Washington think tank comprising about 500 present and former big-city police executives. PERF's membership poll found 92% in favor of a national seven-day waiting period for handguns, and 6% opposed.[26] Thus, among big-city police chiefs, support for a waiting period is nearly unanimous.

The National Association of Chiefs of Police (NACOP) conducts annual national surveys of the opinion of command rank police officers. The survey is sent to all known commanders, not only NACOP members. In the 1989, the waiting period questions and responses were:

"Do you believe that a waiting period to purchase a handgun or any type of firearm will have any effect on criminals getting firearms?" Yes—29.1%; No—70.9%.

"The 'Brady Bill' offers a national 7 day waiting period that gives local police or sheriffs an option to check for previous criminal activities, possible drug or alcohol dependency and mental instability. Do you think you would be able to conduct such an investigation in a 7 day period?" Yes—44.7%; No—55.3%

"Some states have longer waiting periods and some less. Would you agree that it should be a state mandated law rather than a federal regulation as regards to firearms purchase requirements?" Should be State—62.7%; Should be Federal—37.3%.[27]

In 1990, the questions and answers were:

"Do you believe that a waiting period to purchase a handgun or any type of firearm will have any effect on criminals getting firearms?" Yes—23.9%; No—76.1%.

"Do you believe that in the national 7 day waiting period proposed before Congress (Brady Bill) that you can fully determine that the applicant has no criminal record; is not mentally unsound; or is an abuser of drugs or alcohol?" Yes—14.4%; No—85.6%.

"No funds to carry out this 7 day 'investigation' are provided in this Bill for police. Do you believe that your department has the manpower to conduct this investigation without taking patrol officers off the Street?" Yes—10.6%; No. 89.4%.

"There is no provision to protect you from a lawsuit in the event that you approve (after 7 days) an applicant who is a criminal, may be mentally unsound, or a drug or alcohol abuser. Do you believe that the 'Brady Bill' may leave you open to a future civil lawsuit?. No—10.2%; Yes—89.8%.[28]

While the NACOP polls are interesting evidence regarding police opinion, they must be interpreted cautiously. Although every fact stated in the NACOP questions is true, the tone of some of the questions was slanted against the waiting period. A graphic example of a pollster's ability to elicit different responses by slight changes in the question is shown in the contrasting 1989 and 1990 answers on whether 7 days was enough time to complete the background check. In 1989, 55% said that 7 days would not be long enough. In 1990, the question was revised to ask if the background check could be *fully* completed 7 days, and the time question was followed by a question which noted that no extra funds for the check would be available. For the 1990 survey, the number of respondents who said that 7 days was not long enough shot up to 86%.

In both the 1989 and 1990 surveys, the questions about waiting periods affecting criminals were phrased in a neutral way. But the 1990 questions regarding police civil liability clearly did, like the Gallup poll on waiting period, elicit a particular response. Notably, the neutral questions (about waiting periods affecting criminals) drew responses of about 70–76% negative on the waiting period, while the most biased question (about civil liability), drew about a 90% negative.

Accordingly, NACOP's most extreme figures, of 90% command rank hostility to the waiting period, are likely too high, for the same reason that Gallup's 91% pro-wait figures for the general public is too high. (The Gallup poll is discussed below.) The NACOP survey does seem to indicate that a majority of command rank officers (perhaps something less than 70%) are skeptical about waiting periods. The most definite conclusion that can be drawn from the NACOP and PERF surveys is that Handgun Control's claim to have the near-unanimous support of the police is true only for major urban chiefs.[29]

A large number of working officers seem to agree with Willis Booth, a former police chief, and Executive Director of the Florida Police Chiefs Association: "I think any working policeman will tell you that the crooks already have guns. If a criminal fills out an application and sends his application . . . he's the biggest, dumbest crook I've ever seen."

Put aside the evidence regarding police opinion, and hypothesize that every police chief in the United States supported a national waiting period. Should their position determine the law?

The opinion of police chiefs is not the arbiter of our Constitutional rights. Some police executives criticize the exclusionary rule; they claim that a strong Fourth Amendment causes crime. Some police executives criticize the *Miranda* decision, and claim that a strong Fifth Amendment causes crime. Many police executives say that a strong Second Amendment causes crime. In every case the executives are wrong.[30]

Police chiefs are, after all, not generally renowned for their regard the Constitution. As the NACOP polling indicates, huge majorities of command ranks favor sharp limits on death penalty appeals, draconian drug laws, and widespread drug testing.

Likewise, self-proclaimed allies of law enforcement have eroded their credibility by supporting bans on "plastic guns" (which do not exist) or by claiming that a law which lets a Pennsylvania hunter drive to Maine without obtaining a New York gun permit would threaten the lives of police officers.[31]

In short, the reflexive hostility of some police officials towards the Second, Fourth, and Fifth Amendments is not entitled to much weight in the deliberative process.

Why does the waiting period have nearly unanimous support among big-city police executives? While it is true that some big-city chiefs (such as Ari Zavaras of Denver and Joseph McNamara of San Jose) are ardent enemies of the right to bear arms, not all chiefs are out to destroy gun ownership. One reason for supporting the waiting period is its intuitive appeal; at first glance, it seems like a way to interdict at least some criminals, without interfering with legitimate gun owners.

Perhaps another reason that some police chiefs favor the waiting period is that police chiefs, like any other administrators of large government offices, often seek to expand their official power. From the perspective of a police administrator, more power may mean more officers performing administrative tasks and supervising more transactions by the citizenry. The same mentality leads to the creation of paperwork empires in the Pentagon or in the Hubert H. Humphrey building, even if the emphasis on paperwork hinders the agency's performance of its assigned mission.

B. Public opinion polls

The Gallup Poll reports: "91% of Americans Favor Brady Amendment."[32] If the polls are for it, who can be against it?

One reason to be cautious about polls is that the bias of the pollster can skew the poll. By modifying the wording of a question, "You can come up with any result you want," says Peter Hart, pollster for the Dukakis campaign.

The Gallup poll about waiting periods posed the question in a way that assumed the waiting period really would help the police keep guns away from illegitimate persons: "Would you favor or oppose a national law requiring a seven-day waiting period before a handgun could be purchased, in order to determine whether the prospective buyer has been convicted of a felony or is mentally ill."[33] As discussed below, the criminological and real-world evidence on waiting periods shows that they do virtually no good in keeping illegitimate users from getting guns; criminals do not buy guns in gun stores.

Most people are for something that works. If the question assumes that a waiting period would work, it is bound to receive nearly unanimous support. But the real question is whether waiting periods work as well as Gallup assumed they do.

The most important reason polls should not always prevail is because the Constitution does not depend on polls. Violating the Constitution can be a popular thing. By huge majorities, Americans would favor all of the following:

Banning use of civic auditoriums by atheists, or by people denouncing the government, or by patriotic groups advocating war against a foreign enemy;

Using a federal censorship board to decide which television shows are permissible;

Infiltrating non-violent dissident groups with FBI agents.[34]

Every one of those popular ideas would violate the Constitution. The precise reason for putting certain fundamental rights in the Constitution is to protect them from transient majorities.[35]

No measure could have been more unconstitutional than herding American citizens of Japanese descent into concentration camps during WWII. Public opinion and the press almost unanimously favored this repression, despite the total lack of evidence that these Americans were disloyal.

Even though the pubic sometimes backs unconstitutional measures, the public still has the common sense to know that the Constitution is more important. One survey asked: "Suppose the President and Congress have to violate a Constitutional principle to pass an important law the people wanted. Would you support them in this action?"

28% said yes, "because the Constitution shouldn't be allowed to stand in the way of what the people need and want."

49% said no, "because protecting the Constitution is more important to the national welfare than any law could possibly be."[36]

Finally, while the majority of the public does favor a waiting period (although probably by less than the 91% majority found by Gallup's biased question), the public opposes "a law giving police the power to decide who may or many not own firearms" by a 68% to 29% margin.[37] Accordingly, if a waiting period were conducted within the limits implied in the Gallup poll (every legitimate owner got the gun in no more than seven days), the public might well support a waiting period. But if waiting periods turned out to give police the opportunity to interfere with citizens' right to buy firearms, the large majority of the public would oppose a waiting period. As detailed below, waiting periods in practice often lead to the kinds of police abuses which the public overwhelmingly opposes.

III. CRIMINOLOGICAL STUDIES

Synopsis: Criminologists of every persuasion have examined waiting periods, and not one has found statistically significant evidence that waiting periods are effective. Studies of felony prisoners show that virtually none of them obtain crime guns by personal over the counter purchase, the only kind of criminal gun acquisition that a background check could stop.

"Virtually every study ever conducted proves that where there are local or state laws requiring a waiting period and background check, handguns are harder to obtain by those who are prone to misuse them," claims Handgun Control, Inc.[38] The claim is false. Every study of waiting periods has found no evidence that they are effective. There is not a single study published in any academic journal which concludes waiting periods are effective. The results show just the opposite.

Professor Matthew DeZee states: "I firmly believe that more restrictive legislation is necessary to reduce the volume of gun crime." Yet his comparative study of state laws, including waiting periods, found "The results indicate that not a single gun control law, and not all the gun control laws added together, had a significant impact . . . in determining gun violence. It appears, then, that present legislation created to reduce the level of violence in society falls short of its goals. . . . Gun laws do not appear to affect gun crimes."[39]

Professors Joseph P. Magadinno and Marshall H. Medoff, both of California State University, Long Beach, performed two studies of waiting periods at the state level. The first study, using data from 1979 and previous years, compared the 1979 robbery and homicide rates in states that had waiting periods with states that did not. The study also looked at changes in the robbery and homicide rates in states which had recently changed their laws regarding firearms sales. Both aspects of the study found that there was no correlation between waiting periods and lower homicide or robbery rates.[40]

The second Magadinno-Medoff analyzed state gun laws and rates of homicide, robbery, and aggravated assault in 1960 and 1970. The results were consistent with the hypothesis that stricter state gun control laws have no impact on crime.[41]

When the U.S. Senate Judiciary Committee investigated the issue, the Committee found no evidence that waiting periods affect crime. There was no correlation between a waiting period and lower crime rates.[42]

Duke University's Philip Cook, who is generally supportive of gun control, explains why there is no apparent statistical impact:

> [W]e suspect that most felons and other ineligibles who obtain guns do so not because the state's screening system fails to discover their criminal record, but rather because these people find ways of circumventing the screening system entirely. . . . Under these circumstances, developing a more intensive and reliable screening process is probably not worth the additional cost. . . . It is known that such screening systems are widely circumvented and, furthermore, that state criminal record files are sufficiently incomplete that a felon who did choose to submit to the required police check before buying a handgun would have a sporting chance of having his application accepted.[43]

Assistant Attorney General John Bolton observes, "Those persons with a criminal record who are prohibited from purchasing a handgun are the ones most likely to obtain false identification documents to support a new name." [44]

Of course the Magadinno-Medoff, Senate Judiciary, and DeZee studies do not completely destroy the case for a waiting period. It might be that state waiting periods have a small impact on crime, even if that impact is too small to be statistically significant. Moreover, even if state waiting periods were acknowledged as demonstrable failures, it might be that a federal wait would be effective.

Under the Carter Administration, the National Institute of Justice offered a grant to the former president of the American Sociological Association and two colleagues to survey the field of research on gun control. Peter Rossi and his coauthors Jim Wright and Kathleen Daly began their work convinced of the need for strict national gun control. Indeed, Wright had already written about the need for more control. After looking at the data, however, the three researchers found no convincing evidence that gun control curbs crime.[45]

A few years later, Wright and Rossi conducted another National Institute of Justice study, this one of the gun use patterns of criminals. They interviewed prisoners in ten state systems. The study confirmed that many criminals are indeed frightened of armed citizens.[46] Notably, the second National Institute of Justice study discovered that felons in states with strict laws found obtaining a gun no more difficult than in states with more moderate laws. Almost all felons, regardless of the severity of their state's laws, reported that they would have little or no difficulty obtaining a gun soon after release.

Wright and Rossi asked the prisoners where they obtained their last handgun, and 21% replied at a gun store. Hence, HCI argues, a waiting period and background check would affect a significant figure of gun crimes. But Wright and Rossi disagree with HCI's interpretation of their data. They write:

"One might as a matter of federal policy require that every firearms transaction be reported to the cognizant authorities, and the appropriate criminal records check undertaken; but one quickly senses that this measure would have little or no effect on the criminal users whom we are trying to interdict and a considerable effect on legitimate users. . . . The ideal gun crime policy is one that impacts directly on the illicit user but leaves the legitimate user pretty much alone."[47]

Careful analysis of the Wright-Rossi data shows that far less than 21% of criminal gun users would be affected by a background check. The 21% who obtained their last crime handgun at a gun store included 5% who had obtained the gun by theft, rather than by purchase. Of the 16% who had obtained the gun by purchase, at least some likely did not have disqualifying criminal records at the time of purchase.

Further, not all of the guns acquired by criminals are acquired for crime. (Many criminals live in neighborhoods with other criminals, and hence own guns for defense.) The more likely a felon was to be a serious gun criminal, the less likely he was to have acquired a retail gun. For example, of the criminals who specialized in unarmed crime, 30% obtained their most recent handgun at a store (by purchase or by theft). Of the "handgun predators" who specialize in handgun crime, only 7% had gotten a handgun from a store. For criminals as a whole, of the guns that had been obtained "to use in a crime," 12% came from a store.[48]

Since about one-fourth of the handguns from stores were stolen from stores, only about 9% of handguns obtained to use in a crime, (and about 5-6% of handguns obtained by handgun predators) came from a retail purchase. Nine percent or even five percent still seems to be a significant number of criminals buying guns in gun stores. But Wright and Rossi explain that their data:

"does not imply that the men in question themselves simply walked into a gun shop and bought themselves a gun, in direct defiance of the Gun Control Act of 1968. In many cases, these purchases would have been made in the felon's behalf by friends or associates with "clean" records, which is, to be sure, still quite illegal. Although, we asked these men where and how they had obtained their most recent guns, we did not ask who, exactly, had obtained them."[49]

Assuming that only half the purchases were made by legal surrogates, the background check is entirely irrelevant to 95–98% of crime gun acquisitions.

The large majority of all gun acquisitions are by people who already own a gun. If the pattern also holds true for criminals, then the background check would impact only a fraction of the already tiny percentage of criminals who personally buy guns at retail. In other words, of all guns acquired for crime, only about 0.5% to 2% are personally bought at a retail outlet by a person with an existing criminal record who does not already have another gun.[50]

The basic problem with waiting periods is shown by a Bureau of Alcohol, Tobacco and Firearms study of gun dealer sales in Des Moines and Greenville. The study found that about one to two percent of sales were to dangerous criminals.[51] In short, waiting periods have no statistically noticeable impact on any type of crime because only a tiny fraction of crime guns are purchased at retail by ineligible buyers.

Waiting periods have existed in some states for over half a century. Yet after all this time, there is not a single criminological study ever published which shows waiting periods to have any beneficial impact. While the researchers who have studied waiting periods have very diverse views on the gun debate in general, all researchers have concluded that there is no evidence that waiting periods cause any statistically significant benefits.

IV. THE WAITING PERIOD (IN)ACTION

Synopsis: Although no evidence ties waiting periods to reduce crime rates, the experience of states with waiting periods shows only a small percentage of retail gun buyers are denied because of criminal records. Of these, about 1% are deemed worth arresting. The number of people who are illegally or arbitrarily denied their right to bear arms by abuse of a background check system is about as large as, and sometimes far larger than, the number of criminals denied.

Although the academics have never found any statistically significant effect from waiting periods, it would be incorrect to conclude that waiting periods accomplish nothing. The following section reports results in several jurisdictions that already have waiting periods. The particular jurisdictions discussed were selected because: 1. The police have compiled and released data for that jurisdiction; and 2. The jurisdiction is cited as a success story by Handgun Control, Inc; 3. Data is available to test the veracity of the figures from the police or HCI. The data shows that: 1. Some people with criminal or mental records do attempt retail gun purchases, and are stopped by a background check; 2. Handgun Control, Inc, consistently overstates the efficacy of the background check in its model jurisdictions.

California: Officials state that their background check for handguns interdicted 1,900 illegal purchases in 1989.[52] Nevertheless, California's handgun homicide rate rose 21% from 1979 to 1988, even as gun laws grew tighter.[53] California has no appeals process, so it is impossible to determine how many of the denials are proper. As discussed below, the California waiting period forms have been used to build a government data-base of gun owners.

About 10% of California's 300,000 "assault weapon" owners have registered their weapons, as required by law. The group that complied with the retroactive registration law surely qualifies as highly law-abiding set of people. Yet this group of highly law abiding gun-owners, when they attempt to buy a new rifle or pistol following California's 15-day waiting period, find that the California Department of Justice has put a 1 to 4 month hold on their application, because they are registered "assault weapon" owners.[54]

A Los Angeles City Councilman, noting the thriving market in stolen Rolex watches, has suggested that all Rolex watches be registered, and a five-day waiting period be imposed on transfers of second-hand Rolexes. The Rolex waiting period has been ridiculed by most other Los Angeles politicians, and written up in the national press as another instance of California silliness. It might be asked why so many people who dismiss the idea that registration and a waiting period would affect the criminal sale of Rolex watches think that registration and a waiting period would affect the criminal sale of firearms.

Broward County, Florida: Handgun Control correctly notes that in 1984–85, 37 persons were kept from buying guns by the county's ten day waiting period (which has since been preempted by state law).[55] Handgun Control fails to point out that nearly half of the rejections were for unpaid traffic tickets or similar offenses which do not legally disqualify Floridians from gun ownership.[56] HCI also fails to point out that gun suicides actually increased after the waiting period was implemented.

Columbus, Georgia: HCI claims that the city's 3-day wait catches two felons a week trying to buy handguns.[57] HCI exaggerates the rate four-fold, and implies that the number related to arrests, rather than merely to denials.[58]

Illinois: Prospective gun purchasers must obtain a Firearms Owners Identification card (FOID), which is valid for five years. There are about 5,000 applications every week for the card. Over the weekend, a list of applicants is run through the state Department of Mental Health, revealing about 10 applicants who are ineligible to buy because of mental disability.[59] Illinois' automated licensing system often takes 60 days to authorize a clearance.[60]

Illinois issues FOID cards to about 78% of applicants. Another 17% are issued a card after following up an initial rejection, for a total of about 200,000 FOID cards issued annually. Around 5% of applications are ultimately rejected. In 1988, there were 2,470 persons (about 2.5% of applicants) denied an FOID card on the basis of felony convictions, and 779 previously-issued cards were revoked due to felony convictions.[61]

The most thorough study of the Illinois system was conducted by Professor David Bordua. Happily, "the system was run with real attention to due process protections for firearms owners." Unfortunately, "even its administrators were not convinced it was effective." The system, which costs over a million dollars a year to process, was summarized as "inherently weak."[62]

Maryland: About 700–800 of every 20,000 applicants in a given year are denied. (The waiting period/police permission applies to all handguns and to long guns considered "assault weapons.") According to state police testimony before a Congressional subcommittee, the hundreds of denials typically lead to only a handful of prosecutions.[63]

Notably, 78% of appeals result in a reversal of the initial denial by the police.[64] The success rate on appeals likely understates the police error rate in initial denials. Many police who have been improperly denied may have neither the finances nor the energy to pursue an appeal. (Similarly, the ACLU indicates that only a minority of people improperly denied welfare benefits appeal.)

Although the waiting period is by statute supposed to last only one week, the police may take longer, and gun shops will not release the firearm until the police have completed their review.

New Jersey: Firearms laws in New Jersey are the strictest of any American state. Handgun Control states that "10,000 convicted felons have been caught trying to buy handguns."[65] The cost to legitimate gun owners has been severe. The number of New Jersey citizens arbitrarily denied the right to possess arms under the New Jersey law is almost as large as the number of criminals who were prevented from law-abiding transactions.[60] About one-quarter of the rejections in New Jersey are based on the hunch of police that it would be a good idea for a person to own a gun, rather than on any specific disqualifying criterion.[67] Although New Jersey law requires that the authorities act on gun license applications within 30 days, delays of 90 days are routine; some applications are delayed for years, for no valid reason.[68]

The cost to the non-gun owning citizens of New Jersey has also been severe. The New Jersey licensing system is so expensive that it costs $4,442.13 (more than the salary of state trooper of one month) for each denial based on criminal, mental or alcohol abuse records.[69] It might be that the resource diverted into the licensing system might have saved far more lives if they had been spent on putting state troopers on patrol, instead of putting troopers behind a desk.

The overall crime rate and the gun crime rate in New Jersey has remained consistent with the rate in other states in the region, even though none of them imposes gun control as strict as New Jersey's.

Pennsylvania: In Pennsylvania, handgun buyers face a 48 hour waiting period (72 hours in practice), during which local police or sheriff may conduct a check.[70] After the buyer picks up the handgun, the transaction record is sent to the state police firearms unit, which checks the name against a list of violent felons. Data for the first check by local police is kept at the county level, so there are no comprehensive figures available.

In addition to checking the approximately 130,000–150,000 handgun transfers that occur in a year, the state police are also automating their old records of firearms transfers (which date back to 1931), and checking the old names against the same list of violent felons. In 1988, the state police performed about 230,000 total records checks, resulting in about 80 "hits."

When a "hit" is found, state troopers are sent to confiscate the gun, and the local district attorney may bring charges for unlawful gun possession by a felon. Ms. Sharon Crawford, head of the state police firearms unit, recalled only one case in her memory where a person had committed a crime in the two to three week interval between taking possession of the gun and the arrival of the state trooper, or had refused to hand the gun over to the trooper. In the one case, the person had shot (not fatally) someone else during an argument.

The explanation for the generally peaceful behavior of the persons caught with illegal guns is that the purchases were not with the intention of use in a crime, but rather were self-defense and/or hunting purchases by persons who did not realize they were ineligible or who hoped to slip through the system.[71]

The Pennsylvania data validates the findings by Wright and Rossi: there are many attempted and/or completed firearms acquisitions by ex-felons that are unrelated to any effort to use the gun in a crime. Accordingly, the number of crimes prevented by a system that keeps ex-felons from buying guns in stores is likely to be significantly less than the number of ex-felons who are caught buying guns. (All this is not to say that the "felon-in-possession" cases should not be prosecuted or taken seriously; the point is simply that most attempted acquisitions were not for a criminal purpose.)

It would not be correct to use the Pennsylvania state data to conclude that background checks are pointless. The data above refers only to the State police check of names against violent felony convictions. The data do not show what impact the first check, by the local police, has had. It might be that most felons buying guns for crime are stopped at the local level, and are hence never checked by the state system.

Virginia: In 1989, Virginia enacted an instant telephone check, with the consent of both HCI and the NRA. About 16 to 20% of phone applications result in a "hit," requiring the rejected applicant to submit fingerprints to the police to prove his noncriminal identity.[72] The ultimate denial rate of about ½% to 1% is the same as in other states with longer waiting periods. The first year the check was in effect, there were 540 denials, leading to arrest of 7 fugitives, including one wanted for murder.[73] (There was also at least one false arrest.) The Virginia system required 16 new full-time state employees, and $391,000 in annual operating costs.[74] Because the Virginia system appears to be working reasonably well, it is touted as model by many right-to-bear arms advocates.

In sum, the evidence shows that a permission system does result in some denials, at least half of which turn out to be incorrect. Even for the denials that are correctly applied to ineligible purchasers, it is not correct to assume that the denial has thereby prevented a crime. Virtually no one who intends to commit a gun crime buys from a gun store. Ineligible people do sometimes attempt retail transactions, but that act is hardly proof that they intended a crime.

Of the people who are rejected by permission systems, a mere 1% are arrested.[75] In other words, where a permission system is in effect, about 1 in 10,000 applicants turns out to be a criminal who is arrested. A success rate of one true "hit" for every 10,000 searches is, literally, not much better than the odds of finding a needle in a haystack—and is not a cost-effective method of catching needles.

V. PARTICULAR TARGETS OF WAITING PERIODS

Synopsis: The suggestion that people who transact in illegal drugs could be denied firearms under any gun control system is patently silly. Psychotic mass murderers have repeatedly bought guns in states with waiting periods. There is no evidence that waiting periods prevent suicides or domestic homicides. Hardly any crimes could even theoretically be prevented by a "cooling off" period. A perfect waiting period or other permission system would not even stop criminals from getting even retail guns. False identification is not hard to procure. And although a fingerprint or other biometric check would defeat false identification, most criminals would still likely know someone without a felony record. The surrogate buyer could still buy a gun for a criminal at retail.

Although waiting periods might have little impact on the average street criminal, it is sometimes suggested that waiting periods might deter particular kinds of gun misusers.

A. Drug dealers

In 1988, Handgun Control, Inc. attempted to hang its national waiting period on the drug bill, under the theory that the waiting period would disarm narcotics distributors. HCI still continues to promise that a waiting period will help take guns away from drug dealers.[76]

It stretches credulity to promise that any kind of gun legislation, including a waiting period, would have the slightest impact on drug dealers. Dealers, being expert in the black market, would have the readiest access to false identification, and to underground supplies. They are the last people gun control could impact.

Drug dealers obviously cannot count on the police or the courts for protection from violence. Because of this, and because dealers are a valuable robbery target, it would virtually be suicide for them not to carry a gun.[77]

In addition, drug dealers cannot use normal legal and social commercial dispute resolution mechanisms. Like the gangsters of alcohol prohibition days, drug dealers need guns to protect their business's income and territory. Thus, many drug dealers must own a gun for their lives and their livelihood.

No matter how scarce guns become for civilians, there will always be one for a criminal who can pay enough. Street handguns now sell for less than $100. If the price went up to $2,000, dealers would still buy them, because dealers would have to. Spending a few hours' or days' profits on self-protection is the only logical decision for a dealer. Can anyone really believe that an individual who buys pure heroin by the ounce, who transacts in the highly illegal chemicals used to produce amphetamine, or who sells cocaine on the toughest street-corners in the worst neighborhoods will not know where to buy an illegal gun?

B. Homicidal maniacs

Patrick Purdy, who killed five children in Stockton, California, bought five guns over the counter in California, despite the state's strict 15-day waiting period. Laurie Dann bought a handgun and shot up a second grade classroom in Illinois, killing one child, wounding five, and then killing herself despite that state's requirement that all gun owners be licensed, and still undergo a waiting period before each firearm acquisition.[78] Mark David Chapman, John Lennon's assassin, bought a handgun in Hawaii, a state with one of the strictest waiting periods in the nation. Canada has a nationwide licensing system, yet a deranged man was able to buy a rifle with which he shot and killed 14 women in December 1989.[79] Criminals like Eugene Thompson (a felon and a cocaine addict who shot up a Denver suburb in March 1989) do not buy guns legally; they steal them. The criminally insane are criminally insane day off and on for years and years, not just for the three weeks covered by a waiting period. They periodically consult psychiatrists and acquire firearms without immediately or soon thereafter perpetrating crimes of insanity.

The latest claim that a waiting period would have stopped a maniac involves a mental patient who bought a gun in an Atlanta suburb without a wait, shot up shoppers at Atlanta's Perimeter Mall, killed one of them, and wounded four others. DeKalb County promptly approved a 15 day waiting period.[80] Handgun Control's national fundraising claims that the killer would have been stopped had a waiting period been in effect.[81] The claim is false; the killer's record of mental disorder was entirely private, and he had never been adjudicated mentally incompetent, or involuntarily committed.

C. Suicides

There are simply too many ways for people to kill themselves. After Canada implemented a national licensing system in 1978, its gun suicide rate did drop;[82] but the overall suicide rate remained the same.[83] Japan almost totally bans guns, but suffers a suicide rate twice the U.S. level.[84]

D. Domestic homicides

Many handgun control advocates assume that a waiting period would prevent "impulse killings."[85] But most domestic killings occur at night, gun stores are closed. Most perpetrators are intoxicated with drugs and alcohol, and thus legally forbidden to buy a gun anyway. The image of a murderously enraged person leaving home, driving to a gun store, finding one open after 10 p.m. (when most crimes of passing occur), buying a weapon, and driving home to kill is a little silly.[86]

In any case, hundreds who kill wives rarely use guns. Wives who kill husbands do often use guns, and are usually defending themselves or their children against felonious attacks.[87]

E. People in need of "cooling-off"

Criminologist Gary Kleck points out that for a "cooling-off" period to prevent homicide, a number of conditions must be fulfilled: 1. The gun the killer used was the only one he owned, or the only one he could have used in the crime; 2. The killer acquired the gun from a source that would be expected to obey gun control laws (a licensed dealer); 3. The gun was purchased and used in the homicide in a time period shorter than the "cooling-off" period. Discussing an analysis of 1982 Florida homicides, Kleck found that 0.9% (about 1 in 100) homicides fit all three criteria. He estimated that nationally about 0.5% (1 in 200) would fit all three criteria.

Nevertheless, Kleck suggested that a waiting period would not prevent even 1 in 200 homicides. For the homicide to actually be prevented, several other conditions would all have to be fulfilled: 1. The killer was the kind of person who would not have been willing to kill even after waiting; in other words, the killing was an isolated act, rather than the culmination of a long history of assaults by the killer; 2. The killer would not have acquired and successfully used a gun that did not require cooling off (such as a long gun, in most states); 3. The killer would not have been able to complete the homicide with any weapon other than a gun; 4. The killer would not have been able or willing to obtain a gun from a non-retail source. Considering all the necessary criteria, Kleck did not find any Florida homicides which a cooling-off period clearly would have prevented.[88] While supporting a background check, Kleck concluded that a cooling-off period would in itself do no good. Hence, he thought the waiting period to offer no advantage over the instant check.

F. Summary: What benefits can be expected from a waiting period?

New York City Mayor David Dinkins asserts that "The Brady Bill could save thousands of lives in its first year."[89] Although many credulous New Yorkers believed their Mayor, and flooded House of Representatives Speaker Tom Foley's office with phone calls demanding passage of the waiting period, there is not a serious criminologist in the United States who thinks the Mayor's assertion has any basis in reality.

A perfect waiting period or other permission system would not even stop criminals from getting retail guns. False identification is not hard to procure. And although a fingerprint or other biometric check would defeat false identification, most criminals would still likely know someone without a felony record. The surrogate buyer could still buy a gun for a criminal at retail.

When pressed for whether the waiting period will deprive criminals of guns, HCI demurs, but expresses confidence that a waiting period will make gun acquisition more troublesome for criminals.[90] Likewise, the federal Task Force which studied background checks acknowledges that "[E]ven a perfect felon identification system would not keep most felons from acquiring firearms,"[91] but nonetheless supported a permission system, hoping that by forcing some criminal buyers onto the black market would leave them less able to obtain high-quality firearms.[92]

But would a waiting period or other permission even inconvenience criminals, considering that hardly any of them obtain crime guns through dealers anyway? Moreover, the current black market supplies even fully automatic firearms, which have been under a strict federal licensing system since 1934, and have been illegal to manufacture for civilians since 1986. If the black market can supply machine guns, it is doubtful that it cannot supply other high-quality weapons.

Still, as Professors Cook and Blose point out, there must be at least a few inexperienced or impecunious criminals for whom even a porous permission system would delay gun acquisition for at least some period. Moreover, the waiting period, simply because it will reduce gun sales to legal purchasers (see below) would reduce the number of guns in circulation. It seems likely that one of those unbought guns might one day have been part of a suicide or homicide or accident that might not otherwise have occurred.

Proponents of permission systems say that they will be successful if they save a single life.[93] It seems clear that a waiting period or other permission system would, inevitably, prevent at least one firearms fatality. Even if a waiting period would have no discernible impact on crime in general, it would save at least one life. Is it therefore a good idea? The next Part discusses that question.

VI. PROBLEMS CAUSED BY A WAITING PERIOD

Synopsis: Substantial police resources are inefficiently diverted from street patrol to desk work. A background check consumes about $40,000 in police salary for every arrest it produces. Resources may be further consumed by lawsuits regarding allegedly insufficient background checks. Waiting periods prevent a person from acquiring a gun for several days, and if implemented improperly (as they often are) waiting periods may result in total denial of a person's legitimate right to bear arms. The diversion of police resources, coupled with the interference with the acquisition of self-defense guns, may mean that a waiting period would cause a net loss of lives.

Severe problems with the data quality of existing criminal justice records will result in large numbers of false denials, requiring the victims to undergo a lengthy process to prove that they are not criminals. An initial denial stands only a 50% chance of being accurate and proper.

Moreover, waiting periods may provide a mechanism for gun registration, erode the confidentiality of medical records, and work a substantial financial hardship on the firearms dealers and users. Advocates of gun prohibition see waiting periods as a useful first step towards their ultimate goal.

A. The Drain on Police Resources

Police resources are finite. The question is not whether a waiting period would save one life, but whether other uses of the police resources spent administering a waiting period might save more lives if used elsewhere.

Under a national comprehensive waiting period, the drain on police resources would be staggering. There are approximately 7.5 million firearms transactions annually.[94] If a waiting period were to be rigorous enough to stop future Hinckleys, it would have to include in-person address verification. (See Part I, above.) How many hours would it take for a policeman to run national criminal records check, and to visit the home of every person who applied? One hour, at the very least. That would be 7.5 million police hours spent checking up on honest citizens, instead of looking for criminals. In the haystack of applications by honest citizens, police would search for a few needles left by the nation's very stupidest criminals. Looking for crime, police officers would be directed onto a paperwork enterprise particularly unlikely to lead to criminals. Would not all those millions of police hours be better spent on patrol, on the streets instead of behind a desk?[95]

According to the Task Force, implementing a national comprehensive permission system would require the FBI to hire 395 additional clerical employees to process the requests for fingerprint card readings for the (approximately) 725,000 citizens who would be denied permission to purchase because they have the same name as a criminal, or because police records noted an arrest but not a subsequent acquittal.

A national waiting period and background check could cost from tens to hundred millions of dollars.[96] Applying the 1 arrest per 10,000 applicant review figure, each arrest would cost approximately 40,000 dollars, or the one-year salary of a full-time, fairly senior police officer.[97]

Such profligate use of police manpower is an impediment to crime control. One useful modification to existing waiting periods would be to exempt persons who already have a gun. (Proof of lawful purchase of another gun might suffice for the exemption.) After all, a person who buys a second revolver is hardly more dangerous than a person with only one gun.

The waiting period is an impediment to effective law enforcement in a more subtle way also: Local politicians who are failing to take effective steps to control crime use the campaign for a national waiting period as a tool to divert the attention to the national scene away from local law enforcement. For example, after Utah tourist Brian Watkins was stabbed in a New York City subway in the summer of 1990, New York Mayor Dinkins announced that what was needed to stop New York City crime was a national gun waiting period, or even gun prohibition. The Mayor now makes the call for a national "Brady Bill" the centerpiece of his response to publicized shootings in New York, regardless of whether evidence indicates that a waiting period would have had an effect on the particular shooting.[98]

B. Lawsuits against the police

At a time when local police resources are already stretched thin, the national waiting period bill imposes very substantial paperwork and manpower requirements on most police forces in the country. The bill claims it is cost-free, because the background check would be optional. But the bill's prime lobbyist, Handgun Control Inc., has already announced that its legal defense fund will sue police departments that do not implement the background check.[99] Much to the delight of Handgun Control, a woman has already won $350,000 from the city of Philadelphia for not conducting a thorough enough background check of a man who killed her husband.[100]

In this regard, it is astonishing that persons who claim to speak for the nation's police want a law to make police departments everywhere vulnerable to a brand new form of tort litigation.

C. Covert registration

Waiting periods and other permission systems can operate as de facto gun registration. Once the police are told who is applying to buy a gun, they may simply add that person's name to their list of gun owners, as is the practice in New Jersey, New York and other states. The California Justice Department has used the waiting period, without statutory authorization to do so, to compile a list of a handgun owners.[101] In Oregon, the police are allowed to retain handgun purchase records up to five years.

One attempted solution to problem of covert registration is to require the police to destroy the purchase application records. The national waiting period bill purports to require record destruction, but does not really do so.[102] Moreover, not even the toughest language in a federal bill could compel a state officer to destroy records, because Congress has no authority to compel an act by a state or local officer which is not required by the U.S. Constitution.[103]

Under neither proposed federal nor existing state systems is the pretense of required destruction backed up by meaningful enforcement. Police who keep illegal records are subject to no penalties or civil liability. Significantly, the practice of making daily computer back-up tapes means that even if original records are destroyed, back-up records will still exist.

Precisely because most waiting periods amount to covert registration, many otherwise law-abiding gun owners will resist them.[104] The principal objection of Constitutionalists to gun registration is that it has frequently been a prelude to and a tool for gun confiscation.[105] Additionally, the government has no authority to register people merely for exercising their Constitutional rights.[106]

In states where waiting periods already exist, the legislature should specify liquidated damages against officials who illegally compile registration lists. In cases of intentional wrong-doing, criminal prosecutions, similar to existing criminal prosecutions for federal Privacy Act violations, should be allowed.[107]

D. Privacy of medical records

The vast majority of people with mental illnesses, such as John Hinckley, never enter state treatment systems. Pressure will inevitably build to end the confidentiality of private medical records, so the police can check those records as well. In California, legislators enacting a comprehensive waiting period were told that mental health records would be kept fully confidential. But the same year the law was enacted, the California Department of Justice began ordering public and private mental health clinics to report their clients to the state, which puts them in a database along with felons that is useable by the police. Included in the databases are non-violent persons who have voluntarily checked themselves into private facilities for problems such as anxiety or stress.[108] A number of jurisdictions already require purchasers to waive the confidentiality of their medical or mental health records.[109] Illinois queries, "Are you mentally retarded?"[110] New Jersey asks the McCarthy-style question "Have you ever been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an in-patient or out-patient basis for any mental or psychiatric condition?" The State also inquires, "Do you suffer from a physical defect or sickness?"[111] The mother who consulted a psychiatrist on one occasion because her son had died must confess herself to the New Jersey police, upon pain of criminal prosecution.[112]

And it is not only the government that can use firearms background checks to disclose private medical information. An employer can conduct inexpensive inquiries into the mental health records and criminal background of prospective or current employees by ordering them to produce proof that they are eligible to buy a gun, and hence have no mental or criminal record. Some employers in Illinois use this tactic.

E. Denial of ability to obtain a gun

A waiting period provides anti-rights police administrators with an easy opportunity for abuse. In New Jersey, the police often simply refuse to process gun purchase applications.[113] In cases of budgetary constraint, firearms applications may suffer inordinate or even permanent delays.[114]

Although a statute may specifically limit the reasons for disqualifying a buyer, police may disqualify for other, illegal reasons. In Maryland, where an appeals process exists, the police are over-ruled on 78% of appeals.[115]

Indeed, many of the police departments which most vociferously champion "reasonable" gun controls routinely abuse those controls once enacted. The St. Louis police have denied permits to homosexuals, nonvoters, and wives who lack their husband's permission.[116] Although New Jersey law requires that the authorities act on gun license applications within 30 days, delays of 90 days are routine; some applications are delayed for years, for no valid reason.[117] Mayor Richard Hatcher of Gary, Indiana, ordered his police department not go give license application forms to anyone.[118] The Police Department in New York City has refused to issue legally-required licenses, even when twice commanded by appeals courts to do so. The Department has also refused to even hand out blank application forms.[119]

Most police, fortunately, are law-abiding, and would not engage in the abuses typical in New York City and Maryland. Nevertheless, even in law-abiding jurisdictions, the waiting period, by definition, delays for a number of days a citizen's acquisition of a firearm. For a hunter planning a trip next month, the delay is inconsequential. For a young woman being threatened by an ex-boyfriend, the delay may be fatal.

Simply put, seven days is too long for a woman whose ex-boyfriend is promising to come over and batter her. Seven days is too long for families when a burglar strikes three homes in a neighborhood in one week, and may strike that night. Twenty-four hours is too long to wait when the Gainesville serial murderer is loose, and every woman is a potential victim.

The issue is not hypothetical. In September 1990, a mail carrier named Catherine Latta of Charlotte, North Carolina, went to the police to obtain permission to buy a handgun. Her ex-boyfriend had previously robbed her, assaulted her several times, and raped her. The clerk at the sheriff's office informed her the gun permit would take two to four weeks. "I told her I'd be dead by then," Ms. Latta later recalled. That afternoon, she went to a bad part of town, and bought an illegal $20 semi-automatic pistol on the street. Five hours later, her ex-boyfriend attacked her outside her house, and she shot him dead. The county prosecutor decided not to prosecute Ms. Latta for either the self-defense homicide, or the illegal gun.[120]

In 1985 in San Leandro, California, a woman and her daughter were threatened by a neighbor. Instead of being able immediately to obtain a handgun for self-defense, the women had to wait 15 days. The day after she finally was allowed to pick up her gun, the neighbor attacked them, and she shot him in self-defense. Had the man attacked 14 days after his initial threat, rather than 16 days after, the woman and her daughter would have been raped. Of course the state of California would have denied liability, as it has repeatedly denied liability for its failure to protect citizens against specific threats from specific criminals.

The national waiting period proposal does allow a waiver of the 7-day wait if the locality's chief law enforcement official (or his designee) issues a written order stating that immediate purchase is necessary to protect the life of the gun purchaser or someone in her household.[121] In practical terms, it is very doubtful that a potential crime victim (particularly the poor and minorities who are the victims of most violent crime), will be able to obtain a rapid appointment with the police administrator who will issue a gun authorization. If the administrator is out of town, or busy, or uninterested, the victim is out of luck. And if the potential victim is receiving threatening phone calls that deal only with rape, aggravated assault, or mayhem, even a sympathetic police chief cannot issue an exemption, since there is no threat to the victim's life.

Some of the people killed by a waiting period could, ironically, be people who have volunteered to defend the United States. Members of the armed forces are allowed to carry personal handguns as sidearms, if they so choose. Many infantry grunts might want a Colt .45 or a Glock 9mm on their hip, in case their government-issue M-16 rifle jams in a firefight. Television stations in Texas and Alabama reported high levels of sales of 9 millimeter handguns to servicemen shipping out to Saudi Arabia. But in states like California, with a minimum wait of 15 days, the short period between notification of call-up and departure date is not enough time for a soldier to be cleared by the firearms control apparatus. As a result, soldiers from California and similar states were placed in greater peril.[122] Happily, the rapid collapse of the Iraqi army reduced the importance of back-up sidearms.

As the Fifth Circuit Court of Appeals has held, "the right to defend oneself from deadly attack is fundamental."[123] A waiting period puts that fundamental right on hold.[124]

A person who is falsely imprisoned by the state can get out of jail a week later, with perhaps no permanent harm done. Newspapers which libel a person by mistake can always publish corrective stories the next day. A person who is denied the right to bear arms for a week may, at the end of the week, be dead. A deprivation of even 24 hours of the means to self-defense may mean a deprivation of life itself.

Of course the number of persons who would be killed or injured because of the waiting period would be small, so small as to be statistically unnoticeable. But so would the number of persons saved by a waiting period. Proponents of a waiting period have not carried the burden of demonstrating that a waiting period would be a net saving of lives, taking into account the people who die because they cannot defend themselves, and taking into account the diversion of police resources away from street patrol.

To reduce the abuses and injuries that waiting periods could cause, a number of prophylactic measures make sense: Any waiting period should have an explicit appeals process. At the appeal, the government should have the burden of proving that the citizen is not entitled to possess a firearm. Normal rules of evidence should apply, and citizens should not be victimized by anonymous rumors and other sorts of hearsay evidence. Citizens who are victorious in their appeal should be entitled to attorney's fees.

Moreover, any person injured by the failure of police to properly and promptly approve an application should have a right to sue for damages. (When a person is killed because the police failed to act, the survivors would have the right to sue.)

Under the legal doctrine of sovereign immunity, the police have no duty to protect any individual citizen from crime, even if the citizen has received death threats and the police have negligently failed to provide protection.[125] In cases where the government affirmatively interferes with a person's ability to protect herself (the interval between an application to purchase a firearm and approval), the doctrine of sovereign immunity should not apply. The government should not be able to strip a person of her right to defend herself, and then assert that it has no responsibility for the consequences.

F. Financial hardships

Almost all waiting period/permission systems require the firearms purchaser to pay the entire cost of the system. It is Constitutionally odious to make people pay the government so the government can satisfy itself that they are fit to exercise their Constitutional rights. The young woman in the ghetto who needs an inexpensive handgun for self-defense, or the young man in Appalachia who wishes to hunt squirrel with a .22 rifle are not the cause of the crime problem. Even an $8 fee may drive the cost of their $50 gun out of reach.

For all firearms purchasers, not just poor people who need a defense gun, a waiting period requires an additional trip to the firearms store, more time spent by the clerk at the store, lost sales due to people who do not have the time to make repeated trips, and a host of other transaction costs. For a person who lives in a small town, and needs to make a long trip to get to a store with a good selection of merchandise, the inconvenience can be substantial.

The waiting period severely impacts firearms dealers and manufacturers. The reason is that most guns are bought by persons who already own guns, often as an impulse addition to a collection. If two trips to the store are required, the buyer often loses interest in the sale. For example, the number of handgun sale records reviewed by the Pennsylvania state police is one-third less than the number of handgun purchase applications. Most of the drop-off is caused by potential purchasers who, after a few days, decide not to buy the gun.[126]

The waiting period also indirectly impacts government resources. A substantial decline in firearms sales mean a substantial decline of several million dollars in firearms excise taxes, and perhaps also a substantial decline in revenue for wildlife commissions.[127]

From a criminal justice standpoint, the loss of gun sales is inconsequential. The fact that a person who already legally owns three guns ends up not buying a fourth does not make him more vulnerable to crime, nor does it make him more dangerous to the public. (There is no correlation between gun density and gun crime.[128]

The loss in sales, irrelevant to the crime issue, is very harmful to retailers and manufacturers. Automobile dealers, liquor stores, and tobacco outlets all sell products that kill many people, but they are not burdened with a rule that makes lawful users make repeated trips for the same transaction.

It should be emphasized that substantial burdens on firearms owners and the firearms industry might well be justified if tangible benefits resulted. But as the evidence discussed above indicates, waiting periods simply do not prevent guns from coming into the wrong hands.

G. The data quality problem

The existing state of criminal records in most jurisdictions is simply too primitive to support a background check that is part of a waiting period (or part of an instant telephone check).

The FBI "estimates that approximately one-half of the arrest charges in their records do not show a final disposition."[129]

Only 40 percent to 60 percent of the nation's felony records are automated.[130] Many states do not have fully automated criminal records name indexes.[131] Many indexes are not currently searchable by information transmitted from the outside, such as telephone lines or computers. In some states, the same master index (such as a fingerprint index) that contains all felons will also include child care workers, various license holders, and firearms permit holders.[132]

For citizens regarding whom false information has been incorrectly recorded on a "rap" sheet, there is no remedy. Courts have held that even after an acquittal or dismissal of charges, a person has no Constitutional right to have an arrest purged from his record.[133] (It should be noted that racial minorities are disproportionately victimized by arrests that do not prove worthy of a conviction.)

According to the Department of Justice study, performing a reliable background check under current data quality conditions would take 30 days. The Department found that shorter background checks (such as one week or three weeks) were no more reliable than instant checks. That conclusion is consistent with opinion in the police surveys, which shows most command rank officers do not believe that seven days would give them enough time to do a background check.[134]

Because of the severe problems with the existing data quality, the Department of Justice Task Force concluded: "[A]pproximately 50 percent of the cases where persons appear to have a criminal history record based on an initial name search are eventually found to be false hits . . . Indeed, in many (perhaps most) cases an initial indication of a criminal record would eventually be shown to be untrue because it resulted from misidentification with someone else with a common name and date of birth." As a result, only 84–88 percent of gun purchasers would be able to pass an initial check.[135]

If there were a national comprehensive check, approximately 725,000 persons a year would be falsely denied under either the waiting period or the instant telephone check.[136] The 725,000 faced with false denials would then have to prove their innocence by being fingerprinted, and entered in a data base of eligible gun buyers. The "secondary verification process" (proving their non-criminal identity to the police) that would take four to six weeks.[137]

The list of people processed through secondary verification would be another basis for gun registration.

Accordingly, a minimum condition for any kind of background check system should include the establishment of a data base consisting only of convicted felons and other ineligibles.

H. A step towards prohibition

Why waiting periods? It is understandable why many legislators would be attracted to an idea that, at first glance, seems eminently plausible. Many legislators accept the reasoning "guns don't kill people; people kill people." So instead of controlling guns (through gun registration), why not control people who may abuse guns?[138]

But the anti-gun lobbies, being expert in the issue, know better. They know the facts of the Hinckley assassination. So why do they support a waiting period?

The National Coalition to Ban Handguns [recently renamed the Coalition Against Gun Violence] candidly admits that gun controls do nothing to prevent criminals from obtaining guns.[139] The CSGV believes that criminals are not the issue; handguns have no place in civilian hands. Moderate controls over handguns are a step toward to a ban. Policy statements distributed by the NCBH forthrightly admit as much.[140]

Even in the most academic settings, the question may come down to whether a person is "for" guns or "against" them. At a debate at the American Society of Criminology Conference in November 1989, the participants were asked what number of lives saved would be necessary for them to consider a waiting period worthwhile. Both sides of the debate agreed that the number of lives saved was not determinative of their positions. Dr. Paul Blackman, the National Rifle Association representative, replied that he thought the waiting period might end up with a net cost of lives. He also stated that alcohol Prohibition had saved lives, but still was not a good idea. Darrel Stephens, Executive Director of the Police Executive Research Forum, replied that he would still favor a waiting period even if it were proven not to save any lives. He reasoned that the extra effort required to purchase a gun would convince some people not to buy a gun, and less guns in civilians hands would be good in itself.[141]

What about Handgun Control, Inc., the more powerful of the two major anti-gun lobbies? Their stated motto is merely "Keeping handguns out of the wrong hands." But their agenda is prohibition. HCI's former Chairman has stated that he favors intermediate control as a waystation to near-total handgun prohibition.[142] The organization supports handgun prohibition as a policy matter.[143] As one of HCI's congressional allies acknowledges, the 7-day handgun wait "is not really enough, but it is a start."[144]

What good does a waiting period do for the goal of handgun prohibition? Waiting periods facilitate gun registration, which HCI praises as a prelude to gun prohibition.[145] The national waiting period proposal includes a number of subtle provisions which facilitate prohibition: an anti-gun police chief could indefinitely delay a purchase application by refusing to mail back acknowledgement of receipt of the application; and the definition of "handgun" is elastic enough to include a number of long guns.[146]

As discussed above, waiting periods sharply reduce gun sales. While there are no anti-crime benefits, HCI sees reduced sales (rather than just reducing uncontrolled sales) as good in itself, and a necessary precondition to prohibition.[147]

Most importantly, the waiting period is social conditioning. It sends the message that citizens do not possess a right to bear arms, but merely a privilege dependent on police permission.[148]

VII. CONSTITUTIONAL ISSUES

Synopsis: Waiting periods are a prior restraint on the exercise of Constitutional rights. The very point of basic rights like free speech, or free exercise of religion, or the right to keep and bear arms, is that a citizen does not need to ask for government approval to exercise those rights. Waiting periods, because of their inefficacy and potential for abuse, are not the least restrictive means of attacking gun crime without interfering with the right to bear arms. A federal waiting period violates the 10th Amendment by forcing state officials to perform background checks.

Is a federal waiting period Constitutional? The issue has never been directly tested in court. State waiting periods are common, but the prevalence of a practice is no guarantee of its Constitutionality. Racial segregation, after all, was the norm in most of the U.S. for the century after the Civil War, even though the Constitution forbade it.

One view of Constitutional interpretation was articulated by Justice Black. He viewed the Constitutional prohibitions literally. For example, he took the First Amendment's command "Congress shall make no law respecting the freedom of speech . . ." to mean that Congress could pass no law regarding free speech. Justice Black viewed the Second Amendment with a similar literalness: "its prohibition is absolute."[149] The more prevalent view, however, is that no Constitutional provision is absolute.

Regardless of which view is adopted, the most appropriate guide for analysis of the Second Amendment is the First Amendment.

Of the entire Bill of Rights, only the First, Second, and Third Amendments guarantee particular substantive rights.[150] Amendments Four through Eight are due process requirements for the government to obey, while Amendments Nine and Ten are nonspecific reservations of rights. The Supreme Court has indicated that the First and Second Amendments should be interpreted according to the same principles.[151] Indeed, it is necessary to interpret the Second Amendment with just as much vigor as the First in order to obey the Court's command that all Constitutional rights must be treated with equal respect, with no right being particularly favored or disfavored.[152] And of course all Constitutional rights must be broadly construed.[153]

A. Prior restraints on constitutional rights

While the First Amendment protects freedom of speech, there are legitimate debates about what kinds of communication are considered "speech." Pornography, picketing, price-fixing, and perjury are activities which, at least arguably, are not included within the freedom of speech. Likewise, the right to bear "arms" is sometimes said not to apply to machine guns, nunchakus, brass knuckles, switchblades or antiaircraft rockets.

For communication that is clearly within the freedom of speech (such as political commentary), the single clearest principle is that prior restraints are virtually never lawful. While the government (through laws against libel or against criminal incitement) may punish speech after it occurs, the government may almost never impose a prior restraint by requiring a person receive permission before speaking.[154]

The various police permission proposals destroy the normal presumption of innocence and impose prior restraints. A person is forbidden to exercise her right to bear arms unless the police satisfy themselves that the person is not guilty.[155] Citizens who wish to protect themselves should not have to wait to receive police permission. The very point of basic rights like speech, or free exercise of religion, or the right to keep and bear arms, is that a citizen does not need to ask for government approval to exercise those rights.[156]

A judicial decision permitting a prior restraint on the right to bear arms would inevitably endanger the right to abortion. If prior restraints and waiting periods on the right to bear arms are allowed, why not require women who need an abortion to submit to a waiting period, pass a simple test on the nature of fetal life and risks of abortion, and obtain permission from a local health agency?

The chance that any given person acquiring gun by any method, including by theft, will perpetrate a homicide is 1 in 3,000. In future years, a legislature dominated by prolife forces could point out that a woman seeking an abortion does so with the intention of killing the fetus. If a chance of a killing smaller than 1 in 3000 justifies a prior restraint, then surely the certainty of a killing in case of abortion would also justify a prior restraint.

B. Balancing tests

Another principle, originally developed under First Amendment analysis, but now considered to have general applicability, is that of "least restrictive means." When the government regulates Constitutionally-protected activity (such as speech or interstate commerce), even if the government is pursuing a substantial purpose:

"That purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgement must be viewed in light of less drastic means for achieving the same basic purpose".[157]

Courts have directly applied the principle to strike down infringements on the right to keep and bear arms.[158]

Because a waiting period is so patently ineffective, it is not the least restrictive means to achieve the substantial government interest in reducing gun misuse. The waiting period fails the less restrictive means test because it imposes a broad restriction on all firearms purchases (or all handgun purchases for a limited wait) that is not narrowly tailored. There are a large number of less restrictive methods the government might adopt, discussed below in Part VIII, to reduce gun misuse.

C. Federalism

Handgun Control, Inc. claims that 22 states have waiting periods. The statement is not completely accurate. The majority of American states impose no major restrictions on firearms purchases in addition to those under existing federal law. Federal law requires the purchaser of any gun to fill out a form which is permanently retained by the dealer, and is available for inspection by federal authorities. Some states require handgun purchasers (or all gun owners) to obtain a license. Once granted a license, the licenseholder may obtain an unlimited number of firearms of all types without further approval, for as long as the license is valid (for life, or a term of one or more years).[159] South Carolina runs a background check after the person has picked up the gun.[160] Wisconsin has a two day waiting period, but no background check.[161]

Only 16 states actually have a system like what is proposed by Handgun Control, Inc. as a federal law, and pushed by HCI in the state legislatures: a statute requiring individual police permission for every single handgun purchase. In four of those states (Pennsylvania, Oregon, Indiana, and Washington), a person who holds a permit to carry a concealed firearm is exempt from the waiting period; the police are statutorily required to grant concealed carry permits to all citizens unless there is a particular legal disability. Connecticut exempts from its wait anyone with a state hunting or local gun license, and allows transfers in less than 14 days if approval is granted earlier.[162] Tennessee also allows an instant transaction if the police approve, and in some rural counties, the waiting period is not enforced. Of the 12 states that require handgun purchasers to receive individual permission for each purchase under all circumstances, 3 have a waiting period shorter than the 7-day standard commonly proposed.[163] Thus, the 7-day waiting period for every handgun purchase by Handgun Control is more severe than the existing laws in 41 of the 50 states.

Forty-one of the fifty states have decided not to implement laws as severe as the proposed uniform 7-day wait. Sometimes the federal government, viewing a growing trend in the states, makes the progressive state legislation into federal law. It cannot be said that there is a national trend in favor of waiting periods. It is true that some states that already had waiting periods for handguns have extended them to long guns.[164] (The move is logical since long guns, especially shotguns, are so much deadlier than handguns.)[165] Similarly, Florida, which already allowed counties to have limited 3-day waiting periods, voted in November 1990 to make the wait statewide. The new Florida law had several provisions which made it more palatable to supporters of the right to bear arms; the law provides for a wait only, with no background check or police permission. Persons with handgun carry permits (which are required by law to be issued to all qualified applicants) are exempt from the wait. As a state constitutional amendment, the Florida wait prevents the state legislature from enacting stricter gun laws.

In states that do not already have waiting periods, there has been no willingness to adopt one. In the last decade, not one state without a waiting period has added one. Even Ohio, the home state of both sponsors of the federal waiting period, has repeatedly rejected a waiting period.[166] Indeed, the large majority of states, through preemption laws, have forbidden or abolished local waiting periods.[167]

It is sometimes asserted that the lack of a waiting period in some states makes enforcement of the law impossible in states that have one.[168] But ever since the federal Gun Control Act of 1968, citizens are only permitted to buy handguns in the state where they reside. If a Marylander wished to evade his state's 7-day wait, and buy in a state without a wait (such as West Virginia), he could not do so without providing proof that he was a resident of the other state. Only persons possessing false identification could evade the background check in one state.

When faced with the federalism argument, some supporters of a national waiting period reply that the proposals merely allow the choice of a background check. States already have that choice, of course. The state legislature of Iowa could enact a background check if it wished; it does not need the assistance of the federal government to have a "choice." Besides, as discussed above, Handgun Control, Inc. has already announced it will sue police departments that do not "choose" to conduct a background check. Because of HCI's lawsuit strategy, the seven-day wait would in practice be mandatory—even though the large majority of states have apparently decided that public safety is enhanced if their citizens can acquire the means of self-defense in less than a week.

Since the net effect of Handgun Control's strategy would be to impose on state officials a federal obligation to conduct a background check, the national waiting period is an unconstitutional exercise of Congressional power. As the Supreme Court has ruled: "the Federal Government, under the Constitution, has no power to impose on a State officer, as such, any duty whatever, and compel him to perform it; for if it possessed this power, it might overload the officer with duties that would fill up all his time, and disable him from performing his obligations to the State, and might impose on him duties of a character incompatible with the rank and dignity to which he was elevated by the State."[169]

The Supreme Court's concerns are particularly apt in the case of the national background check. The mandatory check would require each state to assign some number of police officers or other employees (ranging from a few dozen in a small state doing a retail handgun-only check to several hundred in a large state under HCI's comprehensive check) to the job of checking the backgrounds of its citizens. Although the state legislature would have preferred to devote the time of its employees to the more urgent task of fighting criminals, the federal government would force the state to use its own resources to process paperwork from honest citizens.

The national waiting period violates, at the very least, the spirit of the Tenth Amendment.[170]

VIII. ALTERNATIVES

Synopsis: There a number of alternatives that—while clearly superior to the waiting period—do not represent good policy choices in themselves. The Instant Telephone Check and the 7 day waiting period/background check both use the same (often inaccurate) database; the Instant Check has the obvious advantage of being speedy, and not interfering with expeditious acquisition of a self-defense gun. Firearms Owners Identification Cards take a long time to obtain initially, and serve as a basis for gun-owner registration and overly broad fingerprinting of the general population. Turning drivers licenses into "smart cards" also requires citizens to submit fingerprints to the government in order to exercise their Constitutional rights. The most effective way to deal with criminals possessing guns is to better enforce laws regarding criminal gun acquisition and to target the black market trade that supplies the gigantic majority of criminal funds. Researchers from the National Institute of Justice have suggested several possibilities to directly attack the black market; none of the NIJ proposals interferes with Constitutional rights.

Henny Youngman was once asked how he liked his wife. "Compared to what?" he replied. There are a number of alternative controls on retail gun sales that, compared to a waiting period, are quite attractive.

If the only issue to be decided is what kinds of restrictive controls on retail gun sales are best, all of the alternatives detailed below compare favorably to the waiting period. They are just as effective at stopping legal purchases by ineligible buyers as a waiting period would be. Because the alternatives do not give the abusive administrators an easy opportunity maliciously to block every retail transaction, these alternatives are must less likely to result in wholesale denials of the right to bear arms, and hence less likely to threaten public safety. At the same time, they consume police resources at a rate equal to or significantly less than the rate at which a waiting period would consume police resources. Hence, the alternatives are clearly superior to a waiting period from all perspectives.

On the other hand, if the question is not how to further restrict retail gun sales, but instead if any such restrictions would be worthwhile none of the alternative controls appear satisfactory. Like a waiting period, the alternative controls on legitimate sales can be evaded, and will likely do virtually nothing to disarm criminals. And while the alternative controls are not as dangerous to civil liberties as is a waiting period, the alternatives still pose some danger.

The most effective way to promote public safety and preserve civil liberties is to crack down on the black market that supplies criminal guns. A number of approaches for attacking the black market are suggested below.

A. "*Instant*" *checks*

One alternative to waiting periods is an "instant telephone check." The first state to enact such a check was Virginia; and Florida and Delaware have recently followed suit. When a Virginia gun dealer sells any handgun or certain long guns to a Virginia resident, the dealer calls a toll-free number at state police headquarters, to verify that the purchaser has no legal disqualification. If everything proceeds properly, the sale can be consummated with no more delay than a credit card check might entail.

Support of an instant check is widespread. Criminologists and legal scholars such as Gary Kleck, Don Kates, and Robert Cottrol who are generally skeptical of gun prohibition support the instant check system. Even big-city police chiefs who generally agree with Handgun Control, Inc., split from that group in preferring the instant check over a national firearms identification care.[171] The National Rifle Association also supported the instant telephone check in Virginia.

In terms of sorting out ineligible buyers, the instant check is just as effective as a 7-day waiting period, according to the Department of Justice Task Force, and for that reason is supported by Attorney General.[172] Unfortunately, in terms of preventing incorrect denials of the right to bear arms, the instant check is just as bad as the waiting period. Because the data quality for instant checks is, according to the Task Force, equivalent to that for a one or three week background check, only 84%-88% of applicants will be initially allowed to purchase if there were a national instant check. The unlucky remainder must go through a secondary verification process (such as submitting fingerprints at state police headquarters) that would take several weeks.[173]

Of course a criminal can evade an "instant" check just as easily as he can evade any other check. All he needs is a fake driver's license with another name. Since false social security and alien registration cards may sometimes be bought for as little as $35,[174] and since those cards are usually sufficient to obtain a driver's license, the instant check is likely to be just as porous as longer checks. The instant check, therefore, like the waiting period, could be evaded by anyone with false identification.[175]

For the purchasers who are rejected initially, fingerprint checks might be required to verify their identity. It is estimated that, if the instant check were national and comprehensive, the FBI would need 395 new clerical employees and 8,000 more square feet of office space to process the fingerprint work.[176] Given the limited efficacy of any police permission system, it might be considered whether 395 additional FBI employees might be better employed at projects focused on criminals, rather than on law-abiding citizens.

An instant check will cost between $7.07 and $9.39 per purchase.[177] For a person buying a high-quality target pistol, the cost is hardly noticeable. For a poor person buying a $40 used revolver for self-defense, the cost is considerable. The cost could be justified, if it yielded important benefits.

Significantly, the instant check is subject to the same problem of creating a gun and gun-owner registration system as is a waiting period. As the Task Force observes, "Any system that requires a criminal history record check prior to purchase of a firearm creates the potential for the automated tracking of individuals who seed to purchase firearms."[178] If a transaction number must be placed on the dealer gun sale form (to prove he made the check), and if the state retains its own record of transaction numbers, the record-keeping could easily be perverted into gun registration.

At the least, any instant check system should include protections to absolutely bar gun-owner record retention, and should specify that if computer or other failure prevents the police from approving the sale, the sale should be delayed no more than 24 hours.

The instant check is clearly preferable to a waiting period. The instant check uses the same criminal/mental data base as would a waiting period, and would therefore be equally effective in denying ineligible buyers. Because the large majority of sales would be approved on the spot, abusive administrators would have much less of an opportunity to interfere with the right to bear arms. It is true that an instant check eliminates the "cooling off" feature of a waiting period; but as discussed above, the number of crimes that could be prevented by "cooling off" is very, very small. The loss to public safety from the elimination of the "cooling off" period is more than offset by allowing persons who need a gun for immediate self-defense to get one, and by substantially reducing the numbers of arbitrary denials of firearms purchases.

B. *Firearms owners identification cards*

One suggested alternative to waiting periods for each firearm purchase is the creation of a Firearm Owners Identification Card (FOID). A person applies once for FOID card and submits her fingerprints to the authorities; after a four to six week review process, the person is granted a card which allows her to make unlimited purchases, with no further approval, as long as the card remains valid. (The card might expire after one year, or three years, or be valid for life.) Massachusetts and Illinois are among the states currently using a FOID system. Faced with the choice between the instant telephone check and the FOID card, Handgun Control, Inc. prefers the FOID card.[179]

The Task Force suggests that each FOID care would cost $30. Approximately 1,700 new FBI employees would be required to process the necessary fingerprint checks of FBI files. According to the Task Force, the FOID card, taking up to six weeks to process, would be substantially more accurate than an instant check or a short waiting period.

As with the instant check or the waiting period, the list of FOID owners would be a de facto registration list of gun owners. The more serious civil liberties problem, however, involves massive fingerprinting.

The National Association of Police Organizations favors the collection of fingerprints of gun owners as the first step towards a comprehensive fingerprint system: "Hence the development of such an integrated national fingerprint system should be considered not merely for its benefits in connection with felon identification concerning firearms purchases but also in connection with improving law enforcement in general."[180]

The American Civil Liberties Union states "limited criminal history record checks, with fingerprint cards, are justified in certain licensing and employment situations. However, we oppose routine fingerprinting of all individuals who seek to buy firearms as an intrusion into privacy that cannot be justified by the minuscule benefit that may be achieved. . . ."[181] Of course, the ACLU's principle should also apply not only to proposed national fingerprint proposals, but also to the current practice in states such as New York and Illinois which routinely fingerprint the large fraction of the population which exercises its right to bear arms.

The same argument that lead one to reject a national or identity card apply to federal gun licensing through a FOID. A national licensing system would require the collection of dossiers on half the households in the United States (or a quarter, for handgun-only record-keeping).

Implementing national gun licensing would make introduction of a national identity card more likely. Assuming that a large proportion of American families would become accustomed to the government collecting extensive data about them, they would probably not oppose making everyone else go through the same procedures for a national identify card.

Although the problem of illegal immigration is immense, Congress has repeatedly rejected calls for a national ID card. The same reasons that impelled Congress to reject that national ID card should impel Congress (and the states) to reject large steps towards such a card.

C. Smart Cards

Another suggestion for screening of firearms purchasers has been the development of "smart" cards. As the Task Force explains, "every adult would carry an identification card issued by the state of residence, such as a driver's license, that would have electronically imprinted identifying information."[182] An instant fingerprint check in gun stores will within a few years be technologically feasible.[183]

The Smart Card seems to pose no serious problems from a pure Second Amendment viewpoint. There would be no false denials, since the cardholder would not be confused with other people with similar names and birth dates. There would be hardly any delays in purchases, since almost everyone would have a smart care.[184] There would be less risk of creating a gun registration system, although some states would be tempted to include gun registration data directly on the smart card.

Nevertheless, civil libertarians (including those with no interest in the gun issue) should oppose the smart card for the same reason that they oppose a firearms owners identification card (FOID). Both smart and FOID cards are a huge step towards a national identify card. Smart/FOID cards would of course be introduced with the assurance that they would only be used for limited purposes. But the Social Security Number, it was promised, would only be used for Social Security; today, the SSN is in effect a mandatory universal identification number, demanded by all levels of government and by businesses.

The National Rifle Association rejects the idea that persons who fill out the federal gun purchase form (form 4473) should be required to affix a fingerprint: "Exercise of a constitutional right cannot be conditioned on making fingerprints available to the police."[185] Indeed, the Supreme Court has held that the Constitution forbids states to collect fingerprints of people merely because they exercise their Constitutional rights.[186] But the smart card requires a citizen to offer his fingerprint for government approval before exercising his right to bear arms.

The instant driver's license fingerprint scan offers few anti-crime advantages over the instant telephone check. Both can be evaded with false identification. (In the case of the fingerprint scan, the criminal just makes sure to have someone else's print placed on his fake driver's license.)[187] The instant fingerprint scan proposal would result in every state having a fingerprint of all of its adult citizens. It is questionable whether states currently ought to be fingerprinting citizens who obtain drivers' licenses. It is repugnant to federalism to force states to erode the privacy of their citizens by forcing the states to collect fingerprints.

Like the FOID card, the smart card looks handsome when compared to the waiting period, since it is more effective in denying ineligible buyers, and is less suspectible to repeated abuse by anti-gun administrators. But standing on its own, the smart card fails important civil liberties tests.

D. Anti-crime alternatives that do not infringe civil liberties

If the goal is really to keep felons from obtaining guns (rather than imposing gun control on honest citizens for its own sake), then the focus on retail sales is entirely misplaced. Hardly any felons buy crime guns in stores; almost all of the guns come from the underground market. A system aimed at disarming criminals should aim primarily at the black market.

The National Institute of Justice authors, Wright and Rossi, suggest "stiff penalties for firearms transfers to felons whenever these were detected and, in the same framework, stiff penalties for the crime of gun theft."[188] Enhanced penalties for transfers to felons were added to federal law in 1986, and should be added to state laws as well. To assist prosecutions of gun theft, states should follow Virginia's lead, and make sale of a stolen firearm a special, serious offense.[189] In many states, the theft and sale of $75 gun amounts to only petty larceny. Selling a "hot" $75 pistol should be a more serious offense than selling a "hot" $75 toaster-oven.

Other ways to keep criminals away from guns include closer monitoring of parolees and probationers, and more intensive crackdowns on fencing operations for stolen firearms. State or federal strike forces aimed directly at gun-runners might be introduced or augmented. To deal with the rare cases of criminals with non-false identification buying guns at retail, police departments could distribute wanted posters and/or gun felon lists to gun stores.[190]

Funding for any of the above programs should come from the same general revenues that support all law enforcement, or from a special assessment on convicted gun felons.[191] Persons exercising their Constitutional right to bear arms should not be forced to pay a special tax to support enforcement efforts against gun criminals, any more than camera owners or magazine readers should be taxed to pay for enforcement or child pornography laws.

IX. CONCLUSION

One night a man was walking down the street, and saw a friend crawling on the sidewalk, near a lamppost. The friend explained that he was looking for his wallet. The man got down on his knees, and helped the friend look. After about 15 minutes, the man said "I don't think your wallet is anyplace near this lamppost."

"Of course it isn't," the friend replied. "It fell out of my pocket over there, in that dark alley."

"Then why are you looking all the way over here, by the lamppost? the man asked.

"Because the light is so much better over here."

Where should police officers look for armed criminals? In the dark alleys and black markets where criminals sell guns? Or behind a desk, where the light is better, so they can examine paperwork filled out by law-abiding citizens?

Especially when a legislature is considering laws that impact fundamental rights, it is improper to pass legislation simply because "it might help a little" or "it won't do much harm." Proponents of a new law have the burden of proving that their new law will accomplish a significant positive good. The burden is all the higher when proposed legislation affects a significant number of people, and waiting periods regulate the 50% of American households that choose to possess firearms. Proponents of a waiting period have failed to carry their burden of persuasion.

The criminological evidence is solidly against the waiting period. Most police do not favor the waiting period, and even if they did, their opinions do not over-ride Constitutional commands. While the Constitutional question is not at all well-settled, analysis of core Constitutional principles suggests that a waiting period cannot pass muster under the bar on prior restraints or the requirement of "least restrictive means."

Of all the proposals for increased restrictions on retail firearms sales, the waiting period scores last in terms of disarming criminals, and first in terms of threatening the exercise of the right to bear arms. Alternative restrictions share many of the Tenth Amendment guaranteeing state autonomy. All of the proposals facilitate gun registration. All of the proposals force a citizen wishing to exercise her right to bear arms to receive, at least once, permission from the government. The waiting period gives abusive administrators a chance to interfere with every firearms transaction, while the alternatives allow interference with some transactions. In terms of fighting crime, all of the proposals are essentially trivial. They will force police officers to carry out a surveillance of ordinary citizens that will almost never result in the arrest of a criminal.

The strongest evidence against a waiting period comes from the copywriters of Handgun Control, Inc., the lead proponent of the bill. They have chosen to build their case on a misrepresentation—the empirically false claim that a waiting period would have stopped John Hinckley. If Handgun Control, Inc.'s most compelling argument is false, why should legislators or other citizens believe HCI's other assertions? Why should the public accept controls like waiting periods which are designed as intermediate steps towards prohibition? Why should Americans accept alternatives like instant telephone checks or smart cards which—although better in every respect than waiting periods—fail to eliminate the civil liberties problem created by forcing people to risk being put on a government list because they exercise their rights.

The premise of the waiting period—and of most suggested alternatives—is that citizens can be required to ask police permission before exercising their rights. But the Constitution does not create a privilege to possess "sporting" guns. The Constitution recognizes a fundamental human right to keep and bear arms.[192] And that is why waiting periods, besides being ineffective, are illegal and immoral.

FOOTNOTES

[1] "Sarah Brady said Pascoe's bill is 'everything on my wish list that I've been wishing for a federal level.'" Gary Massaro, "Bradys Appeal for Gun-Control," Rocky Mountain News, Jan. 26, 1990.

[2] Senate Bill 90-93, Colorado Senate, 57th General Assembly, Second Regular Session (1990).

[3] Mrs. Brady quoted in Sam Meddis, "Petitioners Taking Aim at Gun Laws," USA Today, July 20, 1988.

[4] Mrs. Sarah Brady, Testimony before House of Representatives Judiciary Committee, Oct. 28, 1985, quoted in Congressional Record, Feb. 5, 1987, p. S.792.

[5] James Brady, Fund-raising letter for Handgun Control, Inc., "Wednesday morning" (summer 1990), p. 1: "John Hinckley—a man with a history of mental problems—purchased an easily concealed handgun." Most recipients of the fund-raising letter are not aware, as Mr. Brady surely must be, that no

background check could have discovered Hinckley's entirely private record of consultation with mental therapists. The fund-raising letter, which includes substantial portions of Mr. Brady's standard testimony before Congressional committees, is hereinafter cited as James Brady Fund-raising letter.

[6] Hinckley transcript, pp. 1489–1559; Opposition to Defendant's Motion for Bail. He also forfeited the guns he had been attempting to carry onto the plane.

[7] Texas driver's license #9457099, issued to John W. Hinckley, Jr., 1612 Avenue Y, Lubbock, Texas. Hinckley trial pp. 1751–52.

[8] Sarah Brady, "How to Deter Future Hinckleys," New York Times, Nov. 8, 1985. Also: Barbara Lautman, HCI Communications Director, "Only the Criminals Are Hurt By Waiting," USA Today, May 26, 1987, p. 12A; Handgun Control, Inc., "Briefing Paper on the Brady Amendment" (1988): "Had a waiting period been in effect and a background check undertaken, it could have been determined that Hinckley committed a felony by lying about his address on the federal forms and he could have been stopped." Ohio Senator Metzenbaum (the lead Senate sponsor of the waiting period) claims that Hinckley submitted "a defective driver's license." Sen. Metzenbaum, Congressional Record, Feb. 4, 1987, p. S.792.

[9] Advertisement, "A $29 handgun shattered my family's life." The New Republic, July 18, 1988, inside front cover. Also, same advertisement, New York Times, August 1, 1988, p. 1. Rep. Edward Feighan (House sponsor of waiting period), "Feighan Introduces Bill to Deter Criminals and Save Lives," Press Release, February 4, 1987: "One check would have told a Texas dealer that John Hinckley was using a false address and could have prevented him from purchasing a handgun."

[10] Mrs. Sarah Brady, Congressional testimony, quoted in "Flagship Bill Introduced," Washington Report (Handgun Control, Inc. newsletter), Spring 1987, pp. 1–2.

[11] "Brady Backs a Wait on Handgun Sales," USA Today, June 17, 1987, p. 2A.

[12] Advertisement, "A $29 handgun shattered my family's life." The New Republic, July 18, 1988, inside front cover. Also, same advertisement, New York Times, August 1, 1988, p. 1.

[13] Southwestern Bell, Lubbock-Slaton Telephone Directory (November 1979) (listing "John W. Hinckley . . . 409 University Av.").

[14] 18 United States Code §522(a)(6).

[15] ATF Rul. 80-21, reprinted in Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, (Your Guide to) Federal Firearms Regulation 1988–89, ATF P 5300,4 (6–88), p. 73.

[16] Rep. James Sensenbrenner, Jr. (R-Wisc.), "Facts Versus Fiction on the Brady Amendment," August 11, 1988 (part of "Dear Colleague" letter titled "NRA Shoots Self in Foot"), p. 2.

[17] Shots from a .38 caliber are almost twice as likely to kill as .22 calibre attacks. Franklin Zimring, The Medium is the Message: Firearms Caliber as a Determinant of Death from Assault, 1 Journal of Legal Studies 97 (Jan. 1972). The campaign Mrs. Brady and HCI wage against "Saturday Night Specials" (cheap handguns like the RG .22) is particularly odd in light of the fact that Hinkley owned guns more powerful than a "Saturday Night Special," and had a ban on "Saturday Night Specials" been in effect, Hinckley would not have been able to buy the cheap handguns in Texas, and probably would have used the higher-quality (and deadlier) handguns.

[18] Advertisement, "A $29 handgun shattered my family's life." The New Republic, July 18, 1988, inside front cover. Same advertisement, New York Times, August 1, 1988, p. 1. See also James Brady Fund-raising letter, p. 1: "That shot—from a $29 Saturday Night Special—changed my life . . ." Also, Sarah Brady: "Nine years ago, I got thrown into the issue when John Hinckley bought a $29 handgun in Dallas," in Peter Nye, "National Gun-Control Position," The National Voter (League of Women Voters), October/November 1990, p. 5.

[19] "Gun Used to Shoot Reagan called a $47 'Saturday Night Special'," Baltimore Sun, March 31, 1981 (reporting testimony of federal agents based on their examination of the purchase record for the transaction involving Hinckley). See also, Pete Earley, "The Gun: A Saturday Night Special From Miami," Washington Post, March 31, 1981: "[W]hen model RG14 finally reaches the public, its price tag is about $47.50—one of the cheapest pistols available." (article about model of gun used by Hinckley).

[20] Mrs. Brady also offers diverse stories about her own involvement in the anti-gun crusade. In a November 1985 New York Times op-ed, she explained her involvement as directly triggered by NRA's attempt to repeal federal gun control through the McClure-Volkmer bill: Last July, the Senate passed the McClure-Volkmer bill, which would make it even easier for the kind of tragedy that struck down my husband to happen again. This bill would severely undermine federal gun laws by allowing anyone to buy a handgun across state lines, by limiting Government inspections of gun dealers' records and by repealing certain handgun record-keeping requirements. I decided I had to do more than think about the problem. Sarah Brady, "How to Deter Future Hinckleys," New York Times, Nov. 8, 1985 (emphasis added). As a New York Times reporter described it: Mrs. Brady first enlisted in the fight for gun control in the summer of 1985 when it appeared that the Senate was about to adopt a measure backed by the NRA that was designed to weaken the 1968 Gun Control Act. "It just enraged me," she recalled of the effort to alter the comprehensive law . . . Barbara Bamarekian, "Fighting the Fight on Gun Control," New York Times, Feb. 10, 1987, p. B10. But another newspaper states that Mrs. Brady has actually been an anti-gun activist since 1973, not since 1985, as she twice claimed in the New York Times. According to a USA Today profile, "Sarah Brady has spent nearly a third of her life arguing for tougher gun laws . . . Brady, daughter of an FBI agent, began her fight for stronger gun laws in 1973, when she tried to ban Saturday Night Specials . . ." "Brady Backs a Wait on Handgun Sales," USA Today, June 17, 1987, p. 2A (emphasis added). In light of Mrs. Brady's deceptions about matters large and small, her attack on the NRA, "I think they tend to prevaricate quite often" seems a case of the pot calling the kettle black. ABC News/Time Forum, January 24, 1990, show #ABC–11, transcript. It is also ironic that she congratulates herself: "I have tried very hard not to make it an emotion issue because I think that is what the gun lobby has done." New York Times, Feb. 10, 1987. A reader of Handgun Control's late 1990 fund-raising letter might find the rhetoric somewhat emotional: [Y]ou are at risk. You are in danger of also becoming a victim of the senseless handgun violence . . . [S]top our insane national handgun war . . . Frankly, what makes me livid is that the NRA opposes the Brady Bill because they claim it's an inconvenience . . . For their convenience, I experience pain—sometimes so intense I cry . . . I need help getting out of bed, help taking a shower, help getting dressed and, damn it, even help going to the bathroom . . . The NRA lobbyists can go to hell! . . . [T]he NRA lobbyists scream FOUL! . . . But the mighty NRA roars NO! And the cowards in Congress cringe! . . . I desperately need your help. James Brady Fund-raising letter (emphasis in original).

[21] For example, Hank Johnson, Executive Editor, "Making a Case for Gun Control," Athens Daily News (Georgia), September 16, 1990 ("Had such a waiting period been in effect when John Hinckley walked into a Dallas pawn shop . . . he could have been stopped.")

[22] Sarah Brady, Vice Chair, Handgun Control, Inc., Statement (press release), February 4, 1987, p. 1. Presumably she meant to say "1980."

[23] Handgun Control, Inc., "Briefing Paper on the Brady Amendment" (1988); Rep. Feighan (sponsor of waiting period), remarks, Congressional Record, September 15, 1988, p. H7636.

[24] The National Sheriffs Association, which currently supports the waiting period, certainly qualifies as a major law enforcement organization, since it is the largest group of sheriffs in the United States. Interestingly, Handgun Control, Inc. claimed in 1988 to have the support of "every major law enforcement organization," even though in 1988 the NSA had voted not to support a waiting period. Apparently when the NSA later changed its mind and supported Handgun Control, the NSA then qualified as a "major police organization." Both NACOP and AFP are for-profit organizations, and are associated with retired police chief Gerald Arenberg, who is also associated with other for-profit organizations. Handgun Control, Inc., sometimes announces this fact as if it somehow delegitimizes the NACOP and AFP—although the more than 100,000 law enforcement officers who have joined these organizations apparently do not agree. Perhaps no major law enforcement organization has been more tainted by financial impropriety than has the International Association of Chiefs of Police, a strong supporter of the waiting period; the questionable financial practices of IACP's former leadership should certainly not disqualify it as a voice for its members. A fortiori, the for-profit status of NACOP and AFP, untainted by any hint of scandal, should not disqualify these groups as police voices.

[25] The Federal Law Enforcement Officers Association, Fraternal Order of Police, International Brotherhood of Police Officers, International Association of Chiefs of Police, Major Cities Chief Administrators, National Association of Police Organizations, National Organization of Black Law Enforcement Executives, National Sheriffs Association, National Troopers Coalition, Police Executive Research Forum, Police Foundation (a think-tank), and Police Management Association. Congressional Record, Sept. 15, 1988, p. H7639; Handgun Control, Inc., "Briefing Paper on the Brady Bill," p. 2.

[26] "What PERF Members Think About Police Education, Assault Weapons, Toy Guns, Etc." Subject to Debate (PERF newsletter) March/April 1989, p. 1. It cannot be said that PERF has done an outstanding job of informing its members of the technicalities of the firearms debate. Ninety-four percent of PERF members favored a ban on nondetectable weapons, apparently unaware of testimony from the Bureau of Alcohol, Tobacco and Firearms and from the Federal Aviation Administration that there was no such thing as an undetectable weapon currently in existence or technologically feasible in the foreseeable future.

[27] National Association of Chiefs of Police, "American Law Officers Survey for 1989." The NACOP survey was sent to 16,259 command officers, and 16% responded. The 16% represented departments which employ 172,355 officers. Both the NACOP and the PERF surveys were conducted by mail, and response was voluntary. Because the surveys were not conducted by random sampling, it is not possible to assign a confidence interval to either survey. Accordingly, it is statistically possible that either or both of the surveys is not a correct measure of its population's opinion. On the other hand, it seems very possible that both PERF and NACOP were accurate measures. The responses to other questions in the surveys revealed results that would be expected of the sample populations. The big-city chiefs (PERF), favored: educational requirements for entry-level police (77%); an "assault weapon" ban (76%); funds for drug research (85%); and collection of data on hate crimes (78%). Likewise, the NACOP survey found results that are consistent with the expected conservative orientation of national police commanders as a whole: belief that the death penalty deters crime (93.8%); opposition to drug legalization (94.4%); belief that "the courts are to soft on criminals in general" (95.6%); and belief that their department was undermanned (87.3%). In any case, it is doubtful that Handgun Control, Inc. would criticize the NACOP survey, since NACOP's survey methodology is the same as PERF's, and Handgun Control cites the PERF survey in its own informational literature. Handgun Control, Inc., "Waiting Periods Work."

[28] National Association of Chiefs of Police, "American Law Officers Survey for the Year 1990." The NACOP survey was sent to approximately 16,000 command officers, and 10% responded. See the previous endnote for caveats regarding the response rate.

[29] Handgun Control, Inc. claims that the NRA has lost police allies because it has "gone off the deep end" by opposing reasonable gun controls. Interestingly, when HCI tried its "deep end" advertisement in Police magazine, the magazine received mail "unrivaled by any subject in the last two years," most of the writers "saying they didn't like the contents of the ad one bit." Police's editor composed an editorial condemning Handgun Control Inc., defending the NRA, and warning that "HCI is trying to erode the Second Amendment." F. McKeen Thompson, "Readers Respond to HCI . . . And We Agree," Police (The Law Officer's Magazine), vol. 11, no. 12 (December 1987), p. 4. In any case, the NRA is not the only group to lose friends over its extreme stands. On most issues, the Fraternal Order of Police is a staunch ally of Handgun Control. (The FOP leadership switched sides on the gun debate in anger over the NRA's stand on armor-piercing bullets.) But when Handgun Control helped push the New Jersey legislature to enact a bizarre and overbroad "assault weapon" ban (it even applied to BB guns), the local chapter of the Fraternal Order of Police strongly opposed the law. Apparently, the FOP did not agree with HCI that BB guns should be confiscated as assault weapons. Dewey R. Stokes, "Major Issues Face FOP," National FOP Journal, Summer 1990, p. 4 (de-

scribing FOP stand in New Jersey, and national FOP support for New Jersey's opposition.)

[30] Regarding the criminal procedure amendments to the Constitution, only a small percent of cases are not prosecuted or are reduced to lesser charges because of the rules against illegally seized physical evidence and coerced confessions. Peter F. Nardulli, "The Societal Cost of the Exclusionary Rule: An Empirical Assessment," 1983 American Bar Foundation Research Journal (1983): 585-610; Thomas Y. Davies, "A Hard Look at What We Know (and Still Need to Learn) about the 'Costs' of the Exclusionary Rule: The NIJ Study and Other Studies of 'Lost' Arrests," 1983 American Bar Foundation Research Journal (1983): 611-90; "Legal Safeguards Don't Hamper Crime-Fighting," National Law Journal, December 12, 1988, p. 5: Six-tenths of one percent to 2.35% of cases are dismissed because of bad searches; in a survey of prosecutors, 87% said that 5% or less of their cases were dismissed because of Miranda problems.

[31] See for example the remarks of Rep. Mel Levine (D-Calif.), Congressional Record, April 10, 1986, p. H1746 (allowing interstate transportation of handguns for sporting purposes will cause "mayhem . . . on our streets . . . and further handicap law enforcement efforts to control handgun crime."); remarks of Rep. Howard Wolpe (D-Mich), ibid. ("[T]he police in my district are concerned that the Volkmer substitute would add considerably more peril to their job than already exists.")

[32] "91% of Americans Favor Brady Amendment," Subject to Debate, Nov/Dec. 1988, p. 10.

[33] Subject to Debate.

[34] Polling data from Herbert McClosky & Alida Brill, Dimensions of Tolerance: What Americans Believe About Civil Liberties. (New York: Russell Sage Foundation, 1988).

[35] "It established some rights of the individual as unalienable and which consequently, no majority has a right to deprive them of." Albert Gallatin, Congressman and Cabinet officer of the early American Republic, quoted in Richard E. Gardiner, "To Preserve Liberty: A Look at the Right to Keep and Bear Arms," 10 Northern Kentucky Law Review 63, 79n. (1982).

[36] McCloskey and Brill.

[37] Wright, Rossi, and Daly, pp. 223-35.

[38] Sarah Brady, Fund-raising letter for Handgun Control, Inc., "Wednesday," (no date, 1988).

[39] Matthew DeZee, "Gun Control Legislation: Impact and Ideology," Law Policy Quarterly 5 (July 1983): 363-79. Although DeZee stated that he supported stricter gun laws, he did not offer any proposals.

[40] "Homicides, Robberies and State 'Cooling-Off' Schemes," in ed. Donald B. Kates, Why Handgun Bans Can't Work (Bellevue, Wash: Second Amendment Foundation, 1982), pp. 101-12.

[41] "An Empirical Analysis of Federal and State Firearms Control Laws," in Firemans and Violence: Issues of Public Policy (Cambridge, Mass.: Ballinger, 1984): 225-58 (the study also found no perceptible impact on crime or gun acquisition from the federal Gun Control Act of 1968).

[42] Report on the Federal Firearm Owners Protection Act, S. rep. no 3476, 97th Con., 2d sess. (1982), pp. 51-52.

[43] Philip. J. Cook & James Blose, "State Programs for Screening Handgun Buyers," Annals of the American Academy of Political Science 455 (May 1981), pp. 88-90. Although skeptical about screening systems as a panacea, cook and Blose still favor screening since it might increase the marginal price or time needed to obtain a gun for inexperienced criminals (such as teenagers), and might keep weakly-motivated criminals from obtaining guns at all, Ibid., pp. 90-91. Although Cook and Blose do not offer evidence, their intuition about possible benefits is not implausible. But since waiting periods and other screening systems do not show any statistical effect, it must be that the number of criminals actually affected is fairly small. Parts IV and V below discuss how the potential benefits of a waiting period compare to the potential harms. One study I have cited in earlier works (Cato Institute and Senate Testimony, both 1988) for the inefficacy of gun control is Douglas Murray, (1975). My citation to Murray was an error. As Wright, Rossi, and Daly point out, Murray's statistical model has a design flaw which minimizes any possible relationship between gun laws and gun crime.

[44] Assistant Attorney General John R. Bolton, Letter to House Judiciary Chairman Peter Rodino, March 19, 1986.

[45] James Wright, Peter Rossi, and Kathleen Daly, Under the Gun: Weapons, Crime and Violence in America (Hawthorne, N.Y.: Aldine, 1983).

[46] James Wright and Peter Rossi, Armed and Considered Dangerous: A Survey of Felons and Their Firearms (New York: Aldine, 1986). Three-fifths of the prisoners studied said that a criminal would not attack a potential victim who was known to be armed. Two-fifths of them had decided not to commit a crime because they thought the victim might have a gun. Criminals in states with higher civilian gun ownership rates worried the most about armed victims.

[47] The Armed Criminal in America, p. 46 (reports to National Institute of Justice; later republished as Armed and Considered Dangerous). One of the authors, Professor James Wright nevertheless sees little disadvantage in a waiting period. He calls it "a reasonable precaution" and argues "Few legitimate purposes to which a firearm might be put are thwarted if the user has to wait a few days, or even a few weeks, between filing the application and actually acquiring the weapon." James D. Wright, firearms chapter in ed. Joseph F. Sheley, Criminology (Wadsworth Pub., 1991), p. 442. Professor Wright's view seems to be that while the waiting period, like any screening system might yield only small benefits, it is worthwhile because it exacts virtually no costs. The counter-argument that the waiting period's small benefits are outweighed by the damage it does to public safety is discussed below. Professor Wright's assumption that a waiting period "leaves the legitimate user pretty much alone" is true in theory but not in fact; as detailed below, a waiting period can be and often is administratively abused and made into a prohibition.

[48] Wright & Rossi, pp. 181-87.

[49] Ibid, p. 188, n. 3.

[50] There is of course some value in keeping a criminal from obtaining a second gun or a better gun, but the process would be unlikely to stop a criminal from perpetrating a given armed crime.

[51] Bureau of Alcohol, Tobacco and Firearms, Assistant Director of Criminal Enforcement, Memorandum to Director, July 10, 1975 (Greenville survey; of 20,047 names submitted to FBI for record checks, 68 had felony convictions; of those, 41 had not been represented by counsel at their conviction or who committed crimes in the distant past; twenty-seven buyers were prosecuted)(of the 1.3% of buyers selected for prosecution, .9% had non-violent felony convictions, and .4% had violent convictions). Bureau of Alcohol, Tobacco and Firearms, Assistant Director for Criminal Enforcement, memorandum to Director, May 8, 1975 (of 374 records checked, 39 were purchasers with felony records who were not appropriate for prosecution because of age or non-violent nature of felony; six purchasers were prosecuted).

[52] Douglas A. Blackmon, "Gun Sale Limits Don't Cut Crime, Experts Say," Atlanta Journal & Constitution, May 29, 1990, p. A-9. The numbers for previous years were: for 1981, 1365; for 1982, 1008; for 1983, 1148; for 1984, 1349; for 1985, 1413; for 1986, 1515. Anita Lagunas, Supervisor, Firearms Control Unit, California Attorney General, Letter to Richard Gardiner, National Rifle Association, March 23, 1987.

[53] California Board of Criminal Statistics, in Blackmon.

[54] William Davis, "Gun Law Backfires," Los Angeles Daily News, Mar. 4, 1991 (letter to the editor from law enforcement officer and licensed federal firearms dealer whose application was put on hold). There are also reports that all "assault weapon" registrants have been placed in police computer lists of persons who pose a special hazard. California's practice of enforcing its laws with special severity against persons who are especially law-abiding makes the registrants seem naive, and seems to vindicate the intuitive distrust of gun registration felt by most gun-owners.

[55] Handgun Control, Inc., "Briefing Paper."

[56] "Gun Control: It Threatens the Right People," Tallahassee Democrat, February 1, 1985 (In six month period since waiting period went into effect, 37 of 1,425 applicants were denied; of the 37, 14 were denied for "outstanding arrest records for traffic offenses and other misdemeanors").

[57] Handgun Control, Inc., "The Case for a Waiting Period."

[58] In response to a letter from the NRA requesting information about the Columbus waiting period, the police department analyzed its records and found that in the period January 1, 1985 through July 22, 1985, thirty of the 1,419 handgun purchase applications had been refused. Due to man-hour limitations, the department was not able to provide data for other periods. G.J. McCain, Major, Bureau of Support Services, Columbus Police Department, letter to Richard Gardiner, National Rifle Association, September 12, 1985. Of the 32 denials, seven were because of outstanding warrants, four were due to marijuana cases, three for other drug cases, thirteen were for felony convictions other than marijuana, and five were due to age.

[59] Bureau of Justice Statistics, Identifying Persons, Other Than Felons, Ineligible to Purchase Firearms: A Feasibility Study (May 1990) (report performed under contract by Enforth Corporation, Cambridge, Massachusetts), p. 25.

[60] Pete Shields, Guns Don't Die—People Do (New York: Arbor House, 1981), p. 83.

[61] Task Force, p. 86.

[62] David Bordua, "Operational and Effects of Firearms Owners Identification and Waiting Period Legislation in Illinois," (University of Illinois: unpublished paper, 1985).

[63] Sgt. R.G. Pepersack, Sr., Maryland State Police, Commander, Firearms License Section, written testimony and oral questioning before United States Senate Committee on the Judiciary, Subcommittee on the Constitution, regarding S. 466, "Handgun Violence Prevention Act," June 16, 1987 (In 1986, there were 20,704 applications, 1,102 initial disapprovals, 370 approvals granted upon appeal, and 14 currently active cases involving an applicant who had a conviction of a crime of violence, of which 5 of 6 had been selected for prosecution for attempting an illegal purchase.)

[64] Pepersack, p. 2 (of 471 appellants in 1986, 370 [78 %] were ultimately approved). Because so many initial denials are overturned, it is misleading for Handgun Control, Inc. to characterize the entire total of initial denials as "people who were trying to purchase handguns illegally." "The Case for a Waiting Period."

[65] "The Case for a Waiting Period." Also, "Flagship Bill Introduced," Washington Report (Handgun Control, Inc. newsletter), Spring 1987, p. 1.

[66] From 1966 (when current controls were enacted) until June 1988, there were 1,153,400 applications for either a permit to purchase a handgun or a firearms identification card. Of those applications, 28,850 (2.5%) were denied. According to reporter Eugene Kiley, of the Bergen Record, the state police conducted a random survey of 507 applicants in 1985. Applying the percentages from the 1985 survey to the data as a whole leads to the following breakdown for the denials: Criminal Record: 29%, 8,366 Falsifying Application: 35% 10,097; Public Health Safety & Welfare: 20% 5,770; Mental or Alcoholic: 7% 2,020; Insufficient Reason to Issue: 6%, 1,731. In other words, the total denials for actual danger (8,366 criminal record, plus 2,020 mental or alcoholic = 10,386) uncomfortably close to the number of denials for patently arbitrary reasons (5,770 public health, plus 1,731 insufficient reason = 7,501). If the denials based on falsifying application (10,097) are also considered arbitrary (since the category does not include falsifications relating to criminal, mental, or alcoholic ineligibility), the number of arbitrary denials significantly exceeds the number of arbitrary denials significantly exceeds the number of legitimate denials.

[67] Ibid.

[68] Statement of Robert F. Mackinnon, on behalf of the Coalition of New Jersey Sportsmen, before the House Committee on the Judiciary, on Legislation to Modify the 1968 Gun Control Act, part 2, serial no. 131, 99th Congress, 1st and 2d sess., Feb. 27, 1986 (Washington: Government Printing Office, 1987), p. 1418. For example of the New Jersey law in operation, see W. Peter Haas, Chairman, Public Safety Committee, Borough of Mountain Lakes, letter to Police Chief Joseph Spinozzi, July 29, 1968 ("it is my opinion that you as Chief of Police of our Borough deny any applications and fully process that application to the point of approval or disapproval, then disapproved and notify the applicant of your decision and their recourse through the County Court . . . Article 4 Section 2A: 151-33 (d) . . . authorizes the disapproval of any person where the issuance would not be in the public interest or welfare. It is my belief that it is not in the public interest to issue permits. . ."

[69] Each application takes about four hours to process. Colonel Clinton Pagano, testimony before the New Jersey Assembly Law and Public Safety Committee, hearing on A. 594, February 1988. If one assumes that each man hour costs the state of New Jersey ten dollars, the licensing system has cost New Jersey $46,136,000. (The figure is in 1988 dollars, and based on the figure of 1,153,400 total applications

in 1966-88, cited in the previous endnote.) There have been 10,386 denials based on criminal, mental, or alcohol records (see previous endnote), and dividing that number into the total dollar cost yields the cost per denial of $4.442.13.

[70] The dealer must report the sale to local police within 6 hours. The police have 48 hours to veto the sale, but in practice dealers generally wait 72 hours, to be sure to avoid liability for a sale to an ineligible person. Weekends and holidays do not count for purposes of the 48 hour computation. Police believe that the law requires all private transfers to be routed through retail dealers, so that police can perform the check, but the requirement, if it exists, is widely ignored. All information regarding Pennsylvania comes from the author's August 28, 1990 telephone conversation with Ms. Sharon H. Crawford, head of the state police firearms unit, in Harrisburg.

[71] A good number of "hits" are based on felony convictions from many years before, or on a conviction of aggravated assault, which some people (negligently) do not realize is a disqualifying felony.

[72] Task Force, p. 87.

[73] Blackmon.

[74] Task Force, p. 89.

[75] In Virginia, 8 of 673 ineligibles (1.2%) were arrested. Handgun Control, Inc., "The Case for a Waiting Period" (1990). See also the Maryland date discussed above.

[76] James Brady Fund-raising letter, p. 3: "Seven days to help police thwart a purchase by a drug dealer."

[77] As Sterling Johnson, New York City's former special narcotics prosecutor acknowledged, "You either have to protect yourself with a gun or get out of the [drug] business." Anthony M. DeStefano, "City Teens: Armed and Dangerous," New York Newsday, Sept. 24, 1990, p. 30.

[78] Blackmon.

[79] "Killer Fraternized with Men in Army Fatigues," The Globe and Mail, December 9, 1989; "Killer's Letter Blames Feminists," The Globe and Mail, December 8, 1989. To be precise, Canada does not have a formal waiting period. In 1978, Canada implemented a national law which required police permission for every handgun purchase, and a one-time license (good for five years) for long gun purchases. The license application requirement served, in effect, as a waiting period for most first-time gun purchasers.

[80] Blackmon.

[81] James Brady Fund-raising letter.

[82] Elisabeth Scarff, Decision Dynamics Corporation, Evaluation of the Canadian Gun Control Legislation (Ottawa: Canadian Government Publishing Centre, 1983) (prepared for the Solicitor General of Canada), pp. 5, 29.

[83] A study of Toronto indicated that the gun laws decreased firearms suicide by men, but "the difference was apparently offset by an increase in suicide by leaping." Charles L. Rich, James G. Young, Richard C. Fowler, John Wagner, Nancy A. Black, "Guns and Suicide: Possible Effects of Some Specific Legislation," American Journal of Psychiatry, 147 (no. 3, March 1990), p. 342.

[84] World Health Organization, World Health Statistics, 1984 (Geneva: W.H.O., 1984), pp. 183, 189; United States Bureau of the Census, Statistical Abstract of the United States, 1989 (Washington: Government Printing Office, 1989), p. 820.

[85] "Legislature: Pass Handgun Law," Denver Post, January 24, 1975.

[86] David Hardy, "Legal Restrictions on Firearms Ownership as an Answer to Violent Crime: What Was the Question?" Hamline Law Review 6 (July 1983): 404. It might be wondered if lives would be saved if homicidally enraged husbands "cooled off" while driving around at night looking for open firearms dealers willing to sell to drunken and agitated customers, rather than staying home and finding alternative weapons.

[87] In a Detroit study, 75% of wives who shot and killed their husbands were legally defending themselves or their children against illegal attacks. The figure for Miami was 60%, and for Houston, 85.7%. "[W]hen women kill, their victims are . . . most typically men who have assaulted them." Martin Daly and Margo Wilson, Homicide (New York: Aldine, 1988), pp. 15, 200, 278. Saunders, "When Battered Women Use Violence: Husband Abuse or Self-Defense," Violence and Victims 1 (1986), p. 49; Barnard et al, "Till Death Do Us Part: A Study of Spouse Murder," Bulletin of the American Academy of Psych. and the Law 10 (1982); 271, Donald T. Lunde, Murder and Madness (San Francisco: San Francisco Book Co., 1976), p. 10 (in 85% of decedent-precipitated interspousal homicides, the wife kills an abusing husband); E. Benedek, "Women and Homicide," in ed. Bruce Danto, The Human Side of Homicide (New York: Columbia, 1982). It is sometimes suggested that the abused woman is to blame for not leaving the relationship. Many women do leave, only to be followed and killed by their former mate. See generally Lenore E. Walker, Terrifying Love: Why Battered Women Kill and How Society Responds (New York: Harper and Row, 1989); Cynthia K. Gillespie, Justifiable Homicide: Battered Women, Self-Defense, and the Law (Columbus: Ohio State University Press, 1989).

[88] Gary Kleck, Guns and Violence (Hawthorne, New York: Aldine, 1991, forthcoming) chapter 8. The study of 1982 data Kleck reviewed is Ted Mannelli, "Handgun Control," Report to the Executive Office of the Governor, State of Florida (Tallahassee: University of Florida, 1982) (unpublished).

[89] "Excerpts from Dinkins' Address: Mobilizing to Fight Crime," New York Times, October 3, 1990, p. B2.

[90] Eric Stenson, "Laws Limiting Access to Guns Putting Dent in NRA's Clout," Asbury Park Press, Aug. 5, 1990.

[91] 54 Fed. Reg. 43532.

[92] Task Force, p. 24.

[93] For example, the Lakewood, Colorado, police chief defended the Pascoe 21-day comprehensive wait: "If we can save one life, it's worth it." Also, Richard Boyd, President of Fraternal Order of Police, quoted in "Two Sides Spiritedly Debate Bill on Gun-purchase Waiting Period," The Capital Times (Madison, Wisc.), June 18, 1987; Rep. Edward Feighan (House sponsor of waiting period), "Feighan Introduces Bill of Deter Criminals and Save Lives," Press Release, February 4, 1987 ("If this bill can save even one life, which I know it can, Congress should act on it now."); Fraternal Order of Police: "If the seven-day waiting period will save just one life—the life of a law enforcement officer or a citizen—then [Congress'] work will be successful." quoted in Handgun Control, Inc., "Waiting Periods Work." If the criteria for legislation is whether it will save a single life, legislatures would also want to consider a ban on new private swimming pools and on cigarette lighters, as well as a reduction of the speed limit to 15 m.p.h. There is of course no Constitutional right to swim or light fires or drive at a particular speed; and pools, cigarette lighters, and cars are not usually considered useful for self-defense. Cars kill many more people than guns. Cigarette lighters cause more fatal accidents for children than do guns. (In 1984, the number of accidental deaths from all types of guns for children under the age of 5 was 34, while that same year 90 children aged 0-4 were killed by cigarette lighters. Centers for Disease Control, "Mortality and Morbidity Weekly Report," March 11, 1988, p. 145; Consumer's Research, May 1988, p. 34.)

[94] Bureau of Alcohol, Tobacco and Firearms estimate cited in Task Force on Felon Identification System, Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms (Washington: Department of Justice, October 1989), p. 34 [hereinafter "Task Force"]. The Task Force was chaired by Assistant Attorney General Richard B. Abell, and included the Bureau of Alcohol, Tobacco and Firearms; the Bureau of Justice Assistance; the Bureau of Justice Statistics; the Federal Bureau of Investigation; the Immigration and Naturalization Service; the National Institute of Justice; and the U.S. Marshals Service.

[95] The current federal proposal applies only to retail handgun sales, reducing the number of transactions the police have to check down to "only" two and a half million. Since the anti-gun lobby has already pushed several states to include long guns in the waiting period, and pushed California to include even gifts between family members in the waiting period, it is appropriate to consider cost estimates for waiting period schemes on the ultimate system that will be implemented, rather than on what is proposed as a "first step." One way to reduce the number of required checks by the police would be to exempt low-volume firearms dealers (50 or less sales per year) from the required check. Most such dealers sell only to persons they already know (such as members of their shooting club) and therefore, in effect, perform their own background check prior to sales. The New York City system takes the equivalent of almost 100 full time personnel. Research Associates Inc., A Preliminary Cost Analysis of Firearms Control Programs (Silver Spring, Maryland: R.A.I., 1968), prepared for the National Commission on the Causes and Prevention of Violence, pp. 23, 27-28. In Washington, DC the firearms ballistic lab is so underfinanced that it is nearly two years behind in providing ballistic analysis of firearms used in crimes. Sari Horwitz, "Caseload Weighs Down D.C.'s Ballistics Lab," Washington Post, March 8, 1989. Given that Washington, D.C. spends more per capita on police than any other city in the United States, and given the utter failure of the police department to meet even minimal standards in protecting public safety, it is disheartening to see Washington, D.C.'s current police chief spending his time lobbying for a national waiting period, which would impose significant manpower and paperwork costs on other police departments.

[96] The Department of Justice Task Force did not specifically analyze the cost of a 7-day waiting period, since the Task Force found that such a wait would be no more effective than an instant check. The Task Force did analyze the cost of a Firearms Owner Identification card, under which a card good for three years would be issued, allowing unlimited purchases after an initial background check lasting 30 days. Since the FOID system would not require repeated checks for the same person buying several guns, the FOID system would likely cost significantly less than a waiting period. The Task Force estimated the start-up cost of FOIDs at $148-153 million, and the annual operating costs at $136-161 million. Task Force, p. 106. The cost estimate makes the assumption that most jurisdictions would undertake the "voluntary" background check out of fear of being sued by HCI. If the check were truly voluntary and most police departments declined to perform it, the additional costs of the law would be small. In any case, the total costs of the "Brady Bill" are nowhere near the "billions" which the NRA citéd as the upper cost range in its 1988 campaign against the bill. A figure of billions would only be justified only by combining the costs for several years of operation of the bill. A national check on every gun transfer, retail and private, long gun and handgun, might well cost billions. Even though the comprehensive billion-dollar check seems to be the long-term goal of Handgun Control, Inc., there is no current national proposal to that effect. For an instant telephone check, the Virginia police had requested an $8 per transaction fee to cover costs. If costs in other jurisdictions are about the same, a national check for retail handgun sales would cost about $20 million ($8 2.5 million sales). A national check on all gun transfers would be about $60 million ($8 7.5 million transfers).

[97] The cost analysis improves if one assumes that in addition to leading to the arrest of one criminal, the 10,000 background checks and cooling off periods prevented several people without criminal records from obtaining guns that they would have used in crime or a suicide attempt. See the discussion in Part III for the expected very small size of those groups.

[98] For example, David Seifman, "City's Latest Crime Shocker Fails to Stir Mayor's Anger," New York Post, Sept. 5, 1990, p. 4; Donatalla Lorch, "Girl is Killed by Stray Bullet in Brooklyn," New York Times, Sept. 24, 1990, p. A1 (Although the newspapers did not report that the gun involved as a "bad" gun like a "Saturday Night Special" or an "assault weapon," the Mayor stated: "Her death leaves me grief stricken and outraged . . . at the failure of our state and federal government to bring an end to the manufacture and distribution of these tools of death."); "Excerpts from Dinkin's Address: Mobilizing to Fight Crime," New York Times, Oct. 5, 1990, p. B2 (The speech concluded "we ache for the protection that only a federal law can give us—the Brady Bill." He implored New Yorkers to call U.S. House Speaker Foley to demand passage of the "Brady bill," "which could save thousands of lives in its first year, including yours.")

[99] N.T. "Pete" Shields, fund-raising letter for Handgun Legal Action Fund, "confidential, Wednesday morning" (1988), pp. 2-3. See *Warren* v. *District of Columbia*, 444 A.2d 1 (D.C. App. 1981). Unfortunately, after police departments begin complying with the paperwork rules, citizens who are victimized by crime will have no right to sue the police chiefs for putting their officers behind a desk, instead of on anti-crime patrol.

[100] Eileen Welsome, "Killing Spree Leads to Talk of Gun Control," Albuquerque Tribune, n.d; Shields, fundraising letter (1988), p. 3.

[101] "Background Checks Done Strickly by the Book," San Diego Union, February 21, 1990 ("We have an archive where we keep all those records, alphabetized by the gun owners' names," said Entricon. [Justice Department official]).

[102] The 1991 version of the national police permission bill, H.R. 7, explicitly states that it imposes no obligation on law enforcement officials. §(a)(2).

[103] *Puerto Rico* v. *Branstad*, 483 U.S. 219 (1987). Of course Congress could compel destruction of registration records if it made a finding that gun registration violates the Second Amendment. Congress has the power under section five of the Fourteenth Amendment to outlaw state violations of Constitutional rights. Logical consistency would mandate that the registration ban apply to other state and local gun registration as well.

[104] Registration is routinely flouted. In Illinois, for example, a 1977 study showed that compliance with handgun registration was only about 25 percent. Donald B. Kates, "Handgun Control: Prohibition Revisited," Inquiry, December 5, 1977, p. 20, n. 1. Compliance with retroactive registration of semiautomatics in Boston and Denver has been about 1 percent. About 10 percent of California's 300,000 "assault weapons" owners registered as required by law.

[105] Registration lists facilitated gun confiscation in Greece, Ireland, Jamaica, and Bermuda. B. Bruce-Briggs, "The Great American Gun War," The Public Interest, (Fall 1976), p. 59; Kates, Why Handgun Bans Can't Work, p. 16. The Washington, D.C., city council considered (but did not enact) a proposal to use registration lists to confiscate all shotguns and handguns in the city. When reminded that the registration plan had been enacted with the explicit promise to gun owners that it would not be used for confiscation, the confiscation's sponsor retorted, "Well, I never promised them anything!" "Wilson's Gun Proposal," Washington Stat-News, February 15, 1975, p. A 12; Lawrence Francis, "Washington Report," Guns & Ammo, December 1976, p. 86. The Evanston, Illinois, police department also attempted to use state registration lists to enforce a gun ban. Paul Blackman, "Civil Liberties and Gun-Law Enforcement: Some Implications of Expanding the Power of the Police to Enforce a 'Liberal' Victimless Crime," Paper presented at the annual meeting of the American Society of Criminology, Cincinnati, 1984, p. 14, In 1989, the Illinois Legislature considered a proposal to confiscate semi-automatics, using the existing gun registration forms to find out where to round up the guns. When Illinois Firearms Owners Identification Cards were first issued, persons with a felony conviction were eligible to possess a firearm if the conviction was more than 5 years in the past. Later, the Illinois legislature retroactively changed the bar date to 20 years. Registered owners who had a felony conviction more than 5 years old and less than 20 had their guns confiscated. Since there are always proposals to expand the class of prohibited persons (such as barring all persons with even a single misdemeanor drug or violent offense, no matter how long ago), and always proposals to confiscate various lawfully-acquired types of weapons, many gun-owners are leery of being placed on any kind of government list—even if they are in full compliance with the (current) law. For more on registration, see note 52 and accompanying text.

[106] The Supreme Court has ruled that the Constitution prohibits the government from registering purchasers of newspapers and magazines, even of foreign Communist propaganda. Lamont, DBA Basic *Phamphlets* v. *Postmaster General*, 381 U.S. 301 (1965). The U.S. Post Office intercepted "foreign Communist propaganda" before delivery, and required addressees to sign a form before receiving the items. The Court's narrow holding was based on the principle that addressees should not have to go to the trouble of filling out a form to receive particular items of politically oriented mail. Since the Post Office had stopped maintaining lists of propaganda recipients before the case was heard, the Court did not specifically rule on the list-keeping practices. One may infer that the Post Office threw away its lists because it expected the Court would find them unconstitutional. See also *Thomas* v. *Collins*, 323 U.S. 516 (1944) (registration of labor organizers).

[107] 5 United States Code §552a(i)(1).

[108] Carl Ingram, "Gun Law Forces Mental Hospitals to Name Patients," Los Angeles Times, Feb. 7, 1991.

[109] For example, Arlington, Virginia, requires handgun applicants to "authorize a review and full disclosure of all arrest and medical psychiatric records." Form 2020-63 (Form 4/88).

[110] State of Illinois, Department of Public Safety, Firearm Owners Identification Application, question 9, FOID-1.

[111] State of New Jersey, "Application for Firearms Purchaser Identification Card," form STS-3 (rev. 9-1-79).

[112] A number of studies have argued that former mental patients are no more prone to commit violent crimes than is the public as a whole. U.S. Senate Subcommittee on the Constitution, Judiciary Committee, "Hearings on the Constitutional Rights of the Mentally Ill," 91st Congress, 1st and 2d sessions (Washington: 1977), p. 277; B. Ennis, Prisoners of Psychiatry (1970), pp. vi, 225; G. Morris, "Criminality and the Right to Treatment," in The Mentally Ill and the Right to Treatment (1970), pp. 121-24; Livermore, Malmquist, & Meehl, "On the Justifications for Civil Commitment," 117 University of Pennsylvania Law Review 75, 83 n.22 (1969), all cited in David T. Hardy & John Stompoly, "Of Arms and the Law," 51 Chicago-Kent Law Review 62, 97 (1974). Some studies have suggested that committal decisions are often unfair and incorrect. A. Wiley, "Rights of the Mentally Ill," p. 11; Ennis, p. vii.

[113] Rep. Marlenee, CONGRESSIONAL RECORD, Sept. 15, 1988, pp. H7643-44.

[114] For several months in 1970, the F.B.I. ran out of funds to process state requests for fingerprint checks. Some New Jersey chiefs of police stopped processing firearms permit applications, and told gun applicants to sue in court to obtain a license. J. Edgar Hoover, Director, Federal Bureau of Investigation, Letter to All Fingerprint Contributors, May 21, 1970; Joseph Santiago, "Chief Balks on Permits for Guns," The Record, July 10, 1970; John Spencer, "Registration of Guns Becomes Prohibition of Guns," (letter to the editor), The Record, n.d. (written Aug. 27, 1970).

[115] Testimony of Sergeant R.G. Pepersack, Md. St. Police Commander, Firearms Lic. Sect., before Subcomm. on the Const., June 16, 1987.

[116] Donald B. Kates, "On Reducing Violence or Liberty," Civil Liberties Review, (American Civil Liberties Union) August/September 1976, p. 56.

[117] Statement of Robert F. Mackinnon, on behalf of the Coalition of New Jersey Sportsmen, before the House Committee on the Judiciary, on Legislation to Modify the 1968 Gun Control Act, part 2, serial no. 131, 99th Congress, 1st and 2d sess., Feb. 27, 1986 (Washington, D.C.: Government Printing Office, 1987), p. 1418. According to the Department of Justice Task Force, the typical delay in New Jersey is 6 to 10 weeks. Task Force, p. 84.

[118] For a variety of cases of lawless enforcement of the gun laws, see *Motley* v. *Kellogg*, 409 N.E.2d 1207 (Ind. App. 1980) (police chief "denied members of the community the opportunity to obtain a gun permit and bear arms for their self-defense); *Schubert* v. *DeBard*, 398 N.E.2d 1339 (Ind. App. 1980) (police determination that self-defense did not constitute "good reason" for gun permit voided by court); *Buffa* v. *Police Dept. of Suffolk County*, 47 A.D.2d 841, 366 N.Y.S.2d 162 (2d Dept. 1975) (mere "withdrawal of police approval" was insufficient grounds to revoke license); *Storace* v. *Mariano*, 35 Conn. Sup. 28, 391 A.2d 1347, 1349 (1978) ("in my opinion, he is an unsuitable person to carry a gun" was not a suitable reason for denying a permit); *Salute* v. *Pitchess*, 61 Cal. App. 3d 557, 132 Cal. Rptr. 345, 347 (2d Dist. 1976) (sheriff's unilateral determination "that only selected public officials can show good cause for a permit" was illegal); *Schwanda* v. *Bonney*, 418 A.2d 163, 165 (Me. 1980) (voiding police effort to impose criteria not based on statute); *Iley* v. *Harris*, 345 So.2d 336, 337 (Fla. 1977).

[119] For some examples of the New York City Police Department's flagrant abuse of the statutory licensing procedure, see: *Shapiro* v. *Cawley*, 46 A.D.2d 633, 634, 360 N.Y.S.2d 7,8 (1st Dept. 1974) (ordering N.Y.C. Police Department to abandon illegal policy of requiring applicants for on-premises pistol license to demonstrate unique "need"); *Turner* v. *Codd*, 85 Misc. 2d 483, 484, 378 N.Y.S.2d 888, 889 (Special Term Part 1, N.Y. County, 1975) (ordering N.Y.C. Police Department to obey Shapiro decision); *Echtman* v. *Codd*, no. 4062-76 (N.Y. County) (class action lawsuit which finally forced Police Department to obey Shapiro decision). Also: *Bomer* v. *Murphy*, no. 14606-71 (N.Y. County) (to compel Department to issue blank application forms for target shooting licenses); *Klapper* v. *Codd*, 78 Misc.2d 377, 356 N.Y.S.2d 431 (Sup. Ct., Spec. Term, N.Y. Cty.) (overturning refusal to issue license because applicant had changed jobs several times); *Castelli* v. *Cawley*, New York Law Journal, March 19, 1974, p. 2, col. 2 (Applicant suffered from post-nasal drip, and repeatedly cleared his throat during interview. His interviewer "diagnosed" a "nervous condition" and rejected the application. An appeals court overturned the decision, noting that the applicant's employment as a diamond cutter indicated "steady nerves.")

[120] Gary L. Wright, "Woman Won't Be Charged: Boyfriends' Slaying Ruled Self-Defense," Charlotte Observer, October 3, 1990.

[121] H.R. 7, §(a)(1)(B).

[122] Robert E. McSherly, Jr., letter to the Editor of Orange County Register, reprinted in Gun Owner's ACTION Committee, We The People (newsletter), September 1990, p. 7.

[123] *United States* v. *Panter*, 688 F.2d 268, 271 (5th Cir. 1982)

[124] Notably, many gun control activists do not consider self-defense legitimate. The United Methodist Church, which founded the National Coalition to Ban Handguns, and whose Washington office building also houses the NCBH, declares that people should submit to rape and robbery rather than endanger the criminal's life by shooting him. Methodist Board of Church and Society, "Handguns in the United States" (pamphlet); same statement in Rev. Brockway, "But the Bible Doesn't Mention Pistols," Engage-Social Action Forum, May 1977, pp. 39-40. The Presbyterian Church, another affiliate of the National Coalition to Ban Handguns, supports a complete ban on handguns because it opposes "the killing of anyone, anywhere, for any reason," including defense of others against a life-threatening attack. Rev. Young, Director of Criminal Justice Program for Presbyterian Church, testifying in 1985-6 Hearings on Legislation to Modify the 1968 Gun Control Act, House Judiciary Committee, Subcommittee on Crime, vol. I, p. 128. The Washington Post condemns "the need that some homeowners and shopkeepers believe they have for weapons to defend themselves" as representing "the worst instincts in the human character." Editorial, "Guns and the Civilizing Process," Washington Post, September 26, 1972.

[125] See, for example, Bowers v. DeVito 686 F.2d 616 (7th Cir. 1982) (no federal Constitutional requirement that police provide protection); Calogrides v. Mobile, 475 So. 2d 560 (Ala. 1985); Cal Govt. Code §§845 (no liability for failure to provide police protection) and 846 (no liability for failure to arrest or to retain arrested person in custody); Davidson v. Westminster, 32 Cal 3d 197, 185 Cal. Rep. 252; 649 P.2d 894 (1982); Stone v. State 106 Cal. App. 3d 924, 165 Cal. Rep. 339 (1980); Morgan v. District of Columbia, 468 A.2d 1306 (D.C. App. 1983); Warrent v. District of Columbia, 444 A.2d 1 (D.C. App. 1981); Sapp v. Tallahasse, 348 S.2d 363 (Fla. App. 1st Dist.), cert. denied 354 So.2d 985 (Fla. 1977); Ill. Rev. Stat. 4-102; Keane v. Chicago, 98 Ill. App. 2d 460, 240 N.E. 2d 321 (1st Dist. 1968); Jamison v. Chicago, 48 Ill. App. 3d 567 (1st Dist. 1977); Simpson's Food Fair v. Evansville, 272 N.E.2d 871 (Ind. App.); Silver v. Minneapolis 170 N.W.2d 206 (Minn. 1969); Wuetrich v. Delia, 155 N.J. Super. 324, 326, 382, A.2d 929, 930, certif. denied 77 N.J. 486, 391 A.2d 500 (1978); Chapman v. Philadelphia, 290 Pa. Super. 281, 434 A.2d 753 (Penn. 1981); Morris v. Musser, 84 Pa. Cmwth. 170, 478 A.2d 937 (1984). The law in New York remains as decided by the Court of Appeals the 1959 case Riss. v. New York: the government is not liable even for a grossly negligent failure to protect a crime victim. In the Riss case, a young woman telephoned the police and begged for help because her ex-boyfriend had repeatedly threatened "If I can't have you, no one else will have you, and when I get through with you, no-one else will want you." The day after she had pleaded for police protection, the ex-boyfriend threw lye in her face, blinding her in one eye severely damaging the other, and permanently scarring her features. "What makes the City's position particularly difficult to understand," wrote a dissenting opinion, "is that, in conformity to the dictates of the law, Linda did not carry any weapons for self-defense. Thus, by a rather bitter irony she was required to rely for protection on the City of New York which now denies all responsibility to her." Riss v. New York, 22 N.Y.2d 579, 293 N.Y.2d 897, 240 N.E.2d 806 (1958). Ruth Brunell called the police on 20 different occasions to beg for protection from her husband. He was arrested only one time. One evening Mr. Brunell telephoned his wife and told he was coming over to kill her. When she called the police, they refused her request that they come to protect her. They told her to call back when he got there. Mr. Burnell stabbed his wife to death before she could call the police to them that he was there. The court held that the San Jose police were not liable for ignoring Mrs. Brunell's pleas for help. Hartler v. City of San Jose, 46 Cal. App. 3d 6 (1st Dist. 1975). The year after winning the Hartzler case, the San Jose government appointed Joseph McNamara Police Chief. Chief McNamara has since become the leading police spokesman for HCI.

[126] The ⅕ figure comes from the author's conversation with Ms. Sherman, head of the Pennsylvania state police firearms unit, cited above. Part of the ⅕ drop-off may be caused by people who are disquali-

fied by the local police background check, but (based on data from other states) ineligible buyers only account for, at most, a few percent of buyers. The rest of the ⅓ drop-off, therefore, is best explained by buyers changing their mind, as would buyers of virtually every product, if forced to make two trips for a single purchase.

[127] Research Associate, Inc., p. 34 (A firearms control program that substantially reduced gun sales would result in a tax revenue loss, in 1968 dollars, of over one hundred million dollars.)

[128] Gary Kleck, "The Relationship Between Gun Ownership Levels and Rates of Violence in the United States," in ed. Donald B. Kates Firearms and Violence: Issues of Public Policy (Cambridge, Mass., Ballinger, 1984): 99–132.

[129] Task Force Draft, 54 Federal Register 43528, Oct. 25, 1989.

[130] Task Force, p. 10.

[131] Eleven states do not have automated records. Ten other states have less than 65% of their records automated. Task Force, p. 8.

[132] "Testimony of Gary L. Bush Chairman, Search Group, Inc., Before the Subcommittee on Crime of the House Judiciary Committee," January 25, 1990, p. 14.

[133] *Hammons* v. *Scott*, 423 F. Supp. 618 (N.D. Cal. 1976); *Rowlett* v. *Fairfax*, 446 F. Supp. 186 (W.D. Mo. 1978).

[134] See the National Association of Chiefs of Police surveys discussed in Part II.A above. See also the testimony of David Hall, undersheriff of Lake County, Florida: Q. Can't you do one in seven days? Would you be able to do it? Hall: It would be a very cursory check. Q: Would you be satisfied with that kind of check . . . ? Hall: No, sir, I personally wouldn't feel comfortable with it. State of Florida, Commission on Assault Weapons, Report (May 18, 1990), transcript on February 5, 1990, p. 9.

[135] 54 Fed. Reg. 43545.

[136] The figure is based on the BATF estimate of 7.5 million firearms transactions per year, and the Task Force estimate of an initial "hit" rate of 12 to 16% of applicants.

[137] Task Force, p. 15.

[138] Rep. Dan Lungren, CONGRESSIONAL RECORD, Sept. 15, 1988.

[139] As Josh Sugarman, former communications director for the Coalition Against Gun Violence, wrote in The Washington Monthly: "handgun controls do little to stop criminals from obtaining handguns." Josh Sugarman, "The NRA Is Right: But We Still Need to Ban Handguns," Washington Monthly. Sugarman authored the November 1988 strategy memo suggesting that the press and the public had lost interest in handgun control. He counseled the anti-gun lobby to switch to the "assault weapon" issue, which the lobby did with spectacular success in 1989.

[140] National Coalition to Ban Handguns, "Twenty Questions and Answers" (no date), question 8 ("Banning 'Saturday Night Specials' would be a useful first step towards an ultimate solution.")

[141] The author was a member of the panel that questioned the two debaters.

[142] Founding Chair Pete Shields explained his strategy for prohibition: "The first problem is to slow down the number of handguns being produced and sold in this country. The second problem is to get handguns registered. The final problem is to make possession of all handguns and all handgun ammunition—except for the military, police, licensed security guards, licensed sporting clubs, and licensed gun collectors—totally illegal." Richard Harris, "A Reporter at Large: Handguns," New Yorker, July 26, 1976, p. 58.

[143] Handgun Control, Inc. has supported bills like the Russo bill in New Jersey to outlaw all handgun sales or transfers, and require that handguns be handed over to the police upon the death of their owner. HCI endorses the laws in Chicago and Washington, D.C. which prohibit the lawful acquisition of handguns. Handgun Control, Inc., "Fact Card." District of Columbia Code §§6–2132(4) and 6–2372.

[144] Rep. Traficant, CONGRESSIONAL RECORD, Sept. 15, 1988, p. H7644.

[145] See note 142.

[146] H.R. 7, §§(a)(1)(A)(ii)(I) (a sale may proceed only if "the transferor has received written verification that the chief law enforcement officer has received the statement"); (a)(2) ("Paragraph (1) shall not be interpreted to require any action by a chief law enforcement which is not otherwise required."); (b) ("The term 'handgun' means—(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand"). The HCI handgun definition could be read to apply to rifles or shotguns that have folding stocks and extended pistol grips.

[147] See note 142. "And most importantly, you've helped us hurt the NRA and its friends in the handgun industry in the wallet, where it counts—and a 10-year low in new handgun sales proves it!" Sarah Brady, Fund-raising letter for Handgun Control, Inc., "Monday" (1988), p. 2.

[148] Representative Hughes of New Jersey, a prime sponsor of the waiting period, calls himself a sportsman, and claims to protect "the privilege of owning weapons in this country." Congressional Record, Sept. 15, 1988, p. H7654. Of course what makes this country different from other countries is that gun ownership is an explicit right, not a privilege.

[149] Speaking before a New York University Law School audience, Justice Black said: "Although the Supreme Court has held the Amendment to include only arms necessary to a well-regulated militia, as so construed, its prohibition is absolute." Hugo L. Black, "The Bill of Rights," 35 New York University Law Review 865, 873 (1960). In United States v. Miller, the Court held that only arms useful to a well-regulated militia were protected by the Second Amendment. Seeing no military utility to a sawed-off shotgun, the Court upheld a strict federal licensing system. As for the meaning of "a well-regulated Militia," the Court noted that to the authors of the Second Amendment, "The Militia comprised all males physically capable of acting in concert for the common defense. . . . Ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time." 307 U.S. 174, 179 (1939).

[150] Amendment I: "Congress shall make no law respecting and establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. Amendment II: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." Amendment III: "No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law." The Third Amendment, having hardly ever been breached, has developed little case law.

[151] In United States v. Verdugo-Urquidez, the Court ruled that the Fourth Amendment "right of the people to be secure in their persons, houses, papers, and effects" applied to the same group protected by the Second Amendment "right of the people to keep and bear arms" and the First Amendment "right of the people peaceably to assemble." In every case, said the Court, the "right of the people" refers to individual citizens of the United States. 110 S.Ct. 1056, 108 L.Ed. 2d 222 (1990). In Konigsberg v. State Bar of California, the Court rejected Justice Black's absolutist approach to Constitutional interpretation. The Court noted that the First Amendment on its face was absolute, and the Second Amendment contained an "equally unqualified command." Nevertheless, both Amendments were subject to reasonable limitations. 363 U.S. 36, 51 n. 24 (1961).

[152] "Each establishes a norm of conduct which the Federal Government is bound to honor—to no greater or less extent than any other inscribed in the Constitution. Moreover, we know of no principled basis on which to create a hierarchy of Constitutional values. . ." Valley Forge Christian College v. Americans United For Separation of Church and State, Inc., 454 U.S. 464, 484 (1982). See also Ullman v. United States, 350 U.S. 422, 426–29 (1956): "As no constitutional guarantee enjoys preference, so none should suffer subordination or deletion. . . To view a particular provision of the Bill of Rights with disfavor inevitably results in a constricted application of it. This is to disrespect the Constitution."

[153] Byars v. United States, 273 U.S. 28, 32 (1927); Fairbank v. United States, 181 U.S. 283 (1901).

[154] New York Times v. United States 403 U.S. 713, 714 (1971); Organization for a Better Austin v. Keefe, 402 U.S. 415, 419 (1971); Bantam Books v. Sullivan, 372 U.S. 58, 79 (1963); Near v. Minnesota, 283 U.S. 697, 716 (1931) ("Liberty of the press has meant principally, although not exclusively immunity from prior restraint or censorship.")

[155] Rep. Bosco derides the quaint notion that "gun purchasers in America should be considered innocent until they prove themselves guilty." Congressional Record, Sept. 15, 1988, p. H7651.

[156] The right to bear arms obviously includes the right to purchase them, just as the right to free speech includes the right to purchase printed matter.

[157] Shelton v. Tucker, 364 U.S. 479, 488 (1960). See also Schneider v. State, 308 U.S. 147, 161, 165 (1939); American Communications Association v. Douds 339 U.S. 382 (1950); Louisiana ex rel. Gremillion v. NAACP, 366 U.S. 293 (1961); NAACP v. Alabama, 377 U.S. 288, 307–8 (1963); Talley v. California, 362 U.S. 60 (1960); Dean Milk v. Madison, 340 U.S. 349 (1951).

[158] "[T]he legitimate governmental purpose in regulating the right to bear arms cannot be pursued by means that broadly stifle the exercise of this right where the governmental purpose can be more narrowly achieved." State ex rel. Princeton v. Buckner, 377 S.E.2d 139, 144 (W.Va. 1988). See also City of Lakewood v. Pillow, 180 Colo. 20, 501 P.2d 744, 745 (Colo. 1972) (voiding ban on gun sales within city limits and a requirement that persons carrying firearms be licensed: "Even though the governmental purpose may be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved.")

[159] Some states with a license system are Indiana (license for handguns valid for 4 years); Iowa (handguns, 1 year); Massachusetts (all guns, lifetime); Minnesota (handguns, 1 year).

[160] Pennsylvania runs a state records check after the person picks up the handgun following a 48 hour wait. Task Force, pp. 82–83.

[161] Task Force, p. 83.

[162] Rep. Kennelly, Congressional Record, Sept. 15, 1988, p. H7650.

[163] The states with waiting periods for each handgun purchase are listed below. In some cases, the time period is not a minimum waiting period, but the maximum time the police are allowed to process an application for a permit to purchase a handgun [the time limits are not always observed, see Parts IV and V above]: Alabama (2 days); California (all guns, 15 days); Connecticut (all guns, 14 days); Hawaii (handguns, 15 days); Maryland (handguns and "assault weapons," 7 days); Michigan (handguns); Missouri (handguns, must issue within 7 days); New Jersey (all guns, 30 days); New York (handguns, 180 days); North Carolina (handguns, 30 days); Oregon (handguns, 15 days); Pennsylvania (handguns, 2 days); Rhode Island (all guns, 7 days); South Dakota (handguns, 2 days); Tennessee (handguns, 15 days); Washington (handguns, 5 days); Wisconsin (handguns, 2 days). Identifying Persons, Other Than Felons, p. 114, exhibit B.4 (and updated to account for 1990 changes in state laws).

[164] California and Rhode Island in 1990. Maryland extended its wait to "assault weapons" in 1989.

[165] "At close range, the shotgun is the most formidable and destructive of all arms . . . Unlike bullets, shotgun pellets rarely exit the body. Therefore, the kinetic energy of wounding in shotguns is usually equal to the striking energy . . . all the kinetic energy is transferred to the body as wounding effects." Vincent J.M. DiMaio, Gunshot Wounds: Practical Aspects of Firearms, Ballistics, and Forensic Techniques (New York: Elsevier, 1985), pp. 182–83. "Shotgun injuries have not been compared with other bullet wounds of the abdomen as they are a thing apart . . . [A]t close range, they are as deadly as a cannon." R. Taylor, "Gunshot Wounds of the Abdomen," Annals of Surgery 177 (1973): 174–75.

[166] The lead sponsors are Rep. Feighan in the House and Sen. Metzenbaum in the Senate.

[167] Forty-one states have some form of preemption. Of the 41, 36 are statute, and 5 by judicial decree. Some of the preemption states (such as Massachusetts) allow local gun controls if the state legislature approves them; some other preemption states (like Virginia) have grandfathered in restrictive local ordinances.

[168] Rep. Hoyer (Maryland), Congressional Record, Sept. 15, 1988, p. H7640.

[169] *Kentucky* v. *Dennison*, 65 U.S. (24 How.) 66, 107-8 (1860) (state official's refusal to deliver escaped slave under federal Fugitive Slave Act).

[170] The Tenth Amendment reserves state authority regarding powers not delegated the federal government: "The powers not delegated to the United States by a Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

[171] Members of the Police Executive Research Forum (a think-tank for major urban police chiefs) supported an instant check over a firearms licensed care by a margin of 49% to 46%. Task Force, p. 113; Police Executive Research Forum, Comments on Justice Department's "Draft Report on Systems for Identifying Felons Who Attempt to Purchase Firearms,"July 26, 1989, p. 2.

[172] The Attorney General of the United States insists that any verification system for firearms pur-

chasers be at the point of sale, without further delays; he reasons that any check that would be significantly more accurate would take a month, and "Such a delay would impose an unreasoanble burden on legitimate gun purchasers." Richard Thornburgh, Attorney General, Letter to Dan Quayle, November 20, 1989, p. 2; Identifying Persons, Other Than Felons, p. 91.

[173] In Florida, where an instant check began a few weeks before the publication date of this monograph, a man was denied the right to purchase because the police computer located a 10-year-old outstanding bench warrant. The warrant turned out to be for a lawsuit involving a bad check; the man had never even been told that a lawsuit had been filed against him.

[174] "U.S.'s Barriers to Employment Are Not Stopping the Influx," New York Times, October 9, 1989, p. 13 (quoting I.N.S. assistant district director for investigation for Los Angeles. Several illegal workers said that a good set of papers cost $300.)

[175] 54 Fed. Reg. 43537.

[176] Task Force, p. 40.

[177] Task Force, p. 39.

[178] 54 Fed. Reg. 43546.

[179] Handgun Control, Inc., letter to Walter Barbee, Office of the Assistant Attorney General, July 26, 1989.

[180] Comments to the Task Force.

[181] Comments to the Task Force.

[182] 54 Fed. Reg. 43530.

[183] William S. Sessions, FBI Director, "The FBI and the Challenges of the 21st Century," FBI Law enforcement Bulletin, January 1989, p. 3 (near-term feasibility of instant fingerprint readers in police cars).

[184] People without driver's licenses or other official identification might face delays if such a card were mandatory for a purchase. Currently firearms dealers may sell to someone whose identity they have verified, and verification may include personal knowledge. Currently, a small dealer can sell to a friend even if the friend does not present official identification, since the dealer knows the purchaser's bona fides based on personal knowledge.

[185] National Rifle Association, "Comments of the National Rifle Association of America, Inc. on Draft Report for Identifying Felons Who Attempt to Purchase Firearms," (July 26 1989), p. 30.

[186] In Schneider v. State, 308 U.S. 147, 164 (1939), the Court voided a New Jersey law requiring pamphleteers to undergo a "burdensome and inquisitorial examination, including photographing and fingerprinting." New Jersey, noted for its disdain of Second Amendment rights, apparently needs to be repeatedly reminded to obey the First Amendment as well. Despite the plain language of Schneider, a New Jersey township enacted a law requiring political canvassers to be fingerprinted. A federal appeals court found the fingerprinting, "stigmatizing, and an inappropriate burden on their right to do political work." New Jersey Citizen Action v. Edison Township, 797 F.2d 1250, 1262–65 (3d Cir. 1986), cert. denied, 479 U.S. 1103 (1987).

[187] As the Task Force explained, "the biometric card does not solve the problem of individuals using fraudulent 'breeder' documents, such as birth certificates, to obtain the biometric ID card."

[188] Wright & Rossi, p. 191. The "McClure-Volkmer" firearms law reform in 1986 enhanced penalties for gun transfers to felons. 18 United States Code §922(d).

[189] Virginia Code §18.2–108.1 (1988).

[190] The measure would be Constitutional according to the principles of Paul v. Davis, 424 U.S. 693 (1976) (distribution of names and photos of "active shoplifters" to retail stores).

[191] 18 United States Code §3013.

[192] United States v. Cruikshank, 343 U.S. 542, 551–53 (1876). The Court stated that the rights to peaceably assemble and to keep and bear arms were not created by the Constitution, but merely recognized in the document. Those rights, the Court said, were not dependent on the constitution for their existence, but were found "wherever civilization exists."

Mr. SMITH. Ironically, the Washington interest groups pushing these dubious gun control solutions are in some cases the same people who a decade ago were blaming society for the incidents of crime in our country. Congressional liberals who throughout the decade of the seventies were proposing the legalization of marijuana use, and reduction of penalties for violent crime, are now running for political cover.

Unfortunately, their targets are not violent felons but rather the peaceful, law-abiding citizens, gun owners of the United States of America.

The American people are way ahead of Congress on this issue as they usually are. They realize violent crime is a serious problem and an avoidable one. They realize it is criminals, not society, and not gun owners, who are responsible for crime.

Furthermore, they realize the only way to reduce crime in our Nation's streets is to take the criminals off those streets. And unless Congress begins to take a leadership role in this area, unless Congress begins to punish the criminal rather than the American people, I am convinced the people will find leaders who will.

That is really is the crux of the issue, and that is the crux of the Republican crime bill, which was not mentioned on the floor today by the opposition. It is not a matter of just a crime bill. It is a difference in opinion as to where the focus should be.

If the Democrats want a crime bill, I will give them an opportunity to consider an anticrime bill, the Republican bill. It will not make it easier for criminals to get out of jail with a habeas corpus petition, or make it easier for criminals to exclude incriminating evidence. It will not do that. That is the major difference between the two parties on this issue, Mr. President.

Mr. President, I yield the remainder of my time.

Mr. METZENBAUM. Mr. President, I yield 3 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mrs. BURDICK. Mr. President, as the newest Member of this group, and acting on a temporary basis, I would like to speak to this issue.

I did not think that gun control was a political issue, either Republican or Democratic. I feel that the waiting period for guns, handguns, the Brady bill, would give us a little bit more assurance that those who are not in control of their faculties might be checked before they went ahead and purchased. I realize we are not talking about the hardened criminal, but many people get involved with guns who could be prevented from doing it, and lives could be saved.

Since there is such a demand in this country that the Brady bill be passed, and as a housewife, the mother of six children and seven grandchildren, I would like to see the Brady bill passed.

Thank you.

Mr. METZENBAUM. Mr. President, I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I know there are others who wish to speak. I just want to respond briefly to the Senator from New Hampshire, I wanted to say to the Senator from New Hampshire that I think he knows and I think all of us know that you learn in social science work that the correlation does not make causation. We are really talking about two difference factors. I do not think the Senator from New Hampshire was trying to suggest with his statistics that passage of the Brady bill would really cause more violent crime. If so, I think that very claim really makes his argument fairly preposterous.

Rather than going back and forth on the floor of the Senate, except to remind my colleagues gently, that this correlation does not mean causation and there are surely other factors that affect incidents of violent crime in the various States that he talked about.

Mr. President, I have a letter that I ask unanimous consent be printed in the RECORD, from a variety of different law enforcement officials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAW ENFORCEMENT SAYS VOTE "YES" ON THE BRADY BILL

OCTOBER 1, 1992.

Hon. PAUL WELLSTONE,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: Within the next few days you will have the opportunity to pass a bill which has been at the top of law enforcement's legislative agenda for almost five years. Of course, we are referring to the Brady Bill, S.3282, which Senate Majority Leader George Mitchell re-introduced on September 28.

The organization signing this letter represent more than 375,000 chiefs, sheriffs, troopers and rank and file police officers. Since the Brady Bill was first introduced in Congress in 1987, more than 100,000 Americans have lost their lives as a result of handgun violence. In the same period, more than 200 police officers have been shot and killed with handguns. According to their 1991 FBI Uniform Crime Reports, there were a record number of homicides last year.

Law enforcement recognizes that the Brady Bill will not eliminate violent crime, but it will provide us with an important tool to reduce gun violence in America. We have presented all of our arguments in past hearings, personal visits, meetings, letters and telephone contacts. We urgently request your support for the common sense public safety measure. We ask you to stand with law enforcement and vote to enact the Brady Bill, S. 3282.

Sincerely,

Rick Darling, Chairman, National Troopers Coalition, Neil Behan, Legislative Liaison, Major Cities Chiefs, Hubert Williams, President Police Foundations, Dewey Stockes, President, Fraternal Order of Police, Ira Harris, Executive Director, National Organization of Black Law Enforcement Executives, Bob Scully, President, National Association of Police Organizations; Charles B. Meeks Executive Director, National Sheriffs, Association; Victor Oboyski, President, Federal Law Enforcement Officers Association, Chris Sullivan, Legislative Director, International Brotherhood, of Police Officers, Darrel Stephens, Executive Director, Police Executive Research Forum.

Mr. WELLSTONE. My only point is it seems to me that all of these law enforcement organizations representing men and women in law enforcement all across the country do not believe that the Brady bill is the end all or be all. No one is making that claim. No one is saying that passage of this bill would end violent crime. But what all of these men and women are saying, who are down in the trenches, in our cities, in our towns, and in our rural communities, is the Brady bill would be an important step forward.

I think, Mr. President, that they know more about what we need to do to make our cities and our neighborhoods and our communities safe than just about anybody else that would enter into this debate.

Mr. CRAIG. Mr. President, I yield myself such time as I may use. Let me respond very briefly and directly to the Senator who just spoke.

Mr. President, to the great myth of the law enforcement community and where they stand on this issue—because I know that all of us want to stand solidly behind the law enforcement community in its enforcement of laws and in its apprehension of the criminal element of this country, in an effort to make our communities safer places to live—historically police forces in this country have always be in favor of gun control.

We recognize that, and admittedly it would make their lives a great deal easier and probably their jobs a safer place to be involved.

But our Founding Fathers also knew that the citizen had rights that had to be protected. So let me suggest that not all in the law enforcement community are represented by the arguments you just heard.

In 1992, this year, U.S. police chiefs and sheriffs by the National Association of Chiefs of Police were polled. Some 15,000 of them were sent a questionnaire.

When they were asked, Do you believe that a waiting period of purchase a handgun or any other firearm may have an effect on criminals getting firearms, 79.5 percent said no.

Do you believe that in the national 7-day waiting period proposed by the Congress—Brady bill—that you can fully determine that an applicant has no criminal record, is not mentally unsound, or is an abuser of drugs or alcohol, 86.4 percent said no.

So we can use a lot of facts and we can use a lot of figures. I submit to the RECORD these figures because they are important and necessarily valid as we argue this critical issue.

I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT OF THE FIFTH ANNUAL NATIONAL POLL OF LAW ENFORCEMENT AGENCY HEADS (1992)

While concerns about illegal drugs and firearms grow among the heads of U.S. law enforcement agencies, these same "top cops;" fear that the current state of the economy will result in decreased funding for law enforcement in their areas. These are among the findings of the fifth annual poll of all U.S. police chiefs and sheriffs by the National Association of Chiefs of Police. The following questions were sent to 15,800 command officers throughout the United States, and some 7 percent responded; a summary of their answers is noted below.

When our non-profit educational organization is asked its view by media or members of Congress, we base our response upon the results of this survey, thereby properly reflecting the opinions of the U.S. law enforcement community as a whole. The National Association of Chiefs of Police remains the only such group to conduct such a survey. For further information, write to the National Association of Chiefs of Police at 3801 Biscayne Blvd., Miami, FL. 33137, or phone (305) 573-0202.

DEATH PENALTY

1. Do you feel that the death penalty serves as a deterrant to certain types of crimes? 94% said Yes.

2. Would you agree that once the death penalty has been imposed that a time limited of three years be set on carrying out all appeals? 96% said Yes.

3. Would you agree that where the state legislature has voted to invoke the death penalty that the Governor of that state should not veto that law and thus impose his/her own personal views on the majority of elected representatives. 93.6% said Yes.

4. Law enforcement officers are empowered to use deadly force to protect themselves or citizens when their lives are in danger and therefore are, by state law, carrying out lawful executions. Would you agree that if a law enforcement officer is asked not only to risk his life but to, in a moment of crisis, take a life, that the very least every state should do is provide the death penalty for persons who may kill a law enforcement officer or citizen during a felonious act? 97.5% said Yes.

DRUGS & NARCOTICS

5. Would you favor the legalization of any drugs presently prohibited by law for personal or recreational use? 94.6% said No.

6. Would you favor for all persons convicted of illegal drug dealing forfeit all personal property and assets and to serve prison terms of life, so as to make the risk of conducting illegal drug enterprises more severe in consequence? 81.9% said Yes.

7. Would you state that it is your current experience that the majority of all violent crimes how being committed in your area are tied into drug abuse/including alcohol, drug use, or drug dealing? 89.9% said Yes.

8. Do you feel that the "Drug Czar" or the federal agency set in place almost three years ago has made any significant reduction in your community to drug abuse and use? 84.8% said No.

9. Would you say that your own police agency, by its work in enforcement, has been a major reason for any drug reduction education and reduced use? 74.5% said Yes.

FIREARMS

10. Do you favor the training and issuance of semi-automatic firearms (sidearms) that carry 16-17 rounds over the present police revolver? 88.2% said Yes.

11. Do you believe that banning of firearms (handguns, shotguns or rifles) will reduce the ability of criminals from obtaining such weapons? 92.8% said No.

12. Do you believe that a waiting period to purchase a handgun or any type of firearm will have any effect on criminals getting firearms? 79.5% said No.

13. Do you believe that in the national 7 day waiting period proposed before the Congress (Brady Bill) that you can fully determine that the applicant has no criminal record; is not mentally unsound; or is an abuser of drugs or alcohol? 86.4% said No.

14. Many Gun-Rights organizations suggest that we need to build jails, prosecute cases under present gun laws, and target criminals instead of the law abiding gun owners. Would you agree with that statement? 89% said Yes.

15. Historically, the militia is "all men between the ages of 16 to 45". Under the present armed forces defense of the United States the National Guard now must be able to mobilize in three days to back up our regular armed forces world-wide. Therefore, the only defense would be the "state militia" in time of war. Would you agree that for the sake of the defense of the United States that citizens should be allowed to have their own rifles, shotguns and handguns for emergencies natural or man made? 85.4% said Yes.

16. Would you agree that all bonafide law enforcement officers should be permitted to carry weapons on or off duty from state to state? 92.9% said Yes.

17. Would you agree that any person convicted of alcohol abuse or narcotics abuse more than three times should be placed in a national computer to reject their application for the purchase of a firearm of any kind? 94.8% said Yes.

18. Do you believe that law abiding citizens should have the right to purchase any type of firearm for sport or self-defense under state laws that now exist? 66.7% said Yes.

19. A "*military type*" of long gun (rifle, shotgun, etc.) is now being described as one able to hold more than five rounds or more of ammunition. It must be fired by pulling the trigger each time. The legal description would cover many semi-automatic weapons. Do you believe that banning such types of weapons would reduce criminals from obtaining them? 89.6% said No.

20. Would you agree that most criminals obtain their weapons from illegal sources? 91.4% said Yes.

21. Do you believe that the banning of private ownership of firearms will result in fewer crimes from firearms? 90.3% said No.

22. Do you feel that because of limited police man-power that citizens should retain the right to own firearms for self-defense at home or business? 90.2% said Yes.

23. With the increasing rate of violence would you agree that citizens should take training in self-defense with firearms to protect their homes and property based on a 40% increase in crime in the last 10 years and almost no increase in police manpower? 85.9% said Yes.

CRIME AND CRIMINAL JUSTICE

24. Do you feel that the system of criminal justice has broken down to the point where it is the inability to deal with criminals caught by the police (prosecution and imprisonment) that is the major cause of crime in America? 85.3% said Yes.

25. Do you agree that we must enlarge our prison capacity so that we can keep career criminals in prison and off the streets longer? 95.1% said Yes.

26. Do you think the courts are too soft on criminals in general? 94.7% said Yes.

27. Do you believe your police department is undermanned? 87.3% said Yes.

GOVERNMENTAL ETHICS

28. The top executives (elected) of the International Association of Chiefs of Police were invited with wives, to an all paid trip to Japan last year to "dedicate a religious temple". In addition to the trip (that is estimated to cost about $10,000 per person) the officers were given cash gifts of $3,000 to $12,000. All monies were eventually returned. Do you think that free trips like this; not related to police work or the offer of sums of cash is ethical to accept? The sponsor is connected to a major Japanese Mfg. Corp. 93.4% said not ethnical.

29. Based on the state of the United States economy in your area, do you feel that 1992 will show an increase in police funding to fight crime or a decrease? 82.4% said Decrease.

30. The new National Law Enforcement Memorial in Washington, D.C. has been completed. Reports indicate that the 3 foot, 6 inch wall and park with the names of slain officers, cost about ten million dollars, on free government land. The Fund raised over 39 million dollars. It is requesting additional donations so that new names may be added. By comparison the American Police Hall of Fame and Museum, now in its 32nd year, has a wall of imported marble 360 feet long; 10 feet high, plus a museum, and chapel and land for parking 100 cars; with a staff on duty at a cost of $3 million. Do you feel that some explanation is due by the directors as to the vast variances in the budgets? 94.2% said Yes.

31. The idea of the police memorial in Washington, D.C., was introduced in 1984 by former Congressman, Mario Biaggi. Later he was convicted of theft and perjury as well as obstruction of justice. His name appears on the memorial plaque in Washington, D.C. as sponsor of the Bill. Do you think this was proper to list in the memorial park along with the 12,000 names of officers who died in the line of duty? 80.5% said No.

Mr. CRAIG. We heard Senator THURMOND speak last week when we were debating the whole of the crime bill. When the argument was used this morning that all attorneys general support it, well, at that time he entered into the RECORD information that showed that 30 States' attorneys generals oppose the crime bill. And they oppose the crime bill with this provision in it. Because I think what they see is a total package and not the piecemealing of a package that does not represent the will of the Congress, and, I think, very truly distorts the concern of the American citizens. Our newest Senator spoke to crimes of passion, and she is absolutely right. In the right incidence, under the right situation, it might occur that a waiting period would stop or hinder a crime of passion.

But she, too, agrees that the common criminal on the street that acquires his or her weapon illegally will never be touched by this law, and, if we are really concerned about crime on the streets and safety in our communities, then we would do a comprehensive crime bill and not the piecemeal approach that is before us this morning.

I retain the remainder of my time.

Mr. BIDEN. Mr. President, I have been authorized on behalf of the Senator from Ohio to yield myself 5 minutes of the time controlled by the Senator from Ohio.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BIDEN. Mr. President, I was working on another matter when I heard my friend from New Hampshire on the television. He always attracts my interest and attention whenever he speaks. I decided I should come over and respond.

A portion of what I heard—and I apologize if I misrepresent in any way the totality of what my friend from New Hampshire has said. The only thing I heard on the television was him saying that the answer really is that if we just had tougher and stiffer penalties for the use of a gun in the commission of a crime, that that is the way to go. And then he went on to suggest, as I understood it, if we had accepted in the crime bill those provisions that—although I did not hear him mention his name—my friend from Texas, Senator GRAMM, had put forward, this is the way to go.

Mr. President, during debate on the Brady bill amendment, several points were raised about the nature and extent of Federal penalties for firearm crimes. In the interest of clarifying this information, I would like to provide, for the record, the current Federal firearm penalties, as well as detail new penalties proposed in recent crime legislation.

The current Federal law harshly punishes criminals who carry or use guns to commit crimes. For example, for the first offense, current Federal law provides for a 5-year minimum mandatory penalty to be added to the prison sentence of those convicted of carrying a firearm during a Federal violent or drug trafficking crime. Current law adds a 10-year minimum mandatory sentence if the firearm is a short-barreled shotgun. And, current law adds a 30-year minimum mandatory sentence if the firearm is a machinegun, or equipped with a silencer.

For subsequent convictions, Federal law adds even tougher penalties. For example, those convicted of subsequent offenses are subject to a 20-year minimum mandatory prison sentence. And, if the convicted criminal used a machinegun or a gun equipped with a silencer, current Federal law provides for life imprisonment.

Let me also be clear, each of these mandatory penalties are served after the convicted criminal serves his time behind bars for the underlying offense.

In addition to these tough penalties, the conference crime bill recently blocked by a Sente filibuster included a provision that would have doubled the penalty—to a 10-year minimum mandatory—for criminals armed with a military-style assault weapon.

Mr. President, let me point out that the proposals made by Senator GRAMM, which allegedly would stiffen the penalties for the use of a firearm as an alternative to a waiting period, would have made the law weaker, because right now the Federal law requires that the sentences be served consecutively. That is, if I am convicted of burglary and I get sentenced to 7 years for burglary, and then I am convicted on top of that to the second crime, that I committed the burglary with a firearm and I get 5 years on top of that, I have to serve 7 years first for burglary before I serve my 5 years for violating the law relating to a gun. They way my friend from Texas had it, he had it running concurrent, which meant if I got convicted with the use of a handgun, I would serve 5 years for the gun, 7 years for burglary; they would run concurrently, and I am out at the end of 7 years. I would have served 5 years for the gun and 7 years for burglary. Even when my Republican friends have moved to toughen the law, they have, in effect, weakened the law. I do not think it was intentional. Quite frankly, I do not think they focused on concurrent versus consecutive.

Two, I point out that I have worked with every single solitary person from the White House down through to the Attorney General on gosh knows how many occasions whereby I offered to compromise 75 different ways to get a crime bill. The only reason we do not have a crime bill is every time we got down to it, including habeas corpus, it came down to the Brady bill.

As my friend from Idaho said, he has been one of the few people straightforward on this. He has made no bones about this. He said to me that this is about guns. It is about other things, too, but ultimately it is about guns. Now, we had the last effort to try to get a crime bill last week, and the filibuster by my Republican friends prevailed. Guns won again.

Let me say one last thing. We still have a chance to pass the Brady bill, notwithstanding the fact there is going to be no crimes bill. If the President of the United States of America steps forward, the President can save the Brady bill.

What I find absolutely amazing, Mr. President, is that the President of the United States says, "I am for the Brady bill in a crime bill." Obviously, unlike my friend from Idaho, he has no philosophic argument against controlling guns. Obviously, the President has no philosophic or intellectual rationale for being against the Brady bill. He has not said the Brady bill per se is bad, as my friend from Idaho has said, and I respect him for saying it. He said, if Brady is part of an overall crime bill, but then the home team kept the crime bill from being passed. Then I ask, what possible intellectual or moral justification does he have to, in fact, now not be for the Brady bill? He is either for it or against it. I promise you, if he is for it, we can pass it notwithstanding the brilliant arguments—I mean that sincerely—that my friends will make in the filibuster they can put up.

We can break the filibuster. We have the votes if the President says: I, George Bush, want this bill. And I see no rationale, I have heard none, and I have not even heard one attempt to be articulated by the President where he says, on the one hand: I am for Brady, if it is sitting over here; but I am not for Brady if it is over here, with not a single word changed in either Brady bill.

Mr. President of the United States of America, if you are listening, and I suspect you are not, understandably, please, please, at least be intellectually consistent. If you are for it, you are for it. If you are against it, you are against it. Be like my friends from Idaho and New Hampshire, who are intellectually honest enough to say they are against Brady. Do not come and tell the American people: I am for Brady if it is packaged with this ribbon but not if it does not have a ribbon on it.

We tried it his way, Mr. President. I spent literally tens of hours negotiating with the Attorney General of the United States and the President of the United States—obviously, the Attorney General does not make those decisions on his own. He goes back to the President to check whether or not he can have a bill.

Mr. President, the bottom line is real simple, to use the trite Washington phrase. If the President wants a Brady bill, all he has to do is send up a note in the next 20 minutes: I, President George Bush, want the Brady bill. And the Senator who has been the leader on this, the Senator from Ohio [Mr. METZENBAUM] and, I expect, the majority leader—and we have spoken to the House as well—will jump through hoops to try to get it done, notwithstanding the fact that my friends from New Hampshire and Idaho and Wyoming and other places will exercise their rights under the rule to try to stop us. But that at least is a fight straight up and down, a fight that I relish and welcome. It is a fight that I believe we can win if the President switches from their side to our side. Brady is squarely in the lap of the President of the United States. If it passes, he can get the credit. If it fails, it is his fault.

Mr. CRAIG. Mr. President, I yield myself such time as I may consume.

Let me suggest to the chairman of the Judiciary Committee that if he had accepted the agreement that the Attorney General and he had discussed, they might be talking about a crime bill on the floor at this moment with the Brady provision in it. But I am told, at least not firsthand, that that agreement was not acceptable to the chairman.

Let me also tell the chairman of the Judiciary Committee that the President did not call me on this issue.

Mr. BIDEN. I did not think he did.

Mr. CRAIG. He and I differ on this issue. I simply have read all the facts. I am sure he is busy enough that he does not have time to recognize that the language is different in the provision we are talking about today from the provision that he was quizzed about last night on Larry King, more than he probably knows.

It is not the Brady bill that we debated here on the floor in June; it is not the Brady bill that the House debated; it is not even the Brady bill that came to the conference. It is new language. And the chairman knows that and that is the issue that is before us today, the creating of what I believe to be a substantial loophole for certain people within the law enforcement community to arbitrarily walk through.

I am happy to yield such time as the Senator from New Hampshire would need.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, I ask for 1 minute to respond to the chairman of the Judiciary Committee. This may be an honest mistake, but I understand there was a typo.

On page S. 6131, May 6, 1992, of the CONGRESSIONAL RECORD, I say to my friend from Delaware, it says:

> Notwithstanding any other law, a term of imprisonment under this subsection shall not run concurrently with any other term of imprisonment imposed for the underlying crime.

And it is my understanding that there may have been a typographical error in the original. I want to clarify it. I am not challenging the Senator in terms of integrity obviously, but I just point out that it does not run concurrently according to the President's crime package.

Mr. BIDEN. I appreciate the Senator's clarification.

Mr. SMITH. I ask unanimous consent to print that page in the RECORD for clarification.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRAMM (AND OTHERS) AMENDMENT NO. 1795

Mr. GRAMM (for himself, Mr. THURMOND, and Mr. DOLE) proposed an amendment to the bill S. 652, supra, as follows:

On page 10, line 19 of the pending substitute, strike "use," and insert in lieu thereof the following:

"Use

DIVISION B—THE "CRIME CONTROL ACT OF 1992"

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this division:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short Title.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this Act:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.
Sec. 102. Death penalty procedures.
Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 104. Conforming amendment relating to espionage.
Sec. 105. Conforming amendment relating to transportation explosives.
Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 108. Conforming amendment relating to murder.
Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 110. Murder by Federal prisoner.
Sec. 111. Conforming amendment relating to kidnapping.
Sec. 112. Conforming amendment relating to hostage taking.
Sec. 113. Conforming amendment relating to mailability of injurious articles.
Sec. 114. Conforming amendment relating to presidential assassination.
Sec. 115. Conforming amendment relating to murder for hire.
Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 117. Conforming amendment relating to wrecking trains.
Sec. 118. Conforming amendment relating to bank robbery.
Sec. 119. Conforming amendment relating to terrorist acts.
Sec. 120. Conforming amendment relating to aircraft hijacking.
Sec. 121. Conforming amendment to Controlled Substances Act.
Sec. 122. Conforming amendment relating to genocide.
Sec. 123. Protection of court officers and jurors.
Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 125. Death penalty for murder of Federal law enforcement officers.
Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 127. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 128. Amendment to Federal Aviation Act.
Sec. 129. Offenses of violence against maritime navigation or fixed platforms.

Sec. 130. Torture.
Sec. 131. Weapons of mass destruction.
Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 133. Death penalty for civil rights murders.
Sec. 134. Death penalty for murder of Federal witnesses.
Sec. 135. Drive-by shootings.
Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 137. Death penalty for rape and child molestation murders.
Sec. 138. Protection of jurors and witnesses in capital cases.
Sec. 139. Inapplicability to Uniform Code of Military Justice.
Sec. 140. Death penalty for causing death in the sexual exploitation of children.
Sec. 141. Murder by escaped prisoners.
Sec. 142. Death penalty for murders in the District of Columbia.

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment of Federal Rules of Appellate Procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle Death Penalty Litigation Procedures

Sec. 211. Short title for subtitle B.
Sec. 212. Death penalty litigation procedures.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Increased mandatory minimum sentences for criminals using firearms.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

"(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

"(B)(i) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life imprisonment for a violation of subparagraph (A)(iii).

"(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to life imprisonment.

"(C) Notwithstanding any other law, a term of imprisonment under this subsection *shall not* run concurrently with any other term of imprisonment imposed for the underlying crime.

"(D) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.".

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I yield myself such time as I may need.

There has been a great deal of talk today about controlling firearms, and that a Brady bill would make the world a safer place to live in, would make our communities safer and would make our homes safer. I think most all of us recognize that it would not, but it is awfully good political fodder in the election year. It is a smokescreen. It is a cloud of false protection perpetrated on the American people that simply will not work.

Let me tell you what does work, tragically enough, in this country. Gary Clink, a criminologist at University of Florida, says that when private citizens can, in fact, defend themselves, they can offer some of the greatest form of protection there is. And last year over 1 million citizens protected themselves from attempted criminal activity by the ownership of a firearm.

That is a pretty stark number, but it is saying that a good many more of our citizens protected themselves and their families and loved ones and their profit with the use of a firearm, than were damaged by one. Those kind of statistics never come forward, because when someone wards off a burglar or a potential raper with a firearm, it never makes the headlines. But when someone is killed with the use of a firearm it makes front page.

So, let us keep our arguments on balance today and let us clearly recognize that it is false government when we pass a law that really offers us nothing, does not control the criminal element, might accidentally control a crime of passion or—incidentally, that is what is at issue here today.

I think the American people have cried out for a good crime bill. The President sent forth a good crime package. This Senate simply could not get together on the differences. Guns are not the issue in bringing forth a good crime bill, but when you put gun control in a crime bill, that is what helps kill it, and the chairman of the Judiciary Committee knows it. We ought to keep a good crime bill clean of this kind of legislation and maybe we could, in fact, then bring about the kind of criminal control in this country that the American people are crying out to have. I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I yield myself such time as I may need.

Mr. President, my friend from Idaho talks about a smoke screen. There is a real smoke screen. The effort to portray their opposition to the Brady bill as somehow being protective of people of this country is quite absurd.

Back in 1976, even the NRA, even the NRA in their publication took a vote and asked the question. The NRA indicated support for a waiting period.

They have changed since then.

My colleague from Idaho talks about one change as if it were a cause celebre. First of all, let me tell him he will vote for the Brady bill we will take the occasion of it and drop that provision. Let us not confuse the issue. There is one minor technical change that expands the immunity provision for the police which was contained in the Dole-Mitchell-Metzenbaum compromise.

That provision protects police officers from damage suits in instances in which they fail to prevent a gun sale to a felon. That was a provision which had unanimous support, and was put in the bill in part because of concerns raised by his friends in the NRA that the police might otherwise be subject to tort liability if the Brady bill became law.

A concern was raised, however, that if the bill specifies that police officers are immune if they fail to prevent a gun sale to a felon, it is necessary to specify that they are also immune if they mistakenly prevent a legal sale from going forward. Otherwise, there might be a negative implication that Congress intended to immunize the police from damage suits for one kind of mistake but leave them open for damage suits for another kind of mistake. And so language was added in conference to address this issue.

My colleague's arguments, in my opinion, are specious, they are confusing. There is only one issue, does the Congress want to pass a 5-day waiting period? And it can only pass it at this point if the President of the United States indicates he wants it.

The argument has been made that waiting periods do not work, made by the Senator from New Hampshire. The evidence suggests that waiting periods do indeed work. California has a 15-day waiting period. Statistics from the California Department of Justice show that in 1991, the California waiting period stopped nearly 6,000 illegal gun sales. In the first quarter of 1992, 1,385 prohibited firearms sales were stopped by the California law. The California waiting period kept guns out of the hands of 760 drug felons and over 3,700 violent offenders.

Maryland has had a 7-day waiting period since 1966. In 1990, the law kept guns out of the hands of 750 convicted felons. New Jersey has required a background check for over 20 years. Since the law took effect, more than 10,000 convicted felons have been caught trying to buy handguns. Last year, the law kept guns out of the hands of over 900 felons. What are we talking about here?

Mr. President, when a person applies for a job, an apartment, a credit card, or a bank loan, a background check is routinely conducted to ensure that the person would be a suitable employee, tenant, cardholder or debtor. But in too many parts of this country, a person can buy a handgun without anyone checking to see whether or not that person has a history of criminal behavior or mental illness. We make a more serious effort to check whether a person should be entrusted with a credit card than we do to check whether he or she should be entrusted with a weapon which can kill people. That makes no sense.

And I say to my colleagues in the Senate, you are not going to change your point of view, but the President of the United States was on TV last night—I did not hear him and I understood he indicated he was for the Brady bill. Actions speak louder than words. You cannot say you are for something, being the President of the United States, without putting the shoulder to the wheel and delivering the necessary votes.

We could still pass the Brady bill in this late hour of the session if the President of the United States made known to his friends and colleagues on the other side of the aisle that he wants it passed. If he wants it passed, it will be passed. Up to this point he has not indicated he wants it passed. He says he is for it.

Then he says last night he is for it. If he is for it let him stand up and be counted. Let him indicate he truly wants it. Let him make the necessary calls that need to be made to Members on the other side of the aisle and we will pass the Brady bill and save lives, and stop the killing on the streets of America.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

The Senator from Idaho is recognized.

Mr. CRAIG. I ask how much time remains on my side.

The PRESIDING OFFICER. Three minutes.

Mr. CRAIG. Mr. President, then let me close with a few comments in response to my colleague who has just spoken.

I think any good criminal law ought to be directed at the criminal. He indicated that the language that he says I am using as a smoke screen is only for a felon. Subsection (b) says for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun. That "hain't" a felon. That is a law abiding citizen. That is a constitutional right. We are talking about trampling on civil rights in this country. So when we look at the fine print let us look at all of the fine print.

This is not a partisan issue. The vote on the crime bill last time was very bipartisan. There are just as many, or a good many at least, on that side of the aisle who are opposed to this type of gun control as there are on this side of the aisle.

I think it is very important that the record bear that out. It is not partisan. It never has been a partisan issue.

Los Angeles County, on an average month, sells 8,500 firearms through legal firearms dealers. Now that is just L.A. County alone. And while my colleague who just spoke would indicate that 6,500 firearms were blocked from sale last year in California, that is but a blink of the eye in the normal selling through legal channels of firearms in the State of California.

During the peak of the L.A. riots, that 8,500 a month jumped to over 14,000 a month as concerned, law-abiding citizens feared for their rights and their inability to protect themselves, their property and their family.

You see, Mr. President, that is really what is at issue here. I can understand why my colleague confuses a credit card and a background check. A credit card and a person's credit is not a constitutional right, but the second amendment that our Founding Fathers put in is. And we ought not confuse them between the simplicity of a credit card and the right of an American citizen under his or her Constitution.

That is at issue. That is what we are talking about. That is why this Senate will not bring up a piece of legislation that violates the constitutional rights of the average citizen.

I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL RETURNED TO THE CALENDAR—S. 2899

Mr. MITCHELL. Mr. President, Members of the Senate, on Friday the Senate voted 85 to 12 to proceed to consideration of the bill which reauthorizes the National Institutes of Health. The vote reflected the singular importance of this legislation. It is, first and foremost, the most important bill affecting the health of American women ever considered by the Congress. It contains a number of important provisions that deal specifically with rising concern over women's health and particularly the alarming rate at which breast cancer is afflicting an increasing number of American women and women at an earlier age than has previously been the case.

It also provides important provisions involving research for those who suffer from Parkinson's disease, Alzheimer's disease, diabetes, prostate cancer, and other illnesses and diseases.

Only in the United States Senate and only in the last few days of a session can 85 Senators vote one way: Yes, for this bill; 12 Senators vote another way: No, against the bill—and the no's prevail.

The American people will not understand it. And especially those millions of Americans who either suffer from some of these dread diseases or have family members suffering from those diseases will not understand it. But that is the reality which confronts us today. Twelve U.S. Senators willfully blocking legislation supported by the overwhelming majority of the American people and voted favorably by 85 other Senators.

But, as a result of the actions of that dozen Senators—not one of them, I note, a woman—millions of American women will be, at least temporarily, denied the hope of the kind of research that will lead to arresting of these dramatic results in breast cancer—women whose parents, or they, suffer from Alzheimer's disease and others of these dread diseases.

It is a deplorable state. It is a terrible circumstance. It is the kind of thing that subjects this institution and this Congress to the contempt of the American people. But that is where we find ourselves.

Therefore, Mr. President, there is no alternative but to discontinue consideration of this bill. But to those dozen Senators who now may be smiling in the flush of victory, let me say to them that this is a short-lived victory. And let me commit to the 85 Senators who have voted for this legislation and those Senators who have worked tirelessly for it, and to the millions of American women and American families who will suffer because this bill is not passed, that I have made the following decision which I announce here today.

One of the powers I have as majority leader is to designate the first five bills in any new Congress, as a way of expressing my priorities and what I believe to be the priorities of the Senate and the American people on what is important and what we ought to get done. Therefore, Mr. President, when this Senate reconvenes on January 21, one day following the inauguration of the President on January 20, I will designate this bill as S. 1. And I say to the chairman of the committee now seated on the Senate floor, I charge you and your committee with the responsibility to report this bill to the Senate as soon as humanly possible when the Senate reconvenes. And I will, on the first moment that I have an opportunity to do so, move to proceed to that bill and file cloture on that bill and if the 85 Senators, or those who return to the next Senate, will stick with us and stick to their guns on this issue, we will get cloture immediately upon returning next year.

When we get to the bill, I will file cloture on the bill, and the Senate will stay in session so long as it is necessary to pass this bill the first week we are back in January.

The 12 Senators will have the opportunity to filibuster then, as they have done now. They will have the opportunity to obstruct then, as they have done now. They will have the opportunity to delay then as they have now. But they will not have the close of the session as their ally. They will not have the fact that we cannot complete action on this bill before the end of this legislative year to help them enact this legislation.

So, Mr. President, I regret very, very much that we are not going to be able to complete action on this bill this year. It is a combination of circumstances: The timing in which the bill was brought before us, the end of the session, the rules of the Senate, and the action of a dozen Senators, all of which have combined to prevent us from proceeding on this important measure.

It is with the greatest reluctance that I now ask unanimous consent that the bill, S. 2899, the National Institutes of Health reauthorization bill, be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I want to repeat now, so there can be no misunderstanding on the part of any Senator, when the Senate returns to session next January 21, at the earliest possible appropriate opportunity—and that is as soon as the Senate committee of jurisdiction reports the bill and places it on the Senate Calendar—I will move to proceed to that bill, and I will file cloture on the motion to proceed.

And if the 85 Senators—or, under our rules, 60 or more Senators—agree next year, as they did this year, that we should consider it, we will stay in session until we get that cloture. And then we will be on the bill, and we will file cloture on the bill, and we will stay in session until we get that bill done. That will be the first order of business in the next Senate, and it will begin the first day that the Senate reconvenes following the inauguration of the President. That is on Thursday, January 21.

Mr. President, I now ask unanimous consent that there be 1 hour for debate on this matter, with the time to be equally divided and controlled between Senator KENNEDY and Senator HATCH.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts [Mr. KENNEDY] is recognized.

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, first of all, I want to express, as the chairman of the Labor and Human Resources Committee, and I believe all the Members of the Senate, our appreciation to the majority leader for repeatedly scheduling this legislation.

All of us who have been strongly in support of the programs at the NIH are enormously grateful to him for giving us an opportunity to make this case in the U.S. Senate. Senator MITCHELL has offered the millions of Americans who are victims of devastating diseases a real sense of hope by his commitment to name this as the first order of business when the next Congress convenes. That is a very powerful message, and it is a hopeful message.

We certainly want to give the reassurance to the millions of American families whose lives have been touched by these diseases—Alzheimer's, Parkinson's disease, diabetes, juvenile arthritis, osteoporosis, ovarian cancer, breast cancer, heart disease, multiple sclerosis, lupus—that this delay is extremely unfortunate. Those who have been a part of the delay bear the responsibility, clearly, for it.

I will assure the victims of these diseases and their families that the Committee on Labor and Human Resources will meet prior to January 21, and we will make every effort to report it out, to conform with the rules of the Senate, and have it ready on the first day that we are back, we will be prepared to move ahead.

So we are again grateful to the leader for his support of this legislation, and for his commitment to seeing that this measure will be addressed and enacted as the first order of business in the next Congress.

Mr. President, on Saturday, I urged President Bush to help us pass this vital health research legislation. I said at that time that it was up to President Bush. If he said yes, he wanted an NIH bill, the road block would be lifted and we would have a bill. We heard nothing back from the White House.

I called Secretary Louis Sullivan, HHS Secretary and spoke to him on Sunday. He said he would get back to me if there was any chance the White House was ready to compromise. Again, we have heard nothing, and the administration continues to remain silent.

They have turned a deaf ear to the pleas of millions of sufferers from such dread diseases as Alzheimer's, Parkinson's, and diabetes.

Let me review the record. The bill now before us will help assure America's biomedical research leadership well into the next century.

It would have strengthened our research on cancer and heart disease. And it would help make major strides to redress our shameful neglect of women's health issues.

The bill will assure that women are appropriately represented in clinical trials.

It will dramatically increase the resources devoted to research on the diseases of the greatest concern to our country's women—an additional $325 million for breast cancer, an additional $75 million for ovarian, cervical, and reproductive cancer, and $40 million for osteoporosis research.

It will require the NIH to develop and implement a comprehensive plan for the prevention, early detection, and treatment of breast cancer. And it will provide a statutory basis for the Office of Women's Health to assure that all health issues concerning women continue to receive the attention they deserve at the highest levels of the NIH.

American women need this legislation, and they deserve it to become law this year.

A key feature of this bill is that it will at last allow research on fetal tissue transplantation to proceed—research that offers hope to sufferers from Parkinson's disease, Alzheimer's disease, diabetes, and many other diseases.

It is the provisions regarding fetal tissue transplant research that are at issue. As the result of a decision by the Reagan administration in March 1988, support of this research by the NIH was banned on the grounds that it might somehow encourage abortions. The Reagan administration appointed an expert advisory panel, including theologians, physicians, scientists, and lawyers, to consider the issue. This panel recommended that, after safeguards were put in place to assure that no abortion would take place for the purpose of providing tissue transplant purposes, the ban should be lifted. The vote was 18–3. The Bush administration chose to overrule this recommendation of the panel that President Reagan had appointed, and maintained the ban.

The NIH reauthorization bill passed by the Senate on June 4, wrote the safeguards recommended by the advisory panel into law and overturned the ban on the use of fetal tissue in transplant research. The vote in the Senate was an overwhelming 85–12. The supporters of the bill included some of the staunchest opponents of abortion in this body. They would not have supported this legislation if it truly encouraged abortion. Instead, they affirmed what is basically common sense; pregnant women do not choose to have abortions because there is a remote possibility that tissue from the abortion might be used in medical research.

In a desperate attempt to head off this vote, the administration announced that, effective May 19, they would establish tissue banks to make fetal tissue available for transplant research. The fetal tissue in these banks would come exclusively from ectopic pregnancies and spontaneous abortions, rather than induced abortions. Virtually every authority who has examined this issue believes that it will not be possible to supply sufficient usable tissue from these sources to meet research needs. Nonetheless, the President vetoed the NIH reauthorization on the grounds that this tissue bank was an adequate solution to this problem. We were unable to override his veto in the House of Representatives.

Even the authorities cited by the administration as supporting the tissue bank have concluded that it is unlikely to solve the problem. As Drs. Kline, Kinney, Stein, and Susser recently stated in a letter to the prestigious journal Science, "We believe the present NIH plan cannot be expected to produce significant numbers of usable specimens."

They go on to say that the six sites at which the bank would be operated could be expected to yield a total of only 14 specimens per site, and even these specimens, and I quote, "may or may not prove acceptable for transplantation research."

Dr. Richard Robbins, of the Yale University Medical Center, will be publishing in November the results of a new study which shows that fetal tissue transplantation can improve the health status of Parkinson patients and that his facility alone could do 50 transplants a year, enough to absorb 60 percent of the total capacity of the administration's tissue bank, even if every one of the specimens collected proves to be usable.

On June 26, I reintroduced the NIH reauthorization bill. The new legislation responded to the concerns the President stated. It provided that the ban on use of fetal tissue from induced abortions in transplant research would continue for 1 year from the date of the establishment of the President's tissue bank. At the end of that time, researchers would be allowed to use tissue from induced abortions—but only if the tissue bank was unable to meet their needs.

We tried to bring this new legislation to the floor of the Senate, but we were confronted with a filibuster on the motion to proceed to its consideration. On Friday, the Senate overwhelmingly voted to proceed by a vote of 85 to 12. But there are many more opportunities to filibuster in the short space of time remaining in this session.

During the course of the debate, Senator HATCH, the leader of the opposition and the ranking member of our committee, offered a compromise. Lift the ban, but give the administration's tissue bank 27 months to prove that it could supply adequate tissue before allowing the use of material from induced abortions. I offered a further compromise—to split the difference with Senator HATCH and allow 18 months to see if the administration's tissue bank could do the job.

Senators from both sides of the aisle worked hard to try to reach an agreement. We were willing to move even further to compromise. But at the crucial moment a small band of extremists intervened on the Republican side and insisted on no compromise. And word filtered from the Republican side that the President wanted no compromise. He did not want a bill to pass the Senate. He wanted the filibuster to work to thwart the 85 to 12 vote in the Senate. No use of tissue from induced abortions—ever, not in 1 year, not in 18 months, not in 2 years, not in 10 years—even if the administration's tissue bank is a total failure. And they pledged to use every parliamentary device at their disposal to keep the House and Senate from sending any bill to the President this year.

What is tragic is that the President remained silent. Opponents dug in their heels: No compromise; no bill that would reach the President's desk; make the filibuster work; protect President Bush from having to publicly choose between Alzheimer's patients and the extreme right.

We know this issue is not really about abortion. With the safeguards included in this bill, even a commission appointed by President Reagan concluded that no woman would decide to have an abortion because the tissue might be used in medical research or to assist an anonymous transplant recipient. There is no antiabortion basis for opposition to this bill, any more than there is a pro-life basis for opposing organ transplants. We encourage donation of kidneys, hearts, eyes and other organs from persons who have died. There is no gift more precious than the gift of life, and no one has ever suggested that this policy encourages murder or suicide.

If this were an abortion issue, some of the staunchest opponents of abortion in the Senate—STROM THURMOND, MARK HATFIELD, JOHN DANFORTH, DAVID DURENBERGER, and DENNIS DECONCINI—would not have supported this bill. If this were truly an abortion issue, Senator HATCH would never have offered a compromise.

During the course of our negotiations on Saturday, I met with representatives of the victims of diabetes, of Alzheimer's, of Parkinson's, of the great medical research institutions. They have been working for 5 years to lift the ban on Federal funding of fetal tissue transplant research. They include men and women like Ann Udall, who has been fighting for help for Parkinson's disease victims since her father, Congressman Mo Udall was stricken. Joan Samuelson, a lawyer and founder of the Parkinson's Action Network has partially lost the use of her arms and her legs because of Parkinson's disease. Rev. Guy Walden saw his unborn son saved from a fatal genetic disease by a fetal tissue transplant.

Their efforts and the efforts of thousands like them have brought this issue to the forefront of the attention of Congress. They have held fund-raisers; they have written letters; they have called reporters; they have visited Members of Congress to make their case—not once but many times. And they have turned Congress around.

But all their hard work cannot stop the clock from running out on this session of Congress. There is time remaining to consider legislation on taxes, on cable television, on energy. But time is running out on the issue of breast cancer, uterine cancer, osteoporosis, Alzheimer's disease, Parkinson's disease, genetic disease, and the national biomedical research effort on cancer, heart disease, and a host of other illnesses that afflict millions of our fellow citizens.

There is a lot of talk this year from the other end of Pennsylvania Avenue about a gridlocked Congress. The issue is not a do-nothing Congress, but a Congress struggling to do the right thing without Presidential leadership.

It is really a "do a lot Congress" and a "block everything" President. On issues of great importance to American families, in the last several weeks alone, the Congress passed a family leave bill; the President vetoed it. The Congress passed a family planning bill that overturned the gag rule; the President vetoed it. The Congress tried to pass an important education bill; the President blocked it. Earlier, the Congress passed an economic recovery bill; the President vetoed it.

Now the Congress is ready to pass a medical research bill. Support for it by the American people and in the U.S. Senate is overwhelming. But the President will not say in public whether he supports or opposes it.

But today, the hour is late. The 102d Congress has just a few more hours to act. A compromise would still have been possible this morning but still, no word of encouragement from the White House. The filibuster Senators are still on the floor.

As disappointed as we are, I do not want any of those who have worked so hard, so tirelessly for years to lift this unconscionable ban on research that could save lives, and make the lives of those who suffer, so much better, to lose hope. I have not given up hope, and they should not give up hope either.

We will pass the NIH reauthorization bill, and repeal the moratorium on fetal tissue research at the earliest time next year. I will bring this bill with it's women's health initiatives and its strengthening of cancer research and research on heart disease and prostate cancer before the Labor and Human Resources Committee at our first meeting in January 1993. We will report this bill to the floor immediately. Senator MITCHELL has indicated we would take immediate action.

The greatest reason of all for hope is that Governor Clinton has assured me and the American people that as President Clinton he will immediately lift the ban on fetal tissue research. He will authorize the NIH to go forward to support research in this field. With a stoke of the pen, President Clinton will achieve what President Bush has blocked for 4 years. And sufferers of Alzheimer's disease and Parkinson's disease and diabetes, and spinal cord injury and scores of other diseases will have help again.

The issue of fetal tissue research should be decided by research doctors in their laboratories, not by spin doctors in the White House or Congress.

A small group of Republican Senators has succeeded in blocking lifesaving research that is the only real hope for millions of victims of incurable diseases.

Worst of all, the White House is being held hostage by the most extreme antiabortion zealots in its party. President Bush himself has refused to get involved, even though his support could break the current impasse and allow a compromise to be enacted.

When the chips are down, President Bush refuses to break with his extremist supporters in the antiabortion movement, even though a clear majority of Senators in his own party believes that the extremists are going too far.

The same tiny minority who dictated the Republican Platform in Houston and embraced the Republican Party are doing it again. The Hordes of Houston are dictating national policy on medical research, because President Bush is permitting them to do so.

The deafening silence from the White House means that this bill will not pass—for now. But we shall be back in January to renew the battle as soon as we can.

So if there is a silver lining to the current impasse, it is this—legislative action next year may not even be necessary. With the stroke of a pen, a new President can revoke the irresponsible Executive order that imposes the current irresponsible moratorium on fetal tissue transplantation research.

President Clinton will do so. And I am also confident that if the American people understand what has happened here, they will be even more inclined to choose a new President of the United States on election day next month—a President who is not a captive of the extremist fringe of his party on the issue of abortion—a President who will get this country moving again on the economy, on biomedical research too, and on all the other pressing challenges America faces.

Mr. President, I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. It is with a great deal of sadness that I stand on the floor at this time following the remarks of the distinguished Senator from Massachusetts. I feel absolutely terrible that we have not been able to pass the NIH reauthorization bill in this term of Congress, because I have always supported the NIH.

I feel badly that some have tried to make a political football out of the NIH reauthorization bill at the last moment of the 102d Congress. This bill could have been brought up in plenty of time to have invoked cloture on both the motion to proceed, and also the bill itself. And it would have passed. It would have passed the House, too. It would have been vetoed and the House would have sustained the veto once more.

So there has been a lot of politics played with this bill. Frankly, I do not like politics being played with this bill. I am not part of the filibuster. At the end of the debate last week—as a prolife Senator who believes in the right to life of the unborn, and who thinks we are going way beyond the pale in aborting 1.6 to 2 million infants a year—I offered a compromise. If my colleagues on the other side of the aisle would give the fetal tissue banks, which are now being set up, 2 years from January 1, 1993—to work which is what it would take because the bureaucracy sat on that executive order, dragged its feet, and did not get it started until now—I would do everything in my power to get the President and my colleagues to accept that compromise position also, thus, the bill would pass. But, it would reasonably take 2 years at a minimum to get the fetal tissue banks in full operation.

It was the right time to accept that offer, and it was not accepted. It was that simple. I could not split the difference because I know that 18 months from the date of enactment was an insufficient period of time to get them fully operational. I knew that it would minimally take 2 years from January 1993.

Let us face it. If I am right, based upon what scientists have told me both prolife and proabortion scientists then we would never have to get into the abortion issue again because the fetal tissue banks would prove to meet the tissue needs of researchers.

From the beginning, I have said if you would agree to that, we will find out if they work. If they do not, then I myself will vote to allow any kind of tissue to be used because I believe that human fetal tissue transplantation research is critical to this country. I share the same feelings as many of my colleagues who voted for this bill, regardless of this issue; human fetal tissue transplantation research should go forward, and that it would be delayed in such a way that we would be putting off fetal tissue research longer.

That was no small offer on my part. Everybody who has seen my service through the years knows that I mean what I say. But we were unable to put a middle position together for one reason or other. Some would prefer having the President in the posture of preventing fetal tissue transplantation research because he is committed to not using induced aborted tissue until it has been shown that the fetal tissue banks will not work.

I, too, am responsible to a degree because I did not tell the distingushed Senator from Massachusetts until during the debate that I had an alternative position in my mind. But, frankly, prior to last week I had not fully considered this alternative. It was during the debate that I decided maybe this is what ought to be done here. So I offered it.

My colleague from Massachusetts was unable to take it at that time. In the process, others who are very sincere—dedicated Members of this body who do not have ulterior motives at all—decided to debate this bill extensively. They have a right to do that. They have every bit a right to stop this bill that the majority leader and the distinguished Senator from Massachusetts did not have to bring it up at the last minute. They knew calling up S. 2899 was going to result in a protected debate. But, they control the floor.

They could have brought this up as soon as we returned from our recess in August. But, they also knew even if it went through both Houses of Congress as we did only 3 months ago with H.R. 2507, the same bill it, too, would be vetoed and it would be sustained in the House again. Why did we go through two bills in 1 year? This manuever is unusual unless it is for political purposes.

If I had been listened to during the first debate, we would have solved this problem then, and we would have the bill alive today. But, no. Some people—I am not saying the distinguished Senator from Massachusetts, I am sure he is not one of them—but some people, want the abortion issue more than they want the other important health provisions in the NIH reauthorizing bill. Mr. President, I think it is abominable.

Now passage of S. 2899 is not going to occur. So, what is going to happen? I might add just for the RECORD that all of the terrible things that the distinguished Senator from Massachusetts says will not be done now are going to be done anyway. They have been done without the reauthorization bill. They are being done by the Appropriations Committee.

It is important to remember that our failure to reenact or enact this particular bill does not stop research from going on out of NIH. It is going to continue. There will be women's health research programs, all these other programs that the distinguished Senator from Massachusetts covered, important initiatives on cancer, heart disease, aging, diabetes, and many other provisions included in the proposed legislation—all of which will go forward even though this bill dies today.

Thanks to President Bush's executive order, even fetal tissue research will not only go forward, but it will be facilitated according to the President.

Let us lay aside the political rhetoric. I want the American people to be assured that this research is moving forward, bill or no bill. So, Senator KENNEDY's concern is not a good argument for passing S. 2899. It just would have been better to have it go forward with the imprimatur of the whole U.S. Congress on it; that we had by statute authorized a period of time during which the fetal tissue banks could become fully operational.

Mr. President, I feel just terrible right now because I really believe in fetal tissue transplantation research. My family suffers from these dreaded problems. My father was a diabetic. I wanted him to have the best possible health care. I also want all severe diabetics and all Parkinson's victims to have the very best health care that society could give. The very quickest and best way to do that would have been to have taken that offer and gotten this whole process moving forward.

Now, I have to say that I think our side is wrong, too, in not accepting a 2-year period to get the fetal tissue banks fully operational. If they would accept this compromise, I think we probably could still pass this legislation. But let us understand something. What I had in mind was this: I wanted to get fetal tissue transplantation research out of politics. I was willing to take that upon myself to achieve that goal by offering a compromise. It was a decent offer. It was a legitimate offer. It was a sincere offer.

My reasoning was this: if President Bush is reelected he has a statute giving 2 years from January 1, 1993, to make fetal tissue research work.

If it works, then it shows that those scientists who are so proabortion that they will not let the fetal tissue banks really work, and argue against them, could be proven wrong. I think that would be a wonderful thing for America, to show they placed the issue of abortion above science itself. That is a fact. Some individuals in the scientific community, not all, but some of them.

But, if Governor Clinton is elected, then there would be a statute requiring a 2-year period to see if the fetal tissue banks work, to see who is right scientifically, but at the same time to push this ahead. I think "President" Clinton, if he is indeed elected, would have a very difficult time immediately calling for an override of that statute, which would already be overwhelmingly passed and on the books. So it was a way of solving this problem.

I also note, as the distinguished Senator from Massachusetts has said, very forthrightly, if Clinton is elected, he will immediately rescind the executive order establishing fetal tissue banks, with a "stroke of his pen." It will be 1 hour after he is sworn in as President of the United States.

To me, the right-to-life community is not very far-seeking on issues like this, because they should realize that. If Clinton is elected, the fetal tissue banks will be dead.

Mr. President, I have to say that it makes me sick that good people on both sides could not get together on this, and politics are being played, on whichever side. I will let the public make that decision. But I suspect it is on both sides.

Having said that, my colleagues have decided to create extended debate here. I have nothing but respect for them. They feel very deeply about this issue. They do not believe that a genuine compromise can be reached at this late hour. I have nothing but respect for them.

Mr. President, I am very concerned. I have been concerned as a member of the Judiciary Committee, someone who has watched the continuing onslaught against every nominee, acting like everyone is either proabortion or antiabortion. The abortion issue has dominated this country to such a degree that it is causing reasonable minds not to be very reasonable. It is causing politicians to be more political. It is causing people to refuse great legislation because one side or the other does not think it is going to have an advantage. It is ruining the lives of a lot of people on both sides. People are using it to try to distort the whole record around here.

Why stay in this mode where one side or the other will bet the upper hand, or neither gets the upper hand and the people lose? That is what is happening. I tried to get us off of that last week, and I failed.

This whole exercise right now is just an exercise in politics.

Why was this not brought up 2 weeks ago when we had plenty of time to invoke cloture and to have found votes on it, and plenty of time to get it to the House, for the House to pass it, and for the President to veto it, and for the House to sustain the veto? Why is it brought up at the last minute if it is not to allow the abortion issue to rear its ugly head again, and I have to say at the expense of everybody who is worried about fetal tissue research.

Mr. President, I would like to have this NIH bill pass; I would like to have the fetal tissue banks given a chance to work. I would have liked the imprimatur of the whole Congress on it. We unfortunately are not going to have that as of right now in this NIH authorizing bill.

I have taken enough of our time. I think those who feel deeply about extended debate should have the rest of our time and, therefore, I yield the floor and turn the remainder of my time over to them.

Mr. SMITH. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Twelve minutes, 33 seconds are controlled by the Senator from Utah.

Mr. SMITH. Mr. President, I was somewhat surprised at the tone of the debate by the majority leader and by the Senator from Massachusetts. We all have strong feelings about issues. I happen to feel very strongly about this one, and the Senator from Massachusetts does as well.

But the real fact of the matter is that Members on this side were not the ones who held this bill hostage. We are not holding this bill hostage.

This bill, Mr. President, is approximately 400 pages long, and there are 12 pages that refer to fetal tissue research in this bill. That is the issue.

We are not opposed to breast cancer research or anything of that kind. It is very misleading to indicate that those of us on this side are trying to hold a bill hostage with a lot of good research material in that NIH legislation.

This bill could have been brought up, and should have been brought up, without the fetal tissue issue. Had it been, long ago by those who control this body, it would have been passed, sent to the President, and signed into law.

I might point out for the purpose of the RECORD that I think the American people know that the President is not opposed to fetal tissue research from ectopic pregnancies and spontaneous abortions. I think my colleagues on the other side of this issue know that, and there is an ample amount of tissue from those sources. The issue is whether or not those tissue banks are to be filled with tissue from abortions.

I might also say, with all due respect to the Senator from Massachusetts, before we get too endeared with the idea that it may be "President" Clinton—and it may very well be President Clinton signing legislation—"President" Dewey also planned to sign a great deal of legislation that for some reason after the voters spoke he did not get a chance to sign. I might point that out. I might just point that out.

I might also say to the Senator from Massachusetts my wife's father is a victim of Alzheimer's disease, and he is institutionalized. He would not want to take an innocent life for the purpose of research on this disease. He would be more than happy, if he could, to say that the research material from ectopic pregnancies and from spontaneous abortions could and should be used.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. SMITH. I would be happy to yield if it could be taken from the Senator's time.

Mr. KENNEDY. Mr. President, I have how much time?

The PRESIDING OFFICER. The Senator yield on time charged to the Senator from Massachusetts who has 26 minutes remaining.

Mr. KENNEDY. My question is: Can the Senator point out the provision in this legislation that says or even suggests remotely that supports taking of a life to provide fetal tissue for research?

Mr. SMITH. As the Senator knows, if an individual determines that she wants to have an abortion and uses the rationale that it is somehow going to be helpful in research, then that choice can be made for that reason.

My purpose in debating the issue here is simply to say I do not think that is right.

Mr. KENNEDY. Does the Senator know the issue was reviewed in very considerable depth by President Reagan's own advisory committee? And they rejected that suggestion and they made a series of recommendations to ensure the separation of a woman's decision to have an abortion and the decision to donate tissue for research. This legislation includes all of the safeguards recommended by the task force. Can the Senator cite any study or provide any information that would support his position?

Mr. SMITH. Mr. President, I would like to reclaim my time and complete my statement.

The PRESIDING OFFICER. The Senator has the floor, with the time chargeable to the Senator from Utah.

Mr. SMITH. Mr. President, the Senator is fully aware that the issue is not fetal tissue research. The issue is abortion. That is the issue. The Senator knows that.

I might also say that there is one person that I would like to refer to today who does not have a voice on this matter today in the U.S. Senate, although she does have a voice and I do not know the circumstance of her mother in terms of why she chose to do what she did. To the best of my knowledge she did not do it because she wanted to donate tissue to the bank for fetal research but she could have.

That young lady is a lady by the name of Gianna Jessen.

Gianna Jessen, a 14-year-old California girl who as an infant survived a saline abortion, came to the Nation's Capital October 4 to speak out about abortion and how it has affected her life. At a press briefing sponsored by the Abortion Is Not Family Planning Coalition, the sunny, dynamic teenager told her remarkable story.

Gianna's natural mother was 17 years old when she underwent a third-trimester, saline abortion. Gianna survived the caustic saline solution that was injected into her mother's womb and was born alive, weighing only 2 pounds. She said, "I feel it's only God that saved my life."

Should this young woman have to endure what she is enduring because it is possible that a mother somewhere may decide to have an abortion to donate tissue to a fetal tissue bank? I say no, Mr. President.

She was taken from the abortion clinic to a hospital, where she stayed for some time. After the trauma of the abortion, she suffered from spina bifida and cerebral palsy, and required multiple operations. Doctors said she would never be able to walk, or even sit up on her own.

But Gianna proved them wrong. She was adopted at the age of 3, and has since proved her quality of life—and then some. Now she is a normal, energetic teen, with a unique story to tell. She has spoken to groups around the country and internationally, talking about her insider's experience with abortion and sharing her gift of song. She says she has no bitterness toward her natural mother for aborting her, and expresses compassion for women in crisis pregnancies.

Gianna's very existence makes advocates of legalized abortion extremely uncomfortable. She says her survival proves that unborn babies aren't just blobs of tissue. But proabortionists would seem to say that Gianna's live birth—the dreaded complication—was a rare mistake. In a Washington Times article, Susan Shermer of the National Abortion Federation said, "The way most procedures are performed today, most physicians make sure there's fetal demise."

Fortunately for Gianna Jessen, her abortionist wasn't so careful. And she's alive today to tell about it.

Try telling Gianna that she was a mistake. Try telling her she ought to be dead. Talk to her about bodily integrity. Talk to her about fetal tissue research, Mr. President.

She has given joy to her family and joy to those who have met her.

Mr. President, I ask unanimous consent to have printed in the RECORD newspaper articles pertaining to Gianna Jessen.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the San Antonio Light, Oct. 5, 1991]

ABORTION SURVIVOR, 14, DENOUNCES PROCEDURES DURING 3D TRIMESTER

WASHINGTON.—A 14-year-old California girl whose mother tried to abort her in the third trimester said Friday her survival was proof that fetuses were more than just "blobs of tissue."

Gianna Jessen of San Clemente said she did not blame her natural mother, who was just 17 when she underwent a saline abortion while 24 weeks pregnant. At birth, Gianna weighed just 2 pounds and had spina bifida, a spine defect, and a mild case of cerebral palsy.

Michael Levitt, science information officer at the March of Dimes, said spina bifida develops much earlier in gestation than the 24th week and that a trauma in the mother's uterus at that time could not cause the defect. However, he said such a trauma could result in cerebral palsy.

"A person who has an abortion is a person without hope," said Gianna, an energetic, blonde ninth-grader who has stopped attending local schools to travel internationally with her adoptive mother, telling stories of her survival and nurturing a singing career.

"I feel it's only God that saved my life," she said.

Roberta Synal, a spokeswoman for Planned Parenthood in New York City, said only about 160 third-trimester abortions are performed each year—representing just one one-hundredth of a percent of all abortions.

She said the Roe vs. Wade Supreme Court decision made abortion legal everywhere in the first three months; let states regulate second trimester abortions and allowed third-trimester abortions only in cases of severe fetal abnormality or when the mother's life is in danger.

Susan Smith, associate legislative director of the National Right to Life Committee said that while there were no hard figures on third-trimester abortions, she had seen estimates ranging into the thousands.

Gianna was brought to Washington by the Abortion Is Not Family Planning Coalition of anti-abortion groups in advance of nationwide protests Sunday.

WHEN GIANNA TELLS HER STORY

(By Cal Thomas)

Pro-choice activists and their soulmates in Congress and in the press are treating the likelihood of Judge Clarence Thomas' confirmation to the Supreme Court as they might a visit from Freddie Krueger, the main character in the "Nightmare on Elm Street" movies.

Columnists Ellen Goodman, Richard Cohen and Anna Quindlen—part of the "don't mess with my body" brigade—are sounding apocalyptic warnings, raising the specter of coat hangers and bleeding women in back alleys, a scenario to delight Freddie's sick mind.

In a New York Times column last Saturday, Miss Quindlen went ballistic over the possibility that abortion on demand might again be curtailed. She called abortion "the issue of our lives" and a matter of "bodily integrity."

Miss Quindlen fears that Judge Thomas' will be the fifth or sixth vote to overturn Roe vs. Wade. She notes his compassion for accused criminals being transported to his courthouse ("But for the grace of God there go I", said Judge Thomas) and writes, "I wish I had any confidence that he considered those of us who feel that way when we see a group of desperate women in a clinic waiting room."

Such statements cannot go unanswered. To assert that a woman in a crisis pregnancy has only one option—abortion—is false.

First, she has the right not to get pregnant in the first place, even if she gives up those rights, she has still other options. She has the right to place the child for adoption or keep the child herself. She has the right to seek out assistance at one of several thousand crisis pregnancy centers, whose services are free, unlike those of the abortionist, who demands payment for his grisly services.

Miss Quindlen and the other hysterical commentators who fear repeal of Roe by the justices who work in that building on Washington's First Street should meet 14-year-old Gianna Jessen of San Clemente, Calif. Gianna was aborted by her 17 year-old mother in the third trimester of her pregnancy.

Gianna survived the saline abortion and was diagnosed as having cerebral palsy (due, she says, to loss of oxygen from gulping saline) and spina bifida.

She was placed in a foster home, and after several surgeries (she still walks with a pronounced limp and faces another operation), she was adopted by the daughter of her foster mother. Gianna is pretty, charming, intelligent and thrilled to be alive. She travels with her adoptive mother to tell people, as few others can, about the horror of abortion and of alternatives to the procedure.

Try telling Gianna she was a mistake and that she ought to be dead. Talk to her about bodily integrity. She has given joy to her family and delights all who meet her. When she tells her story, adults weep.

Gianna meets many women who have had abortions. "I always tell them I understand," she says, "because they didn't know what they were doing. I'm not trying to put a guilt trip on them."

Anna Quindlen says it is insulting to tell a woman she can't abort her unborn child. A greater insult is to tell someone like Gianna Jessen she is a mistake, the result of a botched abortion who ought to be dead. The greatest insult is to those who did not survive their abortions.

Why was Gianna Jessen not considered a person while inside her mother, but seconds later as she emerged gasping for breath she inherited the full protection of the law? This is the stuff of which nightmares are made.

ABORTION SURVIVOR

(By Callista Gould)

Fourteen years ago Gianna Jessen narrowly escaped from an abortion clinic. Gianna was not a "patient," but a baby, scheduled to die by saline injection. Now a bubbly teenager, Gianna travels around with her adoptive mother, Diane, to different churches and organizations, telling her story as an abortion survivor and delighting audiences with her singing.

Gianna's birth mother was in her late-second or early third trimester when she was injected with the saline solution that was supposed to kill her child. Incredibly, Gianna survived and was rescued by a worker at the clinic. But the injection left her with cerebral palsy, which impairs muscular control and coordination.

After three months in the hospital, Gianna was placed with Penny, (Diane's mother) who has been a foster parent specializing in high risk cases for 24 years. As soon as Gianna arrived, Penny called Diane.

"She said, 'I got this new little girl and she's so cute!'" Diane remembers. "Mom would have her sitting up—she had these long curls, and she would have a pillow in front of her and a pillow behind her and she was kind of folded over."

Although doctors said Gianna would never walk, Penny resolved to prove them wrong. "My mom worked with Gianna and worked with her and she'd bring her to therapy every day," said Diane.

When Gianna was three years old, Diane, with a eight-year-old daughter of her own, adopted her. And on the day of Gianna's adoption, she was able to walk out to Diane with the help of a walker.

Gianna did not learn about the circumstances of her birth until a few years ago.

When Gianna was younger, Diane told her that God had a plan for her and there would come a time when she would learn more about that plan. Then on Christman Day, in 1989, while Diane was making Christman dinner, Gianna came to her and said, "What's the true story about me?"

Diane approached the subject with hesitation. But before she told her anything, Gianna suddenly said, "I was aborted, right?"

Looking back, Gianna says, "It's like God just put it in my head * * * I didn't cry or get hysterical."

"I knew there was something more than 'you were born with cerebral palsy,'" she continued. "I didn't know what it was, but I knew."

It was after Diane explained to her that she was an abortion survivor that Gianna began to feel that God had spared her life so she could speak out against abortion. Diane agreed.

"She has a responsibility * * * to tell the story," says Diane. "And to let people know, hey, if your've never believed it before, please believe it—I'm alive, I was aborted, I'm alive—and what you're aborting every day are babies exactly like me."

Gianna first shared her story when she was invited to sing for a Crusade for Life dinner in 1990. Since then she has received invitations to speak before various churches and organizations. At National Right to Life's recent convention in Atlanta, she spoke at a workshop and sang at the final banquet.

Because Diane's mother was intitially Gianna's foster mother, reporters often badly confuse the situation. To clarify: Gianna had a biological mother, who aborted her, an adoptive mother—Diane—and a foster mother, Penny, who is Diane's mother. Or, as Gianna puts it, "The woman who was my foster mother is now my grandmother."

Mr. SMITH. Mr. President, America is perched on the brink of a decision over whether to enact a Federal policy legalizing the harvest of fetal tissue from induced abortions for research. The medical community is diligently trying to find whatever cures are available for debilitating diseases. However, there is a moral line we cannot cross—even in medical research.

It is true that President Clinton will sign it, and it can be for any reason. We can have an abortion and donate tissue to a bank for fetal tissue for sex selection. If the young woman decides she does not want a child that is a girl, she can have an abortion, but we can save lives; we can give it to a fetal tissue bank.

Fifty years ago, the world repulsed at revelations of Nazi scientific experiments on living human beings. After that time, the civilized world decided that human tissue could not ethically be used for medical research or transplantation without the consent of the subject. Before we begin carving holes in that doctrine and abandon our code of ethics, we should take a very long look at the potential consequences to our society.

At the outset, let me say that I am aware of the suffering of many Americans whose friends and families struggle with diabetes, Alzheimer's disease, Parkinson's disease, and other crippling illnesses. I have an uncle who has had diabetes for over 40 years. My father-in-law has Alzheimer's disease, so I can sympathize with those who cling to the hope that using tissue from preborn children can provide the miracle cure which can return their relatives to productive and healthy lives.

Were my father-in-law able to stand here and comprehend this issue and speak—and he cannot—I think he would say—in fact, I know he would say—that he would not want to see an unborn child lose its life for him.

Because of my own experiences, I particularly object to the way operatives have manipulated extremely sick people to their own political ends in connection with this controversy.

We know how the President feels on this issue, and the Senate knows how the President feels on this issue. How many times do you have to rub his nose in it, Mr. President? It is political. It is the worst form of politics. It is disgusting, and I am willing to take the hit. I am willing to take the bullets to stand here, and I am willing to stand here and take the criticism from the Senator from Massachusetts and the majority leader for Gianna. I will take it, and I am proud of it.

We have received sanctimonious platitudes from the pro-abortionists about whether this dangerous step would be useful in treating victims of disease, whether it would encourage a substantial increase in abortions, and whether the tissue needed for transplants is just as available from other sources. But their assertions are devoid of empirical backing and contradict the evidence we have. The truth is as follows:

First, unless the method of performing abortion in America is altered in a way which would increase the danger to the mother, the abortion procedure ensures that most aborted infants cannot be used for transplant or research. Most abortions performed in the Untied States each year are performed with a vacuum suction machine that dismembers and destroys much of the fetal tissue, making it unusable for research or transplantation. Only 10 percent of early aborted babies would be usable for transplants under current practices, according to Janice Raymond—a feminist women's studies and medical ethics professor at the University of Massachusetts. Dr. Raymond also warned that "the number of elective abortions will never be enough for the amount of fetal tissue that doctors need." So it is all documented.

Second, it is a fallacy to suggest that fetal tissue implantation has been demonstrated to be some panacea to a wide range of neural maladies. Claims to have successfully treated disorders in the body's chemistry or nervous systems through transplants are still the subject of hot debate in the medical community. Although two recent studies argued that modest improvements in a small number of Parkinson's patients had been achieved by fetal tissue transplantation, the fact is that only a very small number of fetal tissue transplants have occurred in the United States over the past 20 years.

In the Medical Journal Lancet, Dr. C.G. Clough, a British physician and researcher, concluded:

> Although 100 operations with fetal implants have now been completed, there is little evidence of implant survival. * * * The technical difficulties of the procedure suggests that neural implantation is unlikely to benefit many patients with Parkinson's disease.

Third, new therapies could render tissue transplant obsolete. For example, just last month, NIH scientists announced an exciting new breakthrough in the use of GM-1 ganglioside to cure Parkinson's disease—a breakthrough which was achieved in spite of the moratorium and which will be pursued without fetal tissue from induced abortion. In the past few months, the possibility of coaxing nerve cells to regenerate themselves has also been achieved for the first time. We should not allow the focus on tissue transplanted from induced elective abortions to detract from ethically acceptable and innovative new research efforts.

Fourth, allowing the use of tissue from induced abortions could allow a woman in an emotionally wrenching situation to justify and feel good about the abortion, much like the feeling that one gets from giving blood. That is not what we need, Mr. President.

If this research and transplantation were to become prevalent, it could produce an escalating societal demand for aborted children, adding a new factor which could tilt the decisions of individual women in favor of abortion. For example, if a woman with an unwanted pregnancy is struggling to determine whether or not to have her baby or abort it, being told that her preborn infant's tissue may be used in medical research could push her to elect abortion and an innocent human life would be lost.

Although abortion proponents reject the idea that fetal transplantation procedures could increase the incidence of abortion, Harvard Law Professor Laurence Tribe—testifying in favor of the so-called freedom-of-choice act—disagreed. He stated:

> Each currently lawful abortion that State or local rules might delay or prevent represents a potential source of * * * liberty-enhancing and lifesaving medical information. * * *

Fifth, pro-abortionists also argue that the propriety of using the tissue can be divorced from the tissue's source. They maintain that, because abortion is legal, the only question is whether aborted tissue will be wasted or used. This argument simply does not pass ethical muster. If induced abortions are unethical, tissue harvesting from those abortions is also unethical.

Sixth, despite all of the representations to the contrary, the fact is that usable fetal tissue can be produced without resorting to induced abortions. In an April 20, 1989, article in the New England Journal of Medicine, the Stanford University Medical Center Committee on Ethics stated:

> If tissue from spontaneous abortions could reasonably satisfy medical demands in both quantity and quality, it would be preferable to avoid the ethical problems of using tissue from induced abortions.

All of us support an increase in efforts to develop treatments for victims of debilitating diseases.

And comments to the contrary for those of us who oppose this bill on these grounds are simply wrong, misleading, and inaccurate.

However, this research and transplantation can be done with tissue from spontaneous abortions, ectopic pregnancies, and cell cultures without any of the ethical implications of using tissue from induced abortions. There are at least 100,000 ectopic pregnancies a year—at least 1 to 2 percent of which would produce tissue suitable for transplantation. In three hospitals alone, there were 3,518 miscarriages over a 10-year period; and 5 to 7 percent of these were found to produce tissue suitable for transplantation. Furthermore, the cells of a single donor can be cultured to benefit as many as seven recipients.

Since April 1988, when the moratorium on the use of tissue from induced abortions was implemented, the National Institutes of Health have spent more than $23.4 million to support 295 research projects involving the use of human fetal tissue using alternative sources. Scientists such as Yale University Medical School Associate Dean Myron Genel concede that federally funded fetal transplant research has continued unabated. The central laboratory for human embryology at the University of Washington has supplied nearly 10,000 fresh human embryonic and fetal specimens to hundreds of clients, even though it says it does not provide fetal remains from elective abortions.

Seventh, notwithstanding the safeguards contained in the fetal tissue bill, there is a serious danger that, if this procedure became popular, women could become incubators for the new demands of medical science. As we are seeing with respect to efforts to alter last year's civil rights compromise and 1990's budget summit agreement, compromises such as the fetal tissue safeguards can be changed. Janice Raymond has stated:

> Women become the resources whose bodies are mined for scientific gold handmaidens for medical procedure transplants.

Mr. President, why has such an obscure and untried technology as transplanting human brain cells being treated as a miracle cure? One suspects that, in the case of many pro-abortion groups, this is hardly more than a cynical attempt to enlist another group of hope-starved Americans into efforts to achieve abortion on demand. The radical abortion-on-demand lobby is taking advantage of the highly charged emotions surrounding the issue of medical research in order to further their own agenda of abortion at any time, for any reason.

Using the remains of an aborted child for medical research is just one more way to justify the abortion of unwanted babies—abortions conducted for the convenience of the mother rather than respecting an innocent human life. It is time to end the manipulation.

For the reasons I outlined, I will vote against this conference report and I will vote to sustain the Bush administration's inexorable veto. Federal funding of fetal transplantation experimentation would allow taxpayer's dollars to provide for a system of treatment that depends solely upon a steady and increasing flow of aborted babies. This will create an higher societal demand for aborted infants. Surely, America has higher ethical standards and more important national priorities than harvesting of preborn children for medical spare parts. I commend President Bush for having the courage to stand up and say that he will veto this legislation.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator's time has expired.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. KENNEDY. Mr. President, I have been around here long enough and participate in numerous debates, and one of the techniques which is often used, and is being used at the present time, is to misrepresent what is in the legislation and then disagree with it. That is just what we have just witnessed.

Mr. President, I ask unanimous consent to have printed in the RECORD all of the protections that are included in the legislation. These protections are the recommendations of President Reagan's own task force to ensure that there will not be any inducement for any woman to have an abortion for the purposes of providing tissue for fetal transplantation research.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SAFEGUARDS AND GUIDELINES ON FETAL TISSUE RESEARCH

1. Provisions to assure informed consent of donor, researcher and donee; certification by attending physician; audit by Director of NIH; and compliance with state and local law.

2. Informed Consent (in writing) of Donor.

Donor willing to donate such fetal tissue for research.

Donation made without restriction regarding identity of recipient, and donor not informed of identity of recipient.

3. Certification of Consent by Attending Physician.

Decision for abortion made prior to requesting or obtaining consent for donation of tissue.

Full disclosure made of any medical risks and physicians interest in research.

Attending physician or researcher will not alter timing, method or procedure for terminating pregnancy solely for purpose of fetal tissue research.

4. Informed Consent (in writing) of Researcher and Recipient.

Researcher must provide signed statement he or she is aware that tissue to be utilized is human fetal tissue, obtained subsequent to a spontaneous or induced abortion, and tissue donated for research purpose.

5. Secretary of HHS, though Director NIH, shall require audit of each grantee applying for or receiving grant involving fetal tissue transplantation research to assure compliance with above provisions.

6. Such research must be conducted only in accordance with applicable state law.

7. Measure makes it a criminal offense for a person to solicit or receive donation of human fetal tissue for transplantation if: (a) donation is made pursuant to promise to transplant tissue into specified recipient or relative of donor; or (b) such person has paid any part of costs of the abortion.

8. GAO to conduct study on adequacy of safeguards.

Mr. KENNEDY. Mr. President, Senator THURMOND, who has been one of the leaders of the right-to-life position here in the Senate over a number of years, sent to the Members of the Senate a letter supporting the lifting of the ban on fetal tissue transplantation researches.

He points out in his letter:

> I have been and continue to be a supporter of efforts to limit abortions in this Country. At the same time, I supported this measure and am writing to urge your support of this legislation and Title II of the bill, which includes a provision that would lift the current moratorium on Federal funding for human fetal tissue transplantation research.
>
> I chose to support this measure because this type of research holds a great deal of promise for curing diabetes, a chronic and often fatal disease that affects approximately 14 million Americans, and several other serious diseases. My daughter, Julie, has suffered from diabetes for three years. I believe that for the sake of Julie and other individuals, who suffer from diabetes, Parkinson's, Huntington's and Alzheimer's diseases, we cannot afford to lose this opportunity to develop a cure.
>
> After careful analysis, I concluded that this legislation should not be lumped together with the debate about abortion. Title II of the substitute incorporates guidelines and safeguards to keep the decision to terminate a pregnancy independent from the retrieval and use of fetal tissue.

I ask unanimous consent that Senator THURMOND's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 3, 1992.

DEAR COLLEAGUE: In March, the Senate may consider H.R. 2507, the "National Institutes of Health Reauthorization Act of 1991, which was recently approved by the Committee on Labor and Human Resources. I have been and continue to be a supporter of efforts to limit abortions in this country. At the same time, I supported this measure and am writing to urge your support of this legislation and Title II of the bill, which includes a provision that would lift the current moratorium on Federal funding for human fetal tissue transplantation research.

I chose to support this measure because this type of research holds a great deal of promise for curing diabetes, a chronic and often fatal disease that affects approximately 14 million Americans, and several other serious diseases. My daughter, Julie, has suffered from diabetes for three years. I believe that for the sake of Julie and other individuals, who suffer from diabetes, Parkinson's Huntington's and Alzheimer's diseases, we cannot afford to lose this opportunity to develop a cure.

After careful analysis, I concluded that this legislation should not be lumped together with the debate about abortion. Title II of the substitute incorporates guidelines and safeguards to keep the decision to terminate a pregnancy independent from the retrieval and use of fetal tissue. For instance, the bill would prohibit payment, or other forms of compensation for fetal tissue. It would prohibit the pregnant woman from designating the recipient of the fetal tissue, and it would require that informed consent to donate the tissue be obtained only after the decision to abort has been made.

I encourage you to carefully examine the safeguards. I believe that you will conclude, as I did, that supporting H.R. 2507 is the proper course. For your information, the Juvenile Diabetes Foundation's position paper on this issue is enclosed.

Sincerely,

STROM THURMOND.

Mr. KENNEDY. So no matter how many times the Senator from New Hampshire mentions that the legislation encourages abortions, it clearly does not. Many pro-life Senators have reviewed the language of this legislation and they have concluded that it will not promote abortions.

Here is what Senator HATFIELD had to say:

> Mr. President, I know of few issues I have had to wrestle with more in the light of conscience and belief and conviction than on this question of fetal tissue.
>
> I stand here today as one who is unabashedly pro-life. I voted every time for the Hyde amendment and other amendments that delineate through so-called pro-choice and pro-life, both of which are oversimplified labels.

That is a pretty good line, as well.

> I have worked throughout my career to promote pro-life causes because of my deep respect for life. I believe in the sanctity of life. A unifying goal of my political career has been to improve the quality of life for my constituents and all Americans and all humanity everywhere.
>
> I worked to achieve this goal by promoting and supporting world peace, disarmament, improvements in education, access to health care, and increased medical research.

Then he continues:

> First, fetal tissue transplants hold the promise of saving life, and second, this research will not promote abortion. Having gone through this process of investigation, study, and deliberation, I strongly urge my colleagues to take the time to study this issue for I believe it is of great importance.

Mr. President, this is an issue about research, about life, not about abortion. The Senate has debated this issue sufficiently.

Finally, Mr. President, I listened to my colleague, the Senator from Utah—I wish he were here—I listened to his comments and statements, in saying: Well, it does not really make much difference if we move ahead with this legislation, because the Appropriations Committee has addressed many of these issues and the NIH is already working on them.

That just is not the case.

The case is that the NIH has made a very modest—very modest—downpayment on the whole range of women's health issues. I commend Bernadine Healy for the leadership she has provided.

The progress at the NIH on addressing research on women's health has been very slow, not nearly of the dimension, scope, purpose, and inclusion that this legislation provides. That is very important, and we should not delude ourselves to the contrary; as well as the fact that many of the provisions that have been included in this legislation are not getting the attention they deserve by the NIH today.

There is no cancer registry; there is no prostate cancer prevention program; the prostate cancer research program is relatively small; there is no multipurpose juvenile arthritis center program; there is no obstetric and gynecology program. The NCI only spends $133 million for breast cancer research—one in nine women develop breast cancer. NIH has supported research projects that exclude women and minorities.

We spend $9 billion for intramural and extramural programs at the NIH. I am strongly for it. I would like to see the NIH expand and intensify their efforts, particularly in the areas of women's health, cancer, heart disease, and in the other areas which were a part of our initial bill that was vetoed by the President.

I am appalled that out of $9 billion NIH budget that we are spending less than 200 million on breast, ovarian, and other gynecological cancers and less than 10 million for fetal tissue research.

This legislation is important, and is necessary to address the research needs of millions of Americans with diabetes, arthritis, heart disease, cancer, Alzheimer's, Parkinson's, multiple sclerosis, lupus, and other devastating and often incurable diseases.

I will submit for the record a comprehensive summary of the important initiatives in the legislation.

Finally, Mr. President, we should be clear about what is going on and what is not going on. There is limited research using fetal tissue being pursued at the NIH—it is somewhere around $10 million—but there is no NIH funds being used for fetal tissue transplantation in humans.

The interesting thing is to hear our friend from New Hampshire talk about all of the dangerous things that could happen with this legislation. The fact is, with this legislation, we establish safeguards and criminal penalties, not only on research conducted or supported by the NIH, but for privately on what is being done by the NIH funded research.

These protections are not in place today. They are not in the law. They depend upon local and State restrictions. And most States have not established guidelines for fetal tissue transplantation research.

So, one of the reasons that a number of our colleagues who supported the Hyde amendment and now support lifting the ban on fetal tissue transplantation research is the safeguards and criminal penalties established by this legislation. Without this legislation, there are no safeguards in place. They will not be put in place today as a result of the actions that were taken by those who oppose that position.

Mr. President, again, I express our appreciation to many of our colleagues: Senator ADAMS on our committee who did very important work in developing the provisions on the fetal tissue transplantation; Senator MIKULSKI, who has probably made the greatest contribution in developing the women's health initiatives, and many others who participated on our committee. I would also like to especially thank the staff; Grant Carrow, Van Dunn, Robin Lipner, Nick Littlefield, Phyllis Albritton, Jay Himmerstein, Laura Brown, and David Nixon for all their efforts. I am grateful to all of them and we look forward to addressing this issue as the first order of business in the next session.

Mr. President, I yield the remainder of my time.

Ms. MIKULSKI. Mr. President, a veto of the NIH bill is a veto of the American family. To filibuster the NIH bill is also a travesty for American families. No one who has ever watched a loved one suffer from a life-threatening disease would ever say no to a measure that so clearly saves lives. No one who cares about families would ever stand in the way of curing diseases that tear families apart.

NIH saves lives and cures diseases. NIH is in the business of saving families from the heartbreak of very serious illnesses. The kind of diseases that destroy families.

The President's veto stalled lifesaving research on often fatal diseases such as breast cancer, cervical cancer, and multiple sclerosis.

The delays caused by those who do not want this bill passed have killed this legislation and will mean that these changes will have to wait until next year.

Our National Institutes of Health do research on diseases like prostate cancer and lung cancer. Prostate cancer is an increasingly large threat to men—our fathers and husbands.

These are diseases that take husbands from their wives and attack the men we love. The President's veto came near Father's day. And many families won't be able to spend time with the fathers and husbands they have lost to cancer, Alzheimer's or other diseases.

But this is not a gender issue. This is a family issue. Men and women stood by the congressional women 2 years ago. On the day when we women marched up the steps of the NIH asking to be included in medical studies and cures for repugnant diseases.

Together we asked that women be included in such fundamental research as heart disease and aging. We knew what the statistics were for men—but no one had ever bothered to look at the fact that women get heart disease too. And in ever increasing numbers.

Together we asked that the aging process of women be studied like it had been for men. Together we asked for a change. A change in the program and a change in attitude.

Funding NIH is the way to make that change. It is a family issue. The cure of alzheimer's is a family issue. Ovarian cancer is a family issue.

The President's veto killed a measure that included $300 million for breast cancer research. Breast cancer affects one out of every nine women in this country. That money would have helped set up basic research centers. That money would have helped set up basic research centers. Centers where our doctors and technicians would trace the genes that cause cancer. Develop the drugs to slow the cancer down. And may even find the cure.

When you talk to Maryland families the way I have, you learn that losing a wife, a mother to breast cancer is devastating to families.

What else have the President and the Members of the Senate opposed to the bill signed away as worthless? They have signed away the office of women's health research, research on gynecological cancers, and possible treatments for osteoporosis cancers, and possible treatments for osteoporosis and infertility.

And he has signed away jobs. There are 13,000 marylanders working at NIH. That means jobs today.

The President claims that he believes families are important. But not important enough to help cure the diseases that tear them apart.

Finding cures for diseases like Parkinson's and Alzheimer's keeps people out of nursing homes. This not only saves families, it saves lives and it saves money.

I look forward to successful passage of the NIH bill next year at the beginning of the 103d Congress.

Mrs. KASSEBAUM. Mr. President, I just want to say that I very much concur with the plan announced by the majority leader to make reauthorization of the National Institutes of Health the first order of legislative business when the 103d Congress convenes in January. The important initiatives in this legislation, particularly with respect to women's health, will offer a very positive beginning to the new Congress. In addition, we will have the opportunity to move research in the critical area of fetal tissue transplantion research, which holds so much promise for individuals suffering from diabetes, Parkinsons' and other disabling conditions. As the probable ranking Republican member of the Senate Labor and Human Resources Committee, I look forward to playing an active role in moving ahead with this important legislation.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the issue before the Senate?

The PRESIDING OFFICER. There is no pending business before the Senate.

Mr. DOMENICI. Mr. President, I ask unanimous consent I be permitted to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE COST OF NEW JOBS

Mr. DOMENICI. Mr. President, as we prepare to leave and go to our States, I would like to leave one thought about the current state of the economy and what is happening right now in terms of why the economy is not adding more jobs. It is the issue, which goes unnoticed, that I choose to call the indirect cost of creating a new job. Even though the news has not been good about new jobs in the American economy as measured by employment, the unemployment rate declined to 7.5 percent in September. That was down from 7.8

percent, the high point over the last 2-year recession/slow-growth period. Nevertheless, employment growth has clearly been unsatisfactory, even slower than can be explained by the growth in economic activity as measured by GDP, our broadest and most widely accepted measure of the economy.

Gross domestic product has grown for the past 5 quarters following quarterly declines in late 1990 and early 1991 that marked the recession. While GDP growth has averaged a modest 1.6 percent over these 5 quarters, employment has hardly increased.

During this period of expansion something very different has to be happening in the economy. Employers clearly must need more workers than they are hiring. I believe we now have proof that another phenomenon is setting in that is very important for us to consider if we truly want the American economy to produce more jobs as it grows. One thing that is happening right now—believe it or not, on the plus side—is that productivity is going up. And when productivity goes up, unless the economy is growing more than enough to accumulate the positive effects of that productivity, you hire fewer people. And we all want more productivity because it yields the kind of growth that increases our wealth dramatically without inflation. It has a big dampening effect on inflation.

But that is not what I am talking about. What I am talking about is a finding by the Federal Reserve about how job gains during this recovery differ from past recoveries. The implications are that 2 billion hours of work that would have gone to new employees in this recovery have gone also to overtime and to non-full-time workers.

Let me talk about that for a minute. If you are an employer and your business is going up, there are four things that can happen with regard to your employees.

One, if your business goes up and you have higher productivity, you do not increase the job force. They are doing more per unit of time.

Or, two as the work goes up you hire more workers.

Or, three, you take your existing work force and you work them longer—called overtime.

Or, four—a phenomenon is occurring that is recent in American economic history. Businesses hire non-full-time workers. For example: A university will not hire a new professor and put that professor on all of the fringe and health coverage benefits—covering the pension plan and all the other things. Instead it will hire a new professor and say if you want to work, here is your salary, but we are not going to cover you with a pension, we are not going to cover you with health care and this is your contract. You agree to it or do not agree to it. And we are not going to cover you with other things that we are paying our other employees. Take the job or not.

This is a growing part of the American job market. It is happening because the cost of new employees is going through the roof. Not the hourly wage, not what they take home, but what the employer has to pay aside and apart from the salary to the workers.

What we know is that—if we were to take the 2 billion hours of added work that is now being spread out among the work force of America, and if that had gone to new employees, as it has in the past, we would have added 1 million employees. One million new employees would have been hired, instead of the anemic increase we have gotten.

This economy has generated enough growth, even in its anemic state, so that we could be saying 1 million new jobs have been added to the economy. But they were not added because the employers of America, large companies and small companies, have decided that rather than hire new workers, and create new jobs, they choose to work the existing work force overtime because it costs so much to hire one aside from the salary.

We all ought to be wondering what that means for the future. It means a couple of things to this Senator. One, before you pass anymore mandates on the employers of American workers, you better consider seriously whether the new mandates, all made in the name of a good cause, will cause more harm than good because employment will be diminished. The new mandates that the employer has to pay will cause that employer to say I cannot afford new workers.

I will give you a couple of mandates that are clear, patent, unequivocal, and you ought to watch out for them.

The combined employer-employee payroll tax rate, FICA, and other things that we mandate, went up 2 percentage points. We started with 13.4 percent of payroll at the beginning of the last decade. Today that same mandate is 15.3, almost 2 percentage points higher. If we can take 2 percentage points off the payroll costs for American businesses today, they would have hired more than the million that I just spoke of. This means that this mandate has had a big impact.

Now I want to explore the one that I believe is truly wreaking havoc with new jobs in the United States. All of our employers, large and small, face two choices: "One, cover your employees with health care just like you did last year. You did not have to, but you did because you want to put health care in the packet of fringe benefits going to all of your employees. This year you have to put the same health care on, but it has gone up 20 percent. You have two choices. You keep the coverage, increase the cost 20 percent and do not hire any new workers. Or you lower the health cost dramatically, cutting your workers off from some of the benefits and narrowing the package down. The tradeoff is less health care protection, more jobs."

As we think about health care reform, we had better consider seriously how to reduce its spiraling cost, not just how do we cover more people. If you have to change it dramatically, then do so, but get the spiraling cost of health care off the backs of America's employers or they will, for the foreseeable future, pay for health care and hire less people.

Mr. President, this is a big-ticket item, not a little item. Some phrase it as competitiveness and noncompetitiveness. I choose to say that it is literally more jobs or less jobs. More jobs, or a continuation of the type of health care—with its spiraling costs —that is imposed on employers today.

I hope everyone will understand that the American economy is not magic. Employers, large and small, have no chain that they pull that will produce dollars so they can hire more workers and increase their pay. They have to make more money and then they can hire more people, unless the cost of doing business goes up: costs such as mandated benefits of all types, regulations on business—some of which may not be necessary—and health care costs. The latter, although they are not mandated in many instances, are contractually agreed to and in other instances employers say we want our employees to have it. It is going up so fast as a cost of doing business, that it shrinks the available jobs.

I believe this is more than just a competitiveness issue with overseas businesses and countries. It is also whether American business, especially small- and medium-size firms, even as they grow in the amount of business they do, will add a requisite amount of new employees or will use up their new-found growth to just pay for health care and mandated costs.

Mr. President, it is serious enough, in my opinion, to cry out to the next administration at the start of the new year that we all hope there will be on the horizon a new initiative. It will say to the American people, there will be perhaps more sacrifice, more giving, but the future will have good, sound jobs on the horizon for America.

I think this issue of how much employers can bear by way of new costs for employment ought to be looked at from the standpoint of where are the diminishing returns. What are we asking of them that is not necessary and that costs money? Do we want all of those? Do we really want reform of health care so the costs go down. Or do we just assume, as some are doing, that it is going to continue up and it is a matter of who pays for it, the employers or the Government?

If that is the attitude, pay we will, not only in spiraling health care but in lost jobs.

STRENGTHENING OF AMERICA

Mr. DOMENICI. Mr. President, for the last week or so, a fair amount of attention has been paid to a report called Strengthening of America. Senator NUNN of Georgia and myself were very privileged over the last 2 years to cochair that very, very significant undertaking. I believe the results have acquired a very significant amount of positive attention in the press and, thus, among the American people.

Frankly, I believe the time has come for us to take cognizance of the fact that we are living in a new era; that we are on the verge of a new century, as never before. The domino theory proved correct, only in reverse. One Communist dictatorship after another has been knocked down and replaced with free market democracies. As we look to the beginning of a new century, is so clear that America must start doing things differently or we will not be strong and we will have failed to provide the marvelous freedoms and governance to the people of this country, the great people of this country so we can grow and prosper.

We are on the verge of that era. That requires, in my opinion, that we do things differently. I think the people are tired of business as usual, even if they do not express it as such.

I saw an old Spencer Tracy movie, called State of the Union and it reminded me of our challenges today. Believe it or not I am going to quote from that old movie because it is relevant today. We all know how old Spence Tracy and his movies would be. In State of the Union Kate Hepburn played a newspaper publisher. She was trying to talk Spencer Tracy into running for President and Tracy gives a rousing speech. It is given to a huge Chamber of Commerce audience. He is talking about our country and what is wrong with politicians. Imagine Spencer Tracy. In his prime. Delivering this message:

> Politicians, instead of trying to pull the country together, are helping pull it apart just to get votes. To labor, they promise higher wages and lower prices.
>
> To labor they promise higher wages and lower prices. To business, higher prices and lower wages. To the rich, the agenda is let's cut taxes. To the poor, we'll soak the rich. To the veterans, cheaper housing. To builders, uncontrolled housing prices.

This movie is an oldie, but it was prophetic about where we are in 1992. There is at least one special interest group for every program in the Federal budget, and they are all pulling the country apart.

We have too many of these activist groups that only care about their particular self-interest. What we desperately lack is one activist group that might put aside their personal agendas and do what's best for America. It would be a group which would urge its leaders to do what is right for the country. This Strengthening of America Commission, of which I am cochairman, is an effort to create this type of activist coalition.

Reports are issued every day in Washington. But we intend this Strengthening of America report to be different. It is a blueprint action plan which we intend to follow up with enacting legislation. It is intended as an integrated package to get our fiscal house in order. The Commissioners are committed to working at the grass roots level to build support for the recommendations and policies advocated in the report. We are repeating the warning that Spencer Tracy gave to the American people in that very good movie that I just described.

This upcoming election may be the electorate's equivalent of the Strengthening of America Commission. This election could be a people's mandate to do what is right, to do what is in the best interest of America and the country as a whole. I hope voters will join in the mission of the Strengthening of America Commission.

In April, Senators NUNN, ROBB, RUDMAN, and I started talking about one of the Strengthening of America Commission's recommendations. This would limit programs which are on automatic pilot and are growing far faster than anyone ever imagined, 8 percent instead of a typical 2½ percent for other programs in Government. These programs currently make up 44 percent of the budget. By the turn of the century, they will be 55 percent of that budget.

Our proposal in the Strengthening of America report would reform these so-called mandatory spending programs. The two biggest and fastest growing mandatory programs are Medicare and Medicaid. Under the Commission's plan all mandatory programs would be allowed to grow for 2 years—during this time it is expected that Congress would enact health care reform legislation. Beginning in 1995, all non-Social Security programs would be capped. All people who are, or who would become eligible would continue to participate fully in these programs. The program specialists call this case load growth.

In addition, the proposal would let the programs all grow at the inflation rate and an extra 2 percent above inflation in 1994. This additional cushion is in recognition of just how difficult cost containment may be. In years after 1994 the cushion would be phased down—5 percent each year.

The proposal generated a great deal of attention. We were bombarded by special interest groups that have programs within this mandatory package that make up 44 percent of the budget today.

Senior citizens, educators, farmers, doctors, veterans, were all calling in to my office. Were they asking that we work together on this? Was that what they were doing? Again, to quote the Spencer Tracy movie: "in a pig's eye." And just like that movie, "They are all scared together, all fighting each other—and us, each for fighting for the biggest bite out of the apple. Well, there are not that many bites in the apple."

This character in this old movie told professional politicians that when he goes up in an airplane he sees America, the real America. And again I quote from that old film. You can imagine him delivering these lines in that wonderful Spencer Tracy way. He said this is America: "Farms, factories, lumber, mines, railroads, business management, labor. Not one able to exist alone, but together working together with courage and imagination. That makes America. That's a great picture from the air."

We should adopt his perspective. That is what the Strengthening of America Commission is trying to do to get the big picture, get the great picture from the air, get everyone working together to accomplish what's needed and what's right.

Our interim Strengthening America Commission recommends zeroing out the deficit by reducing it $2 trillion and balance the budget over 10 years, abolish the current income tax and its antisavings, antiinvestment, slow growth bias, and replace it with one geared for economic growth, a progressive based income tax; create a $160 million endowment for the future which would be added to current expenditures by investing in education, research and development, child care, and begin a life cycle learning program, and break the old mold of the current education system.

Give national laboratories a new mission; make Washington work. It seems to me that a bright future is achievable, but it is not a sure thing. The cycle of tax and spend and spend has to stop. We have to figure out ways to make Government provide better services for less. And at the same time the country faces many challenges. We have to increase savings, remodel our education system, teach values to our young, increase the stock of capital backing up each American worker, faster commercialization of technology, producing better designed and higher quality goods.

We need to make sure our students get a good education so they can be competent workers.

We need better school-to-work transition for the 50 percent of our students who are work-bound not college bound.

We need to encourage U.S. companies to follow total quality management techniques.

As a government we need to reduce the deficit and put into place policies that encourage savings and investment.

But if the challenge is enormous, so too is the opportunity.

We need to create tax policies that gear our economy for growth. The Strengthening of America Commission was very bold. Their recommendation: Abolish our current income tax system. Instead of taxing income, this new system would tax spending; and savings would not be taxed until spent. The system would be similar to a universal IRA.

The Strengthening America Commission issued its report yesterday. To paraphrase from the report: We do not want to be the first generation to violate the trust and tradition that each generation will improve the nation for the benefit of the next. We do not want to be the first generation to tell our children and grandchildren that we sacrificed their standard of living for our own. We do not want to be the first generation to turn our backs on this country's fundamental identity as a land of opportunity.

I saw another rerun movie not too long ago, "The Way We Were" with Robert Redford and Barbra Streisand.

The lead character, Redford, playing an all America, all-around winner is compared to America.

"He was a lot like the country he grew up in, everything came too easy for him."

Looking to the next century, the movie wouldn't make that comparison. Things aren't going to be easy. Outside of Hollywood, they never were. But they can be prosperous if we all work together, with courage and imagination. That has made America great in the past. Such cooperation will make America great in the future.

Mr. President, I thank the Senate for the time, and I yield the floor.

The PRESIDING OFFICER. The Chair, in its capacity as a Senator from Minnesota, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

THE RECENT SHOOTING AND DEATH OF ANDWELE JACKSON

Mr. CHAFEE. Mr. President, 3½ months ago, I introduced legislation, S. 2913, to prohibit the sale, manufacture, or possession of handguns in our country. I have spoken previously in this Chamber on my reasons for authoring that bill.

Everyday, it seems, Mr. President, there is another reason, another new report about a senseless episode of handgun slaughter taking place in our country. Surely, upon reading these stories, we are all appalled. But these reports of handgun shootings across our country come so steadily and so frequently that sometimes we almost become inured to the horrors described in this stream of articles.

I call my colleagues' attention to an article which appeared in the Sunday, August 30, edition of the Washington Post. It is a poignant and painful reminder of the real-life ramifications and what actually happens out there as a result of the prevalence of these handguns.

I think this article ought to be required reading for anyone who is desensitized by the daily reports of the slaughter and shooting that is occurring in our country.

This article describes the valiant struggle of a young man named Andwele Jackson. Andwele was 16 years old. He was shot in the stomach by an unidentified man with a handgun.

It occurred just after 1 a.m. on a Sunday morning, August 2. Andwele and five friends were cavorting along on Pennsylvania Avenue, having some fun—yes, it was late at night, but so what? They had just been to a nearby Burger King. They are teenagers, five of them were running along as carefree teenagers do.

Then the unthinkable—or what we once thought was unthinkable—occurred. A man with a .357 handgun stepped out from behind a tree. Moments later, Andwele Jackson lay in a pool of blood, barely breathing and unable to move his legs.

Bullet wounds and shootings that occur on TV or in the movies always appear to be neat and tidy. The bullet enters the body and follows a straight path and exits cleanly on the other side. And sometimes there appears to be little harm done. But this is not the way modern bullets work. Modern bullets do not behave like that when they enter a body. As the Post article states:

> In real life, being shot is more like having an explosion inside the body—or more precisely, a chain of small explosions.

The bullet, which went in to Andwele Jackson's stomach tore apart his intestine, ripped a hole in his colon, smashed into his lower spine, rendering him paralyzed from the waist down. Pieces of the bullet lodged in one of his kidneys causing serious infection.

Here is a young man, 16, a good athlete, a fine young man, cavorting out with some friends; out from behind a tree steps a man with a handgun. Anybody can get a handgun. We all know that—no problem—and shoots one of these boys. It happens to be Andwele Jackson.

He was a gifted athlete who had had a fine career, and suddenly there he is. To regain the use of his legs he struggled through excruciating sessions of physical therapy. The pain that lingered after his surgery and from his infected wounds was so acute that he could not sleep. Because he disliked drugs, he did his best to avoid pain killers, talking on the telephone instead—that was his therapy—and leaning on his mother, Joyce, for moral support.

Yet his courage was no match for the devastation the bullet wrought in his body. On Monday, 3 weeks after his shooting, while watching TV he suffered a massive heart attack brought on by a blood clot which started in one of his paralyzed legs and worked its way up to his heart and lungs, and he died.

There he was, Andwele Jackson, a good boy. Energetic, studious, well liked, excellent football player. He had stayed out of trouble. Now he is gone.

That is what happened to a promising young life in this city.

Mr. President, what we need to do is get rid of these handguns, altogether. There is no other way.

People can either care about this subject or not care about it. It seems to me there is no middle path. If we are going to do something about the problem, the only solution is to get rid of them as every other civilized country has—every other industrialized country. Do not permit handguns, do not permit the possession, do not permit the transfer, do not permit the production, do not permit the sale of handguns.

What is said to that is, oh, well, what will happen is the good people will get rid of them. There are 68 million handguns in our society today, and 2 million being added every single year. We have to stop this flow of guns. There is no question that there is a direct correlation between the availability, easy availability of these weapons and the deaths that are resulting from handguns.

The statistics show, for example, that if there is a handgun available in a house, the chances are 75 percent greater that a young person who might be contemplating suicide will, indeed, go through with suicide if the weapon is available.

So, it is my earnest hope that others will take up this cry. You might say here you are all alone. Nobody else is for this legislation. That may be. But I am absolutely convinced that the slaughter from handguns is going to affect, intimately, every single family in America. Perhaps not the mother, perhaps not the father, perhaps not the two children, or three children—but it is going to affect a cousin, or a nephew, or niece, or uncle, or the father, or the children directly. By that I mean somebody is going to be shot, or somebody is going to be held up by a handgun.

So my sympathies go to Andwele Jackson's family and friends for this tremendous loss they have suffered.

I commend Tracy Thompson, of the Washington Post, who wrote this article.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I do hope my colleagues and others across the country will read about this and more and more people will become concerned. Oh, they are concerned. I should not say people are not concerned—they are concerned. But what to do?

Some say have a registration of handguns. But that does not take care of the problem. They are still being manufactured, still being sold, still tremendous prevalence of these guns in our society.

Others say, have different penalties. For example, if a child in a house obtains a handgun, a 4-year-old child or a 3-year-old child—this has occurred, frequently. A 3-year-old child discovered a hidden handgun and shot another child in the family, or a friend. One of the answers is make the parents subject to a fine for not keeping the weapon under proper security conditions.

That is retrospective. Meanwhile the child has taken the gun and shot another child. That is not the solution.

I am convinced more and more as my colleagues study this problem they will come to the conclusion the only thing to do is ban them, get rid of them.

We will collect them. We will not get them all the first year. We will not get them all from every criminal right away. But eventually we will, because they will not be able to get any more.

EXHIBIT 1

[From the Washington Post, Aug. 30, 1992]

STRUGGLING FOR A MIRACLE.—BULLET'S PATH OF DESTRUCTION PUT LONG ODDS ON YOUTH'S RECOVERY

(By Tracy Thompson)

The shocking thing was the stillness of his legs. A moment earlier, Andwele Jackson had been jogging along Pennsylvania Avenue with his friends Jesse Davis and Xerxes Speller and some girls they'd just met at Burger King—running easily, just for fun, like the athlete he was.

Now he lay in a pool of blood on the steps of an office building in Foggy Bottom. All that bystanders could see were Andwele's legs—not moving, still as death—and his panting chest, exposed to the eyes of strangers and the ministrations of the D.C. Emergency Medical Services crew.

As soon as we passed this tree, this guy must have been waiting for us. I saw a guy step out and he had a nickel-plated .357 magnum in his hand," said Xerxes, tears coursing down his cheeks. "So we started running really hard, and when we got up there to the Exxon station, I looked and I just saw Jesse."

"I said, 'Where's Andwele at?'" Jesse said. Jesse ran back down the street, screaming, "Call 911! Call 911!" A couple walking on the other side of the street—nobody learned their names—heard him and called 911. The ambulance was there in minutes.

Both youths—who were 16, like Andwele—were breathing in gulps. The three girls they had been with crowded around them, reaching out to link arms, huddling together. All five were crying. In the background, the medics loaded Andwele into the ambulance—just a shape on a stretcher now, inert but still breathing, an oxygen mask strapped to his face. It was 1:15 a.m. Sunday, Aug. 2.

It was the 175th shooting this year to which the Emergency Medical Services Bureau has been summoned—a routine event in one of the nation's most violence-plagued cities. For the medical staff assigned to Andwele's case, it would be another fight to salvage life from the physical devastation of bullets—which, contrary to popular myth, ricochet once they enter the body, splintering bones, shattering arteries, ripping through organs, disintegrating as they go, leaving fragments in their wake.

For Andwele and his family, this moment of seismic upheaval would place them on a weeks-long roller-coaster ride through laughter and anguish, through reality and belief in the miraculous—only to end in sudden desolation.

"Andwele is not the story," his father would say later. "The story is what's happening in 1992 to our kids."

Minutes after Andwele was carted away to nearby George Washington University Hospital, bystanders began drifting away. Detectives from the 2nd District combed through the dwindling crowd, talking to anybody who might have seen anything.

At that moment, Andwele's mother, Joyce Collette, was sitting on the side of her bed in Upper Marlboro, rehearsing the speech she was going to give Andwele when he finally got home.

A few weeks earlier, Andwele had celebrated an adolescent rite of passage: getting his driver's license. Then came Saturday night, and he had asked his mother if he could borrow her car. He told Collette that he and his friends Xerxes and Jesse would celebrate Andwele's new vehicular freedom by going to Georgetown, maybe hooking up with Andwele's girlfriend at a movie, or just checking out the girls and getting some hamburgers.

It has seemed harmless, and Collette had agreed. But she also had given him a midnight curfew. Now, he had violated it.

Listening for the slamming door, the footsteps in the hallway, she readied her speech. "Just get on in here, boy," she was going to say. "It'll be a long time before you see a car again, buddy."

The phone rang. It was Jesse, saying something about Andwele being shot.

"Oh, is that so?" Collette recalls saying, with the sarcasm born of having raised eight children, five of them boys, and hearing every conceivable explanation for all kinds of misbehavior. "This is an excuse I've never heard before, and I thought I'd heard them all."

"No, really," Jesse insisted. Then he put a police detective on the line. Hearing the stranger's voice, Collette felt herself go numb.

For a moment, she said, "I couldn't move." All she knew at that point was that someone had shot Andwele, that the bullet had pierced his intestines. That was manageable, she thought; a daughter-in-law had had intestinal problems a few years back that had finally been cured with surgery and diet.

It was not until Andwele's surgeon, Neofytos Theodore Tsangaris, came out of the operating room several hours later that reality began to hit. Tsangaris told her and the other family members who had begun to gather at the hospital about the intestinal damage. The bullet had blown out part of his transverse and ascending colon, which had to be resected.

"Then he said, 'Now for the spinal injury,' and I said 'WHAT spinal injury?'"

The bullet also had ricocheted off Andwele's first lumbar vertebra, shattering it and—though his doctors did not know it then—scattering bullet fragments throughout one kidney. Everything below his first lumbar vertebra, everything from his waste down, was paralyzed.

"The prognosis is that he'll never walk again," Collette said the day after the shooting. She cupped her face in her hands. Her eyes filled with tears. Her voice faltered. She looked away, toward the window.

AN UNUSUALLY SENSELESS SHOOTING

In a city where senseless shootings happen every day, the shooting of Andwele Jackson made less sense than most. To the detectives, there was little to go on.

They had taken down a welter of descriptions of the gunman—everything from a tall, bald man to a short man with a gold tooth—from Andwele's friends, the three high school girls they were with and the few bystanders. Nobody had gotten the names of the couple who had heard Jesse's screams and called 911, and they were apparently the only other people who could have seen the gunman or given a description of the car he drove away in.

Then there was the location. "How did somebody manage to get themselves shot *downtown?*" one ambulance crew member exclaimed when the call had come in; the EMS crew that prowl the city's streets at night are more familiar with racing to shootings in Southeast Washington, across the Anacostia River, or in some neighborhoods in Northeast Washington.

The detectives questioned Andwele's companions about whether they knew of a possible motive, but they were stumped. To Collette, it was inconceivable that Andwele had done anything to provoke the shooting. He was not a bad kid, he did not have a police record, she said later. Although she and his father, Robert Jackson, had divorced when Andwele was 3 (she had later married Sam Collette), she and her ex-husband remained friendly and he was supportive of his sons. The troubles they had had with Andwele, she said, were the sort that would later become family jokes, not topics for police blotters.

There was, for instance, the time he and a friend had used an older brother's stash of condoms to water bomb the mailman. ("I opened the door," she said, "and there was the mailman, soaking wet, and not a cloud in the sky.")

Since age 6, he had been what his mother called "a football maniac," He had inherited his father's height and physical grace—as well as his dazzling, open smile.

Lately, his preoccupation with football had caused his grades at Largo High School to slip. Collette decided it was a good time for him to get to know his father better, so for the last year he had been living with Robert Jackson in Atlanta, attending Benjamin E. Mays High School.

New to the Atlanta school system, Andwele was ineligible for the football team. Instead, he discovered a new group of friends more studious than his football buddies in Maryland. He started studying—realizing, his father said, that he could get ego strokes for good grades as well as for being a superior athlete. His grades improved. He was starting to grow up.

But now, Collette was less concerned about tracking down the person who shot her son than about dealing with the immediate medical crisis. Andwele had made it through surgery, but doctors told her that bowel wounds carried a high risk of postoperative infection. The normally closed intestinal tract is full of bacteria which, if spilled into the abdominal cavity, can create rapid, rampant infections. The bullet had fragmented, and not all the fragments had been found; there also was the ever-present risk of blood clots.

A practical woman, a teacher of history and civics at Francis Junior high School in the West End, Collette's mind already was pondering building a wheelchair ramp at home, getting a bigger car, maybe a van, and hassling with insurance companies.

"I'm used to chaos," she said. A small-boned woman, about 110 pounds, she wears jeans and work shirts, delicate gold earrings and a wrist full of jangling bracelets. her graying hair is in a bun. In her 47 years, she has raised eight children, only two of whom—Andwele and his older brother Michael, now 29—were biologically hers.

Her life had taught her to deal with reality, and she gained strength by thinking of Andwele's paralysis in practical terms. "We're going to break the news to him tomorrow," she said.

The doctors told her the bullet missed Andwele's heart by about an inch. "One more inch and we could be putting him in the ground. . . . We can deal with anything from there," she said.

"PRINCE OF GOOD FORTUNE"

In the end, Andwele's father told him the doctors said he would never walk again.

That was just part of the message Robert Jackson delivered. A tall man who makes a living as a metal sculptor, his speech was slow and thoughtful, his demeanor serious—until he turned on that open smile. A man of profoundly mystical beliefs, he habitually searched for meaning in every event, and this was no different.

The meaning of this event, he said, began with the name he had given his son at birth: Andwele Nkosane Mawi Ta-Nehesi. The words are an amalgam of African dialects that, loosely translated, mean "Prince of good fortune, brought by God from the land of our fathers."

So when Robert told Andwele what the doctors were saying, he was telling him the Official Version. There was no doubt in his mind that Andwele would defy all medical wisdom.

Andwele took the news stoically. Later, he would say that as soon as he came to a groggy awareness lying on the sidewalk in Foggy Bottom, he knew he couldn't move his legs.

Later he would ask Collette questions she couldn't answer: Will I be able to father children? Will I ever have bowel and bladder control? Intensely self-conscious, like most teenagers, the thought of having an involuntary bowel movement was too horrifying for him to contemplate.

"I want him to cry a little bit," Robert Jackson said. "Maybe he will later. He's strong beyond his years. He's a little boy, but he's also a little man."

A BULLET'S PATH OF DESTRUCTION

In the movies and in detective novels, bullets cause either instant death or minimal damage. In real life, being shot is more like having an explosion inside the body—or, more precisely, a chain of small explosions. Lucky shooting victims get a clean exit wound.

Andwele was not one of the lucky ones. On Aug. 12, 10 days after the shooting, he was fighting an intermittent fever, caused perhaps by bullet fragments that a CAT scan found scattered throughout his right kidney. He also was having trouble keeping down solid food.

Even so, the physical therapy staff thought it was time for his first trip downstairs in a wheelchair. Getting Andwele moving as much as possible, as soon as possible, was of paramount importance. One of the common complications of paralysis is that pools of blood collect in the paralyzed extremities and form clots, which can break off into the bloodstream and—on occasion—hit a vital organ.

The physical therapy room was a large, mirror-lined room that looked like a cross between a gym and a nursery school for tall infants. Most of the therapy took place on large mats that rested on platforms about chair-height.

Three physical therapists, Nancy Koplin, Bruce Banks and Mary Francis Little, maneuvered Andwele out of his wheelchair and onto the side of one of the mats. It was a complex maneuver, made more so by the plethora of tubes and catheters connected to his body.

Andwele wore an intent, inward look, the look of someone who is afraid of falling and also of throwing up—both of which were very much on his mind. Still, he stole a moment to give his grandmother, Irma Jackson, a high-five. She smiled delightedly.

The therapists got him positioned sitting on the side of the mat, legs hanging down, torso upright. The simple act of sitting up, as any baby discovers, requires a complex interaction of muscles in the lower back, buttocks and legs, as well as the upper body. To help him gauge where his body was in space, Little brought a full-length mirror and parked it in front of Andwele. He froze.

"This is the first time I've seen myself," he said softly. It is a moment familiar to anyone who has been seriously injured—the wrenching experience of seeing a disfigured, disabled, helpless body in a mirror that does not at all match the self-image, a shock like seeing 20 extra years, or a body that suddenly is of the opposite sex.

Andwele stared at himself while Banks knelt on the mat behind him to hold him steady. There were the tubes to take in, his own face—swollen, tight with pain—and the helpless legs. Andwele, the former football maniac, the effortless athlete, was at that moment wearing a diaper.

"Let's throw a football," Koplin said, tossing him a bright green-and-pink foam rubber ball. As hard as it was to get out of his wheelchair a few moments earlier and sit upright, Andwele skillfully caught the ball, then threw it back in a perfect arc.

Suddenly, he felt dizzy and nauseated. The therapists helped him lie down. Lying there, eyes closed, fighting the nausea, he spoke.

"I want to be doing this," he said. His goal, Collette said later, was to be walking by his 17th birthday on Dec. 16—exactly four months and four days away. He was, she said, "absolutely determined."

NIGHTMARES AND LINES OF SUPPORT

"I don't feel like I'm getting better," Andwele said. It was Friday, Aug. 14. The fever had returned. Alternately chilled and sweating, Andwele sat up in bed with half an eye on the television. He looked exhausted.

In the hallway, Collette was conferring with Andwele's urologist. The theory was still that the bullet fragments in his kidney were causing the infection, and for that reason they were treating him with antibiotics and keeping a close eye on his white blood cell count. An increase would signal that the infection was galloping out of control. For the moment, the doctor told her, all they could do was watch and wait.

It's been a down day," Collette said a moment later. "We keep telling him he's getting better every day. But I think he's tired of a whole bunch of doctors coming in and out. He keeps saying, 'I can't get any sleep.'"

For one thing, there was the recurring pain from the huge incision in his abdomen that doctors had made when they were repairing the damage to his intestines. It started in the middle of his chest, zig-zagged to the right at his navel and went down almost to his groin. The staples that held the incision together had had to come out or risk creating another infection, so part of the incision still gaped open. Nurses packed it several times a day with sterile gauze, letting it heal from the inside out.

Most people would have asked for drugs, but Andwele disliked them and tried to avoid them. When the pain was bad, he relied on the telephone.

One night, he said, the pain had been so bad that he called his mother at home.

"Then I sort of hung up on her," he said. "So then she got frustrated and called the nurses' station. Then I called my best friend, this as about 10:15, and we talked until about 12. So then I went to sleep about 12:30 and slept until 2, and then I woke up and listened to the radio for a while. Then at 4 they came in to change my dressing, and I was up for a while after that."

Nights were bad for another reason, he added: the nightmares of that moment on Pennsylvania Avenue.

"BANG!" he said. "I see a big light—boom. And I wake up sweating. Or I just start running. I always wake up sweating." When that happened, he said, it helped for someone to be in the room to at least look at, perhaps get him a glass of ice water and talk for a moment.

Collette, who had watched him sleep more than anybody else, knew about the nightmares before Andwele told her.

"He twitches in his sleep," she said. "Always moving. Picking at the covers."

A DECLARATION OF INDEPENDENCE

Four days later—Tuesday, Aug. 18—Collette greeted a visitor with ebullience.

"Andwele escaped today!" she announced, laughing.

He had been in his wheelchair, coming back from physical therapy, when he decided to take advantage of his freedom from the intravenous tubes, which had been temporarily removed.

"The nurse said she looked up and he was at the elevator, She said, 'Where are *you* going?' and he said. 'Goin' roaming. I'll be back.'"

His exploration took him downstairs to the hospital lobby, where he sat and watched the constant foot traffic for about 20 minutes. Then he went back upstairs and headed off to the obstetrical wing, on the same floor as his room, and spent some time looking at the newborn babies. The escapade wore him out, but his mother was delighted. Every impulse toward independence, she thought, was "a positive sign."

There was no shortage of moral support. Friends crowded his room; his girlfriend, Jocelyn, visited almost every day. Like any teenager, Andwele was constantly on the phone. Once, a visitor to his room found him lying flat on his back, covers over his head, looking corpse-like—until he drew back the covers to reveal a telephone receiver at his ear, a finger at his lips warning the visitor to be quiet. He was grinning.

But recovery would take a lot more than moral support.

That reality began to sink in with the arrival on Saturday, Aug. 22, of a graying, beefy man who paused uncertainly at the door, as if he weren't sure he had the right room.

"Hi," he said, extending a hand. "I'm Michael Sullivan from the Spinal Cord Injury Network. Is there someplace we can talk?"

Sullivan gave Collette a handful of literature—stories of spinal cord injury survivors and how they had coped, a textbook on the medical aftereffects of spinal cord injuries. Some of the complications, he said, included wild fluctuations in blood pressure, pressure sores on the skin, recurrent urinary tract infections.

Collette reached for a napkin on the table where the nurses had been eating coffeecake and wiped her eyes.

Sullivan's tone softened.

"These are not insurmountable," he said. "They seem that way now. It's something to look at it in a positive way. You can say to yourself, 'This is the worst it can ever get.' It's not like multiple sclerosis. And in 10 years, we've made great gains. There's a good chance your son *will* walk again."

Nancy Link, the head nurse on the floor, stuck her head in the door. It seemed that Andwele had had another CAT scan that morning and now needed to drink some kind of mineral oil to get the iodine needed for the test out of his system. The trouble was, she said, Andwele was being a little obstinate.

"I'm on my way," Collette said.

Back in her son's room, she heard his version: Awakened at 6:30 for the CAT scan, he had had to drink a glass of some gross iodine mixture, which he promptly threw up, and which they then make him take intravenously. There were some other procedures too loathsome to describe, and the whole thing had taken about three hours. Now he felt awful. He would drink his medicine, he told his mother, but he wasn't moving out of bed for now.

At that moment, as if on cue, Link popped in to ask cheerily what time Andwele was going to be ready for occupational therapy.

"Let's step outside," Collette said. As she and Link talked in the hallway,they were interrupted at intervals by Andwele's voice bellowing from inside the room. It was the voice of rebellious adolescence.

"I'm not going!" he shouted. "I'm not going! . . . I'm not going"

Collette looked at the nurse and grinned. "He's not going," she said.

'I DON'T KNOW WHAT TO DO'

On Monday, in the late afternoon, Collette stood outside the hospital's main entrance—the only place she could find to smoke—and pondered practicalities.

In one week, she was supposed to report for work at Francis Junior High; the students would be arriving a week later. She had no idea how long Andwele would be at George Washington, and after that how long he would be at the National Rehabilitation Hospital, where she had arranged to have him transferred for the extensive physical therapy he was going to need.

Fortunately, there was enough medical insurance to keep them from bankruptcy; there was even coverage for a home nurse. The first two weeks of care alone had totaled nearly $56,000, all covered by insurance. But so far, she had found no help when it came to the job of getting their house ready for Andwele to live in. There was a wheelchair ramp to be built, doors to be widened, an entire bathroom that had to be made accessible to a wheelchair.

"We're facing thousands of dollars in renovations," she said. She made too much money to qualify for Social Security, it would be two more years before Andwele turned 18 and became eligible for Medicaid, and "the maximum loan I can get from the teachers' credit union is $6,500"—barely enough, she suspected, to do the bathroom renovation.

"I don't know what to do," she said. "I'm at a blank wall."

She stubbed out her cigarette and went back upstairs, where Andwele was sitting up in bed watching "Oprah." Two nurses came in to change some of his linen; she settled down in a corner with a crossword puzzle book.

Suddenly, Andwele began to vomit, and one of the nurses grabbed a basin. Collette looked up, but felt no alarm; Andwele was still having trouble tolerating solid food.

Then there was another sound—one she could not describe. She remembers looking up sharply.

"He was arched with his back in the air and his eyes rolled way back. He was convulsing." For a second, she thought he was playing a practical joke, trying to scare the nurses. She rushed to the bed and grabbed his arm.

"Stop it!" she said. Then she felt the tremors in his arm, throughout his body. She bolted from the room.

"I need a doctor!" she screamed, and three residents at the nurses' station ran toward her. She followed them back down the hall, but they wouldn't let her in the room. Then she heard Andwele's voice.

"No! No!" he was yelling, "You can't do that to me!" She relaxed slightly, realizing from his tone and from what he had seen of medical procedures that they were probably trying to open an airway by pushing a tube into his esophagus.

"We have survived another ordeal," she remembers thinking. Shaking, she turned to walk toward the waiting area. She had taken only a few steps when she heard a frantic voice.

"Code him!" the person was screaming. "Code him!"

She wheeled. Nurses, residents, doctors came from nowhere. A crash cart—the essential equipment that every hospital ward keeps at hand, including the electric "paddles" that can restart a human heart—emerged from a closet and disappeared into Andwele's room.

Collette fought to get in, but someone shoved her out. Two nurses she didn't know appeared from somewhere and grabbed her.

"We can't tell you anything," they kept saying as she struggled to get inside. "Is there anybody you want to call? Is there anybody you want to call?"

"I'm not stupid!" Collette screamed as she fought them. "I know what that means!" Sobbing, hysterical, she sank to the floor.

Later, they told her that Andwele's death probably was caused by a blood clot or maybe two, something that had broken loose from one of his paralyzed legs and made its way to his heart and lungs. The effect was as if he had suffered a sudden, massive heart attack.

That evening, a different set of police officers arrived, and she realized the shooting of her son had entered a new domain, that of the homicide detectives. It would be recorded as the District's 284th homicide of 1992.

The investigation continues, but police say they have no leads.

"It's been happening so much lately," said one 2nd District detective. "A couple of them, they've just been testing out the guns to see if they worked."

"It's hard to say," a homicide detective added later. "You know, kids will shoot each other over almost anything these days."

They buried Andwele yesterday at Maryland National Memorial Park.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH].

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 3329 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BREAUX. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Chair advises the distinguished Senator from Louisiana that there is no pending business before the Senate.

Mr. BREAUX. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana has the floor.

Mr. BREAUX. I thank the Chair.

(The remarks of Mr. BREAUX pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THIRTIETH ANNIVERSARY OF LIBRARY OF CONGRESS' FIELD OFFICE IN INDIA

Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to the 30th anniversary of the Library of Congress' field office in New Delhi, India.

The Library of Congress has every reason to be proud of this program. This field office has allowed research libraries throughout the United States to acquire foreign works that were previously difficult to obtain; it has preserved ancient materials that are now used by other libraries in both India and in the United States; it has been the leader in the cataloging of approximately 40 vernacular languages of India; and it has conducted elaborate studies of India—its languages, history, and cultures. Because of the resources that the new Delhi field office offers, many Americans come to India to do research and to meet Indian colleagues.

In short, for 30 years the Library of Congress' field office in New Delhi has provided a significant cultural and intellectual exchange between India and the United States. We have every reason to look forward to thirty more years of such continued accomplishments.

Mr. President, I ask unanimous consent that the following four speeches delivered on September 3, 1992, at the 30th anniversary celebration for the New Delhi field office be included in the RECORD. The speeches were delivered by the Ambassador to India, Thomas Pickering, the Librarian of Congress, James Billington, the Minister for Human Resource Development in India, Shri Arjun Singh, and the Dean of the Graduate School of Library and Information Science at the University of California, Los Angeles, Beverly Lynch.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

AMBASSADOR THOMAS R. PICKERING EMBASSY OF THE UNITED STATES OF AMERICA ADDRESS ON THE 30TH ANNIVERSARY OF THE LIBRARY OF CONGRESS OFFICE, NEW DELHI, SEPTEMBER 3, 1992

Hon. Minister Shri Arjun Singh, Dr. Billington, Dean Lynch and distinguished guests:

It is really a very special pleasure from this afternoon to inaugurate the Thirtieth Anniversary Celebration of the Library of Congress Office here in New Delhi.

At the outset, I want to tell you that in my family, librarians are very valued—very highly valued. I personally treasure them. They rank equally—and sometimes even above—Ambassadors, and maybe even ministers, Mr. Minister. That is because while I am here as the Ambassador, Mrs. Pickering is the librarian.

So, now with matters put in their proper perspective, you can trust me when I tell you I've had to do my homework regarding the accomplishments of the Library of Congress here in India. Mrs. Pickering and I called on Dr. Billington before we left Washington, and we, of course, have visited the Library's office here in South Extension in New Delhi.

Let me say something about that installation. You may have passed it every day without even noticing it. An ordinary building—or, rather, two buildings joined together—located on the busy Ring Road in New Delhi. From the outside, nothing to distinguish it from its neighbors.

But on the inside, things are very different. Books, books and more books, pamphlets, tapes; almost anything you can think of, being processed for shipment to the Library of Congress—and from there, to more than 30 of the world's great university and other libraries. It is an effort that combines high-quality scholarship in the selection and cataloging process with the administration and shipping capacity of one of the world's busiest book export houses. For 30 years of its operations, this small office has been responsible for acquiring materials from India, Nepal, Bangladesh, Burma, Sri Lanka, and the Maldives and it has shipped over 16 million books and other items.

That's right—16 million. If you like to do this sort of calculation, 16 million books set end to end would stretch about 2,200 miles. Carrying the metaphor another step, you could lay a line of books from Kashmir to just outside the city of Moscow. And in fact, if you had read Dr. Billington's masterful study, "The Icon and the Axe," you could put in historical and cultural perspective what you would observe along that line of books.

In terms of India itself, the accomplishments of the Library of Congress Office here have forged a notable link in the remarkable chain of ties between our two nations. Both the Library of Congress and United States Information Service have made significant contributions to the exchange of information and knowledge between American and Indians.

Under the auspices of the Fulbright program, for example, our two countries have exchanged 8,000 Indian and American scholars, teachers, and university lecturers; and librarians have, I am happy to say, been an integral part of that process. Mid-level librarians from Indian universities have gone to the US to see how we do things, and our own librarians have come here to learn from your Indian experience.

Fruitful linkages have also developed between our two publishing industries. Leading American publishers participate in major book fairs in India, and Indian publishers participate in those held in United States. Through the Indo-American publishing program, over 12 million copies of more than 2,000 American textbooks in low-cost editions have been made available here, and if my calculation is right, that will stretch at least halfway across the United States. In the United States the works of Indian novelists, economists, and philosophers have found an expanding market. The freshness, zest, critical eye and mastery of the language of many of India's young writers have captured the imagination of enthusiastic American audiences.

Within the overall framework of our efforts to deepen mutual understanding, the Library of Congress office here is charged with a particularly inclusive and comprehensive task. For 30 years, it has been providing American scholars with not only books, but magazines, journals, newspapers, pamphlets, posters, phonograph records, film, and video and audio cassettes—whatever has captured life and history in the making of the region.

As a result, we can confidently claim that outside of India, the world's largest collection of materials on post-independence India is housed in the Library of Congress in Washington.

That material is utilized on a regular basis by Members of Congress and their research staffs, seeking to understand better the dynamics and direction of Indian affairs. We know from first-hand reports that the Library's collection—along with the collections held by more than 30 other major libraries receiving materials from New Delhi—also is a source of service, pleasure and inspiration to the tens of thousands of Indian students pursuing higher education in the US, and to the 950,000-strong community of Americans of Indian origin. Moreover, it is no coincidence that the great centers of Indian Studies in the United States are located precisely at those universities which enjoy the fruits of the Library of Congress's endeavors here in New Delhi.

This has not been an effortless process. It has been achieved over the years by a series of dedicated Field Directors and their staff and with the cooperation of the Government of India, the participation of scholars throughout the area, the work of the Library's South Asian regional and country representatives, and the labors of the extensive network of dealers and suppliers.

Therefore, Dr. Billington, we honor you for the original thinking and interpretive genius you have shown in your scholarly works and we congratulate you for the confident steps that you have taken to bring your great library into the 21st century, making its immense resources more widely available through modern technology. As part of this program, we know of your intense personal support for the overseas offices and that support has been vital to their success. In India, you cannot count on all of us as the friends of the Library of Congress and its work here.

And to all the Field Directors of the Library of Congress in New Delhi who have come and gone, the seven whom Lygia mentioned, to Lygia herself and to Alice Kniskern, both of them are, of course, with us today: You can take pride in your accomplishments and those of your dedicated and exceptional staff on the occasion of this thirtieth year of the Library of Congress operation in India. Scholars and laymen around the world are—and will forever be—in your debt.

Congratulations and all good wishes.

And thank you all very much.

JAMES H. BILLINGTON, LIBRARIAN OF CONGRESS, ADDRESS ON THE 30TH ANNIVERSARY OF THE LIBRARY OF CONGRESS, NEW DELHI, SEPTEMBER 3, 1992

Thank you very much, Mr. Minister, Mr. Ambassador, Dean Lynch, Ms. Ballantyne, distinguished guests. I feel a bit anticlimactic. But it is a great privilege and pleasure for me. I think I may be the first Librarian of Congress whose academic specialty was a study of foreign cultures and so perhaps, even though I deserve no credit, I have a special feeling for these 30 years of accomplishments which are the work of this wonderful staff here, the field directors, my predecessors, and my colleagues, many of whom are here. You do the real work. I just appear at the photo opportunities, but I do feel a very great sense of gratitude and excitement at having the chance to come and see this really model field office and model international exchange program in operation.

For the past thirty years, six of our overseas offices, of which this one is the oldest and the largest, have been carrying out what I think is one of the most successful and far-reaching national library programs ever undertaken. But remarkably, this program has remained largely unknown and unsung in library circles. That's why Dean Lynch's eloquent speech and this lovely plaque are so particularly welcome. And during this week when librarians from across the world are meeting in New Delhi for the conference of the International Federation of Library Associations and Institutions, it is a good time to talk a little bit about our overseas program and to reflect on the future of the Library's overseas activities in the information age.

Conceptually, our overseas program is grounded on two of the most cherished principles of the library profession. First, that knowledge must be universally accessible to generate new knowledge: that is, if the knowledge of the past is not available, we can't really invent anything new in the future; and second, that wisdom and libraries are ideally suited to act as a special kind of catalyst in the creative process.

Libraries are, in a sense, temples of democracy. Just as democracy was inconceivable without the culture of the book, so libraries are temples of the pluralism that exists within a democracy because each book is there next to another book that may contradict the one previous to it and all are open to the public. The library is a kind of temple of democracy. One of my predecessors, Archibald MacLeish, called librarians the sentinels of freedom because what they protect is the common patrimony of humanity and is the basis for the kind of dynamic creative process without which democracy stagnates into some form of authoritarian backwater.

Now, these principles have strong roots in America, I think, guiding the actions of the founding fathers of our country who knew that, in order to establish a new nation, access to the best that had already been thought and written was essential to them and to the future leaders of their type of republic. Where did they go? To the library. It is quite fascinating that the first meeting of the Continental Congress in 1774 occurred in the Library Company of Philadelphia. The first meeting of our national congress in New York, after we adopted the national constitution, was also in a library in New York. When we built a new capital in Washington some years later in 1800, through legislation signed by our second president John Adams, the library for the U.S. Congress was formally established. And to me it is exciting as I look out at the Capitol dome from my office in the Library of Congress to think that for the first century of our existence, the Library of Congress was in the nation's Capitol building itself. In other words, our laws were generated for the first century in a building which was itself also a library. Because it was only in 1897 that the Jefferson Building, the first separate building of the Library of Congress, was dedicated.

And Congress' purchase of Thomas Jefferson's excellent library of 6,487 volumes in 1814 made the Library of Congress the best in the new nation. The purchase also established the universal nature of the Library's collection as well as the idea, clearly enunciated by Jefferson himself, that an informed Congress and an informed citizenry were the best guarantors of a free society. His collection included classics from the ancient world, works by European philosophers and scientists, as well as one of the last translations of Kalidasa's Sakuntala by a pioneering European Indologist, Sir William Jones.

A further step towards the internationalization of the Library's collection was taken in 1840 when, Congress passed a law establishing a systematic and regular exchange of official documents and set the precedent for a program that today enables the Library to receive over 500,000 items annually from 15,000 foreign exchange partners. Judy McDermott, our new head of these overseas offices, is supervising that remarkable exchange program that we have with so many foreign partners.

Yet another widening of the Library's scope and mission was brought about by an agreement with the Smithsonian Institution in 1865, which enabled us to acquire on a regular basis the scientific books, journals, and transactions of foreign and domestic learned societies. At the same time, we were able to serve not only the Congress and federal agencies but, increasingly, the general public, taking on a new mission as the national library of the United States, particularly with the passing of the Copyright Act and the locating of copyright deposits in the Library of Congress. Now, the period that brought into being this field office in New Delhi really began a new stage in the Library of Congress's relationship and in America's relationships to the world.

The mid-1950's, in particular, saw the beginning of what has been the largest expansion of higher education in the history of the United States. It was accompanied by a similar expansion in library services and by a concerted effort to build up both foreign scholarly resources in American libraries and the materials necessary to develop language and area expertise in order to create communication between the United States and other countries. Previous speakers have been kind enough to mention me and my predecessor, Daniel Boorstin, so let me go back to Daniel Boorstin's predecessor, L. Quincy Mumford, who redefined the Library's mandate at that time as the need to, and I quote, "acquire all library materials of value to scholarship that are currently published throughout the world."

The overseas offices of the Library of Congress came into being during that golden age of the library's acquisitions. They were made possible by legislation sponsored by Representative John Dingell of Michigan. His bill authorized the Library of Congress to use foreign currencies generated by the overseas sale of American agricultural commodities for the acquisition and cataloging of books, periodicals and other materials for the Library of Congress and for other American research libraries, as you have already heard. It was a visionary piece of legislation whose full impact no one could have possibly predicted at the time.

As Representative Dingell hoped, the program made possible an unparalleled "commerce of ideas" between the United States an unparalleled "commerce of ideas" between the United States and the nations of the world. As you may know, we now have field offices in New Delhi, Karachi, Jakarta, Cairo, Nairobi and Rio de Janeiro, as well as a smaller office in Moscow, whose distinguished representative Michael Levner is with us here today. To scholars and academics of the United States as well as to general readers, the New Delhi program has meant exposure to the richness of India's and South Asia's linguistic diversity and cultural heritage.

Incidentally, I think it is very appropriate that an institution so central to democracy, our largest, oldest, and, in many ways—certainly in terms of this remarkable staff—especially dedicated office should be located in the world's largest democracy. In any event, it has made possible American exposure to the linguistic diversity and the cultural heritage of South Asia, which I must say, as a cultural historian myself, I find a particularly rich and deep and rewarding mine of the world's memory. And this has fostered an enormous expansion of South Asian studies in North America during the last thirty years, an impressive body of American scholarship on this region, and a growing band of scholars conversant in the languages of the subcontinent. Similar benefits have accrued from operations of the Library's other overseas offices. So, it is a unique success story. As a useful by-product of our overseas acquisitions and cataloging activities, each office, as has been pointed out, prepares acquisitions lists which are distributed to libraries worldwide. Here in India, our dealers tell us that many libraries outside America use these lists, as Dean Lynch has already indicated, to place orders for the books selected by the New Delhi office. They know that the office has cast its net wide and tried to acquire the best of the formidable intellectual production of the area. At the same time, by providing a constant market for literary and scholarly works in all languages, the Library of Congress acquisitions program has encouraged publishing in Indian in certain areas and in regional languages.

Like the Library of Congress itself, the Delhi office is deeply involved not just in acquisitions but in preservation. Through microfilm and microfiche projects undertaken by the New Delhi office, large numbers of important books, documents, and other printed materials have been given permanence and made more widely accessible. We are especially pleased at our recent new collaboration with major Indian libraries to microfilm and create automated records for the 60,000 early 20th century books listed in the *National Bibliography of Indian Literature*. This project will preserve for current and future scholars the literary production of the most important period in the recent history of the subcontinent. To our knowledge, this is the largest single preservation project ever attempted. As a collaboration between American and Indian libraries, between public institutions and the private sector, and funded under the United States—India Fund, this project may set the pace for other collaborative projects between the Library of Congress and the area's institutions, something that we have been exploring in a number of conversations here this week.

Already we are talking of undertaking a joint project to collect scientific "gray" literature published by India's premier research institutes and to make it available more broadly to the world's scientific community. This project would team Indian and American experts to establish the methodology for a combined acquisition, preservation, and dissemination project which might be applied elsewhere to control an elusive segment of the scientific bibliography. I mention this project since it complements a recent initiative that the Library of Congress is attempting to launch in this field. Our special project on science and technology is aimed at creating an automated referral service that will be usable by scholars on a worldwide basis, not duplicating other efforts but rather providing a kind of central information switchboard to many databases and sources that already exist, a kind of union catalog, if you like, of scientific and technical information.

Now in the more traditional field of historical bibliography, the Library of Congress and the Sahitya Akademi have been discussing a pilot project to create an automated short-title catalog for the books published in the 19th century in South Asia and listed in the provincial gazettes. This reference tool would fill in a gap in the control of the area's bibliographic production and would greatly benefit Indological studies wherever they may take place.

After many years of looking for ways to make our bibliographic products and library tools more accessible to libraries everywhere, we are able this year, for the first time, to offer them through our overseas offices to interested libraries in exchange for local currencies. We hope this measure will be of service to other libraries who wish to use our automated database in the retrospective conversion of their library catalogs. As our catalogs become automated and as our offices themselves automate their own acquisition and cataloging operations, we hope to be able to share information at will.

Important Indian institutions such as the Indira Gandhi National Centre for the Arts, which I had the pleasure of visiting just yesterday, and Indian research and academic libraries have expressed an interest in two recent initiatives of the Library of Congress: first, the American Memory Pilot Project, which uses CD-ROM and video disks to make available to schools and libraries across America the rich variety of primary source materials from the Library's American collections, currently being tested at 44 locations around the country; and second, our National Demonstration Laboratory for Interactive Information Technology whose machines represent some of the most powerful current technology in information storage, transmission, and presentation. This is located in the atrium of the Madison Building at the Library.

These two projects, I think, demonstrate the productive partnerships that will be possible between government and private industry, particularly if we are able to secure passage of the current fee-for-service legislation now before the Congress which is absolutely crucial if we are going to extend the services of the Library of Congress and create new opportunities. Already, representatives from the companies that provide operational support for the National Demonstration Laboratory, discuss with us issues of significance in information technology, among them intellectual property rights, the development of hardware and software standards, international information flow, and technology equity. Their advice will help the Library as we develop a practical long-term strategy to provide leadership in supplying the information needs of the American people and our international neighbors for the 21st century.

It isn't enough simply to accumulate all this material—we are nearing our 100 millionth item at the Library of Congress—if it is not dramatically brought forward and made able to provide more services to more people which is the main challenge that the Library of Congress faces, and I think, perhaps libraries in general face.

The Library has long operated on the assumption that the ready availability of books from all over the world is the mark of a civilized society. And increasingly, in an interrelated age, the library is going to be a fresh source of creativity across cultural and intellectual specialities bringing new kinds of synthetic thinking, new kinds of connections that need to be made between often confusing specialized sources. Librarians are increasingly becoming knowledge navigators as well as the preservers of this vast heritage. Our overseas offices, by bringing to American libraries the best of the intellectual production of the 60 countries that they cover, representing 2.5 billion people, are, we think, a civilizing force in our increasingly interdependent world.

The New Delhi office, whose dedicated Indian staff really has inspired us all, especially those of us from the Library of Congress who have been privileged to visit it this year, has witnessed thirty years in the life of this great Indian democracy and has enabled many of us in America to have the opportunity to read and study this remarkable record and the long history and culture that lies behind it. During this 30-year period, as we carried out our Congressional mandate to facilitate a commerce of ideas between our two countries, we have worked together with Indian institutions on many worthwhile projects. These have included library policy planning conferences, technical workshops, research on paper preservation, development of transliteration schemes for Indic languages, library-to-library exchanges of publications, training of personnel both in India and in the United States, and the financing of visitor exchanges between the two countries.

Our new projects under consideration convince me that the next thirty years will present increased opportunities for extending our collaboration. On this auspicious occasion of the centenary of the great Ranganathan, I invite you to join us in the search for ways to assure that the riches accumulated in our countries' libraries and archives are made ever more available to the community of learners around the world and are preserved for future generations.

We must thank once again (we cannot do it too many times) the skilled and professional staff, the dedication, the long years of service of our Overseas Offices. Here in India, we also thank the dynamic Indian publishers collectively responsible for one of the largest and most diverse publishing industries in the world and the knowledgeable book dealers who have supplied us. We are indebted to our colleagues from the Embassy and the USIS here in Delhi who have assisted the only overseas program of the Legislative Branch of the United States Government most dramatically exemplified in the hospitality we are enjoying today.

And, above all, we thank, as we always do in the library business, the writers, the poets, the artists, the scholars, the scientists whose works provide the very substance of what we are privileged to preserve and pass on to the next generations which will produce their own writers, poets, artists, scholars, and scientists, whose vision will be enlarged by the broadened international prospective that this program has made possible. All of us have benefitted from this cooperative effort and look forward to seeing even greater accomplishments in the years to come.

And we had a very interesting discussion with you, Mr. Minister, this morning about the interest that is being taken in so many countries, certainly in our own, in the older cultures, the oral cultures, many which previously seemed to be peripheral in many respects. They are being brought into the broader national patrimony in both our countries and, when I think of libraries and when I think of what they represent in the world, I am reminded of a very fascinating remark that I picked up when I went into the interior of our own country, out in the Great Plains, to give a talk about libraries and I had used the term "gatekeepers to knowledge." A man rose at the back of the auditorium and said, "you know, librarians are not gatekeepers." This was a native American from one of the Indian reservations. He said "in the Indian community before we had books and written records, we referred to the special people in the community who gathered in the oral memory of the community and then related it and passed it on from one generation to another as the 'dreamkeepers.'" And that is what I think the librarians of today must be, not merely the gatekeepers but the dreamkeepers. So I thank all of you here in India who have helped us make this dream of closer international cooperation possible. May we not only keep open the gates in the next 30 years but keep the dreams as well.

Thank you all.

Our official speaker this afternoon is the Honorable Minister for Human Resource Development, Shri Arjun Singh.

For over 30 years Minister Singh has served at the Cabinet level in state and national governments, as Governor, as the Chief Minister, and as Vice President of the Congress Party. His titles include Minister of Agriculture and Minister for Education of the state of Madhya Pradesh, Governor of the Punjab, Minister of Communication under Prime Minister Rajiv Gandhi, Chief Minister of Madhya Pradesh, and since 1991 again as a Cabinet Minister in his present capacity. It is a great honor for the Library of Congress to present to you the Honorable Minister Arjun Singh.

SHRI ARJUN SINGH, MINISTER FOR HUMAN RESOURCE DEVELOPMENT, ADDRESS ON THE 30TH ANNIVERSARY OF THE LIBRARY OF CONGRESS OFFICE, NEW DELHI, SEPTEMBER 3, 1992

His Excellency Ambassador Pickering, Mrs. Pickering, Dr. Billington, Madam Lynch, Madam Ballantyne, respected ladies and gentlemen. I thank you very much for inviting me to this function this afternoon on the occasion of the completion of 30 years of the Library of Congress Office in New Delhi, and giving me this opportunity to say a few words.

The good work being done by this office, especially in the acquisition of books from all SAARC countries and also from Afghanistan, is universally acknowledged. I note with pleasure that its book exchange activities with the National Library, Calcutta and the Central Secretariat Library, New Delhi as also with other institutions in India, are going on for quite some time and on a very high level.

The Library of Congress is not only a great institution of the United States. It is a great institution of the world. It goes without saying that many countries in the world look to this library as a model. I am particularly happy to know that recently the Library has opened reading rooms for all the major cultures of the world creating, in the words of Mr. James H. Billington, "a living, universal museum of the written word—the closet thing anywhere to the world's memory." This indeed is a monumental task and I wish this endeavor every success. In a country like ours with a vast multicultural past the problem of storing the great Indian memory, as it were, is truly of epic dimensicn and I do hope that we can learn a lot from the experience of the Library of Congress.

Information and knowledge are in many ways central to the democratic ethos. No democratic polity can survive without the right to information and knowledge being guaranteed to all its citizens. But the contemporary explosion of information and knowledge tends to create elitist tyrannies within the system itself. It becomes crucial therefore "to transform information into knowledge and knowledge into wisdom." Libraries, and certainly a great library like the Library of Congress, democratize knowledge and wisdom making them accessible to all. We should look at the libraries not only as repositories but also as democratizing institutions.

The United States of America and India are two large democracies and we share a lot, many concerns, including those of the freedom, liberty and dignity of man. Whereas we have an historical experience of thousands of years, of many religions, climes, languages and traditions, the new America offers great innovative genius and dynamism. India and the USA have had a long and enduring friendship and collaboration in many fields including those related to knowledge and information. Leaders of all shades of opinion and in all walks of life in this country have been deeply impressed with the openness of the American Society which has over two centuries welcomed ideas, styles, persons from any part of the world. I feel the great success story of the USA is substantially due to its enriching multiculturalism which has always found a vibrant and responsive space in the American society.

Sometimes, one hears the prophecies of doom claiming that books are on their way out, and that both information and knowledge would soon replace them as their vehicles by some other media. Optimistic as I am about still greater leaps forward in technological advance and innovation, I hope that books shall remain with us as trustworthy friends and guides to whom we can always turn for enjoyment as well as enlightenment, and, of course, knowledge. The book, I would like to believe, is a lasting invention of man which shall not fade into history nor grow obsolescent but will remain with us till eternity. Somehow our humanity can never be full or deeply rich without books.

Americans and Indians have always been interested in each other, not only at the level of great leaders, writers, scientists, intellectuals, etc. but also at the level of ordinary citizens. Books have been an important instrument of this familiarity which has matured into mutual respect and regard. The Library of Congress itself has one of the largest collection of books on and about India. It is often said that if a book is not available in India, at least a copy is to be found in the Library of Congress. This is not an ordinary achievement and I would like to express my great admiration as well as gratitude for the fine work the Library has been doing in respect to India.

I would like to mention that although India and the USA do not have any formal Cultural Exchange Program, we do have an Indo-US Sub-Commission on Education and Culture which provides sufficient coverage for mutually needed programs on different areas of culture. Cooperation of Indian and American institutions in bringing together all museum materials on India available in the USA, mutual development of science museums, mutual cooperation in the field of archives, holding of workshops on natural history, conservation, exchange of teachers, students, books, audio-visual material, museum personnel, directors, playwrights, etc., are some of the aspects of the growing cooperation between our two countries. The major focus in the next two years is on an exciting new program called Information 2000+. We have a great sense of satisfaction at the warmth and understanding that the Indo-US Sub-Commission programmes have generated in both the countries. Knowledge and information are boundless and more so in our times. Sharing of them is both a human necessity and an historical duty. I have no doubt that in this area, as indeed in many other areas, the USA and India are coming closer to each other and will do so in the coming years. The Library of Congress has been a significant factor in bringing about this closeness and I am sure it will continue to play that historical role with greater enthusiasm and dynamism.

Thank you.

REMARKS ON THE OCCASION OF THE 30TH ANNIVERSARY OF THE LIBRARY OF CONGRESS NEW DELHI FIELD OFFICE BY BEVERLY P. LYNCH, UCLA, SEPTEMBER 3, 1992

Honorable Minister, Shri Arjun Singh, Ambassador Pickering, Dr. Billington, Ladies and Gentlemen, it is a very great pleasure for me to be here this afternoon, representing the Committee on South Asia Libraries and Documentation (CONSALD) and my own university, The University of California, to mark the occasion of the 30th anniversary of the Library of Congress' Field Office in New Delhi. This anniversary is an important milestone in the history of the Library of Congress' Cooperative Acquisitions Program. The Committee acknowledges, with gratitude, the contributions of this office and the very able staff who have implemented the program consistently and so well for these thirty years.

The Committee is a part of the Association of Asian Studies and, as such, serves as one of the important bridges between university libraries committed to supporting instruction and research on this country and all of its elements and the students and faculty members who study, teach and do research about South Asia.

The program in India, carried out so ably by the field office in New Delhi, serves as a model for the other offices supported by the Library of Congress. All of the members of CONSALD acknowledge the essential contributions made by the office and its staff to the scholarship of Indian studies.

The collections assembled through this program are extraordinarily rich. There is great depth for South Asia as a whole, and particularly for India. Scholars tell us that the collections relating to India now held in research libraries in the U.S. are better than what they can find anywhere else in the world. That is a remarkable achievement and is due directly to the program. We particularly note with that the strong support of the Librarian of Congress and his predecessors. We also acknowledge the support of the U.S. Congress; without the agreement of the Congress to spend the monies here the program could not be sustained. The vision that created this program and the leadership that has sustained it have ensured the systematic and careful selection, acquisition, cataloging and use of materials on all aspects of India.

The material acquired by libraries in the U.S., as a result of this program, has enhanced teaching and research in academic disciplines as diverse as history, political science, economics, anthropology, language and literature, religion and philosophy, music.

A few years ago an Indian scholar was arriving in the U.S. to spend a year as a visiting professor of history at Yale. He sent ahead to the library a list of materials he wanted to have available for his students. To my delight—it was my responsibility at Yale at the time—and to his delight. ALL of the items he identified were in the library's collections, fully cataloged, and available. There was nothing on his list that Yale did not already have. That was due directly to this program.

A Professor of Modern Indian Literature at the University of Pennsylvania wrote: ". . . one of the reasons which made me accept an offer to teach at an American University was the rich collection of South Asian books in the Van Pelt Library. I had not seen something comparable in European libraries nor so well arranged and easily accessible as the PL 480 material in Van Pelt."

The stream of materials sent from the New Delhi office to U.S. libraries have made the U.S. collections the most important repositories in the world for the study of India. The presence of a highly trained staff, onsite in this office in New Delhi, means that the latest current materials are being acquired as they are produced. Bibliographers in the U.S., confident that the current publishing output of the country and the region is being collected and will be coming to their libraries, are able to spend the time developing their collections, seeking out older materials, fugitive materials, materials that are the stuff of scholarship but require careful attention and time to find and then acquire.

Equally important to our libraries and our users is the bibliographic data prepared in the field office. The fine cataloging work done here enables our libraries to get the books on the shelf and into the hands of readers quickly.

The staff in the New Delhi office have been very responsive to the comments from curators and scholars in the U.S. Many tell of ". . . the enthusiastic encouragement given by successive field directors and their staffs for visiting scholars to contribute suggestions for new materials and media and to share insights into the shape of scholarship."

The interactions between the people in Delhi, the staff in Washington, and the libraries which are the repositories for the materials are cordial; the high level of professionalism has made this field office a model.

There are other important benefits which have emerged from this program, but are not so obvious. For example. The distribution of publications from the subcontinent both in English and in the regional languages has benefited greatly from the field office's monthly Accessions List. The list is distributed to over 1000 libraries worldwide. Many of these libraries rely upon this list, using it as an acquisitions tool from which they order copies of the titles from book dealers in India and abroad.

On behalf of the Committee On South Asian Libraries and Documentation and the institutions it represents, I am pleased to present to the library this plaque which lists the Institutions that are members of the committee and reads:

SEPTEMBER 1992

With appreciation for 30 years of outstanding service and program support by the staff of the New Delhi Field Office.

Congratulations on thirty fine years. May there be many more. And thank you.

SENATOR ALAN CRANSTON

Mr. EXON. Mr. President, I want to take this opportunity to bid a fond farewell to my long-time friend, Senator ALAN CRANSTON.

It has been my pleasure to serve for 14 years with ALAN CRANSTON, the entire stretch of time during which I have had the privilege of being a U.S. Senator.

For much of that time, ALAN CRANSTON was the senate whip, and, therefore, in one of the highest positions of leadership in the United States Senate. The whip's job is one of the most thankless, and yet one of the most important, jobs in the Senate. It entails long hours and extensive work. During the many years ALAN CRANSTON served in this position, he not only carried out the whip's job in an extraordinary fashion, he also fully and admirably carried out his duties as one of the U.S. Senators from this Nation's largest State. To accomplish this double duty requires an extraordinary individual and ALAN CRANSTON certainly measures up to that description.

ALAN CRANSTON has always been a rugged individualist, yet has strived hard for many years to do what he believes is best for the United States of America. Not too long ago, ALAN carried out an exemplary race for President of the United States. While many senators may ponder such a step, carrying it out and enduring the rigors of a presidential campaign is no small task.

ALAN CRANSTON will go down in history as one of the most able and influential U.S. Senators of all time. This institution will miss his legislative ability, leadership and drive when we reconvene next January and I will miss a close friend and associate.

HONORING PINK VAN GORDEN

Mr. KASTEN. Mr. President, I rise today to honor truly distinguished public servant. The Honorable Pink Van Gorden has been an outstanding member of the Wisconsin State Assembly for the last decade—and he is now retiring to private life.

Pink Van Gorden has provided a great deal of excellent service to his constituents in the Neillsville area. He entered politics because he cared about his friends in the community—and they are unanimous in believing, along with me, that he has made a big difference for the better in the life of central Wisconsin.

I ask my Senate colleagues to join me in thanking Pink Van Gorden for his long career of service—and in wishing him a happy retirement.

PERU'S NEW FUTURE

Mr. PRESSLER. Mr. President, recently I had the privilege of hosting a lunch for Carlos Bolona, Minister of Finance and Economy of Peru. Mr. Bolona, who was educated in this country and at Oxford, in addition to Peru, became Minister of Economy and Finance in President Alberto Fujimori's government in February 1991.

I was pleased that several of our colleagues also were able to attend or stop by the lunch, including Senators DURENBERGER, COATS, BENTSEN, RUDMAN, BURNS, LOTT, and SIMPSON. All of us were curious to learn more about the future of Peru in light of the recent capture of Shining Path leader Abimael Guzman on September 12. The Marxist Communist guerrilla group was founded by Guzman, a former philosophy professor. Shining Path has conducted a 12-year war in Peru during which time some 23,000 people have been killed. Indeed, Minister Bolona's own home and his ministry building have each come under attack twice during his tenure in office.

Minister Bolona explained that the people of Peru understand the war is not yet over. Shining Path retaliation for the arrest of Guzman and other leaders of the group has caused even more deaths and injury. However, the capture is viewed as a government victory in a significant battle in the war to restore peace to Peru. Minister Bolona admitted concern over the ability of Peru to keep Guzman imprisoned before and during his trial, which likely will be held next month. In addition, Peru likely will be faced with the extremely difficult task of keeping Guzman in prison for the rest of his life. Peru's constitution does not allow for the death penalty.

During the lunch, we also had the opportunity to discuss the current state of Peru's economy. President Fujimori, a long-shot candidate, entered the 1990 presidential race late and, in fact, placed more hope on his concurrent run for the Senate. However, once elected, President Fujimori moved quickly to develop a formula for combating the drug trade, improve results in the war against insurgents, root out corruption by government officials and improve the economy.

With the help of Minister Bolona, the government has reined in inflation from estimates in the thousands of percentage points per year to less than 150 percent in 1991. Significant progress also has been made to begin repaying Peru's arrearages on intergovernmental debt. In addition, relative to prior administrations, the Fujimori government has shown a willingness to cooperate that has encouraged United States policymakers and has expanded the range of issues on which the two countries are working together.

Mr. President, the United States must now take the opportunity to further assist Peru and develop closer ties. Both countries could benefit greatly from mutual cooperation. Peru purchases a significant amount of United States agricultural products and there are tremendous opportunities to increase our exports to Peru. The United States exported 160 million dollars' worth of agricultural products to Peru in 1990. Major exports included unmilled wheat, rice, coarse grains, vegetables, and vegetable oils. Meat and poultry products are making significant inroads into the Peruvian market. Furthering United States agricultural exports helps feed the people of Peru and supports jobs here in the United States.

On a large scale, the United States should continue to promote agricultural diversification in Peru itself. This needs to be an international effort and one that could lead to progress in our fight to combat illegal drugs. Mr. Bolona pointed out that nearly 200,000 farmers grow coca that is used to make cocaine. Unfortunately, simple economics dictate that the most profitable crop for these farmers is the coca plant. Peru is the world's largest coca leaf producer with about 300,000 acres under cultivation for this purpose. This is the source for most of the world's coca paste and cocaine base. Approximately 85 percent of Peru's cultivation is for illicit production. Most of this production winds up in the hands of Colombian drug dealers for processing into cocaine for the international drug market.

Investments need to be made in programs and delivery systems to enable Peruvian farmers to produce traditional crops and make a fair profit. Without such assistance, the source of great tragedy not only in the United States, but the world as well, will continue to grow unchecked. Mr. Bolona estimated that Peru would need $200 million annually for 3 to 4 years to help farmers make the switch to traditional crops.

On the trade front, Mr. Bolona indicated Peru's desire to consider a free-trade agreement with the United States. We talked about the current NAFTA discussions and future discussions on a free-trade agreement between the United States and Chile. I look forward to further talks with Mr. Bolona on the possibility of the United States entering into a free-trade agreement with Peru. Expanded trade between Peru and the United States would greatly benefit both countries.

Mr. President, as the Fujimori administration continues its work on the economic and agricultural fronts, it also is striving to reshape the Government itself. In November, elections will be held for an entirely new congress. That assembly will be charged with the responsibility of drafting a new constitution for Peru. Unfortunately, elections always have been a target of the Shining Path, and with their leader imprisoned that pattern is likely to continue. It is my hope that the elections will go ahead as scheduled, a new constitution will be written, the reforms begun by President Fujimori, with the help of effective young leaders such as Minister of Economy and Finance Carlos Bolona, will succeed and Peru can continue on the road to a new and better future.

SENATOR JAKE GARN

Mr. EXON. Mr. President, I rise to salute my departing colleague from Utah, Senator JAKE GARN.

From Navy pilot to U.S. Senator to Astronaut, JAKE GARN is truly an extraordinary individual. On top of that, he has been a devoted U.S. Senator who has always been a straight-shooter. JAKE GARN has always been tough, yet fair. Even though we happen to sit on different sides of the aisle here in the U.S. Senate, over the years I have developed a deep and lasting respect for JAKE GARN. It takes Senators who are willing to work hard and accept their individual responsibilities as committee members to make this place work. JAKE GARN has always been, and remains, a man of action who has helped to make the U.S. Senate work.

JAKE GARN is a man of the West, who has brought a unique and much-needed perspective to the United States Senate.

For many years, JAKE GARN has been a dedicated public servant, both in the defense of his country and here in the U.S. Senate, as we try to move our country forward into the 21st century.

I salute JAKE GARN and Pat and I want to wish him and Kathleen the best of everything in all of their future endeavors.

SENATE OBSERVER GROUP FOR THE GATT NEGOTIATIONS

Mr. PRESSLER. Mr. President, once again we are approaching year's end, and the current Uruguay round negotiations on a new General Agreement on Tariffs and Trade [GATT] are reaching a critical stage. At this point in 1991 and 1990, there were great expectations for a breakthrough on agriculture that would lead to a successful conclusion of the Uruguay round. Yet no agreement was reached and the talks continue.

Mr. President, a new GATT agreement that ensures freer and fairer trade could bring tremendous benefits to American agriculture by opening more world markets to U.S. farmers and ranchers. Achieving a sound agricultural sector agreement would open the door to concluding negotiations in other key sectors like telecommunications, banking, insurance, intellectual property rights, and Government procurement markets.

Should an agreement on agriculture be reached, then negotiations among all 108 GATT signatory countries would commence to conclude the Uruguay round. Estimates of the worldwide economic benefits from a Uruguay round trade agreement have ranged from $200 billion to $1 trillion.

Selecting a bipartisan Senate observer group to attend the GATT negotiations would send a meaningful message to the other GATT countries that the United States is intent on achieving fair revision of the GATT. A Senate observer group could be a valuable asset to our U.S. negotiators, as we have seen from the past in sending observer groups to negotiations involving arms control.

Mr. President, I recently asked Majority Leader MITCHELL and Minority Leader DOLE to establish a United States Senate observer group to the Uruguay Round GATT negotiations. I hope that such a group can be formed and I ask unanimous consent that my letters to the Senate leadership be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 30, 1992.

Hon. ROBERT DOLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR BOB: I am writing to you and Majority Leader George Mitchell asking that an Observer Group of U.S. Senators be appointed for the ongoing negotiations to reach a new General Agreement on Tariffs and Trade (GATT). Observer Groups, such as the one for arms control, have been appointed in the past and have proven to be very useful.

The appointment of an official group of U.S. Senate observers would demonstrate the determination of the United States to successfully conclude the negotiations. Since the Uruguay Round began in 1986, several members of the Senate have observed the negotiations, though not in any formal position. First hand observation by the U.S. Senate would prove helpful when this body considers implementing legislation for a revised GATT.

Current negotiations are at a critical juncture. A meeting between Ambassador Hills and chief negotiators of the European Community is scheduled for October. The key to successfully concluding the Uruguay round is an agricultural sector agreement and that will be the main topic of the upcoming meeting. Once an agreement is reached on agriculture, then a period of negotiations among all 108 GATT members would commence. Though it is impossible to accurately predict and length of time required for these negotiations, it should take several months at the least.

A bipartisan Senate observer group would send a meaningful message to the other GATT countries that the United States is intent on achieving fair revisions of the GATT. A Senate Observer Group could prove to be a valuable asset to our U.S. negotiators.

I look forward to your response.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

U.S. SENATE,
Washington, DC, September 30, 1992.

Hon. GEORGE MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR GEORGE: I am writing to you and Minority Leader Robert Dole asking that an Observer Group of U.S. Senators be appointed for the ongoing negotiations to reach a new General Agreement on Tariffs and Trade (GATT). Observer Groups, such as the one for arms control, have been appointed in the past and have proven to be very useful.

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I look forward to your response.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

SENATOR ALAN DIXON

Mr. EXON. Mr. President, when we reconvene next January, a bright and shining face will unfortunately be missing from our ranks. Lest there be any doubt about the individual to whom I am referring, I want to pay my tribute to Senator ALAN DIXON.

ALAN DIXON came to the U.S. Senate 2 years after I did and we have served together on committees in addition to being neighbors in the Senate Office Building. ALAN DIXON is perhaps Illinois' most successful political figure. His election to the U.S. Senate was a natural. If I was ever in a legislative fight, I certainly wanted ALAN DIXON on my side. And, if during those rare occasions when we might have differed on a legislative matter, knowing that ALAN DIXON was on the other side would make me redouble my efforts because of his enthusiasm and ability.

Most of all, ALAN DIXON has been a friend to all and especially to me. There is no way yet to measure how much we all will miss that bright, shining face and pleasant demeanor. Needless to say, the Senate will not be as much fun without ALAN DIXON.

I only hope ALAN DIXON knows how much joy he has brought into our lives and that he knows how much I will always value his friendship. Pat and I want to wish him and Jody all the best for a wonderful life ahead.

CAN THE UNITED NATIONS BE FIXED?

Mr. PRESSLER. Mr. President, the United Nations is a broken institution. Ethical standards are not applied, evaluations are self-serving or nonexistent, and a bureaucracy run by diplomats exists mainly to perpetuate itself. As a result, the United Nations consumes ever greater proportions of U.S. taxpayer funds with little hope that quality, cost-effective services will result.

These and other disturbing messages were contained in a series of articles in the Washington Post from September 20–23, 1992. The principal author, William Branigan, is to be commended for excellent investigative reporting that uncovered an unmistakable trail of waste, fraud, privilege, favoritism, and abuse. According to U.N. insiders, the most damning criticism of Mr. Branigan's series is that some problems he cited have been known about for a long time. These experts claim that contemporary examples of a United Nations gone awry reach or exceed many cited in the Post series.

Mr. President, before going any further, I want to state my support for the concept and necessity of the United Nations. This year I am serving for a second time as a U.S. congressional delegate to the General Assembly. I am a long-time member of the Minnehaha County United Nations Association. I am absolutely convinced the world needs effective multilateral bodies to help resolve disputes.

But support for the United Nations as a noble ideal does not mean I support inefficiency, favoritism, greed, and corruption in U.N. agencies or by some U.N. employees. As a Senator, I am grappling with what—if anything—

Congress or the administration can do to hold down U.N. costs, fire or discipline the crooks, create and maintain a meaningful evaluation system, and end the cozy, preferential personnel system that feathers the nests of career diplomats who built it.

There are no easy answers. Raising questions sparks criticism that any United Nations, at any cost and regardless of how it is run, is better than no United Nations. Many U.N. cheerleaders and employees believe there should be a moratorium on criticism. They are wrong. I simply am not convinced—in a time of huge Federal deficits—that the United States can support funding any organization that spends money recklessly. If Congress has not gotten that message on the United Nations yet, it soon will.

It is not helpful to drag the red herring of U.S. funding delays across the trail of excess, inefficiency, and corruption. These problems do not exist because the organization lacks funds. In keeping with vital U.S. priorities, Congress has authorized full payment of funds withheld from the United Nations during the 1980's for nonperformance and anti-Americanism. Congress has been extremely generous in appropriating new funds for the United Nations and for peacekeeping outside the normal budget cycle. It is self-defeating for U.N. employees and some of its friends to tar the United States as an international deadbeat. If nothing else, such abusive language poisons the well in Congress for those of us who recently have fought for full funding.

Sadly, Congress, and perhaps even the administration, seem to have little idea what the U.N. problems are or how to address them. That's a good point at which to begin. American policymakers need a common base of information that can be used to assess the state of the United Nations. This is the jumping off point for negotiations about the United Nation's future.

One meritorious idea has been proposed since the Carter administration, and has been summarized by Assistant Secretary of State John Bolton as a unitary United Nations. It calls for the United Nations, or other international bodies, to decide how a task can best be performed efficiently and assign that responsibility to one agency. The Washington Post articles highlighted areas of overlap and duplication in programs, causing costs for the most heavily assessed country—the United States—to go through the roof.

Although Secretary General Boutros Boutros Ghali has worked hard for top to bottom personnel and budget reform, the U.N. system probably cannot reform itself. The Secretary General's energetic desire to change things rapidly, building on the groundwork of Finland's Martti Ahtisaari, has not yet shown much promise.

Since the United Nations is principally a legislative body, it makes sense to begin with a complete shakeup of the Advisory Committee on Administrative and Budget Questions [ACABQ], adding observers from national legislative bodies. The new ACABQ also should insist that its chairman be held to minimal standards of U.N. employees since he is obviously an employee of that institution.

A tough, independent inspector general is needed, following the model of the State Department's Sherman Funk or USIA's George Murphy. Auditors and inspectors need resources, autonomy, and direction to give them clout and to prevent their reports from being permanently consigned to the proverbial round file.

Congress has dropped the ball on international organizations. Unlike outstanding monitoring work done by the congressional members of the Commission on Security and Cooperation in Europe [CSCS], no arm of Congress has conducted more than a cursory examination of the United Nations and other regional or specialized international agencies. As a result, a handful of pro-U.N. groups and a tiny group of U.S. experts on international organizations dominate what passes for congressional oversight.

More Members of Congress need to be involved in oversight. While I certainly am not advocating an expansion of congressional committee staff, if international organizations are important—and they are—they should be treated that way by the Congress. There is considerable bipartisan need for supplemental information about international organizations that is not generated by enthusiastic, uncritical groups or international agency lobbying.

Finally, the United Nations needs a scale of member assessments that comports with real world realities. CSCE peacekeeping assessments are only 9 percent for the United States, as opposed to more than 30 percent for our share of U.N. peacekeeping. Democratic development activities undertaken by regional organizations like the Organization of American States [OAS] may be better investments and easier to oversee than parallel efforts of the United Nations. Worthy but grandiose efforts, such as United Nations peacekeeping in Cambodia, can become recipes for disaster, as William Branigan's series portrayed. Nongovernmental organizations, like Medicines san Frontieres and AMERICARES, may help more people in Somalia than any United Nations bureaucracy.

In the meantime, current U.S. policy of zero real growth for the U.N. budget and staff must be defended. A majority of Congress clearly supports the United Nations in principle and calls on the United Nations or other international bodies to intervene where they can be effective. But that support could be on shifting sand if relevations such as those in the Post series continue to crop up and are not answered to the satisfaction of the Congress. It is simply not enough for the United Nations and its supporters to say, "trust us."

SENATOR WARREN RUDMAN

Mr. EXON. Mr. President, I rise to salute and pay tribute to my colleague, Senator WARREN RUDMAN.

When the Senate reconvenes in January, a very important person will be missing. While I understand the reasons why WARREN RUDMAN chose not to run for reelection, I will miss his voice of reason and understanding.

As we all know, the most important domestic problem facing the United States of America is 'the outrageous Federal deficit and the mushrooming national debt. No person in the U.S. Senate has worked harder than WARREN RUDMAN to correct this problem. WARREN RUDMAN has not simply talked about the need for deficit reduction and the consequences of failing to achieve it. Instead, he has done something about it and we here in the Senate and Americans all across the country are indebted to him.

I have always enjoyed my association with WARREN RUDMAN. He is dedicated, tough and fair. He has personified the tough New Englander image which Americans all across this great land recognize.

Despite the fact that WARREN RUDMAN will not be a Member of the 103d Congress, I am gratified to know that he will continue his fight for fiscal sanity and for the good of our country.

Pat and I want to wish him and Shirley all the best in the future. I want him to know that I will continue to stand ready to work with him for a better America.

VISIT OF PRESIDENT TER-PETROSSIAN OF ARMENIA

Mr. PRESSLER. Mr. President, recently I had the great privilege of introducing President Levon Ter-Petrossian to a large gathering of ethnic Armenians in New York City. During the event I had the pleasure of meeting Ambassador Alexander Arzoumanian of Armenia's Mission in New York, Dr. Vartan Gregorian, president of Brown University and many others who have given a great deal of themselves to the cause of establishing independence, freedom, and democracy to the former Soviet Republic of Armenia.

The history of the Armenian people contains a number of important milestones. Three events in particular mark the development of the Armenian nation and must always be remembered. First, St. Vartan led the successful campaign against the Persians in 451 A.D. The result of this effort was the establishment of the second Christian country in the Caucasus.

The world is well aware of a second, horrible event, the effort by the Ottoman Turks to wipe Armenians from the face of the earth early in the 20th century. "Genocide" is a term that should be used with great care, but the genocide against Armenians was among the most horrible episodes in all of human history.

I became interested in this issue as a student at Oxford University in the 1960's. Since that time I have believed it is important for public officials to publicly discuss the Armenian genocide often. This cruel experience must not be forgotten. It is important not only because of a moral imperative that we honor the memory of the victims of such atrocities. It also is important because, when the world forgets such events, it allows future despots a freer hand in conducting genocide against other races—as occurred in both Germany and Cambodia. We must do everything possible to ensure that such tragedies of history are not repeated.

The third event was the reason for the celebration in New York. After decades of suffering under the cruel yoke of communism, the world rejoices that Armenia—along with 11 other former Soviet Republics—has emerged as a free and democratic country. President Levon Ter-Petrossian played a major role in this process.

A scholar of ancient Armenian history, President Ter-Petrossian became the first democratically elected president of the Republic of Armenia on October 16, 1991. This marked the culmination of several years of activities as a leading political activist in Armenia—activities that, for a time, cost him his freedom. Under his leadership, the Armenian Legislature adopted a declaration of independence on August 24, 1990 by a vote of 194–0.

President Ter-Petrossian has demonstrated a strong commitment to the ideals of democracy and free markets. He has demonstrated great courage and leadership in seeking normalized relations with all of Armenia's neighbors, without sacrificing the principle of self-determination for the people of Karabakh.

There is no doubt that the world is a safer place now that the Soviet Union has disappeared. There should be no doubt about the debt of gratitude the world owes to democratic nationalists throughout that former empire who helped make freedom possible. The collapse of the Soviet Union has produced a variety of experiments in government—all claim to be democratic. During July, I visited 10 former Soviet Republics as part of a congressional fact-finding mission. In a number of these countries, although the government calls itself a democracy, the same old Communists are in control.

For example, Uzbekistan's Government continues to beat and imprison its political opponents and resented the fact that I met with several opposition leaders who had been brutally beaten by the regime. Yet Uzbekistan says it accepts the Helsinki human rights principles and wants United States foreign aid, despite our huge budget deficit and its behavior toward its own people.

I regret my schedule did not permit me to visit Armenia during my July trip, but I believe true democracy is being built there. I look forward to seeing Armenia for myself in the near future.

Unfortunately, Armenia's new independence is under severe challenge from the same imperialistic forces that were responsible for the 1915 genocide. Some in the press have tried to paint the problems of the former Soviet Union as ethnic in nature. But I think Ambassador Jeanne Kirkpatrick had a more accurate description of what is happening. In a recent article, she said:

> Building collective security measures requires abandoning preferred myths and facing the fact that it is not poverty, not ethnicity, not the break-up of empires that cause war. It is violent and lawless governments.

The government of Azerbaijan is just such a violent and lawless government, and its powerful backers in neighboring Turkey would like nothing better than to assert their influence throughout the Caucasus.

As a supporter of Armenia for many years, and as a member of the Foreign Relations Committee, I support stiff conditions on United States foreign aid to the former Soviet Union. It is essential we send a clear message to Azerbaijan that United States taxpayers will not subsidize dreams of conquest.

I also have supported international observers and peacekeeping efforts in the disputed areas of the Caucasus and elsewhere in the former Soviet Union. It simply makes no sense to expect the Russian Army to be neutral and fair in territories the Soviets controlled for seven decades.

Armenia has many friends in the United States Congress—in both parties. We will not abandon that country in its time of need. I am commited both to stiff sanctions on Azerbaijan and international observer teams in the Caucasus. I also will do all I can to ensure Congress provides humanitarian relief needed to rebuild Armenia in the aftermath of the terrible earthquakes that country has suffered.

Finally, until Azerbaijan ends its blockades and use of force against Armenia and Nagorno-Karabakh; respects the human rights of Armenians, Russians, Jews, and other minorities; and commits to peaceful resolution of the Nagorno-Karabakh conflict, I will continue to support trade and economic sanctions against Azerbaijan. To this end, I am cosponsoring S. 2167, the Restrictions on Azerbaijan Act. This bill is designed to ensure that until the issues I just mentioned are resolved, Azerbaijan will be denied most-favored-nation trading status; loans, guarantees or insurance with respect to U.S. exports to that country; and most foreign assistance; as well as other trade and economic benefits.

In the past few minutes I have said quite a bit about Armenia. But history depends on key women and men during crucial periods. At this moment, Armenia's democratically elected President stands at the crossroads of history. The good he can do at the United Nations, visiting with other world leaders, and especially leaders of the former Soviet Union, and with American foreign policymakers is enormous. Let me also just briefly note the good work done in this country by the Armenian Assembly of America. I commend Ross Vartian, the executive director, Sonia Crow, director of government and legal affairs, and other members of the staff. I also want to make a special note of the efforts of Hirair Hovnanian, chairman of the board of trustees of the Armenian Assembly, who is playing an instrumental role in the reconstruction efforts in Armenia following the earthquakes.

Armenian history—like the history of many countries—has been shaped by scholars, poets, and academics. President Levon Ter-Petrossian, is just such a scholar. On the occasion of its first anniversary of independence, Armenia today is a democratic, pluralistic, market-oriented sovereign state. President Ter-Petrossian has led the successful struggle to create a remarkable island of freedom where a multiparty Parliament is governing the country under his administration. He has earned our appreciation and support. I felt extremely fortunate to be able to introduce him to those gathered in New York for the rally. I remain commited to the effort to ensure that democracy succeeds in Armenia.

SENATOR TIM WIRTH

Mr. EXON. Mr. President, I want to take a moment to honor my departing colleague from the neighboring State of Colorado, Senator TIM WIRTH.

TIM is my daughter, Pam's, Senator since she resides with her family in Greeley, CO. She has worked hard on behalf of TIM WIRTH in his 1986 campaign and admires him greatly. I, too, admire him greatly.

TIM is a fighter who has made a tremendous contribution to the U.S. Senate and the United States of America during his short, 6 years in this body. Some Senators stand out among their peers here and TIM WIRTH has been one of those.

TIM WIRTH's dedication to the betterment of our environmental and to the future of our children and grandchildren is unparalleled in the Senate.

It was with a great deal of sadness that I learned of his decision to retire. Yet, I understand his decision even while, at the same time, mourning the loss of his presence here. TIM WIRTH has been one of the young, rising stars in the Democratic Party and I believe that star will continue to shine brightly for many years to come.

I want to personally thank TIM WIRTH for his dedication and, especially, for his friendship. Pat and I also want to wish him and Wren all the best in the future and want him to know that he will missed very sorely come next January.

TRIBUTE TO SENATOR RUDMAN

Mr. PRYOR. Mr. President, we lose another bright light in the Senate with the retirement of Senator WARREN RUDMAN at the close of this term. This most popular politician in New Hampshire today is not leaving us because he is in trouble with the voters back home. He is leaving this body in part in frustration and in part to move on to other endeavors.

Many may ask how a Republican Senator from New Hampshire and a Democratic Senator from Arkansas could forge such a strong bond. And WARREN RUDMAN and I have done so, Mr. President.

Though we are not in agreement on many issues of public policy and debate, we share a deep faith in our system of government and a deep sorrow when we see it is not operating up to its potential.

WARREN RUDMAN and I sat together for many hours in the Senate Ethics Committee over some very trying issues and dilemmas. You might say we were sentenced to the Ethics Committee, because at times we felt like that.

But in all those long and arduous hours of deliberations on matters dealing with our fellow colleagues, I took strength in the fact that WARREN RUDMAN was a member of the committee. Yes, he could be contentious, but he was also conscientious. And I have never known WARREN RUDMAN to take a position that he could not intellectually defend.

If there has been a reward from our service on the Ethics Committee, then for me it has been to get to know and respect the Senator from New Hampshire.

He shook this institution at its very roots in challenging the way we put together a Federal budget. He masterfully guided the nomination of his friend and successor as attorney general in New Hampshire, David Souter, through the Senate. And he has never forgotten the people who sent him here either. He has championed a contingency fund for the Low-Income Home Energy Assistance Program and a bill to preserve almost 50,000 acres of land in New Hampshire threatened by overzealous development.

So I am saddened, Mr. President, to have to bid farewell to my friend, WARREN RUDMAN. He will truly be missed in the U.S. Senate. His successor in the Senate will indeed have big shoes to fill.

SENATOR STEVE SYMMS

Mr. EXON. Mr. President, I want to salute one of our departing colleagues, Senator STEVE SYMMS of Idaho.

I have served with STEVE SYMMS as long as he has been a Member of the U.S. Senate and will miss him as he departs.

There has been no greater defender of the national security of the United States of America than STEVE SYMMS. His dedication to this goal, and willingness to pursue it, have been an example to us all.

His rugged individualism, dedication, and ability have made a keen contribution to the U.S. Senate. STEVE SYMMS is also a friend who has served his Presidents very well. Even though we are of opposite political parties, I have always known STEVE SYMMS to be one with whom I could work and always get a straight answer. STEVE SYMMS is an example of what a U.S. Senator ought to be. He represents his constituency with vigor, yet always keeps in mind what is best for the United States of America.

I value his friendship and want to wish him all the best in his future endeavors.

RETIREMENTS IN THE ARKANSAS DELEGATION

Mr. PRYOR. Mr. President, Arkansas will bid farewell to three-fourths of its delegation in the House of Representatives when the 102d Congress comes to a close.

CONGRESSMAN JOHN PAUL HAMMERSCHMIDT

JOHN PAUL HAMMERSCHMIDT has served the people of the Third Congressman District for 26 years. JOHN PAUL and I came to the Congress together back in 1967 as freshman in the House of Representatives.

The constituent services that JOHN PAUL and his staff have provided to his people are legend and are a standard which the rest of us in the Arkansas delegation emulate.

As ranking member of the House Public Works and Transportation Committee, JOHN PAUL has been recognized as an expert on transportation matters in the Congress. As the representative of one the fastest growing regions in the country, JOHN PAUL has worked tirelessly to expand and improve U.S. Highway 71, a main thoroughfare in northwest Arkansas. Our State legislature recognized his contributions to transportation in our State by deservedly naming that highway for him.

Arkansas veterans have come to rely on JOHN PAUL as their key man in Washington. By actual seniority, he is ranking member of the Veterans' Affairs Committee as well.

Mr. President, JOHN PAUL will be missed in the Congress. He is one of the many Members of the Congress who has performed his job, without fanfare or headline, day in and day out, to make life for his constituents a little better.

I wish he and Ginny a long and fulfilling retirement. They have earned it.

CONGRESSMAN BILL ALEXANDER

Congressman BILL ALEXANDER leaves us after 24 years of service to the people of the First District. A member of the powerful House Appropriations Committee, BILL has worked to insure that our State gets its fair share of dollars for programs and projects for our people.

The people in northeast and eastern Arkansas know full well that they have BILL ALEXANDER to thank for most of their water and sewer systems, their parks, housing, and rural development programs.

In recent years, BILL has sounded the alarm on the need to more fully utilize alternative fuels, particularly alcohol fuels, as a means of reducing our dependence on oil from foreign sources. Frankly, we should have been listening more closely to BILL ALEXANDER on this issue. I am hopeful that the Congress will move more swiftly to follow up on BILL "trailblazing" in this area.

BILL ALEXANDER has proved to be an able defender of the Economic Development Administration, often the lifeline in poor areas, like a number of those he represents. Likewise, he has been a champion of the REA, another link to progress for rural America. The farmer has never had a better friend in Congress than BILL ALEXANDER.

The voters of the First District always knew where BILL ALEXANDER stood. And while they may not have always agreed, they have respected him for his honesty and forthrightness in office.

BILL, too, will be missed, and I wish he and Debi and their new son Alex all the best as they move on to other endeavors.

CONGRESSMAN BERYL ANTHONY, JR.

In 1978, Barbara and I moved to Washington to take our place in the Senate as BERYL and Sheila ANTHONY came to be in the House of Representatives. We shared the same trials and tribulations of the move, the expectations, fears, the anticipation.

Over the years, we have become very close personal friends, as have our wives. BERYL came to the Nation's Capital with the same kind of enthusiasm and hope that I remembered feeling as a young Congressman back in 1967, coming to Washington to represent the same Fourth District that BERYL has so ably represented these past 14 years.

He gained a coveted seat on the House Ways and Means Committee and quickly became an avid student of the wide range of public policies dealt with by that committee.

He also took the chairmanship of the Democratic Congressional Campaign Committee, setting new records for money raised in support of his colleagues' electoral fortunes. That is a time consuming job that pays few dividends back home. BERYL gave that job, however, his all and a number of fine individuals are serving in the House today due, in large part, to his stewardship at the DCCC.

Barbara joins me in wishing BERYL and Sheila the best as they take on the next task that they pursue.

You can be assured that BERYL ANTHONY will give that endeavor every ounce of strength he possesses.

SENATOR BROCK ADAMS

Mr. EXON. Mr. President, I want to take this opportunity to salute my friend and departing colleague, Senator BROCK ADAMS.

I have known BROCK ADAMS for many years, dating back to his service as the Secretary of Transportation during the administration of President Jimmy Carter. BROCK ADAMS and I have served on committees together here in the U.S. Senate and I truly regard him as my friend.

BROCK ADAMS has been a dedicated public servant for quite some time who brings a unique and important perspective to the U.S. Senate. When you get down to tough work in the trenches, you need a friend and colleague like BROCK ADAMS in there pitching with you in working to get the job done.

Mr. President, BROCK ADAMS is a man of deep conviction who pursues what he believes is right with great enthusiasm and capability. He represents the essence of what a U.S. Senator ought to be—a fighter who has the wisdom and courage to back up his zeal.

Surely the U.S. Senate will be a poorer place without BROCK ADAMS. Pat and I want to take this opportunity to wish him and Betty all the best in the future.

Mr. GRASSLEY. Mr. President, if I may, I would like to have permission to speak as if in morning business.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

U.S. PRISONERS OF WAR

Mr. GRASSLEY. Mr. President, in light of the recent hearings that the Select Committee on POW/MIA Affairs has been having—and we have had several very good hearings over the period of the last 9 months—I want to provide an update as to where I believe the issue now stands, and then where, in my opinion—just speaking for myself as an individual Senator, but also a member of this committee—I think we should be headed.

The committee heard compelling testimony recently from Nixon administration officials who said they believed we left men behind in Southeast Asia. We unearthed countless documents that point to the very same conclusion.

I personally disclosed in hearings recently a series of documents which showed the U.S. Government believed there were 81 prisoners 2 days after President Nixon said that all prisoners of war were home.

This series of documents, Mr. President, constitute the proverbial smoking gun. Perhaps it is more like a smoldering gun.

Was the Government telling it straight when it said all our prisoners were coming home? I believe the definitive answer to that question is "No". According to our own Government's intelligence, 81 men were still being held prisoner. When President Nixon said all were returning home.

Let me explain the documents and provide their context. This blowup of one of the documents shows a weekly status report on the prisoners that our Government believed were being held by the Vietnamese. The document reflects the official position of the Government. Responsibility for maintaining these lists resided with the Comptroller's Office in the Office of the Secretary of Defense. It was a thoroughly coordinated and therefore official assessment that went all the way up the chain of command—to then-Secretary of Defense Elliott Richardson, that is according to Mr. Richardson's own testimony 10 days ago. The bottom line, here, in the document—in the category called "current captured"—it says "81." In other words, there are 81 men upon whom the U.S. Government had intelligence, on March 31, 1973, and were believed to be alive and in captivity. This is just 2 days after homecoming, and 2 days after the President said all our men were on their way home.

Two days before this chart was prepared, the Vietnamese made their final release of our men. That was March 29. The week before that, this weekly status sheet showed 222 "current captured." The number shrunk to 81 one week later because of the final release.

Subsequent weeks show the number falling slightly, so that by June 1973, the number was down to 67. This is because new information had come in from returnees who accounted for the death of some of the list of 81. Meanwhile, some 50 to 75 cases requested by the service secretaries to be added to the list were denied by then-Deputy Secretary of Defense William Clements, according to Clements' own deposition taken by the committee.

Of the 67 men remaining on the current list as of June 1973, a document discovered by the committee, and signed by Clements, reveals how the administration then defined the current captured category. In Clement's own words, in a July 17, 1973 memo to the President—which highlighted in this chart, Mr. President—he said the following:

> Presently, there are 1,278 military personnel who are unaccounted for as a result of hostilities in Southeast Asia. Of this number, 67 are officially listed as prisoner of war based on information that they reached the ground safely and were captured.

This sentence, Mr. President, sums it all up, better than I could. It is as obvious as the smell of manure in the springtime in Iowa. It is just so obvious you cannot turn it off.

The Paris peace accords hearings before our committee left the Nation astonished. Headlines told the story of our country leaving prisoners behind. As one prominent newspaper stated, what was once the unthinkable has become the accepted viewpoint. I quote from the September 22 issue of the Washington Post: it is "an idea that once seemed almost unthinkable but is rapidly becoming the accepted view. * * *"

There are three basic reasons why prisoners could have been withheld. First is the case of Laos. How could the United States demand the return of men captured in Laos whose presence we had never been willing to acknowledge in the first place? Laos certainly would not be obliged to return prisoners at homecoming when we were engaged in a secret war with them.

Second, in the case of Vietnam, is the issue of reparations. Our testimony and depositions show that reparations were the highest priority on the list of the Vietnamese. Dr. Kissinger denied this. He said reparations were a top priority only in the public talks, not in the secret talks. But Gen. Vernon Walters contradicted that assertion. He said reparations were at the top of the Vietnamese' list in the secret talks as well. He said he knew that because he was the translator during the secret talks. And the testimony of Col. Lawrence Robson, the Deputy Chief of the U.S. delegation, four-party joint military team, supported the testimony of General Walters. Colonel Robson was present during negotiations for the prisoner lists. His testimony was that reparations were right at the top of the Vietnamese' wish list. His testimony, like that of Walters, contradicted that of Kissinger. When that contradiction was pointed out to him, and when asked to explain the contradiction, Colonel Robson said that sometimes there is a difference between what is said in Washington and what is said in that sweaty little room where the negotiations were being held.

If it is true that reparations were primary on the minds of the Vietnamese, it is logical to assume they withheld some prisoners after homecoming in hopes they would obtain reparations. To deny that possibility is to deny the obvious. And, of course, we never provided those reparations. So the next obvious question is: What happened to the prisoners?

The third reason why prisoners could have been withheld, again in the case of the Vietnamese, is that we had little leverage to enforce the terms of the treaty. It seems we were caught in a catch-22 situation. On the one hand, Congress rejected the aid package the Vietnamese assuredly viewed as a quid pro quo for United States prisoners. The fact that Congress rejected the aid package may well have sealed the fate of any prisoners still being withheld by the Vietnamese after homecoming. Either in Vietnam or in Laos.

On the other hand, Congress had been misled by Kissinger and Nixon, who maintained there were no secret deals with Vietnam involving an aid package. In fact there was a secret deal, involving more than $4 billion. But it was scuttled by Congress, not knowing of the arrangement. And also scuttled, therefore, was any leverage the United States had to account for those we left behind.

This catch-22 predicament is insightfully explained in an October 5 article in Time magazine by Walter Isaacson. I would like to place this article in the RECORD, Mr. President, to appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. So this catch-22 left us with a very difficult policy decision. We knew the accounting of prisoners and MIA's was inadequate, in both Vietnam and Laos. But without leverage, what could be done to enforce a full accounting?

The choice was unfortunate yet, perhaps inevitable, given the circumstances.

As former Kissinger senior adviser Winston Lord said:

> The President decided not to scuttle the agreement over the MIA issue. It was a very tough decision.

There were other complicating factors that contributed to our failure to gain a full accounting. The most obvious of these is the advent of Watergate. But there may have been other geopolitical issues that took priority. Discussing the question of how hard we pressed for an accounting from the Vietnamese, former Secretary of Defense James Schlesinger put it this way in his deposition:

> The Pentagon would have been very exercised and said that these people (i.e. the Vietnamese) are not living up to their word and we want our men back. Whether the White House would, under those circumstances, think that the investment of capital, as desired by the Pentagon, was a wise investment of White House capital is another question.

Dr. Schlesinger goes on, in the context of the contradiction between the evidence and Nixon's statement, and says the following:

> Then after that it becomes not only an inconvenience in that the pursuit of this objective might interfere with the pursuit of other objectives—that is, an investment of political capital other than that which was desired—but it becomes a positive embarrassment for an administration that has declared that there is nobody left, that all of a sudden some show up.

Where was the political capital actually spent? Schlesinger touched on this in his deposition. He said that Kissinger "was not dealing only with the POW situation. He would have other things that he was concerned about."

> He was concerned about not drawing down on his credit with the Russians too frequently, because he had a SALT negotiation underway. He would be concerned that if he demanded too much of the North Vietnamese on this particular point, that he might be obliged to make concessions, or at least be subjected to demand for concessions on some other point, which he might regard as more important than this issue.

In other words, there may have been more important issues than the full accounting of our MIA's, according to Dr. Schlesinger.

Schlesinger goes on to say there was documentation he saw that spelled this out. He says:

> I recall seeing one of those (documents) that indicated that Dr. Kissinger had expressed concern about the possibility of the North Vietnamese demanding concessions as a consequence of pressing certain issues too hard.

Schlesinger was then asked by a committee attorney:

> Was one of the issues—that we were thinking of pressing—POW's? Was that one of the issues that Dr. Kissinger was concerned, if we pressed it.

Schlesinger's reply: "Yes. I think that that was the context."

Mr. President, I trust our committee will follow up and obtain this documentation alluded to by Dr. Schlesinger. And indeed I have requested that the committee do so. I believe this would shed light on a critical question about why men were left behind.

The bottom line is, there is now abundant, documented evidence that says we left men behind. And now the next obvious question is: Did they survive and, if so, for how long? And what evidence is there to address that question?

These questions have been on the minds of the American people ever since they came to realize that the unthinkable actually occurred. If it is true we left men behind, what happened to them?

There has been as much skepticism about survival of some prisoners as there had been about our country leaving them behind. But given that men were left behind, skepticism of survival is unfair; it is baseless; it is glib; and, it is irresponsible—unless, that is, it is backed up by evidence. Thus far, none has come forth.

It is often conjectured by some that the men we left behind are dead. Such conjecture should not be allowed to stand without attendant evidence. One can think or believe that our men left behind are all dead. But it is a pretty sad state of affairs when the burden of proof is for showing they are alive, rather than showing they are dead.

The same standard should also apply for statements that "there is no credible evidence that men are alive." That proposition might certainly be the case without the context of knowing we left men behind. But with this new context, any evidence at all must be given greater weight than before. The burden of proof must now shift.

This is not to say, Mr. President, that I believe there are men alive even today. I neither believe nor disbelieve that proposition. The point is, let us get the evidence on the table without all the debunking, and let us examine it within the new context that we left men behind.

Within such a context, the burden of proof should be weighted in favor of survival. It would seem logical, since we now know men were left behind, that evidence of survival should be viewed as valid until proven otherwise.

This presumption is in sharp contrast to the presumptions of the Government's previous efforts to pursue POW/MIA evidence, in my view.

Previously, the Defense Intelligence Agency, assuming men were not left behind, would have an extremely high threshold of proof.

DIA, as we all know, is the organization responsible for the POW/MIA issue since 1973. And as America now knows, DIA has been criticized innumerable times, from both inside and outside DOD, as having a "mindset to debunk." In other words, DIA would not be satisfied that evidence was evidence unless it came up and bit them in the leg. That means that anything short of producing a live POW was not considered credible evidence.

Just what is a "mindset to debunk"? For the best answer to that, I refer you to the hearings of our select committee, August 4 and 5. These were the so-called live-sighting hearings.

DIA was asked to defend its analysis that literally thousands of live sighting reports of Americans in captivity were all either fabrications or in some other way false.

Thousands. Every one of those reports was deemed false by DIA. In fact, DIA has no category for possible live POW's in their data base to categorize live sighting reports. Is this amazing, or what?

And, of course, no motive was offered by DIA as to why each of the thousands of reports was false. Perhaps it was a freak of nature. Or, maybe these sources—predominantly refugees—were fibbing, figuring we would be grateful and let them settle in America. Maybe they just wanted to sell false information for money.

In point of fact, Mr. President, most of the credible firsthand sources were already settled in the United States, or did not want to come to the United States. Many were already settled in other countries and were prominent members of society there. And they asked for no money. So what was the motive to lie? DIA has no explanation for this.

Nonetheless, August 4 and 5 witnessed the most adamant and dogmatic display of intelligence analysis by a Government organization that I have seen since entering public office.

Intelligence analysts are traditionally cautious with their assessments. They hedge their analysis by measuring possibilities and probabilities. They are not black and white, as a rule. They are well aware that their readings of intelligence may be flawed or incomplete. It is the only intellectually honest way to present intelligence assessments.

But not the Defense Intelligence Agency. Their analysis cannot be wrong. Ever. Even though they admit they are human and can make mistakes, such a possibility is never reflected in their analysis. If evidence contradicts their position, the evidence must be flawed, not their position. Evidence contrary to their position becomes someone's personal musings, or illusions, rather than a reflection of reality. If my colleagues doubt this, I invite my colleagues to read the transcripts of the August 4 and 5 hearings. During those hearings, when DIA could not explain away evidence that challenged their position, they would maintain their position and cite information not documented or contained in their own files. And today, 2 months after the fact, DIA is still not able to document these citings for our committee.

So the bottom line, Mr. President, is that men were left behind, a new context for evaluating evidence has been established, and the burning question is: Can we trust DIA to competently evaluate evidence of possible survival?

This is the crucial question, Mr. President, because the fact of the matter is that our committee does have evidence that suggests survival. The evidence is in the form of radio intercepts and perhaps live sighting reports, depending on how DIA responds to outstanding questions and discrepancies. Perhaps most compelling, though, this evidence is in the form of distress signals and authenticator numbers captured in overhead photography.

One pertinent question, for instance, surrounding the symbols issue is the following: Does a 4-digit number seen dug into a rice paddy in the mid-1980's, and which matches a classified authenticator number of a known MIA, constitute evidence of a possible living POW?

The committee must examine the possibility that a number of symbols and markings may be attempts by possible U.S. POW's to communicate their locations to intelligence collectors. These symbols and markings have been identified through the use of overhead reconnaissance photography. These possible distress symbols, several of which match pilot distress symbols used during the war, span a period from 1973 to 1988. The committee must also examine followup actions taken by the Government to investigate these symbols.

It should be noted that our Government launched a reconnaissance operation to a possible detention site on the basis of just one such symbol, in the early 1980's.

One of the hurdles we will face in examining this evidence, in my view, is the ubiquitous mindset to debunk. DIA has yet to come to grips with the new context for understanding evidence on this issue. And so the debunking continues, although without credibility, in my view.

The great challenge of our committee will be to examine the new evidence we have on symbols without the bias of DIA's mindset to debunk.

Let me touch a bit on this issue of symbols, Mr. President, because it will be critical for answering questions about possible survival.

And then I would like to address recent circumstances and concerns I have as our committee proceeds to evaluate these symbols.

First, an explanation of the symbols: During the war years, the military services gave many pilots who flew in Southeast Asia individual authenticator numbers. These numbers allowed pilots to identify themselves and their whereabouts to U.S. intelligence experts in the event of their shootdown or capture. Many pilots were rescued during the war thanks to such signals.

Often, fliers had primary and backup distress signals. These were classified, as were authenticator numbers, and they changed periodically.

After the war years, the intelligence community all but stopped looking for distress signals. This was consistent with official policy that all our men were home. The Government's institutional memory on the subject was lost. Monitoring intelligence for symbols became a low priority.

Over the years, some photography surfaced that seemed to show legitimate symbols. Despite the low priority, a significant number of symbols were collected and have been identified by the committee. But both DIA and CIA did little to follow up.

For example, one symbol was spotted in January 1988 but was not followed up by DIA until December 1988, 12 months later.

Perhaps the clearest illustration that the Government ignored the monitoring of distress signals is that the Government agency responsible for training our men to create the symbols was never brought in the loop. That agency is called JSSA, which stands for joint services SERE agency. SERE stands for Search, Escape, Rescue, and Evasion.

It is almost unconscionable that this agency was not brought into the loop, Mr. President. And upon seeing these photographs, JSSA has said most of them are potentially valid, and must be treated as such until proven otherwise. In other words, JSSA views these symbols as possible evidence of survivors.

JSSA's credibility and standing are not based solely on their role as the lead agency for symbols and survival. JSSA has recently been given responsibility for the POW/MIA issue and has been chartered to review the performance of the Defense Intelligence Agency on this issue. Because of this new charter, judgments rendered by DIA, which is the subject of the JSSA review, must be viewed with a filter. Is DIA's opposition to JSSA's belief in the validity of these symbols merely because of bureaucratic jealousy over jurisdiction? In my view, it is high time this issue was taken away from DIA to remove once and for all the stigma of the mindset to debunk.

Now, I raise this issue, Mr. President, because I have gotten wind that DIA is trying to prevent the committee's long-scheduled public hearing on this symbols issue. That, despite the fact that DIA has not even analyzed the data it has been sitting on for years. The rumor is, if a hearing must be scheduled, DIA wants it to be secret. I hope our committee will not succumb to DIA's desire. I, for one, do not want to be accused of a coverup. And I do not think the rest of my colleagues on the committee relish the charge, either.

The importance of raising this issue before the American public is seen by virtue of the controversy within the Defense Department itself on interpreting these symbols. No less than the organization responsible for teaching pilots how to create these symbols says the evidence is valid. Mr. President, we need to examine this issue in a public setting, and let the public decide if this is evidence of surviving MIAs.

This afternoon I have presented my views of the current status of our committee's work, and what more needs to be done. Today, I will provide the committee with a list of issues to be resolved before our business can be called thorough and complete.

The committee has done a tremendous and commendable job of uncovering the events both during and after the Paris peace accords. We now have a good understanding of the fact that we failed to gain an accounting. And we have a good sense as to why.

Our unfinished business involves the question of possible survival. That is the next logical question to deal with. And it must be dealt with in the open.

With just 3 months to go in our committee's charter, there are still numerous documents we have requested and have yet to receive. We cannot make judgments on the remaining crucial question until we see those documents. The Central Intelligence Agency has given us access to only a fraction of their files. We have reviewed only 20 out of 90 boxes of materials we have identified at the National Security Agency. DOD has not provided access to all of its documents. The military services, most notably the Navy, have been uncooperative in varying degrees. In some cases, documents have been provided from headquarters, but not from the various commands.

Mr. President, I do expect my colleagues will not want to foreclose on the question of possible survival. That is, unless and until all the evidence has been examined. As I said earlier, I personally neither believe nor disbelieve men are still alive. But I want a chance to examine the data. I want it all on the table, in full view of the public. And I am confident my colleagues desire this as well. It is the only way we can answer this crucial question with any credibility.

I would only say one additional thing. All that I have spoken about here is just in pursuit of Congress' responsibility, constitutional responsibility, of congressional oversight; to make sure that the administration of laws under several administrations has done everything that the law has required.

But most importantly, for a long period of time, our Government has said that this issue of getting to the bottom of the POW-MIA thing is our Nation's highest priority.

I do not think that our performance has been commensurate with that rhetoric. I think we ought to either perform commensurate with that rhetoric or that we ought to not be telling the people any more that this is our Nation's highest priority.

And these statements that I make and my concern about this issue are not in any way just related to the POW-MIA matter for the Vietnam war or even for the Korean or World War II wars. It is because we tell our enlistees and we tell our draftees, "Ye shall not be forsaken nor forgotten." In other words, if taken prisoner, our Government will do all humanly possible to see that you are rescued and not forgotten.

I would like to believe that the day has come in America that we never will fight any more wars, and I hope that is true. But we are still going to keep a military to see that we do not have to fight any more wars. And in case that maybe we do, we must reaffirm to the people who are in uniform today, and our children and grandchildren that will be in uniform in decades into the future, that when we say, "Ye shall not be forsaken nor forgotten," we will not forsake and we will not forget.

And, as I indicated here, Mr. President, from the beginning, I said there is a memo from the Secretary of Defense to the President of the United States, dated 17 July 1973—3 months after our President said that all were home—that our Government officially recognized, at least that they believe were still alive, 67. And this number 67 is going to stand out in the minds of people now in the military; whether or not we are keeping our commitment to the young people defending freedom, not only America's freedom but freedom around the world so that we can continue to be a shining light for people that hope for freedom and want to maintain their freedom elsewhere.

Mr. President, I yield the floor.

EXHIBIT 1

[From Time Magazine, Oct. 5, 1992]

IMPERFECT HINDSIGHT

(By Walter Isaacson)

It is a reliable rule of statecraft that it is hard to win at the bargaining table what you are unable or unwilling to win on the battlefield. Henry Kissinger, a cold-eyed realist and practitioner of power politics, knew this well. During the four years that he negotiated America's exit from Vietnam, he regularly resisted those people—ranging from Defense Secretary Melvin Laird to the doves in the Senate—who wanted to speed up troop withdrawals and, in Kissinger's view, undercut U.S. leverage at the Paris peace talks. And after the peace accord was signed in January 1973, he repeatedly advocated military pressure to force the communists to comply with the bargain.

Although Laird and two of his successors, Elliot Richardson and James Schlesinger, testified last week before a Senate committee that some American POWS may have been left behind in Indochina, there is no evidence that Kissinger was callous toward their fate. His critics may be justified in attacking his bureaucratic methods, but they have no reason to impugn his motives. As he pointed out in his Senate testimony last week, there were no reliable reports of live Americans being held in violation of the accord. And he was also persuasive in charging that neither the public nor the Congress was willing any longer to support the bargaining levers—economic aid, renewed military involvement—that he considered necessary to force the communists to account for the American servicemen who were still missing.

What Kissinger failed to confront in his testimony was the disjuncture between his explanation that he knew of no POWS still being held and his plaint that he had no bargaining powers to force the issue. Policy involves making trade-offs, and in 1973 a difficult one was made: the Nixon Administration decided that it was best not to scuttle the peace agreement or re-engage in the war despite the fact that some missing Americans had not yet been accounted for. Winston Lord, Kissinger's onetime aide, was the only witness last week willing to discuss this uncomfortable truth, calling the trade-off tough and agonizing. This choice may not have been the right one, but it was an understandable one given the public mood at the time.

But it was partly Kissinger's back-channel methods that made it more difficult to enforce the 1973 treaty and that created the distrust that has surrounded the MIA issue ever since. Kissinger negotiated the Vietnam Peace Accord secretly, cutting Congress and even the State Department out of the process. And on two crucial issues in the final agreement, this furtiveness bordered on deceit.

The first involved the "war reparations" that Hanoi demanded from the U.S. Kissinger offered instead a package of "reconstruction" aid. This was duly noted in the Paris agreement. But Kissinger kept secret a deal he made with the North Vietnamese to send them a presidential letter—three days after the accord was signed—spelling out the detail of this aid. Even trickier was the deal he cooked up to get around Hanoi's insistence that the letter not say this aid was contingent on congressional approval. To solve that, Kissinger drafted a separate presidential letter saying the aid package would "be implemented by each member in accordance with its own constitutional provisions."

Kissinger and Nixon did not tell Congress of these letters. Instead, in between the signing of the treaty and the sending of the letters, they misleadingly informed Congress that there were "no secret deals" involving economic aid. Congress balked at the aid package and thus removed one of Kissinger's bargaining chips for dealing with the MIA issue.

The same was true on the issue of whether the U.S. would be willing to enforce the Paris agreement by retaliating militarily against violations on the MIA issue and others. Kissinger drafter letters, which Nixon signed, making such pledges to South Vietnam's President Nguyen Van Thieu. "We will respond with full force should the settlement be violated by North Vietnam," read one sent in January 1973, and that helped persuade Thieu to sign the peace accord. But Kissinger and Nixon kept these letters secret from Congress—and even from the Joint Chiefs of Staff. As it turned out, Congress was unwilling to authorize force either to press the MIA issue or to save the Thieu government. When the secret letters became public two years later, an uproar ensued that further undermined Kissinger's credibility.

Kissinger was right: deprived of both the carrot of economic aid and the stick of military retaliation, it was next to impossible to make the Vietnamese communists comply with the agreement. And he did work mightily—and honorably—with the few tools left at his disposal to pressure the communists to account for the missing servicemen. But in the end, he was undermined both by the nation's unwillingness to remain engaged in Indochina and by the furtive way he handled the negotiations that led to America's eagerly sought withdrawal from the region.

Mr. KERRY addressed Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I would ask my colleague from Iowa if he could remain just for 1 minute because I wanted to try to ask from him, if I can, a clarification.

But before I do so, I want to thank the Senator from New Jersey for letting me just take a moment ahead of him.

First of all, I would like to congratulate the Senator from Iowa, because I think he has laid out accurately a number of major questions that remain before the committee. And I want to thank the Senator for his personal efforts to try to seek the full accounting and to try to seek a declassification.

The Senator from Iowa has been one of the principal proponents of the declassification process and helped the committee to lay out an approach to that. But what I wanted to try to clarify with the Senator, because I was in my office listening and I heard him say something to the effect that the bottom line is, we left people behind. And, to the best of my knowledge, as chairman of the committee who attended most of the hearings, we have been seeking to be very, very careful about the language on this issue.

If the Senator means, when he says the bottom line is, we left people behind, if he means by that that there was this group who were unaccounted for whom we have reason to believe that the last we knew of them is they were captured and they were alive and we did not get the accounting, it seems to me the testimony is very clear that is true.

What we have to be very careful of is making the automatic leap that all, the vast majority of, or some of those, that we can assume that they were actually alive on a specific day and time.

Now I do not, as a member of the committee, have evidence that says to me—and this is where we got into a great tangle with Secretary Kissinger and a great tangle with other people who have been part of this, Roger Shields, for instance, could somebody say that they knew on a certain day in 1973 when Operation Homecoming took place, did they know that Colonel Somebody or Lieutenant Somebody was, in fact, alive?

Now, I do not think the Senator from Iowa is saying that he knows that on the given day they were alive. If he does know something different which allows him to say that we left people behind, I would like to know it. I believe the Senator from Iowa is saying that we had a right to expect that that group of people listed as POW's, about whom the last thing we knew was that they had been alive and captured, that there was a presumption that they were alive and that they were not accounted for. But there is a distinction between the two.

And I just want to be very careful that before the committee itself sits and deliberates on this and before we come up as a group with our conclusions as to how we are phrasing it, I just want to make sure that the Senator from Iowa and I are on the same wavelength here as to what that evidence really is.

So I really ask him whether that clarification is an accurate one and whether it meets with his approval as to what we understand.

Mr. GRASSLEY. Very definitely.

I would only add to that, though, that I carried on from that point in my remarks to make crystal clear that the approach that DIA has used, that somehow if there was a lead on somebody possibly being in captivity that there was an overwhelming burden to prove your case.

It seems to me, with this sort of admittance on the part of our Government, that it ought to be DIA's approach and they ought to have the responsibility of proving that that information is not accurate. And I listed in the thousands of cases that that is not the case, that they just accept the evidence as not overwhelming enough to show that somebody is there so it has no basis. And to me, that is wrong.

Mr. KERRY. May I say to the distinguished Senator, I agree with a lot of that evidence. I think he is absolutely correct, that we have countless people who have laid out to the committee some of the problems that existed in the evaluative process. And I think his statement today is a good summary, a good summary of some of the difficulties that the committee confronted and a very good statement about some of the things that remain to be done.

There are a lot of documents yet to be declassified. There is a lot of evidence yet to be put in front of the committee. as I say, the Senator is one of the leaders in trying to make that happen. But I just wanted to clarify as to that one point. Because I did not want it to be a premature conclusion of the committee.

I thank the distinguished Senator.

Mr. GRASSLEY. I thank my colleague for the clarification, probably needed clarification, very legitimate clarification. And more important, I thank my colleague for his leadership on the committee, creating an environment where getting all this stuff out on the table is possible.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

THE ECONOMY

Mr. LAUTENBERG. Mr. President, I want to take some time to talk about the state of our economy, where we have been and where we might go.

On October 2, the Department of Labor announced that the unemployment rate stands at 7.5 percent, a rate far higher than the 5.4-percent rate when President Bush took office in 1989. In fact, since George Bush took office, our economy has stalled. We are in the longest recession since the Great Depression, with no end in sight.

According to the latest statistics, the number of Americans holding payroll jobs fell in September by 57,000. And the number of Americans holding manufacturing jobs dropped by 26,000. More than 9.5 million Americans are out of work and more than 1.1 million Americans have dropped out of the labor force because they cannot find a job and they are totally discouraged.

The only reason the unemployment rate dipped slightly from last month's 7.6 percent is because 164,000 Americans dropped out of the labor force altogether in September—a jarring sign of the despair darkening the homes of our people.

These numbers are part of an overall drumbeat of negative news on the economy. Consumer confidence fell for the third consecutive month in September, bringing it to a lower point than it has been on the eve of the past five Presidential elections. Durable goods orders, one of the most reliable barometers of sustained recovery, fell in August for the third time in 4 months.

Sales of existing family homes fell 3.2 percent in August, despite the steep plunge in mortgage rates that began in July and total personal income fell sharply in August. Consumer confidence fell in September for the third consecutive month. The Commerce Department's index of leading economic indicators, a composite statistic designed to predict economic activity during the next 6 months, fell 0.2 percent in August, the second decline in 3 months; 7 of its 11 components worsened significantly.

Experts agree that, taken together, these statistics mean that the economy is going nowhere fast and that means that things are not likely to improve for at least 6 months, if then. But you do not need an expert to confirm what every American but George Bush knows—that our economy is in deep trouble and it needs help now.

And our economic woes have exaggerated our social problems. Today's Washington Post reports the findings of a Fordham University study that tracks the nation's Index of Social Health. That index, which tracks indicators such as poverty, infant mortality, crime and drug abuse, is now at its lowest point in 21 years. Most if not all of these problems have their roots in our economic problems.

And, incredibly, George Bush said in June that he thought the economy was better than Americans realized. In July he said we were in a recovery. And in August he said we were poised for an outstanding recovery. Even last week George Bush said that the job market was improving, when fewer Americans held jobs, and when wages had fallen and when thousands of people had dropped out of the job market altogether.

We have to wake up and read the statistics, or better yet, just talk to the average person across the country. We are facing tough times in my State of New Jersey and across the Nation. Jobs are disappearing—218,000 in New Jersey alone, since George Bush took office. In September, U.S. News & World Report published a "Pocketbook Index" which measures our current economic misery. It developed rankings for each State based on income growth, growth in employment, and growth in unemployment, the rise or fall in home prices and business bankruptcies. In this survey, my State of New Jersey was ranked 50th—the State which took the greatest beating. We have lost income and we have lost jobs. Our unemployment rate is above the national average, real home prices have declined by 8.3 percent—the steepest in the Nation. Bankruptcies have reached record rates. People are suffering. And increasing numbers of middle-class Americans are struggling to pay their mortgage or rent payments, send their kids to college and keep their heads above water.

Nothing that George Bush has done or is prepared to do has made any discernible difference in these facts. Under his stewardship things have gone from bad to worse, and worse yet. The dismal situation in which we find ourselves is the product of an economic record of broken promises and failed economic policies. Although George Bush promised that he would create 30 million new jobs in 8 years, the number of private sector jobs on his watch is actually down—not up. Under George Bush 1.3 million manufacturing jobs have been lost, and over 100,000 farms have been wiped out. The typical family is $1,600 poorer in real income annually than it was 2 years ago.

Ten years ago, the United States had the highest wages in the world. And now we are down to 13th. We have the highest rate of poverty of any advanced nation, and 10 percent of our country is on food stamps. Welfare and Medicaid rolls are growing at record rates. We are 21st among advanced nations in infant mortality. Our cities have turned into armed camps, and virtually no American feels safe in his or her home. And we find out lately that we are not even safe in our own cars.

Last year, Germany and Japan had productivity growth rates that were 3 and 4 times ours and we are raising the first generation of Americans who may actually be worse off than their parents.

George Bush's solution is another short-term capital gains tax cut for the wealthy, a balanced budget amendment with no serious proposals to balance the budget, and across-the-board tax cut in the face of a $400 billion deficit.

The President's solution? He is handling out election year promises with no rhyme or reason as a substitute for a failed economic policy. His election strategy is to break the budget further. As one of my colleagues has said, we should consider moving up election day as our best means of reducing the deficit. He believes if you give tax breaks to the wealthiest Americans, that the benefits will trickle down to everyone else. We have seen that tried. It has not worked.

George Bush's trickle down economics have failed and it is time to try some new ideas. It is time for a new strategy on the economy—one that can restore growth and health to our economy, create genuine economic opportunity with high wage, high skilled jobs for Americans and restore the American dream for those who are willing to work hard—hard enough to succeed.

In the short term we must take bold steps to get the economy moving again and put people back to work. In the long term, we need to change course to put our Nation back on the track of long-term increases in productivity and competitiveness.

As a former businessman, I believe in our free market system. I also believe that Government has an important role to play. It is not enough to just sit back and wait for the economy to take care of itself, because it has not and it likely will not.

We have entered into a period in our history when the economy is global. Our people cannot compete on an unequal playing field with our competitors. They cannot compete with their hands tied behind their backs. Our Nation needs to invest more in our public infrastructure to upgrade our crumbling roads, bridges, airports, and transit systems. Infrastructure investment can create jobs immediately, especially in those areas and industries hardest hit by the recession, equally important, it can lay the foundation for long-term economic growth and greater productivity.

Mr. President, to appreciate the extent to which the United States has underinvested, we just have to take a look at Japan. Between 1973 and 1985, Japan invested 5.1 percent of its GNP in public, physical infrastructure; 5.1 percent. The figure in the United States was 0.3 percent.

Mr. President, weak investment in physical infrastructure leads directly to poor productivity. According to testimony before the Appropriations Committee, for example, deteriorating highways alone are estimated to cost the economy $35 billion annually because of delayed interstate commerce. That is simply unacceptable.

To ease the pain of the recession, we also have to help the long-term unemployed get back to work. There are roughly 300,000 jobless New Jerseyans, many of whom have not been employed for a long period. I proposed legislation to provide businesses with a tax incentive to hire the long-term unemployed through a well-established, existing program, the targeted jobs tax credit. The TJTC now gives benefits to employers who hire ex-convicts and welfare recipients. Surely the long-term unemployed deserve at least the same helping hand.

As the bills mount and the savings run dry, the pressure on long-term unemployed Americans is enormous. Unemployment is often associated with lower self-esteem, medical problems, family problems, and even criminal activity. It is a matter of compassion and good economic sense to put these people back to work. I have also introduced a bill to allow the unemployed to make penalty-free emergency withdrawals from their IRA's, 401(k)'s, and other retirement plans.

These steps will help our economy in the short term, but if we are to create an America that can compete and win in the world economy, that can provide real opportunity to Americans who work hard, then we have to fundamentally reorder our priorities.

Over the past decade, our Nation has indulged itself in consumption at the expense of the future. It is true in business, it is true in Government, and it is true in private households. Of course, there are exceptions, but the trend can be seen throughout the economy. The most dramatic example is the huge budget deficit, which really represents borrowing from our children and grandchildren, a loan that they have not consented to. It would be less troubling if these loans were being used principally to invest in ways that would yield long-term dividends that our children and grandchildren will enjoy. But, unfortunately, we have been borrowing not so much to invest in a productive future, but rather to spend for today's wants and needs.

We have to refocus our attention and our resources on investments for the long range. Investments in the future are our best hope for dealing with our immediate economic problems, as well as our long-term structural economic weaknesses. Investing in the future will require reordering of our priorities from excessive spending on defense to more spending on our domestic needs. Our Nation cannot continue to subsidize the security of our allies, nor can we afford the outdated weapons systems and the waste that bloat the Pentagon budget.

The cold war is over. It is long past time to shift our priorities to needs at home. We have created many of today's economic problem by an underinvesting in the future, while our competitors have invested substantial sums in their infrastructure and in their education, the training of their people, in research and commercializing inventions, and in export assistance. We have not. And we will be paying the price of that neglect for decades to come. We must reverse those policies and expand opportunities for education, training, and retraining for American workers throughout their careers.

Retraining is particularly important as we reduce defense spending, causing millions of defense workers to seek new jobs. Such reductions in the defense in the defense budget, which I support, must be accompanied by programs to help move workers from defense industries to civilian jobs. A sound economic strategy should provide incentives for worker training and education because, while American industry searches for skilled workers in Japan or Germany, we have regions of displaced, unemployed, dispirited workers right here at home desperately seeking jobs.

In the years ahead, American workers will need more than just a strong back and a will to work to succeed. In our increasingly technological world, they will need training and retraining to remain competitive. That is why we have to find new ways to train and educate displaced workers and those who are the most disadvantaged, who threaten to become a burden instead of a productive force.

We must experiment with new programs like comprehensive education and employment centers that merge traditional education with on-the-job training. At the same time, we have to make sure that our tax dollars for schools and colleges are properly spent. Any plan to get our economy back on track must include helping Americans get the education they need to compete in the world of tomorrow.

Vocational education or a college education should be available to every American who wants it. Every American should be able to find the funds needed to go to college. I want to college on the G.I. bill, a benefit available to our World War II veterans that helped to fuel America's postwar expansion and made us the economic envy of the world. If that assistance has not been available to me, I would have never had the opportunity to succeed in business or to be here—to step from behind the counter in my father's store, to start a business that became an industry and become the CEO of a major American company. We should make that same opportunity available to our young people today, and they will be able to pay it back as a percentage of their income when they go to work, or perhaps they will be able to pay it back through community service. By throwing open the doors of our technical schools and universities to the sons and daughters of every American, we will be on our way to creating an America of true opportunity once again.

We also have to take bold action to gain control of health care costs and make decent health care available to all Americans. Rising health care costs are a significant threat to our economic well-being.

Health care costs have skyrocketed, leaving 34 million Americans without health care coverage entirely or underinsured. In 1980, we were spending $250 billion a year for our health needs. This year, we are spending $809 billion. Without restraint, health care costs will exceed 17 percent of our GNP at the end of the decade. Health care costs are inflating our deficit, eating away at workers' pay checks and impairing the competitiveness of small business. It also puts a lock on peoples' job mobility, because they are so afraid of losing their health care insurance in the process of seeking a new job or trying a new venture. Unless we find a way to provide decent health care for all Americans at a reasonable cost, we will never be able to restore the vitality of our economy, remove the biggest burden on small business, or to get our deficit under control.

We also must work for a trading system that allows American business and workers as much access to foreign markets as other countries have to our markets. Otherwise, we will continue to do what we've been doing—exporting our best jobs instead of our best products.

We must assure we provide strong and vigorous protection against theft or exploitation of American ideas. In the past, America has been the world's idea factory. Our ideas and inventions have been our competitive edge. But too often American ideas are exploited or stolen by others.

I wrote existing laws to toughen up the protection of our inventions or intellectual property and make it harder for foreigners to steal America's genius, and we have to follow up with rigorous enforcement. If we hope to compete successfully in today's world, we must set policies that not only protect but that also stoke the fires of invention.

We can do that by making permanent the tax credit for research and development to spur industry to more and better discoveries. We can do it with continued support of our national laboratories and health science institutes. We can also do it through support of the Export-Import Bank, the principal source of Government financing for U.S. exports, which helps our exports remain competitive in the cutthroat international marketplace. And we can do it by putting the vast power of high-speed computer networks at the fingertips of entrepreneurs and other business people striving to bring new products to market or products to new markets. By providing businesses or universities with network access to supercomputers, months, maybe years can be saved off the time required to take new products or manufacturing processes off the drawing boards and into the marketplace.

The world is changing and we are not keeping pace. America is not continuing to take the leadership that it had locked up so many years ago, decades ago, and moving forward with it. We are seeing our ideas, our concepts, our needs, developed by others who borrowed from us, sometimes literally stole from us, but they have made products that suit the marketplace.

There seems to be a lack of understanding in our country that you cannot create these ideas or these products or these programs without having trained minds and the personnel skills with which to do it.

I come from a State that is known as a high-technology State. And what we find, Mr. President, is recruiters, employment directors, search executives have to turn to those who were foreign born, who are welcomed to our shores, to take the jobs of scientists and leaders because, in addition to lack of training, we have lack of experience among the people we need to fill those jobs. So we need to get back on investing in the future, long-range planning, education providing incentives to invent and create. Mr. President, this would not only be helpful to the large companies; it would be very helpful to small- and medium-size businesses.

By encouraging Federal agencies with large R&D budgets to put a little more of those budgets to work on moving invention and new product ideas or processes to the marketplace, we can put technology developed by the Government with tax dollars to work for the American economy and the private sector, the kind of investment that creates long-term high-paying jobs.

Mr. President, the White House has caused gridlock in Washington. Without any plans of its own, it has ruled by veto and by the threat of veto. In the Senate, it rules by filibuster, which takes a supermajority of 60 votes to bring debate to a close and enact legislation.

I am as frustrated by this inaction as are my constituents. It is outrageous what has happened in New Jersey under the Bush Presidency. We need new leadership and bold action to shift national priorities to educate, train, and employ Americans to invest in our future and increase our economic competitiveness.

Mr. President, it is time for our country to stop arguing. It is now time to get on with planning what we do as we approach the 21st century. Frankly, it has been a disappointment as far as this Senator is concerned when I see the empty promises for job creation. Where are the 30 million jobs the President spoke of? Do we wonder, Mr. President, why it is that the American people are so disillusioned with those who hold the power of decisionmaking for our country. We can see that the leadership has failed the country.

Mr. President, I hope that, as we can conclude our business in the U.S. Senate for this year, we can look forward to a new year with a real promise of getting on to solving our problems and a time when we can create real optimism that is, unfortunately, not felt around this country at this time.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 560, a joint resolution, waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the 102d Congress.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Mr. President, reserving the right to object, I have been placed in the position of representing the leader on this side, but I have no instructions for this particular piece of legislation. I am awaiting instructions at this time and will be happy to proceed at that time.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, we are going to establish a new order of business. I ask unanimous consent that we vitiate the first request.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR THE PREPARATION OF OFFICIAL DUPLICATES OF CERTAIN LEGISLATIVE PAPERS

Mr. LAUTENBERG. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 376, just received from the House, that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The resolution is privileged. And unless there is objection, the concurrent resolution (H. Con. Res. 376) is agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 560, a joint resolution waiving certain enrollment requirements with respect to any appropriations bill for the remainder of the 102d Congress.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection, Mr. President.

The PRESIDING OFFICER. Without objection, the joint resolution (H.J. Res. 560) is passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE REHABILITATION ACT AMENDMENTS OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 371, a concurrent resolution correcting the enrollment of the conference report on H.R. 5482, a bill to extend the programs of the Rehabilitation Act for 1973, that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the additional names of HATCH, DOLE, JEFFORDS, and SYMMS be added as sponsors of that legislation.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

REHABILITATION ACT AMENDMENTS OF 1992—CONFERENCE REPORT

Mr. LAUTENBERG. Mr. President, I submit a report of the committee of conference on H.R. 5482 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of October 1, 1992.)

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I rise in support of the conference agreement reauthorizing the Rehabilitation Act. I want to commend Senators HARKIN and DURENBERGER and their staffs for their tireless efforts to forge compromise and craft a thoughtful, solid bill.

The Rehabilitation Act provides a wide array of services to individuals with disabilities. The bill funds essential services to assure that persons with disabilities receive training to become employed and live independently. This training is essential and often makes the difference between a life of productivity or a life of frustration and dependence. Training and employment are key areas of the Rehabilitation Act and are strengthened and enhanced in the reauthorization.

During Senate consideration of S. 3065, the Senate Reauthorization of the Rehabilitation Act, I expressed my concern with the changes made to the rehabilitation engineering centers [REC] included in title II of the bill. I believed the changes diminished the REC's key emphasis on research. I am pleased to report that the conference agreement reestablishes the historical commitment of the REC's to research and strengthens the consumer input and information dissemination.

I had also expressed my concern with changes made to the independent living centers. The conference report maintains the changes made in both the House and Senate bills to the independent living centers [ILC]. These provisions redefine ILC's to serve cross-disabilities, a fundamental change to the current definition which allows services to individuals with single disabilities. I believe the expansion of services to a broader population may be good. However, I do not wish to see populations currently served by ILC's be ignored. I hope the safeguards placed in the bill will continue to assure that, to the extent possible, all individuals with disabilities needing assistance will be served.

Let me now take the opportunity to express my concern about another issue not directly related to this reauthorization. As the primary author of the 1978 amendments to the Rehabilitation Act, I believe recent court decisions denying a private right of action to victims of discrimination by the Federal Government under section 504 of the Rehabilitation Act are in direct conflict with the congressional intent. See, *Cousins* v. *Secretary of the United States, Department of Transportation*, 880 F.2d 603 (1st Cir. 1989); and *Clark* v. *Skinner*, 937 F.2d 123 (4th Cir. 1991). See also, *Carpenter* v. *Department of Transportation*, Civ. No. 91-3935-TEH (N.D. Cal. April 8, 1991); *J.L.* v. *Social Security Administration*, Civ. No. 90-0529-AHS (C.D. Cal. January 22, 1991), *aff'd on different grounds*, *J.L.* v. *Social Security Administration*, 92 C.D.O.S. 6222 (9th Cir. July 15, 1992).

This is in direct contrast to rulings in the ninth circuit in *Doe* v. *Attorney General of the United States*, 941 F.2d 780

(9th Cir. 1991) and *J.L.* v. *Social Security Administration*, 92 C.D.O.S. 6222 (9th Cir. July 15, 1992), and the intent of Congress in 1978 to cover the Federal Government with the same antidiscrimination mandate which is applied to private recipients of Federal financial assistance. In the House debates before initial passage of the 1978 amendments, I stated that the purpose of the amendment extending section 504 to the Federal Government was "simply [to extend] the coverage of section 504 to include any function or activity of any department or agency of the Federal Government." 124 Cong. Rec. 13,901 (1978).

As I stated at that time, the original legislation in 1973 was developed to apply to every phase of American life, but the Justice Department on September 23, 1977, issued an opinion which declared that the Federal Government was exempt from the statute. In light of this, I explained in 1978 that the provision which explicitly adds the Federal Government to the coverage of section 504 was intended to bring "fairness and equity to the entire picture in eliminating discrimination against the handicapped wherever it exists. * * * Somehow it did not seem right to me that the Federal Government should require States and localities to eliminate discrimination against the handicapped wherever it exists and remain exempt themselves. So I developed a provision which is in this conference report that extends coverage of section 504 to include any function or activity in every department or agency of the Federal Government."

Id. at 38,551.

In addition to clarifying the Federal Government's inclusion in section 504, the 1978 amendments added an explicit attorney's fees provision to facilitate private party enforcement of title V of the Rehabilitation Act, including section 504, through private rights of action. Section 505(b) explicitly refers to suits against the Federal Government. There can be no doubt that the 1978 amendments to section 504 provided a private right of action for victims of discrimination by the Federal Government.

There is no need to amend the Rehabilitation Act to provide a private right of action against the Federal Government as some have suggested. The language of the 1978 amendments is sufficient on its face to confer such a private right of action. Moreover, the legislative history created at the time of the 1978 amendments explicitly states the intention to create a "uniform and equitable national policy for eliminating discrimination." 124 Cong. Rec. 13,901 (1978). It would be a disgrace to allow a private right of action against private entities receiving Federal financial assistance, but to deny the same remedy against the Federal Government when it discriminates. Yet, this is exactly the result of the decisions in the First and Fourth Circuits in the Cousins and Clark cases. In erroneously interpreting the statute, the Cousins Court noted that section 505 "does not * * * specifically refer to actions against the government", and found no "indication that is meant to imply that a plaintiff can sue federal agencies directly under Section 504 * * *." 880 F.2d at 607. This analysis works a gross inequity on persons with disabilities who have been subject to discrimination by Federal agencies, leaving them without a remedy for precisely the types of discrimination that the 1978 amendments to section 504 were intended to address. Such a result renders the inclusion of the Federal Government in the 1978 amendments meaningless.

This inequity has a real and ongoing impact on the millions of persons with disabilities who are subject to Federal agency regulations that are promulgated or applied in violation of the nondiscrimination mandate of section 504. This impact is currently being felt in a case in California, *Carpenter* v. *Department of Transportation*, Civ. No. 91-3935-TEH (N.D. Cal. 1991), in which an individual with monocular vision, who had safely driven in interstate commerce for 31 years, had his interstate certification revoked due to his vision impairment. Pursuant to DOT regulations, loss of his certificate per se disqualified him from driving in interstate commerce. This impairment, which he had revealed every two years to the DOT, was belatedly discovered by the agency and used as a basis for stripping him of the certification necessary to maintain his livelihood, with a devastating impact on his income that began over a year ago and continues to this day. Ruling similarly to the Cousins case, the California court held that section 504 did not provide Mr. Carpenter with a private right of action in the district court even though this kind of per se disqualification based on disability is precisely the kind of discrimination that would give rise to a private right of action against a private recipient of federal funds.

As the ninth circuit stated in the Doa case:

> The Rehabilitation Act's legislative history . . . demonstrates Congress's intent not to limit victims of government discrimination to enforcement through injunctive relief under the APA but to permit enforcement through the same means available against private parties: enforcement in the courts with damages and equitable remedies.

941 F.2d 793-94. The ninth circuit has recently reaffirmed Doa in the J.L. case, correctly holding that "Congress, in enacting section 504, waived sovereign immunity and created a private cause of action against the Government." 92 C.D.O.S. at 6225.

Mr. President. My position on this issue is not new and, as stated previously, dates back at least to the 1978 amendments. In 1983, this issue was called into play in connection with the Supreme Court case in Consolidated Rail Corporation versus Lee Ann LeStrange Darrone, No. 82-862. At that time a joined with a number of my colleagues in submitting a "friend of the court" brief supporting the existence of just such a private right of action under the Rehabilitation Act.

To construe the statute otherwise would be the height of hypocrisy, expecting private entities to bear a burden that the Federal Government itself is unwilling to carry. As is clear from the language of the 1978 amendments, the associated legislative history, and the subsequent pronouncements of the Members of Congress principally involved with those amendments, it was the intention of Congress to create a private right of action and the courts should so interpret the statute.

Again, my appreciation and gratitude to the chairman and ranking minority member of the subcommittee and their staffs for their assistance. Their dedication to the needs of individuals with disabilities should be commended.

Mr. DOLE. Mr. President, I support passage of H.R. 5428, the conference report to the Rehabilitation Act Amendments of 1992. This conference report represents many long hours of bipartisan work in both the House and Senate as well as crucial support from the administration and the disability community in crafting a consensus bill that enhances disability policy aimed at consumer choice and support.

While many people with disabilities need only the opportunity to become full citizens, others need supportive services and access to be a part of the mainstream of life. The Rehabilitation Act amendments correctly place the focus of the law on streaming access to vocational rehabilitation services for people with severe disabilities on achieving appropriate job placements as well as the provision of rehabilitation technology the individual with a disability may need in order to succeed at work, and in strengthening the role independent living centers play in assisting consumers to lead self-directed lives.

Having a stable and rewarding job is a basic component of the American dream. Every individual would like to be employed in a job that is enjoyable and stimulating while providing one with sufficient income to meet his/her needs. This conference report represents a variety of occupational choices to empower people with disabilities to pursue productive lives and the American dream. Supported employment, the enhancement of assistive technology application in the workplace, and accessing the appropriate rehabilitation technology to ensure worksite productivity are just a few examples of the strengthening changes made in this year's reauthorization bill.

The difficulty faced by many people with disabilities, however, is that they often are not given the opportunity to demonstrate their talents and abilities to perform certain jobs. Instead, myths and stereotypes regarding the person's inability to perform the job, or fears about hiring a person with a disability for a particular job, preclude the individual from receiving offers of employment or promotion.

We are at an opportune time to begin looking at all our laws which affect citizens with disabilities and refining our statutes to complement the goals and mandates of the Americans With Disabilities Act. Never has there been a stronger demand to integrate disability policy into the philosophy and goals set forth in the Americans With Disabilities Act. I support this conference report and compliment Senators HARKIN and DURENBERGER and their staffs for crafting a reauthorization bill that weaves employment policy for people with disabilities with policies that promote personal choice and self-determination.

Mr. HATCH. Mr. President, when this bill passed the Senate this summer, I mentioned how pleased I was with the bipartisan manner with which the bill was crafted. I am especially grateful that this spirit of cooperation continued into conference. Cooperation does not always mean agreement, and there have been disagreements in this process. However, as a result of open and extensive discussion, consensus has been reached.

I understand that some individuals and groups would have liked to see different provisions than what were included in the bill. I am very cognizant that individuals with disabilities are not all the same. I am very much aware that individuals with disabilities, their families, and others have made their frustrations known with respect to certain aspects of the current system.

I also recognize the concerns of those who administer the program. They, too, have some frustrations resulting from the desire to fulfill the goals and directives of the Rehabilitation Act within real budgetary constraints. But, although the bill is not perfect, I believe all interested parties can say something positive about this legislation.

This bill has been drafted with an eye toward the empowerment of individuals with disabilities, increasing choices, independence, and responsibility of those who want and need rehabilitation services. This legislation continues employment training to increase the self-reliance of individuals with disabilities.

I would like to thank Senator HARKIN and Senator DURENBERGER for their leadership on this issue and for their commitment to the process of building consensus. I would also like to recognize Bob Silverstein, Linda Hinton, and Annie Silberman, and particularly Corine Larson of my own staff, who have worked diligently to bring the bill to this successful conclusion.

I would again like to thank the members of the Utah task force on disabilities and other individuals in Utah with an interest in this legislation. Their participation and feedback have been very valuable to me during this process.

I hope that all those with an interest in this legislation will now work cooperatively to reach the goal of this legislation: To provide and assist individuals with disabilities the tools to become independent members of society through employment.

Mr. HARKIN. Mr. President, I rise today in strong support of the conference report to accompany H.R. 5482, the Rehabilitation Act Amendments of 1992. This is a companion bill to S. 3065, which I am proud to have sponsored along with all of the members of the Committee on Labor and Human Resources and Senator DOLE. H.R. 5482 reauthorizes the Rehabilitation Act of 1973, as amended, and the Helen Keller National Center Act.

I especially want to thank my distinguished colleague from Minnesota, Senator DURENBERGER for his excellent leadership during the reauthorization process. Senator DURENBERGER has worked long and hard on this bill and deserves credit for his commitment to the consensus building process that made this bill possible.

I also want to thank the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the ranking minority member, Senator HATCH, for their leadership and guidance in crafting this legislation. In addition, I want to thank a number of other members of the subcommittee for their contributions to the legislation. Senator SIMON's experience with this legislation has been an invaluable resource throughout the development of S. 3065 and the conference negotiations. Senator JEFFORDS provided valuable advice on changes in the rehabilitation research engineering centers and the civil rights provisions. Senator ADAMS provided assistance to assure that the needs of individuals with disabilities who are aging are adequately addressed.

I want to thank our colleagues from the other body, particularly Representatives OWENS and BALLENGER, for their dedication and hard work in crafting H.R. 5482 and in reaching the agreements contained in this conference report. Just as was the case with the Senate Subcommittee on Disability Policy, the members of the House Subcommittee on Select Education were involved in a 2-year process of reaching consensus on this legislation. Because of this effort, the House bill and the Senate amendment were very similar and the majority of the differences were based on the same policy considerations.

Finally, I want to pay tribute to the staff members who contributed to this legislation, including Bob Silverstein, Linda Hinton, and Melanie Gabel from my staff, Anne Silberman with Senator DURENBERGER, Judy Wagner with Senator SIMON, Corine Larson with Senator HATCH, Pam Kruse with Senator JEFFORDS, Sean Tunis with Senator KENNEDY, Bill Bensen with Senator ADAMS, Gail Laster with Senator METZENBAUM, and Liz Aldridge, our legislative counsel. On the House side, I want to thank Sally Lovejoy with Representative BALLENGER, Maria Cuprill with Representative OWENS, and Alan Lovesee with Representative FORD.

The conferees received constructive advice from the administration and from many organizations, groups, and individuals. In particular, I want to express my gratitude to the staff of the Department of Education, the members of the employment and training task force of the Consortium for Citizens with Disabilities, the Council of State Administrators of Vocational Rehabilitation, and the various national, regional, and local independent living organizations. Advice from these and other groups served as the basis necessary for reconciling the House bill and the Senate amendment in the short time that was available.

Mr. President, I want to make a personal comment about the process used to develop this bill. Those of us working on this legislation over the past 2 years have been guided by one principle—unity. We learned a lesson with the passage of the Americans With Disabilities Act—that when we all work together and stay together we maximize the effect of our efforts to increase the inclusion and integration of individuals with disabilities into our society.

Remembering this lesson throughout the reauthorization process was crucial in keeping everyone involved together and working toward the goal of developing a consensus bill. I am now confident that the implementation of these amendments will proceed with the same degree of trust and respect as has been shown by the various parties during the development of this legislation.

As is always the case in conference, the Senate version of the Rehabilitation Act Amendments of 1992 was not adopted in its entirety. However, I am pleased that the conference report contains all of the Senate provisions necessary to achieve the goals set out by the subcommittee for the reauthorization of the Rehabilitation Act. These goals are:

To ensure that the values embedded in the Americans With Disabilities Act are reflected in the Rehabilitation Act including increased choice and involvement of individuals with disabilities both individually and systematically;

To refine the vocational rehabilitation program including increasing the accountability and quality of the services provided;

To promote the independent living philosophy in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities; and

To ensure that the discretionary programs of research, demonstrations, and training respond to the need of the basic formula grant programs to remain state of the art.

Briefly, I would like to summarize some of the important provisions from S. 3065 that are contained in the conference report.

COORDINATION WITH THE AMERICANS WITH DISABILITIES ACT

The Senate provisions incorporating the principles of the Americans With Disabilities Act are included in the conference report. The principles of respect for individual dignity, personal responsibility, self-determination, pursuit of meaningful careers, and full participation of individuals with disabilities are specifically set out in the purpose section for the entire act and the purpose sections of various sections of the act. In addition, language that reflects the philosophy of inclusion and respect for the dignity of the individual is contained throughout the conference report.

Both the House bill and the Senate amendment address the need for increased choice and involvement for individuals with disabilities who are served by the programs of this act.

The conference report includes the Senate provisions incorporating the standards applied under the employment provisions of the Americans With Disabilities Act into the employment sections of title V of the Rehabilitation Act.

For example, the ADA's definition of reasonable accommodation specifies that reasonable accommodation includes job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

The ADA also includes a definition of the term "discriminate" that includes, for example, limiting, segregating, or classifying a job applicant or employee because of a disability; utilizing standards, criteria, or methods that have the effect of discrimination; excluding qualified individuals because of their association with an individual with a known disability; and using qualification standards, employment tests, or other selection criteria that screen out individuals with disabilities, unless it is shown that the standards, tests, or criteria are job-related for the position in question and are consistent with business necessity. The ADA also includes policies governing preemployment inquiries and examinations, and inquiries of current employees.

Now those who are covered by title V of the Rehabilitation Act will know that these are the definitions of reasonable accommodation and discrimination that apply. They will also know that the standards governing preemployment inquiries and examinations, and inquiries of current employees apply. Incorporating the ADA standards into the Rehabilitation Act will assure that there will be consistent, equitable treatment for both individuals with disabilities and businesses under the two laws.

I want to make it clear that the conference report in no way limits the remedies available under title V of the Rehabilitation Act. As recently affirmed by the Supreme Court, section 504 provides for a full panoply of remedies, including monetary damages and nothing in the conference report changes this in any way.

On a related matter, in response to the position taken by the Justice Department to the contrary, I want to state unequivocally that there is a private right of action against Federal agencies under section 504 of the Rehabilitation Act. As I stated before the Senate on October 30, 1991, Congress "made it clear that the same procedures that apply to actions by recipients of Federal aid—including a private right of action—also apply to actions by the Federal agencies themselves." (CONGRESSIONAL RECORD, S15456, October 30, 1991.)

Senator JEFFORDS and I have been colleagues for a long time. We were both Members of the House of Representatives when the Rehabilitation Act was amended in 1978. I vividly recall the work that then Representative JEFFORDS did on those amendments. Mr. JEFFORDS authored the 1978 amendments to rectify the Justice Department's interpretation that the Federal Government was not covered by section 504. I remember Senator JEFFORDS articulate statement explaining the changes made to section 504:

> Somehow it did not seem right to me that the Federal Government should require states and localities to eliminate discrimination against the handicapped wherever it exists and remain exempt themselves. So I developed a provision which is in this conference report that extends coverage of Section 504 to include any function or activity in every department or agency of the federal government.

Senator JEFFORDS statement makes the intent of Congress crystal clear. In developing the Rehabilitation Act Amendments of 1992, we saw no need to amend section 504 to once again rectify the Justice Department's attempt to narrow the applicability of section 504. The intent of Congress was obvious in 1978 and it remains obvious today—Congress intends that there is a private right of action against the Federal Government under section 504 of the Rehabilitation Act.

THE VOCATIONAL REHABILITATION PROGRAM

Most of the provisions in the House bill and the Senate amendment regarding the basic State grant program and the independent living programs were very similar. The Senate provisions streamlining access to vocational rehabilitation services, ensuring appropriate access for those individuals with the most severe disabilities, improving interagency working relationships and cooperation, improving relationships with business, industry, and labor, and providing for a comprehensive system of personnel development are included in the conference report.

The conference report includes the provisions from the Senate bill requiring each State to develop a strategic plan for the expansion and improvement of vocational rehabilitation services for individuals with disabilities. The provisions require that the plan be developed with input from the public through public forums, from the State Rehabilitation Advisory Council, and from the Statewide Independent Living Council.

THE INDEPENDENT LIVING PROGRAMS

Although there were only minor differences between the House bill and the Senate amendment, the conference report includes the Senate version of the purpose for title VII, which reads as follows:

> The purpose of this title is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individuals and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society.

The conference report includes the Senate provision converting the funding for centers for independent living from a competitive grant program to a formula grant program. This will ensure that there is progress in developing statewide networks of centers for independent living. Both the House bill and the Senate amendment specify standards for centers for independent living including that the centers must be consumer-controlled, private, nonprofit agencies.

The conference report includes the Senate provision increasing the minimum allotment to State agencies for independent living services from $200,000 to $275,000. The conference report also includes a minimum for independent living centers of $400,000 when the appropriation is $4 million or greater than the 1992 appropriation for centers and $450,000 when the appropriation is $8 million or greater than the fiscal year 1992 appropriation.

Both the House bill and the Senate amendment provide that the State plan required under title VII must be jointly signed by the director of the State agency and the Statewide Independent Living Council made up of a majority of individuals with disabilities or their family members.

RESEARCH, DEMONSTRATION PROJECTS AND TRAINING PROGRAMS

Both the House bill and the Senate amendment emphasize that research funded under title II should focus on improving the effectiveness of services provided under the act and that research information should be widely disseminated in practical, usable formats.

The conference report emphasizes that rehabilitation technology can eliminate many of the environmental barriers that prevent individuals with disabilities from fully participating in our society. Changes are made throughout the bill to assure the availability of technology for individuals with disabilities. In addition, the bill updates the authorizing language for the rehabilitation engineering research centers to address the need for systems change in the area of technology transfer. The authorizing language for the centers promotes a practical, realworld orientation that is responsive to the needs of individuals with disabilities.

It is important that rehabilitation researchers focus their efforts on practical applications of rehabilitation technology that remove environmental barriers confronted by individuals with disabilities in all aspects of their lives. The application of technology is integral to the goal of making the promise of the Americans With Disabilities Act become a reality for individuals with disabilities.

In the area of training rehabilitation professionals, the conference report includes the Senate provision of a set-aside of funds appropriated for training under title III for inservice training of State agency personnel. It is critical to the implementation of the Rehabilitation Act amendments that rehabilitation professionals receive training regarding the changes. In addition, these professionals must receive ongoing training in order to keep current regarding state-of-the-art vocational rehabilitation services in areas such as rehabilitation technology and integrated work placement opportunities for individuals with the most severe disabilities.

I urge my colleagues to join me in support of the conference report accompanying H.R. 3065. I believe that this conference report moves us closer to ensuring that the dream of the Americans With Disabilities Act becomes a reality—if we are to see an America where people with disabilities, including those with severe disabilities, are competitively employed in integrated work settings and are making meaningful contributions to their families and communities.

Mr. DURENBERGER. Mr. President, I once again have the honor of standing together on the floor with my friend and colleague from Iowa in support of the major piece of legislation addressing the needs of individuals with disabilities of this Congress, the Rehabilitation Act Amendments of 1992.

Reauthorizing this bill has been a long and challenging process, and there are many people to thank and recognize for the conference report that we proudly put forth to our colleagues today, but first on the list is the chairman of the subcommittee and champion of the disability community, TOM HARKIN. Senator HARKIN's fine leadership and unyielding version of an America that is free of discrimination and provides opportunity for all, has made the Subcommittee on Disability Policy a place in the Senate truly to be proud of. At a time when partisan politics and legislative gridlock are the norms in Congress, this subcommittee has been able to see through a series of momentous pieces of legislation including the Americans with Disabilities Act, all passed by unanimous consent.

One cannot talk about the strides that we have made in this body over the past 10 years for individuals with disabilities in this country without recognizing the important role that numerous other Members of the Senate have made, including my predecessor, Lowell Weicker, the distinguished chairman of the Committee on Labor and Human Resources, Senator KENNEDY, the ranking minority member Senator HATCH, and the minority leader, Senator DOLE.

Mr. KENNEDY. Mr. President, I welcome Senate passage of the conference report on S. 3065, legislation that reauthorizes the Rehabilitation Act of 1973. S. 3065 carries forward and improves programs of vital importance to our fellow citizens with disabilities.

I am pleased to be an original cosponsor of this bill, which has been authored by Senator HARKIN, the chairman of the Disability Subcommittee of the Labor and Human Resources Committee. Senator HARKIN and Senator DURENBERGER, the subcommittee's ranking member, have done a superb job of crafting a bipartisan, consensus reauthorization bill on this complex subject. They engaged in extensive consultation with the disability community, with State officials, and with the Federal Department of Education.

The Rehabilitation Act authorizes training and related services to enable individuals with disabilities to become employable and to live independently. In addition to vocational training, the act funds programs that assist persons with disabilities to live in the community, and funds research on technological devices that can assist the disabled in such areas as mobility and communication.

The Rehabilitation Act is a vital complement to the Americans With Disabilities Act of 1990 [ADA]. Services under the Rehabilitation Act enable many of the severely disabled to take advantage of the legal opportunities afforded to them by the ADA.

Many of the improvements in the current reauthorization are technical and administrative in nature, but the underlying policy goals of the reauthorization are clear: to incorporate the philosophy of integration and inclusion of the ADA into the Rehabilitation Act; to streamline access into vocational rehabilitation for the severely disabled; to develop statewide networks of independent living centers for the disabled; to increase consumer choice and involvement in all aspects of the Act; and to increase the accountability and quality of services provided.

In certain respects, the bill has been improved significantly as a result of the conference committee meeting with our colleagues on the House Education and Labor Committee. In particular, I would highlight the importance of the language now included in the legislation which assures confidentiality for participants in the client Assistance Programs authorized by this Act. It is clear that Congress does not now, nor has it ever, intended for the Secretary of Education to have access to personally identifiable information concerning individual served by the Client Assistance Programs.

Considerable time this year has been spent discussing the benefits of different approaches to the National Commission on Rehabilitation Services. I am particularly anxious that the Commission's report and findings address the role of specialized services in meeting the needs of individuals with low-incidence disabilities, including those who are blind or visually impaired. I would expect that the National Commission will include individuals with low-incidence disabilities and individuals with disabilities who are minorities.

This is important, carefully considered legislation, and I am pleased to see it enacted.

Mr. SIMON. Mr. President, I am once again grateful to the chairman of the Subcommittee on Disability Policy and to his staff, particularly Bob Silverstein and Linda Hinton. There is broad and bipartisan support for the conference report on the reauthorization of the Rehabilitation Act. This support might give the impression that it is a simple matter to extend this popular legislation. But it is never easy to bring together as many interests and parties as are affected by a law as comprehensive as the Rehabilitation Act. Many, many hours of hard work, listening, and getting people to listen to each other are involved. Most important in this case, there was a determination to understand the program and how it is actually implemented in the States. The result is a piece of legislation that can provide growth to the field of rehabilitation and new opportunities for individuals with disabilities. I also want to thank the Coalition of Citizens with Disabilities for their efforts to bring about consensus and move this legislation forward.

This bill preserves the long-term partnership between the States and the Federal Government in the effort to give individuals with disabilities the opportunity to become employed and participate fully in the mainstream of American society. The Rehabilitation Act Amendments of 1992, with broad bipartisan and disability community support, extends and improves the programs that are necessary to make the goals of the Americans with Disabilities Act a reality.

The Rehabilitation Act, in completing the Americans with Disabilities Act, offers the best opportunity for our citizens with disabilities to build productive lives as full participants in society. Key to this is the focus on an outcome of meaningful employment, with independent living and range of other vital services supporting that goal. Vocational rehabilitation is a dynamic field, dependent on new research and on developments in areas such as assistive technology. The success of these programs depends on the availability of highly skilled, well-trained personnel. This conference report recognizes and addresses the importance of each of these elements.

Importantly, the conference report recognizes that individuals with disabilities themselves must be more involved in the decisions that shape their lives. It clarifies that the rehabilitation client has the right, the opportunity, and the responsibility to be actively involved in making the decisions about the services he or she will receive. Rehabilitation counselors and consumers are partners in making the rehabilitation process work.

The Rehabilitation Act is important for what it does for our Nation as well as for what it does for the individuals it serves. It is good to know that these programs will continue and grow into the future. Again, I congratulate our colleague Senator HARKIN and his staff for a bill that moves us forward on the road to equal opportunity for all Americans.

Mr. KENNEDY. I congratulate the Senator from Iowa on this important and thoughtful piece of legislation. I would like to make certain that my understanding of some specific point regarding the Client Assistance Programs authorized in the statute is correct. Would the Senator agree with me that it is the intent of Congress to protect the confidentiality of clients served by these programs?

Mr. HARKIN. I agree with the chairman of the Labor Committee.

Mr. KENNEDY. And does the chairman of the Disability Subcommittee also agree the Congress does not now, nor has it ever, intended for the Secretary of Education to have access to personally identifiable information concerning individuals served by the Client Assistance Programs?

Mr. HARKIN. Again, I agree with the Senator.

Mr. KENNEDY. I thank the Senator from Iowa.

Mr. DODD. Mr. President, I rise today in support of the conference report on the Rehabilitation Act Amendments of 1992. I am proud to say that I am an original cosponsor of the Senate bill, and I urge my colleagues to support the conference report that is now being considered.

Mr. President, this legislation is a vital instrument enabling thousands of people with disabilities to receive the training and develop the skills that will enable them to lead richer and fuller lives. It is the first major piece of disability-related legislation to come through this body since the Americans With Disabilities Act became law.

The conference report is the culmination of cooperative negotiations between the House, the Senate, the administration, all with strong bipartisan support. Input from individuals with disabilities, disability advocates and service providers was utilized at every step of the process. There truly was a consensus of support for this legislation. The process was exemplary and has resulted in legislation that will make much-needed improvements in the law. I commend the chairman of the Disability Policy Subcommittee, Senator HARKIN, for his leadership.

Mr. President, the majority of funding in the Rehabilitation Act goes toward vocational rehabilitation services. These services prepare people with physical and mental disabilities to obtain employment that will enable them to be independent.

Prior to the introduction of this legislation, there were many diverse concerns about vocational rehabilitation services and what improvements could be made. Some complaints were consistent, however. One was that those with the most severe disabilities were shut out of the system, probably because they were more expensive to serve. Another was that the eligibility process was extremely burdensome. We also heard many times that there was not enough consumer choice in the system as it currently functions. Finally, in addition to these policy concerns, we were told that funding was totally inadequate for the number of people who needed services and for the kinds of services that are necessary to help people gain employment and independence.

The conference report which the Senate is considering today fully addresses the policy concerns regarding vocational rehabilitation. The language of the report stresses that all individuals with disabilities, including those with the most severe disabilities, are generally presumed capable of engaging in gainful employment. Eligibility will be streamlined so that existing information from other agencies must be used to the extent possible. Finally, the client will be an active participant in their own rehabilitation plan. At the policy level, individuals with disabilities will play a significant role on the State council.

Improvements have been made to other titles of the Rehabilitation Act. Independent living services are strengthened. Participation by individuals with disabilities is promoted in all aspects of the rehabilitation system. Proposed language clarifies that research and demonstration projects authorized under the Act are targeted to services authorized under the Rehabilitation Act. A new focus is placed on transition services. All of these changes will bring the Rehabilitation Act much closer to the philosophy of empowerment and independence that is espoused in the Americans With Disabilities Act.

Mr. President, the need for services authorized under the Rehabilitation Act is overwhelming. In fact, a 1991 study performed by the General Accounting Office showed that only 7 percent of eligible individuals receive vocational rehabilitation funding. In my own State of Connecticut, these statistics are borne out. It is unfortunate that funding is not available that would enable more individuals who could benefit from these services to become independent, productive workers in our society. Nonetheless, I firmly believe that the improvements that have been offered in this conference report will make more efficient use of scarce resources.

Mr. President, I urge my colleagues to support this important measure.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3325, a bill to reauthorize the Patent and Trademark Office in the Department of Commerce, and for other purposes, that was introduced earlier today by Senator DECONCINI, that the bill be deemed to have been read three times, passed, and the motion to reconsider be laid upon the table, and that a statement by Senator DeConcini be inserted at the appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT

Mr. DECONCINI. I rise today to introduce the Patent and Trademark Office Authorization Act [PTO]. This bill addresses a number of important issues. First of all, it reauthorizes the PTO for 1 year. The Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks, of which I am chairman, remains concerned about the Automated Patent System [APS] and therefore feels it is necessary to maintain strict oversight of the agency.

This bill does not change the fee structure of PTO. Last year's authorization bill gave PTO the authority to annually increase PTO's fees by the Consumer Price Index. Therefore, PTO intends to increase fees by 3 percent at the beginning of the new fiscal year.

APPROPRIATIONS PROCESS

The cost of filing and maintaining a patent has been a contentious issue since the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) forced PTO to become almost totally user fee funded. Despite this fact, PTO is still subject to the appropriations process.

According to the 1990 Budget Act, $99 million of PTO's fees must be deposited in the Patent and Trademark Office Fee Surcharge Fund and then, must be appropriated by Congress. The Senate Appropriations Committee's Commerce, Justice, State Subcommittee only appropriated $86,672,000 of this amount. Thus, $12,328,000 in user fee funds raised from patent applicants and other customers of the PTO are being used to reduce the deficit and cannot be spent by the Office. This is unfair and amounts to a tax on innovation. I intend to continue to object to this practice and work to resolve this problem.

In addition, I strongly believe federally appropriated taxpayer funds should be used to support the PTO. Certain functions of the Office, like their role in international negotiations and Government affairs, should be paid for through public financing and not merely be funded by PTO's users. What better agency than one that protects our inventors and increases America's competitiveness should be supported by our Government?

BOARD OF PATENT APPEALS AND INTERFERENCES

During the Patents Subcommittee oversight hearing on PTO a significant issue was raised concerning the independence of the Board of Patent Appeals and Interferences [Board]. It was brought to the attention of the subcommittee that a duly appointed three person panel, which had reached and signed a decision favorable to the patent applicant, was redesignated by the Commissioner of the PTO when he did not agree with the outcome of the Board's decision. The new panel, consisting of the Commissioner, Deputy Commissioner, the Assistant Commissioner of Trademarks, the Chairman and Vice Chairman of the Board, reached an opposite result. I understand this was an unusual but not isolated case.

Prior to 1927, appeals could be made directly to the Commissioner. In 1927, these appeals were eliminated and the Commissioner was made a member of the Board and given the power to designate Board panels to decide cases. The Commissioner's membership on the Board and his power to appoint panels obviously gives the Commissioner a significant role in the actions of the Board. Nonetheless, the actions by some previous Commissioners of redesignating panels or expanding panels which have reached decisions contrary to their views is inappropriate.

Concerns have also been raised that the current pay and evaluation system for the Board allows management officials the opportunity to affect the Board's independent judgment. The current performance appraisal plan was implemented in 1986 and includes a quota on written appeals. Although I recognize the PTO needs some means of rewarding employees on the basis of output, these issues deserve further evaluation.

Meetings have been held with members of the Board, the patent community and PTO to discuss possible solutions to the concerns raised about the Board's independence. Unfortunately, no one answer has emerged. Therefore, today's bill does not address the issue. However, it is my intention as chairman of the relevant subcommittee to take this issue up early next session. In the meantime, there are a number of different groups studying the issue and PTO has published a notice for public comment and will conduct a hearing on December 1 of this year. A committee of the American Intellectual Property Law Association has made a number of suggested changes, which have yet to be agreed to by their board of directors and the George Washington University National Law Center, Center for International Patent Studies will study the issue and come up with a final report in April, 1993. I look forward to the results of these studies and believe we can resolve this problem next year.

CD-ROM DEMONSTRATION PROGRAM

The bill I am introducing today extends for 1 year, the CD-ROM demonstration program sponsored by Senator Grassley that was created in last year's authorization bill. PTO has made some progress on this project, although they appear nowhere near prepared to meet their October report deadline. In order to give the Office sufficient time to complete their evaluation, this bill extends the project for 1 year. The bill also includes a further requirement on PTO to evaluate alternative formats and methods for organizing patent information. This language was suggested by the General Accounting Office [GAO] which is conducting a thorough evaluation of the APS. GAO has expressed concern that PTO is not adequately reviewing the needs of the potential clients of patent information on CD-ROM.

REPORT ON PCT FEES

The bill also requires PTO to prepare a report on Patent Cooperation Treaty [PCT] fees. The PCT was ratified nearly 20 years ago and has proven to be beneficial in many ways. Concerns have been raised that PCT fees have been set so as to discourage and, in fact, penalize their use. I also understand that the U.S. PCT fee policy is not followed in other countries. While the PTO refuses to reciprocate for searching done by the EPO, the European Patent Office [EPO] allows for lower fees for applications which have been searched at the PTO.

Therefore, the report required by this bill asks PTO to both review the European and Japanese PCT fee structure and provide an explanation of how PTO calculates its fee levels for similar services.

LATE PAYMENT OF MAINTENANCE FEES

Section 107 of the bill provides for the late payment of maintenance fees if the delay in payment is unintentional and it occurs within 24 months after the expiration of the 6-month grace period for the payment of maintenance fees.

Current law requires patent owners to pay maintenance fees three times during the life of a patent, at 3½ years, 7½ years, and 11½ years. The maintenance fee must be paid within a 6-month grace period from the date the fee is due. Thereafter, the Commissioner may accept payment only if the delay is shown to the satisfaction of the Commissioner to have been unavoidable. This standard has been found to be extremely hard to meet. Some patent owners have lost their patent rights due to this inflexible standard. Today's bill will solve this problem.

TITLES II AND III

Title II and Title III of the bill I am introducing today includes legislation which has already passed the Senate. Title I is the Patent and Plant Variety Protection Remedy Clarification Act, introduced on March 21, 1991 as S. 758. Title III is the Trademark Remedy Clarification Act, S. 759 (see Senate Report 102-280), introduced on the same day. Both bills passed the Senate on June 12, 1992. In order to facilitate their passage during this Congress, I am reintroducing them as part of this bill.

So the bill (S. 3325) was deemed read three times and passed; as follows:

[The bill, S. 3325, will appear in a subsequent issue of the Record.]

FEDERAL DEPOSIT INSURANCE AMENDMENTS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3326, a bill to amend the Federal Deposit Insurance Act introduced earlier by Senators Harkin and Grassley, that the bill be deemed to have been read three times, passed, and the motion to reconsider be laid upon the table, and that any statements with respect to this bill be inserted at an appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

CREDIT CARD PORTFOLIOS

Mr. HARKIN. Mr. President, many insured depository institutions are under intense regulatory pressure to strengthen their capital positions in order to achieve compliance with minimum applicable capital standards. Two principal means are available for such purposes: First, raising additional capital funds through the sale of securities; or second, reducing the institution's size through the sale or disposition of assets. In many instances, a troubled institution's access to the capital markets is essentially precluded leaving only the second alternative as practical. The sale of marketable assets, including discreet business operations, effectively reduces the asset size of the seller and enables it to achieve added and needed liquidity. Indeed, industry downsizing was an important policy objective of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] and one of the underlying themes of the Federal Deposit Insurance Corporation Improvement Act of 1991.

FIRREA also gave the FDIC certain powers and rights of a receiver in equity, including the authority to repudiate contracts that it determines are burdensome and the repudiation of which will promote the orderly administration of the affairs of the institution in conservatorship or receivership; 12 U.S.C. 1821(e). The purpose of Congress in providing the FDIC with that authority was to allow the agency to avoid long-term, burdensome leases and similar executory obligations.

Competing bank regulatory policy goals have created a dilemma both for the Government and the financial institutions industry. On the one hand, the primary supervisory agencies actively encourage insured institutions with unsatisfactory capital levels to sell assets in order to comply with the new capital standards. By comparison, the FDIC as receiver and insurer has a legitimate need to want to preserve as much of an institution's assets—particularly the valuable, marketable assets—in order to facilitate such sale and minimize loss to the insurance fund. The challenge, then, is to find a solution that will reconcile these competing policies and still provide protection to the taxpayer.

Credit card portfolios are unique assets because they are one of the most readily marketable assets of many banks. Their exceptional marketability is primarily owing to the discrete nature of such operations and the recent development of highly efficient nationwide markets in that business. The proposed amendment would address the dilemma created by the competing policies by establishing a regulatory scheme that would enable institutions to price such portfolios, and thereby restore market confidence in the integrity of asset sales without increasing any risk or onerous burden on the Government.

Current law does not authorize the FDIC in its capacity as an insurer to review a proposed asset sale prior to its appointment as a conservator or receiver of an institution. By authorizing the FDIC to waive its right to repudiate, the proposed amendment would enable it to review the proposed asset sale by an institution and essentially give notice to all potential acquirors of the risks of acquiring the portfolio should it decline to waive its right to repudiate. The provision contemplates that where the FDIC declines to waive its right to repudiate, the potential parties to the transaction would have two options: First, walk away from the deal and avoid the time and costs associated with a repudiation; or second, to continue with the transaction but to price it differently to account for the likelihood that the FDIC would repudiate at some time if the institution is placed in a conservatorship or receivership. The procedure established gives the FDIC the authority to take preventative actions rather than restrict the agency from acting. The new, proactive authority that would be given to the FDIC has been acknowledged by the agency to likely benefit it.

The amendment provides that where card customer lists are sold or their use is otherwise encumbered, those restrictions will remain in force and be passed through to the successor of a failed institution by a conservator or receiver. The amendment is structured specifically to address the FDIC's need to sell undercapitalized or insolvent institutions to healthier institutions and therefore imposes no greater restrictions on a successor institution than would affect an institution if it were to come into the market without such acquisition.

The proposed amendment only affects sales of credit card operations by insured banks and thrifts. Assuring the ability of institutions to realize the maximum value of such highly marketable assets provides the Government with clear benefits. As an initial matter, it enables institutions to restructure their operations in order to get out of businesses that are either not essential to their core operations or that they may not have the means of carrying on profitably. There is an important public policy goal that is advanced by enabling institutions to sell marketable assets or business operations to prevent them from slipping into insolvency. The provision would effect this goal while at the same time ensuring that the FDIC as insurer and potential conservator gets an opportunity to assess the likely consequences of the proposed sale of an undercapitalized institution's assets. By enabling the FDIC to waive its right to repudiate a proposed sale, the proposal will allow prospective sellers and buyers to price a deal with greater certainty and can aid in the Government's efforts to help undercapitalized institutions attract private sources of capital.

I ask that certain material pertaining to this bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Beneficial Aspects of Amendment

BENEFITS TO THE FDIC

This amendment does not limit or curb the FDIC's flexibility, it expands it. Nothing in current law permits the FDIC as insurer under normal circumstances to prevent (or in effect prevent) an undercapitalized (but not insolvent) institution from selling an asset to raise capital or liquidity. The provision would establish a mechanism for the FDIC to review the proposed sale of a valuable asset by an undercapitalized institution. It can only waive its right to repudiate (thus in effect approving such sale) if it determines that the transaction is in the best interest of the insurance fund.

The amendment will restore the availability of private capital to support weakened financial institutions. This will give the regulators greater private resources to work with. Moreover, it will not prevent, hinder, or delay the closing of any insured depository institution and may work to the FDIC's benefit in avoiding burdensome litigation associated with resolving these claims after the fact.

This is a narrow provision; it explicitly limits its application to credit cards.

BENEFITS OF TAXPAYERS

This amendment will give undercapitalized institutions (consistent with reasonable government oversight) the ability to restructure operations to raise capital. The current market uncertainty impedes the ability of undercapitalized institutions to reorganize and downsize in order to raise capital. By restoring the ability of weakened institutions to attract private capital (without exposing the sources of capital to unquantifiable, losses) the proposal will strengthen institutions and help avoid losses to the taxpayers.

BENEFITS OF SELLERS

This amendment will re-open the market to undercapitalized sellers and increase their return on sale. By eliminating the market uncertainty the proposal will entice potential portfolio bidders to return to the market. More important, the elimination of the market uncertainty associated with the risk of repudiation will enable sellers accurately to price these portfolios. This, in turn, will enable sellers to realize maximum value in the sale of credit card portfolios. The amendment protects sellers and the FDIC by ensuring that any agreement be negotiated at arm's length. Thus, the FDIC will not be precluded from later repudiating an agreement where the sale was made under duress, such as by an institution in desperate need of cash.

BENEFITS TO ACQUIRORS

This amendment will restore certainty to (and stability to) the market for sale of credit card portfolios. This amendment will help potential acquirors assess with a reasonable degree to certainty whether to purchase a credit card portfolio from an undercapitalized institution. Under current law, if one institution acquires a credit card portfolio from a second institution and that sale is later repudiated, the first institution must recognize a loss on that transaction. The procedure established by this amendment would work to give potential acquirors a reasonable degree of certainty in purchasing such assets.

[From the CONGRESSIONAL RECORD, July 1, 1992]

SEC. 908. CREDIT CARD SALES.

(a) IN GENERAL.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from waiving or failing to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

(b) INTERIM DEFINITION OF UNDERCAPITALIZATION.—During the period beginning on the date of enactment of this Act and ending on the effective date of section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), an insured depository institution is undercapitalized for purposes of section 11(e)(14) of the Federal Deposit Insurance Act (as added by subsection (a) of this section), if it does not comply with any currently applicable minimum capital standard prescribed by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, April 9, 1992.
Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for your letter regarding an amendment which would allow the Federal Deposit Insurance Corporation to waive its authority to repudiate contracts for the sale of credit card operations.

This amendment, as provided for in Section 1163 of S. 543, creates a mechanism for parties to credit card sale transactions to obtain a waiver from the FDIC to repudiate these transactions where the selling bank does not meet specified capital requirements. The FDIC may benefit from the credit card notification feature contained in your amendment since it requires troubled banks to notify the FDIC if they intend to sell their credit card portfolio.

As originally drafted, the FDIC had substantial reservations about certain provisions of the amendment concerning restrictions on the FDIC's right to repudiate and its impact on the attractiveness of acquiring failed banks. As you know, we worked with your staff to craft an amendment that does not limit the power of the FDIC to repudiate contracts, considers the FDIC's need to sell insolvent institutions and codifies certain existing FDIC practices. Under the revised amendment, the FDIC also continues to be protected from any transactions undertaken with the intent to hinder, delay or defraud the institution, its creditors or the FDIC.

Upon considering these important revisions to the amendment, the FDIC withdraws its objections.

Sincerely,

WILLIAM TAYLOR,
Chairman.

So the bill (S. 3326) was read three times and passed; as follows:

[The bill, S. 3326, will appear in a subsequent issue of the RECORD.]

THE CALENDAR

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Nos. 686, 687, 688, 689, that the committee amendments where appropriate be agreed to, the bills as amended be deemed read three times, passed, and the motion to reconsider the passage of these measures be laid upon the table, en bloc, that the title amendment where appropriate be agreed to, further that the consideration of these items appear individually in the RECORD, and any statements appear at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

OSCAR GARCIA RIVERA POST OFFICE BUILDING

A bill (H.R. 686) to designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, in its August 5 legislative meeting, the Senate Governmental Affairs Committee added the text of S. 947 to H.R. 2014, a bill to name a post office after Oscar Garcia Rivera. The committee unanimously reported this bill out for passage by the Senate. Senator PRYOR joined with me in introducing S. 947 on April 25, 1991.

S. 947 will produce a much-needed improvement in postal rate and classification administration. Today, even though the Postal Rate Commission [PRC] is recognized by the courts as the predominant authority on postal ratemaking (Time, Inc. versus U.S. Postal Service, 685 F. 2d 760 (2d Cir. 1982)), it cannot appear when postal rate cases go to the courts of appeals. This is so because the Postal Governors make the final decision, and it is their order that is appealed.

It stands to reason that—especially when dealing with highly technical rate and costing matters, embodied in a 40,000-page record—the court should be able to avail itself to as much explanation as possible. The agency that held the hearings, assembled and analyzed the record, and drew the technical and legal conclusions from it, can best provide that help; in this case, that agency is the PRC. S. 947 would allow the PRC to intervene in a court review initiated by others but it could not bring such a case on its own.

Apart from the PRC's understanding of the details of the case, the Governors—even if they adopt the recommended rates—may misunderstand the PRC's reasons or their basis in the evidence, or may act for reasons incompatible with those actually supporting the decision. Again, the PRC can clarify these matters for the court.

Although some may say there is no reason for the PRC to go to court, there is plenty of room in judicial review for further discussion of matter within the scope of a decision. Moreover, no intervenor may raise in court an issue that was not raised before the agency. This is a bedrock principle of administrative law, and S. 947 does not change it.

S. 947 will make the court's job easier and improve the results of their review of postal rate and classification decisions.

LARKIN I. SMITH GENERAL MAIL FACILITY AND LARKIN I. SMITH POST OFFICE BUILDING

A bill (H.R. 4539) to designate the general mail facility of the U.S. Postal Service in Gulfport, MS, as the "Larkin I. Smith General Mail Facility," and the building of the U.S. Postal Service in Popularville, MS, as the "Larkin I. Smith Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. LOTT. Mr. President, Larkin Smith was born in 1944 in Poplarville, and his parents ran a small grocery store. He graduated from Poplarville High School and received his degree from Pearl River Junior College in 1964.

At age 22, he joined the Pearl River County Sheriff's Department and won rapid promotion to chief deputy sheriff. He remained with the sheriff's department until he was named chief investigator for the Harrison County Sheriff's Department in 1972.

Just 5 years later, Larkin was appointed chief of police of Gulfport. In 1979, he received his bachelor of arts degree from William Carey College, and was elected president of the State Association of Chiefs of Police later that year.

In 1983, he defeated the incumbent to become sheriff of Harrison County and his strong reform-oriented administration drew widespread praise with innovative antidrug strategies. His prisoner work program became a model used across the Nation.

In 1987 he was elected to a second term with 75 percent of the vote and was selected by President Reagan for appointment to the White House Conference for a Drug-Free America. In 1988 he was invited by the Justice Department to address the National Conference of U.S. Attorneys.

In addition to these accomplishments, Larkin helped establish the Customs Service Blue Lightning Strike Force based in Gulfport. He served as its first chairman and coordinated cooperative antidrug efforts of Federal, State, and local agencies across five States. The center, which now bears his name, directs a regional defense against drug runners attempting to penetrate the southern United States from bases along the Gulf of Mexico, and in Central and South America.

Larkin was elected to the U.S. House of Representatives on November 8, 1988.

Mr. President, I had the honor and privilege of working with Larkin Smith during his law enforcement career and, later, while he was a Member of Congress. He was an outstanding human being, and I am delighted that the effort to name a postal facility in his memory is finally on the verge of passage. It has been a long road since Senator COCHRAN and I here in the Senate, and the members of our State's House delegation, first introduced legislation during the previous Congress to name a post office after our dear friend and colleague. I feel that no one deserves this honor more than the late Congressman Larkin Smith, and I strongly urge my colleagues in the Senate to immediately enact this worthy measure.

POSTAL SERVICE MEMORIALS TO LARKIN I. SMITH

Mr. COCHRAN. Mr. President, I rise today in support of H.R. 4539, an act to designate the U.S. Postal Service general mail facility in Gulfport, MS, as the "Larkin I. Smith General Mail Facility" and the U.S. Postal Service building in Poplarville, MS, as the "Larkin I. Smith Post Office Building."

Both Poplarville and Gulfport were homes to Larkin Smith. He was born in Poplarville and began his career in law enforcement there. He later served as chief of police in Gulfport and as sheriff of Harrison County. Because of his distinguished work in law enforcement, President Reagan in 1987 appointed him to the Task Force on a Drug Free America.

Elected to the U.S. House of Representatives on November 8, 1988, Congressman Smith died in a tragic air crash on August 13, 1989. Although his time in Congress was short, he earned the respect and friendship of those with whom he served.

Mr. President, the naming of these facilities in memory of Congressman Smith would be a fitting tribute to his service to Mississippi and the Nation, and I urge prompt passage of H.R. 4539.

ABE MURDOCK U.S. POST OFFICE BUILDING

A bill (H.R. 4786) to designate the facility of the U.S. Postal Service located at 20 South Main Street in Beaver, UT, as the "Abe Murdock United States Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President. In its August 5 legislative business meeting, the Senate Governmental Affairs Committee added the text of S.1600 to H.R. 4786, a bill to name to a postal facility in Beaver, UT, after former U.S. Senate and House Member, Abe Murdock. The committee unanimously reported out this bill for passage by the Senate.

I, along with the Senators PRYOR, MURKOWSKI, GRASSLEY, and D'AMATO, introduced S. 1600 on July 31 of last year. The purpose of adding S. 1600 to the House bill was to facilitate its passage in these waning days of this Congress.

S. 1600, the Small Post Office Retention Act, would provide individuals served by contract post offices with an opportunity to appeal a Postal Service decision to close that postal operation. A contract post office is a facility by a nonpostal person or organization contracted by the U.S. Postal Service to operate under postal regulations. Contract post offices can be found in grocery stores, on college campuses, and even in private homes. By contracting for these services, the Postal Service is able to save significant funds while still providing much needed service.

Under present law, if the Postal Service determines that a U.S. Postal Service operated post office should be closed, it can do so only if it provides equal or better service to that community. In addition, individuals in that community have the right to appeal the decision through the Postal Rate Commission.

However, citizens being served by contract post offices do not have those same rights. This bill simply provides that citizens being served by a contract post office will have the same prerogative to appeal should that be necessary. This bill is very narrow in scope. It is not meant to halt or inhibit the Postal Service from closing post offices where they necessarily should be closed. We all recognize that people move and when communities cease to exist so does the need for a post office. If there is no need for a post office, by all means the Postal Service should close it.

The U.S. Postal Service has an obligation to serve every American and we, in Congress, have an obligation to ensure that responsibility is carried out. I want to stress again that this legislation is aimed at small post offices in communities in which that facility is the only post office in town.

The intent of the bill is not to foreclose the Postal Service the opportunity to close down or to shift locations of a post office within a community or to close branch facilities of a larger post office. It is clearly meant to protect individuals living in small communities who have no other recourse, and no other opportunity for mail service other than through a contract post office.

Passage of the bill will not, nor is it meant to, obstruct future congressional action to increase the rights of individuals being served by small post offices, be they contract or regular post offices.

I urge my colleagues to support this legislation.

CLIFTON MERRIMAN POST OFFICE BUILDING

A bill (H.R. 5453) to designate the Central Square facility of the U.S. Postal Service in Cambridge, MA, as the "Clifton Merriman Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 5237, the Rural Electrification Administration Improvement Act of 1992, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5237) to amend the Rural Electrification Act of 1935 to improve the provision of electric and telephone service in rural areas, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3400

Mr. LAUTENBERG. In behalf of Senators LEAHY and LUGAR, there is a substitute amendment already at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for Mr. LEAHY, for himself and Mr. LUGAR, proposes amendment numbered 3400.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Administration Improvement Act of 1992".

SEC. 2. DISCOUNTED LOAN PREPAYMENT.

(a) In General.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) Discounted Prepayment by Borrowers of Electric Loans.—

"(1) In general.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) Exception.—On request of the borrower, an electric loan made under this Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the present value of the loan discounted from the face value at maturity at the rate established by the Administrator.

"(3) Discount rate.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) Tax exempt financing.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) Eligibility.—

"(A) In general.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

"(i) a borrower that has prepaid a loan, either before or after the date of enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act during the 120-month period beginning on the date of the prepayment; and

"(ii) a borrower that prepaid a loan before the date of enactment of this subsection at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

"(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

"(B) Effect on existing agreements.—If a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before the date of enactment of this subsection, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(C) Distribution borrowers.—A distribution borrower not in default on the prepayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) Definitions.—As used in this subsection:

"(A) Direct loan.—The term 'direct loan' means a loan made under section 4.

"(B) Insured loan.—The term 'insured loan' means a loan made under section 305.".

"(b) Conforming Amendment.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) Mergers of Electric Borrowers.—Notwithstanding".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 3400) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 5237), as amended, was passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WIC INFANT FORMULA PROCUREMENT ACT OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 2875, the WIC Infant Formula Procurement Act of 1992, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2875) to amend the Child Nutrition Act of 1966 to enhance competition.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, on June 11, the Federal Trade Commission ended a 2-year investigation by bringing charges in Federal court against the largest manufacturer of infant formula for anticompetitive practices under the WIC—Women, Infants and Children Program. The two remaining infant formula manufacturers agreed to settlements with the FTC on similar charges.

I introduced legislation in 1989 which required States to buy infant formula for WIC through competitive bidding and other cost containment procedures. That legislation was incorporated in the Child Nutrition and WIC Reauthorization Act of 1989.

However, according to the FTC, Abbott Laboratories, Mead Johnson & Co. and American Home Products Corp. tried to undermine WIC competitive bidding—a procedure that currently saves enough money to put an additional 1 million mothers and their children on the WIC Program at no additional cost.

We cannot tolerate price fixing that puts corporate profits ahead of hungry infants, children, and pregnant women.

Today the Senate has passed the WIC Infant Formula Procurement Act. This bill mandates civil penalties of up to $100 million for infant formula manufacturers who cheat the WIC program and bars those manufacturers found guilty from the WIC infant formula market for up to 2 years.

The bill would also heighten competition in the WIC infant formula market by providing incentives and technical assistance to States which increase their buying power by forming blocs to purchase formula.

The Special Supplemental Food Program for Women, Infants and Children [WIC], is universally acclaimed as one of our Nation's most successful nutritional programs.

WIC provides food, nutritional instruction, health assessments, and medically prescribed supplements—and saves taxpayers' money.

A 1991 USDA study showed that for every WIC dollar spent on a pregnant woman, between $2.98 and $4.75 was saved in Medicaid costs for the newborn during the first 60 days after birth.

Under the bill, WIC agencies could elect to have USDA set up multistate buying groups for them. This will promote high volume discounts and prevent pharmaceutical companies from taking advantage of smaller States or Native American WIC agencies.

In addition the bill also generates savings because the Secretary of Agriculture will be required, except in unusual circumstances, to purchase formula by soliciting bids for soy-based and for milk-based formula separately. The separate bidding approach has been very effectively used to reduce the cost of formula in those States that have tried that approach.

Let our message today be loud and clear: Hungry children and their mothers are more important than corporate profits.

I want to be clear that nothing in this act should be construed to create any immunity to any civil or criminal action under any Federal antitrust law, or to alter or restrict in any manner the applicability of any federal or state antitrust law.

As compared to current law the major provisions of this act:

First, allow USDA to impose civil penalties of up to $100 million per year—but limited by the potential harm to the WIC Program—on companies that price-fix or engage in related anticompetitive activities injuring the WIC Program.

Second, allow USDA to disqualify companies—found to price-fix regarding WIC contracts—from participating in the WIC Program for up to 2 years.

Third, allow WIC agencies to require USDA to handle the bid solicitations on their behalf, thereby creating multistate cost containment contracts. This takes advantage of evidence showing the major additional cost savings that can be achieved by increasing the number of infants covered in an infant formula cost containment contract. The bill will also increase competition by having USDA—at WIC agency request—solicit bids from companies that only produce one type of formula.

Fourth, allow the Secretary to provide States with financial incentives to defray costs associated with innovations in cost containment or associated with establishing procedures that enhance competition.

Fifth, mandate that WIC agencies include in their plan of operation for 1994 a description of procedures to be used by the agency to reduce the purchase of unprescribed low-iron formula by WIC participants. Sources indicate that low-iron sales nationwide amount to ten percent of infant formula. Yet children with medical problems that require low-iron formula represent a small fraction of the population.

I wish to clarify one additional point. To avoid controversy at a later date it should be noted that this bill is to be applied prospectively. No other interpretation could be valid. Also note that the statute of limitations for claims owned the Federal Government would apply to these claims. USDA's regulations should incorporate this point to avoid confusion later.

Also, Federal statutory procedures protecting individuals and companies against arbitrary and capricious Government actions —the Administrative Procedure Act—also clearly apply to these new claims. It is expected that the Department will develop fair and appropriate protections to guard against arbitrary and capricious decisions.

Mr. President, I would like to provide some additional details. The act will serve as a deterrent to any future price-fixing regarding the WIC Program.

The Center for Budget and Policy Priorities analyzed the harm to States from the infant formula manufacturers anticompetitive behavior; that is advance price signaling, in 1990. It concluded that after Mead-Johnson publicly announced its future bids, that States were harmed by increased infant formula costs including: Indiana, $3.7 million cost increase; Minnesota, $1,811,000 increase; Mississippi, $1.7 million increase; Oklahoma, $1.4 million increase; Kentucky, $868,000 increase; Oregon, $867,000 increase; Colorado, $820,000 increase; West Virginia, $650,000 increase; Iowa, $539,000 increase and Montana, with a $324,000 cost increase.

Recent evidence clearly demonstrates that soliciting bids for soy-based and milk-based formula separately can greatly increase WIC savings. Yet, the great majority of WIC agencies require either combined bids, or separate and combined bids.

These new savings are achieved since separate bid solicitations encourage additional bidders. For example, Carnation and Loma Linda only make one type of formula and thus would have great difficulty in winning bids requiring some combination of both soy- and milk-based formula. A major concern of the FTC has been that only three large companies supplied almost all of the infant formula consumed in the United States. Indeed, USDA points out in a 1989 report that "currently the inability of new or smaller manufacturers to establish market shares in both the WIC and non-WIC market constitutes a major barrier to entry into the infant formula market."

In addition, the bill provides an incentive for WIC agencies to join together to jointly buy infant formula for WIC. In a 1991 study, USDA demonstrated the importance of higher volume buying power. For purposes of analysis USDA divided States into three categories based on WIC caseload size: small, less than 50,000; mid-sized, 50,000 to 150,000 and large, over 150,000.

The average rebate for the large States was 44 percent higher than for the small States, $1.58 versus $1.10.

Not surprisingly, USDA concluded that "a key factor in achieving high per can rebates appears to be the size of the WIC caseload."

Thus the bill provides incentives for WIC agencies—60 of them do not jointly buy formula—to increase their purchasing power by jointly buying infant formula for WIC. Many Native American WIC agencies, and smaller State agencies, may wish to take advantage of the bill provisions that require USDA to do the bid solicitations for them. USDA would establish buying groups to purchase formula. This could greatly reduce program costs for Native American programs, and smaller States, which pay relatively high prices for formula.

The impact of these savings to the WIC program cannot be minimized. The Congressional Budget Office supplied to my staff an estimate of the savings which could be generated by this bill. CBO concluded that these changes could save the WIC Program a conservative estimate of $5 million in the first year alone. This means that WIC can enroll an additional 10,000 pregnant women and infants at no additional cost to the taxpayer. Furthermore, the evidence suggests that even greater savings will be achieved in future years after more WIC agencies choose to participate.

Many of us in this Chamber have advocated full funding of WIC. This bill moves us closer to that goal, without negatively impacting the Federal budget.

I wish to thank Senator METZENBAUM for his early leadership in raising questions about the possible anticompetitive actions of the three largest manufacturers of infant formula. The FTC investigation has borne out Senator METZENBAUM'S concerns.

Also, I greatly appreciate the leadership role that Congressman WYDEN took in the other body regarding the WIC Program. He introduced in the House legislation to prevent further price-fixing and to promote additional competition. He also testified regarding the possible price fixing, right from the start and has been extremely helpful in getting the job done. This bill reflects his concerns.

Also I wish to thank Congressmen FORD and KILDEE for their supportive efforts and leadership on these matters.

I ask unanimous consent that a letter to me from the Director of the Congressional Budget Office be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 1992.

Hon. PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition and Forestry,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As requested, the Congressional Budget Office has reviewed the Homeless Children's Assistance Act of 1992. Our analysis was based on draft language sent to us on October 2, 1992.

This bill would modify the way that the Secretary of Agriculture allocates grants to organizations participating in homeless children's feeding projects. The allocation would be changed from not less than $4 million in 1993 and 1994 under current law, to not less than $1 million and not more than $4 million in 1993 and 1994 under the bill. A second change is that the Secretary would be required to allocate funds at the beginning of the fiscal year.

The bill affects entitlement spending in the child nurtition programs and thus has potential pay-as-you-go effects under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. CBO estimates that there would be no pay-go cost because the bill would have no effect on budget authority and no significant effect on outlays. The allocations for homeless projects are made from funds returned to the Secretary by states that do not fully expend their allocations for state administrative expenses (SAE) for child nutrition programs. Returned funds that are not allocated to homeless programs are reallocated to state agencies that demonstrate a need for additional administrative funds. This bill could reduce the amount of funds allocated to homeless children's feeding projects and could also speed up the provision of grants for such projects.

Overall budget authority is unchanged by the allocation between homeless projects and state agencies. Outlays could be affected by two factors. The potential decrease in the allocation for homeless projects could increase or decrease outlays slightly, depending on whether grants are spent more quickly when used for homeless feeding projects or for state administrative expenses. Allocating funds at the beginning of the year is likely to speed up outlays slightly, resulting in small outlay increases in 1993. The net outlay effect is not expected to be significant.

If you wish further details on this estimate, we will be pleased to provide them. The staff contact is Julia Isaacs, who can be reached at 226-2820.

Sincerely,

ROBERT D. REISCHAUER.

Mr. LEAHY. Mr. President, I wish to clarify one aspect of the Children's Nutrition Assistance Act of 1992 regarding funding for homeless preschooler food projects. One provision of that bill makes available at least $1 million for allocation to homeless projects for each of fiscal years 1993 and 1994. I wish to point out that if there is insufficient demand or insufficient numbers of suitable projects that there is no requirement to allocate the minimum amount listed in the bill.

I do wish to emphasize, however, that current law already requires USDA to alert States as to the availability of Federal funding for these homeless preschool projects. I intend to carefully monitor USDA efforts in this regard.

Mr. HARKIN. Mr. President, I want to express special recognition and gratitude to the talented staff of the subcommittee. I have said this before and I will say it again, without the staff director of the subcommittee, Bob Silverstein, we would not have a bill. Anybody that knows "Bobby" knows the special powers of consensus building he possesses. His approach is simple; nobody leaves the room until there is an agreement—but it is his extensive knowledge of the subject matter and ability to inspire trust which really makes it work. I also want to mention the extraordinary efforts of my own staffperson, Anne Silberman. She has labored intensively on this legislation and I want to thank her on behalf of myself and my constituents. Beyond that, special thanks should go to Linda Hinton and Melanie Gabel, the majority legislative assistant, and staff assistant of the subcommittee.

The final version of the bill that the Senate will pass today represents real progress, and it is one we are all proud of. When we began this reauthorization, we were presented with a breadth of widely divergent views by the disability community about the direction this reauthorization should take. It was the task of our staffs, who worked long and diligently, to forge a consensus between those who wanted no changes at all and those who wanted to discard the entire bill and start over again. The conference report we will ratify today is the product of their labor; it is a compromise.

By their nature, compromises never mean that everyone is happy. Some will think that these changes are not enough. They have argued for, and will continue to advocate for, even more substantive amendments. I hear them.

But the truth is that this legislation does represent some significant accomplishments and changes to this program.

Over the years, the face of vocational rehabilitation in America has changed. With the technological advances of the last 20 years, almost anyone can be employed. The Vocational Rehabilitation Program has had to make adjustments as well. With the addition of the Independent Living Program, the Supported Employment Program, and the research and services in assistive technology, more people than ever are eligible and able to benefit from this program.

In this reauthorization, we have done all that was possible to continue to widen the door and expand opportunities for consumers. Some of the major accomplishments include:

A revision of the act that ensure that the concepts of empowerment for individuals with disabilities will be followed, including respect for individual dignity, self-determination, inclusion, integration, and full participation of individuals with disabilities.

A presumption that individuals with disabilities, including individuals with the most severe disabilities, are capable of benefiting from vocational rehabilitation services unless the State agency can demonstrate by clear and convincing evidence that the individual cannot benefit.

An improved relationship between the State agencies and public schools through a directive to establish policies and methods, including interagency agreements, to facilitate both the longterm rehabilitation goals for students and the transition of students from schools to State rehabilitation agencies.

Increased consumer involvement and choice by requiring a joint signoff between the consumer and counselor in the Individualized Written Rehabilitation Program.

The inclusion of a definition of personal assistance services.

The establishment of a State Rehabilitation Advisory Council for the basic grant program, a majority of whose members shall be persons with disabilities.

A choice demonstration project which gives States broad authority to implement consumer choice programs.

A counselor incentive demonstration to allow the Commissioner to fund projects to identify appropriate incentives to vocational rehabilitation counselors, such as weighted case closures, to achieve high-quality placements for individuals with severe disabilities.

The establishment of the Rehabilitation Research Advisory Council within the Department of Education to advise the Director of the National Institute on Disability and Rehabilitation Research with respect to research priorities.

Increased accountability and quality through the consumer councils and State plans.

In addition to these provisions, I am particularly pleased that the conference report includes language regarding two additional issues important to Minnesota: Social Security reimbursements, and a formula for the Older Blind Program.

Many State vocational rehabilitation programs, including my own, see their independent living centers as a vital part of the entire vocational rehabilitation picture. Therefore, State directors should have the option of giving some of their Social Security reimbursement funds to their independent living centers. To me, there is no better sign that the relationship between the State vocational rehabilitation and the independent living center is strong and healthy.

Likewise, the numbers of older blind are growing and the need for greater availability of these services has been well demonstrated. Certainly, the older blind population in this country will benefit from the change of this program to a formula.

Mr. President, this reauthorization has blessed me with the opportunity to further get to know the disability community in my State. Starting in the spring, when I had the privilege to meet and talk with 40 members of the disability community in Minneapolis, up until the last hours before this legislation went to be printed, the input from Minnesotans on this bill has been crucial.

Some of the Minnesotans who have provided valuable assistance and advice to me and my staff that I wish to thank are: Colleen Wieck, the director of the Governor's Council on Developmental Disabilities; Mary Shorthall, the director of the State Vocational Rehabilitation Program; Paula Goldberg, and the other parent advocates in the group called PACER; Jerry Krueger, Jay Johnson, and the other independent living directors in Minnesota; Charlie Lakin; Dan Klint, who testified before the subcommittee; Mike Ehrlichmann, chair of the Regional Transit Board; Margo Imdieke, director of the Minnesota State Council on Disability; Bruce Johnson, Office of Ombudsman for Mental Health and Mental Retardation; Mary O'Hara-Anderson; Elin Ohlsonn; David Schwartzkopf; Kurt Strom with the Minnesota State Council on Disability; Leah Welch, director of Independence Crossroads; Kathy Wingen, Advocacy Plus Action; Rachel Wobschall, Governor's Initiative on Technology for People With Disabilities, and the many, many other Minnesotans who have consulted with either me or my staff about this legislation.

I urge my colleagues to support this conference report, and I look forward to the President signing this bill into law.

AMENDMENT NO. 3401

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of Mr. LEAHY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. LEAHY, proposes an amendment numbered 3401.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Nutrition Assistance Act of 1992".

TITLE I—HOMELESS CHILDREN'S ASSISTANCE

SEC. 101. SHORT TITLE.

This title may be cited as the "Homeless Children's Assistance Act of 1992".

SEC. 102. EXPENDITURE OF FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 18(c)(2)(B)(i) of the National School Lunch Act (42 U.S.C. 1769(c)(2)(B)(i)) is amended by striking "Each such organization" and inserting "Each private nonprofit organization".

SEC. 103. ALLOCATION OF RETURNED FUNDS.

Section 7(a)(5)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)) is amended—

(1) by striking ", the Secretary shall—" and inserting a colon;

(2) by striking subclause (I) and inserting the following new clause:

"(I) The Secretary shall allocate, for the purpose of providing grants on an annual basis to public entities and private nonprofit organizations participating in projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)), not more than $4,000,000 in each of fiscal years 1993 and 1994. Subject to the maximum allocation for the projects for each fiscal year, at the beginning of each of fiscal years 1993 and 1994, the Secretary shall allocate, from funds available under this section that have not been otherwise allocated to the States, an amount equal to the estimates by the Secretary of funds to be returned under this clause, but not less than $1,000,000 in each fiscal year. To the extent that amounts returned to the Secretary are less than estimated or are insufficient to meet the needs of the projects, the Secretary may, subject to the maximum allocations established in this subclause, allocate amounts to meet the needs of the projects from funds available under this section that have not been otherwise allocated to States."; and

(3) in subclause (II), by striking "then allocate," and inserting "After making the allocations under subclause (I), the Secretary shall allocate,".

SEC. 104. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on September 30, 1992.

TITLE II—WIC INFANT FORMULA PROCUREMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "WIC Infant Formula Procurement Act of 1992".

SEC. 202. WIC INFANT FORMULA PROTECTION.

(a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this title to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC).

SEC. 203. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.".

SEC. 204. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. The Secretary shall make the offer to State agencies once every 12 months. Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers.

"(iii) State agencies that elect to authorize the Secretary to perform the bid solicitation and selection process on their behalf and enter into the resulting containment contract shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v)(I) Except as provided in subclause (II), the term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be not less than 2 years.

"(II) If the law of a State regarding the duration of contracts is inconsistent with subclause (I), the Secretary shall permit a 1-year contract, with the option provided to the State to extend the contract for additional years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(viii) The bid solicitation and selection process on behalf of the State agencies shall be conducted in accordance with any procedures the Secretary deems necessary for the effective and efficient administration of the bid solicitation and selection process and consistent with the requirements of this subparagraph. The procedures established by the Secretary shall ensure that—

"(I) the bid solicitation and selection process is conducted in a manner providing full and open competition; and

"(II) the bid solicitation and selection process is free of any real or apparent conflict of interest.".

"(H) In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

"(I) To reduce the costs of any supplemental foods, the Secretary—

"(i) shall promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) shall encourage and promote (but not require) the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) shall inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) shall encourage (but not require) the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures; and

"(III) the procedures would be consistent with the purposes of the program; and

"(v) may make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to $100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

"(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.".

SEC. 205. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for whom such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.".

SEC. 206. ASSISTANCE TO ENCOURAGE ADDITIONAL COST CONTAINMENT EFFORTS.

The second sentence of section 17(h)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "formula shall—" and inserting "formula—";

(2) by inserting "shall" after the clause designations of each of clauses (i), (ii), and (iii);

(3) by striking "and" at the end of clause (ii);

(4) by striking the period at the end of clause (iii) and inserting "; and"; and

(5) by adding at the end the following new clause:

"(iv) may provide funds, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose, to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.".

SEC. 207. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

SEC. 208. STUDY.

Not later than April 1, 1994, the Secretary of Agriculture shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

(1) State agencies that request the Secretary of Agriculture to conduct bid solicitations for infant formula under section 17(h)(8)(G)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(G)(i)) (as amended by section 204 of this Act);

(2) cost reductions achieved by the solicitations; and

(3) other matters the Secretary determines to be appropriate regarding this title and the amendments made by this title.

SEC. 209. TERMINATION.

The authority provided by this title and the amendments made by this title shall terminate on September 30, 1994, except with regard to section 17(h)(8)(J) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(J)) (as amended by section 204 of this Act).

Mr. LEAHY. Mr. President, this year Congress passed my legislation, the Child Nutrition Amendments of 1992 (S. 2759), to help feed homeless children under age 6 living in emergency and homeless shelters. These children are the innocent victims of the recession, of high unemployment rates, of parental neglect, of ill-fated programs, or just plain bad luck.

As I said upon Senate passage of S. 2759, these children will never have a fair chance if Americans turn their backs on them. While other children play and learn, these children go hungry.

Making matters worse, the demand for emergency food assistance keeps growing. In New York City alone the number of soup kitchens, food pantries, and other emergency food providers has increased from 30 in 1981 to more than 700 today. This is an astonishing increase.

It is shameful that homeless American children must stand in long lines at soup kitchens. Their older brothers and sisters are fed wholesome meals in school through the school breakfast and lunch programs.

The younger children, too young to go to school, all too often must wait for scraps of food brought home from school.

Pilot programs to feed homeless children under age 6 have worked very well. A USDA-issued report, the "Study of the Child Nutrition Homeless Demonstration," noted:

> The shelters were unanimous in reporting that the preschool children living in the shelters were now receiving meals that were more balanced, more nutritious, and more frequently included fresh fruit, milk, vegetables and full-strength juices. * * * Furthermore, [certain] children under age 6 * * * now received a warm and nutritious lunch whereas prior to the demonstration they did not receive any meal at all.

It was also reported that "mothers were very grateful, and were especially pleased that their children now got the milk they needed."

GAO reports that 68,000 children are homeless, living in homeless shelters, abandoned buildings, churches, or living on the streets. In addition, 186,000 children live in shared housing.

Equally distressing are the numbers of children under age 6 that are homeless. CBO estimates that close to 25,000 children under age 6 live in emergency shelters—this leaves out the thousands more living in abandoned buildings or in alleys. According to CBO, it would cost $20 million per year to fully fund this program for all 25,000 children. The annual cost is low, per child.

As I pointed out previously, this bill will help local governments and cities provide food assistance to these homeless children. For example, New York City has an immediate need for this assistance for its city administered facilities sheltering young children. Yet USDA is sitting on several million dollars which is available to fund this program.

Note that many other cities—Los Angeles, CA; Flint, MI; Detroit, MI; New Orleans, LA—have also expressed an interest in this program. It is critical that the Secretary provide each State with the procedures for applying to participate in the program as required in section 18(c)(7). I have been advised that USDA has yet to advise States about this program. The Child Nutrition Amendments of 1992 require that the Secretary advise each State of the availability of this program and of the procedures for applying to participate in the project.

Even though public sponsors are now eligible, the Department would be expected to continue to support existing programs in Philadelphia and at the other locations operated by nonprofit private sponsors. Also the Department is expected to consider applications from new private nonprofit sponsors.

These new amendments are designed to assure a source of more continuous funding for the homeless children food program. The idea is to take unused State administrative expense [SAE] funds and make them available on a more regular and on a more predictable basis. This legislation will require USDA to fund this homeless program with SAE funds—instead of delaying funding each year.

Under current law, USDA may not know until well into each fiscal year the level of SAE funds State agencies will return to USDA as unused. Under current law amounts returned but not reallocated go to the homeless programs to the degree that those programs can use those funds.

But each year the funds are not available until well into the fiscal year which USDA argues makes it difficult to properly run the program. The purpose of this legislation is to address these concerns while not materially changing the ultimate amount of funds made available to the homeless program.

This amendment would do this by having the Secretary take a modest amount of SAE funds at the beginning of the fiscal year and allocate it to the homeless programs. The Secretary's allocation to the homeless program would reflect his or her estimate of the amount of funds that would otherwise have become available later in the fiscal year.

When some months later the amount of funds returned and not reallocated becomes known the Secretary would supplement the funds going to the homeless programs if more money is returned and not reallocated than he or she had originally anticipated and if the homeless program could use the additional funds.

The underlying purpose here is not to materially change the division of funds between the State agencies and the homeless programs but simply to modify the process for providing the funds to the homeless program so that it can operate effectively.

The concept behind these changes is to anticipate in advance levels of SAE funds that would have been made available to the Secretary after the reallocation process. These surplus unused funds would be dedicated to the homeless program in addition to the exact dollar amounts made available under the National School Lunch Act for each fiscal year.

I am disappointed that this legislation became necessary so that USDA would administer the program properly. As I have already noted that unused SAE funds have been available to USDA for this homeless program for at least 5 months, and probably much longer, but USDA has yet to use any of them for this program. This legislation removes any possible excuse for not feeding these homeless children.

One aspect of this bill concerns a very technical matter. USDA has indicated that it might limit the number of homeless centers in each city that could participate in the program. I want to again mention the point I raised when S. 2759 was under consideration by the Senate, and the point I raised before the House acted on that bill and before the President signed the bill into law.

The law as amended by this bill provides that no "organization" can operate more than 5 sites. While it is clear from the text of the law, I want to emphasize that the reference to "Each such organization" in section 18(c)(2)(B) only refers to "private nonprofit organizations" and does not refer to the "State, city, local, or county governments, or other public entities" which are newly permitted to participate under this Act.

That five-site limit imposed on organizations is relevant only to "private nonprofit organizations" and not to governments or other public entities. Imposing that limit on counties or cities is unnecessary and counterproductive in terms of the intent of this legislation.

For example, it would make no sense to encourage homeless families to crowd into just five of New York's 11 or so shelters so that their youngest children could obtain nutritious meals.

I have often said that childhood hunger is a moral issue and not a political one. Childhood hunger is like the proverbial thief in the night, it robs and cripples this Nation of its greatest resource—our children. This bill helps to alleviate some of that hunger.

Mr. President, I ask unanimous consent that a letter from CBO on this matter be placed into the RECORD following the conclusion of my remarks.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3401) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill, as amended.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDING THE AGRICULTURAL ACT OF 1938

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3327, a bill addressing the issue of acre-for-acre transfer of certain acreage allotments, introduced earlier this day by Senators FORD and MCCONNELL; that the bill be deemed read the third time, passed, and the motion to reconsider be laid upon the table, and that any statements appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3327) was deemed read the third time, and passed, as follows:

The text of the bill (S. 3327) to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes, as passed by the Senate on October 5, 1992, is as follows:

S. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACRE-FOR-ACRE TRANSFER OF CERTAIN ACREAGE ALLOTMENTS.

Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by striking subsection (e) and inserting the following new subsection:

"(e) The transfer of an allotment or quota under this section shall be approved acre for acre.".

REGARDING MARKETING OF IMPORTED PAPAYAS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 568, a bill regarding marketing order requirements on imported papayas, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 568) to require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, it is the intent of the committee that the extension of the authority under section 8e of the Agricultural Marketing Act of 1937 to include the addition of the commodity papayas, shall apply only to imported papayas of such similar varieties and other characteristics as are grown in the production area covered by the Federal marketing order.

There are papayas imported into the United States which are distinctly different than the papayas covered by the Federal marketing order. Such papayas are typically of different varieties, different shape, and larger in size than those regulated under the Federal marketing order. The committee does not intend such papayas to be covered under section 8e regulation.

AMENDMENT NO. 3402

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for Mr. INOUYE, proposes an amendment numbered 3402.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PAPAYAS.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or apples" and inserting "apples, or papayas".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3402) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill, as amended.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

The text of the bill (S. 568) to require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya, as passed by the Senate on October 5, 1992, is as follows:

S. 568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAPAYAS.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608c-1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or apples" and inserting "apples, or Solo-type papayas".

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMUNITIES MAKING TRANSITION TO HUNGER-FREE STATUS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of House Concurrent Resolution 302, a concurrent resolution expressing the sense of Congress regarding communities making the transition to hunger-free status, and that the Senate then proceed to its immediate consideration, that the concurrent resolution be agreed to, and the motion to reconsider laid upon the table; and that the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 302) was agreed to.

The preamble was agreed to.

EQUITABLE TREATMENT OF SUGARCANE PRODUCERS—H.R. 5763

RECREATIONAL HUNTING SAFETY AND PRESERVATION ACT OF 1991—S. 1294

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged, en bloc, from consideration of the following bills:

H.R. 5763, to provide equitable treatment to producers of sugarcane subject to proportionate shares; and

S. 1294, the Recreational Hunting Safety and Preservation Act of 1991.

And that the Senate then proceed, en bloc, to their immediate consideration; that the bills be deemed read three times, passed and the motion to reconsider laid upon the table, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5763) was deemed read a third time and passed.

So the bill (S. 1294) was deemed read a third time and passed, as follows:

The text of the bill (S. 1294) to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of the lawful hunt, and for other purposes, as passed by the Senate on October 5, 1992, is as follows:

S. 1294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Recreational Hunting Safety and Preservation Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting within the boundaries of national forests and other Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) national forests comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting in national forests in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within national forests and on other Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a national forest, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(2) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) PERSON.—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a national forest;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a national forest or upon a public or private road, highway, path, trail, or other normal route of access to a national forest;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a national forest, travel in interstate commerce, use the United States mails or an instrumentality of interstate telephonic or electronic communications, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized

by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within national forests; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within national forests.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

RECREATIONAL HUNTING SAFETY AND PRESERVATION ACT—S. 1294

Mr. SANFORD. Mr. President, I rise to offer my strong and sincere support for the passage of the Recreational Hunting Safety and Preservation Act (S. 1294), which is now before the Senate. Such action is long overdue, and hunter protection is an issue for which I have fought and one which I think deserves legislative affirmation. In June of last year, I introduced, with the help of Senators BREAUX, SYMMS, COCHRAN, and HATCH, a bill which is similar in nature to the language now before the Senate.

I wish to especially thank Senator FOWLER, the author of S. 1294, who has worked diligently to bring the Nation's attention to this cause, and Senator BURNS and other colleagues who have championed hunters' rights.

It is unfortunate that the tradition of responsible hunting in this country is being challenged by those who have little understanding of the sport, and those who wish to see all hunting of wildlife eliminated. The harassment of hunters and the obstruction of lawful hunts has become increasingly frequent in recent months. In 41 States it is now illegal to harass hunters; I am glad Congress is taking action to establish similar guidelines for our national forests. This legislation will protect citizens attempting to carry out a lawful hunt within a national forest.

Those persons found to have intentionally disturbed wildlife resources or abused property in order to disrupt the lawful taking of these resources may be assessed a civil penalty of not less than $1,000. If this violation involves the use of force or violence, penalties may not exceed $10,000. Funds collected from civil penalties imposed under the act will aid State wildlife restoration projects, the North American waterfowl management plan, or other wildlife enhancement programs beneficial to our national forests.

Each year many Americans enjoy the natural beauty of our national forests and help maintain controlled populations of wildlife by hunting in these unspoiled areas. What began as a trend in the New England States has recently begun to spread. From Maine to Florida to California, pheasant hunters and deer hunters alike are being trailed into the fields and woods by noisy, protesting antihunting advocates. Air horns, loud music, and shouting arguments are increasingly taking the place of otherwise uninterrupted hunts. Vandalism and the threat of physical violence are also likely to become more widespread as groups opposing hunting become larger and more active.

Each year, American hunters spend several hundred million dollars for licenses, duck stamps, and excise taxes on equipment and ammunition. Much of that money is used to finance game research and management programs and to purchase important wildlife habitats that will benefit all species. The American hunter is a responsible conservationist who knows, and adds value to game species, and thereby ensures their preservation. These men and women have been instrumental in efforts which have led to dramatic increases in populations of white-tailed deer, elk, wild turkeys, wood ducks, and other species.

Mr. President, our national forests are treasures to be maintained for continuing supplies of natural resources and also for the recreational needs of our citizens. This bill will help ensure stable and healthy populations of game animals for hunters and nonhunters alike. I hope my colleagues will join Senator FOWLER and me in supporting this measure that will protect the property and safety of hunters who abide by all Federal and State game laws in the taking of animals within a national forest.

Mr. FOWLER. Mr. President, I am proud the Senate has taken action on this legislation and want to recognize all the Senators who cosponsored this important bill—Senators BURNS, HEFLIN, MCCONNELL, PRYOR, SASSER, STEVENS, HATCH, SHELBY, BREAUX, HOLLINGS, DASCHLE, REID, and Senator SANFORD who has worked very closely with me on this issue. These Members should all be commended for their strong support for the sportsmen of America.

Mr. President, now that the Senate has passed this legislation, I urge all of my fellow Members of Congress in the other Chamber to move this legislation forward without delay and send the bill to the President.

RURAL ELECTRIFICATION ACT AMENDMENT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 5954, a bill to clarify the status of the Rural Telephone Bank and its accounting policies, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5954) to amend the Rural Electrification Act of 1936 to clarify the status of the Rural Telephone Bank and its accounting policies, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3403

Mr. LAUTENBERG. Mr. President, on behalf of Senators LEAHY and LUGAR a substitute amendment is already at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for Mr. LEAHY (for himself and Mr. LUGAR) proposes amendment 3403.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS.

(a) PROGRAMS FOR CONSORTIA IN QUALIFIED LOCAL EXCHANGE SERVICE AREAS.—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended by adding at the end the following new section:

"SEC. 2335A. SPECIAL HEALTH CARE AND DISTANCE LEARNING PROGRAM FOR QUALIFIED SERVICE AREAS.

"(a) DEVELOPMENT OF CONSORTIA.—The Administrator shall encourage the development of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

"(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;

"(2) any number of institutions that provide health care services or educational services; and

"(3) not less that three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

"(b) SPECIAL PROGRAM FOR QUALIFIED LOCAL EXCHANGE CARRIER SERVICE AREAS.—

"(1) REGULATIONS AND SPECIAL PROGRAM.—Through regulations issued not later than 190 days after the date of enactment of this section, the Administrator shall establish a program under which qualified consortia described in subsection (a) located within qualified local exchange carrier service areas may apply to the Administrator for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

"(2) SELECTION OF GRANTEES.—The Administrator shall—

"(A) establish application procedures;

"(B) review the applications submitted under this subsection in a timely manner; and

"(C) make grants in accordance with this subsection and with regulations issued by the Administrator.

"(3) PRIORITIES.—

"(A) IN GENERAL.—Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;

"(ii) the greatest likelihood of improving health care services or educational services in the rural areas;

"(iii) coordination between local exchange carriers to carry out activities as described in the application; and

"(iv) unconditional financial support from each affected local community.

"(B) GEOGRAPHIC DIVERSITY.—In awarding grants, the Administrator shall seek to achieve geographic diversity among the grantees.

"(4) MAXIMUM AMOUNT OF GRANT.—The amount of each grant awarded under this subsection shall not exceed $1,500,000.

"(5) DISTRIBUTION OF GRANTS.—Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

"(6) USE OF FUNDS.—

"(A) IN GENERAL.—Grants under this subsection may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(i) in the case of grants to improve health care services—

"(I) consultations between health care providers;

"(II) transmitting and analyzing x-rays, lab slides, and other images;

"(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(IV) developing innovative health professions education programs;

"(ii) in the case of grants to improve educational services—

"(I) developing innovative education programs and expanding curriculum offerings;

"(II) providing continuing education to all members of the community;

"(III) providing means for libraries of educational institutions or public libraries to share resources;

"(IV) providing the public with access to State and national data bases;

"(V) conducting town meetings; and

"(VI) covering meetings of agencies of State government; and

"(iii) in all cases—

"(I) transmitting financial information; and

"(II) such other related activities as the Administrator considers to be consistent with the purposes of this section.

"(7) LIMITATION ON ACQUISITION OF INTERACTIVE TELECOMMUNICATIONS EQUIPMENT.—Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

"(8) LIMITATION ON USE OF CONSULTANTS.—Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

"(9) PROHIBITIONS.—Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

"(c) EXPEDITED TELEPHONE LOANS.—Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Administrator shall respond to a completed application for such a loan no later than 45 days after receipt. The Administrator shall notify the applicant in writing of its decision regarding each such application.

"(d) DEFINITION.—As used in this section, the term 'qualified local exchange carrier service area' means the service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Administrator for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

"(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

"(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

"(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

"(4) provide for the achievement of the goals described in subparagraphs (A) through (C) not later than 10 years after the approval of the plan.".

(b) EXTENSION OF CHAPTER 1.—Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section, shall be effective until September 30, 1997.

(c) ALLOCATION OF FUNDS.—Section 2335(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa-4) is amended by adding at the end the following new paragraph:

"(8) USE OF APPROPRIATED FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Administrator shall make available—

"(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 2335A; and

"(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 2331 through 2335.

"(B) RELEASE OF FUNDS.—Not earlier than April 1 and not later than May 1 of each year, the Administrator shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A).".

(d) EFFECT OF AMENDMENTS.—The amendments made by this section shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 3403) was agreed to.

The PRESIDING OFFICER. Without objection the bill is considered read a third time and passed and the amendment to the title is agreed to.

So the bill (H.R. 5934) as amended, was deemed read a third time and passed.

The title was amended to read as follows: "An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes.".

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN SERVICE ACT AMENDMENTS OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 764, S. 3275, a bill to amend the Foreign Service Act of 1980; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3275) was deemed read a third time and passed, as follows:

S. 3275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.

"(B) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.".

(b) Section 805(d) of the Foreign Service Act of 1980 (22 U.S.C. 4045) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either section 4045 or 4071e of title 22 and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.".

(c) Section 812(a) of the Foreign Service Act of 1980 is amended by striking out the number "55" from paragraph (2) and inserting the number "57" in lieu thereof.

(d) Section 806(a)(6) of the Foreign Service Act of 1980 is amended by striking out "5545(a)(2)" and inserting "5545(c)(2)" in lieu thereof.

YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 744, S. 2975, Yavapai-Prescott Indian Tribe water rights bill; that the committee substitute be agreed to; the bill be read a third time and passed; and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2975), as amended, was deemed read a third time and passed, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1992".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress finds that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to the Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on June 7, 1935, and by actions subsequent thereto, the United States established a reservation for the Yavapai-Prescott Indian Tribe in Arizona adjacent to the city of Prescott;

(5) proceedings to determine the full extent of Yavapai-Prescott Tribe's water rights are currently pending before the Superior Court of the State of Arizona in and for Maricopa County, as part of the general adjudication of the Gila River system and source;

(6) recognizing that final resolution of the general adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the full extent of the Yavapai-Prescott Tribe's entitlement to water and the availability of water supplies to fulfill that entitlement, and impair orderly planning and development by the Tribe and the city of Prescott; the Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have sought to settle all claims to water between and among them;

(7) representatives of the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have negotiated a Settlement Agreement to resolve all water rights claims between and among them, and to provide the Tribe with long term, reliable water supplies for the orderly development and maintenance of the Tribe's reservation;

(8) pursuant to the Settlement Agreement, the quantity of water made available to the Yavapai-Prescott Tribe under the existing water service agreement between the Tribe and the city of Prescott will be secured, such water service agreement will be continued in perpetuity, and the Tribe's continued on-reservation use of surface and ground water for municipal and industrial, recreational and agricultural purposes will be provided for;

(9) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds to firm up the city of Prescott and the Yavapai-Prescott Tribe's long-term water supplies so as to enable the Tribe to utilize fully its water entitlements in developing a diverse, efficient reservation economy; and

(10) providing funds for the acquisition and development of replacement water in exchange for the CAP contract of the Yavapai-Prescott Tribe and the CAP subcontract of the city of Prescott is a cost-effective means for the United States to ensure reliable, long-term water supplies for the Yavapai-Prescott Tribe and to promote efficient, environmentally sound use of available water supplies in the Verde River basin.

(b) DECLARATION OF PURPOSES.—The Congress declares that the purposes of this Act are:

(1) to approve, ratify and confirm the Settlement Agreement among the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement;

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Yavapai-Prescott Tribe as provided in the Settlement Agreement and this Act;

(4) to authorize appropriation of such sums as may be agreed upon by the Secretary, city of Prescott, and the Yavapai-Prescott Tribe as necessary for the Secretary to acquire the contract of the Yavapai-Prescott Tribe for 500 acre-feet of CAP water and the subcontract of the city of Prescott for 7,167 acre-feet of CAP water for use in settlement of Indian water rights claims in Arizona;

(5) to require that expenditures of such appropriations by the Yavapai-Prescott Tribe and Prescott for the acquisition or development of replacement water supplies in the Verde River basin shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of riparian habitat, flows and biota of the Verde River and its tributaries;

(6) to authorize the Secretary to substitute all or part of CAP Indian and non-Indian municipal and industrial priority water acquired pursuant to this Act for CAP water of agricultural or municipal and industrial priority acquired by the Secretary pursuant to Public Law 101–628, the Fort McDowell Indian Community Water Rights Settlement Act, and assigned to that Community; and

(7) to repeal section 406(k) of Public Law 101–628 which authorizes $30,000,000 in appropriations for the acquisition of land and water resources in the Verde River basin and for the development thereof as an alternative source of water for the Fort McDowell Indian Community.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(2) The term "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 1, 1988, for the delivery of water and repayment of costs of the Central Arizona Project.

(3) The term "CVID" means the Chino Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(4) The term "Community" means the Fort McDowell Indian Community, a community of Yavapai Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 476), and duly recognized by the Secretary.

(5) The term "Payson" means the town of Payson, an Arizona municipal corporation.

(6) The term "Prescott" means the city of Prescott, an Arizona municipal corporation.

(7) The term "Reservation" means the reservation established by the Act of June 7, 1935 (49 Stat. 332) and the Act of May 18, 1956 (70 Stat. 157) for the Yavapai-Prescott Tribe of Indians.

(8) The term "Secretary" means the Secretary of the United States Department of the Interior.

(9) The term "Settlement Agreement" means that agreement entered into by the city of Prescott, the Chino Valley Irrigation District, the Yavapai-Prescott Indian Tribe, the State of Arizona, and the United States, providing for the settlement of all water claims between and among them.

(10) The term "Tribe" means the Yavapai-Prescott Indian Tribe, a tribe of Yavapai Indians duly recognized by the Secretary.

(11) The term "Water Service Agreement" means that agreement between the Yavapai-Prescott Indian Tribe and the city of Prescott providing for water, sewer, and effluent service from the city of Prescott to the Yavapai-Prescott Tribe.

SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.

(a) APPROVAL OF SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this Act, such Agreement is approved, ratified and confirmed. The Secretary shall execute and perform such Agreement, and shall execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(b) PERPETUITY.—The Settlement Agreement and Water Service Agreement shall include provisions which will ensure that the benefits to the Tribe thereunder shall be secure in perpetuity. Notwithstanding the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81) relating to the term of the Agreement, the Secretary is authorized and directed to approve the Water Service Agreement with a perpetual term.

SEC. 5. ACQUISITION AND ALLOCATION OF CAP WATER.

(a) ACQUISITION OF CONTRACTS.—The Secretary is authorized and directed to acquire the CAP contract of the Tribe, and the CAP subcontract of the city of Prescott in exchange for an appropriate share of funds appropriated to the Verde River Basin Water Fund established pursuant to section 6.

(b) ALLOCATION OF WATER.—The Secretary may allocate to the Fort McDowell Indian Community all or part of the water acquired pursuant to section 5(a) directly or in lieu of water which the Secretary may acquire from the Harquahala Valley Irrigation District (hereinafter "HVID") pursuant to section 406(b) of the Act of November 28, 1990 (Public Law 101–628; 104 Stat. 4483), and allocated to the Community in fulfillment of the United States' obligations. In the event the Secretary allocates water acquired pursuant to section 5(a) in lieu of water acquired from the HVID, the Secretary may reallocate HVID water to one or more other Arizona Indian tribes, bands or communities. The Secretary may reallocate HVID water either with its original CAP agricultural priority or as converted to a CAP Indian priority.

(c) PRIORITY.—The priority of water acquired under this section, if allocated by the Secretary to the Community, or to any other Arizona Indian tribe, band or community, shall be the same as established in the Notice of Final Water Allocations to Indian and non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 FR 2446 et seq.). The Community or any other Arizona tribe, band or community to whom such water may be allocated shall pay the United States or, if directed by the Secretary, the CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable.

(d) EXCLUSION OF CERTAIN COSTS.—The Secretary shall, for the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14–06–W–245, Amendment No. 1, between the United States and the CAWCD dated December 1, 1988, and any amendment or revision thereof, exclude the costs associated with water acquired under this section from the CAWCD's repayment obligation and such costs shall be nonreimbursable.

SEC. 6. REPLACEMENT WATER FUND; CONTRACTS.

(a) FUND.—The Secretary shall establish a fund to be known as the "Verde River Basin Water Fund" (hereinafter called the "Fund") to provide replacement water for the CAP water relinquished by the Tribe and by Prescott. Moneys in the Fund shall be available without fiscal year limitations.

(b) CONTENT OF FUND.—The Fund shall consist of moneys appropriated to it pursuant to the authorization in section 9(a), and any moneys returned to the Fund pursuant to subsection (d).

(c) PAYMENTS FROM FUND.—The Secretary shall, subsequent to the publication of a statement of findings as provided in section 12(a), cause to be paid from the Fund to the Tribe and to Prescott an amount equal to the number of acre-feet of CAP water relinquished by the Tribe and by Prescott times a value to be negotiated by the Secretary with the Tribe and Prescott, respectively, together with interest as provided in section 9(b).

(d) CONTRACTS.—The Secretary shall require, as a condition precedent to the payment of any moneys pursuant to subsection (c), that the Tribe and Prescott agree, by contract with the Secretary, to establish trust accounts into which the payments would be deposited and administered, to use such moneys consistent with the purpose and intent of section 7, to provide for audits of such accounts, and for the repayment to the Fund, with interest, any amount determined by the Secretary not to have been used within the purpose and intent of section 7.

SEC. 7. EXPENDITURES OF FUNDS.

(a) BY THE CITY.—All moneys paid to Prescott for relinquishing its CAP subcontract to the Secretary and deposited into a trust account pursuant to section 6(d), shall be used for the purposes of defraying expenses associated with the investigation, acquisition or development of alternative sources of water to replace the CAP water relinquished under this Act. Alternative sources shall be understood to include, but not be limited to, retirement of agricultural land and acquisition of associated water rights, development of ground water resources outside the Prescott Active Management Area established pursuant to the laws of the State of Arizona, and artificial recharge.

(b) BY THE TRIBE.—All funds paid to the Tribe for relinquishing its CAP contract to the Secretary, and deposited into a trust account pursuant to section 6(d), shall be used to defray its water service costs under the Water Service Agreement or to develop and maintain facilities for on-reservation water or effluent use.

(c) NO PER CAPITA PAYMENTS.—No amount of the Tribe's portion of the Fund may be used to make per capita payments to any member of the Tribe, nor may any amount of any payment made pursuant to section 6(c) be distributed as a dividend or per capita payment to any constituent, member, shareholder, director or employee of Prescott.

(d) DISCLAIMER.—Effective with the payment of funds pursuant to section 6(c), the United States shall not be liable for any claim or cause of action arising from the use of such funds by the Tribe or by Prescott.

SEC. 8. ENVIRONMENTAL COMPLIANCE.

The Secretary, the Tribe and Prescott shall comply with all applicable Federal environmental and State environmental and water laws in developing alternative water sources pursuant to section 7(a). Development of such alternative water sources shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of the riparian habitat, flows and biota of the Verde River and its tributaries.

SEC. 9. APPROPRIATIONS AUTHORIZATION AND REPEAL.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Fund established pursuant to section 6(a):

(1) Such sums as may be required to meet the amount agreed upon by the Secretary, city of Prescott, and the Yavapai-Prescott Tribe as necessary for the acquisition of the CAP contract of the Tribe and the CAP subcontract of the city of Prescott, plus an amount necessary for any accrued interest in accordance with subsection (b).

(2) Such sums as may be necessary, but not to exceed $200,000, to the Secretary for the Tribe's costs associated with judicial confirmation of the settlement.

(3) Such sums as may be necessary to provide for the study required under section 11(d).

(4) Such sums as may be necessary to establish, maintain and operate the gauging station required under section 11(e).

(b) INTEREST.—Interest shall accrue and be paid by the United States on the amount authorized in subsection (a)(1) beginning October 1, 1993, or the date the agreement referred to in subsection (a) is entered into, whichever last occurs, and shall continue to accrue until appropriated, at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity.

(c) STATE CONTRIBUTION.—The State of Arizona shall contribute $200,000 to the trust account established by the Tribe pursuant to the Settlement Agreement and section 6(d) for uses consistent with section 7(b).

(d) REPEAL.—Subsection 406(k) of the Act of November 28, 1990 (Public Law 101–628; 104 Stat. 4487) is repealed.

SEC. 10. SATISFACTION OF CLAIMS.

(a) WAIVER.—The benefits realized by the Tribe and its members under the Settlement Agreement and this Act shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal and State laws (including claims for water rights in ground water, surface water and effluent) from time immemorial to the effective date of this Act, and for any and all future claims of water rights (including claims for water rights in ground water, surface water, and effluent) from and after the effective date of this Act. Nothing in this Act shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's reservation.

(b) WAIVER AND RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized and required, as a condition to the implementation of this Act, to execute a waiver and release, except as provided in subsection (d) and the Settlement Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this Act, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) WAIVER BY UNITED STATES.—Except as provided in subsection (d) and the Settlement Agreement, the United States, in its own right or on behalf of the Tribe, shall not assert any claim against the State of Arizona or any politi-

cal subdivision thereof, or against any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona based upon water rights or injuries to water rights of the Tribe and its members or based upon water rights or injuries to water rights held by the United States on behalf of the Tribe and its members.

(d) RIGHTS RETAINED.—In the event the waivers of claims authorized in subsection (b) of this section do not become effective pursuant to section 12(a), the Tribe, and the United States on behalf of the Tribe, shall retain the right to assert past and future water rights claims as to all reservation lands.

(e) JURISDICTION.—The United States District Court for the District of Arizona shall have original jurisdiction of all actions arising under this Act, the Settlement Agreement and the Water Service Agreement, including review pursuant to title 9, United States Code, of any arbitration and award under the Water Service Agreement.

(f) CLAIMS.—Nothing in this Act shall be deemed to prohibit the Tribe, or the United States on behalf of the Tribe, from asserting or maintaining any claims for the breach or enforcement of the Settlement Agreement or the Water Service Agreement.

(g) DISCLAIMER.—Nothing in this Act shall affect the water rights or claims related to any trust allotment located outside the exterior boundaries of the reservation of any member of the Tribe.

(h) FULL SATISFACTION OF CLAIMS.—Payments made to Prescott under this Act shall be in full satisfaction for any claim that Prescott might have against the Secretary or the United States related to the allocation, reallocation, relinquishment or delivery of CAP water.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) JOINING OF PARTIES.—In the event any party to the Settlement Agreement should file a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of the Settlement Agreement or this Act, naming the United States of America or the Tribe as parties, authorization is hereby granted to join the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived. In the event Prescott submits a dispute under the Water Service Agreement to arbitration or seeks review by the United States District Court for the District of Arizona of an arbitration award under the Water Service Agreement, any claim by the Tribe to sovereign immunity from such arbitration or review is hereby waived.

(b) NO REIMBURSEMENT.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of the Settlement Agreement or this Act against any lands within the Yavapai-Prescott Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) GROUND WATER MANAGEMENT PLAN.—The Secretary, in consultation with the Tribe, is authorized to establish a ground water management plan for the reservation which, except as is necessary to be consistent with the Water Service Agreement, the Settlement Agreement and this Act, will have the same effect as a ground water management plan developed under the laws of the State of Arizona.

(d) WATER STUDY.—The Secretary is authorized and directed to study the sources and costs of water supplies which may be available to fulfill the trust responsibility of the United States to the Tonto Apache Tribe of Arizona with respect to water. Sources to be studied shall include water service from the town of Payson, Arizona. The study shall be commenced within 180 days after the enactment of this Act and shall be completed within 1 year after it is commenced. Copies of this study shall be provided to the Committee on Interior and Insular Affairs of the House of Representatives and the Select Committee on Indian Affairs of the Senate.

(e) GAUGING STATION.—The Secretary, acting through the Geological Survey, shall establish, maintain and operate a gauging station at the State Highway 89 bridge across Granite Creek adjacent to the reservation to assist the Tribe and the CVID in allocating the surface flows from Granite Creek as provided in the Settlement Agreement.

SEC. 12. EFFECTIVE DATE.

(a) WAIVERS AND RELEASES.—The waivers and releases required by section 10(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has executed contracts for the acquisition of the Tribe's CAP contract and the city of Prescott's CAP subcontract as provided in section 6(d);

(2) the stipulation which is attached to the Settlement Agreement as exhibit 9.5, has been approved in substantially the form of such exhibit no later than December 31, 1993, such approval conditioned upon subsequent appropriation of funds authorized in section 9(a)(1) and deposit of such funds into the Tribe's and Prescott's respective trust accounts;

(3) the Settlement Agreement has been modified to the extent it is in conflict with this Act and has been executed by the Secretary; and

(4) the State of Arizona has appropriated and deposited into the Tribe's trust account $200,000 as required by the Settlement Agreement.

(b) DEADLINE.—If the actions described in paragraphs (1), (2), (3), and (4) of subsection (a) have not occurred by December 31, 1995, any contract between Prescott and the United States entered into pursuant to section 6(d) shall not thereafter be effective, any funds appropriated pursuant to section 9(a)(1) shall be returned to the Treasury of the United States, and any funds appropriated by the State of Arizona pursuant to the Settlement Agreement shall be returned by the Tribe to the State of Arizona.

SEC. 13. OTHER CLAIMS.

(a) OTHER TRIBES.—Nothing in the Settlement Agreement or this Act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Tribe.

(b) FEDERAL AGENCIES.—Nothing in this Act shall be construed to affect the water rights or the water rights claims of any Federal agency, other than the Bureau of Indian Affairs on behalf of the Tribe.

PIPELINE SAFETY ACT

Mr. LAUTENBERG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1583.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1583) entitled "An Act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations and to improve pipeline safety, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Safety Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—NATURAL GAS PIPELINE SAFETY

Sec. 101. Environmental protection.
Sec. 102. High-density population areas.
Sec. 103. Increased inspection requirements.
Sec. 104. Excess flow valves.
Sec. 105. Technical pipeline safety standards committee.
Sec. 106. Operator testing.
Sec. 107. Replacement of cast iron pipelines.
Sec. 108. Pipeline facility inspection amendments.
Sec. 109. Gathering lines.
Sec. 110. Revised reporting requirements.
Sec. 111. Authority of Secretary.
Sec. 112. Enforcement.
Sec. 113. Participation in agreement proceedings.
Sec. 114. Authorization of appropriations.
Sec. 115. Customer-owned service lines.
Sec. 116. Additional State standards.
Sec. 117. Underwater abandoned pipeline facilities.
Sec. 118. Natural Gas Pipeline Safety Act of 1968 table of contents.

TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

Sec. 201. Environmental protection.
Sec. 202. Environmentally sensitive and high-density population areas.
Sec. 203. Increased inspection requirements.
Sec. 204. Technical Pipeline Safety Standards Committee.
Sec. 205. Operator testing.
Sec. 206. Low internal stress hazardous liquid pipeline facilities.
Sec. 207. Pipeline facility inspection amendments.
Sec. 208. Gathering lines.
Sec. 209. Revised reporting requirements.
Sec. 210. Authority of Secretary.
Sec. 211. Enforcement.
Sec. 212. Emergency flow restricting devices.
Sec. 213. Participation in agreement proceedings.
Sec. 214. Authorization of appropriations.
Sec. 215. Additional State standards.
Sec. 216. Underwater abandoned pipeline facilities.

TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

Sec. 301. Grants-in-aid authorization.
Sec. 302. Underground storage tanks.
Sec. 303. Pipeline accident investigations.
Sec. 304. One-call enforcement.
Sec. 305. Additional inspectors.
Sec. 306. Development of underground utility location technologies.
Sec. 307. Study of underwater abandoned pipeline facilities.

TITLE IV—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Sec. 401. Research and Special Programs Administration.

TITLE V—HAZARDOUS MATERIALS TRANSPORTATION ACT TECHNICAL AMENDMENTS

Sec. 501. Correction to reference to Indian Self-Determination and Education Assistance Act.
Sec. 502. Definitions of HAZMAT employee and employer.
Sec. 503. Technical corrections to section 106.
Sec. 504. Technical correction to section 115.
Sec. 505. Technical corrections to section 116.
Sec. 506. Technical correction to section 118.
Sec. 507. Uniformity of State motor carrier permitting forms and procedures.
Sec. 508. Exemption for certain rail-motor carrier mergers.

TITLE I—NATURAL GAS PIPELINE SAFETY

SEC. 101. ENVIRONMENTAL PROTECTION.

(a) FEDERAL SAFETY STANDARDS AND REPORTS.—Section 3(a) of the Natural Gas Pipeline

Safety Act of 1968 (49 U.S.C. App. 1672(a)) is amended—

(1) in paragraph (1) by inserting "and the protection of the environment" after "need for pipeline safety";

(2) in paragraph (1)(D) by inserting "and the protection of the environment" after "contribute to public safety"; and

(3) in paragraph (3)(A) by striking "or property" and inserting ", property, or the environment".

(b) CORRECTIVE ACTION.—Section 12(b) of such Act (49 U.S.C. App. 1679b(b)) is amended—

(1) in paragraph (1) by striking "or property," and inserting ", property, or the environment,";

(2) in paragraph (2)(A) by striking "or property," and inserting ", property, or the environment,";

(3) in paragraph (2)(B)—

(A) by striking "or property," and inserting ", property, or the environment,"; and

(B) by striking "or property." and inserting ", property, or the environment."; and

(4) in paragraph (5) by striking "or property." and inserting ", property, or the environment.".

SEC. 102. HIGH-DENSITY POPULATION AREAS.

(a) PIPELINE INVENTORY.—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended—

(1) in subsection (f)—

(A) by inserting "(and, to the extent the Secretary considers necessary, operators of gathering lines that are not regulated gathering lines as such term is defined pursuant to section 21(b))" after "subject to this Act"; and

(B) by inserting after the first sentence the following new sentence: "Such inventory shall also include an identification of each of the pipeline facilities of such operator which pass through an area described in regulations issued under subsection (i)(1)."; and

(2) by adding at the end the following new subsection:

"(i) HIGH-DENSITY POPULATION AREAS.—

"(1) IDENTIFICATION OF FACILITIES.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the identification, by operators of pipeline facilities, of all pipeline facilities that are located in high-density population areas. Such regulations shall provide for such identification to be carried out through the inventory required under subsection (f).

"(2) EXCLUSION OF NATURAL GAS DISTRIBUTION LINES.—Natural gas distribution lines shall not be included among pipeline facilities required to be identified pursuant to paragraph (1).".

(b) MAPS.—Section 3(e)(2) of such Act is amended by inserting "including an identification of areas described in regulations issued under subsection (i)(1)," after "supplementary geographic description,".

(c) INSPECTION AND MAINTENANCE PLANS.—Section 13(a)(4) of such Act (49 U.S.C. App. 1680(a)(4)) is amended by inserting "and the protection of the environment" after "public safety".

SEC. 103. INCREASED INSPECTION REQUIREMENTS.

Section 3(g) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1) FEDERAL SAFETY STANDARDS.—" after "INSPECTION DEVICES.—";

(3) by indenting paragraph (1), as designated by paragraph (2) of this subsection, and moving such paragraph (1) (including subparagraphs (A) and (B), as designated by paragraph (1) of this subsection) 2 ems to the right;

(4) by adding at the end of paragraph (1), as designated by paragraph (2) of this subsection, the following new sentence: "The Secretary may extend such regulation to require existing transmission facilities, whose basic construction would accommodate an instrumented internal inspection device, to be modified to permit the inspection of such facilities with instrumented internal inspection devices."; and

(5) by adding at the end the following new paragraph:

"(2) PERIODIC INSPECTIONS.—Not later than 3 years after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring the periodic inspection of each pipeline identified pursuant to subsection (i) by the operator of the pipeline. In issuing the regulations, the Secretary shall prescribe the circumstances, if any, under which such inspections shall be conducted with an instrumented internal inspection device. In those circumstances under which an instrumented internal inspection device is not required, the Secretary shall require the use of an inspection method that is at least as effective as the use of such a device in providing for the safety of the pipeline.".

SEC. 104. EXCESS FLOW VALVES.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is further amended by adding at the end the following new subsection:

"(j) EXCESS FLOW VALVES.—

"(1) REGULATIONS PRESCRIBING INSTALLATION CIRCUMSTANCES.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing the circumstances, if any, under which operators of natural gas distribution systems must install excess flow valves in such systems. In prescribing such circumstances, the Secretary shall consider—

"(A) the system design pressure and the system operating pressure;

"(B) the types of customers to which the distribution system supplies natural gas, including hospitals, schools, and commercial enterprises;

"(C) the technical feasibility and cost of the installation of such valves;

"(D) the public safety benefits of the installation of such valves;

"(E) the location of customer meters; and

"(F) such other factors as the Secretary determines to be relevant.

"(2) REGULATIONS PRESCRIBING NOTIFICATION TO CUSTOMERS OF AVAILABILITY.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations requiring operators of natural gas distribution systems to notify, in writing, their customers with lines in which excess flow valves are not required by law, but can be installed in accordance with the performance standards developed under paragraph (4)—

"(A) of the availability of excess flow valves for installation in such systems,

"(B) of any safety benefits to be derived from the installation, and

"(C) of any costs associated with the installation.

Such regulations shall provide that, except in circumstances under which the installation is required under paragraph (1), excess flow valves shall be installed at the request of a customer if the customer will pay all costs associated with the installation.

"(3) REPORT.—If the Secretary determines under paragraph (1) that there are no circumstances under which operators must install excess flow valves, the Secretary shall transmit to Congress, not later than 30 days after the date of such determination, a report on the reasons for such determination.

"(4) PERFORMANCE STANDARDS.—Not later than 18 months after the date of the enactment of this paragraph, the Secretary shall develop standards for the performance of excess flow valves used to protect lines in natural gas distribution systems. Such standards shall be incorporated into any regulations issued by the Secretary under this subsection. All installations of excess flow valves shall be made in accordance with such standards.

"(5) APPLICABILITY OF REGULATIONS AND STANDARDS.—Regulations and standards issued under paragraphs (1), (2), and (4) shall only apply to—

"(A) natural gas distribution systems installed after the effective date of such regulations; and

"(B) other natural gas distribution systems where repairs to such system require the replacement of parts in a manner to accommodate the installation of excess flow valves.".

SEC. 105. TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE.

Section 4 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1673) is amended—

(1) in subsection (a)(3) by striking the period and inserting ", including 2 members who have education, background, or experience in environmental protection or public safety. At least 1 of the members selected under this paragraph shall have no financial interests in the pipeline, petroleum, or natural gas industries."; and

(2) in subsection (b) by inserting after the sixth sentence the following new sentence: "The Committee, if requested by the Secretary, shall make recommendations to the Secretary concerning policy development.".

SEC. 106. OPERATOR TESTING.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is further amended—

(1) in the third sentence by striking "may" and inserting "shall"; and

(2) by inserting after the third sentence the following new sentence: "Such certification may, as the Secretary considers appropriate, be performed by the operator. Such testing and certification shall address the ability to recognize and appropriately react to abnormal operating conditions which may indicate a dangerous situation or a condition exceeding design limits.".

SEC. 107. REPLACEMENT OF CAST IRON PIPELINES.

Section 13 of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1680) is amended by adding at the end the following new subsection:

"(c) REPLACEMENT OF CAST IRON PIPELINES.—The Secretary shall publish a notice as to the availability of the industry guidelines, developed by the Gas Piping Technology Committee, for the replacement of cast iron pipelines. Within 2 years after the industry guidelines become available, the Secretary shall conduct a survey of operators with cast iron pipe in their systems to determine the extent to which each operator has adopted a plan for the safe management and replacement of cast iron, the elements of the plan, including anticipated rate of replacement, and the progress that has been made. Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), shall not apply to the conduct of such survey. Nothing in this section shall preclude the Secretary from developing such Federal guidelines or regulations with respect to cast iron pipelines as the Secretary deems appropriate.".

SEC. 108. PIPELINE FACILITY INSPECTION AMENDMENTS.

Section 3(h) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(h)) is amended—

(1) in paragraph (2)(A) by striking "pipeline facility operators described in paragraph (1)(A)" and inserting "operators of pipeline facilities described in paragraph (3)";

(2) in paragraph (2)(B) by striking "paragraph (1)(A)" and inserting "paragraph (3)";

(3) in paragraph (3) by striking "periodic inspection program" and all that follows through "and its inlets" and inserting the following:

"periodic inspection program of—

"(A) all offshore pipeline facilities; and

"(B) any other pipeline facilities which cross under, over, or through navigable waters, as such term is defined by the Secretary, if the location of such pipeline facilities in such navigable waters could pose a hazard to navigation or public safety, as determined by the Secretary";

(4) in paragraph (4) by striking "offshore pipeline facility" and inserting "pipeline facility described in paragraph (3)"; and

(5) by adding at the end the following new paragraph:

"(5) Supplementary initial inspection.—

"(A) Requirement.—Not later than—

"(i) 3 years after the date of the enactment of this paragraph; or

"(ii) 6 months after the establishment of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility not described in paragraph (1)(A) shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) Extension.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to 6 months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) Prior inspection recognition.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A) if the inspection conforms to the requirements of that subparagraph.

"(D) Establishment of standards.—The Secretary shall, within 2 years after the date of the enactment of this paragraph, establish, for the purposes of this paragraph, standards—

"(i) for what constitutes an exposed pipeline facility; and

"(ii) for what constitutes a hazard to navigation.".

SEC. 109. GATHERING LINES.

(a) Definition of Transportation of Gas.—

(1) Amendments.—Section 2(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(3)) is amended—

(A) by inserting ", other than gathering through regulated gathering lines," after "include the gathering of gas"; and

(B) by inserting ", but such term shall include the movement of gas through regulated gathering lines" after "a nonrural area".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on the effective date of the regulations required under section 21 of the Natural Gas Pipeline Safety Act of 1968, as added by subsection (b) of this section.

(b) Regulations Defining Gathering Lines.—Such Act is further amended by adding at the end the following new section:

"SEC. 21. GATHERING LINES.

"(a) Gathering Lines Defined.—The Secretary shall, within 2 years after the date of the enactment of this section, define by regulation the term 'gathering line'. In defining such term, the Secretary shall consider functional and operational characteristics of the lines to be included in the definition and shall not be bound by any classifications established by the Federal Energy Regulatory Commission under the Natural Gas Act.

"(b) Regulated Gathering Lines Defined.—The Secretary shall, within 3 years after the date of the enactment of this section, define by regulation the term 'regulated gathering line'. In defining such term, the Secretary shall consider such factors as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas in determining the types of lines which are functionally gathering but which, due to specific physical characteristics, warrant regulation under this Act.".

SEC. 110. REVISED REPORTING REQUIREMENTS.

(a) Property Damage Threshold.—Section 5(a)(ii) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)(ii)) is amended by striking "$5,000" and inserting "an amount established by the Secretary".

(b) Date of Annual Report to Congress.—Section 16(a) of such Act (49 U.S.C. App. 1683(a)) is amended by striking "April 15" and inserting "August 15".

SEC. 111. AUTHORITY OF SECRETARY.

The first sentence of section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)) is amended by striking "when" and inserting "to the extent that".

SEC. 112. ENFORCEMENT.

(a) Maximum Civil Penalty.—Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended by striking "$10,000" and inserting "$25,000".

(b) Enforcement Orders.—Section 14 of such Act (49 U.S.C. App. 1681) is amended by adding at the end the following new subsection:

"(f) Enforcement Orders.—In case of contumacy or refusal to obey a subpoena, or refusal to allow officers, employees, or agents authorized by the Secretary to enter, conduct inspections, or examine records and properties for purposes of determining compliance with this Act, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Attorney General, acting at the request of the Secretary, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by that court as a contempt of court.".

SEC. 113. PARTICIPATION IN AGREEMENT PROCEEDINGS.

(a) In General.—Section 12(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679b(b)) is amended by adding at the end the following new paragraph:

"(6) Opportunity for state comment.—The Secretary shall provide, to appropriate State officials responsible for pipeline safety in any State in which a pipeline facility is located, notice and an opportunity to comment on any agreement proposed to be entered into by the Secretary to resolve a proceeding initiated under this section with respect to such pipeline facility. Comment submitted under this paragraph shall incorporate comments of affected local officials.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day following the date of the enactment of this Act.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by inserting after paragraph (9) the following new paragraphs:

"(10) $6,405,000 for the fiscal year ending September 30, 1992;

"(11) $6,857,000 for the fiscal year ending September 30, 1993;

"(12) $7,000,000 for the fiscal year ending September 30, 1994; and

"(13) $7,500,000 for the fiscal year ending September 30, 1995.".

SEC. 115. CUSTOMER-OWNED SERVICE LINES.

(a) Service Line Maintenance Information.—Section 18 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1685) is amended—

(1) by inserting "(a) Public Education Program.—" before "Each person"; and

(2) by adding at the end the following new subsection:

"(b) Service Line Maintenance Information.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations requiring operators of natural gas distribution pipelines which do not maintain customer-owned service lines up to building walls to advise their customers of the requirements for maintenance of those lines, any resources known to the operator that could aid customers in doing such maintenance, any information that the operator has concerning the operation and maintenance of its lines that could aid customers, and the potential hazards of not maintaining service lines.".

(b) Maintenance of Customer-Owned Service Lines.—

(1) DOT safety review.—Within 18 months after the date of the enactment of this Act, the Secretary of Transportation shall conduct a review of Department of Transportation and State rules, policies, procedures, and other measures with respect to the safety of customer-owned natural gas service lines, including the effectiveness of such rules, policies, procedures, and other measures. The Secretary of Transportation shall include in the review an evaluation of the extent to which lack of maintenance of customer-owned natural gas service lines raises safety concerns and shall make recommendations regarding maintenance of such lines, including the need for any legislative changes or regulatory action. In conducting the review and developing the recommendations, the Secretary of Transportation shall consider the following factors: State and local law, including law governing private property and rights, and including State pipeline safety regulation of distribution operators; the views of State and local regulatory authorities; the extent of operator compliance with the program for advising customers regarding maintenance of such lines required under section 18(b) of the Natural Gas Pipeline Safety Act of 1968; available accident information; the recommendations of the National Transportation Safety Board; costs; the civil liability implications of distribution operators taking responsibility for customer-owned service lines; and whether the service line maintenance information program required under such section 18(b) sufficiently addresses safety risks and concerns involving customer-owned service lines.

(2) Operation and maintenance responsibility.—Within 18 months after the date of the enactment of this Act, the Secretary of Transportation shall conduct, with the participation of the operators of natural gas distribution facilities, a survey of owners of customer-owned service lines to determine the views of such owners regarding whether distribution companies should assume responsibility for the operation and maintenance of customer-owned service lines. In conducting the survey, the Secretary of Transportation shall ensure that such customers are aware of any potential safety benefits, any potential implementation issues (including any property rights or cost issues), the recommendations of the National Transportation Safety Board, and accidents that have occurred, related to customer-owned service lines.

(3) APPLICABILITY.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to the conduct of the review or survey under this subsection.

(4) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the review and survey conducted under this subsection, together with any recommendations (including legislative recommendations) regarding maintenance of customer-owned natural gas service lines.

(c) SAFETY MEASURES.—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (14 U.S.C. App. 1672) is further amended by adding at the end the following new subsection:

"(k) SAFETY MEASURES.—The Secretary shall, within 1 year after transmitting the report required by section 115(b) of the Pipeline Safety Act of 1992, taking into consideration such report, and in cooperation and coordination with appropriate State and local authorities, take action, as appropriate, to promote the adoption of measures that would improve the safety of customer-owned service lines.".

SEC. 116. ADDITIONAL STATE STANDARDS.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is further amended by inserting "that has submitted a current certification under section 5(a)" after "Any State agency".

SEC. 117. UNDERWATER ABANDONED PIPELINE FACILITIES.

Section 3(h) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(h)) is further amended by adding at the end the following new paragraph:

"(6) ABANDONED PIPELINE FACILITIES.—

"(A) TREATMENT.—For the purposes of this subsection, except with respect to the initial inspection required under paragraph (1), the term 'pipeline facilities' includes underwater abandoned pipeline facilities. For the purposes of this subsection, in a case where such a pipeline facility has no current operator, the most recent operator of such pipeline facility shall be deemed to be the operator of such pipeline facility.

"(B) REGULATIONS.—

"(i) IDENTIFICATION OF HAZARDS.—In issuing regulations under paragraph (3), the Secretary shall identify what constitutes a hazard to navigation with respect to underwater abandoned pipeline facilities.

"(ii) OTHER REQUIREMENTS.—In issuing regulations under paragraphs (3) and (4) regarding underwater pipeline facilities abandoned after the date of the enactment of this paragraph, the Secretary shall—

"(I) include such requirements as will lessen the potential that such pipeline facilities will pose a hazard to navigation; and

"(II) take into consideration the relationship between water depth and navigational safety and factors relevant to the local marine environment.

"(C) REPORTING REQUIREMENTS.—

"(i) FORM.—The operator of a pipeline facility abandoned after the date of the enactment of this paragraph shall report such abandonment to the Secretary in a manner specifying whether the facility has been properly abandoned according to applicable Federal and State requirements.

"(ii) PRE-ENACTMENT ABANDONED PIPELINES.—Within 3 years after the date of the enactment of this paragraph, the operator of a pipeline facility abandoned before the date of the enactment of this paragraph shall report to the Secretary reasonably available information, including information in the possession of third parties, relating to the abandoned pipeline facility. Such information shall include the location, size, date, and method of abandonment, whether the pipeline had been properly abandoned pursuant to applicable law, and such other relevant information as the Secretary may require. The Secretary shall, within 18 months after the date of the enactment of this subsection, specify the manner in which such information shall be reported.

"(iii) MAINTENANCE OF RECORDS BY UNITED STATES.—The Secretary shall ensure that the information reported under clause (ii) is maintained by the Federal Government in a manner accessible to the appropriate Federal and State agencies.

"(iv) COLLISIONS.—The Secretary shall request that State agencies which have information on collisions between vessels and underwater pipeline facilities report such information to the Secretary in a timely manner and make a reasonable effort to specify the location, date, and severity of such collisions. Chapter 35 of title 44, United States Code, relating to coordination of Federal information policies, shall not apply to the collection of information under this clause.

"(D) ABANDONED DEFINED.—For purposes of this paragraph, the term 'abandoned' means permanently removed from service.".

SEC. 118. NATURAL GAS PIPELINE SAFETY ACT OF 1968 TABLE OF CONTENTS.

The first section of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Natural Gas Pipeline Safety Act of 1968'.

"(b) TABLE OF CONTENTS.—

"Sec. 1. Short title; table of contents.
"Sec. 2. Definitions.
"Sec. 3. Standards established.
"Sec. 4. Technical Pipeline Safety Standards Committee.
"Sec. 5. State certifications and agreements.
"Sec. 6. Standards for LNG facilities.
"Sec. 7. Financial responsibility for certain LNG activities; studies.
"Sec. 8. Judicial review.
"Sec. 9. Cooperation with Federal Energy Regulatory Commission and State commissions.
"Sec. 10. Compliance.
"Sec. 11. Penalties.
"Sec. 12. Specific relief.
"Sec. 13. Inspection and maintenance plans.
"Sec. 14. Powers and duties of the Secretary.
"Sec. 15. Natural gas safety cooperation and coordination.
"Sec. 16. Annual report.
"Sec. 17. Appropriations authorized.
"Sec. 18. Consumer education.
"Sec. 19. Citizen's civil action.
"Sec. 20. Minimum requirements for one-call notification systems.
"Sec. 21. Gathering lines.".

TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

SEC. 201. ENVIRONMENTAL PROTECTION.

(a) FEDERAL SAFETY STANDARDS AND REPORTS.—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended—

(1) in subsection (a)(1) by inserting "and the protection of the environment" after "safe transportation of hazardous liquids";

(2) in subsection (a)(2)(A) by striking "or property" and inserting ", property, or the environment"; and

(3) in subsection (b)(4) by inserting "and the protection of the environment" after "contribute to public safety".

(b) CORRECTIVE ACTION.—Section 209(b) of such Act (49 U.S.C. App. 2008(b)) is amended—

(1) in paragraph (1) by striking "or property," and inserting ", property, or the environment,";

(2) in paragraph (2)(A) by striking "or property," and inserting ", property, or the environment,";

(3) in paragraph (2)(B)—

(A) by striking "or property," and inserting ", property, or the environment,"; and

(B) by striking "or property." and inserting ", property, or the environment.";

(4) in paragraph (3)(C) by inserting "proximity of such areas to environmentally sensitive areas," after "associated with such areas,"; and

(5) in paragraph (5) by striking "or property." and inserting ", property, or the environment.".

SEC. 202. ENVIRONMENTALLY SENSITIVE AND HIGH-DENSITY POPULATION AREAS.

(a) PIPELINE INVENTORY.—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended—

(1) in subsection (j)—

(A) by inserting "(and, to the extent the Secretary considers necessary, operators of gathering lines that are not regulated gathering lines as such term is defined pursuant to section 220(b))" after "subject to this title"; and

(B) by inserting after the first sentence the following new sentence: "Such inventory shall also include an identification of each of the pipeline facilities and gathering lines of such operator which pass through an area described in regulations issued under subsection (m), whether or not such pipeline facility or gathering line is otherwise subject to regulation under this Act."; and

(2) by adding at the end the following new subsection:

"(m) ENVIRONMENTALLY SENSITIVE AND HIGH-DENSITY POPULATION AREAS.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the identification, by operators of pipeline facilities and operators of gathering lines, of—

"(1) all pipeline facilities and gathering lines, whether otherwise subject to regulation under this Act or not, that are located in areas that are described, by the Secretary in consultation with the Administrator of the Environmental Protection Agency, as unusually sensitive to environmental damage in the event of a pipeline accident; and

"(2) all pipeline facilities, whether otherwise subject to regulation under this Act or not, that—

"(A) cross a navigable waterway, as such term is defined by the Secretary by regulation; or

"(B) are located in areas that are described in such criteria as high-density population areas.

Such regulations shall provide for such identification to be carried out through the inventory required under subsection (j). In describing areas that are unusually sensitive to environmental damage, the Secretary shall consider including earthquake zones and areas subject to substantial ground movements such as landslides; areas where ground water contamination would be likely in the event of the rupture of a pipeline facility; freshwater lakes, rivers, and waterways; and river deltas and other areas subject to soil erosion or subsidence from flooding or other water action, where pipeline facilities are likely to become exposed or undermined.".

(b) MAPS.—Section 203(i)(2) of such Act (49 U.S.C. App. 2002(i)(2)) is amended by inserting "including an identification of areas described in regulations issued under subsection (m)," after "supplementary geographic description,".

(c) INSPECTION AND MAINTENANCE PLANS.—Section 210 of such Act (49 U.S.C. App. 2009) is amended—

(1) in subsection (b)(4) by inserting "and the protection of the environment" after "public safety"; and

(2) in each of subsections (c)(2)(D) and (d)(2)(D) by inserting "the proximity of such areas to areas that are unusually sensitive to environmental damage," after "pipeline facilities are located,".

SEC. 203. INCREASED INSPECTION REQUIREMENTS.

Section 203(k) of the Hazardous Liquids Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1) FEDERAL SAFETY STANDARDS.—" after "INSPECTION DEVICES.—";

(3) by indenting paragraph (1), as designated by paragraph (2) of this subsection, and moving such paragraph (1) (including subparagraphs (A) and (B), as designated by paragraph (1) of this subsection) 2 ems to the right;

(4) by adding at the end of paragraph (1), as designated by paragraph (2) of this subsection, the following new sentence: "The Secretary may extend such regulation to require existing transmission facilities whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices."; and

(5) by adding at the end the following new paragraph:

"(2) PERIODIC INSPECTIONS.—Not later than 3 years after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring the periodic inspection of each pipeline identified pursuant to subsection (m) by the operator of the pipeline. In issuing the regulations, the Secretary shall prescribe the circumstances, if any, under which such inspections shall be conducted with an instrumented internal inspection device. In those circumstances under which an instrumented internal inspection device is not required, the Secretary shall require the use of an inspection method that is at least as effective as the use of such a device in providing for the safety of the pipeline.".

SEC. 204. TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE.

Section 204 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2003) is amended—

(1) in subsection (a)(3) by striking the period and inserting ", including 2 members who have education, background, or experience in environmental protection or public safety. At least 1 of the members selected under this paragraph shall have no financial interests in the pipeline, petroleum, or natural gas industries."; and

(2) in subsection (b) by inserting after the sixth sentence the following new sentence: "The Committee, if requested by the Secretary, shall make recommendations to the Secretary concerning policy development.".

SEC. 205. OPERATOR TESTING.

Section 203(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(c)) is amended—

(1) in the second sentence by striking "may" and inserting "shall"; and

(2) by inserting after the second sentence the following new sentence: "Such certification may, as the Secretary considers appropriate, be performed by the operator. Such testing and certification shall address the ability to recognize and appropriately react to abnormal operating conditions which may indicate a dangerous situation or a condition exceeding design limits.".

SEC. 206. LOW INTERNAL STRESS HAZARDOUS LIQUID PIPELINE FACILITIES.

Section 203(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(b)) is further amended by inserting after paragraph (4) the following new sentence:

"In exercising any discretion under this Act, the Secretary shall not provide an exception to regulation under this Act for any pipeline facility solely on the basis of the fact that such pipeline facility operates at low internal stress.".

SEC. 207. PIPELINE FACILITY INSPECTION AMENDMENTS.

Section 203(l) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(l)) is amended—

(1) in paragraph (2)(A) by striking "pipeline facility operators described in paragraph (1)(A)" and inserting "operators of pipeline facilities described in paragraph (3)";

(2) in paragraph (2)(B) by striking "paragraph (1)(A)" and inserting "paragraph (3)";

(3) in paragraph (3) by striking "periodic inspection program" and all that follows through "and its inlets" and inserting the following:

"periodic inspection program of—

"(A) all offshore pipeline facilities; and

"(B) any other pipeline facilities which cross under, over, or through navigable waters, as such term is defined by the Secretary, if the location of such pipeline facilities in such navigable waters could pose a hazard to navigation or public safety, as determined by the Secretary";

(4) in paragraph (4) by striking "offshore pipeline facility" and inserting "pipeline facility described in paragraph (3)"; and

(5) by adding at the end the following new paragraphs:

"(5) TRANSFER PIPELINE FACILITIES.—The Secretary shall not exempt from regulation under this Act any offshore pipeline facility solely on the basis of the fact that such pipeline facility serves to transfer hazardous liquids in underwater pipelines between vessels and onshore facilities.

"(6) SUPPLEMENTARY INITIAL INSPECTION.—

"(A) REQUIREMENT.—Not later than—

"(i) 3 years after the date of the enactment of this paragraph; or

"(ii) 6 months after the establishment of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility not described in paragraph (1)(A) shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to 6 months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A) if the inspection conforms to the requirements of that subparagraph.

"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within 2 years after the date of the enactment of this paragraph, establish, for the purposes of this paragraph, standards—

"(i) for what constitutes an exposed pipeline facility; and

"(ii) for what constitutes a hazard to navigation.".

SEC. 208. GATHERING LINES.

(a) DEFINITION OF TRANSPORTATION OF HAZARDOUS LIQUIDS.—

(1) AMENDMENTS.—Section 202(3) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001(3)) is amended—

(A) by striking "any such";

(B) by inserting ", other than regulated gathering lines," after "through gathering lines"; and

(C) by inserting ", but such term shall include the movement of hazardous liquids through regulated gathering lines" after "any of such facilities".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the effective date of the regulations required under section 220 of the Hazardous Liquid Pipeline Safety Act of 1979, as added by subsection (b) of this section.

(b) REGULATIONS DEFINING GATHERING LINES.—Such Act is further amended by adding at the end the following new section:

"SEC. 220. GATHERING LINES.

"(a) GATHERING LINES DEFINED.—The Secretary shall, within 2 years after the date of the enactment of this section, define by regulation the term 'gathering lines'.

"(b) REGULATED GATHERING LINES DEFINED.—The Secretary shall, within 3 years after the date of the enactment of this section, define by regulation the term 'regulated gathering lines'. In defining such term, the Secretary shall consider such factors as location, length of line from the well site, operating pressure, throughput, diameter, and the composition of the transported hazardous liquid in determining the types of lines which are functionally gathering but which, due to specific physical characteristics, warrant regulation under this Act. Such definition shall not include crude oil gathering lines that are of a nominal diameter of 6 inches or less, are operated at low pressure, and are located in rural areas that are not unusually sensitive to environmental damage.".

(c) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Hazardous Liquid Pipeline Safety Act of 1979 is amended by adding at the end the following new item:

"Sec. 220. Gathering lines.".

SEC. 209. REVISED REPORTING REQUIREMENTS.

(a) PROPERTY DAMAGE THRESHOLD.—Section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)) is amended by striking "$5,000" and inserting "an amount established by the Secretary".

(b) DATE OF ANNUAL REPORT TO CONGRESS.—Section 213(a) of such Act (49 U.S.C. App. 2012(a)) is amended by striking "April 15" and inserting "August 15".

SEC. 210. AUTHORITY OF SECRETARY.

The first sentence of section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)) is amended by striking "when" and inserting "to the extent that".

SEC. 211. ENFORCEMENT.

(a) MAXIMUM CIVIL PENALTY.—Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended by striking "$10,000" and inserting "$25,000".

(b) ENFORCEMENT ORDERS.—Section 211 of such Act (49 U.S.C. App. 2010) is amended by adding at the end the following new subsection:

"(f) ENFORCEMENT ORDERS.—In case of contumacy or refusal to obey a subpoena, or refusal to allow officers, employees, or agents authorized by the Secretary to enter, conduct inspections, or examine records and properties for purposes of determining compliance with this Act, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Attorney General, acting at the request of the Secretary, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by that court as a contempt of court.".

SEC. 212. EMERGENCY FLOW RESTRICTING DEVICES.

Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is further amended by adding at the end the following new subsection:

"(n) Emergency Flow Restricting Devices.—

"(1) Survey and assessment.—The Secretary shall, within 2 years after the date of the enactment of this subsection, survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate pipeline ruptures and minimize product releases from pipeline facilities.

"(2) Regulations.—Not later than 2 years after the completion of the survey and assessment required by paragraph (1), the Secretary shall issue regulations prescribing the circumstances under which operators of hazardous liquid pipeline facilities must use emergency flow restricting devices and other procedures, systems, and equipment described in paragraph (1) on such facilities.".

SEC. 213. PARTICIPATION IN AGREEMENT PROCEEDINGS.

(a) In General.—Section 209(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2008(b)) is amended by adding at the end the following new paragraph:

"(6) Opportunity for state comment.—The Secretary shall provide, to appropriate State officials responsible for pipeline safety in any State in which a pipeline facility is located, notice and an opportunity to comment on any agreement proposed to be entered into by the Secretary to resolve a proceeding initiated under this section with respect to such pipeline facility. Comment submitted under this paragraph shall incorporate comments of affected local officials.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day following the date of the enactment of this Act.

SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by inserting after paragraph (9) the following new paragraphs:

"(10) $1,600,500 for the fiscal year ending September 30, 1992;

"(11) $1,728,500 for the fiscal year ending September 30, 1993;

"(12) $1,866,800 for the fiscal year ending September 30, 1994; and

"(13) $2,000,000 for the fiscal year ending September 30, 1995.".

SEC. 215. ADDITIONAL STATE STANDARDS.

Section 203(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(d)) is further amended by inserting "that has submitted a current certification under section 205(a)" after "Any State agency".

SEC. 216. UNDERWATER ABANDONED PIPELINE FACILITIES.

Section 203(l) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(l)) is further amended by adding at the end the following new paragraph:

"(7) Abandoned pipeline facilities.—

"(A) Treatment.—For the purposes of this subsection, except with respect to the initial inspection required under paragraph (1), the term 'pipeline facilities' includes underwater abandoned pipeline facilities. For the purposes of this subsection, in a case where such a pipeline facility has no current operator, the most recent operator of such pipeline facility shall be deemed to be the operator of such pipeline facility.

"(B) Regulations.—

"(i) Identification of hazards.—In issuing regulations under paragraph (3), the Secretary shall identify what constitutes a hazard to navigation with respect to underwater abandoned pipeline facilities.

"(ii) Other requirements.—In issuing regulations under paragraphs (3) and (4) regarding underwater pipeline facilities abandoned after the date of the enactment of this paragraph, the Secretary shall—

"(I) include such requirements as will lessen the potential that such pipeline facilities will pose a hazard to navigation; and

"(II) take into consideration the relationship between water depth and navigational safety and factors relevant to the local marine environment.

"(C) Reporting requirements.—

"(i) Form.—The operator of a pipeline facility abandoned after the date of the enactment of this paragraph shall report such abandonment to the Secretary in a manner specifying whether the facility has been properly abandoned according to applicable Federal and State requirements.

"(ii) Pre-enactment abandoned pipelines.—Within 3 years after the date of the enactment of this paragraph, the operator of a pipeline facility abandoned before the date of the enactment of this paragraph shall report to the Secretary reasonably available information, including information in the possession of third parties, relating to the abandoned pipeline facility. Such information shall include the location, size, date, and method of abandonment, whether the pipeline had been properly abandoned pursuant to applicable law, and such other relevant information as the Secretary may require. Within 18 months after the date of the enactment of this paragraph, the Secretary shall specify the manner in which such information shall be reported.

"(iii) Maintenance of records by United States.—The Secretary shall ensure that the information reported under clause (ii) is maintained by the Federal Government in a manner accessible to the appropriate Federal and State agencies.

"(iv) Collisions.—The Secretary shall request that State agencies which have information on collisions between vessels and underwater pipeline facilities report such information to the Secretary in a timely manner and make a reasonable effort to specify the location, date, and severity of such collisions. Chapter 35 of title 44, United States Code, relating to coordination of Federal information policies, shall not apply to the collection of information under this clause.

"(D) Abandoned defined.—For purposes of this paragraph, the term 'abandoned' means permanently removed from service.".

TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

SEC. 301. GRANTS-IN-AID AUTHORIZATION.

Section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c)) is amended by striking "and $5,500,000 for the fiscal year ending September 30, 1991" and inserting "$5,500,000 for the fiscal year ending September 30, 1991, $7,750,000 for the fiscal year ending September 30, 1992, $7,750,000 for the fiscal year ending September 30, 1993, $9,000,000 for the fiscal year ending September 30, 1994, and $10,000,000 for the fiscal year ending September 30, 1995".

SEC. 302. UNDERGROUND STORAGE TANKS.

Section 9001(1)(D) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)(D)) is amended to read as follows:

"(D) pipeline facility (including gathering lines)—

"(i) which is regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.),

"(ii) which is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.), or

"(iii) which is an intrastate pipeline facility regulated under State laws as provided in the provisions of law referred to in clause (i) or (ii) of this subparagraph,

and which is determined by the Secretary to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline,".

SEC. 303. PIPELINE ACCIDENT INVESTIGATIONS.

Section 304(a)(1)(D) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(1)(D)) is amended by inserting "or significant injury to the environment" after "substantial property damage".

SEC. 304. ONE-CALL ENFORCEMENT.

(a) One-Call Enforcement.—Section 20 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687) is amended by adding at the end the following new subsections:

"(g) Violations.—Any person who knowingly and willfully—

"(1) engages in excavation activities—

"(A) without first using an available one-call notification system to determine the location of underground facilities in the area being excavated; or

"(B) without heeding appropriate location information or markings established by an operator of a natural gas or hazardous liquid pipeline facility; and

"(2) subsequently damages—

"(A) a natural gas pipeline facility resulting in death, serious bodily harm, or actual damage to property exceeding $50,000; or

"(B) a hazardous liquid pipeline facility resulting in death, serious bodily harm, actual damage to property exceeding $50,000, or release of more than 50 barrels of product,

shall, upon conviction, be subject, for each offense, to a fine under title 18, United States Code, imprisonment for a term not to exceed 5 years, or both.

"(h) Marking of Facilities.—Upon notification by an operator of a damage prevention program or by a contractor, excavator, or other person planning to carry out demolition, excavation, tunneling, or construction in the vicinity of a natural gas or hazardous liquid pipeline facility, the operator of the pipeline facility shall accurately mark, in a reasonable and timely manner, the location of the pipeline facilities in the vicinity of such demolition, excavation, tunneling, or construction.".

(b) Technical Amendments.—Subsections (a)(1) and (c)(1) of section 11 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1678) are each amended by inserting "or section 20(h)" after "section 10(a)".

(c) Notification of Occupational Safety and Health Administration.—The Secretary of Transportation shall, in consultation with the Occupational Safety and Health Administration, establish procedures to notify such Administration of any pipeline accident in which an excavator, causing damage to a pipeline, may have violated Occupational Safety and Health Administration regulations.

SEC. 305. ADDITIONAL INSPECTORS.

To the extent and in such amounts as are provided in advance in appropriations Acts, the Secretary of Transportation, in fiscal year 1993, shall employ and retain thereafter an additional 12 employees for regional or field pipeline safety offices above the number of such employees authorized for fiscal year 1992. The primary functions of such additional employees shall be—

(1) to provide technical assistance and training to State pipeline inspectors and to assist in the review and management of pipeline safety grants;

(2) to inspect pipeline facilities, including interstate and intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program that meets the requirements of section 205 (a) or (b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004 (a) or (b));

(3) to assist the States identified in paragraph (2) in developing hazardous liquid pipeline safety programs that meet such requirements; and

(4) to inspect interstate hazardous liquid pipeline facilities constructed before 1971.

SEC. 306. DEVELOPMENT OF UNDERGROUND UTILITY LOCATION TECHNOLOGIES.

(a) In General.—The Secretary of Transportation shall carry out a research and development program on underground utility location technologies.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 307. STUDY OF UNDERWATER ABANDONED PIPELINE FACILITIES.

(a) Study.—The Secretary of Transportation, in consultation with State and other Federal agencies having authority over underwater natural gas and hazardous liquid pipeline facilities and with pipeline owners and operators, the fishing and maritime industries, and other affected groups, shall undertake a study of the abandonment of such pipeline facilities. Such study shall include—

(1) a survey of Federal policies and authorities with respect to abandonment of such pipeline facilities;

(2) an analysis of the extent and nature of the problems currently caused by such pipeline facilities;

(3) an analysis of alternative methods and requirements for abandonment as well as the relevant costs and other factors associated with those alternative methods and requirements;

(4) an analysis of the navigational, safety, and environmental impacts and economic costs associated with the disposition of pipeline facilities permanently removed from service;

(5) an analysis of various factors associated with retroactively imposing requirements on previously abandoned pipeline facilities; and

(6) other matters as may contribute to the development of a recommendation for Federal action.

(b) Report to Congress.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the study undertaken under this section, together with a recommendation for Federal action.

(c) Additional Authority.—Based on the findings of the study undertaken under this section, the Secretary may require, by regulations issued under the Natural Gas Pipeline Safety Act of 1968 or the Hazardous Liquid Pipeline Safety Act of 1979, operators of facilities abandoned before the date of the enactment of this Act to take any additional appropriate actions to prevent hazards to navigation in connection with such facilities.

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $300,000 for fiscal years beginning after September 30, 1992. Such funds shall remain available until expended.

TITLE IV—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

SEC. 401. RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.

(a) Establishment.—Chapter 1, title 49, United States Code, is amended by adding at the end the following new section:

"§112. Research and Special Programs Administration

"(a) Establishment.—There is established in the Department of Transportation a Research and Special Programs Administration.

"(b) Administrator.—

"(1) Appointment.—The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) Reporting.—The Administrator shall report directly to the Secretary.

"(c) Deputy Administrator.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary of Transportation. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

"(d) Responsibilities of Administrator.—The Administrator of the Administration shall be responsible for carrying out the following:

"(1) Hazmat transportation safety.—Duties and powers vested in the Secretary of Transportation with respect to hazardous materials transportation safety, except as otherwise delegated by the Secretary.

"(2) Pipeline safety.—Duties and powers vested in the Secretary with respect to pipeline safety.

"(3) Activities of Volpe National Transportation Systems Center.—Duties and powers vested in the Secretary with respect to activities of the Volpe National Transportation Systems Center.

"(4) Other.—Such other duties and powers as the Secretary shall prescribe, including such multimodal and intermodal duties as are appropriate.

"(e) Limitation on Statutory Construction.—Nothing in this section shall affect any delegation of authority, regulation, order, approval, exemption, waiver, contract, or other administrative act of the Secretary with respect to laws administered through the Research and Special Programs Administration of the Department of Transportation on the date of the enactment of this section.".

(b) Conforming Amendment.—The analysis for chapter 1 of such title is amended by adding at the end the following new item:

"112. Research and Special Programs Administration.".

(c) Amendment to Title 5, United States Code.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Administrator, Research and Special Programs Administration.".

TITLE V—HAZARDOUS MATERIALS TRANSPORTATION ACT TECHNICAL AMENDMENTS

SEC. 501. CORRECTION TO REFERENCE TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

Section 103(8) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1802(8)) is amended by inserting after "Education" the following: "Assistance".

SEC. 502. DEFINITIONS OF HAZMAT EMPLOYEE AND EMPLOYER.

Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1802) is amended in each of paragraphs (5)(B) and (6)(A)(iii)—

(1) by striking "reconditions" and inserting "manufactures, reconditions,"; and

(2) by inserting "as qualified" after "represented".

SEC. 503. TECHNICAL CORRECTIONS TO SECTION 106.

(a) In General.—Section 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1805) is amended—

(1) in subsection (c)(1)(C) by inserting "(in other than a bulk packaging)" after "5,000 pounds or more";

(2) in subsection (c)(8) by inserting ", or carries out an activity at more than one location," after "one activity";

(3) in subsection (c)(12) by striking "117(h)" and inserting "117A(h)";

(4) in subsection (d)(5) by striking "this section" and inserting "this subsection"; and

(5) in subsection (d)(5) by inserting ", in quantities established by the Secretary," after "motor carrier".

(b) Subsection Designation and Heading.—Section 8 of the Hazardous Materials Transportation Uniform Safety Act of 1990 is amended by inserting before "Section 106" the first place it appears the following: "(a) In General.—".

SEC. 504. TECHNICAL CORRECTION TO SECTION 115.

Section 115(a) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1812(a)) is amended by inserting ", 117A, 118," after "117".

SEC. 505. TECHNICAL CORRECTIONS TO SECTION 116.

Section 116 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1813)) is amended—

(1) in subsection (c) by inserting "and" after "alternative routes,"; and

(2) by adding at the end the following new subsection:

"(e) Definitions.—For purposes of this section, the following definitions apply:

"(1) High-level radioactive waste.—The term 'high-level radioactive waste' has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

"(2) Spent nuclear fuel.—The term 'spent nuclear fuel' has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).".

SEC. 506. TECHNICAL CORRECTION TO SECTION 118.

Section 118(d) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1816(d)) is amended by striking "117(h)" and inserting "117A(h)".

SEC. 507. UNIFORMITY OF STATE MOTOR CARRIER PERMITTING FORMS AND PROCEDURES.

(a) Working Group.—Section 121(a) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1819(a)) is amended—

(1) in paragraph (1) by striking "States that" and inserting "a State to";

(2) in paragraph (1) by striking ", by motor vehicle" and inserting "by motor vehicle in such State and for a State to permit the transportation of hazardous materials in such State"; and

(3) in paragraph (2) by inserting "and permit" before "forms and".

(b) Consultation Requirement.—Section 121(b) of such Act is amended by inserting "and permit" before "requirements".

SEC. 508. EXEMPTION FOR CERTAIN RAIL-MOTOR CARRIER MERGERS.

Any transaction in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code (or a person controlled by or affiliated with such a rail carrier) seeks to acquire control of a motor carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of such title shall be exempt from the fourth sentence of section 11344(c) of such title (1) if, during the period between November 30, 1987, and May 1, 1992, such rail carrier or person acquired a minority stock interest in the motor carrier, and (2) if such rail carrier or person (or a person controlled by or affiliated with such rail carrier or person) was authorized by the Commission to provide transportation as a *motor carrier before the acquisition of such minority stock interest.*

Amend the title so as to read: "An Act to increase the safety to humans and the environment from the transportation by pipeline of natural gas and hazardous liquids, and for other purposes.".

AMENDMENT NO. 3404

(Purpose: To authorize the Secretary of Transportation to approve construction of the Page Avenue extension in St. Louis, Missouri, and for other purposes.)

Mr. LAUTENBERG. Mr. President, I move that the Senate concur in the amendments of the House with a further amendment, now at the desk, on behalf of Senator DANFORTH.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. DANFORTH, proposes an amendment numbered 3404.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new sections:

SEC. . PAGE AVENUE EXTENSION.

(a) Upon submission of a request by the State of Missouri for Federal Highway Administration approval of the Page Avenue Extension project (hereinafter cited in this section as "the project"), the Secretary of the United States Department of Transportation (hereinafter cited in this section as "the Secretary") is authorized to waive the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, for the alignment designated by the State of Missouri as the "Red Alignment", as described in the draft environmental impact statement approved by the Federal Highway Administration on May 30, 1990, if:

(1) the Secretary determines that a final environmental impact statement has been completed by the State of Missouri and approved by the Secretary; and

(2) the State of Missouri enters into an enforceable agreement with the Secretary to implement a project mitigation plan that includes, at a minimum—

(A) expansion of the Creve Coeur Lake Memorial Park (hereinafter cited in this section as "the Park") in the vicinity of St. Louis, Missouri, by at least fifty percent, through acquisition and addition to the Park of not less than 600 acres of land;

(B) development of a walking and bicycle path that is not less than ten feet in width and connects the Park to the KATY Trail State Park in St. Charles County, Missouri;

(C) construction of nature trails in the wooded upland portion of the addition to the Park referred to in subparagraph (A);

(D) development of a Wetland Wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features in the Park or in one of the additions to the Park referred to in subparagraph (A);

(E) dredging of Creve Coeur Lake to help remedy a chronic siltation problem and to promote fish and wildlife populations;

(F) construction of a new lake in one of the additions to the Park referred to in subparagraph (A) to help alleviate the recurrence of a chronic siltation problem in a manner that minimizes, to the maximum extent practicable and in accordance with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), the disturbance of any existing wetlands;

(G) design and construction of features to minimize the visual and physical impact of the project in the vicinity of the Park, consistent, to the extent practicable, with recommendations of the design committee established in accordance with subsection (c), including—

(i) the use of textured concrete, as appropriate;

(ii) the minimization of bridge pier sizing in the elevated portion of the project;

(iii) the use of a bridge design that is more aesthetically pleasing than standard elevated roadway designs;

(iv) construction of bridge siderails with materials that are effective noise attenuators to reduce operational noise levels near the bridge;

(v) design and construction of a drainage system to prevent contamination of Creve Coeur Lane and Creve Coeur Creek with pollution from roadway runoff;

(vi) landscaping of the area between the elevated roadway and Creve Coeur Mill Road to enhance visual parameters without compromising road user safety; and

(vii) the placement of signs to direct road users to appropriate park entrances and facilities;

(H) such other mitigation measures as the Secretary may determine are appropriate to ensure that the environmental benefits of the project mitigation plan exceed the environmental damage associated with the project; and

(I) a monetary contribution by the State of Missouri as may be necessary to implement the entire mitigation plan, in an amount not less than $6,000,000, including the payment of not less than $250,000 for facility improvements in the Park, and all funds to develop and implement the mitigation plan shall come from non-federal sources of funding.

(b) None of the costs to develop or implement the project mitigation plan referred to in subsection (a) shall be considered expenditures pursuant to or in satisfaction of the transportation enhancement requirements of section 133 of title 23, United States Code (as amended by section 1007 of The Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1927-1931).

(c) The Governor of the State of Missouri shall establish a design committee to develop recommendations concerning design and construction features to minimize the visual and physical impact of the project in the vicinity of the Park. The Committee shall include representatives of local elected officials, regional park officials, local community groups, design professionals, environmental organizations, and business organizations.

(d) To the maximum extent practicable, the State of Missouri shall implement the project mitigation plan referred to in subsection (a) prior to the commencement of construction of the Page Avenue Extension project. At a minimum, the mitigation measures specified in subsection (a)(2)(A) and (a)(2)(C) shall be completed prior to commencement of construction of the Page Avenue Extension project.

(e) If the project does not comply with all other requirements of federal environmental law that are applicable to the project, including sections 134 and 135 of title 23, United States Code (as amended by sections 1024 and 1025 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1955-1962 and 105 Stat. 1962-1965) and all other requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240, 105 Stat. 1914 et seq.), any waiver of the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, granted by the Secretary under the authority of this section shall be stayed pending a determination by the Secretary that the project has been brought into compliance with such other requirements. Any determination by the Secretary under the preceding sentence shall be subject to judicial review.

SEC. . RURAL ACCESS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037-2042) is amended in item number 52, relating to Bedford Springs, Pennsylvania—

(1) by striking "Bedford Springs,";

(2) by inserting "in Bedford Springs, Pennsylvania," after "access road"; and

(3) by inserting "or other projects in the counties of Bedford, Blair, Fulton, and Huntington, as selected by the State of Pennsylvania" after "therewith".

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I rise in support of S. 1583, the Pipeline Safety Act of 1992. The amendment before us today reauthorizes the natural gas and hazardous liquid pipeline safety programs of the Department of Transportation [DOT] through fiscal year 1995.

While the transportation safety record of pipelines is commendable, improvements are always appropriate. In this regard, S. 1583 requires DOT to undertake enhanced pipeline safety measures in certain circumstances where there is a demonstrated safety need. One such area is the inclusion of environmental protection, in addition to the protection of life and property, in calculating pipeline safety priorities. S. 1583 also mandates the establishment of industrywide guidelines on instrumental internal inspection devices, also known as smart pigs, excess flow valves, and customer-owned service lines.

The legislation requires minimum pipeline operator training requirements and provides authority for 12 additional Federal pipeline inspectors. Additionally, the legislation includes criminal sanctions for excavators who cause major damage to pipelines after knowingly and willfully failing to use one-call utility locating systems.

I believe this is a good bill that will continue to enhance the safety of pipeline transportation. I, therefore, ask my colleagues to join me in support of this legislation.

Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I am pleased to recommend that the Senate pass S. 1583, the Pipeline Safety Act of 1992. In the first session of this Congress, on October 7, 1991, the Senate passed its original version of this bill. For the last several months, members of the Senate Commerce Committee have worked with the House Committees on Energy and Commerce and Public Works to craft a compromise bill which incorporates the best components of each committee's bill. I would like to thank the members and staffs of these committees for the bipartisan cooperation exhibited and the diligence employed in developing the legislation before you today.

The bill, as amended, expands the Department of Transportation's [DOT's] pipeline safety responsibilities to include environmental protection, in addition to the protection of life and property, in assessing safety priorities. The bill also provides the following: improved identification of pipelines in environmentally sensitive and high-density population areas through the use of inventory and mapping; penalities for pipeline operators and excavators who fail to participate in State and local one-call damage prevention programs; analysis and corrective action regarding abandoned underwater pipelines; and increased use of state-of-the-art technology, including excess flow valves for natural gas pipelines and excess flow restricting devices for hazardous liquid pipelines.

Additionally, the legislation, as amended, provides for: increased inspection requirements, including use of instrumental internal inspection devices, smart pigs; a program to improve the operation and maintenance of customer-owned service lines; better pipeline operator training; a national program to inspect underwater pipelines to ensure they are properly buried and do not impose a hazard to navigation; elimination of the blanket exemption for low internal stress pipelines; safety coverage of some gathering lines; and monitoring of the effectiveness of industry guidelines to encourage cast iron pipe replacement.

S. 1583, as amended, authorizes funding for the Federal pipeline safety programs and State grants which are all offset by users fees as follows: for the Natural Gas Pipeline Safety Act of 1968, $6,405,000 for fiscal year 1992, $6,857,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and $7,500,000 for fiscal year 1995; for the Hazardous Liquids Pipeline Safety Act, $1,600,500 for fiscal year 1992, $1,728,500 for fiscal year 1993, $1,866,800 for fiscal year 1994, and $2,000,000 for fiscal year 1995; and for the State grants-in-aid, $7,750,000 for fiscal year 1992, $7,750,000 for the fiscal year 1993, $9,000,000 for the fiscal year 1994, and $10,000,000 for the fiscal year 1995.

The amendment also provides statutory authority for the Research and Special Programs Administration within DOT. Additionally, the legislation makes various technical amendments to the Hazardous Materials Transportation Act and provides for a statutory exemption for certain rail-motor carrier mergers subject to the jurisdiction of the Interstate Commerce Commission.

I wholeheartedly encourage my colleagues to support this bipartisan effort to further improve the safety of our Nation's pipeline system.

Mr. DANFORTH. Mr. President, today the Senate takes the final step toward enactment of S. 1583, the Pipeline Safety Act of 1992. This important legislation includes provisions similar to those first proposed in S. 1055, the Pipeline Safety Improvement Act of 1991 that I introduced with Senators BOND and DOLE.

S. 1055 responded to a series of pipeline accidents in Missouri and Kansas between September 1988 and May 1991. Similarities between some of the accidents indicated that certain kinds of pipeline need more attention so potential dangers can be avoided. The bill addressed issues affecting the following kinds of pipelines:

Natural gas distribution lines caused explosions in Oak Grove, MO, 2 people killed; Kansas City, MO, 1 killed, 5 injured; and Overland Park, KS, 4 injured.

Cast iron natural gas pipelines ruptured in Kansas City, MO, 1 injured; and Topeka, KS, 1 killed, 5 injured.

Oil pipelines spilled 850,000 gallons of crude oil in Maries County into the Gasconade River, and 100,000 gallons into the Chariton River near Ethel, MO.

S. 1583, as amended by the House, requires the Department of Transportation to take the following safety actions:

First, protection of the environment, as well as lives and property, from pipeline hazards;

Second, collection of specific information on pipelines located in environmentally sensitive and highly populated areas;

Third, assessment of the effectiveness of current safety procedures, systems and equipment used for detecting, locating, and reducing damage from hazardous liquid pipeline ruptures;

Fourth, performance standards and regulations for the installation of excess flow valves on natural gas distribution lines for improving safety; and

Fifth, distribution and monitoring of new industry guidelines for cast iron pipe replacement.

In addition to reauthorizing funding for all Federal pipeline programs, the Pipeline Safety Act of 1992 also contains provisions affecting the following concerns: pipeline operator testing; the use of instrumented internal inspection devices; identification of underwater pipelines posing navigation hazards; maintenance of customer-owned natural gas service lines; and criminal penalties for excavators who cause major damage to pipelines after knowingly and willfully failing to heed information provided to them on underground pipeline locations.

Mr. President, these initiatives would improve the safety of people, property, and the environment throughout the United States. I urge my colleagues to support final passage of S. 1583.

THE PAGE AVENUE EXTENSION PROJECT

Mr. President, the Page Avenue project would solve what is arguably the worst traffic congestion problem in Missouri. The project will connect St. Louis County, MO's most populous county, with St. Charles County, the fastest growing county in Missouri and one of the fastest growing in the Midwest. The main crossing between the two counties, the 10 lane I–70 bridge over the Missouri River, is the most heavily used bridge in the State, with traffic exceeding capacity during much of the day.

The Red Alignment for the Page Avenue extension project has the overwhelming support of the public and of a bipartisan list of elected officials from the area. Both Missouri Senators, both U.S. Representatives, from the area, the Governor, the county executive of St. Louis County, the presiding commissioner of St. Charles County, and the State senators and representatives all support the project. At a June 1990 public hearing in St. Charles, approximately 1,100 people showed up in support of the plan, with only a few in opposition. This was a record turnout for a highway hearing in the State of Missouri and demonstrates the tremendous public interest in expeditious approval of the Page Avenue extension project.

The Red Alignment runs across the southern end of Creve Coeur Park and would require an elevated causeway across the southern tip of Creve Coeur Lake. Since 1970, a plan similar to the Red Alignment has been part of the St. Louis region's plans to relieve area traffic problems. In 1973, the Missouri Highway and Transportation Commission approved a study which established a Page Avenue extension corridor. Since then, St. Louis County has protected the Red Alignment corridor from development. Developers made construction decisions, and individuals made purchases and rentals, with the strong expectation that the route would be developed where the county and the State planned it to be. Thousands of individuals have made decisions about purchasing or selling property with that expectation in mind.

To compensate for any environmental damage, the State will significantly improve the park with a massive enhancement plan for Creve Coueur Lake Memorial Park. According to the St. Louis County executive, the State's enhancement plan would transform the park into the premier urban park in our State. The State will donate 640 acres to St. Louis County, increasing the size of the park by over 50 percent; develop a walking and bicycle path; construct nature trails in a wooded part of the park; develop a wetland wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features; dredge Creve Coeur Lake to help remedy a chronic siltation problem; construct a new lake in one of the additions to the park; and design and construct features to minimize the visual and physical impact of the project to the park.

Because the Page Avenue extension traverses parkland, it must meet the requirements of section 4(f) of the Department of Transportation Act of 1966. The act states that the Secretary of Transportation may not approve a highway which traverses a public park unless there is no feasible and prudent alternative to the use of such land. While State and county officials believe that no such alternative exists to the Red Alignment, the courts have interpreted this standard so stringently that nearly any alternative is considered feasible and prudent despite costs, dislocations, or park enhancements. For the Secretary of Transportation this means that despite a plan to make the county park significantly larger and tremendously better—a plan that is strongly supported by St. Louis County—he risks certain court challenge, lengthy litigation, and endless delays if he approves the Page Avenue extension project along the Red Alignment. As a result, legislation is required in order to allow the State to proceed in a timely manner.

The amendment authorizes the Secretary of Transportation to waive the 4(f) requirement of the Department of Transportation Act and approve the project if: First, the State has completed its final environmental impact statement; and second, the State agrees to implement the extensive mitigation plan, and pay for it with non-Federal funds. Should the project be found not to comply with any other requirements of Federal environmental law, the 4(f) waiver would be stayed. I have been informed by the chief engineer of the Missouri Highway and Transportation Department [MHTD] that the MHTD is both willing and able to carry out its requirements. It is my understanding and expectation that this amendment will permit the Secretary of Transportation to approve the project near the end of 1992. I anxiously look forward to the day when residents of the St. Louis area have both a much better transportation network and a much better park.

Mr. PRESSLER. Mr. President, I rise today in support of final passage of S. 1583, the Pipeline Safety Improvement Act of 1992. I believe this act will improve the safety of our Nation's energy pipelines—both for humans and the environment.

Mr. President, there have been hazardous liquid pipeline leaks in my home State of South Dakota. These have been a major concern to myself and my constituents. Significant property losses have been incurred. The environment has been damaged. Fortunately, no major injuries have occurred in South Dakota. However, this is not true elsewhere in this country. This country needs pipelines to move energy resources. Most Americans prefer pipelines over truck transportation of hazardous liquids. But there have been problems. This legislation hopefully will correct most of the problems that have occurred in the last few years.

I am proud this Act contains a portion of legislation I introduced earlier this year, S. 2375, adding 12 inspectors to the Office of Pipeline Safety. They will focus on four areas. First, they will provide technical assistance and training to State pipeline inspectors. Second, they will inspect pipeline facilities, including interstate and intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program. Third, they will help these States develop a hazardous liquid pipeline safety program. Last, these additional 12 inspectors will inspect interstate hazardous liquid pipeline facilities constructed before 1971.

I believe that the addition of these 12 positions within the Office of Pipeline Safety, focused as I have described, will contribute substantially to the safety improvements in this act. There are other improvements in the bill that will be very helpful as well. Technological improvements in the industry have occurred in the last few years. This legislation establishes requirements to improve pipeline safety by using this technology.

I commend my colleagues and members of the committee staff who have worked so diligently to craft this compromise. I urge all of my colleagues to support its final passage.

Mr. KASTEN. Mr. President, as the Ranking Republican Member of the Senate Commerce Committee's Subcommittee on Surface Transportation, I urge my colleagues to support the Pipeline Safety Act of 1992. This legislation is important to Wisconsin and to the United States. S. 1583 will improve the safety of transporting natural gas and hazardous liquids through this nation's extensive system of pipelines. Also, this legislation makes the Secretary of Transportation responsible for protecting the environment, in addition to lives and property, from pipeline disasters.

On September 15, the House approved an amendment in the nature of a substitute to S. 1583, the Senate-passed pipeline safety reauthorization bill. This substitute language was agreed to after extensive negotiations between the House and the Senate. Its provisions were worked out with the close cooperation of the administration and the pipeline industry.

The final version of S. 1583 that we are considering today includes the following provisions:

First, funding authority for Federal pipeline safety programs and State grants all offset by users fees;

Second, protection of the environment from pipeline hazards;

Third, identification of pipeline in environmentally sensitive or high-density populated areas;

Fourth, performance standards and regulations regarding the use of excess flow valves (EFV's) on natural gas distribution lines;

Fifth, monitoring of the effectiveness of industry guidelines to encourage cast iron pipe replacement;

Sixth, DOT assessment of procedures, systems, and equipment to detect, locate, and shut down oil pipeline ruptures;

Seventh, criminal sanctions for excavators who cause major damage to pipelines after knowingly and willfully failing to use one-call utility locating systems;

Eighth, DOT data collection and study of underwater abandoned pipelines;

Ninth, testing and certification of individuals who operate or maintain pipelines;

Tenth, DOT authority to require certain pipelines to accommodate instrumented internal inspection devices, smart pits;

Eleventh, regulation of certain gathering lines;

Twelfth, safety of customer-owned natural gas service liens;

thirteenth, State participation in DOT corrective action agreements with pipeline companies;

Fourteenth, inspection of pipelines in navigable waters or offshore;

Fifteenth, civil penalties increased from $10,000 to $25,000 per violation per day; and

Sixteenth authority for 12 additional Federal pipeline inspectors.

S. 1583 also includes technical amendments to previous pipeline safety acts and to the Hazardous Materials Transportation Uniform Safety Act of 1990. Finally, it makes statutory the Research and Special Programs Administration.

DISTRIBUTION OF MATERIAL BY USIA

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 5751, a bill to provide for the distribution within the United States of certain material prepared by the USIA; that the Senate proceed to its immediate consideration; that the bill be read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5751) was deemed read a third time and passed.

COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION ESTABLISHMENT ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 739, H.R. 5851, a bill to establish the Commission on Information Technology and Paperwork Reduction.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5851) to establish the Commission on Information Technology and Paperwork Reduction.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3405

(Purpose: To provide for the efficient and cost effective acquisition of nondevelopmental items for Federal agencies, to improve the General Accounting Office bid protest system, and for other purposes)

Mr. LAUTENBERG. Mr. President, there is an amendment at the desk on behalf of Senator LEVIN, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. LEVIN, proposes an amendment numbered 3405.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1, strike out line 3 and insert in lieu thereof the following:

TITLE I—COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION

SEC. 101. FINDINGS AND PURPOSE.

On page 2, line 17, strike out "SEC. 2." and insert in lieu thereof "SEC. 102.".

On page 2, line 18, strike out "section (1)(b)" and insert in lieu thereof "section 101(b)".

On page 2, line 22, strike out "SEC. 3." and insert in lieu thereof "SEC. 103.".

On page 7, line 3, strike out "SEC. 4." and insert in lieu thereof "SEC. 104.".

On page 8, line 5, strike out "SEC. 5." and insert in lieu thereof "SEC. 105.".

On page 8, line 9, strike out "4" and insert in lieu thereof "IV".

On page 9, line 1, strike out "SEC. 6." and insert in lieu thereof "SEC. 106.".

On page 9, line 4, strike out "Act" and insert in lieu thereof "title".

On page 9, line 19, strike out "5" and insert in lieu thereof "V".

On page 10, line 14, strike out "SEC. 7." and insert in lieu thereof "SEC. 107.".

On page 10, line 21, strike out "Act" and insert in lieu thereof "title".

On page 11, line 4, strike out "SEC. 8." and insert in lieu thereof "SEC. 108.".

On page 11, line 6, strike out "Act" and insert in lieu thereof "title".

On page 11, line 7, strike out "SEC. 9." and insert in lieu thereof "SEC. 109.".

On page 11, line 9, strike out "section 3" and insert in lieu thereof "section 103".

On page 11, line 10, strike out "SEC. 10." and insert in lieu thereof "SEC. 110.".

On page 11, line 11, strike out "Act" and insert in lieu thereof "title".

On page 11, add after line 11 the following:

TITLE II—NONDEVELOPMENT ITEMS ACQUISITION

SEC. 201. SHORT TITLE.

This title may be cited as the "Nondevelopmental Items Acquisition Act of 1992".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the acquisition of nondevelopmental items can lower Federal agency procurement costs by—

(A) reducing or eliminating the need for research and development;

(B) reducing acquisition lead time by making use of existing production lines and facilities;

(C) opening competition for Federal agency contracts to thousands of manufacturers who sell products in the commercial market; and

(D) increasing Federal agency access to the market-driven innovations and efficiencies available in the commercial market;

(2) the efficient acquisition of nondevelopmental items is impeded when Federal agencies impose complicated specifications and unnecessarily burdensome contract requirements on simple commercial and off-the-shelf products; and

(3) legislation is needed to reduce impediments to the acquisition of nondevelopmental items and encourage increased acquisition of such items.

(b) PURPOSE.—The purposes of this title are to—

(1) establish a preference for the use of performance specifications and the acquisition of nondevelopmental items by Federal agencies;

(2) require training of appropriate personnel in the acquisition of nondevelopmental items;

(3) require Federal agencies to designate personnel responsible for promoting the acquisition of nondevelopmental items and challenging barriers to the acquisition of nondevelopmental items; and

(4) reduce impediments to the acquisition of nondevelopmental items by Federal agencies.

SEC. 203. NONDEVELOPMENTAL ITEMS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"ACQUISITION OF NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall require that, to the maximum extent practicable—

"(1) the requirements of Federal agencies with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(3) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(4) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(b) As used in this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously developed item of supply that is in use by a department or agency of the United States, or a State or local government;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Acquisition of nondevelopmental items.".

SEC. 204. COMMERCIAL ITEMS.

(a) SIMPLIFIED UNIFORM CONTRACT.—(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

(B) In addition to the clauses described under subparagraph (A), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(2)(A) The Federal Acquisition Regulation shall require that, except as provided in subparagraph (B), a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note) in lieu of the uniform contract and subcontract clauses developed under this subsection.

(b) WARRANTIES.—The Federal Acquisition Regulation shall require that, to the maximum extent practicable, Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(c) MARKET ACCEPTANCE.—The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use; or

(B) been satisfactorily supplied under current or recent contracts for the same or similar requirements; and

(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

(d) PAST PERFORMANCE.—The Federal Acquisition Regulation shall provide guidance to Federal agencies on the use of past performance of products and sources as a factor in award decisions.

(e) DEFINITIONS.—As used in this section—

(1) the term "commercial item" means any item of supply that—

(A) requires no modifications or only minor modifications to meet the needs of the procuring agency;

(B) regularly is used for other than Government purposes; and

(C) is sold or traded to the general public in significant quantities in the course of normal business operations; and

(2) the term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 472(a)).

SEC. 205. RULE OF CONSTRUCTION.

Nothing in this title or amendments made by this title shall be construed to impair or affect the authorities or responsibilities conferred by section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) with respect to the procurement of automatic data processing equipment and services.

SEC. 206. IMPLEMENTATION.

(a) TRAINING.—The Administrator for Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of appropriate personnel in—

(1) the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(2) market research techniques and the drafting of functional and performance specifications.

(b) NONDEVELOPMENTAL ITEMS ADVOCATES.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.".

(c) REGULATIONS REQUIRED.—Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(d) IMPROVED MARKET RESEARCH.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(1) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(2) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including use of existing Government resources; and

(3) such recommendations for changes in law or regulation as the Comptroller General may consider appropriate.

TITLE III—GENERAL ACCOUNTING OFFICE BID PROTEST SYSTEM.

SEC. 301. GENERAL ACCOUNTING OFFICE BID PROTEST SYSTEM.

(a) GAO RECOMMENDATIONS ON PROTESTS.—Section 3554 of title 31, United States Code, is amended—

(1) in subsection (b) by adding at the end the following new paragraph:

"(3) The head of the procuring activity responsible for the solicitation, proposed award, or award of a contract shall report to the Comptroller General if the Federal agency has not fully implemented recommendations of the Comptroller General under this subsection with respect to that contract within 60 days after receiving the recommendations, by not later than the end of that 60-day period.";

(2) in subsection (c)(1) by striking "declare an appropriate interested party to be entitled to" and inserting "recommend that the Federal agency conducting the procurement pay to an appropriate interested party";

(3) by amending subsection (c)(2) to read as follows:

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay an amount of costs to an interested party, the Federal agency shall—

"(A) pay the amount promptly out of amounts appropriated by section 1304 of this title for the payment of judgments, and reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose, or

"(B) report to the Comptroller General promptly why the recommendation will not be followed by the agency.";

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) An interested party to which the Comptroller General has recommended that costs be paid under paragraph (1) and the Federal agency recommended to pay those costs shall attempt to reach agreement on the amount of the costs to be paid, but if they are unable to agree, a party may request that the Comptroller General recommend the amount of the costs to be paid."; and

(5) by amending subsection (e) to read as follows:

"(e)(1) The Comptroller General shall report promptly to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives and to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate in any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General, and

"(B) a recommendation regarding whether, in order to correct inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a summary report describing each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year.".

(b) RATIFICATION OF PRIOR AWARDS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments, and the Federal agency shall reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 45-day period beginning on the date of the enactment of this Act.

Mr. LEVIN. Mr. President, as a general rule, I am not enthusiastic about establishing new Government commissions. I am not convinced that appointing a commission is the best way to solve a problem, and I have to question whether it makes sense to try to address the issue of paperwork reduction by adding yet another report to the mound of reports we already have on this issue.

I have no doubt that the Federal paperwork continues to impose a huge burden on many sectors of our society. While much, if not most, of the information collected by the Federal Government serves important public purposes, there is plenty of room for simplification and streamlining that could substantially reduce the burdens imposed by such data collection.

For the most part, however, I believe that this problem is best addressed not through the overarching generalities typical of most studies and reports, but through the hard, focused effort of reviewing specific statutes, regulations and policies to determine how they can be streamlined to reduce burdens.

For this reason, I have worked hard on a series of initiatives to reduce paperwork burdens imposed by specific sets of statutes and regulations. For example, I have advanced proposals to streamline the use of information in the acquisition process by creating a single Federal acquisition regulation, a uniform contract for the purchase of commercial products, and a uniform rule on access to acquisition information in the Department of Defense.

Similarly, the Lobbying Disclosure Act, which I introduced earlier this year, would replace a group of duplicative and redundant disclosure requirements with a single, uniform statute which would cover all professional lobbyists and streamline disclosure requirements to eliminate needless paperwork and ensure the disclosure of meaningful information about lobbying activities.

Despite my reluctance to participate in the establishment of new Federal commissions to study old problems, however, I am prepared to support this bill for two reasons.

First, I have reviewed the final report of the original Paperwork Commission, which completed its work more than 15 years ago. On the basis of that report, I believe that the Commission did solid work, digging beyond the surface of the issue, addressing some of the hard specifics of the problem, and making some sensible recommendations which led to important changes in Federal paperwork policy. If the new Paperwork Commission follows in the footsteps of the 1974 Commission, we may be able to make some real progress on this issue.

Second, nobody has been more dedicated to the cause of streamlining Government or has worked harder to reduce unnecessary paperwork burdens than Frank Horton, who was the Chairman of the original Paperwork Commission and the author of this bill. More than anything else, it is my confidence in Mr. Horton's commitment to the kind of tough-minded review that is really needed that convinces me that this bill should go forward despite my reservations.

Mr. President, I believe that there are two other matters that are appropriately considered in conjunction with this bill, and I offer an amendment to address these issues. My amendment would not alter the substance of H.R. 5851, but would simply add two measures to this bill, both of which have already passed the Senate. It is my understanding that they are acceptable to the House and to the administration.

The first measure is the Nondevelopment Items Acquisition Act, which already passed by the Senate earlier this Congress as S. 260. S. 260 would streamline the acquisition process and reduce the paperwork burden on Government and contractor officials in the purchase of commercial items and other off-the-shelf products—known as nondevelopmental items or NDI's. In particular, the bill would require Federal agencies to:

First, purchase NDI's to the maximum extent possible;

Second, simplify their product requirements, telling companies what they want, rather than how to build it;

Third, eliminate unnecessary and burdensome contract clauses that serve as an impediment to NDI contracts;

Fourth, enhance training for acquisition personnel in the procurement of NDI's; and

Fifth, designate officials responsible for promoting the acquisition of NDI's.

These provisions are already law with respect to defense procurement, and we need this bill to cover the civilian agencies as well. In 1990, the bill was approved twice by the Senate and once by the House—all without a single dissenting vote. Unfortunately, the House version of the bill, which differed slightly from the Senate version, was passed with only a few hours left in the session. Because the Senate did not have time to pass the bill again, the bill died with the Congress. The time has come to complete this unfinished business from the last Congress.

The second measure is an amendment to one section of the Competition in Contracting Act [CICA] to address constitutional concerns that have been raised about the section in light of the Supreme Court's decision in Bowsher versus Synar. While it is not certain how the constitutional issue would be resolved in court, the section at issue clearly deviates from the balance of CICA by granting the Comptroller General the power to issue binding orders, rather than recommendations, with regard to bid protest costs. This amendment would address the discrepancy in the Comptroller General's powers, thereby assuring the stability of the bid protest system and avoiding the uncertainty that would be created by protracted litigation on the constitutional issue.

Mr. President, a provision similar to this one passed the Senate as an amendment to the Defense appropriations bill in 1988, and again as an amendment to the Defense authorization bill last year. In each case, the House stated that it needed more time to study the issue. Now, however, the House appears ready to act—in fact, the language of this amendment was drafted by the committee of jurisdiction on the House side. While this language is not identical to the language previously passed by the Senate, it clearly addresses the issue in a manner that is consistent with the positions taken by both the Senate and the administration.

Mr. President, I urge the adoption of my amendment and the passage of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3405) was agreed to.

The PRESIDING OFFICER. Without objection the bill is deemed read the third time and passed.

So the bill (H.R. 5851), as amended, was deemed read three times and passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIVE AMERICAN LANGUAGES ACT OF 1992

Mr. LAUTENBERG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2044.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2044) entitled "An Act to assist Native Americans in assuring the survival and continuing vitality of their languages," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act, other than section 4, may be cited as the "Native American Languages Act of 1992".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting before section 804 the following:

"SEC. 803C. GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

"(a) Authority To Award Grants.—The Secretary shall award a grant to any agency or organization that is—

"(1) eligible for financial assistance under section 803(a); and

"(2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of Native American languages.

"(b) Purposes for Which Grants May Be Used.—The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

"(1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

"(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;

"(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

"(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;

"(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language; and

"(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project.

"(c) Applications.—For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

"(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;

"(2) a detailed description of the project for which such grant is requested;

"(3) a statement of objectives that are consonant with the purpose described in subsection (a);

"(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;

"(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and

"(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons.

"(d) Participating Organizations.—If a tribal organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

"(e) Limitations on Funding.—

"(1) Share.—Notwithstanding any other provision of this title, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

"(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

"(B)(i) may be provided from any private or non-Federal source; and

"(ii) may include funds (including interest) distributed to a tribe—

"(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

"(II) from funds collected and administered by the Federal Government on behalf of such tribe or its constituent members; or

"(III) by the Federal Government for general tribal administration or tribal development under a formula or subject to a tribal budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or tribal budget priority system.

"(2) Duration.—The Secretary may make grants made under subsection (a) on a 1-year, 2-year, or 3-year basis.

"(f) Administration.—(1) The Secretary shall carry out this section through the Administration for Native Americans.

"(2)(A) Not later than 180 days after the effective date of this section, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

"(i) applications submitted under subsection (a);

"(ii) evaluations carried out to comply with subsection (c)(4); and

"(iii) the preservation of products required by subsection (c)(5).

"(B) Such panel shall include, but not be limited to—

"(i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

"(ii) a designee of the regional centers funded under section 5135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3215);

"(iii) representatives of national, tribal, and regional organizations that focus on Native American language, or Native American cultural research, development, or training; and

"(iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian tribes and tribal organizations.

"(C) The duties of such panel include—

"(i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

"(ii) reviewing applications received under subsection (c);

"(iii) providing to the Secretary a list of recommendations for the approval of such applications—

"(I) in accordance with regulations issued by the Secretary; and

"(II) the relative need for the project; and

"(iv) reviewing evaluations submitted to comply with subsection (c)(4).

"(D)(i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

"(I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

"(II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;

for preservation and use consonant with their respective responsibilities under other Federal law.

"(ii) Based on the Federal recognition of the sovereign authority of Indian tribes over all aspects of their cultures and language and except as provided in clause (iii), an Indian tribes may make a determination—

"(I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

"(II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

"(iii) Clause (ii) shall not be construed to authorize Indian tribes—

"(I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

"(II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by inserting "803C" after "803A" each place it appears; and

(2) by adding at the end the following:

"(f) There are authorized to be appropriated to carry out section 803C, $2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.".

SEC. 4. NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.

(a) Short Title.—This section may be cited as the "Native Americans Educational Assistance Act".

(b) Agreement To Carry Out Demonstration Project.—The Secretary of the Interior is authorized to enter into an agreement with a nonprofit captioning agency engaged in manufacturing and distributing captioning decoders, for the purpose of carrying out a demonstration project to determine the effectiveness of captioned educational materials as an educational tool in schools operated by the Bureau of Indian Affairs.

(c) Report.—Prior to the expiration of the 12-month period following the date of the agreement entered into pursuant to subsection (b), the Secretary of the Interior shall report to the Congress the results of the demonstration project carried out pursuant to such agreement, together with recommendations of the Secretary.

(d) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Mr. INOUYE. Mr. President, I am pleased that the House of Representatives has acted expeditiously in approving my bill, S. 2044, and returning it to this body for final approval. I accept the amendments of the House in the spirit of advancing the enactment of the Native American Languages Act of 1992.

Since my attention has been called to a word change that may seem ambiguous, however, I need to clarify that the word change that was made by legislative counsel was intended only to conform to words used in the existing Native American Programs Act, and is not a substantive modification of the bill's provisions for native language program grants.

In section 803C, establishing a program of grants to help assure the survival and continuing vitality of native American languages, the word "programs" has been replaced by the words "a project," and a question has been raised as to whether such change is intended to result in only one grant being made for a community language project bringing younger and older native Americans together, only one grant being made for teaching of teachers or interpreters, or only one grant being made for training of native Americans for programs to be broadcast in native languages.

Let me state plainly that such an outcome will not be the result of the word change. The rules of statutory construction are clear that the use of the singular includes the plural, unless the context indicates otherwise. The context in which the word "project" occurs is a bill providing for grants to be awarded for a multiplicity of native American language purposes, including such projects. The rules of construction, in other words, provide assurance that, depending upon the level of appropriations and the quality of applications received by the administration for native Americans, there could be several or many community language efforts involving older and younger native Americans, several or many teacher or interpreter training programs, several or many native language broadcast training programs, or any combination of these activities.

In closing, I thank the chairman of the Education and Labor Committee in the House, WILLIAM D. FORD, and the chairman of the Subcommittee on Human Resources, MATTHEW G. MARTINEZ, and their staffs for their vigorous support of the Native American Languages Act, and I thank my colleagues in this body for acting today so that S. 2044 may soon become law.

Mr. LAUTENBERG. I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF "DEVELOPMENTS IN AGING: 1991"

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of Senate Resolution 320, authorizing the printing of additional copies of a Senate report entitled "Development in Aging: 1991"; that the Senate proceed to its immediate consideration; and that the resolution be deemed agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 320) was deemed agreed to as follows:

S. RES. 320

Resolved, That there shall be printed for the use of the Special Committee on Aging, in addition to the usual number of copies, the maximum number of copies of volumes 1 and 2 of the annual report of the committee to the Senate, entitled "Developments in Aging: 1991", which additional copies may be printed at a cost not to exceed $1,200.

TED WEISS CHILD SUPPORT ENFORCEMENT ACT OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 6022, a bill to amend the Fair Credit Reporting Act to require the inclusion in consumer reports of information provided to consumer reporting agencies regarding the failure of consumers to pay overdue child support; that the Senate proceed to its immediate consideration; and that the bill be deemed read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the bill (H.R. 6022) was deemed read three times and passed.

Mr. BRYAN. Mr. President, I rise in support of H.R. 6022, the Ted Weiss Child Support Enforcement Act. This legislation sponsored by Congressman LARRY LAROCCO of Idaho is a tribute to the late Congressman Ted Weiss of New York. Ted Weiss devoted his career to helping people, and it is only appropriate that legislation designed to help children from broken homes is named after him.

There are 12 million children in this country who get less than they deserve because their parents are not paying court-ordered child support. Because their support checks never come, some of these children have so little that the taxpayers have to help support them through the AFDC Program.

This legislation would amend the Fair Credit Reporting Act by requiring credit bureaus to record delinquencies of $1,000 or more of the parent who has failed to make the payments. The bill requires credit bureaus to report the information when it is provided by the Child Support Enforcement Agency.

Failure of a deadbeat dad to live up to his legal obligation to support his children after separation or divorce should become a part of his financial credit history. Delinquent child support debt should be considered by credit granters, just as they consider delinquent mortgage payments or the failure to make car loan payments.

Since the Child Support Amendments of 1984, the Nation's credit bureaus have been working with the Federal Office of Child Support Enforcement to encourage State and local child support agencies to report delinquent payments to the credit bureaus. In fact, even without this legislation, 1.5 million delinquent records are currently included in credit reports. Clearly, there is a compelling moral reason to identify those individuals who have a legal obligation to provide financial support for their children and are not doing so. These families are being denied almost $5 billion annually which they should rightfully receive.

We hope that this legislation will encourage more States to become providers of credit history information and to report this information to credit bureaus. We hope that this legislation makes parents think again before they walk away from their child support obligations. They will not be able to skip out on their children and have a clean credit report.

Mr. President, this legislation is an important first step in assuring that credit reports be used as a tool against deadbeat dads. I want to commend the gentleman from West Virginia, Mr. ROCKEFELLER and Senator LIEBERMAN for proposing legislation, S. 2596, which finishes this important job. S. 2596 would not only require consumer reporting agencies to include the information in their reports if the information is provided to them by a child support agency but it also would require all offices of child support enforcement to report all delinquent parents who are delinquent on child support payments of $1,000 or more.

I look forward to working with Senators ROCKEFELLER and LIEBERMAN next session to pass this vital requirement because if the State child support agencies are not required to report deadbeat dads to the credit bureaus, thousands of noncustodial parents will continue to live a life of luxury with their charge cards, while the children are denied basic needs. Unfortunately, it falls to the State and Federal governments to pick up the cost of their minimal support.

In conclusion, Mr. President, this legislation says to anyone thinking of applying for credit: put your children first. You are not going to have a clean credit report until you meet your obligation to your children.

CORRECTING THE ENROLLMENT OF S. 523

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the enrollment of S. 523 be corrected to reflect the following changes that I send to the desk on behalf of Senator WARNER and Senator HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

LLOYD B. GAMBLE RELIEF ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 782, H.R. 3590, a bill for the private relief of Lloyd Gamble.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3590) for the relief of Lloyd B. Gamble.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. CONSENT TO SUIT.

Notwithstanding any statute of limitations, lapse of time, bar of laches, or limitation of liability for injuries arising out of activity incident to service on behalf of the United States (i.e. Feres Doctrine), the Court of Claims shall have jurisdiction to hear, determine, and render judgment upon any claim of Lloyd B. Gamble of Fairfax, Virginia against the United States arising from injuries sustained by him as a result of the administration to him, without his knowledge, of lysergic acid diethylamide by United States Army personnel in 1957.

SEC. 2. RESTRICTIONS UPON SUIT.

Suit upon any such claim may be instituted at any time within 1 year after the date of enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided in this Act, proceedings for the determination of such claims, and review and payment of any judgment or judgments thereupon shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1491 of title 28, United States Code. Should the Court render judgment in favor of Lloyd B. Gamble and against the United States, any damages arising from injuries sustained by him shall not exceed $253,488.

AMENDMENT NO. 3406

Mr. JEFFORDS. Mr. President, on behalf of Senator THURMOND, I send an amendment to the substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. THURMOND, proposes an amendment numbered 3406.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 10, immediately following the words "United States arising from" add the following: "economic or noneconomic".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3406) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the substitute amendment, as amended.

So the substitute amendment, as amended, was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time and passed.

So the bill (H.R. 3590), as amended, was deemed read three times and passed.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL AMENDMENT OF THE CLAYTON ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of S. 3330, a technical amendment of the Clayton Act which provides a 3-month extension of the deadline for the FTC to report data on interlocking directorates—this was introduced earlier by Senators METZENBAUM and THURMOND—that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3330) was considered, ordered to a third reading, deemed read the third time, and passed, as follows:

[The bill, S. 3330, will appear in a subsequent issue of the RECORD.]

UNANIMOUS CONSENT AGREEMENT—H.R. 5427

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the conference report to accompany H.R. 5427, the legislative branch appropriations bill, that there be 30 minutes for debate on the conference report equally divided and controlled between Senators REID and GORTON, and that a rollcall vote on adoption of the conference report, if ordered, occur without any intervening action or debate immediately following the vote on the veto override of the cable bill, if the Senate has completed debate on the appropriations conference report by that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate Labor Committee be discharged from further consideration of H.R. 5483, the Education of the Deaf Act Amendments of 1992, and that the Senate proceed to its immediate consideration, that an amendment by Senators HARKIN and DURENBERGER be agreed to, that the bill as amended be read for a third time and passed, that the motion to reconsider be laid upon the table, and any statements thereon appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3407

On page 3, line 25, strike out "and".

On page 4, line 1, strike "(B)" and insert "(C)".

On page 3, after line 25, add the following:

(B) in paragraph (4) by amending the paragraph to read as follows:

"'(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing.'; and".

On page 4, line 1, strike "(B)" and insert "(C)".

Beginning on page 4, strike out line 12 and all that follows through line 17 on page 5, and insert the following new section:

"SEC. 104. ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS.

"(a) GENERAL AUTHORITY.—(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 105, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf and individuals who are hard of hearing throughout the Nation.

"(B) The elementary and secondary programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

"(C) The elementary and secondary programs described in subparagraph (A) shall include—

"(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for high school and other secondary study; and

"(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for college, other postsecondary opportunities, or the workplace.”.

On page 6, line 8, insert before the semicolon “or hard of hearing”.

On page 6, line 11, after “deaf” insert “or hard of hearing”.

On page 6, line 12, after “deaf” insert “or hard of hearing”.

On page 6, line 20, after “deaf” insert “or hard of hearing”.

On page 11, line 25, strike “and” after the semicolon.

On page 12, line 10, strike the period and insert “; and”.

On page 12, between lines 10 and 11, insert the following:

(3) in subsection (b) by adding, at the end the following new paragraph:

“(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing.”.

On page 15, line 5, insert before the period “, except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions”.

On page 16, line 15, strike the end quotation marks and the second period.

On page 16, between lines 15 and 16, insert the following new subparagraph:

“(C) The Secretary is not authorized to add items to those specified in subparagraph (B).”.

On page 19, line 14, strike “Section” and insert “(a) EDUCATION OF THE DEAF ACT.—Section”.

On page 19, line 17, strike “**AND EVALUATION**” and insert “**, EVALUATION, AND REPORTING**”.

On page 20, between lines 17 and 18, insert the following new subsection:

(b) REPORT.—Not later than 180 days after the date of enactment of the Education of the Deaf Act Amendments of 1992, the Secretary of Education shall submit a report to Congress regarding progress made by the Department of Education in implementing the recommendations of the Commission on Education of the Deaf pertaining to the provision of a free and appropriate public education to children who are deaf, and children who are hard of hearing, and with respect to the establishment of standards for programs and personnel to meet the educational, communicative, and psychological needs of children who are deaf, and children who are hard of hearing. In preparing this report, the Secretary of Education shall solicit input from the community of individuals who are deaf, and individuals who are hard of hearing.

On page 21, line 2, before the period insert “or hard of hearing”.

On page 21, line 14, after “deaf” insert “or hard of hearing”.

Beginning on page 22, strike line 4, and all that follows through line 23 on page 27, and insert the following new subsections:

“(a) ESTABLISHMENT OF PROGRAMS.—

“(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

“(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

“(b) FEDERAL PAYMENTS.—

“(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) from amounts appropriated under subsection (h) for the fund involved.

“(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

“(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved).

“(c) INVESTMENTS.—

“(1) Except as provided in subsection (e), the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of the Internal Revenue Code of 1986, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

“(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

“(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the Advisory Board of NTID is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothocate, encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

“(d) WITHDRAWALS AND EXPENDITURES.—

“(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

“(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

“(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

“(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

“(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

“(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

“(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

“(ii) a life-threatening situation occasioned by natural disaster or arson; or

“(iii) another unusual occurrence or exigent circumstance.

“(e) INVESTMENT AND EXPENDITURE FLEXIBILITY.—The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations and to the withdrawal and expenditure limitations of subsection (d)(3).

“(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

“(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

“(2) fails to comply with the investment standards and limitations under this section; or

“(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

“(g) DEFINITIONS.—As used in this section:

“(1) The term ‘corpus’, with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

“(2) The term ‘Federal endowment fund’ means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

“(3) The term ‘income’, with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

"(4) The term 'institution involved' means the University or NTID, as the case may be.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

"(i) EFFECTIVE DATE.—The provisions of this section shall take effect as if included in the provisions of the Education of the Deaf Act of 1986.".

On page 29, line 17, strike "71" and all that follows through "1997" on line 20, and insert "75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995".

On page 29, between lines 20 and 21, add the following new subsections:

"(c) REDUCTION OF SURCHARGE.—Beginning the academic year 1993–1994 and thereafter, the University or NTID may reduce the surcharge under subsection (b) to 50 percent if—

"(A) a student described under subsection (b) is from a developing country;

"(B) such student is unable to pay the tuition surcharge under subsection (b); and

"(C) such student has made a good faith effort to secure aid through such student's government or other sources.

"(d) DEFINITION.—For purposes of subsection (c), the term 'developing country' means a country that has a 1990 per capita income not in excess of $4000 in 1990 United States dollars.".

Beginning on page 32, strike out line 9 and all that follows through line 12 on page 36 and insert the following:

SEC. 201. POSTSECONDARY EDUCATION.

(a) REGIONAL CENTERS.—Section 625(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1424a(a)) is amended by inserting after the first sentence in paragraph (6) the following new sentences: "The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C–G of the Act is extended by September 30, 1994."

(b) STUDY.—There shall be conducted a General Accounting Office study of the four regional centers for the deaf under section 625(a)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1424(a)(2)). The scope of such study shall be determined by the Chairpersons and Ranking Minority members of the Subcommittee on Disability Policy of the Committee on Labor and Human Resources in the Senate, and of the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives.

Beginning on page 39, strike out line 8 and all that follows through line 10 on page 40.

On page 40, line 11, strike "**Subtitle C**" and insert "**Subtitle B**".

On page 40, strike lines 13 through 16 and insert the following:

The amendments described in this title shall take effect on October 1, 1992.

Mr. HARKIN. Mr. President, I rise today on behalf of Senator DURENBURGER and myself in support of H.R. 5483, the Education of the Deaf Act Amendments of 1992, with a series of amendments.

The Education of the Deaf Act of 1986 (Public Law 99–371) established the Commission on the Education of the Deaf [COED], it authorized funding for Gallaudet University and its two model demonstration schools, and it authorized funding for the National Technical Institute for the Deaf [NTID] at Rochester Institute of Technology. The Commission was designed to examine the status of education programs serving individuals who are deaf throughout the country, including regional postsecondary programs authorized in the Individuals with Disabilities Education Act. The purpose of the university and NTID is to provide postsecondary education and training to deaf individuals to prepare them for further education or for successful employment. The two model schools at Gallaudet, the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf, are to function as national demonstration programs for developing and disseminating effective teaching techniques and materials to be used in other educational settings where students who are deaf may be found.

In 1988, the Commission reported to Congress that the "present status of education for persons who are deaf in the United States is unsatisfactory," and they cited 52 recommendations to improve education for students who are deaf and hard of hearing. The subcommittee spent a great deal of time over the past year reviewing those recommendations and discussing related issues with affected parties and members of the deaf community. We have enjoyed the support and guidance of the staff of the Department of Education, we have solicited input from representatives of the university and NTID and we have had numerous constructive conversations with those who represent the interests of the community of people who are deaf and hard of hearing. We have also had extensive communication with Dr. Frank Bowe, chairman of the COED. Finally, we have received excellent guidance from the professional staff of the Congressional Research Service, especially pertaining to technical issues including the Federal endowments and cost principles.

We were extremely pleased to find that the House bill, H.R. 5483, incorporates many of our intended modifications. We compliment Congressman OWENS, Congressman BALLENGER, and their very committed staff. Indeed, because of the House bill addresses so many of the most important issues of the reauthorization, we have found it necessary only to propose a small number of amendments. I would like to describe briefly the major provisions of the bill. I will then specify particular changes to the legislation, section by section, and I will highlight those which represent amendments of the Senate to the House version.

Very gradually, the Education of the Deaf Act Amendments of 1992 reauthorizes the Education of the Deaf Act of 1986 through fiscal year 1997, with several amendments to the act. It extends and amends the authorizations for Gallaudet University and NTID, and it repeals parts B and C of title I of the EDA, thereby consolidating the authorities for the elementary and secondary programs under that act. The bill increases accountability for Federal funds provided to the institutions, and it improves the administration of their programs, with the intention of improving educational opportunities—from the elementary to postsecondary levels—for persons who are deaf or hard of hearing. H.R. 5483 also repeals title III of the EDA, which authorized the COED, because the Commission's duties have been completed.

I urge my colleagues to support the bill as amended.

A detailed section by section description of the bill follows.

SECTION-BY-SECTION ANALYSIS, EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992 AS AMENDED BY THE SENATE

Section 1—Short title

TITLE I—AMENDMENTS TO THE EDUCATION OF DEAF ACT OF 1986

Subtitle A—Reorganization of the Act

Section 101—Reorganization

This section, by repealing and redesignating various provisions of the Act, has the effect of consolidating the authorities relating to Gallaudet University and NTID under one title.

Subtitle B—Gallaudet University

Section 111—Board of Trustees

This section makes technical changes to existing law relating to the composition and powers of the Board. The Senate has included an amendment that requires the Board to establish an affirmative action policy to promote employment and advancement in employment qualified individuals with disabilities.

Section 112—Establishment of Authority for Certain Programs

This section amends, in its entirety, part B of Title I of the existing Act to combine the authority for the elementary and secondary education programs (the Kendall Demonstration School and the Model Secondary School for the Deaf, commonly referred to collectively as the "Precollege" programs) operated by Gallaudet University under a new section 104. Current administrative requirements for both schools would be consolidated to ensure consistent application to both schools. The Senate has amended language in order to underscore the preeminence of the national mission over the actual operation of the two elementary education programs. Finally, this section makes applicable to Gallaudet University certain provisions of the Individuals With Disabilities Education Act (IDEA) when parents privately place their children at these two schools.

Section 113—Establishment of Certain Requirements

This section requires that the agreement between the Department of Education and

Gallaudet University for the establishment and operation of the Model Secondary School for the Deaf also include the Kendall Demonstration Elementary School. The agreement would cover the national mission activities and the operation of both school programs. A new agreement must be completed within 1 year after enactment of these amendments and can be periodically updated as determined necessary by either the Department of the University. Language has been added specifying that it is the authorizing committees of Congress who should be the recipients of the annual report that is currently required.

Subtitle C—National Technical Institute for the Deaf

Section 121—Agreement for NTID

The section requires that the current agreement be assessed for modification within 1 year of enactment of these amendments. It should also be periodically updated as determined necessary by either party. Language has been added specifying that it is the authorizing committees of Congress who should be the recipients of the annual report that is currently required. The Senate has amended the bill to require the institute to establish an affirmative action policy to promote employment and advancement in employment qualified individuals with disabilities.

Subtitle D—General Provisions

Section 131—Definitions

This section adds definitions for the terms "international student," "NTID," and "University."

Section 132—Gifts

This section amends section 402 of the Act by combining provisions that pertain to the receipt of certain gifts by Gallaudet University and NTID.

Section 133—Audit

This section adds a new subsection prohibiting the two institutions from spending any appropriated funds on certain items. While lobbying with appropriated funds is prohibited, a Senate amendment explicitly allows the University and NTID to continue to educate Congress, the Secretary of Education, and others regarding programs, projects, and activities conducted at those institutions.

This section also requires both institutions to develop policies on the allowability of expenditures with 6 months of enactment. The cost principles established by the Office of Management and Budget (OMB) for educational institutions are suggested as guidance. These general policies must address explicitly eight particular items of expense, but the Senate has included language prohibiting the Secretary from adding items to those eight specified here. These policies must be submitted to the Secretary of Education for review and comment, and also to the appropriate committees of Congress.

Section 134—Reports

This section amends section 404 of the existing Act, which has the effect of combining language that requires annual reports from both institutions. The submission date has been changed from October 15 of each year to "not later than 100 days after the end of each fiscal year." Some existing reporting requirements have been expanded while others have been added.

Section 135—Monitoring, evaluation, and reporting

This section clarifies the responsibility of the Secretary of Education for monitoring and evaluation of all activities relating to the two institutions. It also allows the Secretary to conduct studies in the area of deaf education. This section places an existing reporting provision regarding these activities of the Secretary into this section. A Senate amendment requires an additional report from the Secretary regarding progress made by the Department of Education in implementing particular recommendations of the Commission on Education of the Deaf. Language authorizing appropriations for these activities has been included.

Section 136—Liaison for education programs

This section adds to the list of entities the liaison office must interact with such "other Federal and non-Federal agencies, institutions, or organizations involved" in the field of deafness. The duties of the liaison office have been expanded to include reviewing research and other activities in the field of deafness for the purpose of only determining overlap and opportunities for coordination.

Section 137—Federal endowment programs

By Senate amendment, this section modifies the endowment provisions in current law by making the Federal endowment fund permanent. This section also requires a two-to-one match when non-Federal contributions to the fund exceed $1 million, thus generating two non-Federal dollars for every Federal dollar at levels over $1 million. Provisions have been added that set out limitations on the investment of endowment funds, and the Senate has amended additional provisions that require the University and NTID to maintain records of income generated from the respective Federal endowment fund. The section specifies exceptional circumstances under which the Secretary may authorize the expenditure of a portion of the Federal endowment fund corpus or of interest income beyond the 50% currently permitted. Additionally, the Senate has included language specifying that investment limitations on the corpus, and investment limitations and withdrawal and expenditure limitations on the income generated from that corpus, shall no longer apply after a period of ten years following the fiscal year in which the funds are matched.

Section 138—Scholarship program

This section creates a program for the purpose of providing scholarships to individuals who are deaf or hard of hearing for careers in deaf education or special education. Grants would be given to institutions of higher education or special education. Priority consideration for the scholarships would be given by these institutions to individuals who are deaf or hard of hearing and from under-represented backgrounds, particularly minority individuals.

Section 139—International students

This section adds a new section limiting the international student enrollment to approximately 10% of the total student body at each institution. Additionally, the Senate has modified language that would have increased the tuition surcharge paid by international students. Whereas the House version included a figure of 135 percent in the tuition surcharge, to be phased in over a period of ten years, the Senate amendment implements an increase from the present rate of 50 percent to 75 percent for the academic year 1993–1994, and a further increase to 90 percent for the following academic year. This section, as amended by the Senate, also establishes a process whereby students from developing countries who cannot pay the surcharge can obtain a reduction each year to the 1992–1993 rate of 50 percent. In accordance with pending legislation (concerning the eligibility of countries for loans from multilateral banks), and recent data from a 1990 per capita income not in excess of $4,000 in 1990 United States dollars.

Section 140—Authorization of appropriations

This section extends the authorization for Gallaudet University and its two school programs and for NTID for five years and authorizes such sums for each of those years.

Subtitle E—Technical Amendments

Section 151—Technical amendments

This section makes various technical and conforming amendments particularly relating to changes in terminology.

Subtitle F—Effective Dates

Section 161—Effective dates

This section makes the effective date for this title as October 1, 1992.

TITLE II—PROVISIONS REGARDING OTHER ACTS

Subtitle A—Individuals With Disabilities Education Act

Section 201—Postsecondary Education

This section directs the Secretary to continue to provide assistance through September 30, 1994 to the current grantees operating for four regional centers authorized under Section 625(a) of the Individuals with Disabilities Education Act (IDEA). It also assures such assistance through September 30, 1995, unless the authorization of appropriations for parts C-G of the Act is extended by that day in 1994.

Additional provisions direct the General Accounting Office to conduct a study of the four regional centers, the scope of which is to be determined by the Chairperson and Ranking Minority members of the Subcommittee on Disability Policy of the Committee on Labor and Human Resources in the Senate, and of the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives.

Section 202—Training personnel; education interpreters

This section allows the Secretary to carry out new teacher training projects under section 631(a) of the Individuals with Disabilities Education Act (IDEA) in the area of deafness. This training provision would permit education institutions in partnership with local education agencies and center schools for students who are deaf to carry out regional model demonstration programs on deafness and secondary disabilities. Types of individuals to whom pre-service and in-service training is to be provided is described.

This section additionally would amend Section 631 of IDEA permitting the Secretary to make grants to institutions of higher education and other appropriate non-profit agencies or organizations for the establishment or continuation of educational interpreter training programs to train or retrain personnel to effectively meet the various communication needs of elementary and secondary students who are deaf and deaf-blind.

Section 203—Research and related activities

This section authorizes new research projects under 641 of the Individuals with Disabilities Education Act. This provision permits the funding of institutions of higher education in partnership with other appropriate agencies and organizations such as local educational agencies and center schools for students who are deaf to perform specific activities related to the unique needs of children who are deaf and each project must provide for the meaningful involvement of parents, family members, and adult role models.

The Senate deleted a house proposal modifying section 202 of the rehabilitation act of 1973. Those modifications directed secretary to expand purposes of the rehabilitation and training center on deafness/hearing impairments to include a function to develop and demonstrate effective strategies in the provision of education to students who are deaf or hard of hearing and are from minority backgrounds.

Subtitle B—Effective Dates

Section 221—Effective dates

This section makes the effective date for this title October 1, 1992.

Mr. DURENBERGER. Mr. President, I rise today to express my support of the Senate amendments to H.R. 5483, the Education of the Deaf Act Amendments of 1992, and I urge my colleagues to act swiftly to ratify the bill. I want to thank the distinguished chairman of this committee, for once again making it a pleasure to work with him. As is always the case on the Subcommittee on Disability Policy, we come to the floor completely united on this bill, and I do appreciate the fine leadership, support and assistance Senator HARKIN continues to provide as the chairman of the subcommittee. I also want to thank the talented men and women on the subcommittee staff who have worked so diligently on this bill—Bob Silverstein, Alison Rosenberg, and Annie Silberman.

By congressional standards, the Education of the Deaf Act is small in scope. The primary function of this legislation is to authorize funding for: the Commission on the Education of the Deaf; Gallaudet University and its two model demonstration schools; and the National Technical Institute for the Deaf [NTID] at the Rochester Institute of Technology. But as small as this bill is, the impact of these two schools and the Commission is enormous on the deaf community of this country and the world.

The Commission, which was established by the Education of the Deaf Act in 1986, has provided invaluable information to all involved with the deaf community in this country. The subcommittee has considered the Commission's recommendation carefully in this reauthorization, and we will continue to do so in future reviews of legislation relating to deaf education.

And we all know the important role that Gallaudet plays in the education of individuals who are deaf in this country and throughout the world. Gallaudet serves as a tremendous inspiration for individuals who are deaf both for the excellent reputation the school has for the quality of its education; and for having the first deaf president of a major educational institution in this country, King Jordan. I have had the honor of getting to know President Jordan from working on this reauthorization, and I have been stuck by the special talent and thoughtful influence he brings to Gallaudet and to the deaf community as a whole.

I also am proud of the function that Gallaudet plays in the international deaf community. Students from developing countries who are deaf and come to America to study can have profound effects on their communities at home. Many return to their native lands to start schools where there are none, or to become teachers at existing educational facilities.

Given the serious lack of educational opportunities for individuals who are deaf worldwide, access to Gallaudet for foreign students provides a crucial educational network for people that would otherwise be totally isolated. That is why I am particularly pleased to see the Senate amendments to the House bill regarding the cap and surcharge on foreign students to include a waiver for developing countries.

I also support the Senate amendments regarding the four regional demonstration centers for the deaf. Minnesota is lucky and proud to house one of these centers, which are awarded funding on a competitive basis, in our State, the St. Paul Technical College. St. Paul Technical College, and the other three regional centers, have done much to improve the educational opportunities for students who are deaf in this Nation. There clearly exists a need in this country for numerous higher education institutions serving individuals who are deaf other than Gallaudet, and it is vitally important that the four demonstration centers remain strong and thriving.

The Senate amendment to this bill striking the House language regarding these institutions will insure that these programs, which are successfully providing direct services to students who attend them, will continue to be able to do so.

I also want to pledge here and now, that when the future of these demonstrations is revisited with the reauthorization of the Individuals with Disabilities Act, I will continue to work hard to strengthen these programs.

There are some key people at the St. Paul Technical College who have provided much needed assistance and recommendations in this reauthorization who I would like to thank: Bob Lauritsen, Patrick Duggan, and Deborah Wilcox and David Buchkoski who also participated in a working group to advise me on the Reauthorization of the Rehabilitation Act.

These people are the ones who are truly on the front lines of some of the issues facing individuals with disabilities today. Their thoughts and insights are vital to the legislative process in Washington and I continue to look forward to working with them and their fellow Minnesotans who comprise the strong and proud disability community in my home State.

Mr. HATCH. Mr. President, passage of the Education of the Deaf Act will enable Gallaudet, the National Technical Institute for the Deaf [NTID], the Kendall Demonstration Elementary School [KDES], and the Model Secondary School for the Deaf [MSSD] to further their basic mission, which is to provide exemplary education for individuals who are deaf or hearing impaired.

NTID and Gallaudet provide quality education and training to postsecondary students on their respective campuses. Other lesser known but equally important programs reach children and youth who are deaf or hearing impaired at the Kendall Demonstration Elementary School [KDES] and the Model Secondary School for the Deaf [MSSD].

The concepts of efficiency and coordination of resources are incorporated into this legislation. This bill streamlines the administrative workings of KDES and MSSD to coordinate the programs between the two schools, making them more compatible in their educational procedures. Furthermore, the numerous financial requirements of the four schools will be organized in a manner that is more consistent with efficient management of their programs and objectives and that ensures appropriate monitoring of funds.

Mr. President, we have heard much about educational improvement and quality in this Congress. I am pleased we are passing an education bill that will really deliver. Educational opportunities and services for people who are deaf or hearing impaired will be improved with the passage of this legislation.

The bill was deemed read the third time, and passed, as follows:

[The bill H.R. 5483, will appear in a subsequent issue of the RECORD.]

MOWA BAND OF CHOCTAW INDIANS RECOGNITION ACT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 670, S. 362, the Mowa Band of Choctaw Indians Recognition Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 362) to provide Federal recognition of the Mowa Band of Choctaw Indians in Alabama.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I rise to state my opposition to the passage of this bill. I know the Senator from Alabama has worked very, very hard to round up support, to develop a consensus for action in this body to pass the bill. Our Committee on Indian Affairs conducted hearings, looking into the merits of the proposal to legislatively grant recognition to the application of the Mowa Band of Choctaw Indians in Alabama for Federal recognition, giving them legal status as beneficiaries of Federal Indian programs and other services that would be accorded to them under the law if this bill were passed.

The reason for my opposition is simply that we have an established procedure under the law already for administrative recognition through a petitioning process that involves establishing evidence to meet certain criteria in the law so that we are upholding the framework for recognition that has now been long established.

All of those groups, tribes seeking to gain legal recognition under the existing law, must follow that procedure.

It is my understanding, and this was borne out in testimony before our committee, that this petitioning group has had a petition before the Department of the Interior under the law for some time now. Having grown impatient with that process, it has now decided to proceed in another direction and that is to go directly to Congress and to get a law passed, creating an exception by the passage of this law, certifying this group as a lawfully constituted and legally entitled group to receive benefits as an Indian Nation or an Indian tribe—a sovereign entity.

There is a Mississippi band of Choctaw Indians. There are others who have the title of the tribal name Choctaw in Oklahoma and in other States as well.

There is a great deal of controversy, Mr. President, over whether or not this petitioning group is a legitimate band of Choctaw Indians, and there is serious disagreement in Indian country on that point. We heard a lot of testimony on both sides of that issue in hearings before our committee, and I would say to the Senate that it certainly created serious doubts in the mind of at least this Senator and I know in the minds of others as well, although I am not purporting to be here today to speak for other members of the committee or other Senators on either side of the aisle.

The fact is the committee did report the bill favorably and it is pending before the Senate today and will be passed, I am sure, on a voice vote in this body. So I am not here to prolong the debate, to drag out the process, but it seemed to me important enough to come to the floor and say that I think this is a very bad precedent to depart from the existing requirements of law in a controversial recognition case and create an exception based on evidence that is in sharp dispute about the legitimacy of this petitioning group under the current standards and criteria established by law.

My hope is that the Senate will be restrained when it is called upon in future situations and refrain from creating an exception to the rule because what is going to happen is the exception will be the rule. Groups who may have a hard time establishing their legitimacy, for whatever reason, before the administrative bodies of our Federal Government will begin to ignore the requirements of existing law for recognition and come directly to the Congress, challenging their representatives in the House and the Senate to circumvent the procedures and the rules that are already established and to create a recognition process that is outside the usual channels that have been established. That is why we have the recognition law on the books now, to keep that from happening so that we in the Congress are not called upon to make these decisions.

I daresay that if you took a survey in the Senate of all members and asked questions about what the facts were in this situation, there would be very little personal knowledge about these facts in the Senate. That is not a criticism of any Senator. It is just impossible in each of these cases for each Member to know all of the facts that are relevant to the decision we are called on to make today in this bill.

So I oppose its passage, Mr. President.

I oppose S. 362, which legislatively gives Federal recognition to the MOWA Band of Choctaw Indians of Alabama.

The issue of legislative recognition of petitioning groups of Indian people is one of the more controversial issues in Indian Affairs. My position is that all groups seeking recognition should follow the Federal acknowledgment process and meet the criteria established by law. I believe legislative action creates a dual system for recognition, one system in which the Congress applies no criteria, and one system in which the Interior Department applies a set of established criteria. Unless the situation is extraordinary, Congress should not grant Federal recognition. Because of the inconsistency and unfairness it creates among petitioning groups, it should not be permitted.

As a member of the Interior Appropriations Committee, I can attest to the fact that funding for Indian programs is inadequate to meet existing tribal needs. Native Americans suffer the worst conditions of unemployment, the lowest life expectancy, inadequate education, and other serious social and economic conditions. Our Government has a special responsibility to native Americans based on treaties, statutes, and Federal court rulings. Federal acknowledgment establishes a perpetual government-to-government relationship between the tribe and United States and has major political, social, and economic implications for the petitioning tribe and Federal, State, and local governments.

Congress has created special programs for federally recognized tribes, including housing, educational assistance, social services, and medical benefits. To qualify for the benefits, and services available to federally recognized tribes, a group must satisfy the requirements for recognition established by the Department of the Interior. This bill gives instant eligibility for numerous Federal programs and benefits afforded only to federally recognized tribes. The Department of the Interior's qualifications for recognized tribes are as follows:

First, the group can be identified by historical evidence, written or oral, as being an American Indian tribe;

Second, its members have existed as a distinctive Indian community viewed as American throughout history until the present;

Third, the Indian group has maintained political influence over its members as an autonomous entity throughout history until the present;

Fourth, the membership group is composed principally of persons who are not members of any other Indian tribe; and

Fifth, the tribe has not been the subject of congressional legislation expressly terminating their relationship with the Federal Government. Under this bill the 3,000 Mowa members would be given every benefit of all federally funded Indian services by circumventing the established administrative recognition process—a process that was developed in 1978 with the support of Indian tribal governments, Congress, and the administration to ensure objective and uniform evaluation.

According to the Congressional Budget Office, the cost of S. 362 to the American taxpayers is estimated at $10 million a year. This expenditure for the congressionally recognized Mowa tribe would have a profound effect on federally recognized tribes which have met the established requirements as I listed previously.

The Congress has a consistent policy in congressional recognition by exercising a congressional prerogative when the historical record has been persuasive that a particular group was a treaty signatory or recognized in some other accepted manner. However, in the Mowa case there is no evidence that Congress would be correcting a historical oversight or neglect.

The passage of S. 362 would establish a precedent that would weaken the administrative process.

I am not opposed to the Mowa seeking Federal recognition, but I do think the tribe should follow the same recognition process as required of other groups petitioning the Federal Government for recognition. The acknowledgment process establishes the authenticity of a sovereign legal entity. If the current administrative process needs reform, then we should correct the process, but in the meantime, individual tribes should not circumvent process all others must follow.

I ask unanimous consent that the statement of administration policy dated September 21, 1992 concerning this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET
Washington, DC, September 21, 1992.

STATEMENT OF ADMINISTRATION POLICY

(S. 362—Mowa Band of Choctaw Indians Recognition Act—Shelby of Alabama and Heflin of Alabama)

If S. 362 is presented to the President, the Secretary of the Interior will recommend a veto, because the bill would statutorily acknowledge the Mowa Band of Choctaw Indians in Alabama.

In 1978, the Department of the Interior established an acknowledgment process to ensure that all petitions for recognition as a federally recognized tribe would be evaluated in support of the Indian tribes, and Congress provides each petitioning group the opportunity for an unbiased, detailed review of its petition.

S. 362, however, would circumvent this process. To do so may erroneously acknowledge a group as an Indian tribe, thereby entitling the group to numerous Federal programs and benefits afforded federally recognized tribes. Recognition through legislation would be unfair to all other groups seeking Federal acknowledgment and would undermine the administrative process that was designed to eliminate the need for *ad hoc* determinations through legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Mowa Band of Choctaw Indians Recognition Act".

FEDERAL RECOGNITION

SEC. 2. Federal recognition is hereby extended to the Mowa Band of Choctaw Indians of Alabama. All Federal laws of general application to Indians and Indian tribes shall apply with respect to the Mowa Band of Choctaw Indians of Alabama.

RESTORATION OF RIGHTS

SEC. 3. (a) All rights and privileges of the Mowa Band of Choctaw Indians which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Federal law that terminated Federal recognition of the Mowa Band of Choctaw Indians of Alabama are hereby restored and such Federal law shall no longer apply with respect to the Band or the members of the Band.

(b) Under the treaties entered into by the ancestors of the Mowa Band of Choctaws, all historical tribal lands were ceded to the United States. Congress does hereby approve and ratify such cession effective as of the date of the said cession and said cession shall be regarded as an extinguishment of all interest of the Mowa Band of Choctaws, if any, in said lands as of the date of the cession. By virtue of the approval and ratification of the cession of said lands, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Mowa Band of Choctaws, including but not limited to, claims for trespass damages or claims for use and occupancy, arising subsequent to the cession and that are based upon any interest in or right involving such land, shall be regarded as extinguished as of the date of the cession.

(c) The Mowa Band of Choctaws has no historical land claim and cannot, and shall not utilize its Federal recognition as provided by this Act to assert any historical land claim. As used herein, "historical land claim" means a claim to land based upon a contention that the Mowa Band of Choctaws, or its ancestors, were the native inhabitants of such land or based upon the Mowa Band of Choctaws' status as native Americans or based upon the Mowa Band of Choctaws' Federal recognition as provided by this Act.

(d) Except as otherwise specifically provided in section 4 or any other provision of this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract, or

(3) any obligation to pay a tax levied before the date of enactment of this Act.

LANDS

SEC. 4. (a) All legal rights, title, and interests in lands that are held by the Mowa Band of Choctaw Indians of Alabama on the date of enactment of this Act are hereby transferred to the United States in trust for the use and benefit of the Mowa Band of Choctaw Indians of Alabama.

(b)(1) Notwithstanding any other provision of law, the Mowa Band of Choctaw Indians of Alabama shall transfer to the Secretary of the Interior, and the Secretary of the Interior shall accept on behalf of the United States, any interest in lands acquired by such Band after the date of enactment of this Act. Such lands shall be held by the United States in trust for the benefit of the Mowa Band of Choctaw Indians of Alabama.

(2) Notwithstanding any other provision of law, the Attorney General of the United States shall approve any deed or other instrument used to make a conveyance under paragraph (1).

(c) Any lands held in trust by the United States for the benefit of the Mowa Band of Choctaw Indians of Alabama by reason of this section shall constitute the reservation of such Band.

(d) The Congress finds that the provisions of this section are enacted at the request of the Mowa Band of Choctaw Indians of Alabama and are in the best interests of such Band.

SERVICES

SEC. 5. The Mowa Band of Choctaw Indians of Alabama, and the members of such Band, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians and, notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Band, and to the members of the Band, without regard to the existence of a reservation for the Band or the location of any of the residence of any member of the Band on or near any Indian reservation.

CONSTITUTION AND BYLAWS

SEC. 6. (a) The Mowa Band of Choctaw Indians of Alabama may organize for its common welfare and adopt a constitution and bylaws in accordance with regulations prescribed by the Secretary of the Interior. The Secretary of the Interior shall offer to assist the Band in drafting a constitution and bylaws for the Band.

(b) Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the Mowa Band of Choctaw Indians of Alabama shall take effect only after such constitution, bylaws, or amendments are filed with the Secretary of the Interior.

MEMBERSHIP

SEC. 7. (a) Until a constitution for the Mowa Band of Choctaw Indians of Alabama is adopted, the membership of the Band shall consist of every individual who—

(1) is named in the tribal membership roll that is in effect on the date of enactment of this Act, or

(2) is a descendant of any individual described in paragraph (1).

(b) After the adoption of a constitution by the Mowa Band of Choctaw Indians of Alabama, the membership of the Band shall be determined in accordance with the terms of such constitution or any bylaws adopted under such constitution.

REGULATIONS

SEC. 8. The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes of this Act.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 3316 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE SATURN AUTOMOBILE

Mr. SASSER. Mr. President, I rise on the floor of the Senate this afternoon to pay tribute to the workers and the management of the Saturn automobile plant in Spring Hill, TN. These men and women have dedicated themselves to producing a world-class American product. They have dedicated themselves to restoring pride and uncompromising quality to a vital American industry.

I submit that by all measures they have succeeded brilliantly. The consumer satisfaction delivered by the Saturn Division is currently unsurpassed by any car at any price, foreign, or domestic.

Now, that is an outstanding achievement when you consider as recently as 3 years ago Saturn was still a dream on the drawing board, a bold experiment to build an automobile using the state-of-the-art techniques at every stage of production. The ingenuity, the skill, and the plain American grit of over 6,000 Saturn employees have made what was a dream 3 years ago a wonderful reality.

In the space of a single product year, Saturn has shot to the top of the consumer surveys. Most notably, it has commanded the highest tier of the J.D. Power surveys which are the benchmark for automotive quality and consumer satisfaction.

Across a broad range of categories, Saturn has set the new standard, from sales satisfaction to delivery condition of the automobile, to retailer's happiness with their franchises. In each case, Saturn has walloped its competitors and held its own with such luxury nameplates as Mercedes-Benz and Lexus, cars costing four or five times as much, cars that were never thought to be in competition with Saturn until suddenly, to their surprise, they found they were.

The J.D. Power organization summed it up very well by stating: "For a car in the lower middle market, Saturn is doing the best job of all. By comparison, the Japanese are doing a relatively poor job." So said J.D. Powers.

Mr. President, the men and women of Saturn are winning straight ahead. they are winning without gimmicks, without trade subsidies, without quota protection. The playing field with Japan may not yet be level, but the men and women of Saturn are winning anyway.

Consumers with the free choice to purchase the highest quality automobile at the lowest cost choosing Saturns over any imports.

Nationwide, we find that 53 percent of 1992 Saturn buyers listed an import as their second choice.

In California, where automobile buying trends have been set in the past, surveys indicate that 65 percent of Saturn buyers said they chose a Saturn over imports. The people of Saturn are taking back the market because their product is superior, because they are working overtime to meet the demand, and because their attention to qualify is unequaled.

As a result, Saturn now leads the industry in new car sales per dealer, the first time in 15 years that an American automobile has held that distinction.

And the reason is simple: It is quality, American quality. The Saturn automobile is 100 percent designed, engineered, and assembled in the United States of America by Americans using American parts. You can say that about very few automobiles today.

We live in a day when Honda's plant in Ohio has more American parts in it than a Mercury Tracer assembled in Mexico, or a Plymouth Laser assembled in Japan. We get confused over the content of automobiles. Buying an American nameplate is no longer the guaranteed best way to support the American economy, or our Nation's work force.

But, Mr. President, Saturn cuts through the confusion. It is uniquely and entirely an American achievement. There is no foreign source. There is no foreign design. There is no foreign assembly. The Saturn automobile is all American, right down to the last nut and bolt and piston and gasket.

So my message this afternoon, Mr. President, is one of gratitude, gratitude to the workers and management of Saturn, who have given us back our product. They have proven that American ingenuity and know-how still is second to none in the world. There have been many doubters along the way. Sure, they have been some mistakes and there have been some false starts. But the workers and management at Saturn have overcome them with a measure of grace and dedication that we can all admire.

The men and women at Saturn never lost confidence in their ability to excel. There have been no easy victories, no neat solutions; only the driving, creative effort to solve problems and breathe new life into the American automobile industry.

The people at Saturn are convincing the world that we are once again a can-do people, a can-do Nation. They are pioneers, building tomorrow's products. They set the standard for all of the American industry to follow.

So I know I speak for all Members of the U.S. Senate, as well as millions of Americans, when I say to the workers and managers at the Saturn plant in Spring Hill, TN: Thank you for bringing our confidence back in our ability to produce and compete; and thank you for restoring our pride in American products.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, let me say to this body, I would like to associate myself with the remarks of the distinguished Senator from Tennessee. He is dead right on everything he said in his incredible story, one that I hope we are going to see repeated a number of times in other areas, with other automobiles.

TRIBUTE TO SENATOR ALAN CRANSTON

Mr. BIDEN. Mr. President, today, I want to pay tribute to one of our departing colleagues, a man I consider to be one of the giants of the Senate, ALAN CRANSTON.

ALAN CRANSTON's life has spanned the century—a century marked by unsurpassed human achievement in science and technology, but marred by the bottomless horror of global conflict. These contrasting images of the 20th century remind us that despite the technological revolutions in areas from medicine to manufacturing, we have been unable to discover the key to world peace.

The search for that key has been the central guiding principle of ALAN CRANSTON's life. Throughout his 24 years in the Senate, ALAN has demonstrated an extraordinary devotion to world peace.

Some people pursue power for its own sake; they look upon issues as a means to political advancement. ALAN CRANSTON's entire political career stands in sharp contrast to such cynicism. His ambition has been driven by issues, particularly the issue of nuclear arms reduction.

If I may be forgiven a personal aside, 5 or 6 years ago I was seeking ALAN's support for an office other than the one I now hold. I was sitting with him in a taxicab, about to go into a function being held in the Loop in Chicago.

Before we got out, he said: "I only have one question for you." Of all the thousands of issues he could have asked me about, he said: "I only have one question." He said: "How devoted are you to controlling nuclear weapons—to nuclear arms control—and to changing the dynamics of the relationship between the United States and Russia?" It is the only question he asked me, Mr. President.

Time and again, ALAN CRANSTON has brought us together, Democrats and Republicans, to focus on the opportunities for curbing the arms race.

For years, he convened the informal SALT study group, which met periodically in the whip's office, where ALAN encouraged a continuing dialog among Senators about reducing our Armageddon arsenals. He carried this dialog forward in his position as Democratic whip and as a senior member of the Foreign Relations Committee.

Indeed, ALAN CRANSTON was a tireless advocate for nuclear arms control. He was a key player in passage of the landmark Nuclear Nonproliferation Act, which curbed U.S. nuclear exports and strengthened sanctions against nations that would divert nuclear energy technology into weapons.

He consistently spoke out against efforts by third world dictators to achieve nuclear weapons. He warned us about the dangers of Iraq's nuclear program—years before George Bush did.

It was ALAN CRANSTON who led the effort to curb aid to Pakistan until that nation turned away from the nuclear threshold. And it was ALAN CRANSTON who highlighted the dangers in the nuclear weapons programs of India, China, and North Korea.

ALAN CRANSTON fought—even when jobs in his home State of California were at stake—against unnecessary nuclear weapons programs and delivery systems, such as the MX missile and the B-2 bombers.

And now, in the final weeks of ALAN CRANSTON's Senate career, it is fitting that we have enacted a nuclear test moratorium and ratified the START Treaty—two historic achievements that ALAN CRANSTON played no small part in bringing about.

One of ALAN CRANSTON's great accomplishments grew from political defeat. Though he did not secure the Democratic nomination for President in 1984, ALAN achieved a larger goal by raising awareness about nuclear dangers and support for a mutual, verifiable nuclear freeze.

As the Los Angeles Times wrote the day after ALAN withdrew from the race:

> His insistence that arms control and peace are a president's most important responsibility [have] raised the nuclear consciousness of the campaign. That is a noble contribution.

Of course, ALAN CRANSTON's contributions extend far beyond the arms race. In the Foreign Relations Committee, he was a forceful proponent of the South African sanctions legislation in 1986 and a critical voice in opposing the Reagan administration's misguided policies in Central America.

As chairman of the Asia Subcommittee, he has been a leading critic of the Bush administration's policy of constructive engagement with Beijing. He spearheaded the committee's effort which resulted in an about-face in United States policy toward Cambodia, where the Bush administration had underestimated the ambitions of the genocidal Khmer Rouge.

And he has provided a guiding hand in United States policy toward the Philippines. After the democratic revolution in that country in 1986, it was ALAN CRANSTON—along with our colleague Senator LUGAR and others—who urged the establishment of multilateral assistance initiative, a long-term proposal for aid and investment aimed at stabilizing the new government.

ALAN CRANSTON has made important contributions in many other areas—in protecting the environment, in advancing the cause of civil rights, in caring for the needs of our brave veterans, and in promoting the cause of equal rights for women.

For me, ALAN CRANSTON has embodied the credo stated by the American architect, Daniel Burnham:

> Make no little plans—they have no magic to stir men's blood. Make big plans; aim high in hope and work, remembering that a noble, logical diagram once recorded will never die, but long after we are gone will be a living thing, asserting itself with ever-growing insistency.

ALAN, your quest for world peace will continue to stir magic in men's blood. That ideal, which you so persistently pursued, will continue to assert itself—here in this Chamber and around the world—long after we are gone.

ALAN, for 24 years, you have been a quiet leader. You have counted our votes, you have twisted our arms, and you have brought us together to reason with one another.

It should be noted that ALAN CRANSTON is retiring from this body, but is still devoting his time in retirement to see to it that the current rapprochement between Russia and the United States becomes a permanent condition. He is still working tirelessly and will head up an institute to do this; to, in fact, bring about the prospect of continued dismantlement of the nuclear arsenals that have been brought about as a consequence of the cold war.

I would like to pay Senator CRANSTON my personal respect and gratitude for all he has done for this country.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I came to the floor, and I rise on the floor, to thank my friend from Delaware for his act of friendship and generosity. I deeply appreciate his comments on what I have sought to do in the Senate, and before the Senate, and what I will seek to do after the Senate, due to my passion for peace.

I do believe that I have made some contributions that do count in that realm.

I also say, in passing, I think I have also accomplished some things in other realms, such as the environment and the causes of equal rights, human rights, civil rights, voting rights, transportation, housing for veterans, and much else. But most of all, I was concerned through the cold war about the dangers of nuclear war, and I worked for better understanding with the Soviet Union through that long, dark period in world and American history.

Now, there are great hopes that we can avoid such dangers in the future, and I shall continue to work on that front.

I want to note also that the Senator from Delaware has made his own vast and remarkable contributions on the peace front and on the foreign affairs front, where he has provided great leadership and great thought, dedicated to the issues that confront our country.

I thank him as a wonderful friend and a great Senator.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. BRYAN). The Chair informs the Senate, the Senate having received the conference report on H.R. 5006, pursuant to the order of October 3, 1992, that report is considered adopted, and the motion to reconsider is laid on the table.

(The conference report is printed in the House proceedings of the RECORD of October 1, 1992.)

CABLE TELEVISION CONSUMER PROTECTION ACT OF 1992—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the President's veto message on S. 12, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 12), the Cable Television Consumer Protection and Competition Act of 1992.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate with the time to be equally divided and controlled by the two leaders or their designees.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time on the bill be controlled by Senator DANFORTH and Senator BURNS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I will just have an opening statement here, as we start down this road. This whole debate today regarding cable reregulation has been set up by some speeches made previously here on this floor this afternoon. One of them has to do with jobs. We beat up on our President because the economy has not grown and job creation has not really happened like we would all like to see it. Yet, we are starting right down another pathway here that is going to cost jobs here in America—reregulation. I find it ironic that this is the President's fault, and it is not the Congress' fault.

No other industry has enjoyed the growth through slow economic times like that of the cable industry. It did not do that until it was unregulated. There are a lot of things that this Government does and a lot of things this Congress does and about 2 years later we come back and look at it and say, "Woops, we made a mistake there, maybe we should undo that." We find out that is very, very hard to do.

Mr. President, we are in another one of those situations where we might have to say woops again. So as we look at this situation—and we will have some statements later on down the line—the underlying fact in this country is that jobs are a result of the creation of goods and services which are sold to consumers and users. This bill restrains cable's ability to create new jobs, clear and simple. There is no other argument that could even come up to that.

Senator GORE, with this bill, wants to stop this new job creation, and President Bush wants new jobs to continue to be created. If that is not a defining point, I do not know what is. President Bush has been doing everything in his power to create jobs this last 4 years, and the Congress has stood in his way every step of the way.

Then we stand back and say, "Aren't we in bad shape?" This country is not nearly as bad as everybody thinks it is. We are still the largest economy in the world, largest exporter in the world. In fact, our economy is bigger than the next three put together, and I do not see anybody making a big exodus out of this country to live somewhere else. I do not get one letter from people wanting out. But we will, if this continues, because we are heading right down that old track.

This bill is just another example of a regulatory Congress that is trying to ram a bad piece of legislation down the President's throat.

Mr. President, I do not see my colleague on the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I yield 6 minutes to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise today to urge my colleagues to support S. 12, the Cable Television Consumer Protection and Competition Act of 1992 and override the President's veto.

The purpose of this legislation is very simple and straightforward: To promote competition in the video industry and to protect consumers from excessive rates and poor customer service where no competition exists.

At the same time, it continues to permit the cable industry to grow and bring to the American public a new array of programming and other services. This bill represents a balanced and bipartisan package.

There is an effort underfoot to make this a partisan issue. It is not. This bill passed the Senate by a vote of 74 to 25, with a majority of both Democrats and Republicans voting for the bill.

If this measure does not become law the only losers will be America's consumers. This bill would not be here before us today were it not for the consumer outrage over the way they have been treated by the cable industry.

I hope that my colleagues will not let this measure fall over partisan politics. Our first responsibility is to the American people who want us to put in place protections against cable's monopoly power.

To promote competition, the bill ensures that competitors receive access to cable programming, not for free, but for the same price that the programming is sold to cable operators.

Contrary to the President's assertion, this bill does not require the government to set prices for programming nor dictate to whom it is sold. It simply provides that programmers owned by cable operators cannot discriminate.

This bill also permits municipalities to construct their own cable systems in competition with the existing operator, and it prohibits a franchising authority from unreasonably refusing to award a second franschise.

The President says that competition will not increase under this bill. He is wrong. If we do not pass this bill, there will never be competition to cable.

On September 24 the Wall Street Journal ran an article titled "Cable Firms Say They Welcome Competition but Behave Otherwise: Some Established Systems Go to Great Lengths To Keep Rivals Out of the Game."

The article points to the tactics used by cable operators to keep out competition. The article also notes that there are a number of provisions in S. 12 that will address the very anticompetitive tactics used by cable systems. Mr. President, I ask unaminous consent that this article be printed in the RECORD.

There being no ojection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 24, 1992]

CABLE FIRMS SAY THEY WELCOME COMPETITION BUT BEHAVE OTHERWISE—SOME ESTABLISHED SYSTEMS GO TO GREAT LENGTHS TO KEEP RIVALS OUT OF THE GAME

(By Mark Robichaux)

ELBOW LAKE, MN.—This farming community has many charms: It is clean, friendly and nestled amid tiny lakes. And for a while there, residents could get paid for receiving cable television.

That is what happened when Triax Midwest Associates, an affiliate of Denver-based Triax Communications Corp., faced a challenge to its exclusive franchise. After years of customer complaints that Triax's service was shoddy and its rates too high, the town (pop. 1,200) decided to go into the cable business itself. It erected a 180-foot antenna across the highway from Triax's tower and hung its cables just under Triax's on the utility poles.

The municipal system quickly signed up 60% of the subscribers in town at $14.95 a month, beating Triax's price by $1. But last summer, in the middle of a price war, Triax matched the city's rates, then flew in a legion of salespeople to go door-to-door, offering Elbow Lakes citizens a rebate of $100, paid on the spot, if they agreed to sign up for a year. The city countered the next day with a monthly rate of $5.95. So did Triax. Now the town's system is struggling and faces a yearly loss. It has been forced to raise its rates back up to $14.95, and nobody knows whether the residents will stay loyal or go for Triax's discount deals.

SLOW MOTION

Five years after the cable industry was deregulated, fewer than 1% of the cable markets in the U.S. are served by two or more providers, and rates have risen an average of 61% for the most popular service. Alternatives to cable, such as microwave transmission and direct-broadcast satellite reception, haven't materialized as full-fledged competitors. Complaints continue to reverberate about what many consumers perceive as cable companies' unregulated monopolies.

The bill cleared by Congress this week addresses this dissatisfaction by reimposing some community control on cable companies' behavior. The cable companies and President Bush, who says he will veto the measure, argue that the bill could actually raise costs for consumers, partly because it would enable broadcasters to obtain payments from cable companies for their signals. They maintain that competition in the cable market, not regulation would serve consumers best.

But a close look at the few markets where entrenched cable companies have been challenged by newcomers suggests that competition is the last thing that the big cable operators want. Beyond simply playing hardball, entrenched cable operators have sought to lock out or cripple would-be competitors. They have engaged in disabling price wars, filed numerous lawsuits and hobbled the sale of municipal competitors' bonds. They have vigorously lobbied local and state governments to keep their turf exclusive. In New York, an incumbent cable operator threatened apartment co-op boards with a halt in its service if the co-ops let a competitor in. In Cape Coral, Fla., a city famed for its Arbor Day celebrations, a cable provider charged that a would-be competitor planned to destroy 600 to 700 trees to string cable (it didn't actually plan to cut any).

FRUITS OF MONOPOLY

"The cable industry has tasted the fruits of the monopoly and they'll do whatever they can to drive a potential competitor out of town," charges Gene Kimmelman, executive director of the Consumer Federation of America, a consumer lobbying group. "They want it both ways: They argue they want competition, yet they do everything imaginable to block it."

The cable industry vigorously defends its behavior, dismissing any notion that its practices are anti-competitive. Cable companies say they are simply protecting their markets, competing as any prudent business would. The big operators feel the threat of competition acutely, because they borrowed heavily to buy up cable systems in the 1980s. Cable companies further argue that it's virtually impossible for two cable operators in one market, offering discounted prices, to make a reasonable profit. In many respects, they argue, cable is a natural monopoly.

"What do you expect the operators to do—sit there like a bump on a log and lose customers?" asks Steve Wilkerson, president of the Florida Cable Television Association. "Cable operators are going to compete head to head to keep their customers. What is so anti-competitive about that?"

KEEPING THEIR DISTANCE

The big cable operators haven't tried to compete with one another; they buy and sell territories, but so far they haven't sought to penetrate one another's markets. Generally the challengers are frustrated small-town governments and scrappy companies, usually undercapitalized, that operate in areas where an incumbent has a reputation for giving poor service and increasing its rates.

More than 130 disenchanted communities are exploring the prospect of either inviting competition or starting a cable company of their own. One of them is Niceville, Fla., hamlet (formerly known as Boggy) near the end of the state panhandle. Niceville has been fighting for the better part of a decade to start its own service. Warner Cable Communications Inc., a unit of Time Warner Inc., so riled the small town with rate rises and much-criticized service that angry residents voted to tax themselves to construct a $2 million cable system.

But Time Warner used the courts to challenge the city's right to build, arguing among other things that by operating a system of its own, the government would be infringing on Time Warner's First Amendment right to free speech. After hard-fought victories, one in state court and another in the U.S. Supreme Court, the town proceeded this year to sell the bonds to start construction. But a bond-rating agency refused to rate the bonds, despite Niceville's respectable credit history. That's because Time Warner filed yet another lawsuit in 1987. This one charged the town with "unlawful municipal competition," alleging, among other things, that it misled residents about the cable system's viability.

Today, seven years and almost $300,000 after starting its effort, Niceville still hasn't strung its first inch of wire. "They [Time Warner] asserted every constitutional, legal and contractual theory I think I've ever seen," says Niceville city attorney Gillis Powell Sr. "it's been a very complicated, very costly, very exhausting experience."

James Moore, the attorney representing Warner Communications, argues that neither Niceville not any other municipality belongs in the cable business. "How can the city be a regulator and a competitor at the same time?" he demands.

That is one of the questions the federal reregulation bill addressed. The bill would enable local governments to regulate rates for basic cable programming based on guidelines developed by the Federal Communications Commission, and would authorize the FCC to step in when local authorities don't do the job right.

The legislation is also aimed at encouraging competition to entrenched cable operators. It would prohibit exclusive franchises, requiring cities to consider at least two applicants. Local governments could operate a cable system without going through the formal franchising process. The bill would also require cable operator-owner networks that currently sign exclusive contracts, such as TNT, to sell programming to all comers.

THE ALLENTOWN EXAMPLE

There is evidence that on a level playing field, cable companies can compete, with attendant benefits for consumers. In Allentown, Pa., two private able companies started 25 years ago at opposite ends of the town, met in the middle and continued to wire over one another's neighborhoods, house by house. The two—Service Electric and Twin County Trans Video—both are profitable today, and have split the market roughly in half.

"I'm not exaggerating when I say we have no problems whatsoever with cable," says Joseph Rosenfeld, an assistant to the mayor in Allentown. "These companies are terrified of people switching. I was watching an Eagles game and that went out during an electric storm. Within half an hour, in the rain, they had the thing fixed."

Allentown is an exception mainly because it took a path that other communities didn't when cable television began: It allowed two operators into its territory. As cable spread in the early 1980s, most local governments granted a single franchise to a single operator. Running two wires along poles or digging up public roads twice seemed impractical. In return, cable operators often had to agree to costly concessions levied by city councils, which usually included a percentage of gross revenue, elaborate public-access studios and state-of-the art equipment to televise council meetings.

Then, in 1984, cable companies argued that they needed relief from local governments' rate restrictions and unreasonable demands. Competition from emerging technologies would hold rates down, the industry argued. Besides, the broadcast networks had a far bigger audience than cable, which had wired less than half the country at the time.

So the Cable Act of 1984, which became effective in 1987, was intended to allow the industry to flourish, and at the same time open the door for competition. The industry has indeed flourished since deregulation—revenue has almost doubled in the past six years to $22 billion—but the emerging technologies still are larval, and incumbent cable operators doing battle with newcomers can exploit the considerable advantages of having had exclusive franchises.

By far the bloodiest cable battleground, even by the industry's sanguinary standards, is in central Florida, where Telesat Cablevision Inc. has gone up against some of the nation's most powerful cable operators. The fight has taken such a heavy toll that Telsat has canceled plans for any further expansion in Florida. Telesat's parent, FPL Group, owner of Florida Power & Light, has put Telesat up for sale.

Telesat, based in Pompano Beach, touched off a price war when it marched into central Florida in 1987. It started out wiring apartment buildings, then quickly expanded to more than a dozen communities serving 53,000 cable homes. In every market, Telesat met what is president, Harry Cushing, describes as the "scorched-earth policy" of entrenched cable companies.

In the Orlando area. Telesat encountered tow of the industry's biggest operators: Cablevision Industries Corp., with 1.7 million subscribers nationwide, and Cablevision of Central Florida, a division of Time Warner Inc., with 6.7 million. (The two companies are unrelated; "cablevision" is a name widely used in the industry.) In 1987, the year Telesat made its debut in Orange County, Fla., Cablevision Industries charged $10.95 a month in its markets, and the Times Warner unit $12.85.

Both incumbents quickly cut their rates to $6.50—but left prices unchanged in neighborhoods that couldn't get Telesat. William Brown, president of Time Warner's unit there, calls the simultaneous rate drop "coincidence," adding "there was absolutely no collusion."

Between the price wars and the race between companies to wire homes, Orange County quickly became a hodgepodge of different cable rates for different enclaves Cindy Utter, who lives in one of Orlando's blue-collar subdivisions, pays the Time Warner unit $20.70 a month. But just down the road, in an area that gets Telsat, her neighbors pay Time Warner $13.95 monthly. "It's not fair," Ms. Utter fumes. Counters Time Warner's Brown: "It's fair to meet competition wherever it comes up. You have to protect your market share short of losing money."

HOMEOWNERS GET INVOLVED

In 1990, at the behest of embittered residents, the local homeowners' association took the lead in pushing for a ordinance that would prevent cable companies from charging different prices for cable in the same market. "We had a lot of people mad that they were subsidizing their neighbors' cable bill." says Cheryl Moore, then-president of the Orange County Homeowners Association.

Time Warner orchestrated the industry's counterattack, sparing no effort to make its presence felt by local politicians. On the day the Orange County Commission voted on the proposed ordinance, big cable trucks surrounded the building, and inside, virtually every seat was taken by Time Warner employees, who had been given time off with pay to attend the meeting.

They had arrived that morning shortly after 7 a.m. for the 9 a.m. showdown. "The residents were forced to stand up in the back, and there as no parking for blocks," Ms. Moore says. "The people were livid." Time Warner's Mr. Brown says, "We gave employees time off and it was voluntary, but I'm pleased we had such a terrific turnout."

Heated debate ensued as the sides presented conflicting economic data. In the end, the ordinance failed, 3-2, with three Republican commissioners voting against it. The incumbents' presentation was made by two cable-company attorneys active in Republican fund raising. "Special interests hit a grand-slam home run and the residents lost," Linda Chapin, a commission member who spearheaded the argument for the new ordinance, said at the time. Weeks later, during a race for the job of commission chairman, Time Warner included campaign fliers for Ms. Chapin's (ultimately defeated) opponent in its monthly cable bill.

LEVEL PLAYING FIELD?

Telesat now blames its lower-than-projected cash flow and choked-off subscriber growth in Orange County on the failure of the ordinance. The company's 42% penetration there contrasts sharply with the 61% it achieved in nearby Citrus County, which adopted a uniform-pricing law. (A similar uniform-pricing provision is included in the regulation bill passed by the House and Senate.)

In Dade County, Telesat got stopped dead in its tracks by a state law known as the "level playing field" act. In theory, it was designed to ensure that the second cable franchise wouldn't get more favorable treatment than the incumbent. But in the 10 states where such legislation has been enacted, many cable newcomers contend it has enabled incumbents to manipulate the franchising process. Often at the established cable company's urging, local governments hold public hearings and conduct extensive studies on the impact of so-called overbuilders. In the end, communities frequently end up imposing more burdensome financial obligations and construction schedules on second cable systems. Dade County proved no exception.

For instance, a six-month, $100,000 study into the feasibility of competition led to one delay after another in the processing of Telesat's application for a franchise. At every county meeting, Mr. Cushing, Telesat's president, says the incumbents prodded the county to ask for more data before taking any action.

Finally, after 2½ years of waiting, Telesat withdrew its application. Among other reasons, it cited in its FCC filing "no hope overcoming incumbent opposition with close political ties to commissioners." Later that year, the Dade County cable administrator who recommended doing a feasibility study was hired by Tele-Communications Inc., owner of Storer Communications Inc., one of the incumbent operators, to run its Miami cable operations. Anthony Bello, the former cable administrator, says any suggestion that the two events were related is "poppycock," stressing that Tele-Communications had no pending business with the county at the time of his job negotiations.

Elsewhere in Florida, even as Telesat toiled to lay wire, it found it couldn't get access to popular cable program networks, many of which are at least partly owned by the largest cable operators in the country. For instance, Telesat can't get the Sunshine Sports Network, which carries Orlando Magic basketball games and Florida State University sports. The Sunshine network is 51% owned by a group of cable operators and 49% owned by a partnership between cable entrepreneur Bill Daniels and Liberty Media Corp., a spinoff of Tele-Communications. The network is distributed through exclusive contracts to incumbent systems.

Today, Telesat is struggling in virtually all its Florida markets. Several of its operations have been sold to or merged with incumbent operators, some of which charge Telesat with being a "green-mailer"—industry jargon for a company that enters a market for the purpose of inducing a buy-out. Mr. Cushing, Telesat's president, denies the charge. "I have a firm belief in the American dream," he says, "but I am disillusioned."

The few U.S. communities that have achieved cable competition have emerged as pockets of envy for the rest of America's couch potatoes.

In Paragould, Ark., the incumbent Cablevision Systems Corp. was determined to be the only game in town. When the town launched a $3.2 million bond issue to build its own cable system, Cablevision filed two lawsuits to stop it, and even offered to finance the new system on the condition Cablevision be allowed to operate it.

But the town system is up and running, and in the face of its first competition ever, once-vilified Cablevision Systems has become a paragon of service. If it doesn't repair outages within one hour, it will give $5 off or a free month of Home Box Office. And its rates are among the lowest in the country: Cablevision charges $9.50 a month for 45 channels; the town charges $12.50.

Paragould property owners have to pay an average tax of $3 a month to defray the cost of the town's new system, but many think it's worth it. Amanda Gramling waited for years on the edge of town for cable service from incumbent Cablevision. But it wasn't until the town got into the business that both companies—Cablevision and the town system—beat a path to her door. "We're a lot better informed today, and we have one of the lowest rates around," says Mrs. Gramling, who now tunes into the town's live coverage of the county fair and her second-grade daughter's school plays. "We can thank competition for that."

Mr. INOUYE. The President's contention that the conference report drops the provision that would have permitted the telephone companies to provide cable service in communities with up to 10,000 residents, ignores the fact that the FCC is presently conducting a proceeding to do just that. Moreover, if the conferees had retained that provision then the FCC would have been precluded from raising the limit should it find that telephone companies should provide cable service in communities with more than 10,000 residents.

This measure also addresses the exorbitant rate increases many consumers have suffered since deregulation. Rates for cable service have risen three times faster than inflation, and complaints about poor customer service have been numerous. To protect consumers, S. 12 gives the FCC, and in some cases, local authorities, the ability to ensure that rates are reasonable where no competition exists. It also directs the FCC to establish customer service standards.

Regarding retransmission consent and must carry, I want to note that when the Senate considered this legislation in January, the cable industry and the President supported the Packwood substitute which contained both retransmission consent and must carry. Thus, every Member that voted for the substitute or S. 12 voted for both of these provisions.

It has been argued that S. 12 will irreparably harm the cable industry. It will not. Two Wall Street Journal articles have stated that this bill will not hurt cable stocks or cable's cash-flow.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 1, 1992]

Cable's carping about the cost of the reregulation bill may be exaggerated.

Wall Street analysts remain stoutly bullish on cable-TV stocks despite cable industry grousing that the bill will mean up to $1 billion a year in payments for programs the companies now receive free. Analysts like stocks such as Tele-Communications, Inc., Comcast Corp., Time Warner Inc. and others anyway. Why? Wall Streeters believe the cable operators' cash flow won't be affected. What's more, they say the law would do away with regulatory uncertainty.

If the bill now before President Bush passes, more than 1,100 local TV stations will negotiate with the 9,000 or so local cable systems over fees for programming. But analysts expect the cost to be well below the $1 billion estimate. Analysts say most broadcast stations may opt for the status quo: free programming in exchange for their current position on the local cable system dial. Others may forgo cash in favor of, say, cross promotions.

Smith Barney's John Reidy says he'd be "very surprised" if there were any major cash outlays by cable firms.

CABLE TELEVISION RE-REGULATION PASSED BY HOUSE

(By Mary Lu Carnevale)

WASHINGTON—The house voted 280-128 for a bill that would reimpose rate regulation on cable television and stimulate competition against local cable-TV monopolies.

The vote total indicates that proponents could have a difficult time overriding an expected veto by President Bush, who reiterated his opposition to imposing a lid on cable-TV rates. A two-thirds vote in both houses of Congress is required to override a presidential veto.

The bill, a compromise ironed out last week by a House and Senate conference committee, would enable local governments to regulate rates for basic cable programming, based on guidelines developed by the Federal Communications Commission. It would allow the FCC to regulate basic rates when local authorities don't follow its guidelines or don't have the legal authority or sufficient personnel to do the job. The basic tier of cable-TV service would include local broadcast stations as well as the cable system's public access, education and government channels.

Cable rates have risen about 60% since December 1986, when they largely were deregulated under the 1984 Cable Act.

To spur competition, the bill would require cable companies' program affiliates to make their programs available to emerging competitors, including microwave services and direct broadcast satellite services. It also would bar local franchising authorities from issuing exclusive cable-TV franchises, and it would permit cities and towns to operate their own systems.

ENORMOUS OPPOSITION

The measure now goes to the Senate, where it has run into enormous opposition from cable companies and Hollywood studios. Opponents were heartened by a letter President Bush sent yesterday to Senate Republican Leader Robert Dole saying he would veto the bill. The president's letter suggested that "Congress would best serve consumer welfare by promoting vigorous competition, not massive re-regulation."

Although the Senate voted 78-18 for a tougher measure in February, its vote next week is expected to be closer. Cable industry lobbyists, recently joined by Hollywood moguls, have been busy in recent days making personal calls on most senators.

Opponents want to win enough votes in the Senate to ensure that the measure can withstand any attempt to override a veto. Barring that, they will try to delay the Senate vote as long as possible so that President Bush could let the bill die after Congress adjourns.

In the past few weeks, the cable industry has targeted consumers with an aggressive advertising campaign on cable stations and in newspapers as well as bill inserts warning that the legislation would force cable systems to boost rates substantially. Supporters of the bill, including the Consumer Federation of America and the National Association of Broadcasters, charge that those claims are false and have asked for a Federal Trade Commission investigation.

HOLLYWOOD'S POSITION

Hollywood studios, which supply many popular TV programs, oppose the bill because even though it would allow local broadcasters to charge cable systems for carrying their programs, the studios believe they are entitled to some of that money. Under current law, cable companies pick up local broadcasters' signals for free.

While directly providing for regulation only on rates for basic cable service, the measure would authorize the FCC to investigate and resolve consumer complaints about rates for cable services that aren't in the basic, regulated tier. Many cable systems have set up new levels of service in anticipation of legislation that would regulate the basic service tier.

The bill also would require cable companies to update their systems within 10 years with technology that would let customers buy the basic tier of service plus any premium channel, without having to buy expanded basic service. The new equipment, which some cable companies already are installing in their networks and at customers' homes, also is used to provide pay-per-view services such as the Olympics triplecast.

Wall Street analysts said a new law wouldn't hurt cable stocks despite operators' complaints about new financial burdens. "I don't think the revenue or cash flow of cable operators will change dramatically if the bill is passed," said Kenneth Goldman, a cable-television analyst at Bear, Stearns & Co.

But he said it is unclear whether the FCC will exercise its authority aggressively beyond regulating the basic tier of service. Another unknown is the true cost of the provision allowing broadcasters to collect fees from cable companies. He said the provision "would require thousands of different negotiations between individual cable operators and broadcast stations."

John Redy, an analyst with Smith Barney, Harris Upham & Co., agreed that the bill "would be livable for the cable industry, if not desirable." He said it at least would clear up the regulatory uncertainty that has plagued the industry in recent years.—*Mark Robichaux in New York contributed to this article.*

Mr. INOUYE. S. 12 passed the Senate earlier this year by a vote of 73 to 18.

Because of its wide support and logic, a majority of both Republicans and Democrats voted in support of this bill. Supporters of S. 12 include: cities, consumer groups, unions, public and commercial broadcast stations, the religious broadcasters, and senior citizens.

S. 12 will promote competition and impose regulation until that competition develops. I urge all of my colleagues to look beyond the rhetoric being employed by the cable industry and the President to the solid foundation that supports S. 2. I urge all of my colleagues to support S. 12 and override the President's veto.

In closing, Mr. President, may I just say that, as much as I admire my friend from Montana, I am certain he will agree with me that history has demonstrated that monopolies never create jobs. It is the system that we all admire and love, the free enterprise system, the competitive system, that provides jobs. Everyone agrees, Mr. President, that the cable industry is a monopoly. It is anticompetitive. If we put into practice the free enterprise system, that is when jobs will be created.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I yield 3 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, 2 weeks ago I voted against the conference report to S. 12, the cable television reregulation bill. Today, I will vote to sustain the President's veto on this measure.

I regret that I must vote against S. 12, because I support some form of regulation of the cable television industry. I certainly agree that consumers need to be protected from being gouged by unscrupulous cable operators. I agree that legislation is needed to ensure that cable companies provide prompt and convenient services to their subscribers.

Unfortunately, Mr. President, this bill goes way too far. Although it includes rate reregulation and service provisions, it also includes many flawed provisions that could produce unintended and potentially harmful consequences for consumers.

In short, I believe this bill does more harm than good and could ultimately cost consumers in the form of higher cable rates. In other words, Mr. President, this is a classic case of overreaching by the broadcasting industry. I would like to cite four principal reasons for my vote to sustain the veto.

First, I oppose the retransmission consent provisions in this legislation. Under this part of the bill, cable companies, at the option of the broadcasters, could be forced to pay a fee to local broadcast stations in order to carry their signals on cable. There is a legitimate debate about who benefits more when a cable system carries broadcast signals. Cable picks up the local broadcasters, and they convey them out to their subscribers.

Who gets the most out of it? Cable charges a fee for its services and gains an attractive marketing tool when they said they would carry the local station for 7, 8 or 9 or whatever it is. Broadcasters benefit from an expanded market penetration and improved signal reception in most instances.

My concern here is that the fee mechanism established in the bill would almost certainly harm consumers. After all, if cable is going to be required to pay a fee to the broadcasters, then it must raise the revenue to cover those costs. That is clear.

I understand that the head of CBS has said that this means a billion dollars to the broadcasters. Where is that billion dollars going to come from? It is going to come from someone, obviously from the consumers, namely the ratepayers, the subscribers to the cable. Consumers will be forced to absorb these new costs in the form of rate increases.

I believe retransmission consent will produce higher, not lower, rates for cable subscribers. How odd it is that this provision that they have to pay more is included in a bill that is labeled as a Consumer Protection Act.

Second, I oppose the bill's program exclusivity or forced access provisions. Under this section of the bill, cable companies would be prohibited from developing a television program and then enter into a contract.

Under this exclusivity provision the developer of a program cannot enter an exclusive arrangement. They have to sell to whoever comes along who wants to buy it.

Clearly television subscribers, cable subscribers, want new programming. After all, superior programming is one of the reasons people are prepared to pay $30, $40, or even $50 in some instances per month for cable.

Almost certainly, the exclusivity provision in this bill that says you cannot sell to whom you want, you have to sell it to anybody who comes along, clearly that is going to result in a reduction in the number of programs that are produced by the developers, by the programmers.

What incentive, after all, is there for a cable system to risk developing a new program which may sell and may not be good and may be bad? If they hit it, they have to sell that program to a competitor or potential competitor.

I must say this is a peculiar provision. Since when in America do we dictate to whom one must sell one's goods or one's artistic creation?

Third, this bill would establish an all-encompassing regulatory structure. It would require the FCC to adopt nearly 30 new regulations governing the cable industry. It would regulate television set technology standards, TV and VCR equipment compatibility, and pay-per-view adapters. And while I support regulation to improve customer service and control prices, I cannot in good conscience support a bill that smothers cable in the crushing embrace of Federal regulation.

And, fourth, this bill will prove costly to both consumers and the Federal Government. Retransmission consent, technology requirements, and the costs associated with complying with more than two dozen new Federal regulations will increase costs for cable companies who will inevitably pass these costs along to consumers. Not only the retransmission programs but a host of other factors will go up.

In addition, the Congressional Budget Office estimates that it will cost taxpayers more than $100 million over 5 years to implement the requirements of this legislation.

Mr. President, most Rhode Island cable subscribers want what I want: to be assured of good service and of fair rates. Yet in this 50-page bill, just 8 pages are devoted to consumer service and rate regulation issues. The remainder of the bill is filled with regulation after regulation that has little to do with the consumer.

If the President's veto is sustained—and I hope it will be—I will be ready early next year to support genuine cable reform legislation to protect consumers from excessive rate increases and improve customer service.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

Mr. DANFORTH. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. GORTON. Mr. President, S. 12, this cable television bill has received great prominence over the course of the last 2 or 3 weeks, perhaps greater prominence than a bill on this subject would normally receive.

A great deal of concern has been expressed across the country and here in Washington, DC about the intensity of the lobbying over this issue, the huge amounts of money in advertising by cable television companies and in return by television stations themselves, by the President on one side, by consumer interests on another side.

Paradoxically, it seems to this Senator that the very intensity of that lobbying, because it does come from both sides of the issue, and because in most cases it comes from groups with an obvious self interest in the outcome of the legislation, makes it easier rather than more difficult to vote for or against this bill on the merits of the bill itself.

No Member can make happy all of the lobbyists or lobbying organizations. Each Member may as well look at the provisions of the bill and make a determination as to whether or not it is good or not for himself or for herself.

One needs only to concentrate on the impact of this bill on those who are not lobbying, the unorganized consumers, the general public interests of the people of the United States. At that point it seems to me quite clear that the merits of the bill are overwhelming in favor of passing it notwithstanding the veto of the President.

Remember what caused the bill in the first place; the fact that an unregulated monopoly has increased prices of this service three times as rapidly as the Consumer Price Index has gone up over the period of time since that monopoly has been unregulated.

Remember the history of this Nation and of this body for a century and a half from the time in the middle of the second half of the 19th century when it first occurred to Congress that an unregulated railroad monopoly could not be permitted to exist. It is the theory of the free enterprise system that monopolies, where they are absolutely necessary, should in fact be regulated. But that far better than monopoly is competition. And it is the primary goal of this bill to create competition in cable television or in the provision of its goods and services not to reregulate. The reregulation takes place only where there is no competition and lasts only as long as there is no competition.

This bill is, in fact, consumer protection oriented. It is no accident that three former attorneys general of both parties are here on the floor to argue in favor of the bill.

We should not allow unregulated monopolies. We should create competition whenever possible. This bill accomplishes both goals. It is in the consumer's interest. If you vote in the interest of your unorganized constituents you will vote in favor of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 3 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 3 minutes.

Mr. LIEBERMAN. I thank the Senator from Missouri and thank the Chair.

This is not, and should not be, an issue that divides us down the aisle of this Chamber that separates Republicans from Democrats.

When I first came to the Senate, I introduced a cable consumer protection bill with my Republican colleague from Connecticut, Congressman CHRIS SHAYS.

As I look around this Chamber at this moment, this bill only reached the floor of the Senate, because of the strong support given it on a bipartisan basis, including a leadership role by the Republican Senator from Missouri. A majority of both parties passed this bill on the Senate floor just 2 weeks ago. So let us stand together again today.

Let us reject the appeals of those who would make us believe that this bill has suddenly changed into a narrow struggle along party lines. Let us not let another good bill for the American people go down the drain of mindless partisanship.

The reality is that in the absence of competition the cable industry has relentlessly raised prices on the American consumer year after year. Since deregulation rates have climbed three times the rate of inflation. And the cable industry gets away with this kind of highway robbery because there is only one cable shop in most towns across America. And that is not what I take to be free enterprise.

A vote against this bill is a vote for the status quo. Without this bill there will not be nationwide minimum customer service standards for cable, and cable companies will continue to charge monopoly prices that are nearly 30 percent higher than they are in the very few markets in America where there is real competition.

Mr. President, in passing S. 12 we have heard the calls of America's cable consumers for help. We have forged changes in this bill that promote competition and protect consumers until competition arrives. Seventy-four Senators of both parties went on record supporting this bill just 2 weeks ago and nothing has changed in the cable marketplace since that time. The monopoly has not disappeared, competition has not appeared, and prices have not been controlled.

So I urge my colleagues to stand firm and together once again for fairness to cable consumers and vote to override the veto of S. 12.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DANFORTH. Mr. President, I yield 5 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized, Mr. PRESSLER.

Mr. PRESSLER. Mr. President, I rise to urge an override of the President's veto. I rise in support of S. 12, the Cable TV Consumers Protection and Competition Act. I would like to summarize my arguments in four parts.

First off, I am voting as I am because the sports fans of America are mad, and when the sports fans of America are mad, Congress must wake up.

From my State I have heard from sports fans who have been denied the option to get pay-for-view sports programs, because their local cable company has not taken the initiative to provide it. I have heard from sports fans who are in cable areas that have been denied programming from ESPN, and some of those are the rural electric cooperatives. They were not getting it until I personally intervened with the company.

The sports fans of America are mad, first of all, and they want this legislation to pass. It is a piece of consumer legislation.

The sports fans of America do not pay much attention to Congress, but they are watching this piece of legislation and they are consumers.

Second of all, small independent cable operators and others have been denied certain programming. Small, independent cable operators, home satellite dish distributors, and wireless cable operators have had to compete for years against the larger cable television operators for programming on an uneven playing field. The vertically integrated multisystem operators [MSO's] have long had a lock on programming. Outsiders find there is no way to join the MSO/video programmer club.

The cable giants have a stranglehold on programming and will not let go.

To explain what this means to the consumer: If they are in an area where there is going to be competition, the new competition cable company will be told you cannot get HBO, we have an exclusive contract with the existing company, or you cannot get the sports network ESPN, because it has an exclusive with the incumbent cable company. And frequently the incumbent cable company owns a part of the programming supplier.

This will be changed under this piece of legislation. This is true consumer legislation.

Third, access to programming is a serious problem for people in smaller cities, and most people in this country live in smaller cities. Even the people of California, most of them, live in smaller towns and cities. That is one of the reasons I disagree with the slogan of the campaign against small States. Most people think of themselves living in smaller cities or towns. But access to programming is a serious problem in many of these smaller cities, even in California. It does not have to be South Dakota.

Some programmers have absolutely refused to make programming available to those home satellite dish distributors who serve rural backyard dish consumers. Discriminatory pricing and refusals to deal with rural home satellite dish owners penalize consumers in the smallest towns and the farms and ranches in South Dakota and America. Today, satellite dish consumers pay 500 percent more for television programming than consumers using other technologies, and that is a fact. It is a very serious one.

As a Republican, I share the President's belief that competition should supplant more Government regulation. I have pointed out, this is not competition. This is monopoly and vertical monopoly, the cable companies working with the programmers to block out anybody new. I am one of those who voted for cable deregulation in 1984. I went all the way for the cable companies and at that time the broadcasters were fighting them.

Now I am back on the broadcasters' side. Who knows where we will find ourselves in the future?

But the point is, the cable people did a good job of wiring America, but then they abused their monopoly position. Then they began to invest and coinvest with programmers and now they are locking anybody new out. So we are going to have a stalemate.

The cable industry is not a competitive industry. It has no competition. It is an industry that has abused its monopoly position. Cable television rates have skyrocketed since 1984, when I and other Senators joined in deregulating the cable industry, hoping it would behave responsibly. This legislation will correct the situation.

Finally, the Consumer Federation of America and the Federal Communications Commission both estimate that this legislation will cost consumers over $6 billion. That is in terms of the amount that will go back. The legislation will save consumers over $6 billion in cable rate overcharges.

The PRESIDING OFFICER. The Chair informs the Senator that the 5 minutes allocated to him have expired.

Mr. PRESSLER. I ask unanimous consent for 1 more minute.

Mr. DANFORTH. I yield 1 more minute to the Senator.

Mr. PRESSLER. Opponents may contest this figure; however, earlier this year, Federal Communications Commission Chairman Al Sikes estimated that the rate of competition this bill would foster would bring about $5.3 billion of savings to consumers.

So we have the Consumer Federation of America and Chairman Al Sikes, who is a Republican, estimating that consumers will get between $5 and $6 billion back in overcharges that would have been charged as a result of this bill. That is $5 or $6 billion.

So let us stand with the consumers. Essentially what we are voting on today is a $5 to $6 billion tax relief package for cable consumers.

I urge my colleagues to support this tax cut for cable consumers, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I yield 5 minutes to my friend from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT], is recognized for 5 minutes.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Montana for yielding me this 5 minutes, and congratulate him on the job that he has done on this issue.

I think just a little of history is in order here today. This bill, S. 12, has had a long and tortured history. I guess the Senator from Missouri and others have been working on it for at least 4 years, maybe longer. But it goes back beyond that. It really goes back to the early eighties when the cable industry was stifled by regulation, controlled by Government, and restricted from being able to grow and expand.

In its wisdom, the Senate, in 1984, deregulated the cable industry, and what did we have? We had an explosion of development, innovation, opportunity; things really improved all across this country. It worked. Deregulation worked.

Did they make some mistakes? Yes, because of the growth and because of the diversity, sometimes their service was not what it should be. Did rates go up? Yes, because rates had been artificially stifled by Federal Government regulation.

But, remember this, this is not an essential monopoly. It is not a utility. This is not something that is going to kill you if you do not have it. The health and safety of the community is not at stake.

The consumers still have the ultimate weapon on cable and its service and its rates. They do not have to pay it. They can demand that the rates be lower, or they can say I will go to some other option.

And there will be other options, lots of other options in the future. In the next 4 years, next 10 years, you are going to see tremendous developments in this area, many different options of how you get your cable. And I have no doubt that the telephone companies and other companies are going to be in this area offering competition and development.

Yet it is being said we must have Government reregulation. How did this happen? Some people say: Well, the service is not good enough; the rates have gone up too high.

Talking about a rural State, here is my rural State of Mississippi. I do not know how well my colleagues can see it, but all these red dots here represent cable companies in Mississippi. And then the little black numbers right here also represent them. You see that my rural State of Mississippi is literally covered now by cable service. And that is fantastic.

But there is another interesting thing about this map. Under existing FCC regulations, all of the reds already are regulated by the Government. Only the few little black ones around Jackson and along the coast and right up into the Memphis market are not already regulated.

Under this administration, the FCC has already moved in and started doing some regulation where it is needed.

So my question is: Why do we need this at this particular time? It know it is a tough vote. It is a tough call.

There are some good things in this bill and I have supported them along the way in committee and when it was here in the full Senate.

But I continue to raise questions and reservations about too much regulation and what is going to happen when this is turned back over to municipal governments. I think in the end we end up with a bill that is too much regulation and is going to drive up costs. I cannot understand how people say this will save money.

Even the Congressional Budget Office has pointed out that for the FCC to implement these new regulatory requirements, it will cost taxpayers $100 million over the next 5 years. State and local governments are expected to spend another $8 to $14 million a year to implement these regulations.

This bill will require cable operators to spend $5.8 billion to deploy scrambling technology and equipment. The retransmission consent provision, according to the chairman of CBS, could cost the consumers up to $1 billion.

In the end, somebody pays. Nobody is just going to absorb these additional costs.

I think any Senator in this Chamber would have to admit there will be more costs associated with more regulation. The subscribers are going to pay it; the consumers are going to pay it and the taxpayers are going to pay it.

So do not ever have any doubt in your mind that this reregulation is going to solve the problem. The thing that will solve the problem is competition.

But, this should not be the end of this process. We should vote here today to sustain the President's veto. We should come back next year and do a better job to encourage competition. We should not go for regulation and more artificial cost increases. We can do it right next year. This is not the end. This could be the beginning of what we really need to do in this legislation.

I should point out also that there are serious constitutional questions, first amendment questions.

The PRESIDING OFFICER. The Chair informs the Senator from Mississippi that the 5 minutes allocated to him have expired.

Mr. LOTT. There are many other points I could make.

I will stop by saying this reregulation is a cost increase.

I urge my colleagues to vote to sustain the President's correct veto of this issue.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 1 minute to the Senator from Washington.

Mr. GORTON. Mr. President, in my earlier remarks I alluded to the fact that lobbying on this issue has been intense, that it has been conducted almost entirely by organizatins with a financial interest in the outcome of the legislation on one side or another.

I find with some amusement that this statement applies even on the Olympian heights of newspaper editorialists who so often tell us that they act solely in the public interest.

I wish to share with my colleagues the last paragraph of a story which appeared in yesterday's Washington Post, and I will quote it:

> One congressional aide who reviewed about 75 newspaper editorials about the cable bill found that newspapers owned by companies with interests in the cable industry opposed the bill uniformly. Newspapers whose companies owned only broadcast stations, or had no holdings in the TV business, favored the bill about 80 percent of the time, he said.

So, perhaps we could ignore the newspaper editorials, whichever side of the issue they find themselves on.

The PRESIDING OFFICER. Who yields time? The Senator from Missouri.

Mr. DANFORTH. How much time is left on my side?

The PRESIDING OFFICER. A little over 9 minutes.

Mr. DANFORTH. Mr. President, I yield myself 6 minutes.

I speak as a Republican politician and as a strong supporter of President Bush. And I speak as the Senator whose name happens to be first on S. 12. Along with Senator HOLLINGS and INOUYE, I introduced this bill almost 2 years ago.

I want to say first of all that there are good arguments on both sides of this legislation. The President, in vetoing the bill, is true to what he takes to be basic Republican philosophy, which is that Government regulation is a problem for this country and we have to try to reduce that problem and reduce the amount of regulation.

Mr. President, I generally agree with that position. I certainly do not agree with some of the more partisan things that have been said attacking the President of the United States for his position on this bill. I do not agree, for example, with the statement of Mr. George Stephanopoulos, the communications director of the Clinton campaign, who made a statement October 3 saying that "George Bush slapped the American consumers across the face."

And I do not agree with Senator GORE's speech of September 29, when he said that the President was "owned lock, stock and barrel by the cable TV industry."

I do not agree with those statements. I do not think they are right. I do not think they are fair.

The President is doing what he thinks is correct and he believes he is opposing overregulation. The difference of opinion here has to do with when regulation is appropriate and when it is not. The President is against overregulation, against reregulation. The philosophy that is espoused by those of us who support this bill is that without regulation, cable companies in each particular community amount to unregulated monopolies, monopolies which have allowed consumer rates to go up three times the rate of inflation since 1986.

That is the difference of opinion. It is an opinion that can be fairly held by people on both sides. I would hope whoever ends up winning this argument does not gloat about it and does not try to rub it in.

I want to say a word about the role of Republicans particularly in the Senate with respect to this legislation, because Republicans have had a big hand in this legislation. Those of us who support it believe that we are very much in the tradition of a great Republican President, Theodore Roosevelt. In 1989, when the predecessor of this bill, S. 1880, was introduced, there were 7 Republican cosponsors for the bill and 8 out of 9 Republicans on the Commerce Committee voted to report the bill out of the committee. Then when S. 12 was introduced and reported out of the Commerce Committee, 6 of the Republicans on that committee voted to report S. 12 out, and 27 Republicans voted for final passage in the Senate and 24 Republicans voted for the conference report. And in the House, 98 Republican House Members voted for the bill and 71 voted of the conference report.

Since passage of the bill, when the bill was in conference, an effort was made to move in the direction of the President and during conference the President won some victories. For example, with respect to the definition of the basic tier of cable television that could be regulated by the communities, that was a victory for the administration. And there was another victory for the administration during the Senate debate in the prohibition of cities from granting exclusive franchises, moving in the administration's direction with respect to the importance of competition.

I would also like to say that I am sure that many of my friends on my side of the aisle are concerned about voting against the President, particularly this close to an election, and are concerned about what is the effect of overriding a Presidential veto. I know that a lot of weight has gone on the President's perfect record on vetoes so far. But I would simply like to point out that a lot of Presidents have had vetoes overridden and a lot of them have been very strong Presidents.

Franklin Roosevelt, for example, had 9 vetoes overridden; Harry Truman had 12 vetoes overridden by Congress; Dwight Eisenhower was overridden twice; Richard Nixon 7 times; Gerald Ford 12 times; Jimmy Carter twice; Ronald Reagan was overridden 9 times.

So it is no weakness on the part of the President of the United States if he happens to have a veto overridden. It is no point of disrespect at all. It is a matter simply of disagreement.

The PRESIDING OFFICER. The Chair informs the Senator the 6 minutes he requested has expired.

Who yields time?

Mr. BURNS. I yield 5 minutes to the Senator from Colorado [Mr. WIRTH].

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH] is recognized for 5 minutes.

Mr. WIRTH. Mr. President, since we sent S. 12 to President Bush, the politics surrounding a possible override vote have been the focus of discussions and press reports about the bill. No matter how intriguing the political story might be, I do not think we should lose sight of the substance behind this bill.

If politics were the only factor at work here, I might want to support an override to help end President Bush's perfect record on override votes. But I will vote to sustain the President's veto because I believe S. 12 is bad communications policy and will actually hurt consumers, not help them.

TELECOMMUNICATIONS POLICY GOALS

S. 12, if it becomes law, will significantly influence the future shape of the telecommunications industry. We need telecommunications policies that promote the development of new technologies, products, and services. And our policies should seek to ensure that modern telecommunications is available to all Americans as we move further into the information age.

For nearly two decades we have been moving to a more competitive telecommunications marketplace. Competition spurs innovation and new technology. It also helps foster a diversity of communications equipment and information.

Innovation, lower prices, more choices, and broad access—these have been and should remain our goals. We need to consider whether the cable bill will help advance those goals or work against them. Unfortunately, the legislation does not pass that test.

S. 12 GOES WELL BEYOND ITS CONSUMER PROTECTION ROOTS

What began as an effort to address legitimate consumer problems has now turned into a free-for-all involving several large and wealthy commercial interests. Cable's competitors have hidden behind consumer protection in order to advance communications policies that could never stand on their own. The financial rewards the legislation hands to these competitors clearly replaced consumer concerns as the driving force behind the bill.

For example, the broadcasting industry will benefit financially if the retransmission consent/must carry provisions become law. To get those rewards, the National Association of Broadcasters [NAB] has financed and led a massive lobbying campaign in support of the legislation. The NAB has gone so far as to implore broadcast stations to use their news programs as a lobbying tool to help the legislation become law. The legislation has gone so far beyond its pro-consumer roots that it would do consumers more harm than good.

CABLE ACT OF 1984

We've heard a lot of criticism of the Cable Act of 1984 as a sell-out of consumers. That criticism ignores the benefits consumers have reaped from that legislation. It has made it possible for the cable television industry to invest in new equipment, programming, and technology.

Because of those investments, consumers have access to a greater number and broader variety of programming choices. Consumers have much more to pick from today—whether they prefer news, local affairs, sports, children's, arts, movies, entertainment, or other types of programming. The rapid growth in the number of cable subscribers since 1984 confirms that consumers themselves recognize the benefits the Cable Act has made possible. Let me outline some of the programs we have seen since the Cable Act.

MORE CONSUMERS RECEIVE CABLE

The number of cable subscribers has increased from 30 million in 1984 to 56 million today. The number of cable systems climbed from 6,000 in 1984 to more than 11,000 today. Ninety-six percent of television homes can now receive cable. Only 72 percent could in 1984. More than 60 percent of these homes actually subscribe today.

CABLE VIEWERS GET MORE FOR THEIR MONEY TODAY

Ninety percent of cable subscribers received at least 30 channels, with the average subscriber getting more than 35. In 1984, only 38 percent of all cable systems offered 30 or more channels. One-third of all cable subscribers now receive 54 or more channels; channel capacity continues to increase—late last year a 150-channel system was launched in New York.

The price consumers pay for each basic channel increased at a lower rate than inflation from 1986, when rate deregulation took effect, to 1991. In 1986, consumers paid 44 cents per channel. The inflation rate would have brought that figure up to 54 cents by 1991. Instead, consumers only paid 53 cents per channel in 1991.

CABLE HAS INVESTED IN NEW PROGRAMS FOR CONSUMERS

Cable operators' annual investments for basic cable programming have jumped from $300 million in 1984 to almost $1.8 billion this year. Overall program spending by both basic cable networks and premium cable services, like HBO, Showtime, and the Disney channel, has climbed from $1.1 billion to $2.8 billion during this period.

The number of cable networks—like C-SPAN, Discovery, CNN, ESPN, and TNT—has increased from 49 in 1984 to 76 in 1991, with continued expansion expected through the 1990's. These new networks have given viewers a wide choice of news, public affairs, entertainment, educational, children's, and sports programming.

CABLE IS MODERNIZING OUR COMMUNICATIONS INFRASTRUCTURE

Since 1984, the industry has invested more than $5.4 billion in plant and equipment. Before the Cable Act, annual spending in this area was $100 million. Consumers have benefits from the improved picture quality, reliability, increased availability of cable, and greater number of channels that this investment in new technology has made possible.

Technologies such as fiber optics and digital compression promise a huge jump in the number of channels available to viewers. At a time when many other industries have dropped their research capabilities, cable established CableLabs, a new research and development consortium. The industry has already begun to introduce fiber optics in many systems throughout the country and is working to bring high definition television and interactive series to consumers.

CABLE IS CREATING NEW JOBS FOR AMERICAN WORKERS

Cable has brought jobs to thousands of Americans since the Cable Act became law. Cable provided 67,000 jobs in 1984 and employs more than 106,000 today. The industry generates another 69,000 jobs through its suppliers.

CABLE'S PUBLIC INTEREST OBLIGATIONS AND EDUCATIONAL SERVICES

The Cable Act includes important equal employment opportunity provisions to prohibit discrimination in employment in the industry and encourage the industry to hire minorities and women. No other sector in the communications industry has agreed to a similar statutory obligation. The Cable Act allows franchising authorities to require that channels be dedicated to public, educational, or governmental use and requires cable systems to make channels available for commercial use. The Cable Act prohibits redlining of services, and requires operators to disclose to subscribers the kinds of information the cable operator collects and maintains about customers.

The Cable Act permits cities to collect a franchise fee of up to 5 percent of gross revenues. The industry paid $826 million in franchise fees in 1991, up from $200 million in 1984. That's one quarter of the aid we provide cities through the Community Development Block Grant Program.

The cable industry's "Cable in the Classroom" program began in 1989 and now reaches nearly half of our public school junior and senior high school students with commercial-free educational programming at the industry's expense, $53 million annually.

The industry has also developed programs that allow students to earn college and graduate degrees at home from accredited colleges and universities. These programs are available to millions of homes.

THE LEGISLATION WILL HURT CONSUMERS

It's true, in recent years, there have been some problems with basic cable rate increases and poor customer service that deserve out attention. I would support legislation to address the legitimate consumer issues. In fact, I worked hard 2 years ago in an attempt to pass balanced consumer protection legislation. The final legislation has become overweight with favors for cable's competitors, including: ABC, CBS, NBC, and other broadcasters; direct broadcast satellite operators like General Motors' Hughes Communications subsidiary; and wireless cable operators. These provisions do not protect consumers.

The bill will hurt consumers in a number of ways: First, it will drive up cable systems' operating costs by billions of dollars. Estimates of the bill's costs run between $2 and $6 per month for each cable subscriber. The sponsors of the bill argue that they do not intend for these costs to be passed along to consumers. Who are they kidding?

Where else is the money going to come from? Will the Federal Communications Commission really be able to force a cable system to leave its rates unchanged after its costs go up so dramatically?

How will the bill lead to higher rates? In some cases, it will require payment of so-called retransmission consent fees for broadcast programming that consumers receive for free today. That money will go right in the pockets of America's television broadcasters. I don't think there's any doubt that the average cable viewer needs the money more than television station owners.

The legislation will also require cable systems to install expensive new equipment. The new equipment is intended to allow consumers to pick and choose between all cable networks rather than paying for a package that includes stations they do not want.

But do not worry about the over-the-air broadcasters; they get a special deal. If the legislation is enacted, consumers who want to buy any cable stations at all, would have to pay for the broadcast stations that they can already get over the air for free.

In order to make this transfer of income from consumers to broadcasters possible, the legislation will force the cable industry to spend as much as $5 billion installing the new equipment. That will put upward pressure on rates.

Another part of the legislation that will hurt consumers is program access. Under this scheme, the creators of cable programs would be forced to sell the programs to their competitors. Think about that: A person creates a piece of intellectual property. Then the Government dictates who he must sell to and at what price. It's easy to see what will happen to the incentive to invest in new programs. The result will quickly be fewer choices for consumers.

Cable's competitors, not consumers, will benefit from program access. These competitors already can deliver cable programs to consumers at competitive prices. They will have no incentive to lower rates after program access lowers their expenses. They will just pocket higher profits. Retransmission consent, new equipment costs, increased operating costs, program access, and a rate regulatory structure that is overly cumbersome will all limit the cable television industry's ability to invest in new equipment, programs, and technology. As a result, the quality of cable service will stagnate. It may even decline. Viewers will get less new programming and more reruns.

Cable will also be less able to help modernize our communications infrastructure—so important to our future economic vitality—or bring consumers the wide range of new communications technologies, products, and services that are on the horizon.

CONCLUSION

We have not yet achieved our goal of a fully competitive marketplace. That's why it's necessary that we take some interim steps to protect consumers. However, competition is taking hold and increasing within the rapidly evolving video marketplace. Regulators have also recently taken several significant steps to accelerate the trend toward greater competition. Unfortunately, the legislation ignores these trends. It looks to the past to resolve today's problems, with no eye to the future. Whatever short-term benefits the cable bill may provide consumers will soon be dwarfed by the later costs. In the end, the only people who will be happy with the legislation are the special interests that it rewards.

If we do pass the legislation and it becomes law, we will have a great deal of explaining to do when our constituents see their cable bills increase. Are we prepared to defend our votes for legislation that drove up cable rates? What will we say, that we thought it was in the public interest to hand broadcasters and other cable competitors higher profits out of consumers' pockets?

There is no question what we should do. This legislation is a handout for special interests that will hurt consumers in the long term. I wish we had not reached this point. If the legislation did not include so many extraneous provisions and instead tackled the legitimate consumer issues of rates and customer service head on, I believe it would already be law.

Unfortunately, the legislation does go well beyond consumer protection and I believe consumers will be better off if we do not enact legislation this year. The Senate should vote to sustain the President's veto.

Mr. President, this is another chapter in a very long saga related to attempts by entrenched industries in the country to stifle competition. This has been going on, particularly in the telecommunications industry now, for 60 years or more. We have had to write the Communications Act of 1934 to encourage competition in the public interest, to regulate in the public interest, convenience and necessity. Unfortunately as it related to new entries, the powers that were in the marketplace did everything they could to keep new entries out. We saw that in radio, we saw that in television, and we saw that certainly up one side and down the other related to cable.

Here was a new entrant, the new guy on the block, starting in the late 1960's as a faint sort of idea, gathering momentum in the 1970's and then enormous pressure to keep cable out of the marketplace.

Some of us who have fought that for a long time believe that our policy in the United States should be encouraging competition; it should be encouraging new entries; should be encouraging new technologies; should be encouraging new services and not leave it to a monopolistic few. That is why we passed the Cable Act of 1984, which has in fact been beyond our wildest dreams in terms of many, many of the successes it brought.

Consumers have signed up for cable very rapidly, where more than 50 percent of the households are touched by cable television; 96 percent of the television sets can receive cable. The explosion of that technology has taken off. Cable viewers get more for their money today than they ever have before. In fact, their cost per channel that they are receiving is less than it was when the legislation was passed which allowed the new entrant in. Cable itself has invested in a vast number of new services and offerings and now remains about the only public service broadcaster left around—the only public service left around.

There is no children's television, for example, on over-the-air broadcasting; look at how much time we have all spent watching CNN, and the vast number of new services offered.

Cable is remarkably also putting a huge amount of money into modernizing our whole telecommunications network. Fiberoptics is the network of the future and cable has been there first and foremost.

The public interest in educational offerings of cable are legion and I have mentioned them in this debate over and over and over again over the last number of years.

So this new entrant, bringing new services and bringing new ideas, is exactly what we ought to be encouraging. Unfortunately we now see the pressure from the established groups to try to put the new fellow down and to try to get a bigger piece of the action, transferring through regulatory and legislative action that which they could not do in the marketplace.

There are some legitimate issues that ought to be addressed in legislation. And those legitimate issues are in places where rates have been abused. There have been some cable operators who have not operated I think in the public interest, who raised their rates too rapidly. What we ought to be doing is allowing the FCC to regulate rates. That Is fine. We ought to be looking at consumer issues such as quality of service. That is a perfectly legitimate thing to do. Cable has grown very rapidly and in some places has not been able to keep up with its own marketplace and we ought to be setting standards for the provision of services.

Those are legitimate issues and that is what we ought to be doing. But on top of that we have added this kind of bonanza for a whole set of interests that are out there.

What will this do? This, for example, is going to cost consumers a vast amount of money. The idea of retransmission consent alone, which arrogates to the broadcasters the right to charge for programming that is owned by a whole lot of people, for the most part is going to cost consumers a billion dollars a year. Program access is going to say to the people who are making programs: We are going to tell you how much you can sell your programs for. Can you imagine a book seller being told by the Congress who can buy his book and at what price?

Equipment mandates in this bill are going to cost the industry $5 billion. Who is going to pay that? Is that going to come out of the blue sky? The consumers are going to pick up the equipment mandates. They are, in fact, mandated by the competing interests out there. Rates are going to go up in this bill by a great deal, probably $2 to $6 a month. Watch this, $2 to $6 a month, if this bill becomes law.

Cable is going to be discouraged, as it is already, from new investments in the equipment which cable was doing such a good job with. That is going to come to a screeching halt. And certainly it is going to be discouraged from offering the kind of program content that we would like to see. Cable has so many promising new ideas coming to television, and these are now being stifled. People are putting on hold all these new ideas. They are not going to do it anymore.

All of these are the negatives in this bill written in by cable competitors. These have nothing to do with rates. These have nothing to do with service. These have nothing to do with legitimate issues in the bill related to services and related to rates. What these are is an attempt by a whole variety of other interests to raid through legislative action that they could not do in the marketplace.

We should not support that kind of activity. We should not support this kind of legislation. What we should do is sustain what is one of President Bush's good vetoes.

I thank the distinguished Senator from Montana for yielding.

Mr. President, I ask unanimous consent that a fact sheet on cable television since the Cable Act of 1984 and a fact sheet about what is wrong with S. 12 be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

FACTSHEET—CABLE TELEVISION SINCE THE CABLE ACT OF 1984

1. More consumers receive cable.

The number of cable subscribers has increased from 30 million in 1984 to 56 million today.

The number of cable systems climbed from 6,000 in 1984 to more than 11,000 today.

96 percent of television homes can now received cable. Only 72 percent could in 1984. More than 60 percent of these homes actually subscribe today.

2. Cable viewers get more for their money today.

90 percent of cable subscribers receive at least 30 channels, with the average subscriber getting more than 35. In 1984, only 38 percent of all cable systems offered 30 or more channels.

One-third of all cable subscribers now receive fifty-four or more channels; channel capacity continues to increase—late last year a 150 channel system was launched in New York.

As a result of the increasing number of channels, cable viewers actually get a better deal today. The price consumers pay for each basic channel increased at a lower rate than inflation from 1986 (when rate deregulation took affect) to 1991.

The average price per channel has increased from 44 cents in 1986 to 53 cents in 1991. If the increase had matched inflation, the per channel cost would have reached 54 cents in 1991.

3. Cable has invested in new programs for consumers.

Cable operators' annual investments for basic cable programming have jumped from $300 million in 1984 to almost $1.8 billion this year.

Overall program spending by both basic cable networks and premium cable services, like HBO, Showtime and the Disney Channel, has climbed from $1.1 billion to $2.8 billion during this period.

The number of cable networks—like C-SPAN, Discovery, CNN, ESPN, and TNT—has increased from 49 in 1984 to 76 in 1991, with continued expansion expected through the 1990s.

These new networks have given viewers a wider choice of news, public affairs, entertainment, educational, children's, and sports programming.

4. Cable is modernizing our communications infrastructure.

Since 1984, the industry has invested more than $5.4 billion in plant and equipment. Before the Cable Act, annual spending in this areas was $100 million.

Consumers have benefited from the improved picture quality, reliability, increased availability of cable, and greater number of channels that this investment in new technology has made possible.

Technologies such as fiber optics and digital compression promise a huge jump in the number of channels available to viewers. At a time when many other industries have dropped their research capabilities, cable established CableLabs, a new research and development consortium.

The industry has already begun to introduce fiber optics in many systems throughout the country and is working to bring High Definition Television and interactive services to consumers.

5. Cable is creating new jobs for American Workers.

Cable has brought jobs to thousands of Americans since the Cable Act became law. Cable provided 67,000 jobs in 1984 and employs more than 106,000 today. The industry generates another 69,000 jobs through its suppliers.

CABLE'S PUBLIC INTEREST OBLIGATIONS AND EDUCATIONAL SERVICES

The Cable Act includes important Equal Employment Opportunity provisions to prohibit discrimination in employment in the industry and encourage the industry to hire minorities and women. No other sector in the communications industry has agreed to a similar statutory obligation.

The Cable Act allows franchising authorities to require that channels be dedicated to public, educational or governmental use and requires cable systems to make channels available for commercial use.

The Cable Act prohibits redlining of services, and requires operators to disclose to subscribers the kinds of information the cable operator collects and maintains about customers.

The Cable Act permits cities to collect a franchise fee of up to five percent of gross revenues. The industry paid $826 million in franchise fees in 1991, up from $200 million in 1984 (That's one quarter of the aid we provide cities through the Community Development Block Grant program).

The cable industry's "Cable in the Classroom" program began in 1989 and now reaches nearly half of our public school junior and senior high school students with commercial-free educational programming at the industry's expense ($53 million annually).

The industry has also developed programs that allow students to earn college and graduate degrees at home from accredited colleges and universities. These programs are available to million of homes.

WHAT IS WRONG WITH S. 12

Retransmission consent: The retransmission consent provisions could force consumers to pay more than $1 billion per year for over-the-air broadcast signals they can now receive for free.

Program access: These provisions will force cable programmers to provide programs to their competitors at cut-rate prices.

Equipment mandates: Would require cable companies to install expensive new equipment that will cost the industry $5 billion.

Likely to raise rates: The increased operating costs of retransmission consent, equipment mandated, and complying with an overly complex regulatory framework will inevitably be passed along to consumers. Estimates of these costs range from $2 to $6 per month for each cable subscriber.

Kills investment: The increased operating costs and program access will dramatically curtail the industry's ability to invest in new programs, equipment, and technology. Consumers will suffer as the quality of cable service quickly stagnates and eventually declines.

Handouts for cable's competitors: Retransmission consent and program access will transfer billions of dollars from consumers into the pockets of over-the-air broadcasters and satellite television distributors such as General Motors' Hughes Communications subsidiary.

Will keep a system from adding new cable networks: The prohibition on negative option billing is poorly written and unclear. It can be read as requiring a cable system to obtain the approval of every cable subscriber before adding a new cable network or other new service. That would either prevent systems from adding new networks or force them onto unregulated pay-per-view channels.

Mr. WIRTH. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield the remainder of my time to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes 56 seconds.

Mr. METZENBAUM. Mr. President, I rise to urge my colleagues to override the President's veto of S. 12. Here in the Senate, this issue has not been a partisan issue. There has been broad support for cable reform legislation among both Democrats and Republicans. And if we vote to override the President's veto, we will show just how bipartisan this issue really is.

The vote today presents my colleagues with a choice: You can vote to preserve the unrestricted power of the cable monopolies, or you can vote to protect consumers against a $6 billion raid on their pocket by the cable monopolies.

The need for this legislation is clear. The record shows that the cable industry is abusing its power as an unregulated monopoly in overcharging consumers by billions of dollars each year.

Over 3 years ago, at a hearing held by my Antitrust Subcommittee, the Consumer Federation of America revealed that cable consumers are being overcharged by as much as $6 billion per year. A number of other studies have shown the cable industry has been exploiting its monopoly power and overcharging consumers ever since deregulation took effect in 1967.

The cable monopolies have overcharged consumers, stifled competition, and engaged in a propaganda campaign which distorts the truth and misleads the public. If we do not enact this bill, the consumers of this country will remain vulnerable to monopoly abuses by the cable industry.

The President made his choice. He decided to stand with the cable monopolies and against consumers. The Senate need not.

I urge my colleagues on both sides of the aisle not to repeat that mistake, too. The veto should not stand. I urge my colleagues to vote to override.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Might I inquire of the time remaining on this side?

The PRESIDING OFFICER. There is 5 minutes, 20 seconds.

Mr. BURNS. I yield 3 minutes to my friend, Mr. STEVENS, from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 3 minutes.

Mr. STEVENS. Mr. President, I joined a bipartisan group to try and find an alternative that was acceptable to the White House. I still regret that we could not find the support in the Senate for that. It provided basic rate regulation and increased competition. It would have increased the rural exemption to 10,000, and would not have restricted program access. I am particularly concerned about the rural exemption.

Back in the time when cable first came to Alaska, it came to the small cities and it was carried over the telephone wires. That led to our insistence there be an exemption for rural areas to provide cable service through the telephone system. This bill would have increased to 10,000 that exemption, and it would have meant lower rates for many rural areas.

I think that the way to lower rates is through competition and, in my judgment, this bill goes back to reregulation and puts an additional burden now, both on the private sector and on government, to pay for reregulation, instead of trying to stimulate the competition that will come with the development of new technology.

Telephone companies in this country have almost universally deployed networks that can provide video programming. Telephone companies realize the economies of scope in the provision of voice data and video services which could lower the cost of providing each type of service.

We have new telecommunications technologies, fiber optic cable, burst cable—there are a great many technologies coming—they are on the screen; many people have talked about them today—that will make a great deal of difference to the consumer.

I regret very deeply the feeling I have that the President's veto is going to be overridden. I intend to try to sustain it. The reason I regret it is that I feel, without question, this bill will bring increased costs to cable subscribers. It will put us back into reregulation in a period when we should be going ahead into fostering more competition. Worse than anything else, it does to the rural areas of our country a great injustice in not recognizing the problems.

Take just the one example of the addressable converters. How many people in my State want an addressable converter? And yet, the system that serves them will have to buy one for each one of them, whether they need them or not. I am told that the cost of cable service for those addressable converters will be up to $5.8 billion before this bill is totally enforced.

If the megalopolis of this country want this kind of reregulation, then they ought to have it. I do not believe we need it in rural areas.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. BURNS. Mr. President, has all time on the other side expired?

The PRESIDING OFFICER. The answer is no; there is approximately 1 minute left.

Mr. BURNS. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator controls 1 minute and 43 seconds.

Mr. BURNS. The Republican leader wants about 5 minutes, and he will take that out of his leader time, if that is possible.

So I ask unanimous consent that the Republican leader be able to take 5 minutes of his leader time to speak.

Mr. MITCHELL. What is the request, Mr. President?

Mr. BURNS. The Republican leader wants 5 minutes, but he wants to take it out of his leader time.

Mr. MITCHELL. I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I rise today to proudly stand, shoulder-to-shoulder, with President Bush in strong opposition to the massive, counterproductive cable reregulation bill which the President has vetoed. The cable reregulation bill promises consumer protection and competition but delivers neither. The reregulation bill will mean:

Higher cable rates for consumers;

Loss of American jobs;

A dramatic decline in the innovation of both cable technology and programming, and

Increased regulatory costs.

The President agrees with me that telephone company competition, as an alternative to reregulation, would mean:

Lower cable rates for consumers;

Improve service quality;

Offer greater richness and diversity of video programming;

Spur technological innovation by both cable television and telephone companies which will:

Improve our international competitiveness posture;

Spur domestic growth, job creation, and productivity gains; and

Through availability of education, health care, and other social services will provide Americans with a better quality of life.

I urge my colleagues to join me in:

First, sustaining the President's veto;

Second, opposing the reregulation bill; and

Third, supporting the President and me in pursuing alternative, procompetitive legislation in the next Congress.

BACKGROUND

I, like the President, recognize that there have been problems with basic cable rate increases and poor customer service that deserve our attention. Cable's performance, quite frankly, has been less than flawless.

The cable debate began as an attempt to address those legitimate consumer problems. The reregulation bill, however, fails to adequately address these consumer needs.

Let me make clear up front, Mr. President, that I have the greatest respect for Senators DANFORTH, INOUYE, and HOLLINGS, who have diligently led the charge in support of this bill here in the Senate.

I, like President Bush, agree with my distinguished colleagues in vigorously pursuing the goal of improving service quality and lowering cable subscriber rates.

Unfortunately, these legitimate consumer issues have been used to advance communications policies that might not stand on their own. The reregulation bill includes layer upon layer of bureaucratic regulations, directives, and mandates that offer greater benefits to favored special interest sectors of the communications industry than they do to consumers. The result is a bill that is neither good communications policy nor good for consumers.

Many of the reregulation bill's provisions seek to resolve intraindustry disputes in favor of cable's competitors. Overreaching regulatory provisions will greatly limit cable's ability to invest in new programming and technologies which spur job creation.

We have seen dramatic growth in both the capacity of cable systems and the variety of programs available to viewers since the Cable Act of 1984 encouraged investment by the industry. Today there are more than 70 cable programming networks offering a highly diverse and rich range of specialized programming. Many more programming networks are in the planning stage. Since 1984, the cable television industry has invested more than $5.1 billion in plant and equipment, annual investment in basic cable programming has more than tripled, and cable service has become available to 90 percent of American homes. If that growth grinds to a halt, as a result of massive reregulation, consumers will see the quality of their service stagnate, if not regress.

In exchange, under the reregulation bill, consumers aren't ever assured of lower cable rates, as promised by reregulation proponents. It is very possible, even likely, that the legislation will actually lead to higher—not lower—cable rates, a fact which has been conceded by the supporters of the reregulation bill.

As just one of many examples, the reregulation legislation will certainly increase cable companies' operating costs by mandating that they install expensive new plant and equipment. These costs may well run into the billions of dollars. One study indicates that these and other expenses resulting from the legislation will add up to an additional $2 to $6 per month for each cable subscriber.

No one should be surprised if consumers wind up picking up this tab one way or another. Where else is the money going to come from? The sponsors of cable reregulation may not intend for the costs to be passed along to consumers. But will regulators be able to force cable companies to absorb those costs? I think not. And, not so surprisingly, the very sponsors of this reregulation bill have recently conceded that rate increases will continue under their bill.

The impact of this overreaching reregulation legislation will be felt by the economy as a whole, not just the cable industry and its subscribers. Moreover, the cable reregulation bill will increase Government's regulatory costs by tens of millions of dollars. In addition, cable is growing dynamic industry that is exporting its technology and programming abroad as well as expanding in the United States.

At a time when we are struggling to create new jobs and expand and improve our telecommunications infrastructure, why are we considering legislation that will damage an industry that has created nearly 40,000 new jobs since 1984 and is not now a critical component of our national communications system—which remains the envy of the world.

JOBS AND ECONOMIC IMPACT

The cable reregulation bill will—plain and simple—cost America jobs. And in light of the economic downturn we're experiencing today, that loss of jobs is a price too high to pay.

As a policy-making body, we have a responsibility to look at the cable industry and determine how we might resolve some of the problems with cable without strangling it with unnecessary, counterproductive, burdensome regulations.

Our Government is good at imposing regulations and, frankly, I'm convinced that a major contributor to this recession we're experiencing today is unnecessary regulation that has strangled American business. Granted, some regulation is necessary in a free-market economy. But just last year, for instance, the Federal Government implemented 514 significant regulatory actions—significant meaning those regulations likely to have an annual effect on the economy of $100 million of more, a major increase in costs or prices, or significant adverse effect on competition.

One recent comprehensive study conducted by Robert Hahn and John Hird from Yale found that the yearly societal cost of regulation is $300 to $500 billion. Regulation, down and dirty, raises costs, raises operating expenses, and raises the need for a business to make ends meet, often by laying off employees.

Right now, the citizens of this country are hurting. We've seen jobs lost throughout America, jobs with law firms, retail stores, banks, real estate enterprises, car manufacturers, and the list goes on. One industry, however, continues strong employment during these trying economic times and that is the cable industry. Throughout the last decade cable employment nearly tripled.

CABLE INVESTMENT IN TECHNOLOGY

In addition to job loss, let me briefly talk about the impact cable reregulation would have on cable industry investment in communications technology.

The cable industry has been at the forefront of advances in communications technology. Starting as a retransmitter of over-the-air broadcast signals, the cable industry pioneered the use of communications satellites as a distribution technology for entertainment and informational programming with the launch in 1975 of HBO's nationwide network via satellite.

The cable industry continues its advancement of technology by continually upgrading the technical quality and capacity of the more than 11,000 cable systems in the United States serving over 60 percent of television households. Moreover, cable is exploring the latest innovative services that can be provided through the cable medium. In 1989, for example, the cable industry spent close to $1 billion rebuilding and upgrading plant and equipment—which was almost 73 percent more than the amount the industry spent improving its plant just 4 years earlier while still under rate regulatory constraints. This spending includes rapid growth in the application of cutting-edge technologies such as fiber optic technology and high definition television.

Cable systems have also been expanding their service to more rural customers. While cable initially was only able to economically serve areas with an average population density of 60 homes per mile, due to industry research and development efforts since deregulation, cable systems can now serve areas with an average of 10 homes per mile, and in some cases areas with as few as 5 homes per mile.

Each of these technological advances would be seriously threatened if cable reregulation were enacted in its present form. As I indicated last week when debating this issue, the mere threat of reregulation had a dramatically negative impact on cable industry investment in communications technology in 1990.

And now we're thinking about committing regulation strangulation on this viable industry in an attempt to address what I believe are very legitimate concerns about cable rates, customer service, and the future of the telecommunications industry.

EFFECTS OF REREGULATION ON CABLE PROGRAMMING

When Congress passed the Cable Communications Policy Act of 1984, a primary purpose of the act was to "assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public." In meeting that goal, the Cable Act has been a clear success.

The number of cable program services has more than doubled since the Cable Act. Cable systems' expenditures for basic cable programming have risen from $234 million in 1983 to $1.4 billion in 1991. Statistics aside, any cable viewer in America can tell you that more cable networks exist and they're a lot better than they used to be.

The results of cable deregulation can be seen every day on the screens of Black Entertainment Television, the Discovery Channel, Arts and Entertainment, Turner Network Television, Cable News Network, the Family Channel, Nickelodeon and a host of other basic cable networks. Viewers clearly have noticed the improvement. That is why basic cable's share of the total U.S. television audience has risen from an 11 percent of viewing in 1983 to a 29 percent share of viewing today. That this dramatic improvement of cable programming occurred alongside deregulation is no coincidence.

Turner Broadcasting is a clear example of the success of the Cable Act in programming diversity and improvement. Since deregulation, TBS has launched two new cable networks, TNT and the Cartoon Channel—promoting diversity. And, TBS programming on all of its networks has been allowed to improve. TBS's estimated expenditures on entertainment programming, including sports, grew from $45 million in 1984 to over $534 million in 1990. Made-for-TNT movies now typically cost $3 to $4 million to produce—as much as, if not more than the cost of broadcast movies.

In a recent Roper poll, television viewers cite cable by 47 percent to 28 percent for regular broadcast television as having lots of variety. Cable networks' growth is not just a result of greater cable penetration. From 1984 to 1989, viewing of basic cable networks more than doubled the rate of cable-home growth. In the past 3 years, basic cable viewership growth outstripped cable home growth by 4 times. This growth must be attributed to both the increase in basic cable networks and the increase in original programming provided by basic cable programmers: over a quarter of the highest rated basic cable programs—excluding sports—during 1990 were original cable productions. For example, premiers of TNT-original movies and miniseries garnered audiences averaging 64 percent higher than nonoriginal programming aired in the same time periods in 1990 and 93 percent higher in 1991.

Despite the higher programming costs which go along with better programming, cost-conscious consumers have benefited. Improved basic cable allows subscribers to decrease their expenditures for pay services and to lower their overall cable bill—and many are. Pay cable penetration has declined for the past 3 years. And, while basic cable's share of viewing has doubled in the last 4 years, pay networks' share of viewing has declined slightly.

Yet, basic cable, including cable networks like CNN, Arts & Entertainment, and BET, is precisely the target for rate regulation under S. 12. Unlike rate-of-return regulation under which a cable operator could mark up and pass through programming cost increases, the regulation in S. 12 would make programming improvements of existing cable networks and the creation of new cable networks extremely difficult. Yet, few would argue that the consumer's interest really is served by freezing the status quo of programming in place.

The tension between a programmer's desire to improve his product and a cable operator's desire to hold down expenses are present already in the marketplace and create extreme difficulties between operators and program suppliers. The cable operator's reluctance to spend additional money for programming is reinforced by the priority which local regulators assign to improvements in cable plant, service, and other factors unrelated to programming.

Introduction of regulation into the equation is likely to tip the balance of cable operator incentives in a way harmful to programming development and, ultimately, consumer value.

At an average price of under $20 per month, basic cable is still a good entertainment value, especially when compared to the price of taking a family of four to the movies, $18.99, or a baseball game, $32.36.

The exact result of the imposition of S. 12's rate regulation, which is far broader than what existed before the Cable Act, is impossible to quantify, but the history of cable rate regulation strongly suggests that programming quality improvement will be stunted or reversed.

COMPETITION VERSUS REGULATION

The 1984 Cable Act is not perfect, but it has been successful in building more systems, developing more original programming, and creating more jobs.

By injecting real and meaningful competition into the cable business, as proposed by Minority Leader DOLE and myself in S. 1200, the Communications Competitiveness and Infrastructure Modernization Act, we will lower rates, spur better programming, improve services, and enhance responsiveness.

I agree that cable's performance has been far from flawless. Consumers have expressed outrage over rate increases and poor system reliability. I, and the President, believe that strong action should be taken to lower rates and improve service quality. Reregulating the cable industry, however, is not the answer—competition is.

Reregulation will not adequately address consumer concerns. Those who propose reregulation of cable miss a key point about the 1984 Cable Act. The law's shortcoming was not that it deregulated cable rates, but that it erected a number of barriers to competition—most importantly the prohibition to telephone company competition.

As a result, there was no check on cable's ability to increase its rates. My legislation, which the President fully endorses, addresses this problem with a proposal for direct head-to-head competition between cable and telephone companies.

What some now propose as a remedy—reregulation—will undermine the benefits of greater, richer programming diversity, job creation, and technological innovation, while perpetuating its flaws—the barriers to entry. Moreover, in passing this cable reregulation bill, Congress will be giving cities an irresistible incentive to maintain cable monopolies and regulate rather than promote competition.

The President and I are in favor of increasing competition in the video programming marketplace. But this cable reregulation bill does not—and I repeat—does not promote competition among cable companies or other potential multichannel providers, namely the many local telephone companies located throughout the country.

Instead, the cable reregulation bill provides local governments with powerful new incentives to preserve cable monopolies and it maintains the prohibition on telephone company competition.

Under current law, cities receive a lucrative franchise fee of 5 percent of their cable company's gross revenues, as a significant source of many cities' funding. In return, the municipality thwarts new competitors. One essential key to promoting competition is to reduce, if not eliminate, those fees which cities are, of course, quite reluctant to do.

Now comes this cable reregulation bill, which allows cities to continue receiving fat franchise fees. Added to this franchise fee extraction is the ability to once again regulate rates. The catch is that the city can only regulate as long as the local cable system remains a monopoly, or in the words of the reregulation bills: has no "effective competition." In other words, if a city allows a second cable system, it loses the power to regulate. With competition, the city would also come under severe pressure from the original operator to renegotiate the high franchise fee it agreed to pay only in a monopoly environment.

No incentives, however, are provided which would encourage competition from an additional multichannel provider.

In passing this reregulation bill, Congress, wittingly or unwittingly, will be giving cities an irresistible incentive to maintain cable monopolies and regulate rather than promote competition. True, the bill codifies a court decision clarifying that cities may start their own cable systems. But, while the bill instructs cities not to unreasonably deny a second cable franchise, that provision is riddled with exceptions that greatly dilutes its potential impact on competition from additional cable systems. Our alternative, pro-competitive legislation eliminates these troubling exceptions.

Moreover, under the reregulation bill, far more powerful incentives are provided to the cities to regulate the monopoly status quo. Most importantly, the cable-telco cross-ownership prohibition remains intact—even the modest increase in the rural exemption which Minority Leader DOLE and I have pushed was unceremoniously stripped from the bill in conference—which provides the best evidence that calling this reregulation bill pro-competitive is a sham.

This reregulation bill says that cable regulation should reflect what is occurring in competitive cable systems. But, Mr. President, regulation cannot imitate competition no matter how well intentioned the regulatory bureaucrat at the Federal, State or local level. When faced with competition, as will result from the President's alternative bill, a cable company must offer reasonable prices, good service, and quality programming. Under the reregulation bill, regulation will not stem rate increases—this has been admitted by the sponsors of the bill. Moreover, regulation cannot motivate the level of customer service competition can. And, importantly, if history is any indication, rate regulation is likely to cause program quality and quantity to suffer, not improve.

This reregulation bill is regulatory overkill—plain and simple—which imposes far broader cable regulation than the Congress got rid of just 8 years ago. The FCC and local governments will be micromanaging every decision a cable company makes—from what prices are charged, to equipment used, to programming carried.

One clear indication of just how much regulation is contained in this reregulation bill are estimates that the FCC would have to find an amount equal to approximately 20 percent of its current budget to pay for cable reregulation. And that does not count the costs of local regulation, which comes on top of the FCC's costs.

Like the President, I believe it's high time to deal directly with the question of competition in the video programming marketplace and the many other critical questions involving national communications policy.

Our procompetitive, alternative bill, S. 1200, is designed to address the problems involving cable by injecting real competition in the cable market by permitting head-to-head telephone company-cable television competition.

I, like President Bush, believe that competition, rather than reregulation, creates the most substantial benefits for consumers and the greatest opportunities for American industry. Head-to-head competition between telephone companies and cable television companies will drive down rates and improve service quality for consumers, while promoting industry development and technological innovation.

Competition in cable TV works. In the 65 cities that allow competition, prices have fallen by 20 to 25 percent and customer service has improved greatly.

According to one independent study, competition could result in $4.41 billion in annual benefits or $80 per year for each cable subscriber in America.

Our alternative legislation, by taking bold, forward-looking actions to accelerate the deployment of advanced telecommunications networks, has the additional advantage of markedly improving our international competitiveness posture and dramatically spurring domestic economic growth, productivity, and job creation.

Furthermore, through advanced educational, health care, and other social services made possible with advanced telecommunications technology, we can establish a quality of life for all Americans which is unparalleled in our Nation's previous history.

CONCLUSION

The cable reregulation bill looks to the past to resolve today's problems—with no eye to the future. We need to consider how the legislation will affect telecommunications consumers tomorrow and the day after tomorrow. The ongoing digital revolution in communications products and technology that I spoke at length about last week is driving dramatic changes in the marketplace and regulations. We must not limit cable's ability to compete in the many promising new communications services that are on the horizon.

I believe the cable reregulation bill will do consumers more harm than good, particularly in the long term. Consumers will be better off if we defeat it and instead enact our alternative, procompetitive cable legislation that tackles the legitimate consumer issues of rates and customer service head on and without extraneous provisions of uncertain impact.

I urge you to join us in opposing this overreaching legislation.

I ask for your assistance in sustaining the President's veto.

And once this draconian measure is defeated, I ask you to join me in the next Congress when we debate and enact procompetitive legislation which will have a positive impact on our economic and social welfare on into the information age of the 21st century.

Mr. President, I ask unanimous consent that the following material appear immediately following my remarks:

First, the President's veto message;

Second, a series of newspaper editorials concerning the cable reregulation bill; and

Third, a series of statistics concerning the cable television industry.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Annual regulatory costs of S. 12 to cable consumers

	Millions
Federal	$67.9
State and local	264.7
Total Annual Regulatory Cost	332.6

Source: Hunt, Carl E., Analysis of Proposed Federal Cable Legislation, August 24, 1992.

THE WHITE HOUSE,
October 3, 1992.

To the Senate of the United States:

I am returning herewith without my approval S. 12, the "Cable Television Consumer Protection and Competition Act of 1992." This bill illustrates good intentions gone wrong, fallen prey to special interests.

Contrary to the claims made by its proponents, this legislation will not reduce the price Americans pay for cable television service. Rather, the simple truth is that under this legislation cable television rates will go up, not down. Competition will not increase, it will stagnate. In addition, this legislation will cost American jobs and discourage investment in telecommunications, one of our fastest growing industries.

S. 12 is clearly long on promises. Unfortunately, it is just as clearly short on relief to the American families who are quite rightly concerned about significant increases in their cable rates and poor cable service. Although the proponents of S. 12 describe the bill as procompetitive, it simply is not. Indeed, the only truly competitive provision, one that would have expanded the ability of telephone companies to compete with cable companies in rural areas, was dropped from the bill at the last minute.

S. 12 tries to address legitimate consumer concerns, but it does so by requiring cable companies to bear the costs of meeting major new federally imposed regulatory requirements and by adopting costly special interest provisions. For example, the bill requires cable companies for the first time to pay broadcasting companies, who have free access to the airwaves, to carry the broadcasters' programs. The undeniable result; higher rates for cable viewers.

Beyond increasing consumer costs, the bill takes certain key business decisions away from cable operators and puts them in the hands of the Federal Government. One provision, which is unconstitutional, requires cable companies to carry certain television stations regardless of whether the viewing public wants to see these stations. Another special interest provision would put the Federal Government in the position of dictating to cable companies to whom and at what price they could sell their programs. These types of federally mandated outcomes will discourage continued investment in new programs to the detriment of cable subscribers who have come to expect a wide variety of programming and new services.

I believe that the American people deserve cable television legislation that, unlike S. 12, will deliver what it promises: fair rates, good programming, and sound service.

GEORGE BUSH.

THE WHITE HOUSE, *October 3, 1992.*

[From The Wall Street Journal, Oct. 2, 1992]

THE GREAT CABLE TV BATTLE

It's a war, fought with mud and vitriol. With President Bush today vetoing a bill to reregulate cable TV, Senator Al Gore, a cosponsor of the bill, is howling that the President is owned "lock, stock and barrel" by the cable companies. He calls himself a champion of competition.

Broadcasters, who favor regulating the rates competing cable operators charge, accuse the cable industry of price gouging. Cable operators respond by leaking a memo from broadcast lobbyists to local stations urging them to enlist their news operations in the fight to regulate cable. And the Washington-based lobbies that proclaim themselves "consumer groups" cry ceaselessly for rate regulation.

The attempt to override Mr. Bush's veto will come quickly, and it's expected to be close. The one serious question in the middle of all this is whether the bill delivers on its promise to encourage competition among the entrenched cable monopolies.

Vice presidential candidate Gore says the bill would force the price of basic cable down and promote competition by prohibiting cities from granting "exclusive" franchises.

Senator Gore is right that the cable industry has driven up prices through monopoly deals with local governments. Some of the more unseemly ways in which the industry has blocked competitors were detailed by Mark Robichaux in the Sept. 24 Journal. But anyone who looks closely at the actual content of the cable bill will discover that its pro-competitive language is largely rhetorical and provides cities with new incentives to preserve their cable monopolies, not dismantle them.

Currently, cities receive a lucrative "franchise fee" of 5% of a cable company's gross revenues. The city can extract such a high fee because in return it usually thwarts competitors (though only rarely by awarding explicitly exclusive franchises).

Under the cable bill, cities would still get the franchise fees while also receiving the power to regulate rates. As to introducing competition, consider this huge disincentive embedded in the bill: Cities may regulate rates only if their local cable systems remain a monopoly and have no "effective competition." In other words, if a city allows in a second cable system, it loses the power to regulate. It would also come under severe pressure from the incumbent operator to renegotiate the high franchise fee it agreed to pay only in a monopoly environment.

Letting in competition would force local polls to give up some of their petty power and maybe do some real work. And pigs will fly, Says Senator Conrad Burns of Montana, "Clever lawyers have written a bill that sounds procompetitive, but actually excludes any real chance for head-to-head cable competition."

Why then are cable companies so opposed to the bill? As economist Tom Hazlett notes nearby, if they have a choice between a regulated monopoly and an unregulated monopoly, they'll take the latter.

Privately, cable companies are relieved that the bill doesn't drop the barriers to letting the Baby Bells in the game. A provision to allow phone companies to compete with cable systems in rural areas was thrown overboard in conference.

The pro-competitive language that remains adds up to a form of Potemkin Competition. (That sense of illusion is how we feel about much else that Senator GORE is promising at the moment.) Emerging new technologies—from hair-thin fiber optic cable to the marriage of computers and cable—soon may revolutionize communications. But Congress's cable bill won't be joining the revolution.

That's too bad. Competition in cable TV works. In the 65 cities that allow competition, prices have fallen by 20% to 25% and customer service has improved greatly. Maybe next time.

BILL COULD ENTRENCH CABLE-TV MONOPOLIES

Your Sept. 24 page-one story "Captive Audience: Cable Firms Say They Welcome Competition but Behave Otherwise" makes a good point, so far as it goes: Cable-television companies do need competition. Unfortunately, the article implies that the new cable bill would help; that it would bolster local governments in their fight to bring competition to cable monopolists. Actually, it provides municipalities with powerful new incentives to preserve cable monopolies.

Under current law, cities receive a "franchise fee" of 5% of their cable company's revenues, a big source of many cities' funding. One key to promoting competition is to reduce those fees, which cities are understandably reluctant to do. The cable bill would allow cities to continue receiving high franchise fees while returning to the cities the power to regulate rates. The catch is that the city can regulate only as long as the local cable system remains a monopoly or, in the words of the bill, has no "effective competition."

Congress, wittingly or unwittingly, would be giving cities an irresistible incentive to maintain cable monopolies and to regulate rather than promote competition. True, the bill codifies a court decision clarifying that cities may start their own cable systems. True, the bill instructs cities not to "unreasonably deny" a second cable franchise and prohibits discriminatory pricing among customers. But the bill's incentives to maintain the status quo are far more powerful.

One of the bill's goals is that regulation should reflect what is occurring in competitive cable systems. But regulation cannot imitate competition. When faced with competition, a cable company must offer reasonable prices, good service and quality programming. Although regulation might stem price increases, it cannot motivate the level of customer service—only competition can do that. And if history is any guide, rate regulation is likely to cause program quality to suffer, not improve.

This bill imposes far broader cable regulation than Congress got rid of just eight years ago. The Federal Communications Commission and local governments will be right in the middle of every decision made by a cable company.

If this cable bill passes, the more than "130 disenchanted communities" that according to you are exploring competition will likely opt for the safety of regulation. Thus, these and hundreds of other communities will not face real competition in the foreseeable future.

Sen. CONRAD BURNS.
Rep. NORMAN F. LENT.

WASHINGTON.

[From the Wall Street Journal, Oct. 2, 1992]

IN CABLE WAR, CONSUMERS GET SNAGGED

(By Thomas W. Hazlett)

President Bush has said he will veto the bill reregulating the cable TV industry—perhaps as early as today. This would be just the latest salvo in the high-profile debate over the bill—a debate that is being pitched as a struggle between liberals pushing proconsumer controls and Reaganite deregulators defending the free market. Not even close.

The mythology upon which reregulation rests is that consumers were treated wisely and humanely by local regulators before the Reagan administration preempted local rate controls in the Cable Act of 1984. In fact, the deregulation of cable TV was achieved largely under the Carter administration in the late 1970s; FCC red tape had served to protect TV broadcasters from the emerging cable technology since the early '60s. When the final clearance of regulatory underbrush came in 1984, it was authored by Democratic Rep. (now Sen.) Timothy Wirth.

The Cable Television Consumer Protection and Competition Act of 1992 is a muddle, a huge opportunity foregone. There is a crying need for an honest effort to constrain the monopoly cable systems that now hog the dial, and there are even some promising starts in the legislation to do so. The provisions that open up access by competitors for satellite programming, restrict selective price cutting, and warn municipalities not to grant exclusive franchises are steps in the right direction.

Yet the bill's loophole to eliminate damage awards against cities that refuse to issue competitive franchises will negate the effect of such rules. And the stipulation that allows City Hall to get back into the cable regulation business only where monopolies prevail will positively encourage exclusive franchises. Beyond all this, there is the sinful lack of a pro-active competition policy: Where are the provisions that would let telephone companies compete with cable, or would order the FCC to make generous new airwave space available for wireless cable technologies? These muscular measures, sadly lacking in the current bill, would put energetic rivals in the market, lowering prices while increasing quality, in two to five years.

Instead, the cable bill advertises lower consumer rates by establishing direct controls on only the "basic tier"—local broadcast signals and public access channels (Wayne's World programming). Problem: Virtually nobody subscribes to these no-frills tiers. You may have noticed your own cable company "retiering" to prepare for this end run around rate control. This is the form of regulation, but the substance of a consumer fraud.

Americans are upset about having just one company to choose from in the typical cable market. They should be: A recent survey of 100 competitive cable companies showed that their prices are about 20% below the average in areas where there is a monopoly. The idea that local rate regulation lowers effective prices, however, has already been discredited by out deregulation experiment. Since localities lost their power to set rates at the end of 1986, two things have happened: Nominal prices have increased (61% in the first 4½ years of deregulation), but so has the quality of cable programming. For instance, the average number of channels on the most popular basic package rose 30%, keeping the inflation adjusted price-per-channel just about constant. The question: Which has risen more, price or quality?

Since deregulation, a significantly higher percentage of consumers having access to cable elect to subscribe. More over, Nielsen ratings reveal that cable viewership is skyrocketing: a 60% increase in basic cable network viewership between 1986 and 1990, even subtracting out the increase in cable subscribership. In the one consumer poll that counts, viewers are voting with their time and money that the higher quality is worth the extra cost.

Besides, the dirty little secret of cable regulation is that it is legally impossible. While cities or the FCC may gain the authority to set rates, they clearly cannot dictate the quality of cable's product—TV programming. That would constitute content control," unconstitutional under the First Amendment. A cable operator has every right to respond to rate controls by reducing either the number or quality of channels carried.

But don't believe me, don't believe consumers, and don't believe the U.S. Constitution about the likely effects of recontrolling cable television rates. The most compelling argument comes from cable's most vehement competitor, broadcast television.

The broadcasters, nostalgic, for the good old days when the feds actively suppressed their rival, are now a declining sector in mortal ratings combat with cable. The current legislation would correctly reverse an inequity voted by Congress in the Copyright Act of 1976 that allows cable systems to retransmit local off-air TV signals without compensating the stations. (Though the reform comes in a very twisted manner—adding "must carry" regulations already twice found unconstitutional by the federal courts.) But the broadcasters are also enthusiastic about rate controls on cable. They tipped their hand in a 1990 FCC proceeding, in which the sole issue was cable rate regulation; the National Association of Broadcasters filed its official position that it applauded efforts to control all basic cable rates.

Why would the NAB, whose members are hemorrhaging audience shares to their wired competitors, favor "tough" regs said to make cable an even better bargain for consumers? The profit-motivated NAB clearly anticipates that the net effect of reregulation will be a fall-off in quality in excess of any cost savings, which will drive viewers back to "free off-the-air television." There's your smoking gun on the economic impact of cable reregulation.

Sen. Al Gore now accuses President Bush of being a tool of the cable interests for threatening to veto the new Cable Act. Oops, Senator—could you not then be called a broadcaster shill for supporting it?

Having failed to seize the initiative and force a consumer-friendly solution to the cable monopoly Problem, the president will now have to either hold his nose and sign-off on this contradictory policy brew, or cover his ears and veto it. If they televise this on C-Span. I'm going to turn the volume down just to see if I can make a video guess as to which of his senses he selects to abandon.

[From the Wall Street Journal, Apr. 7, 1992]

REREGULATING MEANS TYING UP CABLE

(By James C. Miller III)

Congress' "fine tuning" may well bring static to our TV screens. The Senate recently passed the so-called Cable Television Consumer Protection Act, which President Bush has threatened to veto. A similar bit of legislation, the Cable Television Consumer Protection and Competition Act, is wending its way from subcommittee to committee in the House.

The reformers want to hold down the rates for basic cable services. But their plan would rob us of better channels. It could also mean still-birth for innovative services that are just being developed.

In 1984, Congress exempted cable operators' from rate control by local jurisdictions where the Federal Communications Commission determined there was "effective competition." In 1985, the FCC said there was effective competition whenever a local community was served by three or more over-the-air broadcast stations. Starting January 1987, the operators serving the vast majority of cable consumers were exempt from local rate regulation for basic services.

The Reagan administration supported the 1984 Cable Act because of widespread municipal corruption and concern over the slow pace of cable expansion. Because of the power local governments wielded over cable companies, many officials were caught up in ugly charges of favoritism, bribes and kickbacks. Moreover, legal squabbles and other uncertainties over investment returns were seen to be retarding cable development.

In hindsight, it is apparent that these concerns were well-founded. Deregulation cut back local corruption. Skeptics also should look at a new study by Robert D. Tollison of George Mason University and Robert Ekelund Jr. of Auburn University. "The High Costs of Cable Reregulation" reports that following deregulation, cable service availability and programming expanded dramatically. The amount operators spent on basic programming went to $1.5 billion in 1991 from $302 million in 1984.

Investors also widened spending on facilities and technology. The share of systems with more than 30 channels rose to 72% in 1991 from 38% in 1984.

Messrs. Tollison and Ekelund note that rates for basic cable services have risen since deregulation. For example, the General Accounting Office found that the rate on the most popular tier of service rose to $18.84 in April 1991 from $11.71 in November 1988. But, as they point out, such an increase must be placed in perspective. During the earlier period of local control, cable rates lagged far behind inflation. So it was only natural for rates to catch up after prices were freed.

It is also appropriate to adjust for changes in the quality of programming. Since the number of channels on the basic tier rose to some 35 from around 27, the rate per channel rose only nine cents during this period. (In fact, when you also adjust for inflation on this new basis, you discover that the basic rate per channel actually fell a penny.) Cable penetration increased substantially after deregulation took effect. It would appear that consumers prefer improved service, even at a higher price.

Rather than applaud this performance, many in Congress would take us back to the "good old days" of less diversity. They would do this despite the fact that the FCC tightened its definition of "effective competition" last June. Under the new rules, a community must have at least six over-the-air broadcast stations to be exempt from local control. That increases the share of cable operators subject to local rate regulation to approximately one-half of all operators.

Why is diversity so important? Because it is the specialized programming that would be jeopardized the most if rate regulation over basic services is reimposed. Regulation is price control, and price control means cable services will have fewer dollars to spend on low earners and loss makers like our educational channels.

Let me admit to a personal fondness for CNN, C–SPAN, the Discovery Channel, and Arts and Entertainment. Others no doubt prefer Black Entertainment Television, Turner Network Television or religious programming. The Spanish- and Korean-language broadcasts, MTV, home-shopping, weather and country-music channels are all part of the selection created for a society whose tastes and needs for video communications vary. In the name of "fairness," reregulators are willing to punish consumers by cutting back the selection available to them.

More disturbing is the prospect that rate reregulation may truncate the development of new cable services that could prove very helpful to consumers in general; For instance, with interactive TV, viewers could register their opinions—on policy issues, or pop music—and send messages to several parties with the push of a button. Interactive TV also has tremendous potential as a long-distance classroom. GTE, for example, is already operating an interactive cable system in California.

Good intentions here mask a cruel hoax. Reregulation of cable TV might save a few dollars a month for those content with little more than rebroadcasts of over-the-air station fare. But it will do this at overwhelming cost to consumers who prefer something more.

[From the Denver Post, Oct. 1, 1992]

BUSH SHOULD VETO PROPOSAL TO REREGULATE CABLE TV

A congressional proposal to reregulate cable television would cost consumers dearly, and so George Bush should stick by his promise to veto this ill-conceived and poorly written piece of legislation. While sponsors have touted the measure as a consumer protection act, it really is an effort by competitors of cable TV to restrict that industry's rapid growth.

A good example of how backward this measure truly is cropped up in Denver. Right now, Mile Hi Cablevision offers subscribers a basic package that contains public access channels, all the local commercial and public broadcast stations, and popular cable-only channels such as CNN and Nickelodeon. Under the just-passed congressional proposal, however, cable TV firms would have to offer a basic package of only the local broadcast and public access channels—CNN and other cable channels would be tossed out of the mix.

At the same time, though, the measure would increase the price that cable TV companies pay for retransmitting local broadcasts, and these higher costs would be passed on to customers. Thus, the measure would force up prices for the very cable TV services it purports to control.

That sort of goofiness is what led Bill Bradley, head of the City of Denver's telecommunications office, to write to Bush this week, pleading for the President to veto the proposal as he has said in the past he would do.

The counterproductive elements in this measure also prompted the entire Colorado congressional delegation to vote against it. Imagine a measure so outrageous that Denver liberal Pat Schroeder and Colorado Springs conservative Joel Hefley wound up on the same side of the issue. Their colleagues from other states who supported the measure apparently hadn't done their homework, for even desperate politicians wouldn't have voted for such a stupid proposal if they simply had taken time to read what it really said.

George Bush is right when he maintains these matters would be best settled in the marketplace, not on the Potomac.

[From the Philadelphia Inquirer, Sept. 29, 1992]

REREGULATING CABLE TV

Millions of Americans have a love-hate relationship with cable TV. With its sports, movies, home-shopping, hearings, music videos and so on, it's a many-splendored thing. But the average cost of basic cable service has risen by 60 percent since the cable industry was deregulated five years ago. Cable TV, which enjoys a government-created monopoly in all but a few local markets, simply has too much power to dictate the price of its services.

So Congress has passed a bill that combines two sound strategies: new controls on the price of cable services, and new rules to help emerging technologies become strong competitors to cable. Unfortunately, for all its claims about saving customers money, this bill also includes an unjustified giveaway to television stations that would raise the cost of cable. That's reason enough for the measure to be vetoed, as President Bush has promised.

The worst part of the current bill from a customer's point of view is that local cable systems would lose the right to carry broadcast signals from local stations free of charge. Any station could charge a cable company for this right, and if the parties didn't reach an agreement, that station's programming wouldn't be available on cable. Consumers lose out either way—through higher costs for the cable service or less programming.

This battle isn't over some grand principle—it's about money. The television stations (and television networks) see their product being repackaged by profit-making cable companies that aren't giving them a piece of the action. The cable companies have traditionally argued that they're merely enhancing the stations' signal, helping them deliver the advertisements that are their main source of revenue.

TV stations claim that these charges would be too modest to have any significant impact on what customers pay for cable. But that's absurd. Estimates of the total charges industry-wide range up to $1 billion a year. And if you think the cable industry is going to absorb the cost, rather than crank them into people's bills, you're dreaming.

In short, the cost of buying these broadcast rights could substantially offset what cable customers save from the bill's most-fundamental change: letting the Federal Communications Commission control what cable systems charge for a basic package of local stations. This may sound bureaucratic, but it's justified in light of the cable companies' sharp price increases. In addition, the commission would be required to judge the reasonableness of charges for extra service—channels ranging from Nickelodeon to CNN to Cinemax. We're leery of this because these channels are a playground for innovative programming, and if the commission squeezes rates too hard, it will stifle that innovation.

As for the strategy of coaxing new competitors, those parts of the bill are generally sound. The bill, for example, would give home satellite dish programmers and "wireless" cable operators more access to programming that the cable industry originates, allowing them to offer a richer mix to potential customers.

If this bill is starting to sound halfway decent, that's because it is halfway decent. But halfway isn't good enough.

At this point the only way to stop the giveaway to television stations is through a presidential veto, which, if sustained, would give the cable industry a reprieve. The hope here is that Congress would pass a less flawed, more consumer-oriented bill in 1993.

[From The Kansas City Star, Sept. 29, 1992]

CABLE'S CONGRESSIONAL NANNY

Since deregulation of the cable television industry, rates have increased by 61 percent. Viewers are continually upset by poor service and unanswered complaints—the usual frustrations that accompany monopoly power.

Cable, in short, has fouled its own nest. To a great extent, the industry is itself to blame for the current effort to reregulate rates. Yet the latest serving of congressional mishmash is not the answer. Implicit in this debate has been the peculiar notion that the "need" for entertainment is now on a par with that of public utilities.

The measure now on the president's desk directs the Federal Communications Commission to decree standard rates for basic cable service in markets lacking competition, and permits appeals of disputes over prices for add-on programs. The Washington bureaucracy will grow to assure that Americans—those believers in limited government, remember?—receive what the government thinks is a "fair" price for television.

Cable offers some serious fare such as C-SPAN, CNN or the Discovery Channel, and many rural residents would have little to watch without cable. But come on. This controversy has a lot less to do with fairness than with how to divvy up cable's $22 billion a year in revenues.

One provision would allow broadcasters to charge cable companies for retransmitting the signals. That rang bells in Hollywood, which sent a horde of lobbyists east to tell its Democratic allies: "We want our cut, too, whenever broadcasters air one of our movies." This change may well result in higher cable rates, not lower.

What Congress should have done was limit its efforts to fostering competition: sharpen anti-trust law, if necessary, to blunt the legal tools monopolists use to exclude competitors, and let technology gradually solve the problem of competition. Microwave and satellite delivery may yet help provide a counterweight. Working separately, the FCC seems determined to permit telephone companies to enter this market.

Admittedly, much of that is in the future, but even now—contrary to what some say—cable should not be seen as a natural monopoly. Some two dozen markets have competition, and in these cities rates are reasonable and service standards high.

To be sure, some of the bill's provisions would help boost competition, such as those banning exclusive franchises and those prohibiting exclusive contracts between programmers and cable operators.

Even so, President Bush should make good on his veto threat. The notion that government has some kind of duty to decree a "fair" price for what is mostly entertainment is more than sad. It's worth recalling that if government today is held in widespread contempt, it is largely because it attempts to do too much.

[From the San Diego Union Tribune, Sept. 28, 1992]

CABLE CAPERS: EVEN IF RATES FALL, VIEWERS COULD PAY MORE

President Bush has on his desk a bill that would re-regulate cable television. His decision to sign or veto the measure should be predicated on a simple question: Will consumers benefit?

Various consumer groups argue that cable subscribers stand to reap bountiful savings. The Consumer Federation of America, for instance, estimates that "on a national scale, people can expect a reduction in basic rates of up to 30 percent."

But basic rates could tumble 100 percent and consumers still could pay higher overall cable rates. That's because, under the language of the bill, basic service is defined as public, educational and government cable channels, as well as local over-the-air broadcast affiliates of ABC, CBS, NBC, Fox and PBS.

Such widely viewed cable offerings as CNN, MTV and ESPN, and premium channels like HBO and Showtime, are not considered basic service. Cable operators could easily charge more for these optional channels to offset a 30 percent rate reduction for basic service.

Basic cable rates rose 56 percent between 1986 and 1991, from an average $11.14 a month to $17.34, according to the General Accounting Office.

The cable industry has not remained in place since deregulation. It has increased the proportion of American households wired for cable from 45 percent to 90 percent. It has expanded the number of available cable channels from 29 to 72.

It is true that many local cable operators around the country enjoy effective monopolies. But lawmakers are mistaken if they think that re-regulation of the industry will check the monopoly power of cable companies and discourage artificially high prices.

In fact, prior to deregulation, 94 percent of proposed cable rate increases were approved by local governments, which typically collect 5 percent of cable system's gross revenues as a franchise fee.

A federal law written in the best interests of consumers hardly would restore a regulatory system in which 94 percent of rate increases are approved.

Rather, a consumerist law would promote competition in local cable markets, recognizing that only when two or more operators are vying for the same viewers will consumers be assured of the highest quality service and the most reasonable prices.

The misnamed Cable Television Consumer Protection and Competition Act falls woefully short on this count. It deserves a veto.

[From the Cleveland Plain Dealer, Sept. 25, 1992]

CONGRESS AT THE CABLE TV SWITCH

On principle, and heedless of political costs in an election year, President George Bush should veto legislation regulating cable television prices. In so doing he undoubtedly would risk incurring voters' displeasure and face the prospect of being overridden in Congress. But he would also display courage by taking up the gauntlet thrown down by congressional Democrats seeking to embarrass him. As well, he would rebuke fellow Republicans who for electoral reasons jumped on a bandwagon mistakenly labeled consumer protectionism.

Don't be misled by the cable bill's margins of support in the House and Senate. Far from being good legislation that would benefit consumers, the new laws could saddle the cable industry with costs that probably would be passed on to the subscriber, either directly or in the form of fewer program choices.

One need not accept the dizzying range of dollar amounts the industry contends the public will pay or cable operators will have to assume. No doubt their figures will turn out to be inflated. At the same time, however, you can bet there will be a steeper price to pay than pro-regulation lawmakers are prepared to allow.

What is most objectionable about the legislation is not that it permits the Federal Communications Commission to set rates for basic cable packages. You could argue cleanly and fairly over whether free-market considerations should prevail or whether, because it is a monopoly in some communities, cable invites government intervention.

But under pressure from over-the-air broadcasters and other interests, Congress overloaded the final bill. Some of the added provisions will benefit cable's competitors, including local TV stations that will be entitled to sell retransmission rights for their programs. Others, supposedly intended to help customers get better service, amount to governmental micromanaging of cable companies.

Cable TV, as lawmakers appear to have forgotten, is a commodity to be purchased or not, at the consumer's discretion. It is not a constitutional right. It should be noted that the industry spared no expense in its own lobbying efforts against legislation. Nonetheless, consumers one day may have cause to regret that Congress thought it had a right to dictate the terms under which cable could market its offerings.

[From the Dover (NH) Foster & Daily Democrat, Sept. 25, 1992]

STOP PROTECTING US

If there is an industry the Congress hasn't regulated yet, keep it a secret.

Cable television and its customers will feel the long arm of federal regulation unless President Bush vetoes a bill passed by wide margins in both the House of Representatives and the Senate. And even if there is a veto, the size of the votes in both houses might be enough to hand the president his first defeat in a string of 31 vetoes that have withstood attempts at override.

The cable bill was sold as a consumer protection measure. Heaven protect us from congressional protection.

The regulation of cable television—or rather its re-regulation (it was de-regulated in 1984)—is supposed to provide television viewers with a shield against rising rates. That's what supporters of the measure say it will do.

What the cable bill will really do is provide the on-air broadcasters—especially the major networks—and companies that distribute television over satellite and microwave radio channels with a piece of the cable revenue pie. You can expect the networks and satellite companies to support rate increases as soon as they see some benefit to themselves.

The bill passed by the Congress requires the Federal Communications Commission to set up a "reasonable" rate schedule for a basic package of cable programs and would include more limited regulation of the expanded packages that include such things as MTV, HBO, movie channels and sports channels.

Who is going to determine the definition of the word "reasonable"—the FCC? Who is going to determine the content of a basic package—the FCC? Who is going to hold rate hearings—the FCC?

Why this insistence in the regulation of cable television? What was once ignored as an industry is now seen as a gold mine and the very people who were ignoring it—the broadcasters—want a piece of the pie with none of the expense.

Cable television is not a necessity. It is not a public utility. In the sense that electricity or telephone or water or gas is a public utility. Why do rates have to be regulated?

Let the marketplace do its work. If cable is too expensive, we won't buy it, We'll put the antenna back upon the roof or read a book.

The cable companies aren't stupid. They aren't going to kill the Golden Goose.

For cryin' out loud, stop protecting us from the boogieman.

[From The Cincinnati Post, Sept. 25, 1992]

THE WRONG RE-REGULATION

One of the biggest battles Washington has seen all year is raging now, and it affects about six in 10 American households, cable television.

The Congress, by large majorities, has sent President Bush a bill that would re-regulate the cable television industry. The president has threatened to veto it, mainly on grounds that it would impose federal price controls when competition will ultimately be able to accomplish the same task.

We agree with the president—up to a point.

This particular bill deserves to be defeated. But it contains much that is valuable. With some changes—notably giving state public utility regulators, rather than the Federal Communication Commission, authority to set rates in monopoly markets—it would merit support.

The measure now on the table would require the FCC to set rates for "basic" service—local commercial and public channels, plus one or two "super stations." This is a function we think would be better handled by state regulators, such as the Public Utilities Commission of Ohio, whose staffs already have expertise in monopoly rate cases and, often, in the broad field of telecommunications.

Regulation at either the state or federal level ought to be limited to monopoly franchises; its aim should be to encourage competition. As technology advances, the rationale for geographic cable monopolies will steadily diminish.

The cable bill does contain several measures aimed at promoting such competition, as well as others designed to benefit cable customers in the short term.

Local governments, for example, would be barred from issuing exclusive franchises. Within 10 years, cable companies would have to let customers buy only those channels they want, rather than the relatively large package. The bill would require certain large companies that produce what is now "cable" programming to license their products to competitors who might offer it over new transmission networks, such as satellite and "wireless" cable. And it would pave the way for consumers to buy their own converter boxes and remote control devices.

The real trigger for the lobbying battle now under way in Washington has little to do with the interests of cable customers. It deals, instead, with the proposed requirement that cable companies negotiate with local broadcasters for the right to carry their signals. In essence, Congress proposes to make cable companies pay broadcasters for a signal that the broadcasters are sending out for free over the airwaves. The cable industry argues that this provision would drive up costs for their customers, and more than offset any savings the rest of the bill might achieve. Hollywood, meanwhile, has charged into the fray on the side of cable operators—mainly out of fear that it will lose out on a slice of a new revenue pie.

Sound like a lot of static? It is.

Suspect the debate has been fueled by partisan politics and by a non-partisan willingness to reap campaign contributions from competing lobbyists? No doubt.

Within, the issue is one that will ultimately touch the lives of most Americans. The public policy goal should be a flourishing telecommunications network—one capable of supporting the technology's vast potential.

[From the San Antonio Express-News, Sept. 24, 1992]

CABLE REGULATION WON'T REDUCE BILLS

President Bush's promised veto of a cable TV regulation bill may be overridden, but Bush is right on the issue.

The cable bill is an election-year product. The Democratic-controlled House and Senate passed the measure by large margins, claiming it would benefit consumers.

Although cable TV rates have risen more than 50 percent since they were deregulated five years ago, this bill won't do much to control them. It would put bureaucratic fingers on control knobs.

Under the bill, the Federal Communications Commission would set and enforce "fair" charges on bare-bones basic cable service. That includes local commercial and public channels, plus one or two super stations.

Expanded cable packages would have limited regulation, and added charges for them could drive monthly bills up, not down.

Congress would specify how many phone lines each cable company must have for customer complaints. It would also require operators to refine technology within 10 years so subscribers could receive one free premium channel, such as HBO.

If Bush's veto is overridden and the bill becomes law, few cable customers will see their bills reduced. The way to bring cable charges down is through competition, not regulation.

[From the Hartford Courant, Sept. 22, 1992]

THIS CABLE-TV BILL ISN'T IT

"For the cable industry to claim that it's coming to the rescue of consumers is like the shark swimming to the rescue of the drowning man," said Sen. Joseph I. Lieberman of Connecticut last week after the U.S. House voted to reimpose tough regulations on cable television.

Good metaphor, but it also applies to self-proclaimed consumer advocates who say that the bill would reduce cable rates substantially. It wouldn't necessarily. In fact, it's likely to increase subscription prices.

Government regulation usually is imposed with the best of intentions, but the rules become complex and convoluted by the time special interests finish writing them. And consumers are left scratching their heads.

The Courant's corporate parent, Times Mirror Co., owns cable television systems and therefore has an interest in the bill that President Bush has vowed to veto. But no one at corporate headquarters has had any input in this editorial.

To some extent, the cable TV industry deserves the lumps it's been getting in Washington. In Connecticut, rates have increased by more than 50 percent since Congress lifted regulatory control in 1987. Service, in many instances, has been awful. Customers often feel helpless.

Given the monopoly status of cable systems and their use of public airwaves, government is justified in setting minimum service standards. Moreover, government ought not to throw a protective umbrella over the cable industry if competitors want to get into the market.

But the bill approved last week by the House does more than require the Federal Communications Commission to set a maximum price for basic cable TV service and authorize local regulators to ensure that the rates are "reasonable."

Towns and cities would be allowed to operate their own cable systems. The bill would in effect require cable operators to carry all the local channels. At the same time, operators would have to get permission from local broadcasters for "retransmission rights,"

If the operators wind up having to pay the local channels for retransmission rights, the costs are likely to be passed on to consumers.

Cable companies would also be required to update their systems within 10 years to give their customers more choices. The companies already are investing in such equipment and will continue doing so because that has been the nature of the business. Survival depends on keeping up with the latest technology. But guess who will wind up paying when government gets into the business of requiring the installation of certain equipment and setting deadlines. Consumers, of course.

Perhaps the most disturbing voice being heard from supporters of cable reregulation is the one claiming that the bill would improve programming. Beware of those who want government to get involved in cable program "quality,"

The cable industry should neither be shielded from competition nor permitted to get away with shoddy service or galloping rates. As U.S. Rep. Nancy L. Johnson of the 6th District noted, "We ought to do something, but this [bill] isn't it."

[From the Harlingen (TX) Valley Morning Star, Sept. 22, 1992]

Regulations Not Needed

The debate over "re-regulation" of cable television sounds suspiciously more like a battle between cable and broadcast TV over market share, two behemoth industries, each protected and regulated in various ways by the government, trying to rig the rules in their favor.

The fact is that cable television was never "deregulated" in any meaningful way in the first place. The industry was freed of federal price controls under the Cable Communications Policy Act of 1984 (which went into effect in 1987) but has never been subjected to real market competition. Cable television still operates through a system of virtual monopoly franchises granted by local governments to operate in limited areas. That is a recipe for the sorts of problems consumers complain about: higher prices, poorer service.

Legislation before Congress would, above all else, further regulate (rather than "re-regulate") the industry by virtually turning it into a public utility.

The bill would give new powers to the Federal Communications Commission to set cable service and price standards. Far from introducing competition, the bill effectively would impose a national cartel. It is difficult to see how service would improve if cable company profits are limited by political decision-making.

The bill also attempts to settle a long-standing complaint from the broadcast television industry, forcing cable firms to get permission to offer network programming on the cable. It would also force cable firms to sell their own programming to competitors. Such decisions ought not to be the province of government and would not be were both broadcast and cable television truly de-regulated, that is, set free from both government protection and government intervention.

The costly, anti-competitive cable re-regulation bill should be short-circuited. The real problem with cable TV is that it still is regulated too much.

[From the Akron Beacon Journal, Sept. 21, 1992]

Meddlesome Bill

All along, the trouble with congressional attempts to reregulate the cable television industry has been that lawmakers seem ill-equipped to set new rules, thousands of them, for an industry that is rapidly changing. What's written today may well be obsolete before the subject comes up again on Capitol Hill.

The result will be an industry less in tune with viewers, equipped with fewer tools to develop new programming, to provide the products the market demands.

That prospect hasn't deterred lawmakers. The House of Representatives plunged ahead last week, approving legislation that a majority claims will benefit consumers, holding prices down, ensuring that cable is affordable for most Americans.

The one encouraging thing about the vote was that the majority may not be enough to override an expected veto by President Bush. Even before the president acts, the Senate could put a halt to this shortsighted legislation. It could reject the bill, perhaps as early as this week.

To be sure, some of the nation's 11,000 cable operators have gouged their customers. Across the country, cable rates have increased 60 percent since 1986, two years after the industry was deregulated. However, rather than write legislation that aims at the bad actors, lawmakers would penalize the industry as a whole.

Among the many new rules, Congress would expand requirements on cable operators to carry certain channels. It would more narrowly define the package of channels they can offer. It would require cable firms to pay broadcasters for the right to transmit their signals.

The latter step is particularly onerous, since cable actually extends the reach of broadcasters, even * * * homes. More- * * * casters alone would profit from programming transmitted to cable, programs that, in many cases, it developed. Quite reasonably, Hollywood wants a share of any transmission fee.

As eager as proponents of reregulation are to point to the rising costs of cable, they should note as well that, in the same time, programming has improved dramatically; far more channels are available. And significantly, the number of subscribers continues to rise, from 17.7 million is 1980 to 56.2 million in July.

If consumers are voting with their dollars, that suggests a substantial degree of satisfaction with the cable industry.

If anything, Congress should be opening the doors to greater competition. That would not only diminish the power of the quasi-monopolies that cable franchises are, it would attract new investment to the industry, the kind of investment that encourages new programming and new methods of broadcasting, the kind of investment that, in the long run, better serves consumers of television.

[From the Denver-Rocky Mountain News, Sept. 20, 1992]

Cable Bill: Static and Snow

Suddenly the commodity preoccupying the U.S. Congress isn't wheat or sugar or tobacco but potatoes—the variety that takes root on den couches. Hence, by a 280–128 vote, the House has approved a measure that would cap the rates cable TV companies can charge for basic service.

Under the House bill, bureaucratic fingers would be all over the fine-tuning knob. Congress not only would empower the Federal Communications Commission to set and enforce "fair" cable charges, Congress also would specify how many phone lines each cable company must dedicate to customer complaints. It would require cable operators to refine technology within 10 years so that subscribers to basic service could enjoy one "free" premium channel (e.g., HBO). Good grief. Congress doesn't regulate the Post Office this closely.

Most Congress members claim that reregulating cable, liberated from federal control in 1984, would save consumer dollars. But the FCC would set rate ceilings only for bedrock service—local commercial and public channels, plus one or two "super stations." These strictures would impel cable companies to charge fees for each of the 30 or so channels (ESPN, The Discovery Channel, etc.) that they now sell for one flat price. Some bargain. True, the feds could begin capping rate for these "second-tier" channels, too. But Washington cannot force a business to operate at a loss. Hold onto those rabbit ears, friends.

Yet one provision of the House bill makes sense—that barring local authorities from offering cable firms exclusive franchises. Such sweet deals explain cable overpricing; in towns where viewers can choose between two services, channel selection is greater and monthly charges average 25 percent less.

But one decent feature does not a whole bill redeem. President Bush should veto this cable regulation measure, which is mainly static and snow.

[From the Washington Post, Sept. 19, 1992]

Uncle Sam in Charge of Cable

The cable legislation approved by the House and now headed for a Senate vote calls for the federal government to step in and re-regulate the industry from rates to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry ads predicting that passage of the bill would send everybody's cable rates through the ceiling. Forget as well the arguments of supporters—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retransmitting their signals—that the bill would force price cuts of up to 30 percent. Both sides—and we note here that The Washington Post Co. owns cable systems as well as broadcast television stations—have restored to heavy lobbying. So has the motion picture industry, which opposes the bill because Hollywood wouldn't get any cut of the royalties that broadcasters could seek from cable operators.

Under the measure, the government would set "reasonable" rates for what it would define as "basic" programming, control prices for installation and equipment, require efficient customer service and force cable operators to equip all subscribers for channel selections that now are sold as packages of channels. The result of all these requirements is not more competition; its more likely to be cost-cutting by eliminating cable programming or even entire channels.

The effort to control gouging by cable operators should focus on increasing competition, not on heavy reregulation. Until competitors do materialize, some determination of a reasonable rate of return for certain basic cable service is a legitimate legislative pursuit next year. This bill goes overboard.

[From the Baltimore Sun, Sept. 19, 1992]

Distoring the Cable TV Bill

The battle now reaching a climax in Congress over re-regulating the cable television industry is a classic example of a bill intended to aid consumers that has almost been submerged by interest groups fighting each other for competitive advantages.

The bill started as a consumer protection measure. Congress lifted controls on cable TV operations in 1984. Charges promptly skyrocketed in many areas. Often service quality dipped almost as quickly. The cable TV operators gained a reputation for concentrating on expansion and amalgamation but neglecting their captive audiences. The bill would restore price controls on cable TV and impose quality standards for service. It would also ease the way for competitors in the 97 percent of areas that are saddled with monopoly franchises.

So far so good. Even some in the cable TV industry could live with that. But the bill, passed Thursday in the House of Representatives and due soon for a final vote in the Senate, goes father. It would force the cable systems to negotiate with the over-the-air broadcasters for the right to carry their signals on their systems. Now the cable systems are required to carry local broadcasts but need not pay for them. The bill would also force the cable companies to sell programming that it has developed for its own use to potential competitors.

These latter two provisions have the cable industry howling. It had howled so loudly and, in some cases, so irresponsibly that it has damaged its own case. The cable industry contends the new regulations would increase customers' bills by perhaps $4 a month. No one knows what, if anything, cable systems would have to pay broadcasters for the rights to carry their signals. Maybe nothing. The broadcasters and cable systems need each other: Cable would be hard to sell without network and local over-air programming, and broadcasters need to assure their advertisers the programs they pay for are reaching the whole market.

With House passage, the battle shifts to the Senate. The cable industry is lobbying furiously to get enough Senate votes to sustain a promised veto by President Bush. It's getting help from Hollywood, where movie producers have decided that if cable must pay for over-air material, they should get a cut of the programs they produced, too.

While the bill's sponsors still point to this protection for consumers as the measure's main features, it has in fact been encrusted with provisions that could mean billions of dollars to broadcasters and Hollywood producers. If the Senate fails to muster a veto-proof majority, the bill's original supporters ought to start all over next year, keeping the new proposal strictly focused on the consumer's interests.

[From the Wyoming Eagle, Sept. 17, 1992]

Cable Bill Would End up Hurting Consumers

It's been difficult to turn on a television set in recent days without being bombarded by commercials both for and against the cable reregulation bill now before Congress. With all of the hype, it's difficult to look beyond the emotional appeals and see how the legislation would truly impact both the industry and the consumers' wallet.

The cable industry, arguing for deregulation eight years ago, claimed that regulation had kept rates artificially low. As a result, since the industry won that battle in Congress, cable rates have risen three times faster than inflation.

Cable critics charge that for the extra money, many consumers have received shoddy service. The industry counters that it has invested in both improved equipment and programming.

In a sense, both claims have some validity. However, arguing about who's right and who's wrong in this controversy really does not get to the heart of the matter: what action will best protect the consumer in the future?

The cable bill approved by a House-Senate conference committee was originally designed as a pro-consumer piece of legislation that would hold down rates. However, it has turned into a mishmash of federal regulations that could easily lead to precisely what the cable industry has warned customers about in its campaign against the bill: higher rates.

Estimates by the Office of Management and Budget, the Department of Commerce and the industry itself indicate that the bill's passage would see cable bills rise between $2 and $4 per month. The increase would be justified by the cost of the bill's provision that cable operators would have to pay local broadcast TV stations for using their signals. The cost would simply be passed on to cable customers.

Mr. KERRY. Mr. President, section 19 of the conference report directs the FCC to establish regulations to limit discrimination between satellite cable programmers and satellite broadcast programmers on the one hand, and multichannel video programming distributors on the other. Subsection 2(B)(ii) of section 19 provides that in setting its regulations the FCC shall not prohibit a programming vendor from establishing different prices, terms and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming or satellite broadcast programming. Am I correct in understanding that as used in subsection 2(B)(ii) the cost of creation, sale, delivery or transmission of programming refers to costs incurred at the multichannel video programming distributor's level as well as at the program vendor's level?

Mr. INOUYE. That is correct.

LOW-POWER TELEVISION MUST CARRY AGREEMENT

Mr. FORD. Mr. President, I would like to commend my colleague, the Senator from Hawaii for his efforts in moving cable legislation this year. I am unaware of any legislation that has stirred up so much activity and debate. Throughout the long hearings, negotiations in committee, on the Senate floor and in the conference committee the Senator from Hawaii is the glue that held this all together. He is very aware and has been most helpful on an issue that is important to me—must carry provisions for low-power television stations. When the Commerce Committee considered S. 12 I was successful in adding an amendment to provide must carry for low-power stations. There was no similar provision in the House cable bill. After long negotiations the conference report contains limited must carry for low-power stations and there has been some confusion about some of the limitations. I would like to address several questions to the chairman of the Subcommittee on Communications about this provision.

Mr. INOUYE. I would be happy to answer questions from my colleague from Kentucky.

Mr. FORD. In section 614 low-power television stations are allowed must carry if the community of license of such stations and the franchise area of the cable system are both located outside the largest 160 metropolitan statistical areas, ranked by population, as determined by the Office of Management and Budget on June 30, 1990 and the population of such community of license does not exceed 35,000. Since the conference report was filed there have been questions raised as to whether the cable system within the 35 miles limitation for must carry for low-power stations is in a community of over 35,000 if that cable system has to provide must carry.

Mr. INOUYE. It is my understanding that the 35,000 population limit only applies to the community to which the low-power station is licensed. The limitations in this section were to make the amendment only apply to rural areas. The conferees did not intend to draw the amendment so tightly that it would not apply to any low-power station.

Mr. FORD. I would like to thank my colleague as I share his views. There is one other troubling provision that has been pointed out to me by low-power stations in Kentucky. Subsection (F) limits must carry for low-power stations if there is a full-power station licensed in the county or other political subdivision. Again, this provision only applies to the community of license and location of the low-power station, not the cable systems required to must carry a low-power station.

Mr. INOUYE. That is correct. This restriction only applies to the area in which the low-power station is located.

Mr. FORD. I thank my colleague.

Mr. BROWN. Mr. President, would the chairman yield to engage in a colloquy on several provisions of the conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992?

Mr. President, the cable industry is extremely important to my State of Colorado, and Jones International, Ltd., based in Englewood, CO, is one of the reasons why. Jones is representative of the cable industry's outstanding contribution and dedication to revitalizing America's educational system. Of particular merit is Jones' Mind Extension University [ME/U]: The Education Network, the Nation's fastest growing distance education network.

ME/U was established in 1987 to make equal access to education a reality for all Americans: regardless of where they live or what their condition in life. As a 24-hour education network, ME/U is affiliated with more than 20 prestigious universities and colleges across the United States and serves approximately 20 million households. It is the only cable program to offer a degree over the airways, offering more than 40 college courses each semester in topics ranging from mathematics to education. In addition to earning a college degree from the University of Maryland, students can earn a masters of arts degree in Education Technology from George Washington University or an MBA from Colorado State University.

I am therefore interested in two provisions in the Conference Report for the Cable Television Consumer and Protection Act of 1992. The first of these pertains to carriage of noncommercial stations and access for "qualified educational programming sources". In reference to the noncommercial educational television provision, I feel the conferees have perhaps unintentionally slighted providers such as Jones' Mind Extension University: The Education Network.

Mr. INOUYE. I would be happy to respond to my colleagues questions. First, in a report submitted to Congress in July 1990, the Federal Communication Commission, supported by a wealth of data, strongly recommended that Congress accept the noncommercial "must carry" requirement adopted by the conferees. I am very familiar with the Mind Extension University: The Education Network, and I want my good friend to know that I have been favorably impressed by its programming. In fact, as I told Glenn Jones himself, if all cable companies responded to the 1984 Cable Act as Jones International did, the legislation we are prepared to pass today may not have been necessary.

Mr. BROWN. I thank my colleague for his thoughtful comments. I now want to turn to another section of the House bill which was adopted by the conferees. In particular, I would like to address the provision related to qualified educational programming as defined in section 9(c)(3) of the conference report. The authors of this provision have chosen to define qualified educational programming source as "any programming source that has a documented annual expenditure on programming exceeding $15,000,000", excluding general administration costs as well as operational costs. Mr. Chairman, ME/U is unequivocally one of the nation's finest educational programming initiatives. Unfortunately, it is unclear whether ME/U would meet the $15,000,000 threshold established under this provision.

Could the chairman explain the genesis and purpose of the $15,000,000 threshold? I am concerned that it may have the unintended effect of discouraging small educational providers from committing the resources to educational programming. Since the programming is commercial free, wouldn't the objectives of the act be best served by making the limited access available to all developers of educational programming, thereby increasing competition and quality of coverage?

Mr. INOUYE. My distinguished colleague raises an important point. I do not believe it was the conferees intention, by creating a $15,000,000 threshold, to exclude access for small private ventures. On the contrary, the intent of the legislation is to broaden the universe of providers of educational programming, and to do so in a non-discriminatory manner. If my colleague desires, I will work with him to correct any problems created by the $15,000,000 threshold.

Mr. HOLLINGS. Mr. President, I rise in support of the conference report on the Cable Television Consumer Protection and Competition Act of 1992. I am disappointed that the President decided to veto this bill. This is a bipartisan bill, in which Congress is responding to the problems of consumers and the market. I have received thousands of consumer complaints from Americans all across the country concerning the cable industry, and I know my colleagues have received the same. In South Carolina, I have heard complaints from mayors and individual consumers about their cable rates and service. Skyrocketing charges, service outages, anticompetitive abuses, and other monopoly practices have generated an overwhelming public outcry for legislation to address these problems.

S. 12 is a carefully balanced effort to rein in the excesses of the cable industry without blocking further growth and technological innovation. Consumers will say that we should have regulated all cable services across the board. Competitors will say that we should have broken up the cable monopoly. Cable claims we are doing too much. But we have not taken a radical course. The bill that has emerged from our negotiations with the House is carefully tailored to address the most egregious cable practices—unreasonable rates, poor customer service, unfair marketplace advantages.

The President in his message vetoing this bill states that he opposes the retransmission consent and must-carry proposals in this bill. The record should reflect that earlier this year the President and the cable industry both supported those provisions when they were in the so-called Packwood substitute.

The assertion that the access to programming provisions of S. 12 will have the Government dictating the price of programs and to whom those programs must be sold is false. The access to programming provisions merely state that programmers cannot discriminate in making their programming available to other multichannel video distributors. Cable operators are free to set whatever prices they deem appropriate and sell to whomever they please so long as they do not discriminate.

Moreover, this is not the first time that action has been taken to help promote the development of competition in the video marketplace. In the late 1950's, cable operators were given the right to carry broadcast stations for free, in part, to help stimulate competition to broadcast stations. In the 1970's, in another attempt to stimulate competition, the FCC adopted the financial interest and syndication rules, which limit the ability of the networks to own and control programming. Today in the 1990's, we find that competition to cable is stifled by the inability of competitors to obtain programming.

The cable industry is no longer a second-class video distributor that only retransmits broadcast programming. It has de facto exclusive franchises. It appears well on its way to becoming the dominant video distributor, and we must be attentive to the problems that monopolies create.

For instance, consider the situation in my own State of South Carolina. In Greer, Cencom Cable provides 36 channels of programming for $23.95, while next door in Mauldin, customers pay $25.95 for only 21 channels of programming. Consumers are paying more for less. In addition, prices have risen dramatically. In Bennettsville, the cable operator charged $7 for basic cable in 1986; in 1991, it charged $16.95, an increase of 142 percent for similar service. In Charleston, cable rates were $10.45 for 35 channels; in 1992, the charge is $22.00 for 29 channels, an increase of 111 percent, to receive fewer channels. In Spartanburg, customers were charged $12.93 for 30 channels in 1986; in 1991, they were charged $27.45 for the same number of channels, an increase of 112 percent. Everyone is frustrated, but there is little that the local authorities can do about these rate increases once the franchises are awarded.

When the cable debate first began 4 years ago, I was skeptical of the need for new legislation. The 1984 act seemed to have succeeded in achieving many of its goals. However, I have become convinced that there is a need to adjust the environment in which cable operates. S. 12 does not overturn the 1984 Act; it is a reasonable bill intended to address legitimate concerns about the provision of cable service.

The most ironic aspect of the cable industry's opposition to this legislation is that many of the provisions in this legislation are the result of the Commerce Committee's discussions with the cable industry last Congress when we were considering S. 1880. In fact, S. 12 contains many of the provisions that the cable industry agreed with only 3 years ago. But the cable industry walked away from the agreement we had reached. We offered to sit down several times with the cable industry to attempt to work out our differences, but the cable industry refused. Now we find that the cable industry is pulling out all the stops to oppose this legislation.

I believe that the conference report on S. 12 is a targeted approach to problems with the cable industry. It protects consumers and encourages competition, while at the same time permits the cable industry to grow. It enjoys the full support of the Consumer Federation of America, senior citizens, city and State officials, the National Association of Broadcasters, labor groups, cable competitors, and satellite dish owners. The conference report on S. 12 is the product of many years of work by committees in both the Senate and House. The bodies have ironed out the differences between the two bills in bi-partisan and productive fashion.

I particularly thank Senators INOUYE and DANFORTH for all of their hard work on this bill. This is an opportunity to show the public that Congress cares about their concerns. I urge my colleagues to support this important and necessary legislation and vote to override the President's veto.

Mr. DURENBERGER. Mr. President, I will vote today with the rural citizens of Minnesota and cable customers across my State to override this veto of the Cable Consumer Protection and Competition Act of 1992.

To say that this bill has been the subject of heavy lobbying would be an understatement. If people could get as worked up about reducing the deficit as they have on this bill, we could get somewhere.

But this issue should be decided on the merits, and it is the consumers of Minnesota who have by far the stronger case.

I have always believed that the marketplace does the best job of creating innovation, allocating resources and setting fair prices. I am generally suspicious of regulation. Government only has a reason to step in when it is clear that the market is not working.

No one can look at the cable industry now, especially in rural areas, and call that a market. These protected, regional monopolies are doing what monopolies always do: Provide a lesser quality product for a higher price.

Mr. President, my roots are in small town Minnesota. Small towns are as important to Minnesota's future as they have been to our past. But whether the issue is health care, insurance or cable television signals, rural citizens usually pay far more for far less than their fellow citizens in urban or suburban areas. That is the economic law of numbers at work.

But unless we're willing to watch those communities have their quality of life whittled away until there's no reason left to live there, Government, at times, is going to have to intervene to restore some fairness to the marketplace.

This is just such a case.

Many citizens of rural Minnesota receive their cable T.V. programming through the National Rural Telecommunications Cooperative, which was set up by REA. NRTC sells the signal at cost to 72,000 customers. Do you know what the difference in price is between the cost of this basic service that rural Minnesotans get from a nonprofit group and what someone can buy in the Twin Cities? About 500 percent. It costs someone in a small town five times as much, because that is the price cable companies can demand in a non-competitive system. There can be no justifying that.

A constituent of mine, Bob Larson of West Central Telephone called to express his support for S. 12. West Central Telephone owns United Datavision, a cable company serving the towns of Sebeka and Menahga (Wadena County).

As a cable operator, he is cognizant of the regulation embodied in the bill, but favors it because it would foster new broadcast technology benefitting both his company and the consumer.

United Datavision recently purchased the franchise for all of the noncable portion of Wadena County. Although it is too expensive to run coaxial cable to rural households, those same noncable households can be served by direct broadcast satellite [DBS].

United Datavision will be able to provide DBS starting on April 1, 1994. The DBS satellite will be put into orbit next year.

Portions of S. 12 encourage the development of new broadcast technologies, including DBS. DBS is not a hypothetical broadcast technology but a viable system that is in operation in other countries. These new broadcast technologies not only provide competition for cable, but will provide service to areas of Minnesota that have neither cable nor adequate over the air broadcasting.

Without S. 12, there is a danger that DBS will be locked out of the programming market by the cable operators; a viable system with nothing to broadcast. By encouraging DBS through the cable bill, the question of cable regulation may eventually become an ancillary issue due to the flexibility and potential of emerging broadcast technology.

The example of United Datavision points out that both technologies can exist simultaneously, providing new business opportunities, better service, lower prices and jobs. With our without cable, much of rural America is ill-served by the broadcasting community. The cable bill contains provisions that reach beyond our existing broadcasting systems. By raising our sights above the warring factions and looking at good broadcasting itself as the aim, we can better serve the people of Minnesota and the Nation.

Like many of my colleagues, I found this far from an easy decision to make. In fact, I voted for the repeal of cable regulation in 1984. I stated then what I wanted to accomplish through deregulation. However, upon examining the state of cable service and prices since deregulation, I know that bill did not work. I have found that cable rates have skyrocketed, increasing at three times the rate of inflation, while there has been a concurrent plunge in the quality of service.

Mr. President, this bill will not stifle competition as the cable companies have suggested because currently, there is no competition in 97 percent of the market. In the areas of the country where there is true competition in the cable industry, the rates are 30 percent of those in the monopolistic markets.

Cable operators argue that they have substantially increased the scope of options available to their subscribers; in fact, they have had a substantial increase only in price. Most of the innovation in the cable industry has come in the form of more pay channels or pay-per-view choices, while at the same time the basic rates have exhibited exponential increases. The shift toward pay-per-view maintains a cable monopoly over selected programming even in the face of competition.

In analyzing the nature of the cable television market, I have tried to determine if there is a viable solution to the problems in the industry that could be addressed through market forces. My determination is that there are significant enough impediments to an effective market place to warrant the adoption of S. 12.

The truth is that cable operators benefitted from the boost which came with deregulation back in 1986, just as Congress intended. Cable access improved, programming increased 50 percent, and market share increased.

But Mr. President, the providers of cable service consolidated their operations through leveraged buy-outs, accessibility to programming for competitors was greatly reduced, and rates increased well beyond the rates of inflation. While deregulation has achieved the goal of market expansion, it has unfortunately created a monopolistic rather than dynamic market.

Mr. President, I believe that business as usual will not achieve the goals of fair rates for consumers and a strong and competitive market for cable operators and programmers. In a vibrant market, businesses do not ignore consumer preferences with impunity.

The cable industry is not a vibrant, competitive market. It is an unregulated monopoly and takes advantage of consumers who have no choice but to accept the rising rates and deteriorating quality of service. Many of our constituents have complained that the cable operators are unresponsive. Currently, cable operators are in a position to ignore requests for services and complaints about customer service due to the complete lack of alternatives available to the customer.

When cable was in its infancy, it was granted the authority to retransmit local broadcasts without permission from or compensation to the broadcasters. That was as it should have been when cable essentially provided an antenna service for those who were not able to receive broadcast signals by conventional means. The situation, however, has changed.

After regulation ceased, cable operators became active players in all aspects of broadcasting, and are now direct competitors with broadcasters. They compete for advertising revenues, present alternative programming, and are a potent force in negotiating for lucrative programming such as major sports broadcasts.

Currently, cable's congressional mandate to carry programming purchased and produced at the expense of over-the-air broadcasters gives cable operators a significant advantage over broadcasters. While the availability of network programming, local programming, and public television on cable systems is a significant selling point for cable operators, broadcasters receive no reciprocal benefit from cable operators.

In the years since deregulation, cable operators have become increasingly competitive in the advertising community, and are in direct competition with the broadcasters, while using the broadcaster's programming to help sell their services. In effect, broadcasters subsidize a portion of cable programming; for cable operators, retransmission is a bonus, not a burden.

The retransmission consent portion of S. 12 will, in my judgment, ensure that FCC licensed broadcasters will not be hampered by the obligation to provide programming for their competitors in the advertising market. Under the 1934 Communications Act, broadcasters are not allowed to pickup other signals without consent. Retransmission consent would guarantee that cable operators should abide by the same rules.

Similarly, the must-carry regulation will benefit both local broadcasters and the communities which they serve by assuring that local signals are available through the local cable system. The combination of these two provisions will guarantee that broadcasters can effectively fulfill the purpose for which they were granted a license. Neither one of these provisions would necessarily require cable subscribers to pay for local broadcast television. The provisions do, however, ensure that broadcasters have a measure of control and certainty in how their programming is used.

Although my inclination is to look at regulation with a skeptical eye, the provisions of S. 12 represent a restrained approach. First, it prevents a patchwork of wild regulation by directing the FCC to establish a uniform standard under which local authorities can request regulatory authority.

Second, this regulation is only applicable to the basic tier of service and does not cover premium channels. It will manage programmers who are vertically integrated with major cable operators, by providing popular programming to competitors such as Wireless Cable. In so doing, it will send to the investment community a clear signal of support for such competitive alternatives.

Third, cable operators are afforded rights of appeal to the FCC. Finally, despite the arguments of its detractors, this bill is not an example of onerous regulation and governmental interference. The regulation embodies in S. 12 is only applicable to those areas where effective competition does not exist and its controls will be phased out upon the realization of such competition.

After long deliberation, Mr. President, I have determined that S. 12 is the best way to ensure that cable rates reflect market forces rather than indicating monopolistic prerogative. Implementation of the provisions of S. 12 are necessary to assure that cable rates and services are tied to positive market forces resulting in a discernable improvement in service, programming, and technology.

I have supported my President often on the vetoes he has sent to this Congress. I believe he has stopped a lot of bad legislation from becoming law. But I question the wisdom—both in terms of politics and public policy—of banking all that on this bill.

In 1987, President Ronald Reagan told several of us that it was crucial for Republicans to support their President and sustain his veto of the highway bill. As we all recall, it was a time when President Reagan was in very obvious political need. His Presidency was racked by the public trial called Iran-Contra. He asked us to put his interests ahead of the views of our constituents.

My message today is the same as it was then: "I'm sorry, Mr. President, Minnesota comes first."

Mr. ADAMS. Mr. President, I rise today to urge my colleagues to join me in overriding the President's veto of the Cable Television Consumer Protection Act.

This vote boils down to one issue and one issue only—greed. The cable industry exerts such an overwhelming monopoly that in more than 99 percent of the local markets, only one cable company exercises control. Since deregulation, the cable industry has established a stranglehold on the consumer pocketbook. The price of cable service has soared, more than tripling the rate of inflation.

There must be something wrong with the TV reception at the White House these days. The President receives the cable industry message sharp and clear and he never focuses on the consumer picture. Contrary to the recent wave of misinformation by the cable industry, the cable bill is a responsible approach towards reducing price gouging and encouraging increased competition in this monopolized industry. Where there is no effective competition, this legislation seeks to provide fair and responsible regulation of rates in order to protect consumers.

With unemployment at more than 9 million people and the economy in a chronic recession, any rate increase has a harmful effect on American households. Rate increases have an especially harmful impact on people with fixed incomes. Cable TV has become a lifeline to the world for many senior citizens; and as the National Council of Senior Citizens points out, seniors on fixed incomes find it harder and harder to pay their skyrocketing cable rates.

Shocking rate increases for individual households since enactment of the 1984 Cable Communications Policy Act make the rate regulations of basic tier cable the most important provision in this bill. The average rate increase since 1986 for our five markets in Washington State was 85 percent.

A Washington State senator recently wrote me that he receives hundreds of letters annually from cable television customers complaining about poor service, increasing rates, and a lack of choice. This bill give consumers a choice and is simply the right thing to do.

A mayor of a major city in the State of Washington recently wrote me the following note:

> For the past 2½ years City staff has been engaged in franchising negotiations with our local cable operator. We have discovered that few of the public benefits envisioned by the supporters of the 1984 Cable Act have come to fruition, and the process of crafting a franchise which meets the community's future cable-related needs and interests is frustrated for all sides involved.

The cable bill is a responsible measure that looks forward to future competition, especially from new wireless cable systems. It provides competitors of the existing cable system with fair access to programming. The Skyline Entertainment Network, a wireless system in Spokane, WA, claims that big cable system operators try to maintain their monopolies by limiting their competitors' access to programming. Skyline and a similar wireless system in Yakima, WA, are good examples of the type of new systems that the bill will encourage.

Let's set the record straight. Responsible regulation to protect consumers and encourage competition is not misguided micromanagement of the cable industry; it is simply common sense. Consumers cannot continue to be burdened by the unrestrained hand of an expansionist monopoly over the cable marketplace. We, in this body, have a responsibility to the public to get the cable industry headed down the right road, and eventually toward a competitive market with the consumers' best interest at heart.

It has always been the province of the President since the days of Teddy Roosevelt's trust busting to protect the American people from exploitation by the outrageous business conduct of monopolized industries. That responsibility now lies in the hands of Congress because this President has abdicated Government's role in consumer protection.

Mr. President, in conclusion, I call upon my colleagues to put partisan interests aside and champion the best interest of the American people by voting to override the President's veto. It is a good bill, it is fair bill, and will protect consumers against outrageous price gouging by the cable industry.

Mr. SIMPSON. Mr. President, I rise to discuss the veto message to S. 12, the cable bill.

This is certainly one of the toughest votes that I have cast during this session of Congress. It ought not to have been. It is not the substance of this bill that has made it such a tough and difficult vote, but rather the swirl of hype and distortion that has surrounded the issue, usually in the form of well-funded advertising from the various sides that stand to gain financially from the outcome of this vote.

It is interesting to notice how cable television and network television, who have such difficulty finding time to air important information about such issues as the Federal deficit, have managed to flood the airwaves with, to put it charitably, misleading ads about this legislation.

It has not been a pretty sight. Both sides have striven valiantly to portray themselves as being on God's side. We are defending the people, defending the consumer, the ads all imply, and anyone on the other side is a foe of the consumer.

That simply is not the situation, not by a long shot. It is, instead, a question of whether an imperfect regulatory bill is better than the status quo. It is not an easy choice, and reasonable people can disagree.

I had various concerns about this legislation, and I have them still. I voted for the Packwood substitute last January in an effort to moderate the terms of the legislation. That amendment failed, 35 to 54. Despite my concerns, I voted for this bill because I did not think the existing situation—with cable television acting as a local monopoly in almost all cases—could be made to work for the consumer. We needed some legislation to bring more competition into the system, and to regulate practices where that competition did not arise.

This was not a choice, to my mind, between doing right and doing wrong—it was a very difficult choice between a bill that I believed was imperfect and a status quo which I felt ought to end.

I am very, very disappointed to be voting to override a veto at this time. The President is perhaps the sole individual who did not play politics with this issue. His opposition to the bill was consistent from the beginning. The Congress failed to address his concerns in conference—and knowingly did so—and he was left with a bill he could not sign.

That all being said, I must hold to my position that this bill is better than no bill. I believe that Senator DANFORTH and others have done their best to put together a bill that gives some immediate relief to the consumer while opening the door to a greater amount of competition in the cable industry. The rate regulation provisions have been moderately drawn in conference, and I have always favored the retransmission consent provision. The consumer needs some provisions like these while the provisions promoting competition take time to work.

My final view is simply that, if we pass this bill, the consumer will be better served than if we don't.

So I cast this vote with some reluctance and some frustration. I fell confident that I am acting in accordance with my view of the public interest—I am not as confident about the altruistic attitude of some others who have pontificated about this issue. It is tiresome to be lectured to about moralities by commercial interests who view this issue through the prism of their own profit motives.

But that is enough—I will now hold my peace on the subject. I will support this legislation, notwithstanding the President's veto, and I urge my colleagues to do the same.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

Mr. DOLE. Mr. President, when it comes protecting cable consumers, the sponsors of this bill have tuned into the wrong channel.

As I see it, Congress has two responsibilities in addressing consumer problems with the cable industry. First, and foremost we must ensure that consumers are not gouged and that they are protected both today and tomorrow. And second, we should establish a strong communications policy that ensures our Nation's edge in the communications industry. Unfortunately the bill the President vetoed fails on both counts.

Consumers have asked us to address the very real problems of cable rates and service shortcomings. I cannot recall a town meeting or chamber of commerce breakfast back in Kansas that did not hear at least one complaint about this industry.

So the urge to do something is understandable and justifiable. But that something should not be a measure that will cut off the development of the programming and information that consumers really want, should not be a reregulatory scheme which will entrench and perpetuate the existing cable monopolies, and above all, should not be something that in the end will leave consumers paying more for less, still captive to a government sanctioned monopoly.

Mr. President, from the perspective of genuine consumer protection and common sense communications policy, this bill flunks the test.

S. 13 dictates cable system architecture for the 10 years and thereby ignores more cost effective delivery systems that may come with innovation. This mandate is an expensive gambit, raising costs of cable operators up to an estimated $5.8 billion.

S. 12 was stripped of any true competitive provisions. I supported a provision to promote competition in rural areas by permitting telephone companies to offer cable services to communities with populations smaller than 10,000. This provision would have gone a long way toward reasonable cable rates for rural America. Unfortunately, it was completely eliminated in conference.

While S. 12 does not understand competition, the FCC does. Earlier this year, the FCC authorized telephone companies to deliver video programming to consumers through video dialtone services, which I encouraged. If we were really serious about promoting free-market competition, we would have provided in this bill for telephone company entry—the only entity strong enough to go head to head with the cable companies. True competition spurs better services, innovation, and jobs.

And let us face it, S. 12 is not the consumer's Robin Hood. It does not take from the rich and give back to the poor. Cable companies are not going to get stuck with this bill. The consumer is. That means that under this bill, cable customers will pay even more to watch the proceedings of Congress on C-SPAN, or whatever their favorite programming may be.

Mr. President, as we approach the 21st century, we must also have a coherent communications policy. America has a rich history in the communications field—from the pony express to the telegraph, telephones, radios, and televisions, we have always been innovators and world leaders.

With recent and rapid developments in the communications field, including computers, fiber optics, fax machines, cellular phones, and satellites, America needs a flexible, forward-looking communications policy more than ever before. Restrictive regulatory policies will be counterproductive and will mean that the United States will lose its global competitive edge. Competition, not Federal regulations, is the only regulator that can accommodate the opportunities that will accompany advances in technology.

Mr. President, this bill is not the answer to the justifiable frustrations of cable consumers. This cable bill is neither good for the consumer nor good communications policy. We all want to address the concerns of cable consumers, so let us change the channel, tune in next year, and do it in a responsible way.

I urge my colleagues to sustain the President's veto.

Mr. President, for all the reasons I set forth in my statement, I think the veto should be sustained. I am not certain the veto will be sustained. But I would just add one additional thing. Like any other bill near the election, there has been a lot of politics and a lot of talk about politics and a lot of comments about the President's position and others' positions with reference to this bill.

My junior colleague from Tennessee was quoted as saying in the Chicago Tribune, September 29, 1992:

> George Bush knows that on this issue this cable monopoly owns him lock, stock, and barrel. If you veto the cable bill, you will have sided with the monopolies and against the American people.

Another quote in the Associated Press just a couple days ago: "President Bush has vetoed important consumer legislation to protect his rich friends in the cable monopolies."

Another in Reuters, the same date: "So he can protect the ability of big cable companies to keep soaking their consumers."

In my view, this is partisanship to the nth degree, and it makes it rather difficult, I hope, for some of my colleagues on this side of the aisle to understand that this has become a political game. This is politics. The merits of this legislation went out the window 2 weeks ago, 3 weeks ago, 30 days ago. And now we have one candidate for Vice President, my distinguished junior colleague from Tennessee, out saying the President is owned lock, stock, and barrel by the cable industry. Where is the proof? Where is the proof? And how can we continue to make reckless charges just because it may be campaign season?

So I say to my colleagues on this side of the aisle, this is politics. This is an effort to embarrass President Bush 30 days before the election, 1 week before the first debate. That is what it is all about. The merits of this legislation have been forgotten. We have a fight between big money interests on both sides, the networks, the cable companies, the movie industry, the big newspapers, and the consumer has been forgotten.

So I urge my colleagues to sustain the President's veto. He has not asked for much. We have sustained 10 vetoes in the Senate. They have sustained 10 vetos in the House. Some have been pocket vetoed, some have been referred to committees. This is an important piece of legislation. It should not have been politicized, but it has been politicized. So I ask my colleagues on this side and the others who have voted with us before to sustain the President's veto. We will get good legislation next year based on competition and not reregulation, based on policy and not based on politics.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Missouri is recognized.

Mr. DANFORTH. I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. The Senator indeed has 1 minute. He will be recognized.

Mr. DANFORTH. Mr. President, this is not a partisan bill. This bill was reported out of the Senate Commerce Committee with a majority of Republicans voting for it. The fact that a Presidential veto is overridden is not a slap in the face to the President. President Reagan had 9 vetoes overridden. President Nixon had 7. President Eisenhower had 2. president Truman, whom everybody is citing this year, had 12 vetoes overridden. It is not an insult to the President. It is merely a disagreement on an issue.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory under the Constitution. The clerk will now call the roll.

The assistant legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

The yeas and nays resulted—yeas 74, nays 25, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—74

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Coats
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Glenn
Gore
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Simpson
Specter
Thurmond
Warner
Wellstone
Wofford

NAYS—25

Boren
Brown
Burns
Chafee
Craig
Cranston
DeConcini
Dole
Fowler
Garn
Gramm
Helms
Lott
Lugar
Nickles
Packwood
Reid
Rudman
Seymour
Shelby
Smith
Stevens
Symms
Wallop
Wirth

ANSWERED "PRESENT"—1

Mack

The PRESIDING OFFICER. If there is no other Senator wishing to vote, on this vote the yeas are 74, the nays are 25. One Senator responded "present." Two-thirds of the Senators voting, a quorum being present, having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, let me indicate that I am disappointed in the outcome, but I knew at the outset what the result would be. I say to my colleagues on this side, many of whom would have voted to sustain the President's veto, we were somewhere between 32 and 34 votes. We could never nail down the 33d one to get the 34th one. It has been a great effort.

I thank many of my colleagues who voted on the other side for a willingness to sustain the President's veto. This is the first time we failed to sustain the President's veto. There is still an opportunity in the House. We have sustained 10 vetoes in the Senate and 10 in the House; 7 or 8 have been pocket vetoed. Some have gone back to committees. There may be one other bill pending.

In any event, I thank my colleagues, and I thank the President of the United States for the efforts he made on a personal basis to help sustain the veto. I regret the outcome, but it is over, and I hope the right decision was made.

Mr. MITCHELL. Mr. President, I commend the authors of the legislation, the distinguished Senator from Missouri [Mr. DANFORTH], the Senator from Hawaii [Mr. INOUYE], and the chairman of the committee, Senator HOLLINGS, for their diligent efforts in making the enactment of this legislation which is important to the American consumers possible.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 5427, the legislative branch appropriations bill, with 30 minutes for debate, equally divided and controlled in the usual time; and at the conclusion or yielding back of that time, the Senate proceed, without any intervening action or debate, to vote on the legislative appropriations bill.

The PRESIDING OFFICER. The clerk will state the conference report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the

amendments of the Senate to the bill (H.R. 5427) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 5, 1992.)

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum and ask that the time be charged equally against the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, the conference report on H.R. 5427, making appropriations for the legislative branch for fiscal year 1992, and for other purposes is at the desk. I have no reservation in recommending its adoption by the Senate.

The agreements incorporated in this Report 102–1007 add up to a fair, responsible, but, I stress, very tough bill. In the aggregate, the sum of the appropriations it provides is less than the amounts requested in the President's budget by $395,216,443 in budget authority and $319,108,000 in outlays or 12.3 percent. More significantly, it contains significant reductions in funding below current levels for the legislative branch. The net result, according to CBO scoring, is a cut in total spending of approximately $150 million below the fiscal year that ended last Wednesday. In percentage terms, this represents a 6.5-percent cut below last year's levels of expenditure. So all my colleagues should know that this conference report that is now going to the President shortly is 6½ percent below last year's level of expenditures. This is about 1½ percent more than when we left this body last week. We have made additional significant cuts. I think the conferees from both Houses can take some justifiable pride in that achievement. To my knowledge, none of the other domestic appropriations bills for this year, all of which provide funding mainly for the other two branches of Government, have come close to meeting that standard.

The conference report and joint explanatory statement provide a detailed description of the agreements we are recommending. Let me just touch upon a few of the more significant items.

The Senate version of this legislation included an amendment, adopted during floor consideration, calling for a 15-percent reduction in legislative branch spending over 3 years. While the conferees concluded that this provision was ultimately unworkable, I am glad to say that we are returning with a bill that surpasses the first year objective of that amendment insofar as actual spending is concerned. We have cut expenditures by 6.5 percent, a full point and one-half more than the amendment contemplated for the first year. So we are on the right trajectory and we intend to do our best to stay there.

That amendment also called for a study of the staffing requirements of the Congress. The bill before the Senate includes a legislative provision which addresses that concern in reauthorizing the Ad Hoc Joint Committee on the Congress. We also included appropriate language on this matter in the statement of managers accompanying the Conference report.

So we are going to get that also. That is study staffing levels of the Senate and the House.

This would be as to individual staffs. I know that the junior Senator from Texas was concerned about the staffing levels of the committee as compared to individual personal staffs. This will be looked into. As I said, we included a statement on this matter in the statement of managers.

Notwithstanding the very constrained levels of funding in this bill, I am pleased that we were successful in retaining half of the 141 positions the Senate had restored for the Library of Congress and Congressional Research Service.

I say to the senior Senator from Oregon, the man who has been so concerned about how the Library of Congress is treated, that we had level funding from last year. We in conference were able to split the difference so we came up with half of the increases we felt were appropriate.

The conference agreement also includes $2 million of the $7 million added in the Senate for the reconstruction of the Conservatory at the Botanic Garden.

The Senate bill also contained a major initiative with respect to the General Accounting Office.

Let me just say, in short, with the Government Accounting Office, I told my colleagues in the Senate those that objected to what in their minds was unfairness of some of the work done by the Government Accounting Office that I thought what we should do is have an audit of the Government Accounting Office like they audit everyone else. I think this was fair. It would not call for any cuts in the General Accounting Office.

We went to the House and some committee chairmen over there objected on a jurisdictional basis as to our doing that. As a result of that there was a significant cut in the funding of the Government Accounting Office. I think they would have been much better off had we simply done the study that I requested.

After extensive discussions with a number of Senators, we had included provisions authorizing a comprehensive outside audit of GAO and earmarking $2 million for the project under the Architect of the Capitol. This was offset by a comparable reduction in the GAO appropriation. These provisions reflected the ideas of several Senators, including the senior Senator from New Mexico, Senator DOMENICI, Senator BOND from Missouri, who is a member of our subcommittee, myself, and others. Moreover, these provisions had been modified in response to consultations at the staff level with the Governmental Affairs Committee before we brought the bill to the full Appropriations Committee. In fact, it is my understanding that the Governmental Affairs Committee intended to use the findings in the audit report as the basis for a series of oversight hearings on GAO's mission and performance.

Unfortunately, none of these provisions survived the conference. Several House full committee chairmen had written Chairman WHITTEN strongly opposing the Senate amendments with respect to GAO. As a consequence, the Managers for the House were absolutely adamant. And so we were forced to accept a compromise under which the GAO budget was slashed by another $5 million and the audit provisions were deleted. I must say that I am personally disappointed in this outcome. I believe a thorough and impartial evaluation of GAO operations is long overdue and should precede any major changes in GAO's budget and program. I said on several occasions earlier this year that, absent such an audit, a large cut in GAO's budget was all but inevitable. And that, unhappily, is the way the issue came out this year.

I hope we will have better success and cooperation next Congress on this matter. But those who continue to oppose the audit approach and, at the same time, refuse to hold appropriate oversight hearings as promised almost 2 years ago now, should be on notice. No audit and no oversight will mean more and deeper cuts.

In closing, let me once again recognize Chairman FAZIO, the ranking member, Mr. LEWIS, and the other House conferees. I cannot say that meeting these gentlemen in conference is always a pleasurable experience. But it is never dull. I think we are usually able to work out a package of compromises that resolves our disagreements in a fair and responsible fashion. My thanks to them and their capable staff.

Much of the credit for what we have accomplished in this bill belongs to my ranking member, Senator GORTON and the other Senate conferees. The Senate is particularly fortunate that Senator GORTON serves as ranking member of this subcommittee. He is committed to the welfare of this institution and of the legislative branch in general. His ideas and advice are invariably sensible and constructive.

The Senate delegation on the legislative bill, of course, always includes our full committee chairman, Senator BYRD, and his colleague and ranking member, Senator HATFIELD. Both personify what it means to be a Senator. Their guidance and assistance are invaluable.

The subcommittee is losing a valued Member in Senator ADAMS of Washington who will not be returning to the subcommittee and the Senate next Congress. His contributions to our deliberations will be missed. I extend to him my congratulations on his retirement and wish him well in his future endeavors.

Finally, I wish to acknowledge the work of our committee staff: Jim English, the full committee majority staff director; Keith Kennedy, the minority staff director for the full committee who, fortunately, is also assigned to this subcommittee; Lula Joyce and Ginny James, who provide capable administrative support; and Jerry Bonham, the majority clerk on the subcommittee.

I ask unanimous consent that an October 5 letter from the Congressional Budget Office in support of the statement I made regarding where this bill is financially, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 1992.

Hon. HARRY REID,
Chairman, Subcommittee on Legislative Branch, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter compares the Congressional Budget Office (CBO) estimate of the budget authority and outlay scoring for the 1993 conference on Legislative Branch Appropriations, as reported on October 3, 1992, with CBO's latest estimate of the enacted 1992 bill:

LEGISLATIVE BRANCH APPROPRIATIONS BILL
DISCRETIONARY ACCOUNTS

[In millions of dollars and percents]

	Budget authority	Outlays
Fiscal year 1992 enacted	2,303	2,307
Fiscal year 1993 conference	2,275	2,157
Change:		
Millions of dollars	−28	−150
Percent	−1.2	−6.5

The estimates shown for 1992 budget authority and outlays include the regular appropriation bill (P.L. 102–90) and the effect of the 1992 rescission bill (P.L. 102–298).

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

Mr. REID. I yield to my friend from Washington.

Mr. GORTON. Mr. President, Senator REID and I bring to the Senate today the conference report on H.R. 5427, the Legislative Branch Appropriations Act for fiscal year 1993. This measure passed the Senate last Thursday on a rollcall vote of 75 to 23. The conferees met Saturday afternoon and reached agreement promptly and amicably. I want to express my appreciation to our House counterparts, led by Representative FAZIO and Representative LEWIS, for working with us to produce an agreement that meets the requirements of fiscal constraint while providing for the services that our colleagues and our constituents demand.

Mr. President, our agreement provides a total of $2,274,960,057 in new discretionary budget authority for all the entities of the legislative branch. This is a reduction of $28,203,000 from the amount enacted last year.

In terms of outlays, our agreement will result in $2,157,082,000 according to CBO, which is a reduction of $149,827,000, or 6.5 percent below fiscal year 1992 outlays. When we brought this bill to the Senate floor, we were 5.2 percent below fiscal year 1992 outlays. Additional reductions were made in conference to bring us down to 6.5 percent below last year. I believe we have surpassed the standard set for us in the amendment offered by Senator SEYMOUR and adopted by the Senate on a 85–13 vote.

Mr. President, the changes agreed to in conference are as follows:

For the Library of Congress, the Congressional Research Service, and the Copyright Royalty Tribunal, the conferees agreed to split the difference between the House and Senate levels, increasing funding over the House level for these vital activities by nearly $4,000,000.

For the Capitol Grounds appropriation, the House agreed to our proposal to fund the requested amount, so that we can continue the effort to improve the appearance and the accessibility of the grounds.

In other areas, the conferees were compelled to make reductions in order to achieve the savings necessary to meet the goals of the Seymour amendment. The Senate receded to the lower levels proposed by the House for the Capitol Police, and the House receded to the lower Senate levels for the office of the Architect of the Capitol. Due to our funding constraints, we were unable to sustain the Senate position of providing funding to initiate the reconstruction of the Botanic Garden conservatory. However, we were able to include funding to begin the design of that structure.

The House conferees did not wish to agree to the Senate language concerning peer review of GAO reports and reimbursement of detailees. I expect we will pursue this matter again next year. But in exchange for agreeing to drop the language, we were able to win approval of further reductions in GAO funding to a total fiscal year 1993 level of $435,167,000 or $7,000,000 below last year's level.

The conferees agreed to a number of language provisions. We have extended the authorization for the Boren-Domenici joint committee to study the Congress until the end of next year, and we understand the joint committee will review the congressional staffing issue raised in the Seymour amendment. We have provided authority for the Architect of the Capitol to lease space in the Judiciary Office Building, vacating space in one of the House annexes. We have extended the deadline for the unification of the Capitol Police payroll, and we have reauthorized the Senate Caucus on International Drug Control.

We have also included, Mr. President, a provision relative to the Adams Fruit Co. versus Barrett case that was cleared on both sides of the aisle in both Houses and with OMB. We do not ordinarily agree to legislative matters beyond the jurisdiction of the subcommittee, but the widespread agreement on this matter made it difficult to resist strictly on jurisdictional grounds.

Mr. President, I recommend this bill to the Senate. I wish we could have provided more funding in some areas, but I recognize the political and fiscal imperatives that make that impossible at this time. I congratulate our chairman, Senator REID, for his deft handling of controversial bill, and thank Chairman BYRD and Senator HATFIELD for their support.

I should only like to add, Mr. President, and emphasize the point concluded in these written remarks, that by CBO scoring, we are 6.5 percent, some $150 million, less in dollar appropriations for fiscal year 1993 than we were for fiscal year 1992. This is a most responsible proposal.

Although the amendment by the Senator from Colorado and the Senator from California was not included for future years, the goals which they set in their amendment for the year for which this appropriation is actually in effect was, in fact, met.

I believe that this goal could be met because of the hard work by the chairman, Senator REID, with whom it is a pleasure to serve, both during the long days of hearings and putting a bill together for the subcommittee, for the full committee, for the floor, and in the conference committee with the House.

I, too, want to thank our staff, without which we obviously could not have reached this point.

There are only two appropriations bills after this before the Congress can complete its work for the year. This is always a very, very difficult one, Mr.

President. But I think that we have acted responsibly, both to the people of the United States and for the proper functioning of this institution; and, for that matter, the balance of the Congress.

I am particularly happy about the support we have been able to provide for the Library of Congress which, in many respects, is the most important entity within the ambit of the legislative appropriations bill. I am sorry that it could not have been more.

I felt, and I know the chairman did, that we would like to have gotten for the Library of Congress the full Senate apportionment. But we did everything we possibly could to get the last almost $200,000 as the last act of the conference committee.

I am also sorry that we have partly deferred rebuilding the Botanic Gardens, but I am convinced that will take place in the future.

And while we were not able to include the study of the General Accounting Office, which Senator REID and so many others wished to include in this bill, we have certainly brought some of our dissatisfactions to the attention of the GAO with an appropriation which is $7 million less than it was for fiscal year 1992.

This is a good, sound, fiscally responsible proposal, and it should be passed.

Mr. President, I yield 5 minutes to the Senator from Colorado, [MR. BROWN].

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Thank you, Mr. President.

I want to express my profound thanks to the distinguished chairman of the subcommittee and the ranking member. These two Senators have accomplished something that I do not recall ever having been accomplished in the time that I have served in Congress—in the decade that I spent in the House and the 2 years I have spent here—and that is, Congress actually cut its own budget.

I believe it is of extreme significance because without our involvement, without our willingness to face up to the problem, without this Congress' willingness to have the cuts come to their very own budgets, the American people are not going to think we are serious. And, in fact, we may not be serious.

I must say that I wish the entire amendment had been passed that the Senate had gone on record for. I think there is much more we can do in this area.

But the courage shown by the distinguished Senator from Nevada and the distinguished Senator from Washington is a guideline to what we have to have in the future. I believe the example they set with this bill in this effort this year shows an entirely new attitude in Congress.

I had hoped, of course, that we would have a study focused on proper staffing levels. I am convinced an outside group of experts who come in and do time and motion studies, who could give an objective view of the kind of staffing that is necessary here, will show up with the enormous staffing that I believe is present in the Congress, and give us some guidelines for the proper way to go in handling it. It is very possible that the study that the conference report does refer to can accomplish this job. I think all of us will keep our fingers crossed.

The bottom line is this: We did not do nearly what we should have, but it is a remarkable beginning. And that, I think, shows enormous courage in the leadership of this Senate that moved forward in that conference committee.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I yield back the remainder of my time, unless the senior Senator from Oregon wishes to speak.

Mr. GORTON. Mr. President, I yield such time to the senior Senator from Oregon as he may wish to use.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to commend the leadership of this subcommittee of our Appropriations Committee. Not only have they achieved the 602(b) allocation, but they have gone below it, as has been indicated, by 6.5 percent.

Mr. President, I just want to indicate again that the legislative branch appropriations has certainly had a great deal of focus, and sometimes I think more or less is a political football. But, nevertheless, in the time that this committee has worked, it has really, I think, addressed the components, including the legislative branch itself and the other agencies, such as the Library of Congress.

I am particularly happy about maintaining our commitment to the Library of Congress. That is a very significant part of not only the operation of the Congress, but to the entire Nation.

So I want to add my accolades for a job well done to this subcommittee and to its leadership.

Mr. GORTON. Mr. President, I yield back the remainder of my time, since no one else wishes to speak.

Mr. DOMENICI. Mr. President, I rise in opposition to H.R. 5427, the legislative branch appropriations bill for fiscal year 1993. I do not believe this bill goes far enough.

The statement of managers for this bill claims that "the conference agreement achieves an outlay reduction below the fiscal year 1992 level that surpasses the fiscal year 1993 objective" of the Senate amendment, which was a 5-percent reduction.

When all 1992 action is taken into account, including impact of the rescission bill, this conference report is basically at the 1992 level, using CBO estimates. Levels for most Senate accounts show no reduction from the Senate-reported bill.

I would also object to the deletion of language Senator BOND and I requested which would establish an Independent Peer Review Committee for the General Accounting Office.

Once again, we see where powerful House chairmen—chairmen of committees that receive the benefit of numerous GAO detailees—have moved to block any change in the status quo.

As the chairman and ranking member of the Legislative Branch Subcommittee know, for some time now I and many others have been concerned about the direction in which GAO seems to be heading—that it seems to be more interested in making policy pronouncements and grabbing headlines, rather than performing its traditional accounting and auditing functions.

My concerns have been expressed to the authorizing committee and the Legislative Branch Subcommittee. Last year, I introduced S. 1400, the General Accounting Office Reform Act, to bring attention to and to address some of these issues.

Much to my disappointment, the authorizing committee declined to examine any of the issues raised with regard to GAO. Therefore, I felt compelled to offer language in this year's legislative branch appropriations bill that addressed at least one of the issues.

The purpose of this legislation was to examine both the general procedures used in report generation, review, and issuance, as well as the methodologies employed in producing the reports.

This Peer Review Commission was not intended to be a witch hunt—it was an attempt to examine, in a fair and open manner, serious charges about GAO's objectivity and the integrity of their work.

I will not give up on this issue. Rest assured, as cochairman of the Joint Committee on the Organization of the Congress for the Senate, I intend to press for a review of GAO's role in this branch and in the Federal Government as a whole.

Mr. SEYMOUR. Mr. President, I rise to express my opposition to the conference report to H.R. 5427, the legislative branch appropriations bill.

To be frank, opposition is an understatement.

Less than a week ago, 85 Members of the U.S. Senate overwhelmingly voted for an amendment I introduced along with my good friends from Colorado and Arizona. This amendment would cut Congress' budget by 15 percent over the next 3 years, prohibit the carryover of unobligated funds, and require an independent audit of the staff needs of the current Congress. This amendment represented a commitment to long-term reform—an effort to turn back the tide responsibly on a decade of irresponsible spending.

Eighty-five Senators, Mr. President.

This amendment represented modest reform. In fact, it was intended to be a compromise—a compromise of the majority will of the Senate, which expressed last April that our budget be reduced by 25 percent over a 2-year period.

Again, 85 votes in favor of long-term reform. A bipartisan recognition that our spending policies needed to emphasize frugal practices, not free-wheeling sprees.

One day later, 402 Members of the House of Representatives instructed the conferees to retain the Seymour-Brown-McCain provision. Only one Member voted against the motion. Indeed, every House member of the conference committee—save one who did not vote—voted for the motion to instruct conferees. In effect, they were instructing themselves to keep the amendment.

What that the conference committee give us?

Not what was instructed by both Houses of Congress.

In terms of budget authority, the conference report represents merely a 1.25-percent reduction from fiscal year 1992.

In terms of outlays, the conference report represents a 6.5-percent reduction from fiscal year 1992.

I commend the conference committee for reducing fiscal year 1993 outlays beyond the 5-percent reduction I proposed last week. In that context, my efforts have been successful.

However, when it came to future cuts, the conference committee noticeably was silent. It called the proposed cuts in future years as unworkable because of the use of the word obligations rather than outlays or budget authority.

In other words, on the surface, it seems that confusion over the intent of my amendment with respect to future year cuts was the basis for its elimination.

If that was the case, Mr. President, why didn't the conferees seek the intent of the amendment from its authors? Indeed, given the extraordinary support for this amendment, its intent would seem to be clear. And if not, given the near unanimous support of the amendment, wouldn't the conference committee make a conscientious effort to clarify and work out this amendment?

Mr. REID. Mr. President, I ask unanimous consent that the pending matter be set aside for purposes of entering another unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

FOREIGN OPERATIONS APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. REID. Mr. President, I submit a report of the committee of conference on H.R. 5368 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes, having not, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 5, 1992.)

Mr. LEAHY. Mr. President, I am pleased to urge adoption of the conference report on H.R. 5368, the Foreign Operations, Export Financing, and Related Programs Appropriation for fiscal 1993.

The most important good news about this conference report is that it cuts the foreign aid program by about $700 million below the fiscal 1992 level, and it is $1 billion below President Bush's request. Those savings will go to reduce the Federal deficit, which was my top priority in proposing a major cut in the foreign aid program this year.

There are other important features of the conference report I would like to highlight for Senators.

I am delighted that the Leahy-Kasten amendment prohibiting the use of any foreign aid funds to subsidize or otherwise induce U.S. businesses to cut back or close their operations in the United States and to relocate abroad is retained and strengthened with language drawn from a bill offered in the House by Congressman GEORGE BROWN. The provision now also prohibits the use of U.S. foreign aid funds from contributing to the creation or operation of export processing zones abroad unless the President certifies to Congress that such support will cause no loss of jobs in the United States. As chairman of the Foreign Operations subcommittee, I am absolutely determined that the foreign aid programs will in no way assist in the export of American jobs. That would be an outrage, and none of us should tolerate it.

The conference report for the first time breaks with the cold war era and begins the difficult adjustment to the new challenges the foreign aid program must confront. All grant military aid to the so-called NATO base rights countries, Turkey, Greece, and Portugal, has been eliminated. Provisions are made for loans to these nations to purchase American military equipment. But, with the collapse of the Warsaw Pact, there is no further justification for giving these NATO nations hundreds of millions of dollars every year to keep purchasing sophisticated weapons to deter a new nonexistent military threat from the Soviet Union. Our NATO friends can continue to buy American equipment, but they will have to pay back any loans they contract.

I am extremely pleased that we have been able to increase disaster assistance programs by nearly $150 million in this conference report. We target refugee and disaster aid to the terrible catastrophes occurring in southern Africa, particularly Somalia, and in Bosnia, Slovenia, Croatia, and Kosovo in the former Yugoslavia. This is one area I felt a major increase was justified, and I know the American people want to be generous in helping these suffering people.

The conference report also seeks to strengthen U.S. export promotion programs. More U.S. exports mean more American jobs. There is a rough rule of thumb that every $1 billion in exports supports 20,000 American jobs. The foreign aid program can, and I am determined that it will, do more to promote U.S. exports and enhance American international economic competitiveness. In addition to expanding the export assistance programs of the Export-Import Bank and the Overseas Private Investment Corporation, the conference report contains a provision drafted by the distinguished chairman of the Appropriations Committee which seeks to increase the proportion of foreign aid dollars going to capital infrastructure projects. Properly designed and executed capital projects can help meet basic infrastructure needs in the developing countries and also recycle our aid dollars back to the United States through contracts with American firms.

At my initiative, the conference report provides $350 million for U.S. bilateral family planning programs abroad. Reducing soaring global population growth is a vital national interest of this Nation. We cannot cope with massive degradation of the international environment, enormous poverty and hopelessness in the Third World, and rapid depletion of the Earth's natural resources unless the population growth rate is brought down rapidly and substantially. United States leadership in this effort is one of my top priorities as chairman of the Foreign Operations subcommittee.

The conference report also provides funding at the President's request levels for the new independent republics of the former Soviet Union and the nations of Eastern Europe, including the Baltics. The United States must be in the forefront of helping our former adversaries make the very difficult transition to democratic institutions and free enterprise economies. The long-term hopes for a peaceful, cooperative world depend on these nations making this transition successfully. I cannot visualize a more important security interest of the United States than to assist Eastern Europe and the former Soviet Union to build new democratic, peaceful societies.

I am especially proud that the conference report retains a provision I proposed in the Senate bill to establish a special $50 million program to provide American agricultural commodities to help feed the poor, especially mothers and children, in the former Soviet Union. This is an urgently needed program for Russia and the other republics, where we attempt to ensure that the weakest and most vulnerable segments of society get fed. There is practically no social safety net in Russia, and the poor, weak and defenseless need special help.

The conferees also agreed to provide the quota increase for the International Monetary Fund which was included by the Senate Appropriations Committee. Although I did not recommend a U.S. contribution for the IMF quota increase in the bill I brought to the Appropriations Committee, the Committee decided to include it and the conference committee to retain it. However, I want to emphasize that this appropriation does not actually cost the American taxpayer anything. There is no budgetary effect of the appropriation, since the U.S. contribution is an exchange of assets with the IMF, akin to a bank deposit. In return for our deposit of the U.S. contribution, we receive the right to withdraw an equivalent amount in Special Drawing Rights, a basket of hard currencies polled in the IMF.

The conference report also adopts a Senate provision authorizing the President to provide up to $10 billion in loan guarantees to Israel, in amounts up to $2 billion per year, over 5 years. This humanitarian program is intended to help Israel in its massive task of absorbing an anticipated 1 million immigrants from the former Soviet Union.

Of special importance is that the conference report provides that Israel is to pay through fees to the U.S. Treasury all costs of this loan guarantee program. Not one dollar is appropriated in this bill to cover any costs associated with this program, and there is absolutely no cost to the American taxpayer. The bill provides that whatever the costs are determined to be, Israel must assume all of them itself. The Government of Israel has committed itself as primary guarantor of any loans taken out under this program. The U.S. guarantee would only come into effect if the government of Israel defaulted on its own guarantee. The likelihood of such a default is virtually zero. Israel has a perfect repayment record on its loans from the United States, and there is no meaningful risk the Government of Israel would permit such a default. On the contrary, there is every reason to expect, and this is supported by a study by the General Accounting Office, that the Israeli economy will be able to service the debt taken out under this program without undue difficulty.

Finally, I want to mention military aid for Indonesia. I was pleased that the conferees chose to prohibit IMET funds for Indonesia in response to the massacre of from 75 to over 100 peaceful demonstrators in East Timor last November. The reports of both Senate and House Appropriations Committees discuss at length their concerns about this atrocity. Suffice it to say that the conferees felt the United States needed to make a strong statement in support of human rights after what happened there.

Mr. President, there are many other important aspects of the conference report, but I will not take the time of the Senate in the waning hours of this session to describe them. They are set forth fully in the printed conference report.

Before concluding, I would like once again to thank my colleague and friend, Senator KASTEN, for his leadership and cooperation in developing this bill. We have worked hard all through the 4 years of my chairmanship to prepare bipartisan foreign aid programs. He deserves the thanks of the Senate for his leadership on foreign aid.

I want also to thank the hardworking staff of the subcommittee for their dedicated assistance in producing this program. Eric Newson, the subcommittee staff director, provided strong direction and was a never ending source of ideas for how to resolve problems and to steer this unpopular bill through the political and policy reefs. Tim Rieser, as always, is the conscience of the subcommittee. Tim made sure we never overlooked the needs of real people in real situations as we worked on these programs. We must never lose sight that we are trying to help living, breathing people through these large, complicated programs. Fred Kenney did his usual superb job of making this complex process work. Without his drive, knowledge of the appropriations process, and willingness to work hours that would cause most people to drop, we could not have reached this point.

The minority staff worked cooperatively and constructively with us. I want to thank Jim Bond, the minority clerk, and Juanita Rilling for their efforts to make this a bipartisan bill. I want to make special note that Jim Bond completed 20 years of service on the Appropriations Committee as we were preparing to mark up the bill in subcommittee. Jim is one of the most experienced, canny and imaginative members of the Appropriations Committee staff, and I congratulate him on his 20 years of service to the Senate, the committee and the American people.

Mr. KASTEN. Mr. President, I would like to say a few words about this conference agreement.

First, I wish to thank the chairman of the subcommittee, Mr. LEAHY, who ably represented the Senate throughout these negotiations, and was very helpful to me in the face of my own difficult schedule.

It is fitting that we are poised to pass the final hurdle toward enactment of the loan guarantees for Israel to help absorb Jewish immigrants the day before Yom Kippur.

I have been asked who will administer the Israeli loan program. It is expected that the Agency for International Development's Housing Investment Guarantee Office will administer these guarantees. In my view, it is important that they do so, as they have expertise based on previous experience with the $400 million guarantee provided to Israel earlier. Obviously, the State Department will have a strong policy role, but the expertise needed to administer the guarantees and loans is AID's.

This milestone in our policy vis-a-vis Soviet Jewish refugees is an important one for United States foreign policy and for the thousands who will be helped as a result of our action.

There are many who deserve thanks and appreciation for their assistance throughout this effort, but I would like to bring to the fore the memory of our esteemed late colleague, Senator SCOOP JACKSON, who laid much of the foundation for his success, years ago.

On other issues important to the Senate, we were able to get a reasonable compromise on the Enterprise for the Americas Initiative, so that that program can get started. The House accepted our additional funding for disasters in Africa, our increase for population planning assistance, Senate earmarks for the people in Bosnia, Hercegovina, and Kosovo as well as refugee assistance in Croatia, aid to the former states of the Soviet Union, Eastern Europe, and the Baltic States, and for a number of important programs aimed at helping children.

The conference report contains an amendment offered on the Senate floor requiring that the administration provide certification that Morocco is cooperating with the United Nations with respect to the Western Sahara situation, a certification which I have no doubt will be provided quickly. Some confusion has arisen over how this provision affects the earmarks. As the Senator from Kansas made clear on the floor when she offered this amendment, it was her intent only to affect aid above $52 million. So, there is no intention to vitiate the earmarks. Instead, at least $52 million must be provided for Morocco, and once the certification is made, at least another $8 million must be made available.

I am very disappointed in the outcome of amendment numbered 153, the buy America provision which I authored and which the Senate actually passed twice—once in the context of the Freedom Support Act, and once in this bill. The House insisted that we not enact this rewrite because the authorizing committee objected to our interference in their jurisdiction. Instead, they offered a meaningless provision which is contained in other legislation and which is basically business as usual.

Mr. President, it is important to understand what business as usual means. It means that we continue to have a foreign aid program with a United States procurement content of less than 20 percent; we will see more of what we saw in Mozambique, where the United States Treasury simply writes checks to Mercedes-Benz and Toyota so that those foreign companies could start up dealerships in Moputu; and we will continue to sit while low-level officials overseas and here in Washington routinely waive what few restrictions remain in the buy America provision of the Foreign Assistance Act.

Mr. President, contained in the legislation on a related subject is the Leahy-Kasten amendment which was modified in the conference on protection of U.S. jobs. This amendment was designed to prevent the type of incidences which were reported in the "60 Minutes" program alleging actual inducement of U.S. companies to move to Central America, thereby directly costing U.S. jobs. This was an important initiative, and while I'm happy that we were successful, the buy America proposal was at least as important, and it is regrettable that the authorizers would not allow us to proceed with this rewrite.

I do not believe that the foreign aid program should be utilized as a cash cow for foreign companies, and I will continue to pursue this issue. Hopefully, those who now see differently will wake up and understand that we are talking about U.S. jobs and the effect of their loss on American families.

Mr. DECONCINI. Mr. President, I am pleased that today the Senate is again playing its proper role in forming our Nation's foreign policy. With the passage of a free-standing fiscal year 1993 Foreign Operations bill, we mark the first time since 1990 that the Senate has passed a foreign aid bill which it helped draft. For the past year, the vast majority of our foreign aid programs has been kept on a life-support system under a continuing resolution which provided funding at the level of the House-passed Foreign Operations bill or the previous year's level—whichever was lower. Today, however, our system is back up and running.

There are a number of important provisions contained in this bill which I strongly support. It is also a good bill because it represents a real reduction in foreign aid spending. The bill before us today is approximately $400 million below last year's level and $800 million less than requested by President Bush.

I am pleased that the bill finally provides loan guarantees for Israel to assist that beleaguered nation in absorbing refugees from Ethiopia and the former Soviet Union and in rebuilding its battered economy. After more than a year of delay by the President, the loan guarantees will begin being made available to Israel, and at no cost to the American taxpayer. As I stated on the Senate floor last week, I am concerned that this legislation provides the President with total discretion on the disbursal of these guarantees. President Bush has not been favorably disposed toward Israel and I fear that he may use this leverage to gain other concessions from Israel or to force it into untenable positions on issues such as the peace talks. In that statement, I put the administration on notice that if any political games are played with the extension of the loan guarantees, I will amend the first available legislative vehicle to ensure that the disbursal of the guarantees is made mandatory, not discretionary. I will maintain that position even under a Clinton administration.

I am also pleased that the legislation provides, at my urging, $25 million for much needed micronutrient programs in developing countries. Micronutrients—vitamin A, iodine, and iron—are vital to the healthy physical and mental development of infants. This funding will provide early intervention opportunities for thousands of children around the world, helping them avoid cretinism, goiter, and other preventable disabilities and putting them on the road to becoming healthy, productive citizens.

This year the bill does not specify a funding level for the Microenterprise Loan Program. The report accompanying the bill, however, spells our Congress' intent with regard to the program. It specifies that $85 million should be allocated for loans, at least $20 million of which should be in small amounts of under $300, and that women and the poorest of the poor be major recipients of these loans. It is a good program and is aimed at directly helping individuals—who oftentimes do not benefit from Foreign Aid Programs—work their way out of poverty. The microenterprise program is not earmarked in the bill because the administration and the Agency for International Developmental [AID] have pleaded with Congress to be allowed flexibility in administering this and other programs. AID has not had a great track record with this program. At first, it tried to stop it from getting started. Then it grudgingly accepted the program, but made claims that it was meeting and exceeding targets without having the data to support its claims. Things are much better today, however, and the flexibility AID has sought is being provided. I want the administrators at AID to know that I will be closely following their implementation of the microenterprise program to ensure that it complies with congressional intent. I think that AID will do its work well, but if it falters in this task, I am putting the administration on notice that I will seek an earmark in next year's bill.

I am also pleased that the bill before us today was altered, and improved, by the House and Senate conferees in a number of significant ways. In a wise move aimed at cutting foreign aid and moving to acknowledge that the cold war is over, the bill provides concessional loans, not direct grants, to Turkey, Greece, and Portugal for foreign military programs. These so-called base-rights countries are under no direct military threat at this point. Indeed, Turkey—a valued friend and ally of the United States in times of crisis such as the Korean war and Operation Desert Storm—continues to aid the illegal occupying forces on Cyprus and tacitly supports the delaying tactics used by the leader of the Turkish Cypriots, Rauf Denktash, to stall the United Nations-sponsored talks in New York. The division of Cyprus is a major irritant within NATO, and appears to be one of the primary reasons why the European Community has reacted so coolly to Turkey's overtures at being included in the EC. None of these countries really needs to buy more weapons and I am pleased that this bill encourages a move away from such practices.

Also, this bill prohibits any military training assistance for the government of Indonesia. Last year, Indonesian government troops fired on peaceful, unarmed, pro-democracy demonstrators on the island of East Timor. Accounts of the massacre state that between 75 and 125 people were killed. Many of the bodies still have not been accounted for. In the aftermath of Indonesia's Tiananmen Square, some of the unarmed protesters received sentences of up to life in prison. At the same time, the troops who fired on the peaceful demonstrators only received prison terms of 12–18 months. The Bush administration protested Congress attaching any conditions on the restoration of this aid based on claims of Indonesia's sovereignty. However, we place conditions on aid to a large number of countries, including some of our largest aid recipients. For too long, this country has turned a deaf ear to Indonesia's dictatorial rule and its sad record on human rights. Perhaps this action will send a strong message to Jakarta that the United States is serious about human rights in every corner of the world.

This bill is not perfect. For instance, it contains a provision I strongly oppose to extend aid to Russia—whose troops continue to occupy the independent countries of Estonia, Latvia, and Lithuania. On balance, however, it is a good bill. If we must have foreign aid programs at all, I am pleased that we are ensuring that more of the aid is targeted to directly helping people. Americans are a generous people and are willing to reach out to help others. We must continue to ensure that their dollars are wisely spent.

Mr. BRADLEY. Mr. President, I rise to comment on one of the most important aspects of the bill now before us. This Foreign Operations appropriations bill provides $417 million in aid to the countries of the former Soviet Union—aid as crucial to the people of these new countries as to the citizens of the United States who hope for a safe and profitable American future. I believe that the linchpin of this aid effort is the $50 million appropriated to fund expanded exchange programs between the former Soviet Union and the United States. This money will go far to help instill a vision of democracy in the future leaders of the new countries, and to renew our own commitment to democratic ideals and hope for world peace.

Our most valuable resource is not our dollars, but our people. Americans are born with the understanding that in the democratic system, everyone counts. Every American can not only make a difference, but it is their duty to try. This is a power that cannot be transferred through grain credits. It must come from person-to-person contact. We must pass this vision of democracy on to the future leaders who will be shaping new countries in the former Soviet Union. It is a tall order, but America is up to the challenge.

Late last week, the Senate passed the conference report on the Freedom Support Act. Included in the bill was $50 million in authorizations for greatly expanded exchanges of former Soviet students, young businessmen, agriculture specialists, and local officials. This appropriations bill now before us provides the $50 million needed to implement the idea.

Mr. President, I believe the key component of the exchanges outlined in the Freedom Support Act is the high school exchange program. Out of the $50 million appropriated in the bill before us, $20 million is authorized through the Freedom Support Act to be used explicitly to expand programs targeted to high school students. This money will fund about 5,000 student exchanges over the next year. These youth will live with families, attend schools, and return to their own homes having learned about our institutions, skills, and values. They will have acquired a better appreciation of how they—the future leaders of the new countries— can create their own institutions.

Because the need is so extensive, this bill is targeted to bringing as many students as possible over to study in the United States. But we want their experiences to be meaningful. For this reason, the legislation favors longer-term programs over short-term stays.

To ensure that the students gain an understanding for the foundation of our working democracy, we should enlist the help of American programs that expose students to the inner workings of our Government. Such programs, like Close Up, share the philosophy of this legislation.

Most of the authorized funds are aimed at bringing students from the former Soviet Union to the United States. Yet a percentage of the funds are set aside to send American high school students to the CIS. Cultural exchanges benefit both sides. Not only would we be assuring peaceful ties between these nations and ours, we can also learn much. Americans can learn from having foreign students in their homes and classrooms. Americans studying in Kiev, St. Petersburg, Vilnius, and Alma-Alta will return with a better understanding of the people of these new republics; they will also have the unique privilege of witnessing firsthand the new frontiers of democratic capitalism.

The remaining $30 million appropriated for exchange programs under this bill before us are authorized to fund exchanges of older students and professionals from the public and private sectors. This money could fund as many as 5,000 exchanges of students, agricultrual experts, Government officials, and young businessmen and women over the next year.

As in the high school exchanges, the undergraduate and graduate exchanges will allow future leaders of the former Soviet Union to study and experience American society. They would also create links between our universities, colleges, and community colleges, and their institutions of higher learning.

The small business exchanges would provide a means for young managers to work will small business in the United States and experience firsthand what it means to be an entrepreneur. We would like to see them spread to each of our 435 congressional districts, with local community groups helping to sponsor the trainees.

United States businesses serving as sponsors to young managers from the former Soviet Union will be establishing future business contacts in a market that includes 300 million potential new consumers. Their ability to get involved in the new States depends to a certain extent on their knowledge of local conditions, opportunities, and their ability to work with people who are already familiar with Western business practices.

We have also appropriated $10 million under the Commerce, Justice, State and judiciary appropriations bill to expand Fulbright programs into the countries of the former Soviet Union.

The Iron Curtain between our societies has parted, Mr. President, but contact between our people and the people of the former Soviet Union remains woefully limited. In the 1990–91 school year, the total number of undergraduate and graduate students from the former Soviet Union on USIA exchanges was 1,210. China had almost 40,000 for the same period. Even Switzerland had more students at American universities than did the former Soviet Union. The time has come to address the gravest need, and expand our contact and influence in the former Soviet Union.

It is my hope that in the years ahead we will see tens of thousands more students over here with the implementation of the Freedom Support Act funded by the bill before us today. This must be only a beginning. I am encouraged that this body has acted swiftly to address an urgent long-term need of both our new-found ally, and by extension, the United States. We must continue the momentum. The fragile reforms that President Yeltsin has set into place must be buttressed by dreams as well as reality.

It is imperative that these programs are up and running by 1993. I will urge the government agencies which will be handling the administration of these programs to expedite the process by utilizing the experience and the expertise of the nonprofit sector. The government should contract out to nonprofit organizations as much as possible to remove the exchanges from the bureaucracy that could delay their immediate implementation.

The people of the newly independent states must be brought out of their isolation now. We must make up for 40 years of barriers between our citizens, and theirs. We cannot afford to be complacent. A slow response risks retrenchment of economic and democratic reforms. It also risks the growth of new versions of authoritarian rule. Mr. President, we are at a crossroads and the time is short. We must embrace this opportunity by funding exchange programs under this bill.

Mr. LAUTENBERG. Mr. President, I am pleased that the fiscal year 1993 Foreign Operations appropriations bill includes a 2-year extension of a provision in current law which facilitates the granting of refugee status for certain historically persecuted groups.

The law is commonly referred to as the Lautenberg-Morrison refugee law, since Representative MORRISON and I were its prime sponsors. I greatly appreciate the assistance of Representative BERMAN, who was the prime sponsor of the 2-year extension provision in the House this year. I also appreciate the assistance of Senator BIDEN, who championed this 2-year extension in the Senate Foreign Relations Committee.

The existing law formally recognizes that the historical experience of certain persecuted religious minorities in the Soviet Union and Indochina, and a pattern of arbitrary denials of refugee status to members of these minorities, entitles them to a relaxed standard of proof in determinations about whether they are refugees.

The law lowers the evidentiary standard required to qualify for refugee status for Soviet Jews, Soviet Evangelical Christians, religiously active Soviet Ukrainian Catholics and Orthodox, and certain categories of Vietnamese, Laotians, or Cambodians. Once a refugee applicant proves he or she is a member of one of these groups, he or she only has to prove a credible basis for concern about the possibility of persecution. Refugee applicants normally must prove a well-founded fear of persecution.

Legislation to extend the law for 2 years has been endorsed by the Council of Jewish Federations, the U.S. Catholic Conference, the American Jewish Committee, the Ukrainian National Association, Inc., the Hebrew Immigrant Aid Society, the National Conference on Soviet Jewry, the Union of Councils for Soviet Jews, the New York Association for New Americans, the Lutheran Immigration and Refugee Service, and World Relief.

This law has had a real and positive impact on refugee adjudication. This liberalized standard is still necessary because conditions for the persecuted groups in the former Soviet Union and Indochina still exist, and in some cases, have worsened.

While Soviet Jews have been permitted to emigrate in much greater numbers, those remaining face a greatly increased threat to their well-being. Anti-Semitism and heightened harassment, violence, and public expressions of hatred by anti-Semitic groups like Pamyat are still occurring, and in some areas, are on the rise. While national policies may have changed, many local officials harbor old hatred for these historically persecuted groups. Evangelical Christians and Ukrainian Catholic and Orthodox continue to experience harassment.

There is a clear case for including Indochinese in an extension of the Lautenberg amendment. Conditions have improved somewhat in these countries, but certain groups continue to suffer as a result of their previous associations with the United States, their political actions in opposing hardline Marxist governments which permits no political dissent or freedom of expression, and for their religious beliefs.

The majority of Vietnamese to whom the law applies are former reeducation camp prisoners who were sent to the camps because of their political or religious views. Many reeducation camp inmates were associated with the American Government during our Vietnam war involvement. A majority of those coming to the United States are joining families who were resettled here 10–15 years ago.

This law is working as intended. It has replaced an arbitrary and slow process of refugee adjudication in the former Soviet Union with a stable, consistent and fair process. It has meant that people already terrorized by longstanding hatred and persecution in their native lands are not further traumatized by a system that does not recognize their historical suffering, or makes arbitrary distinctions between people who have suffered similar fates.

The law originally passed the Senate by a vote of 97–0 in 1989, and become law as part of the fiscal year 1990 Foreign Aid Appropriations Act. It was extended in the fiscal year 1991 Foreign Aid Appropriations Act.

The INS estimates that it will take 2 years to process Soviet Jews who are in the pipeline, those who have begun the application process. Given questions about stability in the republics of the former Soviet Union, the law should be extended for 2 years.

I am pleased the Congress is extending this law for 2 years.

Mr. REID. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements therein appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. REID. Mr. President, it is my understanding we are now back on the legislative branch appropriations bill.

The PRESIDING OFFICER. The Senator is correct.

SUPERINTENDENT OF DOCUMENTS

Mr. FORD. Mr. President, would the senior Senator from Nevada clarify the legislative branch appropriations bill conference report language relating to the Superintendent of Documents. Is it the intention of the conferees that the feasibility study on enhancing public access to Federal electronic information proceed whether or not H.R. 5983 is enacted into law?

Mr. REID. I am pleased to respond to my friend, the senior Senator from Kentucky. The answer is "Yes." The conferees intended to direct the Superintendent of Documents to conduct a feasibility study to enhance public access to Federal electric information and to utilize the assistance of the Community College Distance Learning Center in Owensboro, KY, in that study. That feasibility study is not dependent on passage of H.R. 5983.

Mr. FORD. Mr. President, I thank my friend, the chairman of the Legislative Branch Appropriations Subcommittee.

Mr. REID. Mr. President, I ask for the yeas and nays on adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE], is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Wisconsin [Mr. KASTEN], is necessarily absent.

The PRESIDING OFFICER (Mr. HARKIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 30, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—68

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Cochran
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lugar
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Stevens
Thurmond
Wellstone
Wirth
Wofford

NAYS—30

Bond
Brown
Burns
Chafee
Coats
Cohen
Conrad
Craig
Fowler
Garn
Gramm
Grassley
Hatch
Heflin
Helms
Kassebaum
Kohl
Lott
Mack
McCain
McConnell
Nickles
Pressler
Roth
Seymour
Smith
Specter
Symms
Wallop
Warner

NOT VOTING—2

Gore
Kasten

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. FORD. I move to say that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator RUDMAN be recognized to address the Senate for up to 10 minutes, and that at the conclusion of his remarks the Senate proceed to the consideration of the conference report on H.R. 5504, the defense appropriations bill, and that it be considered under the following time limitations: That there be a total of 60 minutes for debate, 20 minutes under the control of Senator STEVENS, 20 minutes under the control of Senator INOUYE, and 20 minutes under the control of Senator NUNN.

Mr. STEVENS. Reserving the right to object, Mr. President, I did have a request from the Senator from Arizona [Mr. MCCAIN] for 20 minutes.

Mr. MITCHELL. Mr. President, I modify my request by adding the request for 20 minutes for Senator MCCAIN.

Mr. STEVENS. May I ask, did the Senator from New Hampshire want time?

Mr. RUDMAN. The majority leader has already reserved that for me.

Mr. STEVENS. I thank the Chair.

Mr. MITCHELL. Mr. President, I withhold my request.

Mr. RIEGLE. Five minutes for me.

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the completion of Senator RUDMAN's remarks, Senator RIEGLE be recognized for up to 5 minutes, and then the Senate proceed to the consideration of the conference report under the terms that I have previously stated, as modified.

The PRESIDING OFFICER (Mr. HARKIN). Is there objection? The Chair hears none, and it is so ordered.

The Senator from New Hampshire is recognized for 10 minutes.

FAREWELL TO THE SENATE

Mr. RUDMAN. Mr. President, I thank the majority leader for his usual courtesy, and I rise for probably the last time to address my colleagues in this great institution.

I wish to start by thanking the people of New Hampshire for giving me the opportunity, the privilege to serve. They have a special understanding of Government. They have a willingness to listen to hard truths, and they have been a wonderful constituency to represent. No man or woman can have a greater privilege bestowed on them than to represent the people of their State.

Second, let me thank the staff of all of the Members of the Senate, with whom I have worked for the last 12 years. You are truly an extraordinary group of young people, very dedicated, very knowledgeable, and certainly ease the path of those who must cast the votes.

I want to say something to the national news media, with whom I have had a great deal to do through Iran-Contra and Gramm-Rudman, the ethics hearings, the Souter nomination, and many other instances. You have for the most part been fair. You have reported what I have said faithfully, and I want to thank you for what I think has been a marvelous understanding of your role and mine.

Finally, I want to thank the men and women of this body. I have said in recent months that the thing about the Senate which puzzles me is that lately the institution as a whole does not in my mind add up to the sum of its parts. It is quite the opposite of something that is synergistic, and I have wondered why. Maybe in the coming years that will change, because I have to say here what I have said many times. I have never met such an extraordinarily able, talented, dedicated, hardworking group of people as I have in this institution. There is so much talent, so many different personalities, different backgrounds, as I look at the people present tonight. It is a very special place, with very special people, and I hope in the coming years the institution can coalesce to bring those talents together in a bipartisan way to do what is good for America.

I want to say to the two leaders of this body that you have both been my friends: Senator MITCHELL, the majority leader, a neighbor from Maine; Senator DOLE, from Kansas, a man I admired long before I came here. I wonder if the people of this body and the people of this country recognized what extraordinarily talented men we have leading this institution.

BOB DOLE, who came from grievous wounds suffered in Italy, spent years in hospitals, entering this Congress as a very young man, and who everyone respects and recognizes is an extraordinary talent, and who has been a leader for the past two Presidents. No President could expect more.

More than that, BOB DOLE has been my friend. I will say to BOB DOLE, with no insult intended to the present occupant of the White House, who is also my friend, I wish we could have done better in New Hampshire, because he was my choice.

I want to say to the majority leader, GEORGE MITCHELL, who only arrived a couple years before I did, his rise to leadership in this body is nothing short of extraordinary. The son of immigrant parents, truly living in poverty as a young man, he aspired to greater things. He went to Bowdoin College, became a very respected U.S. attorney, a Federal judge, and then a U.S. Senator. When he became majority leader, I wrote him a little note which said, "George, I know that you are going to be fair but you will be tough." I will say to the majority leader, he has been fair to a fault and tough, which is as it should be as we meet the adversarial interests that arise.

To all my other colleagues, I have found something special about each of you, and the bittersweet moment of leaving this week will be that I will no longer have you as everyday friends.

That moment will count to everyone in this body. I made a choice that this was my time to leave. But make no mistake; I will miss each of you.

I have looked through the history books to find a couple of quotes about the U.S. Senate, and two struck me. I am going to just read them into the RECORD. They are short.

Woodrow Wilson said this:

The Senate of the United States has been both extravagantly praised and unreasonably disparaged, according to the predisposition and temper of its various critics. * * * The truth is, in this case as in so many others, something quite commonplace and practical. The Senate is just what the mode of its election and conditions of public life in this country make it.

And how true that is as we grapple with the issues of the time.

Finally, as some of you know, I have the great privilege of sitting behind the desk of Daniel Webster. It is I think the only desk in the Senate in which the top does not open. Mr. Webster sat behind this desk in the Old Senate Chamber, and then, of course, when the Senate moved, it was placed here. And inscribed in the drawer are the names of some very great U.S. Senators—Styles Bridges, Norris Cotton, Tom McIntyre, to name just a few.

Webster was a special man. He was from New Hampshire; represented Massachusetts, but probably the greatest public servant that New Hampshire ever produced. I have kind of been a student of his works, and I though that the last words that I utter here on this floor ought to be his words. So let me give you a quote of his that I think is special and each of us should take to heart as Members of this truly great institution.

He said:

> If we work upon marble, it will perish; if we work on brass, time will efface it. If we rear temples, they will crumble to dust. But if we work on men's immortal minds, if we impress on them high principles, the just fear of god, and love for their fellow-men, we engrave upon those tablets something which no time can efface, and which will brighten and brighten to all eternity.

On those great words of Daniel Webster, I say God bless all of you, and thank you each so very, very much.

SENATOR WARREN RUDMAN

Mr. MITCHELL. Mr. President, before the Senate adjourns sine die, I will have a more detailed statement to make about my friend and colleague from New Hampshire, and other Senators who will be leaving at the end of this session as the distinguished Republican leader already has done in some cases, and I know intends to do with others.

But I will just take this occasion to say that the eloquence and integrity of the Senator from New Hampshire, as demonstrated in his final words, reminds all of us of how much we will miss him personally, and the extent to which this Senate will be a different and diminished place without him.

In behalf of all of our colleagues, I wish him the very best success.

SENATOR WARREN RUDMAN

Mr. DOLE. Mr. President, let me indicate also that I will be making a statement about my good friend, Senator Rudman. I wanted to hear what he said about me first. So I will go and finish my statement.

But, seriously, he is my friend and I will make my statement sometime tomorrow, or the following day, or maybe even Thursday. I assume we will be here.

I thank him very much for his kind remarks, but above all, his friendship and even though he is leaving, it does not mean we are going to be parting.

I thank my colleague.

SENATOR WARREN RUDMAN

Mr. GRAMM. Mr. President, to many who have already seen him on television, WARREN RUDMAN is just another pretty face. But to those of us who have been privileged to serve with him, it is nice, I think, as we begin to reflect on what the Senate will be without him, to be reminded that even though we read about great people in history books, we do not necessarily recognize them when we are working with them. Only when they leave do we recognize by the empty space they leave how important they were.

Mr. President, I believe that as we look back on WARREN RUDMAN's work and mission and his commitment, we will realize that he is and has been one of those great people who have served in the Senate.

SENATOR WARREN RUDMAN

Mr. MCCONNELL. Mr. President, listening to the distinguished Senator from New Hampshire reminds me of a brokerage commercial of some challenge which goes something like this: "When the brokerage house speaks, everyone listens."

Frankly, in the 8 years I have been in the Senate, I cannot think of anyone other than the senior Senator from New Hampshire for whom I can say when he speaks, everyone listens. Usually, in this Chamber, when we speak, nobody listens. But it can truly be said of Senator RUDMAN that when he spoke, we all listened. He advice was invariably good advice. His integrity, of course, is absolutely unimpeachable.

Let me say to my friend from New Hampshire, most of us are easily replaced and will largely be forgotten. That is not true of the Senator from New Hampshire.

Mr. President, I yield the floor.

SENATOR WARREN RUDMAN

Mr. SIMPSON. Mr. President, I, too, before we adjourn will revise and extend my remarks with regard to my friend, WARREN RUDMAN.

But let me just say that it has been an adventure, an elixir of energy and spirit, and pugnacious perseverances of this man—who no wonder he was the light heavyweight NCA boxing champion at Syracuse many a year ago, not too many. My old partner was the heavyweight NCA boxing champion from Wisconsin. He said when you get to the Senate—I had been here—get to know WARREN RUDMAN. He is one of the greatest guys I have ever known and a fighter for the things he believes in, and he is.

This is not a eulogy. I will not go any further on that. But I am pleased that I have had an opportunity to share not only part of my legislative life, but my personal life with him.

I wish him well in his new quest, along with our former colleague, Senator Paul Tsongas. You will be doing great things from outside this body and hopefully in this body with people like SAM NUNN, and PETE DOMENICI, JAY ROCKEFELLER, myself, others who are involved in the CSIS activity. We can do some things inside this Chamber that deal with honest things. We all know what we have to do. You can help us, and I just say that the best tribute I can pay is a simple one. This is all the man there is.

I thank the Chair.

SENATOR WARREN RUDMAN

Mr. BRADLEY. Mr. President, I had not expected to be on the floor at this moment, but I do not want this moment to pass without saying just a few words.

I was actually thinking over the weekend about what I would say on the floor about Senator RUDMAN before he left the Senate, and I will indeed do that.

So these are not my final words. But in thinking about what I would say, I at least got through the first sentence of my comments. That sentence was the one thing you have to know about Senator WARREN RUDMAN is that he was once a pretty good boxer. And I think the words "pretty good" and "boxer" really define major parts of his character and personality.

There is a constant striving to be better. As those of us who have been hit in one way or another in a contest know, you can always be better, and once you are satisfied with where you are, you lose the edge. Senator RUDMAN has never lost the edge. And if I were to think about qualities in this impromptu moment, I would say: Courage, fairness, a willingness to face the truth, even if the truth hurts, a willingness to reach out and confront, as well as to try to mediate.

I have engaged in conflict with Senator RUDMAN, and I have benefited from his support. All things considered, I would rather benefit from his support. I have learned things from him, and I value his friendship, while he has been in the Senate, and I hope in years to come.

TRIBUTE TO SENATOR WARREN RUDMAN

Mr. STEVENS. Mr. President, I, too, will take the time to speak at length about my friend from New Hampshire. I think I will share with the Senate what I wrote to WARREN RUDMAN, that his leaving the Senate reminds me of an old cowboy song, "It Hurts So Much Without You, It's Almost Like You Were Here."

Senator RUDMAN has the ability to make us think about the things we do not want to think about, and the courage to do the things we know we have to do. I do not know that I have known any other Senator that had the courage and the conviction WARREN RUDMAN has had. I will speak at length later, but I wanted to tell him I was pleased to be here when he made his last remarks to the Senate.

TRIBUTE TO SENATOR WARREN RUDMAN

Mr. SMITH. Mr. President, I have had the privilege of serving in this New Hampshire delegation with Senator WARREN RUDMAN for the last 8 years, 6 years in the House of Representatives, 2 years here in the U.S. Senate. We met in 1980 as respective candidates for Federal office. He was running for the U.S. Senate, and I was running for the U.S. House, in two very crowded primaries.

WARREN RUDMAN's train came in a little bit earlier than mine. I lost a couple of elections. A lot of people may not realize, as I said to Senator RUDMAN in a tribute the other night, he was in a primary with John Sununu, along with about 9 or 10 other people, and he defeated Sununu by about 2,000 votes. It is interesting how history turned out. Maybe if Sununu would have been in the Senate, Senator RUDMAN would have been the chief of staff, and maybe the President would have been leading in the polls now. So history has a funny way of treating us sometimes.

I just want to say that in all of the years that I have known him, he has been always quite forceful. A mutual friend of ours, Bill Thompson, told me "if you do not make any enemies when you go through life, you are no damn good." I am sure WARREN has made a few, but he has also made a lot of friends. I am certainly going to miss him, and it will be strange not having WARREN RUDMAN in the delegation.

So I have to say, politically, goodbye, WARREN, but I am sure we will be seeing you from time to time as the years go by. Good luck.

COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the Committee of Conference on H.R. 4016 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1992.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I am pleased that today we consider the conference report on H.R. 4016, the Community Environmental Response Facilitation Act. This legislation is substantially similar to legislation I introduced with Senator COHEN, S. 2828.

The legislation clarifies a process whereby clean parcels of otherwise contaminated Federal property can be identified and transferred before the remainder of the property is fully cleaned up. This applies to a broad range of Federal property but is particularly important to maximize economic reuse of Loring Air Force Base, which the administration has decided to close.

Loring is a Superfund site, but much of the property is not believed to be contaminated. Under this legislation, the Air Force would identify the clean parcels through a process detailed in the legislation.

In addition, the Environmental Protection Agency is required to decide whether to concur in the identification of the parcels as clean. This provides greater certainty to a needed process. In addition, the concurrence by EPA provides an independent assessment of the property that is likely to be sought by investors.

The legislation also provides that contaminated property can be transferred once it is cleaned up but before long-term pumping and treating of ground water or operations and maintenance are complete. This will speed transfer by allowing third parties to receive the property before decades of ground water treatment is complete.

Nothing in the legislation in any way alters the liability of the Federal Government for fully cleaning up any contamination it causes. What the legislation will do is speed transfer of Federal property so that it can be made available for economic reuse as soon as possible. This should help alleviate the strain on communities near closing bases, such as Loring.

I thank the work of my colleague on the conference.

Mr. WARNER. Mr. President, I would like to voice my support for the conference report on H.R. 4016, the Community Environmental Response Facilitation Act. This legislation will address a number of the current roadblocks in moving Federal lands to the private sector. I am particularly interested because of its impacts on the transfer of Department of Defense lands.

The recent base closure legislation has highlighted a number of shortfalls and gaps in current environmental law. To transfer Federal lands previously designated as contaminated requires cleanup in accordance with CERLA. But, if the property was not contaminated, but only designated incorrectly, there were no provisions on how to transfer the clean land.

This bill will provide the necessary guidelines and procedures to permit the subdivision and parcelization of clean land from previously designated contaminated, national priority list property to permit transfer. The property can be transferred only after the clean property has been identified, designated as clean, and concurred with by the responsible official.

This parcelization together with the other bill provisions should permit quicker transfers of Federal lands.

Mr. LAUTENBERG. Mr. President, today we are bringing the conference report on this important legislation to the full Senate for final passage. As an original cosponsor of H.R. 4016 and a conferee on that bill, I urge passage of the report.

This conference report, in an environmentally protective way, responds to the adverse economic effects that base closures can have on local communities. Its goal is to expedite the process for identifying and distinguishing between contaminated and uncontaminated portions of military bases and other Federal facilities that are slated for closure. Under existing law, the Federal Government cannot transfer property that has been contaminated with hazardous substances. Because some Federal agencies have been hesitant to transfer even the clean portions of property that may have been thought to have been contaminated or included within the boundaries of Superfund sites, local development of perfectly clean parcels of property has been stymied.

The conference report that we are bringing up for passage today will solve this problem. The result will be faster, more efficient cleanups, less economic disruption for affected communities, and a fostering of the reuse and redevelopment of former Federal property. All of these goals will be achieved without reducing in any way the Federal Government's existing responsibility for cleanup of these Federal properties.

Specifically, the conference report and the underlying bill have three major components. First, it would require the Federal Government to identify, at all facilities that are going to be closed, the uncontaminated parts of such property. Such identification is analogous to the environmental auditing procedures already typically followed in the private real estate market, and requires the concurrence of the Environmental Protection Agency or the State.

Second, it would clarify a transfer condition currently in the law. The Superfund law bars contaminated or potentially contaminated Federal land from being transferred unless the U.S. covenants in the deed that all remedial action necessary to protect human health and the environment has been taken. This legislation would clarify that this condition is met when construction and installation of an approved cleanup design have been completed, and EPA has determined that cleanup mechanisms are operating properly. So even if long-term pumping and treating of groundwater is necessary, or even if the site has not yet been formally taken off the Superfund National Priorities List, the property can be transferred. This is in accord with EPA's existing policy.

Third, in the case of potentially contaminated property at bases about to be closed, the legislation requires the United States to notify the State prior to entering into any lease for the property that will run past the date of base closure.

Mr. President, I believe that this legislation exemplifies the principle that environmental protection and economic development can and will work hand in hand. I congratulate the distinguished majority leader for his role in bringing this legislation to this point, and hope that the House of Representatives and the President will soon join us in providing this benefit for communities that are poised to turn the closure of a military base into an opportunity for reuse and economic development of the property.

Mr. CHAFEE. Mr. President, today we have before us the conference report to accompany H.R. 4016, the Community Environmental Response Facilitation Act. Over the last several days, the conferees have worked out what were fairly minor differences between the House and Senate bills, and come up with what I believe is a very good proposal.

As those of us on the Committee on Environment and Public Works have learned over the last few years, a large number of closing military installations have some contamination from hazardous substances. Some have read the Comprehensive Environmental Response, Compensation and Liability Act of 1980—or as it is more commonly known, Superfund—to require that cleanup of contaminated portions of such installations must occur before any transfer of land—including clean parcels—can occur. The conference report would amend current law to allow the identification and transfer of clean parcels of land on closing Federal installations within a specified period of time. In making this change, the conference report recognizes the legitimate desire of States and local communities and others to take title to clean Federal property without unnecessary delay.

Mr. President, I should also note that the conference agreement gives EPA and the States an important role in the process of transferring these clean parcels of land. Specifically, the conference report provides that either EPA or the State is required to concur in a judgment that a parcel is clean before it can be transferred.

In conclusion, Mr. President, I believe that the conference agreement would make an important change in existing law that will facilitate transfers of Federal property that will, in turn, spur economic development around the country, while continuing without interruption the important job of cleanup. I urge my colleagues to support the conference report.

Mr. MITCHELL. Mr. President, under the previous order, I believe the Senator from Michigan is to be recognized.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

TRIBUTE TO SENATOR WARREN RUDMAN

Mr. RIEGLE. Mr. President, let me say with reference to WARREN RUDMAN, among other things, WARREN is also a great pilot. He has helped pilot the Senate on more occasion than one. In my view, WARREN is a great Senator and a great friend. He will be missed by all of us, and he will be very much missed by me. I add my good wishes to those that have already spoken, as he goes on to new and different challenges. It just will not quite be the same place without him, if I may say.

PROMPT CORRECTIVE ACTION IN BANKING SUPERVISION

Mr. RIEGLE. Mr. President, last year's banking bill included a new approach to banking supervision called prompt corrective action, which was aimed at ensuring that the American people not have to confront future failures of the deposit insurance system. That rule takes effect on December 19 of this year, and it provides important and necessary protection to American taxpayers.

Prompt corrective action generally requires regulators to close or sell banks or thrifts when shareholder capital falls below 2 percent of assets. Regulators can keep such a bank open only if doing so would better protect the deposit insurance fund, and they would have to make that certification. But properly enforced, this revision will significantly reduce future FDIC losses. This is essential to protect the $70 billion of taxpayer money that has been loaned now to the bank deposit insurance fund.

The idea of this provision now in the law is to close an institution before its capital actually gets to zero, and while there is still some value left, because waiting for a bank or a thrift to become absolutely insolvent typically means it will have negative value by the time it is closed and therefore a corresponding loss of taxpayers money.

The prompt corrective action provision says, in effect: Regulators, you must act earlier and more aggressively when a bank or a thrift gets into irreversible decline and is headed for insolvency. The regulators are compelled to get in there and correct the problems and turn the bank around, if it can be done. If it cannot be done, see that the bank is sold or closed before it becomes an additional loss to deposit insurance fund, and therefore a direct liability to the American people.

For 12 years the prevailing philosophy was to try to get away with merely codifying the existing discretion of the regulators. That is the same discretion whose abuse got us into this very problem, that broke first the S&L fund, and now since, the banking fund.

This legislation, however, sent the regulators and the banking system a clear message, and that is: The era of lax supervision is over.

What is going to happen after December 19? Almost certainly, some banks will be closed or sold. Although the future is not certain, the FDIC now predicts that between 50 and 100 institutions with assets of roughly $35 billion will require action by the regulators.

Under the leadership of the late chairman, William Taylor, the FDIC issued a public warning that 200 banks with combined assets of more than $80 billion were projected to fail in 1992. Yet, in the first 8 months of this year, only 70 banks with $20.9 billion of assets had failed, far below the rate of the FDIC forecast. This obviously raises the concern that the regulators are not shutting down ailing banks that should be closed and, therefore, minimizing the size of the problem that we are yet to face. If this is occurring, it will certainly raise the cost of these bank failures that will eventually fall upon the taxpayers.

While the administration has been quick to declare that banks, like the economy, have turned the corner, the late chairman Taylor clearly disagreed. He knew that many banks have not worked through their real estate problems that have severely eroded their capital. That's why last May, he urged the FDIC to hike the bank insurance premiums that are paid into the deposit insurance fund. Unfortunately, after Bill Taylor's sudden death, the FDIC Board yielding, I believe, to pressure, agreed to a much lower increase, which puts the taxpayer loan at greater risk and reduces the bank insurance costs that banks should properly bear themselves.

So prompt corrective action should not become a scapegoat for bank failures that will occur later this year. These failures will occur because of bad decisions made in past years by the managements of troubled banks, and the failure of those banks is now inevitable.

It is an inescapable problem, and if the economy sinks into greater difficulty, the number of bank failures could rise sharply. It is in that regard that it is absolutely essential that a comprehensive national economic recovery program be implemented immediately by the next President.

We haven't a moment to lose, because sustained economic recovery is vital if we are to ease the severe strains on our financial and banking structure.

So, in sum, we have a significant commercial banking problem, and prompt, corrective action will ensure that our regulators deal with it directly and at the lowest possible cost to taxpayers.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The time has expired.

Mr. MITCHELL. Mr. President, will the Senator yield for one moment while I make a unanimous-consent request?

Mr. INOUYE. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I have a unanimous-consent request that has been cleared by the Republican leader. I ask unanimous consent that it be in order to proceed to the conference report on H.R. 776, the National Energy Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that it now be in order to lay the conference report before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY EFFICIENCY ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 776 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 776) to provide for improved energy efficiency, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 5, 1992.)

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report on H.R. 776, the National Energy Policy Act:

George Mitchell, Daniel K. Akaka, Edward M. Kennedy, J. Bennett Johnston, Daniel K. Inouye, Jeff Bingaman, Timothy E. Wirth, Wendell Ford, Bill Bradley, Lloyd Bentsen, John Breaux, Claiborne Pell, Jay Rockefeller, Malcolm Wallop, Charles S. Robb, David L. Boren.

Mr. MITCHELL. Mr. President, I now ask unanimous consent to return the conference report at the desk to its previous status and that the Senate proceed to the DOD appropriations conference report as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on H.R. 5504 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 4, 1992.)

The PRESIDING OFFICER. Time for debate under consideration of this conference report is limited to 80 minutes controlled as follows: 20 minutes each to the Senator from Hawaii [Mr. INOUYE]; the Senator from Alaska [Mr. STEVENS]; the Senator from Georgia [Mr. NUNN]; and the Senator from Arizona [Mr. MCCAIN].

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to submit the report of the committee of conference on H.R. 5504, the Department of Defense appropriations bill for fiscal year 1993. Mr. President, this has been a very difficult year for the conferees on Defense appropriations. We have worked in lengthy sessions to devise a compromise agreement which funds the essential requirements for the defense of our country in the post-Warsaw Pact world. In this bill, we propose measures to preserve the Nation's defense industrial base, and we act to ensure that sufficient funding is provided to fund the research and development programs which will protect the qualitative edge of America's military equipment in combat, whenever and wherever that might occur. Our recommended bill provides funding to keep America's men and women in uniform well equipped, well trained, and well led.

The amount of funding in the conference agreement—$253.8 billion—is $16.3 billion below the amounts appropriated last year for Defense. The conference bill is some $34 billion below what was appropriated just 2 years ago. The allocation of budget authority for the Defense Appropriations Subcommittee this year is some $14 billion below the ceiling, or cap, agreed upon in the budget summit. We have stayed within the agreed summit level and the funding we have recommended to the Senate is under our budget allocation by nearly $2 billion.

It has been difficult to achieve our objectives. We have met the challenge.

Mr. President, I would now like to detail some of our recommendations.

MILITARY PERSONNEL

Both the Senate-passed and the House-passed authorization bills reduce end strength for the Active Forces, as requested, by 98,617 from fiscal year 1992 to 1993. Funding levels contained in the conference agreement recognize this reduction.

Mr. President, I would also note that there are no recommendations for accelerating the drawdown from Europe. Our review indicates that troops are being withdrawn from Europe at rates which already impose hardships on military personnel. Indeed, because of our concern that those returning from Europe face unnecessary hardships, $25 million is added to allow enlisted military personnel more time to find housing when they undergo a permanent change of station.

The administration requested total budget authority of $77.4 billion for operation and maintenance [O&M] programs. The conference agreement provides $72.8 billion, cutting $4.6 billion from the request. The agreement is $1.1 billion above the House level and $1 billion below that of the Senate.

The conferees also accepted Senate recommendations which seek to encourage efficiencies and better management. The Senate recommendations proposed a series of adjustments under the heading "excess inventory initiative" which reduce the Department's request for purchasing spare parts and supplies by a total of $3 billion. These reductions are made in light of the continuing problems DOD has had managing its supply system.

Mr. President, the conference agreement provides support for defense conversion, environmental programs, and disaster relief activities. The recommendations provide $1.766 billion for defense conversion programs under Title 8—Defense Reinvestment for Economic Growth and under the R&D and operations and maintenance titles of the bill. These conversion programs include R&D activities, which I shall discuss later, and transition assistance for military and civilian workers. An increase in funding is provided for DOD's environmental program.

TITLE III—PROCUREMENT

Mr. President, under the procurement accounts, the conferees were concerned with the protection of the defense industrial base as well as the procurement of needed military equipment. Accordingly, the conference agreement recommends actions to various investment programs that reflect the need to decrease the Defense budget, but at the same time, build down investment programs in such a way that the industrial base is maintained in a viable manner. Where possible, the recommendations support conversion of the industrial base to civilian applications.

In particular, I would call attention to the armament retooling and manufacturing support [ARMS] initiative, which will restructure the ammunition industrial base to make more efficient, cost effective use of its industrial capacity. This initiative will boost defense readiness, preserve jobs, and form the basis for economic growth in regions affected by Government plant closures.

Mr. President, I ask unanimous consent that an amendment which I had intended to propose to the Defense authorization bill be inserted into the RECORD at the conclusion of my remarks. I have asked for inclusion of this text into the RECORD because it may help to guide those who will implement the arms initiative as it appears in the Defense Authorization Act for fiscal year 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. (See exhibit 1.)

Mr. President, while still under the procurement title, I would like to discuss our recommendations for various aircraft programs.

First, the F–16 program.

The budget proposed to buy 25 F–16 aircraft for the air force in the final procurement of that airplane. The conference agreement supports the procurement of 24–F16's in fiscal year 1993.

Second, the C–17 program.

The C–17 is an airlift airplane intended to become the mainstay of air mobility for U.S. forces. The C–17 program, however, is again behind schedule and its prospects for getting back on schedule do not look good. Consequently, the conference agreement fund six aircraft instead of the eight requested in the budget.

Now, we get to the B–2 bomber program.

The conference recommendation fully funds the four remaining B–2 aircraft for a total program of 20 aircraft.

TITLE IV: RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Mr. President, we have now come to the last major division of the bill which I propose to discuss in detail today and that is Title IV—Research, Development, Test and Evaluation.

The largest program under the R&D accounts is also the most problematic. It is the strategic defense initiative. The Pentagon sought $5.3 billion in fiscal year 1993 for the strategic defense initiative [SDI] and theater missile defense initiative programs. The recommendation which the Senator from Alaska and I brought to the Senate on September 21 was to provide $3.8 billion to establish a more fiscally supportable level and to permit more time for adequate test and evaluation to occur before equipment is fielded.

Some Members wanted to reduce funding well below that level but the Senate accepted the committee approved recommendation and $3.8 billion was the amount the Senate conferees carried into conference.

Mr. President, I know that while we were in conference, ill-founded rumors were spread by persons who apparently sought to discredit the conference agreement on SDI even before it was completed. I am pleased to inform my colleagues that Senator STEVENS and I did not waver, we did not break faith with our colleagues, we brought back a conference agreement which provides $3.8 billion for SDI in fiscal year 1993—no more, no less—$3.8 billion is the amount we pledged and it is the amount we delivered.

UNIVERSITY GRANTS

The Senate conferees have responded to requests for earmarking of funds for university grants in the same manner as the Congress resolved this issue in the fiscal year 1992 rescission bill. That is, we have put these university grants into a single provision granting the Secretary of Defense the discretion to award any particular grant.

Mr. President, that concludes my presentation of major recommendations. In a bill of the size and scope of the Defense appropriations bill there are many items of particular interest to individual Members. I would hope the Members would judge the work of the committee by its achievements and not by what they perceive to be its shortcomings. We have a good bill, a balanced bill, and one which I believe deserves the support of every Member of the Senate.

Mr. President, a bill of this magnitude and complexity cannot be managed by one man alone; it requires a team. We have a team—it is called the Appropriations Subcommittee on defense. Each member on that committee has contributed to the Senate's understanding of this important piece of legislation. Chairman BYRD, Senator HATFIELD and other members of the full committee have facilitated our work. I am deeply grateful to each of them—the members of the subcommittee, the members of the full committee, and my other colleagues.

But, Mr. President, I would be remiss if I failed to give special recognition to a singular presence, a Senator whose understanding of matters related to the national defense is unsurpassed. I have an undying debt of gratitude to my good friend the senior Senator from Alaska [Mr. STEVENS] for his support, his encouragement, and his willingness to help shoulder the burden of carrying this bill before the Committee and the Senate and in conference with the House. I treasure the opportunity to work with him in partnership on these weighty matters.

Mr. President, I also wish to recognize the tireless dedication of the staff of the subcommittee. Through the long hours they have labored to give effect to our actions. Selflessly, respectfully, and I might add, tenaciously, the staff of the subcommittee has struggled to bring to fruition the legislative actions of the Senate and the Congress. I wish to recognize; Richard Collins, Steve Cortese, Dick D'Amato, Hoot Albaugh, Rand Fishbein, Charlie Houy, Jay Kimmitt, Peter Lennon, Mary Marshall, Mavis Masaki, Jane McMullan, Jim Morhard, David Morrison, Mazie Mattson, Donna Pate, and John Young.

TRIBUTE TO JAY KIMMITT

Mr. INOUYE. Mr. President, it is my pleasure to call to the attention of the Senate the dedication and service of one of the most trusted member of my staff. He is a man who does not seek recognition, but who nonetheless rises above the crowd by his sheer determination to get the job done, and who has gained the respect and admiration of his colleagues and those who know him as a man whose integrity is unimpeachable and whose commitment to securing the objectives of those he serves never falters.

His character was shaped by his service as an officer in the U.S. Army and his education at the U.S. Military Academy at West Point. He is marked by an unwavering allegiance to the Senate and to the Committee on Appropriations.

The man of whom I speak is Jay Kimmitt, and I am indeed fortunate that he is a member of my staff on the Subcommittee on Defense Appropriations.

Mr. President, Jay has worked for the Congress for nearly 10 years. The majority of that time he has spent on the Defense Appropriations Subcommittee where his responsibilities have grown with each year of service. He is now the primary staff analyst for Department of Defense procurement and for Army research and development programs.

Jay is known, both here in the Senate and in the Pentagon, as one whose incisive analysis, when jointed with his background and experiences in the military, can deflate the pretensions of those who would seek to "bamboozle" the Committee on Appropriations. He presents a formidable obstacle to those who would try to outrun caution or to dodge the careful examination of their requests for funding.

Mr. President, I am proud of Jay Kimmitt. It is an honor for me to work with him.

Mr. President, it is now my pressure to yield to my colleague, the chairman of the authorization committee, the Senator from Georgia [Mr. NUNN].

The PRESIDING OFFICER. The Senator from Georgia is recognized for up to 20 minutes.

Mr. NUNN. Mr. President, I thank the Chair, and I thank my colleague from Hawaii and my colleague from Alaska for their very thorough and very commendable job in managing what everyone knows is one of the most difficult bills to manage.

Mr. President, under the circumstances, I think this bill is a good bill. I particularly want to commend the conferees for their support of several different provisions that originated in the authorization bill but that we worked side by side with the appropriators on all year, particularly the initiatives on defense conversion and transition initiatives that are so important to our men and women in the military and also to our communities throughout the Nation that are losing defense industry and are losing military bases.

We have worked very hard in the Senate this year to put together a bipartisan package of recommendations in this area and I think enactment of these initiatives will certainly be among the most important work done in the Congress this year.

I am also pleased the appropriation conference agreement follows the authorization conference agreement on the tactical aircraft modernization programs which are enormously important and which all of us know we have not solved this year. But at least we are trying to point in the right direction and we are awaiting both an affordability study and a roles and mission study to release all funding.

I would say the same in terms of the funding for the Nunn-Lugar demilitarization legislation which is so enormously important in preventing the spread of nuclear weapons and chemical weapons and countermissile technology around the world as the former Soviet Union undergoes its transition.

And there are a number of other funding provisions that are enormously important that I will not detail tonight.

Mr. President, I will support this conference report, and I do commend the managers of the bill. I do have some concerns that I think need to be set forth.

One concern is the direction in this bill to the Secretary of Navy to settle certain specific shipbuilding claims and several transfers of funds to non-DOD agencies for nondefense purposes.

There may be a good case for these shipbuilding claims to be settled. I hope that there is a good case, because each one of these three that have been identified in this bill have been found unjustified by the Navy.

There is one provision here to pay Bethlehem Steel, Sparrows Point, $40 million using 1992 funds; $55 million was appropriated last year. Secretary Garrett found these claims were unjustified.

There is $13.3 million for Tampa Shipbuilding in Florida, and this was also found to be unjustified by the Navy. The Navy and the Maritime Administration also had another claim for the same company, Tampa Shipbuilding, for TACS-7 and TACS-8, $30.3 million. Each of these claims was found to be unjustified. I hope there is a better explanation than I have received on this, and I certainly do not discount the fact that there may be an explanation.

But any time we overrule a finding by the Navy or by the military services that the taxpayers of the United States do not owe this money and it is put in the bill as a directive to pay, it raises concerns, at least on my part.

Mr. President, my other major concern about the conference report is an old one that has come up several years in a row, and that is the university research earmarks. A little legislative history is in order here.

Two years ago, this issue was hotly debated before this body on the very day of sine die adjournment. When that difficult debate was over, the Senate adopted a provision, and the House followed when the conference report was sent back over, to stop the earmarking of university research funds in the DOD bill.

In the next year's Defense Authorization Act, we passed a provision that called for all university contracting grants to be awarded on a competitive merit selection basis. We also required a specific waiver of this provision in order to make it harder to earmark research projects for specific universities.

The very next year, Mr. President, the appropriations conference report, with no earmarks having been included in either the House or Senate passed bill, waived the competition requirements in the law and again brought us a bill loaded with university earmarks, and that bill was unamendable.

Last year it was the same story. The bill was brought to us at the last minute full of university earmarks. I reluctantly opposed the report last year because of this.

When the Department of Defense subsequently proposed to rescind the earmarked funds, the Appropriation Committee included the rescissions in both bills that passed the House and the Senate.

But something strange happened in conference. When the rescission bill came back from conference, the rescissions of the earmarks were dropped in spite of the fact they were in both bills. The earmarks then were added back, but they did include a provision that said the Secretary of Defense could spend an amount of each case that he felt was appropriate based on the contribution of the project to our national scientific and technology posture.

Obviously, the Secretary did not see much merit in these projects because they were on his rescission list. I understand, although I am not certain, that none of these funds have been spent to date.

Mr. President, when the defense appropriation bill came before the Senate last week, there was approximately $90 million in earmarked funds, but the Senator from Hawaii had done what he said he was going to do last year, and he carried out his word completely. These were discretionary. They were up to the Secretary of Defense.

I proposed an amendment to ensure that all of these grants and contracts to universities would be awarded on a competitive basis, in accordance with the current law which we passed 2 years ago. This amendment also called for a new procedure to use a merit-based review process rather than the oil peer review process that so many Members of the Congress have found objectionable in the past because there is considerable evidence it becomes an old boys network.

This new process would basically include the land grant colleges. I think we need to take another look at that procedure next year and perhaps broaden the group of colleges represented there.

But in any event, I think there is a strong case that our private colleges and universities ought to also be represented. My amendment was adopted giving the Senate a strong mandate to resist earmarking of these funds during the conference.

Now that the conference is complete, and despite the strong message against earmarking of these funds which has been given over and over again by this body, $176 million has been earmarked for 28 colleges and universities.

I would note very quickly, however, that this $176 million is divided into two parts: Those projects which came from the Senate and those which came from the House. The seven Senate earmarks, which total about $75 million, are subject to the amendment I referred to and they will be subject to the competitive requirements of the law.

In other words, Mr. President, they will be selected on the merits. And if there are other schools that are not named in this report that have a better proposal, those other schools will also be able to compete.

The 21 House earmarks, which total $101 million, on the other hand, are to be exempted from the law and awarded without competition. They are outright mandates to spend the money only on those projects. The conferees placed specific language in the report providing that.

To make matters worse, this conference report authorized 10 earmarks, in addition to those that I just mentioned, which are valued at $94.8 million that were rejected and deleted from the fiscal year 1993 Energy and Water Appropriations Act and never passed by either legislative body.

Mr. President, I recognize the dilemma that our Senate conferees were in. I sympathize with their position. I understand the House is adamant on these projects. But I would have to say that this is a slap in the face of good Government.

Mr. President, I am disappointed by this blatant disregard on the part of the House conferees for the strong sentiment of most of the Members of the Senate and I believe also the House. I believe also at least the House is having second thoughts on this subject, because we have to ask the questions of ourselves: What kind of message does this send to the Department of Defense? Does it tell them that we in the Congress mean what we say when we call for increased oversight as our defense dollars become more scarce? I think not.

Also, Mr. President, we must ask ourselves what kind of message we are sending to colleges and universities that are the very foundation of the technology and management we will need in the future: Are we telling them that we value excellence in the research they do? I think not. Are we telling them that the sure way to be funded is not through excellence or performance or through merit-based selection: the way to be funded is through the office of a Member of Congress, regardless of the value and the merit of the proposed research.

Some of these may be worthwhile projects. They may be the best projects available. We may get our money's worth. But if they are good projects, they should stand up to a merit selection process.

And the thing that is most unfair, Mr. President, when you have these provisions inserted year after year by the House, is the fact that schools that are qualified, that are capable, are getting out of the process.

Mr. President, I am disappointed in these particular provisions. I do not know what can be done at this late date but I hope we can turn this around. I hope the projects will be on the rescission list and I hope that we will be able to readdress this, either before this session ends or early next year.

Mr. President, again I commend the Senator from Alaska and I again commend the Senator from Hawaii for the very difficult job under great time pressure.

I would also add that job was made more difficult this year because our authorization bill was not passed in an early stage, and I understand that makes it much more difficult for the appropriators to act. We were forced by circumstances beyond our own control not to pass our bill at the end of August and that made the process more complex for all.

Mr. President, before yielding the floor, yielding back the remainder of my time, we had a little dialog here a few minutes ago with a marvelous going away speech and presentation by the Senator from new Hampshire, Senator RUDMAN. I will have more remarks to make about him later but he is a man of splendid ability, he has tremendous integrity, he has wisdom, he has common sense, and most of all he has fortitude. He has the courage of his convictions.

WARREN RUDMAN will be missed. Mr. President, I yield the floor.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Georgia yields the remainder of his time.

Under the agreement, 20 minutes is reserved to the Senator from Alaska, Mr. STEVENS, and 20 minutes to the Senator from Arizona, Mr. McCAIN, which has not been used. The Senator from Hawaii has used 6 minutes of his time.

Who seeks recognition?

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, while the distinguished chairman of the Armed Services Committee is on the floor I would like to express my appreciation for, again, his achievements in carrying out a very difficult, arduous bill and especially for his continued support as we address the difficult personnel issues that affect our Armed Forces. As you all know, we are forcing thousands of young men and women to leave the military. I appreciate the concern and commitment on the part of the chairman in trying to ease the transmission and burden we are placing on these young men and women.

I would also like to express my appreciation to the distinguished chairman of the defense appropriations subcommittee and the ranking member, Senator STEVENS.

Senator INOUYE and Senator STEVENS worked very hard on this bill and I think they have shaped a very difficult compromise that in policy areas I am fully supportive of.

I also rise again though, this year, Mr. President, to strongly oppose many of the add-ons, unauthorized and authorized, to this bill which we can frankly no longer afford. I find them, again, totally unacceptable.

I also want to admit from the start that I am not without sin in casting the first stone. All of us have had to accept legislation that contains items we wish had not been added to our bills. Further, all of us have to fight hard for our State and constituent interests. If we do not, the end result is inevitably to see our programs lose funding, regardless of their merit, and add-ons and pork take their place.

There is no man or woman in this body who can point the finger at others in innocence. In fact, it is one of our key functions to fight for the interests of the constituents we serve.

I do not believe, however, that we should close out this year's defense debate without at least some review of the problems we have created for our Nation's defense. I do not believe that we should ignore the fact we have created a new case for the line item veto, for restraint in disrupting the President's defense budget, and for eliminating the pork we insert into the defense budget.

We are in the process of making draconian cuts in defense spending. We are cutting spending on procurement in ways that threaten our defense industrial base. We are cutting spending on operations and maintenance in ways which threaten to recreate a hollow Army, a hollow Navy, a hollow Marine Corps, and a hollow Air Force. We are cutting force levels to a point which threatens our ability to fight another Desert Storm in a world that still has its tyrants and aggressors.

We are also cutting defense at a time when we face a major recession. We are forcing millions of Americans to find new jobs—Americans who won the cold war and many of whom fought in Desert Storm. Every time we put $35,000 into any area that does not reflect a legitimate high priority need, we take a job away from an American who earned it and give it to someone who did not.

Let me repeat this point, Mr. President. There is no such thing as a free lunch and there is no such thing as free pork.

Every dollar any Senator or Congressman moves out of the President's defense budget request contributes to costing some American his or her job. Every time these dollars total up to $35,000, they cost an entire job.

All of us tend to conveniently forget this when we make claims to our constituents. We all list what we added, but we never list what we took away. None of us go home and state what our net impact was on our States and districts. Quite frankly, most of us do not even know at the end of our deliberations whether we produced a net increase in jobs or spending unless we focus almost solely on pork and forget our Nation's security needs.

I believe that we need to remind ourselves of these facts before we finish our debates on this year's defense bills. I believe that we must lay the ground work for a searching examination of the add-ons we have made to the President's defense budget request. I believe that we should lay the ground work for open Government and for media review of what we have done.

FINDING DEFENSE PORK

In saying this, I must note that we face a very real problem this year in laying that ground work. We are rushing forward with legislation that none of us have really had the time to review.

I think that I can assert with absolute certainty that no member of this body or the House has had time to read the entire fiscal year 1993 Defense Authorization Act or Defense Appropriations Act. We may be the world's greatest deliberative body, but no member has had timely access to the detailed tables that describe the spending patterns in our bills in the rush to complete this year's legislation.

No one really knows the details of all the add-ons to either defense bill. Further, even if we had days to review each act, the truth is that it takes weeks for even the Comptroller's office of the Secretary of Defense to document exactly what has been added to, to deleted from, the President's request.

These problems are further complicated by the fact that our bills are not designed to reveal the details of add-ons or pork, and our report language rarely explains the real reason for many changes.

In fact, the thousand or more pages of report language and hundreds of pages of bill language are designed to conceal such details. Many words and funding shifts are worked out at the last moment and behind closed doors. Many are hard fought compromises between the public need and private influence. Many are so vaguely worded that it can take the Department of Defense months to fully interpret what they mean.

Not every addition we make to the defense budget represents the misuse of defense funds, and many cuts are also justified. Many add-ons to the defense budget are actually requested by the Department. Many reflect the changing needs that develop during the months between the President's budget request and the time we complete action. Many are the outcome of legitimate defense debates. We are not a rubber stamp for the Executive Branch.

I have, however, reviewed the Senate version of the FY1993 Defense Appropriations Act, and I have found a number of areas that seem to turn a silk purse into a sow's ear. I have found areas that do seem to merit both searching media examination and a line item veto.

As a result, I have a list of questions for the managers of this bill. I hope that they will be able to answer these questions at this time. If not, I hope that they will be able to provide the answers for the record.

First administrative Aircraft for the National Guard. Could it be explained to me why the Appropriations Act earmarks specific expenditures for administrative aircraft for the National Guard? This whole expenditure area has been the subject of intense media scrutiny because it involves the purchase of aircraft that often are not requested or needed by the Guard.

We made at least a start in reducing the amount of pork spent on such items in the Authorization bill by not earmarking specific buys of specific aircraft. Why was this funding retained in the Appropriations Act?

Second, National Security Education Fund. Could it be explained to me why we have added $35 million to the National Security Education Fund? We already authorized $150 million for this program last year. We did so although it was largely undefined and little supporting analysis and justification. We also treated it as a fully mature program.

We did not provide funds to try it out. We did not even authorize the $4 or $5 million needed to fully fund it for a year. Instead, we spent $150 million at a time when countless public and private educational institutions all over the Nation need additional funds. We did it at a time when we are losing military and defense jobs all over the country—and let me note that $150 million is enough money to generate 4,000 to 8,000 jobs. We did it at a time when we have pressing social needs throughout our society.

There still is no agreed Department of Defense directive or implementing instruction for the program. The Board that is supposed to administer the program is still not fully selected. Two basic studies that are supposed to help define the purpose and implementation of the program are not funded, much less completed. The first is a large-scale study of higher education needs in foreign languages, area studies, and international fields. The second is assessments of how international events will affect future U.S. prospects for economics, foreign affairs, and defense as part of national security.

In other words, we still do not have an implementable program, no one is really in charge, and we haven't done the research necessary to use the money effectively.

Why are we putting $35 million more into this program?

UNIVERSITY SET ASIDES

The distinguished chairman of the Armed Services Committee explained how unacceptable this is. I gather that Senators made a major effort to make these set-asides competitive and were denied this by the House. Why did the other body take this position?

Does the Montana College of Science and Technology get $10 million? Does the University of Wisconsin Center for Advanced Propulsion get $15 million and the Medical College of Wisconsin still get $15 million more? Has Wisconsin won some lottery we don't know about this year?

Does the University of St. Thomas in St. Paul still get $15 million, and if so, why? What about $15 million for Johns Hopkins? What about $5 million for the University of New Orleans School of Naval Architecture? What about $16.45 million for other selected universities?

I think the American people deserve an explanation of why these specific institutions deserve taxpayer money without competition, review by their academic peers, or detailed justification?

DOC FISHERIES GRANT PROGRAM FOR DISASTER RELIEF

I believe in disaster relief, but could it be explained to me why $100 million for the DOC fisheries grant program for disaster relief was in the Senate version of the Defense Appropriations bill, and whether it still is in the conference report?

PROJECT PEACE AND STUDY OF NUCLEAR WASTE IN THE USSR ARCTIC

Is $35 million in additional transfer authority still being provided for Project Peace and the study of nuclear waste in the U.S.S.R. Arctic? If so, how did we determine the priority for these projects?

MONEY FOR HOLIDAYS AND SPORTS

What is the status of the various proposals for spending money on holidays and sports? What does defense have to do with spending $6 million on the World University games? Why is defense spending $2 million on the Olympic games in Atlanta that will not even be held until 1996? Why should defense spend $9 million for World Cup USA? Have we replaced the bomber and missile gaps with some new sports gap, and an athletic threat that we are not yet aware of?

NATIONAL PRESTO INDUSTRIES CLEANUP AT EAU CLAIRE, WI

Is $7 million being spent on the National Presto Industries Clean Up in Eau Claire, WI? If so, what reasoning went into assigning this activity special priority?

EXTENDED COLD WEATHER CLOTHING SYSTEM

Is $36 million still being spent on the Extended Cold Weather Clothing System? Once again, what is the reasoning behind this? Why does this add-on have priority?

AMMUNITION ADD-ONS

Are we still spending $340 million for ammunition add-ons? If so, is there any documentation from a military service showing we need these add-ons? Is there any testimony or staff analysis?

TACTICAL TRAILERS AND DOLLY SETS

Are we still spending $30 million for tactical trailers and dolly sets for the Army? Is not this an add-on for which the military services have no requirement at all?

NIGHT VISION DEVICES

Do we still have a $5 million add-on for night vision devices? If so, what is the military requirement and how was it validated?

REAL PROPERTY MAINTENANCE AT THE PRESIDIO

Are we still going to spend $28 million for real property maintenance at the Presidio even though we are going to close the base? If so, what defense function does this aid?

M-1 TANK UPGRADES

Is there some U.S. Army analysis or documentation showing that we need to spend $122.1 million on upgrading the M-1 tank?

SNAKE CONTROL

What is the sudden problem that led us to consider to spend $1 million under O&M Health for snake control? Is this still in the act?

Mr. President, the cases I have listed are only the small tip of the iceberg. They involve comparatively small amounts, and my reason for raising them as questions is not because they are the most important problems in our defense legislation, but because they are easier to understand than the broader problems that involve billions of defense dollars.

There are far more serious reasons to fight defense pork, to reduce the burden on the taxpayer, to reduce the deficit, and to save the jobs of those who have earned them. These cases are only symbols of our need to come to grips with the fact that we simply do not have the total funds in the defense and intelligence budgets to fund anything other than necessary defense programs.

THE OVERALL PROBLEM OF ALLOCATING DEFENSE DOLLARS IN A TIME OF DEFENSE SCARCITY

If I may now turn to the broader issues at hand, we need to start facing a new defense facts of life. We keep talking about the base force as if we were funding it. We keep advancing plans for peace dividends and defense savings as if we had provided the money to maintain the base force force levels.

The base force, however, was announced in August 1990, and we have already cut the defense budget at more than twice the rate the President planned in both fiscal years 1991 and 1992. Early this year, President Bush proposed a defense budget that was 7 percent lower in real terms than last year's defense budget—which again was an annual cut about twice the level that was planned in sizing the base force.

While it is impossible to make precise estimates because of the ongoing changes in our force structure, we will be spending about 10–12 percent less in fiscal year 1993 than defense planners counted on in sizing the base force.

Nevertheless, each key committee made major cuts in the President's fiscal year 1993 defense budget request of $281 billion.

The budget resolution, provided $277.4 billion, a cut of $4.2 billion, or 1.5 percent.

The Senate passed a fiscal year 1993 Defense Authorization Act that provides $274.2 billion. This is a cut of $7.4 billion, or 2.6 percent.

The House Armed Services Committee passed an act that provides $271.1 billion. This is $10.5 billion below the President's request, and a cut of 3.7 percent.

The House Appropriations Committee passed an act that appropriates $273.9 billion, a cut of $7.7 billion, or 2.7 percent.

The Senate Appropriations Committee has produced a bill that appropriates $272.5 billion, a cut of $9.1 billion, or 3.2 percent.

We have now passed a final Authorization Act which is $274.2 billion, or 2.4 percent, below the President's request, and the Appropriations Act funds roughly the same level.

This means that we have added cuts of 9.4 percent in real defense spending to the cuts of 12.3 percent we made in fiscal years 1991 and 1992. This is a total of 21.7 percent, and it means that we have taken actions that mean we must cut the base force by about 10–12 percent more than the level called for in the President's original plans to cut our forces by an average of 25 percent. We are talking about 35 percent force cuts, not 25 percent.

I am deeply concerned that we may be accelerating the cuts in our national security faster than problems we face justify and faster than our economy can absorb. However, the cuts we are making in defense spending are only part of the story. The specific items I have just discussed are only a small fraction of the total add-ons to the defense budget that must be funded by cutting items in the base force.

They are part of a much broader process that makes all the problems in funding effective forces far worse.

We are shifting so many dollars out of programs that the President, Secretary Cheney, and General Powell assumed we would have in planning our forces and strategy, and putting them into other areas that we are forcing additional force cuts on the military. We are pushing our entire military structure towards hollow forces.

As I have said before, we do not yet have a detailed list of the changes and add-ons included in the final conference reports on the fiscal year 1993 Defense Authorization and Defense Appropriations Acts. However, the Comptroller of the Department of Defense has provided me with a detailed list of the add-ons and cuts that the the Senate and House authorizers and appropriators have made in President Bush's original proposal for the fiscal year 1993. I ask unanimous consent that these lists, and the relevant totals, be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MCCAIN Mr. President, if we look at such add-ons and cuts in the defense budget, we see the House authorizers added $9.8 billion in programs the President did not request, and took $14.9 billion away from the programs he asked for. Similarly, we see that the Senate authorizers inserted $10.4 billion and removed $13.8 billion.

If we look at such add-ons and cuts in the defense budget, we see that the House appropriators added $15.8 billion in programs the President did not request, and took $18.6 billion away from the programs he asked for. Similarly, we see that the Senate appropriators inserted $10.5 billion and removed $19.7 billion.

Now, let me repeat that some of these changes were valuable and necessary. We have a very real responsibility to ensure that defense dollars are spent wisely. We must recognize the fact that nearly a year elapses between the drafting of the budget and our action on that budget, and time alone requires change. Our hearings and debates often reveal a distinct need for change.

We need to remember, however, that all of these changes have an effect that is incremental to our cuts in defense budgets. Every time we make a change that is not vitally needed, we make further cuts in national security, and we take jobs and income away from the people who have earned them and we give them to people who have not.

Perhaps the best way to put this issue in perspective is to illustrate what happens in terms of jobs. And this time, let me single out the authorizers to balance out my previous comments on the appropriators.

If we take the most conservative possible assumption—and assume an average job cost of $75,000 per job, including overhead—the Senate cuts in defense spending will take about 100,000 jobs away from people who had earned them under the President's defense budget request. If we look at the $10.3 billion in add-ons, we will shift another 137,000 jobs.

If we use a more realistic figure of about $35,000 per defense job, we will shift 214,000 to 293,000 jobs—including all defense industry, active and reserve military Department of Defense civilian, and defense-related jobs.

Let me stress that word shift. We are not creating jobs by moving money from one part of the defense budget, nor by cutting defense spending faster than the economy and the pace of defense conversion can absorb.

As I noted earlier, our add-ons and cuts only move jobs. In most cases, they take jobs away from companies and peoples who earned them by competing in the areas that contribute to security. Our defense cuts eliminate current jobs in the hope that the money will eventually be used to create other jobs later.

Mr. President, we must not continue to judge the budget request of the executive branch with one standard and then apply a far less demanding standard to ourselves. We cannot go on claiming to be funding good causes and to create jobs when we are actually taking money and jobs away.

The items I listed earlier are only a tiny part of this problem, and it is in some ways unfair to single out this one example. But, Mr. President, we must start somewhere. We simply must realize that such imprudent spending does not serve the national interest, and always comes at the expense of Americans who have earned their jobs and need them.

In summary, Mr. President, I would like to again thank the ranking member and the chairman of the Defense Subcommittee who have done a herculean job of bringing forth this bill at a very late hour in this very partisan time. I say again, though, we must restrain the unnecessary and wasteful spending.

I thank the indulgence of the Chair. I yield the remainder of my time.

9/21/92 1400

CONGRESSIONAL ACTIONS
FY 93 DoD AUTHORIZATION (HR 5006 / S 3114)
FY 93 DOD APPROPRIATIONS (HR 5504)

Program	FY 93 Request	House Authorization	SASC Authorization	House Appropriation	SAC Appropriation
Budget Authority **TOTAL 050**	$281.0B (Congressional Budget Resolution provided $277.4B for 050)	$270.5B (-$10.5B)	$274.5B (-$6.5B)	$272.4B (-$8.6B)	$270.7B* (*Comptroller's preliminary estimate)
Defense Conversion	$7.1B in FY 92 and 93 on existing programs government-wide; $1B additional funding for new programs through FY 96	$1B 050 funds: $180M "Teachers from Troops" program; $200M dual-use technologies; $200M job training (DoD and JTPA); $100M assistance to local governments; $122M public and private employee benefits package; $125M DoD-business assistance program.	$1.2B: Establishes a Civil-Military cooperation program; 15-year military retirement, Guard & Reserve transition package; $50M JTPA ; +$35M OEA; $150M EDA grants; $50M schoool district grants; approx. $600M Dual-use technology and other tech and industrial base programs.	$1B	$2B: Earmarks $80M for Economic Development Administration and $50M for the Department of Labor.
Operations and Maintenance Funding	$84B	$74.3B Includes cuts to excess inventory (-$2B); DBOF (-$2.3B); "overhead and infrastructure" (-$2.5B); and Host Nation Support (-$3.5B).	$81.7B Includes cuts based on improvements to inventory management (-$3.2B); education and training (-$200M); Real Property maintenance (-$200M); telecommunications improvements (-$150M); DBOF (-$500M)	$81.8B Includes cuts to inventory (-$500M); foreign nationals (-$1.6B); offset for Coast Guard (-$200M); Real Property Maintenance (-$800M); consultants (-$200M)	$81.1B Includes cuts to inventory (-$2.9B); foreign nationals (-$175M) (additional $175M for foreign nationals fenced); anticipated savings from Residual Value Negotiations (-$125M) .
SDI	$5.4B ($576M Brilliant Pebbles)	$4.3B (- 0- Brilliant Pebbles) Includes language establishing compliance with the ABM Treaty as a national goal. Creates a new organization for theater missile defense separate from SDIO.	$3.8B ($350M Brilliant Pebbles)	$4.23B including $135M ERINT earmark	$3.8B

Program	FY 93 Request	House Authorization	SASC Authorization	House Appropriation	SAC Appropriation
B-2	$2.7B (4 planes)	$2.7B (4 planes) Funding fenced 1) report on effectiveness of stealthiness; 2) report on cost of fielding 20 planes; 3) GAO review of these two reports; and 4) Congressional vote to allow release of funds.	$2.7B (4 planes) Funding fenced pending 1) submission of all reports and certifications required in FY 92 Auth; 2) report on effectiveness of stealthiness and 3) cost of fielding 20 planes.	$2.7B (4)	$2.7B (4)
Tactical Aviation					
F/A 18 E-F	$1.1B	$598.6M (prototype)	$943.6M (AF use in future)	$1.1B	Establishes Tactical Aviation Modernization Account at level of $3.5B.
AX	$165.6M	$740.6M (prototype)	$50M (prototype)	$165.6M	
F-22	$2.2B	$2.0B	$2.2B*	$2.0B	
F-16 C/D	$683.2M (24)	$614.8M (24)	Terminated ($75M)	$614.8M (24)	
	- 0 - AP (Terminate after FY 93)	$ 68.4M AP (continue LRP after FY 93)	- 0 - AP (* F-22 funds fenced pending submission of roles and missions study)	$ 68.4M AP	
B-1B	$214.9M	$214.9M	$50M. Prohibits procurement of the CORE ECM system until SecDef certifies that the system has passed all required tests.	$214.9M	$50M
Sealift	Establish National Defense Sealift Fund ($1.2B)	Denied Sealift Fund; Funded Sealift at $1.2B (via Navy shipbuilding and conversion) Limits acquisition of foreign built vessels to 5.	Establishes Sealift Fund; Funded sealift at $225M (via Navy shipbuilding and conversion)	Appropriates $801M -- if authorized.	$1.2B
Carrier Replacement Program	$832.2M	$832.2M	$350M (delays procurement from FY 95 to FY 96)	$832.2M	$350M
LHD-1 Amphibious Ship	0	0	$1.2B (1)	$1.2B (1)	$1.0B (1)
MILCON	$8.27B (after R&M adjustment)	$10.4B. Includes $1.9B R&M and adds $832.6M for 163 unrequested projects.	$ 8.97B (R&M funded in O&M)	$8.6B (R&M funded in O&M). Adds approximately $800M for 174 unrequested projects.	$8.19B

Program	FY 93 Request	House Authorization	SASC Authorization	House Appropriation	SAC Appropriation
Guard/Reserve End Strength					
ARNG	383,100	420,000 (+36,900)	425,450 (+42,350)	420,000 (+36,900)	425,450 (+42,350)
USAR	257,500	263,000 (+5,500)	296,230 (+38,730)	273,000 (+15,500)	296,230 (+38,730)
USNR	125,800	125,800	141,545 (+15,745)	136,000 (+10,200)	141,545 (+15,745)
USMCR	38,900	42,400 (+3,500)	42,230 (+ 3,330)	42,400 (+3,500)	42,230 (+ 3,330)
ANG	119,200	119,200	119,400 (+ 200)	119,200	119,400 (+ 200)
USAFR	82,200	82,200	82,400 (+ 200)	82,250 (+50)	82,400 (+ 200)
Total	1,006,700	1,052,600 (+45,900) *(Enhance combat role)*	1,107,255 (+100,555) *(Enhanced combat and civil-military role)*	1,072,850 (+ 66,150) *(Increase C3I role)*	1,107,255 (+100,555)
Guard/Reserve Equipment Adds	1.7B	+ 635.8M	+630.1M	+ 1.13B	+630M
MILPERS			Establishes a floor for end strengths and authorizes 5% active and 2% reserve component flexibility in meeting the floors. Bill also authorizes early retirement to military personnel with 15-20 years of service.		
Reproductive Services		Permits abortions to be performed at overseas military installations.	Permits abortions to be performed at overseas military installations.	No funds shall be available to enforce DoD policy prohibiting non-funded abortions in military facilities overseas.	Permits abortions to be performed at overseas military installations
Nuclear Testing (comparison attached)		Imposes one-year moratorium on nuclear testing unless the President certifies that any of the independent republics of the former Soviet Union has conducted a nuclear test during that period.	Imposes nine-month moratorium on nuclear testing and a complete test ban after September 30, 1996. Between 1993 and 1997, limits number and types of tests that may be conducted (subject to disapproval by the Congress).	Language identical to House authorization contained in Energy & Water Appropriations bill.	Imposes 9-month moratorium, subject to Joint Resolution of disapproval, and CTB by October, 1996; limits number and purposes of tests (Energy & Water Appropriations)

FY 93 DEFENSE APPROPRIATIONS ACT EARMARKS/ADDS

(Adds in *Italics*)

	$ Millions
O&M ARMY	
1992 Memorial Day	**.450**
Capitol Fourth Project	**.450**
Extended Cold Weather Clothing System	**86.000**
Badger Ammunition Plant Environmental Assessement and Cleanup	**1.715**
National Presto Industries Cleanup, Eau Clair, Wisconsin	**7.000**
Police Training of Marine Corps Personnel at Fort McClellan, AL (Transfer from Air Force O&M)	**1.000**
O&M NAVY	
Bellows AFB EIS	**1.000**
Hawaii Military Land Use Plan	**.900**
O&M MARINE CORPS	
Child Abuse Prevention Program	**3.000**
O&M AIR FORCE	
Kirtland AFB Theater Air Command Control and Similation Facility	**7.000**
TICARRS	**12.000**
O&M ARMY NATIONAL GUARD	
STARBASE Youth Education Program	***2.000***
O&M DEFENSE AGENCIES	
DOD Global Disaster Relief Activities	**50.000**
Legacy Resource Management Program	**nlt 50,000**
Hawaiian Volcano Observatory	**.500**
ENVIRONMENTAL RESTORATION, DEFENSE	
Expedited Cleanup of Environmentally Contaminated Sites in Accordance with a Comprehensive Plan Submitted to Congress	**200.000**
Bioremediation Technology Development Efforts	**3.500**

HUMANITARIAN ASSISTANCE	
Humanitarian Assistance to Afghanistan refugees and worldwide Humanitarian Relief	**25.000**
WORLD UNIVERSITY GAMES	**6.000**
1996 OLYMIPIC GAMES, ATLANTA, GA	**2.000**
WORLD CUP USA 1994	**9.000**
PROCUREMENT, NAVY	
A-6E Mission Recorder/Reproducer Systems	**15.000**
NATIONAL GUARD AND RESERVE EQUIPMENT	
8 UH-60 Helicopters	***56.000***
Night Vision Equipment	***40.000***
RDT&E ARMY	
Center for Prostate Disease Research at WRAIR	**2.000**
Clinical Investigation of AIDS drug GP-160	**20.000**
Assistive Technology Center at the National Rehabilitation Hospital	**4.000**
Breast Cancer Research	***185.000***
Armored Systems Modernization applications	***10.000***
RDT&E NAVY	
T-45 Training System Engine Competitive Development	***25.000***
RDT&E AIR FORCE	
SPACETRACK Advanced Electro-Optical System Project at the Maui Optical Station	**nlt 39.500**
Continue Establishment and Operation of an Image Information Processing Center Supporting the Air Force Maui Optical Station and the maui Optical Tracking Facilities	**nlt 5.000**
(Grant to the Maui Economic Development Board)	**(nlt .500)**
Transfer to DOT Office of Commercial Space Development to Support Defense Space Launch Requirements	**nlt 10.000**

RDT&E DEFENSE AGENCIES

Electric Vehicle Research	**nlt 25.000**
(State of Hawaii Electric Vehicle Technology Program	**(nlt 5,000)**
Synthetic Aperture Radar Digital Terrain Mapping	***16.000***
Laser Imaging Detection and Ranging (LIDAR)	***7.000***

TITLE VI

DEFENSE HEALTH PROGRAM

Cooperative Program Model at Madigan MedicalCenter	**.150**

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

Five Sea-Based Aerostats	**25.500**
Gulf States Counter-Narcotics Initiative	**nlt 7.500**
Modifying up to 15 T-47 Aircraft with Improved Radars and FLIRS	**35.000**

TITLE VIII

DEFENSE REINVESTMENT FOR ECONOMIC GROWTH

Transfer to DOC EDA	**80.000**
Transfer to DOL	**50.000**
Dual-Use Critical Technology Partnerships	**100.000**
Commercial-Military Integration Partnerships	**50,000**
Regional Technology Alliances	**100,000**
Defense Advanced Manufacturing Technology Partnerships	**25.000**
Manufacturing Engineergin Education Programs	**30.000**
Defense Manufacturing Extension Programs	**100.000**
Dual-Use Technology and Industrial Base Extension Programs	**200.000**
Agile Manufacutring and Enterprise Inegration	**30.000**
Advanced materials Synthesis and Processing Partnerships	**30.000**
U.S.-Japan Management Training	**10.000**

TITLE IX

GENERAL PROVISIONS

SEC. 9041(A) National Defense Science and Engineering Graduate Fellowships	**nlt 10,000**
SEC. 9055 Mental health Care Demonstration Project at Fort Bragg, N.C.	**nte 16.000**
SEC. 9062 Kahoolawe Island Commission	**.500**
SEC. 9074 Civil Air Patrol	**10.596**
(O&M)	**(4.471)**
SEC. 9088:	
Mount Pinatubo Claims	***15.000***
Relocation of Air Force/Navy Unites from Clark/Subic Bay	***20,000***

SEC. 9089:	
Montana College of Science and Technology	**10.000**
University of Arizona	**5.000**
University of Connecticut	**3.500**
Tulane/Xavier Bioenvironmental hazards Research Center	**3.000**
University of New Orleans School of Naval Architecture	**5.000**
St. Norbert College	**3.900**
Johns Hopkins University	**15.000**
University of Wisconsin Center for Advanced Propulson	**15.000**
John Carroll University	**5.300**
University of Northern Iowa	**.750**
Medical College of Wisconsin	**15.000**
University of St. Thomas, St. Paul, Minnesota	**15.000**
SEC. 9091(A) Indian Financing Act Incentive Payments	**8.000**
SEC. 9110:	
Additional Transfer Authority	**400.000**
Project PEACE	**nlt 25.000**
Study of Nuclear Waste in Former USSR Arctic	**nlt 10.000**
SEC. 9116 Mitigation of Environmental Impacts on Indian lands	**nlt 8.000**
SEC. 9130. ***Arms Manufacturing Support Initiative***	***200.000***

MISCELLANEOUS FLOOR AMENDMENTS

CORPS Control of Nuisance Aquatic Vegetation in Lake Gaston, VA & N.C.	***.200***
C-20 Aircraft for the Marine Corps Reserve	***25.000***
DOC Fisheries Grant Program for Disaster Relief	***100.000***

FY 1993 NATIONAL DEFENSE BUDGET AUTHORITY

($ Billions)

	Budget Request	HASC Mark	HASC Level	HAC Mark	HAC Level	SASC Mark	SASC Level
Military Personnel	77.1	+0.2	77.3	-0.2	76.9	+0.2	77.3
Operation & Maintenance	86.5	-6.8	79.7	-4.8	81.7	-1.3	85.2
Burdensharing	-	-3.5	-3.5	-	-	-	-
Procurement	54.4	+0.6	55.0	-0.1	54.3	-0.8	53.6
RDT&E	38.8	-0.4	38.4	-	38.8	+0.1	38.9
Military Construction	6.2	+0.1	6.3	-1.7	4.5	-1.5	4.7
Family Housing	4.0	+0.1	4.1	-	4.0	+0.2	4.2
Revolving & Management Funds	1.6	-1.7	-0.1	-1.6	-	-3.5	-1.9
Defense Reinvestment	-	+1.0	1.0	(1.0)	(1.0)	-	-
Community Assistance	-	-	-	-	-	+0.2	+0.2
Other	-0.9	-	-0.9	-	-0.9	+0.1	-0.8
Total DoD	267.6	-10.3	257.3	-8.4	259.3	-6.2	261.5
DoE	12.1	-0.2	11.9	-0.2	11.9	-0.2	11.9
Defense Related	1.2	-	1.2	-	1.2	-0.1	1.1
Total 050	281.0	-10.5	270.5	-8.6	272.4	-6.5	274.5
Budget Resolution	277.4						

FY 1993 House Armed Services Committee Adds

	HASC ADDS
DOD BILL	
OPERATION AND MAINTENANCE	1,464,550
PROCUREMENT	3,356,874
RESEARCH, DEVELOP., TEST&EVAL.	3,117,184
OTHER	1,040,000
TOTAL - DOD BILL	8,978,608
MILCON BILL	
MILITARY CONSTRUCTION	763,664
FAMILY HOUSING	80,120
TOTAL - MILCON BILL	843,784
TOTAL Department of the Army	1,467,330
TOTAL Department of the Navy	3,345,014
TOTAL Department of the Air Force	821,856
TOTAL Defense Agencies/OSD	4,188,192
TOTAL - Department of Defense	9,822,392

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	304,386	-826,449	1,162,944	1,894,073	-1,519,815	-2,748,270
Department of the Navy	1,138,827	-1,935,528	2,236,571	2,725,215	-3,617,010	-4,268,256
Department of the Air Force	179,908	-1,994,172	641,947	1,740,281	-2,875,494	-4,573,108
Defense Agencies/OSD	298,830	-957,874	4,119,959	4,018,513	-7,082,243	-2,255,712
Defense-Wide	0	0	0	0	0	0
Total - Department of Defense	1,921,751	-5,714,023	8,161,421	10,378,082	-14,894,582	-13,845,346

SASC

Adds by both Chambers	1,921,751
Adds by SASC only	10,378,082
Total SASC Adds	12,299,833
Cuts by both Chambers	-5,714,023
Cuts by SASC only	-13,845,346
Total SASC Cuts	-19,559,369
GRAND TOTAL SASC	-7,259,536

CONFERENCE

Adds
Cuts
Total

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			Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Adds by Indiv.chmbrs Senate	Cuts by Indiv.chmbrs House	Cuts by Indiv.chmbrs Senate
	(1)		(2)	(3)	(4)	(5)	(6)	(7)
084	CONVENTIONAL MUNITIONS	060360					-10,000	
086	MARINE CORPS ASSAULT VEHICLES	060361		-26,500				
089	MARINE CORPS GROUND COMBAT/SUPPORT SYSTE	060363				13,000		
096	ADVANCED MARINE BIOLOGICAL SYSTEM	060370					-4,731	
103	LIGHTWEIGHT 155MM HOWIZER					13,100		
106	SHORE FIRE SUPPORT COEA					4,000		
108	LINK PLUMERIA	060374		-5,565			-720	
110	RETRACT ELM	060375		-35,000			-24,000	
112	SHIP SELF DEFENSE	060375				28,000		
118	IFF SYSTEM DEVELOPMENT	060421					-5,000	
120	HELICOPTER DEVELOPMENT	060421		-9,702				
125	AIRBORNE ASW DEVELOPMENTS	060421					-39,209	
126	P-3 MODERNIZATION PROGRAM	060422			90,000			
127	ATA/AX	060423			575,000			-115,583
130	V-22A		755,000					
131	AIR CREW SYSTEMS DEVELOPMENT	060426			3,700			
134	EW DEVELOPMENT	060427					-25,000	
137	AEGIS COMBAT SYSTEM ENGINEERING	060430						-28,896
140	NATO SEA SPARROW	060436				5,000		
143	5" ROLLING AIRFRAME MISSILE					10,000		
164	UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAP0	060460					-10,291	
169	JOINT DIRECT ATTACK MUNITION	060461					-15,000	
171	MARINE CORPS ASSAULT VEHICLES - ENG DEV		14,700					
186	FIXED DISTRIBUTED SYSTEM - ENG	060478					-104,486	
190	F/A-18 SQUADRONS	020413		-190,000			-345,000	
192	ADVANCED DEPLOYABLE SYSTEM					14,000		
194	SURFACE COMBATANT ORDNANCE - TOMAHAWK	020422	5,000			10,000		
208	MARINE CORPS INTELLIGENCE/ELECTRONICS WA	020662	2,000			1,000		
210	LAV-AD					9,400		
270	MARINE ENHANCEMENT PROGRAM					12,000		
271	RAAM					2,000		
	Total - Tactical programs		776,700	-266,767	672,700	234,900	-643,437	-159,679
	Intelligence and communications							
	All other programs			-69,255				-62,045
	Defense-wide Mission Support							
224	ENVIRONMENTAL PROTECTION	060372				20,000		
226	ELECTRONIC WARFARE SIMULATOR DEVELOPMENT	060425						-10,000
227	TARGET SYSTEMS DEVELOPMENT	060425						-10,000

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(1)		Adds by Both Chambers (2)	Cuts by Both Chambers (3)	Adds by Indiv.chmbrs House (4)	Adds by Indiv.chmbrs Senate (5)	Cuts by Indiv.chmbrs House (6)	Cuts by Indiv.chmbrs Senate (7)
232 FLEET TACTICAL DEVELOPMENT AND EVALUATIO	060515		-2,000				-1,000
235 TECHNICAL INFORMATION SERVICES	060580						-3,000
240 RDT&E SHIP AND AIRCRAFT SUPPORT	060586					-5,000	
241 TEST AND EVALUATION SUPPORT	060586					-18,000	
248 INDUSTRIAL PREPAREDNESS	070801		-30,384				-15,000
249 MANUFACTURING TECHNOLOGY DEVELOPMENT				80,384			
252 MANUFACTURING TECHNOLOGY INITIATIVES					108,400		
253 PURCHASES FROM DBOF							-733
254 TRAVEL							-1,110
Total - Defense-wide Mission Support			-32,384	80,384	128,400	-23,000	-40,843
Total Appn - RDT&E, Navy		776,700	-437,406	768,161	368,300	-822,937	-303,567
RDT&E, Air Force							
Technology base							
002 DEFENSE RESEARCH SCIENCES	060110					-8,500	
003 GEOPHYSICS	060210					-5,000	
004 MATERIALS	060210		-4,125			-5,875	
005 AEROSPACE FLIGHT DYNAMICS	060220		-2,000			-3,000	
006 HUMAN SYSTEMS TECHNOLOGY	060220		-4,495			-5,505	
007 AEROSPACE PROPULSION	060220			2,000			
008 AEROSPACE AVIONICS	060220		-6,000			-4,000	
009 PERSONNEL, TRAINING AND SIMULATION	060220			15,000			
010 CIVIL ENGINEERING AND ENVIRONMENTAL QUAL	060220				2,495		
011 ROCKET PROPULSION AND ASTRONAUTICS TECHN	060230		-3,000			-2,000	
012 ADVANCED WEAPONS	060260					-10,000	
013 CONVENTIONAL MUNITIONS	060260		-10,000			-5,000	
014 COMMAND CONTROL AND COMMUNICATIONS	060270		-5,000			-5,000	
Total - Technology base			-34,620	17,000	2,495	-53,880	
Advanced technology development							
015 LOGISTICS SYSTEMS TECHNOLOGY	060310				2,936		
019 ADVANCED AVIONICS FOR AEROSPACE VEHICLES	060320						-10,000
020 AEROSPACE VEHICLE TECHNOLOGY	060320						-3,000
024 CREW SYSTEMS AND PERSONNEL PROTECTION TE	060323			1,100			
025 GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISIO	060323					-12,500	
029 NATIONAL AERO SPACE PLANE TECHNOLOGY PRO	060326						-175,489
032 ADVANCED STRATEGIC MISSILE SYSTEMS	060331					-2,000	

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					House	Senate	House	Senate
	(1)		(2)	(3)	(4)	(5)	(6)	(7)
034	ADVANCED SPACECRAFT TECHNOLOGY	060340						-10,000
038	ADVANCED WEAPONS TECHNOLOGY	060360					-21,796	
040	CIVIL AND ENVIRONMENTAL ENGINEERING TECH	060372				6,800		
	Total - Advanced technology development				1,100	9,736	-36,296	-198,489
Strategic programs								
051	B-1B	060422						-66,400
056	B-52 SQUADRONS	010111			15,000			
057	ADVANCED CRUISE MISSILE	010112		-61,100				-21,200
075	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIO	030313				5,000		
077	MILSTAR SATELLITE COMMUNICATIONS SYSTEM	030360						-21,500
082	IMPROVED SPACE BASED TW/AA	030590						-45,000
085	SPACETRACK	030591				39,500	-14,900	
	All other programs			-53,000	25,000		-47,000	
	Total - Strategic programs			-114,100	40,000	44,500	-61,900	-154,100
Tactical programs								
100	ENGINE MODEL DERIVATIVE PROGRAM (EMDP)	060421			3,000			
103	C-17 PROGRAM	060423						-29,200
106	ADVANCED TACTICAL FIGHTER FSD	060423					-200,000	
113	EW DEVELOPMENT	060427		-49,500				-10,100
116	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT	060460			1,300			
137	F-16 SQUADRONS	020713						-25,100
141	F-117A SQUADRONS	020714			31,000			
145	FOTARS PRIOR YEAR SAVINGS							-30,500
146	FOTARS COMPETITION					50,000		
147	FOLLOW-ON TACTICAL RECONNAISSANCE SYSTEM	020721			35,500			-40,300
150	TACIT RAINBOW				10,000			
171	CLASSIFIED PROGRAMS					3,300		
	All other programs					46,000		
	Total - Tactical programs			-49,500	80,800	99,300	-200,000	-135,200
Intelligence and communications								
	All other programs		131,400	-2,400	78,117	8,000	-22,457	
Defense-wide Mission Support								
194	TRAINING SYSTEMS DEVELOPMENT	060422					-6,000	
196	ADVANCED LAUNCH SYSTEM	060440		-40,000			-5,000	

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	(1)		(2)	(3)	(4)	(5)	(6)	(7)
199	RANGE IMPROVEMENT	060473						-10,000
207	TEST AND EVALUATION SUPPORT	060580					-25,000	
215	BASE OPERATIONS - RDT&E	060589		-20,000				-30,000
219	UPPER STAGE SPACE VEHICLES	030513		-28,552			-10,000	
225	INDUSTRIAL PREPAREDNESS	070801		-50,000				-23,370
230	MANUFACTURING TECHNOLOGY DEVELOPMENT				103,500			
231	MANUFACTURING TECHNOLOGY INITIATIVE					146,200		
232	DOMESTIC ACTIVITIES				17,500			
236	PURCHASES FROM DBOF							-7,844
237	TRAVEL							-5,100
	Total - Defense-wide Mission Support			-138,552	121,000	146,200	-46,000	-76,314
	Total Appn - RDT&E, Air Force		131,400	-339,172	338,017	310,231	-420,533	-564,103
	RDT&E, Defense Agencies							
	Technology base							
001	DEFENSE RESEARCH SCIENCES	060110					-10,000	
002	IN-HOUSE LABORATORY INDEPENDENT RESEARCH				9,275			
003	UNIVERSITY RESEARCH INITIATIVES	060110	10,000		52,000			
004	DEFENSE RESEARCH SCIENCES				49,032			
005	COMPUTER ASSISTED EDUCATION					15,000		
006	US-JAPAN MANAGEMENT TRAINING					10,000		
007	SUPERCONDUCTIVE MAGNETIC ENERGY STORAGE				50,000			
009	CONCEPT EVALUATION	060222					-14,979	
010	MEDICAL FREE ELECTRON LASER				20,000			
011	MISSION SUPPORT TECHNOLOGY		4,330					
012	STRATEGIC TECHNOLOGY	060230					-70,000	
014	PARTICLE BEAM TECHNOLOGY					6,000		
015	INTEGRATED COMMAND AND CONTROL TECHNOLOG				75,000			
016	MATERIALS AND ELECTRONICS TECHNOLOGY	060271	60,000		80,000			
017	POST LAUNCH DESTRUCT TECHNOLOGY				15,000			
018	DEFENSE NUCLEAR AGENCY	060271		-37,000			-13,000	
130	MEDICAL TECHNOLOGY				92,764			
131	PROGRAMS WITH FORMER SOVIET STATES				25,000			
137	HISTORICALLY BLACK COLLEGES AND UNIVERS					15,000		
138	ADVANCED MATERIALS PARTNERSHIPS					30,000		
	Total - Technology base		74,330	-37,000	468,071	76,000	-107,979	

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			Jds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Senate	Cuts by Indiv.chmbrs House	Senate
	(1)		(2)	(3)	(4)	(5)	(6)	(7)
Advanced technology development								
019	SPACE BASED INTERCEPTORS	060321		-225,558			-350,000	
020	LIMITED DEFENSE SYSTEM	060321						-44,755
021	THEATER MISSILE DEFENSES	060321				139,775		
022	OTHER FOLLOW ON SYSTEMS	060321		-321,256				-128,300
023	RESEARCH AND SUPPORT ACTIVITIES	060321		-178,020				-176,720
024	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVEL	060322				3,024		
025	EXPERIMENTAL EVALUATION OF MAJOR INNOVAT	060322				16,000	-29,718	
027	STRATEGIC ENVIRONMENTAL RESEARACH PROG					200,000		
028	ADVANCED SUBMARINE TECHNOLOGY	060356					-7,900	
029	DUAL USE CRITICAL TECHNOLOGY PARTNERSHIP					100,000		
031	ADVANCED MEDICAL TECHNOLOGY				36,172			
032	HIV RESEARCH				3,247			
033	PROLIFERATION DETECTION& OTHER TECHNOLOG				15,000			
034	LOW-LEVEL NUCLEAR TESTING DETECTION				5,000			
036	EXCIMER LASER TECHNOLOGY					10,000		
037	FOCUS HOPE		20,000					
038	MEDICAL DEVELOPMENT (FLEET HOSPITAL)				12,449			
039	COMPUTER AIDED LOGISTICS SUPPORT	060373				5,000		
040	BALANCED TECHNOLOGY INITIATIVE	060373				4,000	-77,000	
041	COOPERATIVE DOD/VA MEDICAL RESERACH				20,000			
042	MANUFACTURING TECHNOLOGY	060373		-75,000				-58,400
043	CONSOLIDATED DOD SOFTWARE INITIATIVE	060375	7,500		17,500			
044	SEMATECH		100,000					
047	CHARGED PARTICLE BEAM PGM (DARPA)				6,000			
049	SPECIAL OPERATIONS TECHNOLOGY DEVELOPMEN	116040			1,000			
140	NATIONAL GUARD/DARPA SIMULATION					20,000		
141	NATIONAL GUARD SIMNET CENTER					10,000		
142	COMMERCIAL-MILITARY INTEGRATION PARTNERS					50,000		
143	DUAL USE EXTENSION ASST PROGRAM					200,000		
144	REGIONAL TECHNOLOGY ALLIANCES					100,000		
145	CENTER FOR INDUSTRIAL BASE ANALYSIS					5,000		
146	UUV TECHNOLOGY					5,000		
147	ADVANCED ASW TECHNOLOGY					15,000		
148	ADVANCED STOVL TECHNOLOGY					5,000		
150	ELECTRONIC MODULE TECHNOLOGY					75,000		
151	HIGH DEFINITION DISPLAY SYSTEMS					100,000		
152	ADVANCED LITHOGRAPHY					75,000		
153	HIGH PERFORMANCE COMPUTING MODERNIZATION					43,000		
154	AUTOMATIC LANDING SYSTEMS					900		
Total - Advanced technology development			127,500	-799,874	116,368	1,181,699	-464,618	-408,175

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
Strategic programs							
053 ISLAND SUN SUPPORT	060373						-12,163
054 AIR DEFENSE INITIATIVE	060374		-34,000				
055 THEATER MISSILE DEFENSES	060422						-140,000
Total - Strategic programs			-34,000				-152,163
Tactical programs							
063 NON-ACOUSTIC ASW	060371				15,000		
066 MEDICAL SYSTEMS ADVANCED DEVELOPMENT				29,042			
067 AEROMEDICAL SYSTEMS DEVELOPMENT				2,753			
070 JCS SIMULATION CENTER/DOCTRINE DEVELOPME					10,000		
072 GENERAL SUPPORT FOR SO/LIC					2,000		
073 JOINT REMOTELY PILOTED VEHICLES PROGRAM	030514			15,000			-68,200
074 MEDICAL DEVELOPMNTS (MED/DENTAL EQP DEV)				4,113			
075 MEDICAL MATERIEL/BIOLOGICAL DEFENSE EQP				20,209			
077 SPECIAL OPERATIONS INTELLIGENCE SYSTEMS	116040			17,000			
078 SOF OPERATIONAL ENHANCEMENTS	116040					-51,700	
Total - Tactical programs				88,117	27,000	-51,700	-68,200
Intelligence and communications							
087 AIRBORNE RECONNAISSANCE SUPPORT PROGRAM	030515						-23,300
All other programs		29,000		97,900		-10,000	
Defense-wide Mission Support							
101 NATO RESEARCH AND DEVELOPMENT	060379					-10,000	
102 DEFENSE MODELING/SIMULATION OFFICE					60,000		
104 TECHNICAL SUPPORT TO USD(A)	060510				5,000	-5,000	
114 FOREIGN TECHNOLOGY MONITORING					2,000		
117 STUDIES AND ANALYSES				111			
118 BRANCH HAND II EPIDEMIOLOGY STUDY				9,460			
122 SCIENCE/TECHNOLOGY MGT (NAVMED MGT SPT)				7,990			
123 RDT&E INSTRUMENTATION & MATERIEL SPT				3,139			
124 MEDICAL COMMAND SUPPORT				3,495			
127 MANAGEMENT HQ COMMAND				5,452			
129 MANUFACTURING TECHNOLOGY SUPPORT				29,000			
132 DEFENSE INDUSTRIAL COOP ENDOWMENTM				10,000			
133 RAPID ACQUISITION OF MFD PARTS TEST & IN				11,500			
134 SPECIAL TECHNICAL PROJECTS				15,000			
160 MANUFACTURING TECHNOLOGY INITIATIVE					118,000		

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161 MANUFACTURING EDUCATION PROGRAM				25,000		
162 MFG MANAGERS IN THE CLASSROOM				5,000		
163 MANUFACTURING EXTENSION PROGRAM				100,000		
164 LIDAR				11,600		
165 PURCHASES FROM DBOF						-802
166 TRAVEL						-1,027
Total - Defense-wide Mission Support			95,147	326,600	-15,000	-1,829
Total Appn - RDT&E, Defense Agencies	230,830	-870,874	865,603	1,611,299	-649,297	-653,667
Developmental Test & Eval., Defense						
Defense-wide Mission Support						
001 CENTRAL TEST AND EVALUATION INVESTMENT D060494						-8,000
002 FOREIGN COMPARATIVE TESTING 060513						-4,000
004 DEVELOPMENT TEST AND EVALUATION 060580		-8,000			-12,000	
Total - Defense-wide Mission Support		-8,000			-12,000	-12,000
Total Appn - Developmental Test & Eval., Defense		-8,000			-12,000	-12,000
TOTAL - RESEARCH,DEVELOP.,TEST&EVAL.	1,229,430	-1,743,655	2,148,534	2,763,478	-2,017,161	-2,120,015

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
OTHER						
Reductions for Accelerated Withdrawal, D						
Undistributed						
001 BURDENSHARING					-3,500,000	
Total Appn - Reductions for Accelerated Withdraw					-3,500,000	
International Nuclear Nonproliferation A						
Undistributed						
001 NONPROLIFERATION ACTIVITIES			40,000			
Total Appn - International Nuclear Nonproliferat			40,000			
Reinvestment for Economic Growth, Defens						
Undistributed						
001 DEFENSE REINVESTMENT			1,000,000			
Total Appn - Reinvestment for Economic Growth, D			1,000,000			
TOTAL - OTHER			1,040,000		-3,500,000	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
REVOLVING AND MANAGEMENT FUNDS						
Defense Business Operations Fund						
Undistributed						
005 DEFENSE COMMISSARY AGENCY					-1,107,200	
Total Appn - Defense Business Operations Fund					-1,107,200	
National Defense Sealift Fund						
Undistributed						
001 PROGRAM TERMINATION		-1,201,400				
Total Appn - National Defense Sealift Fund		-1,201,400				
TOTAL - REVOLVING AND MANAGEMENT FUNDS		-1,201,400			-1,107,200	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	240,200	-725,222	877,422	1,686,736	-1,475,115	-2,188,709
Department of the Navy	1,081,700	-1,813,168	2,128,511	2,514,485	-3,607,330	-3,786,643
Department of the Air Force	150,258	-1,850,672	452,158	1,449,620	-2,626,638	-4,109,796
Defense Agencies/OSD	297,630	-913,574	4,011,509	3,989,923	-6,955,243	-2,071,150
Defense-Wide	0	0	0	0	0	0
Total - DoD Appropriation	1,769,788	-5,302,636	7,469,600	9,640,764	-14,664,326	-12,156,298

HASC

Adds by both Chambers	1,769,788
Adds by HASC only	7,469,600
Total HASC Adds	9,239,388
Cuts by both Chambers	-5,302,636
Cuts by HASC only	-14,664,326
Total HASC Cuts	-19,966,962
GRAND TOTAL HASC	-10,727,574

SASC

Adds by both Chambers	1,769,788
Adds by SASC only	9,640,764
Total SASC Adds	11,410,552
Cuts by both Chambers	-5,302,636
Cuts by SASC only	-12,156,298
Total SASC Cuts	-17,458,934
GRAND TOTAL SASC	-6,048,382

CONFERENCE

Adds	
Cuts	
Total	

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
MILITARY CONSTRUCTION							
Military Construction, Army							
Major construction							
005 ANNISTON ARMY DEPOT	AL						
10 AMMUNITION DEMILITARIZATION FAC PHASE III						-6,000	
010 FORT MCCLELLAN	AL						
20 AMMO STORAGE FACILITY				2,500			
30 GENERAL INSTRUCTION BUILDING				2,050			
40 VEHICLE MAINTENANCE SHOP				1,350			
TOTAL				5,900			
012 FORT HUACHUCA	AZ						
10 ROAD IMPROVEMENTS				3,350			
20 INTELLIGENCE FACILITY					5,300		
TOTAL				3,350	5,300		
017 FORT GORDON	GA						
10 CONSOLIDATED MAINTENANCE FACILITY					23,000		
018 FORT MCPHERSON	GA						
10 BARRACKS & DINING HALL					10,200		
022 FITZSIMONS AMC	CO						
10 CENTRAL ENERGY PLANT				19,400			
20 ENGINEER FACILITY				6,000			
TOTAL				25,400			
023 FORT GILLEM	GA						
10 WATER IMPROVEMENTS		2,700					
024 HUNTER ARMY AIRFIELD	GA						
10 TACTICAL EQUIPMENT SHOP		5,400					
025 SCHOFIELD BARRACKS	HI						
20 ADAL SEWAGE TREATMENT FACILITY					17,500		
026 FORT RILEY	KS						
10 RAIL HEAD					13,200		
027 FORT KNOX	KY						
10 WATER STORAGE TANKS				4,350			
20 AIRFIELD REVITALIZATION				7,100			
30 ELECTRICAL DISTRIBUTION IMPROVEMENT PROJECT				4,150			
TOTAL				15,600			
031 CAMP MCCAIN	MS						
10 DEFENSE ACCESS ROADS				18,300			
032 FORT DIX	NJ						
10 RANGE 65 MODS				2,000			

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
033 FORT MONMOUTH	NJ						
10 CHILD CARE CENTER		3,550					
034 FORT DRUM	NY						
10 MOUT				5,900			
20 GENERAL PURPOSE WAREHOUSE				8,900			
30 LIBRARY/EDUCATION CENTER				6,700			
TOTAL				21,500			
036 FORT BRAGG	NC						
10 HIGHWAY EXTENSION				8,200			
037 FORT SILL	OK						
10 FIRE STATION		1,500					
039 WHITE SANDS	NM						
10 BARRACKS RENOVATIONS					6,000		
041 ABERDEEN PROVING GROUND	MD						
10 FIRE/SECURITY STATION					3,400		
042 CORPUS CHRISTI ARMY DEPOT	TX						
10 CONTROLLED-HUMIDITY WAREHOUSE				9,600			
20 METAL FINISHING & ELECTROPLATING FACILITY				11,600			
TOTAL				21,200			
043 FORT BLISS	TX						
10 BARRACKS MODERNIZATION				13,800			
20 BARRACKS MODERNIZATION				11,160			
TOTAL				24,960			
060 FORT BELVOIR	VA						
20 RAIL EXTENSION					1,200		
070 VARIOUS CONUS LOCATIONS	XV						
10 CLASSIFIED PROJECT			-290				-10
20 CLASSIFIED PROJECT				700			
30 DEFENSE ACCESS ROADS					2,400		
TOTAL			-290	700	2,400		-10
080 KWAJALEIN	KW						
20 POWER PLANT -ROI NAMUR ISLAND						-33,000	
085 VARIOUS WORLDWIDE LOCATIONS	ZV						
10 CLASSIFIED PROJECT						-700	
Total - Major construction		13,150	-290	147,110	82,200	-39,700	-10
Minor construction							
090 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 UNSPECIFIED MINOR CONSTRUCTION			-10,000				-51,003
20 REPAIR OF REAL PROPERTY			-90,000				-448,795
TOTAL			-100,000				-499,798

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total - Minor construction		-100,000				-499,798
Total Appn - Military Construction, Army	13,150	-100,290	147,110	82,200	-39,700	-499,808
Military Construction, Navy						
Major construction						
005 ADAK NAVAL AIR STATION AK						
10 BACHELOR ENLISTED QUARTERS					-8,750	
017 MARE ISLAND NAVAL SHIPYARD CA						
10 HAZARDOUS MATERIAL STORAGE FACILITY			8,000			
018 MIRAMAR NAVAL AIR STATION CA						
10 FIXED POINT UTILITY SYSTEM			9,700			
045 ALBANY MARINE CORPS LOGISTICS BGA						
20 UPGRADE HAZARDOUS STORAGE WAREHOUSE				2,700		
060 PEARL HARBOR NAVAL SUPPLY CENTEHI						
10 OIL SPILL PREVENTION-DBOF						-1,000
068 NAVAL SURFCE WARFARE CTR, CRANEIN						
10 MICROWAVE COMPONENT CENTER			6,000			
070 BETHESDA NAVAL MEDICAL RESEARCHMD						
10 APPLICATIONS LABORATORY		-5,600				
071 NAVAL ORDINANCE STN, INDIANHD MD						
10 IMPROVE CAD/PAD FACILITY	5,300			300		
20 CHILD CARE FACILITY			2,290			
TOTAL	5,300		2,290	300		
072 PATUXENT NAVAL AIR STATION MD						
10 LARGE ANECHOIC CHAMBER - PHASE I			10,000			
073 U. S. NAVAL ACADEMY MD						
10 VISITOR'S CENTER			4,500			
20 PHYSICAL THERAPY COMPLEX			6,500			
TOTAL			11,000			
074 NAS MERIDIAN MS						
10 CHILD DEVELOPMENT CENTER			1,100			
076 NAVAL UNDERSEA WARFARE CENTER RI						
10 UNDERWATER WEAPONS TECHNOLOGY R&D FACILITY			14,000			
077 GULFPORT MS						
10 SEABEE WAREHOUSE				4,650		
078 NEW RIVER NC						
10 PHYSICAL FITNESS CENTER				3,600		
079 MCAS CHERRY POINT NC						
10 OPERATIONS FACILITY				3,000		
20 WAREHOUSE				1,680		
TOTAL				4,680		

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
095 KINGSVILLE NAVAL AIR STATION TX						
20 ROTAR SITE PREPARATION	10,000					
096 DAMNECK VA						
10 APPLIED INSTRUCTION BLDG EXPANSION	13,727					
20 UPGRADE WATER SYSTEM	1,200					
30 LAND ACQUISITION - 181 ACRES	4,500					
TOTAL	19,427					
097 FORT STORY VA						
10 NAVY BOMB DISPOSAL TRAINING & EVALUATION FAC	5,650					
098 LITTLE CREEK VA						
10 BACHELOR ENLISTED QUARTERS FACILITY	8,000					
20 BLAST/PAINT FACILITY	5,300					
TOTAL	13,300					
099 NAVAL AIR STATION NORFOLK VA						
10 MAGAZINE AREA PHYSICAL FACILITY	1,450					
20 RELOCATION OF ORDINANCE PAD	2,000					
TOTAL	3,450					
112 QUANTICO VA						
10 COMMAND & STAFF COLLEGE FACILITY				5,000		
122 PUGET SOUND NAVAL STATION WA						
10 BACHELOR ENLISTED QUARTERS			13,300			
145 KEFLAVIK NAVAL AIR STATION IC						
10 FUEL FACILITIES (PHASE VIII)		-4,940				
Total - Major construction	57,127	-10,540	75,390	20,930	-8,750	-1,000
Minor construction						
155 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-15,000				-62,123
20 REPAIR OF REAL PROPERTY		-85,000				-389,133
TOTAL		-100,000				-451,256
Total - Minor construction		-100,000				-451,256
Planning						
157 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			1,350			
Total Appn - Military Construction, Navy	57,127	-110,540	76,740	20,930	-8,750	-452,256
Military Construction, Air Force						
Major construction						
007 MAXWELL AFB AL						
10 EXTENSION OF RUNWAY			10,700			
20 PHYSICAL FITNESS CENTER				9,900		
TOTAL			10,700	9,900		

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(1)		(2)	(3)	(4)	(5)	(6)	(7)
015 EIELSON AFB	AK						
10 HYDRANT FUEL SYSTEM						-11,400	
30 AIRCRAFT SHELTERS					27,000		
TOTAL					27,000	-11,400	
020 ELMENDORF AFB	AK						
30 AIRCRAFT SHELTERS					16,000		
038 DAVIS MONTHAN AFB	AZ						
10 DORMITORY		3,500					
042 LUKE AFB	AZ						
10 BOQ					2,950		
050 BEALE AFB	CA						
20 SECURITY POLICE OPS FACILITY				4,350			
055 EDWARDS AFB	CA						
20 UNDERGROUND FUEL STORAGE TANKS						-5,000	
065 MCCLELLAN AFB	CA						
30 PLATING SHOP				7,000			
070 TRAVIS AFB	CA						
20 DORM RENOVATION				10,800			
080 US AIR FORCE ACADEMY	CO						
10 BASE OPERATIONS FACILITY							-1,650
090 DOVER AFB	DE						
10 DORMITORY					3,900		
092 BOLLING AFB	DC						
10 CIVIL ENGINEER COMPLEX				9,400			
115 MOODY AFB	GA						
20 FUEL CELL/NOSE DOCK (C-130)					3,600		
117 ROBINS AFB	GA						
10 JSTARS RAMP AND HYDRANT SYSTEM					9,700		
20 JSTARS SECURITY IMPROVEMENT					1,800		
TOTAL					11,500		
130 BARKSDALE AFB	LA						
30 REPLACE APRON & HYDRANT SYSTEM					25,800		
137 HANSCOM AFB	MA						
10 CHILD DEVELOPMENT CENTER					4,200		
140 KEESLER AFB	MS						
20 ADD/ALTER CHILD CARE CENTER				2,650			
145 WHITEMAN AFB	MO						
10 B-2 ADD/ALTER COMMUNICATIONS CENTER						-2,700	
70 B-2 AIRCRAFT MAINTENANCE DOCKS						-14,000	
93 GENERAL REDUCTION							-20,000
TOTAL						-16,700	-20,000

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160 NELLIS AFB	NV						
30 AIRCRAFT LOADING APRON				7,950			
40 ARMING PAD, PHASE I					4,000		
TOTAL				7,950	4,000		
168 CANNON AFB	NM						
10 DORMITORY				2,800			
175 POPE AFB	NC						
10 ADD/ALTER AIRCRAFT OPS & LOGISTICS COMP					500		
40 ADD/ALTER AIRCRAFT OPS AND LOGISTICS COMP					700		
80 AIRCRAFT CORROSION CONTROL FAC							-5,500
90 ALTER ECM SHOP AND POD STORAGE FACILITY							-620
94 AIRCRAFT PARTS WAREHOUSES					900		
96 BRIDGE/ROAD/UTILITIES					4,000		
TOTAL					6,100		-6,120
185 CAVALIER	ND						
10 UNDERGROUND FUEL STORAGE TANKS							-1,450
195 MINOT AFB	ND						
30 WATER SYSTEM					2,050		
202 ALTUS AFB	OK						
10 CONSOLIDATED SUPPORT FACILITY				7,300			
207 VANCE AFB	OK						
10 AIRFIELD REPAIR		2,350					
210 CHARLESTON AFB	SC						
40 ADD/ALTER PHYSICAL FITNESS CENTER		3,300					
223 BROOKS AFB	TX						
10 ACADEMIC COMPLEX					9,000		
228 GOODFELLOW AFB	TX						
10 PHYSICAL FITNESS CENTER					3,250		
235 LACKLAND AFB	TX						
20 HIGH SCHOOL/GRADE SCHOOL FACILITIES				8,000			
255 HILL AFB	UT						
10 ACM ADD/ALTER NDI FACILITY							-1,450
30 ENGINE TEST CELL SUPPORT FACILITY				850			
40 POWER UPGRADE				4,300			
TOTAL				5,150			-1,450
260 LANGLEY AFB	VA						
30 CONSTRUCTION PROJECTS		5,300					
280 CLASSIFIED LOCATION	XC						
10 AIRCRAFT MAINT DOCK			-4,050				
20 AEROMEDICAL STAGING FACILITY						-1,250	
30 COMBAT CONTROL TEAM SQUADRON FACILITY						-2,150	
40 SPECIAL OPERATIONS FACILITY						-950	
50 HYDRANT FUELING DISTRIBUTION SYSTEM			-10,400				
60 SPECIAL OPERATIONS FACILITY						-950	
TOTAL			-14,450			-5,300	

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285 CONUS VARIOUS XV						
20 UNDERGROUND FUEL STORAGE TANKS					-3,300	
288 ASCENSION ISLAND AI						
10 POWER/DESALINIZATION PLANT				22,000		
290 VARIOUS LOCATIONS-CANADA CD						
10 FWD OPERATING LOC/DISPRSD OPERATING BASES		-19,500				
305 ANDERSEN AFB GU						
30 UNDERGROUND FUEL STORAGE TANKS			4,550			
40 LANDFILL			10,000			
50 HAZARDOUS WASTE FACILITY			1,500			
60 UNDERGROUND FUEL STORAGE TANK			4,100			
TOTAL			20,150			
Total - Major construction	14,450	-33,950	96,250	151,250	-41,700	-30,670
Minor construction						
315 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-8,948				-70,000
20 REPAIR OF REAL PROPERTY		-96,352				-271,094
TOTAL		-105,300				-341,094
Total - Minor construction		-105,300				-341,094
Total Appn - Military Construction, Air Force	14,450	-139,250	96,250	151,250	-41,700	-371,764
Military Construction, Defense Agencies						
Major construction						
002 ELMENDORF AFB AK						
10 HOSPITAL REPLACEMENT				25,000		
007 BEALE AFB CA						
10 HOSPITAL LIFE SAFETY UPGRADE			3,500			
012 FITZSIMONS AMC CO						
10 SITE WORK			2,000			
015 WALTER REED ARMY MEDICAL CENTERDC						
10 ARMY INSTITUTE OF RESEARCH PHASE I						-13,300
027 HOMESTEAD AFB FL						
10 PHASE II HOSPITAL CONSTRUCTION			10,000			
030 BARKING SANDS HI						
10 LAND EASEMENT						-2,900
045 FORT BRAGG NC						
20 ADD/ALTER SEC. 6 SCHOOLS			3,950			

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
055 GRAND FORKS ABM SITE ND						
10 BARRACKS & DINNING FACILITY		-12,800				
085 GRAFENWOEHR GY						
10 ADDN REN GRAFENWOEHR ELEM SCHOOL		-7,400				
090 HOHENFELS GY						
10 ADDN REN HOHENFELS ELEM SCHOOL		-13,500				
095 ON-SITE INSPECTION AGENCY JI						
10 CHEMICAL DEMILITARIZATION HOUSING		-4,600				
105 MISSILE RANGE KW						
10 GROUND SURVEIL & TRACKING SYSTEM COMPLEX					-22,000	
117 CLASSIFIED LOCATION						
10 SOUTHWESTER/NSA				3,590		
Total - Major construction		-38,300	19,450	28,590	-22,000	16,200
Minor construction						
130 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTIO (DMA)						-2,400
20 UNSPECIFIED MINOR CONSTRUCTION (OSIS)		-1,000				
30 UNSPECIFIED MINOR CONSTRUCTION (SOC)						-3,800
40 UNSPECIFIED MINOR CONSTRUCTION (DODDS)						-11,656
50 UNSPECIFIED MINOR CONSTRUCTION (DMSA)						-3,490
70 UNSPECIFIED MINOR CONSTRUCTION (NSA)						-3,307
80 UNSPECIFIED MINOR CONSTRUCTION (DNA)						-800
92 UNSPECIFIED MINOR CONSTRUCTION (DISA)						-1,261
94 UNSPECIFIED MINOR CONSTRUCTION (DIA)						-892
TOTAL		-1,000				-27,606
140 UNSPECIFIED						
10 ENERGY CONSERVATION			60,000			
150 UNSPECIFIED WORLDWIDE LOCATIONS						
10 REPAIR OF REAL PROPERTY (DMA)						-6,100
20 REPAIR OF REAL PROPERTY (DISA)						-1,539
30 REPAIR OF REAL PROPERTY (DNA)						-3,500
40 REPAIR OF REAL PROPERTY (NSA)						-14,118
50 REPAIR OF REAL PROPERTY (DODDS)						-25,400
60 REPAIR OF REAL PROPERTY (DMSA)						-88,761
70 REPAIR OF REAL PROPERTY (DIA)						-1,338
TOTAL						-140,756
Total - Minor construction		-1,000	60,000			-168,362

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Planning						
160 UNSPECIFIED WORLDWIDE LOCATIONSZU						
30 PLANNING AND DESIGN (DMSA)	1,000		29,000			
40 PLANNING AND DESIGN (SDIO)		-5,000			-5,000	
TOTAL	1,000	-5,000	29,000		-5,000	
Total - Planning	1,000	-5,000	29,000		-5,000	
Total Appn - Military Construction, Defense Agen	1,000	-44,300	108,450	28,590	-27,000	-184,562
Mil. Con., Army National Guard						
Major construction						
003 CULLMAN AL						
10 PURCHASE BLDG FOR DAS-3 CLASS IX SUP			400			
004 FORT RUCKER AL						
10 UTE SITE ADD			1,090			
007 ONEONTA AL						
10 ORGANIZATIONAL MAINTENANCE SHOP			461			
008 TUSCALOOSA AL						
10 ARMORY	2,273					
009 UNION SPRINGS AL						
10 ARMORY			813			
010 FORT WAINWRIGHT AK						
10 HANGAR				3,950		
012 W. ARNG AVIATN TNG SITE, MARANAAZ						
10 DORMITORY/DINING FACILITY			2,900			
20 PICACHO PEAK STAGEFIELD			3,041			
TOTAL			5,941			
014 FRESNO AVIATION DEPOT CA						
10 REPAIR & CONSTRUCTION OF HELICOPTER PADS	901					
016 LAKEPORT CA						
10 ARMORY			1,580			
018 LOS ALIMATOS AFRC CA						
10 JP-4 FUEL TANK REPLACEMENTS	1,553					
020 STOCKTON CA						
10 ADD/ALTER CSMS			1,613			
022 CAMP BLANDING FL						
10 MOUT RANGE	2,400			52		
20 BACHELOR OFFICER/ENLISTED QUARTERS	958					
TOTAL	3,358			52		

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024 CEDAR HILLS	FL						
10 ARMORY EXPANSION				1,457			
040 CRAIG FIELD	FL						
10 ARMORY EXPANSION				1,682			
20 ORGANIZATIONAL MAINTENANCE SHOP EXPANSION				368			
TOTAL				2,050			
045 BARNESVILLE	GA						
10 ARMORY ACQUISITION					350		
050 FORT WAYNE	IN						
10 OMS		862			30		
20 ARMORY		3,393					
TOTAL		4,255			30		
055 GREAT BEND	KS						
10 ARMORY					1,570		
056 OTTAWA	KS						
10 ARMORY					397		
060 CAMP DODGE	IA						
10 EQUIPMENT MAINTENANCE SHOP				2,687			
20 BU COMPLEX I				4,600			
TOTAL				7,287			
063 INDEPENDENCE	LA						
10 ARMORY					1,300		
064 LAFEYETTE	LA						
10 OMS					1,000		
065 CAMP RIPLEY	MN						
10 COMBINED SUPPORT MAINTENANCE SHOP				7,100			
20 UTILITY SYSTEMS REPAIR				5,800			
TOTAL				12,900			
066 BALL	LA						
10 RENOVATE BARRACKS					400		
067 CAMP MCCAIN	MS						
10 DEFENSE ACCESS ROAD					21,800		
068 CAMP SHELBY	MS						
10 MULTIPURPOSE RANGE					4,000		
20 MODIFY RANGE #1					675		
30 MODIFY RANGE #2					675		
40 COMBINED SUPPORT FACILITY					5,400		
TOTAL					10,750		
070 MERIDIAN	MS						
10 ADD/ALTER AVIATION SUPPORT FACILITY				1,900			
080 WHITMAN AFB	MO						
10 ARMORY		2,879		21			

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081 CAMP CROWDER	MO						
10 ADMINISTRATION/CLASSROOM					421		
083 FAYETTEVILLE	NC						
10 ARMORY					1,284		
084 BISMARCK	ND						
10 ADAL ARMORY/AVIATION FACILITY					5,450		
085 CLARKE COUNTY	NV						
10 ARMORY		5,530					
20 ORGANIZATIONAL MAINTENANCE SHOP		1,358					
30 COMBINED MAINTENANCE SHOP		1,854					
40 USPFO WAREHOUSE				178			
TOTAL		8,742		178			
087 FORT DIX	NJ						
20 STATE HEADQUARTERS					4,750		
090 CLAYTON	NM						
10 ARMORY		1,400					
093 ROSWELL	NM						
10 TRAINING FACILITY					3,000		
095 SPRINGER	NM						
10 ARMORY		1,209					
100 MEDINA	OH						
10 ARMORY RENOVATION		400					
105 RAVENNA ARSENAL	OH						
10 TANK RANGE		1,000					
110 CAMP GRUBER	OK						
10 MOUT FACILITIES				1,954			
115 NORMAN	OK						
10 VEHICLE MAINTENANCE COMPLEX PHASE I				8,629			
117 LA GRANDE	OR						
10 ARMORY					1,220		
120 FORT INDIANTOWN GAP	PA						
10 AVIATION BRIGADE ARMORY (800 PM)				7,500			
20 ACADEMIC TRAINING CENTER				9,100			
TOTAL				16,600			
125 INDIANA	PA						
10 ARMORY				1,700			
128 N. KINGSTON	RI						
10 ADAL ARMORY/AVIATION					4,200		
130 FOUNTAIN INN	SC						
10 HAWK TRAINING PARK		748					
135 WARE SHOALS	SC						
10 HAWK TRAINING PARK		578					

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(1)		(2)	(3)	(4)	(5)	(6)	(7)
140 PICKENS	SC						
10 HAWK TRAINING PARK		775					
142 GAFFNEY	SC						
10 ARMORY					1,510		
145 FORT MEADE	SD						
10 RENOVATE ADMIN. FACILITY		805					
150 MONTEAGLE	TN						
10 ARMORY				950			
155 SMYRNA	TN						
10 ADD/ALTER OPS. FACILITY		3,500					
20 CSM SHOP		5,500					
TOTAL		9,000					
156 DUNLAP	TN						
10 ARMORY					818		
157 ERIN	TN						
10 ARMORY					1,088		
160 CAMP BOWIE, BROWNWOOD	TX						
10 UNIT TRAINING AND EQUIPMENT SITE				1,319			
165 GREENVILLE	TX						
10 ARMORY				1,339			
170 KILGORE	TX						
10 ARMORY				615			
175 LUBBOCK	TX						
10 JOINT ARMED FORCES RESERVE CENTER				7,937			
20 ORGANIZATION MAINTENANCE FACILITY				696			
TOTAL				8,633			
180 MEXIA	TX						
10 ARMORY RENOVATION				566			
185 SAN ANGELO	TX						
10 ARMORY				1,767			
190 STEPHENVILLE	TX						
10 ADD/ALTER ARMORY				591			
195 ST. GEORGE	UT						
10 ARMORY		2,898					
20 ORGANIZATIONAL MAINTENANCE SHOP/SUBSHOP		701					
TOTAL		3,599					
197 COMMUNITY COLLEGE, RICHLANDS	VA						
10 ARMORY		2,137					
200 GRANDVIEW	WA						
10 ARMORY		1,602					
205 BUCKLEY	WA						
10 ARMORY		1,728					

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
210 MOSES LAKE	WA						
10 ARMORY		1,804					
215 MARSHFIELD	WI						
10 ARMORY				2,030			
20 VEHICLE STORAGE FACILITY				226			
TOTAL				2,256			
220 FORT MCCOY	WI						
10 TRAINING/EDUCATION FACILITY				15,000			
222 CLARKSBURG	WV						
10 HANGAR					5,500		
223 CAMP GUERNSEY	WY						
10 BARRACKS UPGRADE					4,447		
225 BARRIGADA	GU						
10 USPFO AND WAREHOUSE				1,927			
Total - Major construction		50,746		101,537	75,287		
Minor construction							
250 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 UNSPECIFIED MINOR CONSTRUCTION							-5,100
20 REPAIR OF REAL PROPERTY			-937				-28,363
30 GENERAL REDUCTION							-1,845
TOTAL			-937				-35,308
Total - Minor construction			-937				-35,308
Planning							
260 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
20 PLANNING AND DESIGN		290		1,075			
Total Appn - Mil. Con., Army National Guard		51,036	-937	102,612	75,287		-35,308
Mil. Con., Air National Guard							
Major construction							
003 BIRMINGHAM	AL						
10 FIRE STATION				2,100			
20 VEHICLE MAINTENANCE SHOP				2,300			
30 ROAD RELOCATION					6,200		
TOTAL				4,400	6,200		
011 EIELSON AFB	AK						
10 VEHICLE MAINTENANCE FACILITY					4,500		

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
012 TUSCON INTERNATIONAL AIRPORT	AZ						
10 JET FUEL STORAGE COMPLEX				7,200			
015 BUCKLEY ANGB	CO						
20 UPGRADE UTILITIES/INFRASTRUCTURE				12,000			
035 BOISE AIRPORT	ID						
20 ARM/DISARM PADS					1,550		
039 O'HARE AIRPORT	IL						
10 REPAIR AIRCRAFT RAMP					5,200		
041 GREATER PEORIA	IL						
10 VEHICLE MAINTENANCE FACILITY				2,200			
20 CIVIL ENGINEERING SHOP				2,200			
30 SITE PREPARATION				1,550			
TOTAL				5,950			
042 FORT WAYNE	IN						
10 RUNWAY IMPROVEMENTS				6,039			
043 DES MOINES	IA						
10 ADD/ALTER OPS FACILITY				5,150			
044 SIOUX GATEWAY AIRPORT	IA						
10 ADD/ALT FUEL CELL/CORROSION HANGAR BAY		1,850					
20 ADD/ALT SQUADRON OPERATIONS FACILITY		920					
30 ALT COMPOSITE DINING HALL/MEDICAL TRNG FAC				1,200			
TOTAL		2,770		1,200			
052 STANDIFORD AIRPORT	KY						
10 RELOCATION, PHASE III					5,000		
054 BANGOR INTERNATIONAL AIRPORT	ME						
10 AIRFIELD IMPROVEMENTS				17,300			
20 AIRCRAFT PARKING & HYDRANTS					13,000		
30 FUEL SYSTEMS MAINTENANCE DOCK					4,300		
TOTAL				17,300	17,300		
055 BARNES MAP	MA						
20 ADAL FUEL CELL/CORROSION CONTROL					1,400		
30 AVIONICS/WEAPONS SHOP					1,500		
40 ENGINE SHOP					800		
50 SQUADRON OPERATIONS					900		
60 MUNITIONS STORAGE/MAINTENANCE					3,650		
TOTAL					8,250		
060 OTIS ANGB	MA						
20 CLINIC					1,600		
069 PHELPS COLLINS APT	MI						
10 ALTER BARRACKS					3,800		
083 GULFPORT	MS						
10 RAMP UPGRADE					10,800		

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
087 THOMPSON FIELD	MS						
10 ADD/ALTER VEHICLE MAINTENANCE SHOP				1,300			
090 GREAT FALLS IAP	MT						
20 ADD TO AND ALTER MAINTENANCE HANGAR SHOP							-2,800
40 ADD/ALTER WEAPONS RELEASE SHOP					800		
50 ARM/DEARM PADS					1,000		
60 FIRE SUPPRESSION SYSTEM					1,000		
TOTAL					2,800		-2,800
093 FARGO	ND						
10 VEHICLE MAINTENANCE FACILITY					2,600		
095 LINCOLN MAP	NE						
20 FUEL SYSTEMS MAINTENANCE DOCK					4,675		
30 SQUADRON OPERATIONS					3,100		
40 ALTER SUPPLY & COMMUNICATIONS					2,400		
TOTAL					10,175		
117 BADIN	NC						
10 COMMUNICATION ELECTRONICS TRAINING FACILITY				3,000			
119 SPRINGFIELD	OH						
10 ADAL ENGINE SHOP					1,700		
125 TOLEDO EXPRESS AIRPORT	OH						
30 AIRCRAFT ENGINE SHOP		1,700					
40 ADD/ALTER AVIONICS SHOP/ECM WEAPONS RELEASE		880					
50 ADD/ALTER FUEL SYSTEMS & CORROSION CNTRL DOCK		1,300					
60 ADD/ALTER SQUADRON OPERATIONS FACILITY		1,300					
TOTAL		5,180					
128 TULSA AIRPORT	OK						
10 ADAL SQUADRON OPS					1,350		
20 ADAL OMS					430		
30 ADAL ENGINE SHOP					400		
TOTAL					2,180		
130 KINGSLEY FIELD	OR						
20 SUPPLY WAREHOUSE					2,575		
135 PORTLAND IAP	OR						
30 HANGAR UPGRADE					5,051		
137 STATE COLLEGE	PA						
10 STORAGE FACILITY				9,700			
142 JOE FOSS FIELD, SIOUX FALLS	SD						
10 MUNITIONS MAINTENANCE COMPLEX		3,000					
146 ELLINGTON ANGB	TX						
10 HANGAR MODIFICATION					1,700		
147 NEDERLAND	TX						
10 VEHICLE MAINTENANCE SHOP				1,200			

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148 HENSLEY	TX						
10 WAREHOUSE					4,250		
149 KELLY AFB	TX						
10 CIVIL ENGINEERING FACILITY					2,050		
152 TRUAX FIELD	WI						
10 HANGER ALTERATION		2,250					
20 FUEL CELL MAINTENANCE DOCK		2,000					
TOTAL		4,250					
155 VOLK FIELD	WI						
20 COMPOSITE RAPCOM CENTER/COMMUNICATION FAC				2,600			
165 GENERAL REDUCTION							
30 GENERAL REDUCTION							-19,841
Total - Major construction		15,200		77,039	99,281		-22,641
Minor construction							
165 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 UNSPECIFIED MINOR CONSTRUCTION							-18,000
20 REPAIR OF REAL PROPERTY			-4,250				-18,750
TOTAL			-4,250				-36,750
Total - Minor construction			-4,250				-36,750
Total Appn - Mil. Con., Air National Guard		15,200	-4,250	77,039	99,281		-59,391
Mil. Con., Army Reserve							
Major construction							
005 REPROGRAMMING ALLOWANCE							
30 REPROGRAMMING ALLOWANCE							-1,245
40 PRIOR YEAR COST INCREASES					5,300		
TOTAL					5,300		-1,245
008 CLARKSBURG	WV						
10 ARMY RESERVE CENTER					5,358		
009 WHEELING	WV						
10 ARMY RESERVE CENTER					6,808		
010 WEIRTON	WV						
10 ARMY RESERVE CENTER					3,481		
011 BLUEFIELD	WV						
10 ARMY RESERVE CENTER					1,921		
012 JANE LEW	WV						
10 ARMY RESERVE CENTER					1,566		

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013 LEWISBURG	WV						
10 ARMY RESERVE CENTER					1,631		
014 GRANTSVILLE	WV						
10 ARMY RESERVE CENTER					2,785		
Total - Major construction					28,850		-1,245
Minor construction							
005 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 UNSPECIFIED MINOR CONSTRUCTION							-3,300
20 REPAIR OF REAL PROPERTY							-19,900
TOTAL							-23,200
Total - Minor construction							-23,200
Planning							
007 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
20 PLANNING AND DESIGN					600		
Total Appn - Mil. Con., Army Reserve					29,450		-24,445
Mil. Con., Naval Reserve							
Major construction							
003 DOBBINS AFB	GA						
10 MAR CORPS RESERVE CENTER					5,500		
005 NAS GLENVIEW	IL						
20 CHILD DEVELOPMENT CENTER					1,800		
010 GENERAL REDUCTION							
30 GENERAL REDUCTION							-1,485
Total - Major construction					7,300		-1,485
Minor construction							
010 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 UNSPECIFIED MINOR CONSTRUCTION							-1,800
20 REPAIR OF REAL PROPERTY							-26,072
TOTAL							-27,872
Total - Minor construction							-27,872
Total Appn - Mil. Con., Naval Reserve					7,300		-29,357

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Mil. Con., Air Force Reserve						
Major construction						
006 DAVIS-MONTHAN AZ						
10 ADAL AIRCRAFT MAINTENANCE FACILITY				1,500		
20 MUNITIONS MAINTENANCE & STORAGE				930		
TOTAL				2,430		
011 PETERSON AFB CO						
10 AVIONICS FACILITY				1,300		
017 O'HARE IAP IL						
10 AGE SHOP/STORAGE				1,700		
020 NEW ORLEANS NAS LA						
50 AVIONICS				2,300		
030 SELFRIDGE ANGB MI						
20 ADAL FUEL SYSTEMS MAINTENANCE HANGAR				2,400		
30 ADAL FACILITIES FOR CONVERSION				1,500		
TOTAL				3,900		
036 YOUNGSTOWN APT OH						
10 AERIAL SPRAY MAINTENANCE FACILITY				2,000		
047 HILL AFB UT						
10 AIRCRAFT CORROS CNTRL & FUEL SYS MAINT FAC			1,000			
048 MITCHELL FIELD WI						
10 HANGAR ACQ			2,500			
050 GENERAL REDUCTION						
30 GENERAL REDUCTION						-3,657
Total - Major construction			3,500	13,630		-3,657
Minor construction						
050 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION						-4,000
20 REPAIR OF REAL PROPERTY						-24,500
TOTAL						-28,500
Total - Minor construction						-28,500
Total Appn - Mil. Con., Air Force Reserve			3,500	13,630		-32,157
NATO Infrastructure						
NATO infrastructure						
005 OSD MILCON ZU						
10 NATO INFRASTRUCTURE					-100,000	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total Appn - NATO Infrastructure					-100,000	
TOTAL - MILITARY CONSTRUCTION	151,963	-399,567	611,701	507,918	-217,150	-1,689,048

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		Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Adds by Indiv.chmbrs Senate	Cuts by Indiv.chmbrs House	Cuts by Indiv.chmbrs Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
FAMILY HOUSING							
Family Housing Construction, Army							
Construction of new housing							
001 FORT MCCLELLAN	AL						
10 FAMILY HOUSING IMPROVEMENTS				5,500			
006 FORT CAMPBELL	KY						
10 NEW CONSTRUCTION (96)					8,200		
007 FORT HOOD	TX						
10 FAMILY HOUSING (227 UNITS)				28,000			
008 FORT PICKETT	VA						
10 FAMILY HOUSING UNITS (26 UNITS)				2,300			
Total - Construction of new housing				35,800	8,200		
Post-Acquisition Construction							
010 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 CONSTRUCTION IMPROVEMENTS					12,200		
Total Appn - Family Housing Construction, Army				35,800	20,400		
Family Housing Operations & Debt, Army							
Operating expenses							
006 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
40 FURNISHINGS ACCOUNT						-5,000	
Total Appn - Family Housing Operations & Debt, A						-5,000	
Family Housing Construction, Navy & Mari							
Construction of new housing							
005 ADAK NAVAL AIR STATION	AK						
10 NEW CONSTRUCTION (46)			-11,820				
021 MILLER PARK	HI						
10 FAMILY HOUSING (114)					18,400		
022 LYNCH PARK	HI						
10 FAMILY HOUSING (42)					7,000		
023 MCAS KANEOHE	HI						
10 FAMILY HOUSING (220)					69,900		
20 FAMILY HOUSING (80)					26,900		
TOTAL					96,800		

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(1)		(2)	(3)	(4)	(5)	(6)	(7)
024 MOANA LUA	HI						
10 NEW CONSTRUCTION (100)					11,800		
026 PEARL CITY PENINSULA	HI						
10 NEW CONSTRUCTION (132)					30,000		
027 NAVAL COMPLEX OAHU	HI						
10 NEW CONSTRUCTION (100 UNITS)				11,820			
028 NAS BARBERS POINT	HI						
10 NEW CONSTRUCTION (70)					18,500		
037 KITSAP COUNTY	WA						
10 FAMILY HOUSING (200 UNITS)				19,500			
040 SUGAR GROVE NAVAL RADIO STATION	WV						
10 NEW CONSTRUCTION (8)						-930	
Total - Construction of new housing			-11,820	31,320	182,500	-930	
Total Appn - Family Housing Construction, Navy &			-11,820	31,320	182,500	-930	
Family Housing Construction, Air Force							
Construction of new housing							
005 BEALE AFB	CA						
10 HOUSING OFFICE						-306	
010 MARCH AFB	CA						
20 ADDITIONAL FUNDS FOR 320 HOUSING UNITS				13,000			
015 PATRICK AFB	FL						
10 FAMILY HOUSING (250 UNITS)					6,500		
020 MOODY AFB	GA						
10 HOUSING MAINTENANCE FACILITY						-290	
028 SCOTT AFB	IL						
10 FAMILY HOUSING PHASE I (300)					20,000		
030 BARKSDALE AFB	LA						
10 HOUSING MAINTENANCE & STORAGE FACILITY						-443	
035 CANNON AFB	NM						
10 HOUSING OFFICE						-480	
040 MINOT AFB	ND						
10 HOUSING MAINTENANCE & STORAGE FACILITY						-286	
045 SHAW AFB	SC						
10 HOUSING OFFICE						-351	
Total - Construction of new housing				13,000	26,500	-2,156	

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Adds by Indiv.chmbrs Senate	Cuts by Indiv.chmbrs House	Cuts by Indiv.chmbrs Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total Appn - Family Housing Construction, Air Fo			13,000	26,500	-2,156	
Family Housing Operations & Debt, AF						
Operating expenses						
006 UNSPECIFIED WORLDWIDE LOCATIONSZU						
40 FURNISHINGS ACCOUNT					-5,000	
Total Appn - Family Housing Operations & Debt, A					-5,000	
TOTAL - FAMILY HOUSING		-11,820	80,120	229,400	-13,086	

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	62,227	-694,688	4,234,665	219,954	-5,115,372	-169,760
Department of the Navy	51,287	-601,488	7,725,737	225,890	-8,093,069	-159,940
Department of the Air Force	54,100	-571,144	1,599,019	262,900	-6,990,943	-169,184
Defense Agencies/OSD	0	-313,762	11,368,761	87,690	-8,651,936	-280,500
Defense-Wide	0	0	0	0	0	0
Total - Department of Defense	167,614	-2,181,382	24,928,182	796,434	-28,851,320	-779,384

HAC

Adds by both Chambers	167,614
Adds by HAC only	24,928,182
Total HAC Adds	25,095,796
Cuts by both Chambers	-2,181,382
Cuts by HAC only	-28,851,320
Total HAC Cuts	-31,032,702
GRAND TOTAL HAC	-5,936,906

SAC

Adds by both Chambers	167,614
Adds by SAC only	796,434
Total SAC Adds	964,048
Cuts by both Chambers	-2,181,382
Cuts by SAC only	-779,384
Total SAC Cuts	-2,960,766
GRAND TOTAL SAC	-1,996,718

CONFERENCE

Adds	
Cuts	
Total	

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(1)	Adds by Both Chambers (2)	Cuts by Both Chambers (3)	Adds by Indiv.chmbrs House (4)	Adds by Indiv.chmbrs Senate (5)	Cuts by Indiv.chmbrs House (6)	Cuts by Indiv.chmbrs Senate (7)
Department of the Army	0	0	3,932,480	0	-5,068,591	0
Department of the Navy	0	0	7,616,947	0	-8,061,712	0
Department of the Air Force	0	0	1,420,280	0	-6,921,949	0
Defense Agencies/OSD	0	0	11,316,311	0	-8,463,955	0
Defense-Wide	0	0	0	0	0	0
Total - DoD Appropriation	0	0	24,286,018	0	-28,516,207	0

HAC

Adds by both Chambers	0
Adds by HAC only	24,286,018
Total HAC Adds	24,286,018
Cuts by both Chambers	0
Cuts by HAC only	-28,516,207
Total HAC Cuts	-28,516,207
GRAND TOTAL HAC	-4,230,189

SAC

Adds by both Chambers	0
Adds by SAC only	0
Total SAC Adds	0
Cuts by both Chambers	0
Cuts by SAC only	0
Total SAC Cuts	0
GRAND TOTAL SAC	0

CONFERENCE

Adds	
Cuts	
Total	

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(1)	Adds by Both Chambers (2)	Cuts by Both Chambers (3)	Adds by Indiv.chmbrs House (4)	Adds by Indiv.chmbrs Senate (5)	Cuts by Indiv.chmbrs House (6)	Cuts by Indiv.chmbrs Senate (7)
Department of the Army	1,037,290	-1,497,839	3,259,602	2,181,915	-4,326,221	-4,247,967
Department of the Navy	1,781,753	-2,021,333	5,995,271	686,502	-6,673,224	-5,572,407
Department of the Air Force	222,387	-3,168,869	1,430,732	1,426,004	-4,393,518	-7,016,297
Defense Agencies/OSD	6,215,727	-5,728,347	5,153,034	6,172,593	-3,237,351	-2,870,394
Defense-Wide	0	0	0	0	0	0
Total - Department of Defense	9,257,157	-12,416,388	15,838,639	10,467,014	-18,630,314	-19,707,065

HAC	
Adds by both Chambers	9,257,157
Adds by HAC only	15,838,639
Total HAC Adds	25,095,796
Cuts by both Chambers	-12,416,388
Cuts by HAC only	-18,630,314
Total HAC Cuts	-31,046,702
GRAND TOTAL HAC	-5,950,906

SAC	
Adds by both Chambers	9,257,157
Adds by SAC only	10,467,014
Total SAC Adds	19,724,171
Cuts by both Chambers	-12,416,388
Cuts by SAC only	-19,707,065
Total SAC Cuts	-32,123,453
GRAND TOTAL SAC	-12,399,282

CONFERENCE	
Adds	
Cuts	
Total	

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Adds by Indiv.chmbrs Senate	Cuts by Indiv.chmbrs House	Cuts by Indiv.chmbrs Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	965,963	-803,151	2,966,517	1,971,061	-4,265,440	-4,078,207
Department of the Navy	1,730,466	-1,419,845	5,886,481	460,612	-6,641,867	-5,412,467
Department of the Air Force	168,287	-2,597,425	1,251,993	1,163,104	-4,324,524	-6,847,113
Defense Agencies/OSD	6,215,727	-5,414,585	5,100,584	6,049,903	-3,049,370	-2,589,894
Defense-Wide	0	0	0	0	0	0
Total - DoD Appropriation	9,080,443	-10,235,006	15,205,575	9,644,680	-18,281,201	-18,927,681

HAC	
Adds by both Chambers	9,080,443
Adds by HAC only	15,205,575
Total HAC Adds	24,286,018
Cuts by both Chambers	-10,235,006
Cuts by HAC only	-18,281,201
Total HAC Cuts	-28,516,207
GRAND TOTAL HAC	-4,230,189

SAC	
Adds by both Chambers	9,080,443
Adds by SAC only	9,644,680
Total SAC Adds	18,725,123
Cuts by both Chambers	-10,235,006
Cuts by SAC only	-18,927,681
Total SAC Cuts	-29,162,687
GRAND TOTAL SAC	-10,437,564

CONFERENCE	
Adds	
Cuts	
Total	

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Adds by Indiv.chmbrs Senate	Cuts by Indiv.chmbrs House	Cuts by Indiv.chmbrs Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	71,327	-694,688	293,085	210,854	-60,781	-169,760
Department of the Navy	51,287	-601,488	108,790	225,890	-31,357	-159,940
Department of the Air Force	54,100	-571,444	178,739	262,900	-68,994	-169,184
Defense Agencies/OSD	0	-313,762	52,450	122,690	-187,981	-280,500
Defense-Wide	0	0	0	0	0	0
Total - MilCon Appropriation	176,714	-2,181,382	633,064	822,334	-349,113	-779,384

HAC	
Adds by both Chambers	176,714
Adds by HAC only	633,064
Total HAC Adds	809,778
Cuts by both Chambers	-2,181,382
Cuts by HAC only	-349,113
Total HAC Cuts	-2,530,495
GRAND TOTAL HAC	-1,720,717

SAC	
Adds by both Chambers	176,714
Adds by SAC only	822,334
Total SAC Adds	999,048
Cuts by both Chambers	-2,181,382
Cuts by SAC only	-779,384
Total SAC Cuts	-2,960,766
GRAND TOTAL SAC	-1,961,718

CONFERENCE	
Adds	
Cuts	
Total	

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
MILITARY PERSONNEL						
Military Personnel, Army	4,500	-225,000	1,800	231,600		-147,000
Military Personnel, Navy	2,800			3,200	-232,000	-532,630
Military Personnel, Marine Corps	300		8,000	700		-132,200
Military Personnel, Air Force	13,500		2,100			-140,400
Reserve Personnel, Army	44,500			74,780		-43,600
Reserve Personnel, Navy	51,700			29,927		-36,600
Reserve Personnel, Marine Corps	12,200			3,232		-6,500
Reserve Personnel, Air Force	1,000		1,800	5,719		-11,900
National Guard Personnel, Army	126,300			44,673		-65,500
National Guard Personnel, Air Force			2,500	5,322		-26,200
TOTAL - MILITARY PERSONNEL	256,800	-225,000	16,200	399,153	-232,000	-1,142,530
OPERATION AND MAINTENANCE						
Oper. & Maint., Army	23,230	-370,500	1,594,820	753,696	-3,757,484	-2,402,328
Oper. & Maint., Navy	100	-626,900	387,975	49,824	-1,269,126	-860,866
Oper. & Maint., Marine Corps			39,000	21,978	-214,800	-176,690
Oper. & Maint., Air Force	1,331	-252,500	753,100	254,005	-1,941,741	-1,379,620
Oper. & Maint., Defensewide	58,700	-265,800	1,082,300	259,725	-434,890	-289,300
Office of the Inspector General			93,700			
Oper. & Maint., Army Reserve	28,300		44,400	17,700	-29,158	-19,434
Oper. & Maint., Navy Reserve	17,000		6,000	19,200	-31,651	-24,939
Oper. & Maint., Marine Corps Reserve	2,000		3,100		-3,208	-1,880
Oper. & Maint., Air Force Reserve	3,100			1,000	-9,511	-27,949
Oper. & Maint., Army Nat'l Guard	69,100		69,100	45,399	-53,720	-56,922
Oper. & Maint., Air Nat'l Guard			900	9,300	-18,274	-68,885
Court of Military Appeals, Defense						-7
Summer Olympics	2,000					
Environmental Restoration Fund, Defense	612,000				-612,000	-1,500
Humanitarian Assistance	2,000			10,000		
Drug Interdiction & Counter-Drug Act., D	7,500	-26,000	127,300	41,400	-110,300	-27,100
World University Games	6,000					
World Cup - 1994	9,000					
Defense Health Program	40,000	-319,295	173,251	35,064	-98,738	
Real Property Maintenance, Defense	1,720,029		1,902,733	612,000		-612,000
TOTAL - OPERATION AND MAINTENANCE	2,601,390	-1,860,995	6,277,679	2,130,291	-8,584,601	-5,949,420

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
PROCUREMENT						
Aircraft Procurement, Army			225,000	42,700	-101,600	-77,117
Missile Procurement, Army	96,276		70,730	16,598	-10,300	-73,046
Procurement of W&TCV, Army	150,000	-14,487	50,000	147,400	-965	-27,802
Procurement of Ammunition, Army	22,500	-10,220	359,123		-19,570	-128,700
Other Procurement, Army	2,000	-110,851	170,338	64,500	-132,328	-70,839
Aircraft Procurement, Navy	175,000	-169,462	51,310	20,000	-72,400	-945,008
Weapons Procurement, Navy	107,500	-82,450	39,083	84,500	-445,601	-234,585
Shipbuilding & Conversion, Navy	1,050,000	-126,133	3,741,400		-2,571,508	-717,017
Other Procurement, Navy	5,030	-61,124	99,200		-137,473	-183,567
Procurement, Marine Corps	20,000	-14,131	228,389	43,500	-30,676	-9,238
Aircraft Procurement, Air Force	25,716	-858,200	68,400	400,958	-737,612	-1,236,392
Missile Procurement, Air Force	36,000	-899,668		154,600	-187,138	-544,050
Other Procurement, Air Force	9,425	-179,608	39,193	64,100	-574,710	-313,856
Procurement, Defensewide		-255,863	146,500	256,762	-462,394	-79,082
National Guard & Reserve Equipment	301,100		831,050	450,000		
Defense Production Act Purchases			25,000			
Chem Agents & Munitions Destruction, Def		-2,000	4,000		-34,300	
TOTAL - PROCUREMENT	2,000,547	-2,784,197	6,148,716	1,745,618	-5,518,575	-4,640,299
RESEARCH,DEVELOP.,TEST&EVAL.						
RDT&E, Army	399,257	-72,093	381,206	532,015	-160,315	-965,919
RDT&E, Navy	286,836	-339,645	1,283,024	184,551	-432,024	-1,550,747
RDT&E, Air Force	78,215	-407,449	384,000	268,100	-855,538	-3,097,861
RDT&E, Defensewide	3,457,398	-4,537,627	714,750	895,975	-177,548	-1,567,905
Developmental Test & Eval., Defense		-8,000			-12,000	-13,000
Advanced Tactical Aviation, Defense				3,488,977		
TOTAL - RESEARCH,DEVELOP.,TEST&EVA	4,221,706	-5,364,814	2,762,980	5,369,618	-1,637,425	-7,195,432
REVOLVING AND MANAGEMENT FUNDS						
Defense Business Operations Fund					-1,107,200	
National Defense Sealift Fund					-1,201,400	
TOTAL - REVOLVING AND MANAGEMENT F					-2,308,600	

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army						
Department of the Navy						
Department of the Air Force						
Defense Agencies/OSD						
Defense-Wide						
Total - Other Legislation						

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
MILITARY CONSTRUCTION						
Military Construction, Army	19,150	-639,088	158,910	77,750	-19,345	-101,100
Military Construction, Navy	51,287	-561,796	77,470	26,090	-13,711	-17,600
Military Construction, Air Force	14,450	-500,344	94,700	147,500	-36,037	-75,760
Military Construction, Defensewide		-213,762	52,450	28,590	-13,482	-100,200
Mil. Con., Army National Guard	52,177	-34,400	101,393	80,854	-6,812	
Mil. Con., Air National Guard	38,000	-42,600	62,739	71,720	-3,502	-6,600
Mil. Con., Army Reserve		-21,200		31,850	-2,083	
Mil. Con., Naval Reserve		-27,872		7,300	-99	
Mil. Con., Air Force Reserve	1,650	-28,500	8,300	17,180	-343	
Base Realignment & Closure Acct, Part I					-29,157	
Base Realignment & Closure Acct, Part II					-141,186	
NATO Infrastructure		-100,000		59,100	-1,212	-180,300
TOTAL - MILITARY CONSTRUCTION	176,714	-2,169,562	555,962	547,934	-266,969	-481,560
FAMILY HOUSING						
Family Housing Construction, Army			32,782	20,400	-2,084	-68,660
Family Housing Operations & Debt, Army					-30,457	
Family Housing Construction, Navy & Mari		-11,820	31,320	192,500	-4,326	-142,340
Family Housing Operations & Debt, Navy &					-13,221	
Family Housing Construction, Air Force			13,000	26,500	-5,486	-86,824
Family Housing Operations & Debt, AF					-23,626	
Family Housing Operations & Debt, Defens					-284	
Homeowners Asst Fund, Def.					-1,330	
TOTAL - FAMILY HOUSING		-11,820	77,102	239,400	-80,814	-297,824

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Adds by Indiv.chmbrs Senate	Cuts by Indiv.chmbrs House	Cuts by Indiv.chmbrs Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army						
Department of the Navy						
Department of the Air Force						
Defense Agencies/OSD				35,000	-1,330	
Defense-Wide						
Total - Non-Action				35,000	-1,330	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
DEFENSEWIDE CONTINGENCIES						
Savings from Reform of Davis-Bacon					-1,330	
TOTAL - DEFENSEWIDE CONTINGENCIES					-1,330	
TRUST FUNDS						
National Security Education Trust Fund				35,000		
TOTAL - TRUST FUNDS				35,000		

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Congressional Action on Appropriation Requests
(Thousands of Dollars)

	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs House	Adds by Indiv.chmbrs Senate	Cuts by Indiv.chmbrs House	Cuts by Indiv.chmbrs Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
MILITARY PERSONNEL						
Military Personnel, Army						
Other military personnel costs						
014 TEMPORARY LODGING EXPENSE	4,500		1,800			
016 FORCE STRUCTURE ADJUSTMENT		-225,000				-147,000
Total - Other military personnel costs	4,500	-225,000	1,800			-147,000
Undistributed						
018 REPRICING				231,600		
Total Appn - Military Personnel, Army	4,500	-225,000	1,800	231,600		-147,000
Military Personnel, Navy						
Other military personnel costs						
014 TEMPORARY LODGING EXPENSE	2,800			3,200		
016 FORCE STRUCTURE ADJUSTMENT					-232,000	
Total - Other military personnel costs	2,800			3,200	-232,000	
Undistributed						
018 REPRICING						-415,800
020 BUDGET AMENDMENT ADJUSTMENT						-116,830
Total - Undistributed						-532,630
Total Appn - Military Personnel, Navy	2,800			3,200	-232,000	-532,630
Military Personnel, Marine Corps						
Other military personnel costs						
012 RESERVE SUPPORT			8,000			
014 TEMPORARY LODGING EXPENSE	300			700		
Total - Other military personnel costs	300		8,000	700		
Undistributed						
016 FORCE STRUCTURE						-7,000

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
018 REPRICING						-125,200
Total - Undistributed						-132,200
Total Appn - Military Personnel, Marine Corps	300		8,000	700		-132,200
Military Personnel, Air Force						
Other military personnel costs						
014 TEMPORARY LODGING EXPENSE	13,500		2,100			
Undistributed						
016 FORCE STRUCTURE						-70,000
018 REPRICING						-70,400
Total - Undistributed						-140,400
Total Appn - Military Personnel, Air Force	13,500		2,100			-140,400
Reserve Personnel, Army						
Other training and support						
014 FORCE STRUCTURE ADJUSTMENT	44,500			70,500		
Undistributed						
016 REPRICING						-43,600
018 BUDGET AMENDMENT ADJUSTMENT				4,280		
Total - Undistributed				4,280		-43,600
Total Appn - Reserve Personnel, Army	44,500			74,780		-43,600
Reserve Personnel, Navy						
Other training and support						
014 FORCE STRUCTURE ADJUSTMENT	45,700			22,300		
016 C-130 SQUADRON	6,000			400		
Total - Other training and support	51,700			22,700		
Undistributed						
018 REPRICING						-36,600
020 BUDGET AMENDMENT ADJUSTMENT				7,227		

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total - Undistributed				7,227		-36,600
Total Appn - Reserve Personnel, Navy	51,700			29,927		-36,600
Reserve Personnel, Marine Corps						
Other training and support						
014 FORCE STRUCTURE ADJUSTMENT	12,200			800		
Undistributed						
016 REPRICING						-6,500
018 BUDGET AMENDMENT ADJUSTMENT				2,432		
Total - Undistributed				2,432		-6,500
Total Appn - Reserve Personnel, Marine Corps	12,200			3,232		-6,500
Reserve Personnel, Air Force						
Other training and support						
014 WC-130 WEATHER RECONNAISSANCE MISSION	1,000					
016 NEW UNIFORM			1,800			
Total - Other training and support	1,000		1,800			
Undistributed						
018 FORCE STRUCTURE				1,000		
020 REPRICING						-11,900
022 BUDGET AMENDMENT ADJUSTMENT				4,719		
Total - Undistributed				5,719		-11,900
Total Appn - Reserve Personnel, Air Force	1,000		1,800	5,719		-11,900
National Guard Personnel, Army						
Other training and support						
014 FORCE STRUCTURE ADJUSTMENT	126,300			34,700		
Undistributed						
018 REPRICING						-65,500
020 DRUG INTERDICTION				7,819		

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
022 DRUG DEMAND REDUCTION				2,154		
Total - Undistributed				9,973		-65,500
Total Appn - National Guard Personnel, Army	126,300			44,673		-65,500
National Guard Personnel, Air Force						
Other training and support						
014 NEW UNIFORM			2,500			
Undistributed						
016 DRUG INTERDICTION				2,922		
018 DRUG DEMAND REDUCTION				1,400		
020 KC-135 SQUADRON				1,000		
022 REPRICING						-26,200
Total - Undistributed				5,322		-26,200
Total Appn - National Guard Personnel, Air Force			2,500	5,322		-26,200
TOTAL - MILITARY PERSONNEL	256,800	-225,000	16,200	399,153	-232,000	-1,142,530

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OPERATION AND MAINTENANCE						
Oper. & Maint., Army						
Undistributed						
002 GENERAL PURPOSE FORCES						-30,500
003 INTELLIGENCE & COMMUNICATIONS PROGRAM						-25,600
004 CENTRAL SUPPLY & MAINTENANCE						-85,193
006 MILITARY POLICE TRAINING TRANSFER FROM AF				1,000		
007 ADMINISTRATION & ASSOCIATED ACTIVIITES				5,471		
012 EXCESS INVENTORIES						-743,000
015 FOREIGN NATIONALS		-120,000			-1,050,000	
020 WAGE GRADE PAY ADJUSTMENT						-5,900
025 HEADQUARTERS AND ADMINISTRATION		-5,600			-5,400	
027 SOUTHCOM HQ MANAGEMENT					-2,400	
028 INTERNATIONAL HQS AND AGENCIES					-2,000	
030 CONSULTANTS		-9,600			-3,400	
035 AUDITS AND MONETARY BENEFITS					-25,000	
040 AUTOMATED DATA PROCESSING		-10,000			-65,000	
050 INTELLIGENCE/CLASSIFIED PROGRAMS		-132,800			-22,341	
052 SPECIAL TECHNICAL PROJECT					-2,500	
055 RECRUITING, ADVERTISING AND EXAMINING		-12,500			-22,100	
060 CLASSROOM TRAINING		-80,000			-4,000	
070 DBOF TECHNICAL ADJUSTMENTS					-96,700	
080 PENTAGON RESERVATION MAINENANCE FUND					-32,500	
090 NURSING DEMONSTRATION PROGRAM			2,000			
100 MEMORIAL DAY & JULY 4TH CELEBRATIONS	900					
105 PRESIDIO OF SAN FRANCISCO REAL PROP MNT	22,330		27,670			
110 FOREIGN CURRENCY REPRICING					-53,600	
115 RENT PAYMENTS TO GSA					-72,958	
120 CRIMINAL INVEST FUNCTIONS CONSOLIDATION					-28,500	
125 CIVILIAN TRAINING, EDUC & DEVEL					-28,000	
130 COMMUNICATIONS & ELEC DEPOT MAINT BACKLOG			51,000			
135 ROTC DEMONSTRATION PROJECT			750			
140 SES MANPOWER					-7,085	
150 REAL PROPERTY MAINTENANCE					-748,000	
160 INTERIM CONTRACTOR SUPPORT TRANSFER			27,400			
170 REDUCE PURCHASES FROM DBOF						-110,982
175 EXCESS ON-ORDER PURCHASES						-250,000
185 TRAVEL						-32,500

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205 REVISED INFLATION						-17,200
230 O&M PURCHASE THRESHOLD				1,725		
242 FY 1993 OBS-TO-SALES						-121,614
244 PRIOR OBS-TO-SALES						-85,074
245 SUPPLY OPERATIONS						-14,700
248 NEW ACQUISITION STRATEGY						-700
255 RESIDUAL VALUE						-100,000
257 ENV LAB CONSOLIDATION						-5,000
260 POHAKULOA TRAINING				1,000		
265 ARMY ENV POLICY INSTITUTE				1,500		
290 BUDGET AMENDMENT ADJUSTMENT						-31,365
295 TRANSFER FROM DBOF				743,000		
500 TRANSFER DENIED - COVERED BY FREE ISSUE					-1,486,000	
Total - Undistributed	23,230	-370,500	108,820	753,696	-3,757,484	-1,659,328
700 TRANSFER FROM DBOF			1,486,000			-743,000
Total Appn - Oper. & Maint., Army	23,230	-370,500	1,594,820	753,696	-3,757,484	-2,402,328
Oper. & Maint., Navy						
Undistributed						
010 FOREIGN NATIONALS		-25,000			-166,300	
025 HEADQUARTERS AND ADMINISTRATION		-7,600			-400	
030 CONSULTANTS		-1,000				-23,600
035 AUDITS AND MONETARY BENEFITS					-25,000	
040 AUTOMATED DATA PROCESSING		-10,000			-65,000	
050 INTELLIGENCE/CLASSIFIED PROGRAMS		-36,200			-8,792	
055 RECRUITING, ADVERTISING AND EXAMINING		-2,000				-2,700
060 CLASSROOM TRAINING		-62,000			-9,000	
080 DBOF TECHNICAL ADJUSTMENTS		-280,000			-247,000	
082 REDUCE PURCHASES FROM DBOF						-160,640
085 PENTAGON RESERVATION MAINTENANCE FUND					-22,400	
090 CRIMINAL INVESTIGATION TRANSFER					-54,200	
100 STRATEGIC FORCES						-14,600
105 GENERAL PURPOSE FORCES						-186,165
110 INTELLIGENCE & COMMUNICATIONS PROGRAMS						-5,800
117 DISTRIBUTION COSTS FOR PEARL HARBOR MEDAL	100					
118 CONTINUING EDUCATION ASSISTANCE			175			
120 CENTRAL SUPPLY & MAINTENANCE						-45,206

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				House	Senate	House	Senate
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
130	ADMINISTRATION AND ASSOCIATED ACTIVITIES						-4,691
145	U.S. COAST GUARD TRANSFER			3,500			
150	SPECIAL TECHNICAL PROJECT					-20,000	
155	FOREIGN CURRENCY REPRICING					-4,300	
165	RENTAL PAYMENTS TO GSA					-51,313	
170	SES MANPOWER					-2,721	
175	REAL PROPERTY MAINTENANCE					-477,700	
180	INTERIM CONTRACTOR SUPPORT TRANSFER			118,200			
200	FOREIGN NATIONALS SEVERANCE PAY IN PHILIPPINES					-52,000	
210	TRAVEL						-8,000
230	REVISED INFLATION						-20,900
240	O&M PURCHASE THRESHOLD				10,250		
275	RETURN EXCESS SUPPLIES						-32,500
280	FY 1993 OBS-TO-SALES						-175,028
285	PRIOR OBS-TO-SALES						-123,139
290	SUPPLY OPERATIONS						-2,900
295	NEW ACQUISITION STRATEGY						-7,400
305	ENV LAB CONSOLIDATION						-5,000
310	BASE OPERATIONS						-11,097
315	NAVAL OBSERVATORY				1,600		
320	BUDGET AMENDMENT ADJUSTMENT				6,474		
330	TRANSFER FROM DBOF				31,500		
500	TRANSFER DENIED - COVERED BY FREE ISSUE					-63,000	
510	TRANSFER TO OTHER ACCOUNTS			203,100			
	Total - Undistributed	100	-423,800	324,975	49,824	-1,269,126	-829,366
700	TRANSFER FROM DBOF			63,000			-31,500
710	TRANSFER TO COAST GUARD		-203,100				
	Total -		-203,100	63,000			-31,500
	Total Appn - Oper. & Maint., Navy	100	-626,900	387,975	49,824	-1,269,126	-860,866
	Oper. & Maint., Marine Corps						
	Undistributed						
005	EXCESS INVENTORIES						-19,500
010	RECRUITING, ADVERTISING AND EXAMINING						-2,600
025	TRAINING & OTH GEN PERS ACTIVITIES						-6,000

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
050 FOREIGN CURRENCY REPRICING					-100	
053 REAL PROPERTY MAINTENANCE					-133,900	
060 FOREIGN NATIONAL EMPLOYEES					-41,800	
070 REDUCE PURCHASES FROM DBOF						-10,980
080 WAGE GRADE PAY RAISE						-1,200
090 PRINTING						-1,224
095 REVISED INFLATION						-1,700
110 O&M PURCHASE THRESHOLD				250		
125 DBOF ADJUSTMENT						-50,800
130 FY 1993 OBS-TO-SALES						-12,031
135 PRIOR OBS-TO-SALES						-8,417
140 OPERATING FORCES						-30,000
145 BASE OPERATIONS						-4,710
150 DBOF TRANSFER				19,500		
155 BUDGET AMENDMENT ADJUSTMENT				2,228		
160 FIELD LOGISTICS SUPPORT						-8,028
500 TRANSFER DENIED - COVERED BY FREE ISSUE					-39,000	
Total - Undistributed				21,978	-214,800	-157,190
700 TRANSFER FROM DBOF			39,000			-19,500
Total Appn - Oper. & Maint., Marine Corps			39,000	21,978	-214,800	-176,690
Oper. & Maint., Air Force						
Undistributed						
010 FOREIGN NATIONALS		-30,000			-75,000	
020 WAGE GRADE PAY ADJUSTMENT						-11,600
025 HEADQUARTERS AND ADMINISTRATION					-17,000	
030 CONSULTANTS		-9,000			-7,000	
035 AUDITS AND MONETARY BENEFITS					-25,000	
040 AUTOMATED DATA PROCESSING		-16,500			-58,500	
050 RECRUITING, ADVERTISING AND EXAMINING		-200				-1,600
055 CLASSROOM TRAINING		-44,000			-2,000	
070 DBOF TECHNICAL ADJUSTMENTS		-112,700			-140,800	
072 REDUCE PURCHASES FROM DBOF						-135,570
073 EXCESS ON-ORDER PURCHASES						-150,000
080 PENTAGON RESERVATION MAINTENANCE FUND					-24,200	
085 INTELLIGENCE/CLASSIFIED PROGRAMS		-40,100			-54,241	
090 CRIMINAL INVESTIGATION TRANSFER					-41,000	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
095 CIVIL AIR PATROL	1,331					
100 JUNIOR ROTC			2,500			
105 COMPUTER-AIDED ACQUIS & LOGISTICS SYS			13,000			
110 STRATEGIC FORCES						-91,061
115 GENERAL PURPOSE FORCES						-6,800
121 COMMAND, CONTROL, COMMUNICATION						-49,200
131 MILITARY POLICE TRAINING TRANSFER TO ARMY						-1,000
135 CENTRAL SUPPLY						-95,900
140 ADMINISTRATION & ASSOCIATED ACTIVITIES						-8,310
155 WINDSOR SCHOOL RENOVATION			1,500			
160 SPECIAL TECHNICAL PROJECT					-30,000	
165 JCS EXERCISES			9,000			
170 FOREIGN CURRENCY REPRICING					-25,600	
175 TURKISH BASE MAINTENANCE CONTRACT					-68,000	
180 MILITARY FAMILY SERVICES			3,000			
185 RENT PAYMENTS TO GSA					-18,185	
187 MANUAL DESALINATORS			2,000			
190 SES MANPOWER					-2,931	
195 REAL PROPERTY MAINTENANCE					-904,284	
200 INTERIM CONTRACTOR SUPPORT TRANSFER			274,100			
225 REVISED INFLATION						-18,300
240 O&M PURCHASE THRESHOLD				9,000		
255 FY 1993 OBS-TO-SALES						-148,557
260 PRIOR OBS-TO-SALES						-103,922
265 SUPPLY OPERATIONS						-3,600
270 RETURN EXCESS SUPPLIES						-224,000
280 RESIDUAL VALUE						-25,000
285 ENV LAB CONSOLIDATION						-5,000
290 MILITARY TO CIVILIAN CONVERSION						-21,000
295 NOAA				17,000		
300 CLS FOR TR-1						-25,200
305 JP4-8						-30,000
310 BUDGET AMENDMENT ADJUSTMENT				4,005		
315 DBOF TRANSFER				224,000		
500 TRANSFER DENIED - COVERED BY FULL ISSUE					-448,000	
Total - Undistributed	1,331	-252,500	305,100	254,005	-1,941,741	-1,155,620
700 TRANSFER FROM DBOF			448,000			-224,000
Total Appn - Oper. & Maint., Air Force	1,331	-252,500	753,100	254,005	-1,941,741	-1,379,620

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Oper. & Maint., Defensewide						
Undistributed						
010 FOREIGN NATIONALS					-42,100	
020 WAGE GRADE PAY ADJUSTMENT						-9,200
025 HEADQUARTERS AND ADMINISTRATION					-17,000	
030 CONSULTANTS		-15,000				-1,800
035 AUDITS AND MONETARY BENEFITS					-25,000	
040 AUTOMATED DATA PROCESSING					-75,000	
045 LEASES					-11,000	
050 RECRUITING, ADVERTISING AND EXAMINING						-400
055 CLASSROOM TRAINING					-6,000	
060 DBOF TECHNICAL ADJUSTMENTS		-11,300				
062 REDUCE PURCHASES FROM DBOF						-16,129
070 PENTAGON RESERVATION MAINTENANCE FUND					-33,600	
080 INTELLIGENCE/CLASSIFIED PROGRAMS		-189,500			-70,516	
085 DEFENSE CONTRACT AUDIT AGENCY	8,700					
090 DEFENSE COMMISSARY AGENCY			1,051,700			
095 PHYSICIAN ASSISTANT DEMO PROGRAM			1,000			
100 GD & RESERVE MEDICAL CARE PILOT PROGRAM			1,500			
115 SPECIAL TECHNICAL PROJECT					-30,000	
125 DISA - NATIONAL COMMUNICATIONS SYSTEM					-20,000	
130 DEFENSE LOGISTICS AGENCY (DLA)			15,000			-33,000
160 DEFENSE TECHNOLOGY SECURITY ADMINISTRATION					-2,000	
180 US SPECIAL OPERATIONS COMMAND			13,100			-84,894
190 RENT PAYMENTS TO GSA					-47,598	
195 FOREIGN CURRENCY REPRICING					-4,600	
200 SES MANPOWER					-1,549	
210 REAL PROPERTY MAINTENANCE					-48,927	
225 PRINTING						-5,151
235 REVISED INFLATION						-9,200
240 OFFICE OF ECONOMIC ADJUSTMENT				25,000		
255 LEGACY RES. MANAGE PROG				40,000		
260 O&M PURCHASE THRESHOLD				32,375		
295 FY 1993 OBS-TO-SALES						-17,675
300 PRIOR OBS-TO-SALES						-12,364
305 MOBILITY ENHANCEMENTS				70,000		
315 OSIA/ARMS CONTROL						-25,000
320 DEFENSE MAPPING AGENCY						-10,500
325 DEFENSE CONVERSION COMMISSION				5,000		
330 AVERAGE SALARY REDUCTION						-63,621
335 OSD ENVIRONMENTAL OFFICE MANAGEMENT						-366

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
340 ACADEMY ATHLETIC PROGRAMS				350		
345 DISASTER RELIEF PLANNING				10,000		
350 DISASTER RELIEF EFFORTS				50,000		
355 PROJECT PEACE				25,000		
360 NUCLEAR WASTE RESPONSE				1,000		
365 ABUSED DEPENDENTS				1,000		
500 AVAILABLE FOR TRANSFERS/REPROGRAMMING		-50,000				
Total - Undistributed	8,700	-265,800	1,082,300	259,725	-434,890	-289,300
700 FINANCING ADJUSTMENTS	50,000					
Total Appn - Oper. & Maint., Defensewide	58,700	-265,800	1,082,300	259,725	-434,890	-289,300
Office of the Inspector General						
Undistributed						
001 CONSOLIDATE FRAUD INVESTIGATIONS			93,700			
Total Appn - Office of the Inspector General			93,700			
Oper. & Maint., Army Reserve						
Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-1,900
015 END STRENGTH RESTORATION	28,300			17,700		
020 MISSION FORCES - RESTRUCTURED TRAINING			25,000			
035 ARMY RESERVE CENTER - UNIV OF MIAMI			400			
055 EQUIPMENT MODERNIZATION			19,000			
065 REAL PROPERTY MAINTENANCE					-29,158	
075 WAGE GRADE PAY RAISE						-600
085 PRINTING						-1,422
090 REVISED INFLATION						-1,000
100 REDUCE PURCHASES FROM DBOF						-5,070
105 OBLIG LIMITATIONS, 1993						-5,556
110 PRIOR YEAR						-3,886
Total - Undistributed	28,300		44,400	17,700	-29,158	-19,434
Total Appn - Oper. & Maint., Army Reserve	28,300		44,400	17,700	-29,158	-19,434

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Oper. & Maint., Navy Reserve						
Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-800
010 CRAFT OF OPPORTUNITY PROGRAM				3,200		
040 FORCE STRUCTURE ADJUSTMENT	17,000			16,000		
050 C-130 SQUADRONS			6,000			
060 REAL PROPERTY MAINTENANCE					-31,651	
070 REDUCE PURCHASES FROM DBOF						-8,014
090 PRINTING						-301
095 REVISED INFLATION						-900
100 OBLIG. LIMITATIONS, 1993						-8,781
105 OBLIG. LIMITATIONS, PRIOR YEAR						-6,143
Total - Undistributed	17,000		6,000	19,200	-31,651	-24,939
Total Appn - Oper. & Maint., Navy Reserve	17,000		6,000	19,200	-31,651	-24,939
Oper. & Maint., Marine Corps Reserve						
Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-100
030 FORCE STRUCTURE ADJUSTMENT	2,000		3,100			
035 REAL PROPERTY MAINTENANCE					-3,208	
045 REDUCE PURCHASES FROM DBOF						-405
065 OBLIG. LIMITATIONS, 1993						-444
070 OBLIG. LIMITATIONS, PRIOR YEAR						-310
075 INFLATION						-621
Total - Undistributed	2,000		3,100		-3,208	-1,880
Total Appn - Oper. & Maint., Marine Corps Reserv	2,000		3,100		-3,208	-1,880
Oper. & Maint., Air Force Reserve						
Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-300
045 WC-130 WEATHER RECONNAISSANCE	3,100					
055 REAL PROPERTY MAINTENANCE					-9,511	
065 REDUCE PURCHASES FROM DBOF						-8,508
070 GUARD/RESERVE STRENGTH				1,000		
075 WAGE GRADE PAY RAISE						-1,900

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
085 PRINTING						-197
095 oblig. limitations, 1993						-9,323
100 OBLIG. LIMITATIONS, PRIOR YEAR						-6,521
105 OBLIG LIMITATIONS, 1993						-1,200
Total - Undistributed	3,100			1,000	-9,511	-27,949
Total Appn - Oper. & Maint., Air Force Reserve	3,100			1,000	-9,511	-27,949
Oper. & Maint., Army Nat'l Guard						
126 STARBASE YOUTH PROGRAM				2,000		
Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-1,600
010 END STRENGTH RESTORATION	69,100			27,900		
015 MISSION FORCES - RESTRUCTURED TRAINING			25,000			
060 EQUIPMENT MODERNIZATION			42,000			
070 REAL PROPERTY MAINTENANCE					-53,720	
075 URBAN YOUTH PROG & YOUTH CONSERV CORPS CAMP			2,100			
085 REDUCE PURCHASES FROM DBOF						-16,810
095 WAGE GRADE PAY RAISE						-3,600
110 PRINTING						-1,405
115 REVISED INFLATION						-2,200
125 NG CIVILIAN YOUTH OPPORTUNITIES				10,800		
130 USFPO				845		
135 DRUG DEMAND REDUCTION				3,854		
140 OBLIG. LIMITATIONS, 1993						-18,421
145 OBLIG. LIMITATIONS, PRIOR YEAR						-12,886
Total - Undistributed	69,100		69,100	43,399	-53,720	-56,922
Total Appn - Oper. & Maint., Army Nat'l Guard	69,100		69,100	45,399	-53,720	-56,922
Oper. & Maint., Air Nat'l Guard						
Undistributed						
005 RECRUITING, ADVERTISING AND EXAMINING						-300
055 REAL PROPERTY MAINTENANCE					-18,274	
060 URBAN YOUTH PROG & YOUTH CONSERV CORPS CAMP			900			
070 REDUCE PURCHASES FROM DBOF						-21,387

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
075 GUARD/RESERVE STRENGTH				1,000		
080 WAGE GRADE PAY RAISE						-4,400
095 PRINTING						-368
100 REVISED INFLATION						-2,600
110 168TH REFUELING SQUADRON				2,500		
115 DRUG DEMAND REDUCTION				2,600		
120 NG CIVILIAN YOUTH PROGRAM				3,200		
125 OBLIG. LIMITATIONS, 1993						-23,436
130 OBLIG. LIMITATION, PRIOR YEAR						-16,394
Total - Undistributed			900	9,300	-18,274	-68,885
Total Appn - Oper. & Maint., Air Nat'l Guard			900	9,300	-18,274	-68,885
Court of Military Appeals, Defense						
Undistributed						
015 TRAVEL						-7
Total Appn - Court of Military Appeals, Defense						-7
Summer Olympics						
Operation and maintenance support						
001 1996 SUMMER OLYMPICS	2,000					
Total Appn - Summer Olympics	2,000					
Environmental Restoration Fund, Defense						
Environmental Restoration Fund, Defense						
001 ENVIRONMENTAL RESTORATION, DEFENSE PROGRAMS						-1,500
500 TRANSFER DENIED - COVERED BY FREE ISSUE					-612,000	
Total - Environmental Restoration Fund, Defense					-612,000	-1,500
700 TRANSFER FROM NATIONAL DEFENSE STOCKPILE	612,000					
Total Appn - Environmental Restoration Fund, Def	612,000				-612,000	-1,500
Humanitarian Assistance						
Undistributed						
001 HUMANITARIAN ASSISTANCE PROGRAMS	2,000			10,000		

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total Appn - Humanitarian Assistance	2,000			10,000		
Drug Interdiction & Counter-Drug Act., D						
Undistributed						
005 RIVERINE CRAFT (PROCUREMENT)					-3,500	
010 SOCOM RIVERINE SUPPORT (PROCUREMENT)					-1,485	
020 NAVAL RESERVE (PROCUREMENT)					-1,300	
025 OFFICE OF SECRETARY OF DEFENSE					-2,000	
030 HYDROFOIL PATROL BOAT					-2,000	
035 COUNTER-DRUG RESEARCH & DEVELOPMENT					-10,715	
040 DEMAND REDUCTION		-6,000				-9,000
045 OPTEMPO		-20,000				-10,000
050 CLASSIFIED PROGRAMS					-89,300	
055 SUPPORT TO LAW ENFORCEMENT			30,000			
060 CIVIL AIR PATROL			2,000			
065 COUNTER-DRUG SURVEILLANCE PLAN			5,000			
070 CONSOLIDATED SURVEILLANCE ACCOUNT			89,300			
075 GULF STATES INIATIVE	7,500					
076 NATIONAL GUARD/RESERVE			1,000			
100 O & M DEFENSE AGENCIES						-8,100
102 CIVIL AIR PATROL				1,000		
106 NATIONAL GUARD LAV SUPPORT				2,000		
108 SEA-BASED AEROSTATS				25,400		
110 REGIONAL POLICE INFO SYSTEM				1,000		
112 NATIONAL LAV'S				12,000		
Total - Undistributed	7,500	-26,000	127,300	41,400	-110,300	-27,100
Total Appn - Drug Interdiction & Counter-Drug Ac	7,500	-26,000	127,300	41,400	-110,300	-27,100
World University Games						
O&M support						
001 1993 WORLD UNIVERSITY GAMES	6,000					
Total Appn - World University Games	6,000					
World Cup - 1994						
O&M support						
001 WORLD CUP USA 1994	9,000					

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total Appn - World Cup - 1994	9,000					
Defense Health Program						
Operation and maintenance						
012 EXCESS INVENTORIES					-98,738	
013 DENTAL BENEFIT	40,000		10,000			
014 HEAD INJURY PROJECT			6,000			
015 HOME HEALTH CARE BENEFIT			25,000			
016 USTF TO HCFA REIMBURSEMENT			40,000			
017 TOTAL REAL PROPERTY MAINTENANCE			92,251			
060 UNDISTRIBUTED				3,614		
065 PEDIATRIC EMS				450		
070 PEST CONTROL, SNAKES				1,000		
075 PORTABLE VENTILATORS				5,000		
Total - Operation and maintenance	40,000		173,251	10,064	-98,738	
Research, development, test, and evaluat						
003 RESEARCH AND DEVELOPMENT		-319,295				
Undistributed						
055 CHAMPUS				25,000		
Total Appn - Defense Health Program	40,000	-319,295	173,251	35,064	-98,738	
Real Property Maintenance, Defense						
Undistributed						
001 REAL PROPERTY MAINTENANCE	1,720,029		1,902,733			
500 TRANSFER FROM NATIONAL DEFENSE STOCKPILE				612,000		
Total - Undistributed	1,720,029		1,902,733	612,000		
700 TRANSFER FROM NATIONAL DEFENSE STOCKPILE						-612,000
Total Appn - Real Property Maintenance, Defense	1,720,029		1,902,733	612,000		-612,000
TOTAL - OPERATION AND MAINTENANCE	2,601,390	-1,860,995	6,277,679	2,130,291	-8,584,601	-5,949,420

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
PROCUREMENT						
Aircraft Procurement, Army						
Aircraft						
005 AH-64 ATTACK HELICOPTER (APACHE) (MYP)					-40,000	
Modification of aircraft						
015 AH-64 MODS				42,700	-40,000	
020 FLIGHT DATA RECORDER					-4,500	
024 ARMED OH-58D			225,000			
028 GPS MODS						-28,600
Total - Modification of aircraft			225,000	42,700	-44,500	-28,600
Spares and repair parts						
030 SPARES AND REPAIR PARTS						-2,525
Support equipment and facilities						
031 AIRCRAFT SURVIVABILITY EQUIPMENT						-45,992
039 GENERAL REDUCTION, INT. CONTR. SUPT					-17,100	
Total - Support equipment and facilities					-17,100	-45,992
Total Appn - Aircraft Procurement, Army			225,000	42,700	-101,600	-77,117
Missile Procurement, Army						
Other missiles						
005 STINGER SYSTEM SUMMARY			55,000			
008 LASER HELLFIRE SYS SUMMARY						-20,000
011 MLRS ROCKET	92,131			16,598		
013 MLRS LAUNCHER			5,730			-50,941
015 ARMY TACTICAL MSL SYS (ATACMS) - SYS SUM	4,145					
Total - Other missiles	96,276		60,730	16,598		-70,941
Modification of missiles						
021 TOW MODS			10,000			
Spares and repair parts						
025 SPARES AND REPAIR PARTS						-2,105
Support equipment and facilities						
029 GENERAL REDUCTION, INT. CONTR. SUPT					-10,300	

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total Appn - Missile Procurement, Army	96,276		70,730	16,598	-10,300	-73,046
Procurement of W&TCV, Army						
Tracked combat vehicles						
003 M1 ABRAMS TANK TRAINING DEVICES					-965	
011 M1 ABRAMS TANK (MOD)						-25,202
013 SPARES AND REPAIR PARTS						-2,600
015 PRODUCTION BASE SUPPORT (TCV-WTCV)		-14,487				
020 BRADLEY BASE SUSTAINMENT PROGRAM	150,000		50,000			
022 M-1 UPGRADE PROGRAM				122,400		
Total - Tracked combat vehicles	150,000	-14,487	50,000	122,400	-965	-27,802
Weapons and other combat vehicles						
025 GRENADE LAUNCHER, AUTO, 40MM MK19-3				25,000		
Total Appn - Procurement of W&TCV, Army	150,000	-14,487	50,000	147,400	-965	-27,802
Procurement of Ammunition, Army						
Ammunition						
002 CTG, 5.56MM, ALL TYPES			19,600			
003 CTG, 7.62MM, ALL TYPES			4,800			
006 CTG, .50 CAL, ALL TYPES	5,000					
007 CTG, 20MM, ALL TYPES			11,300			
008 CTG, 25MM, ALL TYPES					-4,663	
010 CTG, 40MM, ALL TYPES					-850	
013 CTG, MORTAR, 120MM, HE/MO, XM934					-13,377	
014 CTG, MORTAR, 120MM, HE/PD, XM933		-3,020				
015 CTG, MORTAR, 60MM, 1/10 PRACTICE			3,200			
018 CTG, TANK, 105MM, TP-T, M490A1			29,300			
019 CTG, TANK, 105MM, DS-TP, M724A1			29,500			
028 PROJ, ARTY, 155MM, BASEBURNER M864						-81,200
029 PROJ, ARTY, 155MM, SADARM, XM898						-35,486
030 PROJ, ARTY, 155MM, HE, M107	17,500		17,500			
032 PROP CHG, 155MM, RED BAG, M203			112,300			
040 MINE, VOLCANO, AT/AP, M87			60,000			
044 ROCKET, HYDRA 70, ALL TYPES			26,400			
047 GRENADES, ALL TYPES		-1,400				
049 SIMULATORS, ALL TYPES					-680	
050 AMMO COMPONENTS, ALL TYPES		-4,100				

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
All other programs			27,000			-2,000
Total - Ammunition	22,500	-8,520	340,900		-19,570	-118,686
Ammunition production base support						
059 LAYAWAY OF INDUSTRIAL FACILITIES		-1,700				-3,114
061 MAINTENANCE OF INACTIVE FACILITIES			6,823			-6,900
062 CONVENTIONAL AMMO DEMILITARIZATION			11,400			
Total - Ammunition production base support		-1,700	18,223			-10,014
Total Appn - Procurement of Ammunition, Army	22,500	-10,220	359,123		-19,570	-128,700
Other Procurement, Army						
Tactical and support vehicles						
001 TACTICAL TRAILERS/DOLLY SETS				30,000		
003 SEMITRAILER, TANK, 5000G			25,000			
005 FAMILY OF MEDIUM TACTICAL VEH (MYP)					-21,000	
006 HEAVY EQUIPMENT TRANSPORTER SYS			40,000			
013 GENERAL PURPOSE VEHICLES					-900	
019 SPARES AND REPAIR PARTS						-500
Total - Tactical and support vehicles			65,000	30,000	-21,900	-500
Communications and electronics equipment						
022 DEFENSE SATELLITE COMMUNICATIONS SYSTEM		-8,150			-6,850	
025 NAVSTAR GLOBAL POSITIONING SYSTEM		-1,386				-106
027 SINGLE CHANNEL OBJECT TACT TERM (SCOTT)		-24,412			-5,588	
033 WWMCCS INFORMATION SYSTEM (WIS)						-1,000
034 ARMY DATA DISTRIBUTION SYSTEM (ADDS)			32,000			-3,000
035 MOBILE SUBSCRIBER EQUIP (MSE)						-5,100
036 SINCGARS FAMILY					-65,700	
038 EAC COMMUNICATIONS				34,500		
041 C-E CONTINGENCY/FIELDING EQUIP					-2,370	
051 DEFENSE DATA NETWORK (DDN)						-1,850
054 INFORMATION SYSTEMS						-8,600
056 LOCAL AREA NETWORK (LAN)		-10,000				-13,800
057 PENTAGON TELECOM CTR (PTC)					-1,000	
059 GENERAL DEFENSE INTELL PROG (GDIP)			3,238			
061 ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		-6,600			-3,400	

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				House	Senate	House	Senate
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
078	ARTILLERY ACCURACY EQUIP					-2,773	
084	FORWARD ENTRY DEVICE (FED)						-1,158
087	MANEUVER CONTROL SYSTEM (MCS)		-24,753			-247	
089	AUTOMATED DATA PROCESSING EQUIP			9,000			-6,000
090	RESERVE COMPONENT AUTOMATION SYS (RCAS)			15,000			
094	INTEGRATED FAMILY OF TEST EQUIP (IFTE)			12,000			-6,000
097	INITIAL SPARES						-6,000
101	PRODUCTION BASE SUPPORT (C-E)			8,100			
103	SPECIAL PROGRAMS		-33,782				-14,000
	Total - Communications and electronics equipment		-109,083	79,338	34,500	-87,928	-66,614
Other support equipment							
113	TOWED ASSAULT BRIDGE	2,000					
149	NATURAL GAS UTILIZATION EQUIPMENT			8,000			
155	COMBAT TRAINING CENTERS SUPPORT					-16,600	
156	TRAINING DEVICES, NONSYSTEM		-1,768			-5,900	
159	SPARES AND REPAIR PARTS						-2,000
174	LSV LANDING CRAFT			18,000			
175	RAISE O&M PURCHASE THRESHOLD						-1,725
	Total - Other support equipment	2,000	-1,768	26,000		-22,500	-3,725
	Total Appn - Other Procurement, Army	2,000	-110,851	170,338	64,500	-132,328	-70,839
Aircraft Procurement, Navy							
Combat aircraft							
002	EA-6B/REMFG (ELECTRONIC WARFARE) PROWLER			11,310			
007	F/A-18 (FIGHTER) HORNET		-87,700				-492,300
009	CH/MH-53E (HELICOPTER) SUPER STALLION		-11,600				
012	SH-60B (ASW HELICOPTER) SEAHAWK						-101,194
013	SH-60B (ASW HELICOPTER) SEAHAWK ADV PROC (CY)						-25,000
014	SH-60F CV (ASW HELICOPTER)		-32,000				-81,087
015	SH-60F CV (ASW HELICOPTER) ADV PROC (CY)						-15,151
017	AV-8B HARRIER			25,000			
	Total - Combat aircraft		-131,300	36,310			-714,732
Trainer aircraft							
019	T-45TS (TRAINER) GOSHAWK ADV PROC (CY)						-22,000

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Other aircraft						
070 GLOBAL POSITIONING SATELLITE EQUIPMENT						-49,609
072 AIRBORNE SELF-PROTECTION JAMMER						-55,887
Total - Other aircraft						-105,496
Modification of aircraft						
025 A-6 SERIES			10,000			
031 F-14 SERIES	175,000					
035 F-18 SERIES				20,000		
043 EP-3 SERIES		-32,962				
046 E-2 SERIES						-25,108
Total - Modification of aircraft	175,000	-32,962	10,000	20,000		-25,108
Aircraft spares and repair parts						
058 SPARES AND REPAIR PARTS		-5,200				-77,672
Aircraft support equipment and facilitie						
066 NIGHT VISION DEVICES FOR AVIATORS			5,000			
Undistributed						
065 GENERAL REDUCTION, INT. CONTR. SUPT					-72,400	
Total Appn - Aircraft Procurement, Navy	175,000	-169,462	51,310	20,000	-72,400	-945,008
Weapons Procurement, Navy						
Ballistic missiles						
002 TRIDENT II					-100,000	
003 TRIDENT II ADV PROC (CY)Y)					-100,000	
Total - Ballistic missiles					-200,000	
Other missiles						
005 TOMAHAWK						-175,000
006 AMRAAM						-14,700
007 HARPOON/SLAM	90,000		10,000			
015 AERIAL TARGETS					-8,000	
016 DRONES AND DECOYS	17,500					
025 WEAPONS INDUSTRIAL FACILITIES				12,500		
026 FLEET SATELLITE COMMUNICATIONS (MYP)		-62,100			-222,900	
027 ARCTIC SATELLITE COMMUNICATIONS		-8,007			-9,500	
028 ORDNANCE SUPPORT EQUIPMENT				72,000		

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Total - Other missiles	107,500	-70,107	10,000	84,500	-240,400	-189,700
Torpedoes and related equipment						
030 VERTICAL LAUNCHED ASROC (AP)			10,000			
036 QUICKSTRIKE MINE		-6,000			-2,801	
Total - Torpedoes and related equipment		-6,000	10,000		-2,801	
Other Ordnance						
054 PRACTICE BOMBS			10,000			
056 GENERAL PURPOSE PY SAVINGS						-10,600
059 CIWS AMMUNITION			9,083			
060 76MM GUN AMMUNITION		-1,972				
061 OTHER SHIP GUN AMMUNITION		-4,371				
Total - Other Ordnance		-6,343	19,083			-10,600
Spares and repair parts						
064 SPARES AND REPAIR PARTS						-4,285
065 SPECIAL TECHNICAL PROJECTS					-1,500	
067 GENERAL REDUCTION, INT. CONTR. SUPT					-900	
Total - Spares and repair parts					-2,400	-4,285
Undistributed						
068 CLASSIFIED PROGRAM						-30,000
Total Appn - Weapons Procurement, Navy	107,500	-82,450	39,083	84,500	-445,601	-234,585
Shipbuilding & Conversion, Navy						
Other warships						
002 CARRIER REPLACEMENT PROGRAM						-482,200
008 DDG-51		-92,873			-2,571,508	
009 DDG-51 ADV PROC (CY)						-11,000
Total - Other warships		-92,873			-2,571,508	-493,200
Amphibious ships						
011 LHD-1	1,050,000		155,000			
012 LSD-41 ADVANCE PROCUREMENT (CY)			300,000			

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total - Amphibious ships	1,050,000		455,000			
Mine warfare and patrol ships						
013 MHC MINE HUNTER COASTAL						-24,065
Auxiliaries, craft, and prior-year progr						
014 AOE			300,000			
015 SEALIFT			801,400			
017 OCEANGRAPHIC SHIPS			90,000			
018 SERVICE CRAFT						-171,958
022 OUTFITTING		-33,260				-4,794
023 POST DELIVERY						-23,000
027 COST GROWTH ON PY PROGRAM			195,000			
Total - Auxiliaries, craft, and prior-year progr		-33,260	1,386,400			-199,752
030 TRANSFER FROM DBOF			1,900,000			
Total Appn - Shipbuilding & Conversion, Navy	1,050,000	-126,133	3,741,400		-2,571,508	-717,017
Other Procurement, Navy						
Ships support equipment						
037 STANDARD BOATS	5,030					
Communications and electronics equipment						
044 AN/SPS-48			51,500			
045 AN/SPS-49					-2,400	
049 SURFACE SONAR SUPPORT EQUIPMENT					-3,400	
051 AN/BQQ-5						-3,852
052 SURFACE SONAR WINDOWS AND DOME						-2,505
054 SONAR SWITCHES AND TRANSDUCERS						-2,000
059 SUBMARINE ADVANCED COMBAT SYSTEM						-2,000
060 SOSUS						-10,900
067 AN/SLQ-32					-1,800	
070 AN/WLR-8					-2,500	
073 C-3 COUNTERMEASURES						-12,000
076 NAVAL INTELL PROCESSING SYSTEM						-1,600
077 AN/WLQ-4 DEPOT					-2,000	
081 NAVY TACTICAL DATA SYSTEM			12,700			-3,315
083 LINK 16 HARDWARE						-42,984
084 MINESWEEPING SYSTEM REPLACEMENT		-2,400				-5,669

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086 NAVSTAR GPS RECEIVERS						-4,015
101 SPACE SYSTEM PROCESSING					-4,387	
108 EMI CONTROL INSTRUMENTATION						-1,400
117 SUBMARINE COMMUNICATION EQUIPMENT						-1,000
118 SATCOM SHIP TERMINALS						-13,500
129 SECURE VOICE SYSTEM					-400	
Total - Communications and electronics equipment		-2,400	64,200		-16,887	-106,740
Aviation support equipment						
151 SONOBUOYS					-2,778	
155 SIGNAL, UNDERWATER SOUND (SUS)					-1,792	
156 CARTRIDGES & CART ACTUATED DEVELOP		-813				
158 AIR EXPENDABLE COUNTERMEASURES		-2,633				
161 JATOS		-5,942				
169 AIRBORNE MINE COUNTERMEASURES					-10,000	
Total - Aviation support equipment		-9,388			-14,570	
Ordnance support equipment						
181 AEGIS SUPPORT EQUIPMENT			5,000			
184 VERTICAL LAUNCH SYSTEMS						-35,000
189 SURFACE ASW SUPPORT EQUIPMENT					-2,905	
200 SHIP EXPENDABLE COUNTERMEASURE					-1,600	
Total - Ordnance support equipment			5,000		-4,505	-35,000
Civil engineering support equipment						
210 AMPHIBIOUS EQUIPMENT			22,000			
220 NATURAL GAS UTILIZATION EQUIPMENT			8,000			
Total - Civil engineering support equipment			30,000			
Supply support equipment						
224 SPECIAL PURPOSE SUPPLY SYSTEMS		-15,000				-22,083
Personnel and command support equipment						
229 SHIP SYSTEM TRAINERS					-5,100	
235 INTELLIGENCE SUPPORT EQUIPMENT		-5,306				-9,494
Total - Personnel and command support equipment		-5,306			-5,100	-9,494

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Spares and repair parts						
245 SPARES AND REPAIR PARTS		-29,030			-51,511	
Undistributed						
247 GENERAL REDUCTION, INT. CONTR. SUPT					-44,900	
248 RAISE O&M PURCHASE THRESHOLD						-10,250
Total - Undistributed					-44,900	-10,250
Total Appn - Other Procurement, Navy	5,030	-61,124	99,200		-137,473	-183,567
Procurement, Marine Corps						
Ammunition						
001 5.56 MM, ALL TYPES						-1,600
002 7.62 MM, ALL TYPES			7,000			
003 LINEAR CHARGES, ALL TYPES		-5,454				
005 40 MM, ALL TYPES		-7,060				
006 60 MM ILLUM M721		-1,617				
030 83 MM ROCKET HEAA (SMAW)					-24,352	
038 RKT MOTOR 5 IN						-6,018
040 AMMO MODERNIZATION					-3,000	
Total - Ammunition		-14,131	7,000		-27,352	-7,618
Weapons and combat vehicles						
043 AMLRS			152,200			
044 MODIFICATION KITS (TRKD VEH)				15,000		
048 LIGHT ARMORED VEHICLE				10,000		
Total - Weapons and combat vehicles			152,200	25,000		
Communications and electronics equipment						
065 HANDPACK RADIOS AND EQUIPMENT				3,000		
080 INTELLIGENCE SUPPORT EQUIPMENT	10,000		13,000			
087 NIGHT VISION EQUIPMENT	10,000					
Total - Communications and electronics equipment	20,000		13,000	3,000		
Support vehicles						
096 LOGISTICS VEHICLE SYSTEM			18,000			
Engineer and other equipment						
101 ARMORED COMBAT EXCAVATOR (ACE)			35,689			

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106 TRAY RATION HEATING SYSTEM					-3,324	
117 TRAINING DEVICES				4,000		
124 AUTOMATIC BUILDING MACHINES			2,500			
125 MARINE ENHANCEMENT PROGRAM				11,500		
Total - Engineer and other equipment			38,189	15,500	-3,324	
Spares and repair parts						
126 SPARES AND REPAIR PARTS						-1,370
Undistributed						
127 RAISE O&M PURCHASE THRESHOLD						-250
Total Appn - Procurement, Marine Corps	20,000	-14,131	228,389	43,500	-30,676	-9,238
Aircraft Procurement, Air Force						
Combat aircraft						
001 B-1B (MYP)						-164,897
005 F-16 C/D (MYP)		-68,400				-614,830
006 F-16 C/D ADV PROC (CY)			68,400			
Total - Combat aircraft		-68,400	68,400			-779,727
Airlift aircraft						
007 C-17 (MYP)		-608,000				-50,000
008 C-17 ADV PROC (CY)				45,300	-50,000	
010 C-130H					-300,358	
011 HC-130H				100,000		
Total - Airlift aircraft		-608,000		145,300	-350,358	-50,000
Other aircraft						
015 CIVIL AIR PATROL A/C	716					
016 E-8B				201,200		
017 E-8B ADV PROC (CY)				28,458	-12,600	
Total - Other aircraft	716			229,658	-12,600	
Modification of inservice aircraft						
020 B-1B						-4,500
026 F-16		-36,400			-63,600	
027 EF-111						-8,975

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
034 C-22					-4,697	
037 C-141				26,000		
038 T-38	25,000					
042 C-12					-5,500	
047 C-135						-133,700
048 E-3						-38,600
052 OTHER AIRCRAFT		-22,100			-10,000	
Total - Modification of inservice aircraft	25,000	-58,500		26,000	-83,797	-185,775
Aircraft spares and repair parts						
055 SPARES AND REPAIR PARTS		-52,000				-148,590
Aircraft support equipment and facilitie						
059 OTHER PRODUCTION CHARGES		-71,300			-46,957	
Undistributed						
062 SPECIAL TECHNICAL PROJECTS					-21,600	
063 GENERAL REDUCTION, INT. CONTR. SUPT					-222,300	
064 GLOBAL POSITIONING SYSTEM EQUIPMENT						-72,300
Total - Undistributed					-243,900	-72,300
Total Appn - Aircraft Procurement, Air Force	25,716	-858,200	68,400	400,958	-737,612	-1,236,392
Missile Procurement, Air Force						
Ballistic missiles						
004 PEACEKEEPER (M-X)				27,500		
Other missiles						
003 HAVE NAP	24,000					
005 ADVANCED CRUISE MISSILE				127,100		
008 AMRAAM						-98,700
012 AGM-88A HARM						-113,700
013 TARGET DRONES	12,000					
Total - Other missiles	36,000			127,100		-212,400
Modification of inservice missiles						
021 MM II/III MODIFICATIONS		-14,700				
025 ADVANCED CRUISE MISSILE					-4,907	
Total - Modification of inservice missiles		-14,700			-4,907	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Spares and repair parts						
026 SPARES AND REPAIR PARTS						-2,750
Other support						
027 SPACEBORNE EQUIP (COMSEC)		-4,200				
030 SPACE SHUTTLE OPERATIONS					-55,000	
038 DEFENSE SUPPORT PROGRAM ADV PROC (CY)					-62,000	
039 DEFENSE SATELLITE COMM SYSTEM (MYP)					-10,000	
043 SPECIAL UPDATE PROGRAMS		-84,700			-18,231	
044 SPECIAL PROGRAMS		-646,200				-76,000
045 CLASSIFIED PROGRAMS		-87,968				
All other programs		-61,900			-15,300	-14,666
Total - Other support		-884,968			-160,531	-90,666
Undistributed						
048 SPECIAL TECHNICAL PROJECTS					-10,000	
049 GENERAL REDUCTION, INT. CONTR. SUPT					-11,700	
050 GENERAL REDUCTION						-238,234
Total - Undistributed					-21,700	-238,234
Total Appn - Missile Procurement, Air Force	36,000	-899,668		154,600	-187,138	-544,050
Other Procurement, Air Force						
Munitions and associated equipment						
005 20MM COMBAT	8,000					
006 20MM TRAINING			13,193			
007 30 MM TRAINING		-9,629				
010 CART IMP 3000 FT/LBS		-3,200				
011 ITEMS LESS THAN $2,000,000		-1,785				
012 CBU-87 (COMBINED EFFECTS MUNITIONS)				60,000		
017 BSU-85/93 INFLATABLE RETARDER		-10,858				
027 ITEMS LESS THAN $2,000,000					-866	
036 SPECIAL PROGRAMS					-13,061	
Total - Munitions and associated equipment	8,000	-25,472	13,193	60,000	-13,927	
Vehicular equipment						
049 BUS, 28 PASSENGER		-2,714				
050 BUS, 44 PASSENGER		-3,127				

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
052 MODULAR AMBULANCE		-1,300				
053 14-23 PASSENGER BUS		-533				
055 ARMORED SEDAN					-354	
063 TRUCK CARRYALL		-400				
069 CAP VEHICLES	825					
070 ITEMS LESS THAN $2,000,000					-8,581	
079 TRUCK CRASH P-23					-22,116	
081 HEAVY RESCUE VEHICLE					-4,346	
095 SPARES AND REPAIR PARTS						-130
Total - Vehicular equipment	825	-8,074			-35,397	-130
Electronics and telecommunications equip						
106 TACTICAL AIR CONTROL SYS IMPROVE						-53,314
107 WEATHER OBSERV/FORCAST		-1,367			-8,633	
108 DEFENSE SUPPORT PROGRAM		-3,200				-16,800
110 SAC COMMAND AND CONTROL						-4,000
112 BMEWS MODERNIZATION						-3,000
115 DEFENSE METEOROLOGICAL SAT PROG		-2,600			-1,300	
121 AIR BASE OPERABILITY					-9,504	
122 IMAGERY TRANS						-2,000
125 AUTOMATIC DATA PROCESSING EQUIP						-4,000
128 MAC COMMAND AND CONTROL SUPPORT		-1,200				-800
129 AIR FORCE PHYSICAL SECURITY SYSTEM		-5,238			-762	
133 BASE LEVEL DATA AUTO PROGRAM						-2,000
137 ESMC/WSMC I&M						-3,660
138 AFMC CALS			18,000			
140 TELEPHONE EXCHANGE		-2,557			-4,543	
141 JOINT TACTICAL COMM PROGRAM(MYP)					-6,100	
145 MILSTAR						-190,580
149 TACTICAL C-E EQUIPMENT					-3,100	
150 RADIO EQUIPMENT						-14,072
154 SPARES AND REPAIR PARTS		-20,000				-10,000
155 CAP COM & ELECT	600					
157 COMM ELECT MODS		-2,500				-500
Total - Electronics and telecommunications equip	600	-38,662	18,000		-33,942	-304,726
Other base maintenance and support equip						
176 AIR BASE OPERABILITY					-800	
186 ITEMS LESS THAN $2,000,000					-2,500	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
187 INTELLIGENCE PRODUCTION ACTIVITY				4,100	-2,798	
190 SELECTED ACTIVITIES		-107,400			-472,746	
192 NATURAL GAS UTILIZATION EQUIPMENT			8,000			
Total - Other base maintenance and support equip		-107,400	8,000	4,100	-478,844	
Undistributed						
198 RAISE O&M PURCHASE THRESHOLD						-9,000
200 GENERAL REDUCTION, INT. CONTR. SUPT					-12,600	
Total - Undistributed					-12,600	-9,000
Total Appn - Other Procurement, Air Force	9,425	-179,608	39,193	64,100	-574,710	-313,856
Procurement, Defensewide						
Major equipment						
002 MOTOR VEHICLES						-155
004 REMOTELY PILOTED VEHICLES		-10,000			-109,000	
007 SUPERCOMPUTERS			50,000			
035 MAJOR EQUIPMENT		-224,300			-202,607	
036 MAJOR EQUIPMENT, OJCS						-7,824
039 PATRIOT				12,700		
Total - Major equipment		-234,300	50,000	12,700	-311,607	-7,979
Special Operations Command						
040 MC-130H COMBAT TALON II						-18,748
043 C-130 MODIFICATIONS			81,000			
044 HH-53 MODIFICATIONS			326			
045 OTHER AIRCRAFT MODIFICATIONS			7,674			
048 AIRCRAFT SUPPORT					-19,100	
049 PATROL BOAT, COASTAL		-5,300				
051 SOF PYRO/DEMO		-10,000				-2,000
059 COMM EQUIPMENT & ELECTRONICS			7,500			
060 SOF INTELLIGENCE SYSTEMS		-1,650				-13,350
064 MISCELLANEOUS EQUIPMENT		-4,613				-4,630
065 CLASSIFIED PROGRAMS					-500	
Total - Special Operations Command		-21,563	96,500		-19,600	-38,728

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Undistributed						
067 GENERAL REDUCTION, INT. CONTR. SUPT					-27,500	
075 CLASSIFIED PROGRAMS					-101,687	
077 SPECIAL TECHNICAL PROJECTS					-2,000	
080 CLASIFIED PROGRAMS				12,400		
082 MENTOR-PROTEGE PROGRAM				55,000		
084 DEFENSE MODELING/SIMULATION OFFICE				10,000		
088 TACTICAL SIGINT/ELINT FUND				166,662		
090 RAISE O&M PROCUREMENT THRESHOLD						-32,375
Total - Undistributed				244,062	-131,187	-32,375
Total Appn - Procurement, Defensewide		-255,863	146,500	256,762	-462,394	-79,082
National Guard & Reserve Equipment						
Reserve Equipment						
001 ARMY RESERVE						
03 HEMTT TRUCK			7,500			
04 MISCELLANEOUS EQUIPMENT			15,000			
05 EXTERNAL AUX. FUEL TANKS	3,000					
06 C-12J				42,300		
76 NIGHT VISION GOGGLES				40,000		
TOTAL	3,000		22,500	82,300		
002 NAVY RESERVE						
10 C-130H AIRCRAFT	34,100		15,900			
13 P-3 UPGRADES			25,000			
14 MH-53 HELICOPTERS			10,000			
15 LAMPS MK-1 ASW UPGRADE			68,000			
16 MIUW VANS			15,000			
17 FFG-7 DISPLAY SYSTEMS			8,750			
TOTAL	34,100		142,650			
003 MARINE CORPS RESERVE						
18 KC-130T AIRCRAFT			70,000			
19 AH-1W COBRA AIRCRAFT			126,000			
20 NIGHT VISION			9,000			
69 C-20 AIRCRAFT				25,000		
70 MISCELLANEOUS EQUIPMENT				10,000		
TOTAL			205,000	35,000		
004 AIR FORCE RESERVE						
21 MISCELLANEOUS EQUIPMENT				14,750		
22 C-130 AIRCRAFT			100,000			
TOTAL			100,000	14,750		

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total - Reserve Equipment	37,100		470,150	132,050		
National Guard Equipment						
005 ARMY NATIONAL GUARD						
26 M9 ACE			35,000			
28 MEDIUM TACTICAL TRUCK SLEP			50,000			
30 FIVE TON TRUCKS			50,000			
31 C-23 AIRCRAFT	60,000					
32 C-23 SIMULATOR				2,000		
33 FAMILY OF M113 VEHICLES			15,000			
34 UV-18 REPLACEMENT				57,900		
35 CH-47D HELICOPTER				78,000		
38 COMMUNICATIONS ELECTRONICS			5,000			
41 AH-1 MODS C-NITE			15,000			
42 EXTERNAL AUX. FUEL TANKS	4,000					
43 M-915/916 TRUCKS			10,000			
44 C-212 AIRCRAFT			57,900			
45 C-26 AIRCRAFT			23,000			
70 FIRE ARMS TRAINING SYSTEM				700		
72 ELECTRONIC TANDEM NETWORK				750		
73 UH-60 HELICOPTER				56,000		
TOTAL	64,000		260,900	195,350		
006 AIR NATIONAL GUARD						
52 F-15 ALE-40			1,200			
54 MCE/TASCI			71,000			
56 C-130 AIRCRAFT	200,000			106,600		
57 MH-60G HELICOPTER			4,800			
58 C-26 AIRCRAFT			23,000			
59 P-180				16,000		
TOTAL	200,000		100,000	122,600		
Total - National Guard Equipment	264,000		360,900	317,950		
Total Appn - National Guard & Reserve Equipment	301,100		831,050	450,000		
Defense Production Act Purchases						
Defense Production Act Purchases						
001 DEFENSE PRODUCTION ACT PURCHASES			25,000			
Total Appn - Defense Production Act Purchases			25,000			

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Chem Agents & Munitions Destruction, Def						
Chem Agents & Munitions Destruct-RDT&E						
001 CHEM DEMILITARIZATION - RDTE			4,000			
Chem Agents & Munitions Destruct-Proc						
003 CHEM DEMILITARIZATION - PROC					-13,300	
Chem Agents & Munitions Destruct-O&M						
005 CHEM DEMILITARIZATION - O&M		-2,000			-21,000	
Total Appn - Chem Agents & Munitions Destruction		-2,000	4,000		-34,300	
TOTAL - PROCUREMENT	2,000,547	-2,784,197	6,148,716	1,745,618	-5,518,575	-4,640,299

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
RESEARCH,DEVELOP.,TEST&EVAL.						
RDT&E, Army						
Technology base						
001 IN-HOUSE LABORATORY INDEPENDENT RESEARCH060110	5,707					
002 DEFENSE RESEARCH SCIENCES 060110	46,838		5,066			
005 MATERIALS TECHNOLOGY 060210				4,000		
006 ELECTRONIC SURVIVABILITY AND FUZING TECH060212			10,000			
007 SURVIVABILITY ENHANCEMENT 060212				10,000		
009 AVIATION TECHNOLOGY 060221				1,000		
013 MODELING AND SIMULATION	3,000		2,000			
014 COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY060260			43,000			
018 WEAPONS AND MUNITIONS TECHNOLOGY 060262			2,800			
019 ELECTRONICS AND ELECTRONIC DEVICES 060270	3,350		1,600			
020 NIGHT VISION TECHNOLOGY 060270			7,000			-6,000
022 ENVIRONMENTAL QUALITY TECHNOLOGY 060272	5,500		43,500			
024 COMMAND, CONTROL, COMMUNICATIONS TECHNOL060278		-2,457				-4,043
025 COMPUTER AND SOFTWARE TECHNOLOGY 060278			15,000			
026 MILITARY ENGINEERING TECHNOLOGY 060278						-4,000
028 LOGISTICS TECHNOLOGY 060278			7,000			
029 MEDICAL TECHNOLOGY	96,455		13,365			
192 MPIM TECHNOLOGY			8,600			
197 AKAMAI				7,000		
Total - Technology base	160,850	-2,457	158,931	22,000		-14,043
Advanced technology development						
032 TRACTOR PULL		-9,000				
034 MEDICAL ADVANCED TECHNOLOGY	55,462			195,460		
035 AVIATION ADVANCED TECHNOLOGY	2,000					
036 WEAPONS AND MUNITIONS ADVANCED TECHNOLOG	18,400		14,500			
038 COMMAND, CONTROL, COMMUNICATIONS ADVANCE		-2,500			-2,500	
043 TRACTOR RED	1,100					
044 MATERIALS AND STRUCTURES ADVANCED TECHNO060310				3,500		
045 AIDS RESEARCH	36,247			20,644		
046 GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISIO060323						-27,000
055 NIGHT VISION ADVANCED TECHNOLOGY	4,000			14,000		
059 ADVANCED TACTICAL COMPUTER SCIENCE AND T			5,000			-14,768
Total - Advanced technology development	117,209	-11,500	19,500	233,604	-2,500	-41,768

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(1)		(2)	(3)	(4)	(5)	(6)	(7)
Strategic programs							
060 ANTI-SATELLITE WEAPON (ASAT)						-24,768	
All other programs			-4,274				-4,000
Tactical programs							
065 TRACTOR TREAD	060301	3,000					
075 ARTILLERY PROPELLENT DEVELOPMENT	060364				10,000		
076 ARMORED SYSTEM MODERNIZATION - ADV DEV	060364		-35,000				
081 SINGLE CHANNEL GROUND AND AIRBORNE RADIO	060374				5,000		
082 SOLDIER SUPPORT AND SURVIVABILITY	060374				6,000		
083 ADV AUTOMOTIVE DEVELOPMENT FOR ASM					10,000		
087 AVIATION - ADV DEV	060380			3,200			
092 MEDICAL SYSTEMS - ADV DEV		29,042		3,047			
098 ARMED, DEPLOYABLE OH-58D				8,100			
099 LIGHT ARMED SCOUT HELICOPTER	060422						-443,007
101 ALL SOURCE ANALYSIS SYSTEM	060432					-10,000	
105 JAVELIN (AAWS-M)	060461	10,000					
107 HEAVY TACTICAL VEHICLES	060462			1,000			
108 ADVANCED TANK CANNON (ATAC)	060463		-10,000				-4,500
111 ENGINEERING MOBILITY EQUIPMENT	060464			6,200			
114 COMBAT FEEDING, CLOTHING, AND EQUIPMENT	060471				18,000		
120 AUTOMATIC TEST EQUIPMENT DEVELOPMENT	060474			9,000			
123 TRACTOR JEWEL	060476				22,000	-74,206	
126 JOINT SURVEILLANCE/TARGET ATTACK RADAR S	060477				35,000		
132 MEDICAL MATERIAL/MED BIOLOGICAL DEF EQUI		20,209		5,728			
136 SENSE AND DESTROY ARMAMENT MISSILE - ENG	060481				34,963		
137 LONGBOW - ENG DEV	060481			25,000			-281,802
140 LOSAT	060481						-122,848
144 COMBAT VEHICLE IMPROVEMENT PROGRAMS	020373			58,600			-9,276
146 ROCKET SYSTEMS						-20,000	
147 AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEME	020374	3,000					
149 CLASSIFIED PROGRAMS				29,000			
150 MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT	020380	10,000			1,000		
151 OTHER MISSILE PRODUCT IMPROVEMENT PROGRA	020380	2,000			11,600		
198 LOSAT					122,848		
Total - Tactical programs		77,251	-45,000	148,875	276,411	-104,206	-861,433
Intelligence and communications							
160 SATCOM GROUND ENVIRONMENT	030314						-18,400
Defensewide Mission Support							
164 ARMY KWAJALEIN ATOLL	060530					-25,000	

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	(1)		(2)	(3)	(4)	(5)	(6)	(7)
170	DOD HIGH ENERGY LASER TEST FACILITY	060560	10,000					
175	PROGRAMWIDE ACTIVITIES	060580	3,495					
181	PRODUCTIVITY INVESTMENTS	060587			4,200			
186	MANAGEMENT HEADQUARTERS (RESEARCH AND DE	060589	5,452		418			
187	INDUSTRIAL PREPAREDNESS	070801		-8,862			-3,841	
188	MANUFACTURING TECHNOLOGY DEVELOPMENT				49,282			
191	REAL PROPERTY MAINTENANCE		25,000					
194	TRAVEL							-14,057
195	EXCESS INVENTORY							-4,218
196	INFLATION							-8,000
	Total - Defensewide Mission Support		43,947	-8,862	53,900		-28,841	-26,275
	Total Appn - RDT&E, Army		399,257	-72,093	381,206	532,015	-160,315	-965,919
	RDT&E, Navy							
	Technology base							
001	IN-HOUSE INDEPENDENT LABORATORY RESEARCH	060115	1,245					
002	DEFENSE RESEARCH SCIENCES	060115		-27,557			-12,779	
003	ANTI-AIR WARFARE/ANTI-SURFACE WARFARE TE	060211		-15,000				-5,841
004	SURFACE SHIP TECHNOLOGY	060212	4,000		20,000			
005	AIRCRAFT TECHNOLOGY	060212		-514			-4,486	
006	MARINE CORPS LANDING FORCE TECHNOLOGY	060213						-2,000
007	COMMAND, CONTROL, AND COMMUNICATIONS TEC	060223		-2,147			-2,853	
008	MISSION SUPPORT TECHNOLOGY	060223			8,966			-1,833
009	SYSTEMS SUPPORT TECHNOLOGY	060223			8,500			-13,097
010	ELECTRONIC WARFARE TECHNOLOGY	060227						-1,111
011	UNDERSEA SURVEILLANCE & WEAPONS TECHNOLO	060231		-15,000				-8,825
012	MINE AND SPECIAL WARFARE TECHNOLOGY	060231						-10,791
013	SUBMARINE TECHNOLOGY	060232		-4,297			-703	
014	NUCLEAR PROPULSION	060232					-5,000	
015	OCEAN AND ATMOSPHERIC SUPPORT TECHNOLOGY	060243						-5,812
016	INDEPENDENT EXPLORATORY DEVELOPMENT	060293		-5,000				
	Total - Technology base		5,245	-69,515	37,466		-25,821	-49,310
	Advanced technology development							
017	AIR SYSTEMS ADVANCED TECHNOLOGY DEVELOPM	060321			10,077			
018	GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISIO	060323		-25,000				-25,000
019	ADVANCED ELECTRONIC WARFARE TECHNOLOGY	060327		-15,000				-10,000

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	(1)		(2)	(3)	(4)	(5)	(6)	(7)
021	UNDERSEA SUPERIORITY TECHNOLOGY DEMONSTR	060355		-35,000			-15,000	
023	MARINE CORPS ADVANCED TECHNOLOGY DEMONST	060364					-5,000	
024	MEDICAL DEVELOPMENT	060370	12,449		26,751			
025	MANPOWER, PERSONNEL AND TRAINING ADV TEC	060370					-10,000	
026	GENERIC LOGISTICS R&D TECHNOLOGY DEMONST	060371	11,500		12,500			
028	ADVANCED ANTI-SUBMARINE WARFARE TECHNOLO	060374			18,000			
029	SHALLOW WATER MCM DEMOS	060378				4,200		
030	ADVANCED TECHNOLOGY TRANSITION	060379				4,600	-15,000	
031	C3 ADVANCED TECHNOLOGY	060379			23,700			
	Total - Advanced technology development		23,949	-75,000	91,028	8,800	-45,000	-35,000
Strategic programs								
032	TACTICAL SPACE OPERATIONS	060345					-2,015	
035	TRIDENT II	060436						-16,500
038	SSBN SECURITY TECHNOLOGY PROGRAM	010122						-9,000
	Total - Strategic programs						-2,015	-25,500
Tactical programs								
048	T-45 TRAINING SYSTEM	060320				25,000		
049	AIR CREW SYSTEMS TECHNOLOGY	060321			10,000			
070	NON-ACOUSTIC ANTI-SUBMARINE WARFARE (ASW	060352					-12,983	
071	ADVANCED ASW TARGET	060352					-8,000	
072	RETRACT JUNIPER	060353				15,000		
074	SURFACE ASW	060355						-19,100
075	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	060356		-22,200			-35,800	
077	SHIP DEVELOPMENT	060356						-3,200
079	ELECTRIC DRIVE	060357		-15,393			-40,607	
082	JOINT ADVANCED SYSTEMS	060359				46,000	-106,783	
084	CONVENTIONAL MUNITIONS	060360					-10,000	
086	MARINE CORPS ASSAULT VEHICLES	060361		-26,500				
092	MK 48 ADCAP - ADV DEV	060369						-13,600
098	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	060371			1,000			
103	LIGHTWEIGHT 155MM HOWIZER					13,100		
108	LINK PLUMERIA	060374						-5,600
110	RETRACT ELM	060375		-35,000				-25,480
112	SHIP SELF DEFENSE	060375	33,000			13,651		
117	STANDARD AVIONICS DEVELOPMENT	060420						-6,704
119	LAMPS	060421			4,500			
120	HELICOPTER DEVELOPMENT	060421					-4,702	

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	(1)		(2)	(3)	(4)	(5)	(6)	(7)
121	AV-8B AIRCRAFT - ENG DEV	060421			1,500			
126	P-3 MODERNIZATION PROGRAM	060422			127,000			-27,215
127	ATA/AX	060423						-165,583
129	ACOUSTIC SEARCH SENSORS	060426		-13,800				
130	V-22A				755,000			
131	AIR CREW SYSTEMS DEVELOPMENT	060426			3,700			
134	EW DEVELOPMENT	060427		-10,676			-14,324	
137	AEGIS COMBAT SYSTEM ENGINEERING	060430			10,000			-19,496
139	CLOSE-IN WEAPON SYSTEM (PHALANX)	060435				5,000		
146	NON-ACOUSTIC MINE DETECTION				27,000			
155	COMBAT INFORMATION CENTER CONVERSION	060451					-8,719	
156	SUBMARINE COMBAT SYSTEM		55,200					
157	DEEP SUBMERGENCE TECHNOLOGY	060455						-21,085
158	SSN-21 DEVELOPMENTS		95,200					
164	UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPO	060460					-10,291	
169	JOINT DIRECT ATTACK MUNITION	060461					-15,000	
171	MARINE CORPS ASSAULT VEHICLES - ENG DEV				14,700			
178	SURFACE WARFARE TRAINING DEVICES	060471			5,000			
184	MEDICAL DEVELOPMENTS		4,113		47			
186	FIXED DISTRIBUTED SYSTEM - ENG	060478				14,000		
188	C2 SURVEILLANCE/RECONNAISSANCE SUPPORT	060586					-6,000	
190	F/A-18 SQUADRONS	020413			3,000			-1,079,900
194	SURFACE COMBATANT ORDNANCE - TOMAHAWK	020422			5,000			
196	SHIP-TOWED ARRAY SURVEILLANCE SYSTEMS	020431				2,200		
202	F-14 UPGRADE	020566			50,000			
206	MARINE CORPS GROUND COMBAT/SUPPORTING AR	020662				28,400		
208	MARINE CORPS INTELLIGENCE/ELECTRONICS WA	020662	3,000					
272	SEALIFT SHIP TECH PROGRAM					13,400		
	Total - Tactical programs		190,513	-123,569	1,017,447	175,751	-273,209	-1,386,963
	Intelligence and communications							
218	NAVY COMMAND AND CONTROL PLANNING AND DE	060586						-1,517
260	LASER COMMUNICATIONS		15,000					
262	CLASSIFIED PROGRAMS			-30,800			-45,156	
	Total - Intelligence and communications		15,000	-30,800			-45,156	-1,517
	Defensewide Mission Support							
226	ELECTRONIC WARFARE SIMULATOR DEVELOPMENT	060425					-8,000	
227	TARGET SYSTEMS DEVELOPMENT	060425		-6,800			-3,200	

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	(1)		(2)	(3)	(4)	(5)	(6)	(7)
229	STUDIES AND ANALYSIS SUPPORT - MC	060515						-979
230	STUDIES AND ANALYSIS SUPPORT - NAVY	060515			113			-2,729
232	FLEET TACTICAL DEVELOPMENT AND EVALUATIO	060515						-3,899
235	TECHNICAL INFORMATION SERVICES	060580					-5,000	
236	MANAGEMENT AND TECHNICAL SUPPORT	060585						-6,374
238	RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	060586	7,990					
239	RDT&E INSTRUMENTATION MODERNIZATION	060586	3,139		720			
240	RDT&E SHIP AND AIRCRAFT SUPPORT	060586					-10,200	
241	TEST AND EVALUATION SUPPORT	060586		-7,526			-10,474	
248	INDUSTRIAL PREPAREDNESS	070801		-26,435			-3,949	
249	MANUFACTURING TECHNOLOGY DEVELOPMENT				136,250			
250	REAL PROPERTY MAINTENANCE		41,000					
254	TRAVEL							-22,114
273	INFLATION DIVIDEND							-16,000
274	EXCESS INVENTORY							-362
	Total - Defensewide Mission Support		52,129	-40,761	137,083		-40,823	-52,457
	Total Appn - RDT&E, Navy		286,836	-339,645	1,283,024	184,551	-432,024	-1,550,747
	RDT&E, Air Force							
	Technology base							
001	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	060110						-7,806
002	DEFENSE RESEARCH SCIENCES	060110			4,500			-13,218
003	GEOPHYSICS	060210		-900				-2,500
004	MATERIALS	060210			3,000			-9,700
005	AEROSPACE FLIGHT DYNAMICS	060220						-7,511
006	HUMAN SYSTEMS TECHNOLOGY	060220						-2,165
007	AEROSPACE PROPULSION	060220		-11,000				-4,610
008	AEROSPACE AVIONICS	060220						-31,100
009	PERSONNEL, TRAINING AND SIMULATION	060220			15,000			
011	ROCKET PROPULSION AND ASTRONAUTICS TECHN	060230		-1,700			-8,300	
012	ADVANCED WEAPONS	060260				5,000		
013	CONVENTIONAL MUNITIONS	060260						-29,540
014	COMMAND CONTROL AND COMMUNICATIONS	060270		-22,800				-6,000
240	NATURAL GAS VEHICLES				5,000			
242	GENERAL REDUCTION						-95,000	
	Total - Technology base			-36,400	27,500	5,000	-103,300	-114,150

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Advanced technology development						
019 ADVANCED AVIONICS FOR AEROSPACE VEHICLES060320						-10,400
024 CREW SYSTEMS AND PERSONNEL PROTECTION TE060323			1,100			
025 GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISI0060323						-25,000
026 ADVANCED FIGHTER TECHNOLOGY INTEGRATION 060324						-2,000
028 ADVANCED AVIONICS INTEGRATION 060325						-6,350
029 NATIONAL AERO SPACE PLANE TECHNOLOGY PRO060326						-175,489
031 SPACE AND MISSILE ROCKET PROPULSION 060330						-2,000
032 ADVANCED STRATEGIC MISSILE SYSTEMS 060331						-3,295
034 ADVANCED SPACECRAFT TECHNOLOGY 060340		-3,000			-8,000	
036 SPACE SURVEILLANCE TECHNOLOGY 060342		-20,301				-99
037 CONVENTIONAL WEAPONS 060360						-16,942
038 ADVANCED WEAPONS TECHNOLOGY 060360					-21,796	
041 C3I SUBSYSTEM INTEGRATION 060372		-4,000				
045 GENERAL REDUCTION					-20,000	
Total - Advanced technology development		-27,301	1,100		-49,796	-241,575
Strategic programs						
051 B-1B 060422						-66,400
054 ICBM MODERNIZATION 060431						-16,183
056 B-52 SQUADRONS 010111			15,000			
057 ADVANCED CRUISE MISSILE 010112		-61,100				
058 KC-135 SQUADRONS 010114						-13,000
059 MINUTEMAN SQUADRONS 010121						-5,959
077 MILSTAR SATELLITE COMMUNICATIONS SYSTEM 030360						-66,400
085 SPACETRACK 030591				40,700	-42,900	
089 AIRLIFT MISSION ACTIVITIES (NON-IF) 040121					-6,800	
090 CLASSIFIED PROGRAMS			25,000			-2,200
Total - Strategic programs		-61,100	40,000	40,700	-49,700	-170,142
Tactical programs						
103 C-17 PROGRAM 060423						-29,200
106 ADVANCED TACTICAL FIGHTER FSD 060423		-200,000				-2,024,268
113 EW DEVELOPMENT 060427						-59,600
116 CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT 060460			1,300			
121 JOINT DIRECT ATTACK MUNITION 060461						-3,200
122 AEROMEDICAL SYSTEMS DEVELOPMENT 060470	2,753					
128 COMPUTER RESOURCES MANAGEMENT TECHNOLOGY060474	3,500		9,000			
132 JOINT SURVEILLANCE/TARGET ATTACK RADAR S060477						-22,500

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(1)		(2)	(3)	(4)	(5)	(6)	(7)
135 F-15A/B/C/D SQUADRONS	020713				30,000		
138 F-15E SQUADRONS	020713						-3,000
142 TACTICAL AIM MISSILES	020716		-34,600				
147 FOLLOW-ON TACTICAL RECONNAISSANCE SYSTEM	020721			16,600			
153 AIRBORNE WARNING AND CONTROL SYSTEM (AWA	020741						-63,900
171 CLASSIFIED PROGRAMS					22,000	-249,800	
173 SPECIAL OPERATIONS FORCES	040401						-2,000
Total - Tactical programs		6,253	-234,600	26,900	52,000	-249,800	-2,207,668
Intelligence and communications							
182 DEFENSE SATELLITE COMMUNICATIONS SYSTEM	030311					-5,300	
187 TRAFFIC CONTROL, APPROACH, AND LANDING S	030511						-7,200
188 CLASSIFIED PROGRAMS					160,400		
All other programs						-360,087	
Total - Intelligence and communications					160,400	-365,387	-7,200
Defensewide Mission Support							
191 SPACE TEST PROGRAM	060340					-14,000	
196 ADVANCED LAUNCH SYSTEM	060440			43,000			-125,000
199 RANGE IMPROVEMENT	060473						-14,434
203 RANCH HAND II EPIDEMIOLOGY STUDY		9,460					
207 TEST AND EVALUATION SUPPORT	060580		-12,500				-9,813
208 DEVELOPMENT PLANNING	060580		-6,603				-5,874
211 RDT&E AIRCRAFT SUPPORT	060586						-1,800
217 MEDIUM LAUNCH VEHICLES	030511				10,000		
219 UPPER STAGE SPACE VEHICLES	030513			83,000			-28,852
220 TITAN SPACE LAUNCH VEHICLES	030514						-43,400
222 AFMC CALS				20,000			
225 INDUSTRIAL PREPAREDNESS	070801		-28,945			-21,055	
230 MANUFACTURING TECHNOLOGY DEVELOPMENT				115,000			
232 DOMESTIC ACTIVITIES				17,500			
233 EXCIMER LASER		20,000		10,000			
234 SPECIAL TECHNICAL PROJECTS						-2,500	
235 REAL PROPERTY MAINTENANCE		42,502					
237 TRAVEL							-37,729
243 EXCESS INVENTORY							-3,878
244 INFLATION							-27,000
245 EXCESSIVE PERSONNEL COSTS							-59,346
Total - Defensewide Mission Support		71,962	-48,048	288,500	10,000	-37,555	-357,126

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(1)		(2)	(3)	(4)	(5)	(6)	(7)
Total Appn - RDT&E, Air Force		78,215	-407,449	384,000	268,100	-855,538	-3,097,861
RDT&E, Defensewide							
Technology base							
001 DEFENSE RESEARCH SCIENCES	060110		-5,700				-11,800
002 IN-HOUSE LABORATORY INDEPENDENT RESEARCH		2,323			2,000		
003 UNIVERSITY RESEARCH INITIATIVES	060110	62,000			46,450		
007 SUPERCONDUCTIVE MAGNETIC ENERGY STORAGE				50,000			
008 COUNTERTERROR TECHNICAL SUPPORT	060222				3,000		
009 CONCEPT EVALUATION	060222		-14,979				
010 MEDICAL FREE ELECTRON LASER		20,000					
012 STRATEGIC TECHNOLOGY	060230			20,000			-115,073
013 TACTICAL TECHNOLOGY	060270		-9,108			-5,892	
014 PARTICLE BEAM TECHNOLOGY				6,000			
015 INTEGRATED COMMAND AND CONTROL TECHNOLOG				100,000			
016 MATERIALS AND ELECTRONICS TECHNOLOGY	060271	51,000		128,800			
017 POST LAUNCH DESTRUCT TECHNOLOGY				15,000			
018 DEFENSE NUCLEAR AGENCY	060271		-27,153			-19,847	
137 HISTORICALLY BLACK COLLEGES AND UNIVERS					15,000		
Total - Technology base		135,323	-56,940	319,800	66,450	-25,739	-126,873
Advanced technology development							
019 SPACE BASED INTERCEPTORS	060321		-575,558				
020 LIMITED DEFENSE SYSTEM	060321		-2,134,755				
021 THEATER MISSILE DEFENSES	060321						-857,725
022 OTHER FOLLOW ON SYSTEMS	060321		-849,596				
023 RESEARCH AND SUPPORT ACTIVITIES	060321		-754,740				
025 EXPERIMENTAL EVALUATION OF MAJOR INNOVAT	060322		-20,338				-18,442
026 STRATEGIC DEFENSE INITIATIVE (SDI)		3,239,775			485,025		
028 ADVANCED SUBMARINE TECHNOLOGY	060356						-18,203
035 STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM		15,500			184,500		
037 FOCUS HOPE		20,000					
039 COMPUTER AIDED LOGISTICS SUPPORT	060373			5,000			
040 BALANCED TECHNOLOGY INITIATIVE	060373		-9,800			-97,540	
041 COOPERATIVE DOD/VA MEDICAL RESERACH				30,000			
042 MANUFACTURING TECHNOLOGY	060373		-75,000				-58,600
043 CONSOLIDATED DOD SOFTWARE INITIATIVE	060375			25,000			
044 SEMATECH				100,000			
049 SPECIAL OPERATIONS TECHNOLOGY DEVELOPMEN	116040			1,000			

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
050 SPECIAL OPERATIONS ADVANCED TECHNOLOGY D116040						-1,100
140 NATIONAL GUARD/DARPA SIMULATION				20,000		
141 NATIONAL GUARD SIMNET CENTER				10,000		
153 HIGH PERFORMANCE COMPUTING MODERNIZATION				43,000		
Total - Advanced technology development	3,275,275	-4,419,787	161,000	742,525	-97,540	-954,070
Strategic programs						
053 ISLAND SUN SUPPORT 060373						-12,163
054 AIR DEFENSE INITIATIVE 060374		-34,000				-30,700
055 THEATER MISSILE DEFENSES 060422						-140,000
057 WWMCCS SYSTEMS ENGINEER 030201					-4,772	
Total - Strategic programs		-34,000			-4,772	-182,863
Tactical programs						
063 NON-ACOUSTIC ASW 060371			25,000			
064 AIM-9 CONSOLIDATED PROGRAM 060371			34,620			-13,143
065 MOBILE OFFSHORE BASE ANALYSIS			7,000			
068 JOINT TACTICAL INFORMATION DISTRIBUTION 060477						-6,702
073 JOINT REMOTELY PILOTED VEHICLES PROGRAM 030514	10,200		7,800			
076 SPECIAL OPERATIONS TACTICAL SYSTEMS DEVE116040		-5,900				-35,656
077 SPECIAL OPERATIONS INTELLIGENCE SYSTEMS 116040			17,000			
078 SOF OPERATIONAL ENHANCEMENTS 116040					-500	
Total - Tactical programs	10,200	-5,900	91,420		-500	-55,501
Intelligence and communications						
082 LONG-HAUL COMMUNICATIONS (DCS) 030312					-5,000	
083 SUPPORT OF THE NATIONAL COMMUNICATIONS S030312					-1,527	
093 CENTER FOR INFORMATION MANAGEMENT 030583					-3,470	
097 CLASSIFIED PROGRAMS	36,600		17,530			
Total - Intelligence and communications	36,600		17,530		-9,997	
Defensewide Mission Support						
101 NATO RESEARCH AND DEVELOPMENT 060379		-16,000			-34,000	
102 DEFENSE MODELING/SIMULATION OFFICE				60,000		
104 TECHNICAL SUPPORT TO USD(A) 060510		-5,000				-3,101
116 DTS - JOINT PROJECT OFFICE			15,000			
121 DEFENSE SUPPORT ACTIVITIES 060579			16,000			

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
126 MANAGEMENT HEADQUARTERS (RESEARCH AND DE060589				2,000		
129 MANUFACTURING TECHNOLOGY SUPPORT			29,000			
134 SPECIAL TECHNICAL PROJECTS					-5,000	
135 INTERNATIONAL NUCLEAR NONPROLIFERATION			40,000			
136 JOINT US/CIS R&D PROGRAM			25,000			
166 TRAVEL						-26,100
167 ELECTRIC VEHICLE_TECHNOLOGY				25,000		
168 EXCESS INVENTORY						-397
169 INFLATION DIVIDEND						-19,000
Total - Defensewide Mission Support		-21,000	125,000	87,000	-39,000	-48,598
Undistributed						
170 UNDISTRIBUTED REDUCTION						-200,000
Total Appn - RDT&E, Defensewide	3,457,398	-4,537,627	714,750	895,975	-177,548	-1,567,905
Developmental Test & Eval., Defense						
Defensewide Mission Support						
001 CENTRAL TEST AND EVALUATION INVESTMENT D060494						-8,000
002 FOREIGN COMPARATIVE TESTING 060513						-4,000
004 DEVELOPMENT TEST AND EVALUATION 060580		-8,000			-12,000	
005 INFLATION DIVIDEND						-1,000
Total - Defensewide Mission Support		-8,000			-12,000	-13,000
Total Appn - Developmental Test & Eval., Defense		-8,000			-12,000	-13,000
Advanced Tactical Aviation, Defense						
Defensewide Mission Support						
001 MODERNIZATION 060511				3,488,977		
Total Appn - Advanced Tactical Aviation, Defense				3,488,977		
TOTAL - RESEARCH,DEVELOP.,TEST&EVAL.	4,221,706	-5,364,814	2,762,980	5,369,618	-1,637,425	-7,195,432

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
REVOLVING AND MANAGEMENT FUNDS						
Defense Business Operations Fund						
Undistributed						
005 DEFENSE COMMISSARY AGENCY					-1,107,200	
Total Appn - Defense Business Operations Fund					-1,107,200	
National Defense Sealift Fund						
Undistributed						
001 PROGRAM TERMINATION					-1,201,400	
Total Appn - National Defense Sealift Fund					-1,201,400	
TOTAL - REVOLVING AND MANAGEMENT FUNDS					-2,308,600	

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	965,963	-803,151	2,966,517	1,971,061	-4,265,440	-4,078,207
Department of the Navy	1,730,466	-1,419,845	5,886,481	460,612	-6,641,867	-5,412,467
Department of the Air Force	168,287	-2,597,425	1,251,993	1,163,104	-4,324,524	-6,847,113
Defense Agencies/OSD	6,215,727	-5,414,585	5,100,584	6,049,903	-3,049,370	-2,589,894
Defense-Wide	0	0	0	0	0	0
Total - DoD Appropriation	9,080,443	-10,235,006	15,205,575	9,644,680	-18,281,201	-18,927,681

HAC		SAC		CONFERENCE
Adds by both Chambers	9,080,443	Adds by both Chambers	9,080,443	Adds
Adds by HAC only	15,205,575	Adds by SAC only	9,644,680	Cuts
Total HAC Adds	24,286,018	Total SAC Adds	18,725,123	Total
Cuts by both Chambers	-10,235,006	Cuts by both Chambers	-10,235,006	
Cuts by HAC only	-18,281,201	Cuts by SAC only	-18,927,681	
Total HAC Cuts	-28,516,207	Total SAC Cuts	-29,162,687	
GRAND TOTAL HAC	-4,230,189	GRAND TOTAL SAC	-10,437,564	

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MILITARY CONSTRUCTION							
Military Construction, Army							
Major construction							
003 FORT WAINWRIGHT	AK						
10 HANGAR					3,950		
005 ANNISTON ARMY DEPOT	AL						
10 AMMUNITION DEMILITARIZATION FAC PHASE III			-6,000				-44,000
010 FORT MCCLELLAN	AL						
20 AMMO STORAGE FACILITY				2,500			
30 GENERAL INSTRUCTION BUILDING				2,050			
40 VEHICLE MAINTENANCE SHOP				1,350			
TOTAL				5,900			
012 FORT HUACHUCA	AZ						
20 INTELLIGENCE FACILITY					5,300		
017 FORT GORDON	GA						
10 CONSOLIDATED MAINTENANCE FACILITY					23,000		
018 FORT MCPHERSON	GA						
10 BARRACKS & DINING HALL					10,200		
022 FITZSIMONS AMC	CO						
10 CENTRAL ENERGY PLANT				19,400			
20 ENGINEER FACILITY				6,000			
TOTAL				25,400			
023 FORT GILLEM	GA						
10 WATER IMPROVEMENTS		2,700					
024 HUNTER ARMY AIRFIELD	GA						
10 TACTICAL EQUIPMENT SHOP		5,400					
025 SCHOFIELD BARRACKS	HI						
20 ADAL SEWAGE TREATMENT FACILITY					17,500		
026 FORT RILEY	KS						
10 RAIL HEAD					13,200		
027 FORT KNOX	KY						
10 WATER STORAGE TANKS				4,350			
20 AIRFIELD REVITALIZATION				7,100			
30 ELECTRICAL DISTRIBUTION IMPROVEMENT PROJECT				4,150			
TOTAL				15,600			
031 CAMP MCCAIN	MS						
10 DEFENSE ACCESS ROADS				19,000			
033 FORT MONMOUTH	NJ						
10 CHILD CARE CENTER		3,550					

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
034 FORT DRUM NY						
10 MOUT			5,900			
20 GENERAL PURPOSE WAREHOUSE			8,900			
TOTAL			14,800			
036 FORT BRAGG NC						
10 HIGHWAY EXTENSION			8,700			
037 FORT SILL OK						
10 FIRE STATION	1,500					
038 PICATINNY ARSENAL NJ						
10 ELECTRICAL DISTRIBUTION SYSTEM			3,800			
20 PROPELLANT SURVEILLANCE LAB			2,250			
TOTAL			6,050			
039 WHITE SANDS NM						
10 BARRACKS RENOVATIONS	6,000					
041 ABERDEEN PROVING GROUND MD						
10 FIRE/SECURITY STATION				3,400		
042 CORPUS CHRISTI ARMY DEPOT TX						
10 CONTROLLED-HUMIDITY WAREHOUSE			9,600			
20 METAL FINISHING & ELECTROPLATING FACILITY			11,600			
TOTAL			21,200			
043 FORT BLISS TX						
10 BARRACKS MODERNIZATION			13,800			
20 BARRACKS MODERNIZATION			11,160			
TOTAL			24,960			
060 FORT BELVOIR VA						
10 INFORMATION SYSTEMS FACILITY					-14,000	
20 RAIL EXTENSION				1,200		
TOTAL				1,200	-14,000	
066 FT LEE VA						
10 PERSONNEL SUPPORT CENTER (PHASE I)			5,300			
070 VARIOUS CONUS LOCATIONS XV						
10 CLASSIFIED PROJECT		-290				
075 GRAFENWOEHR GY						
10 SANITARY LANDFILL EXPANSION						-11,600
080 KWAJALEIN KW						
10 HAZARDOUS MATERIAL FACILITIES						-8,600
20 POWER PLANT -ROI NAMUR ISLAND		-33,000				
30 FUEL CONTAINMENT FACILITY UPGRADE						-1,200
40 UNACCOMPANIED PERSONNEL HOUSING						-10,000
TOTAL		-33,000				-19,800
085 VARIOUS WORLDWIDE LOCATIONS ZV						
10 CLASSIFIED PROJECT		-1,700				

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total - Major construction	19,150	-40,990	146,910	77,750	-14,000	-75,400
Minor construction						
090 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-59,303				-1,700
20 REPAIR OF REAL PROPERTY		-538,795				
TOTAL		-598,098				-1,700
Total - Minor construction		-598,098				-1,700
Planning						
092 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			12,000			-24,000
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-5,345	
Total Appn - Military Construction, Army	19,150	-639,088	158,910	77,750	-19,345	-101,100
Military Construction, Navy						
Major construction						
005 ADAK NAVAL AIR STATION AK						
10 BACHELOR ENLISTED QUARTERS					-8,750	
017 MARE ISLAND NAVAL SHIPYARD CA						
10 HAZARDOUS MATERIAL STORAGE FACILITY			8,000			
018 MIRAMAR NAVAL AIR STATION CA						
10 FIXED POINT UTILITY SYSTEM			9,700			
045 ALBANY MARINE CORPS LOGISTICS BGA						
20 UPGRADE HAZARDOUS STORAGE WAREHOUSE				2,700		
060 PEARL HARBOR NAVAL SUPPLY CENTEHI						
10 OIL SPILL PREVENTION-DBOF					-1,000	
067 GREAT LAKES NAVAL TRNG CNTR IL						
10 WASTEWATER TREATMENT FACILITIES EXPANSION			730			
068 NAVAL SURFCE WARFARE CTR, CRANEIN						
10 MICROWAVE COMPONENT CENTER			6,000			
070 BETHESDA NAVAL MEDICAL RESEARCHMD						
10 APPLICATIONS LABORATORY		-5,600				
071 NAVAL ORDINANCE STN, INDIANHD MD						
10 IMPROVE CAD/PAD FACILITY	5,300			300		
20 CHILD CARE FACILITY			2,290			
TOTAL	5,300		2,290	300		

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
072 PATUXENT NAVAL AIR STATION MD						
10 LARGE ANECHOIC CHAMBER - PHASE I			10,000			
073 U. S. NAVAL ACADEMY MD						
20 PHYSICAL THERAPY COMPLEX			6,500			
074 NAS MERIDIAN MS						
10 CHILD DEVELOPMENT CENTER			1,100			
076 NAVAL UNDERSEA WARFARE CENTER RI						
10 UNDERWATER WEAPONS TECHNOLOGY R&D FACILITY			13,500			
077 GULFPORT MS						
10 SEABEE WAREHOUSE				4,650		
078 NEW RIVER NC						
10 PHYSICAL FITNESS CENTER				3,600		
079 MCAS CHERRY POINT NC						
10 OPERATIONS FACILITY				3,000		
20 WAREHOUSE				1,000		
TOTAL				4,000		
095 KINGSVILLE NAVAL AIR STATION TX						
20 ROTAR SITE PREPARATION	10,000					
096 DAMNECK VA						
10 APPLIED INSTRUCTION BLDG EXPANSION	13,727					
20 UPGRADE WATER SYSTEM	1,200					
30 LAND ACQUISITION - 181 ACRES	4,500					
TOTAL	19,427					
097 FORT STORY VA						
10 NAVY BOMB DISPOSAL TRAINING & EVALUATION FAC	5,460			190		
098 LITTLE CREEK VA						
10 BACHELOR ENLISTED QUARTERS FACILITY	8,000					
20 BLAST/PAINT FACILITY				5,300		
TOTAL	8,000			5,300		
099 NAVAL AIR STATION NORFOLK VA						
10 MAGAZINE AREA PHYSICAL FACILITY	1,100			350		
20 RELOCATION OF ORDINANCE PAD	2,000					
TOTAL	3,100			350		
112 QUANTICO VA						
10 COMMAND & STAFF COLLEGE FACILITY				5,000		
122 PUGET SOUND NAVAL STATION WA						
10 BACHELOR ENLISTED QUARTERS			13,300			
140 SOUDA BAY CRETE NAVAL SUPPORT AGR						
10 BACHELOR ENLISTED QUARTERS						-7,600
145 KEFLAVIK NAVAL AIR STATION IC						
10 FUEL FACILITIES (PHASE VIII)		-4,940				

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Total - Major construction	51,287	-10,540	71,120	26,090	-9,750	-7,600
Minor construction						
155 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-77,123				
20 REPAIR OF REAL PROPERTY		-474,133				
TOTAL		-551,256				
Total - Minor construction		-551,256				
Planning						
157 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			6,350			-10,000
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-3,961	
Total Appn - Military Construction, Navy	51,287	-561,796	77,470	26,090	-13,711	-17,600
Military Construction, Air Force						
Major construction						
007 MAXWELL AFB AL						
10 EXTENSION OF RUNWAY			10,700			
015 EIELSON AFB AK						
10 HYDRANT FUEL SYSTEM					-11,400	
30 AIRCRAFT SHELTERS				27,000		
TOTAL				27,000	-11,400	
020 ELMENDORF AFB AK						
30 AIRCRAFT SHELTERS				16,000		
038 DAVIS MONTHAN AFB AZ						
10 DORMITORY	3,500					
042 LUKE AFB AZ						
10 BOQ				2,950		
050 BEALE AFB CA						
20 SECURITY POLICE OPS FACILITY			4,350			
055 EDWARDS AFB CA						
20 UNDERGROUND FUEL STORAGE TANKS					-5,000	
065 MCCLELLAN AFB CA						
30 PLATING SHOP			7,000			
070 TRAVIS AFB CA						
20 DORM RENOVATION			10,800			

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080 US AIR FORCE ACADEMY	CO						
10 BASE OPERATIONS FACILITY							-1,650
092 BOLLING AFB	DC						
10 CIVIL ENGINEER COMPLEX				9,400			
100 EGLIN AFB	FL						
30 CLIMATIC TEST CHAMBER (PHASE I)					32,000		
115 MOODY AFB	GA						
20 FUEL CELL/NOSE DOCK (C-130)					3,600		
117 ROBINS AFB	GA						
10 JSTARS RAMP AND HYDRANT SYSTEM					9,700		
20 JSTARS SECURITY IMPROVEMENT					1,800		
TOTAL					11,500		
130 BARKSDALE AFB	LA						
30 REPLACE APRON & HYDRANT SYSTEM					25,800		
137 HANSCOM AFB	MA						
10 CHILD DEVELOPMENT CENTER					4,200		
140 KEESLER AFB	MS						
20 ADD/ALTER CHILD CARE CENTER				2,650			
145 WHITEMAN AFB	MO						
93 GENERAL REDUCTION			-20,000			-4,051	
160 NELLIS AFB	NV						
30 AIRCRAFT LOADING APRON				4,000			
40 ARMING PAD, PHASE I					4,000		
TOTAL				4,000	4,000		
168 CANNON AFB	NM						
10 DORMITORY				2,800			
172 KIRTLAND AFB	NM						
10 PHILLIPS LABORATORY CONSOLIDATION					5,200		
175 POPE AFB	NC						
80 AIRCRAFT CORROSION CONTROL FAC							-5,500
90 ALTER ECM SHOP AND POD STORAGE FACILITY							-620
TOTAL							-6,120
195 MINOT AFB	ND						
30 WATER SYSTEM					2,050		
202 ALTUS AFB	OK						
10 CONSOLIDATED SUPPORT FACILITY				7,300			
207 VANCE AFB	OK						
10 AIRFIELD REPAIR		2,350			950		
210 CHARLESTON AFB	SC						
40 ADD/ALTER PHYSICAL FITNESS CENTER		3,300					
223 BROOKS AFB	TX						
10 ACADEMIC COMPLEX					9,000		

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228 GOODFELLOW AFB TX						
10 PHYSICAL FITNESS CENTER				3,250		
235 LACKLAND AFB TX						
20 HIGH SCHOOL/GRADE SCHOOL FACILITIES			8,000			
255 HILL AFB UT						
10 ACM ADD/ALTER NDI FACILITY						-1,450
30 ENGINE TEST CELL SUPPORT FACILITY			850			
40 POWER UPGRADE			2,300			
TOTAL			3,150			-1,450
260 LANGLEY AFB VA						
30 CONSTRUCTION PROJECTS	5,300					
280 CLASSIFIED LOCATION XC						
10 AIRCRAFT MAINT DOCK		-4,050				
20 AEROMEDICAL STAGING FACILITY					-1,250	
30 COMBAT CONTROL TEAM SQUADRON FACILITY					-2,150	
40 SPECIAL OPERATIONS FACILITY					-950	
50 HYDRANT FUELING DISTRIBUTION SYSTEM		-10,400				
60 SPECIAL OPERATIONS FACILITY					-950	
TOTAL		-14,450			-5,300	
285 CONUS VARIOUS XV						
20 UNDERGROUND FUEL STORAGE TANKS					-3,300	
290 VARIOUS LOCATIONS-CANADA CD						
10 FWD OPERATING LOC/DISPRSD OPERATING BASES		-19,500				
295 RHEIN-MAIN AB GY						
10 UPGRADE WASTEWATER TREATMENT PLANT						-3,100
300 THULE AB GL						
10 ALTER DORMITORY						-5,000
20 DORMITORY						-11,000
30 UPGRADE AIRFIELD PAVEMENT PH III						-8,900
TOTAL						-24,900
305 ANDERSEN AFB GU						
10 FIRE TRAINING FACILITY						-2,300
20 HAZARDOUS WASTE MANAGEMENT FACILITY						-790
30 UNDERGROUND FUEL STORAGE TANKS			4,550			
40 LANDFILL			10,000			
50 HAZARDOUS WASTE FACILITY			900			
60 UNDERGROUND FUEL STORAGE TANK			4,100			
TOTAL			19,550			-3,090
310 LAJES FIELD PO						
10 FIRE TRAINING FACILITY						-950
20 WASTEWATER TREATMENT AND DISPOSAL SYSTEM						-7,500
TOTAL						-8,450

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total - Major construction	14,450	-53,950	89,700	147,500	-29,051	-48,760
Minor construction						
315 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-78,948				-7,000
20 REPAIR OF REAL PROPERTY		-367,446				
TOTAL		-446,394				-7,000
Total - Minor construction		-446,394				-7,000
Planning						
317 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			5,000			-20,000
Undistributed						
320 RECUDTION						
20 ACROSS THE BOARD 1% REDUCTION					-6,986	
Total Appn - Military Construction, Air Force	14,450	-500,344	94,700	147,500	-36,037	-75,760
Military Construction, Defensewide						
Major construction						
002 ELMENDORF AFB AK						
10 HOSPITAL REPLACEMENT				25,000		
007 BEALE AFB CA						
10 HOSPITAL LIFE SAFETY UPGRADE			3,500			
012 FITZSIMONS AMC CO						
10 SITE WORK			2,000			
015 WALTER REED ARMY MEDICAL CENTERDC						
10 ARMY INSTITUTE OF RESEARCH PHASE I						-13,300
025 EGLIN AFB FL						
10 CLIMATIC TEST CHAMBER PHASE I						-32,000
027 HOMESTEAD AFB FL						
10 PHASE II HOSPITAL CONSTRUCTION			10,000			
030 BARKING SANDS HI						
10 LAND EASEMENT					-5,400	
045 FORT BRAGG NC						
20 ADD/ALTER SEC. 6 SCHOOLS			3,950			
055 GRAND FORKS ABM SITE ND						
10 BARRACKS & DINNING FACILITY		-12,800				
076 NATIONAL CAPITAL AREA VA						
10 RELOCATION OF WATER MAINS			3,000			

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
085 GRAFENWOEHR GY						
10 ADDN REN GRAFENWOEHR ELEM SCHOOL						-7,400
090 HOHENFELS GY						
10 ADDN REN HOHENFELS ELEM SCHOOL						-13,500
095 ON-SITE INSPECTION AGENCY JI						
10 CHEMICAL DEMILITARIZATION HOUSING		-4,600				
100 DNA HDQTRS FIELD COMMAND JI						
10 GARBAGE AND REFUSE INCENERATOR JA						-1,500
105 MISSILE RANGE KW						
10 GROUND SURVEIL & TRACKING SYSTEM COMPLEX		-22,000				
110 CLASSIFIED LOCATION UK						
10 OPS SYSTEM UNINTERRUPTIBLE POWER SOURCE						-6,000
115 CLASSIFIED LOCATION YC						
10 STRATEGIC MEDICAL STORAGE FACILITY						-8,000
117 CLASSIFIED LOCATION						
10 SOUTHWESTER/NSA				3,590		
Total - Major construction		-39,400	22,450	28,590	-5,400	-81,700
Minor construction						
130 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTIO (DMA)		-2,400				
20 UNSPECIFIED MINOR CONSTRUCTION (OSIS)		-1,000				
30 UNSPECIFIED MINOR CONSTRUCTION (SOC)		-3,800				
40 UNSPECIFIED MINOR CONSTRUCTION (DODDS)		-11,656				
50 UNSPECIFIED MINOR CONSTRUCTION (DMSA)		-3,490				
70 UNSPECIFIED MINOR CONSTRUCTION (NSA)		-3,307				
80 UNSPECIFIED MINOR CONSTRUCTION (DNA)		-800				
92 UNSPECIFIED MINOR CONSTRUCTION (DISA)		-1,261				
94 UNSPECIFIED MINOR CONSTRUCTION (DIA)		-892				
TOTAL		-28,606				
135 UNSPECIFIED WORLDWIDE LOCATIONS						
10 CONTINGENCY CONSTRUCTION (OSD)						-5,000
20 GENERAL REDUCTION						-9,500
TOTAL						-14,500
150 UNSPECIFIED WORLDWIDE LOCATIONS						
10 REPAIR OF REAL PROPERTY (DMA)		-6,100				
20 REPAIR OF REAL PROPERTY (DISA)		-1,539				
30 REPAIR OF REAL PROPERTY (DNA)		-3,500				
40 REPAIR OF REAL PROPERTY (NSA)		-14,118				
50 REPAIR OF REAL PROPERTY (DODDS)		-25,400				
60 REPAIR OF REAL PROPERTY (DMSA)		-88,761				
70 REPAIR OF REAL PROPERTY (DIA)		-1,338				
TOTAL		-140,756				

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Total - Minor construction		-169,362				-14,500
Planning						
160 UNSPECIFIED WORLDWIDE LOCATIONSZU						
30 PLANNING AND DESIGN (DMSA)			30,000			-2,000
40 PLANNING AND DESIGN (SDIO)		-5,000			-5,000	
60 PLANNING AND DESIGN (OSD)						-2,000
TOTAL		-5,000	30,000		-5,000	-4,000
Total - Planning		-5,000	30,000		-5,000	-4,000
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-3,082	
Total Appn - Military Construction, Defensewide		-213,762	52,450	28,590	-13,482	-100,200
Mil. Con., Army National Guard						
Major construction						
003 CULLMAN AL						
10 PURCHASE BLDG FOR DAS-3 CLASS IX SUP			400			
004 FORT RUCKER AL						
10 UTE SITE ADD			487			
007 ONEONTA AL						
10 ORGANIZATIONAL MAINTENANCE SHOP			461			
008 TUSCALOOSA AL						
10 ARMORY	1,836			437		
009 UNION SPRINGS AL						
10 ARMORY			813			
012 W. ARNG AVIATN TNG SITE, MARANAAZ						
20 PICACHO PEAK STAGEFIELD			3,041			
014 FRESNO AVIATION DEPOT CA						
10 REPAIR & CONSTRUCTION OF HELICOPTER PADS	901					
016 LAKEPORT CA						
10 ARMORY			1,580			
018 LOS ALIMATOS AFRC CA						
10 JP-4 FUEL TANK REPLACEMENTS	1,553					
022 CAMP BLANDING FL						
10 MOUT RANGE	2,400			52		
20 BACHELOR OFFICER/ENLISTED QUARTERS	958					
TOTAL	3,358			52		

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
024 CEDAR HILLS	FL						
10 ARMORY EXPANSION				1,457			
040 CRAIG FIELD	FL						
10 ARMORY EXPANSION				1,682			
20 ORGANIZATIONAL MAINTENANCE SHOP EXPANSION				368			
TOTAL				2,050			
045 BARNESVILLE	GA						
10 ARMORY ACQUISITION					350		
050 FORT WAYNE	IN						
10 OMS		862			30		
20 ARMORY		2,732			1,207		
TOTAL		3,594			1,237		
055 GREAT BEND	KS						
10 ARMORY					1,570		
056 OTTAWA	KS						
10 ARMORY					397		
060 CAMP DODGE	IA						
10 EQUIPMENT MAINTENANCE SHOP				2,687			
20 BU COMPLEX I				4,600			
TOTAL				7,287			
061 AMITE	LA						
10 ARMORY		1,000			300		
064 LAFEYETTE	LA						
10 OMS					1,000		
065 CAMP RIPLEY	MN						
10 COMBINED SUPPORT MAINTENANCE SHOP				7,100			
20 UTILITY SYSTEMS REPAIR				5,800			
TOTAL				12,900			
066 BALL	LA						
10 RENOVATE BARRACKS					400		
067 CAMP MCCAIN	MS						
10 DEFENSE ACCESS ROAD					19,000		
068 CAMP SHELBY	MS						
10 MULTIPURPOSE RANGE					4,000		
20 MODIFY RANGE #1					675		
30 MODIFY RANGE #2					675		
40 COMBINED SUPPORT FACILITY					5,400		
TOTAL					10,750		
070 MERIDIAN	MS						
10 ADD/ALTER AVIATION SUPPORT FACILITY				1,900			
071 ROSEMOUNT	MN						
10 OMS					2,800		

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(1)		(2)	(3)	(4)	(5)	(6)	(7)
072 PHELPS COLLINS AIRPORT	MI						
10 ALTER BARRACKS					3,800		
080 WHITMAN AFB	MO						
10 ARMORY		2,900					
081 CAMP CROWDER	MO						
10 ADMINISTRATION/CLASSROOM					421		
083 FAYETTEVILLE	NC						
10 ARMORY					1,284		
084 BISMARCK	ND						
10 ADAL ARMORY/AVIATION FACILITY					5,450		
085 CLARKE COUNTY	NV						
10 ARMORY		4,589			941		
20 ORGANIZATIONAL MAINTENANCE SHOP		1,358		496			
30 COMBINED MAINTENANCE SHOP		1,358			496		
40 USPFO WAREHOUSE				178			
TOTAL		7,305		674	1,437		
086 FARGO	ND						
10 VEHICLE MAINTENANCE FACILITY					2,600		
087 FORT DIX	NJ						
10 ARMORY				5,205			
20 STATE HEADQUARTERS					5,205		
TOTAL				5,205	5,205		
090 CLAYTON	NM						
10 ARMORY		1,400					
093 ROSWELL	NM						
10 TRAINING FACILITY		3,000					
095 SPRINGER	NM						
10 ARMORY		1,209					
100 MEDINA	OH						
10 ARMORY RENOVATION		1,000					
105 RAVENNA ARSENAL	OH						
10 TANK RANGE		400					
110 CAMP GRUBER	OK						
10 MOUT FACILITIES				1,954			
115 NORMAN	OK						
10 VEHICLE MAINTENANCE COMPLEX PHASE I				7,629			
117 LA GRANDE	OR						
10 ARMORY		750			2,299		
20 OMS					1,220		
TOTAL		750			3,519		
118 SALEM	OR						
10 AVIATION TAXIWAY				1,200			

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(1)		(2)	(3)	(4)	(5)	(6)	(7)
119 CLACKAMAS	OR						
10 RANGE				1,500			
120 FORT INDIANTOWN GAP	PA						
10 AVIATION BRIGADE ARMORY (800 PM)				7,500			
20 ACADEMIC TRAINING CENTER				9,100			
TOTAL				16,600			
125 INDIANA	PA						
10 ARMORY				1,700			
128 N. KINGSTON	RI						
10 ADAL ARMORY/AVIATION					4,200		
130 FOUNTAIN INN	SC						
10 HAWK TRAINING PARK		748					
135 WARE SHOALS	SC						
10 HAWK TRAINING PARK		578					
140 PICKENS	SC						
10 HAWK TRAINING PARK		775					
142 GAFFNEY	SC						
10 ARMORY					1,510		
145 FORT MEADE	SD						
10 RENOVATE ADMIN. FACILITY				805			
150 MONTEAGLE	TN						
10 ARMORY				950			
155 SMYRNA	TN						
10 ADD/ALTER OPS. FACILITY		3,500					
20 CSM SHOP		5,500					
TOTAL		9,000					
156 DUNLAP	TN						
10 ARMORY					818		
157 ERIN	TN						
10 ARMORY					1,080		
160 CAMP BOWIE, BROWNWOOD	TX						
10 UNIT TRAINING AND EQUIPMENT SITE				1,319			
165 GREENVILLE	TX						
10 ARMORY				1,339			
170 KILGORE	TX						
10 ARMORY				615			
175 LUBBOCK	TX						
10 JOINT ARMED FORCES RESERVE CENTER				7,937			
20 ORGANIZATION MAINTENANCE FACILITY				696			
TOTAL				8,633			
180 MEXIA	TX						
10 ARMORY RENOVATION				566			

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
185 SAN ANGELO	TX						
10 ARMORY				1,767			
190 STEPHENVILLE	TX						
10 ADD/ALTER ARMORY				591			
195 ST. GEORGE	UT						
10 ARMORY		2,898					
20 ORGANIZATIONAL MAINTENANCE SHOP/SUBSHOP		701					
TOTAL		3,599					
196 BLANDING	UT						
10 ARMORY					1,290		
197 COMMUNITY COLLEGE, RICHLANDS	VA						
10 ARMORY		2,137					
200 GRANDVIEW	WA						
10 ARMORY		1,602					
205 BUCKLEY	WA						
10 ARMORY		1,728					
210 MOSES LAKE	WA						
10 ARMORY		1,804					
215 MARSHFIELD	WI						
10 ARMORY				2,030			
20 VEHICLE STORAGE FACILITY				226			
TOTAL				2,256			
220 FORT MCCOY	WI						
10 TRAINING/EDUCATION FACILITY				10,712			
222 CLARKSBURG	WV						
10 HANGAR					5,500		
223 CAMP GUERNSEY	WY						
10 BARRACKS UPGRADE					4,447		
225 BARRIGADA	GU						
10 USPFO AND WAREHOUSE				1,927			
Total - Major construction		52,177		100,318	80,854		
Minor construction							
250 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 UNSPECIFIED MINOR CONSTRUCTION			-5,100				
20 REPAIR OF REAL PROPERTY			-29,300				
30 GENERAL REDUCTION						-5,205	
TOTAL			-34,400			-5,205	
Total - Minor construction			-34,400			-5,205	

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Planning						
260 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			1,075			
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-1,607	
Total Appn - Mil. Con., Army National Guard	52,177	-34,400	101,393	80,854	-6,812	
Mil. Con., Air National Guard						
Major construction						
003 BIRMINGHAM AL						
10 FIRE STATION			2,100			
20 VEHICLE MAINTENANCE SHOP			2,300			
TOTAL			4,400			
011 EIELSON AFB AK						
10 VEHICLE MAINTENANCE FACILITY				4,500		
012 TUSCON INTERNATIONAL AIRPORT AZ						
10 JET FUEL STORAGE COMPLEX			7,200			
015 BUCKLEY ANGB CO						
20 UPGRADE UTILITIES/INFRASTRUCTURE			12,000			
035 BOISE AIRPORT ID						
20 ARM/DISARM PADS				1,550		
041 GREATER PEORIA IL						
10 VEHICLE MAINTENANCE FACILITY			2,200			
20 CIVIL ENGINEERING SHOP			2,200			
30 SITE PREPARATION			1,550			
TOTAL			5,950			
042 FORT WAYNE IN						
10 RUNWAY IMPROVEMENTS			6,039			
043 DES MOINES IA						
10 ADD/ALTER OPS FACILITY			5,150			
044 SIOUX GATEWAY AIRPORT IA						
10 ADD/ALT FUEL CELL/CORROSION HANGAR BAY	1,850					
20 ADD/ALT SQUADRON OPERATIONS FACILITY	920					
30 ALT COMPOSITE DINING HALL/MEDICAL TRNG FAC			1,200			
TOTAL	2,770		1,200			
052 STANDIFORD AIRPORT KY						
10 RELOCATION, PHASE III				5,000		
054 BANGOR INTERNATIONAL AIRPORT ME						
10 AIRFIELD IMPROVEMENTS	17,300					

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				House	Senate	House	Senate
(1)		(2)	(3)	(4)	(5)	(6)	(7)
055 BARNES MAP	MA						
20 ADAL FUEL CELL/CORROSION CONTROL					1,400		
30 AVIONICS/WEAPONS SHOP					1,500		
40 ENGINE SHOP					800		
50 SQUADRON OPERATIONS					900		
60 MUNITIONS STORAGE/MAINTENANCE					3,650		
TOTAL					8,250		
060 OTIS ANGB	MA						
20 CLINIC					1,600		
083 GULFPORT	MS						
10 RAMP UPGRADE					10,800		
087 THOMPSON FIELD	MS						
10 ADD/ALTER VEHICLE MAINTENANCE SHOP				1,300			
090 GREAT FALLS IAP	MT						
20 ADD TO AND ALTER MAINTENANCE HANGAR SHOP			-2,800				
40 ADD/ALTER WEAPONS RELEASE SHOP		800					
50 ARM/DEARM PADS		1,000					
60 FIRE SUPPRESSION SYSTEM		1,000					
TOTAL		2,800	-2,800				
095 LINCOLN MAP	NE						
20 FUEL SYSTEMS MAINTENANCE DOCK					4,675		
30 SQUADRON OPERATIONS					3,100		
40 ALTER SUPPLY & COMMUNICATIONS					2,400		
TOTAL					10,175		
117 BADIN	NC						
10 COMMUNICATION ELECTRONICS TRAINING FACILITY				3,000			
119 SPRINGFIELD	OH						
10 ADAL ENGINE SHOP					1,700		
125 TOLEDO EXPRESS AIRPORT	OH						
30 AIRCRAFT ENGINE SHOP		1,700					
40 ADD/ALTER AVIONICS SHOP/ECM WEAPONS RELEASE		880					
50 ADD/ALTER FUEL SYSTEMS & CORROSION CNTRL DOCK		1,300					
60 ADD/ALTER SQUADRON OPERATIONS FACILITY		1,300					
TOTAL		5,180					
128 TULSA AIRPORT	OK						
10 ADAL SQUADRON OPS					1,350		
20 ADAL OMS					430		
30 ADAL ENGINE SHOP					400		
TOTAL					2,180		
129 CAMP WITHYCOMBE	OR						
10 RIFLE RANGE					2,600		

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130 KINGSLEY FIELD	OR						
20 SUPPLY WAREHOUSE					2,575		
30 FIRE STATION					1,230		
TOTAL					3,805		
135 PORTLAND IAP	OR						
20 ADD/ALTER BASE CIVIL ENGINEER FACILITY		700			689		
30 HANGAR UPGRADE					5,051		
TOTAL		700			5,740		
137 STATE COLLEGE	PA						
10 STORAGE FACILITY				9,700			
142 JOE FOSS FIELD, SIOUX FALLS	SD						
10 MUNITIONS MAINTENANCE COMPLEX				3,000			
143 SIOUX CITY	SD						
10 FUEL CELL					1,850		
20 SQUADRON OPERATIONS					920		
30 REPLACE TANKS					1,200		
TOTAL					3,970		
146 ELLINGTON ANGB	TX						
10 HANGAR MODIFICATION					1,700		
147 NEDERLAND	TX						
10 VEHICLE MAINTENANCE SHOP				1,200			
148 HENSLEY	TX						
10 WAREHOUSE					4,250		
149 KELLY AFB	TX						
10 CIVIL ENGINEERING FACILITY					2,050		
151 SALT LAKE CITY	UT						
10 BASE CIVIL ENGINEERING COMPLEX					1,850		
152 TRUAX FIELD	WI						
10 HANGER ALTERATION		2,250					
20 FUEL CELL MAINTENANCE DOCK		2,000					
TOTAL		4,250					
155 VOLK FIELD	WI						
20 COMPOSITE RAPCOM CENTER/COMMUNICATION FAC				2,600			
160 PUERTO RICO IAP	PR						
10 ADD TO AIRCRAFT PARKING APRON							-3,800
20 COMPOSITE SQUADRON OPERATIONS FACILITY							-2,800
TOTAL							-6,600
Total - Major construction		33,000	-2,800	62,739	71,720		-6,600
Minor construction							
165 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 UNSPECIFIED MINOR CONSTRUCTION			-16,800			-1,200	
20 REPAIR OF REAL PROPERTY			-23,000				
TOTAL			-39,800			-1,200	

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total - Minor construction		-39,800			-1,200	
Planning						
167 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN	5,000					
Undistributed						
320 REDUCTION						
20 ACROSS TEH BOARD 1% REDUCTION					-2,302	
Total Appn - Mil. Con., Air National Guard	38,000	-42,600	62,739	71,720	-3,502	-6,600
Mil. Con., Army Reserve						
Major construction						
005 REPROGRAMMING ALLOWANCE						
30 REPROGRAMMING ALLOWANCE				5,300		
008 CLARKSBURG WV						
10 ARMY RESERVE CENTER				5,358		
009 WHEELING WV						
10 ARMY RESERVE CENTER				6,808		
010 WEIRTON WV						
10 ARMY RESERVE CENTER				3,481		
011 BLUEFIELD WV						
10 ARMY RESERVE CENTER				1,921		
012 JANE LEW WV						
10 ARMY RESERVE CENTER				1,566		
013 LEWISBURG WV						
10 ARMY RESERVE CENTER				1,631		
014 GRANTSVILLE WV						
10 ARMY RESERVE CENTER				2,785		
Total - Major construction				28,850		
Minor construction						
005 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-1,300			-2,000	
20 REPAIR OF REAL PROPERTY		-19,900				
TOTAL		-21,200			-2,000	
Total - Minor construction		-21,200			-2,000	

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Planning							
007 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
20 PLANNING AND DESIGN					3,000		
Undistributed							
320 REDUCTION							
20 ACROSS THE BOARD 1% REDUCTION						-83	
Total Appn - Mil. Con., Army Reserve			-21,200		31,850	-2,083	
Mil. Con., Naval Reserve							
Major construction							
003 DOBBINS AFB	GA						
10 MAR CORPS RESERVE CENTER					5,500		
005 NAS GLENVIEW	IL						
20 CHILD DEVELOPMENT CENTER					1,800		
Total - Major construction					7,300		
Minor construction							
010 UNSPECIFIED WORLDWIDE LOCATIONS	ZU						
10 UNSPECIFIED MINOR CONSTRUCTION			-1,800				
20 REPAIR OF REAL PROPERTY			-26,072				
TOTAL			-27,872				
Total - Minor construction			-27,872				
Undistributed							
320 REDUCTION							
20 ACROSS THE BOARD 1% REDUCTION						-99	
Total Appn - Mil. Con., Naval Reserve			-27,872		7,300	-99	
Mil. Con., Air Force Reserve							
Major construction							
006 DAVIS-MONTHAN	AZ						
10 ADAL AIRCRAFT MAINTENANCE FACILITY					1,500		
20 MUNITIONS MAINTENANCE & STORAGE					930		
TOTAL					2,430		
011 PETERSON AFB	CO						
10 AVIONICS FACILITY					1,300		
017 O'HARE IAP	IL						
10 AGE SHOP/STORAGE		1,650			50		
20 REPAIR AIRCRAFT RAMP					5,200		
TOTAL		1,650			5,250		

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
020 NEW ORLEANS NAS LA						
50 AVIONICS				2,300		
030 SELFRIDGE ANGB MI						
20 ADAL FUEL SYSTEMS MAINTENANCE HANGAR				2,400		
30 ADAL FACILITIES FOR CONVERSION				1,500		
TOTAL				3,900		
036 YOUNGSTOWN APT OH						
10 AERIAL SPRAY MAINTENANCE FACILITY				2,000		
20 MAINTENANCE DOCK			4,500			
TOTAL			4,500	2,000		
047 HILL AFB UT						
10 AIRCRAFT CORROS CNTRL & FUEL SYS MAINT FAC			1,000			
048 MITCHELL FIELD WI						
10 HANGAR ACQ			2,500			
Total - Major construction	1,650		8,000	17,180		
Minor construction						
050 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 UNSPECIFIED MINOR CONSTRUCTION		-4,000				
20 REPAIR OF REAL PROPERTY		-24,500				
TOTAL		-28,500				
Total - Minor construction		-28,500				
Planning						
052 UNSPECIFIED WORLDWIDE LOCATIONSZU						
20 PLANNING AND DESIGN			300			
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-343	
Total Appn - Mil. Con., Air Force Reserve	1,650	-28,500	8,300	17,180	-343	
Base Realignment & Closure Acct, Part I						
Base Closure						
005 BASE REALIGNMENT & CLOSURE ACCTZU						
10 BASE REALIGNMENT & CLOSURE ACCT PART I					-25,000	
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-4,157	

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Total Appn - Base Realignment & Closure Acct, Pa					-29,157	
Base Realignment & Closure Acct, Part II						
Base Closure						
005 BASE REALIGNMENT & CLOSURE ACCTZU						
10 BASE REALIGNMENT & CLOSURE ACCT, PART II					-125,000	
UNDISTRIBUTED						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-16,186	
Total Appn - Base Realignment & Closure Acct, Pa					-141,186	
NATO Infrastructure						
NATO infrastructure						
005 OSD MILCON ZU						
10 NATO INFRASTRUCTURE		-100,000				-180,300
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-1,212	
100 RECOUPMENTS				59,100		
Total Appn - NATO Infrastructure		-100,000		59,100	-1,212	-180,300
TOTAL - MILITARY CONSTRUCTION	176,714	-2,169,562	555,962	547,934	-266,969	-481,560

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	Adds by Both Chambers	Cuts by Both Chambers	Adds by Indiv.chmbrs		Cuts by Indiv.chmbrs	
			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FAMILY HOUSING						
Family Housing Construction, Army						
Construction of new housing						
002 FORT RICHARDSON AK						
10 IMPROVEMENT PROJECT				6,500		
003 HUNTER ARMY AIRFIELD GA						
10 REPROGRAMMING ALLOWANCE			82			
004 FORT WAINWRIGHT AK						
10 IMPROVEMENT PROJECT				5,700		
006 FORT CAMPBELL KY						
10 NEW CONSTRUCTION (96)				8,200		
007 FORT HOOD TX						
10 FAMILY HOUSING (227 UNITS)			25,000			
008 FORT PICKETT VA						
10 FAMILY HOUSING UNITS (26 UNITS)			2,300			
Total - Construction of new housing			27,382	20,400		
Post-Acquisition Construction						
010 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 CONSTRUCTION IMPROVEMENTS			5,400			-68,660
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-2,084	
Total Appn - Family Housing Construction, Army			32,782	20,400	-2,084	-68,660
Family Housing Operations & Debt, Army						
Operating expenses						
006 UNSPECIFIED WORLDWIDE LOCATIONSZU						
40 FURNISHINGS ACCOUNT					-5,000	
Maintenance of real property						
008 UNSPECIFIED WORLDWIDE LOCATIONSZU						
70 MAINTENANCE OF REAL PROPERTY					-11,820	
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-13,637	
Total Appn - Family Housing Operations & Debt, A					-30,457	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
Family Housing Construction, Navy & Mari						
Construction of new housing						
005 ADAK NAVAL AIR STATION AK						
10 NEW CONSTRUCTION (46)		-11,820				
021 MILLER PARK HI						
10 FAMILY HOUSING (114)				18,400		
022 LYNCH PARK HI						
10 FAMILY HOUSING (42)				7,000		
023 MCAS KANEOHE HI						
10 FAMILY HOUSING (220)				69,900		
20 FAMILY HOUSING (80)				26,900		
30 SITE PREPARATION				10,000		
TOTAL				106,800		
024 MOANA LUA HI						
10 NEW CONSTRUCTION (100)				11,800		
026 PEARL CITY PENINSULA HI						
10 NEW CONSTRUCTION (132)				30,000		
027 NAVAL COMPLEX OAHU HI						
10 NEW CONSTRUCTION (100 UNITS)			11,820			
028 NAS BARBERS POINT HI						
10 NEW CONSTRUCTION (70)				18,500		
037 KITSAP COUNTY WA						
10 FAMILY HOUSING (200 UNITS)			19,500			
040 SUGAR GROVE NAVAL RADIO STATIONWV						
10 NEW CONSTRUCTION (8)					-930	
Total - Construction of new housing		-11,820	31,320	192,500	-930	
Post-Acquisition Construction						
045 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 CONSTRUCTION IMPROVEMENTS						-142,340
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-3,396	
Total Appn - Family Housing Construction, Navy &		-11,820	31,320	192,500	-4,326	-142,340
Family Housing Operations & Debt, Navy &						
Maintenance of real property						
008 MAINTENANCE OF REAL PROPERTY						
70 MAINTENANCE OF REAL PROPERTY					-6,322	

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-6,899	
Total Appn - Family Housing Operations & Debt, N					-13,221	
Family Housing Construction, Air Force						
Construction of new housing						
005 BEALE AFB CA						
10 HOUSING OFFICE					-306	
010 MARCH AFB CA						
20 ADDITIONAL FUNDS FOR 320 HOUSING UNITS			13,000			
015 PATRICK AFB FL						
10 FAMILY HOUSING (250 UNITS)				6,500		
020 MOODY AFB GA						
10 HOUSING MAINTENANCE FACILITY					-290	
028 SCOTT AFB IL						
10 FAMILY HOUSING PHASE I (300)				20,000		
030 BARKSDALE AFB LA						
10 HOUSING MAINTENANCE & STORAGE FACILITY					-443	
035 CANNON AFB NM						
10 HOUSING OFFICE					-480	
040 MINOT AFB ND						
10 HOUSING MAINTENANCE & STORAGE FACILITY					-286	
045 SHAW AFB SC						
10 HOUSING OFFICE					-351	
Total - Construction of new housing			13,000	26,500	-2,156	
Post Acquisition Construction						
060 UNSPECIFIED WORLDWIDE LOCATIONSZU						
10 CONSTRUCTION IMPROVEMENTS						-86,824
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-3,330	
Total Appn - Family Housing Construction, Air Fo			13,000	26,500	-5,486	-86,824
Family Housing Operations & Debt, AF						
Operating expenses						
006 UNSPECIFIED WORLDWIDE LOCATIONSZU						
40 FURNISHINGS ACCOUNT					-5,000	

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Maintenance of real property						
008 UNSPECIFIED WORLDWIDE LOCATIONSZU						
70 MAINTENANCE OF REAL PROPERTY					-9,347	
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-9,279	
Total Appn - Family Housing Operations & Debt, A					-23,626	
Family Housing Operations & Debt, Defens						
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-284	
Total Appn - Family Housing Operations & Debt, D					-284	
Homeowners Asst Fund, Def.						
Undistributed						
320 REDUCTION						
20 ACROSS THE BOARD 1% REDUCTION					-1,330	
Total Appn - Homeowners Asst Fund, Def.					-1,330	
TOTAL - FAMILY HOUSING		-11,820	77,102	239,400	-80,814	-297,824

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			House	Senate	House	Senate
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Department of the Army	71,327	-694,688	293,085	210,854	-60,781	-169,760
Department of the Navy	51,287	-601,488	108,790	225,890	-31,357	-159,940
Department of the Air Force	54,100	-571,444	178,739	262,900	-68,994	-169,184
Defense Agencies/OSD	0	-313,762	52,450	122,690	-187,981	-280,500
Defense-Wide	0	0	0	0	0	0
Total - MilCon Appropriation	176,714	-2,181,382	633,064	822,334	-349,113	-779,384

HAC	
Adds by both Chambers	176,714
Adds by HAC only	633,064
Total HAC Adds	809,778
Cuts by both Chambers	-2,181,382
Cuts by HAC only	-349,113
Total HAC Cuts	-2,530,495
GRAND TOTAL HAC	-1,720,717

SAC	
Adds by both Chambers	176,714
Adds by SAC only	822,334
Total SAC Adds	999,048
Cuts by both Chambers	-2,181,382
Cuts by SAC only	-779,384
Total SAC Cuts	-2,960,766
GRAND TOTAL SAC	-1,961,718

CONFERENCE	
Adds	
Cuts	
Total	

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The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the Senator from Alaska.

Mr. STEVENS. I thank the Chair.

Mr. President, I shall attempt to answer some of the questions of the Senator from Arizona at the end of my remarks.

Mr. President, in 1988, as we reviewed the defense plan for 5 years, we saw that the year we are dealing with in this bill, 1993, would have requested somewhat in excess of $350 billion for defense. This bill is slightly over $250 billion for defense. If we really look at it, the end of the cold war has brought about a reduction in the planned expenditures for the Department of Defense of over $100 billion. I think there are some Members of this body who have come to the floor and suggest that the priorities of the Bush administration are mired in the past, "with a cold war mentality" I think someone said.

Mr. President, I join the distinguished chairman of the Defense Appropriations Subcommittee, Senator INOUYE, in recommending passage of this conference report to the Senate. He has discussed many of the details and programs contained in this report, and I will not take the Senate's time on this busy day to repeat his account.

I do wish to explain to the Senate why I believe this is an important bill, and one which every Member can support as a significant step in the continued downsizing of our military establishment. I will state at the outset that I remain concerned we may be lowering our defense program at too fast a rate, and losing some capabilities that will be very difficult to replace quickly in time of need. I do share the fervent commitment of the chairman that at whatever rate we cut defense, we do so in a manner that does not repeat the mistakes of previous postwar drawdowns.

Some Members have come to the floor of this body and suggested that the defense priorities of this administration are mired in the past, with a cold war mentality. I think it might be useful to look at the changes we have witnessed during the 4 years of the first Bush administration.

When this President took office in January 1989, the world was a very different place. Hardline Communists held power in Moscow, in Prague, and in Berlin. We saw some hope for change, the result of the 8 years of the Reagan-Bush administration, but the full fruits of that national commitment to reject and turn back communism had yet to be realized.

This President, aided by Secretary of Defense Dick Cheney, Chairman of the Joint Chiefs Colin Powell, and Secretary of State Jim Baker labored to advance the gains made during the Reagan-Bush years, and truly change the world. A key to accomplishing that change was the maintenance of our military strength.

Even while working to bring to a close the chapter of Communist totalitarianism that had so dominated world affairs in the second half of the 20th century, this administration was already looking to the future. In August of 1990, not even 1 year after the fall of the Berlin Wall, and before the coup attempt in Moscow that was the dying gasp of the old guard in the Politburo, this administration came forward with a blueprint for the future of our military.

The new priorities announced in the President's speech in Aspen, CO, and the base force plan presented by Gen. Colin Powell provide a framework for a U.S. military force that can address the challenges of the next century. Within that plan was a drawdown in defense spending unparalleled since the end of the Second World War. The President, Secretary Cheney, and General Powell asked one thing of us, the Congress, in presenting this plan. That we afford them the time and flexibility to not repeat the mistakes of the past, and to take care of our people.

Mr. President, I am most proud that this bill fulfills the request they made of us, and I am grateful to the chairman for his unflagging determination that we not be distracted from this task.

Let me say parenthetically, Mr. President, I do not think I have ever had the privilege to work with so great a gentleman as the Senator from Hawaii. He is not only the chairman of this subcommittee that I had the honor to chair for 6 years, and he now has chaired it for 6 years, but we have worked together as a team without regard to partisan differences. We have none in the operation of this subcommittee. But we have had the privilege of working with the gentleman from Pennsylvania [Mr. MURTHA], and the gentleman from Pennsylvania [Mr. MCDADE]. And I call attention to the fact Senator INOUYE, a distinguished Army veteran; Mr. MURTHA, a distinguished Marine veteran; Mr. MCDADE, a veteran of the Navy, equally distinguished, and I had the privilege and honor of being in the Air Force, the four of us really have worked as a team in trying to work out the difficult problems of the authorization-appropriations process, and I do believe that this bill will show that that work has been successful.

In this bill we have sustained the rate of drawdown for active component military requested by DOD. We have continued the necessary separation benefits to avoid involuntary RIFS and cutbacks against the dedicated men and women who serve in the military. We have worked to mitigate the impact on the civilian workers at the Department of Defense, by funding additional conversion and transition benefits to recognize their needs and dedicated service to our country.

This bill does make deep cuts in defense procurement, slashing the total for acquisition by more than $9 billion from the level appropriated for 1992. The bill continues reductions in key R&D efforts, cutting more than $1.2 billion from the level approved by the Congress for 1992. Even that figure is deceiving, because many of the high-technology defense conversion initiatives are funded within the R&D appropriations—the real cut against purely defense priorities amounts to almost another billion dollars from the 1992 level.

For 1993 and the coming years, we will face many more defense program terminations. This year we have ended production of the B-2 bomber, the *Seawolf* submarine, the F-15 fighter, the advanced cruise missile, the Apache Helicopter, and new production of the M1-A2 tank. Instead, we see coming initiatives to upgrade and modernize existing military equipment, such as the conversion of older tanks to the M1-A2 configuration. We cannot permit the defense industrial base to simply wither away, while expecting that capability to remain for the future. I commend the chairman and the committee for its work in these areas, which I know mean so much to the men and women who produce the equipment vital to our military forces.

The extraordinary capabilities that exist in the Department of Defense are directed in this bill to many of the challenges facing this Nation, that have not traditionally been the primary mission of our military forces. We include in this bill over $1 billion for the military's role in the war on drugs. The leadership of the Army's Walter Reed research facilities will again be tapped to fight AIDS, prostate cancer, and in an initiative which this body established by an overwhelming bipartisan vote, harness the expertise of the military research community to fight breast cancer. Senator SPECTER, and Senator D'AMATO, particularly Senator HARKIN—it was his initiative—deserve special praise for this effort, and I commend the chairman for his work in maintaining the commitments that we made to the Senate with regard to military research to fight breast cancer.

Mr. President, this bill in total is nearly $8 billion less than the amount requested by the President for 1993, and is less than the total amount authorized for defense in the armed services conference report that passed the Senate on Saturday. Again this year, the committee did not have the results of the armed services conference until after work had been completed on this bill. He did work to track as closely as possible with the product of the authorization conference, and on all major defense items, I believe this bill comports with the Authorization Act. Because that bill was not available to us in a completed form, there may be some small discrepancies, but under the guidance of the chairman of the committee, the President pro tempore, we have worked to reflect the key policy issue resolved in their bill.

Mr. President, despite the looming presence of the upcoming election, which has increasingly affected the work of this body, I believe this bill represents the partisan work of both the Senate and House Appropriations Committees. Political posturing had no place in our conference sessions, only the best interests of the men and women who serve our Nation in the military, and the concerns and interests of the Members of this body who have worked with us to present this bill to the floor.

I appreciate the consideration and courtesies extended by the Senator from Hawaii to me, and the other Republican members of the committee and the Senate. We worked together to accommodate the interests of all Senators, and this bill is a fair compromise of all the competing demands that were placed on the committee.

Mr. President, I again wish to recommend this bill to all Members of the Senate, and I urge the speedy adoption of this conference report.

Mr. President, let me turn now just briefly to the comments made by the Senator from Arizona. It is difficult for us in the appropriations process to track the authorization process. I point out that we received a copy of the defense authorization bill on Sunday. I saw it for the first time this morning. We through our staffers tried to keep in touch with what was going on.

For instance, the National Guard aircraft that the Senator from Arizona mentioned in his first point, those aircraft were authorized in the Senate version of the authorization bill but dropped in the conference just prior to the time they wound up but we had already decided to fund the Senate version of the authorization bill. This causes a difficulty.

Incidentally, I agree with the National Guard aircraft acquisition. I agreed with them in the Senate, and I continue to support it now.

The Senator from Arizona mentioned the National Security Education Trust Fund which was authorized by the Intelligence Committee Authorization Act. It is not funded in this bill. We dropped it in conference.

The Senator mentioned the problem of the university grants, the university awards. We reached a compromise which I think is sensible. Those initiated in the House are governed by the House authorization and House procedures that were sought by Members of the House. The Senate set for this subcommittee a new peer review process, and a process of competition. We have made those provisions still apply to these university grants and matters for the universities initiated by the Senate.

The disaster relief measure for the fisheries grant that was mentioned by the Senator from Arizona was also authorized by an amendment adopted by the Senate on the floor.

As far as the nuclear waste provision, it was one that I sponsored. Mr. Gates from CIA was in Alaska and testified concerning the problem of an increased evidence that Soviets have disposed of nuclear waste in the Arctic in a manner that may well contaminate the Arctic and the North Pacific. So this funding, incidentally, was authorized through the authorization process.

I could continue through with regard to comments about the night vision, the M-1 tank upgrade. All of those were in the authorization bill that passed here Saturday without debate and without comment.

I respect my friend for disagreeing with some of those provisions. But this year we have tried to track the military funding through the authorization process. We tried to avoid controversy, and we have received some criticism because we did track the authorization process apparently.

I believe this bill represents a bipartisan work of both the Senate and House appropriations committees. As I pointed out, although we are partisans, and I certainly defend the Bush administration for the planning it has done, and their bill funds, I think the Senate should realize that political posturing had no place in our conference. We had long sessions. And I join my colleague from Hawaii in commending the staff. The staff has been not only extremely diligent but they have worked much longer hours than the Members did, and we thought we had long sessions.

There is no question. This is a very dedicated staff. They all have been listed by the Senator from Hawaii, and I join in commending them and appreciate the work of my good friend, and associate here, Mr. Cortese.

Mr. President, in closing, the only thing I would say is I did not intend to make this long statement this year. But I do think that under the circumstances the comments were raised concerning the bill, and it is necessary for us to point out that we have in this bill to the best extent, the greatest extent possible, and more so than any year that I have been working on the Defense Appropriations Subcommittee, keyed our efforts to those in the authorization process.

I find it interesting that some of the comments that we have received that are critical come from those who worked on that bill. But I believe this bill is a fair compromise of all the competing demands placed on the committee, and placed on us in terms of demands for assistance. I would point out that of the $254 billion a considerable portion of it represents the transition from our cold war status. It represents the moneys that are necessary for the conversion of our industrial base, for assistance to our military, to our uniformed and our civilians who are working with both the industry and the Department of Defense.

Mr. President, if I have any time left, I yield the remainder of my time.

Mr. BOND. Mr. President, I rise today to address a provision of the fiscal 1993 Defense authorization bill affecting the private sector defense industrial base. This provision singles out a specific depot for an increase in Army aviation maintenance and repair work that heretofore was performed by private sector firms. The provision not only increases the level of this work for the coming fiscal year, but calls for additional increases in the work to be sent to this Government facility in each of the two succeeding fiscal years.

I have several concerns with this provision, Mr. President. First, it pulls more work away from the defense industry which is already suffering from the decrease in defense spending; a situation which is likely to get worse in the coming years.

Second, this provision targets a single Government facility, not on the basis of what is most cost effective or in the best interest of defense preparedness, but purely on the basis of the political leverage of the Member in whose district the depot facility resides.

Third and finally, this provision reflects a preference for the assignment of defense maintenance and repair work to public sector facilities instead of to private sector firms which are the keystone of our free enterprise system and the backbone of our economy.

The Department of Defense has vigorously opposed restrictions and special targeting in proposals such as this provision, and I think properly so.

There is no question that defense spending will decline in the coming years, and it should in light of the dramatically changing nature of the global threats we face as a nation. I believe that even most defense contractors agree with this and are taking their fair share of the reductions. But they should not experience an inordinate share of the lost business opportunities due to the shift of business to public sector facilities in order to needlessly support or maintain public sector jobs. This is not fair, it is not right and it is not in the Government's best interest.

In my view, Mr. President, except for those core capabilities that Government must retain as its own, the presumption should be that defense related maintenance support work be performed by private firms after full and open competition. This is a cost-effective way of sustaining the private sector defense industrial base during this period of defense downsizing. If we are to have the defense base to rely on when we need it in the future in terms of technological and production capability we must shift the support work at issue to private firms during the current downturn in defense spending.

I believe the Senate Armed Services Committee and its Readiness Subcommittee share this view. Moreover, the proposal seems to contradict the policy direction taken in the extensive report on the defense industrial base issued by the House Armed Services Committee earlier this year, as well as the thrust of both the Republican and Democratic Defense Industrial Base Task Forces. The provision in the conference agreement we consider today moves us in a direction contrary to that suggested by all of these efforts, further placing at risk the defense industrial base.

While it is too late to amend this provision of the conference report before us, I want to state my opposition to it and that I will remain vigilant in the new Congress and oppose sweeping proposals of this nature. This is not the legislation we need to help transition to a smaller defense structure or ensure the health of the private sector defense industrial base.

Mr. COCHRAN. Mr. President, this conference report provides $305 million to initiate the purchase of an LHD–1 class amphibious assault ship. As I understand it, the total amount of $1.205 billion is estimated to be required to complete the purchase. In the bill, the Secretary of the Navy is authorized to contract on an incremental basis for the purchase of this ship. Is my understanding consistent with the intent of the bill managers that this will enable the Navy Secretary to exercise the existing option that expires on December 31, 1992, and contract for the purchase of the ship with funds that are provided in this bill and that will be requested in next year's budget, or later, as may be required to meet the construction schedule under the contract if the Secretary exercises this authority?

Mr. INOUYE. I thank the senior Senator from Mississippi for raising this issue so that it can be clarified. The language in the bill is intended to permit the option to be exercised before the end of this calendar year, which will result in significant savings to the Navy over a later procurement. This will protect the option price and scheduled delivery of the ship. The language enables the contract price to be funded in increments over the period of the scheduled construction. That is the express intent of the conferees.

Mr. COCHRAN. For further clarification, as I understand the meaning of this, if the Secretary of the Navy exercises this authority, it would be under the tacit assumption that the Administration will request the remaining $900 million at some time in the future. Is this correct?

Mr. STEVENS. The Senator's understanding is correct. The Navy could either fully fund the remainder, or fund that amount which would allow the construction to remain uninterrupted and on schedule. That last is critical. While it appears that the total required funds have not been provided for this ship, this approach was taken by the conferees to enable the Navy to comply with the terms of the existing contract option, both as to price and schedule, and to obtain the funds, incrementally over time as needed to satisfy the terms of the construction contract.

Mr. COCHRAN. I thank both managers. I appreciate the Senator's efforts on this bill in general, and on the LHD in particular, and I thank him for helping me to clarify this matter for the RECORD.

Mr. DOMENICI. Mr. President, I rise in support of the conference report to accompany H.R. 5504, the Department of Defense appropriations bill for fiscal year 1993.

This bill provides $253.8 billion in budget authority and $166.0 billion in new outlays for the Department of Defense in fiscal year 1993. When outlays from prior-year budget authority are taken into account the bill provides a total of $264.9 billion in outlays in 1993.

These totals are $7.5 billion in budget authority and $6.8 billion in outlays below the President's request for defense discretionary spending.

While the chairman and ranking member have worked very hard on this bill I question whether the overall total will be acceptable to the administration.

Nonetheless, I expect it is the best we can do given the time constraints we face.

I do note that the final outcome is below the subcommittee's 602(b) allocation, and that the resulting reductions in spending will go toward reducing the deficit as required in the 1990 bipartisan budget agreement.

I greatly appreciate the consideration the distinguished chairman and ranking member have given to several important defense matters that I raised with the subcommittee, and for the courtesies they have extended to me and my staff.

Given the short time remaining in this congressional session, I urge my colleagues to adopt this conference report.

Mr. BINGAMAN. Mr. President, I want to commend the chairman of the Defense Appropriations Subcommittee, the Senator from Hawaii, for his effort in conference to keep the defense conversion initiative in the appropriations bill consistent with the authorization bill. In particular, I appreciate his retaining the programs which were included in the amendment Senator PRYOR and I offered on September 22.

I had a great interest in the technology and industry provisions in the conversion package, which total $575 million in the appropriations bill. I also note that, as the Senator from Hawaii committed when this bill was debated in the Senate September 22, the conference committee has fully funded at the authorized level a series of ongoing industry-driven technology programs, namely Sematech, high resolution displays, advanced lithography, multichip modules, and high performance computing. I know these are all programs which the Senator from Hawaii strongly supports and I look forward to his support in future years.

Mr. President, I note that the appropriations conference report in its discussion of the technology component of the conversion initiative makes several suggestions as to how money within these programs might be spent. The authorization bill, H.R. 5006, which we adopted on Saturday, requires cost-sharing from industry and/or the states and use of competitive procedures in each of the programs in question: the dual-use technology partnerships, the commercial-military integration partnerships, the Defense Manufacturing Extension Program, the Regional Technology Alliance Program, and the Dual-Use Extension Program.

Mr. President, the projects mentioned in the appropriations conference report may be very worthy ones. But my view is that they need to compete on an equal basis with other projects which will be submitted to the Department of Defense to implement these programs and they will need to meet the statutory cost-sharing requirements even to be considered. Frankly, many other projects were brought to the attention of the Armed Services Committee during our development of these programs. Our decision was to put in place fair and equitable procedures under which all of these ideas could be considered by the Department of Defense. I am grateful that the appropriations conferees have supported the principle that these conversion programs should be implemented on the basis of merit and that cost-sharing should be required.

Mr. President, let me conclude by again commending the Senator from Hawaii for his tremendous assistance in getting all of the authorization initiatives funded, in all but one case at the full authorization level. I believe that in the authorization and appropriations bills we have truly taken an enormous step toward helping reorient defense-dependent firms, especially small firms at the lower tiers, toward the commercial marketplace. We have put teeth in the notion of commercial-military integration in our Defense R&D enterprise. As the Senator from Hawaii knows, I have been urging the approach we are adopting here tonight for several years. I am grateful to the chairman as I finally see these ideas reach fruition and I look forward to his help in insuring the conversion technology programs are vigorously implemented by the Department of Defense.

Mr. DOLE. Mr. President, I want to take just a few minutes to commend the managers of this important bill, Senator INOUYE and Senator STEVENS, for their hard work and sustained commitment to a strong national defense. I believe that through their efforts, we have struck the right balance.

As we draw down our force structure—in a world that appears more peaceful—Senators INOUYE and STEVENS have interjected the right amount of caution. This bill recognizes that the world remains a dangerous place and protects our ability to respond to any contingency.

Tough compromises have been struck on SDI, the B-2 bomber, manpower, armor modernization, and a myriad of controversial issues. Throughout the process, the managers have stood steadfast to their commitment to a strong America. This has not been easy.

Many of my colleagues have sought to gut our national defenses. They would burn down rather than build down our force structure. This might be politically popular, but it would surely result in disaster. There is no question that deeper cuts demanded by some would cost an estimated 2 million jobs—at a time when our economy is already weak. But the real danger would be to our future security. Returning to a hollow army, as the demands to slash more would cause, means that America might, once again, find itself unable to defend our vital interests. The lessons of history on this matter are written in blood—weakness begs aggression and war. So I commend senators INOUYE and STEVENS for their prudent approach.

Let me also extend a special thank you to Steve Cortese, Jim Morhard, and the other staff members for their tireless effort on this important bill. Their dedication and commitment have made a difference. The Senate and the Nation owes each of you a debt of gratitude.

Also, I wish to thank the managers for their strong bipartisan support for a number of programs important to our national security and to Kansas. The Congress has, once again, joined me in giving Kansas manufacturers a strong vote of confidence for their quality and value.

The KC-135R tanker program of Boeing Wichita—the C-12 and T-1A Jayhawk by Beechcraft—Cessna's T-47—the P-180D by Piaggio—the sensor fused weapon—and the combined effects munition assembled in Parsons—major assemblies for the M1A2 main battle tank from Atchison Castings—and scores of other Kansas subcontractors who received a strong vote of confidence in this bill are proud of their contribution to our security and proud of the value they give the taxpayer. I thank Senators INOUYE and STEVENS for their support for my requests on behalf of these programs and for their recognition of Kansas quality and value.

Let me also extend my appreciation to the managers for the bipartisan endorsement for my requests to modernize the Kansas National Guard. By adding funds for modern communications equipment, a state-of-the-art fire arms training simulator, and for the Blackhawk helicopters, they have greatly assisted my efforts to see that the Kansas guard is able to meet its mission and sustain its proud history and service to Kansas and to the Nation. Without these additional funds, many of these upgrades would come way down the road or not at all.

Lastly, let me thank my colleagues for their overwhelming support for my armament retooling and manufacturing initiative so generously supported in this bill. The arms initiative will break new ground in defense conversion, keeping jobs in communities like Parsons, KS. This innovative program will provide loan guarantees, grants, and other incentives that will begin the transition of excess ammunition plants once slated for closure, to vibrant commercial operations. Converting from the load, assembly, and pack of tank rounds to the load, assembly and pack of automobile airbags is just one example of the possibilities of this initiative. As my colleagues know, I have been working this project for over a year. I am gratified by the strong support and funding provided by this bill. We can build our defenses down without callously displacing workers and their families if we apply new thinking and innovative approaches such as these.

Again, I thank the managers for their hard work, for their dedication, and for their support and vote of confidence they have extended to Kansas.

The PRESIDING OFFICER. The only time remaining is that of the Senator from Hawaii.

Mr. INOUYE. Mr. President, I yield the remainder of my time. I urge that the Senate adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I commend the Senators from Hawaii and Alaska for their diligence and perseverance in the adoption of this conference report.

And I am pleased to advise the Senate that this completes action on all 13 of the appropriations bills for this year. We have been advised that they will be signed.

I thank all of my colleagues for their cooperation in making this possible.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein. And I will have an announcement regarding the schedule for the remainder of the evening in the very near future.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BRADY BILL

Mr. LAUTENBERG. Mr. President, I rise in strong support of the Brady bill, to require a waiting period for handgun purchases. This is a vitally important and entirely reasonable bill. It is not a cure-all, nothing is. But it will make a real difference in the fight against violent crime.

Mr. President, waiting periods can reduce violence in two primary ways. First, they help prevent the purchase of guns by people acting in the heat of passion or in the depths of depression. That is important, because so many crimes are caused by a temporary loss of emotional control. A cooling-off period can make an enormous difference.

In addition, Mr. President, the Brady bill can help ensure that handguns are kept away from convicted felons, and others who, in general, are prohibited from possessing firearms. In New Jersey, a similar law has helped stop more than 10,000 convicted felons from buying handguns. Unfortunately, the effectiveness of New Jersey's law is undermined if criminals can go into other States, buy a carload of handguns, and bring them back to New Jersey. That is one reason why Federal legislation is so important.

As I see it, Mr. President, the bottom line is this. The Brady bill will save lives. A lot of lives.

Mr. President, it is not every day that we can save human lives at so little cost. If we fail to do so, make no mistake about it: the blood of many innocent Americans will be on our hands.

Mr. President, the reluctance of President Bush and many of my colleagues to support the Brady bill is particularly disturbing when one considers that this proposal enjoys overwhelming public support. And that includes the support of many legitimate firearm owners. Even former President Reagan supports this bill, and strongly.

Mr. President, as important as the Brady bill is, we need to do even more to reduce gun-related crime. For example, we should promptly close loopholes in the law that are allowing convicted felons to own guns.

Many of my colleagues may be shocked to know that taxpayers have been paying over $4 million annually so that even violent felons can legally get access to firearms. It is a perverse situation that would be corrected under legislation Senator SIMON and I have introduced, the Stop Arming Felons Act, S. 2304.

Mr. President, this Nation is facing an epidemic of gun violence. It is a national tragedy.

Consider these figures.

In 1990, handguns killed 22 people in Great Britain; 13 in Sweden; 87 in Japan; 10 in Australia; 68 in Canada; and 10,567 in the United States.

Mr. President, that is more than tragic. It is sick. Handgun violence is a deadly cancer in our society. And the longer we let that cancer spread, the more innocent Americans will die.

Handgun violence is a central part of a larger problem of crime in our society. On average, there is a violent crime in America every 17 seconds. There is one murder every 21 seconds, a forcible rape every 5 minutes, and a robbery every 46 seconds.

The problem of violent crime infects every region of our country, and all social and economic groups. Fear pervades our inner cities, our suburbs and even many of our rural areas. It is a national disgrace, and addressing it must be a top national priority.

Mr. President, there are other steps to take to fight crime. We need to get tougher with criminals. Those who violate basic social norms must be held accountable for their actions, and pay a severe price for their behavior. Too many criminals today are escaping meaningful punishment, even after they're convicted. That has to change.

We also need to provide additional support to the law enforcement community, particularly at the local and State levels. In 1950, the Nation had more than three police officers to respond to every one violent crime committed. In 1990, the Nation had fewer than one police officer for every three violent crimes. This trend must be reversed.

We also have to do more to prevent crime from happening in the first place. By getting citizens involved, educating them about ways to prevent crime, and devising new and innovative methods of deterring criminals, we can make an enormous difference.

We also need to crack down on assault weapons. These weapons of war are designed primarily to kill human beings. And they are good at it. They should be banned outright. In fact, I am proud to note that my State of New Jersey has been a leader in this area, and has enacted a prohibition on assault weapons.

In sum, Mr. President, firearm violence has reached epidemic proportions. And we have a responsibility to the victims and prospective victims to take all reasonable steps to keep this violence to a minimum. I strongly urge my colleagues to support the Brady bill.

It is a matter of life and death, Mr. President. Nothing less.

TRIBUTE TO CHARLES B. SAUNDERS, JR.

Mr. KENNEDY. Mr. President, I would like to take this opportunity to pay tribute upon his retirement to a man who, for the past 35 years, has embodied the highest standard in service to the public interest. Charles B. Saunders, Jr. retired at the end of August as Senior Vice President and Director of Governmental Relations at the American Council on Education, the umbrella organization that represents the Nation's colleges and universities here in Washington, DC. During his distinguished career, Mr. Saunders, or Charlie, as he is known to everyone, left an indelible mark on this Nation's system of higher education, and on the programs of Federal aid on which millions of students depend to pursue their educational objectives.

Charlie Saunders' career has a long and close association with education. A native of Boston in my home State of Massachusetts and a graduate of St. Mark's School in Southboro, Charlie graduated from Princeton University in 1950. Charlie was a promising athlete and had a tryout with the Boston Red Sox. An injury forced him to give up that career, but it lead him in another direction, a direction that would have a great deal to do with expanding access to education. Charlie first came to Washington in 1957 as a Legislative Assistant to the late Senator H. Alexander Smith of New Jersey.

Since then he has served in a number of crucial positions that enhanced education for all Americans including various positions at the Department of Health, Education, and Welfare. While at the Department of HEW he played a central role in developing the Elementary and Secondary Education Amendments of 1970, the Emergency School Aid Act of 1972, and the Higher Education Amendments of 1972. In 1973, Charlie served for 7 months as acting Assistant Secretary of Education, and then as principal deputy to Assistant Secretary Virginia Y. Trotter. From 1971 to 1975, he was acting chairman of the Federal Interagency Committee on Education, and the principal Federal representative with the Education Commission of the States.

Charlie joined the American Council on Education in 1975, and between then and now represented the views and concerns of higher education to the Congress and the Executive Branch. During the last 18 years, he served on various other commissions and chairmanships including the Committee for Education Funding, Coalition for Coordination of Student Financial Aid, Veterans Administration's Advisory Committee on Education and Rehabilitation, and the National Advisory Commission on Higher Education for Police Officers

Charlie Saunders' selfless service on behalf of the Nation's youth has extended well beyond his paid employment. From 1966 to 1970, he was an elected member of the Montgomery County, MD, Board of Education, and he was a member of the first independent board of trustees of Montgomery Junior College serving in 1969 and 1970. He recently was appointed by Governor William Donald Schaefer to a second four-year term on the Maryland Higher Education Commission—so his service on behalf of higher education will continue even after he retires.

Among the numerous honors Charlie has received are leadership awards from the Association of Community College Trustees, the National Association of Student Financial Aid Administrators, and the National Association for Equal Opportunity in Higher Education. In 1972, he received the Service Award of the National Association of State Boards of Education, for distinguished service to public education.

Mr. President, it has been my privilege and pleasure to work with Charlie Saunders over the years on many issues that have come before the Committee on Labor and Human Resources. He enjoys a well deserved reputation for absolute honesty and unimpeachable integrity. His encyclopedic knowledge of higher education legislation and the legislative history surrounding it have made him an invaluable resource and a formidable proponent of educational opportunity. He has been passionate in his conviction that the Federal Government should help guarantee access to higher education for all qualified students and their ability to choose the institution that best suits their needs and interests. He will be sorely missed.

Too rarely do we honor those who, laboring out of the public spotlight, attend to the important work of making our Government more effective and our society more equitable. For this reason, it was gratifying to see the Washington Post run a long and laudatory profile of Charlie Saunders on the occasion of his retirement. With your permission, Mr. President, I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 11, 1992]

CLOSING A CAREER OF "MAKING A DIFFERENCE" FOR COLLEGES

(By Mary Jordan)

He's the guy in the bow tie, the gentleman crusader on Capitol Hill.

Charles B. Saunders Jr., the dean of higher education lobbyists, next week concludes a career that is a story of the anonymous powerhouses in Washington who change American life.

"He has had a great influence on education opportunity and education equality," said Thomas Wolanin, staff director of the House Education and Labor subcommittee on postsecondary education.

For the past three decades, Saunders has been at or near the negotiating table for virtually every major piece of legislation concerning college students. He retires a month after President Bush signed the 1992 Higher Education Amendments, which authorize more than $100 billion over the next five year for student aid and college programs.

Saunders, 63, can recite that book-size bill item by item. As each line was haggled over, he was in the hallways of the Hill. Sometimes he wore white shoes and a straw hat. Always, it seemed, he had the air of an English patrician out for an afternoon stroll.

"It's been rewarding," he said, sitting in his office of the last 18 years, the Dupont Circle headquarters of the American Council on Education (ACE). "I felt I was making a difference, helping higher education make its case to Congress."

As chief lobbyist for a group that represents 1,800 colleges and universities, much of Saunder's time has been spent persuading contentious factions—the private and public colleges, the Jesuit and Methodist, the historically black and brand new—to march in lock step.

A descendant of Pocahontas, the Indian princess who made peace between the English settlers and Native Americans, Saunders is said to have inherited her knack for consensus. (He even named one of his five children after Pocahontas's husband, English settler John Rolfe.)

"The ACE is sort of the United Nations of higher education and Charlie is the Dag Hammarskjold," said William A. "Buddy" Blakey, partner in the education law firm of Clohan & Dean. "He gets them organized to express a unified position before Congress and the executive branch."

"We fall apart quite easily into special interest groups," acknowledged Robert Atwell, ACE president. Saunders, he said, is a master at uniting the education community to magnify its voice.

"There are very few people in Washington who do what Charlie does and who have the moral compass, absolute integrity, that he does," said Atwell. "Here's a guy who doesn't even gossip.

"He's a Princetonian, reserved, right out of the '50s," Atwell added—though sometimes, he said Saunders dresses as they did in the '40s.

When Saunders first arrived in Washington, he was not long out of Princeton, and had spent a few years covering education for two small New England newspapers. In 1957, he landed his first job in the capital, as an aide to then-Sen. H. Alexander Smith (R–N.J.).

Immediately, he dived into the area that would be his mission for the next 35 years. Sputnik had just been launched, and he and others were corralled into drafting the legislation that was America's response: the National Defense Education Act of 1958. That bill, for the first time, made the federal government—not just state governments—responsible for funding education. Basically, Saunders has been arguing ever since that the federal government owes even more when it comes to education.

"I think one of the biggest problems [in higher education] is still the funding of student aid," he said, surrounded in his office by volumes of congressional bills and budget books, some dating back decades.

"I was lucky," Saunders explained. "I went to college because I got a scholarship and I always thought everybody should have the same opportunity."

One of the endangered Washington species known as liberal Republicans, Saunders held a variety of education jobs before assuming his post at ACE, including acting assistant secretary of health, education and welfare under President Richard M. Nixon. In the tumultuous 1960s, he was elected to the Montgomery County School Board, arguing against dress codes and for underground newspapers.

Bob Hochstein, assistant to the president of the Carnegie Foundation for the Advancement of Teaching, said part of the reason Saunders is so well-respected on both sides of the political aisle is he has never been an extremist, "Charlie is the top-flight professional who was always above politics," he said.

Elliot L. Richardson, who was secretary of health, education and welfare in 1971 when Saunders worked there, agreed: "Charlie came across as straight, direct. He wouldn't try to con you."

Blakey said he argued often with Saunders because he did not believe ACE was "pushing hard enough" in behalf of historically black colleges or minorities. "We have had some god-awful dogfights," Blakey said. "But he's always been straight, always been honest."

The son of a poorly paid New England preparatory school teacher, Saunders was accepted to Harvard, Yale and Princeton after graduating from St. Mark's school in Southboro, Mass. He chose Princeton because it wasn't in a big city or too near his Boston home.

At 17, the red-hot high school pitcher won a tryout with the Boston Red Sox, but an injury cast aside his dreams of the major leagues.

He thought about teaching, as his father and uncle had done, but said he never had the patience. Instead, he chose a different path in education. Looking back now, he recalls the bigger moments: working for the passage of Pell grants, which give college money to low-income students; writing the Emergency School Aid bill under Nixon to give millions to southern schools that were desegregating; and flying around the country after Congress passed the Title IX amendment in 1972 that prohibited discrimination against women, even in sports. "Some high school administrators were very upset," he recalled of the trip to inform officials of the law. "Of course, it turned out to be a great thing."

"Charlie is synonymous with education," said Blakey. "He's to education what Tom Landry was to the Cowboys."

In all his time in Washington, Saunders said, the biggest disappointment was the Reagan years.

"The Nixon administration had a very strong education program. It was the Reagan administration that derailed a long bipartisan history of support for federal aid in education," he said. It also decimated federal funding for schools and led to an exodus of good people from government, he said.

Saunders said that Bush dashed early hopes that he would follow through on his promise to be the "education president." Saunders said all he's seen is "rhetoric, lip service."

He said he wants more details of Democratic presidential nominee Bill Clinton's plans, but believes that the governor already "demonstrated his commitment to education" in Arkansas.

Now at the end of 35 years of work in Washington, Saunders is retiring from negotiating and numbers crunching to tennis and travel.

"It wasn't as if I was intending to devote my life to education," he said. "It's just the way it worked out."

Mr. KENNEDY. Mr. President, permit me one final observation on this occasion. Some who enjoy success in this world try to pull the ladder of opportunity up behind them. Others reach back and lend a helping hand so that more may follow. In his career, Charlie Saunders helped build thousands of ladders up which millions of Americans have climbed to a better life. We are a better Nation for his efforts. I ask all my colleagues to join me in wishing him and his wife, Marnie, both dedicated bird watchers, a long, happy and healthy retirement.

GOVERNOR CLINTON SETS FORTH HIS VISION FOR "AMERICAN FOREIGN POLICY AND THE DEMOCRATIC IDEAL"

Mr. PELL. Mr. President, on October 1, in Milwaukee, Gov. Bill Clinton spoke eloquently about the need to restore the democratic ideal to its proper place at the center of American foreign policy. He described this as "an idea that it is at the heart of this campaign, and at the center of my vision for the country and the world," and noted "A pro-democracy foreign policy is neither liberal nor conservative; neither Democrat nor Republican; it is a deep American tradition."

Governor Clinton rightly stated that "No American foreign policy can succeed if it neglects our domestic needs. And no American foreign policy can succeed if it slights our commitment to democracy."

I ask that the full text of Governor Clinton's speech "American Foreign Policy and the Democratic Ideal" delivered October 1, 1992, at the Pabst Theater in Milwaukee, WI, be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AMERICAN FOREIGN POLICY AND THE DEMOCRATIC IDEAL

(Remarks by Gov. Bill Clinton)

Thank you very, very much. Thank you very much. I want to thank Carol Bauman and the Institute of World Affairs for hosting us here. I want to say how delighted I am to be in this magnificent theater and this wonderful city. I want to say a special word of thanks to the mayor of Milwaukee, John Norquist for this outstanding work to bring together representatives of all racial and ethnic groups, and to promote the preservation of the cultures of this great American city.

I also want to say a special word of homage to George Kennan, a native of this city, for the work that he did, and has done, over the entire 20th century to support freedom and democracy.

And finally, I would just like to thank all of you who have come here. I'm not exactly sure what the number is, but I am sure there are representatives of at least 35 different racial and ethnic groups in this audience today, representing not only the future of democracy in America, but the future of democracy in the world.

I want to talk about an idea that is at the heart of this campaign, and at the center of my vision for our country and the world, an idea that generations of people around the world have fought and died for, and lived by—an American idea called democracy.

I know we may have more immediate problems on our minds. But even at a time when America's needs here at home are crying for attention, we cannot forget that the person we elect to lead America will also be the protector of our interests, and the champions of our values around the world.

Democracy has always been our nation's perfecting impulse. It transformed us from a nation of slavery to a land of civil rights; from a land of male suffrage to a land of universal suffrage. And now it is transforming the entire world.

Many of you here in this audience have taken part in this democratic revolution. Your contributions to the nation have been matched by your devction to the cause of freedom abroad. Here at home you have built schools, research institutions, and libraries that have preserved your cultures, your values, and your faith.

You have raised your children to be proud of their heritage. As the freedom movements in your homelands have gained strength, you have marched and organized. And as the voice of John Paul II gave that movement inspiration, so you gave your moral and your financial support to Solidarnosc in Poland. You helped keep RUKH alive in Ukraine, Sajudis in Lithuania, and the pro-democracy movement in China, as the freedom-loving people in each of those nations rose up to challenge communist orthodoxy.

You stood behind those in this hemisphere and in Africa who fought to gain and preserve their freedom. You have been stalwart in your support for our democratic ally, Israel.

Your passionate commitment to democracy has helped carry the torch of freedom both here and abroad.

Many factors contributed to the downfall of the Soviet empire. But the decisive blow was clearly delivered by the peoples imprisoned within it.

Some Americans, especially within this election season, are tempted to overstate their role in ending the Cold War. But still it would be wrong, and dangerous, for Americans to underestimate the part that our country did play in the victory that was won. It would be wrong, because there is still great work to be done.

The Cold War is won, but democracy's victory is far from assured. It could be dangerous, for the world is still full of perils and of nations that could easily drift toward violence.

If this work is left half-finished, then we, our children, and multitudes abroad who now stand at the threshold of a new life, will suffer a crushing disappointment, and live in a more dangerous world.

One of the reasons that I'm running for president is that I believe Americans must help see that this work continues. We cannot turn away now and rest on our laurels. Our national interests oblige us to join in building a just, enduring and ever-more democratic peace in the world.

This is not the first time that our nation, victorious in a foreign struggle, has faced such challenges. In the aftermath of World War I, Woodrow Wilson argued that we had to make the world a safer place, and that it should be made more democratic.

But the isolationists prevailed. And it took the leadership of Franklin Roosevelt, and the sacrifices of the American people in the Second World War to protect the world's democracies from the aggression that followed from our isolationism after World War I.

After World War II, it fell to Harry Truman to shape a postwar world. He led in the creation of the United Nations, and aid to Greece and Turkey; in the Marshall Plan, and the policy of containment. And this time America joined behind a pro-democracy foreign policy.

Throughout the Cold War our nation's leaders carried on this tradition of supporting democracy around the world. From the gates of the Berlin Wall, John Kennedy reaffirmed America's commitment to liberty around the world. Senator Henry Jackson gave strength and hope to those seeking to escape tyranny behind the Iron Curtain. President Jimmy Carter challenged dictators of the left and the right when finally he put human rights on America's and the world's agenda.

But to be fair, Republicans also played a very important part in sustaining a bipartisan pro-democracy policy. From Senator Arthur Vandenberg, who was such a model of putting country ahead of party, that tradition spanned the decades after World War II, from President Eisenhower, who sustained the NATO alliance through some of the darkest days of the Cold War, to President Reagan who spoke out against communist aggression.

A pro-democracy foreign policy is neither liberal nor conservative; neither Democrat nor Republican; it is a deep American tradition.

And this is so for good reason. For no foreign policy can long succeed if it does not reflect the enduring values of the American people. We do not stand behind the cause of democracy simply because of the goodness of our hearts. The fact is, democracy abroad also protects our own concrete economic and security interests here at home.

Democratic countries do not go to war with one another. They don't sponsor terrorism, or threaten one another with weapons of mass destruction.

Precisely because they are more likely to respect civil liberties, property rights, and the rule of law within their own borders, democracies provide the best foundations on which to build international order. Democracies make more reliable partners in diplomacy and trade, and in protecting the global environment, something we must do more of in the years ahead.

It is no accident that in those countries where the environment has been most devastated, human suffering is the most severe; where there is freedom of expression and economic pursuit, there is also determination to use natural resources more wisely.

Our task then is to stand up for democracy as it remakes the world. That challenge will have its costs and its burdens. But it need not divert us from the pressing need for economic, educational and social reconstruction here at home.

Indeed, I have argued repeatedly from the beginning of this campaign that America cannot be strong abroad unless we rebuild our strength here at home.

As Admiral William Crowe, the chairman of the Joint Chiefs of Staff under Presidents Reagan and Bush, said recently, in endorsing my candidacy, the world needs a strong America, but American strength must begin here at home, facing our problems here at home, making progress on those problems here at home.

But we cannot choose between international engagement and domestic reconstruction. They are two sides of the same coin. Our economy is increasingly tied to the global economy. Our access to energy supplies, export markets, new scientific developments, and even our ability to create a healthier planet, all of these things require our active engagement in the world.

And there are still other reasons why we cannot retreat to a fortress America. The collapse of Soviet communism has not only brought new democratic forces onto the world stage, it has also unleashed some darker undercurrents: civil war, ethnic hatred, intolerance, and the spread of dangerous military technologies. There is the risk that the pendulum could swing back against democracy, freedom and the hope for peace in many places in this world.

In the face of these opportunities and these dangers, we must have a President who can conduct both a domestic policy and a foreign policy.

Franklin Roosevelt fought the great depression, when 25 percent of our people were out of work, and in places like my home state, one-half the people were in abject poverty. But he fought the great depression and the rise of fascism at the same time.

Harry Truman carried out the fair deal at home, the GI bill, a new housing program, and economic reconstruction, and at the same time moved to contain communist aggression in Eastern Europe and Korea.

They would have laughed, these presidents, at the idea of conducting foreign affairs in the first term, and then switching to domestic affairs in the second.

In saying this, I do not in any way belittle President Bush's accomplishments abroad, from putting together the international coalition and war effort against Iraq, after Saddam Hussein invaded Kuwait, to his success in getting the Middle East peace talks moving. Indeed, I have supported those efforts.

But no American foreign policy can succeed if it neglects our domestic needs. And no American foreign policy can succeed if it slights our commitment to democracy.

The president often takes a lot of credit for communism's downfall, but fails to recognize that the global democratic revolution actually gave freedom its birth. He simply does not seem at home in the mainstream pro-democracy tradition of American foreign policy. He shows little regard for the idea that we must have a principled and coherent American purpose in international affairs—something he calls "the vision thing."

Instead, President Bush seems too often to prefer a foreign policy that embraces stability at the expense of freedom; a foreign policy built more on personal relationships with foreign leaders than on consideration of how those leaders acquired and maintained their power.

It is almost as if this administration were nostalgic for a world of times past, when foreign policy was the exclusive preserve of a few aristocrats.

This approach to foreign policy is sometimes described as "power politics," to distinguish it from what some contend is sentimentalism and idealism of a pro-democracy foreign policy.

But in a world where freedom, not tyranny, is on the march, the cynical calculus of pure power politics simply does not compute. It is ill-suited to a new era in which ideas and information are broadcast around the globe before ambassadors can read their cables.

Simple reliance on old balance-of-power strategies cannot bring the same practical success as a foreign policy that draws more generously from American democratic experience and ideals, and lights fires in the hearts of millions of freedom-loving people around the world.

Let there be no mistake, this world is still a dangerous place. Military power still matters. And I am committed to maintaining a strong and ready defense. I will use that strength where necessary to defend our vital interests. But power must be accompanied by clear purpose.

Mr. Bush's ambivalence about supporting democracy, his eagerness to defend potentates and dictators, has shown itself time and again. It has been a disservice not only to our democratic values, but also to our national interest. For in the long run, I believe that Mr. Bush's neglect of our democratic ideals abroad could do as much harm as our neglect of our economic needs at home.

Let us look at the record. If reflects an unmistakable pattern in the Bush administration's foreign policy.

Fearing attacks by isolationists in his own party, President Bush was reluctant to offer Boris Yeltsin, Russia's freely-elected president, a helping hand. It took a chorus of complaints, culminating with the prodding of another Republican, Richard Nixon, to move him into action on the Russian aid package.

Just weeks before the attempted coup in Moscow, President Bush travelled to Ukraine. There he lectured a people subjected to genocidal starvation in the Stalin era, warning that their aspirations for independence constituted, and I quote, a suicidal nationalism. A few months later the people of Ukraine voted by a huge margin for the immediate and total dissolution of the Soviet Union.

For over 40 years, the United States refused to recognize Soviet claims to the Baltic nations—Lithuania, Lativa, and Estonia. But when at long last, the moment of Baltic independence came, President Bush suddenly became a reluctant bridegroom.

The United States was 37th among the world's nations to extend diplomatic recognition to these countries. We should have been first.

A year ago last June, Mr. Bush sent his secretary of state to Belgrade, where in the name of stability, he urged the members of the dying Yugoslav federation to resist dissolution. This would have required the peoples of Bosnia, Croatia and Slovenia, to knuckle under to Europe's last communist strongman.

When, instead, these new republics asserted their independence, the emboldened Milosevic regime launched the bloodiest war in Europe in over 40 yeas.

When I argued that the United States, in cooperation with international community efforts, should be prepared to use military force to help the U.S. relief effort in Bosnia, Mr. Bush's spokesman quickly denounced me as reckless. Yet a few days later the administration adopted the very same position.

While the administration goes back and forth, more lives are being lost and the situation grows more desperate by the day.

In the Middle East, I supported the President when it became necessary to evict Saddam Hussein from Kuwait, and I support his decision now to provide air cover to Saddam's Kurdish and Shite opponents in the north and the south of Iraq.

But I am angered by the administration's appeasement of Saddam Hussein before the war, and disappointed by its callous disregard for democratic principles after the war. Just this week another friend of freedom, my running mate, Senator Gore, laid out in precise and devastating detail the errors of this administration in dealing with Saddam Hussein.

President Bush showered government-backed grain credits and high technology on a regime that had used poison gas on its own people. After the war, Mr. Bush encouraged the Iraqi people to revolt against Saddam Hussein but then abandoned them.

The administration has sometimes treated the conflict between Israel and the Arab states as just another quarrel between religions and nations rather than one in which the survival of a democratic ally, Israel, has been at stake.

I support strongly the peace talks that are underway, and if elected, I will continue, without interruption, America's role in them. I also believe that America's policy in the Middle East should be guided by a vision of the region in which Israel and our Arab partners are secure in their peace, and where the practices and principles of personal liberty and governmental accountability are spreading.

For example, I believe we can and must work with others to build a more democratic and more free Lebanon.

This pattern continues in other parts of the world. In South Africa, Republican administrations had to be prodded by a bipartisan coalition in the Congress to abandon their failed policy of constructive engagement, and to impose sanctions on the apartheid regime in Pretoria.

President Bush has been slow to place America's support behind the fledgling democratic movements in other democratic nations, or to distance ourselves from corrupt and dictatorial leaders elsewhere in Africa. We should encourage and nurture the stirrings for democratic reform that are surfacing all across Africa, from the birth of an independent Namibia, to the pressure for democratic reforms in Kenya.

In Central and South America, the democratic revolution has won the first round, but our efforts to strengthen the fragile democracies in this hemisphere are still directed too much toward the central government and the wealthy.

We should do more to support those struggling to establish grassroots democracy in South America and to strengthen the courageous small entrepreneurs who are burdened by corruption and bloated bureaucracy.

We have a particular democratic responsibility in our own hemisphere to help end the cycle of violence in Haiti; to help restore democracy to Peru, even as it struggles to end the murderous violence of the Shining Path. And to help Cuba's repressive regime join its communist cousins, to borrow a phrase, in the dustbin of history.

There is no more striking example of Mr. Bush's indifference toward democracy than this policy toward China. None of us will ever forget the images of the millions of Chinese people demonstrating peacefully for democracy; the solitary young man staring down a tank; or the students raising a model of our Statute of Liberty in Tiananmen Square.

Neither will we ever forget the horror of seeing hundreds of innocent people mowed down for their belief in freedom.

But instead of allying himself with the democratic movement in China, Mr. Bush sent secret emissaries to raise a toast to those who crushed it.

The stakes in China's future are very high—for the course taken by that great nation will help shape the future of Asia and the world. Three years after the Tiananmen Square tragedy, the tremors of change continue to shake China. We do not want China to fall apart, to descend into chaos or go back into isolation. But rather, we want to use our relationship and influence to work with the Chinese for a peaceful transition to democracy and the spread of free markets.

Today, however, we must ask ourselves, what has the president's China policy really achieved? The Chinese leadership still sells missiles and nuclear technology to Middle Eastern dictators who threaten us and our friends.

They still arrest and hold in prison leaders of the pro-democracy movement. They restrict American access to their markets, while our trade deficit with China will reach $15 billion this year. The Chinese now have the second biggest trade surplus of any nation in the World.

Just a few days ago, President Bush vetoed legislation, passed with bipartisan congressional majorities, that would have placed conditions on Most Favored Nation trade status for China's state-owned enterprises. And just today the Senate failed, by a vote of 59 to 40, to override that veto.

But 59 senators, Republicans and Democrats, believe that we have a right to ask a country that has a $15 billion trade surplus with us not only not to export goods made with prison labor, but to observe basic human rights while building market strength.

I will say again, I do not want to isolate China. There is much to admire in the phenomenal progress that has been made there. But I do believe our nation has a higher purpose than to coddle dictators and to stand aside from the global movement toward democracy.

For the greatest strength that America can count on in today's world is not our personal relationship with foreign leaders. Individual leaders come and go—even in the United States, I hope. It is the powerful appeal of our democratic values and our enduring political institutions for people around the world that make us special.

This does not mean we can embark on reckless crusades, or that we can force every ideal, including the promotion of democracy, on other people.

Our actions must be tempered with prudence and common sense. We know that ballot boxes alone do not solve every world problem, and that some countries and cultures are many steps away from democratic institutions.

We know there may be times when other security needs or economic interests, even in the aftermath of the bipolar Cold War world, will diverge from our commitment to democracy and human rights.

We know we cannot support every group's hopes for self determination. We know that the dissolution of old and repressive empires will often be complex, and contentious.

Moreover, we know there will always be those in the world who pursue their goals through force and violence. But they should know that a Clinton administration will maintain the military strength we need to defend our people, our vital interests, and our values.

They should also know that the danger that we will get carried away with our ideals does not loom large. That has not been our problem in the last four years.

The real danger is that in this time of wrenching, sweeping change, under President Bush, we will cling to tired and outdated notions that do not work, and cannot inspire.

Even within our budgetary constraints, we can contribute a great deal to help democracy take root around the world. But while the new democracies will need financial assistance from the international community, they also need our help in learning how democracy and free institutions work; about freedom's institutions, its culture, its values; and yes, about its problems.

As president, I will reorganize and redirect our foreign assistance programs. I believe we should stress not only sustainable development but also the development of skills, of values, and the institutions of free society. But I do not believe in this difficult time we should spend American foreign aid dollars, as the Bush administration has done, to subsidize American companies to shut down plants in the United States and move them overseas.

I do not believe we should use taxpayer dollars, as this administration has done, to pay for advertisements to entice people to shut down their plants in America, and take advantage of 57-cent-an-hour labor in other countries.

I do not believe we should have one more year in which we spend more federal tax dollars training workers in another region of the world than we train people who lose their jobs here at home. I do not believe that. That not only does not make sense; it is absolutely wrong.

But I will support the establishment of a Democracy Corps, which could provide teams of experienced Americans in local centers throughout the former Soviet Union, to help grassroots leaders overcome bottlenecks to democratic development. We will renew our support for institutions like the bipartisan National Endowment for Democracy, and its partners in business, labor, and political leadership.

We will revive the spirit of the Peace Corps, offering young people the opportunity to take part in the central political experience of their time. We will rely on America's voluntary organizations to help in the development of independent, civic and service sectors in the new democracies.

My administration will work in partnership with business and professional leaders, trade unionists, environmentalists, representatives of state and local government and other skilled practitioners of our own democratic life. We will enlist the untapped skills of the many immigrants and their descendants in cities like Milwaukee, Chicago and Cleveland, who came to our shores to escape oppression and to build America—to help build democracies in the countries from which they came.

One of the most effective things we can do in international affairs is what is called public diplomacy. This covers a multitude of our government's activities such as radio broadcasting that allows us to speak to peoples of foreign lands directly. When Lech Walesa was asked if Radio Free Europe gave birth to the Solidarity movement he said, "Would there be an earth without the sun."

We should build on the success of Radio Free Europe and Radio Liberty and expand our successful surrogate broadcasting by bringing news and information to the despotisms that remain in Asia, in China, in Vietnam, Laos, North Korea and Burma.

The President's opposition to Asian Democracy Radio is further evidence that he still thinks it's more important to talk to dictators than to their oppressed subjects.

Finally, building democracy is not a job for America alone. We will strengthen the United Nations and seek more support from our democratic allies in Europe and Japan in strengthening the world's new democracies. We all have a stake in the democratic revolution.

America's purpose in the world is not simply to be another great power in history. As the flow of resources and information and people's causes and people cause this old world to shrink, we have a particular contribution to make to the march of human progress. I call on us to set an example of how a nation of many peoples can harvest strength from diversity.

It calls on us to give back to a contentious world some of the lessons we have learned during our own democratic voyage. It calls on us, also my fellow Americans, to deal with the increasingly racial and ethnic tensions here at home in a spirit of humility and generosity—reaching out to one another and binding up our own nation's wounds.

For we have learned here in America, and we relearn every day that democracy is not always easy and tidy. We have learned that it is a process of trial and error—that it suffers from all the imperfections known to humankind. But it is also the only system we know that can produce wisdom out of disagreement, and peace out of our warring hours. America's power, prosperity and sense of justice may be providential. But they are not accidental. For those blessings flow from the world's greatest peaceful experiment in making one out of many, our motto, *E Pluribus Unum.*

The force of democracy's magnetism is reflected in the stories still told around holiday dinner tables today. The story of the young couple who abandoned Havana for the promise and safety and opportunity in the United States. The stories sprinkled with Yiddish of the family from Minsk who fled to the land of religious freedom. The story hardly known of forced exodus from Africa, and a slow exodus from slavery and hardship to liberty. The stories still told in Polish of the farmers who left the old country for the rich and limitless land of our own midwest.

In this election, let us join together to ensure that our American epic can offer meaning and guidance to freedom loving people around the world. Let us seize this historic moment to help expand democracy's embrace. And let us act toward the world in a manner worthy of our heritage, our ideals and our name.

Thank you very much.

BURST OF ENERGY

Mr. JOHNSTON. Mr. President, I wish to call to the attention of my colleagues an excellent editorial in the New Republic about the Energy Policy Act of 1992. Under the headline "Burst of Energy" the editors note the bill's provisions for decontrol of electric generation stating:

Society's total cost of electricity should be driven down by competition among generators, while entrepreneurs will be freed to attack the power monopoly with energy-saving new ideas."

The editors also note that:

To the dismay of the left, the energy bill provides for simpler licensing of new nuclear power stations. No new plant will be commissioned in the coming decade. But a decade from now that may change, and by then a new category of reactors, incorporating passive-safety and waste-reducing features, should be ready.

The New Republic concludes that:

The energy bill is the perfect opportunity for liberals to drop their irrational fear of nuclear energy. Power reactors emit no greenhouse gases or other air pollution. Worker fatalities in the nuclear power business have been nearly nonexistent for twenty years. The coal industry, by contrast, reliably kills 200–300 workers annually, mainly in mining accidents. Another consideration: power reactors are the best place in which to destroy the radioactive cores being removed from nuclear warheads by the United States and the old USSR.

I ask unanimous consent that the full text of the editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Republic, Oct. 19, 1992]

BURST OF ENERGY

Some eighteen months ago, when George Bush unveiled his National Energy Strategy, most people were able to restrain their enthusiasm. (See "Waste of Energy" by Gregg Easterbrook, TNR, March 18, 1991.) The proposal was long on favors to oil and coal interests, short on market logic and conservation. But in recent months the energy strategy has mutated into a progressive bill worth passing. Democrats will be tempted to put off a final vote with Congress about to recess, to deny President Bush a domestic policy achievement so close to the election. They should not succumb to the temptation. The bill represents something of a breakthrough.

Gone from the bill are higher mileage standards for cars and oil exploration in Alaska's National Arctic Wildlife Refuge, hand-grenade issues for the right and left respectively. Included now are real energy conservation plans; electric utility deregulation; equalization between mass transit allowances and the tax breaks that subsidize parking; global warming provisions; simplified nuclear licensing; and other advances.

On energy conservation—a central aim of any serious energy strategy—the bill extends to the rest of the country California's energy-efficiency standards for appliances and buildings. Through the 1980s California reduced its net energy consumption even as its numbers of cars and people rose. By adopting this model, national electricity demand will decline, conserving fossil fuels and holding down the world oil price as U.S. economic output expands. The bill also helps utilities promote energy efficiency, and encourages the public commissions that control them to put conservation before new production. And then there are new national water-flow standards for plumbing, which will lower the power needed for pumping, treating, and heating water. (At this writing, conferees had yet to agree on the issue of which plumbing fixtures would be covered. "The Senate will go along with showerheads but is opposed to urinals," one negotiator noted.)

The bill also marks a blow to electric power monopolies. In the future utility deregulation may have greater impact than airline and telephone decontrol combined. Society's total cost for electricity should be driven down by competition among generators, while entrepreneurs will be freed to attack the power monopoly with energy-saving new ideas. Jesse Helms has threatened to filibuster the bill to protect his inefficient home-state Carolina Power & Light—as good an indication as any that the bill is worth passing.

On measures to combat global warming, the bill also represents a milestone. Since the Earth Summit in Rio, many large corporations have been leery of cutting greenhouse emissions voluntarily, fearing they could end up in a worse position if mandatory controls come later. Their later cuts would come from a smaller base, in the same way that a law to end obesity by requiring everyone to lose twenty pounds would be harder on the slender than the well-padded. The bill removes this excuse by allowing corporation to register current output of greenhouse gases and, in the event of mandatory controls, receive credits for voluntary cuts. This measure could allow the United States to meet Rio's first-round greenhouse goals more quickly than first thought—and with scant dislocation.

To the dismay of the left, the energy bill provides for simpler licensing of new nuclear power stations. No new plant will be commissioned in the coming decade, if only because conservation investments are currently much less expensive than reactor construction. But a decade from now that may change, and by then a new category of reactors, incorporating passing-safety and waste-reducing features, should be ready. (See "Safe Nuclear Power" by Lawrence M. Lidsky, TNR, December 28, 1987.) It is in everyone's interest to let them be licensed in a rational manner, if only to replace old, coal-fired power stations.

The energy bill is the perfect opportunity for liberals to drop their irrational fear of nuclear energy. Power reactors emit no greenhouse gases or other air pollution. Worker fatalities in the nuclear power business have been nearly nonexistent for twenty years. The coal industry, by contrast, reliably kills 200–300 workers annually, mainly in mining accidents. Another consideration: power reactors are the best place in which to destroy the radioactive cores being removed from nuclear warheads by the United States and the old USSR.

In this year of Capitol Hill embarrassment and White House excuses, the energy bill provides the many departing congressmen and the perhaps departing president a rare chance to enact a law that will create many general benefits at no one's expense. It will be a deep indictment of the system if politics as usual prevents this from happening.

FETAL TISSUE RESEARCH BAN

Mr. ROCKEFELLER. I am extremely disappointed that the Senate will not be able to complete action of S. 2899, the National Institutes of Health Revitalization Amendments of 1992 this year. While it is the clear view of the majority of the Senate that we move forward with this legislation, a few in the minority have thwarted our efforts. For that, I am deeply sorry, and I share the frustration of my colleagues in the Senate, including Senator KENNEDY, who has labored long and hard on this legislation and our majority leader, Senator MITCHELL. I commend the Majority Leader for identifying this issue as a top priority when Congress reconvenes in January.

Mr. President, many of my colleagues are aware of the enormous cost and human tragedy that our families and constituents experience with such chronic conditions as Parkinson's disease, diabetes mellitus and Alzheimer's disease. All too often these illnesses lead to premature death and deprive individuals from realizing their full potential.

But today there is new hope. Scientists tell us that experiments with transplanted fetal tissue may save lives and eliminate pain and suffering. For years, people with these maladies have wished for such medical breakthroughs. What a cruel hoax it is for them when the Bush administration says no to this promising research. Why? We're told that to permit medical experimentation with fetal tissue will encourage women to undergo abortions to provide human material for research. Never mind that a panel of experts recommend to Secretary Sullivan to lift the moratorium on fetal tissue research and reassured him that appropriate safeguards could be established to prevent this possibility.

The NIH Reauthorization Act that the President vetoed several weeks ago included all the safeguards called for by the Commission. It was carefully crafted to address the Administration's concerns. Yet, it was still vetoed. Now the Bush administration tells us that it's all right to use fetal tissue from spontaneous abortions, but not from induced abortions. Never mind that scientists tell us that this tissue will be inadequate, and that the end result will be to abandon such research and to take away hope.

It seems clear that the Bush administration continues to rationalize its actions, when the real reason for the moratorium is opposition to abortion at any time. I am revitalized by the efforts of those individuals in the medical and scientific community who have not given up and who helped craft a compromise proposal that met new concerns raised by the President in his veto message. The compromise calls for the use of fetal tissue from all sources only if insufficient spontaneously aborted fetal tissue was available from the President's NIH tissue bank. And, it includes all of the safeguards for fetal tissue transplantation research from the earlier vetoed bill.

At a time when scientists are on the verge of ameliorating the terrible burden of otherwise incurable diseases, it seems to me that it is a pro-life decision to allow fetal tissue research. I think of our former colleague Mo Udall, who might be here today, had he not been ravaged by Parkinson's disease. I think of STROM THURMOND, who like all parents, wants desperately to find a cure for his daughter's diabetes.

And, I think about the last 7 years, as I have watched my mother transformed from a vivacious, loving woman, into a shell of a confused human being. Nothing I have ever done, or seen, or attempted, has been as sad or frustrating as watching Alzheimer's disease claim my mother's life. In my entire life, I have never felt so helpless and useless.

I am committed to fostering promising, life-saving research. In my mind, it is criminal to discard fetal tissue when it might conceivably provide a cure for so many sick American citizens.

Again, Mr. President, I regret that the Senate will not be able to act on this legislation this year. But I look forward to an opportunity early next year to move forward on this very important legislation.

TRIBUTE TO SENATOR ALAN CRANSTON

Mr. ROCKEFELLER. Mr. President, since 1985, I have had the honor of serving on the Veterans' Affairs Committee under the superb chairmanship of Senator ALAN CRANSTON. I would like to take a moment to pay tribute to our colleague's endless dedication to the veterans of this country, and his extraordinary record of leadership and dedication to our country during his 24 years of public service in the United States Senate.

Senator CRANSTON has been an integral part of the Senate Veterans' Affairs Committee since coming to the Senate in 1969. Throughout this time, he has demonstrated his commitment to those men and women who have risked their lives for the safety and welfare of our Nation.

His vision, that this country uphold its obligation to ensure that the needs of veterans and their families are taken care of, has been the inspiration for much of the legislation that has passed in favor of veterans. He has supported increases in compensation that were necessary for the veterans to keep pace with the cost of living. The Senator has shown his concern for disabled veterans and their families by authoring support programs that provide for more grants, increased allowances, adaptive equipment, rehabilitation, and other such services. Senator CRANSTON'S record on issues related to the employment and education of veterans is unequaled. In 1970, the Veterans' Education and Training Amendments Act was passed, which displayed the Senator's heartfelt concern for Vietnam-era veterans and has been the foundation for other key initiatives.

As a strong advocate of health care reform myself, I applaud Senator CRANSTON'S efforts to improve veterans' health care through affirmative legislation. He has brought national attention to the many needs of VA health care facilities, which has resulted in the improvement of the quality of their staffs, facilities and services. Without the steadfast efforts of Senator CRANSTON, these VA facilities would not be as readily accessible as they are today.

Senator CRANSTON introduced legislation in 1971, which would ultimately lead to the establishment of a VA readjustment counseling program for Vietnam veterans. Never giving up on his vision, the Senator introduced the legislation for four consecutive Congresses before it was passed by the House of Representatives. The VA's Vet Center Program was established in 1979, which helped many veterans returning to civilian life after the Vietnam war cope with such obstacles as post traumatic stress disorder. Since its establishment, the Senator has fought to make this service permanent, enabling the centers to survive proposed cuts by the Reagan administration and extend the eligibility period for veterans. In 1991, Senator CRANSTON authored legislation which allows the veterans of the Persian Gulf war, Panama, Grenada, and Lebanon to take advantage of the services of the vet centers as well.

As a result of Senator CRANSTON'S hard work and dedication, the list of his accomplishments in veterans' affairs is almost endless. He has indeed fulfilled his vision and has provided the veterans of this country with a voice in Congress.

Senator CRANSTON'S commitment and leadership have had a long reach, way beyond the concerns of veterans. He has reached out to help all Americans in one way or another, and his efforts on international affairs have made our world safer and stronger. For nearly a quarter of a century, ALAN CRANSTON has been a true fighter for the less fortunate among our society.

The list of Senator CRANSTON'S achievements are vast—for veterans, his home State of California, our country and the world. From housing policy to education to civil rights, Senator CRANSTON has fought to do the right thing, with energy and passion. His legacy is immense, and I know that his leadership in this Chamber will be missed. Personally, I consider myself fortunate to have had the opportunity to work side-by-side with him over the years. I pledge to do my part in honoring his service by continuing his fight for the people we represent and the ideals we were elected to uphold.

SAVING THE U.S. SPACE LAUNCH INDUSTRY

Mr. ROCKEFELLER. Mr. President, today I want to bring the Senators' attention to recent actions taken by the Bush administration which could jeopardize the U.S. space launch industry—an industry which is essential to our national security and employs 6,000 Americans—and destroy the credibility of important elements of our trade policy.

There should not be any question that the space launch industry embodies critical technology; indeed the entire aeronautics sector is generally put on that list, not to mention the many electronics-related technologies that are key parts of the launch process. The establishment of the U.S. commercial space launch industry was encouraged and fostered by administration and congressional actions over a long period of time.

Beyond its economic and technological importance, it is also an industry with a very special set of economics, characterized by very high costs and very low sales. Launching satellites is expensive, and with less than a dozen launches per year worldwide, it is difficult for individual companies to survive if they cannot do a reasonable number of launches each year and recover their costs on each launch.

Therefore, to maximize its viability, the U.S. launch industry must be able to compete effectively in the international market and not limit itself to domestic launches. But this requires a system of trade rules which must be negotiated and subsequently enforced by the United States Government because of the dumping of launch services that is rampant in this industry, largely by the Chinese and the Russians. Unfortunately, actions of the Bush administration have allowed our trading partners to violate their international obligations and thereby undermine the U.S. industry.

For example, in 1989 China entered into an agreement with the United States regarding international trade in commercial launch services. China, however, has consistently violated its commitment under that agreement to price its launch services on a par with those of Western launch providers, and the administration has just as consistently failed to enforce the agreement. In 1989, China offered to launch, for one-half of Western prices, a communications satellite to be procured by the member countries of the Arab League. Last year the Chinese made similar unfair offers when bidding to launch two satellites for Mexico, and in Indonesia and Korea, the Chinese offered to launch certain satellites for one-third of Western prices.

Earlier this year, 22 Senators, including myself, wrote Secretary of State Baker urging the administration to closely monitor and strictly enforce the Agreement. Mr. President, I ask unanimous consent that the text of that letter be printed in the RECORD at the conclusion of my remarks. It would be nice to think, Mr. President, that the Secretary of State pays some attention to letters from a group of Members of Congress. Unfortunately, that seems not to be the case. Instead, the administration has shown little interest in any enforcement action at all.

In fact, on September 14, the administration approved waivers necessary to grant export licenses for six satellites to China. One of the administration's justifications for this action was that it sends a message to China that its renewed promise to observe proliferation guidelines has yielded concrete results. Yet 4 days later, the Chinese refused to attend a U.N. Security Council meeting on arms control. A sequence of events like this makes a mockery of our credibility in trying to maintain some semblance of control over transfers of missile technology and the dumping of launch services.

We know the Chinese are laughing at us—part of the larger laugh over George Bush's China policy, but in recent weeks the audience has gotten larger. Adding to the difficult situation the U.S. launch industry faces internationally is the fact that member nations of the Commonwealth of Independent States [CIS] are also attempting to enter the space launch market, once again with the unfair advantage of government subsidization.

On June 17, 1992, our long-standing policy of prohibiting export of United States satellites for launch from the former Soviet Union was waived as a one-time exception for the Inmarsat communications organization if it selected Proton for a planned launch. While encouraging economic reform and growth in the emerging Russian democracy is good for us and good for them, I have serious concerns about this recent action by the administration.

First, there are reports that KB Salyut—the Russian bureau responsible for the design and development of the Proton—is also the group providing technology to India in violation of its obligations under the Missile Technology Control Regime. While the State Department found the Indian rocket deal to be an MTCR violation, it has apparently attributed it to a Russian entity other than KB Salyut, despite mounting evidence that it is, in fact, the latter that is responsible.

Second, the administration's repeated willingness to ignore these violations only serves to further injure the U.S. launch industry by impeding its ability to compete internationally. The continuation of dumped launch services that undercut market pricing will seriously disadvantage our companies' ability to compete and survive. If they do not survive, then the U.S. Government will become dependent on foreign launch providers. That very dependence, along with the fact that our actions are helping to keep in business Russian missile production capacity, threaten our national security.

The administration must recognize now that an industry of great importance to our national security and economy is in grave jeopardy. Two actions are needed:

First, the United States should strictly enforce the existing agreement with China.

Second, the administration should seriously examine whether United States trade and foreign policy interests are being adequately protected by its recent failures. Not only are such actions seriously endangering the U.S. launch industry, but, by assisting the

Russian commercial launch industry, the United States is also ensuring that Russia's ballistic missile production and operations establishment will continue to function.

It is past time for the administration to reevaluate its actions and do a better job of balancing U.S. national security and economic interests with our desire to cooperate with international partners and assist developing countries. The free world will not benefit if, in the long run, U.S. national security and economic strength are undermined. I urge the administration to stop using the U.S. launch industry as a pawn and to start recognizing it for what it is—an essential U.S. industry which is vital to U.S. national security and which provides thousands of quality jobs to Americans.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 13, 1992.

Hon. JAMES A. BAKER III,
Secretary, U.S. Department of State, Main State Department Building, Washington, DC.

DEAR MR. SECRETARY: Recently, the U.S. lifted certain sanctions against the People's Republic of China in return for China's written commitment to follow the guidelines established by the Missile Technology Control Regime (MTCR). The sanctions had essentially prohibited the export of U.S. satellites to China for launching from Chinese "Long March" rockets.

Since these sanctions have been lifted, it is extremely important that the Administration closely monitor and strictly enforce the People's Republic of China's compliance with the Memorandum of Agreement (MOA) on Commercial Launch Services.

The U.S. entered into the 1989 U.S.-China Memorandum of Agreement Regarding International Trade in Commercial Launch Services in an attempt to end China's predatory pricing practices. Unfortunately, however, China has consistently violated the MOA.

In 1989, for example, China offered to launch for one-half the then-prevailing Western price a communications satellite to be procured by the member countries of the Arab League. Last year, China made similar below-cost offers when bidding to launch two Mexican satellites. China also offered to launch certain Indonesian satellites for one-third of Western prices. China has reportedly repeated this offer to Korea.

On several occasions, Congress has expressed its concern regarding the failure of China to abide by the MOA and the failure of the U.S. to enforce the agreement. We are gravely concerned that not only is the U.S. space launch industry being significantly harmed by the lack of enforcement of the MOA, but that China is using its commercial launch service to gain foreign aerospace technology that would otherwise be unavailable to it.

Congress has clearly expressed its position on the enforcement of the Commercial Launch Services MOA. The Export Administration Act reauthorization legislation prohibits the export of U.S. satellites to China for launching unless the U.S. Trade Representative can certify that China is in full compliance with the Commercial Launch Services MOA.

We urge the Administration's strict enforcement of the Commercial Launch Services MOA. In addition, we urge you to closely monitor and to enforce, with sanctions if necessary, China's compliance with the MTCR. Finally, we urge you to promptly implement the policy guidance contained in the pending Export Administration Act reauthorization legislation. We appreciate your consideration of this important request.

Sincerely,

ALAN J. DIXON.
PAUL SIMON.
MAX BAUCUS.
EDWARD KENNEDY.
WENDELL FORD.
GEORGE MITCHELL.
JAY ROCKEFELLER.
DENNIS DECONCINI.
RICHARD BRYAN.
QUENTIN BURDICK.
DANIEL INOUYE.
ALFONSE D'AMATO.
JEFF BINGAMAN.
AL GORE.
TIM WIRTH.
FRITZ HOLLINGS.
BROCK ADAMS.
ALAN CRANSTON.
JESSE HELMS.
CLAIBORNE PELL.
DONALD RIEGLE.
CHRIS DODD.

DEDICATION OF HOOD COLLEGE'S NEW LIBRARY

Mr. SARBANES. Mr. President, On September 1, 1992, Hood College in Frederick, MD dedicated the Beneficial-Hodson Library and Information Technology Center, a superb new facility designed to meet the needs of its students well into the next century. On this bright, sunny day, Dr. James E. Billington, Librarian of Congress, gave the principal address; and I was honored to assist Hood's president, Martha E. Church, and her college marshals and trustees in conferring on him the degree of doctor of humane letters. Also honored on this splendid day was Finn M. W. Caspersen, chairman of the Beneficial-Hodson Trust, which played such a key role in funding the construction of the new library and has been a generous benefactor of higher education in Maryland for many years.

Founded in 1893, Hood College is in the forefront of America's small residential liberal arts colleges for women and has earned a well-deserved national reputation for academic excellence. It has been consistently ranked by the annual U.S. News & World Report survey as one of America's best colleges. Hood also plays a central role in the educational and economic life of the Frederick region. The graduate school offers master's degrees in afternoon and evening programs designed for those who work and live in the region. In addition, Hood contributes more than $40 million to the area economy annually, as well as serving as a cultural center for the community, offering drama, concerts, lectures, workshops, and seminars.

Hood's 1,100 undergraduates may choose from among 31 majors in the traditional liberal arts and sciences and other career-oriented study areas. Although most classes are offered on its 50-acre campus in Frederick, Hood also has an academic center in Montgomery County. Hood's program for adult learners, based on streamlined admissions, pre-enrollment advising, credit for life experience, and special support services, is now recognized as a national model. Classes are small—averaging 15–18 students—and are taught by outstanding faculty. Hood has one of the most advanced intern placement programs in the country and encourages students to take internships at one of many sites throughout the U.S. and abroad.

In 1975, Dr. Martha Church was selected as the first woman president of Hood, and has been chosen by her peers as one of the 100 most effective college presidents in the United States. In her years at the college, she has concentrated on improving its academic reputation by upgrading the curriculum, stressing faculty development, and instituting an honors program. She has also recognized that the future of the school demands a comprehensive plan for its physical plant, especially the building of a modern, state-of-the-art library. She and her dedicated and able board of trustees, chaired by Lois Harrison, set out to achieve this in an imaginative and determined manner. In addition to the Beneficial-Hodson Trust, the library was funded by private donations and the State of Maryland.

Located near the main entrance to the college, the library is designed in an architectural style compatible with that of the existing campus. It is a beautiful building, admirably suited to its purpose. Benjamin Forgey, the well-respected architecture critic of the Washington Post praised it by saying,

> * * * this is a good building in the right place. To Settle in it for an afternoon's work would be a privilege. Its principal spaces are commodious and handsomely fitted out. * * * places to study are inventively varied and are pushed toward the natural light of the exterior walls.

The library is designed to house 200,000 volumes and 1,000 periodicals. One of its most notable, functional, and beautiful feature is the lobby with its cherry wood trim, custom-made tables, and a call desk offering easy access to the library's extensive collections. The building is also adapted to the needs of the modern electronic information systems so important to today's library systems. Hood's new Beneficial-Hodson Library and Information Technology Center gives students, alumnae, faculty, staff, and community members access to collections all over the world and is a model for small colleges as they prepare for the 21st century. The career center, thanks to recent gifts, has obtained state-of-the-art computer equipment and software that will give students and alumnae the same job market advantages offered at far larger colleges and universities.

Hood College is now beginning the celebration of its 100th anniversary. The centennial kickoff included the library dedication and other academic and social activities. Alumnae across the country are hosting centennial events in 60 cities, and the celebration will culminate in Frederick in September 1993.

The dedication of this library fulfills the commitment of Martha Church, Finn Caspersen, the other donors, the trustees, faculty, staff, and alumnae to provide Hood one of the best library facilities of its size in the country. Dr. Billington, in his address, spoke of the changing nature of library science and the fundamental importance of education and an informed population to maintaining democracy in a complex age. He described the importance of our Nation's libraries by saying,

> You are celebrating today not just a building but an idea—a wonderful, deeply American idea—that people want and need knowledge; that the pursuit of truth is the highest form of Jefferson's pursuit of happiness * * *

I congratulate all those involved in making this splendid building a reality. I would like to share with all my colleagues in the Senate Dr. Billington's eloquent address dedicating Hood College's Beneficial-Hodson Library and ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY JAMES H. BILLINGTON, HOOD COLLEGE LIBRARY DEDICATION, SEPTEMBER 11, 1992

Thank you, President Church, Mrs. Harrison, Mr. Caspersen, and distinguished guests. It really is a pleasure and honor to think of joining the company of honorary degree recipients from this fine institution, the company populated by people as wonderful as your benefactor Mr. Caspersen and others whom I see from Washington, like the mighty Kay Shouse, down in the front row, that wonderful first lady of culture in our city who I know is a friend of this college as well.

It is a further honor to be here today with Senator Sarbanes who is surely one of the most faithfully supportive and deeply appreciative friends of libraries and of learning in the Congress. He is, moreover, one of the most skilled and honorable practitioners of that most difficult and democratic of all the verbal arts—genuine dialogue on matters of real substance. He is a man of strong views and deep convictions who is one of the fairest and most ecumenically probing lawmakers in congressional hearings and in questioning foreign leaders that I have ever heard or appeared before. It's always a challenging experience to appear before him in a hearing. The enquiring scholarly spirit surely has rarely had a better friend or more skilled practitioner in the public arena than your senator. And it is a pleasure to be in Frederick, the home of one of the Library of Congress' most essential and most admired figures, my strong right arm, Janet Chase, and with many alumnae of this wonderful institution such as Sandra Newing, who also happens to be the wife of our director of communications at the Library.

So, it is, in all kinds of respects, a pleasure. But of course, we are here today to not so much to talk about individuals as to celebrate this lively centennial of Hood College, the dedication of its new library and information technology center, an event that lifts the spirits of anyone concerned about libraries, about the promise of quality of American education, about the health of our knowledge-based democracy and, indeed, about hope for our economic productivity in a harshly competitive new world.

Hood's commitment-supported by the State of Maryland, the Beneficial Hodson Trust, and other private donors—to the centrality of a library to learning will hearten educators and librarians far beyond the boundaries of this lovely country in this state. Because you are celebrating here today not just a building but an idea—a wonderful, deeply American idea—that people want and need knowledge; that the pursuit of truth is the highest form of Jefferson's pursuit of happiness; and that wherever the old presume to teach the young, it is important to have a place that is central to the community in which the vast world of information out there intersects with the defined human community of learning right here. That special, even magical, kind of a place where those worlds intersect is what you have built and what we are celebrating here today.

I want to say something today about both the world of information out there and the community of learning here. I am pleased that the two main contributions the Library of Congress will make to the celebrations later this afternoon will illustrate each of these two aspects of the library of tomorrow which you have built and are dedicating today.

The Library of Congress' American Memory project, which will be demonstrated here this afternoon, is today's vehicle for electronically sharing with the nation the primary documents of America's many yesterday's in a form that everyone everywhere will be able to use tomorrow. LC's John Cole will participate in your seminars this afternoon. He is the director of one the Library's smallest yet most important units, the Center for the Book, a human-scale, low-tech unit in which we celebrate and perpetuate the culture of the book in collaboration with 100 other national organizations and 26 state centers for the book throughout the country.

Now that big world of information out there is frightening, sometimes overwhelming—it is essentially now a rapidly growing electronic network of increasingly instantaneously available raw material for the inquiring mind. Much is mere data—continuously changing, becoming outmoded as soon as it is frozen in hard copy. Some of it has undergone the minimal ordering by the human mind which makes data into information that can be printed out on sheets of paper. Some of it has been further processed and refined beyond that by the critical human intellect into knowledge that can be packaged into coherent units—some of it even into that old-fashioned unit we call a book. but, in principle, the emerging electronic world of information exists no place in particular and is becoming available everywhere in general.

That is what makes the community of learning that you have here so terribly important. It is only in human communities that all of this can be reduced into manageable human dimensions and converted into creative human uses. Humanism and democracy were created by the culture of the book. Humanism and democracy, to be sustainable on a continental scale and to be competitive in the global market place, must have the dynamism that comes from constant renewal through an ever-expanding base of knowledge. Humanism and democracy, if they are to flourish and perhaps even survive in a multicultural context, must have both some shared common values and, at the same time a tolerance for variety and difference. And that is precisely what the openly accessible American library represents. My predecessor Archibald MacLeish described librarians as the sentinels of liberty, and we might describe the libraries that librarians tend to as temples of pluralism, if you like. Because in a library and variety of opinions sit next to each other on shelves—as you add new books, you don't burn the old ones, just as when you add new immigrants, you don't destroy the values and the ideals of the old ones. America is a country which adds without subtracting, and that's what a library does. And yet it shares the certain common values of all those who enter in and partake of its life. The value of the pursuit of truth keeps us from the pursuit of one another and is the only kind of pursuit, in the arena of the mind and spirit, where the horizons can remain infinite for our cherished ideal of freedom in a time of increasing physical constraints.

The ultimate human payoff of all this accumulated information and knowledge especially occurs in and around libraries where the human qualities of wisdom and creativity are fostered and promoted. Remember Santayana's great quote, "It is not wisdom to be only wise, but it is wisdom to believe the heart, act well your part, there all the honor lies. * * *" Wisdom is a quality, a cohering human quality, and has practical consequences. It is the practical wisdom of judgment, knowledge that is convertible into a definable human uses in a wise and humane way. And this is a quality that develops in people who grow up with books around them and who cultivate the active mind and expand their range of knowledge and perception. And then there is creativity, that special gift that comes to a few to make the leaps of perception imagination that bring things together rather than just take them apart, that result in the creative leaps forward that make new possibilities for the human adventure.

What we see here today, it seems to me, is an excellent model for small colleges entering the Age of Information across the country—a place of human scale for turning information and knowledge into wisdom and creativity for real people in a concrete place. Students can use the new technology to find books in a remarkably inviting, reader-friendly building. Faculty and students can hook up to the Colorado Alliance of Research Libraries, including the University of Maryland system, for journal indexes and bibliographic data. They can order materials from other libraries. The Hood library will get involved in computer imaging technology. As time goes on, it will be connected to more and more sources of information, including perhaps, even the unique collections of the Library of Congress.

The Hood library is more than a high-tech model for small college libraries. In its services to the local community, in its hospitality to diversity, in its practical yet progressive approach to education, Hood College is a community of learning and its library is a kind of base camp for the broader horizons of learning that will have to come with the 21st Century. As distances shrink and human abrasions tend to heighten in the increasingly overpopulated, interconnected world as we are already seeing in surprising and disturbing ways in places like Yugoslavia, libraries and educators, to keep the indispensable democratic values of their enterprise going, will have to depend in the future on more cooperation, more networking, more joint public-private ventures, more openness to cultural diversity, more ingenious uses of technology to organize, share, preserve, and disseminate knowledge and information.

It will have to involve more of us in the enterprise; not just professional scholars are going to have to be involved in more ways with the common unifying and ennobling task to which libraries, like colleges, are dedicated: the pursuit of truth, the unifying adventure in which all benefit from the discoveries of each in which there is not really competition but mutual benefit from one another's discoveries.

What are we doing at the Library of Congress as we near our 200th birthday, with almost 100 million items in our collections? Much of what we are doing, alone and with others, should benefit Hood's library and the entire library and educational community in the 21st Century.

Some efforts are simply new variations on old themes. We are developing new technology to do what we have done since 1902—producing and distributing most of the book cataloging for the nation's libraries, a very practical service that saves America's libraries about $370 million a year—considerably more than the Library of Congress' annual appropriation. Once we printed and distributed the paper catalog cards; for 20 years now we have been producing and distributing the same kind of information on electronic tapes and CD-ROM disks. Now we are working on ways to make our great cumulative bibliographic data base available electronically on-line to libraries and other institutions—possibly via the National Research and Education Network, which is now being developed with Federal support as a successor to Internet, the nation's "electronic highway" of the future.

None of this is uncomplicated. But new technology offers the Library of Congress and the country an unprecedented opportunity to make available to Americans everywhere the unique collections of its national library—accumulated, of course, through the copyright deposit, the official record of the American creative spirit. An unprecedented opportunity to make these collections available everywhere, not just in Washington, going beyond making simple references to the books, to the text and the content themselves. Moving beyond people who live in the nation's capital or can afford to visit it to scholars, teachers, public officials, industry researchers, students, and other citizens with any kind of curiosity in all the 50 states and eventually the whole world.

We are a uniquely wide window to the world, since well over two-thirds of our books and materials are in foreign languages. The Library of Congress is almost certainly the largest Spanish and Arabic as well as English-language library in the world and has the largest collections of Slavic, Germanic, Chinese, Japanese, and Korean materials outside of those countries themselves. All this constitutes an international resource for scientists, economists, policymakers, and others in our own country, and it should be made widely available.

Right now, we have a number of optical disk imaging projects at various stages of development. In addition to books and periodicals, the Library's collections encompass many formats: maps, motion pictures, prints and photographs, recorded sound, and computer software. Once these materials are scanned, they will, like printed materials, become part of an evolving, national, digital library.

One of our leading initial projects is American Memory, which digitizes selected collections of the Library's vast holdings of American historical and cultural publications and artifacts—Mathew Brady's famous photographs of the Civil War, turn-of-the-century movies of New York City, sound recordings of President Warren Harding and General John J. Pershing, scores of documents from the Founding Fathers' Constitutional Convention of 1789, hundreds of African-American political pamphlets published after the Civil War, thousands of interviews with ordinary Americans conducted during the Great Depression. Now being tested at 44 colleges, schools, and libraries throughout the country, this program has generated an enthusiastic response. You will see a demonstration here today. We continue to search for more ways to make unique and rare Library of Congress materials which have only been available to the public, using such new technologies.

We recently used the Internet, as well as commercial services, to disseminate an electronic version of a major Library of Congress exhibition of documents from the formerly highly secret archives of the former Soviet Union. Our plans include having electronic versions in future exhibitions as part of our outreach to the library and scholarly communities.

The Library of Congress has been working with the private as well as public sector. In December 1991, we established a privately-supported National Demonstration Laboratory at the Library of Congress that is open to the public and provides access to all the newest technologies in the field of education.

We have recently undertaken an experiment with a private corporation involving the digitization and high-speed transmission of multimedia materials from the Library's collections that will connect us during the next year via fiber optic networks, to approximately ten sites around the country—primarily state, municipal, and university libraries. During three two-week periods, we will transmit high-resolution images, text, sound, and full-motion video to these sites.

I've almost completed this little inventory, in case you were wondering if I'm conducting a Washington filibuster here, but since you pay your taxes, you're entitled to some report on what we're doing with it all.

The Library's science and technology information initiative is beginning network-based activities. An electronic bulletin board is being established on Internet to support a possible National Engineering Information Service as a joint project of the Library of Congress and the Association of Research Libraries.We are participating in a NASA-sponsored project to put the full contents of five recent years of three major astronomical journals on Internet for use by astronomers, providing document delivery through our existing Photoduplication Service. And we are considering putting an updated version of our existing National Referral Center Masterfile on Internet as the prototype of an expanded network-based Automated Referral Center system.

The overall goal of this acronymic avalanche that I just confronted you with is to make the Library's resources more useful, more accessible, more productive—to the country as a whole and to individuals with special needs. Our traditional free core services to the public and to the nation's libraries—cataloging, general reference, exhibits, inter-library loan—will continue and expand as we become more efficient through new technology. We have also asked Congress for authority to charge cost-recovery fees to lawyers, publishers, business enterprises, and others for "customized" services which go beyond what the taxpayer can or should support. These "customized" services include translations, rapid document retrieval and transmission, certain database searches, special research, and, in some cases, electronic access to the complex collections. The idea, again, is to provide the "extra" service not provided by the private sector, but to provide it without adding cost to the taxpayer.

We have lots of company in this endeavor; more than 400 libraries in America, without much attention from the library press or anyone else since nobody ever writes much about what libraries do, were offering such fee-based services last year, including the New York Public Library and several state university libraries. Such service makes sense: not everyone in America needs to have 72-hour translations and copies of the latest Japanese technical papers on space exploration from the Library of Congress. But the space researcher in Houston who does need such fast customized service ought to be able to get it at cost—in the national interest. Otherwise, some of our unique assets go unused.

But our main goal overall is to deliver our unique collections by electronic means to libraries in schools, colleges, cities, and towns to reinforce the local communities of learning where wisdom and creativity are generated—not to further the individual home entertainment center. We want to be a benevolent wholesaler to enrich and reinforce local libraries. Because local libraries like this in real communities with solid constituencies are the most efficient retailers of information to students, teachers, and the public. They are open to all Americans. And libraries will be the best venues for the kinds of materials that, in the next twenty years, probably will be most useful via electronic dissemination: technical material of all kinds, from legal cases to census statistics; scholarly journals from around the world; manuscripts.

We see all these materials from the Library of Congress, organized and cataloged in various ways for quick search and retrieval, as enormously useful to librarians at schools and colleges in particular. When the computer center is in the library, as it should be and as it is here at Hood, it is close to books. This helps in the all-important business of driving people back into books for further elaboration, further answers, further creative speculations on the things that are raised by electronic means but cannot really be answered by this constant overflow of electronic information. The computer center is close to the world of books in which the active mind is the central driving force rather than the passive emotions which is what television essentially feeds.

The materials, especially visual materials, available on the computer screen, should act as a spur to the student's curiosity, a spur to look further and more broadly, to conduct a personal voyage of discovery in books. That is our goal in American Memory, and as we digitize more of our collections, we hope to provide both teachers and librarians with well-organized materials, available on-line, that can both buttress local libraries and serve as a stimulus to the minds of the Americans who use them.

So we see the library of the 21st Century as growing out of what we see here today at Hood College—linked very more directly by technology to the resources of other libraries, including the Library of Congress, able to supply a concrete local community with access to a whole world of information and knowledge and, at the same time, be a source of inspiration for lifelong learning through reading and discussion of what one has read.

One of our greatest problems in this country is not only illiteracy but what my predecessor called "aliteracy," that is, people who can read but don't, whose minds have gone brain dead, who were perhaps force fed in college with too much reading which they couldn't digest and who made a firm, yet unstated, resolution at graduation never to read another book. One of the most alarming statistics is the decline of reading among retired people. Those are the same people who once said, "I have no time to read now but when I retire, I will."

At Hood, as elsewhere, books will remain, even as the new technology advances. They are simply too user-friendly to disappear. And the new technology makes the librarian more important, not less. In an age of increased access to a growing flood of data and ocean of information, the librarian will serve her or his constituents as a knowledge navigator. She must answer the old questions: How? Where? Which: What? Why? Who? (How do I find this? Where do I go for that? Which is a really good book? What is useful? Why is this important?) The librarian will have to know more because there will be more possible connections, more possible answers and hopefully, if democracy is to survive, and active citizenry with more people asking more questions.

So my belief is that, in the 21st Century, the library in the school, in the college, in the government agency, in the private research sector, in the town and the city has enormous potential for helping the United States move forward.

Information technology, properly organized and supported, can greatly reduce the wide disparities among local schools and colleges across America in access to knowledge even as, on a different level, it boosts productivity and creativity among widely dispersed scientists and scholars. No less important, the new technology can make accessible through libraries and smart librarians a vast range of up-to-date information to local businessmen, public officials, and ordinary citizens far from the great research universities or the think-tanks of Washington. Much of this information will be free; some will require payment to recover only the costs of distribution; some will require full cost-recovery, including royalties paid to publishers and authors. Some specialized frequent users will bypass the local library entirely, going instead to data banks or NREN.

But the library, properly staffed and equipped, and that is the great glory of what you have done here at Hood College, will remain central to the Information Age, no matter how glitzy the new technology becomes. The technology is a means to an end, only part of the transmission that leads data into information into knowledge flowering into wisdom and creativity, the twin peaks that lie at the top. Wisdom is an extension of common sense, expended by experience, deepened by reflection. Creativity is that mysterious process of breakthrough that brings inspiration out of perspiration. Both wisdom and creativity are most likely to happen to people who do hard word in and around libraries.

So it is especially fitting that, along with its high-tech local area network of computers and its eMail, Hood placed the new library at the center of its campus, and its computer center in the library, not parked off somewhere else, far from the books. President Church, the trustees, the donors, and all the people who made this day possible knew that the library, both symbolically and as a practical matter, remains central to the operation of this fine college. Indeed, in its commitment to the library, Hood reminds us of the great universities that developed in the late 18th and 19th Centuries, first in Germany, that really transformed the use of knowledge in the modern world by building around the library and laboratory rather than the lecture hall. The idea was to introduce the student directly to the sources of knowledge, to bring him into contact with the books, going beyond passively taking lecture notes to actively pursuing study and exploration. This spread to the United States as the University of Berlin became the model for many of the American state universities that came into being under the 1862 Morrill Act. Indeed, these state universities were to develop some of the strongest library collections in the land, even as they opened up higher education to more people than ever before in the world's history.

So, in effect, Hood, like the Library of Congress, is betting on the positive evolution of electronic information technology. During the past three decades, in its powerful popular video manifestations, this technology seems to have worked against reading, against learning, against active curiosity in the young; at the very least, television's daily clamor took up more hours on average than we spent in the classroom or in any other activity, except possibly, sleep. Television was the family's babysitter but the teacher's rival and the librarian's enemy, one more agent of mediocrity, relentless stirring and soothing the emotions of an increasingly passive viewer. A pessimist might say, today, surveying the scene, that this seductive technology has contributed heavily to the not-so-benign neglect of the cultural institutions left to us with so much hope by our forbears. Market research indicates that despite the vast costly expansion of higher education, sizeable numbers of nominally well-educated Americans today have deserted the possibilities of the book. Too often our public officials, our prominent educators, our media moguls have sought not to counter this shift but to accommodate themselves to it. Such abdication has been no service to either the citizenry or to the country's future. But I do see changes in the air, particularly on this beautiful day and in this creative place. It reinforces my basic optimism that the new technology, properly organized and supported, can bring more knowledge to more Americans in more places than man ever dreamed before * * * advancing the health of our democracy and our competitive efforts in science, business, and the professions. Properly used to re-enforce libraries and schools, with the guidance of teachers and librarians, it can draw the new generation to exciting prospects for learning and exploration through reading that can compete with the flashes of sex, violence, and sheer noise of the emerging MTV culture. And it can greatly enrich the already popular concept of lifetime learning among adults.

So we praise this library, we honor the people working in and around it. They are not just gatekeepers but they are something else. This came to me when I attended a conference in the Midwest not long ago and was using the term "gatekeeper" to describe the librarians in small, rural communities of the Great Plains areas in Central Nebraska. And afterwards somebody got up in the back of the room. He was one of the Native Americans on one of the Indian reservations and he said, "You know, these librarians are not just gatekeepers, they are heirs to a tradition we had long before the settlers arrived where someone old in the community was the repository for an oral culture and he kept it alive and transmitted it to the young. We did not call them gatekeepers. We called them "dreamkeepers." So I think that is to a large extent what the librarians, those who are the custodians of the legacies of the past, stored and preserved and transmitted to the next generation, will be.

We must keep alive then the dream of understanding, the pursuit of truth, the dream of America that whatever the problems of today, tomorrow can still be better than yesterday even if we don't always succeed or don't always answer the question. One of my favorite quotes was a quote out of the failure of one of the most ambitious attempts at international understanding ever undertaken—the great Jesuit mission to China at the dawn of the modern era. And when the Jesuits left China in the early 18th Century after the most scholarly and most nearly successful effort in history to build a bridge between that most ancient of Eastern cultures and the Christian West, they left behind as their last legacy to that effort a haunting epitaph, "Abi viator congratulari mor tuis condoli vives ora pro omnibu mirali tace." "Go now voyager, move on, congratulate the dead, console the living, pray for everyone, wonder and be silent." Wonder and silence are easier for readers than for TV viewers, for adventurers than spectators, dreamkeepers than for imagemakers.

So, may the adventure of learning and discovery go on from this base camp you've created here for the millennium to come. May knowledge slowly ripen into wisdom, secure in the knowledge that a better life will come in America, not just from more data and a modem, but from a better understanding of one another that comes from books. May your appreciation grow of the values of the book, here in this wonderful place, which favors active minds over spectator passivity, putting things together rather than just taking them apart. For whatever the confusion of our own minds and the profusion of our information in that big world out there, things can still come together in a book—just as the left and right halves of the brain come together in one human mind, and the hemispheres—East and West, North and South—in a single planet.

DELUGE OF TEXTILE IMPORTS

Mr. HELMS. Mr. President, on May 6, I paid my sincere respects to the Honorable Carol Hallett, U.S. Commissioner of Customs, a remarkable lady who had earlier promised to me that she would investigate the deluge of textile imports flowing into the United States from Communist China.

We had discussed in detail the widely held suspicion that the Chinese were

willfully violating the tariff and quota laws that forbid such trade practices.

Commissioner Hallett came to my office last year to discuss my serious concern about the unlawful flood of textiles coming into the United States from Communist China. I recall her concluding remark: "Senator, I give you my word. We are going to get to the bottom of this."

Mr. President, on May 6, she called to report that indictments for fraud were being filed against Chinese companies and their American subsidiaries. At the time, I speculated that the Chinese Government was an apparently willing and knowing accomplice to substantial fraudulent activity, to which various lobbyists and others said, "Oh that couldn't be true; the Chinese Government couldn't be involved in such fraud."

Well, Mr. President, today I received another call, informing me that charges were being filed this afternoon in Federal Court in New York against the Chinese Government agency.

The U.S. attorney explained today that a major Chinese governmental entity was indicted for fraud. The Chinese entity in question is called China National Textile Import and Export Corp., which is a quasi governmental agency that is in charge of all imports and exports of textile and apparel goods.

These latest indictments strongly indicate that the Chinese Government is in fact involved in a scheme to evade United States laws and to avoid paying millions of dollars in duties on textiles and clothing imported into the United States.

Mr. President, this reinforces my long-held conclusion that the Communist Chinese will lie and cheat and use every underhanded trick in the book to defraud the United States. But this time, they got caught.

Mr. President, the Red Chinese activity exposed today defrauded the U.S. Government of tens of millions of dollars. More importantly, it destroyed thousands of American jobs. Industry experts estimate that as many as 500,000 United States jobs may have been lost.

The Red Chinese double-dealing operated in two parts: One part of the operation involved in the misclassification of textile imports so as to evade United States quota laws, thereby allowing more Chinese textile and apparel imports to flood our market.

The second part of the scheme involves a deliberate understanding of the value of the textiles, again defrauding the United States of tens of millions of dollars. This is no doubt just the tip of the iceberg.

Mr. President, again I commend the Customs Service and Commissioner Hallett. As I stated at the outset, I have been working with her for quite awhile. It is certainly encouraging that the Customs Service has pursued Chinese perpetrators so relentlessly.

YOUTH DEVELOPMENT PROGRAM

Mr. HARKIN. Mr. President, On September 20, Jane Quinn, the project director of the Carnegie Council on Adolescent Development, delivered the key-note address at the University of Northern Iowa's National Youth Leadership Symposium. In her remarks she outlined the findings of a 2 year study conducted by the Carnegie Council on Adolescent Development and the Carnegie Task Force on Youth Development and Community Programs.

In the course of this study, which was an effort to compile data on America's youth organizations, the researchers at Carnegie found that although there are many organizations providing positive experiences for today's young people, there are several problem areas that need to be addressed. In particular, the study points to a lack of sufficient and stable financial support; a marked disparity in both number and quality of programs between low and higher income neighborhoods; the failure of many programs to gauge the true composition of the population they serve, or provide appropriate assistance and activities that will aid them in retaining the interest of their members; the failure of many organizations to effectively compete with gangs; and the lack of adequate financial and statistical accounting which would help membership organizations measure their effectiveness. The study, as Ms. Quinn indicated, however, addresses these deficiencies, and makes sound recommendations on the way to overcome such problems.

It has become increasingly apparent in recent years, as Ms. Quinn pointed out in her speech to the Symposium, that it is time to move beyond rhetoric. As our children more and more become grim statistics instead of productive adults, we must reach further for answers. The Carnegie Council's findings, and its recommendations for improving our Nation's youth organizations, are an important step.

Ms. Quinn, and all of those at the Carnegie Council on Adolescent Development who contributed to this study, should be congratulated on their fine work. I therefore ask, Mr. President, that the text of Ms. Quinn's speech be inserted in the RECORD.

There being no objection, the lecture was ordered to be printed in the RECORD, as follows:

YOUTH DEVELOPMENT AND COMMUNITY PROGRAMS: STRATEGIES FOR APPLYING WHAT WE KNOW

(By Jane Quinn, Carnegie Council on Adolescent Development)

I. INTRODUCTION

It is really a great pleasure to have this opportunity to talk with you tonight. For starters, this is the first time that I have been asked to give a NAMED address—and so I thank Mr. McElroy as well as our more immediate hosts at the University of Northern Iowa's Youth and Human Service Administration Program. Second, this annual Youth Leadership Symposium—and in fact all of the work of the Institute for Youth Leaders—have a critical role to play in a society that tends to undervalue both *youth* and *leadership*. The prestigious National Commission on Children has urged our society to move "beyond rhetoric"—beyond the rhetoric that says children and youth are our most valuable resource, and then allows more than 20 percent of them to live in poverty; beyond the rhetoric that says children and youth are a precious investment, and then undercapitalizes all of its social institutions that are supposed to develop that investment.

Given these realities that face our nation on the eve of the 21st century, it is a special pleasure and privilege to be among people who are personally and professionally willing to invest in children and youth—who moved beyond rhetoric by *living* the commitment to young people on a daily basis.

The theme of this symposium is "Building Practice on Knowledge," and I have been asked to talk with you this evening about one aspect of this challenge—Youth Development and Community Programs: Strategies for Applying What We Know. In my presentation, I will be reporting to you—for the first time in a public forum—the findings of a two-year national study conducted by the Carnegie Council on Adolescent Development and its Task Force on Youth Development and Community Programs. This study has attempted to bring together information about contemporary American youth organizations—broadly defined—with a view toward strengthening community-based programs and services for young people. A particular focus of our work, because it is a particular focus of the Carnegie Council on Adolescent Development, has been young adolescents—young people between the ages of roughly 10 and 15. But much of what we have learned—and of what I will be discussing tonight—applies to both younger and older children and youth. The Carnegie Council study, to be published in early December, is entitled *A Matter of Time: Risk and Opportunity in the Non-School Hours*. The title is intended to call attention to the fact that some 40 percent of the hours available to our nation's youth are discretionary, meaning that they are not already committed to such activities as attending school, doing homework, assisting with household errands and chores, or working for pay.

II. THE STUDY ITSELF

One of the most amazing parts of directing a study that is sponsored by a private foundation is that you don't have to write a grants proposal. Having spent the previous ten years raising money for youth organization programs, I greeted this news with some enthusiasm, as you can imagine. But I quickly found out that designing such a study is very much like writing a proposal—you have to define the scope of the problem you are going to address, determine the possible alternative approaches, and select the ones that seem most reasonable. I make this comparison between fundraising and action research by way of telling you there were many decisions facing Carnegie staff and our Task Force on Youth Development and Community Programs as we started our work together.

The first major decision was how we were going to define the universe of organizations to be examined. We initially determined that we wanted to focus on youth development and primary prevention, rather than on remediation and treatment of problems; second, we decided to take as inclusive an approach as possible, and that meant taking a look at local as well as national groups, religious as well as secular, public as well as private institutions. After some deliberation, we decided to include the following five sectors of community programs for young adolescents:

(1) Private, nonprofit, national organizations that serve youth (including organizations that are primarily or exclusively youth-serving in their focus—such as Boy Scouts, Camp Fire, Boys and Girls Clubs—as well as multi-service organizations, such as the YMCA and YWCA, that offer substantial service to youth);

(2) Grassroots youth-development organizations not affiliated with any national structure;

(3) Religious youth organizations;

(4) Youth programs run by privately sponsored adult service clubs, sports organizations, senior citizens groups, and museums; and

(5) Youth programs run by selected public sector institutions, including libraries and parks and recreation departments.

Since most of you in this audience are youth work professionals in one capacity or another, you have some idea of the immensity of this undertaking. According to the National Center for Charitable Statistics, an arm of Independent Sector, there are 17,000 youth development organizations in America, and that does not include many of the religious groups (which are counted in a different category for their purposes), sports programs, municipal services, or the youth programs sponsored by adult service clubs, senior citizens groups or museums. How then were we going to wrap our arms—or, more accurately, our brains—around this huge universe?

We decided to follow the dictate of Jane Addams, who advised social workers to keep "one foot in the library and one foot in the street." We knew that a literature search would quite naturally be a part of our study; but we also knew that, by itself, a literature review would constitute an inadequate data-gathering mechanism in a field like youth development, where knowledge is based as much on experience as on research. So we attempted to combine the best of both worlds—the practice world and the research world—by employing nine different methods in our study design;

(1) We started by convening the 27-member Task Force mentioned earlier, to guide and oversee the project. This group is composed of national policymakers, researchers, youth organization executives, local and national funders, and other civic leaders. At least one member of the Task Force, Judith Erickson, is here tonight. The Task Force met six times during the course of the research phase, participated in research interviews and planning subcommittees, and in many rounds of reviews of its final report;

(2) Next, we conducted focus groups with young people in the age range that was of interest to us (young adolescents). In all, we conducted 16 groups that were then separated by race, gender, and age. We talked with these young people about how they spend their non-school time, about activity preferences during the non-school hours, about the characteristics they do and don't like in adult leaders, and about how they would design an ideal youth center.

(3) We *did* conduct an extensive literature review, combing through research and practice literature, both published and unpublished. This literature has been described as having two primary characteristics—"fugitive" and "untamed." The fugitive part is that much of the best, most useful literature is unpublished and difficult to obtain; the untamed part is that relevant information exists in many different social science disciplines and that this information remains largely unsynthesized. As we conducted our review, we were interested in building both the theoretical and empirical cases that youth development programs can and do make a difference in the lives of young people.

(4) We commissioned 13 papers, researched and written by specialists in various aspects of youth development, on topics ranging from adolescent time use to the funding of American youth organizations to cross-national perspectives on youth development.

(5) Members of the Task Force and I interviewed scores of youth leaders, including the board presidents and executive directors of the 20 major national youth organizations. Other key informants were local youth work practitioners—including direct service workers, agency administrators, and volunteers.

(6) A major challenge in this study was how to learn anything coherent and systematic about the hundreds of independent, grassroots youth development organizations that exist in cities and towns across America. We decided to conduct a national survey of these groups, using the Independent Sector data base as a means to identify them.

(7) We consulted with other national experts, bringing some of them in to meet with the Task Force. For example, Francis Ianni met with the Task Force early in its deliberations and reported on his 13-year investigation of adolescent development in ten American communities—research that is reported in his wonderful book, The Search for Structure. Lisle Carter of United Way of America made a presentation on that organization's new 20-year initiative directed toward children-at-risk, called the Mobilization for America's Children.

(8) Staff and commissioned paper authors visited programs and communities, in an effort to learn at the ground level about exemplary program practices and about models for comprehensive community-wide planning of youth services.

(9) Finally, we held two consultations—one-day meetings with practitioners and researchers—to discuss the urgent and important issues of program evaluation and professional development of youth workers. In both cases, we were seeking to establish a consensus about the current state of the art and about recommendations for improving those states. Both of these consultations have resulted in written reports that are available free from the Carnegie Council.

III. FINDINGS FROM THE CARNEGIE STUDY

So that is what we did. Now let me tell you what we learned. In synthesizing the results of its various analyses of the universe of America's youth organizations, the Task Force saw 10 clear themes emerge:

Many strengths characterize the existing array of community-based youth development programs. These strengths include tradition, durability, commitment, credibility, diversity, widespread support, and an extensive current reach;

Yet many youth programs are not responding as fully as they might to the needs and wants of young adolescents, and are thus failing to attract young people after the age of 12 or 13—even to such potentially attractive offerings as sports;

In particular, youth programs are failing to reach out to young people in low-income environments, to solicit their views, to listen to them, and to act on their suggestions for appealing, accessible activities;

Programs do not adequately address the needs of young adolescents, especially those in low-income neighborhoods, for earned income and initial paid employment experience;

In general, programs do not adequately acknowledge the role of young gangs in addressing young adolescents' needs (for safety, status, meaningful roles, a sense of belonging, a sense of competence) and they do not actively compete with gangs for youth membership;

Intensity levels of many programs are far below what it takes to be effective in helping young adolescents to mature in a healthy manner;

Financial support for youth programs is grossly inadequate to current needs and is, in the eyes of many fund-raising experts, likely to become even worse. As libraries, parks and recreation departments, and other public sector institutions increasingly compete for private dollars, and as both public and private agencies cope with deepening government cutbacks, support for youth-oriented programs will doubtless become more difficult to generate;

Recruiting, training, and retaining mature, dedicated, top-quality adult leaders—both paid and volunteer—is a constant challenge to youth organizations;

Many organizations that offer programs for youth know little about the characteristics of the youth they serve, and therefore find it difficult to plan effective outreach strategies; and

Few organizations conduct regular and systematic evaluations of their program.

IV. RECOMMENDATIONS FOR CHANGE—APPLYING WHAT WE KNOW

Let me take each of these themes, as we do in our report, and make recommendations for change, being careful to apply what we know from research and experience to future practice.

Theme #1: Building on current strengths

As we examine the vast universe of American youth organizations, let us acknowledge and celebrate the fact that the glass is definitely at least half full. The extensive and impressive reach of these services is documented in several places—probably nowhere better than the 1988 National Education Longitudinal Study, which found 71 percent of their nationally-representative sample of eighth graders to be involved in at least one type of organized, out-of-school activity. I would like to see this number approach 100 percent in future national surveys—because I believe that all young people can benefit from participation in well-planned youth development programs. It might interest you to learn that some other developed countries do articulate this type of universal participation or "attachment" as a national goal. As we look to the future, let's make sure that we build on the other current strengths—a broad base of committed adult leadership, both paid and unpaid; widespread financial and other support, both private and public; and permanence and durability that allow for meaningful strategic planning.

Theme #2: Responding to the needs and wants of young people

Most current youth development programs are planned, led, run, and controlled by adults. This strategy works much better with five-year-olds than with fifteen-year-olds, who want and need a bigger piece of the action. Regardless of which sub-sector in the broad universe we were examining at any particular point in our study, we found that participation tends to drop off at about age 12. This is true among sports organizations and religious youth groups, as well as among the well-known national youth agencies. Yet young people—in our own focus groups and other surveys—consistently report that they want places to go, things to do, people to care about them. Our research found a clear developmental mismatch between the practices of many youth organizations and the needs of young adolescents.

Let me provide a few examples. While teenagers frequently voice their need for help in understanding and exploring such topics as human sexuality and violence prevention, many youth organizations avoid or water down discussions on these and other issues that might be deemed as controversial by adult leaders, donors, or board members. While adolescents need to develop an array of complex life skills, some programs are of insufficient frequency and duration to allow for the acquisition of such skills through practice and repetition, while other programs rely on didactic teaching methods that also do not allow for needed practice. And while adolescents want to be and feel useful, many youth agencies provide insufficient opportunities for young people to participate in organizational decisionmaking, to determine the goals and methods of programs, and to make meaningful contributions throughout the organization.

The voluntary nature of youth agencies suggests that young people should have a great deal of autonomy in structuring and selecting activities in which they will participate. And when they are not granted such autonomy, many youth people "vote with their feet."

Theme #3: Reaching out to young people in low-income areas

The positive news cited earlier in the data from the 1988 National Education Longitudinal Study was coupled with some rather definitive and disheartening information about the disparity in access to out-of-school programs on the basis of income. While only 17 percent of eighth graders from upper-income families reported no current participation in organized out-of-school activities, fully 40 percent of low-income youth reported no such involvement. Because parents and adolescents in low-income neighborhoods express a desire for increased services, the likely explanation for differences in program participation levels is access (including cost) and availability. Confirmation of this explanation can be found in other studies. For example, a recent national child care survey reported sharp differences by socioeconomic levels in school-age children's enrollment in structured after-school activities. Parents from higher-income group relied on lessons, clubs, sports, and similar enrichment activities to supplement other child care arrangements to a much greater extent than did lower-income parents. And a comparison of services for 11- to 14-year-old adolescents in the inner city and a nearby suburb of Chicago showed wide differences in available resources for young people. The suburb had nearly three times more non-religious organizations and three times more activities per 1,000 youth, and it offered a range of programs that include arts activities, classes, clubs, or groups, sports, and social or civic events. Inner-city neighborhood programs focussed more on personal support and tutoring. Increasing the access of young people living in low-income areas to supportive community programs will require individual and collective action at both the local and national levels. Community programs for youth should view themselves as actors in a network of services, and these networks should engage in systematic planning and coordinated decision-making. Youth and community needs, rather than organizational concerns, should remain at the center of these efforts from their inception. An expanded and realigned set of services should build on the strengths of current programs and organizations; but all actors in the network should anticipate that ongoing adaptation and change will be required.

Theme #4: Addressing economic and employment issues

Young adolescents consistently name economic and employment issues as a priority for them, yet few organizations respond overtly to these concerns. Approximately 20 percent of 14- and 15-year-olds work for pay outside the home, often in jobs that are routine, boring, and devoid of positive interaction with adults. Some youth organizations offer young people a "career path" that includes voluntary service within the organization or club to learn and practice basic skills, with movement to junior counselor or leadership roles (usually with a stipend of some sort), and then progressing toward paid employment on a part-time basis. Similarly, some of the libraries participating in the San Francisco Bay Area Youth-At-Risk Program responded to a youth needs assessment by providing paid employment for young people, particularly in low-income neighborhoods. In addition to offering paid employment when possible, youth organizations should capitalize on the interest of young people in the world of work by providing career awareness, pre-employment training, jobs skills training, and internship programs on an ongoing basis.

Theme #5: Responding pro-actively to competition from youth gangs

American society has witnessed several waves of youth gangs throughout its history, and much is known about their formation, organization, and functioning. Recent research on gang involvement indicates that early adolescence represents the critical decision period for initial gang activity, with most involvement beginning between ages 13 and 16, and some as early as age 8. Youth gangs address many of young adolescents' developmental needs, including safety, status, meaningful roles, income, and a sense of competence and belonging. One researcher, James Diego Vigil, has correlated the rise of youth gangs in Los Angeles over the past 15 years with the dismantling of social programs available to youth. He notes, for example, that the city of Los Angeles sponsored 130 inner-city Teen Posts in the late 1970's and that only five such centers remain in the 1990's. Youth development programs can—and in some cases do—actively compete with gangs for the time, attention, energy, and commitment of young people. But in order to do so, these pro-social programs must offer meaningful alternatives to gang involvement. One promising initiative, sponsored by Youth Development, Inc., in Albuquerque, New Mexico is the Gang Prevention and Intervention Program. This effort is not directed toward disbanding youth gangs, but toward preventing initial gang involvement among younger teens and providing constructive, non-violent activities for current gang members. A structured seven-week program for gang members includes involving them in community service, teaching non-violent conflict resolution skills, visiting adult corrections facilities, obtaining employment and legal assistance, and counseling with family members.

Theme #6: Matching program intensity with program goals

To be responsive to the needs of today's young people, many community programs will need to increase the level of their involvement and make their services more intense in both frequency and duration. Evidence is growing that, to be effective, community-based interventions—particularly those designed to serve young people from less advantaged backgrounds—must be intensive and sustained. This does not mean that every program or service needs to be comprehensive and intensive, but rather that young people should have access to an array of services that meet these criteria. The frequency and duration of any particular program's activities should be adequate relative to its own goals and objectives and to the needs of the young people it serves. If a program is building-based, the facility that houses the program should be open long hours, at times that are convenient for young people. Effective community programs should actively seek ways to intensify their contact with young people—for example, by providing camping or retreat experiences, particularly when youth have more discretionary time (weekends and summer).

Theme #7: Increasing and stabilizing the funding bases of youth organizations

One of the most striking features of America's youth development organizations is the precariousness of their funding. Although a few organizations enjoy regular annual surpluses and substantial assets, most depend heavily on outside funding, over which they have little control. Because of this dependence on others, community programs for youth cannot stabilize their funding bases by themselves. Specific actions they can take are: diversify their funding sources; make best use of existing resources; continually work to develop innovative and stable sources of core support for their organizations (comparable to sales campaigns for Girl Scout cookies, which provide an average of 60 percent of the core support for the work of local Girl Scout Councils); work collectively with other youth organizations to increase the stability and total level of support for the sector's work, through action directed toward both traditional sources and innovative new mechanisms—for example, a Children's Investment Trust that would earmark public funds for youth services or a semi-postal stamp that would allow individuals to make voluntary contributions to youth programs each time they purchased stamps through the U.S. Postal Service.

Furthermore, youth organizations should view themselves as having an interdependent relationship with funders, which means educating funders about their real needs and responding to funders' requests for greater accountability and responsiveness to community needs. For their part, youth organization funders can help to stabilize and expand their base of support for youth development work in a variety of specific ways. Local United Ways, community foundations, national foundations, businesses, individual donors, and government at all levels need to work together to address the three major current problems with youth organization funding: the inadequacy of the overall level of support; the tendency to support remediation, treatment and control rather than youth development and primary prevention; and the tendency to funding categorically, by problem area, rather than comprehensively.

Theme #8: Investing in adult leadership

At a conference of youth leaders, this part of my talk may be preaching to the converted. You can probably guess what I am going to tell you: that across all sub-sectors of the vast universe of community programs studied by the Task Force, the quality of adult leadership was consistently named as both vitally important and inadequately addressed. Youth-serving agencies, religious youth groups, sports programs, parks and recreation services, and libraries all report that the adults who work with young people in their systems, whether serving on a paid or pro-bono basis, are the most critical factor in whether a program succeeds. Why then do they frequently not receive adequate training, ongoing support and supervision, or public recognition? Training and supervision problems are reported to be the result largely of resource constraints, although they may also be tied to the widely held views that work with youth is neither highly valued nor particularly difficult.

The importance of adult leadership in program delivery is well documented in the research literature, and the qualities that contribute to program success in these empirical studies are strikingly similar to the qualities that adolescents say they value in leaders of community programs. These qualities include: competence in group processes; ability to act as a guide and facilitator, as opposed to seeking a dominant authority role; respect for adolescents, and ability to empower them to make good decisions and to encourage freedom of choice and individual self-determination. In addition to these skills, adolescents want leaders who are kind, nurturing, consistent, trustworthy, and genuinely interested in young people. They want leaders who know how to create a welcoming and supportive atmosphere in the organization or program, and who do not single out, exclude, or embarrass individual young people. Youth of color want assurances that leaders will not discriminate against them, and many immigrant and refugee youth want bilingual leaders who can speak with them in their own language as well as help them learn English.

Improving the quality of adult leadership involves matters of pre- and in-service training, recruitment and retention, and paid and unpaid staff at all levels. An immediate first step is for community programs to expand greatly the availability of appropriate training and other forms of staff development for all adults who work directly with young people whether on a paid or volunteer basis. Program administrators should begin by assessing the effectiveness of existing training models to identify what works for whom and why. They should then promote a range of successful models that include one-on-one coaching, mentoring, and supervision in addition to experience-based workshops and courses.

Theme #9: Achieving greater accountability through more systematic documentation of services

Again, across the many sub-sectors of youth development services that we examined, the Task Force was dismayed to find that many programs and organizations do not collect even basic information about the youth they are currently serving. Many national organizations do not know the age, gender, racial, ethnic, or economic backgrounds of their current service populations. In fact, of the 20 national organizations that we interviewed and examined in depth, nine have no data on the ages of current participants, seven keep no statistics according to gender, five had no information on the racial or ethnic background of members, and fewer still had reliable data on family income levels. Such a situation makes it extremely difficult for these groups to assess their current reach and to conduct strategic planning activities. Local youth organizations are more likely to have at least some of this data, in part because United Way and other local funders have come to require it. In several of the other sub-sectors we examined, even the basic head-count type of documentation was missing. For example, many religious youth groups and adult service clubs had little or no idea of how many young people were reached by their services.

It goes without saying that much could be done—quickly and inexpensively—to rectify this problem. Ideally, all youth organizations would keep basic, accurate, regular, and consistent information about service demographics. Such a system would allow individual organizations to conduct more effective planning, and would also enable groups of agencies to plan collaboratively around outreach to underserved groups of youth.

Theme #10: Specifying program outcomes and measuring progress toward their achievement

A problem that plagues the field of youth development is the poor overall state of program evaluation. Many youth development programs have unclear, unspecific, or global (and therefore unmeasurable) goals and objectives, and more still have no reliable basis for claiming that their services are effective. This problem confronts individual agencies as they seek funding and it hampers collective efforts to advocate for expansion of services.

Program developers should seek clarity and realism when defining outcomes of their efforts. As much as possible, these outcomes should focus on the end point of positive youth development rather than solely on preventing problem behaviors such as substance abuse, delinquency, and adolescent pregnancy. The outcomes should be stated in terms of behavioral functioning in the real world, and the indicators associated with each outcome should also be identified.

Once clear program outcomes are established, evaluation measures can be developed to assess whether the program is effective in reaching its own goals. Some type of assessment mechanism should be built into every community program for youth. The level of the assessment or evaluation should match the needs of the sponsoring organization and the state of the program's evolution. For example, a new program should be subject to process evaluation that is directed toward program improvement, while a more mature program that has shown promising initial results should undergo outcome evaluation to determine objectively whether the program is producing its intended effects. In a world of scarce resources, the best candidates for rigorous outcome evaluations are those programs that are carefully designed and implemented, that have shown promising results, and that seem amenable to large-scale replication. Because of the many challenges in conducting appropriate evaluations in the real-world setting of the youth organization, many agencies have found it useful to work with evaluation experts from other institutions, including universities and nonprofit technical assistance organizations. In effective collaborations, outside evaluators see themselves as equal partners with youth agency personnel in designing and implementing program assessments, and young people are active participants in the evaluation process.

V. CONCLUSION

In conclusion, I would like to return to a point I made at the beginning of my talk, and that is the way our society undervalues leadership. We will not be able to address the issues I have raised tonight without effective youth leaders, because the world is complex, and so are the problems facing young people and the systems that we have already constructed to support and guide them. In his book entitled "On Leadership", John Gardner notes that "history will judge its leaders on—among other things—how well they understand the traditional framework of values, and on how they renew the tradition by adapting it to contemporary dilemmas." This notion of the role of leadership might be useful to us as we begin the third annual Youth Leadership Symposium—an effort that, according to the preview brochure, "focuses on solving practical problems and addressing current issues." I look forward to being part of the deliberations over the next two days and to working with all of you on the challenge of building practice on knowledge.

TRIBUTE TO PFC DONALD L. SELLMAN

Mr. JOHNSTON. Mr. President, I would like to take just a few minutes to pay tribute to Pfc. Donald L. Sellman, who retired from the U.S. Capitol Police on September 26. Officer Sellman, known as "Tex" to his many friends on Capitol Hill, retired on September 26, after 21 years of dedicated service.

During his tenure with the police force here in the Senate, Officer Sellman on numerous occasions was called upon to provide security for Energy and Natural Resources Committee hearings and business meetings. He always carried out his duties with the utmost professionalism. Tex had the special ability for keeping order while at the same time maintaining a friendly and cheerful demeanor.

Prior to his service with the U.S. Capitol Police, Officer Sellman spent 23 years with the U.S. Army where he was awarded numerous medals and honors, including the Silver Star and the Bronze Star with three oak leaf clusters.

Officer Sellman has given over 40 years of devoted service to our Nation. On behalf of the committee members and staff, I would like to congratulate Officer Sellman on an outstanding career and thank him for his excellent service to the committee. May he enjoy to the fullest a well-deserved retirement.

WILLIAM F. DEGAN, JR., OF MASSACHUSETTS—A LAW ENFORCEMENT HERO

Mr. KENNEDY. Mr. President, in August, Massachusetts and America lost a genuine law enforcement hero when Inspector William F. Degan, Jr., of the United States Marshals Service was killed in the line of duty in Idaho. Mr. Degan was part of a team of Federal marshals who were conducting surveillance of the home of an ultra-right-wing extremist and fugitive, when he was killed by gunfire from the home.

A resident of North Quincy, MA, Bill Degan served as an officer in the Marines before joining the Marshals Service. He spent much of his career in Massachusetts, where he served brilliantly, and was involved in the apprehension of many dangerous criminals. Mr. Degan earned the Attorney General's Distinguished Service Award and the Marshals Service Director's Award for his outstanding performance as Commander of a Special Operations Task Force sent in to restore order in St. Croix following the devastation caused by hurricane Hugo. As a Lieutenant Colonel in the Marine Reserves, he served with distinction in the Persian Gulf in Operations Desert Shield and Desert Storm.

As a tribute to Mr. Degan's valor and the sacrifice that he has made for his country, the Marshals Service has named its facility at Camp Beauregard in Pineville, LA, as the Inspector William F. Degan, Jr., Special Operations Tactical Training Facility.

I extend my deepest sympathy to Mr. Degan's wife, Karen, and to their two sons, William and Brian. Their husband and father made the ultimate sacrifice for his country, and all of us share their sense of loss at his untimely passing.

THE START TREATY

Mr. WARNER. Mr. President, last week, the Senate voted to give its consent to ratification of the historic Strategic Arms Reduction Treaty [START I] by a vote of 93 to 6. One of the most important reasons for the Senate's overwhelming support of the START Treaty was the fact that, throughout the negotiating process, our negotiators set their standards high and negotiated with tenacity. The vital contributions to these negotiations of one true statesman, a former colleague, must never be forgotten. I am speaking of my good friend, the late Senator John Tower.

John Tower played an instrumental role in the great national debate over the never-ratified SALT II Treaty. That debate helped mold a national consensus that the United States needed to restore its defenses so that we might deal with our adversaries from a position of strength. As chairman of the Senate Armed Services Committee, John Tower presided over the rebuilding of America's national defenses. But he did more.

In 1985, when the new Strategic Arms Negotiations began in Geneva, John Tower accepted the request of President Ronald Reagan to serve as chief U.S. negotiator. He was given the task of getting the talks back on track leading in a direction the United States wanted to go. He did that job magnificently.

John Tower used the skills that he had fine-tuned in the Senate to conduct negotiations with his Soviet counterparts. He was always a gentleman, but always pressed to explain to and persuade the other side of the merits of the American approach.

We should not be surprised that the final START Treaty bears such a close relationship to the positions that John Tower presented in Geneva. The basic structure of the agreement was shaped then. I remember vividly John Tower's efforts to ensure that the emerging START Treaty took account of the important differences between stabilizing, slow-flying bombers on the one hand, and fast-flying, potentially first-strike, ballistic missiles on the other hand. In particular, he stressed the dangers posed by large MIRVed land-based missiles which present the greatest threat to the strategic deterrent of the United States.

He persistence paid off, as we see today. While the START Treaty does not fulfill every one of the goals he had set, the Treaty does place tight limitations on fast-flying ballistic missiles and particularly, reduces by half the number of heavy, land-based, MIRVed SS–18 missiles. Always a strong supporter of America's allies, he forcefully rejected Soviet efforts to include British and French forces in the negotiations. He broke the back of this demand and set the stage for the basic outline of the agreement. He made clear that the United States could not accept a treaty that was not effectively verifiable, and he pressed hard for the necessary on-site inspections and openness. Indeed, after leaving Geneva, he sponsored the highly acclaimed verification conference held annually at Southern Methodist University in Dallas, Texas.

During the time John Tower was in Geneva, he was visited by members of the Senate Arms Control Observer Group and a number of his other former colleagues. He understood the importance of congressional support for the ongoing negotiations if we were to have a START Treaty that would be ratified. He worked hard to ensure that members of the Senate understood the goals of the United States in the negotiations and the strategy for getting there. More important, however, he understood that the Treaty would be judged on its merits, that substance mattered, and that the details of provisions negotiated were often every bit as important as the basic concept of limitations.

We have lost John Tower, but we will live more securely because of his legacy. He understood that arms control is an integral part of our foreign policy and national security strategy. He understood that agreements for agreements' sake was a dangerous psychology. He recognized that if we negotiated from strength, we could create opportunities to enhance our security. In short, he knew how to think about strategy and he knew how to implement it.

Now that the Senate has approved ratification of the START I Treaty, it is only appropriate that we take a moment to remember that John Tower, the Senator, was also John Tower, the negotiator.

CONGRATULATIONS TO CENTRAL CITY CONCERN

Mr. HATFIELD. Mr. President, I would like to take a moment to congratulate the people of Central City Concern in Portland, OR, who recently received the Interagency Council on the Homeless' Award for Excellence in Community Service. Central City Concern was honored by the Interagency Council, Secretary Jack Kemp, and Secretary Louis Sullivan for their highly successful programs which have had a tremendous record of ending the cycle of homelessness.

Central City Concern currently owns, manages, or has under development 1,061 housing units in 12 buildings, making them the largest nonprofit housing agency in the Pacific Northwest. Their combination of housing and chemical dependency treatment services in Portland's urban core area is unique nationally, and allows for a meaningful and permanent impact on the lives of thousands of Oregonians each year.

The Downtown Housing and Preservation Partnership, with a membership including the Portland Development Commission, the Chamber of Commerce, the Housing Authority of Portland and Central City Concern, has been able to develop the first undertaking of its kind in the Nation. This project, which brings together chemical dependency resources with a housing facility called the Sally McCracken Building, is managed by Central City. It offers an opportunity for people who have worked to address their addictions, and are trying to end their cycle of alcoholism, drug abuse, and homelessness, to pursue their lives as clean and sober. Many of these people have formerly been written off as being hopeless members of their community; however, with the hard work and dedication of the people at Central City, 85 percent of these tenants have been able to end their cycle of despair.

For the short period of time that this project has been in existence, 21 people have been able to go forward with their lives successfully. In fact, the two major reasons people leave the Sally McCracken project is because: First, they have been able to regain custody of their children or second, they have been able to secure full-time employment and are able to afford private market rental rates.

Central City has 190 employees, 140 of which are formerly homeless, typically recovering alcoholics or drug abusers. Many of these individuals have advanced to positions of responsibility and show not only to their colleagues, but also to their clients, that they too can become productive members of their community. They all bring their talents, abilities, and experiences to help those who have been unable to help themselves. The people of Central City Concern have given the ultimate gift through their effort—they have renewed self-esteem in each and every life they have touched.

REGARDING THE BRADY BILL

Mr. HARKIN. Mr. President, once again, Republican Members of this body have acted to stop the Brady bill from being considered and enacted into law. I have long supported this legislation. Despite being passed in both bodies, this legislation will not become law, due to the intransigence of those who would prefer to advance the interests of the NRA over the interests of the overwhelming majority of Americans.

The Brady bill is a simple, commonsense measure to keep guns out of the hands of criminals. It is ludicrous for us to have a statutory prohibition on felons owning or buying handguns, but no effective mechanism to enforce it. The Brady bill would provide for criminal background checks, and also help update criminal records to make those checks more effective.

In my State of Iowa, a criminal background check system is already in place that would comply with the Brady bill. Iowans wait 3 days before they are able to purchase a gun. It hasn't been a tremendous inconvenience to gun purchasers. This bill would not require any change in Iowa's gun laws. But this bill is important to the people of Iowa nonetheless. The problem is that guns purchased in jurisdictions with lax gun laws are brought across State lines and get into the criminal gun pipeline.

Contrary to the often repeated claims of Brady bill opponents, it is not true that "they'll just get their guns somewhere else." Nobody thinks that the Brady bill will prevent guns from being used in crime, or ensure that guns will never get into the wrong hands. But isn't it reasonable to try to make it more difficult to obtain guns? Criminals aren't brain surgeons or rocket scientists. As the distinguished chairman of the Judiciary Committee pointed out, of the first 1,063 in his State of Delaware to apply for a permit under that State's waiting period, 10 percent—106—were ineligible to buy guns. That's 106 convicted felons who would be armed now, if it wasn't for a criminal background check. The question we must ask is whether the Brady bill will save lives, and I think it is undeniable that it would.

Unfortunately, as in so many other instances, George Bush is giving lip service to supporting the Mitchell-Dole compromise Brady bill, but he and many of the Republicans in this body have stopped its consideration. Just last night, on "Larry King Live," he said "Dole and Mitchell have a bill on that * * * one that I support." But if President Bush really wanted to enact this bill, it would be enacted. I hope and believe that next year, the President of the United States will fight for the interests of the people, rather than those of the NRA. I look forward to taking quick action on this legislation when the 103d Congress convenes.

INDIAN TECHNICAL AMENDMENTS

Mr. STEVENS. Mr. President, yesterday the House passed by suspension the Indian technical amendments bill passed by the Senate a few days earlier. One of the Senate amendments approved by the House authorizes the Bureau of Indian Affairs to reenroll Yvonne LeCornu and her son Andres Manual Salazar into Shaan-Seet Corp. This will rectify a clerical error made by the Bureau when it accidently dropped the family from the official rolls in the early 1970's.

The amendment will enable the LeCornu family to receive, after years of waiting, all the benefits of membership in Shaan-Seet, Inc. after the effective date. Past distributions made by the corporation will not be affected and will not be paid to the LeCornus. Likewise, the land distributions under the Alaska Native Claims Settlement Act will not be altered.

The bill will grant Yvonne and her son full status as village corporation settlement common stock shareholders in Shaan Seet with the same rights as they would have had if they had been enrolled during the original enrollment period. It is not intended that they have any rights beyond those of ordinary shareholders Shaan Seet.

The legislation is not intended to affect any prior distributions to the shareholders or to require any readjustments of cash allocations between Sealaska Corp. and/or Shaan Seet. Similarly, past distributions made by Sealaska and/or Shaan Seet to the LeCornus shall not be affected. This act will not give rise to any claim between Shaan Seet and Sealaska based upon such prior distributions. It is expected that Sealaska will cancel the existing class C at large stock held by Yvonne and her son and reissue class A village stock in its place.

The amendment simply corrects an administrative error, and I am grateful to Congressman GEORGE MILLER, the chairman of the House Interior Committee and Congressman DON YOUNG, the ranking member for their support of this provision and for approving it in such an expedited manner.

NIH REVITALIZATION

Mr. PACKWOOD. Mr. President, I rise today in support of S. 2899, the National Institutes of Health [NIH] Revitalization Amendments of 1992.

I would like to speak to the section of the bill that deals with fetal tissue transplantation research, especially as it affects our senior citizens.

The American Medical Association has stated that fetal tissue transplantation research is morally acceptable and a promising area of clinical investigation.

Fetal tissue research has already given the world vaccines against polio and German measles.

Breakthroughs in medical research should not be compromised because of politics, Mr. President. And, that is just what is happening to this legislation that would ensure progress in research for diseases such as Alzheimers and Parkinsons, which together afflict over 5.5 million of our elderly population.

Scientists are very encouraged about a breakthrough in the understanding and treatment of Alzheimers, for instance, but this can only occur if they are able to conduct research in fetal tissue transplantation.

Alzheimers affects one in every three American families, one in three—what a terrible burden on so many.

Because Alzheimers is so closely linked with age, demographic changes alone means that by the middle of the 21st century, 14 million Americans, 1 in every 2 persons over the age of 85, will have Alzheimers.

Science is the only place we can turn to for clues and eventual answers to this heartbreaking disease.

The first results of fetal tissue transplantation also offer great hope to the 1.5 million Americans who suffer from Parkinson's disease. Every day of their lives, these people have to cope with this progressively debilitating disease for which there is no cure.

The NIH legislation has the support of the Alliance for Aging Research, the Alzheimers Association, the Parkinson's Disease Foundation, and the Parkinson's action network, along with many other national groups.

The American Geriatric Society, made up of 6,000 physicians and other health professionals dedicated to meeting the special needs of the elderly patient, also supports fetal tissue transplantation research.

The American Jewish Congress says that the present Government moratorium stopping fetal tissue research ignores the suffering of millions of Americans who endure these diseases.

The National Arthritis Foundation, and organization dedicated to improving the quality of life for the 37 million Americans with arthritis, supports fetal tissue research that will lead to the achievement of this goal.

The American Cancer Society has also stated that several areas or research directly related to the cancer problem have benefited from the use of human fetal tissue.

The elderly, as the grandparents and great-grandparents of the children who are the future of our country, should also know that the Juvenile Diabetes Foundation International supports the research because it may hold the answer to a cure for diabetes.

And, the March of Dimes supports fetal tissue research because it has the potential to ensure the birth of many more health babies.

Also, many antiabortion Members of Congress also support fetal tissue transplantation research, saying that the research protocol ensures adequate safeguards for fetal tissue collection.

It will be a sad day for our senior citizens, Mr. President, if we cannot pass this bill out of the Congress.

While we can return another day to address the entire NIH reauthorization bill, by not passing this bill now, we are saying to our suffering elderly, you have no hope to cling to, we are very sorry, but don't expect a better quality of life because Congress won't allow us to move forward with this vital research.

Well, Mr. President, this Senator has a very, very hard time with this message.

I strongly urge my colleagues to pass this legislation and get on with helping our elderly to live out their years without the needless pain of these diseases. I thank the Chair.

ENVIRONMENTAL ASPECTS OF NAFTA

Mr. CHAFEE. Mr. President, nearly 3 weeks ago, the Senate Finance Committee held a hearing focusing on the environmental aspects of the North American Free-Trade Agreement [NAFTA].

I found the testimony presented at this hearing to be timely and informative. I believe it is important that Members of the Senate, who ultimately must give their approval to implementing legislation, be aware of the expert comments—both pro and con—on the green aspects of the NAFTA.

Toward that end, I am placing in the RECORD a statement released last Wednesday by the National Wildlife Federation, one of the environmental organizations that testified at the September 16 hearing. I hope my colleagues find it useful in the coming months as they study the environmental provisions of the agreement text.

[Press release from the National Wildlife Federation]

ENVIRONMENTAL PROVISIONS OF FREE TRADE AGREEMENT WIN SUPPORT OF NATIONAL WILDLIFE FEDERATION

WASHINGTON, D.C.—Following closely on the heels of a pledge from North American Free Trade Agreement (NAFTA) governments to create a commission on the environment, the National Wildlife Federation (NWF) announced its support today for the NAFTA's environmental provisions.

"We are satisfied that substantial progress has been made towards establishing protection of the environment as a cornerstone of NAFTA," said NWF President Jay D. Hair. "We believe the North American Commission on the Environment is essential to assure that the NAFTA's environmental provisions will be implemented effectively."

The U.S. government's support for NWF's specific recommendations for the Commission was confirmed in a letter sent to Hair yesterday from U.S. Trade Representative Carla A. Hills.

In its announcement, the largest conservation organization in the United States made clear that its support extends only to the agreement's environmental provisions and should not be misinterpreted as a green light for the whole of NAFTA. Further, NWF urged the next Congress to carefully consider the evolution of the environmental commission as details are negotiated, the language crafted for legislation implementing NAFTA, and the treatment of funding issues related to trade and environment.

"Vigorous implementation of the agreement's environmental concepts will be crucial to accomplishing responsible free trade," Hair said. "Good intentions and the right ideas alone just aren't enough."

For the past two years, NWF has played a lead role in establishing an agenda for NAFTA environmental considerations. In addition to the Federation's work with the U.S. Trade Representative's (USTR) office and the Environmental Protection Agency (EPA), Hair was appointed to serve on the Investment Policy Advisory Committee to the USTR.

"A key factor in these negotiations has been Ambassador Hills' and EPA Administrator Reilly's ability to advance trade-related environmental concerns beyond the status quo. Together with their proficient staffs, they have engaged these important issues in a forthright and professional manner. They are to be commended for their excellent efforts," Hair said. "These important environmental provisions represent a first step in achieving the goals of sustainable development as articulated at the Earth Summit in Rio last June."

The Federation's affirmative support of these provisions does not extend to aspects of the NAFTA other than those related to the environment, nor does it extend to other actions taken by the Administration on environmental issues.

The National Wildlife Federation is the nation's largest conservation organization. Founded in 1936, the Federation, its 5.3 million members and supporters, and 51 affiliated organizations, work to educate individuals and organizations to conserve natural resources, to protect the environment, and to build a globally sustainable future.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

Mr. DODD. Mr. President, I am disappointed that the administration and a few Members of the Senate have prevented the passage of legislation to reauthorize the National Institutes of Health. This legislation would have provided critical support for the kind of biomedical research that has made NIH the leading research institution in this Nation and throughout the world.

President Bush vetoed very similar legislation despite the fact it clearly had overwhelming bipartisan support in Congress. The Senate passed this earlier measure by a vote of 85–12. The legislation, as revised in recent days, responds to many of the concerns raised by the President in his veto message. Compromises were made on a number of key issues including the most controversial issue—fetal tissue transplantation research. The White House, however, is clearly not interested in compromising. Many of the most ardent pro-life advocates in the Senate support this legislation and recognize that it in no way encourages women to have abortions. They recognizes that women would not have abortions to donate tissue for research. The administration, however, appears to only be listening to extremists in the Republican Party.

Mr. President, the Senate has clearly expressed support for lifting the ban on Federal funding for fetal tissue transplantation research. New provisions in the bill respond to the concerns of the administration but would allow this much needed research to move forward under carefully regulated conditions. This research must continue—it holds the promise of cure for the millions who suffer from diabetes, Parkinson's disease, spinal cord injuries, and other chronic disorders. It is time to end this unnecessary restraint on biomedical research.

Mr. President, the revised legislation contains all the safeguards for fetal tissue research contained in the original legislation. These safeguards ensure that the decision to terminate a pregnancy will be independent from the retrieval and use of fetal tissue. The safeguards in this bill are not a substitute for—but additions to—the already extensive ethical, technical, and scientific review that all research applications undergo. For example, the legislation requires that informed consent to donate the tissue be obtained only after the decision to terminate the pregnancy has been made. Women would be prohibited from designating the recipient, or from being informed of the identify of the recipient. This legislation would make it illegal for any person to purchase or sell fetal tissue.

Mr. President, the administration has insisted that fetal tissue collected from miscarriages and from ectopic pregnancies would be sufficient to meet medical research needs. The administration has proposed the establishment of a tissue bank composed of tissue from these sources. The new legislation gives the President's tissue bank a year to become operational. After this year researchers must continue to apply to the bank for tissue, and only if the bank is unable to provide suitable material within a 2-week period, are researchers free to obtain it from other sources. If, as the President claims, there are sufficient amounts of tissue from these sources, the use of fetal tissue from induced abortions will never be necessary.

Mr. President, I am also concerned about the administration's objections to provisions in the legislation requiring, when appropriate, the inclusion of women and minorities as subjects in clinical research conducted by NIH. In the past, NIH has failed to adequately involve women in NIH-sponsored clinical research and has failed to sufficiently support research on conditions that have particular significance for women—osteoporosis, breast cancer, and ovarian cancer. The administration has stated that the inclusion of women and minorities in clinical trials will force NIH to conduct impractical and costly studies. The failure of NIH to include women and minorities in research has resulted in their receiving second rate care. It is absolutely inexcusable that the administration is willing to allow this situation to continue. Women and minorities must be included in clinical trials and their health concerns should not take a back seat to the health concerns of white males.

Mr. President, this legislation provided an opportunity to help end the suffering of millions. It held hope for people with Parkinson's, Alzheimer's, diabetes, and other chronic and crippling diseases. Research on women's health would have received long overdue attention and increased support. It is unfortunate that the administration has chosen to put politics and the wishes of the extremists in the Republican Party ahead of medical research that holds promise for so many in this country. Mr. President, while the administration efforts to hold up this legislation have succeeded for the present time, I am pleased that the majority leader, Senator MITCHELL has committed to making this legislation the first order of business in the next Congress. I am certain that at that time we will succeed in enacting legislation that will allow critical biomedical research to proceed.

TRIBUTE TO SENATOR ALAN DIXON

Mr. SIMON. Mr. President, now that we are in the waning hours of this session I think it is an appropriate time to pay tribute to my colleague, the senior Senator from Illinois, who is retiring from this body. He was defeated in a primary election in an unusual set of circumstances. I do not say that in any way demeaning his distinguished opponent who won the nomination, and as some of my colleagues know, I am doing everything I can to help her candidacy.

But ALAN DIXON through the years has contributed a great deal to the State of Illinois and to our Nation. I served in the State legislature with him. We were seatmates in the State legislature, both in the House and in the State senate.

I saw him contribute significantly in areas of civil liberties. We had something called the Broyles bills, which required people to sign papers saying they were patriotic Americans, to affirm that by oath. Of course, the net result was not to catch people who were unpatriotic Americans but simply to cause people who did not believe in taking oaths, Quakers for example, not to sign. And therefore they could not teach in Illinois or serve under State government there.

But one of the more significant contributions that he made was to revise the judicial system in the State of Illinois. We had, in Illinois, a justice of the peace system, where if you went through a community and you were guilty of speeding, you would be hauled before a justice of the peace and you might possibly not pay the fine but you would pay court costs. You could be sure. We had an extremely partisan judicial setup, where everyone had to run at all times on a party label.

We still have some deficiencies in our judicial system in Illinois, but we made giant steps forward, and there is no question that was because of Senator DIXON. And here my colleagues have seen the contributions he has made in a number of areas, particularly on the Armed Services committee.

But for the State of Illinois, I will mention one final contribution that is significant. Back in the old days when the mayor of Chicago had tremendous influence, particularly with the Chicago delegation of the House, we did not have meetings of the Illinois delegation, either Democrats or Republicans, except on very rare occasions. Senator DIXON was elected to the Senate. I was then serving the House, and he said, the Illinois delegation ought to meet and meet regularly. We started doing it and we have become a much more effective body because of that.

His contributions to this body are significant. As I said to him in a letter that I sent to him, in generations to come, his children, his grandchildren, his great grandchildren will look back and say with great pride: ALAN DIXON was my father, my grandfather, my great grandfather, whatever the relationship will be.

I have been proud to serve with him. I think I speak for all of my colleagues when I say we have been proud to serve with ALAN DIXON in the U.S. Senate.

FAREWELL TO SENATOR BROCK ADAMS

Mr. MITCHELL. The Senate is losing a valued Member with the retirement of Senator BROCK ADAMS. The State of Washington is losing an effective advocate.

BROCK ADAMS has had a long and diverse career in public service. Throughout his career, he has never been afraid to challenge the status quo and to forge new ground.

President Kennedy, committed to bringing the best and the brightest into Government service, recognized the talents of BROCK ADAMS more than 30 years ago, when he appointed him U.S. Attorney for the Western District of Washington. BROCK ADAMS has been committed to public service ever since.

He came to the House of Representatives in 1965 as our Nation was becoming increasingly involved in the Vietnam war. His service in the House during that divisive and controversial war gave him an understanding of the importance of congressional involvement in decisions to commit our Nation to war. It's not surprising that he was one of the primary advocates of invoking the War Powers Act in connection with the Bush invasion of Panama and the Persian Gulf war.

His forceful and compelling arguments during these crises served as a necessary reminder that Congress must never abdicate its responsibility to represent the American people on the most difficult decision elected officials must ever make—whether to send our young people to war.

BROCK's understanding of the need to maintain a careful balance of power between the executive and legislative branches reflects three decades of experience in both legislative and executive branches. After serving in the House for 12 years, he was chosen by President Carter to serve as Secretary of Transportation. His concern with and emphasis on transportation safety moved that Department forward from a focus solely on the movement of goods and people to the recognition that the safe movement of goods and people is equally a part of a sound national transportation policy.

For BROCK, the bottom line has always been how Government policies will affect people. His work on the Labor and Human Resources Committee has reflected this priority. His support of women on reproductive health issues has been unfailing. His work on behalf of the elderly has been unwavering and effective. Many Americans enjoy a better quality of life because of the work of BROCK ADAMS.

While BROCK's views have not always prevailed, he has always argued his positions articulately. BROCK's skill in debate has advanced the discussion of important issues facing Americans. His contributions to the national debate will be missed in this Chamber.

FAREWELL TO JOCELYN BIRCH BURDICK

Mr. MITCHELL. Mr. President, the close of the 102d Congress will see the departure of many of our colleagues. Among them will be Senator JOCELYN BIRCH BURDICK.

Mrs. BURDICK assumed her husband's position as Senator of North Dakota in the most difficult of times. While all of the Senate mourned the loss of Quentin Burdick, no one felt that loss as deeply as JOCELYN BIRCH BURDICK. Yet Mrs. BURDICK rose above her own personal tragedy to complete her husband's term in the Senate. Her personal sacrifice ensured that North Dakotans continued to have a voice in the legislative process during the last hectic days of the 102d Congress.

While Mrs. BURDICK's time with us was short, we will not soon forget the strength and graciousness with which she served in the 102d Congress. We have all learned a great deal about overcoming adversity from JOSELYN BIRCH BURDICK. I am confident that the courage and perseverance she demonstrated in carrying out her duties as a U.S. Senator will serve her well in whatever she chooses to do. We will miss her and wish her well.

FAREWELL TO SENATOR ALAN CRANSTON

Mr. MITCHELL. Mr. President, when the 103d Congress convenes in January, the Senate will be without the sound voice of experience of Senator ALAN CRANSTON.

The veterans of America are losing a friend. Advocates of world peace and a sound disarmament policy are losing a voice. Environmentalists are losing an effective proponent. Women are losing a champion for equality and reproductive freedom.

ALAN CRANSTON's dedication to promoting world peace comes from a personal and varied experience with war. As a young journalist, he covered the rise of fascism in Europe. He translated and published an English version of Mein Kampf in America to warn the public of the threat of nazism. During World War II, he enlisted in the Army as a private. As chairman of the Veterans Affairs Committee he has heard personal accounts from American veterans of the horrors of war and the lingering aftereffects of armed conflict.

ALAN CRANSTON's work for world peace has been far-sighted. His assignment to the Foreign Relations Committee has given him an effective forum in which to pursue methods to make our world more peaceful and secure. He supported bilateral nuclear arms reduction negotiations. He was a leading advocate of the SALT II and START treaties. Most recently, he proposed legislation to purchase weapons-grade uranium from the former Soviet Union. Such a move will help prevent nuclear arms proliferation and will also serve as an efficient and low-cost fuel for U.S. nuclear power plants. Recently, the President adopted Senator CRANSTON'S initiative and announced that the United States will begin to purchase high-grade uranium from Russia next year.

I have had the pleasure to work with Senator CRANSTON on a number of legislative initiatives since my arrival in the Senate. I have had the honor to work on the Veterans Affairs Committee under his chairmanship. In this capacity, I have found him to be compassionate and attentive to the needs of American veterans.

I recently worked with him to introduce a clarified version of the Freedom of Choice Act. In this effort, he was a tireless and firm advocate of a woman's right to choose. ALAN CRANSTON has initiated and persevered in the modern movement to pay equity for women. His recognition of the essential equality of rights of all human beings under our Constitution has been constant throughout his career, and it is a record in which he can take great pride. It is a record for which American women, African-Americans, Hispanic-Americans, and native Americans honor him, and it is an honor fairly earned.

I have admired and shared his dedication to preserving the environment. California and the Nation has benefited from ALAN CRANSTON'S efforts to create and maintain our National Park System.

In examining ALAN CRANSTON'S record one common theme appears. Throughout his career, ALAN CRANSTON has been concerned with improving our world and our country. Thanks to ALAN'S work, the world is safer, cleaner, and more just than it would have been without his efforts. Conditions for American women, minorities, immigrants, and the disabled have improved because of ALAN CRANSTON'S dedication to solving their problems.

Senator CRANSTON has brought vision and initiative to the Senate that I will sorely miss. I wish him well and thank him for his contributions to this institution and our Nation.

FAREWELL TO SENATOR ALAN J. DIXON

Mr. MITCHELL. Mr. President, with the retirement of ALAN DIXON, the Senate is losing one of its most fiercely independent Democrats. Political independence is an important part of our system. Willingness to challenge conventional thinking drives political discussion and helps form the consensus necessary to govern.

ALAN DIXON has had the difficult job of balancing the contrasting demands and needs of a very diverse and populous State. He has had to represent one of the largest cities in our Nation, and also the vast farmlands of southern Illinois, and the industrial centers of the small Illinois cities. That is a task that ALAN DIXON has always pursued with vigor, enthusiasm, and effectiveness.

His work on the Small Business Committee allowed him to serve all Illinois communities—rural, suburban, and urban—for small business in Illinois, as in most of our Nation, is the backbone of the economy. Preserving and protecting small businesses has not been an easy task during this prolonged recession, but ALAN DIXON has consistently fought to stimulate business and protect American jobs.

ALAN DIXON's spirit, vigor, and articulate debate will be missed in the Senate. He always added a unique perspective to our deliberations. We wish him well and thank him for his service.

RETIREMENT OF SENATOR JAKE GARN

Mr. MITCHELL. Mr. President, the Senate is losing a man of courage and conviction in JAKE GARN, a man who has literally explored new frontiers as a Senator and a man who has put his own life on the line for his family. His work in the Senate has been an example of a man committed to his principles, not only on the Senate floor, but also in his personal life.

The work we perform in the Senate is often abstract. It is frequently difficult to fully gauge the impact our work and decisions have on the everyday lives of Americans. As a result, when we are not in Washington, we are frequently traveling back to our home States, or visiting sites of Government programs to get a sense of what needs to be done. This is a practice as old as the Senate itself. However, JAKE GARN took this personal involvement to an historic extreme.

In 1985, Senator GARN participated in a flight of the space shuttle *Discovery*. At the time, he was chairman of the Appropriations Subcommittee responsible for NASA. He was understandably curious about the space programs for which his subcommittee has appropriated so much money. We all wonder if the Nation is getting its money's worth for various Government programs. JAKE GARN decided to find out first-hand whether the space shuttle was a worthy investment.

Despite years of waiting and many hours of intense training, JAKE'S enthusiasm for his journey never diminished. He returned from space more convinced than ever of the necessity of space exploration; he has since been a committed and eloquent advocate for funding of NASA.

JAKE has not only distinguished himself with his dedication to his work, but also with his love for and devotion to his family. JAKE'S belief that government is not the solution to all problems and that individuals must commit themselves to solving social problems is not just a political view; it is a way of life. When JAKE'S daughter was facing kidney failure from diabetes, he donated one of his kidneys so she could live. Again, his personal experience has made him a credible spokesman on the need to encourage organ donors.

JAKE has taught his Senate colleagues much about living by the ideals we espouse on the floor. He has been an example of dedication to his work. Utah will lose a hard-working man of principle with the departure of JAKE GARN. I wish him well and thank him for his service.

FAREWELL TO SENATOR WARREN RUDMAN

Mr. MITCHELL. Mr. President, it is with great regret that I note the departure from the Senate of my good friend and respected colleague, WARREN RUDMAN. Senator RUDMAN possesses one of the most penetrating legal minds in recent Senate history and his departure diminishes the stature of the body.

WARREN RUDMAN is a thoughtful and fair man for whom I have the utmost respect. He has had many difficult jobs in the Senate and has always fulfilled his responsibilities in a thorough and just manner.

I served with WARREN on the Iran-Contra Committee of which he was the vice-chair. It would have been easy for him to play a partisan role and defend a Republican administration. Instead, he conducted himself in an impartial and thoughtful way. His judicious demeanor in those hearings reflected the integrity and independence he demonstrated in a long and prestigious legal career coming to the Senate. He listened to all of the facts and reviewed all of the possible arguments before making a judgment about the activities of those involved.

As the ranking minority member on the Ethics Committee, Senator RUDMAN has had the unenviable and painful task of reaching judgments on the conduct of colleagues. It is a job that no Senator seeks, but it is an essential role that maintains the integrity of the institutions. WARREN RUDMAN has shown reason and fortitude in carrying out burdensome task of judging his colleague's behavior. We too seldom thank our colleagues for serving on the Ethics Committee. They perform a truly necessary but unappreciated task. I take this opportunity now to let Senator RUDMAN and the other members of that committee know how much I value their efforts on the Ethics Committee.

Senator RUDMAN has a respect for and commitment to justice that has permeated all he has done in the Senate. He has supported legal services for the poor because he understands that legal representation is essential if our judicial system is going to be fair. Yet he knows that the great constitutional guarantees alone are of little value to people struggling for survival. So he has also fought for heating assistance to the poor because he knows that this help is essential to thousands of Americans facing the harsh New England winters and the blizzards of the Great Plains. It is a tribute to his honor of both the Constitution and common sense that he understands that the human goals of a good life will not be preserved if the essentials of a decent level of human comfort are not assured.

Senator RUDMAN is not only a fair man, but his name has become permanently associated with fiscal responsibility. His work on the Gramm-Rudman-Hollings deficit reduction act put the issue of continuing large budget deficits at the forefront of public policy discussion. More remains to be done, but public attention has been focused on the problem because of Senator RUDMAN's efforts to heighten awareness of the issue.

I am pleased that Senator RUDMAN is considering continuing work on the issue of deficit reduction after he leaves the Senate. His reputation and credibility will do much to advance public discourse on the issue and no doubt will help promote solutions to our fiscal problems. I look forward to his work in the private sector. I have no doubt whatever he does will be productive, thoughtful, and intellectually sound. WARREN RUDMAN has been an asset to the Senate as well as a close personal friend. I have enjoyed working with him and I will greatly miss him.

RETIREMENT OF SENATOR STEVE SYMMS

Mr. MITCHELL. Mr. President, I also say goodbye to a colleague with whom I have had the pleasure of serving on both the Environment and Public Works Committee and the Finance Committee. Senator STEVE SYMMS has represented the rugged frontier individualism of the Idaho wilderness well. He has consistently fought for the rights of gunowners and private property owners. He has worked to make wilderness areas accessible to outdoor enthusiasts. He has tirelessly sought to protect the unique way of life that is Idaho.

While STEVE and I often disagreed on issues, the similar nature of our rural States bridged our political differences when we worked on infrastructure issues on the Environment and Public Works Committee.

We both understand that a sound transportation system is literally a lifeline for rural States. Well-paved roads, sound bridges, and secure rail lines link remote parts of our States with the larger cities on which they rely for the necessities of life. Reliable transportation systems mean economic development and flexibility for rural areas whose economies are undergoing change.

STEVE's position as the ranking minority member of the Subcommittee on Water Resources, Transportation and Infrastructure has enabled him to work effectively on transportation issues. I personally appreciated his help in getting the Intermodal Surface Transportation Act passed last year. His efforts have helped to put thousands of Americans back to work and to lay the groundwork for future economic growth. That is a record of which he can be justifiably proud.

STEVE has always demonstrated a sense of humor and a good spirit that has made otherwise difficult committee work a pleasure. That is a gift that will be sorely missed. I have no doubt that STEVE'S ability to see the light side in any situation will help him to succeed in whatever he chooses to do after leaving the Senate. I appreciate having had the opportunity to work with STEVE and wish him well in the future.

RETIREMENT OF SENATOR TIM WIRTH

Mr. MITCHELL. Mr. President, I am personally very saddened to say goodbye to TIM WIRTH. TIM and I have shared many legislative interests in the Senate. Perhaps most important among these has been our shared interest in preserving and protecting the environment.

TIM has served but one term in the U.S. Senate. But in one term has done more to draw attention to the problems of the deterioration of the ozone layer, acid rain, and global deforestation than many who have served much longer. I was disappointed that TIM decided not to run for reelection. His departure will leave a void in the Senate's environmental work that will be difficult to fill.

TIM's concern for the future is not limited to environmental concerns. He has dedicated himself to ensuring equal opportunities for all Americans. He has always understood that fully utilizing the abilities of every citizen is the best way to ensure a bright future for our Nation. He has been a staunch supporter of women's rights. His work on women's issues has demonstrated a fundamental respect for women that has in turn won him the respect of every women's organization in the country. American women have lost an unquestionable champion of equality with the departure of TIM WIRTH.

TIM came to Washington as a Member of the House of Representatives in 1975. He came promising change. He came to instill confidence in the Government in the wake of the Watergate scandal. I did not have the pleasure of serving with him in the House, but during our time together in the Senate, I have found him to be sincere and deeply committed to improvement of the environment. He has never forgotten the reasons that he came to Washington nearly 18 years ago. I know that at times, he, like the rest of us, has found the legislative process frustrating, but I hope when he leaves, he will take with him a sense that his work has made a difference.

Environmental concerns are now at the forefront of the American and even the international agenda. Public opinion increasingly supports women's reproductive rights. TIM WIRTH's reasoned, measured contributions to these debates has made these advances possible. I will miss his assistance in advancing these causes when the 103rd Congress convenes. But I respect his desire to pursue other endeavors and have no doubt that he will succeed in all that he does. To TIM WRITH, I say, thank you and we wish you well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR TRADE AND FREE TRADE

Mr. D'AMATO. Mr. President, thank you.

Mr. President, for some period of time now, the Senators from New York, the senior Senator, Senator MOYNIHAN, and this Senator, have attempted to deal with an inequity, the very real problem as it relates to American jobs.

Mr. President, I am here to talk about this business of fair trade and free trade. It seems to me that we have run into a situation where free trade oftentimes in the manner in which it has been handled has not been fair. Free trade means to many that we open up our markets to competition and we see closed markets when it comes to our products.

Even more insidious is when we open up our markets and we find that not only are markets closed to us for fair competition abroad, but that, in addition, there are unfair, illegal practices that are utilized in bringing the competitors product into this country.

One of these methods is called dumping. I wonder what the average person knows when they hear about dumping. Let me give you an example.

When we are talking about automobiles and the price and the cost to produce a comparable automobile is $6,000, that is what it cost someone to produce it, $6,000. And if they were to sell it for $5,000, sustaining a $1,000 loss, that is illegal. That is dumping. We can understand that.

If one were to manufacture a typewriter, and the cost of that typewriter to the manufacturer were $250, and if they were to sell that typewriter for $200, $50 below what it cost them, that is dumping. It is illegal.

Mr. President, we have had exactly that kind of thing taking place.

People might say how can that be? You cannot stay in business if you are manufacturing automobiles and typewriters and selling them at below cost. Sooner of later you will go out of business.

But, Mr. President, if that manufacturer is selling those products here in the United States, and absorbing a loss of $50 for each typewriter; and, when he or she sells them abroad in their own closed market, they increase the price by that additional $50 to their consumers; they sustain no loss; and, eventually they will drive all of their competitors out of business here in America.

Indeed, that is a sorry saga of the case of Brother, which is a Japanese corporation that does not manufacture the typewriters here; that has them come from foreign sources, Malaysia, and Singapore; that has what we call a "screw plant" which is a plant where the parts come in and are simply assembled where there is American content; and where the products are then dumped below cost, below what it costs them to produce illegally, and immorally. And we have not done a darn thing to stop it. Finally, we get the trade people and others in the administration who should have been pursuing a course diplomatically through all of the courses left open to us, why they were recalcitrant and slow. This is not the story of partisanship. This is a story of neglect.

Mr. President, understand that what we are talking about here is a situation that resulted in all competitors being driven out of business, a situation that has resulted in only one last American manufacturing company, Smith Corona, manufacturing a portable typewriter or word processor, and faced with the continuation, notwithstanding that it has won every court case it has brought against this illegal dumping, but with Brother circumventing the orders, moving the areas by which the products come, same product, same manufacturer, same practice; they have managed to thwart the tariffs that have been placed upon them.

And we finally reach a point in time, where after 8 to 10 years of litigation, where after Smith Corona has won every single suit that it has brought, every single suit, and it finds itself in a situation where the tariff order still cannot be enforced, because of this classical case of circumvention.

So no longer does the order lay against a country and a product which comes from a particular country, they circumvent it by moving the places by which the parts are manufactured and then reassembled.

People at Smith Corona, chairman of the board, Mr. Lee Thompson, made a rather sad announcement several months ago. He said that he could no longer compete with these kinds of practices, that notwithstanding the fact that the company had achieved unprecedented results in terms of their efficiency, in terms of productivity—700-percent increase in productivity over a 12-year period of time—a product that was every bit as good and competitive as their competitors'; faced with this dumping, there was no other recourse for them, other than to totally close and eliminate that plant and that operation in this area, or to move its manufacturing base and components of that plant to Mexico.

How often have we heard that sorry saga? How often have we heard of the plants and the jobs that are lost, and then only to hear and have insult added to injury, that the job that paid $17 an hour in the small town of Cortlandville, outside of Syracuse, NY, would be moved down south to be replaced by a job that pays $3 an hour.

Mr. President, both Senator MOYNIHAN and I and our staffs, and, yes, the Commerce Department and others, and some at the White House, have worked in a last ditch effort, an 11th hour effort, to remedy this situation, and to bring about a process whereby an enforcement order can lie for these kinds of illegal activities, which will force the closure of this plant.

Legislation was provided for both in the energy bill and in the tax bill to amend this, to make that legislation more palatable, so that it would not come into conflict with GATT. Indeed, exhaustive negotiations so that we would not come into collision with the general overall theme of free trade were conducted. Indeed, legislation that the administration had agreed not to veto had come to be. And that legislation was submitted to the conference. It was submitted by my colleague, Senator MOYNIHAN, and myself. It was submitted to staff. They were told that in the balance lay 875 jobs, 875 families, who would lose their jobs, the closure of a plant that would have a devastating impact in the region of Cortland, NY; a loss not only of payroll, but of a lifestyle to that community. We had an opportunity, not to keep them in business if they could not compete on their own, but to see to it that those who were violating the law, those who were engaging in unfair practices, would be pursued in a court of law, that a tariff would lie against them.

Mr. President, now we find that the conferees, after all of their exhaustive work, after all of their hours of negotiation, after all of their work over the weekend, somehow did not include this provision. Somehow, it did not get in, and what an incredible nonsense excuse-filled laden story we hear. What a story. They would have you believe that it was the staffers' fault on the House side. Oh, no, it was the staffers' fault on the Senate side. Oh, it was the Congressman from Illinois who did not want it. I guess our Senators were not even aware.

Let me tell you something. The Senator from Texas was doggone well aware of this provision. If you want to say, so long to New York, if it was not because we did not have a plant that was deep down in the heart of Texas, that is right; it is in central New York, not in Texas. But those jobs are every bit as important, and those people are entitled to every bit of protection as anyone from any other place in this country. And if it is important to protect jobs in other regions, then it is important to protect not just jobs on the basis that we keep people in nonproductive jobs that can compete, but to allow them to compete, and that is what we seek.

When I came to the floor and we offered this, we said let me tell you, this is important, and I said that if this is not included in the tax bill, then do not expect this Senator to just go along, that I will do and use whatever method I can to see to it that we address that situation.

I do not intend to yield. I do not intend to just sit willy-nilly by and say there is nothing we can do, because the House is going out by 12 o'clock. I do not care if the House goes out by 12 o'clock. Unless we get that provision included in the bill, this Senator will not allow that bill to come for a vote. If I have to stay on the floor all night and all day tomorrow and do whatever I have to, I am prepared to do it. My people are not going to be sold out for cheap partisan politics.

And that is the way I see this situation.

Mr. President, I did not come down here to be the best loved. I am not. I want to tell you something. You may not agree with me on every issue. Not even my momma does that. But I am not going to be rolled up, because a bunch of staffers play games and take it onto themselves that they know what is best. They think they know what is best. OK.

I want to tell you 875 peoples' lives are on the line and I am not going to permit it simply because we are going to do business as usual and we have this little deal and that is what it is. It is a little smart guys deal that over there we go out and we send you this and if you do not get it back to us at 12 o'clock the way we like it too bad. I have to tell you we serve notice, both Senator MOYNIHAN and me, and let me refer to an article in the Syracuse Herald published on this past Sunday, entitled "Pair Tried to Save Cortland Jobs."

> WASHINGTON.—Two New York Senators, Senator D'Amato and Senator Moynihan, Saturday threatened to hold up passage of a tax bill unless it includes a provision to save the jobs of Smith Corona workers in Cortland. With Congress trying to adjourn before Wednesday's Yom Kippur holiday the Republican and Democrat can use parliamentary procedures such as a filibuster to delay or prevent passage of the legislation.

So it goes on to say, and I quote:

> It is a matter of wanting fairness for our workers in the Smith Corona plant.

Mr. President, that is exactly what it is. If they cannot compete against the foreign product, that is one thing. But when the courts have ruled repeatedly that that company has been dumping, that is another thing.

And these people as in any other plant, in any other case, deserve to see to it that there is enforcement, that will not permit this circumvention.

I have to tell you, I intend to see that I do everything possible to bring that about.

Here is a question, and some have asked me, "Senator, if this legislation is passed, will that save the jobs?

I can only tell you that we have to rely upon the word of those in charge at Smith Corona. They did not just fold up the plant and move it out after they lost or after the first case was decided in their favor and they still did not get addressed their grievances or the second case or the third year or the fourth year or the fifth year. They hung in and they played by the rules and when it finally came down to a point where circumvention continued and the pattern of dumping illegally continued, they had no recourse. I believe that those workers at that plant should be given an opportunity to give that plant management to give the Smith Corona people an opportunity to see if the law is applied, if fairness is applied, whether or not they will change their mind. That is what this is about.

I cannot understand how it is that we have reached this stage in this time in this glorious body that we do not care about the little guy. If there is animosity out there in the country toward government, toward politics, toward politicians, I understand it.

If I lived in that community, or if I were one of those workers, I would be wondering how is it that you allow this to take place. How is it that this Government, that our Congress, that our Senate, that our trade people, cannot bring about a redress of this situation?

How is it that when we talk about freedom to compete and competition and fairness that it turns into empty, shallow words? We wonder why there is a lack of faith in terms of those who look upon us in Government. No one dear.

Who will put food on the tables of those families? Who will take care of their needs? Some of them have worked in that plant since 1947 and 1948, a lifetime, and now in their senior years to lose their job, some with children in college, mortgages, notes to pay, automobiles to run, responsibilities. What is their fate? Is it to turn to the public assistance rolls? I hear all this rhetoric about jobs. I hear all this talk about who is going to do best for what. Elect me. I am going to help. I am going to give you job training. I am going to give you public works.

BS. That is what they should say to all of us. You are all a bunch of nonsense, and I have to tell you the first place where you go to see the biggest bunch of hypocrites is right here, right here. You do not give a damn about the people, not a damn, because if you did, you would not let this take place. It is an outrage, absolutely a disgraceful outrage. And then I will hear some Senator come and he will tell me, oh, Senator, we will give you hearings, early hearings in the first part of the year.

Is that really going to help these people when their jobs are gone? They are gone. You know something: There has never been a good-faith effort on the part of the international staff on the finance side to come and to understand what we were trying to do and to work with us. Never. Stonewalled us. Stone face—give me his name. People should know his name. Robert Kyle, chief international trade counsel, Senate Committee on Finance.

Oh yes, Kyle, you have a job. You have a job, but 875 people, they will not have a job. They will be out. They will be out on their can. Did you ever try to meet with our staff to look at what could be done? No. No. Absolutely not.

And then I hear my other colleagues say, oh, I cannot lose jobs, because this company is headquartered in my State.

Let me tell you something. If Smith Corona were dumping illegally and they were breaking the law, I would not be down here making this battle, and I do not think any other representative should be saying we are going to countenance the breaking of the law simply because the company is in his or her State. That is bull.

I want to tell you I did not get elected to be anybody's favorite friend, and I am not. And if you think I am going to roll over on this, you are wrong, and I am not.

I want to read, Kyle, what you have done. Very, very interesting. Give me the list. You will have your job. You will have your job. But these people, it is a good chance, most of them will not.

Robert DeGroff. He just started August 24, 1992. Helen, Joseph. He works at Smith Corona. Most of these people get paid $17 an hour. Maybe they can follow their job. Maybe they can go down to Mexico and get $3 an hour.

Christine Pirozzi. She started on May 26 of this year. I guess it is going to be pretty tough. She will be one of the first laid off. Angela Chatterton. She started May 6, 1992.

These are the people who stand a good chance of getting laid off. No one knows but we know there are 875 and that is most of the manufacturing base.

Starkweather, Paul. He started in April of 1992. And there is Williams, Adam. He started April 1. What a joke on him. Here he is before the end of the year. April 1. He may or may not have a job the end of this year.

Veronica Fisch. She started March 30, 1992. Lawrence Merrithew. He started same day, March 30, 1992. And Tracy Truman. Tracy started same day, March 30, 1992. And Janine Flynn. She also started March 9, 1992. Miles McCarty, March 9, 1992.

Michael Driscoll, he started February 17, 1992; Douglas Tiedemann, he started February 3, 1992; David Quijano, he started on January 27, 1992; April Lawton, she started on January 5, 1992; Donald Anderson started January 2, 1992; and John Piontkowski started on December 16, 1991; Donald Sevey started on December 2, 1991; Mark Bates, started on November 25, 1991; Craig Calzone started on November 11, 1991; James Bottrill started on November 28, 1991; Susan Tripp started on November 18, 1991; Martin Brown, he started on the 14th of November, 1991; Karen Westlake started on November 7, 1991; Cindy Ondrak, she started on October 3, 1991. And then we have Victoria Smith, she started on September 30, 1991; and Everest Tucker, he started November 5, 1991; and Evelyn Chung, she started on November 3, 1991; Amy Berger, started on August 26, 1991; and Bridgette McAdams, she started on August 19, 1991; Stephen Proscia, he started in May, May 13, 1991; Maurine Jaworski, she started in April, April 22, 1991; and David Stahl, he started April 1, 1991; and Amanda Wauchope, she started March 25, 1991; Michel Sukkarieh, he started on March 11, 1991; Thomas Geremski, he started on March 6, 1991.

These are real people, Mr. President. These are real people who should have an opportunity to keep their jobs. And that opportunity should not be precluded because we have a bunch of fat, happy politicians who want to keep doing business as usual and do not have the courage or the guts to stand up and protect American jobs, protect them when they have been dealt with unfairly, when we have had the kind of practices that I have outlined, where there has been dumping.

It is one thing to say, "We don't make a good product; we can't compete." It is another thing to have somebody breaking the law. It is another thing to have my own colleagues who just turn their backs on this thing with cold indifference, that they would just go on their way as if this was not happening.

Well it is happening. And I hope it bothers them, and I hope I bother them, and I hope that hearing this over and over is going to make a difference. And if I get them angry, maybe they should take a look. And I say, I am sorry if I got on your nerves, but what are you going to say to Thomas Geremski, who just started working on March 6, 1991; or to Scott Brown, who started on March 4, 1991; or Scott Hilbert, who started the same day, March 4; or Jody Rawson, who started on March 4, 1991; or Paul Sheldon? Because at least one or two, if not all of those people, are going to be laid off, they are going to be fired.

And I have to tell you, if we want to go home without completing our business, let us understand that these people are going to be victimized as a result of that. And I am not going to stand by and go home with business as usual. Their lives are going to be dramatically changed.

And when people say to me, well, Senator, How do you know if indeed you passed this legislation something would take place, that their jobs would be saved? I cannot tell you with definiteness that I absolutely know with assuredness that their jobs would be saved.

But I can tell you this: that the chairman of their board spoke to me this evening, just 2 hours ago. And I told Mr. Lee Thompson, it does not look good.

I will characterize his reaction by saying that he was deeply, deeply saddened and taken aback. I would characterize him by saying he is an honorable man who, if given the opportunity would do, and already has done, everything he can to keep this company from being closed, at least that portion of the manufacturing that would be sent to Mexico.

I would say to you that we have an opportunity, even at the eleventh and a half hour—and I cannot understand why people do not want to give these people a chance.

I do not know Paul Sheldon—I know that he is a worker there; he started on March 4, 1991—or James Porter, who started on January 28, 1991.

But I can tell you that each and every one of them should be given an opportunity to hold his or her job on their ability. I can tell you that a plant line and a production line should not be closed down because we lacked the courage to stand up to the special interest groups.

Oh, yeah, and those special interest groups are plenty.

Well, let me tell you something. We have some of the biggest corporations even in New York who do not want companies who are breaking the law to have an enforcement procedure against them. Incredible. They are more interested in their bottom line than what is right, and that is jobs for Americans.

I guess them getting up there, making their highfalutin speeches about free trade. Well, I am for free trade, but I am for fair trade and I am for fairness. And what we are about to perpetuate by passing this bill without including that provision which would see to it that this illegality is not perpetuated—Is it free; is it fair? It is not free, and it is not fair, and it is a disgrace and a discredit to this body.

And to say, oh, it is the House, you know, we will blame the House. Our conferees had to sign off on that report. They signed that report. They approved that report.

And let me tell you, they knew that both Senator MOYNIHAN and I had a just cause and a just case and we said if you are going to have a tax bill, we want to see that this situation, this situation that threatens the livelihoods and has already resulted in the loss of many manufacturing jobs, that it is stopped; that there is given an opportunity for this company to say we will stay here now; that we can compete fairly, now that a tariff law and order which has been approved by the courts will have the opportunity of being enforced.

So, Mr. President, I do not intend to make it easy for this body to look the other way and to shirk its responsibilities. I do not intend to be everybody's best friend and walk out on the jobs and the hopes and the aspirations of these 875 families. And it is more than 875 families.

If we can look the other way with such indifference now, then what is to say that we are not going to in the future. What is it to say that we have looked the other way over and over in the past and because we did it in the past, does that mean that we should continue this?

Now, again, we are in an election year. And I hear the Presidential candidates talking about who is for jobs and who is for fairness and how they are going to protect them.

Well, I want to ask you something, Mr. Clinton: What are you going to do as it relates to this situation? What would you do? I would like to know.

Would he walk home and allow this situation to take place if he were here in my place? Or would he say, no, I am not going to allow this to continue?

And I tell you, I went to the President and his people and said: Are we going to allow this to continue? And I understand they want free trade. I want free trade, but it has to be fair.

That has been an element that has been missing for far too long. Who hires the big fancy lobbyists on both sides, who come in and who plead very persuasively, but just leave out some of the salient points and facts? And how do we get these laws manipulated in such a way?

Then, I think the best argument of all, which really makes me sick, is when I hear them actually talk about the consumer. They say, "We are worried about the consumer because, if we can get a price cheaper, is that not better for the consumer?"

They are not interested in the consumer. What happens when Smith Corona is totally out of business? What happens if the only way they can compete is to go offshore to cut down their payroll so they can compete against those who are illegally dumping? Incredible. What happens to the taxes that those 75 people pay, both Federal income tax, State income tax, and those revenues that were produced as a result of their home ownership, and they are paying taxes locally, and they are purchasing goods and services that they are no longer able to participate in? What happens?

Then we hear the shoddy, ridiculous argument that is put forth—in some of the great newspapers, too, of our time, some of the great financial papers, who would have you jump over the process and who will excoriate me on the editorial pages and say I am trying to be a protectionist.

I am not trying to be a protectionist. What I am saying is, if an order is made in a court of law against a company for an illegal practice, by gosh, do not circumvent it by a little trickery, then let them start the whole case all over again, and then they move their manufacturing base and again the order is not applicable. The same product, same corporation, same illegal dumping. Yet we do not have the courage to stand and to do.

So, Mr. President, maybe this is because I should have moved and others should have moved more forcefully that I make this plea. And I make this statement. But I am not going to turn my back on Drew Thogode, who started working on January 28, or those who started before him or those who started after him: Joe Mastrangelo; Michael Motyka, they started on December 31, 1990—imagine, on that fateful night, New Years. Andrea Zopf, who started October 22, 1990; and Julie Mazzanti, who started October 1; and Anthony Frutchey, who started September 17; and Julianne Wilcox, who started on September 4; and Susan Bova, who started on May 30, 1990; and Kelli Truman, who started on May 1, 1990; and Stephen Gilmore, who started on March 19, 1990; and Frank West, who started on March 5, 1990; and Kevin Gates, who started on February 26, 1990; and Gregory Smiley, who started on January 29, 1990; and Gretchen Sweeney, who started on December 4, 1989; and Brian Belyea, who started on November 13, 1989; and Richard Crow, who started on November 1, 1989; and Lisa Wheeler, and she started on May 5, 1989; and Betty Larson, she started on June 12, 1989; and Thomas Rogers. Thomas Rogers started on May 22, 1989; and James Karpinski, he started on April 17, 1989; and Elmer McNeal, he started on April 17, 1989; Robert Rycroft, he started on March 28, 1989; and Eric Thorsen, he started on March 20, 1989; and Eugene Allegretto, he started on March 13, 1989; and David Henderson, he started on March 13, 1989; and Keith Hill, he started on March 6, 1989; and Ralph Hill, who started on March 6, 1989; and Karl Oltz, who started on March 1, 1989; and Mark Steiner, he started on March 1, 1989; and Carmen Chappell, who started on February 27, 1989; and Karen Pappalardo, who started on February 27, 1989; and Carol Snover, who started on February 27, 1989; and Patricia Shaver, who started on February 20, 1989; and Stephen Stone, who started on February 14, 1989; and Sandra Weigel, who started on February 13, 1989; and Mary Cleveland, who started on February 6, 1989; and Daniel Frost, who started on January 30, 1989; and Kristine Lane, who started on January 30, 1989; and Robert Dodds, who started on January 4, 1989; and Christopher Abbe, who started on December 28, 1988; and Jeffrey Dann, who started on December 22, 1988; and Judy Sliker, who started on December 19, 1988; and Paul Palen, who started on December 5, 1988; and Frank Racciatti, who started on November 28, 1988; Jeffrey Leitch, who started on October 24 1988; and Arthur James, who started on October 5, 1988; William Gage who started on October 3, 1988; and Bassam Chamoun who started on September 19, 1988.

You know, Mr. President, something just came to mind, and that is, as you hear these various dates—and these are people, real live people—they started working on those dates. I notice some dates, for example, February 27, three people in 1989 were hired that day: Carmen Chappell, Karen Pappalardo, and Carol Snover—three. Who will provide that employment opportunity in the future?

Some of these people who are now working will undoubtedly move, retire, some may pass away. There has been a continuing of employment opportunity as a result of this facility, as a result of this work. So it is not only the incredible brutality of having these jobs terminated unnecessarily with a company that is willing to stay, that says, "Give us an opportunity to compete fairly. Give us an opportunity and we will reconsider our decision." It is not just 875 jobs—and that is a tragedy. I think it is the callousness in the way we proceed, the callousness in the way we proceed. And it is also the loss of opportunity as this plant continues on an annual basis to hire people.

Certainly it does not hire people at the rate that it once did when we had the great Smith Corona. I remember in those days when I would go to school in Syracuse where I went to college and law school when it employed 3,000 and 4,000 people and when the employment opportunities were even greater.

But even that opportunity of hiring, 30, 40, and 50 people annually no longer will be the case. What a devastating blow to our country. What a devastating blow to this community. What a devastating, I think, insight into what Government has come to. We are so big that we take ourselves to be so important that we do not take time out to make a difference for the little guy, for the people who are important, for the people who are taken for granted.

So we will go back to our States and to our communities and to our undertakings. And, oh, they will be so important for us. But the lives of these people we will have consigned to Lord knows what. Maybe a job training program. Maybe some will be able to land on their feet, maybe even get a better job. But for the most of them, Mr. President, let me tell you that this is by far the highest paying job that they will ever have any opportunity to even hope for remotely. For most of them, they will be lucky if they can find a job for $5 or $6 or $7 an hour. For those who need these dollars to support a family, it is a life and death matter.

We trivialize it by our inadequate response. This matter was discussed at conference for maybe 5 minutes. There was no debate at conference with respect to the importance or the relevance of this matter. There was no debate in conference with respect to whether or not this broke any of the provisions of GATT. There was no debate in conference with respect to whether legally this could be done. There was no debate in conference with respect to the merits. Shame on us. Shame.

And I have to tell you, I understand what is going to take place: Oh, we will sit down; oh, we will do that; oh, we will do the other thing. And people are going to be annoyed, and they are going to be angry, and they should be. They really should be angry at themselves. Every Member of this body has a responsibility. This is not mine. This is not mine alone. Let me tell you something, that if the President, or any other Member of this body, were to come to me and say, "Al, this is a situation that is taking place, I need your help to address this," that I would be there to try to make a difference. And if I did not, then shame on me, and I should not be here.

I am telling my friends, and I am telling my colleagues, that they can and should make a difference, that we should not accept this conference report. And I want to tell you something else, and we will not go into the little favors that were done for this one, and that one, and the other one, and that bill is jammed full of them. This matter that I speak about is every bit as important as any matter in that bill. Any matter. It is the lives of people.

For God's sake, when are we going to stand up and do what is right and not what is politically expedient? That is why people have disdain for the institutions, and for Government, and for this place as well. Imagine, backing down? We did not stand up. You really mean to tell me that Chairman ROSTENKOWSKI did not want this provision? Nonsense. Nonsense. Anybody who knows the good Congressman understands and knows that, indeed, he has championed causes that parallel very closely if not exactly this situation.

We did not have the courage to stand up and to do what is right. Why? Because we have a Japanese company who has a headquarters in one State and a plant in another State? Nobody tells them to close their plant, nobody tells them to cease manufacturing. What we say is: Compete fairly. Obey the law. And what we want to do is to see to it that there is an opportunity to have enforcement of the law. That is what we want.

Am I angered? Yes. But I am more sickened by our attitude.

Great Senators. I wonder why we dillied and dallied when it came to deciding what to do, whether it be a cable bill, or whether it be taking on Saddam Hussein, or whether it would be dealing—oh, I hear this great body now, oh, what happened, Iraqgate? Let me tell you something, everybody heard that debate. They were down here. We tried to cut off giving that guy money. I remember that. I said: Why are we giving Saddam Hussein loan guarantees? You would have thought I was attacking Mother Teresa. The place filled up. Filled up. Oh, no, we should not do this, it will cost us money. We should not do this. We did that with Jimmy Carter.

Now all of my colleagues woke up, why? Because it is political time. So the whole side over there says, what was Bush hiding? For God's sake, everybody knew it or should have known it.

What are you hiding today: 875 jobs. If you did not have the courage to stand up to Saddam Hussein and cut off loan guarantees before he made an invasion, then do not go talking about Bush and the State Department were cozying up to him because you all knew and you should have known and made believe we did not.

What State had rice? And what State had oil? And what State had this, and what State had that? They did not care about morally that he was gassing and killing Kurds and innocent women and children. They did not give too damns and a holler.

No wonder people think what a bunch of hypocrites this great august body and Government is about, because we are. But when it becomes the rule of the day—I understand not having the courage to stand up on every issue, but when every issue that has any import and it means that you have to make any decision, you are afraid to make a decision, you know what? We do not deserve to be in office. I have to tell you, I will not miss this body. Incredible. Incredible. This is a joke. Absolute joke.

I wonder if somebody is going to come out there and say because I have referred to the body in the disparaging terms that I have that I have violated some rule. That will be the next thing. Well, too bad. Too bad. There is a higher rule. And you know something, we all violate that if we allow these kinds of things to take place. I have to tell you, I am not asking for any medals for courage or for leadership. But I have to tell you there are very few around here who should get any of those medals.

Mr. President, I am going to do everything I can to block the bill that has more special interest and it has less concern for real people, people of Cortland. They are entitled to that. They are entitled to have somebody stand and make this battle.

I am pleased that my distinguished senior colleague, Senator MOYNIHAN, feels the same way. No doubt he will express himself in a much more congenial and maybe even a more cogent manner than this Senator. But I respect the fact that he has the courage to indicate that he is going to do everything that he can to see to it that the legislation that we have sponsored is at least given an opportunity to be enacted.

Let me say to my colleagues and to my friends, before you come back and say there is nothing we can do, that the House has gone out, there is something you can do. You can go back and reopen the conference. You can send that back tonight. You can send it back in the morning. You can send it back before the House goes out at 12 o'clock.

I do not give a darn that there is one person or two people with their special interests who say, oh, no, this is going to hurt my constituency. Look, if enforcing the law and doing what is right is going to hurt your constituency, they cannot complain. People are entitled to protection under the law. If you want to be a special interest, that is a different matter, then say it, it is a special interest. It is not grounded in any kind of morality, or legality, or fairness. It is not grounded in equity to argue to say, well, this plant is headquartered in my community and, therefore, I have to condone what they do and how they break the law.

Logic 101, if you say that because they are a company that is in your community and that you are a Representative, does that mean you turn your head the other way as they undertake practices, whether it be polluting the lake or polluting the rivers? And we did that for years because they were the biggest employers, and that is why we have so many problems. Does it mean that we condone unfair labor practices where they take advantage of their workers, because, after all, they live in our community? Or that we take for granted the fact that might have a subsidiary that is breaking the trade laws and violating the dumping provisions and putting people out of work in other areas of the country?

But after all, that is OK, it is acceptable because, why? They are in my community.

That is not what this is about. That is not what a nation of laws is about. And that is not what our representation of our constituents is to be about.

It is not. And this is not a matter that should be equated to whether or not a military base or a Government facility is developed in my State as opposed to your State whereby reasonable people could disagree on the merits. This is a situation where there is no case. There is no argument. You are breaking the law. You are evading the law. Now we want to make believe it is not happening.

Now, let me tell you. I do not intend to get into the nitty-gritty of the bill yet, but I will tell you that we have the provisions of that bill read, every single line, every single word, and I intend to examine some of those provisions in the Tax Code to ascertain how it is that they found their way into this conference report, how it is that they had the time to discuss these wonderful and illuminating matters but they did not have the time to discuss and debate more than in a very perfunctory manner the question of whether or not legislation that would remedy this evil, remedy this wrong, should be included; why it is that the people of Portlandville in central New York were not every bit as important as the people in every area of this country who sought to have legislatively their grievances dealt with, the inequities the tax and tariff provisions may have created, or as a result of lack of provisions have opened loopholes for them to be taken advantage of.

Now, why is that? Why is it at this hour, at 20 minutes to 11, we cannot take up these provisions?

Now, let me tell you. Some have warned me. They said, "Alfonse, you should not say those things. You should not talk about the staff."

Why not? Why? Why should I not? Is it good enough for Lisa Wheeler, if she loses her job, or she may lose her job, or Betty Larson? Are they just a statistic? Are those people who have this great power to recommend to just willy-nilly turn it over—let me tell you something. I do not believe that staff really determined what got into this bill. I think the staff was used, and so what we hear is so-and-so does not want it in. And then at the end we hear some Senator say, "Oh, I did not know you wanted it in. Oh, I did not know anybody really wanted it."

Come on. Senator MOYNIHAN and I were down on the floor Saturday. We spoke about this. We brought this issue up months ago, weeks ago. Our staffs came together.

Now, why is this? Why is this?

Why is it that we can just shut it out so easily? How can it be? How can it be?

And I have to tell you something, I do not believe that my colleagues on this side fought for this provision. They gave it lipservice, absolutely gave it lipservice. There is just no doubt in my mind—just gave it lipservice.

And so there goes 875 jobs and the potential for other people and the fact that we now will not have fair competition.

Oh, by the way, that will be nice. I guess Brother would be even happier if the Smith Corona people could not move their manufacturing facility to Mexico because then it would not have any competition whatsoever. And then, Mr. President, do you not think that it would be selling its typewriters at $50 or $75 or whatever. In some cases they have a 60-percent tariff, 60-percent tariff placed on them below what it cost them to produce. Because we understand that where there is competition, we have an opportunity—and we have laws to see to it that there is competition—why then there are competitive prices. Where there is no competition, then there will be no relationship between what the cost and what the eventual price of that product will be.

I daresay, given Brother's record as it relates to breaking the law—and I say that because they have broken the law systematically for these past 10 years—who is going to protect the consumer then? And then we will hear people say, well, we should be—and by the way, there may be some who are happy with the fact that there are jobs that Brother allows to stay in this country because if we continue to see the spiral continue, we lose $17 jobs, Mexico gets the $3 jobs, Tennesse gets the $6 jobs. At some point in time, if enough jobs go down to Mexico, why, they will probably be contracting the jobs back with us as their wage rate goes up. And who knows, maybe we will get some of those jobs back, screwing these parts together. We just put the people there and screw them together because that is what they are doing now.

That is a pretty apropos word about screwing the parts together, and they call it a screw plant. I have not made that up. It brings some humor to this Senator, as I mention this, that they have this screw plant in Tennessee where they literally take these parts that come from Malaysia and Singapore, and they put them there and they screw them together. It is really a phantom plant.

There has been a court decision recently which is being appealed that said it is not a phantom plant; it is a real operation. That is testimony to the Justice Department and their inadequate representations. That is about all that it is, because they sent a rather inexperienced lawyer up to handle this court case. Between the International Court of Trade and the Mamelukes they have on that court and the Justice Department's people, who leave something to be desired, why, we had this incredible decision notwithstanding that there was no foreign content of any kind—and only the wrapper, et cetera, was purchased here—that they came out with this contorted decision, some would say, that makes it a legitimate plant.

I thought I would share with you a little bit of this almost humorous comedy, and it is really a comedy. If it were not so tragic, one could sit down and laugh at how they have thwarted and dealt with the law. It is a fiasco. It is an incredible fiasco.

Now, I have to tell you something. I know DAN ROSTENKOWSKI. I did not grow up with DAN ROSTENKOWSKI, but I have been here for 12 years. He has been here for longer. I have had an opportunity to observe the Congressman and the chairman of the Ways and Means Committee. I cannot believe some of the notes that have been passed to me that would suggest it is the Congressman who is opposed to this. I do not believe it. I do not believe it. I do not believe that he would be opposed to a provision that would bring about some fairness.

We may differ on philosophies, but that is not the Congressman who I have come to know and respect. That is not the person I know. There is more to this. Because I want to sell you something. Anybody, anybody looking at this matter on the merits regardless of where this plant is located—Portlandville happens to be in central New York—if they could not come to the same conclusion, I would stop talking. If they would look at this objectively and say that these people are not, should not be given this opportunity, I would stop. I do not believe that to be the case.

I know we have some thunderheads in the Congress, but I have to tell you something. It seems to me that a majority, the vast majority, no matter how contorted the reasoning or logic, if you were to say that this plant was in a different area and they had no local considerations, and it was not this Senator offering this amendment but anybody else, it was Senator Anonymous, or Congressman Anonymous, they would have to say, yes, of course, we should do this. Of course, we should see that the law is adhered to, that the law is obeyed.

Now, let me, if I might, take a brief respite from the reading of the names so that—and I wonder; here is a name, young lady, Lori Biviano, started April 5, 1988. I am wondering if Lori Biviano is not related to Judy Biviano, who has worked with our distinguished minority leader, Senator DOLE, for so many years.

I would not be a bit surprised. What I am suggesting to you is that these families reach far and wide. The consequences sometimes reach a lot closer than one would think.

Let me read the testimony, if I might—this is when this matter really came to my attention in a very vivid way by—Mr. Lee Thompson. He is chairman of Smith Corona. This was testimony that he gave to the Banking Committee on July 23, of this year.

Prior to his giving his testimony to the Banking Committee, he had paid a visit to my office. He went over in some detail this incredible saga of how it was that he had come to this conclusion and his board of directors had finally taken that action of saying no longer can we continue this money-losing operation, because Smith Corona indeed, as a result of this dumping by the Brother Corp., is absorbing some huge losses.

He starts out:

> Mr. Chairman, members of the committee, my name is Lee Thompson. I am chairman of Smith Corona Corporation. Thank you for the opportunity to testify before you today on U.S. competitiveness.
>
> U.S. business can compete with anyone. Our companies are competitive in the production of goods and services across a broad spectrum of business endeavors.
>
> What is competitiveness? The President's Commission on Industrial Competitiveness put forward a useful definition in 1985: "Competitiveness for a nation is the degree to which it can, under free and fair market conditions, produce goods and services that meet the test of international markets while simultaneously maintaining or expanding the real incomes of its citizens.
>
> Competitiveness is the basis for a nation's standard of living."
>
> Note the important qualifier, "under free and fair market conditions." This is where I want to put the emphasis of my statement today, and it is where I have the most direct experience.
>
> Today Smith Corona stands as the Nation's last remaining manufacturer of portable electric typewriters and word processors. In the coming months, however, Smith Corona will join the ranks of so many of our Nation's former domestic manufacturing concerns headquartered in the United States but forced to move manufacturing operations offshore to compete against foreign competitors who compete on terms inconsistent with fair trade.
>
> The prospect of losing U.S. manufacturing in the typewriter industry to low wage foreign sources may seem a small footnote to "globalization."

Oh, Mr. President, how so true those words are. Here is Mr. Smith testifying before our committee. You know, I know, and I have a feeling that while I make this statement and try to get some kind of recognition as it relates to what this loss means, that it pales in importance to "Monday Night Football." It pales in importance to one's own concerns of when am I going to go home, or when are we going to wrap this up, or when is the Senator from New York going to sit down, and when can we get on with this.

Listen to his statement. It is pathetic:

> The prospect of losing U.S. manufacturing in the typewriter industry to low wage foreign sources may seem a small footnote to "globalization."

It is a small footnote to just about anything, anything that is going to interfere with what we like to do with our creature comforts, with our own comfort for the moment.

I think we lost heart. We lost feeling. We have lost compassion for people. Maybe we have to become to traumatized by the machine of bureaucracy and Government that even those of us in this august body have lost the capacity to continue to battle and to fight on to try to change, to make a difference. It seems to me that that is kind of what it is about.

We have become so engrossed in our own creature comforts and our own concerns that the citizen is almost secondary. And he or she would be grateful if we lend them an ear, to give them attention. Most of the time we are so busy that we can barely stand still long enough to give any meaningful consideration to their cry of pain or suffering.

So why should things change at the 11th and a half hour when people have places to go, things to do, campaigns to run? Why should the plight of these people be any different today than it was last year or the year before?

We have become so enmeshed in the trappings of the office and the power, and all that goes with it, that I think that many good people have forgotten why they started on this journey of public service.

I cannot believe that, for most people became involved in public service because they thought they could make a difference. Somehow along the way it is easy to become jaded, to lose that sense of doing what is right because it is the right thing. Maybe, as this session winds down, it gives at least this Senator an opportunity to take a look at where I have been, and maybe more importantly what I should be doing and should not be doing as it relates to the conduct of this Senator, and standing up and listening and trying to make a difference for our people.

Mr. Thompson's testimony goes on. He said:

> Where borders are coming down and the production engine is fueled by the lowest cost, most efficient inputs in open competition, while their ideal seems to represent what is best about the hope and opportunity inherent in the United States, it also represents a naive, simplistic, and destructive approach to real-world public policymaking.
>
> Domestic manufacturing is the driving force behind much of the growth and expansion in our economy. Based on quantitative information, the Chamber of Commerce figured the importance of domestic manufacturing and its contributions to a community's economy to be an additional 64 nonmanufacturing jobs for every 100 manufacturing jobs.

That is an incredible statistic. So when we talk about losing almost 1,000 jobs, manufacturing jobs, in Cortland, we are also talking about the loss of almost 600 nonmanufacturing jobs in Cortland.

These jobs range from wholesale and retail trade to transportation, finance, business services and so forth. Aggregate personnel income associated with additional manufacturing jobs was sufficient to spawn seven new retail establishments. Maintaining domestic manufacturing is clearly a key to global competitiveness and our continued economic success.

> While pursuing a fuzzy notion of global free trade, our Government has missed its real effects on American manufacturing. I fear, Mr. Chairman, that our current trade and competition policy will lead to the eventual demise of U.S. manufacturing, competitiveness and opportunity, and destroy all that led companies like Smith Corona to become world leaders.
>
> Smith Corona is a valid illustration of both the success of U.S. competitiveness and the failure of our Government to sustain a competitive marketplace.
>
> For more than 100 years, Smith Corona has been the world leader in the manfacturing of portable typewriters; first manual, then electric, then electronic, leading us to word processing. The typewriter industry has long been driven by design ingenuity, features, consumer needs, and market dynamics such as pricing. In the mid 1970's, our foreign competitors took a new approach—unfair pricing. This divergence from fair competition sent the industry on a race to the bottom.
>
> Just two days ago, we announced the eventual relocation of our manufacturing operations to Mexico, costing 775 of our employees their jobs. Intense predatory pricing recharacterized the whole nature of our business. Were this pricing based on features, quality, performance, or most importantly, efficiencies, the market would have been enhanced for both consumer and producer. However, our foreign competition did not have better costs of production, efficiencies, or other means to reduce prices.
>
> Rather, a protected home market permitted them to set upon the U.S. market, knowing that barriers to price competition protected them at home.

Mr. President, what Mr. Thompson was talking about was exactly what was taking place. Brother—that is a good name, Brother. You do not need a brother like this around. This is Brother. They had no competition at home. We do not get access to their market. So they can keep their prices at whatever level they want, and then dump their typewriters here. That is exactly what they did, because I do not say this. There are a number of court cases, over and over and over. Commerce Department rulings. Portable electric typewriters from Japan, Treasury Department, Federal Register notice, 1975; portable electric typewriter from Japan, 1980, antidumping order, 45 Register 3618, Department. First dumping order in 1980, Mr. President, 1983, portable electric typewriters from Japan. Final result, administrative review. Portable electric typewriters from Japan. Final result, administrative review. And on and on and on and on, and in every one of these cases, we find antidumping orders.

Finally, we come down to certain personal word processors from Japan, antidumping order, 1991. They just circumvented it. Nine affirmative decisions. Nine. And we cannot get a tariff order placed on it. I did not say they were dumping. And, Lord knows, if you get the Commerce Department to find out and come down with a ruling that this has been the case, and the Treasury people, I mean, we are talking about the world's greatest free traders. They do everything to look the other way. When they come down in nine cases and find that there has been dumping, that is rather indisputable.

So he says, "To wit, the managing director of our Japanese competitors recently admitted in the June 22 Financial Times article," and the articles were attached, "that his company, Brother Industries, has tolerated"—listen to this, because this is the Japanese manufacturer himself—"has tolerated losses in its U.S. operations to secure market share. Put another way, they circumvented U.S. laws and continued dumping their products to increase sales at the expense of U.S. manufacturers. As each of you must know, U.S. companies cannot survive by selling below-cost overtime."

Some of my colleagues were a little bit upset with Mr. Thompson for what he went on to say. I can tell you that he should be upset with us. He should be upset with us tonight in the Senate for acquiescing, for keeping legislation dealing with this problem out of the conference. He should be upset with the House of Representatives, the people's body, for not permitting this legislation to even be considered, and I have to tell you that I do not blame him. I think he was rather mild in his criticism, absolutely. He said, "To our Government I say, wake up, this is the real world of competition. If companies cannot turn to their Government to provide conditions of fair competition, predatory pricing will force U.S. companies out of business or offshore.

Mr. BAUCUS. Will the Senator from New York yield, without losing his right to the floor, so I might make a unanimous-consent request on behalf of the leader as a technical formality so that he might undertake certain actions.

Mr. D'AMATO. Yes.

The PRESIDING OFFICER. The Senator from Montana is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAUCUS. Mr. President, I ask unanimous consent that the majority leader, the Senator from Maine [Mr. MITCHELL] be designated as an Acting President pro tempore until the Senate next convenes for the purpose of signing duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I thank the Senator.

FAIR TRADE AND FREE TRADE

Mr. D'AMATO. To continue, Mr. President, our hearing that was conducted on July 23 got quite some attention, because Mr. Thompson went on to say: "In an effort to end the dumping, Smith Corona initiated actions to obtain relief through the fair trade regime mandated by Congress. Since 1979, we have prevailed in eight"—excuse me, I said nine, but it was in 8—separate antidumping decisions.

Despite this string of successes, the dumpers have never been forced to comply with the dumping orders. Instead, the targets of our action have persistently, cleverly and with the support of our Government, circumvented U.S. antidumping laws.

In 1988 Congress responded by creating an anticircumvention law. It was intended to be "black and white", with just enough gray to give the administrators at the Commerce Department the flexibility to address new types of avoidance. Yet, Mr. Chairman, as we have experienced time and time again, discretion divorced from a focus on the statutory purpose too often results in bad decisions and lost jobs.

For example, after passage of the 1988 trade bill, foreign manufacturers found that shifting the base of a company's assembly operations would allow them to evade dumping duties. By establishing a "phantom factory," where virtually no value is added other than "mere assembly".

Mr. President, if you recall, I said if we had this plant that is otherwise known, because sometimes the plant itself is put up in a way where they literally use screwdrivers and prefabricate the parts that come in, none of them manufactured in this country, all of them from abroad are then basically assembled here. We call that a phantom factory where virtually no value is added other than the assembly, the workers who are hired to put these parts together but no content from this country, no engineering from this country, no skills other than putting together.

It is an avoidance. It is a sham, it is circumvention. It is wrong. It is wrong.

A dumper can claim that the U.S.-assembled typewriter is no longer the object of a dumping order—even when the final product is the same identical product subject to an order.

Mr. President, that is what has been going on. It is wrong. It is not right. I do not care how many courts tell you that that plant is not a phantom plant. We know it and in the real world and so when Mr. Thompson says get into the real world, take a look and see what is taking place here, he is not wrong.

For those who decry Smith Corona moving offshore, maybe we should decry the lack of action by the Commerce Department over the years, the lack of Congress over the years passing legislation to deal with this and in other cases wherever they may be, these situations.

We should not criticize, oh maybe, we should have sought another remedy, another forum. Our business should be how do we help him. I tell you something. I as a Senator from New York have a responsibility to do and help even those that may take place somewhere else, if it is taking place in New Jersey, if it is taking place in Hawaii, wherever it might be taking place.

So if we become so parochial that we cannot see the justice and the merit of seeing to it that every person's opportunity to earn a living and a livelihood should be protected by elements of fairness, that we say fairness, that we do not allow people to break the law to threaten and endanger that job. We are not talking about protecting against fair competition but we do say against breaking the law.

Despite this string of successes, the dumpers have never been forced to comply with the dumping orders. Instead, the targets of our action have persistently, cleverly and with the support of our Government, circumvented U.S. antidumping trade laws.

In 1988 Congress responded by creating an anticircumvention law. It was intended to be "black and white", with just enough gray to give the administrators at the Commerce Department the flexibility to address new types of avoidance. Yet, Mr. Chairman, as we have experienced time and again, discretion divorced from a focus on the statutory purpose too often results in bad decisions and lost jobs.

For example, after passage of the 1988 trade bill, foreign manufacturers found that shifting the base of a company's assembly operations would allow them to evade dumping duties. By establishing a "phantom factory," where virtually no value is added other than "mere assembly", a dumper can claim that the U.S.-assembled typewriter is no longer the object of a dumping order—even when the final product is the same identical product subject to an order.

Does this make sense? It does if your intention is to circumvent U.S. trade laws. Is it good public policy? Only if we wish to displace U.S. manufacturing with assembly line work.

Assembly operations do not generate the high wages, high tech jobs created by real manufacturing. The level of related activity in other sectors I mentioned earlier does not occur. Even recognizing the positive spin-off from a few assembly positions in a transplant operation, the assembly-only operation obviously requires far fewer workers per unit of production.

Think of that. How many workers does it take to put these parts together as opposed to creating them? The grinding, the precision, the kind of technical work, the kinds of creativity, the capacity necessary to train, the ingenuity, and that is why it is for every 1,000 manufacturing jobs there is a similar 650 collateral jobs, if you were to measure the effect and the impact in terms of assembly jobs, in terms of the spin-off, far, far fewer. If to measure the rate of compensation, I can tell you $6 to $7 an hour in this case on the assembly jobs; $17 an hour for the production for the high skill for the high tech.

Is that what we are about? Is that what this trade policy is supposed to be about? I do not think so. Is that what the law is supposed to be about? Yes. The law says we should not permit companies to dump and to sell below cost. The law says that Brother has to sell its product at or about at least what it cost it to manufacture, not below cost. How is it that decisions have come down that said that 60 percent duty must be paid. It is because they found out that the predatory pricing practices of Brother's was so out of the marketplace, so out of the realm of reality that it came in and imposed this huge fine.

Mr. President, you cannot compete against someone who is engaged in this kind of predatory practice, this dumping.

So, indeed, we find the situation where unfortunately not only Smith Corona but others have been forced out of business or to shift their manufacturing, the very thing that we cling and try so desperately to keep from the United States to a lower cost manufacturing area.

For more than a dozen years Smith Corona has fought at the front lines—

And this is Mr. Thompson in his testimony before our committee—

using every legal and political weapon in the arsenal available to U.S. manufacturers. Yet, we have consistently come up empty. The laws do not move fast enough to keep up with new techniques designed to attack manufacturers; Government officials charged with enforcing our laws have unfortunately too often exercised discretion to let the dumping continue. The natural interest of shareholders in maximizing return on investment says you play Don Quixote only so long.

Mr. Chairman, from the front lines of U.S. Manufacturing, I have witnessed the ravages of unfair trade and noted the inability of administrative discretion to support the advancement of U.S. industry. As vice president of Sylvania Television, and then as president of Singer Sewing Machine, industry's calls for fair trade were dismissed as protectionist.

And how often have we heard that in this Chamber. How often have we heard the arguments that you just want protectionism.

I think there is a big difference and distinction, and it can clearly be made between protectionism and fairness, between equal protection, equal protection under the law and the discriminatory, arbitrary recalcitrance of those charged with enforcing the law and also those charged with the responsibility of dealing with the apparent inequities of the law.

We, Mr. President, fall in that later case. Those of us who have a responsibility to deal with the inequities that would allow a situation to fall through the cracks, we have a responsibility and an obligation to deal with those inequities.

And do you know, that is what my plea is. And it may be a harangue to some. But when I spoke softly, when I asked, when I pleaded, when I had staff go, when we went on bended knee, we met polite but, I must say, nonresponsive replies. They were not responsive. No one has said, "Senator, this bill runs afoul of the dumping provisions of the GATT provisions. We cannot enforce it." No one has said that, because it does not, because it was carefully crafted in a manner to get GATT neutral. It was crafted to seek fairness and fair play.

So, if at times I might appear to be somewhat annoyed, dismayed, and even angry at the lack of response, it is because these people have been denied their petition. This is not my petition. This is not Senator MOYNIHAN's petition. This is their petition for fairness. It has not been given a hearing. It has been denied. And it has not been a subject that came up at the last minute. By gosh, everybody knows that.

But now we find one would say, "Oh, I did not know it. I did not know it was in there, the other one did," "No, this one did." "Oh, no, this staffer did." "No, it is the other staffer."

No, it is all of us collectively. I want to know how we can deny our responsibility collectively.

It is now 25 minutes after 11. I think the House is still in session. I know that some of the conferees certainly have heard this Senator, and they are going to hear him for a lot longer, a lot longer. And, as you know, they can still go back and reopen the conference and say, "Let us look at this. Why should we not take this?"

And I want to know, I would like to know, as a person who brings this petition on behalf of these people, why it is, what is so bad, what is the evil in saying that the law shall be enforced? I would like to know that. Is that something that is terrible? Is that something that is too much to expect for the American workers to have the law enforced that people cannot illegally dump, so that an antidumping order can be enforced?

By the way, that is all we want. We want it so that in the event of a dumping order is found, a company is found to violate the law, that a tariff can be placed against them; not that they circumvent them and they now say, "Oh, no, that was against the company. I am still the corporation comes from Japan, but now the operation comes from Malaysia and Singapore."

And then they meet over here in the States and they put together this phantom factory and they screw these things together and now you know it is no longer subject.

Come on, let us get real. And that is why this gentleman, Mr. Thompson, said, "Let us get into the real world." Maybe I would like to be—because I heard that expression before when I spoke to Alan Greenspan and he told me that all was well, and I told him to get into the real world, because it may be well in your little cocoon where everybody talks to you and everything is well in this plastic bubble of Washington, but it is certainly not well on Main Street. And so when I heard him talk about "let us get into the real world," it made an impression.

I have to tell you, Mr. Thompson went on and he said:

> Mr. Chairman, from the front lines of U.S. manufacturing, I have witnessed the ravages of unfair trade and noted the inability of administrative discretion to support the advancement of U.S. industry.
>
> In their wake, we clearly see that a failure to act leads to the wholesale devastation of entire industries and a further erosion of the U.S. commercial base. My experiences have revealed to me certain basic shortcomings in American competitiveness.
>
> First, Americans fail to understand or appreciate the substantial importance of manufacturing. To many, investment in America is investment, without regard to its source or character. The continuing thirst for capital investment has led many of our communities and their political leaders to race to the bottom, willing to displace manufacturing with assembly jobs, so long as the job lands in their community. We ignore national interests in our pursuit of the parochial.

How true that is.

> Second, I am concerned about the failure of Government to respond in a timely fashion. By the time relief comes to industry, or even the prospect of relief, it may be too little too late, such as with Smith Corona.

Mr. President, I tell you, I really thought that we could make a difference here. I really thought that this case and the examples of eight dumping cases, eight findings of dumping, was so clear that all of my colleagues on both sides of the aisle, Republicans and Democrats, regardless of where they come from, would come together and say, "Let us deal with this."

I have to tell you that Mr. Thompson's statement as it related to our drive to get those other jobs regardless is true. We have become so mired down in this parochialism that we have lost the bigger picture.

I have no illusions about what will be the outcome. I guess I did have some. I guess maybe I really did think that we could make a difference.

I approached this with my colleague from New York, Senator MOYNIHAN, a wonderful and gracious individual, and he understood the pitfalls. But he approached it, I think, with a very real dedication and fervor to try, even at the last hour, to make a difference. And do you know what bothers me more than anything else is that the very group that over the years has not shown the kind of flexibility I think necessary to distinguish between free trade and unfair trade; they finally came around. And it was not easy—and it was not easy. And it was not made on any promises. It was made on attempting to do the right thing.

I think maybe some of my colleagues here in the Senate and the House said, oh, well, we will never get the Commerce people or the White House people to sign off on this. And, indeed, when we went to them, we met obstacle after obstacle after obstacle.

We did not give up. Our staffs worked and worked—the first time, the second time, the third time. Finally, when in the energy bill, in the tariff side, we included a provision they understood that we were really serious. Then they looked at that, and they said, no, this provision is violative of GATT. We understand the objective that you are attempting to attain but it is violative.

And the lawyers worked harder and some mornings until 2 and 4 o'clock in the morning. And we finally came up with a proposal that reluctantly—reluctantly—the administration agreed not to oppose.

They were not jumping up and down. They were not celebrating. But, I tell you, I guess it is an admission of my naivete—yes, it is—I was celebrating.

I honestly thought that we were on the threshold of making a major breakthrough. Shame on me. I really thought that we had overcome the major obstacle, the intransigence of the administration. It was an obstacle and it was a major one.

I could not fathom it, Mr. President. My colleagues in both Houses were sent here to represent the interests of all Americans, the unheard of Americans, whose names I read to you—whether it is Biviano or Tracy; that there would be unanimity, not just overwhelming support, but unanimity in saying let us see whether the chairman of the board of Smith Corona is real when he says if given an opportunity, a real opportunity, he would try to keep those jobs here.

We are not even willing to see whether or not that is the case. And in so doing, we destroy the hopes and opportunities of lots of people. It is not just those 775 whose jobs will be lost immediately, but it is those who might have had a job. It is those who earn a living as a result of these people and their employment.

We break a contract—we break a contract with what? Public service. Not just in the Congress, but I guess that is probably one of the more exalted positions of public service. We break a contract with what those who are elected in a democracy should be doing. That is not making a difference to enhance ourselves but it is to make a difference enhancing the quality of life for our constituents; it is for fighting for fairness. And this issue is one where it just cries out for fairness.

Listen, it might be that a year from now, even if we were able to pass this legislation and even if the Commerce Department pursued aggressively the antidumping orders and enforced the tariffs, the Smith Corona people might decide to close and to move. I cannot tell you, or the workers, with any definitiveness that this might not ultimately be the case.

But why should they not have an opportunity to compete fairly? Why should they have a situation where they cannot compete? I look around in the Halls, and I see people who understand this. And they should. I do not question the motivations of my colleagues, they are good and decent people.

But I am saying should we continue business as usual? Why should it be on a bended knee to a parochial interest that does not represent one iota of interest of fairness? That is not why my friends came to the Senate or to the House. I think they came here to seek fairness and to stand up.

And it is not just a matter of what I can get for my State or for my community. This is not a question of where we open a new Federal facility. Reasonable people could disagree as to where or how the merits or the opportunities, and the closeness of the issue is one where it comes down to—yes, politics and political power. We understand that and that is part of the process. And I am going to continue to talk and talk and talk, because someone just asked me about that.

And I have just begun. I have lots of energy. I have lots of time. And, indeed, I have not made many remarks as it relates to this important legislation heretofore, other than to indicate for a very short period of time my deep concern with respect to those provisions that would give to the people in central New York, outside of Syracuse, NY, in the county of Courtland, an opportunity to compete fairly. That is all we want. That is all we want.

By the way, who knows, maybe the Commerce Department will not pursue with the vigorousness, these antidumping cases. I cannot guarantee that they will. The law will be there. They will have the opportunity, the discretion to do this. We close a gaping hole and that is why I was so excited. Because, if you look at the history and the litany of these cases, all throughout the avoidance of these eight cases where they won, eight cases where they prevailed, eight cases where they said Brother is breaking the law, eight cases, eight times we get the circumvention, the pattern of evading the law, they evaded the law.

Oh, well, now what can we do? Close the loophole.

What is wrong with closing the loophole? Why is it that we are afraid to close the loophole, may I ask that question? I ask this rhetorical question, why are we afraid to close the loophole? Will we close it after Smith Corona makes its final decision, its irrevocable decision to move? It that what we are going to do?

Are we going to wait for the Smith Corona people to actually consummate a contract for the construction of their plant in Mexico? Is that what we will do? Will we come back here in January, have the induction of our President in late January, have our mighty 100 days, and in some time or some place hold a hearing on circumvention? And if, indeed, at that point in time we pass this legislation, or even legislation which is broader to deal with the variety of problems that exist in this area—and I understand that there are some and I understand that some of my colleagues might be very vexed and say why do you think that this is special? Why is it special for you? I have a situation and it is special to me.

I want to tell you something. As far as I am concerned, I will be supportive of those areas and those conditions which are special and where the law is being violated and where people have a right to petition their Government for a change, to see to it they are given fair play.

Mr. President, I have to tell you, and I do it again. If you told me that the administration would be opposed to this, I want to tell you something, I was prepared to come to this floor and chew them out. And you can believe that. I was going to take them on. I had a speech prepared to say, you want to know something, it is not good enough to talk about jobs, here you have an opportunity to do something about jobs.

I am not making that speech tonight about the administration. I am making that speech about this body and every Member in this body and in the other House. Do not, anybody here, talk about saving American jobs. You do not have the right to do it. And if you do it, I want to know why you did not do something as it related to the people in Cortland, the people in Smith Corona.

Am I getting angry? You better believe it. A bunch of sanctimonious nonsense. That is what I hear. I do not want to hear how am I best to do jobs, what can I do about America. You have a chance to make a difference and to stand up for what is right. That is all we are asking for and not this business about, oh, I have a company and it is headquartered over here and I have a plant.

Let me tell you something. I wish them luck and fair competition. They should grow. They employ Americans. They employ people in this country.

I do not want to discourage foreign investment. I want it here. But they still want to see that whoever it is competes fairly and that American corporations are not disadvantaged. We just cannot say, oh, it is the administration, the administration. Because I want to tell you something, the administration signed off on this bill and then when it reached the House and they wanted to change it more and make it a little broader, they agreed to sign off on the second provision. Then they did a third one.

Now come on. What has happened? What is up? Let us stop the nonsense. I am not going to let people off the hook, I am not. Absolutely not. Those guys in the House say they want jobs. You want jobs? Here is an opportunity to create and save jobs. Over here in the Senate, the same thing.

We ought to send back that conference report. Absolutely, send it back. This Senator will know when to sit down: When I am told and I am given the assurance that we will send this bill back and insist that that provision be put in. That is when this Senator will be ready to sit down. That is when I will be ready to yield the floor. And if it means I have to keep people in an embarrassing position, why then let us do it.

I have gone to so many banquets and so many campaign stops and so many parades and so many this and that and been nice to so many people, this group, that group, that is nonsense, that is irrelevant. I want to tell you something, all of our campaigning, all that pandering, that is pandering. I am for jobs. Are you really for jobs? I have some program tonight. The woman said to me, the reporter, well, Senator, what about jobs? I said investment tax credits, we have to cap spending. I believe in those. But let me tell you something, something so basic. We should not be debating this. The powers to be—and I am not one of the powers to be, you know that—the powers to be should say, Alfonse, we are going to settle this, we are going to do this. We are going to do whatever is necessary to see to it that it is handled correctly. We are sick and tired to listening to you, besides, and they should be. They should be, really.

I think we all ought to be ashamed. We ought to be ashamed we waited to this point. We all should be saddened. Really. It is not a tribute to what we are supposed to be about. It is not a tribute to public service. It is absolutely an abysmal record.

So when we talk about jobs and how do we produce them, here is a good way. What would it cost you to replicate a Smith Corona plant because it is disassembled? What would it cost you to put in a manufacturing operation like this which, by the way, has increased its productivity and efficiency 700 percent over the last 12 years? Mr. Thompson says I can compete with any manufacturer of these typewriters fairly. I cannot compete if they are selling below market and absorbing the losses in their protected market. That I cannot do. No one can do that. You can be a genius and cannot do it. You just cannot deal in that kind of situation.

So I have to tell you, I understand this action, but what would it cost us? How much do we pay to create a job when a person goes on the relief rolls and then we get into a job-training program and then we send that person to an education, vocational whatnot, then we try to find an entry-level position.

Did you ever figure out how much we would pay for that job? Here we have 775 high-paying, high-skill jobs paying $17 an hour, gone. I think this case epitomizes the kind of almost indifference you see. It is not good enough to say that it is the administration. Now, we can blame it on them, and I want to tell you and I do not know whether the President or others really believe what I tell you, and my staffers will tell you, I would have come down and probably been much harder on the administration had they refused to attempt to deal with this problem. I would have because I would have seen that as a betrayal of everything I really believe that we are about.

Mr. President, Mr. Thompson went on to say, in pursuing relief:

> We frequently heard the claim that adequate discretion existed to remedy our problem.

He asked the question:

> How useful is discretion if it is in the hands of those who, for whatever reason, choose not to act? Political leaders need to reflect on why it matters if a manufacturing job is displaced with assembly. Where does the manufacturing go? Where will the skilled labor reside? Where is the value and what are the wages? Does foreign ownership matter? Of course. Who will make the decisions of where we manufacture, do our engineering and design, high technology and where will the profits go? Do these phantom factories represent the future of American manufacturing? To claim them as manufacturing is an exaggeration. To encourage their growth is a national resignation to low wages and decline.
>
> In closing, let me underscore that Smith Corona has pursued every available means to ensure fair trade and secure a competitive marketplace for U.S. manufactured goods. The failure of our Government responding in a timely and effective manner has denied us the opportunities for competitiveness and forced us to join other U.S. manufacturers offshore.

Mr. President, that speech was made by Mr. Thompson on July 23 before the Banking Committee. I think it is a sorry testimony to the lack of action and to the fact that over the years if there was a deficiency in the law, that the people at Commerce and Trade should have been suggesting either administrative changes to deal with this or the legislative changes necessary. I do not think we should have been reduced to this last minute situation where we come in and say, look, this is how desperate a manufacturer becomes, and by the way he has not promised to keep his plant here and operating if the law is changed.

And I do not blame him. He wants to see it changed. He does not want to give false hope to those people. I understand what it is. And I could not even begin to fathom the kind of feelings they must have. Roller coaster, I was on the roller coaster. I was up on the high point just 2, or 3 days ago, when we finally got the administration and its representatives to say: All right, we are not happy but we see the need, and we are willing to take what they call this rifle-shot approach that would deal with this one inequity and not open up the whole question, which is a very technical legal one, of circumvention.

And so with that, I was so elated and I felt that here we have an opportunity to show people we hear them, that we hear their pain, that we hear their anxiety. I mean these people are crying out for help. And they are so much a part of this great country because in their anguish they have not come and marched on Washington. Lord knows, they have every reason to do that.

These are the good, the quiet people, the enduring people. They pay their taxes. They love their community. They love their country. They educate their children. They do not have time maybe for protests.

Oh, yes, they came together on more than one occasion locally to express their concern and dismay. They have a right to.

I can only tell you that I felt this incredible disappointment where I went from this high of saying: My gosh, we have a chance to save these jobs, and save these people, save their lives, to a point where I was absolutely devastated this evening to learn of how we handled this matter with a casual indifference that some might characterize as bordering on contempt.

That is tough language. But it was a casual indifference. It is a casual indifference when a matter of this importance cannot get all of the conferees to sit down and to discuss this matter in depth for 10, 15, or 20 minutes, for a half-hour, where it can just be waved away, waved away. That is the lives of 775 people, just treated with contempt. That is what we do. And if my colleagues are distressed at that characterization, I am distressed at the facts and the indifference in which this serious situation was handled. I think it is inexcusable.

Now, some might say, well, there are some good things in this tax bill, Alfonse. You will have to pay the price if you stand up here.

And I say to you, we have a chance to let the bill get to the President, let people vote one way or the other. "The final tax bill was being negotiated behind closed doors." This is this article, Syracuse Herald, Sunday, October 4. That was yesterday, I think. "Final tax bill was being negotiated behind closed doors by House Ways and Means Chairman ROSTENKOWSKI and Senate Finance Chairman LLOYD BENTSEN of Texas. It sets up enterprise zones in cities and makes other changes in the Tax Code." That is an article by Jonathan Skalan.

Now, the point I wanted to make is that this was being done literally at the last minute behind closed doors. This Senator did not get an opportunity, nor was I asked, to come on down and to discuss it. Not even behind closed doors. I was not given an opportunity. And I do not believe Senator MOYNIHAN got an opportunity to lay out the facts, and certainly if he did it was not for any extended period of time.

Now, I understand that we have to do the business of the people, and I understand that we cannot be at every committee meeting at the same time and that we have conflicting responsibilities. Nobody ever even asked this Senator: Do you want to make known your view? Can we get a response back? Can we hear what you think? Can we tell you what our problems were? Can we tell you that the drafting of this legislation is inappropriate?

Now, I tell you, there were lots of things that got into that bill that were not in that bill when it left this Senate. They are not in there. How did that happen? Were there big, deliberate discussions? How did other provisions affecting some of the same things that I am talking about get into that bill?

Mr. President, workers and citizens in my State deserve every bit of protection, as much as the citizens in any other State—maybe not more, but certainly every bit as much. And if that bill does not have provisions dealing with the inequities that I have outlined, then this Senator, as I have indicated, and as Senator MOYNIHAN indicated, will do everything necessary to see to it that it is not adopted in this form. It would be wrong and it would be a betrayal of what I consider to be my solemn obligation, and that is to fight for what is just and what is right and particularly when it is a situation that is brought to my attention in such a vivid manner, when the man who has to make this decision about disbanding this plant is heartsick about it and says: Give us an opportunity and we will fight to save those jobs and keep those jobs in the United States.

I would think the least we could do would be to consider that legislative remedy, that relief which we sought. No one has yet explained to me, either informally or formally, why it is that this provision was not included in the legislation. No one. Staff cannot tell me, staff of the minority on the Senate side. On the House side, forget it, what stories we get. A mixed array: Oh, no, it is not there; this is it; I am going to take it.

Who speaks up for the little guy? Who is going to hear their voice and their plea for fairness? Have we really become so jaded we can sit by and just watch this take place and go on to our next adventure, our next challenge? Maybe ours is such an exciting life that we can pass with indifference this tragedy. If this is not the traveler who finds himself stranded on the road in the wilderness, frightened, not knowing what will take place next, I do not know what is.

Most people have a lot more courage than I do. They are taking the plant shutdown and the termination of their work, not because they did not work their hearts out, not because their plant cannot compete—because it cannot because they have not improved their productivity to incredible levels, but because all of us collectively, both the administration and the Congress, could not treat them fairly, could not see to it the predatory pricing practices which are illegal were not stopped. And on the altar of political expedience, why, we take a copout because, after all, my friend has a plant in his State. They are a competitor of this Smith Corona. So this gives us a reason to look the other way, and we do not look at the merits. My other good friend has one that is headquartered in his State. We do not look at the reason or the merits. So we look the other way.

I wonder, if we were traveling down that road and we saw as we came upon the weary traveler delaying in that road, a sign that identified him as a citizen of another State, we would go by indifferently? I do not think so. I hope not. But what are we doing here? We go by indifferently. "After all, this is not my fight."

I wonder why it is not. I wonder how we can go back to all the American Legions and talk to them about America, how great it is. I wonder how we can go back and talk about how it is that we have a position on the fair free trade bill.

I have heard so many of my colleagues express reservations because they wanted to be sure that there was fairness. They wanted to be sure that American jobs would not be displaced. Here is an opportunity to back up your rhetoric and do something.

So, if we go home and we fail to even attempt to take this up—and I think that collectively we have all failed—and I hope maybe when people give one of these patented speeches about how they are for the American jobs, how they do not want to see these jobs go someplace else. And the American worker—I have to tell you, it would not bother me if somebody stumbled a little bit on those words and maybe think about what our lack of action is and whether we really meant what we said; and, if we become again so enamored at the trappings of our office and this office that we forgot our real responsibility, responsibility for that weary traveler who is on the roadside or to that factory worker who has done one heck of a job, is a good and decent citizen, who loves his family, protects his community, and adheres to the laws, and is a good worker and produces a good product, and his company produces a good product, but is literally going to close on him, close on him because the people who are elected did not have the courage to do what was right.

They not only did not have the courage to do what was right, but they did not even have the courage to tell him why they refused to do what was right. They did not have the courage to tell his elected representatives why they refused to do what was right.

I would like to know why they would not do what was right. I do not want to hear one of the sanctimonious speeches about we will take it up next year and we will consider it because it is too late for them. Those jobs are gone. That plant, that manufacturing plant will be closed. Those people will be terminated. Smith Corona will make its decision to start to build in Mexico, and they are not going to wait. And every day that goes by has increased the cost to Smith Corona.

If anybody should be commended, I guess they should for not having pulled out of this fight a long time ago. They had every right to. They have never seen a responsive administration or, on the administrative side, they have never seen a responsive legislative initiative that has gotten off the ground. I guess they never will. That is too bad. That is too bad as it relates to this body.

Mr. President, there is an interesting article that appeared in the New York Times on September 1 of this year. It is called "Global Issues Weigh on Town As Factory Heads to Mexico."

> When the red brick buildings on Main Street were new eight decades ago, and the autos were bulky, black and few, a local steel company brought hundreds of low-wage workers here to upstate New York from Italy and the Ukraine rather than pay more to local workers.
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> Today, the steel company has long since closed and a rainbow of sleeker vehicles cruises Main Street. But once again a big local employer, this time the Smith Corona Corporation, is looking for cheap foreign labor.
>
> Rather than importing foreign workers, however, Smith Corona announced last month that it was moving its typewriter manufacturing operations to Mexico, most likely to Tijuana. Although it plans to keep its much smaller engineering, distribution and customer service divisions here, Smith Corona will lay off 875 of its 1,300 workers in the next 12 months.
>
> STARTING ALL OVER AGAIN
>
> Smith Corona workers were generally unwilling to discuss the pending layoffs. But one worker who did talk was Barbara E. Miller, who assembles the typewriter mechanism that flicks the correction ribbon into place. "At 50, I'm not really looking forward to starting all over again," she said recently, as she sat on a hay bale near the large gray barn that she rents with her husband. "I have five weeks of vacation; it's back to scratch."
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> The decision by the company, whose typewriters have been a common graduation gift for several generations of Americans, has become a centerpiece in the national debate over President Bush's recently announced free trade agreement with Mexico and Canada.

Mr. President, how apropos. You see, if indeed we are concerned about the free trade agreement that is being negotiated, if indeed there are those who say, "I want to keep jobs from going to Mexico, I don't want to be trading high-wage, high-production jobs for the low-wage assembly jobs," then here is an opportunity for those who have raised those considerations to do something about it. Here is a chance to act. We actually have the administration ready to sign off. They have.

So, Mr. President, this is not a situation where it is the administration that we can hold responsible for the loss of 875 manufacturing jobs.

The responsibility at this point for the loss of those jobs rests right here, right here in the U.S. Senate. That is right. Because we have not had the courage to stand up and say, wait a second, Lee Thompson at Smith Corona, we are going to give you a chance. You say this is taking place because of unfair dumping. We are going to give you a chance and hold you accountable. We are going to find out whether or not you and your board are ready to back up your rhetoric. You went and testified before the Banking Committee and made other statements. OK, now we are going to give you a chance.

Now, Mr. President, who has the courage to stand up and act? It is one thing to bash the President and to bash the administration on their lack of enforcement, and it is another thing when we have the ball in our court. We have a chance to do something here. Are we just going to let those jobs in that factory close down, and then we will say the Bush administration did it? They did it?

I want to tell you right here and now that we did it. We failed to act on this. We did it. I have not heard any redeeming arguments as to why we do not stand up and stop that, or at least give us an opportunity to stop it. No. In the conference committee where these things are supposed to be debated, none, none.

Then we hear the House would not take it. You know those deals. You tell me you do not really want this thing, so I will reject it, and that is what happens. That is what happens. We have "ROSTY" taking the blame.

Do you really think he is really upset about the fact that Smith Corona might, if they get this legislation, decide to stay? Do you really think we are going to blame that on Congressman ROSTENKOWSKI? Come on. I mean, I know I do not come from the big city, and I know I do not come from those areas where they spin these yarns. That is inconceivable. It is nonsense. "ROSTY killed this." What a nice way to cover our political you-know-whats here. Well, it is not going to work, because I do not believe it, and you do not believe it. Nobody believes it. If you said we want to consider something else and you made a demand that is incredible, you know there are lots of ways to do that kind of thing.

It is inconceivable to me, having seen how tenaciously Congressman ROSTENKOWSKI has fought for fairness as it relates to these issues of trade, that he opposed this. Maybe if we were unwilling to undertake something that he deemed important, then you call that a deal killer. Is it not incredible that I now have to speculate? I do not know. Nobody really knows, because we did not really have a discussion, Republicans and Democrats sitting down at the conference discussing this. They did not do this. One chairman, the majority, sat down with the other chairman and, poof, here we have this wonderful thing called this tax package. What kind of discussion did we get? I did not see it, says one to the other. I did not know you really wanted it, says one Senator to the other. I did not really know you wanted it, said one Congressman to the other Senator.

We are supposed to just accept that? So we leave the traveler in the road, and more than that, we run over him. You see, when you cannot make a difference by merely extending a hand, and you do not do that, that is probably a far greater sin than maybe the person who struck the traveler in the first place and left him in the road.

I cannot even be angry at Brother here. They did what they could get away with. But I certainly can be terribly disappointed with the person who walked by and did not even extend a hand when they have an opportunity.

As we talk, we still have that chance, and we still have that opportunity. Maybe I am talking in vain, and maybe I am wasting my voice, and maybe I am taxing people's patience, but it just seems to me that I have no other recourse. I hope that some of us will be embarrassed. I hope that some of us will be shamed. I hope that maybe some of us will say, what is this about, if it is not coming together for the right thing. I have seen so much cheering over the years, over victories that have nothing to do with reality. They have to do with vain, partisan politics and one-upsmanship, one side over the other.

Those are not victories. But I will tell you, this is a defeat. It is not my defeat. I think it is a defeat for everybody in this Congress, certainly in this Senate. I do not know who spoke to this issue in the House. They have different rules. They have a 2-minute rule. I know some people around here wish we had a 2-minute rule. But the fact is that I think this is a tragic defeat for this institution, that we can go about our business as if this was not taking place.

I guess that most of my colleagues, if they have not already left for home, soon will, and we are probably not getting through to any of them. I really do not know if we can get through to most of them if they would have the courage to do anything to try to change the situation. It is pretty easy to say: I do not have a dog in this fight, so why should I get involved? Why should I get involved? Those 875 people, I do not know any of them, and they cannot even vote for me, and they do not know and would not know what I did or did not do in their case, so why should I rock the boat?

Well, maybe because we are here. Maybe because we should do what is right. But I guess the more I have seen in business and politics—and I have been involved in it for 30 years, maybe a little longer—I really should not be surprised at that.

I remember when I thought that the greatest thing one could do would be to attempt to deal with the inequities that existed in Government and try to make a difference in that way. I guess sometimes I have strayed and lost my perspective. I think probably many do at times. And you can become enamored of the job, meeting the President, the Prime Minister, hearing people make big speeches, and coming to different occasions that only as a result of your office would you ever have an opportunity to be at.

That is nice. But it really falls short of what we should be about.

I am not going to read you the rest of this article that talks about the despair of people and how it is that they are losing their jobs and how it is that the sales have gone down as a result of the kind of competition that they face.

And then you look and you see the manner in which they have to deal with this. If I were to read you this article, then I would probably start telling, guess what I thought about all the Presidential candidates and the debate that goes on, because I think it is all a lot of nonsense, because here we have both Gov. Bill Clinton, Democratic Presidential candidate, and President Bush have detailed plans for extra Federal spending on job training programs.

I cannot believe it. I should not have read that. That is a little piece of the article. Both Governor Clinton, the Democratic Presidential candidate, and President Bush have detailed plans for extra Federal spending on job training programs to help unskilled, and it seems to me skilled workers like those at Smith Corona.

My gosh, wake up, wake up and smell the flowers. Do not wait until it is dead. You have an opportunity. Why should you wait for them to be unemployed? Why should we wait to have to spend millions in job training for jobs that do not exist in that area?

This is incredible. I do not believe it. I do not believe it. You have a chance to save 875 jobs and we have 2 guys running around saying they are for job training. If I were both of them I would hold a conference and say, my gosh, pass that bill; maybe we will get Clinton to do it and get the President to do it and then maybe these turkeys over here will act. Incredible. Incredible.

Mr. FORD. Mr. President, will the Senator yield?

Mr. D'AMATO. For a question.

Mr. FORD. For a question?

Mr. D'AMATO. Certainly.

Mr. FORD. Who is the Senator referring to as turkeys?

Mr. D'AMATO. Collectively.

Mr. FORD. Collectively?

Mr. D'AMATO. Collectively the inaction of the Congress of the United States.

Mr. FORD. I say, Mr. President, I think the speaker ought to be a little more careful.

Mr. D'AMATO. And I recognize my distinguished colleague's admonition and I will attempt to do so, I really will.

I also think that my good friend from Kentucky realizes my frustration with this situation, because there are lives at stake here, and when there is such an obvious remedy to at least help and make a difference, that is what leads to frustration, because we certainly are not acting as responsible legislators and people who care.

This is an action that cries out for us to act and if not by my legislation or legislative action that has been crafted by Senator MOYNIHAN and myself, then some alternative that can deal with this problem, and it is there. Stop an illegal dumping, predatory pricing. We did not say stop competition; we said stop the illegal act. What more do we need? And why is it, why is it that we cannot get it done?

Why? That question begs for an answer. And I have not heard one, and this Senator is not going to be silenced on this issue until it becomes so painful that maybe we will adjourn and others can use their parliamentary maneuvers of privileges to do what they must, and I have no doubt that eventually they will.

But I have to tell you again when we have a situation where both the administration and those who seek the Presidency claim that they want more in job training, they want to help people, I say, look, an ounce of prevention is worth much more than the proverbial pound of cure. Better to prevent that unemployment, better to save that money, better to keep people with their self-respect and their dignity, better to show people that we do care. What a wonderful thing if we could show people that we really care. What a wonderful thing. Maybe this is one little example. There are many others. This is a way to show people we really care and it will make a difference. It was not to tell them to get the number of dollars for Route 17. This is not that.

This is saying that we are going to give a company an opportunity to compete, an opportunity that otherwise will be lost, and they will simply have no other action than to move to another area to offset the cost differential which they cannot offset if they stayed here. So they then do something that we all abhor. And how many times do we hear the steelworkers and others say why is it you are sending our jobs, trading our jobs for jobs that pay less?

We cannot say that is just someone. That is not a mythical body that is doing that. We are. We are responsible for this reaction. Every Member of this Senate and people might resent that, but by our indifference and our failure to consider to debate to really have a go at this, and we did not even have a go at this, certainly not on the merits and certainly not in terms of any discussion that was held even at a committee level with any degree of exchange. No merits. It is who has the power. I did not know that that was what this was about. I thought that even in the most partisan situations we attempted to look at the merits.

And indeed more often than not many times when I have gone to Members on the opposite side with those matters where the facts establish a need, I have to tell you that more often than not my colleagues on the Democratic side, on the opposite side, have responded. They have.

But this is a matter that is not partisan. This is a matter that enjoys the support of both the distinguished Senator from New York [Mr. MOYNIHAN] and myself. This is a matter that is based on equity, on fairness, and we say that if everybody is so concerned about jobs then, my gosh, how can we be so blind as to turn away from an opportunity to make a difference?

And what will it cost? It does not cost this Government not one penny, not one penny. No revenue is lost, but indeed it is an opportunity to keep taxpayers paying taxes, to keep wage earners earning wages to keep them in a position where they maintain their dignity, their dignity. Do not we care about them?

I have to tell you I would not vote for anybody if I were them, absolutely not. They have a right to absolutely totally say forget it. You do not care for anybody. And I have to tell you I think if we turn our backs on them they have the right to their total disdain of us, total disdain. There is no earthly reason for this not to be and certainly not to be handled in the manner in which it was. No reason. That is wrong.

Let me read you part of this:

> Smith Corona must reduce its costs to compete with low-priced typewriters imported from Japan and Southeast Asia, Mr. Thompson said. Labor costs in Asia are considerably lower than in the United States, though Japan's advantage may be partly a function of more efficient manufacturing processes. Mr. Thompson, however, blames the Bush Administration for not doing more to shield the company from unfairly cheap imports.

He is right. They should have done something prior.

> Over the last 12 years, the Commerce Department has repeatedly found Smith Corona's archrival, Brother Industries of Japan, guilty of selling its typewriters at unfairly low prices. But Brother has mostly avoided paying punitive Customs duties, by selling typewriters not subject to duties and by opening a typewriter assembly factory in Bartlett, Tenn.
>
> Both Gov. Bill Clinton, the Democratic Presidential candidate, and President Bush have detailed plans for extra Federal spending on job training programs to help unskilled and semiskilled workers like those at Smith Corona.

Let me tell you, the people are more important. They do not want their job training money. They do not want their job training program. They do not want Federal subsidies. They want a chance to work. They want a chance to compete fairly. And if a Japanese company knocks them out, fine; so be it. But they are entitled to compete fairly. That is what they want. That is what this bill does.

If anybody can say that the bill is illegal and it violates GATT, it is not something that is right, I understand it. But nobody has come to this Senator, not one Senator, not one staffer, no one, and said that that is the case. No one.

Now why should these people be sacrificed? Why?

And I will tell you, I am not going to give us a gold star. We flunked. This body and the other body flunks—care, compassion, F; rhetoric, A, A-plus, A-plus, plus. It is a great place for rhetoric. It is a great place for political demagoguery.

Oh, we bash the President. We come down, we hit him, we smack him. Hey, I was ready to do that. I was ready to come down here and take him on and you say you did not give a darn about these workers when they said, we will sign off on this.

And we spent weeks and hour after hour, hundreds of hours working, dotting the "i's," working one out, putting another one in, doing that so that we could craft it so that we could not get into a situation where we were being unduly restrictive and where we could keep real competition but give an opportunity to see to it where the law was being violated that we could stop the circumvention of the law.

Now I tell you, those people, they do not need these programs, programs to help unskilled and semiskilled workers like those at Smith Corona.

The article goes on to say:

> But these programs will not help Smith Corona's workers if the economy does not start growing more quickly.

Well, look, even if the economy grows more quickly, it is not going to help them. There are no $17 an hour jobs for these people, $16, $15 an hour jobs. They are just not there. They are not going to help them. And this 50-year-old woman, she says, at 50 I am not looking forward to starting all over again; a worker at the Smith Corona plant.

And the sad thing is, if it happened and if it had to happen that the plant were closed down, I understand that. That is a tragedy in itself. And then we try to martial our collective forces—State, Federal, local—to do what we can, job training, try to bring in some kind of other alternative employment for people. We understand that.

But, you know, this should not be happening. There is no reason for this to happen.

There is a reason, and that reason is our reluctance to do what is right.

Now I hope I am not violating any rules by saying, we lack the moral courage to do what is right. We do not have the fiber to stand up and say we want this corrected, we want to address this.

Now, if that be a violation, then I violated, I have to tell you.

The article goes on to say:

> The New York Department of Labor has "a lot of money ready to spend, but after 18 months of recession here in New York, what can we do?" said Roger A. Evans, a department economist. "The tougher issue is the job market."
>
> Judy K. Davison, Cortland County's employment and training grant administrator, said her office had over the years met virtually all requests for help, although it has sometimes done so by asking local schools and colleges to accept students without collecting any tuition.
>
> Aside from the job impact, city and county leaders played down the overall effect on the community. Smith Corona plans to keep the only large building it owns here while allowing leases on other buildings to expire, so local leaders do not expect an immediate drop in property tax revenues. Local leaders also say that a third of the company's workers commute from neighboring counties and that the company has not been a strong supporter of civic causes.
>
> Smith Corona's severance pay policies are quite limited. The company, which earned $22.1 million on sales of $371.7 million during its fiscal year that ended on June 30, is offering half a week's pay for each year of service.

Mr. President, here is an opportunity to save a lot of money and to do what is right, and again I would hope that even as time goes on my colleagues would consider.

Mr. President, as I have said in many ways tonight, the United States today rests precariously on the edge of an economic disaster. In almost every

American industry, from automobiles to semiconductors, our position of world leadership is eroding or has already been lost, where the decline of the American industry has been no more apparent than in the consumer electronic industry where the United States, once dominant, now holds less than 5 percent of the world market share.

Our position of world leadership is being lost because our industry simply has not been able to stand up to vigorous and often unfair competition from abroad. We are still No. 1 in the world, but that position of world leadership is now even more in danger than at any time in the last 50 years.

Of course, all is not lost. U.S. economy retains tremendous strength. Unfortunately, what strengths our economy retains are quickly being overwhelmed by its weakness.

While the economy contains tremendous resources for productive investment, many of these resources are either tied up in capital markets, which discourage patient, long-term investment, or are being absorbed by our country's massive budget deficit.

While our workers, far from being lazy, have shown a willingness to work hard for the benefit of their companies, their productivity is impaired by an educational system which does not prepare them to work in the high-tech industries of today and tomorrow.

And while we may lead the world in technological innovation, we lag far behind our competitors in the ability to translate such innovation into competitive workclass products.

This productivity gap exists because of a lack of integration in U.S. industry between research, product development, supplier, and manufacturers. The end result is that it takes United States companies twice as long as the Japanese on average to go from innovation to finished product.

Overcoming these problems will require an aggressive effort on the part of industry to restore itself to viability.

Industry must move vigorously to respond to competitive challenges posed by the development of other nations, of revolutionary new management and production techniques. In short, American industry must be willing to take a critical look at itself and adjust to the new demands of the global marketplace.

But industry cannot do it alone. The need for assertive Government action in this area cannot be ignored. Our Government must act aggressively to ensure that our industries have every opportunity to be competitive in the world marketplace.

At home, Government must work to remove anticompetitive barriers in our legal and regulatory structure which put our industries at a disadvantage in the global marketplace.

More importantly, however, our Government must act in the international arena to ensure that our industries have a level playing field on which to compete.

It is the fundamental responsibility of the American Government to make sure that American industries are not denied the opportunity to compete in all world markets.

Mr. President, I believe that if we talk about competition globally, then certainly we have an obligation to see to it that we use our resources to give us an opportunity to compete competitively here within our own Nation.

And when our domestic production and competitiveness is savaged by the lack of Government action to ensure fairness—and by the way I have heard more times, "just give me a level playing field" than I care to even think about. Nobody wants a level playing field. I mean they want this field so that our companies, they have to go up this hill. That is how Smith Corona has to compete, up the hill.

Now, that is just not wise. It is not wise. Because if we leave here, and I think we will, without enacting remedial legislation that will give them half a chance at a level playing field—half a chance, I do not think we are going to get it, certainly not easily—they will have court actions, et cetera—why, then, they are not going to continue to compete, certainly not, as we have seen, as it relates to their production.

And who will have won? Who will have won? Will Brother have won? I do not think Brother will have won because now they will find a company that, by transferring its manufacturing base to Mexico will save millions of dollars annually. It will probably now put Brother in a situation where, in order to maintain its domestic sales here in the United States of these products, it will have to either cut its prices even more and sustain a larger loss on this or it will give way to greater market share. So Brother has not won. And the American worker has lost out. And, I suggest, that we in the Congress have trivialized our responsibility.

Some people might say, what are we doing as it relates to the situation in our economy? And I would say we have mostly made great big speeches and there is very little substance behind what the bodies of the House and Senate have done. Absent the roads, which have a highway trust fund, and the bridges and the highways and the airports—again most of those coming from airport trust funds, absent our appropriating money for these special public works projects—you know, what have we done?

I will tell you, any darned fool can do that. It does not take a great genius to go and vote, to try to cut up this diminishing pie. The pie is really diminishing. I do not care whether we spent more money for public works projects because where are we getting that money from? We are borrowing that money. We are borrowing it.

So one of these days we are going to find out that when we go to hand out the pie to our constituents, whether it be roads and bridges and highways and what not—guess what? It is not going to be there. Because we will not be able to borrow enough. And that pie is, all of a sudden, going to collapse. It is going to collapse. Did you ever see a pie when it collapses? It is going to be mush. We are not going to have much to give out, much of those goodies that we have been getting away with. It is not going to be there. And then you are going to really see a revolution.

Here is a chance, we do not even have to go borrow. We do not have to borrow. We do not have to raise taxes. As a matter of fact we can keep more money coming in. We can make the pie bigger. We do not have to raise taxes. We do not have to increase Federal spending. We do not have to increase Federal borrowing. All we have to do is to say we will not be opposed to trying to give a company an opportunity to compete fairly.

Now, I would like to refer to the Banking Committee. We had some testimony on July 23d, from a Mr. Choat. He wrote a certain book.

The question was:

> Question: Mr. Choat, let me ask you, you have written a book: Agents Of Influence. I would like you to comment, if you would, about the people who have been in charge of trying to stop the trade cheating and trade abuse, who, when they got out went and signed up on the other side and got some big salaries? Tell us about that problem.
>
> Mr. CHOAT: I would be pleased to. I would like to preface those remarks with a couple of comments about manufacturing. What we have today is a circumstance where manufacturing, in this country, has gone in the past quarter of a century from something in the neighborhood of 27 to 28 percent of our gross national product, down to about 19 percent. We are at a point today for the first time in the century where we literally have more people employed by government than we have employed in manufacturing in the United States.

Imagine that. We have more people employed by Government today than we do in manufacturing. That is for the first time in the history of this country. So, I guess, my friends, that there are those in Government and in the Congress of the United States in particular, who must see this as a gain, as a sign of economic prosperity. That is why they would like to block this legislation.

I mean, after all, if our goal is to create more people with jobs in Government then this is a good way to do it. Do not do anything that would permit a manufacturing company to stay in business and to compete, while we go out and reach out for foreign companies—and I have to say, what an incredible travesty. If this was a foreign manufacturer that was going to come into a community and locate there and bring 875 jobs to pay $17 an hour, we would have a bidding war. Every State that we represent, every State would be saying, "Come here, come here, we want you here, we want you here. We will give you the subsidy, we will get you cheap electric power, we will give you tax abatements, we will give you long-term bonds, we will give you—what do you want? Name it, name it, we will do it, we will waive local taxes for the first 10 years. Absolutely." We would be down on our knees, "Please, come here, please, come here." What would we do to bring 875 jobs, I ask anybody here, in their community? What would they pay? Oh, the mayors would be out there, the Governors would be out there, the Senators, the Congressmen, "Oh, I brought these jobs here, my people have good jobs and the hope for the future is there will be more."

Let me tell you, I am giving you all a chance now to do something even better because it is far worse to take people who are meaningfully employed and assign them, for the most part, to the uncertainty of a job market which at best is bleak and for a good percentage of these workers is nil, zero, far worse that we, who have an opportunity to stop this from taking place, fail to exercise our legislative responsibility in undertaking that duty.

I say that we fail to exercise our responsibility not because you have to accept legislation that this Senator offers, but because this legislation that was crafted with the view to give an opportunity to these people, to their employer to stay in that community. Far worse that we take from this community and strip it down, strip it down, and if we look the other way at an opportunity to create new jobs, each and every one of us in our own way are contributing to the stripping down and tearing down of that community and, more important, of the people who work there and of those families and of the horrors and, yes, the ills and misfortunes that will take place to those people and their families. We do it. And do we save the taxpayers money? No. Do we help other workers? No. What do we gain? What satisfaction?

Mr. President, this Senator again hopes that even at this late hour, even in the closing hours of this session, that the overwhelming arguments and facts and substance and the compelling case for the people who work at Smith Corona will carry the day. I believe that it can. I believe that it should, and, notwithstanding that I see and understand what is unfolding before us, I believe it will. You see, because I believe that we can accomplish anything we want. It is a just cause, and, if we are determined to pursue all avenues to bring it about, I know that the cause of trying to keep and to give these people an opportunity to work meaningfully in their home communities is a just cause. It is the right cause.

Maybe the messenger is flawed. I know the messenger has flaws, but certainly the petition is not. If I thought that it was because this message of necessity on behalf of these constituents was not being addressed because of the messenger, I would be more than happy and, indeed, would seek the help of others and give to them the opportunity to help change a situation that will be a desperate one, that will be a bleak one this Christmas and this holiday season and this new year when so many of us will be celebrating with our families and so many of these people will face a very bleak and a very uncertain future.

I know that Senator MOYNIHAN will be speaking to my colleagues. I know he feels deeply about this matter, and I am hoping that, notwithstanding the lateness of the hour, he will be able to convey to you the sense of urgency and, indeed, the desperate necessity that this situation cries out for action.

Mr. President, I do not believe that this body or the House really wants more people to be employed by Government than we have employed in manufacturing. I cannot believe that we are not totally cognizant and aware that the private sector, private employment, capital system that creates wealth and then gives Government an opportunity to meet those needs collectively as a Nation and our responsibilities we must face, I cannot believe that we really do not want to help these people. If someone can show me a better way to try to help them, offer it. I would be willing to entertain it.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Mr. President, I have been listening to the Senator from New York discuss the very sad and unfortunate conditions that these employees with Smith Corona face.

In fact, I recall the Senator telling me the other day on the floor that he thought he had this all worked out. The Senator was with that Italian smile from ear to ear and now what I have heard the Senator saying in the last, I do not know—how long has the Senator been going?

Mr. D'AMATO. Three hours.

Mr. SEYMOUR. Three hours—is that the deal the Senator had going in to conference was not the deal that came out, is that correct?

Mr. D'AMATO. Yes; that is an understatement. That is true. The proposal which Senator MOYNIHAN and I had worked on and which the administration had finally signed off on and which we had given to staff—by the way, the stronger language that was accepted on this body in the energy bill, in the tax portion of the energy bill, was one that we were confident would be accepted by the conferees.

Mr. SEYMOUR. Will the Senator yield again?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. The Senator knows I have really been a Member of this body for a little under 21 months, and so I am not familiar with all the movements and strategies and things that take place. I can empathize with what has happened to the Senator. As a matter of fact, I felt that same joy the Senator felt just the other day on the legislative appropriations bill.

The Senator might recall, because I think he supported me back in April on the Senate budget resolution, I tried to cut the budget of the Senate and Congress by 25 percent over 2 years and that passed by 52 votes. And so I was going to try to do that again to the legislative appropriations bill, and I was told that if I would settle for 15 percent cut over 3 years instead of 25 percent over 2 years, that in fact they would take that to conference committee and really do their very best to ensure that stayed.

The same thing happened to me. That bill came out of conference committee and was nowhere to be found. And so I empathize with what the Senator is going to do. Smith Corona, is this the company that has been in business in New York, one known as L.C. Smith? Is that the same company?

Mr. D'AMATO. That is correct. This company has a history that goes back well over 100 years, a preeminent manufacturer of typewriters.

Mr. SEYMOUR. I know a little something about the company the Senator is trying to represent. My grandfather worked for L.C. Smith. My father worked for L.C. Smith. My father's brother worked for L.C. Smith. It, indeed, is a fine company.

Is it that we just do not care any more about old line companies like that, that we want to drive them out? Is that the problem?

Mr. D'AMATO. I think the Senator has touched on something. It is almost an attitude that exists in America today, and if you speak to people they almost come to accept that we cannot compete with foreign manufacturers—the auto side, the appliance side, the typewriter here—and that is not always the case. And while we may have gotten at times in various industries kind of fat and sloppy and noncompetitive, here we have a situation where the company's productivity—and this is a staggering thing, I am delighted the Senator raises this—has increased by 700 percent in the manufacture of these typewriters over the past 12 years. That is the only reason they have been able to even stay in business, given the predatory practices of their competitors dumping these products into the marketplace at below cost.

So we have been too ready to believe when an American company comes to the Commerce Department or to others seeking a fair application of the law that, oh, they are just trying to use the Government to kind of protect them because they cannot compete.

Now, indeed, we have some industries today that as a result of the dominance in market share, et cetera—machine tools, for example—unless they are given some protection, they cannot compete. Here we have a situation where that is the last manufacturer, where there have been eight dumping cases, where Brother, the company has been found violating the law and where they circumvent it by way of moving its manufacturing operation around.

I do not know if we want to assist in terminating, in ending manufacturing in this country. I cannot believe that we do. But by way of no action in this Congress, in this body, why, then, we certainly would give to all concerned the right to believe that.

Mr. SEYMOUR. Does the Senator have any idea of how much it might take to retrain, how many dollars it might take to retrain 775 employees of Smith Corona who are going to lose their job because the conference committee cut out what the Senator thought was an ironclad agreement?

Mr. D'AMATO. Well, let me first, if I might, say this. I cannot say that there was an ironclad agreement. That would be unfair. That would be unfair. This is not the case.

But I certainly had every expectation, given the nonpolitical nature of this petition, of this amendment, given the support of the distinguished Senator, the senior Senator from New York, given the elements of fairness and what is sought to redress, the grievance, which was basically to say, look, we are going to compete on a fair basis, this amendment would have been retained, that it would have been retained instead of meeting with the situation where it was greeted—our question as to how it was that it did not find itself in the conference, that it was greeted with, well, we never considered it or we did not know, or et cetera, or it is one person's fault.

So it would be unfair to say—but given the history of the conferees on both the Senate side and the House side, it was reasonable to anticipate that this legislation was legislation that all of the conferees at one time or another had been supportive of, provided that the administration was on board.

In other words, there have been cases, maybe slightly different fact situations, where there has not been a member of the conference committee who has not taken an interest, who has not sought protection, fairness, and where the opposition of the administration has generally resulted in a reluctant withdrawal or defeat of that legislation.

And so tantamount to acceptance as a necessary prerequisite is the administration signing off. When they do that, it is almost tantamount to being agreed to. There was no reason to anticipate that there would be other than that kind of acceptance. None.

And, indeed, that is why I have said if the messenger is flawed, let us get a new messenger. Let us have another Senator. Let us have someone else sponsor it.

I have not run into that kind of situation in this body. I have to say as I look around, and I see the various Members, and there are few who are here, several on the other side that I do not recall of being turned down or very seldom being turned down on the matter of some fairness or consequences to constituents whether they be mine or people throughout the country, where my colleagues have acted with anything other than respectful response and, more often than not, attempting to deal with the situation. So I expected that here.

Mr. SEYMOUR. Would the Senator yield for another question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. The dilemma you find yourself in I find myself and in yet another bill that is about to come to this body. So I truly feel the anguish and the frustration that not only you feel but you show eloquently defending your State and 775 jobs.

What is it? Is there any way that this body, this U.S. Senate, if they really wanted to help, if they really wanted to help preserve those 775 jobs, is there anything this body could do at this late hour to possibly turn the clock back, if you will, to go back to whoever you talked to, and made part of the bill that went into conference and was assured that it was going to remain in the bill in the conference? Is there any possible way that if this body had the will, if they really cared, if they really wanted to do something, that they might extend a hand and help?

Mr. D'AMATO. I think that could be done. Indeed, that is really what I am asking. I am really asking my colleagues to put aside any considerations other than fairness for these people and take a look at this case. I know there can be arguments that can be made that you are going to take jobs from one area or the other. It is not. It really gets down to that. It really gets down to trying to give this company an opportunity to compete fairly. And if indeed by their competition, if they compete fairly, if their competitors are required to compete fairly, that means they may not be able to hold jobs. That is the way the cookie crumbles. But indeed they are able to continue and to hold jobs, that is the way it is.

No one can give a lifetime guarantee to these jobs. That would not be the kind of system we would want. But we can say that under the law, your competition should be required to meet the same standards of conduct that you are. While we cannot have a company breaking the labor laws, bringing in children to work, how do we think Smith Corona is going to lower its cost? We would run it out of town on the rail. Why is it OK for a foreign competitor to break the law and sell at below cost? Why should they not be run out on a rail?

Indeed, the courts have come up with fines. They said, yes. OK. Then we cannot enforce them. They move. They jiggle it. They jiggle a little bit. The same company, the same exact product, does the same thing. They just change the distribution method a little bit, and they assemble it.

So I would hope that fairness, I would hope that a sense of collegiality in that we do not try to one-up each other. That is not what this body has been about.

We have our disputes. We have our political partisan votes. We understand that. We know we have to adhere to particular ones. That is not this case. This does not involve that. It is a case of what is fair.

I hope my colleagues will go back to the conferees and say: Look, let me tell you something. There is no way that DANNY ROSTENKOWSKI killed this provision. That is nonsense. It is nonsense. Maybe he agreed to take the fall. Maybe he agreed to say, OK, you know, I am not going to go along with this.

But don't you tell me, nobody can tell me that ROSTENKOWSKI did not like this provision because it was going to help the people in Cortland and Syracuse, NY.

Why? To get an opportunity to see to it that the tariffs that were laid against a company for unfair dumping will be enforced. I do not believe it.

If ROSTY came over, and took me in a room, took me aside, and said: "That is all right, Alfonse, I killed it," then I would believe it. But he would not tell me that. And that he is covering up for somebody else, for some other little kind of thing, this is nonsense. Come on. We are grown people here. Now he has put too many things in too many bills to be opposed to this; too many, too many.

If you think that this provision offended his sensitivities, why, I can tell you something. I can sell you that bridge. I can sell you more than the Brooklyn Bridge. I mean it is just not credible.

I have not gone into any kind of specifics because then I would be crossing that line. I do not want to cross the line.

My good friend from Kentucky is saying: All right, come on now, do not get too absurd here. But it is an absurd situation that we find ourselves in. It is an abdication of our responsibility, and it is an abdication of things that are fair.

I do not think we went out of our way to do those kinds of things. Is it because the Senator from New York is championing this cause? I will withdraw from it. Let somebody else take it up. Let someone else take it up.

By the way, my distinguished colleague from New York, Senator MOYNIHAN, has been most eloquent and has been certainly involved as much as this Senator in propounding this request for jobs for fairness.

Look. If we had a chance to attract, by the way, 875 jobs paying $17 an hour, we would have a bidding war. Every one of our Governors would be saying: Come here, come here. We would have press releases, saying: This way. We got the jobs. We do not want to lose them.

The Senator from California asked: How much would it cost for job training? You tell me. Would it cost $7,000, $8,000, or $10,000 per person? At least. Then we do not know at the end of that if we are paying $10,000 for a job training, and you multiply 10 times, that is over $8 million for the first year.

How many of those people are going to wind up on social services, home relief? How many of those people will never pay Federal taxes again? Never pay State taxes again? How many of those people are going to be forced to sell their home and leave the region?

If that is what we would like to see the people leaving because of these economic situations, how many businesses will no longer operate because they do not have the 875 factory workers who were there coming by? Whether it is at the deli, whether it is at the coffee shop, whether it is at the automobile repair shop. So when we talk about 875 jobs, remember the statistics is at least another 500 jobs in related areas of commerce, in industry, that will also be lost. We are not talking 875. You are talking closer to 1,500 jobs.

That is what we are talking about. That is a little tiny county. Indeed, only one-third of those people come from that county. But they all come from the environs. If they do not come from Cortland County itself, they come from Madison. And it is a rather rural area. I have to tell you that is a hint. But that would be a hint if the Senator was going to—for example, if your community was Princeton, NJ, which is an affluent place, very affluent, this Senator would be mindful that it would be wrong not to stand up for people who are having this done to them because they come from New Jersey. Or if they came from California, it would be wrong to turn our backs on them. If they came from Texas, we would have to sing a song, but it would be wrong to turn backs on them if they were losing these jobs, not because they were being outproduced, not because the competitor had a better product, could put it out there cheaper, but because they were breaking the law. It would be wrong to bring in forced labor and have them operate this plant and then compete and beat out Brother. We would not countenance it.

Why is it not wrong and why is it that we do not take corrective action to keep Brother from breaking the law? I still have not heard that answer. This is not a question that one company is headquartered at X place as opposed to Y place. Do you mean to say because a company is headquartered in your home State, you turn away and allow them to break the law, and that is OK, we have to be a supplicant for them? If they were pumping toxics into the lake, you would look the other way because they are from your home State, and, therefore, I should not worry that they are polluting the lake in another community, because they are headquartered in my State.

It is the same analogy. We may not want to look at it that way, but that is exactly what it is. Brother should not be allowed to break the law simply because they have an assembly plant in Tennessee and because they are headquartered in New Jersey.

Now we are getting a little more specific about it. I hope it does not come to that, but if it does, then we are going to have it out. I am going to tell you we are not going to have a tax bill, not unless we are willing to stay and stay and stay and stay and stay. Then I suggest the other people do not want a tax bill. They do not want it. Let me tell you the conferees were told this early on, and I happen to know that Senator PACKWOOD told one of the conferees before the conference broke up, that if you do not include this provision, remember, the Senators from New York have given warning. We did not wait for this to take place and come back here and people would say: Why did you not tell us? We did not know. They knew. They knew. They knew.

Do you want to play hard ball politics? Is that what it comes down to? That is what it comes down to. The people from New York, the hell with them and their jobs. Is that what we are saying? Because that is what we are saying. That is what is being said right here. OK, we are going to repeat it over and over and over. If it embarrasses people, then so be it. But we are not going to do business like it did not happen, because it did happen and people were given warning and the opportunity.

If there are some provisions in this bill that are unfair, that are illegal, that should not be there, I would like to know it. But not one time was this discussed, not at one point was it said we could not do this because it violates policy. As a matter of fact, that is why I said "roller coaster." Oh, boy, absolutely.

Mr. SEYMOUR. If the Senator will yield, I heard the Senator say earlier that he had gone so far as to contact the White House to get it cleared through them; is that right?

Mr. D'AMATO. That is in essence correct, that I met with representatives of the White House, the Commerce Department staffers, to review these provisions.

Mr. SEYMOUR. I am sure that was no easy task, just that alone.

Mr. D'AMATO. That is a fair statement.

Mr. SEYMOUR. And the Senator met on numerous occasions with members of the conference committee?

Mr. D'AMATO. No. I met with Senator MOYNIHAN and his staff, and he is a conferee. I discussed this matter on numerous occasions with Senator PACKWOOD and other Members on the Republican side, the distinguished minority leader and, of course, the distinguished senior Senator from New York [Mr. MOYNIHAN] who is also a conferee. So it was no secret to the conference as to what we were attempting to do.

Mr. SEYMOUR. Do you have some feeling that perhaps this might have something to do with the fact that there will be an election about 4 weeks from yesterday?

Mr. D'AMATO. I do not think so.

Mr. SEYMOUR. If you had all that agreement, Senator, what possibly could have gone wrong? Was it a clerical mistake?

Mr. D'AMATO. I want to be fair to all involved here. I do not believe it had anything to do with an election. I absolutely reject that. That is not the case. But I do believe it has to do with parochial interests, as I read before in some reports, and I think sometimes we can become so parochial that we lose sight of fairness. And I can understand that. I think it was that parochial interest which led the conferees to come down on the other side, not elective politics. That is a lot different.

But in the final analysis, it is so devastating to these people. It does not matter how it happened. The patient is going to be dead. It does not matter if you did it intentionally. That is not good, but if you created a grievous error by not paying attention or you just—it is avoidable, you see. If it was not avoidable, then we would understand. But this is avoidable. We still have time, and we can still deal with it.

So I think what it is is the politics of competition. We have *x* number of dollars to give out in the highway project, mass transit project, housing project. There is competition. The needs are relatively the same. We can argue them and debate them, and so we come to reality. The majority says, look, we have to take care of X, Y, and Z. We understand that, and we make our accommodations. We understand that. That is give and take.

This is not that kind of situation. We are not talking about whether the military base is going to be in Texas or in New York, and one can make arguments for both sides, and reasonable people can disagree. This is not close. This is a question of whether or not we are going to give to our citizens fairness, equal protection.

Let me ask you, if we are going to give our people equal protection, should the people in New York be protected as well as the people from any other State? Due process, all of them? By the way, those who live and work in New Jersey for Brother and who live and work in Tennessee and work for Brother there, they should not be disadvantaged. Yet, we are all operators of the law. Nor should they, because they have a Representative with clout or some power here, have the sins of the parent forgiven and wiped out so they can just move along.

That is not what this is about. It is about fairness. So when my good friend asks the question about politics, it is not the politics of elections. It is the politics of power, the politics of just looking the other way.

I have a letter here. Somebody says I should read it. Staff tell you lots of things. So they told me to do this. I do not know the content of this letter, but I hope it is good:

> The Honorable AL D'AMATO, U.S. Senator, written from P.O. Box 3861, Portsmouth, NH, October 6.
>
> Here it is 12:30. I have to be up by 6:30. Yet, your presentation on the floor is captivating and right on target. The fight for the little guy is always an uphill battle and not always won. But without the effort, how can one look at oneself in the mirror and say, "At least I tried." Keep it up and you have this New Hampshire resident's support.
>
> Sincerely,
>
> PETER P. PERCIANO.

That is a pretty powerful note. You know something, the fight for the little guy is not always easy but you know something: tonight I am going to ask for the indulgence of all of my colleagues and ask that they bear with me. I know GEORGE MITCHELL will. I have worked with him for 12 years and he is a great, good, and a decent man. I hope that our majority leader and some of the others take a look and maybe urge upon some of our colleagues even at this late time to see what can be done to deal with this obviously difficult situation, and from the bottom of my heart I know what I say in that regard it is true. There has never been a time when this Senator seeking advice and counsel from the distinguished majority leader has ever come up short.

It may be tough, but maybe we can do it. I do not enjoy the acrimony. I enjoy a good battle at times, and this is not a win or lose. I think it is a win or lose for all of us, though, and I do not know if people, I do not know that Peter P. Perciano saw that or anybody saw that. Probably not too many people are at home seeing it. I did not really plan on coming down here until I heard when I came back from dinner that conferees had come to this decision.

You know what it is all about? What is our service about? When it is all said and done we are all alone with ourselves. And we know and we are accountable.

I just think that there is some way that we can make a difference here and we can really serve a noble cause and feel good that we made a difference. I like to think maybe, and I do not know what the future is going to hold for me. Talking about politics, I am in a tough race. I think I am going to win. I like the battles. But you do not know.

But I tell you this: it is all nonsense, winning or losing; that is nothing. It is what have we done with that opportunity that we have to make a difference and that is real.

So if I should go home and think I made a difference that is pretty good. I think I have in certain cases; maybe people think I could have done better and done more or that the things I did not do outweigh the things I did.

But we have to live with that. I have to tell you that is why it is easy for me when people on the other side come up and ask for help, and where I can and where I could, because I presume that my colleagues when they come to this Senator, whether they be Democrats or Republicans, and ask for consideration they are doing it because it is important to their constituents. They are their elected guardians and representatives, and they come to me with something that they think is important.

I do not try to substitute and get into the nitty-gritty of every one of their petitions, because you just could not do that. I have to tell you, you have to look pretty far and wide and pretty deep to find cases when I have not attempted to, and it is not because maybe I like that colleague but because I credit him with coming to me on behalf of a cause that is important for people and it is in the interest of fairness, not a business of log rolling. It is not going to give me anything other than; probably will give me more than all of the other achievements or any other achievement. You know, if you can save a life or make a difference, boy, that is a pretty powerful thing.

And each person in his way and he does not have to be in elective office, he can do it, and people make some profound differences on others.

One of the reasons I undertook public service is that I thought maybe I could make a difference. I think sometimes you can lose your way and you can lose that sense of it, but, boy, I tell you we could make a difference here, and I think we can do it in a way maybe quietly tomorrow morning, you know, seek the counsels of the wise men; keep me out of it.

Mr. GRAMM. This is tomorrow morning.

Mr. D'AMATO. This is tomorrow morning but we still have a couple hours to go, and we have some pretty talented people; we really do. Senator BENTSEN, Senator DOLE, the majority leader, ROSTY, a couple others; Senator MOYNIHAN, Senator BRADLEY. They can find a way to deal with this and to deal with this in such a way that the little guy does win, that we make a difference and that is what this is about. That is really what this is about.

So, even at the 11th and half hour and I spoke to Robert Thompson, I did not have courage to call him back—he is the chairman of the board of Smith Corona—because I tell you something. He is a pretty big guy and kind of tough guy and very straightforward. And when I spoke to him just before I went out to dinner, which was about 8 o'clock, he really sounded broken up and almost distraught when I told him that it had not been kept in the conference and had been cut out.

I told him, "Look, you know," and I was crushed—I was not crushed, but I had an inkling that certain things were going on, because we were not getting answers back. We were getting different stories back. I said to him: "Look, you know, it is not over and we are going to keep trying and it is not over."

It is not over until and unless this body really decides that maybe it has more important things to do and there are important things. I do not mean to minimize those and use that as the vehicle by which to kind of look the other way. We cannot have a dog in every fight. I heard that and I know that. I have not asked people to put a dog in every fight. But I do ask that the leader and possibly some others take a look at this and see if we cannot do something in a way that will make people, every one on both sides, feel good about the situation and, more importantly, get these people some help.

I do not know if we want to do things.

Well, I guess some Senators on my side would like to know how much longer I intend to speak. I do not know if you have some other business, and I guess that I have to get some advice as to whether or not if I yield the floor, whether or not we are going to use the ability to keep this going so maybe some of my parliamentarian friends here would let me know, because if I give up the floor then there is a unique parliamentary situation; they can cut me but they cannot cut me off provided I do not yield the floor. If I yield for a question I cannot physically leave the floor.

So that means I have to keep talking and that is what I will do. I have been very blessed, although I almost lost my voice here, with great family, and I have pretty good stamina. I do not know if I am the strongest of them all, but I think I can keep this thing going to at least 8 o'clock or 9 o'clock unless we can come to some kind of agreement.

Mr. DOLE. Do you want me to get you some more water?

Mr. D'AMATO. You do not want me to get too much water. I can get a couple of throat lozenges. If somebody at some point in time can say to me maybe they are trying to work out an accommodation—the record is 24 hours 18 minutes. My gosh I am not trying to set a record. I just want to get a piece of legislation passed.

If we could do that, and my parliamentarians stay around and give some advice, why then, I do not think the leader would do anything in any mean-spirited way to cut me off or anything; would not sucker me into anything, put it that way. I know that.

But, look, I did not say that I would avail myself of the parliamentary prerequisites just to hear myself speak. And I am still willing and indeed I am more than willing, I am anxious, to make it possible for us to try to work out an accord. And I do not think that is asking too much. I just really do not.

Again, if my colleagues would explain to me how what we have asked is upsetting to the conference, or would violate the spirit of the conference, or would unduly disadvantage someone, why then I could understand. But that really has not been the case. No one has really explained that to me, or indeed given that kind of advice to Senator MOYNIHAN or to our staff. Indeed, we have labored over various methodologies for dealing with this.

But, I would really hope that we could still work out something. I am getting lots of telegrams pouring in here from colleagues. One said, "You are great, but I'm going to sleep." So that was the last one. That was Senator anonymous—DOMENICI.

Senator GARN is saying, if he has not: Alfonse, come on. I want to catch a plane. He has not said it yet, but he generally says it. He has kept me from making all these speeches in the Banking Committee. And usually I just submit my statement in its entirety, and JAKE is very happy when I do that. Now I am going to have to ask him for some more statements to make.

But you know I do not want to read just anything. I would like it to have some relevance.

So let me read to you this letter that I got on July 21, 1992. It comes from Mr. Thompson. He says:

> DEAR SENATOR D'AMATO: It is with great sadness that I advise you that the last U.S. plant of the last American consumer typewriter company, Smith Corona, is forced to phase out its manufacturing operations at its Cortland, New York, facility. You are well aware of the long, lonely, expensive and often bitter struggle to combat the predatory pricing, dumping and circumvention practices of our Far Eastern competitors. Even though our charges have been substantiated, and we have won in all of our main struggles, our Government has been politically unwilling to support these findings.

And you know, that is the sad thing. Our Government, even when it finds a situation that cries out for fairness, turns its back.

You know, I have to tell you something else. I am going to give you a little thing that I am concerned about. Today we have this situation now where, as Congressman and Senators, you cannot even write letters to the agencies for fear if you are asking them what they are doing that you are going to be accused of interfering with the bureaucracy.

If you want to talk about a Government that is coming into this incredible thing, it used to be, you know, in Europe that people understood and knew that the bureaucracy was all powerful. Forget the elected officials. They did not mean a darn thing. And we are now having that kind of a situation here.

And of course in the commerce and trade area, you have this myopic group that just came down and free trade became the symbol and it did not matter and people looked the other way when it, the law, was being violated.

And as I look around and I see my colleagues, how many of you have experienced or seen situations that really cried out for some help? And if you went and you asked commerce or trade or whatnot, they turned the other way with a deaf ear.

So, if I might, we understood that we could not look to U.S. trade. Now, the irony of this particular situation and the thing that is so frustrating is that we worked with commerce, trade, one group after the other to try to bring this about. And we were not getting there very fast, I have to tell you.

So my friends understand when they ask me what was happening, I have to tell you it was not easy. It was not easy. And when the people at the Commerce Department and the White House—I have to tell you, we have some terrific people who finally said, "Look, let us see if we cannot do something so that we do not violate the GATT provisions." And when they met with us and we began working this out—and we had two or three drafts and they were rejected a few at a time—and we finally came up with an approach that would not violate GATT, well, I will tell you, that was a great victory. That was a great and terrific victory.

And I had the support of Senator MOYNIHAN, not only his support and encouragement, his staff worked on this. If you want to talk about bipartisan, this was a totally bipartisan effort to do what was right.

And so I have to tell you when I found out tonight that this last ditch effort to help Smith Corona fell on the deaf ears of my colleagues, I just felt that we had to come back and bring this situation to the attention of the whole Senate.

And that we had to talk about fairness. If we are talking about political power we do not have it. But I think the power of the little guy, and I think the power of the people in the long run will persevere.

Let me tell you about a little guy. This was an article entitled "Jobs Move to Mexico."

"Chris Torbitt, Marathon"—that is Marathon, NY. This is a marathon—maybe we are doing it for Chris. "* * * who has worked for Smith Corona since he was 16 years old said Tuesday's announcement was inevitable."

> "How can we compete against the Japanese," he asked. "Everybody knew it was going to happen eventually."
>
> ### MY WHOLE FAMILY DEPENDS ON IT
>
> Florence Brooks was feeding her 28 beef cows Tuesday morning when she heard the news: Smith Corona, her employer for the last 20 years—and Cortland County's largest employer—is moving its manufacturing operations to Mexico.
>
> "I was up in the barn, and my brother yelled it out the door. He had heard it on the news," Brooks said Tuesday. "I was just sort of stunned."
>
> Smith Corona plans to lay off 875 of the 1,250 workers at its plant in Cortlandville, which is the company's last domestic factory. The company will keep 375 workers, most of whom will be involved in engineering product design and customer service.
>
> "It's pretty upsetting because my whole family depends on it," Brooks said as she headed into the sprawling Route 13 plant to work the 3-to-11 shift p.m. shift on a wordprocessor assembly line. She lives in Richford, Tioga County, about 25 miles southeast of the Smith Corona plant.
>
> Brooks and other workers at the plant said Smith Corona's plans would leave them unemployed and likely mean harder work for less pay in the future. The workers are not unionized.
>
> "I make nearly $13 an hour here. Where am I going to find a job like that?" Brooks said. She said she supports her fiance and their young children.
>
> Don Cree, a quality inspector who has worked seven years at the factory, said he and his wife may have to depend on her paycheck for awhile after he loses his job.
>
> "My wife has a pretty good job, so I'm not crippled, * * * but still it's tough," Cree said.
>
> Assembly line worker Patricia Leonard said she may have to move out of her home in Genoa to find as good a job. She said she has worked 20 years at the Cortlandville plant and makes more than $10 per hour.
>
> "I make good money here," she said. "I may have to sell out and leave the area."
>
> Leonard blamed high state and local taxes.
>
> "The taxes are killing us all. Pretty soon New York state's gonna be a ghost town," Leonard said before she hurried to punch in before 2:30 p.m.
>
> Other workers joined company officials in blaming the federal government. Smith Corona executives said federal trade laws have given the Japanese typewriter companies such an advantage that the company cannot pay the salaries American workers demand and remain competitive.
>
> "How can we compete against the Japanese?" asked Chris Torbitt of Marathon. He has worked for Smith Corona for 10 years, since he was 16 years old.
>
> "This is to be expected if the government ain't going to protect our jobs," said mainte-

nance worker Warren Greene, a 15-year veteran.

Now, listen to that. Here is a fellow, his first job, his only job. And he says, "This is to be expected if the Government ain't going to protect our jobs."

You know, he is right and he is wrong. He is right to expect that the Government insist on fair play. He is right to insist that the law be adhered to. He is right to expect that his Government cares every bit as much about him and his security and his welfare, and gives it more than political rhetoric.

You know, I do not blame him for being annoyed. I do not blame him for being angry. And I tell you something, I wonder how it is and why it is that the Smith Corona people did not move their plant out. It is because, you know, there are some corporate executives and corporate families who do care and have a conscience about their community. And they stayed here. They endured. They won lawsuit after lawsuit after lawsuit after lawsuit, only to no avail.

And now I have to tell you, it is pretty rough for this Senator to have to sit by and endure, when I know that we really as a body collectively know what should be done to remedy this situation. And what could be done is not being done. That is wrong. That is just plain wrong.

Let me ask you. How would you rate, if you were a teacher, a student given a course in government, and given this dilemma of a company that was gong to have to leave because it could cut its costs by $15 million a year and therefore compete? And, if there was an opportunity to keep that company from leaving or if we would simply allow it to leave and put $10 million a year for job training? If that student said that you should allow the company to leave and simply make available job training for the displaced workers instead of seeking a legislative solution that might permit that company to stay and compete, what would you give the student who said let them leave and bring in the Federal Government for job training What would you give him?

Would you pass him? Would you give him an A; a B; a C, or a D?

Or would you flunk him? You would flunk him. And that is what we give this Congress, the Senate and the House. Flunk them—F, F. That is what they deserve. You would rather pay milions—can you imagine that, millions for job training rather than to do what is right.

I will tell you something, the people who oppose this, they cannot even conspire a reasonable retort. There is no way they can answer this—no way. You cannot even defend the inaction of this Congress. Flunk—you would flunk the student. Flunk him—F, F. So when we get up and we talk about jobs, remember, you know what it is, in Italian do you know you say? Chiacchierone, a parrot, just talk. That is what it is, chiacchierone. Yes? A parrot. A parrot.

Do not believe—whoever is watching the show now they have to be nuts. It is 2 o'clock, what time is it? Two o'clock? My gosh, you should go home and go to bed. If you have a job to go to. That is something. You may not have a job. If we keep operating this way, forget about it. Forget about it. I would have to employ you in a Government job because there are more Government jobs than manufacturing jobs, so you have a Government job. Come down here. You can do a better job than we are. I have to tell you, everybody should run, really. This is fantastic.

So, you would have to flunk. You know, it is as a matter of being—chiacchierone is kind of nice. It just talks a little too much. We talk much too much, and we get paid for it besides. It is incredible. Incredible.

Jobs. Where is that article in the New York Times? Both candidates talked about job training. Well, this is terrific. Now they will be able to vote for more money so they can give job training money to the people in Cortland instead of both of them saying it.

I want to tell you something. I do not know where Governor Clinton is, but if he is around where he can watch this thing, maybe he can call over here and say is it true, is it true Congress is going to go out of session and they are not going to give us money for job training.

He is concerned about free trade with Mexico, and I believe him. So I hope maybe he could call and say, "Fellas, let us do this on a bipartisan basis. If, after all, President Bush is for this, we should not appear that we are opposed to it."

But I have to ask you, who controls the House? Who controls the Senate? And I tell you this. I think the exercise of political power and leadership in this really does not put us in a good light, because nobody has even attempted——

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. On that particular point again, listening to the Senator try to work as hard and diligently as the Senator has now for some 4 hours to protect 875 jobs, because the Senator was unable to realize the commitments the Senator thought he had when he went into conference committee—as a matter of fact, it is my understanding that that conference committee really did not meet as a committee; some of the leading members met as a committee, and they decided what was going to be in that bill or not in that tax bill. We now have a bill that has come over from the House that causes me great concern for my State. It is H.R. 429, the water bill. And we had a conference committee. In fact, I was on that conference committee, a little bit different than what the Senator had experienced. We had one conference committee meeting, and then the chairman of the conference committee laid out his idea of what the bill should be.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Am I correct that the Senator may yield only for the purposes of asking a question?

Mr. D'AMATO. Let me say I——

The PRESIDING OFFICER. The majority leader is correct.

Mr. SEYMOUR. Mr. President, I was about to ask a question.

And so I guess what I am trying to ask here, Mr. President, is if perhaps the Senator had the same experience with that conference committee on the tax bill as I had the same experience on the water bill. It sounds similar. Is it?

Mr. D'AMATO. Very similar. Very similar. But let me tell the Senator why in certain respects this was even more unexpected. Because heretofore my colleagues on the Democratic side of the aisle have been most willing to entertain legislative relief for cases of a similar type and kind. The objection did not come from the Democratic side of the aisle. Traditionally and historically, the objection has been raised by a number of our colleagues that are called purists on free trade who do not want to look to see if there are any kinds of mitigating circumstances. It is one thing if your company cannot compete with another and losing money, and it is because they are putting out a poor quality product; it is because they are charging too much; it is because they are behind the times. We understand that. And therefore a foreign producer comes in and beats their pants off. They are not entitled to Government help. The competitor is paying fair wages. The competitor is charging a price which is commensurate with what its costs are. It is not dumping.

That is competition. And then we say, well, productivity moves to that area which can deal with that. We oftentimes complain—and that is another issue, another question—and say but we want access in their markets with the products and goods and services that we can produce as effectively or efficiently or in some cases cheaper.

This is part of the system. That oftentimes has not been the case. But in this situation we have a clearly defined pattern of illegal activity. In this case, we constructed a law which did not say we are going to give a preference to our company because it is an American company. Indeed, our law must deal with the business realities that confront U.S. industry today. Many companies in the United States import source parts from a number of countries. Where a pattern of circumvention is occurring the law must be able to reach it whether the underlying parts originate in the same country as the finished product that is subject to the antidumping order or not. If not, we should tell business and the workers in America that problems of circumvention are not capable of being addressed. It is that simple. It is that important.

It is important that the Congress address the circumvention question now.

Now, tonight we have a situation where unless we do something, it is going to be too late for these people.

Now, let me deal with the issue of disingenuous—and I say disingenuous—attribution for the responsibility or for the acceptance of why it is and how it is that this language which would bring about fair play was dropped out.

You see, language which was broader, which did exactly and even more than what this language would have done, passed the House of Representatives. And let me read you this. It passed the House of Representatives in April. And I have to ask the question, how is it that the House of Representatives, Chairman ROSTENKOWSKI, was willing to pass this legislation in April but suddenly we use him and find him as the convenient foil to say no, I am going to stop it now? Indeed, this language was sponsored by the majority leader, Congressman GEPHARDT. Let me read it to you.

It is a press release: Smith Corona Applauds House Efforts To Plug Trade Loopholes Such as "Phantom Factories." New Caanan, CT, April 30, 1992.

> In response to today's introduction in the House of Representatives of a bill designed to make it more difficult for foreign manufacturers to outwit U.S. trade laws, G.H. Thompson, Chief Executive of Smith Corona Corporation, issued the following statement:
>
> This week several Members of Congress took aggressive steps to firmly plug loopholes in U.S. trade laws allowing circumvention of antidumping duties. For Smith Corona and other U.S. manufacturers who have been victimized by companies that ingeniously ignore fair trade laws, Congress's action is a welcome sign of strengthening American resolve.
>
> Smith Corona is one of many American companies fighting foreign competition on an unlevel playing field. Despite Congress's best efforts to ensure fairness with tough antidumping and countervailing duty laws, the 1988 amendments to the Trade Act miss the target as foreign companies cleverly take advantage of loopholes by putting up phantom factories to assemble parts made off shore.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes, for a question.

Mr. SEYMOUR. Mr. President, as I understand the Senator gave forth on this current reading, is there not some agency, the U.S. Trade Representative—who is in our great bureaucracy who has the responsibility to look out for these dumping situations that could possibly persist over such a long period of time?

As a matter of fact, I heard the Senator say earlier this evening that there had been four, five, six, seven, eight attempts to stop this dumping. Is there not somebody in Washington, DC, in the Federal Government, whose job it is to say, "This is unfair; we do not want you doing this to one of our American companies," and risking the loss that the Senator is now faced with in the State of New York of some 875 jobs, a tremendous loss to a city in the Senator's State? It just seems to me that the appropriate agency—and I think the Senator in his diligence probably has already contacted them, but perhaps for my edification the Senator might be able to enlighten me as to whose job it is to look out for the little guy, to see that a Japanese competitor or some other foreign competitor does not dump and continue to dump and ultimately leading a United States Senator who is interested in protecting 875 jobs—and, my gosh, that must seem like very little in the great State of New York—doing what he can to protect those 875 jobs.

And so my question really has to do with who would be the appropriate Federal agency that one would appeal to? And did this company, Smith Corona, try to do that at all?

Mr. D'AMATO. Yes, they did. As a matter of fact, the U.S. Trade Representative and the Commerce Department are really the groups that should be aggressively pursuing a policy of free trade but fair trade. I say free trade but fair trade.

Now, I do not mean to be disparaging of their role. And, indeed, I have to say that, as it relates to this particular legislation, we have received very fine support, rather unexpectedly, but particularly from those at the White House who did intervene to that point of saying, "Let us look and see if we can handle this," because all too often and heretofore companies in a similar position have faced an impregnable wall, kind of like what I am facing here tonight; an impregnable wall of silence, an impregnable wall of indifference.

It does not do my any good, does not do the people of Cortland any good if you are saddened by their plight but you do not do anything to address it.

Then we have some other kinds of crazy laws, really whacky, just really incredible. You can prove a case, you can prove the competitors are breaking the law, violating the law. It has to be damaging to the industry. You have to be out of business. I never heard of such nonsense.

So that even when in some cases you prove what these people are doing, you have to prove that the industry is being so damaged before you can get any relief. Now look that is whacky. That is wrong.

I have to tell you something. If the people hear some of our colleagues here in this Congress—and I respect them, and they sign off on that, they really do. They sign off on that. I do not understand that. Maybe I come from a different world. I just do not understand that if someone is doing something that is wrong, you mean to tell me you can come up and smack someone, but unless you show it is really going to be injurious to them, that is the way the law is that it has to really be injurious to their body. If you are going to hurt them, you have not committed the crime.

In essence, what they are saying is you can come in, commit these violations of law, all kinds of incredible things in terms of trade practices, but unless you show that the industry is in danger or in real hardship, or, I guess, you have to start losing money before you can even get some of these laws effectuated. Nonsense.

But we have had this policy. You cannot break through it until recently. We met stonewall after stonewall, and we helped Smith-Corona, and the reason that we tried to, indeed, my Congressional colleague, I say my Congressman, because I grew up in the same town, and worked together for many years—Congressman McGRATH sponsored legislation to deal with this.

By the way, here is one of the great ironies. Here is a letter dated May 20, 1992, and it is written by none other than DAN ROSTENKOWSKI, chairman, and he is writing this letter to Congressman McGRATH. That is why I said, and I laughed, that the opposition to this legislation really comes from this body.

You cannot tell me that any Congressman from Tennessee in the minority is stopping this legislation. That would be the first time in the history of DAN ROSTENKOWSKI being chairman of that committee that that is what is taking place. That is balderdash. I do not think that is an offensive word. It is unbelievable. It is not credible.

Can you imagine DAN ROSTENKOWSKI rolling up to some junior Member from Tennessee in a minority party who is not even on the committee? I mean, he will not roll over for Presidents. He does not roll over for leaders. You think he is really going to roll over for a minority Member, for the distinguished Member of the House of Representatives from Tennessee.

I really whistle a song from Dixie. That is incomprehensible. Let me tell you why. He was not rolling over on May 20, 1992.

He writes this letter:

> DEAR RAY: I apologize for the delay in responding to your letter seeking my views on legislation you have sponsored which would strengthen the existing anticircumvention provisions of the U.S. antidumping laws.
>
> In response to your request, I have asked the Trade staff of the Committee on Ways and Means to work with your staff on this

> matter. As you know, the work done by our staffers I was pleased to include in H.R. 5100 which I introduced on May 7 with your sponsorship. Most of the provisions on anticircumvention you have included in H.R. 5045, your own legislation on this matter.
>
> I recognize that our proposals to strengthen the law on circumvention have provoked a lively debate on the subject at the request of the administration.

You see here is ROSTENKOWSKI. He says I understand that our pushing for this has had a lively debate with the administration. Yes. That is true.

It is not credible. But now to come forward and to blame ROSTY—by the way he is a terrific guy. He is. He will take the blame. He is not going to give up anybody. He is not going to say, hey, listen I did this or because of, whatever. It was on the committee on the Senate side that really did not want this. It is not "we do not want you to take it."

Do I believe that if the press calls Congressman ROSTENKOWSKI that he is going to for one second to back out of it?

No; he is a trooper. He is from Chicago. When he gives you his word, he keeps his word. When he makes a deal, he keeps the deal. He is not about to go back and give anybody up. We would be kidding ourselves, and I do not have to be a magician to figure it out. It is not hard to figure it out.

So the fact of the matter is the people can blame the Congressman all they want but the blame is here. The blame is here.

Mr. SEYMOUR. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. I ask the Senator: In looking over statements that the Senator made on July 30, 1992, in that statement the Senator says it is absolutely necessary in order to give the 875 workers in Cortland, NY, and other American workers a second chance on a level playing field; is that what the Senator said?

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. Did the Senator also go on and say that without action in this amendment and without a strong commitment to our U.S. fair trade laws, companies and workers from all across this Nation will end up like Smith Corona. And you have Senator MOYNIHAN joining with you in this; is that correct?

Mr. D'AMATO. The Senator from California is absolutely correct and that is why I said this was an action, it was based not in partisanship and I know some people may be saying why are you doing this? I am doing this because it is so right for us to be doing this.

Senator MOYNIHAN is on the tax-writing committee. He is the No. 2 person on it. He studied this issue. I went to him. He said, right, we have to work on this. We did.

ROSTENKOWSKI, he says, I think we can use this debate to help advance our legislation initiatives in this area. I look forward to working with you on this important trade matter with legislative consideration.

This is why we are here. And that is why I am fighting, because, as I said on July 30, this is our last chance. Help these people. Do not let us adjourn this Congress and do business as usual and send them out on the unemployment lines.

Mr. SEYMOUR. If the Senator will yield, it just is mind boggling. It is mind boggling to believe that we are about to engage and have already begun engaging—and I am sure the Senator has himself engaged in some discourse on the North American Free-Trade Agreement and President Clinton wants to be President Clinton and President Bush and both are out talking about the potential loss of jobs. The only difference I see in what the Senator has been talking about and what he is trying to do with this amendment is he is dealing with the Japanese and they are talking about Mexico. Is that right?

Mr. D'AMATO. Yes; the Senator is right. But the tragedy and the irony of this whole thing is that while Mr. Clinton said, look, I want to see it that, you know, we do not lose these jobs unfairly, and I am going to look at this thing, here is an opportunity to keep us from losing 875 jobs, and you know what is going to be in the minds of people. What is going to be in the minds of people is that as a result of this treaty that we are negotiating, that somehow we are going to be losing these jobs because of that treaty, because they are going to see these 875 jobs moving down to Mexico.

In the minds of the average workers in this country, he is going to attribute that loss of jobs to Mexico somehow unfortunately with the treaty and that is not the case.

But that is what will be the perception. More cruelly, more cruelly, more accurately the Congress by adjourning and voting on a tax bill without including this provision is absolutely belittling itself. Every Member that goes out there and makes a statement, people should vote against them. They should ask, let me ask you something: Did you vote to give the people in Cortland a chance to keep their jobs?

I will tell you something. If those people came from a different State and said to me, Senator, that factory was going to close in Texas, they were being competed against unfairly, did you vote to give those people a chance? If I did some hoofing and woofing and would say, why those jobs did not matter, they did not really, that was not in my State, they should vote against me. They should vote against me.

I have to tell you, I hope that somehow the American people get to find out that the Congress was so busy, so busy doing their thing that they did not have time to keep a little provision that the chairman of the Ways and Means Committee wrote to my distinguished colleague who has just come on to the floor from the House Ways and Means Committee, Congressman ROSTENKOWSKI, to Congressman MCGRATH and say just give us a chance to save some jobs.

This is good. We should have a lively debate with the administration. But we finally got the darn fools over there opposing today. Things come around. I am not talking about the House. I am talking about the administration. And say, "Hey, here is a bill; take this bill."

What happens, miraculously, suddenly, we are supposed to believe that Congressman ROSTENKOWSKI, himself, switched his position. Anyone who knows DAN ROSTENKOWSKI knows something else. This guy does not switch. He will carry someone's else water. He is not about to give anybody up. But he does not have to tell me. I can look him in the eye.

He comes from Chicago. I was in Brooklyn. We kind of know these things. I do not even have to talk to him. You know what? He is taking the heat for some people from here because somehow it does not matter. It does not matter because maybe these people come from his little town in Cortland, NY. They are only little people. You know what? Like most little people, they have taken this beating. This is a beating, and they have taken it in almost stoically. You know, it is, what can we do?

You know, it is like, what can we do? One lady says: I will sell my house, and the other says: I will have to move. People say where am I going to go? Boy, oh, boy, I will tell you what. You talk about people power. They should be down here. They should be down here. I will tell you something. They should find out some of the Members who do not give a darn, and they should be at their house. Yes. They should be there.

These unions, they all talk about them. Where is the UAW? Where in the heck are you? Where are the great unions that are going to stand up for the little people? They are a bunch of baloney artists. UAW—that is take care of yourself. That is what you want to do. Why do you not stand up for these little people? Because they do not belong to a union?

Call up some of these guys here. Do not let us go out. Call up the Congressmen and Senators and tell them: How dare you leave and throw those jobs out on a scrap heap and treat the people like they do not count. Because that is what they are doing. That is what they are doing. AFL–CIO. What a lot of hokum. You guys are a bunch of political you know whats. I cannot use that word. You care about how much you get paid. You care about how many conventions you go to. You care about how many perks you get. Why do you not stand up for the little people and wake up? You big baloney artists, come on. I am not out of order.

Mr. FORD. I did not say anything.

Mr. D'AMATO. You were about to.

Mr. FORD. But I will.

Mr. D'AMATO. Kirkland, stand up for the people. Stand up for them. Come on down here. Get on the telephone. Call some of these people up. That is right. You can still save their jobs. We will call it the Lane Kirkland bill. It shows great power. You are talking—you are against this manipulating of trade.

Let me tell you something: Car truck car. I brought it up on this floor. I did not tell DON RIEGLE from Michigan, hey, that was my bill, you cannot take my bill. I brought it up on the floor and had the chairman oppose me, because he said that is a revenue measure, and it has to come from the other side, so we pulled it down. Truck car truck. A truck became a car and then a truck so they can escape a tariff. That was terrific. We owe that to that master genius who helped this economy. You know who that is: Brady. You know where we are going to wind up because of that guy, Secretary Brady. You wake up. Incredible. Truck car truck. How a truck could become a car for taxation purposes so it could escape the tariff. The USTR people know about that. Willie von Raab was the only guy. He was dumb. They said: This, Willie, is a car. He said: No, it is really a truck. He did not get the wink, so they canned him. Incredible. Truck car truck.

Let me tell you something. This is job, job, job. Why should we trade an American high paying job? Why? Why? I will tell you why. Because Brother is located in New Jersey. So let me tell you fellows, if you want to break the law, open up a corporate headquarters in New Jersey, and then you can engage in this stuff and if you build an assembly plant, which is not really a plant, but a screw plant where a bunch of people screw things together, you put that in Tennessee. If it just so happens that it is a company that does business in New York, I guess it is easy. I guess it is easy. We can all look the other way.

Well, you know, I just might be able to keep on and be a big surprise for my friends. I thought that I would end this about 8 o'clock. But I am feeling a little better. I have great kidneys, and I have some of these lozenges here, and, Lord knows, would it not be wonderful if my colleagues could all get up and have breakfast and come in here, and the first thing they hear is my dulcet tones. Would that not be a wonderful thing? God, that would be a nightmare. Most of them could not go to bed if they thought they had to get up and hear ALFONSE in the morning here.

Of course, I will look a little better and grow a little fuzz here. But would it not be nice if a couple of union leaders just came in from all of their work, or their convention, or whatever, and say what is that going on down there and hear me say that you have a chance to save some jobs for Smith Corona, and I think you are a bunch of phony baloneys. If you really cared about people—my God, just the internationals that you have here, you will begin to call up and find out, is that true that the Democratic leadership of the Senate would not go along with a provision to save jobs, that would not cost taxpayers one penny, and that only sought to give the ability to the trade people to have the laws pursue? Can you imagine that?

By the way, this does not say that the plant in Tennessee is out. It does not say we are going to take jobs away from anybody. All it says is that if you break the law, violate the law, then we are going to pursue you, and you can actually bring a tariff case against them. Can you imagine that, if you have a corporate headquarters and a foreign corporation that sets up a foreign headquarters in certain States, and you decide to set up these little phony assembly plants in other States, that you can get a pass; you do not have to follow the law. You do not have to follow the law.

Let me tell you, DANNY ROSTENKOWSKI, I know him. I did not grow up with him, but I grew up with people like him, and I tell you something: He did not drop this thing out on his own. He was asked to take it out, and he was not asked to take it out by some minor leaguer on the minority. He did not listen to him. That is nonsense. He took it out because over here on the Senate side, they wanted to cover up, and he took the heat. He took the heat.

I do not even know if he is taking the heat, because he did not tell me he did it. I do not think he would tell me that anyway. I think he would tell me off the record what happened, and on the record he is a man. We are not being men, but we are doing business as usual. That is what we are doing. My colleagues who want to partition out illegality—and that is what we are doing—and look the other way, as the law is being broken and treat this thing like this is the project for where a government contractor is going to go, or where a new prison is going to be built, whether in my area—today people even fight for prisons—or where a new military installation is going to be built.

This is not the case. I have to tell you something, and again I appeal to some of my friends. Believe it or not, I have a friend on this floor who is not a Republican. I consider him to be a friend. I hope that we can make a difference. I hope that we can say to our colleagues, why do you want to do this? Why make this a battle of party loyalty? Why should this be a battle between the Senators from New York or a Senator from New York and colleagues that come from other States on a partisan political matter? That is not what it should be about. It should be about some element of fairness. The situation is: What is right? By the way, how would Brother be disadvantaged? I want to know. This great manufacturing company called Brother. Would we be disadvantaging them by saying that they have to adhere to the law?

I did not know that was so bad. Imagine. And I have colleagues here who say they do not want a foreign corporation to adhere to the law, because they are headquartered in their State, or because it might cost jobs in another State. The fact that jobs will be lost irrevocably to this Nation, that U.S. citizens are being disadvantaged, that we will have an exodus of jobs, apparently, does not matter. As I said, if this company was polluting a lake or a stream, would the same logic be employed?

If they were headquartered in my State, would it be acceptable for them to pollute a lake in someone else's State? You would not buy that for a minute. You would say, wait a minute, the environmentalists will be down on you. We do not have them here to scream and yell at Smith Corona, and we have to appeal to the labor unions. Anybody who is watching who belongs to a union, you ought to call up your union leader and say to them: How is it that we are going to let them pass a tax bill, or any legislation, that does not have a provision that says that you should see to it that this foreign corporation adheres to these circumvention provisions, these antidumping provisions, and is not permitted to break the law?

If that is what unions are for—by the way, I did not know unions only stood up for their own membership. I thought the AFL-CIO also stood up for people—they were for working people and what was right and to have the law enforced. As a matter of fact, they would have undertaken all kinds of causes. Here is a cause, and I wish I thought about it before.

But, you see, I was caught short. I really thought that this provision would be included. I really did. So, at about 8 o'clock, my staff told me that they had received the word that it was definitely outskey, and I did not call Thompson and tell him it was definitely out, because I had spoken to him earlier, and I was concerned and told him it did not look good, but I still thought maybe we had a chance. But I have to tell you that here is a chance to use your power. Of course, you could opt for the job training program and spend $10 or $15 million a year trying to train these people, and I guess some people like that. I have heard this contention. Tonight I was asked what would you do to help the economy and, you know, right away, "job training."

Hell, these people do not want job training. They have a job and they do a good job. They have increased their productivity.

By the way, for those who do not know, these workers produce a better typewriter, a cheaper typewriter, a more competitive typewriter than Brother, the Japanese company. So why are they losing out? Because Brother breaks the law. Brother dumps what Brother sells.

As a matter of fact, it sells in such a—so markedly below cost that one of the dumping orders was actually a 60-percent order—60-percent order. I am reading here.

Congressman SOLOMON offered an amendment to the proposed rule on H.R. 11, the urban tax bill:

> At the end of the resolution, add the following:
>
> Upon the adoption of the conference report the House shall be considered to have adopted the concurrent resolution (H. Con. Res. 380) introduced by Representative Solomon of New York on October 5, 1992, directing the Clerk of the House to make corrections in the enrollment of the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.
>
> Explanation: This amendment to the rule provides for the automatic adoption of H. Con. Res. 380, introduced by Rep. Solomon on Oct. 5, 1992, and originally sponsored by Representatives McGrath, Levin and Gephardt as part of H.R. 5100, the Trade Expansion Act of 1992, which passed the House on July 8, 1992, by a vote of 280-145.

By the way, this is the thing that DANNY pushed and supported—280 to 145—

> The provision would blunt efforts by foreign manufacturers to evade anti-dumping duties by establishing plants in the U.S. for assembly of foreign made parts into products for sale here.

Did we get a vote on it? Failed? What did we lose by?

We lost very closely. But let me tell you something, if they want a tax bill maybe they will bring it up for reconsideration. I do not know.

Because I have to tell you something, I do not know when they intend to go home. But I do not intend to yield on this issue. And, if they want a tax bill I have to tell you something. Maybe if we keep in long enough—I guess I have to yield at some point. But there are others. I think there are other Members who are willing to be supportive of my position. And I have to tell you I am truly, truly impressed. I say to my colleagues from the other body who have taken the time to come and to be here, and there are a number of Members—more Members than I have seen here before. I do not know what they are doing up at this hour. But I thank them for coming and, I think, adding their support. I know that is why they are here.

And I thank the gentleman and my friend and colleague, Congressman SOLOMON, for attempting to bring about a solution to this.

I still appeal to my good friends on the other side of the aisle in the Senate. I want to tell you something. This should not be a battle of winners or losers. But it should be a fight to make everybody a winner.

I tell you something, we can go home making this body and the House look a lot better by doing what is right. That is what that legislation was about and that is why we worked and crafted it and we toned it down and we did everything that was possible. I have not taken to trying to say take a look at this bill or that bill.

Well, I just got a call—it is 2:45—from the CEO, from Mr. Thompson. He called and he said he is with us 100 percent. He will stick with his commitment.

I think, you know, here you have a CEO. I do not know many people like that who would say this. Every day that he delays making the move, or signing the contract to make the move, is costing his company tens of thousands of dollars. You must say come on, stop it.

He has to give termination notice, et cetera. He has to give 60 days. He has to do all those things. And he has not done that. So we are talking about chalking up big costs. You do not do that if you are the evil manipulative corporate ogre. You just do not do that. And that is not what he is doing.

He is really trying. He has gone out of his way. If he goes out of his way and he is willing to go to his board of directors and he is willing to keep that company here, by gosh, I do not know why we do not have some courage to do the same? I will tell you something, I am sick and tired of hearing all these people complain about the Japanese beating this one in, or the other foreign company. Do you know why? I do not blame Brother. I do not blame them. If we are a bunch of damn fools to let them get away with this, if we have a circumvention policy that is not enforced, if we have rules and laws that are not enforced, why should they not do everything they possibly can? I think that is exactly what is happening.

So they are doing everything they can to ensure their profitability. So I do not for one second blame Brother. I think the administration has been slow to respond over the years. But that is no excuse.

Mr. BAUCUS. Will the Senator yield to a question?

Mr. D'AMATO. For a question, yes.

Mr. BAUCUS. I would like to inquire of the Senator, how many Smith Corona jobs are involved here? As I understand it—I share the Senator's concern about jobs lost.

Mr. D'AMATO. About 875 manufacturing jobs.

Mr. BAUCUS. Will there be any spinoff jobs lost too? In addition? I wonder how many would that be?

Mr. D'AMATO. That would be an estimate but you would be talking in the area of a little more than half that number of spinoff jobs that would be lost; yes.

Mr. BAUCUS. I wonder if the Senator from New York would tell me just how many jobs he thinks might be lost—not in New York—but, say in the State of Montana, if Montana is unable to pass a wilderness bill this year?

Mr. D'AMATO. I do not know how many jobs will be lost if the wilderness bill is not able to be passed. But I am always willing to learn. If the Senator had a proposal by which we could help preserve jobs and pass a wilderness bill, why, I would probably be supportive. I am always.

I have, as a rule—I think the Senator knows it, I must say to the Senator—I do not think but on a few occasions a Senator has ever asked me to look at something but I have always examined things with an eye toward accommodating that Senator on the basis that in most cases I have found them to be conscientious and concerned about legitimate and real needs for their constituents. I would think that would be the case of the Senator from Montana.

Mr. BAUCUS. Mr. President, will the Senator yield to another question?

Mr. D'AMATO. Certainly.

Mr. BAUCUS. I would like to inquire of the Senator, just what happened here? That is, I hear the Senator say that there is, apparently, a provision that is not in the tax conference that the Senator would like to be in there. I wonder if the Senator could just tell me again very briefly what that provision is and why that would have the effect the Senator believes?

Mr. D'AMATO. We had a provision that was first placed in the tax provisions of the energy bill. As the Senator knows, the committee dealt with that in different ways, dropped that provision out—the same committee, the tax writing committee. We had submitted to that committee in the interim, and advised them through Senator DOLE, through Senator MOYNIHAN and myself, of legislative language that would give to the Commerce Department the ability to follow the circumvention cases that heretofore they have not had the ability to follow. Because the order lays against the country, Japan. And what Brother would do was switch its methodology in terms of having the product manufactured in different countries, thereby circumventing the order against Japan itself.

Now, it was with that purpose and intent that we dealt with this problem, recognizing that there were a number of Senators who were tremendously interested in this problem but who did not want to have legislation vetoed on the basis of being opposed by the U.S. Trade Representative or the White House; or on the basis that this legislation would create GATT problems.

GATT being the international tariff agreement.

With that view we sought and received assistance of the White House and were able to finally get them to sign off on language that would deal with this problem. It would give to the Commerce Department the ability to follow through on these antidumping cases where heretofore they were stymied, and see to the tariffs that had been imposed, the imposition of the tariffs on Brother.

Mr. BAUCUS. I appreciate that. If I might say to the Senator, I think the Senator makes a very good case. And as a member of the Finance Committee, and also as a Member of the conference, I would be willing to look at the Senator's case. I do not know that this Senator can effect any change in the outcome. After all, we are at this late date in the proceedings here. But I think the Senator makes a good case.

I wonder if the Senator would think about, again, the question I posed earlier about the economic impact on the State of Montana with jobs lost. I might say to the Senator, according to the Forest Service if there is no wilderness bill passed, in the State of Montana at least 400 jobs are in jeopardy. We do not have a lot of people in Montana. We have only—400, that is 400 jobs out of the total population in the State of Montana of only 800,000 people.

Mr. D'AMATO. I would certainly be willing to look at this in a broad view. I think it is only correct, as the Senator mentioned. I recognize that what might be 875 jobs in one area might pale in consequences to the dimensions of a loss of a much smaller number of jobs in a smaller State with a smaller population. I have great sensitivity to the Senator's plight.

Let me say this. I did not for a very specific reason mention any of those inclusions in the tax bill that may have dealt with problems unique to my colleagues.

As a matter of fact, I understand that. I appreciate it. And I would want to help. When we talk about preserving jobs, I see some good aspects in this bill.

I was always opposed to that luxury tax. I voted against that in 1990. Some people did certain things. I voted against that bill. I said that bill is going to cost us jobs.

Mr. BAUCUS. Mr. President, if the Senator will yield?

Mr. D'AMATO. For a question, yes.

Mr. BAUCUS. I remind the Senator that the Senator did vote for the Montana wilderness bill and I appreciate that.

Mr. D'AMATO. No, I understand that.

Mr. BAUCUS. I very much appreciate the Senator's support for the bill.

I might ask the Senator, here we have two propositions. One is that offered by the Senator from New York, namely that somehow the conference be adopted as amended to accommodate this change, to address the jobs in the State of New York. I wonder if the Senator would also be equally sympathetic to the Montana wilderness bill problem we now face. In this case we can pass a bill in this Congress that will directly affect jobs. We are here just on the verge of doing so. So I would ask the Senator if he would be willing to yield to the Senator, without the Senator's losing the right to the floor—if he would be willing to yield to the Senator from Montana for the purpose of posing a unanimous-consent request, so the Montana wilderness bill could be passed tonight?

I understand the Senator's concerns. He is worried about his people in the State of New York, just as Senator BURNS and this Senator from Montana are worried about job loss in the State of Montana. It just seems to me what we ought to do here is find ways to protect jobs in both New York and the State of Montana. And we have an opportunity to at least address the jobs in the State of Montana. As I said to the Senator from New York, as far as this Senator is concerned—and I believe, frankly, the Senator has made a good case, and many Senators tonight have listened to the Senator from New York.

Mr. D'AMATO. I do not know about that.

Mr. BAUCUS. I think they have. Maybe not here but at home watching C-SPAN. But without the Senator losing his right to the floor, because the Senator believes very strongly in his case—if the Senator would yield solely for the purposes of a unanimous-consent request, so that the Montana wilderness bill could be brought up and passed?

Mr. D'AMATO. Let me say I would not be able to do that. I am not in that position. And I want to tell the good Senator the reason why. It is not because I do not want to accommodate the Senator. It is because I find myself in a position where I will have to do everything I possibly can, in a parliamentary manner. And I understand that my colleagues, and even indeed those on my side of the aisle, at some point in time might lose patience with me.

I am going to have to press this matter as far and as long as I can endure. Then I will be hopeful that there would be some who would wake up to the call. I might even have some who would join with me in this endeavor. If that means I have stop all action, no matter how reasonable, no matter how necessary, to somehow get an address of this problem—then that is what I will have to do.

I—it bothers me. As a colleague, there is nobody who has ever had—which I cannot say about myself—a disagreeable, nasty word, other than the highest of respect for my colleague from Montana.

And I told you that. My colleague from Montana is a gentleman. He works his heart out for this constituents. He is a caring person. And I do not do this lightly; I want the Senator to know that. I would hope that maybe we could get some colleagues who would say: My gosh, let us take a look at this situation and become involved. And maybe have a dog in this fight now. And I hope the Senator does not become annoyed with me, or angered at me, I really do.

Mr. BAUCUS. I hear the Senator, and I appreciate what he is saying, but I see my colleague from Montana, Senator BURNS, on the floor here, too, and I am sure he too would make a request that this is an opportunity to pass the Montana wilderness bill.

Mr. D'AMATO. I understand that.

Mr. BAUCUS. I urge the Senator to reconsider so that we can do whatever we possibly can to help preserve and create jobs in our country. And here is an opportunity to help save 400 jobs in the State of Montana by the passage of the Montana wilderness bill.

Mr. D'AMATO. I will consider it. But again at this point in time it is not my inclination to do so.

The reason I say that again is because there are going to be lots of good things in these final hours that are going to come up. There are going to be some things come over from the House. And there are going to be some things that I may be totally in favor of, as I was the Montana wilderness bill. It is my intention to attempt to thwart any action unless and until we get it resolved favorably of my request as it relates to Smith Corona and the 875 jobs.

I gave this body notice. I spoke as a supplicant. I spoke so you could barely hear me. It was a whisper. I was approached by elder colleagues and statesmen and leaders of this Senate in a manner in which I was obsequious, and for that I am ashamed. But I did it because I was fighting for the jobs of these people. And I should have known better.

I was treated in a cavalier manner. I do not care for myself, but I care for those jobs, and I care for those people.

And I do not address that to my own stupidity. Ridiculous. My own stupidity, to be treated in a cavalier manner. These lives, push them aside. Push them aside.

Well, Kirkland, wake up. You care about these people. Get on the hotline. Get on the hotline. Stop the nonsense about: I am worried about the jobs that are going to go to Mexico. Here is 875 jobs that are wiped out. They are going to Mexico. And he can stop it.

All we want is fairness. Fairness. And then if the President does not want to sign the bill, that is him. Then he takes on that responsibility.

I do not understand it. He is probably not going to sign this bill anyway.

I want to tell you something, in terms of a political tactic, those who oppose this introduction, they need a basic lesson in Politics 101. In terms of morality, oh, yes, you hear statements, the great piousness. Incredible. Piety comes in many different ways and many different forms, many different varieties. But I have not seen too much of it. I do not think people look for it. But they do some old fashioned integrity. You make a deal, you keep a deal. You stand up for what is right.

You do what is right. You do what is right.

Boy, I tell you, I was snookered. I was snookered. I was so happy with my friends; they let me put this thing in the energy bill. Oh, boy, we are going to get this thing passed. It was a lot of nonsense.

Well, Senator PACKWOOD, he gave the conference warning. He said to them before they broke up: do you want a tax bill? If you want any hope for it getting through, you better deal with this provision.

They did not talk about it for 5 minutes. Not even a 5-minute discussion, nothing. Nothing. That is the lives of 875 people. We get so high and mighty, so taken with ourselves, so taken with our importance. What are the jobs of 875 people in Cortland, NY? What are they going to do? Forget about it.

That is not public service. That is not what we are about. That is not service to the people.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes, certainly.

Mr. SEYMOUR. Mr. President, I want to ask if what has happened to the Senator here is the same thing that happened to me in another conference committee. We had a conference committee on Senate bill 2016, the water bill, that was passed by the Senate as a matter of fact. The conference was called to have that bill compromised into a House bill, H.R. 429—two different approaches, and that is how it ended up in conference.

The question I wanted to ask the Senator is if the conditions under which the Senator is laboring now on behalf of 875 families in Cortland, NY, is similar to the tens of thousands of jobs that I am trying to protect in California with water, and the fact that the conference committee did not attempt to work these things out as I have heard the Senator propound. The Senator has attempted to try to get things worked out in the conference committee. And in fact I was led to believe that conference committee was going to agree with the amendment that the Senator had included.

I would just like to raise the question of whether the Senator was afforded any different opportunity in that conference committee than I was afforded in this conference committee on 429 and Senate bill 2016 in which they were considering the Central Valley water project in California. I wanted to know if in the conference committee experience the Senator had—was the Senator involved, was the Senator consulted, was the Senator asked prior to this amendment that the Senator fought so hard for to try to preserve these jobs, was the Senator asked before the conference committee decided to strike this provision that would have saved, as I understand what the Senator said, would have saved those 875 jobs, was the Senator at all, in any way consulted before it was removed?

Mr. D'AMATO. No.

Let me, if I might, give my colleagues a perspective on this. The fact is that the people on the Tax Committee knew for weeks, weeks before the Senate acted on the tax bill of mine and Senator MOYNIHAN's interest in dealing with the problem that confronted Smith Corona—and indeed it had been a national story, national news, when Smith Corona had indicated that it was closing this manufacturing operation.

And I do not know if the Senator recalls the splash it made on TV right across the country, because most people grew up knowing Smith Corona. You had Royal, Smith Corona. It was one of the two great typewriters, American typewriters. And so it made an impact when it said the last manufacturer of typewriters in this country is leaving, devastated.

We set about to ascertain what if anything we could do. And I have to tell you to his credit Mr. Thompson did not come and promise us the world. We made it clear that if he could see after 10 years of battling for fairness, for justice, after 10 years if he could see any opportunity by which he could deal with this dumping problem, that indeed our actions would not be in vain.

Now, let me tell you what he did. He did not go to the people and tell them that because you see he did not want to give them false hope. I feel badly because in some way I have contributed to the feeling of those people they would get justice. I think it is a terrible thing when you bring somebody up to feel maybe they are going to get justice and then you pull the plug on them. You are better off not letting them believe that that is going to be the case. That is bringing up and just dropping them down.

That is what we did. That is what we did.

And so after working for weeks on this, why we then got an amendment in language that the administration could sign off on. Now, remember, heretofore opposition had come from the administration and from those on both sides of the aisle who said we cannot adopt legislation that will trigger an administration veto. We dealt with that.

That would be anti-GATT. We dealt with that.

So we had every expectation that our friends would say: My God, this is fantastic. We embrace this.

Do you have a promise? No; I cannot tell you.

As a matter of fact, maybe I am naive. I mean I think it might be an affront to go to somebody and say: Do you promise that you can support this? But we got it accepted.

Senator PACKWOOD offered this amendment on September 26.

> MR. PACKWOOD. Mr. President, I send an amendment to the desk on behalf of Senators MOYNIHAN AND D'AMATO and ask for its immediate consideration.

The amendment dealt with this problem. And that amendment was accepted. Nobody raised any objections.

Let me say, indeed, Senator BRADLEY said that he realized the hour was getting late and "the Senate is now accepting a serious amendment in an attempt to pass the tax bill but I feel compelled to object to its inclusion."

So I want the RECORD to be accurate. He did raise that. "This is a private relief bill." It is. It is. It is one that seeks fairness.

"These two companies have been locked in something of a Hatfield and McCoy dispute for years." I do not believe that to be the case.

If you say that the two companies are competitors, yes. If you say that one has been breaking the rules regularly, the record demonstrates that.

The amendment was agreed upon.

Now, when we adopt the tax bill—and this is the bill. Let me tell you, we are going to read every single line of this bill before we get out of here. And I do not think I have to stand—I know I cannot sit down now because then I would lose the floor. I have to stand.

Mr. FORD. That is right.

Mr. D'AMATO. And I feel good. I can stand. When I was a kid, I used to stand all day and all night and get up the next day and go to school and do these things, nothing hard.

And I never had any Congressmen come over to watch me. That makes it even easier. It is not bad.

When I do it, Congressman SOLOMON and Congresswoman MOLINARI, and I have to tell them they all are my good friends. I see RAYMOND, Congressman RAY MCGRATH, and I see Congressman PAXON. And who are the rest of my Congressmen friends here? Congressman LENT. He was the first Congressman who ever supported me back in 1980. You know, when I started out to run for office I never forgot the time I went home and I said, "I am going to run for the Senate." My mother said, "Oh, that is good." My kids said, "Will we go down to Washington?" My father, what a great guy, said, "You are going to run for what?" I said, "United States Senate." He said, "Son, you should run to see a psychiatrist."

I have to tell you, when I started out going to talk to people and asking them to support me, everybody agreed but my papa, and then I met this one poor unsuspecting fellow. I remember him when he came out of law school. He used to run track, too. He was the local village judge over in East Rockway. We, in those days, were known as the clam diggers, East Rockway, a little more affluent than Island Park, and that was the little village I was raised in. We moved into the village in 1945. We still live there. A great people, working families.

But I knew NORM, Congressman LENT, and I campaigned with him when he ran for State senate. He was my State Senator. He was never supposed to win. O God, I tell you something, he was indefatigable. He was incredible. You talk about work, energy, fighting. Gosh, he passed more good legislation as a State senator in terms of health and health care. He carved himself out a reputation.

Then I tell you something. You talk about the giant killers. He took an Allard Lowenstein. Man, nobody gave him a chance. What a race. They debated up and down South Shore, Long Island. They drew a crowd. It was theater, it was fantastic, fast, fabulous. Gosh.

And, by the way, the organization, we had a machine kind of like the Chicago machine, only we were better in those days. It is not quite tuned up.

But he was a product of that machine. They gave him his first chance. But when he came to running for Congress, they did not want him. They had another fellow all picked out. Old NORMAN, I got to tell you, the clam digger instinct in him, showed up. He said, "I tell you, I am running no matter what." Yes. Guess what? Just like most machines, if it does not have the goods, you cannot sell it. They backed it and he ran. It was a good thing. We would not have won otherwise. He won that race by about 10,000 votes and was absolutely incredible.

I know, the last 22 years—I have to tell you something. I think Members even in this body, Democrats and Republicans, have come to know Congressman NORM LENT as one of the finest Congressmen, true to his word, committed to his course of action, committed to his constituents, and never afraid to even take on a cause that might create a lot of discomfort for him personally at home with the constituents, with the voters. He has been my friend, and I tell you something. It was a testimony to friendship over good judgment when he supported me back in 1980 in that primary, because people used to say, "What? Are you crazy?" He would say, "You be surprised, you be surprised."

He was the only Member of the Congress to come out and support me in that Republican primary. Indeed, that was difficult, because we ran against the organization, statewide. It was a great and noble man who was ending his career; it was not a nice race at times, and indeed, I am sometimes sorry, and I am, for some of the kinds of things that you get caught up within political campaigns and rhetoric.

But I tell you something, during the toughest times NORM LENT was there, and I look over tonight, and here it is 3:22 in the morning and here is my friend. He is not running again, which is a great loss, and there he is once again, my Congressman, my friend, NORM LENT.

You know, I wonder how many of us really use the opportunities that we have to their fullest. Probably none of us. But we can certainly try to improve upon how we have done and what we do.

When I told my papa—and he tells most people this story. You know, when I ran I said to my Papa, "I am trailing 67 to 4. I cannot go down much." He said, "You will be surprised."

And then later on—by the way, when he saw me undertake this race, there was nobody who worked harder, nobody who sent out more do-me-a-favor cards and called up his friends and relatives and people that we had known for years and years and years than my dad. He gets the credit for making a series of great commercials and helping elect me—and it did elect me. My mother was shopping in the grocery store and carrying her groceries and turning to the TV camera and saying, "Vote for my son AL, he will be a good Senator."

But I tell you the most profound impact on me personally was when my dad said to me shortly after the election before I came down here, "You know, son, only in this country could this take place. ALFONSE, it is a marvel how ALFONSE M. D'AMATO born in Brooklyn, a family of very modest means, becomes a U.S. Senator." He said, "You have an opportunity now to do something very few people ever get an opportunity to do." He said, "Do not be afraid. Be different. Stand up for what you think is right. Do not just say that which is the most popular."

I have had occasion to reflect upon that, and I have mentioned this story to some of my colleagues from time to time. It has come to mean a lot more to me as time goes on. It is poignancy. I am a particularly lucky guy, because my papa is still here, still enjoys good health, and I am still able to thank him for having given me that message. If anything that I have not done that is to my regret, it is to be more faithful in carrying out that admonition.

Let me say that, besides our New York collegues—Congressman SOLOMON has given me a little note—we have a number of Congressmen here: Congressmen NUSSLE, of Iowa; KASICH, of Ohio, HOUGHTON of Corning, NY, a great Congressman; Congressman DELAY, from Texas, who I have an opportunity to work with in the Appropriations Committee; Congressman SAXTON, of New Jersey. He has not complained about doing what is right. I do not know, Congressman GILCHREST, of Maryland; and Congressman SANTORUM, of Pennsylvania, he is young, this young guy with hair and everything. You want to stand next to that fellow. Everybody moves away from him.

I want to thank my colleagues really for coming on over here. I guess there is not a good show on the late show tonight. The football game is ended. Why not come on over?

But, that is what I am doing here. This is not popular, and it is not going to endear me to my colleagues. For example, when Senator BURNS, the Senator from Montana and Senator BAUCUS, came with jobs, I have to propose something to the old fox, he will know who I am referring to, because he might be upset by that. But I mean that in the fondest way when I call him "the fox." Maybe our leader can find a way to try to blend that Montana need with the wilderness and creating a job opportunity and the needs of some of the people up in Cortland, NY. Maybe we can forge in these closing hours a compromise and maybe there will be some other areas.

I know Congressman HOUGHTON, who has been working with me on this matter, would certainly like to see that. I think everybody here would like to see that. I cannot believe that my good friend from Kentucky would not want to see something like that if we could not work it out.

And that is what I have been talking to. I figure maybe if I get this thing so protracted, at some point in time you are going to recognize that I have only been sipping this glass very slowly notwithstanding that the glasses continue to go. Why, I think we can keep this party going for quite a while, and I recognize my friends are going to put me through that test.

Having said that, at some point in time in the morning, people are going to want to begin to do things because they want to go home. They have campaigns to run. Me, I am not worried. You know, really I have a hanger this year, and it is an early one. I just tell people, "Do you want someone who is going to fight for you, or do you want that typical old big-talk politician who says we need more job training?" Hell, that is what I hear the two candidates running for President saying. People do not want more job training, they want to keep the jobs they have. They want to keep the job they have. This is a chance to keep the job they have.

In all of this book, here, look at this, look at this page, this is the tax bill. All they had to do is put in one little page. Where is that page? You wrote the bill. One little page. Smith Corona, one little page, slip this in here.

(Mr. BRYAN assumed the chair.)

Mr. D'AMATO. We have done that before. Just slip this in; it is two pages. Slip this in here. How many slips have we seen? What, I did not know that was in there. They took one guy's television station away from him. They slipped it in, and nobody even knew. A television station. That was a good one. The Senator from California may not be aware of that. That is true. On that appropriations bill, we were slipping everything in—a bridge, a railroad. You know that, and the master is on this floor. He is not saying a word, but he has slipped a few things in there. I got a little smile from him. I hope he is not mad at me.

Mr. President, I hope we find the way to win this battle. I would be willing to put 99 other Members' names on this bill and drop mine off. I would be happy to. If you want to change the language around a little so that it accomplishes the points of keeping the jobs, I would be happy. But I have to tell you that until somebody can explain to me more than just the corporate headquarters for the competitor is in my State, and the screw plant is in my, State, well, I am not going to back down.

I may be beaten, but I have been beaten before. I remember when Nicholas Brady sat next to me. I have a great insight into him. We had an issue on industrial revenue bonds. He had been one of those temporary Senators, thank God. I can say that now, because he is not a Member of the body. He was sitting next to me. So he said to me—this is incredible—he said: You know, they are going to beat you on this, Alfonse. This is preserving industrial revenue bonds for communities.

If you had been a mayor or a State senator, as my colleague from California, or a town supervisor, you begin to understand how these industrial revenue bonds were important to creating jobs and job opportunities, particularly in the early days when we got in with that 14, 15, 16 percent interest rates. If you could get that bond to drop that interest rate two, three points, because of the favorable tax treatment that it received, why, obviously, you could attract and—there were some abuses, no doubt, but it was a pretty good policy in creating jobs.

In the final days of UDAG, that was a pretty good job, too. Let me tell you something. They told me, Alfonse—in those days we controlled the majority, we being the Republican side—"Alfonse, they are gong to beat you," he said. I was incredulous because, you see, I did not understand that kind of talk. We understood we were going to get beat. But that was something different. On a football field, in a track meet, I can bop you. But not that. It was such a terrible thing to lose a legislative skirmish, and that you would take that as some kind of rebuke to you personally, or to your person, because that is not what this is about. I understood that.

Some of my colleagues viewed this whole thing a lot differently. So I have to tell you that I hope that whoever wants to beat me, they can beat me, but I hope they do not get any pleasure out of the fact that it is not really me in this situation. It is the 875 families that come up on the short end. More important, or maybe not more important—it is them in the long run. But before this is over, I want them all to know that they will have had an opportunity to make a difference. They will have had an opportunity to help people compete, have a fair opportunity to keep their job, or they will have consigned many of those people to the unemployment rolls. Lord knows what their family's misery will be as a result of our failure to deal with this situation.

That is tragic. Now I read this document, and listen to what it says. This is terrific. This is the tax bill. They could not include saving our jobs. This bill, if you want to know, when you drop out our provision that would help keep jobs, I think it is just nonsense. I do not believe them. Because if you really meant these purposes, to all of those who signed this, why would you not include this language? All we want is fairness. We want to be able to enforce an order when a company breaks the law. You have to make a finding, and there must be a finding that they have broken the law; is that not correct? I hope so. You have to first break the law.

It is only when you break the law—the dumping—that this comes into play. Really what it says is that we will be able to impose the tariff, which is the penalty for breaking the law; whatever the tariff is, 40, 50, 60 percent. That is all we want. But I guess if you are a law breaker and you come from New Jersey or you are headquartered there, what we are saying is, hey, that is OK.

Well, what is going to happen if that happens in your State, somebody breaking the law, and they are headquartered in another State? You look around and they take jobs from your State. I guess we will say, hey, you know, after all, that is a powerful member. That is a powerful member. You cannot do anything. You have to protect this constituent. Absolutely. You see that your constituent is treated fairly, but not that your constituent has an opportunity that comes about as a result of their not being equal application of the law.

The summary of the contents of H.R. 11, Statement of the Managers, is this not interesting? One, economic development in distressed areas. Enterprise zones. I guess that is important. We want to help economic distressed areas.

I can tell you how you can do a better job of helping economic distressed areas. You know how you do that? You keep areas that are not in economic distress from becoming economic distressed, and then you do not have to give them job training, tax reductions, all kinds of relief, beg other industries to come in, and get down on your knees. That is how you deal with the problem. Incredible. Incredible. Incredible.

I will give you an easy way. You have a chance to save 875 jobs. No, we will wait for it to become a blighted area. We will wait until the people have to give away their houses, and when they have to give away their houses and all go on social relief, we will make it a blighted area, and it will be an economic enterprise zone, and maybe we can get a foreign company like one from Japan to come in and take them for 10 cents on the dollar and put them to work in a screw plant and pay them $6 an hour. Why not that? And hopefully, they will take the jobs from the guys in the other State who watched us being disadvantaged now, because they came from their State as a headquarters. Fantastic.

Lane Kirkland, wake up. Wake up. It is 3:40 a.m., wake up. Time to get up. Get on the phone, and call up all of these guys. You call up these guys when you want to see elections go a certain way. How about helping these people in Cortland. How about getting on the phone and jingling up a couple of Senators. Incredible.

Economic growth incentives. Well, what are these economic growth incentives? I wonder what they are. Let me see. We have to look at page 48. Guess what? Guess what they finally found out? Can you believe this? After the masters of the fleet have run the fleet up on the rocks, up on the rocks, now they want to give us economic incentives, and how we should get up and say, thank you, masters, thank you.

I remember the same people over here saying how IRA's were no good. You have to give us IRA's, individual retirement accounts, IRA's. By the way, when do they kick in? 1994? 1995? Is that when they kick in? That is a promise of a promise of a promise. If anybody ever relied on our promises—we pass laws and we tell people we are going to do things, and we change them anyway. But we are going to get IRA's in here in 1994 or 1995. Oh, yes. This is incredible.

But, anyway, we modify the IRA's and have special IRA's and penalty free distributions, extension of certain expiring tax provisions; inclusion for employer provided education assistance; inclusion for employer provided group legal services; deductions for health insurance costs; qualified mortgage bonds, and mortgage credit.

Most of this stuff we wiped out, you know, in the 1986 Tax Code, or most of these things we imposed upon you in the 1990 bill. Now the same people who brought you those disasters want to try to take credit for repeal. Of course, they could not do this in April, because maybe the economy would have started to turn around. And how good would that be? You would not want the economy to improve, because if the economy started to improve, then you would not be able to complain about how bad the economy is.

But here we are just ready to go home, and we get this package. And I want to tell you that the only people who might know what is in here is staff, because the conferees do not know. Staff. If you think the conferees know everything that is in here, and that the staff knows everything that is in here, you are wrong; they do not. And we do not. But we are going to be called evil, bad contemptuous people if we do not vote for this whole thing, because they told us it is good, it is good for you.

But to help the people and save their jobs in Cortland is bad for you. I do not know why it is bad. I want to tell you something else. If staff wanted to, they could have put this provision in, and they would have passed this thing, and nobody would have known. My friends in the House would not have known, and my friends in the Senate would not have known. That is, if they wanted to do it. Sometimes they do those things.

I have been here when they had an amendment in the bill that suddenly, after conference, somehow mysteriously did not get recorded. I want to tell you something. When there are thousands of amendments, when that takes place and it turns up that that is my amendment, I really wondered. That was incredible. This one, I must say, at least it was done on the up and up. At least it was not dropped out by an incoding error that did not somehow get in. But I had one of those, and we will discuss that at another time. It was last year in a different bill.

This one, at least just before the conference closed, or right after it closed, we were told it was not accepted. At least we were told it was not accepted.

I do not believe there was any debate on this. I know some of my friends here were conferees. Maybe they can enlighten me if there was any debate on this provision, but I do not think any of the conferees got into a room and had much of any of a discussion on this. So the people of Cortland are left out. Out.

Mr. SEYMOUR. Senator, I am taking a look at your amendment that you have been talking about now since 8.

Mr. FORD. Since 8 p.m.

Mr. D'AMATO. Since 8 p.m., yes.

Mr. SEYMOUR. Almost 8 hours.

Looking at your amendment here, I have questions relative to how this directly applies to Smith Corona. And, well, let me just read part of this paragraph to you, because I think it will make the question more clear for you. It says:

> Merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736, on May 9, 1980 or August 28, 1991.

I just want to make sure, Senator, that this applies only to Smith Corona.

> Such merchandise sold in the United States is completed or assembled in the United States from parts—

Oh, I see, it is components produced in a foreign country.

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. I see.

Mr. D'AMATO. If the parts were produced here in the United States, it is not applicable. It is only where they are produced in the foreign country and subject of an order. So that when we talk about trying to craft this narrowly, when we talk about trying to keep real competition, this is not an endeavor to circumvent the process of competition but, rather, this is an endeavor to see to it that fairness is maintained, that we do not have a historical supplier who merely shifts his manner of distribution and changes the impact of the order, of the dumping order.

That is exactly what is taking place.

Mr. SEYMOUR. Senator, the members of this conference committee—do you suppose there were some members of the conference committee that were concerned about the North American Free-Trade Agreement and what antidumping protections might be afforded under that agreement? Perhaps some of those members of the committee, could they maybe have overlooked the fact that this is an exact duplication of that kind of concern? Is it possible they could have just overlooked it?

Mr. D'AMATO. I find it difficult to really understand how they could evidence, on one hand, a concern that, as a result of entering into the North Atlantic, or the NFTA Treaty, that somehow that would create unfair competition and not be aware that this was the provision that deals with exactly their concerns. Indeed, it went beyond. Because what it did was it dealt with illegal activity—illegal.

Mr. SEYMOUR. Amazing.

You say over here, Senator, "Factors to consider." My question would have to do with, again, trying to make this a very narrow amendment. You are talking here about factors to consider in determining whether to include parts of components or merchandise assembled or completed in a foreign country in the relevant antidumping duty order under paragraph 1. "The administering authority shall take into account such factors as the pattern of trade, whether the manufacturer or exporter of the parts of the components is related to the person who assembles or completes the merchandise."

It sounds to me as you are going through this amendment, you are trying to make this amendment so narrow it would not fit through a keyhole, it could only apply to this one particularly abusive situation that has been going on for years? Is that correct?

Mr. D'AMATO. That is absolutely correct. What we are attempting to do, as the Senator has indicated, is to deal with a situation where we have an order, where we see somebody in attempting to avoid that order—and point exactly to the order—is now bringing in their parts from other countries; the same parts, same manufacturer—no manufactured content here in the United States.

So, it covers the Smith Corona people. So it does not open up the door to the multitudes of other situations. And it is one of the reasons that we were able to get the administration to agree not to threaten to veto on this basis.

That is why I think my colleague from New York [Mr. MOYNIHAN] and I, held some hopes.

Mr. MOYNIHAN. Would the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Is it not the case that the administration having observed the genuinely predatory practices of this Japanese firm, which we have more than once come to this floor about, which we have legislated about, over and again—we have said there are rules of the trading system which have been in place since the 1980's and the beginning of the multilateral trade agreements and the reciprocal trade agreements, under Cordell Hull and Franklin D. Roosevelt.

As my friend has heard me say many times, I learned—it is a curiosity that I learned the subject of antidumping duties from Harry Hawkins, who was the negotiator of the reciprocal trade agreements with Cordell Hull.

Those were no small things. If you wanted to make a list of five reasons, five events that led to the Second World War, the Smoot-Hawley tariff, for one, would be such. And so antidumping is not an arcane subject in the field. There are not many persons outside of international trade law who would know much about it. But it has a 60-year set of precedents. My friend is a lawyer. He knows about things like that.

And we had the most extraordinary case of it in this instance: A firm, American firm manufacturing a good product, competitive product. By any standards it is a product that could be handled in international trade and certainly within the American market. It happens to be the last portable typewriter manufacturer in the United States. But—

And suddenly there is this wave of imports that come in, clearly below manufactured cost. An antidumping procedure is—the company plays by the rulings. They go to the Federal Government and ask for relief under the trade laws. And they get it. They are told this is clearly the case, dumping is taking place, and a supplementary tariff is imposed on the Japanese import. Whereupon that firm adds a tiny component—12 cents worth of component to its product, the equivalent product. And our trade officials say that is not a typewriter. That is not the old typewriter, it is something new. And it pours in.

Mr. D'AMATO. The Senator has quite aptly described the kind of circumvention—just one of a litany of these things that have taken place. In circumvention cases, cases dealing with dumping—dealing with dumping—the Smith Corona people have won every one of them. And I think they have every right to say that the Government has failed to respond to their legitimate needs. And that is to provide fair competition.

You know, if it was a wave of products that came in that were better, that were more competitive—that they were just plainly better, that is one thing. But here that is not the case.

My distinguished colleague pointed out quite aptly that in this case the foreign competitor, Brother, was dumping. In one case I believe they found the price cutting below what it cost them to produce so egregious they put a 60-percent tariff on.

Now, that is incredible. That is how egregious and outrageous that dumping was. You cannot compete, I do not care how fine, how good a manufacturer you are, against that kind of illegal activity and that kind of activity should not be countenanced.

Mr. MOYNIHAN. Can I ask my friend this? It is not the case that the Smith Corona firm—it happens to be in Cortland, in up-State New York—but that happens to be where typewriters were first manufactured in the United States. I think the typewriter was invented in Wisconsin or something like that—Syracuse was the center at the turn of the century.

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Years later, what remains of the industry is located about 25 miles south, in the town of Cortland.

This process began in 1979, I can make a point. The Senator will know. This is not an antiquated product or an antiquated production. The Senator from California should know, these are brand-new facilities, good machinery, good engineering, competitive. It is just a Japanese firm has decided to put it out of business.

In 1979 this had begun. In 1988, I think this Senator at the request of Lee Thompson, president and chairman, then and now, amended the Trade Act of that year to get response to this.

Mr. D'AMATO. The same company.

Mr. MOYNIHAN. The same company. It is not the case that we have watched while the American Government really never got angry about this? We never said: No; you cannot do this. This is a violation of the trade laws, of all our standards: No; you are asking for trade war. You are associating yourself with illegal activities. More, this was a case, an occasion for indignation as well as just response.

Mr. D'AMATO. My colleague, the senior Senator, as always, goes to the point. You are absolutely correct.

This should have been a case of indignation. And rather than it being a situation where there were those who were more interested in the application of the technicalities that made the Smith Corona people have to hop over the hurdle, and a higher hurdle, and a higher hurdle, and a new hurdle, and another hurdle, they should have shared the Senator's feeling of frustration and said: OK, fellows, we are now going to help you. We are going to suggest either administrative actions that we can take to deal with this breaking of the law, or legislation to correct this deficiency.

None of that was forthcoming. Indeed, were it not for the fact that the chairman of the board facility, after the last go-around and the last circumvention by Brother, finally in desperation said that is it. That is it. We are moving. We are moving. We are going to Mexico.

And then a whole wave of indignation. The first wave kind of came from the public, you know. They did not know the history of this thing. I think the public should have been angry at us, angry at the Government, angry that we did not take them on in a more aggressive way.

Every time we tried—and there were a number of attempts—we would run into this business, if you do this—because the only way we could do it, as the Senator knows, is to attach it to a revenue bill because this involves tariffs.

Mr. MOYNIHAN. Exactly. Exactly.

Mr. D'AMATO. Whenever we did that the administration would say we are going to veto that bill. If you do that, if you have any provision in there that in any way breaks with GATT, given the temperament of our colleagues on both sides of the aisle not to endanger free trade—and I do not presume to speak for the senior Senator, my distinguished colleague—but I know he is for free trade. But we talk about that in the totality of there being equity, fairness, and legal responsibility that flows both ways—for our actions.

So here we have the situation where, instead of the Government being profoundly—and the people at U.S. Trade and Commerce, saying what is going on? This is an outrage. This is wrong? There was almost a sit back attitude. Well, you know.

When one measures the fact that this is a fine product and that it is competitive, and if sold at the same prices that Brother sold its product without undercutting, it would be no doubt that the Smith Coronoa share of the market would soar, that the only reason that Brother has raised its share of the market is because it has broken the law and practiced predatory pricing, and that it is selling below cost here in the United States, below what it cost them to manufacture it and sustaining an artificially high price where there is no competition.

Mr. MOYNIHAN. Will the Senator yield? Is it not the case, we are not bringing this up for one time, a new event?

Mr. D'AMATO. No.

Mr. MOYNIHAN. We are bringing up a pattern of predatory trade practice, illegal practice that goes back to the 1970's.

Mr. D'AMATO. That is right.

Mr. MOYNIHAN. What is it that makes our Department of Commerce and State Department incapable of indignation in these things? Do they not see that this is something that you can understand?

I might say to friends, and I might say to Senators here, and I say to the Senator from New York, this is not a hard thing to understand. The town of Cortland is a lovely town in a lovely valley in central New York, 20 miles away—20 miles, no. It almost adjoins the town in which David Harum lived in the great sagas of harness racing. If you were old enough to watch Will Rogers playing David Harum, you are old enough to remember part of American folklore. There is only one manufacturing activity of any consequence in this valley, this place.

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. It is a good product, and it is being destroyed by Japanese capitalism with an unacceptable face.

Mr. D'AMATO. Pernicious. Might I suggest the word pernicious.

Mr. MOYNIHAN. This Senator has been through a fair amount of trade issues in 40 years. If I might say, I was involved, there were three of us who negotiated the long-term cotton textile agreement for President Kennedy in 1962: Mr. Blumenthal, later to become Secretary of the Treasury under Mr. Carter, Hickman Price of the Department of Commerce, and myself, Department of Labor. And we had to look at some tough trading practices from Japan in those days. They were still producing textiles. But never anything like this. I mean I have been through it for—it will be now 30 years ago that we came back from Geneva with the long-term cotton textile agreement which was the condition of the Kennedy round which was to try to open trading practices.

I do not know how the Senator keeps his disposition so equitable.

Mr. D'AMATO. I might suggest to my colleague that it has been mellowed by the passage of about 6 or 7 hours and so consequently that has brought my disposition, at least the rhetoric, to a more reasonable level.

Mr. MOYNIHAN. Or tone of voice—voice level.

Mr. D'AMATO. Voice level.

Having said that, it is outrageous.

But what I find so difficult to understand is that we are all here for a relatively short period of time, and our life is here and goes and we measure it as nothing. And if during that period of time we have an opportunity to deal with an inequity that cries for relief, then all of us have a responsibility to respond.

Here the situation is so clear. Here the situation has been manifested by a pattern of illegal conduct, totally illegal.

Now, you may hear from one of my colleagues that in a recent case the Court of International Trade, which in some cases has less than distinguished jurists, just recently came down with a decision that the so-called screw plant, which is the phantom operation—and it is—is really a manufacturing plant. They sent a junior attorney to argue a man-size, difficult case against the most distinguished barristers and a rather neophyte judge came down with a rather astounding opinion. Having said that, the case is on appeal.

Notwithstanding later during the day we will hear eloquent argument that this puts to the test the question of what we attempt to do here today, the plant in Tennessee is a facade. It is not a legitimate manufacturing plant. Anybody who attempts to create that is attempting to really bring about a myth. You cannot make something a manufacturing plant if it really is not.

Second, this should not be a question of political power or political might. This should be a question of whether or not this body has the courage to do what is right because it is the right thing.

Mr. MOYNIHAN. Could the Senator respond to a question. As a member of the conference on the tax bill, H.R. 11, it is my understanding—I wonder if it is not his understanding—that as of noon yesterday the measure was agreed upon. The Senator and I were on the floor Saturday.

Mr. D'AMATO. Correct.

Mr. MOYNIHAN. With fair notice. The Senator negotiated with the administration an agreement. It may be the only part of the tax bill which the administration agreed to accept.

Mr. D'AMATO. That is the ironic part of this whole thing.

Mr. MOYNIHAN. And then it disappeared on us. The staff was not forthcoming. We were just told: Sorry, it is out.

Well, why? Who? We are not, as they used to say in intelligence, on a need-to-know basis. Our duty was to sign the conference papers, which the Senator did not sign, the first time I can recall in 14 years in this body where I have not signed the conference papers on a tax measure which has a great many things which I think the Senator from New York and I both very much hope to see in law.

Does the Senator have any idea what happened? Has anyone told him? I know that at about—let us see, where are we? About 6 last evening we were voting on the cable television measure, a vote to override in response to a Presidential veto. And we had been, we had received information that the—we had been told in our offices that a second, I think the second-ranking Republican member of the House conferees would not sign the conference report if this was on it.

Mr. D'AMATO. We were on the floor together when we got that information.

Mr. MOYNIHAN. We were on the floor together. And a very distinguished friend, the Member of the House from Long Island, Mr. MCGRATH, came over and said it is not true. Not only has this Member of the House not said he would not sign, but he had signed.

Mr. D'AMATO. That is right.

Mr. MOYNIHAN. Already signed.

Mr. D'AMATO. Plus the other two members——

Mr. MOYNIHAN. What is this? How do you explain this sort of information? Why did the staff of the Senate Finance Committee not, right away, ascertain it was not true? Later in the evening, I will tell you, our staff was informed by Finance that we had been lied to. "Lied to" was the term. That is a word I have not heard in the body. You do not hear it very often. Is it acceptable that staff lie? It is not acceptable to this Senator. Does the Senator from New York think that staff members should be allowed to lie about the actions of Members of the Congress? There are a lot more of them than there are of us.

Mr. D'AMATO. I think it is outrageous. I have raised my concern. I think that staffs, first of all, when they attribute actions to Members which are not correct and motives——

Mr. MOYNIHAN. May I ask the Senator, is it not correct in not too delicate a way to say untrue?

Mr. D'AMATO. The Senator is absolutely correct.

Mr. MOYNIHAN. It is not true.

Mr. D'AMATO. We were lied to. But what made it even more painful was that I think a number of our colleagues were put into awkward positions and really did not know how to act, and were it not for the Congressman who had come to both of us on the floor and said look——

Mr. MOYNIHAN. Spoke to the majority and Republican leader first because neither of us had arrived yet to vote.

Mr. D'AMATO. This is not true.

And by the way, when it was said that two of the Members would not sign the conference report and it was attributed to our legislation, the fact is that the two said they would not sign the report regardless. Our legislation was out of it and they would not sign the report, and it had nothing to do with this legislation.

Mr. MOYNIHAN. But was it not the case that we were told it had?

Mr. D'AMATO. Absolutely. We were told that they were not going to sign this——

Mr. MOYNIHAN. How much lying should go on about a subject of this consequence, involving matters of this importance? A great debate on trade is taking place here. Why are people lying?

Mr. D'AMATO. I came to a conclusion, and I have advanced it, and my conclusion was that in addition to that, people were able to get our distinguished colleague in the House, Congressman ROSTENKOWSKI, to play the bad guy here.

If one were to look at the histories of this legislation and this proposal, I have a letter of May 20, 1992, which Congressman ROSTENKOWSKI wrote to Congressman MCGRATH in full support of the provision that goes well beyond this provision. Yes. He says:

> I think we can use this debate to help advance our legislation initiatives in this area.

That was H.R. 5100. By the way, I understand they call DAN to stand up, and he will say, "Oh, yes, I did not want it in." This comes about as a result of those who simply say, "Look, we are not going to play by the rules here in terms of having a fair trade law, because it might disadvantage an assembly plant that is located in my area if the laws apply fairly." Imagine that. And I likened this to imagine if we had a company that was headquartered in New York that was polluting, sending toxins into one of the lakes in Vermont. Would we then take to the Senate floor and say, "Wait a minute, this corporation is headquartered in New York, we are going to defend it."

What is the difference here? I will tell you what the difference here is. We allow a corporation that is headquartered in New Jersey, and it maybe has an assembly plant in another State, to break the rules and break the law, and I believe our colleagues here have found a convenient way to get someone to stand up to foil this legislative relief which we seek. They do not want to debate it. They do not want to have it out on the floor. They try to circumvent it in a manner and not take responsibility, and I think for our colleagues to go along and join in this subterfuge is wrong. That is what our colleagues are doing. They are joining in a subterfuge.

Now, look. It is too easy to just say that this is about a battle between two companies and we should stay out. That is not the case. We should not become involved in attempting to advantage one over the other. That is a fact. But we certainly should not be afraid to say that the trade laws should be enforced, and that is what this legislation does. The trade laws shall be enforced.

There is an order outstanding. We will follow that. We are not going to deviate and make these little shifts and find a new way of bringing a product in when it is the same product and it is the same company and it is the same content which is all foreign, and then have you disqualify the order because the order was made against the country of origin, in this case having been Japan. That is wrong. That is just simply wrong.

I want to tell you, I would not want to try to defend that kind of illegal conduct or activity on this floor. I think there are probably some who are much more eloquent, much more artful, and they may attempt to do that. But to date no one has attempted to do that. We have not met any arguments to contravene or any facts that would indicate that we are seeking something that is unjust. What we had was a group who hoped that the administration, in its usual practice and response to these kind of cases, would stop it.

So, I repeat to my colleagues. You know there are going to be some important matters. Some people call them cats and dogs. Those cats and dogs should not be characterized in that manner. One case, there is an important bill, an important bill that my colleague from Montana seeks and both my colleagues seek to have enacted. There will be undoubtedly other legislative initiatives, some that have been worked upon for years, some that would undoubtedly benefit people. And I have to tell you, if the House does not carry, and they are going to go home and they are just going to say, "Here is a take-it-or-leave-it outfit," they had better be prepared that any bill that comes over here from the House that needs unanimous consent, or any other piece of legislation, this Senator is prepared to do whatever he can to withhold it.

Mr. MOYNIHAN. I wonder if the Senator has heard the news of the vote on H.R. 11 on the House floor? The vote was an astonishing vote. The bill passed by a mere six votes, which is a comment, I hope, in part upon their dissatisfaction with the exclusion of the measure which my friend is so gallantly opposing. The vote was 208 to 202—208 to 202—on a tax bill that, with the enterprise zones and all those other provisions, Medicare provisions, all manner of things—that bill I think is about 1,000 pages long—and that is the measure of the House's view. I wonder if he thinks that the House was upset and influenced by the extended debate that has been going on tonight, if that is not a reflection of the way the House feels about this matter, that the Senate might do the same?

Mr. D'AMATO. I think it had a great deal to do with that. As a matter of fact, I understand there was an attempt to put this provision in it. It was defeated very narrowly. I note with some source of satisfaction that we must have had at least 15 to 20 Members at some point in time, Democrats and Republicans, who came to the Chamber and urged us to continue in raising our voice in objection and working to bring in this legislative relief. Congressman SOLOMON sought, in the Rules Committee, to get a change, and he lost on the floor by some 20 votes. That was to get this provision included.

Mr. MOYNIHAN. Yes.

Mr. D'AMATO. And I think that is a measure of why so many Members voted against it, because who would have voted for it had this measure been included in the bill? I daresay that probably a good percentage of the New York delegation and others have felt strongly about this issue of fairness.

Mr. MOYNIHAN. I do not remember, and I am 14 years on the Finance Committee—I see the very able Senator from Montana is here and has been almost as long as I have served. I have never heard of a bill from the Committee on Ways and Means, a major bill, the biennial, the bill of the 102d Congress, passing by 6 votes, 208 to 202. Four Members reversing, changing their vote would have changed the outcome. That says something is the matter, and I hope that someone would notice. I am going to find out and tell the Senator just how the New Yorkers voted. This is a Presidential issue.

Mr. D'AMATO. I think it is.

Mr. MOYNIHAN. The administration said it would sign this bill.

Mr. D'AMATO. One of the reasons for what I said before is that if there was anything I felt sorry for, it is that maybe I was not more persistent, because I really felt that our colleagues understood it.

Mr. MOYNIHAN. We had an agreement and we were lied to.

Mr. D'AMATO. We were lied to. And I also think we were deliberately dropped out of the energy bill, because that was the bill which certain people saw as a bill that would pass, and, consequently, if our provision was included in the energy bill, as initially it was, it was under a different form that we sought to have the language changed to comport with the language that the administration had agreed with, and, if Senator MOYNIHAN recalls, this had been done earlier. We both supported this legislation, and we got it into the energy bill earlier and it was dropped. That is what is called a two-for. That is what is called two-for.

Mr. MOYNIHAN. It was dropped on the House side.

Mr. D'AMATO. Yes, and our colleagues did not insist upon it.

Mr. MOYNIHAN. The Senator does recall my reporting that our colleagues were misled in this matter and so state, which is unprecedented in my view.

Mr. D'AMATO. Here we have a situation where the people of Cortland, the people who work in the factory at Cortland, a good factory, a productive factory, a competitive factory—let us understand this. We are not on this floor saying give us a handout. As a matter of fact, we say we do not want any handouts, do not give us any handouts; just see that we can compete fairly, that is all, just make sure that the other guy is not allowed to break the law and will compete. Win or lose fine, that is how we will compete.

If it does not take place, everybody who says, "I want jobs," they are running around, "I want jobs." The House Members, "We want jobs for our people." Here is a change to keep jobs. When I said what would we pay to bring in 875 to pay $17 an hour, my gosh, States give these bonanzas that come into my State. We give tax abatements, they give low-cost energy. That is what they are doing to attract jobs. Why would we not want to make a small effort to see that it is fairness?

I understand Mr. Thompson is going to come down and be here with us and answer any questions that people might want to ask. He is prepared, and he called at 2:45, having seen this, and said that his commitment is one that, if we get this legislation passed and signed into law and the Commerce Department indeed does follow through, that he is ready and willing.

Mr. BAUCUS. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. BAUCUS. I ask the Senator, will he reconsider the request he made earlier this evening to make one small effort to save jobs? Earlier this evening I was on the floor and I asked the Senator from New York if he would think not only about the jobs in New York being lost here or potentially lost, but, also, the jobs in the State of Montana that are potentially being lost because of the failure of this Congress this year to pass a roadless wilderness bill, that is, to designate acreage in the State of Montana.

Mr. MOYNIHAN. Say that again.

Mr. BAUCUS. Roadless wilderness.

Mr. MOYNIHAN. Wilderness.

Mr. BAUCUS. As the Senator knows, not many years ago the Ninth Circuit Court of Appeals essentially ruled with respect to National Forest Service lands that are designated roadless for all intents and purposes. The Congress must decide which roadless acreage should be designated wilderness and which acreage is released back to the plans. That is because earlier environmental impact statements that the Forest Service attempted to adopt and write were declared by the ninth circuit to be insufficient, and the Forest Service decided it just did not have the resources to rate EIS's for all the national forest roadless acreage; therefore, it went to Congress and said, "Congress, we do not have the resources or the money, the time, the wherewithal to make these decisions consistent with the standards required by the Ninth Circuit Court of Appeals, so, Congress, can you make the decision for us?" And in States across our country, I think with respect to 26 States, the U.S. Congress has acted. There are two remaining States where Congress has not acted. It is the State of Idaho and the State of Montana. There might be one other State, I am not sure. But at least with respect to Montana the Congress has not yet acted.

The Senator will recall not too many years ago my former colleague from Montana, Senator Melcher, worked very assiduously and all hours of the day and night to develop the wilderness bill with this Senator and the Montana delegation that passed the Congress, and President Reagan vetoed the bill.

And we are here now, 4 years later attempting to save jobs in the State of Montana, because if the wilderness bill does not pass then the U.S. Forest Service is virtually unable to put timber up for sale in various lands.

So I am asking the Senator, if he will yield, without yielding the right to the floor, for the purpose of a unanimous-consent request to pass this bill. I have notified my colleague from Montana of my intent to do this, and my colleague who was on the floor last time I made this request.

It is a very simple matter, an opportunity to save at least 400 jobs in the State of Montana by the estimate of the U.S. Forest Service. I am wondering whether the Senator would yield for that purpose, and I must say if he does so, he would be helping 400 jobs in the State of Montana. We are not a large State. We are 800,000 people. If this legislation does not pass, I must say to the Senator, that 400 jobs are in jeopardy in the State of Montana. It is an action we can take very simply.

Would the Senator again ponder this possibility and potentially think kindly about this request so we can save 400 jobs and then get on to the matter being addressed by the Senator from New York, that is the conference report? There might be a solution to this conference report.

Mr. D'AMATO. Here is the problem that I have, and I certainly think kindly about the suggestion. But the problem I have is that I have let too many bills go through already, because I was euchred. I was euchred into thinking that we had an amendment in the tax bill that, because we had a sign off by the administration, we were going to get passed, because the fellows, those of my colleagues who are so much concerned about there being free competition and that there be no impediment to that, that they had signed off, that we were not going to have any problem. And then when we run into a situation where the staff is concocting stories, where we do not get the straight story, when we are told it is this, and that one, and the other one, and today I can only suspect and I do suspect what took place. That is wrong.

Here is the problem in a nutshell: I have even less leverage. I am counting on the fact that this legislation comes over here and it is going to be good legislation and is going to be necessary legislation, that when I insist on doing everything I can to stop it, that at some point I am going to get somebody in this body and in the other body that says: Come on, fellows, let us do what is right.

I want to tell you something else. I do not want it attached to the tax bill. I want it attached to something else. I want it attached to something that is going to be passed and judged on its own merits. I wanted it on the energy bill. I got euchred on that one. We both did.

Mr. MOYNIHAN. This was in the energy bill.

Mr. D'AMATO. Yes, and it should not have been dropped. People are playing a little footloose and fancy free, and we are going to fight, if I have to get everybody in here absolutely wild because he or she has their favorite bill. All I want you to do is look at our legislation and tell me why it should not be passed. If you are going to stay——

Mr. BAUCUS. Would it not be better if we find ways to help both New York and Montana, rather than ways to stop both the creation of jobs in New York and the State of Montana? I voted for the New York City so-called bailout bill, and that was not popular in my part of the country. But as an American, I thought it made good sense.

Mr. D'AMATO. I am not questioning the Senator's motives.

Mr. BAUCUS. Why do we not find a common cause to help the State of New York as well as the State of Montana, who very much would like to see a wilderness bill passed.

Mr. D'AMATO. I will respond in this manner. When the majority leader was here earlier on, I said and I repeat, I know our majority leader. I have been there. I know GEORGE MITCHELL. He is a good man. He is a good person. I appeal to him, and I still do, to attempt to find a way to deal with this problem. I hope that we can.

It would be my hope that some of my colleagues on both sides of the aisle would come to recognize the cause that Senator MOYNIHAN and I espouse as not one being biased, political, or seeking unfair advantage, but rather seeking what is right. If that can be done, we can fashion—no one can tell me that even in these closing hours that we cannot fashion an absolute legislative solution that will come from the House and come here to the Senate and be adopted and then we can get on with the business, the important business of jobs in Montana and jobs in other areas and all of those other considerations.

Mr. BAUCUS. I ask the Senator to consider this. I understand the Senator's point. But we know that probably the other body will adjourn sine die sometime between 10 o'clock and noon of this day. There is not the opportunity for the Montana wilderness bill to be part of the package that the Senator is talking about. Even though the Senate will be in session through Thursday, the House will adjourn for all intents and purposes within 5 or 6 or 7 hours from now. I just again plead with the Senator to reconsider this request, as that we can find a way to save jobs in both the State of Montana, as well as in the State of New York.

Mr. D'AMATO. I am most sympathetic to the entreatment of my colleague, and you make it hard. I have not found a person who is more distinguished of character and a finer gentleman than the Senator who I address at the present time.

Let me say that indeed, you have many friends and colleagues and indeed, if we are in the same boat, maybe we can get—maybe I am not able to approach this in an artful manner and in a skillful manner and in the manner that carries the support and favor necessary to make this possible. I do need the help of others. Maybe if it is only because we keep to a course which is rather autocratic, and I understand it.

Let me suggest this: Early on, before we came to this position—and I do not mean today—but as recently—and we did before, we told staff, Senator MOYNIHAN and I told directly to our own staffs that we were serious about this, that they would endanger the bill if indeed this provision was not in it.

Let me say that I have gone beyond. When I see a provision that was in the energy bill dropped out, I know why. Because that is a bill that is going to be signed. I will be doggone if I am going to allow any other legislation to go through, and we all sink or swim together. That is it.

If people want their legislative relief, they are going to have to go to the various people who run this place, or you are going to have to wait until I drop and fall down and go through the cracks. We are not, as far as I am concerned, going to allow anything to go forward as long as I can keep the floor. I have to tell you I feel good. I have lost my voice a couple of hours ago, but I feel good.

Mr. SEYMOUR. If the Senator will yield for a question, the question I have has to deal with the issue that the distinguished Senator from Montana is talking about—and the Senator from New York has been talking about going on 9 hours—that is, jobs. It seems to me that the only people here on the floor at this wee hour of the morning are people who have something to lose. We all have the same thing to lose: Jobs.

The Senator from Montana has 400 jobs there that you are concerned about. Senator D'AMATO has 875 jobs in Cortland, NY, he is concerned about. I am concerned about tens of thousands of jobs in the State of California. And I find it unfortunate that we are here at 20 minutes of 5 in the morning defending jobs in each one of our States.

Senator BAUCUS wants the Montana wilderness bill for 400 jobs. Senator D'AMATO wants a two-page amendment that he feels is appropriate. I am not even asking that H.R. 429 be set aside or anything else. I am just asking to gain the floor so that I might have the right of every other Senator to filibuster this bill that I believe is going to cost tens of thousands of jobs in California and a $4.5 billion a year hit on the California economy.

So it is unfortunate that here four Senators stand trying to protect jobs in their States, and the only way we have to protect them is to stop the course of business of the House. So I say to Senator D'AMATO that I think he has the right idea here. It has come time now to just stop all progress in the House until appropriate attention is paid to the one single issue we all have in common, which is jobs.

Mr. D'AMATO. If I might respond to my good friend's question from California. We can end this. I want to say something that, I hope, eases the fears of my friend from Montana. I have been informed that the Senate has not passed any adjournment resolution, and so the House cannot go out until we do. The most the House can do in that case is go out in recess for 3 days. I have to tell you it does not bother me.

Mr. SEYMOUR. It does not bother me.

Mr. D'AMATO. If we have to get their attention and get the attention of this body to act in a responsible, appropriate manner, on your issue, and I commit myself to being with you, Senator BAUCUS, but I have to get this done. I have to get this done.

I have to tell you that I know that the leadership of this body, if it wants to—and it may be tough—it is not easy. There are strong egos and strong personalities. People can rationalize, and we often do, this Senator included; but if we treat this as a matter of fairness and equity, I cannot see now, and I hope this is a lesson to me. I would hope at some point in time, even if it meant my State might be disadvantaged but it came to doing the right thing, we can say: Wait a minute, we cannot put somebody out of business because somebody in our State is headquartered there, but their people are applying standards of conduct which are not fair to somebody else.

Mr. MOYNIHAN. Would the Senator not agree that we were not just talking in this case of one town, one plant, one firm? That is was the understanding, was it not the Senator's understanding, that on the House side the chairman of the Committee of Ways and Means had earlier introduced a trade measure that had to do with, again, these predatory practices of the Japanese, which they are going to have to learn that there really is a limit to our willingness to put up with such clearly illegal behavior, even if our Government will not, Congress will not.

Even if our Government will not, Congress will.

I have a letter here from Mr. James Houghton, who is the President, chairman of the board of Corning Glass in Corning, NY. which is——

Mr. D'AMATO. Right down the road.

Mr. MOYNIHAN. Thirty miles from Cortland. An extraordinarily productive, scientifically high technological firm. Fiberoptics is only the most recent of the technological breakthroughs that have come from Corning.

And this letter speaks of 2 million television sets with Japanese tubes, and the term which was new to me—as I say, I have been involved with the antidumping issue since—I was learning the subject at the feet of Harry Hawkins, who was with Cordell Hull—working on the reciprocal trade agreements under Cordell Hull. Mr. Houghton used the term "diversionary dumping," a pattern of sending materials to Mexico—in this case, tubes—and having some little addition there and bringing them in as if from Mexico. When in fact they are from Japan.

Mr. D'AMATO. That is very analogous to the situation we have here.

Mr. MOYNIHAN. Yes. The chairman of the Ways and Means wished to do something about that on the House side. And the measure we had agreement on as of yesterday noon included this diversionary matter, which the Zenith Corp., and Corning asked about. Again, a phenomenon. The American Flint Glass Workers Union, an old AFL craft union in Toledo, OH, on behalf of the workers in Corning and elsewhere, filed a diversionary dumping case. Again, there is something tone deaf in the Commerce Department. I really do not know what their processes are. I wish I could. I used to.

As I say, I negotiated the long term cotton textile agreement in 1962 for President Kennedy. It was Mike Blumenthal, Mr. Price, and myself. I was assistant Secretary of Labor. To say I, I meant the three of us. But it was a very protracted negotiation and an essential one. It was the condition on this floor of the Trade Expansion Act of 1962 which became the Kennedy round.

And the Commerce Department in those days could hear you. I do not know what has happened that they do not. I mean, somewhere there is—the bureaucracy has gotten behind the curve.

The United States, from 1934 shall we say to 1964 took the lead in the world on opening trade in the aftermath of the Smoot-Hawley tariff and all the disasters that we helped inflict. And then the British went off—the British dropped free trade, went to Empire Preference; the Germans, the Japanese, they became the greater Southeastern Co-prosperity Sphere; a whole trade war which led to world war.

In response to that we began the negotiations which eventually, in the end—the international system that was put in place in San Francisco in 1945, the United Nations, had a series of satellite organizations: UNESCO, the International Labor Organization—and there was to be the International Trade Organization, the ITO, parallel to the ILO. It was to be headquartered in Havana. And it would be there to this day excepting the Senate Finance Committee said no.

But the Senate Finance Committee, and the Congress, typically was restraining the executive, which wished to go forward in trade matters. Which at that time the United States was astride the world as nothing that had ever been seen.

If you wanted to make a television tube in 1945—and you could—you had to make it in Corning, NY, or Elmira. Those were the only places in the world that made them. If you wanted to make an automobile you had to hire somebody in Michigan. That was the only place where automobile plants were running.

And somehow the Commerce Department has not come abreast of the fact that this is no longer the case and that, not just this world of mobile capital and technology and so forth, but also there are governments which shamelessly set out to destroy American producers in the aftermath of which they have a monopoly

Mr. D'AMATO. The Senator is correct in making the point as it relates to these kinds of activities that have taken place, and that we have seen so vividly, decimate—decimate the industrial base that Smith Corona once enjoyed.

Mr. MOYNIHAN. Would the Senator agree that when Smith Corona closed down, if it does, that is it. Just as in 1945—it was a rather complicated, hard to pronounce economic term called monopsony—which describes that situation. In 1945, I said, if you wanted to manufacture an automobile anywhere in the world, if you were of a mind you wanted to manufacture an automobile, you had to hire somebody who lived in Michigan. That was the only way—or Ohio. The only plants that existed, that were running, were there.

When this happens if you want to buy a portable typewriter in the United States you have to hire somebody who works in Japan. And they would have brought that about, not through the trauma of international war and such, but simply by illegal trade practices—illegal under any understanding of the

GATT. We never got an ITO, but the General Agreement on Tariffs and Trade emerged, as they say, in Geneva in the course of negotiations. It is still largely informal. They have the old ILO building in Geneva, but it used to be a staff of seven or eight people.

But the absolute central propositions to the GATT were those set out in the U.S. trade policy in the 1930's.

Mr. D'AMATO. My colleague is absolutely on target. The practice that we attempt to deal with in this legislation is illegal.

Mr. MOYNIHAN. Yes. Yes.

Mr. D'AMATO. And it is only because we have not had the steadfastness of purpose, it is only because we have had the indulgence of some at the Commerce Department—it is only because there have been those with great power and influence, who have been able to manipulate the system, manipulate the system; distort the purpose and the intent; operate between the cracks—that we find ourself in this situation where industry after industry has been systematically pillaged. And they have had to rely on the kinds of things now that Smith Corona is thinking about, for survival. Move offshore, 875 jobs—poof.

There is another part of this and that is the part that the rest of corporate America plays. Because you see there is a good part of our manufacturing base in our successful corporations that do business with these pirates. They do business with these people who are illegally dumping. They do not want to jeopardize this relationship.

So it is a kind of quiet tugging, when the Big Brother powerful corporation who does not want to endanger or infringe—and I am not in a position to say that they get calls from their associates, their foreign associates, but I suspect they do, who tell them you better speak up and you better do something about this. Because I have to tell you something. I have received—and I wish I had the courage that my friend and senior colleague from New York had when we got similar letters, in terms of responding to this one corporate fellow when he was telling us how erroneous we were in dealing with this situation.

Incredible. He came in as a supplicant for the continuation of this kind of action—major, major corporation. Incredible—American. We cannot have that kind of thing. It is wrong. It is wrong. And then think that we are going to be able to provide—I do not care who gets elected, Democrat, Republican—if we permit this kind or policy to continue and look the other way.

Mr. MOYNIHAN. Would my friend agree, it may be less important who gets elected than who is the next Secretary of Commerce? Mr. Houghton in Corning, who is not notably associated with leftwing causes, writes. He says of the Commerce Department:

> We have repeatedly and unsuccessfully asked the Commerce Department to help to address this problem. While the Commerce Department clearly has the authority under the law to rule in our favor, they chose instead to reject our request.

Mr. Houghton is an eminent citizen of our southern tier, as we say. He gets no satisfaction out of the Commerce Department.

Our Smith Corona got none. There is something lacking in energy in that system. It is as if they—I do not know. I do not know whether it is just a bureaucratic entropy—it happens—or if they are still caught in a time warp and are trying to get a free trading system going as if this were 1937. It is not. Or 1947—it is not.

Mr. D'AMATO. I think it is almost laughable, I have to respond to my colleague. It is like they are trapped in this time capsule and they really do not see with clarity what is happening.

I think they are good people. I do not question their motivations. But I think this.

I think when we put them all together and put them in this atmosphere and all we hear is free trade, free trade—I know my colleague is not talking about going back to the days of Smoot-Hawley. We are not talking about that.

Mr. MOYNIHAN. No.

Mr. D'AMATO. We are saying, if you are going to stop that kind of reaction, and it is building, you hear it, you see it, you know it—people who believe in free trade now have to harmonize it and put caveats in it. Yes, but it has to do this and that and the other thing because people are saying, what are you talking about? Free trade? Free trade? They are buying us up and they are leasing it back to us. And we get the low-end jobs.

That is effectively what has taken place. So, you know, we will reach a mentality analogous to the days of the Know Nothings, when they are going to say stop it all; no more; I have had it. Then we will be back in those days of Smoot-Hawley and stop anything and everything from coming in. It is going to be just America.

Then my friends who make the argument if we continue in this way we are going to cost the taxpayers more money, they might be justified at that point in time. Boy, that is the path we are headed, that is the path we are going in.

Senator MOYNIHAN and I talked about fairness and that is what we want. He is one of the most eminent, as it relates to understanding the history of trade.

When we got up on this subject, when we raised this issue together, he gave a historical perspective that my colleagues should listen to. You know, what a wonderful way to end this session, to cut out these provisions and put them on a bill that has to pass? Find that legislative vehicle, pass it, give a real holiday present to those who are working and if given a fair opportunity will be able to continue to work and provide jobs and hope and opportunity for themselves and their family, future generations.

When we take a look at this chart we are going to see what those 875 jobs produce. Because for every 100 manufacturing jobs there is the creation of 64 nonmanufacturing jobs. So 870-some-odd jobs, take them out, you affect more than half—you affect more than 500 nonmanufacturing jobs.

Look where these jobs are. Every 100 manufacturing: 45 in wholesale and retail trade, entertainment and recreation, we can understand that; 7 transportation; 3 finance, insurance, and real estate; 3 in business repairs and services; 3 in construction; and there are the 3 jobs—this is a pretty good ratio—jobs in public employment. That is a good ratio. 100 private sector jobs, government jobs.

Now, that is how we reverse the statistics that indicate that we have almost, we have more people today in public service, who work for governments than manufacturing.

Mr. MOYNIHAN. Right. That is right.

Mr. D'AMATO. That is incredible.

Mr. MOYNIHAN. This is your first stop.

Mr. D'AMATO. And instead of saying let me find some job training programs for people, we will pay about $10,000 a year, displace 875 people. I think that comes to, that would be close to $10 million—$8,750,000, I think, if you multiply that 10,000 times 875. I think that is what it is. Imagine spending close to $10 million a year on job training and not really being able in most cases to find people in that region any kind of meaningful employment or certainly employment that will not pay nearly the levels they are receiving. So we will be spending millions of dollars of taxpayers money, we will be taking income-producing, taxpaying people off of those rolls, both at the State level and at the Federal level. I have to tell you, what would we do, as I said before, to keep, or bring in 875 new jobs?

Mr. SEYMOUR. Will the Senator yield?

Mr. D'AMATO. Certainly, for a question.

Mr. SEYMOUR. For a question. If my math is correct, and I follow the Senator, there are 875 jobs, and for every 100 new manufacturing jobs, you create 64 new nonmanufacturing jobs.

Mr. D'AMATO. Right.

Mr. SEYMOUR. If my math is correct, really what the Senator is talking about is 1,435 jobs. And if in fact it costs the Government to retrain these people about $10,000 a job, you are talking about $1.5 million a year.

Mr. D'AMATO. About $14 million.

Mr. SEYMOUR. Right.

Mr. D'AMATO. Fourteen million.

Mr. SEYMOUR. At this early hour the Senator's math is ahead of mine. Fourteen million dollars a year to retrain these people when we could keep them working.

Mr. D'AMATO. Yes. Sad.

Mr. SEYMOUR. Is that right?

Mr. D'AMATO. That is correct. My friend and colleague from California is absolutely correct. And that is why the frustration.

And I say here we have a chance to give these people, give that company an opportunity. I do not know whether they are going to make it but certainly they should be given a chance.

I do not know if the Commerce Department is going to follow this law to the point where they really go after these circumvention cases but at least we give them a chance.

I do not know if the Smith Corona board of directors and Mr. Thompson is definitely going to keep those jobs. I believe him, though. I believe that if he sees there is legislation and that we are really going to go after those people who are violating the law, then he can compete.

Now, I have to tell you something incredible. When he sat down with me, they told me he was going to say it was an old plant, antiquated, they could not keep up. He said: "Senator, let me tell you, we have the best workers."

I believe it. I went up there. I saw those people. They are good people. They were not raising heck. These are the kind of people who, day in and day out, get up; they do their job; they raise their family; they pay their taxes; they are abreast. They do not make demonstrations. They ought to. They have every right to. They have every right to say: Why do you not protect us under the law?

Equal protection. I hear that equal protection, equal protection. Here is a chance for us to give equal protection. Let us give these people equal protection under the law. Let us say not only to 875 jobs, but as my friend points out, the more than 600-plus other jobs that will be lost as a result of our failure to stand up and to give equal protection. That is what we should be doing, giving equal protection to the workers of America, wherever they are, in whatever State they are. In Montana, in New York, in New Jersey, in California, you name it, they have a right to that protection.

They do not have a right to avoid real competition. They have a right to say that there is a level playing field. They have a right to say to these competitors from outside of this country, or any place, not to break the law.

This is to me so mind-boggling. And you know we can make a difference.

I have to tell you something. I wonder if there is real people power. I wonder if there is real people power, because if what Senator MOYNIHAN and I say is true, it would seem to me people would take the time out to get on the telephone and call their Senators and say: Why do you not stop this business? Why do you not stand up for what is right. Why do you not stop giving us this business about, oh, I am for jobs. I am for job training. I am for more of this. Why, any darn person is out for more job training.

Public works. I want master public works. Well, where do you think we get the public works dollars? You have to raise taxes, raise the deficit. Is that the real kind of job you want, or do you want productive jobs that can compete? And they can beat the Japanese if they are head to head. They will beat them any day, any time.

Let me tell you what they did at this plant. They increased their productive capacity 700 percent in 12 years.

Congressman, it is good to see you.

In other words, this is not an old, antiquated plan; it is modern. It is effective. They invested millions in it. They trained their workers. They sent them to school. They gave them courses so that they could compete.

And do you know who these people are? I will tell you who they are. I read you the names. You will know. They are good people. They are humble people. Humble people, working people, working class people. They represent a microcosm of the greatness of this country. It is a cross-section of America. It is great.

Why do we turn our back on them? Why do we? What a hollow victory. I am going to tell you something. The bill may not go through. Our legislative efforts may not go through. I want to know and I want to ask those who have been involved in holding it back, blocking, thwarting it, how do they really feel?

(Mr. GRAHAM assumed the chair.)

Mr. MOYNIHAN. I wonder if the Senator would not agree that this bill passed the House by 6 votes. I remarked earlier—he agreed—that in 16 years on the Finance Committee I have never known a tax bill of this consequence come this close. Of our delegation of 33 Members of the House, 23 voted for the bill, only 10 against, which indicated the New York delegation could have killed the bill in the House and still can. Only 10 persons, Mr. LAFALCE, Mr. MCHUGH, Mr. OWENS, Mr. HORTON, Mr. LENT, Mr. MARTIN, Ms. MOLINARI, Mr. PAXON, Mr. SOLOMON, and Mr. WALSH, vote "no". I do not see how on this side it is not a Republican or a Democratic thing. On this side we have the votes to pass this bill, but do we want to? What kind of message is it, what trumpet sounds with a margin of 6 votes in a body of 435? That is scarcely a statement that here is a measure that the Republic needs and cannot delay enacting.

Mr. D'AMATO. I agree with my colleague. That is one of the reasons that I said that not only am I prepared to stop this bill but any bill, any bill, no matter how inconsequential it may be, no matter how substantive it may be, no matter how necessary it may be, because if that is the only technique, then shame on us. Shame on us. But if that is the only technique that we can employ to get a matter like this considered, which is a matter of fair play, I should have employed it sooner. I am sorry that I did not get my hands on that energy bill sooner and started even before that bill came up.

Mr. MOYNIHAN. The measure, the energy bill was amended to this purpose. The Senator did that. We united. And the body has been on notice that we care about this matter.

Mr. D'AMATO. My colleague is absolutely right. We gave good and sufficient notice. We gave it long before we came to the floor Saturday. And Saturday we came to the floor and together we said if you do not try to work with us in addressing this measure as it relates to jobs, why, then be prepared.

And I have to tell you, I am generally more overstating, generally more overstating, but Senator MOYNIHAN was very specific in his comments. He was there. When asked, "Would you filibuster?" He said, "Yes, I will do it."

Now, look, I do not know how many people are waking up to this, and I do not mean back in the hinterlands and at home. But I hope my colleagues here understand. I have a lot of things I was supposed to do, I think four or five cities today, or four tomorrow, a whole bunch of things on Thursday including an important fundraiser—I should not say that but this is——

Mr. MOYNIHAN. The Senator is going to be grand marshal of the Columbus Day Parade, is he not? Is it possible we might still be here on Monday?

Mr. D'AMATO. That is a good possibility.

Mr. MOYNIHAN. Then you will not be able to be grand marshal.

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. That I think to be unfair. That is unjust and cruel and unusual punishment, I believe.

Mr. D'AMATO. It will be the first parade in more than the 12 years that I have been here that I have missed. Columbus is this very special occasion, and I look forward to marching with my colleagues. We talked about it earlier.

Mr. MOYNIHAN. Yes. You told me you would not be wearing a top hat.

Mr. D'AMATO. That is correct. I know some Congressmen march with top hats, and Senator PAT wanted to know if I would be marching with a top hat.

Mr. MOYNIHAN. Grand marshal.

Mr. D'AMATO. That is the grand marshal. I told him no. But I would forgo that. And let me tell you, I will forgo the pain of continuing gladly, if I can get the kind of assurance that there are several people here, our distinguished colleagues, both the majority and the minority, who can say we are going to work this out.

By gosh, we are going to do this. We can do it because it is the right thing. And then pass the legislation in both Houses. And then when we go home, no matter what the political situation, we can say we did our best and did a good job and we made a difference in some lives, in the lives of—we call them little people.

They are not little. We should not say that. But let us put it better—the person, the good and decent citizen, the hardworking citizen who meets his responsibilities and because he or she does, because they do somehow we overlook them.

They are taken for granted. And I tell you, there is a cry out there. The phenomena of Ross Perot, why is it? How was it? Why was there such a gravitation? People said we want somebody that is going to tell it the way they see it.

I am tired of just hearing the rhetoric. The system is broken. It is not working. That is true.

Mr. MOYNIHAN. There is no reason this system could not work if the trade laws were enforced with anything like the energy that you associated with what Hamilton described as good government energy in the executive?

Mr. D'AMATO. Energy?

Mr. MOYNIHAN. Here is a letter from Corning, Mr. Houghton saying the Commerce Department could do this on television tubes. They do not.

We have gone through this with typewriters. The Senator has been to this plant more than once. I have been there more than once. It becomes an issue of, if they can do that, what else can they not do? Some things rise to a level of symbolic importance as well as a substantive one. This is just such a clear case of a Japanese predatory government encouraging capitalist destructive market behavior. They do not want to produce cheaper typewriters. They want to produce a monopoly. That is all this is about.

Mr. D'AMATO. Mr. President, I want to tell you that is exactly what this is about, a monopoly. We go back to the days of Teddy Roosevelt and we go back to the days of the antitrust laws and we say, "You are not allowed to do this to create a monopoly. You are not allowed to cut your prices in one area so you drive everybody out of business." And if you are a big plant, you can do this, or a big retailer. I will not even mention the names, because we grew up with them as kids, and somehow we even recognized we were being taken advantage of.

That is what the laws were there for. How we misuse this concept of trade. How we misuse it. It is wrong. It is absolutely incredible. Free trade says, "under the prevailing provisions of law." Dumping, predatory practices, which do not allow for competition, which are brought about to drive Corning out of business, to drive Smith Corona out—and, boy, are they doing it. They are doing it; they are that effective. They are doing it.

Let me tell you the consequences of this. Oftentimes they only lost 875 manufacturing jobs. And, of course, I have to say again, Senator MOYNIHAN goes right to the heart of it. What a devastating perception, devastating to the last manufacturer of American typewriters. We now manufacture in Mexico, that is what they will be doing.

You know we can stop it. Why not stand up?

It is not only 875 jobs in Corning, not just the 600-plus jobs in this manufacturing area in addition that are produced. It is not just them. You know what it is. You know what it is. It is defeat of American technology, American labor, American work ethic. It is saying, you cannot compete, you are relegated somehow, and we are loaning ourselves to that. Is that not sad?

Mr. MOYNIHAN. The Senator would agree that the irony and the imagery is compounded. This measure was not just a measure to deal with the last typewriter production lines in the United States. It also was combined with a measure on television tubes from Japan. Probably the first large act of predatory pricing by the Japanese designed to knock out American production capacity was in television sets. The Zenith was very popular in Elmira, not many miles, 40 or 50, from Cortland. They are put out of business by the Japanese. Not for the purpose of just selling a better product, but for the purpose of eliminating the competition by low prices; whereupon, you raise prices. As economists say, you maximize your return in terms of the market.

Mr. D'AMATO. Market with no competition.

Mr. MOYNIHAN. A market with no competition. You decide one price will produce the largest profit independent of competition. There is one.

And we have invoked these measures here, and the House had agreed, and then we learn something. I said to the Senator earlier I have not heard the word, you do not hear the word "lie" very often in this Chamber, but we were told, the Senate negotiators had been lied to, lied to. That is a strong word.

That is not the basis of good-faith negotiations. You cannot have legislation based on that order. This legislation having passed the House by six votes, I observe that 79 Democrats voted against it. Even the one Independent from Vermont [Mr. SANDERS,] voted against it. One hundred twenty-two Republicans. Almost as many Democrats as Republicans voted no. That is bad enough. Then with this, what has been served by a year-long crafting of this vast enterprise? It is easily 900 pages.

We shall have labored to no product, to no avail, and I do not know but that we will deserve what comes of this, the futility. Here we are, it is 5:22 in the morning. The Senator has been heroic with stamina beyond my understanding. And this was resolved yesterday noon. There was no problem. It was understood. It was a perfectly straightforward grievance. It did not do anything to enable the U.S. Government to act. It did not levy anything. It did not increase tariffs. It did not change the basic understanding of international trade. It simply said you cannot do that kind of predatory thing, and the U.S. Government is—I do not know that we even needed the statute. We needed to wake them up in the Commerce Department.

Mr. D'AMATO. I think there is another sad part of the story. I do not know how often any of us had occasion or opportunity to hear it. It is a question of the tail and the dog. In this case, I do not believe it is the tail wagging the dog. I think in this case maybe we may have reached a point where our political will has become so emaciated that we no longer have the stamina to stand up to the dog. We are now the tail. And the dog will not allow us to even wag it.

We cannot even ask to have the liberty and freedom that this animal has. We have to be considered violating some spirit—and, by the way, if we do this and if we insist on fairness, if we insist on the law, Lord knows what they will do to us. You know, they may not buy our bonds. Oh, yes. I have heard public officials, I have heard people over there at the Treasury. You know, if you start with this, if you seek fairness, the right thing, we may be in big trouble. They may not buy our bonds. How many times did you hear that? How many times have we heard that? You cannot push for what is right. If you work for what is right, these people are going to give you trouble. Let me tell you, powerful, power, money, use it, you better believe me. They know how to use power, and they do.

What do you think this bill is held up for? You really think that, if we had an honest vote on what is right on this bill, we would lose? No way. We will lose if everybody wants to protect some one side or other, but not if you voted on the issues or on the merits. No way. No.

Let me tell you, my distinguished colleague from New York, Senator MOYNIHAN, is right. Eliminate competition, they do not want any competition, you knock them out, then charge whatever you want and they got us, we are down.

By the way, it is almost symbolic, it is symbolic. You really want to talk about a great country, a great Nation. How many people now, 300 million people, and we have one typewriter manufacturer. What, are we serious? We have to grow very well.

Mr. MOYNIHAN. If I could ask this question about what the Senator is trying to say to the Senate. There is a substantive issue here, but it is very real to us in New York. It is certainly real to anybody who lives in Cortland County.

But there is a larger statement being made. First of all, the television aspect. You have a pattern. The television was invented in Britain, the United Kingdom, but first developed—well, certainly very quickly on, the United States was producing television sets and had television broadcasting; in 1939 I think was the first one. We did all that technology, and now the production of television sets is almost exclusively in Japan, as a pattern of state-directed policy to destroy American competition and then have a monopoly. Certainly typewriters. I think the first typewriter, if I recall, was developed in Wisconsin. But it was very much an American idea, still sort of a 19th century one. You can spell "typewriter" on the top row of the keys. That is how the salesmen did it.

Mr. D'AMATO. May I address, Mr. President—and I have to tell you I know my distinguished colleague is posing a question to me. Before I respond to it, I have to tell you I never cease to be amazed at the absolute storehouse and treasure house of knowledge, and it is enjoyable, and it is fulfilling, and it is educational, and here we are involved in. It is totally just wonderful.

Mr. MOYNIHAN. You spell "typewriter" on the top row of keys. In the museum, you will find wonderful old typewriters, old 19th century machines, very nicely brought up to date in this portable.

I remember seeing an example of this particular portable, and it had a little decal on the front of it that said, "I am a very smart typewriter," and it said, "And you are a very smart typewriter. You read the manual. It knows how to spell. It does not punctuate very well, but that is harder than spelling. But there are words, you know, that big vocabulary of frequently used words which, if you misspell it, the typewriter will correct the spelling. It is these kinds of little device, the little computer-driver device, so you have a very handsome machine made in very handsome circumstances, which is one other thing about Cortland. As I say, just over the town line is the town where David Haram lived, that great American folk figure of harness racing, and that lovely valley and that plant. You can miss it. You can think of it as a very, very large dairy farm from a distance, set in green fields. It is one-story, air clean, efficient, everything you would want. Except along comes a Japanese firm, and they have learned something. They did not used to do this from Tokyo.

They will now have headquarters here, and assembly plants there, and the next thing you know this is a complex issue. I think that the Senator surely would agree that if we let this sort of thing happen to us, we will end up with about a third of our work force unemployable or unemployed. This is not simple work, but it could be done elsewhere. If you allow people to destroy a perfectly profitable activity here, simply with the purpose of making more money by making these jobs leave our country, if we do that, about a third of the present American work force is absolutely vulnerable to this kind of predatory practice. And it will put them out of work, because they cannot profitably manufacture in monopoly circumstances, and foreign assembly circumstances. You can make more money. I do not think the Senator thinks that is a very wise course for this country.

Mr. D'AMATO. It serves no purpose and it is counterproductive. It is alien to everything that we are taught. We are taught to compete and to fight and to fight hard.

We have seen the battles between the domestic producers of various products, whether it be the Big Three in the auto area; but there is an element which we call fairness which was rooted in law and which we are omitting, and I do not know why.

I think I do know why, and I think the Senator touched on it. We lack energy. We lack the ability to say wait a minute, this is going too far. Wait a minute, this is breaking the law. Wait a minute, I am not going to call a truck a car because it can help—why did I introduce that? Because that was one of the clearest examples of the kind of thing that makes a mockery of the law. If it is a truck, it is a truck. It cannot be a truck for one purpose and to escape the taxes, the tariff, become a car. And then so it does not have to meet the emission and safety standards and the miles per gallon standards, it becomes a truck again, because the standards as a car are much higher and for the luxury tax purposes, they can escape those. Talk about manipulation. This is worse. This is worse.

You are putting people out of work. Shortchanging the taxpayers, and we do it here.

Mr. President, I was going to make the speech, and I was prepared to take on the administration to say enough is enough is enough and it is not good enough when you talk about creation of jobs and opportunity and then turn away. You know what, they met our test. They met our challenge and said yes.

Mr. MOYNIHAN. Yes; they did.

Mr. D'AMATO. Now that problem is in the Congress. We are the problem. We have to deal with this. If we are not going to deal with this, and I do not get the assurances we are going to deal with this in a way that this is going to bring this into law and enact it, we are not going to deal with anything. We are not going to deal with anything. I think the Senator and I can go on and spell each other at times and we have not even started. We can make people read every bill and not agree to anything. I have not even suggested an absence as it relates to a quorum. That would not make too many people happy. I wonder where they are at 20 minutes to 6.

Mr. MOYNIHAN. We could ask the Sergeant at Arms to compel the attendance of Senators.

Mr. D'AMATO. We could get into that and keep us into that until we got everybody out of bed. I do not know what time they will come on down here. We do not intend to do that. But let me tell you something, manufacturing jobs, what they mean to a community. Aggregate personal income. We multiply this up in Corning by 8, almost 9, each 100 jobs, $1,948,000. Each 100 jobs mean 7 new retail establishments. Each 100 jobs, 64 nonmanufacturing jobs. Each 100 jobs—when you lose those, you lose these number of people and you lost this kind of revenue. Family units, 102. School enrollment, 61. Look at retail sales. It is $1.477 million for 100 jobs.

So it has impact and it has meaning. It has substance.

But more important, we have an opportunity to say to the little people—and I do not mean to say little people to demean, but I am talking about the good people, working people who do their thing and pay their taxes and they do not have a lobbyist. They are doggone lucky that they have a corporate environment up there that fought for 10 years and did not give up.

Let me tell you something about this business. These jokers over at Brother's are smart, tough; they have fancy lobbyists and everybody on the payroll. They are hitting this one and they hit that one. They are at this thing. I want to tell you something. They finally got a little bit wise and said: Let us open this little make believe phantom plant in Tennessee. Let us add a judge up in New York and they did not know what a phantom plant is. The lawyer that presented that case did not do such a good job. It is one of those phony operations, a phantom plant. There is no real manufacturing, no real content that comes in that is American.

But before that move to Tennessee, there was another attempt, and a successful one, at circumvention that this corporation engaged in. They wanted to get around those antidumping duties. So what did they do? When they began their operation, initially it was in Japan. So they had a circumvention order and they moved their plant to South Korea to avoid these antidumping penalties placed on it as a result of another case that was successfully litigated against them and in order to circumvent that order.

As you know, or may not know, the same manufacturer, same product, same suppliers, no longer are in South Korea, no longer in Japan, but they moved to Thailand, and they moved to Singapore, Malaysia, and so they just bounced around. So when the order comes down against the country, they say, it was not manufactured there. Now we have this ruse that it is in Tennessee. Parts still come from Malaysia, Singapore, are shipped to Tennessee where the only content is the wrapping and the box.

Mr. MOYNIHAN. I wonder if the Senator would not agree to this? The States, even as the whole object of the reciprocal trade agreement was to see that countries stopped predatory practices, States have to do the same. New York State has taken the brunt of this impact: in Corning, Zenith in Elmira, Smith Corona in Cortland. And I guess it was originally the L.C. Smith Shotgun Co.

New Yorkers, we cast 23 votes for that bill, our delegation, and only 10 against. If three of our Members had said, all right, Tennessee is more important, and other places are more important, three switching the vote, the bill would have been a tie vote. There were only six votes. Our delegation, if somebody divided, the bill would have gone down. That is not much recognition.

The Senator has heard me say that, and I think he agrees, in this body, we have a problem of apportionment. There are 13 States in the United States that have 11.5 million persons altogether, and they have 26 Senators. This arrangement would be instantly declared unconstitutional by any Federal court, excepting for in this case it is provided for in the Constitution.

We have trouble, the two of us, representing 18 million people. There are 26 Senators representing 11.5 million.

But on the House side we have our share. It is apportioned by the popular body. We could have killed this whole bill just like that. And we could continue to do so.

The Senator has heard me say that it is a big shift in my thinking that the outcomes for a State such as New York that emerged from the Congress, simply have long ago ceased to be something our economy can sustain. I mean, it was one thing—in 1940, New York City cast 7 percent of the vote in the Presidential election. And we were in a situation where you could think of a policy of having the Federal Government allocate resources through the tax system and the system here on the floor. And you could afford to allocate resources away from New York. But not in a context where something like this happens and no one cares at all.

Mr. D'AMATO. The Senator is correct.

Mr. MOYNIHAN. We could have killed this bill, and I wish we had.

Mr. D'AMATO. I certainly concur in the Senator's feeling of frustration. I think that had we been given the honest straightforward information as to where the battles lie——

Mr. MOYNIHAN. We were never told. We had an agreement, and it was broken.

Mr. D'AMATO. We could have dealt with the situation and we would not be now getting ready to have all of our colleagues come back and find out that there has been no progress made, that indeed, if anything, we are regressing. Members are going to be saying that I have to get home, and I have to meet my obligations, whether they be a Columbus Day Parade or whether they be——

Mr. MOYNIHAN. Does the Senator think we are going to be here on Monday?

Mr. D'AMATO. I think there is a good chance.

Mr. MOYNIHAN. As a grand marshal would know.

Mr. D'AMATO. I will probably have to call mama and ask her if she will take my place in the parade, and she will probably be much more warmly received. Certainly, she will not get much of the salutes that sometimes come with the office that I have received from time to time in a parade.

Mr. MOYNIHAN. And parades, they are hazardous duty.

Mr. D'AMATO. Particularly in our State, I think. I do not know if they are usually, if they manifest the same kind of outpouring of political sympathy and scorn, but that is part of the great process of New York, and it is quite different.

So I will probably be here, along with my distinguished colleague, the senior Senator from New York, because I think there are just a lot of bills, a lot of things that my colleagues are going to want to finish and that the calendar will demand. I have not gone over them. I am going to ask my legislative genius here to look over some of those.

There is a GSE bill they are going to want to take up dealing with Government securities, and so forth. There is a housing bill. I worked on that bill. There are a lot of good things in that bill, a lot of good things.

For example, we deal with some of the critical problems of the mix of seniors and those people who have disabilities, mental disabilities in particular. We attempt to deal with them so we do not have these divergent populations that sometimes really have provided tremendous problems for our seniors. So we try to take care of those who are mentally disabled and do it in a way where we recognize that and see that we give them the proper kind of shelter, but just do not willy-nilly, mix them in with the senior population.

Sometimes you have these young adults who are 21, 22—it is just a heck of a problem.

So we have housing, we have GSE, we have foreign operations, we have the energy bill, we have the matter of concern to my good friend——

Mr. MOYNIHAN. The Montana forest bill, sure.

Mr. D'AMATO. The wilderness bill. There is no doubt in my mind that there must be tucked away in the nooks and crannies of the various legislative leaders other matters that generally, in a rather perfunctory fashion in the closing moments, find themselves coming back and forth.

I was here on those occasions. I saw more bills going back and forth. We did more bills when we were out of session—we were not really out of session. The majority leader and/or his representative and the minority leader and his representative—and similarly in the process in the House. The clerk over there calls them up quicker—it is like an auction. They go through these things, boom, and they send them over here and we send it back there.

And, you know what. There is nobody around.

Now, guess what. Surprise—we are going to be here.

Mr. MOYNIHAN. Yes; you are going to be here.

Mr. D'AMATO. There is not going to be nobody here. They will be sending it back and forth. People are saying, "Why are you doing this?" I am telling you why we are doing this. We want this problem fixed.

Mr. BAUCUS. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. BAUCUS. I ask of the Senator, how long does the Senator intend to speak on this issue?

Mr. D'AMATO. Oh, forever. You mean at any one time?

Mr. BAUCUS. I mean how long does the Senator anticipate forever to be?

Mr. D'AMATO. I said 8 o'clock. I did not know that I would have my good colleague from New York here to join me and to raise some of these questions, and my friend from California. I think we can go, you know, to 10 o'clock, 12 o'clock, 1 o'clock. Then it might begin to get a little problem here and some other places.

But we are going to do this. This is not done for the sake of simply getting up, going through some kind of rote. I am not speaking to my colleague—I want others to know. Look, let me tell you something, when I tell you I am not going to be rolled, I am not going to be rolled. So, in the parlance that those parliamentary observers will understand, I do not intend to be rolled.

I said it before. I do not do this often. I do not do it often.

Mr. MOYNIHAN. The Senator will agree that we had an agreement noonday yesterday. And it was not until—I tell my friend from Montana who is a member of our committtee—

Mr. BAUCUS. I understand, but I might ask the Senator again, I just checked with a Member of the House about an hour ago, and I am again informed it is the intention of the House to recess, adjourn, whatever, by noon today. That is 6 hours from now.

If the Senator intends to keep the floor, I am wondering, how are we going to solve this impasse if by the time the Senator yields the floor the House has adjourned?

Mr. D'AMATO. Let me say this. If, indeed, we have the will, we could find the way.

Mr. MOYNIHAN. We could ask the House not to adjourn.

Mr. D'AMATO. If my colleagues here come up with a suitable methodology of getting the House to act in concert with the Senate, and the House can put this bill up on its own vehicle—it provides the revenue, put these tariff measures on, it does not cost any money—sends it on over and we act on it, you know, terrific. Those things can be done. And I believe in people, and if people give me the assurances, and so forth, that they will take a certain course of action, of course, I will then yield the floor. We want to accomplish this result.

Mr. BAUCUS. I asked the Senator this question because I know the Senator from New York has been dealing with this issue for some time. I really do not know how long it has been. Has it been a year?

Mr. MOYNIHAN. This Senator amended the 1988 bill.

Mr. BAUCUS. That is the point I would like to make. I would like the Senate to deal with this issue very quickly so there is time for the House to take it up. This is an issue that has been around for 12 years. We, in Montana, for 12 years have been trying to get this matter resolved. Finally, this year we have it resolved—I think we have it resolved. I just again beg the indulgence of the Senator to let this bill come up now. It will just take a matter of 30 seconds—less than a minute. The Senator will then have earned the good will of the Senator from Montana to try to help the Senator from New York find a solution to his problem.

Again, I just ask the Senator from New York if he could, again, see if he could find a way now—there is no time like the present—to allow us to take up this bill which we have been working on for 12 years.

Mr. D'AMATO. I would be delighted to.

Mr. BAUCUS. The Senator will not lose his right to the floor. The Senator would still have his right to the floor.

Mr. D'AMATO. I understand what my friend and colleague says, and I would be delighted to accommodate him. But let me say this to him.

I said it would be my intent—you know, I am only human. I do not know how long I am going to be able to hold out. I did not start the night thinking, you know, that I was even going to begin doing this thing. As a matter of fact, I had just come right from dinner and came over here.

I was distraught, angered, annoyed, hurt, frustrated. I felt terribly—I want to tell you how badly I felt. I will tell you how badly I felt. I could not even talk. I could not even call. I could not even call the chairman of the board, Mr. Thompson. He did not need me to call him. He did not need me to hold any parties for him, because he was crushed. Because he was crushed. You know why? Because he really cares for those people. He really cares for them, and he was prepared to go back.

I was crushed. And then I said—I will tell you what I said—I said, Doggone it, this comes of my almost being a little subservient. Oh, Senator so and so—I will not tell you who—oh, baloney. I was not elected to do that. I was elected to be good to people and be respectful of people and I tried to be. But let me tell you something, when being nice is being taken advantage of and being treated in a manner in which my people find themselves being treated, being washed down the drain, doggone it, no way. You want to have a fight? We will have a fight. I do not mean yourself.

Let me tell you, I need you. I need the Senator from Montana. I need the Senator from Montana to become an advocate for this cause, to say, you want to know something, I do not blame Senator D'AMATO and Senator MOYNIHAN for saying no way are we going to let any action take place. No way. No way. Because, you know what? They are right.

If you did not believe in this issue and you said to me I was wrong, I would respect you. I respect you at least on that. You knock me out on the issue, by gosh, I understand that. Do not give me this stuff about it is a fight, the Hatfields and the McCoys, we are going to take the jobs from here to here. That is hooey, that is nonsense.

See, I do not mind. We get into some battles. I want more for a highway here. You say, no, we have more for a highway over here.

I want a formula because it will help this, and I say I have the ridership, and you say, "Wait a minute, we are way out in the boonies, and we have to get people, too, so you have to take care of our transit needs." I understand that. I understand compromises.

This is not a compromise. We are seeking justice. How do you compromise justice? How do you compromise fairness? How do you compromise people's lives? These are people's lives.

I do not direct this at you, but I want the Senator from Montana to feel this way to the point that he says, "Do you want to know something? I did not know anything about this thing"—and I do not think you really did. You may have heard about it.

Mr. BAUCUS. The Senator from Montana is suggesting another way to earn the support.

Mr. D'AMATO. Here is the point. You are my friend. You can be most benevolent, charitable, as it relates to this particular legislative initiative that we are attempting to accomplish here, which is to save the jobs of the people of Cortland. They are out now—they are out. They are gone.

If we adjourn, 12 o'clock—OK? And that place over there, do you know what they have done to the people? They told them—we have a little thing in Italian—we do not give a damn for you. That is what it means. That is what it means. The kids say "in your face." These things do not change too much. That is what we are saying to the people.

I did not stay up all night, I did not sleep many nights, many nights. I feel better today than I have in a long time because I got it off my chest. I had a chance to say what I really think, what I really feel. I spent sleepless nights thinking about what we are going to do to try to deal with this.

If I told you, oh, my gosh, the ambience from the meeting with the people at the White House—I was pretty good: Artful, nice, I did not get annoyed, I did not cuss anybody out, I did not say, "Why don't you wake up, see America slipping down, going through the cracks? Let us think about what we should be doing." I really just—I tried, and we got them to come around.

Then my own colleagues betrayed me. But you see, it does not matter, because I have lived in all kinds of circumstances. I lived in a room over the Varsity Restaurant in Syracuse, NY. You see, I have a little affinity for those people. I worked my way through law school as a janitor cleaning toilets. It was demeaning. I understood a little bit about life.

I want to tell you something, I want to tell you something. It gave me some respect for hard-working people who do those kinds of things day in and day out, people who are taken advantage of. Nobody says hello. Nobody talks to them. I learned that.

I met my wife—brilliant.

Mr. BAUCUS. I say to the Senator from New York, though, at this point I understand what the Senator is saying in several respects here. New York is losing congressional seats. Montana is losing one of its seats. We will be down to one.

Mr. MOYNIHAN. Half your seats.

Mr. BAUCUS. A 50-percent loss in congressional representation, basically because of lost jobs because the economy in our State is suffering so much. So I am very sympathetic to the situation in New York, and a lot of this is due to international competition. Canadians, for example, dramatically subsidize their soft wood lumber production in a very extensive way and a way which essentially results in between 30 percent to some 20 percent of the soft wood consumed in the United States being Canadian lumber, all of which is subsidized at rates much, much greater than is United States lumber production supported by the United States Government. The forest products workers in the State of Montana are hard-working people trying to make ends meet, just like the State of New York, just like the Smith Corona plant the Senator has been speaking about so often tonight. I just urge the Senator again tonight—there is an opportunity here, very briefly, in about 30 seconds, to save 400 jobs.

Mr. D'AMATO. If I might answer my friend, let me say this to you. I want to save those jobs, and I will do anything and everything short of giving up the ability to exercise the maximum amount of leverage that I possibly can. If that means I have to stay here until I fall down, then that is what I am going to do. If that means that I have to—whatever I have to do, I am going to do.

Let me tell you, I did not go through what I went through and I did not make the sacrifices I made to come here to be assuaged out and to be copped out and to cop out myself on what I know is right.

I have to tell you, too, I owe it to myself. I came down here and I said, "By God, Alfonse, you are just not going to do this. I went through too much. There are too many good people and they have been taken advantage of." And I am not giving this story, directing these remarks to my colleague from Montana. I do not want him to think that. That is wrong.

I do not want the Senator to think that. That is wrong. That is wrong. Because the Senator is a friend and I have empathy. If I get some assurance that somehow, some way we are going to do this thing and we sit down and they tell me how they are going to do it, and they tell me about the fellows on the other side, we are going to do it.

Let me say to my friend in terms of their going home and adjourning, they can recess for 3 days, and they may want to do that. But that is what they can do. They cannot go out unless we pass a resolution of adjournment. And I tell you I feel that I will be able to stay here at least until 12 o'clock so that they can go home if they want for 3 days and then maybe we can get some people to get some sense because this is only my first whack at this thing.

Let me tell you, I played all-night poker games, gotten up, gone to class, gone back out, and done my full day's work. Admittedly, that was quite awhile ago. I will not tell you what I have been doing lately. I have been campaigning. No. But to be candid with the Senator, I am going to do this until my friends and my colleagues say we better address this.

Mr. BAUCUS. I appreciate that.

Mr. D'AMATO. Do you want to know something? I would not want to be a supplicant and an applicant on behalf of these people. I can assure the Senator I am ready—I do not want to impinge upon the Senator personally or upon those people, but let me tell you, we had provisions that would save these jobs in the energy bill. Then we had it in the tax. Then we had people agree to this thing. And the next thing you know, willy-nilly, it is dropped from the energy bill. And we have staffers telling us: "Oh, I am sorry."

At some point in time you have to say wait a minute, I was not sent down here, I was not elected, I did not work to come down here to be an appendage for the administration or the good old boys. No way. No way. And that is what we are doing. We are acquiescing. And if we want to go home and we want to say we can do it——

Mr. MOYNIHAN. I wonder if the Senator would not agree that this is doable. Maybe there has been a misunderstanding. But the Senator from Montana has a very clear, legitimate interest, and Senator D'AMATO and I—we are losing three seats. You are losing half your delegation.

But why are we not hearing from the House that the arrangement which was agreed upon yesterday is agreeable once again? Something happened yesterday afternoon. I tell my friend, Senator BAUCUS, neither of us know. I walked on this floor at 6:15 last evening, 6:10 about that time. The vote on the override of the President's veto of the cable television bill was on the floor. And there was Representative RAY MCGRATH of Long Island, who is retiring, unfortunately for us, and he was there to say that Mr. GUY VANDER JAGT wanted us to know that contrary to what we in fact had heard, he was not withholding his support from the tax bill. He is a conferee. To the contrary, he had already signed the conference report. Think about that.

And he told Mr. DOLE right down there; Senator D'AMATO had not quite arrived.

About 2 minutes later you walked in that door and he told you. I said "Make sure you tell D'AMATO." It was so clear. Why do they not just send us a bill from the House side that puts yesterday's agreement in legislative form? We will pass it here and then we go on and do everything else. If not, fine. It is not that much.

Mr. D'AMATO. I would have to concur with my distinguished colleague who raises that question: Why do they not? I think that that is what this is about. This is about trying to let them know that we are really asking for that which the House heretofore has enacted. It has gone beyond this. It has gone and enacted this provision and more. And that is the shame on those who would attempt to perpetuate this as a story that one Member would hold this up or to attempt to indicate to us that a minority member, not even on the Ways and Means Committee, would have the influence and the ability to stop this legislation from passing.

Now, let me tell you something. I do not undertake this action lightly. I thought about it carefully. And I undertake it only when I find there is no other recourse. And if it means that some of my colleagues are going to get angry at me, riled up at me, and characterize my actions in whatever way they deem, whatever way they feel, that is their right. And I understand it.

But I have to go back to the business of playing fair. Everyone, everyone was made aware of how serious Senator MOYNIHAN and I were when we said that Smith Corona, the issue of the preservation of those jobs, or at least giving the opportunity to preserve those jobs under the law be made possible.

If we went out of session, those jobs would be wiped out, and the Smith Corona people would have no other recourse other than to effectuate a plan of operation which would in effect mean the transfer of all of the manufacturing jobs from Cortland to Mexico. The end of the last manufacturing of a typewriter here in the United States.

I think Senator MOYNIHAN is quite right when he says it is real to those people, it is tragic to them and their families, but it is also real to millions of others. It is a symbol of how it is that a great nation cannot even enforce its own laws, how we look to excuses not to enforce them, how we say you have to pass legislation that deals with the manipulation. And so that is what we are attempting to do. We are attempting to deal with the huge cracks, cracks that have been manipulated and operated by the lobbyists, by the bureaucrats.

You want to talk about a tragedy. It is the tragedy of that kind of manipulation that has created a situation where we have fewer people in manufacturing jobs today than we do on the Government payrolls.

Now, we can continue this practice or maybe we can end this Congress with a more than symbolic message and a message of real hope and opportunity that we instruct—because that is what we will be doing—the Commerce Department by passage of this legislation to pursue those cases where there are these violations of law, to see to it that we have equal protection under the law.

Mr. MOYNIHAN. May I ask the Senator if he cannot conceivably understand why we have reached the point where we have to instruct the Commerce Department in a matter which ought to be elementally their duty, and yet clearly we have to?

Mr. D'AMATO. It would appear to this Senator that over the years we have developed a system whereby the intent of the law has been thwarted by fear of retribution by the Japanese.

Mr. MOYNIHAN. Fear of retribution by the Japanese.

Mr. D'AMATO. Fear of retribution by the Japanese, because if we dare do this, oh, my gosh, what they will do to us, the economic power that they will wield. And so it has become impossible to define in our minds clearly that even where there are violations of the law, dumping—against the law—that we set up this wall which says but if you do this and cross that bridge, you will have GATT problems, you will have retaliatory actions and woe to those who undertake this battle.

We have now built up after so many years of this kind of practice a preconceived condition. It is like Pavlov's theory of the rat. When the bell rings—the bell in this case being the alarm by the Smith Corona people saying: "Hey, there is a buyer here"—there is a certain course of action and conduct, and that conduct by the bureaucrats is to deny it, and it is only when the plant is burned down, and in this case no longer operating, that they at that point will say there is no longer a manufacturing capacity, and even then at that point they will deny the reason for it taking place.

Mr. MOYNIHAN. I wonder if the Senator would answer a question for me. I am going to read, if he would indulge me, the provision which had been agreed to and ask whether he can explain how something this simple could become this complicated. It is now, as I see by the Senate clock, 12 minutes after 6, so we will see what time it takes. This is section 8502.

ADDITIONAL AUTHORITY TO PREVENT EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) In General.—Section 781 of the Tariff Act of 1930—

We are still dealing off Smoot—Hawley. I make that point—

(19 U.S.C. 1677j) is amended by adding at the end the following new subsections:

"(f) Additional Authority to Prevent Evasion of an Order.—

"(1) Additional authority.—

"(A) In general.—Notwithstanding any other provision of this title, the administering authority, after taking into account any advice provided by the Commission under subsection (e), may amend any final finding or order described in subsection (a)(1)(A) or (b)(1)(A) to include additional merchandise in order to prevent the evasion of such finding or order or to otherwise safeguard the integrity of such finding or order.

"(B) Guidelines.—Not later than March 1, 1993, the administering authority shall develop and publish guidelines that the administering authority intends to follow in exercising the authority granted by this paragraph—

That is their authorities in one sentence—

In developing the guidelines, the administering authority shall consult closely with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

"(2) Review of prior negative determinations.—

"(A) In general.—A request to review a prior negative determination may be filed within 1 year of the effective date of this subsection. If such request is filed, the administering authority shall conduct a review on an expedited basis and shall complete the review within 60 calendar days of the request. For purposes of this subparagraph, the term 'prior negative determination' means a negative determination made by the administering authority in an investigation conducted under subsection (a) or (b) before the date of the enactment of this subsection.

"(B) Standards.—In carrying out the review under this paragraph, the administering authority shall take into account—

"(i) whether merchandise, sold in the United States, is completed or assembled in the United States or in a foreign country from parts or components.

"(I) supplied, directly or indirectly, by an exporter or producer covered by a finding or order described in subsection (a)(1)(A) or (b)(1)(A),

"(II) supplied by a person who has historically supplied the parts or components to any exporter or producer covered by such finding or order, or

"(III) supplied by a person related to the historical supplier—

It sounds like they are cousins—

or related to any exporter or producer covered by such finding or order,

"(ii) whether the difference in the value of the merchandise sold in the United States and the parts and components described in clause (i) is small, and

"(iii) whether merchandise imported into the United States, which has been completed or assembled in a foreign country, contains an essential component of significant value that is of the same class or kind as merchandise subject to a finding or order described in subsection (a)(1)(A) or (b)(1)(A). The standards described in the preceding sentence shall also apply to any investigation pending before the administering authority on the date of the enactment of this subsection.

"(C) Expansion of finding or order.—If, after review, a determination is made that additional merchandise should be included in a finding or order, the administering authority may amend the finding or order to include any parts, components, or merchandise necessary to prevent evasion. In the case of a finding or order which is amended to include merchandise described in clause (iii), the administering authority may limit the application of such amendment to the value of the merchandise attributable to the essential component.

"(D) Termination of action taken under this paragraph.—Any action taken by the administering authority under this paragraph may be terminated or modified, if the United States Trade Representative notifies the administering authority that the application of this paragraph is inconsistent with the international obligations of the United States pursuant to a ruling under the General Agreement on Tariffs and Trade accepted by the contracting parties to such Agreement.

"(g) Construction Provision.—Nothing in this title shall be construed to limit, impair, circumscribe, or diminish in any way the rights and remedies with respect to antidumping or countervailing duty orders or determinations which existed before the date of the enactment of the Revenue Act of 1992 (including any rights and remedies which existed before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988).".

(b) Conforming Amendment.—Section 781(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1677j(e)(1)) is amended by inserting after the first sentence the following: "The preceding sentence shall also apply in the case of a determination to amend an antidumping or countervailing duty order or finding under subsection (f).".

(c) Application to Canada.—The amendments made by this section applies with respect to goods imported into the United States from Canada.

I ask my friend whether he does not think that this has become impossibly complicated, a simple matter of plain evasion of a clear obligation that requires 5 pages of text just to say do not do it, do not do what you are not allowed to do under the agreement you entered?

Mr. D'AMATO. I think my distinguished colleague has once again gone right to the heart of this matter. It is unfortunate that we have to seek this kind of legislative remedy and dot the i's and cross the t's in such manner that, when you read this, you wonder what the intent is. The question is, can this be dealt with in a straightforward manner if you violate the law?

Mr. MOYNIHAN. Your contracts, your agreements and treaties are laws of the U.S. Constitution.

Mr. D'AMATO. We are going to go after you. You are absolutely right. And it is preposterous that we have to go through all of this. It is even more ludicrous that we go back to the history of the distinguished Senator from New York of dealing with this back in 1988.

Mr. MOYNIHAN. Yes. That statute applies.

Mr. D'AMATO. Legislative remedies. And here we are 4 years later about to adjourn, about to throw all these jobs out the window, the hundred manufacturing jobs multiplied by eight with all the other jobs related to it. And for what reason? The reason that maybe we want to perpetuate the continued ripping off of American jobs unfairly without fair competition, by the way of predatory pricing. Is that why? Is that why we are here, to say, well, because of one man's misery, because one man has been cheated, because one man has had the law, at least, in the manner that it was never intended, so that he is victimized, that we are going to reward people at the sufferance of these people? That does not make sense.

I have to tell you if you come in and be fair, be square, and compete, we would not be here. Neither of us, Senator Moynihan nor myself, would be here on this floor saying we want fairness, we want equal treatment under the law. That is what this argument is about. That is what this battle is about. That is what this fight is about—equal treatment under law.

We failed to awaken and arouse in our colleagues a sense of some urgency or sense of our dedication to the burden of seeing to it that the people of Cortland, I repeat, are as important as any other citizen in any other State, in any other part of this country, and they, too, are entitled to fairness under the law, and they must be accorded that. If it means discomfort of others as a result of our continuing to bring this up, then that is the price that we should all pay for our stewardship. I have to say these people are going to be plenty uncomfortable if, indeed, we are not able to get a resolution of this matter.

Mr. MOYNIHAN. May I ask, why cannot a simple measure be sent over from the House incorporating the agreement we had yesterday noon, and be passed here and sent to the President? You have the understanding of the President that that bill would be signed. You have the understanding of the White House.

Mr. D'AMATO. That is right. I think a simple bill can be put together in a relatively short period of time, certainly well within an hour, and can be passed by the House. I know of no opposition from the House. I know there is one Member, I was wrong when I said he was not on the committee. He is the tenth ranking member on the committee, I think.

We understand how that committee operates and how it works. I have to tell you, to have a situation where the chairman of the committee who heretofore had championed legislation that went beyond, went beyond——

Mr. MOYNIHAN. Was it not in a trade bill passed by the House?

Mr. D'AMATO. Yes. Here was Congressman ROSTENKOWSKI writing to Congressman MCGRATH saying that, notwithstanding the opposition from the administration, it would be enlightening to take this on, and now we are given to believe that he has just folded up his tent and he has said, "No, I want no part of this." That is inconceivable. I mean, that is asking him to go above and beyond.

But I have to tell you, I would never question his loyalty or sincerity or his friends'. But, you know, I do not believe it. I think it is a good job on his part to take the blame and to shield those who are responsible for this legislation being dropped out of the energy bill and now being dropped out of the tax bill when we had a right to expect that it would be there.

Now, I do not intend to yield. I said initially—and I was not kidding. I know Senator PACKWOOD said before the conference broke up that if you do this, you are not going to get a tax bill. Some people here do not care. By the way, to defeat this measure, it is not a victory that we can go home and cheer about. I do not know who is going to feel good about the fact that these people lose their job. What kind of victory is that? Who is going to be satisfied about that?

Mr. MOYNIHAN. The bill which passed the House of Representatives, I see our friend from New Jersey is here. He may not know this. Senator D'AMATO will assure you that bill passed the House of Representatives by six votes. I wish the New York delegation voted against this en bloc and that would have been the end of the subject.

Mr. D'AMATO. It may have been. But I have to say to my colleague that I would not have been talking about it before the tax bill came up. I am in great support of it. That is where I repeat that I feel that I was euchered, because we were given to believe that the bill and the provison can be dealt with in the energy bill. It was dropped out, dropped out, because they knew that was the bill that had some what we call muscle power behind it; it was going to go.

The tax bill probably will not go and, if it does go, the President may veto it. So I do not want my friends in New York or Cortland to think that even if we were to get some kind of accommodation on this particular vehicle, that we are going to pass on it. I am intent to get some kind of accommodation on this legislation, because it is right, because let me tell you something: If I had a corporation headquartered in New York and it was violating the law, I do not beleive that I would come down to stand here and to defend that corporation and/or its policies simply because it was headquartered in New York. If it was polluting the lakes or the harbors of a sister State, I would not say, "Oh, well, no, wait a minute, that is headquartered in my State."

If it was creating a situation as a result of unfair labor practices, predatory labor practices, that have been proven over and over and over again, I would hope that—and I understand how there are considerations—that I would have the consideration to say, "Wait a minute, this is not the situation where we are talking about fair competition." One is better than the other. One can sell more products than the other. The market can only absorb one. In this case clearly on more than eight occasions, at least eight occasions, they have been found to be in violation of the law.

They duck out of the tariffs and the enforcement of it. They are manipulative. They are manipulative. We should not be part of that process. We can say, well, they have achieved a victory and now they have a plant that really recognizes a plant here in the U.S.A. We really know what is right, what is fair, and our workers are entitled to fairness. They are not entitled to protection against fair competition, but they certainly are entitled to due process, and that is being denied them. Heretofore, it has been the administration that has been slow and calcitrant to react.

Mr. MOYNIHAN. I wonder if my friend will agree. Let me ask if it is not the case that the Department of Commerce has asserted it does not have the authority to take action against attempts to evade or circumvent dumping orders. We think they do. But they repeatedly say they do not, and we say, "All right, now you do. Here it says so in statute you do." Whether you had to be told again, why the General Agreement on Tariffs and Trade, to say again—I do not want to be repetitive—but the antidumping provisions and countervailing duties are absolutely at the center of the whole idea of the expanded world trade that the United States began in the 1930's in the aftermath of Smoot-Hawley.

When in the aftermath of Smoot-Hawley—obviously, we still have the Smoot-Hawley Act. All references go back to that 1930 bill. We have never allowed a tariff bill to come to the Senate floor yet. There were about 1,200 economists in the United States and 1,100 wrote President Hoover and said do not sign that bill. He signed it anyway, and within about 2 years, as predicted, imports into the United States had dropped by a third but so did exports. The whole world spiraled into that Depression. We came out of it with World War II.

In the aftermath of Smoot-Hawley and the British going into an empire preference, getting off free trade, and Japanese starting the Greater South Asia Coprosperity Sphere, and the Germans going into barter arrangements with all sorts of Central European countries, including Nazi Germany. Predatory practices everywhere: dump, dump, dump.

We said: Wait, stop that. This is one thing we cannot have. Do not do that. Let fair prices regulate world trade and everybody will be better off. All exchanges will be to the mutual advantage of the buyer and seller and the market openly. Do not destruct prices, which is what this does. The Department of Commerce somehow or other said: Us? We? We cannot do anything about that.

Where on Earth were they? In any event, we have a simple proposition that says nothing more than that you may indeed enforce the trade law.

Mr. D'AMATO. My colleague is correct.

Mr. MOYNIHAN. The General Agreement of Tariffs and Trade.

Mr. D'AMATO. That is what we seek. We seek fairness. We seek the enforcement of the trade law. We should never have been required to come to this point. I think it has been a situation where we have become so intimidated by the power of the foreign entrepreneur, in this case the Japanese, what will they do, how will they retaliate. What parts will they deny us? They have the most powerful corporations on bended knee, oh, do not do this.

Then you find out because they have their own deals with these same guys and they like to be able to call upon them because they are afraid they are going to lose some business. Do you know why we need this legislation? We need it desperately because the tragedy is that Smith Corona, the last American factory, last manufacturer of consumer typewriters, will go out of business. You say to me, well, they will go out of business because they cannot compete? That is right. No one here could compete, in that business or a similar one. If you had a competitor who could sell at below cost of manufacture—well below.

Mr. MOYNIHAN. Until the last remaining American firm goes out of business and that competitor has a monopoly and charges whatever he desires.

Mr. D'AMATO. And that is where we are. We have now reached that point, where we are going to see the disappearance. They will go to Mexico and compete for a while, and because they save about $15 million and then at some point in time probably, who knows when, they will sell off that operation and then we will not even have a pretext of one.

Imagine that is the way you have to have an operation. You have to go offshore and do that kind of thing. And then there will be no competitor, no competition.

It is a story that is not uncommon, about how we have failed to provide competitive environments right here in our own backyard. It is not about the investment in capital. It is not about the lack of investment or research. It is about U.S. fair trade laws and the exploitation of those laws by foreign countries and foreign companies.

It is also about fairness. While I support free trade goals and believe they are admirable, they must be balanced with the realities of a world trade environment.

Smith Corona has attempted for more than a decade to utilize U.S. fair trade laws to protect themselves from foreign companies, who import to the United States, and sell well below product costs. That is a practice known as dumping.

The American people will understand, because I think we have been so beaten down by the stories that we cannot compete any more, that I have more people coming to me saying Smith Corona cannot compete. Not true. It cannot compete when somebody is dumping and breaking the law.

We all know that in a free market companies cannot sell below cost and survive, over the long run. Smith Corona operated in the realities of a free market economy, and has been forced to bring numerous antidumping cases before the U.S. Government. They won with an affirmation decision eight different times. Smith Corona won eight different times. Not one of those orders, not one, has been enforced. That is hypocrisy. That makes a sham of the law, and that is why we are here, to see to it that we have a law that is enforced so that we can give to our people equal protection. Why is it, if you are a foreign corporation, you can break the law with impunity and get away with it?

Sure, how do they dump and get away with it? Why do they not go out of business? Why does not Smith Corona do the same thing? Because, you see, we do not have markets here in the United States that are closed to others.

Brother comes in here and can compete and indeed they can break the law and compete. Indeed they are doing it and have been doing it. But when they sell their same products and typewriters, guess what, back in their own protected market, where Smith Corona cannot compete, where it has no chance, what price do you think they charge? They make up for the loss, because there is no competition there and they charge whatever they want. So consequently, they get more and more of the market, until there is no competition, and then they can charge whatever they want.

Then they got us. Imagine, here you are and we have seen it: Whose hands do you want to be in? Well, I say it is time to fight, rather than to be in the hands of the foreign companies with no alternative, no one else to look to.

We have seen industry after industry after industry go this way. When were we going to wake up? If not now, then when?

We had opportunities to deal with this here on the floor and we pressed this right up to the last because then we are going to come around and say: Come on, we have to go home and we have to do this bill and we have to do that bill and the other bill.

I am only sorry that I did not wake up to this call just a little earlier and did not prevent the energy bill from going as far as it did. I should have taken action there. I do not know why.

Mr. MOYNIHAN. Would the Senator not agree that as an occasion for the self-reproach here, as of noon yesterday, we had an agreement. This was to be made clear. It is not an agreement to provide protection of an American firm. It is to enforce the rules of the international trading system that the United States put such enormous effort in to putting in place in the first instance. I mentioned that in the original understanding of the world institutional arrangements that were put together in San Francisco, the United Nations, that there would be an International Labor Organization, which the league had. But there would also be an International Trade Organization, and the expectation was that it would be in Havana, and it came to an end in the Senate Finance Committee. One of our purposes there was that antidumping was to be one of the principal purposes of the International Trade Organization, which never itself came about in the General Agreement on Tariffs and Trade.

I mentioned earlier that I was one of the three persons who was sent to Geneva—we were back and forth every weekend for about 9 months—to negotiate the long-term cotton-textile agreement, which was an antidumping provision. More than that, I do not want to suggest—it provided to keep markets from being absolutely disrupted. But with Michael Blumenthal, and Hickman Price, assistant Secretary of Commerce, we did that. And that is what we did to get the Trade Expansion Act of 1962 passed, which was President Kennedy's major legislation of that year, 30 years ago. That led to the Kennedy round. And probably the most important product of the Kennedy round of negotiations was the 1967 GATT antidumping code. That is what we put in place to have the next big opening of the world trade system, because if you get your tariffs down, that means people have access to markets, and if they want to go to a predatory pricing system to do what is illegal under American internal trade law, you have to protect against that, because people will do it.

We see it here. And for some reason, our Commerce Department just does not get it. All we are asking in this measure is to tell the Commerce Department, if you doubt whether you have the authority to enforce the 1967 GATT antidumping code, put your doubts aside. You do. My feeling is that they do anyway, but if they think otherwise, tell them. We are not changing the law. We are saying to enforce the law. It is not our law. It is world law. It is international trade law.

Mr. D'AMATO. The Senator is absolutely correct and that is the intent of this law. When he asks are we not really simply saying here is international law, this goes back to the early origins of dealing with the trade tariff barriers and tariff wars that we had. We have these provisions. We want to see that the people are dealt with fairly.

Mr. SEYMOUR. If the Senator will yield for a question—perhaps some of the conference committee members who stripped this provision from the tax bill—my question of the Senator is: Perhaps they thought that the Senator's amendment was too broad. And my question is relative to the breadth of your amendment, and in reading one paragraph, I would like to ask you the question of whether or not in your opinion, you were narrow enough in drawing this amendment. The paragraph refers to, from what I understand, to be this Japanese competitor, and it reads—I want to ask you if in fact perhaps your language was too broad. It says:

> Such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or supplied directly or indirectly by an exporter or producer, covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter, or producer, or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied in the foreign country or any third country.

Senator, that language—maybe the Members of the conference committee just felt that was too broad. Did you consider, Senator, every possibility that you would make this so narrow as to fit those 875 jobs that you have been fighting for, now, for going on 11 hours?

Mr. D'AMATO. There was no way we could make the bill any narrower. We talked about us being subject to orders. We talked about the foreign countries who were evading indirectly the orders. We talked about historical suppliers. So if you had different suppliers you might make a case. We talked about people who had the same content.

Mr. SEYMOUR. Will the Senator yield for another question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. My question is maybe this was too broad, because this refers to another section when you are instructing commerce, relative to facts to consider. Maybe that is too broad. Because this says, "In determining whether to include parts of components or merchandise assembled or completed in a foreign country." So my question really has to do with the fact that maybe Members of the conference committee thought this was too broad. "In the relevant antidumping order under paragraph 1, administering authority shall take into account such factors as"—and maybe it is these factors that are too broad. "(A) the pattern of trade."

Maybe that is too broad. I would like your response.

> "(B), whether the manufacturer or exporter of the parts or components described in 1(b)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order described in subparagraph 1(a) applies.

Or maybe it is the paragraph that is too broad, I would like to hear your response—

> Whether the manufacturer or exporter of the merchandise described in paragraph 1(b)(ii) is related to the person who uses the merchandise described in paragraph 1(b)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States?.

Did the conference committee members consider this language, and conclude that it was too broad? That perhaps it covered some other typewriter company, for example, in the United States?

Mr. D'AMATO. I have to say to my good friend from California, I would only have to speculate. Because, you see, we just never had the opportunity to have any kind of reasoned or meaningful discussion. Indeed, even staff—staff on the minority side—was excluded as it related to the kinds of discussions that would give to the Members an opportunity to deal with whatever the problems might have been.

So, indeed, if there had been a deliberate—or a misconstruction, erroneous or otherwise—interpretation on the part of staff to an amendment, this Senator has no way of knowing. You see, we did not have that kind of interplay that is absolutely—I say interplay, it should not be play—that kind of discourse and dialog between the Members was absent.

Mr. SEYMOUR. Will the Senator yield for another question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Senator, I have to ask if this exclusion from the process in the conference committee—if this is a normal, accepted course of business? I ask this question because I have been here with you most of this time, interested in a bill that impacts my State in which the conference committee—in my opinion—took a somewhat similar action. So my question of you is, this kind of action that took place in your conference committee, which I feel is the same action that took place in the conference committee that I was a Member of—in being excluded from the process and not informed as to what agreements were being reached or not reached until the agreement was made and then only to find out what impacts it had on my State when in fact there was no Senator on the conference committee representing my State—which has a major impact on my State—I was surprised and shocked.

So, is this a normal course of business and conduct in the U.S. Senate, as to how conference committees deal with these measures?

Mr. D'AMATO. I would say to my colleague from California that we have, to the extent—I want to be fair to all involved. To the extent of various conference committees generally, with only special circumstances do they permit a noncommittee-member to address the conference—that would not be unusual. However, note the fact I am not on the Ways and Means or on the Finance Committee of the Senate. So, consequently it would be highly unusual for a Member, other than a member on the committee, or a conferee, to address the conference. I recognize that.

But let me go one step further. In this case the conferees themselves were not told of the final decision until it was made. It was a fait accompli—fait accompli.

Senator PACKWOOD was presented with this. He literally had minutes. It was not a question that was discussed; it was not a question if it was mulled over. My distinguished colleague, the Senator from New York [Mr. MOYNIHAN], was a conferee. He was excluded, was not given the benefit of the insight as related to this until literally the 11½ hour, and then he was told it had just been dropped out and that the staff had conjured up a story. And he used more descriptive language to suggest he had been told an untruth; and was.

And so was this Senator led to believe that somehow the Members on the Republican side, the ranking Member said, "No, I am not going to sign it," and the second ranking Member—because of this provision. When indeed he signed it.

Mr. MOYNIHAN. Had signed it.

Mr. D'AMATO. Had signed it. And two other Members who refused to sign it said they would not sign it in any event; regardless of whether this provision was there. And they had not signed it notwithstanding whether this provision we spoke about to protect Smith Corona was in it.

Look, that is not fair. That is not right. And this Senator understands that not everything in this business is fair. I understand it. But I want to tell you when I move over and tell you that I am going to make room so people can get their business done, and we are given to believe—the senior Senator from New York and the junior Senator from New York—that our legitimate issue will be addressed, that as a consequence of the administration agreeing that we saw no obstacle. Yes, a Member could say look, this has some impact—and indirectly it does. It was not going to put to a disadvantage a foreign corporation. It was only going to see to it that they adhere to the law. I do not believe that is disadvantaging somebody.

I think if someone is allowed to do what they want and not obey the law, then everyone else is disadvantaged. So if we say we were equalizing the playing field—true. Absolutely. Right. And that is what we sought, nothing more.

So now we find a situation where, when conferees themselves were not aware of this provision being dropped out and the manner in which and why it was until the last, and really never satisfactorily explained to us, what should a Senator who represents these people—the Senators who represent these constituents—do?

What should this body feel? Today it may be a situation that may or may not affect them, but there is a certain fairness and a element of how do we conduct business on behalf of all of our people? I think we have to be able to count on this element, that when an amendment is in it is going to be kept in unless or until there is a fair hearing and a fair opportunity. At least—at the very least whoever has decided that they are going to drop it, that we find out how it is? And that we be given an opportunity, at least to have an exchange with those people responsible for making this decision.

I do not care if I am not popular. I do not care if I ruffle some people's feathers. I do not really care anymore. I will tell you why. I tried the other way. I really did. I tried during the process, and prior to this process, to be the nice reserved Senator who went along with the flow. I see that we were not treated fairly.

Senator MOYNIHAN and I—it is not us personally—but it is our people, our constituency. It is the American people. Do you know what? It is the American people.

This is bigger than Smith Corona. We do this in a case where it is the last manufacturer left. Who is being shafted—shafted repeatedly, by unfair, illegal trading practices. Shafted because we have the people in the Commerce Department who do not know which way to move, this way or that way. Maybe they figure the lobbyist will ring and call and who will do this or who will do that—well, so we give it to them. Good.

Now the company say eight cases, eight wins, eight losses. Imagine what it is to win eight times, antidumping cases, to win eight times and every single time after you have a win to be thwarted. It is worse. Better that you lose. They could have made the move years ago. They did not. They stuck it out.

Let me tell you something. I do not know Lee Thompson, I do not own stock in the company, I do not know the board of directors. But I want to tell you something—do you want to talk about perseverance? How many corporations will win eight times, only to be denied the relief, the antidumping relief, the tariffs, because these sons of a guns avoided it. They move to Japan, Korea, Malaysia over here and now we have a factory, a little screw plant in Tennessee. Now the Senators from Tennessee come—save them, save them—come on. What about our people? What about our people? They do not count? Why, because they get $17 an hour, they do not count? Why, because they come from New York? Maybe they have funny names? Maybe you do not like us in New York? What is it—why?

Fairness. Have the law enforced. If you came to me and you said in the State of California, or the State of Florida, or the State of New Jersey you had a situation similar, I want to tell you something. I hope I would have—I cannot—I hope I would have the courage to support you because you were right. Even if it might disadvantage.

There are lots of corporations in New York that I have taken actions and they have not been happy with me and they have never forgiven me. Citicorp, a bunch of rascals, credit card interest rates up there—oh, they hate me. They made you think the bank stocks and everything went down the drain when I introduced that thing. They were all credit card companies, the biggest ones of them, Citibank, Hanover. Sometimes you have to stand up, sometimes you have to take a position. Your cannot be wedded to this kind parochial thing—whose advantage is it to have this kind of policy continue? If offends you. Eventually it inures to the disadvantage of everybody, in whole body, and everyone that we represent.

Mr. MOYNIHAN. I wonder if my friend and colleague would answer me this question. In the amendment that we had, which you put into the energy bill—and which was dropped—the amendment which we had reached agreement on, and I am a conferee, ranking member of the Finance Committee—we reached agreement yesterday—on Sunday. We are now on Tuesday. I am getting lost in my days. On Sunday noon we had an agreement on this. Does this amendment say anything about Cortland, NY?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Does this amendment say anything about Smith Corona?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Does this amendment say anything more than that the Commerce Department has the authority to review the issues under the GATT antidumping agreement of 1967? The principal procedural rulemaking product of the Kennedy round?

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. Which was a measure to expand world trade and to make it possible to do it by protecting nations, that would open their borders, against predatory pricing. That is all it does. Is the word Cortland there?

Mr. D'AMATO. No.

Mr. MOYNIHAN. New York?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Smith Corona.

Mr. D'AMATO. No. We say if you engage in this practice of dumping we are not going to let you circumvent the order.

Mr. MOYNIHAN. I want to ask my friend, does this provision direct the Department of Commerce to do anything about a specific decision?

Mr. D'AMATO. No. But it gives them the authority to. It gives them the authority to, and that is what we seek because for too long what we have been running into is whether you want to call them a recalcitrant, malcontent, whatever, the administration claims it has not been and does not have the authority to do so. It also claims that to go to certain extremes or to certain lengths that had been suggested in some legislation would be violative of GATT.

Now, we do not believe that to be the case. But notwithstanding, you cannot allow our own law to be violated systematically by foreign corporations. It is absolutely indefensible.

Mr. MOYNIHAN. That is what the GATT agreement on antidumping rules is all about.

Mr. D'AMATO. That is right.

Mr. MOYNIHAN. It is our right and responsibility. When we look those tariff barriers down from that 1930 Smoot-Hawley Act, which is still the base tariff—that is why most-favored-nation treatment is so important because otherwise you have Smoot-Hawley tariff. That is the last tariff bill to pass this Congress, the last tariff in the statutes. Everything else is in agreement under the GATT. And we just this last week provided that the successor States to the U.S.S.R. will get most-favored-nation treatment, which just means they are not getting Smoot-Hawley. But these are the rules of international trade, and absent such rules you will not have international trade. People put those barriers back up again. All we are asking is that the Commerce Department be told, yes, you enforce the rules.

Mr. D'AMATO. My distinguished colleague, the senior Senator from New York [Senator MOYNIHAN] is absolutely correct. And what is vexing is that when we can show the situation as it relates to Smith-Corona, in particular, after they have won eight dumping cases, affirmative decisions eight times; their main Japanese competitor, Brother, Inc., is found to be selling well below the product cost.

Let me give you an example. For example, listen to this: In 1980, the Commerce Department found that Brother was selling portables below cost and called for duties of 48.7 percent. Now, let me tell you, that means that you have been dumping well below cost and that is why the imposition of that 48 percent.

Mr. MOYNIHAN. The same pattern that happened with the television sets that used to be made in Elmira, and the next thing you know there is one place to get them. If you open the Los Angeles Times in the Washington edition right now, you will find that the Los Angeles County Transportation Commission has now voted to buy Japanese rail cars for their blue line under the legislation the Senator and I got through this Congress last November, the Surface Transportation Act. Why are they buying them from Japan? I do not mind them buying from Japan one bit. What I mind is that there is nobody in the United States who can manufacture them.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Be happy to yield for a question.

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from California for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. I just wanted to follow up the questioning that the senior Senator from New York was raising. I was just wondering if the Senator might expand just a bit on that.

Mr. D'AMATO. Let me say this. What we see here is a pattern. It has all but wiped out the manufacture of typewriters. It is over as a practical matter if you are going to talk about just these 800-plus jobs we are fighting to keep. But look at the ball bearing industry. Do you think that came about by simply the inability to compete or was it because of dumping, predatory pricing practices? How about the small guy who, when he brings his lawsuit, finds himself threatened, and finds people who do business with him threatened, and finds people trying to buy him out.

We have one little guy struggling now. I mean I have to tell you something. Some automobile companies and some others ought to be ashamed of themselves because they will not do business or they are afraid to do business with him, and we have no ball bearing industry in the United States as a practical matter. It is all Japanese. And we find how they have systematically violated the law.

And by the way, under the cloak of secrecy because they have now criminal cases going. That is the best thing in the world for them. You have a criminal case and you cannot discuss the case and the case goes on for 3, 4, 5, 6, years. And you have a case going out there in California, one of the granddaddies of them all, and eventually they will settle and they will pay a fine and that is the cost of doing business. In the meantime, they have totally dominated the industry.

And so you can take in industry after industry this pervasive pattern, this predatory pricing is undertaken. We have lost the stamina to stand up. They have become so powerful in terms of finances and in terms of the power that they control, where they can get American corporations to call up and say: Please stop; don't do this. Imagine that. Imagine having great American corporations beseeching their Senator: Do not go forward with this. Do not do this. You are wrong.

That is nonsense. We are not wrong. And I do not know the talk which goes on in those board rooms or what the chairman of the board of this one Japanese conglomerate or corporation says to the chairman of the board or the hierarchy of the American corporations. We get these phone calls: Do not do this.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Did the Senator say that there are now criminal cases involving trade practices of the sort we are describing being tried in the United States and going through the appeals, processes and such that these things can go on indefinitely?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And in the end they can be thought of as a cost of doing business?

Mr. D'AMATO. It is exactly the mentality and the state in which our people have to compete.

Mr. MOYNIHAN. If you have a monopoly, you do not have to advertise.

Mr. D'AMATO. Oh, no. And if you have a monopoly, you set the price. And it is what the market will bear. And who is there to compete? Your people are at the whim of somebody who controls everything and then they exercise incredible power as it relates to other economic activities.

You want these products? You want these chips? You want these ball bearings? Well, let me tell you. Do you want our business? Hey fellows, do you want our business in other markets? You better not rock the boat. Hey, by the way, we have some plants in your country, too. We employ some people. And then we can get citizens and factory people who work in these factories to call up because they are happy to get a job. They are happy and so we have our people now tied down to almost a subservience. They are happy to get that job.

I do not blame one person in Tennessee at that factory being concerned and saying: Hey, listen, I do not want to lose my job. I do not blame them. But that is a heck of a way to buy American and piece it back to us.

Then you have Americans petitioning us and you play off one against the other, legislator against legislator, Congressman against Congressman, and all we say is do the job right and fair. That is all we say. That is all we seek. We do not seek any undue advantage. We do not seek to put Brother out of business. We seek to put them out of the business of illegal dumping and illegal practices. That we do. That is fair.

Now, let me tell you, it is wrong for those of us who have a deep love of our responsibility to have to be in a position where we square off against one another. And I do not like that. I do not enjoy it. And that is not what this is about. I hope it does not deteriorate to that. And I am not going to permit it to. But I have to tell you I see absolutely nothing legally that has been presented to this Senator from the administration in the months that we have been talking and negotiating right through today, many of my colleagues, many of the trade people, that would suggest that the course of action Senator MOYNIHAN and I pursue is anything less than it was absolutely essential.

We do not go as far as other of our colleagues have gone in the past. We do not order the undertaking of this action. We simply give permission to follow through where there has been a case of circumvention, when an order has been found. Can you imagine 48.7 percent? But last August, last August the Commerce Department found that Brother—and this is after a whole series—was guilty of dumping and imposed duties of close to 60 percent. They want that business pretty bad. They are going to cut those prices pretty low. Sixty percent.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Would not the Senator be prepared to spend that kind of money if in the end he had a monopoly of the portable typewriter sales in the United States?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. A country with what, 40 million people?

Mr. D'AMATO. And not even be fined, and not even have duties, and not even have sanctions imposed against you. And they are now this close, because let me tell you, once they are out of this country, in Mexico, and they are trying to make those typewriters there, they are going to have quality control problems. They do not want to move. They do not want to move. They understand that they have a dedicated work force with a work ethic that is fighting for survival and fighting for their jobs.

They said to me, Senator, we have increased our economic efficiency, our output, we have increased it by 700 percent—their productivity in 12 years. Is this how we reward them, a company that really went out and met the challenges of competition worldwide, that we will not even see that the basic tenents of the law are adhered to? I do not think that is right. I do not think that is fair.

And why? Now, let me say that 60 percent dumping duty was because of the outrageous manner in which they cut their prices.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. There was a question of the pricing change. The one time—is this not the case—the one time the Commerce Department said you are dumping, that Brother Corporation added a 70-cent component to their existing model and then proceeded with the same practice? The Commerce Department said that it a different typewriter altogether?

Mr. D'AMATO. The Senator is absolutely correct. They made a mockery and a sham of this whole enforcement procedure. We make a mockery and a sham if every time we want to get around it you move some portion of the operation to a new country so that we can move it from Shanghai to Singapore to Korea and Malaysia, to Tennessee for a final place, to have some packaging put in. Let me say that the 1988 trade bill, which my friend and colleague worked on, created a new anticircumvention law. And that is what the Senator was referring to.

Mr. MOYNIHAN. Exactly. Exactly.

Mr. D'AMATO. That was a law that Senator MOYNIHAN worked on to prohibit foreign manufacturers from avoiding duties by setting up U.S. plants. We saw this. We saw what was taking place.

The foreign countries found a loophole that restricted duties only to the original country of import, not to the third-party countries from which parts can be imported.

You see, what we are talking about is circumvention, getting around the intent of the law. By setting up an assembly operation in the United States and importing from a third country, they can totally avoid paying the antidumping duties.

Should we not be proud? We should be ashamed of ourselves that over the years we have failed to pursue the antidumping provisions that were provided for in allowing companies to use this ruse, and that is what it is. We have allowed it. The courts did not say, oh, no. That is OK. We have taken that position. We have failed to go after them. We have failed to litigate, and that is why we said is it not about time that we clearly dealt with this issue?

I am tired of hearing, let us wait for this convention and that treaty and the other treaty. Why do the people elect us? Are we not elected to see to it that the laws are enacted. Are we not also elected to see to it that if, indeed, there are the so-called loopholes in the law, whether it be because of administrative inertia or lack of action, that we take corrective steps to see to it that not only is the legislation enacted but the legislation is adhered to and not avoided by way of circumstance or other?

So I think that goes to the heart of the problem. This amendment is a much narrower version of the legislation which I have introduced previously. It is intended to deal with these problems. More specifically, this amendment is needed to close the loophole in sourcing the third-country parts from historical suppliers that permit foreign manufacturers to evade antidumping duty orders.

Mr. President, I have a good course of this speech yet to give, but I am going to move to it and cover it in a very orderly and progressive manner.

You see, I know that most of my colleagues at this hour, at 7:20, are probably just getting up, because they left here rather late last evening. I want to give them the benefit and the opportunity of hearing our conclusion, and I am talking to us about why they do not think it is important to deal with this problem.

Yes, it is a company that has a 110-year history. It has outlasted every other American company, including Royal, Underwood, and Royal-Underwood, and Remington, and, yes, though it is an American company, almost 48 percent of its stock is owned by Hanson PLC, a British conglomerate that once owned Olivetti. All Smith Corona products will now be manufactured overseas. Is that not terrible? The company also has plants in Singapore and Indonesia.

So, you see, we are not saying that this is simply a wholly owned American corporation. We are not saying that we want treatment that is not equal and fair. We want treatment to be fair to foreign corporations, to wholly owned American corporations, to partially owned American corporations. And equally important is the treatment of those people and those American citizens who work for these companies, whether it be Smith Corona, whether it be the great plants that produce the fiber optic systems in the adjoining communities, whether it be a plant in Elmira that runs in a conglomerate between Westinghouse and Toshiba, whether it be the Corning Co. and its products and its people. The fact of the matter is fair competition, hard competition is one thing. The kind of competition that the Smith-Corona people and others at Corning, et cetera, have had to face is absolutely unfair, and it should be stopped. If we do not stop it now, then when will we have the courage to stop it?

Now is a good time to take the resolute action of dealing with this problem, because, you see, we can say to whoever the President is and the next Congress that we do care, that there is a way to produce jobs, and that is to see to it that the laws are adhered to.

I cannot believe that we want to write a tax bill which talks about creating enterprise zones in blighted areas when we fail to act to protect the jobs that are here, that are producing, that are competitive. We help create additional blight. We help bring about the abandonment of communities. We help depress property values. And here we are attempting to pass legislation that is going to encourage investment in real estate, in property, uplift values.

We want to provide home ownership opportunities on the one hand, and on the other hand we wipe them out for millions of workers. Indeed, Smith Corona is a sorry saga, not only of the typewriter industry but so many industries in America, and I wish we could ask, and maybe we should ask, and I ask my colleague, Senator MOYNIHAN, to join in drafting a request for the General Accounting Office to ask them to make a study and a survey of how many American jobs, manufacturing jobs and others, have been lost as a result of our failure to exercise and see to it that the laws have been adhered to with respect to these kinds of predatory pricing.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. I think it is unusually—would he be interested in asking the General Accounting Office to do what it is singularly capable of doing, which is looking at the administrative arrangements? The original antidumping acts go back to 1916, and these matters were always dealt with in the Treasury. And then in 1954 this was split, and the function of determining injury was transferred from the Treasury Department to the Tariff Commission, then called—the International Trade Commission now.

But the function of determining sales at less than fair value was left with Treasury until 1979, and then Commerce has come along. I wonder if we have a problem of just administrative inefficiency, because of the difficult, individual responsibility, because dumping and countervailing are the same phenomenon. Would he be interested in joining others in asking the GAO to see. What are we doing here at 7:30 in the morning? We are asking, we are telling, the Commerce Department that it has the right to review its decisions. What something is the matter?

Mr. D'AMATO. First of all, I think something is terribly wrong and run amiss as it relates to the process, the enforcement. Second, I think we owe it to the American people, particularly when we come back, instead of getting into this wretched business of who can outbid who. I am more for showing more concern for the out-of-work, because I want more money for the job training program in New York, absolutely more for putting people to work, because you want more money at this time for construction of roads and bridges and highways and I say to the Senator, Smith or Jones, he is well ahead of all of us, because he wants to double the amount of money that you and I collectively want to put into these programs.

Look, any darn fool can say that we need more money for all of these programs, and it may not be a darn fool. The question is where is the money going to come from? The question is, when you are running record deficits, how do we pay for it? The question is, do we just raise the taxes and raise the deficit at the same time as we go along and continue the same path? Or do we take a look at one of the basic problems that has really exacerbated the economic decline and morass and unemployment situation we see ourselves in.

When people see their factories and plants closing down, when people see them phasing down, when people see great companies like General Electric saying, "The only way I can do it is by going there," when General Motors says, "I have to put my plant in Mexico," when Smith Corona is saying, "I have to go there," when they take those hard jobs that produce the kind of economic growth and personal income and stability and population and familiarly units in school enrollments and retail that we see here, what do you think takes place?

They are angry. They are worried. They are hurt. And we have abdicated our responsibility, because, yes, while it was a function of Commerce and the administration to see to it that there was adequate protection under the laws, it has not been done.

Mr. SEYMOUR. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from New York yield for a question from the Senator from California?

Mr. D'AMATO. Yes; I do.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. I say to the Senator, does he not think that it is unfortunate that he, as the junior Senator from New York, has had to carry this amendment through the energy bill, now to the tax bill, and does he not think that it was unfortunate that his Democratic colleague, the senior Senator from New York, who is a member of that conference committee, has to be here on the floor of the United States Senate for the last almost 11½ hours? Is it not unfortunate that the two of them have to be here on the floor when, in fact, he had the commitment, going into the conference committee, the senior Senator from New York, as a Member of the conference committee, and here we are 11½ hours into a filibuster? Maybe he might agree that he is fortunate, not unfortunate, that the people of New York have seen their two Senators, one Republican and one Democrat, fighting for the last 11½ hours to protect 875 jobs in Cortland, New York?

Mr. D'AMATO. I say to the Senator, PAT MOYNIHAN said it best. It is more than 875 jobs. It is the symbol. It goes beyond. It shows that we are going to not permit the Smith Coronas of the world to continue, that we are bound and determined to do something, and this is a start. This is a start. It is a signal to those who have been taking advantage of this country. It is a signal to those who have failed to stand up for what is right. It is not easy. Let me tell you something; we have all dealt with power brokers at one time or another. Sometimes they can make you feel pretty doggone uncomfortable. I admit it. I have had situations where I have backed down, and I am not proud of it. But we have no reason, collectively, not to come together to say, by gosh, we are not going to let the Commerce Department back down. We should not back down, and we should stand up for what is right, to have the law enforced.

Mr. MOYNIHAN. If the Senator will yield for a question, this is what I do not understand. The Senator from California made it very clear that Senator D'AMATO had an understanding about this legislation, which extended the fact that we would incorporate this measure already adopted in the energy bill. This measure does not direct any outcome. It says, review what you have done under the GATT rules of 1967, the dumping rules. And we had an agreement at noonday on Sunday that the measure was in the bill. And then starting around 5 o'clock yesterday afternoon, we began hearing all sorts of rumors about this person would not sign and that person would not sign; that the House was having troubles. I believe we were told Mr. Vander Jagt would not sign, because this measure was in it.

And then we came to the floor for the veto override vote on the cable television and found a colleague, RAY MCGRATH from Long Island, as is Senator D'AMATO, and he had come over here to tell us that Mr. VANDER JAGT not only did not say he would not sign the conference report. He had already signed the conference report. The signatures were there. So we started asking around what was going on. I asked the Senator—it is now getting past 7:30, so it was 13 hours ago that we learned this, that it was not Mr. VANDER JAGT. Does he know what happened? Has anybody tried to explain it? We certainly have put the Senate on notice that we would like to know. The House should certainly be wondering what happened over there when a tax bill of this consequence survives by six votes. Does anybody send any messages? Has anybody been sent any messages? Have any notes been passed or have any smoke signals gone up?

Mr. D'AMATO. That is a fair question. I have not had a blink of the eye, or a note passed, or I have not had anybody say to me, ALFONSE, this is what happened. This is what we are looking at, and this is why it happened. This is who did, what did, and how did. The only thing I have heard is this nonsense that comes after staff and others that somehow this is ROSTY. Look, that is inconceivable. This in not the same man, this is not the ROSTY I know that wrote this letter to Congressman MCGRATH saying that he is looking forward to waking up the administration. That is not the ROSTY I know. No way.

For the last 12 years, I have worked with Congressman ROSTENKOWSKI. I know him. The words that he is responsible for this belie the real reason and the moving forces.

Forget what happened. That is history. It was in, it was out, and it is out. OK, it is out. But it does not have to be. We can find another vehicle. We can ask the House to send us on over something separately, if they want to do some other kinds of things; they can do that. They better send some extenders over. They should. If they do not send some extenders over this bill—look at this bill, the economic recovery. It will do more for economic recovery and save jobs. Otherwise, you will have to pay job training and plant location, and all that.

Do you want to keep people working? Pass our legislation. It does not cost a penny. Why should you be opposed to that? It says: Enforce the law. It does not cost you a penny. Save American taxpayers money. We can take some turkeys out of this bill. We are going to save, as my good friend pointed out, probably $15 million a year in job training alone. It does not talk about welfare costs, losses to the economy, when these people get laid off, because they are not going go be paying taxes anymore.

Mr. MOYNIHAN. If the Senator will yield for a question. I see he has the text of the bill which is going to take a long time to read.

Mr. D'AMATO. This is the entire bill.

Mr. MOYNIHAN. Do not drop it on the desk. That is a valuable desk.

This bill began as an urban aid bill, and we have an enterprise zone, much favored by our former colleague from Buffalo, Jack Kemp. Is the Senator aware that the proposal to have enterprise zones all across the cities of the Nation has ended up with a statute that says we will have 50 enterprise zones of which 25 will be in rural areas? And also there are to be enterprise zones on Indian reservations, so there will be more rural-urban enterprise zones than there will be urban-urban enterprise zones. Does he not suggest if he wants to do something for the city of Cortland, why do we not keep that factory going?

Mr. D'AMATO. Exactly. And then we wonder how small cities get blighted.

Mr. MOYNIHAN. The Senator has been to that factory, and I have been there. The only thing left is the State University campus there.

Mr. D'AMATO. It will become an economic—it is not good to say because economically, it will be a disaster.

Mr. MOYNIHAN. If the Senator will yield for a question, I am sure he knows the neighboring town of Homer.

Mr. D'AMATO. Sure.

Mr. MOYNIHAN. It is one of the most beautiful places on Earth, and the home of David Harum, that famous harness racer. If the Senator was of my generation, alas, he would remember Will Rogers playing David Harum with this particular trotting horse, if you sang tah-rah-rah-boom-di-yay in the stretch he went from nowhere right out into the front. Listening to Will Rogers play this in upstate New York, watching it was a great moment. I can still sing tah-rah-rah-boom-di-yay, but there will not be any in Homer either. This was the value-added activity of the valley. And the last manufacturer of portable typewriters in the United States and the site where they began a century ago, gone. Gone because of destructive pricing.

I remember—the Senator remembers, I am sure—when that new model came out, that wonderful decal that said, "I am a very smart typewriter." I thought that looked great. It had correct spelling and things like that. That was a work of engineering. That was a product innovation. You think, my God, that will be there for 10, 15 years. That will set the standard.

Well, it does set the standard. But the standard has been copied in Japan and a financial operation has set out to destroy this manufacturer just as Zenith Manufacturing in Elmira was destroyed 20 years ago. And then you give a monopoly to a foreign country, which is exactly what the dumping laws were designed to prevent.

Mr. D'AMATO. If I might touch on that one point, because I know that there is a certain vulnerability in saying Smith Corona is the last American manufacturer, indeed 48 percent of it is owned by another foreign country.

But do you know something? It is important and let us not forget it. We may not have, or we may have a diversity of foreign investors in this country, and it is absolutely essential that we see to it that not one of them disadvantaged the other by illegality and then obtains a monopoly and then disadvantages the people, the consumers.

And that is what this is about. They are not looking to knock them out, because they want to continue lower prices. When they knock them out, when there is no competition left, what do you think is going to happen to the prices? They are going to get all that money back that they lost. And their chairman of the board testified to that, and said in various articles: Oh, we will lose money over that. We will get a bigger market share.

Incredible. So we have an obligation to see to it—this is not just a question of an American company. American workers, you better believe, will lose jobs. Jobs are going out. But it is an opportunity to say that we are not going to allow our country to be piecemealed to death and then have to play ourselves against each other. My State against your State. Brother has 10,000 jobs there. Why should you not?

By the way, I do not know, I asked my colleague and my friend if he is aware of how many jobs Brother may or may not have in California. Does that mean if they have 10,000 jobs, that we sanction what they do and, by the way, if Smith Corona is engaging in these kinds of practices elsewhere against others, in other components or whatnot that it manufactures, does that mean that the Senators from New York should acquiesce and say, well, they are breaking the law but after all, they employ people from New York.

As I say, the perfect illustration of that is that we should turn our head the other way because Smith Corona has a subsidiary and they are polluting the waters of Vermont, or New Jersey, or Tennessee, so we turn the other way. Oh, no, that jumps out at us starkly. We understand that. But somehow we have failed to grasp the significance of the economic crime which deprives these people of their livelihoods, their jobs.

It is no less a crime, be it economic, or be it the destruction of the environment in any other way. It is a larceny. It is a taking. It is unlawful. It is illegal. And by gosh, it should be pursued, and we should have the courage to do that here. That is what we are talking about here—fairness.

Then I read this humpty-dumpty bill. Economic development, as my colleague said, for distressed areas. Why should we wait for this town to become a depressed area?

By the way, I wanted to ask—I went into this as a career, because I saw years ago what some people were doing to certain communities. It was incredible, incredible. They did not give a darn. They were in there to make a quick buck. They had urban planners and whatnot and that is kind of how I got involved in this business. I said, wait a second, what do you mean you are going to do this and that and rip this down and do that and that. I saw what happened, that that was the days of urban renewal. There was a bold venture to try to revitalize some of our blighted areas. All too often it became nothing more than an opportunity for builders and developers to enrich themselves.

Mr. MOYNIHAN. If the Senator will yield for a question on that point? It is painful to say this, but urban Cortland has had one large event already in the last 40 years. That is, it got hit with urban renewal, as the Senator knows. After that, you had this plant closing. The Federal Government really would have done a job on what was a lovely community. I can remember Cortland from the 1950's when my family lived in Syracuse and we used to drive down that way. It was lovely. Cortland and Homer were all you could want in the world.

Mr. D'AMATO. That brings to mine when I went to school, back up there in 1955.

Mr. MOYNIHAN. Yes. Yes.

Mr. D'AMATO. It was when I first went to Syracuse. Great, magnificent, wonderful.

The young lady who works for me in my Syracuse office, Marina Twomey—her parents. She married a young boy who I ran track against in high school—went to Andrew Jackson, met Larry, he went up to Syracuse on a track scholarship, competed. And he married this lovely girl, Marina who came from Cortland. This is how I came to know Cortland. I visited her and her family.

Fate and life and what not, circumstances as we talk, Marina is now one of the two people—the other you know for many years, Gretchen Ralph, who used to be the leader of the symphony, or the executive director—and a great community person. She and Marina Twomey run my Syracuse office. We talk about Cortland and knowing and having an affinity.

But I have to tell you, I saw the economic planners. I was going to ask the question, how many people can point to a successful one of these urban projects that are supposed to bring about renewal? Because more often than not——

Mr. MOYNIHAN. They bring about parking lots.

Mr. D'AMATO. We see a decimated community. We see one which had very little reality, with what really could have been done, and what is generally done. We see a legacy of over development in certain areas, with high aspirations and hopes and little in the way of accomplishments and then rows of boarded up stores or parking garages. It is not uncommon to find a wonderful parking garage nobody utilizes or these malls that nobody walks on.

So here we have an opportunity to save ourselves from a desperate situation where we will create a situation where, instead of enhancing, by way of jobs, retail, population increase, family units, schools—all these things will be subtracted, from every indication that we have and can reasonably expect.

Now, I hope——

Mr. MOYNIHAN. Let me ask the Senator, will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. I believe he has had discussions—I know he has had discussions—with the firms involved here, with Smith Corona, which, as he indicates, is partly owned by a British holding company. He has had discussions about the feasibility of the plant staying in operation, staying in Cortland if this legislation, the simple enabling legislation, which we do not think necessary, but if the Commerce Department has to be told that it can do what we think it can do, fine, just tell them, please, just take a look at this, as you have done before. We have some understandings from the firm that they will, indeed, remain? Is that the case? I believe you have talked with them in great detail.

I remember meeting Mr. Thompson outside in the lobby here near the Senate.

Mr. D'AMATO. Indeed, I understand Mr. Thompson is at the moment flying in to Washington. It may be that some of my colleagues would like to speak to him as it relates to his intentions. I think that is fair. I think that is fair.

I can tell you that he has indicated to this Senator that if, indeed, legislation that we have proposed is adopted and the Commerce Department undertakes its activity pursuant to the law that it has discretion to undertake, that he is prepared to seek a reversal of the determination by the board of directors as it relates to moving the manufacturing operation to Mexico.

We have not really wanted to bring this to a public announcement in this manner because it is a cruel thing to raise people's hopes and have them dashed. I understand it, and I am not losing one of those jobs. It is not my family, it is not my community. But it is my community. But I can empathize.

I can tell you when 12 hours ago I spoke to Mr. Thompson on the phone, I could feel the hurt and the despair in him. He really thought, because we worked for days and weeks and months and hours and all kinds of hours under all kinds of pressures to bring about a recognition by those in the administration of this problem and the manner in which to deal with it which would not antagonize or inflame allies or passions or major corporations here within the United States. Those are some of the things that I had to hear and work with and deal with, as did Senator MOYNIHAN and as did his staff. We came together for that purpose.

When, at the 11½ hour we have a deal and it mysteriously is yanked, I have to tell you, that is crushing.

Mr. MOYNIHAN. Will the Senator yield for this question? Will the Senator yield?

Mr. D'AMATO. Yes, sir.

Mr. MOYNIHAN. We are getting into a new day. It is now 8 minutes of 8. Surely there are persons in this Capitol who are aware of what is going on on the Senate floor. I assume the Senator means to—there are many, many ways to—see that nothing happens all day today. At sundown Yom Kippur begins, and we will not be back until Thursday.

The Senator has said he might miss the Columbus Day parade on Monday, where he is grand marshal, in New York.

Surely, by now someone has gotten in touch. No one has gotten in touch with me, but surely has no one gotten in touch with the Senator, to say, "Can we not work this out?" The elements are so simple. Just take this simple provision—take the provision we had on Sunday, and pass it. Has no one done that?

Mr. D'AMATO. No, I have to respond to my colleague's question. It might seem very obvious. How is it that people want to get things done, that there has not been an attempt? Has anybody reached out? Has anybody given any indication of some movement somehow?

The answer is no. The answer is, my staff has not been approached so it has not been directly, indirectly—I take it from your statement and your question, has anyone approached you?

Mr. MOYNIHAN. Senator D'AMATO, we have not heard a word. Not a note.

Mr. D'AMATO. Again as I say, in almost a rhetorical way, the Senator has not heard. I have not heard. He has indicated that our staffs have not heard.

You know, there is a song "and the time goes on." I will get that beat.

Mr. MOYNIHAN. The beat goes on.

Mr. D'AMATO. "And the beat goes on." Is that it? And the beat goes on.

Mr. MOYNIHAN. Go ahead, please.

Mr. D'AMATO. The beat goes on and the time goes on. Our friends and colleagues, now they are waking up and pretty soon they will be heading in here.

Mr. MOYNIHAN. Will the Senator yield for a question, speculative question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. There is a prospect of our going to the reclamation bill. Here it is, the Reclamation Projects Authorization Adjustment Act of 1992.

How long does the Senator think it would take to read that bill? Do not drop it.

Mr. D'AMATO. This is a good fat one. It has a lot of printing. It is—here, it is——

Mr. MOYNIHAN. Do you think we would be out by sunset?

Mr. D'AMATO. I think we will get home in time for observances tonight—maybe—if we have to read this whole bill.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

The PRESIDING OFFICER. Will the Senator from New York yield for a question of the Senator from California? The Senator yields.

Mr. SEYMOUR. The senior Senator from New York mentioned the reclamation project bill that is H.R. 429. You carefully looked at it. And said it would take many hours to read this.

Does the Senator have any estimate of time that it might take to read that one?

Mr. D'AMATO. I think we will be here until Columbus Day because we want to have every amendment read carefully so we can hear it. Oh, yes, and several clerks.

I have done it once, you know. It is not even amusing, because the poor clerk, he gets so used to reading at a particular pace, and after about 2 hours or 2½ hours, it really is——

Mr. MOYNIHAN. You cannot keep up that pace.

Mr. D'AMATO. It is really tough. I do not think any of us would endear ourselves to the staff by that.

But there are all kinds of ways. It is not necessary for a Senator just to hold the floor. But I do it for a reason. See, we are not going to even begin to start to get close to those things. We are just going to back this up. I mean, I am just getting my second wind. I can do 4 more hours, 6 more hours, 8 more hours. And if there is a test of that, we will try. I think I can. I think I can. And then we will start to do the other kinds of things.

But we are going to see if the House is going to go out, all right. You went out. You went out without doing the business of the people. You have an opportunity. I have not heard from anybody. Senator MOYNIHAN has not heard from anybody. Certainly, as the second ranking member on the committee—let me tell you something. Take our bill clean by itself. I do not want it on this monster. This monster is not going to become the law. This monster is not going to become the law. I do not believe anybody now. I do not have faith.

You take a bill over there, you guys have it over there, send it on over. You have the provision.

Let me make a suggestion. If you put some extenders on, take the extenders, revenue mortgage bonds, housing for the elderly, the poor—there are a number of other extenders that are important. They are really important.

Mr. MOYNIHAN. Employer education——

Mr. D'AMATO. Employer education. Job credits. There are some important extenders there. Everybody can agree with them and nobody is opposed to them. If you want to do the business of the people, do not play politics with this, because you are not going to get any big deal out of the President vetoing this bill. It is never going to get to him. So, if you look to embarrass him, forget that. They had their victory with the cable thing. That embarrassed him. And I voted to override.

But you know, this thing is not going to get to him. Let us not kid ourselves. If it was not Senator MOYNIHAN and myself, there are a half-dozen others who have their reasons. You think that bill is going to go?

What are you saying? I am saying I want a bill. I want a bill to help these people. It is going to get passed, and, if it is not going to get passed, there is going to be lots of business we are not going to finish, lots of it, and I will take the responsibility for stopping it. That is right. Because if we could not deal with these people honestly and forthrightly and we do not recognize they have a real problem and they are going to be out—they are going to be out—I will tell you what is going to happen, and you can ask Lee Thompson when he comes here. He is going to tell you.

Unless this relief is enacted before we adjourn, they leave. I am not at liberty to tell you of the cost they are sustaining. He told me last night. Maybe he wants to make it public. He did not take the final actions necessary to consummate that transfer. Why? Because he really wanted to give us every opportunity to try to make a deal so his company could stay in the U.S.A. So we do not have just another corporation that is heartless, that looks the other way. "I want to save money and it goes down there." No.

Let me tell you something. He is taking heat, and his board of directors must be saying to him, "What the hell are you doing? Who are you to be losing these dollars? We told you to close." And they did. "Close it." He has gone beyond.

For those of my friends who say, "Oh, come on, what are you talking about losing?" I will tell you what I am talking about. You know there are all kinds of pay that has to be given, all kinds of notice that has to be given, and every day that he operates here is a day's delay before he starts that, in terms of the movement, in terms of an operation. It saves him millions of dollars a year. Losing big money—tens of thousands of dollars a day.

If he chooses to tell you what that is, then let it happen.

But I tell you, it is a lot of money. It is a lot of money. Lots of people here would say, my gosh, I did not know it was that much.

(Mr. WOFFORD assumed the chair.)

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Would it not be reasonable, since here we have both Senators from New York now going on 12 hours of filibustering, representing their constituents of the great State of New York, would it not be reasonable that the Senate majority leader, the Senate minority leader, who I am sure have had nothing whatsoever to do with what took place in that conference committee, which the senior Senator from New York was part of, would it not be reasonable if a Republican and a Democrat can stand here for 12 hours trying to do the best they know how to represent the families of 875 employees in the great State of New York, would it not be reasonable that the majority leader and the minority leader find some way to address this issue of jobs?

Earlier last evening we had the Senator from Montana talk about 400 jobs in Montana. And both Senators from New York heard me talk about tens of thousands of jobs to be lost if in fact this bill should become law. Now, would it not be reasonable that the majority leader and the minority leader, who are equally as concerned, I am sure, about jobs, otherwise they would not be supporting that tax bill that is going to pump a lot of Federal dollars into jobs, retraining people who are out of work, et cetera, would it not be reasonable for them to sit down and try to work out a solution to this jobs problem?

Mr. D'AMATO. I think the Senator from California makes a point my good friend and distinguished friend from New York, Senator MOYNIHAN, has attempted to make by way of asking almost in a rhetorical was has anybody contacted you. And the answer is no.

I importune our leader, and because I importune him I do not mean to detract from the sincerity of my observations about GEORGE MITCHELL because he is a good, and decent, caring person. He is. Let me say that Senator DOLE and his staff have gone out of their way to assist me and Senator MOYNIHAN and his staff. We have spent legions of hours and sweat and time and toil in developing this legislative proposal or format to get to where we had a signoff. And so look, I think it can be done. I have seen much more difficult situations, much more contentious, much more, dealt with in an amicable way that will give people an opportunity to continue to earn a living. That is what we are talking about.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Senator SEYMOUR's remarks were so reasonable and forthright suggesting that we cannot move, we will not move from where we are, but we do not wish to be where we are. We wish to get this simple matter settled. Does the Senator think there is any prospect that we might hear from the leadership in this regard?

Mr. D'AMATO. I am hoping that we will. I am hoping that along about maybe 9 o'clock they will arrive and they will get a report, and that report will say, PAT and AL are alive and well down on the Senate floor. And then maybe they will say, well, if they are still alive and well and still on the Senate floor, maybe we had better do something about this and see if we cannot get some sense into their heads.

Along about that time we can say: My gosh, we have not met two more astute and honorable people, sensitive to everyone's needs.

Mr. MOYNIHAN. Distinguished is the word.

Mr. D'AMATO. Distinguished. And who not craft the manner in which we can extricate ourselves from this situation so that we can retire to another place to be alive and well and get off our feet.

But I guess it will maybe be a demonstration of some resolve, that we were not just—look, I have to tell you, I walked over here when I heard him say—I said, "Did you really?—we are going to filibuster. Now, you know, that is what my colleague said. We gave warnings.

Mr. MOYNIHAN. We did. We did. We did. We did.

Mr. D'AMATO. It was not popped out of nowhere. And you know, I think that we let some bills go, we let the legislative appropriations bill go only because I did not know that was really happening. We kind of found out. It was right after the filibuster thing and we began to find out that there were these problems cooking around. I tell you, the legislative appropriations bill never would have gone through, never. But you know, we did not want to create a problem. It was not our intent. We were still hoping to try to make a resolve. And our staffs found out and the majority leader and—the minority leader's staff, let me correct myself, started shopping around, and Senator MOYNIHAN and his AA and mine, and he and me and MCGRATH, and whatnot.

Mr. MOYNIHAN. Yes.

Mr. D'AMATO. And it was embarrassing to find out that we not only did not have the facts but that we were treated with less than candor, less than candor, and that the entire truth was not given to us and then we responded to that. But look, that is over. That is over. We are here. And the Senator from California raises a point and points to a road, an avenue, of probably bringing about some direction. That direction I would hope would lie in the fact that our two leaders—and they are the leaders—by the way, listen, it is great power and great responsibility and great obligation.

Mr. MOYNIHAN. I wonder if the Senator will yield for a question in that regard.

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. It is my understanding that the House of Representatives is going to adjourn sine die at the end of this Congress, until the next Congress, about noonday which is less than 4—we will say 4 hours from now. And that would leave us here. Under the Rules of the Senate, is it not the case that when a conference report comes to the body and the Senator who is managing the legislation asks that we proceed to the matter, there can be a vote on that or asking unanimous consent to proceed to the matter? At that point before there has been any decision, either a vote or consent granted, any Senator may ask the conference report be read?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. I believe the Senator from New York, Senator D'AMATO, has done this before.

Mr. D'AMATO. I have.

Mr. MOYNIHAN. On one occasion.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Are there not arrangements that are meant to protect Senators who assume in good faith that something has been agreed to and then find out it is not? I mean is that not what these rules are for and are not these rules devastating to any orderly conclusion of the 102d Congress?

Mr. D'AMATO. Oh, yes. The implementation of these rules—and I said I would carry out those parliamentary opportunities that are given to us if we failed to deal with that measure Saturday—is exactly what the distinguished senior Senator from New York has indicated. If it is requiring the reading of the conference report, why, that will be the case. If it is to bring about extended debate on those matters, motions to proceed to the consideration of the various reports, that is how it will be—if it means that we have to hold up meaningful legislation, that is good legislation, in order to get a fair opportunity—and I say fair opportunity—to try to save the jobs in Cortland, because we do not know if that is going to be.

And I say to my colleagues, speak to Mr. Thompson. Find out whether or not he is sincere. I think and believe and know him to be an honorable person. I believe he is sincere. And I did not, nor did Senator MOYNIHAN, take this kind of action because we are on a fool's mission. We are here to do what is right. And everyone has that opportunity. And everyone should avail themselves of this opportunity.

But I have to tell you something. I am disappointed. I am disappointed because it has come to a point in time when I think that at the very least key staff should have been meeting with our staffs to say what can we do? How can we work our way out?

And so I have to say in response to my friend and colleague from California, when he said has anybody contacted you, and my friend and colleague from New York said has anybody contacted us, no. Not only have they not contacted either of us, but in addition there has not even been that kind of contact that one would expect from key staff to our staff.

Now, maybe that is by direction. I have to suggest that it is. I have not suggested it is probably a Member consideration, so staff has now at this point in time been excluded. Staff was used initially as kind of blocking backs, to obfuscate things. All right.

Sometimes it may not be fair and maybe I yelled at that young man when I said he has a job, and I owe him an apology. I do apologize. He is doing his job. Why should I—he is doing it and he follows direction. And if he does not follow direction, then it is a lack of direction. Go to him, and give me his name, please—give me the book. Wake up over there, all right. I want to insert an apology because that is not right. It was out of a sense of frustration that I singled him out. And so Robert Kyle, I apologize. It was out of a sense of frustration that I jumped on you.

You do your job. You do your job to the best of your ability. And you take direction, and so please accept my apology. I really do apologize.

I have to tell you, I do not apologize to my colleagues for creating a situation now at this time where hopefully it is going to make a big logjam and get everybody discombobulated and create a situation where they say, look, let us find a way to deal with this. Let us find a way to deal with this.

Let us find a way to give an opportunity to these people to compete fairly, for the law to be enforced, the jobs to be saved, so we can go home and say, "You want to know something? We really rose above it and did the right thing." Hopefully the administration will—and, by the way, I say to the Senator, he asked a question, what do we know about a guarantee? There are no guarantees.

Mr. MOYNIHAN. Will the Senator yield for a question at that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Surely, last week the Senator reported to me that he had regularly made a number of trips down to the White House.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. To discuss this measure.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And say would there be objection to it. And the answer, as I recall—

Mr. D'AMATO. Eventually worked out.

Mr. MOYNIHAN. There would be no objection to the language we have?

Mr. D'AMATO. Correct.

Mr. MOYNIHAN. I do not know why anybody would object to saying we ought to enforce the GATT rules, but you have that understanding?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. That is what I took to the conference committee, that it would be accepted.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. D'Amato said this, and that is his word for me.

Mr. D'AMATO. Our staffers were there, and the people from the White House were there, and so forth.

So let me say, if this provision is passed, then we have an opportunity to see if Commerce will respond, and, if they start the process, I have been given to believe, by the chairman of the board, who said he would come down today to answer any questions of my colleagues, I guess, here or wherever, outside, that they will pursue another course of action retaining those jobs in Cortland.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. That is what this is about. Yes, certainly.

Mr. SEYMOUR. Is it possible as the clock continues to tick tock, is it possible that as more Senators arise and come to the Capitol, is it possible that other Senators may see the righteousness, see the lack of equity and justice that has been dealt to both the senior Senator from New York and the junior Senator from New York, and, in fact, is it possible that maybe Senator ADAMS or maybe Senator AKAKA or maybe Senator BAUCUS, maybe Senator BENTSEN, or maybe could it be Senator BIDEN, or could it be that maybe Senator BINGAMAN, or might it be Senator BOREN? Senator BRADLEY is here, of course, so he could answer for himself.

But I am really interested in the Senator's opinion. Maybe it would be Senator BREAUX or it might be Senator BENTSEN. It might even be the distinguished Senator BUMPERS, or in your opinion it might be Senator BYRD, or Senator BURDICK, or perhaps if you think it might be Senator CONRAD or maybe Senator CRANSTON, or could it be maybe Senator DASCHLE, or Senator DECONCINI, some Members, or maybe Senator DIXON might have an interest in the inequity that has been created as a result of this conference committee action or could it be I say to Senator D'AMATO, or Senator DODD?

Mr. D'AMATO. Senator BYRD could very well. I think he might be the kind of person.

Mr. SEYMOUR. How about Senator EXON? Could it be he possibly, or maybe Senator FORD, who was here earlier this evening, and you made a special appeal to him, or maybe it would be Senator FOWLER?

Mr. D'AMATO. Actually, I do not think Senator FORD would be too happy to see us still in this mode when he returns.

Mr. SEYMOUR. He would have to give you an A for effort.

Mr. D'AMATO. I do not know.

Mr. SEYMOUR. Even though you are owed a great debt for your work in Congress relative to this action.

Mr. D'AMATO. No doubt, if any teacher had to grade this Congress as it related to this particular inaction, an F no doubt, 4–F's, you know as they were in World War II, they found everything wrong, ears, eyes, nose, throat.

Mr. SEYMOUR. If you give one to Senator FOWLER, he would possibly be involved in this filibuster that is taking place, or maybe Senator GLENN, of Ohio, Who knows, maybe Senator GORE. He might return, because we know he wants to create jobs and he does not want to see people being unemployed. Maybe Senator GRAHAM. Senator GRAHAM was sitting as Presiding Officer here in the Chamber for some time. Or would Senator HARKIN perhaps or Senator HEFLIN or Senator HOLLINGS maybe? I do not know what the Senator's feelings are, but really the question I have been asking Senator D'AMATO is, as the clock ticks on and the day grows longer and Members come in, maybe they will see the same thing that you have been trying to say for the last 12 hours plus and see the injustice being done and come to the Senator's assistance and that of the distinguished senior Senator from New York. Is that a possibility?

Mr. D'AMATO. It is a possibility. I say to my colleague from California, I am hoping exactly that the issue is not tying up someone in a great and deliberative body, but the issue of equity, the issue of fairness, the issue of jobs, that that be treated, that we not reward people by not taking action or for breaking the law, for being unfair. I mean, that is what is happening here. We are rewarding a company who has profiteered. Why are they profiteering? Because eventually they will drive out the last competitor or certainly drive those jobs that exist here in America out of America. That is the beginning of the end.

When you separate the heart from the body it begins a process of inevitable death. You take that plant, you take the production capacity, and you send that down to Mexico, and then you try to keep a team, a team of your engineers and professionals, et cetera, up in one area while you send that other team to Mexico. Who is going to work with those workers and train those workers and how competitive will they be?

Let me ask the Senator. Do you really think, "Why won't they automatically let me go down there and save money?" Because they know they have a great staff, a great work ethic. You told them to increase the productive capacity of this plant of Smith Corona, 700 percent in 12 years—12 years, 700 percent. So, look, they know that to go down there, yes, there may be some short-term economics, but who knows about the stability of the work force, et cetera, over the longer period of time? Who knows what competition will bring that they will have to meet? They know that they can meet that in Cortland, NY, with the work force they have. That is why they do not want to move to take a quick buck, cut their costs, and go down there.

We should applaud a company that has that farsightedness and is willing, even at this time, to say, "All right, Congress, we will wait and we will see what you do. We will see. We will give you this last opportunity." And that, in essence, is what they are doing. And they did not come to me, and they did not ask me to do this or importune Senator MOYNIHAN too, under this action. The Senator and I went to them and we said to them, "If we can turn this around, will you stay? Will you reconsider?" And they said, "If you do that and if certain other things are undertaken, the enforcement provisions and a good-faith effort by the Commerce Department, we will take this back to our board."

You know, to have come so far and get the administration to say, yes, to get a situation where the employer could make a quick buck and look to escape, ready to do the right thing, and then to say we are going to throw it all in the junk heap, because, why? Because of personalities, because of some kind of local parochial consideration. I understand. You know there is an axiom that I guess Tip O'Neill said, "All politics is local." I understand that. To a certain extent I lived by that. I practiced it, so I understand it. I do not minimize it. I do not deprecate it.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. You make that wonderful remark of Tip O'Neill that all politics are local. But is there anything local about the amendment we had asked to be included and understood was included in the tax bill?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Did it say anything about Cortland?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about typewriters?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about New York?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about wage structures?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about Mexico?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about Japan?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Anything about a company called Brother?

Mr. D'AMATO. No.

Mr. MOYNIHAN. Brother, can you spare a dime?

Mr. D'AMATO. They can spare a million.

Mr. MOYNIHAN. Half a dime.

What were the references? The references were to the General Agreement on Tariffs and Trade, an international agreement. The adoption of the Kennedy round in 1967 is the basic rule. The GATT is located in Geneva, Switzerland. Anything about Geneva and Switzerland there?

Mr. D'AMATO. No.

Mr. MOYNIHAN. We are speaking about universal principles, which America has advocated and leveled the way to put in place. They are the conditions. Are they not the condition for more and freer trade, that countries that open their borders to foreign imports know their own producers will not be put out of business for the purposes of creating monopolies?

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. Is that not what the antidumping laws are about?

Mr. D'AMATO. Absolutely. The Senator has put it in the most cohesive and cogent manner, and he went right to the heart of it. We are saying, "Enforce the law." We are saying, "There is no question as to ambiguity whether you can or you cannot. You do have the authority." That is really what we are saying. We are saying in legislation that you do have the authority.

Obviously, there is a presumption, the way you have the law, that, therefore, the law should be enforced. There is no way that we can enforce them. We hope they will undertake this, and that is why I said there is no guarantee, because sometimes we have seen people, unfortunately, ignore provisions of the law. So, while we hope and while we think that it can and will make a difference, while we have gotten assurances from the company's side that it will make a difference in their decision of whether or not to relocate, what we are saying is, "Let us give these people a chance. Let us give them an opportunity to see whether or not the law can work for them or whether they can get equal protection under the law."

I think they are entitled to that. I think that is the least we can do. I think for us to do any less than that is inexcusable, and I think that while I understand local considerations and needs to protect one's constituent—and I have done so on more than one occasion, on many occasions as have all my colleagues, I am not unique to that. But there is a distinction between looking the other way when one's constituent is undertaking or sanctioning practices that are bringing harm to others. That is a different.

Mr. SEMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEMOUR. Would the Senator agree that the experiences of Smith Corona over, I think, the last 8 years he talked about—maybe it has been longer, but I recall him saying 8 years—would the Senator agree that the experiences that Smith Corona has been through that has them poised on the brink of leaving the State of New York, in this case to Mexico, would he agree that the experience they have been through is similar to hundreds of thousands of jobs and businesses I have seen leave my State of California as a result of getting it in the neck, so to speak, one way or another? In my State, I do not know about New York, but in California it is they are overtaxed, they are overregulated. It is impossible to do business; they cannot compete any more. And so they come to the conclusion that if we are making widgets in Gardenia, CA, we can just as easily make widgets in the State of Idaho. Would the Senator agree that what Smith Corona has been put through is what so many thousands of businesses in my State of California have been put through?

Mr. D'AMATO. Yes. Let me tell the Senator, I think he has identified not only with Smith Corona, but with so much of America, that beset many cases by high taxes, extraordinary cost factors that go above and beyond sometimes the ability to pay. That is a condition that has created job dislocation both within the United States and sometimes from the United States to other areas. That is not good. But there, there is some control, at the least. There may not be total control. But if the manufacturer, for example, in California finds it an inhospitable climate relating to energy costs, workman's compensation costs, and health insurance costs, and all of the other factors that come down to whether or not he can be competitive in his business, he has some alternatives. He has some alternatives, not just that he closes the door and locks up. He can meet with some of the State representatives and say: "Look, this is too high." And, indeed, you and I both have seen this take place. "I cannot pay for these energy costs."

New York has developed a plan. A major one was Tomcat, the F-14, we saw it in that picture. It is famous. They could not meet the competition, and the cost of energy is extraordinary. The State came in and negotiated with them and has done so with a number of large manufacturers to keep and retain their viability as a manufacturer in that region. Local governments oftentimes will give tax-free inducements, bonds, et cetera, waivers, in order to keep plant and equipment from moving elsewhere. So there are a variety of things that businesses can do, and in addition, there are other things that they can do, and we see them do it regularly and it breaks our heart, and it leaves a deep hole in the fabric of our community.

We see an entire plant pick up and, say, we are going to North Carolina, or South Carolina, or to another sister State, because the cost of doing business in that State is much less and the cost of doing business in our particular States may be much too high. We have seen that in New York and you have seen that in California in your experience. So you see, there, the plant operator has some options. He may be in a difficult situation, but he has some control here. I suggest to you that this is just that kind of situation magnified many times over. It is a high cost State, high cost of energy, high cost in terms of everything else. But he has a predator who breaks the law, who makes it impossible for him to compete, who dumps his goods here, who undercuts him, who takes more of his market, who gives him no chance to compete, and I have to tell you, we are his only hope here. Because without us, we say to him: You are in the garbage heap. You are out. Get out, move. He has no choice.

Mr. MOYNIHAN. If the Senator will yield for a question, Did this company not repeatedly play by the rules and go to the United States Government, and ask for relief from predatory dumping by a Japanese firm and was it not found that predatory dumping had taken place?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. When they did that and the pride of the plant—that new model typewriter, that very smart typewriter, when the antidumping duties were placed on the Japanese import to keep it at a true market value, did that Japanese firm not put a 70-cent component into the same machine, and did not our Government say that is a new machine?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. If that is playing by the rules, that Government did that to them.

Mr. D'AMATO. Right. And the business about saying that this is not the same order that should be applied against this company, because the company has changed one of the places in which it gets its parts or it moved its headquarter for this from Japan to Korea, or moved the assembly where they literally screw these pieces together, same pieces, same content, same manufacturer, same company, same distributors; it is the same typewriter. It is the same crook—crook, thief. Stealing and taking the jobs of American workers. And we are aiding and abetting by doing nothing.

You know, when you have a loss taking place in your place of business and you do not report it or do anything and you work for the company, you tell me if you are not aiding and abetting. But we are. We aid and abet. We have a responsibility that is even more than that.

If you are the auditor of that company and you are catching somebody working for the boss hitting the till and you are quiet, you acquiesce, that is aiding and abetting, because it is in our responsibility. We have a fiduciary, legal, and moral responsibility, yes, to stop it. But people—we will shortly adjourn, and we will go home and do our business. Some will take vacations immediately and some shortly after, and some get ready for their Thanksgiving. I can imagine if Thanksgiving had a plant like this, where the workers know that within the course of 60 days they will be getting their termination notices, that the likelihood of any meaningful employment for many of them is zero, what a wonderful Thanksgiving. What a wonderful holiday season and holiday time.

Mr. MOYNIHAN. If the Senator will yield for a question in that regard, I suppose that Cortland would be in the Syracuse metropolitan area. The unemployment level in that SMSA is about the highest it has been in a decade, is it not?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And there is no other manufacturing in Cortland. It was once a metal fashioning plant town in the 19th century. But this is the manufacturing activity.

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. Productive products and value added is very high. If it goes, there is no work. There is no work, as Mark Twain said of the French emigres from France in the Revolution who came to upstate New York.

Mr. D'AMATO. The Senator is correct.

Mr. BRADLEY. The Senator is making a statement. Is it not true that the Senator may yield only for a question?

The PRESIDING OFFICER. The Senator did yield for a question.

Mr. D'AMATO. I did yield for a question and the Senator's question was: Is it not true that this is the last manufacturing plant there, with the exception of there having been a metal strip place, that that is no longer the case. So he was propounding a question, and I did yield for that question.

The PRESIDING OFFICER. It was not clear that the question was a statement. The Senator from New York is put on notice that the rules will be strictly construed.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Are there any other factory jobs in Cortland, NY, if this plant closes?

Mr. D'AMATO. Not worth describing. Minimal. In the economic terms, this is it. To close this baby, it will destroy a town, and 875 jobs and all those other jobs. Damage, terrible damage, blight. Totally unnecessary. You know, the major thing is that we got the administration to do something that just about every Member of this body would have stood up for and cheered 6 months ago, a year ago, and indeed some had championed it this past May. That was seeing to it that we told the Commerce Department to do what was right to enforce the law.

They had to go after the predatory practices of dumping. That is what we sought. It was a great achievement because we got the administration to say, OK, we are going to try to do it in such a way that we do not create GATT problems and a trade war. Nobody here wants a trade war.

But I will tell you one thing. At some point in time you have to stand up to these guys and you have to say to them, wait a minute, we are not going to give to you so much power, economic and whatnot that we just look the other way and we make believe that what you are doing, you are in violation of the law, you are predatory pricing; you are dumping, and is not going on when it is going on.

I suggest to this body that that is exactly what we have been doing. Not only this administration, but many of us.

I have to tell you something. In opposing this legislation, that is what we are doing here. In opposing legislation that would deal to correct this problem, we are saying we are afraid for some reason, because maybe they will pull their plant out of my town. By the way, if they close their plant down because of this illegal activity, stop to think that places will open up, that other jobs will be created not only in Cortland—you know, we can send people down there and hire workers and pay them more than $6 or $7 an hour in Tennessee to do real manufacturing. Did you ever stop to think if we have real competition, we would have more people working, not fewer people working; not the basis upon which this is all about. It is not about giving one an advantage unlawfully over the other. It is real, meaningful competition. That is what we are talking about. That is what we see. That is what we want.

Why should we deny that? Why? I do not know why.

I said it before and I say it again. Take my name off. Put anyone else's name on. Change the legislation—as long as the intent is adhered to, that intent being that we stop the circumvention in the kind of case that has taken place and continues to take place as it relates to Brother and those companies that engage and have engaged in this kind of illegal activity.

That is all we are trying to do.

Mr. SEYMOUR. Will the Senator yield for a question in that regard?

Mr. D'AMATO. With the indulgence of the Chair, the Senator has asked if he may ask a question. I yield for a question.

The PRESIDING OFFICER. The Senator yields for a question, a question only.

Mr. SEYMOUR. Senator, I know that you believe in doing everything you can do, because I have observed you do it, now getting close to 13 hours, in trying to save those 875 jobs. So I have no doubts about your sincerity, or that of the senior Senator from New York as well in doing what both of you have done.

However, my question has to deal with the severity of the dumping, as you have described it; the severity of that dumping, not being familiar—as perhaps you are—with the Department of Commerce and their levying duties, or tariffs?

I know that the Commerce Department found that Brother was selling portables below cost and they, at that time, in 1980——

Mr. BRADLEY. Parliamentary inquiry. The Senator is making a statement. Is it not true a Senator is making a statement. Is it not true a Senator may yield for a question only?

The PRESIDING OFFICER. The Senator may yield for a question only. Please state your question.

Mr. SEYMOUR. Mr. President, I did state the question at the outset, stated the question midway through my framing of the question, and I was almost to get to the very essence and finality of the question when the Senator from New Jersey challenged.

Am I given the privilege of asking the question?

The PRESIDING OFFICER. The Senator may complete his question.

Mr. SEYMOUR. Thank you, Mr. President.

The completion of the question, Senator, is that in 1980 the Commerce Department found that Brother was selling portables below cost that called for duties of 48.7 percent?

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. Then in August of 1991 they found them again guilty, and this time 60 percent?

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. Now my question is: Are those extreme tariffs, duties to impose?

Mr. D'AMATO. Yes, they are. They go well beyond duties that we have seen traditionally. As a matter of fact, most of these dumping cases are lost.

Let me say it again. Most dumping cases that are brought, there is not a high degree of success. In this particular situation, as it relates to Brother, it has been successful in cases. It has brought eight, been successful in eight.

What is the sense of having a law if, when a person proves a case, he or she still gets no satisfaction? What is the sense of having a law that says, if you commit the crime of larceny, that there is a punishment, and that punishment can be as high as 5 years in prison. So you commit that larceny the first time and maybe the judge says there are extenuating circumstances. And you go out and you rob, let us say the same bank a second time. And the judge finds that maybe you had some stress. And you go out and you do it a third time.

Let me tell you if, at the third time the judge continues to give you probation, then something is terribly wrong. Then you are making a mockery and a sham of the law.

We, as citizens, are outraged when we see and hear of these kinds of situations. From time to time we do.

We hear of a judge who has given what we might feel is an inappropriately or disproportionately lenient sentence, little, if any, time. Some terrible attack, unprovoked—unprovoked. An old woman badly beaten. And the person who is proven guilty of the crime is literally released in weeks or months.

That provokes an outcry. We understand that. I think it is difficult, and I appeal to my colleagues, to understand that what has been taking place to the competitors of Brother, in this case Smith-Corona, is no less a crime—no less an assault on our laws.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Did the Senator not state earlier that there were in fact criminal prosecutions along this line?

Mr. D'AMATO. Yes, there were. They are different cases but they involve foreign competitors. In those cases they involve mislabeling. But there are, under our trade laws and under our own laws.

You can violate them and some of these penalties are criminal. That is not the case in Brother. But the dumping as a legal, ethical, moral matter is every bit as criminal as a taking.

We could have a discussion on that in the courts, in the law schools, and debate this issue as to who is a bigger thief. Whether it is the person who comes and takes the money off the books illegally or whether it is the person who avails themselves of these kinds of loopholes, notwithstanding that they are found to violate the law, continues to violate the law. And who is more culpable?

In that case I think it is the authorities that allow it to take place. And the authorities in this case are the U.S. Government.

If we are part of that Government, then we are part of that problem, and we should be part of the solution.

So I decry that kind of almost contemptuous attitude of saying I am for more jobs. Oh, yes, I am for more jobs. We need more job training.

Hell, you could not give enough job training to fill the holes that we are leaving in our cities, in our communities throughout the Nation by this incredible methodology of operation. You just could not do it.

Mr. MOYNIHAN. Will the Senator yield for a question in that regard?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Did he not say earlier that this year, for the first time in the history, perhaps, of civilization—Western—that there are more jobs in government in the United States than there are in manufacturing? Can that be true?

Mr. D'AMATO. Sadly—sadly, it is true. My distinguished colleague brings forth an area that we talked about early in the morning, 3, 4 o'clock in the morning, the fact that today we have more jobs in the Government than we do in manufacturing. And as the trend continues, it is in this direction—down. Down.

Who is going to support our retail establishments? Who is going to support our families, or schools, or sales, our development? Who? The manufacturing jobs do it. If we keep destroying the manufacturing base of America, then there is no small wonder—it is not a Republican administration, a Democratic administration—it is a lack of governance. It is a lack of logic, the application of logic.

You cannot just continue to feed the tiger whatever the tiger wants to eat because you are afraid he is going to eat you. And that is what we are doing with the Japanese and with Brother, in this case.

Let me tell you, after we feed them everything and there is no more meat in the freezer, there is no more food in the locker, we are next.

What do we have to see or do to prove the point? Eight cases, eight violations, and the tiger comes back. What do our people do? Give him some more. Oh, do not complain, you know the tiger—he let us keep a little factory here in Tennessee, he could open that up in Singapore, you know; he is going to give us a couple more jobs.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Does the Senator seriously think there is space for one more factory in Singapore?

Mr. D'AMATO. Pardon me?

Mr. MOYNIHAN. Are they not moving to Tennessee because they have run out of room?

Mr. D'AMATO. They are moving to Tennessee because actually in some of these areas now they can get cheaper priced work and workers in the United States. If that is what we want to become, the low end of the production side, the assembly people, that is a heck of a thing.

Our genius, we make the product, patent the product. Other people take it over, improve it, and then bring it on back here and then compete in such a manner that they knock us out, become a monopoly. And then we wonder why the economy is going down, down, down.

It does not take a man of extraordinary vision to see what has happened and what will continue to happen. The demise of the American manufacturing base is not inevitable. I have heard these scholars come forth and say oh, it is going to happen. We are going to be a service entity. That is the only area in which we can compete.

No. I want to tell you if you look at those manufacturers, whether they be in small plants or large ones, that invested in plants and equipment and have a skilled work force and encourage that work force, you will see they can compete with anyone.

I can give you examples of that whether it is in the production of steel in the Presiding Officer's own home State; if it is in the State of my colleague from New Jersey, some of the new electric mills that have gone up; whether it is in the manufacture of garments, men's and women's garments, believe it or not we have well-paid workers, not working in sweat shops, working in good conditions, where they have the automated cutting equipment, and so forth, that outproduce and make a better product and compete with Third World nations and those which years ago we said we could not compete with.

It comes to mind because there is a factory that I am thinking of in Syracuse, N.Y. They have expanded. They now do most of the Brooks Bros. They took over the operation when Brooks Bros. took over recently in Long Island City. But they invested in plant, equipment, and so forth. If you had the kind of predatory practices that were practiced against our good friends here, Smith Corona, even this fine manufacturer of menswear could not compete.

In other words, if you had a foreign competitor that was producing and selling at below their cost, you cannot compete, because that manufacturer was selling his or her products where markets were closed off to them.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. This is central to your argument as I understand it, that the United States set out to create an open trading system, knowing the one thing they had to do was protect American manufacturers against predatory dumping and pricing?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. And that is all you are asking for?

Mr. D'AMATO. That is all we are asking for. We are asking for fairness, we are asking for predatory pricing practices to be eliminated, to be curtailed. We are asking where there are orders and tariffs, that they be enforced against this kind of practice.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. The question I have deals with this conference committee that struck your amendment, the two-page amendment. We know that the senior Senator from New York is a member of the conference committee.

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. He did not sign the conference report; is that correct?

Mr. D'AMATO. That is correct.

Mr. SEYMOUR. He was not aware prior to the signing of the conference report that your amendment had been stricken; is that correct?

Mr. D'AMATO. Well, he did not learn until very late. That is correct.

Mr. SEYMOUR. Senator, is it your opinion that the members who did sign the conference committee report—do you believe that they knew your amendment had been stricken? Or a majority of them?

Mr. D'AMATO. Yes; at the point that it was presented for their signature. But that is a fait accompli.

In other words, the report was presented to them, this report, and it was basically a take it or leave it.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Is the Senator aware that his colleague from New York did not sign?

Mr. D'AMATO. Oh, yes.

Mr. MOYNIHAN. Because we were at that point aware. The Senator from California asked a very intelligent question. There is an answer. You are aware of that. It was known. There seemed to be no choice.

Mr. D'AMATO. No recourse. As the Senator has indicated to our colleagues in the conference committee, they had no recourse. They were presented this document.

Now you say they could have said no, we are not going to sign. But they basically found this to be the case and it was presented to them as a fait accompli.

My colleague, Senator MOYNIHAN, from New York said no, I am not going to sign it. And let me make note of this. If I am wrong, I would like you to correct me.

Is this the first time—I believe this is the first time that the Senator from New York [Mr. MOYNIHAN] has not signed a conference report in 14 years that he has been on the Finance Committee, that he has been on those committees?

So this was not an act taken lightly. We are talking about a Member who has supported the reports, notwithstanding that he may have been for or against certain provisions in the bill. He does not have a history of being the great abstainer. You might say: Oh, well, there goes PATRICK again. He is not signing.

On the contrary. This is the first time in 14 years that that he said no, I am not going to sign. And why? It is an issue of fairness.

What we are arguing about here, what we are arguing about here is fairness. That is what we are arguing for. People are entitled to equal protection under the law, everybody. And by gosh, our New Yorkers are just as good, have just as many rights and should have those rights protected like anybody else from any other State, no more but certainly no less. No more but no less.

I have to tell you something. We have abdicated our responsibility too many times. Why should we do it here and see these jobs out? We talk about dealing with the problems. Here are the problems. The Tax Code, economic development in distressed areas. Enterprise zones. We will need an enterprise zone. We only have 50 here. Maybe we can get this under rural enterprise. I am not sure.

And I am being somewhat facetious, but why should we have to create an enterprise zone when instead of having to spend money—and by the way, it is going to cost us $15 million for job training, $15 million for job training a year, millions lost in State income tax, millions in Federal income tax. How many millions eventually will it cost us in social services? How much in separate families, families that are going to have incredible pressures placed upon them? For what? Who do we advantage?

Do you know what? Brother does not win in this. They do not win. Smith Corona said we are going to cut our costs. We are going to cut our costs so that we can compete with your predatory practice, your dumping. We are going to manufacture at a much lower cost in Mexico.

So maybe instead of helping, what we have done now is created a situation where they will have to reduce the amount they pay the people who assemble these components in Tennessee. I do not think that is good. I do not think we are going to help the people in Tennessee. We will certainly hurt the people over there in New York, 875 of them who are out. You will certainly hurt all those jobs that are going to be lost indirectly, the jobs that are created in terms of retail establishment and transportation and all the finance areas and real estate areas. That is really incredible.

But I have to tell you, I have faith. I have faith in the system. I have faith that at some point in time people are going to become so annoyed and so angry that they are going to say let us find a way to deal with this. It may not be because they were gripped with the eloquence of my presentation. It may be it is only the fact that we are all going to be disadvantaged and stay here later and longer, and I probably disadvantaged more than most because I have things to do and places to see literally and people to see.

We initially had scheduled on my schedule I think a visitation of our different cities today, four or five tomorrow. We will not go there. We will not go there. And if we can indeed leave this place without having concluded the business of the Congress, why, I guess that will be it. So be it.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. For a question, yes.

Mr. SEYMOUR. The question has to do with the jobs that are in the State of Tennessee.

Mr. D'AMATO. Yes.

Mr. SEYMOUR. If the Senator from Tennessee were on the floor, he might want to know, well, wait a minute what if the Senator's amendment became law and what if Commerce in fact applied the law and found what the Senator believes to be true, which is dumping. Those jobs, if they were to move, after Commerce exercised its tariffs, if those Tennessee jobs were to move to Mexico, does the Senator believe that those 875 employees at Smith Corona could yet compete or would the Senator be back here asking for another amendment?

Mr. D'AMATO. No, we would not be back here asking for another amendment. We are not asking to deal with competition because the product is made abroad or because the product is assembled here. We are asking for relief because the product is being sold at below what it cost them to make. That is illegal. And that determination has been made in eight separate court cases. That is illegal. That is wrong. What we are saying is apply the law.

And so I can assure my colleague from California that we would not be attempting to substitute or come in and say, well, look, now they are doing this process from over in Mexico and they cut their cost by $3 an hour and we should be—no.

We have to compete. We agree we have to compete worldwide. But what we say is that the law must be applied. What we say is that regardless of what company it is—and let me tell you Smith Corona, again, as you know, is a very substantially English-owned company. I think 42 or 48 percent of its stock is held by an English company.

Now, look, if they engage in the activities of cutting their prices below their cost to force out any other company, it would be wrong. But they do not do that. They do not. And they are entitled to the protections under the law. The law says they are not allowed to engage in this practice. They win eight times. We make a sham of the law, a mockery of the law. We look the other way. It does not count. I do not want to apply it here.

Now, look, I have not even begun to start. I have not analyzed the special provisions that have found themselves into this bill because once you start to throw down that kind of gauntlet, it gets rough and it gets tough. It gets nasty. I am presuming though and suggesting that our workers are entitled to all of the protections under the law that the workers of any other State are, no more no less.

Let me suggest again, when I started this endeavor to try to give to the people of Cortland who work at Smith Corona at least an opportunity of a fighting chance to save their jobs, I undertook that recognizing that it would not be easy. But you know what I saw as the biggest obstacle? I saw the recalcitrance of the administration to take on the Japanese and say to them, hey, wait a minute; enough is enough. You cannot break the law here.

We overcame that recalcitrance. They gave us their commitment. They give us the legislative language. They worked with us in developing it. And to be turned down and rebuffed by my colleagues at this point in time because they are afraid that there are some egos that may be hurt, there are some local parochial interests that somehow someone can appeal to and say, oh, this is the company in my backyard, is wrong. It is absolutely wrong. And that is why I am going to carry on this battle.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. And that is why I hope that the distinguished majority leader and the minority leader and some people who have some capacity to deal—and I have seem them deal with difficult situations. I have seen them deal with egos, the largest and the biggest. They have the ability and the wherewithal, I think, to craft a methodology and a proposal that will extricate us from this situation.

As I said before when I started initially, I said, well, I thought 8 o'clock in the morning. The hour of 8 o'clock has come and gone. And let me tell you why I thought 8 o'clock.

I really thought that along about that time we would be getting some of our staffers together; that they would begin to talk; that maybe some of the Members might each be figuring out some kind of method to deal with this problem.

And who knows: Maybe you let the candle burn and at some point in time the candle burns out.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. If they are waiting for that, I want my colleagues to know that I think the candle has a lot more life left in it and that I am prepared to continue this candle for a lot longer. I will have a little sore throat, I am a little raspy, but that is what I will do.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes, I will yield for a question.

Mr. MOYNIHAN. The Senator is aware that conference reports, any Senator may ask that a conference report be read?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. And that some of these reports are of the length that might take half a day and others more?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And that is a privilege that is available, any Senator's right under the rules. That is the case, is it not?

Mr. D'AMATO. That is correct. I believe that to be the case. I certainly would avail myself of those opportunities at the appropriate time. I would hope, to be very candid with the senior Senator, my distinguished colleague, Senator MOYNIHAN, the majority leader and others, that as we get closer to bumping up to that 12 o'clock time and that as there is important work—and, indeed, the House may be planning to leave, but I understand they have not received our approval on a resolution, and therefore they can only stand in recess for up to 3 days. I am not desirous of creating a situation where my colleagues would be forced to come back. But I certainly hope we can find a resolution. There are resolutions that have been found to much thornier, certainly more complex issues, certainly issues that were much more contentious. And I do not understand why it is that we do not want to attempt or we cannot attempt to come up with a solution, legislatively, provided the administration gives its approval, because we do not want to just go on down this track and have the administration say no.

But subject to that caveat, this Senator——

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. I yield for a question.

Mr. SEYMOUR. Does the Senator have reason to believe that if his two-page amendment were in bill form before the Senate, on an up-or-down vote, does the Senator have an opinion as to the possibility that it would pass?

Mr. D'AMATO. To give the Senator a good answer, he would have to look over to the left and down to the first row and to the Senator on that first row and ask the majority leader if he was going to be supportive or not.

I ask the majority leader if he is going to be supportive. Then I can tell you without fear of contradiction I have no doubt as to the outcome. If that were not to be the case then, of course, I left out the Finance Committee chairman.

I have seen and the Senator from California has seen the influence that a committee chairman, and particularly one as respected as the Finance chairman, particularly the majority leader, what influence they carry. That is an influence not to be underestimated.

Mr. SEYMOUR. Mr. President, if I may ask the Senator another question: Does the Senator believe that the Members of the U.S. Senate, given their own free will—at least those Members of the U.S. Senate who believe in free and fair trade, given their own free will—on an up-or-down vote on the Senator's two-page amendment; will he conjecture as to the outcome of that vote?

Mr. D'AMATO. With the body politic here, it would be naive to suggest that in a matter that has become, unfortunately, as contentious as this, that there would be that free vote. And I am not suggesting to the Senator that that is not totally understandable. Nor am I suggesting to the Senator that, if I were confronted with a similar situation, I might not do exactly what the majority leader is doing, or attempting to do, in dealing with the legislative duties that he faces and with the needs and the demands that come from the other Members of this body who may not be of a similar mind as it relates to this issue with this Senator. So I understand that. I really do.

But I think, if we were dealing in a totally abstract way, and if we were dealing simply play with the issue, if we were dealing with this policy, and this was not a plant located in New York, and it was not Smith Corona, and it was not Brother, but it was two plants and one was availing itself of all of the privileges of operating in this country, but breaking the law, and the other was following the law, that if someone proposed that, as a result of the lawbreaker's violations, that they were providing irreparable damages and injury to the other company, and that the law be enforced that they were violating—that the law be enforced—I think there would be unanimity in our saying yes.

So if we had a situation where it was not Smith Corona in New York, and it was not Brother, which is headquartered in New Jersey and has a facility, a screw facility, in Tennessee, and if you just had the same circumstance taking place without identifying the companies, I am going to tell you something: There would be unanimity here in saying the Commerce Department should stop this; it is wrong.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Did the amendment that we had thought was agreed to on this tax bill tell the Department of Commerce to stop anything?

Mr. D'AMATO. No; absolutely not. It just gave them the discretion to, and spelled it out that they could enforce the law.

Mr. MOYNIHAN. The law in this case being the GATT dumping rules of 1967, GATT being a multilateral standard; is that not correct?

Mr. D'AMATO. That is correct. So this was not an attempt to get anything special. This was an attempt to clarify and say to the Commerce Department: You do have the ability to enforce the law, so let us do it. Let us not continue this charade, this sham.

Because it was a charade and because it is a sham.

Let me say that this amendment is a much narrower version of the legislation which we first introduced, and it was intended to deal with the problem that Smith Corona and others have faced. More specifically, this amendment is needed to close a loophole in the sourcing of third-country parts from historical suppliers and permit foreign manufacturers to evade antidumping orders. And that is what they have done. They have just moved around their operation, the same historical suppliers, and they continue to violate the law.

Under existing law, the value of these third-country parts is counted against circumvention, because the parts do not originate from the original exporting country subject to the order.

So notwithstanding the fact that the party may have always been supplied by third-party countries, you have this circumvention taking place. This has led to the anomalous results that merchandise is taken outside the scope of an antidumping order, with the transplant of a simple assembly operation, even though there has been absolutely no change in the mix or sources of the covered merchandise's component parts.

This amendment provides the Department of Commerce the statutory authority to reach circumvention patterns of this nature which current law does not address.

While we work every day to level the playing field in open markets abroad, loopholes in our own United States trade laws undercut our competitive position right here in our own backyard.

It may not be too late to help Smith Corona's 875 employees. It is also not too late to help the thousands of other U.S. companies, and tens and tens of thousands of workers who are preyed upon by foreign competition, competition that does not obey the law.

We should not delay action that is in our best interest, that is fair, is reasonable, and that is designed to protect American jobs.

Our U.S. industries should be investing in research, development, and capital; not in court battles. It is an outrage to see a company spend millions of dollars in pursuit of justice. It is an outrage to have order after order thwarted. It is wrong. It is counterproductive. We must strengthen the law. Yes, strengthen it in order to ensure that our companies do not continue to be undercut by unfair trade practices.

Mr. President, I ask for the urgent support of all of my colleagues. Nothing is more important today than an American job, and keeping the job, and giving our people an opportunity.

Smith Corona is led by G. Lee Thompson, chairman and CEO. Mr. Thompson announced in August that the Smith Corona's Cortland, NY facility, home to 1,250 workers, would be relocating to Mexico over the next 14 months. Now, obviously, it has been reduced to 11 months. Some 875 people will be put out of work in central New York. Only 375 people will remain employed in Cortland, and 50 will move with the plant to Mexico.

This is a disastrous blow to these families. It is a disastrous blow not only to the families and the economy of the region, but to the psychology of the American worker. Because, you see, Smith Corona is not an isolated case. Smith Corona represents the hopes and aspirations of millions of Americans who look for nothing more than an opportunity to support themselves, to keep their dignity, to keep their families together. And to permit this decapitation of the heart and soul from the body is wrong. To take the manufacturing component away from the engineering side is to cut the body in half.

How long do you think this operation is going to continue, with the production side in Mexico, and the balance in Cortland?

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Is it not the case that Smith Corona has given an understanding that if relief is provided, the simple kind that the Senator proposes, simply to let the Commerce Department enforce the law, that they expect they will stay in Cortland?

Mr. D'AMATO. That is a fair summation and analysis. And if, indeed, the Commerce Department is given the opportunity to enforce the law, and they actually undertake the enforcement, then they are in a position and will be ready to recommend to the board that they stay, that they keep those jobs and they fight for those jobs.

I will tell you something: That is what this battle is about. It is about giving people an opportunity. It is about not walking out and abandoning the microcosm of America in Cortland, NY. That is what America is about. It is made up of small communities, up and down the length and breadth of this country; they are beautiful. And these factories provide jobs and employment. They provide a fabric of society that brings people together.

We have kids working and people working in this plant for 40 years. I mean, you have a history here that cannot and should not just be ground up because we are going to continue business as usual.

I do not know what the parliamentary situation will bring about. To be quite candid with you, I was hopeful that about 8 o'clock, we would be getting some approaches to do something to ameliorate.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Is the Senator aware that the House, as I understand it, has agreed to remain in session until Thursday, although it may not be that they will have a quorum after today. But they will be able to conduct business on a consent basis.

I ask the Senator, is he aware they will be able to conduct business on a consent basis?

Mr. D'AMATO. Yes. I had the feeling that the House would be in a position to continue. And, indeed, I have been advised that we have not passed any adjournment resolution and, therefore, the House could not go out until we do.

I have been advised further that they could, if they wanted to, get a recess. But I did not understand, and this is the first that I heard, that they are now going to stay until Thursday. And that is what I suggested earlier, that I hope we can get it resolved. Because the so-called cats and dogs—and some of those cats and dogs are not cats and dogs; they are important; they are germane. They are legislation and legislative initiatives that my friend from Montana came and asked for. And this Senator has supported that; and it is creation of jobs there.

So you see, when people begin to get restless and begin to say: Alfonse, when are you going to sit down; I am going to tell you, I am not. I mean, not for a while. And then when I get up, I am going to ask for things to be read, and I am going to suggest the absence of a quorum. And there soon is going to be the likelihood that we are going to get a quorum here, because Members are going to begin to peal off, and they are going to take off.

I am going to tell you, I understand the objection of at least four Members to this legislation—really, three. One is now a national figure, well beyond parochial interest. I can understand the initial objection. But I have to tell you, we have not even had an opportunity to sit down and to discuss with these Members an amelioration of what might be, or a possible amelioration of their concerns.

And if it is just plain blind opposition to this amendment, it is every bit as important as any other piece of legislation that we have yet to enact. And I am going to avail myself of the same prerogatives that they have chosen to avail themselves of, and that is to drop this out.

Now if, indeed, Congressman ROSTENKOWSKI himself is adamantly opposed to this on principles, and is not just sticking to it because someone has asked him to do a favor, that is something that I can understand. But given the history of this legislation, given his support for this concept before, that is not reasonable and that is not believable.

So it is not a question of me trying to move the rock or the mountain that is immovable. But it is a question of trying to get down and say, well, look, if we all take this posture and nothing is accomplished, why do we not attempt to find a way to deal with this situation?

I want to refer you to a letter of July 21. By the way, we have gone an hour and a half beyond what I thought would be necessary. I figured by 8 o'clock we would kind of have some kind of a resolve, and we have been working toward doing something, Mr. Leader, and I really hoped that would be the case.

So now I am consigned to eating these throat lozenges and doing this. But it is the right thing. It really is the right thing, and I respect all of my colleagues who will come and battle for their constituents, and particularly when it is a matter of giving them an opportunity to work, an opportunity to work.

Nobody can guarantee people jobs or employment, but certainly we can give them fairness and an opportunity to compete. That, we have an obligation to do. Let me tell you that is what this legislation does. It does not take one job out of Tennessee. It does not take one job out of New Jersey, not one. What it simply says is that Brother has to obey the law, and it does not even say that. It says that the Commerce Department will have the ability to follow and pursue the case so that the law can be applied, so that when and if it is found guilty of dumping, they can apply the penalty, and they just cannot shift a little bit around and continue to violate the law.

What is wrong with that? I will tell you what is wrong. If you do not give a darn that the law is being violated, if as a result of this, maybe you have induced yourself to believe that we have 600 or 700 temporary make believe jobs; and I say temporary make believe because when there is no more competitor, you do not know where they are going to go. If these guys want to make more, I will tell you where they will go. They will put that assembly plant down in Mexico faster than you can bat your eye. Just like that.

My friend from California posed a question. How would I feel about this. But I have to tell you that this would be incredible. Incredible. Here we have a situation where we should be concerned that a company that is violating the law, because it has to follow the law, might curtail some of its operations. This is the great big Brother Co. There are the best manufacturer, and they can compete and beat anybody. Well, let them beat them under the law.

But do you mean to tell me that we look the other way because they bought us off? What did they buy us off with? A couple make believe jobs here and there, and is that what a great nation is about? Is that what a great legislative body should be about. I cannot believe that we are bickering over 875 jobs, and yet we are not, because my friend, Senator MOYNIHAN, said it directly. It is more than that. It is the psychology. It is people, people's lives. We have seen that this is not just Smith Corona, not just these jobs.

Are we going to stand by and allow this to continue to go on, the continued erosion of not only American industrial might and production, but American inner strength and stamina. We do not care how powerful or rich you are, how much you can buy, and how much you can sell, and what you will do; you have to obey the law like everybody else. I guess we have reached back to our ancestry, because there have been some pretty crummy dealings in terms of the government of the Western Hemisphere for a long, long time, where logic and equity and justice had little to do with the outcome of things.

That is what we are arguing about here. Let me tell you something else. This nothing more than power. What is taking place here and the argument here is nothing more than power. It is the wrong application of power.

This is not something that if my colleagues are able to prevent—and I would say they may be able to prevent it—that they should take any solace, because it is a pretty shallow victory. You are able to drive out 875 jobs. If this does not pass, you can say we drove 875 American jobs to Mexico. That is a great victory. There is a no-named opposition in this legislation. It is no-compromise opponents, of fairness that this bill represents. What a great victory. You can take your hats off and pay tribute.

I say to the AFL-CIO: Where are you? You run around screaming and yelling about the jobs going to be lost. What about these jobs and an opportunity to stop this from taking place now? Do these people have to belong to your particular union before you care? I saw the United Auto Workers up in Cortland there. I do not know whether they represent any of the workers there. Was that just a political statement, or did they mean it? If they meant it, why do they not do something now.

Indeed, if Mr. Clinton means it and he says the first order of the day is to protect jobs—and I read that in the media; we had a newspaper account here, recounting the tragedy that is befalling this community, he has an opportunity to do something. He has an opportunity to reach out and say, by gosh, what Senator MOYNIHAN is talking about is just seeing to it that the law is enforced, and that should be done. Why not?

That is leadership. That is real leadership. I tell you, if he were to make that call, to call some of the people in the House and Senate and step up and say, hey, that is right, not only the people of Cortland who work at that plant should be entitled to equal protection of the law, but all of our workers in all of the plants of America who have to compete are entitled to compete, not against a stacked deck, not against any illegal shenanigans that are taking place. They are entitled to compete on the merit of their operation and whether or not they can do the job.

Do you know, that is not what it is coming down to. It is coming down to whether or not a Member or Members can maintain a certain posture on the floor of the Senate, and maintain their position. It is a pretty sad day when, in order to get a fair hearing—and this has not been a fair hearing, make no mistake about it. I do not kid myself. But in order to get an opportunity to get legislation enacted that will help these people, one has to avail himself of this kind of technique, just in the hope of attempting to resolve this situation.

So, Mr. President, I want to share with you a letter that I received back on July 21 from the Smith Corona people:

> DEAR SENATOR: It is with great sadness that I advise you that the last U.S. plant of the last American consumer typewriter company, Smith Corona, is forced to phase out its manufacturing operations at its Cortland, New York facility.
>
> You are well aware of the long, lonely, expensive, and often bitter struggle to combat the predatory pricing, dumping, and circumvention practices of our Far East competitors. Even though our charges have been substantiated, and we have won in all of our main struggles, our Government has been politically unwilling to support these findings.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. How does he read that statement from the Smith Corona firm, that the Department of Commerce did not, for example, see the evasive purpose of that small component added by Brother after an antidumping duty was imposed?

Mr. D'AMATO. Correct.

Mr. MOYNIHAN. They said, no, in fact, this is a new machine, a new product, a new custom number classification?

Mr. D'AMATO. I answer my colleague by saying that is an example of the kind of lack of response that came from the administration.

Another example is the lack to pursue a case, because the country of origin involved no longer became the country of origin, because the manufacturing was sent from Japan at one time to South Korea, another time to Singapore, another time Singapore and Malaysia—the same components, the same parts, the same company, exact same content, same suppliers. I mean to tell you that my distinguished colleague from New York, Senator MOYNIHAN, has said before that they have enough to go after them now. But we have to put a direction in there, and they should have taken that case on and fought that case. When they got to the GATT, they should have said: What the heck, are you crazy? Either you did not break the law or you did. Of course, you broke the law.

I mean, what is going on? A thief is a thief. You cannot cloak him in this business suit and let him go out and break the laws and say he is a foreign competitor; you cannot do that. If it was an American businessman doing that, you better believe they would put him out. But he does not have that clout. He cannot get the Japanese ministry, he cannot get the big lobbyists, he cannot get the companies like IBM and others to intercede on his behalf, to say: Look the other way.

That is what Brother does. Imagine that. They call up, and they look the other way. Do not get involved. What do you mean, do not get involved? It would be something if somebody was eating your lunch illegally, then maybe they would want the law applied. No; do you want to know the power. Come on, we all understand it and we know it. We know it. We have seen it. They exercise it. What about this great country with great strength? Ha, ha, ha; it is absolutely shameful.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Does he have any reason, any theory for the nonresponse of the Department of Commerce, which the amendment simply says, now do entertain these questions? What would be—why would they not do what clearly they have not done?

Mr. D'AMATO. Without there being legislative language to clearly direct, or that clearly authorizes, they say they are without the authority to undertake this. And, clearly, there will be a question even after this legislation is passed as to the willingness of the Commerce people to initiate these actions.

The only thing I have to say is that I have been assured by the administration, by the White House, that they will pursue these matters.

Mr. MOYNIHAN. If the Senator will yield for a question, the Senator said he has been assured by the White House? Did I hear him correctly?

Mr. D'AMATO. By people who work for the White House—the administration.

Mr. MOYNIHAN. The Office of the President, the executive office of the President?

Mr. D'AMATO. Yes; that this legislation would not be violative of GATT, and that the Commerce people would initiate the proper undertakings.

Mr. MOYNIHAN. Would the Senator yield for a question?

Clearly, this legislation could not be violative of the GATT because it asks that the GATT rules be applied; is that not right?

Mr. D'AMATO. That is true. That is my reading and it is the reading of counsel. And that has always been the contention when anybody has come forth, as one of the reasons we wanted to keep this simple so we did not open the door up to charges that this would somehow get us into a trade war.

Let me say this. If it be a trade war because we asked that the laws of the land be adhered to, maybe we should have that war.

Mr. MOYNIHAN. Senator, let me ask you a question, may I? Do you yield for that?

Mr. D'AMATO. Surely.

Mr. MOYNIHAN. Ten hours ago we were discussing this. The antidumping provisions were central to the multilateral trade agreements that began after the Smoot-Hawley tariff under Cordell Hull because it was only by protecting—if you are going to let down your trade barriers you have to protect people against predatory practices. Otherwise the trade barriers will go up again.

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. This is a measure to keep open trade?

Mr. D'AMATO. To keep open trade. And if you want to keep open trade, then you have to see that the laws are adhered to. That is really what we come down to. I do not want to see us return to the know-nothing days, where we have the situation with people marching up and down and saying "no more."

When Smith Corona announced they were going to be moving their manufacturing aspects to Mexico, most people got it all mixed up with the free-trade agreement we are negotiating. Can you imagine? I can understand.

This is not. This says if you want to keep jobs from leaving, then see to it that your corporations here deal on a level playing field. Remember, Smith Corona, 42-, 48-percent English-owned company—they have to play by the rules. They are not an all-American company. They have to adhere to them. So should the Brother Co., the same thing.

All we are saying is, apply the law. Why should people be against the law being applied? Because they are worried that somehow this will disadvantage them? That if they follow the law that maybe they will not have those 600 or 700 jobs in Tennessee? Why should that be?

By the way, if Brother can compete by following the law, what do they have to worry about? What is it? Do they need an advantage of being able to dump? Is that what they need? Is that what they need to compete? It is obvious. What about it? They have their lobbyists running all over the place, they have their lobbyists calling other corporations, they have their lobbyists at the Commerce Department, they have their lobbyists grabbing this one and that one, telling them this and that.

Incredible. We are for sale. Is that what this is? We buy you today with a couple of these jobs that we stole from you and took from you. And then when we knock you out of business and there is nobody to compete, you have a monopoly. Then you will see what they will charge you. They will not be selling those typewriters at a loss. You better believe it.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. Is it not the case that the tariff schedule in law in the United States today is that of the Smoot-Hawley tariff of 1930?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. Is it not the case that it is by multilateral negotiation, agreements—recently the General Agreement on Tariffs and Trade—that we have brought those tariff barriers down?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. And they could go back up——

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. If it turns out we do not enforce the rules for fair trading as well as free trading?

Mr. D'AMATO. The Senator has stated the case for the reasons and necessity of us having to ensure that there is fairness and that we do not allow, whether it be the Japanese of anyone else, to break the law.

I made this point. I made this point at 2 in the morning. I made the point again at 4:30 in the morning. And I make it again at 10 minutes to 8 in the morning.

Mr. MOYNIHAN. No, it is 10 minute to 10.

Mr. D'AMATO. At 10 minutes to 10—I lost—I gained 2 hours. Ten minutes to 10.

There are some who have raised the consideration that this is a company whose headquarters resides in their State. Would they make that claim if that company was charged with such an obvious crime of polluting the waters in an adjoining State? Or in the State of Washington? Or in the State of California? Would they then say that that company should be immune from the laws and the application of the laws? I do not think so.

I think the public would be outraged. The public would say what are you talking about? How can you, Senator D'AMATO, defend a corporation that simply, because it employs people in your State, is permitted to desecrate the environment, and pour pollutants or toxics into the drinking water?

Believe me, not too many years ago in the history of man if we look at things, we looked and we saw the great and beautiful lakes up in central New York, Onondaga Lake and others. Because people did not have an understanding or respect, they said the jobs are first.

But the fact of the matter is we would not tolerate that, not one iota.

Then why is it we can say that a company that is headquartered within my State, therefore you would have immunity from the law, from the application of the law? And can break the law and can engage in predatory pricing practices in competition with other companies? Why is that? Why is that not as serious, when we see them destroying the job base and opportunities in this country? When we see those jobs leave?

You see, that is what this battle is about. This battle is not about one State in opposition to another, one State which is looking for an edge over another, not as far as this Senator is concerned.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Has the Senator made up his mind about the North American Free-Trade Agreement? Perhaps not.

Mr. D'AMATO. Perhaps not.

Mr. MOYNIHAN. Will the Senator yield for a further question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. If the United States Congress and the administration are not able to respond to as clear a case of predatory pricing as this, what are we to expect of a Mexican Free-Trade Agreement, with a country that has not got an independent judiciary?

Is the Senator aware that Freedom House, in its annual report on freedom around the world, says that apart only from Cuba, the most authoritarian State in the Western Hemisphere is Mexico? And I quote, "It has a judiciary that is corrupt and pliable and subjected to political influences."

Does that auger well for abiding by trade rules?

Mr. D'AMATO. I would say that we have a situation there where we are then saying to the fox, come in and take care of our chickens. That does not sound too good to this Senator.

But I would have to say that the things that distress me, in addition to what you point out and even more so, are we have such a clear case—such a clear case of violations of the law and we cannot get our administration and our Congress—you know the administration, I see we get a mindset. I can understand that. I am not excusing it but I understand a mindset.

But when the very people had who have been championing the cause of fairness, of equity, of addressing these situations over the years now, in the eleventh and a half-hour, when they can make an opportunity and save a company—and by the way I saw before, Mr. Thompson, the president of Smith Corona, chairman of the board—he flew in from Connecticut to be here and to answer any questions any Member might have. I think that is probably a far cry, because Members have not asked us questions.

Mr. MOYNIHAN. I wonder if I could ask the Senator this question. Would he yield?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Is he aware that Freedom House—in this annual compilation, Freedom In The World, says, of the judiciary of Mexico:

> Although it is nominally independent, the judicial system is weak, politicized, and riddled with corruption.

If we cannot enforce our own laws here at home, do we think the Mexicans will be enforcing them for us?

Mr. D'AMATO. No. I think we will be getting ourselves into a deeper quagmire because we are the way we are, and because we are so much concerned with the manner in which our—the countries that we deal with will feel; whether they will feel offended, whether they will then take action in the manner that will be injurious to some of our political and economic interests. Why, then who knows how many problems we will encounter?

I would be reluctant to entrust to a Congress and to an administration going into this situation—and I am a free trader, and I have supported free trade and I have supported the Canadian Free-Trade Agreement. But I have to tell you, it gives me great pause.

Some of the things that you have posed, Senator MOYNIHAN, really should stop one. One should take a look at this situation. And I intend to do that.

I initially raised a number of concerns that some of the Teamsters had raised to me about jobs, and about people driving for hours and hours, not being obligated to adhere to our rules, of being paid wages which were just a fraction of our workers' and being able to get into the transportation area. Not only overland trucking, but in terms of mechanics and service to our international flights, and so forth. There is a whole number of questions that have to be answered to this Senator's satisfaction.

Why are we appearing to deviate from our main concern, and that is the concern of seeing to it that the dumping laws are adhered to, the predatory pricing practices of selling below cost are dealt with in a manner that will ensure some form of competition? The fact is that this is not just 875 jobs. What we are talking about represents and epitomizes the failure of Government to take appropriate action where people have broken the law. It is that simple.

Do we want to be wed to that? Why, then we just go about doing business as usual.

When this Senator attempts to do—and I will—whatever I can to impede the business-as-usual philosophy, I do not want to be admonished. I say to my colleagues most respectfully, do not come to this Senator and say why are you doing that? I am doing it because people have a right and expect that the law is going to be there for them, during their hour of need.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly. Yes.

Mr. MOYNIHAN. It is now 10 o'clock in the morning. The Senator has been discussing this matter for almost 12 hours; sometime since our conference committee broke up.

Has anybody come to the floor asking to know more, learn more of this matter? I have been here. I do not recall anyone. Or has he had any inquiries that he could respond to? Maybe tell somebody what they might want to know?

Mr. D'AMATO. Other than the questions that have been raised by my colleague from New York and my colleague from California, there have been no inquiries made as to the issue. There has just been an almost stonewalling. I have to tell you, it is a bit frustrating.

But, you know, Rome was not built in a day. I guess if we have to continue to stay here throughout the day, why, then, we will do it. At some point in time, I guess I will not be able to. Then we will stop.

When I took to the floor last evening, I guess it was right after dinner, somewhere around quarter to 9 or quarter to 10. And we undertook this. I was hopeful that maybe initially after a short period of time we could get some people to respond. My colleague joined me, and he was eloquent in his presentation. He stated very simply, all we are doing is saying that the law should be obeyed. That is all. That is all we are doing.

(Mr. KOHL assumed the chair.)

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, in your opinion, do you believe that such egregious antidumping cases, if they were to apply to the steel industry, if they were to apply to the auto industry, if they were to apply to the textiles industry, if they were to apply to the agricultural industry, if they were to apply to electronics, telecommunications, cattle industry, mining or aerospace, Senator, if this were applying to some other major industry in this country as opposed to the one remaining typewriter manufacturer, do you think you, and the senior Senator from New York and I would have been up all night long debating this?

Mr. D'AMATO. No. I can tell you why. This is basically a small manufacturer. I do not believe they belong to a union. I cannot believe the manner in which we allowed this industry, so many of our industries to be ravaged. But if this was taking place at an auto plant, I want to tell you something, they would and they should and I would congratulate them for putting tens of thousands of workers and other people into the streets. I want to tell you something, they would be marching here. I want to tell you something, we would not be here doing you know what, which is nothing and which is shameful. We would not be here just marking time and saying I do not have any dog in this fight, and I do not want to get involved and that is what we are doing, everybody here, everybody here. Make no mistake about it.

There are some Members in this room, in this body right now, as you look around—I have to tell you, I do not have a closer camaraderie with some of my Democratic colleagues in particular than I do with those who are here at the present time, and they know what I am saying. I tell you something, we do have a dog in this fight and I do want you to get involved. And I do want you to go beyond the parochial business of whether or not this is not New York, New Jersey, Tennessee. This says that wherever there is a plant that is breaking the law in terms of dumping its product, predatory pricing, why, they will get the protection of the law.

That is all this says and, by the way, it does not force the Commerce Department to undertake action. It just makes it possible for them to do so. It deals with where there is a so-called loophole, to deal with the area of circumvention. My gosh, what is wrong with that? Why should we have to be up all night and all day pleading a case for justice? If you had an individual who was being disadvantaged by another individual who was breaking the law, would you not seek equity and relief? Why would you not do that? Is anybody here to say that this law is unconstitutional? Is there anybody to say that this law is illegal? Is anybody here to say this law is violative of the GATT provisions? What do they say?

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Is he aware that it is being said that this is a much too narrowly drawn provision; that it is the equivalent of a rifle shot of transition rule? Does he think that possibly could be the case, given the language which we have read verbatim already in the course of this debate?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. That is what is being said.

Mr. D'AMATO. You know something, there have been more things said, there have been more promises made. We heard why this amendment was pulled out from this garbage heap over here. By the way, this garbage heap represents the tax bill. Imagine, they are talking about economic development zones; they are talking about individual retirement accounts for enterprise; economic growth; research; experimental—experiment, research and experimentation; tax credits for low-income rental; targeted jobs tax credit.

Targeted jobs tax credit. Imagine. That is great. We can use some of the targeted jobs tax credit to give back the pay to the people who lose their job in Cortland who work at Smith Corona when the 875 are thrown out of work. We can get some of the job partnership money and send it up there and train them for money. I do not know where we will send them. Maybe Mexico. They can go there and work for $3 an hour and we can even get them a housing program there.

How do you like that? We can get maybe low-income housing and build it down on the border, right down on the border in Mexico way. So we will build it down there, and this way they have easy access and transportation over the border. So we can use some targeted tax credit money for low-income houses here. Look at this, we have the biggest pile of junk—I hear people tell me, the economy, the economy, jobs, jobs. Here you have a chance to save 875 jobs; 875 jobs.

Let me tell you, that produces another 600 plus jobs in non-manufacturing areas. Now we are talking about 1,400 jobs. It costs you $10,000 a year at least for job training programs for each one of these people. That is $14 million a year. So what do we do? We kick these poor people out. We kick them out. We kick them out. Let me tell you something, not the Commerce Department, not those crooks Brother—they are crooks; they are predators, illegal, eight out of eight cases, lost every one of them, dumping, predators. You know something? We know they are crooks. We know they are violating the law. We know they circumvent. But you know what? What is our excuse?d10

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. He raises that point. Our excuse is that the Commerce Department feels that it has not gotten the authority to review these matters in the only way that they are presented. Does this amendment do anything more than allow the Commerce Department to make a decision in an area to which it has been assigned responsibilities under statutes to make decisions in accordance with international agreements?

Mr. D'AMATO. The Senator is absolutely correct. What the legislation does is it says the Commerce Department can now and does have the authority or—and we believe that it has always had the authority. But some at the Commerce Department have said, no, it has to be explicitly written in this way so you can deal with these cases. So we have written it more explicitly to cover this kind of activity. We do not say you must go in on this case, but rather to cover this kind of activity.

Let me tell you, we have the biggest and most powerful—we have all these companies screaming and yelling, because you see they all do business with these sons of a gun because they do not give a damn. They do not care about the workers at the Smith Corona and they do not give two hoots and a holler of the workers at—where is that place?

Mr. MOYNIHAN. Zenith television put out of business by the Japanese.

Mr. D'AMATO. They did not care about whether there was predatory pricing going on over there, and they did not care that the ball bearings industry is no longer and they do not care that they cheat and violate the law and there are criminal charges in those ball bearing cases now.

The last little guy was trying to operate up in Albany, N.Y. What they have done to him is incredible. By the way, our people will not even buy. If you had an American manufacturer, they will not buy from them, and I will tell you why, because these guys will crush him. You go and deal with somebody else, they will say, all right, you are dealing with him so you will not get not only ball bearings but all the other things that come from the various Japanese concerns. They are buying it and selling it back to us and leasing it to us.

We are now fighting. Imagine the incredible thing. The reason we should not enforce the law, OK? The reason is because it might create a situation when they close down a plant that they have constructed to get around the law that employs 600 or 700 people at $6 an hour. That is the reason why we do not do this.

I just think that that is amazing. That is really, really amazing. The reason we do not do this because they bought us and that is a bribe. It is a way to get around it but then it is a way to buy political influence. You know, it is a different way. It is a subtle way. Sometimes it is not too subtle. It is not too subtle when the chairman of the board of a big company sends you a letter and says you should not do this. You feel like saying, why? Why should we not have the law enforced? If we were attempting to set up arbitrary barriers, raise tariffs—and by the way, this bill does not raise tariffs. What we try to do is say as the tariffs and the laws of protection come down, we want to make sure that everybody competes fairly. So you cannot come in and you cannot break the law of our land by selling below what it cost you to manufacture something.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Is it not the purpose of the antidumping laws to make it possible to lower and abolish tariffs?

Mr. D'AMATO. Absolutely.

Mr. MOYNIHAN. That leaves domestic producers protected under statute from illegal behavior by foreign producers.

Mr. D'AMATO. That is correct. Absolutely correct.

Mr. MOYNIHAN. Does the Senator have any inkling why this is not being approved?

Mr. D'AMATO. Yes. Senator MOYNIHAN asks a good question. Why did we find this dropped from the conference? Why are we having such opposition to this amendment? I want to tell you because we have not lost the capacity to stand up to an evil, to a wrong, to an unlawful act because of the immense inordinate economic power either this company or their associates have because we are afraid that they will pull the plug in Jersey. If you live in Jersey and you represent Jersey, you are going to be concerned because we are afraid of what retaliatory action they will take in maybe laying off people in another area.

I say to you if we do not at some point in time sooner rather than later stand up and do what is right, when will we do it? When will we stand? When will we fight for what is right? When they continue to get stronger and dominate more markets and open up more of these phony plants, as we lose the good jobs that produce this kind of economic activity? Is that what we are waiting for? Are we waiting to lose all of these jobs because for every 100 new manufacturing jobs, 64 new nonmanufacturing jobs are created?

When we take out these 800 jobs, a good portion of these manufacturing jobs go with it. Are we waiting to become the Third World nation of assembly plants? Is that what out destiny is to be? Are we going to look the other way as the laws are regularly violated so that we can have these assembly plants and maybe we will replace this facility in Cortland, NY, with an assembly plant that is paying people $6 an hour and that should suffice them and they should live and be well and keep quiet and do not bother me because if you do, I will yank that plant from you?

That is what is happening here, and it is a darn shame and it is wrong. Again, let me tell you something, we said when we offered this amendment that we were serious and we were purposeful. I said to my colleagues, if you do not deal with this matter, do not expect a tax bill. Now I can see that this bill has so many flaws in it that there are not too many people who are so strongly disposed to deal with the bill.

Mr. SEYMOUR. Will the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Senator, it is my understanding, my question has to deal with that point you just made relative to the support that the bill may or may not have. Is it true that the House much earlier today passed that bill with but six votes to spare? Is that true? Is it true that the House passed that bill earlier today with but 6 votes to spare out of 435?

Mr. D'AMATO. I believe it was six to seven votes, yes. It was a very narrow margin.

Mr. SEYMOUR. Further, Senator, is it also true that prior to that vote being taken, as a matter of fact, prior to the conference committee issuing their report, is it also true that you were able to meet with, confer with White House staff or people in charge of the administration relative to the acceptance of your amendment?

Mr. D'AMATO. Yes; we had. My staff and myself and others have conducted a number of meetings with the White House.

Mr. SEYMOUR. Therefore, is it true that the real stumbling block here, responsible for such an unconscionable act being permitted to go on, is Congress itself?

Mr. D'AMATO. Yes. Let me tell you something: I have not been easy on the administration. I was prepared to come here and to castigate them for intransigence and for lack of action in dealing with this problem. I have to tell you that at this point, you cannot blame the administration for this one. This one is clearly in the hands of the Congress of the United States.

But I have an idea. I get these little notes, and people tell me they are going to go out pretty soon, go home, and run a pro forma shop over there. They will wait for me not to be on the floor. I am going to ask a couple of my friends, when I eventually yield this floor, to take over. I am going to see if I have one friend. And not just that I have a friend, and the American people have a friend, and that the people in this tiny town have a friend. It is not just the people in this tiny town; it is the people in all of the towns of our country who have to think that we are going to stand up for them, that we are going to make a difference.

I hope that somebody will come down to the floor at some point in time and say: I want to stay here for the next 6, 7, 8, 9, 10 hours, and I am going to keep this place going. We are not going to let business go on as usual. We are not going to let the unanimous-consent agreement go through.

They are going to take care of their guy, and make this one a judge, and take care of their special bill, and take care of that special bill, and take care of this, and take care of the wetlands in Montana, or wild lands.

At some point in time, you have to stand up for something. I have to tell you something: I just hope—and we will see. Do I have any illusions? No. I probably will be talking to myself. I will do the best I can. Then it is up to each and every one's conscience to determine what, if anything, they are going to do.

Mr. SEYMOUR. If the Senator will yield for a question on that point?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Mr. President, if the Senator is looking for somebody to stand up with him to bring this House to a grinding halt, to correct an injustice having to do with jobs—whether those jobs are in the State of New York, that he and the senior Senator from New York have been fighting for, or whether they are jobs in my State of California—if the Senator wants to ask me if I will stand here as long as I can stand, the answer, if he should ask me that question, is: Absolutely yes.

I have been with him through the night, not doing the job the Senator has been doing, but I have been interjecting a question now and then. And every time I see him getting a little sleepy, I want to take the Senator up.

The people of New York have seen what he has done for them for the past going on 13 hours.

If the Senator were to ask me, if he wants to ask me to stand by his side, I guarantee you, I will not leave this seat until they haul me out.

Mr. D'AMATO. Mr. President, I thank my good friend. Get ready, because you and Senator PAT have been up all night with me, keeping me going, asking me those questions, keeping us on the beam, trying to direct this in the manner in which we can try to make the point.

I hope the American people begin to wake up a little bit. I hope they call their Congressmen and their Senators and they let them know. I hope they ask them: Why are you going home? Let me tell you something: They tell me in about an hour, 2 hours, the House is going to take off.

They should be calling them, and saying: Let me tell you something. Every one of you come home, march in the parades. You tell us we need jobs. There is a chance to protect jobs. Here is a chance to say that the law shall be enforced.

Call your Congressmen and Senators. Tell them why are you going home, and why is it that you are afraid to stand up to a Japanese company that is breaking the law, that has broken the law on eight separate occasions, that dumping orders have been found to be dumping, and predatory practices on eight different occasions; that whenever we go to get the orders, the tariff, the last time, a 60-percent tariff.

You know why they make a 60-percent tariff? For those who may not have been following this, understand what this is about. It costs $200 to produce a typewriter. How can Brother be selling the typewriter for $150? If it sells a typewriter for $150, it is taking a $50 loss. But if Smith Corona's cost is at or about the same—$200—it cannot sell its typewriter at $150. Why can Brother do it?

Simple: Because Brother sells typewriters in places that Smith Corona cannot get into, because Brother has a closed competitive situation, and no competition in Japan. Smith Corona cannot sell there. In Japan, Brother does not sell that typewriter for $150 if it cost them $200. It charges $300 or $350, and he more than offsets his losses.

He gets greater and greater market share. He eventually knocks everybody out, including Smith Corona, and then there is a monopoly. We play a game called Monopoly. One guy wins in that game. It is pretty simple. When he buys up all the property and the people land on him can no longer pay, he owns everything.

In a manner of speaking, that is exactly what is happening when we allow foreign corporations to skip out on the payment of their fair taxes, to evade the dumping laws, to take the jobs, to gain the economic wealth: They will own everything, just like Monopoly. When you play, when you land on the guy's property, you have to pay him rent.

So we have sold them the country. They are leasing it back to us, and we are paying rent. There we are, happy to say thank you to 600 screwdriver jobs.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Does the Senator think that this arrangement that he described as a very compelling one is going to be tolerated by the American people much longer? Does he think we are putting the 60-year experience of the Multilateral Trade Agreement, beginning with the election of President Roosevelt 60 years ago, and his unbroken efforts to expand world trade, lower trade barriers, does he think that is being put in jeopardy?

Mr. D'AMATO. There is no doubt in my mind that people are angry, hurt; they are frustrated. There is a good deal of discontent with the Government, as long as it results in our failure to recognize this problem, and the need for help, for relief.

People say what are you doing? They are tired of platitudes. They are sick and tired of platitudes. You know, they have seen, when they work hard—let me tell you. You see these airline people. What frustration, what hurt. They say: What is going on? How is it that foreign airlines, they protect their jobs? How is it when we go to do business, they keep their people when we acquire a route. Where is it? Are we in the real world? I want competition, but I want it to be fair. I want the laws to be obeyed. We all have to operate under the same system.

Yes. We are embarked upon a very dangerous era when we fail to see that the laws are properly enforced and vigorously enforced when they should be. Not that you go out and find some little nitpicking thing that it is 2 percent under the portion of content. But when we talk about clear action and the full weight of this Government, you come down on those violators, down on them, crush them, tell them: You cannot do that. You will pay a penalty. You will not be permitted to do business, if necessary, if they continue to violate.

That is what this is about. If you do this, then we have a chance to build the Government and trade based on confidence, on fairness, on respect. If we fail to do that, if we fail to do that, then I have to tell you, we will have earned just the righteous indignation and contempt and the scorn that our people feel for so many in the political process.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. There will come a time when people, the public, will have an alternative just simply to disliking the people in power. They will get new people, and those people may break with the tradition of open markets and international trade that we have established in the world.

Mr. D'AMATO. I could not agree with the Senator more. This is exactly the danger that we run. It is for those in the Wall Street Journal, who would take us to task and say what are we attempting to do: We are attempting to keep free markets and free competition in openness. We are attempting to do that by showing to the people, yes, the system works. But we will not allow the people to come in and violate the law.

If anybody took the time to analyze and go over the history, the litany, you would have to spend time with the lawyers so they can tell you the story. And I have to tell you, for the next 4 or 5 hours, I will ask them to get the briefs for those eight cases, and pick out the most poignant parts of those briefs. Because the lawyers are getting paid a lot of money; they are watching television. They are simply back in their offices. If we could get them to get those briefs and yellow markers, and underline the most poignant parts of those briefs so we can read the kinds of contemptible, arrogant, damnable, lawbreaking activities that they engaged in, I think it would be important for people to hear this. In this way, I think it would be good.

People think these are crimes. Let me tell you something: They do not mean anything. I will tell you what this crime does. This crime deprives these people of economic opportunity. This crime of illegal dumping is going to destroy communities. It is going to destroy homes. I have to tell you, it is not just Cortland, NY. It goes beyond Cortland, NY. It is the towns and hamlets and communities, from up in Buffalo, NY; to Cleveland; to the Midwest, Michigan.

I see my friend here. We have seen these things take place. We have seen the heartache. You know, we do not have a magic cure. There is not a silver bullet for every transgression. In some cases, we just were not able to compete. There was a better product. It was made better. It was made more economical. That is right. We could not win that job.

But that is not the case here with Smith Corona. And there are thousands of other jobs being lost, not because people cannot compete as efficiently or effectively, but because of those who are breaking the law, those who are circumventing.

I have to tell you something. I was strongly supportive, at least leaning strongly toward the free trade, the new agreement for North America, South America, and Mexico. I have to tell you, I think Senator MOYNIHAN has indicated if we go marching into that without seeing that certain corrections are made, we could find ourselves in deep trouble.

Mr. SEYMOUR. Senator, will you yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, as I have listened to you articulate throughout the evening, now through the early morning hours, and now moving on toward noon, I have not heard—and I would like to hear—your answer to this question.

If it is true that Japanese-owned Brother typewriters, portable typewriters and word processors, are dumping into the market here, depriving Smith Corona of its fair-traded market, why does not Smith Corona open up a plant in Taiwan and ship into Japan and compete with Brother in Japan? What prevents them from doing that?

Mr. D'AMATO. I would like you to be able to speak in some detail, and I am going to ask if at some point in time we could not get the chairman of the board of the Smith Corona, Mr. Thompson, who is here, to meet with you.

Mr. SEYMOUR. Senator, I would like to hear that answer, not only from you but from the chairman of the board.

Mr. D'AMATO. That is what I would like you to do. So if I could ask you the question, I do not know if I am allowed to do that, but you ask me a question and we could do it that way, and you could tell me some shocking examples.

But the fact of the matter is they would not sell one typewriter there if they gave it away. In fact, they would have to do this thing: If you buy the typewriter, we would give you a cash prize. Maybe they could establish a market. They have what you call a closed market. They have not even the opportunity to compete.

And if they went and attempted to break into this marketplace, they would find that they would lose their shirts, and after that everything that goes with it. So they do not have access. There is no free market.

Mr. SEYMOUR. How does the country of Japan keep them out?

Mr. D'AMATO. Oh, my gosh, by a variety of methods, which goes to, No. 1, the licensing agreement, the patents that have to be obtained to protect one from infringements, et cetera. And if you ever tried to get one of these and get something patented and bring it in, you will find before you got done they will have ripped off every single thing that had any intellectual property right.

If you could ever bring a case against them, the cost and the time involved in this—and by the way, by the time they agreed to give you your patent to get in there, for example, to undertake the work, you would have found that they would have taken anything of value that came from your product and had already put it into the market, into play. So you just would not have an opportunity to compete.

The deck is stacked against you. It is like coming into a casino to play poker when everyone there and all the players are working for the house.

Mr. SEYMOUR. Senator, it is correct then to state that you are not talking about depressing in any way free trade; what you have been talking about now for 13 or so hours is fair trade?

Mr. D'AMATO. That is right.

Mr. SEYMOUR. And only fair trade?

Mr. D'AMATO. That is all we want to see. We are not looking to close markets and say you cannot sell your product, Brother, here. You can manufacture anyplace you want. If you want to manufacture in Malaysia, go ahead and do it.

But you cannot, after you manufacture it, bring it here and sell it below what it costs you to manufacture. That you cannot do.

And they are doing it. And they are doing it to the extent that it was not just on one occasion or two occasions, but on eight separate occasions. It was proven that they violated the law. Eight.

And what happened in between the time that the cases and the rulings came down against them in the granting of a tariff, in one case a tariff of almost 60 percent, August 1990? Sixty percent. They said that it was a penalty to equalize what they were reducing their price by, so they would not have this unfair advantage.

Imagine cutting your prices. Now you cannot compete.

So here is Smith Corona, makes a great product, has improved their efficiency 700 percent in 12 years, does not want to leave but must because they face a situation where their competitor is able to reduce his price below what it cost him to manufacture here, but in Japan can sell it at whatever price because there is little if any competition and, therefore, he can offset his loss.

Smith Corona does not have that luxury. It cannot sell at a loss here. It does not have the Japanese market where it can compete.

And so what we are saying is, look at what is taking place. No. 2, it is illegal. And all we are asking for is the enforcement of the law.

Senator MOYNIHAN did not come down here to say let us raise tariffs, let us stop trade, we are against free trade. As a matter of fact, Senator MOYNIHAN points out very pointedly that if we want to keep those regressive reactionary forces which are galvanizing—and they are, and they are real—from taking hold and say, "Hey, wait a minute. No more. Forget it. We don't want you, any of you, in here. All U.S.A.," why then the opportunity to do it is just to see that these laws, antidumping laws, are enforced.

That is the way to do it. Do not come out and try to penalize anybody. We are not trying to penalize Brother. What we are trying to say is Brother you have to play by the rules.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. It is not the case that the world just now is going through a severe economic disruption, wild gyrations in the stock markets?

Mr. D'AMATO. The Senator is correct.

Mr. MOYNIHAN. Extraordinary exchange rate exchanges, such that the

European monetary union, the United Kingdom and Italy had to leave, turbulence everywhere, which suggests an underlying disequilibrium. Is this any time to tell the world that we are not going to insist that the GATT rules be observed for our own country as we observe them for others?

(Mr. LIEBERMAN assumed the Chair.)

Mr. D'AMATO. I think that your observation and your question is right on target. The fact of the matter is that this is the worst of times to be attempting to install confidence in the American people that we should take on new and more far-reaching treaty obligations, when, indeed, existing law is not being enforced. It flies in the face of rationality.

How do you try to convince the labor leader who is concerned about the preservation of real jobs for the people that he represents and the plant that he represents, and they are working hard and they are fighting and they are trying to make a difference and he says, "It doesn't make a difference. I can give up wage increases, I can give concessions, but I cannot compete against a company that is making a product and that is selling it at an abnormally low price, because they want to put us out of business, because they want more market share, because they want a monopoly."

And we have seen it take place in industry after industry, and it is taking place here. And here is the most vivid example. And it is not 875 jobs in Cortland that we speak about; it is about America, it is about beating us down, it is about lacking the capacity here in the Congress of United States and the Senate, it is about becoming entrapped with 30 pieces of silver.

This is incredible. They bought us with a handful of low-paying jobs so that we have Senators today who are more concerned with those low-paying jobs in their area. Well, today your area may be rich by 600 jobs, that many nickels and dimes, but I want to tell you something, what happens when that plant in the big town closes down and those jobs move to Mexico?

Now let me tell you, that is why we have to insist on fairness. That is why we have to insist on application of the law, not because——

Mr. SEYMOUR. Would you yield on that point for a question?

Mr. D'AMATO. Sure.

Mr. SEYMOUR. Senator, in your opinion, if this case were not Smith Corona typewriters, 875 jobs in the State of New York but, on the other hand, this were Chrysler automobile and Lee Iacocca was on the telephone——

Mr. D'AMATO. He should be on the telephone.

Mr. SEYMOUR. And the United Auto Workers were on the telephone, what do you think the difference would be right now?

Mr. D'AMATO. Well, I think you would have a mass of Senators that would come down to the floor and say we should have this passed, and they would not take a pass or a by. I think you would have them asking questions, and in asking questions, have their support for this kind of an undertaking.

Mr. SEYMOUR. Is it true, Senator, that since this is a little guy——

Mr. D'AMATO. Yes, it is a little guy.

Mr. SEYMOUR. And he is only located in New York, and maybe not union represented, and maybe it is only 875 jobs instead of tens of thousands, that this body, this U.S. Senate, just does not give a damn; is that the problem?

Mr. D'AMATO. I think that that, unfortunately, is a fair assessment. That they have no key and they do not feel the moral inclination to become involved.

And I would say to them, I understand. I understand if somebody does not want to step on the shoes or the shines of a colleague and a friend. So maybe we have to make it so that you have to take the tough step because there is no way out of the box. And if that is what we have to do, then that is what I am prepared to do.

Now I must tell you that I did not believe for 1 second that I would really have to stay up throughout the entire evening. I did not get to believe that until the majority leader left and went home at about 2:30. Then I got to believe that they were going to put me to the test, you see. So they have put Senator MOYNIHAN, my good friend and colleague and I to the test. And I might say the Senator from California.

Mr. MOYNIHAN. Yes.

Mr. D'AMATO. Now let me tell you, they do not know me. You want a war, we are going to have a war. I have just started. I have just started. You can sit down. Do not worry, I am not going to sit down. I have just begun. I have just begun.

Mr. FOWLER. Will the Senator yield for a question?

Mr. D'AMATO. Yes, I yield for a question.

Mr. FOWLER. Does the Senator have any sort of war plan, a 30-day war?

Mr. MOYNIHAN. Mr. President, point of order, the galleries are not in order.

The PRESIDING OFFICER. The Senator is correct. The galleries will come to order. The Senator from New York has the floor.

Mr. FOWLER. I yield back to my friend.

Mr. D'AMATO. Let me say to my good friend, we need a little humor at this time.

You have a great tie, by the way. Maybe you will loan it to me on my second shift.

Mr. FOWLER. I will be delighted to.

Mr. D'AMATO. But I say to my friend and my colleague that I hope it is not a 30-day war plan. But I think I have some people who might come down here and help, Senator PAT and myself. Senator PAT might have a few people who will feel that the cause is right and the cause is just.

And we will not agree to any unanimous-consent agreements, no matter how rational, no matter how wonderful the bill or the legislation or the purpose is. I am bound and determined to attempt to get it resolved.

Look, let me tell you something. There is probably nobody during this period of time who needs to be home doing some of the things they should be doing because, you know, you always wait until the last second. And I had a jam-packed schedule today and, I probably could have been home and made those three stops or four stops, that I think we have tentative stops in Rochester, Buffalo, Syracuse, and other areas. Now, we have one for tomorrow. I tell my people right now, blow it off. I know we have something including a big fundraiser in New York.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. I will not be there.

Mr. MOYNIHAN. Will the Senator yield for a question? The Senator is scheduled to be grand marshal of the Columbus Day parade on Monday, is he not?

Mr. D'AMATO. Yes. And you were going to march in that parade, I might also say; PATRICK MOYNIHAN in our Columbus Day parade.

Mr. MOYNIHAN. Not with a sash, but even so.

Will Senator expect he will make that or is he prepared to see that foregone as well? That is a big thing to ask.

Mr. D'AMATO. I have been invited as grand marshal of our Columbus Day parade in New York. It is a great festivity. But, if need be, the war will be continued as far and as long as it has to be, including through the weekend and Columbus Day.

I am going to need some help in this endeavor, there is no doubt in my mind. But I kept myself in pretty good shape so it will not be that hard. You know, it really should not happen. It should not come down to a test of some kind of will. It should not be pitting one against the other because that really has no place in here. It really comes down to a matter of doing the right thing because it is the right thing to do.

Again, if Brother were spewing pollution out, then I have to tell you, none of my colleagues here would say for 1 second because it was headquartered in their State that they would countenance this pollution. They just would not do it. They would say what are you talking about? I do not care if it is in your State or my State, you are not allowed to pollute. That is out.

Let me ask, what is the difference? What is the moral difference if they are headquartered in your State or my State and they go out and break the law in other areas and they disadvantage people in other areas who lose their jobs? What is the difference? Why should we acquiesce?

Look, you have to understand, the legislation the Senator and I have proposed does not say, Brother, you cannot compete. It does not say that at all. It just says the Commerce Department now will have the ability to follow and to pursue these cases—these cases of circumvention, these cases where orders have been laid against them, tariff assessments have been made because they have been adjudged and adjudicated to be in violation of the law. We want the law to be applied.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Does the amendment, it was originally section 8502 of the tax bill until it was dropped—does that make any reference to the Smith Corona firm?

Mr. D'AMATO. No, it does not.

Mr. MOYNIHAN. Any geographical reference to a part of New York?

Mr. D'AMATO. The amended bill does not.

Mr. MOYNIHAN. Is the bill simply a statement of what the powers of the Department of Commerce are in reviewing dumping cases?

Mr. D'AMATO. In essence, that is exactly what it is, really. It is a codification of the law that we believe the Commerce Department already has jurisdiction to invoke what they have been reluctant to invoke.

Mr. MOYNIHAN. May the Senator ask this question? If this amendment were adopted and the Commerce Department took up the matter a ninth time and ruled against the Smith Corona Co., would we not have served our purposes, simply to get that hearing?

Mr. D'AMATO. Oh, yes. I mean if we were at least given an opportunity to seek, with this legislation, if they win—they would not have to win—they could on the basis of the rate case proceed. If an investigation was launched by the Commerce Department, we are confident what the outcome would be. But that is all we are asking. We are asking that there at least be that investigation and that followthrough and, if they then find there has been a violation, the imposition of the penalty. Not a ducking out by finding a new methodology for bringing in a new distribution system from another island.

You could move to another island any time and bring another part in from another island, and claim sanctuary, say it is not the same part or it is not the same country.

Mr. MOYNIHAN. Would the Senator yield for one last question in that regard?

So I understand, all that is asked by this amendment is that the Commerce Department do what the Senator feels it has the right to do anyway, and under the General Agreement on Tariffs and Trade is their responsibility to do?

Mr. D'AMATO. Right. Many attorneys, very fine ones, have agreed—and disagreed—on this issue. But we believe that certainly this law will eliminate any ambiguity as to whether or not they have the authority. That is all we are trying to eliminate. We do not want to have this contention—yes, you have the authority; no, you do not, it is not in the law. We are putting it in law and now we would have the authority.

Mr. MOYNIHAN. If the Senator would yield for a question. Our purpose is to clarify the law so the Commerce Department knows what are the powers of review that they have?

Mr. D'AMATO. That is absolutely correct. That is what this legislation in essence accomplishes. That is what it does. It does not single out and say, Brother, we are going to get you.

But it does say, if people break the law, if you break the law in this pattern, the Commerce Department does have the authority to pursue the case to its logical conclusion.

Not to find that you broke the law but we are powerless to do anything. Is that not incredible? As lawyers, attorneys, former judges and prosecutors here in this Senate—and I want you to know I was a distinguished prosecutor, a prosecutor who sat on traffic cases in my early days.

Mr. MOYNIHAN. Now, now.

Mr. D'AMATO. What an incredible travesty, if you have a successful prosecution of a criminal who commits a dastardly deed, a bank robbery, and you prosecute him and you convict him. And then the judge affixes a sentence, 10 years in prison, and there is no sheriff or no prison. There is no enforcement mechanism. And he walks out.

That is exactly what is happening today. That is exactly what is happening. Eight times this guy has been caught sticking up the bank, literally sticking up the bank, Brother, eight times orders came down against him. The last in August, in August 1990 or 1991, almost a 60 percent tariff. That meant you were pretty bad guys, you were really dumping—60 percent. There is no method of enforcement.

Now, what we are doing is providing an opportunity, then, for the Commerce Department to bring about and follow that circumvention case to get that method of enforcement and not allow them to shift their operation one little iota, or put a 70-cent item into it and say it is a different product now. It is a different product. Ho-ho, you cannot take me away because I am different. I am different from what the order first said and that is what they are doing. They are trivializing the law, not only trivializing the law, they are shafting the American worker—maybe you understand that language, because it does not seem any other language is getting through around here. They are shafting the American worker—that is Brother.

Now, that language we got. Do we understand, the American worker is losing his job because Government refuses to follow through, even after the crook is caught? Whose fault is that? I will tell you that today, it is our fault. Today it is our fault because we, in the Congress, have an opportunity, at least to seek a solution. And we do not even have the courage to do that.

Why is that? It is because, I think, the moral fiber of the institution and of many of the institutions—and we are not immune—have been co-opted out. Because a great economic power has come to be so strong that, merely by suggesting that instead of building or expanding in one's area, or undertaking additional development in another area, we have the ability to thwart legislation that if you had no name assigned to it, no company assigned to it, did not mention Brother, did not mention Smith Corona—everyone on this floor would say yes. All you are saying is that the law should be enforced.

Mr. MOYNIHAN. But—would the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. But surely all the amendment does do is say the law will be enforced. It does not mention any firm, any geographical location?

Mr. D'AMATO. The Senator is quite correct. But fortunately or unfortunately, the fact is that the cause that gave rise to us championing and working and fighting for reform was the case, the last survival case, of Smith Corona.

So, consequently, people immediately began to look to see what would the application be of the law?

By the way, if you do not adopt this, then we should repeal the law. That is like having these laws on the books that say people could not do certain things. You could not walk a goat across the street—all kinds of old laws that go back. You know, they were ridiculous. They were for a different time. They were for sanitary reasons and what-not and we do not enforce them. Of course, most communities have cleaned up their penal and zoning codes and whatever, and they have taken them off.

If this law is not to be enforced, if it is really a sham, if it is really a make believe, then let us repeal it. I will offer an amendment before we are out on some bill, some vehicle—and, believe me, I will—to repeal this. Let us make it complete.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. If our executive branch is showing such indifference to laws which have been on our books since 1916, the antidumping statute, which was codified on an international basis in the Kennedy round, 1967, what recourse do you think we might find for American businesses dealing with the corrupt judiciary of Mexico in the aftermath of a North American Free-Trade Agreement?

Mr. D'AMATO. Katie, bar the door. We are going to go down and tell the amigos stop it? How are we going to get the law enforced? What is going to be down there?

I have to tell you something. Senator MOYNIHAN has raised an issue, and I have had many people—I have had union leaders raise concerns about that agreement. The more I see, become involved in the enforcement of a provision of law which just jumps out at you, just says, my gosh, do this—do this, enforce the law, and we are not willing or able to do it—then we should undertake new assignments? What is going to happen when they start bringing in products from all over the world, and they talk about content? And they fudge the content and it is not nearly the content that should be in Mexico?

What are we going to do, then? Who are we going to depend on? Who is going to be enforcing this? Are we, the American people and workers, are we supposed to believe that we have gone from nonenforcement of the law that suddenly we are going to be enlightened? I do not think so.

I have to tell you something. It is not good enough to blame just this administration, you see. Because, while they deserve I think to be taken to task for their failure to challenge the lack of enforcement—they should be so taken—now it is on us. Now it is on us.

You know what? I never believed it. Because when Senator MOYNIHAN and I were able to get a sign-off position from the administration and we got this legislation into the tax bill, and into the energy bill, and the administration signed off, I said—that is it. We have it.

Because I looked around here and I saw very few people—or with very few exceptions, people who believe in fairness and saw there was something eroding away at the doctrine of fairness as it related to trade, as it's related to free trade—not people. I do not know anybody here who is a protectionist, that you would name a protectionist. That is not the case.

But I tell you, when you fail to adhere to the law that is supposed to guarantee equality, you will sow the seeds that will bring protectionism out. And you will have a public that says you are not to be trusted. And you will have candidates who will run against you and say you took away our good jobs and gave us these baloney jobs, screwing the things together, and we lost $17-an-hour jobs. That is what we are going to have, and we are going to have the candidates of the know-nothings running against us. Stop the outsiders, stop the trade.

We begin to hear that drumbeat now. So wake up, friends. Wake up. Now is the time to try to do something and forget about the business of Smith Corona. Maybe we made a mistake talking about the one company that brought this to the fore.

Senator MOYNIHAN is right. This applies to all those companies who are violating the law. This will give to the Commerce Department the ability to step in and to make a difference.

You know, I just hope some of those labor leaders who scream and yell about jobs and fairness get on the horn and call some people up and get some of their Members going. I just hope and pray that we can get some people to do something as it relates to this issue. You do not have just me and Senator MOYNIHAN and my other colleague, Senator SEYMOUR from California, come down here, and a handful of House Members who have come over. The House Members have been more faithful in their attendance.

I thank them for coming on over to see what is happening. I guess they want to see what is going on in the Senate. It is not on closed TV over there. That is why Congressman KASICH from Ohio and Congressman BEN GILMAN came over.

When we hear people yelling and screaming about plants being lost, jobs being lost, "I am for the worker," "Vote for me because I am for jobs," "I am for creating more public spending," that is a lot of hokum, that is a lot of nonsense.

I gave you a program where we can save 875 jobs and you know what, if you save 875 manufacturing jobs, you save about 600 nonmanufacturing jobs. That is 1,400. By saving them, you also save $10,000 a year that you would have to pay for job training next year for those 1,400 people. So that is about $14 million. Here we have this big turkey of a bill. That bill is really a turkey. It has been put together by nobody—nobody knows who put this together. This is the nameless, headless bill and nobody knows who signed it, what happened and how the provision Senator PAT and I offered just disappeared. This staff guy said that guy did it, another one says they did it, old ROSTY, we always blame him, he has big shoulders, he takes the blame. ROSTENKOWSKI has been for this provision, debating it, against the administration for years. Do you really believe that suddenly we are going to use him—I guess nobody else has the courage to say why they were opposed to it, really and we are going to blame, ROSTY; he did it.

He did not do it. Here is the letter that he wrote saying he is looking forward to dealing with this issue. By the way, in this legislation that he suggested, it was far more comprehensive, far broader, went beyond what we suggested. All we say is enforce the law. If enforcing the law is so tough around here, then I do not think we deserve to be here. If you cannot give people a mechanism for enforcing the law to carry it out, then we should not be here. That is not what this body is supposed to be about.

Mr. MOYNIHAN. I wonder if the Senator will yield for a question in that regard?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Earlier today we were talking about the city of Cortland, and pointing out that there was the wick wire metal fashioning plant that was established there just after the Civil War and closed in 1954. Foreign competition closed that. That was the first manufacturing plant. Then came the typewriter system, and now foreign competition is going to close both and the whole cycle from the civil and industrial energy that came out of the Civil War, is it all to be lost to foreign competition?

Mr. D'AMATO. The tragedy, Senator PAT, is that it is not foreign competition. It is competition in most cases that comes from abroad and is engaged in these illegal practices.

That is the problem. Smith Corona has a very significant ownership, English ownership. I want to tell you, if they were engaged in those kinds of practices, I would not come to defend them. I would not come to defend them because you cannot do one for one and not for the other. To those people who say, "Oh, you are from New York, D'AMATO, we know, yes, I fight for my State; I fight for its fair share." You better believe it, and I will fight against a project that is pork, but if you are going to build a cheese factory on the Moon, you better believe, if you are going to do that, I want to see, just like Senator MOYNIHAN, that there is New York dairy product that is used for that cheese.

I do not think there is anything wrong with that. That is a distinction as it relates to what is right and what is fair. If you have a law, the law has to be applied to all. Look, let me tell you something. When I saw some of the major corporations in New York doing what I perceived—and the President joined with me in that and he took some heat, Senator MOYNIHAN joined with me on that and took some heat. We did not stop to take on the banks when we said you guys are collusive in keeping your interest rates up there. I did not play this petty partisan business of, oh, out of the seven of those credit card companies, three or four of them are in New York, or they are institutions that are headquartered in New York. You cannot have it both ways. Either it is fair and it is right and sometimes we are wrong in our judgments. But I want to tell you something, if you have the law, you must apply it. This is not a question of credit card interest rates and whether or not—I just make the point that I was not afraid and I did not say, oh, because those corporations are headquartered in New York—and let me tell you, I did not like getting all of those faxes, thousands of them that the Citicorp people sent to me, thousands and thousands—they have so many employees—telling me about the dastardly deeds. I did not like that. I did not enjoy that. You have to stand up for what is right.

Look, I do not know how many times I have to say my mother usually got through to me. Maybe not the first time, the second time or the third time, but maybe after 12 or 14 hours, and so I am going to give my colleagues the benefit of the doubt. If it took mom 12 or 14 hours to get through, maybe it will take me that time to get through to my colleagues.

This law does not bring about one restriction, not one on Brother. Not one. We do not make one requirement on Brother. We do not tell them what product they can sell or cannot sell. We do not say to them you are barred from any legal, lawful activity that anybody else can engage in.

What we say is that if you violate the law on dumping, that we now empower with certainty the Commerce people to pursue that matter, notwithstanding that you may try to change a source or portion of the source or the content with some kind of minuscule move that does not really affect the origin of the product, the ownership of the product, the control of the product or the illegal conduct. We are trying to stop illegal dumping and illegal conduct so that we can give the workers of America a chance; the little guy.

My colleague, Senator SEYMOUR, I think has said it right. We have to admit it. The little guy is going to get run over like a bulldozer here. There is no doubt in my mind. But you run over him like a bulldozer because he does not have a big union representing him and because he does not come from a big corporation that sticks in the minds with great clout and can organize thousands of people to come and to put pressure. Why should they have to put pressure? Why should they seek pressure for doing what is right, for having the law enforced?

Look, the Commerce Department says they need this. We went round and round and round, and they stuck to it. They said if you want us to go after these kinds of actions, we need this authorization from the Congress.

If you feel that people should not be permitted to violate the law and be rewarded for it, all we are saying is state that.

Mr. SEYMOUR. Will the Senator yield on that point?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes; I yield for a question.

Mr. SEYMOUR. Senator, did I hear you say that this amendment that you have been fighting so bravely for is not just for Smith Corona and the State of New York, but if the Department of Commerce could equally apply this amendment, should this body adopt it, should Congress pass it, the Department of Commerce could equally apply it to every little guy in every other State?

Mr. D'AMATO. Oh, yes.

Mr. SEYMOUR. Is that right?

Mr. D'AMATO. That is right. Wherever you had, whether it was a ball bearing manufacturer, or whether it was a computer chip manufacturer or distributor of electronics parts, wherever they had a situation where they faced a predatory pricing situation and where a foreign company was dumping and breaking the law, or domestic company breaking the law, they would have the ability to seek recourse under the law.

Mr. SEYMOUR. Therefore, Senator, is it fair to state that your amendment, if this Congress were to adopt your amendment, that all the little guys throughout America, all my little guys in California and all the little guys of every one of the 100 Members of this body would receive equal protection under that? Is that what this is about?

Mr. D'AMATO. Absolutely, this is equal protection. This is equal protection for all who have suffered. And I look around the floor. Tell me, is there a Senator who has not seen in his State or heard or been petitioned by an industry or by a company who have not been ravaged by the excesses of the kind of conduct that made it impossible for them to compete against, not because the company was a superior manufacturer, but because they violated the laws?

You know, it is important for people to know, if you think that it is not a violation to sell products at the lowest price possible, you are wrong, if the product is being sold below what it costs to manufacture. That is a violation of the law. So we should get it in our heads. If you allow that, then what takes place is eventually they drive us out of business and they become a monopoly.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes; certainly.

Mr. MOYNIHAN. The law Senator D'AMATO is describing was enacted by this Congress in 1916; was it not?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. The antidumping law.

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Mr. D'AMATO. Sure.

Mr. MOYNIHAN. Do you not think we might have learned how to enforce it over what is three-quarters of a century?

Mr. D'AMATO. I hope we would have some kind of underade somehow has nullified common sense, and I think there were areas and opportunities when we wanted to give certain advantages to foreign countries or the producers that came from foreign countries. They produced cheap products. It was not bad for us. They filled a very real need and gave them an opportunity at economic independence.

So we developed slowly a pattern which was built into a tradition to look the other way. We then began to run by rote and routine an operation at the Commerce Department that did not distinguish because this is the way it has been done. It is pretty hard to teach an old dog new tricks after it has, for the past 40 years, embarked upon this course of activity.

So this is not something that is new. This is something that we have lived with, and part of the myth of the great producer that we cannot produce and keep up with is now they can hold in the American psyche. Let me tell you something. We can out produce the Japanese. We can, in terms of efficiency, effectiveness, and product. We can do it and we do it on a daily basis. There are companies throughout the length and breadth of this land who do it. But if you can produce a superior product at a lower cost and you face predatory pricing where they cut their costs below yours and sell below your costs and below their own cost because they can sell to their own markets, you lose.

If, indeed, we are competitive and they do not pay their fair taxes, that is an issue that we should all hang our heads in shame about. I know the Senator from North Carolina came to the floor and I was taken with his admonitions. We find our foreign corporations are actually beating us in $20 to $30 billion a year. What do you think happens to that $20 or $30 billion a year they are not paying?

That is a pretty heavy obstacle to try to deal with when they are not paying that kind of tax. It is incredible. They divert those moneys into research, to equipment, and to lower prices. Now you try to compete. It is pretty tough. That is what has been going on.

We are here to address something which is not theoretical, which it may be difficult to prove in individual cases, which takes much in the way of additional expertise, et cetera. That is what the IRS told me. But, indeed, we are here to address something that we cannot see that we do know about, that we do hear about; that is the systematic violation of the law.

The Smith Corona case is a perfect case because it has been substantiated repeatedly, not once, not twice, not three times, but eight times, how they have systematically broken the law.

I have to say to you that it is about time we had the courage to stand up to the little guy, as Senator SEYMOUR has stated. It is about time that we have the courage to say we are not going to let you bully us any more directly or by implication. But you do not exercise such a colossus, such a power that you have taken away our soul and our dignity, and that we are afraid to stand up for what is right.

I have to tell you, as time goes on, I have become a little more cynical. I do not see a response that I had hoped I would see from either my colleagues, but to be quite candid with you, from the forces of labor and the forces that generally recognize the little guy.

But do you know what? We will endure and we will persist because the rightness of what we are attempting to do is so obvious that even the most cynical of those who made representations of reporting factual situations will have to understand the rightness of what Senator MOYNIHAN, myself, Senator SEYMOUR, and others have been talking about and have been working for.

Mr. MOYNIHAN. Would the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Taking to heart, as one may do from his remarks, does he see much evidence in this body, at this time, of support for the principles that he has spoken of with such vigor, accuracy, and passion for these last many hours? Does he see about him in the Chamber much evidence of response?

Mr. D'AMATO. None. It is none, no evidence of response. I might add, it is disheartening.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, the time is now 11:20 a.m. I would imagine whatever the viewing audience there is out there might be wondering why this Chamber is so empty. I would like to ask you this question, Senator: Do you think it might help if you were to make an appeal to those watching and observing these proceedings, whether they be Members in their offices, or just Americans across this country, to call their Member of the House or their Senator and tell them to get with it?

(Mr. KERREY assumed the chair.)

Mr. D'AMATO. I think, look, Senator SEYMOUR, as you know, and my colleagues here, we are political creatures. When people call, when people raise their voices to make inquiries, we listen. It has an impact. So if the little guy, whether he be from Cortland or any other area of the country, feels this way, I wish they would call.

I wish they would say to their Congressmen, to their Senators; hey, you know what is going on? Let me ask you something. Will this bill cost us jobs? Will this bill cost us taxes? Will this bill cost the American people money? What does the bill and the legislation that Senator MOYNIHAN and Senator D'AMATO want do? Does it hurt our State? Or does it help our State?

Do you know something? In every single one of those issues, even if you are looking out the window to see the Empire State Building and wondering who owns it, I have to tell you, you come down with one clear, convincing conclusion. The bill helps. It says that the law should be pursued. It says basically that the Commerce Department should enforce the law. It does not say it enforces it only against Brother, and only for Smith Corona.

It is important for Smith Corona at this point in time, because, listen, they are going. They are going to pack up. They are going to leave. We have a chance to make a statement. We have a chance to say, let me tell you, no more. We are going to save those shops.

We have a corporate executive who has pledged, he has said to me—and I have committed to Senator MOYNIHAN, let me tell you—you pass that bill and if, indeed, there is enforcement, they undertake enforcement, I will bring it to my board and we will make a change and we will keep those jobs. Hell of a start.

Then let us stand up for the rest of America. This is not a Republican platform. It is not a Democratic platform. I have heard everybody espouse: I am for the working person. If you are for the working person, why do you not want the law enforcement?

That is what it is about, simply seeing to it that the law is enforced. And yes, unfortunately, the case of Brother comes up. Brother is headquartered in a State. It does not have to be headquartered in a particular State, but it is headquartered in a wonderful State. I used to live in that State. My brother was born in that State. My uncle Alfonse lives in Nutley, NJ. My aunt lives there.

But let me tell you something. The laws are made even for corporations that are headquartered in New Jersey; they are made for corporations that are headquartered in New York, and there should be no difference. If we say that there is power in New Jersey and their Representatives, and damn the law, then I want to tell you something. Let us get it out here. If we say because they have one of these little screw plants in Tennessee, and therefore we will not have enforcement of the law, equal enforcement, then let us get it out here.

It is not a question of jobs in New York as opposed to jobs in one State or the other. This is a question of the law being enforced. It is that simple, basic 101 philosophy, ethics.

My gosh. Want to make it a power fight, then we will make it that. That is why the Senator has said, OK, you do not want to deal with us reasonably, you threw out this provision without telling us, without telling us this provision was thrown out, and everybody was blamed. Some poor staffer who I read out, I apologize. Listen, I do not know. You were probably awake when I said all those nasty things about him. Where is that book with his name in it? I want to apologize to that staffer. I eat crow.

Robert Kyle, I said Robert Kyle. He does not care about the people who are going to lose their jobs. I was wrong, I apologize. That is nonsense. The staff did not go around here doing things, you know, and I want him to know that. I regret my intemperate remarks with respect to Robert Kyle and I hope he accepts my apology.

Mr. BENTSEN. Will the Senator let me ask a question without losing his right to the floor?

Mr. D'AMATO. Certainly.

Mr. BENTSEN. Let me also say that I did my best to keep your provision in and I pushed for your provision, worked at it. Robert Kyle was also working in my direction, to try to see if we could get a compromise to satisfy you, the Smith Corona people, the administration, and that we pushed and pushed as hard as we could. It was not accepted on the other side.

Mr. D'AMATO. I thank the chairman for his efforts. That is why I thought that I owed Robert Kyle an apology. I did make that apology prior to the Senator arriving on the floor.

Mr. BENTSEN. I am sorry I missed hearing it. I understand it was a great rendition.

Mr. D'AMATO. Yes. A little bit. I do not know if it was a great rendition, maybe kind of comical.

Mr. BENTSEN. Maybe I could get a tape. What time was it?

Mr. D'AMATO. I do not know. I have lost a sense of the time business. It was, must have been, about 4:30 that I did that, something about that. Senator PAT helped. I want you to know that. He kept the beat.

Mr. MOYNIHAN. The beat goes on.

Mr. D'AMATO. We did. The beat goes on.

Mr. MOYNIHAN. Would the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Does he not agree that it is important that the distinguished, able, relentless chairman of the Committee on Finance did try and he did succeed with the Senate. But the matter was turned down in the other body, and the other body has now adjourned. We await another Congress in that regard, I fear. But I think the Senator does, I am sure, agree that everything that could be done on this side was done.

Mr. D'AMATO. I feel much more gratified that the distinguished Senator from Texas, the Chairman of the Finance Committee, has come to the floor to tell us that he has pursued every avenue possible as it related to having inclusion of this provision in the bill.

Having said that, I would also recognize, and have been given to understand, that the House has adjourned temporarily, until Thursday. I do not know if that is pro forma, if they are going to come back Thursday. But given the previous history of the House, and particularly the Ways and Means Committee and leadership of the Ways and Means Committee, Senator ROSTENKOWSKI, I found it very unusual to say the least that with this provision, it is hard to explain how he would find objection to this provision.

Mr. BENTSEN. Will the Senator yield for a moment?

Mr. D'AMATO. I yield for a question.

Mr. BENTSEN. I am not trying to take the position on the floor in any way. As chairman of that committee, he has other members, and I do not know where the objection was coming from on that side, except I know it was from that side. We were pushing very hard to get the provision in.

Mr. D'AMATO. I thank the Senator. I thank my colleague for his explanation.

I do know that the Senator's characterization as the opposition coming from one particular Member, I do know, who is very vehement in his opposition from the other side. So I substantiate certainly what you have indicated.

I find it hard to understand how the minority Member, and not one with great seniority, would have had that ability. But obviously, it took place in bringing about the situation where the conferees went forward.

Congressman SUNDQUIST—as a matter of fact, Congressman SUNDQUIST put out a press release saying that this matter had been killed and it appeared in one of his local newspapers on Sunday, I believe. So I am not telling stories out of school here.

I tell you something. When I see the fellow pretty far down on the totem pole being able to get this provision knocked out because he is worried about his 30 pieces of silver operation, which could still continue. Brother, competitive and operative, will still be able to continue. If they are running a plant like somebody else, they will continue the plant.

What we are saying, the lawsuit is being enforced.

But I am at the point in time when maybe we did not get the message clear enough and loud enough for the House.

Now there is legislation that they want, and they are ready to send it over here and waft the waves, all these little cats and dogs that they hold until the last minute. And there are some pretty big things coming on over here. I am going to ask my staff to try to make a list of some of those things that they want. They want the housing bill; they want the GSE bill; they want the reclamation bill; they want a whole host of legislation.

And do you want to know something? I have to tell you something: I do not intend to grant the unanimous consent or take up consideration of any of those things. And I am going to hold the floor as long as I can, and I am not weakening in my determination. Now, maybe something else will, at a particular point in time. I have been here——

Mr. MOYNIHAN. Mr. President, point of order. The galleries are not in order. I request the Sergeant at Arms see that they be.

The PRESIDING OFFICER. The galleries will remain in order.

Mr. D'AMATO. Mr. President, I am going to continue this. And I have to tell you something. I want to know why, why it is that my colleagues in the House are going to take this kind of thing. I will have to tell you something. This bill over here is never going to become law; that is, the tax bill.

It only passed, PAT, by what? How many votes? Six or seven votes?

Mr. MOYNIHAN. Six.

Mr. D'AMATO. Six votes, seven votes. That is all this bill passed by. And there are some provisions in there that everybody is talking about, whether they will come up, whether they are taxes, whether they are not taxes, whether the President is going to sign it, or whether he is not going to sign it.

So let me tell you, the chances are that this bill is never going to see the light of day.

So I want a bill that is going to help these little people, the little guy or workers, the men and women who make America go, who are the unsung heroes, who are good and decent people, who do not come and demonstrate, who do not come out and parade, who do not ring the telephones off our hooks, and who pay their taxes.

And now, through no fault of their own—and they work hard. They have a great work ethic and they have a great company. They have a board chairman, and he says: By gosh, if you see that the laws apply, I will keep the company here; I will not move it to Mexico. I will go back to my board of directors.

What a nice message to send.

Now, let me tell you something. Nobody is God. I cannot make whatever is not going to be become. But I can certainly help to work to change a course of action and a change in attitude and perception.

I have to tell you something: I know the people over in the House; I know lots of them. I grew up with some of them. I grew up with NORMAN LENT. He was a boyhood friend. RAY MCGRATH and I go back many, many years together. And I know others of the Representatives, good and decent people, Republicans and Democrats.

I have to tell you something. If you gave them a chance to pass a freestanding bill on this subject, they would pass it overwhelmingly and send it here to the Senate so that we can vote on it and act on it and adopt it. And it does not have to be Smith Corona, whatever.

Now, what it is, it is to protect the American workers' rights, and see that the law is applied against foreign corporations the way it should be so that we do not have this dumping. That is all we want.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Not for the first time, obviously—but in the spirit of Mama, as you say—repeating things until they are finally heard—what we are trying to do with this amendment is to see that the rules of an open trading system, an open world trading system, are abided by, else that trading system itself would be put in jeopardy.

Is that not your view?

Mr. D'AMATO. Senator PAT could not be more correct. If we turn our back on the enforcement of the law now, I want to tell you something, you are going to have people who finally say: The heck with them; boycott them; keep them out there; put the tariffs on them.

And there is that drumbeat.

Mr. MOYNIHAN. Will the Senator yield for a question? I know he knows the answer, but I would like it in the RECORD.

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. What are the existing tariffs in the United States today?

Mr. D'AMATO. When does it go back to; the tariff of 1913?

Mr. MOYNIHAN. Smoot-Hawley.

Mr. D'AMATO. Smoot-Hawley. You are talking about death and destruction.

Mr. MOYNIHAN. Are they not the rates that are in the statute and everything else last negotiated down by agreement?

Mr. D'AMATO. That is correct.

Mr. MOYNIHAN. And if those agreements disappear, what do the rates become?

Mr. D'AMATO. The rates become confiscatory. We then set up a barrier where nobody will trade. We then have the protectionists reign supreme. What we are suggesting is let us at least enforce the law.

Can we stand up to the lobbyists? That is really something. Can we stand up to the lobbyists? And you know what? We know them all. They are good guys. Think of it: Power. Can you stand up to the company that exercises tremendous power and influence? And we have them.

And what is this whole thing rocking around about? This is not about two States or three States. This is about seeing to it that there is fairness, fairness that cuts across the board in all 50 States and the District of Columbia to see to it that we do not have unfair predatory practices that are applied in the business community against American companies.

Now, that is what we are trying to do. We want the law to be obeyed.

Now, I find it inconceivable that the House, which is the body that speaks to the people and is closest to the people—and I have watched the House, on occasion after occasion, stand up and take on people and take on the administration and take on themselves and their colleagues for not doing enough to deal with the economic recession.

Let me tell you something. See all these pages? Wonderful stuff. Economic development in distressed areas.

Well, the first area to which you can come and we can apply for an economic development grant in a special zone would be Cortland, NY.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. The proposal in the House of Representatives is to have 25 urban enterprise zones and 25 rural. When the last factory in Cortland closes down, would that qualify for an urban or a rural enterprise zone in his view?

Mr. D'AMATO. I would say——

Mr. MOYNIHAN. Because there are pastures; you can see the hillside and you can see the cows, as you know.

Mr. D'AMATO. That will put us right in the middle of a real quandary, and we will fall, this area will fall in no-man's zone.

Mr. MOYNIHAN. We are not far from Salamanca, which could make it Indian.

Mr. D'AMATO. We could have it adopted, and we could use that building for a gambling hall.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. I would like to ask this question. It is a large question, but it comes in after some more than 12 hours of extended debate on this matter.

And it is: How could something so simple as a request, an effort to clarify the ability of the Commerce Department to enforce the antidumping laws of the United States, how could something that simple become controversial in the other body, if it was just a case that there were those who do not want to see the antidumping laws enforced?

And if there are those who do not want to see the antidumping laws enforced, are they not putting in jeopardy a trading system that the United States has painfully put together with great courage and energy, beginning in the administration of Franklin D. Roosevelt 60 years ago, Cordell Hull's typical trade agreements, without which—the world plunged into the Second World War anyway, but we came out of it with a standard of expectation that has put the idea of war between the nations of Europe, for example, out of the vocabulary of modern political discussion. We do not have words to describe a war on the Western front.

How did that come about? It came about through trade legislation; Monet, who learned so much from the American experiences; the European union; and the GATT.

As the Senator knows, we planned in the League system to have an International Trade Organization that would correspond with the International Labor Organization. It was to be located in Havana. It did not happen because of the Senate Finance Committee, if the truth were known.

But under Secretary Marshall, we move forward. We began the discusssions—which began in 1946 in Geneva, in the old League of Nations, the Palais des Nations—we began the discussions that eventually produced a General Agreement on Tariffs and Trade. That was designed to let us all come back down from the horrendous tariff barriers of the 1970's: The dumping, the predatory practices, the barriers going up and being undermined. And steadily we have done that. Our tariffs today are at an almost—they practically do not exist for most products.

But we have insisted on one thing. And if the Senator will agree, I had something—I was involved in the Kennedy round, and the negotiations of the long-term cotton-textile agreement, which addressed the first phase of postwar market disruption. It said: Slow down; easy does it.

This was the condition of getting the Trade Expansion Act of 1962, which led to the Kennedy round. And the Kennedy round had—the tariff decreases continued but, as the Senator will know and will recall, the big rule changes were the dumping rules of the Kennedy round.

And my question is: Does the Senator not think that these rules are being put in jeopardy if the United States, who sponsored them, will not itself enforce them; and are there persons in the other body who would like to see them not enforced? Is that possible?

Mr. D'AMATO. First of all, let me say the Senator is actually right that we do jeopardize free trade principles. And I think we are going to bring back an attitude of vindictiveness, of, bring back the tariffs, retaliation, and the trade wars. And we are going through a pretty tough time right now with some of the difficulty in dealing with the Europeans. It does not make much sense.

I do not know why other Members—I certainly do not believe it is a majority of other Members in the House—would be opposed. I think if you poled them, given the turnout of Members from the other side during the evening—we must have been visited by at least 20-plus.

Mr. MOYNIHAN. At least.

Mr. D'AMATO. At least 20-plus Members of the Congress came here and were supportive—were supportive—of our efforts. And so I do not believe that the House is in opposition to this legislation.

I think they want the rule of law. I know they do. I have heard. I was alluding to that before. I have heard Members on the House floor, time and time again, talk about protection of jobs. We are not talking about the protection of jobs here, saying we are going to pay subsidies, et cetera, we are going to have tariffs imposed. We are not asking for tariffs imposed. We are not asking for subsidies to be invoked here.

We are saying, though, that a company that competes here must follow the laws here. That is all we are saying. That is all this bill does. Nothing more. Nothing less.

Mr. MOYNIHAN. Is that a large proposition, that the law should be abided by?

Mr. D'AMATO. It is the most elementary proposition that one could think about or speak to. It is one that no one can take issue with. It is one that at times those in power, it is sometimes suggested, maybe sometimes they think they are above the law. And they get the people pretty angry when they feel that is taking place.

But to suggest that a Japanese company can break the law with impunity and will be shielded from the law's application because we fail and/or refuse to just restate the proposition that the law applies in these instances, as it relates to dumping—that is all. In this way we make it clear that the Commerce Department must enforce the law. That is all. The Commerce Department says they need that.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. I yield for a question.

Mr. SEYMOUR. My question has to deal with why we need this specific amendment.

In order for you to clarify that for me, I would ask you to expand or expound upon your statement of July 30, 1992, when you introduced this amendment to the energy bill. I will just read a quick paragraph. Then I would like you to expound or expand upon it, as to why do we need this? Why does the Department of Commerce not enforce existing law?

The paragraph reads:

> The 1988 trade bill created a new anticircumvention law to prohibit foreign manufacturers from avoiding duties by setting up U.S. plants. But foreign countries found a loophole that restricted duties only to the original country of import, not to third party countries from which parts can be imported.

Would you expand upon that a little bit? I think that will explain, at least for me, why we need this.

Mr. D'AMATO. OK. Let me tell you what took place in this case.

The company of origin of production was Japan. In one of the dumping cases, Smith Corona people took this matter to the Department and it was ascertained that, indeed, after checking the facts, the statistics, the content, that this was a product that was being brought in and that was being sold after being put together and was being sold at below cost. It was a clear violation.

A tariff was imposed. Before that tariff could be imposed, the same company, Brother, same product, same machine, same distributors, same suppliers changed its point of origin and then brought its production facility to South Korea.

I use this as an example because this happened in different cases. Now the order was no longer applicable. And, notwithstanding that, they continued to dump their product here. They could not impose the tariff, the fine, because the order was against the country of origin, Japan. It was no longer Japan.

They brought a second case. The same thing happened. This time they shifted their manufacturing, same product, same vendors, same company, same point of destination, same content, and they operated through subsidiaries, operating one in Singapore, one in Malaysia. The countries are irrelevant. I mentioned Singapore. It does not have to be Singapore. Malaysia—it does not have to be Malaysia. I believe it happens to be both in that instance.

By the time the order comes down, they say it is not in Korea.

Now the third one. Another order sought, 60 percent tariff they are going to have put on them. And this time they say wait a minute. Notwithstanding that, it comes from the two sources, it is now being put together in this phantom plant in Tennessee.

Look there is the case, again, that in between the order and the final tariff being affixed, and the penalty, as Senator MOYNIHAN brought out before, they made a 70-cent change in the order.

Mr. MOYNIHAN. It was 70 cents.

Mr. D'AMATO. It was 70 cents. And then they said this is not the same item. This is a different item.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes, certainly.

Mr. MOYNIHAN. Is he aware that the Commerce Department solemnly judged that this same typewriter with 70 cents worth of a chip in it, came under a different tariff category number? Automobile is one category, elephant is another. There is a category for everything, they have numbers. But those numbers are meant to really distinguish between really different things.

Does he know—I am sure he does but I would like him to tell the Chamber—that they absolutely said this is not a typewriter anymore? It is something else.

Mr. D'AMATO. This is one of the most preposterous examples of how we have seen a lack of enforcement and manipulation by the bureaucrats, coupled with the lobbyists. And I have to say that.

And I do not disparage lobbyists. Who knows what lies in our future?

So I do not disparage lobbyists. But I have to tell you, when and if they can get a distortion or a perversion of the law, shame on us. Shame on the institution. Shame on the administration.

And that is what this one little group of turkeys have been doing. Brother—there is nobody of great note. You are not talking about this great colossus. But the anger the people should feel, not only in this case but in all of those cases where there are good and decent people, and hard-working management, management that tries, management that fights, management that makes a difference and gets what?

I am wondering if my colleagues here know that the motion to adjourn lost 97 to 250?

I thank my colleagues. I thank my colleagues.

I thank my Republican and my Democratic colleagues.

Mr. SEYMOUR. Senator, therefore, if you would yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. With your announcement of that vote, then there is hope, is there not?

Mr. D'AMATO. There is hope. The fat lady has not sung.

Mr. SEYMOUR. We can do something about this, can we not?

Mr. D'AMATO. Yes. The fat lady has not sung. We have a chance here. As Yogi says, "It ain't over until it is over."

He also said, "When you get to the fork, take the turn." I do not know—he says a few other things.

There is hope. There is hope. I do not think that hope is in this tax bill. But I think there is maybe hope to get us a bill that deals with this legislation fairly, that will give us a chance, really, to correct an injustice that has really gone on for too long.

Do you know the people who are losing their jobs first? Who works in these factories? The people who were so happy to get there, who can support a family—you are talking about working families. That is what we are talking about. We are talking about the bedrock of America. We talk about the disappearance of the middle class and this was the group that we could count on in our communities. This was the group that gave stability. This is the group that needs more help.

I hear this stuff about family values. Come on, give me a break. Stop talking about family values. You talk about jobs. They want to know how they are going to educate their kids, how they are going to have affordable health care. They are not going to have affordable health care if they have to go to a job training program. They want to know how their youngsters are going to have a job. They want security. They will take care.

That is how we take care of people, families. You do not give us these sermons. I want to tell you something, if we want to help people we do not have to spend more money on job training. I am not suggesting that may not be necessary but that is not the answer.

More money in public works programs? My gosh, we put through—Senator MOYNIHAN guided through a bill, how much, PAT, $240 billion? You cannot spend that money, it is bottled up in there, clogged up in there. We got the money there. But you have to protect people against illegal acts.

We are not talking about protecting jobs. We are saying you have to protect lawlessness and pirating of jobs, pirating, taking them illegally. That we have the right to protect.

Mr. MOYNIHAN. May I ask the Senator a question?

Mr. D'AMATO. Sure.

Mr. MOYNIHAN. Would he not think that those who care about the North American Free-Trade Agreement, they would very much care about this specific incident?

This is the last time there will be this much long and detailed debate on trade practices in this body until that treaty comes to us, comes to us for ratifying.

Would you not think they would be pretty careful about establishing the principle the U.S. Government will see its trading partners abide by the rules before they propose to take down all the trade barriers in North America?

Mr. D'AMATO. It is critical, critical. I am going to want to see it. I hope my colleagues—Republicans and Democrats—are going to want to see it. I think Senator MOYNIHAN has pointed out a very glaring area. I want to know in terms of the enforcement of it, just what method and how important a role will the judiciary in Mexico have?

If the interpretation of these rules—and I suspect that they would be—would rely on the sovereignty of the Mexican courts and their interpretations, that is a very important question. That is a very important question. I have not focused in on it.

But I have to tell you it gives me cause to be concerned. I do not want to see people come up with this know-nothing attitude, bar everything, and raise the barriers and raise the tariffs. I think we can do better.

One of the ways we can do better is to say, let us see to it that the law of the land is applied to all. That is the principle today that brings together Senator MOYNIHAN and myself. It is to say that the law should be applied.

If that will give certain companies an opportunity to compete fairly, then so be it. That is the way it should be. If that will disadvantage companies who are breaking the law, then good—then good. Because we do not want companies to break the law and to gain an advantage by breaking the law.

So what we have been doing now, from now—going on to 14 hours—has been touching upon those things that we think are important—equal protection under the law, not undue, not exceptions to the law, not looking the other way so someone can gain an advantage.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Why would the House of Representatives not want to see this done? Can he understand? Does he feel the influence of foreign-owned corporations has reached into the House with that effect? If so, is he not astonished and distressed?

Mr. D'AMATO. I am astonished. I am distressed. I am distressed that a body that has so often fought for this identical provision plus, a provision that has gone further, would not accept this watered-down provision. It is hard, and difficult for me to believe.

The PRESIDING OFFICER. The Chair advises the Senator from New York, the hour of 12 o'clock noon having arrived, the Senate, having been in continuous session since yesterday, pursuant to the order of the Senate of February 24, 1960, the Senate will suspend while the Chaplain offers the prayer.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

The word of the mighty King David: *The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake, Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord forever.*—Psalm 23.

Amen.

The PRESIDING OFFICER. The junior Senator from New York retains his right to the floor.

Mr. D'AMATO. Thank you, Mr. President.

Mr. President, I just received one of the nicest notes from one of my colleagues, former chairman of the Appropriations Committee, Senator HATFIELD. I will not reveal its content here, but it is absolutely delightful. I shared it with my colleague, Senator MOYNIHAN. I will put this in my pocket and hopefully be able to show it to my grandchildren when they are old enough.

I have to ask, is it sufficient to look the other way when nothing more than an assembly operation is installed in the United States in order to circumvent and avoid paying the antidumping duties? Is that something that we should pay tribute to in saying that we are grateful for the fact that this plant is operating, therefore, we do not want to have proper enforcement of the law?

I do not think so.

You know, if that is the case, we will continue to see the kind of abuses where those who can import their product below fair market value can drive competitive American manufacturers from their own free markets. Think about that. That is what is taking place.

The machine tool die industry has virtually been destroyed from the great days of its prosperity, of its economic strength, of a vitality, of a commitment to research and development, to an incredible work ethic with the German and American community that were just so industrious, and the Czech community, as we looked to our own western and central New York, the Rocherster area all the way on over to the Buffalo region. the best precision tool makers, the best in the machine tool area, I have to tell you, are hanging on by their fingernails today.

Let me tell you something, it had nothing to do with the quality of their product. If somebody says to you, they got sloppy, fat, happy, these are lean, tough places, right down to the bone. Great tool dies passed on generation to generation, family to family.

You hear, oh, the excess of the unions. We heard that in the auto industry. No, not with these companies. Do you know what, I will never forget when I took a tour when I had just been elected in 1981 and went up there and saw the remnants of what once had been this great industrial base. And they told me, operator after operator, Senator, do you see this machine, it cost me $80,000 to make it. My competitors abroad, the Japanese, take the machine, copy the machine, make improvements on the machine, bring it in here and sell it for $50,000.

No way, no way could this man compete. Was the cost inordinately high? No, ran it himself, his family, several people working for him. Exorbitant rates? No. But just for the goods and the materials, the cost, the labor, no profit, he could not compete. Why? Dumping.

And so when we pass laws that say you are not permitted to dump, we are not passing them for Smith Corona, we are passing them for the machine tool die workers throughout this country. We are passing them for every hard-working business concern and entrepreneur from the North to the South. We are not suggesting higher tariffs. We are not suggesting that we keep you from bringing products in. We are simply saying you have to obey the law. If that is too tough, then we ought to tell the American people we are going to have no imposition of any rule. That is the strongest, the mightiest. We can take whatever economic power they can seize, they can throttle, you can do anything you want.

Why do we not say we allow monopolistic and antitrust kinds of activities and let our people do the same thing?

Take off the gloves. Let us have our corporate America be able to do the same thing. No laws.

By the way, our people pretty much adhere to the law. Why? Because we have some tough antitrust provisions. You see what happens when people fool around in dealing with the Government, phony it up. They go after them, they send them to jail. Over there? That is doing business.

Mr. SEYMOUR. Will the Senator yield?

Mr. D'AMATO. For a question?

Mr. SEYMOUR. Yes, for a question, Senator.

Senator, just so we have it clear, is it true that if you were to have this two-page amendment that you had in the tax bill until the conference committee and the various people dumped it out—speaking of antidumping—if you had this provision in a bill, can you say with any credibility that if Congress were to pass this two-page bill, that the President would sign this two-page bill?

Mr. D'AMATO. I think the President would sign this bill.

Mr. SEYMOUR. And, therefore, Senator, is the problem no longer the tax bill necessarily, but the problem really is you have a reluctant House of Representatives, you have a reluctant U.S. Senate——

Mr. D'AMATO. Oh, yes.

Mr. SEYMOUR. That will pass this two-page bill; is that our problem?

Mr. D'AMATO. Oh, sure; that is our problem.

Let me say this to you. I do not want my colleagues to send this back and ask the House to pass the tax bill with this in it. This bill is a turkey. It barely passed. If they have another vote on this, I do not know if it is going pass here. I do not know if we can ever get it up.

Mr. MOYNIHAN. Will the Senator yield for a question in that regard?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Does the Senator think if the New York delegation had known that this would happen to the Smith Corana provision, do you think they would have voted 23 to 10 in favor of this bill?

Mr. D'AMATO. No.

Mr. MOYNIHAN. We would not be here today, would we?

Mr. D'AMATO. No.

Mr. MOYNIHAN. The bill would have been defeated in the House?

Mr. D'AMATO. The bill would have been defeated in the House. I think it would have been 23-10 the other way.

Mr. MOYNIHAN. The other way.

Mr. D'AMATO. I do not think it would have gotten 10 votes if we called our colleagues and told them about what transpired. I am certain of that. I am certain of that.

Having said that, that does not do us any good to cry about the situation. I mean, so now the question is can we get somebody to deal with this in a manner that will give our people an opportunity to work, to work to keep jobs, job opportunities. That will be the nice thing.

So when we hear about, I am for more job opportunities, here is the way to prove it. If you are for more job opportunities, pass a law that brings about some enforcement.

I am for more public works. Come on, we have more public works. And I say that with respect, we have more public works allocated and appropriated. It is stuck in the pipelines. The States have to get more engineers to get the design work out to bid. We covered that portion of it. You have never seen—we have covered that portion. You have never seen more in the way of public works. That is going to be here. That is going to do something.

But how are you going to keep these jobs from disappearing, manufacturing jobs that create and are responsible for holding the nonmanufacturing jobs? You go to small towns and you see—not because there is a big shopping center—but you begin to see the signs of all the blight there, boarded up things over here. Then you go to the outside of town, you see the big factory that used to be, whether it was the pump factory, whether it is a typewriter factory, or the gear factory, they are down. It has a direct impact on why you lose construction and business and finance and transportation and all the jobs in retail.

So we have a veritable opportunity.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. SEYMOUR. Senator, you have made it clear that this would apply to small manufacturers across the country. My question has perhaps a more personal nature. My question of you, Senator, has to do with more specifics relative to the 875 employees that you have been fighting for and their families.

My question of you, Senator, is can you tell us a little something about some of those employees and families? You might recall—for example, I would like to know if they are like my father, who I talked with about 2 a.m. this morning, or maybe it was 11 p.m. last night, who worked for this company, Smith Corona, for 25 years, retired on a very small pension. Are those the kind of people we are talking about who will lose their jobs?

Mr. D'AMATO. You are talking about middle America here in the truest sense. If you go up to Cortland, you will know that. They are plain, ordinary, good people. They are hardworking. They do their thing, they go to their church, they pay their taxes, they root for their ball teams. Their pleasures in life are good ones. They belong to the volunteer fire department. They go on up once in a while to see the university play, take in a football game. Not all that often, but the youngsters do. In this area, they all root for their football team. Most of them root for the Buffalo Bills.

There is a great mixture in terms of the diversity, in terms of their baseball teams. Some of them have that Massachusetts spillover that comes from up over there and still comes over from the Albany area, wafts right over to central New York. Some of them, believe it or not, are Red Sox fans.

Mr. KERRY assumed the chair.

The Presiding Officer in the chair, from Massachusetts, will know that. But they are. Some of them are Sox fans. I think most of them are Yankee fans, fierce in their love of the area and to their local heroes.

Carmen Basilio, former world champion welterweight champ, fought great, great incredible battles. He is now over in Rochester. He came from the Canastota area, from the onion farm. There is a great love for him. I was going to school up there. You never saw greater love; fighting the John Brothers, from the Syracuse-Cortland area. PAT can tell you about these, with great pride in the local teams and the kids that made good.

There are not many of the kids in those days, when we were growing up, who went to college. They have high school. These were hard-working people. It was an exception, my guess is the smaller percentage of the kids who went on to school in those days. There is a better percentage now. There is a State school there that has really given lots of them an opportunity.

Let me tell you something: This bill does not just affect this one community of Cortland and/or the workers in Smith Corona, because it is a microcosm, Smith Corona, the plant that your dad worked at, when he worked at it. Then today, the microcosm of the manufacturing plants throughout this country, the length and breadth of them; these are the very people.

If you wonder why everything in the body politics has taken such an incredible turn, it is because these people see and hear. When this plant closes, when and if it closes its doors, it will affect far more than the 1,500 or so families involved in terms of the 875 jobs that are lost directly, the 600 indirectly, and those in the region. It is a devastating psychological blow to American workers.

I can tell you, the workers in upstate New York are suffering incalculable damage to their psychology, to their psyche, to their state of mind, to their work and effort to protect their homes and provide for their families. That is what we are talking about here.

You know what? I just do not know how to deal with it, because there is no damned good reason for this bill not to pass. I find it hard—impossile—to accept. I do not believe it. I still do not believe it.

I hear it. I know it. I have spoken to certain people. I understand what they stood for. I do not believe it. I believe that we can still, at this 12th hour, change it. I believe that the House of Representatives, that DANNY ROSTENKOWSKI can make a difference, that he should make a difference, that there is no reason not to make a difference. There is absolutely no reason not to stand up and say: By gosh, let us put the administration to the test; let us pass this bill; let us send it over; let us see what the Senate does.

Send it over freestanding. Stand up for the little guy. You come from Chicago. You consider yourself a working guy, a representative of them. You always have been. Give that working guy a break.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, if you, for some reason, should not be successful—but quite frankly, I think you are going to succeed. I have known you, in just these short 21 months, to be a tough, tough, tough cookie.

Senator, if you should not be successful, and these jobs go to Mexico—that bill on your immediate right, that stack of paper that you referred to as a Thanksgiving project—is it not true that should those jobs go to Mexico, and should Smith Corona close their plant in your State of New York, that out of that bill might come about $140-some million to retrain and put these people, hopefully, back to work, and at least take care of them while they are out?

Is that the alternative to what you want to do?

Mr. D'AMATO. What a sorry alternative, to spend money to retrain people, to help create jobs, when by one act of standing up to the special interest groups—let me tell you something: The special interest groups are many and varied. They are not just the lobbyists who come along, and whatnot. We are the special interest groups because we are elected to represent our people.

So this is a compilation of where they fall, and where they fall out.

I have heard the explanations here. I am not satisfied. I do not think Congressman SUNDQUIST had the power to stop that bill in the House. I do not believe it. Since when do the Republicans, on the minority side, with DANNY ROSTENKOWSKI worried about them, as it related to this kind of an initiative? The trouble with the Senate traditionally has not been the House. We steamrolled bills through at this time repeatedly.

So I have to say that I do not believe that it is worthy of belief to suggest that this effort is one that died from such an ignoble death. If it dies, it should die taking down the esteem that our colleagues have for the people whom we are supposed to represent. That will be a fitting and noble way; not just simply to be brushed aside.

So while my feet tell me one thing, and my throat is hurting, something else in me says: Do not give up.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Even if it should turn out that we are not able to save the Smith Corona jobs in Cortland, this issue does not go away. There are other jobs all over this country. This practice does not disappear. To the contrary, the practice is rewarded and shown to be successful. Is it not to tell: Look how you can get away with it? So our legislation is even more needed. This legislation is needed even more.

This does not cease with this particular instance, as you have said many times; have you not? This is not a specific case; it is a generic trade provision.

Do you not agree?

Mr. D'AMATO. Once again, my good friend is cogent, and goes right to the essence. This is generic.

My dismay of this really is centered on the fact that we have an opportunity to make a difference, have an occasion to make an important difference, to demonstrate to the people that we are not going to allow this avoidance of the law to continue, that we are capable of coming to the rescue of a beleaguered people. The beleaguered people list themselves as legion. The beleaguered people can be found in every State, in every urban center, in every suburban or rural area. And they are beleaguered because they are fearful. They have been instability as it relates to the institutions, the deadlock.

If someone ever told me that Smith Corona might not be operating one day when I was a law student and a college student up in Syracuse, I would say: Come on; who are you kidding? Cut it out.

If somebody had ever told me that the great General Electric plants that once employed thousands—18,000 people up in Syracuse, thousands more over in Schenectady—would be all but abandoned, in certain areas down to a skeleton crew, I would have said: Forget it.

With the demise of these institutions in such a rapid manner, when we see institutions that are putting out a good product, institutions that for every real reason should be competitive in making money turning the lock on the door and going offshore, or going down to Mexico, how destabilizing do you think this is in the minds and the psyche of even those professionals who may not work in the factory, those lawyers, those doctors who are in the communities, who see what is taking place, who see the distress and the heartache of their peers? That is what we are talking about. Wake up.

I have been blessed. I have been privileged—not privileged. My father pulled my plug after my first year of law school when I goofed up. That is how I had to work as a janitor for the next 2 years. He wrote me a note. I will never forget that note. It was great. I should have saved the note. It is one of the all-time greats, a simple note. He said: "Lest the pen spilleth over, this is it." He included a check.

He made enough money to pay for my tuition that summer. He meant it. I finished up that summer with some good law professors who felt kindly disposed toward me. And I am certain, as a result of that, I got my average up to a high enough score so I could continue in law school. I was up there, and I had no means of continuing.

I met a wonderful fellow, the chief custodian at the university. His name was Robert Rainbow. I will bet you knew him. He was the sign painter. He was a wonderful, gifted, talented sign painter. He became the chief custodian. He was half Indian. He took a great delight in helping young students.

When he found out that I needed a job, he arranged for me to get a job with the university as a janitor. I worked 48 hours a week. I made a lot of money in those days, $1.65 an hour—6 hours' tuition each semester. That is how I went to law school: The benevolence, the kindness, and the caring of a magnificent gentleman, Bob Rainbow. He gave me that chance.

More importantly, I had the opportunity to see the real America. It was not from the sheltered environment of the university; it was, oftentimes, youngsters not up to the total perspective of life.

But yet it was in a wonderful academic setting. And it gave me an opportunity to see people struggle on a daily basis.

I want to tell you something: I never forgot working in the old math hall when I was a relief janitor. Every night I would cover a different building.

Well, we had the relief janitor in the math building. He was an elderly gentleman who had been working up at the school for 50 years plus. But his age did not give to him a charitable mood or disposition. He went through assistant janitors in that big building on a weekly basis.

And after he got through the six or seven that I had be told about, and I had now established myself as a very reliable relief custodian—and let me tell you, relief custodian was a great job, because on Monday night I would work at the library, and Tuesday night it would be at Slocum Hall.

I hated to work at Slocum Hall. That was the business administration building. At the top of the building, they had the architects.

Now if you were a janitor, you have never met a worse group of people than the architectural students. They are terrible. They work all hours. They work 3, 4, 5 o'clock in the morning. You take the kicking over of the coffee and their hot chocolate.

Did you ever try to get coffee up after it has been on a waxed floor? It is horrible. It adheres to it. I hated that.

But aside from that Slocum Hall job, it was terrific.

I has gone through there and swept out the buildings and turned out the lights and emptied the things, secured it. And you could go through it in about 2½, 3 hours, and I could do my studies.

One day they came to me. They said, "Guess what? Old Mike would like you to be a permanent assistant. This way you will not have to go every night from one building to the other."

I said to them, "But, listen, you know that everybody who has worked for old Mike has lasted a relatively short period of time and eventually is terminated."

So they said, "Oh, don't worry. He likes you. You have a wonderful disposition."

I went to work for old Mike. Things went well for the first 2 weeks. Then he found an incredible haunting manner to torture me. They were haunting me. And to this day I remember dreading going to sleep in the evening because I knew the next morning when I awoke, it was not that I would go to school and classes all during the day, it was that at the end of the day, I would have to report to my job and meet this tyrant who set standards and conditions that were unbearable, that went beyond the pale of human decency.

And I saw how he drove out, during my days as a relief janitor, two or three others who had been there prior. And it became obvious to me that that would soon be my fate.

I tell you this because it gave me an appreciation for what people have to endure. Because there were people who could not afford to give up their job. They had to keep their job. They had to work under terrible, miserable conditions. And I could always hang on because I said, "Well, this is just for a short period of time."

What do you think we do to people who may not even be happy at their job but have a family and have responsibilities and now we add them with the burden of saying, you may not even have a job to hang on to.

Bob Rainbow finally arranged for a transfer to get me out of there, and that is how I finally graduated and was able to be given that opportunity.

Mr. SEYMOUR. Will the Senator yield for a question?

Mr. D'AMATO. Sure.

Mr. SEYMOUR. Senator, the question has to do with the progression from where we stand now at 12:35. I would be interested to know, Senator, after, let us see, say about 16 hours we have be going, 15, 16 hours, Senator, have you had any notion whatsoever, any inkling, have you had any intimation that the distinguished majority leader and/or the distinguished minority leader were at least in the process of meeting, or were they willing to direct staff to think of a way to address this dilemma, other than waiting until the junior Senator from New York passes out on his feet and then, when he comes to, that he stops the progress of this chamber by rejecting any unanimous-consent agreement required or reading a bill or other parliamentary maneuvers?

So my question really is, Senator, has anybody—majority leader, minority leader, staff, anybody—talked to you yet in the last 15 hours that you have been defending these 875 jobs in your great State of New York, has anybody talked to you about a way to go here?

Mr. D'AMATO. Yes, I have had occasion to speak momentarily to the majority leader. And I advanced to him a hope that possibly there would be some way in which we can find an opportunity to get this matter up.

And I must say that again, the record, on the record, off the record, no one could be more, I think, more gentlemanly and more considerate, notwithstanding the positions that we find ourselves in to try to create this glitch. He was of the opinion that there would be no compromise on this matter.

Having said that, I would ask some of my colleagues to pursue the matter that we have started; that we would look to see and ensure that everything that can be done will be done to keep consideration from other legislative initiatives.

Because I happen to believe that there will be some bills, some legislation, that the other body wants. And that may be a way, even at the eleventh and a half hour to—I guess it is more than the eleventh and a half hour now—that we might be able to bring about a legislative remedy to this illegal dumping.

Mr. RIEGLE. Would the Senator yield for a question?

Mr. D'AMATO. Yes.

Mr. RIEGLE. I thank the Senator for yielding. I appreciate very much the point he has been making through the hours over the nighttime and with regard to the Smith Corona case, the broader issues that are involved in terms of the trade cheating that is going on, the destruction that it is doing to our economy, to factories and to workers in this country, and the fact that we are not getting the kind of response from our Government to challenge that and put a stop to it.

And, I want to pose a question in a minute, but I want to do it in the context of refreshing the Senator's memory on the fact that in the Banking Committee, where the Senator serves as one of the most important members, we had a hearing some weeks ago where we had the chairman of the board of Smith Corona come in and testify before our committee. He told us at the time that the reason they were compelled to close that plant in Cortland, NY, was that they had been targeted for trade cheating by Japan; that they had gone out and made their case on the trade cheating but there was an unwillingness on the part of administration officials involved to apply the laws that should have been applied and, as a result, it was destroying the company and finally compelled the company, in order to be able to survive, to close the last typewriter manufacturing plant of its kind as an American producer, and take it to Mexico.

But the reason they were doing it is because they had been victimized by trade cheating, and our Government did not do anything to stop it.

Does the Senator recall that testimony?

Mr. D'AMATO. I certainly do. It was vivid and pointed, it was explosive and it was shocking, just shocking to this Senator. I mean, it just sent chills up one's spine.

Mr. RIEGLE. If the Senator would permit me to continue, I think what has happened here is——

Mr. MITCHELL. Mr. President, parliamentary inquiry.

Am I correct that the Senator can be recognized only for the purpose of asking a question?

The PRESIDING OFFICER. The Senator is correct.

Does the Senator from Michigan have a question?

Mr. RIEGLE. Yes, I certainly do. I do not intend to take a long period of time, but if I have to I will because I can ask a lot of questions. I feel just as strongly about this as the Senator from New York does.

So I do not want to be dilatory in asking questions, but I am going to pose some questions to the Senator from New York and I can pose a few or I can pose a lot. I would rather just pose a few, unless I have to pose a lot.

Mr. MITCHELL. Propose as many as you want; just propose questions.

The PRESIDING OFFICER. The Chair will inform the Senator from Michigan that he cannot make a statement. He may ask a question.

Mr. RIEGLE. Let me ask the Senator from New York with respect to Senate Resolution 109 that I had proposed—which is an effort to deal with the defects in the proposed United States-Mexico Free-Trade Agreement. Has the Senator from New York taken a look at that resolution, which would give us the opportunity to move in and deal with deficiencies in that treaty of the kind that would cause plants like Smith Corona to close and have to go to Mexico? Has the Senator taken a look at that?

Mr. D'AMATO. Yes, I have looked at it.

Mr. RIEGLE. Does the Senator feel that perhaps there is some item in there that would help us in this situation to prevent precisely the kind of plant closings and job loss that we have seen in Smith Corona?

Mr. D'AMATO. I think that my colleague's resolution, while I have some question to some aspects, and we discussed this, that there are some aspects of it that bear very, very careful study as it relates to specifically providing for protection and seeing to it and ascertaining that we do not have the kind of shenanigans that we see and have seen, not only in the case of Brother but in other cases involving dumping, predatory pricing, circumvention of duties.

Mr. RIEGLE. Is the Senator aware of the fact that in Senate Resolution 109 we mark out five areas that would be available for amendment on the Senate floor if and when the Mexican Free-Trade Agreement is brought back here? One area is worker safety and fair labor standards, another is environmental standards, one rule of origin—very critical in the Smith Corona case—dispute resolution and adjustment assistance for displaced workers, and that would also affect those workers who have been blind-sided up in Cortland.

Mr. D'AMATO. I think proof of origin—and I mention it to my colleague and friend because I brought it up before—I want to be in a position to know that we are not being thwarted by techniques where others are availing themselves of the free trade area in direct contravention of the law. And I am not certain who gets the ability to enforce this.

One of the things Senator MOYNIHAN and I discussed—and I want to look at what condition provides for review. This is the kind of thing that not only I but other Members of the body will have to become acquainted with before we make a final decision on this.

Mr. RIEGLE. Let me inquire of the Senator. I am going to send this over to him in a moment and see if he would be interested in becoming a cosponsor. We now have 32 cosponsors of Senate Resolution 109. We have some from the Senator's side of the aisle.

I think this would provide a means to get at this problem, not just in the Smith Corona case but in other cases.

Let me ask a page to send this over to you and have you take a look at it.

I am wondering if the Senator might consider becoming a cosponsor, because I think this is a line of initiative that is open right now that is directly in line with what the Senator has raised.

I ask, as he looks at it, if this might be something that he would want to join? Senator SPECTER on your side has joined, and a host of others. As I say 32 in total. I think this would give an opportunity to be able to confront, in an amendment setting here on the Senate floor, defects in this Mexican Free-Trade Agreement that will accelerate the closing of plants in the United States, exactly like we have seen with Smith Corona.

I wonder if the Senator would want to consider becoming a cosponsor of this, because I think it is an initiative that cuts directly into this problem?

Mr. D'AMATO. Let me say I certainly will ask my trade people to review this. I have not had an opportunity to study it or to go over it with them. When we get older we go over with our staff things that before we had the patience to sift through and read first. So I oftentimes avail myself of their expertise. And I will do that and ask Pam Ray to review this.

Mr. RIEGLE. Let me ask the Senator if he would yield further for another question.

Are you aware of the fact that Governor Clinton has also, just within the last 2 days, laid out some very specific reservations an caveats that he thinks need to be dealt with in this Mexico Free-Trade Agreement, to prevent the kind of situation that we are seeing with Smith Corona?

Mr. D'AMATO. Yes; I watched the Governor at a forum. I do not know whether it was a university forum or not. But he did indicate that he was supportive of the agreement, subject to there being verification of certain conditions that would provide a proper element of protection for, I think, the areas of concern that we all have as it related to a fair balance of jobs.

So I think that is encouraging because I think that is exactly where Senator PAT MOYNIHAN and I come from. We do not want to throw up trade barriers. That is not what this is about. This really is about getting enforcement where people are violating the law. It is not about trying to raise a barrier.

I think we could do an awful lot in preserving jobs and encouraging trade. But I think at some point in time we have to say to people who are not observing the law—wait a minute. Stop. You are out of line. You are not observing the law. You are wrong and we are not going to permit it and we do not care how powerful and how strong you are.

Look, we are all subject to pressure. If anybody suggests to you we are not, they are just kidding themselves. And anybody in this body who says he or she is not, if they are really telling the truth, they are almost Saintlike. I think even the great saints of our times were subject to some kinds of pressures.

But when we have lost the capacity to make reasoned judgments because of pressures, wherever they come from, something is wrong, when we cannot distinguish what is right from what is wrong.

Mr. MOYNIHAN. Will the Senator yield for a question on that point?

Mr. D'AMATO. Yes.

Mr. MOYNIHAN. Is the thrust of the amendment not to dictate in any way what the judgments will be, but simply to say that judgments should be made?

Mr. D'AMATO. Or they can be made.

Mr. MOYNIHAN. They can be made.

Mr. D'AMATO. They can be made.

Mr. MOYNIHAN. They can be made. We are not dictating what judgments, but not sit there and say we cannot decide.

Mr. D'AMATO. Senator PAT has once again come through with clarity, when he says what is the intent of the bill. The intent of the bill is to permit a judgment to be made, a judgment to be made that can pursue this. We say you can. That is all.

We do not say you must go after Smith Corona, you have to go after this one or that one. But we say it is now clear that you can, that you can. Because heretofore we have had this question, do we have the authority, do we not have the authority? Now we say you have the authority so you can pursue this.

The Senator is absolutely correct. No new standards. It does not set any standards. We have outlined in the legislation a course of conduct which is a violation, which is recognized as a violation now. We did not set a new standard. We did not move it. We did not move the goal line one way or the other. But we said if you violate this, you know, they can pursue it.

I have a tough time. I really do not understand why real people are being disadvantaged, and why at this date—I know we have some skeleton crew at work over there—but they can still do something, and we can still save people and still save jobs and still make a difference. I just think it is wrong. I just think it is wrong.

We have an opportunity to make a real difference. This is the opportunity for us to do it. That is why this Senator has said—and I am going to ask my colleague to take me up so I can get about an hour's relief at some point, and hold the floor and check the various——

Mr. MOYNIHAN. Will the Senator answer a question? Yield for a question? I would say you have done a magnificent job. The House has adjourned—The House has recessed, they have not adjourned sine die. We can think of what might be done on Thursday, and we start thinking about that right away. But I do not think anyone could ask more of their Senator than they have seen on display these last 14 hours. I want to salute you, sir. And to say I wish I had half your stamina. I am proud to be associated in this effort with you, which is not concluded, only begun. Chapter 1, or chapter 2. Chapter 1 ended on Sunday—rather, chapter 1 ended yesterday afternoon. We found our agreement did not exist, had been dropped.

Mr. SEYMOUR. Could I ask the Senator to yield for a question.

Mr. D'AMATO. Yes.

Mr. SEYMOUR. Senator, my question to you is, if you are about to fall over, as you have every right to, I have ever heard—I suppose there is always a bigger record for giving forth on discourse—but maybe you could tell me what that record is. You have been going at it for 14 or 15 hours or so.

But, Senator, if you were to ask me, unless the majority leader or Senator ADAMS would permit me the opportunity to take the floor, in the absence of that, if you were to ask me, Senator D'AMATO, to stay here and to ensure that every parliamentary procedure were exercised, at least that I know about—in short, object to everything that would take place—if you want me, Senator D'AMATO, to do that I would ask you to just so signal and consider it done as long as I can stand.

Mr. D'AMATO. Let me say this. One of my staffers just came over and told me that the House has gone out, and I guess they will not be back until Thursday—pro forma; is that right, PAT?

I am going to say this. I am deeply disappointed. I thought the people's body would be more representative of the kind of action that maybe we have seen here, that they had a little more character and a little more standupness, and that when we asked for support for a bill which says everybody has to obey the dumping law and if you do not, we give to the Commerce Department the ability to enforce it, and they cop out on that, they have just walked out on working Americans up and down the line.

They cannot say they did not know about this debate. They cannot say they did not understand the issue. They cannot say that this was a matter of one State versus another, because it was not. Because it was about saying if you break the law of this Nation, notwithstanding that you are a foreign corporation or you are a big power, we can go after you and we can stop you from dumping your products in here, we can see to it that the orders that affix the penalty will be carried out.

We just turn our back on that. We turn our back on the people's forum.

I thank my friend and colleague and adviser, Senator MOYNIHAN for his counsel. I am truly saddened. I am truly saddened by this wretched, timid display—by a wretched, timid display, by the absence of those who could make a difference.

I have to tell you something. This is not just a fight for jobs in New York. It is a fight for fairness for all the working people in this country. I am not going to ask, or presuppose and ask one colleague to do that which I would hope that many of my colleagues would join in. I am not going to do that. That is not fair to the Senator from California.

I am going to say, if you really think there is anything to what Senator MOYNIHAN and I and Senator SEYMOUR have been saying and doing, then you get in and object to unanimous consent decrees, and you raise your voice. Anybody who can hear us—I am going to walk off the floor in 5 minutes. Maybe I could stay another hour or another 2 hours. But if I have not been able to reach you after 14 of 15, or whatever it is, hours, if I and Senator MOYNIHAN have not been able to instill in you some sense of, my gosh, all we want to do is have the laws apply, and if you do not give a darn about that then do not come down here.

But do not whine and moan when factories and jobs go leaving this place, and no screaming and yelling for more job training and for more moneys and for more this and that.

Do not go bellyaching because that is what we are going to do, when we see this country continue to sell its soul. I think this institution should be ashamed of the manner in which it has failed to address this problem. I really do.

I think the other body should be ashamed of the manner in which it has ducked out on its responsibilities. I think more so here because more Members are intimately aware of the process. And we have a better opportunity to make a difference occur.

You know, those fellows who I worked with—I used to work two jobs because I could not support a family just as a janitor. I also worked on the railroad. I want to tell you something, they have more integrity and more courage in their little pinky than I see displayed. I am sorry to say that. It does not mean that I may not like people here. It does not go to the character of what this is about.

I am going to take a blow. I have not seen anything other than incredible effort by Senator PAT, to keep me on the tracks, to share with me his historical perspective as it is related to this issue.

I thank the majority leader for not attempting to be other than informative, as it related to the options that were open. Never did he lose his temper. Never did he lose his temper. Never did he attempt to dissuade me from my options. I want you to know that. That is something that is of some courage.

But I have to tell you, there are an awful lot of people around here who should not feel good about the manner in which we leave the unfinished business of the people.

The PRESIDING OFFICER. The Senator from Washington [Mr. ADAMS] is recognized as the acting leader.

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992—CONFERENCE REPORT

Mr. ADAMS. Mr. President, I call up the conference report to accompany H.R. 429, the reclamation project reauthorization bill.

The PRESIDING OFFICER (Mr. WELLSTONE). The report will be stated for the information of Senators.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the report?

Mr. SEYMOUR. I object.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The distinguished acting majority leader is recognized.

Mr. ADAMS. Mr. President, I move to proceed to the conference report to accompany H.R. 429.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. ADAMS. Regular order, Mr. President.

Mr. SEYMOUR. Mr. President, I request a full reading.

The PRESIDING OFFICER. The clerk will read the report.

The bill clerk proceeded to read the conference report, which is printed in the House proceedings of the RECORD of October 5, 1992.

RECESS FOR ONE HOUR

Mr. FORD. Mr. President, I ask unanimous consent that it be in order to request that the reading of the conference report be suspended; that the Senate stand in recess for 1 hour; and that during the recesses of the Senate this evening, the reading be deemed to have elapsed at the rate of 40 pages per hour.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

(At this point, reading of the conference report by the clerk was suspended in accordance with the terms of the above order.)

There being no objection, the Senate, at 7:05 p.m., recessed until 8:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate continue under the previous order subject to the call of the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. SEYMOUR. Reserving the right to object. Will the Senator yield for a question?

Mr. FORD. I will be glad to answer a question.

Mr. SEYMOUR. Mr. President, I was under the understanding that we were going to extend it for 1 hour as opposed to call of the Chair. A call of the Chair could run it out.

Mr. FORD. I just discussed this with the Republican leader. This is what he asked me to do. I thought we were accommodating the Senator from California.

Mr. SEYMOUR. If we can get the Senate Republican leader, because what he told me is what I shared with you. Maybe I was confused. I have been up so long I may have misheard.

Mr. FORD. I understand the Senator, and I do not want to do anything contrary to the understanding he might have. But I do not think this would jeopardize his position at all.

Mr. SEYMOUR. Mr. President, no objection.

There being no objection, at 8:06 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 10:32 p.m., when called to order by the Presiding Officer [Mr. BREAUX].

The PRESIDING OFFICER. The Chair recognizes the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Thursday, October 8, the Senate convene at 9 a.m.; that there be 2 hours for debate equally divided between Senators BRYAN and JOHNSTON; that at 11 a.m., the Senate vote on the motion to invoke cloture on the conference report to accompany H.R. 776, the energy bill; that upon the disposition of that conference report, the Senate, without any intervening action or debate, proceed to the consideration of the conference report on H.R. 429, the reclamation bill; that there be 1 hour for debate on that conference report, equally divided between the two leaders, or their designees; that upon the use or yielding back of time, the Senate, without any intervening action or debate, vote on passage of the reclamation conference report; that should cloture not be invoked on the conference report on H.R. 776, the preceding still occur, and the conference report on H.R. 776 be returned to the desk; that on Wednesday, October 7, beginning at 2 p.m., the Senate proceed to the consideration of a bill to be introduced by Senator SEYMOUR by that time, the text of which will include and be limited to the provisions of the attached outline accompanying this agreement and which will be printed in the RECORD following this request; that there be 6 hours for debate on Senator SEYMOUR's bill, 4 for Senator SEYMOUR, 2 for Senator BRADLEY; that no amendments or motions to commit be in order in relation to Senator SEYMOUR's bill; that upon the use or yielding back of time, Senator SEYMOUR's bill be read three times and passed, and the motion to reconsider be laid upon the table; that on Wednesday, upon the disposition of Senator SEYMOUR's bill, the Senate Finance Committee be discharged from further consideration of H.R. 3837, the Federal Program Improvement Act; that the bill be immediately considered and read a third time and passed, as amended, by a D'Amato-Moynihan substitute amendment, the text of which will be printed in the RECORD following this request; that upon the granting of this request, the Senate without any intervening action or debate, proceed to the consideration of the conference report to accompany H.R. 11, the urban aid bill; that the majority leader be immediately recognized to file a cloture motion thereon; that on Thursday, October 8, upon the disposition of the conference report on H.R. 429, there be 1 hour for debate equally divided between the two leaders or their designees prior to the vote on the motion to invoke cloture on the conference report on H.R. 11, the urban aid bill; that the provisions of this agreement remain in force, notwithstanding the provisions of rule XXII; that all mandatory live quorums as provided under rule XXII be waived.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. DOLE. Reserving the right to object, for a matter of inquiry of the majority leader.

As I understand H.R. 11, if cloture would be filed tomorrow, by agreement, the vote would come on Thursday, is that correct?

Mr. MITCHELL. I am going to file cloture immediately after this agreement. It would ripen normally on Thursday.

Mr. DOLE. Second, that we do not waive budget points of order on H.R. 11.

Mr. MITCHELL. Mr. President, my understanding was that the original proposal was that we would proceed directly to vote on the tax bill, but that because we were unable to clear that on our side this evening, we were agreeing to have the cloture vote with the understanding that we could clear it tomorrow, and we would be proceeding to vote directly on the bill on Thursday.

Mr. DOLE. I think there is some concern on this side that H.R. 11 may be subject to a point of order, and we were asked not to waive points of order, and there is nothing in here specifically that would waive points of order.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous-consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now submit the outline of the Seymour bill and the text of the D'Amato-Moynihan substitute as provided in the agreement to be printed in the RECORD immediately following the printing of the agreement itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEYMOUR CVP PROPOSAL

1. 25 year water contracts for all CVP water contractors, mandatory renewals.
2. $20 million restoration fund for fish and wild life; $4 Ag; $2 M&I.
3. Project purpose for fish and wildlife, tied to specific mitigation, protection and restoration actions.
4. 22 specific fish and wildlife restoration features, same as S2016.
5. Water transfer subject to California state law by January 1, 1996—$15 surcharge per AF. Remove unlimited contract renewal based on water transfer agreements and remove dry year provisions.
6. All fish and wildlife mitigation, protection and restoration measures shall be carried out in a manner which facilitate transfer of the CVP to the State of California.
7. Modify language on refuge water.
8. Strike Advisory Committee and Task Force.

Strike out all after the enacting clause and insert:

The following text is added as subsection 781(c) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) and subsections (c)-(e) are renumbered subsections (d)-(f) respectively.

"(c) SPECIAL MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES OR IN OTHER FOREIGN COUNTRIES.—

(1) SPECIAL PROVISION.—If—

"(A) merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736 on May 9, 1980 or August 28, 1991,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or is supplied directly or indirectly by an exporter or producer covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied from the foreign country or any third country(ies), or

"(ii) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

(I) is subject to the relevant order,

(II) is produced in the foreign country with respect to which such order applies, or

(III) is supplied by an exporter or producer covered by the order, or by suppliers that have historically supplied that merchandise to that exporter or producer or to any other exporter or producer covered by the order, or by any party related to the exporter, producer, or historical supplier, whether such merchandise is supplied from the foreign country or any third country(ies), and

"(C) with respect to merchandise under paragraph (B)(ii), the administering authority determines that action is appropriate under such paragraph to prevent evasion of such order, and

"(D) the difference between the value of such merchandise sold in the United States and the value of the imported parts or components referred to in subparagraph (B)(i), or the merchandise referred to in subparagraph (B)(ii), is small,

the administering authority, after taking into account any advice provided by the Commission under subsection (f), may include within the scope of the relevant order the imported parts or components referred to in subparagraph (B)(i) that are used in the completion or assembly of the merchandise in the United States, or such imported merchandise referred to in subparagraph (B)(ii), at any time such order is in effect.

"Parts or components not identified in subsection (c)(1)(B)(i) and merchandise not identified in subsection (c)(1)(B)(ii) shall not be included within the scope of the outstanding order if a finding of circumvention is made under this section.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components, or merchandise assembled or completed in a foreign country, in the relevant antidumping duty order under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade—

"(B)(i) whether the manufacturer or exporter of the parts or components described in (1)(B)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the Foreign country with respect to which the order described in subparagraph (1)(A) applies, or

"(B)(ii) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B)(ii) is related to the person who uses the merchandise described in paragraph (1)(B)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(iii) whether imports into the United States of the parts or components described in subparagraph (1)(B)(i), or imports into the foreign country of the merchandise described in paragraph (1)(B)(ii)(I), (II) and (III), have increased after the filing of the petition, issuance of such order or, if the allegation of circumvention has been raised more than one year after the issuance of such order, have increased since the time circumvention is alleged to have commenced.

"(C) FORCE AND EFFECT.—This section shall have no force or effect if the petitioner in the investigations referenced in paragraph (a)(1) ceases production or final assembly of such products in the United States or shifts the sourcing of major components to a foreign country.

PROGRAM

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader and all of the many Senators who have participated in the day-long discussions which have culminated in this agreement.

This agreement will make it possible for us to complete action on these important measures and this session on Thursday.

There will be a session of the Senate tomorrow, but there will be no rollcall votes tomorrow. The measures set forth in the agreement which will be taken up will not require rollcall votes and there will, of course, be debate as set forth in the agreement on the reclamation bill beginning at 2 p.m.

On Thursday the Senate will vote at 11 a.m. on the motion to invoke cloture on the energy bill conference report. That will be followed by 1 hour for debate and then a vote on the conference report on the reclamation bill. That will be followed by 1 hour of debate and a vote with respect to the tax bill.

So Senators should be aware that rollcall votes will next occur in the Senate beginning at 11 a.m. on Thursday and hopefully concluding during the afternoon of that day and in accordance with this agreement.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. DOLE. I understand, too, then the vote on final disposition if cloture is invoked on the energy bill will come shortly after the vote on cloture; is that correct?

Mr. MITCHELL. That is correct.

The Senators involved may want to take a brief period of time following the cloture vote but I do not anticipate if cloture is invoked that there will be a lengthy debate at that time. There will be some time but not a lengthy period of time.

Mr. DOLE. Mr. President, if the majority leader will yield, I thank my colleagues on this side of the aisle for letting us proceed with this agreement. Senator WALLOP, certainly Senator D'AMATO from New York, Senator SEYMOUR from California, and others who were involved directly with the legislation that is covered by this agreement.

It does as the majority leader points out make it possible to complete our work on Thursday rather than Friday or Saturday of this week and that is certainly important to many of our colleagues on both sides of the aisle

So I thank all of our colleagues on both sides of the aisle for their cooperation and thank the majority leader for his leadership in getting us out on Thursday.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank the majority leader and minority leader for their cooperation in bringing this issue to a head and assuring that we get votes.

I appreciate it.

TAX EQUITY ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, it is my understanding that pursuant to the agreement just obtained the Senate will now proceed to consideration of the conference report to accompany H.R. 11, the urban aid bill.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1992.)

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report on H.R. 11, the urban aid bill:

George Mitchell, Daniel K. Akaka, Bob Kerrey, Edward M. Kennedy, Brock Adams, J. Bennett Johnston, Joseph Lieberman, Daniel K. Inouye, Jeff Bingaman, Timothy E. Wirth, David Pryor, Dennis DeConcini, Lloyd Bentsen, John Breaux, Claiborne Pell, Jay Rockefeller.

EXECUTIVE SESSION

EXECUTIVE CALENDAR UNANIMOUS CONSENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nominations:

Calendar 817, Brig. Gen. Richard C. Alexander, to be major general;

Calendar 818, Col. John J. Allen, to be brigadier general;

Calendar 819, Col. Donald E. McAuliffe, to be brigadier general;

Calendar 820, Col. David L. Young, to be brigadier general;

Calendar 821, Brig. Gen. William P. Bland, Jr., to be major general;

Calendar 822, Col. Douglas M. Padgett, to be brigadier general;

Calendar 823, Gen. Jimmie V. Adams, to be general;

Calendar 824, Gen. James P. McCarthy, to be general;

Calendar 825, Lt. Gen. Charles G. Boyd, to be general;

Calendar 826, Lt. Gen. Robert L. Rutherford, to be general;

Calendar 827, Maj. Gen. Jay W. Kelley, to be lieutenant general;

Calendar 828, all officers named for appointment in the Reserve of the Air Force—to be major general and brigadier general;

Calendar 829, Lt. Gen. James T. Callaghan, to be lieutenant general;

Calendar 830, Lt. Gen. Joseph W. Ashy, to be lieutenant general;

Calendar 831, officers named for promotion in the Regular Army, to be permanent major general;

Calendar 832, Brig. Gen. Ronald R. Blanck, to be permanent major general;

Calendar 833, Col. Jerome V. Foust, to be permanent brigadier general;

Calendar 834, officers named for appointment in the Reserve of the Army, to be major general;

Calendar 835. Officers named for promotion in the Army, to be permanent brigadier general;

Calendar 836. Rear Adm. Walter Jackson Davis, Jr. and Rear Adm. Robert Glen Harrison, to be rear admiral;

Calendar 837. Vice Adm. James D. Williams, to be vice admiral;

Calendar 838. Rear Adm. Patrick William Drennon, to be rear admiral;

Calendar 839. Rear Adm. Douglas J. Katz, to be vice admiral.

All nominations placed on the Secretary's Desk in the Air Force, Army, Marine Corps, Navy, and Foreign Service.

I further ask unanimous consent that the Senate proceed to consider the following nominations reported by the Committee on Armed Services:

Henry Viccellio, Jr., to be general, U.S. Air Force.

David M. Bennett, to be vice admiral, U.S. Navy.

Richard C. Macke, to be vice admiral, U.S. Navy.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

IN THE ARMY

The U.S. Army National Guard officer named herein for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Richard C. Alexander, [redacted]

IN THE AIR FORCE

The following officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

To be brigadier general

Col. John J. Allen, [redacted] Regular Air Force.

The following officer for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be brigadier general

Col. Donald E. McAuliffe, [redacted] Air National Guard of the United States.

The following-named officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

To be brigadier general

Col. David L. Young, [redacted] Regular Air Force.

The following officer for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Brig. Gen. William P. Bland, Jr., [redacted] Air National Guard of the United States.

The following-named officer for appointment to the grade of brigadier general in the Reserve of the Air Force under title 10, United States Code, sections 593, 8218, 8373, and 8374:

Col. Douglas M. Padgett, [redacted] Air National Guard of the United States.

The following-named officer for appointment to the grade of general on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Jimmie V. Adams, [redacted] U.S. Air Force.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. James P. McCarthy [redacted] U.S. Air Force.

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Charles G. Boyd, [redacted] U.S. Air Force.

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Robert L. Rutherford [redacted] U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

Maj. Gen. Jay W. Kelley, [redacted] U.S. Air Force.

The following-named officers for appointment to the Reserve of the Air Force, to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Brig. Gen. Tandy K. Bozeman, [redacted] Air National Guard of the United States.

Brig. Gen. Stephen P. Cortright, [redacted] Air National Guard of the United States.

Brig. Gen. Dennis B. Hague, [redacted] Air National Guard of the United States.

Brig. Gen. E. Gordon Stump [redacted] Air National Guard of the United States.

To be brigadier general

Col. Charles L. Blount, [redacted] Air National Guard of the United States.

Col. Stewart R. Byrne, [redacted] Air National Guard of the United States.

Col. Harris R. Henderson, [redacted] Air National Guard of the United States.

Col. John S. Hoffman, [redacted] Air National Guard of the United States.

Col. Donald E. Joy, Jr., [redacted] Air National Guard of the United States.

Col. Ronald H. Morgan, [redacted] Air National Guard of the United States.

Col. Harry E. Owen, J., [redacted] Air National Guard of the United States.

Col. Daniel H. Pemberton, [redacted] Air National Guard of the United States.

Col. Kenneth M. Taylor, Jr. [redacted] Air National Guard of the United States.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James T. Callaghan [redacted] U.S. Air Force.

The following named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Joseph W. Ashy, [redacted] U.S. Air Force.

IN THE ARMY

The following named officers for promotion in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent major general

Brig. Gen. Robert B. Rosenkranz, [redacted]

Brig. Gen. Larry G. Lehowicz, [redacted]

Brig. Gen. Robert A. Goodbary, [redacted]

Brig. Gen. Robert T. Howard, [redacted]

Brig. Gen. Otto J. Guenther [redacted]

Brig. Gen. Pat M. Stevens, IV [redacted]

Brig. Gen. Michael S. Davison, Jr., [redacted]

Brig. Gen. Richard W. Tragemann, [redacted]

Brig. Gen. Frank L. Miller, Jr. [redacted]

Brig. Gen. Josue Robles, Jr. [redacted]

Brig. Gen. Jarrett J. Robertson, [redacted]

Brig. Gen. Joseph W. Kinzer, [redacted]

Brig. Gen. John S. Cowings, [redacted]

Brig. Gen. William M. Steele, [redacted]

Brig. Gen. David J. Kelley, [redacted]

Brig. Gen. Thomas F. Sikora [redacted]

Brig. Gen. Fredric H. Leigh [redacted]

Brig. Gen. Frank F. Henderson [redacted]

Brig. Gen. David E. White, [redacted]

Brig. Gen. Ray E. McCoy, [redacted]

Brig. Gen. Kenneth W. Simpson, [redacted]

Brig. Gen. Thomas H. Needham, [redacted]

Brig. Gen. John C. Thompson, [redacted]

Brig. Gen. Ronald E. Adams, [redacted]

Brig. Gen. Harley C. Davis, [redacted]

Brig. Gen. Robert K. Guest, [redacted]

Brig. Gen. Stanley G. Genega, [redacted]

Brig. Gen. John M. Pickler [redacted]

The following-named Medical Corps officer for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be permanent major general

Brig. Gen. Ronald R. Blanck [redacted] U.S. Army.

The following-named Medical Service Corps officer for appointment in the Regular Army of the United States to the grade indicated under the provisions of Title 10, United States Code, sections 611(a) and 624(c):

To be permanent brigadier general

Col. Jerome V. Foust [redacted] U.S. Army.

The U.S. Army National Guard officers named herein for appointment in the Reserve of the Army of the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384;

To be major general

Brig. Gen. James A. Barney, Jr., [redacted]

Brig. Gen. Donald W. Lynn, [redacted]

Brig. Gen. William Miranda-Marin, [redacted]

Brig. Gen. Joseph F. Perugino [redacted]

To be brigadier general

Col. Cecil L. Dorten, [redacted]

Col. Terry L. Holden, [redacted]

Col. John S. Martin [redacted]

Col. John C. Bridges, [redacted]

Col. Ross S. Fortier, [redacted]

Col. Edmund J. Giering, III [redacted]

Col. James S. Kessler, [redacted]

Col. Benton D. Murdock, [redacted]

Col. Cecil L. Pearce, [redacted]

Col. Edwin W. Smith, [redacted]

Col. Walter J. Whitfield, [redacted]

Col. Thomas C. Carroll, [redacted]

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. James F. Hennessee, [redacted]

Col. Stanley F. Cherrie [redacted]

Col. Freddy E. McFarren, [redacted]

Col. George H. Harmeyer, [redacted]
Col. John F. Michitsch [redacted]
Col. Stuart W. Gerald, [redacted]
Col. Lon E. Maggart, [redacted]
Col. Larry G. Smith, [redacted]
Col. Jerry L. Laws, [redacted]
Col. John W. Smith, [redacted]
Col. Henry T. Glisson, [redacted]
Col. Milton Hunter, [redacted]
Col. Thomas N. Burnette, Jr. [redacted]
Col. David H. Ohle, [redacted]
Col. James T. Hill, [redacted]
Col. Greg L. Gile, [redacted]
Col. James C. Riley, [redacted]
Col. Randall L. Rigby, Jr. [redacted]
Col. Mario F. Montero, Jr. [redacted]
Col. Timothy J. Maude [redacted]
Col. John R. Walsh, [redacted]
Col. Daniel J. Petrosky [redacted]
Col. Michael B. Sherfield, [redacted]
Col. James C. King, [redacted]
Col. Joseph G. Garrett, III [redacted]
Col. Leroy R. Goff, III, [redacted]
Col. Michael A.Canavan, [redacted]
Col. David R. Gust, [redacted]
Col. Ronald F. Rokosz, [redacted]
Col. Daniel G. Brown, [redacted]
Col. Leo J. Baxter, [redacted]
Col. William P. Tangney, [redacted]
Col. Charles S. Mahan, Jr. [redacted]
Col. Burt S. Tackaberry [redacted]
Col. John J. Maher, III [redacted]
Col. Leon J. LaPorte [redacted]
Col. Claudia J. Kennedy, [redacted]
Col. Stephen T. Rippe, [redacted]

IN THE NAVY

The following-named rear admirals (lower half) in the line of the United States Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral

Rear Adm. (lh) Walter Jackson Davis, Jr., [redacted] U.S. Navy.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (lh) Robert Glen Harrison, [redacted] U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. James D. Williams, U.S. Navy, [redacted].

The following-named rear admiral (lower half) in the Civil Engineer Corps of the Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor to as provided by law;

CIVIL ENGINEER CORPS

To be rear admiral

Rear Adm. (lh) Patrick William Drennon, [redacted] U.S. Navy.

The following-named officer for appointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. (Selectee) Douglas J. Katz, U.S. Navy, [redacted].

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning Bruce A Brown, and ending Marc G Wilson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Air Force nominations beginning Major Robert K. Baldwin, [redacted] and ending Major Lorayne M. Whitehead [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Air Force nominations beginning Donald E Abston, and ending Roger B Mcgrath, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Air Force nominations beginning Barbara E Allmart, and ending Matthew D Zuber, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 10, 1992.

Air Force nominations beginning William Agrella, and ending Manfried K Zeithammel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 10, 1992.

Air Force nominations beginning Walter K. Kaneakua, [redacted] and ending Gregory H. Blake, [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 25, 1992.

Air Force nominations beginning Major Joseph Amara, [redacted] and ending Major Michael D. Miller, [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 25, 1992.

Army nominations of Lt. Col. David C. Arney, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Army nominations beginning Clark H. Babl, and ending Stephen B. King, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning David A. Boothe, and ending 697x, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Patrick J. Berger, and ending John C. Schoonover, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Douglas C. Andrews, and ending *Julia A. Morgan, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Albert L Frazier, and ending Quentin A Humberd, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Dave Arnot, and ending Jane A Yaws, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Gary K Abe, and ending 9780x, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Jeffrey M Abel, and ending Robyn D Tibbitts, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1992.

Army nominations beginning Friebe B Aboley, and ending John H Sudduth, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 10, 1992.

Army nominations beginning Gino L. Ventresca, and ending Jeffrey M. Reines, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Army nominations beginning Pandor Angelisanti, and ending Carl D. Humbarger, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Foreign Service nominations beginning David N. Merrill, and ending Theodora Woodstervinou, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1992.

Foreign Service nominations beginning Mary A. Ryan, and ending John C. Triplett, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1992.

Foreign Service nominations beginning David Michael Sprague, and ending John M. O'Keefe, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1992.

Marine Corps nominations beginning Donald L. Davis, and ending Jeffrey L. Hull, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Marine Corps nominations beginning Terry G. Steven, and ending Edward J. Zelczak, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 1992.

Marine Corps nominations beginning Gregory D. Bates, and ending William H. Thomas, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 28, 1992.

Marine Corps nominations beginning Donald R. Gibbs, and ending Phillip W. Woody, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 4, 1992.

Marine Corps nominations beginning Peder A. Anderson, and ending Thomas W. Shreeve, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 11, 1992.

Marine Corps nominations beginning Francis P. Ahearn, Jr., and ending Benjamin K. Yoshioka, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1992.

Marine Corps nominations beginning Gary D. Anderson, and ending John M. Zajac, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1992.

Navy nominations beginning Frederick B. Beacham, Jr., and ending Alan Richard Pagnotta, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 10, 1992.

Navy nomination of Gary Michael Hall, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 18, 1992.

Navy nominations beginning Rickey Lynn Dubberly, and ending Michael D. Pind, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 28, 1992.

Navy nominations beginning Carl H. Abelein, and ending James Clayton Johnson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1992.

Navy nominations beginning Rise Lavonne Barkhoff, and ending Arthur Eugene Wickerham, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Navy nominations beginning Mark F. Abel, and ending Reynold Anthon Sefton, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Navy nominations beginning Glen Charles Ackermann, and ending John Edward Zarbock, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Navy nominations beginning Joel Michael Alcoff, and ending Isaac Ray Williamson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

Navy nominations beginning Bradley Mcint Anderson, and ending Randell Lee Vanburen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 30, 1992.

IN THE AIR FORCE

To be general

Lt. Gen. Henry Viccellio, Jr. [redacted] U.S. Air Force.

IN THE NAVY

To be vice admiral

Vice Adm. David M. Bennett, U.S. Navy [redacted].

Vice Adm. Richard C. Macke, U.S. Navy, [redacted].

MORNING BUSINESS

TRIBUTE TO RETIRING SENATOR JAKE GARN

Mr. CONRAD. Mr. President, I would like to take a moment to pay tribute to my colleague from Utah, Senator JAKE GARN, who will be leaving this body at the end of the year.

For the past 18 years, JAKE GARN has served the people of Utah ably and effectively. I have had the privilege of serving with Senator GARN on the Senate Energy Committee, where we both fought for the interests of rural Western States. North Dakota and Utah are similar in a number of ways—water supply problems, the need for rural development, an economy that is largely dependent upon the whims of Mother Nature. Senator GARN has worked constantly to combat these problems for Utah. I would note in particular his work toward the completion of the central Utah water project. This project has been a long time in coming, but it will bring significant and much-needed benefits to rural Utah when it is finished.

JAKE GARN is a courageous and tireless worker for the causes in which he believes. His knowledge of complex subjects such as banking and arms control is well-known in the Senate. He calls them like he sees them, and he is a good person to have on your side in a tough political fight in the Senate.

In addition, we are all aware of JAKE's strong belief in the U.S. Space Program. I dare say that there is no stronger advocate of our Space Program than JAKE GARN. And he proved his commitment to this program in 1985 by becoming the first elected official ever to fly on the space shuttle. Mr. President, there are many people who talk or dream about going into space, but the fact of the matter is, it takes a great deal of desire and courage to actually get up there. JAKE had what it takes, and he will long be remembered for his historic space flight.

While everyone may recall JAKE's shuttle flight, I want to remind the Senate of an even more courageous, but less well publicized, act that he performed the year after the flight. JAKE's daughter was suffering from kidney failure and needed a transplant. While others in his family could have donated the kidney, JAKE insisted that he be the donor. He felt a duty as a parent to give a part of himself to save his child. The operation was successful and saved his daughter's life.

JAKE GARN is a man of honor and courage, and he has served the people of Utah well. I salute his service in the Senate and wish him luck in his future endeavors.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,058,858,035,876.16 as of the close of business on Friday, October 2, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During fiscal year 1991, it cost the American taxpayers $286,022,000,000 just to pay the interest of Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,801.89—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

DEDICATION OF THE DONNELLEY WILDLIFE MANAGEMENT AREA

Mr. THURMOND. Mr. President, South Carolina is blessed with a rich and varied natural heritage, including many beautiful rivers and wetlands areas. This is especially true in the low country region of our State. It is there that the Ashepoo, Combahee, and Edisto Rivers all come together to form the ACE basin. It is also there that a man who loved wildlife and the outdoors dreamed of creating an area for present and future generations to enjoy and study.

The late Gaylord Donnelley was recognized as one of this Nation's leading conservationists well before he donated 7,000 acres of his own land as the Genesis of the ACE basin project. Committed to ensuring the project's success, he traveled the low country selling his idea—urging, and ultimately convincing many landowners to grant conservation easements to their property. Unfortunately, Gaylord Donnelley has passed away. However, in recognition of his vision and commitment, a 9,000-acre tract of land, the Donnelley Wildlife Management Area, was recently dedicated in his memory.

Mr. President, many dignitaries were present at last month's dedication ceremonies, and I was moved by what these people said. I request that copies of their fine speeches be included in the RECORD following my remarks.

Finally, I would also like to take this opportunity to recognize another visionary man who has worked with unending dedication to help make the ACE basin a reality—Mr. Coy Johnston. In his capacity as project director, Mr. Johnston has become the linchpin of this whole effort and we are all grateful for his energy, commitment and common sense.

I am proud of my association with this very worthwhile project and I will continue to lend my strongest support to ensure that the ACE basin continues to grow, becoming the premiere conservation management project in our great Nation.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

COMMENTS FOR DONNELLEY WMA DEDICATION

CONGRESSMAN ARTHUR RAVENEL, SEPTEMBER 20, 1992

Now on the program we have here it calls on me for remarks; when they say remarks, that means Arthur, be brief. I just have to lay a few words on you about the ACE. I see so many faces out there who have been here before—previous dedications and previous announcements of grants and here included in the ACE Basin through easement or gift or purchase or otherwise. It really is one of the most exciting things that is going on in South Carolina and indeed in the nation today, in so far as the environment is concerned. I will admit that we are going to preserve approximately 350,000 pristine acres.

Imagine starting just a few miles down there on the coast—Otter Island, Pine Island, Sea Islands, Barrier Islands and coming on in where some loggerhead turtles and other seabirds nest. Loggerheads, as you know, we have just completed a very successful nesting year. They are not endangered but they have been threatened. We have finally it looks like we have overcome all the problems with the turtle excluded devices. Shrimpers are now pulling them, and we do not hear anymore hooping and hollering and yelling, and everybody seems to be satisfied with what is going on. The number of strandings have just practically gone to nothing, and further on up the coast, as some of you may know, we had a Kemps Ridley come in and nest and hatch. Then we have had a couple of nestings up in North Carolina, and as you know, they are, of course, endangered.

The eagle story has just been one of the most exciting things going on in South Carolina. Approximately fourteen years ago we only had twelve nesting pairs. We got rid of the DDT and got rid of the thin egg shells and every year the numbers of nesting eagles has increased, and last year's reached almost 90. We are about to reach a historical high which we may reach next year of 100 pair. We are already making plans to have an eagle celebration when we get to 100 nesting pairs once again in South Carolina. For those of us who are natives and those of you who are interested and you all are because if you were not, you would not be here. That is really exciting news.

Of course, as you know, the wood stalks have encountered drug problems and other environmental problems down there in Florida. They knew where to come, and just a few years ago, we discovered wood stalks for the first time nesting right here in the ACE Basin. They are having another great nesting year. There are several rookeries now. I visited one myself last year and saw those wood stalks nesting. Of course, we not only have the habitat for their rookeries, but the ACE is providing them with adequate areas for feeding.

So there is a lot going on here, and we just have tremendous diversity in the ACE. The ACE, as you know, and the reason we call it ACE is that the area is encompassed by the Ashepoo, the Combahee and the Edisto rivers. That is how you get ACE. It goes from the sea, go on up into Salkehatchie Swamp, and we will have just about every type of habitat and ecological area that you can imagine, all encompassed right here in South Carolina. I just love to tell my fellows on the Merchant Marine Committee, on which I serve up there in Washington, I say, Man they got problems here and problems there, and this is bad and that is bad and numbers are declining. I said, Man, in South Carolina we have just tremendous public support for the ecology and the environment. We are preserving what we have, we are improving it and we are adding constantly to it.

To elaborate on that and bring us some additional word on what is going on and thank gosh they are finally getting involved politically because that is a powerful group, I am telling you. It is Ducks Unlimited. We have the CEO here today. He has been down before, and we are happy to welcome him back—Mr. Matthew B. Connolly, Jr.

MATTHEW B. CONNOLLY, JR., CEO, DUCKS UNLIMITED, SEPTEMBER 20, 1992

Thank you Congressman. Senator Thurmond, Mr. Secretary and distinguished guests and ladies and gentlemen, it is a wonderful occasion we have here today, and I think that this particular project, the ACE Basin—it is my understanding Congressman, the ACE Basin came about because no Yankee could pronounce Edisto, Ashepoo and Combahee like you so eloquently do. I, for one, think that this project exemplifies what is right and what is best about America. I, for one, believe that this epitomizes what our great country is about because what this is—is a partnership. It is a partnership not about preserving something, it is a partnership about building something, about building ourselves a better place to live, to work, to recreate and to come and rekindle your spirit. And you folks are doing it so beautifully here. This project is one that brings together many who sometimes in the past have been more inclined to sit and squabble on the sidelines and differ about things. We have something in common, and we see that something is in need of some care, and we see that one needs to work with private landowners, the key to success in conservation in the next century will be to work and forge alliances with private landowners. The ACE Basin project does that so wonderfully. Beyond working with the private landowners who have done such an exemplary job here, you have other strong partners who have exhibited great leadership. We have Senator Thurmond. Senator, I am reminded of all of the current conversation about former President Truman, and everyone who seems to be running for office, seems to want to be like President Truman was, and I am reminded that you nearly denied him being President. Perhaps I would be better served to emulate Senator Thurmond, who has worked so diligently and has done such a commendable leadership job for conservation for you folks in the state of South Carolina.

Also, I think to be highly congratulated is the U.S. Army Corps of Engineers. Again, an organization that often times is identified on the other side of the wetlands island and really has not been given the credit that they deserve for some of the leadership initiatives that have been going on around the country. Again, it is these kinds of partnerships that are the new wave of people coming together and getting a job done that cannot be done alone.

Additionally, great leadership has been exhibited by the state and through its Department of Wildlife and Marine Resources and Jim Timmerman and John Frampton, they have done a job that no other state has done in the nation. It has taken a great deal of diplomacy, and it has taken a great deal of managerial skill. We thank them so much for the opportunity to be partners.

The Federal Government and the U.S. Fish and Wildlife Service, the new North American Wetlands Conservation Council has participated in this. As you know, the local Task Force, itself. So you have a myriad of interests that have come together—quietly done something—you come to the ACE Basin, and there aren't any granite portals or neon signs. It is unchanged—that is what it is about. You do not recognize when you cross the line into the ACE Basin—there aren't malls on the way in; there aren't big billboards. You just know you are here by the character, the aura of the place. That is what needs to be retained. But it needs to also be a place where people live, where they play and where they work and where future generations can be assured that it will be here as well.

We at Ducks Unlimited were given some great insight into leadership through two past presidents, both of whom have widows here today. Dorothy Donnelley, like her husband, Gaylord Donnelley, is a leader in conservation and is someone who is best characterized by sharing, sharing with people across the country. Another person who had a great deal to do with this, though his origins in it go back many years was our President, Herman Taylor, and his wife, Evelyn, is here all the way from Louisiana. Herman Taylor when he was President began DU's programs in the United States. Dorothy, we thank you and the Donnelley Family for being the caring stewards that you have been on your property at Ashepoo, and we also thank you, most of all, for being people who act as catalysts and who get people together and get the ball rolling. You have crafted something here that we are all very proud of, and we know that this will not be the last of these types of occasions. So I want you to know that you have something special here, and perhaps one of the most unique things of all that has happened is that we had a Fortune 500 corporation come and join in this endeavor, and that is most unique. It too showed enormous leadership and vision, and the Dow Chemical Corporation came and made a leadership grant to get this project going, and we thank Dow Chemical, and we have with us today one of its representatives, John Tomke of DowElanco.

All of these interests, again having put anything they have different aside but concentrating on what they had in common in making something I believe that is a very, very positive benefit and from Ducks Unlimited's viewpoint, this is a conclusion of a very important chapter in our game plan and that is to have it go into the public hands of the State of South Carolina where people can come and enjoy this property. These are not intended to be temples that only a few can worship in; they are intended to be areas that can be appreciated and utilized. So we urge each and everyone of you to bring your family out and to enjoy this magnificent property and to make sure that those you bring with you learn to respect it and the areas like it in the ACE Basin.

I would be remiss if I did not thank two people especially here. I want to thank Coy Johnston, who is our ACE Basin Coordinator, for the outstanding job that he has done in the past three years. I also want to thank Bobby Ellis, who is our manager of this property of the Donnelley Wildlife Management Area who now becomes so for the state. Thank you.

SENATOR STROM THURMOND, SEPTEMBER 20, 1992

I had better take Mr. Connolly around and let him introduce me again, he had such nice things to say. Mr. Chairman, distinguished guests and ladies and gentleman, I am very pleased to be here on this occasion. I am so glad that the Secretary of the Army, Secretary Stone, could be here as well. I am not scheduled to introduce him, but I just want to say that he is one of the finest secretaries that the Army has ever had. We are very pleased to have him here, and he honors us with his presence.

Speaking of the Army reminds me of what occurred up at Fort Jackson at the jump school some time ago. The instructor had just finished his lecture on parachute jumping. "So," asked one student, "what if the chute does not open?" "That," replied the instructor, "is what is known as jumping to a conclusion." At any rate, the conclusion we have with this project is a good one.

I also want to say that this Secretary of the Army knows how to get things done. If he cannot do it one way, he will do it another. That reminds me of the truck driver who was driving from up north to down south, and about halfway down he got hungry. He stopped at a restaurant to get something to eat and ordered a hamburger, a cup of coffee, and a slice of pie. Just as his food arrived, three men wearing leather jackets and driving motorcycles came into the restaurant—one grabbed his hamburger, one grabbed his coffee, and one grabbed his pie. Ordinarily, a man would be infuriated with such conduct. The truck driver did not do a thing, but get up, thank the waitress, give her a big tip, and walk out the door. Everybody was startled. Just about the time he was driving off, one of the men in the leather jackets said, "he isn't much of man, is he? The waitress replied, "I don't know about that, but he must not be much of a driver, he just ran over three motorcycles."

So, there are more ways than one to accomplish a goal. The Secretary of the Army has found that, as he knows how to get things done. Mr. Secretary, we are honored by your presence.

I am so glad to see all of these prominent people here—Congressman Ravenel—he is the most unique Congressman in the whole House. We are proud of him. South Carolina is proud of him, and we are glad to have him here today.

I am also glad to see Representative Harrelson again. I knew him years ago when he was younger; of course, he is not too old now.

Senator John Drummond, one of the most able Senators in the state senate is here. Aren't you chairman of the Appropriations Committee now, John? Finance? the Finance Committee, that is a powerful and influential committee, you hold the purse strings. You all be sure and treat him nice.

Pat Harris, I understand is here. Where is Pat? We are delighted to have you here from Anderson, South Carolina. A very able Representative and a good friend of mine.

I just want to let Mr. Connolly know how pleased we are that he is here today. He has done a fine job with Ducks Unlimited.

Mr. Charles Lane, chairman of the Ace Basin task force is also here. Charles, we commend you for what you have done.

Jim Pendarvis who serves on the wildlife commission. He lives at Edgefield part time and down here part time, and we claim him both places. Dr. Timmerman, who has done such a good job with the wildlife department. We are glad to have him here.

John Tomke, senior vice president of Dow Chemical. We are glad to have you here. We appreciate that big donation you made too. Thank you very much. Come again.

Mrs. Dorothy Donnelley, the wife of the late Gaylord Donnelley is here. They own all of this property and they have made a fine contribution to this project. Her son Elliot, is also here today. We are honored by having them present.

Reverend Sam Cooper is from Green Pond. We are pleased to have him come down here and participate in this program. Now I must speak about Coy Johnston, who is the father of one the finest and most able women in Washington. She works for me as my executive assistant and her name is Holly. If you ever want anything done in my office, just call Holly.

Unfortunately, I do not get to see my children very often as I travel around so much. I am glad that my daughter Julie could be here today. She came down with her friend, Miss Frampton, and they are both students at the College of Charleston. You girls stand up. Let everybody see two pretty girls.

Ladies and gentlemen, the Ace Basin and the Donnelley management area is a dynamic project, a unique partnership between property owners, conservationists and government. It strikes the right balance between conservation and use, and will allow this area's resources to be harnessed while protecting them at the same time. Commercial uses of the basin include timber harvesting, aquaculture, and tourism, these are all important industries to South Carolina. This project will also provide many recreational activities such as hunting—deer, dove, quail; fishing; hiking; camping; boating; and bird watching. It is a tremendous project and we are so proud of it.

Many great things are coming out of this project. For one, it is being studied as a model for similar projects. The Ace Basin will create a natural buffer zone between two large and expanding areas, Beaufort/Hilton Head and Charleston, and ensure that the low country remains a desirable place to live. It also opens many areas to the public that were previously unavailable. Many South Carolinians have never been here before and do not know how beautiful and scenic the low country is. Finally, this project will protect for future generations an ecosystem that is disappearing everywhere else.

Many people have helped to make this project a reality. The Secretary of the Army has helped us a great deal. The Corps of Engineers has helped us. The Assistant Secretary, Nancy Dorn, has worked on this project. She is not here today, but the secretary, himself, is here. By the way Secretary Dorn had a baby and could not come this soon after the baby's birth, but we are certainly proud to have Secretary Sullivan. The Donnelleys, I just want to say, we cannot tell you how much we appreciate all you have done, Mrs. Donnelley, you and your family. We do appreciate it. The South Carolina Department of Marine and Wildlife Resources and the Nature Conservancy have also contributed a great deal to the Ace Basin project. Coy Johnston, another visionary man, active in Ducks Unlimited, is the project director for the Ace Basin. He has worked hard to make this project a reality. Let's give him a special hand. Many others who have worked on the Ace Basin are here today and everyone involved in this project is to be congratulated.

I would like to take this opportunity to recognize another government servant for his work on this project and his commitment to conservation and that is President George Bush. Because of this administration's cooperation, we are able to get a lot of things done in wildlife matters and on this project. President Bush is following in the footsteps of one of the greatest conservationists that ever lived, Teddy Roosevelt. He was an avid sportsman and great Republican who established our national parks system. Now, I want to say this, President Bush exemplifies Roosevelt's concern for the environment. He wants the EPA given cabinet status, he has signed the Clean Air Act into law and has worked to protect wetlands in coastal areas. He has added over a million and one-half acres to the national parks forest and wildlife refuges and he has added 6.4 million acres to the wilderness system. He has adopted ecosystem management for forests and other public lands. He is committed to no net loss of wetlands. He has doubled the spending for wetlands protection, signed the North American Wetland Conservation Act and the list goes on and on. If I say anymore, you will think I am trying to get him reelected. Well, I am.

The Ace Basin represents a great resource and asset. It will be used and enjoyed by people from all over our Nation and is yet one more reason why South Carolina is the finest and most progressive state. We are so glad to be here. We are proud to have all of these wonderful people here who had such a big part in this and we are proud of you who came, took your time to come here today and participate in this matter. You are truly witnessing the beginning of a model project for the whole Nation. Thank you. God bless you.

First of all, I would like to express my apologies to all of you sitting here, all of you on the podium, the Navy Band, the Color Guard, I really do apologize for being late. I want you to know it was not due just to my own negligence and sloppy scheduling. I did leave Washington early this morning, and I was down in Miami working on the Hurricane reconstruction efforts all during the morning, and I got a little bit late down there so I apologize to you.

It is always a pleasure for me to be back in South Carolina. I think almost the first time I met Senator Thurmond I mentioned to him that my family used to live in Charleston. My father was in the Navy here in World War II. I spent my last vacation in Charleston before I joined up myself in late 1942. My last vacation from high school I spent in Charleston, and I have very good memories of being down here in this part of the country, and it is always good to be back again.

I am very delighted Congressman Ravenel was a good weather prognosticator because so far the elements have been kind to us. The last time I came down, not quite the last time, but almost the last time I came down to Charleston to participate in another ceremony, actually I am wrong I do not think it was Charleston, it was up north in the state in Darlington, the heavens did open up there, and they came down so hard that none of the speakers could read their notes which may have been a good idea, but we then had to move about five miles down the road to a place that was big enough to take all of us and I have a feeling if we had to move from here it might be more than five miles so I am delighted that the rain has not come down.

What a beautiful spot. I am delighted to participate in the ceremony. I only wish my wife could be here as well. She happens to be in San Francisco which is my home, and she is there attending a board meeting of another conservation organization so she is with us in spirit, and I am certainly going to tell her about the beauty of this spot and get her down here as soon as she can because I know she would love to see it with her interest in birds and wildlife.

The Army is pleased that we are a part of this worthwhile effort and as I said a moment ago, I have just been down in Miami. Too often Americans think of the Army only as a war fighting force and that, of course, is our first responsibility, our first mission to the nation, our constitutional responsibility, but while we are engaged in that mission, we do many things as well. Thanks to the President and many others, I want you to know that the effort to help all of those people in that devastated area in Florida is coming along extremely well. We have stepped in and provided assistance where that is necessary. I went this morning to a food distribution center and I would bet that the food that has been so generously contributed by people all over the county and including, I am sure, this area from churches and service clubs and private organizations, I saw that food being distributed this morning for people who needed it. It gave me a very comforting feeling.

The Corps of Engineers has been mentioned. The Army is a full participant in the nation's environmental programs. Sixty-three Army installations I found out are homes for at least one of the country's very many federally listed threatened or endangered species. We in the Army spent over $4 million last year to protect those species. Next month there is a major conference going on just up in North Carolina at Fort Bragg on the red-cockaded woodpecker problem which exists throughout this great arc of the South where we are doing many fine things to protect that endangered bird. Incidentally, the bird, as Congressman Ravenel was talking about, in general, is doing very well. It seems to thrive on Army reservations which is both to our advantage and disadvantage, the disadvantage operationally of the Army but certainly to the advantage of the country. It seems to love gunnery ranges more than any other place on the base.

The Corps of Engineers is involved in efforts like this in many different places—operating our inland waterways, opening them during the dredging around the nation that our harbors need. We work with individual states and others in developing and caring for these and the country's other national resources. Earlier this year, for example, I participated in another ceremony near Washington where the Army transferred from Fort Meade Army lands just outside of Washington, 9,000 acres to the Patuxent National Wildlife Refuge. So we are involved in these types of things all over the county, and it is a source of great gratification to us in the Army.

We are proud and happy to join in the partnership like this one made possible by the generosity of a family and the cooperation of many, and it is a partnership like this that is so important for our nation. I am delighted I am here, and I give you my apologies again for having been late.

COMMENTS FOR DONNELLEY WMA DEDICATION, BY JOHN A. TOMKE, VICE PRESIDENT OF MFG., DOWELANCO SEPTEMBER 20, 1992

Thanks Congressman. Mrs. Donnelley, Mr. Secretary, also Senator Thurmond, good to see all of you here today honored guests. It is a distinct pleasure for me to return to the Ace Basin to this special place and to participate with so many people who have committed this area their time, their talents and also their treasures. Some of you may know Senator Thurmond graciously made his Capitol conference room available to us in 1990. That was when we announced Dow's partnership for wetlands conservation and pledged over $3 million for a four year period. That partnership was composed of The Nature Conservancy, Ducks Unlimited, Dow and The National Fish and Wildlife Foundation.

One of the first projects identified by the partnership for consideration was the ACE Basin. During that process I had the honor of meeting Gaylord Donnelley as well as Charles Lane and several other impressive folks who are here at the Ace. We drove around the Basin and then took a helicopter ride and saw spectacular views, an incredible number of birds and other wildlife. It was obvious that we wanted to support this pristine wildlife sanctuary. Dow made a $500,000.00 commitment which was matched by the Foundation for a total donation from the partnership of $1 million. In the past two years, we have implemented six similar wetland projects across the United States and Canada. Dow employees have also managed many local projects on or near Dow properties. They volunteered their time and their talents as practicing environmentalists. These projects range from nesting islands to walleye rearing ponds to wood duck boxes to native prairie restorations. The common thread through all of them is they are voluntary and they are achieved through working partnerships.

Mr. Donnelley's contribution to people to conservation to Ducks Unlimited and particularly to preserving wetlands is an inspiration to us all. The impact and results of his commitment will live on forever.

The most popular book in the world begins, "In the beginning God created the heaven and the earth". As he added light, animals and humans, the Bible say God saw that it was good. As we look out here today, we know that it is still good, and through the enduring contributions of people such as Mr. Donnelley and the people out here today we are assured that it will be good in the future as well.

The second most popular book in my house is one called Sand County Almanac and was written by a conservationist, named Aldo Leopold. I would like to just share one comment from one of his essays with you. He said, "I have congenital hunting fever and three sons. As children they spend their time playing with wooden guns and with decoys. I hope to leave them three things—a long life, health and possibly even a competence". But he goes on, "what are they going to do with those things if there are no more quail in the woods and no more deer in the forest and no more whistling of duck wings in autumn air. What if there be no more goose music". We are here today all of us because we care about goose music. Mr. Donnelley too cared passionately about goose music. This Wildlife Management Area will stand as a living legacy to that passion. Thank you.

DR. JAMES A. TIMMERMAN, JR., SEPTEMBER 20, 1992

Thank you Congressman Ravenel—we in South Carolina and those of us with the Wildlife and Marine Resources Department are particularly fortunate to have you in Washington representing us. Congressman Ravenel has always stood tall in supporting conservation programs in South Carolina and he has been an active supporter of the Ace Basin initiative since its very inception in 1988.

I am honored, beyond what words can express, to be standing on this platform today paying tribute to Gaylord and Dorothy Donnelley for the vision and commitment to conservation, and to recognize South Carolina's most distinguished citizen, Senator Strom Thurmond:

Dorothy, I believe Gaylord would have been pleased to see the culmination of this unique cooperative partnership. I am delighted that you and your family have allowed the Wildlife and Marine Resources Department and all of the partners in this project to name this area in honor of you and Gaylord. I pledge to you and your family our commitment as stewards of this property to manage these lands in manner which will bring great credit to your unmatched conservation ethic and your demonstrated commitment to the protection and enhancement of the ACE Basin. And, Senator Thurmond, thank you for joining us here today to celebrate both the protection and dedication of the Donnelley Wildlife Management Area. Senator Thurmond is a true friend of the sportsmen of South Carolina and a strong supporter of wildlife programs on both the state and national level. No one person in the entire history of our great state has given more to its citizens than Senator Thurmond—his dedication, commitment and loyalty are unparalleled. We applaud your successful effort in obtaining the necessary federal funding for the Corps of Engineers to acquire a portion of this exceptional property. To Matt Connolly and Ducks Unlimited, I publicly commend your bold commitment to put up over $10 million to protect this property when development eyes were upon it almost three years ago. To John Tomke and Dow Chemical Company along with The Nature Conservancy, the National Fish and Wildlife Foundation, the North American Wetland Conservation Council, the National Wild Turkey Federation and other participants, thank you for being partners in the exciting joint venture.

Mr. Secretary, we welcome you to South Carolina and hope that you will again visit us when your schedule is not so demanding. To really appreciate South Carolina's low country, you need to visit for several weeks (you may never want to go back to Washington and The Pentagon).

We are excited about the Corps of Engineers as a partner in the ACE Basin project. I commend Lt. General Henry Hatch's directive of February 14, 1990, as Commanding Officer of the U.S. Army Corps of Engineers, that each member of the Corps must integrate environmental sensitivity in the day to day business. He reminded us that the cumulative consequences of our work must reflect a clear interest in protecting the equality of our environment and natural resources. He stated, "we will be measured by what we do, not what we say.". The motto of the U.S. Army Corps of Engineers is "Essayons", a French word which means "let us try". The Savannah District in its unprecedented speed and diligence, has fulfilled both General Hatch's directive and its own motto. The state of South Carolina offers a salute to the Savannah District for having tried and accomplished this mission.

In closing, I want to take this opportunity to thank Congressman Ravenel, Senator Thurmond, Secretary Stone, the Donnelley family and the other distinguished individuals on this platform as well as the many partners and supporters of this project for allowing us to be the stewards of the Donnelley Wildlife Management Area. We are honored to share in the accomplishments and perhaps the best example in America of a cooperative conservation partnership. We pledge our continued support to the Ace Basin project, and we look forward to the many new horizons that await us.

ELLIOTT DONNELLEY, SEPTEMBER 20, 1992

Thank you. My father would really have appreciated everybody coming for this. This was his life. I think it was summed up on something I had forgotten and that is Mr. Tomke's reference to Leopold's Goose Music. I think that was basically my father's interest in life—Goose Music—the preservation and the upkeep and the visionary hope of expanding wildlife as it stood, not just for himself. I mean he would appreciate this showing, but that was not the point, the point was the Goose Music. It was that if there was a chance, any chance of saving, preserving, improving, enhancing the balance of nature with man, this was what his life was—totally a commitment. That goes for my Mother, without her help, I think many times he would have gone a little astray or a little overboard to put it mildly. All I can say is as part of the Donnelley Family I can not tell you how much we appreciate naming of this for my Father. As I said, I know he would appreciate it, but his words would be, well that is done, let's keep on going, what is next on the platter. Thank you very much.

CLOSING COMMENTS BY MATTHEW B. CONNOLLY, JR., SEPTEMBER 20, 1992

I think this is an act of David Copperfield. I have a few presentations Ladies and Gentleman, and this will be all over.

First, I have something that I would like to present to our good friend, Senator Strom Thurmond. It is a drake green wing teal, Senator, a bird that we hope will inhabit these haunts with great health and vigor and will be ever so plentiful in the many many decades to come. We thank you on behalf of all of the people in the state of South Carolina and the North American continent as well as for all of the leadership you have provided on this and the inspiration and motivation you have given us all. Thank you so much for this wonderful project, and we have a little mementos here for you to have in your office to be reminded of the ACE Basin and all of the people who thank you for your efforts.

[Strom Thurmond: Thank you very much. That is a beautiful thing. I deeply appreciate it. I shall display it in my Senate Office and always treasure it. Thank you very much.]

I know Senator your favorite bird is an eagle because every time I hear you speak the eagle soars all the time, but that is not a waterfowl species. We also have a memento for each of the people up front here, a marvelous tribute I think to the ACE Basin and one not surprisingly that the Donnelley Family is involved in, it is beautiful photographic tribute to the ACE Basin by Tom Blagdon. It has 101 photos throughout the ACE and all of the marvelous and diverse habitat types that you can find here featuring a lot of the wildlife, flora and fauna, and we would like to have each of you have this so that when time demands that you sometime leave the Basin, you will at least be able to remember it very quickly by perusing through your book. We have one for each of you one of these, and I would like to present the first one to Dorothy Donnelley, who has as has been pointed out by Elliott, has as deep a commitment as her husband, Gaylord, had. I always thought that perhaps the most incredibly sound decision Gay ever made in his life was to ask Dot to marry him. They were a terrific partnership, and the thing besides the love of nature and preserving things that to me has always impressed me most about the Donnelleys is that they are people people. They love people and they love sharing with people. I can see Gaylord right now with a twinkle in his eye and hear his little chuckle because this is good. So Dot we would like for you to have this book as a tribute. One to Elliott. Again, Elliott also is a very enthusiastic outdoorsman, conservationist, and we are so delighted to know that those genes are there to carry on and the gene pool will survive in nature and in the Donnelley's for that kind of commitment. Thank you Elliott. Dorothy ever so exacting in her sharing doesn't want me to have given her one more than—I have already given her one—and she wants to return it to me. We will let you give that one to Strom.

Senator, another one for you thank you.

(Gifts passed out to guests on the podium.)

Mr. INOUYE. Mr. President, I am pleased to submit the report of the committee of conference on H.R. 5504, the Department of Defense appropriations bill for fiscal year 1993. Mr. President, this has been a very difficult year for the conferees on Defense appropriations. We have worked in lengthy sessions to devise a compromise agreement which funds the essential requirements for the defense of our country in the post-Warsaw Pact world. In this bill, we propose measures to preserve the Nation's defense industrial base, and we act to ensure that sufficient funding is provided to fund the research and development programs which will protect the qualitative edge of America's military equipment in combat, whenever and wherever that might occur. Our recommended bill provides funding to keep America's men and women in uniform well equipped, well trained, and well led.

The amount of funding in the conference agreement—$253.8 billion—is $16.3 billion below the amounts appropriated last year for Defense. The conference bill is some $34 billion below what was appropriated just 2 years ago. The allocation of budget authority for the Defense Appropriations Subcommittee this year is some $14 billion below the ceiling, or cap, agreed upon in the budget summit. We have stayed within the agreed summit level and the funding we have recommended to the Senate is under our budget allocation by nearly $2 billion.

It has been difficult to achieve our objectives. We have met the challenge.

Mr. President, I would now like to detail some of our recommendations.

MILITARY PERSONNEL

Both the Senate-passed and the House-passed authorization bills reduce end strength for the Active Forces, as requested, by 98,617 from fiscal year 1992 to fiscal year 1993. Funding levels contained in the conference agreement recognize this reduction.

Mr. President, I would also note that there are no recommendations for accelerating the drawdown from Europe. Our review indicates that troops are being withdrawn from Europe at rates which already impose hardships on military personnel. Indeed, because of our concern that those returning from Europe face unnecessary hardships, $25 million is added to allow enlisted military personnel more time to find housing when they undergo a permanent change of station.

The administration requested total budget authority of $77.4 billion for operation and maintenance [O&M] programs. The conference agreement provides $72.8 billion, cutting $4.6 billion from the request. The agreement is $1.1 billion above the House level and $1 billion below that of the Senate.

The conferees also accepted Senate recommendations which seek to encourage efficiencies and better management. The Senate recommendations proposed a series of adjustments under the heading "excess inventory initiative" which reduce the Department's request for purchasing spare parts and supplies by a total of $3 billion. These reductions are made in light of the continuing problems DOD has had managing its supply system.

Mr. President, the conference agreement provides support for defense conversion, environmental programs, and disaster relief activities. The recommendations provide $1.766 billion for defense conversion programs under Title 8—Defense Reinvestment for Economic Growth and under the R&D and operations and maintenance titles of the bill. These conversion programs include R&D activities, which I shall discuss later, and transition assistance for military and civilian workers. An increase in funding is provided for DOD's environmental program.

TITLE III—PROCUREMENT

Mr. President, under the procurement accounts, the conferees were concerned with the protection of the defense industrial base as well as the procurement of needed military equipment. Accordingly, the conference agreement recommends actions to various investment programs that reflect the need to decrease the Defense budget, but at the same time, build down investment programs in such a way that the industrial base is maintained in a viable manner. Where possible, the recommendations support conversion of the industrial base to civilian applications.

In particular, I would call attention to the armament retooling and manufacturing support [ARMS] initiative, which will restructure the ammunition industrial base to make more efficient, cost effective use of its industrial capacity. This initiative will boost defense readiness, preserve jobs, and form the basis for economic growth in regions affected by Government plant closures.

Mr. President, I ask unanimous consent that an amendment which I had intended to propose to the Defense authorization bill be inserted into the RECORD at the conclusion of my remarks. I have asked for inclusion of this text into the RECORD because it may help to guide those who will implement the arms initiative as it appears in the Defense Authorization Act for fiscal year 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. INOUYE. Mr. President, while still under the procurement title, I would like to discuss our recommendations for various aircraft programs.

First, the F-16 program.

The budget proposed to buy 25 F-16 aircraft for the air force in the final procurement of that airplane. The conference agreement supports the procurement of 24-F16's in fiscal year 1993.

Second, the C-17 program.

The C-17 is an airlift airplane intended to become the mainstay of air mobility for U.S. forces. The C-17 program, however, is again behind schedule and its prospects for getting back on schedule do not look good. Consequently, the conference agreement fund six aircraft instead of the eight requested in the budget.

Now, we get to the B-2 bomber program.

The conference recommendation fully funds the four remaining B-2 aircraft for a total program of 20 aircraft.

TITLE IV: RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Mr. President, we have now come to the last major division of the bill which I propose to discuss in detail today and that is Title IV—Research, Development, Test and Evaluation.

The largest program under the R&D accounts is also the most problematic. It is the strategic defense initiative. The Pentagon sought $5.3 billion in fiscal year 1993 for the strategic defense initiative [SDI] and theater missile defense initiative programs. The recommendation which the Senator from Alaska and I brought to the Senate on September 21 was to provide $3.8 billion to establish a more fiscally supportable level and to permit more time for adequate test and evaluation to occur before equipment is fielded.

Some Members wanted to reduce funding well below that level but the Senate accepted the committee approved recommendation and $3.8 billion was the amount the Senate conferees carried into conference.

Mr. President, I know that while we were in conference, ill-founded rumors were spread by persons who apparently sought to discredit the conference agreement on SDI even before it was completed. I am pleased to inform my colleagues that Senator STEVENS and I did not waver, we did not break faith with our colleagues, we brought back a conference agreement which provides $3.8 billion for SDI in fiscal year 1993—no more, no less—$3.8 billion is the amount we pledged and it is the amount we delivered.

UNIVERSITY GRANTS

The Senate conferees have responded to requests for earmarking of funds for university grants in the same manner as the Congress resolved this issue in the fiscal year 1992 rescission bill. That is, we have put these university grants into a single provision granting the Secretary of Defense the discretion to award any particular grant.

Mr. President, that concludes my presentation of major recommendations. In a bill of the size and scope of the Defense appropriations bill there are many items of particular interest to individual Members. I would hope the Members would judge the work of the committee by its achievements and not by what they perceive to be its shortcomings. We have a good bill, a balanced bill, and one which I believe deserves the support of every Member of the Senate.

Mr. President, a bill of this magnitude and complexity cannot be managed by one man alone; it requires a team. We have a team—it is called the Appropriations Subcommittee on defense. Each member on that committee has contributed to the Senate's understanding of this important piece of legislation. Chairman BYRD, Senator HATFIELD and other members of the full committee have facilitated our work. I am deeply grateful to each of them—the members of the subcommittee, the members of the full committee, and my other colleagues.

But, Mr. President, I would be remiss if I failed to give special recognition to a singular presence, a Senator whose understanding of matters related to the national defense is unsurpassed. I have an undying debt of gratitude to my good friend the senior Senator from Alaska [Mr. STEVENS] for his support, his encouragement, and his willingness to help shoulder the burden of carrying this bill before the Committee and the Senate and in conference with the House. I treasure the opportunity to work with him in partnership on these weighty matters.

Mr. President, I also wish to recognize the tireless dedication of the staff of the subcommittee. Through the long hours they have labored to give effect to our actions. Selflessly, respectfully, and I might add, tenaciously, the staff of the subcommittee has struggled to bring to fruition the legislative actions of the Senate and the Congress. I wish to recognize: Richard Collins, Steve Cortese, Dick D'Amato, Hoot Albaugh, Rand Fishbein, Charlie Houy, Jay Kimmitt, Peter Lennon, Mary Marshall, Mavis Masaki, Jane McMullan, Jim Morhard, David Morrison, Mazie Mattson, Donna Pate, and John Young.

Armament Retooling and Manufacturing Support Initiative

SEC. 1071. SHORT TITLE.

This subtitle may be cited as the "Armament Retooling and Manufacturing Support Act of 1992".

SEC. 1072. POLICY.

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, nondefense commercial firms to use Government-owned, contractor-operated ammunition facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States that, to a significant extent, are manufactured outside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of Government-owned industrial plants and equipment for commercial purposes;

(5) to provide, as appropriate, small businesses, including socially and economically disadvantaged small business concerns and new small businesses, with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing capacity, an optimum level of readiness of the defense industrial base of the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the Armed Forces of the United States; and

(9) to encourage facility contracting where feasible.

SEC. 1073. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

(a) REQUIREMENT FOR INITIATIVE.—The Secretary of the Army shall carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative" (hereafter in this Act referred to as the "ARMS Initiative").

(b) PURPOSES.—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for commercial purposes.

(2) To increase the opportunities for small businesses, including socially and economically disadvantaged small business concerns and new small businesses, to use such facilities for those purposes.

(3) To reduce the adverse effects of reduced Department of the Army spending that are experienced by States and communities by providing for such facilities to be used for commercial purposes that create jobs and promote prosperity.

(4) To provide for the reemployment and retraining of skilled workers who, as a result of the closing of such facilities, are idled or underemployed.

(5) To contribute to the attainment of economic stability in economically depressed regions of the United States where there are Government-owned, contractor-operated ammunition manufacturing facilities of the Department of Army.

(6) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

(7) To be a model for future defense conversion initiatives.

(8) To the maximum extent practicable, to allow the operation of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army to be rapidly responsive to the forces of free market competition.

(9) Through the use of Government-owned, contractor-operated ammunition manufacturing facilities for commercial purposes, to encourage relocation of industrial production to the United States from outside the United States.

(c) MAXIMUM AVAILABILITY OF FACILITIES.—To the maximum extent practicable, the Secretary of the Army shall make the Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army available for the purposes of the ARMS Initiative.

SEC. 1074. FACILITY CONTRACTOR DEFINED.

In this subtitle, the term "facility contractor", with respect to a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army, means a contractor that, under a contract with the Secretary of the Army—

(1) is authorized to manufacture ammunition or any component of ammunition at the facility; and

(2) is responsible for the overall operation and maintenance of the facility for meeting planned requirements in the event of an industrial emergency.

SEC. 1075. FACILITIES CONTRACTS.

(a) REQUIREMENT FOR ARMS CONTRACTS.—(1) In the case of each Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army that is made available for the ARMS Initiative, the Secretary of the Army shall, by contract, authorize the facility contractor—

(A) to use the facility for one or more years consistent with the purposes of the ARMS Initiative; and

(B) to enter into multiyear subcontracts for the commercial use of the facility consistent with such purposes.

(2) The authority in paragraph (1) may be exercised only to such extent and in such amounts as are provided in appropriations Acts.

(b) ELIGIBLE ARMS INITIATIVE SUBCONTRACTORS.—(1) A facility contractor authorized pursuant to subsection (a) to do so may enter into a subcontract for the use of a facility with a business in the following order of priority:

(A) A business owned and controlled by United States citizens (as determined by the Secretary) that proposes to use the facility for manufacturing, processing, distribution, or other operations currently conducted outside the United States.

(B) A business based in the United States (as determined by the Secretary) that proposes to use the facility for manufacturing, processing, distribution, or other operations.

(C) A business owned and controlled by citizens of foreign countries (as determined by the Secretary) that proposes to use the facility for manufacturing, processing, distribution, or other operations in a joint venture with one or more businesses each of which is owned and controlled by United States citizens (as determined by the Secretary).

(2) A facility contractor may not enter into a subcontract with a business under paragraph (1)(C) if the Secretary of the Army determines that it is not in the national security interest of the United States to enter into the subcontract with that business.

(c) CONTRACT PROPOSALS.—(1) Each proposal of a facility contractor for the use of a facility under the ARMS Initiative shall include—

(A) the contractor's plan for using the facility, through subcontracting or otherwise, for manufacturing, processing, distribution, or other operations; and

(B) a business plan for the contractor's use of that facility for a purpose described in subparagraph (A).

(2) Each proposal of a potential subcontractor for a subcontract for the use of a facility under the ARMS Initiative shall include—

(A) the subcontractor's plan for using the facility for a manufacturing, processing, distribution, or other operation; and

(B) a business plan for the subcontractor's operation at that facility.

(d) EVALUATION OF SUBCONTRACT PROPOSALS.—In evaluating a proposal for a subcontract for the use of a facility under the ARMS Initiative, the facility contractor shall consider the following factors:

(A) Whether the proposal is reasonable.

(B) Whether the plan for using the facility is consistent with the interest of the United States in using the facility to meet emergency national security needs of the United States.

(C) Whether the business plan is adequately financed and includes sound financial management practices that will benefit the community where the facility is located.

(D) Any other factors that the Secretary of the Army considers appropriate.

(e) REQUIRED CONTRACT PROVISIONS.—A subcontract for the use of a facility under the ARMS Initiative shall include the following provisions:

(1) A requirement that the subcontractor use the facility only for a manufacturing, processing, distribution, or other operation that is consistent with the purposes of the ARMS Initiative.

(2) A provision for the subcontractor—

(A) to so use the facility rent free;

(B) to pay, at rates charged the Federal Government, for electricity, water, and other commodities or services of utilities that are consumed or received by the subcontractor in the use of the facility; and

(C) to pay the facility contractor a reasonable charge for the facility contractor's overhead expenses for the distribution of commodities or services of utilities, maintenance services and supplies, fire protection, security, and other common support services at rates negotiated by the facility contractor and the subcontractor.

(3) A provision that the subcontractor's use of the facility be at no cost to the Federal Government (other than payment, on a negotiated basis, for services performed for the Federal Government at the facility) or, as appropriate, at a reduced cost to the Federal Government.

(4) A requirement that the contractor make the facility and all Federal Government-owned equipment in the facility available to the United States, as needed, upon a declaration of war by the Congress or a declaration of a national emergency by the President or the Congress.

(5) A provision that the facility contractor be responsible for all activities undertaken at the facility by the subcontractor.

(f) CONDITIONS OF USE.—(1) The Secretary shall—

(A) assess the industrial emergency planned requirements for each facility made available for use under this section; and

(B) ensure that each contract and subcontract entered into pursuant to this section for such use contains such terms and conditions for the use of the facility, in addition to the contract provision required by subsection (d)(4), that the Secretary considers appropriate to ensure that the facility is timely returned to production for national security purposes when necessary.

(2) The facility contractor of a facility covered by this section shall be responsible for making improvements to the facility only to the extent of the facility contractor's use of the facility.

(g) INDEMNIFICATION OF FACILITY CONTRACTORS.—(1) The Secretary may provide for the Department of the Army to indemnify and hold harmless the facility contractor of a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army for specified risks resulting from activities that are carried out at such facility pursuant to this section when the ultimate customer of the work performed in that activity is the United States Government.

(2) The Secretary shall carry out paragraph (1) under the provisions of Public Law 85-804 (50 U.S.C. 1431 et seq.) as if authorized to do so under section 1 of that public law.

(h) PROTECTIONS FOR UNITED STATES.—The Secretary may require that a subcontract entered into pursuant to this section include any additional terms and conditions that the Secretary considers appropriate to protect the interests of the United States.

(i) WAIVER OF CONTRACT LAW.—(1)(A) Contracts and subcontracts may be entered into under this section without regard to any other provision of law that establishes procedures, requirements, or restrictions for Federal contracting or Federal property management.

(B) Subparagraph (A) does not apply with respect to a procedure, requirement, or restriction that relates to public health or safety, the health or safety of contractor personnel or Federal Government personnel, or fair labor standards.

(2) The Secretary may waive the applicability of cost accounting standards to a contract or subcontract for the use of a facility under the ARMS Initiative to the extent necessary to ensure that the contractor's or subcontractor's share of the total amount of the overhead costs associated with the facility is not so disproportionate to the contractor's or subcontractor's use of the facility as to prevent the contractor or subcontractor, as the case may be, from conducting a commercially competitive operation at that facility.

(j) LETTER OF INTENT.—Pending approval of financing by a financial institution, a loan guaranty, or any other financial arrangement necessary for a subcontract for the use of a facility authorized under this section, the facility contractor may issue a letter of intent, contingent on obtaining adequate financing, to enter into the subcontract.

(k) STORAGE OF MATERIAL.—Subsection (b) of section 2692 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(8) the storage or disposal of any material not owned by the Federal Government under the jurisdiction of the Secretary of Defense if the Secretary of the military department concerned determines that such material is required or generated by a private person in connection with the authorized and compatible use by that person of an industrial-type facility of the Department of Defense.".

SEC. 1076. LOAN GUARANTY PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—The Secretary of the Army shall carry out a loan guaranty program under the ARMS Initiative.

(b) PURPOSE.—The purpose of the loan guaranty program is to encourage lending institutions to make loans to contractors and subcontractors in order to facilitate the contractors' ability and the subcontractors' ability to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army under the ARMS Initiative.

(c) ADMINISTRATION THROUGH STATE GOVERNMENTS.—The Secretary shall seek to enter into an agreement with the chief executive of a State to carry out the loan guaranty program within that State. Under such agreement, the Secretary shall authorize the chief executive of that State to provide the guaranty of the United States to repay a loan made by a chartered lending institution within the State that satisfies the requirements of subsection (d).

(d) LOANS ELIGIBLE FOR GUARANTY.—A loan is eligible to be guaranteed under this section if—

(1) the loan is made for the purpose stated in subsection (b);

(2) the loan bears a rate of interest that is below the prevailing prime interest rate in the State in which the lending institution is located; and

(3) the recipient of the loan meets the loan eligibility criteria that are established for loans under this section by the lending institution with the concurrence of the chief executive of that State.

(e) APPLICATION.—The application for a loan guaranty under this section in connection with the use of a facility under the ARMS Initiative shall include the following:

(1) A signed copy of the applicant's contract (or subcontract) for the use of that facility or, in the case of a subcontract that has not been entered into at the time of application, a signed copy of a letter of intent issued regarding that subcontract pursuant to section 1075(j).

(2) A sound business plan for a viable use of the facility.

(3) A financial statement containing such information as the lending institution may require for purposes of determining whether the applicant meets the loan eligibility criteria referred to in subsection (d)(3).

(4) Complete information on the business history of the applicant, the other commercial interests of the applicant, and the other commercial interests of the applicant's officers.

(f) LOAN DEFAULTS.—Upon a default of payment of a loan guaranteed under this section, the Secretary of the Army shall pay the unpaid balance of the loan as prescribed in section 32.3 of the Federal Acquisition Regulation. The Secretary shall make such payment out of amounts in the Armament Retooling and Manufacturing Support Fund established by section 1078. The existence of a default shall be determined in accordance with criteria prescribed by the Secretary.

(g) DEFINITIONS.—In this section, the term "State" means a State, Commonwealth, or territory of the United States and the District of Columbia.

SEC. 1077. OTHER FINANCIAL INCENTIVES.

(a) IN GENERAL.—The Secretary of the Army may provide for the payment of any financial incentive that the Secretary considers appropriate to encourage facility contractors and potential subcontractors to use facilities made available under the ARMS Initiative. The Secretary may pay such an incentive in the case of the use of a facility by a contractor or subcontractor if the Secretary determines that the use plan and business plan submitted for that facility pursuant to section 1075(c) demonstrate a potential for viable use of the facility.

(b) CONDITIONS FOR INCENTIVE PAYMENT.—(1) An incentive may not be paid to a subcontractor with respect to a subcontract until a letter of intent regarding that subcontract has been issued pursuant to section 1075(j) or, if no letter of intent is issued, the subcontract is entered into with that subcontractor.

(2) The amount of an incentive payment under this section shall be negotiated by the Secretary and the recipient.

(c) DETERMINATION OF AMOUNTS.—(1) The Secretary of the Army may make incentive payments in the case of a contract or subcontract in amounts determined on the basis of a sliding scale, prescribed by the Secretary, that relates to the estimated savings to the Federal Government that will result from the use of a facility under that contract or subcontract during the period of the performance of the contract or subcontract.

(2) The Secretary shall prescribe in regulations a maximum amount of incentive payments that may be made under this section in the case of a contract or subcontract.

(d) SPECIFIC AUTHORITY.—Incentives provided for under subsection (a) may include the following:

(1) Payment of the costs of environmental baseline studies, environmental assessments, environmental permits, and environmental impact statements.

(2) Payment of the costs of reasonable alterations of a facility that are made for the use of the facility under the ARMS Initiative.

(3) Payment of the costs of marketing studies and feasibility studies in connection with the use or proposed use of a facility under the ARMS Initiative.

(4) Payment of an incentive bonus to a subcontractor for entering into one or more long-term contracts pursuant to section 1073.

(5) Payment of the costs associated with plant and equipment reconfiguration.

(6) Payment of the costs incurred by the Federal Government in connection with sales authorized by section 1077.

(7) Payment of all or a portion of the negotiated damages resulting from the contract termination pursuant to section 1075(e)(4).

(8) Any other incentive, to include consideration to the facility contractor, that is consistent with the purposes of the ARMS Initiative.

SEC. 1078. EXCESS EQUIPMENT.

(a) DISPOSITION AUTHORIZED.—Notwithstanding any other provision of law, if the Secretary determines that equipment at a Government-owned, contractor operated ammunition manufacturing facility of the Army is not essential for meeting industrial emergency planned requirements for national security purposes, the Secretary of the Army may authorize the facility contractor to sell or otherwise dispose of the equipment.

(b) PROCEEDS OF DISPOSITION.—The proceeds of a disposition of equipment authorized by subsection (a) shall be deposited in the Armament Retooling and Manufacturing Support Fund established by section 1078.

SEC. 1079. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT MAINTENANCE FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Armament Retooling and Manufacturing Support Maintenance Fund" (hereinafter in this section referred to as the "Fund").

(b) PURPOSE.—The purpose of the Fund is to provide funds for activities related to the use of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for Arms Initiative purposes set forth in section 1073, as follows:

(1) For repair, storage, or replacement of equipment necessary to meet emergency planned requirements.

(2) For general installation maintenance and facility repair.

(3) For equipment for health and safety.

(4) For equipment for environmental maintenance.

(d) DEPOSITS IN THE FUND.—The following receipts shall be deposited in the Fund:

(1) The proceeds of sales of excess property pursuant to section 1077.

(2) Reimbursement payments received in accordance with subsection (c).

SEC. 1080. REPORT.

(a) REPORT REQUIRED.—Not later than June 1 of each year, the Secretary of the Army shall submit to the Committees on Appropriations and on Armed Services of the Senate and House of Representatives an annual report on the ARMS Initiative.

(b) CONTENT OF REPORT.—The report shall contain a comprehensive review of contracting of Government-owned, contractor-operated ammunition manufacturing facilities under the ARMS Initiative, including the following:

(1) A summary description of each contract and subcontract entered into for the use of a facility pursuant to section 1075 and a summary description of the proposals for such a contract or subcontract that were submitted and did not result in a contract or subcontract for the source of the proposal.

(2) The financial incentives, if any, paid each contractor and subcontractor under the ARMS Initiative.

(3) Any recommendations for expansion of the ARMS Initiative to other components of the defense industrial base of the United States.

SEC. 1081. FACILITIES AS FOREIGN-TRADE ZONES.

(a) ESTABLISHMENT OF TASK FORCE.—The Secretary of the Army shall establish a task force—

(1) to investigate and make recommendations regarding the most effective means of obtaining for Government-owned, contractor-operated industrial facilities of the Department of the Army a designation as foreign-trade zones established pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998; 29 U.S.C. 81a–81u); and

(2) to select one such facility to recommend for designation as a foreign-trade zone for demonstration purposes.

(b) COMPOSITION OF TASK FORCE.—The task force shall be composed of the following members:

(1) The Secretary of the Army, who shall be the Chairman of the task force.

(2) The Secretary of Commerce.

(3) The Administrator of the Small Business Administration.

(4) With respect to each facility referred to in subsection (a)(1), at least 5 members appointed by the Secretary of the Army, after consultation with the Secretary of Commerce, from among persons who are representative of businesses in the community where that facility is located.

(c) REPORT.—Not later than May 1, 1993, the Secretary of Army shall submit to the Committees on Appropriations and on Armed Services of the Senate and House of Representatives a report containing the results of the investigation conducted by the task force and the recommendations of the task force, including the recommendation regarding the facility that should be established as a foreign-trade zone for demonstration purposes.

(d) ACTION ON RECOMMENDATIONS.—The Secretary of the Army, in consultation with the Secretary of Commerce, shall take such action as may be necessary to establish, not later than August 1, 1993, the facility recommended pursuant to subsection (a)(2) for designation as a foreign-trade zone for demonstration purposes.

SEC. 1082. LIMITATION ON FACILITY CONTRACTOR FEES.

After September 30, 1994, no fee may be paid a contractor for the operation and maintenance of a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army except for a fee paid on a negotiated basis for services specifically related to the management and operation of the facility that are performed by the contractor for the United States pursuant to a facility contract.

SEC. 1083. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDING.—Funds are authorized to be appropriated to the Department of the Army for the ARMS Initiative for fiscal years 1993, 1994, and 1995, in the total amount of $200,000,000, of which—

(1) $50,000,000 may be made available for the Armament Retooling and Manufacturing Support Maintenance Fund;

(2) $100,000,000 may be made available for carrying out the loan guaranty program under section 1075; and

(3) $50,000,000 may be made available for providing other financial incentives under section 1076.

(b) RELATIONSHIP TO OTHER AUTHORIZATIONS.—The authorization of appropriations in subsection (a) for fiscal year 1993 is in addition to other authorizations of appropriations contained in this Act.

TRIBUTE TO SENATOR WARREN RUDMAN

Mr. CONRAD. Mr. President, I wish to express regret that when the 103d Congress convenes, the U.S. Senate will no longer have the benefit of the insight and candor of the senior Senator from New Hampshire, Senator WARREN RUDMAN. He is truly one of the great Senators to have served in this body.

One of the hallmarks of WARREN RUDMAN is his ability to work with people from both sides of the political aisle. This has been evident in the select committee investigation of Iran-Contra, his work on reducing the budget deficit and on the Ethics Committee. It is a high compliment to have the respect of his colleagues as vice chairman of the Ethics Committee, one of the most difficult jobs in the U.S. Senate.

WARREN RUDMAN speaks passionately on the fundamental problems he sees the country facing and is willing to say what he believes is right even if it does not please others. In his 12 years in the Senate, he has been willing to make the tough decisions necessary to address the problems of the Nation, including the Federal budget deficit. I have been privileged to work with WARREN on the Senate Budget Committee and in more informal bipartisan working groups seeking to develop solutions to the budget deficit. I have found him to be open to the discussion and willing to consider others' ideas, which, in my view, is the only way we will be able to make significant progress in reducing the budget deficit. His willingness to listen and negotiate have served him and the Senate well.

It is my fervent hope that in the next Congress, we will have a serious debate on the components of deficit reduction and achieve significant action. WARREN will be missed in those Senate debates, but in his usual fashion, he will continue to work on the issues he cares about. I respect his decision to form the Concord coalition to continue to keep the Federal budget deficit in the national debate. His work with Senator TSONGAS on this effort is a great service to the Nation. It is my hope that with his work, coupled with the continued efforts of our colleagues in the Senate, we will be able to make the tough choices necessary to put this Nation back on track.

It has been a privilege to serve with WARREN RUDMAN and count him as a friend. We will miss his plain-dealing style, but look forward to his continued work on the important national issues from outside the U.S. Senate. My wife, Lucy, and I wish WARREN and Shirley all the best.

TRIBUTE TO DR. STANLEY P. WILSON

Mr. HEFLIN. Mr. President, Dr. Stanley P. Wilson, a long-time personal friend, retired on June 30 of this year from his position as executive vice president of the Council for Agricultural Science and Technology. Dr. Wilson, a Dixie, AL, native and former vice president for agriculture, home economics, and veterinary medicine at Auburn University, served as the council's executive vice president for a little over 2 years.

During Stanley's tenure as its executive vice president, the council, known as CAST, completed several important task force activities resulting in the publication of highly definitive reports. Included among these studies were: "Herbicide-Resistant Crops"; "Food Fats and Health"; and "Food Safety: The Interpretation of Risk." Other, more recent studies included "Pesticides: Minor Uses/Major Issues" and "Waste Management and Utilization in Food Production and Processing."

Stanley's work with the U.S. Department of Agriculture led to the development of a contract to develop a major task force report entitled, "Preparing U.S. Agriculture for Global Climate Change." This document provided resource information for the USDA's use in preparing for the U.N. Conference on Environment and Development, held in June in Rio de Janeiro.

Stanley brought an extremely high degree of professionalism to his office at CAST. His positive interaction with its executive committee and board of directors, together with his effective management and support of the office staff, enabled CAST to make major strides in addressing important problems in agricultural science and technology during his 2 years in office.

I am proud to congratulate and commend Dr. Stanley Wilson for his many contributions to the field of agricultural science through his service to the Council for Agricultural Science and Technology. His energy and dedication were impeccable, and his storehouse of knowledge invaluable. He set a standard which his successors will find hard to meet, and leaves behind a record they will have difficulty duplicating. I wish Stanley the very best in all of his future endeavors.

DEATH OF A. LUKE CRISPE

Mr. LEAHY. Mr. President, A. Luke Crispe of Newfane, VT, died on August 25. He was a great supporter of Presidents Nixon and Reagan, yet a very kind and valued friend to me throughout my own political career.

He was a patriot, recipient of the Freedom Foundation Award in 1951 and past commander of the American Legion in Vermont.

He loved his country with a passion and was decorated for his military service during World War II.

Luke was born in New York City but grew up on the Jersey shore. His father was a wholesaler who specialized in Italian foods and he often took Luke on sales trips with him to New England. Luke fell in love with Vermont during one of these trips, and after graduating from Indiana Law School in 1933, moved into our State and practiced law in Brattleboro until his retirement in 1981.

Luke was very proud of his Italian heritage—our backgrounds were similar in this respect—and we would talk about our families during his annual visits to Washington to attend the American Legion National Convention.

A formidable trial attorney in the courtroom—Luke was no less formidable within his own Republican Party in Vermont. He relished the reputation of a spoiler after his spirited opposition as a third party candidate in 1962 led to the election of the first Democratic Governor in more than a century.

Luke boasted that he was responsible for Vermont's emergence as a two party State after more than a century of one party rule. And there is not a Vermont historian who would argue that his influence on the evolution of Vermont politics was anything but immense.

In memory of this wonderful gentleman, who I will greatly miss, and for his lovely wife of 47 years, the former Miriam B. Hughes, I ask that a tribute to Mr. Crispe that appeared in the August 28 edition of the Ruthland Herald, be reprinted in its entirety in the CONGRESSIONAL RECORD.

A. LUKE CRISPE

A. Luke Crispe, the Brattleboro lawyer who died this week at the age of 80, was one of the movers and shakers in Vermont politics who had much to do with helping to change the state from a one-party Republican bastion to two-party politics although he started out as a Gibson Republican.

Best known for the part he played in the 1962 election of Philip H. Hoff, Vermont's first Democratic governor in more than a century, Luke Crispe had a broad range of political activity. Although he helped the Democrats he also functioned as a Republican state leader for conservative Republican candidates for president like U.S. Sen. Robert Taft of Ohio in 1952, Sen. Barry Goldwater in 1964 and Ronald Reagan in 1968.

His part in the 1962 election of Hoff came about when he and former Republican state Sen. T. Garry Buckley of Bennington formed what they called the Vermont Independent Party and diverted enough Republican votes away from Gov. F. Ray Keyser Jr. to elect Hoff. Luke had already won something of a reputation among liberal Republicans as a "spoiler" in 1960 when he became the fourth candidate for the party nomination for governor and opened the door for Keyser.

Lt. Gov. Robert S. Babcock had been favored to win the nomination until his espousal of a sales tax brought Luke Crispe into the race. Crispe may also have played a role in the election of William H. Meyer to Congress in 1958. That came about when he helped to split the Republican primary vote by becoming one of six candidates for the Republican nomination. Former Lt. Gov. Harold J. Arthur, who had succeeded to the governorship after the resignation of Ernest W. Gibson Jr. in 1950, ultimately won the 1958 primary and became Meyer's Republican opponent. Arthur had already been defeated for his party's nomination for Congress in 1950 while serving out the balance of Gibson's term. He was not highly regarded as a winner.

Luke Crispe had the position of executive clerk during the Gibson administration and was entrusted with Gibson's ill-fated proposal to establish the State's first power authority. The legislation didn't have the kind of organized support that was needed for such a progressive change in the way the electric power business was handled in Vermont.

The Brattleboro lawyer has been referred to at different times by such names as "stormy petrel" and in other less kindly terms but he was a memorable figure in Vermont politics for many years.

IN HONOR OF LAVERN DUFFY

Mr. NUNN. Mr. President, I rise to offer a few words in tribute to the memory of LaVern Duffy, a distinguished former staff member of the permanent Subcommittee on Investigations, who passed away on September 21, 1992, in Independence, IA.

LaVern Duffy joined the subcommittee staff in 1953, and from that time until his retirement in 1981, was one of the Senate's most dedicated, resourceful, and effective staff members. He worked for and with some of this Chamber's most important and memorable figures—such as John McClellan, Abraham Ribicoff, and Robert Kennedy—on numerous landmark investigations. Indeed, in the history of the subcommittee, no staff member has been responsible for more investigations that lead to public hearings than Mr. Duffy.

He is perhaps best remembered for his outstanding work in conjunction with the Senate's investigations of labor racketeering in the late 1950's and organized crime in the early 1960's. In the case of the former, his efforts exposed the largescale corruption in the Teamsters Union. Millions of working men and women in our Nation's unions owe a debt of gratitude to the lasting effects of this investigation. In the latter, the renowned Valachi hearings, his work helped to change the governmental and public perception of organized crime in our country. Until these history-making hearings, many Americans played down organized crime's power and influence and some, including Federal law enforcement officials, even doubted its existence.

Beyond the momentous effects of his illustrious career, it is also important to emphasize that LaVern Duffy was a consummate professional, who went about his work in a fair, balanced, and responsible manner. He was known and respected for his meticulous attention to detail and keen sense of judgment. In assembling his investigative materials and preparing for hearings, for example, he was well-known to be a firm advocate of the dictum, "one mistake is all it takes to ruin an otherwise perfect presentment." His approach to his work, in short, stands as a classic example of how Congress can and should exercise its enormously important and powerful oversight responsibilities.

In conclusion, as one who had the good fortune to work closely with LaVern Duffy for many years, I can say with utmost gratitude and respect that his life's work constitutes a priceless contribution to the Senate and the Nation. I have no doubt that Mr. Duffy's tenure with the subcommittee will be long remembered and appreciated.

ENDANGERED SPECIES ACT REFORM

Mr. GORTON. Mr. President, yesterday was an important day in the debate over the reauthorization of the Endangered Species Act. Several Members of the House of Representatives introduced the Endangered Species Act Reform Amendments of 1992. This bill was introduced by a group of Representatives with the strong, bipartisan leadership of Representatives BILLY TAUZIN of Louisiana and JACK FIELDS of Texas. I support this bill and will introduce a companion Senate bill in the 103d Congress.

This proposal is designed to make a set of reasonable and much-needed modifications to a law that was designed with the best of intentions, but which is being implemented in a manner that has instead produced unintended and deleterious consequences. The Endangered Species Act seeks to protect species from endangerment and extinction, and with this objective, I completely agree. We must, however, put aside questions of the inherent goodness of the Endangered Species Act as it stands alone, and examine it in the harsh light of its own consequences over the two decades of its existence.

We may start by asking how effective the Endangered Species Act has been in achieving its intended goals of preserving species and diversity, and at what cost has that measure of effectiveness come?

First, Mr. President, we begin with the fact that 1,100 species have been listed over the 20 years the act has been in existence. These listings have cost billions of dollars in direct Federal resources. And there are thousands more candidate species that await listing.

To get an idea of the amount of money these species have cost and will continue to cost the American taxpayer, let me quote Robert E. Gordon, Jr., in a recent article that appeared in the National Wilderness Institute's newsletter, Resource. Mr. Gordon cites recent audits by the Interior Department's inspector general:

> The potential recovery costs for currently listed species is approximately $4.6 billion. This is an average of over $7.9 million per listed species. If that average were applied to the some 600 candidate species the Service believes "warrant listing" it would amount to another $4.7 billion; furthermore, if that average were applied to the 3,000 candidate species which the Service believes "may warrant listing" it would amount to an additional $23.7 billion. In addition to the recovery costs, the report states that "approximately 25 percent of all listed species have conflicts with development projects or other forms of economic activity" which certainly entails staggering costs to the economy.

Those are the direct impact costs on government. The indirect emotional costs on people—jobs lost, families dislocated, communities slowly destroyed—are not quantifiable, but have been devastating.

These costs are staggering. We could perhaps justify these costs, though, if they produced positive results. But we must now ask, What have we achieved for the 20 years spent, the billions of dollars appropriated, and the dislocation of thousands of people and their families? Four or five species have been delisted. According to a recent report of the Fish and Wildlife Service, six or seven others have achieved 75 percent or more of their targeted recovery goals. Has it been worth the costs to reach a measure of recovery success for 2 percent of all listed species? Have we gotten our money's worth, or do we need to make some changes so that the act will work as it was intended to, for both species and for people?

Even in the few instances where a species has achieved recovery success, it is unclear whether it was our billions of dollars that did the job. The 2 percent of species that showed some recovery success include species for which additional population segments were found, indicating that the original listing was likely in error. One bird in this top group is found in numbers that are the same as they were a decade ago, and for which no recovery plan was ever prepared. The Fish and Wildlife Service lists the alligator as recovered, but Dennis David of the Florida Game and Fresh Water Commission challenges whether the alligator would even have been listed using current standards. Finally, three delisted species—the Palau owl, dove, and fantail, all from a United States territory east of the Philippines—apparently were undercounted originally, and their recovery paralleled the natural recovery of their habitat that was devastated during World War II.

Despite this meager record of success, a recent Fish and Wildlife Service report points to these 2 percent of species as evidence that "recovery can and does happen," and then earnestly goes on to recommend "a serious commitment of both personnel and money [to ensure] stabilization and recovery". This report, Mr. President, would be humorous if its implications weren't so clear: namely, that the Federal agency designated to enforce the Endangered Species Act is convinced that with more tax dollars the act works just fine, thank you.

Another goal of the Endangered Species Act has been the preservation of biological diversity in nature, and in this effort we have fared no better. Because of the manner in which the Endangered Species Act has come to be used—as a regulatory bludgeon to stop all resource development, rather than as a guide for species preservation—prioritization in listings has lost any scientific coherence. We find, for example, that population segments within one genetically distinct species are often given a higher priority on the endangered species list, and thus are more likely to receive Federal funds directed toward its recovery, than are completely distinct species that are in danger of total genetic extinction. Even worse, Christopher Cole in the March 1992 Boston University Law review notes that—

> The majority of species listed under the Act have been mammals and birds, which are more apt to elicit widespread public concern than plants, fish, amphibians, or reptiles.

Even more, these popular creatures are less apt to contribute to the goal of biological diversity than are the less popular, yet often more biologically critical, microspecies.

Finally, even if we examine the underlying purpose of the Endangered Species Act—the resumption of our willing stewardship of the Earth after a century of industrialization whose own unintended consequences had only recently begun to be realized—we also find failure. Even in cases where we have taken on the role of advocate, we have just as often caused more harm than we have helped.

And, most troubling, instead of Americans working together to save the flora and fauna of our continent, this well-intentioned but flawed law has pitted the needs of people against nature—as in the case of loggers and owls—in an adversarial bout which neither can win, but which both can lose.

The Tauzin bill that will be introduced today represents a reasoned approach to restoring balance between people and nature.

The first, and most critical adjustment proposed is that we place people—families, communities, and jobs—back into the equation by requiring a draft recovery plan to presented concurrent with the listing of a species as endangered or threatened. The actual decision to list a species will and must remain a purely scientific one, but coming to that decision does not preclude a simultaneous study of the human impact of the listing. When a species is listed as endangered or threatened, our bill would immediately provide for a recovery plan draft—the framework for saving the species in question with as little human dislocation as possible.

Mr. President, I cannot overstate the importance of this change in the listing procedure. Many times over the past 4 years, I have spoken of the tragic situation in Northwest logging communities created by northern spotted owl preservation. That preservation has wreaked incomprehensible havoc on timber families who have had to live with prolonged uncertainty about their futures. All indices of human despair have gone through the roof in these communities: child abuse, spousal abuse, alcohol and substance abuse, divorce, adolescent depression and suicide attempts, bankruptcies, and illness. All of these have been exacerbated by the terrible and unintended consequences of the Endangered Species Act of 1973.

The spotted owl has only foreshadowed what will soon happen throughout this country if the Endangered Species Act is not amended to consider human beings at the same time that it considers nonhuman species. There are listings waiting in the wings that dwarf the impact of the owl's listing. In my own State of Washington, for example, the stage is being set for the next round of this fight. This time the standoff will be between a subspecies of salmon and the citizens of the Northwest who depend on water from the State's rivers. That is not a limited segment of our population, as is the case in the Northern spotted owl. This brewing crisis will involve all citizens of the Northwest. It is impossible to calculate the dollar cost of such a listing under the procedure currently allowed by the Endangered Species Act. It is impossible even to imagine the human cost. What is certain is that each and every resident of the Pacific Northwest will feel the impact.

Nor is the Pacific Northwest alone in this battle. With over 1,100 species already on the list and thousands more waiting, it is only a matter of time before every State in the Union is impacted by this flawed act. Some of my colleagues in the Senate have already seen firsthand the human and community impacts of the act in their own States. Senator GORE fought the snail darter 12 years ago and succeeded in allowing the continued construction of the Tellico Dam. He did so because the people of Tennessee would have suffered disproportionately otherwise. It was not an easy fight then, and it has become progressively difficult since.

The Tauzin bill will place human and community considerations on an equal footing and on a similar timeframe as species considerations. Animals and plants and trees will benefit and people will benefit.

The bill I intend to introduce in the Senate next year will also improve the Endangered Species Act by restoring rational criteria to the listing of subspecies and population segments. Currently, listing decisions are, in some cases, based on old taxonomic criteria that allow subspecies to be listed when they do not represent true biological diversity. Many population segments are listed that are not either geographically or genetically isolated.

Take, for example, the Louisiana Black Bear. This bear was listed as a subspecies, not a full species. The scientists who determined that the bear is a subspecies made the determination on the basis of 100-year-old taxonomic criteria. Those criteria include moral characteristics. Because nowhere in the act is the term subspecies defined, I propose to eliminate these subjective criteria and establish scientific standards that will ensure that if a subspecies is listed, it will only be listed because it represents true biological diversity.

Another example of the problems that flow from the lack of a definition for subspecies and population segments is the tri-State population of the marbled murrelet, whose listing threatens to eliminate thousands more jobs in Washington State. These birds reside in Washington, Oregon, and California, and in those States the marbled murrelet's numbers may possibly be in decline. But the tri-State population of marbled murrelets is the furthest fringe of the species' overall habitat. The marbled murrelet also resides in Alaska where there are some 250,000 of these birds.

Mr. President, I do not argue that the tri-State population of the marbled murrelet is unworthy of protection under the Endangered Species Act. It is indeed beneficial to protect all living creatures. It would also be beneficial if dinosaurs still roamed the planet, as well as do-do birds and the kiwi and all of the 99 percent of species that have already come and gone on this Earth. My argument is different. My argument is that it is bad policy to pursue an objective, albeit an inherently beneficial objective, through the actions of government without considering what be the unintended consequences of that action. There are thousands of species of plants and animals that are threatened. They are all worth saving. It may be, however, that we cannot save them all and we will not know the answer to that question until we have examined the impacts.

We must, therefore, construct a system that prioritizes species conservation measures on the basis of our ability to improve their status. The system must also contribute to the preservation of the widest range of true biological diversity. To proceed without scientifically based definitions is simply to fool ourselves and the citizens of this country. We should prioritize through accurate and effective criteria based on science, not sentimentality. The Tauzin bill does not address this great imprecision in the Endangered Species Act. I propose the following definition of subspecies and population segments:

Section 3(16) of the Endangered Species Act of 1973 (16 U.S.C. 1532(16)) is amended by inserting at the end thereof the following:

> To be included in such term, a subspecies must be genetically distinct, as determined by the best scientific technology available, from other subspecies, and a population segment must (1) be isolated from other populations geographically and (2) possess distinct genetic differences, or occupy unusual or distinctive habitat, or demonstrate an unusual or distinctive adaption to its environment.

Another improvement in the Endangered Species Act provided by the Tauzin bill is the establishment of a method for compensating private landowners for fifth amendment property takings. If private land is rendered valueless by government actions imposing Endangered Species Act restrictions, then the Government must compensate the citizen who owns that land. This is a concept recently upheld by the Supreme Court's decision in the Lucas case.

The idea that Government can strip private land of its value is anathema to most Americans, and yet this is one of the unintended consequences of the Endangered Species Act. The Tauzin bill does not prevent the Federal Government from mandating the use of private land for the greater good, but it does require that it not do so capriciously: if the greater good is truly greater for all of us, and not just for environmental activists, then we should all shoulder its costs.

Finally, let me highlight one other benefit of the Tauzin bill: It levels the playing field for private citizens who are at a distinct disadvantage to Federal agencies in the Endangered Species Act process. Federal agencies proceed through a process called consultation with the Fish and Wildlife Service and the National Marine Fisheries Service and this process dispenses with their proposals on a tight timeframe and with a sense of finality.

Today, private property owners do not have access to this consultation process. This bill would provide that access. For example, if the Federal Government wants to sell timber, it submits its proposal to the Fish and Wildlife Service for consultation and the Service must respond within 90 days. Private citizens, on the other hand, cannot currently take advantage of this fast-track consultation process, nor can they appeal to the so-called God squad on the decisions that affect them.

Again, the Tauzin bill seeks to limit the unintended consequence of the original Endangered Species Act that places private citizens at a distinct disadvantage in the ability to make use of their land.

Mr. President, the Tauzin amendments to the Endangered Species Act represent good legislation that checks the flow of devastating unintended consequences from the implementation of that original act. There is bipartisan support for these amendments, and they are supported by the National Endangered Species Act Reform Coalition and the Labor-Management Committee of the Timber Industry. Together these coalitions represent many associations, businesses, co-ops and other concerned entities.

There will undoubtedly be opposition to this legislation, Mr. President, and unfortunately it will be bitterly pursued. National environmental organizations have been preparing for this moment for the better part of the past year. They have been preparing their response to what they have anticipated would be in this legislation, and have circulated several rebuttals. In general, their complaints are specious. They anticipate that the act will be modified to give humans and communities some relief from the suffering they have experienced under the current act. They object in particular to proposals that give their adversaries some access to governmental redress that the preservationists have themselves enjoyed through the application of this somewhat flawed Endangered Species Act.

For instance, Mr. President, they complain that too little time is allowed for the Secretary of the Interior to make decisions that could impact animals, but too much time is given for peer review and other procedures that could be used to address and mitigate impacts on humans and communities.

They complain that access to the Federal Government should be allowed private citizens who seek to use the Endangered Species Act to stop the productive use of our resources, but access should be disallowed for private citizens who seek exemptions from the Endangered Species Act restrictions that disproportionately impact their property.

They complain that requiring public hearings on the economic and other human impact of listing of a species is too onerous, but demand extensive public hearings whenever there is a proposal to use land productively.

This is a classic example of the premise that "what's good for the goose the gander can't have," Mr. President, and it is the goose that is its most vigorous advocate.

Mr. President, the Endangered Species Act has dislocated humans and communities, it has created uncertainty, and it has limited the ability of our citizens to use our resources productively. The goal of saving species and preserving biological diversity is a noble one, but the act has led to distress and dislocation where it meant to preserve life and diversity. It does not work for individual species, it does not work to preserve a diversity of species, and it most assuredly does not work for people. The act, as it stands today, has produced consequences that have unintentionally hurt people without even achieving its original goals, and it should, therefore, be repaired.

In the Tauzin bill, we have the opportunity to restore the balance that was the intended consequence of the original law. The amendments before us recognize that, while our intentions may be sterling, they are not without cost. In a time of declining Federal resources, our debate—and our conclusions—must extend beyond the inherent value of this law as it stands alone and must examine those values in the larger context of its impact on people as well as on the species it purports to save.

I am proud to support this legislation and I urge the Senate to pay serious and positive consideration to it during next year's debate. It is time to rectify the unintended consequences of the original Endangered Species Act that have so demoralized many working and producing segments of the population of this country.

TRIBUTE TO SENATOR TIMOTHY E. WIRTH

Mr. CONRAD. Mr. President, it is with deep regret that I rise to pay tribute to out colleague, TIM WIRTH. TIM and I came to the Senate in the same class in 1986. It has been a great privilege to serve with him for 6 years and collaborate with him on several issues that will affect generations to come.

Senator WIRTH is well-known as a leader in championing progressive energy policies. Long before the Persian Gulf war reminded us of our energy dependence and vulnerability, Senator WIRTH was pushing for a comprehensive energy strategy. He has long known what we as a Nation keep forgetting: That is the United States is becoming ever more dependent upon imported oil, that this vulnerability threatens U.S. security, and that we need to take aggressive steps to increase our energy independence. You can see Senator WIRTH'S influence clearly in the final version of H.R. 776, the National Energy Policy Act. TIM took the lead in pushing vitally important provisions to increase energy efficiency. This area should be the cornerstone of any serious energy strategy, and TIM WIRTH was instrumental in giving some real teeth to the efficiency provisions in H.R. 776.

Senator WIRTH has also been a champion of alternative and renewable energy. He believes, as I do, that we need to promote much greater use of environmentally friendly and domestically produced energy sources such as wind and solar power, natural gas, and alcohol fuels. Our children and grandchildren will benefit from his work to broaden the use and extend the life of our energy resources.

I can truly say that I have enjoyed working with TIM on Energy and Natural Resources Committee. We have worked closely together on many issues in the past 6 years, and I always respect his opinion and value his advice.

TIM and I have also been colleagues on the Senate Committee on the Budget. TIM has consistently shown his independence, courage, and concern for the welfare of our children by proposing reprioritization of the Nation's discretionary spending and voting for some of the most dramatic deficit reduction measures considered by the Senate. In fact, he was one of three supporters of the budget alternative package I offered this spring in committee—a package that would reduce the deficit $517 billion over 5 years and reprogram $70 billion into education, health care, infrastructure, and competitiveness. In addition, I was pleased to support his successful effort in 1991 to provide the largest increase in years in funding for education programs—the homefront initiative. I have welcomed his collaboration and will miss his support.

Whatever TIM chooses to do after his retirement from the U.S. Senate will benefit from his energy, and committed attention that we have seen during his 18 years representing Colorado in Congress. I am pleased to have had the privilege to work with TIM WIRTH.

Lucy and I wish TIM and Wren all the best and look forward to our continued friendship.

TRIBUTE TO DR. HAZEL McGAFFEY

Mr. CRAIG. Mr. President, I rise today to pay tribute to Dr. Hazel McGaffey of Priest River, ID, who has given unselfishly of her time and effort to the victims of the Chernobyl nuclear accident in the former Soviet Union.

As one of the representatives of the 1992 Operation Hope Express for the Washington-North Idaho Conference of the United Church of Christ, Dr. McGaffey assisted other doctors in delivering drugs and antibiotics to the children of Belarus suffering from cancer and other illnesses.

Dr. McGaffey and other members of the CitiHope mission were in Belarus from June 7 to 22. Six cities in the Chernobyl Crescent were visited—Minsk, Brest, Gomel, Bragin, Narovlia, and Mogilev—and food from the U.S. Department of Agriculture was distributed. This was the first USDA joint venture with CitiHope International.

Mr. President, I hope all our colleagues will join in recognizing the fine work Dr. McGaffey has done and all that she has given to the people of Idaho and to the people of Belarus. Her dedication to others is certainly worthy of recognition by the U.S. Senate.

DISASTER ASSISTANCE AND PRICE GOUGING

Mr. GLENN. Mr. President, a few short weeks ago, the Nation looked on in horror as Hurricane Andrew ripped through south Florida, reducing thriving communities to matchsticks, leaving 44 dead and as many as 250,000 families without homes. In the predawn hours of Monday, August 24, Andrew dealt a devastating blow to the people of that area, obliterating the homes that they had worked and struggled for, reducing their immediate needs to the absolute basics: Food, water, shelter, and clothing. Those hardy souls who did not or could not heed the call to evacuate cowered in fear as their homes were torn apart around them by the fearsome winds.

And out of this apocalyptic scene, the people cried out for help from their Government. They cried out for food and water to relieve their immediate suffering. And they cried out for assistance to rebuild their homes, their businesses, their very lives which had been shredded by the storm's fury.

And where was our Government in this moment of need. Well, Mr. President, all we know is where it wasn't. Because for at least 4 days, it wasn't in south Florida. This disaster hit on Monday morning, but it was not until Friday—a full 4 days later—that Federal aid began to arrive in anything approaching the necessary scale.

In the meantime, many people went without food, without water and other basic necessities. People were stranded in the wreckage of their homes, unable to leave for fear of looters, and unable to stay for lack of food and water. And those who found the supplies they needed were often forced to pay drastically inflated prices at the hands of price-gougers who did their best to profit from the misery of the hurricane victims.

Mr. President, I regard this situation as absolutely a disgrace. It is not as though Andrew hit us with no warning; rather, we were tracking the progress of the storm for days beforehand. Why then were we unable to get these people the assistance they needed before 4 or more days had elapsed? Four days, Mr. President. In that situation 4 days must seem like an eternity. With all of the resources and the capability that we have in this country, there is absolutely no reason for this to have happened.

So how did this happen? How have these disaster victims had to wait so long before the government could come to their aid. Well, Mr. President, that is where the record becomes a bit fuzzy. Because though there weren't many planes to bring in food, the accusations were flying fast and furious.

The local authorities say they asked for help. The State says they didn't. Federal officials say they were ready to come forward, but they weren't asked. The State says that they did. Sorting out exactly what happened may take awhile, but it is important. Because there is no question that something broke down. We just need to figure out what it was.

Now, Mr. President, I do not want to unfairly prejudge this situation before we fully know all of the facts, but there is little question that a large part of the problem lies with the Federal Emergency Management Agency [FEMA]. Whether it is because of some difficulties in FEMA's statutory authorities, or because of the FEMA's structure or management, we don't really know—yet. That is a question to which I hope we will be getting some answers to in coming months. In any event, it is clear that FEMA continues to be unable to manage the immediate aftermath of a large-scale disaster situation. We saw it with Hurricane Hugo and now we see it again with Hurricane Andrew.

Now I don't want to disparage the areas in FEMA has been able to do good work. Once the relief effort got up and running, the reports are that things went relatively smoothly. The supplies came in, people were getting food, clothing, and shelter in tents. FEMA set up its Disaster Application Centers so people could apply for Federal aid to get their lives sorted out again.

I have also had the opportunity to see FEMA at work following major floods and tornadoes in my home State of Ohio, which, though they might have been somewhat smaller in scope than Hurricane Andrew, were no less tragic. By and large, with some notable exceptions, FEMA has been able to provide help in the recovery stages so people can start rebuilding their homes, businesses, and most importantly, their lives. There is no question that there are some activities, especially in the restoration and recovery period, that FEMA can do well, and the men and women of the agency should be commended for their hard work.

But, Mr. President, we need to talk about the areas where FEMA cannot seem to get it right. And responding promptly and aggressively to a major natural disaster is one of those areas. In September of 1989 when Hurricane Hugo struck the Virgin Islands, Puerto Rico, and the Carolinas, FEMA was roundly criticized for what was regarded as an inefficient and inept response. A GAO report released last year confirmed what everyone knew in their gut, that the way that this country responds to major natural disasters is not set up to get the job done. GAO found that FEMA, as well as the other Federal agencies and the State and local authorities, was not ready for a disaster of the magnitude of Hugo.

Well, we have had 3 years since Hugo to get it right. FEMA has had 3 years to prepare itself for the next major disaster. And what do you know? Here we are again. Accusations and finger-pointing, while the disaster victims go hungry.

Mr. President, I don't know what the right answer is. To be sure, there are lot of proposals out there, some have which may have some merit. One proposal that we hear a lot is that we should fold the whole FEMA operation into the Department of Defense and make DOD the first responder in times of disaster. Then, there are various proposals to restructure the agency. Finally, there is the possibility of maintaining FEMA, but amending its statutory authority.

There may very well be merit to some of these proposals. But I would caution my colleagues against rushing headlong into some quick fix before we are sure that what we will get is any better than what we have now. Disaster response is an area of Federal activity that is fraught with difficult issues. There are concerns about State's rights. There are issues about cost-sharing. There are concerns about the proper role for the military in a civilian matter, not to mention whether an expanded military role would have a negative impact on our military readiness. All of these areas will need to be considered.

Furthermore, disaster response is only one aspect of FEMA's diverse and complex mission. Just listen to some of the numerous, disparate functions of this agency. In addition to disaster response, FEMA has responsibility for: civil defense; continuity of government in the event of nuclear war; the training of firefighters; and, among other things, providing flood insurance. If we want the Federal Government to be able to fully respond to the range of emergency situations, we need to account for all of these other functions.

Consequently, I have requested that the GAO do a broad-ranging inquiry into the proper role of the Federal Government in disaster management and into the overall effectiveness of FEMA. In addition to a review of FEMA's response to Hurricane Andrew, I have asked GAO to consider the following questions:

First, how can the Federal Government most effectively and efficiently manage disaster preparation, response, and recovery?

Second, should the Federal Government be a first responder to major disasters and, if so, should FEMA, the Department of Defense, or some other agency take lead authority?

Third, does FEMA's current structure adequately address the range of missions and functions with which it is charged?

Fourth, how can the activities of the different Federal agencies and the State and local authorities all be better coordinated?

Fifth, do problems in Federal disaster activities stem from FEMA internal management problems or from limitations in the agency's statutory mission and authorities, or both?

Once GAO has had an opportunity to examine these issues and respond to these questions, then I think that we will be much better situated to determine what, if anything, should follow.

I do not want to make much of it at this time, but it is clear that FEMA would not have taken so much abuse for Hurricane Andrew if the agency was better run in the first place. Even before the hurricane, the allegations of mismangement and impropriety at FEMA have been extremely disturbing. I am sure that my colleagues are well aware of the charges of destruction of records, misuse and abuse of executive priveleges, and of discrimination against agency employees. Furthermore, and of particular concern to me, is the more than 50 percent increase in the number of political appointees in the agency. I question the need for so many political appointees in what should really be a specialized and technical agency. I don't think disaster response is a political question. Its victims cut across party lines.

So it is not surprising that an agency which is fraught with these internal difficulties and is chock full of political appointees has had some difficulties in fulfilling its statutory mission. These will be issues to consider in any review of FEMA's structure and authorities. And to the extent that these controversies are sparked by a lack of firm, coherent leadership within FEMA, this is an issue that I will want to revisit in future confirmation proceedings of nominees to FEMA. As the principal leadership positions in FEMA are confirmed by the Committee on Governmental Affairs, I am especially concerned about these recent allegations of drift, mismanagement, and abuse at that agency's highest levels.

So, Mr. President, I will be looking forward to GAO's report on FEMA, that we may have the benefit of their expertise in determining how the Federal Government should respond to these tragic events.

In the meantime, though, there is one issue to which I have already briefly referred to that calls for faster measures. I am speaking about the truly despicable practice of price-gouging during times of natural disasters.

As the recovery progressed in late August and early September, I was dismayed to read reports of people being charged outrageous prices for basic necessities. I am not talking about reasonable increases because of unavoidable cost increases, but outright exploitation of people's helplessness for the sake of making a quick buck.

I will share some of the examples with you. One supermarket was reportedly selling infant formula for $9 a can. In another incident, a man reported paying $1,300 for a $500 generator. There was one supplier who tried to charge $100 for a $40 case of diapers. People reported paying $8 for a can of tunafish, $15 for a gallon of water, and $10 for a bag of ice. One nationally known restaurant was making people pay a $2 cover charge just to get in the door.

Now, Mr. President, I think anyone would be hard-pressed to defend these low-life characters who were trying to profit from other people's misery. The hurricane victims were already facing a complete destruction of their homes and businesses and they were wondering where their Government was when they so urgently needed its help. But then to be descended upon by these human vultures is really the limit. The more of thse reports I read, the more disgusted it makes me feel.

Fortunately, the Florida Attorney General's office was fast off the mark and immediately went out to investigate the alleged abuses. That office has apparently been issuing subpoenas right and left, to try to bring this problem under control. Thanks to their work, it looks as though the word has been getting out and this extortion is being brought under control.

Today, I am offering legislation to put the force of Federal law behind their efforts and those of state attorneys general in times of natural disaster. The bill that I am introducing will make price-gouging during the time and in the geographic area of a Presidentially declared disaster a Federal crime. In addition, it will authorize state attorneys general to bring civil actions in Federal court on behalf of the citizens of the State for treble damages.

Mr. President, I am hopeful that this legislation will bring additional force to bear on this problem. By making price-gouging a Federal crime we want the word to get out that this sort of exploitative behavior will not be tolerated. We want people to know that their government is committed to protecting their interests in the time of a disaster, and we want the vultures to know that we will extract significant penalties from those who persist in this reprehensible conduct.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. -

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For purposes of this Act—

(a) the term "consumer goods and services" are those goods, equipment, and services used, bought, or rendered primarily for personal, family or household purposes including, but not limited to, food, water, chemicals, ice, building supplies, tools, petroleum products, residential lease property, residential construction, reconstruction, and repair services, and any other goods, equipment, or services essential during recovery and reconstruction efforts in the area following a national disaster.

(b) the term "supplier" includes, but is not limited to, a seller, reseller, wholesaler, distributor, retailer, lessor, or provider involved in the sale, distribution, or rendering of any consumer goods and services.

(c) the term "price-gouging" means the act of selling, renting, or offering for sale or rent, consumer goods or services at an unconscionably excessive price.

SEC. 2. PRICE-GOUGING.

(a) Upon the issuance of a Major Disaster Declaration by the President of the United States, it shall be unlawful for a supplier to rent, sell, or provide, or to offer to rent, sell, or provide any consumer goods and services at an unconscionably excessive price within the area for which the national disaster is declared.

(b) Whether a price is unconscionably excessive is a question of law for the court. It shall be prima facie evidence that a price is unconscionably excessive when:

(1) The amount charged represents a gross disparity between the price of the goods or services which were the subject of the transaction and the price at which such consumer goods or services were rented, sold or offered for rent or sale by the supplier in the usual course of business immediately prior to the Disaster Declaration; or

(2) The amount charged grossly exceeded the price at which the same or similar goods or services were readily obtainable by other consumers in the trade area; and, in addition, that

(3) The amount charged by the supplier was not attributable to additional costs incurred by the supplier in connection with the renting or sale of such goods or services. However, in calculating the supplier's actual costs, no allowance shall be made for replacement costs of goods if the supplier is reasonably assured of recouping the replacement costs as a part of the price of subsequent sales of that good.

SEC. 3. ENFORCEMENT.

(a) A knowing violation of this Act shall be punishable by a fine of not more than $10,000 or imprisonment for not more than one year, or both. In addition, the Court may require disgorgement of any gain unlawfully acquired, and restitution to injured parties.

(b) The Attorney General of the United States shall be authorized to bring any action provided under this Act before a District Court of the United States, which shall have jurisdiction over such actions.

(c) Any person, firm, or entity, including a governmental entity, who or which suffers any loss or damages as a result of a violation or threatened violation of this Act, may bring an action against any seller in a District Court of the United States for treble damages, disgorgement, special or punitive damages, reasonable attorney's fees, costs and expenses of suit, and any other appropriate legal or equitable relief including injunctive relief.

(d) Any attorney general of a State is authorized to bring a civil action in the name of such State, as parens patriae on behalf of persons residing in such State, in any District Court of the United States having jurisdiction over the defendant for treble damages, disgorgement, special or punitive damages, reasonable attorney's fees, costs and expenses of suit, and any other appropriate legal or equitable relief including injunctive relief.

(e) Nothing in this Act shall be considered to pre-empt State law.

THE TRAGEDY OF NEEDLESS DEATHS OF YOUNG PEOPLE

Mr. NUNN. Mr. President, the chief of police of the District of Columbia, resigned recently, citing the appalling number of murders in the city. Chief Isaac Fulwood turned in his badge after 28 years on the force with these words:

> It has become abundantly clear law enforcement alone [can] not cure the scourge of drugs and violence * * * where the media glamorizes sexually explicit videos such as those by 2 Live Crew and putting the finger on the trigger.

Chief Fulwood was heartbroken over the record number of homicides, especially over "the number of young, black men killed," he said.

The tragedy of needless deaths of young people is often a double tragedy, because children and teenagers are pulling the triggers of the guns that kill them.

In recent floor speeches, Senator BYRD has cited Justice Department figures that reveal a great deal about our society today. At some point in their lives:

Eight out of ten Americans over age 12 can expect to be the target of a violent crime.

Four out of ten will be injured in the course of a robbery or assault.

One in twelve American women will be a rape victim.

I have been informed that the Centers for Disease Control in Atlanta has found that 135,000 youngsters carry guns to school every day.

The violence is not confined to the poor, to minorities, or to large cities.

Teenaged sisters in Gulfport, MS, enlisted the help of a boyfriend and allegedly plotted the murder of their mother with deadly precision. Police found their written plan: Disconnect all telephones; 2:30, open window; 3:15, dispose of body; 3:30–3:45, be home and start making out.

Need: plastic garbage bags; old, big suitcase; bleach—optional.

Their mother was a social worker with a master's degree. Both daughters were honor students. Police said the mother was strangled, stabbed multiple times, and asphyxiated. The teens took a joyride in the victim's car and visited friends, boasting about their exploit, according to police.

Violence has become routine in America.

We are reaping what we have sown.

Chief Fulwood cited the glamorizing of violence in the media. We have all seen it, worried about it. Some, like Senator BYRD, have spoken out for the last several years.

To realize how pervasive the influence of television is, in the most recent national reading assessment, 62 percent of fourth graders and 64 percent of eighth graders reported watching television 3 hours or more a day. Twenty-five percent of the fourth graders said they watched television 6 hours or more a day.

That is more time than they spend in their classrooms.

A study done by the Universities of Pennsylvania and Delaware found that the average hour of children's programming on television contained 26.4 acts of violence—that is in 1 hour. And we are not talking about the late-night movies supposedly for adults—we are talking about cartoons and adventure shows designed for children.

The violence is up, by the way, from a mere 18.6 acts of violence per hour in 1980.

And experts estimate that the average American youngster watches 18,000 hours of television by age 18.

Most people who have thought deeply about violence in America have for years intuitively believed that there is a relationship between the violence Americans see and the violence Americans perpetrate, particularly our young people.

The American Medical Association House of Delegates passed a resolution in 1976 declaring. "This House declares TV violence threatens the health and welfare of young Americans, commits itself to remedial actions with interested parties, and encourages opposition to TV programs containing violence and to their sponsors."

In 1990, the American Academy of Pediatrics issued a policy statement: "Pediatricians should advise parents to limit their children's television viewing to 1 to 2 hours per day."

In June, the Journal of the American Medical Association reported on a study headed by a Seattle psychiatrist, Dr. Brandon Centerwall, on the relationship between violence on television and violent crime.

In the article, Dr. Centerwall stated:

> To evaluate whether exposure to television is a causal of violence, I examined homicide rates in South Africa, Canada, and the United States. Given that blacks in South Africa live under quite different conditions than blacks in the United States, I limited the comparison to white homicide rates in South Africa and the United States and the total homicide rate in Canada [which was 97 percent white in 1951].
>
> The South African government did not permit television broadcasting prior to 1975. * * * Amidst the hostile tensions between the Afrikaner and English white communities, it was generally conceded that any South African television broadcasting industry would have to rely on British and American imports to fill out its programming schedule.
>
> If television exerts its behavior modifying effects primarily on children, the initial "television generation" would have had to age 10 to 15 years before they would have been old enough to affect the homicide rate. If this were so, it would be expected that, as the initial television generation grew up, rates of serious violence would first begin to rise among children, then several years later it would begin to rise among adolescents, then still later among young adults, and so on. And that is what is observed.
>
> * * * there was a lag of 10 to 15 years between the introduction of television and the subsequent doubling of the homicide rates," among whites in the three countries.

Dr. Centerwall observed:

> The earliest and deepest impressions were laid down when the child saw television as a factual source of information about a world outside their homes where violence is a daily commonplace and the commission of violence is generally powerful, exciting, charismatic, and efficacious. Serious violence is most likely to erupt at moments of severe stress—and it is precisely at such moments that adolescents and adults are most likely to revert to their earliest, most visceral sense of what violence is and what its role is in society. Much of this sense will have come from television.

Newborn babies, he notes, "are born with an instinctive capacity and desire to imitate adult human behavior." Babies begin to imitate adult facial expressions when they are only a few hours old. "It is a most useful instinct, for the developing child must learn and master a vest repertoire of behavior in short order." But infants "do not possess an instinct for gauging a priori whether a behavior ought to be imitated. They will imitate anything, including behaviors that most adults would regard as destructive and antisocial. It may give pause for thought then, to learn that infants as young as 14 months of age demonstrably observe and incorporate behaviors seen on television."

> As of 1990, the average American child aged 2 to 5 years was watching over 27 hours of television per week. This might not be bad if young children understood what they are watching. However, up through ages 3 and 4 years, many children are unable to distinguish fact from fantasy in television programs and remain unable to do so despite adult coaching.

He also cited several earlier studies:

First, a study in a semi-rural American county compared television viewing of violence by 8-year-old boys with their criminal behavior at age 30. The study concluded:

> After controlling for the boys' baseline aggressiveness, intelligence and socioeconomic status at age 8, it was found that the boys' television violence viewing at age 8 significantly predicted the seriousness of the crime for which they were convicted by age 30.

Second, surveys of young male felons found that 22 to 34 percent reported having consciously imitated crime techniques learned on television programs—usually successfully. A man convicted of slashing six women told authorities recently that he first killed after watching a murder on a rented "Robocops" video.

Dr. Centerwall's article states:

> It is concluded that the introduction of television in the 1950s caused a subsequent doubling of the homicide rate, i.e., long-term childhood exposure to television is a causal factor behind approximately one half of the homicides in the United States, or approximately 10,000 homicides annually.
>
> Although the data are not as well developed for other forms of violence, they indicate that exposure to television is also a causal factor behind a major proportion—perhaps one-half—of rapes, assaults, and other forms of interpersonal violence in the United States. When the same analytic approach was taken to investigate the relationship between television and suicide, it was determined that the introduction of television in the 1950's exerted no significant effect on subsequent suicide rates.
>
> To say that childhood exposure to television and television violence is a pre-disposing factor behind half of violent acts is not to discount the importance of other factors. Manifestly, every violent act is the result of an array of forces coming together—poverty, crime, alcohol and drug abuse, stress—of which childhood exposure to television is just one.
>
> Nevertheless, the epidemiological evidence indicates that if, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes, and 700,000 fewer injurious assaults.

Based on these conclusions, he made the following recommendations:

> Children's exposure to television and television violence should become part of the public health agenda, along with safety seats, bicycle helmets, immunizations, and good nutrition. It needs to become part of the standard package. Less TV is better, especially violent TV. Part of the public health approach should be to promote child-care alternatives to the electronic baby-sitter, especially among the poor who cannot afford real baby-sitters.
>
> Parents should guide what their children watch on television and how much. This is an old recommendation that can be given new teeth with the help of modern technology. It is now feasible to fit a television set with an electronic lock that permits parents to pre-set which programs, channels, and times they wish the set to be available for; if a particular program or time of day is locked, the set won't turn on for that time or channel. The presence of a time-channel lock restores and reinforces parental authority, since it operates even when the parents are not at home, thus permitting parents to use television to their family's best advantage. Time-channel locks are not merely feasible, but have already been designed and are coming off the assembly line (e.g., the Sony SBR).
>
> Closed captioning permits deaf and hard-of-hearing persons access to television. Recognizing that market forces alone would not make closed-captioning technology available to more than a fraction of the deaf and hard-of-hearing, the Television Decoder Circuitry Act was signed into law in 1990, requiring that, as of 1993, all new television sets (with screens 33 cm or larger, i.e., 96% of new television sets) be manufactured with built-in closed-captioning circuitry. A similar law should require that eventually all new television sets be manufactured with built-in time-channel lock circuitry—and for a similar reason. Market forces alone will not make this technology available to more than a fraction of households with children and will exclude poor families, the ones who suffer the most from violence. If we can make television technology available that will benefit 24 million deaf and hard-of-hearing Americans, surely we can do no less for the benefit of 50 million American children.
>
> Unless they are provided with information, parents are ill-equipped to judge which programs to place off-limits. As a final recommendation, television programs should be accompanied by a violence rating so parents can gauge how violent a program is without having to watch it. Such a rating system should be quantitative and preferably numerical, leaving aesthetic and social judgments to viewers. Exactly how the scale ought to be quantified is less important than that it be applied consistently. Such a rating system would enjoy broad popular support: In a national poll, 71% of adult Americans favor the establishment of a violence rating system for television programs.
>
> It should be noted that none of these recommendations impinges on issues of freedom of speech.

I do not pretend to be an expert on television. I probably watch far less than most Americans and my viewing runs heavily to sports, news and special programs like "The Civil War" series on PBS last year. I do not have children at home watching cartoons anymore, but I worried for years when my children were younger, and I am sure many parents face this problem with anxiety today.

But I think it is time we in America look at this issue seriously. I believe the great majority of parents want to do what is best for their children.

I am not talking about violating any first amendment rights. I am not advocating censorship—or limiting adults' rights to watch whatever they choose—or broadcasters' rights to broadcast.

I do think parents should be able to protect small children from being influenced by violence before they even know what they are seeing, or can tell the difference between fantasy and reality.

I also think corporate executives should pay attention to what they are sponsoring, and consider whether they want to associate their firms and their products with some of the things on the air. I believe that the chief executive officers of companies that advertise should do more than ask for rating points. They have a responsibility to our society to review programs they are sponsoring with their advertising dollars.

If we are ever going to make a difference in the lives of our young people, I believe it has to come in the lives of individual children.

As James Agee said in "Let Us Now Praise Famous Men:

> In every child who is born, under no matter what circumstances, and of no matter what parents, the potentiality of the human race is born again, and in him, too, once more, and of each of us, our terrific responsibility toward human life, toward the utmost idea of goodness, and of the horror of terror, and of God.

TRIBUTE TO SENATOR ALAN DIXON

Mr. CONRAD. Mr. President, I rise today to pay tribute to the distinguished senior Senator from Illinois, ALAN DIXON, and wish him well in his future endeavors.

During the 6 years I have worked with ALAN, I have found him to be one of the friendliest, one of the most outgoing of my colleagues.Whenever I have had the occasion to see ALAN he invariably has had a smile of greeting and a word of encouragement or concern for me. And ALAN has the same beaming greeting for everyone. He genuinely enjoys his work for the people most important to him—the people of Illinois.

ALAN has been dedicated to helping his State. His 30 years of service in State and local government before coming to the Senate left him intimately aware of the needs and concerns of people throughout Illinois, and not once has he forgotten their interests when legislation came before the Senate. And he has been especially careful to represent the interests of the little guy, to help average Americans when their interests conflicted with the wealthy or powerful. He is tireless in taking their case to me and to our other colleagues—both in person and through impassioned speeches on the Senate floor.

Mr. President, I am honored to have worked with ALAN on several issues. The ones I most vividly recall are those on which we agreed most strongly. ALAN was an early, loud, and persistent critic of the Resolution Trust Corporation's handling of the S&L crisis. He fought hard against the confirmation of Timothy Ryan to head the Office of

Thrift Supervision, arguing that we needed better and more experienced leadership to protect American taxpayers from the ever-growing cost of the cleanup. And he followed this effort with legislation to overhaul the regulation of the FDIC to help prevent the need for a similar taxpayer-financed bailout of the banking industry. On another issue, ALAN was a strong proponent of saving costs by bringing American troops home from overseas and forcing our allies to pay their fair share of their own defense. He strongly opposed the construction of a new base at Crotone, Italy, and he secured approval of a 50,000-person cut in our European troop strength during consideration of the fiscal year 1991 defense authorization.

Mr. President, I will miss ALAN DIXON, and the Senate will miss ALAN DIXON. I wish him well wherever he may go next.

THE NATIONAL HIGH BLOOD PRESSURE EDUCATION PROGRAM—20 YEARS OF SUCCESS

Mr. KENNEDY. Mr. President, this month marks the 20th anniversary of one of the Nation's most successful health initiatives, the National High Blood Pressure Education Program.

High blood pressure poses a major threat to the country's health. It is the leading cause of stroke and a major contributor to heart disease and kidney failure. The National High Blood Pressure Education Program was established to increase patient, professional, and public awareness of the dangers of hypertension and the ways to prevent and treat the disease. The program is a coalition of 44 public and private health organizations coordinated by the National Heart, Lung and Blood Institute.

Since its beginning in 1972, the program has had unprecedented success. It plays an extremely important role in providing information to the public in an understandable form. It does so by translating the latest findings into practicable education materials for the public, and by providing prevention and treatment guidelines for physicians and other health professionals.

In the 20 years since the program was formed, the number of persons aware of the relationship between high blood pressure and stroke and heart disease has increased from 24 to 90 percent; one of every two patients with high blood pressure is controlling it today, whereas fewer than one in eight was doing so before the program began. The death rate from heart disease has dropped by 45 percent and the death rate from stroke has dropped by 57 percent in the last two decades.

The National High Blood Pressure Education Program is an exemplary public and professional education campaign for preventive health. It has earned well-deserved bipartisan support in Congress and across the country, and I commend all those involved in the program for the outstanding success they have achieved.

THE FISCAL YEAR 1993 LABOR/HHS/EDUCATION APPROPRIATIONS BILL CONFERENCE AGREEMENT

Mr. KERREY. Mr. President, I began this statement 3 weeks ago as an expression of my support for the fiscal year 1993 Labor-HHS-Education appropriations bill. As the Senate completes action on the conference agreement on the fiscal year 1993 Labor-HHS-Education bill, this has grown into a larger effort to describe other more fundamental changes that need to be made in the area of human services.

Let me begin with the Labor-HHS-Education bill. This bill contains funding for many high priority health and education programs that will be of great benefit to many Americans. This spending will save and enrich lives of the most vulnerable Americans. Like few other things we do, there are lives at stake with this effort.

Unfortunately, the urgency to act is too often not felt as strongly as the desire to score political points. Thus, the loudest voices in the chamber have been talking/preaching about abortion, homosexuality, seatbelts, and drug addicts. My own view is that when a person falls into the water and appears to be drowning, we should act to save them. Instead, some are content to argue the morality of something happening away from this most obvious and dire scene.

Mr. President, the sounds of drowning Americans are all around us. One child in four lives in poverty. Ten percent of our people need food stamps to supplement their income. Desperation and lack of hope spread deep in Americans today.

These problems are daunting, but the direction we need to move in is clear. I know we need more economic growth. I understand a lack of investment has caused much of the difficulty. I know we can't just throw money at the poor; still I hear the voices crying and feel we must move. Let me suggest two areas in particular where dramatic action is needed.

The first is the need to control the growing budget deficit. Central to that effort is the enactment of comprehensive health care reform with strict cost control provisions to address the rapid growth in health care entitlement spending in the Medicare and Medicaid programs. Control over health care spending is critical if we are ever to have the opportunity to meet our nation's economic and job creation needs. It is critical if we want to address the priority needs of children, health care, education and other important areas.

Control of health costs will be central to any effort to control entitlement spending and cut the deficit. Between 1993 and 1997, 85 percent of the growth in entitlement programs will be in Medicare and Medicaid alone. The health entitlements will, in fact, soon surpass Social Security as the single largest component of mandatory spending, according to the Office of Management and Budget.

Medicare, Medicaid and other health programs accounted for 7 percent of Federal spending in 1970. In 1990, these programs were 13.5 percent of the budget. By 1997, CBO predicts these programs will reach 22 percent of the budget. States are seeing similar rapid increases in Medicaid costs, the program for which they share financing with the Federal Government. My home State of Nebraska is facing a $25.1 million budgetary shortfall this year—a large part caused directly by skyrocketing Medicaid costs.

Perhaps the most tragic fact of this spending is that our children are financing today's health care spending. Of the $330 billion or so the direct and tax expenditures of the Federal Government going to health care programs in 1992, nearly $70 billion is being deficit financed. In other words, we are borrowing $70 billion from our children to pay for today's health care bills. If the bondholders insist on 7 percent interest payments, we will be adding $5 billion to every annual budget in the future, $50 per year per taxpayer.

Too many of our citizens believe the tradeoff for increased domestic spending is decreased defense spending. This mistaken belief is reinforced by several good amendments on the Labor-HHS appropriations bill which attempted to do just that.

However, the real culprit is the increasing demands imposed by the health care programs. At the state and Federal level the rapidly rising cost of health care is leaving less and less room for spending for other important programs. It means less is available for educational programs to help developmentally disabled children get a good start in life; for childhood immunization programs; for important rural health programs; and for educational scholarships, loans and grants for students.

There are three steps we must take to get health entitlement spending under control. We must establish: First, a health care system that covers all Americans for at least a basic level of health services; second, move to a single budgeted health care system with strong cost-control mechanisms that eliminates the possibility of the cost shifting that reeks havoc in our current system; and third, finance this system on a pay as you go basis—rather than deficit financing health care services as we currently do.

Taking these three steps will help control our staggering budget deficits and adequately address the range of health and social needs faced by our Nation today.

There are those in the Administration who would have the American people believe that a budgeted health care system is the first step in the creation of a huge medical bureaucracy that will ration every aspect of American medicine.

Secretay Sullivan has made claims that the proposals put forth by Democrats would involve massive new government intervention in the medical marketplace and would lead eventually to a complete takeover of health care financing and delivery.

They do not acknowledge that we already have a huge medical bureaucracy micromanaging our health care system. And that this system includes plenty of massive government intervention.

They do not acknowledge that we already have a rationed health care system—rationed on the worst possible grounds, from a health perspective, on ability to pay.

The Administration has given little thought to how a budgeted health system could actually reduce the need for micromanagement of health care that has been the trademark of the Reagan-Bush approach that has led to nonstop increases in health care costs and nonstop declines in coverage for Americans.

More and more Americans are recognizing the need for a budgeted health care system with firm cost controls. The American College of Physicians recently called for a universal system of care with a national health care budget and expenditures managed within that budget through a system of negotiated fee schedules. Others have echoed similar concerns and solutions.

My health care reform proposal, the Health USA Act, carefully distinguishes between how a health system is financed and how services are delivered—a crucial distinction. By establishing a budget, it delineates the exact and limited role government will play and then leaves the rest to the private sector. It recognizes that government should not be used to micromanage health care administration and delivery and sets up a structure whereby that is avoided.

The second area where fundamental change is needed is in reorganizing agencies of the Federal Government to help meet the needs of families at the local level. We cannot achieve successful budget control without better management at the Federal level, and our communities cannot provide services to their people without improved delivery of those services. Children and families are eligible for about 125 Federal programs administered by 12 different agencies. This kind of fragmentation prevents us from focusing our resources where they are needed most and, more importantly, prevents us from helping the people who need it most.

Infant health programs offer an excellent example of the problems with this fragmentation among agencies, programs, requirements and criteria, as well as the benefit of reorganization and coordination of Federal agencies.

North Omaha has long been plagued with an infant mortality rate well above the National and State average. In 1989, a variety of health, medical, and social service professionals representing State, local and nonprofit agencies in the Omaha area came together to address this problem. Working cooperatively, and with the funds from the Public Health Service, they established a one stop shopping prenatal program.

This program, called FirstStep, pulled together the resources of the State of Nebraska, Douglas County, the U.S. Departments of Health and Human Services, Labor, Transportation and Agriculture, and nonprofit agencies such as the American Cancer Society, to coordinate Medicaid, WIC, drug and alcohol counseling, immunizations, food stamps, transportation, and job training into one coordinated effort with the goal of getting these children off to a good start in life.

It's not enough to merely support a smaller Federal Government. This program illustrates the need to fight for a real consolidation of a myriad of Federal programs. The benefits of coordinating should be enough to motivate us to overcome the difficulty involved in solving a specific problem given the fragmentation among agencies, programs, requirements and criteria.

Mr. President, to summarize our dilemma, unless we first enact cost controls on health care in the context of comprehensive health care reform, we will face three choices: cut much needed investments in economic growth as well as spending on those most needy; enlarge our borrowing by increased deficit financing; or cut too deeply or rapidly into America's defenses. Second, unless we radically alter the shape of the Federal Government we will be throwing good money after bad.

Even with this quandary, there is an overpowering need to act. The fiscal year 1993 Labor/HHS appropriations bill includes funding for many programs of great importance in Nebraska, which allows us to begin to set priorities to meet pressing economic and human needs.

In the area of rural health, the bill includes funding for the important programs of the Health Resources and Services Administration which include health education and training programs, allied health professions training programs, the National Health Service Corps, and other critical programs. It also provides funding for rural initiatives, such as the Rural Hospital Transition Grant and the Rural Health Outreach Grant Programs that continue to be so beneficial to rural Nebraska.

Mr. President, as you know, the Administration proposed to eliminate all health professions training funding, except for a few programs specifically targeted to minority students. This is an incredibly shortsighted policy given the health manpower shortage faced by chronically underserved areas of both rural and urban America.

The programs of the Nurse Education Act are very important to Nebraska. Several of the provisions in this act directly benefit Nebraska. For example, the traineeship program provides funds to nursing graduate students so they can continue their educations and prepare to teach tomorrow's nursing students. Educational loans under the program provide loans to programs, such as the Accelerated Nursing Program which often prepares nontraditional nursing students for careers in nursing.

Other health professions training programs are important to Nebraska universities and health manpower. These include scholarship and loan programs; assistance for disadvantaged or minority students; and preventive, family, general internal medicine and other residency programs.

The Rural Health Outreach Grant Program has been very important in meeting the challenges of rural health care. Two rural Nebraska health coalitions have been awarded Federal funds through this program. Blue Valley Community Action in Fairbury received funds for programs for prenatal outreach and post partum in-home services by a coalition of medical, health, and social service agencies. This program targets the most vulnerable members of our society—mothers and children who might otherwise not receive needed care. Similarly, Panhandle Community Services in Gering, NE uses these funds to deliver mental health and primary care services in rural areas targeting pregnant women, children, and the elderly.

Since 1989, 28 rural hospitals in Nebraska have benefited from the Rural Hospital Transition Grant Program. These funds have been used to help these hospitals continue to serve rural residents by enhancing their ability to recruit health professionals and provide important preventive and primary care services. Additional hospitals plan to apply for these grants this year.

The University of Nebraska has used Federal funds from the Health Resources and Services Administration [HRSA] to develop an interdisciplinary training program. This program trains health professionals for work in rural or other underserved areas. They are currently working hard to expand this program to allied health professionals in Chadron and Kearney. Model programs, such as this, are crucial to our understanding of the ability to provide rural residents with access to quality health care services.

The National Health Service Corps [NHSC] is another example of a rural health program that is very important to rural Nebraska. It is critical that Congress continue to enhance this program that was so drastically reduced during the 1980's.

There are many other programs funded under this bill that provide invaluable services to Nebraska.

Among these are the block grant programs, including the Maternal and Child Health, Preventive Health Services Block Grant, Social Services Block Grant and Community Services Block Grant Programs; the Community and Migrant Health Centers Program; the Centers for Disease Control's Childhood Immunization Program; and the Head Start Program.

This legislation also provides critical assistance to our country's elementary and secondary schools. At a time when we are seeing a growing interest in strengthening our schools by parents, teachers, and other local leaders, we should ensure that the Federal Government is there to provide resources through programs that work.

Impact aid is a program that deserves special mention. Many Nebraska school districts receive impact aid funds from the Federal Government due to property taxes foregone because of Federal ownership, and for lost revenues from federally connected parents. This is not a special benefit, but rather a fulfillment of a Federal responsibility to these communities. This legislation includes a $20 million decrease from fiscal year 1992 though this amount is far better than the administration's effort to slash this program by more than 30 percent.

This legislation also includes funding for students choosing to pursue postsecondary education. Unfortunately, the current budget constraints have prevented us from appropriating the funds necessary to meet the higher maximum grant award under the Pell Grant Program included in legislation recently passed by Congress. In fact, the maximum per student award amount will fall this coming fiscal year. This raises serious concerns about access to higher education for our Nation's neediest students.

The Child Care Development Block Grant remains an important source of funds to increase the quality affordability, and availability of child care in Nebraska. The funding level in this year's bill is $150 million more than the fiscal year 1992 appropriation, which provides more money for States to enable low-income families to obtain quality care for their children. It also provides funds for the important task of licensing and monitoring these child care centers.

Mr. President, in conclusion, our annual consideration of the Labor-HHS Appropriations bill says something important about what we need to do as Americans. How we handle issues that are either directly or indirectly related to this bill is illustrative of how we provide for the most vulnerable members of our society. How we handle the need for health care reform and structural change in our Government will determine whether we have the resources and the ability to do what we need.

The compassion to help—to answer the cry of those who are drowning—must be joined by a toughness to fight a deficit sapping our strength and Federal bureaucracies that cannot do what we want.

WALTER REED ARMY INSTITUTE OF RESEARCH

Mr. JOHNSTON. Mr. President, I am pleased that the Defense appropriations conference report which passed yesterday included an additional $20 million for the AIDS Research Program conducted by the Walter Reed Army Institute of Research [WRAIR]. The Army's Research Program has been responsible for some of the early testing of a gp160 vaccine, for the treatment of people infected by HIV [human immunodeficiency virus]. The vaccine has been shown safe to administer to humans. In addition, following treatment with the gp160 vaccine, CD4 counts which are a measure of the functioning of the immune system have been shown to be stabilized rather than declining, and the amount of virus in recipients has been stabilized rather than increasing.

These early results of the Army's testing suggest that this vaccine shows promise as a possible means of lengthening the average 10-year time between HIV infection and the development of opportunistic infections characteristic of AIDS—acquired immune deficiency syndrome. If these results can be sustained for longer periods, HIV infection may be transformed into a chronic but manageable health problem rather than a death sentence.

It is expected that the additional $20 million will be used by WRAIR to initiate a large scale phase III efficacy study, the next step in evaluating the gp160 vaccine, and would produce the final data to be gathered for the Food and Drug Administration [FDA] licensing process.

The phase III study will proceed unless the Secretary of Defense, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs determine that such a study is inappropriate. In that event, the funds may be used for other AIDS research needs of the Defense Department.

Because of the growing number of Americans who are HIV infected or who will become HIV infected over the next few years, it is important that promising treatments be fully investigated as soon as possible. To delay large scale testing means another group of HIV infected Americans will progress to AIDS for which there is no treatment to prevent their death or eliminate their suffering. The vaccine has been shown to be safe. The promising results of the gp160 vaccine have been shown in five separate studies both in the United States and abroad. Therefore, the potential benefits of identifying an effective treatment for HIV infection outweigh the cost of the study.

In dealing with a lethal disease which is claiming lives in epidemic numbers, delay, even delay motivated out of the desire for greater scientific certainty, means that more lives may be lost. If the gp160 vaccine is not tested now and later proves to be effective or even partially effective, another group of HIV infected patients will have been sacrificed. It may be a gamble, but it is a reasonable gamble we cannot refuse to take.

Mr. President, I ask unanimous consent that a summary of the results of major tests of this gp160 vaccine be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

VaxSyn Reported To Stabilize T4 Count and Reduce HIV Levels—Results From Five Independent Treatment Studies Reported

Amsterdam, The Netherlands, July 21, 1992.—Leading AIDS researchers reported encouraging results in five independent studies using VaxSyn, the MicroGeneSys engineered, recombinant rgp160 vaccine. This is the first time the International AIDS conference has devoted an entire session to vaccine therapy. The data drawn from clinical trials conducted at multiple locations under the direction of the Walter Reed Army Institute of Research ("Walter Reed"); the National Institute of allergy and Infectious Diseases ("NIAID") AIDS Clinical Trials Group ("ACTG"); McGill University AIDS Center at Montreal General Hospital ("Mr. Gill"); South Hospital and the National Bacteriological Laboratory in Stockholm, Sweden ("Stockholm"); as well as in a community based setting at the Southern New England Community Consortium ("SNECC") in Greenwich, Connecticut were presented at the VIII International Conference on AIDS in Amsterdam today.

Whereas the great majority of HIV/AIDS clinical trails over the past decade have stressed antiviral treatments, each of the five studies, conducted in varying phase since April 1989 further the increasingly held premise that genetically engineered vaccines may stimulate the immune system of HIV-infected people to halt, if not defeat, HIV.

"This new data strongly reinforces our preliminary findings, originally reported in the New England Journal of Medicine last year, and clearly suggests the feasibility of controlling disease in HIV infected individuals with with VaxSyn," said Franklin Volvovitz, Chairman and President of Connecticut base MicroGeneSys, Inc. Currently, approximately 700 HIV-positive patients are participating in clinical trials using VaxSyn.

Walter Reed Study: The first therapeutic study with VaxSyn began with 30 symptomatic AIDS patients in April 1989 at Walter Reed. An interim analysis of the study published in June 1991 in the New England Journal of Medicine showed that treatment with VaxSyn stimulated new and heightened immune responses and reduced the rate of decline of the patients T4 cells. These patients produced new antibodies that are not typically found following natural infection and increased cellular immunity. Both the antibody and cellular immune responses are thought to be important in combating HIV infection.

Dr. Redfield reported at the Conference that 97% of the patients in his study receiving VaxSyn developed notable vaccine induced antibody and cellular immune responses against HIV. The induced immune responses demonstrated broad cross-immunologic recognition of divergent HIV strains including the ability to neutralize the patients' own HIV isolates.

Using a highly sensitive technique called polymerase chain reaction or "PCR," Dr. Redfield, reporting on the first 15 AIDS patients treated with the MicroGeneSys vaccine, found dramatic reductions on both the levels of HIV proviral DNA contained in the patients' white blood cells as well as full length HIV RNA when compared to natural history controls at two years of follow up.

Dr. Redfield, the principal investigator for this study, hypothesized that vaccine therapy of HIV infected individuals stimulates HIV specific immune responses which slow down the growth of HIV in the body. He continued, "The clinical consequences will be delayed progression and/or disease stabilization and prolonged survival."

NIAID ACTG Study: Results from the National Institute of Allergy and Infectious Diseases AIDS Clinical Trial Group VaxSyn double-blind, placebo-controlled therapy study at New York University and Stanford University were reported by Dr. Fred Valentine. The 58 asymptomatic patients enrolled in the study received either VaxSyn or hepatitis B vaccine as the placebo. One of the purposes of the study was to determine if HIV-positive individuals show the same degree of improvement when their immune system is being boosted by a vaccine that is not directed against HIV.

The ACTG trial results showed that patients receiving VaxSyn evidenced a significant stabilization in the percent T4 cells when compared to patients receiving the hepatitis B vaccine placebo. Some researchers have suggested that the percent T4 cells is a more sensitive measure of T4 levels than the absolute count. Enhancement of all forms of immunity including a broadening of HIV-specific antibody responses and increased activity of HIV-specific memory, helper, and cytotoxis T lymphocytes was evident in the VaxSyn treated patients.

McGill Study: Dr. Christos Tsoukas reported interim results from the 21 patient McGill University AIDS Center study at Montreal General Hospital. In the 12 month period covered by the interim analysis, no clinical adverse effects or laboratory toxicities were noted and all patients remained healthy at the time of last follow up. Approximately ninety percent of the patients developed new or heightened antibody responses against HIV. Cellular immune responses were also significantly enhanced. At the 12 month evaluation, the patients evidenced a significant increase from the pretreatment levels in absolute T4 counts (mean increase of 117 cells/mm^3) and in percent T4 cells (mean increase of 2%). These increases were statistically significant. By way of comparison, over this same period of time, a matched, untreated population would have experienced an expected decline of 11 to 14% (80 to 100 T4 cells/mm^3).

SNECC Study: Dr. Gary Blick reported interim, 18 month results for the first 30 patients enrolled in the Southern England Community Consortium (Greenwich, Connecticut) community-based study. Patients with AIDS, AIDS Related Complex ("ARC") and asymptomatic HIV infection were randomly enrolled. Patients participating in this study received both VaxSyn and the MicroGeneSys recombinant p24 (HIV core protein) vaccine. This combination was safe and well tolerated during the 18 months of study follow up. Sixteen of 16 patients with initial T4 counts of 200 to 500 cells/mm^3 developed new or increased antibody responses to HIV and as a group evidenced a 12% increase (42 cells/mm^3) in absolute T4 count at the 12 month study interval and a 16% increase (57 cells/mm^{3}0) at the 18 month study interval. The patients in this subgroup showed no evidence of clinical progression during this period and none developed ARC. or AIDS by month 18 of the study. The patients with initial T4 counts under 200 cells/mm^3 evidenced infrequent responses following immunization and continued to show disease progression.

Stockholm Study: Interim results from the 40 patient study being conducted by the South Hospital and the National Bacteriological Laboratory in Stockholm, Sweden were presented by Dr. Goran Bratt. This study evaluated VaxSyn immunizations in the presence or absence of AZT in asymptomatic patients. AZT, DDI and DDC are the only approved drugs in the United States for the treatment of HIV infection. These drugs attack HIV directly by inhibiting its ability to reproduce in the body. While they may temporarily control HIV infection and disease progression, their use is limited by the development of viral resistance and by side effects. Unlike AZT, DDI and DDC, VaxSyn does not attack HIV directly, but instead is intended to improve the immune system's ability to fight HIV and to control the infection.

Enhancement of antibody and cellular immunity has also been observed in this study. Additionally, the patient's antibodies bound more strongly to HIV. A number of patients evidenced a decline in their HIV levels as determined by PCR measurement of HIV RNA.

At 9 months of follow up, the patients showed an increase in the average T4 cell count and there was no difference between the group receiving AZT in combination with VaxSyn compared to VaxSyn alone. Preliminary interim results show no discernable effect, either positive or negative, from the use of AZT during VaxSyn therapy.

VaxSyn does not contain any infectious portion of HIV, nor is any infectious portion of HIV used in the manufacturing process. Therefore, there is no risk of transmitting HIV infection with VaxSyn. Studies beginning in October 1987, and involving over 1000 HIV-negative and HIV-positive individuals, have demonstrated that VaxSyn is safe and well tolerated.

MicroGeneSys, Inc. is a biopharmaceutical company pursuing the discovery, development, manufacture and marketing of recombinant vaccines for human health care uses. The Company's efforts to date have principally focused on the development of an AIDS therapeutic vaccine ("VaxSyn"). This product is intended to be used as a therapeutic treatment for patients infected with Human Immunodeficiency Virus Type 1 ("HIV"), the infectious agent responsible for Acquired Immunodeficiency Syndrome ("AIDS").

THE VEGA CLUB OF BROCKTON A TRADITION OF EXCELLENCE IN SERVICE TO THE COMMUNITY

Mr. KENNEDY. Mr. President, it is a privilege for me to pay tribute to the Vega Club of Brockton, MA, on its 100th anniversary. The Vega Club was founded on September 11, 1892, to promote and advance the social and civic interests of its members and the local community, and it has fulfilled that mission with great distinction ever since.

The Vega Club has been a key part of the success of a number of local nonprofit organizations, including a neighborhood watch program, a Pony Colt League team, Boy Scout and Cub Scout troops, and the West Little League program. In addition to assisting these important organizations, the Vega Club reaches out to the community each year by hosting a Christmas party for underprivileged children. I am also especially pleased to commend the members of the Vega Club for their annual role in supporting the Special Olympics. All of us in the Kennedy family are grateful for their commitment and dedication.

I also want to take this opportunity to commend the leaders of the Vega Club, which include President Paul MacMurdo, Vice-President Philip Nersessian, Treasurer Robert Lawson, Recording Secretary William McCormack, Financial Secretary Edward O'Dwyer, Marshall John Kelly, Trustees Wayne Sylvia, Ronald Jackson, and Donald Eldridge, who is also serving as chairman of the 100th anniversary committee.

It is an honor to salute the Vega Club on this auspicious anniversary. It has compiled an outstanding record of community service and achievement, and I wish it continued success as it begins its next century.

CORRECTING SECTION 9168 TO THE CONFERENCE REPORT ON H.R. 5504

Mr. INOUYE. Mr. President, I rise to clarify an error which appears in section 9168, as inserted by amendment No. 296 to the conference report (H. Rept. 102-1015) on H.R. 5504.

The date referenced in section 9168 is September 12, 1992. However, Senate action on the bill (S. 2681) referenced in section 9168 was actually taken on August 7, 1992.

Mr. President, I would ask the unanimous consent of the Senate to have this error corrected when the conference report on H.R. 5504 is enrolled.

AMERICAN COLLEGE OF PHYSICIANS HEALTH REFORM PROPOSAL

Mr. DASCHLE. Mr. President, there is certainly no shortage of proposals to reform the American health care system. Many Members in both Houses have introduced a number of bills—some comprehensive, others, dealing with particular aspects of the current system.

But, Mr. President, no matter how we craft these reform efforts, it will not be we who bear the ultimate responsibility for seeing that the system really works at the level it matters most: the interaction between patient and provider. That responsibility falls most frequently on our Nation's physicians, and theirs is a perspective that must be considered in these debates.

Last spring, the American Academy of Family Physicians introduced a health reform plan. Two weeks ago, the America College of Physicians, the largest organization representing any specialty group of doctors, announced its proposal for health reform. The ACP, comprised of 77,000 internal medicine specialists, has developed a plan that embodies many principles that those of us who advocate comprehensive reform embrace: They call for cost containment through a national health care budget; universal access for all Americans: reallocation of spending away from wasteful administrative overhead and toward primary and preventive care; reduction in unnecessary services; and reduction of the hassle that plagues our current system.

Mr. President, I am particularly gratified that the American College of Physicians has endorsed the idea of a national health budget. There are, of course, many who argue that it is folly to construct a national health budget, that it cannot be done or that it is merely a way of rationing care or reducing quality. But many of those who argue that health care cannot be budgeted also demand that we run the Government like a business. Does any business leave such a large fraction of its expenditures unbudgeted?

The ACP has recognized that defining and enforcing a global budget is essential if we are to control costs. The college argues that there must be national and local controls on price, supply, and demand for health services. Furthermore, this plan acknowledges that there is too much redundant capacity in the system in many parts of the country; too many MRIS, too many radiation oncology units, too many heart surgery programs, and too many hospital beds. These are excesses we can no longer afford, and the college proposal offers tools to reduce them.

Another key element of this plan involves negotiating the pricing of services. These prices would be resource-based, and would apply uniformly across the entire State or region. The development of organized delivery system, primary care networks, vertical and horizontal regional integration—all of these would be fostered and encouraged under this plan.

The college also recognizes a fact that its members are in a far better position to understand than economic theorists: that market forces have not led to distribution of health resources according to need. Hospitals and doctors have been forced by the crazy-quilt system of payment that we have evolved into behaving like businesses, but businesses in which consumers are insulated from price and have no expertise to evaluate the product.

I also applaud their call for a national health manpower policy. Virtually every expert from whom we have heard has warned of the dire consequences of the production of far more specialists than are needed and too few primary care practitioners. But our current system of undergraduate and graduate medical education allows—encourages—this to occur. We simply must reverse this trend if we are to deliver cost-effective health care to our citizens.

Mr. President, the success stories of American medical research have induced the illusion among many people that their own actions and behavior are of little consequence in their ultimate well-being. Never mind smoking, over-eating, drunk driving, or taking other unnecessary risks: If you get sick, there is a new treatment just around the corner that will make you good as new. The ACP calls for the education of the public about the benefits of health promotion and disease and injury prevention. This is a critical element—both for reducing costs but, far more importantly, for a healthier people.

The college has made a strong and effective argument that all Americans must be in the system if cost control is to be achieved. To fail to provide universal access in comprehensive health reform is neither humane nor fiscally responsible. If everyone is not covered, we will simply perpetuate the enormous cost-shifting that currently occurs, as well as continuing to force those who are uninsured to wait too long, until they are too ill, to seek medical attention. This is not acceptable. Mr. President, this is a thoughtful, substantive, and constructive proposal. It is well worth the study of every Member of the Senate. I welcome the addition of the American College of Physicians to those arguing for comprehensive reform, and I salute their courage in developing and introducing this plan. I challenge other medical organizations to join the American College of Physicians and the American Academy of Family Physicians in working with us to devise an effective, humane, fiscally responsible, and coherent plan for the American people.

Mr. President, I ask unanimous consent to place the position paper on "Universal Insurance for American Health Care of the American College of Physicians" into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Annals of Internal Medicine, Sept. 15, 1992]

UNIVERSAL INSURANCE FOR AMERICAN HEALTH CARE: A PROPOSAL OF THE AMERICAN COLLEGE OF PHYSICIANS*

America urgently needs comprehensive health care reform. The American College of Physicians (ACP) believes that universal access to care can be achieved only through system-wide reform in the organization and financing of health care (1). This paper outlines our proposal for a national policy to achieve that reform.

OVERVIEW

As a professional society of physicians whose goal is excellence in medicine, we see a system failing all who are a part of it—patients, physicians and other health professionals, purchasers, and insurers. Most of the problems have been well documented: over 35 million Americans without health coverage, excessive utilization of high technology coexisting with substandard care, astonishing increases in spending without commensurate gains in health status, acute care promoted at the expense of preventive services and technology-based care at the expense of primary care. As practitioners, we feel the fear of uninsured and underinsured patients at the prospect of severe illness, and appreciate the dilemma of those locked into jobs just to keep health coverage. We confront every day the crushing bureaucracy of a system that diverts time, energy, and resources from patient care, frustrating the ability of physicians and patients to deal with illness.

Three aspects of the health care system appear particularly troubling. First, it promotes inequity and conflict between its private and public components. Costs are shifted from one component to the other, public programs lacking a powerful constituency are underfunded, and the total system suffers from unwieldy administrative complexity and cost. Second, benefit packages consist of circumscribed lists of covered services that reflect more the needs of payers than those of the patients. Third, cost-control efforts have failed to make the system affordable and have imposed an intrusive regulatory burden on both patients and physicians.

The College would correct these problems through a universal health insurance system covering everyone living in this country. Our design for a reformed system addresses the major problems through four elements:

Assuring Access to Care: We propose a universal insurance system that relies on employer and publicly sponsored insurance plans. All public programs for health care would be consolidated, and everyone would be guaranteed coverage, funded through a combination of private premiums and public revenues.

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*This paper, authored by H. Denman Scott, MD, MPH, and Howard B. Shapiro, PhD, was developed for the Health and Public Policy Committee: Clifton R. Cleaveland, MD, Chair; Cecil O. Samuelson, Jr., MD, Vice-Chair; Christine K. Cassel, MD; David J. Gullen, MD; Harold C. Sox, Jr., MD; Quentin D. Young, MD; Robert A Berenson, MD; John M. Eisenberg, MD; Woodrow A. Myers, Jr., MD; Steven A. Schroeder, MD; and Gerald E. Thomson, MD. Approved by the Board of Regents on 10 July 1992.

Assuring High-Quality and Comprehensive Health Care: We propose that all medically effective services be covered when they are appropriate for a particular patient.

Promoting Innovation and Excellence: We propose measures to enhance the crucial institutional underpinnings that sustain excellence in medical care—research, education, and medical information management.

Controlling Costs: We propose a national health care budget with a mixture of centralized and decentralized mechanisms to influence the price, volume, supply, and demand for health care services.

The ACP plan envisions substantial change, including insurance reform, limitations on spending, fee negotiations, and new structures such as a national health care commission representing all sectors of society. At the same time, the College's plan would incorporate elements of our current system that are valued by patients and providers—for example, a pluralistic approach that would accommodate fee-for-service and managed-care options, but a role for government that is circumscribed.

The College has developed this plan after extensive consultation, including input from a network of 4500 ACP members and from many organizations, review of other proposals, and examination of health care systems of other nations. Careful transition will be essential, but the nation must move forward quickly to adopt and implement a comprehensive plan.

ASSURING ACCESS TO CARE

The College proposes a plan for universal insurance, through a mixture of private and public financing, in which everyone living in the United States would be insured. Covered benefits would be the same for everyone: all medically effective and appropriate care. Public plans serving specific segments of the population would be eliminated.

We envision an integrated system in which employer-sponsored and publicly sponsored insurance plans would offer practice arrangements ranging from traditional fee-for-service to various organized delivery systems. Patients and providers would perceive no difference between health care in employer-sponsored and publicly sponsored plans; only the source of financing would be different.

Other proposals have suggested separate systems of care: private insurance through employers, public coverage for the unemployed, and continuing entitlement programs for others (Medicare, Veterans Affairs, and other programs). Separate public and private systems perpetuate inequitable access to care, both because people in some public plans have only "minimum" benefits, in contrast to full benefits in most private plans, and because public programs are likely to be underfunded. Separate systems also perpetuate complex, overlapping, and costly administrative bureaucracies.

Some proposals rely on single-payer or centralized government approaches—basically a Medicare program for all. Government may be efficient at some functions, like collecting taxes and writing checks, but it is not well suited to administer and oversee the complicated set of interactions in the health care system. Nor would centralized control promote the variety of approaches to health care delivery that a private, insurance-based system fosters.

Employer-sponsored insurance

In the ACP plan, employers would have an option: They may sponsor insurance for employees up to 60 years of age and their dependents (including parttime employees) or pay a tax so that those employees can enroll in a publicly sponsored insurance plan. To encourage employers to sponsor plans, we propose three steps to make coverage more affordable and premiums more predictable: phase out employer responsibility for retirees and shift them into publicly sponsored plans; switch employees into publicly sponsored plans at 60 years of age; and provide payment for all catastrophic costs (over $50,000 per year per person) through publicly financed coverage.

These measures would remove the most expensive patients from employer-sponsored plans. The intent is to make premiums equal to or less than the payroll tax that would otherwise be required, encouraging employers to continue or initiate coverage. This addresses a criticism of those "play or pay" plans in which the premium cost to "play" is so much higher than the tax to "pay" that employers would terminate coverage and transfer employees to the public program—eventually leading to a single public system.

Employers who sponsor insurance would choose among private plans that meet national guidelines. The minimum employer contribution to the premium would be 50%, with the employee paying the rest, although the employer may choose to fund a larger proportion of the premium.

Publicly sponsored insurance

Everyone not covered by employer-sponsored insurance would enroll in a publicly sponsored plan. This group would include: employees whose employers choose not to offer plans, employees over 60 years of age, retirees, and the unemployed and those outside the labor market. The current array of federal and state entitlement programs created for specific groups would be replaced by the publicly sponsored insurance plans, which would provide benefits identical to those in employer-sponsored plans.

Funding for publicly sponsored plans would come from: payroll taxes from employers and employees in companies not sponsoring insurance; income-related premiums, collected through the tax system, for retirees and people not working but with incomes greater than the poverty level and for employees over 60 years of age in firms sponsoring insurance; increased alcohol and cigarette taxes; and general tax revenues. The general revenues will be necessary to support premiums for low-income and unemployed people who pay no or reduced premiums, to pay for catastrophic coverage, and to cover costs for the elderly beyond premium revenues. We believe these expenditures are properly the responsibility of the public.

Our catastrophic costs program would be not only a public payment mechanism for costs in excess of $50,000 per year but would also be a stimulus to development of high-cost case management techniques, reliance on centers of excellence, and cost-efficient care. Our goal is to encourage smart decision making to govern allocation of resources.

The ACP approach to publicly sponsored insurance would strengthen the constituency of public programs. By including employees and dependents from companies not sponsoring insurance, retirees, and anyone facing catastrophic costs, the publicly sponsored plans would have strong backing under this proposal. Every person would have a stake in the system.

Insurance plans and insurance reform

We believe an insurance-based system offers the best means of fostering a wide range of practice arrangements to suit the needs and preferences of patients and providers. This does not mean we approve of how private insurers have handled coverage in the past. We propose substantial reforms to alter their practices. We also believe system administration is best handled at the decentralized level, under national criteria.

Insurance plans would not compete on the basis of benefits offered, because all plans would cover all effective and appropriate care. They would not compete by underpricing reimbursement to providers, because there would be uniform rates for all payers. And they would not compete by excluding sick people.

Insurance plans would compete on the basis of premium price and value offered to employer and public purchasers. By better administration and other efficiencies, a plan could offer a lower premium. Another plan might market itself as providing better value at the same or even a higher price—for example, by organizing a group of providers it believes provides higher quality care. Traditional indemnity plans reimbursing fee-for-service providers could continue under this approach and might compete by offering greater value—for example, unrestricted choice of providers. Insurers might also compete by offering benefits beyond those covered, although under the benefits process outlined below, we do not see much of a market for that option.

Our plan should reinforce the movement of physicians and hospitals, as well as purchasers and payers, to organize more effective and efficient delivery systems to enhance their competitiveness. There would be strong incentives to develop criteria for quality of care, measure outcomes, and help practitioners provide effective and efficient care.

Competition among insurers would be channeled in this positive direction through reforms to eliminate the current risk-avoidance practice of insurers. Insurers would be required to accept all applicants. There would be no exclusions of coverage due to health problems ("preexisting" conditions). Experience rating (premiums calculated on the health status of the group), which has made rates unaffordable for many small groups, would be eliminated in favor of adjusted community rating (premiums that reflect the health status of the entire community) for all employers.

Finally, with insurance for all medically effective and appropriate services, individual state health benefit mandates would be eliminated.

Underserved people

Even with extension of health insurance to all, there would likely remain underserved people, including the poor, minorities, and rural populations. Providing insurance coverage is insufficient if the barrier to care is lack of nearby physicians and health care facilities. People in inner cities and remote rural areas as well as migrant workers will need more than an insurance plan. We therefore support an expansion of the public health system, including community health centers, local health departments, and the National Health Service Corps, and other ways to deal with geographic maldistribution of health care workers and facilities. Education reforms and related incentives are essential for producing providers to meet the needs of the underserved.

Fiscal, professional, and lifestyle incentives will be necessary to attract and retain health professionals in underserved areas. Capital will be necessary to develop or upgrade facilities and equipment. More effective integration of health services will be required, including efficient transportation and communication. Telephone and computer-based links and mobile clinics may help to deliver care to patients in sparsely populated areas. Strategies must consider cultural differences that influence how care can be delivered effectively.

ASSURING HIGH-QUALITY AND COMPREHENSIVE HEALTH CARE

The College proposes a patient-oriented benefits determination process. Under our plan, a national health care commission would be responsible for determining covered benefits—with the requirement that all medically effective services be covered—and setting and allocating budgets. The commission would have representation from patients, physicians and other health professionals, employers, insurers, government, and other key sectors of society.

All effective and appropriate health services would be covered under all publicly sponsored and employer-sponsored plans. The scope of benefits covered would be based on medical effectiveness research and expert consensus. We would further ensure high-quality care by promoting practice guidelines, creating a scientifically reasoned system of quality assurance, and redefining malpractice protection.

Benefits determination

For determining benefits, we propose a cascading process structured around three questions of increasing specificity to the patient.

1. Is a service medically effective?
2. Is the service medically appropriate for a particular group of patients or set of clinical circumstances?
3. Is the service appropriate and of value to a particular patient?

Effectiveness

The question of whether a service is medically effective is answered by research or expert consensus. Effectiveness extends along a continuum from clearly ineffective, to unknown/unproven but promising, to somewhat/sometimes effective, to clearly effective care. Decisions at the extreme are clear, but decisions become complex for interventions in the middle range. Greatly expanded efforts in medical effectiveness research will be essential to ensure that clinical decisions would be based increasingly on scientific data and less on individual opinion. Meanwhile, we recognize that there are procedures and therapies that clinical consensus would deem effective but that have not been scientifically evaluated. Such interventions should not be excluded from coverage while their effectiveness is being measured, but measurement should be expedited.

Services that would be assessed for effectiveness would represent all aspects of health care: preventive care; primary care; medical, surgical, and psychiatric care both in-hospital and in outpatient facilities; ambulatory mental health and substance abuse care; oral health; rehabilitative services; and prescription drugs. The medical care needs of patients in home-care programs and nursing homes will also be included.

The national health care commission would be responsible for determining covered benefits and for establishing the global budget. Should rationing of care become necessary, this mechanism would allow decisions to be explicit and apply to everyone, in contrast to the rationing now done tacitly through the allocation of resources, and largely affecting the poor. These decisions will confront the commission clearly with the trade-offs between expanding medical technologies and limited resources.

The commission's proposals on what services would be covered would not be subject to selective change by Congress. Congress could reject the entire package, but not add, delete, or modify individual items.

Appropriateness according to guidelines

For services deemed effective the next step would be to determine the appropriateness of the service under practice guidelines developed by the clinical community. Guidelines may indicate that a particular procedure is effective for some patients but ineffective for others. As an example, annual screening mammography is effective and indicated routinely for women in their 50s but not in their 30s.

Practice guidelines should be professionally developed and viewed primarily as a means for assisting physicians and patients in making appropriate clinical decisions. They will also help correct over- and underutilization. It is important they not be viewed as a cost-control mechanism.

Guideline development is a science in its infancy. The College has committed our resources to developing guidelines, and we call for increased public and private funding. For the present, guidelines should be applied judiciously, with reliance more on those for which there is strong scientific evidence and less on those for which there is controversy or insufficient evidence.

When practice guidelines are available, they would be tied to the profiling of practice patterns to determine if a physician is generally following the criteria for clinically appropriate use of services. "Generally following" is the key phrase: Oversight would look at patterns, not at individual case decisions. If a practice pattern consistently deviated from guidelines, there would be reason to challenge payment for services. If guidelines are not available, practice profiles would allow comparison with community norms.

Appropriateness for an individual patient

Clinical guidelines may not always apply to a specific patient, because guidelines are usually more general and apply to patient groupings. Individual patients may have unique characteristics not covered by the guidelines. A physician may decide, in consultation with the patient, that it is reasonable not to follow the guidelines. This decision will reflect individual clinical circumstances and the personal values of the patient. After the physician provides a service that is medically effective and appropriate for the patient, reimbursement would be made. There would be no questioning of decision making or denial of reimbursement. Payment could be challenged only retrospectively, and only if the physician's practice pattern, indicated through profiling, consistently departed from guidelines.

Other considerations

To promote innovation, the benefits determination process must accommodate experimental procedures, tests, and therapies. We propose that experimental diagnostic and therapeutic services be evaluated for clinical effectiveness. Insurance plans would cover experimental services if both the physician and patient agree to participate in a formal, scientific evaluation sanctioned by the national health care commission.

We believe the process we have described would provide reimbursement for all appropriate services. Some patients, however, will want services beyond those covered. Others will want amenities such as a hospital suite. Under our proposal, people can pay for these services out-of-pocket or through supplemental insurance, but those expenditures would not be tax-deductible or included in the national health care budget.

Quality assurance and utilization management

An essential element of systemic reform is restructuring the external oversight of quality of care. We believe physicians will accept the constraints necessary in a reformed system, particularly to control costs, if there is an end to the overwhelming regulatory intrusion that dominates practice today.

The goal of assuring quality has been displaced by the imperative of utilization management—a set of techniques designed primarily to drive down costs. Part of this trend has been the transfer of many of these review activities from the traditional setting of quality assessment (the clinical service, the hospital, the organized group practice) to the purview of insurance carriers, Professional Review Organizations, and a rapidly growing number of proprietary groups. These reviewers have relied mainly on time-consuming and intrusive case-by-case reviews. Review criteria are often unspecified and left to the judgment of the reviewer. The techniques are labor intensive, costly, and have not been shown to improve quality of care. Rather, they have intruded excessively into the daily clinical decisions of most physicians, and contributed to mounting frustration and dissatisfaction within the profession and among patients.

The College believes the primary focus of quality assurance must be returned to the medical profession and to health institutions. Clinicians should be responsible for providing high-quality, cost-effective care, and be held accountable for efficient use of resources. Concepts of continuous improvement should underlie this responsibility.

Under the proposed national health care budget, medical organizations would have the responsibility and incentive to monitor practice patterns because those would affect the resources available to the organization and the community. We envision a process tied to the second stage of the benefit determination process described earlier. Practice guidelines are used at this stage to determine the appropriateness of providing services in particular clinical circumstances. Profiling would indicate whether the overall pattern of a physician's decisions falls within the guidelines. Profiles would be relayed from the insurance plans to hospitals, organized delivery systems, and professional organizations so that they can identify outliners, determine reasons for the deviation, and help the practitioner make appropriate changes.

Malpractice reform

The nation must restore the medical liability system to its proper role: compensation for patients injured by substandard care. We propose substantial reforms of liability determination, as well as stronger efforts by the profession and licensing authorities to monitor physicians and current problems.

The College has been committed to improving the competence of practitioners, through writing practice guidelines (2) and developing criteria to establish skill levels for procedures (3). Professional standards help identify good care. Continuing education keeps practitioners current in basic and clinical science and will help physicians meet the important new requirement of periodic specialty board recertification.

The professional must take greater responsibility for monitoring itself. Physicians must identify colleagues who are impaired or show evidence of deficiencies, correct problems, or, if necessary, limit the practice of those impaired physicians. Licensing boards must have the resources and the authority to enforce standards. Data on quality of care will be essential to these efforts. Federal and state governments, insurers, accrediting agencies, institutions, and the profession must agree on indicators for monitoring quality of care.

Significant tort reforms are necessary to defuse the malpractice crisis and begin the retreat from the defensive medicine so ingrained in physician's patterns of thinking. Tort reforms may not have a dramatic impact, but they are a necessary beginning to restructuring the entire process of liability determinations. For various constitutional and political reasons, most states have been unable to enact meaningful tort reform. The malpractice crisis is a national problem that demands a national solution. Congress can and must take steps immediately to pass legislation that preempts state tort law for malpractice, with the following reforms: a cap on awards for non-economic damages (so-called "pain and suffering" awards); the elimination of suits seeking full damages from all parties (joint and several liability); an offset of awards if there are collateral sources of recovery (insurance, workers' compensation, and so forth); a penalty for frivolous lawsuits; modifications to the statute of limitations; and limits on attorney contingency fees.

Also, it should be noted that universal coverage would eliminate costly awards for future medical care.

We reaffirm that the profession must set and enforce standards for physicians who serve as expert witnesses (4). The testimony of these physicians should be subject to ongoing peer review.

Although the jury trial is an ingrained part of dispute resolution in the United States, we question whether it is the best method to achieve the goals of the malpractice system: identifying substandard care and compensating injured patients. The College has been a founding member of the AMA/Specialty Society Medical Liability Project, which formulated an innovative administrative process for liability determination (5). There would be administrative review and appeal, with final determination by a state board. This model deserves serious testing, supported by adequate federal funding. We also support testing alternatives, such as pre-trial screening panels, to eliminate claims not likely to have merit in court, and mandatory arbitration, in which parties to a dispute are bound by the decision of an arbitrator.

PROMOTING INNOVATION AND EXCELLENCE

The American health care system must foster innovation and excellence in medical education, research, and data-based decision making. The College proposes adequate and dedicated financial support for each of these components of the "infrastructure" necessary for the delivery of high-quality medical care.

Medical education

Reform of medical education is necessary to encourage and enable more students to become generalist physicians, to provide specialty care efficiently, and to prepare physicians to manage patients under the constraints of a health care budget.

A critical element of education reform is that all payers, both public and private, be required to contribute a fixed percentage of health expenditures to graduate education. In addition, appropriate mechanisms to finance training in ambulatory care settings must be developed.

Financial incentives could be used to achieve a balance of generalists and specialists. Financing of graduate medical education might be limited to the number of years required for residency training in general internal medicine, family practice, and general pediatrics. Payments per resident could be weighted for the training of generalists. Reduced or interest-free loans could be granted, or loan repayments deferred, only for residents training to be generalists. Loans might be partially or entirely forgiven for generalists practicing in underserved areas. Increased federal and state grants could be provided to support residency programs for generalists. Other, nonfinancial methods may be required, including capping the number of slots for nongeneralist training, and limiting the accreditation of new programs.

The nation must broaden opportunities for medical education. The government should supplement funding of undergraduate medical education to allow minorities and lower income students greater access. Funding is an increasingly urgent problem; three-fourths of graduating medical students have debts, with an average of over $50,000 (6).

Optimal health care requires that physicians educate themselves actively throughout their careers. A new and more effective health care system will require even higher standards of physician competence. Thus, a design for greatly improved continuing medical education, including more meaningful curricula, more effective learning methods, better integration with guidelines, and other quality improvement techniques, as well as expanded, stable funding, should be included in planning for a new health care system.

Biomedical and health services research

A major virtue of the U.S. health care system is its capacity to be innovative—in diagnosis and treatment and in delivering and evaluating care. Sustained investment in basic and applied research is essential to improve the health of the American people. To assure continued vigor in biomedical, clinical, and health services research, the College supports (1) regular increases in appropriations for the National Institutes of Health and (2) a percentage set-aside from total health care expenditures (for example, one quarter of one percent) to secure predictable funding for clinical and health services research.

Medical information management

The College is committed to informed, data-based decision making. This philosophy underlies health care reform. Informed decision making requires data systems to support excellence, not only in medical practice, but also in planning, policy development, and system administration.

To understand the dynamics of medical care and variations in use of hospitals and technologies, a reformed system must adopt common diagnostic and procedural codes, common indicators of quality of care, and a common data set. Unique identifiers for hospitals, physicians, and health plans would need to be standardized for statistical profiling to be meaningful and for evaluations of care. In addition, population-based data are essential to promote the effective distribution of health resources (manpower, technology, and facilities).

CONTROLLING COSTS

The United States cannot afford, and will not achieve, universal access to care without controlling costs, and costs cannot be controlled without systemwide reform. We must limit total health care spending, through a national health care budget and a matrix of national and local controls on the price, supply, and demand for health services. An effective strategy must incorporate both expenditure control and cost control. For expenditure control to be meaningful, participants must have tools to reduce costs; for example, if a community or a hospital is to achieve an expenditure target, it will have to identify and eliminate redundant capacity such as competing MRI units. Our proposals would influence forces that determine the cost and utilization of services.

We recognize that these proposals raise politically and procedurally difficult issues. It will take time and care to work out the details. But no plan for reform can succeed without substantial efforts to control spending.

National health care budget

At the heart of the College's proposals to control costs is the recognition that the health care system must operate within financial limits. We must adopt a national health care budget—a ceiling on total health expenditures, sometimes referred to as a "global" budget. A national budget would take into account changing health needs of the population (including aging), new technology, and general inflation. What the budget should be is uncertain now, but we start with the assumption that the current level of spending, projected to be more than $800 billion in 1992, is enough to provide health care for everyone (7). This level reflects all the waste of the current system: administrative costs estimated by some in excess of 20 percent of spending, unnecessary utilization, duplicative facilities and equipment, overpriced care, and so on.

The national health care commission would recommend to Congress a health care budget for the nation, covering public and private spending and capital outlays. The commission, in consultation with state authorities, would develop a budget for each state based on its population and disease burden. The overall budget and state allocations would be updated periodically, based on changes in the variables that determine the need for health care and its true costs. In turn, states may choose to allocate funds to regional authorities within the state.

Providing good care within the constraint of fixed income is the underlying principle of the managed care industry (8). Other countries have shown that fee-for-service arrangements can operate within a budget, through negotiations over fees (9–12). Implementation of a national health care budget would be a forceful incentive for all providers, patients, and payers to begin to make decisions reflecting the need to operate within limits. The budget would give the authority to the planning process necessary to allocate resources.

Managing price: insurer-provider negotiations

States would be required to establish mechanisms for the employer-sponsored and publicly sponsored insurance plans to negotiate fees with physicians, hospitals, and other providers. Using systematic, research-based methods of valuing services, such as the resource-based relative value scale (RBRVS) for physicians and diagnosis-related groups (DRGs) for hospitals, insurers and providers would negotiate and agree on conversion factors to set yearly fee schedules. Uniform rates would apply under all plans within states or sub-state regions; all payers would pay the same price for the same service. Qualified managed care organizations, such as prepaid group practices, would negotiate an overall budget with all insurers based on enrollment, age distribution of enrollees, and expected morbidity; they could develop their own compensation packages for health care professionals. Organized delivery systems would negotiate budgets for institutions and practitioners within the system, to be allocated to providers under their financial arrangements. To permit these negotiations, antitrust restrictions must be revised.

The health care budget would encourage trends such as regionalized services integrated vertically and horizontally, primary care networks, multilocation group practices, and new organizational and financial relationships between hospitals and their medical staffs, all of which should improve quality and reduce costs. Because operating under a budget is normally part of these arrangements, the transition to a national budget should be eased.

Payments under the various fee schedules, when multiplied by expected utilization of services, could not exceed the state's allocation under the national health care budget. A state health care agency would monitor utilization patterns by service category and study variations from predicted use. To stay within the state's allocation, the state (or regional agencies within the state) would have the authority to change the conversion factor for all providers and suppliers of medical services.

If a state's health care expenditures exceed its budget allocation, even after corrections to the conversion factor, health care spending would not come to a halt. Expenditures that cannot be attributed to unanticipated illnesses would trigger reductions in fee schedules or other remedial action for the following year. The budget is a device to introduce fiscal discipline and evaluate whether expenditures reflect expectations and goals; it is not a mechanism to cut necessary care.

Implementing the global health care budget will require extraordinary cooperation among providers. Physicians, hospitals, and other provider groups would have to work out who would represent them in negotiations and how they would relate to each other. They would also have to create a climate of clinical decision making in which the profession does not tolerate unnecessary care. The important impact of the global budget would be its incentive to eliminate unnecessary expense at all levels of the health system. It would promote cooperation among providers and others to figure out how best to meet the community's needs—an element largely missing in an open-ended system that encourages excessive care and generation of unlimited revenue.

The fee schedules negotiated between insurers and providers would be the total payment for services. Making reimbursement fair in a reformed system would eliminate the need for any additional charge to the patient, or "balance bill" (the amount above what the fee schedule allows).

Managing supply: regulatory approaches

Market forces have not led to appropriate distribution of health resources—manpower, technology, and facilities. Hospitals a short distance apart establish duplicative high-technology services. Running competing, partially utilized services is inefficient and leads to pressure to use the service regardless of clinical need. Freestanding outpatient facilities generate business to try to maximize revenue, and weaken hospitals by skimming away many of the patients having lucrative procedures, while hospitals must maintain their facilities. Many elements of health care have become a business and have adopted a business mentality, and traditional goals of community service have become endangered. The problem is not limited to hospitals or freestanding facilities. Physicians are attracted to specialties where they are not needed, in areas already oversupplied. There is a growing critical shortage of primary care and generalist physicians and providers and facilities in rural and inner city areas.

We conceptualize two levels of regulation: a "macro" level having to do with the capacity, supply or inputs to the system—basically the limits within which care is delivered; and a "micro" level—the physician-patient encounter. The College believes there is an appropriate role for regulation at the macro level, governing the supply of health resources. Government can have substantial impact on costs, in a nonintrusive way, by regulating these "inputs" to the health care system: physician supply and specialization, technology, and capital investment. Micro-level regulation of the physician-patient encounter has failed and would be eliminated under our plan.

We propose that, under federal guidelines, states and communities establish targets for the supply of health resources, expressed, for example, in terms of the distribution and concentration of physicians and other health professionals, beds, and major technologies. Setting these targets would require careful planning and attention to national resources such as teaching hospitals and specialized centers. Enforcing them would require that the targets be linked to the payment system.

The nation must develop a national health manpower policy. Of special urgency is the need to increase the number of primary care and generalist physicians. This shift will be necessary to provide for the millions of people who will gain access to care, as well as to ensure that care is cost efficient. The output of training programs must change from the current distribution of 35% generalists and 65% specialists to a balance in the profession as a whole. To achieve this goal would require major changes in how the country educates medical students and residents and how they would be paid once they move into practice. Fees must be substantially augmented for the evaluation and management services that form the core of practice for generalists, and for physicians practicing in underserved areas.

Managing demand

Demand for services can be dampered by promoting individual responsibility. Patients must view good health as a lifelong endeavor, beginning with early prenatal care and maintained through careful habits and appropriate preventive care. Physicians must educate their patients about their diseases and the public about the benefits of health promotion and disease prevention, and funding must be available for these initiatives. In the long run, full insurance coverage for preventive services will do much to promote health and control spending.

Patients and families must understand that, in some circumstances, a diagnostic or therapeutic intervention is futile. Understanding is best accomplished in the context of a long-standing, doctor-patient relationship in which the patient is fully included in the decision-making process. The profession and public health authorities must teach patients more about reasonable expectations.

Research (13) and the experience of our members support the conclusion that a co-payment (typically, a flat payment or a percentage of the allowed fee) required of the patient discourages unnecessary services. For low-income people, however, co-payment may also discourage necessary care. We accept the need for an appropriate co-payment as a useful restraint on demand, as well as a source of revenue for the system. However, we propose the elimination of co-payments for low-income patients, so that the entire fee would be covered by insurance. For others, co-payment would be limited to a specified percentage of the fee, and subject to an annual cap. We would hope that as both patients and physicians become more knowledgable about medically appropriate care, the need for co-payments will diminish and ultimately cease.

Payment reform is an essential element of managing utilization. Reimbursement continues to favor procedures over careful evaluation of the patient, and high cost technology over less expensive procedures. The new Medicare fee schedule was based on the concept of equitable payment, but its implementation has further eroded payment for evaluation and management services. Until the system is restructured so that it values general medical care, incentives to overutilize procedures will continue to drive up spending.

Finally, there should be restraint on patient self-referral to a specialist of subspecialist. We propose that most patients establish a clinical relationship with a primary care or generalist physician who would refer to specialty services as needed. We recognize that some patients need ongoing care from subspecialists.

Managing administrative costs

The nation must recapture the billions of dollars wasted in administrative expenditures, and redirect that spending for medical care. We predict substantial savings from administrative simplification under the ACP plan. Eliminating experience rating and fee discounts and forcing companies to compete on premium price and value is likely to result in the consolidation of health insurance companies. Eliminating case-by-case review would also save money. On the public side, replacing the many current programs would save the substantial costs of maintaining separate bureaucracies and developing and enforcing divergent sets of rules.

We propose a highly simplified claims process. Providers would file claims with a single processing agent at the state level (either a state agency or a firm under contract). That agent would make payments to providers and bill the patient's insurance plan. Patients would require only a plastic card encoded with the name of their plan and the source of the financing. We must adopt a uniform claims form, and move as rapidly as is feasible to electronic filing and computerized patient records.

CONCLUSIONS

Any proposal for change implies gains and losses for the participants in a system. One criterion of the seriousness of a plan is the degree to which it asks all parties to accept responsibility for achieving its goals. The College plan asks everyone to be responsible for ensuring access to care, improving quality, and controlling costs.

The recommendations in this paper have evolved from our philosophy on the role of a professional society that holds the public's interest primary; from listening to our members who care for and about their patients and the practice of medicine; and from our assessment of what should and, we believe, can be done.

The key change is the acceptance of limits, both philosophically and in the reality of operating within a national health care budget. In contrast to an open-ended system, squandering resources on unnecessary care or on bureaucratic excess in a limited system means that those resources are not available for patients in need and are taken from responsible colleagues and institutions in the community. Combined with a decentralized approach to the allocation of resources, the demands of providing care for all when there are limits on spending will be a powerful force to engender cooperation among all parties in meeting the community's needs.

Learning to live within limits will require sacrifices. For patients, limits imply that they cannot have everything they want; for providers, investments and incomes must know some bounds; for insurers and other administrators, no more micro-managing the system; and for employers not providing health insurance, an end to their free ride.

What are the gains? All patients are guaranteed coverage for all effective and appropriate services. No one is without care, and there is no second-class care. Our plan restores to physicians, hospitals, and other providers their central role in meeting the community's health care needs. They receive appropriate compensation for all care, and are relieved of the regulatory intrusion that characterizes the current system. Government and other payers gain predictability of expenditures and limits on the rate of growth. And employers get control of their costs and a boost in their ability to compete. They also see an end to cost-shifting—the hidden tax for uncompensated care which they have paid through their private insurance premiums.

Finally, the College insists that reform must be comprehensive. We cannot modify one element of the system without affecting others. For example, expanding access to care would be a false promise if we do not produce more generalist physicians. Attempting to control costs becomes doubly difficult if we do not eliminate pressures for defensive medicine through liability reform. Comprehensive reform does not imply that all changes must be implemented at one time. Careful transition and phasing, particularly with regard to the financial impact, will be necessary under an overall strategy that relates the components and presents a clear plan for achieving an integrated system and comprehensive reform.

The American College of Physicians offers its professional and organizational commitment to the task of reforming health care. The proposal we have offered is a conceptual outline. We recognize that important and practical details must be completed. Financial projections must be developed and tested. We are prepared to adjust our thinking as our own analysis proceeds and as the public debate continues. We look forward to participating with all others to achieve universal access to care and comprehensive reform.

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NEW INDUCTEES TO THE ALBUQUERQUE SENIOR HALL OF FAME

Mr. BINGAMAN. Mr. President, today I would like to call the attention of my colleagues to three outstanding New Mexicans who were recently inducted into the city of Albuquerque's Senior Hall of Fame. In these days, when there seems to be a conspicuous lack of positive role models in this country, it is comforting to know that among the citizens of my home State of New Mexico and the 49 other States, local heroes are quietly working to improve the world around them. They are our Nation's true role models, and this is our opportunity to celebrate the efforts of three of them.

Charles Lanier has spent the last 40 years tirelessly promoting growth in Albuquerque. This successful businessman has, among other things, served Albuquerque as a city commissioner, the president of the chamber of commerce, and president of the United Community Fund. All the while he steered his own company, New Mexico Title, to great success. His latest goal, as chairman of the Economic Forum, is to create a unified plan of growth for New Mexico's fastest growing city.

Mandy Pino has left her indelible mark on the lives of the elderly of New Mexico. During her 12 years as manager of senior information services at the Albuquerque Office of Senior Affairs she helped provide services such as home repair, handicapped accessibility, adult shared housing, and health insurance counseling. She has contributed her time and energy to countless organizations, including the League of Women Voters, the Governor's Constitutional Revision Commission, the Senior Coalition, the New Mexico Department of Human Services Health Care Reform Task Force, and the list goes on and on. During my 10 years in the Senate, I have had the pleasure of working with Mandy on several occasions, usually in her capacity as advocate for the elderly. I look forward to many more years of hard work and friendship.

Another outstanding New Mexican, Virginia Sears, had dedicated most of her life to public service. She spent many years in New Mexico's State agencies, working in the Governor's office, the attorney general's office, and offices of the congressional delegation. In 1980, she initiated a legal referral program for the elderly and has encouraged many of New Mexico's attorneys to provide services to the elderly poor. Her boundless energy, competence, trustworthiness, and unfailing dedication have reserved her a place in the hearts of many New Mexicans.

Indeed, all three of these people have reserved themselves a place in our hearts. By adding them to the Albuquerque Senior Hall of Fame we are only scratching the surface of recognizing their accomplishments and repaying their kindness. I hope you will join me today in congratulating Charles, Mandy, and Virginia and in singing the praises of these unsung heroes and others like them.

ENERGY BILL CONFERENCE REPORT

Mr. JEFFORDS. Mr. President, in good humor, I now know how Senator SYMMS felt as we considered the Clean Air Act at the end of the 101st Congress. I expect I am one of the minority that oppose the energy bill. I would like to spend a few minutes explaining why.

First, I know many of my colleagues are anxious to return home. Why is that? It is because right now, Americans do not like Congress. We do not need polls to tell us the obvious. You can hear it in coffee shops, you can see it in the papers, you can feel it in the air. Why, is this? It is because year after year we pass legislation claiming it is going to solve America's problems, yet the problems continue to grow. Here we go again.

The energy bill is being presented as a major step forward in American energy policy. It is not. Quite the opposite. If this bill is enacted, Americans will be worse off tomorrow than they are today. This bill fails to address one of the major areas of energy use in this country: that of our continued and growing reliance on foreign oil.

America needs to know this: This bill does not address our dependence on foreign oil. When we start the next century, we will be more dependent on foreign oil than we are today. America needs to know this. We will be more dependent on foreign oil with each passing year. This energy bill will not reduce our dependence on foreign oil.

So why are we in such a rush to pass this bill?

I am willing to bet, Mr. President, that if you asked most Americans what they would like a national energy policy to do, they would say that they would like us to stop our dependence on Mid East oil. Americans know what the main energy problem is. It's oil. They, or their sons and daughters, just fought a war over oil. They remember.

But this bill does not reduce our dependence on foreign oil. If anything, passage of this bill is going to impede future efforts to pass meaningful energy legislation. Instead, we will ignore energy until the next gulf war. Then, how many of our sons and daughters will have to fight to keep the oil flowing? How many will die to maintain the American addiction?

Another war or Middle East crisis will come. We know this. Thousands of years of history make the changes of avoiding another war unlikely. All of the treaties and Middle East conferences may delay the inevitable, but they will not stop future conflict. We do not have the power to prevent all future conflicts. We do have the power, however, to stop our dependence on foreign oil.

Weeks, months, or years from now when the next oil disruption occurs, people are going to look back at the vote on this bill and ask, "how did my Senator vote?" They will say, "I thought Congress acted to end our reliance on Mid East oil when they passed that energy bill. At least, that is what they said this bill would do. How come gasoline prices have skyrocketed, how come we are in another energy-caused recession, how come my friends are losing their jobs how come my son or daughter has been called up to military service?" How come, Mr. President?

That is the question. How come? How come we may pass an energy bill that does not address our dependence on foreign oil? How come with 10 years without an energy policy we are in such a hurry to enact a bill that does not address our country's oil use? I wish I knew the answer.

Let us talk about jobs for a minute. That is a hot campaign issue. Which party will produce the most jobs for Americans? Well, like it or not, this is a jobs vote. Oh sure, some will campaign as being for jobs using tax bills, but as our colleagues from New York clearly illustrate, the tax bill was not a jobs bill. The tax bill is a deficit enhancement bill. The American people are smart. They know what a tax bill is. It is taking away money from the middle class.

So then what is a jobs tax bill? It is taking away money from the middle class to provide jobs for the middle class. We are making them pay for their own jobs. And, for this, we expect them to thank us?

But let us not just stop there. If gets worse, Mr. President. We are not taking their money today, we are putting Americans deeper in debt for tomorrow. Many, many people are struggling to pay their bills. These people are hurting. Their credit is stretched to the limit. They cannot go to the bank and ask for more money. But, we go right to the bank and sign them up for even more debt and there is nothing they can do about it. And then we brag about it at election time. Look at the pork I brought home. Elect me.

There is another way and it would not require one new tax dollar. A real energy policy could be a legitimate jobs bill. But instead, this bill, Mr. President, is the status quo. Over the past 2 years, I have received letter after letter describing the 400,000 jobs lost in our energy industries. Another 60,000 to 70,000 jobs will be lost this year. Another 50,000 job losses are on the way after that.

To those unfortunate people, this bill offers nothing. They are not going to get their jobs back. The U.S. Senate can ensure this with their vote on the energy bill. With your yes vote, you might as well tell these people to look for jobs at one-fourth the salaries they previously had, because they are not going to get their jobs back.

It did not have to be that way. Instead of losing 50,000 more jobs, we could be creating over a million new jobs. Everyone here talks about creating new jobs. Well, if you are in the domestic energy industry, do not take out any new loans. You will not be able to repay them, because you will not have a job.

And, Mr. President, the losses in the energy industry are a precursor to new job losses to come. Every dollar we spend on foreign oil is a dollar that cannot be invested here to create American jobs. Our dependency on foreign oil is robbing us of future jobs. Like an addict, we are spending every dollar to satisfy our habit, not on investing in the future. As a result, our children will suffer.

Mr. President, this is unacceptable. Thus, as I have every year since 1979, I will continue to fight against our oil habit. I will be back next year to once again try to lead us on a new path. Someday, Mr. President, the American people are going to get fed up with our pro-OPEC energy policies. I hope they remember the day we vote on this energy bill.

Last, let us talk about the environment for awhile another hot campaign issue. A couple of weeks ago, there was a highly visible hearing in the Foreign Relations Committee on the Global Climate Convention. Our colleague from Tennessee was there as was the Administrator of the Environmental Protection Agency. Huge crowds were there as one said the administration wasn't doing enough, and another said the administration was getting a bun rap. Both were right.

Anyway, my colleagues may not know this, but there was actually a third panel. A panel of technical experts who know the ends and outs of our energy options. You may not know about this third panel because Senator PELL and I were the only Members to stick around to learn about the details. Once the cameras were gone, everyone else pretty much vanished into thin air, like so much carbon dioxide.

This third panel had some of the leading experts on global climate plus an industry representative. I asked Dr. Oppenheimer, a leading scientist with the Environmental Defense Fund to contrast the Clean Air Act with the national energy strategy with the energy bill. Of the Clean Air Act, he said it, and I quote, "will reduce ultimately by a few percent probably our carbon dioxide emissions." The Clean Air Act was directed at air pollution, but still will help reduce our emissions of global warming gasses.

Here is how he described the energy strategy:

> The national energy strategy is supposed to be pointed towards, I suppose, having a rational energy policy but, in fact, it is seriously deficient in that at this point, the way it stands, it is a lost opportunity.

We passed a Clean Air Act that will do more to reduce carbon dioxide emissions than an energy bill. What does that tell you about the energy bill?

Dr. Oppenheimer was not alone in his criticism. Here is how Dr. Gibbons of the Office of Technology Assessment described the energy bill:

> * * * we have for a variety of reasons has to abandon the notion of the whole transportation liquid fuels issues in that debate. If you abandon a focus on our liquid fuels consumption, our imports, our enormous imports now, we are over 50 percent import dependent, then you ignore one of the central issues, both of our hopes to get CO_2 emissions down and our hopes to improve the economy. To me for instance, a trade between buying oil from the Persian Gulf versus taking that money as capital investment to save that oil by making more efficient automobiles is a pretty good trade. It brings jobs home. It spends that money at home.

That is what Dr. Gibbons had to say. That is what I and many, Americans believe to be true.

We could be creating jobs at home. We could be spending American money on Americans. But, Mr. President, I am afraid we have chosen to forget about the American energy worker. We are going to pass a sound bite and not a sound policy.

Someday soon, Mr. President, the next oil crisis will occur. Any examination of history shows the Middle East to be unstable. When the next war comes, then, Americans will know that this bill was an oil smoke screen and not an oil policy. Then, what will my colleagues say? What will they say as Americans send their children off to war. I plan to say I opposed this bill. I plan to say that I did what I could to stop our dependence on oil from one of the most dangerous parts of the world. I hope many of my colleagues can say the same.

CONFERENCE REPORT ON THE NATIONAL AFFORDABLE HOUSING ACT

Mr. ADAMS. Mr. President, I applaud the conferees for reaching agreement on the National Affordable Housing Act, and join in urging my colleagues to quickly adopt the conference agreement. This act tackles many difficult issues, among them the issue of the mixing of elderly and disabled populations in public and other forms of federally assisted housing. I know that this has been an exceedingly difficult matter for the Members of both the Senate and House Committees with jurisdiction over housing, and that the Members have worked hard to find a fair and compassionate way to address it.

I believe the conferees have, in fact, achieved the appropriate balance in this bill. During the first session of this Congress the issue of mixing the elderly with younger persons with disabilities in assisted housing was brought to my attention in the form of a proposed amendment to my legislation reauthorizing the Older Americans Act [OAA]. It was my view that that particular proposal was not appropriate in terms of both substance and the legislative vehicle. My reading was that the proposed amendment would only exacerbate tensions with advocates for people with disabilities. So I rejected that proposal and said that not only would the issue be better addressed through housing legislation, but that resolution could only be reached by a truly joint effort by advocates for the elderly and the disabled.

As a member of the Subcommittee on Disability Policy as well as the chairman of the Subcommittee on Aging, I fully recognize the very real housing needs of both low-income older Americans and people with disabilities. Both need access to decent, safe and affordable housing. Unfortunately, the extraordinary reductions in Federal support for housing assistance over the past 12 years, coupled with the tremendous housing needs of these populations has created this issue. The bottom line is that the housing resources are far too inadequate to meet the need. A recent report by the National Alliance for the Mentally Ill noted that over 30,000 persons with mental disabilities are in the nation's jails, not because they have committed terrible crimes, but because they have nowhere else to go.

Mr. President, this terrible situation has pitted the elderly who wish to reside in age-distinct housing against younger disabled individuals who have even fewer housing options than do the elderly. Make no mistake about it, the draconian housing policies of the Reagan-Bush administrations has brought us to the brink of a Hobson's Choice: provide more housing options for younger persons with disabilities by taking resources from the elderly poor.

While this issue has been the subject of tremendous debate during the deliberations on the housing bill, it has been the source of conflict and serious tension in many cities across the country. Newspaper articles have outlined in great detail numerous tragic stories concerning the mixing of older persons—mostly very old single women—and younger persons with disabilities—mostly young men—in common housing. This mix has sometimes been violent with tragic outcomes.

Seattle—my home town—has been no exception. Last year, I directed the staff director of my Aging Subcommittee to Seattle to get a first hand look at the situation there. He toured several different kinds of housing facilities. He visited the room of a retired member of the clergy who showed him the scars of a ricocheting bullet that entered his bedroom and exited just above his bed in which he was lying. The bullet had been fired by a young person residing in an adjacent room.

My staff member encountered older people who wanted to preserve the opportunity to live in housing that was intended to be for the elderly only. But he also spoke with older people who enjoyed the diversity of having people of different ages residing together. In short, older people in publicly assisted housing are like other people everywhere: Their needs and wants vary; they are not a homogeneous group. They want options. That's what our Nation's housing policy should encourage. I am convinced, as are my constituents, that local flexibility is essential to providing those options.

Mr. President, I would like to take a few more moments to describe an important effort in the city of Seattle, where the disabled currently outnumber the elderly in housing.

I am very proud of the work of my office in helping to bring together in Seattle a coalition of organizations and agencies that serve the elderly and the disabled to build a consensus on strategies and solutions to the mixed housing issue. Raising the issue through the Older Americans Act spawned a response to the tension that was clearly increasing between advocates for the elderly and the disabled over access to federally assisted housing.

Through my Seattle office, the Task Force on Elderly/Disabled Housing for Seattle/King County, was convened comprised of representatives of key organizations serving persons with disabilities and the elderly; the Seattle Public Housing Authorities, law enforcement, Congressional offices, and others. For over a year, this group met regularly to debate the many issues associated with mixed housing and to attempt to reach agreement on what can and should be done about these issues. As far as a I know, the task force created to deal with this problem in Seattle is unique in the Nation.

I am pleased to say that the majority of this group has just recently reached agreement on a "position statement" in which they conclude:

> The solutions to this complex problem must be locally designed, flexible, multi-faceted, and creative based upon national standards but local conditions. At a minimum, these solutions should include strong management, more service *and* [emphasis added] housing reserved for persons aged 62 years or older.

Of particular note is the fact that they have concluded, as have the conferees, that we must maintain some housing solely for older persons aged 62 and over and that we must increase the amount of housing available to people with disabilities. The task force position statement includes a number of key principles and goals in addition to preserving age-distinct housing. These include improved housing options for disabled individuals, increased staff and support services—such as case management and referral services, a commitment from local housing providers to work with client populations to improve the current housing situation, planning through local comprehensive housing affordability strategies, and allegiance to laws and principles which ensure no discrimination.

The members of the Seattle housing task force that signed the position paper include: the Easter Seals Society of Washington; the Seattle-King County Area Agency on Aging; the Administrators of Council House, a section 236 project; the Seattle Housing Authority; the King County Mental Health Division; the administrator of Hilltop House; and the Puget Sound Council of Senior Citizens.

Mr. President, I am confident that my constituents who have worked so hard to reach consensus on tackling this tough issue will be pleased with the agreement reached on this bill. The conferees have largely adopted the House language on this matter and have provided additional protections and resources for nonelderly persons with disabilities. No one will argue that the conference agreement is perfect; certainly not from the perspectives of each of the affected parties. It is a compromise that represents a sound and compassionate approach to guide housing policy in this area.

I have had the opportunity to work closely on the mixed housing issue over the past year with both the elderly and disability communities. They each care passionately about those they are committed to representing. I not only appeal to all affected parties to support this agreement and to ensure that it is implemented as smoothly as possible, but to work together to obtain the resources that are necessary if all low-income seniors and persons with disabilities are to have the decent and affordable housing options that they seek.

There are, of course, many other important provisions in the housing bill, including others that are very important for the elderly. As with the mixed housing issue, I believe the conferees have achieved a solid agreement on the key issues and compliment them for that. Earlier today, I introduced a housing bill that builds upon several provisions that are in this bill. I hope that these additional provisions will be given full consideration when the Congress turns again to housing policy.

Mr. President, I ask unanimous consent to insert in the RECORD a copy of the "Mixed Populations Position Statement" of the Task Force on elderly/disabled housing for Seattle/King County, WA.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TASK FORCE ON ELDERLY/DISABLED HOUSING FOR SEATTLE/KING COUNTY, WA, MIXED POPULATIONS POSITION STATEMENT, SEPTEMBER 11, 1992

The issue of "mixed-populations" or two very different groups of people living in the same low-income federally assisted housing which was initially intended for and occupied by elderly households has grown dramatically in the last few years. The increasing pressure of younger, disabled households moving into these buildings has created a situation which can no longer be ignored and must be addressed with logical and reasonable methods of relief if this type of housing is to be preserved as an affordable housing resource.

The solutions to this complex problem must be locally designed, flexible, multifaceted, and creative based upon national standards but local conditions. At a minimum, these solutions should include strong management, more services and housing reserved for persons aged 62 years or older.

An opportunity to reserve some housing solely for persons 62 years of age and older.

A commitment to maintain and/or increase the amount of housing available to the large numbers of disabled households on waiting lists.

Funding to develop new federally assisted housing resources (such as public housing and Section 8) which are appropriately designed and operated and in which service and treatment needs of the elderly and disabled persons can be met.

Authorization and funding for appropriate and adequate support services for federally assisted housing residents that will include case management, assistance, and referral services.

A commitment on the part of local low-income housing providers to work cooperatively with other organizations and groups which represent client populations to insure that all needs are considered and addressed and which insures that there will be no large concentrations of disabled persons in a single facility. These local plans should be incorporated into the local Comprehensive Housing Affordability Strategy (CHAS).

Authorization and funding to provide adequate facility staffing which insures security and safety.

Allegiance to laws and principles which ensure no discrimination.

CONFERENCE REPORT ON H.R. 429

Mr. DECONCINI. Mr. President, the conference report currently before the Senate contains several titles that are important to the State of Arizona. These include the Grand Canyon Protection Act, the provision pertaining to the repair of the central Arizona project [CAP], water reuse projects in Phoenix and Tucson, and the San Carlos Indian water rights settlement legislation. I am most appreciative of the efforts of the committee to see that these worthy projects were included in the bill.

I would like to take a moment of the Senate's time to discuss the San Carlos Indian water rights settlement. This provision provides for the settlement of the water rights claims of the San Carlos Indian Tribe against a number of non-Indian parties. This legislation is extremely important to the water future of Arizona.

For the information of my colleagues, the United States on behalf of the tribe has filed claims for 292,406 acre/feet per year against a variety of parties. At the rate used by the Department of the Interior in previous settlements, the value of these claims is estimated to be $511 million. This legislation resolves these claims. In return for extinguishing these claims, the tribe will receive 152,435 acre feet per year [AF/Y] of water from a variety of sources as well as sufficient money from the Federal Government, the State of Arizona, the city of Safford, Phelps Dodge and receipts from long-term leasing of water in order to develop the beneficial uses of this water on the reservation.

While I now support the San Carlos provision contained in this conference report, that has not always been the case. Let me explain.

The San Carlos legislation as introduced, proposed using the 33,00 acre feet in excess of the amount needed to satisfy the Ak-Chin Indian settlement to complete the water budget for the San Carlos settlement. However, Senator Goldwater and I successfully offered an amendment to the 1984 Ak-Chin legislation which specifically stated that any water not utilized by the Ak-Chin community for this settlement would return to the central Arizona project to be reallocated to other project users. Because of this, the State of Arizona, the Central Arizona Water Conservation District, along with myself, were opposed to using the Ak-Chin surplus water for the San Carlos settlement.

To respond to this issue, the Senate passed version of the San Carlos bill contained a provision exempting irrigation districts receiving cap water from the ownership and full cost pricing limitations of Federal reclamation law. In return, these irrigation districts would have dropped their claims to the Ak-Chin surplus water. This solution was agreeable with all of the concerned parties in Arizona including this Senator.

However, the House deleted the provision which would have provided for the reclamation law exemptions while continuing to use the surplus Ak-Chin water in the settlement. Based upon Chairman MILLER's comments during floor consideration of the San Carlos bill, he indicated that he does not feel that Arizona's claim to the surplus Ak-Chin water is valid and, therefore, felt that the compensation provided for in the Senate bill for the relinquishment of the claims to the surplus Ak-Chin water was inappropriate.

I strongly disagreed with the other body's position and I was prepared to not let the San Carlos bill pass until this matter was resolved. I set out to find a compromise position that was agreeable to both the affected parties in Arizona and Chairman MILLER. After much discussion, the language that is now in section 3708(f) of this legislation was agreed upon. It provides that to the extent that the reallocation of the Ak-Chin surplus water as called for in the San Carlos settlement deprives the central Arizona project and its contractors of water rights recognized by the Ak-Chin Indian settlement—Public Law 98-530—there will be a compensation remedy available against the United States which will be determined through an expedited judicial review of the claim.

I feel that this is an adequate compromise and it is agreeable to this Senator.

Mr. President, I ask unanimous consent that a letter I sent to Chairman MILLER on September 14 which more fully explains the background on the Ak-Chin surplus water issue be included in the RECORD at this point

Mr. President, I would like to express my gratitude to Chairman BRADLEY and Chairman JOHNSTON for their support of my position on this matter. I would also like to thank Chairman MILLER for his willingness to work with me to develop this compromise language.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 14, 1992.
Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you proceed to Conference on S. 429, the Reclamation Projects Authorization and Adjustments Act of 1992, I want to raise an issue with you that is critically important to the State of Arizona.

As you know Title 39 of the Senate passed version of S. 429 contains the San Carlos Indian Water Rights Settlement legislation. This provision is identical to S. 291, which has already passed the Senate. An almost identical version of this bill has passed the House as well. The difference between the two San Carlos bills will be an issue in the upcoming Conference on H.R. 429.

Initial drafts of the San Carlos legislation proposed using the 33,000 acre/feet of water known as the "Ak-Chin surplus water" (water which is in excess of the amount needed to satisfy the Ak-Chin Indian Community's water settlement) to complete the water budget for the San Carlos settlement. However, Senator Goldwater and I cosponsored an amendment to the 1984 Ak-Chin settlement legislation which specifically stated that any water not utilized by the Ak-Chin community for this settlement would return to the Central Arizona Project to be reallocated by the state. Consequently the state of Arizona, the Central Arizona Water Conservation District (CAWCD), Arizona's agricultural water users and I opposed using the so called "Ak-Chin surplus water" for the San Carlos settlement as originally proposed.

This issue was resolved during mark-up of the San Carlos legislation before the Select Committee on Indian Affairs by an amendment that exempts irrigation districts receiving CAP water from the ownership and full cost pricing limitations of federal reclamation law. In return, these irrigation districts agreed to drop their claims to the "Ak-Chin surplus water". This solution was agreeable with all of the concerned parties including myself.

However, during consideration of S. 291 in the House, you objected to this provision. During floor debate on this matter, you explained your reason for opposing this particular provision as follows:

"The House amendment to S. 291 deletes Section 8(f) of the Senate bill. This provision would have exempted non-Indian irrigators who use water from the Central Arizona Project from the acreage limitation and full-cost pricing provisions of reclamation law.

"This provision was included in the Senate-passed bill as a quid pro quo for the non-Indian irrigators, who have agreed to waive their claims to 33,000 acre-feet per year of water that will now become a part of the San Carlos settlement. The non-Indians believe that they had an entitlement to that water, and asked for relief from the requirements of reclamation law in return for waving their claims.

"Our review of the facts of this matter indicates that no such entitlement exists.

You stated that you based this assertion on information provided in a letter dated April 22, 1991 from Mr. Timothy Glidden, Chairman of the Department of Interior working group on Indian Water rights settlements.

After reading Mr. Glidden's April, 1991 letter I can only conclude that it is based on an incomplete review of the issues surrounding the "AK-Chin surplus water" as well as reversing previous Department policy which I am not convinced that he has the authority to do.

It appears that Mr. Glidden arrives at the conclusion that non-indian agricultural users of CAP water are not entitled to the "AK-Chin surplus water" from only having reviewed the House versions of the 1984 Ak-Chin bill and legislative history. Mr. Glidden states in his April, 1991 letter:

"The history of the 1984 Ak-Chin Settlement is thoroughly explained in the September 14, 1984, House of Representative Report (House Report); and therefore, it need not be repeated here.

Later in the letter, Mr. Glidden also states:

"The House Report underscores the conclusion that the decision as to how the excess water was to be used was left to the Secretary's discretion."

The House Report referred to in Mr. Glidden's letter reflects the status of the Ak-Chin bill as it was passed by the House of Representatives on September 17, 1984.

However, this version of the Ak-Chin legislation raised significant concerns in Arizona. In a letter dated September 17, 1984 to the Arizona delegation, then-Governor Babbitt voiced his strong objection to the House passed Ak-Chin bill. He stated in this letter that one of his major concerns with the House-passed bill was that "[T]he net result in the transfer of much of the cost to potential CAP water users."

The concerns about the "Ak-Chin surplus water" were addressed when the Senate considered the Ak-Chin legislation. As mentioned previously, Senator Goldwater and I addressed this issue by offering an amendment that provided that any of the water which the Secretary does not use in fulfilling his obligation to the Ak-Chin Indian Community goes to the Central Arizona Project. In explaining the amendment, Senator Goldwater said:

"The second amendment, technical in nature, merely reconfirms the fact that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the Indians goes to the Central Arizona Project."

I stated:

"The first amendment (sic) clarifies a provision in the bill requiring that any water that is not utilized by the Ak-Chin community, will revert to the State for use by its CAP users for any water that is not used by the Indian Tribe."

This amendment was adopted and the bill was passed by the Senate on September 25, 1984.

When the House of Representatives again considered the Ak-Chin legislation, Chairman Udall reviewed the purposes of the Senate amendments and with respect to the "Ak-Chin surplus water" amendment, he said the following:

"The second amendment clarifies that the balance of the water not needed to fulfill the Secretary's specific delivery obligation to the Ak-Chin shall be allocated to the Central Arizona Project."

The amended measure was adopted by the House and was signed into law by the President on October 19, 1984 as Public Law 98-530.

Based upon the foregoing, I think it is clear that Congress did indeed intend for the "Ak-Chin surplus water" be dedicated as part of the Central Arizona Project supplies.

I would like to touch briefly upon the reversal of Administration's position on the subject of the "Ak-Chin surplus water" as expressed in Mr. Glidden's April 1991 letter. In a letter dated September 12, 1984, the Secretary of the Interior forwarded to Chairman Udall the Department's views of the Ak-Chin legislation. In this letter, Secretary Clark makes the following statement:

"Additionally, the new arrangement will provide ancillary benefits to the water users of central Arizona. We intend that any of the water not needed to satisfy Ak-Chin's reduced entitlement will be available for allocation in the State of Arizona. It appears that in normal years we will be able to provide over 30,000 acre-feet annually to the State between 1988 and 2010 and 8,000-30,000 acre-feet later in 21st century. The acquisition of this lower Colorado River water ensures its diversion to central Arizona for use by Ak-Chin or other users. [attachment 5]

In a letter to me dated September 17, 1984, Secretary Clark stated:

"The legislation [Ak-Chin] allows that any water not needed to satisfy Ak-Chin's reduced entitlement will be available for CAP allocation in the State of Arizona."

As you can see, Secretary Clark stated the Department's position on the "Ak-Chin surplus water" with clarity and the Senate amendment reinforced that position. Consequently, Glidden's April 22, 1991 letter is an obvious reversal of previous Department policy. By all indications, this reversal appears to be arbitrary and unsupported on Mr. Glidden's part and I feel it should not be used as the basis for Congressional action.

After having established the validity of Arizona's entitlement to the "Ak-Chin surplus water", the question is then what constitutes an appropriate consideration for the use of these water resources in the San Carlos settlement. The Senate felt that exempting Arizona CAP water users from the ownership and full cost pricing limitations of federal reclamation law was appropriate compensation for the relinquishment of the claims to the "Ak-Chin surplus water."

Which brings us to the point we are at today. Passage of the San Carlos settlement legislation is vitally important. It settles the legitimate water rights claims of the San Carlos Apache Tribe as well providing ancillary benefits to other non-Indian parties. However, enactment of this legislation must not come at the expense of uninvolved third parties. Therefore, I would appreciate the opportunity to discuss this matter with you personally so that we may resolve the impasses that is preventing the passage of the San Carlos settlement legislation. My staff will be willing to arrange a time when we can meet. Should you have any questions, please do not hesitate to contact either myself or David Steele of my staff at 4-4521.

Warmest regards, as always.

Sincerely,

DENNIS DECONCINI
U.S. Senator.

[From the CONGRESSIONAL RECORD, Nov. 26, 1991]

SAN CARLO APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 291) to settle certain water rights claims of the San Carlos Apache Tribe, as amended.

The Clerk read as follows:

S. 291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Apache Tribe Water Rights Settlement Act of 1991".

SEC. 2. CONGRESSIONAL FINDINGS.

(a) Specific Findings.—The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water rights are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately 58,735 acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) Purposes of Act.—It is the purpose of this Act—

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 10(c) and 11(a)(7) of this Act.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona, and all decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Act of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(8) "Secretary" means the Secretary of the Interior.

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

SEC. 4. WATER.

(a) Reallocation of Water.—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of October 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14–06–W–245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) Partial Satisfaction of Claims.—Notwithstanding any other provision of this Act, in the event the authorizations contained in section 8(b) do not become effective, the water referred to in subsection 4(a) of this Act shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source, Maricopa County Superior Court Nos. W–1, W–2, W–3, and W–4 (consolidated), as against the parties identified in section 3(2) of this Act.

(c) Additional Allocations.—The Secretary shall reallocate to the Tribe an annual entitlement to 14,655 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and non-Indian water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12446 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14–06–W–245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) Additional Allocation.—The Secretary shall reallocate to the Tribe and annual entitlement to 3,480 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments of such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) WATER STORAGE POOL.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP or irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of 12,700 acre-feet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 10(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII(2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) EXECUTION OF AGREEMENT.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 10(D) of this Act, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 8(b) of this Act, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) GILA RIVER EXCHANGES.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

SEC. 5. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) RATIFICATION OF CONTRACT.—Except as provided in section 10(i), the contract between the SRP and the RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) SUBCONTRACT.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of Exhibit "A" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversion of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) RESTRICTIONS.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) DISCLAIMER.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this Act.

(e) FULL COST PRICING PROVISIONS.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(g) CERTAIN EXTENSIONS AUTHORIZED.—Notwithstanding any other provision of law or any other provision of this Act, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to 100 years, subject to payment of rental at a rate based upon fair market retail value.

SEC. 6. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) AMENDMENT OF CONTRACT.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community dated October 2, 1985, as is necessary to satisfy the requirements of section 4(a) of this Act.

(b) CONTRACT AMENDMENT.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows: water from those sources described in subsections (a), (c), and (d) of section 4 of this Act; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to delivery CAP water shall not exceed the cost of construction of the delivery and distribution system for the 12,700 acrefeet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the term and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Temple and the town of Gilbert.

(c) APPROVAL OF AMENDMENTS.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) CHARGES NOT TO BE IMPOSED.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) WATER LEASE.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as authorized by section 6 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d)

of section 4, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charge for any water use or lease from the effective date of this Act through September 30, 1995.

(f) Allocation and Repayment of Costs.—For the purpose of determining allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14–06–W–245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) Agreements.—The Secretary shall, in consultation with the Tribe, enter into agreements necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to it under its Tribal CAP Delivery Contract, as amended.

(h) Ratification.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) Use of Water.—As among the parties to the Agreement, the right of the city of Stafford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) Withdrawal and Use of Water.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) Prohibitions.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this Act may be sold, leased, transferred or in any way used off the Tribe's Reservation.

SEC. 7. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) Duties.—The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) to design and construct new facilities for the delivery of 12,700 acre-feet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this Act; and

(2) to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07–81–000210, to provide that all remaining repayment obligations, owing to the United States on the date of the enactment of this Act are discharged.

(b) Fund.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the $3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from leases or options to lease water authorized by section 6 of this Act.

(c) Authorization.—There are authorized to be appropriated $18,800,000 in fiscal year 1993, and $19,600,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this Act at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) Use of Fund.—when the authorizations contained in section 8(b) of this Act are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges as appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: *Provided, however*, That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, the Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure the use of the funds shall be in accordance with the approved budget.

(e) Regulations. The Secretary shall, no later than 30 days after the date the authorizations contained in section 8(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) Disclaimer.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Fund.

SEC. 8. SATISFACTION OF CLAIMS.

(a) Full Satisfaction of Claims.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this Act shall constitute full and compete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this Act. Notwithstanding the foregoing, nothing in this Act shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) Release.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this Act, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) Additional Releases.—Except as provided in the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) Savings Provision.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 11(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) Disclaimer.—Nothing in this Act shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

SEC. 9. ENVIRONMENTAL COMPLIANCE.

(a) No Major Federal Action.—Execution of the settlement agreement by the Secretary as provided for in section 10(c) shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) Authorizations.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the settlement under this Act, including mitigation measures adopted by the Secretary.

(c) Lead Agency.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) Environmental Acts.—The Secretary shall comply with all aspect of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) Waiver of Sovereign Immunity.—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this Act or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) CERTAIN CLAIMS PROHIBITED.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) APPROVAL OF AGREEMENT.—Except to the extent that the Agreement conflicts with the provisions of this Act, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) GROUND WATER MANAGEMENT PLAN.—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this Act, will have the same effect as a management plan developed under Arizona law.

(e) AMENDMENT TO THE ACT OF APRIL 4, 1938.—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390) is amended by inserting immediately before the period at the end thereof a colon and the following: "Provided further, That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe."

(f) SAN CARLOS RESERVOIR.—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which the Gila River Indian Community and the San Carlos Irrigation and Drainage District had a right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) LIMITATION.—No part of the Fund established by section 7(b) of this Act, including principal and income, or income from options to lease water or water leases authorized by section 6, may be used to make per capita payments to members of the Tribe.

(h) DISCLAIMER.—Nothing in this Act shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) WATER RIGHTS.—Nothing in this Act shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, including, but not limited to, the Gila River Indian Community and the White Mountain Apache Tribe, other than the San Carlos Apache Tribe.

(j) PLANET RANCH.—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located on the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14-06-W-245, Amendment No. 1, between the Untied States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: Provided, however, That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) REPEAL.—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of the Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries.

(l) WATER RIGHTS.—Nothing in this Act shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this Act be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

SEC. 11. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF AUTHORIZATION.—The authorization contained in section 8(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 4 and 6;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as appropriated in section 5(b);

(3) the funds authorized by section 7(c) have been appointed and deposited into the Fund;

(4) the contract referred to in section 7(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this Act, and has been executed by the Secretary.

(b) CONDITIONS.—

(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this Act have not occurred by December 31, 1994, subsections (c) and (d) of section 4, subsections (a) and (b), of section 5, section 6, subsection (a)(2), (c), (d), and (f) of section 7, subsections (b) and (c) of section 8, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 10 of this Act, together with any contracts entered into pursuant to such section or subsection, shall not be effective on and after the date of enactment of this Act, and any funds appropriated pursuant to section 7(c), and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 5 of this Act have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 291, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support on S. 291, the San Carlos Apache Tribe Water Rights Settlement of 1991.

The House passed a similar bill in the 101st Congress. Earlier this year, the Committee on Interior and Insular Affairs held a joint hearing on this legislation with the Senate Select Committee on Indian Affairs. The Senate passed S. 291 on October 8, 1991.

The State of Arizona and its Indian and non-Indian residents have all shown tremendous leadership in formulating settlements to Indian water disputes. I congratulate all those who have participated in putting the San Carlos settlement together.

The House amendment to S. 291 deletes section 8(f) of the Senate bill. This provision would have exempted non-Indian irrigators who use water from the central Arizona project from the acreage limitation and full-cost pricing provisions of reclamation law.

This provision was included in the Senate-passed bill as a quid pro quo for the non-Indian irrigators, who have agreed to waive their claims to 33,300 acre-feet per year of water that will now become a part of the San Carlos stettlement. The non-Indians believe they had an entitlement to that water, and asked for relief from the requirements of reclamation law in return for waiving their claims.

Our review of the facts of this matter indicates that no such entitlement exists. In particular, I call the attention of my colleagues to a letter dated April 22, 1991, from Mr. Timothy W. Glidden, who chairs the Interior Department's working group on Indian water settlements. Mr. Glidden's letter presents the facts which justify deletion of section 8(f) of the Senate version of the bill. It is my understanding that the minority is agreeable to this amendment. I ask that this letter be inserted in the RECORD.

Mr. Speaker, the terms of the San Carlos settlement included in S. 291 will go a long way toward resolving years of water disputes in Arizona. Everyone agrees that the water rights of tribes in Arizona and elsewhere in the West have been wrongfully taken from them by non-Indians in many cases. Enactment of S. 291 will right some of these wrongs.

I urge my colleagues to support passage of this important bill.

Mr. Speaker, the letter to which I referred is as follows:

U.S. Department of the Interior,
Office of the Secretary,
Washington, DC, April 22, 1991.

Hon. George Miller,
Vice Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

Dear Mr. Vice Chairman: On March 21, 1991, the Department of the Interior (Department) provides testimony at the joint Senate-House Hearing on H.R. 748 and S. 291, the "San Carlos Indian Water Rights Settlement Act of 1991." During the hearing, Mr. Hayes and Mr. Swan identified several specific concerns which needed to be addressed before the Administration could support the settlement. They also stated the Administration's belief as to how important it was to outline the Administration's position on two critical aspects of the subject legislation—the Scottsdale/Planet Ranch land exchange and the Ak Chin component of the water budget. Resolution of these two issues would be moving the settlement in the proper direction; however, the Administration remains opposed to the settlement unless the subject legislation is amended to address all of the concerns identified in the testimony.

First, it is our understanding that the San Carlos Tribe (Tribe), the local settlement participants and the Arizona delegation all favor the addition of a provision which would facilitate a land exchange between the Federal Government and the City of Scottsdale. This exchange would transfer Bureau of Reclamation acquired lands (mostly within the City's limits) to the City in exchange for the City's land and water rights along the Bill Williams River in Western Arizona.

This new provision is an important component to this legislation for two reasons. First, the water lease between the Tribe and the City provided by the settlement makes it possible for the City to consider the transfer of its Planet Ranch property to the Federal Government. The new land and water rights will be an important addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, which will relieve tension between the Federal Government and the City in the area of water rights. Second, by acquiring the City's existing water rights and by perfecting a right for which the City has applied under state law, the Federal Government will ensure in perpetuity the constant flow of a sizeable quantity of water into Lake Havasu for the benefit of the Central Arizona Project (CAP).[1]

We cannot overstate the importance of acquiring the Planet Ranch property from the perspective of maintaining the health and viability of the Bill Williams Wildlife Refuge. As a result, we have worked diligently with the City's representatives to make the exchange possible. Set forth below is our proposed language, which we urge you to add as an amendment to this legislation:

Section 10. Miscellaneous Provisions

(1) The Secretary is authorized to acquire, upon terms mutually acceptable to the City of Scottsdale ("the City") and Secretary, all of the City's right, title and interest to the Planet Ranch located on the Bill Williams River in Arizona; including all water rights appurtenant to that property and the City's January 1988 application to appropriate water from the Bill Williams River ("City Property"). The Secretary shall acquire full fee simple title to the City Property through a land exchange pursuant to authorities in the National Wildlife Refuge System Administration Act of 1966. All lands and interests acquired by the Secretary under this provision, including all water rights appurtenant to that property, shall be managed as an addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, hereafter designated the Bill Williams National Wildlife Refuge, a unit of the National Wildlife Refuge System.

(2) If an exchange is made with land acquired by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, the original cost of those lands so exchanged shall be deducted from the cost of said project to be allocated for determining repayment to the United States; provided however, that the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection; provided further, that said lands shall be exchanged at their fair market value.

For the reasons stated above, the Planet Ranch exchange is a critical aspect of this legislation. We, therefore, urge that it be included as a part of the final bill. If you have any questions about this proposal we will be pleased to respond.

The second critical aspect is the proposed use of the excess Ak Chin water as a part of this settlement. At the hearing on similar legislation introduced in 1990, both the Arizona Department of Water Resources (DWR) and the Central Arizona Water Conservation District (CAWCD) opposed the settlement legislation on the basis of their opposition to the utilization of the Ak Chin supply. We want to provide the committees with our position and give you the benefit of our thinking on this matter.

We favor the use of the excess Ak Chin water for this settlement. In fact, we see the Ak Chin water as a critical component, since without it we fully expect that the settlement will not work and that viable alternative sources will not be found. In order for you to understand our position, it is necessary that we explain a number of points.

1. The history of the 1984 Ak Chin Settlement is thoroughly explained in the September 14, 1984, House of Representatives Report (House Report); and therefore, it need not be repeated here. It is sufficient to note that the Ak Chin Settlement was structured solely with water from Arizona's 2.8 million annual entitlement from the Colorado River. In other words, there were no contributions, either in water or money, from the local parties who would have faced litigation against the Ak Chin Community and the United States.

In order to provide for the settlement, the Secretary obtained, with the approval of Congress, 50,000 acre-feet (A/F) of Colorado River water from the Yuma-Mesa Division of the Gila Project, and then reallocated that water for use on the Ak Chin Reservation, to be delivered via the CAP canal system.[2] The 50,000 A/F were added to the Ak Chin Tribe's existing CAP allocation of 58,300 A/F per year for a total of 108,300 A/F available for settlement purposes.

However, the settlement provided that in most years a quantity of 75,000 A/F per year would be delivered to the Ak Chin Community—see section 2(a) of P.L. 98-530, 98 Stat. 2698. This leaves an ordinary year surplus of 33,300 A/F per year, and it is this surplus which is proposed for use in the San Carlos Settlement. Importantly, the San Carlos Settlement expressly provides that the use of this supply in the San Carlos Settlement shall in no way impact the rights of the Ak Chin Community under the Ak Chin Settlement.

2. The essence of the argument against the use of the excess Ak Chin water in this settlement is that in the Ak Chin legislation the excess water was somehow committed to general CAP uses, and could thereafter not be used for dedicated Indian purposes. We disagree with this conclusion.

The 58,300 A/F allocation to the Ak Chin Community was made in the Secretary's CAP allocation order published in the Federal Register on March 24, 1983. That decision created an Indian CAP water pool of 309,828 A/F. In our view, that pool was not changed by the Ak Chin legislation, and the Secretary has never taken any administrative action to reduce the pool. Thus, that pool of CAP water remains available for use on Indian reservations, unless the Secretary decides to reallocate the water for some other CAP purpose, including allocation to non-Indians.

Our conclusion that the excess water remains where it was first allocated is supported by the House Report. On page 12, the House Report states: "It is the intent of the Committee that the Yuma-Mesa Division reallocation be the first segment of the permanent supply the Secretary is obligated to deliver. Any water in excess of the Secretary's obligation [to deliver 75,000 A/F per year] would be from the Ak Chin's CAP allocation." We strongly agree with the Committee's views, and it has always been the Department's position that the higher-priority Yuma-Mesa reallocation water should be the first-used foundation for the Ak Chin excess supply. As a result, the excess water will always be the unused portion of the Ak Chin CAP allocation, which was allocated as a part of the Indian CAP pool in 1983.

Most importantly, in the Ak Chin legislation Congress did not expressly direct the Secretary to utilize the excess Ak Chin water in a specific manner. Rather, section 2(k) of the Ak Chin Act speaks in general terms as to what the Secretary may do with the excess water:

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever, the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

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[1] The exchange will transfer to the U.S. Fish and Wildlife Service state law certificated water rights in the amount of approximately 14,400 acre-feet (A/F) per year, which will be changed from consumptive uses to instream flow type uses. The exchange will also transfer Scottsdale's pending application for an additional water right on the Bill Williams River. The Fish and Wildlife Service will perfect this right under State law for non-consumptive instream flow type purposes. Together these new rights will amount to approximately 40–50,000 A/F per year. The acquisition of the Planet Ranch property and the maintenance and perfection of the water rights involved will be totally a result of the utilization of government resources. If the Bureau of Reclamation acquired lands were not used for these purposes, they would be sold at public auction and the proceeds would be credited to the CAP costs with any excess over the original acquisition costs being deposited in the U.S. Treasury.

[2] By the Act of July 30, 1947, Congress had authorized the use of up to 300,000 A/F of water per year for use within the Yuma-Mesa Division. Since a need for that much water had not been demonstrated, the Division's annual entitlement was contractually reduced to 250,000 A/F as a result of the Ak Chin settlement.

The House Report underscores the conclusion that the decision as to how the excess water was to be used was left to the Secretary's discretion. Again on page 12 of the House Report, the committee states: "It is the intent of the Committee that water not needed to satisfy the Secretary's delivery obligation [75,000 A/F per year] be available for allocation in the State of Arizona." Similarly, on page 13 of the House Report, in specific reference to section 2(k) of the Ak Chin legislation, the Committee explains the purpose of section 2(k) and states that: "It is the intent of the Committee that any such excess water be allocated for use in Arizona." Senator Goldwater's comments on the Senate floor, printed in the Congressional Record (September 25, 1984), also support this position: "The second amendment [in section 2(k)], technical in nature, merely reconfirms the fact that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the [Ak Chin] Indians goes to the Central Arizona Project."

These comments reflect an understanding by the Committee, and the Congress, of the Secretary's broad authority under section 5 of the 1929 Boulder Canyon Project Act, 43 U.S.C. 617 et, seq., to allocate and contract for the use of water from the Colorado River within the lower basin area. In order to change that authority, or to circumscribe the Secretary's discretion in this area, we believe that the words of Congress must be clear and express. That did not happen in the Ak Chin legislation.

3. A second argument, which has been made, is that certain verbal understandings were established in the final hours of the Ak Chin legislation wherein the excess water was committed to non-Indian CAP users. The stated reason for the understanding was that the non-Indian CAP users deserved such a benefit in return for the utilization of the Yuma-Mesa water (50,000 A/F) which would have been diverted by the CAP in future years if that supply was not needed at the Yuma-Mesa Division. In other words, since that portion of the Yuma-Mesa water was not being used, the diversion of that water by the CAP was expected and that expectation was impacted by the reallocation.

We believe that this is not a case where the words of Congress are unclear, and if there were any ambiguity, the House Report provides the legislation history to support the conclusion that the Secretary retained the authority to use the excess water as he determines—as long as the use is within Arizona.

There is an alternate argument that the non-Indian CAP users were entitled to the Yuma-Mesa water, and therefore deserved some compensation in the form of a deal concerning the excess water. We do not give this argument great weight.

First, the fact that CAP may have used the unused Yuma-Mesa water would not have given the CAP a contract right to that water. The entitlement belonged to the Yuma-Mesa District; and therefore, at best the CAP only had an expectation of using that water. Even if Bureau of Reclamation or DWR water supply studies contributed to the expectation, that expectation did not ripen into a right.

Second, this Department must give full respect to the contract water rights of Colorado River users until such rights are withdrawn, canceled, or reduced by action of the Secretary or the Supreme Court. Thus, we cannot view all unused entitlements or portions of entitlements along the Arizona side of the Colorado River as somehow belonging to the CAP. For example, CAP may presently divert the unused City of Kingman entitlement, but the City of Kingman has projections for the use of that water. Even if Kingman cannot put its unused water to beneficial use, we have a clear expectation that the Kingman entitlement will be reallocated in the future for use within Mojave County. In other situations, unused supplies may be secured for use by the CAP.

Third, the Yuma-Mesa water was not simply reallocated by unilateral action of the Secretary. Rather, an agreement was reached with the Yuma-Mesa Division, and various forms of compensation were provided in order to obtain the consent of the Division in regard to the reduction of its contract entitlement. Thus, the notion that the non-Indian CAP users were entitled to "compensation" for the utilization of that water in the Ak Chin Settlement when the Government had already provided compensation to the Yuma-Mesa Division for the same water, seems to ignore the circumstances which led to the acquisition of the Ak Chin water.

4. We feel it is important to note that the Ak Chin Settlement was somewhat unique in that it was not supported by local contributions. The Federal Government provided the whole solution to the Ak Chin Settlement via the Community's CAP allocation and the acquired Yuma-Mesa water. In addition, the Government even faces money damage penalties if the Congressionally established supply is not delivered annually by the Secretary.

We see this as significant in light of opposition to the San Carlos legislation. As we believe you understand, only a few of the many CAP subcontractors are opposing this legislation on the basis of the Ak Chin excess water. Among that small group are the large CAP-user irrigation districts in Pinal County, such as Maricopa Stanfield and the Central Arizona Irrigation and Drainage District (CAIDD). These entities apparently support proposition that any uncommitted CAP water, which in their view is the excess AK Chin water, would enure to the benefit of the CAP agricultural users.

This position contains an inherent contradiction. The Ak Chin water was allocated by the Secretary; and therefore, was never available for use by other CAP water users. In addition, the United States bore the cost of purchasing the Colorado water used to satisfy the Ak Chin water claims. Therefore, since the United States acquired the water for the Ak Chin settlement, there could be no rights which would accrue to other CAP water users.

We disagree with the position that CAP agricultural users obtained some type of commitment to benefit from the excess Ak Chin water. We are confident that these CAP water users do not have valid legal claims to the excess water. If this legislation is enacted, a few of the agricultural entities may persist and take their claims to the Claims Court; however, we feel strongly that such claims will be rejected in that forum.

5. Finally, we wish to address this problem on a scale which is broader than the technical argument.

Many of the CAP subcontractors are the same entities at risk in the Gila River adjudication as a result of Indian water claims.

These entities at risk face essentially three choices: (1) litigation, (2) reach a settlement by giving up some of their present uses from local sources, or (3) acquire or consent to the use of some other source of water which can be used as the basis for a settlement. Clearly the excess Ak Chin water represents a utilization of alternative number 3.

By supporting the use of the excess Ak Chin water for this settlement, which could have been reallocated by the Secretary to non-Indian users at some point in the future, the non-Indian settlement participants are making a choice to utilize an available component of the CAP supply to structure this settlement as opposed to giving up some of, or more of, the water they presently enjoy from local supplies. We see using this future water which may or may not become an entitlement as a reasonable choice.

The point is that the Ak Chin water is a critical component of this settlement in that it provides a significant portion of the settlement water budget. Without this soucre we assume that the settlement will fail, and we see no viable alternative solutions. Accordingly, all of us are left with no choice. Is the excess Ak Chin water an acceptable component to this settlement, or do we oppose that action to the detriment of the settlement? Based on the reasons outlined above, we support the use of the excess Ak Chin water.

In conclusion, let me say that we recognize that the Ak Chin matter is complex and the historical record is important to a clear understanding of our position. We also want the committees to have a full and complete understanding or our analysis so that you can see that we have carefully considered the problem.

Our recommendation is that you support the inclusion of the excess Ak Chin water in this settlement. We also recommend that you add the Planet Ranch exchange provision set forth herein as a way to greatly protect and enhance a unit of the national wildlife refuge system, and provide a tangible and long-term benefit to the State and CAWCD in regard to the security of the CAP water supply.

The Office of management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Thank you for your attention to our concerns.

Sincerely,
TIMOTHY W. GLIDDEN,
Chairman, Working Group on Indian Water Settlements.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

(Mr. RHODES asked and was given permission to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I naturally rise in support of this legislation, and I would be remiss if I did not begin by thanking the chairman of the full committee, the gentleman from California, Mr. MILLER, for his assistance in getting this Senate bill to the floor with the House amendment so that we can pass the bill here in the last day of the session and proceed to conference with the Senate to resolve the remaining differences which exist in the bill.

The chairman has very, very adequately explained the process that got us to this point, and I am in full agreement with 95 percent of the chairman's statement. The chairman knows which 5 percent I am not in agreement with, and we will be continuing discussions about that 5 percent as we go along toward conference with the Senate.

This is a very important bill for the State of Arizona. It resolves a longstanding dispute and it rights many longstanding wrongs in favor of the San Carlos Apache Indians.

But as important as righting those wrongs is the fact that, with resolution of this dispute, the parties to the dispute now have an element called certainty. They now know, or will know, what their rights are as it pertains to certain quantities of water, ground water and surface water, in the State of Arizona.

This is important to the Indians; it is important to the cities who are parties to the settlement; it is important to the State of Arizona.

Without this element of certainty being acquired by the parties to this agreement, they all faced years and years of costly and expensive litigation in order for a judicial determination of various and sundry rights they have.

While that litigation is continuing, they are unable to plan for their futures, unable to know what degree of certainty they have to their wear rights and their ability to go forth into the next century.

So, achieving this negotiated settlement is an extremely important event in the lives of the participants and the lives of those who are parties to the agreement. I commend everybody who has been involved.

I certainly want to thank my fellow members of the Arizona delegation here in the House, our two Senators, Senator MCCAIN and Senator DECONCINI, for their assistance.

I again thank the gentleman from California [Mr. MILLER] and all of our staffs who worked very hard on this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank my colleague for yielding. I would like to express my appreciation to him and to Chairman MILLER for their work on this bill. I too support the bill.

The San Carlos Indian Tribe is in my congressional district, as are many of the communities which will benefit from the resolution of the disputes which this bill will help resolve. The only concern that we have is the change that has been made in the legislation that was alluded to by the chairman. The compromise that was delicately put together here is, to some extent, disrupted as a result of this change, but time is of the essence here. It is important this bill move to conference so these issues can be discussed.

One of the most critical things is the fact that litigation is pending, as my colleague from Arizona pointed out, and the longer that litigation proceeds and the further down the road it gets, the more difficult it is to reach these kinds of compromise agreements.

We are very concerned that unless we can bring it up soon and get this legislation passed, we may have missed the opportunity to reach a negotiated settlement which would be in the interests of all of the parties.

So, time is important. We do urge that our colleagues support this legislation, move the bill to conference, and there we can try to iron out those items upon which we currently differ.

It is legislation well worth supporting.

Mr. RHODES. Mr. Speaker, I urge our colleagues to support passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 291, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

OFFICE OF THE GOVERNOR,
Phoenix, AZ, September 17, 1984.

The Arizona Congressional Delegation.

I am writing to voice objection to the proposed legislation amending the Ak Chin Settlement Act of 1978. I object for two reasons. First, this bill is being rammed through Congress with unseemly haste. There have been no public hearings, and many affected Arizona CAP users have not been made aware of its contents, much less given an opportunity to testify. Legislating in this manner could severely damage the Arizona consensus, which has been the basis of our success on Central Arizona Project issues.

Second, the bill is unsound. The Ak Chin issue was settled in Congress back in 1978. Now the Interior Department is proposing to change that deal by taking up to 10% of the CAP supply from other users in times of shortage. This action will gravely damage the rights of users in Tucson, in the Phoenix metropolitan area and the eleven other Indian tribes with CAP allocations. I recognize that, if this bill passes, it will probably not have any impact while any of us are still in office. But water settlements are forever. And we have an obligation to make settlements that are reasonable and just for all Arizonans in generations to come.

The proposed legislation would purchase development rights to 50,000 acre feet/year of unused Colorado River water, allotted by statute in 1947 to the Yuma Mesa Division of the Gila Project. In the 37 years since 1947, irrigation on the Yuma Mesa failed to fully develop so that over 5,000 acres remain undeveloped and on the order of 50,000 AF of authorized use remain unutilized each year. The Arizona Department of Water Resources in estimating the water supply that would be available to the CAP and firm enough to support our cities' growth, assumed that this 5,000 acres would never develop; in fact, that, if necessary, the State would oppose development, and that the supply was therefore available of the CAP. All unused Colorado River supplies were factored into the determination of what remained for CAP after all preexisting obligations were met. You are aware, I'm sure, that Assistant Solicitor of Interior Joseph Membrino in a widely circulated legal memorandum dated January 30, 1984, concluded that permanent rights to receive the full allotment on the Yuma Mesa Division had not been developed and the unused portion could be reallocated for use elsewhere.

Since Yuma Mesa Division rights are senior to CAP rights, the unused Yuma Division supplies became the most valuable portion of the CAP supply. Their loss would reduce by 50,000 AF/yr or 8% the firm supply of the CAP that can be made available to the Gila River. Salt River, San Carlos, Fort McDowell, Camp Verde Chiuchu, San Xavier, Shuk Toak, Pasqua Yaqui, Tonto Apache, and Yavapai Prescott Reservations and 71 non-Indian communities.

While the proposed legislation would reduce the level of authorized consumptive use in the Yuma Mesa Division from 300,000 to 250,000 acre feet/yr, it once again fixes the authorized irrigated acreage at 40,000 acres. The 1982 Annual States Report of the Bureau of Reclamation shows that only 37,491 acres were actually in irrigation, including roads, canals, ditches, and farm buildings. The actual acreage irrigated would be at least 5% less or approximately 35,000 acres. The proposed legislation, hence, would reconfirm the district's right to expand, albeit at a lesser consumptive use rate. If the district grows that too would require additional reductions in CAP firm supplies in the future.

Secretary Clark in his letter of September 7, 1984 to Chairman Udall, implies that the taking of the 50,000 acre feet will adversely affect CAP water users only in drought years and that in wetter years it will supplement supplies to CAP. This can hardly be the case when all unused supplies along the Colorado River have already been counted in as part of the CAP supply. And if so, why has the Secretary reserved unto the Ak Chin Indian Community in Section 2(k) of the Act the exclusive use and benefit of the 50,000 AF/yr and unto himself the authority to contract, on an interim basis, ". . . for the allocation of any of the water. . . which is not required for delivery to the Ak Chin Indian Reservation under this Act."

The Federal government committed in 1978, once and for all, to a settlement of the Ak Chin claims that would have provided a new supply that had little adverse impact on Arizonans and would have been constructed and operated totally at Federal expense. Subsequently, the Administration determined that this solution would prove more expensive than had been anticipated. Now the Administration, without negotiating with the State and CAP water users, is proposing to switch to an approach that doesn't create a new supply but is clearly less expensive for the Federal government. That net result is the transfer of much of the cost to potential CAP water users.

The Administration rejected the first Papago settlement on the grounds that the Federal government had not been represented adequately in the negotiations and too much of the cost of implementation fell on the Federal government. The Administration insisted that we go back and renegotiate with its full participation. Here we find ourselves in a similar position. The Federal government has made no real effort to negotiate with the State and the other water interests that now find themselves being asked to bear a substantial share of the costs.

We recognize that the Ak Chin water rights issue represents a problem that must be solved, and soon. Nevertheless, we must object to the proposed solution and the efforts to rush it through the Congress without proper negotiations and hearings.

We have been, and remain, willing negotiators. We believe there is a solution that will prove fair and acceptable to all interests. We believe that the settlement should be patterned after the Papago model and should include a combination of these two elements:

1. The development of new water by purchasing and retiring on a voluntary basis sufficient acreage on Federal Reclamation projects along the Colorado River.
2. Establish a trust fund modeled on the Papago Settlement to pay damages to the Ak Chin Indian Community in the few years that there will be a shortage.

I stand ready to give priority attention to negotiation of a balanced and equitable settlement of the Ak Chin issue.

Sincerely,

BRUCE BABBITT,
Governor.

[From the CONGRESSIONAL RECORD, Sept. 25, 1984]

Measures Passed:

Water Rights of the Ak-Chin Indian Community: Senate passed H.R. 6206, relating to the water rights of the Ak-Chin Indian Community, after agreeing to the following amendment proposed thereto:

Goldwater-DeConcini Amendment No. 4391, decreasing the amount of acreage from 40,000 to 37,187 acres which the Yuma-Mesa Division is allowed to irrigate, providing that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the Indians goes to the Central Arizona Project, creating a special fund designed to address concerns raised in Arizona regarding the potential effect of the revised Ak-Chin settlement on other water users, and putting the remaining Papago Tribe's water rights claims on the same footing as the claims of other Tribes under the Statute of Limitations.

[From the CONGRESSIONAL RECORD, Sept. 25, 1984]

WATER RIGHTS OF THE AK-CHIN INDIAN COMMUNITY

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate H.R. 6206 relating to the water rights of the Ak-Chin Indian community.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6206) relating to the water rights of the Ak-Chin Indian Community.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4391

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of the Senator from Arizona, Mr. GOLDWATER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GOLDWATER and Mr. DECONCINI, proposes an amendment numbered 4391.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Paragraph (2) of subsection (g) is amended to read as follows:

(2) Such two hundred and fifty thousand acre-feet of water shall not be used to irrigate more than thirty-seven thousand one hundred and eighty seven acres of land in the Yuma Mesa Division, specifically: six thousand five hundred and eighty-seven acres in the North Gila Valley Irrigation District; ten thousand six hundred acres in the Yuma Irrigation District; and twenty thousand acres in the Yuma Mesa Irrigation and Drainage District. Additional land in the Yuma Mesa Irrigation and Drainage District may be irrigated if there is a corresponding reduction in the irrigated acreage in the other districts so that at no time are more than thirty seven thousand one hundred and eighty seven acres being irrigated in the Yuma Mesa Division.

Subsection (k) of section 2 is amended to read as follows:

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

Immediately following section 6, insert the following new section; and renumber the following sections accordingly;

SEC. 7. (a) There is hereby authorized to be appropriated the sum of $1,000,000 for payment to the fund referred to in subsection (b). Subject to appropriations, the Secretary shall pay a sum of $1,000,000 to such fund.

(b) No portion of the sum referred to in subsection (a) shall be paid unless—

(1) The Central Arizona Water Conservation District establishes a fund to be administered by the District for voluntary acquisition or conservation of water from sources within the State of Arizona for use in central Arizona in years when water supplies are reduced; and,

(2) The Central Arizona Water Conservation District has contributed the sum of not less than $1,000,000 to such fund: *Provided*, That if the contribution of not less than $1,000,000 by the District to such fund has not been fully paid as provided in this section within two years of the date of enactment of this Act, the authorization for appropriation and payment of the sum referred to in subsection (a) shall terminate.

(c) If the provisions of this section are for any reason not implemented as herein provided, the other sections of this Act shall remain unaffected thereby.

At the end of the bill insert the following new section:

SEC. 10. (a) Section 311 of the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1283) is amended to read as follows:

"SEC. 311. The provisions of section 2415 of title 28, United States Code, shall apply to any action relating to water rights of the Papago Indian Tribe or of any member of such Tribe which is brought—

"(1) by the United States for, or on behalf of, such Tribe or member of such Tribe, or

"(2) by such Tribe.".

(b) The amendment made by this section shall not apply with respect to any action filed prior to the date of enactment of this Act.

Mr. GOLDWATER. Mr. President, the legislation we are considering, H.R. 6206, is an amended version of the proposal I introduced in the Senate on September 17, 1984, and I urge my colleagues to support it and the amendments I am offering to this House-passed bill.

H.R. 6206 amends the Ak-Chin Water Settlement Act of 1978, which represents the first legislative settlement of an Indian tribe's water rights. This new legislation has evolved because of the Department of the Interior's inability to implement the provisions of that settlement.

Under the terms of the existing public law, the Ak-Chin Indian community waived all of its past and future claims to the water resources associated with the reservation, which effectively freed the non-Indian community in the vicinity from the threat of water litigation. In exchange, the U.S. Government was to identify, acquire, and deliver 85,000 acre-feet of water annually to Ak-Chin beginning in 1984. Delivery was to be in two phases: An interim supply of water in the 1984 to 2002 period and a permanent water supply no later than 2003; however, because of potential conflicting water rights, prohibitive water development costs, and insufficient ground water supply, that interim water has never been delivered to the Indian community.

As it became apparent that the Interior Department could not implement the settlement on a timely basis, discussions between Interior Department officials and the Ak-Chin Indian community resulted in an agreement-in-principle which is embodied in H.R. 6206. The major features are as follows: First, the United States agreed to secure for Ak-Chin its permanent water supply for delivery in 1988 via the central Arizona project [CAP]; second, the United States agreed to provide a series of benefits with a present value of about $28 million in place of water deliveries in the 1984 to 1987 period; third, Ak-Chin agreed to reduce its statutory water entitlement from 85,000 acre-feet annually to 75,000 acre/feet annually in normal and wet years and 72,000 acre-feet annually in dry years; and fourth, Ak-Chin would not sue the United States for breach of contract and seek the statutorily provided damages for failing to deliver water in the 1984 to 1987 period.

The next step was for the Department to acquire water. This was done by an agreement-in-principle, also embodied in this legislation, with the Yuma-Mesa division of the Gila reclamation project, in which 50,000 acre-feet of Yuma-Mesa's water provided by the Boulder Canyon Project Act of 1922 is being reallocated. The priority for use of this water is senior to that of CAP deliveries. In exchange for the reallocation, $11.7 million in benefits will be furnished to the Yuma-Mesa division. Approximately $9.4 million of this is earmarked for water conservation measures within the division to ensure more efficient use of water in the division. The division's districts will also be relieved of $2.3 million in repayment obligations still outstanding on the Gila project.

Mr. President, it should be pointed out that the bill does not allow the Ak-Chin community to use its water off reservation. There had been some concern among other Western States as there was a provision in the original bill which would have allowed the Indian community to sell or exchange its water off reservation; however, this provision was deleted on the House floor. We are talking about on-reservation water use only.

The first of my amendments decreases the amount of acreage, from 40,000 acres to 37,187 acres, which the Yuma-Mesa division is allowed to irrigate. The Yuma-Mesa people offered to do this to contribute to the water conservation program which is intended to result in additional Colorado River water being conveyed to central Arizona as a result of this settlement.

The second amendment, technical in nature, merely reconfirms the fact that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the Indians goes to the central Arizona project.

As for the third amendment, the creation of a special fund is designed to address concerns raised in Arizona regarding the potential effect of the revised Ak-Chin settlement on other water users. The fund will be established to provide proceeds that may be used in future years, when overall water shortages occur, to acquire water to offset the impacts, if any, of the Ak-Chin settlement on available water supplies.

The fund will require a one-time $1 million Federal contribution that must be matched by the local water users. It is in accord with the cost-sharing principles enunciated by the administration. Moreover, there will be no continuing Federal liabilities related to the administration of the fund. It will be administered by a local entity—the Central Arizona Water Conservation District—and is specifically for the acquisition of water in years of water shortage. The fund is not intended to be used for new water development projects nor can it be used to produce money for contributions to other projects requiring Federal cost sharing or to offset existing Federal repayment obligations. The provision of seed money to the fund in the near future will ensure that sufficient proceeds are generated to permit the acquisition of the potentially needed water for central Arizona.

The last amendment is unrelated to the Ak-Chin proposal. It would put the remaining Papago Tribe's water rights claims on the same footing as the claims of other tribes under the statute of limitations. This technical amendment cures a defect in the Southern Arizona Water Settlement Act of 1982, but in no way does it affect the water rights settled in that act.

Mr. President, the State of Arizona, the Arizona Congressional Delegation, and the Department of the Interior all support the revised Ak-Chin Water Settlement Act and the amendments I have proposed. Again, I urge my colleagues' support for this measure.

Mr. President, I ask unanimous consent that a memorandum pertaining to this matter be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

PAPAGO WATER RIGHTS CLAIMS: STATUTE OF LIMITATIONS

REQUESTED ACTION

The Papago Tribe of Arizona requests that corrective legislation be enacted by the 98th Congress to afford the Tribe the same time for commencing any action relating to its claims for damages for injuries to water as is granted to all other Indian tribes by Section 2415 of Title 28, United States Code, as amended.

Unless such legislation is promptly enacted, the Tribe must file suit be December 31, 1984 under the terms of Section 311 of P.L. 97-293 (96 Stat. 1274) or it will be barred from bringing an action. If the Tribe is compelled to file, there will be thousands of defendants, including the United States. The tribal litigation expense would be hundreds of thousands of dollars and the combined expense of the defendants would be in the millions of dollars. The pendency of the litigation will cause severe economic and social disruption in central Arizona.

BACKGROUND AND NEED

Section 311 of P.L. 97-273 extended the time for the Papago Tribe for bringing action on claims for injuries to water to December 31, 1984. This provision was adopted at a time when it appeared that a general extension would not be enacted. It was part of a compromise agreed to by the Tribe in return for agreeing to delete from P.L. 97-293 settlement provisions relating to the Tribe's water rights in the Chuichu area of the Sells Reservation and the Gila Bend Reservation. At that time it was believed that legislation setting these water rights would be enacted by December 31, 1984.

Settlement negotiations are in progress and legislation has been introduced in the House and Senate (S. 2855, S. 2856, H.R. 5968 and H.R. 5969). There is no time left to complete negotiations and pass settlement legislation in this Congress.

Subsequent to enactment of P.L. 97-293, the Congress granted a general extension of the time for filing suit "except as otherwise provided by the Congress:" (P.L. 97-293). As a result, the Tribe's claims for injuries to water were excluded.

On August 10, 1984, Papago tribal officials met with many of the major water users who would necessarily be defendants in such litigation and after discussion of proposed settlement solutions, the tribe requested support for an extension of the statute of limitation to enable fruitful negotiation to continue and eliminate the necessity of litigation at this time. The Tribe received a favorable response to its request. A copy of those in attendance is attached hereto. To our knowledge, there is no opposition to the proposed corrective legislation the Tribe proposes.

AK-CHIN WATER SETTLEMENT

Mr. DECONCINI. Mr. President, I am a cosponsor of the amendments being offered by Senator GOLDWATER to the Ak-Chin water settlement legislation, H.R. 6206, now being considered by this body. These amendments in no way affect the water rights assigned to the Ak-Chin community under the agreement in the legislation, but instead will provide mechanisms to allow the State to recover a portion of the water that will be lost as a result of the new water settlement.

The first amendment clarifies a provision in the bill requiring that any water that is not utilized by the Ak-Chin community, will revert to the State for use by its CAP customers. This essentially technical amendment will require the Secretary to contract with other CAP users for any water that is not used by the Indian tribe.

The second amendment establishes a water conservation fund to be administered by the Central Arizona Water Conservation District [CAWCD] in the amount of $2 million. Revenues accruing in the fund will be made available to the State of Arizona to utilize in so-called dry years when water availability is insufficient to meet the commitments for CAP water allocations, and to enhance water availability in central Arizona through whatever conservation methods the CAWCD deems appropriate. The funds will be used to pay agricultural users not to irrigate in these dry years, thus freeing up valuable water for use elsewhere in the State. Because the 50,000 acre-feet of water being transferred to the tribe from the Yuma Mesa Irrigation District has been factored into the State's allocations for CAP water, the State will experience a water shortage in the dry years and will not have the ability to meet its commitments to provide water to its CAP customers at the levels contracted. When there is sufficient water availability, the trust fund will not be used but the revenues will accrue interest.

This approach makes a lot of sense to me and to the State. Under the terms of the existing Ak-Chin Water Settlement Act, the Secretary is required to pay damages to the tribe throughout the period in which a permanent supply of water is not developed. It is my understanding that the cost of damages over the next several years is in the range of $60 million. The trust fund approach will cost Interior $1 million but end up saving the Federal Government tens of millions of dollars in future year damages. The costs of the fund will be shared by the CAWCD, which will contribute a matching $1 million to the fund. At the same time, the new legislation will resolve the Ak-Chin water issue once and for all.

The third amendment being proposed is not related to the Ak-Chin settlement, but will alleviate another Indian water problem. The amendment will extend the statute of limitations for the filing of claims to water rights for the Papago Tribe in the Gila Bend and Chuichu areas of the Papago Indian Reservation. The Congress is presently reviewing legislation to settle the claims to water in the Chuichu and Gila Bend areas but will not take final action before the existing statute of limitations expire on December 31, 1984. Negotiations of water settlements are far preferable to lengthy and costly litigation but Congress has not had sufficient time to act. Extension of the statute of limitations will protect the Papago Tribe's right to seek damages against the Federal Government should the legislation not be successful.

Mr. President, the entire Arizona congressional delegation and the Governor have been consulted on these amendments. I believe there is virtual agreement that these amendments are necessary to protect the rights of the State while at the same time resolving the long-standing question of how the Secretary of the Interior will provide a permanent supply of water to the Ak-Chin community. Issues involving water rights are never easy ones to resolve. While the State raised many concerns over the proposed water agreement outlined in the pending legislation, I believe many of those concerns will be put to rest with the addition of these new provisions. At the same time, had the State and the entire congressional delegation been consulted on the elements of the new agreement, the Department of the Interior could have alleviated controversy over the new water settlement prior to the bill's introduction.

There are cities in Arizona which may be adversely impacted as a result of the pending water settlement legislation, the city of Phoenix, in particular, has serious concerns that the amount of funds to be derived from the conservation trust fund will be insufficient to meet the needs of central Arizona in several consecutive dry years. I share their concerns and continue to believe that the Federal contribution should be raised from $1 million to $3 million with an equal increase to the CAWCD's contribution. However, because my negotiations with the Secretary of the Interior to reach agreement on these higher levels have not been successful, I will reluctantly concede to the levels outlined in the amendment. I do expect, at the same time, that if these levels prove insufficient in future years, that the Interior Secretary will seek an increased authorization.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona [Mr. GOLDWATER].

The amendment (No. 4391) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank my good friend from Arizona.

Mr. GOLDWATER. It is a pleasure. I thank my friend from Alaska.

AK-CHIN WATER RIGHTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6206) entitled "An Act relating to the water rights of the Ak-Chin Indian community," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 6, strike out all after line 17 over to and including line 6 on page 7 and insert:

(2) Such two hundred and fifty thousand acre-feet of water shall not be used to irrigate more than thirty-seven thousand one hundred and eighty-seven acres of land in the Yuma Mesa Division, specifically: six thousand five hundred and eighty-seven acres in the North Gila Valley Irrigation District; ten thousand six hundred acres in the Yuma Irrigation District; and twenty thousand acres in the Yuma Mesa Irrigation and Drainage District. Additional land in the Yuma Mesa Irrigation and Drainage District may be irrigated if there is a corresponding reduction in the irrigated acreage in the other districts so that at no time are more than thirty-seven thousand one hundred and eighty-seven acres being irrigated in the Yuma Mesa Division.

Page 10, strike out lines 5 to 13, inclusive, and insert:

(k) The water referred to in subsection (f)(2) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

Page 12, after line 24, insert:

SEC. 7. (a) There is hereby authorized to be appropriated the sum of $1,000,000 for payment to the fund referred to in subsection (b). Subject to appropriations, the Secretary shall pay a sum of $1,000,000 to such fund.

(b) No portion of the sum referred to in subsection (a) shall be paid unless—

(1) the Central Arizona Water Conservation District establishes a fund to be administered by the District for voluntary acquisition or conservation of water from sources within the State of Arizona for use in central Arizona in years when water supplies are reduced; and

(2) the Central Arizona Water Conservation District has contributed the sum of not less than $1,000,000 to such fund: *Provided*, That if the contribution of not less than $1,000,000 by the District to such fund has not been fully paid as provided in this section within two years of the date of enactment of this Act, the authorization for appropriation and payment of the sum referred to in subsection (a) shall terminate.

(c) If the provisions of this section are for any reason not implemented as herein provided, the other sections of this Act shall remain unaffected thereby.

Page 13, line 1, strike out "SEC. 7." and insert "SEC. 8.".

Page 13, line 4, strike out "SEC. 8." and insert "SEC. 9.".

Page 13, after line 10, insert:

SEC. 10. (a) Section 311 of the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1283) is amended to read as follows:

"SEC. 311. The provisions of sections 2415 of title 28, United States Code, shall apply to any action relating to water rights of the Papago Indian Tribe or of any member of such Tribe which is brought—

"(1) by the United States for, or on behalf of, such Tribe or member of such Tribe, or

"(2) by such Tribe.".

(b) The amendment made by this section shall not apply with respect to any action filed prior to the date of enactment of this Act.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. MCCAIN. Mr. Speaker, reserving the right to object, I yield to the chairman of the committee for an explanation of the Senate amendment.

Mr. UDALL. Mr. Speaker, on Monday, September 17, the House passed H.R. 6206, a bill to resolve the water rights claims of the Ak-Chin Indian Tribe in central Arizona. H.R. 6202 modified the 1978 act that provided an interim and permanent water supply for the Ak-Chin Community.

As I stated when the bill was pending before the House, the revised settlement represents an agreement reached among the Secretary of the Interior, the Ak-Chin community, and the irrigators in the Yuma Mesa irrigation district. Under the terms of this new accord, the Ak-Chin community has agreed to accept less water than under the original settlement, and to forego action for damages against the Secretary for failure to deliver water in 1984.

On the Senate side, four amendments were adopted. These amendments address some legitimate concerns that were raised by the Governor of Arizona, about the impact of the settlement on Arizona's overall water future.

The amendments are supported by the entire Arizona congressional delegation, and by Secretary Clark, and their inclusion in the legislation satisfies the concerns of the Governor and the State water department.

The first Senate amendment decreases the amount of acreage which the Yuma Mesa irrigation district will be allowed to irrigate in the future. This reduction in use along the Colorado River will enable additional water to be available for municipal and industrial users in central Arizona.

The second amendment clarifies that the balance of the water not needed to fulfill the Secretary's specific delivery obligations to the Ak-Chin shall be allocated to the central Arizona project.

The bill directs the Secretary to deliver 50,000 acre-feet of Colorado River water as the first component of the Ak-Chin's water supply. Additional water, up to 75,000 acre-feet in normal years and 72,000 acre-feet in dry years will come from the community's central Arizona project allocation. Water from those sources in excess of the community's settlement shall be allocated by the Secretary to the CAP.

The third amendment creates a fund, jointly funded by the United States and the State, to acquire water in shortage years to offset the impact, if any, of the Ak-Chin settlement on municipal and industrial CAP water supplies and the supplies available for other Arizona Indian tribes.

The fund is created by means of a one-time contribution of $1 million by each party.

The final amendments clarifies the status of the water rights claims of the Papago Indian Tribe. It places the Papago claims on an equal footing with the claims of other Indian tribes, regarding the application of the statute of limitations for filing legal actions. This amendment is a technical, clarifying amendment.

Mr. MCCAIN. Further reserving the right to object, Mr. Speaker, I thank the gentleman from Arizona.

Mr. Speaker, H.R. 6206 is extremely important, not only to the Ak-Chin Indian community and to water users in Arizona, but to all Indian tribes and States where Indian water claims remain unresolved.

The 1978 Ak-Chin settlement was considered a model. The product of extensive negotiations, it promised benefits to all parties concerned and eliminated prospects of long and costly litigation. However, to date the United States has been unable to fulfill its part of the bargain. This failure has raised serious questions about the commitment of the United States to make good on its solemn promises written in law. These questions in turn have cast a cloud over the credibility of negotiated settlements as desirable alternatives to litigation. If the Ak-Chin do not get the water they bargained for in good faith and for which they waived their valuable claims, then no other tribe in the country can be reasonably expected to negotiate their claims rather than litigate. That is why this legislation is so important.

As passed by the House last week, H.R. 6206 would amend the 1978 settlement by incorporating the terms of a recent agreement between the Secretary of the Interior and the Yuma-Mesa irrigation district. It would also reduce Ak-Chin's water entitlement by 10,000 acre-feet, from 85,000 to 75,000 acre-feet in normal years, and to 72,000 acre-feet in water-short years. Under the agreement, the Secretary would acquire 50,000 acre-feet of Yuma-Mesa's Colorado River water under the Gila reclamation project in return for an $11.7 benefit package.

The Secretary would use this water, together with Ak-Chin's central Arizona project [CAP] entitlement of 58,300 acre-feet, to meet his legal obligation to provide water to Ak-Chin.

As passed by the Senate, H.R. 6206 contains amendments by Senators GOLDWATER and DECONCINI that address concerns expressed by the State and other water users. I believe these amendments improve the bill and should be agreed to by the House. In short, the Senate amendments limit the amount of irrigated acreage in the Yuma-Mesa irrigation district, ensure that any water surplus to Ak-Chin's entitlement would be available only to the central Arizona water conservation district for CAP purposes, and establish a trust fund to buy water from agricultural users along the Colorado River to guarantee the Ak-Chin supply in dry years. The effect of these amendments, together with water conservation measures in the Yuma-Mesa benefit package and Ak-Chin's, is to minimize the impact of the overall settlement on CAP supplies at worst; at best, they will increase the firm supply of water available for CAP over current estimates.

H.R. 6206 represents a commitment by the United States and by the Reagan administration to resolve outstanding Indian water claims via negotiated settlements that are equitable to Indians and non-Indians alike. This legislation will fulfill the congressional intent of the 1978 act at nearly two-thirds less cost to the United States than the original settlement. It protects local water interests and, above all, it enables the United States to keep its promises to the Ak-Chin. This is meritorious legislation, and I urge my colleagues to concur in the Senate amendments and pass it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

THE SECRETARY OF THE INTERIOR,
Washington, September 12, 1984.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to provide you with our views on H.R. 6206, a bill "Amending the Act of July 28, 1978 (P.L. 95-328) relating to the water rights of the Ak-Chin Indian Community and for other purposes."

We support enactment of the Committee amendment in the form of a substitute to H.R. 6206.

H.R. 6206 would authorize and direct the Secretary of the Interior to provide a permanent supply of water for the Ak-Chin Community by January 1, 1988. This supply would consist of the aggregate of the (1) the reallocation by the Secretary of 50,000 acre-feet of Colorado River water currently authorized for beneficial consumption by the Yuma Mesa Division of the Gila Project, and (2) an allocation from the Central Arizona Project. H.R. 6206 would provide benefits to the Yuma Mesa Division and provide funds for water conservation measures. Additionally, H.R. 6206 would provide for damages to the Community in the event the Secretary fails to provide the agreed supply in certain years. Finally, H.R. 6206 would authorize the appropriation of funds to assist the Community in using its water supply.

BACKGROUND

In 1978, Congress enacted Public Law 95-328 (92 Stat. 409), which provides for the settlement of the Ak-Chin Indian Community's claims to water for its reservation in central Arizona. Arizona officials, leaders of the Ak-Chin Indian Community, the non-Indian water users in central Arizona, the committees in the Congress, and representatives of this Department worked to enact the Ak-Chin settlement which represented the first legislative settlement of an Indian tribe's water rights.

In formulating a water policy for this Administration, we have concluded that negotiated settlements are the most appropriate means of resolving Indian water rights disputes. Accordingly, we looked forward to implementing the 1978 Act, which would provide benefits, not only to the Ak-Chin Indian Community, but also to non-Indian water users in central Arizona. However, as we proceeded to implement the settlement, we discovered that many of the assumptions that Congress made in enacting the settlement have not been borne out by later events. The facts persuaded us that the basic objective of the settlement—to provide water to the Ak-Chin Reservation—could not be met by following the terms of the 1978 Act.

Public Law 95-328 requires the United States to identify, acquire, and deliver 85,000 acre/feet of water annually to Ak-Chin commencing in 1984.

The facts persuaded us that the basic objective of the settlement—to provide water to the Ak-Chin Reservation—could not be met by following the terms of the 1978 Act.

Public Law 92-328 requires the United States to identify, acquire, and deliver 85,000 acre-feet of water annually to Ak-Chin commencing in 1984. Delivery could occur in two phases: provision of an interim supply of water in the 1984-2002 period and provision of a permanent supply as soon as possible but no later than 2003. The prior Administration embarked on an effort to provide the Community its interim supply by development of the Vekol Valley wellfield. We subsequently discovered three major flaws in this approach. First, the cost of wellfield development and an associated delivery system reached $100 million and Congress had authorized less than half that amount in the 1978 Act. Second, this expenditure did not secure any permanent water. Third, it appeared that most of the groundwater in the Vekol Valley was under the Papago Indian Reservation and development of the water for the benefit of Ak-Chin may have had an adverse effect on the Papagos.

As a consequence of these discoveries, we concluded that it was necessary to find alternative means of fulfilling the 1978 Act. Breaching our obligations to Ak-Chin was rejected as being grossly inequitable. The Community had, through the 1978 Act, already waived all of its past and future claims to the water resources appurtenant to the Reservation. This waiver freed the non-Indian community in the vicinity from the threat of water litigation. We deemed it highly inequitable to deny the Indians the water benefits of the 1978 Act while the non-Indian interests have enjoyed the benefits of the same Act since its enactment.

These conclusions lead us to begin discussions with Ak-Chin regarding how we might amend the Act to satisfy their congressionally granted water entitlement and protect the interests of the Nation's taxpayers. These discussions led to the execution of an Agreement-in-Principle with the Community in September 1983 designed to fulfill the spirit of Public Law 95-328. Its major features are as follows:

(1) The United States agreed to secure for Ak-Chin its permanent water supply for delivery in 1988 via the Central Arizona Project (CAP).

(2) The United States agreed to provide a series of benefits with a present value of approximately $28 million (including $18.4 million of appropriated funds) in lieu of water deliveries in the 1984-1987 period.

(3) Ak-Chin agreed to reduce its statutory water entitlement from 85,000 acre-feet annually to 75,000 acre-feet annually in normal and wet years and 72,000 acre-feet annually in dry years.

(4) Ak-Chin would not sue the United States for breach of contract and seek the statutorily provided damages for failing to deliver water in the 1984-1987 period.

We are persuaded that this cooperative agreement more clearly fulfills the intent of the 1978 Act and does so at substantially less cost than the prior course of action. The proposed substitute to H.R. 6206 embodies and fully elaborates on this agreement.

Since that agreement was signed, we have been engaged in an effort to secure the congressionally mandated permanent water supply for Ak-Chin. We determined at the outset, however, to pursue acquisition of this supply in a manner that would not adversely affect existing water users in Arizona. In addition, despite the legal authorities enabling us to proceed unilaterally, we sought to acquire this water via cooperative means.

On September 5, 1984, the Department signed an Agreement-in-Principle with the irrigation districts comprising the Yuma-Mesa Division of the Gila Reclamation Project to reallocate 50,000 acre-feet of the Colorado River available for beneficial consumptive use by the Division pursuant to the Boulder Canyon Project Act of 1928. The priority for use of this water is senior to that for CAP deliveries. The bulk of this water is presently unused and may be reallocated to Ak-Chin without adverse effects on the agricultural development in the Yuma area. In consideration for the reallocation, $11.7 million in benefits will be furnished to the Division by the Federal Government. Moreover, funds authorized to be appropriated by this Act—$9.4 million—could be used for water conservation measures within the Division to ensure more efficient use of water in the Division. Not only has this cooperative arrangement secured for Ak-Chin its permanent water supply, it also facilitates water conservation on the lower Colorado River.

Additionally, the new arrangement will provide ancillary benefits to the water users of central Arizona. We intend that any of the water not needed to satisfy Ak-Chin's reduced entitlement will be available for allocation in the State of Arizona. It appears that in normal years we will be able to provide over 30,000 acre-feet annually to the State between 1988 and 2010 and 8,000-30,000 acre-feet later in the 21st century.* The acquisition of this lower Colorado River water ensures its diversion to central Arizona for use by Ak-Chin or other users.

SECTION-BY-SECTION ANALYSIS

The first section of H.R. 6206 would make congressional findings and declarations concerning Public Law 95-328 and the revised Ak-Chin water settlement.

Section 2 of H.R. 6206 would amend section 3 of Public Law 95-328 by substituting a new section to embody the agreements (1) between the Community and the United States, and (2) between the irrigation districts comprising the Yuma Mesa Division and the United States.

Sections 2(a), (b) and (c) would outline the responsibilities of the Secretary to provide water to the Community, as follows:

(1) In normal years, not less than 75,000 acre-feet.

(2) In shortage years (pursuant to section 310(b) of the Colorado River Basin Project Act (P.L. 90-537)) no less than 72,000 acre-feet.

(3) In wet years, an additional 10,000 acre-feet, if requested by the Community and certain conditions exist.

Section 2(d) would provide that the Secretary must deliver the permanent supply at appropriate flow rates, subsection (e) would authorize the Secretary to design, construct, operate, maintain and replace facilities necessary to delivery water to the southeast corner of the reservation.

*Ak-Chin's CAP allocation is 58,300 acre-feet. The CAP allocation and the acquired water are the sources to supply AK-Chin its entitlement. As these sources total 108,000 acre-feet in normal years and the Community's entitlement is 75,000 acre-feet, up to 33,000 acre-feet will be available for allocation in the State of Arizona.

Section 2(f) would define the sources of the permanent supply of water as being the aggregate of the reallocation to the Community from the Yuma Mesa Division and the community's allocation of Central Arizona Project water. We note that it is the intent of the legislation that the Yuma Mesa Division reallocation is the first segment of the permanent supply in reaching amounts the Secretary would provide in subsections (a) and (c). Any water that is determined to be surplus would be from the Central Arizona Project allocation.

Further, should for any reason supply arrangement in this Act not be executed subsection (f)(3) would provide that the Secretary continues to have an obligation to provide a permanent water supply to the Community.

Public Law 90-537, the Colorado River Basin Project Act, recognized that the then contract rights in the Yuma area had an equal priority with California and Nevada water users and had priority water users to be delivered to the Central Arizona Project water users. The 50,000 acre-feet of water that would be delivered, under this Act to the Ak-Chin Indian community would have the same priority, equal with, the water contracts of the Yuma Mesa Division Districts and other Districts in the Yuma Area in existence in 1968, the date of the passage of the Public Law 90-537. It is the intent of this Act to preserve that priority.

Section 2(f)(3) is designed to ensure that any actions taken by Congress in enacting this legislation or actions taken pursuant to it shall not affect the Secretary's authority to administer Colorado River water.

The issue of the scope of the Secretary's authority arose because the Department had advised the water users in the Yuma Mesa Division that the Secretary may have the authority under the Boulder Canyon Project Act to reallocate water which had not been put to use for more than twenty-five years to fulfill the water delivery obligation created by the Ak-Chin settlement in Public Law 95-328. In meetings with the irrigation districts of the Yuma Mesa Division, representatives of the districts disagreed with that analysis of the Secretary's authority. Eventually the Department and the districts agreed to negotiate for the reallocation of water and avoid a legal confrontation on that issue. In the course of negotiating for a water supply it became apparent that in addition to the unused water, some developed water also could be salvaged through water conservation programs in the districts.

The consumptive use of water from the Colorado River lands of the Yuma Mesa Division as well as other lands along the lower Colorado River is the subject of an extensive ongoing analysis by the Bureau of Reclamation in cooperation with the lower basin states. So far, however, a definitive accounting has not been completed. Since it cannot be known at this time how much of the fifty-thousand acre-feet of water committed to this settlement is unused and how much will be the product of the water consideration programs anticipated in the proposed legislation, agreement was reached that this legislation would have no effect whatsoever on the issue of Secretarial authority.

Section 2(g) would reduce by 50,000 acre-feet the 300,000 acre-feet of Colorado River water allocated for annual beneficial consumptive use to the Yuma Mesa Division of the Gila Project, and would authorize the amending of contracts between the Division and the United States. Additionally, it would provide funding to the Division to replace, rehabilitate and repair delivery systems within the Division, and for on-farm and district water conservation measures. We believe that these beneficial conservation measures would enhance water use efficiency in southwestern Arizona. With the reallocation of this water to the Ak-Chin Indian Community, there will be no return flow credits to the Colorado River and this represents a diversion of 50,000 acre-feet from the river.

The passage of this bill and subsequent implementation would relieve the three districts of the Yuma Mesa Division of the acreage limitation and pricing provisions of the Reclamation Reform Act of 1982. We will consider requests by the districts for extensions of time for the filing of reporting forms. Furthermore, we will defer the district's construction repayment obligation due in December of this year which are discharged by this Act. If for any reason the Act is not fully implemented then the reporting forms not received will be required and the funds deferred collected.

The contract amending authorization and the water conservation provisions in this bill would not be considered as providing supplemental or additional benefits to the districts, nor are they to be reimbursable to the United States. We believe that the benefits derived from the water conservation measures and from the source of water for the Ak-Chin Community are in the nation's interest.

Sections 2(h) and 2(i) would provide penalties should the Secretary be unable to deliver the amounts required by subsection (a) and (c) to the Community.

Section 2(j) would authorize the community to devote the permanent water supply to any use, including but not limited to agricultural, municipal, industrial, commercials, mining or recreational, but only within the State of Arizona. This would include the right to sell, exchange or temporarily dispose of the water within the Pinal Active Management Area. However, the community would not be authorized to permanently alienate the supply.

Under section 2(k) the Secretary would be authorized to contract for the allocation of any water in subsections (f)(1) which is excess to the Secretary meeting the obligations to the community. It is our understanding that any such water would be allocated pursuant to close consultation with the State of Arizona.

Section 3 would authorize certain payments to the community and fully discharge the Secretary from penalty provisions of Public Law 95-328 for years 1984 through 1987 once the payments are made.

Section 4 would provide that the reallocation of water from the Yuma Mesa Division to the Community pursuant to this Act not take place until proper contracts and waivers are executed and funds are appropriated and transferred.

Section 5 would provide assurance to the Community that the Secretary would still be liable under Public Law 95-328 should the water supply segment from the Yuma Mesa Division not be available.

Section 6 would provide that any new budget authority would not be effective until fiscal year 1986.

Section 7 would provide that nothing in this Act is intended to affect the existing authorities of the Secretary with regard to the Colorado River in any way.

CONCLUSION

In order to execute these agreements fully, passage of the Committee substitute to H.R. 6206 will be required. The original provisions of the 1978 Act must be amended and the terms of the water reallocation agreement must be authorized and ratified. Accordingly, we strongly urge you to expedite passage of H.R. 6206 this session. Such prompt action will finally fulfill the promises tendered to Ak-Chin six years ago.

These agreements are in the national interest as they fulfill previous congressional intent at a cost substantially less than that of the previous plan. In addition, the agreements are a continuing demonstration of this Administration's commitment to resolve outstanding Indian water claims via negotiated settlements that are equitable to Indians and non-Indians alike.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program, however, the Administration has not had sufficient time to review this legislation and additional views may be provided subsequently.

Sincerely,

WILLIAM CLARK.

THE SECRETARY OF THE INTERIOR,
Washington, September 17, 1984.

Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: As you are aware, Amendments to the 1978 Ak-Chin Settlement Act (P.L. 95-328) have been introduced by Congressman Udall (H.R. 6206) and Senator Goldwater (S. 2976). The proposed legislation would effectively fulfill the promises made to the Ak-Chin Indian Community in 1978 by authorizing the implementation of agreements reached with the Ak-Chin Indian Community and the three irrigation districts of the Yuma Mesa Division of the Gila Project. I am in full support of these settlement agreements and the legislation.

H.R. 6206 and S. 2976 would authorize and direct the Secretary of the Interior to provide a permanent supply of water for the Ak-Chin Community by January 1, 1988. This supply would consist of the aggregate of (1) the reallocation by the Secretary of 50,000 acre-feet of Colorado River water currently available for beneficial consumption by the Yuma Mesa Division of the Gila Project, and (2) an allocation from the Central Arizona Project. H.R. 6206 and S. 2976 would provide benefits to the Yuma Mesa Division and continue to provide protection to the Community in the event the Secretary fails to provide the agreed-to supply in certain years. Finally, the legislation would authorize the appropriation of funds to assist the Community in using its water supply.

BACKGROUND

In 1978, Congress, with your leadership, enacted the Ak-Chin legislation (Public Law 95-328), which provided for the settlement of the Ak-Chin Indian Community's claims to water for its reservation in central Arizona. Arizona officials, leaders of the Ak-Chin Indian Community, the non-Indian water users in central Arizona, the committees in the Congress, and representatives of this Department worked diligently to enact the Ak-Chin settlement which represented the first legislative settlement of an Indian tribe's water rights.

In formulating a water policy for this Administration, we have concluded that negotiated settlements are the most appropriate means of resolving Indian water rights disputes. Accordingly, we looked forward to implementing the 1978 Act, which would provide benefits, not only to the Ak-Chin Indian Community, but also to non-Indian water users in central Arizona. However, as we proceeded to implement the settlement, we discovered that many of the assumptions that Congress made in enacting the settlement have not been borne out by later events.

Public Law 95-328 requires the United States to identify, acquire, and deliver 85,000 acre-feet of water annually to Ak-Chin commencing in 1984. Delivery could occur in two phases: provision of an interim supply of water in the 1984–2002 period and provision of a permanent supply as soon as possible but no later than 2003. The prior Administration embarked on an effort to provide the Community its interim supply by development of the Vekol Valley wellfield. We subsequently discovered three major flaws in this approach. First, the cost of wellfield development and an associated delivery system reached $100 million. Congress had authorized less than half that amount in the 1978 Act. Second, this expenditure did not secure any permanent water. Third, most of the groundwater in the Vekol Valley was under the Papago Indian Reservation and development of the water for the benefit of Ak-Chin would have had an adverse effect on the Papagos.

As a consequence of these discoveries we concluded that it was necessary to find alternative means of fulfilling the 1978 Act. Breaching our obligations to Ak-Chin was rejected as being grossly inequitable and costly due to the damages provision in the 1978 Ak-Chin Settlement Act. The Community had, through the 1978 Act, already waived all of its past and future claims to the water resources appurtenant to the Reservation. This waiver freed the non-Indian community in the vicinity from the threat of water litigation. We deemed it highly inequitable to deny the Indians the water benefits of the 1978 Act while the non-Indian interests have enjoyed the benefits of the same Act since its enactment.

These conclusions lead us to begin discussions with Ak-Chin regarding how the Act might be amended to satisfy the congressionally granted water entitlement and protect the interest of the Nation's taxpayers. These discussions led to the execution of an Agreement-in-Principle with the Community in September 1983 designed to fulfill the spirit of Public Law 95-328. Its major features are as follows:

(1) The United States agreed to secure for Ak-Chin its permanent water supply for delivery in 1988 via the Central Arizona Project (CAP).

(2) The United States agreed to provide a series of benefits with a present value of approximately $28 million (including $18.4 million of appropriated funds) in lieu of water deliveries in the 1984–1987 period.

(3) Ak-Chin agreed to reduce its statutory water entitlement from 85,000 acre-feet annually to 75,000 acre-feet annually in normal and wet years and 72,000 acre-feet annually in dry years.

(4) Ak-Chin would not sue the United States for breach of contract and seek the statutorily provided damages for failure to deliver water in the 1984–1987 period.

The Department is persuaded that this cooperative agreement more clearly fulfills the intent of the 1978 Act and does so at substantially less cost than development of the Vekol Valley wellfield. We did consider other alternatives, including the possibility of retiring agricultural lands, but in all cases these were considerably more costly and less likely to accomplish the goals of the cooperative agreement.

Since the Ak-Chin agreement was signed, the Department has been engaged in an effort to secure the permanent water supply for Ak-Chin in a manner that would minimize the effect on existing water users in Arizona. In addition, despite the legal authorities enabling the Department to proceed unilaterally, we sought to acquire this water via cooperative means.

On September 5, 1984, the Department signed an Agreement-in-Principle with the irrigation districts comprising the Yuma-Mesa Division of the Gila Reclamation Project to reallocate 50,000 acre-feet of the Colorado River available for beneficial consumptive use by the Division pursuant to the Boulder Canyon Project Act of 1928. The priority for use of this water is senior to that for CAP deliveries. The bulk of this water is presently unused and may be reallocated to Ak-Chin without adverse effects on the agricultural development in the Yuma area. For the reallocation, $11.7 million in benefits will be furnished to the Division by the Federal Government. Moreover, funds authorized to be appropriated by this Act—$9.4 million—will be used for water conservation measures within the Division to ensure more efficient use of water in the Division. This cooperative arrangement has secured for Ak-Chin its permanent water supply, and also facilitates water conservation on the lower Colorado River.

Additionally, the new arrangement will provide ancillary benefits to the water users of central Arizona. The legislation allows that any of the water not needed to satisfy Ak-Chin's reduced entitlement will be available for CAP allocation in the State of Arizona. It appears that in normal years the State should receive over 30,000 acre-feet annually between 1988 and 2010 and 8,000-30,000 acre-feet later in the 21st century.[1] The acquisition of this lower Colorado River water ensures its availability for diversion to central Arizona for use by Ak-Chin or other users.

Some concerns have been raised about what effect this new arrangement may have on water availability for the Central Arizona Project. The Bureau of Reclamation has reviewed the Ak-Chin water settlement agreements and has concluded that there would be minimum effect on the long-term CAP municipal and industrial water users. Specifically, the Secretary's CAP allocations assumed that 18,500 acre-feet of Yuma-Mesa Division water would be available for diversion to central Arizona. A substantial portion of the Division's water rights are currently unused. Moreover, significant water savings are expected to accrue from the $9.4 million water conservation program authorized by H.R. 6206/S. 2976. The combination of unused water and water savings may exceed 80,000 acre-feet. Consequently, transfer of 50,000 acre-feet of this water to Ak-Chin would leave more than 18,500 acre-feet for diversion to CAP. Hence H.R. 6206/S. 2976 should have no effect on the Secretary's CAP allocations to municipal and industrial users.

In cases of Colorado River water shortages, the 50,000 acre-feet Yuma-Mesa Division transfer to Ak-Chin would continue to have its present priority over CAP deliveries. As a result, municipal and industrial water users could be potentially affected, although the probability of a water shortage of the magnitude to affect municipal and industrial users over the next 30 years is remote.

The Bureau of Reclamation has also indicated that with the implementation of Plan 6 (particularly the construction of the regulatory feature, the New Waddell Dam) there will be minimal impacts on the CAP aqueduct capacity to deliver water. Potential problems occur only during wet years when maximum CAP diversions are made. At these periods it may be difficult to "squeeze" in the extra Ak-Chin water through the CAP aqueduct system.

In addition, the Department intends to initiate negotiations with the Central Arizona Water Conservation District once the legislation is approved to provide for the wheeling of the Yuma-Mesa water to the Ak-Chin Community.

CONCLUSION

In order to execute these agreements fully, Congressional authorities will be required. The original provisions of the 1978 Act must be amended and the terms of the water reallocation agreement must be authorized and ratified. Accordingly, we strongly urge you to expedite passage of H.R. 6206 and S. 2976 this session. Such prompt action will finally fulfill the promises tendered to Ak-Chin 6 years ago.

These agreements are in the national interest as they fulfill previous congressional intent at a cost substantially less than that of the previous plan. In addition, the agreements are a continuing demonstration of this Administration's commitment to resolve outstanding Indian water claims via negotiated settlements that are equitable to Indians and non-Indians alike.

I have enjoyed our successful partnership on numerous water issues important to Arizona, including the passage of the dam safety and Hoover legislation, and the progress on both Plan 6 and the Tucson Aqueduct. I look forward to continuing that successful partnership in meeting the future water needs of Arizona.

I hope this clarifies the intent of H.R. 6206 and S. 2976, and I would appreciate your support of the Ak-Chin water settlement agreement.

Sincerely,

WILLIAM CLARK.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

A message from the House of Representatives announced that the Speaker has signed the following enrolled bills:

S. 3195. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II;

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[1] Ak-Chin's CAP allocation is 58,300 acre-feet. The CAP allocation and the acquired water are the sources to supply Ak-Chin its entitlement. As these sources total 108,300 acre-feet in normal years and the Community's entitlement is 75,000 acre-feet, up to 33,000 acre-feet will be available for CAP allocation in the State of Arizona.

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes;

H.R. 3379. An act to amend section 594 of title 5, United States Code, relating to the authorities of the Administrative Conference; and

H.R. 5925. An act to amend title VII of the Civil Rights Act of 1964 to establish a revolving fund for use by the Equal Employment Opportunity Commission to provide education, technical assistance, and training relating to the laws administered by the Commission.

The enrolled bills were subsequencely signed by the Acting President pro tempore [Mr. KOHL].

At 11:49 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House passed the following bills; each without amendment:

S. 1181. An act for the relief of Christy Carl Hallien of Arlington, Texas;

S. 2834. An act to designate the United States Post Office Building located at 100 Main Street, Millsboro, Delaware, as the "John J. Williams Post Office Building"; and

S. 3144. An act to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the amendment of the Senate to the bill (H.R. 2152) to enhance the effectiveness of the U.N. international drift net fishery conservation program.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2263) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2321) to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes.

The message further announced that the Speaker makes the following modification in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4996) entitled "An Act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes";

As additional conferees from the Committee on Banking, Finance and Urban Affairs for consideration of section 501 of the House bill, and modifications committed to conference: Ms. OAKAR, Mr. NEAL of North Carolina, and Mr. LEACH.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2164. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority;

H.R. 3336. An act for the relief of Florence Adeboyeku;

H.R. 3598. An act to amend title 49, United States Code, to provide for verification of weights, and for other purposes;

H.R. 5164. An act for the relief of Craig B. Sorensen and Nita M. Sorensen;

H.R. 5572. An act to designate May of each years as "Asian/Pacific American Heritage Month";

H.R. 5749. An act for the relief of Krishabthi Sava Kopp;

H.R. 5923. An act for the relief of Anna C. Massari;

H.R. 6017. An act to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment;

H.R. 6124. An act to amend the Food, Agriculture, Conservation, and Trade Act of 1990, to improve health care services and educational services through telecommunications, and for other purposes;

H.R. 6125. An act to enhance the financial safety and soundness of the banks and associations of the Farm Credit System, and for other purposes;

H.R. 6127. An act to amend the Perishable Agricultural Commodities Act, 1930, to prescribe conditions under which a transferee shall be deemed to have received trust assets with notice of the breach of the trust, and for other purposes;

H.R. 6128. An act to amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts, and for other purposes;

H.R. 6129. An act to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971, and for other purposes.

H.J. Res. 529. Joint resolution supporting the planting of 500 redwood trees from California in Spain in commemoration of the quincentenary of the voyage of Christopher Columbus and designating the trees as a gift to the people of Spain; and

H.J. Res. 560. Joint resolution waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the One Hundred Second Congress.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 353. A concurrent resolution expressing the sense of the Congress that the United States should assume a strong leadership role in implementing the decisions made at the Earth Summit by developing a national strategy to implement Agenda 21 and other Earth Summit agreements through domestic policy and foreign policy, by cooperating with all countries to identify and initiate further agreements to protect the global environment, and by supporting and participating in a high-level United Nations Sustainable Development Commission.

ENROLLED BILL SIGNED

A message from the House of Representatives announced that the Speaker has signed the following enrolled bill:

H.R. 5678. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED BILL SIGNED

At 2:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5488. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1993, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore. [Mr. BYRD].

At 3:35 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The message also announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5006) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 376. A concurrent resolution providing for the preparation of official duplicates of certain legislative papers.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 5518. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The enrolled bill was subsequently signed by President pro tempore [Mr. BYRD].

At 5:19 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

At 5:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 1569) to implement the recommendations of the Federal Courts Study Committee, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

At 6:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1252. An act to authorize the State Justice Institute to analyze and disseminate information regarding the admissibility and quality of testimony of witnesses with expertise relating to battered women, and to develop and disseminate training materials to increase the use of such experts to provide testimony on criminal trials of battered women, particularly in cases involving indigent women;

H.R. 1253. An act to amend the State Justice Institute Act of 1984 to carry out research and develop judicial training curricula, relating to child custody litigation;

H.R. 2448. An act to provide for the minting of medals in commemoration of Benjamin Franklin and to enact a fire service bill of rights;

H.R. 3161. An act to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, to amend laws relating to Federal procurement, and for other purposes;

H.R. 4363. An act to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons;

H.R. 4797. An act to direct the United States Sentencing Commission to make sentencing guidelines for Federal criminal cases that provide sentencing enhancements for hate crimes;

H.R. 5304. An act to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State on which the modification is sought, or consents to seeking the modification in such other State court;

H.R. 5328. An act to amend title 35, United States Code, with respect to the late payment of maintenance fees;

H.R. 5602. An act granting the consent of Congress to the Interstate Rail Passenger Network Compact;

H.R. 5862. An act to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure an equitable and timely distribution of benefits to public safety officers;

H.R. 5998. An act for the relief of the Wilkinson County School District, in the State of Mississippi;

H.R. 6050. An act to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes;

H.R. 6072. An act to direct expedited negotiated settlement of the land rights of the Kenai Natives Association, Inc., under section 14(h)(3) of the Alaska Native Claims Settlement Act, by directing land acquisition and exchange negotiations by the Secretary of the Interior and certain Alaska Native corporations involving lands and interests in lands held by the United States and such corporations; and

H.R. 6094. An act to improve supervision and regulation with respect to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Bank System, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 560. Joint resolution waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the One Hundred Second Congress.

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

At 7:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills; each without amendment:

S. 225. An Act to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia;

S. 758. An Act to clarify that States, instrumentalities of States, and officers and employees of States, acting on their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies that can be obtained in such suit that can be obtained in a suit against a private entity;

S. 759. An Act to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity;

S. 1146. An Act to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes; and

S. 2661. An Act to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 776) to provide for improved energy efficiency.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5400) to establish in the Department of Veterans Affairs a program of comprehensive service for homeless veterans; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 1002. An Act to impose a criminal penalty for flight to avoid payment of arrearages in child support; and

S. 2481. An Act to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes.

The message further announced that the House has passed the following bills, each with amendment, in which it requests the concurrence of the Senate:

S. 893. An Act to amend title 18, United States Code, to impose criminal sanctions for violation of software copyright; and

S. 1985. An Act to establish a Commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes.

ENROLLED BILLS SIGNED

At 11:05 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled bills:

H.R. 5427. An Act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes; and

H.R. 5677. An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

Under the authority of the order of today, October 5, 1992, the enrolled bills were subsequently singed by the Acting President pro tempore [Mr. MITCHELL].

At 11:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conferencee on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes.

The message also announced that the House of Representatives having proceeded to reconsider the bill (S. 12) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, returned by the President of the United

States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5013) to promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 379. A concurrent resolution directing the Clerk of the House of Representatives to make certain corrections in the enrollment of the bill H.R. 5006.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 2144. An Act to restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes.

At 1:55 a.m., a message from the House of Representatives announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 382. A concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 429.

At 4:55 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5008) to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 11:15 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 5368. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

H.R. 5504. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

At 3:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1664. An act to establish the Keweenaw National Historical Park, and for other purposes.

S. 2625. An act to designate the United States courthouse being constructed at 400 Cooper Street in Camden, New Jersey as the "Mitchell H. Cohen United States Courthouse".

S. 2875. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to better assist children in homeless shelters, to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC), and for other purposes.

S. 2941. An act to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2964. An act granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

S. 3224. An act to designate the United States Courthouse to be constructed in Fargo, North Dakota the Quentin N. Burdick United States Courthouse.

S. 3309. An act to amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes.

S. 3327. An act to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes.

H.R. 3088. An act to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes.

H.R. 4542. An act to prevent and deter auto theft.

H.R. 4844. An act to restore Olympic National Park and the Elwha River ecosystem and fisheries in the State of Washington.

H.R. 5617. An act to provide Congressional approval of a Governing International Fishery Agreement, and for other purposes.

H.R. 6133. An act to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, to establish a new national land remote sensing policy, and for other purposes.

H.R. 6135. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes.

H.R. 6138. An act to amend the Consolidated Farm and Rural Development Act.

H.R. 6163. An act to designate certain Federal buildings.

H.R. 6165. An act to amend certain provisions of law relating to establishment, in the District of Columbia or its environs, of a memorial to honor Thomas Paine.

H.R. 6167. An act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes.

H.R. 6180. An act to authorize appropriations for the National Telecommunications and Information Administration, and for other purposes.

H.R. 6181. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize human drug application, prescription drug establishment, and prescription drug product fees, and for other purposes.

H.R. 6182. An act to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

H.R. 6183. An act to amend the Public Health Service Act to provide protection from legal liability for certain health care professionals providing services pursuant to such Act.

H.R. 6184. An act to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail.

H.R. 6185. An act to implement the recommendations of the Federal Courts Study Committee, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 140. A concurrent resolution relating to humanitarian relief and the human rights situation in Sudan.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 89. A concurrent resolution expressing the sense of Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible when offered in the State court by a defendant in a criminal case.

H. Con. Res. 383. A concurrent resolution concerning United States participation in a Cascadia Corridor commission.

H. Con. Res. 384. A concurrent resolution providing for the sine die adjournment of the second session, 102d Congress.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 347) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5237) to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5258) to provide for the withdrawal of most favored nation status from the Federal Republic of Yugoslavia and to provide for the restoration of such status if certain conditions are fulfilled.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5483) to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5739) to reauthorize the Export-Import Bank of the United States.

The message further announced that the House has passed the bill (S. 2890) to provide for the establishment of the Brown versus Board of Education National Historic Site in the State of Kansas, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 3134) to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start Programs, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 3100) to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2164. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

H.R. 3336. An act for the relief of Florence Adeboyeku; to the Committee on the Judiciary.

H.R. 5164. An act for the relief of Craig B. Sorensen and Nita M. Sorensen; to the Committee on the Judiciary.

H.R. 5749. An act for the relief of Krishabthi Sava Kopp; to the Committee on the Judiciary.

H.R. 5923. An act for the relief of Anna C. Massari; to the Committee on the Judiciary.

H.R. 6017 An act to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3971. A communication from the President and CEO of the Resolution Trust Corporation and the President of the Thrift Depositor Protection Oversight Board, transmitting jointly, pursuant to law, the unaudited financial statements of the Corporation for the six month period ending June 30, 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC-3972. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operations of the Exchange Stabilization Fund for fiscal year 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-3973. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving a medium-term financial guarantee to support United States exports to the Russian Federation; to the Committee on Banking, Housing, and Urban Affairs.

EC-3974. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-3975. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report regarding the Saltonstall-Kennedy Grant program for 1991-1992; to the Committee on Commerce, Science, and Transportation.

EC-3976. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3977. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3978. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3979. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3980. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report containing operating, statistical, and financial information about the Government's helium program; to the Committee on Energy and Natural Resources.

EC-3981. A communication from the Vice President of the Tennessee Valley Authority (Employee Relations), transmitting, pursuant to law, an update on the status of labor-management negotiations with certain groups; to the Committee on Environment and Public Works.

EC-3982. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the annual report on the impact of the Caribbean Basin Economic Recovery Act for calendar year 1991; to the Committee on Finance.

EC-3983. A communication from the Comptroller General, transmitting, pursuant to law, a report entitled "Reports and Testimony: August 1992"; to the Committee on Governmental Affairs.

EC-3984. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final regulations—Assistance to States for the Education of Children with Disabilities Program and Preschool Grants Program; to the Committee on Labor and Human Resources.

EC-3985. A communication from the President of the United States Capitol Historical Society, transmitting, pursuant to law, the annual report of the U.S. Capitol Historical Society for 1991-1992; to the Committee on Rules and Administration.

EC-3986. A communication from the Acting Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to provide for a redesignation of certain positions within the Department of Veterans' Affairs; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1993" (Rept. No. 102–455).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments and with a preamble:

S.J. Res. 335. Joint resolution to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii (Rept. No. 102–456).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2617. A bill to provide for the maintenance of dams located on Indian lands in New Mexico by the Bureau of Indian Affairs or through contracts with Indian tribes (Rept. No. 102–457).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Armed Services:

The U.S. Army National Guard officer named herein for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Richard C. Alexander, [redacted]

By Mr. NUNN, from the Committee on Armed Services:

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 22, March 10, March 18, March 24, April 28, June 2, June 4, June 11, July 1, August 4, September 9, September 10, September 22, September 23, September 25, and September 30, 1992 at the end of the Senate proceedings.)

*In the Air Force there is 1 appointment to the grade of brigadier general (John J. Allen) (Reference No. 457–8)

*Colonel Donald E. McAuliffe, ANG to be brigadier general (Reference No. 819)

**In the Marine Corps there are 2 appointments to the grade of colonel (list begins with Robert E. Braithwaite) (Reference No. 851–3)

**In the Naval Reserve there are 4 promotions to the grade of captain (list begins with Stephen P. Axtell) (Reference No. 944–2)

*In the Navy there are 2 promotions to the grade of rear admiral (list begins with Philip James Coady, Jr.) (Reference No. 964–2)

**In the Navy there is 1 promotion to the grade of captain (list begins with Jerry Wayne Bean) (Reference No. 969–3)

*In the Air Force there is 1 appointment to the grade of brigadier general (list begins with Lawrence E. Stellmon) (Reference No. 993–3)

**In the Marine Corps there are 27 appointments to the grade of lieutenant colonel (list begins with Mark S. Barnhart) (Reference No. 997–3)

**In the Marine Corps there are 5 appointments to the grade of major (list begins with Gregory D. Bates) (Reference No. 1109–3)

**In the Navy there are 13 promotions to the grade of commander (list begins with Steven Patrick Albert) (Reference No. 1111–2)

*Vice Admiral James D. Williams, USN to be placed on the retired list in the grade of vice admiral (Reference No. 1148)

**In the Naval Reserve there are 203 promotions to the grade of commander (list begins with Carl H. Abelein) (Reference No. 1196–2)

*In the Air Force Reserve there is 1 appointment to the grade of major general (William P. Bland, Jr.) (Reference No. 1205–2)

**In the Marine Corps there are 234 appointments to the grade of major and below (list begins with Donald R. Gibbs) (Reference No. 1214)

*In the Army there are 28 promotions to the grade of major general (list begins with Robert B. Rosenkranz) (Reference No. 1220)

**In the Marine Corps Reserve there are 2 appointments to the grade of colonel (list begins with Peder A. Anderson) (Reference No. 1226–3)

**Lieutenant Colonel David C. Arney for appointment as permanent professor at the United States Military Academy (Reference No. 1267)

**Colonel Douglas M. Padgett, ANG to be brigadier general (Reference No. 1297)

**In the Marine Corps Reserve there are 119 appointments to the grade of colonel (list begins with Francis P. Ahearn Jr.) (Reference No. 1314)

*In the Army there is 1 appointment to the grade of major general and below (Ronald R. Blanck) (Reference No. 1346)

*Colonel Jerome V. Foust, USA to be brigadier general (Reference No. 1347)

**In the Air Force there are 40 promotions to the grade of colonel and below (list begins with Bruce A. Brown) (Reference No. 1349)

**In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Robert K. Baldwin) (Reference No. 1350)

**In the Army Reserve there are 32 promotions to the grade of colonel and below (list begins with Clark H. Babl) (Reference No. 1351)

**In the Army there are 3 promotions to the grade of lieutenant colonel (list begins with David A. Boothe) (Reference No. 1352)

**In the Army there are 13 promotions to the grade of lieutenant colonel (list begins with Patrick J. Berger) (Reference No. 1353)

**In the Army there are 7 promotions to the grade of lieutenant colonel and below (list begins with Douglas C. Andrews) (Reference No. 1354)

**In the Air Force Reserve there are 1,039 promotions to the grade of colonel and below (list begins with Donald E. Abston) (Reference No. 1355)

**In the Army Reserve there are 70 promotions to the grade of colonel and below (list begins with Albert L. Frazier) (Reference No. 1356)

**In the Army there are 91 promotions to the grade of colonel (list begins with Dave Arnot) (Reference No. 1357)

**In the Army there are 1,285 promotions to the grade of lieutenant colonel (list begins with Gary K. Abe) (Reference No. 1358)

**In the Army there are 510 appointments to the grade of second lieutenant (list begins with Jeffrey M. Abel) (Reference No. 1359)

**In the Air Force there are 177 appointments to the grade of second lieutenant (list begins with Barbara E. Allmart) (Reference No. 1362)

**In the Air Force there are 1,033 promotions to the grade of colonel and below (list begins with William Agrella) (Reference No. 1363)

**In the Army Reserve there are 608 promotions to the grade of lieutenant colonel (list begins with Friebe B. Aboley) (Reference No. 1364)

*In the Army there are 16 appointments to the grade of major general and below (list begins with Richard C. Alexander) (Reference No. 1366)

*General Jimmie V. Adams, USAF to be placed on the retired list in the grade of general (Reference No. 1372)

*General James P. McCarthy, USAF to be placed on the retired list in the grade of general (Reference No. 1373)

*Lieutenant General Charles G. Boyd, USAF to be general (Reference No. 1374)

*In the Army there are 38 promotions to the grade of brigadier general (list begins with James F. Hennessee) (Reference No. 1375)

*Lieutenant General Robert L. Rutherford, USAF to be general (Reference No. 1387)

*Major General Jay W. Kelley, USAF to be lieutenant general (Reference No. 1388)

*In the Air Force Reserve there are 13 appointments to the grade of major general and below (list begins with Tandy K. Bozeman) (Reference No. 1389)

**In the Marine Corps Reserve there are 137 appointments to the grade of lieutenant colonel (list begins with Gary D. Anderson) (Reference No. 1390)

*Lieutenant General James T. Callaghan, USAF for appointment to the grade of lieutenant general on the retired list (Reference No. 1396)

*Lieutenant General Joseph W. Ashy, USAF for reappointment to the grade of lieutenant general (Reference No. 1397)

**In the Air Force Reserve there are 3 appointments to the grade of lieutenant colonel (list begins with Walter K. Kaneakua) (Reference No. 1407)

**In the Air Force Reserve there are 24 promotions to the grade of lieutenant colonel (list begins with Joseph Amara) (Reference No. 1408)

*Rear Admiral (lh) Patrick William Drennon, USN to be rear admiral (Reference No. 1415)

**In the Army Reserve there are 7 appointments to the grade of colonel and below (list begins with Gino L. Ventresca) (Reference No. 1416)

**In the Army Reserve there are 229 promotions to the grade of colonel (list begins with Pando Angelisanti) (Reference No. 1417)

**In the Naval Reserve there are 162 promotions to the grade of captain (list begins with Rise Lavonne Barkhoff) (Reference No. 1418)

**In the Navy there are 390 promotions to the grade of commander (list begins with Mark F. Abel) (Reference No. 1419)

**In the Navy there are 1,048 promotions to the grade of lieutenant commander (list begins with Glen Charles Ackermann) (Reference No. 1420)

**In the Navy Reserve there are 429 promotions to the grade of commander (list begins with Joel Michael Alcoff) (Reference No. 1421)

**In the Navy there are 255 promotions to the grade of lieutenant commander (list begins with Bradley Mcint Anderson) (Reference No. 1422)

*Rear Admiral (Selectee) Douglas J. Katz, USN to be vice admiral (Reference No. 1429)

Grand total: 8,333.

By Mr. NUNN, from the Committee on Armed Services:

The following-named officer for reappointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be vice admiral

Vice Adm. David M. Bennett, U.S. Navy, [redacted].

The following-named officer for reappointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be vice admiral

Vice Adm. Richard C. Macke, U.S. Navy, [redacted].

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, Section 601:

To be general

Lt. Gen. Henry Viccellio, Jr., [redacted] U.S. Air Force.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEFFORDS:

S. 3316. A bill to amend the Employee Retirement Income Security Act of 1974 to provide for the treatment of settlement agreement reached with the Pension Benefit Guaranty Corporation; to the Committee on Labor and Human Resources.

By Mr. HATCH:

S. 3317. A bill to amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation; to the Committee on the Judiciary.

S. 3318. A bill to authorize the State Justice Institute to analyze and disseminate information regarding the admissibility and quality of testimony of witnesses with expertise relating to battered women, and to develop and disseminate training materials to facilitate the appropriate use of such experts to provide testimony in criminal trials of battered women, particularly in cases involving indigent women; to the Committee on the Judiciary.

By Mr. BROWN:

S. 3319. A bill to reduce the legislative branch budget by 50 percent; to the Committee on Appropriations.

S. 3320. A bill to eliminate the price support and production adjustment programs for milk, cotton, rice, honey, and tobacco, and for other purposes; to the Committee on Appropriations.

S. 3321. A bill to control the growth of mandatory spending; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or to be discharged.

S. 3322. A bill to reduce the Federal budget deficit by eliminating entitlement and other mandatory payments by the United States to wealthy individuals and large corporations; to the Committee on Governmental Affairs.

S. 3323. A bill to prohibit the use of funds for continued United States membership in, and payments to, certain international commodity organizations, and for other purposes; to the Committee on Foreign Relations.

S. 3324. A bill to reduce the Federal subsidies for Amtrak and to require Amtrak to eliminate unprofitable routes; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 3325. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1993, to provide that States are subject to suit for certain infringements of patents and plant variety protections, and infringements of trademarks, and for other purposes; considered and passed.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 3326. A bill to amend the Federal Deposit Insurance Act; considered and passed.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. 3327. A bill to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes; considered and passed.

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. SIMON, Mr. DECONCINI, Mr. WELLSTONE, Mr. DODD, and Mr. SEYMOUR):

S. 3328. A bill to provide for necessary medical care for former civilian prisoners of war; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. DOLE, Mr. BOREN, Mr. MOYNIHAN, Mr. COHEN, and Mr. LIEBERMAN):

S. 3329. A bill to enhance the competitiveness of the United States in the global economy through the establishment of a Department of Trade as an executive department of the Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. METZENBAUM (for himself and Mr. THURMOND):

S. 3330. A bill to make a technical amendment of the Clayton Act; considered and passed.

By Mr. JEFFORDS:

S. 3331. A bill to provide for the establishment of a nation-wide, universal access health coverage program, and for other purposes; to the Committee on Finance.

By Mr. GARN:

S. 3332. A bill to establish the San Rafael Swell National Trails and Recreation Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI:

S. 3333. A bill to establish the National Commission on Civil Justice Reform; to the Committee on the Judiciary.

S. 3334. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

S. 3335. A bill to establish the Casa Malpais National Historic Park, in Springerville, Arizona and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GLENN:

S. 3336. A bill to encourage the acquisition and use of resource efficient materials in construction, repair, and maintenance of Federal buildings; to the Committee on Environment and Public Works.

By Mrs. KASSEBAUM (for herself, Mr. HATCH, and Mr. DODD):

S. 3337. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drug provisions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BREAUX:

S. 3338. A bill to promote fair trade for the United States shipbuilding and repair industry; to the Committee on Finance.

By Mr. ADAMS:

S. 3339. A bill to improve housing for elderly persons that is assisted by the Federal Government, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRYOR (for himself and Mr. GRAHAM):

S. 3340. A bill to amend title XIX of the Social Security Act to improve the program related to home and community based care; to the Committee on Finance.

By Mr. BROWN:

S. 3341. A bill to amend the Federal Water Pollution Control Act to provide for the use of biomonitoring and whole effluent toxicity testing in connection with publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 3342. A bill relating to copyright compulsory licensing reform; to the Committee on the Judiciary.

By Mr. KOHL:

S. 3343. A bill to amend the Social Security Act to require States to reinvest in State and local child support collection efforts any reimbursements and incentive payments received under part D of title IV, and for other purposes; to the Committee on Finance.

By Mr. ADAMS:

S. 3344. A bill to amend the Job Training Partnership Act to establish a job training program for mature or older workers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER (for himself and Mr. MOYNIHAN):

S. 3345. A bill to designate the Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, as the "Robert C. Byrd Locks and Dam"; read the first time.

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. NUNN, Mr. GLENN, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. SIMPSON, Mr. THURMOND, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. KOHL, Mr. DOLE, Mr. SPECTER, and Mr. WELLSTONE):

S. 3346. A bill to establish a health registry of veterans of the Persian Gulf War, to authorize health examinations of such veterans, to coordinate and improve research on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf war, and for other purposes.

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. 3347. A bill to establish within the Office of the Secretary of the Department of the Interior a permanent Working Group on Indian Water Rights Settlements; to the Select Committee on Indian Affairs.

By Mr. HATCH (for himself, Mr. STEVENS, Mr. MURKOWSKI, Mr. SMITH, and Mr. WALLOP):

S. 3348. A bill to improve the availability of quality, affordable health care for all Americans, and for other purposes; to the Committee on Finance.

By Mr. BIDEN (for himself and Mr. THURMOND):

S. 3349. A bill entitled the "Justice Improvements Act."; read the first time.

By Mr. ADAMS:

S. 3350. A bill to amend the Public Health Service Act and the Social Security Act to improve the organ procurement and transplantation process, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BREAUX:

S. 3351. A bill to amend the Internal Revenue Code of 1986 to defer estate taxes on family farms and businesses; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 3352. A bill to create an environmental innovation research program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. 3353. A bill to amend section 848 of the Internal Revenue Code of 1986 to provide that certain noncancellable accident and health insurance policies of small insurance companies be treated in the same manner as group life insurance contracts; to the Committee on Finance.

By Mr. WALLOP:

S. 3354. A bill entitled "The Private Sector Whistleblowers' Protection Act of 1992"; to the Committee on Governmental Affairs.

S. 3355. A bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis; to the Committee on Governmental Affairs.

By Mr. DANFORTH:

S. 3356. A bill to amend the Civil Rights Act of 1964 to encourage mediation of charges filed under title VII of such Act and the Americans with Disabilities Act of 1990, to amend the Revised Statutes to encourage mediation of complaints filed under section 1977 of the Revised Statutes, and to decrease resort to the courts; to the Committee on Labor and Human Resources.

By Mr. DANFORTH:

S. 3357. A bill to abolish punitive damages in certain cases and provide in their place procedures and substantive standards for assessment of punitive fines; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. 3358. A bill to limit the amount of funds that may be used for administrative expenses under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, to conduct a study regarding the share of Federal funds used for administrative expenses by State and local recipients under certain Federal education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN:

S. 3359. A bill to direct the Secretary of Defense, the Secretary of Commerce, and others to select a private consortium to establish and administer a national network of advanced technology manufacturing application and education centers, and for other purposes; to the Committee on Armed Services.

By Mr. LIEBERMAN (for himself and Mr. PRYOR):

S. 3360. A bill to provide for a program for the diversification of the activities of certain Federal laboratories; to the Committee on Armed Services.

By Mr. MOYNIHAN:

S. 3361. A bill to amend title IV of the Social Security Act to improve access to health insurance coverage through child support enforcement procedures, and for other purposes; to the Committee on Finance.

By Mr. NICKLES:

S.J. Res. 346. Joint resolution to provide for the payment of fair and equitable consideration in satisfaction of the claims of certain Kaw Indians; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM (for herself, Mr. DECONCINI, and Mr. SIMON):

S. Res. 355. A resolution expressing the sense of the Senate regarding the democratic elections in Angola, to the Committee on Foreign Relations.

By Mr. WOFFORD (for himself, Mr. SPECTER, and Mr. WIRTH):

S. Res. 356. A resolution to establish a John Heinz Fellowship Program; considered and agreed to.

By Mr. WALLOP:

S. Con. Res. 141. A concurrent resolution to provide that each committee of the Congress that reports employee benefit legislation shall secure an objective analysis of the impact of such legislation on employment and international competitiveness, and include such analysis in the committee report; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS:

S. 3316. A bill to amend the Employee Retirement Income Security Act of 1974 to provide for the treatment of settlement agreements reached with the Pension Benefit Guaranty Corporation; to the Committee on Labor and Human Resources.

PENSION BENEFIT GUARANTY CORPORATION LEASE SETTLEMENTS ACT OF 1992

• Mr. JEFFORDS. Mr. President, I rise to offer a bill to amend the Employee Retirement Income Security Act. It will solidify a recent settlement made by the government agency that insures defined benefit pension plans, the Pension Benefit Guaranty Corporation [PBGC], and Eastern Airlines. Since October 1990, Eastern Airlines has owed the PBGC nearly 700 million dollars in unpaid pension plan contributions. Recently, the PBGC and Eastern Airlines have come to a settlement of PBGC's claim on Eastern's pension liabilities. The agreement has been approved by the court and Eastern's other creditors are not opposed to it.

The settlement will bolster the retirement security of over 60,000 Eastern Airlines pensioners. It will also protect the PBGC, the agency that insures defined benefit pensions, from further financial ruin.

However, due to the novelty of the arrangement, some legal questions remain outstanding. My bill would resolve this issue by specifically permitting in law, what has already been agreed to by the parties involved. It clarifies that the PBGC, which obtained 15 planes in the settlement, can lease back these planes to Eastern Airline's parent company, Continental Airlines.

This will enable the PBGC to obtain the maximum amount it can from Continental Airlines. The more money the PBGC can obtain for Eastern's pension debt, the less money that will have to be obtained through raising PBGC premiums paid by other plan sponsors. PBGC premiums have already risen 700% over the last 10 years. Therefore, I urge my colleagues to support this bill.•

By Mr. BROWN:

S. 3319. A bill to reduce the legislative branch budget by 50 percent; to the Committee on Appropriations.

S. 3320. A bill to eliminate the price support and production adjustment programs for milk, cotton, rice, honey, and tobacco, and for other purposes; to the Committee on Appropriations.

S. 3321. A bill to control the growth of mandatory spending; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

S. 3322. A bill to reduce the Federal budget deficit by eliminating entitlement and other mandatory payments by the United States to wealthy individuals and large corporations; to the Committee on Governmental Affairs.

S. 3323. A bill to prohibit the use of funds for continued United States membership in, and payments to, certain international commodity organizations; to the Committee on Commerce, Science, and Transportation.

S. 3324. A bill to reduce the Federal subsidies for Amtrak and to require Amtrak to eliminate unprofitable routes; to the Committee on Commerce, Science, and Transportation.

DEFICIT REDUCTION LEGISLATION

• Mr. BROWN. Mr. President, today I am introducing six bills to control spending and reduce the Federal budget deficit by more than $260 billion over the next 5 years.

Never in the history of our country have we been so deeply indebted. We are the biggest debtor nation in the world. Our gross national debt tops $4 trillion.

Interest on the public debt is now the third biggest expense in the Federal budget. Net interest payments on the debt total more than $200 billion a year. That's about $550 million a day.

The deficit is like a blackhole in space. It sucks up the wealth of our Nation and saps our economic strength. It threatens the well-being of our children and our children's children.

The cause of our budget deficit is runaway, wasteful, and unnecessary government spending. Americans are not undertaxed. Since 1980, revenues to the Federal Treasury have increased 113 percent, but Federal spending has increased 146 percent.

Controlling spending is the answer to reducing the deficit. These six proposals would, collectively, reduce Federal spending by more than $260 billion over 5 years.

Cut Congress' budget. The best place to begin is right here in Congress. The first bill would make a 50-percent across-the-board reduction in funding for the legislative branch. This saves $6 billion over 5 years.

Congress' budget outlays increased from $1.367 billion in 1982 to $2.760 billion in 1992, a 102-percent increase.

Our Nation's population has increased only 7 percent over the last 20 years, but congressional staff have increased 43 percent. Congress has the largest staff of any deliberative body in the world—10 times larger than that of Great Britain, Germany, Canada, and Japan.

In 1981, Members of Congress were paid $60,662, compared to $129,500 in 1992, a 113-percent increase. Annual salary, benefits, staff, and other spending on Members of Congress work out to about $5 million per Senator and about $2 million for each Representative. Congress' own personal police force on Capitol Hill has 1,200 police officers, nearly the size of the San Diego, CA Police Force.

Last week we took a small step toward reining in Congress' excessive budget by agreeing to an amendment offered by Senator SEYMOUR and myself to cut legislative branch appropriations 5 percent in fiscal year 1993, 10 percent in fiscal year 1994, and 15 percent in fiscal year 1995 from the fiscal year 1992 level. We also agreed to end abusive slush funds which have allowed tens of millions of dollars in unspent, excess appropriations to be carried over from year to year in Congress' own budget and to be used indiscriminately with no public accountability. Money now in the slush funds would be returned to the Treasury to reduce the deficit.

Unfortunately, this amendment probably will not survive the conference committee. This is unfortunate. We cannot expect others to support reducing spending if we are unwilling to set an example ourselves.

End farm subsidies for dairy, cotton, rice, honey, and tobacco. The second bill would eliminate Federal farm subsidies for dairy, cotton, rice, honey, and tobacco commodities. Farm subsidies encourage the production of excessive surpluses, impede access to foreign markets, and erode the ability of our farmers to compete.

The Government has become the surrogate market for many subsidized commodities. In some years, for example, the Government honey ended up on grocery store shelves in its place.

Ironically, farmers who produce commodities not covered by Federal farm programs enjoy a better return on their investment than farmers who participate in the programs.

Then, or course, there is the incredibly schizophrenic policy of our Government which has spent hundreds of millions of dollars to both promote the production of tobacco and the consumption of its products, while simultaneously funding research and health care to cure and treat the diseases smoking causes.

Our farmers are among the most efficient and productive in the world. It is time for the Government to get out of agriculture, to allow our producers to realize their full potential, and to save taxpayers' hard earned dollars. This bill would save $10 billion over 5 years.

Limit increases in mandatory spending to cost of living and new beneficiaries. The third bill is aimed at non-Social Security mandatory spending. Mandatory spending, excluding interest on the debt, is projected to grow $650 billion in fiscal year 1992 to almost $1 trillion per year by fiscal year 1997. Mandatory spending is now more than twice the size of all defense-related spending. We will not be able to reduce the budget deficit significantly until we control the growth of mandatory spending. To ignore mandatory spending would be to ignore 50 cents out of every dollar the Government spends.

My bill would limit increases in mandatory spending to adjustments to take into account increased beneficiaries and cost of living. According to the Congressional Budget Office, this proposal would save $184 billion over the next 5 years.

End Federal subsidies to the wealthy. The fourth bill I am introducing would end Federal subsidies to the wealthy. It is aimed at non-Social Security entitlement spending. The proposal would end Federal subsidies to individuals with annual adjusted income over $120,000 and corporations with annual receipts over $5 million.

Most entitlement programs were intended to help the needy, not to subsidize the rich. However, even in programs where eligibility to receive assistance is based on need, there are wealthy individuals and corporations receiving Government payments. For example, the Congressional Budget Office has estimated that in fiscal year 1991 individuals with incomes above $150,000 per year received $50 million in food stamps, Aid to Families with Dependent Children, and supplemental security income. Those with incomes above $125,000 received $65 million from these programs. This is wrong. The bill would save approximately $53 billion over 5 years.

End U.S. aid to international anticonsumer commodity groups. The fifth bill would end U.S. financial contributions to those international commodity organizations which are anticonsumer.

Certain international commodity organizations which are intended to stabilize commodity prices are not in the best interest of American consumers. More often than not, these groups, by removing a product from the influence of the marketplace, support prices at inappropriately higher levels than they would otherwise be in a free market.

In effect, these international commodity organizations levy a hidden tax on consumers in the form of excess costs which could total hundreds of millions of dollars. The bill provides that no funds may be appropriated to continue U.S. membership in, or make payments to, four groups: the International Coffee, Jute, Natural Rubber, and Tropical Timber Organizations. This would save about $7.5 million.

The bill also requires the Secretary of State to review all international commodity organizations to which the United States is a party and to submit a plan to withdraw from those organizations that set commodity prices which are artificially higher for American consumers than they would be in a free market and which result in restraining the supply and availability of products to American consumers.

Reduce subsidies to AMTRAK. The sixth bill I am introducing today would cut Federal subsidies to AMTRAK. Since 1971, AMTRAK has received about $15 billion in taxpayer subsidies even though the rail carrier accounts for less than 1 percent of total intercity rail mileage nationally.

The Federal subsidy to AMTRAK costs U.S. taxpayers $25 per passenger trip, or about 10 cents per passenger mile, while Federal subsidies average about 0.1 cent per mile for bus, automobile, and airline modes of transportation.

The bill requires Federal subsidies to AMTRAK to be reduced by not less than $2.5 billion over the next 5 years. It also requires the elimination of unprofitable routes.

I offer these six proposals, which would reduce spending by more than $260 billion over 5 years, as a headstart on attacking the deficit next year and will reintroduce them when the new Congress convenes in January.●

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. SIMON, Mr. DECONCINI, Mr. WELLSTONE, Mr. DODD, and Mr. SEYMOUR):

S. 3328. A bill to provide for necessary medical care for former civilian prisoners of war; to the Committee on Labor and Human Resources.

CIVILIAN EX-PRISONERS OF WAR HEALTH AND DISABILITY BENEFITS ACT OF 1992

Mr. KENNEDY. Mr. President, I rise today to introduce legislation to address the health and disability needs of American civilian ex-prisoners of war.

In 1948, Congress passed the War Claims Act which extended health, disability and detention benefits to American civilians interned by the Japanese during World War II. Most of these individuals were private citizens residing in the Philippines at the outbreak of the war. The act created a War Claims Commission to administer benefits to these individuals—a function that was eventually taken over by the Office of Worker's Compensation Programs in the Department of Labor.

At the time the War Claims Act was enacted, the needs of other POW groups had long since been addressed. Former military POW's had access to well-established health and disability benefits through the Veterans Administration. Compensation programs for Federal employees interned in wartime prison camps were authorized in 1916 by amendments to the Federal Employees Compensation Act, while similar benefits for the employees of independent Federal contractors were established in 1942 with the enactment of the Defense Base Act.

Like these other ex-POW's, former civilian internees can suffer from a number of physical and psychological conditions associated with their internment. Among the most common internment-related conditions are gum disease, or periodontosis, which can be caused by poor diet, and post-traumatic stress syndrome.

Despite the importance of the 1948 law in securing health and disability benefits for civilian ex-POW's, several problems are associated with this law. First, the Act covers only civilian ex-POW's who were interned in the Philippines and other Japanese-controlled territories during World War II. According to the Civilian Ex-POW Committee, this provision excludes 2,900 persons who were detained during World War II in Europe and non-U.S. territories in Asia. Moreover, the exclusion denies coverage to approximately 100 American civilians detained in Korea and Vietnam during the past conflicts in those two regions.

Second, the process for filing claims under the program is burdensome and inconsistent with the more streamlined approach used to administer health and disability benefits to other categories of ex-POW's. The Department of Veterans Affairs automatically approves claims related to presumptive conditions for military ex-POW's—conditions widely recognized as having been caused or exacerbated by periods of internment. But former civilian POW's must document that an injury or medical condition is related to their detainment, no matter how common the condition.

Finally, disability benefits established by the War Claims Act have been artificially constrained and eroded by 45 years of inflation. Under current law, the level of disability benefits is set at an amount equal to a portion of the national average weekly wage in 1948. The benefit level itself has been updated since 1948 to account for the increases in both wages and the cost of living. In addition, such benefits are capped at a lifetime maximum of $7,500. by contrast, the Federal Employees Compensation Act [FECA], the law covering civilian ex-POW's who were Federal workers or Federal contractors at the time of their capture, imposes no such limit on a claimant's total disability compensation. In addition, that law automatically adjusts disability benefit levels for increases in the cost of living.

The Civilian Ex-Prisoner of War Health and Disability Benefits Act of 1992 corrects these deficiencies. Under this bill all civilian ex-POW's from World War II and the Korean and Vietnam conflicts would be eligible to receive health and disability benefits. This eligibility extension also applies to civilians who went into hiding to avoid becoming prisoners of war during those conflicts.

As for the determination of benefits eligibility, this bill would extend to civilian POW's the same "presumptive" conditions used by the VA to evaluate claims filed by former military POW's.

Benefit levels would also be updated by the measures. Specifically, the bill would peg weekly disability payments to the levels established by FECA, thereby creating parity with ex-POW's who were Federal workers or employees of Federal contractors when they were interned.

I am pleased to be joined today by six of my colleagues in introducing this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civilian Ex-Prisoner of War and Health and Disability Benefits Act of 1992".

SEC. 2. MEDICAL CARE AND DISABILITY BENEFITS.

(a) ELIGIBILITY.—A former civilian prisoner of war is entitled to receive necessary medical care and disability benefits for any injury or disability resulting from the period of interment or hiding. Any presumptive medical and dental condition related to a period of interment provided for former military prisoners of war under section 1112(b) of title 38, United States Code, shall be extended to former civilian prisoners of war and shall be considered to have been incurred in or aggravated by such period of interment or hiding without regard to the absence of any record of such injury.

(b) PAYMENT OF BENEFITS.—Prompt monetary payment or reimbursement shall be facilitated for reasonable and necessary expenditures for all medical treatment, including rehabilitation, mental health services, and dental care, provided for under this section for which a claim and any documentation determined necessary for by the Secretary of Labor has been filed with the Secretary of Labor.

(c) WAIVER OF LIMITATIONS.—There shall be no limitation on the total medical or disability benefits which a person may receive for any injury or disability resulting from the period of interment or hiding.

(d) RATE OF COMPENSATION.—Compensation for disability shall be equal to the weekly equivalent of the minimum monthly rate of compensation payable for a total disability covered by chapter 81 of title 5, United States Code, as computed under section 8112(a) of such title.

(e) CREDITING BENEFITS UNDER THE SOCIAL SECURITY ACT.—The benefits provided by this section to any individual shall be reduced to the extent such benefits are provided under title XVIII of the Social Security Act, or any private insurance, for the same medical condition or disability.

SEC. 3. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Labor shall establish an advisory committee to be known as the Former Civilian Prisoner of War Committee (hereafter in this section referred to as the "advisory committee"). The members of the advisory committee shall be appointed by the Secretary of Labor from the general public and shall include appropriate representatives of former civilian prisoners of war and individuals who are recognized authorities in fields pertinent to the injuries and disabilities prevalent among former civilian prisoners of war.

(b) AUTHORITY OF THE SECRETARY OF LABOR.—The Secretary of Labor shall determine the number, terms of service, and pay and allowances of members of the advisory committee. The Secretary of Labor shall consult with and seek the advice of the advisory committee with respect to the administration of benefits under this Act.

(c) REPORT.—Not later than January 1, 1994, the Secretary of Labor shall submit to Congress a report on the programs and activities of the Department of Labor that pertain to those former civilian prisoners of war. The Secretary of Labor shall include in the report—

(A) an assessment of the needs of such civilian prisoners of war with respect to health and disability benefits;

(B) a review of the programs and activities of the OWCP designed to meet such needs; and

(C) such recommendations as the advisory committee considers to be appropriate.

(d) INFORMATION ON BENEFITS.—Not later than 90 days after the date of enactment of this Act, and at appropriate times thereafter, the Secretary of Labor shall seek out former civilian prisoners of war and provide them with information regarding applicable changes in law, regulations, and services to which such citizens are entitled by virtue of the amendments made by this Act.

SEC. 4. REGULATIONS.

The Secretary of Labor shall prescribe regulations as may be necessary to ensure that benefits provided to former civilian prisoners of war under this Act are coordinated with and do not duplicate any benefits provided such persons under the War Claims Act.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "former civilian prisoner of war" means a person determined by the De-

partment of Labor, in consultation with the Department of State and the Department of Defense, as being someone who, being then a citizen of the United States was forcibly interned by an enemy government or its agents, or a hostile force, or who went into hiding in order to avoid capture by such government, its agents, or hostile force, during a period of war, or other period for at least 30 days, including those interned or who went into hiding during the Asian-Pacific Theater or in the European Theater of World War II during the period beginning September 1, 1939, and ending December 31, 1946, in Korea during the period beginning June 25, 1950, and ending July 1, 1955, or in Vietnam during the period beginning February 28, 1961, and ending on the date designated by the President by Executive order as the date of termination of the Vietnam conflict, except—

(A) a person who at any time voluntarily gave aid to, collaborated with, or in any manner served such government, or

(B) a person who at the time of his capture or entrance into hiding was—

(i) a person within the purview of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916, as amended, and as extended; or

(ii) a person within the purview of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended; or

(iii) a regularly appointed, enrolled, enlisted, or inducted member of any military or naval force; and

(2) The term "hostile force" means any nation, or any national thereof, or any other person serving a foreign nation—

(A) engaged in war against the United States or any of its allies; or

(B) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies.

By Mr. ROTH (for himself, Mr. DOLE, Mr. BOREN, Mr. MOYNIHAN, Mr. COHEN, and Mr. LIEBERMAN):

S. 3329. A bill to enhance the competitiveness of the United States in the global economy through the establishment of a Department of Trade as an executive department of the Government, and for other purposes; to the Committee on Governmental Affairs.

TRADE REORGANIZATION ACT OF 1992

Mr. ROTH. Mr. President, in April I introduced a bill aimed at broadly reforming the Federal Government. The time has come to take a serious look at consolidating departments and programs and I am confident that ways can be found to make our Federal Government more effective, more efficient, and more responsive to the needs of the American people. As the President recently announced in his speech before the Detroit Economic Club, "At a time when companies across the country have been restructuring, increasing efficiency, all to prepare for the economic competition of tomorrow, the Federal Government faces an obligation to do the same."

Consistent with this approach, I am today introducing a bill to establish a Cabinet-level Department of Trade. While there are many areas of our Government that call for reform, none is more urgent or important than trade. Consolidation of our Government trade functions will achieve several goals. First, by streamlining our Government's trade functions, the United States will finally be able to speak with a single, strong voice on trade matters. Second, a new department dedicated to trade will expand our exports by giving American firms and workers the tools necessary to compete and win in international competition. Finally, by enhancing our ability to compete in the global economy, a Cabinet-level Department of Trade will create new American jobs.

Mr. President, a Trade Department is by no means a new idea. I introduced legislation in 1983 and again in 1987 to create such a department. Other Members of Congress, both in the House and in the Senate, have also advocated various models of trade reorganization during the past decade. But I would say to you today that although the idea of a Cabinet-level Trade Department is not a new idea, it is an idea whose time has come.

The climate has changed and even our most staid American companies are reorganizing and restructuring for the future. Just as America prevailed in the cold war, we must continue to lead the world in the global economy of the next century. Strong trade means a strong America. A carefully crafted, full-bore trade organization promises to provide us with a trade infrastructure that will be a source of strength and reliability for years to come. I agree with former Secretary of State James A Baker III that "we need to streamline and overhaul the business of government so public servants will help the private sector to be an engine of opportunity, competition, and achievement."

For those who would contend that organizational change will not bring substantive change, I must strongly disagree. In the trade war in which we are engaged, we are losing ground because of our divided trade leadership. As it stands now, our trade interests have no central authority to turn to for straight, dependable, consistent information on trade policy, and our trade competitors are free to "shop the system" for the best deal for their particular interests. American simply can no longer afford such a scattershot approach to trade. In "A Japan That Can Say No," Shintaro Ishihara writes:

> Relations are very poor between the Department of Commerce and the U.S. Trade Representative. [The USTR] and [the Secretary of Commerce] quarreled like dogs and monkeys, they never got along and were always bad mouthing each other.

Lack of clear trade leadership creates confusion and allows our economic competitors to use divide-and-conquer tactics to influence the trade policymaking process. If we really want to restake our claim in the international marketplace, we must get organized and project a strong, resolute trade presence to the world that will command respect and serve our domestic trade interests. As I have heard Senator MOYNIHAN say before: "Organization isn't everything, but disorganization isn't anything." Mr. President, we need to put trade at the very top of the organizational structure of our Government.

HISTORY

These sentiments have been echoed repeatedly over the last decade by our Government's trade leaders.

The late Malcolm Baldrige, who as many of you know was a great proponent of trade reorganization, testified before the Committee on Governmental Affairs in 1983 that "our national interest in trade deserves the most effective organization we can design for the challenges just ahead. Those that are carrying out policy should be in the same Department as those making it. * * * If we are to meet the challenges of foreign competition and maintain and enhance the multilateral framework for trade, we must take the institutional steps that will be necessary to meet those challenges. Trade policy formulation, negotiation, regulation, and promotion are closely intertwined. They cannot efficiently or effectively be artificially separated in different Cabinet-level organizations." Secretary Baldrige concluded: "We need a Cabinet-level Department that can act to assure that the U.S. economy gets maximum benefit from international trade."

The U.S. Trade Representative during Malcolm Baldrige's tenure as Commerce Secretary, former Senator William Brock, emphasized that a unified trade department would "give our Nation the single voice for trade that will permit this President or any President to develop and implement a coherent and aggressive approach to trade that is so essential to our future."

Similarly, former Trade Representative and Ambassador to Russia Robert Strauss testified before the Committee on Governmental Affairs in 1983 that the establishment of a Department of Trade "could provide us with one single voice to speak on trade matters" and "would give trade issues a higher visibility within our Government and send a signal to our partners that trade policy will no longer be relegated to secondary status." Ambassador Strauss openly worried that other nations, seeing the fragmented responsibilities for trade in the U.S. Government, would fee that "we do not take trade issues seriously. One of the strengths of the proposal is its potential for longer-range policy planning, particularly with regard to an aggressive export policy."

Finally, shortly before his appointment as Secretary of Commerce, William Verity testified before the Governmental Affairs Committee that the creation of a Cabinet-level Department of Trade would "elevate trade to a top national priority" and that he fully supported the idea.

There is a long and diverse history of prominent support favoring the establishment of a Cabinet-level Department of Trade. And what was true in the past is even more true today. While I understand that it is not easy to abandon the status quo, we should heed the seasoned advice of our top trade officials and get organized for the future.

STRUCTURE

The new Department will consolidate our principal executive branch trade functions and will incorporate the related economic affairs and business elements of the existing Commerce Department. As such, the International Trade Administration, the functions of the Under Secretary for Economic Affairs except for the Bureau of the Census, the U.S. Travel and Tourism Administration and the Bureau of Export Administration will move from the Department of Commerce to provide analytical and policy implementation support for the new Department. The Export-Import Bank, the Overseas Private Investment Corporation, the U.S. Trade and Development Program and the Bureau of Private Enterprise of AID will also be transferred to the new Department.

The Department of Trade will comprise a work force of less than 4,000, making it the leanest Department in the U.S. Government. But while the new Department promises to be lean, it will also be muscular. In this regard, the bill directs the new Secretary of Trade to submit a report to Congress and the President containing recommendations for the establishment of a Professional Trade Service Corps to ensure that our trade personnel are of the highest caliber.

Under the reorganization, the remaining elements of Commerce will be reassigned to other areas of the Government resulting in no net gain in the number of Cabinet departments. For example, the Technology Administration and the National Oceanic and Atmospheric Administration will become independent agencies under the reorganization. The Technology Administration will also gain the added resources of the National Telecommunications and Information Administration and the Patent and Trademark Office. Finally, the Bureau of the Census will transfer to the Department of Labor and the Minority Business Development Agency will move to the Small Business Administration.

LEADERSHIP

Under my trade reorganization legislation, the U.S. Trade Representative will become the new Secretary of Trade and will continue to be responsible for trade policy, coordination and negotiation. Such an approach reflects the sensible principle that in restructuring Government, we should start with organizations and processes that work. And the USTR does work. But it can also work better. By elevating the USTR to the Secretary level and by consolidating trade leadership in one office—that of the Secretary of Trade—there should no longer be any question as to who is boss when it comes to matters affecting U.S. trade interests.

Moreover, from their newly elevated vantage point within the Secretary's office, our trade representatives will be able to draw upon the integrated resources of the Department of Trade to carry out their trade negotiation and policymaking responsibilities. As it stands now, the USTR must draw on the resources of the Commerce Department to get its job done. The small staff at USTR is just not sufficient to handle all of the detailed work required for aggressive 301 cases or for increasingly complex negotiations such as NAFTA and the Uruguay round. Under my trade reorganization proposal, American businesses will benefit from a Trade Department second to none. For the first time in the history of the United States, a single Department dedicated to trade will be responsible for both policymaking and policy implementation.

TRADE POLICY AND ANALYSIS

The legislation establishes a new Bureau of Trade Policy and Analysis to provide analytical and policy support to the Secretary of Trade. While our trade agenda has expanded enormously over the past decade, our ability to meet new needs has not. The future areas of major trade negotiation will be in the areas such as competition policy and the environment. The issues are no longer just tariffs and typical nontariff barriers, but are more fundamental issues about the way in which major market economies are structured and organized and how they affect trade patterns. There are also issues related to the growing regionalism in the world economy and how that will affect the evolution of our trade system as we know it.

Clearly, addressing these and other crucial trade issues requires additional expertise and resources as USTR beyond a few more staff. One only has to look at the number of trade negotiations we have had with Japan and the number of USTR officials staffing them. Amazingly, there are only five professional staff in the USTR's Japan and China office, and one of them focuses exclusively on China. Of course the USTR can ask Commerce to handle the detailed tasks, but USTR has no management control over the results. This kind of management inefficiency stifles creativity and hampers quality performance—elements that are increasingly important as we seek to break new ground in our international trade agreements and in the implementation of domestic trade laws.

That is one very important reason why this legislation takes the two components within the Commerce Department now responsible for assisting the USTR in bilateral and multilateral trade negotiations—the International Economic Policy and Trade Development offices—and places them under the leadership of the new Secretary of Trade. These two components, in addition to the Office of Economic Analysis, will comprise the Bureau of Trade Policy and Analysis. The Bureau will ensure that our trade negotiators have the organizational support they deserve while providing American business with a central point of contact within the Department.

TRADE LAWS

Second, the United States must do a better job of monitoring and enforcing its trade agreements. The Uruguay round itself, if concluded successfully, will require an enormous amount of close attention and monitoring to ensure that our trading partners fulfill their obligations under the agreement. There needs to be a more focused effort aimed at enforcing U.S. trade laws and monitoring existing agreements to ensure that our businesses are getting a fair shake. That is why the legislation that I am introducing today combines the forces of both the Export and Import Administrations in a new Bureau of Trade Administration designed to ensure that all our trade agreements and laws are enforced to their fullest extent.

EXPORT PROMOTION

Third, and perhaps most importantly, we must consolidate our Government's export promotion programs. As in other areas of trade, our export promotion functions are dispersed throughout the Government. What we need is a national export vision. A new Bureau of Export Promotion will increase our ability to compete abroad by combining our trade marketing and financing arms under one roof. Although the U.S. and Foreign Commercial Service has made significant improvements in our Government's export promotion functions, we can still do much more. As it stands now, only one-third of our manufacturing companies are exporting. This legislation brings together five components essential to enhancing our export promotion efforts: the U.S. and Foreign Commercial Service, the Trade and Development Program, the Export-Import Bank, the Overseas Private Investment Corporation [OPIC] and the U.S. Travel and Tourism Administration.

The centerpiece of the new Bureau of Export Promotion—the U.S. and Foreign Commercial Service—will be beefed up in two important respects. First, the Administrator of the U.S.

Travel and Tourism Administration will report to the Director General of the U.S. and Foreign Commercial Service and will continue to be responsible for conducting programs designed to increase U.S. export earnings through travel and tourism. Second, the Trade and Development Program, currently associated with the Agency for International Development, will also transfer to the Commercial Service. That program supports feasibility studies by U.S. firms and is intended to win substantial follow-up contracts for project implementation, again boosting exports.

It is also crucial that we provide U.S. businesses with the financial backing to compete in world markets. Under the reorganization, the Under Secretary of Trade for Export Promotion will become the Chairman of both Ex-Im and OPIC. Ex-Im will continue to provide direct credits, guarantees, and insurance, plus intermediary loans to commercial banks and will work closely with the U.S. and Foreign Commercial Service in beefing up exports. Similarly, OPIC will operate financial services and political risk insurance to encourage U.S. investment in developing countries.

I should point out that care has been taken not to disrupt aspects of our current trade organization that have performed well in advancing our trade interests. Accordingly, the legislation does not propose to diminish the role of the Foreign Agricultural Service, the State Department, or the Treasury in matters affecting our international trade. But we do want to ensure that these agencies are working together. Because the Government's export promotion programs are not funded based on a Government-wide strategy or set of priorities, it is unclear whether export promotion resources are being channeled into areas with the greatest potential return. Consequently, taxpayers do not have reasonable assurances that Government's resources are being effectively used to emphasize sectors and programs with the highest potential returns.

In an effort to rationalize our Government's export promotion efforts, this legislation also directs the new Secretary of Trade, as Chairman of the Trade Promotion Coordinating Committee, to submit a coordinated annual appropriations request for trade promotion functions of all agencies represented on the Committee consistent with their relative strategic importance and in accordance with a national export strategy put forth by the Committee. The idea is to increase overall U.S. exports. Quite simply, increased exports mean more jobs for more Americans. As I have said many times before, the number one issue facing our Nation is the creation of new jobs. U.S. exports have accounted for 70 percent of our economic growth since 1988, and today support the jobs of more than 7.5 million Americans. We must continue to expand our exports by giving American firms and workers the tools to compete and win in international competition.

CONCLUSION

The importance of our ability to compete in international markets is central to our future economic growth, our domestic welfare, and our national security. The world has fundamentally changed in recent years and one thing remains absolutely clear—our competitive posture in world markets will be a number one determinant of our national strength in years ahead. As the President has repeatedly stated, "The defining challenge of the 90's is to win the economic competition. To win the peace, we must be a military superpower, an economic superpower, and an export superpower."

There has never been a stronger case for trade reorganization than today. We simply cannot afford to wait any longer to restructure our trade forces. As the Republican leader stated earlier this year: "We have been debating trade reorganization for years. Let's stop debating and start reorganizing in a way that will give us a lean, mean governmental structure to attack our trade problem." As we near adjournment, I urge every one of my colleagues to give this proposal the serious consideration it deserves and to join with me in moving this bill through the new Congress and on to the President.

Mr. DOLE. Mr. President, I rise to join my colleague and friend Senator ROTH in introducing the Trade Reorganization Act of 1992. This Act coordinates the Federal Government's management of the myriad of trade departments and Federal export promotion and credit programs by creating a single Cabinet-level department dedicated to enhancing U.S. competitiveness abroad.

The end of the cold war and the fall of communism, are signals of a tomorrow defined by new challenges for America. Challenges not so much of military might, but of economic strength, stability, and prosperity.

America must face this new economic challenge with the same commitment, determination, and vigor that was the hallmark of our triumph over communism. Tomorrow's battlefield will be the international marketplace where Germany, Japan, Korea, and other economic superpowers will aggressively compete. The measure of a nation will shift from the size of its military arsenal to the range of its technological development, innovation, and productivity.

For America to prosper in this new global environment, business and Government must work cooperatively in a coordinated manner. For its part Government must: reduce the regulatory burden on business which undermines competitiveness; maintain stable economic policies that ensure investment capital is available and affordable; improve our education system so that an educated and highly skilled work force is ready to compete; and apply a balanced fiscal policy which lowers spending, keeps tax rates low and provides a clear and certain Tax Code on which to make long-term business decisions.

The reality is that the challenges of tomorrow are here today. We must begin now to focus on the measures necessary to remove impediments to business and encourage a new level of American competitiveness that will preserve and enhance America's economic security. The Trade Reorganization Act of 1992 provides that starting point.

Clearly the national interest and the economic security of the United States demand that the Federal Government actively promote and facilitate American exports. The importance of trade to our economy is evidenced by the extensive network of programs and services the Federal Government offers to aid American exporters. We know, for example, that approximately 24,000 jobs are created by every billion dollars in exports. Federal Government programs to help exporters identify possible market opportunities in foreign nations, provide financing, and help monitor current economic conditions in foreign nations will fall far short of their potential benefit if not administered properly. Unfortunately, the cohesiveness and coordination necessary to make these programs truly helpful to American business is lacking.

A single Department of Trade will ensure that U.S. business has the tools to combat the new economic challenges of tomorrow.

Failure to improve the trade apparatus of the Federal Government will impose a significant impediment to American businesses competing abroad. Failure to meet the new challenge of tomorrow will result in plant closings, economic deterioration at home, high unemployment, and ultimately the erosion of our own economic and national security.

The Trade Reorganization Act of 1992 would establish a new Department of Trade incorporating the critical functions performed by the U.S. Trade Representative and the International Trade Administration. In effect, the U.S. Trade Representative would become the new Secretary of Trade. The Department of Trade would integrate the trade and economic affairs components of the Commerce Department, Export-Import Bank, Overseas Private Investment Corporation, and the Bureaus of Private Enterprise and Trade and Development of the Agency for International Development.

The Trade Reorganization Act will not add to the bureaucracy of the Federal Government nor will it add to its overall size. Instead it takes a commonsense approach to trade administration by taking the Government's critical trade programs and putting them under the administration of a single department. The new Department of Trade will provide American businesses with one-stop shopping.

The nontrade agencies within the Department of Commerce would be relocated to other agencies and departments. For example, the Bureau of Census would move to the Department of Labor. The Office of National Oceans and Atmosphere would become an independent agency.

Perhaps the most advantageous aspect of creating a Department of Trade will be its ability to draw from other agencies, heretofore not actively involved or unaware of their potential contributions to promoting U.S. competitiveness through trade. For example, the end of the cold war means that our intelligence agencies must adjust to a new world dynamic not governed as sharply by the events of the cold war. The Secretary of Trade, as a Cabinet official, can work with our agencies and bring stronger presence to the negotiating table as we seek to open new markets and participate in the ongoing integration of economic interest in Europe and our own hemisphere.

The Senate Finance Committee has already begun the process of examining our trade administration. I commend Senators BENTSEN and PACKWOOD for having those hearings and I look forward to working with them next year to develop legislation that takes a bold and aggressive approach to trade expansion and trade competitiveness for the United States.

Mr. President, I commend Senator ROTH for his work on the Trade Reorganization Act of 1992. It is an important first step in getting the process moving. I look forward to working with him in the months ahead to fine-tune this legislation and develop an effective and comprehensive approach to the challenges of tomorrow.

Mr. BOREN. Mr. President, I would like to speak briefly on the bill introduced today by my friend Senator ROTH, the Trade Reorganization Act of 1992. I am glad to be a cosponsor of this legislation, which I believe holds the broad outlines for the reform needed in our trade-related agencies at the end of the cold war.

I have spoken often of the need to change our thinking to reflect the sweeping changes in the world over the last several years. This bill will change not only our thinking, but our institutions as well. It would establish a Department of Trade, built around the U.S. Trade Representative Office and the International Trade Administration. Within this new Cabinet agency, there will be bureaus for export promotion, trade administration, and trade policy and analysis. In short, Mr. President, all the sundry Government agencies today which deal with trade will now be put under one roof. That is good government. That is common sense.

Let me make clear, Mr. President, that this is a first step. I hope this bill will be the basis for a long overdue debate on the way the Federal Government responds to this new era of economic competition.

I will say that I have several concerns with the way the bill is constructed. For instance, I am concerned about the bill's creation of a Deputy Director of Central Intelligence for Economic and Trade Intelligence, to be confirmed by the Senate, and a CIA Economic and Trade Intelligence Directorate. Currently, Mr. President, there is one Deputy DCI, a general deputy, and I do not think it would be advisable to create a second position to focus just on one of the areas of concern to policymakers.

I am also wary of creating additional positions which are subject to Senate confirmation. The DCI, the existing Deputy DCI, and the CIA Inspector General are currently the only positions confirmed by the Senate. In general, Mr. President, I believe it is preferable to keep positions in the intelligence community nonpolitical, and to rely on congressional oversight and monitoring, rather than the confirmation process.

In addition, Mr. President, I am hopeful that when we reconsider this legislation next year, we will also take on a fundamental reform of our foreign aid programs. For too long, the Agency for International Development has ignored the concept that we can help ourselves while helping others.

The recent revelations about AID efforts to export American jobs to Third World countries is only the most egregious, and most recent, example of a foreign aid policy which is blind to the new imperatives of economic competitiveness. For several years now, Senators BENTSEN, BYRD, BAUCUS, and LIEBERMAN have joined me in changing the way we give foreign aid, to replace cash giveaways with credits that will establish long-term economic relationships. This concept of aid for trade must be part of the discussions next year on how to overhaul our governmental trade apparatus.

But Mr. President, notwithstanding these concerns, I believe this bill is significant, and I believe it will set the terms of the discussion that almost certainly will occur next year about the importance of trade development to our national security.

The world has changed, the threats have changed, and the challenges have changed. It is time, Mr. President, to ensure that our institutions change as well. The bill moves us boldly in that direction, and I hope it will receive full and serious consideration in the next Congress.

Mr. COHEN. Mr. President, I am pleased to join Senators ROTH, DOLE, and BOREN in introducing the Trade Reorganization Act of 1992. I think it is a very positive step toward improving U.S. trade policy and our efforts to promote exports.

Currently, Federal efforts to promote U.S. exports are spread among 10 different Federal agencies. The result has been an inefficient and overly bureaucratic system for trying to help U.S. businesses sell their wares overseas. A recent General Accounting Office [GAO] report found a serious lack of coordination among these agencies and recommended that U.S. export promotion programs be consolidated. The act we are introducing today will go a long way toward that end.

Streamlining the Federal bureaucracy will not only eliminate wasteful Government spending but it will greatly improve the service that small businesses receive from the Federal Government. In fact, the ultimate objective of this legislation should be to make whatever bureaucratic changes are necessary to improve our frontline efforts to help businesses—in very particular terms—to export their products. One-stop shopping for businesses looking for export assistance is essential.

Exports already account for about 10 percent of our gross domestic product [GDP]. This figure is sure to grow. As such, it is critical that the Federal Government provide concrete and timely assistance to U.S. small businesses. Many businesses have little or no experience in exporting. The Federal Government can play an invaluable role in helping these businesses compete in the world market. U.S. companies will not benefit from opening foreign markets unless they have the know-how to access these markets. Consolidating the Federal bureaucracy will enhance the Government's ability to give these businesses the knowledge they need.

While I support the general provisions of the Act, I have serious concerns with two provisions added after I had originally agreed to consponsor the bill. Section 263 appears to be intended to create a CIA Deputy Director for trade and economic matters analogous to the existing CIA Deputy Directors for Operations, intelligence, science and technology, planning and coordination, and administration.

This section would mandate in statute part of the structure of the CIA and politicize the proposed new deputy director by making appointees subject to Senate confirmation. Just a year ago, the Senate debated an amendment that raised these same issues. Senator GLENN proposed writing into statute the positions of Deputy Directors for intelligence and operations and subjecting them to Senate confirmation. As recommended by numerous past directors of Central Intelligence, the Senate rejected that amendment, 38-59. Voting against the amendment were the sponsor and several cosponsors of this bill.

A second concern regards section 262's requirement that "the National Security Adviser" appoint a "deputy national security adviser" to "advocate" for economic and trade issues. This poses the odd situation of creating a statutory deputy to a nonstatutory Assistant to the President, and giving that position a specific function in an organization whose structure and functions have quite properly been reserved solely to the President's discretion.

I wholeheartedly agree that our intelligence apparatus and the National Security Council should provide better support in defining and achieving of Nation's economic and trade objectives. Perhaps a CIA Deputy Director for economic and trade matters would be helpful in this regard. But we must be careful not to create more problems than we solve. I look forward to working with the Senators ROTH, DOLE, BOREN, and others in addressing these matters in the coming months.

By Mr. JEFFORDS:

S. 3331. A bill to provide for the establishment of a nationwide universal access health coverage program, and for other purposes; to the Committee on Finance.

MEDICORE HEALTH ACT OF 1992

Mr. JEFFORDS. Mr. President, I rise today to introduce the MediCORE Health Act of 1992.

As we draw near the end of what some have called the American Century, Americans can proudly reflect on a tumultuous 100 years during which our Nation served as the giver, and protector, of freedom throughout the world. We can take just pride that we, at a price terribly high in lives and treasure, turned aside totalitarianism and, in its place, offered freedom to untold millions throughout the world. Freedom flourishes today on planet Earth and for that we can take some credit.

But much remains to be done here at home. Sometimes, in our just eagerness to come to the aid of others, the needs of this Nation have been put aside. Today, I say that we must pledge that before we depart from the American Century, we must fulfill this Nation's founding promise of equality in a key area of our national life, that of health care. Let the writers of this century's history record that in the 20th century's closing years, the people of America, at long last, became free of the fear that they would, at some time in their lives, be without the means to provide themselves and their loved ones with health care. Let it be said that a just and caring government heeded the call of its just and courageous people and produced a fair and equitable nationwide health care system that guaranteed a basic, comprehensive, respectable level of health care to every American from birth to death.

It seems to me that once, in the far earlier days of this century, Americans generally believed that they all were getting a rather fair shake in dealing with illness and well-being. Certainly the current health care dilemma in our country encourages many of us, rightly or wrongly, to be nostalgic about our health care delivery system of, say, five or six decades ago.

That was as system, one reminisces, that recognized health care as the truly personal matter that we feel it still should be.

The centerpiece of that system was, of course, the family doctor—in my case a Doctor Hines of Rutland, VT. The Doc Hineses we all knew and loved, knew you and your relatives personally, had your medical records in their heads without having to ask, and were ready to offer well-meaning, friendly advice on subjects not limited to pills and prognosis. They seldom saw a day off and would come to your house any time of day or night. Their time constraints dictated honesty and they were in no way reluctant to say when they thought one's problems were "in your head" or that the medical treatment sought was unnecessary. A realistic view of life and death was a requirement for doctor and patient alike in that compassionate, workable health care system of yesteryear.

It was, really, a rationing system managed by the good doctors, with the understanding, the support, of their patients. They took cases in order of importance, the sickest got the most prompt attention. Most of the doctors charged according to the patient's ability to pay. Sometimes those without cash paid for medical attention with a fresh chicken or an apple pie. It was business done, care rendered, person to person.

Let's face it, for good or ill those times of simplicity are in most ways behind us. Today we find ourselves with a multiple payer employer-based system—or nonsystem—fraught with inequities and frustrations. Complex third party control has replaced the house call. The system that has evolved since the days of Doc Hines is in many ways wasteful and coldly impersonal. And the inflationary excesses it fosters absolutely compel reform. Societal, or public, concerns about health care delivery have replaced the once indispensible truly personal level of administering care through concern. The real challenge in addressing these societal issues is to maintain a modicum of the personal scale that characterized our family-doctor days of yore, and that we still cherish, while being realistic, even at times businesslike, in our compassion.

I have developed a plan which I believe will meet this challenge. It's the MediCORE Health Act of 1992. MediCORE is a nationwide, universal health care proposal meshing Federal standards and cost control, State flexibility in design and shared Federal/State financing. It is based on the premise that resources spent on health care in the United States today should be sufficient to guarantee affordable, accessible and adequate health care for all Americans.

Before explaining how MediCORE would work, I believe it is important to examine why I believe comprehensive, systemwide reform is imperative. In other words: how did we get here? Many factors have contributed to our fall from the innocence of earlier times. Obviously, key factors are the astounding advances in high technology medicine requiring high specialization and high cost hardware. We clearly lead the world in these advances. If technology were the only measure, I would have to say we have the best health care system in the world. And any new system must retain this advantage—for our sake and the sake of scientific progress in the world.

However good we have been at creating technology, we've proven far less adept at its equitable and cost-efficient distribution. Experience shows that whatever rational allocation of spending might have been expected of a theoretically free market, when it comes to high tech health care, the result is neither rational nor free. We spend too much money on the high technology of acute care at both ends of life, and neglect preventive and primary care. The guidelines we need for cost efficient and ethically appropriate distribution of our marvelous medical high tech are not inherent in our fragmented health care market system. Until we provide the market with these guidelines, our technology will continue to be a double-edged sword—offering brilliant scientific progress without corresponding social benefit.

But it would be too easy if high technology were the only problem. Our loss of health care innocence has also left us saddled with a complex and privileged employer-based multipayer insurance system.

It started with the shortage of labor resulting from World War II. Wage and price controls were instituted to stop employers from competing for workers on the basis of wage increases. But Yankee ingenuity was not to be denied and a loophole was created and, suddenly, fringe benefits were not considered to be wage increases. So employers offered, and unions sought, health care insurance as a fringe benefit. The IRS next determined that providing health care insurance for workers was a legitimate, deductible cost of doing business and, moreover, should not count as taxable income to workers. Finally the National Labor Relations Board decided in 1948 that health benefits were a legitimate subject of collective bargaining. There followed a proliferation of company sponsored health care plans and, lo and behold, the present hodgepodge structure of multipayer employer-based health insurance was imposed on our Nation—to grow out of control like topsy. Those historical events, not any reasoned analysis that employers are best placed to organize health benefits, brought about the current basic system for delivering health care to Americans. That system, of course, is not etched in the Bill of Rights.

Accident though they may be, the consequences of these historical events on the shaping of our health system have been profound and devastating. I wonder if a committee of geniuses, instructed to devise a truly inefficient and inequitable system, could have surpassed the present conundrum.

The current tax-driven health care system allows those corporate employers who can afford it, to provide to some very fortunate workers so-called cadillac or first dollar coverage, and then deduct 100 percent of the premiums as an ordinary business expense. The employees don't even pay any income tax on these healthy benefits. There is absolutely nothing in this structure to encourage the thrifty and prudent use of health care. The normal market force of employer or consumer economy is effectively blunted by Government subsidized employer-based largesse.

Everyone else finds themselves, by varying degrees, significantly disadvantaged by the Tax Code. Those who are self-employed can deduct just 25 percent of their health insurance costs as business expense. All others are allowed to deduct health insurance costs only in excess of 7.5 percent of adjusted gross income. Any further health care costs are paid for with after-tax dollars. The system discriminates against the relatively disadvantged and discourages these people from obtaining the care they need—producing a reverse of the desirable effect.

By its very nature, an employment-based insurance system leads to gaps in private health insurance coverage, crippling in terms of both the cost and personal pain inflicted. By most estimates there are at least 37 million un- or under-insured individuals in our country. The number is probably greater and is certainly growing. Small wonder. While those employed by large companies are well cared for; far, far more Americans work for smaller businesses that have huge problems in acquiring, for them, consistent, affordable, and adequate coverage. Eighty-five percent of our uninsured are employed, or are members of workers' families. Half the working uninsured are in businesses with less than 25 employees. More than 22 percent of the self-employed are, themselves, without health insurance and they, in turn, employ 32 percent of the work force. The unemployed, and those between jobs in these recessionary times, obviously receive no private sector coverage unless they can afford extravagant nongroup rates. People find themselves locked in to unwanted jobs, and unwilling to strike out on new ventures, due to the uncertainty of obtaining coverage elsewhere.

And there is a significant multiplier effect from each working individual not covered, or who loses coverage, in the employer-based system. This happens because many people derive their insurance secondhand from relatives. The entitlement to care of these dependents is determined by the fortunes of their relatives. Wives often derive coverage from husbands, husbands from wives, and all are subject to the vicissitudes of death, divorce, retirement and job loss or change. Children are hardest hit. The percentage of children without health insurance increased by 13 percent between 1983 and 1988 and continues to rise. The cycle of deprivation persists with 10 to 12 million children having no public or private health insurance. Billie Holliday's lyrics were never so true: "God bless the child that's got his own."

Of course the individuals who fall into these coverage cracks generally get the acute care they need, although usually very belatedly, very expensively playing catch-up health care too late in hospital emergency rooms. This so-called uncompensated care must be paid for by someone, so the costs are shifted in concealed and indirect ways to doctors and other providers first, next to employers and the insured, and ultimately to governments and the taxpayers. Our market mechanism may not be controlling costs, but it does appear efficient in shifting costs.

That shift has been most dramatic to the business community. During the last 2 years, health care costs to large- and medium-sized employers have risen more than 46 percent. If those rates of increase continue, and they will under an unreformed system, benefit costs will exceed salaries by the year 2005. That's right, the cost of health benefits will exceed all moneys paid in salaries to American workers. And keep in mind that every cent that business is forced to spend on providing health care drives up the cost of our goods and services. Just the management of employee health care benefits has become a complex and expensive matter that weighs heavily on our businesses as they struggle to compete. With Japan now spending a third less per capita or health care than the United States, it's easy to identify one of the secrets of their mysterious competitiveness. American jobs are clearly in jeopardy in the face of this unfair foreign competition.

Obviously, an employer-based health care system, even in prosperous times, by definition creates inherent access gaps. Therein are the poor and the elderly. Because private insurance doesn't even pretend to reach these people, Government has been called upon to help. Our system of health care no longer is basically private. It can best be described as quasi-public/quasi-private, with approximately 41 percent of costs being paid for by the Government, including State and local government expenditures.

The two major governmental programs designed to cover these gaps are, of course, Medicaid to assist the indigent and Medicare for senior citizens. Well-intentioned as they certainly were, these efforts to deal with targeted and isolated segments of the population not otherwise entitled to health care have worsened overall cost inflation and intensified further cost shifting back to the private insurance sector.

With the advent of Medicaid and Medicare in 1965 the third party payment system was complete, intended to complement the private sector. Unfortunately, the Government insurance plans incorporated the very same basic inflationary defects that already were rampant in the private sector. Provider-oriented reimbursement policies were instituted in Medicare, and often in State Medicaid programs, that awarded doctors and other providers with reimbursement on the basis of reasonable costs for services. These reimbursement policies encourage providers to furnish the maximum of services, necessary or not, to maximize income. Not that the targeted populations minded too much. The elderly and poor beneficiaries of the Government programs, just like their counterparts under most private insurance, had little or no incentive to question costs—and in fact demanded more and more services. In both the public and private sectors, acute care, with front-end coverage, was emphasized at the expense of long term, preventive, and primary care. Thus the fundamental quality of care received in the United States was jeopardized.

Massive inflation in public health care programs resulted and continues, outstripping, even, inflation in the private health care sector. In constant dollars, the cost of Medicaid in 1985 was more than three times what it was in 1970. Costs are expected to increase 38 percent between 1991 and 1993. The program has grown from 10.2 percent of State budgets to 13.6 percent since 1987, and has outpaced every other area of State budget outlays for 3 straight years. In spite of this, Medicaid, which was designed for the poor, is now rightly being criticized as a program that is first driving middle-income citizens into poverty before they qualify for assistance. Medicaid now covers only 40 percent of those below the poverty level. And poverty is increasing in our country.

In constant dollars, the cost of medicare in 1985 was four times what it was in 1970. The program has grown from 10 percent of national health expenditures in 1970 to 16.5 percent in 1989, and Medicare is now the Nation's largest healthcare finance item, costing $104.5 billion in fiscal year 1990, up from $34 billion in 1980. The Medicare Program is, of course, beset with an increasingly aging population. People 65 and over currently spend four times as much for health care as those under 65.

The reaction of Congress to these utilization and cost spirals has been predictable. Since the 1970's it has tried often to squeeze prices to providers and reduce or restrict services and benefits. Recently, for hospitals, this effort has been exemplified in the Medicare prospective payment reimbursement system for diagnostic related groups [DRG's]. Sadly, as with other narrowly targeted cost controls, the results have been merely to shift costs to activities not covered by controls. While I support the latest patch that has been applied-the RBRVS system to cover physician fees—it is no basic answer to Medicare's problems. Inflation goes unchecked and more and more concern is being raised about the quality of care in the Medicare Program. Although piecemeal controls might hold down rates of increases in one place, they have a nasty way of popping up somewhere else as providers fight to maintain their incomes.

The cost shift from these underfunded and overburdened government programs has, in turn, contributed to the sharply escalating premiums that businesses are paying—the very businesses meant to benefit most from our tax-driven system. While total health care expenditures soar, rising by 10.5 percent in 1990, business expenditures rise even faster, producing annual employer cost increases of 17 percent to 23 percent in recent years. Private employer health plan costs rose from an average of $1,645 per employer to $3,605 between 1984 and 1991, a 119-percent increase. In 1965, health expenditures were less than 9 percent of pretax corporate profits, while in 1986 they were almost 53 percent, and have stayed at about that level since. Health care costs are destroying U.S. companies' balance sheets. Small businesses have been proportionally hard hit, with premium hikes varying between 20 percent and 100 percent in 1989, for example.

These spiraling costs have caused big business to react in a number of ways. For one, more and more CEO's have joined in the quest for fundamental, comprehensive reforms that would alter the employer-based structure. Such corporate concern is driven by fears that health care costs are eroding American companies' ability to compete.

Second, more than half of America's biggest employers have switched from commercial insurers to self-insurance in an effort to avoid expensive State mandates and, hopefully, avoid excessive administrative costs of multipayer commercial insurance. Currently, 20 cents of every health care dollar are spent on advertising.

The move to self-insurance has been broad based with the percentage of self-insuring companies of 100 or more employees growing from 19 percent in 1979 to 49 percent in 1987. Some have attained limited cost relief, at least temporarily. One survey found that per employee cost among self-funded plans averaged $3,469 in 1991, compared with $3,736 among insured plans.

The result of the self-insurance movement, of course, has been further division of the health care market into haves and have nots. Smaller companies, which lack the resources to consider self-insurance, are struck with the unattractive options of increasingly regulated and expensive traditional insurance, or of no insurance at all.

Another common business attempt at cost control has been to increase employee cost sharing through combinations of increased deductibles and coinsurance, or the requiring of employees to pay more of their health insurance premiums. But cost sharing is already high in the private, just as in the public, sector and according to some estimates, older Americans are now paying as much for health as before Medicare. Small businesses, those that still provide health care, are most prone to the benefit-tightening trend. By dropping health care benefits, they are, of course, contributing to the growing pool of uninsured people in the United States and increasing burdens on larger companies through larger dependent coverage.

The reaction of labor to health care belt tightening has been strong and quick: in four-fifths of labor disputes in the past 2 years the main fight has been over health care benefits. Workers now exhibit an increasing willingness to accept lower wages to maintain health benefits. Clearly, health benefits are worth more over the long run given the high rate of medical cost inflation and the fact that salary increases are taxed, while health benefits are not.

As working Americans with company health coverage are faced with scaling back or an end to benefits long taken for granted, retirees of both financially healthy and unhealthy companies are even more threatened. Employers paid approximately $9 billion for retiree health care in 1988 and the cost of some corporate retiree plans are growing 15 percent each year. Even healthy companies no longer include retiree health as part of the benefits package. As for struggling companies, a GAO survey of 40 companies that filed recently for bankruptcy found that almost half had terminated retiree health benefits, leaving more than 90,000 retirees responsible for their own coverage, either permanently or temporarily. Since the Federal Government doesn't insure benefits as it does pensions, workers ordinarily have no guarantee, other than good faith, they will receive promised retiree benefits. As more and more companies adopt this restrictive approach to retirees, the pressure on Government increases, and the inflationary/cost shifting cycle takes another spin.

More promising cost cutting options being adopted by business involve such change as switching to HMO's, PPOs, Point of Service or other "alternative delivery" or managed care plans. These plans very widely: some require only second opinions before surgery. But the better programs offer patients the care they need on a prepayment basis, eliminating fee-for-services inflationary incentive to excessive treatment. Patient choice is limited to varying extents and financial incentives, for providers as well as consumers, to limit care are built in. Enrollees are restricted to network providers and must see a primary care physician, gatekeeper, before going on to a specialist. HMO enrollment grew from 9.1 million in 1980 to 35.1 million in 1991, a 286-percent increase and an average increase of 13 percent per year during that period. But, overall growth for the 3 years since 1989 has been less than 5 percent per year.

I do believe that managed care initiatives will be central to any reform. However, by themselves they will not get the job done. Often HMOs or other managed care forms offer a one-time cut in costs, only to see spending growth continue to match the inflation of the fee-for-service sector. Between 1990 and 1991, HMO medical plan costs increased from $2,683 to $3,046, a 13.5 percent increase. PPO plan costs grew 13.7 percent. This compares to fee-for-service indemnity plan cost increases of $3,161, to $3,355, up 13 percent. The previous 2 years, fee-for-service increases averaged 21 percent, while HMO cost rises averaged 16 percent. That's just not enough progress.

It is becoming increasingly evident that the problem of health care cost inflation is too pervasive to cure on a company-by-company basis. Indeed, since the real advent of managed care, the rise in average health care costs has consistently been twice the annual general inflation rate. The scope of reform, while incorporating managed care, must be significantly broader if a true difference is to be made. It must affect the system's basic structure on a systemwide, nationwide basis.

Central to the nationwide system today, of course, is the health insurance industry itself. Hardly anyone—business, labor, health providers and, probably, the industry itself—likes the way it's working. The industry is failing to deliver on its most fundamental promise—to provide certainty or peace of mind to health care beneficiaries. This paramount failure cannot be tolerated.

A number of outside influences have contributed to the distorted role the commercial insurance industry plays today. The principal influence, I believe, is the Tax Code adopted in the 40's. This has heavily favored employer-group health insurance over other methods of organizing and purchasing medical care. As a consequence, insurers have been forced to deal with companies as their insurance groups, or risk pools, rather than with other more sound pools from an insurance point of view: Pools that would be reasonably large, stable, and contain a sufficient random mix of risks within the membership.

Company-limited risk pools have, moreover, spawned the multitude of insurers we have in the industry today, over 1,500, contributing greatly to excessive systemwide administrative costs and redtape hassles for employers, providers, and consumers. In addition, the company groups are further segregated by the insurance industry: Those companies in which workers tend to be younger or healthier than average are charged below average premiums, while those with older or sicker workers bear above average premiums. Insurance companies are competing essentially on a rating basis, using narrow pool populations and characteristics, rather than on the design and price of benefit packages.

Finally, with tax-induced employer group insurance, the role of the employee, the consumer, is greatly diminished as the employer makes the decision to provide insurance. If provided, the employee has little or no say about whom it is purchased from or about benefits or coverage terms. This hardly represents an effective market system, the customer isolated from critical decisions and, until premiums skyrocket, with neither the employer nor the employee really concerned about cost or utilization.

Due to the squeeze on commercial insurers from medical expenditure inflation, they are not exempt either, and the effects of inflationary reimbursement policies favorable to providers, the insurers have increasingly adopted a number of objectionable survival policies. These include preexisting conditions exclusions, other exclusions on the extent of coverage, and limitations on coverage for preventive care. "Cherry picking" is another defensive practice whereby some insurance companies cover only healthier groups and individuals. In addition to depriving many of coverage, the practice causes a disproportionate burden on nonprofit providers, the so-called Blues [BC/BS], required by statute to pick up unwanted bad risks of the private sector, further evidence of fragmentation of the market. A growing number of "Blues" are experiencing severe financial difficulties. Cherry picking causes the greatest concern in the small group market of course, the very sector of our economy that creates the most new jobs.

The most troublesome development, however, relates to the prevalent practice of writing employer-group insurance on an annual basis only, renewable optionally by the insurer on the basis of experience rating. This means that if a company has a bad experience one year with some employees, it may be required to drop their coverage, pay significantly higher premiums, or do without insurance altogether the following year. The same experience rating practice is applied to individual and family policies as well, leaving individuals without coverage when they most need insurance.

Experience rating, with premiums jumped or policies withdrawn or renegotiated on a short-term basis, is less reliable insurance against future risk than annualized prepayment for medical care. Whatever the protection, it's uncertain and fails to provide the peace of mind without which no health system is worth its salt. Assurance against health care calamity is one basic value against which any health care system must be measured. The current U.S. system denies this value to far too many.

Certainty in our current system, it seems, is limited to the certainty of a continuation of soaring costs and limited access. During the 1980's, health care costs for an average family grew 147 percent while average family income rose 88 percent. As a result, some 35 to 40 million Americans lack health coverage and some 20 million others are inadequately covered. Meanwhile, costs of medical care continue to rise at almost three times the CPI. We already spend more of GNP on health care than any other developed nation. This spending is expected to jump by 11 percent, to $817 billion in 1992, 14 percent of GNP. And some say it will consume 26 percent of GNP by year 2030. Despite this spending explosion, many surveys and experts find the United States lagging behind the rest of the industrialized world in key areas of health care.

Many factors contribute to this crisis. An aging population, increasing poverty, lifestyles; crime, drugs, alcohol, tobacco, et cetera, malpractice issues and increasingly sophisticated medical tests and procedures all play a part. But in my opinion, for reasons I have just outlined, the basic structure of our employer-based system is badly flawed. Time is of the essence. So, too, is systemwide, fundamental reform.

Mr. President, it has been said that a problem does not exist unless there is an alternative. I believe our health care problem exists because I believe, if we are bold enough, there is an alternative.

I have been at work for nearly 2 years now on that alternative. For guidance, I formed a health care reform advisory committee, HCRAC, composed of 30 Vermonters, including health care providers, consumers, insurers and representatives of business and State government. I'm much indebted to them for their time and effort. My staff and I traveled to Canada to study the system our able neighbors to the north have devised and which seems to be pleasing many Canadians. We examined and compared the organization and financing of systems used by many nations, from quasi-private to almost completely public. We were careful to examine the English, Japanese, and German plans.

It was a daunting job and we were pleased to accept help. Dr. Roger Taylor of the Wyatt Co. and Dr. David Brailer, of the Wharton School of Business' department of economics, critiqued our efforts. And we owe thanks to CBO, GAO, CRS, and the Vermont Health Department. The financial and budgetary aspects of our proposal were prepared with the analytical and data support of CBO and the Joint Committee on Taxation.

To be effective, health care reform must be goal-driven. The goal I set was to correct the serious and basic structural defects of the current U.S. health care system that I outlined earlier. Incremental reform, I am utterly convinced, will not get the job done. Only through comprehensive systemwide change can we achieve:

Straightforward and equitable financing, independent of employer-based distortions;

Cost control at current levels of spending and effective health care;

Equal entitlement for Americans of all ages and socioeconomic status to a comprehensive core of quality health care services and benefits;

Primary State responsibility for the design and administration of State programs, with adequate Federal financial support and focused policy guidance; and

State delivery plans that will provide both consumers and providers greater real health care choice and more direct participation in health care delivery through managed market competition.

The MediCORE Health Act of 1992, which I introduce today, has been designed to provide these advantages within a system that reserves key roles for market forces. MediCORE is a nationwide, universal health care proposal meshing Federal standards and cost control, State flexibility in design and shared Federal/State financing. It would be a federation of Staterun or regionallyrun and designed health care programs. All State programs would be required to comply with Federal guidelines. The cost of MediCORE would be shared by the Federal Government and the States—70 percent paid by the Federal Government and 30 percent by the States. All funds, however, would be dispensed through the States which would have ultimate responsibility fo. management and administration of their own health care programs. The benefits of efficient management would benefit the State users.

The Federal MediCORE Board, the Board, a quasi-independent body, would be composed of Presidentially appointed members representing all elements of U.S. society concerned with health care. The principal duties of the Board would be to:

Develop a comprehensive package of CORE Services to be funded within the constraints of the MediCORE Budget;

Develop well defined Federal guidelines for the equitable and efficient delivery of CORE services by State or regional authorities; and

Provide general oversight for the implementation of MediCORE, without micro-managing the States or regions.

Designing CORE Services that are comprehensive yet fiscally responsible will be the Board's main challenge. Our choice is not, as some would suggest, between a system that can provide everything for everyone and one that involves rationing. Our task, rather, is to create a system that makes, and does not avoid, the necessary health care and ethical policy judgments required as the basis for an intelligent and compassionate health care system. Under MediCORE, this challenge must be dealt with in the first instance by the Board and then by the States or regions; but ultimately by us all.

The Board is to start from such consensus as it determines now exists in our Nation concerning the basic health benefits to which everyone is entitled. A medically necessary CORE Services package will be prepared from a review of Federal programs such as Medicare and Medicaid, insurance plans available to Federal employees, and widely used private plans such as Blue/Cross Blue/Shield. The Board is required to include certain essential elements in the CORE Services, including prescription drugs, mental health/substance abuse treatment, rehabilitative services and long-term health, custodial or personal assistance. An emphasis is placed on preventive and primary care.

But the Board's mission is not openended. CORE Services must be consistent with fiscal responsibility. That means, under the MediCORE Health Act, that the services must be designed so they can be reasonably funded from a predetermined share of national health care expenditures on which the MediCORE budget is based. Straightforward, equitable and realistic budgeting and funding are key to the system MediCORE would put in place.

The bill's fundamental financing premise is this: That resources spent on health care today should be sufficient to guarantee affordable, accessible and adequate health care for all Americans. Some savings should be realized by adopting a single State administrative entity. Administrative cost economy estimates range as high as $100 billion per year. Competition among providers will replace the noneffective competition among insurers. Additional saving may be realized from malpractice reform, preventive care, the elimination of unnecessary procedures—all features of the MediCORE Program.

However, with MediCORE such savings will not be relied upon until they materialize. Contrary to other proposals, MediCORE does not accrue these savings but rather provides realistic financing on the basis of current health care expenditures.

The bill establishes equitable burdens for individuals, employers and State and Federal Governments. It also attempts to keep aggregate burdens roughly in line with today's, although the financing methods would change markedly. Costs will rise for the more affluent taxpayers and earners. Obviously, costs will also rise for employers who don't now provide health care, but they would remain significantly below what other proposals impose.

Other critical factors have been considered in designing the bill's funding mechanisms. One prime goal was the elimination of current tax treatment inequities in health care delivery. Specifically, greater fairness is sought in the treatment of employees of large and small companies, of those whose income is principally earned and of those who live on unearned income.

The bill is also sensitive to, and avoids, the adverse consequences of an excessive payroll tax burden on U.S. businesses' international competitiveness. Similarly, an eye has been kept on the future by attempting to leave room for funding necessary pension benefit expansion.

We have used CBO's total health care expenditures in the United States in 1991 as the basis for our MediCORE financing analysis. Financing for CORE Services is predicated on actual health care expenditures and designed to allow those expenditures to increase only at rates pegged to productivity and increases in real wages and income.

Certain elements of national health care expenditures would be outside MediCORE financing altogether. For example, discretionary spending, e.g. "hotel" services, cosmetic surgery, and other procedures of lesser utility, would be excluded from MediCORE. They amount to slightly more that $60 billion based on the 1991 figures. Another $80 billion would be financed directly by out-of-pocket costs; co-pays, co-insurance, and deductibles on benefits other than preventive care, for MediCORE services. MediCORE guidelines would limit cost sharing to a global maximum of 15 percent of CORE Services, about half today's out-of-pocket expenses. Cost sharing would be phased in for low-income families and individuals. States would be allowed to use this revenue source towards their share of MediCORE costs. The States would have latitude to design the cost sharing in order to both raise the necessary funds and encourage appropriate utilization.

On the other hand, the MediCORE program would add significant preventive care services, free of cost sharing, long-term health, custodial and personal assistance care to current health care utilization in the United States. It would expand the WIC Program to make it an entitlement. It's estimated these would add approximately $40 billion to the cost of MediCORE.

Based on these assumptions and including the supplements, the total cost of MediCORE, the MediCORE budget, is calculated at about $575 billion in 1991 dollars. The Federal Government would be responsible for 70 percent, or approximately $400 billion which would constitute the Federal MediCORE contribution. After deducting the roughly $185 billion raised and spent on Medicare, not including part B premiums, Medicaid and Federal employee health care in 1991, that means some $215 billion in additional revenues would be needed to fund the Federal contribution.

The principal means for raising this revenue would be a 6 percent payroll tax. Liability for the 6 percent would be divided, with 4 percent the employer's responsibility, and 2 percent withheld from the employee's pay. The employee contribution would be capped at the first $100,000 of earnings but leave uncapped the employer payroll tax of 4 percent on all wages, salaries and bonuses. Employees, not employers, could deduct the payroll tax from their income.

To provide equitable funding participation by all those with adequate income, a new health premium of 6 percent also would be applied to each taxpayer's adjusted gross income with caps and on a graduated rate basis. The vast majority of taxpayers would have little or no additional liability beyond their payroll tax, since the payroll tax would be deductible.

The combined 6 percent payroll tax and adjusted gross income health premium would raise about $215 billion, the approximate equivalent of the additional revenues needed to fund the Federal MediCORE contribution for 1991. Federal funding for CORE Services is, therefore, structured on a pay-as-you-go basis and, because of annual budgeting, would remain on that balanced basis in the future.

State govenments would be responsible for the remaining 30 percent of MediCORE costs, the total "State share." The initial total State share, based on 1991 figures, would be $170 billion. The States could set off against this liability the $80 billion in direct out-of-pocket cost sharing permitted under MediCORE guidelines. Thus the net State share liability is $90 billion, roughly equal to actual total State expenditures for health care in 1991. States could also recapture at least a portion of their current spending on health care for Government employees. In addition present State Medicaid expenditures would be freed to apply toward the State share.

Total Federal spending for CORE SERVICES in each year would be limited to the amount of funds raised for the MediCORE trust fund. Those funds would be derived from two sources: First, the 6-percent payroll and the adjusted gross income premium which would increase only with rises in wages and income and second, general fund transfers equal to the current Medicare, Medicaid and Federal employees' programs, growth in which would be pegged to general economic conditions. Increases in trust fund funding therefore, and consequently MediCORE spending, won't exceed increases in productivity and/or real wages and income. The Board must live within these budgetary constraints, or apply to Congress for exceptional relief.

If in any 1 year, despite the best efforts of the Board, estimated costs of CORE SERVICES are anticipated to exceed funds expected to be made available from the trust fund, the Board would recommend to Congress: (a) the manner and methodology to reduce CORE SERVICES to meet the funding limitations, (b) the aditional amount necessary from Congress to meet the cost estimates, or (3) a combination of services reduction and additional funds. Unless Congress acts within 2 months of the recommendation to provide additional funds, the Board is required to implement the specified reductions in CORE SERVICES. Through this budgetary process, the basic cost containment goals of MediCORE would be achieved and enforced. Health care costs in the future would be based on current health care spending plus limited growth rates pegged to productivity and real income growth. Only States or Congress could increase funds to the MediCORE program to provide greater coverage.

Budgetary discipline is only one, albeit a central, aspect of changes to be required and accomplished under MediCORE. Important shifts in the burdens borne by the various segments of our society, and shifts in advantages enjoyed by some segments, would occur under this proposal. We must understand and appreciate those shifts.

THE FEDERAL GOVERNMENT

MediCORE will certainly ease the single greatest dilemma facing the Federal Government, and American taxpayers—the Federal budget deficit increases due to escalating health care costs. According to CBO figures, if unchecked, Federal health care expenditures would increase from $232 billion in 1993 to $615 billion in 2002, a 165-percent rise. Under MediCORE cost containment, the projected rise falls to $336 billion in 2002, only a 58-percent rise. That would represent a $1.24 trillion cure during the 10-year period—not enough to eliminate the problem but enough to make a huge start at it, and a big relief for our economy and the taxpayers. A recently release October 1992 CBO report on Economic Implications of Rising Health Care Costs confirms our Federal budget reduction analysis.

MediCORE would, of course, increase the share of health care expenditures paid for by the Federal Government. This is unavoidable as we move from an employer-based to a publicly financed system. But, the additional funds needed to finance this shift would be raised by dedicated taxes on a pay-as-you-go basis and would not contribute to Washington's fiscal irresponsibility. On the contrary, perhaps the example set by the MediCORE budget could serve as a model for dealing with other areas of the budget that are too rapidly rising.

The increased Federal share of health care expenditures does not mean a big new Federal bureaucracy. Quite the contrary. Medicare would be eliminated as a separate federally administered program and would be reconstituted into the State, or regional, programs. I am of the opinion that the States, not the Federal Government, are in the best position to manage health care, being more accountable and accessible to the people. The net effect of MediCORE would be a downsizing of bureaucrary in Washington.

The MediCORE Board and organization, including the new National Data Bank System, would require coordination with the Department of Health and Human Resources. A close working relationship would be necessary, also, with the departments and agencies that remain totally outside the MediCORE structure, such as DOD, VA and the NIH programs. The MediCORE Act calls for a study by the Board of the best way to accomplish reorganization and of how to determine which current activities and programs in the Federal domain would better be the States' responsibility.

STATES

MediCORE's primary financing purpose is to collect what is presently being paid to private insurers, and by private individuals for uncompensated services and redistribute these moneys to the States. Under MediCORE, the States' own financial burden for CORE services would roughly equal their expenditures for health care in 1991. All MediCORE funds, however, including the 70-percent Federal contribution, would be dispensed through the States which will have ultimate responsibility for management and administration. This would translate into significant numbers of Federal dollars flowing to the States. Based on 1991 statistics, for example, my own small State of Vermont would receive more than $800 million, Kansas about $4.5 billion, and California more than $64 billion. Since States are in the forefront of health care reform, this would be most appropriate. The States simply will not be able to do the job without such Federal support.

Federal revenue would be dispensed pursuant to per capita formulas allowing adjustment for such factors as age and sex, patterns that dictate health care use and cost. Further adjustments would be made for State variance in such areas as poverty, rural/urban population ratio and numbers of illegal immigrants. The adjustments could drive Federal support about 3 percent above or below the standard 70 percent basic Federal contribution.

MediCORE is a States' rights bill. Provided the States comply with the Federal guidelines, they would have the latitude to do things their way. However, the guidelines do strongly encourage the States to give marketplace competition, free enterprise, an important role. It is suggested that, where feasible, the States include two or more CORE services delivery plans within their State program so market forces can function, through managed competition, to control costs. States are also requested to include at least one CORE services delivery plan that would permit significant freedom of choice by consumers among health care providers, including doctors. States could assess additional charges for such plans. Finally, managed care programs that share responsibility for cost and outcome management with health care providers, or provider networks, are endorsed for the States' consideration.

The States' latitude in design extends to the content of CORE services. States would have the possibility of varying the benefit package, provided the Board determines such plans are substantially equivalent to the Federal model. States could also provide services over and above the core, but at their own expense.

The States would, of course, receive technical and other assistance and supervision from the Board in complying with the Federal guidelines and cost containment methods. A model MediCORE administration manual would be developed for the States covering all aspects of administration required for a State program, including model fee schedules and outcomes review procedures. These may, but need not necessarily be, implemented by a State.

While States would have flexibility in complying with the cost containment and other standards of MediCORE, to receive accreditation the State would be required to demonstrate to the Board that its program will contain effective cost containment and provider payment methodologies. Effective outcomes evaluation and ethical analysis procedures would be required, as would proper quality assurances mechanisms.

INDIVIDUALS

All individuals will be covered for CORE services under one seamless system that does away with present fragmentation: children and the elderly, the poor and not so poor, the employed, unemployed, self-employed and retirees—all would be covered equally. Special provisions are included for the homeless and illegal immigrants who would receive the very same benefits. Entitlement to coverage would be individual—no one need derive coverage from a family member. In Billie Holiday's terms: "Everyone would have his own."

Everyone would also pay for health care on the basis of income through the 2-percent payroll tax and the adjusted gross income premium on unearned income. The 2 percent would be deductible.

MediCORE will clearly be less expensive for those at the lower end of the income spectrum than the current health system. A family of four, for example, with annual income of $13,000 would realize a savings of close to $2,300.

As income rises, the savings persist but diminish. The same family earning $52,000 a year, would have savings of approximately $1,400 over what it pays currently. At around the $130,000 income level, the costs to the family would be roughly equal under both systems. Beyond that income level however, families would pay more under MediCORE than currently.

Though seamless, different categories of the population would draw particular advantages from differing aspects of MediCORE:

Children would enjoy an expanded WIC entitlement and benefit especially from an emphasis on preventive and primary care, immunization and screening services, and educational and counseling programs;

The over-65 would no longer be segregated into Medicare since those benefits would be reconfigured or reengineered into MediCORE; additional services would be provided the elderly, as all others, such as prescription drugs, long-term health, custodial or personal assistance care; a study would be conducted by the Board to determine the desirability and feasibility of a national service program for individuals under the age of 25 to provide assistance to older people in their homes;

The poor would be entitled to Medicaid-like benefits, but would no longer be relegated to a special, stigmatized program; the benefit levels for the poor would be raised from Medicaid levels over a relatively short time span;

MediCORE will ensure that the long-needed parity between the treatment of mental and physical conditions will be achieved;

A study will be conducted by the Board into the feasibility and desirability of a program to provide for reduced cost sharing for CORE services to those certified as being free of substance abuse or engaged in an approved physical fitness program; and

Cost sharing under MediCORE would be limited to a global maximum of 15 percent.

MediCORE will provide one further essential advantage to individuals and families alike. That would be consistent and reliable protection from health care financial calamities. Greater peace of mind will accrue to all enrollees from birth to death. We all are entitled to this basic security.

EMPLOYERS

Employers will be free of escalating private insurance premiums for CORE Services under publicly financed MediCORE. This will certainly be welcomed by those large- to medium-sized companies currently providing health care to their employees. The heads of such companies in Vermont tell me their premiums now account for approximately 10 to 11 percent of the cost of payroll. Rate increases are such that premium costs are cutting into 20 or 25 percent of company profits.

Instead of the premiums, businesses will pay a 4-percent payroll tax. This tax has been designed to place a fairer burden on U.S. companies compared to their worldwide competitors. And a fairer burden it would be: for a company with less than 20 employees we estimate the savings to be realized from MediCORE over the current insurance system would be approximately $41,000 a year. As the number of employees grows, of course, the savings grow. A company of over 1,000 employees would have yearly savings of roughly $4,500,000.

On the other hand costs would necessarily rise for small- to medium-sized companies that do not now furnish their employees with any health care or with inadequate insurance. No companies will be exempt from the MediCORE payroll tax on the basis of their size. All employees will be covered under MediCORE. A 4-percent payroll tax compares very favorably with equivalent taxes of our sister developed nations—with France at over 19 percent, Germany over 13 percent and Japan at 8 percent. It compares favorably with the other proposals now before Congress—pay-or-play for example would impose a tax of at least 9 percent on those companies that refuse to play.

Smaller companies will benefit from the fact that MEdiCORE is a comprehensive reform program with effective global cost containment mechanisms. They need not fear a continuance of the escalating inflation that dissuades them currently from obtaining health insurance for their employees.

Since MediCORE will prohibit employer-based and employer-organized private insurance for CORE services, business will be out of the business of managing health benefits and will be able to apply those resources elsewhere.

Business may also be relieved of obligations they now have toward current or future retirees in the event of the enactment of MediCORE. To eliminate any unjust enrichment that might result, the act provides for a study of the possible recapture of these costs from employers. The study would also provide for the fair treatment of employees with respect to taxation of retirement income should a recapture program be approved. Sums to be recaptured could be significant if estimates of employers' current retiree benefits obligations are to be believed. MediCORE would apply the sums against expected transition costs.

PRIVATE INSURERS

Private insurers would play changed but key and emerging roles in the MediCORE structure. Although they could no longer directly provide insurance for CORE Services, States of regions would use private insurers in the following ways:

Under contract as the single administrative entity for the States; and

To furnish the various health delivery plans, including managed care and other alternative delivery systems, that will be required, for managed competition to be put in place by the States.

The number of private insurance companies will undoubtedly decrease, with consequent savings in advertising and administrative costs and less hassle for providers and consumers. But competition between the remaining larger companies should thrive. That competition will be on a socially productive basis: on the basis of the design and price of benefits packages and the efficiency of delivery systems.

Private insurers would also furnish the supplemental or second-tier insurance that will be allowed to wrap around CORE Services.

PROVIDERS

Health delivery plans to be utilized in the MediCORE Program will be designed with financial incentives for providers, as well as consumers, built in. Providers will no longer be required to maximize services, even unnecessary services, in order to maximize profits. They will have a direct stake in the efficient delivery of effective medicine, and should be contributors to the MediCORE cost containment processes.

Doctors and other providers can look forward to professional liability reform under MediCORE. The board is instructed to conduct a study of Federal and State malpractice laws and State proposals for the reform of those laws. Based on this study the Board will develop a model malpractice/alternative dispute/claims dispute resolution reform law. The States will then have a limited period of time in which to adopt laws in substantial conformity with the model.

VETERANS

MediCORE recognizes and will maintain the independent responsibility of the Department of Veterans Affairs for the special needs and rights of veterans. A study will be conducted by the Board to identify opportunities for entering into sharing arrangements with the VA in order to optimize the use of medical and mental health facilities in the United States. The study would further consider the feasibility and desirability of permitting the VA to enter into agreements with States to provide expanded care to veterans. The goal will be to maximize use of currently underutilized VA facilities.

Obviously, the task of restructuring this Nation's health care system will not be an easy one. I and my staff have spent nearly 2 years preparing MediCORE and I know the difficulties. But out of this massive exercise have emerged two prime conclusions:

First, the task can be accomplished.

Second, the task must be accomplished.

This Nation cries out for health care reform. Americans are long overdue to be given the right to a comprehensive core of basic health care. And if we do not act to shackle the monster that is the growing cost of health care in America, this Nation's monstrous deficit could consume our national future.

No, it will not be easy. And if progress is to be made, every American must face the reality of limitations on what America can afford to provide in terms of health care.

But if we proceed, if we deal with all the questions, face all the daunting problems, we can provide Americans with a better, more secure living.

The time to act is at hand. History and the people demand action. The States, prominently including my brave little State of Vermont, are moving ahead on their own. And they cannot succeed without our help.

My plan, MediCORE, is one way to go. It is, I think, a good way to achieve a noble goal. The people of this Nation now see the light of a new century dawning across the still-vast horizon of the American future. There are clouds on that horizon, however, the clouds of fear and uncertainty. How much clearer that dawn can be if all Americans have their own when it comes to health care.

Mr. President, I ask unanimous consent to print in the RECORD CBO's Economic Implications of Rising Health Care Costs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

October 1992.

CBO'S ECONOMIC IMPLICATIONS OF RISING HEALTH CARE COSTS

By the turn of the century, health care costs will consume 18 percent of the nation's gross domestic product (GDP). The increase, CBO analysis point out in their latest study, "Economic Implications of Rising Health Care Cost," will significantly affect the economy, squeezing household and government budgets and diverting resources from other priorities. And because there is no mechanism in the current health care delivery system—either a market or a governmental regulatory plan—that ensures that benefits match costs, consumers may not be getting their money's worth.

Although businesses initially pay a major portion of the costs of employer-provided health insurance, workers eventually bear most of the burden in the form of lower real wages and reduced nonmedical fringe benefits, according to CBO analysts. Thus, contrary to popular belief, the rising costs of employer-provided insurance have little direct effect on the long-term international competitiveness or profits of most businesses.

Employer-provided health insurance absorbed more than half of the increase in workers' real compensation between 1973 and 1989 (two years in which the economy was operating at full capacity), even though it accounted for 5 percent or less of the total compensation of workers. And the rising costs of private health insurance have led some employers to drop coverage, which in turn reduces access to affordable health insurance—and hence to high-quality medical care.

Government budgets are also being squeezed by rising health costs. At the federal level, Medicare and Medicaid are the only major budget categories (besides interest on the federal debt) that are projected to grow over the next 10 years. By 2002, the costs of these two programs alone will amount to about 90 of all discretionary spending on defense, domestic, and international programs. If Medicare and Medicaid are not financed through higher taxes or reduced nonhealth spending, the budget deficit will increase significantly, reducing the nation's investment in new plants and equipment and holding down the growth of U.S. incomes. And although employers' costs for health insurance do not strongly affect U.S. competitiveness, a larger budget deficit would clearly harm it.

Rising costs of health care will pinch state and local governments as well. CBO projects that spending on health care at the state and local levels will increase some 10 percent a year to about $244 billion by the turn of the century. Because almost all states have balanced budget requirements, these costs will have to be financed by higher taxes or spending cuts and thus crowd out their priorities.

If the federal costs for Medicare and Medicaid over the decade could be held to their 1991 share of GDP—and the savings used for deficit reduction—the outlook for the nation's economy would brighten considerably. The federal deficit would drop to 1 percent of GDP by 2002, which would completely reverse the growth of the deficit during the 1980s. Moreover, a smaller budget deficit would boost capital investment, help U.S. industry compete better in the international marketplace, and increase U.S. incomes by 2.4 percent by 2002.

Mr. JEFFORDS. Mr. President, I could go on, for I know that action will not come this year. But I do know that I am now hopeful for the first time that there are ways we can solve both the health care problem and the basic part of the deficit problem if we work together and are not afraid to change those things which have been wrapped into our system for so many years which were inconsistent with the ability to accomplish these goals.

Mr. President, I thank everyone for their attention and hopefully they will take notice of what we are offering today so that next year, the year of the solution, we can all work together to come up with this program or some program that will solve not only the health care problems but also the deficit problems that we face. If we do not, then we will not have done our job.

Mr. President, I yield the floor.

Mr. SASSER. Mr. President, I commend and congratulate the distinguished Senator from Vermont for the insight that he has brought to the floor of the Senate today and all my colleagues regarding the great crisis facing this country, and that is the crisis of health care and how it is to be paid.

I look forward in the next Congress to working with the very able Senator from Vermont [Mr. JEFFORDS] in trying to find a solution to the problem of health care and its costs and make it available to all Americans in need of it. I earnestly believe many of the propositions that have been advanced today by the distinguished Senator from Vermont are going to be very helpful to us as we travel down this very difficult road to solving this problem.

Mr. JEFFORDS. Mr. President, I thank the Senator for his very kind remarks and I look forward to working with him.

By Mr. GARN:

S. 3332. A bill to establish the San Rafael Swell National Trails and Recreation Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

SAN RAFAEL SWELL NATIONAL TRAILS AND RECREATION AREA

• Mr. GARN. Mr. President, I am pleased to introduce legislation to create Utah's first National Trails and

Recreation Area dedicated for use by off road vehicles [ORV's] in a matter compatible with other multiple uses. These other uses include geological, palenotological, archaeological, and many historical uses.

Thousands of Utahns enjoy ORV's for recreational activity throughout the year. I know of no better place than this scenic area of Utah to create a new Bureau of Land Management-administered National Trails and Recreation Area. The BLM is highly qualified to administer this area for the benefit of the thousands of people from Utah and around the Nation who will visit the area.

Mr. President, over the next few years there will be a concerted effort by the people of Utah to put together a statewide BLM wilderness bill. As a State, Utah is so beautiful that many areas across the State will be considered for designation as permanent wilderness. Many will argue that the San Rafael Swell merits wilderness designation.

I would submit that a balanced statewide wilderness package must include nonwilderness multiple-use areas such as the one I am proposing. First of all, if all the scenic and beautiful areas of the State are designated wilderness other legitimate multiple-use activities will, in fact, be denied. Thus I believe it is imperative to set aside areas which are not as restrictive as wilderness for uses by ORV's.

Second, ORV's do have a place on the public lands. Environmentally, I submit it is far better to designate specific areas for sport utility vehicles and dirt bikes—both motorized and otherwise—under dedicated management by BLM professionals. People will have an enjoyable experience in a beautiful area. Why should these people be denied the same opportunities for outdoor recreation of their choice as a backpacker in a wilderness area?

A balanced BLM wilderness bill should include the release from Wilderness Study Area [WSA] status of those areas which are better utilized with emphasis on another nonwilderness multiple use. Wilderness designations on the public lands should be balanced on a statewide basis with opportunities for all.

Earlier this year, I joined Congressman HANSEN and Senator HATCH in supporting the creation of a National Conservation Area in the Escalante River Canyon country. This proposal for the Rafael Swell is part of an effort which Utah's elected officials should give consideration to as a piece of the overall statewide wilderness puzzle. I hope future Utah officials will give it a fair chance. Local support for the concept is strong, just as there will be considerable opposition. But, that's democracy and no one need fear such diversity of opinion.

As I leave the U.S. Senate, I take pride in having played a role in the creation of the statewide National Forest Wilderness system in Utah. I thought it was a fair and balanced package when it was passed by the Congress of 1984, and now, 8 years later, I am even more convinced it was a good bill. I commend my Utah colleagues who all played significant roles in the successful creation of that legislation: Representative JIM HANSEN, Representative DAN MARRIOTT, Representative HOWARD NIELSON, Senator ORRIN HATCH, and finally the late Gov. Scott Matheson. These Utahn's put their State's overall interest before their own personal wishes. Together, acting in a bipartisan way, Utah received the benefits of numerous public hearings and involvement.

Given the national significance of the BLM wilderness proposals for Utah, this same kind of teamwork by the new congressional delegation and Governor will be absolutely essential. Because national environmental group interest in dictating the terms of the bill to Utah is so high, the Utah delegation will have to show leadership and the willingness to be creative, listen, and compromise in order to achieve a balanced BLM wilderness bill which protects the multiple use concept.

I have confidence in the people of Utah when it comes to managing the public lands upon which they must depend for their own livelihoods. Outside environmental advocates have a legitimate role in the process, but they should not be allowed to turn rural Utah into an economic wasteland under the guise of protecting wilderness values. The good people of rural Utah must be actively engaged in the BLM wilderness process in order to prevent such an outcome and to make certain an economic base is maintained.

I leave the Senate with the knowledge that the multiple-use system of public land management is under siege. The very laws which enabled the settlement of the American West are under full scale attack on an annual basis. Assaults on the mining law and laws governing livestock grazing, attacks against Revised Statute 2477 right-of-ways over public roadways, the imposition of wilderness, and the abuse of the appeals process to block legitimate timber sales on our national forests, all pose an ominous threat to the people residing in Utah's rural cities and towns. It is the responsibility of Utah's next generation of leaders to protect the values that made us the people we are.•

By Mr. DECONCINI:

S. 3333. A bill to establish the National Commission on Civil Justice Reform; to the Committee on the Judiciary.

NATIONAL COMMISSION ON CIVIL JUSTICE REFORM ACT OF 1992

• Mr. DECONCINI. Mr. President, I am introducing legislation today to establish a National Commission on Civil Justice Reform. This new Commission is needed to address the inability of the current administration and Congress to develop a comprehensive legislative proposal for civil justice reform.

Mr. President, recent congressional debates on civil justice reform have, unfortunately, centered only on specific areas of tort liability. For example, less than a month ago the Senate briefly considered product liability reform legislation offered by a bipartisan group of Senators. Because I felt there was a great need to debate that bill, I voted for cloture but there were insufficient votes to break a threatened filibuster. It is my firm belief that the focus of discussion should be expanded beyond this small, yet important piece of the civil justice system.

S. 640, the Kasten-Rockefeller product liability reform bill, like many other civil justice reforms proposed to date, focused too much upon the interests of individual litigants and too little upon the interests of the general public and other litigants, both defendant and plaintiff alike. The recent product liability reform debate stands as the best evidence that the civil justice reform debate needs to be removed from the political process since recent debates on S. 640 and other piecemeal approaches have yielded only political stalemates.

Mr. President, there are probably as many in this body who believe that there is no need for any Federal civil justice reform, especially product liability legislation, as there are those who believe it is absolutely imperative. Senators who oppose reform fear that it could have very negative consequences upon the State civil court system.

Mr. President, there are also Senators who believe other deficiencies exist in the civil justice system that warrant greater attention than product liability law reform. I tend to agree. What I think we need is a thorough examination of the civil justice system at every level, including a review of all current proposals for improvements in our system. In short, each aspect of civil justice reform in the United States deserves a full hearing in an environment less polarized by political and economic interests.

For these reasons, I am introducing legislation today to create a National Commission on Civil Justice Reform composed of 16 members. Four appointments are to be made by each of the following for the life of the Commission: the President, the President pro tempore of the Senate, and the Speaker of the House of Representatives. In addition, two appointments are to be made by the Chief Justice and two appointments are to be made by the Conference of Chief Justices.

The Commission would be charged: First, to solicit the views of a wide variety of individuals, businesses, and groups concerned about improving the fairness, effectiveness and efficiency of the civil justice system in the United States; second, to evaluate the merits of current proposals to reform the civil justice system, including medical malpractice and product liability reform; third, to examine the merits of emerging options in dispute resolution to improve the civil justice system, including mediation and arbitration; fourth, to make legislative proposals for reforming the current system of resolving disputes; and fifth, to prepare and submit a report, within 18 months after the date of its first meeting, to Congress, the Chief Justice, and the President which includes any legislative and administrative recommendations it deems appropriate.

Mr. President, a 1992 benchmark national survey commissioned by the Nation Institute for Dispute Resolution indicates most Americans believe that the civil justice system is not working as well as they believe it should. Once informed of the potential legal options available to settle their disputes, and overwhelming majority of them, 82 percent, indicate they would choose mediation or arbitration over trial. Savings in time and money that characterize mediation and arbitration were important to the survey respondents, but more important were factors of fairness and direct participation in the search for resolution of their conflicts.

Mr. President, I concur with the judgment of the American public that dispute resolution alternatives to trial may well advance civil justice reform. As such, I am proposing that one of the duties of the Commission is to specifically examine expanded use of alternative methods of dispute resolution.

In conclusion, Mr. President, my purpose in introducing this bill is to begin a dialog with a broad array of individuals and groups which have divergent views on civil justice reform. It is my intention to utilize the break between Congresses to develop a consensus on the mechanics, composition, and scope of such a national Commission before reintroduction in the 103d Congress. I urge all of my colleagues to take a look at the bill as introduced and participate in crafting new legislation for reintroduction.

Mr. President, I ask unanimous consent that the full text of my bill be entered in the RECORD immediately following the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S.3333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Commission on Civil Justice Reform Act of 1992".

SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the "National Commission on Civil Justice Reform" (here after referred to as the "Commission").

SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 16 members as follows:

(1) Four members appointed by the President, 1 of whom shall be designated as Chairman by the President.

(2) Four members appointed by the President pro tempore of the Senate.

(3) Four members appointed by the Speaker of the House of Representatives.

(4) Two members appointed by the Chief Justice.

(5) Two members appointed by the President of the Conference of Chief Justices.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than 4 members of the Commission.

(d) INITIAL APPOINTMENTS.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the Chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a Member of Congress or as an officer or employee of the Government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of the Government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

SEC. 4. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to solicit the views of a wide variety of individuals, businesses, and groups concerned about improving the fairness, effectiveness and efficiency of the civil justice system in the United States;

(2) to evaluate the merits of current proposals to reform the civil justice system in the United States, including medical malpractice reform and product liability reform;

(3) to examine the merits of emerging dispute resolution options to improve the civil justice system in the United States, including mediation and arbitration;

(4) to make legislative proposals for reforming the current system of litigating disputes in the Nation; and

(5) to prepare and submit to Congress, the Chief Justice, and the President a report which includes legislative proposals in accordance with section 8.

SEC. 5. COMPENSATON OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 6. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.

(1) APPOINTMENT.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a panel of at least 4 members of the Commission, may hold such hearings, sit and act such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information and assistance necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such agency or department shall furnish such information or assistance to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities and services of such agency available to the Commission to assist the Commission in carrying out its duties under this Act.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriations Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 8. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 18 months after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 9. TERMINATION.

The Commission shall cease to exist on the date that is 60 days after the date on which it submits its report under section 8.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,500,000 to carry out this Act.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect on the date of enactment.●

By Mr. DECONCINI:

S. 3334. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

ARIZONA SEDONA RANGER STATION RELOCATION ACT

● Mr. DeCONCINI. Mr. President, today I am introducing legislation that will enable the Forest Service to better serve the residents of Sedona, AZ, and the users of the nearby Conconino National Forest. I am doing that at the end of this Congress so that we can use the intervening 3 or 4 months to work on this legislation, involve the affected parties, and be ready to more forward as the 103d Congress convenes.

Mr. President, the Forest Service is an organization which is only as effective as its ability to reach and serve the users of our national forests. Unfortunately, the current remote and inconvenient location of the Sedona Ranger Station places barriers between the Forest Service and the very people it is supposed to serve.

Currently, visitors to the Sedona area are met with a frustrating experience in attempting to locate the Sedona Ranger Station. Situated off a residential road and surrounded by a school, a resort, and a neighborhood of single-family homes, the ranger station has simply outgrown its immediate surroundings. it is a virtual island engulfed by the city of Sedona, concealing it from the millions who visit the area each year.

The current Sedona Ranger Station is situated on 21 acres, 6.5 of which are useable. The remaining acreage is comprised primarily of steep hillsides. Another problem with the current location of the station is that its responsibilities often conflict with the neighbors' expectations of a residential and resort community. During the fire season, the neighborhood is subjected to late-night activities, noise, and lights. Normal daytime activities produce congestion and noise not typically encountered in a residential community. Moreover, the increased traffic poses a serious safety hazard for student's of the nearby school.

Because the office is actually a renovated Forest Service house, floor loading exceeds code limitations. Employee workspace is cramped, the reception area and conference rooms are half of what is needed, and parking is inadequate. Accessibility for persons with physical disabilities is sorely deficient.

Because the problems with the current Sedona Ranger Station simply cannot be corrected, I am introducing legislation which I believe offers a sensible, cost-efficient solution. If enacted, my bill would allow the Department of Agriculture to convey the land on which the current ranger station is located for no less than the fair market value. Funds from the sale would then be made available to the Conconino National Forest for the construction of a new facility for the Sedona Ranger Station.

Relocating the station will be good for the Forest Service, the community of Sedona, and the millions who visit this magnificent area each year.

I hope that my colleagues will join me in passing this legislation.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SEDONA RANGER STATION LAND CONVEYANCE.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of Agriculture (referred to in this section as the "Secretary") may convey, by quitclaim deed, all right, title, and interest of the United States in and to the approximately 21.09375-acre tract of lands (including improvements on the lands) that has the following legal description:

GILA AND SALT RIVER MERIDIAN

COCONINO COUNTY, ARIZONA

TOWNSHIP 17 NORTH, RANGE 6 EAST, SECTION 7

NW¼NW¼NW¼SW¼SE¼,
S½NW¼NW¼SW¼SE¼, SW¼NW¼SW¼SE¼,
NW¼SW¼SW¼SE¼, SW¼SW¼SW¼SE¼,
SE¼SW¼SW¼SE¼, W½SW¼SE¼SW¼SE¼,
S½NE¼SW¼SE¼SW¼SE¼,
SE¼SW¼SE¼SW¼SE¼,
SW¼SE¼SE¼SW¼SE¼,
E½SE¼SE¼SW¼SE¼,
E½W½NE¼SE¼SW¼SE¼,
E½NE¼SE¼SW¼SE¼,
E½W½SE¼NE¼SW¼SE¼,
E½SE¼NE¼SW¼SE¼,
SE¼NE¼NE¼SW¼SE¼,
E½SW¼NE¼NE¼SW¼SE¼,
S½NW¼SE¼SE¼SW¼SE¼,
NE¼NW¼SE¼SE¼SW¼SE¼.

(b) CONDITIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), any conveyance pursuant to subsection (a) shall be conditioned on the Secretary's entering into one or more agreements that are sufficient to ensure, to the satisfaction of the Secretary, that, collectively, all persons with whom the agreements are to be made will construct, on a site to be determined by the Secretary, improvements for administrative purposes for the Coconino National Forest in Arizona (referred to in this section as the "administrative improvements") that are equal in value to the lands and improvements authorized to be conveyed by subsection (a).

(2) METHODS OF EXCHANGE.—

(A) SERIES OF TRANSPORTATION.—The lands and improvements may be conveyed by a series of transactions.

(B) PAYMENT.—At the discretion of the Secretary, each person to whom conveyances are to be made under this section may deposit sums in an amount not less than the fair market value, to be determined at the time of conveyance, of the lands and improvements conveyed to the person. The sums deposited with the Secretary shall remain available until expended by the Secretary for the purpose of constructing the administrative improvements.

(3) UNEQUAL VALUE.—

(A) PAYMENT.—If the value of any lands and improvements authorized to be conveyed by subsection (a) to a person exceeds the value of the administrative improvements that the person agrees to have constructed in exchange for the conveyance, the person shall make a payment to the United States in an amount equal to the difference in value.

(B) AVAILABILITY OF FUNDS.—The amount described in subparagraph (A) shall remain available to the Secretary until expended for the purpose of acquiring other lands needed for national forest purposes in the Coconino National Forest in Arizona.

(c) PROCEDURE FOR OFFERS.—

(1) PUBLIC OFFERS.—The Secretary shall solicit public offers for the lands and improvements authorized to be conveyed under subsection (a).

(2) OPENING.—All offers shall be publicly opened at the time and place stated in the solicitation notice issued pursuant to paragraph (1) and in accordance with the administrative requirements of the Secretary.

(3) CONSIDERATION OF VALUES.—The Secretary shall consider the respective values of the lands and improvements authorized to be conveyed under subsection (a) and the administrative improvements before entering into an agreement or land exchange with any person whose offer conforming to the solicitation notice issued pursuant to paragraph (1) is determined by the Secretary to be most advantageous to the Federal Government.

(4) REJECTION OF OFFERS.—Notwithstanding any other provision of this section, the Secretary may reject any offer if the Secretary determines that the rejection is in the public interest.

By Mr. DECONCINI:

S. 3335. A bill to establish the Casa Malpais National Historic Park, in Springerville, AZ, and for other purposes; to the Committee on Energy and Natural Resources.

CASA MALPAIS NATIONAL HISTORIC PARK

● Mr. DECONCINI. Mr. President, today I am introducing legislation which would establish the Casa Malpais National Historical Park in Springerville, AZ. This legislation is critical to properly protect, interpret, and open to the public the Casa Malpais archeological ruins. I am introducing this legislation at the close of this Congress so that we can use the intervening 3 or 4 months to work on this legislation, involve the affected parties and be ready to move forward as the 103d Congress convenes.

Mr. President, the Casa Malpais ruins are the largest and most complex ancient Mogollon communities in the United States. The site contains a large masonry pueblo, a great kiva complex, several masonry stairways, a prehistoric trail, numerous isolated rooms, catacombs, sacred chambers, and various rock art panels. The ruins were occupied by the Mogollon Tribes sometimes between A.D. 1250 and 1400.

The town of Springerville along with the Zuni and Hopi Tribes have done an exceptional job at preserving the site for more than a year. Even with limited funding and facilities, more than 30,000 visitors have come to see the remains of this ancient civilization. With the site designated as a national historical park, it is estimated that the number of visitors could grow to more than 90,000 in each of the next 5 years.

It is this Senator's opinion that Casa Malpais is truly a national treasure and deserves preservation. This archeological site represents a unique and rare cultural resource of unusual interest to the general public and substantial scientific significance.

Under my legislation, the Casa Malpais would be included in the National Park system and be named "The Casa Malpais National Historic Park." The bill would establish an advisory board appointed to oversee the planning and management of the park. Members of this advisory board would include members of the Hopi and Zuni Tribes, members of the local community, the archeological community, and Park Service personnel. My legislation provides for a significant amount of local control over the management of the park. I have done this because of local efforts thus far to preserve and interpret the Casa Malpais site.

Legislation has already been introduced in the House by Congressman KOLBE to provide Park Service assistance for the development of the Casa Malpais site. My bill takes this a step further by actually designating it as a national historical park. I believe that the significance of this site warrants much more than just assistance and that it should be put on the map as a national historical park. The Casa Malpais site is every bit as important to the development of this Nation as the other national historical parks throughout the country.

The Casa Malpais site has great potential. I am pleased to be able to offer to my colleagues the opportunity and ability to be a part of this project that will mature into a world-class historical interpretive site upon passage of this legislation. I ask that my colleagues join me in supporting this worthy endeavor.

I ask unanimous consent that the bill as well as a letter that I have received from the mayor of Springerville appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows

S. 3335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CASA MALPAIS NATIONAL HISTORIC PARK

SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) This Act may be cited as the "Casa Malpais National Historical Park Establishment Act of 1992".

(b) The Congress finds that—

(1) the Casa Malpais is historically and culturally significant to the State of Arizona, the town of Springerville and the Nation;

(2) the Native American population in Arizona and New Mexico has shown strong and sincere interest in the preservation and interpretation of their heritage through the protection of the Casa Malpais;

(3) the Town of Springerville has played a significant role in the preservation of the cultural resources of the Casa Malpais through a program of interpretation and preservation of the landmark;

(4) the Casa Malpais National Historic Landmark was occupied by one of the largest and most sophisticated Mogollon communities in the United States;

(5) the landmark includes a 58 room masonry pueblo, including stairways, Great Kiva complex, and fortification walls, a prehistoric trail, and catacomb chambers where the deceased were placed; and

(6) the Casa Malpais was designated as a national historic landmark by the Secretary of the Interior in 1957.

SEC. 2. ESTABLISHMENT OF CASA MALPAIS NATIONAL HISTORICAL PARK.

(a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in Arizona containing the nationally significant Casa Malpais, and other significant natural and cultural resources, there is hereby established the Casa Malpais National Historical Park (hereinafter in this Act referred to as the "park") as a unit of the National Park System. The park shall consist of approximately 35 acres, a map of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the office of the mayor of the Town of Springerville, Arizona.

(b) The park shall be administered by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") and the Town of Springerville, Arizona (hereinafter in this Act referred to as the "Town"), in accordance with section 3.

(c) Within 6 months after the date of enactment of this Act, the Secretary shall file a legal description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and legal description as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the State of Arizona, and in the office of the mayor of the Town of Springerville, Arizona: Provided, That the Secretary may from time to time, after completion of the general management plan referred to in section 108(a), may make minor adjustments to the park boundary by publication of a revised may or other boundary description in the Federal Register.

SEC. 3. ADMINISTRATION AND MANAGEMENT OF THE PARK.

(a)(1) To achieve the purposes of this Act, the Secretary, in cooperation with the Town, shall formulate a comprehensive plan for the protection, preservation, interpretation, development and maintenance of the site.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(b) The Secretary may, pursuant to cooperative agreement—

(1) provide technical assistance to the Town or unit of local government in the management, protection, and interpretation of the site; and

(2) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to the Town or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the site.

(c) The Secretary is authorized to enter into cooperative agreements with either the Town under which the Secretary may manage and interpret any lands owned by Town and the state of Arizona, respectively, within the boundaries of the Park.

(d) In order to encourage a unified and cost effective interpretive program of the natural, cultural and recreational resources of the Casa Malpais and its environs, the Secretary is authorized to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of these resources. Such cooperative agreements may also provide for financial and technical assistance for the planning and implementation of interpretive programs and minimal development related to these programs.

SEC. 4. LAND USE PLANNING.

The Secretary may participate in land use planning conducted by appropriate local authorities for lands adjacent to the park and may provide technical assistance to such authorities and affected landowners for such planning.

SEC. 5. EXISTING TRANSMISSION OR DISTRIBUTION FACILITIES.

Nothing in this Act shall be construed as authorizing or requiring revocation of any interest or easement for existing transmission or distribution facilities or prohibiting the operation and maintenance of such facilities within or adjacent to the park boundary.

SEC. 6. GENERAL MANAGEMENT PLAN.

(a) Within 3 years from the date of enactment of this Act, the Secretary, in cooperation with the Town and the State, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, a general management plan for the park consistent with the purposes of this Act, including, but not limited to—

(1) a statement of the number of visitors and types of public use within the park which can be accommodated in accordance

with the protection and preservation of its resources;

(2) a resource protection program;

(3) a general interpretive program;

(4) a general development plan for the park, including proposals for a visitor's center and recreation facilities, and the estimated cost thereof; and

(b) The general management plan shall be prepared in consultation with the Casa Malpais National Historical Park Advisory Commission established pursuant to section 7, appropriate Indian tribes and their civil officials, the Arizona Historical Preservation Office, and other interested parties.

SEC. 7. CASA MALPAIS NATIONAL HISTORICAL PARK ADVISORY COMMISSION.

(a) There is hereby established the Casa Malpais National Historical Park Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall be composed of members appointed by the Secretary on the recommendation of the mayor of Springerville for terms of 5 years as follows:

(1) one member, who shall have professional expertise in history and/or archaeology, appointed from recommendations submitted by the Governor of the State of Arizona;

(2) one member, who shall have professional expertise in history and/or archaeology appointed from recommendations submitted by the mayor of the Town of Springerville, Arizona;

(3) one member, who shall have professional expertise in Indian history or ceremonial activities, appointed from recommendations submitted by the Inter-Tribal Council of Arizona;

(4) one member, who shall have professional expertise in outdoor recreation;

(5) one member, who shall be an affected landowner;

(6) one member, who shall have professional expertise in cultural anthropology;

(7) one member from the general public;

(8) the Mayor of the Town of Springerville or his or her designee, ex officio; and

(9) the Director of the National Park Service, or his or her designee, ex officio.

(b) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Six members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall, from time to time, meet with persons concerned with Indian history and historic preservation, and with other interested persons.

(f) The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act. Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) The Commission shall advise the Secretary and the Town on the management and development of the park, and on the preparation of the general management plan referred to in section 6(a). The Secretary, or his or her designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the park.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

TOWN OF SPRINGERVILLE,
Springerville, AZ, October 5, 1992.

Re Casa Malpais National Historic Park.

Senator DECONCINI,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the Town Council and the Town of Springerville, I would appreciate your accepting this letter as our strong support for the passage of the Casa Malpais National Park Bill.

We have managed the beginning of this project by providing hard cash dollars, equipment, labor and a museum site.

We feel that the site is a very important and significant archaeological project and would be a valuable asset among the Parks of the United States.

Last but not least, we feel that the Park would be of value to our Town and the surrounding area in strengthening a soft economy picture in Apache County.

We appreciate the work and effort you have applied to this Bill and our Town stands ready to assist in any way possible.

Very truly yours,
BARBARA HUNTER,
Mayor.•

By Mr. GLENN:

S. 3336. A bill to encourage the acquisition and use of resource efficient materials in construction, repair, and maintenance of Federal buildings; to the Committee on Environment and Public Works

FEDERAL RESOURCE-EFFICIENT BUILDING MATERIALS ACT OF 1992

• Mr. GLENN. Mr. President, I rise today to introduce the Federal Resource-Efficient Building Materials Act, legislation to encourage the purchase and use by the Federal Government of building products made from recycled, reclaimed, or reused material.

As many of my colleagues are well aware, this Nation is facing a growing solid waste problem. Tougher environmental regulations, combined with continued population growth, have created a situation where it is getting tougher and tougher to dispose of our garbage.

One positive development that has come from our solid waste problem has been the boost to recycling. Over the last decade, numerous government and industrial programs have sprung up to try to prevent paper, plastics, glass, and other materials from entering into the wastestream. However, these programs have not been without their faults. One problem has been that the supply of materials to be recycled far exceeds the demand for their recycled end-products. Without incentives to stimulate demand for recycled products, market failure resuts—and we end up failing to fully achieve our goal of preventing materials from entering the solid wastestream.

I believe that the building industry offers enormous potential to energize the market for products made from recycled, or as I have defined in the legislation—resource-efficient materials. As I speak, the National Association of Homebuilders is completing construction of a demonstration home in Marlboro, MD, made from resource-efficient materials. Some of the innovative products and technologies incorporated in this home include:

A concrete foundation system using both recycled polystyrene and polypropylene;

Insulation made from recycled polystyrene and Newspaper;

Steel beams, framing, and doors made from recycled scrap metal; and,

Carpeting made from recycled plastic bottles.

My bill provides $20 million to establish a 3 year pilot program run by the General Services Administration [GSA] to demonstrate the acquisition and use of these and other resource-efficient building materials in Federal Buildings. In addition, the legislation creates an advisory board served by representatives of industry, government, and the environmental and scientific community to oversee the implementation of the program and study its results. Upon completion of the pilot program, GSA would then issue guidelines to all Federal agencies to both maximize the use of resource-efficient materials and minimize the generation of solid waste in all new construction. These guidelines would be based on the recommendations of the advisory board.

Recently, my staff showed me a piece of manufactured lumber displayed at a trade show here in town by ARW Polywood—a small business from the city of Lima in my home State of Ohio. Eighty percent of ARW's product is made from waste plastics picked up from roadside recycling, with the remaining 20 percent consisting of residual Plastics made by Proctor & Gamble that would otherwise be thrown out or disposed of. This plastic lumber has many applications: Building additions and decks; boat docks; and outdoor furniture, to name a few. In the short space of just 1 year, ARW's annual revenues have shot up from $50,000 to $2 million, thanks to sales of this product.

As ARW and others are demonstrating, our Nation can improve environmental protection while fostering economic growth, job creation, and competitiveness. The environment and the economy need not be the bitter foes as some have falsely made them out to be. I believe with the proper policies in place—such as those espoused in my bill—we can create a win-win situation for both the environment and the economy.

Recently, I also asked GAO to assess the Federal Government's R&D efforts in recycling and waste reduction, with a particular focus on how well it transfers technological innovations to the private sector. In addition, I want to know how we measure up with other industrial nations in these area. The OECD has estimated that the world market for environmental goods and services is growing at annual real growth rate of 5 to 6 percent and will reach $300 billion by the year 2000. Japan and Germany, in particular, are pursuing aggressive Government policies to target this market. We must do the same for our industry.

I plan to have hearings on these topics before my Committee on Governmental Affairs in the next Congress. I believe that without foresight and proactive support from the Federal Government, we will not only lose opportunities throughout the world to win the market for environmental technologies, but fail to capitalize on the large potential here at home. •

By Mrs. KASSEBAUM (for herself, Mr. HATCH, and Mr. DODD):

S. 3337. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes; to the Committee on Labor and Human Resources.

BETTER PHARMACEUTICALS FOR CHILDREN ACT

• Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation to improve the safety and effectiveness of pharmaceutical products used by children. I am pleased that Senators HATCH and DODD are joining me as originals cosponsors in this effort.

Specifically, this legislation creates incentives for drug manufacturers to test the impact of drug products in pediatric populations. At present, such testing is performed only haphazardly.

Mr. President, the use in children of pharmaceuticals developed for adults is an area which so far has not received the attention it deserves. Under current law, physicians have the discretion to use any lawfully marketed drug for any patient, according to their best judgement. Ordinarily, this discretion works well, as it allows physicians to adapt available medications to the needs of their patients. There are particular challenges, however, in wisely using children drugs which were developed with adults in mind.

With the exception of certain drugs with known and significant pediatric uses, pharmaceutical products are seldom studied in younger populations. What this means is that physicians who wish to use these drugs for pediatric patients are forced to estimate pediatric dosages from the dosages found to be safe and effective in adults.

Such estimates are sometimes uncertain, owing to the fact that children—particularly those under 2 years of age—frequently metabolize drugs differently than do adults. Further, some drugs can be less safe in children than in adults, even when appropriate doses are used.

The problem, Mr. President, is that there is little incentive for manufacturers to perform studies for medications which they do not intend to market for children and which are therefore expected to return little additional revenue from that source. For these reasons, children have long been considered therapeutic orphans.

Mr. President, the legislation I am introducing today will address this problem by providing special incentives to help assure more widespread and consistent testing of drug products for use in children.

Specifically, the Better Pharmaceuticals for Children Act draws on our successful experience with the marketing exclusivity provision of the Federal Food, Drug, and Cosmetic Act to grant 6 months' marketing exclusivity for products for which FDA-approved pediatric studies are conducted.

The bill creates a new section in the Food, Drug, and Cosmetic Act, modeled on corresponding subsections of section 505(j)(4)(D), the marketing exclusivity portion of the Drug Price Competition and Patent Term Restoration Act. A drug qualifying for this exclusivity would not be subject to new generic competition for 6 months after the expiration of its patent or other exclusivity under current law.

Importantly, the legislation in its current form restricts its focus solely to drugs not ordinarily studied in children. Thus, it excludes antibiotic, antiasthmatic, and antiallergy medication, as well as drugs with indications for diseases or conditions that occur only in children. As is the case currently, sponsors of such child-oriented therapies should expect to perform pediatric studies as a matter of course.

Primary beneficiaries of this bill will be children in need of safe and effective medications. Also helped will be pediatricians, who will have more confidence in using appropriately labeled drugs, as well as greater availability of specific pediatric dosage forms.

Mr. President, this is an area which deserves our closest attention. I know each of us would do anything to help a sick child, and an incentive for drug sponsors to perform pediatric studies takes a step in that direction.

I am not alone in my interest in increasing the testing of pharmaceutical products in children. In preparing this legislation, it has been my pleasure to work with both the American Academy of Pediatrics and with the Pharmaceutical Manufacturers Association. Input from officials at the Food and Drug Administration has also been very helpful. I look forward to continuing this cooperation when work on this issue resumes next year.

Obviously, Mr. President, I do not submit this bill with the expectation that the Senate will act upon it before adjournment. Rather, it is my hope that its introduction today will provide a vehicle for discussion in coming months of the concepts I have discussed. I invite comment and suggestions from interested Senators and outside groups, and I hope that when the new Congress convenes, we will be in a position to consider this proposal expeditiously.

I ask that the text of the bill and a legislative summary be included in the RECORD following my remarks.

There being no objection the material was ordered to be printed in the RECORD, as follows:

S. 3337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Better Pharmaceuticals for Children Act".

SEC. 2. PEDIATRIC STUDIES MARKETING EXCLUSIVITY.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 501 et seq.) is amended by inserting after section 505 the following new section:

"PEDIATRIC STUDIES FOR NEW DRUG APPLICATIONS

"SEC. 505A. (a) If an application submitted under section 505(b)(1) is approved on or after the date of enactment of this section, and such application includes reports of pediatric studies described and requested in subsection (c), and such studies are completed and the reports thereof submitted in accordance with subsection (c)(2) or completed and the reports thereof accepted in accordance with subsection (c)(3), the Secretary may not make the approval of an application submitted under section 505(b)(2) or section 505(j) which refers to the drug for which the section 505(b)(1) approval is granted effective prior to the expiration of 6 months from the earliest date on which the approval of such application for the drug under section 505(b)(2) or section 505(j), respectively, could otherwise be made effective under the applicable provisions of this chapter.

"(b) If the Secretary makes a written request for pediatric studies described in subsection (c) to the holder of an approval under section 505(b)(1) for a drug, and such studies are completed and the reports thereof submitted in accordance with subsection (c)(2) or completed and the reports thereof accepted in accordance with subsection (c)(3), the Secretary may not make the approval of an application submitted under section 505(b)(2) or section 505(j) which refers to the drug subject to the section 505(b)(1) approval effective prior to the expiration of 6 months from the earliest date on which an approval of such application under section 505(b)(2) or section 505(j), respectively, could otherwise be made effective under the applicable provisions of this chapter. Nothing in this subsection shall affect the ability of the Secretary to make effective a section 505(b)(2) or section 505(j) approval for a subject drug if such approval is proper under such subsection and is made prior to the submission of the reports of pediatric studies described in subsection (c).

"(c)(1) The Secretary may, pursuant to a written request for studies after consultation with the sponsor of an application or holder of an approval for a drug under section 505(b)(1), agree with the sponsor or holder for the conduct of pediatric studies for such drug.

"(2) If the sponsor or holder and the Secretary agree upon written protocols for such studies, the studies requirement of subsection (a) or (b) is satisfied upon the completion of the studies in accordance with the protocols and the submission of the reports thereof to the Secretary. Within 30 days after the submission of the report of the studies, the Secretary shall determine if such studies were or were not conducted in accordance with the written protocols and so notify the sponsor or holder.

"(3) If the sponsor or holder and the Secretary have not agreed in writing on the protocols for the studies, the studies requirement of subsection (a) or (b) is satisfied when such studies have been completed and the reports accepted by the Secretary. Within 60 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within 60 days, that the studies fairly respond to the written request and that such studies have been conducted and reported in accordance with commonly accepted scientific principles and protocols.

"(4) As used in this section, 'pediatric studies' or 'studies' means at least one human clinical investigation in a population of adolescent age or younger.

"(d) If the Secretary determines that an approval of an application under section 505(b)(2) or section 505(j) for a drug may be made effective after submission of reports of pediatric studies under this section but before the Secretary has determined whether the requirements of subsection (c) have been satisfied, the Secretary may delay the effective date of any approval under section 505(b)(2) or section 505(j), respectively, until the determination under subsection (c) is made, but such delay shall not exceed 60 days. In the event that the requirements of this section are satisfied, the 6-month period referred to in subsection (a) or (b) shall be deemed to have begun on the date an approval of an application under section 505(b)(2) or section 505(j), respectively, would have been permitted absent action under this subsection.

"(e) The Secretary shall publish notice of any determination that the requirements of subsection (c)(2) or (c)(3) have been met and that approvals for the drug will be subject to deferred effective dates under this section.

"(f) This section shall not apply in any case in which the indication or indications with respect to which the studies under subsection (c) are requested are for antiallergy or antiasthmatic diseases or conditions or for diseases or conditions that occur solely in persons of adolescent age or younger.".

THE BETTER PHARMACEUTICALS FOR CHILDREN ACT LEGISLATIVE SUMMARY, SENATOR NANCY LANDON KASSEBAUM

Section 101 is the short title: the "Better Pharmaceuticals for Children Act."

Section 102 amends the Federal Food, Drug, and Cosmetic Act to establish a new section 505A granting six months of marketing exclusivity to holders of approvals for certain pharmaceuticals who perform pediatric studies requested by the Food and Drug Administration (FDA).

Sec. 505A (a) provides six months of exclusivity in pre-approval cases, in which pediatric studies as defined in the new act are performed and included in a 505(b)(1) application. Subsection (a) specifies that the secretary is to review the studies and determine that they satisfy the standards of subsection (c)(2) or (c)(3), as appropriate.

Further, in order to receive exclusivity, the approval must occur on or after the date of enactment—the act is not retroactive. The six-month period is to start on the earliest date on which an approval of the application for a generic copy of the drug could otherwise be made effective.

Sec. 505A (b) provides six months exclusivity in post-approval cases, in which pediatric studies are requested, performed, and submitted/approved after the drug has received its 505(b)(1) approval. Subsection (b) specifies that the secretary is to review the studies and determine that they satisfy the standards of subsection (c)(2) or (c)(3), as appropriate.

The six-month period is to start on the earliest date on which the approval of an application for a generic copy of the drug could otherwise be made effective. Subsection (b) also specifies that the secretary may make a generic approval effective, if it is otherwise proper, even after a request for pediatric studies has been made, but before submission of the study reports. This should be read in conjunction with subsection (d), which provides that once the study reports are submitted and while they are under review by the secretary, the secretary has the discretion to delay any generic approval until the subsection (c)(2) or (c)(3) determination has been made.

Sec. 505A (c) states that the studies triggering the act's grant of exclusivity must have been requested in writing by the secretary, and defines "pediatric studies" as at least one human clinical investigation in a population of adolescent age or younger.

Sec. 505A (c)(2) and (c)(3) set forth the secretary's responsibilities in reviewing the studies. In the (c)(2) case, the sponsor or holder of the approval and the secretary agree in advance, in writing, on the manner in which the studies are to be performed and reported. Thus, the secretary's subsequent review is limited to a determination that the studies were or were not conducted in accordance with the written protocols. A thirty-day limit is set on this largely ministerial task.

In the (c)(3) situation, the sponsor or holder and the secretary do not enter into a written agreement on the study protocols, and the sponsor or holder performs the studies according to its own judgment of the efforts which will satisfy the secretary's written request. In this case, the secretary's responsibility and discretion are broader: to determine that the extent and nature of the studies fairly respond to the written request, and that they have been conducted and reported in accordance with commonly accepted scientific principles and protocols. Accordingly, the time limit provided is doubled, to sixty days.

Sec. 505A (d) provides for the case where a written request has been made, studies completed and submitted to the secretary, and, during secretarial review, the drug's protection under patent or other exclusivity provisions lapses. Under such circumstances the secretary has the discretion to delay a generic approval until the (c)(2) or (c)(3) determination has been made and exclusivity granted or denied. However, the delay period does not act to extend the six-month exclusivity, if granted, since the six-month period is deemed to have begun running on the earliest date the generic approval could otherwise have been made effective.

Sec. 505A (e) states that the secretary shall publish notice that (c)(2) or (c)(3) requirements have been met for a drug, thus furnishing notice to potential applicants for generic approvals of the grant of exclusivity under this act.

Sec. 505A (f) bars the benefits of the act to drugs targeted at conditions occurring solely in children, and in certain broad classes of medications (antiallergy and antiasthmatic drugs) which routinely bear pediatric indications and which therefore are normally studied in pediatric populations before approval.•

By Mr. BREAUX:

S. 3338. A bill to promote fair trade for the U.S. shipbuilding and repair industry; to the Committee on Finance.

SHIPBUILDING TRADE REFORM ACT

Mr. BREAUX. Mr. President, I am introducing a bill today that is intended to address the very serious problem of shipbuilding in this country and the foreign shipbuilding subsidies that are doing such grave harm and damage to the American shipbuilding industry. Some may say that, well, you are introducing a bill with only a matter of hours, perhaps, before the Congress goes out of session. Why are you doing it so late?

I will respond by pointing out that what I am introducing today, hopefully, will be a compromise and is representative of many hours and, in fact, many months of work that many of us who have been spending time trying to come up with a legislative solution to this problem have so far been unable to reach.

I think perhaps the bill being introduced today is reflective of a potential compromise which will, first, address the issue; second, be able to be signed by the President; and, third, bring some real help and assistance to the shipyards of this country, which are in a very precarious state of existence.

It is clear that American shipyards, because of our technology and experience in the work force can compete in shipyards in any country in the world.

What our shipyards cannot compete against, Mr. President, is other countries. Other countries do not have to worry about making a profit; they do not have to worry about the bottom line. They have only one goal when they are involved in shipyards and shipbuilding; that is, to provide an industrial base and jobs for the citizens of their countries.

American shipyards operate under different standards and have different needs. While we produce a quality product, we must also do so at a price that is competitive in the world market.

Therefore, it is clear that since 1981—when the American shipyards lost any help or assistance from our Government, when our Government, under the Reagan administration, said you are on your own, go out and do what you can, and sent our shipyards afloat in a world which was replete with subsidies—that our shipyards are competing with shipyards operating that have clear advantages. That act by the administration at that time really signed the death certificate for the American ship industry as we know it unless we take some action, which we are now attempting to do today.

In an effort to reach a compromise on this issue, which has been so difficult because of different perspectives of what needs to be done, this legislation which I am introducing today incorporates portions of S. 3192, which I had previously introduced, as well as portions of H.R. 2056, which is commonly known as the Gibbons bill, which has been referred in the Senate to the Senate Finance Committee.

As an example, the bill I am introducing defines the term "subsidies" in the same manner as the Gibbons bill. We are clear on what type of unfair practices we are aimed at. Also, the definition of subsidies, and the fact that it is the same definition as in the Gibbons bill indicates clearly that the foreign practices in my bill are the same practices targeted in the Gibbons bill.

This subsidy definition represents a summary of the findings of the Organization for Economic Cooperation and Development [OECD] working group number 6 concerning shipyard subsidy practices. The definition of subsidies includes public ownership of shipyards. "Public sector ownership of commercial ship construction facility" is intended to include any degree of public sector ownership in a commercial ship construction facility such as, for example, those shipyards which are owned in whole or in part, or otherwise controlled or held directly or indirectly, by Sembawang Holding which is an undertaking of the Government of the Republic of Singapore. Also, nothing in this bill is intended to interfere with the operation of the treaty between the United States and Iceland for the carriage of military cargo destined for NATO facilities in Iceland. This bill also includes the investigation and blacklist concepts that are in the Gibbons bill.

Our bill differs, however, from the so-called Gibbons bill in the penalties that are available and imposed after these illegal subsidies are determined to exist. Under my bill, the penalties lie only against "affected vessels."

One of the problems with the Gibbons legislation was that instead of trying to target countries that were providing these illegal subsidies, the Gibbons bill, with a very broad brush, hit targets that had nothing to do with the subsidizing practices of the foreign country.

Our legislation says that penalties will lie against affected vessels, and these affected vessels are defined as vessels registered in the countries on the blacklist that would be established, which would include those countries that are in fact subsidizing their ship construction industry, on their ship repair industries, and also vessels owned by entities or citizens of those countries.

Mr. President, it makes no sense, in my opinion, to penalize American-owned vessels that had nothing to do with the establishment of those subsidies. An American company with a vessel that was built in a country which subsidizes their shipbuilding industry is not the proper target. The proper target is the country that provides those subsidies.

So in our legislation, Mr. President, the penalties would lie against those affected vessels, which would be vessels registered from the countries on the blacklist as an offending country, and also vessels owned by citizens or entities of that offending country. I think that gives us the proper target, which was one of the main defects with the so-called Gibbons bill. We set up two standards that would have to be met before the penalties could go into effect.

For vessels that are already there, vessels that were built and constructed before enactment of this legislation, the Secretary of Commerce must find that those subsidies which these foreign countries provide in actuality create conditions unfavorable to the ability of any U.S. shipbuilder to engage in the construction of vessels for international commerce.

In other words, what we are saying is simply that for the vessels already in existence, if they are registered in or are owned by citizens or entities of a country which provides a subsidy, there has to be a finding that those subsidies, in effect, contributed to conditions which were unfavorable to our shipyards to be able to build a ship.

Now, for vessels that are going to be constructed after the enactment of this legislation, no such injury test is required. The difference is, I think, very obvious. We are putting these countries on notice from today that if they are constructing ships with subsidies, the fact that those subsidies exist is going to be sufficient for this legislation to kick in and for penalties to, in fact, be imposed.

For these new vessels which would be build after this legislation is adopted, we have a range of penalties the Secretary may impose. We are not narrowing it down and telling him what to do. We are only saying you must do something. And the penalties he can choose from are as follows.

He can impose one or more of the following sanctions: First, he can limit sailings, that is, limit the sailings of those ships into this country; he can provide a monetary penalty of up to $1 million per voyage on those vessels; he can direct Customs to refuse clearance of those vessels into the United States or he can direct the Coast Guard to deny entry of those subsidized vessels into any U.S. port.

Now, for existing vessels already built, the penalties are different. After the Secretary makes the finding I mentioned, that a subsidy exists and such subsidy has created conditions unfavorable to U.S. shipyards, then for these existing vessels the Secretary must impose one of the following penalties: First, he can limit the sailings; or, second, he can impose this monetary penalty of up to $1 million per voyage.

Finally, another major difference in this bill and the so-called Gibbons bill is that its focus, as I indicated, is clearly more on the country which is subsidizing shipbuilding and repair work, rather than on the individual ships that were built or repaired in those countries' shipyards.

This bill would not mandate, for instance, the repayment of all the subsidies that individual ships had received by foreign countries. The Gibbons bill would have required repayment of not only all subsidies provided on every ship that would come into a U.S. port, but also every ship in that shipowner's fleet, whether it entered a U.S. port or not.

Mr. President, I suggest this bill represents a fair compromise, a compromise that is workable. One of the problems I have had, as have others who have the same concern I have represented this afternoon, is the fact that if you go too far by requiring too much to be done against these offending countries, it is clear this administration would not sign the bill.

On the other hand, if we did not go far enough, those shipyards which are surely, every day, losing a little bit of their ability to compete in the world market would not be able to support the legislation if it did not do enough.

I think some bill that will become law is needed. It is very important we craft a proper compromise. I suggest that this proposal today, which is going to be available to Members to review, represents that fair compromise. It imposes some very tough penalties after subsidies have been determined to exist. Second, it hits the right target. It does not do us any good to shoot ourselves in our own foot in order to make a point. I think that is exactly what the Gibbons bill would have done.

The second point is the Gibbons bill would not be signed by the President. So that left us with very little to point to as an accomplishment.

So, Mr. President, I submit today a bill to be printed and made available to my colleagues, and hopefully, in the next couple of days we have remaining in this session, we will be able to find a way to, in fact, take this compromise, adopt it in the Senate, send it to our colleagues in the other body, and have them accept it as well, and then send it to the President under conditions which I think would indicate he will, in fact, be able to support this legislation.

By Mr. ADAMS;

S. 3339. A bill to improve housing for elderly persons that is assisted by the Federal Government, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUPPORT SERVICES IN HOUSING ACT

• Mr. ADAMS. Mr. President, I rise today to introduce legislation to make much needed improvements in the Federal housing programs that serve the elderly and persons with disabilities. Dramatic reductions in funding for low-income housing during the Reagan and Bush administrations have resulted in inadequate low-income housing in America's cities. Despite these draconian cuts, there still are things we can do to use available funds to better meet the diverse housing needs of the elderly and persons with disabilities.

I fervently hope that before we adjourn this Congress, we will send a reauthorized National Affordable Housing Act [NAHA] to the President for his signature. If we do, and the President signs it, it will be for a 2-year period. Therefore, the next Congress will again turn its attention to the Nation's low-income housing needs. If the NAHA legislation doesn't get signed into law, the necessity of dealing with these programs will be even more urgent.

The House version of the pending housing bill includes several key changes with regard to housing and the elderly that were introduced by Representative MARILYN LLOYD, the esteemed chair of the Subcommittee on Housing and Consumer Interests of the House Select Committee on Aging. I hope that these provisions will be in the conference agreement that we should take up before we adjourn.

Representative LLOYD'S provisions would provide an important boost to our efforts to more effectively respond to the service and housing needs of poor and frail older Americans. We must continue to build upon this work and to strengthen the linkages between housing and long-term care policy.

I will not be here when the 103d Congress convenes. Before I leave to return to private life, however, I am compelled to focus the attention of my colleagues in the Senate on this important issue. Therefore, I am introducing this bill in the hope that it will provide a foundation in the next Congress for further deliberations and action on the needs of older and disabled tenants of publicly assisted housing.

Great numbers of older tenants of assisted housing are aging in place. As they age and become increasingly frailer, they too often face losing their independence and being forced into a nursing home because modest services that would keep them in their apartment or home are not available. The legislation that I am introducing would help to meet those needs and keep older and disabled tenants independent.

First, this bill will address problems in the Department of Housing and Urban Development with regard to federally assisted housing by establishing an Assistant Secretary for Supportive Housing. This new position would carry the responsibility for administration of the supportive housing programs of the Department; for assisting or providing for housing project management staff members who coordinate the provision of supportive services in projects, including service coordinators; and coordination with the Secretary of Health and Human Services for the provision of supportive services in housing.

This legislation would also require a comprehensive review of multifamily housing projects designed to serve elderly persons or families, at least once every 4 years. These reviews would include a review of supportive service needs of all the residents—elderly persons and persons with disabilities alike—and services provided, as well as modernization needs, personnel needs, and financial needs of these projects. Further, the reviews would include local housing markets with respect to the need, availability, and cost of housing for elderly and disabled persons and families.

Mr. President, these periodic reviews are vital to adapting facilities over time to address changing resident needs, particularly as residents age in place. The reviews also are crucial to determining the adequacy of funding levels and priorities of the Department of Housing and Urban Development and the geographic targeting of those resources.

While this bill focuses primarily on improvements in elderly housing, the improvements in access to supportive services, directed by an Assistant Secretary for Supportive Housing, would also benefit persons with disabilities, many of whom have needs similar to those of elderly persons which must be met if they are to maintain their independence and avoid institutionalization.

This bill calls for the creation of one-stop housing assistance application centers for elderly persons and persons with disabilities. These one-stop centers would coordinate with public housing agencies, State and local governments, and other organizations to assist individuals and families in applying for and obtaining housing assistance.

Coordination of housing assistance services would improve efficiency in the administration of housing assistance programs by eliminating duplication of efforts and reducing the need for several agencies to deal with the same applicant regarding the same request. More importantly, however, coordination of housing assistance services would streamline the process of seeking and obtaining housing assistance for many low-income elderly persons and persons with disabilities and, thus, reduce the difficulty and frustration associated with finding suitable assisted housing.

Mr. President, two additional features of this legislation, revised congregate housing services and the expansion of the service coordinator program to the full range of federally assisted housing, are especially significant in that they link elderly residents with critical, but often difficult-to-access services. Under the congregate services program, preference would be given to eligible residents having the greatest economic need and the greatest risk of being placed in institutions. Under the service coordinator provisions, training would be required for all service coordinators and standards set for that training.

As you know, many elderly residents in assisted housing have aged in place and find themselves in need of outside supportive services. Very often the provision of these services can make the difference, particularly for the frail elderly, between remaining independent and living with dignity, or being forced into nursing homes or other institutions for long-term care. Not only is this last option far more costly, but it is not what most elderly individuals want. Service coordinators, working with service providers, can more effectively meet the needs of frail elderly residents, taking into account their desires and ability and willingness to pay for such services.

Finally, Mr. President, this legislation calls for a mixed-income project demonstration and would authorize the use of up to 10 percent of section 202 funds for partial funding of mixed income projects for the elderly. These funds could be used in conjunction with multifamily mortgage insurance, thus acknowledging the vital importance of residentially based models of long-term care. By providing supportive services in full apartments, frail elderly residents in assisted living facilities can maintain their independence longer. These modifications to the Mortgage Insurance Program would help to promote this promising, highly desirable, and less costly, alternative to institutional care.

Mr. President, I urge my colleagues to take this legislation up in the 103d Congress and make these important changes in housing policy. I ask unanimous consent that a copy of the text of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Supportive Services in Housing Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
TITLE I—GENERAL IMPROVEMENTS TO PROGRAMS PROVIDING HOUSING FOR THE ELDERLY
Sec. 101. Assistant Secretary for supportive housing.
Sec. 102. Review of programs.
Sec. 103. One-stop location for application for housing assistance.
TITLE II—SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY
Sec. 201. Mixed-income project demonstration.
TITLE III—REVISED CONGREGATE HOUSING SERVICES
Sec. 301. Eligibility of residents for supportive services.
TITLE IV—SERVICE COORDINATORS IN FEDERALLY ASSISTED HOUSING
Sec. 401. Required training.
Sec. 402. Project-based section 8 housing.
Sec. 403. Multifamily housing assisted under National Housing Act.
Sec. 404. Rural rental housing.
Sec. 405. Revised congregate housing services program.
Sec. 406. Section 202 supportive housing for the elderly.
Sec. 407. Public housing.
TITLE V—MORTGAGE INSURANCE FOR ASSISTED LIVING FACILITIES
Sec. 501. Eligibility of assisted living facilities for mortgage insurance under section 232.

TITLE I—GENERAL IMPROVEMENTS TO PROGRAMS PROVIDING HOUSING FOR THE ELDERLY

SEC. 101. ASSISTANT SECRETARY FOR SUPPORTIVE HOUSING.

(a) ESTABLISHMENT AND DUTIES.—Section 4(b) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) There shall be in the Department an Assistant Secretary for Supportive Housing, who shall be one of the Assistant Secretaries, and shall have the powers and duties prescribed by the Secretary. The Assistant Secretary for Supportive Housing shall, under the supervision and direction of the Secretary—

"(A) administer the supportive housing programs of the Department, including supportive housing for the elderly under section 202 of the Housing Act of 1959, supportive housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act, revised congregate housing services under section 802 of such Act, and HOPE for elderly independence under section 803 of such Act;

"(B) administer any programs of the Department assisting or providing for housing project management staff members who coordinate the provision of supportive services in projects, including service coordinators under sections 8(d)(2)(F) and 9(a)(1)(B) of the United States Housing Act of 1937, section 202(g)(2) of the Housing Act of 1959, section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act, section 515(x) of the Housing Act of 1959, and section 403 of this Act; and

"(C) consult and coordinate with the Secretary of Health and Human Services regarding the provision of supportive services in housing assisted under programs of the Department.".

(b) AGGREGATE NUMBER OF ASSISTANT SECRETARIES.—Section 4(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(a)) is amended by striking "eight" and inserting "nine".

(c) TIMING OF APPOINTMENT.—The President shall appoint an individual to serve as Assistant Secretary for Supportive Housing of the Department of Housing and Urban Development, pursuant to section 4(b) of the Department of Housing and Urban Development Act (as amended by this section), not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

(d) BASIC PAY AT LEVEL IV OF EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended in the item relating to Assistant Secretaries of Housing and Urban Development by striking "(8)" and inserting "(9)".

SEC. 102. REVIEW OF PROGRAMS.

(a) REVIEW OF PROJECTS AND SERVICES.—

(1) SCOPE.—The Secretary of Housing and Urban Development, through the Assistant Secretary for Supportive Housing, shall conduct a comprehensive review of—

(A) multifamily housing projects that are designed or designated to serve or are serving elderly persons or families and are assisted under programs of the Department, which shall include review of—

(i) the supportive service needs of such residents and any supportive services provided to such residents;

(ii) any modernization needs and activities for such projects;

(iii) personnel needs of the projects; and

(iv) the financial needs of such projects; and

(B) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act;

(2) TIMING.—In conducting the review under this subsection, the Secretary shall review approximately 25 percent of the projects and housing markets in the United States each year, so that each project and market is reviewed not less than once every 4 years.

(b) ANNUAL REVIEW OF FUNDING AND TARGETING.—The Secretary of Housing and Urban Development, through the Assistant Secretary for Supportive Housing, shall annually conduct a comprehensive review of—

(1) the adequacy of funding levels and priorities of the Department of Housing and Urban Development for programs assisting housing for elderly persons and families, based on information acquired pursuant to subsection (a)(1); and

(2) the adequacy of the geographic targeting of resources provided under such programs by the Department, based on information acquired pursuant to subsection (a)(1).

(c) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the reviews conducted under subsections (a) and (b), which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in subsection (a)(1) and any findings and recommendations of the Secretary pursuant to the review.

SEC. 103. ONE-STOP HOUSING ASSISTANCE APPLICATION CENTERS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall consult with appropriate local agencies within each housing market area in which any assistance for housing for elderly persons provided under programs administered by the Secretary is available and, to the extent possible, enter into agreements with agencies in each such area under which the agencies will provide one-stop housing assistance application centers under this section for elderly persons and persons with disabilities.

(b) RESPONSIBILITIES OF CENTERS.—Each agreement entered into pursuant to subsection (a) shall require the local agency to provide establish and maintain, at a single location, a facility for individuals and families in the housing market area—

(1) to apply for any elderly housing assistance available under programs administered by the Secretary and for occupancy in units in any housing projects that are located within the area and assisted under such programs;

(2) to obtain information regarding the availability of such housing assistance, dwelling units in such assisted housing, and any other available housing opportunities as the Secretary and the agency may agree; and

(3) to obtain information regarding the availability of counseling services provided by public and private organizations receiving assistance under section 106 of the Housing and Urban Development Act of 1968 to provide homeownership, rental, or prepurchase and foreclosure-prevention counseling within the housing market area.

(c) COORDINATION.—In carrying out the responsibilities under subsection (b), each agency providing a one-stop housing assistance application center shall coordinate with—

(1) any public housing agencies providing public housing or administering assistance under section 8 of the United States Housing Act of 1937, within the housing market area;

(2) any public and private organizations receiving assistance under section 106 of the Housing and Urban Development Act of 1968 to provide homeownership, rental, or prepurchase and foreclosure-prevention counseling within the housing market area; and

(3) any appropriate State and local government agencies.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "elderly person" has the meaning given the term in section 202(k) of the Housing Act of 1959;

(2) the term "person with disabilities" has the meaning given the term in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act;

(3) the term "housing market area" means a market area designated by the Secretary pursuant to section 8(c) of the United States

Housing Act of 1937 for purposes of establishing a fair market rental under such section;

(4) the term "local agency" includes State and local government housing agencies, public housing agencies, Indian housing authorities, area agencies on the aging designated pursuant to section 305(a) of the Older Americans Act of 1965, and any other agencies or organizations that the Secretary considers appropriate and capable of carrying out the responsibilities under subsection (b); and

(5) the term "Secretary" means the Secretary of Housing and Urban Development.

TITLE II—SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

SEC. 201. MIXED-INCOME PROJECT DEMONSTRATION.

(a) Establishment.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of using amounts provided for the development of supportive housing for the elderly for the development, within housing projects occupied by elderly persons of varying incomes, of units reserved for occupancy by very low-income elderly persons.

(b) Funding.—Notwithstanding section 202 of the Housing Act of 1959 and to the extent approved in appropriation Acts, to carry out the demonstration program under this section, the Secretary may use—

(1) not more than 10 percent of the amounts made available for fiscal year 1993 for capital advances under such section for capital advances under the demonstration; and

(2) not more than 10 percent of the amounts made available for fiscal year 1993 for project rental assistance under such section for rental assistance under the demonstration.

(c) Operation of Demonstration.—Except as provided in this section, amounts made available under subsection (b) shall be used in the manner provided under section 202 of the Housing Act of 1959 (as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act) and subject to the requirements of such section.

(d) Assistance.—

(1) Use of funds.—Under the demonstration under this section, the Secretary shall provide assistance to private nonprofit organizations and consumer cooperatives for the development, construction, acquisition, reconstruction, or rehabilitation—

(A) of multifamily housing projects for the elderly containing dwelling units that are designed to meet the special physical needs of elderly persons and reserved for occupancy by very low-income elderly persons; and

(B) within multifamily housing projects for the elderly, of such dwelling units.

(2) Flexibility of use.—Amounts made available under this section may be used to finance the development of such projects, or the costs of such projects, in any manner authorized under section 202 of the Housing Act of 1959, except that amounts provided under this section shall be available for any authorized use with respect to the project, and shall not be limited to use for dwelling units described in paragraph (1).

(e) Supportive Services.—Dwelling units assisted under the demonstration under this section shall be designed to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the units, by the category or categories of elderly persons that such units are intended to serve.

(f) Development Cost Limitations.—For purposes of carrying out the demonstration under this section, the Secretary may establish development cost limitations for development of units within projects, taking into consideration the development cost limitations established under section 202(h) of the Housing Act of 1959 for development of supportive housing projects and any differences in the costs of developing units within projects.

(g) Mortgage Insurance.—Any mortgage otherwise eligible for mortgage insurance under any multifamily mortgage insurance program under title II of the National Housing Act shall not be ineligible for such insurance because of the provision of assistance under this section for the housing project securing the mortgage or because the project contains dwelling units described in subsection (d)(1) pursuant to assistance provided under this section.

(h) Application and Selection.—

(1) Applications.—The Secretary shall provide for applications for assistance under this section in the form and manner provided under section 202(e) of the Housing Act of 1959, except that such applications shall also contain—

(A) a description of the incomes among the tenant population of the housing project in which the units to be assisted under the demonstration are located; and

(B) a description of the physical location, within the housing project, of the units to be assisted under the demonstration.

(2) Selection.—The Secretary shall select not less than 10 applications for assistance under this section based on the selection criteria established under section 202(f) of the Housing Act of 1959, except that—

(A) the Secretary shall also provide for national geographic diversity among projects assisted under this section;

(B) the Secretary may also consider the extent to which the proposed mix of incomes in the housing project in which the units to be assisted under the demonstration are located and the physical location of the units in the project will provide a suitable living environment for elderly tenants of the units, will ensure the economical provision of supportive services for the elderly tenants of the units, and will enable the efficient management and operation of the project; and

(C) the Secretary may also consider the appropriateness of various mixes of incomes in the housing projects containing units assisted under the demonstration.

(i) Report.—The Secretary shall annually submit a report regarding the demonstration under this section to the Congress. The first such report shall be submitted not later than the expiration of the 12-month period beginning on the date of the enactment of this Act. The report shall contain any findings and conclusion of the Secretary as a result of carrying out the demonstration.

(j) Regulations.—The Secretary may issue any regulations necessary to carry out the demonstration under this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

TITLE III—REVISED CONGREGATE HOUSING SERVICES

SEC. 301. ELIGIBILITY OF RESIDENTS FOR SUPPORTIVE SERVICES.

(a) Frail Elderly.—The first sentence of section 802(k)(8) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(k)(8)) is amended to read as follows: "The term 'frail elderly' means an elderly person who has any functional disability (or disabilities) which may impair the ability of the person to live independently and put the person at risk of being placed in a nursing home or other institution.".

(b) Selection Among Eligible Residents for Services.—Section 802(e)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(e)(2)) is amended to read as follows:

"(2) Need.—In providing services under a congregate services program, the program shall—

"(A) consider the economic need of eligible project residents, and shall give preference to serving eligible project residents having the greatest economic need; and

"(B) consider the level of functional disability of eligible project residents and any risks that such disabilities would, absent supportive services, result in such residents being placed in institutions, and shall give preference to serving eligible project residents with the highest such level of risk.".

TITLE IV—SERVICE COORDINATORS IN FEDERALLY ASSISTED HOUSING

SEC. 401. REQUIRED TRAINING.

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended by inserting after the period at the end of the first sentence beginning after subparagraph (E) the following new sentence: "Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues relating to aging.".

SEC. 402. PROJECT-BASED SECTION 8 HOUSING.

Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

"(F)(i) In determining the amount of assistance provided under a contract for assistance payments that is attached to a structure, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, the Secretary may consider and annually adjust for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided for residents of the project (in this subparagraph referred to as a 'service coordinator'), who shall be responsible for—

"(I) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(II) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(III) mobilizing public and private resources to obtain funding for such services for such residents;

"(IV) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(V) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(VI) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(ii) Individuals employed as service coordinators pursuant to this subparagraph shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(iii) For purposes of this subparagraph, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 403. MULTIFAMILY HOUSING ASSISTED UNDER NATIONAL HOUSING ACT.

(a) AUTHORITY AND ELIGIBLE PROJECTS.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants under this section to owners of housing projects—

(1) that are—

(A) financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act; or

(B) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and

(2) that have a sufficient number of frail elderly residents, as determined by the Secretary.

(b) USE.—Any such grant amounts shall be used for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided for frail elderly residents of the project (in this section referred to as a "service coordinator"), who shall be responsible for—

(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

(C) mobilizing public and private resources to obtain funding for such services for such residents;

(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

(c) QUALIFICATIONS.—Individuals employed as service coordinators pursuant to this section shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

(d) DEFINITION OF FRAIL ELDERLY.—For purposes of this section, the term "frail elderly" has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.

(e) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section such sums as may be necessary for each of fiscal years 1993 and 1994.

SEC. 404. RURAL RENTAL HOUSING.

(a) IN GENERAL.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(x) SERVICE COORDINATORS.—

"(1) GRANTS.—The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a 'service coordinator'), who shall be responsible for—

"(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(C) mobilizing public and private resources to obtain funding for such services for such residents;

"(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(2) QUALIFICATIONS.—Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

"(4) DEFINITION OF FRAIL ELDERLY.—For purposes of this subsection, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.".

(b) FUNDING.—Section 513(b) of the Housing Act of 1959 (42 U.S.C. 1483(b)) is amended by adding at the end the following new paragraph:

"(9) For grants under section 515(x), such sums as may be necessary for each of fiscal years 1993 and 1994.".

SEC. 405. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended—

(1) in the matter preceding subparagraph (A), by striking "with respect to the employment of" and inserting "to employ or otherwise retain the services of";

(2) in subparagraph (A), by inserting ", based on objective criteria and interviews with such residents" before the semicolon at the end;

(3) in subparagraph (B), by inserting ", taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents" before the semicolon at the end;

(4) in subparagraph (D), by striking "and" at the end;

(5) by redesignating subparagraph (E) as subparagraph (F); and

(6) by inserting after subparagraph (D) the following new subparagraph:

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and".

SEC. 406. SECTION 202 HOUSING FOR THE ELDERLY.

(a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(g)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(g)(2)) is amended—

(1) in the last sentence, by striking "the employment" and inserting "employing or otherwise retaining the services"; and

(2) by inserting after the period at the end the following: "Any service coordinator employed pursuant to this paragraph shall be responsible for assessing the supportive service needs of residents of the project, based on objective criteria and interviews with such residents, working with service providers to design the provision of services to meet the needs of such residents, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents, and consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services. Individuals employed as service coordinators shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.".

(b) OLD SECTION 202 PROJECTS.—For any project subject to the provisions of section 202 of the Housing Act of 1959, as in effect before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, notwithstanding the provisions of such section 202(g)(2)(A), the Secretary may consider and adjust under such section 202(g)(2) for the expenses of employing or otherwise retaining the services of one or more individuals (in this subsection referred to as a "service coordinator") to coordinate services provided to residents of the project, especially residents who are frail elderly persons, who shall be responsible for—

(1) assessing the supportive service needs of the residents of the project, based on objective criteria and interviews with the residents;

(2) working with service providers to design the provision of services to meet the needs of residents of the project, taking into consideration the needs and desires of the residents and their ability and willingness to pay for such services, as expressed by the residents;

(3) mobilizing public and private resources to obtain funding for such services for the residents;

(4) monitoring and evaluating the impact and effectiveness of any supportive services provided for the residents;

(5) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

(6) performing such other duties that the Secretary deems appropriate to enable the residents of the project to live with dignity and independence.

Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

SEC. 407. PUBLIC HOUSING.

Section 9(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(1)(B)) is amended—

(1) in the first sentence, by striking "a management staff member" and inserting "employing or otherwise retaining the services of one or more individuals (in this subparagraph referred to as a 'service coordinator')"; and

(2) by adding at the end the following: ". Any service coordinator employed pursuant to this subparagraph shall be responsible for assessing the supportive service needs of residents of the project who are frail elderly or persons with disabilities, based on objective criteria and interviews with such residents, working with service providers to design the provision of services to meet the needs of such residents, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents, and consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services. Individuals employed as service coordinators shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.".

TITLE V—MORTGAGE INSURANCE FOR ASSISTED LIVING FACILITIES

SEC. 501. ELIGIBILITY OF ASSISTED LIVING FACILITIES FOR MORTGAGE INSURANCE UNDER SECTION 232.

(a) PURPOSE.—Section 232(a) of the National Housing Act (12 U.S.C. 1715w(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "either" and inserting "any"; and

(2) by adding at the end the following new paragraph:

"(3) The development of assisted living facilities for the care of frail elderly persons.".

(b) DEFINITIONS.—Section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'assisted living facility' means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

"(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

"(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

"(C) provides separate dwelling units for residents, each of which contains full kitchen, toileting and bathing facilities, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

"(7) the term 'frail elderly person' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.".

(c) MORTGAGE REQUIREMENTS.—Section 232(d) of the National Housing Act (12 U.S.C. 1715w(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", assisted living facility," before "or intermediate care facility"; and

(B) by striking "combined nursing home and intermediate care facility" and inserting "any combination of nursing home, assisted living facility, and intermediate care facility";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting ", or 100 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act)," before "including"; and

(3) in paragraph (4), by adding at the end the following new subparagraphs:

"(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

"(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

"(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

"(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.".

(d) FIRE SAFETY EQUIPMENT.—Section 232(i)(1) of the National Housing Act (12 U.S.C. 1715w(i)(1)) is amended by inserting ", assisted living facilities," after "nursing homes".

(e) ADMINISTRATION.—Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end the following new subsection:

"(j) The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.".

(f) AUTHORITY TO INSURE REFINANCING.—Section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) is amended by inserting "existing assisted living facility," after "existing nursing home," each place it appears.

SUPPORTIVE SERVICES IN HOUSING ACT OF 1992—SECTION-BY-SECTION DESCRIPTION

General Purposes: To improve housing for elderly persons that is assisted by the Federal Government, and for other purposes.

TITLE I—GENERAL IMPROVEMENTS TO PROGRAMS PROVIDING HOUSING FOR THE ELDERLY

Title I includes three sections: Section 101 establishes in the Department of Housing and Urban Development (DHUD) an Assistant Secretary for Supportive Housing and describes the duties ascribed to this position. Section 102 calls for a periodic review of projects and services designed or designated to serve elderly persons. Section 103 calls for one-stop housing assistance application centers for elderly persons and persons with disabilities.

Section 101. Assistant Secretary for Supportive Housing (ASSH)

This section creates an office of Supportive Housing to be headed by an Assistant Secretary to administer programs for the elderly, disabled, and homeless and to coordinate programs with social services agencies.

This section also calls for the ASSH to consult and coordinate with the Secretary of Helath and Human Services regarding the provision of supportive services in housing assisted under programs of that Department.

Section 102. Review of programs

This section contains the requirement that all federally assisted housing projects designated for the elderly be reviewed at least once every four years. Such a review would cover supportive services, modernization, personnel and financial needs of such projects. This section also requires that the Secretary prepare an annual report to Congress on the adequacy of funding levels to meet the needs identified and on the adequacy of the geographic targeting of resources.

Section 103. One-stop housing assistance application centers

This section provides for funding agencies in each housing market area to provide assistance, at a single location, for older and disabled applicants for federally assisted housing to obtain information and to apply for the range of housing for which they are eligible.

This section also defines the following terms:

Elderly person—has the meaning given the term in section 202(k) of the Housing Act of 1959.

Person with disabilities—has the meaning given the term in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.

Housing market area—means a market area designated by the Secretary pursuant to section 8(c) of the United States Housing Act of 1937 for purposes of establishing a fair market rental under such section;

Local agency—includes State and local government housing agencies, public housing agencies, Indian housing authorities, area agencies designated pursuant to section 305(a) of the Older Americans Act of 1965, and any other agencies or organizations that the Secretary considers appropriate and capable of carrying out the responsibilities under subsection (b).

Secretary—means the Secretary of Housing and Urban Development.

TITLE II—SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

Section 201. Mixed-income project demonstration

This section authorizes the use of 10 percent of Section 202 funds for partial funding of mixed income demonstration projects for the elderly. Funds could be used in conjunction with multifamily mortgage insurance for the balance of the project.

The Secretary shall select not less than 10 applications for assistance under this section. The selection of applications must provide for a national geographic diversity among the projects.

This section also calls for the Secretary to submit an annual report containing any findings and conclusions of the Secretary as a result of carrying out the demonstration.

TITLE III—REVISED CONGREGATE HOUSING SERVICES

Section 301. Eligibility of residents for supportive services

This section changes the definition of the term "frail elderly" to: an elderly person who has any functional disability (or disabilities) which may impair the ability of the person to live independently and put the person at risk of being placed in a nursing home or other institution.

In providing services under a congregate services program, the program shall give preference to eligible residents having the greatest economic need and with the greatest risk of being placed in institutions.

TITLE IV—SERVICE COORDINATORS IN FEDERALLY ASSISTED HOUSING

Title IV contains seven sections which set forth training requirements for service coordinators, and either extend authority to provide service coordinators in public or assisted housing, or revise service coordinator provisions.

Section 401. Required training

This section establishes training qualifications for service coordinators.

Section 402. Project-based section 8 housing

This section extends authority to provide service coordinators to Section 8 projects serving older people.

Section 403. Multifamily housing assisted under National Housing Act

This section extends authority to provide service coordinators to Section 221(d)(3) and Section 236 projects serving older people.

Section 404. Rural rental housing

This section extends authority to provide service coordinators to Farmers Home Section 515 projects serving older people.

Section 405. Revised Congregate Housing Services Program

This section makes revisions to CHSP in Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act to conform with service coordinator provisions.

Section 406. Section 202 housing for the elderly

This section makes revisions to Section 202(g)(2) of the Housing Act of 1959 to conform with service coordinator provisions.

Section 407. Public housing

This section revises Section 9(a)(1)(B) of the United States Housing Act of 1937 to conform with other service coordinator provisions.

TITLE V—MORTGAGE INSURANCE FOR ASSISTED LIVING FACILITIES

Section 501. Eligibility of assisted living facilities for mortgage insurance under section 232

This section clarifies the eligibility of assisted living facilities to receive insured financing under the Section 232 program, and defines standards for assisted living financing.

This section defines the term "assisted living facility" as a public facility, proprietary facility, or facility of a private nonprofit corporation that (A) is licensed and regulated by the State; (B) makes available to residents supportive services; and (C) provides separate dwelling units for residents.•

By Mr. PRYOR (for himself and Mr. GRAHAM):

S. 3340. A bill to amend title XIX of the Social Security Act to improve the program related to home and community based care; to the Committee on Finance.

HOME AND COMMUNITY BASED CARE PROGRAM

• Mr. PRYOR. Mr. President, 2 years ago this month we passed legislation that provided some $580 million over 5 years for home- and community-based long-term care services. Section 4711 of the Omnibus Budget Reconciliation Act of 1990 created a new limited option under the Medicaid Program under which States could provide a broad range of services to very poor, very frail persons over the age of 65.

Although many States are eager to offer long-term care services to their elderly citizens, only two States—and it was one State until very recently—have taken advantage of this option. There are a number of reasons for the States' reluctance, including what they consider to be overly restrictive income and disability requirements, and concerns about the way the available funds are allocated.

Mr. President, given the enormous need we have for long-term care, I am troubled by the fact that we have not taken advantage of the millions of dollars available for these services. For that reason, I am joined today by Senator GRAHAM in introducing legislation that would address some of the concerns that have been raised by States and aging advocacy organizations with respect to section 4711. It is our hope that it will make the option more attractive and viable to the States.

Some of the States' biggest concerns with this program are the result of it being a capped entitlement. In other words, a State is required to serve as many people as are eligible for these services, whether or not there are sufficient matching funds available from the Federal Government. This fiscal uncertainty is further compounded by the way the funds are currently allocated. The present system permits States to enter the program at any time during a fiscal year. Therefore, if a State entered the program late in the fiscal year, it would restrict the money that has already been allocated to other States.

This legislation addresses these issues in the following way: It permits States to limit the number of persons who could receive these services, and it limits the number of participating States to 25. It is my intention that these changes to the program be temporary, and that once the program becomes a regular option under the Medicaid Program, these limits would be eliminated. The Senate Finance Committee also included a provision in S. 3274 that addresses the allocation of funds under this program, as does S. 3187, a bill I cosponsored with Senator GRAHAM.

This legislation would also liberalize the existing income and disability eligibility requirements, giving the States the flexibility they need to tailor the program to their citizens' needs. In addition, my bill would extent spousal impoverishment protection to persons eligible for this program.

Mr. President, it is vitally important that we work with the States and advocacy groups to see that this money is utilized. I urge my colleagues to join Senator GRAHAM and me in supporting this legislation.•

By Mr. BROWN:

S. 3341. A bill to amend the Federal Water Pollution Control Act to provide for the use of biomonitoring and whole effluent toxicity testing in connection with publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

PUBLICLY OWNED TREATMENT WORKS BIOMONITORING USE ACT

• Mr. BROWN. Mr. President, toxicity in the Nation's waters is a major concern for both human health and the environment. Its prevention is important to this generation and future generations. The 1987 amendments to the Clean Water Act imposed additional requirements relating to the control of toxics on local governments, the Environmental Protection Agency, and the States. In particular, the 1987 Act required biomonitoring or whole effluent toxicity testing for municipal sewage plant discharges.

Unfortunately, the implementation of this requirement is having the unintended effect of discouraging the use of this method for identifying and preventing toxicity. As a result, there is less, not more, testing, and municipalities that would like to use biomonitoring more frequently are instead only meeting the minimum requirements of the law.

Section 303(c)(2)(B) of the Clean Water Act requires the adoption of numeric criteria for toxic pollutants listed under section 307(a) of the act if the discharge or presence of these toxics in the affected waters could reasonably be expected to interfere with designated uses adopted by the State. The focus of these criteria is on toxicity in streams, not at the end of a sewage treatment plant pipe. Where numeric criteria is not available, States are to adopt criteria using biological monitoring or assessment methods based on information to be published by EPA under section 304(a)(8) of the act.

Neither section 304(a)(8) nor any other provision of the act requires that

EPA establish enforceable biomonitoring and testing limits, or that the failure of a single biomonitoring test be treated as a permit violation. However, in 1990 the Environmental Protection Agency issued regulations which state that biomonitoring test failures will be treated as a violation of the Clean Water Act. Civil penalties of up to $25,000 per day are provided for discharge permit violations.

Since biomonitoring and testing is often required on a monthly or quarterly basis, a single test exceedance could result in a finding of 30 or 90 days of violation at $25,000 per day. Total penalty liability for quarterly testing could therefore amount to $2,250,000.

EPA believes that it is bound by this unfortunate approach. The Agency is now including enforceable biomonitoring requirements in individual NPDES permits and is insisting that States include these requirements as a part of delegated programs. EPA has also filed a civil action against at least one major municipality seeking penalties for test failures and for other violations of the Clean Water Act.

EPA's single test failure enforcement approach is not supported by Agency scientists who developed the technical protocols for conducting these tests. These scientists have recognized that biomonitoring tests were never designed, and are inappropriate for, compliance and enforcement use because of the variability of test results and because repeated tests are needed to identify and locate toxicity.

My State has worked very closely with EPA for many years in an effort to work out a mutually satisfactory solution that would encourage, and even require, the use of biomonitoring without risk of unwarranted penalty liability for local governments. However, EPA's June 25, 1992, letter to the Colorado Attorney General's office indicates no flexibility in the Agency's position. EPA's continued belief that it must retain the option to demand penalties for simple test failures makes legislative relief both appropriate and necessary.

The bill we introduce today would resolve disputes between EPA and some States such as Colorado which first included this bill's approach in State regulations and some individual NPDES permits. EPA has challenged these permits in Colorado, even though the Agency has never explained why the Colorado approach is inadequate to meet the toxics control goal of the Federal act.

If Colorado and the other States which have adopted similar approaches do not acquiesce in EPA's position on this issue, they face the loss of the act's delegated permit responsibilities. This would be an unfortunate result for the effective administration of this important environmental compliance program.

ENFORCEMENT OF PASS/FAIL TESTS IS INAPPROPRIATE FOR SEWAGE PLANTS

The use of biomonitoring test failures for enforcement purposes is particularly inappropriate for publicly owned treatment works or POTW's because sewage treatment plants have not been designed to control toxics. Further, repeated biomonitoring tests are needed to identify the causes of toxicity which can then be corrected by a variety of means including pretreatment program enforcement, best management practices, and treatment modifications to the POTW. However, under the EPA approach, each test failure is a violation of the act subject to enforcement action and the $25,000 penalty amount.

Treatment plants have limited control over what is discharged to them. Illegal discharges such as midnight dumps cannot be anticipated nor controlled.

Household products such as cleaners, and copper plumbing can sometimes cause toxicity that cannot be controlled at the POTW. In addition, the impact of the interaction of complex influent streams to treatment plants cannot be anticipated, and can only be identified after toxicity has been detected.

While municipal pretreatment programs are important measures for controlling toxicity and protecting POTW's even an adequately implemented program does not guarantee against biomonitoring test failures. In any case, a substantial number of scientific studies have led to the conclusion that the biomonitoring test itself is subject to significance of individual test results.

IMPACT OF EPA REGULATIONS

Under the EPA approach, POTW's would face the prospect of major fine and penalty payments for these problems without the opportunity to stop them before they occur. This is a fundamentally unfair and technically unsound result. The EPA position on this issue is actually a disincentive to use biomonitoring and testing, which could be a useful tool for detecting, identifying, investigating, and locating toxicity.

While quarterly tests are now commonly required, more frequent testing is often needed to locate toxicity. The more frequently such tests are used, the more likely existing toxics will be found. POTW's should be encouraged to test as frequently as they can within permit requirements, not discouraged from testing by the threat of unreasonable penalties.

Scientific protocols often provide for accelerated testing once toxics are detected. Under EPA regulations, each test failure would subject POTW's to major penalties. It is clear however, that if test failures are the basis for fine and penalty liability, treatment plant operators and managers will be understandably reluctant to conduct frequent tests.

EPA responds to these concerns by promising to consider the issues in the course of their exercise of prosecutorial discretion. However, promises of flexibility are often illusory, and undefined agency discretion can lead to abuse and uneven enforcement throughout the country in order to meet recognized agency compliance goals and enforcement objectives. Moreover, attempts by the agency to use this discretion can be closely circumscribed by the threat of citizen suits.

The Publicly Owned Treatment Works Biomonitoring Use Act is designed to eliminate these problems and encourage the wider use of biomonitoring and testing.

First, this bill would clarify congressional intent by expressly recognizing that no authority exists under the Clean Water Act to use biomonitoring test failures as the sole basis for fines and penalties under the Act. Individual States would nevertheless retain this option under State law.

Second, the bill provides that EPA or State NPDES permitting agencies could include enforceable programs and schedules of compliance or other restrictions in discharge permits if toxicity is detected in POTW discharges. Municipal failure to comply with such programs and schedules for detecting, identifying, locating, and controlling toxicity would continue to be subject to enforcement action and penalties as provided by law.

Mr. President, this bill would clarify this unfortunate situation by eliminating what EPA unfortunately construes to be a mandate, while simultaneously assuring a fair approach which encourages more frequent testing when needed. The rivers, lakes, and streams of our country and the health of its citizens would benefit from the adoption of this measure.●

By Mr. DECONCINI:

S. 3342. A bill relating to copyright compulsary licensing reform; to the Committee on the Judiciary.

COPYRIGHT COMPULSARY LICENSE REFORM ACT OF 1992

●Mr. DECONCINI. Mr. President, today, I rise to introduce the Copyright Compulsory License Reform Act of 1992. The cable compulsory license was enacted in 1976 to establish a statutory licensing system for the retransmission, by cable operators, of copyrighted programming appearing on broadcast television stations. At the time of its enactment, Congress believed that it would be unduly burdensome for every cable system to negotiate with every copyright owner. Therefore, the compulsory license was designed to facilitate the emergence of this industry by establishing a statutory mechanism to authorize cable operators access to diverse programming while also providing a system to compensate the authors of copyrighted works.

The cable industry has grown significantly since its inception when it served as a master antenna system for areas of the country that experienced poor television reception. Today, however, cable penetration exceeds 60 percent of American homes; there are in excess of 13,000 cable operators; 60 cable networks are available throughout the Nation and cable revenues have grown to $20 billion annually. However, while the cable industry has grown immensely over the years, the cable compulsory license has essentially remained the same.

As the chairman of the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks, I have been confronted by many compulsory license issues during the 102d Congress. This year the Copyright Office determined that microwave operators, known as wireless cable systems, are not cable systems within the meaning of the compulsory license. Consequently, they are not entitled to statutory access to copyrighted programming in the same manner that cable systems are. Furthermore, a concern has been expressed by satellite distributors that the satellite compulsory license, which is scheduled to sunset in 1994, must be extended if satellite distributors are to be able to compete with cable distributors. Moreover, the inclusion of the retransmission consent provision in the cable bill, which enables the broadcasters to govern the terms and conditions under which cable operators may retransmit a broadcast signal, raises serious concerns with respect to its impact upon the cable compulsory license.

Consequently, in October 1991, I, along with my ranking member of the subcommittee on Patents, Copyrights and Trademarks, Senator HATCH, directed the Register of Copyrights to conduct a study of the cable and satellite compulsory licenses. It was our hope that this study would be concluded before the Senate Cable Bill, S. 12, reached the Senate floor. Unfortunately, the Cable Bill was debated before the study was completed. Hence, at that time, we indicated our intention to continue to study the copyright effects of retransmission consent and requested the opportunity to participate in the conference if we were to conclude that the copyright compulsory license required any reconciliation with the Senate Cable Bill.

In March of this year, the Copyright Office, issued its report and concluded, among other things, that the compulsory license warranted some reforms and that retransmission consent was incompatible with the cable compulsory license. I conducted 2 days of hearings on the compulsory licenses, entertaining testimony from a wide range of distinguished witnesses including: the Register of Copyrights, the chairman of the Federal Communications Commission, representatives of cable operators, program producers, network and independent broadcasters, satellite carriers and distributors, wireless cable operators, major league baseball, a consumer group, a professor of antitrust law, and a provider of cable programming.

After a review of the Copyright Office's extensive study, in addition to 2 days of hearings, I concluded that the retransmission consent provision was incompatible with the cable compulsory license and that a reform of the cable and satellite compulsory licenses was in order. I have discussed my proposal for reform with most of the interested parties and was hopeful that a reform of the compulsory license could be included in the cable bill in the House and Senate conference. My proposal was specifically designed to reconcile any incompatibilities between the cable bill and the Copyright Act. Moreover, it was carefully crafted not to conflict with any provisions of the Senate bill. Unfortunately, I was denied an opportunity to participate in the conference. Consequently, I intend to pursue the matter of compulsory license reform in the next Congress.

The compulsory license reform bill that I introduce today is predicated on a number of goals, but first and foremost, is my desire to balance the needs of owners of copyrighted programming with the needs of consumers. While many cable operators are not in a position to negotiate on an equal footing with some motion picture producers, it is beyond dispute that cable companies like Telecommunication, Inc., have the market power to negotiate directly with program producers. Accordingly, this bill would repeal the cable compulsory license within 4 years but provide a permanent compulsory license for small cable operators that have 5,000 subscribers or less. This permanent license will ensure their ability to compete and remain independent of the larger companies.

I have always maintained that it is in the best interest of the cable consumer to have effective competition. One of the problems with the compulsory license today is the failure to apply the cable compulsory license on a technology neutral basis to satellite and microwave distributors. Consequently, this bill will correct this problem by clarifying that the compulsory license is neutral as to the technological nature of the video distribution. Moreover, in order to provide these emerging technologies with the same statutory license cushion that traditional cable has enjoyed since 1976, this bill will provide a compulsory license for 7 additional years to these emerging technologies. Therefore, satellite and microwave distributors will have a compulsory license for a full 11 years. This will ensure that consumers will have more program viewing options at their disposal and, hopefully make prices more competitive.

One of the issues that has been the most difficult to resolve is the issue of sports programming. Since the advent of cable television, Americans have witnessed considerable migration of sports programming from free over-the-air to cable. I have been greatly concerned that a repeal of the compulsory license will promote greater migration from over-the-air sports broadcasts and basic cable to pay-per-view, thereby depriving some sports fans of reasonably priced programming and depriving other fans of sports programming entirely. In order to prevent this siphoning, I have included a special provision regarding sports programming that will create a private cause of action for broadcasters or multichannel video programming distributors against a sports league or team for any unreasonable refusal to deal in negotiating for transmission rights for sports programming. In addition, the bill clarifies that no specialized antitrust immunity that sports leagues currently enjoy will apply to the licensing of sports programming in lieu of the compulsory license.

This bill provides compensation for the secondary transmission of distant signals only. It also expands the definition of local signal to ensure that more signals are local in nature, the retransmission of which will not require compensation.

The bill replaces a Byzantine rate structure with a flat, per subscriber rate for distant signals. The rate of 12 cents, in the opinion of the Copyright Office, is revenue neutral, that is, it will generate the same aggregate fees that are currently generated under the more complicated formula. This bill also creates a 12 cents per subscriber rate for the retransmission of up to six superstations. Presently the average number of superstations carried is three. Any number of superstations in excess of six will be charged a rate of 24 cents per subscriber. The Statutory rates and ceilings on the number of superstations will, of course, expire with the repeal of the licenses at the 4th and 11th years respectively.

As this bill was designed to complement S. 12, there is no provision to provide enhanced authority or revenue for broadcasters since the provision on retransmission consent/must carry was designed to meet their needs.

I look forward to working on this legislation next year and introduce it today to provide all of the many interested parties with an opportunity to review and comment on this legislation. I would like to take this opportunity to express my heartfelt appreciation to Bill Roberts of the Copyright Office for his diligent assistance in helping to craft this legislation.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Compulsory License Reform Act of 1992".

SEC. 2. APPLICABILITY OF COMPULSORY LICENSING TO NEW AND EXISTING TECHNOLOGIES.

(a) MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR.—Section 111 of title 17, United States Code, is amended in subsections (a), (c), and (e) by striking "cable system" each place it appears and inserting "multichannel video programming distributor".

(b) SECONDARY TRANSMISSIONS BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—The heading and paragraph (1) of subsection (c) of section 111 of title 17, United States Code, is amended to read as follows:

"(c) SECONDARY TRANSMISSIONS BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—

"(1) Subject to the provisions of clauses (2) through (7) of this subsection, secondary transmissions to the public made in accordance with the requirements of section 325(b) of the Communications Act of 1934 (49 U.S.C. 325(b)) by a multichannel video programming distributors of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is not prohibited under the rules, regulations, or authorizations of the Federal Communications Commission.".

(c) UNSERVED HOUSEHOLDS.—Section 111(c) of title 17, United States Code, is amended by adding at the end thereof the following:

"(5) Notwithstanding the provisions of clause (1) of this subsection, the compulsory license provided for in this subsection shall not be applicable to a network station transmitted beyond the local service area of such station unless the multichannel video programming distributor—

"(A) limits the secondary transmission of such signal to persons who reside in unserved households; or

"(B) at the request of a network station so authorized by contract, does not retransmit duplicate network programming in the local service area of such network station.

"(6) A multichannel video programming distributor that retransmits a network station beyond the local service area of such station pursuant to subsection (5)(A) shall be subject to the following provisions:

"(A) Within 90 days after the effective date of the Copyright Compulsory License Reform Act of 1992, or 90 days after commencing such secondary transmissions, whichever is later, the multichannel video programming distributor shall submit to the network station a list identifying (by street address, including county and zip code) all subscribers to which the multichannel video programming distributor currently makes secondary transmissions of the primary transmission. Thereafter, on the 15th of each month, the multichannel video programming distributor shall submit to the network a list identifying (by street address, including county and zip code) any persons who have been added or deleted as such subscribers since the last submission under this subparagraph. Such subscriber information submitted by a multichannel video programming distributor may be used only for the purpose of monitoring the compliance of the multichannel video programming distributor with this subparagraph. The submission requirements of this subparagraph shall apply to a multichannel video programming distributor only if the network to whom the submissions are to be made places on file with the Register of Copyrights, on or after the effective date of the Copyright Compulsory License Reform Act of 1992, a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

"(B) Notwithstanding the provisions of subsections (a), (b), and (c), the willful or repeated secondary transmission to the public by a multichannel video programming distributor of a primary transmission made by a network station and embodying a performance or display of a work is actionable as an action of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, where the multichannel video programming distributor has failed to make the submissions to networks required by subparagraph (A).

"(7) Multichannel video programming distributors which violate the territorial restrictions on the compulsory license for network stations shall be subject to the following—

"(A) The willful or repeated secondary transmission by a multichannel video programming distributor of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who does not reside in an unserved household is actionable as an act of infringement under section 501 and is fully subject to the remedies provided by sections 502 through 506 and 509 except that—

"(i) no damages shall be awarded for such act of infringement if the multichannel video programming distributor took corrective action by promptly withdrawing the service from the ineligible subscriber, and

"(ii) any statutory damages shall not exceed $5 for such subscriber for each month during which the violation occurred.

"(B) If a multichannel video programming distributor engages in a willful or repeated pattern or practice of delivering a primary transmission made by a network station and embodying a performance or display of a work to subscribers who do not reside in unserved households, then in addition to the remedies set forth in subparagraph (A)—

"(i) if the pattern or practice has been carried out on a substantially nationwide basis, the court shall order a permanent injunction barring the secondary transmission by the multichannel video programming distributor of any network station affiliated with the same network, and the court may order statutory damages not to exceed $250,000 for each 6-month period during which the pattern or practice was carried out; and

"(ii) if the pattern or practice has been carried out on a local or regional basis, the court shall order a permanent injunction barring the secondary transmission by the multichannel video programming distributor in that locality or region of any network station affiliated with that same network, and the court may order statutory damages not to exceed $250,000 for each 6-month period during which the pattern or practice was carried out.".

SEC. 3. REVISION OF COMPULSORY LICENSING.

Section 111(d) of title 17, United States Code, is amended to read as follows:

"(d) COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—

"(1) A multichannel video programming distributor whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal, prescribe by regulation—

"(A) a statement of account, covering the preceding 6 month period, specifying the names and locations of all primary transmitters whose transmissions were further transmitted by the multichannel video programming distributor, the average number of subscribers receiving the secondary transmissions of each primary transmitter during each month covered by the statement of account, and such other information as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal, from time to time prescribe by regulation; and

"(B) a royalty fee for the 6 month period covered by the statement, computed by multiplying the average number of subscribers receiving each secondary transmission of a primary broadcaster transmitter during each calendar month as follows:

"(i) in the case of a commercial television station, to the extent that its signal is retransmitted beyond the local service area of such station, by 12 cents;

"(ii) in the case of a network station, to the extent that its signal is retransmitted beyond the local service area of such station, some of whose network programming must be deleted or replaced pursuant to law or regulation, by 6 cents;

"(iii) in the case of a noncommercial educational station or low power station, to the extent that its signal is retransmitted beyond the local service area of such station, by 3 cents;

"(iv) in the case of a radio broadcast station, to the extent that its signal is retransmitted beyond the local service area of such station, by 1 cent; and

"(v) in the case of a superstation, to the extent that it signal is retransmitted beyond the local service area of such station, by 12 cents for the first six stations so carried and by 24 cents for every other such station carried beyond six.

"(2) The Register of Copyrights shall receive all fees deposited under this section and, after deducting reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of Treasury so directs. All funds held by the Secretary of the Treasury shall be invested in interest bearing securities of the United States for later distribution with interest by the Copyright Royalty Tribunal as provided in this title.

"(3) The royalty fees deposited in the Treasury under paragraph (2) shall, in accordance with procedures provided in paragraph (4), be distributed to copyright owners of programming who claim that their works were the subject of secondary transmissions by multichannel video programming distributors during the applicable 6 month period described in paragraph (1).

"(4) The royalty fees deposited in the Treasury under paragraph (2) shall be distributed in accordance with the following procedures:

"(A) During the month of July each year, every person claiming to be entitled to compulsory licensing fees for secondary transmissions shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws, for purposes of this paragraph any claimants, after negotiating in good faith, may agree among themselves with respect to the proportionate division of compulsory license fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payments on their behalf.

"(B) After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees under this subsection. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners who are entitled to receive such fees, or to their designated agents. If the Tribunal finds the existence of a controversy, the Tribunal shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all reasonable claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.".

SEC. 4. DEFINITIONS.

(a) Multichannel Video Programming Distributor.—The third paragraph of section 111(f) of title 17, United States Code, is amended to read as follows:

"A 'multichannel video programming distributor' means a person or entity such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming which include the retransmission of television broadcast signals licensed by the Federal Communications Commission or an appropriate governmental authority in Canada and Mexico. For purposes of this section, two or more multichannel video programming distributors in contiguous communities under common ownership or control, or operating from one headend, shall be considered as one system.".

(b) Local Service Area.—The fourth paragraph of section 111(f) of title 17, United States Code, is amended to read as follows:

"The 'local service area' of a television broadcast station is determined according to the following:

"(1) in the case of a commercial television station, an area of 75 miles from the reference point of such station, as described in section 73.53 of title 47, Code of Federal Regulations, as in effect on March 29, 1990, or such station's television market as specified in section 73.3555(d) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, which ever area is larger;

"(ii) in the case of a noncommercial educational station, an area within 50 miles of the principal headend of a multichannel video program provider measured from the reference point described in section 76.53 of title 47, Code of Federal Regulations, as in effect on March 29, 1990; or an area where the Grade B service contour, as defined in section 73.683(a) of such title as in effect on March 29, 1990, or any successor regulation thereto, encompasses the principal headend of the multichannel video program distributor; and

"(iii) in the case of a low power station, an area no more than 35 miles from the multichannel video program distributor's headend, or no more than 20 miles if the low power station is located within one of the 50 largest Standard Metropolitan Statistical Areas, and delivers to the input terminals of the signal processing equipment at the multichannel video programming distributor's headend a signal level of −45 dBm for UHF stations and −49 dBm for VHF stations.".

(e) Superstation and Satellite Carrier.—Section 111(f) of title 17, United States Code, is amended by adding at the end thereof the following:

"The term 'superstation' means a television broadcast station, other than a network or noncommercial educational station, licensed by the Federal Communications Commission, whose signal is secondarily transmitted by a satellite carrier beyond the local service area of such station.

"The term 'satellite carrier' means an entity that uses the facilities of a satellite service to operate a channel of communications for point-to-multipoint distribution of television station signals.

"An 'unserved household' with respect to a particular television network, means a household that cannot receive through the use of a conventional outdoor roof-top receiving antenna, an over-the-air signal of grade B intensity of a primary network station affiliated with that network.".

(d) Cable System.—Section 111(f) of title 17, United States Code, is amended by inserting the following immediately after the definition of "secondary transmission":

"The term 'cable system' means a facility which is defined in section 602(6) of the Communications Act of 1934 (47 U.S.C. 522(6)), and is regulated as a cable system under the rules, regulations and authorizations of the Federal Communications Commission on January 1, 1992.".

(e) Distant Signal Equivalent.—The fifth paragraph of section 111(f) of title 17, United States Code, is repealed.

(f) Network Station and Independent Station.—The seventh paragraph of section 111(f) of title 17, United States Code, is amended to read as follows:

"A 'network station' is a television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions of a substantial part of the programming supplied by such networks for a substantial part of that station's typical broadcast day."

SEC. 5. TERMINATION OF COMPULSORY LICENSING.

Section 111 of title 17, United States Code, is amended by adding at the end thereof the following:

"(g) Termination of Compulsory Licensing.—The compulsory license created by subsection (d) shall terminate for multichannel video programming distributors in accordance with the following—

"(1) The compulsory license for cable systems providing secondary transmissions of broadcast stations shall terminate in accordance with the following procedures:

"(A) Not later than two years from the effective date of the Copyright Compulsory License Reform Act of 1992, the Copyright Royalty Tribunal shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of licensing rights to all copyright programming contained on the signals of broadcast stations retransmitted by cable systems.

"(B) Cable systems, providing secondary transmissions of broadcast signals and copyright owners entitled to royalty fees under this section shall negotiate in good faith in an effort to reach a voluntary agreement or agreements for the licensing of copyrights to programming contained on the signals of broadcast stations retransmitted by cable systems. If the parties fail to identify common agents for that purpose, the Copyright Royalty Tribunal shall do so, after requesting recommendations from the parties to the negotiation proceeding. The parties to each negotiation proceeding shall bear the entire cost thereof. Any cable system, or copyright owner may at any time negotiate a licensing agreement, and may designate common agents for that purpose.

"(C) Copies of agreements negotiated in accordance with this subsection shall be filed with the Copyright Office within 30 days after execution of such agreements, in accordance with regulations that the Register of Copyrights shall prescribe.

"(D) Not later than two years and six months from the effective date of the Copyright Compulsory License Reform Act of 1992, the Copyright Royalty Tribunal shall cause notice to be published in the Federal Register of the initiation of arbitration proceedings for the purpose of determining a reasonable licensing fee for cable systems, and copyright owners who are not parties to a voluntary agreement filed with the Copyright Office in accordance with subparagraph (C). Such notice shall include the names and qualifications of potential arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization at the Tribunal shall select.

"(E) Not later than 10 days after publication of the notice initiating an arbitration proceeding, and in accordance with procedures established by the Copyright Royalty Tribunal—

"(i) one arbitrator shall be selected from the published list by copyright owners who claim to be entitled to royalty fees under this section, and

"(ii) one arbitrator shall be selected from the list by cable systems who are not parties to voluntary agreements filed with the Copyright Office in accordance with paragraph (3) that provide for all licensing of copyrights to programming contained on the signals of broadcast stations retransmitted by such cable systems.

The two arbitrators so selected shall, within ten days after their selection, select a third arbitrator from the same list who shall serve as chairperson of the arbitrators. If either group fails to agree upon selection of an arbitrator, or if the arbitrators selected by such groups fail to agree upon the selection of a chairperson, the Copyright Royalty Tribunal shall promptly select the arbitrator or chairperson, respectively. The arbitrators selected under this paragraph shall constitute an Arbitration Panel.

"(F) The Arbitration Panel shall conduct an arbitration proceeding in accordance with such procedures as it may adopt. The panel shall act on the basis of a fully documented record. Any copyright owner who claims to be entitled to royalty fees under this section and any cable system who is not party to a voluntary agreement filed with the Copyright Office in accordance with subparagraph (C), may submit relevant information and proposals to the Panel. The parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Panel shall direct.

"(G) In determining what shall be fair and equitable fees for the licensing of rights for secondary transmissions of broadcast stations under this subsection, the Arbitration Panel shall consider the following:

"(i) The terms and conditions described in the voluntary licensing agreements filed with the Copyright Office in accordance with subparagraph (C).

"(ii) The relative cost to cable systems for making secondary transmissions of broadcast stations to subscribing members of the public who pay for such service.

"(iii) The relative cost to broadcast stations for securing programming to be broadcast by them as primary transmissions.

"(iv) The relative cost to copyright owners to create and distribute their works.

"(v) The communities served by cable systems providing secondary transmissions of broadcast signals and the respective local service areas of the broadcast stations whose signals are the subject of the secondary transmissions by the cable systems.

The fee shall also be construed to achieve the following objectives:

"(vi) To maximize the availability of creative works to the public.

"(vii) To afford the copyright owner a fair return for his or her creative works and the copyright user a fair income under existing economic conditions.

"(viii) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communications.

"(ix) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

"(H) Not later than 120 days after publication of the notice initiating an arbitration proceeding, the Arbitration Panel shall report to the Copyright Royalty Tribunal its determination concerning licensing between copyright owners and cable systems not party to a voluntary agreement filed with the Copyright Office in accordance with subparagraph (C). Such report shall be accompanied by a written record, and shall set forth the facts that the Panel found relevant to its determination of licensing agreements and the reasons why its determination is consistent with the criteria set forth in subparagraph (G).

"(I) Within 60 days after receiving the report of the Arbitration Panel under subparagraph (H), the Copyright Royalty Tribunal shall adopt or reject the determination of the Panel. The Tribunal shall adopt the determination of the Panel unless the Tribunal finds that the determination is clearly inconsistent with the criteria set forth in subparagraph (G). If the Tribunal rejects the determination of the Panel, the Tribunal shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order, consistent with the criteria set forth in subparagraph (G), establishing licensing fees under this subsection. The Tribunal shall cause to be published in the Federal Register the determination of the Panel, and the decision of the Tribunal with respect to the determination (including any order issued under the preceding sentence). The Tribunal shall also publicize such determination and decision in such a manner as the Tribunal considers appropriate. The Tribunal shall also make the report of the Arbitration Panel and the accompanying record available for public inspection and copying.

"(J) Any decision of the Copyright Royalty Tribunal under subparagraphs (D) through (I) with respect to a determination of the Arbitration Panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after publication of the decision in the Federal Register. The pendency of an appeal under this paragraph shall not relieve cable systems from their obligations as determined by the Arbitration Panel and confirmed and ordered by the Copyright Royalty Tribunal. The court shall have jurisdiction to vacate and remand a decision of the Tribunal only if it finds, on the basis of the record before the Tribunal and the statutory criteria established in subparagraph (G), that the Arbitration Panel or the Tribunal acted in an arbitrary manner.

"(K) The Copyright Royalty Tribunal shall, not later than 60 days after the voluntary agreements described in subparagraphs (A) through (C) have been executed or, if compulsory arbitration provided in this subsection is conducted, not later than 60 days after completion of the compulsory arbitration under subparagraphs (D) through (I), declare the compulsory license royalty rates in this section to be suspended for cable systems providing secondary transmissions of broadcast stations. The Copyright Royalty Tribunal shall cause to be published in the Federal Register notification of the suspension of the compulsory license royalty rates and the date of the suspension. The arbitrated rates established in this section shall expire 1 year after publication of the notice of suspension by the Copyright Royalty Tribunal under this paragraph.

"(2) The compulsory license for multichannel video programming distributors other than cable systems shall expire in accordance with the same procedures described in paragraph (1), subparagraphs (A) through (K), except that—

"(A) in the case of notice of voluntary negotiation proceedings described in paragraph (1)(A), the Copyright Royalty Tribunal shall cause notice of the initiation of voluntary negotiation proceedings to be published in the Federal Register no later than nine years from the effective date of the Copyright Compulsory License Reform Act of 1992; and

"(B) in the case of notice of arbitration proceedings described in paragraph (1)(D), the Copyright Royalty Tribunal shall cause notice of the initiation of arbitration proceedings to be published in the Federal Register no later than nine years and six months from the effective date of the Copyright Compulsory License Reform Act of 1992.

"(3)(A) The compulsory license for the secondary transmission of broadcast signals shall remain in effect, and not be subject to the termination proceedings described in this subsection, for any multichannel video programming distributor which—

"(i) has less than 5,000 subscribers, and

"(ii) is not owned or controlled by a multichannel video program distributor with more than 20,000 subscribers.

"(B) The Register of Copyrights shall conduct a study one year after the termination of the compulsory license for cable systems described in subsection (g)(1) of this section, and one year after the termination of the compulsory license for multichannel video programming distributors other than cable systems, for the purpose of determining whether the exemption provided for in this subsection is adequately serving the needs of copyright owners and affected multichannel video programming distributors and is promoting the goal of reduced transaction costs for the clearance of copyrights to broadcast programming. The Register shall, not later than 6 months after the beginning of the studies, report to the Congress the findings of the studies and any recommendations.".

SEC. 6. PROTECTION OF SPORTS BROADCASTS.

(a) PURPOSE.—The purpose of this section is to promote the availability of copyrighted sports programming to the public, at a reasonable price, upon the expiration of any compulsory license for the retransmission of broadcasts authorized by title 17 of the United States Code, by prescribing standards that will govern marketplace conduct.

(b) PROHIBITION.—It shall be unlawful for any organized professional sports club or league of clubs, subject to the first section of the Act of September 30, 1961 (15 U.S.C. 1291), to unreasonably refuse to deal in the licensing of copyrights to sports programming necessary for the retransmission of a television broadcast of any games of such club or league by any multichannel video programming distributor.

(c) CLUBS.—For purposes of this section, if a club or league of clubs attempts to reduce the number of games available to viewers from the number televised during the 1992–1993 season, or attempts to increase the fees and rights payments associated with the retransmission of any such games, or both, then the burden is on the club or league of clubs to demonstrate that it has not unreasonably refused to deal in the licensing of sports programming, and no sports antitrust immunity will be applicable to the determination of an unreasonable refusal to deal nor to any other conduct governing the licensing of sports programming in lieu of the compulsory license.

(d) FEDERAL COMMUNICATIONS COMMISSION.—(1) Upon enactment of this provision the Federal Communications Commission shall conduct a survey of sports programming, as defined by the first section of the Act of September 30, 1961 (15 U.S.C. 1291), viewership of the 1992–1993 season to determine the following:

(A) the overall availability of sports programming to the public;

(B) the average national cost to sports viewers; and

(C) any other data that, in the judgment of the Federal Communications Commission, is relevant to the determination of whether or not meaningful competition is available in the licensing of sports programming.

(2) The Federal Communications Commission shall submit the viewership survey to Congress within 180 days of the effective date of this Act and will continue to provide a viewership survey, every three years thereafter, to the Congress by July 31st of the year in which the survey is prepared.

(e) CIVIL ACTION.—(1) Any broadcast television station or multichannel video programming distributor injured in its business or property by an unreasonable refusal to deal by any organized professional sports club or any league of clubs subject to the first section of the Act of September 30, 1961 (15 U.S.C. 1291), may commence a civil action against the club or league of clubs in the United States District Court in the district in which the television station is licensed.

(2) If the district court determines that any defendant has unreasonably refused to deal with any broadcast television station or multichannel video programming distributor in the licensing of copyrights to sports programming necessary for the retransmission of a television broadcast of such games, it may award treble damages.

SEC. 7. COPYRIGHT ROYALTY TRIBUNAL.

(a) ESTABLISHMENT OF RATES.—Paragraph (2) of section 801(b) of title 17, United States Code, is amended to read as follows:

"(2) to adjust annually the rates established by section 111(d)(1)(B) to reflect national fluctuations in the Consumer Price Index, as determined by the Secretary of Labor.".

(b) INSTITUTION AND CONCLUSION OF PROCEEDINGS.—Section 804 of title 17, United States Code, is amended—

(1) by amending subsection (a)(2)(A) to read as follows:

"(A) In proceedings under section 801(b)(2) concerning the adjustment of royalty rates provided in section 111, such petition may be filed in February of each year."; and

(2) by striking subsection (b) and redesignating subsections (c),(d) and (e) as subsections (b), (c), and (d), respectively.

SEC. 8. SATELLITE PROVISIONS.

Section 119 of title 17, United States Code, and the item relating to such section in the table of sections for chapter 1 of such title, are repealed.

SEC. 9. INTERIM STUDY.

Beginning 36 months after the date of enactment of this Act, the Register of Copyrights shall conduct a study to determine whether market place mechanisms exist or are likely to develop which will ensure that consumers receive diverse, quality television and radio programming at reasonable prices without the need for compulsory licensing. The Register shall, not later than 6 months after beginning the study, report to the Congress the findings of the study and any recommendations.

SEC. 10. CONFORMING AMENDMENTS.

Title 17, United State Code, is amended as follows:

(1) Section 106 is amended by striking "sections 107 through 119".

(2) Section 111(a) is amended—

(A) in paragraph (3) by adding "or" after the semicolon at the end thereof;

(B) by striking paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4).

(3) Section 120 is amended by redesignating such section as section 119.

(4) Section 501 is amended—

(A) is subsections (c) and (d) by striking "cable system" each place it appears and inserting "multichannel video program distributor"; and

(B) by striking subsection (e).

(5) Section 510 is amended by striking "cable system" each place it appears and inserting "multichannel video programming distributor"; and

(b) Section 511(a) is amended by striking "sections 106 through 119" and inserting "sections 106 and 106A".

(7) Section 810(b)(3) is amended by striking ", 116, and 119(b)," and inserting "and 116,".

(8) Section 804(c) is amended by striking ", 116, or 119," and inserting "or 116,".

SECTION-BY-SECTION SUMMARY OF THE COPYRIGHT COMPULSORY LICENSE REFORM ACT OF 1992

SECTION 1.—SHORT TITLE

SECTION 2.—APPLICABILITY OF COMPULSORY LICENSING TO NEW AND EXISTING TECHNOLOGIES.

Section 2 of the bill amends current subsections (a), (c), and (e) of section 111 by replacing the term "cable system" with "multichannel video programming distributor" to make it clear that the compulsory license applies to such video distributors and not just to cable systems. Current §111(c)(1) is amended to state that the compulsory license applies to carriage of broadcast stations by multichannel video programming distributors provided that the new retransmission consent provisions of the Communications Act are satisfied and carriage of the stations is not prohibited by the FCC.

Section 2 of the bill also amends subsection 111(d) by adopting the unserved household provisions of current section 119. Those provisions, which currently only apply to satellite carriers, are aimed at multichannel video programming distributors which, unlike cable, are not subject to broadcaster nonduplication protection. The bill provides that such multichannel video programming distributors can only qualify for compulsory licensing of distant network signals delivered to unserved households. Unserved households are defined as those households not capable of receiving an over-the-air signal strength of grade B intensity. However, unlike current section 119, the bill allows multichannel video programming distributors not subject to nonduplication protection to receive the compulsory license for distant network stations to unserved households provided that they install equipment to blackout and/or substitute for protected network programming.

SECTION 3.—REVISION OF COMPULSORY LICENSING.

Section 3 amends §111(d) of the current Act to establish the statutory requirements for compulsory licensing. As with the present license, operators must submit statement of account forms on a biannual basis, along with a royalty fee. Royalties are only due for carriage of distant broadcast stations, and multichannel video programming distributors are allowed to carry local broadcast signals without charge.

The bill eliminates the complicated royalty fee calculation of the present system and adopts a flat per subscriber rate for each of the six months of an accounting period. Each distant commercial station, defined as commercial independent and network signals, is 12 cents per subscriber per month. Distant network stations, some of whose programming must be blacked out or substituted pursuant to law or regulation, are 6 cents per subscriber per month. Distant noncommercial educational and low power stations are 3 cents, and distant radio stations carried are 1 cent per subscriber.

The bill also distinguishes between ordinary distant signals and superstations. Superstations are those broadcast stations which are like distant signals except that they are available off a satellite. The cost for superstations is 12 cents per subscriber for the first six stations so carried, and 24 cents per subscriber for those thereafter.

Section 3 also amends the royalty fee collection and distribution procedures currently found in section 111 by adopting the same procedures described in current section 119. Copyright owners of any programming retransmitted by multichannel video programming distributors are entitled to royalties.

SECTION 4.—DEFINITIONS.

Section 4 of the bill amends section 111(f) of the current Act which contains the key definitions to compulsory licensing. A "multichannel video programming distributor" is defined virtually the same as it appears in S. 12, to make it clear that the compulsory license applies to a wide range of video providers including, but not limited to, cable systems, MMDS, DBS, and satellite carrier service. The definition also continues the contiguous communities language of the current Act to prevent large video distributors from carving up their facilities into smaller systems for filing purposes.

The definition of the "local service area" of a broadcast station is amended by modeling the definitions of local must carry signals in S. 12. The only exception is that in the case of commercial stations, whose local service area in S. 12 is defined as its Arbitron ADI, the bill provides that the local service area shall either be ADI or 75 miles, whichever is larger. This ameliorates the problem where ADI's are smaller than the current local service area for copyright purposes (a problem especially evident in the highly populated areas of both coasts). The result should be that most signals which are currently carried as local should remain so, rather than being transformed to a distant signal under a straight ADI regime.

The bill also provides new definitions of a "superstation," "satellite carrier," and "cable system." The superstation definition is relevant for the special royalty provisions for such signals (12 cents for the first six, 24 cents thereafter), and the "satellite carrier" definition is relevant to the "superstation" definition. The definition of a "cable system" is changed from its current formulation to provide that all systems regulated by the FCC as cable systems under the 1984 Cable Act as of January 1, 1992 are considered cable systems. This definition is relevant to the phase out provisions.

Finally, Section 4 deletes the current definitions of "distant signal equivalent," and "independent station" and amends the definition of a "network signal." The section also defines an "unserved household."

SECTION 5.—TERMINATION OF COMPULSORY LICENSING.

Section 5 provides the terms and conditions under which the compulsory license is phased out for various video distributors. In terms of the process of voluntary and arbitrated royalty rates for the final year of licensing, the bill mirrors the procedures enacted in current section 119 for satellite carriers.

Section 5 establishes a two phase termination process. Phase out first occurs for cable systems, on the belief that they will be soon ready to negotiate retransmission rights in a free marketplace. These systems will enjoy three years of compulsory licensing, at which time the voluntary and arbitrated royalty rate structure will kick in. After the CRT has approved the arbitrated rate structure, these systems will have one more year of licensing, but at the new royalty rates. After that year, the license expires and cable systems must negotiate in the marketplace.

A longer phase out period occurs for what might be known as "emerging technologies." Emerging technologies are those systems other than cable—i.e. MMDS, DBS, satellite carrier, etc. It is felt that these systems should have the benefit of compulsory licensing for a period roughly commensurate with that enjoyed by the cable industry since 1978. Therefore, these emerging technologies have statutory licensing for a period of ten years, after which time the same voluntary and arbitrated rate structure is implemented. After a year's licensing at the new rate, the license expires for these systems as well. Thus, cable systems get a total of 4 years of licensing, and all other systems get 11 years.

Finally, Section 5 creates an exemption from termination for small video distributors of all kinds (cable, MMDS, etc.). Those systems with less than 5,000 subscribers will enjoy compulsory licensing indefinitely, provided that they are not owned or controlled by any video provider with subscribers in excess of 20,000 (i.e. an MSO). The Copyright Office is instructed to conduct a study after the expiration of the license for cable, and then again after the expiration for all other systems, to determine if the small system exemption is serving its purpose.

SECTION.—PROTECTION OF SPORTS BROADCASTS

Section 6 is intended to preserve the amount and availability at a reasonable price of sports programming currently shown on broadcast television. The section prohibits professional sports clubs and leagues from unreasonably refusing to deal in the licensing of its programming after the expiration of the compulsory license. Any club or league which attempts to reduce the number of games televised during the 1992–1993 season and/or attempts to increase the fees associated with the retransmission of those games has the burden of demonstrating that it has not unreasonably refused to deal in the licensing of its programming. No sports antitrust immunity shall be applicable to any clubs or leagues for purpose of the refusal to deal prohibition.

Section 6 also directs the Federal Communications Commission to survey the amount and cost of sports programming viewership during the 1992—1993 season and report its findings to Congress within 180 days of the effective date of the bill. The FCC is instructed to continue to provide a viewership survey every three years thereafter.

Finally, section 6 grants a federal civil cause of action to any broadcast station or multichannel video programming distributor who is injured by a professional sports club or league's refusal to reasonably deal for licensing to its programming. Those clubs or leagues found to have unreasonably refused to deal in the licensing of their programs are subject to treble damages within the discretion of the court.

SECTION 7.—COPYRIGHT ROYALTY TRIBUNAL

Section 7 makes minor adjustments to section 801 et seq. of the current Act which governs the operation of the Copyright Royalty Tribunal. The section makes clear that the royalty rates established in the bill (12 cents, 3 cents, etc.) may be adjusted by the Tribunal on an annual basis to reflect fluctuations in the Consumer Price Index.

SECTION 8.—SATELLITE PROVISIONS

The Satellite Home Viewer Act, section 1119, is repealed.

SECTION 9.—INTERIM STUDY

Section 9 directs the Copyright Office to conduct a study 3 years after passage of the bill to examine what market place mechanisms exist, or will likely exist, to provide retransmission right licensing once the compulsory license expires for cable systems. The Office has 6 months in which to complete its task.

SECTION 10.—CONFORMING AMENDMENTS•

By Mr. KOHL:

S. 3343. A bill to amend the Social Security Act to require States to reinvest in State and local child support collection efforts any reimbursements and incentive payments received under part D of title IV, and for other purposes; to the Committee on Finance.

CHILD SUPPORT REINVESTMENT ACT

• Mr. KOHL. Mr. President, this country's child support system has myriad problems that Congress has been addressing throughout this session. One of the biggest problems is on the State and local level, where there is a lack of funding for child support enforcement agencies. Insufficient funding means the agencies cannot update or improve their collection efforts. That means there are children who aren't receiving the support they need.

In an effort to ensure that States, and their local entities, receive the funding they need to collect child support, I am introducing a measure called the Child Support Reinvestment Act. This bill requires States receiving child support-related reimbursements and incentives from the Federal Government to reinvest this money directly into child support enforcement efforts, where they belong.

Right now, States annually receive incentives of about 6 to 10 percent of the State's total AFDC and non-AFDC collections for the year. The Federal Government reimburses states up to 66 percent of the cost or running their child collection programs. Also, States are reimbursed 90 percent of their costs of starting up or improving computer information systems.

My bill will call for both the reimbursements and incentives to go back into child support enforcement expenses. States are encouraged through these incentives to collect child support. But the incentives currently can finance any project or budget within the State, because the Federal Government has no law that specifies how States may spend the incentives—except to require States to split the funds with the local governments that shared in child support enforcement spending.

This lack of Federal mandate means States have and can spend the incentive money on everything but child support enforcement. A 1991 study of all 50 States, the District of Columbia and U.S. Territories, conducted by the Office of the Inspector General, highlighted this. According to the study, only 22 States have laws or regulations regarding incentive payments, but the laws stipulate only where the money goes, not how it is spent.

The OIG study says States put this money into the general fund—instead of using it to improve child support collections and help children get the support they desperately need. Two States and the District of Columbia require that incentives be used exclusively for child support enforcement. The remaining States use the incentives for a variety of social programs, including AFDC and child support enforcement.

All this means that State and local child support enforcement agencies are spending millions of dollars to collect support, but they aren't always getting back millions in return to keep up these efforts. The OIG study also says the Federal reimbursements are often used to offset AFDC payments. Some States even use these reimbursements and incentives to limit their own contribution to the child support programs. This is unfairly skimping on the welfare of our country's children. When it comes to ensuring that children receive the financial support they need, there should be no short-cuts, no skimping. No child should go without a support payment because the child support agency doesn't have enough funds to find the deadbeat parent.

I hope the child support reinvestment act will change this and make child support—and child welfare—a priority. It won't fix all the problems. But it will send a message that we care about kids and they need to be No. 1 in this country.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Reinvestment Act."

SEC. 2. CHILD SUPPORT REINVESTMENT

(a) IN GENERAL.—Part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is amended by inserting after section 458 the following new section:

"CHILD SUPPORT REINVESTMENT

"SEC. 458A.(a)(1) Except as provided in paragraph (2), any reimbursement amounts retained by a State under paragraphs (2) and (4) of section 457(b) and any incentive payments made to such State under section 458 shall be used by such State for the child support collection program of such State.

"(2) If the State is sufficiently funding the child support collection program of the State (as determined by the Secretary without regard to this subsection), and such program is collecting over 50 percent of the child support owed, the Secretary, upon the request of the State, may allow not more than 30 percent of reimbursement amounts and incentive payments described in paragraph (1) to be used by the State to offset the costs under part A of this title or other social programs.

"(b) The Office of Child Support Enforcement shall annually monitor the performance of the child support collection program of each State as part of the Office's general performance audits. Such audit shall include an accounting of the expenditure of reimbursement amounts and incentive payments described in subsection (a).

"(c) For purposes of subsection (a), if a State uses the reimbursement amounts and incentive payments described in such subsection to reduce the funding of child support enforcement agencies in such State, the amount of such reduction shall be used to fund other established or pilot social service programs, such as the State's program under part A of this title or a child support assurance program.

"(d) For purposes of this section, the term 'child support collection program' includes noncustodial parent locator services for interstate and intrastate cases, income and tax refund withholding methods, demonstration programs, studies on child support collections and payments, computer system formation and records automation, honoring and efficiently handling interstate collection requests, contracting collection efforts to credit agencies or private agencies, paternity establishment, and establishment of child support orders.".

(b) EFFECTIVE DATE; DATE OF REGULATIONS.—

(1) IN GENERAL.—The amendment made by this section shall apply to reimbursement amounts retained and incentive payments made on or after October 1, 1993.

(2) REGULATIONS.—The Secretary of Health and Human Services shall issue final regulations with regard to performance audits within 1 year of the date of the enactment of this Act.●

By Mr. ADAMS:

S. 3344. A bill to amend the Job Training Partnership Act to establish a job training program for mature or older workers, and for other purposes; to the Committee on Labor and Human Resources.

MATURE AND OLDER WORKERS ACT OF 1992

Mr. ADAMS. Mr. President, today I rise to introduce the Mature and Older Workers Act of 1992, a bill to restructure the Job Training Partnership Act [JTPA] to better serve the needs of a maturing American work force.

As chairman of the Labor Subcommittee on Aging, I am convinced that mature and older individuals will be an increasingly important segment of our Nation's work force. As my colleagues are well aware, job training programs for older workers are critical to the revitalization of our economy. As the average age of America's work force continues to advance, our ability to recognize and address this dynamic will become a key component in the success of our Nation's employment strategy.

Over the last decade we have taken great strides in designing a job training program which addresses the training needs of our country in a fairly cohesive manner. Now, we must move forward by targeting our efforts at the demographic areas of our populace which are experiencing the most dramatic change; disadvantaged youth and displaced mature and older workers who need job retraining. Once a worker reaches age 40 and finds himself or herself out of work, he or she too often has great trouble finding new work, particularly of an equivalent nature.

We need desperately to respond to the needs of a maturing work force on at least a demographic par with disadvantaged youth. That level of response is not legitimately satisfied by minimal older worker set-asides. Assigning 3 percent or more of JTPA resources to older workers does little to equip millions of workers above the age of 40 who have inadequate educational and skill attainments for the current and emerging technological labor market.

When we consider the difficulties of finding meaningful and adequately paid employment for the mature worker, we must keep in mind that these are relatively young workers—those age 40 and over. The fact is, these are individuals who may be only mid-way through their careers. In light of contemporary trends which often delay both marriage and child birth until later in life, many of these workers are in the early stages of their family life. The tragedy of being viewed as obsolete or unemployable at such an early age is far too real in the lives of talented and hard-working Americans and their families.

This is not only tragic for the affected individuals, it is a great tragedy for American productivity. We need these workers to be productive now and certainly in the future. We need them to be well-trained, high-skilled workers who continue to pay income taxes and provide adequate support for their families and communities.

Mr. President, I am introducing this bill now because I believe this matter is of great importance and I will not be here in the 103d Congress to pursue this initiative. I firmly believe that job training and related concerns will be a major focus of the next Congress, regardless of who our President is. It is my hope that the introduction of this legislation at this time will provide ample opportunity for the ideas it contains to be examined closely by interested parties before the 103d Congress begins. Its scrutiny over the next several months should provide solid input for a similar bill and serious debate early in the next Congress. The bottom line remains: to address the needs of American workers over the age of 40 is to address the needs of the American economy and its work force.

The Mature and Older Workers Act of 1992 will help to meet these challenges head on and commit our Nation to a course of action that provides the flexibility necessary for our job training programs to adequately address the needs of a changing labor marketplace. My bill provides increased funding for training programs for individuals age 40 and above. It mandates that State job training and coordinating councils and private industry councils include in their membership agencies and other groups who, by their organizational missions, represent the interests of mature and older workers. But most importantly, this bill focuses our existing job training apparatus on the special training needs of mature and older workers through demonstration projects, biannual state plans, job search support services, and enhanced data collection and analysis on employment trends affecting mature and older workers.

Mature and older workers across America deserve every opportunity to make the difficult career transitions which increasingly characterize the dynamics of our changing economy. The ability to effectively facilitate this transition will determine our country's ability to maintain high-skills, high-wage jobs for the 21st century. America's economic greatness has been built on the cornerstone that our ingenuity and adaptability to differing circumstances allows us to exploit economic opportunities with speed and efficiency. Let us continue in this tradition towards an ever more dynamic economy that will meet our Nation's future challenges and improve the quality of life for generations of Americans to come.

I hope that this legislation will help to further that cause. Mr. President, I ask unanimous consent to include in the RECORD after my remarks a copy of a letter of support from the National Association of State Units on Aging [NASUA], which represents units of State government that serve the elderly. NASUA has a long history of developing expertise on the needs of the older worker and annually hosts a national conference on older workers. I also ask unanimous consent to include a copy of the text of the Mature and Older Workers Act of 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mature and Older Workers Act of 1992".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (29 U.S.C. 1502) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a)(1)(A) There are authorized to be appropriated to carry out parts A, B, and D of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.

"(B) Of the sums appropriated to carry out parts A, B, and D of title II for each fiscal year, not less than 40 percent shall be made available to carry out part D of such title.

"(2) There are authorized to be appropriated to carry out part C of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.";

(2) by redesignating subsection (c) as subsection (b); and

(3) by inserting after such subsection (b) the following:

"(c)(1) There is authorized to be appropriated to carry out parts A, C, D, E, F, and G of title IV for fiscal year 1993 and each succeeding fiscal year an amount equal to not more than 7 percent of the sum of the amounts appropriated for parts A, B, and D of title II for such fiscal year.

"(2) The Secretary shall reserve from the amount appropriated under paragraph (1) for any fiscal year—

"(A) an amount equal to 7 percent of the amount appropriated under paragraph (1) to carry out part C of title IV; and

"(B) $2,000,000 to carry out part F of title IV.".

(b) CONFORMING AMENDMENTS.—Subsections (a) and (e) of section 302, and section 326(h) (29 U.S.C. 1652(a) and (e) and 1662e(h)) are amended by striking "3(c)" and inserting "3(b)".

SEC. 4. DEFINITIONS.

(a) IN GENERAL.—Section 4 (29 U.S.C. 1503) is amended—

(1) in paragraph (8)(B)(i), by striking "poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))";

(2) in paragraph (10), by striking "handicapped individual" and inserting "individual with a disability"; and

(3) by adding at the end the following new paragraphs:

"(31) The term 'basic skills deficient' means, with respect to an individual, that the individual has English reading or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

"(32) The term 'case management' means the provision, in the delivery of a service, of a client-centered approach designed to—

"(A) prepare and coordinate a comprehensive employment plan, such as a service strategy, for a participant to ensure access to a necessary training and support service; and

"(B) provide job and career counseling during program participation and after job placement.

"(33) The term 'citizenship skills' means skills and qualities, such as teamwork, problem-solving ability, self-esteem, initiative, leadership, commitment to life-long learning, and an ethic of civic responsibility, that are characteristic of productive workers and good citizens.

"(34) The term 'educational agency' means—

"(A) a public local school authority having administrative control of elementary, middle, or secondary schools or providing adult education;

"(B) a public or private institution that provides alternative middle or high school education;

"(C) a public education institution or agency having administrative control of secondary or postsecondary vocational education programs;

"(D) a postsecondary institution; or

"(E) a postsecondary educational institution operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under the Act of April 16, 1934 (48 Stat. 596; chapter 147; 25 U.S.C. 452 et seq.).

"(35) The term 'family' means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

"(A) A husband, wife, and dependent children.

"(B) A parent or guardian and dependent children.

"(C) A husband and wife.

"(36) The term 'hard-to-serve individual' means an individual who is included in one or more of the categories described in section 203(a)(2) or subsection (b) or (d) of section 263.

"(37) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(38) The term 'mature or older worker' means an individual who is 40 years of age or older.

"(39)(A) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized by this Act.

"(B) For purposes of determining whether an individual is a participant, participation shall be deemed to commence on the first day, following determination of eligibility, on which the participant begins receiving subsidized employment, training, or services funded under this Act.

"(40) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(41) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized and funded by this Act.

"(42) The term 'younger worker' means an individual who is age 22 through 39.

"(43) The term 'youth corps program' means a program, such as a conservation corps or youth service program, that offers productive work with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services.".

(b) CONFORMING AMENDMENTS.—The Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4—

(A) in paragraph (5), by striking "the handicapped" and inserting "individuals with a disability";

(B) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with a disability"; and

(C) in paragraph (24), by striking "the handicapped" and inserting "individuals with a disability";

(2) in section 108(c)(2)(B)(ii), by striking "handicapped individuals" and inserting "individuals with a disability";

(3) in the second section 172(b) (as added by Public Law 100-628) (29 U.S.C. 1583(b)), by striking "handicapped individuals" and inserting "individuals with a disability";

(4) in section 423(1) (29 U.S.C. 1693(1)), by striking "handicapped individual" and inserting "individual with a disability";

(5) in section 451(5), by striking "handicapped individuals" and inserting "individuals with a disability";

(6) in section 453(a)(1), by striking "the handicapped" and inserting "individuals with a disability"; and

(7) in section 456, by striking "the handicapped" and inserting "individuals with a disability.".

SEC. 5. COUNCILS.

(a) PRIVATE INDUSTRY COUNCIL.—Section 102(c) (29 U.S.C. 1512(c)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) In selecting the remaining members of the council, the appointing authority described in subsection (d) shall ensure that the council includes at least one representative of an agency or organization that by its organizational mission represents the interests of mature or older workers.".

(b) STATE COUNCIL.—Section 122(a)(3)(C) (29 U.S.C. 1532(a)(3)(C)) is amended by adding at the end the following: "In selecting the representatives of community-based organizations, the Governor shall ensure that the State Council includes at least one representative of an agency or organization that by its organizational mission represents the interests of mature or older workers.".

SEC. 6. PERFORMANCE STANDARDS.

Section 106(b) (29 U.S.C. 1516b) is amended by adding at the end the following new paragraph:

"(6) From funds available under section 202(c)(2)(C), and under section 262(c) for providing incentive grants under this paragraph, each Governor shall award incentive grants to service delivery areas conducting programs under parts A and D of title II that—

"(A) exceed the performance standards established by the Secretary under this subsection (except for the standards established pursuant to paragraph (4)) with respect to services to all participants;

"(B) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (4)) with respect to services too hard-to-serve populations;

"(C) serve more than the minimum percentage of out-of-school youth required by section 263(f); and

"(D) place participants in employment that provides post-program earnings that exceed the appropriate performance criteria.".

SEC. 7. REPORTS.

Section 165 (29 U.S.C. 1575) is amended by adding at the end the following new subsections:

"(d) The reports required in subsection (c)(1) shall include information necessary to prepare reports to comply with subsection (e).

"(e)(1) The Secretary shall annually prepare a report that—

"(A) shall be based on the data and information submitted under subsections (c) and (d); and

"(B) shall include an analysis, for each State and on a nationwide basis, of the number of participants served under this Act, and the type of services under this Act received by participants, who are—

"(i) age 22 through 39;

"(ii) age 40 through 54;

"(iii) age 55 through 61;

"(iv) age 62 through 64;

“(v) age 65 through 69; and

“(vi) age 70 or older.

“(2) The report required by this subsection shall be submitted to the Congress as part of the annual report of the Secretary under section 169(d).”.

SEC. 8. ESTABLISHMENT OF YOUNGER WORKERS PROGRAM.

(a) In General.—Part A of title II (29 U.S.C. 1601 et seq.) is amended to read as follows:

“Part A—Younger Workers Program

“SEC. 201. STATEMENT OF PURPOSE.

“It is the purpose of this part to establish programs to prepare younger workers for participation in the labor force by increasing occupational and educational skills resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

“SEC. 202. ALLOTMENT AND ALLOCATION.

“(a) Allotment.—

“(1) Territories.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

“(2) Allotment to states.—

“(A) In general.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the remaining States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

“(B) Basis.—Subject to paragraph (3), of the remainder described in subparagraph (A) for each fiscal year—

“(i) 33⅓ percent shall be allotted on the basis of the relative number of unemployed younger workers residing in areas of substantial unemployment in each State as compared to the total number of such unemployed younger workers in all such areas of substantial unemployment in all the States;

“(ii) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed younger workers who reside in each State as compared to the total excess number of unemployed younger workers in all the States; and

“(iii)(I) except as provided in subclause (II), 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged younger workers within each State as compared to the total number of economically disadvantaged younger workers in all States; or

“(II) for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of younger workers in families with an income below the low-income level in such area or the number of economically disadvantaged younger workers in such area.

“(3) Limitations on allotments.—

“(A) State minimum.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

“(B) Minimum percentage.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

“(C) Maximum percentage.—No State shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

“(D) Allotment percentage.—

“(i) In general.—For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments under this subsection.

“(ii) Fiscal year 1993.—For the purposes of this paragraph, for fiscal year 1993, the allotment percentage of a State shall be the percentage that the State received of all allotments under section 201 as in effect on the day before the date of the enactment of this section.

“(b) Allocation to Service Delivery Areas.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate not less than 82 percent in accordance with this subsection and 18 percent in accordance with subsection (c). Of such 82 percent—

“(1) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of unemployed younger workers residing in areas of substantial unemployment in each service delivery area as compared to the total excess number of such unemployed younger workers in all such areas of substantial unemployment in the State;

“(2) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative excess number of unemployed younger workers who reside in each service delivery area as compared to the total excess number of unemployed younger workers in all service delivery areas in the State; and

“(3)(A) except as provided in subparagraph (B), 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged younger workers within each service delivery area as compared to the total number of economically disadvantaged younger workers in the State; or

“(B) for any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of younger workers in families with an income below the low-income level in such area or the number of economically disadvantaged younger workers in such area.

“(c) State Activities.—

“(1) In general.—The Governor shall allocate 18 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in paragraph (2).

“(2) Uses.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year—

“(A)(i) except as provided in clause (ii), 5 percent shall be available for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122; and

“(ii) the Secretary shall ensure that the amount available to carry out the activities described in clause (i) is not less than $500,000 by—

“(I) ratably reducing, by an amount necessary to meet the requirement of subclause (II), the amounts available under clause (i) for the States that have amounts available in excess of $500,000; and

“(II) allotting the funds available under subclause (I) to the States that would otherwise have amounts available under clause (i) that are less than $500,000 in amounts necessary to ensure that such States have an amount equal to $500,000 to carry out the activities described in clause (i);

“(B) 2 percent shall be available for technical assistance and capacity building in developing the overall capability of the job training system within the State, including the development and training of State and local service delivery area staff, service provider staff, the development of information and exemplary program activities, and the conduct of research and other activities designed to improve the level, degree, and goals of programs conducted under this Act;

“(C) 3 percent shall be available to provide incentive grants authorized under section 106(b)(6); and

“(D) 8 percent shall be available to carry out section 123.

“(d) Definitions and Rule.—

“(1) Definitions.—As used in this section:

“(A) Economically disadvantaged younger worker.—The term ‘economically disadvantaged younger worker’ means a younger worker who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

“(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

“(ii) 70 percent of the lower living standard income level.

“(B) Excess number.—The term ‘excess number’ means—

“(i) with respect to the excess number of unemployed younger workers within a State—

“(I) the number of unemployed younger workers in excess of 4.5 percent of the civilian labor force of younger workers in the State; or

“(II) the number of such unemployed younger workers in excess of 4.5 percent of the civilian labor force of younger workers in areas of substantial unemployment in such State; and

“(ii) with respect to the excess number of unemployed younger workers within a service delivery area—

“(I) the number of unemployed younger workers in excess of 4.5 percent of the civilian labor force of younger workers in the service delivery area; or

“(II) the number of such unemployed younger workers in excess of 4.5 percent of the civilian labor force of younger workers in areas of substantial unemployment in such area.

“(2) Special rule.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practical, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged younger workers.

“SEC. 203. ELIGIBILITY FOR SERVICES.

“(a) Eligibility.—

“(1) In general.—An individual shall be eligible to participate in the program assisted under this part if such individual is—

“(A) a younger worker; and

“(B) economically disadvantaged.

“(2) Minimum requirement.—Not less than 65 percent of the participants in a program assisted under this part in each service delivery area shall be individuals who, in addition to meeting the requirements of paragraph (1), are included in one or more of the following categories:

“(A) Individuals who are basic skills deficient.

“(B) Individuals who are school dropouts.

“(C) Individuals who are recipients of aid to families with dependent children who either meet the requirements of section 403(l)(2)(B) of the Social Security Act (42 U.S.C. 603(l)(2)(B)) or have been provided an employability plan in accordance with section 482(b) of the Social Security Act (42 U.S.C. 682(b)).

"(D) Individuals with a disability.

"(E) Individuals who are homeless, as defined by subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

"(F) Individuals who are unemployed for the previous 6 months or longer.

"(G) Offenders.

"(H) Individuals who are limited-English proficient.

"(I) Individuals who are in a category established under subsection (b).

"(3) SPECIAL RULE.—Not more than 10 percent of all participants in a program assisted under this part in each service delivery area shall be younger workers who are not economically disadvantaged if such younger workers are within 1 or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in paragraph (2), or categories such as displaced homemakers, veterans, alcoholics, or addicts.

"(b) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of younger workers who face serious barriers to employment to the categories of eligible individuals described in subsection (a)(2) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of younger workers and justifying the inclusion of such category;

"(2) the Governor approves the request submitted under paragraph (1) and transmits the request to the Secretary, as part of the Governor's coordination and special services plan under section 121; and

"(3) the Secretary approves the request submitted under paragraph (2).

"SEC. 204. PROGRAM DESIGN.

"(a) IN GENERAL.—

"(1) PROGRAM REQUIREMENTS.—Each program assisted under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, including such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional employment) and supportive service needs, except that a new assessment of a participant is not required if the program determines that a recent assessment of the participant conducted under another education or training program, such as the JOBS program, is an appropriate assessment;

"(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), the appropriate achievement objectives, and the appropriate sequence of services for participants, taking into account the assessments conducted under subparagraph (A), except that a new service strategy is not required if the program determines a recent service strategy developed for the participant under another education or training program (such as the JOBS program) is an appropriate service strategy;

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) basic skills training and occupational skills training if the assessment and the service strategy indicate such training is appropriate.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referrals to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made under clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(b) AUTHORIZED SERVICES.—Subject to the limitations contained in subsection (c), services that may be made available to each participant under this part may include—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second-language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) assessment of the skill levels and service needs of participants;

"(E) counseling, such as job counseling and career counseling;

"(F) case management services;

"(G) education-to-work transition activities;

"(H) programs that combine workplace training with related instruction;

"(I) work experience;

"(J) programs of advanced career training that provide a formal combination of on-the-job and institutional training and internship assignments that prepare younger workers for career employment;

"(K) training programs operated by the private sector, including programs operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(L) skill upgrading and retraining;

"(M) bilingual training;

"(N) entrepreneurial training, such as training activities for microenterprises;

"(O) vocational exploration;

"(P) training programs to develop work habits to help younger workers obtain and retain employment;

"(Q) attainment of certificates of high school equivalency;

"(R) preapprenticeship programs;

"(S) on-site, industry-specific training programs supportive of industrial and economic development;

"(T) customized training conducted with a commitment by an employer or group of employers to employ a younger worker upon successful completion of the training; and

"(U) use of advanced learning technology for education, job preparation, and skills training; and

"(2) training-related and supportive services, including—

"(A) job search assistance;

"(B) outreach to make younger workers aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for younger workers who are limited-English proficient individuals or individuals with disabilities;

"(C) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment;

"(D) specialized surveys not available through other labor market information sources;

"(E) dissemination of information on program activities to employers;

"(F) development of job openings;

"(G) programs coordinated with other Federal employment-related activities;

"(H) supportive services, necessary to enable younger workers to participate in the program, and to assist the younger workers, for a period not to exceed 12 months following completion of training, to retain employment;

"(I) needs-based payments necessary to participate in accordance with a locally developed formula or procedure;

"(J) followup services with participants placed in unsubsidized employment; and

"(K) services to obtain job placements for participants.

"(c) SPECIAL RULES.—

"(1) WORKPLACE CONTEXT AND INTEGRATION.—Basic skills training provided under this part shall, in appropriate circumstances, have a workplace context and be integrated with occupational skills training.

"(2) BASIC EDUCATION OR OCCUPATIONAL SKILLS.—

"(A) ADDITIONAL SERVICES.—Except as provided in subparagraph (B), job search, job search skills training, job clubs, and work experience provided under this part shall be accompanied by other services designed to increase the basic education or occupational skills of a participant.

"(B) LACK OF APPROPRIATENESS AND AVAILABILITY.—Each program assisted under this part may provide job search, job search skills training, and job clubs activities to a participant without the additional services described in subparagraph (A) if—

"(i) the assessment and service strategy of a participant indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the employment service or other public agencies.

"(3) NEEDS-BASED PAYMENTS.—Needs-based payments provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(4) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services provided under this part may be provided to a participant for a period up to 1 year after the date on which the participant completes the program.

"(5) SERVICE STRATEGY.—The service strategy developed under subsection (a)(1) shall not be considered a contract.

"(6) VOLUNTEERS.—The service delivery area shall make opportunities available for successful younger workers who have previously participated in programs under this part to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

"SEC. 205. LINKAGES.

"(a) IN GENERAL.—In conducting the program assisted under this part, the service delivery area shall establish appropriate linkages with other Federal programs. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(5) the employment program established under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

"(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

"(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

"(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482).

"(b) OTHER APPROPRIATE LINKAGES.—In addition to the linkages required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, literacy organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

"SEC. 206. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the programs under parts C and D and up to 30 percent of the funds provided under this part to the programs under part B if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.

"SEC. 207. STUDIES RELATING TO PLACEMENT AND TARGET POPULATIONS.

"The Comptroller General of the United States shall conduct a study to determine the number and percentage of younger workers assisted under this part that remain employed for at least 9 months after receiving assistance under this part. The Comptroller General shall submit a report containing the findings resulting from the study to the appropriate committees of Congress not later than 3 years after the date of enactment of this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part A of title II is amended to read as follows:

"PART A—YOUNGER WORKERS PROGRAM

"Sec. 201. Statement of purpose.
"Sec. 202. Allotment and allocation.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Linkages.
"Sec. 206. Transfer of funds.
"Sec. 207. Studies relating to placement and target populations.".

SEC. 9. ESTABLISHMENT OF MATURE OR OLDER WORKERS PROGRAM.

(a) IN GENERAL.—Part B of title II (29 U.S.C. 1630 et seq.) is amended to read as follows:

"PART B—MATURE OR OLDER WORKERS PROGRAM

"SEC. 221. STATEMENT OF PURPOSE.

"It is the purpose of this part to establish programs to prepare mature or older workers for participation in the labor force by increasing occupational and educational skills resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

"SEC. 222. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) ALLOTMENT TO STATES.—

"(A) IN GENERAL.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the remaining States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

"(B) BASIS.—Subject to paragraph (3), of the remainder described in subparagraph (A) for each fiscal year—

"(i) 33⅓ percent shall be allotted on the basis of the relative number of unemployed mature or older workers residing in areas of substantial unemployment in each State as compared to the total number of such unemployed mature or older workers in all such areas of substantial unemployment in all States;

"(ii) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed mature or older workers who reside in each State as compared to the total excess number of unemployed mature or older workers in all States; and

"(iii)(I) except as provided in subclause (II), 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged mature or older workers within each State as compared to the total number of economically disadvantaged mature or older workers in all States; or

"(II) for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of mature or older workers in families with an income below the low-income level in such area or the number of economically disadvantaged mature or older workers in such area.

"(3) LIMITATIONS ON ALLOTMENTS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(C) MAXIMUM PERCENTAGE.—No State shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(D) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments under this subsection.

"(ii) FISCAL YEAR 1993.—For the purposes of this paragraph, for fiscal year 1993, the allotment percentage of a State shall be the percentage that the State received of all assistance provided under section 124 as in effect on the day before the date of the enactment of this section.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate not less than 70 percent and not more than 85 percent in accordance with this subsection and the remaining 15 to 30 percent in accordance with subsection (c). Of such 70 to 85 percent—

"(1) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of unemployed mature or older workers residing in areas of substantial unemployment in each service delivery area as compared to the total excess number of such unemployed mature or older workers in all such areas of substantial unemployment in the State;

"(2) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative excess number of unemployed mature or older workers who reside in each service delivery area as compared to the total excess number of unemployed mature or older workers in all service delivery areas in the State; and

"(3)(A) except as provided in subparagraph (B), 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged mature or older workers within each service delivery area as compared to the total number of economically disadvantaged mature or older workers in the State; or

"(B) for any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of mature or older workers in families with an income below the low-income level in such area or the number of economically disadvantaged mature or older workers in such area.

"(c) STATE ACTIVITIES.—

"(1) IN GENERAL.—The Governor shall allocate not less than 15 percent and not more than 30 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in paragraph (2).

"(2) USES.—The amounts allotted to each State under subsection (a)(2)(B) for each fiscal year shall be utilized by each State—

"(A) for demonstration projects to address the needs of mature or older workers, especially projects receiving assistance under section 124 as in effect on the day before the date of enactment of the Mature or Older Workers Act of 1992;

"(B) for other regional or statewide research and demonstration activities in the areas of recruitment, counseling, assessment, training, job development, and placement assistance for mature or older workers;

"(C) for technical assistance to service delivery areas, private industry councils, local training providers, and others to meet the vocational needs of mature or older workers;

"(D) for State and local information and advocacy programs regarding age discrimination in employment;

"(E) for support of on-the-job training and related services directed to at-risk mature or older workers who face termination or dislocation due to changes in skill demands, market conditions, technological change, or other factors;

"(F) for programs directed—

"(i) to the employment needs of displaced homemakers who are mature of older workers with little or no recent labor market experience; and

"(ii) to the employment training needs of rural mature or older workers as defined in section 225(c)(2)(D); or

"(G) to provide for enhanced data collection and analysis on employment trends affecting mature or older workers.

"(d) DEFINITIONS AND RULE.—

"(A) ECONOMICALLY DISADVANTAGED MATURE OR OLDER WORKER.—The term "economically disadvantaged mature or older worker' means an individual who is 40 years of age or older and who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—Term 'excess number' means—

"(i) with respect to the excess number of unemployed mature or older workers within a State—

"(I) the number of unemployed mature or older workers in excess of 4.5 percent of the civilian labor force of mature or older workers in the State; or

"(II) the number of such unemployed mature or older workers in excess of 4.5 percent of the civilian labor force of mature or older workers in areas of substantial unemployment in such State; and

"(ii) with respect to the excess number of unemployed mature or older workers within a service delivery area—

"(I) the number of unemployed mature or older workers in excess of 4.5 percent of the civilian labor force of mature or older workers in the service delivery area; or

"(II) the number of such unemployed mature or older workers in excess of 4.5 percent of the civilian labor force of mature or older workers in areas of substantial unemployment in such area.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practical, exclude members of the armed forces from the determination of the number of economically disadvantaged mature or older workers.

"SEC. 223. RECAPTURE AND REALLOTMENT OF UNEXPENDED FUNDS.

"(a) GENERAL REALLOTMENT AUTHORITY.—The Secretary shall, in accordance with the requirements of this section, reallot to eligible States the funds allotted to States from funds appropriated for such program year that are available for reallotment.

"(b) AMOUNT AVAILABLE FOR REALLOTMENT.—The amount of funds available for reallotment is equal to—

"(1) the amount by which the unexpended balance of the State allotment at the end of the program year prior to the program year for which the determination under this section is made exceeds 20 percent of such allotment for that prior program year; plus

"(2) the unexpended balance of the State allotment from any program year prior to the program year in which there is such excess.

"(c) METHOD OF REALLOTMENT.—The Secretary shall determine the amount that would be allotted to each eligible State by using the factors described in section 222(a)(2)(B) to allocate among eligible States the amount available pursuant to subsection (b) of this section

"(d) STATE PROCEDURES WITH RESPECT TO REALLOTMENT.—The Governor of each State shall prescribe uniform procedures for the expenditure of funds by substate grantees in order to avoid the requirement that funds be made available for reallotment under subsection (b). The Governor shall further prescribe equitable procedures for making funds available from the State and substate grantees in the event that a State is required to make funds available for reallotment under such subsection.

"(e) RULE.—For purposes of this section, funds awarded from discretionary funds of the Secretary shall not be included in calculating any of the reallotments described in this section.

"(f) DEFINITIONS.—For the purposes of this section:

"(1) ELIGIBLE STATE.—The term 'eligible State' means a State that has expended at least 80 percent of its allotment for the program year prior to the program year for which the determination under this section is made.

"(2) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 224. ELIGIBILITY FOR SERVICES

"An individual shall be eligible to participate in the program assisted under this part if such individual is 40 years of age or older and is included in one or more of the following categories:

"(1) Individuals whose income is not in excess of the poverty line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(2) Individuals who are eligible for food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

"(3) Individuals who are eligible for housing assistance pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), section 236 of the National Housing Act (12 U.S.C. 1715z–1) and section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

"(4) Individuals who are included in 2 or more of the following categories:

"(A) Individuals who are unemployed 15 of the past 26 weeks.

"(B) Individuals who are unemployed 30 of the past 52 weeks.

"(C) Individuals who are working 20 or fewer hours a week.

"(D) Individuals who are displaced homemakers.

"(E) Individuals who are homeless.

"(F) Individuals who have finished less than 10 years of school.

"(G) Individuals who are deficient in basic skills.

"(H) Individuals who have been notified that the jobs of such individuals will be terminated within the next 60 days.

"(5) Individuals whose income meets the poverty line requirements as described in paragraph (1), and the eligibility requirements for food stamps, and federally assisted housing, as described in paragraphs (2) and (3), respectively, for an individual who lives alone. Such individuals shall not be precluded from receiving services if such individuals are members of a household whose income does not meet such requirements.

"(6) Individuals who are eligible for services under title V of the Older Americans Act (42 U.S.C. 3056 et seq.).

"SEC. 225. PROGRAM DESIGN.

"(a) IN GENERAL.—

"(1) PROGRAM REQUIREMENTS.—Each program assisted under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, including such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional employment) and supportive service needs, except that a new assessment of a participant is not required if the program determines that a recent assessment of the participant conducted under another education or training program, such as the JOBS program, is an appropriate assessment;

"(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), the appropriate achievement objectives, and the appropriate sequence of services for participants, taking into account the assessments conducted under subparagraph (A), except that a new service strategy is not required if the program determines a recent service strategy developed for the participant under another education or training program (such as the JOBS program) is an appropriate service strategy;

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) basic skills training and occupational skills training if the assessment and the service strategy indicate such training is appropriate.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant described in paragraph (1), (2), (3), or (5) of section 224 shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referrals to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made under clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(b) AUTHORIZED SERVICES.—One or more of the following training or supportive services shall be made available to each participant under this part:

"(1) Outreach and recruitment.

"(2) Intake and assessment.

"(3) Job search assistance.

"(4) Classroom and occupational skill training.

"(5) On-the-job training.

"(6) Work experience.

"(7) Basic and remedial education and literacy training.

"(8) Supplemental services, including day care for dependent children and adults.

"(9) Occupational placement assistance.

"(c) Special Rules.—

"(1) Selection of service providers.—In the selection of service providers, the administration entity shall give preference to agencies and organizations with demonstrated competence in conducting older and mature worker programs.

"(2) Job training plan.—

"(A) Development of plan.—The private industry council, pursuant to section 103(b)(1)(A)(iii) of this Act, shall enter into agreement to develop the job training plan under this program with the following agencies:

"(i) Agencies responsible for the administration of programs under titles II, III, and IV of this Act.

"(ii) Agencies responsible for the administration of programs under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

"(iii) Agencies responsible for the administration of programs under the Adult Education Act (20 U.S.C. 1201 et seq.), and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

"(iv) Agencies responsible for the administration of programs under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

"(v) Agencies responsible for trade adjustment assistance under title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

"(vi) Agencies responsible for literacy training.

"(B) Requirements.—In addition to the job training plan requirements under section 104, each job training plan for this program shall include assurances that rural mature or older workers will be fairly served under all program allocations.

"(C) Hearings.—Any job training plan developed under section 105 and this section shall be reasonably available to the general public through a public hearing.

"(D) Definition.—For the purposes of this paragraph, the term 'rural mature or older worker' means a mature or older worker who resides in an area that is not an urbanized area, as defined by the Bureau of the Census.

"SEC. 226. LINKAGES.

"(a) In General.—In conducting the program assisted under this part, the service delivery area shall establish appropriate linkages with older Federal programs. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(5) the employment program established under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

"(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

"(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

"(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482).

"(b) Other Appropriate Linkages.—In addition to the linkages required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, literacy organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

"SEC. 227. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the programs under parts C and D and up to 30 percent of the funds provided under this part to the program under part A if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.

"SEC. 228. STUDIES RELATING TO PLACEMENT AND TARGET POPULATIONS.

"The Comptroller General of the United States shall conduct a study to determine the number and percentage of adults assisted under this part that remain employed for at least 9 months after receiving assistance under this part. The Comptroller General shall submit a report containing the findings resulting from the study to the appropriate committees of Congress not later than 3 years after the date of enactment of this section.".

(b) Technical Amendment.—The table of contents relating to part B of title II is amended to read as follows:

"Part B—Mature or Older Workers Program

"Sec. 221. Statement of purpose.

"Sec. 222. Allotment and allocation.

"Sec. 223. Recapture and reallotment of unexpended funds.

"Sec. 224. Eligibility for services.

"Sec. 225. Program design.

"Sec. 226. Linkages.

"Sec. 227. Transfer of funds.

"Sec. 228. Studies relating to placement and target populations.".

SEC. 10. ESTABLISHMENT OF SUMMER YOUTH OPPORTUNITY PROGRAM.

(a) In General.—Title II (29 U.S.C. 1601 et seq.) is amended by adding at the end the following:

"Part C—Summer Youth Employment and Training Programs

"SEC. 251. PURPOSE.

"It is the purpose of programs assisted under this part—

"(1) to enhance the basic educational skills of youth;

"(2) to encourage school completion, or enrollment in supplementary or alternative school programs;

"(3) to provide eligible youth with exposure to the world of work; and

"(4) to enhance the citizenship skills of youth.

"SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION.

"(a) Territorial and Native American Allocation.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

"(b) Formula for Allotment and Allocation.—The remainder of funds appropriated under section 3(a)(2) shall, for each fiscal year, be allotted among the remaining States on the basis of the formula specified in section 202(a)(2)(B) and allocated among service delivery areas on the basis of the formula specified in section 202(b). For purposes of the application of the formulas under this subsection, the term 'economically disadvantaged individual' means an economically disadvantaged youth, as defined in section 262(d)(1)(A).

"SEC. 253. USE OF FUNDS.

"(a) In General.—Funds available under this part may be used for—

"(1) basic and remedial education, institutional and on-the-job training, work experience programs, youth corps programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, activities under programs described in section 265(b), and any other employment or job training activity designed to give employment to eligible individuals or prepare the individuals for, and place the individuals in, employment;

"(2) supportive services necessary to enable such individuals to participate in the program; and

"(3) administrative costs, not to exceed 15 percent of the funds available under this part.

"(b) Basic and Remedial Education.—

"(1) In general.—A service delivery area shall expend funds (available under this Act or otherwise available to the service delivery area) for basic and remedial education as described in the job training plan under section 104.

"(2) Education or training.—The education authorized by paragraph (1) may be provided by—

"(A) the year-round program under this part;

"(B) the Job Corps;

"(C) the JOBS program;

"(D) youth corps programs;

"(E) alternative or secondary schools; or

"(F) other education and training programs.

"(c) Assessment.—

"(1) In general.—Except as provided in paragraph (2), each participant under this part shall be provided with an objective assessment of the skill levels and service needs of the participant, which assessment may include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes, and supportive service needs.

"(2) Recent assessments.—The assessment described in paragraph (1), or a factor of such assessment is not required under a program under this part if the program uses recent assessments conducted under another education or training program (such as the JOBS program).

"(3) Service strategy.—The service delivery area shall develop a service strategy for participants that may identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under this subsection or under such other education or training program.

"(d) Followup Services.—Service delivery areas shall make followup services available for participants if the service strategy indicates such services are appropriate.

"SEC. 254. LIMITATIONS.

"(a) Use During Summer Months or Equivalent Vacation Period.—

"(1) Summer months.—Except as provided in paragraph (2), programs under this part shall be conducted during the summer months.

"(2) Vacation Period.—A service delivery area may, within the jurisdiction of any local educational agency that operates schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

"(b) Eligibility.—An individual shall be eligible to participate in the program assisted under this part if such individual is economically disadvantaged and age 14 through 21.

"(c) Concurrent Enrollment.—

"(1) In general.—An eligible individual participating in a program assisted under this part may concurrently be enrolled in programs under part D. Appropriate adjustment to the youth performance standards (regarding attainment of competencies) under sections 106(b)(4)(A) (i) and (ii) and 106(b)(5) shall be made to reflect the limited period of participation.

"(2) Concurrent enrollment and transfers.—Youth being served under this part or part D youth programs are not required to be terminated from participation in one program in order to enroll in the other. The Secretary shall provide guidance to service delivery areas on simplified procedures for concurrent enrollment and transfers for youth from one program to the other.

"SEC. 255. APPLICABLE PROVISIONS.

"(a) Comparable Functions of Agencies and Officials.—Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as the private industry councils, chief elected officials, State job training coordinating councils, and Governors have with respect to funds available under parts A and D of title II.

"(b) Program Goals and Objectives.—In accordance with subsection (a), each service delivery area shall establish written program goals and objectives that shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs.".

(b) Technical Admendment.—The table of contents relating to title II is amended by adding at the end the following:

"Part C—Summer Youth Employment and Training Programs

"Sec. 251. Purpose.
"Sec. 252. Authorization of appropriations; allotment and allocation.
"Sec. 253. Use of funds.
"Sec. 254. Limitations.
"Sec. 255. Applicable provisions.".

SEC. 11. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

(a) In General.—Title II (29 U.S.C. 1601 et seq.), as amended by section 10(a), is further amended by adding at the end the following:

"Part D—Youth Opportunity Program

"SEC. 261. STATEMENT OF PURPOSE.

"It is the purpose of the programs assisted under this part to—

"(1) improve the long-term employability of youth;

"(2) enhance the educational, occupational, and citizenship skills of youth;

"(3) encourage school completion or enrollment in alternative school programs;

"(4) increase the employment and earnings of youth;

"(5) reduce welfare dependency; and

"(6) assist youth in addressing problems that impair the ability of youth to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.

"SEC. 262. ALLOTMENT AND ALLOCATION.

"(a) Allotment.—

"(1) Territories.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) Allotment to states.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the remaining States in accordance with paragraphs (2) and (3) of section 202(a), except for purposes of the application of the formula under this subparagraph, the term 'economically disadvantaged individual' means an economically disadvantaged youth.

"(b) Allocation to Service Delivery Areas.—Of the amounts allotted to each State under subsection (a)(2) for each fiscal year, the Governor shall allocate 82 percent on the basis of the formula specified in section 202(b) and 18 percent in accordance with subsection (c). For purposes of the application of the formula under this subsection, the term 'economically disadvantaged individual' means an economically disadvantaged youth.

"(c) State Activities.—The Governor shall allocate 18 percent of the amounts allotted to each State under subsection (a)(2) in the sample proportions and for the activities, described in subparagraphs (A), (B), (C), and (D) of section 202(c)(2).

"(d) Definitions and Rule.—

"(1) Definitions.—As used in this section:

"(A) Economically disadvantaged youth.—The term 'economically disadvantaged youth' means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) Excess number.—The term 'excess number' shall have the meaning given the term in section 202(d)(1)(B).

"(2) Special rule.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth and the size of the youth population in a service delivery area.

"SEC. 263. ELIGIBILITY FOR SERVICES.

"(a) In-School Youth.—An individual who is in school shall be eligible to participate in the program under this part if such individual is—

"(1)(A) age 16 through 21; or

"(B) if provided in the job training plan, age 14 through 21; and

"(2) economically disadvantaged, or participates in a compensatory education program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.).

"(b) Targeted Groups of In-School Youth.—Not less than 70 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (a), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individuals.

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals exhibiting a pattern of disruptive behavior or disciplinary problems.

"(6) Individuals who are limited-English proficient.

"(7) Individuals who are homeless or run-away youth.

"(8) Offenders.

"(9) Individuals within a category established under subsection (h).

"(c) Out-of-School Youth.—An individual who is out of school shall be eligible to participate in the program under this part if such individual is—

"(1) age 16 through 21; and

"(2) economically disadvantaged.

"(d) Targeted Groups of Out-of-School Youth.—Not less than 70 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (c), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts (subject to the conditions described in section 264(d)(2)).

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Homeless or run-away youth.

"(6) Offenders.

"(7) Individuals who are limited-English proficient.

"(8) Individuals in a category established under subsection (h).

"(e) Exceptions.—Not more than 10 percent of participants in the program assisted under this part in each service delivery area shall be individuals who do not meet the requirements of subsection (a)(2) or (c)(2), if such individuals are within one or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsections (b) and (d), or categories such as individuals with limited-English language proficiency, alcoholics, or drug addicts.

"(f) Ratio of Out-of-School to In-School Youth.—Not less than 50 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(g) Schoolwide Projects for Low-Income Schools.—

"(1) In general.—In addition to the individuals described in subsection (e), an individual who does not meet the requirements of subsection (a)(2) may participate in the programs assisted under this part if such individual is enrolled in a public school—

"(A) that is located in a poverty area;

"(B) that is served by a local educational agency that is eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(C) in which not less than 75 percent of the students enrolled are included in the categories described in subsection (b); and

"(D) that conducts a program under a cooperative arrangement that meets the requirements of section 265(d).

"(2) DEFINITION.—For the purposes of paragraph (1), the term 'poverty area' means an urban census tract or a nonmetropolitan county with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(h) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals described in subsection (d) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted under paragraph (1) and transmits the request to the Secretary, as part of the Governor's coordination and special services plan; and

"(3) the Secretary approves the request submitted under paragraph (2).

"SEC. 264. PROGRAM DESIGN.

"(a) YEAR-ROUND OPERATION.—The programs under this part shall be conducted on a year-round basis.

"(b) ESSENTIAL ELEMENTS.—

"(1) IN GENERAL.—The programs under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interest, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted under another education or training program (such as the JOBS program);

"(B) development of service strategies that shall identify achievement objectives, appropriate employment goals (including, in appropriate circumstances, nontraditional employment) and appropriate services for participants, taking into account the assessments conducted under subparagraph (A), except that a new service strategy is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) the following services, which shall be provided either directly or through arrangement with other programs to a participant if the assessment and service strategy indicate such services are appropriate:

"(i) Basic skills training.

"(ii) Occupational skills training.

"(iii) Preemployment and work maturity skills training.

"(iv) Work experience combined with skills training.

"(v) Supportive services.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS. Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANT NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS. Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referred to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA. The service delivery area shall ensure that appropriate referrals are made under clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(c) AUTHORIZED SERVICES. Services which may be made available to youth with funds provided under this part may include—

"(1) direct training services, including—

"(A) the services described in section 204(b)(1);

"(B) tutoring and study skills training;

"(C) alternative high school services within programs that meet the requirements of section 141(o)(1);

"(D) instruction leading to high school completion or the equivalent;

"(E) mentoring;

"(F) limited internships in the private sector;

"(G) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations, including youth corps programs;

"(H) entry employment experience programs;

"(I) school-to-work transition services;

"(J) school-to-postsecondary education transition services; and

"(K) school-to-apprenticeship transition services; and

"(2) training-related and supportive services, including—

"(A) the services described in section 204(b)(2);

"(B) drug and alcohol abuse counseling and referral;

"(C) services encouraging parental, spousal, and other significant adult involvement in the program of the participant; and

"(D) cash incentives and bonuses based on attendance and performance in a program.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) STRATEGIES AND SERVICES. In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

"(2) SCHOOL DROPOUTS. In order to participate in a program assisted under this part, an individual who is under the age of 18 and a school dropout shall—

"(A) reenroll in and attend school;

"(B) enroll in and attend an alternate high school;

"(C) enroll in and attend an alternative course of study approved by the local educational agency; or

"(D) enroll in and attend a high school equivalency program.

"(3) SKILLS TRAINING.—

"(A) PREEMPLOYMENT AND WORK MATURITY SKILLS TRAINING.—Preemployment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase the basic educational or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(B) ADDITIONAL SERVICES.—Work experience, job search assistance, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(4) NEEDS-BASED PAYMENTS.—Needs-based payments authorized under this part shall be limited to payments necessary to permit participation in the program in accordance with a locally developed formula or procedure.

"(5) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period of up to 1 year after termination from the program.

"(6) NONCONTRACT TREATMENT.—The service strategy developed under subsection (b)(1)(B) shall not be considered a contract.

"(7) VOLUNTEERS.—The service delivery area shall make opportunities available for successful individuals who have previously participated in programs under this part to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

"SEC. 265. LINKAGES.

"(a) EDUCATIONAL LINKAGES.—In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems, and needs, including, in appropriate circumstances, interim assessment results.

"(b) EDUCATION AND TRAINING PROGRAM LINKAGES.—In conducting the program under this part, the service delivery area shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV (the Job Corps);

"(2) parts A through D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(4) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(5) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(6) part F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.);

"(7) the Food Stamp Act (7 U.S.C. 2011 et seq.);

"(8) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(9) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482);

"(10) the National and Community Service Act of 1990 (42 U.S.C. 12401 et seq.); and

"(11) this Act.

"(c) Other Programs.—In addition to the linkages required under subsections (a) and (b), service delivery areas receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under parts A and B of title II.

"(d) Schoolwide Projects for Low-Income Schools.—In conducting a program serving individuals specified in section 263(g), the service delivery area shall establish a cooperative arrangement with the appropriate local educational agency that shall, in addition to the other requirements of this section, include—

"(1) a description of the ways in which the program will supplement the educational program of the school;

"(2) identification of measurable goals to be achieved by the program and provision for assessing the extent to which such goals are met;

"(3) a description of the ways in which the program will use resources provided under this part and resources provided under other education programs to achieve the goals identified in paragraph (2);

"(4) a description of the number of individuals to be served; and

"(5) assurances that the resources provided under this part shall be used to supplement and not supplant existing sources of funds.

"SEC. 266. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part A or B if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.".

(b) Technical Amendment.—The table of contents relating to title II, as amended by section 10(b), is further amended by adding at the end the following:

"Part D—Youth Opportunity Programs

"Sec. 261. Statement of purpose.
"Sec. 262. Allotment and allocation.
"Sec. 263. Eligibility for services.
"Sec. 264. Program design.
"Sec. 265. Linkages.
"Sec. 266. Transfer of funds.".

SEC. 12. CONFORMING AMENDMENTS.

(1) Section 3(e)(2) (29 U.S.C. 1502(e)(2)) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) For any year after the first fiscal year for which funds are appropriated to carry out parts B and D of title II, no funds appropriated pursuant to this Act may be used to carry out title V unless funds appropriated to carry out each of parts A, B, and D of title II exceed any change in the consumer price index from the amounts appropriated for the previous fiscal year to carry out such parts.".

(2) Section 4(3) (29 U.S.C. 1503(3)) is amended by striking "means any area of sufficient size and scope to sustain a program under part A" and inserting ", as used with respect to part A, B, or D of title II, means any area of sufficient size and scope to sustain a program under part A, B, or D, respectively,".

(3) Subsections (a) and (b)(1) of section 108 and sections 141(p), 323(a)(7), and 511(a)(4) (29 U.S.C. 1518, 1551(p), 1662b(a)(7), and 1791j(a)(4) are amended by striking "part A" and inserting "part A, B, or D".

(4) Section 108 (29 U.S.C. 1518) is amended—

(A) in subsection (a), by striking "section 204(28)" and inserting "section 204(b)(1)(T)"; and

(B) in subsection (b)(2)—

(i) by striking subparagraph (B);

(ii) in subparagraph (A)—

(I) by striking "(A)"; and

(II) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively; and

(iii) in subparagraph (D), as so redesignated by clause (ii)(II) of this subparagraph, by striking "section 204(27)" and inserting "section 204(b)(2)(I)".

(5) Section 122 (29 U.S.C. 1532) is amended—

(A) in subsection (a)(1), by striking "section 202(b)(4)" and inserting "sections 202(c)(2)(A) and 262(c)"; and

(B) in subsection (b)(2), by striking "section 202(a)" and inserting "section 202(b) or section 222(b)".

(6) Section 123 (29 U.S.C. 1533) is amended—

(A) in subsection (a)—

(i) by striking "section 202(b)(1)" and inserting "sections 202(c)(2)(D) and 262(c)"; and

(ii) in paragraph (3)—

(I) by striking subparagraphs (C) and (D);

(II) by adding "or" at the end of subparagraph (B); and

(III) by adding at the end the following new subparagraph:

"(C) a combination of the activities described in subparagraphs (A) and (B); and"; and

(B) in subsection (e)(1), by striking "section 202(b)(1)" and inserting "sections 202(c)(2)(D) and 262(c)".

(7) Section 124 (29 U.S.C. 1534) is repealed.

(8) Section 125(a) (29 U.S.C. 1535(a)) is amended by striking "section 202(b)(4) and".

(9) Section 141(k) is amended by striking "unless" and all that follows and inserting a period.

(10) Sections 401(j) and 402(f) (29 U.S.C. 1671(j) and 1672(f) are amended by striking "part A" and inserting "parts A, B, and D".

(11) Section 456 (29 U.S.C. 1736) is amended by striking "listed in section 203(a)(2)" and inserting "described in section 203(a)(2) or 224 or subsection (b) or (d) of section 263".

(12) Section 481(a) (29 U.S.C. 1781(a)) is amended by striking "sections 203(a)(1)" and inserting "sections 203(a)(1), 224, 263(a)".

(13) Section 508(b)(2)(A) (29 U.S.C. 1791g(b)(2)(A)) is amended by striking "section 204" and inserting "section 204(b), 225(b), or 264(c)".

(14) Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking "section 204(5)" and inserting "section 204(b)(1)(C) or 225(b)(5)".

NASUA,
Washington, DC, October 5, 1992.

Hon. Brock Adams,
U.S. Senate,
Washington, DC.

Dear Senator Adams: The National Association of State Units on Aging urges your introduction of the Mature and Older Workers Act of 1992.

As you know, the current Job Training Partnership Act (JTPA) has a very mixed record in serving the needs of mature and older workers. The state setaside for older workers has provided some limited but important funds to focus on the unique needs of older workers. However, the Title II adult program has consistently ignored the training and placement needs of the older worker.

Your bill, the Mature and Older Workers Program, would provide for the first time in Federal law the recognition and assistance that older workers need and deserve. Mature workers will become an increasingly critical component of the American workforce. The training needs of these mature workers must be addressed if we are to have a more productive and competitive economy. Your bill would provide critical Federal leadership and foresight in this arena and we encourage you to file this bill during the final days of this Congress.

Thank you for your continued advocacy on behalf of older Americans.

Sincerely,

Daniel A. Quirk,
Executive Director.

By Mr. INOUYE:

S. 3347. A bill to establish within the Office of the Secretary of the Department of the Interior a permanent Working Group on Indian Water Rights Settlements; to the Select Committee on Indian Affairs.

INDIAN WATER RIGHTS SETTLEMENT WORKING GROUP WITHIN THE DEPARTMENT OF THE INTERIOR ACT

• Mr. INOUYE. Mr. President, I rise today to introduce a bill that I hope will engender thoughtful discussion regarding the merits of establishing a working group on Indian water rights settlements within the Office of the Secretary of the Department of the Interior.

I take this action in recognition of the commendable initiative of the current Secretary of the Interior, Manuel Lujan, who has shown remarkable leadership in the field of Indian Affairs and sensitivity to the need for resolving the outstanding claims of Indian tribal governments to water.

Mr. President, never before has a Secretary for the Department of the Interior committed the time and energy and resources and personnel of the Department in such a comprehensive and forward-thinking manner to negotiating settlements of Indian water rights claims.

He has created a process that works—a process that enables State governments, non-Indian water users, the Federal Government and Indian tribal governments to work together to develop an effective means for the allocation of water resources and the settlement of water rights claims.

Mr. President, the traditional forum for the resolution of water rights claims has been in the courtroom. Litigation has been costly and lengthy. It is not uncommon for water rights cases to take 20 years to resolve and millions of dollars in costs incurred. Once litigation is completed, the parties are left with the vestiges of the adversarial process in which they have engaged—one side emerges a winner, and the other sides loses—and often, there are bitter feelings that linger long beyond the courtroom process.

In contrast, the process established by Secretary Lujan allows the parties to work together to shape their mutual future—the parties are not forced into an adversarial posture, but instead, they forge a partnership that enables them to work together to resolve outstanding problems in other areas.

Mr. President, I introduce this bill with the hope that in coming days, we will give serious thought to institutionalizing the process that Secretary Lujan has established. I commend the Secretary for his outstanding leadership, and I hope that in the coming session of the Congress, we will act to memorialize and make permanent that which he has so courageously initiated.●

By Mr. HATCH (for himself, Mr. STEVENS, Mr. MURKOWSKI, Mr. SMITH, and Mr. WALLOP):

S. 3348. A bill to improve the availability of quality, affordable health care for all Americans, and for other purposes; to the Committee on Finance.

HEALTH CARE ACCESS AND AFFORDABILITY ACT OF 1992

Mr. HATCH. Mr. President, one of the most critical challenges we face in our Nation today is to improve the current state of our national health care system.

Presently, about 34 million, or about 13 percent of all Americans, are without some form of health insurance. Indeed, access to affordable health insurance greatly increases access to health care. But, clearly, one of the major barriers to obtaining health insurance is cost.

Although more than 12 percent of our annual GNP is spent on health care, there are millions of Americans who do not have access to the most basic of health care services. What is worse, without a major change in the health care system, by the year 2020, one-third of our Nation's GNP will be spent on health care services in the United States.

In an effort to address the American health care dilemma, several proposals have been offered. Among these have been a Canadian-style, single payor system and a pay or play system that places a costly new mandate on business. While the objective of these systems is honorable, the systems themselves are not compatible with the market values that have allowed America to develop the most advanced and envied health care industry in the world.

A highly regulated Canadian-style health care monopoly would cost billions that would have to come from the taxpayers somehow. It would also result in cumbersome price controls and government interference in health care decision making. I believe a system based on a single government payor would inherently undermine the world-renowned quality of American health care.

The pay or play plan is also counterproductive. Such a system places the responsibility of financing national health care on the backs of employers. This is not fair on its face and will jeopardize hundreds of thousands, if not millions, of jobs.

The Labor Department estimates that this measure could result in at least $30 billion of new expenditures. The impact on employment both in terms of current jobs and future job creation would be significant: 350,000 to 700,000 jobs would be lost. Advocates of pay or play plans are telling American workers to gamble the rent and the groceries for health care.

There are certain values built into the American health care system that ought not be ignored. We have traditionally had the finest physicians and the most advanced technologies for diagnosis and treatment. We have been able to choose our own doctors and to obtain treatment when we need it.

What has enabled us as a nation to have such unprecedented excellence in medical care? What is it that brings people from all over the world to America for health care?

I submit to you the answer to these questions lies in our fundamental reliance on individuals and the free market—not on the government to provide services or to micromanage our decision making. We have consistently rejected the premise that government knows what is best for us.

While there is no denying that our health care system is in real peril, I suggest that there is insufficient cause to abandon our health care system completely for radically new and untested proposals that may run counter to our basic American principles and values.

Therefore, I am today introducing comprehensive health care reform legislation designed to improve the affordability and availability health care for all Americans. It will do so by reforming the current system, building upon its very best features. My bill does not simply treat the symptoms of the ailing health care system, but address the root causes of it.

HATCH PLAN

The purpose of the Health Care Access and Affordability Act is to improve the availability of quality, affordable health care for all Americans. To achieve this purpose, the titles of this act address specific issues which have direct impact upon the Nation's health care system.

TITLE I

Title I of my legislation recognizes that employer provided health insurance is a major portion of any benefit package offered to an employee. Large employers, such as the Federal Government, enjoy an economy of scale when providing health insurance plans that make it less costly on a per employee basis. Although small employers—1–50 employees—collectively employ millions of Americans, they do not always receive the same benefit of volume rates, and often must offer less attractive and more costly plans. This leaves may employees with either reduced levels of insurance or without any health insurance at all. This factor directly affects both access and cost of health care for the employees.

Under title I, the issue of health insurance plans offered to small employers is addressed. The small employer health insurance provisions seek tc assist small employers in offering quality and cost-effective health insurance plans to their employees. This is achieved by calling on States and the Secretary of Health and Human Services to develop standards and measures of enforcement regarding such insurance plans.

Insurers are required to meet standards of guaranteed availability. In addition, the bill addresses base premium rates in an effort to ensure affordability and contains a provision prohibiting discrimination.

Subtitle B of title I establishes measures regarding Medicare and Medicaid designed to increase access to primary health care for qualified recipients through various demonstration projects. These demonstration projects will be directed toward traditionally underserved target populations and certain uninsured individuals.

Programs that offer a choice of benefit options to Medicare recipients, as well as other measures designed to increase efficiency in the payment of Medicare benefits are also established.

TITLE II

Two of the major impediments to improving the status of health care in America are: one, the inadequate number of physicians serving urban and rural low income families; and two, insufficient education programs which teach disease prevention.

In addressing the first concern, title I of the Health Care Access and Affordability Act recognizes that many Americans live in communities without sufficient health care providers and facilities. Therefore, a primary goal of this title is the increase of access to primary health care. This is achieved by establishing 250 community health centers located in underserved areas or in areas with high concentrations of underserved target populations. In addition, the National Health Service Corps will be required to revise their priorities and redirect personnel in a manner to increase the access of target populations to primary medical care.

In regard to the second concern, it must be understood that education is one of the keys to reducing health related problems in our country. To this end, title II provides for the Surgeon General to establish and implement a disease prevention education program focusing on change in personal behavior such as smoking cessation—and the use of preventive care and screening programs.

TITLE III

Title III takes a market oriented approach to making our health care system more affordable and responsive to the needs of individuals. This is achieved by providing the health care consumer a choice regarding insurers and health insurance plans. Tax credits and deductions are provided as the primary means for reducing the cost of health care for the individual.

Tax credits under this title replace existing health care tax breaks. Such credits, contingent on the purchase of a federally qualified health insurance plan, provide individuals and families with an 80-percent tax credit against health insurance premiums paid.

Another measure allows an employee deduction for employer-provided health insurance premiums paid on the employee's behalf.

An innovative provision of title III provides for a new kind of savings account that would receive special tax treatment. Such accounts, appropriately called medical savings accounts, permit an individual to save for future out-of-pocket medical expenses.

Other provisions of this title establish guidelines that employers and insurers must implement in order to ensure portable benefits, greater choice, and reasonable rates regarding health insurance plans.

In addition, States will be required to establish a health insurance program for uninsured residents. The States will be allowed to charge premiums based upon cost average and ability to pay.

Through measures such as these, every American will be ensured access to health insurance, and subsequently, health care.

TITLE IV

The idea of pooling resources in an effort to provide better and more cost efficient health care services is the purpose behind title IV of my bill. By providing an exemption to antitrust laws, this title allows hospitals to negotiate proposed agreements to share expensive medical services or expensive high technology equipment. Such cooperation among hospitals will help to contain costs and to achieve a more efficient health care delivery system.

A monitoring provision requires hospitals granted such an exemption to submit an annual report to the Secretary, therefore, protecting the public from blatant cost-fixing actions by such facilities.

TITLE V

The steady increase in medical liability actions has had a significant adverse effect on the availability and cost of health care in our Nation. Such malpractice actions have done nothing more than to encourage physicians to practice defensive medicine; many more tests and procedures than are necessary are ordered to help inoculate health care providers against malpractice claims.

Many health care providers have turned away from providing certain services owing to a high rate of medical liability risk regarding those services. Reining in such malpractice actions, while providing mechanisms designed to reduce health care related injuries, will not only reduce the overall cost of health care, but will also increase access to essential higher risk services such as obstetrics.

Title V will authorize grants provided by the Secretary of Health and Human Services to States for the implementation of one of four alternative dispute resolution systems described in the title or for State development of another Secretary approved system. Each system provides different mechanisms for the resolution of health malpractice action other than the courts. Among these systems are an administrative process providing expedited review of claims. This will speed up the assessment and dismissal of meritous claims and the award of claims in legitimate cases. Another such system would require arbitration and establishes ceilings for noneconomic losses.

Other grant programs are established for conducting research in prevention and compensation for injuries resulting from malpractice.

Title V also provides an overall Federal malpractice dispute reform, establishing maximum payments and reductions in payments regarding awards in malpractice actions. In addition, a $250,000 limit is placed upon any malpractice claim for noneconomic losses. Furthermore, limits are established regarding attorney compensation.

This title also dictates that States require health care providers to adopt risk management programs. Insurers must require practitioners they insure to have risk management programs in place. States must also enter into agreements with medical professional societies allowing such societies to review malpractice allegations concerning a practitioner in their respective medical specialties.

This title also requires the formation of a national risk retention group that will provide professional liability insurance and other types of profitable insurance to community and migrant health centers.

TITLE VI

Preventative measures are a crucial element to any program attempting to both lower health care costs and improve the overall health of all citizens. Title VI addresses these issues by including two provisions that seek to educate the population regarding good health practices.

The order population of our Nation is growing at an unprecedented rate. The first of the measures of this title acknowledges that education and activities programs must be implemented to enhance the physical fitness of older Americans. For this purpose, the President's Council on Senior Fitness is established to devise and promote such activities.

Another preventive effort in this title is the Programs to Encourage Healthy Lifestyles. This provision seeks to increase the awareness of Americans regarding the impact lifestyle choices has on one's health. Such programs will emphasize the avoidance of illegal drugs, excessive alcohol consumption, and tobacco products. In addition, emphasis would be placed on choosing proper foods for a balanced diet, managing stress, and engaging in regular exercise. Through such programs, the overall health of the Nation would improve dramatically.

CONCLUSION

Mr. President, this is a comprehensive approach—it does not merely attack the access issue and ignore the fact that health care cost growth has contributed to our access problem. And, it does this while recognizing that the quality of care in America is as important as the quantity. Passage of this bill is an investment in the general health and well being of our Nation.

Mr. President, some may wonder why I am introducing this bill so near the end of the 102d Congress. The answer is that I believe I have something constructive to contribute to the debate on health care reform, and I would like all Senators to have the opportunity to review my proposals before this debate rekindles next year.

I invite the comments and suggestions of my colleagues and of the public at large. I have already heard from many individuals and organizations regarding the concepts and specific provisions of the bill, and I sincerely appreciate their input.

It is clear that Congress needs to act. On this point, all my colleagues—Democrat and Republican—and President Bush—are in full agreement.

But, let us not act precipitously. Let us not act unwisely. Let us not act in a way that will jeopardize the positive aspects of our current system by implementing a system contrary to the values that made the system great. We have a health care system that is state-of-the-art, that is compassionate, that does not discriminate, and that allows individuals and families to make their own choices. We can, and should, build on it. I urge all my colleagues to support the Health Care Access and Affordability Act.

By Mr. ADAMS:

S. 3350. A bill to amend the Public Health Service Act and the Social Security Act to improve the organ procurement and transplantation process, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL ORGAN DONOR AND AWARENESS CAMPAIGN ACT OF 1992

Mr. ADAMS. Mr. President, I rise today to introduce legislation to improve the organ procurement and transplantation process. Today, over 40 million Americans are afflicted with end-stage diseases, from chronic renal failure and ischemic heart disease to biliary atresia of the liver and other diseases. These are diseases for which there is no cure. Even the best treatments for these diseases will only prolong the life of the sufferer—often not ever enabling the patient to regain the dignity and quality of life once lost. Some of these life-threatening diseases, however, can be effectively dealt with through organ transplantation.

As of February 1992, the national waiting list for organ transplants contained over 25,000 patients, over 4 percent of whom were young children. Approximately 2,000 new names are added to this list every month. But many of these patients will die before a needed organ becomes available because the supply of donor organs falls far short of the demand. Between 1987 and 1990, for example, the demand for renal, heart, liver, and heart-lung organs increased by 60 percent, while actual donations of these organs increased by only 11 percent. Fully 40 percent of patients awaiting a donor organ will not receive one this year.

The legislation I am introducing is a companion measure to a bill introduced in the House by Representative ED ROYBAL, the distinguished chairman of the House Select Committee on Aging, who, like me, is retiring at the end of this year. It has been an honor to work with him on this and other matters during our many years in the Congress.

This legislation calls for a national campaign to increase public awareness of organ transplantation. It would include the development and dissemination of information on the need for organ donations and how the organ procurement and transplant system works. It also calls for educational, outreach, and research programs to encourage the donation of organs by all segments of the population, with special emphasis on educating minorities and underserved populations.

Mr. President, I am deeply concerned about inherent inequities that exist in the organ donation and transplantation system. For example, African Americans must wait, on the average, nearly twice as long for a kidney transplant as whites. They differ from whites immunologically not only in frequency of ABO blood types but also in frequency with which they possess certain antigens. A black individual's chance of finding a near-perfect match is slight because the number of black donors is small relative to the number of black registrants on the waiting list.

African Americans are in a particularly precarious position because they suffer more frequently than whites from medical conditions which can lead to some end-stage diseases. They also are less likely to receive needed transplants. Physiologic differences between races cannot be eliminated, but it may be possible to increase the pool of donor organs suitable for African Americans through education programs which increase awareness and understanding about organ donation.

Mr. President, this bill calls for the creation of an advisory committee with respect to the Organ Procurement and Transplant Network. This committee would include representatives of all aspects of the organ donation and transplantation field, including members of transplant teams and the medical community, as well as transplant recipients, clergy and attorneys, and representatives of advocacy groups on behalf of women, minorities and underserved populations.

This committee would research, among other things, the processes by which individuals who need organs are listed in the network and are selected to receive transplants, to determine whether the criteria are applied consistently and equitably without regard to race or financial insured status; the dissemination of educational materials; the adequacy of quality controls in the organ procurement and transplant process; the need for a uniform, comprehensive data collection and tracking system to follow organ transplants from donor through the lifetime of the recipient; and the appropriateness of alternative approaches, such as presumed consent, to increase the supply of organs.

Another vital provision of this legislation would benefit those who already have become organ recipients. This provision would eliminate the one-year limit on Medicare coverage for outpatient immunosuppressive drugs needed to suppress antibody reaction and enhance the acceptance of the donated organ. It would also authorize the appropriation of funds to pay for them. These drugs are critical to the survival of the organ graft as well as to that of the patient. The high cost of these drugs, however, threatens equal access to patient care. Current estimates place the first year cost for immunosuppressive drugs between $3,000 and $18,000.

But the need for these drugs does not stop after one year. Organ recipients must take these drugs for the rest of their lives. Something has to be done to ensure that recipients without insurance coverage can continue the drug therapy so essential to remaining healthy. Experience has shown that when individuals can no longer afford the needed drugs, they stop the treatment, often having nothing to look forward to but death.

Imagine, Mr. President, having to stop taking the drug that sustains your life, knowing that the probable outcome is death! This is exactly what happens to many recipients once they have exhausted insurance coverage and all of their personal resources. Some of these individuals have been fortunate to live long enough to receive another donor organ and, thus, another year of immunosuppressive drug therapy coverage. Many others are not so fortunate.

Why does a society as advanced as ours choose to hold life sustaining drugs beyond the reach of those in need, only to turn around and pay for a subsequent organ transplant, usually at a much higher cost. This failure to provide the means to sustain the viability of organ grafts is beyond comprehension. Not only does it put the recipient through extraordinary suffering, both physical and emotional, but it also deprives another individual whose life is at stake, from a much needed donor organ.

Although some might argue that the cost of organ transplantation and subsequent drug therapy is too high, the alternative treatment is also costly. A comprehensive evaluation of the End-Stage Renal Disease program under Medicare, for example, found that while kidney transplantation is expensive, kidney transplants are more cost-effective than kidney dialysis, and they increase the quality of life for recipients. Moreover, Mr. President, many organ recipients go on to lead normal, productive lives and make vital contributions to our society—much the same as those who have never been afflicted with a life-threatening disease.

Mr. President, I know the time is drawing near for this Congress to adjourn and that no action is likely on this legislation before that occurs. I will not be here when the 103d Congress convenes next year; but before I leave, I am compelled to introduce this legislation to underscore the importance of addressing this life-or-death issue. I urge my colleagues to take up this legislation in the 103d Congress and make the changes needed in the organ donation and transplantation system.

I ask unanimous consent that a copy of the text of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Organ Donor and Awareness Campaign Act of 1992".

SEC. 2. NATIONAL ORGAN TRANSPLANT CAMPAIGN.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a national campaign to increase public awareness of organ transplantation. Such campaign shall include—

(1) the development and dissemination of information—

(A) on the need for organ donations from the public, including information specifically designed for language and minority populations,

(B) on how the organ procurement and transplantation system operates, and

(C) for use in educational programs, including the education of health care professionals;

(2) the development of a national clearinghouse to disseminate information related to organ procurement and donation; and

(3) educational, outreach, and research programs (including educational and outreach efforts through medical and health professionals, schools, attorneys, and State departments of motor vehicles) to encourage the donation of organs by all segments of the population.

(b) REPRESENTATION.—In conducting the campaign, the Secretary shall include representatives from all areas of the transplant community, including medical and health professionals, minorities, women, family members of transplant recipients and organ donors, transplant recipients, emergency room and hospital support staff, educational institutions, and State departments of motor vehicles.

(c) RESEARCH.—The Secretary shall conduct research in the following areas:

(1) The process by which individuals listed in the Organ Procurement and Transplantation Network are selected and the effect of the race and economic status of an individual on the selection of the individual.

(2) The role religious and other institutions play in encouraging or discouraging organ donation and the potential role they could play in educating their members and increasing organ donation, especially among youth and minorities.

(3) Incentives to encourage hospitals to identify potential donors and take a more active role in the campaign to improve organ donation rates.

(4) Developing and identifying model educational programs for the general public to increase donor awareness, specifically among groups with low rates of organ donation.

(5) Improving and promoting the use of organ donor cards.

SEC. 3. ADVISORY COMMITTEE ON ORGAN TRANSPLANTS.

(a) IN GENERAL.—Section 372 of the Public Health Service Act (42 U.S.C. 274) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall provide for appointment of an advisory committee with respect to the Organ Procurement and Transplantation Network. The committee shall include individuals who participate in organ procurement and transplantation, including representatives of transplant teams (including neurologists and neurosurgeons), emergency room personnel, transplant hospitals and centers, the Network, transplant recipients, clergy, and attorneys, as well as representatives of advocacy organizations on behalf of women, on behalf of minorities, and on behalf of underserved populations. The committee shall meet not less often than twice each year.

"(2) The advisory committee shall research the following:

"(A) The process by which individuals who need organs are listed with the Network.

"(B) The process by which individuals so listed are selected to be given a transplant.

"(C) Whether the processes referred to in subparagraphs (A) and (B) are applied consistently and equitably without regard to race or financial or insured status.

"(D) The appropriateness of restoring the authority and funding of the Organ Procurement and Transplantation Network to oversee and coordinate the work of organ procurement organizations.

"(E) The dissemination of educational materials (in appropriate languages and publications) concerning organ donation and procurement to—

"(i) the public, including minority populations and including dissemination through the departments of motor vehicles in each State,

"(ii) medical and legal professionals, and

"(iii) administrators, faculty, and students at educational institutions.

"(F) The adequacy of quality controls in the organ procurement and transplant process, including the (i) training required of transplantation teams, (ii) consistent application of standards for the selection of organs suitable for transplant, and (iii) implementation of required request or routine inquiry laws, and the relation of such controls to standards for qualification of organ transplant programs under the medicare program.

"(G) The safety of organ transplantation through appropriate donor screening and tissue testing.

"(H) The need for a uniform, comprehensive data collection and tracking system to follow organ transplants from the donor through the lifetime of the recipient.

"(I) The appropriateness of alternative approaches, such as presumed consent, to increase the supply of organs.

"(J) Such other aspects of the organ procurement and transplant processes as the Secretary may specify.

"(3) By not later than 2 years after the date of appointment of members to the committee, the advisory committee shall submit to the Secretary and to the Network a report on its research under paragraph (2) and recommendations relating to the organ procurement and transplantation process. In making such recommendations the committee shall consider feasibility of incorporating the authorization of organ donation as part of advanced directives and as part of an individual's medical record.

"(4) The Secretary shall transmit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives, the Committees on Finance and on Labor and Human Resources of the Senate, the Select Committee on Aging of the House of Representatives, and the Special Committee on Aging of the Senate the recommendations of the advisory committee and shall include in such transmittal such recommendations for changes in legislation as the Secretary deems to be necessary to assure the consistent and equitable allocation of organs procured through the Network.

"(5) The advisory committee shall terminate 90 days after the date of submission of the report under paragraph (3), except that the Secretary may continue the operation of the advisory committee for such period as the Secretary deems appropriate in order to monitor the implementation of any of the committee's recommendations.".

(b) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.—Subsection (a) of such section is amended by striking "$2,000,000" and inserting "$2,500,000".

(c) NETWORK REQUIREMENTS.—Subsection (b) of such section is amended—

(1) in paragraph (1)(B)(i), by inserting "women, minorities," after "associations,"; and

(2) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (J),

(B) by striking the period at the end of subparagraph (K) and inserting a comma,

(C) by redesignating subparagraph (L) as subparagraph (M), and

(D) by inserting after subparagraph (K) the following new subparagraph:

"(L) assure in its bylaws that the process of procuring and transplanting organs is consistent and equitable and does not discriminate on the grounds of race or financial or insured status, and".

(d) EXPANSION OF RECIPIENTS OF BIANNUAL REPORT.—Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended by striking "to the Committee" and all that follows through "Human Resources" and inserting "to the Committees on Ways and Means and on Energy and Commerce of the House of Representatives, the Committees on Finance and on Labor and Human Resources of the Senate, the Select Committee on Aging of the House of Representatives, and the Special Committee on Aging of the Senate".

SEC. 4. EXPANDING ACCESS TO IMMUNOSUPPRESSIVE DRUGS.

(a) ESTABLISHMENT OF IMMUNOSUPPRESSIVE DRUG GRANT PROGRAM.—Title XIX of the Public Health Service Act is amended by adding at the end the following new part:

"PART C—GRANTS FOR IMMUNOSUPPRESSIVE DRUGS

"GRANTS FOR IMMUNOSUPPRESSIVE DRUGS

"SEC. 1931. (a) IN GENERAL.—The Secretary shall make payments to health care facilities for the dispensing of immunosuppressive drugs to eligible patients.

"(b) DEFINITIONS.—In this section:

"(1) The term 'health care facility' means a hospital, pharmacy, or other facility authorized or licensed under State or Federal law to dispense and distribute prescription drugs.

"(2) The term 'immunosuppressive drug' means any drugs or biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues.

"(3) The term 'eligible patient' means an organ transplant recipient—

"(A) who is not eligible to receive reimbursement for the cost of immunosuppressive drugs under title XVIII of the Social Security Act, under a State plan under title XIX of such Act, or under private insurance, and

"(B) whose transplant was performed at a facility which meets standards established under title XVIII of such Act for such transplantation.

"(c) APPLICATION.—No payment may be made under this section unless an application for such payment has been submitted to, and approved by, the Secretary. Such an application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe.

"(d) AMOUNT OF PAYMENT.—The payment under this section shall be in such amount and on such terms as the Secretary finds appropriate; except that—

"(1) in the case of a drug described in section 1861(s)(2)(J) of the Social Security Act, the payment amount with respect to the drug shall be based on the amount of payment permitted for such drug under title XVIII of such Act to the extent of available appropriations, and

"(2) no payment shall be made to satisfy any deductible, copayment, or coinsurance amount required of an individual who is otherwise not an eligible patient.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated $7,000,000 for each of fiscal years 1993 and 1994.".

(b) ELIMINATION OF 1-YEAR LIMITATION ON MEDICARE COVERAGE OF OUTPATIENT IMMUNOSUPPRESSIVE DRUGS.—

(1) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking ", within 1 year after the date of the transplant procedure".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to drugs furnished on or after the date of enactment of this Act.

SEC. 5. INFORMATION ON ORGAN DONATION IN CONNECTION WITH ADVANCED DIRECTIVES.

(a) IN GENERAL.—Section 1866(f)(1) of the Social Security Act (42 U.S.C. 1395cc(f)(1)) is amended by adding at the end the following: "To the extent practicable, the provision of information under this subsection shall be coordinated with the provision of organ donation information pursuant to section 1138(a)(1)(A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 6. SPECIAL PROJECT GRANTS FOR MINORITY ORGAN PROCUREMENT.

(a) IN GENERAL.—Section 371(a)(3) of the Public Health Service Act (42 U.S.C. 273(a)(3)) is amended by adding at the end the following: "In making grants and entering into contracts for projects under this paragraph, the Secretary shall include projects which encourage procurement of organs from minority communities (including cultural, racial, and language minorities) and from other population groups with below average donation rates through outreach and educational services, including the employment of translators at hospitals.".

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amount otherwise authorized to be appropriated to carrying out section 371(a)(3) of the Public Health Service Act, there are authorized to be appropriated for special projects described in the second sentence of section 371 of the Public Health Service Act (as added by subsection (a)) such sums as may be necessary.

SENATOR BROCK ADAMS' NATIONAL ORGAN DONOR AWARENESS CAMPAIGN ACT OF 1992 SECTION BY SECTION SUMMARY

General Purposes: To amend the Public Health Service Act and the Social Security Act to improve the organ procurement and transplantation process.

SECTION 1—SHORT TITLE

This Act may be cited as the "National Organ Donor Awareness Campaign Act of 1992."

SECTION 2—NATIONAL ORGAN TRANSPLANT CAMPAIGN

(a) In General—This section calls for a national campaign to increase public awareness of organ transplantation, to include the following:

(1) development and dissemination of information on the need for organ donations, including information designed for language and minority populations; on how the organ procurement and transplant system operates; for use in educational programs.

(2) development of a national clearinghouse to disseminate information related to organ procurement and donation; and

(3) educational, outreach, and research programs to encourage donation of organs by all segments of the population.

(b) Representation—The Secretary shall include representatives from medical and health professionals, minorities, women, family members of transplant recipients and organ donors, transplant recipients, emergency room and hospital support staff, educational institutions, and State departments of motor vehicles.

(c) Research—The Secretary shall conduct research in these areas:

(1) The selection process and the effect of race and economic status thereupon.

(2) The role religious/other institutions play in encouraging/discouraging organ donation and their potential role in educating members and increasing donation, especially among youth and minorities.

(3) Incentives to encourage hospitals to take a more active role in improving organ donation rates.

(5) Improving and promoting the use of organ donor cards.

SECTION 3—ADVISORY COMMITTEE ON ORGAN TRANSPLANTS

(a) In General—This section amends Section 372 of the Public Health Service Act to provide for the appointment of an advisory committee with respect to the Organ Procurement and Transplant Network (OPTN). The committee shall:

Include individuals who participate in organ procurement and transplantation as well as representatives of advocacy groups. The committee shall meet not less than twice each year.

Research the selection process and the effect of race and economic status thereupon; the appropriateness of restoring authority and funding of the OPTN to oversee and coordinate the work of organ procurement organizations; the dissemination of educational materials; the adequacy of quality controls in the procurement and transplant process; the safety of organ transplantation through appropriate donor screening and testing; the need for a uniform, comprehensive data collection and tracking system to follow transplanted organs through the lifetime of the recipient; the appropriateness of alternative approaches to increase supply of organs.

Submit to the Secretary and to OPTN, within 2 years, a report on its research and recommendations relating to the procurement and transplant process.

Submit to the Committees on Ways and Means, Energy and Commerce, and Select Committee on Aging of the House of Representatives, and to the Committees on Finance, Labor and Human Resources, and Special Committee on Aging of the Senate the recommendations of the advisory committee.

Terminate 90 days after the submission of its report, except that the Secretary may continue the operation of the committee in order to monitor the implementation of the committee's recommendations.

(b) Increase in Authorization of Appropriation for Organ Procurement and Transplantation Network—This section increases the authorization amount from $2.0 million to $2.5 million.

(c) Network Requirements—This section amends OPTN requirements to assure in its bylaws that the process of procuring and transplanting organs is consistent and equitable and does not discriminate on the grounds of race or financial or insured status.

(d) Expansion of Recipients of Biannual Report—This section expands the name recipients to include the Congressional committees cited in Section 3(a) above.

SECTION 4—EXPANDING ACCESS TO IMMUNOSUPPRESSIVE DRUGS

(a) Establishment of Immunosuppressive Drug Grant Program—This section amends title XIX of the Public Health Service Act to add the following new part:

"PART C—GRANTS FOR IMMUNOSUPPRESSIVE DRUGS."

(a) In General—The Secretary shall make payments to health care facilities for the dispensing of immunosuppressive drugs to eligible patients.

(b) Definitions

Health care facility—a hospital, pharmacy, or other facility authorized or licensed under State or Federal law to dispense and distribute prescription drugs.

Immunosuppressive drugs—any drugs or biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues.

Eligible patient—an organ recipient who is not eligible to receive reimbursement for the cost of immunosuppressive drugs under title XVIII of the Social Security Act, under a State plan under title XIX of such Act, or under private insurance, and whose transplant was performed at a facility which meets standards established under title XVIII of such Act for such transplantation.

(c) Application—No payment may be made, under this section unless an application has been submitted to, and approved by, the Secretary.

(d) Amount of Payment—Payment shall be determined by the Secretary; except that (1) in the case of immunosuppressive drugs, the payment amount shall be based on the amount of payment permitted under title XVIII, and (2) no payment shall be made to satisfy any deductible, copayment, or coinsurance amount required of an individual who is otherwise not an eligible patient.

(e) Authorization of Appropriations—$7 million is authorized to be appropriated under this section for each of FYs 1993 and 1994.

(b) Elimination of 1-Year Limitation on Medicare Coverage of Outpatient Immunosuppressive Drugs—The 1-year limit is eliminated.

SECTION 5—INFORMATION ON ORGAN DONATION IN CONNECTION WITH ADVANCED DIRECTIVES

This section amends Section 1866(f)(1) of the Social Security Act and calls for the coordination of the provision of information with the provision of organ donation information under section 1138(a)(1)(A).

SECTION 6—SPECIAL PROJECT GRANTS FOR MINORITY ORGAN PROCUREMENT

(a) In General—This section amends section 371(a)(3) of the Public Health Service Act and

calls for the inclusion of projects which encourage procurement of organs from minority communities and from other underserved populations with below average donation rates through outreach and educational services.

(b) Authorization of Appropriations—This section authorizes such sums as may be necessary for special projects described in (a) above.

By Mr. BREAUX:

S. 3351. A bill to amend the Internal Revenue Code of 1986 to defer estate taxes on family farms and businesses; to the Committee on Finance.

SMALL FAMILY BUSINESS AND FARM SURVIVAL ACT

• Mr. BREAUX. Mr. President, competing policy goals conflict when estate tax laws are applied to small, family businesses. Estate taxes are designed to prevent the pooling of too much wealth in too few families. Unfortunately, our estate tax system has another impact. It prevents entrepreneurs from starting a business, building it up over a lifetime, and then passing it on to their children. No family businesses will survive long if it is subject to estate taxes every time a new generation takes over.

In order to protect small family farms and businesses from the devastating impact of estate taxes, I am introducing today the Small Family Business and Farm Survival Act. This bill essentially allows the heirs of small business owners to defer the estate tax owed on the farm or business until it is sold outside of the family. Allowing family farms and businesses to defer their estate taxes prevents farmers and small business owners from having to sell off their life's work to pay estate taxes. At the same time, their estate tax rates are not lowered or forgiven, and they still must pay their full share if the business is sold outside the family. As a result, the tax bill need only be paid when the business is sold and the owners have the cash available to pay.

According to the National Federation of Independent Business [NFIB], cash flow is the third most important problem facing small business owners. You can imagine what happens to a business's cash flow when the owner dies and an estate tax bill for tens of thousands of dollars arrives. The heirs must either pare down the size of the business by selling off assets and firing employees or just sell the business altogether.

The high rates and complex issues involved in estate taxes make it very difficult for small, family businesses to survive. The Small Family Business and Farm Survival Act offers a great amount of protection for family farms and businesses at a minimal cost to the Federal Government.

This legislation is designed to protect those enterprises that are truly family run. To that extent, I have included several provisions to guard against abuse. In order to take advantage of the deferral, the following tests must be met:

First, the business must be worth less than $50 million. This ensures that only small businesses are protected.

Second, the business must comprise at least 40 percent of the descendent's estate. This prevents the owner of a very large business from breaking it up into several smaller businesses.

Third, the person inheriting the business must have actively participated in the running of the business before the owner died. This ensures that only family run businesses are protected.

Any heir taking advantage of the deferral will have to pay the estate tax if the business is sold outside of the family or if the business is managed by a nonfamily member for an extended period of time.

Family farms and family businesses are an important part of our Nation's heritage. Changes in tax law and the very high estate tax rate have combined to virtually eliminate the possibility that any business could survive for more than two generations. My bill, the Small Family Business and Farm Survival Act, protects both family enterprises and those they employ from an unintended consequence of our nation's estate tax law.

By Mr. LIEBERMAN:

S. 3352. A bill to create an environmental innovation research program, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL INNOVATION RESEARCH ACT OF 1992

Mr. LIEBERMAN. Mr. President, today I am introducing the Environmental Innovation Research Act of 1992, which complements the provisions of S. 2632 introduced earlier this year by Senator MIKULSKI. Senator MIKULSKI'S important bill would create a new Environmental Technology Development Program with the mission of fostering the birth of a wide range of new environmental technologies. The bill I introduce today harnesses existing environmental research, development, and cleanup efforts in existing agencies to assist environmental technology development and product creation. I appreciate the advice and cooperation that Senator MIKULSKI and her staff have extended to me and my staff in the preparation of this legislation and I look forward to continuing to work with her on this issue. I also have drawn from the work of the World Resources Institute in its report, "Backs to the Future: U.S. Government Policy Toward Environmentally Critical Technology" and I commend WRI's excellent work.

The program established by this legislation is specifically modeled on the highly successful Small Business Innovation and Research [SBIR] Program which focuses on moving new general technologies into commercial development and production. This legislation applies the SBIR set-aside concept to the field of innovative environmental technology.

My legislation requires each Federal agency with a budget for research and development or environmental cleanup in excess of $50 million to expend no less than 1.25 percent of those funds on a program related to critical environmental technology. The term "critical environmental technology" is defined broadly to include innovations that can be used to reduce risks to human health, welfare, or the environment.

The legislation establishes a new office within the Environmental Protection Agency [EPA] to coordinate the activities of the environmental research programs established by Federal agencies. This new office will carry out EPA's Environmental Research Program, monitor other Federal agency programs, provide technical assistance to private business concerns, and help ensure the availability of an initial market for the technology, among other responsibilities. The director of this office, working with a task force comprised of members of industry and Federal agencies, shall compile a list of critical environmental technologies and cooperate on program implementation.

Mr. President, the Earth summit in Rio last summer made clear that if American industries are to compete in the global economy they must integrate the goals of environmental protection and economic growth. The administration's short-sighted policies took us back 20 years to an artificial conflict between environmental protection and economic growth. As one computer industry executive explained to me, in his highly competitive industry, production of waste and pollutant byproducts is actually a cost, a sign of production inefficiency. If America is going to succeed in international competition it is going to have to accelerate its productivity rate, and environmentally sound production is crucial to that process. The fact is that we cannot have a healthy economy without a healthy environment. Most businesses are beginning to believe that. They also know that the market for environmentally sensitive products is expanding at the speed of sound.

The Organization for Economic Cooperation and Development has reported that environmental goods and services is now a $200-billion industry that will experience a 5.5-percent growth on an annual basis.

The Congressional Office of Technology Assessment estimates that global environmental goods and services will grow to a $300-billion industry by the year 2000.

A recent study conducted for EPA estimates that if the Clean Air Act of 1990 is fully implemented, revenues in the air pollution control industry will increase by $4–$6 billion annually. Cumulatively, that will represent a $50–$70 billion increase in revenues by the year 2000. EPA officials estimate that 15,000–25,000 jobs will be created every year during 1992–1995 and between 20,000–40,000 jobs every year during 1996–2000. These positions include construction workers, engineers, and manufacturing jobs.

The development of clean technologies can also save businesses money by reducing costs associated with waste treatment and disposal, chemical accidents, and other potential long-term liabilities. Polaroid Corp., for example, streamlined production of its photographic chemical plants, cutting waste generation by 51 percent and disposal costs by $250,000 per year. Among Polaroid's initiatives was the first high-quality diagnostic medical imaging system to use a dry developing process and new dyes which use 30 percent less solvents per unit of production. These new processes do good two ways at once: They are good for the environment and help make American industry more competitive.

While other nations, notably Japan and Germany, have fostered the development of new environmental technologies through active involvement with all stages of research, development, and commercialization, the United States does not have a coherent national policy to encourage the development of environmental technology.

The absence of such a policy threatens to leave America behind in the emerging worldwide industry. According to Harvard Business School Professor Michael Porter, almost 70 percent of the air pollution control technology sold in the United States is now foreign-made. Some of this technology, including some now imported from Japan, was invented in the United States. But lack of an early domestic market led some patent-holders to sell their patents abroad. We cannot let environmental technology go the way of the VCR.

I have seen directly what the lack of U.S. Government commitment to clean environmental technologies can mean. Connecticut is home to two of the nation's fuel cell manufacturers. Fuel cells are essentially large scale batteries that use a range of fuels, hydrocarbon fuel, without combustion, to produce electricity. They are superlative energy producers, reaching efficiencies of over 80 percent if heat is recovered, compared to about 30 percent for traditional power plants. They are virtually pollution-free and because of their great efficiency, emit far less carbon dioxide per unit of energy produced than traditional power-generating devices.

OTA, the National Critical Technologies Panel and World Resources issued a recent report, "Backs to the Future: U.S. Government Policy Toward Environmentally Critical Technology" which lists fuel cells as one of the critical environmental technologies. But fuel cell manufacturers in this country are struggling because they lack the Federal support that prudent energy and economic policy would dictate. Fuel cells are on the brink of commercialization, but our Government is not acting to foster that commercialization here in cooperation with the private sector. Even as they struggle in this country, however, fuel cells and other alternative energy industries are forming the basis of an aggressive energy and economic policy in Japan—including support of the commercialization process. That should come as no surprise to us, but it should serve as a warning.

Mr. President, this legislation seeks to address some of the obstacles faced by private business concerns seeking to develop and commercialize critical environmental technologies. I have noted that this bill is modeled after provisions in the Small Business Innovation Development Act. That program, which is funded by a required set-aside for research and development money at federal agencies, is designed to promote technological innovation and the ability of small businesses to transform research and development results into new products.

The three-phase structure for an environmental innovation program in this legislation is based on the phases set forth in SBIR. The first phase is designed to determine the scientific and technical merit and feasibility of a proposed idea. The second phase is designed to further develop the idea. The third phase includes not only federal but private sector funds, and is designed to promote the commercial application of this research.

According to a March 1992 General Accounting Office report, the SBIR program is successful even though many projects have not yet had sufficient time to achieve their full commercial potential. As of July 1991, the program had generated approximately $1.1 billion in sales and additional funding for technical development—two key indicators of the program's commercial success, with an additional $3 billion expected by the end of 1993. The majority of this activity occurred in the private sector.

Mr. President, I look forward to working with Senator Mikulski in the next Congress as we work to make certain that the United States is a key player in the environmental technologies of the next decade and century. The Federal Government needs to be a partner with the private sector in stimulating research and development of these new technologies and products. It is worth pointing out that, given the enormous size of the Government's own clean-up requirements, the Government itself will be a primary beneficiary.

Mr. President, this is not old-fashioned industrial policy. It is not centralized Government planning; it is not command and control from Washington; and finally, it is not a bailout for failing industries. It is Government working as a catalyst with the private sector, to make sure that the strong new environmentally clean technologies of tomorrow are being created right here in America today, with American workers reaping what we have sown.

I ask unanimous consent that the full text of this legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Innovation Research Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the creation of an environmentally sound economy is among the urgent public policy challenges of the United States, on both a domestic and international level;

(2) rather than constraining technology and technological progress, the resolution of environmental problems presents new strategic business opportunities;

(3) new critical environmental technology offers both effective solutions to environmental problems and a viable long-term basis for continued economic growth and competitiveness;

(4) while substantial relevant basic environmental research and development is being conducted in research institutes, universities, and industries, more work is needed to commercialize advances in basic research and explicit support for research is needed; and

(5) to better compete in the world economy, environmental issues must become a more explicit focus within Federal agencies that conduct programs related to environmental cleanup and the development or application of technologies, and more environmental applications of technologies must be encouraged through Federal funding.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish an environmental innovation research program and to stimulate the development of critical environmental technology;

(2) emphasize the goal of the program of increasing private sector commercialization of technology developed through Federal research and development;

(3) increase the role of businesses engaging in environmental innovation research in Federal research and development priorities; and

(4) establish the United States as the lead producer and exporter of innovative environmental technology.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COVERED FEDERAL AGENCY.—The term "covered Federal agency" means a Federal

agency, for which, for a fiscal year, an amount greater than $50,000,000 is made available for environmental research and development or environmental cleanup.

(3) CRITICAL ENVIRONMENTAL TECHNOLOGY.—The term "critical environmental technology" means a significant technological innovation that can be used to reduce risks to human health, welfare, or the environment, that enables a wide range of related technical and economic advances, and that—

(A) confers societal benefits in addition to private returns;

(B) either—

(i) confers an economic advantage on United States industries developing or using the technology; or

(ii) has the potential of becoming a dominant technology with respect to the future application of the technology; and

(C) as appropriate, is generically applicable at the precompetitive stage.

(4) DIRECTOR.—The term "Director" means the Director of the Office for the Development of Critical Environmental Technology established under section 4.

(5) ENVIRONMENTAL INNOVATION RESEARCH.—The term "environmental innovation research" means research related to the development, application, or commercialization of critical environmental technology.

(6) FUNDING AGREEMENT.—The term "funding agreement" means a contract, cooperative agreement, grant agreement, patent agreement, royalty agreement, license agreement, equity agreement, or other appropriate legal agreement between the head of a covered Federal agency and a private business concern to provide funding and support to carry out environmental innovation research.

(7) OFFICE.—The term "Office" means the Office for the Development of Critical Environmental Technology established by section 4.

(8) TASK FORCE.—The term "Task Force" means the Critical Environmental Technology Task Force established under section 7.

SEC. 4. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—There is established within the Environmental Protection Agency an Office for the Development of Critical Environmental Technology. The Office shall be headed by a Director, who shall be appointed by the Administrator.

(b) CRITICAL ENVIRONMENTAL TECHNOLOGY RESEARCH PROGRAM OF THE ENVIRONMENTAL PROTECTION AGENCY.—The Administrator, acting through the Director, shall carry out a critical environmental technology research program. In carrying out the program, the Administrator, acting through the Director, shall—

(1) coordinate communication between the heads of covered Federal agencies and private industry regarding the development of critical environmental technology;

(2) conduct an environmental research program pursuant to section 5;

(3) provide information in cooperation with the head of each other covered Federal agency, to private business concerns that carry out environmental innovation research projects under section 5 regarding contracts with Federal agencies for research and development concerning critical environmental technology;

(4) provide technical assistance to private business concerns, including providing information concerning the research and development of critical environmental technology under other Federally-sponsored research programs;

(5) to the extent allowable by law, in cooperation with the head of any other Federal agency that the Administrator determines to be appropriate, ensure the availability of an initial market for the critical environmental technology;

(6) develop and maintain a clearinghouse to provide information to private business concerns that develop or apply critical environmental technology;

(7) coordinate the activities of, and independently survey and monitor the operation of environmental innovation research programs established by covered Federal agencies pursuant to section 5(b); and

(8) conduct sufficient outreach activities to ensure that, to the extent that funds are available, private business concerns qualified to carry out an environmental innovation research project have an opportunity to participate in the program established under this subsection.

SEC. 5. ENVIRONMENTAL INNOVATION TECHNOLOGY RESEARCH PROJECTS.

(a) CRITICAL ENVIRONMENTAL TECHNOLOGY RESEARCH PROGRAM OF THE ENVIRONMENTAL PROTECTION AGENCY.—

(1) IN GENERAL.—As part of the critical environmental technology program referred to in section 4(b), the Administrator, acting through the Director, shall conduct an environmental innovation research program pursuant to subsection (b). The Administrator, acting through the Director and in cooperation with the heads of covered Federal agencies, shall ensure effective coordination of the activities of environmental innovation research programs conducted by covered Federal agencies under subsection (b) with the environmental innovation research program conducted by the Administrator, acting through the Director, under this subsection.

(b) ENVIRONMENTAL INNOVATION RESEARCH PROGRAMS OF COVERED FEDERAL AGENCIES.—

(1) IN GENERAL.—In addition to the establishment of an environmental innovation research program by the Administrator under subsection (a), the head of each covered Federal agency shall establish an environmental innovation research program for the development and commercialization of critical environmental technology to—

(A) further the progress of cleanup and pollution prevention activities of the agency; and

(B) avoid future pollution and cleanup problems.

(2) FUNDING.—The head of each covered Federal agency shall—

(A) on an annual basis, set aside not less than 1.25 percent of the funds appropriated to the agency for environmental research and development or environmental cleanup to fund an environmental innovation research program that meets the requirements of this Act; and

(B) on an ongoing basis, consult with the Task Force concerning the expenditure of the funds set aside pursuant to subparagraph (A).

(3) DUTIES OF HEADS OF COVERED FEDERAL AGENCIES.—

(A) IN GENERAL.—In carrying out a research program established under this subsection, the head of each covered Federal agency shall, in accordance with the requirements of this subsection—

(i) determine categories of projects to be in its environmental innovation research program;

(ii) issue environmental innovation research solicitations;

(iii) receive and evaluate proposals resulting from environmental innovation research proposals;

(iv) select awardees for the environmental innovation research funding agreements of the covered Federal agency;

(v) administer the environmental innovation research funding agreements of the covered agency (or delegate the administration to another agency);

(vi) make payments to recipients of environmental innovation research funding agreements on the basis of progress toward or completion of the funding agreement requirements.

(B) COOPERATIVE AGREEMENTS WITH OTHER FEDERAL AGENCIES.—The head of each covered Federal agency may enter into a cooperative agreement with the head of another Federal agency for the provision of technical assistance and other appropriate assistance to the business concern conducting an approved project.

(4) PHASES OF ENVIRONMENTAL INNOVATION RESEARCH PROGRAM.—

(A) IN GENERAL.—The head of each covered agency shall carry out an environmental innovation research program consisting of the following three phases:

(i) A first phase (with respect to which the head of the covered Federal agency may enter into funding agreements with private business concerns, each of which shall be in an amount not to exceed $100,000) for determining, insofar as possible, the scientific and technical merit and feasibility of ideas that appear to have commercial potential, submitted pursuant to environmental innovation research program solicitations.

(ii) A second phase (with respect to which the head of the covered Federal agency may enter into funding agreements with private business concerns, each of which shall be in an amount not to exceed $750,000) to further develop proposals that meet particular program needs, and with respect to which awards shall be made on the basis of the scientific and technical merit and feasibility of each proposal, as evidenced by the first phase (as described in clause (i)), taking into consideration, among other considerations, the commercial potential of each proposal, as evidenced by—

(I) the record of the private business concern of successfully commercializing environmental innovation research or other research;

(II) the existence of funding commitments for the second phase carried out under this clause from private sector or nonenvironmental innovation research funding sources to fund the phase;

(III) the existence of follow-on commitments for the third phase carried out under clause (iii) for research conducted pursuant to this clause; and

(IV) the presence of other indicators of the commercial potential of the proposal.

(iii) If appropriate, a third phase, in which the head of the covered Federal agency may provide assistance or enter into funding agreements with private business concerns—

(I) that have performed commercial applications research funded under an environmental innovative research program or research and development program and are partially funded by non-Federal sources of capital;

(II) for products or services intended for use by the Federal Government, by Federally-funded follow-on research and development that is not funded under an environmental innovation research program under this Act; or

(III) for which awards from Federal sources other than funding for environmental innovation research under this Act are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria.

(B) OTHER ASSISTANCE.—With respect to the assistance provided pursuant to paragraph (A)(iii), the covered Federal agency may also assist the private business concern in pursuing funding or procurement from other Federal research and development or cleanup programs.

SEC. 6. ANNOTATED LIST OF CRITICAL ENVIRONMENTAL TECHNOLOGIES.

The Director, in consultation with the members of the Task Force established under section 7, shall compile an annotated list of critical environmental technologies and provide for the periodic updating of the list. The annotations to the list shall include, with respect to each listed technology—

(1) a statement by the Director and each member of the Task Force who represents the interests of a Federal agency concerning those listed technologies that would be useful to the Federal agency that the member represents for carrying out environmental cleanup or research and development programs of the agency; and

(2) descriptions from appropriate representatives of private business concerns concerning existing research activities related to the listed technologies, and other research that could be conducted to develop the technology for both domestic and international markets.

SEC. 7. CRITICAL ENVIRONMENTAL TECHNOLOGY TASK FORCE.

(a) IN GENERAL.—There is established a task force to be known as the "Critical Environmental Technology Task Force". The Task Force shall consist of the following members to be appointed by the Administrator:

(1) The Deputy Assistant Secretary of Defense for Environment of the Department of Defense, and an Assistant Secretary responsible for environmental quality, science, or technology research and development (as determined by the Secretary of Defense) from each of the Departments of the Army, Navy, and Air Force.

(2) The Assistant Secretary for Conservation and Renewable Energy of the Department of Energy, or the designee of the Assistant Secretary.

(3) The Director of National Institute of Standards and Technology, or the designee of the Director.

(4) The Administrator, or the designee of the Administrator.

(5) The Director.

(6) 5 individuals representing private industry, appointed by the Administrator.

(7) The head of each environmental innovation research program carried out by covered Federal agencies not described in paragraphs (1) through (6).

(b) CHAIRPERSON.—The Director shall serve as the chairperson of the Task Force.

(c) ACTIVITIES.—The Task Force shall—

(1) assist the Director in ensuring the effective implementation of the proposed environmental innovation research of covered Federal agencies;

(2) oversee the coordination and development of the collection and distribution of critical environmental technology and data associated with the technology;

(3) review research proposals submitted to the Administrator and the heads of covered Federal agencies for environmental innovation research projects;

(4) on the basis of the reviews referred to in paragraph (3), make recommendations to the Administrator and the Director and the head of each covered Federal agency regarding the merits of the distribution of funds under proposed funding agreements to fund proposed projects under the programs established under this Act;

(5) ensure complementary research efforts and avoid duplicative research efforts under this Act; and

(6) promote the effective dissemination of research information and results among Federal agencies and the private sector, as appropriate.

SEC. 8. REPORT TO THE DIRECTOR.

(a) IN GENERAL.—On an annual basis, the head of each covered Federal agency shall submit to the Director a report that includes:

(1) A listing of funding agreements under the environmental innovation technology program of the agency that provide for funding in an amount greater than or equal to $10,000.

(2) The aggregate amount of assistance under the funding agreements described in paragraph (1).

(3) A comparison of the number of funding agreements and aggregate amount of funding under agreements described in paragraph (1) made with business concerns that are environmental technology concerns (as defined by the Administrator) with the number of funding agreements and aggregate amount of funding agreements made with other private business concerns.

(4) The percentage of successful commercialization efforts in critical environmental technology resulting from the environmental innovation technology program.

(b) COORDINATION OF REPORTS.—In the reports required under section 10, the Director shall include a summary of results delineated in the reports submitted under subsection (a).

SEC. 9. GUIDELINES AND REGULATIONS.

The Administrator shall, not later than 120 days after the date of enactment of this Act, promulgate guidelines for environmental innovation research programs conducted by the Administrator and other covered Federal agencies under this Act. The head of each covered Federal agency shall, on the basis of the guidelines, promulgate such regulations as are necessary to ensure that the environmental innovation research program of the covered agency meets the requirements of the guidelines. The guidelines promulgated by the Administrator under this section shall provide for—

(1) simplified, standardized, and timely solicitations of project proposals;

(2) a simplified, standardized funding process that provides for—

(A) the timely receipt and review of proposals;

(B) at a minimum, outside peer review for project proposals under the phase described in section 5(b)(4)(A)(ii), in any case in which the review is appropriate;

(C) the protection of proprietary information provided in project proposals;

(D) the selection of environmental innovation research projects;

(E) the retention of rights in data generated in the performance of a contract by the private business concern under the environmental innovation research project;

(F) to the extent allowable by law, the transfer of title to property provided by a Federal agency to the private business concern conducting an environmental innovation research project, if the transfer would be more cost effective than recovery of the property by the Federal agency;

(G) cost sharing; and

(H) cost principles and payment schedules;

(3) exemptions from the requirements of paragraph (2) in any case where national security or intelligence functions would be jeopardized; and

(4) minimizing the regulatory burden of each private business concern that participates in an environmental innovation research project to improve the cost-effectiveness of the critical environmental technology research and development conducted under the program.

SEC. 10. MONITORING AND REPORT.

To the extent allowable by law:

(1) The Administrator shall independently survey and monitor all phases of the implementation and operation of the environmental innovation research program of each covered agency (including compliance with requirements relating to the expenditures of funds).

(2) The Administrator shall, not less frequently than annually, and at such other times as the Administrator, in consultation with the Director, considers to be appropriate, submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on each phase of the implementation and operation of the environmental innovation technology research programs administered by the Administrator and the heads of covered Federal agencies under this Act, and other related activities of the Administrator. Each report submitted under this paragraph shall include such recommendations for program improvements as the Administrator, in consultation with the Director, considers to be appropriate.

SEC. 11. REPORT BY THE COMPTROLLER GENERAL.

The Comptroller General of the United States shall, not later than 5 years after the date of enactment of this Act, transmit a report concerning the implementation of the programs established under this Act, including a description of the research conducted under the programs, to the Committee on Environment and Public Works of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated sums as are necessary to carry out this Act.

By Mr. SPECTER:

S. 3353. A bill to amend section 848 of the Internal Revenue Code of 1986 to provide that certain noncancellable accident and health insurance policies of small insurance companies be treated in the same manner as group life insurance contracts; to the Committee on Finance.

DEFERRED ACQUISITION COST ACT

• Mr. SPECTER. Mr. President, today I am introducing legislation to redress a tax inequity affecting small health insurance companies which is adversely affecting the availability of individual health insurance. The legislation would modify the so-called deferred acquisition cost or "DAC" tax in order to allow small companies to treat noncancellable health insurance policies the same as group life insurance under the tax code.

I recognize that at this late date this legislation will not be enacted, much less considered, during the 102d Congress. But, I am introducing it now so that it will be available in the CONGRESSIONAL RECORD to be studied in advance of the 103d Congress when it should be considered for enactment.

By way of background Mr. President, life and health insurance companies incur substantial expense selling their policies. Much of the expense is comprised of compensation to insurance agents selling the product, but they also include the cost of medical examinations, underwriting costs, and other expenses. In many cases, these expenses may equal or even exceed the premiums received in first year of the policy.

Before the 1990 Budget Act was enacted, life insurance companies deducted these expenses for Federal income tax purposes in the year they were paid—just as other companies deduct their compensation costs. Upon enactment of the 1990 Budget Act, however, Congress decided to require life insurance companies to amortize these expenses, generally over a 10-year term. Congress did so by requiring a company to amortize 7.7 percent of all of its individual life and noncancellable health insurance premiums, 2.05 percent of its group life premiums, and 1.75 percent of its annuity premiums. It should be noted that cancellable health insurance—being the vast majority of group health insurance policies—is subject to a separate limitation enacted in 1986 as part of the changes in property and casualty insurance taxation and is not affected by this legislation.

The DAC rules create a significant hardship because they adversely affect a company's surplus and solvency. Despite the change in tax law, commissions and other expenses related to the acquisition of new business still must be paid up front. The Federal Government, however, is taxing as income funds that have been paid out as ordinary and necessary business expenses. Because the rules assume renewal of this insurance, it is also taxing profits that may never materialize. In addition, a company may lose money under the statutory accounting rules used by state insurance regulators and still be required to pay Federal income taxes because of the DAC tax. As a result, the company must draw down surplus or borrow to pay the tax. Mr. President, this is not a tax on profits; it is a tax on capital.

The DAC rules are especially disadvantageous to small, fast growing companies—of which there are many in my State—since a large portion of their gross income is comprised of first-year premiums which are offset by commissions and related acquisition expenses. While Congress made a modest concession to small companies by allowing a certain portion of the amortizable amount to be amortized over 5 years, rather than the generally applicable 10-year period, the Federal income tax liability for many small companies has risen several-fold.

The DAC tax is curtailing the growth of many successful, well-run, small companies and will, if unchanged, have the effect of discouraging them from offering health insurance to individuals who would like to have the opportunity to purchase these benefits. In addition, the increased tax will reduce surplus and invite questioning by state insurance regulators, the effect of which is potentially to restrict the ability of these companies to issue new policies.

The legislation I am introducing today would simply move noncancellable and guaranteed renewable accident and health contracts issued by small insurance companies, as defined in the Internal Revenue Code, from the individual life DAC category to the group life DAC category. The effect of this is to subject such contracts to a 2.05 percent DAC tax instead of the current 7.7 percent DAC tax. This is consistent with the Senate-passed version of the 1990 Budget Reconciliation Act which treated group life and noncancellable or guaranteed renewable accident and health contracts equally. It was only in conference that noncancellable and guaranteed renewable accident and health contracts were moved to the higher 7.7 percent DAC tax category applicable to individual life contracts.

It seems ironic, Mr. President, that these health policies were placed in a higher tax category and required to be amortized over a minimum of 5 years since as a practical matter many of these contracts are in existence for merely 3 or 4 years. Moreover, it seems ironic that at a time when we are so concerned about the cost and availability of health insurance, the ability of small health insurers to issue such insurance could be restricted because of the higher DAC tax.

As for the cost of this legislation, I have requested a revenue estimate from the Joint Committee on Taxation, but have not yet received one. Experts from the industry, however, have estimated the revenue impact to be less than $37 million in the first year, declining to $30 million by the fifth year, and declining further thereafter. I believe we will be able to find an appropriate offset for this legislation. In this regard, I suggest that we ought not blindly or rigidly require that offset come from the life insurance industry.

Mr. President, this legislation is targeted to small health insurance companies because they are the most severely affected by the DAC tax and are most in need of relief. The simple fact, however, is that were we not constrained by the Budget Agreement I would propose to change the DAC category for these health contracts for all affected companies. This categorization of noncancellable health contracts in the 1990 Budget Act was wrong, the Senate was correct in its original categorization, and we should not be reluctant to say so.

I ask unanimous consent that the text of the bill I am introducing be printed in the RECORD.

For reasons set forth herein, it appears that this extra tax burden was added at the last minute in a search for additional revenues without realizing its impact.

While my staff and I have carefully reviewed this matter beyond the materials submitted by constituents, I make it available for my colleagues in the Congress and others so that it may be examined at leisure in the months before the 103d Congress convenes. In offering legislation on this complex subject, I do so with the invitation to all comers to suggest any reason why this * * * is effective or what changes or modifications should be made before reintroduction in the 103d Congress.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF POLICY ACQUISITION EXPENSES OF CERTAIN NONCANCELLABLE ACCIDENT AND HEALTH CONTRACTS.

(a) IN GENERAL.—Subparagraph (B) of section 848(c)(1) of the Internal Revenue Code of 1986 is amended by inserting "or qualified accident and health insurance contracts" after "group life insurance contracts".

(b) QUALIFIED ACCIDENT AND HEALTH INSURANCE CONTRACT.—Section 848(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(6) QUALIFIED ACCIDENT AND HEALTH INSURANCE CONTRACTS.—The term 'qualified accident and health insurance contract' means, with respect to any taxable year, a noncancellable or guaranteed renewable accident and health insurance contract issued by a life insurance company with respect to which the small life insurance company deduction determined under section 806(a) is allowed for such taxable year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

By Mr. WALLOP:

S. 3354. A bill entitled the "Private Sector Whistleblowers' Protection Act of 1992"; to the Committee on Investments Affairs.

S. 3355. A bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis; to the Committee on Governmental Affairs.

REGULATORY REFORM LEGISLATION

• Mr. WALLOP. Mr. President. Although claiming best of intentions, the U.S. Government is inflicting harm on the very people it claims to serve. If any foreign country were to do what our own Government is doing we would be here debating a war resolution against such a pernicious oppressor.

The oppression is the often foolish and always burdensome world of regulation. The cumulative effect of excessive, overreaching and many times inconsistent regulations is an economic tyranny that cuts across every aspect of our economy. It results in lower wages and increased unemployment. Business suffers from increased uncertainty resulting in reduced investment and impaired innovation. Excessive government regulation is doing more to hurt this country's international competitiveness than the actions of all our foreign competitors combined.

Red tape serves to hogtie large American corporations but it absolutely strangles those who are least able to afford it—small business. Small businesses, which have created the majority of jobs in our economy and are the most sensitive to cost changes, are often hit the hardest by governmental regulation. The U.S. Small Business Administration tells me that the proportional cost of regulation per employee is three times higher for small than for large businesses. When small businesses hire extra workers to fill out forms they must then stop producing worthwhile, marketable products or services. If small business managers must continually divert their skills and valuable time to regulatory problems rather than working on gainful activities, then America is denied the benefits of their genius.

Regulations and paperwork requirements adversely affect the ability of our nation's banks to provide credit. Certain Federal rules not related to the safety or soundness of banks require valuable resources to be squandered. According to a recent survey compiled by the American Bankers Association, banks must spend an estimated $10.7 billion each year on regulatory compliance. This represents 12 percent of total operating costs and 59 percent of net income in 1991. These costs far exceed any perceived benefits. The ability of banks to serve communities in Wyoming and other states is seriously undermined.

But it's not just the business world which suffers from regulatory excess. Cities and states are being driven to their knees as they struggle to shoulder the burden of unfunded federal mandates and bureaucratic regulation. Congress no longer provides federal services—only obligations. When we pass a law or a federal bureaucrat writes a regulation, businesses and State and local governments pay enormous costs to comply.

How much do we Americans pay for excessive regulations? Thomas D. Hopkins of the Rochester Institute of Technology estimates gross regulatory costs to be over $400 billion annually or around $4,000 for a family of four. These costs add a hidden tax to the roughly $10,000 per household Federal tax burden.

A recent study by the Thomas A. Roe Institute for Economic Policy Studies estimates that the regulation burden is costing Americans between $881 billion and $1.66 trillion annually or between $8,500 to $17,000 per household.

OMB estimated the federal paperwork alone burden to be 5 billion work hours in 1988.

Whatever the regulatory burden is—$400 billion or $1.6 trillion—one thing is clear: the ultimate costs are borne by the consumer. Americans watch their hard earned wages go, not only to higher State and local taxes as a result of Federal mandates, but to the increased prices they must pay for necessities such as food and housing and for cars, toys and other consumer goods. And worst of all, their wages go to pay for vast new legions of regulatory employees.

President Bush recognized that America needs to be freed from smothering regulation. On January 28th of this year the President announced a 90-day moratorium on burdensome regulations, ordering major Cabinet Departments and Federal agencies to review all regulations, old and new, and to kill those which hinder growth and move those which serve to help. When its effectiveness became clear, the moratorium was extended and is still in place today. One advocate of Federal regulation was quoted as complaining this action was "chilling" the regulatory process and forcing regulators to consider each and every step they take.

In addition to the moratorium, the President's Council on Competitiveness, chaired by Vice President DAN QUAYLE, has targeted its reform efforts at eliminating regulations that have become unnecessary or obsolete. This effort has resulted in over $20 billion in annual savings and created or saved hundreds of thousands jobs across this Nation. The Council on Competitiveness and the Office of Information and Regulatory Affairs are among the few real options for small business participation in the regulatory process and are the only rational voices in a wilderness of regulators writing rules that do little but add unnecessary costs to businesses and American consumers.

To those who criticize the Bush administration for contributing to the problem, I say two things. First of all, it may well be that administrative agencies are beyond the control of the executive branch. Protected civil service, which was implemented to do away with nepotism and patronage, means the bureaucracy need not respond to changes in the executive branch so it has become a permanent government that no head of government can remove. The bureaucracy has been allowed to function unfettered and resists all efforts to contain it. This leads to my second point. Although many decry the situation in which we now find ourselves, only President Bush, with his moratorium and his Council of Competitiveness, has actually done something about it.

Congress has certainly not helped, we continue to pass the most burdensome and costly regulatory laws that this country has ever seen: the Clean Air Act, the Civil Rights Act, the Fair Labor Standards Act amendments, the Nutrition Labeling and Education Act, the Americans with Disabilities Act, and the Pollution Prevention Act, to name just a few. And whether or not Congress is vague or particular in the details, extensive regulation is necessary to implement each. Vast new numbers of Federal employees are hired to enforce, interpret, and construct these regulations.

But Congress acts with even more disregard than just piling on more mandates. Certain Members have tried to emasculate the only program which has actually served to help relieve Americans of excessive, ridiculous and harmful regulations. Just 2 weeks ago an amendment was offered to withhold funding for the Council on Competitiveness. The same provision passed the House of Representatives on July 1 by a vote of 236 to 183.

The President has the right, indeed, the duty to review and reduce the regulatory burden on the Americans today. The amendment, if enacted, would have committed a real disservice to the American people, Mr. President, but the real hypocrisy is that most of the Senators who joined in the amendment to zero fund the Counsel on Competitiveness opposed the effort to have Congress covered by the very laws which those outside the beltway have found so burdensome.

When Congress was debating the Civil Rights Act of 1991 to modify existing civil rights laws for employment my colleague from Oklahoma, Senator NICKLES, offered an amendment to make that Act apply to Congress, along with several other Acts from which Congress has exempted itself. Specifically, the Nickles amendment would have made Congress subject to the National Labor Relations Act of 1938, the Fair Labor Standards Act of 1938, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1967 (and its 1975 amendments), the Occupational Safety and Health Act of 1970, the Equal Employment Opportunity Act of 1972, the Privacy Act of 1974; Americans with Disabilities Act of 1990 and the Ethic in Government Act of 1978.

Americans take note! The Nickles amendment failed. Those Members of Congress who advocate the most intrusive Federal mandates are also the same Members who insist that their own business—the U.S. Congress—remains exempt from coverage. And they are the same ones who oppose all efforts by President Bush to streamline effective regulations.

So we are safe here inside the beltway and we can continue to pass our laws and never look back. Well, there is one former legislator who has had the opportunity to look at what we are doing, and he shared that experience in an eloquent and powerful article.

I would like to include for the record an article written by former Senator and Presidential contender, George McGovern entitled "A Politicians Dream is a Businessman's Nightmare" dated June 1, 1992. George McGovern's Connecticut hotel went bankrupt not just because of a slow economy, but because the Government has "set the bar so that it is too high to clear".

McGovern describes how he and other businessmen had to live with rules that were "all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc." McGovern never doubted the worthiness of any of these goals, but he said that "the concept that most often eludes legislators is: 'Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape.' It is a simple concern that is nonetheless often ignored by legislators."

In retrospect, McGovern now wishes he had known about the difficulties that businessmen face everyday when he was in public office. "That knowledge would have made me a better U.S. senator and a more understanding presidential contender." I wished he had too; perhaps he would have voted differently.

George McGovern is right, the problem is not the worthiness of these goals. All this is the result of a government trying to do good—to be all things to all people—the protector of all, to remove all risk. Well I am a firm believer that government is not the solution to the problem, but the problem itself, to quote Ronald Reagan.

I reject the thought that the Federal Government is better suited than society to resolve all social ills, or that it is the best arbiter of individual problems. Outside the beltway they know that government is less able to reasonably and knowledgeably resolve problems.

I wholeheartedly agree with a constituent of mine from Worland, Wyoming who recently suggested that we in Congress "really ought to take a session and instead of creating new legislation, clean up and do away with a lot of legislation that you presently have." (Forrest Clay, President of ABC Admiral Beverage Corporation).

Recognizing the futility in trying to implement such a common sense approach, however, I join several of my colleagues in a comprehensive effort to reverse the perverse situation in which we now find ourselves. Today I am introducing three measures to help get the Government off the backs of the people.

First of all, I am introducing a Sense of the Congress resolution which provides that each committee reporting legislation that requires employers to provide new employee benefits shall secure an objective analysis of the impact of the legislation on employment and international competitiveness and include that analysis in the committee report on the bill. This will help ensure that Congress takes the opportunity to consider the consequences of what we are doing before a bill becomes law.

Secondly, I am introducing amendments to the Regulatory Flexibility Act to provide regulatory relief to small businesses. The 1980 Regulatory Flexibility Act was based on the premise that Federal agencies frequently do not recognize the impact their rules will have or that small businesses are disproportionately and adversely affected by Federal regulation compared to their larger counterparts. My amendments will improve the Regulatory Flexibility Act in three ways; by providing for coverage of interpretative rules, judicial review and a modification of the definitions to ensure that indirect effects of regulations are considered when an analysis of rules is undertaken.

Under current law no regulatory impact analysis is required for rules classified as interpretative (following Congressional intent). Unfortunately, some agencies improperly classify rules as interpretative and thus avoid having to perform any analysis of its impact. My amendment would close this loophole by including interpretative rules within the ambit of the Act.

Also, there is no meaningful judicial review of an agency's decision to certify that a rule does not have a substantial impact on a significant number of entities, even though it may impose tremendous burdens. My amendment would correct this anomaly.

In addition, the original Regulatory Flexibility Act does not take into account the fact that regulations which are imposed on small entities have an indirect impact on the customers and/or clients of those entities. My amendment would ensure that these are properly considered.

Finally, I am introducing a measure designed to help resolve a problem which I hear all too frequently echoed across Wyoming and the rest of the nation—fear of big brother. Small and large business owners alike are terrified by their government. They are afraid to complain or fight back. They are afraid that if they do they will become targets of unsympathetic Federal bureaucrats. Regulators are given such broad powers over so many different aspects that anyone subject to their authority is justifiably reluctant to come forward.

Fear of reprisal cannot be dismissed with the answer that those who are in compliance have nothing to fear. Businesses are so dependent upon permits and the discretion to issue them is so immense that simple bureaucratic inaction can often suffice to put someone out of business. In addition, regulations and guidelines are so pervasive, vague and often contradictory that no one can ensure compliance no matter how diligently they try and regulators regularly threaten to find new problems if a protest is too loud.

And to top it all, penalties are Draconian as businesses in my own State know only too well. For example, the EPA regional office which oversees Wyoming has publicly determined that the best way the agency can swing its bureaucratic power is to hit hard and without warning even for violations that are mere paper errors that endanger neither health nor the environment. Rather than offering technical or educational assistance, or even giving notice that there is a problem, these bureaucrats time and again slap Wyoming businesses and even municipalities with the highest fines possible and inevitably announce them first in the local newspaper before the alleged violator has been notified. This is no way for government to treat its citizens but our people are afraid to come forward because they fear retribution.

That is just one of the reasons why I feel so strongly about my bill as an important first step toward protecting private sector whistleblowers from reprisals by regulatory agencies.

Mr. President, I look forward to working with my colleagues on each of these bills in the next Congress to help relieve American businesses from the regulatory nightmare in which they find themselves.

But I am proud to announce what I hope will be an effective method of drawing attention to, and reversing the trend of excessive regulation, the "Red Tape Award".

The Red Tape Award will be presented on a regular basis for zealous enforcement of regulations that strangle the spirit of the American business community. The worst of the worst will be recognized and presented a certificate depicting the Statue of Liberty bound and tussled in red tape. She is a particularly fitting symbol because the inspiration for the statue came from a French legal scholar who envisioned it as a monument to U.S. independence. The statue's official name is "Liberty Enlightening the World" and it shows liberty as a proud woman welcoming immigrants to our shores, holding out the promise of freedom and opportunity. And that is precisely what the Federal Government is strangling—the freedom of all Americans to pursue opportunity and to govern locally. It is their independence and innovation and entrepreneurial spirit that is being smothered in red tape.

A chain that represents the tyranny of unjust rule lies broken at the feet of the Statue of Liberty. I aim to do all I can to ensure that our own Government, through the tyranny of excess regulation, does not forge new links in that broken chain.

Before I discuss this month's winner of the Red Tape Award I would like to discuss just a few of the nominees in the running from my home State of Wyoming alone. Unfortunately, they were many and diverse. I would note that although I offer this award in the hopes that humor will help bring attention to the problem, I am acutely aware that the threat to the livelihoods of my constituents and other Americans is no laughing matter.

Wyoming people are known for their rugged individualism but that is not what shines through when you talk of Federal intrusion. They are scared of their Government and its infinite rules. Regulations are so pervasive and complex that no matter how hard businesses try, an agency can always find a violation and businesses dare not anger a bureaucrat because they could easily be fined out of existence. Appeals are almost useless because the Government has limitless resources to oppose any challenge.

Business just wants the chance to compete. Let me read a portion of a letter from Casper businessman, Rich Bonander: "The known risks, such as competition, insurance, inventories, employees, etc. are manageable, but the growing mountains of government regulations are not." He further wrote; "I always believed that our government was there to help us, to do those things for its citizens that would be impossible to do individually, like provide defense and interstate highways. It was never intended to be business' main enemy."

Rich Bonander's letter is unique for only one reason, but it is important. He was willing to allow me to use his name, which I have found very few businesses were willing to do. That is why my whistleblower legislation is so important to me.

Another example comes from a small businessman who ran a body shop. It seems that OSHA, which told the shop owner they had increased their fines seven-fold, looks for chains that are marked "certified". The owner of this shop sent his help to get a quarter-inch, six foot chain in order to satisfy the OSHA requirements. The good news is the owner did not receive a fine. The bad news is that the "certified" chain cost him $130, compared to an identical chain without the "certified" marker which only cost $40. These unnecessary costs are what caused this owner to comment that he would never open a business today in this regulatory environment. It seems the only secure job is to work for the Government.

There is another example which people in Wyoming have come to know only too well: the problems of trying to address a specific concern with blanket regulations to cover every facility. I could nominate many regulations which are ludicrous because they don't take into account differences in the economy, ecology or the population of a region. For instance, Casper Airport has 73 signs on the runway surface but the FAA says they need 100 more. That maybe appropriate for Denver's Stapleton airport but will only be confusing in Casper, Wyoming. Also applying all security measures to all airports, so Casper and New York's LaGuardia Airport are operated in the same manner, is overkill and costly to taxpayers. But that doesn't seem to bother the regulators who are blind to common sense and bind themselves to the Federal Register.

Another nominee: FCC. The FCC inspected Stauffer's radio antenna on August 21, 1991. They gave notice to KSTF that the antenna needed painting three weeks later (9/12/91) and the station responded within the required 7 days, made immediate arrangements for the painting and notified the FCC of that fact. The tower was repainted on October 8, 1991 (the delay was due to weather and the fact that high tower painters are hard to find—could it be OSHA makes that profession improbable).

Several months later, in July of 1992, the FCC fined Stauffer $8,000 for violating the Commission's rules relating to the painting of radio antenna towers even though the company had responded to the original notice as soon as it practically could. Moreover, the Commission held each licensee on the tower individually responsible and fined each of them $8,000, also, for a total of $48,000 for one violation. The kicker is that the FBI was a licensee on the tower also but they were not fined along with others because the government shouldn't fine itself. But how can the Government hold private enterprise responsible and fine them for something for which the Federal Government itself should have been responsible.

I could continue on but I know my colleagues have horror stories from their own states. In closing, I would like to announce the winner of the Red Tape Award which was presented last week.

The first recipient of The Red Tape Award was OSHA for its overzealous and ridiculous enforcement of the Hazardous Communication Standard, in particular, OSHA's citing small businesses for failure to have Material Safety Data Sheets for such "hazardous" materials as sawdust, sand, gravel, fire extinguishers, dishwashing liquid, liquid paper, water, and oxygen.

The Hazard Communication Standard, issued in 1983, requires employers to identify workplace chemical hazards and communicate those hazards to employees. Thus, businesses are forced to keep Material Safety Data Sheets (MSDS) on all hazardous materials in the workplace and provide training to employees on how to handle hazardous materials.

OSHA has never yet published a comprehensive list of chemicals and products that are considered hazardous, yet these regulations account for 60 percent of all OSHA violations. Seventy percent of these violations qualify for harsh penalties of at least $900 or more. A GAO study concluded that over a third of small businesses are not even aware of the standards and those who are find it difficult to comply given the complexity of the regulation.

Sen. Mack has described to me a situation in Florida involving a 3-person silk-screening company. The owner was cited for not having a Hazardous Communication program for his two part-time employees. He was fined by OSHA for not having an MSDS on Joy dishwashing liquid. For Heaven's sake! This small business was hounded by OSHA for 18 months.

The owner, who asked to remain anonymous in order to avoid further problems with the Federal Government, says he works closely with his employees. They know and understand how to use the chemicals necessary for their business. He wonders why OSHA would require him to provide an MSDS on something like a dishwashing liquid sold in virtually every grocery store in America. He said that he doesn't really under the Government, but he only sees it hurting him and businesses in this country.

A similar situation occurred in Oregon, where Eugene Gibson is the owner and manager of Gibson Holding Co., a company which manufacturers, markets, and sells, display stands originally designed by Mr. Gibson's father.

Mr. Gibson tells a story of a disgruntled contractor who reported Mr. Gibson to the Department of Labor. An inspector from the Oregon Occupational Health and Safety Division, tasked with administering OSHA's programs in the State, paid a visit to Gibson's company and found no violations other than the company's failure to have a Hazard Communication Program. But the only hazardous material the investigator could find was a bottle of Dawn dishwashing liquid. Gibson asked the investigator: "since millions of housewives use it, what's the hazard?" To which the investigator replied, "You use lots of it." Gibson was then fined $75 for not having an MSDS for Dawn Dishwashing Liquid. This regulatory enforcement was pursuant to the Oregon State plan it's true, but in the eyes of a harassed businessman all inspectors look alike.

OSHA tells us that consumer products, like dishwashing liquid, caulking, and liquid paper, may be determined hazardous depending on the way or the amount in which they are used. This determination is left to the judgement of the OSHA inspector/industrial hygienist. Who would dare confront that open-ended authority?

Gibson runs a clean operation and has never been in trouble with other regulatory agencies. He has a good relationship with his employees. Employees have 2 weeks paid vacation, a part of the company's profit-sharing plan, and just recently have had their health insurance expanded to include dental coverage.

Gibson argues that, with all the competition from companies operating in the U.S. using foreign labor to produce their goods (and not, therefore, under U.S. regulatory jurisdiction), such petty enforcement of regulations only hurts Americans' businesses and their workers.

OSHA has even given citations to companies that do not have MSDS's on products that are the personal property of employees, such as a bottle of Windex an employee of an Indiana business had in her car.

The adverse effect from overzealous enforcement is not just the annoyance of an unjustified fine, it is all the wasted man-hours complying with ludicrous regulations. For instance, officials from one Wyoming municipality feel they must take the time to inform workers of risks from chemicals such as printer toner and tiny bottles of white-out correction fluid. They say that under the regulatory-type environment they can't afford *not* to do so. That is a sad commentary on Government today. Our people are afraid of their Government and their Government is using that fact. What kind of America is that?

While no one argues that there is value to providing employees information on hazardous materials in the workplace, the mandate of the Hazardous Communication Standard has led to OSHA's establishing ridiculous requirements for MSDS's. We hope that giving this award to OSHA will encourage them to develop a more practical information standard that does not bind our small businesses with petty bureaucratic red tape.

America did not become the greatest country on earth because the government mandated what its citizens could do. America became great because of the spirit of its people—the spirit of innovation, risk-taking, rugged individualism, competition. It is time for Government to quit binding that spirit in needless red tape.

Mr. President, I ask unanimous consent that the article mentioned earlier be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Manager's Journal, June 1, 1992]

A POLITICIAN'S DREAM IS A BUSINESSMAN'S NIGHTMARE

(By George McGovern)

Wisdom too often never comes, and so one ought not to reject it merely because it comes late.—Justice Felix Frankfurter

It's been 11 years since I left the U.S. Senate, after serving 24 years in high public office. After leaving a career in politics, I devoted much of my time to public lectures that took me into every state in the union and much of Europe, Asia, the Middle East and Latin America.

In 1988, I invested most of the earnings from this lecture circuit acquiring the leasehold on Connecticut's Stratford Inn. Hotels, inns and restaurants have always held a special fascination for me. The Stratford Inn promised the realization of a longtime dream to own a combination hotel, restaurant and public conference facility—complete with an experienced manager and staff.

In retrospect, I wish I had known more about the hazards and difficulties of such a business, especially during a recession of the kind that hit New England just as I was acquiring the Inn's 43-year leasehold. I also wish that during the years I was in public office, I had had this firsthand experience about the difficulties business people face every day. That knowledge would have made me a better U.S. senator and a more understanding presidential contender.

Today we are much closer to a general acknowledgement that government must encourage business to expand and grow. Bill Clinton, Paul Tsongas, Bob Kerrey and others have, I believe, changed the debate of our party. We intuitively know that to create job opportunities we need entrepreneurs who will risk their capital against an expected payoff. Too often, however, public policy does not consider whether we are choking off those opportunities.

My own business perspective has been limited to that small hotel and restaurant in Stratford , Conn., with an especially difficult lease and a severe recession. But my business associates and I also lived with federal, state and local rules that were all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc. While I never have doubled the worthiness of any of these goals, the concept that most often eludes legislators is: "Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape."It is a simple concern that is nonetheless often ignored by legislators.

For example, the papers today are filled with stories about businesses dropping health coverage for employees. We provided a substantial package for our staff at the Stratford Inn. However, were we operating today, those costs would exceed $150,000 a year for health care on top of salaries and other benefits. There would have been no reasonable way for us to absorb or pass on these costs.

Some of the escalation in the cost of health care is attributed to patients suing doctors. While one cannot asses the merit of all these claims, I've also witnessed firsthand the explosion in blame-shifting and scapegoating for every negative experience in life.

Today despite bankruptcy, we are still dealing with litigation from individuals who fell in or near our restaurant. Despite these injuries, not every misstep is the fault of someone else. Not every such incident should be viewed as a lawsuit instead of an unfortunate accident. And while the business owner may prevail in the end, the endless exposure to frivolous claims and high legal fees is frightening.

Our Connecticut hotel, along with many others, went bankrupt for a variety of reasons, the general economy in the Northeast being a significant cause. But that reason masks the variety of other challenges we faced that drive operating costs and financing charges beyond what a small business can handle.

It is clear that some businesses have products that can be priced at almost any level. The price of raw materials (e.g., steel and glass) and life-saving drugs and medical care are not easily substituted by consumers. It is only competition or anti-trust that tempers price increases. Consumers may delay purchases, but they have little choice when faced with higher prices.

In services, however, consumers do have a choice when faced with higher prices. You may have to stay in a hotel while on vacation, but you can stay fewer days. You can eat in restaurants fewer times per month, or forgo a number of services from car washes to shoeshines. Every such decision eventually results in job losses for someone. And often these are the people without the skills to help themselves—the people I've spent a lifetime trying to help.

In short, "one-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, $500,00 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive businesses, and local market economics.

The problem we face as legislators is: Where do we set the bar so that it is not too high to clear? I don't have the answer. I do know that we need to start raising these questions more often.•

By Mr. DANFORTH:

S. 3356. A bill to amend the Civil Rights Act of 1964 to encourage mediation of charges filed under title VII of such Act and the Americans with Disabilities Act of 1990, to amend the Revised Statutes to encourage mediation of complaints filed under section 1977 of the Revised Statutes, and to decrease resort to the courts; to the Committee on Labor and Human Resources.

EMPLOYMENT DISPUTE RESOLUTION ACT OF 1992

• Mr. DANFORTH. Mr. President, I rise today to introduce the Employment Dispute Resolution Act of 1992. I am also pleased to report that Representative STEVE GUNDERSON is concurrently introducing this bill in the House of Representatives.

This legislation is designed to provide alternatives to litigating employment discrimination claims. It is a timely measure and needed to assist the already overburdened courts and the EEOC to cope with the impending increase in such claims.

According to EEOC Chairman Evan Kemp, more than 67,000 individuals filed charges with the EEOC in FY 1991. Final figures for FY 1992 are not yet available. However, as a result of the estimated doubling of sexual harassment charges filed this year, and the effects of the passage of the Civil Rights Act of 1991, incoming charges are expected by Chairman Kemp to reach a staggering 77,776. This represents a 39 percent increase since FY 1989. On top of this increase, Title I of the Americans with Disabilities Act (ADA) is expected to add an additional 15–20,000 charges to EEOC's workload.

The effects of this overload are already being felt. On September 21, 1992, the EEOC held an extraordinary "emergency commission meeting." In his introductory remarks, Chairman Kemp reported that "EEOC investigators are already stretched to the limit. They will break under these conditions."

And the backlog is already impacting directly and negatively on those claimants the civil rights laws were intended to protect. For example, the EEOC's average charge processing period has increased 50 percent. As stated by the Chairman:

> Those who turn to the EEOC for relief will be forced to wait nearly three years before the agency can resolve their charges. A woman who files a charge of pregnancy discrimination, for example, will not see her case resolved until her child is in pre-school.
>
> The practical implications of such a delay are horrendous. They are horrendous not only for the charging party who feels his or her rights have been violated, but for the business charged with the alleged violation. An employer would be faced with the administrative nightmare of producing information to justify actions of three or four years earlier.

The courts face a similarly difficult scenario. The Civil Rights Act of 1991 added jury trials for compensatory and punitive damages to both Title VII and the ADA. These added and necessary disincentives to discrimination are, naturally, strong incentives to litigate. Moreover, even before the 1991 amendments were enacted, the number of private employment discrimination suits skyrocketed over 2,000 percent between 1970 and 1990.

We need the civil rights protections afforded by these laws. I support them and I will champion their protection. Without a viable, responsible enforcement mechanism, however, nothing is accomplished. Having set forth a theory of protections, Congress should now follow through with innovations in applying those protections.

The idea of this bill is simple. Before parties to a Title VII discrimination dispute resort to litigation, before they commence a process that can drag on for months or years, before they commit themselves to a hostile, adversarial system where they may be exploited even by their own advocate, and, before they subject themselves to a court battle that may leave deep scars, they are offered the option of mediation.

Mediation as an alternative to litigation has much to offer the parties. First, by attempting to resolve a dispute in a spirit of cooperation rather than trying to punish each other, it is possible that ailing employment relationships can be healed. I recognize that in most situations, this will not happen. But in some, it will. Second, in almost all situations, mediation will be a cheaper process. Third, by using truly neutral mediators who act as go-betweens rather than arbiters, mediation is less threatening to employers. Thus, early settlement is more likely. Under my bill, information developed in the mediation will remain privileged and confidential and cannot be disclosed or used as evidence against any party.

One of the most important features of this bill is the neutrality of the mediators. The bill calls for the Federal Mediation and Conciliation Service, which has a long and distinguished record settling labor and other disputes, to draft procedural regulations and provide mediators through its good offices. However, the parties can always agree to choose their own mediator, as long as the mediator abides by the FMCS model procedures. Thus parties are encouraged to feel trust and confidence in the go-between they have chosen and are assured of an established and proven set of rules.

Many local jurisdictions have already enjoyed success with similar programs.

In the District of Columbia, for example, the Department of Human Rights and Minority Business Development currently utilizes a program similar to the one in this legislation. Under that program, the disputing parties meet with an experienced mediator. They discuss the charges, try to convey their diverse perspectives and attempt to resolve the problem. As in the legislation I propose, any resolution is kept confidential and is not an admission of guilt.

Most importantly, a key feature of both that program and this legislation is to guarantee that the parties still retain access to traditional litigation if an agreement is not reached in mediation. Thus, the mediation alternative can be a "no-lose" option.

In the first year of the D.C. Mediation program, more than half of the disputes submitted were successfully settled. More than half. Loretta Caldwell, the Director of the Department, stated that the typical mediation cost about $100 as opposed to $3,000 if the case had to proceed to investigation. Other mediation programs have yielded equally impressive results.

When the civil rights laws were first established, Congress provided that voluntary settlement through conference, conciliation and persuasion were to be the "preferred means" of achieving their objectives. Two decades later, this mandate remains a goal rather than an achievement. This bill is the first serious step towards creating a structure for aggrieved individuals, Government agencies, and employers to settle employment discrimination suits without resort to protracted, counterproductive litigation.

We cannot content ourselves with grand empty gestures. The EEOC and the courts are operating under unbearable workloads and cannot accommodate further increases. Congress has created protections, now let us provide for their implementation. Civil rights cannot be protected without a practical, regulated, creative alternative for dispute resolution. Mediation has proven to be just such an alternative.

Mr. President, I will reintroduce this legislation early in the 103d Congress. Before then, I hope that other members will take the opportunity to analyze this bill and consider its benefits. I welcome their insights and suggestions. Should employment discrimination legislation be introduced in the next session, I will make every effort to include this piece of legislation in that bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employment Dispute Resolution Act of 1992".

SEC. 2. DEFINITION.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following:

"(o) The term 'Service' means the Federal Mediation and Conciliation Service.".

SEC. 3. MEDIATION OF ACTIONS UNDER THE CIVIL RIGHTS ACT OF 1964 AND THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) is amended by adding at the end the following:

"(l)(1) Congress finds that cooperative mediation of charges is a more time-saving and cost-effective method of resolving disputes than litigation of civil actions.

"(2)(A) If the Commission, or a State or local authority described in subsection (c), determines that there is reasonable cause to believe that the respondent has violated this Act and that the Commission or authority will file a civil action against the respondent, the Commission or authority shall inform the respondent that the respondent may, within 14 days, request that the charge be referred to the Service for mediation. The Commission or authority shall not file such an action earlier than 14 days after the date on which the respondent is so informed.

"(B)(i) In lieu of receiving mediation services from the Service, the Commission, or the State or local authority, and the respondent may agree in writing to refer the charge to a mediator (other than the Service) that has been mutually agreed to by the parties, for mediation in accordance with regulations promulgated by the Service pursuant to this subsection. A copy of the agreement to mediate shall be served upon the Service.

"(ii) Before the commencement of mediation services under this subparagraph, the mediator shall certify in writing to the parties and the Service the per diem costs and any other fees and expenses the mediator may reasonably be expected to incur in providing such services. The cost of mediation services shall be shared as mutually agreed by the parties.

"(C) The Service, within 14 days of receipt of the mediation request, shall inform the Commission or the State or local authority, as appropriate, that mediation has been requested. If the respondent requests mediation by the Service under subparagraph (A) or agrees to mediation by a mediator under subparagraph (B), neither the Commission, or the State or local authority, may file a civil action against the respondent until the completion of the mediation.

"(3)(A) If the Commission, or a State or local authority described in subsection (c), issues a right-to-sue letter to a charging party, the Commission or authority shall inform the charging party and the respondent that either the charging party or the respondent, may, within 14 days, request that the charge be referred to the Service for mediation. The charging party shall not file a civil action earlier than 14 days after the date on which the respondent is so informed.

"(B)(i) In lieu of receiving mediation services from the Service, the charging party and the respondent may agree in writing to refer the charge to a mediator (other than the Service) that has been mutually agreed to by the parties, for mediation in accordance with regulations promulgated by the Service pursuant to this subsection. A copy of the agreement to mediate shall be served upon the Service and the Commission or authority that issued the right-to-sue letter.

"(ii) Before the commencement of mediation services under this subparagraph, the mediator shall certify in writing to the parties and the Service the per diem costs and any other fees and expenses the mediator may reasonably be expected to incur in providing such services. The cost of mediation services shall be shared as mutually agreed by the parties.

"(C) The Service, within 14 days of receipt of the mediation request, shall inform the Commission or the State or local authority issuing the right-to-sue letter that mediation has been requested. If the charging party or the respondent requests mediation by the Service under subparagraph (A), or agrees to mediation by a mediator under subparagraph (B), neither the charging party, the Commission, or the State or local authority may file a civil action against the respondent until the completion of the mediation.

"(4)(A) After providing an opportunity for public comment, the Service shall issue, and may amend or rescind, regulations to carry out the provisions of this subsection relating to mediation of charges. The Service shall issue the regulations no later than 6 months after the date of enactment of this subsection.

"(B) Mediation provided by the Service under subparagraph (A), or by another mediator under subparagraph (B), of paragraph (2) or (3), shall be provided in accordance with the regulations.

"(C) The regulations shall specify the form and manner of, and the procedures for providing, the mediation services provided under this subsection.

"(5) It shall be the duty of the mediator to communicate promptly with the parties and use best efforts, by mediation, to reach an agreement resolving the charge.

"(6) During mediation, the charging party and the respondent may be represented by legal counsel or another representative of their choice.

"(7)(A) If the charge is resolved through mediation, the charge shall be resolved in a manner that is mutually agreeable to the parties, including a settlement agreement, dismissal (by the Commission or the State or local authority), or voluntary withdrawal (by the charging party). The resolution of the charge shall be recorded in writing. In no case shall the mediator have the power to dismiss a charge.

"(B) A written settlement agreement between the charging party and the respondent shall at a minimum include an agreement by the charging party to waive all claims against the respondent based on the same facts giving rise to the charge.

"(C) Once the charging party and respondent have agreed on a resolution of the charge, the mediator shall so advise the Commission or the State or local authority, which shall dismiss the charge with prejudice as to the charging party or charging parties participating in the agreement. The Commission, or the State or local authority, shall take no further action on the charge as the charge affects the charging party or charging parties.

"(8)(A) The mediation shall be deemed to be completed on the date that the resolution of the charge is recorded, as provided for in paragraph (7)(A).

"(B) If a charge that has been referred to mediation has not been resolved by settlement, withdrawal of charges, or otherwise within 90 days of receipt of the charge by the Service or other mediator, and the parties do not agree in writing, with the consent of the mediator, to further extend the mediation process, the mediation shall be deemed to be completed.

"(9)(A) If mediation has been completed without resolution, as described in paragraph (8)(B), the Commission, the State or local authority, or the charging party, as appropriate, may file a civil action under this Act.

"(B) If the time for the charging party to file a civil action would lapse after the commencement of mediation, the time for the charging party to file a civil action shall be tolled until 14 days after the completion of mediation (including any referral under subparagraph (C)).

"(C) The court in which the action is filed shall have the discretion to refer the charge to the Service or the other mediator used by the charging party and respondent for an additional 90 days of mediation pursuant to this subsection.

"(D) Nothing in this subsection shall be construed to limit the authority of the court to attempt to resolve the case under the authority of the court or dispute resolution procedures established by the court.

"(10)(A) The charging party shall be provided a copy of any settlement agreement, or other agreement resolving the charge, between the Commission, or the State or local authority, and the respondent. Any such agreement shall be kept confidential by the mediator, the charging party, and other parties to the agreement unless all parties agree otherwise in writing.

"(B) Any settlement agreement, or other agreement resolving the charge, between the charging party and the respondent shall be considered confidential and shall not be provided to the Service, the Commission, the State or local authority, or any other person, unless all parties to the mediation so agree in writing.

"(11)(A) Whether or not a charge that has been referred to mediation is resolved, all communications, oral or written, (including memoranda, work product, transcripts, notes, or other materials) made by the Commission, the State or local authority, the charging party, the respondent, or the mediator in or in connection with the mediation that relate to the controversy being mediated shall be kept confidential by the participants in the mediation.

"(B) Such communications shall not be made available by the mediator, or parties to the mediation, to any person not participating in the mediation, including the Commission or the State or local authority in any case in which the Commission or the State or local authority is not a participant.

"(C) Such communications may not be used as evidence in any other proceeding, as provided for in paragraph (12).

"(D) Any person, including any official of the Commission or the State or local authority, who discloses information in violation of this subsection shall be fined not more than $1,000.

"(12)(A) Communications referred to in paragraph (11), shall not be disclosed voluntarily, and, pursuant to this subsection, shall not be subject to disclosure through discovery or compulsory process in any investigatory, arbitral, judicial, administrative or other proceedings, unless—

"(i) all parties to the mediation agree, in writing, to waive the confidentiality of such communications; or

"(ii) the communications involve statements, materials, and other tangible evidence, that—

"(I) are otherwise not privileged and subject to discovery; and

"(II) were not prepared specifically for use in mediation.

"(B) If any demand for disclosure, including a request pursuant to discovery or other legal process, is made upon the mediator, the Service, the Commission, or the State or local authority, regarding the mediation of a charge, the mediator, Service, the Commission, or the State or local authority, as appropriate, shall immediately make reasonable efforts to notify all other parties to the mediation of the demand.

"(13)(A) Any agreement between the Commission and any such State or local authority relating to carrying out their respective functions under this subchapter, including worksharing agreements for the processing of charges, shall include a provision requiring the State or local authority to implement the provisions of this subsection for the mediation of charges by the Service or other provider of mediation services.

"(B) Any such State or local authority that does not agree to implement the provisions of this subsection shall not be eligible to enter into an agreement with the Commission for the processing of charges under the subsection and also shall be ineligible to receive any payment or reimbursement pursuant to section 709(b) (29 U.S.C. 2000e–(8)(b)).

"(C) Unless the Commission and the State and local authorities amend any such agreement to comply with this subsection within 6 months after the date of enactment of this subsection, the agreement shall be considered rescinded.

"(14) A party to an agreement made pursuant to mediation under this subsection may bring any action to enforce the agreement in a Federal district court of competent jurisdiction as described in subsection (f)(3).

"(15) As used in this subsection, the term 'charging party' means an individual filing a charge under subsection (b).

"(16) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection for fiscal year 1993 and each subsequent fiscal year.".

SEC. 4. MEDIATION OF ACTIONS UNDER SECTION 1977 OF THE REVISED STATUTES.

The Revised Statutes are amended by inserting after section 1977A (42 U.S.C. 1981a) the following new section:

"SEC. 1977B. ALTERNATIVE MEDIATION PRIOR TO FILING A CIVIL ACTION.

"(a) NOTICE.—No plaintiff shall bring a civil action to make or enforce a contract relating to employment under section 1977 (42 U.S.C. 1981) unless the plaintiff has given the defendant at least 60 days written notice that the plaintiff intends to file such action and informed the defendant in the action that either party may refer the matter to mediation pursuant to the procedures set forth in section 706(l) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(l)).

"(b) CONDUCT OF MEDIATION.—If either party to the action requests such mediation, the mediation, and any subsequent civil action filed relating to the matter, shall be conducted in accordance with section 706(l) of the Civil Rights Act of 1964.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply only to charges and complaints filed more than 6 months after the date of enactment of this Act.●

By Mr. DANFORTH:

S. 3357. A bill to abolish punitive damages in certain cases and provide in their procedures and substantive standards for assessment of punitive fines; to the Committee on Judiciary.

PUNITIVE DAMAGES REFORM ACT OF 1992

● Mr. DANFORTH. Mr. President, I rise today to introduce the Punitive Damages Reform Act of 1992. This legislation is intended to reform the awarding of punitive damages in cases under federal law and in many cases that are tried in federal court. I drafted this legislation originally to be used as an amendment to the so-called "Equal Remedies Act." Yet, because the Equal Remedies Act was not called off the calendar and onto the Senate floor, I am introducing this legislation today to emphasize my seriousness about reforming the procedure used in federal courts for the awarding of punitive damages.

Last year, in the Civil Rights Act of 1991, I supported and pushed for the expansion of punitive damages to cases involving intentional discrimination against women, the disabled and religious minorities. It is important that victims of these wrongs have a more meaningful remedy than backpay and reinstatement. Yet, I also supported the caps that were placed on these damages because remedies do not need to be unlimited in order to be meaningful.

The Punitive Damages Reform Act is a modest piece of legislation designed to bring some modicum of fairness to the awarding of punitive damages. The bill does not contain caps or any of the reforms which have traditionally created controversy in the debate over tort reform.

In analyzing how to reform punitive damages, one must first be crystal clear about one's purpose. Punitive damages are not intended to compensate a victim for harm endured. Both economic and noneconomic harm are taken care of through "compensatory damage" awards. Punitive damages are designed to deter the wrongdoer from repeating the wrongful act and to deter others from taking similar actions. Thus, there can be no credible argument that reforming punitive damages harms victims because punitive damages are not intended to compensate victims at all.

The concept of punitive damages was first articulated in England in 1763. At that time, these damages were referred to as "exemplary damages." According to former Attorney General Griffin Bell, these awards were designed to compensate the victim for non-physical injuries and to punish the wrongdoer. The typical punitive damages claim arose from an isolated incident involving two parties in which one party's honor was called into question. Since one's honor was highly valued and its injury was not usually included in compensatory damages, the concept of "exemplary damages" was established.

Between 1763 and the 1960s, the awarding of noneconomic damages became more commonplace as a way to compensate a victim for non-physical injuries. In many areas of tort law, people talk about a crisis in the awarding of noneconomic damages. But, that is not the focus of this legislation. I only point out this fact to demonstrate that there is no need to use punitive damages to compensate victims for their injuries. Thus, during the twentieth century, punitive damages became divorced from the concept of compensation and became a weapon to punish and deter wrongdoers. Prior to 1970, punitive or exemplary damages were not commonly awarded, and in those cases where they were, they were not widely considered to be out of control.

In the mid-1970s, however, there was a veritable explosion of lawsuits in which plaintiffs sought punitive damages. With the increase in applications came a destructive increase in the amounts of the awards. The Institute for Civil Justice, in a study of 24,000 punitive damage cases, found that between 1965–69 the average sum awarded was $43,000. But between 1980–84, the inflation-adjusted amounts averaged $729,000—a jump of 1,500 percent.

During this period when punitive damage awards were exploding, many of the academics following the issue criticized their expansion. Professor John Jeffries of the University of Virginia stated that "punitive damages are out of control." Dean Dorsey D. Ellis at Washington University in St. Louis stated that the punitive damage "process currently in place in most jurisdictions contributes substantially to the misallocation of resources and is so lacking in fundamental fairness that it denies defendants, especially institutional defendants, the due process required by the Constitution and embedded in our legal system."

Criticism of punitive damages has not been limited to individual academics. The American College of Trial Lawyers and the American Law Institute each have noted the need for punitive damage reform. The American College of Trial Lawyers, half defense counsel and half plaintiffs' attorneys, has made the following observation: "* * * awards often bear no relation to deterrence and merely reflect a jury's dissatisfaction with a defendant and a desire to punish, often without regard to the true harm threatened by a defendant's conduct." The American Law Institute has stated that "[u]nlike other aspects of tort damages, there is serious debate, both scholarly and political, about whether *any* punitive component of a tort award is legitimate, as well as sharp controversy about how much to award in this category."

Ultimately, this skepticism about punitive damages has reached the highest court in the land. Last term, the Supreme Court in *Pacific Mutual Life Insurance Co.* v. *Haslip*, expressed concern about punitive damages that "run wild." The court held that a punitive damage award of $840,000, more than 4 times the amount of compensatory damages and more than 200 times the out-of-pocket expenses of the victim, was "close to the line" of constitutional impropriety, but that Alabama's procedure for awarding punitive damages did not violate the Due Process Clause of the Fourteenth Amendment.

Mr. President, this piece of legislation is a moderate effort to enact at the federal level, many of the reforms that states have used, and academics have recommended, to control the award of punitive damages. Most importantly, the reforms are an effort to return punitive damages to their overriding purpose: deterrence. If Congress insists on increasing the number of suits under federal law in which unlimited punitive damages may be awarded, then Congress should enact legislation to insure that an award of punitive damages is fair and consistent with due process.

In short, this legislation will replace the award of punitive damages with a punitive fine under federal law and in cases involving commerce in federal court. The award of this fine will have to meet certain procedural requirements. For instance, a punitive fine may only be awarded if a plaintiff proves by clear and convincing evidence that the defendant or the defendant's agent, acted with malice. The American Law Institute has endorsed this "clear and convincing" standard, stating that it is "the emerging consensus among legal scholars, practitioners and state legislators."

The legislation adopts a reasonable vicarious liability standard that is in the mainstream of emerging state law on the issue. Since the principal purpose of punitive damages is to deter similar, unlawful behavior by the defendant or others in the future, there can be no justification for imposing punitive damages on a principal for behavior over which he or she has no control. Put differently, there can be no effective deterrence unless there is some conduct which can be deterred.

Many states have adopted a standard similar to that in this legislation, the so-called "corporate complicity" doctrine. Under Illinois law, for example, as corporation will be vicariously liable in punitive damages for the acts of its employees "only if a superior officer of the corporation ordered, participated in, or ratified the 'outrageous conduct' of the employee." The District of Columbia and the state of New Mexico also use this vicarious liability standard. This standard of liability for punitive damages is also endorsed by the American Law Institute's Report on punitive damages.

The bill includes two other recommendations of the American Law Institute. In its report, the Institute calls for a bifurcated trial upon request in cases involving punitive damages and calls for serious consideration of the concept of a judge determining the actual amount of the punitive award. This legislation incorporates both a bifurcated trial upon request and the judge determining the amount of a punitive fine.

I recommend this piece of legislation to all of my colleagues. I intend to reintroduce this bill early in the next Congress and push hard for its enactment. There is a need for fairness in the procedures governing the award of punitive damages under federal law, and I hope to see this bill enacted next year.

Mr. President, I unanimously consent that that the text of the bill be printed in the RECORD.

S. 3357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Punitive Damages Reform Act of 1992".

SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the allowance of punitive damages is not a constitutional right but is based instead on considerations of public policy;

(2) unlike compensatory damages, punitive damages serve to penalize a defendant and to deter other possible defendants from engaging in the same conduct, not to compensate the injured plaintiff;

(3) the arbitrariness and unpredictability of recent punitive damage awards have undermined the courts' ability to effectively penalize and deter wrongful conduct;

(4) although State legislatures and the United States Supreme Court have acknowledged many of the problems associated with punitive damages, meaningful reform has been elusive;

(5) arbitrary or inflated punitive damage awards have increased litigation, particularly at the appellate level, and have increased forum shopping;

(6) dramatic increases in punitive damage awards have increased the costs of consumer goods and reduced incentives for corporate research and development;

(7) State and Federal courts have contained to uphold awards in cases in which defendants' conduct falls short of the intentionally injurious behavior that should characterize a case for punitive damages, and this has eroded public confidence in the fairness of the judicial system;

(9) for many of the same reasons that judges in criminal cases determine sentencing when juries have determined guilt, civil judges should determine punitive damage awards when juries have determined liability for such damages; and

(10) the threat of punitive damage awards under various State laws imposes a substantial burden on interstate and foreign commerce.

(b) PURPOSES.—The purposes of this Act are—

(1) to restore the original purposes of an award of punitive damages by making deterrence and punishment the award's primary functions;

(2) to discourage unnecessary litigation of claims in hopes of obtaining excessive and unwarranted punitive damage awards;

(3) to promote the efficient settlement and adjudication of claims without the wasteful transaction costs of unnecessary litigation; and

(4) to establish fair procedures and substantive standards for the award of punitive fines.

SEC. 3. DEFINITIONS.

In this Act:

"Claim arising under Federal law" means a claim in a civil action brought in Federal or State court that is based on a provision of the United States Constitution, a statute of the United States, or a regulation issued thereunder.

"Claim governed by this Act" means a claim that—

(1) arises under Federal law; or

(2) involves commerce within Federal jurisdiction,

with respect to which a punitive fine is sought.

"Claim involving commerce within Federal jurisdiction" means a claim in a civil action brought in Federal court—

(1) that is in, or affects, commerce within Federal jurisdiction; or

(2) the disposition of which has affected or will affect commerce within Federal jurisdiction.

"Clear and convincing evidence" means evidence that leaves no serious or substantial doubt about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of the evidence but less than evidence beyond a reasonable doubt.

"Commerce within Federal jurisdiction" means trade, traffic, transportation, transmission, or communication—

(1) between a point in a State and a point outside the State;

(2) between points in a State through a point outside the State; or

(3) within the District of Columbia or a possession of the United States.

"Economic damages" means damages that are intended to compensate for pecuniary expenses, including those arising from—

(1) medical expenses and medical care;

(2) rehabilitation services;

(3) custodial care;

(4) loss of earnings and earning capacity;

(5) loss of income;

(6) burial costs;

(7) loss of use of property;

(8) costs of repair or replacement of property;

(9) costs of obtaining substitute services;

(10) loss of employment; and

(11) loss of business or employment opportunities.

"Malice" means—

(1) intent to cause serious tangible or intangible injury to a person or property; or

(2) conscious indifference to the safety, health, or other interests of another person, with actual awareness that certain conduct will likely result in serious tangible or intangible injury to another person or property.

"Nominal damages" means damages of any kind to the extent that the total amount of all economic damages and noneconomic damages awarded to a plaintiff with respect to a claim based on a single act or omission of a defendant is less than $500.

"Noneconomic damages" means damages for—

(1) pain;

(2) suffering;

(3) inconvenience;

(4) physical impairment;

(5) disfigurement;

(6) mental anguish;

(7) emotional distress;

(8) loss of society and companionship;

(9) loss of consortium;

(10) injury to reputation;

(11) humiliation; and

(12) any other noneconomic injury under any theory of damages such as fear of loss, illness, or injury.

"Person" means a natural person, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including a governmental entity or unincorporated association of persons.

"Punitive damages" means damages that are awarded against a defendant because of aggravating circumstances in order to penalize the defendant for the defendant's past conduct and to deter similar conduct by the defendant and others in the future, and does not include—

"(1) economic damages;

"(2) noneconomic damages;

"(3) nominal damages;

"(4) multiple damages under a statute that provides for an award in an amount that is a multiple of damages to which a plaintiff would otherwise be entitled; or

"(5) liquidated damages.

"Punitive fine" means a punitive fine assessed under section 5.

"State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the outer Continental Shelf (as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

SEC. 4. ABOLISHMENT OF PUNITIVE DAMAGES.

Punitive damages shall not be awarded with respect to a claim governed by this Act.

SEC. 5. PUNITIVE FINES.

(a) IN GENERAL.—If the requirements of subsection (b) are met, a court may assess a punitive fine with respect to a claim governed by this Act that is a claim with respect to which punitive damages were available prior to the date of enactment of this Act.

(b) PROCEDURAL REQUIREMENTS AND STANDARDS.—The requirements of this subsection are as follows:

(1) PLEADING.—

(A) AMOUNT.—The plaintiff shall plead that a punitive fine is sought.

(B) PRIMA FACIE CASE.—A prayer for a punitive fine shall be stricken prior to trial unless the plaintiff presents to the court, at least 30 days prior to trial, prima facie evidence sufficient to sustain the assessment of a punitive fine under this section.

(2) ELEMENTS OF PROOF FOR ASSESSMENT OF PUNITIVE FINE.—

(A) IN GENERAL.—A punitive fine shall not be assessed against a defendant with respect to a claim governed by this Act unless—

(i) the court finds that punishment and deterrence are warranted by the facts and circumstances of the case;

(ii) the plaintiff establishes by clear and convincing evidence that, relative to the act or omission on which the claim is based, the defendant or, subject to subparagraph (B), the defendant's agent, acted with malice; and

(iii) the plaintiff establishes by clear and convincing evidence all other facts necessary to support the assessment of a punitive fine.

(B) LIABILITY OF PRINCIPAL.—A punitive fine shall not be assessed against a principal for an act or omission of its agent or employee unless a plaintiff shall establish by clear and convincing evidence that—

(i) the agent or employee acted with malice relative to the act or omission on which the claim is based; and

(ii) a superior officer of the principal, in the exercise of policymaking authority, authorized, participated in, or ratified the act or omission.

(C) NEGLIGENCE.—The burden of proof established by subparagraphs (A) and (B)(i) is not satisfied by proof of any degree of negligence or gross negligence.

(3) NECESSITY OF AWARD OF ECONOMIC OR NONECONOMIC DAMAGES IN EXCESS OF NOMINAL DAMAGES.—A punitive fine shall not be awarded with respect to a claim unless economic or noneconomic damages (or a combination thereof) in excess of nominal damages are awarded with respect to that claim.

(4) DETERMINATION OF LIABILITY.—

(A) IN GENERAL.—The court shall determine the liability of a defendant for a punitive fine unless the question of liability for punitive damages on a claim with respect to which the punitive fine is sought is a question that was required to be referred to a jury prior to the date of enactment of this Act, in which case the question shall be decided by a jury.

(B) SPECIAL INTERROGATORY.—A jury that determines the liability of a defendant for a punitive fine under subparagraph (A) shall be required to answer the following special interrogatory: "Has the plaintiff shown by clear and convincing evidence that the act or omission of the defendant on which the claim is based was performed with malice, rather than being performed through mere negligence or gross negligence?".

(5) AMOUNT OF PUNITIVE FINE.—

(A) IN GENERAL.—If the requirements of paragraphs (1), (2), (3), and (4) are satisfied, the court may assess a punitive fine. The amount of such fine shall be sufficient to punish the defendant for the defendant's past conduct on which the claim is based and to deter the defendant and others from engaging in similar conduct in the future.

(B) FACTORS TO BE CONSIDERED.—In determining the amount of a punitive fine, the court shall take into account—

(i) the extent of the harm that has resulted and may result from the defendant's wrongful conduct;

(ii) the degree of reprehensibility of the defendant's conduct, the duration of the conduct, the defendant's awareness of the conduct, any concealment of the conduct, and the existence and frequency of similar past conduct;

(iii) the profitability to the defendant of the wrongful conduct and desirability of removing that profit;

(iv) the effect of the punitive fine on the economic viability of the defendant; and

(v) the losses in employment that might occur as a result of the assessment.

(6) BIFURCATION.—

(A) IN GENERAL.—At the request of any party, a claim governed by this Act that is tried before a jury shall be conducted in a bifurcated trial, before the same jury in both phases, unless a party demonstrates that the interest of avoiding the additional time and expense of conducting a bifurcated trial significantly outweighs the benefits of fairness to the requesting party in conducting a bifurcated trial.

(B) FIRST PHASE.—(i) In the first phase of a bifurcated trial, the jury shall determine—

(I) the liability of the defendant for economic and noneconomic damages; and

(II) the amount, if any, of economic damages, noneconomic damages, or nominal damages to be awarded to the plaintiff.

(ii) Evidence relevant only to the question whether a punitive fine should be assessed or the amount of such a fine shall not be admissible in the first phase of a bifurcated trial.

(C) SECOND PHASE.—In the second phase of a bifurcated trial—

(i) the jury, after hearing any evidence that is relevant only to the question whether a punitive fine should be assessed, shall determine that question; and

(ii) the court, after hearing any evidence that is relevant only to the amount of a punitive fine, shall determine the amount of the fine in accordance with paragraph (5).

(7) SEVERAL LIABILITY.—

(A) IN GENERAL.—When a claim governed by this Act is brought against more than 1 defendant, a punitive fine shall be assessed against each defendant specifically, and each defendant shall be liable only for the amount of the assessment made against that defendant.

(B) RELATIVE DEGREE OF CULPABILITY.—The amounts of punitive fines assessed against each defendant under subparagraph (A), including defendants who are a principal and the principal's agent or employee, shall be based on the relative degrees of culpability of each defendant.

SEC. 6. AVAILABILITY OF PUNITIVE DAMAGES.

Nothing contained in this Act shall be construed to create any claim for punitive damages or a punitive fine for which punitive damages were not available prior to the date of enactment of this Act.

SEC. 7. EFFECTIVE DATE.

This Act shall be effective with respect to any claim in a civil action that is made on or after the date that is 120 days after the date of enactment of this Act without regard to whether the claim arose prior to the date of enactment of this Act.●

By Mr. D'AMATO:

S. 3358. A bill to limit the amount of funds that may be used for administrative expenses under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, to conduct a study regarding the share of Federal funds used for administrative expenses by State and local recipients under certain Federal education programs, and for other purposes; to the Committee on Labor and Human Resources.

SECONDARY EDUCATION ACT AMENDMENTS

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation to improve our children's education by ensuring that a greater share of federal education dollars are used to teach our children in the classroom, instead of supporting a growing education bureaucracy.

The growth of school bureaucracies over the last 30 years has been staggering. Between 1960 and 1984, the number of educational personnel who were not teachers, principals, or supervisors, grew by over 500 percent.

This massive growth in the educational bureaucracy has done virtually nothing to improve the quality of education in our country. In fact, between 1963 and 1980, average SAT scores fell by 9 percent—from 978 to 890.

If anything, expanding school bureaucracies have fueled a decline in academic achievement—by stifling innovation and change, and siphoning dollars away from real, in-classroom educational programs.

To curb growing State education bureaucracies, Congress has already taken a first step by limiting to one percent the amount of funds that States can use for administrative expenses under the Chapter 1 program, the largest Federal elementary and secondary education program.

Congress included this limit in the 1988 Hawkins-Stafford Elementary and Secondary Improvement Amendments. However, no such limit was enacted with respect to the amount of funds that local educational agencies can use for administration expenses. Consequently, according to an interim report on the implementation of the Chapter 1 program prepared for the U.S. Department of Education, as much as 20 percent of all Chapter 1 funds to local educational agencies is used to pay for salaries of noninstructional personnel and miscellaneous administrative expenses. This means that last year alone, nearly $1.2 billion in Federal Chapter 1 funds that could have been used for direct, in-classroom educational programs were used instead for non-instructional activities.

My bill would ensure that more federal Chapter 1 funds go to teaching children by limiting the share of such funds used by local educational agencies for administrative expenses to 10 percent. This would free an additional $600 million to be used providing needed educational services to children under the Chapter 1 program.

Mr. President, next year we will reauthorize our major elementary and secondary education programs. I hope this bill will serve to focus our attention on the need to reexamine these programs to ensure that no scarce Federal dollars are wasted on unnecessary bureaucracy. To assist in preparing for these reauthorizations, this bill calls on the Secretary of Education to conduct a study to determine the actual share of Federal funds used for administrative expenses by both State and local recipients of funds under several of the major elementary and secondary education programs. In addition to Chapter 1, this study will review State and local uses of funds under the following programs: Chapter 2, the Dwight D. Eisenhower Mathematics and Science Education Act, the Drug-Free Schools and Communities Act of 1986, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, and the Bilingual Education Act.

I believe it is time to free our schools, and our schoolchildren, from the tyranny of a growing educational bureaucracy. I think it is time to put our resources back into teaching our children, and I hope that is what this bill will help us to do as we prepare for the reauthorization of our elementary and secondary programs in the next Congress.•

By Mr. LIEBERMAN

S. 3359. A bill to direct the Secretary of Defense, the Secretary of Commerce, and others to select a private consortium to establish and administer a national network of advanced technology manufacturing application and education centers, and for other purposes; to the Committee on Armed Services.

MANUFACTURING APPLICATION AND EDUCATION NETWORK ACT OF 1992

• Mr. LIEBERMAN. Mr. President, Senator PRYOR and I are introducing a bill today that would encourage diversification of defense laboratories and greater cooperation in research and production activities with the private sector. This bill, very similar to an amendment we introduced to the Defense Authorization bill, encourages greater cooperation between Department of Defense research and production facilities and U.S. industry in order to enhance their mutual technological and productive achievements. Under this bill, the Secretary of Defense would establish a Federal Defense Laboratory Diversification Program to facilitate the diversification of Federal defense labs. In conjunction with this process, the Director of Defense Research and Engineering in cooperation with each Defense lab and in consultation with private industry, is required to develop benchmarks for a number of categories of diversification activities. The benchmarks will include such things as the budget resources, manpower, and facilities to be used by each lab and the dollar value of patent, royalty, and license agreements labs should pursue.

Defense labs will also be required to establish an industry and academic advisory panel to promote cooperation between the labs and the private sector. These panels will oversee the development of the lab's research plans and the implementation of the overall DOD Program. Annual reports will be submitted to Congress by the Director of Research and Engineering at DOD on a survey of the nature of research being done by the labs under the Program, along with recommendation on how the labs can become better oriented toward achieving the goals of the Program.

The Director of the Office of Technology Assessment will work with industry to provide an assessment of the Program from the point of view of the business community. The Director of Research and Engineering will then use the results of the OTA-Industry report in improving the implementation of the Program.

I am pleased to be able to report that the process of cooperation between Defense Labs and industry has already begun. Federal labs have expertise that can be of great use to American companies trying to keep up in an increasingly competitive global marketplace. There are any number of examples of cooperative efforts already underway. For example, Lawrence Livermore National Laboratory (LLNL), is working with the State of California department of transportation to help develop an "intelligent highway system" that would help alleviate traffic congestion. Work is also taking place on image enhancing and processing techniques that would help to locate cancerous tumors. Los Alamos Federal Laboratory is working with General Motors to develop a fuel cell power system that could be used for transportation purposes. Caterpillar has been working with LLNL since 1988 to develop sophisticated earth moving equipment in order to keep up with foreign manufacturers like Japan's Komatsu Ltd.

All the major weapons labs—including LLNL, Los Alamos, and Sandia—are poised to make a contribution to civilian R&D. This bill would assist with that process by developing a plan to share research and the development of products that have a commercial purpose.

The end of the cold war has made defense cuts possible. But it is important that in the process of making these cuts that we do not allow the expertise found in our defense labs to be cast aside. We must, literally, develop a comprehensive approach for turning our swords into plowshares. This bill would help to achieve that goal by having DOD establish a permanent program for cooperation between industry and Federal labs.

This legislation is an important step toward making certain that as we downsize the military-industrial complex, we do so in a way that it is both cost effective and will help make American industry more competitive.

While legislation similar to this was accepted as part of the Defense Authorization bill, I am hopeful that this bill will serve as a marker for future work to be done in the complex process of diversifying DOD labs.

I ask unanimous consent that a copy of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Manufacturing Application and Education Network Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) numerous Federal agencies, in their various research missions, develop technologies and capabilities that are of value to United States industry;

(2) international competitive pressures, as well as budget realities, make it imperative that these assets are fully utilized by the United States civilian and defense industrial base;

(3) the United States has approximately 350,000 "foundation" manufacturing firms, 98 percent of which are small manufacturers;

(4) the transfer, commercialization, and deployment of advanced manufacturing technologies to foundation firms are greater in other leading industrial nations due to the existence of a highly supported modernization infrastructure;

(5) a United States national manufacturing application and education network consisting of not less than 150 teaching factory centers should be established as the core component of an industrial modernization support infrastructure to bolster United States manufacturing competitiveness;

(6) due to the high cost of such centers, applicable existing resources of industry, academia, foundations, and State and local governments must be leveraged with Federal resources;

(7) Federal resources and involvement in such a network should be coordinated through the Federal Coordinating Council for Science, Engineering and Technology and managed by an industry-led manufacturing technology consortium formed under the National Cooperative Research Act of 1984; and

(8) due to its industrial job creation and retention impact, such network shall provide a major work force conversion mechanism for the defense industrial base.

(b) PURPOSES.—The purposes of this Act are—

(1) to support the establishment of a Manufacturing Application and Education Network (hereafter referred to as the "Network") for the deployment of advanced manufacturing technologies and practices to the United States manufacturing base by—

(A) establishing a multiagency initiative under the purview of the Federal Coordinating Council for Science, Engineering and Technology that would—

(i) cofund the establishment of a Network of 150 Manufacturing Application and Education Centers (hereafter referred to as the "Centers"); and

(ii) accelerate the transfer and utilization of Federal work force and physical resources to the Network; and

(B) authorizing the competitive selection of an industry-led consortium formed under the National Cooperative Research Act of 1984 that would—

(i) manage the Network as a national government-industry-academia partnership;

(ii) build relationships with and enter into agreements with the Federal Government as necessary to implement the initiative referred to in subparagraph (A); and

(iii) assure that private sector matching resources are maximized; and

(2) to support the ongoing operations of the Network with strategic information, targeted procurements, and regulatory incentives by—

(A) directing the Office of Export Administration of the Department of Commerce to collect, analyze, and disseminate information of importance to the Network;

(B) authorizing a corps of Federal procurement center representatives to support and extract agency benefits from network production;

(C) authorizing small United States businesses to use Network manufacturing facilities to qualify for and obtain Federal procurement contracts; and

(D) directing Federal agencies to identify potential regulatory exemptions and modifications that would encourage industrial participation in the Network.

SEC. 3. NETWORK MANAGEMENT AND OVERSIGHT.

(a) CONSORTIUM SELECTION PROCESS AND CRITERIA.—

(1) SELECTION.—The Director of DARPA, head of NIST, and the Assistant Secretary of Energy for Conservation and Renewable Energy, and the Director of the Office of Science and Technology Policy shall comprise a selection committee which shall use competitive procedures to select a managing consortium to establish and administer the operations of the Network Centers established in accordance with this Act from among existing consortia established under the National Cooperative Research Act of 1984. Selection procedures other than competitive procedures may be used if an exception set out in section 2304(c) of title 10, United States Code, is applicable.

(2) CRITERIA.—In selecting a managing consortium, the selection committee shall consider whether the consortium under consideration—

(A) has a primary mission of developing and deploying advanced manufacturing technologies;

(B) has the capability—

(i) to transfer technology from the Federal laboratories and other Federal research programs;

(ii) to manage large scale extramural programs; and

(iii) to effectively participate in competitive awards of Federal research contracts and grants; and

(C) is comprised of and controlled by members representing—

(i) a broad array of industrial sectors, including the automotive, aerospace, electronics, machine tool, computer, and communication industries; and

(ii) small, medium, and large business concerns from multiple industrial supply tiers.

(3) SELECTION DURATION.—A consortium selected under this subsection shall be responsible for the management and administration of the Network Centers for a period of 3 years after the date of selection, except that the first such selection under this subsection shall be for a period of 5 years after the date of the selection.

(b) CONSORTIUM DUTIES.—The consortium selected under subsection (a) shall, with the support of the task force established under section 5, establish and oversee the administration of not less than 150 Network Centers not later than 10 years after the date of enactment of this Act. The responsibilities of the consortium shall be—

(1) to approve the establishment of Network Centers in accordance with section 4;

(2) to execute legal agreements addressing intellectual property rights and partnership roles in accordance with section 4(c);

(3) to link the various elements of industrial support programs across the United States into a cohesive, integrated national Network;

(4) to serve as the clearinghouse Network for centrally distributing information to Network Centers;

(5) to function as an interactive repository of intellectual property for the Network in research and development, standardization of methodology to assess manufacturing quality, competitiveness, and other such areas;

(6) to coordinate the Network funding development process to generate the financial resources required to establish Network Centers, including the acquisition of capital assets and initial operating budgets;

(7) to develop and update (on an annual basis) the Network propagation plan required under subsection (c);

(8) to allocate funds appropriated in accordance with the authorization in section 9 for the establishment of the Network Centers;

(9) to submit reports required under subsection (d); and

(10) coordinate with other government-supported extension programs to assure mutual support and assistance.

(c) NETWORK PROPAGATION PLAN.—The consortium shall develop a Network propagation plan that shall—

(1) include a plan for the establishment of the Network Centers nationwide, upon the approval of the consortium, in accordance with subsection (b); and

(2) be based upon economic development and manufacturing profiles submitted to the consortium for approval by each of the 50 States that—

(A) are developed through an interactive process with each State's academic, industrial, government, and philanthropic leadership; and

(B) incorporate—

(i) assessments of university engineering programs, vocational technical institutes, community colleges, and existing business assistance programs;

(ii) available State financial resources;

(iii) the State leadership's 10-year vision of its manufacturing industries; and

(iv) the current and potential impact of industry, not-for-profit, and university research and development centers.

(d) REPORTS.—

(1) IN GENERAL.—The consortium shall submit to the Director of the Office of Science and Technology Policy for distribution to all Government organizations involved in the establishment and ongoing operations of Network Centers—

(A) a copy of the State-level network plan approved under subsection (c) prior to the establishment of the first Center in that State;

(B) the initial approved business plan for each Center receiving Federal funds under this Act; and

(C) quarterly reports on the accomplishment of milestones in the propagation of the Network.

(2) DIRECTOR'S REPORT.—The Director of the Office of Science and Technology Policy shall submit an annual report to the Committees on Armed Services and the Committees on Small Business of the Senate and the House of Representatives—

(A) evaluating the progress made in carrying out the duties set forth in section 5(b); and

(B) summarizing the plans and progress reports provided by the managing consortium under paragraph (1).

SEC. 4. NETWORK AND CENTER REQUIREMENTS AND LIMITATIONS.

(a) PRIMARY FUNCTIONS.—A Center may only be established and supported under this Act with the approval of the consortium selected under section 3, in consultation with a representative selected by the Secretary of Defense. The consortium may approve the establishment and support of a Center only if the Center promotes the deployment of innovative and robust technology into United States manufacturing companies by conducting activities in the following categories:

(1) TECHNOLOGY AWARENESS.—Technology awareness, including—

(A) working demonstrations and showcasing of equipment, tools, and practices in a manufacturing environment;

(B) technology specific workshops and seminars; and

(C) effective marketing of the Center's capabilities in training, education, research and development, demonstration, production, and technical assistance.

(2) TECHNOLOGY EDUCATION.—Technology education, including—

(A) providing a shop floor environment for on-the-job training;

(B) serving as a clearinghouse for current information on manufacturing related academic programs;

(C) coordinating development and delivery of and reducing duplication of specially designed manufacturing training programs; and

(D) strengthening the academic-industry-Government partnership which supports job training efforts.

(3) TECHNOLOGY DEMONSTRATION.—Technology demonstration, including the exhibition of performance specifications associated with advanced manufacturing practices, processes, and technologies in—

(A) a full-scale production environment; and

(B) point-in-time user tests environments.

(4) TECHNOLOGY APPLICATION SUPPORT.—Technology application support, including—

(A) training participating businesses to perform self-assessments in management, planning, continuous improvement, flexibility, quality, cost, delivery, customer satisfaction, technology, people and culture, health and safety, stakeholders, operations and systems, supplier development, and certification by comparing such businesses to the best business firms in the world in those respects; and

(B) providing individualized assistance to participating small and disadvantaged small business concerns by entering into partnership-like arrangements with State and Federal industrial extension and technology transfer programs.

(5) TECHNOLOGY ADVANCEMENT SUPPORT.—Technology advancement support, including—

(A) providing a factory environment to perform testing of preproduction components and products; and

(B) conducting manufacturing test bed studies to develop experience-based knowledge of manufacturing technology through analysis of actual production system performance.

(b) MATCHING REQUIREMENTS AND LIMITATIONS.—The amount of Federal funds allocated by the consortium selected under section 3—

(1) may not exceed one-third of the total resources used by any Network Center in any 1 fiscal year;

(2) shall be used only for the purchase of manufacturing equipment and related process technologies provided by United States suppliers;

(3) may not exceed $10,000,000 for any one Center during any 5-year period; and

(4) shall be used exclusively to support Centers included in the Network propagation plan under subsection (b).

(c) TECHNOLOGY SHARING AGREEMENT.—As a condition for approval under this section, each Center shall agree, in writing, to share with the United States Government all information and technology developed by the Center using any Federal funds. The Government may not sell or otherwise transfer such information or technology to any other entity.

SEC. 5. THE MANUFACTURING APPLICATION AND EDUCATION NETWORK INITIATIVE.

(a) INTERAGENCY COORDINATION.—The Director of the Office of Science and Technology Policy shall establish a task force under the auspices of the Federal Coordinating Council for Science, Engineering and Technology.

(b) TASK FORCE DUTIES.—The duties of the task force established under subsection (a) shall be—

(1) to develop a governmentwide plan to utilize the skilled work force of the Federal laboratories to support the establishment and ongoing operations of Network Centers;

(2) to develop a streamlined process for Federal agencies to identify and transfer existing Government-owned technologies and equipment, or to codevelop new technologies with private industry that would be of value to the activities of the Network, including those related to—

(A) environmentally conscious manufacturing;

(B) intelligent manufacturing processes;

(C) flexible computer integrated manufacturing;

(D) intelligent machine control; and

(E) materials processing; and

(3) in order to promote synergy and avoid redundancies, to develop and implement a plan for the Office of Science and Technology Policy to periodically communicate to all relevant Federal agencies and to the Congress concerning the progress being made in Federal programs involved in technology transfer, including—

(A) the Regional Centers for the Transfer of Manufacturing Technology of the Department of Commerce;

(B) the Manufacturing Extension and Partnership Programs of the Department of Defense and the Department of Energy; and

(C) the Network.

(c) COMMERCIAL SERVICE ASSISTANCE.—The Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service shall, through the regional offices of the United States and Foreign Commercial Service, work to assist the Centers in maximizing export opportunities for small and disadvantaged small business concerns participating in Network Centers.

SEC. 6. STRATEGIC INFORMATION COLLECTION AND ANALYSIS.

The Secretary of Commerce, acting through the Under Secretary for Export Administration, shall—

(1) under the authority provided in section 705 of the Defense Production Act, collect sourcing data on existing Federal procurements, including the identification of components and spare parts produced at the prime or subtiers of the supply chain by suppliers located outside of the United States;

(2) in cooperation with the Critical Technologies Institute, analyze the data obtained in paragraph (1) according to—

(A) the relationship between components sourced from non-United States suppliers and the critical and enabling technologies lists as identified by the Federal agencies, including, but not limited to, the lists developed by the Department of Defense, the Department of Commerce, and the Office of Science and Technology Policy;

(B) the current capacity of the United States industrial base to supply components referred to in subparagraph (A) to current and future world markets; and

(C) the current reasons for sourcing from other than United States suppliers;

(3) in cooperation with the Assistant Secretaries of each military department responsible for acquisition matters for that department identify, prior to the first production prototype of each new weapons system, the technologies, including components and subsystems, that are deemed critical according to the current ability of the United States industrial base, to reach full-scale production within a 2-year period; and

(4) provide detailed reports to the consortium selected under section 3, identifying—

(A) the sourcing information collected and analyzed in accordance with paragraphs (1) and (2);

(B) a projected 5-year total procurement of the components currently sourced from non-United States suppliers under—

(i) normal peacetime conditions;

(ii) readiness conditions; and

(iii) mobilization conditions; and

(C) the full scale production and logistics requirements of the critical readily available weapon-system technologies identified in accordance with paragraph (3) under mobilization conditions.

SEC. 7. FEDERAL PROCUREMENT CONTRACTS FOR SMALL BUSINESS CONCERNS PARTICIPATING IN NETWORK CENTERS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 15(i), by inserting "components and subsystems produced in Network Centers established under the Manufacturing Application and Education Network Act of 1992," after "engineering services,"; and

(2) in section 15(*l*)—

(A) by adding at the end the following new paragraph:

"(8) The breakout procurement center representative is directed to, for components and subsystems identified by the Secretary of Commerce, provide written notification to the contractor or subcontractor that if 2 or more bids are received from small or disadvantaged small business concerns participating in Network Centers established under the Manufacturing Application and Education Network Act of 1992, the procurement contract for such component or subsystem must be set aside for competition among small and disadvantaged small business concerns in the United States."; and

(B) by adding at the end the following new subsection:

"(p) NETWORK CENTER PROGRAMS.—

"(1) IN GENERAL.—The Administrator shall establish a program in accordance with this subsection to promote the award of Federal procurement contracts to small and disadvantaged small business concerns that participate in Network Centers established under the Manufacturing Application and Education Network Act of 1992, including contracts and subcontracts for the procurement of components and subsystems referred to in subsection (*l*)(8). For the purposes of such program, requirements contained in paragraph (3) shall apply with respect to contracts awarded to small and disadvantaged small business concerns under the program in lieu of requirements relating to subcontracting contained in subsection (o).

"(2) CREDITS.—Federal contracting officers and their Government contractors, in supporting the achievement of Government targets for small business contracting, shall receive credits toward achieving these targets equal to 3 times the actual dollar value of contracts and subcontracts awarded under this program.

"(3) ELIGIBILITY.—A small or disadvantaged small business concern shall be eligible to receive a contract award under the program established pursuant to this subsection in a fiscal year, only if—

"(A) the sum of the value of the contract award and the aggregate value of all other contract awards received under the program in such fiscal year does not exceed the lesser of—

"(i) $5,000,000; and

"(ii) the aggregate revenues of the concern in the preceding fiscal year;

"(B) the concern agrees to subcontract to a Network Center referred to in paragraph (1) for not less than 50 percent of the amount spent on manufacturing the supplies (not including the cost of materials) and to assign such full-time employees of the concern to such Network Center as the Director of the Center determines would be ordinarily needed to carry out manufacturing under the contract;

"(C) the concern agrees not to subcontract more than 20 percent of the amount spent on manufacturing the supplies (not including the cost of materials) to sources other than such Network Centers; and

"(D) the Administrator determines that the concern, through its participation with the Network Center, will be able to meet all the requirements of the contract.

"(4) AWARD PRIORITY.—Except as otherwise provided in paragraph (5), procurement contracts under the program established pursuant to this subsection shall be awarded to United States small and disadvantaged small business concerns in the following order of priority:

"(A) A small or disadvantaged small business concern which has not before received a contract award under the program.

"(B) A small or disadvantaged small business concern which agrees to perform in-house not less than 30 percent of the amount spent on manufacturing the supplies under the contract.

"(C) A small or disadvantaged small business concern which submits the lowest bid for performance of the contract.

"(5) AWARD LIMITS.—A contract award made under this program shall not exceed the lowest qualified bid received by a participating small or disadvantaged small business concern by more than 10 percent.".

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) the term "Center" means each of the 150 Manufacturing Application and Education Centers established under this Act;

(2) the term "disadvantaged small business concern" has the same meaning as the term "small business concern owned and controlled by socially and economically disadvantaged individuals", as defined in section 8(d)(3)(C) of the Small Business Act;

(3) the term "Federal laboratories" means any United States Government-owned laboratory or production facility;

(4) the term "Network" means the Manufacturing Application and Education Network;

(5) the term "Network Center" means a Center established under this Act as part of the Manufacturing Application and Education Network;

(6) the term "technology transfer" means the conveyance of knowledge and technical methods from a technology source to a recipient for practical application;

(7) the term "United States small business" means a manufacturing concern that—

(A) has more than 50 percent ownership and control in the United States; and

(B) is made up of not more than 500 employees; and

(8) the term "United States supplier" means a business having more than 50 percent ownership and control in the United States.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of funding the establishment of Network Centers in accordance with this Act, to be allocated by the consortium selected under section 3, there are authorized to be appropriated for each of fiscal years 1993 through 1998—

(1) for the Department of Defense, not more than $75,000,000; and

(2) for the Department of Energy, not more than $25,000,000.

(b) ALLOCATION CONTINGENCIES.—In any fiscal year that specific appropriations for the establishment of Network Centers in total fall below the levels authorized in subsection (a), the Department of Defense and the Department of Energy shall each allocate a sufficient amount of such department's respective research and development budgets to the consortium selected under section 3 to reach an amount equal to the total amounts authorized in subsection (a).

By Mr. LIEBERMAN:

S. 3360. A bill to provide for a program for the diversification of the activities of certain Federal laboratories; to the Committee on Armed Services.

FEDERAL LABORATORIES DIVERSIFICATION ACT

• Mr. LIEBERMAN. Mr. President, I am introducing today legislation that would create a national network of teaching factories to help nurture our nation's community of small manufacturers. This bill, "The Manufacturing Application and Education Network Act," would authorize the creation of 150 teaching factories across the United States over a 10-year period.

The National Center for Manufacturing Sciences (NCMS) has already operated a smaller group of teaching factories with some success. A teaching factory is very similar to a teaching hospital, in that it both serves as a school for modern manufacturing techniques, as well as an actual production site. The primary function of these factories is to provide instruction and demonstration of advanced manufacturing techniques. Another role for these factories is, in the words of NCMS, "to refine and apply new technologies to enhance their robustness and utilization, thereby creating an environment which ties together the process of advanced R&D to widespread adoption in American industry."

The factories would be regionally located, serving an area's manufacturing firms. Production facilities are tailored to the type of manufacturing processes and technologies now in use by local industries, as well as new and advanced technologies. These factories stretch the capability of small manufacturers by introducing them to new technology and improving their manufacturing techniques. The bill provides Federal financial support through cooperative agreements with the Federal labs and DOD, in effect, coordinating the mission of these labs with the needs of the private sector.

An industry-led consortium would organize and manage the network. Designs for the network plan would include input from State governments, academic institutions, trade groups, and professional associations. Access to these teaching factories would be limited to smaller U.S. manufacturing firms, particularly suppliers of manufacturing technologies. The network would allow small businesses to make use of teaching factory capabilities in qualifying for small business production set-asides.

The bill also authorizes Federal agencies to gather and analyze strategic information on foreign sourcing, future U.S. critical technology needs, and regulatory barriers to U.S. manufacturing modernization to guide the direction of the network.

Mr. President, manufacturing does matter. We cannot forgo our heritage as a Nation that makes things and become a Nation that only consumes and provides services. And we are in danger of heading down that road, if we do not begin to put more of an effort into improving our manufacturing capability.

We are falling behind the Japanese and other advanced industrial nations in new investment in productive capacity. We must refocus ourselves and redouble our efforts to make our nation's factories and industry more competitive.

This legislation can play an important role in that process by offering small companies an opportunity for some "on-the-job" training through the teaching factory network. With the promotion of the development of our small manufacturers through this network we can help to make them more competitive in the global marketplace.

While I realize there is not time to act on this legislation during this Congress, I am introducing this bill in the hope that my colleagues will have a chance to look at it during the next few months, and after having done so, will join me next session in my efforts to create a national teaching factory network.

I ask unanimous consent that a copy of the bill be placed in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE AND FINDINGS.

(a) PURPOSE.—The purpose of this Act is to encourage greater cooperation between Department of Defense research and production facilities and United States industry in order to enhance their mutual technological and productive achievements.

(b) FINDINGS.—The Congress finds the following:

(1) Department of Defense research and production facilities possess valuable technological resources that could greatly enhance the innovation and productivity of United States industries.

(2) As leadership in the development of advanced technology increasingly shifts away from the defense sector of the United States economy to the commercial sector, the Department of Defense will have to draw on private sector technical expertise to satisfy defense needs.

(3) Private industry and the Department of Defense have independently identified many of the same technologies as critical for their respective purposes, thereby creating opportunities for the cooperative development and production of dual-use technologies.

(4) Department of Defense production and research facilities currently lack adequate incentives to carry out cooperative development activities with private industry and adequate means of measuring progress toward the goal of developing and producing more dual-use technologies.

(5) Private industry must have more opportunities to provide input into Department of Defense research and production facilities in order for such facilities to undertake more research, development, and production relating to dual-use technologies.

SEC. 2. FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense shall, as soon as practicable after the date of the enactment of this Act, establish a program to be known as the Federal Defense Laboratory Diversification Program (in this Act referred to as the "Program") for the diversification of Federal defense laboratories.

(2) The laboratories covered by the Program shall include all Department of Defense (including its services and agencies)

owned or operated laboratories and Department of Defense federally funded research and development centers that undertake more than $5,000,000 in research (in this Act referred to as the Defense laboratories").

(3) The Program shall be managed by the Director of Defense Research and Engineering.

(b) NATURE OF DIVERSIFICATION PROGRAM GOALS.—The Program shall undertake cooperation between Defense laboratories and private industry in order to—

(1) promote the development and application of dual-use manufacturing technologies to improve quality and efficiency in manufacture of both civilian and defense-oriented products;

(2) promote the development and commercialization of dual-use product technologies;

(3) promote the transfer of defense or dual-use technologies from laboratories to the private sector for the purpose of commercialization, through patent, royalty, and license agreements, cooperative research and development agreements, and other cooperative agreements and through symposia, meetings, and other mechanisms; and

(4) promote the efficient adoption and adaptation of civilian manufacturing product and process technologies to defense needs in sectors critical to maintaining defense preparedness.

(c) DEVELOPMENT OF BENCHMARKS FOR PROGRAM.—(1) The Director of Research and Engineering, in cooperation with each Defense laboratory and in consultation with private industry, shall develop benchmarks for each category of diversification activity described in subsection (b) for each Defense laboratory covered by this Act. The benchmarks established shall cover fiscal years 1993 through 1995 and include for each such fiscal year—

(A) the budget resources, manpower, and facilities to be utilized by each laboratory; and

(B) the dollar value of patents, royalties, and licenses broker down by product or SIC code to be sought and pursued by each laboratory, in implementing the Program.

(2) In establishing the benchmark under paragraph (1)(A) for all Defense laboratories covered by the Program, the Director shall establish benchmarks concerning the number and value of cooperative research and development agreements and other cooperative agreements to be established and undertaken, allocating, as appropriate, a minimum of two to five percent of budget to such cooperative work within two years of the establishment of the Program.

(3) Program benchmarks shall be established not later than 180 days after the date of the enactment of this Act. Upon establishment of the benchmarks, each Defense laboratory shall promptly proceed to implement same within its overall budget and utilizing other funds that may be available for implementation of this Act.

(4) Benchmarks shall be updated each fiscal year on an ongoing basis.

(d) INDUSTRY COOPERATION MECHANISMS.—Each Defense laboratory participating in the Program shall establish an industry and academic advisory panel to promote cooperation between the laboratory and the private sector in carrying out the Program. Each laboratory shall utilize its panel to oversee the development of each year's research plan and the implementation of the Program and its benchmarks and to provide advice on how to enhance the dual-use properties of the laboratory's research work on a project-by-project basis.

(e) REPORTS BY DIRECTOR.—(1) Not later than September 30, 1993, the Director of Research and Engineering shall submit to Congress a report on—

(A) the results of a survey undertaken by the Director delineating the nature of the research being undertaken at each laboratory included in the Program, evaluating the potential of each laboratory included in the Program to achieve the elements specified in subsection (b); and

(B) recommendations on how each such laboratory might become better oriented to achieving such Program elements.

(2) Not later than each of September 30 of 1994, 1995, and 1996, the Director shall submit to Congress a report on—

(1) the extent to which each laboratory participating in the Program has effectively implemented the benchmarks established by the Program;

(2) the accomplishments under the Program in achieving the elements described in subsection (b); and

(3) the steps the Director believes necessary to improve the effectiveness of the Program.

SEC. 3. INDUSTRY EVALUATION.

(a) IN GENERAL.—The Director of the Office of Technology Assessment shall, subject to the approval of the Technology Assessment Board, undertake, in close consultation with industrial firms that have cooperated and worked with Federal laboratories, and evaluation of practices and procedures that have proven effective in promoting the elements of the program set forth in section 1(b), both in laboratories covered by the Program and elsewhere.

(b) ADDITIONAL EVALUATION.—In addition to the evaluation under subsection (a), the Director shall—

(1) evaluate the effectiveness of the Program in achieving optimal cooperation with private industry in meeting the elements set forth in section 1(b); and

(2) make recommendations for any improvements in practices and procedures for cooperating with industry that should be implemented.

(c) SUBMITTAL DATE.—The evaluations required under this section shall be submitted not later than 24 months after the date of the enactment of this Act.

(d) UTILIZATION OF REPORT INFORMATION.—The Director of Research and Engineering shall utilize the recommendations and results of such study in ongoing implementation of the Program.

By Mr. MOYNIHAN:

S. 3361. A bill to amend title IV of the Social Security Act to improve access to health insurance coverage through child support enforcement procedures, and for other purposes; to the Committee on Finance.

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1992

• Mr. MOYNIHAN. Mr. President, I rise today to introduce the Child Support Enforcement Amendments of 1992.

There has been considerable progress in the area of child support enforcement over the last few years. Collections are increasing, and the States are working hard to implement the changes called for by the Family Support Act of 1988. Among these are the use of guidelines for the determination of child support awards, automatic wage withholding for all new cases, and the review and adjustment of all AFDC awards on a 3 year cycle.

Unfortunately, however, we still have a long way to go. Child support is collected in less than one quarter of all cases, and many of those who do receive payments receive less than they should. On the health care side, the performance is equally dismal. Health insurance is not included in 68 percent of child support orders. A 1983 Urban Institute study found that 4.6 million children with absent parents were without health insurance.

The most important features of my bill concern health care coverage. Some large employers argue that they do not have to obey State child support court orders because the 1974 Federal ERISA law exempts self-insured companies from State regulation. According to a recent GAO report, more and more States are running into cases of employers who refuse to cover the noncustodial children of their employees because of ERISA. My bill makes it clear that these companies must honor their child support obligations notwithstanding the 1974 law.

Furthermore, my bill attacks a number of other devices that uncooperative employers and noncustodial parents have come up with in an effort to avoid their obligation to provide health coverage for their families. Under my bill, for instance, the employer would have to enroll the custodial parent and her children in his health plan if the absent parent has failed to do so, and would have to provide the necessary forms and information so that the custodial parent could submit claims. Further, the employer would be required to accept claims submitted by the custodial parent.

My bill also addresses some of the administrative difficulties faced by States. For instance, the Family Support Act requires States to review and update all child support orders involving AFDC families on a three year cycle starting in 1993. Non-AFDC cases must be reviewed at the request of either parent. There is now a general consensus among people knowledgeable about child support that many States, particularly the larger ones, will have a difficult time meeting this requirement until they have computerized child support tracking systems in place. Accordingly, my bill postpones the new requirement's effective date until the automated systems are in operation or 1995, whichever comes first.

In addition, my bill attempts to move us away from the current federal audit system's preoccupation with process—are child support collections distributed within a specified number of days, are notification procedures, etc.—and toward one that looks at outcomes, such as collections and paternities established. State child support officials are convinced that efficiency could be increased, and performance improved, if they were not subject to all the many procedural strictures that currently exist and instead had some flexibility in achieving program objectives. My bill establishes an advisory committee within the Department of Health and Human Services with the responsibility to come up with a system that strikes a more appropriate balance between outcomes and process.

My proposal was drafted in close collaboration with the state child support directors, although I hasten to add that it does not include all the changes that they would have liked. It also includes several of the recommendations contained in the recent GAO report, "Ensuring That Noncustodial Parents Provide Health Insurance Can Save Costs".

Mr. President, I believe the coming year will see a concerted effort to strengthen this nation's system of child support enforcement. Recently, the Commission on Interstate Child Support, under the leadership of Senator BRADLEY and others, released its final report containing a number of important recommendations. In the last few weeks President Bush has also put forward proposals in this area. My hope is that from all these ideas, we can fashion a comprehensive reform plan that can be considered, and adopted, by the Congress early in the next year.

Mr. President, I ask unanimous consent that the text of the Child Support Enforcement Amendments of 1992 along with a short section-by-section analysis be printed in the CONGRESSIONAL RECORD at this point.

SECTION-BY-SECTION ANALYSIS OF CHILD SUPPORT REFORM PROPOSAL

Section 1

A number of states are having trouble collecting child support from federal agencies which argue that they are exempt from state laws (this is particularly a problem with regard to medical support). This section makes it clear that for child support purposes, the federal government is to be treated like other employers.

Section 2

Under current law, working non-custodial parents must apply for health insurance coverage for their children and former spouses if such coverage is provided by their employers. However, this objective has been repeatedly thwarted by uncooperative non-custodial parents and employers. The new legislation provides that:

a. if the absent parent fails to sign up the children and the custodial parent, the employer must enroll them at the state's request;

b. the employer must tell the custodial parent how to access the coverage—provide the necessary information, insurance forms, etc.; and

c. the employer must accept claims submitted by the custodial parent.

Section 3

The new legislation prohibits the following restrictions in health insurance policies:

—limiting coverage to children living with the employee;

—limiting coverage to legitimate children.

Section 4

Under the Family Support Act, states must update all existing child support orders involving AFDC recipients every three years, starting in October, 1993 (non-AFDC cases must be reviewed at the request of either party). This is a lot of work, and many states will not be able to meet the new requirement until they have computerized their child support tracking systems. The new legislation puts off the review and modification requirement until such time as the state automated systems are up and running, but no later than 1995.

Section 5

Currently, if a state fails a federal child support audit, it is subject to a fine unless it can correct the deficiencies within 12 months. In some cases, states have found that this is not enough time to implement a corrective action plan (this may involve major systems changes, hiring additional staff, etc.). So the new bill gives the states up to 18 months to achieve compliance.

Section 6

The Family Support Act of 1988 provided 90% federal funding for automated child support enforcement systems in place by 1995. A federal regulation also requires that the costs of automated systems be depreciated over five years. The problem is that the Office of Management and Budget has ruled that the enhanced federal match for child support systems is not available after 1995. In effect, this amounts to saying that states must have developed their systems by 1990 in order to have all the costs funded at the 90% rate. Since this is contrary to Congress' intent, this bill makes it clear that the enhanced federal matching is available until the year 2000 for automated systems in place by 1995.

Section 7

Increasingly, state child support laws are proving unenforceable because most people work for self-insured companies exempted from state laws under the federal ERISA Act of 1974. This section says that state child support laws are not subject to the ERISA pre-emption, and thus are enforceable in state courts.

Section 8

The current federal audit of state child support programs is largely concerned with process—are welfare recipients notified of child support collections, are collections distributed within a specified number of days, are services adequately publicized, etc. The states want a system that is more outcome oriented—collections, paternities, etc. The bill establishes an advisory committee within the Department of Health and Human Services that is to report to Congress within 12 months on a revised audit process that places greater weight on program outcomes.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Enforcement Amendments of 1992".

SEC. 2. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN OF EMPLOYEES OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Section 459 of the Social Security Act (42 U.S.C. 659) is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f), as subsections (c), (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a), the following new subsection:

"(b)(1) Notwithstanding any other provision of law, any agency, subdivision, or instrumentality of the United States and the District of Columbia, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to legal process requiring the enrollment of a dependent child of an employee of the United States or the District of Columbia or the custodial parent of such dependent child in a health benefits plan if a child support order obligates the employee to provide health insurance coverage to such dependent child or custodial parent.

"(2) Upon the service of legal process requiring the enrollment of an employee's dependent child or the custodial parent of such dependent child in a health benefits plan, the employing agency, subdivision, or instrumentality of the United States or the District of Columbia shall—

"(A) if the dependent child or the custodial parent is eligible for coverage under applicable enrollment provisions—

"(i) enroll the dependent child or the custodial parent in the health benefits plan in which the absent parent is enrolled or, if the absent parent is not enrolled in a health benefits plan, in the least costly health benefits plan available;

"(ii) release to the custodial parent and the applicable State child support enforcement agency, upon request, information on such health benefits plan, including the name of the insurer, the policy number, and information on copayments, deductibles, and claims procedures;

"(iii) ensure that the signature of the custodial parent is acceptable for purposes of processing any health insurance claim under the health benefits plan;

"(iv) notify the custodial parent and the applicable State child support enforcement agency within 10 days after the date on which the absent parent's employment is terminated and provide information regarding conversion privileges; and

"(v) subject any moneys (the entitlement to which is based upon remuneration for employment) to the employee's obligation to make payments for such enrollment; and

"(B) inform the custodial parent and the applicable State child support enforcement agency if the dependent child and the custodial parent are not eligible for enrollment in any health benefits plan.".

(b) CONFORMING AMENDMENTS.—

(1) Section 461 of such Act (42 U.S.C. 661) is amended—

(A) in the matter preceding subsection (a)(1), by inserting ", or to a health benefits plan provided through employment with" after "(or payable by)"; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by striking "and (B)" and inserting "(B)"; and

(II) by striking "brought," and inserting "brought, and (C) an indication of the data reasonably required in order for the agency promptly to identify the individual with respect to whose dependent child legal process is brought for enrollment of such child in a health benefits plan and an indication of the data reasonably required to enroll such child in such plan,";

(ii) in paragraph (2)—

(I) by striking "and (B)" and inserting "(B)"; and

(II) by striking "brought, and" and inserting "brought, and (C) an indication of the data reasonably required in order for the agency promptly to identify the individual with respect to whose dependent child legal process is brought for enrollment of such child in a health benefits plan and an indication of the data reasonably required to enroll such child in such plan,";

(iii) in paragraph (3), by striking "alimony payments." and inserting "alimony payments, and"; and

(iv) by adding at the end the following new paragraph:

"(4) provide that an employing agency, subdivision, or instrumentality of the United States or the District of Columbia shall be liable for any expenses incurred for health care provided to a dependent child or a custodial parent due to the failure of such employing agency, subdivision, or instrumentality to obtain or maintain health insurance coverage as provided in section 459(b).".

(2) Section 462 of such Act (42 U.S.C. 662) is amended—

(A) in the matter preceding subsection (a) by striking "section 459" and inserting "sections 459 and 461";

(B) in subsection (b) by striking "health care," and inserting "health insurance coverage (including coverage of medical, dental, and psychiatric care), health care which is not reimbursed by insurance,";

(C) in subsection (e)—

(i) in paragraph (1), by striking ", and" and inserting a comma;

(ii) in paragraph (2), by striking "payments." and inserting "payments, and"; and

(iii) by adding at the end the following new paragraph:

"(3) is directed to, and the purpose of which is to compel, a government entity to enroll a dependent child of an employee of such government entity and the custodial parent of such dependent child in a health benefits plan.";

(D) in paragraph (4) of subsection (g), by inserting ", except for premiums required to meet the individual's obligation to provide health insurance coverage for a dependent child and a custodial parent of such dependent child," after "premiums,"; and

(E) by adding at the end the following new subsections:

"(h) The term 'health benefits plan' means a health benefits plan described in sections 8903 and 8903a of title 5, United States Code.

"(i) The term 'dependent child' means a child who—

"(1)(A) has not attained age 22, or

"(B) is incapable of self-support because of a mental or physical disability which existed before such child attained age 22;

"(2)(A) is a natural or adopted child of an employee of the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof); or

"(B) is a stepchild of such employee, if the law of the State in which the child support order was issued holds such employee liable for the support of such stepchild; and

"(3) is not married.".

SEC. 3. HEALTH INSURANCE COVERAGE OF DEPENDENT CHILDREN OF EMPLOYEES OF PRIVATE EMPLOYERS.

Section 466(a) of the Social Security Act (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

"(11)(A) Procedures requiring that in the case of any child support order subject to enforcement under this part which is issued or modified on or after the date of the enactment of this paragraph and which contains a provision requiring an absent parent to obtain health insurance coverage for a dependent child (as defined in section 462(i)) or a custodial parent, such absent parent shall, within 30 days after receiving notice of such order, provide to the State child support enforcement agency documentary evidence of health insurance coverage for the dependent child or the custodial parent or documentary evidence that application for such coverage has been made.

"(B) Procedures requiring that if an absent parent fails to comply with the provisions of subparagraph (A), the State agency shall deliver a copy of the child support order to such absent parent's employer within 15 days after such failure and upon receipt of such order, the employer shall—

"(i) if the dependent child or the custodial parent is eligible for coverage under applicable enrollment provisions—

"(I) enroll the dependent child or the custodial parent in the plan in which the absent parent is enrolled or, if the absent parent is not enrolled in a plan, in the least costly plan available;

"(II) release to the custodial parent and the State child support enforcement agency, upon request, information on such plan, including the name of the insurer, the policy number, and information on copayments, deductibles, and claims procedures;

"(III) ensure that the signature of the custodial parent will be acceptable for purposes of processing any health insurance claim under the plan;

"(IV) notify the custodial parent and the State child support enforcement agency within 10 days after the date on which the absent parent's employment is terminated and provide information regarding conversion privileges; and

"(V) deduct and pay the cost of any premiums required for such health insurance coverage from the absent parent's earnings; and

"(ii) inform the custodial parent and the State child support enforcement agency if the dependent child or the custodial parent is not eligible for enrollment in any health insurance plan provided by the employer.

"(C) Procedures requiring that—

"(i) an employer who fails to obtain or maintain health insurance coverage as provided in subparagraph (B) shall be liable for any expenses incurred for health care provided to a dependent child or a custodial parent after the date of the receipt by such employer of a notice requiring such coverage under subparagraph (B); and

"(ii) a fine shall be imposed against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to a child support order providing for health insurance coverage of a dependent child or a custodial parent because of the existence of such an order and the obligations or additional obligations which such order may impose.

"(D) Procedures requiring that—

"(i) a child support order delivered to an employer under subparagraph (B) shall specify either support withholdings or insurance premium deductions as having priority for the duration of such order in the event the maximum total deduction permitted at any time by the Consumer Credit Protection Act is insufficient to fully cover both; and

"(ii) the employer shall consider and direct insurance premium deductions and support withholdings the same for purposes of the Consumer Credit Protection Act.".

SEC. 4. RESTRICTIONS ON ELIGIBILITY CRITERIA IMPOSED ON DEPENDENT CHILDREN BY INSURERS.

Section 466 of the Social Security Act (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f)(1) In order to satisfy section 454(20)(A), each State must have in effect laws requiring each private insurer to allow a dependent child to be eligible for coverage under any health insurance policy issued by such insurer regardless of whether such child—

"(A) receives support from a parent insured by the insurer,

"(B) is claimed for tax purposes by a parent insured by the insurer,

"(C) resides with a parent insured by the insurer, or

"(D) was born out-of-wedlock.".

"(2) For purposes of this subsection, the term 'private insurer' includes a health benefit plan, fund, third-party administrator, or similar entity or program providing payment for medical assistance.".

SEC. 5. REVIEW AND MODIFICATION OF CHILD SUPPORT ORDERS.

Section 466(a)(10) of the Social Security Act (42 U.S.C. 666(a)(10)) is amended:

(1) in subparagraph (A), by striking "Procedures to ensure that, beginning 2 years after the date of the enactment of this paragraph" and inserting "Procedures to ensure that during the period beginning 2 years after the date of the enactment of this paragraph and ending on September 30, 1993";

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(3) by inserting after subparagraph (A), the following new subparagraph:

"(B) Procedures to ensure that beginning on October 1, 1993, the State must, at the request of either parent subject to a child support order, or of a State child support enforcement agency, initiate a review of such order, and adjust such order, as appropriate, in accordance with the guidelines established pursuant to section 467(a).";

(4) in subparagraph (C), as redesignated—

(A) by striking "Procedures to ensure that, beginning 5 years after the date of the enactment of this paragraph or such earlier date as the State may select" and inserting "Procedures to ensure that beginning upon the establishment of a statewide automated data processing and information retrieval system meeting the requirements of section 454(16), or on October 1, 1995, whichever occurs earlier"; and

(5) in subparagraph (D), as redesignated—

(A) by striking "and" at the end of clauses (i) and (ii);

(B) by striking the period at the end of clause (iii) and inserting "and"; and

(C) by adding at the end the following new clause:

"(iv) of the right to obtain information which is necessary for such parent to obtain a review of such order and recommend an adjustment to such order or recommend that no adjustment to such order should be made.".

SEC. 6. TIME PERIOD FOR ACHIEVING SUBSTANTIAL COMPLIANCE WITH CHILD SUPPORT ENFORCEMENT PROGRAM REQUIREMENTS.

Section 403(h)(2)(A)(i) of the Social Security Act (42 U.S.C. 603(h)(2)(A)(i)) is amended by striking "achieve substantial compliance within" and all that follows and inserting "achieve substantial compliance within a period not to exceed 18 months from the date on which the corrective action plan is approved under clause (ii);".

SEC. 7. REIMBURSEMENT RATE FOR AUTOMATED DATA SYSTEMS.

Section 123(c) of the Family Support Act of 1988 is amended by striking "September 30, 1995" and inserting "September 30, 2000".

SEC. 8. WAIVER OF PREEMPTION REQUIREMENTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 514(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(7)) is amended by striking "of this title)" and inserting "of this title) and child support orders enforced under a State child support enforcement program authorized under part D of title IV of the Social Security Act which require an employer to enroll an employee's child or the custodial parent of such child in any health insurance plan provided by such employer.".

SEC. 9. ESTABLISHMENT OF CHILD SUPPORT ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish a Child Support Advisory Committee (hereafter in this section referred to as the "Committee").

(b) MEMBERSHIP.—

(1) NUMBER OF MEMBERS.—The Secretary shall determine the number of members on the Committee.

(2) APPOINTMENT.—The members of the Committee shall be appointed by the Secretary and shall include—

(A) a representative of a State operating a child support enforcement program authorized under part D of title IV of the Social Security Act, and

(B) a representative of recipients of child support enforcement services.

(c) DUTIES OF THE COMMITTEE.—The Committee shall assist the Secretary in preparing and submitting to the Congress, not later than 12 months after the date of the enactment of this section, recommendations—

(1) on revised audit criteria to be used pursuant to section 452(a)(4) of the Social Security Act based on—

(A) common data elements which are defined, collected, and reported in a uniform manner from each State;

(B) numeric measures of the outcomes of the child support enforcement program; and

(C) numeric measures for assessing compliance with the regulations issued by the Secretary pursuant to subsections (h) and (i) of section 452 of the Social Security Act;

(2) for the purpose of section 403(h) of the Social Security Act—

(A) on a definition of substantial compliance with the audit criteria issued pursuant to section 452(a)(4) of the Social Security Act; and

(B) on a standard for determining how soon after interim or final Federal regulations are issued a State can be audited for determining compliance with those regulations; and

(3) on any necessary changes in the incentive system authorized by section 458 of the Social Security Act, based on the outcome measures referred to in paragraph (1)(B).

(d) COMPENSATION.—

(1) IN GENERAL.—Members of the Committee shall serve without compensation.

(2) EXPENSES, ETC., REIMBURSED.—The members of the Committee may be allowed travel expenses while on the business of the Committee, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(3) APPLICATION OF ACT.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Committee.

(4) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

(e) TIMING OF ESTABLISHMENT.—The Secretary shall establish the Committee not later than 60 days after the date of the enactment of this section.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall be effective on the date of the enactment of this Act.

(b) SPECIAL RULE.—In the case of a State that the Secretary determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of this Act before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.•

By Mr. NICKLES:

S.J. Res. 346. Joint resolution to provide for the payment of fair and equitable consideration in satisfaction of the claims of certain Kaw Indians; to the Select Committee on Indian Affairs.

KAW SETTLEMENT LEGISLATION

• Mr. NICKLES. Mr. President: I am introducing legislation today which would settle certain land claims of the Kaw Indian Tribe dating back to 1860 when the tribe was located in Kansas.

Around the beginning of non-Indian settlement in what was then the territory of Kansas, the Kaw Half-Breed Indians lost several thousand acres of land that had been set aside for them as a reserve by the Federal Government. The land was settled by illegal squatters who took timber and other minerals from the property without making rightful compensation to the Kaw Tribe.

At the same time, efforts were made by these illegal squatters to deceive and defraud the Indian owners into giving them legal title to the lands. Despite the requests of the Federal Indian agent that was in charge of Indians in the area, the U.S. Government failed to protect the rights of the Kaw Indians from the action and depredations on the non-Indian settlers. Aside from taking their land, the squatters shot and killed Indian owned livestock and burned their housing.

Because Congress recognized that the Government had failed to protect the Kaw lands from encroachment, on May 26, 1860 it enacted a law declaring that all prior contracts for lands within the Kaw reserve were null and void and returned the legal ownership via a fee title of the lands to the original reservees or their heirs.

However, on July 17, 1862, before the Secretary of Interior had finished determining the appropriate heirs as required by the 1860 act, Congress repealed provisions contained in the law which authorized the Secretary to sell lands of deceased original reservees who had died without heirs. The law had allowed the proceeds from the sale of these lands to go for the benefit of those surviving original allottees.

As a result of the congressional action, the Kaw Tribe eventually lost all of its reserve lands through fraud, deception and denial of titles and the failure of the U.S. Government to provide protection and assistance. Many Kaws also lost their lands through transactions that did not meet the fair and honorable dealing standards required of the United States as set forth in the Indian Claims Commission Act of 1946. Today it remains a common practice in Kansas to institute a quiet title action on lands within the original Kaw reserve to prevent problems from arising in the conveyance of ownership of these lands.

On August 8, 1968, Congress passed Private Law 90-318, which recognized the failure of the U.S. Government to protect the Kaw lands and provided for the compensation of the heirs of the Kaw Half-Breed Indians. Unfortunately, the legislation failed to provide full compensation, including interest, for the lands taken.

My legislation that I am introducing today would provide the heirs of the Kaw Half-Breed reservees or their assigns, with a payment formulated from the 1968 value of the lands, the date of passage of Private Law 90-318. That value, approximated at slightly over $6 million would be distributed to the appropriate heirs.

Any funds in excess after the payments will be put into a charitable trust which will be administered by a board of directors consisting of lineal descendants of the original reservees. These lineal descendants will include enrolled members of the Kaw Tribe, the Osage Tribe, the Otoe-Missouria Tribe, the Pottawatomie Tribe and the Ponca Tribe. Also, one lineal descendant who is not a member of any tribe and one employee of the Bureau of Indian Affairs as appointed by the Secretary of the Interior, are also to be selected to serve on the board.

Upon the establishment of the account and payment of funds by the Secretary of the Treasury, the Secretary is required to publish notice in the Federal Register that any and all claims arising out of the Treaty of June 3, 1825 shall be extinguished. Thus allowing the State of Kansas to clear title on the 14,720 acres of former Kaw lands and resolving this centuries old injustice.

Mr. President, while this legislation will not be acted upon before the 102d Congress adjourns, I introduce it now for discussion purposes with the hope that Congress can fully address this matter during the new Congress next year.●

ADDITIONAL COSPONSORS

S. 2038

At the request of Mr. BENTSEN, the name of the Senator from Washington [Mr. ADAMS) was added as a cosponsor of S. 2038, a bill to amend the Social Security Act to improve benefits and coverage under title II, to establish the Social Security Administration as an independent agency, and for other purposes.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Texas [Mr. GRAMM], the Senator from California [Mr. SEYMOUR], the Senator from North Carolina [Mr. HELMS], the Senator from Missouri [Mr. BOND], the Senator from Arizona [Mr. MCCAIN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 3119

At the request of Mr. CONRAD, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 3119, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

S. 3227

At the request of Mr. DECONCINI, his name was added as a cosponsor of S. 3227, a bill to provide for the resolution of the conflicting water rights claims for lands within the Roosevelt Water Conservation District in Maricopa County, Arizona, and the Gila River Indian Reservation.

S. 3291

At the request of Mr. BRADLEY, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 3291, a bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes.

SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the names of the Senator from Florida [Mr. MACK], the Senator from New Jersey [Mr. BRADLEY], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Montana [Mr. BAUCUS], the Senator from Arkansas [Mr. BUMPERS], the Senator from California [Mr. CRANSTON], the Senator from Alabama [Mr. HEFLIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Mississippi [Mr. COCHRAN], the Senator from Kentucky [Mr. FORD], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 293, A joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week".

SENATE JOINT RESOLUTION 342

At the request of Mr. SPECTER, the names of the Senator from Nebraska [Mr. EXON], the Senator from California [Mr. CRANSTON], the Senator from New Jersey [Mr. BRADLEY], the Senator from Indiana [Mr. LUGAR], the Senator from Wisconsin [Mr. KASTEN], the Senator from Florida [Mr. GRAHAM], the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. ADAMS], the Senator from Georgia [Mr. NUNN], the Senator from Nevada [Mr. REID], the Senator from New York [Mr. MOYNIHAN], the Senator from Hawaii [Mr. AKAKA], the Senator from Georgia [Mr. FOWLER], the Senator from Nevada [Mr. BRYAN], the Senator from Massachusetts [Mr. KERRY], the Senator from Maine [Mr. COHEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Dakota [Mr. PRESSLER], the Senator from North Carolina [Mr. HELMS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. LOTT], the Senator from New Mexico [Mr. DOMENICI], the Senator from California [Mr. SEYMOUR], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Indiana [Mr. COATS], the Senator from Montana [Mr. BURNS], the Senator from Texas [Mr. GRAMM], the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. SYMMS], the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. GORTON], the Senator from Florida [Mr. MACK], the Senator from Iowa [Mr. GRASSLEY], the Senator from Illinois [Mr. SIMON], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. METZENBAUM], the Senator from Louisiana [Mr. BREAUX], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 342, A joint resolution designating May 2, 1993, through May 8, 1993, as "National Walking Week".

SENATE CONCURRENT RESOLUTION 137

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Concurrent Resolution 137, A concurrent resolution to express the sense of Congress that the Comptroller General of the United States should conduct a study of the economic impacts of Order No. 636 of the Federal Energy Regulatory Commission on residential, commercial, and other endusers of natural gas, and that the Federal Energy Regulatory Commission should refrain from processing restructuring proceedings pursuant to the order during the 60-day period after the submittal to Congress of the results of the study.

AMENDMENT NO. 3398

At the request of Mr. BUMPERS the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Amendment No. 3398 proposed to S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

SENATE CONCURRENT RESOLUTION 141—RELATIVE TO IMPACT STATEMENTS ON CERTAIN LEGISLATION

Mr. Wallop submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. Con. Res. 141

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that each committee of the Congress that reports legislation that requires employers to provide new employee benefits shall secure an objective analysis of the impact of the legislation on employment and international competitiveness and include an analysis of the impact in the report of the committee on the legislation.

SENATE RESOLUTION 355—RELATING TO THE ELECTIONS IN ANGOLA

Mrs. KASSEBAUM (for herself, Mr. DECONCINI and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 355

Whereas after seventeen years of civil war, the two major parties to the Angolan conflict, the Movement for the Popular Liberation of Angola (MPLA) and National Union for the Total Independence of Angola (UNITA), signed the Peace Accords for Angola on May 1, 1991;

Whereas on September 29 and 30, 1992, as agreed in the peace agreement, peaceful, democratic elections were held in Angola;

Whereas more than ninety percent of all registered voters participated in the elections;

Whereas, based on the accounts of international observers, including the United Nations and the International Foundation for Electoral Systems, the elections appear to have been conducted in a free and fair manner: Now, therefore, be it

Resolved, that the Senate hereby—

(1) congratulates the people of Angola on their successful elections of September 29 and 30, 1992;

(2) commends the United Nations, particularly Special Representative Margaret Anstee, and the governments of Portugal, Russia and the United States, for their committed efforts to implement the Peace Accords for Angola; and

(3) strongly urges all parties to accept the results of these elections and work together to bring about a peaceful, democratic and prosperous Angola.

• Mrs. KASSEBAUM. Mr. President, I rise tonight to introduce a resolution on the elections recently held in Angola. On September 29 and 30, Angola conducted its first democratic elections. Most international observers found the election to be generally free and fair. After 17 years of tragic civil conflict, peace was at hand.

Tonight, however, we received very disturbing news. Dr. Jonas Savimbi's UNITA fighters have withdrawn from the newly unified armed forces of Angola, threatening the transition to democracy and raising the tragic possibility that hostilities could resume.

Dr. Savimbi has challenged the validity of the elections, alleging government fraud in the electoral process. If there are legitimate complaints about the process, there is a peaceful mechanism set up under the electoral rules to resolve these complaints. The United Nations is carefully supervising the elections.

Mr. President, I join with the U.S. Assistant Secretary of State Hank Cohen in urging all parties to accept the results of the elections. Now is the time for UNITA, the MPLA government and other parties to work together for the future of their country—not to resume fighting.•

RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

LEAHY (AND LUGAR) AMENDMENT NO. 3400

Mr. LAUTENBERG (for Mr. LEAHY, for himself and Mr. LUGAR) proposed an amendment to the bill (H.R. 5237) to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Administration Improvement Act of 1992".

SEC. 2. DISCOUNTED LOAN PREPAYMENT.

(a) IN GENERAL.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) EXCEPTION.—On request of the borrower, an electric loan made under this Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the present value of the loan discounted from the face value at maturity at the rate established by the Administrator.

"(3) DISCOUNT RATE.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) TAX EXEMPT FINANCING.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) ELIGIBILITY.—

"(A) IN GENERAL.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

"(i) a borrower that has prepaid a loan, either before or after the date of enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act during the 120-month period beginning on the date of the prepayment; and

"(ii) a borrower that prepaid a loan before the date of enactment of this subsection at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

"(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

"(B) EFFECT ON EXISTING AGREEMENTS.—If a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before the date of enactment of this subsection, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(C) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) DEFINITIONS.—As used in this subsection:

"(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

"(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305.".

(b) CONFORMING AMENDMENTS.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) MERGERS OF ELECTRIC BORROWERS.—Notwithstanding".

WIC INFANT FORMULA PROCUREMENT ACT OF 1992

LEAHY AMENDMENT NO. 3401

Mr. LAUTENBERG (for Mr. LEAHY) proposed an amendment to the bill (S. 2875) to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children [WIC], and for other purposes; as follows:

S. 2875

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Nutrition Assistance Act of 1992".

TITLE I—HOMELESS CHILDREN'S ASSISTANCE

SEC. 101. SHORT TITLE.

This title may be cited as the "Homeless Children's Assistance Act of 1992".

SEC. 102. EXPENDITURE OF FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 18(c)(2)(B)(i) of the National School Lunch Act (42 U.S.C. 1769(c)(2)(B)(i)) is amended by striking "Each such organization" and inserting "Each private nonprofit organization".

SEC. 103. ALLOCATION OF RETURNED FUNDS.

Section 7(a)(5)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)) is amended—

(1) by striking ", the Secretary shall—" and inserting a colon;

(2) by striking subclause (I) and inserting the following new clause:

"(I) The Secretary shall allocate, for the purpose of providing grants on an annual basis to public entities and private nonprofit organizations participating in projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)), not more than $4,000,000 in each of fiscal years 1993 and 1994. Subject to the maximum allocation for the projects for each fiscal year, at the beginning of each of fiscal years 1993 and 1994, the Secretary shall allocate, from funds available under this section that have not been otherwise allocated to the States, an amount equal to the estimates by the Secretary of funds to be returned under this clause, but not less than $1,000,000 in each fiscal year. To the extent that amounts returned to the Secretary are less than estimated or are insufficient to meet the needs of the projects, the Secretary may, subject to the maximum allocations established in this subclause, allocate amounts to meet the needs of the projects from funds available under this section that have not been otherwise allocated to States."; and

(3) in subclause (II), by striking "then allocate," and inserting "After making the allocations under subclause (I), the Secretary shall allocate,".

SEC. 104. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on September 30, 1992.

TITLE II—WIC INFANT FORMULA PROCUREMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "WIC Infant Formula Procurement Act of 1992".

SEC. 202. WIC INFANT FORMULA PROTECTION.

(a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this title to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC).

SEC. 203. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.".

SEC. 204. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. The Secretary shall make the offer to State agencies once every 12 months. Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers.

"(iii) State agencies that elect to authorize the Secretary to perform the bid solicitation and selection process on their behalf and enter into the resulting containment contract shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v)(I) Except as provided in subclause (II), the term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be not less than 2 years.

"(II) If the law of a State regarding the duration of contracts is inconsistent with subclause (I), the Secretary shall permit a 1-year contract, with the option provided to the State to extend the contract for additional years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(viii) The bid solicitation and selection process on behalf of the State agencies shall be conducted in accordance with any procedures the Secretary deems necessary for the effective and efficient administration of the bid solicitation and selection process and consistent with the requirements of this subparagraph. The procedures established by the Secretary shall ensure that—

"(I) the bid solicitation and selection process is conducted in a manner providing full and open competition; and

"(II) the bid solicitation and selection process is free of any real or apparent conflict of interest.".

"(H) In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

"(I) To reduce the costs of any supplemental foods, the Secretary—

"(i) shall promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) shall encourage and promote (but not require) the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) shall inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) shall encourage (but not require) the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures; and

"(III) the procedures would be consistent with the purposes of the program; and

"(v) may make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to $100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

"(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.".

SEC. 205. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for whom such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.".

SEC. 206. ASSISTANCE TO ENCOURAGE ADDITIONAL COST CONTAINMENT EFFORTS.

The second sentence of section 17(h)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "formula shall—" and inserting "formula—";

(2) by inserting "shall" after the clause designations of each of clauses (i), (ii), and (iii);

(3) by striking "and" at the end of clause (ii);

(4) by striking the period at the end of clause (iii) and inserting "; and"; and

(5) by adding at the end the following new clause:

"(iv) may provide funds, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose, to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.".

SEC. 207. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

SEC. 208. STUDY.

Not later than April 1, 1994, the Secretary of Agriculture shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

(1) State agencies that request the Secretary of Agriculture to conduct bid solicitations for infant formula under section 17(h)(8)(G)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(G)(i)) (as amended by section 204 of this Act);

(2) cost reductions achieved by the solicitations; and

(3) other matters the Secretary determines to be appropriate regarding this title and the amendments made by this title.

SEC. 209. TERMINATION.

The authority provided by this title and the amendments made by this title shall terminate on September 30, 1994, except with regard to section 17(h)(8)(J) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(J)) (as amended by section 204 of this Act).

REQUIREMENTS ON IMPORTED PAPAYA

INOUYE AMENDMENT NO. 3402

Mr. LAUTENBERG (for Mr. INOUYE) proposed an amendment to the bill (S. 568) to require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PAPAYAS.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or apples" and inserting "apples, or papayas".

PIPELINE SAFETY IMPROVEMENT ACT

DANFORTH AMENDMENT NO. 3404

Mr. LAUTENBERG (for Mr. DANFORTH) proposed an amendment to the amendment of the House to the bill (S. 1583) to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations and to improve pipeline safety, and for other purposes; as follows:

At the appropriate place, insert the following new sections:

SEC. . PAGE AVENUE EXTENSION.

(a) Upon submission of a request by the State of Missouri for Federal Highway Administration approval of the Page Avenue Extension project (hereinafter cited in this section as "the project"), the Secretary of the United States Department of Transportation (hereinafter cited in this section as "the Secretary") is authorized to waive the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, for the alignment designated by the State of Missouri as the "Red Alignment", as described in the draft environmental impact statement approved by the Federal Highway Administration on May 30, 1990; if:

(1) the Secretary determines that a final environmental impact statement has been completed by the State of Missouri and approved by the Secretary; and

(2) the State of Missouri enters into an enforceable agreement with the Secretary to implement a project mitigation plan that includes, at a minimum—

(A) expansion of the Creve Coeur Lake Memorial Park (hereinafter cited in this section as "the Park") in the vicinity of St. Louis, Missouri, by at least fifty percent, through acquisition and addition to the Park of not less than 600 acres of land;

(B) development of a walking and bicycle path that is not less than ten feet in width and connects the Park to the KATY Trail State Park in St. Charles County, Missouri;

(C) construction of nature trails in the wooded upland portion of the additions to the Park referred to in subparagraph (A);

(D) development of a Wetland Wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features in the Park or in one of the additions to the Park referred to in subparagraph (A);

(E) dredging of Creve Coeur Lake to help remedy a chronic siltation problem and to promote fish and wildlife populations;

(F) construction of a new lake in one of the additions to the Park referred to in subparagraph (A) to help alleviate the recurrence of a chronic siltation problem in a manner that minimizes, to the maximum extent practicable and in accordance with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), the disturbance of any existing wetlands;

(G) design and construction of features to minimize the visual and physical impact of the project in the vicinity of the Park, consistent, to the extent practicable, with recommendations of the design committee established in accordance with subsection (c), including—

(i) the use of textured concrete, as appropriate;

(ii) the minimization of bridge pier sizing in the elevated portion of the project;

(iii) the use of a bridge design that is more aesthetically pleasing than standard elevated roadway designs;

(iv) construction of bridge siderails with materials that are effective noise attenuators to reduce operational noise levels near the bridge;

(v) design and construction of a drainage system to prevent contamination of Creve Coeur Lake and Creve Coeur Creek with pollution from roadway runoff;

(vi) landscaping of the area between the elevated roadway and Creve Coeur Mill Road to enhance visual parameters without compromising road user safety; and

(vii) the placement of signs to direct road users to appropriate park entrances and facilities;

(H) such other mitigation measures as the Secretary may determine are appropriate to ensure that the environmental benefits of the project mitigation plan exceed the environmental damage associated with the project; and

(I) a monetary contribution by the State of Missouri as may be necessary to implement the entire mitigation plan, in an amount not less than $6,000,000, including the payment of not less than $250,000 for facility improvements in the Park, and all funds to develop and implement the mitigation plan shall come from non-Federal sources of funding.

(b) None of the costs to develop or implement the project mitigation plan referred to in subsection (a) shall be considered expenditures pursuant to or in satisfaction of the transportation enhancement requirements of section 133 of title 23, United States Code (as amended by section 1007 of The Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1927-1931).

(c) The Governor of the State of Missouri shall establish a design committee to develop recommendations concerning design and construction features to minimize the visual and physical impact of the project in the vicinity of the Park. The Committee shall include representatives of local elected officials, regional park officials, local community groups, design professionals, environmental organizations, and business organizations.

(d) To the maximum extent practicable, the State of Missouri shall implement the project mitigation plan referred to in subsection (a) prior to the commencement of construction of the Page Avenue Extension project. At a minimum, the mitigation measures specified in subsection (a)(2)(A) and (a)(2)(C) shall be completed prior to commencement of construction of the Page Avenue Extension project.

(e) If the project does not comply with all other requirements of Federal environmental law that are applicable to the project, including sections 134 and 135 of title 23, United States Code (as amended by sections 1024 and 1025 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1955-1962 and 105 Stat. 1962-1965) and all other requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240, 105 Stat. 1914 et seq.), any waiver of the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, granted by the Secretary under the authority of this section shall be stayed pending a determination by the Secretary that the project has been brought into compliance with such other requirements. Any determination by the Secretary under the preceding sentence shall be subject to judicial review.

SEC. . RURAL ACCESS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037-2042) is amended in item number 52, relating to Bedford Springs, Pennsylvania—

(1) by striking "Bedford Springs,";

(2) by striking "in Bedford Springs, Pennsylvania," after "access road"; and

(3) by striking "or other projects in the counties of Bedford, Blair, Fulton, and Huntington, as selected by the State of Pennsylvania" after "therewith".

RURAL ELECTRIFICATION ACT AMENDMENTS

LEAHY (AND LUGAR) AMENDMENT NO. 3403

Mr. LAUTENBERG (for Mr. LEAHY, for himself, and Mr. LUGAR) proposed an amendment to the bill (H.R. 5954) to amend the Rural Electrification Act of 1936 to clarify the status of the Rural Telephone Bank and its accounting policy, and for other purposes; as follows:

H.R. 5954

Strike all after the enacting clause and insert the following:

SECTION 1. IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS.

(a) PROGRAMS FOR CONSORTIA IN QUALIFIED LOCAL EXCHANGE SERVICE AREAS.—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended by adding at the end the following new section:

"SEC. 2335A. SPECIAL HEALTH CARE AND DISTANCE LEARNING PROGRAM FOR QUALIFIED SERVICE AREAS.

"(a) DEVELOPMENT OF CONSORTIA.—The Administrator shall encourage the development of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

"(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;

"(2) any number of institutions that provide health care services or educational services; and

"(3) not less than three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

"(b) SPECIAL PROGRAM FOR QUALIFIED LOCAL EXCHANGE CARRIER SERVICE AREAS.—

"(1) REGULATIONS AND SPECIAL PROGRAM.—Through regulations issued not later than 190 days after the date of enactment of this section, the Administrator shall establish a program under which qualified consortia described in subsection (a) located within qualified local exchange carrier service areas may apply to the Administrator for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

"(2) SELECTION OF GRANTEES.—The Administrator shall—

"(A) establish application procedures;

"(B) review the applications submitted under this subsection in a timely manner; and

"(C) make grants in accordance with this subsection and with regulations issued by the Administrator.

"(3) PRIORITIES.—

"(A) IN GENERAL.—Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;

"(ii) the greatest likelihood of improving health care services or educational services in the rural areas;

"(iii) coordination between local exchange carriers to carry out activities as described in the application; and

"(iv) unconditional financial support from each affected local community.

"(B) GEOGRAPHIC DIVERSITY.—In awarding grants, the Administrator shall seek to achieve geographic diversity among the grantees.

"(4) MAXIMUM AMOUNT OF GRANT.—The amount of each grant awarded under this subsection shall not exceed $1,500,000.

"(5) DISTRIBUTION OF GRANTS.—Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

"(6) USE OF FUNDS.—

"(A) IN GENERAL.—Grants under this subsection may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(i) in the case of grants to improve health care services—

"(I) consultations between health care providers;

"(II) transmitting and analyzing x-rays, lab slides, and other images;

"(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(IV) developing innovative health professions education programs;

"(ii) in the case of grants to improve educational services—

"(I) developing innovative education programs and expanding curriculum offerings;

"(II) providing continuing education to all members of the community;

"(III) providing means for libraries of educational institutions or public libraries to share resources;

"(IV) providing the public with access to State and national data bases;

"(V) conducting town meetings; and

"(VI) covering meetings of agencies of State government; and

"(iii) in all cases—

"(I) transmitting financial information; and

"(II) such other related activities as the Administrator considers to be consistent with the purposes of this section.

"(7) LIMITATION ON ACQUISITION OF INTERACTIVE TELECOMMUNICATIONS EQUIPMENT.—Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

"(8) LIMITATION ON USE OF CONSULTANTS.—Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

"(9) PROHIBITIONS.—Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

"(c) EXPEDITED TELEPHONE LOANS.—Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Administrator shall respond to a completed application for such a loan no later than 45 days after receipt. The Administrator shall notify the applicant in writing of its decision regarding each such application.

"(d) DEFINITION.—As used in this section, the term 'qualified local exchange carrier service area' means the service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Administrator for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

"(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

"(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

"(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

"(4) provide for the achievement of the goals described in subparagraphs (A) through (C) not later than 10 years after the approval of the plan.".

(b) EXTENSION OF CHAPTER 1.—Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990

(7 U.S.C. 950aaa et seq.), including the amendments made by this section, shall be effective until September 30, 1997.

(c) ALLOCATION OF FUNDS.—Section 2335(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa-4) is amended by adding at the end the following new paragraph:

"(8) USE OF APPROPRIATED FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Administrator shall make available—

"(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 2335A; and

"(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 2331 through 2335.

"(B) RELEASE OF FUNDS.—Not earlier than April 1 and not later than May 1 of each year, the Administrator shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A).".

(d) EFFECT OF AMENDMENTS.—The amendments made by this section shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993.

Amend the title so as to read: "An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes.".

COMMISSION ON INFORMATION, TECHNOLOGY, AND PAPERWORK REDUCTION

LEVIN AMENDMENT NO. 3405

Mr. LAUTENBERG (for Mr. LEVIN) proposed an amendment to the bill (H.R. 5851) to establish the Commission on Information, Technology, and Paperwork Reduction; as follows:

H.R. 5851

On page 1, strike out line 3 and insert in lieu thereof the following:

TITLE I—COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION

SEC. 101. FINDINGS AND PURPOSE.

On page 2, line 17, strike out "**sec. 2.**" and insert in lieu thereof "**sec. 102.**".

On page 2, line 18, strike out "section (1)(b)" and insert in lieu thereof "section 101(b)".

On page 2, line 22, strike out "**sec. 3.**" and insert in lieu thereof "**sec. 103.**".

On page 7, line 3, strike out "**sec. 4.**" and insert in lieu thereof "**sec. 104.**".

On page 8, line 5, strike out "**sec. 5.**" and insert in lieu thereof "**sec. 105.**".

On page 8, line 9, strike out "4" and insert in lieu thereof "IV".

On page 9, line 1, strike out "**sec. 6.**" and insert in lieu thereof "**sec. 106.**".

On page 9, line 4, strike out "Act" and insert in lieu thereof "title".

On page 9, line 19, strike out "5" and insert in lieu thereof "V".

On page 10, line 14, strike out "**sec. 7.**" and insert in lieu thereof "**sec. 107.**".

On page 10, line 21, strike out "Act" and insert in lieu thereof "title".

On page 11, line 4, strike out "**sec. 8.**" and insert in lieu thereof "**sec. 108.**".

On page 11, line 6, strike out "Act" and insert in lieu thereof "title".

On page 11, line 7, strike out "**sec. 9.**" and insert in lieu thereof "**sec. 109.**".

On page 11, line 9, strike out "section 3" and insert in lieu thereof "section 103".

On page 11, line 10, strike out "**sec. 10.**" and insert in lieu thereof "**sec. 110.**".

On page 11, line 11, strike out "Act" and insert in lieu thereof "title".

On page 11, add after line 11 the following:

TITLE II—NONDEVELOPMENT ITEMS ACQUISITION

SEC. 201. SHORT TITLE.

This title may be cited as the "Nondevelopmental Items Acquisition Act of 1992".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the acquisition of nondevelopmental items can lower Federal agency procurement costs by—

(A) reducing or eliminating the need for research and development;

(B) reducing acquisition lead time by making use of existing production lines and facilities;

(C) opening competition for Federal agency contracts to thousands of manufacturers who sell products in the commercial market; and

(D) increasing Federal agency access to the market-driven innovations and efficiencies available in the commercial market;

(2) the efficient acquisition of nondevelopmental items is impeded when Federal agencies impose complicated specifications and unnecessarily burdensome contract requirements on simple commercial and off-the-shelf products; and

(3) legislation is needed to reduce impediments to the acquisition of nondevelopmental items and encourage increased acquisition of such items.

(b) PURPOSE.—The purposes of this title are to—

(1) establish a preference for the use of performance specifications and the acquisition of nondevelopmental items by Federal agencies;

(2) require training of appropriate personnel in the acquisition of nondevelopmental items;

(3) require Federal agencies to designate personnel responsible for promoting the acquisition of nondevelopmental items and challenging barriers to the acquisition of nondevelopmental items; and

(4) reduce impediments to the acquisition of nondevelopmental items by Federal agencies.

SEC. 203. NONDEVELOPMENTAL ITEMS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"ACQUISITION OF NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall require that, to the maximum extent practicable—

"(1) the requirements of Federal agencies with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(3) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(4) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(b) As used in this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously developed item of supply that is in use by a department or agency of the United States, or a State or local government;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Acquisition of nondevelopmental items.".

SEC. 204. COMMERCIAL ITEMS.

(a) SIMPLIFIED UNIFORM CONTRACT.—(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

(B) In addition to the clauses described under subparagraph (A), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(2)(A) The Federal Acquisition Regulation shall require that, except as provided in subparagraph (B), a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A), a contractor under a

Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note) in lieu of the uniform contract and subcontract clauses developed under this subsection.

(b) WARRANTIES.—The Federal Acquisition Regulation shall require that, to the maximum extent practicable, Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(c) MARKET ACCEPTANCE.—The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use; or

(B) been satisfactorily supplied under current or recent contracts for the same or similar requirements; and

(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

(d) PAST PERFORMANCE.—The Federal Acquisition Regulation shall provide guidance to Federal agencies on the use of past performance of products and sources as a factor in award decisions.

(e) DEFINITIONS.—As used in this section—

(1) the term "commercial item" means any item of supply that—

(A) requires no modifications or only minor modifications to meet the needs of the procuring agency;

(B) regularly is used for other than Government purposes; and

(C) is sold or traded to the general public in significant quantities in the course of normal business operations; and

(2) the term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 472(a)).

SEC. 205. RULE OF CONSTRUCTION.

Nothing in this title or amendments made by this title shall be construed to impair or affect the authorities or responsibilities conferred by section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) with respect to the procurement of automatic data processing equipment and services.

SEC. 206. IMPLEMENTATION.

(a) TRAINING.—The Administrator for Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of appropriate personnel in—

(1) the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(2) market research techniques and the drafting of functional and performance specifications.

(b) NONDEVELOPMENTAL ITEMS ADVOCATES.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.".

(c) REGULATIONS REQUIRED.—Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment.

Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(d) IMPROVED MARKET RESEARCH.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(1) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(2) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including use of existing Government resources; and

(3) such recommendations for changes in law or regulation as the Comptroller General may consider appropriate.

TITLE III—GENERAL ACCOUNTING OFFICE BID PROTEST SYSTEM.

SEC. 301. GENERAL ACCOUNTING OFFICE BID PROTEST SYSTEM.

(a) GAO RECOMMENDATIONS ON PROTESTS.—Section 3554 of title 31, United States Code, is amended—

(1) in subsection (b) by adding at the end the following new paragraph:

"(3) The head of the procuring activity responsible for the solicitation, proposed award, or award of a contract shall report to the Comptroller General if the Federal agency has not fully implemented recommendations of the Comptroller General under this subsection with respect to that contract within 60 days after receiving the recommendations, by not later than the end of that 60-day period.";

(2) in subsection (c)(1) by striking "declare an appropriate interested party to be entitled to" and inserting "recommend that the Federal agency conducting the procurement pay to an appropriate interested part";

(3) by amending subsection (c)(2) to read as follows:

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay an amount of costs to an interested party, the Federal agency shall—

"(A) pay the amount promptly out of amounts appropriated by section 1304 of this title for the payment of judgments, and reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose, or

"(B) report to the Comptroller General promptly why the recommendation will not be followed by the agency.";

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) An interested party to which the Comptroller General has recommended that costs be paid under paragraph (1) and the Federal agency recommended to pay those costs shall attempt to reach agreement on the amount of the costs to be paid, but if they are unable to agree, a party may request that the Comptroller General recommend the amount of the costs to be paid."; and

(5) by amending subsection (e) to read as follows:

"(e)(1) The Comptroller General shall report promptly to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives and to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate in any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General, and

"(B) a recommendation regarding whether, in order to correct inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a summary report describing each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year.".

(b) RATIFICATION OF PRIOR AWARDS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments, and the Federal agency shall reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 45-day period beginning on the date of the enactment of this Act.

RELIEF OF LLOYD B. GAMBLE

THURMOND AMENDMENT NO. 3406

Mr. JEFFORDS (for Mr. THURMOND) proposed an amendment to the bill (H.R. 3590) for the relief of Lloyd B. Gamble; as follows:

On page 1, line 10, immediately following the words "United States arising from" add the following: "economic or non-economic".

EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992

HARKIN (AND DURENBERGER) AMENDMENT NO. 3407

Mr. LAUTENBERG (for Mr. Harkin, for himself and Mr. Durenberger) proposed an amendment to the bill (H.R. 5483) to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes; as follows:

H.R. 5483

On page 3, line 25, strike out "and".

On page 3, after line 25, add the following:

(B) in paragraph (4) by amending the paragraph to read as follows:

" '(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing.'; and".

On page 4, line 1, strike "(B)" and insert "(C)".

Beginning on page 4, strike out line 12 and all that follows through line 17 on page 5, and insert the following new section:

"SEC. 104. ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS.

"(a) General Authority.—(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 105, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf and individuals who are hard of hearing throughout the Nation.

"(B) The elementary and secondary programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

"(C) The elementary and secondary programs described in subparagraph (A) shall include—

"(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for high school and other secondary study; and

"(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for college, other postsecondary opportunities, or the workplace.".

On page 6, line 8, insert before the semicolon "or hard of hearing".

On page 6, line 11, after "deaf" insert "or hard of hearing".

On page 6, line 12, after "deaf" insert "or hard of hearing".

On page 6, line 20, after "deaf" insert "or hard of hearing".

On page 11, line 25, strike "and" after the semicolon.

On page 12, line 10, strike the period and insert "; and".

On page 12, between lines 10 and 11, insert the following:

(3) in subsection (b) by adding, at the end the following new paragraph:

"(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing.".

On page 15, line 5, insert before the period ", except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions".

On page 16, line 15, strike the end quotation marks and the second period.

On page 16, between lines 15 and 16, insert the following new subparagraph:

"(C) The Secretary is not authorized to add items to those specified in subparagraph (B).".

On page 19, line 14, strike "Section" and insert "(a) Education of the Deaf Act.—Section".

On page 19, line 17, strike "**and evaluation**" and insert "**, evaluation, and reporting**".

On page 20, between lines 17 and 18, insert the following new subsection:

(b) Report.—Not later than 180 days after the date of enactment of the Education of the Deaf Act Amendments of 1992, the Secretary of Education shall submit a report to Congress regarding progress made by the Department of Education in implementing the recommendations of the Commission on Education of the Deaf pertaining to the provision of a free and appropriate public education to children who are deaf, and children who are hard of hearing, and with respect to the establishment of standards for programs and personnel to meet the educational, communicative, and psychological needs of children who are deaf, and children who are hard of hearing. In preparing this report, the Secretary of Education shall solicit input from the community of individuals who are deaf, and individuals who are hard of hearing.

On page 21, line 2, before the period insert "or hard of hearing".

On page 21, line 14, after "deaf" insert "or hard of hearing".

Beginning on page 22, strike line 4, and all that follows through line 23 on page 27, and insert the following new subsections:

"(a) Establishment of Programs.—

"(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

"(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

"(b) Federal Payments.—

"(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) from amounts appropriated under subsection (h) for the fund involved.

"(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

"(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved).

"(c) Investments.—

"(1) Except as provided in subsection (e), the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of the Internal Revenue Code of 1986, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

"(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the Advisory Board of NTID is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothocate, encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

"(d) Withdrawals and Expenditures.—

"(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

"(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

"(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

"(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

"(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

"(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) Investment and Expenditure Flexibility.—The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations and to the withdrawal and expenditure limitations of subsection (d)(3).

"(f) Recovery of Payments.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

"(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

"(g) Definitions.—As used in this section:

"(1) The term 'corpus', with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

"(2) The term 'Federal endowment fund' means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

"(3) The term 'income', with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

"(4) The term 'institution involved' means the University or NTID, as the case may be.

"(h) Authorization of Appropriations.—

"(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

"(i) Effective Date.—The provisions of this section shall take effect as if included in the provisions of the Education of the Deaf Act of 1986.".

On page 29, line 17, strike "71" and all that follows through "1997" on line 20, and insert "75 percent beginning the academic year 1993-1994, and 90 percent beginning the academic year 1994-1995".

On page 29, between lines 20 and 21, add the following new subsections:

"(c) Reduction of Surcharge.—Beginning the academic year 1993-1994 and thereafter, the University or NTID may reduce the surcharge under subsection (b) to 50 percent if—

"(A) a student described under subsection (b) is from a developing country;

"(B) such student is unable to pay the tuition surcharge under subsection (b); and

"(C) such student has made a good faith effort to secure aid through such student's government or other sources.

"(d) Definition.—For purposes of subsection (c), the term 'developing country' means a country that has a 1990 per capita income not in excess of $4000 in 1990 United States dollars.".

Beginning on page 32, strike out line 9 and all that follows through line 12 on page 36 and insert the following:

SEC. 201. POSTSECONDARY EDUCATION.

(a) Regional Centers.—Section 625(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1424a(a)) is amended by inserting after the first sentence in paragraph (6) the following new sentences: "The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C-G of the Act is extended by September 30, 1994."

(b) Study.—There shall be conducted a General Accounting Office study of the four regional centers for the deaf under section 625(a)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1424(a)(2)). The scope of such study shall be determined by the Chairpersons and Ranking Minority members of the Subcommittee on Disability Policy of the Committee on Labor and Human Resources in the Senate, and of the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives.

Beginning on page 39, strike out line 8 and all that follows through line 10 on page 40.

On page 40, line 11, strike "**Subtitle C**" and insert "**Subtitle B**".

On page 40, strike lines 13 through 16 and insert the following:

The amendments described in this title shall take effect on October 1, 1992.

FEDERAL PROGRAM IMPROVEMENT ACT

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 3408

Mr. D'AMATO (for himself and Mr. Moynihan) submitted an amendment intended to be proposed by them to the bill (H.R. 3837) to make certain changes to improve the administration of the Medicare program, to reform overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans; as follows:

Strike all after the enacting clause and insert:

"(c) Special Merchandise Completed or Assembled in the United States or in Other Foreign Countries

(1) Special Provision.—If—

"(A) merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736 on May 9, 1980 or August 28, 1991,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or supplied directly or indirectly by an exporter or producer covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied from the foreign country or any third country(ies), or

"(B)(ii) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

(I) is subject to the relevant order,

(II) is produced in the foreign country with respect to which such order applies, or

(III) is supplied by an exporter or producer covered by the order, or by suppliers that have historically supplied that merchandise to that exporter or producer or to any other exporter or producer covered by the order, or by any party related to the exporter, producer, or historical supplier, whether such merchandise is supplied from the foreign country or any third country(ies), and

"(C) with respect to merchandise under paragraph (B)(ii), the administering authority determines that action is appropriate under such paragraph to prevent evasion of such order, and

"(D) the difference between the value of such merchandise sold in the United States and the value of the imported parts or components referred to in subparagraph (B)(i), or the merchandise referred to in subparagraph (B)(ii), is small.

the administering authority, after taking into account any advice provided by the Commission under subsection (f), may include within the scope of the relevant order the imported parts or components referred to in subparagraph (B)(i) that are used in the completion or assembly of the merchandise in the United States, or such imported merchandise referred to in subparagraph (B)(ii), at any time such order is in effect.

Parts or components not identified in subsection (c)(1)(B)(i) and merchandise not identified in subsection (c)(1)(B)(ii) shall not be included within the scope of the outstanding order if a finding of circumvention is made under this section.

"(2) Factors to consider.—In determining whether to include parts or components, or merchandise assembled or completed in a foreign country, in the relevant antidumping duty order under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B)(i) whether the manufacturer or exporter of the parts or components described in (1)(B)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order described in subparagraph (1)(A) applies, or

"(B)(ii) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B)(ii) is related to the person who uses the merchandise described in paragraph (1)(B)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(iii) whether imports into the United States of the parts or components described in subparagraph (1)(B)(i), or imports into the foreign country of the merchandise described in paragraph (1)(B)(ii)(I), (II) and (III), have increased after the filing of the petition, issuance of such order or, if the allegation of circumvention has been raised more than one year after the issuance of such order, have increased since the time circumvention is alleged to have commenced.

"(C) FORCE AND EFFECT.—This section shall have no force or effect if the petitioner in the investigations referenced in paragraph (a)(1) cease production or final assembly of such products in the U.S. or shifts the sourcing of major components to a foreign country.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Monday, October 5, 1992, at 3:30 p.m. in Executive Session, to consider the nominations of: (A) Vice Admiral David M. Bennett, USN, to be Inspector General of the Navy; (B) Vice Admiral Richard C. Macke, USN, to be Director of the Joint Staff; and (C) Lieutenant General Henry J. Viccellio, Jr., USAF, for promotion to the grade of general and to serve as the Commander, Air Training Command; to receive a briefing on the accidental firing of a missile into the Turkish ship TCG Muavenet, and on naval personnel matters related to certain navy nominations; to consider certain pending military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 12:00 noon on Tuesday, October 6, 1992, in Executive Session, to continue to discuss pending military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING THE GENERAL MOTORS WOMEN'S CLUB

• Mr. LEVIN. Mr. President, I am here today to commemorate the General Motors Women's Club 50th anniversary.

The General Motors Women's Club was founded in September 1942. Their primary mission was to assist local charities in the Saginaw and Bay City areas of Michigan through volunteer projects and fund raising activities. Through the years, their efforts have been successful, raising hundreds of thousands of dollars, for various organizations such as the East Side Soup Kitchen, Restoration Community Outreach, Cystic Fibrosis, Hospital Hospitality Houses, the Salvation Army, and Big Brothers/Big Sisters.

In honor of the anniversary of the club, members have raised funds to provide two annual scholarships to Saginaw Valley State University beginning this fall, which the club hopes will support women in the business field.

But their efforts do not stop there. Every Easter the women's club hosts a party for mentally handicapped children and adults. At Christmas-time they host a special Christmas party for the Community Village.

Over the past 50 years the General Motors Women's Club has provided help for the less fortunate members of their communities. Michigan is fortunate to have such concerned citizens, and we truly appreciate them.•

JUDICIAL NOMINATIONS

• Mr. SPECTER. Mr. President, I compliment the distinguished chairman of the Judiciary Committee, Senator BIDEN, for his leadership in moving so many judicial nominations through the committee and through final approval by the Senate.

While I fully understand the realities of 1992, I do wish to commend two outstanding Federal judges who have been approved by the Judiciary Committee for the Court of Appeals for the Third Circuit, but who have not been considered by the full Senate through no fault of their own. Judge Jay C. Waldman and Judge Franklin S. Van Antwerpen serve on the U.S. District Court for the Eastern District of Pennsylvania where they enjoy outstanding reputations. They have unblemished records and enjoy the respect of their colleagues and prominent members of the bar with whom I am familiar.

Both Judge Waldman and Judge Van Antwerpen received the highest rating of well qualified from the American Bar Association for the Third Circuit. I consider it important to note their outstanding qualifications to avoid any possible inference that any facet of either of their records was responsible for their not being considered by the full Senate.

I trust that Judge Waldman and Judge Van Antwerpen will have an opportunity for confirmation for the Court of Appeals for the Third Circuit next year.•

TRIBUTE TO JOHN A. LUKE

• Mr. SARBANES. Mr. President, it gives me great pleasure to add my voice to the chorus of well-wishers who congratulate Mr. John A. Luke upon his retirement from Westvaco Corp. John, who serves as president and chief executive officer, is ending a distinguished career that has spanned more than four decades.

He joined Westvaco in 1949 after graduating from Yale University and service in the U.S. Air Force. From 1955 through 1962, he lived in my State and served as manager of Westvaco's fine papers mill in Luke. That city bears his family name and was the birthplace of his company more than 100 years ago. From those beginnings Westvaco has become one of the top 200 industrial companies in America and markets its products in more than 50 nations.

In his career progression through Westvaco, John has had direct responsibility for much of the company's growth and many of its major activities. He executed a carefully planned series of companywide growth programs during periods of great change and challenge in the world economy resulting in major gains in the company's competitive stature.

My State has been a significant beneficiary of the company's growth. In fact, in 1987 I had the pleasure of joining John and other Westvaco officials in announcing a $200 million capital project for the Luke mill. As a result, the mill's future prospects increased considerably; and Westvaco responded by more than doubling actual investment to a total of more than half a billion dollars over 5 years. The company has also upgraded a research facility in Laurel and a container plant in Baltimore. Today, Westvaco employs more than 2,100 people in Maryland and has a total annual economic impact on the State of nearly $400 million.

I have had the pleasure of visiting with John and with other Westvaco people on a number of occasions. Through such experiences, I have become well acquainted with the high standards of business conduct that John has instilled throughout the entire Westvaco organization. Just as he emphasizes his company's growth, John stresses outstanding corporate citizenship and broad and responsible environmental stewardship. He has truly been a friend with a strong attachment to the State of Maryland.

It has been a privilege to know John and to work with him and other

Westvaco people to expand the company presence in Maryland. It is a pleasure for me to join with his family, friends, and colleagues in wishing him well in his retirement.•

THE EPA AND LAKE CHAMPLAIN

• Mr. LEAHY. Mr. President, I would like to address the Senator from Maryland, the chair of the VA, HUD, and Independent Agencies Appropriations Subcommittee, regarding a minor clarification on the fiscal 1993 $2.25 million appropriation for Environmental Protection Agency [EPA] Lake Champlain basin activities which passed the Senate on September 25.

Ms. MIKULSKI. Mr. President, would the Senator from Vermont outline the nature of that clarification?

Mr. LEAHY. I have been concerned that some important Lake Champlain constituencies, including the fishing public, have been underrepresented on the Lake Champlain Management Conference. I would appreciate the support of the VA, HUD Appropriations Subcommittee in recommending that, as new appointments are made to fill management conference resignations as they occur, the conference and the Vermont and New York Citizens Advisory Committees make every effort to promote extensive representation of all Lake Champlain interests.

Ms. MIKULSKI. Mr. President, the Senator from Vermont can be assured that in recommending the continuation of EPA funding to implement the Lake Champlain Special Designation Act (Public Law 101-596), the subcommittee supports the broadest possible representation of diverse interests on the management conference and encourages the participants to address this matter as you have suggested.

Mr. LEAHY. Thank you, Mr. President, and my thanks to the Senator from Maryland. The Lake Champlain Basin Program continues to benefit from her ongoing interest and assistance.•

INDIAN TRIBAL GOVERNMENT WASTE MANAGEMENT ACT OF 1992

• Mr. INOUYE. For the past 2 years, the Select Committee on Indian Affairs has been involved in addressing the issues surrounding solid waste problems on Indian lands. S. 1687, the Indian Tribal Government Waste Management Act of 1991 was introduced by Senator McCAIN and myself on August 2, 1991. The measure was favorably reported by the select committee to the Senate on July 2, 1992.

Tribal governments, like State and local governments, have been confronted with the often urgent need to address issues of solid waste disposal. Immediate attention must be focused upon the resolution of problems associated with open dumps on Indian Reservation Lands.

There are over 650 sites on Indian Lands where solid waste is deposited. This number includes 108 tribally owned landfills which were constructed by the Indian Health Service and which met existing IHS standards when they were built. Since 1970, however, because more stringent standards have been enacted by the Congress, at this time, only 2 of the 108 tribal landfills are in compliance with EPA requirements.

In addition, the select committee has been involved in addressing the matter of commercial waste project development on Indian lands.

S. 1687 addresses these two major issues. While I understand that this measure cannot be acted upon this session, the members of the select committee, with the support of the Environment and Public Works Committee, intend to craft a bill to address these issues in the next Congress.

I now ask my friend from the State of Arizona and vice chairman of the select committee for his comments.

Mr. McCAIN. I thank my good friend from the State of Hawaii.

Mr. President, on August 2, 1991, I introduced S. 1687, the Indian Tribal Government Waste Management Act of 1991. I introduced this bill to stimulate discussion about the idea of establishing a framework for Indian tribal governments to regulate and enforce programs necessary for sound waste management operations on Indian lands, and for the provision of financial, technical, and administrative assistance to tribal governments. This bill was the focus of two hearings conducted by the Select Committee on Indian Affairs. As stated by the distinguished chairman of the select committee, S. 1687 was favorably reported out of the select committee on July 2, 1992.

On July 2, 1992, the Environment and Public Works Committee sought sequential referral. The environment committee expressed both jurisdictional and substantive concerns about the bill. In their request for referral, the environment committee indicated their willingness to cooperate in developing a mutually acceptable agreement to facilitate consideration of this measure by the select committee. In the past several weeks, staff of the select committee and the environment committee have met to consider the concerns of the environment committee.

Unfortunately, due to the lack of time remaining in this session, it appears that the two committees will not be able to reach a mutually acceptable agreement with regard to this legislation. I am pleased that the environment committee has recognized the need to address environmental issues on Indian lands, and has pledged their support in reaching such an agreement in the next Congress.

In the course of discussions, both committees recognize that Indian tribal government face unique environmental problems. There is also recognition that most tribal governments have not received adequate Federal funding or technical assistance to develop necessary environmental programs. Further, tribal governments, unlike local and State governments, do not have an underlying tax base on which to draw revenue for solid waste management purposes. These factors, combined with the Federal trust responsibility for the protection of Indian lands and resources, necessitate special legislation.

It must also be recognized that tribal governments, unlike local or State governments, must coordinate activity with the Bureau of Indian Affairs [BIA], the Environmental Protection Agency [EPA], and the Indian Health Service [IHS]. The historic lack of coordination between BIA, EPA, and IHS with respect to these issues may be attributed to the overlapping and conflicting authority of each agency. The select committee has received numerous complaints from tribal governments which suggest that serious threats to reservation environments are not being addressed by BIA, IHS, or EPA. I believe that S. 1687 is necessary to streamline and clarify the roles of the three Federal agencies.

While the BIA historically has had broad statutory authority to approve or disapprove various activities on Indian lands, in the area of waste management, Congress has never provided explicit direction, guidelines or standards for the exercise of that authority.

With these considerations in mind, I look forward to working with the Environment and Public Works Committee next year to shape a bill which will address these environmental problems on Indian lands.

Mr. MOYNIHAN. I would say to my colleagues on the Select Committee on Indian Affairs that I welcome the opportunity to work with them to resolve our mutual concerns about waste management on Indian lands. The members of the select committee are to be commended for their efforts on this matter and I assure the chairman and vice chairman that I will continue to work with them to address the problems they have outlined.

Mr. CHAFEE. I am happy to offer my support to the Select Committee on Indian Affairs with regard to addressing these complex issues.

The Environment Committee's initial concern, expressed on July 2, 1992, was that provisions of S. 1687 where perhaps duplicative of provisions in a S. 976, the Resource Conservation and Recovery Act Amendments of 1992. That measure sets forth a comprehensive process through which tribal governments may achieve primary enforcement responsibility, and grant funding, to regulate solid and hazardous waste facilities on reservation lands.

In addition, the Environment Committee expressed concern that certain provisions of S. 1687 provided for a system of solid and hazardous waste management on Indian lands that is possibly inconsistent with the terms of the Solid Waste Disposal Act.

Based upon our meetings with the select committee staff, the Environment Committee has learned that S. 1687 is not intended to be inconsistent with the Solid Waste Disposal Act. In addition the Environment Committee understands there are unique issues which are not addressed in S. 976. Nonetheless, the Environment Committee has concerns which must be addressed before this measure can move forward. Unfortunately, that will not be possible in the time remaining in this session.

The Environment Committee recognizes the Federal Government has a trust responsibility to Indian tribal governments. The Environment Committee also recognizes that tribal governments, unlike local and State governments, must work cooperatively with three Federal agencies in matters involving waste disposal and management. These are certainly factors which should be considered.

With these concerns in mind, I look forward to the Environment Committee working with the select committee in shaping a bill that will allow tribal governments to fulfill their objective of maintaining a clean environment. The protection of the environmental quality of Indian reservations is in the best interests of all residents of a reservation community as well as of adjacent non-Indian communities.

Mr. BAUCUS. I am also pleased to pledge my cooperation to the chairman and vice chairman of the Select Committee on Indian Affairs in developing legislation to address the problems of waste management on Indian lands. During consideration of S. 976, amendments to the Resource Conservation and Recovery Act by the Environment and Public Works Committee earlier this year, I supported provisions to grant state status to tribal governments for the purpose of managing solid and hazardous waste programs. I would be pleased to work with my colleagues on the select committee next Congress to craft mutually acceptable legislation.

Mr. McCAIN. I thank the distinguished Senators from the Environment and Public Works Committee for their support. I also want to express my appreciation to the Environment Committee for securing language in S. 976 that would treat Indian tribal governments as states for purposes of RCRA. I look forward to working with the Environment Committee in the next Congress.●

TRIBUTE TO ROBERT C. BAIRD

● Mr. DURENBERGER. Mr. President, it is my pleasure to mark the retirement, after over 30 years of service to the State of Minnesota and the Nation, of Robert C. Baird, deputy assistant commissioner of the Minnesota Department of Human Services.

Bob has been the director of Minnesota's Medicaid Program since it began in 1966. In a time when government officials seem to last only a couple of years in any position, Bob's commitment and knowledge have led Minnesota to be one of the Nation's most respected Medicaid programs, run efficiently, creatively, and compassionately.

Bob set up one of the first Medicaid management information systems, which are so important to efficient program operation. And he has been a leader, now copied by the majority of States, in enrolling Medicaid clients in health maintenance organizations and other forms of managed care. The last time he testified before the Senate was last April, when he shared his expertise on this topic with me and my colleagues on the Finance Committee.

As long as anyone can remember, Bob has been an important influence at the national level. For many years he served on the executive committee of the State Medicaid Directors Association, working closely with the Health Care Financing Administration particularly in the areas of management information systems, managed care, and third-party liability.

Unlike some people whose work brings them to Washington, Bob saw the interests he represented as being consistent with, not opposed to, those of the Federal Government. He established an excellent working relationship with HCFA officials, who valued his expertise and ability. Last month, Bob was awarded the HCFA Administrator's Citation, and among his many contributions the citation noted that his recommendations on prescription drug processing have saved the Federal Government over $60 million a year.

I know how much everyone who worked with Bob will miss him. He has achieved a great deal, and at all times he has been a gentleman, a diplomat, and a mentor to the many people who have worked with him.

Last week about 150 of his friends and colleagues honored him with quite a party. His retirement present was a canoe, and that is so fitting for someone who loves the Minnesota wilderness as much as he does. I wish him happiness and I thank him and congratulate him for his many years of service and accomplishment.●

PIMA COUNTY SUMMER JOBS PROGRAMS

● Mr. McCAIN. Mr. President, I want to call the attention of my colleagues to the August 28 article in the Wall Street Journal entitled "Summer Youth-Jobs Program Falls Short of Its Mark Despite Emergency Funding." It appears that this article does not tell the whole story of local summer jobs program efforts.

I recently received a copy of a letter for Mr. Jim Mize, chairman of the Pima County Private Industry Council, addressed to the editor of the Wall Street Journal which outlines in very clear terms how the article falls short. I ask that the letter from Mr. Mize and a copy of the Wall Street Journal article be printed in the RECORD following my remarks.

The material follows:

PIMA COUNTY
PRIVATE INDUSTRY COUNCIL,
Tucson, AZ, August 28, 1992.

EDITOR,
The Wall Street Journal, New York, NY.

DEAR EDITOR: Your August 29, article, "Summer Youth Jobs Program Falls Short of its Mark Despite Emergency Funding" misled your readers. Not every city faced an "administrative nightmare" and "organizational snafus."

Recognizing the crisis in summer jobs for youth, our Private Industry Council had already launched several local job programs early in the summer. The County Board of Supervisors contributed $250,000 of local money and private businesses added 100 positions.

When the federal supplement came, we were well-prepared for the infusion of urban aid funding approved by Congress. Each year we have many more applicants than available slots. Anticipating passage of the bill, the JTPA staff had already worked with service providers and asked employers for additional worksites so that more youth could be put to work immediately. When we were notified of additional funds, 420 youth were contacted by staff and placed in a job or in remedial education classes within a week. This program lasted 5 weeks and provided much needed income to youth and their families.

We are proud of our summer program, especially its remedial education component. This year, we enrolled 60% of all youth in remedial education. On average, youth gained a year and a half grade increase over the summer.

Thanks to additional funding, and pledges from local employers, 1,200 youth were served instead of the 500 possible with the original federal allocation. Your review of selected cities seriously undermines the positive response in many communities.

Sincerely,

JIM MIZE,
Chairman.

[From the Wall Street Journal, Aug. 28, 1992]

SUMMER YOUTH-JOBS PROGRAM FALLS SHORT OF ITS MARK DESPITE EMERGENCY FUNDING

(By Bob Ortega and Carol Hernandez)

DALLAS.—Fourteen-year-old Charlotte Wilson got her first job this summer, courtesy of the $1.1 billion urban-aid-bill enacted by Congress as a response to the Los Angeles riots.

Unfortunately, her job, watching younger children at a day-care center here, lasted only five days—about as long as the riots. Although she applied for the summer youth-jobs program in April, after her father was laid off from a factory job, her position didn't materialize until late August, just days before the school year began. "My whole summer was wasted," she says with a frown.

She has plenty of company. In a classic example of the gap between promises made in Washington and programs delivered on city streets, the summer youth-jobs initiative appears to have fallen short of its mark. With kids beginning to return to school all over the country, the Department of Labor estimates that the emergency appropriation created 265,000 jobs, far short of the 400,000 anticipated by Congress. Thousands of teens who wanted the minimum-wage jobs never got them; and, because of bad timing and organizational snafus, many who did receive jobs worked only briefly.

TWO DIFFERENT VIEWS

"The program is peanuts," says Max Sawicky, a public-finance economist at the Economic Policy Institute, a Washington, D.C., think tank. He calls the appropriation "a public-relations decision."

But Hugh Davies, who oversees the summer youth-jobs program for the U.S. Department of Labor, defends the effort, saying: "As late as the money came, and as short time as the system had to gear up, I think it was a tremendously successful program."

Few disagreed about the need to help youths find summer jobs. Despite a shrinking teenage labor force, teen unemployment reached 23.6 percent in June, the highest figure since the early 1980s. Because of the recession, far fewer jobs were available in the retail and service industries that hire most teens.

But the bill swerved off the fast track before it left the station. Bickering among factions in Congress and the Bush administration delayed the measure for two months. By June 22, when the president signed the bill, most cities' summer job programs had been under way for weeks.

The final $1.1 billion measure, besides providing emergency increases in existing disaster programs for Los Angeles and Chicago, earmarked $500 million for youth-jobs creation around the country, tacked onto an existing $683 million youth-employment budget already on hand. State governments were given money to distribute through local private-industry councils, bodies created in the early 1980s to oversee federal job programs. The money paid the salaries for the teenagers, who filled jobs with government agencies and nonprofit organizations, as well as the councils' administrative expenses.

Even under normal circumstances, the local councils have a tough time lining up jobs. They typically have to start contacting prospective employers as early as February but may not find out how much federal money they will get till months later. And the last-minute funding bonanza forced the agencies to do in two weeks what they would normally do in three or four months.

Many cities were swamped with applicants. In Oakland, Calif., 1,000 youths waited in line at the local convention center an hour before the doors opened for a one-day sign-up. "The kids are there," says Manuel Rico, assistant director for the summer youth-jobs program in Los Angeles. "We're having trouble developing the jobs." He estimates that, by Labor Day, Los Angeles will have spent just 80% of the $27 million it received.

Other cities have had the opposite problem. In Houston, agency workers spent weeks handing out fliers at city pools and advertising in church bulletins to attract teens. Only after more than 1,000 jobs remained unfilled by the third week in July did the agency ask for help from local television stations and newspapers. Within days, 6,000 youths applied.

ADMINISTRATIVE NIGHTMARES

Cities that created jobs quickly often faced administrative nightmares. The Washington, D.C., city government assigned 1,000 youths to clean up and beautify more than 50 public-housing projects and crammed 1,500 more into an arts program where they played music in bands, put on plays or took part in other arts programs. Both programs paid the same $4.25-an-hour minimum wage.

Suddenly swamped with more than 2,500 youths, instead of the 1,000 it had contracted for, D.C. Artworks, the non-profit group running the arts program, sometimes sent youths to the wrong places to pick up their pay. Others stood in line for up to five hours before being turned away empty-handed, prompting the city to intervene to straighten things out.

Dallas provides a good snapshot of the program's snags. Ill-prepared for the rush of new money, which more than doubled the total funding to $8.3 million from $3.5 million, the local Private Industry Council found itself working 12-hour shifts and still struggling to find enough additional jobs. Many youths who registered in early spring weren't contacted for months, if at all, while thousands were turned away because they didn't meet Dallas' stringent poverty requirements.

By summer's end, the Dallas council had spent only about 75% of the extra $4.8 million it was granted, even after extending the program by a few extra weeks, raising hours for interested youths in the program from 30 a week to 40 a week and buying 3,600 packs full of school supplies to pass out with the last paychecks.

Local critics lambasted the agency. "This is a classic example of throwing money at a problem and then pretending that it has gone away," says Chris Luna, a city-council member.

Laurie Bouillion Larrea, executive director of the Dallas council, concedes that the agency was slow to adjust to the new funds but argues that it couldn't start trying to match kids with jobs until it knew the precise level of funding. "There isn't anybody to make good on the bills if you guessed wrong," she says.

But that is little consolation to Douglas Manley, 15 years old, who says council workers told him in June that all the summer jobs had been taken, then failed to contact him when the new funds arrived. Douglas wound up as an unpaid volunteer at a small church, handing out bologna sandwiches and chips to children.

Timothy Maxey, a cheerful 15-year-old volunteering alongside Douglas, was rejected by the summer youth-jobs program after reporting that his mother, who is single, makes about $14,000 a year on the assembly line at a pump plant. "What they don't realize is that after paying rent and all the bills, we're struggling," he says.

LEARNING EXPERIENCE

Not every teen was disappointed. Blanca Fernandez, 17, who missed the first round of jobs, was placed immediately as a clerk at the Texas Employment Commission when she applied in early July. "I really learned a lot—the suitable way to dress in an office, how to run a switchboard, working on computers," she says.

As for the future, local councils are already starting to worry about next year. Eunice Elton, president of the Private Industry Council of San Francisco, says that after the boom this summer, "it'll be hell on wheels having to sign up everybody next April and say we don't know if we'll have money for jobs. We have no reason to believe we'll have a bonanza next year."

Local program managers say that until this year the only constants had been that funding kept dropping and the costs of running the program kept going up. Ms. Elton says the number of youths placed by her program has slid steadily, from a high of about 8,000 in the late '70s to about 3,400 this summer, of which only 1,800 were in the pre-urban-aid-bill budget.

"It's commendable that these dollars flowed as a result of the Los Angeles riots," says Stephanie Palmer, director of operations for New York City's Private Industry Council, "but we need to think about long-term strategies or we'll always be chasing the crises." •

TRIBUTE TO JOSEPH A. CALIFANO, JR.

• Mr. DURENBERGER. Mr. President, my old friend Joe Califano has a new job.

No one familiar with Joe's energy, ability and wide interests will be surprised to hear this. After all, in his 37-year career Joe has been Secretary of Health, Education and Welfare, an architect of President Johnson's Great Society, a top aide to Defense Secretary Bob McNamara and one of the Nation's leading attorneys. And in his off hours he has written no fewer than eight books on politics, health care and public policy.

I came to know Joe best in his role as a member of Chrysler Corp.'s board of directors. Throughout the 1980's we spoke often—and early in the decade—about the need for America to get the cost of medical care under control if we were to have any chance of universal access. Joe was, and is, always ahead of his time.

A few years ago a reporter asked one of Joe's law partners whether he would stay at Dewey Ballantine, the well-known firm Joe helped to turn around. "He'll never be satisfied," said the partner, "and he will never be complacent." But the partner thought only a Cabinet position could lure Joe away.

Mr. President, a few months ago Joe Califano left the world of law, and this time he says he has left forever. He now devotes his many talents to the problem of substance abuse in America. From scratch, he has established the Center on Addiction and Substance Abuse in New York City and convinced the Robert Wood Johnson Foundation and other public-spirited organizations to fund it.

Perhaps we should not be surprised. As Secretary of Health, Education and Welfare, Joe was one of the first officials to be really serious about reducing smoking in America. And as a private citizen, he wrote "The 1982 Report on Drug Abuse and Addiction" as well as "America's Health Care Revolution:

Who Lives? Who Dies? Who Pays?," which was published in 1986.

Naturally, Joe has ambitious plans. His institute will address problems caused by illegal drugs, abused prescription drugs, alcohol and tobacco. And it will look at and combat their effect on all aspects of our social system: crime, housing, education, health care, productivity.

He is now assembling experts drawn from many fields to attack these problems. They are working on estimating the costs of substance abuse, on evaluating which prevention and treatment programs work best and on how best to equip professionals and institutions to work with substance abusers.

Mr. President, Joe Califano's career already has been full of achievement and public service. At age 61 he has taken on a new challenge that will require all the energy and ability he and his colleagues can summon. I believe I speak for all members of the Senate in wishing him and his colleagues the greatest success in the important work they have undertaken.•

IN GRATITUDE OF THE CONTRIBUTIONS OF MRS. WILLIE GRAHAM

• Mr. DODD. Mr. President, I rise today to express my gratitude and affection for my dear friend, Mrs. Willie Willis Graham, a lady who has had an integral role in my constituent service office since I assumed a seat in the U.S. Senate nearly 12 years ago.

Willie performed as the volunteer coordinator of my 1980 campaign bid for the Senate and joined by staff when I took office in 1981. Since then, she has brought to her position of community liaison a range of experiences in leadership, community, organization and political activism which has assisted me in my effort to more fully represent the interests of all of my constituents.

Exemplifying the importance of active participation in the political and social process, Willie Graham has been a salient force in countless clubs and organizations, among them, the National Association for the Advancement of Colored People, the Les Bonnes Amies, Club of New Britain, the Daughters of Isis, the State Federation of Black Democratic Clubs, the Windsor town committee and the Windsor Black Democratic Club. These organizations have recognized her great contributions by honoring her with numerous awards and testimonial banquets over the years.

In 1982, realizing a long-time dream of establishing a scholarship fund for Black students of her community whose residence rendered them ineligible for other sources of financial assistance, Willie founded the Windsor Afro-American Civic Association. This effort reflected her own sensitivity to the importance of higher education, a goal she achieved personally in 1984 when she was awarded a bachelor of science degree from New Hampshire College.

Paralleling her dynamic civic activism, Willie Graham has also been an active member of the A.M.E. Zion Church in Hartford for 33 years. Participating in church groups and organizations like the Rochester/Strickland Scholarship Fund, the Carrie T. Wilson Missionary Society, the Ladies Usher Board and the Gospel Choir, Willie has expressed her abiding love of God by fostering fellowship and philanthropy in her church. Her civic and political involvement has blazed a path in public service for many young people, while her spiritual resolve, steely tenacity and principled determination to live her life fully and with an ever generous heart in the face of difficult personal challenges, humbles and gives courage to all who know her.

Throughout her life, Willie Graham has dedicated her formidable energies toward the goals of social justice and opportunity, with the kind of enduring investment into our collective future that demonstrates the power of the individual to make a lasting difference in the world. She has raised four fine children into outstanding adults who carry her torch of commitment and industry forward. She has been my loyal and steadfast champion in the community and has toiled countless hours to mobilize her friends and colleagues on my behalf. Much loved, Mrs. Willie Willis Graham has lived her life as an extraordinary citizen, a shining example of graciousness, dignity, resolve and devotion. To this remarkable lady, I owe my lasting gratitude and admiration.•

U.S. IMMIGRATION POLICIES APPEAR TO BE UNDERCUTTING OUR CITIZENS' EMPLOYMENT AND ECONOMIC OPPORTUNITIES

• Mr. SHELBY. Mr. President, immigration has been an important force over the years in our Nation's development. As is so often said, the United States is a nation of immigrants, and our people have benefitted in many ways from immigrants' contributions in many diverse areas. However, immigration can also cause problems, and our current immigration policies may be doing so in certain key areas. In particular, our policies may be inappropriately undercutting many U.S. citizens' employment and economic opportunities.

Congress and other policymakers should give much greater scrutiny to our existing immigration policies in order to determine what changes may be needed. When Congress reconvenes early next year, I hope that there will be hearings to explore issues such as whether policy changes are needed to protect U.S. citizens' jobs and economic opportunities. In the interim, I would urge my colleagues and other policymakers to spend some time on their own to learn more about the immigration-related public policy issues that already are being raised in the press and in various studies and reports.

In that regard, Mr. President, let me call my colleagues' attention to several new interesting and enlightening documents that provides helpful background information on these matters.

First, there is a new book entitled, "Immigration 2000: The Century of the New American Sweatshop," just published by the Federation of American Immigration Reform [FAIR], a nonprofit public interest organization devoted to reforming outdated immigration policies. This book includes 25 studies and articles by some of the country's leading economists and immigration scholars on the effects of immigration on the American labor force and economy. Many of these articles suggest that current immigration policies are contributing to a decline in the U.S. economic competitiveness and undercutting the wages, job opportunities and working conditions of our country's own disadvantaged citizens. This new book addresses many key questions on the social and economic effects of immigration to the United States, including: Does immigration perpetuate the underclass and impede economic improvement for African-American and Hispanic citizens? Is the purpose of immigration law to protect American workers? Do immigrants displace American workers? Does immigration depress American workers' wages? What happened to the labor shortage?

Second, another new FAIR report, "Immigration Outpaces a Sluggish American Economy: A New American Dilemma," examines how high levels of immigrant laborers are impacting our already troubled labor market. This report notes, for example, that despite increasing U.S. unemployment and the loss of good jobs, the Immigration Service continues to issue work authorizations faster than jobs are created. I find the fact to be troubling, and it reinforces my belief that it is time for Congress, the administration, and other concerned parties to focus on issues such as this to determine if changes in our current immigration policies would be in our national interest.

Mr. President, in order to facilitate my colleagues' access to this information, I ask that a copy of the report entitled, "Immigration Outpaces a Sluggish American Economy: A New American Dilemma," be printed in today's CONGRESSIONAL RECORD.

The report follows:

Immigration Outpaces a Sluggish American Economy—A New American Dilemma

(A Report from the Federation for American Immigration Reform, September 1992)

Summary: For the first time in at least a century, the American labor force is subject to two conflicting and potentially volatile trends: the first is the rapid increase in unemployment produced by a prolonged recession and structural changes in the manufacturing base of the nation; the second—and this is new—is unprecedented, unremitting, large-scale immigration into an already distressed labor market. Despite increasing U.S. unemployment and the loss of good jobs, the immigration service continues to issue work authorizations faster than jobs are created.

The reasons for continued high levels of immigrant labor force entrants are:

(1) Congress has fashioned an immigration law that fails to consider labor market needs and conditions. Because of the priority placed on family preference over job skills, hundreds of thousands of immigrants are admitted each year without regard to their skills or education or the availability of jobs. Labor economists, such as Vernon Briggs of Cornell University, have warned for a decade that the mismatch between immigrant skills and U.S. Labor market needs was a worrisome trend.

(2) In 1990, for the first time in American history, Congress increased immigration as the nation was moving into a recession, on the questionable assumption that we were heading into a protracted, structural labor shortage. The Immigrant Act of 1990 (IMMACT90) raised admission levels for both permanent and temporary immigrant workers.

(3) Because of (a) the 1986 amnesty to illegal aliens, (b) the Salvadoran TPS program, (c) massive fraud and abuse of our asylum system, (d) judicial settlements mandating mass reconsideration of certain asylum claims, and (e) the development of so-called "administrative work authorization," illegal aliens are acquiring work authorizations at the rate of more than half a million a year.

(4) While the United States has a process called "labor certification" to protect U.S. workers from unfair foreign labor competition, fewer and fewer aliens are admitted subject to that protective certification. Labor certification represents a declining percentage of all aliens admitted to work, far less than 20 percent. Most aliens are given work authorization without any labor market analysis.

(5) Immigrant flows today come predominantly from less developed nations. The income and wage gap between sending nations and the U.S. often is great. This contrasts sharply with earlier periods in our history and helps explain why immigration levels no longer respond to adverse labor market conditions in the U.S.

The result of all these factors is a volatile, alarming and disastrous situation: immigration flows that are unresponsive to labor market conditions, and immigrant admissions that are out-racing job creation and paralleling the increase in U.S. unemployment.

A. INTRODUCTION: JOB STAGNATION

At the start of the Bush Administration, there were 116.7 million jobs in the United States for an active labor force of 123.4 million workers. During the first three-and-a-half years of his administration, only 1.5 million jobs have been added to the economy, while the labor force has grown by 4.1 million. Because the work force has increased faster than the number of new jobs, unemployment has also increased, from 6.7 million in 1988 to nearly 10 million today.[1]

Most new jobs during the past four years were created during 1989, the first year of the Bush administration. The number of jobs actually decreased during 1990 and 1991, as a result of the recession. Confirming the administration's predictions that the 1990–1991 recession was coming to an end, the number of jobs in the economy increased by 846,000 during the first half of 1992. In spite of that increase, the number of unemployed workers increased by 1.1 million. In effect, the number of new jobs was exceeded by the number of new job seekers.

B. IMMIGRANT SURGE

Why is the labor force growing faster than the economy?

Statistics recently obtained by the Federation for American Immigration Reform (FAIR) from the Immigration and Naturalization Service (INS) provide one critical answer: the rate of immigration and work authorization issuance.

During the first half of 1992, the INS issued a record-keeping 439,000 temporary work permits to foreign workers. Most of these are not subject to the labor certification schemes designed to protect American workers. During the same six months, approximately 390,000 immigrants and refugees acquired "green cards" entitling them to live and work permanently in the United States. Because not all green card holders work (some are children and homemakers), INS estimates that only 57% of these new green card holders immediately enter the labor market. Therefore, a prudent estimate is that 220,000 of these new green card holders entered the 1992 labor market.[2]

The total of 659,000 new workers is close to the total of 864,000 new jobs that were created nationwide in the first half of 1992. When undocumented illegal aliens are taken into consideration, the number of foreign workers who entered the U.S. labor market during the first half of 1992 may easily have exceeded that total number of new jobs created.

C. SITUATION UNPRECEDENTED

This situation is unprecedented in the past century. In 1893, the U.S. entered a severe recession (known as the "Panic of '93"), a recession comparable, on scale, to today's. Immigration, running at about 300,000 that year, was cut in half by 1894. Moreover, given that less than half were immediate labor market entrants (considering the proportion of women and children), the immigrant flow was very responsive to changing labor market conditions.

By 1929, the year of the Great Depression began, immigration had already been dramatically reduced by the Johnson-Reed Act of 1924. Immigration remained low during the remainder of the '30s, World War II, and during the heady job-creation and high-productivity days of the postwar era. Immigration remained low through the oil shocks of 1974, running at only 386,000 by 1975 (as compared to a 1975 labor force size of 94 million). It was not until the 1980s, when the effects of the Immigration and Nationality Act amendments of 1965 were felt, that immigration began to rise; by 1991 it had risen to all-time historic highs. For the first time in American history, the number of immigrants entering the work force was divorced from the demands for labor.

D. PART OF A NEW, TROUBLING TREND

The 1.5 million net increase in jobs since 1988 is more than matched by (1) the 1.4 million new green card holders who have entered the labor force in the same time frame, and (2) the increase in the size of the non-citizen work force with temporary work papers (from about 150,000 in 1988 to nearly 800,000 in the current year).

As a result of the rapid increase in the number of aliens eligible to work in the United States, American workers displaced from their jobs because of cheaper labor overseas are also facing tough competition from foreign workers for the jobs that remain in the United States. The chart (Chart I) attached to this report shows that, *in each year since the recession began in 1990, nine aliens were issued work permits to work in the United States for every 10 workers who became unemployed.*

E. GREEN CARD GROWTH

Chart II shows the growth in various categories of aliens acquiring U.S. work papers since 1988. The first category is legal immigrants (green cards), who have permanent residence in the U.S. In 1990, Congress and the president approved a 40 percent increase in legal immigration. Although some of these new immigrant visas were allocated to skilled foreign workers for whom a job was being held in the United States, most of them were allocated to relatives of other recent immigrants. Under the 1990 law, over 800,000 immigrant visas will be issued in the current fiscal year. Of these, only about 60,000, or 8 percent will go to foreign workers for whom a job is waiting in the U.S., while at least 550,000 will go to relatives of immigrants.

Supporters of the 1990 law, particularly Senator Ted Kennedy (D–MA), Senator Frank R. Lautenberg (D–NJ), Representative Howard Berman (D–CA) and former Representative Bruce Morrison (D–CT), claimed that increased immigration would benefit the United States because the country was running short of labor. However, these labor-shortage forecasts now appear ridiculous given the huge pool of unemployed Americans and the dim economic prospects of the mature manufacturing sectors that once provided key higher-paid blue-collar jobs.

F. "ADMINISTRATIVE WORK AUTHORIZATION": THE GREAT BLACK HOLE

TABLE 1.—TYPES OF IMMIGRATION WORK AUTHORIZATION

Type of alien	Statutory	Nonstatutory	Duration of authorization
Lawful permanent residents—(Green card aliens).	X	....	Life (About 8 percent are subject to labor market test.).
Temporary alien workers.	X	....	Limited to designated period of time. (Almost all receive labor market test by INS or DOL.).
Pending asylum applications.	....	X	Until final disposition of case. (No labor market tests.).
Approved asylum applications.	....	X	Until adjustment to permanent residence or departure from U.S. (No labor market tests.).
Illegal aliens released on bond.	....	X	Until after deportation hearing and all appeals. (No labor market tests.).

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[1] All labor employment figures are from the U.S. Department of Labor, Bureau of Labor Statistics (BLS).

[2] Source of all immigration statistics: U.S. Department of Justice, Immigration and Naturalization Service, Statistics Branch.

The increased number of green card aliens is a problem in and of itself. Nearly 80 percent come because they have a relative here, not a job waiting. For that reason, these entries are not responsive to labor market conditions. On the other hand, the changes in the so-called "nonimmigrant" temporary worker visa levels have not been disproportionately great (in fact, because nonimmigrant worker visa issuances are relatively responsive to labor market conditions, these may actually drop in the current year).

Although legal immigration accounts for a large share of the growth in the alien work force, even more significant has been the uncontrolled expansion of a host of categories of "soft" interim work categories (see Table 1). Most of these soft categories have been established by regulation and do not require any form of labor market impact analysis. Yet their impacts are profound.

These soft categories are responsible for the most dramatic increase. (See Chart II.) Most of these categories are for aliens who have either entered illegally or by fraud, and who are being issued temporary work authorizations while they appeal deportation orders, file petitions for asylum (many frivolous or fraudulent), or claim "temporary protected status" (TPS) under IMMACT90. (Most of the latter are from El Salvador.)

Other soft categories in Table 1 include nonimmigrant status violators released on bond and illegal entrants released on bond pending final dispositions on deportation. These hearings can be prolonged for years by zealous counsel.

All of the soft categories have expanded since 1988. In 1988, the year before President Bush took office, fewer than 20,000 work permits were issued to illegal aliens trying to remain in the United States. The number of these temporary work authorizations increased to over 40,000 in 1989, over 300,000 in 1990 and over 500,000 in 1991. At the present rate, more than 700,000 temporary work authorizations will be issued in 1992, substantially all of them to illegal immigrants pursuing administrative relief—all without any labor market analysis.

As a result, the proportion of working immigrants subject to labor certification is declining rapidly and dramatically. Although U.S. immigration law contains provisions to protect American workers, fewer than one out of six alien work authorizations are covered by these rules. The majority of green cards are issued to relatives of prior immigrants. The majority of temporary work permits are issued to illegal immigrants who are resisting deportation from the United States or are seeking an amnesty. In effect, under current law, regulations and judicial settlements, five out of six alien work authorization documents—more than a million a year—are issued without regard to their impact on job prospects for unemployed Americans.

As Table 1 illustrates, most of the soft categories of administrative work authorization have no explicit statutory basis (Salvadoran TPS is an exception under the 1990 law). Indeed, the Supreme Court has specifically ruled that the INS has no obligation to issue work permits to illegal aliens while they challenge their deportations or await adjudication of asylum petitions. (INS versus National Center for Immigrants' Rights, 112 S.Ct. 551, 1991). The number of asylum petitions being filed is growing. In all of 1988 there were 74,000 asylum applications filed with the INS. Almost that many were filed in the first six months of 1992. The ability of the INS to adjudicate this flood of asylum petitions has been limited by a lack of resources and court challenges to procedures that would expedite the hearing process. As a result, the filing of a petition for asylum has become an increasingly popular means of avoiding deportation and obtaining a work permit.

The huge increase since 1988 in the number of illegal aliens seeking and obtaining temporary work authorizations is partly a result of 1986 reforms that eliminated the loophole that once allowed employers to hire illegal aliens. Prior to these reforms, employers were not required to verify an alien's eligibility to work; thus, most illegal aliens could find work without documentation. Under the 1986 law, employers are subject to fines and other "sanctions" if they hire aliens who do not present proper documentation of their work eligibility. As a result, the temporary work authorization, the only work document available to any illegal alien, has become increasingly valuable.

Although temporary work authorizations are issued for a limited period of time, for many illegal aliens they are a steppingstone into the permanent labor market. The 1986 reforms permitted alien workers to show employers a wide variety of documents to demonstrate eligibility to work in the United States. Illegal aliens with temporary work authorization documents have been using those documents to obtain Social Security cards, drivers licenses, and other documents that, alone or in conjunction with counterfeit documents, can be used to obtain permanent employment. Because of the long delays in the deportation and asylum processes and relatively easy access to the permanent work force that temporary work authorization affords, many illegal aliens simply disappear while the deportation or asylum process is pending. Consequently, as the number of work authorizations skyrockets, so too does the number of illegal aliens who end up in the permanent work force.

Of course, the dramatic increase in the number of legal and illegal aliens obtaining work authorizations in the United States does not reflect the full impact of immigration on the U.S. labor market. Apprehension levels at the border between Mexico and the United States suggest that the flow of illegal workers into the United States is approaching or exceeding the levels that existed prior to the 1986 reforms. Growing awareness abroad that most illegal aliens who are not promptly deported acquire temporary work authorization entices even more illegal immigration.

Although a number of civil rights groups and ethnic organizations have alleged that the immigrant work force suffers from employment discrimination, immigrants are often preferred to native-born workers. The immigration law was changed in 1965 to eliminate restrictions that favored immigration from Europe and other areas of the world with standards of living comparable to the United States. As a result, the bulk of today's immigrants come from countries where wages and working conditions are dramatically below those in the United States. Employers perceive that immigrants will work harder for less pay and fewer benefits than American-born workers. Undocumented workers in particular are unlikely to complain about unsafe working conditions or other legal violations. Immigrants who establish businesses in the United States frequently recruit most of their work force from relatives and other immigrants from their home countries. These "ethnic recruitment" networks effectively lock out American workers from segments of the economy where immigrant entrepreneurs have become predominant.

Some labor economists, including Donald Huddle of Ric University, have argued that the growing number of alien job-seekers entering the United States in recent years has contributed to a perennial "labor surplus" that diminishes economic opportunities for native-born workers and the large population of immigrants who have arrived since 1965. Traditional economic theory suggests that large increases in the supply of labor over an extended period, regardless of the reason, are likely to diminish wages and working conditions absent extraordinary improvements in technology and investment. During the last 20 years there have been many signs of a steady deterioration in the real wages of American workers who are not professionals or managers. This economic decline has brought about wrenching social changes as millions of young mothers have been required to enter the work force to supplement the wages of working fathers. The long-term decline in wages has been accompanied by the largest and longest wave of immigration in the nation's history, leading some labor economists to conclude that a temporary suspension of large-scale immigration would certainly benefit many working Americans.•

NOTICE OF PUBLICATION

• Mr. SANFORD. Mr. President, the Senate Select Committee on Ethics has adopted and herewith publishes in the CONGESSIONAL RECORD interim procedures for requests for review under section 308 of the Government Employee Rights Act of 1991.

The material follows:

ETHICS COMMITTEE INTERIM PROCEDURES UNDER TITLE III OF P.L. 102-166, THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

RULE 1, AUTHORITY

The Senate Select Committee on Ethics (the Committee) is authorized by section 308(a) of the Government Employee Rights Act of 1991 (the Act), Title III of the Civil Rights Act of 1991, Pub. L. 102-166, 105 Stat. 1088, to review hearing board decisions in employment discrimination cases filed with the Office of Senate Fair Employment Practices (the Office) under the Act, and by section 307(f) (2) and (3) of the Act to receive referrals for rulings on testimonial objections arising in connection with such cases, and to recommend to the Senate civil or criminal enforcement of hearing board subpoenas.

RULE 2. TIME

2.1 Computation of time

(a) Counting days: A day means calendar day. In computing the time for taking any action required or permitted under these rules to be taken within a specified time, the first day counted shall be the day after the event from which the time period begins to run and the last day counted is the last day for taking the action. When the last day falls on a Saturday, Sunday, or federal government holiday or any other day, other than a Saturday or a Sunday, when the Office is closed, the last day for taking the action shall be the next day that is not a Saturday, Sunday, or federal government holiday or a day when the Office is closed. Where a prescribed time period is less than seven days then Saturdays, Sundays, and federal government holidays shall be excluded from the computation of the time period. Federal government holiday means New Years' Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, any other day appointed as a holiday by the President or Congress of the United States.

(b) Added days for mail: Whenever a party or the Office has the right or is required to do some act within a prescribed period after the date of service of a notice or other paper and the notice or other is served upon the party by mail through the United States Postal Service, 3 days shall be added to the prescribed period. This additional 3 days does *not* apply to the request for Committee review under Rule 3.

2.2 Service and filing: Except as otherwise provided in Rule 3.1, a document required under these rules to be submitted to or filed with the Committee or the Office, or served on a party or the Office within a specified time shall be deemed timely submitted, filed, or served if it is received by the Committee, the Office or the party, or if mailed, it is postmarked, on or before the last day of the applicable time period.

2.3 Extension of time: Upon written request of the Office or a party, the Committee may extend the time for taking action under these rules, except that the Committee may not extend the time for taking any action for which the Act specifies a time limit.

2.4 Where to File: Documents required to be filed with the Committee shall be filed at the offices of the Senate Select Committee on Ethics, Hart Senate Office Building, Room 220, Washington, D.C. 20510. Documents required to be filed with or served on the Office shall be filed or served at the Office of Senate Fair Employment Practices, Hart Senate Office Building, Suite 103, Washington, D.C. 20510.

RULE 3. REQUESTS FOR COMMITTEE REVIEW OF HEARING BOARD DECISION

3.1 Requirements for filing a request for review

(a) Who May Request Review of a Hearing Board Decision: An employee or the head of an employing office with respect to whom a hearing board decision was issued is a party entitled to request Committee review of that decision. The Office may also request review of a decision.

(b) Request by a party: Not later than 10 days after receipt of a decision of a hearing board, including any decision following a remand of the case as provided in Rule 4.2(c), a party may file with the Office a request that the Committee review the decision. A request for review shall specify the party requesting review, and shall designate the decision, or part thereof, for which review is requested. A request for review must be *received in the Office* not later than the 10th day after the date of receipt of the hearing board decision [a postmark on the 10th day will not satisfy this timeliness requirement] Within 24 hours after receipt of a request for review, the Office shall transmit a copy of such request to the Committee and serve a copy on any other party.

(c) Request by the Office: The Office, at the discretion of its Director, on its own initiative and for good cause, may file with the Committee a request for review of a hearing board decision, including any decision following a remand of the case as provided in Rule 4.2(c), not later than 5 days after the time for the parties to file a request for review with the Office has expired. A request for review shall specify that the Office is requesting review, shall designate the decision, or part thereof, for which review is requested, and shall specify the circumstances which the Office asserts constitute good cause for the request. A request for review by the Office must be *received in the Committee's office* not later than the 5th day after the time for the parties to file a request for review with the Office has expired [a postmark on the 5th day will *not* satisfy this timeliness requirement.] Within 24 hours after filing a request for review with the Committee, the Office shall serve a copy of such request on all parties.

3.2 Transmittal of Record: As soon as possible, and in no event later than 10 days after receipt by the Office of a request for review or the Office's filing of a request for review with the Committee, the Office shall transmit to the Committee the full and complete record of the hearing board connected with the decision for which review has been requested. The Chief Clerk of the Committee shall promptly serve notice of the Committee's receipt of the record on all parties.

RULE 4. PROCEDURES UPON RECEIPT OF A REQUEST FOR REVIEW OF A HEARING BOARD DECISION

4.1 Briefs and arguments

(a) *Petitioner brief:* A party who filed a request for review, or the Office if it requested review, may file a brief in support of its position. The brief shall be filed with the Committee and a copy served on any other party and the Office, if it requested review, within 10 days of the filing of the request for review with the Office, or the Committee if the Office requested review.

(b) *Respondent brief:* A party may file a brief in response to a petitioner's brief. Such respondent brief shall be filed with the Committee and a copy served on any other party and the Office, if the Office filed a request for review, within 15 days after service of the petitioner brief. If no petitioner brief is filed, such respondent brief shall be filed within 20 days of filing of the request for review. The Office may file a respondent brief only if it filed a request for review.

(c) *Reply brief:* Any reply brief shall be filed with the Committee and served on all parties and the Office if it requested review, within 5 days after service of the respondent brief to which it replies. No one may file a reply brief who did not file a petitioner brief.

(d) Alternative briefing schedule. With notice of all parties and the Office, if it requested review, the Committee may specify a different briefing schedule that that prescribed by subsections 4.1 (a), (b), and (c).

(e) Additional briefs: At its discretion, the Committee may direct or permit additional written briefs.

(f) Requirements for briefs: Briefs shall be on 8½ inch by 11 inch paper, one side only, and 15 copies shall be provided. No brief shall exceed 50 typewritten double spaced pages, excluding any table of contents, list of authorities, or attached copies of statutes, rules, or regulations. Footnotes shall not be used excessively to evade this limitation. All references to evidence or information in the record *must* be accompanied by notations indicating the page or pages where such evidence or information appears in the record.

(g) Oral argument: At the request of a party or the Office, the Committee may permit oral argument in exceptional circumstances. A request for oral argument must specify the circumstances which are asserted to be exceptional.

4.2 Remand

(a) Only one Remand: There are two kinds of remand. The Committee may remand, the *record* respecting a decision, or it may remand the *case* respecting a decision, but in no event can there be more than one remand with respect to a decision of a hearing board. If the Committee remands the record respecting a decision, there can be no further remand of any kind with respect to such decision. If the Committee remands the case respecting a decision, there can be no remand of any kind with respect to a hearing board decision issued following remand. A Committee decision remanding to the hearing board shall contain a written statement of the reasons for the Committee decision.

(b) Remand of the Record: Within the time for a decision under subsection 308(d) of the Act, the Committee may remand the *record* of a decision to the hearing board for the purpose of supplementing the record. After the hearing board has supplemented the record as directed by the Committee, the hearing board shall transmit the record to the Office, and the Office shall immediately notify the parties of the hearing board's action and transmit the supplemented record to the Committee. The Committee retains jurisdiction over a request for review during remand of the record, and no new request for review is needed for further Committee consideration under section 308 of the Act. A record shall be deemed remanded to the hearing board until the day the Committee receives the supplemented record from the Office, and the Committee shall transmit a written final decision to the Office not later than 60 calendar days during which the Senate is in session after receipt of the record as supplemented on remand. The Committee may extend the 60 day period for 15 days during which the Senate is in session.

(c) Remand of the Case: Within the time for a decision under subsection 308(d) of the Act, the Committee may remand the *case* to the hearing board for the purpose of further consideration. After further consideration, the hearing board shall issue a new written decision with respect to the matter as provided in section 307 of the Act. If the Committee remands the case to the hearing board, the Committee does *not* retain jurisdiction, and a new request for review, filed in accordance with Rule 3, will be necessary if a party or the Office seeks review of a decision issued following remand.

4.3 Final Written Decision: All final decisions shall include a statement of the reasons for the Committee's decision, together with dissenting views of Committee members, if any, and shall be transmitted to the Office not later than 60 calendar days during which the Senate is in session after filing of a request for review. The period for transmission to the Office of a final decision may be extended by the Committee for 15 calendar days during which the Senate is in session. A final written decision of the Committee with respect to a request for review may affirm, modify, or reverse the hearing board decision in whole or in part. The Committee may decide not to grant a request for review of a hearing board decision. The Committee will serve a copy of any final decision on all parties.

RULE 5. HEARING BOARD REFERRAL OF TESTIMONIAL OBJECTIONS

5.1 Procedure for Ruling On Testimonial Objections: If any witness to a hearing board proceeding appearing by subpoena objects to a question and refuses to testify, or refuses to produce a document, a hearing board may refer the objection to the Committee for a ruling. Such referrals may be made by telephone or otherwise to the Chairman or Vice Chairman of the Committee who may rule on the objection or refer the matter to the Committee for decision. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman or Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee, or the Chairman or vice Chairman, shall rule on objections as expeditiously as possible.

5.2 Enforcement: The Committee may make recommendations to the Senate, including recommendations for criminal or civil enforcement with respect to the failure or refusal of any person to appear or produce documents in obedience to a subpoena or order of a hearing board, or for the failure or refusal of any person to answer questions during his or her appearance as a witness in a proceeding under section 307 of the Act. The Office shall be deemed a Senate committee for purposes of section 1365 of Title 28 of the United States Code.

RULE 6. MEETINGS AND VOTING

6.1 Quorum, Proxies, Recorded Votes: A majority of the members of the Committee shall constitute a quorum for purposes of issuing a decision under section 308 of the Act, and for purposes of hearing oral argument if such argument is permitted. Proxy votes shall not be considered for the purpose of establishing a quorum, nor for purposes of decisions under section 308 (c) or (d) of the Act. Decisions of the Committee under section 308 (c) or (d) of the Act shall be by recorded vote.

6.2 Meetings: Meetings to consider matters before the Committee pursuant to the Act may be held at the call of the Chairman or Vice Chairman, if at least 48 hours notice is furnished to all Members. If all Members agree, a meeting may be held on less than 48 hours notice.

RULE 7. CONFIDENTIALITY OF PROCEEDINGS

Confidentiality: The final written decision of the Committee shall be made public if the decision is in favor of a Senate employee who filed a complaint or if the decision reverses a decision of the hearing board which had been in favor of the employee. The Select Committee may decide to release any other decision at its discretion. All testimony, records, or documents received by the Committee in the course of any review under these rules shall otherwise be deemed "Committee Sensitive Information" and subject to the "Non-Disclosure Policy and Agreement" as prescribed in Rule 9 of the Committee's Supplemental Rules of Procedure.

RULE 8. AUTHORITY TO DISCIPLINE

Official Misconduct: None of the provisions of the Act or these rules limit the authority of the Committee under S. Res. 338, 88th Cong., 2d Sess. (1964), as amended, to otherwise review, investigate, and report to the Senate with respect to violations of the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the Senate.•

RUSSIAN DEBTS TO AMERICAN COMPANIES

• Mr. WOFFORD. Mr. President, as we prepare to vote today on the Foreign Operations conference report, which contains funds for the Commonwealth of Independent States, I would like to take a moment to remind my colleagues of a serious problem that could be a potential threat to subsequent assistance to the former Soviet Union.

When the Soviet Union collapsed, many American companies that had been trading with that country were left with unpaid bills, often worth millions of dollars. For example, an employee-owned Pennsylvania company, INDSPEC, is owed $1.7 million for its 1990 shipment of resorcinol to Russia. The Government of Russia has acknowledged the debt and used the product, but has not seen fit to settle its bill. Given the hundreds of millions in aid that the Government of Russia has requested and received, I suggest they should reconsider.

I would like to draw the attention of my colleagues to a section of the conference report for the Freedom Support Act, which addresses the problem of commercial debts to American companies. In considering the allocation of assistance to governments of the Commonwealth of Independent States, the President must take into account not only relative need but the extent to which the government of an independent state is acting on 11 different criteria, including acceptance of responsibility for paying indebtedness to American firms.

In some ways, this is a relatively small problem. Russia does have the money to pay its debt to INDSPEC and other companies. But this problem has the potential to become a serious issue in future consideration of financial assistance to the former Soviet Union. I have been an advocate for such assistance, and believe it is in the best interest of the United States to assist the Commonwealth of Independent States in their transition to democracy. Nonetheless, it will be increasingly difficult to explain to American companies why we send their tax dollars to a country that reneges on its debts to these same companies.

Again, I urge the Government of Russia to make good on its debts and call on the Department of State and the Department of Commerce to facilitate the timely resolution of this problem.•

TRIBUTE TO THE HONORABLE CLAUDE C. HARRIS UPON HIS RETIREMENT FROM THE U.S. HOUSE OF REPRESENTATIVES

• Mr. SHELBY. Mr. President, I rise today to honor the service of the Honorable CLAUDE HARRIS of Tuscaloosa, AL, who is retiring from the House of Representatives at the end of the 102d Congress.

Mr. President, CLAUDE took my seat in the House in 1987 when I came to the U.S. Senate, and he has served the people of Alabama's Seventh Congressional District with honor and distinction. He is a long-time friend and a Congressman who will be sorely missed by his colleagues in Washington and by the people he has represented so well in Alabama.

CLAUDE HARRIS has dedicated most of his life to public service by improving and advancing his State and his country. As a prosecutor in the Tuscaloosa district attorney's office from 1965 to 1976, CLAUDE went beyond the call of duty and greatly improved the efficiency of the law enforcement community. As a judge on the Sixth Judicial Circuit of Alabama from 1977 to 1985, CLAUDE was instrumental in modernizing Alabama's judicial code and legal system. Finally, as a Congressman and member of the House Energy and Commerce Committee and the Veterans' Affairs Committee, CLAUDE has been a strong voice for the people of Alabama.

Mr. President, it is always difficult to summarize a man's accomplishments in a simple tribute. However, I do want to take this opportunity to acknowledge CLAUDE service and express my appreciation for the assistance and friendship CLAUDE has given me over the years. I wish him and his family the best of luck in their future endeavors. While I hate to see him leave the House of Representatives, I know that we have not heard the last of Congressman HARRIS.

Thank you Mr. President.•

HONORING A GREAT PUBLIC SERVANT

• Mr. SIMON. Mr. President, I rise today to honor and pay tribute to a great public servant, Floyd Fithian, my chief of staff. While Floyd is not leaving the Simon staff, he will be moving into a new position with me off the Hill after the first of the year. Because of this, it is appropriate to talk of the years of selfless, valuable services Floyd gave first to the people of Indiana, during his 8 years in the House of Representatives, and more recently to me and the State of Illinois, as my chief of staff for the past 8 years.

Floyd Fithian didn't originally intend to seek elective office himself. Instead, he worked for candidates whose ideals he shared. In 1968, while working as a professor of history at Purdue University, he joined forces with many of the idealistic, progressive individuals who were campaigning with and for Robert Kennedy. In 1970, he devoted his efforts to the congressional campaign of Indiana businessman Phil Sprague. After Sprague lost a close race to the incumbent, Earl Landgrebe, the new Congressional District created after the 1970 census eliminated Sprague from contention.

Feeling that the constituents in the new Second District deserved better, Floyd set out to find a qualified candidate. When no strong contender took to the field, he threw his own hat into the ring. It was a bad year in 1972 for Democratic challengers, but Floyd just kept on running until 1974, by which time the political landscape had changed dramatically.

Floyd came to Congress the same year as I did, as a member of the Watergate class, and immediately set out to improve the system. We achieved substantial reforms in the way Congress did its business—reforms designed to make the system more accountable to constituents and to Members.

During his 8 years in the House, Floyd served his constituents well. On issues like agriculture, small business, and foreign affairs, Floyd was a very successful legislator. He was willing to take on important issues, even if they weren't glamorous or popular. For example, he was instrumental in the reform of the Federal Insecticide, Fungicide and Rodenticide Act, carefully balancing the needs of the agriculture community with the grave necessity of protecting our fragile environment. In his role as my chief of staff, I came to rely heavily on Floyd's advice and thoughts on many areas of agriculture and issues of concern to the Illinois farming community.

It was redistricting that encouraged Floyd to run for office and redistricting that eliminated his seat in 1981 when the Indiana legislature divided it up into four pieces. After looking at running in any one of the four districts, as well as the possibility of State office, Floyd decided to run for the Senate. Although his campaign was unsuccessful, he raised many important issues throughout his campaign across the State of Indiana—issues like jobs, fair wages, care for the elderly, protection of the environment, education and renewable energy.

After leaving Congress, and a brief stint at the Democratic Senatorial Campaign Committee, Floyd agreed to become my chief of staff when I prepared to move to the Senate. To my knowledge, Mr. President, he is the only former Member who has gone on to work for one of his or her colleagues in Congress. It takes an individual whose feet are well on the ground to make the transition from Member to staff without any problems—and Floyd did it with grace, humor, and loyalty. We had shared many of the same goals, interests, and values in the House, and we were both confident that we would work well together in the Senate.

As my chief of staff, Floyd has been primarily responsible for assembling a superb staff, one to which I look for advice and also with great pride. They are hard-working and dedicated, and most of the credit that comes my way from the media and various groups really belongs to the staff which Floyd assembled and led. Let me also mention one other person here who deserves not only my thanks but those of the people in Indiana who Floyd so well served—his wife Marj, who kept Floyd organized and inspired him with her own deep commitment to critical issues like the environment, family, and social conscience.

Mr. President, while Floyd will continue to work closely with me and my staff in his new capacity, we will miss his day-to-day involvement. I am pleased that Floyd has agreed to take on yet another new challenge for me, that will also allow him to pursue some other activities as well. From the time he arrived in Washington, Floyd has proven himself to be a tireless, creative, caring public servant, the type of public servant we as a Nation need and deserve.•

FRAMEWORK CONVENTION ON CLIMATE CHANGE

• Mr. WIRTH. Mr. President, I rise today to comment on the Framework Convention on Climate Change now before the Senate. Passage of this treaty is both an historic and hopeful first step to address the enormous challenge of global climate change.

I went to the Earth summit, Mr. President, and saw a new world order begin to unfold. Rio reaffirmed that we are entering a new era of international relations, not only in terms of our relationships with individual nations, but also in terms of our relationship with the Earth and the global environment.

In many ways, the mere fact that we are considering this treaty is a remarkable achievement and signal of the new era initiated in Brazil. Although members of the scientific community long have been concerned about the impact of manmade greenhouse gas emissions on our climate, only recently have world leaders begun addressing this enormous challenge. In fact, the seeds of this treaty were sown only 4 years ago, when dramatic global climate events captured the world's attention.

The 1988 drought in North America, Asia, and Europe provided a graphic snapshot of what a warmer world and changing climate could mean—the Mississippi River was closed to barge traffic as vast stretches became unnavigable; the breadbasket dried out; intense storms rocked our coastlines. All of these events galvanized world attention to the issue of climate change, forcing the issue from the pages of obscure scientific journals to the front page of our daily newspapers.

I remember 1988 well, Mr. President. As a freshman Senator in 1987, I began developing a comprehensive bill that would establish policies for reducing greenhouse gas emissions. As I neared completion of that bill, I went to the Toronto Conference on the Changing Atmosphere in June 1988, a major milestone, at which scientists and policymakers declared common effort to combat global climate change. Consensus emerged at the Toronto conference about the need to act urgently and decisively to slow the buildup of heat-trapping greenhouse gases. The proposals by the Prime Ministers of Norway and Canada for a commitment to reduce carbon dioxide emissions by 20 percent in the year 2000 were echoed by many others, including myself, and in the final statement of the participants.

Late that year, the Intergovernmental Panel on Climate Change [IPCC] was established to develop a state-of-the-art and internationally-recognized assessment of the scientific basis for concern, impacts, and policy options related to global climate change. The United Nations reinforced the IPCC efforts when the General Assembly passed Resolution 43/53 to support the panel's efforts.

Two years of careful, peer-reviewed work were concluded in late 1990, when the IPCC issued its scientific assessment, concluding that:

First, there is a natural greenhouse effect;

Second, heat-trapping greenhouse gases are building in the atmosphere as a result of human activities;

Third, that the continued buildup of these gases will cause the global climate to change.

Acting on this broad international scientific consensus, resolution 45/212 was adopted by the U.S. General Assembly in December 1990. This resolution called for the creation of an Intergovernmental Negotiating Committee [INC] to develop a Framework Convention on Climate Change that would be available for signature at the U.N. Conference on Environment and Development in June 1992. The Intergovernmental Negotiating Committee held five official negotiations between February 1991 and May 1992, culminating in the agreement before us today.

I suspect that the development of this convention, with such broad implications and importance for the future, represents an unprecedented example of rapid and concerted international action. Unfortunately, Mr. President, this treaty—though worthy of our support—falls short of the expectations of most, and the imperative for all.

Despite the best efforts from the community of nations, only a lowest common denominator convention could be agreed to. And unfortunately, as has been widely discussed in the press, the current administration bears primary responsibility for the treaty's shortcomings.

Unhappily, it appears as if the convention—now signed by more than 150 nations—was the best possible at this time, even though it is a tremendous disappointment to the rest of the industrialized world, who were willing to change when U.S. negotiators were not, and to all those committed to protecting our fragile environment.

Absent U.S. leadership, the willingness of the other industrialized nations to establish binding targets for greenhouse gas reductions was wasted. And absent any commitment from the industrialized nations, the developing countries refused to enter into commitments for reducing their contribution to the problem of global warming.

This was a significant missed opportunity, Mr. President. Despite the rapid pace of these negotiations, the nations of the world were ready to forge common cause on behalf of protecting the global environment for present and future generations.

Indeed, this commitment is reflected in one of the true accomplishments of this agreement—the long-term goal of the convention, articulated in article 2:

> The ultimate objective of this Convention * * * is to achieve * * * stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

Stabilizing greenhouse gas concentrations in the atmosphere is the daunting long-term goal that would have to be reached if we were to halt further human interference in the Earth's climate system. Unfortunately, the specific commitments agreed to in this convention fall short of stabilizing emissions, let alone atmospheric concentrations of greenhouse gases. Instead, what this treaty does is to establish a common international goal and a process for moving forward—worthy accomplishments in and of themselves.

In order to begin the effort to achieve the objective of the convention, the parties agreed to undertake a number of noteworthy actions:

First, all nations agreed to establish and publish national inventories of emissions and to develop programs to reduce emissions.

Second, all nations agreed to cooperate in the process of transferring technology—unless we help the developing countries harness cleaner technology, emissions from this bloc of nations will overwhelm the best efforts of industrialized nations to reduce emissions.

Third, all nations agreed to promote research, education and the exchange of information.

Recognizing the differentiated capability and responsibility to reduce emissions, the treaty establishes commitments for the industrialized nations. Specifically, the industrialized nations agreed to:

First, adopt national policies to mitigate climate change, limit manmade emissions of greenhouse gases and enhance greenhouse gas sinks.

Second, develop detailed action plans for reducing greenhouse gas emissions and enhancing sinks, with the aim of returning individually or jointly (emissions) to their 1990 levels.

Third, to provide new and additional financial resources to help facilitate the transfer of technology to the developing countries.

These are constructive first steps. And while we are not legally bound to aggressively undertake these responsibilities, the treaty does send an implicit signal and does carry—as EPA Administrator Bill Reilly has said—a moral responsibility to initiate a national effort to reduce our contribution to this global problem by stabilizing our greenhouse gas emissions at 1990 levels by the year 2000.

But is moral responsibility a strong enough incentive to stimulate viable activity to inhibit global climate change? As a witness to the negotiations leading to Rio and to the missed opportunity at the Earth summit to take more decisive action on behalf of the environment, I feel it is important to enumerate the shortcomings of this treaty.

The near-term commitments of the industrialized nations are vague—so vague in fact that the administration wrote soon after negotiations were completed that the treaty does not obligate the United States to anything—and furthermore, the commitments represent only the smallest of steps toward the long-term objective of stabilizing greenhouse gas concentrations in the atmosphere.

Second, the treaty lacks anything in the way of specific commitments by developing nations. Again, U.S. insistence on vague, minimal commitments for the industrialized nations, failed to inspire the developing countries to take on any obligation whatsoever. This is a major shortcoming. Today, the industrialized nations contribute the vast majority of global greenhouse gas emissions. That will not be true in the not too distant future. Coupled together, rapid population growth and even minimal economic development—so badly needed, of course—in the developing countries ensure that these nations collectively will overtake the industrialized world as the greatest contributor to the global inventory of greenhouse gas emissions.

And finally, Mr. President, further work needs to go into the treaty's provisions that would allow nations to undertake emissions reduction efforts in conjunction with other nations. No doubt, joint implementation mechanisms offer the possibility of more efficient reduction programs. However, without spelling out specific commitments and detailed guidelines for joint implementation, it is difficult to ascertain the feasibility of this objective. More work needs to be done to clarify joint implementation plans.

Having identified the most noteworthy accomplishments and shortcomings of this treaty, where do we go from here? First, as I said when I began my remarks, we should immediately ratify the Framework Convention. Despite the significant shortcomings of this agreement, we should not sell short the important process that has taken place and will be initiated through this convention.

Like the Vienna Convention adopted to address the buildup of ozone depleting substances, this convention should be viewed as the first leg on a hard push to develop a meaningful and comprehensive program to take on the issue of global climate change.

Therefore, the United States—which has pledged to produce an action plan by January 1, 1993—should begin immediately working with the public and private sectors to develop a detailed, explicit and substantive action plan. This plan should spell out in detail how we intend to meet the implicit responsibility for stabilizing greenhouse gas emissions at 1990 levels in the year 2000. Our plan should be developed as a model for other nations in terms of its detail and exhaustiveness.

Second, we should begin in December of this year, at the next meeting of the Intergovernmental Negotiating Committee, to develop more specific language detailing the obligations agreed to by the industrialized nations, and to work with developing countries to outline their role in this global effort.

Third, we need to ensure that our commitment to providing new and additional resources is backed by action. We in the United States are wasting our early, significant, comparative advantage in ecological know-how and commerce. By hanging back, Americans jeopardize more than our 40-percent share of the current market—$300 billion a year—for environmental goods and services. We also put at risk our broader claim to scientific, diplomatic, and moral leadership on a global scale.

Fourth, as occurred after the Vienna Convention was agreed to, we need to begin as soon as possible to develop protocols to this convention that will add meaning and additional commitment to the current treaty. These efforts should commence at the December meeting of the Intergovernmental Negotiating Committee.

Finally, we need to encourage our partners—North and South—to quickly ratify and begin implementing this treaty.

Mr. President, we have seen many incredible international political events in the past 2 years—none more remarkable than the collapse of the Soviet Union which signalled the last leg of the cold war, and Rio, which signalled the first leg of a new priority for urgent, concerted, and decisive international alliance on behalf of our collective environmental security.

The representatives of 170 countries who attended the Earth summit surveyed this new mission. There was genuine enthusiasm on the part of most industrialized nations to forge new relationships based on cooperative policy. Developing nations sought inspired leadership and assistance. The world was prepared for a new era of international relations.

Unhappily, when the world turned to the United States for leadership, the current administration responded with inaction and indecisiveness, seriously tarnishing the U.S. legacy of environmental vision. Other nations have already begun to make the crucial transition to a new ordering of priorities. We saw extraordinary evidence of that in June at the Earth summit. I came home convinced that the road from Rio, is, in fact, the highway to the future.

That highway has opened because the biggest barricade to it has fallen. The end of the cold war, which for nearly 50 years defined our common goals, underlay our national budget, and guided our mission, is not the end of history. The end of the cold war is the beginning, instead, of a new competition for survival and well-being that America is superbly positioned to lead and, in a sense, to win. We leave the cold war behind and now face an equally imposing threat—the challenge of fighting our alteration of the global climate system; the war against global warming.

On the road ahead—the road from Rio—there is still time for America to move where it belongs, into the lead. As our own EPA Administrator has said, we took a wrong turn in the negotiations leading to the summit. But we can reverse and recoup.

On our own at home and in concert with other nations, we have to set the example for others to follow and commit the resources that will pay us double dividends through sustainable development: programs toward ecological balance and profits from selling the technology on which such progress depends.

By being the first nation to ratify this treaty, Mr. President, we can set such an example and begin the global effort to protect and preserve our environment for future generations. Although the treaty lacks definitive and binding language and no specific guarantees for implementation, we must adopt it as our first, albeit small, step toward preventing global climate change. Let us send a message to the global community that America supports this international effort and then prepare ourselves to regain leadership on this compelling and challenging issue.•

TRIBUTE TO SGT. MAJ. C.A. "MACK" McKINNEY, USMC (RET.)

• Mr. McCAIN. Mr. President, on January 1, 1993, Sgt. Maj. C.A. "Mack" McKinney, USMC retired, will, once again, be retiring. His first retirement, some 21 years ago, concluded a Marine Corps career that spanned three decades and that saw him serve his country in three different conflicts.

Today, however, I rise to offer a tribute to this man who has served his country long and faithfully during not one, but two distinguished careers. At the end of this year, Sgt. Maj. "Mack" McKinney will retire from his posts as legislative counsel for the Non Commissioned Officers Association, and as cochairman of the Military Coalition.

It is often said that the measure of leadership is not limited to an individual's singular accomplishments but is extended more broadly to the impact the individual has on the environment in which he works and of those around him.

For the past 20-plus years, first as legislative director and then as legislative counsel for The Non Commissioned Officers Association, Sgt. Maj. "Mack" McKinney has been, in every sense of the word, a leader. On over 100 occasions, as spokesman for the association, he has been in the vanguard of some of our Nation's toughest issues, such as the health and well-being of all members of the uniformed services—active, reserve, and retired—and their families and survivors.

I first met Sgt. Maj. "Mack" McKinney in the late 1970's when I was working as a Navy liason officer to the Senate. I will never forget the words he told me on that occasion. He said, "Always tell it like it is, and always honor your commitments." This has been his guiding philosophy in life, as it has been mine.

From the military community's perspective, some of Sgt. Maj. "Mack" McKinney's more notable accomplishments were in his role as a charter member and later cochairman of the Military Coalition. Through his untiring and unerring leadership, this group, comprised of 24 military affiliated organizations, representing over 3½ million active duty, reserve, and retired military members of the seven uniformed services plus their families and survivors, has coalesced into a powerful force on Capitol Hill. Ironically, few of the members Sgt. Maj. "Mack" McKinney represents know him personally or recognize the debt of gratitude they owe him.

By paying tribute to him in this RECORD, I hope to provide formal recognition of his legislative achievements and to note for posterity his painstaking efforts to secure passage of such vital laws as: separation pay for enlisted members, a issue he has fought on for over 18 years; CHAMPUS reform; and a transition plan that provides much needed benefits for service people affected by the current drawdown of military personnel. Additionally, he has successfully waged campaigns to modify the Gramm-Rudman-Hollings law to provide equitable COLA treatment for all retirees; to thwart countless attempts to diminish commissary benefits; to enhance medical readiness while concurrently honoring previous commitments to provide quality health care to military beneficiaries; and to secure an equitable Home Loan program for enlisted personnel. Mr. President, this list provides only a hint of Sgt. Maj. "Mack" McKinney's greatest accomplishments.

Several years ago, Sgt. Maj. "Mack" McKinney's influence spread beyond the military community to touch upon the lives of more than 30 million senior citizens involuntarily brought under the yoke of the Medicare Catastrophic Coverage Act and its struggle to repeal this surtax, Sgt. Maj. "Mack" McKenney was an invaluable ally and font of knowlege to members of both bodies, as we sought equitable solutions to the problems of catastrophic illness and affordable long-term nursing home care for the elderly.

Sgt. Maj. "Mack" McKinney may be officially retiring, but he has graciously promised to continue his efforts on vital health care issues and other issues that affect the lives and futures of our military personnel and their families.

Mr. President, Sgt. Maj. "Mack" McKinney is, and will continue to be, a sagacious leader and advisor. We all will miss him greatly as he retires. For those who have come to know him as I have, as a friend, I wish my dear friend, "fair winds and a following sea."•

USDA FIGURES REFLECT POLITICAL TILT

• Mr. HARKIN. Mr. President, with President Bush running for reelection, I suppose it is only to be expected that his people over at the Department of Agriculture will do everything they can to convince America's farm families and rural communities that they have never had it so good. I suppose I can understand why political pressures would force the Bush administration to try to convince rural America that things are different from what they live and experience every day. It is a political game that insults the intelligence of people in rural America. Because the propaganda coming out of the Agriculture Department is belied by the facts.

Were it not for the real pain involved, the wrenching economic realities that confront rural America, I suppose it would be a little amusing to watch as George Bush shamelessly courts votes from a rural America that he and his predecessor wrote off for the past 12 years. And I say it is time to call a halt to this record of neglect and indifference toward rural America.

Let us look at some of the statistics. Since 1981, we have lost 344,000 farms in this country. During the 1980's, Iowa's farm population dropped 34 percent, while in the United States as a whole the farm population dropped 31 percent. In my State of Iowa the number of people whose primary occupation is farming fell by 25 percent in the 1980's.

We have lost virtually an entire generation of young farmers. The average farmer is now 52 years old. There are twice as many farmers over 60 as under 35. The number of people entering farming fell by 29 percent during the

1980's. But how can that be any wonder when the doors of opportunity have been slammed so tightly shut on young people wanting to farm?

Mr. President, the loss of farms and farm families represented by these figures has dealt a devastating blow to our rural communities. For they do not represent merely people finding another job or another place to live. These figures reflect massive and disruptive changes that are ripping the fabric of rural America, and undermining the whole system of schools, hospitals, churches, and small businesses that form our social communities.

In the face of this deeply disturbing information about what is happening to our farm families and rural communities, George Bush's Department of Agriculture continues to issue statistics designed to paint a rosy picture of prosperity in agriculture. But an examination of the facts refutes the political spin that USDA is seeking to generate.

When USDA brags about high, indeed record, levels of farm income, as it is wont to do, it conveniently fails to adjust the figures for inflation. I cannot understand why when the financial situation of our farm families is assessed we should not take inflation into account just like we do for other sectors of the economy. That is just basic economics. And it is just basic honesty.

And the truth of the matter is that in constant 1987 dollars, net farm income has not reached record levels under George Bush, and has in fact fallen dramatically. In constant dollars, net farm income fell from $46.2 billion in 1989 to an estimated $38 billion in 1991, nearly an 18 percent decline. Using USDA estimates, net farm income may fall by as much as 26 percent between 1989 and 1992.

As for comparisons with previous periods of time, the average net farm income under George Bush as projected by USDA—again in constant dollars—is lower than the average for the decade of the 1960's as well as the average for the decade of the 1970's. Farm income in the Bush years has been higher than in the earlier years of the 1980's, but I hardly see a reason to brag about doing better than the farm crisis years of the 1980's, when our farm economy was suffering the biggest downturn since the Great Depression.

We have also heard boasting from USDA about increases in agricultural exports. Let us look at the facts. USDA's forecast for agricultural exports for fiscal 1992 is still below the level of ag exports for fiscal 1981, even without any adjustment for inflation. And what is more, fiscal year 1981 immediately followed the Russian grain embargo in 1980. Again, the facts belie the bragging coming out of the Bush administration.

In addition, surveys show that farm debt and financial stress is also increasing again. The drain on the assets and incomes of farm families is obvious. Indeed, USDA figures show that for 1990, 55 percent of farm households suffered losses from their farming operations. And the situation is not improving.

To add to these problems, USDA says we have an 8.7 billion bushel bumper crop of corn this year, exports have fallen dramatically, and corn prices are well below $2 a bushel across Iowa. In Iowa, corn prices have fallen by about 50 cents a bushel and soybeans by about $1 a bushel since June of this year. That means that in Iowa this year's corn and soybean crops are now worth well over $1 billion less than they would have been without these price declines. For the United States as a whole, the corn and soybean crops are worth more than $6 billion less than they would have been with June's prices. That means less income for farm families and larger outlays for Government price and income support payments. And even with these higher Government expenditures, Government payments will make up only a part of the losses for lower prices.

Mr. President, it is clear to me that America's farm families and rural communities are not going to be fooled by the propaganda coming out of the Bush administration. They know that the situation in the farm economy is worsening and they are ready to throw the low price, low-income policies of George Bush out the window. They are calling for policies that will capitalize on export oportunities and expand foreign markets, not forfeit them, policies that will emphasize developing markets for value-added and alternative ag products in the United States and abroad, and policies that will make the farm programs work for farm families once again. And it is high time they see these policies put into effect.•

PATENT ON OXAPROZIN

• Mr. SIMON. Mr. President, I would like to extend my appreciation to my esteemed colleague and friend from Arizona for assurances regarding legislation, likely to be introduced next year, that would reinstate a patent on Oxaprozin, an antiarthritic drug manufactured by Searle in Illinois. Specifically, my colleague has agreed to hold a hearing on this issue during the 103d session.

As my colleague knows, the House and Senate have spent much time considering a patent extension bill for a similar drug, called Ansaid. The House also examined another drug from the same class, called Lodine. The rationale for these two extensions has focused on particular circumstances that occurred at FDA delaying the market approval for the drugs. Since Oxaprozin falls within the same category of antiarthritic drugs as Ansaid and Lodine, and since it has been subject to similar—if not longer—delays, I believe Searle's product should receive the same treatment that they do.

I fully understand that my colleague from Arizona has made no commitment about whether a bill reinstating and extending a patent on Oxaprozin would pass, or even whether he would support such a bill. Rather, he has agreed to hold a hearing on the merits of the legislation.

Mr. DECONCINI. That is correct. While I offer no opinion at the present time on the merits of a private patent extension for Oxaprozin, I understand the Senator's concerns and would be happy to honor his request to conduct a hearing on Oxaprozin, should legislation be introduced.

Mr. SIMON. I appreciate my colleague's cooperation and look forward to discussing this with him next year.•

IN RECOGNITION OF THE CONTRIBUTIONS OF THE AMERICAN INDIAN SCIENCE AND ENGINEERING SOCIETY

• Mr. INOUYE. Mr. President, I rise today to recognize the contributions of the American Indian Science and Engineering Society [AISES], a nonprofit organization which seeks to increase the number of American Indian scientists and engineers and the development of technologically informed leaders within the Indian community.

The society will convene their 14th Annual National Conference in the Year of the American Indian on November 5–8, 1992, at the Hyatt Regency Hotel in Arlington, VA with the theme of "Year of the American Indian."

The conference will bring over 600 American Indian and Alaska Native college and university students to the Nation's Capital, in addition to many Indian professional scientists and engineers. The conference will offer a career fair where corporations from across the country, as well as Federal and State agencies, will provide information on employment opportunities to prospective employees. A major highlight of the conference is the awarding of scholarships to many talented and deserving American Indian students. The scholarship moneys are made available through the generous contributions of corporations, foundations, and individuals, and Federal scholarship grant programs.

The Federal agencies are to be commended for agreeing to serve as major hosts for this conference, in conjunction with the Mobil Corp. Many Federal agencies employ students and professionals in the science and engineering disciplines. The location of the conference will serve to further convey to students that the Federal sector can provide a rewarding career—a career that holds the potential of serving Indian country and Indian communities as well as the larger American society.

The American Indian Science and Engineering Society scholarship program has grown from $1,400 in 1982 to $246,500 in 1991, with a total of 213 students receiving scholarships in 1991. Nineteen ninety-two promises to be an even better year in the provision of scholarship assistance.

From its inception in 1988, the American Indian Science and Engineering Society has received over 2,000 applications for its precollege program which includes summer internship experiences for American Indian students. During the summer of 1991, nearly 200 middle school and high school students, representing 63 Indian tribes in 33 States participated in math and science programs at various universities and internship sites.

Another major achievement in the society's teacher programs, which are designed to train teachers in math and science with interdisciplinary and cultural applications aimed at enhancing the abilities of their American Indian students to deal with science and technology in their daily lives. The 1991 teacher workshops involved nearly 90 educators.

The society's education newsletter is published quarterly and is mailed to 35,000 educators and students nationwide. The newsletter is supported by a grant from AT&T.

The society's "Winds of Change," a national four-color magazine was awarded the prestigious Ozzie Award for Design Excellence by Magazine Design and Production. This competition included 1,600 entries from the best publications in the United States and Canada.

AISES also has a successful Pathway Program that assists the students in securing internship positions or assists members to secure employment.

AISES provides the Science of Alcohol Curriculum for American Indians in a series of supplementary science lessons designed for use in grades four through nine. The curriculum combines science, American Indian culture, and prevention through the use of stories, hands-on experiences and cooperative learning activities. This project was sponsored by the National Science Foundation.

The society is also a sponsor of science fairs. In 1991, over 330 students from 10 different States took part in the National Science Fair at New Mexico State University in Las Cruces, NM, which was supported by a grant from National Action Council for Minority Engineers and National Agricultural Statistics Service, U.S. Department of Agriculture.

Another important achievement of AISES is their annual Leadership Conference. Sixty students from AISES student campus chapters from across the Nation attended this conference in 1991. The 1992 conference in Colorado enjoyed equally good participation. In past years, the leadership conference has been sponsored by the U.S. West Foundation. Activities include workshops on leadership and personal development, as well as issues relevant to the technical and social advancement of Indian people.

The American Indian Science and Engineering Society has over 80 chapters at colleges and universities across the country. These chapters provide peer and mentoring support for American Indian science and engineering students. They also provide a national network for the administration of AISES college programs.

The society is located in Boulder, CO. Mr. Norbert Hill serves as the society's executive director, working with the AISES board and its officers.•

COMMEMORATION OF THE CINNAMINSON, NJ, FIRE COMPANY NO. 1

• Mr. BRADLEY. Mr. President, I rise to congratulate the Cinnaminson Fire Company No. 1 as it commemorates its diamond anniversary.

The men and women of the Cinnaminson Fire Company No. 1 have given 75 years of faithful and vital support to Cinnaminson Township and the surrounding communities. I join all the residents in applause and appreciation for the dedication, expertise, and bravery of the firefighters.

I offer my best wishes for continued growth in the years ahead.•

RUSSIAN ARMS SALES

• Mr. COHEN. Mr. President, I would like to bring to my colleagues' attention two recent articles by Norman Friedman which appeared in the Naval Institute Proceedings. Mr. Friedman reports that in July the Russian aircraft industry closed a deal to sell $2.5 billion in arms to Iran, including 12 Backfire bombers, 2 AWACS-type aircraft, 48 air superiority fighters, and many other aircraft and missiles. In his second article, he discusses new antiship missiles, more capable than Exocet, which the Russians are selling in the international arms markets.

Military officers sometimes describe a potential opponent in terms of intentions and capabilities. I am not trying here to paint a picture of Iran as an actual threat. This arms sale demonstrates, however, that advanced Soviet weaponry is being sold to other nations. As we witnessed when Iraq invaded Kuwait, we may have no warning time in future crises. It is imperative, I believe, that our naval forces be capable of defending against advanced antiship missiles. And this capability must exist in the fleet, and not just in some laboratory.

These articles deserve our attention. The Proceedings magazine is a leading professional journal read by senior naval leaders worldwide; it has a circulation of more than 100,000 and the magazine estimates that nearly half a million people read the magazine each month. Mr. Friedman is the author of the Naval Institute Guide to World Naval Weapons Systems and he has testified before the Armed Services Committee.

The issue of how to fund improvements in air-defense for our naval forces will continue to be an issue in the future. I am pleased to report that the conference bill on the defense authorization for fiscal year 1993 funds four Aegis guided-missile destroyers and provides increased funding for ship self-defense capabilities for ships which do not have the Aegis system.

Mr. President, I ask that two items be printed in the RECORD. The first is an excerpt from the article by Norman Friedman which appeared in the September 1992 issue of Proceedings, and the second is the article by Mr. Friedman printed in the October issue.

The material follows:

[From Proceedings, October 1992]

WORLD NAVAL DEVELOPMENTS

(By Norman Friedman)

"IT'S DANGEROUS OUT THERE * * *"

During the August 1992 Russian aircraft industry's major show in Moscow, the full range of air-to-surface missiles was on display, together with new air-to-air and even surface-to-surface weapons. All were for sale, and last month's sales to China and Iran show just how widely some of these weapons are likely to be deployed. The reported prices suggest that, at least for now, the Russians can undersell all Western suppliers.

The Russians have been increasingly forthcoming, and by late 1991, they had come close to revealing details of nearly all the missiles for which NATO had assigned designations. The Moscow show went much farther. It provided the sort of detail common in Western military advertising, but heretofore available in the West only in publications classified "Secret" or above.

It now appears that Western intelligence missed quite a few tactical programs.

Nothing in what follows should be read as an attempt to revive the old Soviet threat. The degree to which a country's arsenal presents a threat depends both on its politics and on its ability (including its economic ability) to support hostilities, and the Russia of late-1992 clearly is not a threat to the West. The Moscow show does, however, demonstrate quite clearly that Russia is a viable competitor in the international arms market. At least some of the weapons on display will be sold to Third World countries unfriendly to us, and the United States cannot reasonably try to prevent such sales. When the Russians renounced Communism and open hostility, we invited them into the world trade system. Like it or not, that system includes the arms trade. After all, the United States is part of it.

It would be tempting to imagine that only the Russians' second- or third-rate equipment will appear in hostile hands. This was true in the past; the old Soviets were not all that willing to export their best equipment, partly for fear that their erstwhile clients would change sides, or that key details would leak out. They manufactured special export versions of their equipment—all with the suffix E. But the point of that secrecy was that one day the first-line equipment would face the West. To the extent that President Boris Yeltsin's Russia is unlikely to fight the West, inhibitions against exports are much weaker. Whoever has the cash will get excellent equipment.

From a naval point of view, probably the most spectacular—and the most alarming—weapon on display was an antiship version of the AS–16 air-to-surface "aero-ballistic" missile, previously counted as a strategic weapon because it is the Russian equivalent of the U.S. Air Force's short-range attack missile (SRAM), which used to be carried by B–52s. The AS–16 may well be the chosen successor to those nightmare weapons of the 1970s and 1980s, the AS–4 and AS–6. Like them, it can be carried by Backfire bombers, just like the ones purchased by Iran. Like the earlier missiles, the AS–16 flies a high trajectory with a terminal dive, making the missile particularly difficult to shoot down. Unlike them, more can be carried on an internal rotary launcher.

According to the brochure release in Moscow, the missile carries a 330-pound warhead to a range of 150 kilometers (about 90 nautical miles) against cruisers at speeds of up to Mach 5. Its range is much shorter when used against destroyers and fast attack boats. After it's dropped, the missile climbs steeply to assume a ballistic path. It uses inertial mid-course guidance, with a millimeter-wave active radar terminal seeker. Launch weight is up to 1,200 kilograms (about 2,600 pounds). Maximum range is associated with a launch altitude of 20,000 meters (about 65,600 feet).

The published drawing of the missile's flight path shows a straight run toward the predicted target position, with the missile maneuvering only in its final approach to compensate for target motion. True inertial guidance, however, would probably permit missile maneuvers in flight, so that the launching bomber would not have to fly directly toward the target. The warhead is considerably smaller than those of earlier antiship missiles, but the bomber carries many AS–16s. The logic may well have been that one or two AS–4s could be shot down, but that many of the more numerous AS–16s would get through and destroy a target by cumulative damage. The sheer speed of the missile adds considerable kinetic energy to the warhead. It is also possible that the Russians believe that more modern explosives will make up much of the difference.

There is one important divergence from earlier practice—the AS–16 uses solid propellant, while the AS–4, –6, and their predecessors use liquid. The liquid adds to the effect of the shaped-charge warhead, but solid fuel is safer and easier to handle. Future solid-fuel rockets may use their fuel to add to explosive effect, but that is unlikely thus far.

Clearly such a missile is very difficult to defeat. It arrives at a steep angle, and its seeker may be quite difficult to detect and jam (the higher the frequency, the more range for frequency agility to avoid jamming). If the best antidote to the high-flying AS–4/6 was to kill the archer before he fired, that is at least as true of AS–16.

With the decline of the Cold War, there was a general belief that the outer air battle—the battle against the bomber outside of its own missile range—was finished as a major issue. It was seen as the best defense against the threat posed by the Soviet naval air arm, but surely those aircraft would no longer be a major enemy. The real problem of the future, planners believed, would be a Third World fighter-bomber or diesel-electric submarine, and these perceptions doomed the F–14D and the Phoenix missile successor—the advanced air-to-air missile (AAAM).

Now the Iranians have shown that a Third World country can buy heavy Russian bombers, and the Moscow Air Show may have given us a hint of what they will carry. For years, analysts have wondered why no AS–4/6 successor had appeared. They suspected that both missiles were being improved, with emphasis on guidance and warhead technology. Perhaps the correct answer was that the Soviets were busy with the AS–16. It may have been significant that, although the full range of tactical air-to-surface weapons was on display, the AS–4 and –6 were not. One might suspect that, to the extent that the AS–6 is part of a Backfire export package, it would be prominently displayed, especially since other, older missiles were shown. Incidentally, the AS–6 is on display in Moscow—at the air museum.

The AS–16 has another unwelcome implication. In the past, although clearly it paid to destroy bombers rather than missiles, it could be argued that shooting down a single bomber eliminated no more than two antiship missiles, A single Backfire, for example, carries two AS–6s. But the alternative is a pair of rotary launchers carrying many more AS–16s. Moreover, because the missiles fly a predominantly inertial path, the bomber need not lock them on before it fires. The flight path implies that the bomber can fire from relatively low altitude, below the target's radar horizon, on the basis of external targeting data. That might be the significance of the Iranian purchase of the maritime patrol version of the An-72 Coaler, mentioned in this column last month.

A single Backfire, then, now can launch a mass missile attack on a battle group. Shooting it down long before it can fire becomes a higher, not a lower, priority. From the point of view of a Third World country faced with U.S. naval air power, the Backfire/AS–16 combination must be enormously attractive. The effect of the Russian political revolution is that the old criterion of client-hood has been replaced by a much simpler one: cold cash.

In particular, the F–14 versus F/A–18 issue may be reopened. In very realistic Third World scenarios, the fleet's ability to fight an outer air battle becomes essential; it also becomes more difficult. In the past, it was assumed that the fleet would arrive after war had been declared, i.e., after aircraft in Soviet markings were fair game. The only problem was technical: the F–14s had to get far enough out fast enough to intercept beyond the AS–4's range. Now scenarios are likely to be much more ambiguous; the Backfires will be fair game only as they launch their weapons. We will still want to intercept them; indeed, our interceptors will have to be fast enough to reach them in time and then to escort them until they either turn away or fire their first few weapons. Such considerations make the F/A–18's endurance a much more important question than might have seemed to be the case only a few months ago.

There were numerous revelations. A sketch of what must be the SS–N–22 surface-to-surface missile (which has never been displayed before) showed it not only on-board a destroyer, but also in a coast-defense cannister and on a submarine. The latter is the real surprise: no submarine launch platform has ever been named. Another surprise was the name of the design organization: the old Chelomei OKB (now called NPO Mashinostroeniya), the bureau that designed the big-ship missiles like the SS–N–2, –12, and –19. In the past, the SS–N–22 has been considered a sort of super-Styx, a longer-range fire-and-forget weapon. Chelomei specialized in weapons requiring targeting assistance, and providing their surface platforms with assistance in the form of a radar-video data link. As the old Soviet Union has become more porous, much more information about existing systems has surfaced. Coincidentally, at the same time that the poster of SS–N–22 named the Chelomei bureau as originator, it became clear that the missile has a video data link just like its larger brothers.

A model of the new SS–N–25 shows a missile looking like Harpoon. The same weapon was displayed as an air-to-surface weapon. The SS–N–25 is important because it may mark a shift away from earlier heavy missiles, which small attack craft cannot carry in numbers. The SS–N–22 is carried in a close-fitting cannister. In contrast, the Styx is carried in a massive hanger; although its wings fold, its tail does not. Examination of the Styx on board ex-East German Tarantul missile boats reveals just how loosely the missile is carried within its launcher; a U.S. crewman estimated that each launcher could accommodate six Harpoons.

Many of the world's navies currently carry Styx missiles, generally four to a boat. Many of the Styx operators cannot hope to buy Harpoon or Exocet. If the SS–N–25 is offered as a replacement, the number of weapons will probably at least double, and any such increase greatly complicates defense, which is quite aside from the likelihood that SS–N–25 matches Harpoon's sea-skimming capability. The Russians have said that they hope to begin marketing this missile in 1993.

The other current Russian antiship missile, the SS–N–19, was not on display, which suggests that it is not for sale (although the Chinese seem to have bought a ship designed to carry it, the incomplete carrier *Varyag*. The Chelomei bureau did display submarine and surface ship vertical launch tubes, but they did not seem linked to any particular weapon.

Virtually all the standard tactical air-to-surface missile on display were credited with antiship capability; in some cases there were special antiship versions. This may reflect an interesting marketing perception. Air shows rarely emphasize naval weapons, and air-to-surface missiles are much more often intended to attack ground targets. The Russians may well have realized that, to the likely Third World purchasers, warships—particularly U.S. warships—may be extremely important targets. After all, for many years, the U.S. Navy has emphasized that it is the main means of projecting our power. The objects of projection presumably are aware of our views.

New air-to-surface weapons on display included an antiship rocket-ramjet shown for the first time at Minsk earlier this year. As in the case of the AS–16, rocket-ramjet propulsion presumably greatly increases missile speed and greatly complicates defense. At Minsk the new weapon was shown under an Su–27K carrier attack bomber, the type the Chinese reportedly are buying for their new carrier. The AS–17 is a smaller version of the same airframe (no NATO reporting designation for the new missile has been announced).

There were also new-generation air-to-air weapons, including the Russian equivalent of the U.S. advanced medium-range air-to-air missile (AMRAAM), with unusual lattice fins. Several missiles were new, and some showed previously unknown active radar-guidance modes. The newer naval surface-to-air missiles were also on display: SA–N–6, –7, and –9. Displays of the antiaircraft weapons included more than just the missiles themselves; performance limits were listed and models of fire control spaces and below-decks launchers also were on display.

New ASW weapons also were displayed. One artist's concept showed a lightweight rocket torpedo, the APR–2E, designed for carriage on board helicopters. It is a small-caliber (350-mm., or about 14 inches) weapon that can dive to 600 meters (2,000 feet), and attain speeds up to 63 knots. In the past, Russian helicopters have carried quite conventional 45-cm (18-inch) homing torpedoes; there has not been a whisper of anything like a Russian Mk-50. Such a weapon might also be used as a warhead for weapons like SS–N–15 and –16. Once again, the "E" in the designation almost certainly means export version, not the fifth version of a long-existing program. The last known Russian rocket torpedo was a RAT–52 (in its case the number does indicate the year), a stand-off antiship weapon predating the big missiles. It may survive, barely, in China.

We are beginning to understand how the systems work, and how Russian thinking has differed from (and sometimes corresponded to) our own. For example, it is becoming possible to understand the Russians' shipboard command-and-control systems, their equivalents to our Navy tactical data system, combat data system, and Link 11.

Also on display were a variety of antiradar missiles, both air-to-surface and air-to-air. The Russians were not cagey; they knew their prospective clients, and described one missile explicitly as anti-AWACS (U.S. Air Force E–3 airborne warning and control system) and another as anti-Patriot—the air defense missile.

The anti-AWACS missile is a big ramjet (launch weight 600 kilograms—about 1,320 pounds) with a passive-active seeker, so that it can guide even if the target radar has been shut down; maximum speed is 1,000 meters per second (1,940 knots), and range is about 200 kilometers (108 nautical miles). As illustrated, it appears similar to—although longer than—the new AS–17 (Kh-32) air-to-surface antiradar missile.

The new weapon is likely to be quite significant. United States AWACS aircraft are often sent abroad to monitor evolving and dangerous situations. In such roles, they cannot operate with fighter escorts of any kind, since the host countries almost certainly will not permit such combat aircraft to operate from their soil. They are employed in very small numbers, and the Gulf War has shown any prospective enemy just how important they are. It seems obvious, at least to the Russian advertisers, that the ability to eliminate this problem at the outbreak of war will be quite attractive.

It seems likely that the new missile homes best on shorter-wave radars, like the AWACS' S-band APY–1/2. It may not be nearly as effective against the longer-wave radar of the E–2C. (For many years, Grumman claimed that the longer-wave set was relatively immune to antiradiation missile [ARM] attack.) The U.S. Navy is considering a new-generation airborne early warning airplane using a phased-array antenna. Like the AWACS, it would probably have to operate at higher frequency than does the E–2C radar. It, too, might well be susceptible to attack by an antiradar missile of the new type.

Air-to-air antiradiation missiles are not a new idea; they were seriously considered in the 1970s as a counter to the then-new Soviet MiG–25 Foxbat. They were abandoned because they are difficult to build, and because shutting down the target radar was likely to be an effect countermeasure. The Russians have apparently solved that problem by combining an active radar seeker with the passive ARM seeker. No Western air-to-air ARM currently exists.

Air-to-surface ARMs are, of course, well known, and the Russians distributed a description of a missile intended to attack Patriot radars. It has a range of up to 160 kilometers (86 nautical miles) and a maximum speed of Mach 3.6. Such weapons are less terrifying than the air-to-air missile, because the counter-measures are well known, and also because the missile site can probably shoot down the incoming weapon, which, after all, follows a very well-defined path.

It is now becoming clearer than many Russian shipboard antiship missiles have antiradar variants. That certainly includes the SS–N–12, –19, and –22, and probably the SS–N–9. In the case of the SS–N–19, Russian officers have been quite open: the primary target was the Aegis radar. As in the case of Patriot, Aegis was designed to shoot down just such missiles, so the fact that they would home on its emissions does not raise additional problems. It does mean that these missiles would not announce their presence by their own emissions. It may be that the key to surviving massive attacks of this sort is to use different Aegis radars in sequence, all the ships sharing a common tactical picture and handing off missile control. Such operation is certainly within the possibilities presented by the Aegis system.

Another air-to-surface weapon was almost certainly a conventionally armed variant of the AS–15/SS–N–21 subsonic cruise missile ("Tomahawkski"). Guidance techniques included terrain comparison (TerCom) and space-correction (using the Global Positioning System, or GLONASS—the Russian equivalent). This missile may have a naval significance. Presumably the SS–N–21s have been withdrawn as part of the Bush-Yeltsin agreement to eliminate tactical nuclear weapons at sea (nuclear Tomahawk went the same way). Also, presumably, a nonnuclear variant of the SS–N–21 is in the works, paralleling the nonnuclear AS–15 version. It will be a viable strike weapon. An anti-ship version also may be under development.

It should be stressed that these descriptions come from sales brochures available at the Moscow Air Show. It is not clear how many of the missiles actually exist and how many are merely plans, but all of them are being actively promoted. Several countries have either brought or are buying advanced Russian weapons, and not all of them are long-time Soviet clients. Hard cash is what the Russian aerospace industry now needs, and it is offering some very impressive equipment at low prices. U.S. manufacturers may argue that our own support is far better, and that we are probably also better at subtleties such as electronic counter-countermeasures. The Russian weapons are certainly far beyond what some of our Western competitors are selling, however, and, like our competitors, the Russians seem unlikely to impose any sort of political litmus test on the buyer.

These weapons are above all naval developments, because the U.S. Navy continues to be the principal means by which the United States enforces its presence abroad. They are what we are likely to meet in Third World waters in the next decade or so. The end of the Cold War has made equipment available wholesale, without political dickering. Mass demobilization has made trained personnel available on a similar scale. Thus money can equal instant force structure. Strategic warning time can shrink from decades to months.

We are already seeing such developments on a very small scale in the civil wars in the southern part of what used to be the Soviet Union. Armenians and Azeris fighting over Azherbaizhan now have their own miniature air forces, obtained by paying Russian pilots to desert with their own aircraft (an Su-25 Frogfoot on one side, two Mi-24 Hinds on the other).

None of this is particularly new. The Royal Navy had to demobilize after the Napoleonic Wars, and many of its officers went on the beach, on half-pay; they were encouraged to serve in other navies. This kept them employed, reduced pressure on the Admiralty to accept officers for the few remaining billets, and also insured that the Royal Navy would continue to enjoy active combat experience.

Full details of the newly revealed weapons and of the related systems will be included in the next edition of the Naval Institute Guide to World Naval Weapons Systems, which will be published in September 1993.

WORLD NAVAL DEVELOPMENTS

(By Norman Friedman)

IRANIAN AIR THREAT EMERGING

In July, the Russian aircraft industry made its largest sale to date—a $2.5 billion deal with Iran. The sale included 12 Tu-22M Backfires, the first of their kind to be exported anywhere, plus examples of a new type of maritime reconnaissance aircraft, a variant of the An-72. The package also included 24 MiG-31 interceptors (with 2 Mainstay airborne radar-control aircraft), 48 MiG-29 air-superiority fighters, and 24 MiG-27 ground-attack fighters, plus a variety of surface-to-air missile batteries (long-range, fixed-site SA-5s and SA-11 and SA-13 mobile weapons). Unlike the bargain-basement prices described in an earlier column, these include post-sale service and spare parts. Even on that basis, the sale is still a considerable bargain.

The Russians have also agreed to help rehabilitate the large fleet of ex-Iraqi aircraft that fell into Iranian hands during the Gulf War. Moreover, the combination of SA–5 long-range missiles, interceptors, and airborne early-warning radar aircraft suggests that Iran is buying a Russian-style integrated air defense system, a package that would go considerably beyond the $2.5 billion.

Although not included in the announced package, the Backfire deal almost certainly includes AS–6 antiship missiles. They are the bomber's standard armament; the alternative modular bomb-bay for gravity bombs seems a poor way to use so expensive an airplane. After all, the Soviets provided air-to-surface antiship missiles (AS–1 and AS–5) when they sold Badgers—the Backfire's predecessor—to Egypt and Indonesia.

The only alternative to the Backfire/AS–6 package currently on offer is the Chinese B–6 (Badger)/C601 (Silkworm) combination. Thus far it has been exported only to Iraq, and the aircraft involved were destroyed during the Gulf War. In any case, this combination falls far short of the Backfire/AS–6 combination; the C601 is comparable to the U.S. Harpoon in range, though it carries a much larger warhead.

The AS–6 is a fast, steep-diving missile, that can be fired from well beyond a battle group's antiaircraft envelope; it was in part responsible for stimulating intense U.S. Navy interest in what came to be called the outer air battle. Given the geography of the Persian Gulf, the AS-6 could be launched at a target anywhere in the Gulf by an Iranian Backfire flying in its own air space. No Gulf navy has anything remotely like the sort of long-range defensive missile required to provide defense in depth against such a weapon. The only point defense missiles currently in use in any Gulf navy are the French Crotale and Mistral.

The An-72 radar-control variant aircraft adds a new twist. It is intended to search electro-optically, and data-link its pictures down to a command center that would send in the Backfires. Such search techniques are limited in range, and weather can negate them altogether. But they are passive, and thus do not alert the potential target. Perhaps the Mainstays are intended to provide initial target detection using their big long-range radars, cuing the An-72's. Electro-optical searches can be quite accurate, but the searcher must know its position very precisely; the An-72's will have inertial navigation systems.

The Russian aircraft industry has long shown a flair for advertising and for export sales apparently lacking in the Russian naval industry. For example, it has exhibited its wares at the main Western air shows, Paris and Farnborough, and held its own big Moscow air show last month. As a consequence, Western understanding of Russian aircraft and air-launched missiles is substantially better than Western knowledge of the corresponding shipborne weapons.

All of this suggests that the Backfire/An-72/AS-6 combination will be marketed aggressively. It will be attractive, if only because it promises Third World countries a way of countering the favored U.S. means of power projection, the carrier battle group. The U.S. literature on carrier battle group air defense is itself a sort of advertisement for this product.

U.S. readers should remember that most Third World regimes are now unhappily aware that there is no longer any counterbalance to U.S. military pressure. U.S. professions of totally peaceful intent or policy statements limiting us to working within the United Nations, will not affect this perception. To most regimes, the United States is a profoundly subversive force, pressing upon them the terrifying concept of democracy. In the past, the Russians provided such regimes with two means of resisting U.S. political pressure. One was to side with the United States against the Russians, and thus to receive support. The other was to side with the Russians and thus receive direct military insurance (albeit at a high cost in local political control).

Now both possibilities have melted away. The crushing defeat of Iraq showed clearly that even before their Union dissolved, the Russians no longer had the heart to protect their former client states. With the Cold War buried, strategic position had lost much of its attraction. The Russians are most unlikely to recover quickly enough to provide one, whatever the future of their current revolution.

For its part, the United States has very real reasons to want to be able to influence events in many Third World countries. It is most unlikely to undertake the democratic crusade some of its citizens favor (and many regimes fear), but the United States economy is inescapably tied to that of the Third World. Third World eruptions often affect this country directly, not least in creating waves of refugees.

There cannot be any legitimate restriction on sales of the Backfire/AS-6 combination. The main effect of the collapse of Soviet ideology is that it will surely be offered on a nonideological basis. The total price of the Iranian deal suggests that the bombers went for well under $100 million each, an excellent price.

Such sales should change our own perception of the likely post-Cold War naval air threat. In the past, it was generally assumed that the attackers would be limited to short-range standoff missiles such as Exocet and Harpoon, so that they would have to come within the effective range of SM-2 missiles. It seemed that the outer air battle, the attempt to shoot down the bombers before they could drop their missiles, was almost an obsolete idea, limited to fighting the one least-likely enemy—the former Soviet Union. Because of this, not only was the F-14D cancelled, but also the program to develop a Phoenix successor—the advanced air-to-air missile (AAAM). The much shorter range F/A-18 and advanced medium-range air-to-air missile (AMRAAM) combination seemed to offer enough range.

After all, who but the ex-Soviets would challenge us with exotica such as Backfires and long-range antiship missiles?

Now we have a possible answer. The Iranians may not consider our carriers the likely targets of their weapons, but it now seems clearer that they want to be able to dominate the Persian Gulf. The Backfires and the new Kilo-class submarines announce that intention. Moreover, the Backfire sale is likely to be repeated elsewhere.

Now it may seen rather premature to have dispensed with the outer air battle and its new air-to-air missile.●

UNFINISHED BUSINESS ON CIVIL RIGHTS AGENDA

● Mr. SIMON. Mr. President, as we approach the close of the 102d Congress, it appears we will not have the opportunity to address two important matters that were carried over from the Civil Rights Act of 1991.

Both the Equal Remedies Act and the Justice for Wards Cove Workers Act have been approved by the Labor and Human Resources Committee with support from Democratic and Republican Members. Among those who led the way on these bills are three of our departing colleagues, Senator ADAMS of Washington, Senator CRANSTON of California, and Senator WIRTH of Colorado.

Part of the price we had to pay for the President's signature on the Civil Rights Act, after he vetoed the 1990 bill, was to accept two measures which effectively keep the Civil Rights Act from fully doing what we intended it to do.

First, we had to accept an artificial cap on the amount of damages a victim of intentional discrimination could be awarded if that claim were based on gender, religious, or disability discrimination. While the Civil Rights Act enabled these victims of international discrimination to recover punitive and compensatory damages, this section treats them differently than victims of intentional racial or national origin discrimination. This inequity remains today and I want to see that legislation is introduced early in the 103d Congress to eliminate it so that all victims of international discrimination are treated fairly and equitably.

The second bill we have not taken up on the floor this year is the Wards Cove bill. You will recall, Mr. President, that it was the U.S. Supreme Court's unwise decision on the suit brought by the thousands of Asian-American and Pacific Islander employees against the Wards Cove Co. that precipitated the Civil Rights Acts of 1990 and 1991 in the first place. We set out to restore the civil rights of all Americans by enacting the Civil Rights Act and, because of the intransigence of the administration, covered virtually everyone but the Wards Cove workers.

This is an injustice that has outraged not only the Asian-American communities but individuals in other communities, in many States and regions around the country. Such nationwide concern is not surprising when one looks at the Wards Cove case. According to the dissenting opinions by Justice Stevens and Justice Blackmun in the case, the company maintained segregated housing and dining facilities for the mainly Filipino and Alaska Native employees. These cannery workers were hired during salmon season in unskilled jobs and assigned separate housing and separate eating facilities from the mainly white, noncannery, highest paid, skilled workers. And, as Judge Tang wrote for the 9th Circuit Court of Appeals in the case, "Race labeling is pervasive at the salmon canneries, where 'Filipinos' work with the 'Iron Chink' before retiring to their 'Flip bunkhouse.'" (*Atonio* v. *Wards Cove Packing Company*, 827 F.2d 439, 447)

Chief among the supporters of the Justice for Wards Cove Workers Act outside the Senate have been the National Asian and Pacific-American Bar Association, Japanese-American Citizens League, Organization of Chinese-Americans and Leadership Conference on Civil Rights. Although we will not be successful in the 102d Congress, I look forward to working with them in the coming months and next year to enact this legislation.●

NUCLEAR TESTING

● Mr. DURENBERGER. Mr. President, I rise to comment briefly on recent legislative actions regarding nuclear testing. In early August, I joined with all but 26 of my colleagues in supporting a version of the nuclear testing moratorium sponsored by my friend from Oregon, Senator HATFIELD.

Many of us had reservations about some specific aspects of the amendment, which we hope would be worked out between Senators COHEN, HAT-

FIELD, and MITCHELL before the DOD authorization bill came to the floor.

When the Senate returned to consideration of these issues during the debate on the DOD bill last month, Senator COHEN offered an amendment that, in my view, substantially improved upon the language that passed the Senate 1 month earlier.

Among other things, the Cohen language was more realistic regarding tests for safety and reliability purposes. These are the most compelling reasons for the United States to continue any testing at all—safety and reliability. We clearly don't need to develop new weapons, but safety and reliability are enduring concerns that don't go away just because the Berlin Wall came down.

Mr. President, I also believe that Senator COHEN'S proposal more effectively linked a U.S. moratorium to other arms control and nuclear nonproliferation concerns. That's an area of particular concern and interest for this Senator.

I would note for the record, Mr. President, that my support for the Hatfield amendment in August did not stem from my opposition to nuclear testing just because it's nuclear testing. I do not believe that testing is bad per se. I do believe, however, that a testing moratorium can be effective if it's linked to broader objectives. That's exactly where Senator COHEN'S version surpassed Senator HATFIELD'S.

When the Senate voted in September, the parliamentary situation did not permit a vote explicitly on the Cohen proposal. It was clear, however, that the vote on the Hatfield second-degree amendment was in essence a referendum on the Cohen version.

It is important to note for the record that Senator COHEN worked diligently to accommodate the concerns of Senators HATFIELD and MITCHELL, but that the differences could not be worked out and still remain within the parameters of nuclear safety that the experts believe to be imperative.

I voted against the Hatfield language not because I oppose a nuclear testing moratorium, but because I believed the Cohen proposal was stronger and more realistic, particularly regarding the need for limited continued testing for safety and reliability. The administration and other experts were particularly persuasive on these matters.

Now, according to recent press reports, we learn that in signing the energy and water appropriations bill, the administration traded off its concerns about nuclear testing in order to secure funding for the super conducting super collider. Having voted against the super collider and been persuaded by the considered judgment of nuclear experts on the safety and reliability arguments, I must admit to a certain disappointment that the administration took this position.

In any event, Mr. President, the Hatfield language is an important step forward, although I continue to believe that Senator COHEN'S proposal would be much more effective.

Thank you, I yield the floor.●

CONDEMNING AZERBAIJANI FORCED RELOCATION OF ARMENIANS IN NAGORNO-KARABAIJAN

● Mr. D'AMATO. Mr. President, I rise today to condemn the acts of aggression perpetrated by Azerbaijan against the Armenian population in Nagorno-Karabagh. The ongoing acts of ethnic persecution are nothing less than genocide. Forcibly rellocating Armenians from their home is a deplorable act and one that cannot be ignored by the rest of the world. It is appalling that in 1992, ethnic cleansing has become so commonplace, not only in Bosnia, but also in Karabakh.

What the Azeris say and do are two entirely different matters. Azerbaijan and Armenia signed a cease-fire agreement, engineered by Russian defense minister General Pavel S. Grachev, which was to take effect on Saturday, September 25th. These peaceful negotiations, however, have eroded into a new offensive by Azerbaijan. Reportedly, the Azeris rejected a Russian proposal for peacekeeping forces in the region. The Azeri denial shows their true intentions.

The response of the Turkish Government to the Karabagh conflict is also unacceptable. Turkey's President Turgut Ozal has made statements threatening military intervention into the conflict. In response to my letter urging a recission of these remarks, Ambassador Nuzhet Kandemir sent me a response. I ask that it be printed in the RECORD.

The letter follows:

TURKISH EMBASSY,
Washington, DC, June 12, 1992.

Hon. ALFONSE M. D'AMATO,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR: I am writing in response to your fax of June 8, regarding President Ozal's recent statements on the Nagorno-Karabagh conflict. I was pleased to learn of your interest in the issue.

As you should be aware, Armenian aggression against the sovereign territory of Azerbaijan has recently escalated the conflict in the Caucasus. With their attack on the autonomous region of Nakhichevan, the Armenians have taken it to a new level of violence, even as they have not slowed their onslaught into Azerbaijan. The Armenians, armed with heavy weaponry, have shown no mercy for the Azerbaijanis, a people who are not currently in a position to defend themselves and whose leadership was in disarray until elections last week. The Azerbaijanis are hopelessly outgunned, and so far the international community has done very little to halt the Armenians' expansionism.

I might add that the Armenian representative from Karabagh failed to appear at the Rome Emergency Meeting convened earlier this month in an attempt to find a political solution to the conflict. Indeed, the Armenian side at the meeting refused to adopt a compromise package put forth by the U.S.: the Azeris, on the other hand, were willing to make every effort to end Armenian hostilities. You may recall that the Armenians also blocked the consensus in the CSCE when they rejected a resolution condemning their naked aggression in Azerbaijan. Presumably this was because the resolution reaffirmed the territorial integrity of Azerbaijan and called upon the Armenians to cease and desist.

This approach has been voiced at various press conferences by the U.S. Administration's spokespersons. Needless to say, this U.S. approach is very much in line with Turkey's. I might also add that world leaders, including the U.S. and Germany, have on more than one occasion called on the Armenian side to stop its attacks on Azeri territory. Those who actually follow the course of the conflict closely are aware of this.

Given the realities of the Azeri-Armenian conflict, I dare say that President Ozal's comments could have had little effect. They certainly did not escalate the conflict; the level of the fighting is entirely in the hands of the Armenians at this time. If, however, his statements made the Armenian side stop for a moment to consider the ramifications of their aggression, and if in that moment an Azerbaijani life was spared, then his statements were certainly not in vain.

Yours sincerely,
NUZHET KANDEMIR,
Ambassador.

Mr. D'AMATO. This response only reiterates the Turkish position with regard to the continuation of the horrific persecution being carried out against the Armenian people.

The international community, cannot allow for a continuation of these atrocities. The conflict has already created 500,000 refugees and cost over 3,000 lives. How long must persecution be allowed to occur before we take a stand against it? The Armenian plea for help is muffled by gunshot and it is a tragedy if they are not heard. From 1915 to 1923, over 1,500,000 Armenians were slaughtered by the Turks. We cannot allow this to happen again.●

THE DEATH OF LUYEN NGUYEN

● Mr. SIMON. Mr. President, for the past year I have been utilizing the RECORD as a forum for speaking out against hate crimes. As author of the Hate Crimes Statistics Act and chairman of the Senate Judiciary Subcommittee on the Constitution, I have long been concerned by what certainly appears to be a rising wave of crimes based on racial, religious, or other hatred. These tragic incidents have the potential to divide our great country and each of us should be aware of their growing occurrence. Only by addressing the issue of hate crimes directly, and by acknowledging the prevalence of the problem, will we finally begin to make strides toward successfully dealing with the problem.

Today, I rise to address specifically the murder of Luyen Nguyen, a 19-year-old premedical student in Coral

Springs, FL. A Vietnamese-American, Luyen was beaten and kicked to death by a group of at least five young men on August 15, 1992, in a racially motivated incident. According to police reports and eyewitness accounts, he had been attending a party with high school friends but had decided to leave after several guests at the party began making racial slurs. When Luyen asked them why they were making fun of him, the men encircled him and one slapped him. Luyen ran and a group of men chased him down, an unknown number of whom began beating and kicking him while others looked on. Luyen was rushed to the hospital and placed on life support systems. He died 2 days later. I have received newspaper accounts of the murder and ask to have them included in the RECORD.

Mr. President, the violent death of Luyen Nguyen is an immense tragedy. There has been a sharp increase in violence against Asian-Americans in recent years. While hate crimes are directed at a specific victim because of his or her race, ethnicity, religion, or sexual preference, the shock and horror of these crimes is felt by all Americans. Hate crimes cannot be tolerated.

I have written to John Dunne, Assistant Attorney General for Civil Rights, regarding Luyen Nguyen's murder. I understand the Department of Justice has met with Asian-American community leaders and is monitoring the local prosecution of the case.

I hope that in the 103d Congress we are not faced as often by these tragic incidents. It will take the effort of many institutions and every American to combat hate violence.

I ask that the previously mentioned newspaper articles and letter to Assistant Attorney General John Dunne be printed in the RECORD.

The material follows:

U.S. SENATE,
Washington, DC, September 15, 1992.

Mr. JOHN DUNNE,
Assistant Attorney General, Civil rights Division, Department of Justice, Washington, DC.

DEAR MR. DUNNE: I have been contacted by the Asian American Institute in Chicago and a number of Asian American civil rights organizations across the country concerning the brutal killing of Mr. Luyen Phan Nguyen in Coral Springs, Florida.

According to news reports, Mr. Nguyen, a 19-year-old pre-medical student at the University of Miami, was severely beaten by a group of 15 men after he objected to a racial slur against him from that group. Mr. Nguyen later died as a result of the beating.

It is my understanding that the Coral Springs Police Department and the local prosecutor have pressed charges against 7 men involved in the incident. The case is being handled as a hate crime. I further understand that the Department of Justice has been informed of the incident.

As Chairman of the Senate Subcommittee on Constitution and author of the Hate Crime Statistics Act, I am greatly concerned about this deplorable act against Mr. Nguyen, and alarmed by the increasing violence against Asian Americans in recent years. Such violent crimes against any individuals because of their race, religion or ethnicity should not be tolerated.

I would like to be informed of any action the Department of Justice has undertaken or plans to undertake in connection with Mr. Nguyen's death. I also encourage you to keep an open dialogue with Asian community organizations who may come to seek assistance from your department in this matter.

My best wishes.

Cordially,

PAUL SIMON,
U.S. Senator.

[From the Fort Lauderdale Sun-Sentinel]

ASIAN STUDENT'S SLAYING CANNOT GO UNANSWERED

I wish to applaud the Sun-Sentinel for your coverage of the horrifying and repugnant murder of Luyan Nguyen. You have recognized the importance of your role in the community by informing the public and by speaking out against this sickening crime.

We must unite against the specter of hate and racism. Otherwise we will head into a silent anarchy in which no one speaks out to the obvious social unraveling around us. When I moved to Coral Springs, I was told ad nauseam what a wonderful exemplary city it was to raise my children in. I believe it is obvious to see that even Coral Springs is not insulated from the inherent hatred that you would find in the most polarized regions throughout the world.

As U.S. citizens, we must see that justice is done. We must keep up the pressure on the State Attorney's Office to seek the maximum sentence possible with no plea bargains. I believe all the people who participated in the attack are cowards and this country has no room for cowards.

If you are as outraged as I am, please (1) write to the Sun-Sentinel and voice your opinion, (2) write and call the State Attorney's Office. If you are not outraged, remember, we are all in the minority at one time or another and we could be the ones who are beaten to death just for being different! I will not allow Luyan's death to go unanswered.

PAUL FIELDS,
Coral Springs.

SEVEN FORMALLY CHARGED IN BEATING DEATH

(By Roberta DeFoor)

CORAL SPRINGS.—The death of 19 year old Luyen Phan Nguyen was quite a shock to his family given the circumstances behind the tragedy. His beating was a racially motivated action and seven young men have been charged with his death.

Originally police had arrested nine men but evidence for two of these young men was not substantial enough to make a case against the two who were released this week.

Being formally charged are Brad Mills, 19, Derek Kozma, 19, Christopher Madalone 19, and William Madalone, Jr., 22, who all live in Tamarac. Coral Springs residents Christopher Anderson, 18, and Michael Barychko, 19, were also charged with second degree murder. Barychko was arrested while working at his job at the Coral Springs Chevron 2251 University Drive.

Nguyen was kicked and punched by a group of young men until he stopped breathing after he had objected to a racial slur. An unfortunate way to end the life of the premed student who seemed to have a promising future.•

HAPPY 80TH BIRTHDAY GREETINGS TO MR. TIH-WU WANG

• Mr. AKAKA. Mr. President, I wish to congratulate Mr. Tih-wu Wang, a good friend of America, on his 80th birthday.

Chairman Tih-wu Wang of the Taiwan-based United Daily News Enterprises is a former member of the Standing Committee of the Central Committee of the Kuomintang, the ruling party of Taiwan. He is also a retired commanding general of Chiang Kai-shek's personal security division. Upon retirement from the military, Mr. Wang established, with very modest resources, a newspaper from which he developed a multi-national communications corporation.

Chairman Wang created what has become the largest Chinese language daily in both Canada and the United States, the World Journal. And, over the years, he has spared no effort in promoting the friendship and cooperation between the peoples of America and Taiwan through the media.

Our late distinguished colleague, Spark Matsunaga, entered a congratulatory message into the CONGRESSIONAL RECORD on the 10th anniversary of the World Journal to recognize Mr. Wang's many achievements and contributions. I wish to add may commendations to Chairman Wang in two very personal aspects of his life.

First, in the process of building his communications empire, Mr. Wang has always made the welfare of his employees, now numbering in the thousands, a top priority. The testament of his commitment to the well-being of his employees is the modern hotel-resort complex, South Garden, in a beautiful oriental setting on the outskirts of Taipei. It is devoted exclusively for the use of his employees, and it has now also become a famous sightseeing attraction.

Second, Chairman Wang's success does not rest on sound business practices alone. In fact, it is a result of his high regard for family values in the finest Chinese tradition. He sets the highest standards for himself and for his family members to follow. It is no surprise therefore, that his two sons, Peter and Pi-ly, have earned the respect of their peers and others on their own merits, and have become leaders of their country.

Mr. President, I ask my colleagues in the Senate to join me in wishing Mr. Wang a happy 80th birthday, and urge him to continue to further the friendship between our two peoples.•

PATRICK J. NILAN

• Mr. GLENN. Mr. President, as Chairman of the Committee on Governmental Affairs, I have many opportunities to work with the American Postal Workers Union [APWU] and have had many opportunities to work with its national legislative director, Mr. Patrick J. Nilan. After 28 years as legislative director, Mr. Nilan will retire in November. I would like to congratulate Mr. Nilan on his retirement and would like to add my sentiment to the resolution which was proposed to the 4,000 APWU convention delegates to designate Mr. Nilan as National Legislative Director Emeritus. I ask that a copy of the resolution be included in the record.

The resolution follows:

DESIGNATE PATRICK J. NILAN, NATIONAL LEGISLATIVE DIRECTOR EMERITUS

Whereas, National Legislative Director Patrick J. Nilan has announced that he is not seeking re-election and will retire at the end of his present term in November, 1992 after serving the APWU membership as Legislative Director for 28 years in Washington, D.C., and

Whereas, Prior to being elected in 1964 to that position, he was the elected Clerk Craft Vice President (now NBA) for 6 years representing Union members in the midwest states of Minnesota, North Dakota, South Dakota, Wisconsin, Iowa, Missouri—a total of 34 years as a nationally elected officer of the American Postal Workers Union and his predecessor Union, the United Federation of Postal Clerks, and

Whereas, Brother Pat Nilan, a member of the Minneapolis, Minnesota Area Local was also Secretary of his home Local for four years and President for 8 years for an incredible total of 46 years, a lifetime of working for and on behalf of APWU postal workers, and

Whereas, Legislative Director Patrick J. Nilan established the Union's first Congressional political fund in 1965, shortly after he came to Washington and named it, the "Committee on Political Action" (COPA) which progressed from a few thousand dollars a year, over the years until today. The APWU membership now provides well over a million dollars during each two-year congressional election cycle and has been able to help the campaign committees of our congressional "friends" and help defeat those who are not. Brother Nilan has served as COPA Secretary-Treasurer for the past 27 years, and

Whereas, In addition, Pat Nilan has been serving as the constitutional editor of the APWU News Service and Associate Editor of the monthly APWU publication for his entire 28 years as National Legislative Director, and

Whereas, Legislative Director Pat Nilan also established in 1966, at the request of then President E.C. "Roy" Hallbeck and as provided in a national convention, approved resolution from the Miami, Florida Local Union the respected and important APWU Postal Press Association. Nilan served as the first PPA President until proposing several years later that the PPA become autonomous within the National Union and establish a constitution, elect its own officers and determine its own programs and policies, which it did do, and

Whereas, With his decision to retire in November, we believe he should be recognized and appreciated for this tremendous record of service to our Union and membership, particularly for his 28 years as a dedicated, outstanding and most senior of all AFL–CIO Union legislative and political director working with the Congress of the United States and representing us so effectively on "Capitol Hill."

Whereas, Pat Nilan was a major player in the enactment of the two most important laws tremendously affecting postal workers and the U.S. Postal Service namely:

Public Law 89–301, enacted on October 29, 1965, which among many major employees benefits included:

(1) Establish a separate (from Federal Employees) basic compensation schedule for postal field service employees which established the symbol "PFS," and

(2) For the first time established a basic work week for all PFS full-time employees consisting of 5 eight-hour days with the 8 hours of service not exceeding 10 hours in one day—except in emergencies as defined by the PMG and even then cannot be worked more than 12 hours in a day, and

(3) "To the maximum extent practicable, senior regular employees should be assigned to a basic work week, Monday through Friday inclusive," and

(4) Eliminated the extreme burden of "Compensatory Time" (time off—for 6th or 7th day or required work) in lieu of overtime pay for postal employees. True overtime pay was established for the first time by law—for an annual rate (now full-time) regular employee in excess of regular work schedule and a substitute employee (now, part-time flexible) in excess of 40 hours a week, and

(5) The postal unions subsequently won a Federal Court Case "Groettium vs. USPOD" (a Minneapolis postal clerk) against the Post Office Department's refusal to abide by these new overtime payment laws and as a result, most postal employees were paid many, many, many millions of dollars in overtime back pay, and

(6) Also, for the first-time each regular postal employee regular work schedule includes an eight-hour period of service, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday shall be paid extra compensation at the rate of 25 per centum of his/her hourly rate of basic compensation for each hour of work performed during that 8-hour period, and

(7) Among many other benefits postal employees received as the result of P.L. 89–301 and favorable court decisions were guaranteed time and one half for all hours worked by regular full time employees and part-time substitute employees for Christmas Day, and also for the first time "Postal Employee Relocation Expenses" were granted, and

Whereas, Legislative Director Patrick J. Nilan was also, a major player with deceased UFPC and APWU President Frances "Stu" Filbey in another most important major law affecting postal workers namely Public Law 91–375 enacted on August 12, 1970. Known as the "Postal Reorganization Act of 1970," which followed the successful postal strike earlier that year and guaranteed postal employees and their Unions for the first-time ever, "union recognition" by law, and

Whereas, as a direct result of that law combined with P.L. 89–301, APWU has been able to negotiate wages, and other compensation benefits and conditions of employment. The "PRA" also specifically included all statutory benefits as retirement (CSRS–FERS) health benefits (FEHBA), life insurance (FEGLI) and injured worker compensation (FECA–OWCP). These benefits were guaranteed above and beyond other negotiated compensation benefits, and

Whereas, Legislative Director Pat Nilan and APWU have been successful in defeating all regressive legislative proposals during the past 12 years by Presidents Reagan and Bush to cut back, reduce, terminate or amend postal worker and retirees benefits including rejection and defeat of determined efforts by Reagan and Bush to "Privatize the U.S. Postal Service," and

Whereas, Pat Nilan is recognized by many prominent Congress persons and Senators and their top personal staff persons and committees as an outstanding, persuasive, honest and effective legislative and political representative of the APWU on "Capitol Hill," and

Whereas, Civil Service Committee Congressman BILL CLAY (D–MO) and Mrs. Clay, after being advised of Legislative Director Nilan's retirement personally wrote Pat to say:

"After knowing of your decision to retire after such a long and illustrious career, we were still saddened by it; and we were deeply moved to know that we were with you during half of your 42 year struggle to improve the quality of life for postal workers and their families. We rejoiced with you in your greatest triumph securing Union Recognition by law for your membership," and

Whereas, Federal/Postal employee columnists in Washington, D.C. newspapers also know well of Pat Nilan's efforts on behalf of the APWU membership with the U.S. Congress and on "Capitol Hill." For example, the nationally known and respected syndicated federal columnist Mike Causey for the major D.C. newspaper, The Washington Post after hearing of Brother Nilan's retirement earlier this year reported in his column:

"THE DEAN DEPARTS"

"Patrick J. Nilan, dean of the federal-postal union lobbyists here won't run for re-election in November. He's been a national officer of the American Postal Workers Union and predecessor unions for 34 years and legislative director for the last 28 years.

"Nilan's close relationship with fellow Minnesotans (Vice Presidents) Hubert H. Humphrey and Walter F. Mondale made it easier to get pro-postal workers bills through the Senate and White House.

"Nilan is easy to spot on Capitol Hill. He always wears a bow tie, and has a commanding voice that can charm members of Congress, or shatter marble as necessary. He usually was the top vote-getter in union elections for national officers," and

Whereas, We can understand Brother Nilan's desire to retire after 46 years as a Local and National Union officer with 28 years in Washington and enjoy "the fruits of his Union labor" with his family. However, he will certainly be missed and we believe that he richly deserves appropriate recognition and also the opportunity, if he so desires, to be available for advice, counsel and support for APWU and his successor as Legislative Director, and

Whereas, Brother Nilan's expertise, professional and personal Congressional contacts and with important staff persons developed over his long tenure can be very helpful on an as needed basis to the new Legislative Director, APWU President, Executive Board and membership, and

Whereas, Our friend and great champion in the Congress, House PO&CS Committee Chairman Bill Clay always says, "We have not permanent enemies, only permanent issues." APWU has more than enough permanent legislation issues to campaign for in the future and we suggest if Brother Nilan is available when needed, as Legislative Director Emeritus, therefore be it

Resolved, The American Postal Workers Union, AFL–CIO national convention convened in Anaheim, California, August 3–7, 1992 provides recognition and appreciation to the retiring "APWU Institution," National Legislative Director Patrick J. Nilan for his 28 years of outstanding leadership and accomplishments in legislative and political representation on behalf of the APWU membership including the establishment and continued success of the Union's Committee on Political Action (COPA), and be it further

Resolved, That Patrick J. Nilan has designated as the "National Legislative Director Emeritus" of the American Postal Workers Union, AFL-CIO, as an "APWU Institution" whose 28 years as a Washington, D.C. National Officer may never be surpassed, and be it further

Resolved, We urge all delegates to the Anaheim, California APWU National Convention August 3-7, to vote unanimously in support of this resolution.•

INTERNATIONAL PROTECTION OF PATENT RIGHTS ACT OF 1993

• Mr. ROCKEFELLER. Mr. President, on August 12, Senator MIKULSKI and I introduced S. 3190, a bill dealing with one of the most important trade issues facing U.S. businesses around the world at the present time—the protection in foreign countries of U.S. intellectual property. The United States has long held to the principle that inventors have the right to meaningful protection for their inventions and that others should not be allowed to steal their creations from them. We provide this patent protection in the United States, and we must ensure that U.S. inventions are protected against illegal copying in foreign countries as well.

The improper use of a company's creativity is theft that can cost the company the many millions of dollars it spent developing a patentable invention. If a company cannot sell its product and recoup its research and development costs, the next product will not be researched and developed. The degree to which we protect patents and other intellectual property—and the degree to which we ensure commensurate protection in other countries—goes to the heart of a successful industrial society.

Along with many Senators, I have been concerned for some time about the treatment American companies, especially those in the high-tech area, receive when they apply for patents overseas, particularly in Japan. Four years ago, I chaired a hearing in my Foreign Commerce and Tourism Subcommittee which looked at the effects of Japan's patent system on American business.

Nine months later, I chaired a second hearing on this issue, and I was disappointed to learn that, in the interim, there had been little progress in resolving the problems examined at our first hearing. American and other foreign companies, especially high-tech industries, still faced daunting problems with the Japanese patent system. This was particularly discouraging because there was significant cooperation between the United States and Japan on intellectual property issues in international fora such as the Uruguay Round, the World Intellectual Property Organization, and trilateral discussions with the European Patent Office.

At both hearings, specific difficulties were outlined in detail by witnesses representing the U.S. Government, academic experts, and a cross-section of American industry. The list of problems was long. I provided many examples of these difficulties in my remarks on the Senate floor on August 12.

A major problem is that the long delays in the Japanese Patent Office system, combined with its practice of giving competitors the opportunity to see patent applications while they are being processed, are an open invitation to copying and abuse. Another significant problem is that patent claims in Japan are interpreted very narrowly, thereby allowing others to make minor changes in the patented invention to avoid liability for infringing the original patent, and often to force the owners of the original to cross-license their technology if they want to offer their product in the improved manner.

There is a plethora of other areas where improvements are needed to assure that foreign firms were not disadvantaged by the practices permitted by the Japanese patent system. Many of these were listed in an amendment I offered in July 1988, which the Senate passed unanimously. That resolution called on the Administration to give this issue higher visibility and to use all possible avenues to persuade the Japanese to correct their patent system. However, partially because the Bush Administration has not taken serious efforts to combat these problems, Japanese government officials failed to recognize the critically important trade ramifications of these patent problems. Little progress on patent issues was made in 1988 and 1989.

As a result, several of us in the Senate concluded that this situation could not continue, and we decided that the time had come to take a more aggressive stance toward Japan. In August 1989, we therefore introduced the Intellectual Property Protection Act of 1989 to respond to the actions of countries like Japan that did not provide adequate and effective patent protection to U.S. nationals.

Well, Mr. President, since my colleagues and I introduced that legislation, which we did not expect to be enacted so soon after passage of the Omnibus Trade Act of 1988, the patent process in Japan has not changed much. For that reason, in August of this year I decided it was time to renew legislative efforts in this area. The bill I introduced was not another "shot across the bow." The time for warnings and patience had passed. It was time for us to force the Administration to take action.

Unfortunately, the Senate was unable to take action on S. 3190 during this session, and the problems addressed by that proposal continue to afflict U.S. companies. Another example of this situation was brought to my attention just this week. It concerns a small, American company that has developed a truly innovative technology which promises to provide many American jobs, American exports, and American profits. This case also concerns the threat that this technology will be stolen by a large Japanese conglomerate because of the lack of effective intellectual property rights protection by the Japanese patent system.

The American company is Noise Cancellation Technologies, Inc. (NCT) of Linthicum, Maryland. NCT controls the basic technology that cancels unwanted noise through the application of active counter noise through its trade secrets, proprietary computer software codes, and, most important, its patents. It owns dozens of patents, except in Japan, and has other patent applications pending worldwide.

In Japan, the Patent Office has refused to recognize a key patent that has been granted in the United States and every other foreign country where NCT has filed a patent application. As a result, at least one very large Japanese automobile company has announced plans to market cars with an active noise cancellation system in the passenger compartment. Although a recent patent validity and infringement legal opinion found that this system infringes three of the patents owned by NCT, the Japanese company has made no arrangements to pay for its use of NCT patents. Current law would provide NCT some recourse, but only after the U.S. market had been flooded with infringing imports. This is a predicament that U.S. inventors have repeatedly faced because of the vagaries of the Japanese patent process.

Why is this an important issue? Just a brief description of what this one new, U.S.-developed technology does—and what it could mean in terms of U.S. jobs, production, exports, and profits—will show how important it can be to American workers, manufacturers, and consumers. Applications of NCT's patented noise cancellation technology include: Selective headsets for the military and workplaces that eliminate noise but let you hear what you want; similar, but much larger systems for vehicle and aircraft passenger compartments; quiet mufflers for all types of internal combustion engines, for automobiles, trucks, industrial machinery, construction equipment, etc.; quieting enclosures for pumps and compressors; elimination of "in-wire" noise signals in communications equipment; many military applications where noise stealth is important; and many others.

One needs only to think of situations where noise is a problem to imagine what other applications and their benefits could be. Each one of these applications will spawn "spin off" products and industries that could employ hundreds of thousands of workers in the United States if the technology is not stolen by other countries.

Some of the benefits are less obvious. For example, it has been found that substituting NCT's new muffler for the existing types can increase the vehicle's gas mileage by 3 to 7 percent. This means a potential national savings of billions of dollars annually.

Because of this case and many other similar ones, I inform my colleagues today that Senator MIKULSKI and I plan to reintroduce our proposal, to be called the International Protection of Patent Rights Act of 1993, when the 103rd Congress convenes in January. With standards for adequate and effective foreign patent protection for U.S. companies similar to those in my 1989 bill, the legislation we plan to propose will use the Special 301 provisions of the trade law to require USTR first to determine which countries do not provide adequate intellectual property protection and then to negotiate a satisfactory solution. With Special 301's specific mandates and strict timetables, this legislation can, I believe, help eliminate the type of problem I have just described. I hope all of my colleagues will support this effort.•

• Ms. MIKULSKI. Mr. President, it is important for the United States to stand up and support the rights of our inventors and businesses. A big part of this responsibility is protecting our intellectual property. America protects the rights of innovators because we know that encouraging these entrepreneurs is the best way to create the jobs and the technology that keep our country competitive.

We do a pretty good job of protecting intellectual property rights in our own country, but we haven't done enough to stand up to other nations that allow patented inventions, copyrights and other products to be stolen. This theft costs our companies billions of dollars and thousands of jobs every year, and it hits our high technology industries the hardest.

That is why I joined Senator ROCKEFELLER in August to introduce S. 3190, the Intellectual Protection of Patent Rights Act. This bill is designed to protect American companies who invest their resources and their employees' skills to develop a new product, and to make sure that such a great investment is not lost to foreigners that "cherry pick" American inventions.

Unfortunately, this has been a very serious problem for Maryland companies trying to do business in Japan. Three years ago, when I first joined with Senator Rockefeller to work on this issue, Fusion Systems of Rockville, Maryland, was coming under siege in Japan as they tried to protect their patents and their products. It became clearer to many Senators that the Japanese patent law system is problematic and threatens American businesses.

And now, just recently, another Maryland company is having very similar problems with patents in Japan. This company is facing possible theft of its inventions by a big Japanese corporation. Unfortunately, it seems the Japanese patent system is still stacked against this and other innovative American businesses.

This Maryland company cannot get Japan to issue a patent they need, even though that same patent has been granted by every other country where they applied. Even though the company has made it clear that a Japanese company is already infringing on their patents, by the time they get any recourse under Japanese law, the United States market could be flooded with infringing products.

Unfortunately, the problems this Maryland company is facing are not unusual in Japan. This is part of the way the Japanese patent system works. That's why our Government has to work on behalf of American businesses to get Japan to change that system. Senator Rockefeller and I introduced S. 3190 to get Japan and other nations to treat American companies fairly when it comes to patents, and we will keep up our fight.

Our bill requires the United States Trade Representative to use "Special 301" provisions in American trade law to target countries that are the worst protectors of patents. Then, USTR will have to negotiate a solution to these countries' lack of patent protections in a specified time frame, or those countries will face retaliation.

We hope that this bill will get the rest of the world to understand the value that America places on rewarding innovation, and let them know we are serious about standing up for the rights of our businesses and our workers.•

C-17 FAILS LOAD TESTING

• Mr. D'AMATO. Mr. President, what better day to have the news hit the street that the wings on the C-17 failed load testing than the day the Defense Appropriations Conference bill is being considered. The Air Force is so beguiled at this point that a spokesman thought it a victory that the wing failure was not attributable to the now notorious rivet problem. In other words, the wing failure was due to a design or structural flaw, not a manufacturing defect. If that's a win, one can only wonder at what the Air Force considers a loss.

I ask that an article that appeared in the *Defense Daily* on October 5, 1992, entitled "C-17 Static Vehicle Wings Damaged During Loads Testing" be entered into the RECORD at this point.

The article follows:

C-17 STATIC VEHICLE WINGS DAMAGED DURING LOADS TESTING

Both wings on a non-flying C-17 being used for loads testing were damaged when stressed to a point 130 percent of normal maximum operating loads, C-17 prime contractor Douglas Aircraft Co. reported Friday.

The wing tips were at 100 inches above resting position when the "upper wing panels on both wings experienced symmetrical buckling" during wind gust ultimate loads testing on Thursday at the company's Long Beach, Calif., facility, Air Force spokesman Capt. Scott Vadnais said.

"While there is a 30 percent safety margin, military design requirements call for a 50 percent margin over and above normal maximum operating loads," the company reported.

The company said it does not know what caused the damage but is working to find a solution.

"This is a normal part of the development process," Douglas said. "That is what this rigorous test did."

Douglas spokesman Jim Ramsey said the damage is in no way related to "the alleged rivet problems."

Opponents of the C-17 program have charged that the airlifter's wings are held together by faulty rivets and leaks in the first test plane's wing tanks delayed the test program much longer than reported by McDonnell Douglas and the Air Force.

"The initial reading is that this buckling is not related to the rivets issue," Vadnais said. "Those issues deal with the fatigue life of the wing, not the structural strength."

Vadnais added that the incident will not impact the C-17 fight test program being conducted at Edwards AFB, Calif. The flight test fleet is undergoing loads testing at 80 percent of their maximum loads and that will continue through early next year, he said, noting those flight test loads are nowhere near the amount that caused wing damage.•

WILLIAM PENN MOTT REMEMBRANCE

• Mr. SEYMOUR. Mr. President, on September 21, 1992 California and the nation lost a great conservationist and friend of the environment when William Penn Mott passed away at his home in Orinda, California.

Bill Mott, who is remembered by many as a modern-day John Muir, was a tireless advocate of our national park system. While serving as park service director on both the state and national levels, his efforts yielded countless recreational opportunities for Americans everywhere.

A native of New York, Mr. Mott received degrees in landscape architecture from Michigan State and the University of California at Berkeley. He began his career with the National Park Service in 1933 and, in the next 13 years, helped create Crater Lake, Sequoia-Kings Canyon, Lassen and Death Valley National Parks and Monuments.

After leaving the park service in 1946, Mr. Mott became Oakland, California's Park Superintendent and remained in that post until 1962. He then served as

General Manager of the East Bay Conservation District in the San Francisco Bay Area until 1967.

His innovations in fundraising and problem solving on behalf of the environment, park preservation and conservation received recognition in 1967 when then-Governor Ronald Reagan appointed Mr. Mott to the Directorship of California's State Park system. He quickly gained the confidence of Governor Reagan and California's Legislature and was able to double the acreage of California's State Park system in just 8 years.

During his tenure as director of parks and recreation in California, William Penn Mott founded the California State Parks foundation, which has since raised more than $88 million for California's State parks. In 1975, he became director of this foundation and served in this capacity for 10 years.

In 1985, President Reagan again called on his old friend, this time asking Mr. Mott to head the National Park Service.

As director of the National Park Service, he worked with members of Congress to find new parklands in states throughout the Union. In the next four years, he created a total of 12 new national parks and monuments.

After his retirement from the Park Service in 1989, Mr. Mott became an assistant to the Director of the Western Region of the National Park System and played an essential role in the historic plan for the conversion of the Presidio Military Base into a national park.

Mr. Mott's commitment to the preservation of our natural heritage was superceded only by his love for Ruth Barnes Mott, his wife of 57 years. Ms. Mott died in 1991.

Throughout his distinguished career in public service, Mr. Mott has left an environmental legacy for a grateful nation. In all his years of public service, Mr. Mott was always willing to go the extra mile to ensure that America's Park System would be second to none.

All Americans who value our natural heritage mourn the loss of William Penn Mott. His influence has unalterably changed America for the better and, as a Nation, we are forever in his debt.•

S. 492, LIVE PERFORMING ARTS LABOR RELATIONS AMENDMENTS

• Mr. ROCKEFELLER. Mr. President, I would like to take just a few moments before we adjourn this 102d Congress to address an issue that I believe strongly deserves discussion and debate by the full Senate.

The live performing arts labor relations amendments was first introduced in Congress ten years ago. It has been introduced every Congress since, and I am proud to say that I have cosponsored this legislation since coming to the Senate in 1985. And this is not the first time that I have addressed the Senate on this subject.

On September 16, 1992, S. 492 was reported favorably—by voice vote in fact—out of the Labor and Human Resources Committee and on September 29, it was placed on the Senate calendar. Twelve days after the September 16 hearing, six Republican Members of the Committee filed a minority view. It is their opinion, as well as that of the Administration as evidenced by a letter from Secretary Lynn Martin, that this bill would "create a special interest exception in the law for labor organizations in the live performing arts industry." The minority report says that to reopen the National Labor Relations Act would create an unprecedented exception to sound and longstanding principles of labor law.

Mr. President, have not exceptions already been made to improve the working conditions of those in the construction and garment industries? Are those who earn a living and support their families by performing live entertainment in concerts, nightclubs, and restaurants less worthy of the right to bargain for decent working conditions than men and women in other professions?

The minority report goes on to say, "Either there is a basis for excluding independent contractors from the Act or there is not. And we have no reason to believe that anyone in this body has suggested or is prepared to suggest that this longstanding exclusion under the Act is inappropriate." Odd, Mr. President, that over 30 Senators would cosponsor a piece of legislation if they did not feel that the law they were trying to change was inappropriate. This is just an example of the inconsistencies that have plagued this legislation from the beginning.

I would like to quote for the Record from the American Federation of Musicians' President Mark Massagli's testimony before the Senate Labor Committee last month. He said, "Most musicians, acting as individuals or as self-contained acts, have far, far less bargaining power (compared to the bargaining power of musicians who achieve enough fame to command high fees and good working conditions). Often, their desire to perform—to develop and share their God-given talent—leaves them no alternative but to work in venues that do not pay a living wage. If a particular venue pays only substandard wages or provides only substandard conditions, it is nearly impossible for the musicians to do anything about it. Often, no stable group of them appears at the venue long enough to vote for union representation and bargain a contract that improves wages and working conditions.

"So if the musicians want to perform, they have little choice but to accept the gig on the best terms their limited bargaining power can achieve. After their engagement is over, they move on. The poor wages and conditions remain for the next group of musicians to face."

Recording star Lee Greenwood described in detain his experiences in the entertainment industry before he hit the big time. He told of deplorable conditions, and although his current fame now prevents him from having to endure such hardships, he told the Committee that the current labor laws need to be modified to treat professional musicians with the fairness and equality that this country has come to represent.

Mr. President, the intent of this legislation when it was originally introduced, and still today, is to give performing artists the right to negotiate the terms of their employment. Having been reported out of Committee and placed on the Senate calendar is certainly a step forward. Let's hope that the 103rd Congress can provide the successful negotiations for a solution to the dilemma. Until we act, the problem remains unresolved and we in Congress will continue to hear from workers who feel that they do not have equal rights under our labor law.

I pay tribute to the hard-working men and women who have invested so much in this legislation. It is especially unfortunate that some Members of this body chose to block the bill from open debate and consideration. I am absolutely certain that a fair debate would convince the vast majority of Senators to support this legislation.•

CRIMINAL ALIENS IMPACT AND REMOVAL ACT

• Mr. GORTON. Mr. President, the Criminal Aliens Impact and Removal Act of 1992, S. 3264, provides a comprehensive approach to the growing problem of illegal alien crime and I am proud to say that I am a cosponsor of this important legislation.

I recently made a visit to the city of Yakima, Washington, to meet with local law enforcement officials. Yakima is not a large city; the population of the entire county totals only 180,000. Yakima is an agricultural city. I imagine most of my colleagues have sampled the richness of Yakima produce, for it lies in the heart of Washington state's apple growing region. Yakima is also a family city; a true community, populated with hardworking, dedicated people. In fact, Yakima, Washington embodies nearly everything good about rural American, except one: Yakima is riddled with crime. What's more, the perpetrators of the majority of this crime are not even citizens of this country. They are criminal aliens: foreign nationals violating our borders and engaging in serious criminal activity.

The Yakima Valley is one of Washington state's greatest agriculture export centers, shipping applies and other produce to destinations around the globe. Thanks to criminal aliens, however, the Yakima Valley has also become one of the Pacific Northwest's leading import centers for some new agricultural product: cocaine and blacktar heroine. According to local Drug Enforcement Agency officials the amount of cocaine coming into the Yakima Valley far surpasses the amount that could conceivably be consumed. Beginning at the Mexican border, where our Border Patrol is so lacking in equipment and personnel that two out of every three illegal aliens are escaping apprehension, criminal aliens smuggle in shipments of cocaine and blacktar heroine. These narcotics are then transferred up the coast until they arrive in the Yakima Valley, soon to be dispersed throughout the region.

This drug traffic has ushered in a host of other criminal activity as well: burglaries, document fraud, illegal firearms possessions, assaults, and even murder. And while criminal alien activity has been increasing, Federal resources in the Yakima area have been reduced dramatically. The Yakima INS office is authorized to have a total of 7 agents: one Supervisory Special Agent, one agent from the Organized Crime and Drug Enforcement Task Force (OCEDETF) and five special agents. This year, however, they have been forced to operate understaffed by two special agents and one OCEDETF agent. In FY 1990, operating at full strength, the Yakima INS office apprehended 260 criminal aliens. For FY 1992, apprehensions slipped to 146. This dramatic drop in apprehensions was not the result of any decline in criminal alien activity, it was due to a disastrous failure on the part of the Federal Government to provide the Yakima INS office with the resources it needs; the resources it is already authorized to have.

The criminal alien problem in Washington state is by no means limited to the Yakima Valley. Indeed, the entire state is deeply affected. According to statistics from the Washington State Department of Corrections for November 1991, there were 1226 alien inmates in Washington state prisons. Although it is difficult to say how many of these entered this country illegally, not one of them was a U.S. born or naturalized citizens. Not including work-release or pre-release, categories to which aliens are seldom assigned, the entire Washington state inmate population was between 8081 and 8323. Thus, criminal aliens accounted for an astounding 15 percent of that population.

Washington state neither sets Federal immigration policy nor bears responsibility for enforcing it; and yet, Washington state has become the victim of the Federal Government's inability adequately to control its borders. These criminals are not tax-payers in this country, but they are costing the citizens of Washington state nearly $28 million a year just to incarcerate them. That figure does not even include the tremendous costs to law enforcement agencies for apprehension or the state criminal justice system for prosecution.

Given their limited resources, Yakima law enforcement has done an outstanding job dealing with the crime problem. When I met with them, however, they told me that this problem has simply grown too large for them to handle alone. I agree. Criminal aliens are the responsibility of the Federal Government not Washington state. It is time for the government to accept its responsibility and deal with the problem of alien crime. That is why I support the Criminal Aliens Impact and Removal Act and will work to see that it becomes the law of the land.

S. 3264 would address the criminal alien problem in Washington state by expediting the deportation of criminal aliens. One of the main difficulties the INS is having with criminal aliens in Washington state is that they simply cannot track them. Current tracking methods are archaic and ineffective. S. 3264 would authorize funds for a new criminal alien tracking system using electronic fingerprinting and photo-imaging technology. Once an alien can be tracked, he can be deported that much easier—putting an end to the revolving door of aliens whom, upon deportation, only to return to commit more crimes. Further, S. 3264 require Congress to examine and improve the current Prisoner Transfer Treaty with Mexico and negotiate similar agreements with other nations. Deporting criminals with a guarantee that they will serve out their entire sentence is undoubtedly preferable to incarcerating them here at tax-payer expense.

S. 3264 also provides for stronger border enforcement to keep criminal aliens out once they have been deported. The INS would be authorized to add an additional 600 people to its anti-smuggling program; 600 people that would help stem the flow of cocaine and heroin into the Pacific Northwest. This legislation would also authorize over new 6000 Border Patrol Personnel and much needed support equipment and training.

Most importantly, this bill provides for the direct assignment of additional Federal personnel and resources to states and localities designated as High Intensity Criminal Alien Population Areas (HICAPA's). Can there be any doubt that the Yakima Valley qualifies? The law enforcement community of Yakima asked for my help in obtaining more Federal manpower to address the criminal alien problem. S. 3264 would provide it.

Finally, the Criminal Aliens Impact and Removal Act transfers the financial burden of incarcerating criminal aliens back to the Federal Government where it belongs. Once an alien is convicted, he must either be immediately transferred to a Federal prison facility, or the state must be fully compensated for the costs of his incarceration. In Washington state, that would mean an additional $28 million a year that would be available to spend on creating jobs and expanding economic opportunity for families and communities. That is how Washington state taxpayer money should be spent!

Mr. President, there in no stronger advocate for immigration in the United States Senate than I. Immigrants bring this country a cultural richness and diversity of ideas beyond compare. Believing this country offers them the opportunity for a better future, believing this country offers their children a better life than they have had, and believing hard work and perseverance are the keys to success, immigrants are truly the embodiment of the American dream. Criminal aliens are not immigrants. In fact, they are a threat to immigrants and the goals for which they came to this great nation.

The citizens of Washington State have asked for help in addressing the plague of alien crime. I have heard them and will continue to work towards a solution. I believe S. 3264 takes a giant step in the right direction.•

POSTAL SERVICE IN ALASKA

• Mr. STEVENS. Mr. President, recently, the residents of metropolitan Anchorage, Alaska, suffered damage and inconvenience as a result of the volcanic eruption of Mt. Spurr and the resulting ash fallout. The ash from this volcano played particular havoc with travel. I know from my own experience how ash fallout can disrupt one's travel plans. However, the U.S. Postal Service came through this ordeal with flying colors.

The eruption caused the Postal Service's adopted motto of "Neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds," to be amended by adding ash to the list of impediments that has not prevented the delivery of mail.

In addition to carrying out the yeoman's task of delivering mail during this volcanic eruption, the U.S. Postal Service's Alaska Division has done more than its share to control the burgeoning costs of the U.S. Postal Service by ending the fiscal year under budget for the sixth year in a row. No other U.S. Postal Service Division can make that statement.

Mr. President, I ask to enter into the RECORD at the end of my remarks a column which appeared in the August/September edition of the *Alaska North-*

ern Star. It was written by U.S. Postal Service General Manager/Postmaster Bob Opinsky, and it confirms my comments.

The column follows:

'NEITHER * * * NOR ASH' STOPPED THE POSTAL SERVICE IN ALASKA

It was the Greek philosopher Herodotus that wrote, "Neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds."

At the time he was talking about mounted couriers in Persia, and the year was about 500 B.C.

Today's philosopher, when reflecting on the accomplishments of postal workers in Alaska, would have to add volcanic ash to that great saying, which has become the unofficial motto of the Postal Service.

While employees in Southeast can lay claim to the rain part, and those in the Interior and further northern areas can talk about the snow, postal employees in Southcentral can relate to the newly added ash part.

Take for example the latest trick of nature—the eruption of Mt. Spurr, 80 miles from Anchorage. Ash was thrown over 60,000 feet in the air, and it soon blanketed Anchorage, Eagle River, Chugiak and parts of the Matanuska Valley.

I don't think I have to tell you that I consider you the finest group of employees in the Postal Service. You work hard, and you have a great deal of pride in your accomplishments. In the last Customer Service Index, the mail service in Alaska ranked among the top five divisions in the country.

For the sixth year in a row we are making our budget, and I don't think many other divisions can make that same statement. During AP12 we were one of only three divisions in the Western Region to make budget, and we did it by saving a higher percentage of our budget than the other two. You should really pat each other on the back for that fine accomplishment.

It's no wonder you do so well. Through even the toughest situations, you all come through. Ash began to fall about 7 p.m. on Aug. 18, and by the next morning, Anchorage air looked like a bad day in downtown Los Angeles.

Anchorage employees, as well as those in the affected areas, came to work, despite the hardship.

We've received numerous Customer Service Cards complimenting the Postal Service on being on the job when other government employees as well as many private company employees, were not.

Masks and safety glasses helped you along, but I believe that it was sheer dedication to your customers and to the Postal Service that resulted in us not allowing rain, sleet, snow * * * or volcanic ash to keep us from our appointed rounds, whether that be on a route, behind the counter, in the mail processing areas, the administrative offices, or in vehicle and building maintenance.

NATIONAL COMMISSION ON FINANCIAL INSTITUTION REFORM, RECOVERY AND ENFORCEMENT

• Mr. BOND. Mr. President, I just want to make a few comments about my expectations for the National Commission on Financial Institution Reform, Recovery and Enforcement.

When Senator DODD and I drafted the legislation that established a national commission to look at the savings and loan debacle, we were above all concerned that the commission produce a definitive account of how we got into that mess and provide us with recommendations to avoid a repetition of the problem.

To make certain that the commission did not disband until after it had completed its work, we included subsection 2536(a) of the Crime Prevention Act of 1990, which provides that the final report is due 9 months after the election of the Chairperson of the Commission. We drafted the section in this way—rather than for a fixed period of time from the date of enactment—to avoid a situation where the time for the commission to act was limited because it took too long to get the members appointed and have funds appropriated for its work.

In addition, we included section 2537 which provides that the Commission shall terminate 30 days after submission of the required report. This section was included to assure that the commission would disband after it completed its work.

As it has turned out, we were wise to draft the reporting requirement the way we did because it took a considerable amount of time for the Commission to get appointed and to actually begin its work. The Commission has had co-chairman for almost five months now and has announced an ambitious work schedule. However, the commission, Senator DODD and I were concerned that nine months may not be sufficient time for the commission to complete its important work. In fact, the Commission itself has requested a four month extension of its deadline.

Had the Commission's request come somewhat earlier, we would have had time to formally enact a brief extension of its life. However, due to the lateness of the session, there is inadequate time to enact legislation extending the life of the commission.

Therefore, I have consulted with Senator DODD about both the technical language of the legislation and our intent and we agree that the Commission may legally remain intact until one month after it submits its report. If the report is a few months late, the Commission may remain intact to finish it because the restriction on its life is tied to the time it actually files its report, not to a date certain from the appointment of a chairperson.

Frankly, both the purpose of the report and the needs of the country would be best served by the submission of an outstanding report, even if it takes a few months longer to complete. While we hope and expect the Commission to act expeditiously, Senator DODD and I would rather have it take a little longer if that is what is required to produce a comprehensive and definitive report.

We look forward working with the Commission members, both before and after submission of its report.•

TRIBUTE TO ROBERT J. BLOCK

• Mr. ADAMS. Mr. President, family and friends of Robert J. Block will gather next week in Seattle, WA, to observe the 70th birthday of a man who has become a local institution. Under normal circumstances, seven decades of life might pass without significant public attention, but in the case of my friend Bob Block, his extraordinary life deserves special recognition. Calling upon his range of interests, and dedication to community, family, and liberal causes, Robert J. Block has been a friend and confidant to dozens of public figures over the years. Knuckling under to the winds of a shifting political climate has never been one of RJ Block's shortcomings.

Years, ago, Robert Block became a devoted member of the Young Mens' Democratic Club in Seattle. Over the years, Bob and the club grew in wisdom and experience, but they never considered changing the club name. Unflagging devotion to liberalism's proud banner have been a veritable fountain of youth for Robert Block and his fellow members of the YMDC.

Recalling his many years of civic activism, I am primarily impressed with his work to clean up Lake Washington. Observing the polluted shoreline of the lake from a campaign poster, the little Block children tugged at the heartstrings of an entire community. Before long, Lake Washington has come back to life as a community treasure. Every citizen living within the Puget Sound area owes a debt of gratitude to RJ Block for that, and other civic endeavors. Remembering his roots as heir to the family shoestore, Bob believed in shoeleather politics at the grassroots level. Thank you, Bob Block, for keeping the political climate in Seattle, Washington, as fresh as a breeze over Lake Washington!•

COOK COUNTY NATIONAL RECYCLING AWARD

• Mr. DURENBERGER. Mr. President, I would like to take this time to recognize and congratulate the Cook County recycling program which has been named the Best Rural Recycling Program for 1992 by the National Recycling Coalition. Like many people in Minnesota, I grew up learning to appreciate our state's great outdoors and the variety of its natural beauty. That's why I'm especially proud to salute the people of Cook County, Minnesota, for their attention to recycling.

Cook County is located in the overwhelmingly vibrant, woodland county of Northern Minnesota. There is an abundance of life wherever you look, and it is this environment that the citizens of Cook County hope to preserve. In 1991, the county did this by recycling 685 tons of material at a low cost with a 33 percent rating. It is believed that the participation rating will be from 35 to 40 percent for 1992. I believe that one of the best compliments about the program was reported in the Cook County News-Herald—the Cook County recycling program has clearly become institutionalized as a part of the community for the long term."

It is obvious that the citizens of Cook County understand how precious and important their environment is for their quality of life and for the quality of life for future generations. Their efforts will spread by example through Minnesota, the Midwest and the entire United States. I am proud of the steps made by individuals, community leaders, and the Cook County Commissioners to preserve their environment and heritage.

Congratulations to the citizens of Cook County for all they have accomplished in their comprehensive and growing recycling program. As a member of the Senate Environment and Public Works Committee, I know about the efforts of many communities across the nation to make the environment clean and safe. Just as it is natural that Cook County won the award for the best Rural Recycling Program for 1992, Hennepin County won the national award for the Best Urban Recycling Program, and runner-up for the national Best Rural Recycling Program went to Houston County of Southeastern Minnesota. This is a record to be proud of in Minnesota, and we will continue our work to be leaders in recycling products. Together we all have the power to make a difference to protect the treasures of Earth.•

POLICY ISSUES RELATING TO H.R. 5368, THE FOREIGN ASSISTANCE APPROPRIATIONS BILL

• Mr. DOMENICI. Mr. President, last evening the Senate completed action on the 1993 foreign assistance appropriations bill by voice vote during consideration of the legislative branch appropriations bill.

There was no recorded vote on this measure, but I want the record to show that I was not prepared to support the conference agreement on foreign assistance.

When this bill passed the Senate last week, I stated then that I voted aye in order to move the vital international monetary fund measure to conference. At that time, I also expressed strong reservations about the tendency toward earmarks and micromanagement and away from long-overdue restructuring of American foreign assistance efforts.

I am convinced that this conference agreement precludes meaningful reform of a discredited foreign aid program by the next administration.

The cold war is over, but this bill, for the most part, reflects outdated cold war priorities. Most people don't know this, but our cold war foreign aid programs rejected market solutions and relied on socialist-type approaches to economic growth. This bill continues that misguided pattern.

ONLY 8 PERCENT OF FUNDS GO TO FORMER COMMUNIST NATIONS

The changes now underway in the former Soviet Union and Eastern Europe are the most critical legacy of the cold war. These nations have more freedom, but little else. The survivors of communism face multiple disasters: refugees and ethnic cleansing, dangerous nuclear power plants, open warfare, economic disarray, and social disintegration.

But the dollar priorities in this bill don't reflect that fact. In fact, less than 8 percent of the money in this bill would aid those nations. Most of the remaining 92 percent goes to outdated and failed programs that have resisted our efforts and betrayed our hopes for decades.

Should we Americans decide that we need to do more to help the survivors of communism, just as we helped the survivors of fascism, we will not increase foreign aid. We can't.

We will have to take any increase for Eastern Europe, Russia, and Ukraine from other foreign aid programs: from outdated cold war relics and from programs that discourage the development of free markets.

TALK OF REFORM WHILE EXISTING MESS IS CEMENTED IN PLACE

This year, both presidential candidates indicate that the existing, unreformed cold war structure we use to provide foreign aid will be drastically changed after the election.

I would go further than they do. I would abolish the Agency for International Development, dramatically restructure the State and Commerce Departments, and start over.

This bill does nothing to make it possible for the next administration to restructure American foreign aid. It does the opposite!

Recognizing the differences between the former Soviet bloc and traditional aid clients in poorer countries, Congress has generally given the executive branch unparalleled flexibility to develop new ways of helping Eastern Europe and Russia.

This bill reverses that trend and seeks to place the Agency for International Development and its captive contractors in command there. When the bill was before the Senate I moved to delete an amendment requiring the establishment of A.I.D. missions in Eastern Europe. But the timing of floor consideration of this bill left little time for consideration of these policy issues.

The statement of managers issues specific directions that threaten to force these new endeavors into the mold crafted for the largely failed programs in Africa and South Asia.

SENATOR KASTEN'S BUY AMERICA PROVISIONS

By contrast, less executive branch flexibility is needed in enforcing the buy America provisions of current law.

The distinguished ranking Republican member and former chairman of this committee, BOB KASTEN of Wisconsin, moved to strengthen A.I.D.'s buy America compliance. His amendment added a "buy America advocate" to A.I.D.'s management. It would have limited local waivers of the buy America law.

BOB KASTEN wanted to force our aid missions overseas to get permission from Washington before buying Japanese trucks with American aid dollars. Is that asking too much?

The conference rejected the Kasten initiative. It substituted a provision from the Freedom Support Act that may result in more paperwork than purchases of American goods. That's flexibility.

Either enforce the Buy America provisions, or repeal the law.

SCHOLARSHIPS AND EXCHANGES IN FORMER SOVIET UNION

The conferees agreed to earmark for scholarships $50 million of the $417 million provided for Russia, Ukraine, and the other new independent states. This appealing effort has been championed by our Librarian of Congress, James Billington, and by the senior Senator from New Jersey.

As one of the original sponsors in 1984 of a similar program of broad-based scholarships for Central American students, I appreciate the work that has gone into this proposal.

Nevertheless, I must inquire whether this is the highest priority for a very limited amount of U.S. assistance to these twelve new independent states.

Already the United States Information Agency has an Edmund Muskie scholarship program for law and business students from Russia and Ukraine. We have appropriated $7 million for that program in another appropriation bill. There are numerous other scholarship and exchange programs already in place.

Seven years ago, when we established the Central American scholarship program, it was a far smaller percentage of our overall aid to Central America than these scholarships will prove to be as a percentage of our aid to the new states.

With all of the challenges facing Russia, Ukraine, and the others, does a startup scholarship program this large make sense? Is this what the people over there want and need first?

THIS BILL IMPEDES FOREIGN AID REFORM; IT WON'T PREVENT IT

More than ever, this is the time to give the executive branch appropriate flexibility.

The President elected next month will undertake foreign aid reform. He will have to reduce foreign aid as he tackles the terrible deficit. This bill makes the job much more difficult.

GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT LEGISLATION

• Mr. DECONCINI. Mr. President, on September 10, 1992, my colleague, Senator MCCAIN, introduced S. 3227, legislation which provides for the settlement of the water rights claims of the Gila River Indian Community against the Roosevelt Water Conservation District. I have often said that it is critical that we resolve these Indian water rights through negotiated settlement as opposed to litigation. Litigation is costly, time consuming, uncertain in outcome, and once decided, can displace existing water uses and provide only paper rights, not "wet water." This prolonged uncertainty clouds the validity of water rights for Indians and non-Indians alike, forestalling investment based on the availability of, and rights to, water. This hurts tribes, businesses, states and the nation. As a result of this pending litigation, there has been an effort to undertake an aggressive program to negotiate settlements for the outstanding Indian water rights claims throughout the west. The Gila River settlement is a product of these efforts.

However, having said that, I want to be sure that as we enact these settlements, we are not causing other conflicts. It must be pointed out that the Gila River Indian Community has filed water rights claim against a number of non-Indian parties including the federal government. The legislation introduced by Senator MCCAIN settles only the claims of the Tribe against the Roosevelt Water Conservation District. Prior to supporting this legislation I want to be sure that it does not affect the resolution of the other of the Community's claims against these parties.

Therefore, I wrote to both of Gila River Indian Community and the Roosevelt Water Conservation District asking them a series of questions about the legislation. I have received their responses and I am satisfied with them. Consequently, I am now prepared to cosponsor this legislation prior to the Congress adjourning for the year.

I look forward to working with the proponents of this legislation in the 103rd Congress.

Mr. President, I ask that letters I sent to the Gila River Indian Community and the Roosevelt Water Conservation District be included in the RECORD.

The letters follow:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 10, 1992.

Mr. MICHAEL O. LEONARD,
General Manager; Roosevelt Water Conservation District, Higley, AR.

DEAR MICHAEL: I have recently been asked by representatives of the Gila River Indian Community (Community) and the Roosevelt Water Conservation District (District) to cosponsor legislation which will provide for a partial settlement of the water rights claims of the Community. I understand the importance to negotiate and enact legislation implementing Indian water rights settlements. However, prior to supporting these settlements, I want to be sure that I completely aware of their full implications. Therefore, I need several questions answered so that I may have a better understanding of your proposal.

(1) To what degree is the Department of Interior involved in your settlement with the Community? Has the Department taken a position on the settlement?

(2) Has the Arizona Department of Water Resources been consulted and if so have they taken a position on the settlement?

(3) There are a number of other potential settlement parties with which the Community is involved in water rights disputes. Has the District analyzed how this settlement with the Community may impact efforts to negotiate the resolution of the water rights disputes with these other parties? If so, please share with me your findings in this regard.

(4) It appears from a review of the legislation, that no federal funding is required to implement this settlement. If this is the case, why is legislation needed to implement it? Can you not have the Community's claims against the District discharged by the appropriate Court without legislation?

Your answers to these question will prove helpful to me in evaluating whether or not I should support the proposed legislation at this time. Your time and efforts in this regard will certainly be appreciated.

Warmest regards, as always.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 10, 1992.

HON. THOMAS WHITE,
Governor, Gila River Indian Community, Sacaton, Arizona

DEAR GOVERNOR WHITE: I have recently been asked by representatives of the Gila River Indian Community (Community) and the Roosevelt Water Conservation District (District) to cosponsor legislation which will provide for a partial settlement of the water rights claims of the Community. I understand the importance to negotiate and enact legislation implementing Indian water rights settlements. However, prior to supporting these settlements, I want to be sure that I am completely aware of their full implications. Therefore, I need several questions answered so that I may have a better understanding of your proposal.

(1) To what degree is the Department of Interior involved in your settlement with the District? Has the Department taken a position on the settlement?

(2) Has the Arizona Department of Water Resources been consulted and if so have they taken a position on the settlement?

(3) There are a number of other potential settlement parties with which the Community is involved in water rights disputes. Has the Community analyzed how this settlement with the District may impact efforts to negotiate the resolution of the water rights disputes with these other parties? If so, please share with me your findings in this regard.

(4) It appears from a review of the legislation, that no federal funding is required to implement this settlement. If this is the case, why is legislation needed to implement it? Can you not have the Community's claims against the District discharged by the appropriate Court without legislation?

Your answers to these questions will prove helpful to me in evaluating whether or not I should support the proposed legislation at this time. Your time and efforts in this regard will certainly be appreciated.

Warmest regards, as always.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

GILA RIVER INDIAN COMMUNITY,
September 16, 1992.

Re S. 3227—A bill to provide for the resolution of the conflicting water rights claims for lands within the Roosevelt Water Conservation District ["RWCD"] in Maricopa County, Arizona, and the Gila River Indian Reservation.

Senator DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI. This is in response to your letter of September 10, 1992, regarding S. 3227. On behalf of the Gila River Indian Community ("Community") I urge your strong support of S. 3227 as this bill represents an important initial step in arriving at a comprehensive water settlement for the Community. The Agreement with the RWCD took place after years of arduous negotiating sessions and reflects the ability of both RWCD and the Community to reasonably and rationally resolve conflicting water claims.

I will now respond to your questions in the order presented in your letter. First, the Department of Interior has been intensively involved in the development of this Agreement. The Federal Negotiating Team for the Community has met with our Community Negotiating Team and RWCD individually and separately on numerous occasions and provided all parties substantial assistance in developing the Agreement. Interior Department representatives have advised us that the Department will support the Agreement and this is evidenced by the fact that the Commissioner of Reclamation signed an agreement among the United States, RWCD, and the Community on August 7, 1992, which required RWCD to relinquish its CAP agricultural water entitlement and obligated the Secretary to hold the water relinquished by RWCD for the use and benefit of the Community.

The second area of concern discussed in your letter is whether the Arizona Department of Water Resources ("DWR") has been consulted and whether they oppose S. 3227. The Community has met with DWR on a regular basis with respect to the total water settlement. DWR representatives have advised us that they are in agreement with the concept of this proposed settlement. Betsy Reike, the Director of DWR has been sent a draft copy of the Agreement and attachments for review.

The third issue you raise concerns the impact of this Agreement on other parties now negotiating with the Community. The impact should be beneficial because it demonstrates that any party sincerely interested in negotiating a settlement with the Community will be able to arrive at mutually beneficially solutions. We firmly believe that other parties will be convinced that settlements are not only desirable but possible. The contributed water adds substantially to the Community's water budget and should facilitate a comprehensive water settlement.

Finally, congressional authorization is needed to (1) authorize the Secretary to dismiss pending litigation against RWCD and make enforceable a waiver of claims provided in the settlement agreement, (2) to render non-reimbursable by Central Arizona Water Conservation District the capital costs associated with water moved from a non-Indian use to an Indian use, and (3) to waive the sovereign immunity of the United States and the Community from litigation brought (solely) to interpret or enforce the settlement agreement.

The Community requests your support of S. 3227 and if any further information is needed, please do not hesitate to contact me or our General Counsel, Rod Lewis.

Sincerely yours,

THOMAS R. WHITE.

ROOSEVELT WATER CONSERVATION DISTRICT,

Higley, AZ, September 16, 1992.

Re Roosevelt Water Conservation District and Gila River Indian Community Water Rights Settlement Agreement.

Senator DENNIS DECONCINI,
Washington, D.C.

DEAR SENATOR DECONCINI: I am writing to respond to your letter of September 10, 1992, concerning a water rights settlement agreement reached between Roosevelt Water Conservation District ("RWCD") and the Gila River Indian Community ("Community").

RWCD appreciates the opportunity to work with you and your staff in enacting legislation authorizing the settlement. We have previously provided David Steele with a narrative description of the settlement agreement between RWCD and Community, and we enclose another copy of that description for your use.

I will attempt to answer your specific questions in the order in which they appeared in your September 10th letter.

First, the Department of Interior has been actively involved in negotiating the settlement between RWCD and Community. Members of the federal negotiating team attended many of the negotiating sessions and were instrumental in guiding RWCD and Community to a settlement consistent with the current policies of the Department of Interior. Indeed, it is only because of the involvement of the federal negotiating team that we have been able to draft a complete set of settlement documents, including exhibits. The complete set of documents was provided to the Department of Interior in July; the documents are currently undergoing formal review by agency staff and lawyers within the Solicitor's office. The Department has not taken an official position on the settlement. However, the Department has made the settlement of Gila River claims one of the highest priority settlements. Evidence of the Department's support for RWCD's settlement with Community exists in the fact that the Commissioner of Reclamation signed an agreement among the United States, RWCD, and Community on August 7, 1992, which agreement required the RWCD to relinquish its CAP agricultural water entitlement (subject to the requirements of Exhibit "12.3" of the Salt River Pima-Maricopa Indian Community ["SRPMIC"] Water Rights Settlement Agreement) and obligated the Secretary of Interior to hold the water relinquished by RWCD for the use and benefit of Community.

Second, RWCD and Community have met with representatives of Arizona Department of Water Resources ("ADWR") on two occasions and have been given a positive reception by ADWR. ADWR requested a copy of the settlement documents so that it could finish a complete review before formally endorsing the settlement. In response, a set of the settlement documents has been provided to ADWR on a confidential basis, and we expect to know ADWR's reaction to the documents in the near future. RWCD and Community last met with ADWR staff on September 9, 1992. A copy of a September 11, 1992 letter to the Department from RWCD's legal counsel is enclosed for your review.

Third, RWCD and Community have analyzed the potential impact of the settlement on other parties who are attempting to negotiate settlements with Community. Our analysis is that the settlement has no effect on the rights of any other party. RWCD offered Community CAP water RWCD had under contract; no other party had the right to receive RWCD's CAP agricultural entitlement. RWCD obtained in the SRPMIC Settlement Agreement the right to relinquish its CAP supply to the United States, and RWCD's original allocation was not the subject of the Secretary's reallocation decision. RWCD's relinquishment pursuant to a settlement with Community was exercised in the same way it might have been exercised if RWCD had simply relinquished its entitlement to CAP water without achieving a negotiated agreement with Community. It is difficult to see how anyone could have a legitimate objection to RWCD's action.

RWCD has described its settlement with Community to the Salt River Project, New Magma Irrigation District, Queen Creek Irrigation District, San Tan Irrigation District, Chandler Heights Irrigation District, Tonopah Irrigation District, Hohokam Irrigation District, Central Arizona Irrigation and Drainage District, San Carlos Irrigation District, Harquahala Valley Irrigation District, Maricopa-Stanfield Irrigation and Drainage District, ASARCO, City of Mesa, City of Chandler, and the Town of Gilbert. None of these parties has indicated an objection to the settlement. In fact, it seems to be widely recognized that other potential settlement parties are generally benefited from RWCD's settlement with Community; RWCD's water makes a substantial contribution to the water budget which must be satisfied before the group of potential settlement parties can reach a comprehensive settlement with Community. RWCD will explain its settlement to other parties as time permits. Of course, a hearing on the settlement act will also help RWCD and Community learn of any potential concerns of which we are currently unaware.

Finally, the settlement act which is required to implement the settlement between RWCD and Community is relatively simple. The act is needed (1) to authorize the Secretary to dismiss pending litigation against RWCD and make enforceable a waiver of claims provided in the settlement agreement, (2) to render nonreimbursable by Central Arizona Water Conservation District the capital costs associated with water moved from a non-Indian use to an Indian use, and (3) to waive the sovereign immunity of the United States and the Community from litigation brought (solely) to interpret or enforce the settlement agreement. With these objectives in mind, one can see that there is no adequate alternative to legislation to authorize the settlement.

We trust that we have answered the questions you have raised regarding our proposal that you co-sponsor the act authorizing settlement between RWCD and Community. Of course, if you have additional questions, we stand ready to provide any requested information. RWCD appreciates the leadership and assistance you have given in the past in the effort to negotiate the settlement of Indian water rights claims, and we look forward to the implementation of this settlement, as well.

Sincerely,

MICHAEL O. LEONARD.

NARRATIVE DESCRIPTION OF SETTLEMENT AGREEMENT BETWEEN ROOSEVELT WATER CONSERVATION DISTRICT AND GILA RIVER INDIAN COMMUNITY

Pursuant to the agreement, Roosevelt Water Conservation District ("RWCD") will relinquish all of its rights to 6.33% of the CAP non-Indian agricultural water supply, subject to the rights of certain cities and the Town of Gilbert to receive up to 5,000 acre-feet of water previously assigned by RWCD pursuant to the Salt River Pima-Maricopa Indian Community Water Rights Settlement Agreement ("SRPMIC Agreement"). The United States agrees to hold the water acquired by reason of RWCD's relinquishment for the use and benefit of the Gila River Indian Community ("Community"). The water relinquished supply will be subject to the monthly limitation of 11% of the Community's annual entitlement from RWCD's relinquished by RWCD and held by the Secretary for the use and benefit of the Community will continue to have a non-Indian agricultural priority, unless converted to a higher priority as described below.

For a period of thirty years after the CAP is substantially completed, RWCD will be entitled to lease from the Community up to 11,200 acre-feet annually of the non-Indian agricultural supply relinquished by RWCD. A Project Water Lease Agreement is attached to the settlement agreement as an exhibit. A CAP water delivery contract for delivery of the balance of the water relinquished by RWCD to the Community is also attached to the settlement agreement as an exhibit.

Pursuant to the Project Water Lease Agreement, the use and delivery of CAP water to RWCD will be under the same terms and conditions as are provided in RWCD's CAP subcontract, but RWCD will not be subject to a "take-or-pay" obligation until the Community's water distribution system is constructed. Any water which RWCD is entitled to lease, but does not schedule for delivery in a particular year, will be made available to the Community. Also, the Community will have the right to reduce RWCD's entitlement to lease water to the extent that RWCD fails to use some portion of its entitlement for seven years.

The water delivery contract which the Secretary will enter into with the Community for the delivery of RWCD's relinquished supply will be substantially the same as the Community's water delivery contract for its own CAP allocation, except that the water to be delivered from RWCD's relinquished supply will be subject to the monthly limitation of 11% of the Community's annual entitlement from RWCD's relinquished supply. Also, because the water from RWCD's relinquished supply will continue to have a non-

Indian agricultural priority, the water delivery contract deals with priority in time of shortage in the same way as RWCD's CAP subcontract deals with shortages. As between RWCD and the Community, the settlement provides for a pro rata sharing of shortages. Water delivered to the Community from RWCD's relinquished supply is considered to be marketable by the Community in the same way as is other CAP water and subject to the same restrictions. Water which is deliverable to RWCD pursuant to its lease will not be marketable by RWCD.

The capital costs associated with water relinquished by RWCD will be excluded from CAWCD's repayment obligation. However, RWCD has agreed to pay the same capital charge per acre-foot of water leased by RWCD as it would have paid under its subcontract. Provisions must be added to set forth the mechanism for RWCD's payment of this capital charge.

Water which is acquired by the Community pursuant to the settlement agreement is to be credited against the Community's Winters rights in the manner as may be agreed upon between the Secretary and the Community when the Community's water rights are finally determined. The credit mechanism used is the same as in other Indian CAP contracts. If the settlement agreement is not approved by Congress, the water acquired by the United States from RWCD for the use and benefit of the Community is to be credited in full satisfaction of all surface water and groundwater rights or claims which GRIC and its members may be entitled to from RWCD and all landowners within RWCD with respect to the landowners' use of water within RWCD.

Under the settlement agreement, RWCD reserves whatever conversion rights it may have by virtue of CAP agricultural water having already been applied to RWCD lands, or by virtue of the application of CAP water to RWCD lands in the future. Water relinquished by RWCD and held by the Secretary for the Community may be converted to an M&I or Indian priority when 75% of the Community's original CAP allocation is being used for M&I purposes, and then the conversion will be permitted to the extent conversion might have occurred if the relinquished supply were still held in the hands of a non-Indian agricultural subcontractor. The other circumstances under which a conversion might be permitted, as set forth in the agreement, is where the Secretary of the Interior determines that conversions from non-Indian agricultural priority to Indian or M&I priority elsewhere on the CAP system threaten the reliability/dependability of the supply relinquished to the Community by RWCD. Conversion in this circumstance would be limited to a maximum of 24,409 acre-feet. All conversions under the agreement are committed to the Secretary's discretion, based upon the standards noted above.

Pursuant to the agreement, RWCD agrees not to challenge the Community's water rights. The Community waives claims for past and present damages and agrees not to assert any prior or paramount rights it may have with respect to the use of surface water rights and groundwater withdrawals by RWCD and its landowners with respect to their use of such water on lands within RWCD.

RWCD agrees to limit its groundwater withdrawals and usage to an amount permitted by the management plans promulgated under the Arizona Groundwater Management Act (the "Groundwater Code"). If the Groundwater Code should ever be repealed or amended to adopt an objective which is not the practical equivalent of safe yield, RWCD will continue to operate within the constraints of the groundwater use limitations in effect prior to the repeal or amendment of the Groundwater Code. Under the settlement agreement, the Community will be permitted to enjoin excessive groundwater pumping by RWCD and its landowners without being required to show injury to the Community. The settlement agreement requires dismissal with prejudice of pending litigation filed by the United States on behalf of the Community with respect to historical groundwater pumping by RWCD and its landowners. The litigation is not required to be dismissed as to the use of water withdrawn by RWCD landowners for use outside of RWCD. The Community and the United States on behalf of the Community also agree to confirm RWDC's surface water rights as described in the SRPMIC Agreement, and further agree not to challenge RWCD's claims to spill water, as described in the SRPMIC Agreement.

RYLEY, CARLOCK & APPLEWHITE,
Phoenix, Arizona, September 11, 1992.

Ms. ELIZABETH A. RIEKE,
Director, Department of Water Resources, Phoenix, AZ.

Gila River Indian Community/RWCD Water Rights Settlement

DEAR BETSY: Please accept my thanks on behalf of RWCD for your time and the time of your staff in meeting with RWCD and the Gila River Indian Community on September 9th to discuss the settlement we have entered into. I am sure the Gila River Indian Community feels the same way.

Enclosed per your staff's request are two copies of the draft settlement documents. The United States is currently reviewing the documents, which will certainly be changed to accommodate whatever concerns the United States may have as to their content. Accordingly, since they are not final, we would appreciate the documents not being disclosed to anyone outside the Department. We do, however, recognize the Department's need to review the documents before endorsing the settlement and are therefore pleased to provide copies of them to you.

We will await your call after your staff has had a chance to review the documents. We will make ourselves available to you and your staff to answer any questions or to address any concerns the Department may have. In the meantime, please again accept our thanks for the positive reception, and, in anticipation, for whatever good offices the Department may be able to provide in securing the enactment of legislation approving the settlement.

Very truly yours,
MICHAEL J. BROPHY.

SOMALIA

• Mr. LIEBERMAN. Mr. President, the famine in Somalia is the world's worst humanitarian crisis at this moment in history, with people starving to death every day. According to the international relief organization, Doctors Without Borders, a whole generation of children is in danger of disappearing in Somalia. This crisis demands that we do our utmost to respond to the cries of help we hear from that land.

I would like to share with my fellow Senators what I have recently learned about the ongoing United States relief effort. Andrew Natsios, the United States Special Coordinator for Somali Relief, visited my office to brief me and several other Senators on the situation in Somalia.

To paint the picture in Somalia, one would need Jackson Pollack. After a devastating civil war, all traditional lines of order and authority, namely the clan elder system, have broken down. Instead, there are competing clans at war with each other, none with clear control over any other. On another level of violence, armed gangs of teenage boys are terrorizing the country, committing horrible acts of rape and violence. What we see happening there is really a social disaster, more than it is a natural disaster.

This makes an orderly relief effort next to impossible, since the port at Mogadishu is far from secure. Food shipments are often attacked and stolen right at the port, and even relief workers are in danger. At least one worker from the International Committee of the Red Cross (ICRC) has been shot dead in Somalia.

So, clearly the first priority of the United Nations peacekeeping force that will arrive shortly from Pakistan should be just that: keeping some sort of peace in Somalia, particularly at the port in Mogadishu. The port is, literally and figuratively, the mouth of a nation that is starving to death.

Mr. Natsios outlined several other elements of the U.S. relief strategy which follow from there. Monetization of the food market is next, which means flooding the markets and merchants with food at a lower price, forcing the price of food down. When the price of food goes down, so does the incentive to loot, steal, and hoard. While it may defy rhyme and reason, the people of Somalia are not always starving for lack of food, but for lack of money to pay for food. During this famine, as in all famines, food prices become impossibly inflated. To this end, the United States has pledged 143,000 tons of food to Somalia during the fiscal year that begins this month.

Second among these elements is the 1-day system set up by the ICRC feeding kitchens, which move and cook enough food to feed people only one day at a time. They operate on the logic that once food is cooked, it loses its value to those who would loot and steal. They also serve corn and sorghum, which are less desirable to food thieves than rice and sugar. Currently, the U.S. Defense Department is operating a 60-day emergency airlift that supplies the food being distributed by the ICRC.

The third element of the U.S. relief strategy is decentralization, which means encouraging people to stay where they are, even in rural villages, rather than taking long walks to urban relief centers. That way, there is a chance that they will plant crops for next year. To that end, the ICRC has set up 600 feeding kitchens all over this country, including remote areas.

Rehabilitation is one more element of our relief strategy, meaning we must do what we can to replace Somalia's broken infrastructure: wells, animal herds, electricity, and most importantly, its traditional system of authority. Where there are still functioning local elites who resolve disputes by negotiation, rather than violence, we must do all we can to encourage and strengthen them. For instance, we can refuse to deal with clan leaders unless they practice nonviolence.

These are all immediate measures we are taking in response to a crisis that is even worse than the scenes that shocked the world in Ethiopia. Yet, at the same time, we must face the grim reality that these measures are not nearly enough to put Somalia back together again.

If the U.N. peacekeeping force fails to meet the need in Somalia, the United States should urge the United Nations to increase the size of its peacekeeping force there. Besides sending food, what the world community can do for Somalia, in the end, is enforce a peace that lasts long enough for Somalia to rise again from this wreckage, and build the kind of governmental authority that will maintain peace. The Somalian people need peace to rebuild their communities and provide for their families once again.•

THE BUDGETARY IMPACT OF H.R. 5368, THE FOREIGN ASSISTANCE, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL

• Mr. DOMENICI. Mr. President, the conference report on H.R. 5368, the Foreign Assistance, Export Financing, and Related Programs appropriations bill for fiscal year 1993 cleared the Senate last evening by voice vote.

This bill provides new budget authority of $26.4 billion and new outlays of $5.7 billion to finance operations of the Agency for International Development, the Export-Import Bank, the World Bank, and various other international agencies including the Peace Corps, State Department refugee programs, and federally financed arms sales.

I am pleased to report that the conference agreement is within the subcommittee's 602(b) allocation. In fact, it is $0.6 billion below the subcommittee's budget authority allocation. When outlays from prior-year BA and an adjustment for $12 billion in IMF credits are taken into account, the bill totals $14.1 billion in BA and $13.3 billion in outlays. The total bill is under the subcommittee's 602(b) allocation by $0.6 billion in BA and less than $1 million in outlays.

The conference agreement appropriates $1 billion less than the President's request. The Foreign Assistance appropriations bill and the Food for Peace Program in the Agriculture appropriations bill constitute our entire foreign aid program. Together these foreign aid programs constitute less than 1 percent of the entire budget.

The largest single item—for $12.3 billion—does not result in any net outlays or increase our deficit. It is for the United States' share of a 50-percent increase in the size of the International Monetary Fund. The IMF appropriation is not a grant or a conventional loan. It is a secured line of credit. When the IMF uses any part of it, our Treasury receives market interest rates and a liquid claim on the IMF's lines of credit with other Western nations.

The second largest item—for up to $10 billion over a 5-year period—authorizes the President to guarantee private loans by the Government of Israel. All fees and reserves required by the Credit Reform Act of 1990 will be paid by the Government of Israel. The guarantees are linked to reforms that are designed to move Israel from a socialist to a market economy. The Office of Management and Budget doesn't estimate any net outlays for this item, but the Congressional Budget Office interprets the Credit Reform Act such that it scores $170 million in both BA and outlays for this item in the conference agreement.•

THE SALE OF F-15S TO SAUDI ARABIA

Mr. LAUTENBERG. Mr. President, I would like to go on record in opposition to the Administration's proposed sale of 72 F-15s to Saudi Arabia. I oppose this sale for many reasons.

The sale has dangerous implications for the escalating arms race in the Middle East.

Just two years ago, American soldiers were sent to the front lines because Saddam Hussein, with the help of our government and other Western nations, in his unrelenting quest for power, built up a massive arsenal of dangerous and destabilizing weapons which he then used against our soldiers. We may still pay a further price for his possession of these weapons.

In the wake of that war, the Administration announced a plan for restraining the sale of destabilizing arms to the Middle East. The President said we ought to take another look at our military exports to the Middle East. He said that we and the other nations of the world ought to learn a lesson from the war and be more restrained with our destabilizing arms exports.

I thought the President had learned an important lesson—that pumping weapons into the hands of some leaders in the volatile Middle East is a formula for disaster.

Well, that was two years ago, and the President has apparently forgotten that important lesson. Now, he is embracing the sale of some of America's most sophisticated offensive weapons to Saudi Arabia.

Mr. President, I'm also deeply concerned about the impact this arms sale could have on Israel's qualitative military edge. Saudi Arabia remains in a state of war with Israel and is her sworn enemy. Until very recently, Saudi Arabia bankrolled Israel's mortal enemy—the P.L.O. I worry about the threat this sale poses to Israel's security.

Now some will argue that Saudi Arabia poses no military threat to Israel, our most stable ally in the Middle East, and that the F-15s will never be used against Israel or against American interests.

Mr. President, I'm not so sure. I would remind my colleagues of a story Prime Minister Rabin told on his recent visit to the United States. The story is about American tanks that were sold to Jordan in 1965.

Now, when the tanks were provided to the Jordanians, then Secretary of State Kissinger gave personal assurances to then IDF Chief of Staff Rabin that they would never be used against Israel.

So what happened? Two years later, the Six Day war broke out. And, despite our Government's assurances, Israel found her soldiers facing those tanks in combat with Jordan. It was Prime Minister Rabin's unit that ultimately destroyed the American made tanks.

Not much has changed. With the exception of Israel, America's friendships in the Middle East are all too often short-lived. We saw that in Iraq. We saw that in Iran. Who knows if we will see that in Saudi Arabia?

Mr. President, Israel has expressed serious concerns about the impact of this sale on her security. The Administration has reviewed those concerns and has agreed to provide some additional equipment to Israel to address Israeli security concerns. Israel is our most dependable ally in the region. Guaranteeing her security, guarantees our own.

Mr. President, there is another aspect related to this F-15 sale that we ought to consider: while President Bush has agreed to sell American weapons to Saudi Arabia, Saudi Arabia continues to boycott American companies.

I believe that before this F-15 sale is consummated, the Government of Saudi Arabia ought to publicly renounce the boycott of American companies. And I think the Administration should be more forceful in demanding that renunciation before the sale goes through.

Since the founding of Israel in 1948, the Arab League countries, with the exception of Egypt since her peace accord with Israel, have not only waged military war against Israel, but have declared economic war against her, and those who do business with her. The Arab League has sought to put Israel in an economic vise by cutting off her commercial contacts with the rest of the world, and by penalizing those companies and businesses that dare to trade with her.

The Arab League has waged this economic war on several fronts. It has maintained a primary economic boycott against Israel, refusing to do business with any individual or business in that country.

Further, in what is known as the secondary boycott, the Arab League has demanded that companies worldwide refrain from trading with or investing in Israel. A company that trades with Israel is blacklisted, and Arab League countries then refuse to trade with it. Under the 'tertiary' boycott, they also refuse to trade with any company that does business with a blacklisted company.

It is longstanding U.S. policy that the Arab League countries should end the boycott of Israel. In fact, U.S. law explicitly bars American companies from providing certain information to Arab countries to demonstrate compliance with the boycott.

America has opposed the Arab boycott against Israel because it is a declaration of economic war against our most trusted and dependable ally in the Middle East. And we've opposed the boycott because it doesn't just hurt Israel. It harms America as well.

The Arab boycott threatens, penalizes, and attempts to coerce American firms that to do business with Israel. It causes American businesses to lose valuable contracts with the Arab world, costing American jobs and profits, and impairing American competitiveness.

Moreover, Mr. President, Saudi Arabia's willingness to buy our F-15's despite our close commercial ties to Israel exposes the blatant hypocrisy of that nation on this issue.

Strict adherence to the Arab boycott by Saudi Arabia would foreclose Saudi Arabia from buying our weapons because the U.S. Government does business with Israel. Further, since Israel has made numerous purchases of weapons and equipment from McDonnell Douglas, Saudi Arabia's willingness to buy F-15's from them is also a violation of the boycott rule.

Yet, Saudi Arabia seems to have no problem with ignoring the boycott when it serves its self-interest. Too bad American individuals and businesses don't have the same option.

According to the Commerce Department's most recent report on the boycott, American businessmen and women were asked 1,442 times by Saudi Arabia to answer questions about their business relations with Israel or to modify those business relations. U.S. businesses lost 842 contracts because of the Saudi Arabian government's enforcement of the secondary and tertiary levels of the Boycott against U.S. firms.

Even more, the number of contracts lost in Saudi Arabia was the largest number of contracts lost in any Arab League country. It is more than two times the number of contracts lost in any other Arab state.

Mr. President, I have consistently called on the Arab nations to end this unreasonable and unfair trade practice. But after the gulf war, it seems especially appropriate to insist that our gulf war allies, specially Saudi Arabia and Kuwait, publicly renounce the Arab boycott.

American soldiers put their lives on the line to protect the independence and security of Saudi Arabia and Kuwait. American lives were lost and families were shattered. Given that sacrifice, is it too much to ask that the Arab nations we defended buy our products and services, regardless of who else our companies do business with, and regardless of where else they invest?

Apparently they think so.

Because, to date, Mr. President, neither Saudi Arabia nor Kuwait has renounced the boycott that hurts our companies and deprives them of valuable business.

We fought a war for them. Yet they continue to wage economic war against us. This policy should not be allowed to stand unchallenged.

Mr. President, the response of this administration has been disgraceful. In the wake of the gulf war, the President not only failed to demand that Arab countries publicly renounce and lift the boycott; he actually supported the Arabs' blackmail of American industries by linking a suspension of the boycott to the unrelated issue of a settlement freeze by Israel.

When he should have been standing up for America, it was our President whose policy affirmed the right of the Arab League to blackmail American companies so long as Israel did not do what it wanted on settlements. It was our President who sanctioned the loss of American jobs and American business, with its daily damage done to the American economy.

The President's policy has never made sense to me. But given current developments in the Middle East, especially Israel's recent conciliatory moves, it is especially mystifying and counterproductive.

Over the last several months, Prime Minister Rabin has taken bold steps to move the peace process along and create a climate where real peace is possible.

He's scrapped plans to build nearly 8,000 housing units. He has suspended construction of roads serving the West Bank and grants for West Bank industries. He's reviewing incentives that have been given to Israeli citizens living in the West Bank.

He has also reversed longstanding Israeli policy by stating that part of the Golan Heights might be returned in exchange for peace with Syria, and agreed to discuss autonomy for the Palestinians. These moves represent a dramatic shift in longstanding Israeli policy. They represent an olive branch to the Arab nations who, with the exception of Egypt, have yet to renounce their formal state of war against Israel.

What has been the response of the Arab states, particularly Saudi Arabia and Kuwait, to these far-reaching and conciliatory moves on settlements and other critical issues?

A resounding silence on the Arab boycott.

What has been the response of our President, who has been campaigning of late with a pledge to save the American economy, and whose own policy linked the end of the Arab boycott to a halt in Israeli settlements?

A resounding silence on the Arab boycott. And a pledge to sell Saudi Arabia our most sophisticated F-15 aircraft.

Mr. President, it is time for the Arab nations to take up the olive branch, reach for the outstretched Israeli hand, and make a move to respond to Israel's peace overtures.

An end to the Arab boycott would be a positive move toward recognition of Israel's right to exist. It would give Israelis new hope that her neighbors are serious about acknowledging her permanence. It would open up the possibility that one day Israel's Arab neighbors may formally end their state of war with Israel and reach real peace agreements with her. It would give Israel confidence to proceed with her bolder steps for peace.

The President needs to get tough on this issue, and to forcefully demand that Saudi Arabia and all complying Arab countries publicly renounce the boycott of American companies. In the case of Saudi Arabia, the President ought to demand a public renunciation before the F-15's are sold.

Mr. President, it is long past time for us to get serious about ending the Arab boycott. It is a direct violation of America's interests, and an affront to the patriotic Americans who fought in the gulf.

I think the President ought to demand that the Government of Saudi Arabia immediately and publicly renounce the boycott of American companies before the F-15's are sold. I hope he will do that. To do otherwise, would reconfirm his seeming indifference to the boycott's negative effects on U.S. business and acquiesce in this intolerable policy.

SALE OF SUBMARINES TO IRAN BY RUSSIA

• Mr. LIEBERMAN. Mr. President, I would like to comment on a serious matter the Senate must not overlook as we approach the end of this Congress. According to press reports, Russia has sold at least one and perhaps as many as three diesel submarines to Iran, making Iran the first Persian Gulf country to possess such an advanced submarine. This has serious consequences for U.S. naval operations and security in the Persian Gulf.

From a military standpoint, this submarine sale means an escalation of the threat to U.S. forces in the gulf. The Kilo-class diesel submarine fires torpedoes, lays mines and moves more quietly than even its nuclear counterparts. In the event of war in the Persian Gulf, U.S. aircraft carriers might well be a prime target of these Iranian submarines.

No doubt, the Iranian submarines would be out-classed by our own submarines and by our submarine crews. But as we saw in the Falklands war, even a small number of submarines can have a major impact on the operations of a superior fleet. The mere rumor of Argentinian submarines diverted British Naval resources from preparing for their main task, invasion of the Falklands Islands.

Iranian submarines would have a similarly diversionary impact on U.S. operations in the gulf especially in the event of war. The shallowness of the Persian Gulf exacerbates the usual problems of antisubmarine warfare. Sonar signals bounce off the bottom more easily in shallow water, and ships and oil rigs produce higher noise levels.

The Iranian purchase of Russian submarines must be viewed in the context of geopolitics in the gulf. With the devastating military defeat of Iraq, Iran is no longer checked by its historic rival. Teheran is doing all it can to tip the balance of power by committing billions of dollars to a nuclear program and eventual purchases of fighter aircraft, missiles, tanks—and now, we see, submarines.

Iran's rearmament program is unfortunately consistent with its more aggressive foreign policy in the gulf. In recent months, Iran asserted exclusive control over Abu Musa Island, near the Strait of Hormuz, the narrow entry point into the gulf. This broke an understanding reached under the Shah, that Iran and the United Arab Emirates would share sovereignty in Abu Musa, including oil revenues. The small gulf countries are rightly concerned about this unilateral declaration of Iranian power and privilege.

Some day these developments are less serious than they would have been in the past because of the alleged birth of a more moderate Iranian regime since the death of the Ayatollah Khomeini. I would argue, however, that Iranian policy has become more pragmatic rather than more moderate. For example, Iran is more crafty in its use of terrorism. So, while no hard evidence was ever found of Iranian government involvement in the killing of the Shah's last prime minister in Paris, Shapour Bakhtiar, in 1991 or the bombing of the Israeli Embassy in Buenos Aires in March 1992, these terrorist acts were sophisticated enough to lead one to believe that Teheran was indeed involved.

Nor is there anything reassuring in the leadership of the Iranian Navy. Despite a veneer of professionalism, the Iranian Navy is effectively controlled by the Revolutionary Guards. The Guards are the radical military-police force that provided the elan for the Iran-Iraq and war for the puritanical edicts of the Khomeini regime. The Commander of the Navy, Ali Shamkani, was the former Deputy Commander of the Revolutionary Guards during the Iran-Iraq War; the Deputy Commander of the Navy, Abbas Mohtaj, was until recently a senior member of the Revolutionary Guards. Both are considered to be radicals. The Guards' control of the Navy does not bode well for U.S. naval forces in the Gulf, especially in light of this latest news.

As the philosopher George Santayana observed, those who forget the mistakes of history are bound to repeat them. Faced with the rise of Iranian power, we do not want to repeat the mistake that we made with Saddam Hussein. During the 1980's, the American Government became so obsessed with the rise of revolutionary Iran under Khomeini that it closed its collective eyes to Saddam's armaments program. Today, we should not be so focused on Saddam that we under-estimate the significance of Iran's drive towards regional dominance. In other words, let's not fight the last war and invite the next one.

The growing power of Iran also reminds us that submarine warfare is still relevant in today's world. That is why we need advanced submarines like the Seawolf to counter the growing threat from third world submarines. The former Soviet Union has already sold submarines to India, Algeria, Libya, and Syria. Germany has also gone into the submarine export business. Some developing nations, including North Korea, have begun to produce their own submarines. Overall, at least 20 countries have submarines greater than mini-submarine size.

Mr. President, let us remember we still live in a dangerous world. Some argue that we are moving towards a more peaceful world in which economics will become the primary form of international competition. Unfortunately, the primacy of economics will not necessarily make the world more peaceful, as we see in Yugoslavia and Israel today. So we must not let down our guard; we must remain vigilant. Every good ship keeps up a 24-hour look-out. The ship of state must do the same. The Iranian purchase of Russian submarines should concentrate our minds on that fact.●

THE NATIONAL PRAYER BREAKFAST—1992

● Mr. STEVENS. Mr. President, as this Congress draws to a close and I reflect back on the year, I have to say one of the great highlights for me personally has been the fellowship I have enjoyed each Wednesday at the Senate's weekly prayer breakfast. I had the honor with Senator HOWELL HEFLIN of leading the group and of hosting the 40th annual National Prayer Breakfast here in Washington. With the help of Senator HEFLIN and the Chairman of the House Prayer Breakfast, Congressman CHARLIE STENHOLM, we hosted 4,000 people from every walk of life, from every State in the Union, and from over 140 countries at that annual event.

We were honored to have with us President and Mrs. Bush, Vice President and Mrs. QUAYLE, Ratu Sir Kamisese Mara of Fiji, members of the Cabinet and Diplomatic Corps, as well as many of our friends and colleagues from both the House and the Senate. My good friends, Senator LARRY CRAIG and Congressman SONNY MONTGOMERY offered remarks from the Senate and House Prayer Groups, and Senator AL GORE read a passage from the New Testament.

We gave special recognition to representatives that came from prayer groups in our State legislatures from across the country. Senator JOSEPH PITTS from Pennsylvania was the most senior legislator who was able to join us for this special occasion, and he blessed us with a reading from the Old Testament.

From a prebreakfast prayer delivered by Ms. Shoshana Cardin to the reflections of my good friend, Maestro Mstislav Rostropovich, we were blessed with messages that gave us hope and inspired our faith. The music was downright heavenly from the touching performance of the Savoonga Eskimo Singers from my home State to the stunning performance of Ms. Cissy Houston to the beautiful voices of the West Point Choir.

Mr. President, at the request of the National Prayer Breakfast Committee, I request that the transcript of the proceedings from this year's National Prayer Breakfast be printed in the RECORD at the conclusion of my remarks. I would also like to express my deepest appreciation for the efforts of the Senate Chaplain, Rev. Halverson, and Doug Coe in organizing the National Prayer Breakfast and in serving as the Senate's spiritual leaders as we seek God's guidance and pray for his wisdom. May the Good Lord grant them both good health and long lives, so they can continue to guide the Senate as it seeks to do what's best for this great Nation.

The transcript follows:

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another with psalms, hymns and spiritual songs. Sing and make music in your hearts to the Lord, always giving thanks to God the Father for everything, in the name of our Lord, Jesus Christ.

This next song we'd like to sing for you is a common prayer at the end of any prayer. It's called "Amen" by Glad.

(Song.)

CADET. SIVES: Thank you very much, ladies and gentlemen. We are so honored to be with so many people this morning who love and worship the Lord. You know that by keeping the commandments we are able to find true happiness in our lives. We would like to sing a song for you now as our closing number that speaks about this happiness. It's by a group called the Cathedral Quartet, entitled "Feelin' Mighty Fine".

(Song.)

SENATOR STEVENS: The Vice President of the United States and Mrs. Quayle.

(Applause.)

SENATOR STEVENS: Ladies and gentlemen, the President of the United States and Mrs. Bush.

(Applause.)

SENATOR STEVENS: Please be seated. Thank you for welcoming our honored guests.

We have some singers for you but before they sing, Congressman Sonny Montgomery of Mississippi will present an opening prayer. Our singers have traveled thousands of miles from a small island in the Bering Sea, off the coast of Russia. They're 70 miles from Russia and they're 160 miles from the coast of my state of Alaska. These singers come from the Alaskan native village of Savoonga to sing for us. Their village has approximately 500 people, no automobiles, no running water. Their men hunt for subsistence and their ladies keep busy making beautiful Alaskan native crafts. These singers will sing "How Great Thou Art" in Alaska-Siberian Ubic and then in English. We ask that you remain seated for the prayer and enjoy the songs.

REPRESENTATIVE MONTGOMERY: Good morning and let us pray. Good Lord, thank you for this new day and for giving us the opportunity to gather this morning to express our love for you and for our neighbor. To our friends from overseas, welcome to our country. We are proud that you are part of this great National Prayer Breakfast.

In 1991, the world changed so much for the better. Many people in our lands can now worship without fear. Please give them the strength and courage to keep these new freedoms.

Bless our President and Barbara Bush, and thank you for helping our President work through the many problems he faces each day.

Bless Vice President and Marilyn Quayle plus the Congress and all the officials in our great government. Lord, Bless this food to the nourishment of our bodies, and let us remember that every good and perfect gift comes from You.

Amen, amen.

(Savoonga Singers.)

(Applause.)

SENATOR STEVENS: Thank you all very much. That was very lovely.

Mr. President, Mrs. Bush, Mr. Vice President, Mrs. Quayle, distinguished heads of state, honored guests and friends, coming from all walks of life, every political persuasion in every corner of our globe, we have gathered together today to pray and to thank our God. The book of Matthew tells us that where two or three are gathered in God's name, He is among them. And where two or three agree in prayer, our Father in heaven will answer those prayers.

We have much for which to be thankful: a world earnestly seeking peace, the end of walls separating mankind, the rebirth of democratic freedoms, and most of all, our United Nations forced have returned after liberating Kuwait.

Our prayers offered here in this room a year ago have been answered. But while we may differ on issues of policy and politics, foreign affairs and business and commerce, our faith in our God unites us. As we come closer together and our world is at peace, God will listen. Ask and it will be given you, seek and you shall find. Knock and it will be opened to you.

Now I would like to introduce to you those seated at the head table whose names do not appear on your program. First on my right, a lady who needs no introduction. To me, I believe that when our good Lord thought of the words "wife, mother and family", he though of our nation's First Lady, Barbara Bush.

(Applause.)

Thank you very much. Those of us in the Senate truly love Barbara Bush. She has been involved with out wives now for many years. She is totally one of us.

On my left, the lovely and gracious wife of our Vice President, Marilyn Quayle.

(Applause.)

Now I ask that you hold your applause until I finish introducing the remainder of those at the head table who are not listed in your program. Beginning at my far left, Mrs. Tipper Gore, wife of Senator Al Gore.

Mrs. Mike Heflin, wife of Senator Howell Heflin.

And Mrs. Cindy Stenholm, wife of Congressman Charlie Stenholm.

And Mrs. Galina Vyezniskaya, wife of Maestro Rostopovich.

Mrs. Suzanne Craig, wife of Senator Larry Craig.

Mrs. Alma Powell, the wife of General Colin Powell.

My wife, Catherine Stevens. Now join me in welcoming the true powers of Washington.

(Applause.)

Next I'm honored to introduce A Head of state, a friend of all. He has traveled thousands of miles to be with us this morning, Prime Minister Sir Ratu Kamisese Mara of Fiji. Mr. Prime Minister.

(Applause.)

I ask this morning that we give special recognition to the state legislators who have come to be with us, despite the fact that our State Legislatures are in session. They represent prayer groups from almost all of our state governments. Will those legislators who represent state prayer groups, please stand?

(Applause.)

The House and Senate Prayer Group sponsor this breakfast. I ask now that you welcome my good friend, the Honorable Larry Craig of Idaho, who will speak for the Senator Prayer Group.

SENATOR CRAIG: Mr. President, Mr. Vice President, Chairman Ted, good morning to everyone and especially to our international friends. I'm deeply honored to have been asked to speak on behalf of the United States Senate and its members who participate in the Senate Prayer Breakfast.

This morning's gathering is one of the largest assemblies of love, fellowship and prayer I believe the world has seen. Let me tell you, my wife, Suzanne, and I are deeply honored, humbled and pleased to be among all of you.

In the early 1940's, members of the U.S. Senate gathered to consider the spiritual problems they were experiencing with warfare and to pray together about it. The Senate Prayer Breakfast was born.

Later, Senator Frank Carlson of Kansas met with President Eisenhower and found the common denominator that brought this nation's leaders together in fellowship through prayer. The National Prayer Breakfast movement, which today spans the globe, has resulted from that effort.

Thousands of people here this morning, from over 150 countries, should serve as testimony to the never-ending power of love and values of fellowship spoken clearly to use by our Lord Jesus Christ.

Well, I'm a veteran of both the House and the Senate Prayer Breakfasts. Every morning, while the Senate is in session, Senator Ted Stevens and Senator Howell Heflin, our current leaders, bring us together in fellowship. This fellowship results in stronger bonds between people of different political opinions and religious beliefs. Our isms are checked outside the door as we meet to share what oftentimes comes to be an expression of very personal beliefs and ideas. We open with prayer and we close with prayer.

The Prayer Breakfast has helped me personally to disagree without being disagreeable and to remember that what unites mankind is much stronger than that which pulls us apart or divides us. That unifying force is the power of love of our fellow man.

It is my pleasure to bring greetings from this unique body of men and women who are responsible for the genesis of thousands of similar groups throughout the world.

Let me close with Romans 14:13, which speaks of love and consideration for your brother. "Let us not therefore judge one another anymore, but judge rather that no man put a stumbling block or have occasion to fall in front of his brother."

Now it is my pleasure to introduce the Chairman of the U.S. House of Representatives Prayer Breakfast. For 10 years I had the privilege of attending this Prayer Breakfast and sharing with this gentleman. He is a Democrat and I'm a Republican. Our states are divided by a thousand miles and many different opinions. But we are united in friendship. We believe in our Lord and we believe in the love that He has asked us to expend.

Ladies and gentlemen, from the 17th Congressional District of Texas, the president of the House Prayer Breakfast, Congressman Charlie Stenholm.

REPRESENTATIVE STENHOLM: Thank you, Larry, Mr. President, Mr. Vice President, distinguished guests, one and all. In the words of St. Paul, "Grace and peace to you from God our Father and the Lord, Jesus Christ."

I thank God for you because of His grace given you in Jesus Christ. I appeal to you, brothers and sisters, in the name of our Lord, Jesus Christ, that all of you agree with one another so that there may be no divisions among you and that you may be perfectly united in mind and in thought.

From the reports you hear on the news, it may be difficult for you to believe that Members of the Congress of the United States ever agree with one another on anything, or find it possible ever to be perfectly united in mind and thought, as St. Paul admonished us to do. But it is my pleasure and privilege to bring you greetings this morning from the House of Representatives Prayer Breakfast Group, where we try to take those instructions seriously. Like St. Paul, I greet you in the name of Christ with thanksgiving for everyone gathered here from all across the world and from many different walks of life.

I want to share with you the good news of God's work in our House Prayer Group. Looking out across this impressive crowd this morning, I am reminded of the Prophet Isaiah's words when he said, "My house will be called a house of prayer for all nations." This room may normally be a ballroom, but this morning it is definitely a house of prayer for all nations, and it is a wonderful sight.

Normally on Thursday mornings at this hour I am seated in a little room in the Capitol Building with about 40 or 50 colleagues. We meet without fanfare, simply to find fellowship with each other and to share each other's burdens and joys and to pray.

I have to tell you that prayer is something I don't totally understand, even though I am convinced of its power. The Holy Spirit, as the Bible says, guides us in our prayers. It is a lot like the wind that sweeps across the rolling plains of west Texas. The wind itself is invisible, but its effects are undeniable.

The hostages, for whose release we praised God this year, have all told us about the power which sustained them through their long lonely years. Those who were able to link hands in prayer while in their cells, which they called the Church of the Locked Door, have testified that the strength that they gained from each other and from the Holy Comforter was what kept them alive.

In the House Prayer Breakfast Group, we have seen the power of prayer in the Holy Spirit at work as well. Through the report which we affectionately call, the "Sick and Wounded Report", given every week by General Sonny Montgomery, we share our daily concerns with and for our fellowman. Through Jake Pickle's colorful explanations of the background of the hymns we sing, we lift our voices in praise and gain a sense of how God has worked through the lives and experiences of past believers. Through the message brought by a different Member of Congress each week, alternating between Democrat and Republican, we learn something of our colleagues' own spiritual journeys.

I personally have felt the impact that fellowship and prayer can have on those of us who meet together. As a conservative farmer from the rural southwest, it's not always obvious to me how I might relate to a liberal New Yorker. When we sit together on Thursdays, however, all the other labels are left at the door and we are transformed into simply being two men seeking fellowship and God's guidance. Even when we leave the room and we reattach our labels, something of that connection through fellowship remains with us.

Just as we Representatives meet every Thursday morning, asking God to direct us while we debate the laws of our land, I ask that you pray for us, as we make those decisions so that our words and deeds may always be pleasing to Him.

It is now my privilege to introduce to you Ms. Sissy Houston, who will bring us her rendition of "Sweet Hour of Prayer". While many people may be tempted to boast of a successful recording career, Grammy Award nominations or numerous other awards, I suspect that the one which may be most special to Sissy was being named Mother of the Year in 1991. While we don't know about her other children, we do know that Sissy did a marvelous job of raising and training her daughter, Whitney.

May I now introduce Ms. Sissy Houston?

(Ms. Houston's song.)

(Applause.)

SENATOR STEVENS: Thank you very much, Sissy. My grandmother used to say, when you hear a good song, your heart sings. Our hearts were singing with you.

Next, we are honored by a former Senator. As a matter of fact, he is the President of the Senate, a friend and a true believer, the Vice President of the United States, the Honorable Dan Quayle.

VICE PRESIDENT QUAYLE: Thank you, Ted, Mr. President. Thank you very much, Senator Stevens, Mr. President, Barbara, Marilyn, Maestro Rostropovich, ladies and gentlemen.

As we welcome our international friends and guests to the National Prayer Breakfast, let us just stop for a moment and think what has happened in the world this past year. We welcome this day of prayer to once again give thanks to our Lord for the wonderful blessings that he has bestowed upon us. In the words of the 77th Psalm, Verse 14, "You are the God who does marvelous deeds, the Lord who brings nations to acknowledge your power."

Indeed he does. For the most dramatic events of our lifetime, the rebirth of nations long covered by darkness, the reunion of East and West upon their shared heritage, this was not done by the force of arms. This was brought by the force of faith. It began when a group of Polish workers insisted upon erecting a cross at their shipyard. It drew strength from those who fell, martyrs, like Father Populiuscko, who, even in death, could not be silenced.

Last summer, Marilyn and I and two of our children, prayed at his grave and now we witness his victory. Like many before him, he taught the most profound lesson of our time, that faith, family and freedom are intertwined. Destroy any one and the others are threatened as well. Strengthen anyone and the others revive along with it.

That's why the bogus messiahs of this century tried to shackle religion and ruin family life, because they knew their monster states could never enslave believing families. Now, bells rings out again from the ancient churches in the Kremlin, voicing to the heavens their prayers of thanksgiving.

Yet even at this season of rejoicing, there is still danger. People of faith should not ignore it. For the totalitarianisms of this century, evil as they were, were only symptoms of a deeper malady in the western world. It was an emptiness of the spirit that, by denying humanity's creator, denied human limits and human dignity as well. That denial built the extermination camps and the Gulag. That denial remains amid the rubble of empires. It persists in our own institutions and distorts the face of our culture. My friends, it challenges all of us. For the spiritual vacuum at the heart of what Paul Johnson called modern times will be filled one way or another, filled either by a revival of faith or by some new fanaticism, promising heaven on earth.

Now, after all we have seen, after all we have been given, after so much has been done for us, surely we should now be the people with hope, with confidence in the Lord's governance of world affairs.

Thank you and God bless you.

SENATOR STEVENS: Representative Joseph Pitts of Pennsylvania has the most seniority of all state legislators who answered our invitation to join this breakfast. We've asked him to share a passage of the Old Testament with us at this time.

REPRESENTATIVE PITTS: Mr. President, Mrs. Bush, Mr. Vice President, Mrs. Quayle, distinguished guests and friends. When I asked my colleagues in the State House Fellowship Group in Pennsylvania what I should read this morning, we concluded that as state legislators, grappling with issues and ethical concerns in matters of public policy, we often find values, meaning and guidance in reading the Old Testament. The Scriptures are a place we can go, not only in our personal lives, but in our corporate lives, to rediscover God as individuals, as communities and as a nation.

We selected these verses from the Book of Psalms, chapters 33 and 145, some selected verses, beginning at verse 8.

"Let all the earth fear the Lord. Let all the people of the world revere Him, for He spoke and it came to be.

He commanded and it stood firm.

The Lord foils the plans of the nations. He thwarts the purposes of the peoples. But the plans of the Lord stand firm forever. The purposes of His heart through all generations.

Blessed is the nation whose God is the Lord, the people He has chosen for His inheritance.

From Heaven, the Lord looks down and sees all mankind. From His dwelling place, He watches all who live on earth, He who forms the hearts of all, who considers everything they do.

No king is saved by the size of His army, no warrior escapes by His great strength.

But the eyes of the Lord are on those who fear Him, on those whose hope is in His unfailing love."

And from 145:

"The Lord is gracious and compassionate, slow to anger and rich in love. The Lord is good to all. He has compassion on all He has made.

The Lord is faithful to all His promises and loving toward all He has made. He upholds all those who fall and lifts up all who are bowed down.

The Lord is near to all who call on Him, to all who call on Him in truth.

He fulfills the desires of those who fear Him. He hears their cry and saves them."

SENATOR STEVENS: Thank you, Representative Pitts. Let me now present to you another friend and member of the Prayer Group, the Honorable Al Gore of Tennessee, who will read to us from the New Testament.

SENATOR GORE: Mr. President and Mrs. Bush and Mr. Vice President and Mrs. Quayle, distinguished quests and ladies and gentlemen. In three of the four Gospels of the New Testament, there is a simple story about an unfaithful servant. The master of the house leaves on a journey and puts his servant in charge of the house with instructions. He says "If while I'm gone vandals come and ransack my house or thieves come and steal by belongings, it will not be a good enough excuse for you to say, I was sleeping."

We are gathered here from nations all over the face of God's Earth. The Earth is the Lord's and the fullness thereof. The vandalism of God's Earth on a global scale calls us out to watch, to bear witness and to respond. In Matthew, chapter 24, verse 43, Christ says, "If the good man of the house had known in what watch the thief would come, he would have watched and would not have suffered his house to be broken up. Therefore, be ye also ready."

In Luke, chapter 12, verses 54 through 57, "When you see a cloud rise out of the west, straightway ye say there cometh a shower, and so it is. And when you see the south wind blow, yea say, there will be heat, and it cometh to pass. Ye hypocrites, ye can discern the face of the sky and of the Earth, but how is it that ye do not discern this time. Yea, and why even of yourselves judge ye not what is right?"

And in Mark, chapter, 13, verses 34 through 37, "For the son of man is as a man taking a far journey, who left his house, and gave authority to his servants, and to every man his work, and commanded the porter to watch. Watch ye therefore: for ye know not when the master of the house cometh, at even, or at midnight, or at the cockcrowing or in the morning, lest coming suddenly he find you sleeping. And what I say unto you, I say unto all: Watch."

SENATOR STEVENS: Thank you very much, Senator Gore.

On August 19th of last year, dark clouds literally hung over Red Square in Moscow. It was the first day of the feast of the Transfiguration for Russian Orthodox true believers, and one of the first days for open religious freedom in the capital of the Soviet Union. A coup, a military coup was underway. As the Patriarch of the Orthodox Church, Alexi II was addressing his religious bloc in the square, Soviet tanks rolled into that square, threatening the protectors of the Russian White House in which Boris Yeltsin, the first elected leader of Russia, and the Russian Parliament, were meeting.

That night, cellist was in Paris. He went to the airfield, bought a ticket for Tokyo on a flight he knew stopped in Moscow. Upon arrival in Moscow, he went right to the Russian White House and joined Mr. Yeltsin. And he joined Father Burkov. And together they gave out 2,000 bibles to young soldiers in tanks. Only one of those soldiers refused to accept a Bible. That, to me, was a trip of faith, taken by Mstislav—we call him Slava—Rostropovich. He returned to the country of his birth to defend freedom. And we have asked Maestro Rostropovich—Slava—the music director of our National Symphony Orchestra now and for the past 15 years, as a true believer—to be our speaker, to give you our message today.

Ladies and gentlemen, I present to you a great patriot and a good friend, Slava Rostropovich.

MAESTRO ROSTROPOVICH: Mr. President, Mrs. Bush, Mr. Vice President and Mrs. Quayle, Chairman and Mrs. Stevens, Honorable Members of Congress, Honorable ladies and gentlemen, my good friends. The more I immerse myself in my music, the more certain I am that sound is a bridge between our real world and the world into which we all will eventually pass, a Godly world, a spiritual world.

Perhaps an oblique proof of this is the existence of sound in all of the different religious temples and churches. I have heard the choirs in the Greek and Russian Orthodox, the organs in Catholic and Protestant, the cantors in the Jewish and the drums in the Buddhist. Sometimes, in some rare cases in my imagination, together with the music rising out of the silence, I would experience an emotional communique with my departed friends.

This is what happened on the evening of August 19th of last year. I had learned of the putsch in Moscow and was waiting in my Paris apartment for the broadcast of the press conference of the junta leading the coup. Watching and listening, I was horrified. I understood that the cursed terror that had reigned in my country for over 70 years was returning. I closed my eyes, then felt in my inner being the sounds of the music of the 8th Symphony of Dimitry Shostakovich. The music was quiet, devastating, evocative of the inhuman suffering of its composer.

What I feared was a return of the time when that music was written: the time of lies, of deceit, of trampled human dignity. I understood in that mystic moment that I was being summoned by a power it was useless to resist.

The next morning I flew to Moscow and went to the Parliament building, the Russian White House, where I spent the following three days. During those three days, like never before in my life, I felt in me the spirit of Christ.

During that first night, while waiting for the imminent attack, we were sure of the inevitability of death. There were over 30,000 unarmed people defending those of us who had voluntarily locked ourselves in the Parliament Building. But what were those numbers to the combined forces of the KGB, the Army and the Militia united as they were by the presence of their Ministers in the junta?

It poured rain all night and fog shrouded the roof-tops. As we learned later, the attack had been planned by helicopters, depositing their forces on the roof of the White House. But the fog and the gusting wind aborted that plan. The junta could not know that they had planned the overthrow for the Holy Feast of the Transfiguration. I am SO certain that we had been saved only through the intervention of God. God did not loose yet greater suffering on a people tortured by their merciless history.

When I left the White House at 3 o'clock in the morning, amid the constant expectation of attack, to walk among the volunteer defenders surrounding the building, I saw many, many, many with symbols of their faith, using them as defense and salvation. In the silence of the night, broken by the sound of moving tank threads, the aura of faith was almost palpable. That moment and the salvation of all of us and of the future of the country, came only from God.

There are not words enough to cover the spectrum of emotion I felt during those three days, these happiest days: as they were days of closeness with God, an almost physical awareness of His power. Days of a unity of Faith with my people.

Thank you very much.

SENATOR STEVENS: Thank you, Slava. When I first heard that story of the beginning of the Feast of the Transfiguration and the power of those true believers standing in the square to stop the tank, I thought it was a story that should be shared with all of you.

Now let me ask you to welcome a true warrior, a man who led our military forces as we won the Cold War, and Led them through a shooting war in the Persian Gulf, working with the United Nations. A man who has helped make our world a more peaceful place to live, the Chairman of our Joint Chiefs of Staff, General Colin Powell, will offer for us a prayer for the Armed Services.

GENERAL POWELL: Thank you, Senator Stevens. President and Mrs. Bush, Vice President and Mrs. Quayle, distinguished international visitors, ladies and gentlemen. Last year at this time, America was at war. Dr. Antonia Novella, the Surgeon General, opened last year's breakfast by asking for God's blessing on the men and women of our Armed Forces as they went in harm's way. Last year, 8,000 miles from here half a million G.I.s and their colleagues from many, many other countries carried the heavy burden of war. They also sought God's blessings. In their own individual way, in groups around tanks and airplanes, in foxholes and on board ships, these men and women steeled themselves with faith for the coming battles. And now, thank God, the war is over. We are at peace.

And with the end of that other war, the Cold War, we stand at the threshold of what promises to be an exciting future, a future where freedom, democracy and peace will reign. Yet as we move toward that brighter future, we must not forget that still today at 1,000 campfires around the world, the men and women of your Armed Forces stand guard. On the cold snow covered DMZ in Korea, in Guantanamo Bay, in southern Turkey, afloat in the Mediterranean, in the Persian Gulf, all across the world, soldiers and sailors and airmen and marines and coast guardsmen silently keep their watch.

Please join me in a prayer for their service, their sacrifice and for their safety.

Heavenly Father, we are grateful beyond all bounds for your mercy and your loving kindness in caring for and protecting the men and women of our Armed Forces. In Operation Desert Storm our men and women went to war, as Abraham Lincoln went to war with their faith as their might. And in that faith, they dared to do their duty as they understood it. But Father, without your sure presence among them, we know that victory would never have come.

We pray again for those who did not live to see that victory and are now with you. We know that the battle for peace is never without cost, but we are human and we hurt as only humans can hurt when we lose loved ones. We pray that you will be with all the families and friends who have suffered loss. Comfort them and give them strength as they go on with their lives. And let them always remember with pride the selfless sacrifice of their fallen comrades and loved ones.

Above all, Heavenly Father, we now pray for peace. As the aircraft we built to carry our troops to war instead now carry food and medicine to our former enemies, we pray for that day when no American shall ever again have to go into war. We long for peace and for the time when every man and every woman in the world shall love his brother and his sister as Your precepts command. But we know that the road to peace is a hard road and a dangerous road. We have walked many a mile upon that road and we know that many miles may yet be ahead.

So Father, we ask your strong presence with our men and women who travel that road all around the world. Be with them, sustain them, give them the strength to do their duty despite the intensity of the trial. As we have seen from Operation Desert Storm, your presence among them surpasses the strength of 10,000 battalions.

Accept our eternal gratitude for Your love and kindness and for Your watching, caring presence in our midst today. Guide us today and tomorrow.

And Father, thank you for giving us this beloved country, which You have blessed and which we are proud to call America. Thank you.

SENATOR STEVENS: And now I call upon the Co-Chairman of the Senate Prayer Group, Senator Howell Heflin.

SENATOR HEFLIN: Last April I had the privilege of representing the Senate Prayer Breakfast at the dedication of the Camp David chapel, which serves as a house of worship for the presidential party and over 200 permanent residents, most of whom are Naval and Marine security personnel and their families. In the worship service our nation's highest leaders were co-mingled with average people like foresters, sailors and marines. The forester's wife might be seated next to the First Lady, and a Marine gunnery sergeant might stare at the President as he passes the collection plate.

When the President rose to give his remarks at the dedication service, a young mother took her crying baby out of the chapel. The President remarked that the first crying baby to be removed from the chapel just happened to be his grandson.

In 1789, George Washington in his inaugural address, said "It would be peculiarly improper to omit in this first official act my fervent supplications to that Almighty Being who rules over the universe. It is my hope that His benediction may consecrate to the liberties and happiness of the people of the United States, a government instituted by themselves."

Some 200 years later, in 1989, the second George to occupy the office, made his first act as president a prayer. "Heavenly Father, we bow our heads and thank you for your love. Accept our thanks for the peace that yields this day. Make us strong to do your will and write on our hearts these words: Use power to help people. There is but one use of power and it is to serve the people. Help us to remember it, Lord."

This National Prayer Breakfast has a meaningful international attendance. Let me mention another George, King George VI of Great Britain. During a World War II broadcast he encouraged his countrymen by invoking words from Louise Haskin's poem, "The Gate of the Year":

I said to the man who stood at the gate of the year
"Give me light that I may tread safely into the unkown."
And he replied "Go out into the darkness
And put your hand in the hand of God.
That to you shall be better than light,
And safer than a known way."

Throughout our history, we have been fortunate to have leaders who have sought God's guidance. How comforting it is to know that so many of our great leaders, including our President, George Bush, have placed their full confidence in His power. It is my high privilege and distinct honor to present such a leader, the President of the United States.

PRESIDENT BUSH. Thank you all very, very much. Please be seated. Slava, thank you. Thank you, Senator Heflin for such a lovely introduction. Dan and Marilyn, the Vice President and Mrs. Quayle; members of my Cabinet; Members of Congress, all so many here today; General Powell; our host, Ted Stevens, to our dear friend, Billy Graham, and all gathered, let me first just say a special greeting to Prime Minister Kamisese Mara of Fiji. This is not his first time here, and I am sure it won't be his last. He is an inspiration to all of us who know him and consider him a friend, as I do.

And may I salute our other friends from overseas? and those who serve in the state legislatures. We are glad you all are here.

Four principles, four ideals, really inspire America and I think they are all here this morning, reflected in one way or another —freedom, family, and faith that Dan Quayle talked about and to that I would add fellowship. So many people, brought together by a shared spirit, the simple joy of praying to God.

Slava, that was a tremendously moving story and one of the most dramatic moments in recent history. And if sound has anything to do with entry into heaven, I believe you can choose the fluffiest, most generous cloud in the firmament when you get there. Thank you for your inspiring message. You reminded us all of the powerful role that prayer has played in the unprecedent events of the past year.

When I last stood here, as Colin reminded us, we were at war. Compelled by a deep need for God's wisdom, we began to pray. And we prayed for God's protection in what we undertook, for God's love to fill hearts and for God's peace to be the moral north star that guided us.

Abraham Lincoln said "I've been driven many times to my knees by the overwhelming conviction that I have nowhere else to go." And in his example, we came together for a special national day of prayer. Americans of every credit turned to our greatest power to bring us peace, "peace which passeth all understanding". At the end of the war, we prayed as one during our national days of thanksgiving.

Let us pray today that as a people we will continue to bring the power of prayer to bear on all the challenges we confront. Let us pray that we will strengthen the values that this great land was founded on, that we will reverse any threat of moral decline, and that we will dedicate ourselves to the ethic of service, of being what I call a point of light to someone else, someone in need.

In this work, we are not without inspiration. We need look no further than the handful of men who became heroes by their courage their strength and, above all, their faith—the last of whom returned in December. I'm talking about our hostages. In brutalizing conditions, as we've heard this morning, they prayed together daily in what they called the Church of the Locked Door. They unwove floor mats in order to make rosaries. And these men who every day lived the story of Job treasured their first book, the Bible. And when Terry Anderson was released, one of the first things he did was to thank strangers across the world who had prayed that he be set free. Your prayers made a big difference, said this man, who imprisoned had rediscovered the faith that sets and keeps men free.

There's another story from last year's news that tells of the transformation of faith. While it's a story familiar to all of you, it's intensely personal to Barbara and me and to others in this room. We lost a dear friend last March, Lee Atwater, a restless, fiercely-driven, fun-loving good old boy from South Carolina, who rode life as hard and fast as he could. But he also lived a kind of miracle because his illness reintroduced him to something he had put aside, his own faith. And in his last months, he worked intensely to come to grips with his faith. Through reading the Bible and through prayer, he learned that, as he put it, "what was missing in society was what was missing in me, a little heart and a lot of brotherhood."

He was so right. Prayer has a place, not only in the life of every American, but also in the life of our nation. For we are truly one nation, under God.

May God bless this very special gathering. For those of you who have come from overseas, for those of you from across our land, for those of you right here in the nation's capitol, thank you for participating in this celebration of faith. Thank you very much.

(Applause.)

SENATOR STEVENS: Thank you very much, Mr. President.

Now we have asked West Point Cadet Doug McInvail to lead us in song, "Amazing Grace". He wants to sing the first verse alone, and then asks us to join with him and the choir for the second and third verses. I ask that you please stand for this song.

(Song—"Amazing Grace")

SENATOR STEVENS. Amen. Thank you very much. This is the first year in the history of the Prayer Breakfast that the United States Military Academy Choir from West Point has been with us. We want to thank the Commandant of the United States Military Academy, General Howard Graves, for allowing them to join us and thank them all.

Immediately following this closing song, one of the participants in the first Prayer Breakfast, which was conducted during the administration of President Dwight D. Eisenhower, Dr. Billy Graham, will lead us in a closing prayer. We hope that you will remain standing for the song and the prayer.

(Song—"America the Beautiful".)

REVEREND GRAHAM: President and Mrs. Bush, Vice President and Mrs. Quayle, Senator Stevens. This has been a marvelous and wonderful Prayer Breakfast, in which all of our hearts have been stirred.

The theme seems to have been peace. And the greatest peace was bought for us 2,000 years ago at the cross, where Jesus Christ reached out with one hand and took the hand of man, and the other hand of the Father, and brought us together—if we put faith and our confidence in Him.

And so we do have the possibility of peace. We sang that song a moment ago, "Amazing Grace". Did you know that the man who wrote it was a very wicked man? He was a slave trader. And one night coming back from Africa there was a storm on board that almost overwhelmed his ship. He thought he was going to die. He fell down on his knees. He received Christ into his heart. He felt the peace of God "that passeth understanding". And he went back to England and helped lead the cause to free the slaves. He became a great Anglican clerygman and wrote many songs. That's what Christ can do for us today.

Our Father and our God, once again, you have brought us together to look to You and to praise You for the freedoms we have in this great nation. We thank Thee for those people that gave their lives this past year to help keep us free and to bring peace to the world, especially that part of the world that has seen so much war, that part of the world where the Bible was born, where it was written, where Christ lived and died.

And today we would like to pray especially for President and Mrs. Bush, Vice President and Mrs. Quayle and their families.

We also commit to you the leaders of Congress as they deliberate the matters of State of this year. We pray for the leaders of our Armed Forces. We thank You that we, as a Nation, are once again at Peace. And, we pray that our own hearts may also be at peace because of our faith in You.

Thank you for promising peace to those who put their trust and confidence in You. We pray that as we repent our sins and put our faith in Jesus Christ, You will prepare us for that eternity that lies ahead of us all.

Now the grace of our Lord Jesus Christ, the love of God the fellowship of Holy Ghost be with us all forevermore. Amen.

SENATOR STEVESN: Thank you, Dr. Graham. Vaya con Dios. God go with you all.●

MORE KELP, BILLY?

● Mr. JEFFORDS. Mr. President, as most anyone involved in politics knows, the old axiom about a lie traveling faster than the truth is all too true.

Its twentieth century manifestation seems to be in the realm of science.

Hardly a month goes by that we do not learn of some new threat to our health that flies directly in the face of conventional wisdom.

That is the beauty of science. But science and politics are a combustible mix. Too often, a group with a political agenda will seize upon the slimmest shred of scientific evidence to make an argument. And the press, just as often, cannot resist such a scientific "man-bites-dog" story.

The best and latest example of this phenomenon came last Wednesday. There, on the third page of *the Washington Post*, was a picture of Dr. Benjamin Spock surrounded by cartons emblazoned with the words "Diabetes," "Heart Disease," and "Anemia."

Was Dr. Spock the latest recruit in the anti-smoking crusade? No, the cartons surrounding him contained not cigarettes, but milk.

It seems Dr. Spock had been enlisted by the Physicians Committee for Responsible Medicine in its campaign to end the consumption of milk, substituting for it foods like kale or kelp of kippers.

The *Post* article left Dr. Spock's position somewhat in doubt. Although the headline proclaimed "Dr. Spock Join's Milk's Detractors," the statements attributed to him struck a different chord.

Dr. Spock is reported to have said that "I want to pass the word to parents that cow's milk from the carton has definite faults for some babies. * * * Human milk is the right one for babies." He also cautioned parents not to overreact, saying that "I don't think we should go from enthusiasm about milk to scaring the bejeebers out of parents."

To that I say "Amen." I do not know of anyone who would argue that cow's milk is preferable to a mother's milk. From a medical and dietary standpoint, the longer a mother is able to breast feed a baby the better.

But most mothers must return to work, and cannot nurse as long as might be ideal from a medical standpoint. At that point, the American Academy of Pediatrics, which just reviewed this issue, recommends that babies be fed iron-fortified soy- of milk-based formula until they reach a year old. Beyond that point, according to the pediatricians, whole milk is fine for all but the fewer than 1 in 200 children who end up being allergic to milk protein. Milk, according to the pediatricians, is a "major source of nutrition."

While those of us who have reached middle age and beyond are rightly watching our consumption of fat, we should not make the mistake of assuming that babies should do likewise. In the first few years, babies are growing and consuming calories at a tremendous rate. And while there is a difference of medical opinion on when a child should move to low-fat milk, many believe that children should drink whole milk for a period of their growth.

The scientific backing is lacking behind this group's claims. The American Medical Association issued a statement in response that I will append to my remarks. While using more polite language than I, it said essentially that the group's claims were equal to that which is found mounded below the terminus of the gutter cleaner.

Dr. M. Roy Schwarz, the AMA's senior vice president of medical education and science, describes the Physician's Committee, which boasts about a five percent physician membership, as "made up of vegetarians with a vegetarian agenda." It is reported that the Physicians Committee is allied with the People for the Ethical Treatment of Animals and the Animal Liberation Front.

The Physicians Committee and its allies have raised some valid points in the past. I happen to agree with the notion that we have been too cavalier in our approach to the use of animals in the testing of consumer products. But I think it would be unfortunate for all concerned if milk were to become part of the animal rights agenda.

Frankly, it would undermine that agenda. For the case against milk is so weak it would remove whatever credibility these groups might have.

That weakness is further revealed by another bit of pseudo-science we were treated to last week. The charge was made that vast quantities of milk are tainted with antibiotics, putting our health at risk. Neither proposition is true, but again, the truth is not news.

Milk is the most regulated food we consume. Every single tank of milk a farmer ships to the dairy is sampled. And every single truckload of milk is tested for antibiotics. If any are found, they can be traced back to an individual farmer. And a farmer found shipping contaminated milk is suspended from shipment for several days.

No farmer in his or her right mind would risk dumping the entire herd's milk down the drain for a few days in order to ship a single cow's milk for an extra day or two.

The system is not perfect. According to data complied from state regulatory agencies by the Food and Drug Administration, 1 sample of milk in 5000 contained drug residue. By contrast, fish, which was recommended by the Physician's Committee as a substitute for milk, is virtually unregulated and uninspected. How safe is fish? We do not know, because it is seldom inspected.

My point is not to raise concerns about fish. Handled and prepared properly, I think it is quite safe. I use it only to illustrate the curious scientific method employed by the Physician's Committee.

Another illustration of the scientific reasoning of the group was the claim that we should not consume cow's milk because "[i]t was designed for calves," and not humans. But I am not sure where this logic takes us. The raising of cows for milk production seems far less disruptive of some design than the harvesting of fish or vegetables. By that argument, anchovies were designed to make baby anchovies, not to be my favorite pizza topping.

Philosphy aside, there are tremendous practical problems involved. Milk is a nutrient-dense food that is difficult to replace.

Two glasses of milk provide the average person with not only 100 percent of the recommended daily allowance of calcium, but half the RDA for Vitamin B2, a third for protein, a quarter for Vitamin A, and a fifth for B2.

Milk is also a source of Vitamins D, E, K, riboflavin, niacin, phosphorous, magnesium, potassium, sodium, sulphur, aluminum, copper, iodine, iron, manganese and zinc.

Milk is the only source of the protein casein, which contains all of the essential amino acids. And milk's fatty acids are essential for childhood development.

There's even more good news. As we all know, you can go to a store or cafeteria and pick out milk with several variations of fat content. Ten years ago, people drank about twice as much whole milk as lowfat. Today, people drink more lowfat than whole. And the state of California has pioneered fortification of milk, adding milk solids but not fat. Doing so increases its protein by 27 percent, calcium and B vitamins by 17 percent, and improves its flavor. Rather than shunning milk, I think we can and should improve it.

As an example of how difficult it would be to replace milk, consider that fact that a young child should have 800 milligrams of calcium per day. One cup of milk contains 300 milligrams of calcium. According to Dr. Susan Baker, who serves as a member of the nutrition committee of the American Academy of pediatrics, a cup of kale contains 56 milligrams.

Think of it this way. You could offer young Billy three cups of milk, and slightly exceed the RDA for calcium, or you could offer him 16 cups of kale. Mmmmm, good.

In the brave, new, milkless world, breakfast will never be the same. Cereal must be eaten dry. Pancakes and waffles are forbidden. And I suppose eggs are out, as are bacon and sausage.

I'm not sure I want to be part of this world. And I am not sure the normal child will settle for a bale of kale a day. To be sure, that child would be regular, but nor normal.

In the real world of stubborn children and bedraggled parents, would kale and anchovies replace milk? Or would soda and sugar—the nutritional null set?

This is just the point made in recent editorials by the Burlington Free Press and the New York Times, the latter of which could hardly be considered a friend of the dairy farmer. I ask that these editorials, and a column by Jonathan Yardley, be made a part of the RECORD. I also ask that a statement by the American Medical Association be included.

Mr. President, milk is nature's most perfect food. You may not read about it in the Post, but just ask the pediatricians.

The article follows:

[From the Washington Post, Oct. 5, 1992]

THE MILK RUN: MORE SUBSTANCE ABUSE

(By Jonathan Yardley)

The scenario has become as familiar, and as tiresome, as any played out on the silver screen that is American public life. A news conference is held in which claims are made of a dramatic finding about American dietary habits. The story is played all over the local and national news broadcasts that evening; in the morning, it is splashed all over the papers. But 24 hours later it has vanished from the media as quickly as it appeared, leaving parents and other custodians of the dining table to pick up the pieces.

Thus it was last week. On Tuesday an organization calling itself the Physicians Committee for Responsible Medicine held a news conference in Boston at which the star performers were Frank A. Oski, the head of pediatrics at Johns Hopkins University, and the eternally redoubtable, or redoubtably eternal, Benjamin Spock. Oski declared: "There's no reason to drink cow's milk at any time in your life. It was designed for calves, it was not designed for humans, and we should all stop drinking it today, this afternoon. . . . There's no reason for us to spend lots of money to give milk to kids when it doesn't do them any good."

Spock chimed in, albeit halfheartedly. "This does not mean that every child that's been on cow's milk is doomed," he said. "I want to urge parents, especially with subsequent babies, to use breast milk." Later he said, "I don't think we should go from enthusiasm about milk to scaring the bejeebers out of parents," thereby leaving the rest of us to ask what on earth he was doing there on stage with Oski, who seems to be something of a true believer when it comes to the undesirability of milk—not to mention under the auspices of the Physicians Committee for Responsible Medicine, which behind its innocuous name is reported to be in part an animal rights organization.

But the specific details of last Tuesday's dog-and-pony show are less important than the pattern of which they are a part. The cautionary words of Spock notwithstanding, scaring Americans about the various substances they funnel into their bodies has become a growth industry both for the high priests of medicine and the low priests of journalism. Each day, it seems, the air is filled with one report or another to the effect that if we will only (a) stop consuming Substance X or (b) start consuming Substance Y, all of us will forever be healthy, wealthy and wise. The net effect is air time for a few publicity-hungry medicos and utter confusion for everyone else.

The confusion is pointedly addressed in the current issue of Consumer Reports, to wit: "It's little wonder: In the past year alone, we've been advised to use oils sparingly but to load up on olive oil; to avoid overweight, yet somehow avoid 'yo-yo' dieting; to drink red wine because the French have fewer heart attacks but to refrain from alcohol because the French have more liver disease. The food industry has profited from the confusion by marketing a wide range of products with dubious nutritional claims and by saturating the market with products that follow the nutritional fad of the moment."

A case can be made, not entirely frivolously, that the most sensational publication in these United States is not the National Enquirer but the New England Journal of Medicine. That august gazette masquerades as the sober voice of American medicine, but its stock in trade is carefully orchestrated campaigns to grab headlines in the non-medical press; its strategies include barrages of press releases and embargoed publication dates. Like Moses coming down from the mountain with the original Top Ten, the New England Journal periodically descends from its own altitudes to present the latest—sometimes in conflict with the previous—Rules for Living.

No one falls more eagerly for this than those of us in the business of journalism. After more than three decades in the trade I have concluded as follows: A journalist is someone who becomes infinitely agitated over matters that are inherently unexciting. To wit: Roseanne Barr. To wit: Jesse Jackson. To wit (the two words compress so easily into twit): H. Ross Perot.

Not to mention, to wit: Oat bran. Gatorade. Saccharin. Wheat bran. Saturated fat. Polyunsaturated fat. Good cholesterol. Bad cholesterol. Salt. Caffeine. Aspartame. Vitamin C. Vitamin D. Vitamin E. Red meat. Calcium. Sugar. Skim milk. Canola oil.

Never mind that when it comes to matters nutritional, most of us in the media don't know salt from Shinola. What we do know is what makes for a headline, and nothing—with the possible exception of whatever lubricious nonsense Madonna has most recently committed—makes for a hotter headline than the latest cure or calamity dished out by the medical rumor factory.

Elaborate explanations are scarcely needed. Medical news comes closer than any other to the questions that most fascinate and trouble all of us. Am I healthy? How can I be healthier? How long will I live? How can I live longer? Even though we Americans have nutritional habits that are sloppier and more self-indulgent than those of any other ostensibly civilized nation, we conduct an endless search for the packaged equivalent of the Fountain of Youth: the one-shot nostrum that will wipe out the effects of all those bad habits and restore us to the purity of (breast-fed) infancy.

Day by day in every way, we prove that there's one born every minute. We are absolute suckers for quackery, so the press stands alertly by to feed our hopes and fears whenever the occasion presents itself, which, thanks to the medicos, it does with depressing regularity. It is true that journalists possessing more than dilettantish knowledge of medical matters are rarer than hens' teeth—most journalists probably think hens *have* teeth—but that is an inconvenience all of us are happy to overlook in order to keep the flow of half-truths and misinformation going at full volume.

Apart from making journalists happy and enriching various undesirables, what that flow mainly accomplishes is to keep millions of ordinary Americans in a state of perpetual tension. Like fighters in the ring, we bob and weave with every punch. After the great oat bran ballyhoo erupted, you needed a squadron of Green Berets to track down a box of the stuff. After "60 Minutes" played its red wine card, liquor dealers couldn't keep cabernet sauvignon on the shelves. After last week's milk episode—who knows? Let's just say that the American Dairy Council isn't exactly dancing in the streets.

What it's probably going to mean is that for about two weeks sales of kale, broccoli, tahini and tofu will enjoy a brief and otherwise inexplicable surge. Those essentially inedible substances are, according to vegetarians and other true believers, God's way to inject calcium into the human body. But after a few million Americans have spent a few million meals staring down their kale and their tofu, they'll head right back where they belong, slurping at the udders of Elsie the Cow.

As well they should. The only sensible response to the endless flow of nutritional gobbledygook is to ignore it. Maybe it's true that Americans should stop drinking milk, that pregnant women shouldn't have even an eentsy-weentsy sip of wine, that cheddar cheese is a one-way ticket to the coronary care unit, that yogurt will let us all live a hundred years, that canola oil is to lowly humans as ichor was to the gods and that white bread is the biggest killer since Al Capone. . . . Maybe all that is true, but don't bet your booties—or your life—on it.

So the next time someone tries to tell you what you should or should not eat or drink, do two things: Grab your wallet and race to the refrigerator for a bracing swig of milk. Yes, doctor: skim milk.

STATEMENT OF AMERICAN MEDICAL ASSOCIATION

AMA BLASTS ANIMAL RIGHTS GROUP ON MILK PANIC

The following statement is attributable to: N. Roy Schwarz, M.D., Senior Vice President of Medical Education and Science.

The American Medical Association is alarmed by today's allegation that milk is dangerous and should not be required or recommended in government guidelines. There is absolutely no scientific proof to support such a claim.

The fact that breast milk is more healthy for infants than cow milk is well documented. Responsible research established this fact years ago.

For instance, we know that whole milk has the potential for causing health problems in children up to 12 months and that breast milk is recommended during that period. However, whole milk has been found to be nutritious for children 12 to 24 months, and milk products for children 24 months or older.

The AMA continues to marvel at how effectively a fringe organization of questionable repute continues to hoodwink the media with a series of questionable research that fails to enhance public health. Instead, it serves only to advance the agenda of activist groups interested in perverting medical science.

The "Physician's Committee for Responsible Medicine" (PCRM) is an animal "rights" organization and, despite its title, represents less than .005 of the total U.S. physician population. Its founder, Dr. Neil Barnard, is also the scientific advisor to People for the Ethical Treatment of Animals (PETA), an organization that supports and speaks for the terrorist organization known as the Animal Liberation Front (ALF).

[From the New York Times Editorials/Letters, Thursday, Oct. 1, 1992]

MILKING OUR MEMORIES

It sounded too good to be true. For years many people have drunk milk only under duress, or when it was flavored with chocolate. Now, it suddenly appeared, Mom had it all wrong. A group of doctors headed by the fabled Dr. Benjamin Spock seemed to be saying the other day that you don't need milk to grow up strong and healthy. In fact, you'd be better off leaving it to the calves.

Their evidence was seductive. Milk has lots of fat in it. Some people can't tolerate milk digestively. It can lead to iron deficiency in tiny infants. One worrisome study, not yet replicated, suggests milk may trigger juvenile diabetes in genetically susceptible individuals.

But there were reasons to be skeptical about the denunciation of milk. Dr. Spock sounded as if he were not quite endorsing it all, just making a plea for breast feeding. Some of the experts involved in the campaign are said to be animal rights advocates, which might make them biased against animal products. And experts from the American Medical Association and the American Academy of Pediatrics rose to defend milk, at least for children more than a year old.

But the real weakness in the anti-milk crusade is the alternatives offered. You don't need milk to get calcium. You can get it from broccoli (President Bush's least-favorite food), tofu or kale, a green known more for hardness than taste. Pass the chocolate milk.

[From the Burlington Free Press, Oct. 2, 1992]

MODERN MOTHERHOOD, APPLE PIE, AND MILK

From childhood, we've held these Vermont truths to be self-evidence; Ethan Allen was a hero. Lake Champlain is the largest U.S. freshwater lake after the Great Lakes. Children can't grow strong bones or healthy bodies without four glasses of milk a day.

This week, the bedrock of brief cracked beneath our feet.

Dr. Spock—Dr Spock!—appeared to endorse the idea that milk is *bad* for children and not so good for the rest of us.

Say it ain't so, we cried. In a blow, the guru of parenthood threatened Vermont dairying and our conviction that Mom knew what she was talking about when she told us to drink our milk, or else.

It ain't, in fact, so.

Turns out, Dr. Spock only endorsed what most pediatricians now believe. Regular cow's milk isn't the drink for infants under nine months to one year of age. It can irritate their digestive systems and, at worst, lead to iron deficiencies. (Breast milk is the ideal tipple; lacking that, iron-fortified, soy- or milk-based infant formula).

The fringe Physicians Committee on Responsible Medicine, which hauled out the aging Spock to decorate its cause, went further. The doctors asserted that toddlers, older children or adults should give up milk.

We asked around among the pediatricians and found that most disagree strongly.

Milk is an important source of calcium, vitamin A and vitamin D, says Vermont pediatrician Joseph Hagan Jr. The American Academy of Pediatrics agrees. (For children over 2, milk should be lowfat—1 percent or skim).

Besides, there's a danger to the anti-milk campaign. What will scared parents put on the table instead? Coke? Pepsi? Over-sugared fruit drinks? Most of the likely American alternatives to milk have little or no food value.

While debunking the milk-is-dangerous campaign, the Vermont pediatricians didn't entirely restore milk to the center of our nutritional universe.

Four glasses of milk a day? Not necessary, they say. "Do you need to drink a lot of milk? No," says Dr. Paul M. Costello of Essex.

"If I have a family tell me that a school-age child is getting half a pint of milk a day, as well as other dairy products, that works fine," says Hagan. In short, milk in sensible quantities, along with the other ingredients of a balanced diet.

But what's the dairy industry to do if milk can't be sold as the essential drink of childhood?

Sell milk as one part of a balanced diet—and sell milk for its taste. A chocolate brownie without a cold glass of milk? Unthinkable. Apple pie without milk? Never!

In this corner, we're sticking with milk. Lowfat milk on the table, three times a day. Pass the apple pie.

RECENT DEVELOPMENTS ON INDIA

• Mr. LIEBERMAN. Mr. President, I would like to say a few words about one of the most important countries in the world, India. For too long, India has not received the attention that it deserved from the United States. As a country, we have tended to downplay the importance of Southwest Asia, although it is home to about 20 percent of the world's population. We have also not given India its due because it has, until recently, been tied to the Soviet Union because of a mutual fear in China.

All of that has changed, however, with the end of the cold war. India is reconsidering its old alliances. This offers a real opportunity for the United States to respond favorably. I am heartened, therefore, that the United States and India conducted a joint naval exercise for the first time last May with vessels from the United States Seventh Fleet and two Indian ships. We should increase military ties along these lines.

We should also respond favorably to India's recent economic reforms. Under the Government of Prime Minister P.V. Narasimha Rao, India is trying to shuck off the dead-hand of socialism. We should encourage and assist in these reforms for our own self-interest, as well as for India's. I believe that the Indian community in the United States, which has contributed so much to our country already, will play an important role in fostering commercial ties between the United States and India.

Mr. President, since its independence in 1948, India has always provided a democratic model for the developing world. Now, we can look forward to the day when India will develop a modern economy and may well become one of the world's most influential countries during the next century.

The future of United States–Indian ties is bright. The world's two largest democracies have always had much in common. With the end of the cold war and the beginning of economic reforms, I believe that our ties will be even closer in the future.•

HONORING REP. DANTE FASCELL

• Mr. D'AMATO. Mr. President, as a member and past Chairman of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, I rise today to pay tribute to my friend DANTE FASCELL, who will conclude 28 years of distinguished service in the House of Representatives at the end of this session. His leadership, his great experience, and his unyielding commitment to the highest principles of democracy and human rights will greatly be missed.

DANTE FASCELL has been chairman of the House Foreign Affairs Committee since 1983. He served as chairman of the Helsinki Commission from its founding in 1976 to 1985. Under his leadership, the Commission rose to prominence for its work in defense of the human rights enshrined in the Helsinki Final Act. DANTE took on the State Department establishment to ensure that human rights played an integral role in U.S. foreign policy.

Chairman FASCELL was a frequent target of attacks in the Soviet press for his tireless work in defending the rights of political and religious prisoners, refuseniks, and others denied their human rights and fundamental freedoms. He worked closely with non-governmental organizations to keep the pressure on our own Government to continue to vigorously challenge those responsible for human rights violations in the Soviet Union and other Final Act signatory states. His persistence and hard work helped free hundreds of individuals imprisoned for their beliefs and paved the way for the reunification of thousands of families.

I was the second chairman the Commission ever had. I recall clearly how helpful DANTE was, how gracious and how professional he was, when the leadership passed to me at the beginning of 1985. With his help, we sustained the Commission's continuity and its bipartisan approach to Helsinki issues. His kind and thoughtful counsel has been a sustaining and guiding resource for me, and for my successors, Rep. STENY HOYER and Senator DENNIS DECONCINI. He will be greatly missed.

DANTE FASCELL'S service with the Commission was not an isolated instance during his long career in the House. In fact, it was a major thread in a fabric of principled views on the role the United States should play in foreign affairs. He has been a staunch supporter of Israel. He has been an ally and supporter of freedom and democracy throughout Latin America. He not only was a force for the establishment of the Commission, he also was one of the fathers of the National Endowment for Democracy. He supported Radio and TV Marti, major tools to break through Castro's propaganda barrage and tell the Cuban people the truth.

DANTE believed that ideas count. He believed that American ideas—democracy, free enterprise, and the concept of ordered liberty under law—are not just ideas, but proven principles upon which human progress and world peace could be established. He worked to advance those ideas through Government programs, U.S. diplomacy, and private action. His tireless advocacy, I believe, was a major force for the good, injecting these ideas and principles into American policy and programs when others found them troublesome and had no desire to stand up for them against foreign criticism.

He was a believer in a concept that has become old fashioned in recent years—a bipartisan foreign policy. He began his distinguished career in the House when it was truly the case that "politics stopped at the water's edge" He never abandoned that approach, working as chairman of the House Foreign Affairs Committee to manage some of the most divisive and partisan issues of the past decade. He made a measurable contribution to the West's victory in the cold war, helping hold together a sometimes tenuous consensus on matters which produced heated argument and legislative conflict.

I commend DANTE FASCELL, a good friend and trusted colleague, for his commitment to human rights and his very valuable contribution to the Helsinki Commission.•

15TH ANNIVERSARY OF THE NORTHEAST-MIDWEST SENATE COALITION

• Mr. JEFFORDS. Mr. President, institutional memory is a bit spotty. As best as we can tell, though, this summer marked the fifteenth anniversary of the Northeast-Midwest Senate Coalition. The Coalition's longevity is testimony to the importance of its mission and the quality of its work.

For those who do not know it, the Coalition is a bipartisan, voluntary alliance of 36 Senators from New England, the Mid-Atlantic, the Great Lakes, and Iowa. The Coalition's mission is to inform its members of the regional implications of Federal policies and legislation.

The House of Representatives has a similar legislative service organization, which I helped to found in September 1976.

Both Coalitions draw upon the public policy research and analysis the nonpartisan, not-for-profit Northeast-Midwest Institute conducts.

I am pleased to co-chair the Senate Coalition with Senator MOYNIHAN who, in his freshman year in the Senate, was "present at the creation". My immediate predecessor was the late John Heinz. Others who have co-chaired the Coalition include former Indiana Senator Birch Bayh, and Senators METZENBAUM, CHAFEE, RIEGLE, SPECTER, and DIXON.

Senator DIXON in particular has been an able and committed defender not just of Illinois, but of the larger region. We will miss his leadership on regional issues in the 103d Congress.

Mr. President, our 18 States have much in common. We are older, industrial, cold-weather States. We have ample natural and human resources and a highly developed infrastructure. Over the years, we have provided the coal, the steel, the cars, trucks, and farm implements, the machine tools—and the entrepreneurial spirit, the generosity, and capital—that made it possible to develop the other parts of the country.

We are strikingly alike in one particularly important respect. Our percapita income is relatively high.—It has to be, because our cost of living is relatively high, also.—A consequence of having higher per capita incomes is paying a larger share of the Nation's tax burden.

Unfortunately, our share of allocable Federal expenditures is not nearly so high. So there is a gap between taxes paid and expenditures received. Let me quantify the difference.

Between fiscal years 1982 and 1991—a 10-year period—our share of allocable Federal expenditures fell short of our share of the Nation's tax burden by 531 billion inflation-adjusted dollars. Think of it: over half a trillion dollars "leaked", as an economist would put it, out of our region.

The money didn't disappear, Mr. President, it went to States in the South and the West. Southern States' share of expenditures exceeded their share of tax burden by $285 billion. Western States' share of expenditures exceed their share of tax burden by $246 billion. A fiscal stimulus totaling $531 billion over the decade.

I have a bar chart entitled "The $531 Billion Imbalance: Shortfall/Windfall Because Share of Tax Burden Has Not Equaled Share of Spending. Our States are on the left. They fall below the zero horizontal line indicating that shares of tax burden and expenditures are equal. A negative $210 billion for the Northeast and a negative $321 billion for the Midwest.

Our States are depicted in red because they are in the red, so to speak, paying out more than they receive. They are the big donors.

The Western and Southern States are represented by black bars that rise above the horizontal line. They are in the black, receiving more than they pay; they're "donees."

In a very real sense, our States have been "pulling the wagon" while States in the South and the West have been "going along for the ride."

This long-term hemorrhaging has enormous macroeconomics consequences for our region. Because there is no Federal investment—relatively speaking—in our infrastructure, in our housing stock, in our natural and human resources, State and local governments must make up the short fall—through higher taxes.

The higher taxes drive industry, jobs, and people to the South and West, where tax burdens are lower. The tax burdens are lower because of the enormous fiscal stimulus the Federal Government provides—relative to the taxes it collects—in grants-in-aid, direct payments to individuals, in Federal salaries and wages, and in procurement.

Mr. President, is it any wonder our region has been plagued by slow population growth? Is it any wonder that our cities are deteriorating? Is it any wonder that our share of manufacturing has slipped below 50 percent for the first time in the Nation's history? We have, after all, exported over half a trillion dollars over the past few years. Money—our own money—to rebuild our roads and bridges, protect our environment, feed our hungry, house our homeless, educate our children, and train our work force has flowed to the South and the West.

The Coalition will continue to address and, we hope, redress this fundamental imbalance in the way our Federal system works.•

VIOLENCE AGAINST WOMEN ACT

• Mr. JOHNSTON. Mr. President, I rise today to express my disappointment that this Congress has not considered and passed S. 15, the Violence Against Women Act, legislation that I am proud to have cosponsored.

The need for this legislation has been amplified with the report released by Senator Biden, "Violence Against Women: A Week in the Life of America." This account of 200 incidents of violence against women that took place over the first 7 days in September, 1992 is a clear call to action for our Nation to face up to this catastrophe.

Mr. President, the statistics alone are staggering. For example, 95 percent of victims of violent crime are women, wife-beating accounts for more injuries than rape, automobile accidents, and muggings combined, 20 percent of women admitted to emergency rooms are victims of abuse, three-fourths of the women in our Nation will be victims of violent crime during their lifetimes, and more than one-half of female murder victims are killed by their male partners.

But, the scope of this tragedy cannot be fully explained by statistics alone, however compelling they may be. As we all know, cases of domestic violence, rape, and assaults are normally under-reported, and this is cause for even greater concern.

The report issued by the Judiciary Committee puts these numbers into sharper focus, providing human background to give the numbers substance. And the report depicts vividly how much our attitudes must change.

Mr. President, consider the example cited on the night of September 5, 1992 in a city in Texas:

> A 27-year-old woman who works in a night club is abducted by two men as she is leaving work. She is raped by both men and abandoned. After returning home, she relates the story to her husband. He responds by beating her and throwing her out of the house.

This case is almost beyond belief. Tragic circumstances such as this must urge this body to action.

In my view, we must provide a support network as well as effective legal remedies to empower victims to confront their attackers. Legislation such as the Violence Against Women Act is an important step in the direction of empowering women who have been injured in ways that most of us cannot imagine.

A common theme runs throughout the devastating descriptions of violence outlined in the report—our society must begin to recognize violence against women as a serious public health threat.

Public awareness about violence against women must be fostered, including training for law enforcement officers, the courts, and medical professionals. And we must ask family members, neighbors, co-workers, and friends to share in the duty of bringing this issue out in the open.

Mr. President, the issue of violence against women is also about our future. The most disturbing aspect of this tragedy, in my opinion, is the effect the brutality is having on our children.

Of the 200 cases described in the Judiciary Committee report, I have counted at least 49 examples in which children either witnessed or were also victims of violence.

The report is replete with instances such as, "Her children are home during the attack, and one witnesses the rape," and "The children were in the house and called the police when they heard her screaming." Imagine the terror that so many of our children must witness.

Also, evidence suggests that too many of these children grow up to commit violent acts themselves. Consider the experience of a doctor who interviewed men who perpetrated domestic violence as reported in the January 6, 1992, edition of American Medical News:

> One man gave a typical answer: He said that when he was growing up his mother would sometimes not have dinner ready on time. When that happened, his father would beat his mother. After that, dinner would be on time.

Mr. President, the Violence Against Women Act will provide resources for intervention programs which include counseling and shelters for women and children. This will afford many victims the opportunity to begin to put their lives back together.

In addition, this legislation will back up the victims of gender-motivated violence with the authority of Federal law. In essence, under this measure, such violence is defined as the same as violence motivated by race, religion, or ethnicity.

Again, I feel that it is unfortunate that we could not effect passage of this measure during this session of Congress. My friend from Delaware can count on me to help in passing the Violence Against Women Act in the 103d Congress.•

REGARDING THE 100TH ANNIVERSARY OF BLACK COLLEGE FOOTBALL

• Mr. ROBB. Mr. President, I rise to note two happy anniversaries.

One-hundred-years-ago this season, teams representing Johnson C. Smith College and Livingston College met for the first football game between black colleges in America. The tradition begun that day has led to some of the most illustrious careers in professional football, entertained generations of Americans, and brought the lifelong benefits of a college education to many young men who otherwise might not have had that opportunity.

Today, those two colleges and many others belong to the Central Intercollegiate Athletic Association, which celebrates its own anniversary this year. I'm pleased to recognize the CIAA in this, its 80th year of bringing students together for hard play and good sportsmanship. I ask that all of my colleagues join me in wishing black college football another century of success.•

TRIBUTE TO AN OUTSTANDING POLITICAL LEADER

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to a very special person who made many great contributions to numerous New Yorkers, Representative NORMAN LENT. After 22 years of notable service in Washington, NORM LENT has announced that he is stepping down as Representative of the Fourth Congressional District of New York. As he leaves I would like each of us to remember the many contributions that he made, and pay tribute to his many years of dedication by our own selfless efforts on behalf of our Nation's most noble ideals.

NORMAN LENT's outstanding qualities of enlightened leadership and exceptional dedication brought him to Washington where he became instrumental in crafting our Nation's laws. His long and outstanding career in Congress began in 1970 when he was first elected by defeating the incumbent. He has served 11 consecutive terms in the U.S. House of Representatives with great distinction. During his career, Representative LENT has earned a reputation as a hard-working legislator deeply concerned about his constituents and the issues.

His accomplishments were great, his approach was philanthropic, and we might say that NORMAN LENT was a model Representative. He has done much for his constituency and for New York State.

We are grateful to NORMAN LENT for his relentless dedication to the people of Long Island, New York for the past 22 years. We will remember what NORM stands for and has sought to accomplish in the House of Representatives.

I wish to personally thank NORM LENT for his personal commitment to the fight for New York. He will be missed but his legacy will continue.•

OUTSTANDING SUPPORT SENATE STAFF

• Mr. D'AMATO. Mr. President, I rise today to commend the superb achievements of the dedicated staff of the Senate Computer Center. Their success is exhibited by the recent enhancements to computer service and the programming changes which have recently come into effect during this Congress.

Some special individuals have gone above and beyond the call of duty to make huge improvements in the mail correspondence system. These improvements have resulted in a more efficient and greatly improved mail system. Mr. President, I am speaking of Douglas Horn, Franceso Ghebresillassie, Larry H. Draver, Ken Ertter and Thomas Torrell. These fine individuals have given of themselves in an effort to upgrade the mail system. They have succeeded in making the mail system a very integral part of Senatorial-constituent relations, much more proficient and for this I wish to thank them. These gentlemen have given their time freely and made quantum leap improvements in achieving the absolute best results for the Senate.

I also wish to thank the rest of the support staff for their many contributions to this effort. The entire Senate Computer Center has come together to do an extremely good job and I want to salute each person who has contributed to this monumental accomplishment.•

WE'RE NUMBER ONE?

• Mr. DASCHLE. Mr. President, football season is again underway, and across the country college stadiums will echo with the cry "We're Number One!" For students and alumni, this chant does not have to be true to be repeated over and over again, and after all, who's to judge? The chant is harmless, in and of itself, and serves to express pride in the team and the college or city. It is one obvious manifestation of Americans' desire to be "the best," and, indeed, the conviction that, in fact, we are the best in every endeavor.

President Bush, challenged to confront the health care problem that virtually everyone outside his administration acknowledges is near the breaking point, repeats this cry of "we're number one!" He and his spokesmen use that mantra over and over again to justify his proposal to make just a few refinements in an otherwise near-perfect system. Indeed, if we accept the assertion that the United States *does* have the best health care, his argument makes some sense. Why throw the baby out with the bath water? Why make fundamental changes in a system that needs only fine-tuning?

Mr. President, in a recent article in the Journal of the American Medical Association, Victor Fuchs, a Professor of Economics at Stanford University, analyzed the assertion that "Americans enjoy the best health care system in the world." Professor Fuchs uses an economist's point of view to evaluate health care from the standpoints of its output—technology, public health, and service—and considers each of these in terms of efficiency and distributional equity.

If the question about "the best" is posed in terms of "where is the cutting edge," the answer is usually the United States. As Professor Fuchs point out, this is the country in which the most advanced technologies are found in the greatest abundance. It is here that ambitious young physicians most frequently come for advanced training and where the super-rich from Third world countries come when they want high-tech medical care. If technological superiority is the yardstick to be applied, then the assertion "we're number one" has some validity.

But there are other yardsticks that must be used. After all, owning more MRIs or CAT scanners, or developing the latest and best monoclonal antibodies, or performing more bone-marrow transplants than any other country in the world does not result in a healthier population. And the health of the population is a very valid standard to employ. How does the United States measure up? By the majority of indices, we are below average among the industrialized countries—whether in life expectancy, infant mortality, or other measures of the quality of life.

Another parameter that Professor Fuchs uses is that of service: The access to a physician, either in person or by telephone, or the responsiveness of hospital personnel in the Emergency Room or on the wards. Who among us has not received a letter or telephone call from a constituent with a horror story about the unavailability of physicians in rural areas or unsympathetic treatment at the hospital? Few objective data are available, but in Germany, as an example, patients see their physicians more than twice as often as Americans do.

Another measure that Professor Fuchs proposes is that of efficiency. Americans relish the notion of efficiency, and in my opinion, it is the lack of efficiency that infuriates the average American most—whether provider or consumer. If the United States excels in technology—which it does—or in public health or the provision of services—which it does not—but can do so only by devouring a substantial fraction of the country's resources, it cannot be said to excel in efficiency. And we do consume an enormous portion of our national resources to provide the health care we do provide. These figures are all too familiar: one-seventh of our gross national product goes to health care, $820 billion in 1992! And of that $820 billion, one-fourth—more than $200 billion—goes to administrative costs. No other country in the world comes anywhere close to that amount of administrative overhead. Mr. President, I have said it before in this chamber, and I will say it again, we have a disgracefully wasteful, gas guzzler health care system that, even if we were first in all the other measures, would by itself keep us from rightfully claiming to be No. 1.

Finally, Professor Fuchs assesses the assertion that the American health care system is the best from the perspective of how egalitarian it is. After all, we regularly refer to our country as the land of equal opportunity, and we have gone to great lengths to ensure that all our citizens have equal access to such fundamental rights as voting, housing, employment, transportation and justice under the law. But how do we stand with health care? Health care is available if you are wealthy, or if your employer provides it, but more than 35 million Americans have no health insurance at all, and more than 65 million Americans were without insurance coverage for at least part of last year. The only other industrialized country that comes close to these disgraceful figures is South Africa. Is this what President Bush means by "The Best?"

Mr. President, I request placing this timely and well-written essay by Professor Fuchs in the RECORD following my remarks, and I commend it to my colleagues. It clearly should be required reading for President Bush. As every football fan knows all too well, just chanting "We're Number One" over and over again does not make it so.

The essay follows:

THE BEST HEALTH CARE SYSTEM IN THE WORLD?

Americans enjoy the best health care system in the world." So says President Bush, and many physicians agree with this claim. But frequent repetition doesn't make it true. What kind of evidence would an objective observer examine to evaluate different systems of health care? Is it possible to determine the best system unambiguously, or does the choice depend on the criteria used? The "best" health care system may be like the "best" spouse—it all depends on what one is looking for. Physicians, for instance, may assign values to system characteristics that differ markedly from those assigned by the public. Even within the profession, each specialty may have a different point of view and reach different conclusions about the system, eg, radiologists vs family physicians.

Naoki Ikegami, a Japanese psychiatrist, has suggested three criteria for assessing "best medical practice": (1) maintenance of technical standards in diagnosis and treatment; (2) preventive measures and reassurance of essentially healthy patients; and (3) rehabilitation and nursing care provided for the chronically sick and disabled.[1] In his view, Japan has chosen to emphasize the second definition.

Three different criteria have been used by American pediatrician Barbara Starfield, MD, to evaluate 10 Western nations: (1) access to primary care; (2) health indicators (eg, infant mortality); and (3) public satisfaction with health care relative to per capita cost.[2] She finds the United States lagging in all three areas.

The economic point of view suggests assessing three dimensions of the "output" of health care; technologic, public health, and service, and then considering each of these from the perspectives of efficiency and distributional equity.

TECHNOLOGY

One way to evaluate health care systems is to ask which country is in the forefront of pushing out the technologic frontier. In which country do we find the most advanced medical technologies in the greatest abundance? Where do the world's most ambitious young physicians go for advanced training? And where do the superrich from Third World countries go when they want high-tech medical care? The answer to all these questions is usually the United States. In this sense, we can accurately say that the United States has the best health care system in the world. This country is the source of many of the most notable technologic advances in medicine, and even those developed abroad are usually more rapidly diffused in the United States. New drugs are an exception; the Food and Drug Administration's lengthy review may result in prior introduction abroad, even if drugs were developed by U.S. companies.

PUBLIC HEALTH

Another way of judging the merits of a health care system is by the health of the population. This could be based on simple measures, such as life expectancy, or on more complex ones that take into account quality of life as indicated by the absence of morbidity or disability. From this perspective, the United States ranks below average among economically developed countries according to most measures. For example, life expectancy at birth is 4.5 years less in the United States than in Japan (1988).[3] One exception is life expectancy at the age of 80 years, where the United States is second among all industrialized nations.

Physicians may argue that poor health levels in the United States are the result of social, cultural, and genetic factors. There is much truth in this argument, but it can be used against the medical profession. If improvement in health is an important goal, and if physicians concede that they are not effective in modifying diet, exercise, drinking, smoking, and other important determinants of health, public policy may choose to shift resources away from medical care.

SERVICE

Health care has always meant more than improving health outcomes. Particularly important are the caring function (sympathy and reassurance) and the validation function (provision of professional certification of health status). Until this century, the service, caring, and validation offered by health professionals were undoubtedly more valuable than their therapeutic interventions. Even today most disease is either self-limiting or incurable, but people who are sick or in pain want access to physicians, nurses, and other health professionals. Thus, an important criterion for evaluating a health care system is the availability of services. Is it easy to get to see a physician? Or to reach one by telephone? How long does a bedridden hospital patient lie in urine before someone responds to a call? Do health aides regularly visit the home bound elderly? Are dying patients treated with compassion." Very few data are available concerning this perspective, but countries probably differ considerably in the quantity of services provided. Germany, for instance, provides more than twice as many physician contacts and hospital days per capita as the United States, but there are many dimensions of service that are unmeasured. If a country were only average in life expectancy and technology, but excelled in providing service, some people would say its health care system is the best.

EFFICIENCY

At any given time, resources used for health care are not available for education, housing, automobiles, and the thousands of other goods and services that people want. A nation's health care system, therefore, will be judged, in part, by how efficiently it uses the resources devoted to it. This perspective applies to technology, to efforts to improve the public's health, and to the provision of services. A country can rank high with respect to one or more of these criteria, but if it can do so only by making extraordinary claims on the country's resources, it would rank low from an efficiency perspective. Much of the criticism of the U.S. health care system arises because Americans spend 40% more than Canadians for health care, and the excess over European countries is even greater. England's parsimonious use of resources is particularly noteworthy. Although high-tech medicine is severely rationed, England's level of public health is about the same as America's, and it manages to provide a considerable amount of service while spending only $1 per capita for every $3 spent in the United States.

DISTRIBUTIONAL EQUITY

There is another perspective that, like efficiency, can be applied to the three dimensions of technology, public health, and service. The distributional perspective focuses on how egalitarian the health care system is. All else held constant, many people believe that a more equal system is a better system. Indeed, they might even be willing to sacrifice a little from one of the other perspectives in order to achieve more equality. Consider, for instance, a country that has an average life expectancy of 76 years, but that also has great inequality. Some of its citizens die in childhood or as adults, while others live past 90 years of age. Given reasonable assumption about risk aversion, most people prefer to be born in a country in which everyone lives to age 75. Similar arguments can be made about the distribution of technology or of service. The fact that most countries provide universal health insurance while one in seven Americans is uninsured denies the United States a favorable ranking from this perspective.

CONCLUSION

Let us return to the original question. Does the United States have the best health care system in the world? It does technologically, but not from any of the other four perspectives. In particular, we need to improve efficiency (control the high cost of care) and distributional equity (provide universal insurance). The public health and service dimensions also need closer scrutiny. If and when we progress in those areas, claims of superiority for American health care will be more convincing.•

SUPPORT FOR TOUGH TRADE LAWS

• Mr. SANFORD. Mr. President, I rise to commend my colleagues from New York for their efforts to insist that tougher and more effective trade laws be applied to unfairly traded imports. I too have been disturbed and frustrated at the many ways in which our trade laws can be circumvented. It is tough enough for companies to compete against imports in today's increasingly competitive environment, but it is completely unreasonable to expect our workers to compete against imports that are unlawfully dumped in our markets.

I have been very troubled to see practices over the past 8 to 10 years that have effectively involved trading away good American jobs. In North Carolina, we have seen hundreds of thousands of textile, apparel and other manufacturing jobs lost to overseas competition. Last year, for example, a Hamilton Beach/Proctor Silex plant in Southern Pines, NC, moved its operations to Mexico. For 30 years, the plant had been the town's largest employer. When it opened in January 1962, the local newspaper called it the best New Year's present the community had ever received. More than 3,000 people applied for the 600 available jobs. Now those jobs have moved to Mexico. This plant is certainly not the only one. Thousands of North Carolina workers have lost their jobs over the past decade to foreign imports. A good deal of that competition has come from imports that have not been fairly traded or from companies that take our jobs overseas.

I agree with the Senators from New York that we must take a firmer stance to protect our jobs. We must ensure that our trade laws are fully and completely enforced and that we do not enter into trade agreements which we either cannot or are unwilling to enforce. It is time that all of us took a stand for American workers.

It is my concern over the impact of lax enforcement of our trade laws that led me to, among other things, strongly support S. 3046, which includes a number of key provisions to toughen our trade laws, including provisions directed at the circumvention or diversion of antidumping and countervailing duty orders. It is the circumvention of the dumping order issued against Brothers, Inc., that has led to the great concern over Smith Corona expressed by my colleagues from New York.

My concern over North Carolina workers and their jobs is also what has prompted me to express repeatedly my opposition to the North American Free Trade Agreement. Without provisions to ensure fair hour and wage standards in Mexico and enforcement of sound environmental regulations, I have no doubt that the NAFTA agreement will cause hundreds if not thousands of workers in North Carolina to lose their jobs. Indeed, I do not support sending our jobs on a fast track to Mexico or elsewhere.

In addition, my concern over the implications of NAFTA and other trade treaties has also led me to be a strong supporter of S. Res. 109, which would permit the Congress to amendment trade treaties in five key areas: First, the enforcement of environmental standards; second, the monitoring and enforcement of fair labor standards; third, the rule of origin, to make sure products are not simply labelled "Made in Mexico" in order to take advantage of NAFTA; fourth, the resolution of disputes over trade matters; and fifth, adjustment assistance for U.S. workers, firms and communities.

We simply cannot continue to enter into trade agreements which are not vigorously enforced or to permit the continued trading away of U.S. jobs.•

GATT NEGOTIATIONS

• Mr. LEAHY. Mr. President, with election day fast approaching, the administration appears to be making an all-out effort to reach an agreement in the General Agreement on Tariffs and Trade [GATT] before the voting starts. High level meetings are scheduled in Europe this weekend.

Throughout the last six years of the Uruguay round of GATT negotiations, the Europeans have been shrewd, patient bargainers. While they see benefits in freer trade, the Europeans are unwilling to give more ground than they need to simply to reach an agreement.

Their strategy seems to work. The Europeans appear to be tough, pragmatic negotiators, protecting their national interests. But their U.S. administration counterparts have often been ideologically rigid without regard to their impact on important American industries, including agriculture. Now the administration seems all too willing to modify their position just to get an agreement—any agreement.

At some point all sides must give if a GATT accord is reached. But a bad agreement is worse than no agreement at all. By rushing to finish by election day just to bolster the President's trade record, administration negotiators are simply increasing the likelihood that our country will be stuck with a bad agreement that will affect U.S. farmers and workers long after the final ballots are counted.

My advice to the administration is this. Do not cut a GATT deal if it is not in the best interests of all Americans. Forget about the election; do what is right for our county.•

CONSULTANT LICENSING

• Mr. PRYOR. Mr. President, I rise today to discuss an issue I have focused on for 14 years: the use of contractors and consultants by the Federal Government. Since I discussed offering my contractor licensing amendment to the Labor-HHS appropriations bill and explained it then, I will keep my remarks on this amendment to a minimum.

However, I will speak somewhat longer about why I feel so strongly that the time has come for us to reform a system that has been operating beyond congressional control. I cannot stand-by while misrepresentations are circulated about an idea that is designed to reduce the waste and abuse of millions of tax dollars.

Mr. President, my amendment requires that each contractor who wants to provide certain services to the Federal Government apply for and receive a license. This office will collect information and grant or deny the license. The types of services covered by my amendment are: First, management and professional services; second, studies, evaluations, and analyses; third, engineering and technical services (excluding routine engineering services like building a bridge or designing a computer system); and fourth, research and development.

Mr. President, this amendment is directed specifically at those contractors that the Federal agencies have relied upon to perform their basic management work of budgeting, planning, procurement or other policy functions. These consultant services account for roughly $9 to $20 billion spent on service contracts in fiscal year 1990.

Mr. President, briefly stated, that is what this amendment seeks to do. The purpose is to increase the sunshine on Federal spending and create greater accountability.

Now let me turn to the arguments against my amendment. First, opponents state that the amendment would impose a costly regulatory burden when the Nation is struggling to create jobs and improve the economy. They say it would create barriers and drive contractors away.

Mr. President, the fact is that this amendment would centralize information that contractors already submit when they bid on contracts. Contractors would not have to develop masses of new information to qualify for a license. The amendment requires a cost comparison between contractor and Government employees and prevents contracting for inherently governmental functions. These changes do not create barriers; they protect the Government and the taxpayers.

The second objection is that the amendment would create a new Government bureaucracy and force contractors to hire people to deal with this new license requirement.

Mr. President, this objection seeks to mask the need to take real action. The office established to administer the amendment would be relatively small with roughly 10 to 15 staff members. In fact, when we look at the number of Federal employees engaged in awarding contracts it seems prudent to have one small office set aside to carefully and independently review these contractors. Furthermore, as I stated earlier, since the contractors already submit this information when bidding on contracts, the contractors will not have to hire new staff to deal with the licensing.

Mr. President, a third argument against my amendment is that small business would be adversely affected.

While I can understand opponents to my amendment using the issue of possible harm to small businesses for political reasons, there is absolutely no basis for this concern. Small businesses will not be adversely affected. The amendment does not change the rules applying to small businesses. The amendment does not change the 8(a) program or any other program relating to small business. In fact, I am convinced that with more sunshine in this area of Federal contracting, the system will provide more opportunity for small businesses to effectively compete for legitimate Government contracts.

Finally, Mr. President, one part of my amendment has generated a great deal of concern among the consulting firms. My amendment would require a cost comparison between Government employees and private contractors be done before a contract for consulting services could be awarded.

Mr. President, why are the consulting contractors afraid of this provision? The short answer is that cost comparisons by GAO and several IGs have proven that consulting service contractors are more expensive than Government employees. The consultants apparently do not want this fact to become too well known.

Mr. President, I am not a supporter of red tape. I am not in favor of new bureaucracies. While I don't support red tape and bureaucracy, I do support the taxpayer. When it comes to protecting the interests of the taxpayers, I do not mind making it a little harder to receive Federal dollars. When it comes to spending hard earned tax dollars, I want to be able to assure the taxpayers that we are carefully monitoring every dollar and we are not allowing contractors to bill the Government for drafting congressional testimony.

Furthermore, Mr. President, this industry is booming. Government contracting has grown from a $40 billion industry in 1980 to a $90 billion industry in 1990. It appears to me these contractors are more than able to wade their way through the red tape and find out where the money is. Again, the information required to apply for a license is very similar to the type of information that contractors already submit. The difference is that the information will be centralized and given an independent review. This booming industry will hardly notice this modest new requirement.

Mr. President, I think I have responded to the objections to my amendment, however, I would like to point out that I have not been contacted directly by anyone voicing his or her concerns. If these issues are of such concern, why has no one contacted me with any substitute language to address these problems? If small businesses are affected, why has no one from the consulting industry submitted language to ensure that small businesses are protected? If the process of applying for and receiving a license appears too cumbersome, why has no one tried to discuss a better way of addressing my concerns?

I do not pretend that my amendment is a cure-all, or that it is perfect. However, after 14 years I think we must try a new approach. If my colleagues have other ideas or different approaches, let them bring them up, and we can discuss them. If my colleagues have other ways to address these problems that have been documented for 14 years, I will gladly sit down and work out our differences.

Mr. President, I can appreciate that my colleagues who have not followed this issue do not understand why we should take this action at this time. I know that the contractors, consultants, and their lobbyists have been circulating the word that my amendment will bring their industry to its knees. While I hope my colleagues will now understand why I disagree with this assessment of my amendment, I want to close with an appeal that we take some action to solve this very real problem. Hearings, GAO reports, IG audits, and press investigations all continue to demonstrate that there is a serious and continuing problem with the government's use of consultants and contractors. Again, if any of my colleagues has an idea that they think might help, let them offer it.

Mr. President, I am dismayed and worried by the fact that the findings of recent GAO reports are all too similar to GAO reports issued a decade ago. Listen to the following:

> During the past 20 years, Federal agencies have failed to make satisfactory progress to improve their management of consulting services. During this period, GAO has issued over 30 audit reports identifying the need for practically every major Federal agency to better manage these services.

Mr. President, that quotation is from a GAO report entitled "Government Earns Low Marks on Proper Use of Consultants" released in June of 1980. GAO has issued over 20 audit reports since then with similar conclusions. When will we finally decide to correct these problems? How many audits, investigations, and scandals will be necessary to convince the Congress to act?

I stand ready to work to ensure that each and every tax dollar is spent in the most efficient and effective manner. But, I ask again, how long must we wait to correct these problems? As of today, no one has contacted me to work with me on improving my bill or offering another approach to this issue. The only response has been the same one I have received for 14 years, "Oppose any change and offer no comprise." Years of mounting evidence to the contrary, the opponents have taken the position that there is no problem.

Therefore, I will not offer my amendment today due to the apparently successful effort by the contractors and consultants to characterize the debate as government bureaucracy versus free enterprise. I am disappointed but not discouraged. The real issue is not bureaucracy versus free enterprise, it is the taxpayers versus special interests. My amendment is not about regulation, it is about accountability.

It appears that my colleagues have thrown in the towel, that they have surrendered to the contractors. Mr. President, there is no good reason not to take some action to increase the sunshine illuminating Federal spending. While the smoke screen from the lobbyists appears to have successfully obscured the issue, I have not thrown in the towel. I have not surrendered. I will be back in the near future to continue my efforts. While there have been some modest changes recently, namely my amendment creating a line item for consulting services, there is still far too many abuses to let this matter rest.

I extend an invitation to my colleagues to work together on this matter. I stand ready to work on my idea of licensing and consider other proposals aimed at increasing accountability and disclosure.•

GRANBY, VT, FOREST LEGACY EASEMENT

• Mr. LEAHY. Mr. President, I rise today to recognize the Granby Selectmen and Champion International announcement of an innovative conservation deal to protect Cow Mountain Pond and its surrounding forests in Vermont's Northeast kingdom.

As reported today in Nancy Bazilchuk's splendid Burlington Free Press story, the Cow Mountain Pond tract will be the first in the Nation to be included in the Forest Legacy Program. Forest Legacy was authorized in the 1990 farm bill as a means to protect private forests and landowners' private property rights.

The Cow Pond easement provides a stellar example of how Forest Legacy was intended to work. Champion International voluntarily sold its forest management rights to Granby while the Forest Service bought Champion's development rights. This arrangement allows the Forest Service to forever keep Granby's forests from being developed while also allowing the people of Granby to hunt, fish, recreate, and manage timber as they have for generations.

The Cow Mountain Pond easement just shows what can be accomplished when timber companies, local communities, conservation groups, and Federal and State foresters work together. In fact, as Ms. Bazilchuk reported, Granby's residents were so enthused with the prospect of saving Cow Mountain Pond that they voted to raise their taxes by modest amounts in order to help share the cost of purchasing the easement. The town's citizens also raised several thousand dollars from bake sales and raffles at potluck dinners.

Congratulations to all those who made this first Forest Legacy project come to life. The people of Granby, VT and the Nation will thank you for helping to protect a very special place for our children and our children's children.

I ask that Ms. Bazilchuk's story and the town of Granby's announcement be entered into the RECORD.

The material follows:

[From the Burlington Free Press, Oct. 6, 1992]

GRANBY TO ACQUIRE LAND UNDER FOREST PROGRAM

(By Nancy Bazilchuk)

In a special town meeting last week, Granby residents—36 of 49 registered voters—voted unanimously to raise their taxes to buy an undeveloped pond that sits like a jewel in the wilderness.

But the town's purchase of Cow Mountain Pond has ramifications far beyond the boundaries of this little Northeast Kingdom town. The purchase of the land from Champion International Paper Co., along with the transfer of timber rights to another 1,600 acres around the pond, is the first in the nation under the federal Forest Legacy program.

"This is exciting," said Tom Goss, chairman of the Granby conservation commission. "We feel it is the most special spot in Granby."

The Forest Legacy program is the brainchild of Sen. Patrick Leahy, D-Vt, who incorporated it in the 1990 Farm bill. The program had a slow start—it finally won $5 million of federal funding for 1992.

States can tap into the money to buy timber rights and other legal rights to forest lands from willing sellers who might otherwise sell the land for development.

Seven states have done the paperwork necessary to be eligible for money; Vermont's is the first project to clear all the hurdles.

"Granby's announcement to protect its working forests and Cow Mountain Pond sends a message to the rest of Vermont and the nation," Leahy said Monday about the purchase. "We can protect our private forests without regulating them." Congress has approved $10 million for the 1993 Legacy program budget, he said.

The Granby deal has taken more than a year to put together, said Charles Johnson, staff coordinator for the Legacy program for the state's Forests, Parks and Recreation Department. Johnson said another project in north-central Vermont is being considered for funding. He estimates that the two purchases will exhaust Vermont's cut of the federal money—$844,000. The Granby purchase will cost $500,000, of which $271,000 comes from Legacy money.

The rest of the money for Granby's purchase came from diverse sources—including Granby's decision to raise taxes to pay for a $55,000 loan and $180,000 from the Vermont Housing and Conservation Trust Fund. The Vermont chapter of the Nature Conservancy helped Granby engineer the deal.

Thomas Hartranft, Champion's region general timberlands manager for New York, Vermont and New Hampshire, said the company decided to sell the land because it is isolated from most of the company's Vermont holdings. The property doesn't have much spruce or fir on it, he said, which is what the company uses in its pulp mills.

But the company also is willing to "support a public-private partnership," he said. "This is the kind of deal that demonstrates that kind of commitment."

TOWN OF GRANBY,
GRANBY, VT, *October 5, 1992.*

UNIQUE CONSERVATION DEAL FOR COW MOUNTAIN POND AND FORESTLANDS

GRANBY TO PROTECT A WORKING FOREST AND NATURAL AREA

Fred Hodgdon, Chairman of Granby's Selectmen, announced an innovative conservation deal to protect Cow Mountain Pond and 1,639 acres of productive forestland surrounding it. The property is currently owned by Champion International Corporation, a major forest products company, which has agreed to the arrangement.

Granby's effort will be the very first project in the country for the so-called Forest Legacy Program, which focuses on public acquisition of development rights on productive timberlands. This approach allows the land to remain in private ownership and in forestry use, while public resource values like recreational access, wildlife habitat protection, and scenic preservation are secured. The program was authorized in the 1990 Farm Bill, and Vermont is one of a handful of states participating in the program's "pilot phase."

In this case, Granby will be acquiring 11-acre Cow Mountain Pond, and the timber rights on the timberlands surrounding it. The forests there will be managed for multiple uses and guided by a stewardship plan now being written by the various parties involved. The Forest Service will buy the development rights, to insure that the property cannot be subdivided or developed in the future.

According to Hodgdon, "Many of Granby's residents work in forestry-related jobs now, so managing our own timberland will insure the continued use of the area. This will become our town forest," he says, "with the added benefit of beautiful Cow Mountain Pond." He adds, "Granby residents have long worried about the fate of Cow Mountain Pond, which has been used by generations of our people for fishing and recreation. It's been a tradition here, yet since the pond was privately owned, we had little control over what happened to it."

With only 80 residents, Granby is one of Vermont's smallest towns. Last year, when townspeople learned that this property might be available, they opened discussions with Champion. They also asked for assistance from the state, the federal government, The Nature Conservancy, the Vermont Housing and Conservation Board, and the Northeastern Vermont Development Association. All have become partners in putting together a complex deal that includes $500,000 in funding from a variety of sources. This is the property's fair market value, according to an outside appraisal commissioned by Granby.

By a unanimous vote at last Tuesday's special town meeting in Granby, residents approved borrowing $55,000, as part of the town's contribution for the project. They've also raised several thousand dollars from bake sales and raffles at potluck dinners. The Vermont Housing and Conservation Board has agreed to grant up to $180,000 toward the acquisition, and the U.S. Forest Service is expected to put in $271,000 through the Forest Legacy Program.

Granby's project is a little unusual for the Forest Legacy Program, since most Legacy projects will leave the timber rights in private hands. According to Conrad Motyka, Vermont's Commissioner of Forests, Parks and Recreation, "The Granby project was chosen for the pilot phase for four reasons. First, it involved the timber industry. Second, it had overwhelming public support of the Granby voters. Third, the townspeople couldn't possibly have afforded to do this without some outside help. And fourth, Cow Mountain Pond was a special area, worthy of this collaboration and effort." At least one rare plant species, the purple bladderwort, is known from the property.

Tom Hartranft, Champion's Region Manager for New York, New Hampshire and Vermont, has been working with the town on this purchase for many months. Hartranft noted that "We are pleased to participate in this first-ever Forest Legacy Project. It demonstrates Champion's and the Forest Product Industry's commitment to the concept of public/private partnerships."

Granby doesn't intend to improve or change the property, other than by keeping trails open and possibly providing a few rustic lean-tos for overnight camping. "We want to keep Cow Mountain Pond just the way it is," says Hodgdon, "so that children will always be able to go there to fish and enjoy the woods."●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 12 noon on Wednesday, October 7, that following the prayer the Journal of proceedings be deemed approved to date, that the time for the two leaders be reserved for their use later in the day, that there then be a period for morning business not to extend beyond 2 p.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as procedurally ordered.

There being no objection, the Senate, on Tuesday, October 6, 1992 at 10:47 p.m. recessed until Wednesday, October 7, 1992 at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 5, 1992:

THE JUDICIARY

GERALDINE R. GENNET, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS, VICE RONALD P. WERTHEIM, RETIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GERALD R. RISO, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. (NEW POSITION)

NOMINATIONS

Executive nominations received by the Senate October 6, 1992:

OFFICE OF PERSONNEL MANAGEMENT

DOUGLAS ALAN BROOK, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT FOR A TERM OF 4 YEARS, VICE CONSTANCE BERRY NEWMAN, RESIGNED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 6, 1992:

AIR FORCE

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be brigadier general

COL. JOHN J. ALLEN, [redacted] REGULAR AIR FORCE.

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. DONALD L. MCAULIFFE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. DAVID L. YOUNG, [redacted] REGULAR AIR FORCE.

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be brigadier general

BRIG. GEN. WILLIAM P. BLAND, JR. [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF BRIGADIER GENERAL IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTIONS 593, 8218, 8373, AND 8374:

To be brigadier general

COL. DOUGLAS M. PADGETT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JIMMIE V. ADAMS, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JAMES P. MCCARTHY, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. CHARLES G. BOYD, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. ROBERT L. RUTHERFORD, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAY W. KELLEY, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. HENRY VICCELLIO, JR., [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. TANDY K. BOZEMAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. STEPHEN P. CORTRIGHT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. DENNIS B. HAGUE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. E. GORDON STUMP, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. CHARLES L. BLOUNT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. STEWART R. BYRNE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. HARRIS R. HENDERSON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN S. HOFFMAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DONALD E. JOY, JR. [redacted], AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RONALD H. MORGAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. HARRY E. OWEN, JR., [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DANIEL H. PEMBERTON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. KENNETH M. TAYLOR, JR., [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES T. CALLAGHAN, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOSEPH W. ASHY, [redacted] U.S. AIR FORCE.

ARMY

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE

GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent major general

BRIG. GEN. ROBERT B. ROSENKRANZ, [redacted].
BRIG. GEN. LARRY G. LEHOWICZ, [redacted].
BRIG. GEN. ROBERT A. GOODBARY, [redacted].
BRIG. GEN. ROBERT T. HOWARD, [redacted].
BRIG. GEN. OTTO J. GUENTHER [redacted].
BRIG. GEN. PAT M. STEVENS, IV [redacted].
BRIG. GEN. MICHAEL S. DAVISON, JR. [redacted].
BRIG. GEN. RICHARD W. TRAGEMANN, [redacted].
BRIG. GEN. FRANK L. MILLER, JR. [redacted].
BRIG. GEN. JOSUE ROBLES, JR. [redacted].
BRIG. GEN. JARRETT J. ROBERTSON [redacted].

To be permanent major general

BRIG. GEN. JOSEPH W. KINZER [redacted].
BRIG. GEN. JOHN S. COWINGS, [redacted].
BRIG. GEN. WILLIAM M. STEELE [redacted].
BRIG. GEN. DAVID J. KELLEY [redacted].
BRIG. GEN. THOMAS F. SIKORA, [redacted].
BRIG. GEN. FREDRIC H. LEIGH [redacted].
BRIG. GEN. FRANK F. HENDERSON, [redacted].
BRIG. GEN. DAVID E. WHITE, [redacted].
BRIG. GEN. RAY E MCCOY, [redacted].
BRIG. GEN. KENNETH W. SIMPSON [redacted].
BRIG. GEN. THOMAS H. NEEDHAM, [redacted].
BRIG. GEN. JOHN C. THOMPSON, [redacted].
BRIG. GEN. RONALD E. ADAMS, [redacted].
BRIG. GEN. HARLEY C. DAVIS, [redacted].
BRIG. GEN. ROBERT K. GUEST, [redacted].
BRIG. GEN. STANLEY G. GENEGA [redacted].
BRIG. GEN. JOHN M. PICKLER [redacted].

THE FOLLOWING-NAMED MEDICAL CORPS OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent major general

BRIG. GEN. RONALD R. BLANCK, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED MEDICAL SERVICE CORPS OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent brigadier general

COL. JEROME V. FOUST, [redacted] U.S. ARMY.

ARMY

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADE INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. RICHARD C. ALEXANDER, [redacted].
BRIG. GEN. JAMES A. BARNEY, JR. [redacted].
BRIG. GEN. DONALD W. LYNN, [redacted].
BRIG. GEN. WILLIAM MIRANDA-MARIN, [redacted].
BRIG. GEN. JOSEPH F. PERUGINO [redacted].

To be brigadier general

COL. CECIL L. DORTEN, [redacted].
COL. TERRY L. HOLDEN, [redacted].
COL. JOHN S. MARTIN, [redacted].
COL. JOHN C. BRIDGES, [redacted].
COL. ROSS S. FORTIER [redacted].
COL. EDMUND J. GIERING, III [redacted].
COL. JAMES S. KESSLER [redacted].
COL. BENTON D. MURDOCK, [redacted].
COL. CECIL L. PEARCE, [redacted].
COL. EDWIN W. SMITH, [redacted].
COL. WALTER J. WHITFIELD [redacted].
COL. THOMAS C. CARROLL, [redacted].

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent brigadier general

COL. JAMES F. HENNESSEE, [redacted].
COL. STANLEY F. CHERRIE [redacted].
COL. FREDDY E. MCFARREN, [redacted].
COL. GEORGE H. HARMEYER, [redacted].
COL. JOHN F. MICHITSCH [redacted].
COL. STUART W. GERALD, [redacted].
COL. LON E. MAGGART, [redacted].
COL. LARRY G. SMITH, [redacted].
COL. JERRY L. LAWS [redacted].
COL. JOHN W. SMITH, [redacted].
COL. HENRY T. GLISSON, [redacted].
COL. MILTON HUNTER, [redacted].
COL. THOMAS N. BURNETTE, JR. [redacted].
COL. DAVID H. OHLE, [redacted].
COL. JAMES T. HILL [redacted].
COL. GREG L. GILE [redacted].
COL. JAMES C. RILEY [redacted].
COL. RANDALL L. RIGBY, JR. [redacted].
COL. MARIO F. MONTERO, JR. [redacted].
COL. TIMOTHY J. MAUDE, [redacted].
COL. JOHN R. WALSH, [redacted].
COL. DANIEL J. PETROSKY [redacted].
COL. MICHAEL B. SHERFIELD, [redacted].
COL. JAMES C. KING, [redacted].
COL. JOSEPH G. GARRETT, III [redacted].
COL. LEROY R. GOFF, III [redacted].
COL. MICHAEL A. CANAVAN, [redacted].
COL. DAVID R. GUST, [redacted].
COL. RONALD F. ROKOSZ, [redacted].
COL. DANIEL G. BROWN, [redacted].
COL. LEO J. BAXTER [redacted].
COL. WILLIAM P. TANGNEY, [redacted].
COL. CHARLES S. MAHAN, JR. [redacted].
COL. BURT S. TACKABERRY, [redacted].
COL. JOHN J. MAHER, III [redacted].
COL. LEON J. LAPORTE [redacted].
COL. CLAUDIA J. KENNEDY, [redacted].
COL. STEPHEN T. RIPPE [redacted].

NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (LH) WALTER JACKSON DAVIS, JR. [redacted], U.S. NAVY.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) ROBERT GLEN HARRISON, [redacted] U.S. NAVY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. JAMES D. WILLIAMS, U.S. NAVY [redacted].

THE FOLLOWING NAMED REAR ADMIRAL (LOWER HALF) IN THE CIVIL ENGINEER CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR TO AS PROVIDED BY LAW:

CIVIL ENGINEER CORPS

To be rear admiral

REAR ADM. (LH) PATRICK WILLIAM DRENNON [redacted], U.S. NAVY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) DOUGLAS J. KATZ, U.S. NAVY, [redacted].

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. RICHARD C. MACKE, U.S. NAVY, [redacted].

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. DAVID M. BENNETT, U.S. NAVY, [redacted].

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING BRUCE A. BROWN, AND ENDING MARC G. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

AIR FORCE NOMINATIONS BEGINNING MAJOR ROBERT K. BALDWIN, [redacted] AND ENDING MAJOR LORAYNE M. WHITEHEAD, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

AIR FORCE NOMINATIONS BEGINNING DONALD E. ABSTON, AND ENDING ROGER B. MCGRATH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

AIR FORCE NOMINATIONS BEGINNING BARBARA E. ALLMART, AND ENDING MATTHEW E. ZUBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 10, 1992.

AIR FORCE NOMINATIONS BEGINNING WILLIAM AGRELLA, AND ENDING MANFRIED K. ZEITHAMMEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 10, 1992.

AIR FORCE NOMINATIONS BEGINNING WALTER K. KANEAKUA, [redacted] AND ENDING GREGORY H. BLAKE, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 25, 1992.

AIR FORCE NOMINATIONS BEGINNING MAJOR JOSEPH AMARA, [redacted] AND ENDING MAJOR MICHAEL D. MILLER, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 25, 1992.

IN THE ARMY

ARMY NOMINATION OF LT. COL. DAVID C. ARNEY, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 1, 1992.

ARMY NOMINATIONS BEGINNING CLARK H. BABL, AND ENDING STEPHEN B. KING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING DAVID A. BOOTHE, AND ENDING 697X, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING PATRICK J. BERGER, AND ENDING JOHN C. SCHOONOVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING DOUGLAS C. ANDREWS, AND ENDING * JULIA A. MORGAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING ALBERT L. FRAZIER, AND ENDING QUENTIN A. HUMBERD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING DAVE ARNOT, AND ENDING JANE A. YAWS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING GARY K. ABE, AND ENDING 9780X, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING JEFFREY M. ABEL, AND ENDING ROBYN D. TIBBITTS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1992.

ARMY NOMINATIONS BEGINNING FRIEBE B. ABOLEY, AND ENDING JOHN H. SUDDUTH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 10, 1992.

ARMY NOMINATIONS BEGINNING GINO L. VENTRESCA, AND ENDING JEFFREY M. REINES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

ARMY NOMINATIONS BEGINNING PANDOR ANGELISANTI, AND ENDING CARL D. HUMBARGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING DAVID N. MERRILL, AND ENDING THEODORA WOOD-STERVINOU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 23, 1992.

FOREIGN SERVICE NOMINATIONS BEGINNING MARY A. RYAN, AND ENDING JOHN C. TRIPLETT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 23, 1992.

FOREIGN SERVICE NOMINATIONS BEGINNING DAVID MICHAEL SPRAGUE, AND ENDING JOHN M. O'KEEFE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 23, 1992.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING DONALD L. DAVIS, AND ENDING JEFFREY L. HULL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 22, 1992.

MARINE CORPS NOMINATIONS BEGINNING TERRY G. STEVENS, AND ENDING EDWARD J. ZELCZAK, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 24, 1992.

MARINE CORPS NOMINATIONS BEGINNING GREGORY D. BATES, AND ENDING WILLIAM H. THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 28, 1992.

MARINE CORPS NOMINATIONS BEGINNING DONALD R. GIBBS, AND ENDING PHILLIP W. WOODY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 4, 1992.

MARINE CORPS NOMINATIONS BEGINNING PEDER A. ANDERSON, AND ENDING THOMAS W. SHREEVE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 11, 1992.

MARINE CORPS NOMINATIONS BEGINNING FRANCIS P. AHEARN, JR., AND ENDING BENJAMIN K. YOSHIOKA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF AUGUST 4, 1992.

MARINE CORPS NOMINATIONS BEGINNING GARY D. ANDERSON, AND ENDING JOHN M. ZAJAC, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 23, 1992.

IN THE NAVY

NAVY NOMINATIONS BEGINNING FREDERICK B. BEACHAM, JR, AND ENDING ALAN RICHARD PAGNOTTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE

AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 10, 1992.

NAVY NOMINATION OF GARY MICHAEL HALL, WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 18, 1992.

NAVY NOMINATIONS BEGINNING RICKEY LYNN DUBBERLY, AND ENDING MICHAEL D. PIND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 28, 1992.

NAVY NOMINATIONS BEGINNING CARL H. ABELEIN, AND ENDING JAMES CLAYTON JOHNSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 2, 1992.

NAVY NOMINATIONS BEGINNING RISE LAVONNE BARKHOFF, AND ENDING ARTHUR EUGENE WICKERHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

NAVY NOMINATIONS BEGINNING MARK F. ABEL, AND ENDING REYNOLD ANTHON SEFTON, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER, 1992.

NAVY NOMINATIONS BEGINNING GLEN CHARLES ACKERMANN, AND ENDING JOHN EDWARD ZARBOCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

NAVY NOMINATIONS BEGINNING JOEL MICHAEL ALCOFF, AND ENDING ISAAC RAY WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

NAVY NOMINATIONS BEGINNING BRADLEY MCINT ANDERSON, AND ENDING RANDELL LEE VANBUREN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 30, 1992.

HOUSE OF REPRESENTATIVES—*Monday, October 5, 1992*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer

Let us pray in the words of St. Francis of Assisi:

Lord, make us instruments of Your peace.
Where there is hatred, let us sow love;
Where there is injury; pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light;
Where there is sadness, joy.

O Divine Master, grant that we may not so much seek to be consoled, as to console:

Not so much to be understood, as to understand;
Not so much to be loved as to love;
For it is in giving that we receive;
It is in pardoning, that we are pardoned;
It is in dying, that we awaken to eternal life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Nebraska [Mr. BARRETT] please come forward and lead the House in the Pledge of Allegiance.

Mr. BARRETT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 6 1-minute requests on each side.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

> H.J. Res. 542. Joint resolution designating the week beginning November 8, 1992, as "Hire a Veteran Week."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 2941. An act to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

EDUCATION SHOULD BE FIRST PRIORITY FOR NEW PRESIDENT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, more than 50 years ago, the Truman Commission on Higher Education recommended that the time has come to make education through the 14th grade available in the same way that high school education is now available.

This morning the Wall Street Journal in its lead article describes how a shortage of "people who can read, write, compute, communicate, and think critically" has left the South in the "jaws of a new economic trap." And the article concludes: "The standard for an educated adult needs to be 14 years of education by the year 2000."

Gov. Bill Clinton, as a leader in the National Governors' Association, testified in 1987 before my subcommittee on Capitol Hill that it was time for this Nation to embrace an idea that was as important in 1947 as it is today.

Governor Clinton testified to the importance of what the Truman Commission concluded:

> We have proclaimed our faith in education as a means of equalizing the conditions of men. But there is grave danger that our present policy will make it an instrument for creating the very inequities it was designed to prevent. If the ladder of educational opportunity rises high at the doors of some youth and scarcely rises at all at the doors of others, while at the same time formal education is made a prerequisite to occupational and social advance, then education may become the means, not of eliminating race and class distinctions, but of deepening and solidifying them.
>
> It is obvious, then, that free and universal access to education, in terms of the interest, ability, and need of the student, must be a major goal in American education.

We have waited too long to implement a 50-year-old idea. It is time we allow Governor Clinton to lead this country into the future.

He is uniquely equipped to head our country, and to lead it out of the education morass in which it sits today.

GETTING THE HAMILTON-GRADISON REFORM SELECT COMMITTEE UNDERWAY

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, since the previous Speaker saw fit to throw his support behind Governor Clinton, let me throw my support behind a brave American, a great American who was willing to put his life on the line for his country, George Bush. A great guy.

The reason I am standing up here, though, was to first of all wish all of you a successful and happy recess, and to call attention, Mr. Speaker, to the fact that we have an energy bill coming before us in a short while. This is an energy bill that has been under the review of seven committees for about 2 years, and is finally, at long last, working its way to the floor, seven committees, dozens of subcommittees.

Mr. Speaker, this is why we need the Hamilton-Gradison Reform Select Committee; in order to bring about some reforms in this House. You, Mr. Speaker, still have to appoint your Members. I hope you can do it today on this last day of the session of the Congress so that we can get down to trying to reform this House and making it work for the people.

FAMILY MEDICAL LEAVE IN NATIONAL HEALTH CARE LEGISLATION BILL

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, I rise today to introduce a bill that expresses the sense of the Congress that family and medical leave should be included as an elective option in any national health insurance reform legislation that the next Congress and the next President will be involved in passing. We all know the reasons for supporting family and medical leave. It makes it possible for families to meet both home and work responsibilities which have been clashing as work hours lengthen and all adults in our families are employed. Doing so, linking these two ideas of family and medical leave and health insurance makes sense.

First, it constitutes prevention, which is part of any good health reform plan. And second, family and medical leave improves the quality of care because it gives our Nation's patients the

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

best care around: attention of their family. And it gives those that are just newly born the best attention they can get, the care of their loving parents.

So please join me in uniting these two ideas, family and medical leave and reform of our health insurance programs.

EXEMPTION TO COMMUNITY REINVESTMENT ACT

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, as the session draws to a close, I realize the chance of significant banking legislation being enacted is slim.

Looking to the future, however, I still want to emphasize the need to reduce the drastic overregulation of community banks. Specifically, I want to urge this body to pass an exemption to the Community Reinvestment Act for banks of under $150 million in assets and in communities of less than 30,000.

This legislation places an unwarranted burden on smalltown community banks. It creates for them an endless hassle with regulatory reports, rewriting policies, filling out forms, internal monitoring, and notices that take an endless amount of time, money, and patience.

If these banks were not already doing good things for their communities, they would not be in business. I know, because I was a banker for more than 30 years.

I urge you to consider this exemption the next time this body debates banking reform, whether it is this year, or next.

OVERRIDE PRESIDENT'S VETO OF CABLE BILL

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, although the veto of the cable bill is mystifying, the reason why consumers around the country are transfixed by the outcome of this override vote, more perhaps than any other, is not.

The reason is actually quite simple: 60 million cable subscribers with clickers in their hands. These consumers may be able to sit at home each night with their remote controls, but they lack even the remotest possibility of an alternative to the monopoly control of the local cable company.

That's why cable consumers are completely frustrated and bewildered by the veto of bipartisan legislation that would control monopoly cable rates while fostering new competition of the cable monopolies. The Consumer Federation of America has estimated that consumers are currently paying $6 billion more for cable than they should and the Federal Communications Commission has said that if cable lived in a competitive environment consumers would save $5.3 billion.

Now, Members don't have to use their clickers to flip on Monte Hall to realize the cable bill is a good deal. All Members have to do is listen to the clicker corps back home—60 million strong—the corps of hard-working American families who could use what amounts to a $6 billion tax cut.

Members should tune in to what their constituents are demanding and should tune out cries of partisan politics over this issue. The cable bill is the result of bipartisan effort—Republican and Democrat—and the veto deserves to be overridden.

□ 1010

FOR WHOM THE TAXES TOLL

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, this election Bill Clinton has tolled the bells of class warfare tragically. "Tax the rich," he says with regularity.

Mr. Speaker, he wants to raise $150 billion in new taxes, and he has stated repeatedly his promise to raise taxes on only the rich, those making more than $200,000. But Mr. Speaker, this economic plan just does not add up. To get to $150 billion, Clinton would have to raise taxes on those individuals who make $36,000. That does not sound like very rich to me, Mr. Speaker.

Can we really trust Bill Clinton to raise taxes only on the wealthy? Given his record in Arkansas where he had a tax program that hit the middle-income wage earner the hardest, I do not think so.

For whom will the taxes toll under the Clinton administration? They will toll for the middle-income Americans who least need that kind of increase.

DEBATES MUST CLARIFY CANDIDATES' POSITIONS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Bush says he will give vouchers. Clinton says he will cut costs. So much for health insurance.

George Bush says yes; Bill Clinton says with conditions. So much for the free-trade agreement.

Mr. Speaker, from foreign aid to foreign trade, there does not seem to be too much of a difference between the candidates, and that has me concerned.

What are the plans of each candidate and how will they finance health care? How will they stop the erosion of jobs, and what specific plan will they enact to create new jobs?

Because it is becoming evident to me there may be two different parties, two different names, but it seems that these advisers are all going to sing out of the same hymn book.

These debates had better clarify the specifics of the party positions, and that is coming from a Democrat.

APPRECIATION TO AN EXCELLENT STAFF

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute and express appreciation to the excellent staff of the First Congressional District of Kentucky and of the Banking Subcommittee I chair.

Yes, thanks to those staff members I'm privileged to work with both in Washington and Kentucky to represent and assist the people of Kentucky's First Congressional District.

Thanks also to those staff members who work for the Subcommittee on General Oversight and Investigations of the House Banking, Finance and Urban Affairs Committee.

I express my gratitude to my longtime, efficient administrative assistant Lorraine Grant, who has served on our staff for 17 years.

Special thanks to three longtime staff members—Mary Lee Lawton, Cornelia (Neal) Henson, and Elaine Sullivant—who have worked untiringly and effectively for the people of Kentucky's First District.

Mary Lee Lawton has worked diligently in our Henderson field office for 15 years. Mary Lee has assisted multitudes of western Kentuckians, in person and by telephone in a professional, helpful manner.

Cornelia (Neal) Henson has typed, produced, and processed in an efficient manner many thousands of letters to Kentuckians during her 14 years on our staff here in Washington.

Elaine Sullivant of Paducah has worked diligently for 13 years and 7 months as chief field representative for the First District of Kentucky. The thousands of Kentuckians who have called our Paducah office will miss Elaine Sullivant's friendly, excellent assistance.

Mary Martha Fortney has been on my staff for 12 years and has served so ably for 6 years as the efficient staff director of the Subcommittee on General Oversight and Investigations of the House Banking Committee.

I pay tribute to the following very efficient, hard-working staff members who have served and continue to work in our Washington office for western Kentuckians: legislative director

Maureen Fletcher, 3½ years; chief caseworker Elwanda Newbold, 3½ years; and Cheryl McGlotten, legislative assistant, 2 years.

I express admiration and appreciation to my very excellent district staff in western Kentucky: Debbie Foy of Mayfield, 10 years; Caroline Hall of Henderson, 7½ years Shirley Cater of Hopkinsville, 6 years; Patti Hawkins of Madisonville, 4 years; Ava Siener of Paducah, 3½ years; Raye Ann Heath and Debbie Reid, both of Symsonia, 2 years.

Special thanks also to the excellent staff of the Subcommittee on General Oversight and Investigations. I've already mentioned Mary Martha Fortney, the hard-working staff director. I also pay tribute to the subcommittee's counsel, Steve Skonberg, 1 year, 1 month; and professional staff members Sam Woodall, 2½ years, and Dave Liddle, 1 year, 8 months. Steve Skonberg, Sam Woodall, and Dave Liddle deserve compliments for their excellent work.

TRIBUTE TO THE HONORABLE DICK NICHOLS AND THE HONORABLE GEORGE ALLEN

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, as the President of the Republican freshman class, I rise today to honor two esteemed colleagues who will not be returning for the 103d Congress.

We will be losing two remarkable members of the freshman class, one voluntarily and one because of redistricting. Congressman GEORGE ALLEN and Congressman DICK NICHOLS have had brief, but brilliant careers representing their Virginia and Kansas constituencies. We thank them for their leadership and commitment; they will be sorely missed.

On a more personal note, I would like to pay a special tribute to my good friend, DICK NICHOLS.

Perhaps because we are fellow members of the freshman class and because we are office neighbors, I have had the opportunity to get to know DICK well, and to appreciate him, both as a legislator, and as a good, honest man and close friend. We have supported one another in the triumphs and tribulations of our first terms in Congress. Together, we have realized the challenges involved in attempting to represent the interests, and needs of our vast Midwestern districts as effectively as possible. It has been a comfort, for the past 21 months, to know that I have a true comrade in DICK NICHOLS.

I have grown to know and respect, as I am certain many of you have, the talent, integrity, and fine character that DICK has contributed to this body.

Today, I again say thank you to Congressmen ALLEN and NICHOLS, and pray for the good health of DICK'S dear wife, Connie; I praise their many accomplishments, and wish both of these gentlemen the best of luck as they enter into new challenges.

OVERRIDE VETO ON CABLE TV BILL

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, all over this country American citizens talk about the gridlock in Washington, and I think we should be clear about one of the main causes of that gridlock, and that is that one 34 separate occasions the President of the United States has vetoed legislation, much of it which would improve life in this country.

He has vetoed legislation for campaign finance reform which would stop the rich from being able to buy elections, vetoed legislation for the motor voter registration which would allow poor people to become more easily registered and participate in the political process, vetoed legislation for tax reform which would ask the wealthy to perhaps start paying their fair share of taxes we can lower taxes for working people and middle-income people. And, today, for the 35th time, we deal with a veto, and it is on cable television.

Mr. Speaker, my view is that it is absolutely wrong that cable television companies have the right to raise their rates to any level they want. It is time we reregulate and protect the consumers and override the veto.

OUR PROBLEM IS NOT AT 1600 PENNSYLVANIA AVENUE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, I know many of the people watching and paying attention to the debates here on the floor do not think we like each other very much. I really like my colleagues on the Democrat side of the aisle. They are very fine people. The only problem is they continue to head us in the wrong direction. Nice guys but wrongheaded.

The problem is that today we heard several speakers from that side of the aisle get up and talk about more Government mandates, more Government spending, increasing entitlements, and that is what has gotten us into this mess in the first place.

Entitlements have gone from $90 billion just a few years ago to $805 billion a year. Government spending is out of control, and they continue to talk about more Government mandates and saddle business with additional expenses that they have to pass on to the consumers which makes us uncompetitive in the world marketplace. They just do not get it.

The deficit has gone from $1 trillion 10 years ago, and it took us 200 years to get there, to $4 trillion now, and we are rocketing out of sight. They just do not get it.

The problem is not at 1600 Pennsylvania Avenue. It is right here where we spend the money. We must change the Democrat control of the Congress of the United States.

PERSONAL EXPLANATION

Mr. LUKEN. Mr. Speaker, I have recently entered into a contract, which is effective on January 4, 1993, with a broadcasting company which has a substantial interest in both the broadcasting and cable industries. In order to avoid the appearance of a conflict-of-interest I am voting "present" on the motion to override the President's veto of S. 12, the Cable Television Consumer Protection Act.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would suggest that prior to the beginning of today's proceedings, Speaker FOLEY indicated that 1 minutes would be limited to six to a side, and the last Member to be recognized is the gentleman from Florida [Mr. BILIRAKIS].

HEALTH CARE REFORM

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute.)

Mr. BILIRAKIS. Mr. Speaker, throughout my congressional district, which includes parts of Hillsborough, Pinellas, and Pasco Counties, FL, there have been continuous debates on health care reform. I have hundreds of letters from my constituents, expressing their dismay about rising health care costs, unaffordable health insurance, overpriced prescription drugs, long-term care—the list goes on and on.

Health providers are just as frustrated—hospital administrators complain to me about skyrocketing operating costs, Florida doctors are furious about Medicare reimbursement and medical equipment providers are telling me it is no longer worthwhile to participate in the Medicare Program.

Mr. Speaker, we have got a mess on our hands. Our health care system isn't improving—it is just getting worse. Something has to change or the health of our citizens, particularly, those who cannot afford the luxury of private health insurance, will continue to decline.

It is encouraging to me that some of my colleagues are recognizing that this is a serious problem. However, it is also very discouraging to me that the 102d Congress will adjourn and the health care issue, which is one of the top concerns of the American people, has not even been debated on the floor of the House of Representatives.

It is my hope that this issue will be taken more seriously by the 103d Congress.

REPORTING ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5368, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1993, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 102–1012) on the resolution (H. Res. 600) waiving points of order against the conference report to accompany the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 102–1013) on the resolution (H. Res. 601) waiving points of order against the conference report to accompany the bill (H.R. 776) to provide for improved energy efficiency, and against the consideration of such conference report which was referred to the House Calendar and ordered to be printed.

□ 1020

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5368, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1993

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 600, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 600

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 600 is the rule providing for consideration of H.R. 5368, the Foreign Operations, Export Financing and Related Program appropriations for fiscal 1993. The rule waives all points of order against the conference report and against its consideration. It further provides that the conference report shall be considered as read.

Mr. Speaker, this rule will allow the House to proceed to the consideration of the foreign operations appropriations bill expeditiously. The agreement provides a total funding level of $26.3 billion, including $13.9 billion for foreign assistance accounts and $12.3 billion for the United States contribution to the IMF. It fully funds the foreign assistance requests for Israel and Egypt; provides loan guarantees for Israel; funds democratic initiatives in the Soviet Union; increases funding to meet the growing needs of refugees; and provides more than $200 million for emergency assistance for the Balkans and Africa.

Finally, the bill provides more than $350 million for programs to assist children.

I want to commend Chairman OBEY for including social recommendations of the Select Committee on Hunger. I understand this package includes $275 million for child survival, $135 million for basic education and $100 million for UNICEF; $25 million was also earmarked for vitamin A, iodine and micronutrients.

Mr. Speaker, we are in the final hours of the session. I urge my colleagues to support the rule and pass this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I shall be brief; all of us are cognizant of the need to keep the process moving forward at this late hour.

As the gentleman from Ohio has indicated, this rule waives all points of order against the conference report itself and against its consideration.

I know of no objection to considering this conference report under this particular rule, and I ask all Members to support the rule.

But, Mr. Speaker, the conference report itself is another matter. I must express the same reservations today that I expressed on Saturday concerning the Russian aid bill.

The conference report today contains the actual appropriation of $12.3 billion for the International Monetary Fund, the authorization for which was contained in the Russian aid legislation that I voted against.

I have significant reservations about this provision, as indeed I believe the time has come to reevaluate our entire foreign aid program in general.

During this postcold war era, which is now emerging, and with our own country facing a number of important challenges domestically, the United States simply cannot afford to be the world's Sugar Daddy any longer.

Although the Subcommittee on Foreign Operations has done a commendable job in holding down the spending to a level that is well below the President's request, I am constrained to oppose this conference report.

Nevertheless, I urge support for the rule—and I commend the work of Mr. OBEY and his subcommittee.

Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. DREIER] be allowed to substitute for me and control the remainder of our time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Illinois [Mr. PORTER], a very hard-working member of the Committee on Appropriations.

Mr. PORTER. Mr. Speaker, I would point out to the gentleman from New York [Mr. SOLOMON] that the $12 million to which he refers for the IMF is a capital increase and not an outlay in this bill and that the subcommittee has worked very hard to bring this bill in under the allocation. If you look at the record for the last 7 or 8 years, foreign assistance, as it should have, has been cut more, in percentage terms, than any other function of the Government.

Mr. Speaker, in this bill this year, all military assistance for Greece, Turkey, and Portugal is in the form of concessional loans rather than grants. This saves as much as 570 million U.S. taxpayer dollars and, I believe, accurately reflects our Nation's foreign assistance priorities.

Frankly, despite the fact that the military assistance provided to Turkey in this bill is in loans and not grants, I still have an objection to this funding.

Despite Turkey's importance as an ally, I am absolutely appalled by its heinous, shameful record of human rights abuses and its complicity in the continued division of the island nation of Cyprus.

I also read in the Washington Post this morning that the Turkish Government has begun a new policy of eschewing a negotiated settlement with its Kurdish population and instead is focusing on putting down the Kurds militarily. I am very concerned that the Government of Turkey does not understand, much less share, our basic value system.

I am concerned that, although there is ample evidence that the human rights of the Turkish people are systematically abused by Turkish police—and these human rights abuses have been detailed in hearings of the Congressional Human Rights Caucus—the Government of Turkey has done next to nothing to end these abuses. Torture in police stations in Turkey is commonplace, for lack of a better word. In the first half of 1992, Amnesty International has confirmed at least seven deaths in police custody due to torture. Amnesty also reports that hundreds of political prisoners have been denied fair trials and sentenced to prison terms on the basis of confessions produced by torture.

I am also disgusted by Turkey's failure to lift a finger to advance a peaceful solution in Cyprus. Largely because of Turkey's failure to pressure its illegitimate protectorate in the north of Cyprus the U.N.-sponsored peace talks in New York are in grave jeopardy of failing. For a nation that desperately wants to become part of the European Community, which desires a high level of assistance from the United States, and which fancies itself a leader in the eastern Mediterranean, Turkey is gravely miscalculating the cost of its continued intransigence on the Cyprus issue.

I strongly believe that all assistance to Turkey, both military and economic, should be zeroed out. It is shameful to provide assistance to a nation that so obviously does not share our commitment to human rights and will not cooperate with the United Nations to reunify Cyprus.

I am personally putting Turkey on notice right now. The U.S. Congress is fed up. In the coming year, a number of Members, including this one, will work to ensure that not one penny of grants or loans go to Turkey in fiscal year 1994 unless Turkey demonstrates that it shares our values and goals. Help solve the Cyprus problem and respect the human rights of your citizens or don't come looking for one thin dime from the United States.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 1 minute to my very good friend, the gentlewoman from Florida [Ms. ROS-LEHTINEN].

□ 1030

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, although I support many aspects of the Foreign Operations bill, I rise in opposition to one part of it. Of the $2.7 billion appropriated to the Economic Support Fund, a little over $100 million will probably go to Nicaragua. I believe that funds should only have been given to the Chamorro government with conditions; conditions upon a full investigation of all human rights abuses, removal of all Sandinista control of the judicial system, of the armed forces, of the police, and return of all confiscated property, as well as many other important aspects.

The funds are not specifically earmarked for Nicaragua, but many officials have stated that the funds will probably end up there. That is a shame. Now should have been the time to continue to hold the feet of Nicaraguan Government to the fire and force the Chamorro government to have true democratic reforms in place.

I hope that President Chamorro does not think that all pressure is off and she will be back in normal operations with the Sandinistas. This is just a tiny part of the full funding which she has requested. The 1992 funding has been held up and this 1993 funding might also be held up, unless true democratic reforms are seen in Nicaragua.

Mr. DREIER of California. Mr. Speaker, I thank my very good friend for her extraordinarily eloquent statement.

Mr. Speaker, I am happy to yield back the balance of my time, and I urge support for the rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to take this opportunity to salute the chairman of the Subcommittee on Foreign Operations, Export Financing and related programs, of the Committee on Appropriations for a tremendous job on a bill that obviously overall is one of those bills that comes to the floor every year that is not all that popular. Foreign aid is not popular at this time. It has not been popular, but yet the United States has an enormous role to play, an enormous burden to carry, not only for its own citizens, but for other people around the world.

I want to repeat something that was said on the floor yesterday on foreign aid, and especially the provisions regarding aid to Russia. Very simply put, if we were not going to be in a position like we are now when the cold war was over, we would be spending billions and billions of dollars to fight off the Soviet Union and the threat of the Soviet Union. Spending the small amount that is in this bill to insure some tranquility and stability in that country and the possibility of markets opening up for U.S. firms, and jobs in exports is a small investment indeed, like the Marshall plan in Europe.

Mr. Speaker, I support this rule. I support the bill, and again for me it has been a pleasure to work with the gentleman from Wisconsin [Mr. OBEY] and the gentleman from New York [Mr. MCHUGH], two of the finest people I have ever known, and I am going to miss them dearly.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. OBEY. Mr. Speaker, pursuant to the provisions of House Resolution 600, just agreed to, I call up the conference report on the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Sunday, October 4, 1992, at page 31415.)

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I rise in support of the passage of this conference report.

In total, this bill is $1.13 billion below the President's request, $1 billion below the budget resolution, $801 million below the subcommittee 602(b) allocation, and $415 million below last year's core bill.

The bill also contains the authority to provide loan guarantees to Israel, as requested by the President, but it protects U.S. taxpayers by requiring that Israel pay all of the budget costs associated with those loans.

The bill also contains several provisions to restrict foreign aid funds to prevent the subsidization of foreign business enterprises in ways which might result in the loss of jobs here at home.

This language blends a provision offered by Senator LEAHY with one offered by Congressman BROWN and myself a few days ago.

The conference agreement also calls for an end to giveaway grant programs to our NATO Allies.

The bill provides that all military assistance to NATO Allies, those who are still getting grant military assistance, namely, Portugal, Turkey, and Greece, be ended.

It is our view that if our NATO Allies want to purchase weapons, they ought to do it with their own money and they ought not to do it with ours. With the collapse of the Soviet Union we no longer have any reason to be engaged to what in essence is a welfare program for poorer NATO Allies. We feel that is a European responsibility. I think the House can also look with considerable pride on the fact that insistent pressure by the Congress, coupled with bipartisan cooperation in the last 4 years between the executive and legislative branches of Government has effectively ended the war in Nicaragua and achieved a cease-fire in El Salvador.

The conference agreement also continues support for programs aimed at attacking worldwide environmental problems which will have an impact on our environment and our own economy.

I would simply like to point out that the core bill originally passed this House on June 25 by a vote of 297 to 124, and the Freedom Support Act passed the House on August 6 by a vote of 255 to 164. This bill is consistent with those bills and I think merits your support.

Mr. Speaker, this is the first year that foreign assistance is moving from dealing with yesterday's problems to dealing with tomorrow's. It is the first major change in American aid policy to affect the realities of the postcold war period, and to recognize our stake in those realities.

The United States has spent—let me put it this way. If you take all the money which the United States has spent since the day that Harry Truman first decided it was necessary to contain the Soviet Union until it changed, and if you divide all that money by the number of American families paying income taxes in this country today, you will see that the cost of winning the cold war has been about $82,000 per American family.

It seems to me, given that expenditure, that if we can contribute in any way to the survival of the new democratic forces that work in Russia, we would be saving countless lives and countless billions in taxpayer dollars.

Mr. Speaker, our new approach to foreign assistance has been put together in an absolutely bipartisan fashion.

I would like to thank the members of the subcommittee and take particular note of a number of Members who will be departing; but before I do that, I should also like to make note of the fact that this bill, in addition to meeting our international responsibilities while still saving money, also helps our own economy, because it provides an increase of more than $155 million to support a $4½ billion program level that will aid in the exporting of U.S. goods and products abroad.

I would simply like to take a moment to thank the committee staff, Terry Peel, Bill Scheurch, Mark Murray, Mike Marek, Lori Maes, Virginia Poole, and Chris Walker who worked so steadfastly with Congressman EDWARDS; and also I would like to take special note of the work that Gary Bombardier has been doing through the years in assisting Congressman MCHUGH, who as we all know will be leaving.

I would like to make one other point. In the year since I have become chairman of the subcommittee, this House has accepted our recommendations to cut some $8.4 billion out of Presidential foreign assistance requests. I think that is quite an accomplishment, and that would not have been possible without the assistance of a good many members of the subcommittee who will not be with us this year.

The gentleman from Oklahoma [Mr. EDWARDS] has served as the ranking Republican since 1987. He served as a member of the subcommittee since 1981. He has been a key factor in our ability both to save taxpayers' money and to bring a bill to the floor which has been handled in a bipartisan fashion and has met with bipartisan support.

□ 1040

Second, the gentleman from New York [Mr. MCHUGH], as all my colleagues know, is also leaving, and in my view no one has had a bigger hand in shaping this legislation over the years than has MATT MCHUGH. Since he came on the subcommittee for the first time in 1978, Mr. Speaker, he has pushed three successive administrations and Congress to face up to our international responsibilities in a humanitarian way while at the same time recognizing the need for fiscal discipline. I think it is safe to say that he has spent more hours focusing on the details of this legislation than virtually any other committee member, including yours truly. I am going to very much miss his services. I am going to very much miss his friendship in this body, although I expect our personal friendship to continue for the rest of our lives. In my view there is no Member of this House who more aptly sums up what public service ought to be all about than does the gentleman from New York [Mr. MCHUGH].

I also hate to see that the gentleman from Florida [Mr. LEHMAN], our colleague, is leaving. Anyone who knows him knows that he has made as his top priority the problems associated with the most desperate people on the face of the globe, refugees who have no home, no homeland, no hope, and I think, through his efforts, this Congress has been able to change that, at least in small ways, for a good many of our fellow creatures on this globe, and for that they will have the gentleman from Florida [Mr. LEHMAN] to thank more than any other human being.

The gentleman from Florida [Mr. SMITH] is leaving. He has only been with us 2 years, but before that he spent a good many years on the foreign affairs authorizing committee. He brought tremendous expertise to this subcommittee. He has also brought tremendous passion to his work, and I think we respect both that expertise and that passion. It has been a pleasure to work with him, and I am very much going to regret his departure from this institution.

The gentleman from Arkansas [Mr. ALEXANDER] has spent as many years as I have on the Committee on Appropriations. He also has only spent one term on this subcommittee, but he has brought his concerns for justice and for fair play to this committee in all of his endeavors, and I very much appreciate the work he has done, and I very much regret that he will be leaving the committee at the end of the year, and the Congress as well.

I would also like to thank the other members of the subcommittee who have helped to produce a bill. I see two others on the floor right now, the gentleman from Illinois [Mr. PORTER] and the gentleman from New York [Mr. GREEN]. Both of them, I think, were very helpful in finally seeing to it that after a long period we have ended what I think our NATO Allies seem to think was an entitlement to grant military assistance. It is time we end that kind of thinking, and I appreciate their help in doing it.

And I appreciate the support that we have had also from the gentleman from Florida [Mr. FASCELL] who will be leaving this place. We have had a very cooperative relationship between the Appropriations Subcommittee and the authorizing committees in no small measure because of his willingness to deal with very difficult problems in a very reasonable way.

I submit the following letter from the chairman of the Budget Committee [Mr. PANETTA] and other tabular material:

COMMITTEE ON THE BUDGET,
Washington, DC, October 5, 1992.

Hon. DAVID OBEY,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE OBEY: Thank you for your inquiry about the budget scoring of provisions in the Foreign Operations Appropriations conference report relating to loan guarantees for the state of Israel.

As you know, under the Budget Enforcement Act the Office of Management and Budget is the final arbiter for the scoring of appropriation bills. It is my understanding that OMB will not score any net cost with regard to the loan guarantees for Israel. OMB apparently will assign a loan subsidy rate of 4.5% for these loans, which the state of Israel will pay.

Thank you again for your inquiry.

Sincerely,

LEON E. PANETTA,
Chairman.

Foreign Operations, Export Financing, and Related Programs, FY 1993 (H.R. 5368)

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - MULTILATERAL ECONOMIC ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
International Financial Institutions						
World Bank Group						
Contribution to the International Bank for Reconstruction and Development:						
Paid-in capital	69,089,000	70,126,332	62,180,100	62,180,100	62,180,100	-6,908,900
(Limitation on callable capital)	(2,233,903,000)	(2,267,418,063)	(2,010,512,700)	(2,010,512,700)	(2,010,512,700)	(-223,390,300)
Contribution to the Global Environment Facility				30,000,000	30,000,000	+30,000,000
Total, contribution to the International Bank for Reconstruction and Development	(2,302,992,000)	(2,337,544,395)	(2,072,692,800)	(2,102,692,800)	(2,102,692,800)	(-200,299,200)
Contribution to the International Development Association	1,044,332,000	1,060,000,000	1,024,332,000	1,024,332,000	1,024,332,000	-20,000,000
Contribution to the International Finance Corporation	39,735,000	50,000,000	35,761,500	35,761,500	35,761,500	-3,973,500
Total, contributions to the World Bank Group	(3,387,059,000)	(3,447,544,395)	(3,132,786,300)	(3,162,786,300)	(3,162,786,300)	(-224,272,700)
Budget authority	1,153,156,000	1,180,126,332	1,122,273,600	1,152,273,600	1,152,273,600	-882,400
Limitation on callable capital	(2,233,903,000)	(2,267,418,063)	(2,010,512,700)	(2,010,512,700)	(2,010,512,700)	(-223,390,300)
Contribution to the Inter-American Development Bank:						
Inter-regional paid-in capital	56,466,000	57,313,367	56,466,000	56,466,000	56,466,000	
Fund for special operations	20,272,000	20,576,000	20,272,000	20,272,000	20,272,000	
(Limitation on callable capital)	(2,202,040,000)	(2,235,076,561)	(2,202,040,000)	(2,202,040,000)	(2,202,040,000)	
Inter-American Investment Corporation	8,315,000					-8,315,000
Enterprise for the Americas Multilateral Investment Fund		100,000,000	75,000,000	100,000,000	90,000,000	+90,000,000
Total, contribution to the Inter-American Development Bank	(2,287,093,000)	(2,412,965,928)	(2,353,778,000)	(2,378,778,000)	(2,368,778,000)	(+81,685,000)
Contribution to the Asian Development Bank:						
Paid-in capital		51,040,669	25,514,303	25,514,303	38,014,303	+38,014,303
Development fund	124,979,000	144,473,634	75,000,000	75,000,000	62,500,000	-62,479,000
(Limitation on callable capital)		(186,984,240)	(186,984,240)	(186,984,240)	(278,518,000)	(+278,518,000)
Total, contribution to the Asian Development Bank	(124,979,000)	(382,498,543)	(287,498,543)	(287,498,543)	(379,032,303)	(+254,053,303)
Contribution to the African Development Fund	103,893,000	135,000,000	103,893,000	103,893,000	103,893,000	
Contribution to the African Development Bank:						
Paid-in capital	8,854,000					-8,854,000
(Limitation on callable capital)	(132,817,000)					(-132,817,000)
Total, contribution to the African Development Bank	(141,671,000)					(-141,671,000)
Contribution to the European Bank for Reconstruction and Development:						
Paid-in capital	68,986,000	70,020,600	68,986,000		60,000,000	-8,986,000
(Limitation on callable capital)	(160,966,000)	(163,381,400)	(160,966,000)		(140,000,000)	(-20,966,000)
Total, contribution to the European Bank for Reconstruction and Development	(229,952,000)	(233,402,000)	(229,952,000)		(200,000,000)	(-29,952,000)
International Monetary Fund						
United States quota, International Monetary Fund		12,313,857,000		12,313,857,000	12,313,857,000	+12,313,857,000
Selected reduction of International Finanacial Institutions				-118,973,769		
Total, contribution to International Financial Institutions	(6,274,647,000)	(18,925,267,866)	(6,107,907,843)	(18,127,839,074)	(18,528,346,603)	(+12,253,699,603)
Budget authority	1,544,921,000	14,072,407,602	1,547,404,903	13,728,302,134	13,897,275,903	+12,352,354,903
(Limitation on callable capital)	(4,729,726,000)	(4,852,860,264)	(4,560,502,940)	(4,399,536,940)	(4,631,070,700)	(-98,655,300)
Department of State						
International organizations and programs	262,431,000	256,650,000	310,000,000	312,500,000	310,000,000	+47,569.000
International Fund for Agricultural Development	18,091,000					-18,091,000
Total, title I, contribution for Multilateral Economic Assistance	(6,555,169,000)	(19,181,917,866)	(6,417,907,843)	(18,440,339,074)	(18,838,346,603)	(+12,283,177,603)
Budget authority	1,825,443,000	14,329,057,602	1,857,404,903	14,040,802,134	14,207,275,903	+12,381,832,903
(Limitation on callable capital)	(4,729,726,000)	(4,852,860,264)	(4,560,502,940)	(4,399,536,940)	(4,631,070,700)	(-98,655,300)
TITLE II - BILATERAL ECONOMIC ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
Agency for International Development						
Development Assistance Fund	1,041,640,000	1,265,500,000	1,013,480,000	1,037,480,000	1,037,480,000	-4,160,000
Health, development assistance	140,000,000					
International AIDS prevention and control program	65,000,000					
Population, development assistance	246,305,000		330,000,000	350,000,000	350,000,000	+103,695,000
Subtotal, development assistance	1,287,945,000	1,265,500,000	1,343,480,000	1,387,480,000	1,387,480,000	+99,535,000

Foreign Operations, Export Financing, and Related Programs, FY 1993 (H.R. 5368), continued

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Sub-Saharan Africa:						
Development assistance	788,175,000	775,600,000	800,000,000	800,000,000	800,000,000	+11,825,000
Africa disaster assistance			80,000,000	100,000,000	100,000,000	+100,000,000
Capital projects		100,000,000				
Private sector revolving fund:						
Operating expenses	1,347,000	1,447,000	1,347,000	1,347,000	1,347,000	
Subsidy appropriations	2,629,000	5,665,000	2,553,000	5,665,000	4,057,000	+1,428,000
(Estimated level of direct/guaranteed loans)	(56,157,000)	(118,574,000)		(118,574,000)	(81,319,000)	(+25,162,000)
Subtotal, development assistance	2,080,096,000	2,148,212,000	2,227,380,000	2,294,492,000	2,292,884,000	+212,788,000
Reappropriation (deobligation/reobligation) authority (sec. 515)	36,000,000	21,500,000				-36,000,000
Total, development assistance	2,116,096,000	2,169,712,000	2,227,380,000	2,294,492,000	2,292,884,000	+176,788,000
American schools and hospitals abroad	28,571,000	30,000,000	28,571,000	35,000,000	30,000,000	+1,429,000
Transfer				500,000	500,000	+500,000
International disaster assistance	68,965,000	40,000,000	68,965,000	40,000,000	48,965,000	-20,000,000
Payment to the Foreign Service Retirement and Disability Fund	41,351,000	42,677,000	42,677,000	42,677,000	42,677,000	+1,326,000
Operating expenses of the Agency for International Development	474,121,946	531,000,000	512,000,000	510,800,000	512,000,000	+37,878,054
Operating expenses of the Agency for International Development Office of Inspector General	37,181,000	41,456,000	37,181,000	41,456,000	39,316,000	+2,135,000
Housing and other credit guaranty programs:						
Subsidy appropriations	17,630,000	16,407,000	16,407,000	15,000,000	16,407,000	-1,223,000
Operating expenses	7,033,000	7,000,000	7,000,000	8,407,000	8,407,000	+1,374,000
(Estimated level of guaranteed loans)	(105,418,000)	(95,000,000)		(95,000,000)	(150,000,000)	(+44,582,000)
Enterprise for the Americas initiative:						
Debt restructuring		202,119,000		100,000,000	50,000,000	+50,000,000
Subtotal, Agency for International Development	2,790,948,946	3,080,371,000	2,940,181,000	3,088,332,000	3,041,156,000	+250,207,054
Economic support fund	3,167,979,000	3,112,000,000	2,739,000,000	2,526,086,000	2,670,000,000	-497,979,000
Reappropriation (deobligation/reobligation) authority (sec. 515)	12,000,000	11,000,000				-12,000,000
Total, Economic support fund	3,179,979,000	3,123,000,000	2,739,000,000	2,526,086,000	2,670,000,000	-509,979,000
International fund for Ireland	19,704,000		19,704,000		19,704,000	
Assistance for the Philippines:						
Multilateral assistance initiative for the Philippines	78,522,000	80,000,000	40,000,000	40,000,000	40,000,000	-38,522,000
Assistance for Eastern Europe	364,211,000	450,000,000	400,000,000	400,000,000	400,000,000	+35,789,000
Humanitarian and technical assistance to the former republics of the Soviet Union		350,000,000	417,000,000	417,000,000	417,000,000	+417,000,000
Demobilization and transition fund (by transfer)			(29,000,000)	(29,000,000)	(29,000,000)	(+29,000,000)
Total, Agency for International Development	6,433,364,946	7,083,371,000	6,555,885,000	6,471,418,000	6,587,860,000	+154,495,054
Independent Agencies						
African Development Foundation						
Appropriations	12,808,000	16,905,000	16,905,000	16,905,000	16,905,000	+4,097,000
Inter-American Foundation						
Appropriations	24,630,000	30,960,000	30,960,000	30,960,000	30,960,000	+6,330,000
Overseas Private Investment Corporation						
Subsidy appropriations	8,945,000	11,605,000	8,945,000	11,605,000	9,800,000	+855,000
Operating expenses	8,128,000	8,833,000	8,128,000	8,128,000	8,128,000	
(Limitation on direct loans)		(30,000,000)				
(Limitation on guaranteed loans)	(400,000,000)	(500,000,000)		(650,000,000)	(650,000,000)	(+250,000,000)
(Equity investment limitation)		(5,000,000)		(5,000,000)		
Total, Overseas Private Investment Corporation	17,073,000	20,438,000	17,073,000	19,733,000	17,928,000	+855,000
Total, Funds Appropriated to the President	6,487,875,946	7,151,674,000	6,620,823,000	6,539,016,000	6,653,653,000	+165,777,054
Peace Corps						
Appropriations	197,044,000	218,146,000	218,146,000	218,146,000	218,146,000	+21,102,000
Department of State						
International narcotics control	147,783,000	173,000,000	147,783,000	147,783,000	147,783,000	
Migration and refugee assistance	620,688,000	550,000,000	620,688,000	620,688,000	620,688,000	
United States Emergency Refugee and Migration Assistance Fund	49,261,000	20,000,000	49,261,000	49,261,000	49,261,000	

Foreign Operations, Export Financing, and Related Programs, FY 1993 (H.R. 5368), continued

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Anti-terrorism assistance	11,848,000	15,555,000	15,555,000	11,848,000	15,555,000	+3,707,000
Total, Department of State	829,580,000	758,555,000	833,287,000	829,580,000	833,287,000	+3,707,000
Total, title II, Bilateral economic assistance:						
New budget (obligational) authority	7,514,499,946	8,128,375,000	7,672,256,000	7,586,742,000	7,705,086,000	+190,586,054
(Limitation on direct loans)	....	(30,000,000)	....	....	....	....
(Limitation on guaranteed loans)	(400,000,000)	(500,000,000)	....	(650,000,000)	(650,000,000)	(+250,000,000)
(Estimated level of direct/guaranteed loans)	(161,575,000)	(213,574,000)	....	(213,574,000)	(231,319,000)	(+69,744,000)
(Estimated loan program)	....	(5,000,000)	....	(5,000,000)	....	....
TITLE III - MILITARY ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
International Military Education and Training	44,573,000	47,500,000	42,500,000	42,500,000	42,500,000	-2,073,000
Foreign Military Financing Program:						
Grants	3,992,298,000	4,089,225,000	3,300,000,000	3,840,000,000	3,300,000,000	-692,298,000
(Limitation on administrative expenses)	(27,508,000)	(29,000,000)	(26,000,000)	(26,000,000)	(26,000,000)	(-1,508,000)
Direct concessional loans:						
Subsidy appropriations	50,148,000	63,132,000	54,230,000	55,440,000	149,000,000	+98,852,000
Administrative expenses	....	200,000	200,000	200,000	200,000	+200,000
(Estimated loan program)	(404,000,000)	(360,000,000)	(855,000,000)	(315,000,000)	(855,000,000)	(+451,000,000)
FMF program level	(4,396,298,000)	(4,449,225,000)	(4,155,000,000)	(4,155,000,000)	(4,155,000,000)	(-241,298,000)
Subtotal, Foreign military financing program	4,042,446,000	4,152,557,000	3,354,430,000	3,895,640,000	3,449,200,000	-593,246,000
Reappropriation (deobligation/reobligation) authority (sec. 515):						
Foreign military financing	....	10,000,000	....	....	....	....
Military assistance (reappropriation)	....	10,000,000	....	....	....	....
Total, Foreign military assistance	4,042,446,000	4,172,557,000	3,354,430,000	3,895,640,000	3,449,200,000	-593,246,000
Special Defense Acquisition Fund (limitation on obligations)	(230,935,000)	(280,930,000)	(150,000,000)	(250,000,000)	(225,000,000)	(-5,935,000)
Peacekeeping operations	27,586,000	27,166,000	27,166,000	27,166,000	27,166,000	-420,000
Total, title III, Military assistance programs:						
New budget (obligational) authority	4,114,605,000	4,247,223,000	3,424,096,000	3,965,306,000	3,518,866,000	-595,739,000
(Limitation on obligations)	(258,443,000)	(309,930,000)	(176,000,000)	(276,000,000)	(251,000,000)	(-7,443,000)
(Estimated loan program)	(404,000,000)	(360,000,000)	(855,000,000)	(315,000,000)	(855,000,000)	(+451,000,000)
TITLE IV - EXPORT ASSISTANCE						
EXPORT-IMPORT BANK OF THE UNITED STATES						
Limitation of Program Activity:						
Subsidy appropriations	602,954,000	633,000,000	757,000,000	757,000,000	757,000,000	+154,046,000
(Estimated loan program)	(11,000,000,000)	(11,385,000,000)	....	(13,000,000,000)	(15,500,000,000)	(+4,500,000,000)
Administrative expenses	38,042,000	49,000,000	38,042,000	45,683,000	45,683,000	+7,641,000
Negative subsidy	....	....	-16,533,000	-16,533,000	-16,533,000	-16,533,000
Total, Export-Import Bank of the United States:						
New budget (obligational) authority	640,996,000	682,000,000	778,509,000	786,150,000	786,150,000	+145,154,000
FUNDS APPROPRIATED TO THE PRESIDENT						
Trade and Development Program						
Trade and development	34,483,000	40,000,000	40,000,000	40,000,000	40,000,000	+5,517,000
Total, title IV, Export assistance:						
New budget (obligational) authority	675,479,000	722,000,000	818,509,000	826,150,000	826,150,000	+150,671,000
(Estimated loan program)	(11,000,000,000)	(11,385,000,000)	....	(13,000,000,000)	(15,500,000,000)	(+4,500,000,000)
TITLE V - PEACEKEEPING						
Department of State						
Contributions for international peacekeeping operations	270,000,000	....	....	....	....	-270,000,000
Grand total, all titles:						
New budget (obligational) authority	14,400,026,946	27,426,655,602	13,772,265,903	26,419,000,134	26,257,377,903	+11,857,350,957
(Limitation on obligations)	(258,443,000)	(309,930,000)	(176,000,000)	(276,000,000)	(251,000,000)	(-7,443,000)
(Limitation on guaranteed loans)	(400,000,000)	(500,000,000)	....	(650,000,000)	(650,000,000)	(+250,000,000)
(Limitation on direct loans)	....	(30,000,000)	....	....	....	....
(Limitation on callable capital)	(4,729,726,000)	(4,852,860,264)	(4,560,502,940)	(4,399,536,940)	(4,631,070,700)	(-98,655,300)
(Estimated level of direct/guaranteed loans)	(161,575,000)	(213,574,000)	....	(213,574,000)	(231,319,000)	(+69,744,000)
(Estimated loan program)	(11,404,000,000)	(11,750,000,000)	(855,000,000)	(13,320,000,000)	(16,355,000,000)	(+4,951,000,000)

Foreign Operations, Export Financing, and Related Programs, FY 1993 (H.R. 5368), continued

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - MULTILATERAL ECONOMIC ASSISTANCE						
Contributions to International Financial Institutions	1,544,921,000	14,072,407,602	1,547,404,903	13,728,302,134	13,897,275,903	+12,352,354,903
International organizations and programs	280,522,000	256,650,000	310,000,000	312,500,000	310,000,000	+29,478,000
Total, contribution for Multilateral Economic Assistance	1,825,443,000	14,329,057,602	1,857,404,903	14,040,802,134	14,207,275,903	+12,381,832,903
TITLE II - BILATERAL ECONOMIC ASSISTANCE						
Bilateral Development Assistance	3,872,083,946	4,125,375,000	4,056,552,000	4,203,656,000	4,158,382,000	+286,298,054
Economic Support Fund/Special Assistance Initiatives	3,642,416,000	4,003,000,000	3,615,704,000	3,383,086,000	3,546,704,000	-95,712,000
Total, Bilateral Economic Assistance	7,514,499,946	8,128,375,000	7,672,256,000	7,586,742,000	7,705,086,000	+190,586,054
TITLE III - MILITARY ASSISTANCE						
Foreign Military Financing Program:						
Grants	3,992,298,000	4,089,225,000	3,300,000,000	3,840,000,000	3,300,000,000	-692,298,000
Direct concessional loans, subsidy costs	50,148,000	63,332,000	54,430,000	55,640,000	149,200,000	+99,052,000
(Limitation on concessional loans)	(404,000,000)	(360,000,000)	(855,000,000)	(315,000,000)	(855,000,000)	(+451,000,000)
Subtotal, Foreign Military Financing Program:						
Budget authority	4,042,446,000	4,152,557,000	3,354,430,000	3,895,640,000	3,449,200,000	-593,246,000
(Program level)	(4,396,298,000)	(4,449,225,000)	(4,155,000,000)	(4,155,000,000)	(4,155,000,000)	(-241,298,000)
Other, Military	303,094,000	375,596,000	219,666,000	319,666,000	294,666,000	-8,428,000
Total, Military Assistance Programs	4,345,540,000	4,528,153,000	3,574,096,000	4,215,306,000	3,743,866,000	-601,674,000
TITLE IV - EXPORT ASSISTANCE						
Export Assistance	675,479,000	722,000,000	818,509,000	826,150,000	826,150,000	+150,671,000
TITLE V - PEACEKEEPING						
Peacekeeping	270,000,000	....	....	....	....	-270,000,000
Total, all titles	14,400,026,946	27,426,655,602	13,772,265,903	26,419,000,134	26,257,377,903	+11,857,350,957

CONFERENCE REPORT ON H.R. 5368, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1993

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, I rise to associate myself with the remarks of the gentleman from Wisconsin [Mr. OBEY], not only about the bill, but about his colleagues, and particularly to commend him on this very difficult task which he has performed in such an admirable manner. My respect to the gentleman from Wisconsin for this legislation.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, I thank my colleague, the gentleman from Oklahoma [Mr. EDWARDS], for yielding to me, and I want to join in expressions of regret that he will not be with us in future years. His leadership on our side of the aisle has been a very powerful one and one of great benefit to the Nation.

Mr. Speaker, I rise in support of the foreign operations appropriations bill for 1993 and take this opportunity to commend the chairman of our subcommittee, the gentleman from Wisconsin [Mr. OBEY], and the ranking minority member, the gentleman from Oklahoma [Mr. EDWARDS], for their hard work in crafting this important legislation. Let me take a couple of minutes to highlight some points in the bill that are of particular interest.

First, Mr. Speaker, at long last the Congress and the administration have agreed to provide the humanitarian loan guarantee program for Israel. The United States has no way of knowing what the future holds for Jewish people throughout the former Soviet Union and Eastern Europe, and we should all be proud today that we were able to provide Israel with the support it has requested to provide a safe haven for Jewish refugees.

Second, Mr. Speaker, I am pleased that the House largely prevailed with respect to the provisions for aid to Greece and Turkey. I share the concern that has been expressed on the floor during the debate on the rule on this bill as to the Turkish role in Cyprus and as to the state of human rights within Turkey itself. I am deeply disturbed at Turkey's failure thus far to respect the program set out in the U.N. sponsored peace talks, and I shall certainly want to return to that issue next year if Turkey does not prove more forthcoming than it has been. Earlier this year, Mr. Speaker, I introduced legislation which would terminate aid to Turkey if Turkey did not agree to withdraw its troops from Cyprus. I think that we must press forward on that issue next year if Turkey has not indicated its willingness to withdraw its troops. In this respect, I am happy that the bill includes $15 million in aid for Cyprus particularly aimed at programs that will contribute toward reunification.

On the issue of international family planning, Mr. Speaker, this bill brings both good news and some very bad news. I am delighted that the bill includes $350 million in bilateral family planning aid for families throughout the developing world. That represents a $100 million increase above our current level of spending for this program. However, Mr. Speaker, I should remind my colleagues that in real dollars that just about brings us back to where we were in 1985, so the progress here is relative to say the least.

On the policy issue, Mr. Speaker, unfortunately the conference report before us does not include either refunding of the United Nations population fund, nor an overturning of the infamous Mexico City policy. That occurred because of the President's threat to veto the bill if those provisions were in it, and that is why the conference chose to delete them.

I want to state for the record, however, that I had proposed to the conference that we follow a course of action where we would pass two bills, one a bill with the funding for the IMF for aid to the Soviet Union which would have the provisions for funding the UNFPA and throwing out the Mexico City doctrine, and the second bill without the Eastern European aid and also complying with the President's request to cut out the UNFPA and Mexcio City doctrine language. We all know that last week the President signed the energy and water appropriation bill with some provisions that he had earlier threatened would be a basis for a veto, because of his concern for the superconducting super collider.

It was my hope that, if the President were faced with a choice between funding for Eastern Europe and the family planning language that he wanted versus no funding for Eastern Europe and the family planning language that he wanted, the President would consider the funding for Eastern Europe at least as important as the superconducting super collider and sign the bill.

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While the chairman of the conference, Senator LEAHY, expressed admiration for the ingenuity of my proposal, he was not prepared to go along with it. Nor can I say that the gentleman from Wisconsin [Mr. OBEY] was particularly encouraging with respect to my proposal. As a result, the conference, unfortunately, decided to delete the Mexico City and UNFPA provisions.

Mr. Speaker, there is one final point: I want to commend the conference for ensuring that nearly $20 million is provided for the International Fund for Ireland. That money is targeted to support new economic and commercial life for areas of Ireland that have been very hard hit by the division of the country, and it is extremely important. Many of us had the privilege a year ago of visiting Ireland with the Speaker and saw the benefits of the program. I am delighted it has been continued in this bill.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I want to commend my chairman and members of the subcommittee for bringing out this very good bill, and particularly thank the staff for their very hard work in making it all come about.

It is with great sadness that we are going to bid farewell to our good friend, the gentleman from Oklahoma [Mr. EDWARDS], who has served in this Congress so long and so well. The gentleman has been one of my good friends in the House of Representatives, a man for whom I have the highest respect, a thoughtful conservative who has worked to solve the problems of our country, and we are going to miss him greatly and wish him well in anything that he chooses to do in the future.

Mr. Speaker, this conference report contains loan guarantees for Israel that are absolutely essential to settle hundreds of thousands of refugees from the Soviet Union, for whose settlement this country has a moral obligation.

Mr. Speaker, we sought to bring people from the Soviet Union, oppressed people denied the right to emigrate, to freedom. I went to the Soviet Union in 1982 to visit refusnik families in both Moscow and Leningrad, and came back with the concept of the congressional human rights caucus, which I then formed on a bipartisan basis. The congressional human rights caucus has worked over the past 10 years to help bring people out of the Soviet Union.

At one time we had on our computers over 5,000 active cases of refusniks for whom we attempted to intercede and bring to freedom. We worked tirelessly through those years to intercede, sometimes successfully, and sometimes not. The Helsinki Commission, a statutory body of both the Congress and the executive branch, of course, was also working along those lines, together with many, many individual Members of this House of Representatives and of the Senate.

In late 1988 I went with Helsinki Commission to the Soviet Union about the time that things began to thaw. We sat across the table from negotiators from the Supreme Soviet who for the first time were willing not to obstruct, but cooperate in releasing refusniks.

I said immediately, "Well, Mr. Chairman," referring to the Soviet negotiator, "I have in my hand a list of 604 people who have been repeatedly denied the right to leave the Soviet Union." This list, Mr. Speaker, was provided to me by Pamela Cohen, president of the Union of Councils of Soviet Jewry, and chairman of Chicago action for Soviet Jewry.

I handed it to the chairman, and most of those individuals got their release papers before we actually left the Soviet Union.

We have worked long and hard to bring people to freedom, to have the chance to emigrate and since 1989 hundreds of thousands have left and continue to leave. We have an obligation to see that they are able to emigrate, that they have a chance to settle in Israel or, in some cases, in the United States, and our commitment through the loan guarantees to facilitate this process is a moral one and an absolute one.

Chances that these loan guarantees will be without cost to the American taxpayer are very high. The United States is not paying anything, but to facilitate loans—many of which will be made by and will benefit U.S. commercial banks—is guaranteeing to pay if Israel doesn't. This permits the Israelis to borrow at lower interest costs, and, given the fact that Israel has never defaulted in its 44 year history on any loan, our risk is quite small.

In addition to our commitment Mr. Speaker, time is of the essence. Anti-Semitism is rearing its ugly head once again and more openly, unfortunately, in the former Soviet Union. It is essential, therefore, that the United States not only help facilitate increased emigration of Soviet Jews, but that we do everything possible through U.S. assistance to prevent the possibility of a fascist dictatorship, by encouraging democracy, human rights and the rule of law, and ensuring the establishment of a productive free enterprise economy. That aid to the former Soviet Republics is also an essential part of this package, and I am proud that the committee has put it into the bill and made it a reality.

I also want to mention the provision in this bill that requires the State Department to begin including in its report on human rights a description of the extent to which indigenous peoples around the globe are able to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources, and assess the extent of protection of their political and civil rights.

As a whole, indigenous peoples have faired very poorly in the modern world. They have experienced encroachments on their traditional lands and have endured depredations caused by the modern world's insatiable demand for minerals, timber and farmland. In addition, the modern world has often devastated the delicate ecosystems in which indigenous peoples live. These pressures have led to a breakdown of the complex and unique cultures of many indigenous tribal peoples—what essentially amounts to their extinction.

Not only have indigenous peoples frequently been displaced or marginalized, it is not uncommon for them to be denied access to the benefits of the judicial systems that operate in their countries.

Indigenous peoples have been and continue to be defrauded, displaced, and sometimes killed with essentially no judicial recourse.

Today indigenous tribes such as the Kayapo and Yanomamo of the Amazon rain forest are fighting for their existence against the pressures of deforestation and gold mining on their traditional lands, this despite creation of a 9.4 million hectare reserve for Brazil's Yanomamo Indians and constitutional assurances that they will have autonomy over their lands or at least share in the proceeds from any exploitation by the State.

I believe that it is appropriate and important to have the State Department include information on the human rights of indigenous peoples in its annual report and I look forward to seeing this new element incorporated into the upcoming edition.

Mr. OBEY. Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I rise in support of the conference report and urge my colleagues to vote for it.

As usual, there were a number of significant differences between the House and Senate versions of the legislation. However, the conference report represents a reasonable compromise and certainly deserves our support.

As our chairman indicated, this conference report cuts foreign assistance by more than $1 billion below the amounts requested by President Bush. It also includes a number of very important provisions, some of which have been mentioned previously, but which I would like to highlight.

For example, we have authorized the President to provide up to $10 billion in loan guarantees over the next 5 years to help Israel resettle those Jews who leave the former Soviet Union.

This is somewhat controversial in the country, although not so much in Congress, because there is a recognition that we have some responsibility to help Israel absorb these people for whose release we pled for many years.

It is also important to emphasize that this will not cost the American taxpayers 1 dime unless Israel were to default on these loans. The guarantees simply permit Israel to go into the private marketplace and get these loans on commercial terms which are less expensive because of the guarantees.

The chairman of our subcommittee conducted hearings on the capacity of Israel to repay these loans, and the weight of the evidence certainly indicated that Israel would repay them.

Accordingly, there is unlikely to be any cost whatsoever associated with those guarantees.

Second, consistent with the authorizing legislation already approved by Congress, we have agreed to provide the needed authority for U.S. participation in the IMF quota increase. This increase is absolutely critical in terms of a Western response to the transition problems in Eastern and Central Europe, including the former Soviet Union.

Third, we have sent a strong signal to the Government of Indonesia that we disapprove of its behavior in East Timor. The bill unconditionally terminates military education and training for that nation.

Fourth, we funded a number of new and important initiatives, including U.S. participation in the global environmental facility. We have successfully resisted the other body's efforts to further cut funding for existing commitments to important multilateral institutions like the International Development Association.

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Finally, Mr. Speaker, we have provided substantial funding to continue U.S. leadership in addressing compelling humanitarian problems abroad, such as the drought situation currently afflicting millions of people in southern Africa.

Mr. Speaker, this is the last opportunity I will have to speak on foreign assistance in the Congress. I continue to believe that a modest foreign assistance program, effectively targeted and wisely administered, is an indispensable tool for advancing the interests of the United States abroad. I also know that the success or failure of our bilateral foreign assistance program depends largely upon the work of a single agency, the Agency for International Development.

During the last 15 years I have had the opportunity to review the work of this agency closely and discuss that work on a continuing basis with many career AID officials. By and large, I have found them to be bright, energetic, and talented, and also deeply committed to making the world in which we live a better place.

AID is going through a very difficult period right now. The morale at that agency is lower than at any time I can remember. Many informed sources believe that AID, with its troubled leadership, being bogged down in redtape, being overwhelmed with too many competing priorities, and in some measure driven by ideological appointees with no real interest or experience in international development, is not a salvageable agency. I believe it is salvageable, so long as the next President and the next Secretary of State give their interest and attention to the underlying problems in this agency, and so long as the next Congress provides the kind of support that is necessary to make that agency work.

I would like to conclude my comments, Mr. Speaker, by thanking a very dedicated staff, which has helped all of us on this subcommittee and, indeed, the entire Committee on Appropriations and Congress to do their work. I would like to take special note of my own staff person, Gary Bombardier, who has helped me for many years, a very dedicated, knowledgeable person whom I know has many more contributions to make either in the Congress or elsewhere in Government.

I would also like to thank all the members of the subcommittee with whom I have served and especially those who are leaving, including the gentleman from Oklahoma [MR. EDWARDS], the ranking member, who has provided, with our chairman, exceptional leadership.

Finally Mr. Speaker, I would like to take special note of the chairman of this subcommittee, the gentleman from Wisconsin [MR. OBEY], who has been a very close friend but, more importantly for this institution, a leader not just on foreign assistance but on a wide variety of other issues that affect this country. I can think of no other Member who has contributed more during my years in the House of Representatives than the gentleman from Wisconsin [MR. OBEY].

He is an inspired leader. He is one with whom I have worked closely and have enjoyed a very fond relationship. I will certainly miss working with him, but I am reassured, as I leave this institution, that three are Members like DAVID OBEY who will continue to serve our country with great distinction.

In closing, I want to again urge my colleagues to support the conference report. It is a responsible piece of legislation and vitally important to American interests abroad.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I rise today to briefly comment on H.R. 5368, the Foreign Operations appropriations bill.

First, I would like to thank my friend, the gentleman from Oklahoma [Mr. EDWARDS], our ranking member, for his service and his leadership on the subcommittee. He will not be back next year, and his presence will be sorely missed. His staffer, Chris Walker, who has been an invaluable source of information and guidance to all of us as Republicans on the committee, will also be missed.

I would also like to thank the gentleman from Wisconsin, Chairman OBEY, because he has done his usual fine job on this bill, and he and all his staff have worked well with all of the members on the subcommittee. I have found my service on the subcommittee as an extraordinarily good opportunity to work with a lot of fine people.

Mr. Speaker, we bring a bill to the floor that is worth passing, even though it falls slightly short of the goals set forth by the administration.

I am pleased that we were able to cut nearly $1/2 billion from the outlay levels contained in last year's legislation, and I commend the gentleman from Wisconsin, Chairman OBEY, for working with the Republicans during the conference to eliminate language which has prompted a veto threat by the President.

The bill does ably address some admirable policy objectives, such as the $10 billion in loan guarantees to help Israel resettle the Soviet Jews who have entered the country. I understand that the discount points for those loan guarantees will be paid by Israel, and also I am glad to say that there is a freeze on West Bank settlements in order to pave the way for peace in the area.

There is full funding for President Bush's plan to stabilize Russia through targeted economic assistance, while conditioning the aid on a withdrawal of Russian troops from the Baltics and a moratorium on Russian military sales to Iran.

There is $55 million in humanitarian and refugee aid to Bosnia-Hercegovina and Croatia, and $15 million to fully investigate the POW-MIA sightings in Laos and Cambodia, and $140 million for the two components of the President's enterprise zone for the Americas initiative, which will facilitate trade between the United States and our Latin American allies and create export jobs for United States workers.

The bill is not perfect, though. In my opinion, its greatest shortcoming is its poor treatment of a staunch and loyal ally of the United States, Turkey. Last year we provided Turkey with $500 million in grants in military assistance. This year we have reduced the grants to zero. Instead we have offered to loan Turkey $450 million, assistance that Turkey cannot accept because their battered economy cannot absorb additional interest payments.

In fact, Turkey already repays the United States over $250 million annually to service military loans we have given them in the past. Providing loans instead of grants effectively cuts off all U.S. military assistance to an ally that is greatly in need.

The Turks have continued to honor an embargo against Iraq while other allies of the United States have more selectively honored the embargo. They have also allowed their territory to be used for Operation Provide Comfort giving the Kurds a safe haven from Iraqi brutality.

The Turkish economy has suffered losses exceeding $8 billion since the gulf war. They have seen their GNP reduced by fully 10 percent, and Turkey is the only predominantly Moslem nation to enjoy democracy. Their strategic location next to Syria, Iraq, Iran, and some of the emerging nations of the former Soviet Union make her a valuable ally and a shining example for freedom in the region.

Turkey was a staging point for the United States air raids into Iraq during the gulf war, as we all know, so they deserve better treatment. We have not honored the sacrifices they have made, and I regret this section is in the bill the way it is.

Turkey would largely spend our grant aid in the United States to maintain jobs in our own defense industry. So that would be money well spent.

But otherwise, I say to my colleagues that this is fundamentally a good bill, and I urge its adoption.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, 20 years ago, when I came here, I did not expect for my mentor I would have someone 25 years younger and it turned out not to be my son, but the gentleman from Wisconsin [Mr. OBEY] has been my mentor. And I have learned so much from him. I want to thank him for helping me.

I also rise in support of the conference report and urge its adoption. It has so many good things in there that I am interested in. It has the loan guarantees for Israel. It has aid for refugees. It has child survival money. It has support for the Peace Corps and so many good things that the chairman and the members of our subcommittee have provided and have worked so diligently for over a number of years.

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It has been a privilege to serve on this subcommittee, and I have been privileged to serve with such wonderful people as on this subcommittee and their very fine staff. They are all my friends, and I am sorry to leave them. But once again I want to thank them, the staff and the Members. They have been great and productive years and I will miss them for many years to come.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank my friend from Oklahoma for yielding the time.

Mr. Speaker, I would like to amplify some words that the gentleman from Wisconsin [Mr. OBEY] made and would like to make it clear I am not refuting or disagreeing with the gentleman. But when he says the collapse of the Soviet Union, I would like to bring into fact that we still have over 12,000 missiles, nuclear missiles looking at the United States from the Soviet Union, and even more important, it is often overlooked, we still have ours pointed at them. The Soviet Union is still in an arms race, and is in the arms business, and is exporting weapons at a very high rate.

If by not supporting NATO and Turkey, if we remember Turkey was one of the key players in the Desert Storm conflict, and thanks to the President and his efforts in the Middle East to bring down the Soviet wall, and personally direct the momentum of the Middle East peace talks, that threat has also been diminished, but is still very deadly, very real. We still have Quadhafi, we still have a defanged Castro, but he is a hydra, and in this Member's opinion Syria is potentially more deadly than Saddam Hussein.

If we will look in the Middle East, Iraq, Saddam Hussein is alive and well, and we have Bosnia, Armenia, and other threat countries.

If a weapon in the hands of NATO prevents a strong country from invading a weak, if we prevent our American men and women from engaging a hostile force, we prevent billions of dollars toward that effort, the cost savings to the American taxpayer is great. Peace through strength has willed out in the past, and I think it will also in the future.

I also appreciate Mr. OBEY's concern for the taxpayers of this country. And as a last tribute, I would like to say that with Oklahoma red clay in my blood, my father was born in Shawnee, OK, I will mourn the leaving of MICKEY EDWARDS from Oklahoma. He is a friend, and I will miss you, MICKEY.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me the time. I rise in support of this conference report. And once again, having been on the subcommittee and watched what went on in conference, I want to pay tribute to both my chairman, Mr. OBEY, and the ranking member, Mr. EDWARDS, who is leaving. They did a wonderful job, given the tremendous differences between the House and Senate.

This bill for this year tries to take into account a number of factors which needed to be considered, the price that we have to pay as citizens for our participation in the world, the difficulty in finding the money to be able to do everything we need to do in this country, and yet at the same time acquit ourselves with the task that we must as the leaders of the free world, and so in the bill there is a good balance between our responsibilities abroad and our responsibilities at home. And Members have heard the gentleman from Wisconsin [Mr. OBEY] say how much has been cut from last year's bill.

As I have been here over the last 10 years, I have watched foreign aid go from $21 billion down to $13.5 billion, so foreign aid has been significantly reduced, by a third since the time that I came to Congress. And that is something at the same time that is being done as we are acquitting ourselves admirably in carrying the burden of what we need to do.

In this bill we stop money flowing to Afghanistan, which is a black hole, which would have been wasted money; for Peru, which is still not discharging its responsibilities for human rights and in the drug area.

By the same token, we have provided, as the chairman indicated, without any cost to the American taxpayers, loan guarantees to Israel which they need to resettle the Soviet Jews and others which we made a moral commitment to help many, many years ago, and now we are fulfilling that moral commitment.

There is a tremendous amount of money in here for human rights perpetuation and international organizations which have as their basis human rights. There is many here for child survival and for Africa. Those of you who have seen the plight in Africa understand why the United States must carry on, why we must give this kind of food aid and dollar aid. If you see the pictures of Somalia, who is going to help those starving children when they cannot be helped even by their own country?

I am sorry that there are some things that are not in here that should have been. The language on Mexico City on population control, on helping to give people information about how to reduce the size of their population unfortunately had to be taken out because of objections from the White House. But we want the bill to pass, and overall it is a good bill, and it is a bill that I think brings credit to this institution.

Finally, I would like to have a colloquy with the gentleman from Illinois [Mr. PORTER] on an issue that he was concerned about, and that is the indigenous people.

It is my understanding that since the vast majority of the world's people are indigenous and do not follow a Neolithic lifestyle, the information that this language seeks to have included in the annual human rights report of the Department of State should only deal with groups whose lifestyle is on par with the Yanomamo, the Kaiyapo, and other so-called primitive tribal peoples.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Illinois.

Mr. PORTER. The gentleman is correct. That is precisely the intention of this language.

Mr. SMITH of Florida. Finally, in light of the foregoing, it is my understanding that this language does not apply in any way to any of the participants in the current Arab-Israel peace talks, and that the Congress is intent that this language not upset, endanger, or affect those negotiations in any way.

Mr. PORTER. If the gentleman will yield, the gentleman is completely correct, and I concur unreservedly in both his concerns and his conclusions.

Mr. SMITH of Florida. I thank the gentleman.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

I do not agree with the exchange that just took place. In my view, the language in question was Senate language, and my reading of it indicates that it applies to all indigenous people.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, there are some troublesome aspects in this bill related to Nicaragua. I am pleased that the conferees believe that the conditions should be applied to the 1993 funding for Nicaragua. The conditions applying to economic assistance referred to human rights, corruption, judicial reform and to property claims. So some progress has been made to at least acknowledge that problems exist in the Chamorro government, but more certainly needs to be done.

The Sandinistas are still in control in many aspects of Nicaraguan life, including the military and the police forces. The Chamorro process of reconciliation has merely been one of appeasement. It has not yielded the most positive results originally sought, and the people of Nicaragua have been the ones who have suffered as a result.

Let us not ease up on Chamorro. The conferees believe that the fiscal year 1992 funds should be obligated. I disagree. There should be conditions placed on those funds.

I remain very concerned about the slow implementation of true democratic reforms, as well as the slow pace of the return of confiscated property. I will continue to monitor this important issue and to assure that all conditions are met before any 1993 assistance is provided.

I hope that the administration will consider the key issues of human rights, of reforms in the security forces and property claims very carefully before releasing 1992 funds.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

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Mr. GILMAN. Mr. Speaker, I rise in support of this Foreign Operations conference report and I commend the distinguished gentleman from Wisconsin [Mr. OBEY] for his outstanding work on this measure, as well as the distinguished ranking Republican member, the gentleman from Oklahoma [Mr. EDWARDS] for his outstanding work on this measure. We will miss Mr. EDWARDS leadership on so many issues in this Congress and the gentleman from New York [Mr. MCHUGH], both of whom are retiring at the end of this session.

This measure appropriates just under $14 billion for the critically important economic and military assistance programs of our Government. This measure provides, at long last, the absorption loan guarantees for Israel. I have long advocated the provision of these guarantees to help the resettlement of Soviet Jews in Israel. The freeing of Soviet Jews has been a tenet of American foreign policy for over 20 years. We are proud of our success in that endeavor. Now our Nation is doing its share in helping Israel provide the infrastructure needed to resettle those emigres. Let us bear in mind that this is a guarantee not a grant and Israel is picking up all of the costs.

I am also pleased that $15 million is provided for the beleaguered island nation of Cyprus. I have long advocated the provision of funds for bicommunal projects on Cyprus, and I continue to call upon our NATO ally Turkey to withdraw its troops immediately.

Finally, I fully support the roughly $20 million appropriated for the international fund for Ireland. I hope most of this money goes to the poorest of the poor in Northern Ireland, and that the strife and turmoil in that land is finally put to rest.

I am pleased that this conference report fully funds and earmarks aid to Israel, including $3 billion in military and economic assistance, and $80 million for refugee resettlement. I would also note that the conference report provides $55 million in humanitarian and refugee aid to Bosnia-Hercegovina, Kosovo, and Croatia.

Finally, I am pleased the conference report provides up to $15 million to the Department of Defense to fully investigate—and I hope finally resolve—the remaining cases of POW/MIA's in Laos and Cambodia.

Accordingly, Mr. Speaker, I urge our colleagues to vote for this conference report. Foreign aid is one of our most important foreign policy tools. It is in our interest to provide military support for our allies, it is in our moral interest to provide humanitarian aid to the less developed nations of the world.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it should be inconceivable, at a time when the American people are outraged at Congress, that a foreign aid bill like this would be considered. It should be unthinkable.

This bill spends another $14 billion overseas while we have a budget crisis right here at home.

This bill spends another $14 billion overseas for programs that no American would be eligible for.

On top of all the direct spending, this bill has another $22 billion in Government guarantees overseas. So the majority in this House would have the American taxpayer cosign $22 billion in new liabilities while we already have $6 trillion in Government guarantees on the taxpayer's backs.

And to make matters worse, this bill funds the Agency for International Development, with $500 million for a bureaucracy that is accused by its own inspector general of mismanagement and waste. It is an agency so bad that just last week the chairman of our Committee on Government Operations called for the resignation of AID's Administrator because of alleged malfeasance. But today here is a bill to increase AID's budget.

This bill completely ignores what we know about this broken agency.

Now, some on the majority side will try to argue that this is the President's request. But the truth is, just 2 weeks ago at the United Nations, the President asked for a complete overhaul of foreign aid. The President was right on target, but this bill proposes nothing but business as usual. My colleagues should ask themselves: "Who wants this bill?"

The foreign aid establishment, that's who. The lobbyists for foreign interests, that's who. And the Members of this House who put these special interests ahead of our own citizens, that's who.

It provides money that we don't have, to an agency that doesn't work, for programs overseas that the American people don't support.

This foreign aid bill, better than anything else, illustrates the fiscal madness that has gripped the majority in this House and in the other body. In the fiscal year just ended, the Federal Government spent $1.4 trillion, just as the majority in Congress ordered. But the Government took in $1 trillion. That means $400 billion was borrowed, nearly 1 dollar out of every 3.

The majority even borrowed $51 billion last year from Social Security and another $45 billion from other trust funds.

You spent that money, and left little paper IOU's for the Social Security recipients of tomorrow.

And for the new fiscal year that started yesterday, the estimates are even worse. The majority in Congress has piled up $4.1 trillion in Federal IOU's. Spending is out of control.

It's so bad that 1 tax dollar in every 5 goes for nothing but interest payments. This Congress is like a drunk, lurching through his house, breaking into the kids' piggy bank and stealing the grocery money to buy more booze. The only difference is, in Congress the addiction is spending the taxpayer's money, for programs like foreign aid that the public doesn't want. The majority seems blind to the problem and deaf to the cries to stop.

Months ago, your own Budget Committee issued a report on restoring America's future. It called for spending restraint, specifically in foreign aid.

It was ignored by the majority in Congress. In August at a Federal Reserve Board conference, the top economists in the country warned that we are being immobilized by the deficits.

It was ignored by the majority in Congress. This past week, the Washington Post ran a major series on the debt crisis. Once again, it has been ignored by the majority in Congress.

So what is the answer from the majority?

Their answer is this bill: $14 billion more, shoveled overseas.

Their answer is $22 billion in new taxpayer liabilities, on top of the direct spending. I ask the majority here today: do any of you understand anything about what the American people think of foreign aid?

Do you have any idea of how strongly the American people oppose these foreign aid giveaways?

If there is any doubt why the American people have lost faith in the Congress, then read this bill.

The American people are sending a message to Congress, which I will repeat here again:

> It is time to take care of our own people and our own problems first, for a change.

Join with me.

Vote no on foreign aid.

Let's put the American people first, and not the foreign aid lobby, and their friends in Congress.

Now, I hope the gentleman from Wisconsin [Mr. OBEY] will yield to me so we can debate this bill further.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I simply want to correct a statement just made. The previous speaker indicated that the majority Members of the House want to spend this money.

The fact is that every dollar in this bill has been requested by the White House. Congress, taking into consideration this bill before us today, will have cut President's foreign aid budget request by $8.5 billion. This bill is $1.13 billion below the President's request, and it is $1 billion below the budget resolution. It is $800 million below the subcommittee allocation. It is $415 million below last year's core bill.

I think we ought not let rhetoric get in the way of the facts.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I rise in support of the conference report on H.R. 5368, the fiscal year 1993 Foreign Operations appropriations bill. I want to commend our subcommittee Chairman DAVE OBEY, and MICKEY EDWARDS, the ranking minority member, as well as the subcommittee staff for their hard work in bringing this conference report to the House.

The conference report contains many significant provisions the Senate added to the House-passed version of the bill, including the provision of loan guarantees at no cost to the American taxpayer for Israel's absorption of immigrants from the former Soviet Union.

As a member of the subcommittee, I am particularly glad we were able to improve upon a Senate amendment that will put the brakes on the use of the taxpayer's money to export American jobs. It is unconscionable that Agency for International Development [AID] officials have been encouraging the relocation of American-based companies to foreign countries resulting in the loss of American jobs. In effect, taxpayers have been paying for their own trip to the unemployment line.

Fortunately, a provision in the conference report will prohibit the use of funds: To provide any financial incentives to U.S. businesses for the purpose of inducing them to relocate in another country when American job losses are likely to result; for the establishment in foreign countries of export processing zones in which the tax, tariff, labor, environment and safety laws of that country do not apply in that zone unless the President certifies there is not likely to be a loss of American jobs; or, for any project that contributes to the violation of internationally recognized workers rights.

In addition, I am pleased that this legislation makes some important strides in reprioritizing scarce funds in our foreign assistance programs to better respond to critical humanitarian, economic development and population assistance needs around the world. For example, humanitarian and refugee assistance is earmarked for a number of war-torn places, including Armenia, Bosnia-Hercegovina, Croatia, and Somalia. I also strongly support the conference report's total of $350 million for population programs and the requirement that AID submit a report on its strategy for having a global impact on the international population problem.

I remain very concerned about the situation in Cyprus. Therefore, I am pleased the conference report retains an earmark for Cyprus of $15 million in economic support funds for scholarships, bicommunal projects, and other projects designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

Finally, the conference report restores balance in our military financing programs for our NATO base rights countries, Greece, Turkey, and Portugal. While the Senate bill unfairly altered the mix of loans and grants, the conference report provides loans for all countries in the traditional ratio of assistance for Greece and Turkey.

Mr. Speaker, I again want to commend all of my colleagues on the subcommittee for their hard work on this legislation and recommend adoption of this conference report.

Mr. OBEY. Mr. Speaker, I yield 30 seconds to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I compliment the gentleman from Wisconsin on his successful management of a very difficult bill.

To the gentleman from Oklahoma, it has been a pleasure to work with you. My compliments.

Mr. Speaker, I am pleased that the conference report acknowledges the progress made in Nicaragua by the Chamorro government. The conference report is correct to emphasize that continued progress toward democratization and reconstruction in Nicaragua depends upon the prompt obligation of the economic assistance funds that have already been appropriated for fiscal 1992.

The Secretary of State should cause the fiscal year 1992 funds to be released forthwith. Upon release the conditions included in the report are for 1993 funds should then apply. I am convinced that President Chamorro is sincere and that she intends to pursue the reforms that have been announced. Their Government would welcome the conditions.

The U.S. Agency for International Development [AID] programs are working in Nicaragua. The process is taking time but unmistakable progress has already been achieved. The Committee of Conference is correct in encouraging future progress without interference or new obstacles.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I do not support the bill, and I will not support the bill under any conditions.

But I want to take this time to apologize to a few of these departing Members. In my zeal to try and cut foreign aid, I have made some statements on the floor that perhaps were not warranted. Mr. EDWARDS, I think you have done a great job, and I think you fashioned some pretty good bills, out of some rough political times.

Mr. SMITH, Mr. LEHMAN, Mr. MCHUGH, Mr. BROOMFIELD, Mr. FASCELL, I take back any words, Mr. ALEXANDER, that were personal or seemed to be personal.

But let me say this: I saw Chairman LEHMAN up here pay homage to his mentor; I, too, want to do that. I want to thank you, Chairman OBEY, for putting in some of the Buy American provisions dealing with some of the export of American jobs overseas. This bill does try and capture some of those safeguards.

So Mr. EDWARDS, the only thing I said when I was cut off in that one debate when you said, "TRAFICANT, you make me sick," what I was going to say is, and you would not yield, was, "Have a glass of warm milk and an aspirin; you will feel better in the morning."

But I hope you have a lot of great mornings. I take back anything that sounded personal.

I am not going to vote for this bill, but I am not going to ask for a vote.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BERMAN], who will try to top that.

Mr. BERMAN. Mr. Speaker, I rise in support of the conference agreement before us. This agreement meets critical international needs, is fiscally responsible, and sends a clear signal of change in U.S. foreign policy priorities.

Specifically, the agreement strikes the best balance in years between military and humanitarian aid. The cuts in military aid represented here are long overdue. This bill will be hundreds of millions of dollars lower in military aid than the President's request, and well over $1 billion below last year's military aid levels.

The agreement also comprises Senate provisions for loan guarantees for Israel, to allow that country to absorb hundreds of thousands of immigrants from the former Soviet Union. Technical scoring arguments notwithstanding, these guarantees are constructed so as to cost the U.S. taxpayer nothing.

In critical humanitarian accounts—population and refugees—the conference agreement sustains vital programs in an environment of growing instability and human misery. Increases for child survival, emergency aid for Africa, funding for UNICEF, education, antinarcotics and hunger programs—all are comprised within this conference agreement.

Much has been said about the IMF quota increase included in this bill. The nature of this provision should not be misunderstood. This quota increase, as others have indicated, is not an outlay, but our share of capitalizing the IMF—a deposit in a bank for which we receive an asset in return. Provision of this support to the IMF will be critical as that organization makes the difficult decisions needed to promote macroeconomic reform in developing countries around the world.

Finally, in a related vein, the conference agreement comprises authorized funding for aid to Russia and the other former Soviet Republics. This provision funds the aid programs authorized in the Freedom Support Act conference agreement, adopted by the Senate on Thursday and the House on Saturday. This aid—perhaps the most directly vital to our Nation's security and economic well-being, signals the beginning of a new era in the basic drive and purpose of U.S. foreign aid.

Foreign operations appropriations are never popular, least so in an austere economic environment at home. The gentleman from Wisconsin has faced extreme political obstacles this year, and has done the difficult work of supporting vital foreign programs, unpopular though they may be. He is to be commended for his work. This conference agreement funds programs important to our country, important to our citizens, and I urge my colleagues to support it.

□ 1130

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGLE. I thank the gentleman for yielding.

Mr. Speaker, I strongly support the conference bill for foreign operations, export financing, and related programs appropriations conference report. Foreign assistance is barely more than 1 percent of our total budget certainly helps America and American business and American companies as well. I strongly support all the provisions of the bill, including the loan guarantees, including the Freedom Support Act.

Mr. Speaker, I point out one provision I am extremely pleased about that we have set aside $5 million for humanitarian relief in Kosova, the former Yugoslavia. The ethnic Albanian community in Kosova has suffered terribly from the Serbian oppression and from the international sanctions imposed on Rump, Yugoslavia. Because Serbia retains military control of Kosova, it is affected by these sanctions. The population of Kosova is 90 percent ethnic Albanian, and these long-suffering people do not deserve to suffer more because of international efforts to curb Serbian aggression. I support all the provisions and commend Chairman OBEY for a job well done.

Mr. Speaker, I rise today to express my strong support for the Foreign Operations, export financing and related programs appropriations conference report.

There are several provisions of this conference report that I believe are of extreme importance. However, I have time to focus on one issue only, that of humanitarian aid to Kosova. I am extremely pleased that Chairman OBEY and the members of the Foreign Operations Subcommittee have responded to my and other Members' concerns and set aside $5 million for humanitarian relief in Kosova. The ethnic Albanian community in Kosova has suffered terribly from Serbian oppression and from the international sanctions imposed on Rump, Yugoslavia. Because Serbia retains military control of Kosova, it is effected by these sanctions. The population of Kosova is 90 percent ethnic Albanian and these long-suffering people do not deserve to suffer more because of international efforts to curb Serbian aggression.

The Kosovars need this assistance desperately. Thousands of ethnic Albanians have been fired from their jobs because of their ethnicity. Estimates of unemployment in the Albanian community in Kosova run as high as 45 percent, not because of economic circumstances, but because of a Serbian determination to make life so miserable for ethnic Albanians in Kosova that they will abandon their homes in search of a better life.

Health care has also been denied to ethnic Albanians simply because they are not Serbian. For example, many, if not most, ethnic Albanian women now give birth without qualified medical personnel present. This is the result of a blatantly racist Serbian policy of marginalizing ethnic Albanians in Kosova.

While the world focuses on the crisis in Bosnia-Hercegovina, it is important that we not forget about Kosova and the suffering there as well. I am very pleased that this provision, which I have strongly supported, has been included. I yield back the balance of my time and urge my colleagues to support the conference report.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good agreement. It cuts foreign aid by $415 million below last year's bill. It cuts more than $1.1 billion from the President's foreign aid request.

I am very proud of the fact that since I became the ranking member of this subcommittee and began my work with the gentleman from Wisconsin [Mr. OBEY] on this bill, we have cut more than $6 billion from Presidential requests for foreign aid. We have changed the direction of foreign aid at the same time to meet the needs of the changing world.

This bill will help Russia and the other States of the former Soviet Union continue their move forward toward democracy. But it also conditions that aid on Russia removing its troops from the Baltic nations and in stopping its arms sales to other nations.

I might say to those who have been critical of our support to Russia and the former members of the Soviet Union—and I too have had my doubts and concerns and criticisms about that assistance—when I was growing up in Oklahoma City as a young boy, the house across the street from my house had a bomb shelter in the back yard because we lived in terror of the war that would emerge between the United States and Soviet Union and destroy life for so many people.

It is a wonderful thing to see, that slowly, hesitantly, uncertainly, nonetheless it is happening, other nations once our enemies moving toward an acceptance of democracy. And we have an obligation to do everything we can to help move that forward.

This bill also provides refugee and humanitarian aid to the victims of this deplorable war being waged in Croatia and Bosnia.

Mr. Speaker, this bill also provides urgently needed loan guarantees to Israel, so it can finally welcome the tens of thousands of Soviet and Eastern European refugees who have for decades lived under extreme discrimination and fear simply because of their religious beliefs. The loan guarantees are just that, guarantees. The subsidy cost associated with these guarantees will be fully paid by the Government of Israel, costing U.S. taxpayers nothing. But what we are doing today with these loan guarantees is a great and important humanitarian act.

This bill also retains existing law regarding U.S. population programs. We have prohibited any funding to the U.N. Population Fund, we prevented any changes in our current Mexico City policy and, as a result, this bill will be signed and will not be vetoed by the President.

The agreement also includes a provision I offered prohibiting all military aid to Jordan this year. The GAO has recently completed a study requested by Chairman OBEY and myself which confirms Jordan's relation with Iraq during the gulf war and makes it very clear that Jordan was no friend of the United States during that conflict.

Mr. Speaker, 2 weeks ago the President addressed the United Nations, urging fundamental reform in American foreign aid assistance. I was very heartened by those remarks because I have been urging top-to-bottom reform of our foreign aid program for years. I have encouraged reform of our development aid programs. It is ridiculous for the United States to provide aid to more than 100 countries. We have made drastic cuts in foreign aid, and we need to cut still more. I have fought to cut funding to multilateral development banks, which often use United States money to build roads and bridges for totalitarian governments in places like China and Vietnam. The cold war is over. Military aid, aid which we provided to nearly 100 nations last year, needs to be reduced.

Although I believe many of our foreign aid programs remain trapped in the cold war and are in need of deep reform, this conference report does move us in the right direction toward cutting and reprioritizing foreign assistance. I urge Members to vote for it. A "yes" vote is a vote to cut foreign aid spending and to still promote American interests worldwide.

Finally, Mr. Speaker, let me add a personal note: I will be leaving the Congress this year. I have had an opportunity to work with a great number of fine men and women on this committee, on the Republican side and on the Democratic side. Democrats and Republicans alike will be leaving the Congress, and I will be missing every one of you. I have been helped by my own wonderful people on my staff. My chief of staff, Vicki Martyak, my legislative assistants, and most especially by a very, very excellent young staff member from Oklahoma, my chief legislative assistant for foreign policy, my good friend, Chris Walker, whom I will miss very much. I will really miss working with these people and I will miss working with the subcommittee staff, Terry Peel, Mark Murray, Bill Schuerch, and Mike Marek, good people all serving America well.

Finally, let me add a personal note of thanks to my good friend, DAVID OBEY. In many ways DAVE OBEY and I represent very opposite views of the role of government; but DAVE and I are both men who believe very deeply in this institution. DAVID OBEY is a straightforward, honest, decent public servant, and I have enjoyed our friendship, and I too DAVE, look forward to that friendship continuing for a good many years.

Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding and rise in support of the conference report.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

I would simply say, in closing, in response to the remarks of the gentleman from Oklahoma, I think that he is truly an institutional man who puts principle ahead of partisanship on virtually every occasion, and I tremendously appreciate that fact about him and will miss him greatly.

Mr. Speaker, I will simply say, in closing, that I have never understood people who are willing to vote for any unlimited amount of money to purchase weapons but oppose the tiniest of expenditures to prevent the conditions that will lead to the use of those weapons.

That is what this bill tries to do. As someone said yesterday on this floor, the west ignored the turmoil in the Weimar Republic at the end of World War I. We did not do much about it.

As a result, Hitler came to power, and 30 million people or more died.

I am very happy that this Congress is not dealing with the Soviet Union in a similar manner. I am happy that they are recognizing that sometimes the highest expression of patriotism is to do a difficult and misunderstood thing for the benefit not only of the country but of the world as a whole.

□ 1140

I deeply believe that is what we are doing in the way we are dealing with aid to the Soviet Union. In spite of that, this bill, as I said earlier, is $1.1 billion below the administration's request.

The military portion of this bill has dropped from 43 percent of the bill back in 1981 down to 31 percent today, a 28-percent reduction. That indeed recognizes new imperatives, and I congratulate the House for having worked its way to this point.

Mr. ALLEN. Mr. Speaker, I am in reluctant opposition to H.R. 5368, the foreign aid appropriations bill. With our current budget deficit, Members of Congress must worry about Americans at home before we send aid to foreign lands. However, I feel that a grave disservice has been forced upon Members by including refugee absorption loans to Israel in this legislation full of giveaways to nations which simply do not support American ideals. As many of my colleagues know, I support a significant reduction in foreign aid across the board.

We must, however, balance reductions in that budget that the need to maintain a strong level of support to nations which help protect and promote America's interests. America's alliance with Israel is based, first and foremost, on a convergence of national interests and is a vital strategic asset. Israeli ports are open to all United States naval vessels, as well as their hospitals to treat wounded American personnel in time of war.

Over the years, Israel has proven to be a loyal and trustworthy ally. In the United Nations, Israel routinely supports the American position, unlike some of our allies and countries that receive United States aid. Perhaps the best example of Israel's loyalty occurred during the Persian Gulf war, when the nation absorbed 47 Iraqi Scud attacks, which killed several innocent civilians and caused millions of dollars worth of damage, not to mention the constant fear with which the entire population lived for several months. Israeli cooperation in foregoing any military retaliation is a principle reason why the allied coalition remained intact and reversed Saddam Hussein's unlawful aggression.

Mr. Speaker, in 1981, the Israeli air force attacked a nuclear powerplant under construction in Osirak, Iraq. This attack was successful, in part, because of American aid. The attack was seen as an acceptable act of self-defense, carried out with American-made F–15 and F–16 fighters. We have seen through recent events that the Iraqi Government, under the leadership of Saddam Hussein, would not hesitate to use so-called weapons of mass destruction to successfully carry out his political agenda. If the plant in Iraq had not been destroyed, it is safe to say the Iraqi threat to coalition troops, as well as to the rest of the world, would have been significantly greater.

Mr. Speaker, in short, I support the loan guarantees to the nation of Israel for the resettlement of Jewish people from the former Soviet Union. This resettlement goal has been a longstanding policy of the United States that should not be abrogated. The loan guarantees do not cost American taxpayers any money. The loan guarantees are simply cosigning a note.

This loan guarantee issue should have been a separate vote, not included with billions being sent to uncreditworthy countries and the $12.3 billion to the International Monetary Fund without any conditions of creditworthiness, restrictions on the sale of Russian submarines to Iran, aid to Cuba, the list goes on.

In summary, this bill does not significantly reduce foreign aid. Simply adding a relatively popular idea of resettlement of Jewish people from the former Soviet Union does not offset the overall negative, ill-considered, and excessive appropriation of American taxpayer money for unproductive foreign aid. With our horrendous deficit and debt, we cannot logically afford such unappreciated benevolence.

Ms. PELOSI. Mr. Speaker, I rise today in support of the conference report for foreign operations for fiscal year 1993. I would like to commend Chairman OBEY and the members of the subcommittee for their fine work in once again balancing the real need for American foreign aid programs with the need for funding to address domestic problems.

I would like to thank Mr. OBEY for including in the report language relating to the environmental impact assessments [EIA] procedures of the private sector lending facilities of the multilateral development banks [MDB's]. This language directs the Treasury Department to continue to improve and strengthen these important procedures. Most significantly, it directs Treasury to pursue appropriate reforms necessary to ensure that the private sector lending facilities of the MDB's, the International Finance Corporation [IFC], the merchant banking division of the European Bank for Reconstruction and Development [EBRD], and the Inter-American Investment Corporation [IIC], are included within the EIA procedures. With this language, we can help to promote sustainable and environmentally sound development through all of the facilities of the MDB's.

I would also like to express my support for the $10 billion in loan guarantees for Israel and for important assistance for the former Soviet Republics. The report addresses concerns about the presence of Russian troops in the Baltic States by requiring a Presidential report on the progress of troop removal before any funds are obligated and withholding half of all aid to Russia until the President certifies by June 1993, that Russia and the Baltics have made significant progress toward a timetable for the withdrawal of Russian troops.

I would have preferred the conference report to have completely cut military aid to El Salvador, however, the $11 million for military aid is $29 million less than that requested by the President. The additional $29 million is transferred to the demobilization and transition fund, to be used only in accordance with the peace accords for demobilization and reintegration of former combatants.

I also believe that this conference report should have included the provisions earmarking $20 million for the U.N. Population Fund and reversing the Mexico City policy, established during the Reagan administration, prohibiting U.S. population assistance from going to organizations providing information relating to abortion. I understand that the President would have vetoed this legislation had it contained these provisions. Nonetheless, they are important provisions and should be enacted.

The conference report contains a total of $80 million for international AIDS programs. This funding is designed to address the global pandemic of AIDS. I have been pleased to participate throughout the year in the activities of the task force on international AIDS chaired by Representatives MCDERMOTT and Weiss. Money spent now to prevent HIV transmission in countries throughout the world must be a priority. Our beloved colleague, Representative Weiss, would have been pleased with this year's increase in funding.

And finally, I would like to note that the conferees adopted the House provision deleting international military training and education [IMET] funds to Indonesia in response to human rights abuses in East Timor. This is an important step.

I have enjoyed serving on the full Appropriations Committee with all of the members of the subcommittee and would like to note with regret that this subcommittee is losing several fine members at the end of this Congress. Representative MCHUGH has been an outstanding leader on a number of issues. Changing United States policy toward El Salvador is the issue on which I have worked most closely with him. His commitment and courage are a model to us all. Chairman LEHMAN has been such a wonderful member and colleague. It would take hours and hours to list all of his accomplishments and contributions.

And we will miss Representative SMITH, one of this institution's most colorful characters and a staunch friend and ally of many causes, particularly Israel. Mr. Speaker, our institution and indeed, our Nation, are losing wisdom, experience and valuable knowledge with the loss of these Members.

Again, I would like to commend Chairman OBEY and his subcommittee for their efforts to fund foreign programs at a reasonable level. I urge my colleagues to support this conference report.

Mr. STOKES. Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 5868, the fiscal year 1993 Foreign Operations appropriations bill. I want to take this opportunity to commend the conferees who worked so hard to bring this conference agreement to the floor today.

The measure before us today provides $13.94 billion for foreign aid and export assistance. More importantly, H.R. 5368 will provide much needed humanitarian assistance to deserving nations all over the world. This agreement includes provisions which provide $10 billion in loan guarantees to Israel, $100 million for disaster relief in sub-Saharan Africa, and $105 million in aid to the war-torn Republics of Yugoslavia, just to point out a few.

Mr. Speaker, I am proud to support this measure because it includes loan guarantees for the State of Israel. These loan guarantees are crucial as Israel continues to absorb new immigrants, mostly from the Soviet Union and Ethiopia. Over the next 4 years Israel expects to receive between 750,000 and 1 million additional Soviet Jews.

It is anticipated that the State of Israel will spend between $45 billion and $50 billion to provide housing, infrastructure, clothing, food, education, transportation, training, and other services associated with the absorption of these new immigrants over the next 5 years. The loan guarantees will allow Israel to borrow $10 billion from United States commercial banks, pension funds, corporations, and other sources to meet this demand. Our Government will guarantee repayment of the loans at no additional cost or burden to our economy.

Mr. Speaker, many of us have followed news reports of the drought and famine which has plagued sub-Saharan Africa. It is the worst drought in a century and has affected over 90 million people in that region. Experts estimate that unless there is immediate intervention, approximately 2 million Somalis will die of hunger and starvation. The conference agreement appropriates $100 million to this region with an earmark of $25 million in aid for Somalia. This aid will go a long way in helping to relieve much of the pain and suffering in that region.

H.R. 5368 also extends foreign aid to the war-torn Republics of Yugoslavia. In this region, refugees are struggling to rebuild their lives, dismantled by an on-going, civil war and exacerbated by ethnic and racial tensions. The conference agreement earmarks $35 million in State Department funds for refugee assistance to help displaced people in Croatia, Slovenia, and Bosnia-Hercegovina. The measure also provides $20 million in fuel, heating, dairy, and grain products for the former Yugoslav Republics.

Mr. Speaker, I am pleased to rise in support of H.R. 5368. It is a good measure and demonstrates our Nation's commitment to provide humanitarian aid and relief assistance to those most in need. I encourage my colleagues to join me in voting in favor of the conference report to accompany H.R. 5368.

Mr. DORGAN of North Dakota. Mr. Speaker, I plan to vote for the conference report on the fiscal year 1993 Foreign Operations appropriations bill (H.R. 5368). However, I do want to explain my concerns about this agreement.

The bill merits supports, on balance, for several reasons. On budget grounds, it takes the right steps. It cuts foreign aid $1.2 billion below the President Bush's budget request. Its total funding is $1 billion less than the budget resolution allows. Funding for core programs declines by $400 million from the fiscal year 1992 level. Savings have been achieved in part by turning back some unused funds in the so-called foreign aid pipeline.

The agreement further ensures that United States taxpayers will be protected against any potential costs of the loan guarantees for Israel approved by the conferees. It does so by requiring the Israeli Government to bear all costs associated with guarantees that may be triggered by any loan defaults.

The agreement also retains several recommendations from the Select Committee on Hunger on humanitarian programs. In this regard, it provides needed funding for child survival, basic education, and vitamin A prevention programs. The agreement funds essential bilateral development programs in poor nations. These programs not only save thousands of lives but help to lay the foundation for self-sufficiency in developing nations.

As always, Chairman OBEY has also succeeded in restoring a better balance between security aid, on the one hand, and humanitarian and development programs, on the other. At his insistence, for example, this agreement ends the foreign aid giveaway to NATO countries by ending grant military aid to Turkey, Greece, and Portugal. These nations, albeit valuable allies, can stand on their own feet without grants from our Government. The agreement reduces all security aid over $1 billion below the Bush request.

I also credit the conferees for enhancing U.S. exports, preventing the loss of U.S. jobs, and protecting workers' rights in this agreement. They have thereby helped to improve our competitive position in the global marketplace.

At the same time, I must express my regret that the House conferees were obliged to accept the Senate-Bush administration plan to increases our contribution to the International Monetary Fund. This was done largely to accommodate new loans to Russia and other former Soviet Republics. I oppose that particular vehicle for injecting massive aid into these nations. That is why I opposed the Russian aid authorization bill and conference report. We should limit such aid to humanitarian and military conversion assistance, as approved in the House-passed appropriations bills.

Mr. COYNE. Mr. Speaker, I rise in support of the conference report on the Foreign Operations appropriations bill (H.R. 5358). The conference committee report provides $417 million in aid for the Republics of the former Soviet Union.

This assistance this bill would provide is essential if those Republics are to have a reasonable chance at remaining free and democratic. This investment is one the American people are making to help those Republics succeed as they embark on the road to full democracy and freedom.

While this bill provides needed assistance, this legislation and an earlier bill fail to rectify a problem faced by certain United States concerns who engaged in business with various entities of the former Soviet Union. In specific, I am referring to some overdue bills that were never paid by the former Soviet Union or by the current Government in power. Those bills were incurred in payment for goods delivered and services rendered to the former Soviet Union.

While I believe everyone recognizes the importance of helping the people of those Republics begin a new chapter in their long and proud history, we must not forget that prior to the dissolution of the former Soviet Union, Americans entered into agreements with our former adversaries for a variety of reasons. Those agreements allowed American and Soviet negotiators to agree on the sale or transfer of a wide range of products. As is the usual custom in commercial matters, the products were delivered to the proper recipients in the former Republics with an expectation that payment would soon follow. Unfortunately, as the Soviet State crumbled and left a void in its wake, few people remembered the bills that came due as a result of those agreements. The products were delivered, the goods used, the services rendered, but the bills were forgotten and never paid.

In one particular case, INDSPEC Chemical Corp. of Pittsburgh, PA, had been providing a chemical used in the manufacture of tires to the Soviet Union for the last 15 years. INDSPEC contracted with Soyuzchimexport, a Soviet trading agency of the Trade Ministry, to sell this product for use in its plants in the Ukraine, Russia, and Estonia to manufacture tires. The payments, however, stopped abruptly almost 30 months ago. And now, INDSPEC is owed about $1.7 million for chemicals already delivered and used.

In all, at least 30 U.S. companies are owed more than $150 million. While other Western nations are requiring that some of their aid to the Soviets be used to pay back their companies with outstanding bills, the United States has not followed suit. All we ask is that overdue bills be paid by the Republics simultaneously with receipt of the funds under this bill. The obligations incurred by their Soviet predecessors must be honored by the new Republics regardless of the fact that the Soviet State no longer exists. Those contracts are as legally binding on the Republics now as they were a few months ago when the Soviet State was still a reality.

Mr. Speaker, the conference report, which we adopted earlier to accompany S. 2532, establishes 11 criteria that the President should take into consideration in extending assistance to the independent States of the former Soviet Union. One of the criteria is the responsibility for repayment of debt to U.S. firms. I am certain Congress will review compliance with this criterion when considering any future request for assistance for the Independent States of the former Soviet Union.

Mr. RAHALL. Mr. Speaker, I rise in opposition to H.R. 5368, the Foreign Operations appropriations bill.

Mr. Speaker, I shall be brief.

We have just passed and sent to the President a bill, called Freedom Support Act, authorizing $12 billion for the former Soviet Republics.

The bill before us, among other things, contains $10 billion in loan guarantees for Israel. Israel has already received nearly $4 billion in United States aid this year.

Israel intends to use the $10 billion in loan guarantees for job creation, infrastructure needs, and housing.

If that sounds familiar to you it is because the U.S. is desperate for money to use for the same purposes and for which we have begged the White House's support—for our people here at home. But the President says we must not do it because we can't afford it.

Mr. Speaker, there are no conditions imposed in this bill, to speak of, as to how Israel will use the funds—except boiler plate language saying no new building in any territory that was not under Israel's control in 1967. That hasn't stopped them in the past from accelerating their building of new settlements in that occupied space.

As for whether the American taxpayer gets stuck with the bill if Israel defaults on these loans—the provisions in the bill—like all others—will merely turn the loans into grants—allowing Israel to use the notorious Cranston amendment to pay the United States back if they can't find the revenues from their own resources to pay us back. The Cranston amendment says: in any year Israel receives insufficient amounts from the United States to pay the United States back for what it owes, then the United States will send the extra dollars for Israel to send back to us in payment. Pretty good deal. Wish my bank would give me that kind of a deal.

As a matter of fact, Mr. Speaker, I wish the U.S. Government would give Americans that kind of a deal. Give our States, cities, and counties $10 billion in loan guarantee authority—and give them the unconditional discretion to use it as they see fit, provided it is targeted to job creation, infrastructure needs, and housing.

That's all I have to day. But to recap my concerns: Remember that we have already approved $12 billion for Russia. Now we approve another $10 billion for Israel on top of the $4 billion already given this year.

And when we wrote the President saying we should not provide this aid until we authorized and paid for a jobs bill, and antirecession employment and reemployment bill—we were told that the U.S. Government couldn't afford it.

This from a man who vetoed two—count them two—extensions of unemployment benefits. This from an administration that called upon us to give yet another $45 billion to continue to bailout the failed savings and loan institutions—which has an overall price tag of $500 billion for our children and grandchildren to pay off eventually about 30 years from now.

Mr. Speaker, I do not vote against foreign aid just because it is foreign aid. We do have emerging democracies and Third World needs that call for our support and our humanitarian assistance.

But we must also be humane here in the United States—and we hear nothing but deficit and debt, borrow and spend—from all sides—starting down on Pennsylvania Avenue and from right across the aisles here in this Chamber—yet they cheerfully give and give to Israel and now to Russia—with absolutely no compassion nor humanitarian effort for the folks here at home—folks out of jobs, folks looking for jobs and finding none, folks whose unemployment has run out, the long-term unemployed, who have been given nothing of late in the form of extended benefits. We can't even get that done, because we are told there is no way to pay for it.

This is a sad day—to approve perhaps a bill containing, among other things $22 billion for Russia and Israel—and nothing for our cities, our counties, our States who are on the brink of bankruptcy.

I oppose this bill, and hope my colleagues will vote with me to disapprove it—so that these funds will not flow until and unless we help with jobs, infrastructure, housing, water resources, and many other needs here in America.

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of H.R. 5368, the fiscal year 1993 Foreign Aid Appropriations Act. This legislation furthers the interests of the United States in many ways, but I would like to point out two particularly important provisions, aid to the Balkans and Israel and finally, after a delay of 18 months, the provision of loan guarantees to Israel.

As my colleagues will recall, I sought to offer an amendment to the bill to provide $25 million in emergency refugee and humanitarian assistance to Croatia, Bosnia-Hercegovina, and Slovenia. However, the rules of the House precluded my offering this amendment at that time.

I am pleased and thankful that the House conferees, led most ably by my friend from Wisconsin, Mr. OBEY, not only agreed to my original proposal to provide $25 million, but allocated an additional $35 million for the former Republics of Yugoslavia, where almost 3 million refugees and displaced persons are facing a terrible hardship and suffering.

Croatia, Bosnia, and Slovenia are not the only countries facing a massive influx of refugees. With nearly a half million Soviet and Ethiopian refugees, Israel has been all but overwhelmed. Now, Israel can expand its economy and, hopefully, make headway in its efforts to reform its economy and grow. The provision of loan guarantees hold much promise for Israel's future. That, along with the ongoing peace talks, portends a bright future for Israel.

Finally, Mr. Speaker, while it may be politically expedient to blame foreign aid for America's ills, it is also flat out wrong. This foreign aid bill helps here, at home. Nearly three-quarters of all foreign aid is spent here in the United States and our aid to foreign countries also helps to expand markets for American exports. The bottom line is that we send foreign aid because it is good for America.

I would also like to point out that, as usual, Chairman OBEY has presented us with a bill that is substantially below the President's request and under last year's level. I urge my colleagues to support the conference report.

Mrs. LLOYD. Mr. Speaker, I rise in reluctant opposition to the fiscal year 1993 appropriations conference report. While my record reflects consistent opposition to foreign aid bills because I believe it is money better spent at home, I am disappointed that the Israeli loan guarantees cannot be considered independent of the appropriation bill.

I have always treated Israel as a special ally to the United States. They continue to remain a reliable United States friend in a volatile region of the world and we should assist them where possible. The recent successes seen in the Arab-Israeli peace talks have reinforced my commitment to the Jewish State. In addition, the recent election of Labor Party Leader Yitzhak Rabin to the post of Prime Minister has opened a new, more cooperative relationship with the United States that I hope will last for many years to come.

The loan guarantees included in this bill would help alleviate the infrastructure burdens Israel is facing as a result of the influx of Soviet jewry. The United States encouraged the former Soviet Union to let their Jewish population emigrate to Israel and we asked Israel to accept them with open arms. We should at least be able to assist in their absorption to their new homeland. The loan guarantees will not require spending one United States dollar unless Israel defaults on their loans; and Israel has never defaulted on any loan.

Unfortunately, the loan guarantees are part of a large foreign aid package, with many earmarks that I cannot support. I hope to have the opportunity to address aid to Israeli independently of a large appropriations bill in the future.

The SPEAKER pro tempore (Mr. MAZZOLI). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROTH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 105 not voting 15, as follows:

[Roll No. 470]

YEAS—312

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
AuCoin
Bacchus
Bateman
Beilenson
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Burton
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clay
Clinger
Coble
Coleman (TX)

Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
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Hall (OH)
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Johnson (CT)
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Ros-Lehtinen
Rose
Roukema
Russo
Sabo
Santorum
Sawyer
Saxton
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Stenholm
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Studds
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Swett
Swift
Synar
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Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
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Torricelli
Towns
Traxler
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Upton
Vander Jagt
Vento
Visclosky
Vucanovich
Walsh
Washington
Waters
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Weber
Wheat
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Wilson
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Wylie
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Young (AK)
Zeliff
Zimmer

NAYS—105

Allen
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bennett
Bevill
Boucher
Brooks
Bunning
Callahan
Chapman
Coleman (MO)
Combest
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Crane
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DeFazio
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Dickinson
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Dooley
Doolittle
Dornan (CA)
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Duncan
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Gaydos
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Goodling
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Hall (TX)
Hammerschmidt
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Hayes (LA)
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Petri
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Ray
Roberts
Roemer
Rogers
Rohrabacher
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Sanders
Sangmeister
Sarpalius
Savage
Schulze
Sensenbrenner
Shuster
Smith (OR)
Solomon
Spence
Stark
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Tanner
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Taylor (MS)
Thomas (WY)
Traficant
Valentine
Volkmer
Walker
Weldon
Williams
Young (FL)

NOT VOTING—15

Atkins
Barnard
Boxer
Chandler
Clement
Davis
Guarini
Ireland
Lipinski
Mrazek
Rostenkowski
Roybal
Sikorski
Staggers
Stearns

□ 1200

The Clerk announced the following pairs:

On this vote:

Mrs. Boxer for, with Mr. Guarini against.

Mr. HEFLEY changes his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, and that I may include tabular and extraneous material and a letter from the chairman of the Budget Committee on H.R. 5368.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I ask for this time in order to ascertain from the majority leader the upcoming schedule.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri, the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we thought Members might want to have a sense of how we intend to try to proceed today to finish our business.

The next matter to be taken up will be the rule on the energy conference report. When that is completed, and there will probably be a vote on that, we will then go to the rule on the Department of Defense appropriation conference report. That will take an hour. Then the conference report on DOD will be taken up, and that is an hour. Following that, we will go back to the energy conference report, which is going to be 2 hours.

When those two are finished, Energy and Department of Defense, the remaining business is the tax conference, the Exim conference report, the housing conference, and then the cable override.

If the Senate does not sustain the veto and overrides, they will do that at about 6 o'clock. They say they will bring that right over here, so that would be at 7 or 7:30, at the latest at 8 o'clock tonight.

There are obviously other minor conference reports and unanimous-consent requests and other items that are out there that could take us later into the evening, but it looks like we could have the major business behind us by 7, 8, or 9 o'clock tonight.

Mr. WALKER. Mr. Speaker, if the gentleman would, there is also a Suspension Calendar around. When would that be taken up?

Mr. GEPHARDT. We will be using those votes to fill in between these other matters which may have some gaps.

Mr. WALKER. But, obviously, we are getting to the point where we cannot roll votes on suspensions, so would we expect as the suspension bills come up they would be voted on?

Mr. GEPHARDT. We may take them and we may roll them, depending on the circumstances. Some of them may be voted on at the time and some of them may be rolled.

Mr. WALKER. There is an ugly rumor around that the Senate decided to come in on Thursday. Is that going to affect the House schedule in any way?

Mr. GEPHARDT. The other body can do what it wants.

Mr. WALKER. Mr. Speaker, I thank the distinguished majority leader.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 601 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 601

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 776) to provide for improved energy efficiency. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

MODIFICATION OF RESOLUTION OFFERED BY MR. DERRICK

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that House Resolution 601 be amended by striking the period at the end and adding the following: "and shall be debatable for not to exceed 2 hours, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce."

The SPEAKER pro tempore. The Clerk will report the modification.

The Clerk read the proposed modified resolution as follows:

H. RES. 601

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 776) to provide for improved energy efficiency. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read [and shall be debatable for not to exceed two hours, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.]

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 601 provides for 2 hours of debate on the conference report on H.R. 776, the Comprehensive National Energy Policy Act. The rule further waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as read.

Mr. Speaker, last year when Iraq invaded Kuwait, the price of oil quickly rose to over $40 a barrel. Rising oil prices worsened the economic problems already facing our Nation and the Persian Gulf war soon focused our attention on the need to improve this country's future energy security.

Presently 43 percent of the energy consumed in the United States is petroleum based. Today we import over half of the oil consumed in this country. Not since 1947 has the United States been energy independent. We cannot allow ourselves to remain vulnerable to energy supply disruptions. We must secure a more stable energy future and this conference report will help us achieve this goal.

The conference report includes provisions to promote energy efficiency and decrease our dependence on foreign oil. The agreement fosters the production of alternative fuels and would require certain motor vehicle fleets to purchase an increasing number of automobiles that run on alternative fuels.

Under the conference report, the Federal Government would be required to purchase, lease, or acquire for its light-duty fleets at least 5,000 alternative fuel vehicles in 1993 increasing to 10,000 in 1995. By 1996, one-fourth of all newly purchased Federal fleet vehicles would have to be alternatively fueled, and this figure would increase to 75 percent by 1999.

The conference report also promotes energy conservation and requires the Federal Government to use energy more efficiently. The agreement encourages public utilities to reduce demand for energy and establishes efficiency standards for lights, electric motors, showerheads, commercial heating and cooling equipment.

The conference report encourages competition in the generation of wholesale electricity and streamlines the Federal licensing of nuclear powerplants. In addition the agreement supports new supply technologies that use sunshine, wind, geothermal heat and biomass as fuels. Finally the agreement would increase research on clean-burning coal technologies.

Mr. Speaker, House Resolution 601 will expedite consideration of this important conference report and move our Nation toward a more stable energy future. I urge my colleagues to support the rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule and in support of the most important piece of legislation, the Comprehensive National Energy Policy Act.

My distinguished Committee on Rules colleague, the gentleman from South Carolina [Mr. DERRICK], has outlined this rule for consideration of the conference report on H.R. 776. It provides 2 hours of debate time, and waives all points of order against the conference report.

I would like to commend the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], as well as the ranking member, the gentleman from New York [Mr. SOLOMON] for reporting a rule that permits prompt consideration and approval of this conference report by the full House.

Mr. Speaker, the Comprehensive National Energy Policy Act is a major step forward for America, for competitiveness, energy self-sufficiency, and for economic well-being.

Energy is the lifeblood of a growing, modern, industrial economy. Energy, harnessing the power of fuels like oil, natural gas, coal, and the atom, puts people to work, enables them to do more, and produce more than ever before and keeps our Nation strong.

The conference report embodies a comprehensive national energy policy. It incorporates major agreements regarding electrical utilities, alternative fuels, natural gas, offshore oil drilling, nuclear plant licensing, and uranium enrichment.

I note that the report also includes some revenue measures which, I believe, are perhaps ill advised, such as taxing employees in America for their parking benefits in excess of $155 a month.

However, this is a comprehensive energy strategy, one so broad that I am certain anyone could find fault with at least some part of it. The bill is probably especially troubling to those whose idea of an energy policy in America really should be that "you don't use any."

But despite some flaws of the conference report, I look forward to its passage in the full House and to approval by the other body today and signing by the President this week.

Mr. Speaker, I would like to take a moment to note that the conference report includes an important provision on uranium enrichment that will take a significant step toward revitalizing that essential source of domestic energy production. As the sponsor of legislation designed to revive America's flagging uranium enrichment industry, I am especially pleased to see that this act will create an independent, Government-owned uranium enrichment corporation.

I commend the chairman and the ranking member of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT], along with the chairman and ranking member of the Subcommittee on Energy and Power, the gentleman from Indiana [Mr. SHARP] and the gentleman from California [Mr. MOORHEAD], for their efforts to address this critical issue.

One cannot speak of uranium enrichment unless one speaks of our distinguished colleague, the gentlewoman from Tennessee [Mrs. LLOYD], who has worked endlessly as a member of the Committee on Science, Space, and Technology and is the chairman of a subcommittee to keep this effort alive for many years.

□ 1220

Mr. Speaker, one of the reasons it has taken so long for this part of the bill to be enacted is that in the Committee on Rules this morning, when we were working on this rule, we had before us all of the committees that had areas of jurisdiction on this act before us.

I would like to just read them, because these are the full committees, and they are not referred to the various subcommittees that had jurisdiction on energy policy. We have the Committee on Energy and Commerce, we have the Committee on Agriculture, the Committee on Foreign Affairs, the Committee on Government Operations, the Committee on the Judiciary, the Committee on Interior and Insular Affairs, the Committee on Merchant Marine and Fisheries, the Committee on Public Works and Transportation, the Committee on Science, Space, and Technology, as well as the Committee on Ways and Means for taxation.

Mr. Speaker, one of the difficulties of getting legislation through the House is that every one of these committees had jurisdiction, their subcommittees had jurisdiction, and we had to get them all to work together.

Fortunately, the Committee on Rules, when this particular uranium enrichment provision was ignored by certain committees that were opposed to it, we in the Committee on Rules were able to leapfrog those who stood in the way of progress, and have it before us today.

For many years now, Congress has struggled with the idea of privatizing the Nation's ailing uranium enrichment enterprise, which is currently managed by the U.S. Department of Energy.

It produces enriched uranium for nuclear power reactors, which generate nearly 20 percent of the Nation's electricity supply, and for our nuclear navy. Quite simply, a competitive, financially healthy enterprise is critical to maintaining our energy security.

The Department of Energy and the U.S. Government simply cannot compete as effectively as the uranium enrichment market requires. As a result, in recent years we have lost more than 50 percent of the world market due to foreign competition and an unsteady commitment to nuclear power here in the United States. A private business entity, given the flexibility it needs to compete effectively, would be better equipped to respond rapidly and appropriately to market signals in order to maximize benefits and to preserve this vital source of jobs, revenue, and enhancement to our balance of trade.

By implementing a sound restructuring proposal, and by deploying advanced, more cost effective and efficient enrichment technology, we can preserve and reinvigorate a valuable domestic industry. In so doing, we protect American jobs, we protect the labor force that is employed at the Department's current facilities, and we promote quality enrichment services that are indeed "made in America."

This conference report also includes a provision to guarantee that the site selection process for locating the AVLIS technology—which is the next generation of advanced uranium enrichment technology—is conducted in as fair and equitable a manner as possible. My amendment specifically requires that the selection of a site for the AVLIS facility shall be made on a competitive basis, taking into consideration economic performance, that is, the history of the operation of the plant and its employees, environmental compatibility, and use of any existing facilities or investment by the U.S. taxpayer.

Mr. Speaker, again I thank the chairman and ranking member of the Rules Committee for this rule, and I urge Members to support it, and the conference report, so that we can complete the important work of setting a national strategy for energy use and development which the President can sign.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, the National Energy Policy Act of 1992 is worthy of our support. It will reduce our dependence on foreign oil, increase competition in the electric utility industry, and nudge our Nation toward greater reliance on renewable energy resources.

There are many notable aspects of this bill. I would like to call special attention to the whistleblower protection provisions. These provisions lock into Federal law strong protections for workers at the Nation's nuclear weapons facilities and civilian nuclear reactors who speak the truth about threats to public health, safety, and the environment.

In September 1990, a Federal district court judge in eastern Washington threw out the case of a former Westinghouse Hanford employee who had blown the whistle on safety violations at DOE's Hanford nuclear reservation. The employee's claim was denied because he worked for a DOE contractor, not the Federal Government. While Government whistleblowers are protected against retaliation, the judge found that Congress has deliberately refused to protect DOE contractor employees when they report environmental safety, and health violations. Today we will change that.

In November of last year, I introduced, with our friend, Representative MIKE SYNAR, H.R. 3941, to close this glaring gap in the current law. Much of that bill survives in the energy bill today.

Mr. Speaker, whistleblowers perform a true public service, often at a very high personal cost. The investigations of the Energy and Commerce Oversight Subcommittee has conclusively established that DOE whistleblowers have been harassed. criticized, reassigned, denied advancement, and terminated by their private employers for their actions.

The work of the Department of Energy is done by private contractor employees. There are 16,000 private employees at the Hanford nuclear reservation in Washington, 22,000 at DOE's Savannah River, GA, site, 20,000 at the Oak Ridge, TN, site, and another 15,000 in Idaho. In contrast, there are only 19,000 DOE employees in the entire country.

Contract employees are in the best—and perhaps only—position to protect the public. That's why we must protect them. When you don't hear from the private contract employees, the chances of getting serious health, safety, and environmental problems out on the table and corrected are dramatically reduced.

The recent court decision means that whistleblowers simply do not have any protection. As a result, they can be muzzled and their important safety concerns left unattended.

This energy conference report stipulates that private contractor employees will have the right to the same kind of grievance procedures and remedies now enjoyed by most public employees that disclose wrongdoing and face retaliation. This includes the right to have an impartial investigator review the complaint, the right to an administrative hearing, access to the courts, and the opportunity for meaningful relief.

These provisions are critical to the thousands of employees who work at Department of Energy facilities across our country. They are especially important in the Pacific Northwest because whistleblowers have consistently been the ones to bring to light health and safety problems at the Hanford nuclear reservation.

Hundreds of billions of gallons of toxic and hazardous waste have been dumped on the ground at Hanford over the last 40 years. The toxic ooze from leaking waste has reached the ground water and threatens the Columbia River, the lifeline of the Northwest economy and culture. Whistleblowers played a critical role in identifying this contamination and, with their continued vigilance, we will clean up this environmental quagmire.

I want to thank Representative SAM GEJDENSON for his tireless and persistent efforts on behalf of this legislation, as well as Chairman DINGELL, Chairman MILLER, Chairman FORD, Chairman SHARP, Chairman SYNAR, and the Government Accountability project for championing this cause throughout the legislative process.

I urge my colleagues to support this legislation.

Mr. DERRICK. Mr. Speaker, I might comment that this might be the last time the gentleman from New York [Mr. SCHEUER] will speak on the floor, and we were both elected at the same time. He has been a great Member of this body, and we are going to miss him.

Mr. Speaker, for purposes of debate only, I yield 4½ minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I thank the gentleman for those comments.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the distinguished chairman of the Subcommittee on Energy and Power of the Committee on Energy and Commerce. He has done a marvelous job bringing this bill to the floor.

Mr. SHARP. The gentleman is very generous, but the gentleman deserves an extraordinary amount of credit for his work, both on the Committee on Science, Space, and Technology and on the Committee on Energy and Commerce.

There are numerous sections of this bill that derive directly from his work on alternative fuels, renewables, and other issues, especially on energy conservation. I just think it is very important that others in our society know that.

Mr. SCHEUER. Mr. Speaker, I thank the gentleman from Indiana for his kindness.

Mr. Speaker, I rise in strong support of H.R. 776. This bill is the product of over a year and a half of hearings, negotiations, markups, and conferences. It was not easy, but finally we do have a bill, and finally we have a national energy policy; not the ersatz product that came down from the White House a year or so ago with great fanfare, when we could safety and honestly say, there is less there than meets the eye. This is a true energy bill that defines our energy future and helps us get there.

Mr. Speaker, I would say to my colleagues, the Congress has been subject to a lot of criticism in the last year, some of it deserved, much of it not. With this energy bill, Congress can hold its head high. It is a very good bill, and its authors should be proud.

I want to pay a special tribute to the chairmen, the gentleman from Indiana [Mr. SHARP], the gentleman from California [Mr. BROWN], the gentleman from Michigan [Mr. DINGELL], for their leadership and tenacity in sticking with it and bringing it to the House.

This bill does have some weaknesses. There are a few sections in it that I wish were not there, and there are other measures that I would have hoped could have been in there but did not make it.

The passage and enactment of H.R. 776 will significantly reduce our dependence on foreign oil, it will strengthen our economy, and it will help us clean up the environment.

Among the highlights of this bill is the efficiency title. The bill will lead to more efficient buildings, more efficient appliances, and products like air-conditioning, heating, ventilation, windows, lighting, and the like. It will encourage States to engage in what we call least cost planning. That means meeting our energy needs from the most cost-effective point of view.

Frequently, that may mean energy efficiency improvement. Rather than build very expensive new capital plants, States all over the country are using least cost planning to meet their energy needs.

I would say the State of California and the State of New York have absolutely done superb work in meeting their future energy needs through a combination of energy efficiency applications across the length and breadth of energy consumption and through conservation. This is the way to go.

Much of the language in this title is derived from a bill I introduced with several of my colleagues from the Committee on Energy and Commerce, H.R. 2451, the National Energy Efficient Standards Act. The tax sections and the research sections which came out of my Subcommittee on Environment of the Committee on Science, Space, and Technology, which I have had the honor to chair for some years, will also lead to a much more energy efficient economy.

The bill also has strong alternative fuel sections which will reduce oil consumption in the transportation sector. The research provisions for alternate fuels also came out of my subcommittee of the Committee on Science, Space, and Technology, and parts of the bill I introduced, H.R. 2866, the National Alternative Fuels and Motor Vehicles Act, were also included.

Mr. Speaker, I am delighted that we were able to come to a mutually satisfactory conclusion on the natural gas prorationing issue. The Markey-Scheuer amendment was one of the more difficult issues that the conference committee dealt with, but they were able to reach a compromise language, and for that I thank them profoundly.

□ 1230

The compromise language will protect gas consumers from OPEC style price fixing schemes by producing States, while still allowing producing States to regulate their domestic gas production industries.

The electricity regulation title of H.R. 776 will change the structure of the electricity industry as we know. The PUHCA reform/transmission access sections will increase competition in the bulk power market, leading to lower prices and better service.

I am disappointed that we were not able to include language on regional transmission groups [RTG's]. I have been working on RTG's for over a year and I think RTG language would have been a valuable addition to this bill.

Despite a virtually unprecedented agreement reached by all interested groups—the large public power council and my friend from the New York Power Authority, Chairman Richard Flynn, utilities, municipal and co-op systems, environmentalists, consumer advocates, and others, time just ran out.

I hope that this does not preclude the formation of such groups to the extent permitted by applicable law. I further hope that, in view of the tremendous amount of effort and the consensus achieved on this matter by the diverse groups who worked on RTG's, the next Congress will address this issue and enact RTG legislation.

In closing, Mr. Speaker, I want to congratulate the many members who worked very hard to get us here today. I especially want to congratulate Chairmen SHARP, DINGELL, and BROWN for the excellent leadership they have shown.

America needs an energy bill for our security, for our economy, and for our environment. With passage of H.R. 776, we finally have one.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I appreciate the gentleman yielding the time. I rise in support of the rule and of the bill.

I think it is most difficult to come to a consensus on moving forward on energy policy. There is just inherently a good deal of difference between those areas of the country that are in production and those areas that are mostly in utilization, and I think this bill and this rule have come a long way to do that. I am particularly pleased that the one-step nuclear licensing is in here, and I think that is very necessary to have effective and efficient utilization of this resource. The uranium enrichment moves us forward as well, and certainly the mill tailings cleanup. These are mill tailings that were produced by Federal contracts and are the responsibility of the Federal Government. I am delighted with that.

I think competition for electric generation will be enhanced here, as well as the movement of electricity.

So, Mr. Chairman, I am pleased that this important bill will be brought before the House. I think it is something that has been worked on for a very long time, and does reconcile these differences, and will move us forward in producing some energy as opposed to restricting the development of low-sulfur coal in the West, which of course allows us to comply with the clean air rules.

I support the bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the distinguished gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

May I say that I rise in very strong support for the rule, I hope it will be adopted, but in somewhat weaker support for the bill itself. But I hope that it will be adopted, and I intend to vote for it.

I wish to call attention to one feature of this bill which relates to another matter that I want to discuss. The Department of Energy organic legislation requires that the programs of the Department of Energy be subject to annual authorization. That mandate is carefully fulfilled by one of the two committees which has authorizing jurisdiction.

The jurisdiction over the Department of Energy is divided about half and half between the House Armed Services Committee and the House Committee on Science, Space, and Technology. Each year, the House Armed Services Committee meticulously authorizes in great detail those programs under its jurisdiction, basically the nuclear weapons program. The counterpart committee in the Senate, chaired by the distinguished senior Senator from Georgia, Senator NUNN, in close cooperation with the House, similarly authorizes their portions of the bill, and the House and Senate both adopt the authorization for the military portions of the Department of Energy.

Despite the mandate of the Organic Act, nothing like that has happened in the civilian programs of the Department of Energy for the last 10 years. What is the difference?

The difference is that in the Senate, the other body, the distinguished chairman of the authorizing committee is also the chair of the appropriations subcommittee. He feels no necessity to authorize the civilian programs of the Department of Energy, and as a consequence, they have not been authorized.

In this bill that the rule proposes to take up, we sought to implement the provisions of the Organic Act, and to fully authorize all of the civilian programs of the Department of Energy. That was bitterly resisted on the part of the Senate for the reasons that I have indicated. The distinguished Senator from Louisiana is really not interested in authorizing programs because in his role as appropriator, he can do it with much less difficulty.

So we have struggled in this bill to authorize as much as we can, but relatively little of the civilian programs are authorized, and none, none of the programs with regard to authorizing of facilities and construction projects is in here. They still go unauthorized.

Now how does this relate to the other problem that I mentioned? This House about 3 weeks ago was faced with about $100 million in Department of Energy authorization for facilities which had no authorizations but were to be funded in the appropriation bill for energy and water. The House, in its wisdom, struck that provision to fund those unauthorized projects in the energy and water bill in the civilian portion of the Department of Energy.

Lo and behold, in the Department of Defense appropriation bill now before us, the language stricken by the House 3 weeks ago now reappears intact, appropriating and authorizing in a defense bill for the civilian programs of the Department of Energy. This is the most egregious effort to trample on the rights of the House that I have ever seen in my 28 years here. And I think that all Members of the House should be alerted to this fact.

I have asked the members of the Rules Committee not to protect this egregious act with a rule. I do not know what they in their wisdom will do. But if this act authorizing $100 million in projects already rejected in a department not under their jurisdiction comes before this bill protected, I will seek to defeat the rule, and I want all Members of the House to know that at this time.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from California [Mr. MOORHEAD] the dean of the California delegation.

Mr. MOORHEAD. Mr. Speaker, I rise in support of the rule and the conference report on H.R. 776, the Energy Policy Act. This rule moves Congress one step closer toward the adoption of a long-awaited and much needed national energy policy.

I wish to especially congratulate BUTLER DERRICK and BOB MCEWEN for the work that they have done on this rule, and in fact the entire Rules Committee for their expeditious handling of this matter. And I certainly wish to congratulate BOB MCEWEN for his work on uranium enrichment provisions of this legislation on which he has done an excellent job.

H.R. 776 increases America's energy independence and competitiveness, creates jobs, and fuels economic growth. It is the result of years of work by Members and staff on both sides of the aisle, and in both bodies.

The Energy Policy Act reforms the regulation of electric utilities to ensure competition in both generation and transmission. Reform of electric utility regulation is firmly grounded on the provision of transmission access. All electricity consumers benefit from the increased competition among electricity supply options.

Therefore, I support the rule and urge adoption of the conference report.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of this rule. I am pleased that we have before us today legislation that establishes a national energy strategy that will significantly reduce our Nation's dependence on foreign oil and fossil fuels.

This comprehensive energy strategy is designed to set meaningful goals to promote energy independence, conservation and commercial development of alternative renewable energy technologies.

□ 1240

The need for a national energy policy is obvious. Currently, the United States imports about 50 percent of the oil that we use. We spend about $40 billion a year on foreign oil. That is almost one-fourth of our total trade deficit.

Mr. Speaker, this legislation would reduce U.S. oil imports by 3 million barrels a day by 2010. That is equal to about 40 percent of the oil we imported in 1990.

This bill would require companies that produce, transport, or sell alternative fuels like ethanol refiners, operators of natural gas pipelines, and even electric utilities to begin switching their vehicle fleets to alternative fuels. This includes vehicles fueled by natural gas and electricity, two alternative fuels that I believe hold special promise for the future.

This bill would also require the Department of Energy to enter into joint ventures with industry to develop electric vehicles and to establish a program to get alcohol-based fuels into commercial markets.

Electric vehicle research that is going on at Kansas State University is exciting. The research partnership between the Kansas electric utility research program and the DOE is exactly the kind of private-public sector cooperation we need to perfect and market this promising technology.

Fortunately, the bill does not include provisions dealing with prorationing that would have resulted in waste of natural gas by unduly restricting the authority of the States to regulate production of natural gas for environmental and waste-prevention purposes.

The handwriting is on the wall, Mr. Speaker, we must wean this country from our dependence on imported fossil fuels for the sake of the environment and our national security. This legislation, with its increased efficiency standards and alternative-fuel provisions, will help us achieve that goal.

I urge adoption of this rule and support the national comprehensive energy bill.

I would like to also especially thank the chairman, the gentleman from Indiana [Mr. SHARP], and the ranking minority members like the gentleman from New York [Mr. LENT], and the gentleman from California [Mr. MOOR-

HEAD], and the chairman, the gentleman from Michigan [Mr. DINGELL], for their tireless efforts in bringing this legislation to the floor today.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished committee chairman, the gentleman from Michigan ± [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, ordinarily a comment of this sort I would regard as superfluous, but I believe at this time it is important. I want to commend the distinguished Committee on Rules, particularly the chairman and the ranking minority member, for granting this rule and urge my colleagues to support the rule. I hope all will recognize that the legislation is very much in the public interest and represents a good compromise between widely differing viewpoints.

The Committee on Rules has, indeed, covered itself with credit during very difficult times recently, working on a broad array of legislation and helping the House to expedite the consideration of its business. They deserve our thanks and our accommodations for the rule.

As I have said, the legislation and the conference report are excellent, should be adopted by the House, sent to the President so he can sign it and so that we can continue to move forward in the development of a rational energy policy for this country.

Mr. DERRICK. Mr. Speaker, I thank the gentleman from Michigan for his kind remarks.

Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I am very pleased to rise today in support of H.R. 776, the Energy Policy Act of 1992. This landmark legislation will help keep down our dependence on imported oil and greatly strengthen our national economy.

The multitude of historic changes in U.S. energy policy that are embodied in this act are of special importance to New Englanders. Our energy bills are among the highest in the Nation and with very limited local energy resources we are forced to export billions of dollars annually from our region in energy bills.

A decade of inaction on energy policy by two successive administrations has put our regional and national energy economy at great risk. But H.R. 776 will help to reduce this risk in two basic ways: First, it will help us consume less energy; and second, it will help to hold down energy prices. Taken together these changes will lower the amount of money we export from New England in energy bills. H.R. 776 will help protect us from the next oil price shock while promoting environmentally responsible energy choices.

I have worked throughout my congressional career in support of national energy policies like those now embodied in H.R. 776—balanced, responsible, low cost to consumers, and nondamaging to the environment. That is why energy efficiency is at the heart of this bill.

Doing more with less is not just a definition of industrial productivity. It is the best prescription for international competitiveness in energy, and it is the foundation of a proenvironment, progrowth energy strategy for New England and the Nation.

The Energy Policy Act conference report reflects the conclusion of many tough battles between House and Senate producers and consumers and environmentalists. Like most other Members of Congress I do not support all aspects of the conference report. Of special note, I believe the bill should have: First, tightened standards on automobile fuel economy; second, established a Northeast reserve of petroleum products; and third, put in statute the moratorium on offshore oil and gas drilling off New England and elsewhere. Additionally, I remain strongly opposed to provisions of this bill that will: First, cut the public's role in the licensing of nuclear powerplants; second, force EPA to loosen the environmental standards at the Yucca Mountain high-level nuclear waste site; and third, allow utility companies to make enormous investments overseas without adequate protection of ratepayers.

Despite these shortcomings, I am certain that on net this is an exceptionally beneficial legislative product. The provisions on energy efficiency, competition and access to the utility grid, natural gas, renewable energy production, the strategic petroleum reserve, and much more will fundamentally affect the way in which our Nation produces and uses energy. More than any other bill in our Nation's history this bill relies simultaneously on marketplace-oriented policies that are not only good for consumers but good for the environment.

For example, the equipment efficiency standards in H.R. 776, which I introduced last year as H.R. 2451 with Representative MICHAEL BILIRAKIS and others, will save the energy-equivalent of a 1/2 million barrels of oil per day. These standards generate enough energy savings so that the Nation will be free to build 30 fewer 1,000-megawatt size powerplants by the year 2010. Avoiding investments in these unnecessary powerplants will yield $50 billion in net savings to our economy over the next two decades. And furthermore, by avoiding running these unneeded powerplants we will avoid generating millions of tons of carbon dioxide, the pollutant that is the leading cause of global warming.

Similarly, the bill's reform of the electric utility industry, by updating the regulatory regime and opening up the transmission grid to independent power producers, renewable energy generators, and others, and encouraging access to affordable Canadian natural gas, all combine to make bad investments in powerplants less likely. And as we learned the hard way over the past 15 years, all of our worst investments in power generation have been nuclear powerplants. So by enhancing competition in this monopolistic industry we will end up with cheaper and cleaner power sources.

Working closely with Chairmen JOHN DINGELL and GEORGE MILLER, and Representatives PHIL SHARP, CARLOS MOORHEAD, and NORMAN LENT, and many others, I am very pleased and honored to have played a role in helping to shape this important legislation.

Several provisions that I authored will directly help consumers and businesses in Massachusetts and the Nation keep down energy costs. These are:

New energy efficiency standards. The conferees adopted the Markey-authored minimum efficiency standards for electric motors, certain light bulbs, showerheads, and heating-ventilating-air-conditioning [HVAC] equipment. These are important new standards that will have a major impact on our Nation's energy diet: they will prevent the need to construct more than 30 Seabrook-sized powerplants. These are consensus standards that were worked out by environmentalists and manufacturers and done a bipartisan basis with Representative BILIRAKIS.

Access to Canadian natural gas. Conferees adopted a measure offered by Representatives MARKEY and NORMAN LENT that protects New England's access to clean-burning, affordable Canadian natural gas. This will help wean us from imported oil and save consumers money.

Competitive electricity generation. The conference-approved Markey-Moorhead legislation will promote a competitive electricity market. By providing for access to the electric transmission grid by independent power producers, renewable energy generators, municipal utilities, and others there will be more options for consumers to choose cheaper power sources. This, along with PUHCA reform, will lead to a revolution in the electricity industry—with enormous benefits for consumers and the environment.

Natural gas prorationing. The conferees adopted language based on the Markey-Scheuer floor amendment—which had passed 238–169. This compromise section will allow consumers to challenge the recent actions taken by Oklahoma and Texas and other gas-producing States to limit production of natural gas in order to increase prices. These new actions have already increased prices enough so that—if left unchecked—the heating bill of the average Boston home that heats with gas could go up $85 this year.

Mr. McEWEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Virginia [Mr. BLILEY], a member of the Committee on Energy and Commerce.

Mr. BLILEY. Mr. Speaker, I am pleased that this body is moving with such businesslike speed to consider this conference report for the national energy strategy. I applaud the firm leadership of our chairman, the gentleman from Michigan [Mr. DINGELL], the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP], and on our side, the ranking minority member, the gentleman from New York [Mr. LENT]—who will be leaving us, sad to say—and the ranking Republican on the subcommittee, the gentleman from California [Mr. MOORHEAD].

I also want to note the contribution of the President in moving the debate.

I would like to just take a minute and speak to one aspect of this bill, and that is the reform of the Public Utility Holding Company Act of 1935. That act has been on the books for a long time with almost no amendments to it. It came about because of a lot of abuses on the part of utility holding companies.

But times have changed. No one foresaw the development of independent power producers in the 1930's. What we see with PUHCA is that this is the wave of the future to put private business bidding against each other to meet peak demands for electrical power, and as we move forward with the Clean Air Act, electricity is going to be more and more a part of our energy program, even more important than it is today.

We are going to need more capacity. What we were able to do, not only to reform the act to get rid of the most onerous burdens from these people, but we also made sure that once they made a bid that they would get access to the transmission lines, because there are some who have excess capacity today who do not want these independent power producers to have access, because they are fearful, and rightly so, that they will be underbid for their excess power by these independent producers. But we were able to make sure that that stayed in the bill.

My friends, it is a good bill. Like other speakers have said before me, it is not everything that we would want.

□ 1250

There are a lot of things I would like to have seen in this bill, but, sadly, they are not there. But what we do have is a definite improvement over existing law. I am particularly pleased that we were able to add another provision to allow our utility companies—the best in the world—to compete for new business in emerging countries, countries coming out from behind the Iron Curtain, to produce power.

Under the Holding Company Act they were denied. They could go over and invest in hotels or resorts, every other thing, but the one thing that they had the most expertise in, and that is the generation and transmission of electric power.

We were able to correct that, and our utilities will be able to compete in what could be a $500 billion market over the next few years.

So it is a good bill. I urge its passage. Now, if I might engage the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP] in a brief colloquy.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman.

Mr. SHARP. I thank the gentleman for yielding.

Mr. Speaker, this Member would have to indicate that possibly in general debate we can do that, but we have to check the legal language just to make sure that we are certain of the legal meanings, because this is to establish the legal record and we are double checking that right now.

Mr. BLILEY. I can understand that. I too am not a lawyer and do not labor under that handicap.

Thank you Mr. Speaker. I am pleased that this body is moving with such business-like speed to consider the conference report for the national energy strategy. I applaud your firm leadership on this issue, Mr. DINGELL, as you have successfully steered this bill through its parliamentary maze.

I also want to note the contribution of the President in moving this debate. Earlier this spring, President Bush and Admiral Watkins put forth a comprehensive national energy strategy. That was strong, innovative and correctly relied on both emerging technologies and market principles. And here in the House, we Republicans led, by my friends, Mr. LENT and Mr. MOORHEAD, built on the President's proposal and introduced our own national energy strategy.

Now I understand that some have criticized this bill as being undramatic. Well I for one think that the Congress can stand for a little less drama and stand for more common sense. I think the bill before us, though far from perfect, contains a lot of common sense. It builds on current good programs and gets us started in some proper new directions. I think this bill is worthy of this committee's support.

I think a successful energy plan must address three main points: Conservation, efficiency, and development of domestic energy sources. Now I think that all three of these principles are incorporated in a provision of particular concern to me, the reform of the Public Utility Holding Company Act. As you know, I have been working for PUHCA reform legislation for the past 4 years and am delighted that this hard work is about to pay off. I have long held that proper PUHCA reform is projobs, procompetitiveness, and proenvironment.

The Public Utility Company Act [PUHCA] was passed in 1935 to protect ratepayers from real-live abuses by utilities. Over the years the law has served us well; however, the lawmakers of that day could not envision the development of the independent power producer.

In 1978 Congress passed the Public Utilities Regulatory Policies Act [PURPA] brought into existence a new entity called a nonutility cogenerator. In the decade since PURPA's enactment, over 20 percent of new electricity generating capacity has been supplied by nonutility generators. Just as important, this generation has been reliable or more reliable than that of traditional utility generators.

And the trends would indicate an even larger role for these independent power producers. The Department of Energy estimates that even with strong conservation measures that this Nation will require from 50 to 100 gigawatts of increased electric capacity. This is equivalent to 500 to 1,000 new powerplants. By the year 2010, 40 percent of our Nation's energy demand will be electricity.

Unfortunately, we have squeezed nearly every drop of benefit out of PURPA. We are rapidly running out of suitable steam-hosts that would allow these IPP's to qualify as facilities under PURPA.

Without the benefit of a steam-host, these IPP's are forced to comply under the untenable requirements of PUHCA. Attempts by IPP's to work within this 1935 law have created what one lawyer has termed the PUHCA pretzel, a legal and financial labyrinth that robs the IPP of its efficiencies.

Now if this new industry is to grow to fruition, we must remove the PUHCA impediment. I recognize that PUHCA was created to address real abuses by real utilities and I do not advocate the scrapping of the law. I do believe that we can refine the law to retain the present protection for the rate payer while encouraging the benefits of increased competition.

And there are great benefits to allowing competition into the wholesale electric generating industry. The Department of Energy estimates that full-fledged competition will bring savings of nearly $2 billion per year.

Beyond these initial savings to the ratepayer will be the boon to industry. Lower energy costs means lower cost products and services. We will need every advantage when competing with Asia and a unified Europe.

Finally, let us not forget the benefits of the synergy of competition. I am reminded that not a single drug has ever been invented in a Communist country.

Competition spawns innovation and technology transfer. I am convinced that our best hope for the commercialization for clean coal technology lies in the hands of the entrepreneurs. Our environment and economy can benefit from the creativity of the private sector.

The legislation today addresses PUHCA reform in a thorough and comprehensive manner. It removes the outdated barriers to competition; yet, builds on the current law to ensure maximum consumer protection. Just as noteworthy, this legislation expands on the current trend toward a more open, more efficiently utilized transmission system. This added enhancement will allow this Nation to fully enjoy the benefits of competition. Transmission lines are the highways of commerce in the electric utility industry. Fair and open access to these lines is essential to fulfill the purposes of the electricity title of this legislation: The promotion of competition and the lowering of electric rates.

But the availability of transmission access will prove meaningless if that access is not provided under reasonable rates, terms and conditions. In the past, price and nonprice terms have been distorted to block access or make it uneconomic.

The transmission pricing provision contained in H.R. 776 are intended to ensure that transmission services are available under just and reasonable rates. Some parties have wanted us to specify detailed pricing standards that would dictate results in every circumstance. But all circumstances are not alike, and it would be inappropriate for Congress to straitjacket the FERC.

Others had wanted us to endorse or condemn various pricing methodologies: opportunity cost pricing, marginal cost pricing, embedded cost pricing. We did not take this approach. Instead, the pricing language in the legislation establishes a single guiding principle: A reaffirmation of the just-and-reasonable pricing standard that has governed electric rate setting for years. Included in this concept of just and reasonable is a clear rejection of the extreme notion of allowing transmission owners to collect monopoly rents, or extortionary rates.

We did recognize recent FERC decisions that have concluded that, under certain circumstances, rates could deviate from the previous pricing methodology of embedded cost pricing without violating the just-and-reasonable standards. FERC has taken this approach in several instances where the costs are legitimate and verifiable, the collection of these costs does not stifle nor distort competition, and the Commission has determined that it is appropriate to assign those costs—or a portion of those costs—to the transmission customer. The language contained in H.R. 776 is intended to reinforce this rigorous responsibility on the FERC. Indeed, I would point out that the notion that requesters of transmission system enlargement should always bear the entire cost of system enlargement was debated and rejected by the conferees.

Mr. Speaker, in my view, the FERC has an affirmative responsibility under this legislation to ensure that transmission rates are set in a manner that will encourage, not stifle, competition. We are not regulators and cannot legislate pricing formulas that would be appropriate to all types of transactions. For that reason, the conferees established more general pricing guidance. Thus under section 723, any costs assigned to a transmission customer must be legitimate, verifiable, and economic. Transmission rates must promote economically efficient transmission and generation. Economic benefits of providing transmission services must be given equal weight to economic cost; for instance, in determining who should bear the cost of transmission additions, existing transmission customers must be treated as native load customers. The protection of transmitting utility customers and the need to promote competition through lowest reasonable transmission costs. I am hopeful that this guidance will dissuade FERC from approving excessive transmission rates.

I want to commend my colleague from Louisiana, Mr. TAUZIN, and my fellow Virginian, Mr. BOUCHER for their leadership on the issue. Their unique perspectives and individual talents have combined to make this legislation more substantial and credible. I also want to note the Herculean efforts the chairman of the Energy and Power Subcommittee, Mr. SHARP, for using his resources to push the debate toward maturation.

Finally, I am pleased that the conference adopted a provision that I proposed that will allow utility investment in overseas markets. In the years to come I suspect that we will refer to this as the "sleeper issue" of the national energy strategy.

Currently, a utility affiliate company is permitted to invest in overseas land deals, foreign banks, foreign oil wells, even foreign movies—U.S. utility affiliates are prevented from engaging in only one type of foreign enterprise—the one they know the best. They are not permitted to generate or distribute electricity under the current law.

Presently, there are enormous international investment opportunities for U.S. companies and utilities. In the next several years, more than 60 countries around the world are expected to privatize their utility systems or actively encourage independent power generation. Recent studies estimate that the global market for investment in electric generation, transmission, and distribution systems will range upward of $500 billion.

Unfortunately, PUHCA's constraints have made it difficult for United States utilities to compete with the Germans and the Japanese. United States companies are being beaten to the punch because of this regulatory snafu. The PUHCA provisions in the bill will finally allow utility affiliates to participate in generating projects but will still be barred from any role in the distribution. This is not good enough. Countries that are looking for help need American expertise for the whole system, not just generation. The Germans and the Japanese still have an advantage. This does not mean that just the utility affiliate will lose—American turbine manufacturers lose, American-made electric meters, like the ones made in Indiana lose, and the American worker loses jobs.

Now I realize that there may be some concern about consumer protection. I would argue that the same protection afforded ratepayers on other affiliate dealings will still exist, while the provision adopted allows for even further oversight. Ladies and gentlemen, we have a window of opportunity to make this energy bill a jobs bill as well. I am pleased to have had the cooperation of the conference on this matter.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, for almost 20 years I, together with many other Members of this body, have worked to help establish a national energy policy. We are a Nation with abundant resources, with the world's best research and technology for energy conversion, but we are a nation that has for many years now been in need of a national energy policy. The Comprehensive National Energy Policy Act being considered in the House of Representatives is designed to provide just that.

I believe that this bill is one of the defining acts of economic, energy, and environmental policy of the 20th century. I commend the leaders of this committee, who have helped bring it to the floor today.

I support H.R. 776 because it will help produce cleaner fuel, provide fuel that is healthier to humans and to plant life and to produce less greenhouse gas to pollute our atmosphere.

There is overwhelming evidence that the effects of having no energy policy have been debilitating to our Nation. First of all, we continually become more and more dependent on foreign oil. Imports from other countries supply more than 50 percent of the United States' annual needs. The percentage of our Nation's energy requirements met by foreign imports has risen from 28 percent in 1982 to the 1991 level of 52 percent.

The economic cost to the United States of this dependence is enormous. A current report from the Library of Congress research service estimates that, based on Energy Information Agency figures, the cost to the United States over the next 10 years will be about $750 billion in 1990 dollars and will increase to about $1 trillion in 1990 dollars during the decade from 2000 to 2010. One trillion dollars in one decade is a burden to the economy.

Dependence on imports causes us to rely on suppliers in politically unstable regions like the Middle East where 2 years ago we were forced to fight a war in order to protect the oil supply at an enormous cost to the U.S. taxpayers.

To illustrate this added cost I reference a General Accounting Office study that was conducted at my request in August 1991. The resulting report entitled, "Southwest Asia, The Cost of Protecting U.S. Interests," shows that assistance provided to the Persian Gulf from 1980 to 1990 was approximately $420 billion and imports totaled 140 billion gallons. Therefore the additional cost to consumers of each gallon of imported gasoline was about $3 per gallon.

Three dollars per gallon of gasoline was spent by the U.S. Government to protect this country's interest in oil imports. Our country cannot afford to pay this price.

I would like to insert a summary of the before-mentioned GAO report in the RECORD.

Another cost of depending on petroleum products is more and more evident as it takes its toll on human and animal health. It has been demonstrated that ill effects on the human body are caused by air pollution which is generated by the increasing number of automobiles on our Nation's streets and highways. Recent Environmental Protection Agency studies attribute about one-half of the several hundred air-quality-related cancer deaths per year to toxic air pollutants from gasoline vapors and vehicle exhaust.

Also, the cost to plant life from damaging auto emissions is increasing and is becoming more noticeable.

In a recent U.S. Department of Agriculture report entitled, "Agriculture and the Environment," Walter Heck, a USDA specialist states:

> We used to think air pollution was just a city problem. Now, we know that pollutants can be transported hundreds of miles and can be found in elevated concentrations in rural and forested areas. Some of the most important crops sensitive to pollution are soybeans, cotton, peanuts, tobacco, clover, alfalfa, and potatoes.

We must, for the economic well-being, the security, and the health of the United States, lessen our dependence on foreign oil.

This energy bill, if enacted, would include a goal of 30 percent displacement of foreign oil imports through the next 10 years. That means oil imports could be reduced by 50 percent once we attain the goal contained in the Comprehensive National Energy Policy Act.

The energy bill offers the prospect of saving $500 billion in the decade from 2000 to 2010 which could then be reinvested in our economy creating up to 750,000 jobs.

Enactment of a national energy policy would create a new rich market for farm fuel and other alternative fuels produced in many different regions of this country. This bill offers the United States the prospect of an economic development opportunity larger than any other in the history of this Republic.

With up to a 50-percent reduction in foreign oil imports, one can envision a massive shift of wealth from the oil fields of the Middle East to the farmlands of the mid-South.

There are many opportunities for the production of alternative fuels from a variety of domestic sources. Examples of energy producing products are ethanol, methanol, liquid petroleum gas, compressed natural gas, coal gasification, solar power, and hydrogen.

For the last 2 years I have served as a member of the U.S. Alternative Fuels Council. There are 19 appointed members from both industry and government. We have met on 11 occasions over the past 2 years. After thorough deliberation by the Council we have put together a final report, making findings and recommendations for the implementation of Government incentives to further utilize various alternative fuels. The goal in drafting this report has been to formulate a plan developing cost-effective alternative transportation fuels that promote environmental quality and energy security.

I would like to make the final report of the U.S. Alternative Fuels Council a part of the RECORD at this time.

Among the most exciting energy developments currently underway is a joint demonstration project between the United States and Brazil to convert biomass to ethanol.

The United States-Brazil project utilizes advanced technology developed in Brazil over the last two decades. This technology has enabled Brazil to become the leading ethanol producer in the world. About 95 percent of the automobiles in Brazil are run on ethanol, referred to as alcool by the Brazilians.

The biomass conversion project combines Brazilian technology with the research and development that has taken place in the United States over the past 20 years. The project demonstrates the cost competitiveness of energy produced from biomass to gasoline. The goal of the project is to produce ethanol from biomass at a cost of 60 cents per gallon.

The energy bill before us authorizes up to $205 million for research and development for alternative fuels research. This is an increase of about $75 million over last year's goals. In the district I represent, Arkansas State University is conducting research to discover crops that have high energy potential. Agricultural crops like corn, milo and soybeans, and indigenous plants like switchgrass and swamp weeds can be used to produce energy domestically.

The money authorized by this energy bill will provide opportunities for enhanced research activities Arkansas State University and others to accelerate these research efforts and to speed along the cause of finding additional plants that can readily be converted to alternative fuels.

Additionally abundant potential feedstocks such as rice straw, soybean trash, cotton seed hulls and wheat stubble all have potential to be turned into fuel. Substances that are now nothing more than waste products can be used to create energy.

For almost 20 years I have worked to establish a comprehensive energy policy for the United States. I have served on the National Alcohol Fuels Commission and the U.S. Alternative Fuels Council. Along with my colleagues, I have urged the Congress to take the important steps necessary to promote the development of alternative fuels.

We must now finally seize the opportunity to make the most of available domestic sources of energy and to discover new ones. We must decrease our dependence on foreign oil, protect the health of our citizens, and stop sending money abroad to pay for what we can provide for ourselves without the costs associated with imports. We must support the Comprehensive National Energy Policy Act.

DOMESTIC GASOLINE CONSUMPTION

	Barrels/day	Gallons/day	Gallons/year
Year:			
1980	6,579	276	100,470
1981	6,588	277	101,105
1982	6,539	275	100,375
1983	6,622	278	101,470
1984	6,693	281	102,565
1985	6,831	287	104,755
1986	7,034	295	107,675
1987	7,206	303	110,595
1988	7,336	308	112,420
1989	7,328	308	112,420
1990	7,235	304	110,960

Note.—Approximate total consumption, 1980–90: 1,165,000,000,000, gallons. Data provided by Energy Information Administration.

The Congressional Research Services advises that from 1980 to 1990, imports from the Persian Gulf region comprised approximately 12 percent of total gasoline consumption—about 140,000,000,000, gallons.

REAL COST OF A GALLON OF GASOLINE

GAO reports the following costs for protecting foreign oil supplies during the years 1980–90:

Military activities (SW Asia-dedicated)	$21,400,000,000
Military activities (SW Asia-oriented)	5,800,000,000
Other contingencies and mobility programs	272,600,000,000
Kuwaiti reflagging operation	240,000,000

Operations Desert Shield and Storm	61,000,000,000
Military assistance to strategic SW Asia countries	30,800,000,000
Economic assistance to strategic SW Asia countries	28,000,000,000
Multilateral financial aid (U.N. and World Bank)	6,626,000,000
U.S. aid for energy activities	130,000,000
Multilateral aid for energy activities (World Bank)	466,000,000
Total	427,062,000,000
Total, excluding multilateral aid	419,970,000,000

If assistance provided to the Persian Gulf region from 1980 to 1990 was approximately $420 billion, and imports totaled 140 billion gallons, the additional cost of imported gasoline that consumers don't see at the pump is about $3 per gallon!

UNITED STATES ALTERNATIVE FUELS COUNCIL

FINAL REPORT

INTRODUCTION

The United States Alternative Fuels Council was created by Section 4 of the Alternative Motor Fuels Act of 1988 (AMFA), Public Law 100-494. AMFA states that

(1) The chairperson of the Commission shall * * * establish a United States Alternative Fuels Council to report to the Commission about matters related to alternative motor fuels.

(2) The Council shall be composed of members as follows: (A) one Member of the House of Representatives appointed by the Speaker of the House of Representatives; (B) one Member of the House of Representatives appointed by the Minority Leader of the House of Representatives; (C) one Member of the Senate appointed by the Majority Leader of the Senate; (D) one Member of the Senate appointed by the Minority Leader of the Senate; and (E) 16 persons from the private sector or from State or local government who are knowledgeable about alternative motor fuels and their possible uses and the production of alternative motor fuels and vehicles powered by such fuels, to be appointed by the chairperson of the Commission.

PURPOSE OF THIS REPORT

The purpose of this report is to communicate the final findings and recommendations of the Council which the reader will find listed later as "statements of fact" and "policy recommendations." These findings represent the consensus of the Council as measured by concurrence from at least 75% of the members who were present at the September 9, 1992 meeting. Over the past 30 months the Council has discussed many topics, but this report only contains recommendations upon which three-fourths of the Council members agree.

COUNCIL MEETINGS

The Council met 11 times on the following dates and locations:

Date and location: May 9, 1990, Washington, DC; June 14-15, 1990, San Diego, CA; August 15-16, 1990, Dearborn, MI; November 15-16, 1990, Philadelphia, PA; December 12, 1990, Washington, DC; February 14-15, 1991, Denver, CO; May 17, 1991, Washington, DC; September 19-20, 1991, Kansas City, MO; January 23-24, 1992, Orlando, FL; April 29, 1992, Washington, DC; September 9, 1992, Golden, CO.

COUNCIL MEMBERSHIP

The members of the United States Alternative Fuels Council were:

Mr. J.K. Aldous, Senior Vice President, American Automotive Association.

Mr. George Babikian, President, ARCO Products Company.

Mr. Robert Campbell, President and CEO, Sun Company, Inc.

Dr. Robert Hahn, Visiting Scholar, American Enterprise Institute.

Mr. Ban Henneke, Jr., President, Energy Fuels Development Corporation.

Mr. David Hentschel, Chairman, Occidental Oil & Gas Corporation.

Mr. Howard Hinton, Vice President, Midwest Grain Products.

The Honorable Charles Imbrecht, Chairman, California Energy Commission.

Mr. Elwin Larson, President and CEO (retired), Brooklyn Union Gas Company.

Mr. Ray Lewis, President, American Methanol Institute.

Mr. David Merrion, Senior Vice President, Detroit Diesel Corporation.

The Honorable John Rockefeller IV, U.S. Senator.

The Honorable Charles Grassley, U.S. Senator.

The Honorable Bill Alexander, U.S. Congressman.

The Honorable Jerry Lewis, U.S. Congressman.

Mr. Federico Peña, (Former Mayor of Denver, CO), CEO/President, Peña Investment Advisors, Inc.

Ms. Helen Petrauskas, Vice President of Environmental & Safety Engineering, Ford Motor Company.

Mr. Theodore Weigle, Jr., Vice President, Bechtel Corporation.

Mr. Robert Yuhnke, Senior Counsel, Environmental Defense Fund.

Mr. Herbert Lapp, President, H. J. Lapp & Associates.

MISSION STATEMENT

In response to its legislative charter, the Council formulated the following mission statement:

The United States Alternative Fuels Council shall recommend a plan for developing cost-effective alternative transportation fuels that promote environmental quality and energy security.

POLICY GUIDELINES

It is the position of the United States Alternative Fuels Council that the United States should:

1. Maintain government-established standards for the environment.

2. Encourage diversification of energy supply dependence with regard to location and type while encouraging increased domestic production of all practical, efficient and economic sources of energy, traditional and non-traditional.

3. Maintain U.S. competitiveness in a global economy.

4. Encourage coordination of a national startup and program development for alternative fuels which account for local, state and regional requirements.

5. Encourage a robust and durable policy, valid across the broadest range of economic, environmental and fuel supply balance scenarios.

6. Avoid any drastic petroleum taxes or import fees.

7. Encourage a "Level Playing Field" that allows alternative fuels and vehicles to compete fairly based on their cost and performance characteristics.

8. Increase supply-side-push incentives to produce alternative fuel vehicles and alternative fuel availability.

9. Periodically reexamine existing fuel and vehicle supply/production requirements relative to meeting national goals.

10. Do not insist on "tight" early links between alternative fuel vehicles and alternative fuel sales.

GENERAL STATEMENTS OF FACT

1. All alternative fuels identified are inherently less polluting and improve energy security.

2. Mobil/stationary source trading programs have a high probability of causing cost effective alternative fuel use for environmental purposes.

3. The import of MTBE, methanol, LPG or LNG from Persian Gulf sources does not improve our energy security.

GENERAL POLICY RECOMMENDATIONS

1. The government should not discriminate for or against individual alternative fuels in the marketplace.

2. The government should not use mandates to promote the use of particular alternative fuels or vehicles. It should only consider mandates as a general strategy of last resorts.

3. Do not artificially make gasoline considerably more expensive to make alternative fuels more competitive unless there are demonstrable societal benefits.

4. Use incentives that clearly "sunset" when fuels are viable on their own.

5. Use cost-effectiveness as the tool to sort out which policies should be applied first for each fuel.

6. Environmental impact of alternative fuels should be measured against "U.S. average" gasoline on a reactivity-weighted basis.

7. Any alternative fuel which on a reactivity-weighted basis, is less polluting should be encouraged in every ozone non-attainment area in the United States if it is cost effective.

8. If the use of an alternative fuel reduces dependence and has no greater total cost than gasoline from imported petroleum, its use should be encouraged by federal, state and local governments.

9. When an alternative fuel reduces pollutants compared to a crude oil-based fuel at no greater cost, its use should be encourage by federal, state and local governments.

10. The non-petroleum portion of reformulated gasoline (the amount of ethanol or methanol or their ethers used in the reformulation) should be counted towards the use of alternative fuels for all compliance under the Clean Air Act, National Energy Strategy, etc.

11. All alternative fuels should pay equal road taxes on an appropriate basis. Gross vehicle weight may be the simplest way to do this.

12. Information programs should be conducted to educate potential customers about benefits/availability of Alternative Fuel Vehicles and to train Alternative Fuel Vehicle service personnel.

13. Primarily non-financial incentives should be provided for Alternative Fuel Vehicle owners, such as use of high occupancy vehicle (HOV) lanes, exemption from certain parking restrictions, etc.

14. National standards for fuel specific and electric vehicle recharging infrastructure should be established.

15. Flex fuel vehicles should optimize the benefits of alternative fuel.

STATEMENTS OF FACT FOR CNG/LPG

1. The use of North American natural gas as CNG improves energy security.

2. The use of North American natural gas to produce methanol increases our energy security.

3. The use of LPG from North American gas liquids improves energy security.

4. LPG is cost effective if used in step vans, high mileage delivery/taxible-light duty vehicle use, and in public and school bus applications.

5. CNG is cost effective in high mileage, medium and heavy duty applications, in step vans, high mileage delivery/taxicab-light duty vehicle use, and in public and school bus applications.

6. CNG and LPG are not cost effective in normal mileage light duty vehicles.

7. Dual-fueled CNG/LPG vehicles are penalized by extra vehicle weight and/or reduced cargo area.

POLICY RECOMMENDATIONS FOR CNG/LPG

1. LPG uses should be aggressively pursued to provide butane outlets as volatility of gasoline is reduced.

2. LPG safety tests should be conducted and the information concerning LPG's safety record should be disseminated.

3. The government should exempt entities that retail vehicular CNG from FERC jurisdiction, with the exception of entities normally regulated by FERC.

4. Rate basing of natural gas or electric vehicles should be avoided.

STATEMENTS OF FACT FOR ETHANOL/METHANOL

1. The use of North American natural gas to produce methanol increases our energy security.

2. Methanol is cost effective as an ether for octane enhancement, reduction of photo-reactive hydrocarbon compounds, and meeting oxygen standards of the Clean Air Act.

3. Ethanol is cost effective as a blend for octane enhancement in the reduction of photo-reactive hydrocarbon compounds, and meeting oxygen standards of the Clean Air Act.

4. Reformulated gasoline, as the carrier of alternative fuels, is the least costly, most efficient, and most rapidly implemented way to substantially increase the use of alternative fuels in the United States.

5. NEAT and near NEAT methanol use is best implemented through the initial use of light duty flex-fuel vehicles and heavy duty-dedicated vehicles.

POLICY RECOMMENDATIONS FOR ETHANOL/METHANOL

1. Eliminate artificial barriers to entry for ethanol and methanol in the distribution channel for liquid transportation fuels.

2. So long as the effective subsidies exist, we should provide true proportionality of Federal Excise Tax for Ethanol blended fuels.

3. Increase R&D to reduce costs of producing ethanol and methanol from renewable resources.

STATEMENTS OF FACT FOR ELECTRIC VEHICLES/FUEL

1. The use of electricity in cost effective ways improves our energy security if not generated from oil.

2. Electricity is cost effective in light rail mass transit, inter-city rail, and perhaps in some limited-range delivery vehicles.

POLICY RECOMMENDATIONS FOR ELECTRIC VEHICLES/FUEL

1. Rate basing of natural gas or electric vehicles should be avoided.

2. Electric vehicle analysis should include battery recycling and disposal.

3. Inspections and maintenance requirements for electric vehicles should be waived.

FINAL STATEMENT

The Council resolved at its earlier deliberations on December 12, 1990, that an alternative fuels program "should make progress from year to year with a goal that by the year 2010 alternative fuels will be used for at least 25 percent of all motor vehicle miles traveled." The policies and recommendations finally adopted by the Council on September 9, 1992, are not expected to attain the 25 percent goal within the time frames identified. Policy makers should be advised that more aggressive policies and public investments would be required to attain the 25 percent goal.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, the gentleman, for many, many years, has been a true leader especially in the area of alcohol fuels, not to mention other energy issues, and the work of the commission he has been a central leader of is very important to the work of the Congress, and we appreciate his effort.

Mr. DERRICK. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget.

Mr. PANETTA. I thank the gentleman for yielding time to me.

Mr. Speaker, during debate on H.R. 776, the National Energy Policy Act, I would like to state for the record my great disappointment that the final version of this legislation does not contain the long-term Outer Continental Shelf oil and gas leasing deferrals which were included in the House-passed version of the bill.

As my colleagues know, I have led the fight in the Congress in opposition to Outer Continental Shelf [OCS] development in environmentally sensitive areas. For more than a decade we have fought year-to-year battles to protect these areas through annual leasing bans on the Interior appropriations bill.

It has always been my position that while OCS development has a legitimate role to play in our Nation's energy policy, it should not be our first line of defense. We must pursue conservation measures and alternative sources of energy before we seek the development of sensitive areas of our Nation's coastlines. Moreover, I believe the Congress should set up a process by which we would permanently protect the particularly sensitive areas of our coastline while allowing development to safely proceed in other areas. This effort has been hampered by the Department of the Interior's inadequate data base which has been criticized by the National Academy of Sciences as being inadequate and unreliable as a basis for making decisions concerning the environmental impacts of leasing. For this reason, the Congress has held that the Department should not proceed with leasing in particular areas until we can adequately determine the impacts of offshore development.

The legislation passed by the House provided appropriate deferrals for these areas while joint Federal/State scientific panels obtain the information necessary to make responsible decisions concerning the impacts of development on sensitive regions. The language in the House bill was based on past action by the Congress, the President and recommendations for the National Academy of Sciences. These deferrals and study requirements would have provided an important step toward achieving a fair, scientific-based resolution of this difficult issue.

Despite the tremendous efforts of Chairman GEORGE MILLER, Chairman GERRY STUDDS, and other House conferees, the OCS title of the bill was struck by the conferees due to the objections of the administration to a moratorium on the development of environmentally sensitive areas in Florida, Alaska, and North Carolina—despite the administration's past support for such bans and its expressed support for a cancellation and buy-back of the leases in Florida.

I am sure those opposing the development moratorium on these areas hoped and expected the House would forgo these bans in exchange for a leasing deferral in other areas. But, as we have demonstrated many times in the past, our national coastal coalition steadfastly refused to allow a divide-and-conquer approach to our Nation's coastline. When faced with the inevitability of losing the development bans, the House moved to strike the OCS title all together.

Such objections by the administration demonstrate that—in spite of its rhetoric and token actions—it is still unwilling to prohibit offshore oil development in environmentally sensitive areas. This flip-flop should not come as a surprise. Twice before the California delegation has negotiated similar agreements with the administration that would have protected the sensitive areas, while allowing leasing to go forward in areas of high resource potential. Both times the administration unilaterally walked out on the deal.

So those lessons and our experience with this bill show that we must be ever vigilant in our fight to protect our precious coastal resources. We will continue our battle through annual leasing moratoria and will seek the enactment of legislation in the next Congress to provide long-term protection for these sensitive areas. I, as well as the members of our national coastal coalition, are deeply grateful to Chairman SIDNEY YATES, Chairman GEORGE MILLER, and Chairman GERRY STUDDS for all of their past efforts and I hope that we can count on their continued support as we pursue a long-term resolution to this contentious issue.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. I thank the gentleman for yielding to me.

Mr. Speaker, I am pleased to add my wholehearted support for the energy conference report before us today. Passage of this legislation represents the culmination of many months of delicate negotiations among Members and staff.

In drafting the research and development titles of the bill, our committee, the Energy Subcommittee of the Committee on Science, Space, and Technology, attempted to craft policies that will maximize the use of our indigenous resources while developing a complement of new technologies that are more efficient and environmentally compatible.

The provisions also seek to provide a path between development and commercial applications, an often-neglected step in the process of technology commericalization. A uranimum enrichment corporation will now come into existence.

The bill's research and development provisions are aimed at attaining several strategic goals which I believe are of great importance to our energy self-reliance.

By setting the goals of strengthening national energy security, increasing the use of energy efficiency in our economy, reducing pollutants and maintaining the technological competitiveness of our industries, I believe we have given our Nation a blueprint for our energy future.

In closing, I would like to offer my sincere thanks and appreciation of all of my colleagues who have worked so diligently to bring this energy package before us today, the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], the gentleman from Indiana [Mr. SHARP], the gentleman from California [Mr. MILLER], the gentleman from New York [Mr. LENT], and the gentleman from California [Mr. MOORHEAD], and, in particular, the great leadership of our Committee on Science, Space, and Technology and its chairman, the gentleman from California [Mr. BROWN].

Mr. MCEWEN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I would like to associate myself with the remarks of the gentlewoman from Tennessee [Mrs. LLOYD] and repeat what I said earlier in the consideration of the bill, that no one has worked harder or contributed more to the success of this legislation than the distinguished Member, the gentlewoman from Tennessee [Mrs. LLOYD].

The first bill that I introduced upon coming into the House of Representatives in 1981 was to establish a U.S. uranium enrichment corporation. During the 10 years that we have labored together on this, I have been completely indebted to Mrs. LLOYD's leadership on the Science, Space, and Technology Subcommittee, and I commend her on her success of having this included in the Energy Strategy Act before us today.

I was mentioning about the difficulty of getting this legislation passed, and I referred to the various committees, in the Rules Committee this morning, as having jurisdiction. Our Committee on Rules overlooked two of them. One of them was the distinguished Committee on Veterans' Affairs, of which the Member in the chair is the chairman, as well as the Committee on Post Office and Civil Service. This points out the problem we have when you have legislation that comes in under the current situation where 12 subcommittees have jurisdiction over one bill.

Let me make the observation that this bill encourages greater use of renewable energy, it establishes the Uranium Enrichment Corporation to run the Department of Energy's enrichment enterprise; it has one-stop licensing for nuclear power in America, after all these years of having a serious of designs, and also having a licensing in a two-step process where you are licensing the construction and then, having built the plant, investing hundreds of millions of dollars, you are not able to use it and you had to get licenses again. This bill says that you have one license that you can build and you can use, and also it provides for the Department of Energy to have a standardized facility, a standardized construction program like they have in the rest of the world, and encourages use of domestic coal in an environmentally acceptable manner, allows the use of the strategic petroleum reserve when prices skyrocket in situations like the 1990 Iraqi embargo. All great, important steps forward.

Mr. Speaker, the only thing that causes the most concern has to do with the tax provisions, and the tax provisions are one which are always a hindrance because it discourages domestic production

□ 1300

Some of the areas of particular concern that are beneficial, however, extend permanently the energy investment credit for solar and geothermal properties.

Also, it modifies the partial excise exemption for gasoline that is mixed with ethanol and extends its application to 5.7 or 7.7 blends.

Now, currently it is at 10 percent. Under the Clean Air Act that went into effect this past year it would not qualify, so this cleans that up so that we can continue such facilities as at South Point, OH, that produces ethanol to be blended into our gasoline stream. It would still be able to be used and still be able to have the incentive.

There is an increase in the rate of withholding for paramutual winnings, without much discussion or debate.

There is also an increase in the backup withholding to one-third.

It denies deductions for travel expenses for those who have to be moved to a new job location and travel back and forth. The travel expenses are denied after 1 year, another area of concern for me personally, as well as some other provisions that, as we said, while not perfect are a great step forward.

The conference agreement includes provisions of the Senate bill which establish the rules to fund the retirement health benefits of the United Mineworkers, the coalminers, a provision that was considered earlier in the House and was not acted upon is included in here.

Mr. Speaker, let me leave off as I began. This has been a very tortuous task that has taken many, many years. I commend the leadership of the various committees that were involved, all 12 of them, in bringing this to the floor, particularly the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT].

I am delighted to have been informed moments ago that the President does intend to sign this legislation. If the other body can act expeditiously today, I believe it is in the best interests of our country that we do this.

Mrs. VUCANOVICH Mr. Speaker, I rise in opposition to the rule for the consideration of the report of the committee of conference on H.R. 776—the Energy bill. I oppose this rule because it waives all points of order. Had it not done so, I would have raised a point of order against section 801 as exceeding the scope of the conference. I made a request in oral and written testimony to the Rules Committee to not protect this section of the conference report from such challenge, but the committee chose to agree to the request of the chairman of the House conferees that the waiver be granted. Because of this I urge a "no" vote on the rule and a "no" vote on the conference report on H.R. 776.

Mr. MCEWEN. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection, the previous question is ordered on the resolution as modified.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution as modified.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BILBRAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 36, not voting 16, as follows:

[Roll No. 471]

YEAS—380

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—36

Allard
Allen
Armey
Bilbray
Bilirakis
Bunning
Burton
Cox (CA)
Crane
Cunningham
Doolittle
Dorgan (ND)
Dornan (CA)
Duncan
Gallegly
Goss
Hammerschmidt
Hancock
Hefley
James
Johnson (TX)
Kaptur
Lagomarsino
Lancaster
Lewis (CA)
Lewis (FL)
Marlenee
Packard
Roberts
Ros-Lehtinen
Taylor (NC)
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Young (AK)

NOT VOTING—16

Ballenger
Barnard
Boxer
Chandler
Clement
Edwards (OK)
Lipinski
Lowery (CA)
McCloskey
Mrazek
Owens (UT)
Shaw
Sikorski
Stearns
Waxman
Weber

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Mr. VANDER JAGT and Mr. ARMEY changed their vote from "yea" to "nay."

Mr. EDWARDS of Texas changed his vote from "nay" to "yea."

So the resolution, as modified, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5504, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1993

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 102-1020) on the resolution (H. Res. 602) waiving points of order against the conference report to accompany the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5334, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 102-1021) on the resolution (H. Res. 603) waiving points of order against the conference report to accompany the bill (H.R. 5334) to amend and extend certain laws relating the housing and community development, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and order to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 102-1022) on the resolution (H. Res. 604) waiving points of order against the conference report to accompany the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 5504, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1993

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 602 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES 602

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

Mr. BROWN. Mr. Speaker, I am opposed to the rule. I request one-third of the time.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise the gentleman from California that that rule of division of time does not apply in the circumstances under which we are operating today, but the gentleman can certainly ask and obtain time to speak about the rule.

The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, at the outset let me state that it is my intention to yield time to the gentleman from California [Mr. BROWN] during consideration of the rule.

Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. Mr. Speaker, during debate on this resolution, all time is yielded for the purpose of debate only.

Mr. FROST. Mr. Speaker, in order to expedite the consideration of the conference report to accompany H.R. 5504, the appropriation for the Department of Defense for fiscal year 1993 prior to our adjournment tonight or tomorrow, the Committee on Rules is recommending a rule which provides for the consideration of H.R. 5504, waives all points of order against the conference report, waives all points of order against the consideration of the conference report, and provides that the conference report shall be considered as read. This rule is identical to several other rules which have been recommended by the Committee on Rules for the consideration of the conference reports accompanying the various appropriations bills.

In fact, Mr. Speaker, the conference report accompanying H.R. 5504 is the product of many months of negotiations. The conference report, which tracks the authorization passed by the House and Senate on big ticket items, is well below the subcommittee's 602(b) allocation. The bill reflects the new realities of the world which face our Armed Forces today and I urge adoption of the rule in order that the House may proceed to the consideration of this most important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the appropriations bill that this rule would make in order for expeditious debate on the floor of the House is one of the broadest and most comprehensive that we will consider in this Congress.

Let me limit my remarks on the bill to these: It appropriates approximately $254 billion for our national defense in fiscal year 1993, and I think every Member should know that that is $16 billion below the fiscal year 1992 appropriation, and $7 billion below the President's request. Despite that, it is a bill that the President reportedly can sign, having worked with the House and the Senate to forge myriad compromises on a great number of issues. Mr. Speaker, we may not all agree on those compromises, but, nevertheless, the conferees did come to agreement.

□ 1330

Mr. Speaker, while adoption of this rule will allow us to get on with this important business as we move toward adjournment today or tomorrow, in our Rules Committee hearing just a little while ago, it became apparent to all of us that it is not a perfect rule.

In particular, the gentleman from California [Mr. BROWN], of the Committee on Science, Space, and Technology, appeared before the Committee on Rules to oppose waivers of points of order when it comes to certain items contained in this bill.

Mr. Speaker, I am sure that there are Members here that would like to know what the controversies might be on this rule. There are others who want to explain them. It is fair that they be heard.

We all have great respect for the gentleman from California [Mr. BROWN], who appeared before our Committee on Rules to oppose the waivers of points of order in this rule, when it comes to certain medical research items in the bill. And I have also just discovered that there is a line, one simple line in this appropriations bill, which enacts the "Native Hawaiian Health Act" that this House overwhelmingly defeated under suspension of the rules.

I point these things out only to say that I think that they underline the real need for reform, something many of us have been working for in this House.

Mr. Speaker, the gentleman from Washington [Mr. FOLEY] has yet to appoint the House Democrat Members of the Hamilton-Gradison Task Force, while I think Mr. DOLE has appointed the Senate Republican Members, and the gentleman from Illinois [Mr. MICHEL] has appointed the House Republican Members.

We really need to get on with this reform effort. These are the problems that upset every Member of this House.

I will be yielding time on both sides of this issue so that these issues can be heard.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from California [Mr. BROWN].

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BROWN].

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from California [Mr. BROWN] is recognized for 6 minutes.

Mr. BROWN. Mr. Speaker, I thank the distinguished member of the Committee on Rules for yielding time to me.

Again, I apologize for taking up the time of the House at this late day and hour on something which should never have been brought before the House.

I remind the Members of the House that it was only a short time ago that we took up the Energy and Water appropriations bill and, in connection with one amendment, which appropriated funds for $94 million worth of unauthorized appropriations, we struck that language by a 70-percent vote in the House. And now, magically, that language appears again, overriding the previous action of the House, in this bill.

And I could read my colleagues that language, but I think we have passed out sufficient information to indicate to them what it is. I will not bother to do that again.

In effect, a small number of Members, senior members of the Committee on Appropriations, have decided that the will of the House, as expressed by that 70-percent vote, has no meaning and significance.

Let us mention a couple of other things. The content of the subject matter here is in the civilian portion of the Department of Energy. It is not within the jurisdiction of either the Committee on Armed Services in the House and the Senate or the Military Appropriations Subcommittee of the House and Senate. It is entirely out of scope.

Now, I tried to identify the roots of this problem, when we took it up on the Energy and Water bill. We have a very distinguished Member of the other body who chairs the authorizing committee for energy and water and the Committee on Appropriations Subcommittee for Energy and Water and for 10 years, because of the great press of work that he has in the Senate, he has refused to consider any authorization legislation.

Part of that has been the fault of the House. We have not always done our job. But I have talked with this distinguished gentleman, and he is just not convinced that the Senate needs our help in authorizing these projects. They can do it very well on the Committee on Appropriations.

We debated that in the conference on the Energy bill, the long-range energy strategy bill. He made some minor concessions. One thing he was adamant on, he would not agree to the House authorizing any projects or facilities. There is no language in that Energy bill which would implement the clear language of the Organic Act of the Department of Energy which says there shall be an annual authorization bill.

For 10 years, this situation has been continuing. My colleagues will understand that I take a little umbrage at the fact that we have been unable to remedy it.

The distinguished gentleman from New York [Mr. SOLOMON] suggests we need a change in the rules. That was suggested to me in the Committee on Rules this morning. We need a change in the rules. I hesitate to point out, the rules already prohibit this.

What the Committee on Rules has done is waive the rule. We can change the rules until we are blue in the face, but if we waive them, then it is to no effect. I am sure my good friend from New York recognizes that.

Now, let me say to my colleagues that this last-minute effort to revive a project, 10 projects, actually, overwhelmingly rejected by the House represents precisely the thing that the American people are rebelling against—a small clique of powerful Members sitting in a back room, sneaking through things which have had no consideration and getting them through without anybody knowing what they are.

I had to stand up here and look through a thousand page bill, and I had some motivation to do it, most Members do not, until I found that one paragraph which reversed what we did just 3 weeks ago.

Mr. Speaker, I consider this to be the most egregious insult to the privileges of the House that I have ever seen in 28 years here. Mr. Speaker, if the House, in its wisdom, does not defeat this rule and have it brought back without a waiver or without this provision, I can assure my colleagues that the press in this country will be writing editorials about how the House has not changed its ways. It is just as bad as ever, and we might as well throw them out or limit their terms or something else. They refuse to correct their own sins.

I assure my colleagues that this is an issue which is right at the heart of the problems that this country faces. We cannot legitimately legislate with this kind of back-door approach to reversing the decisions made in either House. I ask my colleagues to help me defeat this rule in order that the will of the House may be upheld.

□ 1340

Mr. BROWN. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I have the greatest admiration and respect for the gentleman from Pennsylvania [Mr. MURTHA] and his subcommittee. They do a great job, so I do not mean to cast any aspersions against them, but the truth of the matter is that when that other body over there knows that we are going to be issuing blanket waivers on all of these rules in these last weeks and days, this is how these things come about.

We put out a rule, for instance, on the native Hawaiian health bill that is pending. It can be brought up before the House. Instead of that, they know that there will be a blanket waiver, and therefore they stick all this stuff in there. That is how we get ourselves in this problem, so I appreciate the gentleman's remarks.

Mr. BROWN. Mr. Speaker, just one word in conclusion. I have already indicated that the action previously taken received overwhelmingly favorable response in the press around the country, particularly the scientific press. I have indicated that the action to reverse that will get an even greater negative publicity.

While I have been reluctant to mention the names of any of the individuals involved here, and I will continue not to mention the names of the individuals involved, I think that the Members will find their names being spread not only in the national press but in every local newspaper in their districts, and I guarantee it will not help them one bit.

Mr. SOLOMON. Mr. Speaker, I yield 7 minutes to the gentleman from Kentucky [Mr. ROGERS], a distinguished member of the Committee on Appropriations.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky [Mr. ROGERS].

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. ROGERS] is recognized for 11 minutes.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as we debate the Defense Department appropriations bill, I want to take just a few short minutes here, off the topic, to pay tribute to a member of the authorizing Committee on Armed Services in this body who is departing us this year, retiring, DAVID O'B. MARTIN from upstate New York, a 1980 classmate of mine. I think I can safely say, on behalf of all the Members of this body, one of the closest friends that each of us has; a gentleman who served this body with great distinction, not only representing very ably the upstate New York area, for the last 12 years, but has represented this Nation, most importantly, in a very able way on the Committee on Armed Services, a job which he took extremely seriously.

This former marine, and I do not think one can ever say a marine is a former one, but this marine fighter pilot, who served with distinction in Vietnam for our country and who has served these 12 years in this body, ably and with great courage, would speak his mind, but always in good temper and with good humor.

I am certainly going to miss this stalwart of the American eagle, and I am sure I speak for every Member of this body when I say that.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I am happy to yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding.

It is a personal honor for me to associate myself with the remarks of the gentleman from Kentucky on behalf of my good friend, DAVID O'B. MARTIN. When we serve in this House we see many people with different attributes. We have the floor people who talk a lot, we have those who make their mark in committees, we have partisans, and we sure have heard a lot of those as of late.

Then we have a few Members like DAVE MARTIN who came here with conviction and purpose, who served with conviction and purpose, and who will leave that reputation.

As the gentleman has indicated, the gentleman from New York [Mr. MARTIN] is not only a member of this select fraternity but another as well in the Marine Corps, and the gentleman is right, there are no ex-marines, there are former marines, but our motto is "Semper Fidelis," always faithful. That motto also describes Mr. MARTIN and his work on behalf of our men and women in the service, on behalf of our national defense, and our position of leadership in the world today.

I would say to the gentleman, I thank him for being a good and loyal friend, and outstanding Member of Congress, and DAVID, when we pass the sugar, you will be remembered.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I want to associate myself with the gentleman's remarks. There is certainly no individual Member that has done more in defense than DAVID MARTIN. We appreciate his hard work and dedication, and we are going to miss him. I just wanted to add my compliments for his dedication and hard work.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I would like to join in on this, too. DAVID has been the ranking member on the committee I chair, on the Committee on Armed Services, and I am sure I have driven him absolutely nuts. I hope I am not part of the reason he left. The gentleman is very dedicated, and I really appreciated his hard work. I thank the gentleman for pointing this out. As I say, he has been a stellar Member.

I hope I am not the main reason he is leaving, but he has always been very easy to work with and really cared a lot.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would like to say I have always been suspicious of DAVID MARTIN. He followed me into the world. He is a little younger than I am. He then followed me into the U.S. Marine Corps, a little later than my tenure and that of my good friend, JOHN MURTHA. Then he later followed me into the New York State General Assembly. Then he showed up here in Congress about 12 years later.

The point I want to make about DAVID MARTIN is this. He represents an area of New York State in this country that is a huge area. It is the Adirondack Mountains of New York State. It covers about 30,000 square miles, 20,000 larger than my own. It is probably the safest Republican district in America, and yet DAVE MARTIN, at the age of 47, chose of his own accord to retire. He did that because he feels he has done his duty to this country, and Mr. Speaker, I know of no man who had done as much in the way that he has in serving his country. He is just a great American.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I would like to join this colloquy. DAVID MARTIN has been an outstanding member of the House Committee on Armed Services. He has been really one of the most open and constructive members. The people of Washington State have benefited mightily by his evenhanded leadership, particularly in the military construction area, and I just want to wish him the very best. He has been a good friend and a solid contributor in the House, and someone who we are going to miss very, very much next year. I wish him well.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, I would like to lend my voice briefly going to some of the accolades. I know that Mr. MARTIN is sitting somewhere in the corner of this room with his head down, trying to ignore all of this. He is man of great humility, who came here with his feet squarely on the ground, leaving with his feet squarely on the ground, and leaving behind him a number of junior Members like myself who have looked to him for advice and counsel and support, and we thank him very much.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I am going to miss DAVE MARTIN very much. I sat with him for 10 years on the Committee on Armed Services, and he always sat on my right side, because he was senior to me. For 10 years I was always bumping him and rubbing his arm and saying, "Can you believe what they are saying? Can you believe that?" I wore out more left sides of his suits. I might have to buy him a couple of extra suits before it is all said and done.

DAVE just had so much conviction on that committee and I have to tell the Members just one case, the F-14. He turned out to be 100 percent correct on that. That is just an example of how he knew things that many of us did not know, and had compassion about it. We are going to miss him because he was a great member of that committee.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I am happy to yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from New York [Mr. SOLOMON] said that DAVID MARTIN represents maybe one of the most Republican districts in the Nation, but eveybody here in Congress knows that he is one of the most bipartisan kind of figures that we have seen. He comes from a point of view, but he never really stops listening to the other guy's point of view.

DAVE has been so solid on military construction issues. I have worked on these for the entire time we have served together, and I do not know of a Member who is more effective, objective, and dedicated to the job that he has been given. I really think we are all going to miss him when he goes back to the north country of New York State.

Mr. MCDADE. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Speaker, I thank my friend, the gentleman from Kentucky, for yielding to me, and I applaud him for taking these few moments to pay tribute to a gentleman whom we all hold in the highest esteem for his public service.

Mr. Speaker, I just want to say, as a Member who has been privileged to be a part of this organization in this body for 30 years, that as we look back all of us will hold up benchmarks of people who have made this a better institution, who have made this a better country. Any time we set that benchmark up, the name DAVE MARTIN is going to be at the top of that. We wish him all success in his future endeavors.

Mr. CAMP. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Michigan.

Mr. CAMP. Mr. Speaker, I, too, want to commend DAVID MARTIN for the fantastic job he has done in the Congress. As a relatively new Member in the body, I have come to rely on his advice, his commonsense approach, and him calling them like he sees them. I am going to wish him the best, along with everybody else.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Arizona.

Mr. ROGERS. Mr. Speaker, I am not a member of the committee, I am not from New York. I am not an ex-marine, but I am one of DAVE MARTIN's friends.

□ 1350

I remember the thrill that went through this side of the House when the rumor began to spread that DAVID OBEY was going to retire, until we found out it was DAVID O'B. MARTIN.

Come on, guys, you get it.

The only promise not fulfilled is the promise that DAVID O'B. MARTIN made to me to take me to the National Training Center in California. I am going to make him fulfill that promise. He is a friend and a buddy, and I will miss you DAVID. Thank you for everything.

Mr. ROGERS. Mr. Speaker, I want to thank those who have quickly come forward here to say a few words.

I yield to the other DAVID OBEY.

Mr. OBEY. Mr. Speaker, I want to say that I too will miss DAVE, and I too was happy that it was DAVE O'B. MARTIN who was retiring.

Mr. ROGERS. Mr. Speaker, I want to thank everyone who has come forward in this spontaneous and quick tribute to our friend, DAVID O'B. MARTIN. Certainly we will all miss his good humor, and his courage, and frankness, in the discharge of his obligations here. He is the father of Fort Drum, the father of Plattsburgh Air Force Base, and the guiding light of the north country of New York. DAVE is a personal friend, a confident, an adviser, a funloving get very serious colleague. No one has more patriotism and love of country than DAVE. We will miss you, and we will hope that you will come back and visit with us poor servants down through the years. Godspeed in your next undertaking.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I hate to change the tune and the fine attitude we have here right now, but I rise in strong support of what Chairman BROWN has already uttered. I object strenuously to the fact that this rule should, in effect, provide for the transfer of $94.8 million of pure pork to the defense conference committee bill from the Energy and Water conference committee appropriation bill—spread among 10 higher educational institutions—at the request of certain members, when a short time ago this House voted overwhelmingly to delete that same appropriation for those same institutions in the Energy and Water appropriation bill. At that time, this body considered the appropriation. Mr. BROWN made eloquent points, and there was an overwhelming conclusion that this kind of pork ought not to be in these last-minute appropriations that come out of conference committees.

Neither bill going into the Defense conference committee or the Energy and Water conference committee said anything about these appropriations. And in the Brown amendment which passed previously relative to the Energy and Water appropriations bill, Chairman BROWN made it very, very clear that the amount of the appropriation would be remaining, but that there would have to be a full authorization hearing. The Brown amendment stated that there should also be competitive merit review before any recipients of this appropriation were chosen; that the various educational institutions that would receive the $94.8 million in grants to do research would finally be determined by the appropriate substantive committees, and that such grants ought not to be determined by just some special people who happen to be on a conference committee of one of our appropriation bills.

Now we come along and all of that is undone. It was agreed to when we sent the appropriations back to the Energy and Water conference committee by the other body, and then furtively they come along here at the last minute, when we know that this is when the heists take place, and at the very last minute when nobody is looking these same appropriations show up as part of the Defense conference committee's recommendations. Now, we ought to have red bandannas on our face before we can ever vote for something like this. It is a monstrous thing we are doing, and in the face of public opinion about the mounting draft and annual deficits we are saying the public be damned, we'll spend as we please without authorizations or merit review or any hearings whatever. This body has not heard the people's message. We have not even got a bit of redemption in our souls if we can stand by and see this rape take place.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would admonish the gentleman that earlier he used the word "furtive," and now he used the term "rape." The gentleman might want to reconsider the nature of the latter terminology. He may properly characterize the actions of the conference committee. But to characterize those in that way may be a violation of the rules of the House.

Mr. FAWELL. Mr. Speaker, I apologize to the Chair. I may have been a bit emotional. But what I am trying to bring about, of course, is we all know what is happening here. The Rules Committee should not have done this. The Rules Committee should not be the handmaiden, that's the word which comes to mind, of certain privileged Members who happen to be on the Department of Defense conference committee—and may be that is too strong too. But this body made its feelings so very, very clear during the debate on the Energy and Water appropriation bill that the House did not support these earmarks. Now, in the Department of Defense appropriation bills, at the last minute, these projects which were deleted have reappeared. This Congress should not do something like this especially on a science appropriation, when we all know that no committee has given any thought to these appropriations, no hearings have been held whatsoever, and we just waive all that. It is untenable. I know we have waived authorizations before, but under these circumstances, especially when it was so clear that this body wanted this to go back to the committees of jurisdiction for substantive hearings where we could have that kind of a full, real, meaningful authorization. And we wanted it to be competitive in nature. We wanted to have some peer review and input.

To do this in the waning hours of this Congress I think is wholly indefensible. I hope this body will rise in support of our esteemed chairman of the Science, Space, and Technology Committee who, yes, does have the intestinal fortitude to get up and express himself, probably a lot better than I. I again apologize for any strong words that I may have used. But I feel strongly about this. If we can't control our greed for special pork for our districts on matters like this, I don't know what hope there is for this body. I certainly support Chairman BROWN to the fullest extent.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to mention two issues that were granted a waiver in the Defense appropriation bill that I think are very critical and important.

One is the $1.7 billion that they used to transfer from the military budget to economic conversion. We know when we reduce the military budget we are going to see about a million jobs lost unless we convert the military industrial base to a civilian industrial base. And this particular conference report is able to do that.

We know that if we give these small businesses who are dependent on defense contracts the tools to convert, to retool and to retrain their employees, we can save our industrial base in this country and not lose all of those jobs. So I think that is a very positive factor in this bill.

Second, I want to thank Chairman MURTHA for allowing another transfer. Yes, maybe it was the back door, but unfortunately there are times when women's health issues have to be addressed in this manner. And the chairman of the committee was able to get for the women in Congress, who have fought to have more research in breast cancer, $210 million for breast cancer research taken out of the $36 billion we use for military research. This is one kind of transfer that I am for.

Breast cancer is an epidemic in this country. One out of eight women will get breast cancer. The women in Congress asked for $300 million. With this $210 million and the other $70 million or more that is in Chairman NATCHER's bill, we will have almost the $300 million. So this is a waiver that I support.

Now let us look at the total picture here, because we could not get anybody else to put that kind of money to play the catch-up ball that we have to because of the fact that women's health issues have been totally neglected. A couple of years ago I had to get furious on the floor when some of the men took out mammography legislation from the Budget Committee.

□ 1400

You do not want to have to do that again, so I urge you to keep that $210 million. I urge you not to call a point of order about the breast cancer research or the economic conversion legislation that is part of this bill.

These are very, very good waivers, and we ought to stand up and defend these waivers. It is about time we did them. I thank the chairman for putting them in.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER]. We are going to miss him, too.

Mr. DANNEMEYER. Mr. Speaker, this bill is an excellent illustration of that bromide that we have all used on the stump in town hall meetings: There are two things you do not want to watch, and that is the legislature in session and sausage being made.

Because about a week ago the House considered some Hawaiian pork legislation, the creation of a separate, independent, taxpayer-funded by the Federal Government health care system just for native Hawaiians. I love Hawaii, and I love Hawaiians. They are wonderful people. But we are dealing with Federal taxpayer dollars here.

Bear in mind, there is in Hawaii a community health care center financed by Federal taxpayers' dollars to take care of the medically indigent people of Hawaii.

This bill was brought up on suspension, and as you know, on suspension it takes two-thirds to be passed, and there were 194 votes against it, so it has to tell you that there is something wrong with this Hawaiian pork.

Now, the Senate also passed another bill called S. 2681. The House has never passed this bill.

The proponents of the bill went back to the Committee on Rules, or should have, to get a rule to bring it back under normal procedure, but we have not done that at all, because if you read the defense appropriation bill, you find on the last page a little statement that says it all: "S. 2681, as passed by the Senate on September 2, 1992, is hereby enacted into law."

The defense appropriation bill is being used as a vehicle for establishing the coming into existence of this Hawaiian pork, and the Committee on Rules put out a rule that says it waives all points of order so that I cannot stand here and object to the inclusion of this pork in the Defense appropriation bill.

I say to the gentleman from California [Mr. BROWN], you are absolutely right. This measure is a travesty for the reasons the gentleman has identified. It is a further travesty for the reasons that I have identified.

I hope, even though this is probably the last day that we will stick around here long enough to clean up this aberration, reject this rule, and have some sanity in how we proceed.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in my opening remarks I inadvertently said that the native Hawaiian health bill was overwhelmingly defeated under suspension of the rules. The gentlewoman from Hawaii [Mrs. MINK] has informed me that it did, in fact, win a narrow margin, 228 to 194. I would like to correct my previous remarks.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, the gentleman from California [Mr. BROWN] is right. The gentleman from California [Mr. DANNEMEYER] is correct. The fact of the matter is this bill has major problems, one of which is that the Committee on Rules waived all points of order, and when they waived all points of order, they waived all points of order including section 174, and section 174 of this bill mandates that the Department of Defense replace all of the locks on all of the safes in the world dealing with national security with a new electronic lock. Seventy thousand safes are going to have to be replaced with new locks, and it is going to cost $140 million. And the new lock does not even work. It does not work.

We are mandating because they waived all points of order that the Department of Defense put these new locks on safes.

I want to read to you what the GSA says about these locks in September, less than 30 days ago. They said,

> The National Security Agency has rescinded their approval of the Moss-Hamilton XO-7 electronic lock pending further investigation. It is OK if you already purchased one and are using it, but be aware you would experience problems such as unable to open a safe and possible other computer-related problems.

The lock does not work. There was an agreement that was worked out, an oral agreement between the GSA and the manufacturers, which said that as the new lock was perfected, they would replace the old locks in a reasonable way with these new locks, but, no, what happened was the Senator from Kentucky got language into this bill that is going to force the change when the locks do not work.

It is going to cost the taxpayers of this country $140 million.

We should defeat this rule, send it back up there and get the waiver removed so we can take this out.

It is wrong. It is a waste of $140 million. We should not tolerate it. It is another example of how this place is heading this country in the wrong direction with wasteful spending.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to reluctantly come, and do reluctantly come, to the well of the House to offer congratulations to my chairman, the gentleman from California [Mr. BROWN], who has again demonstrated the courage to fly in the face of those here in positions of responsibility and leadership who would continue to try to thwart the will of this House.

I have heard the name of the gentleman from California [Mr. BROWN], since September 17, mentioned in not so unfriendly terms, and it will be a great source of pride to me if my name joins his in the future.

Because this, I suggest to my colleagues, approaches scandalous behavior. I do not know what some people think that most of us here are about.

About 3 weeks ago, September 17, this House rejected these unauthorized 10 projects by a vote that was what you people call veto-proof, 250 to 104. Yet those here who have the power have stuck these projects back in this rule hoping and expecting that we will be too close to the need to go home to say much about it, and that you will swallow this dose of diluted poison.

We try hard, some of us, to defend this institution, some of us, to explain the better sides of it to folks back home. But this kind of thing makes it difficult.

These projects have very little to do with water resource development, when they were rejected 250 to 104, and they have absolutely nothing to do with defense.

I suggest to my colleagues that if you are watching that, if you have any respect for this institution, you will come down here to the Chamber and help us reassert, reassert the rules, the good name of those of us who are rank-and-file Members, and defeat this rule and send them back in the hope that they will do the right thing.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for yielding.

Could the gentleman tell me where the authorization bill is for science and technology? You see, it has been in the Senate now for, I think, several months. Could the gentleman give us some advice or information as to whether or not it is going to be considered?

Mr. VALENTINE. I would say to the gentleman that it has been in the Senate, and I could not answer that question. But I do not think that has got anything to do with 10 pieces of poor unauthorized pork.

Mr. TRAXLER. Could I further inquire of the gentleman, if he will permit me, I am trying to get some help, and maybe the chairman could also help us.

Mr. VALENTINE. Is the gentleman asking me to tell him what happened to legislation that is in the Senate?

Mr. TRAXLER. I am trying to find out where your authorization bill is. I guess what I really would like to know is——

Mr. VALENTINE. I would say to the gentleman that I do not know. Maybe he ought to have more, I respectfully suggest, from his position, he would know more about what the Senate has done.

Mr. TRAXLER. Is it fair to say that the authorization bill for science and tech might come before this body at some point on a suspension of the rules?

Mr. BROWN. Mr. Speaker, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from California.

Mr. BROWN. My distinguished friend from Michigan obviously rises to cast some doubt here on what we are doing, and assert the prerogatives of the Committee on Appropriations to do anything they want.

Mr. TRAXLER. The gentleman is wrong in his assumption.

Mr. BROWN. The gentleman who is speaking is wrong. There is no authorization for science and technology. It is not authorized in a single bill.

The question is meaningless.

☐ 1410

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I thank the gentleman for yielding.

Mr. Speaker, I am not sure whether I should criticize or compliment the Committee on Appropriations on their performance. Clearly, I am not pleased with the fact that proposals which we thought we had rejected by a significant vote as recently as 2 weeks ago have now cropped back up in this defense bill. But I must compliment them for their legislative creativity and finding another way to bring these 10 items of pork back before the Congress.

As Yogi Berra once said, "It is déjà vu all over again." As I read in the defense appropriations bill section 9156, it reads as follows:

> The energy, educational, and medical facilities listed in Amendment No. 37 of the conference agreement on H.R. 5373, an act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes, as re-

ported and filed by the committee of conference on September 15, 1992, in the House of Representatives for which the sum of $94,800,000 included therein for such facilities are hereby authorized and that sum as named in the appropriation shall be available only for these facilities. . . .

Here we go again. The only way we can stop this at this time is with a "no" vote on the rule. I compliment Chairman BROWN for taking the leadership on this issue again today as he did not too many days ago on September 17.

To borrow another witticism from Yogi Berra, "It isn't over until it's over." But we hope to repeat the same kind of vote today that we had just a short couple of weeks ago to reassert the position of the House that these 10 specific projects should not move forward in this fashion.

Mr. BROWN. Mr. Speaker, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from California.

Mr. BROWN. I thank the gentleman for yielding.

Mr. Speaker, earlier the gentleman from Michigan [Mr. TRAXLER] asked an inappropriate question that was not really relevant. But what he meant to ask was what is the status of the authorization for the energy projects. That will be up before us next in the energy bill that we will vote on later today.

I will tell the gentleman that there is nothing in that authorization bill that has any of these projects in it. Those projects have never been introduced nor sought an authorization.

So the whole process here falls because of the fact that these gentlemen on the Committee on Appropriations, my dear friends—or some of them used to be—have thought that they in their wisdom can proceed to authorize and appropriate those projects that will benefit that selected group of appropriators who need projects in their districts.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Speaker, I, too, join our colleague, the gentleman from California [Mr. BROWN], in urging a "no" vote on this rule. It will not slow up the process of us getting out of this body over a minute or two at the most. You know, last week we had a vote here concerning modified line-item veto. If we ever have had living proof for having this piece of legislation—it passed 312 to 97 in this body, but the other body will not even take it up.

Now, we have an opportunity today, and some will say, "Oh, it is only $95 million." It is $95 million that we can save by going back to the Committee on Rules and striking these unauthorized projects.

You know, let us think in terms—this whole bill we are considering is borrowed money, every penny we are talking about. Yet we find ourselves compelled now, and I think it is fair to say that most of the problem is not in this body, it is in the other body; but be that as it may, we can only deal with these problems when they surface.

I am on the Committee on Agriculture. Had it not been for Mr. BROWN bothering to look into this and then knowing what he was looking for, because I, even after looking at it, had a hard time understanding what we had done. But after hearing him explain it, it is very clear.

We were being asked to overturn the vote where this body has specifically said we are not going to fund these programs because they are unauthorized; all of a sudden we are going to do it, unless we vote against this particular rule.

Now, we have had a lot of votes this year. We have not accomplished a heck of a lot on balancing our budget; $95 million is not going to do it either, but it is a small step in the right direction.

Let us vote down this rule, let the Rules Committee go back and strike this waiver and any other waivers of similar nature that we have in this bill, and let us pass a defense appropriations bill and get on with our business.

Mr. SOLOMON. Mr. Speaker, I continue to reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I rise to associate myself with the remarks and with the outrage expressed by Chairman BROWN, Mr. VALENTINE, and several other Members today.

You have heard it before, I will repeat again: Just 3 weeks ago we voted 250 to 104 to strike 10 projects costing $95 million which had never been authorized.

Now, those 10 projects are back again in an unrelated, nongermane bill. There are egregious errors here in two respects:

One, the conference committee for putting these nonrelated amendments in the conference report; and, second, to the Committee on Rules for protecting them with waivers.

It is hard to believe that the Committee on Rules would do that to this House. As Members know, I am leaving, retiring at the end of this session.

I made a point a year ago when I made my announcement of telling people I was doing so not because I was disillusioned with the House at all. But this is exactly the kind of procedure which makes the American people disillusioned with the U.S. Congress. We must not allow this to happen.

Vote "no" on the rule. The Rules Committee will take a grand total of 5 minutes to report back a revised rule.

Three weeks ago, 250 of us voted to stop this kind of travesty. Let us vote that way again.

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise to express my strong opposition with provisions in this bill to prohibit funding for studies on transporting lethal materials from the three low-volume sites in the Chemical Weapons Disposal Program.

The Chemical Weapons Disposal Program has been affected by a number of changing events. The major changes include the possibility of transporting chemical munitions from previously undermined sites, the significant increases in the cost of this program, and the growing local opposition at the three low-volume sites.

The costs for this program have skyrocketed from original estimates of $1.9 billion now to an estimated cost of $8 billion. These increases in cost should alone justify further studies of transportation.

In addition, local opposition in two of the low-volume sites has led to strict State environmental regulations which essentially prohibit any chemical weapons incinerator. The third low-volume site is currently in the process of also developing State regulations to prohibit incineration of chemical weapons.

The 1993 Defense authorization bill clearly recognized the changing dynamics facing the Chemical Weapons Disposal Program. The authorization language wisely included the study of transportation for the nonstockpile material and additional transportation studies for the three low-volume sites in the stockpile. This language provided the Army with the necessary flexibility to determine the safest and most cost-effective disposal program.

The bottom line is that incineration is becoming an unacceptable disposal method at the low-volume sites. It is time for the Army to devise an alternative plan—either the development of a new disposal technology or the development of a plan to transport the materials to another site. The authorizing committee rightfully recognized this dilemma. I am disappointed that this bill does not.

As this session of Congress ends, I can assure my colleagues that we will come back to this issue again in the 103d Congress and I am confident that as the facts involving this program unfold there will be full support for considering all of our options for disposing of these chemical weapons and agents.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield back the balance of my time and move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PEASE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 250, nays 171, not voting 11, as follows:

[Roll No. 472]

YEAS—250

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Bateman
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (MI)
Combest
Conyers
Cox (IL)
Coyne
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dixon
Donnelly
Durbin
Dwyer
Dymally
Edwards (TX)
Erdreich
Espy
Evans
Fascell
Fazio
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horton
Hoyer
Huckaby
Hughes
Hunter
Hyde
Jefferson
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Lent
Levine (CA)
Lewis (GA)
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Oberstar
Ortiz
Oxley
Pallone
Panetta
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Quillen
Rahall
Rangel
Reed
Regula
Richardson
Rinaldo
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Saxton
Scheuer
Schiff
Schumer
Serrano
Sharp
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Stallings
Stokes
Studds
Sundquist
Swift
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walsh
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yatron
Young (AK)
Young (FL)

NAYS—171

Allard
Allen
Andrews (ME)
Andrews (TX)
Archer
Armey
Bacchus
Ballenger
Barrett
Barton
Beilenson
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Browder
Brown
Bunning
Burton
Camp
Campbell (CA)
Clinger
Coble
Coleman (MO)
Collins (IL)
Condit
Cooper
Costello
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Dickinson
Dingell
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Ewing
Fawell
Feighan
Gallegly
Gilchrest
Gillmor
Gingrich
Glickman
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hopkins
Horn
Houghton
Hubbard
Hutto
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones
Jontz
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
LaRocco
Laughlin
Leach
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Luken
McCandless
McCollum
McMillen (MD)
Meyers
Michel
Miller (WA)
Mineta
Moody
Moorhead
Morrison
Neal (NC)
Nussle
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Packard
Patterson
Payne (VA)
Pease
Penny
Petri
Porter
Poshard
Price
Pursell
Ramstad
Ravenel
Ray
Rhodes
Ridge
Riggs
Ritter
Roberts
Rohrabacher
Roth
Sawyer
Schaefer
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Skaggs
Smith (OR)
Solomon
Spence
Staggers
Stark
Stenholm
Stump
Swett
Synar
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vento
Walker
Washington
Waters
Waxman
Wolf
Wolpe
Wylie
Yates
Zeliff
Zimmer

NOT VOTING—11

Barnard
Boxer
Chandler
Clement
Cramer
Downey
Lipinski
Mrazek
Sikorski
Stearns
Weber

□ 1443

Messrs. RAVENEL, SPENCE, MCMILLEN of Maryland, and NEAL of North Carolina, Mrs. JOHNSON of Connecticut, and Mr. THOMAS of California, changed their vote from "yea" to "nay."

Messrs. VOLKMER, ATKINS, KENNEDY, STUDDS, CALLAHAN, MARLENEE, and MCCURDY, and Ms. ROS-LEHTINEN changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR PREPARATION OF OFFICIAL DUPLICATES OF CERTAIN LEGISLATIVE PAPERS

Mr. MOAKLEY. Mr. Speaker, I send to the desk a privileged concurrent resolution, House Concurrent Resolution 376, providing for the preparation of official duplicates of certain legislative papers, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 376

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives and the Secretary of the Senate each shall prepare, sign, and furnish to the other as appropriate, official duplicates of the papers of the two Houses on the following bills and resolutions of the One Hundred Second Congress: H.R. 5400, H.R. 5194, H.R. 5427, S. 2532, S. 1985, S. 1002, S. 893, S. 1569, S. 225, S 758, S. 759, S. 1146, and S. 2661. Each official duplicate shall be in a form certified by the Clerk or the Secretary to be true. An official duplicate certified as true shall be considered for all purposes as original.

The SPEAKER pro tempore. Without objection the concurrent resolution is adopted.

Mr. WALKER. Mr. Speaker, reserving the right to object, let me ask the gentleman from Massachusetts [Mr. MOAKLEY] to explain the purpose of the resolution.

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, evidently 13 bills were misplaced or lost. This is just an official resolution so they can be rewritten and processed.

Mr. WALKER. Mr. Speaker, are these bills that have been rumored to be headed for a trash dump somewhere on the east coast which we are not able to retrieve?

Mr. MOAKLEY. Mr. Speaker, we do not have a lock jack on that. We do not know where they are headed. We know they are not where they are supposed to be.

Mr. WALKER. Mr. Speaker, further reserving the right to object, the gentleman will acknowledge that the suspicion is that these are items that were picked up by the trash men last night and they may well in fact be headed for a landfill, is that correct?

Mr. MOAKLEY. Mr. Speaker, I do not know who picked them up. Maybe if our mail got the same service, we would all be better off.

Mr. WALKER. Mr. Speaker, some people would think that maybe they did us a favor. But my understanding is that the resolution will allow us to engross these bills a second time, is that correct?

Mr. MOAKLEY. Mr. Speaker, the gentleman is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the concurrent resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1993

Mr. MURTHA. Mr. Speaker, pursuant to House Resolution 602, I call up the conference report on the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 602, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Monday, October 5, 1992.)

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I be allowed to include extraneous material and tabular material on H.R. 5504.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring to the House the conference report on the fiscal year 1993 Defense appropriation bill.

Before I mention some of the highlights of this important bill, I would like to make a few comments regarding three departing Members who have served for many years on the Defense Appropriations Subcommittee—Congressman BARNEY DWYER, CLARENCE MILLER and LES AUCOIN.

Their valuable assistance provided over the years in sharing the burden of arduous hours of hearings, deliberations and conferences will be sorely missed. Institutional memory is one of the great strengths of the House of Representatives. The expertise that Members develop over the years on the hearings process provides an invaluable input to the decisionmaking process on the Hill. So it is with deep sadness that I note that these three members of the Defense subcommittee will be departing from the House of Representatives.

Mr. Speaker, regarding the fiscal year 1993 Defense appropriations conference report, I want to emphasize a few major points:

The total funding in this conference report is below the level approved for defense in the budget resolution.

It is also below the 602b allocation set by the Appropriations Committee.

It is in agreement with the authorization conference report regarding funding for major weapons system.

The programs funded in this conference report represent a significant change in priorities for defense spending compared to a few years ago.

Of course, as in any conference, there was a significant give and take on the issues. Because of insistence by the Senate we had to include some provisions which are not in accordance with the original House position. However, I believe that most Members of the House will enthusiastically support this conference report.

At this point in the RECORD I will insert a table outlining the conferees recommendations by title.

BUDGET AUTHORITY

	Fiscal year 1992 enacted	Fiscal year 1993 estimates	Conference
Recapitulation:			
Title I—Military personnel	$78,266,327,000	$76,982,028,000	$76,275,025,000
Title II—Operation and maintenance	63,358,581,000	74,813,518,000	69,285,963,000
Title III—Procurement	64,377,809,000	55,609,998,000	55,410,792,000
(By transfer)			
Title IV—Research, development, test and evaluation	39,401,923,000	39,075,703,000	38,806,261,000
Title V—Revolving and management funds	3,424,200,000	1,123,800,000	1,737,200,000
Title VI—Other Department of Defense programs	1,679,198,000	12,716,908,000	11,030,623,000
Title VII—Related agencies	192,919,000	199,551,000	246,600,000
Title VIII:			
Economic conversion			
Economic conversion			1,000,000,000
Title IX—General provisions	−486,617,000		103,500,000
(By transfer)	(195,000,000)		
(Additional transfer authority, Section 9006)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)
Total, Department of Defense	270,214,340,000	260,521,506,000	253,896,164,000
Scorekeeping adjustments	−115,000,000	612,000,000	847,746,000
Prior year outlays			
Grand total	270,099,340,000	261,133,506,000	254,743,910,000

DECLINE IN DEFENSE SPENDING

The Defense Appropriations Subcommittee is proud of its steadfast support for a strong U.S. military over the decades of the historical struggle between the forces of democracy and its adversaries.

Clearly, as America enters victorious into the post-cold-war era, it is appropriate to significantly downsize the Defense budget and DOD's force structure.

However, what is not appreciated by many is the significant degree to which that downsizing has either already taken place or is already embodied in the Pentagon's 6-year Defense plan.

Not including the one time upward spike for Operation Desert Shield/Desert Storm related expenditures, the fiscal year 1993 budget authority for defense represents the 8th consecutive year of decline in defense spending when measured in constant dollars. Also:

U.S. military operations have or will be ended, reduced, or placed on standby at 559 overseas installations.

The projected contraction in the force structure, when implemented over the next few years, will result in a force structure at least 25-percent below the force structure that existed in 1990.

A reduction in the U.S. base structure roughly commensurate with the 25-percent reduction in the overall force structure either has been announced or is anticipated to be recommended soon.

The dramatic decline in the procurement budget is shown in the following table:

Budget authority for procurement in constant fiscal year 1993 dollars

Fiscal year:	*Procurement (billions)*
1985	$127.2
1986	117.7
1987	98.6
1988	94.7
1989	90.5
1990	89.7
1991	76.5
1992	62.5
1993	55.4

The procurement account has declined by almost 60 percent in the past 8 years.

In a few years, the DOD's budget will be a smaller percent of the Federal budget and of the gross domestic product than it has been since before World War II.

Thus in historical perspective and in perspective of America's total wealth, the level of defense spending recommended in this bill is indeed modest.

STRATEGIC NUCLEAR ARSENALS

Mr. Speaker, because of the victory of the West in the cold war, the combined strategic nuclear warhead arsenals of the United States and the former Soviet Union are projected to decline to level of approximately 7,000.

This is a dramatic decline from the level at the height of the cold war.

In terms of procurement funds in this bill for strategic weapon systems, there basically is $3.5 billion which consists of $2.7 billion for the B–2 bombers, $787 million for procurement of D–5 missiles for the Trident submarine, and $127 million for the final procurement funding of the Advanced Cruise Missile Program. Thus, a little over 1 percent of this budget is for procurement of strategic nuclear weapon systems. Additionally, it should be noted that the B–2 Stealth bomber is also a weapon system designed for conventional warfare.

Additional funds are included in the military personnel and operation and maintenance accounts for maintaining various strategic systems. As ratified treaties are implemented, these funds will be scaled back.

PRIORITIES IN THIS BILL

As the nature of the threat to America's national security changes, we must be perceptive enough and wise enough to invest our resources in the right mix of defense systems and force structure to meet the evolving global situation in an era of greatly reduced defense budgets.

The broad trends in defense budgets of the past few years, and the probable trends of the next few budgets are threefold.

A dramatic reduction in strategic and tactical nuclear warheads;

A significant pullback of the U.S. troops deployed abroad; and

A significant downsizing of the continental U.S. base structure and force structure.

While the world in general is much safer as a result of the past few years, history takes many strange twists and turns. The committee believes that in this era of a downsized military, with a significantly lower presence overseas, the central aspects of readiness include deployability, mobility, sustainability, and lethality. The committee has made funding adjustments to numerous programs to enhance these important aspects of readiness.

At this point, I would like to briefly highlight the primary actions taken in each of the major accounts.

TITLE I MILITARY PERSONNEL

The conference report provides a total of $76.3 billion for military personnel.

Funds provide for a pay increase of 3.7 percent.

Funds are included for the authorized level of personnel in the Guard and Reserves.

Active duty force structure declines by 100,400 from fiscal year 1992 level.

TITLE II OPERATION AND MAINTENANCE

The conference report includes $72.9 billion for operation and maintenance.

Maintains funding levels in programs to ensure a high level of training and readiness.

Includes $1.2 billion for environmental restoration at defense facilities.

Makes reductions totaling $250 million to encourage European allies to increase contributions to offset the cost of United States troops stationed in Europe. Also includes language urging the Department of Defense to seek multiyear agreements with European allies which would ensure increased levels of contributions in future years.

TITLE III PROCUREMENT

The conference report provides $55.4 billion for procurement.

Measured in constant dollars, this is a decrease of almost 60 percent from the level of fiscal year 1985.

Funds provided to continue manufacturing of B–2 bomber, but production will terminate at 20 aircraft.

Four DDG–51 destroyers are funded at a level of $3.3 billion.

Thirty-six FA–18 aircraft funded at total cost of $1.2 billion.

No funds were requested for equipment for the National Guard and Reserves, but conference report includes $1.6 billion for equipment for Guard and Reserves.

Twenty-four F–16 aircraft funded at total cost of $615 million.

Provides $613.4 million in new funds for the National Defense Sealift Fund.

TITLE IV RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Provides $38.2 billion for research, development, test, and evaluation (RDT&E).

Reduces SDI funding request by $1.6 billion.

Provides $944 million for F/A–18 Navy tactical fighter aircraft development.

Provides $755 million for continued development of the V–22 Osprey medium lift aircraft.

Provides $2 billion for the Advanced Tactical Fighter [ATF] Program.

Provides $1.2 billion for RDT&E on the Milstar Communications Satellite Program.

Provides $210 million for Breast Cancer Research Program to be administered by the Army Surgeon General in conjunction with the other services' surgeon generals.

OTHER

Provides $1.8 billion to assist defense workers, defense industries, military personnel, and various communities to transition to commercial enterprises because of the severe economic impact of the continuing decline in defense spending.

CONCLUSION

Mr. Speaker, in conclusion, I would like to reiterate the points I made earlier in my comments on this conference report.

The total funding in this conference report is below the level approved for defense in the budget resolution.

It is also below the 602B allocation set by the Appropriations Committee.

It is in agreement with the authorization conference report regarding funding for major weapons system.

The programs funded in this conference report represent a significant change in priorities for defense spending compared to a few years ago.

I urge adoption of the conference report.

□ 1450

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report and urge its adoption.

Mr. Speaker, it's been a long day and a long session for all of us so I will keep my remarks brief. The Defense conference report we bring back to the House today is the product of many long hours, and a lot of tough choices, as we struggled to meet this deadline under some extremely difficult circumstances.

And of course we couldn't have gotten here without the tireless efforts of all the members of the subcommittee, especially our chairman, the gentleman from Pennsylvania, who did his usual superior job. And I especially want to acknowledge the hard work and exceptional contributions of the members on my side, BILL YOUNG, BOB LIVINGSTON, JERRY LEWIS, and my dear friend from Ohio, CLARENCE MILLER, who is leaving us.

Mr. Speaker, the gentleman from Ohio has served with great distinction here, for 26 years.

It's been my honor to have served with him on the Appropriations Committee for most of that time and I can tell you that no Member has been more vigilant in looking out for the interests of the taxpayer, fighting for good government than CLARENCE MILLER.

Since 1985, when he joined the Defense Subcommittee, he has really delved into what are some of the toughest issues in town and he was always there, voting his conscience, and helping our committee and all of us, as a Congress, make a number of collective decisions with respect to Defense that led to our great victory in the cold war.

I say to my friend, CLARENCE, you've made a difference for Ohio and the Nation and we will miss you.

I can report that we have met the traditional battery of tests that we subject our Defense appropriations bills to. We are beneath our 602(b) allocation and the authorization, and in so doing I would point out that this bill comes in over $16 billion less than last year's level for Defense, the eighth straight year of Defense cuts.

To hit these spending targets, this bill cuts the administration's request by $7.4 billion, and therefore we had to make some serious adjustments. On balance, however, this is a good agreement.

First and foremost we wanted to protect people and readiness and this bill does not break faith with our military in that regard.

We also provide funding for a number of initiatives which are of considerable importance to many Members. For example, we provide some $210 million for breast cancer research, to be carried out under the auspices of the military's research arms which are recognized as among the world's best in medicine.

And there is nearly $1.8 billion for a variety of defense conversion and transition initiatives, following the outlines set in the Armed Services bill.

On major policy questions we tracked the decisions reached in the Defense authorization, which was made available to the Appropriation Committee at the end of the day on Friday. Force structure cuts, B-2, C-17, V-22, et cetera, down the line we have followed Armed Services with one exception.

That is the funding for the strategic defense initiative, where the House conferees, reluctantly, had to recede to the Senate level of $3.8 billion.

To my colleagues on this side, I have to be candid. It boils down to the bottom line: The votes weren't there on the Senate side. In Senate Appropriations the $3.8 billion figure was the product of an extremely delicate compromise and it became evident to us in conference that it was impossible to convince a majority of the Senate conferees to accept a figure even $1 higher than $3.8.

As a result, our funding level for SDI is $250 million less than the authorization. However, our conference agreement does not micromanage the program; the Department is given discretion on how to apply these funds; and I would hasten to add that at $3.8 billion the SDI is still the largest single program in this year's Defense budget. The program is still robust.

Mr. Speaker, in summing up, this is a good agreement, one that meets the needs of the military as we go through this long process of building down our defenses.

I want to thank our Senate counterparts in the conference committee, especially the senior Senators from Hawaii and Alaska, it's always a pleasure to work with them.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. MCDADE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I would just like to say I want to associate myself with the remarks of the distinguished ranking minority member of the Committee on Appropriations, the gentleman from Pennsylvania [Mr. MCDADE]. The gentleman from Ohio [Mr. MILLER] has been a valued colleague on the Subcommittee on Defense. He has worked exceptionally hard on a variety of issues. If he had his way, there would be no excess advertising on any game or any news show about the necessity of bringing people into the military.

He has been a critic, but he has also done a good job in that respect. I just want to say that I have enjoyed working with him. He has been very bipartisan in his work on the Subcommittee on Defense, and he will certainly be missed next year, as will our other colleagues, the gentleman from Oregon [Mr. AUCOIN] and others who are leaving this year. I just wanted to join with the gentleman from Pennsylvania.

Mr. WHITTEN. Mr. Speaker, I rise in support of the Defense appropriations conference report. I am very proud indeed of the work of my colleagues on the Defense Appropriations Subcommittee. Our chairman, the gentleman from Pennsylvania [Mr. MURTHA], and the ranking minority member, the gentleman from Pennsylvania [Mr. MCDADE], and my subcommittee colleagues have done an excellent job on a difficult bill.

As we continue to meet our responsibilities in providing for the defense of our Nation, we always need to distinguish between real defense and military spending. Also, as we restructure our defense organization, we must continue to have a strong Guard and Reserve where their members contribute to the economy during the week and train on the weekends. The conference agreement does that.

The National Guard and the Reserves have a tremendous peacetime mission and because they are local, they play a big part in support of the regular services. Over the years the Guard has been called out for emergency missions many times in all of the States. Every time the Guard was activated, local people saw their military dollars being spent on something important to their area—and that generates a very positive feeling toward the whole Army. The Nation will continue to need this support.

As a result of the world situation we are continuing the transition for our military personnel into the civilian sector and for employees of our defense contractors due to reductions in workload. We are trying to not produce undue hardship on either the personnel being displaced or on those areas of our country where facilities are located. This is a difficult task. The positive benefit to the Nation as a whole and to all local communities that the Guard and Reserve provide will be helpful in avoiding undue impacts. Inappropriately reducing the Guard and Reserves is risky and I believe reduces the support the people have for military spending.

In this connection, we should give attention to restoring the condition of our roads, our bridges, highways, harbors, waterway locks and dams, schools, hospitals, and other public facilities. The need for these facilities has been well documented. Programs developed to provide for this type of asset investment not only provide employment opportunities which help the economy, but the facilities themselves provide benefits and growth for the Nation as they are put to their intended use. This should be tied in with the reduction in military spending which would create productive employment for those crowded out of military production and for those who are forced to retire from the military or contractors after devoting their time to the defense of our country.

Mr. Speaker, this is a good conference report. I congratulate the managers on this conference report and urge its adoption.

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today in strong support of H.R. 5504, the fiscal year 1993 Defense Appropriations Act. Specifically, I would like to commend the hard work and expertise of Representative MURTHA, the chairman of the Defense Appropriations Subcommittee. Every year, Chairman MURTHA successfully accomplishes the difficult job of bringing to the floor the largest of the 13 appropriations bills. It is to his credit that despite the complexity of this task, the Defense appropriations bill is brought to the floor each year, and passed with bipartisan support.

Mr. Speaker, I would like to bring to the attention of the House instructions which have been given to the Navy by the Senate Appropriations Committee, and discuss some of the issues surrounding these instructions.

Specifically, I am referring to the report of the Senate Appropriations Committee to accompany H.R. 5504. The report states the following:

> U.S.S. *Kennedy* complex overhaul.—The 1991 Defense Base Closure and Realignment Commission recommended that the Philadelphia Naval Shipyard [PNSY] be closed but acknowledged that PNSY would perform the Service Life Extension Program for the U.S.S. *Kennedy* from September 1993 until mid-1996. The work on the U.S.S. *Kennedy* subsequently changed to a 24-month complex overhaul, which Congress required to be performed by PNSY. The Secretary of Defense concurred in this plan in September 1991. The Committee is deeply concerned that the Navy is not assigning sufficient work to PNSY to keep the work force at adequate levels to perform the complex overhaul of the U.S.S. *Kennedy* on time and to specification. Accordingly, the Committee directs the Secretary of the Navy to assign to PNSY such ship repair and maintenance work as will be necessary to maintain adequate work force levels at PNSY to support the U.S.S. *Kennedy* overhaul on time and to specification. Further, the Committee directs the Secretary to consider assigning the U.S.S. *Biddle*, the U.S.S. *Detroit*, and the U.S.S. *Kidd* to PNSY to provide work to keep the work force at sufficient levels to begin work on the U.S.S. *Kennedy* in September 1993.

These instructions raise a series of potential questions which I would like to take the opportunity to address:

First, is it feasible for the U.S. Navy to assign work to PNSY in the manner which the committee directs?

The U.S. Navy routinely assigns ship repair work to public shipyards in order to achieve certain goals. For example, the following article appeared in a recent issue of "inside the Navy" magazine:

> Long Beach Naval Shipyard Receives Ship-Repair Work Without Competition
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> The Long Beach Naval Shipyard reportedly has landed ship-maintenance without competition between the public and private yards. Industry sources said the navel shipyard was assigned three warships that industry was led to believe would be competed between the public and private yards. The Navy's Long Beach supervisor of shipbuilding for conversion and repair confirmed in a recent meeting on port workloads that in fact there would be no competition, according to the sources. Clearly, the Navy is trying to keep the naval shipyard alive, one source said * * *.
>
> Long Beach reportedly will work on the *Austin* Class amphibious ship *Ogden* (LPD-5), the *Anchorage* Class amphibious ship *Mount Vernon* (LSD-39) and the *Spruance* Class destroyer *Foster* (DD-964). The work is scheduled to begin between February and June of next year, an industry source said.—Inside the Navy, August 31, 1992.

This article shows that the Navy is able and willing to assign ship repair work without public/private competition for the legally questionable motives which the article's sources identify. The Navy is equally able to assign ship repair work to PNSY in order to fulfill the legal mandate created by the fiscal year 1992 Defense Authorization Act that the U.S.S. *Kennedy* overhaul be performed at Philadelphia, and the Appropriations Committee mandate that the work be completed on time and to specification.

Second, what work force levels are necessary for the USS *Kennedy* to be completed on time and to specifications?

The Appropriations Committee has directed the Navy to "assign to PNSY such ship repair and maintenance work as will be necessary to maintain adequate work force levels to perform the complex overhaul of the U.S.S. *Kennedy* overhaul on time and to specification."

There is no simple formula for deriving the necessary work force level to complete a carrier overhaul. The difficulty is that an overhaul requires a large, technically qualified work force with a variety of labor skills. These skills vary from basic industrial manufacturing and repair skills to high-technology electronics knowledge and even design, planning, and drafting expertise. While all of these skills are vitally important, the labor intensity for each varies as the overhaul progresses. For example, welding, electronics repair, critical machining, combat system testing, and drydocking a ship are all skills which are used at various times during an overhaul and which must be available at all times for unexpected situations. A deficit of skills in any of these areas, or in dozens of others as well, would preclude the overhaul from being accomplished on time and to specifications.

In order to maintain this trade skill mix, particularly during a large and complex overhaul such as an aircraft carrier, the shipyard must maintain an amount of ship repair work which will sustain a work force slightly larger than and equally diverse to that required for the peak performance period of a carrier overhaul. An analysis of the history of recent carrier overhauls at PNSY shows that the work on any one carrier has almost never exceeded 85 percent of the ship repair work in the yard at any one time. On the rare occasions when that happens, it means that less than 15 percent of the yard work force is engaged on ship work other than the carrier overhaul. If this situation is prolonged without other ship work as a buffer, it becomes impossible to maintain a proper mix of trade skills for the duration of an aircraft carrier overhaul. By keeping true to this principle of the 15-percent workload buffer, PNSY has been able to maintain the lowest man/day rate and the highest productivity ratio, the two best measures of shipyard efficiency, of any public yard in the country.

Under PNSY's current work schedule, more than 6 months of the yard's work on the U.S.S. *Forrestal* in fiscal year 1993 will be performed with more than 85 percent of the yard's work force dedicated to that project. Moreover, more than 1 year of the yard's work on the U.S.S. *Kennedy* in fiscal year 1994 will be performed with more than 85 percent of the yard's work force dedicated to that project. If this happens, the skill mix at the yard will be destroyed, and there will be no way for the yard to complete the *Kennedy* on time and to specification. This is the situation to which the Appropriations Committee referred when it stated that, "The Committee is deeply concerned that the Navy is not assigning sufficient work to PNSY to keep the work force at adequate levels to perform the complex overhaul of the U.S.S. *Kennedy* on time and to specification."

In order to determine how much additional work will be required to perform the *Kennedy* overhaul on time and to specification, the point of maximum work on the *Kennedy* must be ascertained. Work on the *Kennedy* will peak at approximately 2,350 mandays per day in June of 1994. In order to complete the *Kennedy* on time and to specification, the work on the *Kennedy* cannot exceed 85 percent of the total work being done at the yard at that time. This means that PNSY should be performing approximately 2,800 man-days per day at that time. This also means that in order to preserve the necessary skill mix, 2,800 man-days per day of ship repair work should be consistently performed at PNSY until that time.

As currently scheduled, the ship work in the Philadelphia Naval Shipyard drops dramatically from 2,722 to 1,745 man-days per day between December 1992 and January 1993, and decreases gradually from there to reach a low point of 1,640 man-days per day in December 1993. This will cause a reduction in force and commensurate layoff of over 1,000 skilled workers and more than 500 supporting staff, most of whom will either move from the area or find other local jobs. However, starting in January 1994 the U.S.S. *Kennedy* workload will increase toward its peak of 2,350 man-days per day in June 1994. The work which the Appropriations Committee directs to be assigned to PNSY between now and June 1994 will: first, prevent the impending loss of many skilled tradesmen necessary to perform the *Kennedy* overhaul; and second, help to sustain the requisite skill mix for successfully completing the *Kennedy* on time and to specifications.

Therefore, in order to fulfill the mandate of the Senate Appropriations Committee, the Navy must assign enough work to PNSY to maintain the performance of 2,800 man-days per day of work until June of 1994.

Third, In what manner should the Secretary consider assignment of the U.S.S. *Biddle*, U.S.S. *Detroit*, and U.S.S. *Kidd* to PNSY?

The Appropriations Committee directed the Secretary of the Navy "to consider assigning the U.S.S. *Biddle*, the U.S.S. *Detroit*, and the U.S.S. *Kidd* to PNSY to provide work to keep the work force at sufficient levels" to complete the U.S.S. *Kennedy* on time and to specification.

While the committee stated that the Secretary should "consider" assigning this work to PNSY, this does not weaken its earlier explicit mandate that the Navy should assign to PNSY "such ship repair and maintenance work as will be necessary" to complete the *Kennedy* on time and to specification. As was discussed above, this requires a workload of approximately 2,800 man-days per day until June of 1994. In fact, if the Navy assigned to PNSY all three of the ships suggested for consideration by the Appropriations Committee, it would not completely fulfill this mandate.

As stated before, under its current schedule the workloads at PNSY would drop dramatically from 2,722 to 1,745 man-days per day between December 1992 and January 1993. This necessitates assignment of repair projects to PNSY which will begin in January 1993.

In order to achieve this, the Appropriations Committee suggested the assignment of the U.S.S. *Biddle* (CG-34), a guided missile cruiser of the *Belknap* (CG-26) class which is homeported in Norfolk, VA. It is scheduled to undergo a repair availability from January through June 1993. The repairs and alterations are estimated to require 48,000 man-days and over $15 million. The work package will necessitate drydocking and includes hull, mechanical, electrical, combat systems, and electronics. The assignment of the *Biddle* to PNSY will significantly improve the workload for early and mid-1992, and will reduce the almost immediate loss of hundreds of skilled workers vital to the overhaul of the *Kennedy*.

If the Secretary is unable to assign the U.S.S. *Biddle* to PNSY, it can fulfill the Appropriations Committee mandate by assignment of the U.S.S. *Yorktown* (CG-48). This is an Aegis guided missile cruiser of the *Ticonderoga* (CG-47) class and is also homeported in Norfolk. It is scheduled to undergo a repair availability from January 1993 through April 1993. The repairs and alterations are estimated to require 36,000 man-days and over $11 million. The work package includes hull, mechanical, electrical, combat systems, and electronics and will also require drydocking. Assignment of the *Yorktown* to Philadelphia would be an ideal substitute for the *Biddle*, in both timing and workload, in the event the Navy is unable to assign the *Biddle*'s work to PNSY.

The assignment of either of these work packages will fulfill the Appropriations Committee's mandate through mid-1993. Thereafter, the committee suggests the assignment to PNSY of the U.S.S. *Detroit* (AOE-4), a fast combat support ship of the *Sacramento* (AOE-1) class which is homeported near Philadelphia in Earle, NJ. It is scheduled to undergo a phased maintenance availability from May through October 1993. The repairs and alterations are estimated to require 48,000 man-days and over $15 million. The work package includes hull, mechanical and electrical work, but is much less intensive in combat systems and electronics than is the work on a combatant such as the *Biddle*. The work will again require drydocking. The assignment of the *Detroit* to Philadelphia will maintain a constant level and trade mix of skilled workers from mid to late 1993.

Assignment of the U.S.S. *LaSalle* (AGF–3) to Philadelphia would be an ideal complement to the assignment of the *Detroit* in both timing and workload. The *LaSalle* is a communications command ship which traditionally serves as the flagship for the commander of the Middle East Forces, and is homeported in Philadelphia. It is scheduled to undergo a regular overhaul from May through November 1993. The repairs and alterations are estimated to require 60,000 man-days and over $19 million. The work package includes hull, mechanical, electrical, and electronics work, and will require drydocking. The *LaSalle* would provide an even better trade skill mix than the *Detroit*, in that it has a higher level of electronic work scheduled, thus helping to retain those critical skills for the U.S.S. *Kennedy*.

After the Navy exercises the options above, it will still need to assign work to PNSY for the second half of 1993. For this reason, the Appropriations Committee has suggested the assignment of the U.S.S. *Kidd* (DDG–993), a guided missile destroyer and lead ship of the *Kidd* class ships which is homeported in Staten Island, NY. It is scheduled to undergo a repair availability from June 1993 through January 1994. The repairs and alterations are estimated to require 19,000 man-days and over $6 million. The work package includes hull, mechanical, electrical, combat systems, and electronics, and will require drydocking. Assignment of the *Kidd* to Philadelphia will, in concert with the work on the *Detroit* and/or *LaSalle*, maintain the necessary level of work and trade mix through the end of the 1993 calendar year. This will ensure the availability of a trained work force for the *Kennedy*, particularly in the combat systems and electronics skills.

As the earlier analysis shows, in order to complete the U.S.S. *Kennedy* on time and to specifications, PNSY must maintain this work level until the *Kennedy* workload reaches its peak in June 1994. In order to accomplish this, the Navy could assign to Philadelphia the U.S.S. *Turner* (CG–20), a guided missile cruiser of the *Leahy* (CG–16) class which is homeported in Charleston. It is scheduled to undergo a phased maintenance availability from December 1993 through July 1994. The repairs and alterations were originally estimated to require 65,000 man-days and over $20 million, but a decrease in the planned work has reduced this 46,000 man-days and $15 million. However, older ships such as the *Turner* traditionally have large increases in the scope of work after the beginning of the overhaul, and the original estimate is probably close to the actual cost. The work will require drydocking and will include hull, mechanical, electrical, combat systems, and electronics. The assignment of the *Turner* to Philadelphia, although not in the legislative report language, will maintain the necessary level and mix of skills at PNSY through the peak workload on the U.S.S. *Kennedy* in June 1994.

The various options for ship repair assignments which I have explained here are not the exclusive ways which the Navy could comply with the Appropriations Committee mandate. Other possible assignments include the scheduled work packages on the U.S.S. *Philippine Sea* (CG–58), the U.S.S. *Conolly* (DDG–979), the U.S.S. *Comte de Grasse* (DDG–974), the U.S.S. *Thomas Gates* (CG–51), the U.S.S. *Sprague* (FFG–16), and the U.S.S. *Saipan* (LHA–2).

Mr. Speaker, I am confident that the Navy will comply with the legal requirement of the fiscal year 1992 Defense authorization bill that the complex overhaul of the U.S.S. *Kennedy* be completed at the Philadelphia Naval Shipyard, and with the mandate of the Appropriations Committee that sufficient work be assigned to PNSY so that the *Kennedy* is completed on time and to specification. I hope that my remarks today have made clear for the Navy what steps need to be taken to comply with these mandates. I look forward to working with the Navy to see that these requirements are met.

Ms. OAKAR. Mr. Speaker, I rise in support of the conference report on H.R. 5504, The Defense Appropriations Act for fiscal year 1993. In particular, I wish to address the Defense economic adjustment provisions that are embodied in the Defense Conversion Adjustment and Transition Assistance Act of 1992.

I am delighted that both this year's Defense authorization and appropriations bills contain a grand total of $1.7 billion for defense conversion purposes, as we make the difficult but necessary transition from the vast military machinery of cold war America to the peacetime economics of defense conversion.

This $1.7 billion allocation springs from legislation I originally introduced back in 1990 (H.R. 3999) which was included in the 1991 Defense authorization bill and which authorized $200 million for defense conversion—division D of the Defense Authorization Act for fiscal year 1991, Public Law 101–510. I am encouraged to see this substantial increase in funding, because it recognizes the magnitude of the problem with which we must deal, as we scale down our $300 billion annual defense budget and begin the process of absorbing thousands of dedicated defense employees into our civilian economy.

One important feature of this legislation is the $80 million in aid it adds to the $50 million already provided in 1990 to States and localities under the program of the Economic Development Administration. This money will help those communities adversely affected by the Defense conversion process. The bill also adds $50 million to the resources of the Defense Department's Office of Economic Adjustment, which the 1990 legislation sought to strengthen for these purposes.

Another important feature is the $75 million that the bill would make available for the reeducation and retraining of displaced defense employees.

I had some misgivings that the conversion program in this legislation should be more civilian oriented. I introduced my own bill, H.R. 5116, earlier this year, recommending a far more comprehensive $3 billion approach to this issue. Nonetheless, I do believe this years defense bills represents a very positive development in our Nation's policy effort at economic adjustment and conversion, authorizing and appropriating more than half of what I and the House Budget Committee asked. This bill, therefore, deserves our support.

The chair of the Defense Appropriations Subcommittee, Representatives MURTHA, deserves the thanks of this House for these provisions and the overall bill.

Mrs. VUCANOVICH. Mr. Speaker, I rise today in support of the conference report on H.R. 5504, the Defense appropriations bill. This bill maintains a strong defense and addresses some very critical medical needs.

Of particular importance is language approved by conferees to take $200 million from the strategic defense initiative for a research project on breast cancer within the Department of the Army. I am a strong supporter of the strategic defense initiative and have consistently supported funding of this project.

Nevertheless, I do believe the transfer of $200 million in SDI funds to breast cancer research is warranted since this year, over 46,000 women are expected to die from breast cancer. Unfortunately, many of these women will be in our Armed Forces and may be forced to relinquish their commitment to our country to make the commitment to protecting their health. We in Congress can help these women by approving this legislation and hoping that a cure for breast cancer will be found.

Congress has had to make some tough choices in setting priorities and maintaining the budget firewalls, however, I believe this transfer is within our budget agreement since the funds stay within the Department of Defense.

As a breast cancer survivor and a Member of the House, I urge my colleagues to vote in favor of this conference report. If it helps save just one woman's life from the devastating disease of breast cancer, it is worth it.

Mr. SLATTERY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

I rise today to express my strong support for the conference report on H.R. 5504, the fiscal year 1993 Defense appropriation bill. I would also like to express my appreciation for all the hard work done by Chairman MURTHA and the Defense Appropriation Subcommittee staff. I urge my colleagues to support this measure.

This bill contains funding for many important programs. I would particularly like to call my colleagues' attention to title VIII, defense reinvestment for economic growth, and to the armament and retooling and manufacturing support initiative, or arms initiative.

I would also like to express my particular appreciation to Chairman MURTHA and the Conference Committee for including language in the manager's report that identifies the conversion of the lead azide facility at the Kansas Army Ammunition Plan [KAAP] in Parsons, KS, as a project that should be funded under title VIII and under the arms initiative. I am pleased that the Conference Committee recognized the need for these appropriations and supports this project.

This funding will support the type of defense economic conversion programs that are critical to the future economic and security interests of the United States. The conversion of the azide facility at the KAAP will allow the plant to begin using a currently unused facility for commercial purposes. This project will modernize the facility and bring it up to current environmental standards—greatly reducing the start up time that would be needed to put this facility on line in the case of a national emergency.

This economic conversion could also create up to 400 new jobs at this plant, which has seen employment drop from over 1,300 to about 800 as defense related business has declined. And that number is slated to fall to less than 100 as the final defense contracts expire. This is a devastating loss for a town of 13,000 people, and these new jobs are desperately needed.

With funding under the fiscal year 1993 Defense appropriation bill, the KAAP will be able to utilize an unused Government-owned facility for the commercial production of sodium azide, the chemical compound used to rapidly inflate automobile air bags. Congress has, of course, mandated that all automobiles contain both driver and passenger-side air bags by the 1998 model year. Currently, there are no sodium azide production facilities in the United States and only three such facilities world wide. All sodium azide is imported. Utilization of this facility would reduce dependence on foreign technology and cut the trade deficit by at least $7 million per year.

I believe it is vitally important that Congress look forward and seek out new technologies and capabilities that will create opportunities and jobs for our citizens as we attempt to shift away from a cold war economy and reduce our defense expenditures. Through the defense reinvestment for economic growth program and the arms initiative we can facilitate this change by creating new jobs, reducing imports, and promoting a healthier economy and stronger future for our country.

I urge support of this bill.

Mr. MATSUI. Mr. Speaker, I rise today in strong support of the provisions in H.R. 5504 which relate to flood control for the Sacramento metropolitan area. Although this legislation will not provide immediate protection to my home city, we will move closer to providing a final solution to this tangled and emotional issue.

As my colleagues in the House know, Sacramento faces the real threat of dangerous and widespread flooding unless measures are taken to abate the risk. I believe that all sides of the debate are in agreement that Sacramento is at risk and that a resolution is needed, and right away. The fight is not about the goal of protecting Sacramento but, rather, about the means of achieving that goal.

And this is precisely why the legislation contained in H.R. 5504 makes so much sense. Our legislation calls for a complete reevaluation of all alternatives for providing flood protection for Sacramento without prejudicing the results toward any particular outcome. This legislation is acceptable to a wide range of environmental groups, including many of those groups which opposed our initial proposal. The legislation also protects the interests of multipurpose dam proponents, and is endorsed by the State of California. The legislation calls for a comprehensive study of the flood control problem and every feasible solution to the problem, and will be a solid first step toward solving Sacramento.

If we fail to include this provision in H.R. 5504, we will have failed to do the jobs that the people of the United States sent us to Washington to do: To do for the people that which they cannot do for themselves. The 300,000 citizens of Sacramento whose homes and lives are in the flood plain of the American River and Sacramento River need flood protection, and they cannot provide it for themselves. It is incumbent upon us to help Sacramento unravel and solve its dangerous flood risk.

Sacramento currently faces the threat of widespread flooding which endangers hundreds of thousands of human lives and billions of dollars of property. We learned just how vulnerable we were in the winter of 1986. In February of that year, heavy rains caused river waters to burst through levees and rush down the streets and though the homes of many citizens in Sacramento.

Had the storms continued even 3 hours longer, it is estimated that the resultant devastation would have been catastrophic. More than 300,000 lives and $23 billion in property were at risk. Three more hours of rain could have created more damage and loss of human life than the Loma Prieta earthquake of 1989, the Oakland fires of 1991, or this year's Los Angeles riots combined.

In spite of all of the damage, in spite of the economic losses suffered by our people and by our businesses, Sacramento was fortunate; the rains stopped 3 hours short of causing the catastrophic flooding we now know is possible in our city. We were lucky. But luck is not something we, as elected officials, can count on. We have a responsibility to our constituents to do what is right and to provide protection from foreseeable tragedy.

Today, more than 6 years after the floods of 1986, Sacramento's flood protection continues to imperil our population. Sacramento's flood protection level is currently rated at a mere 63-year level. That means a flood, the magnitude of which occurs once every 63 years will breach our levees and flood our city.

It is clear that we cannot sit passively by as Sacramento faces the threat of catastrophic floods, of loss of life, and widespread damage to property. I urge my colleagues to support the Sacramento flood control provisions in H.R. 5504, and help Sacramento move forward in efforts to fend off catastrophic floods.

Mr. SPENCE. Mr. Speaker, it is with sadness that I join with my colleagues in bidding farewell to our friend, DAVID O'B. MARTIN.

I have had the honor of working closely with DAVE on an issue that is of vital importance to both of us: a strong national defense coupled with a strong appreciation for our military personnel and veterans.

Serving as an F-4 Phantom jet aviator during the Vietnam war, DAVE was uniquely qualified for the sometimes rancorous debates that have taken place in the Armed Services Committee over the last 12 years. In fact, I would not be a bit surprised to learn that there may have been times when DAVE considered his position as ranking member on the Subcommittee on Military Installations and Facilities as another tour of combat duty. Throughout his tenure, however, DAVE's dedication and sense of comity and fairness oftentimes facilitated our negotiations and many subsequent compromises. I know our colleagues on the Armed Services Committee from both sides of this aisle share in my appreciation for the many years of fine service he has devoted on behalf of our Nation's security needs.

On a personal note, DAVE is a close and trusted friend. He is a fine gentleman and a loyal patriot. He may be confident that his legacy will live on in these Halls of Congress. DAVE, we are going to miss you, and wish you and your family many future successes in the years ahead.

Mr. MCDADE. Mr. Speaker, I yield back the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

BREAST CANCER RESEARCH

(Ms. OAKAR asked and was given permission to proceed out of order for 1 minute.)

Ms. OAKAR. Mr. Speaker, I rise to compliment the gentleman from Pennsylvania [Mr. MURTHA], because all women in America are going to be very grateful that he and Senator HARKIN has the tenacity and the courage to transfer money from the Defense appropriation research budget for breast cancer.

Hopefully, this appropriation will be the necessary step in passing my legislation, H.R. 5156, dedicated to the promotion of excellence in breast cancer detection, treatment, and research which is designed to foster a renewed interest among America's best and brightest minds in the study of breast diseases.

The legislation calls for the following:

New National Cancer Institute research—The bill calls for an additional $300 million for breast cancer research in 1993, a level recommended by the breast cancer coalition and the House-passed budget.

Expand SPORE's Program.—The bill would also expand the current 4 extramural Specialized Programs of Research Excellence [SPORE's] on breast, lung, and prostate cancer to at least 10 centers nationwide.

Interagency Office on Breast Cancer.—Ensure a coordinated public approach to goals and priorities for breast cancer detection, education, treatment, and research.

Rose Kushner Scholarship Program.—The National Cancer Institute shall conduct annual national competitions to award scholarships, fellowships or internships in private or public health care institutions or Government agencies to health professionals who have an interest in the study of breast diseases, and who represents a variety of health care disciplines; and promote the service of such professionals at the National Institutes of Health.

National Breast Cancer Commission.—The bill creates a National Breast Cancer Commission to be appointed by bipartisan congressional leadership and the administration. The members of the Commission shall be chosen from various backgrounds and disciplines based on their experience and expertise in the war on breast cancer. The Commission shall conduct hearings and regular meetings, report to the Congress and the administration, within 1 year, on the effectiveness of current efforts, public and private, to minimize or defeat the scourge of breast cancer.

This legislation declares war on the scourge of breast cancer. My proposal represents a call to arms for every weapon at our disposal and also, calls for the development of a comprehensive strategy in treatment, prevention, and research development.

I see my friend, the gentleman from Indiana [Mr. MYERS] on the other side of the aisle, who has been a big supporter of this.

I want to thank all the members of that Committee on Appropriations for having the courage to say, "You are wrong about this. We are going to do it anyway."

And we are happy to get that money, and we know that the Institutes of Health will ultimately get the money because they are the ones that have the knowledge and insight about the oversight on breast cancer research. But we are very, very happy.

We will take the funds in whatever way we can get them to find a cure for this epidemic disease.

Mr. MYERS of Indiana. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentlewoman for yielding to me and thank her for her diligence and her efforts and the appropriations subcommittee for handling this this way.

It is too bad we have to do it this way, but the cancer research money here will save untold numbers of lives, and the money put in here also for the facilities that the gentleman from California [Mr. BROWN] tried to knock out, several of those are cancer centers already under construction, some of them. We can complete them now and people are going to be alive years from now that might not be otherwise.

So I thank the gentlewoman for the great effort that she has done on this committee.

Ms. OAKAR. Mr. Speaker, we asked for $300 million, and this money, plus the money from the gentleman from Kentucky [Mr. NATCHER] will put us up to about $280 million. We are very grateful.

CONFERENCE REPORT ON H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT

Mr. SHARP. Mr. Speaker, I call up the conference report on the bill (H.R. 776) to provide for improved energy efficiency.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Monday, October 5, 1992.)

The SPEAKER pro tempore. Pursuant to the rule, as modified, the gentleman from Indiana [Mr. SHARP] will be recognized for 1 hour, and the gentleman from California [Mr. MOORHEAD] will be recognized for 1 hour.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself 3 minutes.

I might indicate to my colleagues, we have so many committees involved that we are going to have to, unfortunately, restrict all of us to very, very few words today.

Mr. Speaker, when the conference report on H.R. 776 is signed into law, we will take giant steps toward easing this country's oil addiction and toward a more secure and environmentally improved energy future. The Department of Energy estimates H.R. 776 will reduce oil imports by up to 20 percent by the year 2000 and household electricity bills by $130 annually.

H.R. 776 will have lasting effects on energy options available to consumers in this country, the amount of energy we use, the price we pay for electricity, the creation of jobs, and the quality of our environment.

Seldom does the House consider legislation as complex. Seldom do we consider legislation which will touch so many aspects of our lives.

H.R. 776 is the most comprehensive energy legislation to come before this House in almost 15 years. When Washington is accused of gridlock we will all be able to point to this achievement. We have bridged partisan and regional divisions. We have bridged the gulf between the President and the Congress. We have drafted legislation which looks to the future and not to the next election.

The news media and some of the debate here may focus on the few areas of controversy in the legislation. Stories about the bill have already noted that two controversial provisions never were submitted to the Members for notes—the questions of opening the Arctic National Wildlife Refuge to drilling and proposals to increase automobile and light truck fuel economy. In addition, the conference was forced to drop other issues, including a title on the Outer Continental Shelf and streamlining natural gas pipeline construction, because we simply were unable to resolve fundamental differences between House and Senate negotiators.

While we don't claim success on all levels, I submit to the House that this legislation is an overall success. It is sweeping in its coverage—touching on virtually every sector of the U.S. energy industry. An extraordinary degree of consensus underlies the entire bill.

At the very center of H.R. 776 is the theme that we must take the long view in terms of our national energy policy. We must take actions now to substantially reduce our dependency on foreign oil, reduce the risk to our economy of disruptions in price or supply, reduce the deficit, protect consumers, and begin to control our own energy future.

That theme is embodied in the provisions of H.R. 776 dealing with energy efficiency.

According to a report on the President's national energy strategy following months of hearings, "the single loudest message—from the American people—was to increase energy efficiency in every sector." Yet the single loudest criticism of the President's original energy proposal was its inadequate focus on the more efficient use of energy resources. We have remedied that shortcoming with H.R. 776 by redirecting the Department of Energy and our Nation toward action which will save energy in the near term. And, unlike some of the major energy programs of the 1970's, we have done this in a way that relies on existing State and industry programs and standards, rather than on developing Federal regulations and bureaucracy.

H.R. 776 promotes energy efficiency in five major ways. They include: First, improving the efficiency of buildings; second, requiring the Federal Government—the largest single user of energy in this country—to use energy more efficiently; third, encouraging public utilities to reduce demand for energy; fourth, establishing energy efficiency standards for lights, electric motors, showerheads, and commercial heating and cooling equipment; and, fifth, improving industrial energy efficiency.

The bill contains significant new support for renewable energy. It promotes domestic demonstration and export of solar, geothermal, wind, and biomass technologies. The tax provisions of the bill include production and investment tax credits. Together they will help ensure that renewable technologies will be part of the more secure energy future we seek.

Replacing gasoline with alternative fuels such as natural gas, electricity, methanol, ethanol, and propane is the portion of the bill that will take the biggest bite out of oil imports. Again, using a combination of tax incentives and mandates, and using Federal vehicle purchases as a key to the program, H.R. 776 will help us strike at our Nation's largest oil problem: The nearly 200 million cars and trucks on U.S. highways that each day consume a volume equivalent to our oil imports—one-seventh of the entire world's oil supply.

Under an alternative fuel provider program, the alternative fuels industry will lead the way in buying alternative fueled vehicles and using alternative fuels. By imposing these requirements on those who have ready access to the fuels and stand to profit from the success of alternative fuels in the marketplace, we have a high probability of a successful jump start toward a nonoil future.

I am especially pleased with the alternative fuels provisions we were finally able to agree to in the conference, because they are the most important actions we have taken that will actually reduce our dependency on foreign oil. I know these detailed remarks will clarify their intention.

The alternative fuel provider vehicle purchase and fuel use mandate in section 501 is different from the fleet requirement program in section 507. These differences are intentional.

The alternative fuel provider program, like the Federal and State programs, must occur. While the Secretary is given some flexibility after 1997 to reduce the percentage acquisition requirements, but to no less than 20 percent, or to delay the increase in the percentage acquisition requirements, the program must begin in model year 1996 with a 30-percent acquisition requirement.

The fleet requirement program under section 507, on the other hand, will not necessarily go into effect. The Secretary is required to do a rulemaking and is authorized to impose requirements on fleets other than alternative fuel provider fleets, but the Secretary may decide not to have a fleet requirement program under section 507.

Under section 501, covered persons must actually run their alternative fueled vehicles on alternative fuels when the vehicles are operating in an area where the fuel is available. This requirement was not included in the fleet requirement program in section 507, because the conferees were concerned that alternative fuel providers might charge unreasonable fuel prices to fleets that are not alternative fuel providers if such fleets were required to use the alternative fuel. Presumably the alternative fuel providers would not overcharge themselves. If there is a fleet requirement program under section 507, we hope and expect that alternative fuel providers will price their alternative fuels competitively in order to encourage fleets to use the alternative fuels.

Under the section 501 requirement, vehicles garaged at personal residences are not exempt. Under Section 507, such vehicles are exempted.

Under subsection c, electric utilities may comply with the purchase and fuel use mandates 2 years later than other covered persons if and only if they, first, notify the Secretary by January 1, 1996 that they plan to comply using electric motor vehicles, and, second, actually use electric motor vehicles to comply with this section.

H.R. 776 will also introduce historic changes to the electricity industry—increasing competition among suppliers and providing protections for consumer pocketbooks. It is worth noting that this provision, which amends two fundamental New Deal era reforms and had been expected to be very controversial, was the subject of extraordinarily cooperative negotiation in the conference.

The final product, a true compromise, is a stronger statement than either the House or Senate bill of the Congress' desire to see competition in the generation of electricity and the availability of access to the Nation's transmission grid for all comers without regard to monopoly or market power. In this case, the Congress has sent a strong message to monopolists to learn to compete and to seek power at prices that will benefit consumers—or get out of the way.

Many of us are particularly satisfied with the substantive result in the electricity title in part because the provisions take us where the House was headed in 1978 when the House offered and the Senate rejected a version of transmission access.

This year, the veterans of that battle were joined by a visionary and hardworking group of House colleagues—Mr. MARKEY, Mr. MOORHEAD, Mr. TAUZIN, Mr. BOUCHER, Mr. BLILEY, and others—who dedicated themselves to studying transmission access and the Public Utility Holding Company Act, to drafting fine legislation and to defying the conventional wisdom to accomplish these sweeping changes. To these colleagues I offer special tribute.

To Chairman JOHN DINGELL, I offer gratitude for his special counsel on this difficult issue. He stood firm for protecting consumers against monopoly power and insisted that no changes be made until he was convinced that Government would always be allowed to impose a public interest standard over any exemptions from the Public Utility Holding Company Act. He supported the title strongly only after he was certain the rascality he protects us all from was not giving to be allowed to thrive.

Finally, I want to thank the conferees for their restraint in resisting efforts to have Congress constrain the discretion of the Federal Energy Regulatory Commission [FERC] in the areas of electricity policy. I am particularly pleased that the provision concerning the pricing of transmission services maintains the traditional broad statutory approach of the original Federal Power Act [FPA]. The FERC must retain sufficient discretion to apply the traditional, time-tested FPA standards—just and reasonable, and not unduly discriminatory or preferential—to particular cases as electricity markets evolve. I would note that H.R. 776 repeats these words verbatim from the current act, and makes them the centerpiece of our pricing provision.

In the same vein, I am pleased that the conferees specifically chose to neither endorse or reverse any prior FERC decision on transmission pricing.

On another matter of deep interest to me, the conference agreed to adopt an economic trigger for use of the strategic petroleum reserve [SPR], in other words to allow the President to sell oil from the strategic petroleum reserve to ease the economic consequences of a significant oil price spike.

The conferees agreed to allow the President to use the SPR more quickly in situations such as the period during the United States embargo of Iraq in August 1990. The embargo reduced the world oil supply by over 4 million barrels a day. Oil prices doubled leading to an estimated loss of $200 billion in GNP and throwing the economy into recession. However, the administration refused to use the reserve in part because no shortage had occurred. In today's decontrolled oil markets, no shortage is likely ever to occur following a disruption; instead prices rise, sometimes precipitously.

The conferees changed the drawdown criteria so that a shortage need not occur before the SPR is drawn down. A reduction in supply such as the Iraqi embargo that causes oil prices to increase and is likely to harm the economy would allow the President to use the reserve. The President does not have to wait for gas lines, proof of the onset of a recession, or the absence of available petroleum products in certain areas to use the SPR.

Second, the conferees decided to allow the President to try to prevent oil price shocks by releasing tens of millions of barrels of SPR oil if he believes an energy supply interruption is likely, instead of being forced to wait until the tanks are empty and the damage to the economy is done. This anticipatory drawdown will allow the SPR to be used more effectively by placing oil on the markets at the earliest possible time when the calming effect on markets is the strongest.

H.R. 776 marks the first time the Congress has acted affirmatively to address the issue of global climate change. The global warming title, with its studies and voluntary reductions programs, is only part of the story. Concerns about global warming have been woven into the fabric of this bill—through the efficiency and renewable provisions, the alternative auto fuels programs, the clean coal technology export provisions that can increase the efficiency of coal combustion in developing countries, and more.

Throughout the bill there is a commitment to environmental improvement in the context of energy security. It was one of our goals from the start. I believe that energy and environment are firmly linked and that a secure energy future must be achieved in tandem with a future of clean air, water, and preservation of our precious natural resources. To do otherwise is to mortgage the future and the health of our children and their children.

The House and Senate agreed to a provision streamlining the approval process for nuclear plant licensing. Although it goes further than I would have liked in limiting the public's opportunity to participate in licensing decisions, a Federal appeals court has recently upheld a Nuclear Regulatory Commission rule which set out a similar process.

This provision will not change the reality that for nuclear power to become a part of our energy future the industry will have to win back the confidence of consumers and environmentalists. That cannot be done by shutting the public out. It must be done by giving the public confidence in the priorities and practices of the nuclear industry and its regulators.

The conferees also adopted a provision regarding the setting of radiation protection standards regulating the disposal of high-level nuclear waste at Yucca Mountain, NV. The House provision would have partially reinstated certain standards that were struck down by the courts in 1987, and have not been promulgated.

The conference report would require the Environmental Protection Agency [EPA] to promulgate a health-based radiation standard to protect the public based on the recommendations of a study by the National Academy of Sciences. The study would be completed by the end of next year.

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Mr. Speaker, the intent of the provision is to break the ongoing institutional deadlock on the matter of the standards in a way that will base the decision on sound scientific judgment. It is not meant in any way to supercede the authority of EPA to make its final expert decision through the usual rulemaking process.

One of the key issues that needs to be examined and resolved as part of this study and rulemaking process is the question of whether a health-based standard limited to individual dose levels could be sufficient to protect the health and safety of the public, or whether such a health-based standard would need to limit collective dose to the general population as well.

Protection of the public health and safety is not simply a matter of how much radiation an individual may receive, but is also a question of how many individuals are exposed to radiation whether at one time or over time. Because of the critical nature of the collective versus individual dose question, this issue needs to be given thorough and objective scientific review.

Then, under this provision, EPA in its rulemaking could consider collective dose limits to the extent that such limits are needed to fulfill the general requirement to protect public health and safety, so long as the conclusion of the EPA is based on and consistent with a wide range of expert scientific opinion, including but not limited to the NAS study.

It is important that the record be clear on this issue. The House conferees—representing the House Interior and Insular Affairs Committee and the Energy and Commerce Committee—refused to accept Senate proposals to set a radiation standard in law and refused to accept a Senate proposal to preclude the EPA from fully considering collective dose or human intrusion in setting its own standard. The appropriate process for setting a standard is an expert agency rulemaking based on the best scientific information possible.

In addition, conferees adopted House language that would provide that, whenever the Nuclear Regulatory Commission designates certain practices involving nuclear materials as below regulatory concern, States have authority to regulate the disposal of low-level waste and the incinerator of materials produced onsite.

The legislation also increases protection of certain whistleblowers, employees of civilian and military nuclear facilities who report safety violations. It is in the interest of fairness—and safety—that these protections from retaliatory actions be enacted.

H.R. 776 addresses numerous issues related to the Nation's nuclear fuel supply. Among these issues were three key questions concerning financial reform of the Department of Energy [DOE] uranium enrichment program. First, how will we pay for the past unrecovered costs of operating this program? Second, how will we pay for the costs of cleanup for the enrichment plants that currently exist? Third, how will we pay for the costs of building a new plan in the future?

In the past, DOE provided fuel to Government and civilian nuclear powerplants through this program. Although DOE was required by law to recover the cost of providing this service, it lost billions of dollars by charging below-market prices. Government estimates of unrecovered production costs range from $3 billion according to DOE to over $11 billion according to the General Accounting Office.

Furthermore, DOE faces over an additional $20 billion in unrecovered costs stemming from expenses for environmental cleanup of the current fuel plants. To date, no money has been set aside for this purpose. However, the President in his fiscal year 1993 budget proposed a cleanup fee, assessing nuclear utilities half the cleanup costs.

There was much congressional debate over the issue of how these costs should be recovered, especially to what extent DOE's nuclear utility customers should be expected to share in paying for these costs. Many Members felt that because the plants were originally built for defense purposes, utilities should not pay any of the fixed costs related to original plant investment or environmental conditions existing before the utilities became customers.

Nevertheless, when these plants were made available to serve civilian customers, a cost-recovery requirement was inserted in the Atomic Energy Act at section 161v. The legislative history is clear that the intent of this provision was to fully recover all of the costs of providing these services to commercial customers, including a proportional share of prior fixed costs based on use.

The terms of the cost recovery requirement of 161v. were in fact very favorable to commercial customers. Although the Government was required to fully recover its costs, it could not charge a price higher than costs. Therefore, for many years when the utilities would have had to pay a higher market price to obtain these services from other sources, the Government was restrained by this provision to charge a lower price set at costs.

Furthermore, by getting use of these plants in return for paying a proportional share of fixed costs, utilities were able to avoid the even greater costs of building a plant of their own and paying for all of the original plant investment and eventual cleanup costs. In this way, the overall terms of cost-recovery under 161v. were meant to balance the interests of the commercial customers and the taxpayers.

However, in practice the cost recovery requirements of 161v. have not worked very well. Because of unproductive investments and a failure to adequately account for cleanup costs, the program ended up charging prices that were not only below market, but also below costs. Now, because of international competition to provide these services, it is not possible to recover these costs through future prices.

The history of this program demonstrates that now is the time to thoroughly reform the Government's uranium enrichment operation. The bill does this by establishing a wholly owned Government corporation to provide these services in a more businesslike fashion.

The U.S. Treasury would hold stock in this corporation equal to at least $3 billion and the Corporation would pay net revenues to the Government in the form of a dividend. Eventually this corporation could be privatized through sale of this stock to the private sector as long as the stock was sold at a price that was at least equal to its estimated value. The dividends and proceeds from the sale of the stock would constitute recovery of past unrecovered production costs.

Under the bill, environmental costs of DOE current fuel plants would be paid for out of a new cleanup fund. The Government and utilities pay into the fund for 15 years in proportion to their past use of the facilities. The utilities' share is collected through a special annual assessment not to exceed $150 million a year or $2.25 billion over 15 years, indexed to inflation. This proposal is a compromise proposal and is a modification of the President's own proposal.

Finally, the corporation would have the authority to sponsor a private, for-profit corporation to build a new enrichment plant if the Corporation decides it would be a good investment. However, the private, for-profit corporation would have to attract private sector financing for the construction of any new plant, and under no circumstances would any borrowing or other obligations of this private corporation be considered the responsibility of the Government.

One issue that will be important to the future of the corporation will be the use and availability of highly-enriched uranium from the former Soviet Union. Currently, a Government-to-Government agreement is being negotiated between the United States and former Soviet States. This agreement could specify that a private entity or the corporation would provide the necessary services to blend and convert the highly-enriched uranium into low-enriched uranium.

If the agreement specifies that the corporation would be responsible for these services, then the corporation would determine the least-cost approach and select a vendor through a competitive process. However, if the agreement specifies that a private entity will provide these services, then such services would be provided by a private entity, but the corporation would be the exclusive U.S. marketing agent for the resulting low-enriched uranium.

In provisions largely originating in the Science Committee, H.R. 776 establishes cost-shared research and development programs for a wide range of emerging energy technologies in four separate titles of the bill. It deals with technologies aimed at reducing dependence on imported oil, curbing environmental damage, improving the Nation's economic competitiveness, and improving administration of research and development at the Department of Energy.

While most of the natural gas provisions were dropped from the final bill, the conferees did agree to expressly forbid discrimination against imported natural gas. In addition, the conferees went on record that consumers and producers are best served by a competitive natural gas market, and that the states cannot fix gas prices with OPEC-style regulation. The joint statement of the managers makes it very clear that abuse of State prorationing authority will violate the intent of the conferees.

H.R. 776 contains a number of provisions relating to the Nation's most plentiful fossil resource, coal. The conferees agreed to provisions that would reduce emissions harmful to the environment, increase the efficiency of using coal and improve the cost effectiveness of coal use. Costs would be controlled and cost-sharing arrangements with project sponsors are specified.

House provisions on coalbed methane were adopted and modified, allowing the useful extraction of methane gas trapped in underground coal seams while disputes over land and mineral rights are resolved. This will unlock an abundant domestic resource, enhance mine safety, and reduce greenhouse gas emissions.

Section 1329, ownership of coalbed methane, is quite similar to section 1314 of the House bill. It directs certain States to establish a forced pooling mechanism for simultaneously encouraging coalbed methane development and resolving ownership. This section is modeled after a State of Virginia statute.

State oil and gas laws, and most mineral leases, were written prior to coalbed methane becoming a viable resource. The uncertainty of ownership has been the largest impediment to development of coalbed methane.

The conference agreement requires affected States, within 3 years of enactment, to establish a mechanism whereby the resource can be developed pending resolution of competing ownership claims. If the States fail to deal with the issue in that time, the Interior Secretary, with the participation of the Secretary of Energy, would implement the program in section 1329, which includes forced pooling arrangements, whereby a coalbed methane developer would drill for the gas while the profits were held in escrow pending the resolution of conflicting ownership claims.

The Secretary of the Interior, with the participation of the Secretary of Energy, must exempt any State from the coalbed methane requirements if the State legislature passes a law or resolution requesting such exemption. The Secretary also would have to exempt a State based upon a Governor's petition, if and only if the Governor had given the State's legislature 6 months to overrule the petition.

The Secretary of the Interior, with the participation of the Secretary of Energy, is authorized to add or delete States from the list of affected States, based upon the criteria in subsection (b). Certain States are designated by the statute as Affected States, until the Secretary publishes a different list. Certain other States are permanently excluded from becoming Affected States.

Section 1329 promotes coalbed methane development in a manner that is protective of our Nation's coal resources and coal mine safety. It provides certain protections for coal owners and operators whose coal resource, including current and future coal mining operations, might be affected by coalbed methane development. Subsection (j) provides that no coalbed methane well operator may stimulate a coal seam without the consent of any coal owner or operator whose coal might be affected by the stimulation. If a coal operator withholds consent, the coalbed methane well operator may appeal to the Secretary of the Interior—or the State, if there is a State program. If the consent is withheld on the grounds that it would impair current or future mine safety, and a coalbed methane well operator appeals to the Secretary, the Secretary must defer to the appropriate State or Federal mine agency in making any determination that differs from the coal owner or operator's judgment.

Mr. Speaker, many people deserve credit for this legislation. It was preceded by introduction in the House of literally hundreds of pieces of legislation—all dealing with energy issues. The President and his Energy Secretary engaged in long study of these issues and submitted their plan to the Congress. Even though the Congress substantially rearranged the priorities expressed in the administration's energy bill, I believe Admiral Watkins' interest was essential to bridge some of the political and substantive differences. Credit goes to my Republican colleagues in the House who, under the leadership of Congressman NORM LENT offered their own vision of a national energy policy. Senators JOHNSTON and WALLOP put together a comprehensive bill that became the basis for Senate action.

Members provided the inspiration for many titles of this legislation. Various Members put their own stamp on the efficiency provisions, the electricity reforms, alternative fuels, coal, global warming and many other provisions. The hundreds of hours of work by many Members is reflected in the final product.

Mr. Speaker, I wish I could name all of the Members who introduced legislation that became part of or models for action we later took. There are simply too many to mention them all.

Mr. Speaker, I am proud to bring H.R. 776 before the House for a vote on the conference report. This legislation has been a long time in coming, but the House can take pride in this bipartisan achievement.

If we pass this bill, and the Senate follows, we can go home and tell our constituents that we have defied the conventional wisdom about the Congress. We have beaten gridlock. We have surmounted partisan and regional divisions, and we have delivered legislation that looks to the energy future of this great Nation and will protect jobs, the economy and the environment.

Mr. Speaker, I would again like to thank the gentleman from California [Mr. MOORHEAD], who was a vital part of the effort here; his senior ranking Republican member on the full committee, the gentleman from New York [Mr. LENT], and the chairman of our full committee, the gentleman from Michigan [Mr. DINGELL], who has been a vital leader for many years on this issue and has performed his usual miraculous leadership in helping us to bring this complex bill before the Congress.

Mr. Speaker, there are 12 committees involved, and while credit belongs to many people on both sides of the aisle, in particular I want to hail the staff of the various committees and Members who did an extraordinary job. I will include for the RECORD the list of the members of the staff who contributed so much.

Special appreciation goes to these staff members: Jack Riggs, staff director, Sue Sheridan, Tom Runge, Wesley Warren, Rick Counihan, Judi Greenwald, Shelley Fidler, John Berner, Paul Downs, Judith Quinn, Judy O'Brien, Susie Miller, and Lisa Burton.

Mr. Speaker, I would like to make a joint statement on behalf of myself and Messrs. MARKEY, MOORHEAD, and LENT, on title II, the natural gas provisions of H.R. 776.

While title II is short, there is a lot in this bill for both natural gas consumers and producers: Many of the new power plants under the new PUHCA reforms will be natural gas powered. So may many of the alternate fuel vehicles encouraged by the alternate fuel titles. Greater reliance on clean burning, abundant, natural gas will help our environmental, energy security, and oil import problems.

To maximize the benefits of natural gas, we have—over the last few years—legislated partial decontrol of wellhead prices in the 1978 Natural Gas Policy Act [NGPA]; approved the Canadian Free-Trade Agreement; and enacted the complete decontrol of wellhead prices beginning this coming January 1, 1993, under the Natural Gas Wellhead Decontrol Act.

Title II continues this course of comprehensive congressional enactments to ensure a broad policy of free and competitive wellhead markets in North America by, in effect, deregulating Canadian natural gas imports in section 201, and by restating and broadening our national Federal policy in favor of vigorous competition in our gas wellhead markets, in section 202.

This overall series of recent and new enactments are critical because of what has recently happened as Federal regulation of wellhead markets has eased, and the accompanying Federal preemption of State pricing regulation by a comprehensive scheme of Federal price controls has started to phase out. In particular, some producing States have considered reoccupying this important field of interstate commerce with a new type of regulation—wellhead production regulation that could be used to cut back output in order to raise the general price level of natural gas.

Such a replacement of harmful Federal price lowering regulation and market intervention with equally harmful State price raising regulation and intervention, would be inimical to a comprehensive national energy strategy aimed at free market-based growth of natural gas use. It would hurt gas use both in new areas under the other titles of the bill, and in the traditional gas markets of our Nation. Such intervention would send inaccurate price signals to producers and consumers, would impair economic efficiency, and would be fundamentally in conflict with a competitive wellhead market.

Some supporters of new producing State initiatives have asserted there is no evidence whatever that their aim is to set up a State-administered horizontal price fixing cartel. We hope that is true.

However, we are familiar with the long history of economic waste and reasonable market-demand prorationing administered by the Texas Railroad Commission in the 1950's and 1960's. We have reviewed how that scheme was indeed copied by OPEC when it was formed—see generally, "The Price," by Daniel Yergin. And we have inquired into several official statements regarding these new State initiatives.

The following letter from one State official indicates the type of State activity that most concerns us:

STATE OF OKLAHOMA,
OFFICE OF THE SECRETARY OF ENERGY,
Oklahoma City, OK, October 22, 1991.
Representative GROVER CAMPBELL,
State Capitol Building, Oklahoma City, OK.

DEAR REPRESENTATIVE CAMPBELL: I enclose a draft of a bill which is being prepared for introduction in the 1992 legislative session. As a member of the Energy, Environment, and Natural Resources Committee, I feel you should be kept informed about proposed legislation in the field of Energy.

The subject of this legislation is seasonal market demand proration of natural gas. As you are no doubt aware, Oklahoma enacted the nation's first market demand laws relating to both oil and gas in 1913, when a condition of severe oversupply had resulted in low field prices and widespread waste.

These laws were enforced and worked very well until the mid-1970's when the first Arab embargo and punitive federal price controls on natural gas resulted in a severe shortage of supply. Later, when the shortage of gas had turned to surplus, the Oklahoma Supreme Court held that the Corporation Commission could not impose more stringent production controls except after personal notice which is a practical impossibility.

Recent events have clearly demonstrated the cost to Oklahoma and its citizens resulting from an excess of natural gas supply. During the summer of 1991, gas field prices sank to the lowest level in many years, below the cost of replacement, simply because of oversupply in the field.

Those who profit from the oversupply and resulting depressed price are the gas traders, the interstate pipe-lines, and the Eastern consumers. Those who lose are the developers, the State, and above all, the Oklahoma mineral owners. We should never forget that natural gas, unlike annual crops, is a nonrenewable resource. When gas is sold at a distress price, the landowner suffers a financial loss which can never be recouped.

This proposal would simply impose a seasonal limitation on production from natural gas wells. It is well known that the market for gas is seasonal: high in the winter months; low in the summer months. Pipe lines are rapidly developing storage facilities, specifically designed to further extend the period of low field prices.

When there is an excess of supply over demand, the simple solution is to reduce the oversupply by storing gas in the ground. If every producer were willing to cut production proportionately during the summer period, no legislation would be necessary. However, we all know that as a practical matter, such joint action, even if it would mean higher prices immediately, simply will not occur.

This proposal would impose a daily gas production limitation of 50% of well deliverability during the winter 6 months' period and 25% of deliverability during the summer 6 months' period. Wells producing casinghead gas and wells of low capacity (under one million cu/ft/day) would be exempt, because the impact of these wells on the market is small. Production from super-wells would be further limited to 25% of deliverability over 10 million cu/ft/day year round. Overage or underage could be made up only during a similar seasonal period, to minimize manipulation. Finally, the present draft includes an automatic sunset provision, under which the allowable restrictions would expire automatically at the end of two years unless renewed by legislative act. If for any reason the plan is not working, it can simply be allowed to die.

No one state can unilaterally overcome the distress prices resulting from seasonal oversupply. No state would want to impose production restrictions, and then see the market move to another state with no improvement in field prices. For this reason, the gas producing states of the Southwest are in close cooperation in these efforts to address the problem of oversupply and low field prices. The Texas Railroad Commission already has conducted hearings preparatory to issuing an Order imposing seasonal market demand proration on gas wells in that state. Similar initiatives are under way in Kansas, Arkansas, Louisiana and Colorado.

Oklahoma is fortunate in that all states recognize the necessity for legislation here. This means that Oklahoma no doubt will be the last to actually impose binding production restrictions. We will know whether other states will act before final passage of the bill by the Oklahoma legislature. However, it is essential that Oklahoma move forward in concert with the other states.

I would appreciate your careful attention to this proposal. I would be glad to meet with you to discuss the matter further if you desire. If you share my conviction that this legislation would be of significant benefit to Oklahoma, its economy, and especially its citizen-landowners, your joiner as a legislative sponsor would be extremely valuable.

Very truly yours,

CHARLES NESBITT,
Secretary of Energy.

I and my colleagues realize there is a long history of legitimate State regulation to further the goals of physical conservation, to prevent unfair drainage among producers in a common reservoir, to enforce well-spacing rules, and so on. The Congress has not intended, by its previously noted enactments or by title II of this bill, to preempt these State authorities.

But it is also clear that there is no reference to such legitimate activities in the above-noted letter explaining the purpose, intent, and structure of the proposed new State law. Moreover, the proposal described there was subsequently toughened to shut in more gas over longer periods of time.

We of course are not deciding the lawfulness of that State enactment: This is entirely a question for the Federal courts, in the context of a preemption challenge to this or other State laws or regulations that substantially and unreasonably interfere with the broad Federal policy of wellhead competition.

The intent of Congress, however, will be a central question in any possible future disputes. Accordingly, we here restate and extend our legislative support for free national gas production markets, in new section 202. We strongly endorse the specific accompanying statement of managers language spelling out how the noted series of recent Federal laws and rulings have combined to prevent the States from using their regulation of producers or pipelines to restrict supplies and raise prices. We believe section 202 is an express statutory statement of the general policy and purpose, and that it correctly sums up where we have come from and where we are going, both under sections 201 and 202 of this bill and under the three previously noted Federal enactments.

For these reasons, we believe the Federal courts can now draw the right lines here: We think they can distinguish between regulation which has the substantial purpose and effect of raising prices—which is preempted—and the many legitimate types of regulation—which are not preempted.

Indeed, the Federal courts have engaged in similar types of line drawing for a century, under the Federal antitrust laws: There, the focus is on the difference between reasonable restraints of trade, and unreasonable ones. Analogous inquiries into the geological justifications of a challenged law or rule; its legislative history or official explanations of it; whether its likely purpose, structure, and effect are more aimed at higher market prices and across-the-board shutins of gas, or instead vindicate producer property rights against drainage, and so on, all could be an essential part of a court's scrutiny.

By thus preserving and extending our national policy of free trade and free markets for natural gas, we believe title II is a significant part of our new comprehensive national energy policy.

As for section 201, we note it applies, for example, to imports of Canadian natural gas into the United States; exports of natural gas to Canada from the United States; and imports of liquefied natural gas into the United States.

While applications for import or export approval still need to be made, imports or exports falling under new section 3(b)(3) are automatically approved, and by this act are deemed to be consistent with the public interest. The application process will still serve the function of affording the Federal Government a record of the foreign commerce taking place.

This automatic approval, however, is not intended to modify the authority of the FERC or jurisdictional State commissions to review the prudence of the purchased gas when a jurisdictional utility seeks to include the cost of such natural gas in rates subject to the jurisdiction of the appropriate State or Federal agency.

The public interest finding in this new section of the Natural Gas Act accordingly does not alter the authorities of the FERC or State commissions previously available with respect to the prudence of natural gas purchases.

In drafting new section 3(b)(2) of the Natural Gas Act, we intended that imported natural gas not be discriminated against on the basis of its national origin. As noted, this would be inconsistent with our Federal policy of vigorous price competition in a decontrolled market.

The conferees intend for the Federal Energy Regulatory Commission to regulate such imported natural gas on a basis comparable to its regulation of domestic natural gas. Just as FERC does not take sides in the market competition between Oklahoma natural gas and Texas natural gas, it could not take sides between domestic gas and Canadian gas.

Hence, if FERC treats Canadian gas differently—on the basis of the place of its production, or in other respects based on its national origin—or in some manner gives preference to domestic natural gas on the basis of its national origin, such action would violate new section 3(b)(2). Of course, such action might also violate other provisions of the Gas Act, and the Canadian Free-Trade Agreement as well.

Finally, as drafted, the new fast track process would not be available for LNG exports to, for example, Pacific rim nations other than Canada. Current law on LNG exports would remain unchanged.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, we are finishing a process today that started 4 years ago when President Bush and the Congress made a commitment to a comprehensive national energy strategy. To develop that strategy, a series of field hearings were held around the country. A voluminous series of hearings were also held here in the Congress, both in the House and in the other body. After those hearings, bills passed both Houses, and one of the largest House-Senate conferences in this Congress, has produced the piece of legislation which is before us today.

I am going to vote for this bill, and I would urge all my colleagues to vote for the bill. It has many good things in it. As in all comprehensive bills, there are some things that are not quite so good.

I would like to call special attention to an amendment offered by the gentleman from Tennessee [Mr. CLEMENT] and myself on the House side that passed on a rollcall vote by an almost 2 to 1 margin when the bill was before us earlier this summer. It revitalizes the nuclear licensing process, which will in turn revitalize the nuclear power industry in this country. My amendment will provide for standardized design of the reactors and the plant facilities, pre-site selection, and a one-step licensing process. This one step license will provide both a construction and an operating permit to build and operate a nuclear powerplant.

The Barton-Clement amendment retains full rights for environmental groups and local groups who have concerns about the design and safety of nuclear powerplants. It is our hope that the Barton-Clement amendment will make it possible to at least consider additional nuclear powerplants in this country in the next 10 years.

H.R. 776 is not a perfect bill. It does not allow for any exploratory drilling in Anwar up in Alaska, and it has some provisions that are onerous with regard to Texas. For example, it puts the intrastate electrical transmission system under possible jurisdiction of the FERC here in Washington, DC. H.R. 776 is a step in the right direction. It is a good piece of legislation.

I would commend the chairman, the gentleman from Michigan [Mr. DINGELL], the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP], the ranking member, the gentleman from New York [Mr. LENT], the ranking member of the subcommittee, the gentleman from California [Mr. MOORHEAD], and all of the literally hundreds of Congressmen who have served on the conference committee to make this bill possible.

I am including additional, specific comments on H.R. 776.

I do wish it went farther in bolstering our domestic oil and gas reserves. I am disappointed that the bill does not include language to allow the Arctic National Wildlife Refuge [ANWR] and our Outer Continental Shelf to be explored for possible oil and gas reserves. This can be done in a safe and environmentally sound fashion. By banning exploration in these areas we are precluding the development of over 60 billion barrels of oil. As we all know and have repeated several times in the last 2 years, the invasion of Kuwait has sharply reminded us the dangers of being overly dependent on foreign oil in unfriendly hands. I wish the lesson and danger would have produced more real domestic energy incentives in H.R. 776.

I am supportive of the tax provision allowing intangible drilling costs to be calculated under the alternative minimum tax [AMT]. This will be extremely beneficial to independent oil and gas producers in Texas and throughout the Nation.

Another provision I am not happy with is the electricity title. I am concerned that changes in the Public Utility Holding Company Act and the transmission access language in the bill could adversely effect the access and reliability of our nationals largest utility grids. I am also disappointed an amendment could not have been adopted to keep the Texas intrastate electricity grid from coming under jurisdiction of the Federal Energy Regulatory Commission [FERC].

The Nuclear Reactor Licensing Act will create a fair licensing process. The public will have three hearing opportunities in which to raise safety issues before plant construction begins. Those hearings will be held during the review and approval of advanced, standardized designs, during the early permitting of a site for future construction and in the review of a combined construction and operating license.

The language also provides an avenue for the public to raise new safety information and amendments to the combined license based upon such information. NRC decisions related to that amendment request are also explicitly subject to judicial review.

As an engineer, I know that this new generation of standardized advanced reactors promises to be one of the world's most efficient nuclear energy plants, utilizing new technology that represents the future of the nuclear energy option in the United States. Without implementing the necessary changes, we will not have another nuclear energy plant ordered in this country.

Mr. Speaker, while we are working out our problems here at home, other countries are benefiting from the fruits of our labor. For example, General Electric's standardized, advanced boiling-water reactor [ABWR], engineered by GE Nuclear Energy, is currently under construction in Japan by Tokyo Electric Power Co. [TEPCO] and is expected to begin operation in 1996. TEPCO, which began construction on the first plant in an impressive 58 months, broke ground on the second unit in January.

Mr. SHARP. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology, who has played a major role in this legislation and supplied a very important provision.

Mr. BROWN. Mr. Speaker, I thank the gentleman for yielding time to me, and I will try to be brief.

Mr. Speaker, I rise in support of the conference report on H.R. 776, the Energy Policy Act of 1992. The legislation before us today represents the first comprehensive energy bill that has come before Congress in over 10 years. In this bill, we are setting a new course for our Government energy programs in order to secure cleaner, safer, more reliable energy production and use. We are replacing 10 years of silence with a comprehensive statement on the importance of a national energy policy to our national security and welfare.

This legislation has had a torturous course through the legislative process over the last 20 months of hearings, markups, and conference. From then through today, over a dozen committees in the House and Senate have been involved during many long days and nights, with over 100 Members of the House and Senate working as members of the conference committee.

None of this would have been of use without the guidance of Mr. DINGELL, chairman of the House Committee on Energy and Commerce; Mr. LENT, the ranking minority member of that committee; and Mr. SHARP, the chairman of the Energy and Commerce Subcommittee on Energy and Power. In the other body, Senator JOHNSTON and Senator WALLOP have provided similar guidance. Over the last 20 months, these Members have provided the dedication which has resulted in the bill before us today.

The House Science, Space, and Technology Committee is responsible for authorizing a number of research, development, and demonstration programs in this bill. In addition, we were conferees on the proposals to transform the Federal Government's uranium enrichment enterprise into a more competitive entity. Our portion of the Energy Policy Act of 1992 is the result of hard work by Mr. SCHEUER, the chair of the Subcommittee on the Environment, and by Mrs. LLOYD, the chair of the committee's subcommittee on Energy. Without the able leadership of these two individuals, this bill would not contain the valuable research, development, and demonstration programs authorized in H.R. 776.

The Science, Space, and Technology Committee began work on this legislation in February of last year. Our full committee and our subcommittees on Environment and Energy have held 13 hearings over that time. They have heard from numerous witnesses on the need for comprehensive energy legislation and then responded with a comprehensive package of research, development, and demonstration programs. Our committee reported its legislative package in May 1992, and has been active in the progress of the legislation through the final agreements represented in this Conference report.

The energy research, development, demonstration, and commercial application programs authorized by this bill are 5-year programs designed to develop new energy production and conservation technologies. We have also authorized programs in more basic research and in math and science education. The research topics covered by this bill range from clean coal technologies to renewable energy technologies, fusion, energy conservation, nuclear power generation, and electric vehicles and includes a new program to research the potential health effects of electric and magnetic fields [EMF].

The legislation is driven by a comprehensive set of goals designed to push energy research programs toward the development of reliable energy sources which can decrease dependence upon imported oil, reduce adverse environmental effects from energy generation and use, create markets for cleaner energy technologies, and enhance our competitiveness through renewable energy and energy conservation technologies.

To achieve these goals, a series of programs are authorized to research and develop new energy technologies with a goal of moving them rapidly to demonstration and eventual commercial applications. I should note that there is a strong emphasis on this thrust toward commercialization of energy technologies. This emphasis is an appropriate goal of any applied research program, but in this bill it also represents a consensus among all of the committees involved that we should speed the commercial adoption of the results of our energy research efforts.

Among the new energy research, development, and demonstration initiatives in this bill are:

A comprehensive program to research and demonstrate electric vehicles on a scale to move them to commercial availability.

Major new initiatives to improve energy efficiency in the industrial, transportation, and building sectors including programs to develop advanced technologies for the pulp and paper industry—the fourth largest energy-using sector in the United States—the steel and aluminum industry, advanced buildings, and technologies designed to improve the environment.

New initiatives designed to enhance our competitiveness through an advanced materials and advanced manufacturing program.

An enhancement of the ongoing advanced nuclear reactor design program which is seeking to develop passively safe, standard reactor designs, with accelerated schedules for starting the certification process at the Nuclear Regulatory Commission [NRC].

A new program to research the potential health effects of electric and magnetic fields. This 5-year program would be centered at the Department of Energy [DOE], with health-effects research the responsibility of the National Institute of Environmental Health Sciences, and would be jointly funded by the Federal Government and the private sector.

Enhanced programs to increase the efficiency of extraction of oil and gas resources from existing reservoirs.

Enhanced programs for new electric generation technologies, such as fuel cells.

New and enhanced programs to reduce dependence on imported oil, mostly through research and development programs on increased fuel efficiency and on alternative fuel development, in addition to the electric vehicle program.

Improvements to ongoing programs, as well as new initiatives in renewable energy technologies.

In addition, there are a number of improvements made in the planning and administration of energy research, development, demonstration, and commercial application programs.

Finally, we have reformed the current uranium enterprise conducted by the Department of Energy into a new unit which will be more able to compete in the current international market for enriched uranium. This was accomplished through a fair balance of taxpayer and utility ratepayer interests and will result in a more flexible operation, more able to respond to changes taking place in the world, such as the conversion of warheads to reactor fuel.

This conference report represents a compromise between the House and Senate positions and between the positions of the various House committees involved. We wanted a more complete authorization but had to compromise with the Senate. We envisioned a number of reforms to the authorization and appropriations process, but had to settle on less than the House-passed bill provided. This is the natural course of compromise. But the research, development, demonstration, and commercial application programs authorized in this bill represent a significant step forward.

There are a few clarifications to some of the negotiated sections of this bill which I feel need to be made at this point. We negotiated with the House Interior Committee over provisions for a Tribal Government Energy Assistance Program contained in section 2606. I want to make clear that it was the intent of the conferees, as discussed in a public meeting of the conference committee, that this program is not to be a new program but is to come out of existing program authorizations at DOE.

During our negotiations with the Senate, we were pleased that the Senate agreed with the need for a number of vital House-passed provisions on energy efficiency, renewable energy, and advanced materials and manufacturing. These program enhancements and new program starts were fully described in the committee's report to accompany H.R. 776 (House Report 102–474, part 2), and I would refer to that document for detailed information of the intent of those programs.

This legislation is the first of what we hope will be a series of authorization bills in coming years. We have already started work on legislation authorizing a new mission for the laboratory system in the Department of Energy [DOE]. We are also looking for authorizations for the remaining DOE programs not authorized in H.R. 776.

We are also hoping to continue the cooperative relationship which we forged with the Energy and Commerce Committee during the consideration of this bill. For those who feel that there is a logjam in Congress and who wondered about a process which puts over 100 Members of Congress on a conference committee, this bill is testament to what can happen when cooperation and dedication prevail.

For the radical reformers of Congress, I want to stress that the existing process is not easy and is not clean, but it does not need radical reform. There are changes we can make, and I am endorsing many of them for consideration in the upcoming Democratic caucus. But when there is determination to accomplish a complex goal, such as enactment of a national energy strategy, we can do it under the existing system of rules and processes.

While I am on the subject of reform proposals, I would like to note that none of this work contained in these many hundreds of pages would have been possible without the dedicated work of congressional staffers. While some have maligned the work of congressional staff, I would note that the progress of this bill is due to the efforts of our dedicated staff people. Many all-night sessions have been held over the last few months, and the staff of the Science, Space, and Technology Committee are to be congratulated for their work as well as the staff of all of the committees. Special recognition should be given to the one person who was responsible for reviewing and assembling this entire bill, Mr. Tim Brown of the legislative counsel's office.

It is my hope that we can continue the progress being made today and refine and amplify these programs with additional legislation in the coming Congress. I look forward to continuing a good working relationship with other committees and with the Senate in preventing another 10 years from passing before we take up energy authorization legislation again.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I rise in strong support of this conference report. I would like to engage the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP], in a colloquy.

Section 711 of the Public Utility Holding Company Act Reform creates a new section 32. Under section 32 the Federal Energy Regulatory Commission must determine that an applicant is an exempt wholesale generator.

I would like to make clear that our intent in this provision is that FERC's determination should be purely ministerial. We do not intend that FERC apply any standard or impose any requirement except that the applicant meets the statutory definition of an exempt wholesale generator.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I would say that I agree with the gentleman from Virginia. The intent is that applicants that meet the definition set forth in section 32 will be determined to be EWG's by FERC.

Mr. BLILEY. Mr. Speaker, I thank the gentleman.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I was hoping that the gentleman from California [Mr. BROWN] would still be on the floor, because I want to make a point of clarification with him.

In title XIII, which authorizes coal research and development, $278,139,000 is authorized for 1993. This is $42 million less than the current funding level and sets the policy of this bill that the

Federal Government should earnestly start graduating this mature technology to the private sector. The "such sums as are necessary" that are directed in the out-years indicates this trend should continue. It should also be clearly stated that the subtitle A coal authorization covers not just the R&D sections specifically referenced in title XIII, but all fossil energy research and development operating expenses as well, including program direction and management support, cooperative research and development, fossil energy environmental restoration, and plant and capital equipment.

Would the gentleman from California be good enough to confirm that that is the intent of our committee?

Mr. BROWN Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN. I thank the gentleman for yielding. I would like to state that that is exactly my understanding.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, it should also be noted for the record that no additional funding for the Clean Coal Technology Program is authorized in this bill. Instead, the Secretary of Energy could request such authorization for funding to cover additional solicitations only if he determines there would be sufficient added benefits.

Another issue I want to raise deals with new versus modified programs. The bill authorizes discretionary energy assistance for U.S. Insular areas and Indian nations similar to that provided to the States. I supported this, and the House conferees agreed during a House conferees' caucus that such assistance should be implemented as part of an existing Department of Energy Program. Additional resources, therefore, are not necessary for this purpose. It simply requires a prioritization of ongoing technical and financial assistance activities.

Titles XX through XXIII, authorizing the remainder of DOE's energy research and development, also turned out pretty well. I am somewhat disappointed about having budget numbers for only 2 years, since the House started out with 5, but I'm nevertheless pleased to have a Department of Energy authorization bill for the first time in many years. Since the R&D programs themselves are set up for 5 years, the 2-year budget authorizations clearly establish the need for new authorization legislation in fiscal year 1995. I look forward to reevaluating needs and justifications at that time.

The energy R&D authorizations are pretty straightforward. The total spending provided $2.59 billion is fully consistent with the President's fiscally prudent plan. Some growth and reallocation of resources is then authorized for in 1994, however, nothing like the $5 billion of new spending called for in the committee-reported bill. Increased effort is provided for enhanced oil recovery and new uses of natural gas. Design certifications are implemented for new reactors and the first-of-a-kind engineering program is codified through its completion. Renewable energy sources, such as hydrogen energy, are especially stressed. And conservation is promoted, although at a level 4 percent below the amount the President requested for 1993. How ironic, President Bush is a bigger conservationist than the Democratic Congress, to the tune of $13 million. A coordinated research program on whether electromagnetic fields produced by electricity really have any scientifically proven human biological effects is prescribed to put this issue to rest once and for all within 5 years.

Finally, the Government-run uranium enrichment operation is transformed into a market-based corporation owned by the Government. This allows business flexibility to negotiate new contracts and market price, and sell uranium commercially. Some Government constraints remain, some of which are good, some burdensome. However, the language does protect the taxpayer from liability by limiting the corporation's borrowing and requiring construction and commercialization of new facilities and technologies only after full privatization. And the resolution of providing for the decontamination and decommissioning of enrichment facilities is acceptable with cost to the ratepayer limited to about 30 percent of its $7.2 billion cost.

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Mr. SHARP. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in support of the bill and thank the chairman for putting the energy efficiency standards on housing in the bill.

Mr. Speaker, I would like to rise in support of the conference report. I want to endorse several sections that promote energy efficiency in this country. Energy efficiency holds the potential of saving about 25 percent of all energy being used in the United States as well as other countries.

Specifically, the Federal mortgage requirement in the bill amends section 109 of the Cranston-Gonzalez National Affordable Housing Act. I authored section 109, which requires that the Secretary of HUD promulgate energy efficiency standards for all new single and multifamily federally assisted housing. The standards, to be established with the assistance of a broad government-private sector advisory task force, must be equal to or greater than the standards in the most recent edition of the Council of American Building Officials' Model Energy Code [CABO–MEC].

The provision in the energy bill clarifies section 109 by requiring HUD mortgages to meet the 1992 CABO–MEC; by adding Farmers Home Administration; and by providing for updating and self-execution of section 109 within 1 year of the date of enactment.

Adoption of the CABO–MEC reduces total energy consumption for heating and cooling by an average of 25 percent. If these standards are across the board in the years ahead, they will apply to all new construction. A study by the Alliance to save energy estimates that this provision, alone, can result in the saving of 482 tanker loads of imported oil over a 30-year period. A homeowner on average would pay less than $8 more in mortgage payments and save $15 per month in energy bills. Adoption of the CABO–MEC will also benefit the environment.

The following organizations have endorsed the application of CABO–MEC to federally assisted and insured housing: Consumer Federation of America, Alliance to Save Energy, American Council for an Energy-Efficient Economy, National Association of State Energy Officials, and the North American Insulation Manufacturers Association.

The clarification to section 109 of the Cranston-Gonzalez Act represents one of the most effective ways homeowners can contribute to energy conservation, and environmental protection, and save on personal utility bills. Additionally, the home energy rating standards and revised manufacturing housing standards, together with provisions in the housing bill on strengthening solar energy financing and launching a pilot program for implementing the energy efficient mortgage program we enacted in 1990, will be a huge step forward in energy.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. SHARP. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of the conference agreement on H.R. 776, the Comprehensive National Energy Policy Act of 1992. This legislation contains important tax incentives which will contribute significantly to the implementation of our Nation's energy policy. This so-called green tax package is paid for with offsetting revenue provisions to ensure that the legislation is revenue-neutral over the 5-year period.

These provisions will encourage Americans to conserve energy; to seek new, cleaner sources of energy; to develop new ways to use clean energy sources; and to adapt current energy technology to protect the environment.

For instance, to encourage energy conservation and the use of fewer cars, the conference agreement excludes from income up to $60 per month in employer-provided transportation benefits, such as transit passes and vanpooling, and limits the exclusion from income for employer-provided parking to $155 per month.

In addition, the agreement fully excludes from income energy conservation subsidies provided by public utilities to residential customers. For commercial or industrial customers, the exclusion is phased in, reaching 65 percent in 1997.

The agreement also provides incentives for vehicles powered by clean fuels. It includes a deduction for a portion of the incremental cost of motor vehicles that may be propelled by a clean-burning fuel, as well as a deduction of up to $100,000 per location for certain refueling property for clean-burning fuels. In addition, a 10-percent credit of up to $4,000 per vehicle would be available for qualified electric vehicles.

To encourage the use of alternative sources of energy, the conferees agreed to provide a production credit of 1.5 cents per kilowatt hour for electricity produced from qualified wind energy facilities or closed-loop biomass facilities. In addition, the energy investment credit for solar and geothermal property would be made permanent.

Other provisions included in the agreement would: First, repeal permanently, the minimum tax preferences for intangible drilling costs and excess percentage depletion for independent oil and gas producers; second, repeal the investment restrictions currently applicable to nuclear decommissioning funds and reduce the tax rate on income of these funds; third, extend the section 29 nonconventional fuels production credit for certain facilities that produce gas from biomass or that provide liquid, gaseous, or synthetic fuels from coal; fourth, provide rules allowing otherwise qualifying facilities to continue to be eligible for tax-exempt bond financing of local-furnishing facilities; fifth, modify the partial excise tax exemption for gasoline mixed with ethanol or other alcohol; sixth, create a new type of exempt-facility bond outside of the private activity bond volume cap, for environmental enhancement of hydroelectric generation facilities; and seventh, allow taxpayers who have contributed to the Trans-Alaska Pipeline Liability Fund to claim income tax credits in certain circumstances.

The cost of these tax incentives is offset by a number of revenue-raising provisions. These include first, an increase in the ozone-depleting chemicals (CFC) tax rate; second, a new reporting requirement in seller-financed mortgage transactions; third, an increase in the withholding rate on gambling winnings to 28 percent and in backup withholding on interest and dividends to 31 percent; fourth, a requirement that certain interests be consistently classified as stock or indebtedness; fifth, the elimination of a loophole that permitted avoidance of pre-contribution gain on property contributed to a partnership; sixth, the denial of a deduction for travel expenses paid or incurred in connection with employment lasting one year or more; seventh, a new reporting requirement relating to the imposition of property tax in the purchase of a residence; eighth, permitting of excess assets in a qualified black lung trust to be used to pay accident and health benefits for retired coal miners; and ninth, a limitation on when a trust can qualify for the marital deduction under the estate and gift tax.

The conference agreement also includes the provisions of the Senate bill which establish rules for the financing and provision of health benefits to retired United Mine Workers and their families.

While the House conferees share the concern of the Senate for these retired coal miners, we only very reluctantly agreed to these provisions.

The House conferees are very uneasy with the provision included in the Senate bill for financing these benefits. It appears to create numerous inequities among the companies that will be required to pay for these benefits, and could set an unfortunate precedent for legislating a solution to what is in essence a private dispute.

Yet in spite of these seemingly major and perhaps fatal flaws in their amendment, the Senate presented this to the House conferees on a take-it-or-leave-it basis—threatening defeat of the most comprehensive energy legislation in years if even the smallest problem were corrected by House conferees. The House conferees were prevented from undertaking good faith negotiations on the enumerable problems with the Senate version which have been brought to our attention.

We should have been able to discuss, for instance, why companies that had paid a withdrawal liability under the 1988 collective bargaining agreement should not be able to claim a credit for that payment against this new liability, rather than paying twice for the same retirees.

I also would like to know why a company that merely leases property to a mining operator is potentially liable for the mining operator's retirees under these provisions.

I would like to have discussed the difficulties some companies will have providing a security for the 1992 fund.

I want to understand why only one partner in a joint coal mining venture should have to bear the entire liability for the retirees of the operating company simply because the other joint venturer was not directly related to the signatory operator.

It would have been more responsible to discuss the effects of these provisions on companies that are already financially strapped or attempting to emerge from reorganization and for whom payment of these premiums could put them out of business.

I would like to have been able to discuss the concerns of companies that will be liable under these provisions for retirees who worked for them for only 6 months or less, and those that will be liable because they were contract miners, despite the fact that by the terms of the contract, the other company was responsible for the health benefits of the workers.

There are also companies who made certain that when they sold their coal operations the price paid by the purchaser under the buy-sell agreement reflected the full assumption of retiree health organizations by the purchaser. I wonder how equitable it is to reach back to the selling company which received a lower sales price in this case.

We should also have had discussions about the numerous companies that are no longer in the bituminous coal business but who are pulled back into these provisions in some cases decades after they stopped mining and at a time when the funds were not in financial trouble.

It has been brought to my attention that it may make more sense if the first responsible signatory operator were the company that employed the miner the longest. The provisions as adopted go to this company last.

Finally, some companies have suggested that they are willing to pay the liability imposed by these provisions, but they will be disadvantaged in the export coal market. They have suggested that the Federal Government help them out by providing an export credit for metallurgical coal.

The many difficulties with these provisions lead me to conclude that we will be forced to reconsider this arrangement in the very near future, possibly as soon as next year, before the provisions take effect on October 1. It is only with these grave reservations that the House conferees agreed to accept the Senate amendment. In this regard, I fully intend to have the Ways and Means Committee review the Senate provisions at the earliest opportunity next year.

Mr. Speaker, H.R. 776 is one of the most important pieces of legislation produced by this Congress, and I urge my colleagues' support for this conference agreement.

Mr. MOORHEAD. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, I rise in strong support of the conference report and urge the adoption of the Energy Policy Act.

This conference report is the culmination of 3 years of hard work and planning. I must single out praise for President George Bush, who in 1989 had the foresight to develop a national energy, long before the invasion of Kuwait put energy back on the front pages.

But I would be remiss if I did not also commend chairman JOHN DINGELL and PHIL SHARP, as well as ranking member NORM LENT, for their efforts at shaping this legislation, bringing it successfully to the floor for this House and then crafting a compromise with the Senate. This is legislation that is important for our Nation and all of her people, and represents the most expansive change in American energy policy in almost two decades. H.R. 776 reduces energy demand through improved efficiency standards and integrated resource planning; encourages the use of clean coal and domestic natural gas; enhances national energy security by lessening the need for the importation of foreign oil; and increases the country's use of clean, safe, and domestic renewable energy by almost 10 percent.

Additionally, and very importantly, Mr. Speaker, this legislation would reform the regulation of electric utilities to ensure competition in both the generation and transmission of wholesale electric supplies. Some have called this legislation historic and certainly the reform of the laws governing the electric utility industry has been dramatic. With this legislation, we enter into a new era of competition in wholesale electricity supplies.

We have found that the best way to regulate is through competition. When competition increases, the need for bureaucratic oversight is reduced, excessive regulatory costs are avoided, and the consumer benefits.

The Department of Energy estimates that wholesale electricity competition could bring efficiencies up to $1.8 billion per year. These savings will result in more disposable income for the average American, lower prices for the goods he buys, and increased competitiveness for American business and industry.

Mr. Speaker, I am most pleased that the conference has adopted most of the House provisions which provide increased transmission access for wholesale electric competitors. When Mr. MARKEY and I introduced transmission access legislation over 1 year ago, we were told that this issue was too contentious for this Congress. We were told that it was unlikely that the transmission monopoly could be broken.

It is never easy for any industry to restructure. The end of the monopoly on generation and transmission services will undoubtedly require such restructuring. While this change will be difficult for some, it will create opportunities for others. for those who can provide the American consumer and businessman with the cleanest, most reliable and most economic sources of electricity, this bill means access to the marketplace for a superior product. This will benefit our environment as it benefits our economy.

Mr. Speaker, I have noted the hard work of our committee chairman and ranking member, but I would also like to pay tribute to the fine staff who worked literally thousands of hours in preparation for today's vote. In particular, I want to commend the staff of the energy and commerce minority, who played a significant role in shaping this legislation. Our thanks go to: Jessica Laverty, Cathy Van Way, Margaret Durbin, Len Coburn, Freida Depe, John Hambel, Darlene McMullen, and Anne-Whitney Powers.

Mr. Speaker, I have been privileged to have been able to play a role in crafting this legislation. It is a good bill for America, and I urge my colleagues to join me in plotting America's energy future by voting to adopt the conference report.

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Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER], the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference committee report on H.R. 776 and urge my colleagues to vote for its adoption.

The legislation before us today is not, as they say, all it could be. Important measures adopted by the House were dropped or modified. I am particularly concerned by the conference report's diminution of protections for our rivers and natural resources from ill-advised energy projects. I am also disappointed by the failure of the conferees to adopt certain measures involving Alaska and protection of our coastal environment.

I am pleased, however, to report to the House that the conferee did excellent work on a number of issues giving us a measure we should all support.

I am gratified that the conference agreement includes critical measures dealing with coal surface mining, dams in the national parks regulations of certain nuclear waste, Indian energy initiatives, uranium enrichment services, and an important energy efficiency program for the Western Area Power Administration.

Specifically, the conferees agreed to the following major provisions under the jurisdiction of the Interior Committee:

COAL STRIP MINING IN NATIONAL PARKS, AND NATIONAL FORESTS

The conferees approved the imposition of a 1-year moratorium on the administration's so-called valid existing rights regulation that would have opened up national forests, parks, and other protected areas to coal strip mining.

OIL SHALE CLAIMS

The conference agreed to a modification of the Interior Committee bill to require a resolution of old oil shale claims on Federal lands in the west in a manner protecting valid property rights but eliminating faulty claims.

COALBED METHANE

A version of the Interior Committee bill provision establishing a national program to resolve property disputes between the owners of coal and methane gas was approved by the conferees thus removing substantial impediments to methane development.

OCS ACHIEVEMENTS

The conferees agreed to kill a proposal that could have denied the U.S. Treasury of undetermined millions of dollars in offshore oil and gas revenues oil companies may be required to pay the Federal Government of deepwater drilling.

INDIAN ENERGY INITIATIVES

The conferees approved provisions to promote Indian tribe energy self-sufficiency through improved management capacity, vertical integration, project development and the creation of an Indian Energy Resource Commission to study barriers to energy development.

DAMS IN THE NATIONAL PARKS

The conferees agreed to a provision that would prohibit FERC from issuing an original license for a hydropower project located within the boundaries of any unit of the National Park System.

NUCLEAR REGULATION/BELOW REGULATORY CONCERN

The conference committee approved a measure to revoke the NRC's BRC policy to deregulate nuclear waste and allow such waste to be disposed of in landfills along with ordinary garbage.

NUCLEAR POWER/WHISTLEBLOWERS

The conference committee approved provisions to strengthen the protection of whistleblowers in the nuclear power industry and extend such protection to workers in the DOE weapons complex.

WESTERN AREA POWER ADMINISTRATION

The conferees agreed to require utility customers of the Western Area Power Administration to devote more resources in increase energy efficiency.

URANIUM ENRICHMENT

The conferees approved provisions that will save taxpayers billions of dollars by requiring the nuclear industry to pay $2.25 billion of the cost of cleaning up the uranium enrichment complex and prohibiting further Federal investment in the unnecessary AVLIS technology which could cost billions of dollars to construct.

Mr. Speaker, the road to this point has not been without its hazards and rough spots. Through the perseverance of many Members and the patient, methodical leadership of Chairman DINGELL and Mr. SHARP we have a bill, and a good bill at that. This bill is real, it will make a difference about how we generate and use energy for decades to come, and I urge its approval by this House.

Mr. Speaker, I would like to comment on the legislation's whistleblower provisions. Title XXIX of the conference agreement creates a new paragraph (3) in section 210(b) of the Energy Reorganization Act of 1974. Paragraphs (3)(A) and (3)(B) impose a limitation on the investigative authority of the Secretary of Labor in whistleblower cases. If the complainant does not make a prima facie showing that protected activity contributed to the unfavorable personnel action alleged in the complaint, the Secretary must dismiss the complaint and cease the investigation. And if the employer demonstrates by clean and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior, the Secretary must cease the investigation. These limitations apply only to the Secretary's prosecution of the complaint. The complainant is free, as under current law, to pursue the case before the administrative law judge if the Secretary dismisses the complaint. At the administrative law judge hearing and in any subsequent appeal, the complainant's burden of proof will be governed by new section 210(b)(3) (c) and (d). Once the complainant makes a prima facie showing that protected activity contributed to the unfavorable personnel action alleged in the complaint, a violation is established unless the employer establishes by clean and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

The conferees intend to replace the burden of proof enunciated in *Mt. Healthy* v. *Doyle*, 429 U.S. 274 (1977), with this lower burden in order to facilitate relief for employees who have been retaliated against for exercising their rights under section 210.

To remedy the long delays in obtaining relief for complainants with meritorious cases, the conference agreement amends section 210(b)(2)(A) of the Energy Reorganization Act to require the Secretary to order interim relief for any complainant who prevails at the hearing level. Once an administrative law judge determines that the complaint has merit, the Secretary must, without delay, order the employer to abate the violation and reinstate the complainant to his or her former position together with the compensation—including back pay—terms, conditions, and privileges of his or her employment.

Mr. Speaker, I am disappointed that the conference committee could not reach agreement on the provisions in title XXIV relating to oil and gas leasing on the Outer Continental Shelf. Much of the OCS has been off limits to leasing in recent years by virtue of moratoria placed in the annual appropriations bills. Despite my firm desire that the authorizing committees reach a long-term resolution of these contentious issues, the conference was unable to accomplish this task.

Most of the blame for the failure to include an OCS title lies with the Bush administration. Responding to the administration's position, the Senate's failure to support lease cancellations—or even the House proposal to impose modest drilling bans in Bristol Bay, AK, Florida, and North Carolina—caused the conference to split apart. I especially regret that provisions guaranteeing long-term protection for the California coast and providing for the establishment of environmental sciences review panels were lost.

The failure of the Senate to accept the Alaska provisions in title XXIV of the House bill is a source of great frustration to me. In particular, the language directing use of the *Exxon Valdez* oilspill settlement funds for land acquisition had been worked out to the satisfaction of all parties and the Senate was in agreement. Clearly, it is the overwhelming sense of the Congress that the $50 million in criminal restitution funds should be used for land acquisition and that the Federal Trustees should seek to include land acquisition as a significant component of any restoration plan involving the $900 million civil settlement.

Other significant provisions dropped because of Senate opposition include: extension of ANILCA title VIII subsistence review standards to OCS lease sales in Alaska; a requirement for Alyeska to file a contingency plan with the Coast Guard to implement its clear responsibilities under existing law, including section 204(b) of the Trans-Alaska Pipeline Authorization Act, to respond to oilspills in Prince William Sound, and a section intended to reverse an unjust decision of the TAPS liability fund on subsistence claims connected with the *Exxon Valdez* oilspill.

Section 2464 of the House bill was intended to resolve unnecessary confusion over the role of the TAPS liability fund and the relationship between State and Federal law in *Exxon Valdez* related litigation. In my view, this provision is consistent with existing law. The TAPA Act does not limit the right of any claimant to pursue other remedies under State or Federal laws against parties other than the TAPS liability fund. The TAPS fund's factual and legal determinations are not binding in any other proceeding. Specifically, section 204(c) of the TAPA Act provides that "[t]he unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or State law." This means that all aspects of a person's claims which are not fully compensated by the TAPS fund, including claims other than those allowed by the fund, may be pursued.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I am happy to yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, my understanding is that the bill would allow a new Government corporation to market commercial grade uranium derived from former Soviet highly enriched uranium, subject to the terms of a government-to-government agreement.

Mr. MILLER of California. The gentleman is correct.

Mr. SHARP. I also understand that the President's announcement for the current government-to-government agreement states that the costs of any deal involving former Soviet highly enriched uranium would be budget neutral.

Mr. MILLER of California. That is also correct.

Mr. SHARP. Does the gentleman interpret "budget neutral" to mean that any deal for former Soviet HEU could allow the corporation to make a profit, but would at a minimum require the Government to recover all of its costs associated with the deal on a year-to-year basis, including all of the costs of the Government corporation?

Mr. MILLER of California. The gentleman is correct again and makes an extremely important point.

Mr. SHARP. Therefore, it is the intent of the legislation that any involvement of the corporation in dealing with former Soviet HEU would be budget neutral pursuant to a government-to-government agreement?

Mr. MILLER of California. Absolutely.

Mr. SHARP. I thank the gentleman and I will submit a copy of the President's announcement on this subject for inclusion in the RECORD at this point.

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
Washington DC, August 31, 1992.

STATEMENT BY THE PRESIDENT

Over the past year the United States and the former Soviet Union have agreed to cut their strategic nuclear arsenals by two-thirds and to eliminate most of their tactical nuclear weapons, including all ground-launched systems. As a result of these dramatic reductions, thousands of nuclear warheads are being dismantled in Russia and the United States. The United States and Russia are cooperating closely to help ensure the safe and secure transport, storage and dismantlement of former Soviet nuclear weapons.

I am pleased to announce that the Russian Federation and the United States have now also initialed an agreement to ensure that highly-enriched uranium from dismantled nuclear weapons will be used only for peaceful purposes. Our two governments have initialed an agreement, which we expect to sign quickly, providing for the conversion of this material into civilian reactor fuel. We have also agreed to establish measures to ensure that the nonproliferation, physical security, material accounting and control, and environmental requirements covering this material are fully met.

Under the agreement, the United States and Russia would seek within the next twelve months to conclude an implementing contract, establishing the terms of the purchase of weapons-grade uranium by the U.S. Department of Energy and the dilution of that material to reactor-grade uranium for sale as commercial reactor fuel. The contract would also provide for the participation of the U.S. private sector and the use by the Russian Federation of a portion of the proceeds to increase the safety of nuclear reactors in the former Soviet Union.

Abroad, this agreement will help ensure that nuclear weapons-grade material does not fall into the wrong hands, while providing funds to promote economic reforms and the transition to a market-based economy. At home, this agreement will secure long-term supplies of less expensive fuel for U.S. nuclear power stations to the benefit of American consumers, with no adverse impact on American jobs. Thus, this U.S.-Russian agreement illustrates how foreign policy accomplishments can promote our domestic economic well-being while making the world a safer place to live.

Implementation of the agreement will be budget neutral for the U.S. Government on a year-by-year basis. Payment for purchase of

HEU would come from savings in the Department of Energy's enrichment operations. Purchase of HEU from nuclear warheads dismantled in Russia would have no adverse impact on U.S. consumers or jobs in the uranium mining or processing industries. The Department of Energy would use the HEU to reduce the electricity costs at its enrichment facilities, while continuing to operate at current employment levels and to process domestically-produced uranium. The agreement will not be funded under the Soviet Nuclear Threat Reduction (Nunn-Lugar) Act of 1991.

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
Washington, DC, August 31, 1992.

FACT SHEET ON U.S.-RUSSIAN AGREEMENT ON HIGHLY-ENRICHED URANIUM

An agreement concerning the disposition of highly-enriched uranium (HEU) from the dismantlement of nuclear weapons in Russia has been initialed by Major General (Retired) William F. Burns, representing the United States of America, and Deputy Minister of Atomic Energy Nikolai Yegerov, representing the Russian Federation. The agreement requires formal approval by both governments, after which it will be signed and enter into effect.

The agreement is in two parts. The first part establishes the parties' objectives. It commits them to cooperate in the conversion, as soon as practicable, of the HEU resulting from dismantlement of nuclear weapons in Russia into low-enriched uranium (LEU) for use as commercial reactor fuel. It also calls on the parties to establish appropriate measures to ensure that this transaction is executed in a manner consistent with all applicable nonproliferation, physical security, material accounting and control, and environmental requirements.

The second part of the agreement commits the parties to seek to enter into an implementing contract within twelve months to accomplish the objectives set forth in the first part. The agreement specifies that the implementing contract will provide, among other things, for the following: Annual conversion of no less than 10 metric tons of HEU in the first five years and no less than 30 metric tons thereafter; the purchase by the U.S. Department of Energy of HEU for conversion in the United States to LEU and sale for commercial purposes; the purchase by the U.S. Department of Energy of LEU converted from HEU at facilities in Russia and the sale of such LEU for commercial purposes, if so agreed; the participation of the U.S. private sector; and the use by the Russian Federation of a portion of the proceeds of HEU sales to upgrade the safety of nuclear reactors in the former Soviet Union. The use by the Russian Federation, at its discretion, of a portion of any proceeds from the sale of HEU to finance the construction and operation of facilities in Russia to convert HEU to LEU.

Mr. MOORHEAD. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. LENT], the ranking member of the Committee on Energy and Commerce.

Mr. LENT. Mr. Speaker, we did it.

I am proud to join my colleagues from both sides of the aisle in voting for this conference report.

This report affirms the leadership of President Bush in fashioning a national energy strategy to lessen our dependence on foreign energy supplies and to lower energy costs for all American consumers. It also contains a number of delicately crafted compromises, particularly in the areas of alternative fuels and public utility company holding act reform and transmission access, which demonstrate the leadership abilities of both the chairman of the House delegation, Mr. DINGELL, the chairman of the conference, Senator JOHNSTON, the subcommittee ranking Republican, CARLOS MOORHEAD, and the chairman of the Subcommittee on Energy and Power, Mr. SHARP.

For the last 15 years, America has been without an energy policy. Thanks to the vision of President George Bush, who started the ball rolling more than 3 years ago, we will be voting today on a comprehensive package that will decrease America's dependence on foreign oil and bring relief to consumers through competition in the production of electricity.

This is a good bill, one which represents the very best work of every Member of the House. President Bush has indicated that he will sign this legislation when it reaches his desk, and I urge my colleagues to join me in supporting the conference report.

I also want to join my friend, the gentleman from California [Mr. MOORHEAD], in commending the minority committee staff who have put in so many long hours on this and indeed worked on the concept of a comprehensive energy bill before there was even a national energy strategy from the President. They are Jessica Laverty, Cathy Van Way, Len Coburn, Darlene McMullen, Freida Depe, Anne-Whitney Powers, and Margaret Durbin. I also want to commend the majority staffs of both the full committee and the subcommittee for their fine work.

In conclusion, Mr. Speaker, I want to clarify that the conferees did not intend, with respect to retail wheeling, that FERC be permitted to use the grandfathering provision to impair existing retail wheeling contracts. It appears some question has arisen as to whether new section 212(h)(2)(B) of the Federal Power Act is intended to permit FERC to order a utility to continue, but not to expand or change the nature of, existing voluntary retail wheeling arrangements. For example, if a utility is presently wheeling to retail customers a small fraction of the energy requirements of such customers, the grandfathering provision would not permit FERC to order that utility to wheel a larger fraction of the energy requirements of such customers or to provide wheeling service to such customers involving energy and capacity. It is not our intent to permit FERC to use the grandfathering provision to impair or modify existing retail wheeling contracts.

I also want to provide specific comments on other aspects of the bill.

NATURAL GAS—SECTION 201

The Energy Policy Act of 1992 contains important provisions that remove regulatory barriers which hinder the importation of natural gas from countries with which the United States has entered into a free trade agreement requiring national treatment for trade in natural gas. Currently, this means Canadian gas must be treated the same as domestic gas. Once the North American Free Trade Agreement is ratified, this will also apply to Mexican gas.

Section 201, of this act, is vital to assuring that U.S. regulators do not interfere with the importation of natural gas to customers in the United States. Its provisions provide critical protection to the citizens of my home State, New York, who receive supplemental volumes of natural gas from Canada. The purpose of these provisions is not to give imported natural gas an advantage, but to ensure a level playing field for imported gas. Importantly, access to multiple natural gas supply sources will increase competition and lower consumer prices.

Specifically, section 201 adds three new provisions to section 3 of the Natural Gas Act concerning imported natural gas. Section 201(a)(1) deems that imported natural gas be treated as a first sale within the meaning of the Natural Gas Policy Act of 1978. Now, imported gas, like domestic decontrolled gas, need not be licensed.

Section 201(a)(2) bars FERC from discriminating against, or giving a preference to, any natural gas on the basis of where it was produced. Imported gas cannot be treated differently than domestic gas.

Section 201(b) deems the importation to the United States, and exportation from the United States, of natural gas consistent with the public interest. By making this determination, applications for import of Canadian natural gas are granted automatic approval. The result is, imported natural gas is not subjected to burdensome import licensing proceedings that place it at a disadvantage relative to domestically produced gas.

I believe it is sound energy policy to prevent unfair discrimination against imports of natural gas from Canada. Greater access to natural gas will help reduce our dangerous dependence on unreliable sources of imported oil. Moreover natural gas has a positive environmental impact. It is the cleanest burning fossil fuel and all U.S. citizens benefit from its use.

These gas import provisions are also good trade policy. Regulatory discrimination against Canadian gas would violate the United States-Canada free trade agreement.

Finally, these provisions are good competitive policy. U.S. producers supply over 92 percent of the natural gas needs in this country. Fair treatment of imports helps maintain healthy competition in the United States without posing any threat to U.S. producers. Greater access to a variety of natural gas sources will help create a more stable natural gas market so that more U.S. consumers will benefit from this economic and environmentally sound source of energy.

These important new provisions could not have been enacted without the able leadership of Chairman DINGELL, Subcommittee Chairman SHARP, the ranking Republican member on the Energy and Power Subcommittee, Mr. MOORHEAD, and Mr. MARKEY and Mr. TOWNS. I thank each of them for joining me in working for this important result.

I also want to address other issues related to retail wheeling, uranium enrichment, and whistleblowers.

URANIUM ENRICHMENT

I would like to address the conference report on title IX, the United States Enrichment Corporation. The point of restructuring the uranium enrichment enterprise is to try to put this Government business on a competitive standing in the world enrichment market. Restructuring proponents have long argued that an effective bill would benefit the Nation's energy security, preserve high-technology American jobs, and improve the Nation's trade imbalance.

I believe this bill allows the Corporation to achieve these goals. Even though I would prefer to see aspects of present regulation, such as section 161v of the Atomic Energy Act of 1954, repealed in its entirety, I understand that section 161v is applied only to the Department of Energy for the purpose of cost recovery on DOE's administrative cost on the lease of gaseous diffusion plant [GDP] facilities. The depreciation and imputed interest on current assets of the GDP's and other facilities owned and operated by the DOE will not be passed on to the Corporation nor to the utility customers.

I commend the efforts to clean the slate on the unrecovered cost issue and pave the road for the Corporation to regain its competitive edge in the world market.

WHISTLEBLOWER PROTECTION

In section 3004, we have expanded substantially the legal rights of and private legal remedies available to whistleblowers working at the Nation's nuclear facilities. We have extended the statute of limitations from 30 to 180 days, we have extended the scope of whistleblowing activities protected under the act, and we have provided for interim relief to be awarded in appropriate circumstances. But we have also taken care to avoid encouraging the filing of frivolous complaints by making it clear that administrative resources are not to be consumed in the investigation of any complaint.

We have sought to strike a balance that ensures that employees are provided adequate relief in any cases where they would not have suffered adverse employment action but for their protected whistleblowing activity, while at the same time sending a clear message that any attempt to burden the system with frivolous complaints about employment actions that have their origins in legitimate consideration will meet with a swift dismissal and denial of any relief. Thus, it should be clear that this amendment provides employees at nuclear facilities with no insulation against legitimate exercises of the rights of their employers to enforce discipline with and to provide direction to the employees in their work forces.

I wish to thank the leadership of Chairman DINGELL and SHARP on these difficult issues, as well as the diligent efforts of Chairman BROWN of the Science, Space, and Technology Committee, and Chairman MILLER of the Interior and Insular Affairs Committee.

Mr. SHARP. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. PICKLE], a distinguished member of the Committee on Ways and Means.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

The SPEAKER pro tempore. The gentleman from Texas [Mr. PICKLE] is recognized for 6 minutes.

Mr. PICKLE. Mr. Speaker, I rise today in support of the energy bill. I support this bill because it includes important incentives for solar energy and much needed relief for independent producers who explore and develop our domestic energy supplies. And I'm especially pleased about new incentives for expanding our use of alternative fuels, like compressed natural gas. Alternative fuels will not only help curb our imports of petroleum, but will also improve our environment by cutting down on harmful emissions. These are all good, and vital pieces to our national energy strategy.

But there is one part of this bill which is deplorable, and that is the bituminous coal health benefit bailout. Mr. Speaker, this bailout, as well intended as it may be, is a terrible injustice, and sets a precedent in the area of employee benefits that we will all live to regret. Let me review this situation.

Simply put, the mine workers and the bituminous coal operators agreed decades ago to establish a health plan that would be paid for by all who mined coal in the eastern United States. As long as coal was king this agreement worked reasonably well. Unfortunately, the coal industry has changed dramatically. Today the eastern States coal industry is dominated by two foreign-owned companies and the number of miners has drastically declined. About 4 years ago, the coal operators decided that they were no longer going to live up to their responsibility to pay for the health benefit plan. And so they reduced their contributions to the plan, and the plan today faces insolvency. And now the Congress is being blackmailed into bailing this plan out by taxing companies that have no current connection with the bituminous coal industry, some out of the coal business for 15 or 20 years.

Mr. Speaker, we should not do this. It is wrong. It is as if we are a street gang mugging an innocent passerby, and justifying it by saying that our family and friends are hungry. We should stick to the original agreement and force those companies who are mining eastern coal to meet their obligations. Now we can all be sympathetic to the plight of the mine workers, many of whom are elderly and in ill health. But these benefits should be paid by the coal companies, not by everyone else. Why are we kowtowing to these huge foreign owned coal companies? Why are we raising taxes on domestic energy companies to pad the profits of these foreign profiteers? In my opinion, it was their cutthroat business practices that drove the domestic coal companies out of business, and now we bail them out. We let them escape their obligations and ship their profits overseas. We should be embarrassed this coal amendment has been visited on this bill by the other body.

Let me also warn my colleagues, you have not heard the last of this issue. We pay for this bailout by taxing any company or its successor which ever had any connection with mining coal under the BCOA agreement. We have no idea who all these companies are. There will now be a rush to track them down and tell them that they will have to pay millions of dollars a year into this health plan over which they have no control. Some will be forced into bankruptcy, others will be forced to lay off workers. And they will blame you and me, and they will be right. So plan today what you will tell them. It won't be easy.

Finally, I tell you that we are setting precedent today that will come back to haunt us. Today we are bailing out the mine workers plan and letting the mine operators have a windfall. Who will be next? Will it be the steel industry? The airlines? Tire and rubber companies? Perhaps it will be the auto industry? I tell you right now that there is good reason to believe that the steel industry is already making plans to get a similar bailout.

The Members should know that our defined benefit pension plans, which are guaranteed by the Pension Benefit Guaranty Corporation, are underfunded by over $40 billion. Some of the largest companies in America have deliberately chosen to underfund their plans by billions of dollars. And, when I raise this issue no one wants to talk about it. The underfunded companies refuse to appear before the oversight subcommittee. I am accused of frightening people and undermining confidence in our pension system. I do not want to frighten anybody. But we must insist that companies that make benefit promises keep their promises.

At the same time the other body was hatching this plan to bail out the coal health plan, it balked at adopting a proposal to make companies properly fund their pension plans. It seems inconvenient to pressure companies to keep their pension promises. There are always a thousand excuses for putting this responsibility off to a later day. But the later day always comes. For the coal industry it comes today and we have chosen to rob Peter to pay Paul. Who will we hijack when the time comes to bail out the rest of our retirement system. Every company that has ever sponsored a pension plan or ever intends to, should ask that question. Because today we are telling the world that if you play by the rules and meet your responsibilities you pay the penalty, and the sharp operators who run and hide go free.

Mr. Speaker, on balance this is a good bill. It would be better if we had stood our ground and held the coal operators to their own promises. This provision to make other companies pay the coal industry's bills is just a selfish regional request. The other body has caved in to this special interest bill by three or four key Senators. We can all agree to protect the miners benefits, but we should have agreed to make the mine owners and operators pay. I, for one, was willing to do so. However, I am not willing to block this entire bill for this one reason. But, I believe that the coal provision is a travesty of justice and an embarrassment to the Congress. We should never let ourselves be put in this corner again.

□ 1530

Mr. MOORHEAD. Mr. Speaker, I yield myself 3½ minutes for the purpose of engaging in a colloquy with the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP].

Mr. Speaker, would the gentleman from Indiana join me in a discussion of the transmission pricing provisions in title VII?

Mr. SHARP. I would be pleased to. If the gentleman will yield, let me ask this question.

Does the gentleman share my opinion that the guiding principle of the bill's pricing provisions is the traditional Federal Power Act formulation that rates and charges for transmission services should be just and reasonable and not unduly discriminatory or preferential?

Mr. MOORHEAD. Yes, I do. These traditional standards are the central features of the bill's pricing section. They have served the country well over the past 50-plus years, because they provide FERC with guidance respecting Congress' intent while preserving the discretion FERC needs to carry out Congress' goals in specific cases over time. Specifically, just-and-reasonable has been interpreted to preclude the collection of excessive profits, sometimes called monopoly rents and our inclusion of the standard in the bill is intended to continue that interpretation.

Mr. SHARP. Is it also the gentleman's view that the bill does not affect—and specifically does not contradict or overturn—any prior FERC decision, policy, or determination with respect to the pricing of transmission services?

Mr. MOORHEAD. Indeed it is. I would have been very concerned had Congress unwisely gone down the road of attempting to micromanage the normal development of agency policy. That language was replaced not because of a rejection of the balancing principle, but because of a recognition that transmission pricing is a very complex matter. Rather than establish a pricing prescription with roots in a single FERC decision, we chose to establish parameters and defer to the Commission's discretion to work within these parameters.

Mr. SHARP. I couldn't agree more with the gentleman. I have to admit that personally I am very much in favor of recent FERC transmission pricing policy, particularly the delicate balance it achieved in the Northeast Utilities decision. As the gentleman knows, the House bill endorsed the analytical framework FERC laid out in that case, balancing the need to compensate native load, the goal of promoting the lowest reasonable transmission rates, and preventing the collection of monopoly rents.

Mr. MOORHEAD. I couldn't agree more with the gentleman on the merits of FERC's approach in the Northeast Utilities case. I am especially sensitive to the challenge FERC faces in protecting consumers when it is asked to decide whether to allow compensation for so-called opportunity costs. I would have liked to have seen the House provision on this balancing test included in the bill approved by the conferees. However, I am willing to support this bill without it because I am comfortable that dropping the balancing test in no way affects, compromises, or overrules any FERC decision.

Mr. SHARP. I, too, believe it best to leave to FERC the specific decisions on opportunity costs and other issues. I am comfortable with the combined effect of the bill's inclusion of the traditional rule that rates and charges must be just and reasonable and not unduly discriminatory or preferential, and the limitation that compensation be allowed only for the legitimate and verifiable costs incurred by the party providing transmission service.

Mr. MOORHEAD. I agree. In order for any cost to be recoverable, it must be legitimate; in other words, the expense has to have been necessary. The cost must be verifiable; in other words, the cost cannot be speculative, such as an unknown future economy sale that is foregone. And the cost must be economic; in other words, it must be economically efficient for all parties. Thus, the limitations in the pricing provision are guidance to the Commission to reject the recovery of costs that are designed to frustrate transmission access and competition.

I would also point out that the pricing language referenced by my colleague from Indiana requires FERC to determine that an appropriate share, if any of these costs should be collected from the party requesting transmission services. For instance, in a recent proceeding, the Commission established that a party can collect opportunity costs or embedded costs, but not both. This appropriate share language is consistent with that decision. Similarly, the provision requires a cost allocation of upgrades to determine what share of upgrade costs are assignable to the applicant and what costs should be assigned to the utility's native-load customers to reflect any systemwide benefits. Finally, the pricing provision specifically directs FERC to measure these costs against the benefits received by the party providing transmission services. In other words, FERC must ascertain the net costs incurred in providing service when setting or approving rates and charges.

Mr. SHARP. Can I assume then that the gentleman shares my appreciation of the bill's requirement that only those costs which are properly allocable to the party seeking transmission services should be included in rates of charges?

Mr. MOORHEAD. The gentleman is correct in that assumption.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I rise in support of the conference report on H.R. 776.

In the view of this gentleman from West Virginia, no other provision of H.R. 776 is more important than the one which guarantees health care for over 120,000 retired coal miners.

With this legislation, we are ensuring that retired coal miners and their families are provided with health care coverage, now and in the future.

The issue at hand involves the growing deficit in the UMWA health funds. This deficit threatens the continuity of benefits to both existing and future retirees. The primary reason for this deficit is due to thousands of beneficiaries whose last coal industry employers are no longer operating, or no longer signatories to the current national bituminous coal wage agreement. As such, 75 percent of the retirees served by the health funds never worked for, or had any connection with, a currently contributing company.

It should be noted that the funds are unique, and what would normally be a matter solely for the private sector is not in this instance. There is a Federal responsibility to these funds. The concept for the funds dates back to 1946 in an agreement between then-UMW President John L. Lewis and the Federal Government to resolve a long-running labor dispute. At the time, President Truman had ordered the Interior Secretary to take possession of all bituminous coal mines in the country in an effort to break a UMWA strike. Eventually, Lewis and Secretary Julius Krug reached an agreement that included an industrywide, miner controlled health plan.

The pending legislation contains a new retired coal miner health care program, and it does so without raising a new tax on the coal industry. Because of my amendment to the House version of the energy bill that extends the Abandoned Mine Reclamation Program, an agreement was reached on the health care package. A previous proposal to assess a new tax on the coal industry to finance the health care program sparked a Presidential veto.

The bill reauthorizes the Abandoned Mine Reclamation Program—the coal industry's version of Superfund—through the year 2004 and allows money from the program to be used to finance a portion of the cost of providing health care to retired coal miners, their families and widows.

I would note that West Virginia is a major beneficiary of the legislation as it contains a substantial portion of abandoned coal mines left unreclaimed, and has approximately 35,000 retired miners who are dependent on the UMWA Health Program. Each million dollars spent under the Abandoned Mine Reclamation Program for projects in the construction industry to restore old mined-out lands creates 24 direct and indirect jobs.

The energy bill also includes a bevy of other provisions I originally authored as part of the House version which seek to enhance coal use while providing for greater health, safety and environmental protections for coal miners and people who reside in the coalfields.

Because of my amendments, coalfield residents have a seat reserved at the national energy table. The provisions embrace the concept of energy development in an environmentally and socially responsible manner.

These provisions say let us mine coal. At the same time, if that coal mining causes damages to someone's home, my amendment says that person should be compensated. And what of those who mine coal. They deserve to see advances made in health and safety technologies. My legislation says that we should make it a priority to reduce the causes of black lung disease by devising new and innovative mining equipment and techniques.

Another provision in the bill I authored is aimed at promoting the remining of abandoned coal mine lands, with the triple benefit of obtaining additional coal production, reducing the need to mine on undisturbed lands and providing for needed reclamation. I also gained approval of a program aimed at using metallurgical grade coals located in McDowell, Wyoming, and Raleigh Counties in electric utility boilers. Under another amendment, the path is clear for a new industry in southern West Virginia to be established that would extract methane from coalbeds to meet energy needs.

There are a number of provisions in this conference report which originated in title VIII—coal, oil and gas title—of the Interior Committee's version of H.R. 776 (House Report 102-474, part 8). These provisions are now found in title 25 of the pending legislation. All of them originated with the Interior Committee except for paragraph (2) of subsection (a) of section 2504, subsection (e) of sections 2504, 2505, and 2513. In addition, I would note that subsection (b) of sections 2504, and 2511, represent substantial modifications from the House position. Furthermore, section 2514 originated with the Interior Committee's title 11.

An overview of title XXV follows.

OVERVIEW OF TITLE XXV—COAL, OIL, AND GAS

SECTION 2501. HOT DRY ROCK GEOTHERMAL ENERGY

This section would require the Geological Survey, in consultation with the Energy Department, to establish a cooperative government-private sector program to identify, select and classify hot dry rock geothermal resources on public and Forest Service lands in the United States. In a 1989 report, the Solar Energy Research Institute projected that given the proper research and development incentives hot dry rock could supply more than 2 quads of electricity by the year 2030 (a quad is equivalent to the energy content of approximately 181 million barrels of oil.) With essentially no air emissions, or other liquid or solid wastes, and minimal land use requirements, hot dry rock systems are environmentally sustainable.

SECTION 2502. HOT DRY ROCK GEOTHERMAL ENERGY IN THE EASTERN UNITED STATES

This section would require the Geological Survey, in collaboration with the Energy Department, to convene a workshop of government and private sector parties to discuss and evaluate the potential of hot dry rock production in Eastern United States. While the highest grade geothermal and hot dry rock deposits exist in the western portion of the United States, significant low and middle grade hot dry rock deposits exist throughout the eastern portion of the country, such as in southern New York State and north central Pennsylvania.

SECTION 2503. COAL REMINING

The provisions of this section seek to make coal available that otherwise would be bypassed by providing incentives for industry to extract and reprocess, in an environmentally sound manner, coal that remains in abandoned mine lands and refuse piles. Current law reclamation performance standards were devised to address surface coal mining on undisturbed lands; the unintended result is to discourage remining. Remining would also serve to mitigate the health, safety and environmental threats posed to coalfield residents from abandoned coal mine lands by augmenting the work done under the Abandoned Mine Reclamation Program. Under the bill, a remining incentive would be provided by waiving, under extremely limited circumstances, the Surface Mining Control and Reclamation Act's (SMCRA) prohibition on new permit issuance to operators with unabated violations of the Act where the violation resulted from an unanticipated event or condition at a remining operation on abandoned coal mine lands. The remining operator would still be fully responsible for compliance with all of SMCRA's requirements at the remining operation, including notices of violation, cessation orders, penalties and bond forfeiture. Further, the affected lands would remain eligible for reclamation under the Abandoned Mine Reclamation Program. The legislation would also authorize the Secretary of the Interior to undertake a rulmaking to establish environmental protection performance and reclamation standards, and a separate permit system, for operations for the onsite reprocessing of abandoned coal refuse and operations for the removal of coal refuse.

SECTION 2504. SURFACE COAL MINING ACT IMPLEMENTATION

This section would provide for greater stability in the surface mining act program by settling controversies over subsidence protections and valid existing rights. It would also reduce redundancies between the Office of Surface Mining (OSM) and Bureau of Mines research and streamline a program aimed at extinguishing coal fires.

Subsection (a)—Subsidence: At present, OSM's regulations do not protect coalfield citizens from the types of damages that can occur from land subsidence caused by underground coal mining, either in the form of compensation for, or repair of, damages to homes as well as replacement of adversely affected water supplies. This subsection would require regulations to be promulgated to require repair of, or compensation for, subsidence damage to homes and the replacement of adversely affected water supplies for domestic use. This subsection also requires the Interior Secretary to review the adequacy of existing requirements relating to underground coal mine subsidence and natural gas and petroleum pipeline safety.

Subsection (b)—Valid Existing Rights: SMCRA prohibits surface coal mining operations in federally protected areas and within buffer zones around homes, cemeteries and roads unless there was a pre-existing right to mine in those areas, known as valid existing rights. While OSM continually tries to define valid existing rights, the vast majority of the states already have settled the issue. OSM's attempts simply create uncertainty and instability in the surface coal mining program as well as jeopardizes the law's protections. This subsection places a one-year moratorium on OSM from finalizing a proposed rule that would have reduced the Act's protections and requires the agency to use the test used by the majority of the states.

Subsection (c)—Research: In 1986 Abandoned Mine Reclamation research was transferred from OSM to the Bureau of Mines.

Since that time, OSM has maintained a research program ostensibly to assist in the implementation of its regulations. However, a great deal of this type research is already being done by the Bureau of Mines under its Environmental Technology research program. This subsection would require OSM to ensure that its research activities are not duplicative of the Bureau of Mines.

Subsection (d)—Coal Fires: Provisions of this subsection would modernize a 1954 law that established a program for the control and extinguishment of outcrop and underground coal fires. As a result of forest fires, coal refuse piles, coal outcrops and coal seams often start burning. These coal fires subsequently start new forest fires. States are not authorized to use Abandoned Mine Reclamation Program funds to fight coal fires unless they are on abandoned coal mine lands. As such, coal fires other those at abandoned coal refuse piles would not qualify under the Abandoned Mine Reclamation Program. Meanwhile, due to the 1954 law's 'cap' on annual appropriations of $500,000, adequate funding levels are not available. This subsection lifts the $500,000 cap on annual appropriations in the 1954 law, waives its cost-sharing requirement and requires the Interior Secretary to enter into cooperative agreements with states that have approved abandoned mine reclamation programs for the purpose of executing projects to control or extinguish fires in coal formations.

Subsection (e)—Abandoned Mine Program water supply projects: This subsection makes a technical correction to the Surface Mining Control and Reclamation Act of 1977 relating to the eligibility of water supply projects under the Abandoned Mine Reclamation Program. In 1990 amendments to the Act, Congress made it clear that water supplies contaminated as a result of past coal mining practices qualified as eligible projects under the Abandoned Mine Reclamation Program. In doing so, Congress maintained the traditional August 3, 1977, eligibility date that was applicable to all types of reclamation projects. However, in those same amendments, provision was made to allow certain post-1977 projects to be eligible if (1) the site in question was abandoned prior to the date a State received primacy under the Act (in the case of many states this date is 1982), and (2) the site in question was abandoned as a result of the coal operator's surety having gone bankrupt prior to 1990. Compared to the amount of sites that were abandoned prior to 1977, there is a relatively small universe of post-1977 areas that would be eligible under these amendments. This subsection provides for post-1977 areas that would be eligible under these amendments. This subsection provides for post-1977 eligibility for qualified water supply projects in the same manner and the same extent as any other project under the program.

SECTION 2505. FEDERAL LIGNITE COAL ROYALTIES

This section would continue an administrative reduction in the federal coal royalty for lignite coal in North Dakota for a 10-year period, and subject to review, and additional 10-year period.

SECTION 2506. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT

The purpose of this section is to provide for the more equitable and efficient disbursement of the state share of mineral lease receipts from eastern federal lands. Revenues collected by the Interior Department from mineral leases on federal lands are shared with the states. While western public domain states receive payments on a monthly basis, this requirement does not apply to money collected from mineral leases on 'acquired' federal lands primarily located in the eastern states which are distributed annually. The legislation would equalize the treatment of mineral receipts from eastern acquired lands with those from western public domain lands.

SECTION 2507. RESERVED OIL AND GAS

This section would provide for the continuation of stripper well operations once reserved oil and gas rights vest with the U.S. The federal government, in acquiring lands for eastern National Forest units, often purchased land with "mineral reservations" as part of the deed of title. Typically, under these arrangements, the original owner retains title to the mineral estate for a stated period of years and during that time may lease the minerals to other individuals. Once the mineral rights vest with the federal government, the old leases expire despite the fact that an oil and gas well is actually in place and in producing status. This section would allow an individual holding a lease for reserved oil and gas to which ownership will vest or had vested to the federal government after January 1, 1990, to be eligible for a federal non-competitive lease issued under the Mineral Leasing Act if a stripper well was in operation on the lands prior to the time the United States gains ownership of the oil and gas.

SECTION 2508. CERTAIN OUTSTANDING OIL AND GAS

The purpose of this section is to provide for greater environmental safeguards on oil and gas development in the Allegheny National Forest. At present, the Forest Service has no regulations governing oil and gas development activities on Forest Service lands where the surface, but not the minerals, are owned by the Federal Government. The vast majority of the lands with active outstanding oil and gas activities are in the Allegheny National Forest in Pennsylvania. This section would require that these oil and gas operators in the Allegheny National Forest provide advance notice, and other information, prior to the commencement of surface disturbing activities.

SECTION 2509. FEDERAL ONSHORE OIL AND GAS LEASING

The Federal Onshore Oil and Gas Leasing Reform Act of 1987 was enacted with the aim of increasing the number of federal oil and gas leases issued on a competitive, rather than non-competitive, basis so as to reduce speculation and promote development. However, the law has a flaw in that it did not modify the lease term provisions. Evidence exists that tracts offered competitively with 5-year lease primary terms are not receiving bids during lease sales and are subsequently being sold as non-competitive leases with 10-year primary terms, even though there is competitive interest in the tracts. This section would equalize all leases terms to a 10-year primary term.

SECTION 2510. OIL PLACER CLAIMS

This section would cure a technical title problem for six old producing oil and gas placer claims located prior to 1920.

SECTION 2511. OIL SHALE CLAIMS

This section would resolve a long-standing dispute over the validity of oil shale claims located over 72 years ago in Colorado, Utah and Wyoming. While the Mineral Leasing Act of 1920 prohibited the location of claims for oil shale, section 37 of the statute provided that valid oil shale claims existing on the date of enactment were eligible to receive patents if properly maintained. Over the past 72 years there have been numerous and conflicting administrative policies and judicial decisions relating to the maintenance requirements for oil shale claims, i.e., the discovery standard and assessment work criteria. At times, the Department of the Interior has sought to invalidate claims on the basis of a lack of discovery of a valuable mineral deposit or due to the failure to perform annual assessment work. However, during other periods the Department has issued patents for oil shale claims. The net effect of this history has been to establish a confusing and uncertain framework on which to base administrative decisions on various issues raised by unpatented oil shale placer claims. Meanwhile, throughout this period, the holders of these oil shale claims have taken little, to no action, to actually develop the oil shale. This section would settle these outstanding issues by providing that holders of valid unpatented oil shale claims may receive a patent if that right vested prior to enactment, or if that right did not vest, obtain a patent limited to the oil shale only or continue to maintain an unpatented oil shale claim by paying a holding fee.

SECTION 2512. HEALTH, SAFETY AND MINING TECHNOLOGY RESEARCH

This section would establish a program to provide direction, and better define the objectives, of the Bureau of Mines' Health, Safety and Mining Technology Program in order to improve the health and safety of the Nation's miners. Mining continues to be one of the most dangerous occupations in the country. Health issues such as black lung disease, noise exposure and the carcinogenic effects of diesel exhaust have not been satisfactorily resolved. Safety issues relating to electrical, haulage and transport hazards as well as roof and wall falls continue to plague the Nation's miners. However, much of the Bureau of Mines's health, safety and mining technology research is haphazard in nature, and often fails to address the most pressing mining health and safety concerns. For instance, despite the widely publicized allegations of tampering in the underground coal mining dust monitoring program, the Bureau has done little to develop new tamper-resistant monitoring devices. This section would require that five-year plans be developed to guide research and technology development under the program, with input from industry, labor, academia, mine safety regulatory experts and the Bureau itself.

SECTION 2513. ASSISTANCE TO SMALL COAL OPERATORS

This section would modify the Small Operators Assistance Program established under the Surface Mining Control and Reclamation Act of 1977 by expanding the types of items that are necessary to receive a mining permit that will be eligible for assistance under the program.

SECTION 2514. SURFACE MINING REGULATIONS

This section amends the Surface Mining Control and Reclamation Act of 1977 to provide a grants program to the Navajo, Hopi, Northern Cheyenne and Crow tribes for the purpose of establishing a tribal office of surface mining regulation.

SECTION 2515. AMENDMENT TO SURFACE MINING ACT

This section would insure continued success in mitigating health, safety and environmental threats associated with abandoned coal mine lands and provide a means to address the concerns of abandoned coal miners. Title IV of the Surface Mining Control and Reclamation Act of 1977 established an Abandoned Mine Reclamation Fund, financed by a reclamation fee assessed on every ton of mined coal, to provide for the reclamation of previously mined and abandoned mine lands. According to OSM, when the existing authority to collect the reclamation fee expires at the end of fiscal year 1995, approximately $1.6 billion worth of high-priority health and safety threatening sites will remain unreclaimed. In order to finance the reclamation of these remaining sites, this provision extends the fee collection authority through the year 2004.

Other provisions of the Conference Report on H.R. 776 that were included in the Interior Committee's original coal, oil and gas title that are now found in title 13 of H.R. 776 as reported by the Conference Committee.

COALBED METHANE DEVELOPMENT

The program under this section is aimed at mitigating impediments to the extraction and utilization of pipeline-quality methane from coalbeds. Conventional natural gas sources will not be capable of meeting future demand without supply shortages and dramatic price increases. Vast deposits of unconventional sources of pipeline-quality methane (estimates range up to 90 Tcf), however, lay trapped within coalbeds. A major impediment to the development of coalbed methane is the legal quandary over its ownership. Under the bill, certain coal states which do not have statutes governing coalbed methane ownership and development would be given three years to establish coalbed methane programs. If an affected state fails to adopt its own program, a federal program would take effect in that state.

METALLURGICAL COAL DEVELOPMENT

This section would establish a program to develop techniques that will lead to the greater and more efficient utilization of the Nation's vast low-sulfur metallurgical coal resources. Demand for metallurgical grade coal, traditionally used in steelmaking, has declined due in part to more stringent coke oven emission standards. While often low in sulfur content, technical constraints have served to impede the use of metallurgical coals in electric utility boilers even though recently enacted air quality requirements place a premium on low-sulfur fuels. The legislation seeks to address these constraints by establishing a Department of Energy research program aimed at developing techniques that will lead to the use of metallurgical coal as a utility boiler fuel. The program would also devise methods to enhance metallurgical coal use in steelmaking and as a source of coalbed methane.

UTILIZATION OF COAL WASTES

This section would establish a program to develop techniques that will lead to the greater and more efficient utilization of coal from mining and processing wastes. Physical coal cleaning is used extensively in the United States. Generally, only the coarse coal fraction is cleaned since utilization of the coal that remains in mining and processing wastes (generally, coal 'fines') in utility boilers is problematic. Most of these coal fines are simply discarded to ponds and it is estimated that more than 2 billion tons of coal fines have been discarded in this fashion. The legislation seeks to address impediments to the use of coal fines by authorizing the Department of Energy to undertake demonstration projects to facilitate the use of coal from mining and processing wastes as a boiler fuel for the purpose of generating steam to produce electricity.

Mr. SHARP. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Tennessee [Mrs. LLOYD], chairwoman of one of the subcommittees that has a major provision in this bill.

Mrs. LLOYD. I thank the gentleman for yielding time to me.

I want to express my appreciation to the gentleman from Indiana [Mr. SHARP] and the gentleman from Michigan [Mr. DINGELL] for their leadership in bringing this bill to the floor.

Mr. Speaker, I rise in support of H.R. 776. Among the many provisions of this bill are three titles related to the Government's uranium enrichment enterprise.

Our vote today will culminate six years of my work in trying to establish a Government corporation to take over the enrichment enterprise from the Department of Energy. This is by no means a perfect solution, but it is imperative that the enterprise be given the flexibility to operate more like a business. I am particularly pleased that we were able to protect the existing employees and I thank the Committee on Education and Labor for their contributions in that area.

A second critical provision allows the newly formed corporation to market commercial fuel converted from Russian nuclear weapons. This is important in that the corporation will be able to responsibly integrate this product into the international market.

Finally, there are key provisions related to marketing, pricing, and contracting that, hopefully, will facilitate the change of the enrichment enterprise to a business posture.

I urge my colleagues to support this bill.

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Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER], a member of the committee.

Mr. DANNEMEYER. Mr. Speaker, I rise in support of this conference report.

There are two provisions that are needed dealing with the transmission of electrical power, and also dealing with how we license nuclear powerplants. They are constructive and I think they will help the Nation move down the road of licensing more nuclear powerplants and moving electrical energy around the country more expeditiously to help consumers.

I would like to say a few things about what is not in this bill that belongs in it if we claim it to be a measure that will move the Nation to energy independence, and quite candidly, it is a long way from that status.

This Nation today has roughly 40 billion barrels of oil reserves. We are using about 17 million barrels a day. About half of that is imported, about 8½ million barrels a day.

The negative trade balance with the rest of the world is approximately $100 billion. About half of that, $50 billion, is related to the purchase of petroleum products just to run our economic system.

This bill does not open up ANWR in northeastern Alaska. It is estimated to contain maybe 10 billion barrels of oil. That is about one-fourth of our proven reserves. It badly needs to be opened up in order to reduce our dependence on foreign oil sources.

Just this past week, the House passed a Montana wilderness bill that will lock up in wilderness status an area that contains roughly 2 to 3 trillion cubic feet of natural gas that is badly needed for the energy base of this country.

Previously, a bidder has paid about half a billion dollars for a tract off the coast of North Carolina that contains extensive natural gas reserves that we can produce today. This legislation does not contain any effort to go forward with that.

If we opened up ANWR in northeastern Alaska, we could have additional production to reduce our dependence on foreign oil sources.

We should also eliminate the existing law which prohibits exporting Alaska oil abroad, such as to Japan. Selling Alaska oil to Japan would reduce our negative trade balance with that country by about $14 billion a year.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan [Mr. CONYERS], the chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of H.R. 776.

Mr. Speaker, I want to give particular accolades to the chairman of the full committee.

Mr. Speaker, I strongly support the conference report on H.R. 776, the Comprehensive National Energy Policy Act, and I ask unanimous consent to revise and extend my remarks.

I commend both Mr. DINGELL and Senator JOHNSTON for their leadership in bringing about agreement on this massive bill.

This bill will make the Federal Government a leader during the next decade in conserving energy and developing alternative sources of energy. It directs the Federal Government to conserve energy in the operation of its buildings and to help develop alternative sources of fuel through its purchase of alternative fuel vehicles. It also authorizes a large federally funded program in research and development on energy conservation and alternative sources of energy. The bill authorizes more than $10 billion over the next decade in these Federal energy conservation measures and Federal research and development.

The future is now for energy conservation. It is vital for the development of the U.S. economy that both firms owned by minorities and women and historically black colleges get a fair piece of the Federal contracts that will implement this historic bill.

I would like to explain the provision in title XXX of the bill that not less than 10 percent of each agency's competitive contracts under this act, where practicable, shall go to small businesses owned by socially and economically disadvantaged individuals or women, to historically black colleges and universities, or to colleges and universities having a student body in which more than 20 percent of the students are Hispanic-Americans or native Americans.

This provision originated in the Committee on Government Operations, where I offered it as an amendment to H.R. 776. During hearings on H.R. 776 by subcommittees of the Government Operations Committee, we received testimony concluding that the creation of minority business enterprise programs that benefit racial minorities and women are an effective remedy for past and existing racial and gender discrimination in Government contracting.

The amendment has broad bipartisan support and was approved in the committee by voice vote. It was then approved by the House in May. The Senate bill had no comparable provision, and the conferees agreed to the House provision with some minor modifications. I would especially like to thank Mr. MCCANDLESS for his help both when the committee was considering the provision and during the conference.

The bill gives Federal agencies flexibility in deciding how to meet this 10-percent goal. The committee intends that to facilitate the attainment of this goal an agency may set aside energy contracts for small disadvantages businesses as long as they are awarded competitively. For example, the Defense Authorization Act contains a similar provision, and in fiscal year 1991 the Department of Defense awarded $4.4 billion in prime contracts to small disadvantaged firms and historically black colleges and universities. Of this amount, DOD awarded $2.1 billion through its section 8(A) contract with the Small Business Administration; DOD awarded about $1.5 billion directly to small disadvantaged businesses and another $700 million was awarded directly under contracts that were set aside for small disadvantaged businesses. The committee intends that Federal agencies be creative in developing methods for achieving this goal.

The goal in H.R. 776, like the comparable provision in the Defense Authorization Act, applies to both Federal contracts and subcontracts. For example, if a Federal agency awards a $10 million contract to purchase energy-efficient heating and air-conditioning equipment from a manufacturer, then the goal for that particular contract is $1 million even if the recipient of the prime contract then awards $5 million in subcontracts to other firms to supply some of the components for the equipment. The Department of Defense reports, for example, that in fiscal year 1991 its prime contractor awarded $1.5 billion in subcontracts to small disadvantaged businesses.

The committee views the 10-percent goal as a floor, not a ceiling. For example, the appropriation bill for the superconducting super collider has an identical goal of at least 10 percent. In fiscal year 1991 about $34 million in contracts and subcontracts for the SSC was awarded to small disadvantaged businesses, which was 13 percent of all contracts awarded that year. Each agency should award the maximum practicable number of contracts under the Energy bill to minority- and women-owned businesses and to black, Hispanic, and native American colleges, using this goal as a standard measure of success.

I anticipate that during the next Congress the Committee on Government Operations will closely monitor the performance of the Department of Energy, the General Services Administration, the Small Business Administration, and other Federal agencies to ensure that they comply with both the letter and the intent of this amendment.

In conclusion, Mr. Speaker, I urge my colleagues to approve the conference report.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the conference report on H.R. 776, the Comprehensive National Energy Policy Act.

Mr. MOORHEAD. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. OXLEY], a member of the committee.

Mr. OXLEY. Mr. Speaker, the need for a rational and comprehensive national energy policy has been evident for years. But for years, we chose to address improved energy efficiency and failed to address energy self-sufficiency. To alter that course of action, President Bush made the development of a comprehensive national energy strategy a high priority.

During the 2 years since the completion of the NES, Congress has been working on energy legislation that includes many of its key proposals, and today is the culmination of that effort.

This legislation lays the foundation for our long-term energy security by putting in place programs which improve energy efficiency and conservation.

However, I am disappointed that once again we missed the best opportunity we have had in years to provide the energy security my constituents and all Americans deserve.

The bill before us embodied a major omission by not addressing the issue of increased domestic production of oil and gas and thereby leaves us vulnerable to the control that foreign countries hold over our energy supplies. By failing to include provisions for increased domestic production, we cannot say that we have done all we could to secure America's energy future.

Because it has become increasingly more difficult to build consensus on policies which balance programs that will increase domestic supplies and decrease demands, this bill represents the best compromise we could craft to move toward our goal of limiting our dependence on foreign oil.

This bill is not perfect, it is not comprehensive and is not necessarily balanced. Nonetheless, I support the legislation as a foundation upon which we can build.

H.R. 776 is the most wide ranging energy legislation to emerge from Congress in more than 10 years, and I commend my colleagues for their efforts in seeing it to completion. Having said that, I would urge my colleagues not to wait another 10 years to address the critical issues left out of this bill.

One of the issues left out of this bill that I would like to point out deals with regional transmission groups. We came very close to including language in this bill that would have sanctioned voluntary regional transmission groups. During the consideration of H.R. 776, an unprecedented negotiation process was underway which included utilities, municipals, co-op systems, IPPS, and environmental groups. Unfortunately, the clock just ran out. I hope we will pursue this concept next year.

Finally, Mr. Speaker, I would like to discuss provisions in the legislation which would require the Environmental Protection Agency to promulgate high-level radioactive waste regulations based upon and consistent with the finding and recommendations of a study to be completed by the National Academy of Sciences. These provisions will go a long way toward ensuring that the final standards for high-level waste disposal, which were remanded to the agency by a Federal court in 1987, will be based on sound scientific and technical reasoning.

The process of setting realistic and scientifically sound high-level waste standards is remarkably complicated because of the extraordinarily long time frames that the regulations will encompass. With that in mind, the conferees determined that the EPA needed guidance for this task.

The NAS study will provide a scientific and technical basis upon which the EPA will be able to rely in making the many decisions that will be required in this process. By requiring the regulations to be "based upon and consistent with" the recommendations of NAS, the conferees intend that EPA should address a number of issues with respect to the scientific and technical problems that have been raised since the Federal court remanded the EPA's regulations in 1987.

By requiring the EPA to promulgate regulatory standards for protection of the public "based upon and consistent with the findings and recommendations" of the NAS, the conferees did not intend that the agency would be deprived of its independent regulatory judgment. If that had been our desire, we would have adopted a different provision. Rather, it was our intent that the EPA treat the NAS recommendations almost as a "rebuttable presumption" in the rulemaking. Thus, if EPA determines, in the course of its rulemaking, that substantial credible evidence demonstrating that the recommendations and findings of the NAS are inappropriate, the EPA should fully document its reasons for rejecting the NAS findings and recommendations, and proceed to adopt the standards it determines will best protect the health and safety of the public. By operating in this fashion, EPA maintains its independent regulatory judgment.

In conclusion, Mr. Speaker, we have been pursuing the goal of comprehensive, balanced energy policy for years and we should not stop just because we are approving what is described as an historic energy bill today.

Mr. Speaker, I would like to pay special tribute to the gentleman from New York [Mr. LENT], the ranking member of our committee who is retiring at the end of this session. He has undergone a great effort on behalf of the energy bill, and has carried an awful lot of water for the Members on our side as well as the administration. We will all miss his great work in the energy policy field, and we wish him the best of luck.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR], a member of the conference committee and a key player in this legislation.

Mr. SYNAR. Mr. Speaker, I rise in support of the conference report on H.R. 776, the national energy strategy bill.

Mr. Speaker, this was a long and difficult conference, and none of us got everything we would have wanted had we been writing the bill on our own.

But that is the nature of legislating on issues as complex and controversial as energy policy.

On balance, it is a good compromise bill and should be supported. My friend and colleague PHIL SHARP, chairman of the Energy and Power Subcommittee, and our full committee chairman, Mr. DINGELL, are to be commended for shepherding this complicated proposal through the House and through conference.

This long overdue strategy contains some very important new initiatives.

The vast majority of our imported oil is used in vehicles, and it was critical that any comprehensive strategy include programs to address that problem.

To that end, this bill includes a good alternative fuels program, with a series of incentives and mandates for the switch to alternative fuels by U.S. cars and trucks.

These alternative fuels include compressed natural gas, methanol, ethanol, hydrogen, propane, and electricity; and the program applies to fleets in metropolitan areas of 250,000 people or more.

It includes programs to implement mandates for Federal fleets beginning in 1993, which gradually will increase to require 75 percent of Federal fleets to be alternatively-fueled by 1999.

It includes a mandatory program for State fleets, beginning in 1995, increasing gradually to 75 percent of those fleets by the year 2000.

Notably, current State conversion programs—such as the one underway in my own State of Oklahoma—could be substituted for the State program required under the bill.

Private fleets would, at first, be limited to companies which produce, transport, store or sell alternative fuels beginning in 1996.

Requirements for private fleets other than those of fuel providers will be determined by the outcome of a rulemaking by the Secretary of Energy with a goal of new fleet purchase requirements beginning in 1999.

The legislation includes important new strategies for improving our Nation's energy efficiency especially for equipment and housing. The bill contains new Federal efficiency programs including a requirement that Federal agencies will have to incorporate energy conservation improvements which pay for themselves in 10 years.

Moreover, the bill includes language facilitating the use of energy performance contracting under which private industry would finance the installation of energy efficiency improvements in Federal buildings.

This is a key program that can save the Government almost $1 billion a year in taxpayer dollars and make a big contribution to environmental quality.

H.R. 776 makes significant changes in the 1935 Public Utility Holding Company Act to allow much greater entry into the electricity market by independent power producers, to provide a new diversity of supply for wholesale electricity.

Importantly for my own State, this change should allow for more use of natural gas, since it is the predominant choice of fuel for those power producers.

The bill also provides for ways for these new wholesale power producers to market their power through access to power lines of existing utility companies.

In the area of natural gas pipelines, unfortunately, many new procedural efficiencies included in our original bill were dropped as a result of substantial controversy over certain other provisions in the natural gas title.

However, I am delighted the conferees deleted the House-passed prorationing language which I vigorously fought against, and also dropped certain provisions which could have had serious implications for implementation of FERC's recent order 636 concerning interstate natural gas pipeline regulation.

Those provisions should have been dropped, and they were.

I am pleased the conference report still contains provisions, adopted by the full House, which require much-needed reform in FERC's oil pipeline ratemaking methodology and regulatory procedures.

I have worked many years to achieve this kind of reform and, while the provisions are not as strong as I personally would have liked, even these lesser reforms are critically needed and I am delighted they were approved.

I am also pleased the bill contains provisions, similar in thrust to a proposal I sponsored with Congressman JIM COOPER of Tennessee, to initiate an important new program to account for voluntary reductions by industry of gases that contribute to greenhouse warming.

This program will allow for credit to be given to those farsighted companies that made early reductions, at such time as the U.S. implements a mandatory program.

The bill also provides important new authority for establishing inventories of greenhouse gases and establishing the data base needed for any future program.

In the hydro area, the conferees did address certain longstanding problems with FERC's regulation in this respect, notably providing protection for fishways and State and national parks.

I am disappointed we could not reach agreement on House provisions to protect State-designated wild and scenic rivers against FERC encroachment in this area, but I remain hopeful Congress can address that issue sensibly at some point in the future.

The bill also gives much-needed structure and accountability to the U.S. Department of Energy's multibillion dollar Clean Coal Technology Program, including consideration of environmental benefits and cost effectiveness.

Finally, Mr. Speaker, I would hope we are successful in getting the energy tax provisions through the Congress and signed into law this year.

Most important of these is alternative minimum tax relief for independent producers, which is absolutely essential if we are to maintain a viable independent producing industry.

I have been a strong and vocal supporter of changes in the treatment of AMT for independents, and hope we are finally successful in attaining that goal.

Obviously, Mr. Speaker, the bill includes many, many other provisions—some good, and some which I personally think are not so good.

But we have worked long and hard to develop this comprehensive strategy and it is worthy of support by the full House.

I urge its adoption and hope the President will sign the bill into law so that we might finally begin to set the Nation along a thoughtful and proactive course toward greater energy security.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. MOORHEAD] for yielding me this time.

Mr. Speaker, I am pleased to rise in support of this Energy bill conference report.

While it is true that the bill contains several flawed provisions, on balance it is a very good bill.

I am particularly pleased at several provisions relating to nuclear power that are included in this bill. I would like to take just a moment to highlight some of them.

The future of nuclear energy power in this country as a credible portion of our energy mix has been clouded by a lot of things, many of which are addressed in this bill. It has been clouded by the future of developing a nuclear waste repository, a high-level waste repository. We have addressed some of the concerns about getting such a high level repository in place by the first decade of the next century in this bill.

□ 1550

We have also in the bill extended the term of the nuclear waste negotiator which hopefully will provide the necessary time to locate a suitable site for temporary storage of high level waste for a monitored retrievable storage site which is extremely important considering the contractual obligations that we have to the nuclear utility industry in this country to begin to accept their waste by 1997.

The licensing reform provision will go a long way toward helping to revitalize the industry. Licensing provisions have likewise been an impediment to further development of the nuclear energy industry, and I think that we have streamlined the licensing procedure in a way that will cause utilities in the country to feel confident that they can proceed through a one-step licensing process through construction and into production of energy for the country.

Finally, is the uranium enrichment title. While not perfect, I think it represents a workable structure that will lead ultimately to the removal of the uranium enrichment business from the Government and spin it off into the private sector, and our colleagues, the gentlewoman from Tennessee [Mrs. LLOYD] and the gentleman from Ohio [Mr. MCEWEN] particularly deserve congratulations for that provision.

Mr. SHARP. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. TOWNS], another member of the conference committee.

Mr. TOWNS. Mr. Speaker, I want to join my colleagues in commending the outstanding work and recognizing the outstanding work that was done by the gentleman from Michigan [Mr. DINGELL] of the full Committee on Energy and Commerce and by the subcommittee chair, the gentleman from Indiana [Mr. SHARP], and, of course, by the gentleman from New York [Mr. LENT], and also the gentleman from California [Mr. MOORHEAD]. I am proud of the consensus that our conference committee produced.

There will always be elements which each of us feel could have been handled differently. Personally, I would have hoped that we could have had stronger language in support of the protection of Canadian gas imports, prorationing and reliability in the transmission provisions. In addition, it is my fervent hope that the retail wheeling provisions will not result in FERC ordering mandatory transmission where there are presently voluntary retail wheeling arrangements. Despite these concerns, we must recognize that the final product is indeed a compromise package which will strengthen our national energy policy. It is also one which addresses the valid pension concerns of the Nation's coal miners.

I know that there are those who oppose the high-level waste standards provisions in this conference report. There are those who would argue that by passing these provisions we will be politicizing the standards setting process for Yucca Mountain. Nothing could be further from the truth.

The fact is that the foremost body of scientific and technical minds in the country, the National academy of sciences, has expressed to EPA its reservations and problems with the approach taken by EPA in its first attempt at drafting these standards in 1985. It is crucial at this juncture that EPA's standard setting obligations not be clouded by political proclamations. Science must guide the process and Congress knows no more qualified body than the Academy of Sciences to make these determinations. I would hope the Senate will also ultimately accept the standards provisions of this bill and not succumb to the planned filibuster of this important legislation.

Finally, let me say that I am hopeful that the strong consensus among the entire electricity industry, which was achieved in developing a regional transmission proposal, will be the basis for immediate action by the Energy and Commerce Committee next session. I am anxious to work with my good friend, the gentleman from Oklahoma [Mr. SYNAR], in moving the RTG proposal forward. Again, I'd like to commend my colleagues on a job well done.

Mr. MOORHEAD. Mr. Speaker, I yield 6 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to the report of the committee of conference on H.R. 776—the energy bill. While I am in agreement with my fellow conferees on most provisions, I am greatly distressed by the House conferees acceptance of the Senate substitute to section 801 regarding Environmental Protection Agency standards for disposal of high-level nuclear waste.

Mr. Speaker, as a senior member of the Interior Committee, I was a conferee on title VIII issues. I was there when the deal was announced to the public at the conference meeting on the evening of September 30. The deal allegedly was crafted the night before in a secret meeting involving only full committee chairmen, I am told. The House conferees would recede from the House position of directing the EPA to reinstate the generally applicable environmental regulations for high-level radioactive waste, spent nuclear fuel, and transuranic waste and accept a Senate substitute which is 180 degrees different than the intent of this body. Just what the House got in return for this complete turnabout is unclear to me.

Because the Senate came to the conference with no position on title VIII issues, this substitute can hardly be deemed a compromise. In fact, I believe it exceeds the scope of the conference, because the conferees would direct the EPA to do rulemaking on radiation standards only after a National Academy of Sciences study is completed—a study whose scope is dictated in conference report to deny the NAS from considering standards akin to the old ones.

I know the statement of bill managers suggests otherwise, but the conference report language clearly states the EPA Administrator shall promulgate standards consistent with the findings and recommendations of the National Academy of Sciences. I find little comfort in the view that the EPA will be given broad discretion to decide just what consistency means in this situation.

Seven other conferees joined with me against this blatant disregard for the position of the full House of Representatives, and more importantly, against the cavalier indifference for the public's health and safety that adoption of the amendment represents. The House position originated in the Interior Committee markup of last April. I am pleased to say that the Energy and Environment Subcommittee chairman voted against accepting the Senate offer, as did six others and I, but my full committee chairman jumped ship and took several votes with him, handing the vote to the senior Senator from Louisiana.

The bill mangers say "what could be better than having the esteemed National Academy of Sciences tell EPA about the health effects of radiation exposure?" That may be all well and good, but the NAS isn't given a free rein to define the scope of their study.

Rather, the conferees would do that, so the good science arguments just don't hold water, Mr. Speaker.

I don't think that any one of us is sufficiently knowledgeable to make the important policy call about whether radiation dose standards should be population based or individual based to best protect the public. But the conferees propose to make this call, because the nuclear power lobby is concerned that Yucca Mountain, NV, might not qualify as a repository unless the rules are relaxed quite a bit from the standards of 1987 which the House would direct be reinstated.

Mr. Speaker, the nuclear waste projects office of the State of Nevada has written to me about the individual versus population dose standard as concerns release of carbon-14 from a repository. I quote:

> In summary, while it may be attractive to use dose to the maximally exposed individual to demonstrate compliance with a regulation at a particular point in time, it does not reflect the broader population consequences of a repository which contains a massive inventory of radionuclides that can be released slowly over a long period of time. Cancer fatalities attributable to release from a repository are cumulative in the population over many generations. A standard based upon the maximally exposed individual at a point in time does not reflect the long term human health hazard of a nuclear waste repository.

Furthermore, Mr. Speaker, the conferees propose that Yucca Mountain be perpetually watched over to guard against human intrusion by future generations who might be unaware of the nuclear waste that is proposed for burial there. This is a big change from current law which states that it is a disqualifying condition if a candidate site has the potential for hosting natural resources. Future generations may inadvertently penetrate the repository in their search for minerals, oil and gas, geothermal energy, and such. The conferees charge the NAS with determining whether or not DOE can actually remain vigilant for 10,000 years against such intrusion. In other words, the Nuclear Waste Policy Act must be changed, after Yucca Mountain has been singled out for study, because it might just be disqualified under this existing standard, and we have put too much money into this program to begin again elsewhere.

Mr. Speaker, I don't believe that is sufficient rationale to amend the Nuclear Waste Policy Act, especially without the benefit of hearings on this subject. My constituents have believed for 5 years that the 1987 amendments to the Nuclear Waste Policy Act were done in a backroom deal to insure that the other candidate sites at the time, in Texas and Washington State, nor salt domes in Louisiana, would become the site of choice. The DOE testified at hearings in 1987 that Yucca Mountain could very easily meet the standards in effect at that time, the very standards the House wanted to be reinstated in its section 801. How can it be that these are too tough now?

Unless this body agrees to recommit the conference report with instructions to the House conferees to disagree to section 801, the other shoe will have dropped on Nevada. The country is watching us today to see if we do the right thing. A "no" vote on the motion to recommit will surely send my State into court to litigate the constitutionality of allowing the nongovernmental NAS to practically make public policy decisions. A "yes" vote on the motion will tell our conferees who abandoned the House position that on matters of public health and safety such as this is, politics as usual is out.

If Yucca Mountain is to be further studied for its suitability to host high-level nuclear waste, it must be done in a manner that instills public confidence. My colleagues, section 801 of this conference report is about as far from that goal as is possible. If you believe nuclear power has a future in this country I ask you to join with me to restore the confidence of my constituents—and yours—by voting to recommit the conference report on H.R. 776.

Mr. SHARP. Mr. Speaker, I yield 10½ minutes to the distinguished gentleman from Nevada [Mr. BILBRAY] so that he and other opponents of the bill may speak.

□ 1600

Mr. BILBRAY. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a member of the energy bill conference committee, I want to commend the chairman, the gentleman from Michigan [Mr. DINGELL], the subcommittee chairman, the gentleman from Indiana [Mr. SHARP], the chairman, the gentleman from California [Mr. MILLER], and the other Members who worked so long and hard against such great odds to bring this bill to the floor. That said, I have to rise in opposition to this conference report.

I will tell you what this bill is not. It is not a national energy strategy. Instead, it is a grab bag of energy-related, special interest provisions that will do little or nothing to make the United States of America energy independent by the year 2000, a goal that I believe is achievable if only we had the will.

There is no central vision—no unifying purpose in this bill. If anything it should be called the nuclear energy bill, because its most notable provisions seem to have been written by and for the nuclear power industry.

There are some good provisions in this bill, but they are so far outweighed by the bad that I cannot in good conscience support it.

Thanks to this bill, we'll have more efficient showerheads and lightbulbs.

But we will also limit the ability of communities to challenge new nuclear powerplants in their midst.

Thanks to this bill, we will give a gentle push to solar energy.

But crass political pressures will tip the scales of scientific judgment in favor of a nuclear waste site at Yucca Mountain, NV, despite the questions that have been raised so well by the gentlewoman from Nevada [Mrs. VUCANOVICH] and will be raised later in this debate.

We will encourage greater use of alternative fuels, but we'll spend more than $200 million on nuclear power research, money that would be much better spent on conservation and renewable energy resources.

We will have whistleblower protection to uncover DOE contractor fraud and abuse, but we will still totally exempt those same contractors from any fraud and abuse that is uncovered by those whistleblowers, and the taxpayers of America will foot the bill for that fraud and abuse.

There is nothing in this bill requiring tougher auto mileage standards. Nothing to limit unwise oil drilling in our sensitive coastal waters. Little or nothing to not only encourage but require greater reliance on the cheapest and cleanest energy resource—conservation.

Mr. Speaker, there is so much work left done in this bill—and there is so much that is skewed for special interests, that I cannot support it.

We would be far better off waiting until next year when we can work with a Democratic administration to craft a true national energy strategy that puts America on the road toward clean renewable energy resources, a greater reliance on conservation, and independence from unreliable foreign oil sources.

I urge my colleagues to defeat this conference report.

Mr. BILBRAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I supported the energy bill when it came out of this House and was probably the only member of my delegation that did so because it had preemption language in it that preempted the State of Nevada from issuing permits which we thought were required for clean air, clean water, and so forth.

Even though I thought those requirements were oppressive, I felt the energy bill as it came out of this House was a decent bill that was needed by the American public.

The bill that has returned to us is an oppressive and bad bill.

The public may wonder why so few Members are standing up here opposing the bill. One of the reasons is that the rule, which I voted against just a few minutes ago, did not provide any time for the opposition. The gentleman from Indiana [Mr. SHARP] and the gentleman from Michigan [Mr. DINGELL] did give me 10 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] was also given 6 minutes from her side. So we have 16 minutes out of a 2-hour debate for those that are opposed to this particular bill.

Mr. Speaker, often I hear the minority party object to the oppression of the majority. But I can say to my minority friends, nothing is as oppressive as a minority within the majority being oppressed, because at least you have a peer group of followers over there that will work with you to overcome some of the oppression.

This bill is oppressive because of what has happened in conference, as the gentlewoman from Nevada [Mrs. VUCANOVICH] has stated. The senior Senator from Louisiana has repeatedly attempted to put into every piece of legislation that has come back to the House provisions that would strip the EPA and the Nuclear Regulatory Commission from control in setting the standards for the Yucca Mountain site. In this bill he has achieved that.

He has required that the EPA and the NRC listen to the findings of the National Academy of Sciences, and he says in the bill they shall accept the requirements. They also say that the National Academy, "will base their standards upon doses to individual members of the public from releases to the accessible environment." They are precluded from using a population base, which is what all the EPA standards throughout the country and NRC standards are based upon.

What does this mean to the general public? This means that over the next 10,000 years, and maybe people will say what is 10,000 years, how does that affect me, but this could be next year or the year after. It is like the 100-year flood. We do not know if it is going to be 100 years to the next 100-year flood. It could be next year or the year after. This is just an average over the geological eons.

During this period more carbon-14 can be emitted into the air that can affect the general population than could be allowed if the standards that the EPA promulgated in 1985 were allowed.

We in Nevada were willing to accept the 1985 standards of the EPA. They were struck down in 1987, not because they were too strong, but because they were too weak and environmental groups filed suit and knocked them out. But we in Nevada were willing to accept the 1985 standards.

But that was too strong for the senior Senator from Louisiana. He wanted to make sure that no matter what happens, no matter what happens that Yucca Mountain will qualify, because of the billions of dollars that is going to be poured in.

The senior geologist at the NRC just a few years ago said that it was a waste of the taxpayers' money to be doing suitability studies at Yucca Mountain, because in his opinion, and this is George Trapp, the NRC senior geologist, because in his opinion Yucca Mountain will never qualify for a permanent site.

Well, if the senior Senator from Louisiana has his way, it will not matter, because they will fit the study of the standards to meet whatever they find there at Yucca Mountain.

What will this mean over the 10,000 years? That if the 4-rem level comes out, you will have 3 million fatal cancers to the general population in that area. That means southern California, central California, Utah, northern Arizona, Nevada, and States all the way downwind as far as Colorado and maybe even beyond.

We in Nevada feel that the National Academy of Sciences is neither a regulatory nor a standard setting body. The NAS has no experience or expertise in establishing standards to protect the public health and safety. The NAS is not politically accountable. It reduces the discretion of the NRC and EPA to establish standards that those agencies believe are necessary to protect the public health and safety.

Mr. Speaker, this is a bad piece of legislation. It is bad for the general public. It is not only bad for Nevada, but it undermines the NRC, it undermines the EPA, and it is a bad piece of legislation. That is why we in Nevada are sitting here opposing it.

Many Members have come up to me and said:

> You are right, this is unfair, it is a bad piece of legislation, but we must have an energy bill so you are going to have to take it where you do not want to take it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, as Florida's only conferee on this national energy bill, I am extremely disappointed that an agreement was not reached on the Outer Continental Shelf provisions in this legislation. I wholeheartedly support the goal of a comprehensive national energy policy; however, I believe that our Nation's offshore energy development should be part of that policy.

The Florida delegation has fought annually to obtain a lease sale moratorium in the eastern Gulf of Mexico during the appropriations process. Thankfully, the Interior Appropriations Committee has been willing to help us protect our coast each year. I saw this comprehensive energy authorization legislation as the proper place to set this policy for the long term. I was pleased to work with my colleague PORTER GOSS, in getting the OCS provisions in the energy bill in Merchant Marine and Fisheries Committee. I am discouraged that the administration and the other body were apparently not interested in creating a long-term offshore energy policy.

I, and the entire Florida delegation, will now be forced to request that our Appropriations Committee legislate our energy policy each year. However, let the RECORD show that we tried hard to reach an agreement on this critical issue through the correct authorization process. Finally, I would like to thank the Members of this body who stood by our House OCS policy to the very end. The people of Florida and I are gratified by your support. Together we will continue to fight for coastal protection.

Mr. PETERSON of Florida. Mr. Speaker, I rise today to express my deep disappointment in the removal of title XX, relating specifically to Outer Continental Shelf [OCS] activities, from the conference report on H.R. 776, the Comprehensive National Energy Policy Act.

Mr. Speaker, as you know, in May of this year the House overwhelmingly voted for an energy bill that would prohibit the issuance of new leases for offshore oil and gas development off Florida's entire gulf coast as well as the entire Atlantic and Pacific coasts and the Bristol Bay off the coast of Alaska until the year 2002. The House version reflects the wishes of the entire Florida congressional delegation, the office of the Governor, and the wishes of a vast majority of the residents of Florida. In addition, the House language is consistent with congressional intent. Every year since 1988, the Congress has approved similar moratoria provisions as part of the Department of Interior appropriations bills.

Should a spill or blowout occur off the coast of Florida, the environmental and economic consequences would be devastating. Florida's greatest source of revenue comes from the millions of tourists that travel from all over the world to visit Florida's beautiful beaches. The jobs that could be lost in the event of a spill would be seriously detrimental to my State. With so much at stake, it is no wonder that the entire Florida delegation has joined together in support of protecting Florida's coasts from future activities.

Mr. Speaker, it is unconscionable that Florida's coast not be protected until a final plan can be devised that addresses both the sensitivities of Florida's environment and its future economy. Therefore, I join the rest of the Florida delegation in expressing my deep disappointment and regret that Florida's concerns were ignored during the negotiations to the energy bill.

□ 1610

Mr. BILBRAY. Mr. Speaker, in conclusion, I would like to point out that the following groups are opposed to this particular section of the bill and urge Members to vote against the inclusion of section 801, the Yucca Mountain provision bill: the Friends of the Earth, the Natural Resources Defense Council, the Nuclear Information and Research Service, Greenpeace, Safe Energy Communications Council, the Sierra Club, the Union of Concerned Scientists, and the U.S. Public Interest Research Group.

I urge my colleagues to vote against this bill and let us come back with a better bill next session.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair advises that the gentleman from Indiana [Mr. SHARP] has 26½ minutes remaining, and the gentleman from California [Mr. MOORHEAD] has 29½ minutes remaining.

Mr. MOORHEAD. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in support of the energy bill. It is very difficult to reconcile the broad interests of a country like ours on an energy bill. We hear a lot of people say, "Gosh, let's get an energy bill."

Well, we could have an energy bill very quickly if we wrote it in Wyoming; I suspect we would have an energy bill very quickly if we wrote it in Massachusetts. But when we seek to reconcile the differences between the producer aspect of the country and those who are generally consumers, we find some problems.

I think this bill is much better than the one we dealt with in the House Committee on Interior and Insular Affairs. That one did not have any Btu's in it at all. It was a bill designed simply to impose more environmental regulations and make it more difficult for us to be self-supporting in the area of energy production.

We talk a lot about jobs. Talk a lot about General Motors. Some claim there is as many as 400,000 workers out of work in the oil business in this country, more than any of these other activities that we have talked about. Fifty-two percent or more of our oil is being imported. So I am delighted that one of the provisions will be the alternative minimum tax made permanent, allowing oil producers to have the same kind of tax benefits that others in business do for intangible drilling costs, for the preparation of sites.

I think the nuclear licensing is exactly what we need to do. Here is a fuel that certainly lends to clean air and the clean global environment and one we need to use.

Mill tailings, I am pleased that mill tailings will be taken care of out of here in costs that are raised by the uranium users, and I think that is an excellent portion.

I am delighted that the restrictions that were placed by the House on clean low-sulfur Western coal will be removed so that we can, in fact, encourage the use of low-sulfur coal.

There are a couple of items that I am not enthusiastic about. I supported my colleague from Nevada in the notion that Nevada and other States ought to have the right to be heard in this matter of locating a permanent repository. I think that they ought to, I think we ought to have the kind of restrictions that were in initially and not lower the requirements for health standards.

Finally, I am disappointed at what we did when we dealt with the question of funding Union Health Care. We are not talking about whether these folks are going to get medical care or not; we are talking about how we are going to fund it. We ended up taking it out of the abandoned land mines fund. I am very sorry about that. That is not what it is designed for. We shifted the responsibility to parties that were not a party to setting up that medical program in the first place, and there were alternatives to funding it.

The people who signed the original agreements ought to be funding it. Instead of that, we are taking the money from the abandoned lands funds, which are generated in the West, by the way, and much of it is sent elsewhere to use for this issue.

By and large, however, I do want to congratulate the leaders of these committees, the gentleman from Indiana [Mr. SHARP], in particular, and the gentleman from Michigan [Mr. DINGELL], and on our side, the gentleman from California [Mr. MOORHEAD], and others.

I think this is a bill that we ought to support, and I believe it comes as close to being a national energy policy as we can devise in our diverse country.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is an important piece of legislation in its entirety, but States like Michigan and Indiana are particularly interested in the foreign investment section. We are interested because the economies of our States have suffered at the hands of foreign competition and anything the Congress does to enhance the ability of U.S. companies to compete overseas ought to meet with the favor of this body. It is ironic that, under the Public Utility Holding Company Act [PUHCA] of 1935, a public utility can invest in any foreign business—cars, banks, popcorn manufacturing—except the one it knows best—the utility business. The language in the bill clearly rectifies that inequity and I thank the gentleman for bringing it to the House for approval.

I seek clarification for one aspect of the bill from the gentleman. Language in the conference report states that a utility cannot invest in foreign utility transmission and distribution facilities

> * * *Unless and until the State Commission having such jurisdiction has certified to the Commission that it has the authority and resources to protect the ratepayers subject to its jurisdiction and that it intends to exercise its authority.

This language is clear to me in intent and meaning but, having worked for a public utility commission myself, I know that commissions can make such an investment hostage to some other program near and dear to their hearts but unrelated to the subject at hand. So I ask the gentleman, is it the intent of Congress that a commission can submit, revise, or withdraw its certification based solely on the jurisdiction language in the bill to the exclusion of any other agenda unrelated to that jurisdiction?

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, that is the intent of this language.

Mr. CARR. Mr. Speaker, I thank the gentleman and seek one further clarification. Under current law, a utility can seek a waiver of the Public Utility Holding Company Act from the Securities and Exchange Commission [SEC] for foreign investments. Does this language retain the SEC's authority to grant such a PUHCA waiver for foreign investment purposes as well as a utility's right to seek it?

Mr. SHARP. If the gentleman will continue to yield, it does. However, in granting any such waiver, the SEC should keep in mind the purposes, policies, and standards under new section 33 of the Public Utility Holding Company Act.

Mr. CARR. I thank the gentleman and applaud his work on this legislation.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. HUBBARD], who has been very instrumental in dealing with the uranium enrichment issue.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. HUBBARD].

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. HUBBARD] is recognized for 2 minutes.

Mr. HUBBARD. Mr. Speaker, I rise today in support of the conference report to accompany H.R. 776, the National Energy Policy Act of 1992. I congratulate the House and Senate conferees for their success in reaching an agreement on the first comprehensive national energy bill in over a decade. This broad-based energy strategy, which is designed to increase energy efficiency in this country and promote increased production from renewable energy sources, is an important step in assuring this Nation's energy self-sufficiency.

I urge my colleagues to support the conference report. This legislation means a lot to our Nation and specifically to the citizens of the First Congressional District of Kentucky—especially the uranium enrichment plant located in West Paducah and operated by Martin Marietta in a joint venture with the U.S. Department of Energy. This plant has 1,817 employees, as of today.

H.R. 776 establishes a Government corporation, known as the Uranium

Enrichment Corporation, to take over the Energy Department's uranium enrichment program with the goal that the corporation could eventually be sold to private investors. Such a corporation would, I believe, significantly improve the Nation's competitive position and reduce the trade deficit, assure long-term supply and responsiveness to domestic enrichment customers, meet our defense needs and remove the threat of increased taxes to support an inefficient Government-controlled enterprise.

Since coming to Congress in 1974, I have seen the U.S. participation in the world market for uranium enrichment services drastically decrease to a point today where our ability to compete in world markets is seriously threatened.

The loss of civilian enrichment markets will have seriously harmful effects on our Nation's trade imbalance, overall energy program and hopes for energy independence. Most importantly, our national security is threatened with the loss of a viable source of domestic supply of enriched uranium.

I believe the best way to meet our needs is through the establishment of the uranium enrichment enterprise as a Government-owned corporation.

Again, I urge my colleagues to vote yes on the conference report to accompany H.R. 776. It is a good bill and will go a long way toward reducing our dependence on nonrenewable foreign energy sources and assuring our Nation's energy independence.

□ 1620

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding time to me

Mr. Speaker, I rise today with a deep conflict of emotions regarding the conference report.

I am particularly pleased with the fact that the legislation contains a number of important provisions, such as water and energy efficiency standards and nuclear licensing reforms—measures I have long supported—but I feel that the conferees' actions in stripping long-term offshore drilling provisions from this legislation has tied my hands, and leads me toward a regretful and reluctant opposition.

It is the depth of my commitment to these offshore oil drilling preclusions that forces me to this position.

Earlier this week, I noted that an offshore rig that had been spewing oil into the Gulf of Mexico for almost 2 days caught fire Thursday as workers tried to cap it. The well spewed 42 gallons of crude a minute when it blew out at the wellhead Tuesday, and the oil formed a slick that by Wednesday afternoon reached a fragile chain of barrier islands some 65 miles south of New Orleans.

These are the dangers of air and water pollution and the potential of extensive environmental damage that have led my Florida colleagues and myself to oppose offshore oil drilling in our State's waters.

In fact, year by year, the Florida delegation has been successful in preventing such drilling, and the House-passed version of this bill represented our best hope of securing long-term protections.

My regret is only deepened, Mr. Speaker, because I believe that energy-saving appliance standards for a broad spectrum of electric motors, lighting, and industrial equipment, and plumbing fixtures included in this legislation will be of inestimable value to our Nation.

I was particularly pleased to work with a number of my colleagues in crafting the energy efficiency standards included in this conference report—and it is indeed fortunate that we can advance the energy interests of our Nation is a dramatic manner simply by making the most efficient use possible of our energy resouces.

Hand in hand with such conversation measures goes energy efficiency; substantial energy savings can be made through these simple conservation means.

Indeed, we need to protect and conserve our Nation's natural resources for the generations to come, and I can't help but think that we have missed a great opportunity in this regard with the loss of the legislation's offshore drilling provisions.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I would like to take a moment and thank Chairmen DINGELL, MILLER, and their staff for all the hard work in putting together this comprehensive package.

I want to mention a few provisions in the bill which are important to me and the residents of my district.

Earlier in the year, we in eastern Connecticut became aware of hydropower siting problems at Yantic Falls in Norwich, and discovered there are many examples across the country where State and local natural areas were subject to eminent domain, regardless of intended State and local plans for the property.

I appreciate the work of the Committees on Interior and Energy and Commerce to develop language in the bill to address the needs of State and local governments. This language will allow areas owned by State and local governments that are used for park, wildlife, or recreation purposes to be protected from condemnation, and require FERC to conduct a public hearing in affected areas, as well as allow for special consideration in the FERC hearing process.

The provision on whistleblower protection is also of importance to eastern Connecticut, an area with four nuclear powerplants. Increased protection will now be available to employees at nuclear powerplants and DOE contractor facilities. Furthermore, health and safety risks raised by employees will now be investigated independent of the Department of Labor's investigation and resolution of a potential worker's discrimination case.

Mr. MOORHEAD. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I rise in support of the conference report for H.R. 776, the Comprehensive Energy Policy Act.

As a representative from Houston, the energy capital of the world, I am pleased to be able to support this bill. The need for a comprehensive energy policy is long overdue. I could cite statistics all day that show the dire condition of our Nation's energy industry. However, due to the shortness of time, I will just relate a few, very telling, numbers.

In the last decade, the U.S. energy industry has lost over 450,000 employees. In the last year alone, the industry lost 50,000 jobs.

Foreign exploration and development expenditures for 18 U.S. companies have increased from 20 percent in 1985 to 60 percent in 1990.

From 1987–91, our foreign energy dependence increased from 27 percent to 46 percent of our total energy needs.

The United States spends about $120 billion a day to buy imported oil. It is the single largest component of the Nation's trade deficit. In 1991, it was nearly one-half of the total trade deficit.

When the House passed its version of H.R. 776 I was unable to support the bill because, not only was the bill lacking in production incentives, it also contained numerous provisions that were very harmful to current production. Fortunately, many of those provisions such as restrictions on natural gas prorationing, Outer Continental Shelf moratoria, and alternative fuel fleet requirements for fuel providers, were dropped or amended during conference.

I am very pleased that the bill contains the following: provisions that will promote energy efficiency in many sectors; incentives for increasing the use of alternative fuels in many different types of fleets; incentives for increased use of natural gas; alternative minimum tax relief for independent producers of domestic energy resources; nuclear licensing reform; oil pipeline regulatory reform; incentives for the development and use of renewable fuels; establishment of research and development programs for many energy technologies; and onshore oil and gas leasing reform.

Unfortunately, today, we are not opening the Arctic National Wildlife Reserve—because of Canadian caribou.

I am also very pleased that the Ways and Means conferees persuaded their Senate colleagues to drop a very objectionable provision contained in the tax section of the bill. This provision would have removed tax-exempt bonds issued to finance Government-owned, high-speed intercity rail facilities from the Federal cap on the volume of State bonds. Had this been left in the bill, it could have allowed the Texas high-speed rail project to find a loophole to receive public financing.

Texas TGV, the franchise holder for the rail project, pledged in the beginning that they would only use private funds to finance the project. They have run into difficulty raising those funds and have voiced a desire to see this exemption enacted so that they could find a way to get public money. There is no data showing that there is a need for this rail project. The Texans most affected by this proposed project, those who live along the projected route, are vehemently opposed to it, feeling it is both unnecessary and premature.

The deletion of this bond exemption from the energy bill is very important to many people in Texas and I am glad that Congress has closed this possible loophole for Texas TGV. In conclusion, I would like to reiterate my support for this conference report and, although I feel we still need more incentives to develop our domestic resources, I urge my colleagues to support this step in addressing the energy crisis in America.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maryland [Mr. McMILLEN], who was very active on the Subcommittee on Energy and Power of the Committee on Energy and Commerce.

Mr. McMILLEN of Maryland. I rise in support of the conference report for H.R. 776. As a member of the Energy and Power Subcommittee, I have worked closely on the electricity provision in H.R. 776 and am pleased with the compromise reached by the conference committee.

The conference report imposes a strict ban on federally mandated retail wheeling, and has safeguards against sham transactions.

This legislation preserves State authority over the construction of new transmission facilities and requires FERC to modify a wheeling order if a utility is unable to obtain a permit from the State or needed property rights.

As compared to the House bill, there is increased discretion for FERC to determine when wheeling should be mandated and the conference committee eliminated the House provision which would have required a utility to go open access because of a merger or market-based pricing situation.

The native load provisions in this legislation I believe are superior to the House bill. The House provisions were loosely modeled after the "NU" case. However, in subsequent FERC action, I believe that the "NU" three tier test has proven ineffective at truly protecting native load consumers and should not be the yardstick by which FERC makes pricing determinations.

The conference report permits recovery of all cost incurred in providing transmission services to a third party, including legitimate, verifiable economic costs, and enlargement of facilities costs.

These native load provisions are absolutely essential for protecting the interests of utility ratepayers. While the implementation of these provisions will be shaped by FERC, I believe that through this legislation we have made a clear mandate that H.R. 776 not be used as a mechanism for reallocating the wealth in a time of strained capacity, but rather as a means for preventing anticompetitive behavior.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I yield to the minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I want to compliment the gentleman from Illinois [Mr. HASTERT] on the thrust of what I know will be his statement, and associate myself with his remarks.

Mr. HASTERT. Mr. Speaker, I rise in support of the conference report for H.R. 776, The Comprehensive National Energy Policy Act.

I want to commend Chairmen JOHN DINGELL, SHARP, NORM LENT, and CARLOS MOORHEAD for the hard work that the Energy and Commerce Committee put into this visionary bill.

It should be noted that the impetus for this bill and much of its provisions came from the President's national energy strategy. I am also pleased to see that many of the provisions of H.R. 1543, sponsored by House Republicans, were included in this bill.

This bill reaches into every aspect of the way this country generates, distributes, uses, develops, and researches energy. It is a bill to guide our Nation's energy policy into the 21st century, stressing conservation and alternatives to our traditional energy and fuel sources.

I would like to comment on one aspect of this monumental bill, which provides for the off-site disposal of thorium mill tailings stored in the center of West Chicago, IL, a city in my district.

Thorium mill tailings, like uranium mill tailings, are the byproduct of the extraction of thorium from mined ore. The West Chicago Rare Earth Facility was operated from 1931 to 1973 when the present owner, Kerr-McGee Chemical Corp., ceased activities. The primary activity at the facility has been associated with the processing of ores containing radioactive thorium, radium uranium, rare earths, and heavy metals such as lead. The site is characterized by large piles of thorium mill tailings. In addition, radioactive waste materials are now located in the residential community adjacent to the site.

About 71 percent of the approximately 550,000 tons of waste to be disposed of from site operations were generated pursuant to Federal contracts. Cost sharing between the site owner and the Federal Government, the primary customer of this product, provides an equitable approach to financing the reclamation of this site. The justifications for a Federal contribution to the thorium site cleanup are identical to those for uranium mill tailings—namely, that the Federal Government intended to pay costs associated with the production of materials for Federal programs.

The legislation provides for a Federal contribution of up to $40 million for the removal of the thorium mill tailings from West Chicago.

This bill represents a step toward the eventual disposal of the thorium in a manner that is more protective of human health and safety.

This effort could not have been done without the persistence of many. I would like to thank Chairman SHARP for his early understanding of the importance of this issue and working tirelessly toward its resolution. Let me also thank JAY RHODES for his assistance on the Interior Committee in keeping this proposal on track as it left the Energy and Commerce Committee and throughout conference.

Mr. MICHEL. Mr. Speaker, at long last, Congress is finally ready, I hope, to complete final action on an energy bill.

Well over a year and a half ago, President Bush submitted his national energy strategy proposal.

He developed this plan, not because the public demanded it, but because our Nation's future requires action.

As a nation, we are becoming increasingly dependent on foreign sources for our energy needs.

We are subjecting ourselves to all the dangers that dependence embodies, including the cutoff of supplies and skyrocketing prices.

The national energy strategy submitted by the President was designed to substantially reduce that dependence.

It did so through a balanced approach that stressed conservation, the development of renewable sources of energy, and the increased production of our Nation's fossil fuels.

I am pleased to see that this conference report provides most, though not all, of these necessary reforms.

It includes provisions designed to: increase energy efficiency; streamline nuclear plant licensing; promote competition in the generation of electricity; stimulate the development of renewable energy; promote the development of clean coal technologies; and to require the increased use of alternative fuels.

For those of us who believe that ethanol represents a truly American solution to our energy problem, the conference report contains a number of provisions designed to encourage the greater use of ethanol.

Expansion of the ethanol tax credit to cover less than 10-percent blends will help to make a greater number of gasoline blends derived from ethanol more competitive.

The President recommended adoption of this provision as part of his ethanol action program announced last week.

The alternative fuel section of the conference report establishes a nationwide goal calling for 10 percent of our motor transportation fuels to be derived from nonpetroleum sources by the year 2000 and 30 percent by the year 2010.

These provisions have the potential for expanding the use of ethanol by several fold.

This will benefit our Nation's farmers and encourage expansion of our domestic ethanol industry.

The final version of the bill falls somewhat short as far as stimulating increased production of oil and gas is concerned, but it is considerably better than the original House bill.

Overall, this is a good conference agreement that substantially carries out the President's energy strategy, and I urge its adoption.

□ 1630

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I am sure that many of our colleagues know that there simply was no member of our committee that was more attentive to hearings, more attentive to markup sessions and the issues than the gentleman from Illinois, and I think he deserves a great deal of credit.

Mr. HASTERT. I thank the gentleman from Indiana.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, when we talk about energy security we talk about the stability of sources of energy that will continue to provide jobs in this country and maintain our standard of living. I regret this bill fails in doing a major job in that regard, which the country I believe desperately needs.

Alternative fuels and conservation can only do a small part of that job. If we are to maintain the standard of living on an increasing basis, we must depend continuously over the next generation for additional supplies of hydrocarbon fuel. Otherwise we become even more and more dependent on what may become an uncertain source of foreign oil.

But there is good in this bill, and there is particularly help on the way for the struggling energy industry in the amendment that is introduced and that passed in the Ways and Means Committee and on the floor of the House to reduce the negative impact of the minimum tax on intangible drillers, as well as taking the minimum tax away from the depletion allowance, which is also a negative. For nearly a decade, the domestic energy industry has struggled merely to survive. Countless businesses have failed, and the infrastructure is sorely maimed, as mentioned by my friend earlier, the gentleman from Texas [Mr. FIELDS].

In the midst of this, the alternative minimum tax has stifled domestic oil and gas exploration and driven those activities overseas. That in turn has rendered us more susceptible to the vagaries of international conflict in guarding our energy security

The AMT provisions in H.R. 776 will help ease those concerns by freeing our domestic independents to seek and develop additional reserves here at home.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. BRUCE], a member of the Committee on Energy and Commerce who will be leaving us this year, but who has made many, many contributions to our committee activities.

Mr. BRUCE. Mr. Speaker, I would first like to thank all the committees that have worked so hard to make this vital legislation possible. I particularly commend the chairmen of my committee and subcommittee, Mr. DINGELL and Mr. SHARP as well as the ranking minority members, Mssrs. LENT and MOORHEAD for their efforts in crafting this excellent legislation. I would also like to thank the staff of the Energy and Commerce Committee and the staff of the Energy Subcommittee for their tireless work on this bill.

For the first time in the history of this country we have the opportunity to pass legislation that would finally break our addiction to foreign energy sources. We all felt the effects of our oil dependency in the 1970's when we had to stand in line for gasoline. We felt it again in 1990 when oil prices doubled as a result of the Persian Gulf war. The national energy strategy will allow our economy to function independently of threats to our external energy sources.

Specifically, the bill takes many measures to encourage the use of alternative fuels including ethanol, and methanol. One of the problems experienced in the alternative fuels market has been a lack of demand due to uncertainty about the future of alternative fuels. This bill would create a market for these fuels by requiring Federal, State and some private fleets buy increasing levels of alternatively fueled vehicles. In addition to these requirements, the bill also encourages research in, and development of, alternative fuels. Ethanol in particular has been treated unfairly in the past and I think it is extremely important that we have demonstrated Congress' support of this important fuel.

Another significant measure taken by this bill is to increase competition in the electricity market. Increased competition in the wholesale electricity market will mean lower prices for consumers and industrial users alike. Although I was concerned that certain provisions in the House bill would result in unfair costs to utilities and their customers, I am glad to see that the conferees have eliminated this problem from the bill.

This legislation also secures our energy security by promoting our most abundant source of energy: Coal. In order to maximize the use of coal in this country, the clean coal technology program has been extended for another two rounds. In addition, this legislation encourages the export of clean coal technologies to developing nations. Not only will this be good for the environment, this will expand our foreign markets for coal and provide our coal producers with tremendous export opportunities. I worked hard to include these provisions in the House language and am pleased to see them included in the final bill.

Establishing a Government-owned corporation to take over the Energy Department's uranium enrichment program is also part of this legislation. The corporation will also have exclusive rights to commercialize a new enrichment technology called AVLIS. The goal of the corporation is to resurrect the crucial process of uranium enrichment and eventually privatize the industry.

If we want to make any progress toward energy self-reliance, we must pass the national energy strategy before us today. This is landmark legislation that will take us into the 21st century with a secure grip on our energy security. I urge a "yes" vote on this bill.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I would like to suggest that on this bill, especially the gentleman from Michigan, [Mr. DINGELL], chairman of the committee, has done an excellent job. Even so, I am not happy with the legislation because I do not believe it has the provisions that I think are important to make a good energy bill.

The Alaska National Wildlife Range, a small body of land that has 39 million barrels of oil, is not in this legislation. It is not the fault of the House. I believe it is the fault of the Senate. They removed it when they should not have. But that is the way things happen. Hopefully we can come back next year and provide the Nation with that needed oil without any environmental damage, and I am confident we can do that.

There is no buy back in here on the Bristol Bay area which we in Alaska are very interested in. It is offshore and in the sale of 1992, and that is the largest fishery in the United States. It provides millions and billions of dollars, and yet there is a potential of harm there. It should be in the legislation. It is not. We will have to address that next year.

There is one small Alaskan provision that I do strongly support, and that again does not produce any energy, but it expedites the process of three hydrosites. Chairman DINGELL and his staff worked very hard to see that we could have that achieved.

I would say the nuclear part is not really that bad, but the next part that really affects BARBARA VUCANOVICH's area is bad, and unfortunately we lost that, and that is another battle.

But the biggest harm in this whole bill, if there is any harm in it at all, is it does not really produce any new energy whatsoever. What we have done is just sort of spread it around through conservation, and housing standards, and water standards, and all of these things.

We can conserve, and that is well and good if we did not have an increase in population, and in fact it would work. But if you look at what has happened in our country, we must produce more energy, we must have more hydrocarbons, we must have more energy produced, and this body and this House has not passed any new energy legislation since 1973. That was the Alaska pipeline. From that time on we have passed legislation to conserve, but not to produce, and I think it is time we start producing energy, and I hope we can address that next year.

Mr. Speaker, the Senate version of the national energy bill contained three site specific exemptions from jurisdiction of the Federal Energy Regulatory Commission in Alaska. These exemptions covered three small hydroelectric projects in three separate and isolated parts of Alaska.

These exemptions were adopted by the Senate based on testimony from the Department and the Federal Energy Regulatory Commission that the purpose of FERC jurisdiction is to ensure that projects which have an effect on interstate commerce are regulated and integrated into interstate systems of power distributions. This regulation and integration is accomplished primarily through interstate power grids and distribution systems.

In fact, the Department of Energy and FERC testified in favor of a complete exemption from FERC jurisdiction for any project which generates power of 5 megawatts or less. Based on that testimony, the Senate adopted these three exemptions for the Alaska projects at the request of Senator MURKOWSKI.

In the conference committee, a compromise provision, section 2407, was adopted. FERC jurisdiction is retained, but the committee granted authority to FERC to grant exemptions for these three projects. This exemption authority requires FERC to act within 6 months on an application for exemption. The application must be for a project which generates no more than 5 megawatts of installed capacity and may include terms and conditions which FERC finds necessary to protect fish and wildlife values following consultation with specifically named fish and wildlife management agencies.

Mr. Speaker, I want to personally thank the distinguished chairman of the House Energy and Commerce Committee, Mr. DINGELL. It was with his help and agreement that this special provision was adopted. He understood the special nature of these three projects and worked with me to come up with this solution. I believe that this provision will ensure that these three projects will receive the expedited consideration that they deserve.

Let me briefly describe the projects and the need and justification for the special consideration provided under this section.

Project EL88-25.001, located near Nondalton, AK, is a small run-of-the-river hydroelectric project proposing to be developed by the local rural electric cooperative. Iliama-Nondalton-Newhalen Electric Cooperative, Inc. [INNEC]. INNEC has been attempting to develop this project for many years. Section 2407 would provide for a reconsideration of the Federal Energy Regulatory Commission's decision that the Tazimina River was navigable and that a license was required. In the event, if upon reconsideration, it is still determined that a license is required, an expedited procedure for authorizing this project is required. FERC is to set on the Tazimina project within 6 months after an exemption application is made.

This project is on lands owned by Iliamna Natives, Ltd. [INL], with the subsurface estate belonging to Bristol Bay Native Corporation [BBNC]. These lands were conveyed to INL and BBNC pursuant to the provisions of the Alaska Native Claims Settlement Act. The Federal Government had previously classified the subject lands as suitable for power development, and the respective native corporations selected these lands specifically for their power potential.

Section 2407 would allow for this project to be developed in an expedited manner. The project is located entirely upon private lands immediately within the boundaries of the Lake Clark National Preserve. There will be no direct impact to National Park Service lands or resources.

Allowing this project to proceed will provide residents of the native villages of Iliamna, Newhalen, and Nondalton with a long lasting efficient and clean source of electricity. The project will allow the electric cooperative to reduce its dependence upon diesel fuel, on which INNEC is now completely reliant. Allowing this project to proceed will reduce potential negative environmental impacts associated with the transportation and use of expensive diesel fuel in this remote area of Alaska. Moreover, because the Tazimina project will rely on the river's natural stream flow to produce electricity, a dam will not even be needed.

Preliminary Permit No. 10681-000 located at Juneau, AK. This project is an application for ancillary hydroelectric facilities to be constructed with a dam which will be built for another purpose, the creation of a tailings dam pond. The actual impoundment will be built with or without the hydro facilities. That impoundment will be approved as part of the ongoing NEPA EIS process which governs the opening of a mine at Juneau known as the Alaska/Juneau mine. The EIS for mine construction including the dam itself has been prepared by BLM.

The vagaries of FERC law and procedure prevented the consolidation of the EIS and a FERC licensing procedure. FERC requires a separate procedure, a second EIS for all practical purposes for the hydrolicense. This is the case even as in this case where the actual facilities are very minor compared to the dam's actual construction.

In this case, the only facilities which must be built are the actual power facilities and tailrace which empties into Gastineau Channel which provides the basis for jurisdiction. All dams in southeast Alaska are under FERC jurisdiction because all streams with hydro potential flow into the ocean.

This exemption application process will prevent a second multiyear permitting process conducted by FERC particularly since all of the same resource and fish and wildlife agencies are consulting agencies as part of the mine and dam construction EIS.

The application for exemption will only deal with the addition of a powerhouse and tailrace in place of energy dissipators which will be built if the exemption is not granted. The granting of the exemption would permit the 4.9 megawatts of power this facility can generate to be utilized for powering the mine and for auxiliary power for the city and borough of Juneau. This is far preferable to the use of diesel fuel which will be utilized otherwise. The only result of the failure to grant the exemption will be the use of fossil fuels in an environment in which a dam has already been constructed by the mine for the tailings pond.

The State of Alaska favors the granting of an exemption. So does the city of Juneau. As I stated earlier, the DOE and FERC testified in favor of a general small hydroelectric exemption of 5 megawatts or less at the hearing on this matter before the Energy Committee earlier this year. The size of the hydroproject will be 4.9 megawatts which makes it a small hydroproject under FERC definitions. The safety and regulation of the project is covered by the State's Alaska Energy Authority which has safety and regulatory authority in place.

Let me also draw the attention of this body to the current EIS process which has been performed on the mine construction. The Bureau of Land Management has conducted a multiyear, exhaustive preparation of an EIS under the National Environmental Policy Act. That EIS has just recently been completed. The EIS covered all aspects of the mine and dam construction and paid particular attention to the environmental aspects of dam construction. The Fish and Wildlife Service, National Marine Fisheries Service, and State of Alaska Department of Fish and Game were all consulting agencies in this EIS and their concerns and suggestions were incorporated into the EIS. This recent EIS should eliminate the need for any further EIS and should provide further justification for the granting of an exemption.

Application No. UL89-08-000, this project is an application of a renovation of an existing project at Indian River in Sitka, AK. The existing dam is owned and operated by Sheldon Jackson College, founded in the early 1900's by Presbyterian missionary and Alaska pioneer Sheldon Jackson to provide education for Alaska's Native population. The university still serves this purpose as Eskimos, Aleuts, and Indians from throughout Alaska attend Sheldon Jackson College every year.

The project for which the exemption may be applied is a renovation and reconstruction of an existing project which predates the passage of the Federal Power Act. FERC bases its jurisdiction over this project on its current definition of navigability of waters which flow into the Pacific Ocean.

This finding of navigability and requirement that a full fledged license be sought all but kills the renovation project because Sheldon Jackson College simply cannot afford to finance the expensive process of such an application. This exemption process gives new life to this process, and it is clear that the committee intends that the exemption be granted to Sheldon Jackson so that this project can proceed.

Mr. SHARP. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. DINGELL], chairman of the full committee, without whose work on this, as everyone knows, simply would not have been possible. He is an extraordinary leader of our committee, an extraordinary champion of the House in dealing with the Senate, and I think everybody can be proud of the extraordinary work he did on this legislation.

□ 1640

Mr. DINGELL. Mr. Speaker, well over a year before Iraq invaded Kuwait, the event that once again focused our attention on our vulnerability to disruptions in supply of energy, I had warned that we were once again becoming dangerously dependent on Middle Eastern oil. In the last few years of the 1980's, domestic production declined steeply. The share of oil we imported approached the levels of the 1970's. Our efforts to conserve, and to develop other sources of energy, had stalled.

One of the more difficult tasks the Congress has tackled in the last few decades has been energy policy. I remember only too well the energy policy debates of the 1970's, the difficulty we had in balancing the interests of different regions, different industries, and different interests—be they the interests of consumers, small business, labor, farmers, or others.

The writing of H.R. 776, the Energy Policy Act of 1992, has been no less difficult. But in the end, we have produced a good product, one which the Congress and the House can be proud of, and I rise to urge adoption of the conference report.

Mr. Speaker, early last week, I was not optimistic that we could reach agreement on this legislation. As late as Wednesday, more than 17 major issues were still unresolved. But the conferees, in a marathon session lasting past midnight, reached agreement on all of these difficult issues, and they did so with great cooperation and in good humor.

In large part, that is thanks to Subcommittee Chairman PHIL SHARP and the ranking minority member of the subcommittee, CARLOS MOORHEAD, who tirelessly guided this legislation through a difficult path in the subcommittee, the committee, the House, and in conference. Without their expertise, good sense, and understanding we would not be here today.

I also want to express my great appreciation to NORM LENT, the ranking minority member of this committee, and all of the members of the Energy and Commerce Committee who have worked hard in the development of this legislation.

In addition, I want to commend the chairmen and ranking members of the dozen House committees who were conferees on this legislation. Each of the committees were extremely cooperative in helping to fashion this legislation in a timely manner. I have nothing but respect and appreciation for the efforts of these members, their committee colleagues, and their staff. I want to particularly commend Chairman BROWN, Chairman MILLER, Chairman ROE, Chairman CONYERS, Chairman FORD, Chairman FASCELL, our late departed colleague Chairman Jones, and his successor, Acting Chairman STUDDS. Each has been particularly helpful, especially in recognizing our difficult time constraints and in seeking to resolve even more difficult and important issues. In short, a cumbersome and often criticized process worked because each of these gentlemen and the other House conferees wanted it to work and agreed that the public interest required it.

I want also to commend the chairman of the conference, Senator JOHNSTON, and the other Senate members. Senator JOHNSTON is an old friend, and a good and fair chairman. He is an effective and strong negotiator. The House met its match. In this legislation, we all did well. The country will benefit, and I urge the passage of the conference report.

I won't take much time in trying to explain the legislation because I would rather defer to the chairman and ranking minority member of the Energy and Power Subcommittee, Mr. SHARP and Mr. MOORHEAD. However, I think it is safe to say that this is the most comprehensive energy efficiency bill ever considered by the Congress.

Mr. Speaker, there are a number of specific portions of the legislation which I believe deserve some comment.

EFFICIENCY

Physically, approximately one-fifth of this bill is devoted to measures which will increase our Nation's ability and inclination to conserve energy. The bill makes great strides in creating a more efficient national infrastructure within the public and private sectors by encouraging least cost planning and more energy efficient buildings. It will also increase the availability and use of conservation technology such as lightbulbs and showerheads to the general public.

ELECTRICITY REFORM

I am pleased to report that the conferees adopted an electricity title as part of the conference report. It is the result of long hours of thought and work on the part of many and is a product of which we can all be proud. It carefully strikes a balance between the concerns of many who are affected by its provisions, namely consumers, ratepayers, municipals, industrials, utility companies, and State and Federal regulators.

As my colleagues know, I have come to the idea of reform to the Public Utility Holding Company Act [PUHCA] slowly. My father was an author of the original act in 1935 and much of the impetus for its creation was the existence of questionable and unfair business practices in the industry. The need to construct careful consumer protection at that time was paramount.

The need for proper consumer protection in 1992 is still paramount. I have said throughout this process that if Congress is to now reform PUHCA to bring the electric utility industry into the 1990's then we must bring consumer protection into the 1990's as well.

I feel that the bill we have before us does that and does that well. I have specific concerns about self-dealing.

The bill as written bans affiliate transactions unless there is an affirmative decision by the State before the transaction occurs that five conditions are met. The determination must find that the transaction will benefit consumers, is in the public interest and does not violate state law. The State must also find that an affiliated exempt wholesale generator [EWG] would not be receiving an unfair competitive advantage from its parent company and that the State has sufficient access to the books and records of the relevant company and its affiliate.

The legislation also includes a provision which will allow our domestic electric companies to take advantage of new opportunities to compete internationally by investing in utility projects abroad. The provision includes protective firewalls in the form of determinations by the State and the Securities and Exchange Commission [SEC] that the foreign investments will not put the ratepayers' investments at risk. In addition, the conference agreement gives States a role in determining whether these transactions should go forward.

Ultimately, as a result of this provision we should see a more competitive industry, lower costs and reliable service to electricity customers.

However, I want to caution all that our committee will be watching carefully over the implementation of this title.

ADDITIONAL FEDERAL POWER ACT PROVISIONS

Mr. Speaker, the legislation includes four extensions of time under section 13 of the Federal Power Act for licensees to commence construction. These extensions are similar to the types that have been granted in action by our committee on previous occasions, including those under the Intermodal Transportation Efficiency Act of 1991. The act requires that the licensee prosecute such construction in good faith and with due diligence.

In a February 21, 1992, letter, the Federal Energy Regulatory Commission [FERC] indicated that the FERC staff finds that there is an increasing number of licensees that have failed to commence construction within the 4-year period permitted under section 13. The letter indicated that this failure is "usually ascribed to difficulties in financing the project." FERC staff suggested that it may be appropriate to increase the period in the law from 2 years to 6 years in light of the "apparent need for more time to obtain project financing."

This approach was not a part of either the House or Senate bill. It is an issue, however, that our committee raised several years ago in correspondence with FERC. At that time, former Chairman Hesse declined to support such a recommendation. The FERC staff analysis during that time showed that during the 10-year period from 1980 through 1989, 50 percent of the licensed projects failed to commence construction within the initial 2-year period allowed them under the law and 85 percent of that group requested an extension of time pursuant to section 13. FERC also said that 90 percent of those requests were granted in whole or in part, while 15 percent of those obtaining an extension failed to commence construction, and 7 percent were denied an extension or voluntarily surrendered their license. Thus FERC said a change in the law was not required.

In its recent letter, FERC provided an updated analysis as follows:

> 2. Updated Analysis. Staff has reviewed Commission data to update the 1989 analysis. Table 1 attached to this enclosure analyzes licenses issued between fiscal years 1980 through 1987, whose 4-year, maximum commencement of construction period has expired. A review of Table 1 shows that, of the 452 licenses issued between fiscal years 1980 through 1987, 58 percent (55 percent in 1989) of the subject projects failed to start construction by the initial two-year deadline; 82 percent (85 percent in 1989) of those projects involved a request to extend the deadline by the additional two years permitted under Section 13; 92 percent (98 percent in 1989) of those requests were granted in whole or in part; and 51 percent (15 percent in 1989) of those projects failed to start construction by the extended deadline. The foregoing updated data are comparable to the 1989 data, with the exception of the final category of projects, those that received an extension, but failed to commence construction by the extended deadline. This category of projects increased from 15 percent (38 of the 255 projects granted extensions) in the 1989 analysis to 51 percent (102 of the 199 projects granted extensions) in the updated analysis. However, the 1989 study analyzed licenses issued in the 10-year period ending in 1989, and therefore included projects whose four-year commencement of construction period had not passed.

Following this analysis the FERC staff said:

> This history of case-by-case legislation makes recommending generic legislation to replace it problematic. Staff's 1989 suggested amendment of Section 13 to authorize an additional 2-year period would appear to be inadequate to avoid most special legislation. Authorizing an additional four years would be more in line with the past case-by-case legislative extensions, but it would double the maximum period currently permitted by Section 13, and would therefore appear to undercut the policies underlying section 13, to require prompt development of hydro resources and to prevent "site banking," i.e., delaying development until a need for the project's power materializes. This dilution of policy could be particularly costly, since the amendment to authorize additional extensions of the commencement of construction period would apply to all projects, while, as noted, an extension of the current four-year period would appear to be unnecessary for over 90 percent of the licensed projects.
>
> Moreover, extending the commencement of construction period for a project does not guarantee that it will be developed. For example, the Jennings Randolph Project, which, as noted, was the subject of a two-year legislative extension of the commencement of construction period, was not built, and the license was ultimately surrendered.
>
> Yet, in view of the increasing number of licensed projects for which construction is not started within the four-year period currently permitted, and the potentially corresponding increase in the number of requests for special legislation to extend the start of construction period, Congress may wish to amend section 13 to permit an additional two years, for a total of six years, to commence construction. This proposal would avoid at least some requests for special legislation, and would reflect the increasingly complex project financing processes, while still requiring projects to be commenced within a time certain, as contemplated by section 13 of the FPA.

As I indicated this was not a matter for consideration in the conference; thus, it was not possible to address it at this time. Our committee, however, believes it is an important issue and we want to learn more. We are concerned about the apparent proliferation of statutory extensions, the lack of information from FERC, and the problem of site banking. That is why the bill requires a report by FERC about what happened regarding the extensions in the bill and other extensions previously granted by statute. We expect that report to be thorough.

SECTION 21 OF THE FEDERAL POWER ACT

The provisions of the conference report include amendments to section 21 of the Federal Power Act regarding condemnation of land related to a licensed project where the licensee is unable to acquire by contract or pledge the property. This issue arose from a situation that occurred in Norwich, CT, that was brought to the attention of this committee by Representative SAM GEJDENSON of Connecticut. In correspondence with FERC, our committee was surprised to learn that FERC paid no attention to this provision and had no real knowledge about the extent to which the provision was used. That is troubling. We think it is important for FERC to be better informed. It is relevant to any licensing procedure.

As our colleagues know, when the House passed H.R. 776 we included provisions amending section 21 at the urging of Representative GEJDENSON. The action of the conferees is to adopt a modified version of the House provision which we think is an improvement over the House provision. It will require greater FERC involvement in these condemnation matters.

FISHWAYS

Mr. Speaker, while I am aware that there has been a long dispute between the executive branch agencies of the Interior and Commerce Departments and FERC over the provisions of section 18 of the Federal Power Act, it was not the intention of our committee to resolve that dispute as part of this legislation. Indeed, until the matter was considered in the full committee, we had not intended to include any provision regarding this issue in H.R. 776. However, FERC forced our hand.

First, the agency promulgated a rule after 70 years interpreting the term "fishway." The rule was an absurdity because it only dealt with fish movement in one direction. It did not recognize that fish travel up and down stream. As a result of the FERC action, there was an uproar and FERC had to revisit the issue last November in Order-533A. However, that order is also defective. It again presumed to limit the scope of the section 18 fishway prescription by administrative action at FERC.

As noted by the Commerce Department, the effective operation of a fishway is invariably dependant upon flow conditions outside of the actual physical structure. For example, flow conditions within the structure are dependant upon flow conditions upstream and effective guidance of fish into the fishway is dependant upon flows downstream of the structure. In the past, FERC has interfered with the expertise of the fishery agencies and tried to impose its own will on how and what a fishway should be composed of. FERC has tried to distinguish between the fishway facilities proper and other project facilities. FERC tries to distinguish between hydraulic and physical conditions within the upstream and downstream of the project and other factors. Clearly, for a fishway to work, all of these factors must be compatible and function effectively.

In a July 21, 1992, letter to the committee, the Commerce Department [DOC] discussed this issue as follows:

> This issue arises where an applicant seeks (1) a new license upon the expiration of an original license, (2) an original license for an existing unlicensed hydropower project, and (3) an original license for a new hydropower project proposing to incorporate existing structures such as diversion dams for irrigation or municipal water supply projects.
>
> DOC believes that an applicant is responsible for mitigating the impacts of its project on fishery resources. A baseline determination is necessary to measure those impacts. As with a new project, the baseline from which project impacts are measured for the types of projects listed above, is the carrying capacity of the relevant fishery habitat without the project. After formulating this baseline determination for a project, the resource agency determines the level of project impact that must be mitigated as a condition of the particular license under consideration. Thus, the level of mitigation required varies on a case-by-case basis.
>
> FERC considers that the existing environmental conditions of a project are the baseline upon which to judge the need for mitigation, regardless of whether the project has ever been licensed or not. For example, in the EA for the existing, unlicensed Yelm Project, FERC described the no-action alternative thus:
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> "No action, denial of a licensee, would keep [the applicant] from producing electrical power at the site. Under the no-action alternative, the project would continue to operate until another entity takes the facility over for non-power use. No changes to the environment would occur with continued operation of the project."
>
> We understand FERC's position to be that mitigation must only be viewed in the context of the existing fish and wildlife resources as they may be limited by the continued operation of the existing project, and not the potential fish and wildlife resources that could occur if project operation was significantly modified. In FERC Order 513, FERC stated:
>
> "Enhancement may in many cases constitute a reduction of the negative impacts attributable to the project since its construction. However, this evaluation and consideration of the appropriateness of requiring enhancement measures is done in the context of today's environment and in relation to today's needs and problems, not in the context of the world as it existed 50 years ago."
>
> Such a position places fish and wildlife mitigation and enhancement on an uneven footing with other aspects of hydropower production. For example, at the time the project owner submitted a license application for the Cushman Project (FERC No. 460), water flow downstream of the project was only 3 cfs. The rest of the 502.5 cfs mean annual flow was diverted out of the watershed for power generation purposes. Under FERC policy, mitigation and enhancement measures for the benefit of the limited fish resources still present after decimation by the flow regime and presence of the dams, must be weighed against the power benefits accruing from the operational regime that decimated the runs.
>
> FERC's baseline policy affects the information that project applicants provide. In a November 1, 1988, memorandum to the agencies, the City of Centralia contended that FERC regulations only required the City to submit a license application that is "commensurate with the scope of the proposed project." In this instance, with the "proposed project" consisted of the continued operation of the existing, unlicensed Yelm Project (FERC No. 10703). The City stated its position was "consistent with guidance received from the FERC Staff."

The committee's action regarding this matter and the final conference agreement are all designed to return the situation back to where it was prior to FERC's unfortunate embarking on this adventure of attempting to define the term "fishway."

I point out that the fishery agencies believe that Congress intended that they—not FERC—have the authority to decide when and under what conditions fishways should be a part of a license, assuming FERC decides to issue the license. Indeed, they cite precedent. They raise the test "is it absolutely necessary in order to accomplish safe and timely movement of fish past the site" to prescribe a fishway and as part of the test they convinced the FERC that screens were part of a fishway because they were necessary to guide fish to the downstream fish passage facility at the precedent setting Scottsmill project in Virginia.

In addition, a November 7, 1991, letter from the Commerce Department states:

> NOAA fishway prescriptions can typically include stream flows, project shutdown periods, and other non-structural measures needed to ensure protection of migrating anadromous fishes at hydropower projects. For example, at the White River Falls Project in Oregon (FERC No. 7270), NOAA prescribed flows over a water fall at the project location under section 18, where lower flows could result in 28 percent mortality to juvenile salmon. Athough FERC disagrees with this prescription, we eventually reached a formal settlement with the applicant, which is now awaiting Commission approval.
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> * * * * *
>
> The letter states that a broad fishway definition may lead to fishway prescriptions that could "* * * intrude into the Commission's balancing of all elements of the public interest with regard to the project, and may even consitute a de facto veto of a project." NMFS has no interest in vetoing hydropower projects. We do believe, as did Congress in enacting the Electric Consumer's Protection Act (ECPA), that obligations to protect natural resources, including compliance with fishway prescriptions, are potential costs of doing business for hydropower developers. ECPA dictates that such costs be supported by a prospective project. If a hydropower project is not economical with fishways for one applicant today, it may still be economical with fishways for another applicant or at some later date.
>
> Nothing in the FPA directs inclusion of DOI or DOC fishway prescriptions in the Commission's balancing process pursuant to section 10(a). The prescriptions are mandatory and not subject to balancing. FERC previously raised this unsuccessful argument with respect to mandatory conditions for Federal reservations under section 4(e) in the Supreme Court's Escondido case.

This is the situation prior to FERC's two orders defining fishways. It should apply with enactment of this conference agreement.

Plainly stated, the language of H.R. 776 vacates the absurd definition of FERC. It makes it clear that when a new definition is promulgated it must be done with the concurrence of the Secretaries of Commerce and Interior, in recognition of their statutory prescription authority under the Federal Power Act. In short, FERC can no longer unilaterally prescribe regulations.

Parenthetically, I should point out that it is somewhat disturbing that after so many years that the fishery agencies themselves have not prescribed regulations on their own initiative to give guidance to license applicants and others in utilizing this section of the law. If they had done so, perhaps this dispute would never have arisen.

GEOTHERMAL HEAT PUMPS

The conferees adopted this provision of the House bill with some modifications to reflect concerns expressed by the Association of Metropolitan Water Agencies in a September 10, 1992, letter to the Committee on Energy and Commerce. The letter states:

> The geothermal heat pumps, which would be installed in residences, transfer heat to water supply distribution systems by drawing water directly from the distribution line, passing it through a coil or other medium where heat is added to the water, and then returning the heated water to the distribution systems. The heated water returned to the distribution system is not subject to treatment and has the strong potential of adversely impacting the quality of water people connected to the system drink.

> Heat pumps which draw water from and return it to the distribution system cause problems in two specific areas: (1) areas associated with any connection to distribution systems such as cross connections and direct contamination problems, and (2) areas associated with the temperature changes caused by the waste heat. Because of these potential problems which can adversely impact public health the Uniform Plumbing Code and most other plumbing codes have never allowed such connections but rather require that potable water used for cooling systems be wasted through an air gap to a drainage system.
>
> Temperature changes in the distribution system and in the lines connecting it to a heat pump can impact the growth of microorganisms and the effectiveness of disinfectant residuals cause problems with compliance with the Total Coliform rule. Temperature changes can also impact the solubility of various elements or chemicals in water effecting both corrosion of materials and corrosion control efforts leading to problems with Lead and Copper rule compliance.

The changes are designed to ensure that public health is not adversely affected.

ELECTRIC VEHICLES

The bill includes new provisions to encourage development of electric motor vehicles. This technology differs significantly from current automotive internal combustion technology. Until a breakthrough occurs in the development of more efficient batteries, electric vehicles may compare unfavorably, to some extent, with internal combustion vehicles in terms of range, acceleration, ability to carry passengers and goods, comfort—including air conditioning and heat—and cost. The vehicle safety characteristics are changed by the replacement of the engine by the battery mass in the middle. Also, use of light weight, usually more expensive, materials introduces safety and cost considerations which are of concern to our committee and should be a concern to this industry and the National Highway Traffic Safety Administration [NHTSA].

The incentives in this bill for early users of this technology will be important to accomplish â smooth introduction into the contemplated numbers of electric vehicles that are hoped to be available in the future. It is my intent and that of all our conferees that this technology be developed in the best manner possible to address these unfavorable problems which are important. We expect the Secretary of Energy to work closely with NHTSA regarding the safety issue. Also, I do not believe that the American consumer will be quick to adopt this technology if we haven't addressed the comfort concerns that I have just mentioned.

I believe this is a good program and one that deserves careful attention and prompt development, but I also believe caution must be the watchword.

ALTERNATIVE FUELS AND ALTERNATIVE FUELED VEHICLES

When Congress enacted the Clean Air Act Amendments of 1990, we included a fleet program applicable to 22 urban areas with the opportunity for States to opt in in regard to other areas. In the development of that legislation, there was great concern that the program be fuel neutral and that we not impose mandates on the fuels industry or on the manufacturers of motor vehicles, and just as importantly that we recognize that fleets in this country serve a very important economic purpose. There are thousands of fleets, many of them are small, operating in one or two urban areas or regions, and many of them are quite large or national in scope, such as the United Parcel Service and Federal Express.

During the recent difficult period in which foreign manufacturers captured a significant portion of the U.S. motor vehicle auto market, the fleet operators have been one of the most faithful customers of the U.S. auto industry. One of the reasons for this is that the domestic auto industry is capable of producing vehicles with the variety in configurations which are required by fleet operators to maximize the functional effectiveness of their motor fleets. For example, the following is a table of 1991 model year purchases by fleets:

1991—MODEL YEAR PURCHASES BY FLEETS

Fleets purchased more than 10,000 automobiles in each of: 12 subcompact model lines, 15 compact model lines, 15 intermediate model lines, 7 standard model lines, and 5 luxury model lines.

Fleets purchased more than 10,000 light trucks/vans in each of: 7 class 1–3 truck model lines, 2 sport/utility model lines, and 5 van model lines.

Fleets purchased (including rental): 500,000+ subcompacts, 643,000+ compacts, 754,000+ intermediates, 205,000+ standards, 226,000+ luxury, 230,000+ class 1–3 trucks, 85,000 sport/utility, and 211,000 vans.

In an August 26, 1992, letter to the South Coast Air Quality Management District, the National Association of Fleet Administrators [NAFA], Inc. made the following important comments about fleet requirements:

> We agree that it would be very helpful to identify the characteristics of vehicle sizes, models and types which would be in greatest fleet demand as alternative fueled vehicles.
>
> Unfortunately, at this time there is no clear data on this topic. However, NAFA is very willing to assist and cooperate with vehicle manufacturers and others in an effort to obtain more accurate information which matches fleet needs with alternative-fueled vehicles. Vehicle selection for fleets is driven by two factors: utility of a vehicle for the organization's needs and financial considerations. NAFA's annual surveys indicate that selection of a vehicle typically includes such employer-related evaluations as: initial cost, job suitability, repair record, economy of operation, depreciation/resale value, serviceability, safety record, warranty program, order/delivery time, country where manufactured, company image/prestige, driver preference, administrative ease, insurance costs, and fringe benefit value.
>
> Fleets are extremely diverse. Vehicles may be needed to transport executives in a suitable manner, carry sales personnel with samples or displays, facilitate repair personnel with parts and equipment, deliver products or packages, serve law enforcement needs, install telephone or cable television service, provide taxi-type services . . . and much more. As a result, each well-managed fleet spends great effort selecting a vehicle or vehicles which most closely match the essential utility needs of the employer. We have enclosed a copy of the mid-year 1992 model year analysis of fleet vehicle acquisitions as an indication of the variety of models, sizes, and manufacturers chosen by fleets in the "real world" this year. As you will note, in the current year, fleets are ordering 105 different car models and 43 different light truck models; in the first six months of the 1992 model year, fleets ordered more than 10,000 cars of some 36 car models. In light of such diversity, it is clear that no single vehicle or small group of vehicles is likely to meet the needs of all fleets.
>
> The attractiveness of any alternative-fueled vehicle to a given fleet will first hinge on the same list of factors which are used for acquiring any vehicle—including reliability, utility, driver satisfaction, resale value, etc. For some fuels, a vehicle which met these standards in the past may not be suitable with an alternative fuel. For example, if propane or CNG require that the cargo space be compromised beyond utility needs, only a larger vehicle would be suitable. Once a potential vehicle has met those usual standards, it will then be evaluated for fuel-related factors, such as availability of alternative fuels across the area where the vehicle travels, cost of new-fueled vehicle, cost of fuel, range of the vehicle, impact on maintenance, etc.
>
> Because so many factors must be evaluated by a fleet before the suitability of an alternative-fuel vehicle can be determined, we know of no source which can indicate which models and fuels will meet the needs of a great majority of fleets. The challenge is especially great because California fleet needs may be different than national averages. In an effort to develop accurate, independent research in this area, NAFA offered several years ago to work with the California Energy Commission to conduct the first-ever, really detailed analysis of SCAQMD-area fleet needs. Although the study would have included fleets managed by NAFA Members, it would have also included fleets which do not participate in the Association, such as taxi fleets and those with a small number of vehicles. In cooperation with the CEC staff, we proposed a study which would have surveyed a wide range of fleets on a complex list of needs and factors, with follow-up in-person analysis with a representative sample of fleets to assure reliability of data. Ultimately, the CEC determined that their limited funds were required for higher-priority projects than this study, and it was shelved. To the best of our knowledge, no organization or agency has made the substantial effort needed to acquire accurate data on real-world fleet needs for alternative-fueled vehicles.
>
> Ultimately, it appears, vehicle manufacturers will have to accept the challenge of determining which specific sizes, types and models of vehicles will appeal to fleets. Fortunately, the manufacturers which concentrate on fleet sales already know a lot about the needs of their own fleet customers for current gasoline and diesel vehicles. But even the manufacturers will have to do substantial market research to determine how all the changes required for alternative fuels will impact fleet demand.

The introduction of a large number of alternative fuel vehicles by the automakers, as proposed in this legislation and the Clean Air Act, will be one of the most massive technological changeovers that has ever occurred in this industry. This changeover is intended to occur with society operating as usual in the pursuit of business and social objectives, with minimal dislocation of domestic business activity.

Even though some of the technology is probably not radically different than existing internal combustion engine technology, there are enough differences to make a smooth changeover problematic. Just to give an example of some of the concerns. In defining the term "alternative fuel" in the Clean Air Act, Congress in referring to various fuels said that it includes "mixtures containing 85 percent or more by volume of methanol, ethanol, and other alcohols with gas or other fuels." Subsequently, it has been learned that mixtures of alcohol and gasoline in cold weather can have cold start problems and even safety problems if volatility is not carefully controlled. The latest data indicates that an optimum mixture can be obtained if the refiners have the option to reduce alcohol content to as low a level as 70 percent. The legislation before us today recognizes this problem and provides an ability to go as low as 70 percent.

The materials only used up until now in hand tool construction will have to face the challenge of being integrated into assembly production. Automotive maintenance repair facilities will have to be equipped with new tools. Mechanics will have to receive training in how to deal with the new technology. Adequate fuel supplies will have to be available at convenient locations at a competitive cost. All of these are subject to unforeseen developments which could take a significant amount of time to resolve.

With these thoughts in mind, the conferees have developed a comprehensive alternative fuel fleet program that compliments the fleet program adopted under the Clean Air Act. Most importantly, it is a program that is designed to be consistent with and not in conflict with the Clean Air Act. That is expressly stated in the legislation. It is the intent of the conferees that the Secretary of Energy carry out the program precisely in this manner.

The legislation in the three titles provides program for the purchase and use of alternative fuel vehicles by the Federal Government. That program is important to help both the fuel providers and the vehicle providers to develop the fuels and the vehicles that will meet the needs of fleets. Having the Federal Government as a customer, the fuel providers and the vehicle providers can hope to stimulate the support for this new technology and this new fuel.

The bill also provides a program for States to acquire alternative fuel vehicles as they purchase vehicles for their use in governmental functions. In addition, it provides an opportunity for the States to develop a program suggested very strongly by our colleague from Louisiana, Mr. TAUZIN, to encourage the use of conversions of existing vehicles, as well as the purchase of new vehicles in an effort to spread out the demand for alternative fuel vehicles. In this regard, I want to stress that the legislation requires NHTSA, using the National Traffic and Motor Vehicle Safety Act of 1966, to develop standards for the conversion of these vehicles, including all of the equipment necessary for such conversion and operation of such vehicles. The conference agreement also makes it very clear that no fleet is required to acquire or to purchase converted vehicles in order to meet the requirements of this legislation.

Title V which is the key to this alternative fuels program promotes such alternative fuel use through a balanced program of mandatory and voluntary compliance with burden sharing among vehicle manufacturers, fuel providers, and fleets to establish the infrastructure necessary to enable alternative fuel use by the general public. As I have already said, the Federal and State fleet programs place the Government as a market leader in the purchase and use of these fuels and vehicles. The Government's role as a market leader is appropriate due to fleets operations characteristics. Federal and State fleets are generally centrally fueled and they operate within a defined territory. The size of Government fleets supports the development and installation of centrally established refueling facilities. The operational range of these fleets is generally well defined which will provide a good test market for various types of fuels. The homogeneous nature of the fleet vehicle enables the vehicles manufacturers to meet Government fleet purchase requirements in a cost effective and efficient manner.

Title V provides two rulemaking opportunities. An early rulemaking opportunity and a later one. The legislation provides that if the Secretary is unable to make affirmative findings in the first rulemaking by December 15, 1996, no rule can be promulgated. It does not preclude, however, the Secretary adopting a rule under the second rulemaking procedure. In both cases, the conference agreement provides that the Secretary under section 507(g)(4) may, as part of the rulemaking, determine that a vehicle operating only on reformulated gasoline under the Clean Air Act should be treated as an alternative fuel vehicle for purposes of this title, for fleets, subject to part C of the Clean Air Act. It is clearly the purpose of the conferees that we not preclude reformulated gasoline as authorized under the Clean Air Act. As I have stressed before, we are not trying to change the Clean Air Act The Secretary has the opportunity to decide as part of each of the rulemakings whether or not reformulated gasoline is allowed. Indeed, the statute does not preclude the Secretary from adopting such a rule at a later time.

In regards to the early rulemaking, section 507(b) lists the findings that must be made in order to come to an affirmative decision to adopt a fleet program under the early rulemaking. The objective here is to make certain that to the extent possible that if we are to embark on a fleet program earlier than the year 2000 under this bill, there be sufficient fuels and vehicles to meet the needs of the fleets. It seeks to address the chicken-and-egg problem.

Title V provides a statutory exemption from the private and municipal fleet program for vehicles garaged at a personal residence at night—that is, sales and service vehicles—which generally do not report to the same office daily and are used for personal as well as business purposes. These vehicles are not capable of being centrally fueled, and PHH believes that most corporate managers of fleet vehicles taken home at night by the drivers would discontinue their practice of providing vehicles to employees in favor of a program to reimburse drivers for the business use of each driver's personal car. The result of driver reimbursement programs is that many vehicles intended to be affected by the alternative fuel program would vanish, since the drivers' personal vehicles are not covered by the proposed legislation. Corporate-managed fleet vehicles generally are newer, more fuel efficient, and subject to extensive maintenance programs. In contrast, individually owned vehicles generally are older and receive minimal maintenance, resulting in higher pollution and lower fuel efficiency. The driver reimbursement approach also means a significant loss of domestic motor vehicle sales—corporate-managed fleets are comprised of over 95 percent domestically produced cars; the same statistic for consumer-purchased vehicles is approximately 60 percent—thereby reducing America's capacity to compete in the global economy.

The conference agreement improves on existing statutes in many ways. It resolves many of the difficult issues we have wrestled with for years. It reforms the electric utility industry and provides for transmission access for exempt wholesale generators. It addresses nuclear licensing reform and related matters. It establishes a new government corporation to operate the uranium enrichment enterprise. It streamlines regulation of oil pipelines. It provides a new and additional alternative fuels program that complements, and is consistent with, the program adopted in 1990 under the Clean Air Act. It directs the Energy Information Administration to establish a baseline inventory of greenhouse gas emissions which will help us better understand these matters as we implement the climate agreement adopted last June. It sets new efficiency standards for a wide range of products. In short, it addresses both sides of the energy equation: supply and demand.

Mr. Speaker, I want to take a moment to single out for special attention the staff of the several committees in both the House and Senate, who worked tirelessly—and several times in the last month without sleep—to produce this conference agreement. At a time when it has become fashionable in the media and out on the campaign trail to trash the staff of Congress and its size, it is worth noting that a job of this monumental size could not have been done without the extraordinary dedication of the staff.

In particular, I want to thank the staff of the Energy and Commerce Committee—the full committee, the Subcommittee on Energy and Power, and the minority—without whose efforts we could not have concluded this agreement. I ask unanimous consent to include in the RECORD at this point a list of those staff members on our committee who deserve our thanks and respect for the work they did on this bill:

ENERGY AND COMMERCE COMMITTEE STAFF

Charlotte Berryman.
Candace Butler.
Sharon Davis.
David Finnegan.
Dennis Fitzgibbons.
Linda Good.
Shannon Hartnett.
Hans Hiemstra.
Jessica Hunter.
Cecilia Johnson.
Ray Kent.
Lisa Kountoupes.
Michelle Mundt.
Martha Oliver.
John Orlando.
Florence Pickard.
Melodie Pickett.
Janet Potts.
Alan Roth.
Trudi Sandmeier.
Joshua Sosland.
Carla Van't Hoff.
Christopher Walker.
Michael Woo.

ENERGY AND POWER SUBCOMMITTEE

John Berner.
Lisa Burton.
Richard Counihan.
Paul Downs.
Shelley Fidler.
Judi Greenwald.
Susan Miller.
Judith O'Brien.
Judith Quinn.
John Riggs.
Tom Runge.
Sue Sheridan.
Wesley Warren.

ENERGY AND COMMERCE MINORITY

Len Coburn.
Freida Depe.
Margaret Durbin.
Jessica Laverty.
Darlene McMullen.
anne-Whitney Powers.
Catherine Van Way.

I also want to single out for special attention one particular staff member, Michael Woo. Mr. Woo is among the most talented and brilliant staffers on Capitol Hill, and much of the credit goes to him for laying the foundation on which this conference report has been built. Unfortunately, emergency surgery prevented Mike from participating in the final stages of conference negotiations, but he has been here on the floor today to see his earlier work brought to fruition, and I want to commend him and thank him for his efforts.

Finally, I call attention to the fine and hard work of the legislative counsel, particularly Tim Brown, Pope Barrow, Ira Forstatter, Jean Ann Quinn, and their excellent support staff. They worked many long, hard hours and stayed with us many nights. Without them, we could not have achieved this success today.

I urge adoption of the conference report.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, as a member of the Energy conference, I think we should pause for just a minute to recognize that this is indeed an historical moment. This comprehensive bill provides a path for us to plan ahead in order to meet our nation's energy needs. This bill promotes self-sufficiency by promoting domestic energy. We have learned that we can not continue to rely on foreign sources to meet our energy needs as those sources may or may not be there for us in the future. It is by no means a perfect bill, however, no bill this size can be a perfect bill as it is a product of compromises.

Mr. DINGELL, Mr. LENT, Mr. SHARP, and Mr. MOORHEAD among many others as well as our Senate colleagues and staff are to be commended and congratulated for their laborious efforts in reporting out this monumental piece of legislation. In addition, President Bush should be recognized for his able leadership during this difficult and tortuous legislative process. President Bush sent up original legislation in the beginning of this session, and then worked closely with Congress to ensure that the bill remained on a steady and reasonable course.

I would now like to discuss two specific provisions of particular interest contained in H.R. 776, and provide background on both of these provisions.

ENERGY PERFORMANCE CONTRACTS

I am particularly pleased that the title I conferees, of which I was one, were able to reach agreement on the energy performance contracting provision of the bill. This is an important provision that will save millions of dollars for American taxpayers. What we have heard over and over in hearings before the Government Operations Committee, from both government and private sector witnesses, is that due to budgetary constraints there is not enough up front capital being put into energy conservation by the Federal Government so that long-term savings can be achieved. Federal energy conservation not only reduces pollution and preserves scarce nonrenewable resources, but it is estimated to save up to a billion dollars a year. This is no small sum. Yet the Federal Government has been slow to act because of this lack of up-front funding. Energy performance contracting is used by thousands of State and local governments; however, until now Federal procurement regulations have hampered its use by Federal agencies.

The conference agreement provides authority for each Federal agency to award and implement energy performance contracts to improve the energy efficiency of Federal buildings. Under this provision, a Federal agency can enter into a multiyear contract with a qualified energy service company for a guaranteed reduction in energy costs through the installation and maintenance of energy efficient equipment and systems. The cost savings would be guaranteed to exceed the payments to the contractor.

The provision provides for the Secretary of Energy to develop by rule multiyear procurement procedures and methods tailored to performance contracting. The conferees in developing this language felt that procurement regulations could not be waived without having some substitute procedures but recognized that current procedures just do not work. It is like forcing a square peg into a round hole. Therefore, the Secretary was given wide latitude to substitute special regulations to facilitate energy performance contracting. For example, the submission of cost and pricing data and compliance with cost accounting standards are problem areas and would expect that the Secretary will somehow address these issues in rulemaking.

But given that the whole program relies upon these procedures, it is the expectation of the conferees that these regulations will be issued expeditiously. We can not stand for one agency pointing the finger at another when trying to explain why there are no regulations to implement the provision.

It is my hope that this provision will be used to cut through some of the bureaucratic red tape so that these contracts can be successfully used as they are by thousands of State and local governments. This is a win-win proposition because we can end up saving the taxpayer millions and will have a way to meet the Federal Government's energy savings goals.

OUTSTANDING OIL AND GAS RIGHTS

Prior to the conference, myself and 16 other Members of the House expressed serious concerns to the Administration about a House provision which would impose expensive new burdens on the independent oil and gas industry. This House provision required onerous additional regulation of outstanding oil and gas rights in national forests. The U.S. Forest Service has no property interest in the minerals under these lands. The rights are privately owned and the Forest Service chose not to acquire the mineral leases, but just the surface land. It was determined that such an imposition would likely constitute a taking, and without much doubt such a provision would be extensively litigated at a high cost to the Federal Government and industry.

The original provision raised many of the basic issues which Congress continues to wrestle with, including regulating the rights of private landowners. In addition, there was not sufficient evidence that there was even a problem to begin with nor sufficient evidence to support the need for additional Federal legislation. This is often where Congress gets into trouble in doing legislative overkill.

This bill is supposed to promote energy production—and yet this House provision had the potential to seriously jeopardize domestic oil and gas production. Subsequently, the conferees dropped the original House provision, and substituted instead a provision to codify a court decision known as Minard Run only for the Allegheny Forest. It is interesting to note that the Allegheny Forest is a multiple use forest, in which recreational, environmental, and economic needs now coexist in a harmonious fashion, and it is known to be one of the best managed and balanced forests in the United States.

The provision adopted by the conferees in H.R. 776 provides that 60-day advance notification of activities be furnished to the U.S. Forest Service prior to commencement of proposed activities, including a soil erosion and sedimentation control plan. The Secretary of Agriculture shall promulgate regulations within 90 days of enactment based on the court's decision as outlined specifically in H.R. 776.

I commend the conferees, especially Senators JOHNSTON and WALLOP, for supporting a provision that is entirely consistent with the court's decision. However, as the entire Allegheny Forest resides within my district, I do find it immensely troubling that in a large bill that should be addressing broad, public policy issues to enhance our Nation's energy needs, we find ourselves legislating on a narrow, specific interest that has no relevance to achieving this goal.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr ROGERS. Mr. Speaker, I rise in support of H.R. 776, the national energy strategy conference report.

I especially want to commend the hard work of the Committee on Energy and Commerce. Chairman DINGELL, ranking member LENT, Chairman SHARP, and ranking member MOORHEAD have done an outstanding job on an issue that is critically important to the economic security of the Nation.

Before I highlight some of the key provisions in this measure, I want to note one overwhelming theme that runs through this conference report—a commitment to reduce the U.S. dependence on imported oil.

To meet that challenge, it means we must develop our own energy resources here at home, and we must make a strong commitment to science and technology. This conference report goes a long way to advance these energy security goals and protect consumers.

I am especially pleased that the provisions in this conference report will ensure that coal-fired electricity will continue to play a major role in meeting our growing energy demands.

This year, 135,000 miners will produce 1,029,000,000 tons of coal. Coal power sustains the economy at one-half the cost of oil generation and at two-thirds the cost of natural gas. Mining's impact on the national economy yields 1.1 million jobs, $27 billion in personal income, and over $80 billion in sales.

The conference agreement before us delivers strong incentives for the U.S. coal industry by authorizing a number of projects to use coal more cleanly and efficiently through a new round of clean coal technology projects. These technologies will save money and enable the United States to obtain real reductions in carbon dioxide emissions.

In addition, the conference report makes a strong commitment to important research and development programs that reduce our dependence on imported oil through the use of coal. The agreement strengthens a number of R&D programs to demonstrate: The refining of coal to produce electricity, coal liquefaction, alternative transportation fuels, and other nonfuel uses of coal; the conversion of coal to coke and other carbon products to produce chemicals needed in manufacturing; the underground gasification of coal deposits to extract hard-to-mine coal; and power generation from the combustion of solid waste mixed with coal.

These activities, coupled with programs to increase coal exports to developing nations, will help secure our economic job base in coal mines.

This conference report will also ensure that the commitment to environmental protection is not ignored.

Most importantly for the people of Kentucky, this measure reauthorizes the Abandoned Mine Reclamation Program through the year 2004. This is truly one of the most successful pay-as-you-go environmental programs ever signed into law. This program, generally referred to as AML, imposes a fee on domestically produced coal for the cleanup of abandoned coal mine sites. It is the superfund of the coal industry, and the program works.

Reauthorization of this program will go a long way in closing the $1.6 billion tab for abandoned coal mine sites that must be reclaimed. That means the people of Appalachia will have a cleaner environment, economic security, and a better quality of life.

Finally, Mr. Speaker, this conference report contains a critically important provision that protects Kentucky's 15,000 retired United Mine Worker coal miners from losing any health benefits.

This was an especially contentious issue that divided the coal industry. But, the agreement before the House today will ensure that Kentucky's UMWA retirees will have the health benefits promised to them and their families. Moreover, this measure ensures that it will not put nonunion coal companies out of work by taxing them to pay for benefits they never promised. It is a good compromise that protects people.

In all, this conference report guarantees that coal will be a dominant reliable energy resource for the Nation and for the world. It is a critical step in reducing our strategic dependence on imported energy while creating new jobs and keeping billions of energy dollars at home. I urge my colleagues to adopt this agreement.

Mr. SHARP. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the chairman of the subcommittee, and I want to compliment him for his excellent work. I want to compliment his staff. They have done a marvelous job over the last 2 years in constructing this legislation.

□ 1650

The same thing is true for a full committee staff, led by Dave Finnegan, Michael Woo, and Lisa Kountoupes. They have done an excellent job in constructing this bill today.

I want also to thank Jessica Laverty, Cathy VanWay, Rick Counihan, Sue Sheridan, Shelley Fidler, Jack Riggs, Tom Runze, John Berner, Paul Downs, Judi Greenwald, Wesley Warren, and Dan Adamson.

This is in many ways historic legislation. The PUHCA transmission tradeoff, which is going to be the major revolution in the electrical generation industry, since 1935, is a public policy and political work of art. It could only have happened because of the cooperation of both sides of the aisle.

They are all to be congratulated, Mr. MOORHEAD especially, on that legislation.

I would like particularly to thank David Nemtzow.

David worked for 2 years on that particular issue. I think he helped to develop a working context in which a nonideological approach to this issue was taken.

I want to publicly thank him for that as well as Rick Counihan, for his work on the energy efficiency issues.

I think that the product which is being produced by many, working with other staffers, including Dave, is excellent. I would also like to mention Sue for her work.

I am going down the list and regretting it already.

Shelley did good work. Everyone did very good work on this issue.

Mr. Speaker, all of the committee cooperated, from GEORGE BROWN, GEORGE MILLER, PHIL SHARP, JOHN DINGELL; they all deserve the compliments of the House.

This is a good bill for America. We are really changing the energy direction of America, not as much as some would like, but believe me it is a fundamental change and it does deserve the overwhelming support of all the Members.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Massachusetts [Mr. MARKEY] played an integral role in advocating some of the key provisions in the energy efficiency section and the central propositions on transmission access and the PUCHA reform transmission access section and deserves a great deal of credit for the success of this legislation.

Mr. MARKEY. I thank the architect of the legislation very much for his compliment.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania, [Mr. SANTORUM].

Mr. SANTORUM. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to engage in a colloquy with the chairman of the subcommittee, the gentleman from Indiana, [Mr. SHARP].

Mr. Speaker, I would like to ask my colleague, the gentleman from Indiana two questions. This bill, H.R. 776, directs the Secretary of Energy to make a determination, through rulemaking, whether to set minimum efficiency standards for electrical distribution transformers. Is it true that in doing so the Secretary has to determine whether such standards are technologically feasible and economically justified?

Mr. SHARP. Mr. Speaker, if the gentleman will yield, the gentleman from Pennsylvania, is correct.

Mr. SANTORUM. Is it also true that when determining whether such a standard is economically justified the Secretary must consider: the economic impact on manufacturers and consumers; the savings in operating costs over the life of the transformer compared to any additional cost due to the standard; and the impact of any lessening of competition that is likely to result from the standard.

Mr. SHARP. That is correct.

Mr. SANTORUM. I thank the gentleman from Indiana. I want to make certain that in our desire to produce a bill which promotes energy efficiency that we do not mandate the use of processes, technologies or products which, although tested and proven to be more energy efficient in ideal circumstances, in actual use of under different circumstances are actually less efficient or involve costs disproportionate to the potential energy savings.

Mr. SHARP. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I stand in strong support of this conference report, but with some grave reservations about the provisions that were dropped pertaining to the Outer Continental Shelf.

Mr. Speaker, I rise in support of the conference report on H.R. 776, the Comprehensive National Energy Policy Act.

Today, Mr. Speaker, we have before us one of the most important bills of the 102d Congress. The House and Senate have been working diligently since the Congress convened last year to craft a national energy policy, and with the passage of the conference report, our Nation will at last have a strategy for meeting its long-term energy needs.

I am particularly pleased with the progressive nature of this legislation. H.R. 776 combines efficient use of our energy resources with full utilization of alternative and renewable energy technologies. The result is a comprehensive, wide-ranging bill which will enable us to limit our dependence on foreign and domestically produced oil.

I am particularly pleased with the inclusion of provisions coauthored by Representative TIM VALENTINE and myself, which will establish 10 lighting education centers nationwide to promote the use of energy efficient lighting, and I plan to give the conference report my support. I would, however, like to point out one of the major shortcomings of the bill which is significant to my home State of North Carolina.

For the last several years, North Carolinians have been battling Mobil Oil's plans to drill off our Outer Banks. With the leadership of our distinguished colleague, the late Representative Walter Jones, the North Carolina delegation has worked through the appropriations process to provide temporary protection from drilling and exploration for the North Carolina coast until more environmental studies could be completed.

The original House version of H.R. 776 would have placed a 10-year moratorium on oil and gas development of most of the U.S. Outer Continental Shelf, extending protection to the entire Atlantic Coast—much of which the President excluded from his 1990 moratorium order. In addition, based on the findings of a scientific review panel, H.R. 776 directed the Interior Department to reclaim the Mobile leases off the North Carolina coast in exchange for credit toward royalty or other payments.

These provisions, unfortunately, were removed in conference when the administration, apparently motivated by political concerns, threatened to score them as a government taking. Such scoring would have broken the spending limits of the 1990 budget agreement. Although the Congressional Budget Office reviewed the provisions and found them to be budget-neutral, the administration refused to budge, even threatening a sequester if the bill were passed with the Mobile buy-back language. So although the fiscal year 1993 Interior appropriations bill will provide temporary protection for the North Carolina coast once more—and for that reason I can vote for this conference report—a long-term solution remains elusive.

I am deeply disappointed by the administration's position which demonstrates once again the President's lack of commitment to protection of the environment and our fragile coastal resources.

Mr. SHARP. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, in response to a statement made earlier by the gentleman from Nevada in which he said the National Academy of Sciences was "precluded from considering collective dose to the general population," in their study of the waste standard, I would like to quote from the statement of managers that will accompany this legislation which I think will be of comfort to some of our colleagues on this issue. That statement of managers will say:

> The conferees do not intend for the National Academy of Sciences, in making its recommendations, to establish specific standards for protection of the public but rather to provide expert scientific guidance on the issues involved in establishing those standards.

For example, the study could include an estimate of the collective dose to the general population.

Mr. MOOREHEAD. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. I thank the gentleman for yielding the time to me.

Mr. Speaker, I rise in support of the comprehensive National Energy Policy Act. I am distressed that the conferees dropped the 10-year moratorium on offshore oil and gas drilling on almost every United States coast except areas in the Gulf of Mexico off Louisiana and Texas.

I want to congratulate the conferees, however, for supporting the research and development package, which aims to reduce our dependence on imported oil by focusing on the development of technologies to improve energy efficiency, and to foster use of renewable energy sources and alternative fuels. Besides improving energy security, these provisions will assure that the United States remains internationally competitive. Increased research and development will also lead to a reduction in the emissions of greenhouse gases, cleaner air, and savings for consumers because there will be less need to build new transmission and generation plants.

I am pleased that the 5-year diesel emission initiative, which I sponsored, is a provision in the National Energy Policy Act. Cleaner diesel emissions are a key to a cleaner environment, and this research will assure that the technologies are developed to meet emissions requirements.

Many people have worked hard on this bill. I want to recognize the chairman of the Science, Space, and Technology Committee and the ranking member, the gentleman from Pennsylvania for their leadership in bringing this bill to the floor.

I also want to thank the chairman of the Environment Subcommittee, the gentleman from New York, who will be leaving the House after 26 years of service to his constituents and the Nation, as well as the ranking member, the gentleman from Pennsylvania.

Mr. Speaker, I urge a yes vote on this conference report. Our children's and grandchildren's world will be different thanks to this legislation.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the past 18 years I have sat either next to or very close to our departing ranking Member, the gentleman from New York [Mr. LENT].

NORMAN LENT has been an outstanding Member of this Congress and an outstanding member of this committee. I do not know of anybody who could have better handled the job that he has had than NORM LENT has. At times he has had to display great courage, but he strongly believed in projects that may not have been too popular every place else, but he fought for what he felt was the best interests of his State and of the Nation.

I think our Congress owes a great debt of gratitude, as do the people of the United States, for the work, the sacrifice, and the dedication that has been made by NORM LENT as the ranking member of the Committee on Energy and Commerce.

I wish to join those others who have said over the past week or two how wonderful the job has been that he has performed. I know we are all going to miss his wife, Barbara, too. She has been a real part of his service in the Congress.

Most of us know her. She has done a beautiful job in working with him and helping him as his helpmate.

We are going to miss those two. I am sure we are going to see a lot of them in the future. It is always sad to lose friends as you see them go, but we wish them the very, very best as the years go by.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS].

□ 1700

Mr. GOSS. Mr. Speaker, I rise in opposition to the conference report, but I want to commend the gentleman from Florida [Mr. HUTTO] for his fine and steadfast work on the conference committee.

The oil and gas elements are the central question in our national energy strategy and the main frame of the oil and gas element, relative to the foreign dependency issue is the OCS title, which has now been deleted in conference. The House approach to OCS activity was carefully deliberated and fairly resolved to create a workable forum for conflict resolution over the next decade. Now our official policy will be to ignore the OCS controversy rather than resolve it fairly.

Well, ignoring it just will not work. We had a serious rig fire and spill off Timbalire Island just last Thursday on the coast of Louisiana.

On the other hand, to be fair, oil interests do have OCS rights that must be addressed and compensated. There are obviously some very promising breakthroughs in this bill, notably in the area of nuclear energy, but to pat ourselves on the back for a comprehensive energy bill without the OCS title, in my view is one-handed applause at best.

Mr. Speaker, and further, as the marathon race to adjournment continues, we must fully consider the so-called Comprehensive National Energy Policy Act. For those of us interested in truth in labeling, this is indeed a misnomer, since this conference report is far from comprehensive. In fact, earlier this week the conferees stripped from the bill one of its major provisions—the title that addressed outer continental shelf oil and gas activities—title XXIV. In my view, this is like drawing a map without including the major roads along the way from where we are to where we need to go. What the conferees gave us was energy legislation that completely ignores the very basis of our current energy policy. It didn't have to be this way.

The House, after much hard work and negotiation delivered an energy bill that tackled the OCS issue head on. Our bill included a moratorium until the year 2002 on leasing and preleasing activities off the entire Atlantic and Pacific coasts, the entire Florida coast and in Bristol Bay, AK. The reason? After years of stopgap measures, uncertainty, and a piecemeal policy of balancing competing interests, we finally agreed that a consistent approach was needed. Our language offered time—time to study the risks associated with OCS activities as well as the various alternatives. Time to develop a sound, lasting, and equitable policy.

In addition to providing a future leasing ban in the eastern Gulf of Mexico, and a drilling ban in the sensitive waters surrounding the Florida Keys, title XXIV of the House bill also offered cancellation and buyback language for leases that were purchased off the southern tip of Florida before President Bush placed these highly sensitive waters off limits to oil production. This was done in the interest of fairness to those oil companies and investors that had purchased leases but were subsequently not allowed to develop oil and gas drilling activities. It's fairly obvious why title XXIV went bump in the night and we have an energy bill before us today that fails to address one of the primary energy challenges we face.

We certainly wouldn't need a detective to help us figure out who killed these provisions. We have much more than a few fingerprints of the special interests groups that had a hand in this caper. There is clear evidence that it was more like a stranglehold by these interests that did title XXIV in. It's rather ironic that the same week the proponents of offshore oil drilling won their battle, all the while claiming that OCS activities are safer than ever, a major blowout occurred on an oil rig off the coast of Louisiana. Gallons and gallons of oil have already spilled into the gulf as a result—and the latest report stated that the rig has caught fire. And still, the special interest groups would like us to believe that OCS activities pose no risk to the marine environment, to human health, or to the fragile tourism-based economies of our coastal States.

Mr. Speaker, we had a chance at passing a piece of legislation which would stand the test of time and truly provide a comprehensive blueprint for meeting our Nation's future energy needs. Instead, today we vote on another piece of feel-good legislation that might influence a few votes but won't do the job. I am disappointed for the State of Florida, But, as we have done in the past, our delegation will continue to fight for rational and long-term OCS policies. But I am also disappointed for the entire Nation, which will continue to wait for this Congress to develop a truly comprehensive energy strategy that can carry us into the next century.

Mr. SHARP. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN], a member of the conference committee and a major player in many of the issues in this legislation.

Mr. TAUZIN. Mr. Speaker, I want to first of all thank my subcommittee chairman, the gentleman from Indiana

[Mr. SHARP] for an incredibly effective job of bringing this bill forward, and the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, for the extraordinary effort he and all our staff made in bringing this bill to fruition, and all the Members of the House and the Senate who contributed mightily to its fruition.

Let me highlight a couple features of the conference report that I think deserves special attention. A few years ago when Senator BENNETT JOHNSTON and I raised the issue of PUHCA reform, people wanted to know what the heck we were talking about. What the heck is PUHCA? What did it do and what did it have to do with America's energy future?

The bottom line is that in this bill, of all the many titles, reform of the electrical generation in America, a process by which electrical energy is generated and moved around the country is probably the single most important feature of this bill.

There are lots of good things about it, lots of good things in energy conservation, lots of good features in alternative fuels and lots of good features across the board of the energy spectrum; but probably the most important thing we do today is to approve some major reform of the structuring of electrical generation and transmission.

We have opened the door today to competition. We have opened the door today to independent power at more efficient production ratios to deliver energy to America across the monopolistic grids we formally set up since the 1930's.

We have opened the door in effect to consumers getting cheaper electrical power and having a better supply of electrical energy for America. That is probably the most important thing we do in this bill, but there are other things.

Let me commend, for example, the features of the alternative fuels provisions of the bill. The alternative fuels provision of this bill builds on what we did in the Clean Air Act and says not only are we going to move America to new and cleaner fuels because our air requires it, but in this bill we are going to do it because it makes sense for the sake of America's energy future. Using fuels produced in America by Americans makes a lot better sense than depending upon fuel from foreign sources, sources we sometimes have to fight on battlefields.

Now, I wish we had done a little more in that regard in this bill. I wish we had a proactive provision in the bill dealing with more production of oil and gas here at home.

But the features on electrical generation reform, the features on alternative fuels for America, are going to increase incentives to drill for natural gas in America. That is going to return some prosperity, I hope, to the natural gas fields of the southwest that have been devastated for the past decade. Perhaps it is going to bring some reemployment. Perhaps next year or the year after when we gather in Congress we will be celebrating the return to work in America's energy fields, rather than voting to send our young men and women to battle again to defend some energy fields somewhere else. That is how important this comprehensive bill is. It is not perfect. It is not a 10, but it is a good 8 or 9.

Mr. SHARP. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, I rise in reluctant support of the legislation.

I applaud the work of the committees of jurisdiction in the House on the fine work that they did, in particular with regard to Outer Continental Shelf issues. Their recognition of the importance of a long-term moratorium on leases for off-shore drilling and the buy-back of existing leases was an important part of the bill. Regrettably, these provisions were not included in the conference report because of the strong opposition of the administration and of an important Member of the other body. Were it not for the 1 year moratorium included in the Interior appropriations bill by my good friend, Chairman SID YATES, my position on this conference report would be different. However, with that moratorium on development of existing leases in place, we can return to fight this battle another day. I believe that the sound arguments made by those of us who supported these Outer Continental Shelf initiatives will rule the day next year.

Despite this unfortunate omission from the legislation, there are extremely good initiatives included in this bill which are to be applauded. The provisions to encourage alternative fuel sources are especially important. I represent a district where an ethanol plant is on the drawing boards. These provisions will significantly move up the timetable for construction of that plant. This will benefit my district by giving another market for corn grown in North Carolina, as well as adding significant dollars to the tax base of Duplin County and providing employment for people from a several county area.

A key to any successful energy policy has to be conservation of existing energy sources. The energy efficiency provisions of this bill are an important step in that direction.

Likewise, any sensible energy bill must include solar and renewable energy incentives, which this bill does.

The bottom line is that this legislation when implemented will make this country much less dependent on foreign energy sources through a number of farsighted initiatives. I commend my colleagues who played such an important role in crafting this legislation.

Mr. SHARP. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I thank the distinguished gentleman from Indiana [Mr. SHARP] and the ranking member for their great work on this bill.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I thank the gentleman for yielding me this time. I wish again to congratulate him for his outstanding leadership in bringing this bill to the floor and in working with a baker's half dozen of other committee chairmen and subcommittee chairmen in crafting what is a very elegant bill.

It is not perfect, but it is a major step forward.

On this last day of the session as we complete work on this bill designed to promote energy conservation, energy efficiency, alternative sources of energy, both at home and abroad, I think it is important that we realize that progress toward the goal of sustainable energy production and environmental protection is critically jeopardized by the explosive growth in the world population.

There is no way that we can achieve sustainable use of resources, there is no way that we can make a major effort, a successful effort, to reduce the appalling scenes of tragedy and starvation that we see on our television tubes about the situation in Somalia and Ethiopia if we do not make major changes in the growth of world population of about 100 million a year, a billion a decade. Our efforts to achieve sustainability in energies, in environmental protection, sustainable environmental protection policies will go for naught.

Mr. Speaker, I urge the next Congress to address this situation.

Mr. SHARP. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I rise in opposition to the bill reluctantly because of the provisions that were dropped out.

Mr. Speaker, I rise in opposition to the conference report on the energy bill because it threatens the economy and the ecology of the entire Florida coast.

Back when President Bush was trying to pretend that he was going to be the environmental President, he made a promise to protect Florida's precious Outer Continental Shelf from dangerous oil drilling. He promised to support a long-term moratorium on all oil drilling activities off the southern Florida coast in the precious Florida Keys.

Yet, when the rubber met the road, President Bush abandoned southern Florida. He opposed including an oil drilling moratorium in this bill and opposed including of my provisions to buy back the suicidal oil drilling leases in the Florida Keys. When the President had the option of protecting this unique ocean habitat, and indeed the entire coast, from oil drilling and oil spilling, President Bush sided with the corporate special interests.

This shortsighted policy is not only ecologically disastrous; it is also fiscally irresponsible. As the yearly moratorium is reissued in the Interior appropriations bill, the cost of actually buying back the lease continues to rise. Each year that we postpone buying those leases back from the oil companies, we are adding millions of dollars to the price. Postponing the buyback will not only cost us environmentally, it will also cost us hard dollars.

Thus, I oppose this shortsighted bill. This November, I hope the residents of south Florida remember this it is President Bush who went back on his word to be the environmental President and protect Florida's unique coast.

Mr. SHARP. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker I first want to thank Chairman MILLER and Chairman STUDDS and the other House conferees for their support on the Outer Continental Shelf [OCS] provisions of H.R. 776. It is unfortunate that this legislation does not address the issue of offshore oil and gas development in Florida, as well as other coastal waters.

I support the decision of the House conferees to drop this title from the bill because of the insufficient protections the other body was offering for our Nation's coastline. In fact, the annual Interior appropriations moratoria are far stronger than what the other body was willing to accept; therefore, the House conferees made the only logical decision. Yet, this does not serve our Nation well because this issue will not go away and this impasse does not allow a comprehensive, long-term policy to be developed.

In Florida, opposition to offshore oil and gas development is not Liberal versus Conservation, Democrat versus Republican, or developer versus environmentalist. It is a cry for the protection of our pristine and nationally significant coast resources. Earlier this year, our delegation unanimously supported the provisions included in the House version of H.R. 776. We support the cancellation and buyback of the 73 existing leases in the waters adjacent the Everglades National Park and the Florida Keys and a prohibition on new leasing and preleasing activity in Florida until the year 2002. This particularly applies to the gulf coast and, in particular, the Panhandle area, which was a point of contention in the conference.

We unanimously supported these provisions during the conference and we appreciate the efforts of Florida's sole conferee, EARL HUTTO. EARL was all alone, but he represented our position and I, as a leader of this fight, want to make sure he knows how much I appreciate his efforts.

There was little opposition to these provisions and, in fact, the oil companies supported the House's efforts to fairly resolve this issue so they could get their money back and they expected because there were no restrictions on other existing leases in other areas of Florida.

As I understand it, the conferees were not far apart when the entire OCS title was removed from the bill because of the objections of the Office of Management and Budget. Frankly, I should be surprised that OMB and the Department of the Interior would oppose legislation to enact the President's own policy, but they have done nothing but drag their feet and not followed through on the President's directive. Simply put, the promise made to Florida in 1990 was not kept by the administration in 1992.

We will remember the day in 1990 when the President made his announcement; we will remember the strong efforts to the House conferees; we will remember those who opposed these provisions; and we will remember the day when the President's own men torpedoed a deal which would have finally resolved the issue of oil drilling in Florida.

Mr. SHARP. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, this Energy bill conference agreement is a proud accomplishment for the 102d Congress. It sets the Nation off in a new direction on energy issues. Where in the past we have always tried to expand production in order to cut our dependence on foreign energy sources, this bill focuses on conservation. I wish we could have done more, but a start is often the greatest obstacle to change.

In addition, this bill should breath new life into alternative, renewable energy programs in this Nation. Combining conservation and alternative sources—two, great untapped domestic energy resources—we have a much better chance of truly breaking our dependence on Middle Eastern oil and other foreign energy sources. That dependence has caused the United States far too much trouble over the years.

I am particularly pleased with the green tax package produced by the Ways and Means Committee and included in this conference agreement. Tax legislation holds great promise for dealing with environmental problems—much can be done to encourage new practices or programs through the Tax Code, while taxes also provide a fine means to add to the cost of practices that have hidden social costs.

This bill is a step toward a more environmentally sound Tax Code. The costs of CFCS are increased and a number of positive programs have been shaped, including:

New tax credits for investments in, or production of renewable energy that will better equalize Federal support of alternative and traditional sources of energy;

Credits for the purchase of clean-fueled vehicles and certain investments in refueling facilities that will ease transition to new fuels in the transportation sector; and

Exclusion of energy conservation subsidies provided by public utilities from the taxable income of homeowners.

Another facet of the green tax package addresses an issue that has concerned me for some time, but which has proven difficult to address. Up to this date the Tax Code has effectively encouraged commuting in single occupant cars rather than utilizing mass transit systems. With this bill we start to correct this historic disparity.

Employers will now be able to provide transit passes to workers, just as parking spaces are provided today. In the past, any pass of more than a de minimus value would be considered taxable income to an employee—while a parking space, often costing hundreds of dollars per month in an urban area, could be provided with no tax consequence. Under this legislation employer-provided transit passes will enjoy a similar, favorable tax treatment. It is my hope that this change will encourage private industry to provide transit pass options to workers and consider the true costs of employees driving to work each day.

Mr. Speaker, I am proud of this bill, but I know it is only a start. Rather than waiting for another crisis to force action, I will continue working toward accomplishing the goal of real energy independence for this Nation.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do think we have a good piece of legislation here. It is the result of many years of hard labor and of working together on both sides of the aisle with the Senate. I hope that we will get a solid vote of approval for this legislation.

TRANSMISSION PRICING

Mr. Speaker, few provisions in the legislation before us received more attention than those affecting transmission pricing. Since its first iteration in H.R. 2224. The transmission pricing provision has gone through multiple changes. But several things have remained unchanged throughout that process.

First, we have always intended to remain within the traditional regulatory framework of just and reasonable rates. This standard—which provides for the lowest reasonable price while ensuring adequate compensation—is immutable and must be strictly adhered to.

In determining just and reasonable rates for transmission service, the Federal Energy Regulatory Commission traditionally has used cost-based ratemaking and has based rates on the embedded costs of the utility's transmission system. Embedded cost rates include a component associated with the fixed costs of the utility's integrated transmission system and the variable costs associated with providing the service that is, operation, maintenance, line losses. In addition, the Commission allows the utility to include in rates the costs of associated—ancillary—services such as interconnection costs and back-up power. In recent cases, however, the Commission has indicated a willingness to consider and approve other forms of pricing, such as opportunity cost pricing and incremental cost pricing when these can be found to be just and reasonable under sections 205 and 206 of the Federal Power Act.

The pricing language in existing section 212(a) allows the Commission to continue traditional embedded-cost pricing, but also gives the Commission flexibility to depart from traditional pricing and to allow recovery of opportunity costs or incremental costs—including enlargement of facilities—if the Commission determines it would result in just, reasonable, and not unduly discriminatory or preferential rates. New section 723 continues this practice. The section allows the Commission sufficient pricing flexibility to promote economically efficient transmission and generation of electricity, at the same time that it ensures that pricing does not result in the collection of monopoly rents. The conferees also intend to allow the Commission flexibility to determine the circumstances under which the costs of enlargement of transmission facilities may be recovered. The conferees do not intend that the entire cost of transmission system enlargement should always be born by the requester of that enlargement. This issue was debated and specifically rejected by the conferees.

Finally, a negative inference should not be drawn from the fact that the final version of the bill omits the language from H.R. 776 proposing FPA section 212(B)(2)—the so-called Northeast Utilities language. The conferees do not intend for revised section 212 of the FPA to affect in any way existing Commission precedent applying the just and reasonable ratemaking standard to transmission pricing determinations.

GOOD FAITH

Another provision in the electricity title received a great deal of attention. Section 721 provides that if ordered transmission services require enlargement of transmission capacity and if the transmitting utility has been unable, after making a good faith effort, to obtain the necessary approvals, then the utility is excused from the requirement to enlarge capacity. This section has raised the question of what is good faith? specifically, the concern is that a reluctant utility might make a half-hearted attempt at compliance, and then evade the requirement to enlarge capacity by pleading that they could not comply with the Commission's order. Under common law, a good-faith obligation imposes a higher standard of performance. Courts have recognized that good faith reflects an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law. What this means is that a utility has an affirmative obligation to pursue conscientiously and aggressively the requisite approvals that will allow it to comply with the order of the Commission. This would include making all appropriate filings and seeking review or reconsideration of adverse rulings on the same basis as if the efforts to enlarge transmission facilities where the result of an independent and voluntary decision by the utility, rather than a Commission-imposed requirement.

VOLUNTARY REPORTING OF GREENHOUSE GAS REDUCTIONS

Among the most progressive policies advanced in the energy bill is the voluntary greenhouse gas reduction program. This program helps to join our energy and environmental policies to get the biggest bang for the buck, which will benefit our economy and our international competitiveness.

During consideration of H.R. 776, the House Energy and Power Subcommittee adopted provisions to allow voluntary reductions to be registered for approval by the Federal Government. I am delighted that this program survived in the conference report, albeit with less detail and more discretion for the administration. With proper implementation, this can be a valuable environmental program to help the United States meet its international obligations under the Rio Agreement. Our proposal fits perfectly with the joint implementation provisions of the Rio Convention by allowing volunteers to report reductions/fixations made by other countries, which can be very cost effective for all concerned.

This program comes at an opportune time, as industries all across America are investing millions of dollars to comply with the Clean Air Act. Since the Clean Air Act does not directly control most greenhouse gases—it does control chlorofluorocarbons for other purposes—companies are free to choose compliance strategies that have greenhouse benefits—but they are equally free to choose plans with greenhouse penalities. This voluntary program will help industry help itself by offering industry the incentive to optimize compliance investments by using strategies that simultaneously address the clean air and greenhouse problems. Those that adopt such wise strategies will be better positioned to compete in the world.

I am encouraged that some California compenies are well positioned to participate in this program. Two of our utilities, the Los Angeles Department of Water and Power and Southern California Edison, announced programs to voluntarily cut their greenhouse gas emissions, using the menu of reduction options consistent with section 1605 of H.R. 776. Another California company, Copec, is an environmental consulting firm and has strongly supported this program, because it recently brokered an international forest offset in Malaysia for New England Electric Service. These companies, among others, would be entitled to make their case for the Federal Government to approve their reductions for inclusion in the greenhouse gas data base.

As a Member of this conference, I am proud that the core concepts of the House provisions are represented in the final agreement.

Mr. SHARP. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, with this legislation, we will demonstrate that we can beat gridlock. We have surmounted partisan and regional divisions and we have delivered legislation that looks to the energy future of this great Nation. It will protect jobs, the economy, and the environment.

Ms. NORTON. Mr. Speaker, I wish I could rise in support of this conference agreement that has been quite a long time in the making. It is way past time that the Federal Government address our Nation's energy policy on a long-term basis and set this Nation on the path toward a more energy conscious and efficient future. Unfortunately, some critical provisions have been cut along the way, leaving this legislation far less powerful than it should be.

The oil shortages of the 1970's, all too briefly but for the first time in modern American history, compelled a focus on this country's extraordinary, casual waste of irreplaceable natural resources. More recently, the Persian Gulf war did so, but only as a subtheme of war, with the quick victory once again encouraging national anthem on a major issue that sent us to war in the first place. The Congress has been working to develop legislation setting forth a comprehensive national energy policy so that America can begin getting ready for the next century. Regretfully, this conference agreement, which would implement many of the alternative energy technologies and resources that already have been employed by some environmentally and cost-conscious innovators for over two decades, is fatally flawed. Specifically, the 11th hour provision to exempt the Department of Energy from complying with existing radioactive waste standards as promulgated by the Environmental Protection Agency undermines both the letter and the spirit of a national energy policy. Furthermore, the conference agreement does not contain the vital restrictions against offshore drilling that were in the House bill.

I strongly believe that the Federal Government should be in the forefront of setting an example in the conservation and maximization of the Nation's scarce energy resources. This bill gives the Government an easy out, which is bound to have a detrimental effect in the long run. When it comes to our natural resources, we must stop thinking and acting with only present interests in mind. It is the duty of Congress to leave the legacy of a healthier and cleaner nation. I regret that the compromises of the conference report may subvert this goal and, therefore, I decline to support the agreement.

Mr. SLATTERY. Mr. Speaker, I wish to address a concern of many small businesses across the country: unfair competition from utilities. Small businesses have been suffering from unfair competitive advantages enjoyed by gas and electric utilities. These utilities have been able to draw upon the financial resources of their customer rate base in order to subsidize artificially low and below-market prices in the energy equipment sales, repair, and installation markets.

In almost every instance where a subsidy can be found, it has been determined to be impermissible. Unfortunately, finding these impermissible subsidies usually requires a protracted and expensive legal action either at the State regulatory level or through the courts. Utilities have the resources to engage in time consuming legal procedures and can retain the best counsel available. Small business firms, many of which are family enterprises, cannot often hope to match the financial resources utilities can devote to legal actions and, thus, have little chance for redress.

Recently, Kansas has addressed this problem with remedial legislation which would make it easier to audit the accounts of utilities which compete unfairly.

Today, I am also pleased to note the steps taken by Representative PHIL SHARP and others in the Comprehensive National Energy Policy Act with respect to this problem. I believe that the statutory language contained in the measure will go a long way toward resolving some of the conflicts between utilities and small business.

Regrettably, because final passage has come so close to adjournment, a detailed conference report which could clarify the intent of the statutory language is not possible. Thus, many of those affected by the provisions dealing with utility competition, especially utility regulatory commissions, may still have questions about the effect of the new law. I hope my comments today will serve to illuminate these provisions.

Utilities have played an enormously important role in the history of our Nation's development. It is they who are responsible for the generation, transmission, and distribution of energy to our industrial plants, commercial establishments, and our homes. The purpose of this new, comprehensive legislation is, among other things, to encourage and improve energy efficiency through various means, including demand side management [DSM] programs. DSM programs can not only serve to promote energy efficiency, but can also create and expand markets for new and improved energy equipment, products, and services. It is the intent of the drafters, that such new markets not be monopolized by utilities, but that they be shared with the thousands of independent, small private sector firms which have traditionally operated in such markets.

Within the context of DSM, the primary objective of utilities should be that of load management. Access to the utility rate base for this purpose should not serve as an excuse to duplicate the provisions of products and services available in the private sector. Such actions are not only anticompetitive and, thus, economically detrimental, but are antiratepayer as well. Rather than destroying the viability of existing businesses by an unnecessary intrusion into this area, utilities should confine their role to one of providing timely and unbiased information to their customers about energy efficient products and services while assisting their customers in financing the acquisition of such products and services.

Utility commissions, in discharging their responsibilities under this act, must consider the economic impact of utility DSM programs on small businesses and exercise their authority in such fashion as to assure that no unfair competitive advantage is conferred upon utilities in the execution of DSM programs.

Thus, it should now be clear that State regulatory commissions do have the power to exercise their authority in remedying anticompetitive situations which develop out of utility DSM programs. Complaints of such conduct by aggrieved businesses can, and should, be addressed by State regulatory commissions.

The language of the act does permit recourse to the rate base in order to finance utility DSM programs. However, the provisions dealing with small business protection indicate, by implication, that such recourse would not be permissible unless any competitive advantages conferred upon utility affiliates or their subsidiary operations by virtue of such subsidies are similarly made available to competing small business firms in the private sector.

The ultimate intent simply is to provide a level playing field. If utilities can subsidize their nonutility operations from the base rate, then competing private sector firms must be accorded the same benefits allowed utilities. For example, if a utility provides its affiliates or subsidiary operations with marketing information derived from the utilities' customer base, or if it provides lists of potential customers, then access to such data must also be made available to competing private sector firms. This would also be the case with respect to credit information supplied to, or marketing advertisements mailed by a utility on behalf of its affiliates or subsidiary operations.

Utilities also must refrain from entering into exclusive arrangements with affiliates or subsidiaries for the provision of products and services to their customers. Such contracts must be open to all and not be reserved as the exclusive province of utility affiliates or subsidiaries. Commissions should act to prevent any discrimination by utilities in favor of their affiliates, subsidiaries, or other entities in which they hold an interest, or by utilities among private sector firms. The market must remain open to all similarly situated firms.

Of course, utilities may choose not to draw upon the rate base to finance their nonutility ventures. In that case, commissions must take proper steps to keep the dealings between utilities and their affiliates or subsidiaries at arms length and require precise accounting by utilities of their transactions with affiliates.

The easiest way of meeting the provisions of the Act in this area is to utilize private sector firms in executing DSM programs to the fullest extent practicable. Small businesses and utilities can work together in a mutually beneficial partnership to meet the energy efficiency objectives envisioned by this Act. In that event, utilities, small businesses, and our Nation will come to prosper.

Mr. POSHARD. Mr. Speaker, we are on the verge of enacting legislation which will determine the Nation's energy policy for the next century. It is a far-reaching piece of legislation which creates new requirements and programs to increase U.S. energy efficiency. I commend the conferees for their dedication to the creation of a final package which presents an environmental and economic balance beneficial to industry as well as the American public.

Incentives have been provided bringing tax relief to independent oil producers, enabling them to revitalize America's oil industry and lessen our dependence on foreign oil. This can only be a boom to our economy in southeastern Illinois and alter the course of America's foreign policy in the Middle East.

Also significant to my congressional district is the inclusion of clean coal technology provisions geared to research and development of programs which will permit the use of high sulfur coal. With these provisions, it will be possible to address environmental concerns while enhancing a coal mining industry which will lift southern Illinois from its economic depression. Mr. Speaker, this is legislation which will have a favorable impact on the American way of life for years to come. I wholeheartedly support the bill and urge its passage.

Mr. SHAW. Mr. Speaker, I rise today to express my deep disappointment that the proposed 10-year moratorium on oil and gas leasing on the Outer Continental Shelf was dropped during conference negotiations on this energy bill. Members will recall that this moratorium was included in the House-passed version of this bill, which I supported and was approved by a 381 to 37 margin on May 27, 1992.

The moratorium on drilling is needed to protect Florida's coasts. South Florida's fragile ecosystem is irreplaceable and unique to our hemisphere, and given a relatively small spill would devastate our environment and economy. Mr. Speaker, oil and gas drilling must not be allowed near Florida's shores.

I have always argued forcefully for measures that will help our economy grow, and some may suggest that oil and gas drilling promote such development. For some economist in some ivory tower, that may be so. As a south Florida native and representative of thousands of people who either live on our coast or simply enjoy its beauty every day, however, I know that the potential risks of drilling are just too high. I am not willing to wager our State's environmental riches and economic future on the chance that we will never experience even a single spill.

What remains in this bill includes many positive steps that will benefit our country. Unfortunately, it's too late to restore the House-passed moratorium this year, but I will work to see that the 103d Congress enacts a moratorium on oil and gas drilling off our coast.

Mr. SWETT. Mr. Speaker, I rise today in strong support of the conference report for H.R. 776—the Comprehensive National Energy Policy Act.

This legislation will help us improve our energy efficiency, lessen our dependence on imported oil and reduce the environmental damage caused by energy use.

Mr. Speaker, energy is crucial to our Nation's economic health. This legislation contains provisions that will help to strengthen America's economy and preserve American jobs. The United States devotes 10 percent of its GNP to energy, yet much of this money is currently being spent overseas. By the year 2010, this bill will have helped to keep billions of dollars here in this country—money that would otherwise have gone to pay for oil imports.

As a longstanding advocate of increased energy efficiency in the Federal Government, I am particularly supportive of the provisions of this bill that would require the Federal Government to become more energy efficient. The Federal Government is the Nation's largest energy consumer, yet much of this energy is currently being inefficiently utilized. The Comprehensive National Energy Policy Act will help the Federal Government to set an example in energy efficiency.

I would also like to express my strong support for the pulp and paper provisions of this bill which were adopted from legislation which I introduced earlier. The pulp and paper industry is the fourth largest industrial energy user in the United States. The pulp and paper provisions of this bill will help to make the pulp and paper industry more energy-efficient and more environmentally sound.

Finally, Mr. Speaker, I wish to thank Chairmen DINGELL, SHARP, BROWN, SCHEUER, and all of the other conferees for their tireless efforts in the conference committee. It was an honor to be able to work with them in bringing this conference report to the floor.

I urge my colleagues to join me in supporting this vital legislation which will help put our Nation on a path toward a more secure energy future.

Mr. SCHUMER. Mr. Speaker, I rise today in strong support of this conference report and especially its restrictions on the export of bomb-grade uranium, which are based on my bill, H.R. 3527, the Bomb-Grade Uranium Export Restriction Act.

I would like to thank the Interior Committee chairman, Mr. MILLER of California, for his leadership on this bill and for his commitment to retaining my amendment in conference.

The importance of these export restrictions, and the threat posed by bomb-grade uranium, were underscored by our gulf war experience. A mere 20 to 40 pounds is all that stood between Saddam Hussein and a nuclear weapon, according to U.N. investigators. We can only imagine how differently the gulf war might have gone if Saddam had obtained this small cache of explosive material.

The lesson from Iraq should be clear: bomb-grade uranium is not a routine commodity that should be shipped willy-nilly thousands of miles around the world where it is vulnerable to diversion or interception by terrorists.

Nevertheless, the United States remains the world's No. 1 exporter of bomb-grade uranium, shipping more than 250 pounds overseas every year, for use as fuel in research reactors. According to Department of Energy testimony, this amount would be sufficient to produce between six and seven nuclear weapons, if diverted for such purposes.

Mr. Speaker, there is no doubt that this material can be fabricated into a nuclear weapon. Manhattan Project physicist Luis Alvarez gave a chilling assessment of the threat in his 1987 memoirs, stating:

> With modern weapons-grade uranium, the background neutron rate is so low that terrorists, if they had such material, would have a good chance of setting off a high-yield explosion simply by dropping one half of the material onto the other half. Most people seem unaware that if separated [bomb-grade uranium] is at hand it's a trivial job to set off a nuclear explosion * * * even a high school kid could make a bomb in short order.

Mr. Speaker, some have argued that the danger of such exports can be eliminated by applying stringent physical security measures. Certainly, such measures can mitigate the threat in the short term, but does anyone believe they are 100 percent foolproof? Certainly, we have learned from the Marine barracks episode in Lebanon and from the Pan Am flight over Lockerbie that physical protection measures can be defeated.

Accordingly Mr. Speaker, this bill codifies once and for all that bomb-grade uranium is simply too dangerous to continue indefinitely shipping it overseas for nonmilitary purposes.

This is not a new idea. As early as 1978 the United States recognized that civilian commerce in bomb-grade uranium should be phased out, and instituted a policy of denying bomb-grade exports to reactors once suitable alternatives were developed.

Throughout the 1980's, we developed alternative, nonweapons-usable fuels at Argonne National Laboratory, in an enormously successful program known as the Reduced Enrichment for Research and Test Reactors [RERTR] Program. During that decade, we managed to reduce bomb-grade exports by 80 percent, from 1,500 pounds annually to the current level.

A few years ago, however, the progress stopped. Several overseas reactors continue to require bomb-grade exports. They cannot use the alternative fuels developed so far and require more advanced fuels to convert. However, the Bush administration terminated the fuel development program in 1990, forcing the United States to continue indefinitely exporting bomb-grade uranium to these remaining reactors.

In this day and age, continuing such exports indefinitely without developing safer alternatives is reckless public policy.

Accordingly, Mr. Speaker, the bill now before us would jump-start the alternate fuel program and put into law what was, from 1978 to 1990, the policy of both Democratic and Republican administrations—prohibiting the NRC from licensing exports of bomb-grade uranium fuel unless three conditions are met:

First, the reactor cannot use alternative fuel;

Second, the reactor operator has committed to use alternative fuel as soon as it is developed; and

Third, the United States is actively developing an alternative fuel for the reactor.

This bill gives administration officials a choice of how to end bomb-grade exports. They can restart the fuel development program and phase out remaining bomb-grade exports gradually as alternatives are developed. Or they can cut off the bomb-grade exports immediately. What they cannot do is continue the present policy of exporting bomb-grade uranium indefinitely without developing alternative fuels that will enable an end to the bomb-grade exports.

Under these provisions, Mr. Speaker, the United States should be able to phase out all exports of bomb-grade uranium within 5 years, according to recent program reports. Such a historic step would go a long way toward making the United States—and the rest of the world—less vulnerable to the next Saddam Hussein who comes along.

This section of the energy bill also requires a report from the NRC, to document the whereabouts of previous U.S. exports of bomb-grade uranium, with particular focus on those we have shipped to the European Community. There is serious question about the disposition of these previous exports, according to an April 6, 1992, response from the NRC to an inquiry from me and several colleagues. Incredibly, while these previous exports were licensed on the basis of specifically approved end uses, "prior U.S. consent is not required if the material is transferred to different end uses" within the Community, "and movements of nuclear materials within the Community are not reported to the United States."

In other words, not only is the United States not asked permission when our bomb-grade uranium exports are diverted for unapproved end uses, we are not even told it is happening. This NRC study is the minimal first step to regaining U.S. control over these previous exports of atom-bomb material.

I urge my colleagues to vote for this conference report.

Mr. ANDREWS of Texas. Mr. Speaker, I rise in support of the energy conference report. This report contains tax incentives for the use of clean-burning alternative fuel vehicles that will clean up our air, reduce our dependence on imported oil, and create American jobs.

I first introduced an alternative fuel incentive bill in 1988. The final provision in this report recognizes the input and efforts of environmental advocates, business leaders, and academic analysts. It is rare that these groups agree on anything, but this particular provision has garnered support from all parties affected.

Electric vehicles can eliminate 100 percent of the carbon monoxide, nitrogen oxide, and reactive hydrocarbons that cause smog. Natural gas vehicles can reduce these same emissions by up to 99 percent, and natural gas is cheaper than gasoline by 40 cents a gallon. Over 90 percent of natural gas consumed in the United States is domestically produced, and existing production will more than meet demand for the foreseeable future.

Finally, alternative fuel technology represents a real chance for American car makers to leapfrog the Japanese and capture the lead in emerging markets. General Motors is 3 years ahead of the nearest Japanese competitor in making electric vehicles. All three U.S. automakers are introducing vehicles now that can run on methanol, natural gas, and ethanol. These new vehicles should be produced here in America by American workers.

These alternative fuel provisions show how government, industry, and environmentalists can work together to clean up the environment, create jobs, and promote energy security. This spirit of cooperation should be a model for future policymaking.

Mr. MARKEY. Mr. Speaker, I would like to make a statement on title II, the natural gas provisions of H.R. 776.

While title II is short, there is a lot in this bill for both natural gas consumers and producers: Many of the new powerplants under the new PUHCA reforms will be natural gas powered. So may many of the alternate fuel vehicles encouraged by the alternate fuel titles. Greater reliance on clean burning, abundant, natural gas will help our environmental, energy security, and oil import problems.

To maximize the benefits of natural gas, we have over the last few years legislated partial decontrol of wellhead prices in the 1978 Natural Gas Policy Act [NGPA]; approved the Canadian Free-Trade Agreement; and enacted the complete decontrol of wellhead prices beginning this coming January 1, 1993, under the Natural Gas Wellhead Decontrol Act.

Title II continues this course of comprehensive congressional enactments to ensure a broad policy of free and competitive wellhead markets in North America by, in effect, deregulating Canadian natural gas imports in section 201, and by restating and broadening our national federal policy in favor of vigorous competition in our gas wellhead markets, in section 202.

This overall series of recent and new enactments are critical because of what has recently happened as Federal regulation of wellhead markets has eased, and the accompanying Federal preemption of State pricing regulation by a comprehensive scheme of Federal price controls has started to phase out. In particular, some producing States have considered reoccupying this important field of interstate commerce with a new type of regulation—wellhead production regulation that could be used to cut back output in order to raise the general price level of natural gas.

Such a replacement of harmful Federal price lowering regulation and market intervention with equally harmful State price-raising regulation and intervention, would be inimical to a comprehensive national energy strategy aimed at free market-based growth of natural gas use. It would hurt gas use both in new areas under the other titles of the bill, and in the traditional gas markets of our Nation. Such intervention would send inaccurate price signals to producers and consumers, would impair economic efficiency, and would be fundamentally in conflict with a competitive wellhead market.

Some supporters of new producing State initiatives have asserted there is no evidence whatever that their aim is to set up a State administered horizontal price fixing cartel. We hope that is true.

However, we are familiar with the long history of economic waste and reasonable market demand prorationing administered by the Texas Railroad Commission in the 1950's and 1960's. We have reviewed how that scheme was indeed copied by OPEC when it was formed—see generally, "The Prize," by Daniel Yergin. And we have inquired into several official statements regarding these new State initiatives.

The following letter from one State official indicates the type of State activity that most concerns us:

STATE OF OKLAHOMA,
OFFICE OF THE SECRETARY OF ENERGY,
Oklahoma City, OK, October 22, 1991.
Representative GROVER CAMPBELL,
State Capitol Building, Room 539-B, Oklahoma City, OK.

DEAR REPRESENTATIVE CAMPBELL: I enclose a draft of a bill which is being prepared for introduction in the 1992 legislative session. As a member of the Energy, Environment, and Natural Resources Committee, I feel you should be kept informed about proposed legislation in the field of Energy.

The subject of this legislation is seasonal market demand proration of natural gas. As you are no doubt aware, Oklahoma enacted the nation's first market demand laws relating to both oil and gas in 1913, when a condition of severe over-supply had resulted in low field prices and widespread waste.

These laws were enforced and worked very well until the mid-1970's, when the first Arab embargo and punitive federal price controls on natural gas resulted in a severe shortage of supply. Later, when the shortage of gas had turned to surplus, the Oklahoma Supreme Court held that the Corporation Commission could not impose more stringent production controls except after personal notice which is a practical impossibility.

Recent events have clearly demonstrated the cost to Oklahoma and its citizens resulting from an excess of natural gas supply. During the summer of 1991, gas field prices sank to the lowest level in many years, below the cost of replacement, simply because of oversupply in the field.

Those who profit from the oversupply and resulting depressed price are the gas traders, the interstate pipe-lines, and the Eastern consumers. Those who lose are the developers, the State, and above all, the Oklahoma mineral owners. We should never forget that natural gas, unlike annual crops, is a nonrenewable resource. When gas is sold at a distress price, the landowner suffers a financial loss which can never be recouped.

This proposal would simply impose a seasonal limitation on production from natural gas wells. It is well known that the market for gas is seasonal: high in the winter months; low in the summer months. Pipe lines are rapidly developing storage facilities, specifically designed to further extend the period of low field prices.

When there is an excess of supply over demand, the simple solution is to reduce the oversupply by storing gas in the ground. If every producer were willing to cut production proportionately during the summer period, no legislation would be necessary. However, we all know that as a practical matter, such joint action, even if it would mean higher prices immediately, simply will not occur.

This proposal would impose a daily gas production limitation of 50% of well deliverability during the winter 6 months' period and 25% of deliverability during the summer 6 months' period. Wells producing casinghead gas and wells of low capacity (under one million cu/ft/day) would be exempt, because the impact of these wells on the market is small. Production from super-wells would be further limited to 25% of deliverability over 10 million cu/ft/day year round. Overage or underage could be made up only during a similar seasonal period, to minimize manipulation. Finally, the present draft includes an automatic sunset provision, under which the allowable restrictions would expire automatically at the end of two years unless renewed by legislative act. If for any reason the plan is not working, it can simply be allowed to die.

No one state can unilaterally overcome the distress prices resulting from seasonal oversupply. No state would want to impose production restrictions, and then see the market move to another state with no improvement in field prices. For this reason, the gas producing states of the Southwest are in close cooperation in these efforts to address the problem of oversupply and low field prices. The Texas Railroad Commission already has conducted hearings preparatory to issuing an Order imposing seasonal market demand proration on gas wells in that state. Similar initiatives are under way in Kansas, Arkansas, Louisiana and Colorado.

Oklahoma is fortunate in that all states recognize the necessity for legislation here. This means that Oklahoma no doubt will be the last to actually impose binding production restrictions. We will know whether other states will act before final passage of the bill by Oklahoma legislature. However, it is essential that Oklahoma move forward in concert with the other states.

I would appreciate your careful attention to this proposal. I would be glad to meet with you to discuss the matter further if you desire. If you share my conviction that this legislation would be of significant benefit to Oklahoma, its economy, and especially its citizen-landowners, your joinder as a legislative sponsor would be extremely valuable.

Very truly yours,
CHARLES NESBITT,
Secretary of Energy.

I and my colleagues realize there is a long history of legitimate State regulation to further the goals of physical conservation, to prevent unfair drainage among producers in a common reservoir, to enforce well-spacing rules, and so on. The Congress has not intended, by its previously noted enactments or by title II of this bill, to preempt these State authorities.

But it is also clear that there is no reference to such legitimate activities in the above-noted letter explaining the purpose, intent, and structure of the proposed new State law. Moreover, the proposal described there was subsequently toughened to shut in more gas over longer periods of time.

We of course are not deciding the lawfulness of that State enactment: This is entirely a question for the Federal courts, in the context of a preemption challenge to this or other State laws or regulation that substantially and unreasonably interfere with the broad Federal policy of wellhead competition.

The intent of Congress, however, will be a central question in any possible future disputes. Accordingly, we here restate and extend our legislative support for free national gas production markets, in new section 202. We strongly endorse the specific accompanying statement of managers language spelling out how the noted series of recent Federal laws and rulings have combined to prevent the States from using their regulation of producers or pipelines to restrict supplies and raise prices. We believe section 202 is an express statutory statement of the general policy and purpose, and that it correctly sums up where we have come from and where we are going, both under sections 201 and 202 of this bill and under the three previously noted Federal enactments.

For these reasons, we believe the Federal courts can now draw the right lines here: We think they can distinguish between regulation which has the substantial purpose and effect of raising prices—which is preempted—and the many legitimate types of regulation—which are not preempted.

Indeed, the Federal courts have engaged in similar types of line-drawing for a century, under the Federal antitrust laws: There, the focus is on the difference between reasonable restraints of trade, and unreasonable ones. Analogous inquiries into the geological justifications of a challenged law or rule; its legislative history or official explanations of it; whether its likely purpose, structure, and effect are more aimed at higher market prices and across-the-board shut-ins of gas, or instead vindicate producer property rights against drainage, and so on. These all would be an essential part of a court's scrutiny.

By thus preserving and extending our national policy of free trade and free markets for natural gas, we believe title II is a significant part of our new comprehensive national energy policy.

As for section 201, we note it applies for example to imports of Canadian natural gas into the United States; exports of natural gas to Canada from the United States; and imports of liquefied natural gas into the United States.

While applications for import or export approval still need to be made, imports or exports falling under new section 3(b)(3) are automatically approved, and by this act are "deemed to be consistent with the public interest." The application process will still serve the function of affording the Federal Government a record of the foreign commerce taking place.

This automatic approval, however, is not intended to modify the authority of the FERC or jurisdictional State commissions to review the prudence of the purchased gas when a jurisdictional utility seeks to include the cost of such natural gas in rates subject to the jurisdiction of the appropriate State or Federal agency.

The public interest finding in this new section of the Natural Gas Act accordingly does not alter the authorities of the FERC or State commissions previously available with respect to the prudence of natural gas purchases.

In drafting new section 3(b)(2) of the Natural Gas Act, we intended that imported natural gas not be discriminated against on the basis of its national origin. As noted, this would be inconsistent with our Federal policy of vigorous price competition in a decontrolled market.

The conferees intend for the Federal Energy Regulatory Commission to regulate such imported natural gas on a basis comparable to its regulation of domestic natural gas. Just as FERC does not take sides in the market competition between Oklahoma natural gas and Texas natural gas, it could not take sides between domestic gas and Canadian gas.

Hence, if FERC treats Canadian gas differently—on the basis of the place of its production, or in other respects based on its national origin—or in some manner gives preference to domestic natural gas on the basis of its national origin, such action would violate new section 3(b)(2). Of course, such action might also violate other provisions of the Gas Act, and the Canadian Free-Trade Agreement as well.

Finally, as drafted, the new fast track process would not be available for LNG exports to, for example, Pacific rim nations other than Canada. Current law on LNG exports would remain unchanged.

Mr. VENTO. Mr. Speaker, I rise in support of this conference report, and ask unanimous consent to revise and extend my remarks.

As one of the Interior Committee's conferees on this bill, I want to speak briefly about two sections of the conference report: Section 2401, dealing with the authority of the Forest Service and Bureau of Land Management regarding rights-of-way associated with electrical facilities, and section 2402, to clarify the restrictions on the licensing of hydropower projects in units of the National Park System.

Both of these provisions, in slightly different form, were approved for inclusion in the bill by the Interior Committee, and adopted by the House as part of the amendment offered by Chairman MILLER. In my opinion they definitely improve the bill, and I am pleased that we were able to retain them in conference.

Section 2401 is an amendment to section 501 of the Federal Land Policy and Management Act of 1976 [FLPMA], which provides the basic authorization for the grant, issuance, or renewal of right-of-way on Federal lands managed by the Interior Department's Bureau of Land Management [BLM] and the Agriculture Department's Forest Service. A similar amendment to this part of FLPMA was included in a bill, H.R. 3593 of the 100th Congress, favorably reported by the Interior Committee in 1988 but on which action was not completed. The purpose of this section is to overturn an erroneous judicial reading of this part of FLPMA and thus to reiterate and clarify that BLM and the Forest Service, and land managing agencies, are to implement section 501 of FLPMA in cases involving rights-of-way—called special-use permits by the Forest Service—related to new federally licensed projects for generation, transmission, or distribution of electrical energy.

As noted in the Interior Committee's report on the 1988 bill, House Report 100–950, part 1, while both BLM and the Forest Service have issued manuals to provide direction for their consideration of rights-of-way for such purposes, and for the requisite coordination with the Federal Energy Regulatory Commission [FERC], historically FERC generally ignored most attempts by the land managing agencies to impose necessary conditions on such rights-of-way, and in fact advised the committee during consideration of the 1988 bill that a FERC licensee does not need to obtain such a right-of-way, despite the clear language of FLPMA and despite the fact that neither the BLM nor the Forest Service had ever refused to issue such a right-of-way.

After the Interior Committee's favorable reporting of the 1988 bill, a review by the General Accounting Office [GAO] resulted in a July 1989 GAO report concluding that BLM and the Forest Service did have the authority and responsibility for issuing rights-of-way or special-use permits for FERC-licensed projects that involved lands managed by those agencies. At the request of the chairman of the Committee on Energy and Commerce, FERC then reconsidered its position, reexamined the language and legislative history of FLPMA, and in a February 15, 1990, order in a pending case stated its "revised opinion that BLM has authority under FLPMA to require right-of-way permits for licensed hydropower projects using BLM land."

This sound decision by FERC was reversed by a decision of the U.S. Court of Appeals for the Ninth Circuit, *State of California* v. *FERC*, 92 C.D.O.S. 2905 (April 3, 1992). In the opinion of the conferees, that court's decision misread the plain language and legislative history of FLPMA, and should be overturned, which will be the effect of section 2401. At the same time, section 2401 would not require a new right-of-way or similar authorization from the Forest Service or BLM for continued operation—including continued operation pursuant to section 15 of the Federal Power Act—for a project licensed under part I of the Federal Power Act—or exempted from such part—prior to enactment unless FERC determines that there will be a use of additional public or national forest lands not already subject to a reservation under section 24 of the Federal Power Act.

Section 2402 restricts the ability of the Federal Energy Regulatory Commission [FERC] to license hydroelectric power projects within units of the National Park System. it provides that FERC cannot issue an original license under part I of the Federal Power Act—or an exemption from that part—for a new hydroelectric power project located within the boundaries of any unit of the National Park System if the project would have a direct adverse effect on any Federal lands within such a unit. The section specifies that it is not to be construed as repealing any provision of law—or affecting any existing treaty—that authorizes a hydroelectric power project.

This provision has its genesis in legislation—H.R. 1173, 100th Congress—which was reported by the Interior Committee—H. Rept. 100–185—and passed the House in 1987 but on which action was not completed by the Senate.

Section 2402 builds upon existing protections afforded units of the National Park System. Existing law banning dams in such units refers only to national parks and national monuments language that some might read as leaving open the question of its applicability to units of the National Park System with other nomenclature. Section 2402 eliminates this possible ambiguity. It does not turn back the clock on existing projects but will provide additional protections for National Park System units from new hydropower projects or modifications of existing projects that have a direct adverse impact on these important conservation lands.

Mr. WILLIAMS. Mr. Speaker, I rise in support of the conference report on H.R. 776, the Comprehensive National Energy Policy Act. The bill contains several provisions affecting matters within the jurisdiction of the Subcommittee on Labor-Management Relations which I chair.

There are important provisions in H.R. 776 addressing the concerns of working men and women as well as the general public in this energy bill.

A compromise was reached providing for the first time meaningful protection for whistleblowers in the nuclear industry. Obstacles have been removed that had discouraged employees from bringing to the attention of the public information about potential health and safety problems. These provisions will protect not only employees and the public but will also help build confidence in the industry.

The whistleblower reforms include extending from 30 days to 180 days the time for filing a complaint. A new burden of proof is established that makes it more realistic for an employee to prevail in a case of retaliation. Interim relief would be available to an employee when an employer is appealing an adverse decision. This establishes the important principle that employees who initially prevail on the merits are entitled to appropriate relief during an appeals process that can continue for years.

The uranium enrichment titles assure that basic labor standards will apply. Transition provisions assure that existing labor relationships are preserved and that collective bargaining agreements which were the subject of a strike during consideration of this bill are preserved for a transition period. These provisions assure that worker concerns have been addressed in the restructuring of the uranium enrichment industry.

Although I am pleased that a nationwide coal tax was not used as the primary financing mechanism for the new system for providing health benefit of thousands of retired coal miners, I believe that serious problems still exist with financing provisions adopted by the conference committee. The existing United Mine Workers of America [UMW] health care trusts are in very precarious financial condition and something needs to be done immediately to restore their fiscal soundness. With so many millions of Americans uninsured, we have a special responsibility to make sure those who have coverage, don't lose it. But we also must assure that the burden of paying for those benefits is fairly allocated.

In allocating the burden, the most difficult problem is determining who should contribute to fund health benefits for retirees whose former employers were no longer in existence or in the coal business.

As you know, the Senate Finance Committee initially considered financing a substantial portion of the reforms by imposing a premium charge on all bituminous coal produced on an hours-worked basis. That placed an unfair burden on Western State coal producers including those in my own State of Montana, most of whom had never been signatories to UMW contracts. Ultimately, the Finance Committee adopted a differential rate structure which attempted to match burden with benefit more fairly. Under the structure eastern producers paid higher rate than western ones.

I am pleased that the Senate and now the conference committee has abandoned an industry wide financing mechanism entirely. But serious inequities still exist with the system adopted by the Senate and agreed to by the conferees. In particular, more attention will have to be paid next year to the feasibility and fairness of collecting premiums from, for example, companies in bankruptcy, companies who have been out of the coal business for many years, and companies which have assumed responsibility for the health benefits of their own employees.

Although the burden of funding the new health benefit program for coal miners is much more fairly allocated than initially proposed, I expect that we will have many requests to revisit these provisions in the future. In the meantime, however, retired miners can now be reassured that an immediate fiscal crisis has been averted and their health benefits will be paid. I urge support for the conference report.

Mr. JOHNSTON of Florida. Mr. Speaker, I am outraged that there is a serious omission in this conference report on this so-called comprehensive energy bill. When the House passed H.R. 776, title XX of the bill addressed a key concern among coastal States: What is the environmental impact of oil and gas exploration, development, and production on our coasts.

This House passed key provisions in H.R. 776 establishing interagency environmental review panels to assess the potential impact of oil and gas activity in each of the planning areas and to make recommendations to the Secretary of Interior. This provision was adopted on the basis of a National Academy of Sciences report in 1989 and findings by an interagency task force stating that the Department of the Interior did not have the information necessary to make informed decisions about the suitability of leasing off the coast of Florida and other coastal areas. The report also indicated that the 73 leases off the Florida Keys are dangerously close to national treasures, such as the Everglades National Park, Biscayne National Park, 3 national wildlife refuges, a national monument, and a national marine sanctuary. Even the administration has recognized that these leases should be suspended and undergo the process by which they may be canceled.

It is outrageous that we are here today to vote on a comprehensive energy package that ignores key concerns of our coastal States. Mr. Speaker, I recognize that we have energy needs and this bill encompasses numerous provisions promoting energy efficiency, nuclear energy, and alternative fuels, which I favor. However, I cannot in good conscience vote for this conference report. It is clear to me that Florida's interests and concerns and those of other coastal States have been ignored. I urge my colleagues to vote against this conference report.

Mrs. ROUKEMA. Mr. Speaker, the conference report now before us includes a complex and rather revolutionary provision intended to continue the health care coverage for approximately 120,000 retired coal miners and beneficiaries.

First, I believe that all parties recognize that the provisions of the Coal Industry Retiree Health Benefits Act address a rather unique situation and are not intended to serve as a precedent involving the retiree health benefit plans in other industries.

The provisions relate to the ERISA multiemployer health benefit plans created in collective bargaining negotiations between the United Mine Workers of America [UMW] and the Bituminous Coal Operators Association [BCOA]. Under the so-called 1950 and 1974 plans, in many cases the last employer of a beneficiary is no longer in business, or no longer has a contractual responsibility to provide coverage. Also, the form and manner of contributions to the plans have recently been renegotiated. As a result, mounting deficits in the plans threaten to curtail the flow of benefits. In general, the bill makes provision for the continuation of health care coverage to the existing beneficiary population by allocating financial responsibility to certain operators.

The essence of the bill is that those companies which employed the retirees in question, and thereby benefited from their services, will be assigned responsibility for providing the health care benefits promised in their various collective bargaining agreements. This is accomplished through a broad ranging formulation designed to allocate the greatest number of beneficiaries in the plans to a prior responsible operator. Funding transfers would also be required from a related multiemployer pension plan and from interest payments to the federal abandoned mine land fund.

I would observe that this detailed formulation was crafted in the Senate and without the benefit of hearings and consideration by our Committee on Education and Labor which has jurisdiction over ERISA multiemployer health and pension benefit plans. Unlike the features of the Multiemployer Pension Plan Amendments Act of 1980 [MEPPA] which received careful consideration and debate in all committees of jurisdiction in both Houses, the mechanisms in this bill have not been thoroughly scrutinized or its effects determined to be totally workable or fair in application.

While it is important that the promise of continued health benefits to retired coal miners be honored, it is equally important that the means to accomplish this objective be workable, fair, and constitutional. In this connection, it is clear that the Senate provisions on which we act today will again have to be reviewed from this perspective.

Mr. SCHULZE. Mr. Speaker, I rise in support of the conference report on H.R. 776. While this measure leaves many questions on American energy policy unresolved, it does take important steps forward in spurring the use of noncarbon based alternative energy resources, especially nuclear power.

As the specter of Three-Mile Island diminishes, and nuclear power continues to be produced safely and efficiently, the American people are again realizing that a strong, safe, and efficient nuclear industry is vital for our future energy needs and U.S. competitiveness.

In this measure are important nuclear licensing reforms and provisions to ensure the Federal uranium production sites are cleaned up. One provision in particular, will provide consumers with millions of dollars in savings and ensure nuclear plants are taken out of service and refurbished in a timely and safe manner. My legislation, H.R. 2012, the Nuclear Decommissioning Reserve Fund Act, was incorporated into this measure.

How many times have we passed legislation that has had the endorsement of the Consumer Federation of America, the Sierra Club, and the Edison Electric Institute? Not often—if ever.

I am proud to have introduced this measure and grateful that the conferees decided to incorporate our House provisions in the conference report. It is important for our consumers, for the environment, and for the nuclear power industry.

Generally owners of nuclear powerplants must decommission, or close down and dismantle such plants at the end of their useful lives. Decommissioning involves major expenditure because of residual radiation and generally occurs many years after a plant first becomes operable. A utility company which owns a nuclear powerplant usually collects a portion of the estimated future cost of decommissioning the plant each year from customers as a cost of service.

Section 468(a) of the Internal Revenue Code of 1986 allows a utility to deduct contributions to a qualified nuclear decommissioning reserve fund subject to certain limitations. A qualified fund is a segregated fund to be used exclusively for the payment of nuclear decommissioning costs and other related expenses.

The qualified fund constitutes a separate taxable entity and is subject to tax at the maximum corporate income tax rate—currently 34 percent.

The assets of a qualified fund, like those of a tax-exempt black lung disability trust fund, may be invested only in Federal, State or local government obligations or certain bank or credit union deposits.

Although establishment of a qualified fund for decommissioning costs carries certain tax advantages for utilities, the current investment restrictions so limit the investment alternatives as to make an election under 468(a) of limited value.

Utilities which establish such a fund generally limit their investments to tax-exempt securities due to the fact that the maximum corporate income tax rate is applied to the taxable income of the fund. As a result, the U.S. Treasury is denied significant tax revenue from the qualified funds. The current investment limitations, although well-suited to a tax-exempt black lung trust, are inappropriate when applied to a taxable entity such as a qualified nuclear decommissioning trust fund.

My legislation, incorporated into H.R. 776, would correct these problems and make establishment of a qualified fund more attractive by lowering the tax rate on income of such a fund from 34 to 22 percent through 1995, and to 20 percent thereafter. It would also eliminate the investment restrictions on fund investments. These modifications would encourage utility companies with qualified funds to invest in taxable securities such as U.S. Treasury obligations rather than tax-exempt securities, thus increasing the rate of return for future decommissioning costs.

Customers would see reduced costs saving millions of dollars annually. Most importantly, by lifting investment restrictions and lowering the tax rate, the funds will grow much faster than under current law, thus ensuring that outmoded nuclear plants will be taken out of service in a safe, timely and efficient manner.

After some years of trying, it is gratifying that the conferees have wisely accepted my proposal. I thank them, our bill cosponsors, and Chairman ROSTENKOWSKI for his support.

The incorporation of the Nuclear Decommissioning Reserve Fund Act into the conference report is clearly good government at its best.

Mr. MARLENEE. Mr. Speaker, I rise in opposition to this bill. This is not an energy bill.

Neither the Senate nor the House version of the Comprehensive National Energy Policy Act adequately addresses the need to revitalize domestic oil and gas production.

Certainly, in order to have a substantially positive impact on domestic drilling activity, tax incentives should not be limited solely to those operators who meet the narrow definition of "independent producers" under the Internal Revenue Code, but should be broadened to give real tax incentives to our struggling domestic oil and gas industry.

Language approved by the Senate Committee to open a portion of the coastal plain of the Arctic National Wildlife Refuge to exploration and production in an environmentally responsible manner, fell victim to a filibuster. Moreover, vast tracts on the Outer Continental Shelf along our Atlantic, Pacific and gulf coasts continue to be placed off limits to further exploration and production for many years by both the House and the Senate.

At a time when the United States is becoming dependent upon overseas suppliers for more than one-half of its petroleum needs, the Nation continues to be deprived of the oil and gas resources of its most promising offshore frontier areas.

This is the same general trend that is being taken on our onshore public lands, including many in my own State of Montana, and I cannot endorse any bill that steers our Nation down this dangerous course. What the strident preservationists are trying to do off our coasts they are also doing on our public lands.

For example, on the Rocky Mountain Front of Montana, the land grabbers have worked to cut off use of more than $3 billion worth of oil and gas resources. This is unconscionable in a nation facing huge shortages in domestic energy supplies.

We cannot afford this lock-it-all-up mentality. It is wrong for America and someday we will pay dearly for giving up our energy independence.

Mr. SCHEUER. Mr. Speaker, the bill before us today will not solve all of America's energy problems, but in certain respects it is a big step forward. With this bill, the Congress has produced an energy policy that is dramatically superior to the hopelessly inadequate national energy strategy offered to us by President Bush last year.

The President's proposal did little to meet the urgent need to improve energy efficiency and step up the development and use of clean, renewable energy technologies. This bill, in contrast, mandates increased efforts in energy efficiency and renewable energy, including much needed initiatives in research, development, and demonstration of new technologies.

It will help lay the groundwork for greater energy efficiency in buildings, industry, and transportation.

It will expedite the development and economical use of solar, wind, and other renewable energy technologies.

It will hasten the day when electric vehicles and other alternative-fueled vehicles take their place as the basis for a leaner, cleaner, and greener transportation system.

Mr. Speaker, as chairman of the Environment Subcommittee of the Committee on Science, Space, and Technology, I am proud of our contribution to the R&D titles in this bill.

With continuing support, the Energy Policy Act of 1992 will foster a transition to sustainable energy technologies, enhancing our economic competitiveness while protecting our environment in the years and decades to come.

Mr. SISISKY. Mr. Speaker, I would briefly like to express my concern regarding a consequence of the Coal Industry Retirement Health Benefit Act, which is contained in the energy bill we will vote on today. The so-called reach back provision, which assigns retired mine workers of companies no longer in business to companies currently operating in competitive markets, poses a significant financial burden to companies involved in the export of coal. While this is an unintended development of the legislation, I feel it is extremely important that this be recognized.

Energy coal producers can pass the costs of this provision onto utilities and ultimately, consumers. However, the coal export market is extremely competitive, and exporters of metallurgical coal must absorb the costs or lose market shares to our strongest competitors in Australia, Indonesia, and Poland. In addition, this will affect the railroads who transport this coal as well as the operation of ports on the east coast who ship it.

At present, U.S. coal producers export over $4.7 billion worth of coal, over 112 million tons a year. The State of Virginia alone produced 42 million tons in 1991. This provides a great deal of jobs throughout the region. Most of the coal produced in Virginia is coking coal used in steelmaking. Ironically, the majority of this coal is exported due to the decline of the U.S. steel industry. I feel it is important that these exporters be assisted in offsetting some of the costs of this measure by providing partial relief through an export tax credit.

While a tax credit was not included in this important legislation, it is my hope that in the future, some form of relief will be available. If not, we risk the prospect of increasing the already substantial economic displacement in the United States coal industry. Mr. Speaker, I would hope my colleagues will recognize this problem and consider action in the next Congress to correct it.

Mr. FORD of Michigan. Mr. Speaker; I rise to explain to my colleagues the provisions of the conference report relating to nuclear whistleblowers. I would like to applaud the tenacity of Chairman DINGELL, the chairman of the Energy Subcommittee, Mr. SHARP, and Chairman MILLER in fighting to preserve the House position. The result of their work is a vastly improved administrative procedure to protect the right of employees in the nuclear industry to resist unsafe practices and bring them to the attention of the Government, the public, and their fellow employees.

Employees will have 180 days, rather than 60, to file complaints of retaliation, which will give them time to gather evidence of the wrong done to them, take that evidence to an attorney or the Labor Department and file a complaint before their rights are cut off.

I am very pleased to report that the conference agreement breaks new ground in the protection of whistleblowers by combining a less onerous burden of proof for employees with interim relief that will ensure that successful complainants will not have to wait years for reinstatement and back pay after prevailing in their administrative hearing. No nuclear whistleblower will ever again have to endure the hardship suffered by Ms. Carolyn Larry, an employee in my State of Michigan, who won her case at the administrative law judge level but had to wait almost 5 years before the Secretary of Labor issued a final decision ordering relief.

The conference agreement creates a new paragraph (3) in section 210(b) of the Energy Reorganization Act of 1974. Paragraphs (3)(A) and (3)(B) impose a limitation on the investigative authority of the Secretary of Labor in whistleblower cases. If the complainant does not make a prima facie showing that protected activity contributed to the unfavorable personnel action alleged in the complaint, the Secretary must dismiss the complaint and cease the investigation. And if the employer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior, the Secretary must cease the prosecution of the complaint. The complainant is free, as under current law, to pursue the case before the administrative law judge if the Secretary dismisses the complaint.

At the administrative law judge hearing and in the subsequent appeal, the complainant's burden of proof will be governed by new section 210(b)(3) (C) and (D). Once the complainant makes a prima facie showing that protected activity contributed to the unfavorable personnel action alleged in the complaint, a violation is established unless the employer establishes by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

The conferees intend to replace the complainant's burden of proof enunciated in *Mt. Healthy* v. *Doyle*, 429 U.S. 274 (1977), in order to facilitate relief for employees who have been retaliated against for exercising their rights under section 210.

To remedy the long delays in obtaining relief for complainants with meritorious cases, the conference agreement amends section 210(b)(2)(A) of the Energy Reorganization Act to require the Secretary to order interim relief for any complainant who prevails at the hearing level. Once an Administrative Law Judge determines that the complaint has merit, the Secretary must, without delay, order the employer to abate the violation and reinstate the complainant to his or her former position together with the compensation, including pack pay, terms, conditions, and privileges of his or her employment. No award of compensatory damages may issue, except as a final order of the Secretary.

Mr. STUDDS. Mr. Speaker, I rise in support of the energy bill conference report, and in particular support of my provision regarding fishways at licensed hydroelectric power projects which was adopted by the Energy and Commerce Committee.

My committee has long been concerned with the blatant disregard the Federal Energy Regulatory Commission has demonstrated toward the Nation's fisheries resources and the responsibilities of the Federal and State fish and wildlife agencies in hydropower licensing. The Energy and Commerce Committee attempted to address this problem in the 1986 Electric Consumers Protection Act, but the situation is still far from satisfactory. In many parts of the country, hydropower projects with inadequate fishways continue to pose a serious threat to our fishery resources.

For that reason, I and many others were particularly troubled by FERC's recent efforts, through rulemaking, to limit the exclusive authority of the Secretaries of Commerce and Interior to prescribe fishways as a requirement of hydropower licensing. It was a result of that rulemaking that I offered an amendment to the energy bill to vacate FERC's improper rule and clarify once again the exclusive authority of the natural resource agencies to prescribe fishways and protect our fisheries.

The conference report reflects this amendment. Specifically, it reinstates the status quo that existed prior to FERC's rule and requires that any future attempts by FERC to define fishways must be done with the concurrence of the Secretaries of Commerce and Interior. The provision does not require FERC to adopt new fishway regulations however, nor does it preclude the existing authority of the resource agencies to issue their own regulations pursuant to section 18 of the Federal Power Act.

The intent of the provision is to ensure the safe and timely passage of fish at licensed hydropower projects. Fishway structures and operations may serve a variety of resource objectives and plans, which this provision does not intend to limit, such as passage for healthy existing populations; passage for depleted populations as part of a restoration program; or passage as a means of access to underutilized habitat areas.

Further, the phrase "project operations and measures" is intended to give full effect to the accomplishment of safe and timely passage of fish. For example, an appropriate fishway might consist of a spill over a spillway; controls on timing of project operations or on project features such as gate openings; project shutdown as an alternative to the construction of a fish screen or where fish screen is not practicable; the safe passage flow over a barrier such as a waterfall in a project area; or the physical transport of fish around an impediment to passage.

Mr. Speaker, I am pleased that this fishways provision has been included in the conference report, and I hope that as a result our fisheries resources will be given the treatment and protection they need and deserve.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 776, the Comprehensive National Energy Policy Act. While there are many provisions in this bill pertaining to a broad range of issues, I will limit my remarks to Outer Continental Shelf development, global warming and alternative fuels.

Overall, I am pleased that this legislation promotes the implementation of several conservation measures with an eye on reducing our dependence on oil. It is clear that oil production is not a panacea to our Nation's energy ills.

Indeed, we must balance our need for adequate energy resources with our desire to protect our global environment. I believe that H.R. 776 goes a long way toward this goal.

As the leading Nation in oil consumption and CO_2 production, it is our responsibility to cooperate with the international community to stabilize CO_2 production without adversely impacting a Nation's ability to develop. Accordingly, I am pleased that the bill authorizes $50 million to help support international efforts to reduce greenhouse gas emissions. Clearly, our domestic and international policies must be coordinated to promote a comprehensive, long-range view that addresses the environmental degradation of the planet.

Despite these advances, I am disappointed that the entire OCS title has been eliminated from the energy bill. Among the provisions in the House-passed version of the energy bill were: a 10-year moratorium on the issuance of new leases for oil and gas production in most areas of the Outer Continental Shelf; establishment of scientific panels to assess potential impact of oil and gas development in each moratorium area; and a program under which States would receive block grants, funded from a portion of Federal OCS leasing revenues, for environmental protection and remediation activities in the coastal zone.

These provisions provided necessary advances in the way we address offshore development. Consequently, their elimination leaves a gaping hole in our comprehensive national energy policy and could place at risk superlative natural resources for what could be an inconsequential amount of oil.

Mr. Speaker, the development of America's alternative fuel resources is the best means by which we can diminish our reliance on oil and all the difficulties and hazards associated with its use. The alternative fuels section of H.R. 776 is a forward looking approach, which can begin to yield results today. At the same time, a 10-percent alternative fuel use goal by the year 2000 is reasonable and attainable.

I am pleased that the Federal fleet will be among the first to participate in this exciting program. Combined with the mandates for private fleets and commercial demonstration programs, we can surely expect to reap innumerable benefits from the enactment of these vital provisions of H.R. 776.

I believe that any legislation to implement a comprehensive national energy policy must incorporate conservation measures and encourage the use of alternative energy sources to meet our energy needs. H.R. 776 is a step in the right direction and I urge my colleagues support for its passage.

Mr. ANDREWS of Texas. Mr. Speaker, one energy conservation provision in H.R. 776, the Compreshensive National Energy Policy Act of 1992, will go far in promoting greater energy conservation by individuals and businesses. By granting a preferred tax status to rebates paid by utilities for conservation installations and modifications, this bill will promote the efficient use of energy.

When considering rebate programs, it is necessary to analyze fully the effect of the program on the ultimate consumption of primary energy. Because regates can significantly affect the fuel choice decisions of consumers, public service commissions and other local regulatory authorities should ensure that promotional programs that actually increase energy consumption, consumer energy bills and environmental degradation are not granted this favorable tax treatment as a result of their inclusion with other true conservation measures.

Environmental groups such as the Natural Resources Defense Council and Friends of the Earth and conservation groups such as the Energy Conservation Coalition, the American Council for an Energy-Efficient Economy and the Alliance to Save Energy, have all endorsed this provision as promoting responsible energy conservation. They are, however, promotional programs that may decrease energy efficiency, harm the environment and increase consumer energy costs. Certainly, State regulatory commissions and local governing authorities should carefully scrutinize rebate programs and give utilities guidance as to what constitutes a true conservation program.

Mr. DE LUGO. Mr. Speaker, I rise in support of the conference report on H.R. 776.

This conference report is the outgrowth of considerable effort on the part of the House and Senate, and I commend my colleagues in both Chambers for the extraordinary degree of cooperation that resulted in our completing this conference on time.

In particular, I want to commend the chairman of the conference committee on which I was privileged to serve, Senator BENNETT JOHNSTON Jr. I also want to recognize the leadership of Chairmen MILLER and DINGELL on this important matter.

Mr. Speaker, title XXVII of H.R. 776 would address a number of special energy-related problems faced in the insular areas for which our Nation has special responsibilities, and which are outlined in House of Representatives Report 102–474, part 8.

For the most part, H.R. 776 would followup on issues which the Insular and International Affairs Subcommittee on the House Committee on Interior and Insular Affairs—which I am privileged to chair—has been working on for some time.

A few other issues are based on more recent consultation with representatives of the insular areas, but also relate to longstanding needs.

Among the pressing insular needs addressed, Mr. Speaker, is the need to provide electricity throughout the trust territory that we have committed to the United Nations to develop, Palau.

Some 45 years after the United States assumed this responsibility, electricity is still not available to many people in these western Pacific islands.

Fortunately, the conference report on H.R. 776 recognizes the importance of ensuring adequate electric service throughout the islands, as did the House bill. It would require the Secretary of the Interior to submit to the Congress—within 3 months of enactment of H.R. 776—a plan to meet Palau's electric needs, including all of the infrastructure and financing needs of its power system.

Mr. Speaker, this conference report includes a number of other important provisions that are essential, not only to the provision of energy in the insular areas, but to the health and well-being of the people in these areas as well.

For example, PCB's brought into Micronesia and the Marshall Islands in power distribution equipment by the Federal Government during its period of United States trusteeship responsibility for the islands should be cleaned up by the Federal Government.

H.R. 776 recognizes and facilitates this.

Also, since the insular areas have an abundance of alternate, renewable energy resources, these resources should be developed in order to break these islands' almost total reliance on costly, imported energy.

H.R. 776 recognizes this and would assist insular governments in developing these valuable resources by authorizing an annual appropriation of up to $2 million for such programs.

And because of the unique vulnerabilities of the insular areas to any disruption in our Nation's energy supplies, title XIV of H.R. 776 requires the Secretary of Energy to submit to Congress a study outlining how these areas would gain access to vital energy supplies in times of a national energy crisis.

Finally, recognizing that any shipment to or storage of nuclear waste on any of these islands would have far-reaching and life-threatening consequences to the people of these relatively small land masses, H.R. 776 prohibits this.

On that note, Mr. Speaker, I must express my sincere regrets that the Abercrombie amendment which would have stiffened considerably the circumstances under which plutonium may be shipped through U.S. territorial waters did not survive. This is an issue, however, which I am certain the honorable gentleman from Hawaii will not let die, and I look forward to working with him on this in the 103d Congress.

I urge my colleagues to pass this conference report.

Mr. MARKEY. Mr. Speaker, I am a strong supporter of the conference report on H.R. 776, the Energy Policy Act of 1992. Overall, this landmark legislation promises great gains for consumers and the environment with its profound changes in our national energy policy.

Despite my overall support for this bill, I am very troubled by one of the amendments to the Public Utility Holding Company Act of 1935 [PUHCA]. One provision in title VII of H.R. 776, section 715, would allow utility companies to invest heavily in foreign utility companies—but unfortunately without adequate regulatory oversight. I strongly oppose this provision because I am very concerned that utilities will make unwise investments in foreign utility systems with great potential risk to their asset base, and in turn to their ratepayers—residential, commercial, and industrial.

I state these strong reservations despite my endorsement of PUHCA reform. We must keep in mind that PUHCA reform will greatly increase the investment opportunities for utility companies—with potential risks and potential benefits. On the "domestic front" the potential beneficiaries and the potential victims of these investments include the utilities' domestic ratepayers. But on the international front the potential beneficiaries are foreign ratepayers and the potential victims are domestic ones. In other words, individuals and businesses in the United States may find their electric and gas rates increasing while they subsidize rates overseas.

Furthermore, the foreign utility section was not included in either the House or the Senate versions of the energy bill. In fact, it was not the subject of hearings in either body. It appeared during the conference committee and has barely been analyzed and debated by Congress or others.

It is a major change in how utility companies are allowed to invest their money, a change that is premature and, I believe, ill-advised.

As chairman of the Telecommunications and Finance Subcommittee of the House Energy and Commerce Committee I oversee the U.S. Securities and Exchange Commission [SEC]. I know that in many areas of its authority the SEC does an admirable job of regulating securities markets and enforcing the securities laws. But the SEC does not do a good job in performing its responsibilities under PUHCA. In fact, their record on consumer protection under PUHCA is quite poor.

That is why I plan to conduct very close and careful oversight of the SEC's enforcement of utilities' foreign investments in the 103d Congress and beyond. PUHCA reform will ease the burdens placed on the Commission and its staff—that is why next year during debate on reauthorizing the SEC I will make sure that they redeploy their resources to ensuring that utilities do not make unwise and risky foreign investments. Their financial exposure in the international arena is potentially enormous with commensurate risk to investors and to ratepayers.

As we consider the conference report to H.R. 776 it is valuable to review this important issue. We must keep in mind that for almost six decades PUHCA has required electric utilities to think about one thing only: The welfare of their customers. This amendment will radically change that world.

In the last few years, the court of appeals has reversed the SEC twice regarding PUHCA oversight because of legal error or failure to order a fair hearing. With one minor exception, the SEC has not ordered a fair hearing to review a holding company application in 15 years.

The registered holding companies are the largest electric utility systems. The nine electric systems cover 20 States in total. This provision would allow the largest companies to take the largest risks with the least review. That makes no sense.

H.R. 776 already changes our electric industry in ways we can only speculate about. Those changes to PUHCA would authorize utilities to create wholesale generators anywhere in the country, with little review. The foreign utility amendment would change the electric industry even more dramatically. Today, utility activities are located primarily in a single State or geographic area. Yet most State commissions already are outmatched. If each of those utilities in turn invested in, or were affiliated with, foreign utilities, the task would become much greater. It will be difficult for State commissions, already short on staff and other resources, to trace and allocate costs when some of the cost centers are located in a different continent.

Our Nation's electric utilities face many grave challenges. Acid rain emissions and nuclear waste disposal alone are straining the resources of our top managerial talent. After much procrastination, utilities have only just begun to tap the extraordinary benefits of demand-side management techniques such as conservation and load management. Alternative technologies such as solar, biomass, wind, and geothermal energy remain underexploited. With changes in smallscale technologies, we now have opportunities never available before to create competition. We need competition—fair competition—to make our domestic electric industry more efficient.

These are new challenges for not only our utilities but our State regulators as well. State commissions remain the lone bulwark protecting captive consumers from monopoly power. Any new complexity in the industry's structure puts additional pressure on them. Today the State regulators must keep tabs on a large utility whose interests already can lie in other industries in other geographic locations. Under the PUHCA changes in H.R. 776, this job will grow exponentially as utilities and others are free to roam the country in search of new electric markets. Yet we have provided no financial assistance and no technical assistance to these State commissions, whose resources are strained already by budget cuts.

It is one thing to permit a utility to play in its own backyard, acquiring neighboring utilities or related lines of business. It is quite another thing to extend that backyard over the entire planet. How does a State commission in New Jersey, for instance, monitor its utilities' activities in Argentina?

This provision would invite utilities to shift valuable resources and management—paid for by captive retail ratepayers—from monopoly markets to competitive markets. Utility expansion into new markets raises the same problems as does utility diversification in general: risk of failure, diversification of utility profits from measures which would strengthen the utility's financial condition, reduced utility maintenance, the draining of top management from the core utility, and cross-subsidization.

Some may argue that utilities have plenty of expertise, and should have a chance to send that expertise abroad. But a monopoly utility cannot argue, simultaneously, that first, it has service territories of exclusive domain, and second, that it is retaining its best resources and management for the local utility business. Managers cannot be in two places at the same time.

If the utility has excess resources, it can best serve the public by transferring this capacity to a new company and spinning off that company to its shareholders. There is no public interest reason why the utility need retain control of the new company, or why the utility's captive customers need be at risk should that new company fail.

We are trying to do too much at once. We are inviting utility empire building when we should be insisting on consumer protection. I will continue to oversee the SEC's role and responsibilities in this area to ensure that domestic ratepayers are not harmed and are not put at risk.

Mr. SCHEUER. Mr. Speaker, as this Congress concludes with the passage of legislation designed to promote energy conservation and the use of sustainable energy sources both at home and abroad, it is imperative that we realize that our progress toward the goal of environmental protection is jeopardized by the rapid increases in global population. Population growth has long been recognized as one of the greatest threats both to the environment and to the quality of human life in developing countries. The strain on natural resources imposed by rapid increases in population and the resulting adverse impact on human life are apparent today in many areas of the world. In Indonesia, for example, the doubling of Jakarta's population in the 20 years from 1970 to 1990 and the accompanying increases in sewage and industrial waste pouring into coastal waters have resulted in dramatic declines in the numbers of fish caught by local fishermen and have rendered the remaining fish inedible. In Africa, the famines in Ethiopia and, now, Somalia present the most familiar and appalling examples of the intense human suffering caused at least in part by the stress of rapid population growth on delicate ecosystems. Deforestation and desertification are but two of the devastating consequences of an overstressed and fragile environment.

In recent years, moreover, it has become apparent that the impacts of population growth are not confined to local environmental degradation and suffering. The phenomena of deforestation, loss of biodiversity, and climate change, which are increasingly recognized as global as well as local environmental threats, are driven by increases in both population and per capita consumption. In fact, scientific analyses estimate that population growth has already been responsible for nearly two-thirds of the increase in carbon dioxide emissions and for up to 80 percent of recent losses in tropical forests.

The necessity of action to address the environmental threat posed by rapid population growth has also been recognized for many years. The Declaration on the Human Environment adopted at the first major international conference on the environment, held in Stockholm in 1972, observed that population growth continuously presents problems on the preservation of the environment and recommended that demographic policies which respected human rights be instituted in areas whose high rates of population growth posed an environmental threat. More recently, a 1992 report by the World Resources Institute on environmental technologies noted the threat to environmental sustainability posed by population growth and proclaimed the development of new contraceptive technologies to be an environmentally critical opportunity.

EFFORTS TO PROMOTE FAMILY PLANNING

The most immediate and logical means to decrease population growth while respecting human rights is to make family planning services universally accessible, and the goal of doing so enjoys widespread support within the international community. Ensuring that all couples are empowered to choose the timing and spacing of their children's births is one of the objectives adopted by the 1990 World Summit for Children in its list of feasible, affordable goals for achievement by the year 2000. Even the agenda adopted at the recent U.N. Conference on Environment and Development, which many in the international community felt paid too little attention to the urgency of the population growth problem, recommended that countries should institute measures to ensure that women and men have the same right to decide freely and responsibly on the number and spacing of their children and have access to the information, education and means, as appropriate, to enable them to exercise this right. The efficacy of family planning efforts in improving human welfare is emphasized in the recent UNICEF State of the World's Children 1992 report's declaration that:

> The responsible planning of births is one of the most effective and least expensive ways of improving the quality of life on earth—both now and in the future—and that one of the greatest mistakes of our times is the failure to realise that potential.

In the 40 years since the institution of the first national family planning program in India, and the establishment of the International Planned Parenthood Federation in 1952, approximately 70 governments have either established their own national family planning programs or have provided indirect or direct support to substantial nongovernmental family planning programs in their countries. The drive to ensure universal availability of family planning services has been successful in that by 1990, 95 percent of the developing world population was living in countries which offered some form of family planning support.

CONTRACEPTIVE DEVELOPMENT FAILURES

Despite the achievements of international and national family planning programs, however, considerable technological and logistical obstacles still thwart efforts to ensure that all women have access to family planning services which meet their needs. Contraceptive technology has made few gains since the early 1960's, when the pill and the IUD were introduced. Of the nine contraceptive methods listed by the Office of Technology Assessment in 1980 as highly likely to be available before 1990, only four are currently available in the United States. Many groups, especially breastfeeding mothers, those unable or unwilling to take oral contraceptives because of health risks, and people who lack access to the trained medical professionals needed for some methods, are not served well by any of the existing family planning options. Moreover, none of the contraceptive methods in use is completely reliable. Experts estimate that as recently as 1987, over 1 million pregnancies occurred in the United States alone due to contraceptive failure. The lack of acceptable options for family planning is noted in a 1990 report by the National Research Council and the Institute of Medicine:

> Every method in use today has drawbacks, and, collectively, current methods leave major gaps in the ability of people to control fertility safely, effectively, and in culturally acceptable ways throughout their reproductive life cycle.

Unfortunately, the prospects for improving the selection of family planning options are limited severely in the United States by a combination of deterrents including lack of government support of research, difficulty in obtaining regulatory approval of new contraceptives, and concerns about product liability. Most large U.S. pharmaceutical companies have abandoned their contraceptive development programs due to these factors; only one, Ortho Pharmaceutical Corp., remains active in the field. As industry and private foundation support for contraceptive development research declined throughout the 1980's, though, Federal funding remained relatively constant instead of moving to fill the gap created by loss of non-Federal support. Moreover, during the period from 1970 to 1986, the United States provided only $3.2 million in funds to the Human Reproduction Programme, which is the main contraceptive development program of the World Health Organization. During the same period, Sweden contributed $73 million to the program; Norway donated $26 million; and the United Kingdom gave $24 million.

OBSTACLES TO ACCESSIBILITY OF EXISTING CONTRACEPTION

In addition to the obstacles to family planning posed by the lack of attractive contraceptive options, there are also significant logistical, financial, and political difficulties in ensuring the universal accessibility of the existing family planning methods. Experts estimate that 130 million women living in developing countries would like to control the number and spacing of their pregnancies but are not currently practicing contraception. The result of the lack of knowledge about or access to family planning services, observes the UNICEF report, is that [approximately] one pregnancy in three in the developing world this year will be not only unplanned but unwanted.

Since the worldwide number of couples of childbearing age will increase throughout the 1990's by about 18 million annually, the next few years are a critical time for promoting family planning. Current expenditures for family planning in the developing world have been estimated at $4.6 billion, and 50 percent of married couples practice contraception. The Population Crisis Committee estimates that funding for family planning in developing countries will need to rise to $10.5 billion by the year 2000 in order to achieve global population stabilization at a level slightly less than double the current world population of 5.4 billion. An equitable U.S. share of this funding is estimated at $1.2 billion annually by the year

2000. Primarily because of political pressure from the antiabortion movement, however, the administration is reluctant to increase funding for international family planning assistance programs and refuses to resume U.S. support of such major international organizations as the United Nations Fund for Population Activities and the International Planned Parenthood Federation. Such concerns, together with U.S. reluctance to address the overconsumption which produces the greatest environmental impact from developed world populations, also played a large part in stifling discussion of population issues at the recently concluded UNCED meeting.

As the United States continues the third decade of the environmental movement, and as we in public service continue to debate environmental policy in both legislation and international agreements, it must be recognized that in the long run, population stabilization is the sine qua non of environmental protection. Incremental gains in energy and water conservation, control of air pollution, and reduction of solid and hazardous wastes will all eventually come to nought if we continue to stress the earth's natural resources through relentless population expansion. If our goal is to ensure that these resources are sustained in order to provide even the possibility of a civilized worldwide standard of living, with enough food, water, and energy for everyone, we simply must begin now to make the goal of global population stabilization a priority and incorporate it into our health research, education efforts, international aid, and environmental laws and treaties.

The conscience of the world community must be pricked to reverse this tide of events. The family of U.N. agencies must act in concert to bring this message to the developing world so that equilibrium may be achieved between food production and population.

WHO should expand its family planning program activities and efforts to improve material and child health. UNESCO should expand its education efforts to encompass the human dimension of environmental protection.

UNED must redouble its efforts throughout the world on environmental protection.

FAO must revitalize its efforts to promote increased efficiency of food production in an environmentally sustainable manner.

The World Bank and the regional development banks must become truly committed to funding projects which promote literacy, maternal and child health, family planning technologies based upon energy efficiency, and resource conservation and other environmentally sustainable technologies. The OECD nations should exert their moral responsibility to make funds available to developing nations to further their efforts in family planning and environmental protection. For OECD nations, it is a clear cut case of pay me now, or pay me later, for surely there is a tremendous global cost associated with the developed world's failure to assist developing countries with their urgent need to act on these pressing issues.

Mr. HARRIS. Mr. Speaker, I rise today in strong support of House Resolution 776, the National Energy Policy Act. I would like to congratulate both Chairman JOHN DINGELL and our subcommittee chairman, PHIL SHARP, for their hard work on this omnibus legislation. Today, we will vote on one of the most important pieces of legislation of the 102d Congress.

As a member of the Energy and Power Subcommittee, I have been involved in the development of this legislation from its inception. I believe it is time to move this country toward a sensible energy policy and secure energy future. This legislation will accomplish both of these goals.

The comprehensive package will encourage the efficient use of all forms of energy, including coal, fossil fuels, nuclear, and renewable energy. The efficient use of energy will not only help our economy, but also lower our dependence on imported oil. This, in turn, will lower our trade deficit.

My home district in Alabama is fortunate to have many natural energy resources such as coal, natural gas and hydro power. This legislation will encourage better use of all of these fuels.

I believe we have reached a consensus on a national policy that will help our economy and our environment. If we can lower our costs of production, American-made products will be more competitive in the global marketplace. This bill will help companies toward that goal by lowering the cost of energy.

Another important provision in this bill will amend the Public Utilities Holding Companies Act to encourage the development of independent power producers. These new electricity producers will compete directly to lower the cost of electricity.

The issues involving nuclear energy have also been a concern of mine. The bill today contains an important provision that ensures that the site characterization study at Yucca Mountain will continue on schedule. This study will determine whether Yucca Mountain is a suitable site for disposal of high level nuclear waste. The disposal of this waste is an important issue to resolve. In addition, this conference report contains a new licensing procedure for nuclear powerplants.

I urge my colleagues to support this omnibus bill. The time to act is now.

Mr. DORGAN of North Dakota. Mr. Speaker, I am voting for this energy bill because I think it's an important step toward energy efficiency and energy independence in this country. It establishes the basic elements of a long-awaited national energy policy, and such policy is overdue.

This conference agreement provides tax incentives for independent natural gas producers to invest in new production, and it includes tax incentives, technical assistance and market incentives for the growth of clean alternative fuels such as ethanol and compressed natural gas. Similar incentives and assistance are provided for wind, solar and geothermal energy.

I fought for these incentives for alternative energy in the Ways and Means Committee because I feel strongly that our Government must get behind these energy sources and bring them into the mainstream of this Nation's energy program. This kind of legislation is vital to American interests if we are going to move away from our excessive dependence on foreign oil.

The conference agreement also provides access for new electrical power generators, including those powered by wind energy, to freely sell their power into electric utility grids. At the same time, it protects private utilities and cooperatives from an unfair environment in which a new energy supplier could move into an established area and pick off the best retail customers with discounted rates. In this respect, the bill provides balance and fairness while encouraging new competition and efficiency in electrical power.

However, I am very concerned about some provisions in the bill, and I hope that the next Congress will address them quickly. First, the reachback provision requiring coal operators that are not members of the Bituminous Coal Operators Association [BCOA] to help bail out the BCOA's health benefits fund for retired coal miners is patently unfair.

This provision will result in a windfall for a few big coal companies that intentionally under-funded their own benefits program. Although we all share the ultimate goal of guaranteeing the solvency of this fund for retired coal miners, the reachback provision simply asks the wrong parties to pay for it.

Second. I am concerned about the omission of a moratorium on offshore oil and gas leasing. Congress has placed short-term moratoriums on further drilling in the most environmentally sensitive areas, but those moratoriums will soon run out. Congress must make responsible judgments soon about where further off-shore drilling should be allowed, if at all.

Despite these problems, however, I feel that this legislation generally moves in the right direction to address this country's energy problems. I urge my colleagues to support this bill establishing a sound national energy policy.

Mrs. KENNELLY. Mr. Speaker, I rise to associate myself with the comments of the chairman of the Ways and Means Committee, DAN ROSTENKOWSKI, regarding the coal health benefits provision of the Comprehensive National Energy Act of 1992, specifically his observation that the House conferees were prevented from undertaking good faith negotiations on the enumerable problems associated with the Senate version. I support his interest in reconsidering this provision in the very near future, specifically before they take effect on October 1, 1993.

One of the major issues that should be addressed is the impact this provision will have on the export coal industry. Significant additional costs imposed on coal destined for export will result in fewer exports and lower employment in the U.S. coal and transportation sectors. The adoption of a metallurgical coal tax credit or other similar relief will go a long way toward preserving jobs in this important industrial sector.

Mr. LEWIS of Florida. Mr. Speaker, I rise in reluctant opposition to H.R. 776, the National Energy Strategy Act.

While there are many programs here that I support, such as energy efficiency and alternative fuels, I cannot support the conferees' decision to strip out language forbidding oil drilling off of Florida for the next decade.

It is important to realize that this is not a simple case of the language being in one House and not the other. Similar language was in both bills—but was dropped because it was too controversial.

Mr. Speaker, this is a sorry excuse, no matter what the underlying reason. This body is supposed to make the difficult decisions. If this ban is too controversial to place in this bill, when will it ever get passed?

For those of us who have worked for a drilling ban, this is a cruel blow. To come so close, but yet be so far.

Let's defeat this bill, send it back to the conference committee, and put the oil drilling title back in the bill. Floridians, and all coastal citizens deserve no less.

Mr. MARKEY. Mr. Speaker, I have discussed the importance of this bill's provisions in providing genuine access to transmission lines at affordable prices for all in the industry. In my home State of Massachusetts, this is particularly important for a number of entities. For example, the Massachusetts Municipal Wholesale Electric Co. [MMWEC], a group of municipal utilities representing nearly three dozen major municipal systems in Massachusetts. MMWEC provides power to towns and cities throughout our State by buying power in bulk from other utilities and selling power produced in its facilities to its members and participating utilities at cost. By purchasing power in bulk, groups and municipalities acting through MMWEC can purchase power at competitive prices. While the power purchased is competitively priced, increased cost of transmission can impair the municipalities' ability to remain competitive adversely impacting the residential, commercial, and industrial customers they serve. Therefore, it is important to provide FERC the explicit authority to order transmission access and to provide pricing protection and adequate regional planning arrangements.

I want to commend the members of MMWEC and their colleagues in the Transmission Access Policy Study group [TAPS] for the many important contributions they have made to the compromise legislation which is finally before this body today.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MRS. VUCANOVICH

Mrs. VUCANOVICH. Mr. SPEAKER, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the conference report?

Mrs. VUCANOVICH. I am, Mr. SPEAKER.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. VUCANOVICH moves to recommit the conference report on the bill H.R. 776 to the committee of conference with instructions to the managers on the part of the House to disagree to section 801 (relating to EPA standards for nuclear waste disposal) in the conference substitute recommended by the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the SPEAKER pro tempore announced that the noes appeared to have it.

Mrs. VUCANOVICH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. The Chair announces that this will be a 15-minute vote, and the next vote on the conference report will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 102, nays 323, not voting 7, as follows:

[Roll No. 473]

YEAS—102

Allard
Allen
Andrews (ME)
Atkins
AuCoin
Ballenger
Barrett
Bentley
Berman
Bilbray
Bilirakis
Boehlert
Bryant
Burton
Byron
Campbell (CA)
Campbell (CO)
Coleman (TX)
Conyers
Cox (CA)
Crane
de la Garza
DeFazio
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Evans
Ewing
Fawell
Fish
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goss
Hammerschmidt
Hansen
Ireland
James
Johnston
Jontz
Kaptur
Klug
Kostmayer
Lantos
LaRocco
Levine (CA)
Lewis (CA)
Marlenee
McDermott
McEwen
McNulty
Mfume
Michel
Miller (OH)
Moody
Murphy
Myers
Nagle
Obey
Olver
Orton
Owens (UT)
Pallone
Paxon
Ramstad
Rangel
Richardson
Riggs
Ros-Lehtinen
Sanders
Savage
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Shaw
Sikorski
Skaggs
Skeen
Smith (OR)
Smith (TX)
Snowe
Staggers
Stallings
Studds
Thomas (CA)
Thomas (WY)
Vento
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Wolpe
Yates
Young (AK)

NAYS—323

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Barton
Bateman
Beilenson
Bennett
Bereuter
Bevill
Blackwell
Bliley
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bunning
Bustamante
Callahan
Camp
Cardin
Carper
Carr
Chapman
Clay
Clinger
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Fascell
Fazio
Feighan
Fields
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Oxley
Packard
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Reed
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sisisky
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Solomon
Spence
Spratt
Stark
Stenholm
Stokes
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Walker
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Barnard
Boxer
Chandler
Clement
Hunter
Lipinski
Stearns

☐ 1736

Messrs. HEFLEY, HOYER, BLILEY, WALKER, PACKARD, RAY, RUSSO, WHITTEN, and CUNNINGHAM changed their vote from "yea" to "nay."

Messrs. BOEHLERT, GILMAN, and JAMES, Mrs. SCHROEDER, Messrs. LEVINE of California, KLUG, SANDERS, BERMAN, STUDDS, GILLMOR, OBEY, LANTOS, WALSH, WASHINGTON, AuCOIN, COX of California, de la GARZA, YATES, CONYERS, and RANGEL, Ms. SNOWE, Messrs. JOHNSTON of Florida, EVANS, McDERMOTT, and VENTO, Mrs. BYRON, and Mr. MFUME changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHARP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 363, nays 60, not voting 9, as follows:

[Roll No. 474]

YEAS—363

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shays
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Waters
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Zeliff
Zimmer

NAYS—60

Allard
Allen
Andrews (ME)
Armey
Bacchus
Bilbray
Bilirakis
Burton
Camp
Campbell (CA)
Cox (CA)
Crane
Cunningham
DeFazio
DeLay
Doolittle
Dornan (CA)
Dreier
Fascell
Gekas
Gibbons
Gingrich
Goss
Hammerschmidt
Hancock
Hefley
Ireland
James
Johnston
Jontz
Kostmayer
Lewis (FL)
Long
Marlenee
McCollum
Oberstar
Obey
Packard
Pallone
Penny
Peterson (FL)
Petri
Ridge
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Sensenbrenner
Shaw
Shuster
Sikorski
Smith (FL)
Solomon
Stark
Stump
Vucanovich
Walker
Washington
Weber
Young (FL)

NOT VOTING—9

Barnard
Boxer
Chandler
Clement
Hunter
Lipinski
Roybal
Stearns
Waxman

□ 1748

Mr. ROHRABACKER and Mr. SOLOMON changed their vote from "yea" to "nay".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Indiana?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution and concurrent resolution of the House of the following titles:

H.J. Res. 560. Joint resolution waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the 102d Congress.

H. Con. Res. 376. Concurrent resolution providing for the preparation of official duplicates of certain legislative papers.

PROMOTING CONSERVATION MEASURES AND PROVIDING FOR REAUTHORIZATION OF CERTAIN FISH, AND WILDLIFE PROGRAMS

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5013) to promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorized the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments: Page 28, after line 22, insert:

"(3) on the map referred to in subsection (b)(2)(A), the area: consisting of approximately 5221 acres and owned by the National Audubon Society as of September 28, 1992 (known as the 'Audubon Sanctuary'), along with the associated aquatic habitat of Pine Island Bay and Goat Island Bay, shall be designated and depicted as NC-01, a unit of the Coastal Barrier Resources System by the Secretary in accordance with paragraph (5) of this subsection.

"(4) on the map referred to in subsection (b)(2)(C) areas designated as 'otherwise protected areas' identified as 'VA-60P' that are:

"(i) north of the north of Salt Ponds Inlet in Hampton, Virginia; and

"(ii) south of the line described in subsection (c) of this section,

shall be designated and depicted on the map as VA–60, a unit of the Coastal Barrier Resources System by the Secretary in accordance with paragraph (5) of this subsection.

"(5) In designating the units in accordance with paragraphs (3) and (4) above, the Secretary is authorized to make any minor and technical modifications to the boundaries of such unit as may be necessary to correct existing clerical and typographical errors in the map. Provided further that the local government in which is located such unit may recommend any such corrections be considered by the Secretary.".

Page 30, after line 2, insert:

"SEC 304. NATIONAL FISH AND WILDLIFE FOUNDATION.

"Beginning in fiscal year 1993 and hereafter, the National Fish and Wildlife Foundation may continue to draw down Federal funds when matching requirements have been met: *Provided*, That interest earned by the Foundation and its subgrantees on funds drawn down to date, but not immediately disbursed, shall be used to fund all activities as approved by the Board of Directors: *Provided further*, That the Foundation's subgrantees shall be exempt from the audit reporting and compliance requirements of OMB Circular A–133, for all grants of $100,000 or less. The Foundation shall amend its grant contracts to ensure that its subgrantees are advised and certify that they will comply with all applicable Federal laws and regulations imposed on individuals or organizations receiving Federal funds.".

Page 30, after line 2, insert:

SEC. 305. WETLANDS MAPPING.

Section 401(a) of P.L. 99–645, the Emergency Wetlands Resources Act of 1986, (16 U.S.C. 3931(a)), as amended by P.L. 101–233 is further amended—

(1) in paragraph (3), by striking "as soon as practicable" and inserting in lieu thereof "by September 30, 2000";

(2) in paragraph (4), by striking ". And" at the end of the paragraph and inserting in lieu thereof a semicolon;

(3) in paragraph (5)(B), by striking the period and inserting in lieu thereof a semicolon;

(4) by adding the following new paragraphs at the end thereof:

"(6) produce, by September 30, 2004, a digital wetlands data base for the United States based on the final wetlands maps produced under this section; and

"(7) archive and make available for dissemination wetlands data and maps digitized under this section as such data and maps become available.".

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

☐ 1750

The SPEAKER pro tempore. (Mr. MAZZOLI). Is there objection to the initial request of the gentleman from Massachusetts?

Mr. DAVIS. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the gentleman from Massachusetts [Mr. STUDDS] for an explanation of the bill.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 5013, the Wild Bird Conservation Act, which is designed to ensure that U.S. imports of wild birds for use as pets will not lead to the demise of these creatures.

International trade in wild birds has led several species to the brink of extinction. The United States bears a great deal of the responsibility for this because we are the world's largest importer. The International Convention on Trade in Endangered Species—CITES—is intended to prevent species from becoming endangered through over-harvest. However, it simply is not working adequately to protect birds, and that is precisely why this legislation is necessary.

This bill provides protection for wild birds whose existence is threatened by trade, by imposing very strict regulations on imports. The bill was approved by the Committee on Merchant Marine and Fisheries, the Committee on Ways and Means, and the House of Representatives. As passed by the House, the bill incorporates four additonal provisions. It reauthorizes the African Elephant Conservation Act and the Fish and Wildlife Conservation Act for an additional 5 years. It directs the U.S. Fish and Wildlife Service to make corrections in maps prepared pursuant to the Coastal Barrier Improvement Act and establishes a Great Lakes Fish and Wildlife Tissue Bank.

The Senate added two additional provisions and passed the bill last week. The first of these is related to the preparation of wetland maps in Alaska by the Fish and Wildlife Service. The second includes a measure passed by the House last week to improve the operations of the National Fish and Wildlife Foundation. The Senate also amended the House coastal barrier resources map provisions, and I would like to clarify my committee's intentions in section 303 regarding technical revisions to the maps.

Section 303 generally states that the Secretary of the Interior, within 30 days of enactment of this bill, will make technical revisions to three Coastal Barrier Resources System maps to remove areas that do not fit the statutory definition of otherwise protected areas. He is further instructed to create new coastal barrier units on two of these maps. The committee recognizes that the time frame is short. However, we believe it is adequate since there is no requirement for formal consultation and no requirement for publication in the Federal Register. These prescribed changes are technical revisions.

Section 303(a)(5) also provides affected local governments with an opportunity to review maps that include new coastal barrier units within their jurisdictions. Concurrently with, or subsequent to, making the technical revisions prescribed by this bill, the Secretary is authorized to make minor and technical changes to the newly created units addressing recommendations made by these local governments. There is no time limit on this review period.

For their efforts and good work, I want to commend the leadership of the Ways and Means Committee and the Trade Subcommittee, Mr. ROSTENKOWSKI and Mr. GIBBONS and their staffs. My thanks as well to Mr. YOUNG and Mr. DAVIS, my committee's and subcommittee's ranking minority members.

In closing, I want to reiterate that this bill ensures that in the long term, our bird imports will not contribute to the extinction of these spectacular creatures. It is a good bill. It is urgently needed, and I urge Members to support it.

Mr. DAVIS. Reclaiming my time, Mr. Speaker, I appreciate the statement by the chairman.

We have absolutely no objection and support the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. LANCASTER. Mr. Speaker, reserving the right to object, I rise in support of the legislation.

Mr. Speaker, I rise in support of this bill, and would like to specifically address title III. In 1990, Congress reauthorized and amended the Coastal Barrier Resources Act [CoBRA]. Those amendments expanded the coastal barrier resources system and created a new designation, "Otherwise Protected Areas" [OPA].

Typically, CoBRA system units are undeveloped, privately-owned coastal barrier islands. When property is designated as a CoBRA unit, it is no longer eligible for any non-emergency Federal development subsidies. This prohibition covers Federal flood insurance, highway and sewer grants, and other Federal financial assistance programs.

The newly designated OPA's are undeveloped coastal barriers, owned for conservation purpose by Federal, State or local governments, or a qualified conservation organization. Examples include Federal, State, and local parks, and lands held as sanctuaries by organizations like the Nature Conservancy or the Audubon Society. When property is designated an OPA, new construction is no longer eligible for Federal flood insurance, but other Federal assistance programs are unaffected.

Under CoBRA, the Secretary of the Interior is charged with producing maps depicting all of the units and OPA's in the system. The Act also gives the secretary authority to make minor and technical boundary changes and corrections to units depicted on the maps, at the recommendation of State or local governments, if a mistake is discovered within a specified timeframe.

Unfortunately, when Congress created the new OPA designation in 1990, it neglected to

[illegible]

NAYS—[illegible]

[illegible]

NOT VOTING—[illegible]

[illegible]

□ 1720

Mr. [illegible] changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUSING AND COMMUNITY ACT OF 1992

Mr. GONZALEZ. Mr. Speaker, pursuant to House Resolution 608, I call up the conference report on the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 608, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Monday, October 5, 1992.)

The SPEAKER pro tempore. The gentleman from Texas (Mr. GONZALEZ) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. WYLIE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation provides for the continuation of all the urban and rural federally subsidized housing and community development programs—$[illegible] billion for fiscal year 1993 and $[illegible] billion for fiscal year 1994. It includes initiatives that reaffirm the Federal commitment to provide decent, safe, sanitary, and affordable housing. Many of the provisions extend and improve on the provisions contained in the Cranston-Gonzalez National Affordable Housing Act of 1990. The bill contains a [illegible] enterprises that provides a regulatory structure to ensure safety and soundness. Finally, it contains the Wylie-Annunzio Anti-Money Laundering bill.

The legislation that is presented to the House for consideration today is the result of a continuous process—between Democrat and Republican, House and Senate, and Congress and the administration.

I want to thank my colleagues for all the work that has gone into this bill. First and foremost, I would like to recognize the contributions of Congressman WYLIE for whom this will be the last piece of housing legislation. His commitment to work cooperatively with me through a series of landmark banking and housing legislation over the years has left a notable legacy for bipartisan legislation. He will be truly missed. I would also like to recognize the contributions of Congressman BEREUTER, who has stood firm in insuring adequate funds for McKinney homeless programs and who has worked hard on the lead-based paint poisoning initiative contained in this bill. His cooperation was helpful in bringing this bill to fruition. I would also like to recognize the contributions of Senator CRANSTON who is retiring this year after a long and distinguished public service career. His leadership—particularly on the lead-based Paint Reduction Act—[illegible] appreciated by this Member and by the Nation.

There are so many other Members—particularly those on the Banking Committee—who have contributed to this bill and to whom I want to express my appreciation. The Housing Committee members—including Congresswoman [illegible], Congressman VENTO, and Mr. FRANK—worked to ensure an expeditious and balanced conference agreement. Finally, I must single out Congressman KENNEDY for his tremendous efforts in developing an equitable solution to the extremely complex issue of housing elderly and nonelderly disabled in public and assisted housing. The provision in the conference report balances and protects the interests of the elderly and the disabled who reside in public and assisted housing.

This legislation provides a balance of approaches that include a number of the administration's objectives. These include choice in management, section 8 homeownership certificates and vouchers, moving to opportunity, section 8 [illegible] based assistance for use in the mixed populations projects, rural homeownership—[illegible] housing demonstration, and the concept of the Shelter Plus Care Program. Just yesterday, the administration sent a letter again stating their opposition to this bill, considering the number of administration initiatives in this legislation I would argue that this does not reflect intransigence on the part of this administration. We all have had to compromise during this process. I too have had to see provisions and amendments that I am personally committed to, compromised in order to reach agreement. The final product is one that we all should be able to support.

The conference report contains a true compromise between the House and Senate bills. It contains safeguards on mixed populations, [illegible] initiatives in public housing, major reconstruction of obsolete projects, HFA multifamily housing pilot programs to finance affordable rentals, [illegible] McKinney homeless assistance programs.

Other specific provisions in this bill include:

The elimination of restrictions on new construction in the HOME Program as well as other changes to the HOME Program to enable effective implementation.

An increase in the FHA single family loan limit to $151,725.

An increase in the income limits for the rural housing section 502 guaranteed loan program and technical changes to improve the effectiveness of the section 515 Rural Multifamily Housing Program including a nonprofit set-aside.

Clarification of congressional intent on the preservation of multifamily housing in balancing the interests of owners, residents and the Federal Government which preserves the greatest number of affordable units at the lowest possible cost to the Federal Treasury.

Obtaining a greater economic mix in public housing and addressing the problems in distressed public housing.

What I have listed here are just a few of the many improvements and amendments made to existing housing programs. I am confident that these will go a long way toward fulfilling the Government's obligation to expanding and preserving the supply of affordable housing.

I urge my colleagues to support this conference report.

Mr. Speaker, I include my written statement, along with a summary of the bill and a chart of the funding levels in the RECORD as follows:

Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—101

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gekas
Gilchrest
Gingrich
Goss
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hunter
Hyde
Inhofe
James
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
Meyers
Michel
Miller (WA)
Moorhead
Nichols
Nussle
Packard
Paxon
Porter
Ramstad
Rhodes
Roberts
Rohrabacher
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Smith (OR)
Smith (TX)
Solomon
Stump
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Zeliff
Zimmer

NOT VOTING—28

Alexander
Barnard
Bilirakis
Bonior
Boxer
Chandler
Clay
Clement
Coughlin
Gillmor
Harris
Hatcher
Ireland
Kolter
Lipinski
Markey
McDade
Olin
Payne (VA)
Pursell
Saxton
Stark
Stearns
Tallon
Tauzin
Vander Jagt
Washington
Weber

☐ 1823

Mr. McCANDLESS changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUSING AND COMMUNITY ACT OF 1992

Mr. GONZALEZ. Mr. Speaker, pursuant to House Resolution 603, I call up the conference report on the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 603, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Monday, October 5, 1992.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation provides for the reauthorization of all the urban and rural federally subsidized housing and community development programs—$32.5 billion for fiscal year 1993 and $34 billion for fiscal year 1994. It includes initiatives that reaffirm the Federal commitment to providing decent, safe, sanitary, and affordable housing. Many of the provisions expand and improve on the provisions contained in the Cranston-Gonzalez National Affordable Housing Act of 1990. The bill contains a hard fought compromise on Government sponsored enterprises that provides a regulatory structure to ensure safety and soundness. Finally, it contains the Wylie-Annunzio Anti-Money Laundering Act.

The legislation that is presented to the House for consideration today is the result of a cooperative process—between Democrats and Republicans, House and Senate, and Congress and the administration.

I want to thank my colleagues for all the work that has gone into this bill. First and foremost, I would like to recognize the contributions of Congressman WYLIE, for whom this will be the last piece of housing legislation. His commitment to work cooperatively with me through a series of landmark banking and housing legislation over the years has left a hopeful legacy for bipartisan legislation. He will be truly missed. I would also like to recognize the contributions of Congresswoman ROUKEMA, who had stood firm in ensuring adequate funds for McKinney homeless programs and who has worked hard on the lead-based paint reduction initiative contained in this bill. Her cooperation has helped bring this bill to fruition. I would also like to recognize the contributions of Senator CRANSTON who is retiring this year after a long and distinguished public service career. His leadership—particularly on the Lead-Based Paint Reduction Act—is greatly appreciated by this Member and by the Nation.

There are so many other Members—particularly those on the Banking Committee—who have contributed to this bill and to whom I want to express my appreciation. The Banking Committee conferees—including Congresswoman OAKAR, Congressmen VENTO, SCHUMER, FRANK—worked to ensure an expeditious and balanced conference agreement. Finally, I must single out Congressman KLECZKA for his tremendous efforts in developing an equitable solution to the extremely complex issue of missing elderly and nonelderly disabled in public and assisted housing. The provision in the conference report balances and protects the interests of the elderly and the disabled who reside in public and assisted housing.

This legislation provides a balance of approaches that include a number of the administration's initiatives. These include choice in management, section 8 homeownership certificates and vouchers, moving to opportunity, section 811 tenant based assistance for use in the mixed populations program, rural housing vouchers, safe havens, supportive housing demonstration, and the merger of the Shelter Plus Care Program. Just yesterday, the administration sent a letter again stating their opposition to this bill. Considering the number of administration initiatives in this legislation, I would hope that this does not reflect intransigence on the part of the administration. We all have had to compromise during this process. I, too, have had to see positions and programs that I am personally committed to, renegotiated in order to reach agreement. The final product is one that we all should be able to support.

The legislation contains a true compromise between the House and Senate bills. It contains initiatives on mixed populations, vacancy reduction in public housing, major reconstruction of obsolete projects, FHA multifamily housing pilot programs to ensure affordable multifamily housing, lead-based paint reduction, McKinney homeless assistance programs.

Other specific provisions in this bill include:

The elimination of restrictions on new construction in the Home Program as well as other changes to the Home Program to ensure effective implementation.

An increase in the FHA single family loan limit to $151,725.

An increase in the income limits for the rural housing section 502 guaranteed loan program and technical changes to improve the effectiveness of the section 515 Rural Multifamily Housing Program including a nonprofit set-aside.

Clarifications of congressional intent on the preservation of multifamily housing in balancing the interests of owners, residents and the Federal Government which preserves the greatest number of affordable units at the lowest possible cost to the Federal Treasury.

Obtaining a greater economic mix in public housing and addressing the problems in distressed public housing.

What I have listed here are just a few of the many improvements and amendments made to existing housing programs. I am confident that these will go a long way toward fulfilling the Government's obligation to expanding and preserving the supply of affordable housing.

I urge my colleagues to support this conference report.

Mr. Speaker, include my written statement, along with a summary of the bill and a chart of the funding levels, in the RECORD, as follows:

H.R. 5334 CONFERENCE ON HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—SUMMARY OF BILL

The bill authorizes for FY 1993 a total of $32.5 billion, and $34 billion, for FY 1994 for federally subsidized housing and community development programs which are administered by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA) in both urban and rural areas. Of the total $30 billion in FY 1993, the bill authorizes the following: $17.4 billion for HUD public and assisted housing programs (including $8.1 billion for section 8 contract renewals and amendments); $855 million for the HOPE homeownership programs; $520.7 million for the National Homeownership Trust program for first-time homebuyers; $2.1 billion for the HOME program; $638.3 million for the preservation of federally assisted housing; $1.3 billion for elderly and disabled housing advances and rental assistance; $3.1 billion for the FmHA rural housing loan and grant programs; $4 billion for the Community Development Block Grant program; $125 million for the Lead-Based Paint Reduction program; and $987.1 million for the HUD and FEMA McKinney homeless programs. For FY 1994 funding levels, in most cases have been inflated by 4.2 percent from the FY 1993 authorized levels and several programs were specifically increased to reflect the need to provide more housing and community development assistance to low-income Americans.

TITLE I—HOUSING ASSISTANCE

Subtitle A—General provisions

Removes the 5-year limit on the application of ceiling rents and extends ceiling rents in effect prior to December 15, 1989, without time limitation.

Allows a greater economic mix within public housing projects by allowing PHAs for the 30 percent of tenants selected under local preferences, to choose relatively higher income persons (i.e. those persons between 50 percent and 80 percent of area median income) for tenancy regardless of their position on the public housing waiting list.

Subtitle B—Public and Indian housing

Authorizes the Major Reconstruction of Obsolete Projects (MROP) program. Establishes a new Choice in Management Act, a modified version of the Administration's proposal, in order to transfer the management of distressed public housing projects within troubled public housing authorities (PHAs).

Establishes a new Revitalization of Severely Distressed Public Housing program which will provide planning and implementation grants for the rehabilitation of distressed public housing projects.

Strengthens the Public Housing Vacancy Reduction program, and sets-aside 4 percent of modernization funds in both FY 1993 and 1994 for the program, of which 20 percent of the funds can be used for funding activities authorized for management improvements. Make PHAs in receivership eligible to participate in the public housing vacancy reduction program.

Modifies the replacement plan requirements by authorizing the use of 5-year section 8 certificates if 15-year section 8 units are not available as replacements for public housing units lost through demolition or disposition for those applications proposing the demolition or disposition of 200 or more units. Also, provides that not more than 10 percent of incremental section 8 certificates and the lesser of $150 million or 30 percent of public housing development funds will be used for replacement.

Requires Resident Management Corporations to be subject to the same performance indicators, to the extent practicable, as those established in section 6(j) of the 1937 Housing Act for public housing authorities (PHAs).

Provides a reform of public housing management by providing on-site, independent assessment of the management situation of troubled PHAs.

Provides various programmatic and technical changes to the public and Indian housing programs.

Subtitle C—Section 8 assistance

Provides various amendments to the section 8 program including: 1) providing for assistance, under local preferences, for eligible disabled veterans who are released from a hospital or nursing home but are prevented access from their current residence because of the configuration of the dwelling unit; 2) permits section 8 owners to terminate tenancy for any criminal activity of tenants that threatens the health, safety, or right to peaceful enjoyment of persons residing in the immediate vicinity of the premises; 3) defines termination of a section 8 contract to include termination for business reasons; 4) requires nonresidents receiving tenant-based assistance to use it within the jurisdiction of the issuing PHA for the first 12 months.

Establishes a new Moving to Opportunity for Fair Housing program, a modified version of the Administration's proposal, to provide section 8 assistance and housing counseling to enable very low-income families in areas of high poverty to move to areas with low concentration of very low income persons.

Subtitle D—Other programs

Makes various programmatic and technical changes to the Public and Assisted Housing Drug Elimination Grant program. Establishes a new Youthbuild program, funded out of the HOPE program, to provide training and employment opportunities to young adults through their involvement in the rehabilitation and construction of low-income housing.

Subtitle E—Homeownership programs

Makes programmatic and technical changes to the Homeownership for People Everywhere (HOPE) programs. Makes technical assistance eligible under each HOPE program.

Establishes a new Enterprise Zone Homeownership program funded at $40 million and authorizes the National Homeownership Trust to be used in conjunction with the Mortgage Revenue Bond program.

Establishes a new Indian Housing Loan Guarantee program to enable Indian families to construct, acquire, or rehabilitate dwellings located on trust land.

Authorizes the use of section 8 Certificate and Voucher assistance for homeownership purposes.

TITLE II—HOME INVESTMENT PARTNERSHIPS PROGRAM

Reinforces that the minimum threshold for eligibility of HOME grant funding for states is $3 million but provides that is the level of appropriations for the HOME program does not exceed $1.5 million, a new minimum threshold of $500,000 is established for participating jurisdictions that are not states.

Provides for a two-tiered match of 25 percent for substantial rehabilitation, moderate rehabilitation, and tenant based assistance and a 30 percent match for new construction.

Provides that 50 percent of publicly issued debt for multifamily housing and 25 percent of such debt issued for single family housing is eligible as match, but debt financing cannot exceed 25 percent of a jurisdiction's the total match requirement.

Provides for a two-tiered non-discretionary match waiver, based on two objective criteria—per capita income greater than 75 percent of the national average and poverty rate greater than 125 percent of the national average. Participating jurisdictions in fiscal distress that meet the criteria will have 50 percent of the match waived and the total match will be waived for participating jurisdictions in severe fiscal distress that meet the criteria.

Provides for the elimination of all restrictions on new construction. Establishes cost limits for multifamily housing.

Coordinates the Low Income Housing Tax Credit with the HOME program.

Provides additional resale requirements for homeownership to provide for recapture of the HOME subsidy upon resale to any buyer.

Provides for capacity building for Community Housing Development Organizations (CHDOs) and a transition rule for fiscal year 1993 that provides that the Secretary may provide an exception for organizations that otherwise meet the requirement of the CHDO definition except for significant representation on the board if such requirement is satisfied within a 6 month period after funds have been made available to the CHDO. Also eases the CHDO definition for rural and nonmetropolitan areas that comprise more than one county.

Provides for 10 percent from HOME for administrative costs for participating jurisdictions and permits up to 5 percent for administrative costs for CHDOs.

Provides that eligible activities include security deposit assistance and homeless activities. Provides eligibility for community land trusts and women in homebuilding under the CHDO organizational support set-aside. Provides eligibility for land banks under the other Local and State Support set-aside.

Adds additional requirements to the CHAS to provide data on the homeless, anti-displacement, and anti-poverty strategies.

TITLE III—PRESERVATION OF LOW INCOME HOUSING

Eliminates the windfall profits test.

Provides that the term of second mortgage financing (section 241 of the National Housing Act) for equity loans may be up to 40 years, depending on interest rates, and such term must be sufficient to ensure the 90 percent equity loan under the 1987 Preservation provisions and the 70 percent equity loan or the 8 percent return on preservation equity specified in NAHA. Provides a 40 year term for acquisition/rehabilitation loans.

Establishes a technical assistance and capacity building grant program for priority purchasers (nonprofits) of properties eligible for prepayment.

Provides that residual receipts are included in the appraised value of property eligible for prepayment.

Requires the Secretary to promulgate regulations to implement the delegation of prepayment processing to state housing finance agencies and to implement risk sharing with state housing finance agencies.

TITLE IV—MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

Establishes a comprehensive planning and assessment process whereby owners of HUD assisted multifamily and elderly housing properties submit to the Secretary of HUD

subject to the control and direction of the Secretary with respect to the operations of the Office and any decisions regarding capital standards, compliance, and enforcement. The Director has exclusive authority in these areas.

The Secretary of the Department of Housing and Urban Development will continue to be responsible for general regulatory oversight of the enterprises, including the enforcement of the enterprises' low and moderate income housing responsibilities. The Senate bill had placed all responsibility for the enterprises in the Office.

Both bills had provided for three "capital standards" for Fannie Mae and Freddie Mac; they are risk-based capital, minimum capital and critical capital. H.R. 6094 and title XIII provide for these three capital requirements and the Director's authority with regard to the setting of capital requirements for the enterprises is limited to establishing and enforcing the risk based capital test and implementing and enforcing the minimum and critical capital provisions. The Director does not have authority to set higher capital requirements than those contained in H.R. 6094 and title XII. However, the Director does have authority to take appropriate action should an enterprise undertake activities that threaten its capital position.

The major difference in the capital requirements between H.R. 2900 and S. 2733 was in the parameters and assumptions for the interest rate component of the risk based capital test. H.R. 6094 and title XIII adopt the Senate parameters for the interest risk test which in turn had built on and strengthened the original House test. The interest rate test in H.R. 6094 and title XIII will require that the enterprises be capitalized against the most extreme interest rate movements experienced to date.

Both H.R. 2900 and S. 2733 also contained provisions requiring the enterprises to expand their commitment to moderate and low income housing. The H.R. 6094 and title XIII adopt the more expansive Senate provision which required the Secretary of HUD to set specific goals for the enterprises in three areas: moderate and low income housing, central cities, rural areas and underserved areas and a special affordable housing goal to address the needs of low and very low income persons.

For the first time, the obligations of Fannie Mae and Freddie Mac with respect to low and moderate housing and underserved areas are defined in law. These entities have an obligation to serve all aspects of the housing market and to use their considerable expertise to develop new approaches to assuring that mortgage credit is available to all geographic areas and to persons at all levels of income. In H.R. 6094 and title XII, the Secretary is required to set three housing goals for the enterprises—a moderate and low income goal, a special affordable housing goal, and a central cities, rural areas, and underserved areas goal. The Secretary is expected to develop subgoals within the moderate and low income goals and the central cities, rural areas, and underserved areas goal to ensure that the mortgage purchases of the enterprises address the housing needs of all persons, both owners and renters, and all areas, including rural areas.

In establishing the definition of a central city and in determining compliance with such a goal, the Secretary should, to the extent possible, exclude purchases made in non-low income census tracks that happen to otherwise be within the central cities area. Further, in determining the amount of multifamily purchases for purposes of establishing and determining compliance with the goals, the Secretary should take into consideration the number of units in such projects. However, under both the low- and moderate goal and the special affordable housing goal, the Secretary's consideration should be limited to those units that actually meet the requirements of the goal.

These goals can be enforced through cease and desist orders and civil money penalties. While I have every reason to believe that the enterprises are prepared to comply fully with the affordable housing provisions, the Secretary should not hesitate to use the Secretary's enforcement powers should the enterprises willfully fail to comply with these goals and with the reporting requirements.

H.R. 6094 and title XIII also define the prior approval authority of the Secretary. This authority is confined to the approval of new programs. A new program is a broad and general plan or course of action for purchasing or dealing in mortgages that is significantly different from activities previously approved or engaged in prior to enactment of this bill. Once a program is approved, Fannie Mae and Freddie Mac are expected and encouraged to develop a range of specific products under the umbrella of the new program. The Secretary's prior approval authority does not extend to the introduction of new products under an approved program. The imposition of prior approval authority on individual mortgage products could interfere with the efforts of Fannie Mae and Freddie Mac to be innovative in developing new products.

The Secretary must approve a new program unless such program is not one in which the enterprise is authorized to engage under its charter or unless the new program is not in the public interest. The public interest test should not be used routinely to deny the new programs. The test should be used only in extreme circumstances where there is an immediate threat to the cost or availability of mortgages to the consumer by the action of the enterprises or because the new program would have extremely adverse effects on another GSE. It should not be used to deny a new program because there are others doing business in the area covered by the program. With the delegation of safety and soundness regulation to the Director, consideration of the financial aspects and effects of a proposed new program are similarly outside the scope of the Secretary's authority.

TITLE XIV—HOUSING PROGRAMS UNDER STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Provides two significant homeless participation requirements for the various HUD McKinney homeless programs: 1) requires that program recipients will involve, through employment, volunteer services, or otherwise, homeless individuals and families, to the maximum extent practicable, in constructing, renovating, maintaining, and operating assisted facilities; and 2) requires the participation of not less than 1 homeless person or formerly homeless person on the recipient's board of directors or other equivalent policy making entity, or to provide for the consultation and participation of such individuals in considering and making polices and decisions.

Amends the various HUD McKinney homeless programs to require program recipients to establish a formal process to terminate assistance to individuals or families who violate program requirements. Such processes, which may include a hearing, recognize the rights of individuals.

Creates a new Supportive Housing program which merges the Supportive Housing Demonstration program (which contains the Transitional Housing program and the Permanent Handicapped Homeless program) and the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH). This program is a modified version of the Administration's request to consolidate these existing homeless programs.

Creates a new Safe Havens for Homeless Individuals Demonstration program, which is a modified version of the Administration's proposal, which is designed to assist seriously mentally ill who at the time, are unable or unwilling to participate in mental health treatment programs, in a 24-hour residence.

Merges the various components under the Shelter Plus Care program and expands the program to include another form of project-based assistance under the program. These provisions are a modified version of the provisions originally proposed by the Administration.

Requires HUD, in disposing of its HUD-held property, to make available only properties that have been offered for sale for 30 days, and provides an exception to this requirement if HUD determines that there will not be a sufficient quantity of property available under the 10 percent reserved by HUD for use by the homeless.

Authorizes the use of program and non-program inventory properties held by the Secretary of Agriculture for lease or sell to provide transitional housing for homeless persons.

Establishes a new Rural Homelessness Grant program through HUD to assist the rural homeless through various forms of assistance.

TITLE XV—ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT

Title XV provides the appropriate Federal banking regulator with the ability to appoint conservators, revoke charters and terminate deposit insurance for depository institutions convicted of money laundering. The Act also provides for increased information sharing and reporting among the regulators.

TITLE XVI—TECHNICAL CORRECTIONS OF BANKING LAWS

Section 214—The words "domestic retail" are added to section 214 of FDICIA to clarify that the foreign banks that must get FDIC insurance are those that "accept or maintain domestic retail deposit accounts."

Bank Enterprise Act—The technical amendment to ensure that the Bank Enterprise Act will remain effective when the risk-based assessment system takes effect no later than January 1, 1994.

QTL Test—The amendment makes sure that the amount needed to initially qualify is the same as the amount needed to continue to qualify, 65 percent.

CONFERENCE REPORT AGREEMENT ON H.R. 5334, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

	Fiscal year—	
	1993 authorization	1994 authorization
TITLE I—HOUSING ASSISTANCE		
Subtitle A—General provisions	14,710,990,520	15,328,852,122
Subtitle B—Public and Indian housing	2,312,886,000	2,409,506,212
Subtitles C/D—Section8/Other programs	340,390,000	354,686,380
Subtitle E—Homeownership programs	1,405,665,600	1,456,174,555
Title I Total	18,769,932,120	19,549,219,269

CONFERENCE REPORT AGREEMENT ON H.R. 5334, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992—Continued

	Fiscal year—	
	1993 authorization	1994 authorization
Title II—Home Program	2,086,000,000	2,173,612,000
Title III—Preservation Program	638,252,784	665,059,401
Title IV—Multifamily strategies	52,200,000	54,392,400
Title V—Mortgage insurance issues	6,000,000	6,252,000
Title VI—Elderly and disabled housing	1,579,141,000	1,643,364,922
Title VII—Rural housing	3,109,133,600	3,244,257,211
Title VIII—Community development	4,029,476,000	4,198,713,992
Title IX—Regulatory and miscellaneous programs	1,106,500,000	1,157,027,000
Title X—Lead-based paint reduction	125,000,000	250,000,000
Title XI—New towns demonstration	(1)	(1)
Title XIV—McKinney homeless programs	987,050,000	1,028,506,100
Total	32,488,685,504	33,970,404,295
Subtitle A—General provisions:		
Public housing grants	573,580,800	597,671,194
Indian	257,320,000	268,127,440
Sec. 8/certificates	1,977,662,720	2,060,724,554
Sec. 8/multicultural tenant assist.	(20,000,000)	(20,000,000)
Sec. 8/vouchers	(2)	(2)
CIAP	3,100,000,000	3,230,200,000
Sec. 8/property disposition	93,032,000	96,939,344
Sec. 8/loan management	202,000,000	210,484,000
Sec. 8/expiring contracts	6,746,135,000	7,029,472,670
Sec. 8/contract amendments	1,350,000,000	1,406,700,000
P.H. lease adjust./amend.	83,055,000	86,543,310
Section 23 conversions	12,767,000	13,303,214
Distressed public housing	300,000,000	312,600,000
Sec. 8/elderly coordinators	15,438,000	16,086,396
Low-Inc. Hsng authorization—subtotal	14,710,990,520	15,328,852,122
HOPE for family self-sufficiency	(25,900,000)	(25,900,000)
Subtitle A—subtotal	14,710,990,520	15,328,852,122
Subtitle B—Public and Indian housing:		
Pub. Hsng. operating subsidies	2,282,436,000	2,378,298,312
Pub. Hsng. income deductions	(1)	(1)
Pub. Hsng. vacancy reduction	(3)	(3)
P.H. replacements (sec. 8 and pub. hsng)	(4)	(4)
Choice in Management Prog.	(50,000,000)	(50,000,000)
Pub. Hsng. resident mgmt.	4,750,000	4,949,500
P.H. family investment centers	25,000,000	26,050,000
P.H. early child dev. grants	(5,000,000)	(5,210,000)
Indian P.H. early child dev. grants	(5,200,000)	(5,418,400)
Pub. Hsng. one-stop perinatal	200,000	208,400
At risk demo.	(500,000)	
National Comm. on Amer. Indians	500,000	
Subtitle B—subtotal	2,312,886,000	2,409,506,212
Subtitles C/D—Section 8/other programs:		
Sec. 8 family unification (foster care)	100,000,000	104,200,000
Moving to opportunity	50,000,000	52,100,000
Pub. Hsng. drug elimination grants	175,000,000	182,350,000
Housing counseling	6,025,000	6,278,050
Emergency housing counseling	7,000,000	7,294,000
Counseling certification training	2,000,000	2,084,000
Prepurchase counseling	365,000	380,330
Youthbuild/HOPE	(40,000,000)	(41,680,000)
Subtitles C&D—Subtotal	340,390,000	354,686,380
Subtitle E—Homeownership programs:		
HOPE Homeownership grants		
I. Public/Indian housing	285,000,000	294,547,000
II. Multifamily units	285,000,000	294,547,000
III. Single family homes	285,000,000	294,547,000
HOPE subtotal	855,000,000	883,641,000
HOPE I technical assistance	(4,500,000)	(4,500,000)
HOPE II technical assistance	(3,250,000)	(3,250,000)
HOPE III technical assistance	(2,250,000)	(2,250,000)
National homeownership trust	520,665,600	542,533,555
Trust/MRB setaside	(1)	(1)
Indian housing loan guarantees	(1)	(50,000,000)
Enterprise zone homeownership grants	30,000,000	30,000,000
Subtitle E—Homeownership subtotal	1,405,665,600	1,456,174,555
Title I total	18,769,932,120	19,549,219,269
TITLE II—HOME INVESTMENT PARTNERSHIPS		
HOME Investment Partnership Program	2,086,000,000	2,173,612,000
Comm. housing partnership strategies	(14,000,000)	(14,000,000)
State/Local housing strategies	(11,000,000)	(11,000,000)
HOME/Indians		
Title II total	2,086,000,000	2,173,612,000
TITLE III—PRESERVATION		
Preservation fund	638,252,784	665,059,401
Technical assistance	(25,000,000)	(25,000,000)
Incentives/homeownership	(50,000,000)	(50,000,000)
Title III total	638,252,784	665,059,401
TITLE IV—MULTIFAMILY HOUSING STRATEGIES		
Flexible Subsidy Program	52,200,000	54,392,400
TITLE V—MORTGAGE INS./SECONDARY MARKET		
FHA Credit limitation (MMI)	(65,905,824,960)	(68,673,868,600)
GNMA credit limitation	(88,000,000,000)	(91,696,000,000)
Multifamily Housing Task Force	6,000,000	6,252,000
Title V total	6,000,000	6,252,000
TITLE VI—HOUSING FOR ELDERLY/DISABLED		
Supportive housing for elderly/disabled	1,309,853,000	1,364,866,826
Congregate services	21,000,000	21,882,000
Elderly indep. sec. 8 cert./vouchers	38,288,000	39,896,096
Elderly indep. services	10,000,000	10,420,000
AIDS housing program	150,000,000	156,300,000
Mixed populations (service coordinators)	50,000,000	50,000,000
Title VI subtotal	1,579,141,000	1,643,364,922
TITLE VII—RURAL HOUSING		
Sec. 502 Homeownership (direct) loans	1,676,484,000	1,746,896,328
Sec. 502 Unsubsidized guaranteed loans	(1)	(1)
Sec. 504 Improvement loans	12,400,000	12,920,800
Sec. 514 Farm labor loans	16,821,600	17,528,107
Sec. 515 Multifamily loans	739,500,000	770,559,000
Sec. 523 Mutual/Self-help loans	800,000	833,600
Sec. 524 Site loans	850,000	885,700
Aggregate loan authority	2,446,855,600	2,549,623,535
Rural housing support programs:		
Sec. 502 Security grants	1,100,000	1,146,200
Sec. 504 Improvement grants	21,100,000	21,986,200
Sec. 509(c) construction defects grants	600,000	625,200
Sec. 509 Project preparation grants	5,300,000	5,522,600
Sec. 515 Service coordinators	1,000,000	1,042,000
Sec. 516 Farm labor grants	21,700,000	22,611,400
Sec. 516(k) Migrant Homeless Program	10,500,000	10,941,000
Sec. 523(f) Mutual/Self-help grants	13,900,000	14,483,800
Sec. 533 Preservation grants	30,800,000	32,093,600
Subtotal	106,000,000	110,452,000
Rental assistance payments (RAP)	414,100,000	431,492,200
Rural prepayments/supp. RAP	12,178,000	12,689,476
Rural housing vouchers	130,000,000	140,000,000
Title VII total	3,109,133,600	3,244,257,211
TITLE VIII—COMMUNITY DEVELOPMENT		
Community development block grants (CDBG)	4,000,000,000	4,168,000,000
CDBG Work Study Program	(3,000,000)	(3,000,000)
Historically black colleges	(6,500,000)	(6,500,000)
Insular areas	(7,000,000)	(7,000,000)
Comm./Univ. partnership	(6,000,000)	(6,000,000)
CDBG redevelopment provision	(2,000,000	(2,000,000)
CD Econ. diversification	(1)	(1)
LA emergency assistance	(6,000,000)	
CD reallocations and tech. assist.	(1)	(1)
Section 108 loan guarantees	(2,000,000,000)	(2,000,000,000)
Computerized Database CD plans	(10,000,000)	(10,000,000)
Barrier removal strategies (NIMBY)	(15,000,000)	(15,000,000)
Neighborhood Reinvestment Corp.	29,476,000	30,713,992
Neighborhood development demo.	(1,000,000)	(3,000,000)
Comm. Outreach Partnership (COP) Act	(7,500,000)	(7,500,000)
Title VIII total	4,029,476,000	4,198,713,992
TITLES IX—REGULATORY AND MISC. PROGRAMS		
HUD research and development	35,000,000	36,470,000
Fair Housing Initiatives Program (FHIP)	21,000,000	26,000,000
HUD monitoring and eval.	(1)	(1)
National comm. on manuf. hsng	(1,000,000)	
Solar Bank	10,000,000	10,420,000
Indian hsng training/TA	500,000	521,000
National cities in schools	10,000,000	10,420,000
Comm. Invest. Corp. (CIC) Demo. (Capital)	25,000,000	26,000,000
CIC Demo. (tech. asst)	15,000,000	15,600,000
CIC Demo. (training)	2,000,000	2,100,000
HUD salaries and expenses	988,000,000	1,029,496,000
Titles IX total	1,106,500,000	1,157,027,000
Title X—Lead-Based Paint Reduction	125,000,000	250,000,000
Title XI—New Towns Demonstration	(1)	(1)
TITLE XIV—McKINNEY HOMELESS PROGRAMS		
Emergency shelter grants	138,000,000	143,796,000
Supportive Housing/Transitional Program	204,000,000	212,568,000
Sec. 8 assistance for SRO's	105,000,000	109,410,000
Revised Shelter Plus Care Program	266,550,000	277,745,100
Rural homeless grants	30,000,000	31,260,000
Safe Havens	62,000,000	64,604,000
FEMA Food and Shelter Programs	180,000,000	187,560,000
Interagency Council on the Homeless	1,500,000	1,563,000
Title XIV total	987,050,000	1,028,506,100
Total	32,488,685,504	33,970,404,295
HUD housing programs (without FmHA rural housing programs)	29,379,551,904	30,726,147,084

[1] Such sums.
[2] 49 percent/Sec. 8.
[3] 4 percent/P.H. Mod.
[4] 10 percent Sec. 8/$150,000,000 P.H.
Source Subcommittee on Housing and Community Development.

Mr. WAXMAN. Mr. Speaker, today we will take an important step toward ending the most serious environmental problem facing children—childhood lead poisoning.

Lead poisoning affects nearly every community in America. In inner-city communities, lead poisoning runs rampant, with two out of every three children being exposed to enough lead to damage their mental development. In parts of my city, Los Angeles, one-third of the children being tested are lead poisoned.

Yet despite these phenomenal risks, we have no standards for identifying and removing lead hazards safely. We have no program for warning families of the risks of lead poisoning. And we have no meaningful program to help poor families pay for the costs of removing lead hazards.

Title X of the legislation that we consider today, H.R. 5334, will change this. I believe this bipartisan legislation will prove to be the most important piece of environmental legislation that we will pass this session.

Most of the time, families have no advance warning of the terrible risks of lead. They learn

get those hearings in Columbus, OH, and Chicago and St. Paul on the electronic fund transfer legislation. We set the standards there, put in statutory language which is on the books today, and protected the consumers and allowed the industry to grow and prosper.

The chairman and I are associates on this money laundering provision, and it is a high honor for me to be associated with the gentleman. He has worked very hard on this money laundering legislation. To have it named the Annunzio-Wylie provision is a distinct honor for me.

Thank you, sir.

Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I rise in opposition to the conference report to accompany H.R. 5334, the Housing and Community Development Act of 1992.

In addition to the concerns I have with the housing provisions of the conference report, I also have concerns with the provisions related to lead-based paint inspection and abatement.

First let me say that I recognize that lead is a serious health hazard, especially for children. We should be doing everything we can to end this largely preventable public health risk.

My concern with the bill is that we are intruding to an unbelievable extent on the traditional authority of State and local governments to regulate real property. It is my understanding that the most significant risk to children from lead comes from lead-based paint in the home. It would follow that State and local governments are in the best position to deal with this problem.

But this bill would put EPA in the place of State and local government regulators. First, this bill gives EPA the authority to set national standards for lead inspections and abatement activities, including—now, get this—licensing lead abatement contractors.

The Federal Government is going to license contractors around the country dealing with housing, single-family residences. Is that the role we want to take for the Federal Government? In a sense I guess we are turning ourselves into city councilmen for America here in the Congress of the United States.

Second, this bill establishes a Federal program for disclosure of lead hazards in real estate transactions. The bill provides that before anyone can sell or rent a house or apartment built before 1978, they must do three things: They must give the prospective purchaser or lessee a copy of a lead hazard information pamphlet prepared by EPA; they must tell the purchaser or lessee if they know of any lead-based paint in the dwelling, and they must give the prospective purchaser 10 days to conduct an inspection for lead-based paint.

Now, if you are in favor of full employment, and I guess we all are, think of the marvelous impact of this legislation, where the Federal Government, EPA, is not only going to license lead inspectors, but we are going to provide full employment for them because if you are looking for lead, you may find it, and you may find some even if it is not there.

While these provisions may be well-intentioned, they will not work because they usurp the authority of State and local governments to address on a specific and tailored basis. I recognize that the bill before us gives States the option of managing the Federal program, but I do not think many States will be interested in taking on the responsibility of complying with the detailed requirements of this legislation.

We have all been at town hall forums on many occasions. People in the audience will stand up and ask, "When is the Federal Government going to stop this encroachment on the lives of all of us with the proliferation of regulation and paperwork?"

if you want to be able to answer that you voted to stop this intrusion into what I believe to be the proper province of State and local government, you can vote no on this conference report.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise that the gentleman from Texas [Mr. GONZALEZ] has 20 minutes remaining, and the gentleman from Ohio [Mr. WYLIE] has 19½ minutes remaining.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. SWIFT], the chairman of the Subcommittee on Transportation and Hazardous Materials of the Committee on Energy and Commerce, the subcommittee that held the hearings on lead paint. Perhaps the gentleman can clarify some of the misconceptions we have just heard.

Mr. SWIFT. Mr. Speaker, subtitle (b) of the Lead Based Paint Exposure Act of 1992 addresses the extremely critical issue of training and certification of lead based paint abatement workers.

Lead exposure from a variety of sources has been identified as the most serious—most serious—environmental health threat facing America's children.

The question was asked earlier why are we involving ourselves in the issue? That, my friends, is the answer.

The problem associated with exposure to lead paint and dust is well-documented. The increasing national awareness of the dangers associated with lead based paint will lead to a tremendous increase in the amount of lead based abatement activities that are undertaken nationwide, removing this material which poisons children in such a way that their very intelligence never is able to develop fully.

To date there are only two States, Massachusetts and Maryland, that have adopted comprehensive requirements for lead based paint abatement. The language in title X will assist the development of a comprehensive nationwide infrastructure of properly trained lead based paint abatement workers. Enactment this year of these provisions is critical, not only to ensure the protection of lead based paint workers, but for the protection of the persons living and working in the building in which the work is performed.

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There is no licensing. There is no Federal licensing in this bill, as was suggested. It requires certification, not by the Federal Government but by the States.

The legislation does not require licensing. The technical term is "certification."

It is the expectation that this certification will be performed by States. The bill provides grants to States to encourage development of State programs. It also cuts off lead abatement grants to States that don't adopt State programs.

These provisions will, as a practical matter, ensure that States pick up the certification program.

Only, if a laggard State doesn't pick up the certification program, EPA must operate the program in the State.

This is necessary to protect the children in the State.

I would, in fact, like to commend my colleagues from several committees of both bodies who have been involved in the conference on H.R. 5334. The provisions here are designed to serve the people and particularly the health needs of the children of this country.

I would like to commend the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Massachusetts [Mr. FRANK] of the Committee on Banking, Finance and Urban Affairs; the gentleman from Michigan [Mr. FORD] of the Committee on Education and Labor; the gentlewoman from New Jersey [Mrs. ROUKEMA], of both of those two committees; the gentleman from Michigan [Mr. DINGELL] and the gentleman from California [Mr. WAXMAN] of the Committee on Energy and Commerce; Senator HARRY REID of Nevada and others who worked extremely hard to bring this about. It is a very strong, good bill, designed to show this Nation's interest in the health of its children, and that is the reason it is in this bill. And that is the reason I urge all of my colleagues to strongly support it.

Mr. WYLIE. Mr. Speaker, I yield 6 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise today as the ranking member of the Housing Subcommittee to express my support for the conference report to accompany H.R. 5334 the Housing and Community Development Act of 1992.

This legislation is the culmination of efforts begun over 2 years ago when this body first passed the Cranston-Gonzalez National Affordable Housing Act.

As one of the leaders in this effort, I want to congratulate and commend the chairman of the committee, Mr. GONZALEZ, for his commitment to achieving this important housing legislation.

Finally, I want to recognize and commend our ranking member, CHALMERS WYLIE, for his strong effort to achieving this bipartisan conference report.

Our colleague from Ohio is managing his last housing bill today and I know we will all miss his counsel and his commitment to housing legislation in the years to come. We wish him God's speed.

H.R. 5334 continues to recognize the need to provide safe, decent and affordable housing for our less fortunate citizens and continues the commitment of the Federal Government to achieving that goal.

Members of the minority side should support this legislation on its merits and in recognition of the programs which have strong Republican support such as the HOME Investment Partnership program, HOPE, the CDBG program, McKinney Homeless Assistance, Family Self Sufficiency, and increased funding for the elderly and handicapped.

Admittedly HUD is still not 100-percent satisfied with the outcome of this effort, H.R. 5334 does include at least eight positive initiatives requested by the administration and put forward by this Member and the ranking member, Mr. WYLIE, during our subcommittee and full committee markups.

These initiatives include a proposal to allow individuals who are eligible for section 8 assistance to use their certificates for home ownership—part of Secretary Kemp's empowerment program.

Another initiative created the Safe Havens Program which would provide assistance for homeless persons unwilling or unable to participate in more structured homeless assistance programs.

Another important change made by this bill is the consolidation of the eligible activities of the McKinney Act into one single program for the purpose of streamlining the application process and allowing the applicants to develop much more precisely structured programs.

Finally, the bill includes a version of the Secretary's choice-in-management proposal which will allow tenants in distressed public housing developments to hire new managers to try and provide improved living conditions.

H.R. 5334 also addresses two issues which I have had a special interest.

First, is the critically important issue of mixed populations—that is the housing of the non-elderly handicapped and mentally-ill disabled with the elderly.

I especially want to commend our colleagues, Mr. KLECZKA and Mr. DONNELLY, for bringing this issue forward and for working so hard with this Member and others to bring about a reasonable solution.

The overall problem we face even before getting to this specific issue is the fact that there are some 1.5 million low-income individuals on waiting lists of public housing around the Nation. There is neither enough public housing units available nor funds for section 8 certificates.

Unfortunately, the problem of the deinstitutionalization of the mentally ill continues to persist and affect our housing programs. When an individual is released from a State or community mental health facility or a rehabilitation program, they can become eligible for public housing or section 8 assistance.

Unfortunately, HUD has no control over State or local institutions which deal with the mentally ill, the handicapped, or those recovering from alcohol or drug addiction and because the Congress has passed several laws aimed at helping the disabled and handicapped by giving them a preference for federally assisted housing and has created an explosive situation, disadvantaging the elderly on long waiting lists.

In an effort to address the issue, H.R. 5334 permits PHA's and private federally assisted apartment owners to designate entire buildings or portions of buildings as "elderly only". This is right to do and is consistent with congressional intent in the section 8 202 housing program. At the same time alternative programs are set up by PHA's for the disabled.

It permits, for the first time, the PHA's and private apartment owners to skip through their waiting lists to find elderly applicants for units which become vacant. If no elderly person can be found on the list, the PHA's can next offer the unit to the near elderly (that is, those 50 years of age or older).

In return for this, the PHA and assisted owner is required to submit a plan to HUD which would profile the makeup of their current waiting list; provide an estimate of anticipated vacancies over a 5-year period which would continue to justify the designation of buildings as necessary for the elderly; and an estimate of the amount of public housing new development, section 8 and modernization funds may be necessary to address the profile.

The bill also directs the PHA's and owners to submit requests for section 8 assistance to take care of the needs of the handicapped or mentally ill who would be disadvantaged by the designation of elderly buildings. It commits funds reserved for major reconstruction of existing facilities for the reconfiguration of units for use by the mentally ill and handicapped. It permits the PHA and owner to apply for funds for service coordinators to help find the types of assistance required by the elderly, handicapped and mentally ill. In addition to these provisions, the bill requires:

Each community receiving HOME funds to include in their comprehensive housing strategy [CHAS] a description of the nature and extent of the housing needs of the elderly, handicapped, and mentally ill.

And, it requires HUD to provide a clearinghouse for information on housing alternatives which may be available to the elderly, handicapped, and the disabled.

The legislative remedy in this housing bill represents a fair and balanced approach to this issue as far as housing is concerned.

Of course, it is not perfect. By its nature it would not solve all of the problems but it does provide a positive solution to this problem. More needs to be done, however, before these individuals even get to the point of needing housing.

Other committees of this body must become more insistent that States and local agencies do a better job in the proper planning for the shelter, medical, and social welfare of these persons before they are released into an unprepared and ill-equipped community.

In sum, this problem should never have occurred and should not be further exacerbated by State and local policies. It is simply not fair to our elderly and is not fair to our handicapped and disabled, who need social services and treatment facilities.

The second issue involves the new comprehensive plan to help test for and abate lead-based paint in our federally assisted and private housing stock.

The problem of lead paint is pervasive and the effects of lead poisoning are devastating and well documented.

Substantial evidence has emerged over the last few years indicating that many of the current abatement efforts around the country are being performed poorly and that abatement done improperly can do more harm than good. The improper removal of lead-based paint has been associated with increased lead dust which is then inhaled or ingested by children.

Knowing this, the committees felt that the Government needed to develop standards and guidelines and to educate people about the proper techniques to use to abate the lead threat safely. We began this process in public housing 3 years ago and through the efforts of Secretary Kemp that effort is moving forward very well.

This conference report creates a new initiative to help States and local communities get on with the job of getting the lead out. Through grants awarded by HUD, communities will begin the

The purposes of legislative intent this Member would note that HUD has expressed some concerns that this new program may duplicate a program already existing under section 248 of the National Housing Act of 1949. However, Mr. Speaker, that program has only been used, thus far, to secure approximately 12 loans nationwide. It's clear that section 248 is not meeting this need. I think my proposal will. The secondary market, particularly Fannie Mae, has already expressed interest in this new program.

Also, to provide adequate liquidation ability for the Federal Government in the event of a default I have included a provision allowing for the Secretary of HUD to liquidate the account, but placing limits on that liquidation which respect the trust obligations regarding Indian lands. This provision is the same as section 509(d) in the Rural Housing provisions of the National Housing Act of 1949. By voting for this conference report my colleagues will be providing Indian families the same opportunities for home ownership which the Government provides to other citizens.

Mr. Speaker, this Member also urges support for the conference report since it contains several needed items to clarify financial institution regulations and to reduce expensive and unnecessary regulations which have nothing to do with the maintenance of safety and soundness in America's commercial banks.

The list of regulatory relief provisions approved once if not twice by the other body consists of the following nine elements:

First, an amendment to the 1974 Real Estate Settlement Procedures Act to exempt lenders from providing estimates of settlement costs if the mortgage loans are denied within 3 days of receipt of the loan application.

Second, an amendment to the 1987 Competitive Equality Banking Act to clarify that limits on interest rates on adjustable rate mortgage loans applies to residential mortgage transactions or other consumer loans—and not to commercial loans.

Third, an amendment to allow temporary case-by-case agency discretion to the separate capitalization rule for thrift real estate subsidiaries.

Fourth, an amendment to FIRREA to allow agencies to establish lower threshold levels for appraisals by certified or licensed appraisers if there is no safety or soundness problem. The amendment would also require two GAO studies to determine the cost of required appraisals to financial institutions, bank and thrift insurance funds, customers, and the effect on low cost housing. The GAO would also have to determine the quality of the evaluations performed for financial institutions and make recommendations to the House and Senate Banking Committees.

Fifth, an amendment to section 22(h) of the Federal Reserve Act which grants the Federal Reserve some flexibility in setting lending limits in certain instances.

Sixth, an amendment to substantially modify a provision added by the 1991 banking bill to prevent the regulators from micromanaging bank operations, specifically in the case of executive compensation levels. The amendment allows restrictions on compensation only if there is a safety and soundness issue or in connection with an enforcement action.

Seventh, an amendment to extend the implementation of the Truth-in-Savings Act by 3 months in order to give banks slightly more time to comply with all the provisons of the law.

Mr. Speaker, for these and many other reasons, this Member supports this conference report and urges his colleagues to give this conference report a resoundingly positive vote.

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Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the conference agreement to H.R. 5334, the Housing and Community Development Act of 1992.

This conference report will provide nearly $30 billion in housing and community development assistance for each of fiscal years 1992 and 1993 and will reauthorize and extend programs of the National Affordable Housing Act of 1990.

These are harsh economic times and housing needs are great. Millions of Americans live in poverty and only about one-third of them receive any Government housing aid. Almost 10 million Americans are unemployed. Millions of very low-income renters live in substandard housing or pay well over 30 percent of their income for housing. Perhaps as many as 3 million live on our streets every year. This is certainly a far cry from decent, safe, sanitary, affordable housing for all Americans. We need comprehensive housing and community development legislation.

The conference agreement will make several changes in housing programs, including those created in the National Affordable Housing Act of 1990.

While the agreement does expand the availability and usability of FHA mortgage insurance across the country by increasing the loan limits of 75 percent of Freddie Mac's [FHLMC] loan limit, the provision to repeal the 57-percent limitation on the financing of closing costs on FHA mortgage insurance was removed from this bill. A symbolic action, as the signed law, the appropriation measure, corrected the faulty interpretation of HUD upon the 1990 FHA changes.

This repeal was a small step to take to begin the process of rebuilding the strength of FHA business and ultimately the FHA fund. The record should show that the housing subcommittee has consistently worked, debated, and led in correcting the FHA program's problems. The FHA program is in jeopardy of greatly shrinking today. FHA business is down this year, while VA insurance and private mortgage insurance have increased their business. The FHA's powerful countercyclical force is being limited and despite the Bush/Kemp rhetoric on empowerment and home ownership when it comes to their favorite target, public housing, the FHA program, which has served to build the American dream for nearly 60 years, is being hobbled by the actions of this current administration. With these two changes Congress is helping keep the FHA program viable and serving the perspective homeowner.

A prime example today of HUD's Keystone Kops imitation is the issuance of a mortgagee letter on FHA premium structure for streamlined refinances and 15-year FHA mortgages. Their inability to advise the marketplace regarding premium changes, either in advance or on the actual date of the change, was inexcusable and harmful. In fact, the October 2, 1992, mortgagee letter, affecting thousands of homeowners and lenders, came out a day after it supposedly went into effect October 1, 1992. This is the kind of uneven, illogical management that makes the FHA program less attractive to borrowers and lenders alike, with no apparent benefit, in fact a weakening of FHA thru the loss of cured loans in the FHA portfolio.

Mr. Speaker, H.R. 5334 also addresses the thorny issue of mixed age and ability populations in public and federally assisted housing.

In response to concerns from around the country, including St. Paul and Minneapolis, MN, the conference committee negotiated improvements to the carefully crafted new policy originated in the House regarding mixed populations in public and assisted housing. This compromise will allow for elderly-only housing while maintaining the responsibility of public housing authorities [PHA's] to house all those in need on their waiting list. For many, public housing is the only opportunity for decent, safe, and affordable housing. This plan gives PHA's the ability to provide appropriate housing alternatives, including some mixed buildings, scattered-site houses, or smaller apartment buildings along with appropriate services and staffing. The agreement provides an option for assisted housing programs to adhere to a similar type of program voluntarily.

The conference committee increased the alternatives and resources for serving persons with disabilities. The agreement provides for a new section 811 program providing tenant-based assistance specifically to be administered by the PHA's to address the needs of their allocation plans that are required under the new section.

The conference agreement also includes the McKinney Act housing and emergency assistance programs contained in my freestanding McKinney reauthorization bill (H.R. 4300). The bill includes an authorization of close to $1 billion for these programs in fiscal year 1993 and fiscal year 1994. This program that I initiated in 1982 with the ranking member Mr. WYLIE as a cosponsor is regrettably more needed than ever today. It is a good program that works.

In addition to reauthorizing existing programs such as FEMA Emergency Food and Shelter program, the Emergency Shelter Grants program, and section 8 SRO, the agreement creates new programs targeted toward specific needs of rural homeless persons and mentally ill homeless persons. Other McKinney programs will not be consolidated into two programs.

The new programs—the Rural Homeless Demonstration grant, Farmers Home Property Disposition for the Homeless, and the Safe Havens program—work to better target homeless assistance. Safe Havens is a bipartisan response to a Federal task force report.

The consolidation of programs affects five current McKinney programs. Supportive Housing and SAFAH will be merged—preserving the current flexibility of SAFAH and the eligible activities guidelines of Supportive Housing, while simplifying the process of applying for funding. The same can be said for the Shelter Plus Care consolidation which should help providers more easily access programs.

The conference agreement also breaks new ground for homeless assistance programs by providing guidelines for employment by programs, and consultation and/or representation of homeless of formerly homeless persons with or on the policymaking entities of programs that receive McKinney assistance. This kind of involvement can only further improve these programs in meeting the diverse needs of the people they serve while also providing for additional needed skills or experience to those same persons.

This legislation reauthorizes several other important housing programs like public housing. It continues section 8 assistance and authorizes their use for home ownership, an idea in which many in my city are interested. The conference agreement also maintains reauthorization of the Congregate Housing Services program, the Neighborhood Housing Services programs and others under Neighborhood Reinvestment Corporation and the Community Development Block grant. Rebuilding and strengthening our communities is absolutely essential to show our commitment to a new and competitive United States.

The HOME block grant will now have a less skewed two-tiered match with some ability to use debt-financing for match. The program will also conform with the Low Income Housing Tax Credit program, a successful program which most of the Congress supports.

Important perfections are also made in the Preservation/Prepayment programs of the last two housing acts. Among these provisions are sections that will expand the availability of mortgage insurance for projects of 40 years and eliminate the windfall profits test.

Also included in this conference agreement is a compromise provision on lead-based paint abatement. The bill will increase resources for abatement in both public and private housing. It will also provide for certified worker and protections for lead-reduction activities.

Mr. Speaker, this legislation also includes provisions relative to banking regulation. I support may of these initiatives. The clarification on executive compensation, for example, was needed and should address any concerns that have been raised. I do not want to share my views on two proposals that stretch out the time frame for compliance by financial institutions.

The first proposal extends by 90 days, the time frame for enactment of the Truth in Savings Act. Normally, I do not support such delays. However, clear evidence has been presented that this delay is needed to allow institutions to fully comply with the law. It should be clear, however, that a further extension will not be enacted next year.

The second provision stretches out the timetable established in the Financial Institutions Regulatory Reform and Enforcement Act [FIRREA] for the separate capitalization of savings associations subsidiaries engaged in activities not permissible for national banks. I opposed a blanket extension of this requirement. Clearly such a broad brush approach would encompass not only healthy thrifts but also thrifts that are on the verge of collapse. As a result of this forebearance the cost to the taxpayer would be significant. Fortunately, the proposal offered by the House and included in the conference report, establishes strict criteria, including compliance with an approved capital plan, before the regulator can act. In addition, the bill limits this time extension to June 30, 1996. Clearly yet another extension at that time would be unwise and unsound.

The agreement also contains the Federal Housing Enterprise Financial Safety and Soundness Act, more commonly known as the GSE bill. Its inclusion here will assist the other body with its parliamentary conundrums and as this bill has already passed the House on the suspension calendar, it should not represent a problem here.

Mr. Speaker, the Federal Government, in conjunction with local and State governments, and the integral network of nonprofits and service organizations, has and must continue to respond to the housing needs of all Americans. This conference agreement on the Housing bill is an important component of our housing and community development infrastructure. I urge my colleagues to join in supporting this bill and I strongly urge the President to sign this bill into law.

Mr. GONZALEZ. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I rise in strong support of the legislation and thank the chairman and the ranking minority leader, who is on the floor for the last time in his career, carrying a major bill, especially for the women in home-building provisions.

Mr. Speaker, I rise in support of the bill, and with cordial thanks to the House conferees who worked to include a provision in it called Women in Homebuilding. The provision allows a successful project from my district to be replicated across the country. Our homemakers project, just as authorized in the bill, trains women living in low- and moderate-income neighborhoods to become paid construction apprentices rehabilitating properties in their own community.

Ms. Karen Mays of my district, who now works as a painter apprentice in the program, has gained a lot from the program. She says: "It's a chance to be independent and to learn a skill—and be able to support myself and my family."

I am convinced that this provision can help create more opportunities like Karen's. The more chances like hers, the fewer people unemployed and on welfare, the more women in a nontraditional field, and the better our housing stock. Again, I thank the chairman for his work and ask my colleagues to support the bill.

HOME-MAKERS MAKE HOUSE MAKERS—MOMS LEARN CARPENTRY

(By Holden Lewis)

Joyce Michaels figures she's sort of an amateur carpenter, being a single mother and all.

So when she got a chance to learn carpentry by repairing run-down houses in her neighborhood, she jumped at it.

"It's an opportunity to me," Ms. Michaels said. "Being a single parent, you find you do a lot of construction work at home all by yourself. If you want something torn down, you've got to do it yourself."

Women in construction don't raise eyebrows anymore. But Ms. Michaels belongs to an unusual new program in which single mothers become apprentices, then work alongside journeymen to rehabilitate houses in the low-income neighborhood between St. Vincent Medical Center and Collingwood Boulevard. The women get first dibs on buying the rehabbed houses.

The Home-Makers Project aims to give single mothers well-paying jobs while they create affordable housing and help stabilize the neighborhood. Women who complete a four-year apprenticeship program can become journeymen carpenters, painters, plasterers, or other skilled tradesmen.

on coverage and scope of the interim standard, I am concerned about disregarding the protections, for all affected parties, of the usual notice and comment and regulatory analysis required by section 6 of the Occupational Safety and Health Act and the Administrative Procedures Act.

Finally, I note that the legislation includes language which requires OSHA to coordinate its activities under this legislation with the Environmental Protection Agency. Similar language obligating EPA to coordinate its activities and avoid duplicative requirements is already provided in Toxic Substances Control Act [TSCA], to which subtitle B of title X of this bill are an amendment. It is nice to have that language included. I do not know, and I doubt that any Member knows, what that means in terms of what Congress is directing each of the agencies to do. We have simply given the agencies responsibilities which are clearly duplicative, and then said that in carrying them out, avoid duplication.

Mr. Speaker, protecting the workers involved in lead paint abatement from adverse health effects is an important part of the overall effort to address the problems from lead in our environment. But we also need to insure that the programs and regulations we put in place are clear as to the responsibilities and accountability of those charged with carrying them out.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I would like to congratulate Chairman GONZALEZ for bringing this conference report to the floor today.

He worked tirelessly to resolve differences between the House and Senate housing bills during a short period of time, and I would like to commend him and his staff for a job well done. I urge my colleagues to support this conference report today.

This is the last time I will speak in this Chamber in favor of a housing authorization legislation and I would like to say to the chairman that I greatly enjoyed serving with him on the Housing Subcommittee and the Banking Committee during my years in Congress.

The eighties were tough times for Federal housing programs, but thanks to the chairman's leadership and his commitment to the Nation's neediest citizens, we were not only able to maintain existing housing programs during this time, but pass landmark housing legislation in 1990 which reaffirmed the Federal commitment to housing.

Today, we are again affirming the Federal commitment to housing. I would also like to commend Mr. WYLIE, the ranking minority on the Banking Committee, and Mrs. ROUKEMA, the ranking minority on the Housing Subcommittee, for their hard work in bringing this bill to the floor. I greatly enjoyed serving with both of you, as well. In addition, I want to express my thanks to Frank Destefano and the Housing Subcommittee staff he leads, as well as to Susan Frank of my staff, for all of their help.

Statements have already been made about the host of important issues included in this bill but I would like to highlight just a few:

I am particularly pleased that the conference report contains a comprehensive solution to the so-called mixed population issue. I worked with Mr. KLECZKA, Mr. FRANK, Mr. DONNELLY, and others on this issue, and I believe we have come up with an equitable solution which addresses the needs of the elderly, the mentally ill, and the housing authorities.

The conference report also contains two provisions of particular importance to Delaware which will ensure implementation of two innovative programs—a public housing home ownership program and a rental security deposit program for low-income families. I thank the chairman and his staff for their assistance in including these provisions.

Finally, the bill reauthorizes the family self-sufficiency and family investment center programs. These two programs are important because they recognize the need for coordination between housing, social service, and employment policy, and because they will help families in assisted housing achieve economic independence.

Again, I thank the chairman, and urge my colleagues to support this conference report.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. TORRES], the distinguished chairman of the Subcommittee on Consumer Affairs.

Mr. TORRES. Mr. Speaker, I thank the chairman, and I rise to direct inquiries of the chairman of the Committee on Banking and Urban Affairs, the gentleman from Texas [Mr. GONZALES].

Mr. Speaker, I would like to congratulate Chairman GONZALEZ on the conclusion of the conference on the Housing Affordability Act Amendment of 1992. At this time, I would like to engage Chairman GONZALEZ in a colloquy for purposes of clarifying the intent of the AR Zone Amendment in the conference report.

Last year the Federal Emergency Management Agency decertified the flood control works on the Los Angeles and Rio Hondo Rivers. This decertification triggered a remapping of the area, resulting in vast new areas being identified as flood prone at greater depths than previously determined. FEMA's new maps, scheduled to take effect in December or January, will result in costly new building restrictions and higher flood insurance premiums. This legislation will avert those economic consequences for the Los Angeles area and provide FEMA regulatory flexibility for communities whose flood protection systems could be decertified in the future.

I understand that the AR Zone Amendment authorizes FEMA to develop floodplain management criteria for any area in the country where a flood protection system is decertified. However, for communities which meet two eligibility criteria as of January 1, 1992, the amendment will suspend the pending flood maps, place specific limitations on building requirements, and extend eligibility for C zone rates. The only two areas which are eligible for these specific provisions are Los Angeles and Sacramento.

The conference amendment makes clear that FEMA shall not require the elevation of improvements to existing structures or elevations that exceed 3 feet above existing grade in areas where the estimated flood depth does not exceed 5 feet or in areas where new construction is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas. The intent is to allow continued property improvements in urbanized areas such as the cities in Los Angeles County along the Los Angeles and Rio Hondo Rivers. Elevation requirements shall not exceed 3 feet for any new construction in these cities because these communities are substantially built out. Other cities which have large tracts of undeveloped land and flood depths in excess of 5 feet will be subject to elevation criteria which FEMA will develop within 24 months as required by this statute.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. TORRES. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, the gentleman is correct in his interpretations.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, permit me to address one provision of this balanced housing authorization bill, that of the mixed population section.

Decades ago, our Government made a well-intentioned decision to increase housing opportunities for the disabled by placing them in vacant elderly housing. But while the disabled once referred primarily to the physically handicapped, today's disabled include an increasing number of the younger, deinstitutionalized mentally ill, and chronic abusers of alcohol and drugs.

This conference report recognizes the right of the disabled to fair housing opportunities—but addresses the clear problems which sometimes arise when we place elderly and younger mentally disabled as neighbors. In Milwaukee, we have seen assaults, vandalism, and numerous disputes erupt. Elderly residents often live in fear, and disabled who live in elderly buildings do not get the supportive services they need.

The conference report allows managers of public housing authorities to designate buildings, or portions of buildings, for elderly only, for disabled only, or for mixed populations, if they so desire. However, all PHA's will be required to submit, for HUD approval, an allocation plan that will outline how the project will meet the needs of each group. The plan will be based on an analysis of current housing stock, vacancies, and vacancy trends, and composition of waiting lists.

Owners of federally assisted housing will be allowed to establish a preference for elderly residents, as long as they maintain a small set-aside for the disabled. As part of the compromise, the conference committee agreed to a slight redistribution in the authorization for elderly and disabled housing, which should better serve disabled needs. With this measure, we can begin to address the lack of adequate social and health services for the disabled in mixed population buildings, which is a key reason we have seen so many problems in these facilities.

Neither the elderly advocates nor their counterparts in the disabled community are entirely satisfied with the bill. In my view, it is the best we could have accomplished, given two vulnerable populations, each with legitimate needs in a time of shrinking resources for low-income housing.

Once again, I wish to thank all parties for their willingness to be flexible on this difficult issue, and I urge approval of the conference report.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentlewomen from California [Ms. WATERS], a very active and distinguished Congresswoman.

Ms. WATERS. Mr. Speaker, I rise today in strong support of this conference report and urge my colleagues to join with me to vote for its passage.

I want to commend the distinguished chairman—Chairman GONZALES—for his leadership, wisdom, and hard work on this very urgently needed legislation.

With the chairman's cooperation I was able to include several important programs that will go a long way towards creating jobs, rehabilitating old and indecent housing, and expanding the stock of affordable housing in our communities.

I am especially pleased that the conference report contains CDBG support for the revitalization of Los Angeles.

I am also heartened to know that the conferees have supported my efforts to provide access to loan guarantees for needy American cities to carry out development projects.

Let me also mention that this conference report provides funding for:

Youthbuild: A highly regarded and successful low-income housing rehabilitation program that employs disadvantaged youth; and

New Towns: A community demonstration project that will expand housing in areas affected by the L.A. rebellion.

We have also expanded the Moving to Opportunity Program, the Family Investment Centers, and the Family Unification Program—all of which provide critical community support and services for children, youth, and families.

Mr. Speaker, this report is the starting point America needs to change the living conditions in our cities, and I beseech my colleagues to support this very noble effort.

Mr. Speaker. I am very pleased that the final legislation includes, with technical, clarifying amendments, the Senate bill's requirement of equal treatment for recipients of utility allowances and other energy assistance recipients. I wanted to say a few words about purpose and need for this provision in lieu of a conference report. Where recipients of utility allowances have out-of-pocket costs—that is, are individually liable for a bill, whether or not they are reimbursed—for utilities including energy costs of the kind that trigger eligibility for an energy assistance program, they must be treated equally with other households eligible for that energy assistance program. They could not, for example, be categorically denied benefits under the Low-Income Home Energy Assistance Program [LIHEAP] solely because they received utility allowances. Nor could they be denied a deduction that was generally available to LIHEAP recipients.

This amendment reaffirms the principles set forth in the Crawford and Clifford cases that housing assistance programs are intended to supplement, not replace, help that low-income people receive under energy assistance and other need-based programs. The amendment is intended to clarify, not change, current law. The long-standing principle that housing assistance is supplemental to other forms of assistance was called into question by the U.S. Court of Appeals for the Second Circuit's decision in the Rodriguez case; I understand that another court of appeals has recently cited Rodriguez in ruling against federally assisted housing tenants in another context.

Utility allowances were introduced into federally-assisted housing programs at much the same time and for precisely the same reason LIHEAP was started: to protect low-income people against rapidly rising energy costs. When utility costs stabilized at historically high levels, both programs continued to help limit those costs' impact on low-income people's budgets. The need for these supplementary programs was highlighted by a recently published report that low-income children ages 6 to 18 months had the lowest body weights, often reaching dangerously low levels, in the months following the coldest parts of the year: apparently high heating bills forced these families to choose between heating and eating, with severe consequences whichever the choice. This amendment seeks to protect families from that cruel dilemma. It does not require other programs to establish any special rules or preferences; it only provides that where such rules or preferences exist, recipients of utility allowances shall be given the benefit of them to the same extent as LIHEAP recipients. Also, this provision would not guarantee that tenants of federally assisted housing actually receive LIHEAP or any other benefits. It would only assure that their eligibility is judged and their benefits, if any, are calculated on an equitable basis.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. I thank the gentleman for yielding.

Mr. Speaker, I would just like to raise an issue that I think is of some significance.

I would like the attention of the chairman of the committee if I may on this. In his statement the other day on the GSE bill—and this housing bill also has the GSE legislation in it—the chairman put in the RECORD some very extraordinary statements about congressional intent. He indicated that he did not expect that public interest tests would be very pristinely applied to GSE's desiring to offer new products.

I would like to say, as one who listened carefully to the debate, that that would not be the opinion of this gentleman. In my opinion, strong public interest tests ought to be applied. And if they are not applied, what we have created with the GSE's are mega leveraged financial institutions capable of competing with other private sector institutions which after all have to pay higher State and local taxes, which have to meet stiffer community reinvestment standards, and most importantly, which have to maintain higher capital ratios than the GSE's.

So if this interpretation that the chairman put on the record on the previous GSE legislation—which is also the interpretation that might well stand in this particular bill—stands, the GSE's would be authorized to get into almost any area of finance with no public interest test applied.

This gentleman would like to state for the record that that would not be my understanding of the purposes of this legislation.

Mr. Speaker, in particular, I am concerned that in the written record applicable to the debate on stand-alone GSE legislation this past Saturday night, the chairman of the committee of jurisdiction suggested a framework of congressional intent which was not reflected in floor discussion and with which this Member strongly dissents. In the written record the chairman stated:

> The bill also defines the prior approval authority of the Secretary. This authority is confined to the approval of new programs. A new program is a broad and general plan or course of action for purchasing or dealing in mortgages that is significantly different from activities previously approved or engaged in prior to enactment of this bill. Once

satisfaction or its effects determined to be fairly workable or fail of application.

While it is important that the promise of community health benefits is not lost, however, it is equally important that the means to accomplish this objective be workable, fair and constitutional. In this connection, it is clear that the private provisions on which we act today will likely have to be reviewed from this perspective.

Mr. ANNUNZIO. Mr. Speaker, I rise today in support of the money-laundering provisions in the conference report on H.R. 5334.

The House has approved money laundering legislation four times; the Senate has done so twice. It is time we send such legislation to the President for his signature so that the improvements this bill will make in fighting money laundering can finally become law.

Money laundering is a crime that makes the illegal drug business possible. It converts the cash received by drug dealers into bank records which can easily be concealed and transferred rapidly.

This legislation will strengthen existing law by plugging loopholes and ensuring that those entities and persons assisting money launderers are punished. Among other important provisions, it contains the death penalty for those laundering financial institutions—charter revocation, termination of insurance, or appointment of a conservator. Without a place to launder cash, drug dealers would be left with a vast pile of worthless paper.

I would like to thank the gentleman from Ohio [Mr. WYLIE] for his strong support of this legislation these past 3 years. Without his cooperation and dedication, this legislation would not have been possible. I have worked side by side with him for many, many years. I am grateful that I have been fortunate enough to have worked so closely with such an honorable and distinguished colleague.

I would also like to thank the gentleman from Ohio [Mr. OXLEY], as well as the other members of the conference committee on H.R. 5334, for naming the money laundering title of the bill as the "Annunzio-Wylie Anti-Money Laundering Act." Putting the name on this bill is an honor that the gentleman from Ohio [Mr. WYLIE] greatly deserves. For 24 years I have had the pleasure of working with him on banking legislation, and as we both prepare to leave the House, I am honored to have my name linked with his on this bill.

It is truly heartwarming to have such an honor bestowed on me during the final days of my 28 years serving the people of Illinois.

I cannot urge you enough to support this legislation. Your vote will send the message to illegal drug dealers and money launderers that Congress will not let you profit from your dangerous and illegal business.

I urge my colleagues to fight money laundering and vote in favor of the conference report on H.R. 5334.

Ms. NORTON. Mr. Speaker, I rise in support of the conference report on H.R. 5334, a bill that would strengthen Federal housing programs and create more affordable housing, for which the need has become truly desperate for many.

A major network reported over the weekend that in our Nation's Capital a homeless man was apparently crushed to death as he slept overnight in a garbage dumpster. Today, a group of homeless people are facing eviction from the Ellen Wilson Dwelling apartments, abandoned DC public housing units, where they seek to launch a demonstration project to show that they can succeed in rehabilitating and occupying the units.

However, most who can't find housing today look silently to us for relief. Today I urge my colleagues to take a small step and support H.R. 5334 on their behalf.

May I also express my gratitude to Chairman HENRY GONZALEZ for the inclusion in section of H.R. 5334 which will provide funding set-aside for a multi-purpose tenant empowerment and homeownership project located in the District of Columbia.

Last year, I accompanied Chairman GONZALEZ on a tour of the Mount Pleasant neighborhood, where fires had revealed the extensive lack of local housing needs, and he has responded in the way that others must. This bill will help create communities around the Nation across the country. I urge the passage of H.R. 5334.

Mr. LENT. Mr. Speaker, I rise to endorse the provisions in the conference report concerning lead-based paint inspection and abatement provisions.

Mr. Speaker, I think we can be very proud of the provisions in title 10. Over the past several years, a number of committees in both Houses of Congress have recognized the dangers posed by lead-based paint in homes and have been working to craft solutions.

What we have done in title 10 of the housing bill is to bring these committees together to develop a common approach to the problem of lead-based paint.

As a result, we have a program that will begin to make millions of people aware of the risks of exposure to lead-based paint, especially for children. We also have provisions that authorize EPA to establish standards for lead inspections and people who remove lead-based paint so that they don't make the problem worse in the process of getting rid of it. Finally, we have strong incentives for States to establish their own training and certification programs. These programs will be more effective and efficient if State and local governments—not the Federal Government—administer them.

Mr. Speaker, the hard part in developing protections from lead hazards in houses and apartments is to develop standards which are achievable without increasing the cost of housing or imposing unreasonable burdens on people who work in houses. I think this bill strikes a reasonable balance.

I want to commend the members of the Banking Committee, the Senate Environment and Public Works Committee, the House Education and Labor Committee, and my colleagues on the Energy and Commerce Committee, in particular the chairman of the full Committee, Mr. DINGELL, the chairmen of the relevant subcommittees, Mr. WAXMAN and Mr. SHARP, and ranking members, Mr. DANNEMEYER and Mr. RITTER.

I also want to commend the administration for recognizing that lead-based paint is a serious environmental hazard and working with the Senate Banking Committee to develop this legislation.

Mr. KANJORSKI. Mr. Speaker, I rise today in support of the conference report on the housing bill, H.R. 5334.

This bill addresses critical problems facing communities across America. Chairman HENRY GONZALEZ and Chairman DONALD RIEGLE and their committees' able staffs are to be commended for their diligent work. I would also like to recognize the hard work of the ranking minority Member of the Housing Subcommittee, Congresswoman MARGE ROUKEMA, and the ranking minority Member of the full Banking Committee, my colleague from the other side of the aisle, CHALMERS WYLIE, who is leaving the House of Representatives after many years of distinguished service.

The housing bill, as we have all come to expect, is crucial to our efforts to renew the American dream of affordable housing for all our citizens. Much is still to be done, as we all know, but H.R. 5334 represents a giant step in the right direction.

I would like to highlight one provision in this comprehensive legislation, which was included at my request, so that Congress may offer guidance to the Department of Housing and Urban Development as it writes implementing regulations.

Section 812 of the conference report amends section 104 of the Housing and Community Development Act. Section 104(1) was passed by Congress 2 years ago as section 925 of the Cranston-Gonzalez National Affordable Housing Act. It calls for Community Development Block Grant recipients to submit, prior to receipt of funds, a Community Development Plan listing short- and long-term community development objectives. The legislation we pass today will optimize the utility of this important provision.

Section 812 of the conference report modifies section 104(1) of the Housing and Community Development Act and clarifies that the intent of the Community Development Plan concept is to assist communities in conceptualizing their community development needs and communicating those needs to state governments and the Federal Government in an efficient manner.

Modifications to section 104 are necessary to remedy problems that would have been created if proposed HUD regulations had been put into effect. The proposed regulations go beyond statutory language to require, for example, extensive consultations with all neighboring communities, identification of specific funding sources that will pay for the anticipated community development projects, and a listing of the community's "social service" needs. These proposed regulations ask the local government entity beyond that which was intended to be required by the underlying Act. Their regulations would not be justified by statute.

As the author of section 925 of the Cranston-Gonzalez National Affordable Housing Act, I find the proposed HUD regulations to be overly burdensome on local governments, beyond the scope of the written law, and in general, contrary to the intent of relevant statute.

Section 812 was intended to reduce the paperwork burden on local communities by (1) providing a standardized form on which to submit community development plans where required by law; (2) applying conventions of scrutinized or its effects determined to be totally workable or fair in application.

While it is important that the promise of continued health benefits to retired coal miners be honored, it is equally important that the means to accomplish this objective be workable, fair, and constitutional. In this connection, it is clear that the Senate provisions on which we act today will again have to be reviewed from this perspective.

Mr. ANNUNZIO. Mr. Speaker, I rise today in support of the money-laundering provisions of the conference report on H.R. 5334.

The House has approved money-laundering legislation four times; the Senate has done so twice. It is time we send such legislation to the President for his signature so that the improvements this bill will make in fighting money laundering can finally become law.

Money laundering is a crime that makes the illegal drug business profitable. It converts the cash received by drug dealers into bank credits which can easily be concealed and transferred rapidly.

This legislation will strengthen existing law by plugging loopholes and ensuring that those entities and persons assisting money launderers are punished. Among other important provisions, in contains the death penalty for money laundering financial institutions—charter revocation, termination of insurance, or appointment of a conservator. Without a place to launder cash, drug dealers would be left with a vast pile of worthless paper.

I would like to thank the gentleman from Ohio [Mr. WYLIE], for this ardent support of this legislation these past 3 years. Without his cooperation and dedication, this legislation would not have been possible. I have worked side by side with him for many, many years. I am grateful that I have been fortunate enough to have worked so closely with such an honorable and distinguished colleague.

I would also like to thank the gentlelady from Ohio [Ms. OAKAR], as well as the other members of the conference committee on H.R. 5334, for naming the money-laundering title of the bill as the Annunzio-Wylie Anti-Money Laundering Act. Putting his name on this bill is an honor that the gentleman from Ohio [Mr. WYLIE] greatly deserves. For 26 years, I have had the pleasure of working with him on banking legislation, and as we both prepare to leave this House, I am honored to have my name linked with his on this bill.

It is truly heartwarming to have such an honor bestowed on me during the final days of my 28 years serving the people's of Illinois.

I cannot urge you enough to support this legislation. Your vote will send the message to illegal drug dealers and money launderers that Congress will not let you profit from your dangerous and illegal business.

I urge my colleagues to fight money laundering and vote in favor of the conference report on H.R. 5334.

Ms. NORTON. Mr. Speaker, I rise in support of the conference report on H.R. 5334, a bill that would reauthorize Federal housing programs and create more affordable housing, for which the need has become truly desperate for many.

A tragic incident occurred over the weekend in the Nation's Capitol. On Saturday a homeless man was accidently crushed to death as he slept overnight in a garbage dumpster. Today, a group of homeless people are facing eviction from the Ellen Wilson Dwelling apartments, boarded up public housing, where they seek to launch a demonstration project to show that they can succeed in rehabilating and occupying its units.

However, most who can't find housing today look silently to us for relief. Today I urge my colleagues to take a small step and support H.R. 5334 on their behalf.

May I also express my gratitude to Chairman HENRY GONZALEZ for including language in H.R. 5334 which will provide funding assistance for a multicultural tenant empowerment and homeownership project located in the District of Columbia.

Last year I accompanied Chairman GONZALEZ on a tour of the Mount Pleasant neighborhood, where riots had occurred. He observed first hand local housing needs, and he has responded in the way that counts most. This bill will help create countless stories like this across the country. I urge the passage of H.R. 5334.

Mr. LENT. Mr. Speaker, I rise to address the provisions in the conference report concerning lead-based paint inspection and abatement provisions.

Mr. Speaker, I think we can be very proud of the provisions in title 10. Over the past several years, a number of committees in both Houses of Congress have recognized the dangers posed by lead-based paint in homes and have been working to craft solutions.

What we have done in title 10 of the housing bill is to bring these committees together to develop a common approach to the problem of lead-based paint.

As a result, we have a program that will begin to make millions of people aware of the risks of exposure to lead-based paint, especially for children. We also have provisions that authorize EPA to establish standards for lead inspectors and people who remove lead-based paint so that they don't make the problem worse in the process of getting rid of it. Finally, we have strong incentives for States to establish their own training and certification programs. These programs will be more effective and efficient if State and local governments—not the Federal Government—administer them.

Mr. Speaker, the hard part in developing protections from lead hazards in houses and apartments is to develop standards which are adequate without increasing the cost of housing or imposing unreasonable burdens on people who work in houses. I think this bill strikes a reasonable balance.

I want to commend the members of the Banking Committees, the Senate Environment and Public Works Committee, the House Education and Labor Committee, and my colleagues on the Energy and Commerce Committee, in particular the chairman of the Full Committee, Mr. DINGELL, The chairmen of the relevant subcommittees, Mr. WAXMAN and Mr. SWIFT, and ranking members, Mr. DANNEMEYER and Mr. RITTER.

I also want to commend the administration for recognizing that lead-based paint is a serious environmental hazard and working with the Senate Banking Committee to develop the basis for this legislation.

Mr. KANJORSKI. Mr. Speaker, I rise today in support of the conference report on the housing bill, H.R. 5334.

This bill addresses critical problems facing communities across America. Chairman HENRY GONZALEZ and Chairman DONALD RIEGLE and their committees' able staffs are to be commended for their diligent work. I would also like to recognize the hard work of the ranking minority Member of the Housing Subcommittee, Congresswoman MARGE ROUKEMA, and the ranking minority Member of the full Banking Committee, my colleague from the other side of the aisle, CHALMERS WYLIE, who is leaving the House of Representatives after many years of distinguished service.

The housing bill we have assembled is crucial to our efforts to rebuild the American dream of affordable housing for all our citizens. Much is still to be done, as we all know, but H.R. 5334 represents a giant step in the right direction.

I would like to highlight one provision in this comprehensive legislation, which was included at my request, so that Congress may offer guidance to the Department of Housing and Urban Development as it writes implementing regulations.

Section 812 of the conference report amends section 104 of the Housing and Community Development Act. Section 104(1) was passed by Congress 2 years ago as section 922 of the Cranston-Gonzalez National Affordable Housing Act. It calls for Community Development Block Grant recipients to submit, prior to receipt of funds, a Community Development Plan listing short- and long-term community development objectives. The legislation we pass today will optimize the utility of this important provision.

Section 812 of the conference report modifies section 104(1) of the Housing and Community Development Act and clarifies that the intent of the Community Development Plan concept is to assist communities in coordinating their community development needs and communicating those needs to state governments and the Federal Government in an efficient manner.

Modifications in section 104 are necessary to remedy problems that would have been created if proposed HUD regulations had been put into effect. The proposed regulations go beyond statutory language to require, for example, extensive consultations with all neighboring communities, identification of specific funding sources that will pay for the anticipated community development projects, and a listing of the community's "social service" needs. These proposed regulations ask for local government action beyond that which was intended to be required by the underlying Act. The mandates would not be justified by statute.

As the author of section 922 of the Cranston-Gonzalez National Affordable Housing Act, I find the proposed HUD regulations to be overly burdensome on local governments, beyond the scope of the written law, and in general, contrary to the intent of relevant statute.

Section 922 was intended to reduce the paperwork burden on local communities by (1) providing a standardized form on which to submit community development plans already required by law, (2) assisting communities in their efforts to show compliance with numerous Federal mandates, (3) helping communities avoid duplicating expenditures made by neighboring communities, and (4) providing a mechanism whereby the State and Federal Government may gain a realistic understanding of community development needs across the Nation.

The Department of Housing and Urban Development should rewrite these regulations consistent with the language of the law and the intent of the Congress.

Section 812 of the conference report clarifies that section 104(b) of the Housing and Community Development Act applies only to non-housing needs. The provision reduces the overall paperwork burden by combining the Community Development Plans required for submission under sections 104(b) and 104(l)—the latter subsection being redesignated as section 104(m).

Moreover, section 852 of the conference report directs the Department of Housing and Urban Development to create a national Community Development Database demonstration project that will, among other things, help communities fulfill the requirements of the redesignated section 104(m) of the Housing and Community Development Act.

I would like to take a moment to explain the intentions behind the Community Development Plan and Community Development Database programs.

Sections 812 and 852 establish the framework for a program that will assist States and local governments in developing an integrated database of community development needs, offer computerized mapping technologies for local governments wishing to further their own strategic planning, and it will provide the means for establishing coordinated strategies for meeting community development needs.

Under this framework, HUD will contract for the design of a basic computer mapping software package. The software will allow State and local governments to efficiently collect, collect, store, process, and retrieve community development information.

The Department of Housing and Urban Development will make the software available to States without cost, and States may then distribute the package to local governments. Ten million dollars in grants are authorized to pay for capital costs and technical assistance. States with high, long-term unemployment will be given a high priority for participation in the demonstration.

The idea is to allow local governments to have access to basic computer mapping technology that could be run on desk-top computers.

In addition, the program will provide for the upward flow of information from the grassroots, through counties and States, to the Department of Housing and Urban Development and the committees and subcommittees of Congress that must know what local governments need.

States will report to HUD, in summary form, the community development needs reported within each State and strategies to meet those needs in a coordinated manner. HUD will then summarize these needs and strategies and report them to the House and Senate Banking Committees.

This information will greatly help Congress to fully and accurately allocate scarce resources toward worthwhile community development goals, and just as importantly, it will offer credible documentation of true community development needs across the country.

The central intention of this legislation is to assist local governments in their efforts to meet community development needs—and in fact, the computer software package can be used to help ease the weight of paperwork, not only of Community Development Plans, but of other Federal mandates that currently burden community development planners.

Community Development Plans will provide a useful means by which we can gather data on the demands being placed on communities, most of which go undocumented. Community Development Databases will bring the benefits of computer technology to strategic planning at the local level.

In combination, Community Development Plans and Community Development Databases will set a foundation on which we can being strategic planning efforts at the national level. We do not now have a solid grasp of local needs which may be impeding economic growth. Communities need a mechanism for communicating their needs to the national forum; sections 812 and 852 of the conference report create a means of coordinating and sharing critical concerns to Congress and the administration.

The result of the changes we make today in this conference report is a modification in statutory language that prevents HUD from drafting burdensome regulations. Properly implemented, Community Development Plans will provide communities across the Nation with a powerful tool they can use to document their needs and make their voices heard.

I urge my colleagues to support this important legislation.

Mr. FORD of Michigan. Mr. Speaker, I rise to explain the worker protections against lead hazards in the conference report on H.R. 5334. I hope that this explanation will serve as legislative history to guide the Secretary of Labor in implementing this important provision.

The Occupational Safety and Health Administration [OSHA] has delayed publication of a revised, comprehensive standard regulating occupational exposure to lead in the construction industry for far too long. Accordingly, the conference amendment requires the Secretary of Labor to promulgate an interim final regulation governing the exposure of construction workers to lead within 6 months after enactment. The interim final regulation published by the Secretary of Labor must provide safety and health protection for employees that is at least as protective as that which would prevail if affected employers complied with the Department of Housing and Urban Development [HUD] guidelines published at Federal Register 55, page 38973 (September 28, 1990) (revised chapter 8). The amendment provides that the interim final regulation will be effective immediately upon publication, but allows a reasonable delayed effective date (i.e., 90 days). The worker protection provisions accepted by the conferees are virtually identical to those included in H.R. 5730, the Lead Exposure Reduction Act of 1992, as reported by the Committee on Education and Labor.

The conference agreement requires that the lead abatement guidelines developed by HUD serve as the basis for OSHA's interim final regulation. In developing the interim final regulation, the Secretary of Labor may alter the provisions of the HUD guidelines, so long as the interim regulation provides workers with health and safety protections as effective as those which would prevail under the HUD guidelines. The HUD guidelines are based on, and in most respects mirror, OSHA's general industry lead standard at 29 C.F.R. § 1910.1025. Where the guidelines differ from OSHA's standard, the differences are intended to reflect the unique circumstances of the construction industry. By relying on the HUD guidelines as the basis for the Secretary of Labor's interim final regulation, the conferees expects that construction workers will gain the same benefits available to general industry workers under the lead standard, i.e., a permissible exposure limit of 50 ug/m3, medical surveillance, medical removal protection, etc. The conferees recognize, however, that construction worksites differ from factories and that far fewer feasible engineering controls are available to control lead emissions in construction work than can be employed at fixed worksites. The HUD guidelines recognize that compliance with a 50 ug/m3 PEL in the construction industry likely will require greater reliance on respirator use than is accepted in general industry.

The conference agreement provides the Secretary of Labor 6 months to promulgate the interim final regulation. This timetable is intended to ensure that a revised lead standard is finally put into place—after a 14 year delay—in the construction industry. During this 6 month period, the Secretary of Labor will have an opportunity to evaluate whether modifications to the HUD guidelines are appropriate. So long as the interim final regulations adopted by the Secretary of Labor require employment and places of employment as protective of employee health and safety as those which would prevail under the HUD guidelines, the Secretary of Labor is free to make modifications to the provisions of the guidelines.

The conference agreement creates a new provision, not a part of either the Occupational Safety and Health Act of 1970 [OSH Act] or the Toxic Substances Control Act, which directs the Secretary of Labor to issue an interim final regulation governing lead. The regulation is not an occupational safety and health standard as that term is defined in section 3(8) of the OSH Act of 1970. As the Secretary of Labor has previously recognized, this distinction is legally significant because it means that procedural requirements of section 6 of the OSH Act do not apply to the promulgation of the interim final regulation. Nor, as the Secretary of Labor has previously recognized in publishing an interim final regulation governing hazardous waste operations, do the notice and comment provisions of the Administrative Procedures Act apply. See 51 Fed. Reg. 45654, 45663 (Dec. 19, 1986).

Although the Secretary of Labor is not required to follow any specific notice and comment procedures before issuing the interim final regulation, it is the conferees' hope that the Secretary of Labor solicit input from and consider the views of affected industry and

This simply is not so. There is no tax break in this bill and there are no facts to even suggest that consumers will receive any savings, much less the fantastic numbers being bandied about by the bill's supporters.

What the facts do suggest—and which everyone, including the bill's supporters, concede—is that cable rates will continue to go up if this bill is enacted. The only question remaining is how much. Let's not forget this, though: in times of economic hardship, any cable rate increase is too much!

The bill also purports to be procompetition. Yet the most procompetitive aspect of the bill—the provision expanding the number of communities that the phone companies would be permitted to compete with cable—was unceremoniously dropped during the conference.

And what procompetitive provisions remain? Absolutely none. In fact, I can point to one provision that will cement, rather than unhinge, cable's monopoly well into the 21st century.

Under the bill, cities are forbidden from granting exclusive franchises. But this provision is a fig leaf: The truth is this bill does nothing to discourage cities from choosing regulation over competition, so long as huge franchise fees are available in monopoly, regulated markets.

In the end, consumers are left holding the bag. What changed to warrant such a significant policy reversal from the last Congress when we passed a good cable bill?

Politics, pure and simple. Supporters of this legislation saw an effort to bind the cable industry to overwhelming regulation. If enacted, this bill will ensure that American consumers pay more—not less—and will stifle one of the crown jewel industries in this country.

I believe that should Congress choose to override President Bush's veto, it will rue the day it did so. This bill will feed consumers' anger, not assuage it.

We will have to revisit this issue because, like price controls in the 1970's and catastrophic health in the 1980's, the American public will know that, once again, the cure Congress concocts is far worse than the disease.

Let us not put ourselves and, more importantly, the country, in that situation. I strongly urge my colleagues to join me in sustaining the President's veto.

I reserve the balance of my time. Thank you, Mr. Speaker.

□ 2010

Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

I would like to first thank my colleague from Massachusetts, Mr. MARKEY, for yielding some of his time for Republicans to speak in support of the cable bill.

There were 71 Republican Members who voted for this bill when it passed the House on September 17. It is a good bill that has worked its way through the House and Senate on a bipartisan basis. Its major proponent in the other body is Senator DANFORTH, a Republican. It passed with 22 Republican votes in the Senate 74–25.

The important issue is that we debate the merits of the bill, not the politics of the bill. Do we believe there should be access to programming to encourage competition? Do we believe there should be must-carry or retransmission consent? Do we believe there should be some basic regulation on the lowest tier of cable? If we do then we should support this bill as a majority of the Chamber has done twice before.

What we have today is an industry that has no competition and no regulation. Cable operators can set whatever price they want and do. We are talking about an industry that has overcharged the consumers by more than $6 billion each year. And we know that if this bill passes we will have competition by allowing the multichannel wireless cable and satellite providers to compete on equal terms with cable.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Speaker, I rise in opposition to the motion to override.

At the outset, I want to commend the President for being true to his convictions. On behalf of the American people, he has stood strong in the face of criticism to promote the benefits of competition and warn of the pitfalls of regulation. Should this legislation be enacted, I have little doubt that time will prove him right. Are we to expect the cable industry will put money into HBO, Showtime, or Discovery if it cannot make a profit? No it won't. Because mark my words, as a result of in this bill, cable rates will go up. Investment in programming will be discouraged and quality is certain to suffer. And the American people will have only one place to put their blame—the U.S. Congress.

It did not have to be this way. We could have—as we did 2 years ago—agreed on consensus legislation that would have provided the consumer with the necessary protections without overburdening the industry with costly regulations. But then, this is an election year.

As a result, reason gave way to rhetoric. The consumers' interests fell victim to special interests. The chairman of the relevant subcommittee abandoned the modest approach of his own bill for one intended to punish the industry. And don't think the timing of this override attempt is a coincidence, either.

Mr. Speaker, we pass legislation like this and wonder why the American people are down on Congress. I am pleased to join the President in opposing this measure and take great relief from the fact that I will not have to defend it.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman for yielding to me.

While the bill is not perfect, the fact is that a monopoly should be regulated. This is what this bill does. It regulates monopolies.

For that reason, I rise in support of this bill and ask my colleagues to vote to override the President's veto.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I am here to urge Members to vote to override the President's veto of S. 12. The President has done a great disservice to the American public by failing to sign this bill into law.

I agree with the President that regulation is a poor substitute for competition. That is why we gave him a bill that offered just that—competition. The program access provisions in S. 12 ensure that there will be meaningful competition in the marketplace so that television viewers will have the opportunity to choose among competing multivideo services—other cable companies, wireless cable providers, C-band satellite, direct broadcast satellite and any new communications technology that may still only be an idea on the drawing board.

This program access language is especially important to rural Americans. Many of them have invested in expensive satellite dishes in order to receive the programs that many urban and suburban residents with access to broadcast television or cable service take for granted. However, cable companies that also own programming have often refused to sell their programs to satellite distributors or have overcharged for them, even though their cable companies are not operating in these rural areas. S. 12 prevents this kind of discrimination and will allow rural Americans to fully participate in the information age without the grossly inflated prices.

Where the President and I really part company is over the treatment consumers should get until real competition gives diverse choice at reasonable prices. I believe that the American public deserves to be protected from the price gouging and unconscionably bad customer service that they have received at the hands of the cable industry until that day comes.

S. 12 offers a moderate and balanced scheme of rate regulation. It provides regulation of only the basic tier of cable service and the means to rein in renegade cable operators who charge excessive rates in the upper tiers. It guarantees an acceptable level of customer service and prevents cable operators from making a subscriber pay a hundred times over for remote control channel changers and other equipment. The bottom line is that S. 12 ensures that the cable programming that viewers want to watch will be available at reasonable prices.

It is also important to remember that this bill does not regulate the industry forever. When real competition exists in a cable franchise area, S. 12 provides that the regulation sunsets and the American consumers can make their choices in a free market.

Please join me in this effort to relieve consumers from constant cable rate hikes and promote competition in the market. A "yea" vote is one for the American people.

□ 2020

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I very much appreciate the gentleman from Massachusetts yielding time to me.

I am very perplexed by the President's 36th veto. I am, however, encouraged that the other body has overridden the veto. I hope that the House will do so tonight.

This is at heart a pro-people, proconsumer, pro-competition bill, and all of these three concepts the President stands for, further mystifying me as to why we have this veto before us.

This bill provides for the regulation of cable rates. Cable systems are currently a monopoly. They should not be given total control over rates as is the case today. The Tauzin amendment gives access to cable programming, to cable's competitors. This should provide a better quality of programming at a lower price for the subscribers. Standards for consumer relations and customer service are provided for.

I have some difficulty with the retransmission consent provision. I wish that were not in the bill, but otherwise, this is an excellent bill. I certainly hope that we override the President's veto tonight and pass the bill into law.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, as a Republican who intends to vote to override the President tonight, this is not a vote to embarrass the President. This is a vote to support our constituents. The hard, cold reality is there are two reasons to pass a law: Because there is a public need or a public demand. In this case, we are looking at both.

The fact is in my congressional district the Consumer Federation of America says Eau Claire has seen a 206-percent basic rate increase since deregulation, La Crosse has seen a 79-percent basic increase, and my small towns are even higher than that.

In terms of public demand, every Republican mayor and city or county board chairman, village president that I know, has talked to me on this issue and has said, "Please, give us some help in controlling cable rates in our small town communities.

This is a necessary vote. I am sorry it came at this point, at this time, but I would encourage all my Republican colleagues, vote for their constituents, vote for the bill.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Consumers beware, broadcasters beware, taxpayers beware; the Federal Government, in the form of the U.S. Congress, is here to help. We are going to make certain that through bureaucratic red tape, overregulation, and a thing called retransmission consent, we are going to make certain that the cable rates do not go down but in fact go up, under the guise of some plan that has been put forth, and an idea that has become somewhat accepted out there, that somehow these rates are going to go down. Quite the opposite is the case.

I say consumers beware, because indeed those rates are going to go up. I would predict flatly that we will come back here next year, after the election, when everybody catches onto this little scam and when people start writing to the Members and saying, "Hey, I thought the Congress passed the bill right before the election that was going to make certain that my cable rates went down. What happened? My cable rates are going up. There is no competition, there is nobody there to protect the consumer, and therefore, I have to say the U.S. Congress really let us down one more time."

Of course, they will not realize that until after the election, and I guess that is really what this debate is all about at the time that we are talking this debate.

I also say broadcasters beware, because the fact is that the cost for this overregulation is going to have to come from somewhere. The FCC has already told us that 44 percent of their existing budget, their existing budget, is going to have to be used to regulate cable television. Where are they going to come up with that money? They are already underfunded.

I would suggest to my friends in the broadcasting industry, there is a way that our friends on the other side of the aisle are going to find that money. It is called a spectrum fee. We have been through that fight before, but I guarantee the Members that is where they are going to find the money. Next year they are going to hear about it well too late.

I say taxpayers beware as well, because if they cannot find enough money in this spectrum fee, they are going to go after the taxpayer as well. This is really what it is all about, a preelection scam that is going to fool the consumer, or a lot of them, and a lot of Members in this body, but next year they are going to find out the real truth.

The real truth really is in this retransmission consent proposal. My friend, the gentleman from Louisiana [Mr. TAUZIN], my good friend referred to it in the debate on this bill as no big deal. If the retransmission consent is no big deal, that is, to have the cable consumer pay for the over-the-air signals that are now for free, then I ask the Members this simple question: Why are the broadcasters spending millions of dollars on wall-to-wall advertising on television and radio and in the newspapers supporting this bill if there is nothing in it for them?

I would suggest that there is up to $4 billion out there that is going to be taken from our consumers, the cable consumers, and go directly to the broadcasters, particularly of the three major networks. If we want that to happen I think we ought to have our eyes wide open and understand what that is all about.

The American way has always been not regulation but competition. We have a bill in right now that deals with competition and allows the telephone companies to get in competition with cable companies.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, this is our last chance. This is our last chance to act on the No. 1 consumer issue we have faced in this Congress. This commonsense cable bill has come a long way over the past couple of years—it would be a great loss for the American consumer if we let his bill die here and now.

Much has been said and written about the cost and quality of cable television service as we have considered this bill. I urge all of my colleagues to remember the huge number of letters we have gotten over the past 2 years from average people concerned about skyrocketing cable TV costs. This bill will bring some order and restraint to an industry that is currently an unregulated monopoly. I have said it before, and I say it again now—the cable television industry has simply not lived up to the promises made nearly 10 years ago when cable was deregulated. In this election season, let us send the consumer a signal that we have heard their message: Let us override this veto.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from New

but even if it were the area I live in has an exclusive monopolistic cable franchise, and unless the cable operator decided to carry it, I would be out of luck.

Mr. Speaker, it seems to me that it is time for the American people to have their choices about what they can view on cable television.

The area I represent in Chicago would like to have some of those kinds of choices regarding program diversity too.

This conference report does have two elements that I adamantly endorse. One is strong equal-opportunity language and the other is a minority program provision that will increase access for qualified minority programming services. I think that is commendable.

Mr. Speaker, once again President Bush has said yes to the rich and powerful and no to the average American family who continues to pay more for cable television.

Once again, President Bush says yes, it is OK to rip off consumers. What else is the American consumer suposed to think when he vetoes a cable bill that will reregulate the cable industry monopoly that has raised its rates by 61 percent in the last 4 years.

Maybe the wealthy people in President Bush's circle have no problem with increased cable rates, but let me assure him that the working folks I represent in the Chicago metropolitan area need every dollar they have and every time their cable bill goes up, it hurts.

Let me say, too, that those who think it is of no financial importance or consequence for the senior citizens or poor people to not have their cable rates skyrocket every time the cable industry takes in a breath and decide they need some more money, are dead wrong. We need to let them know that we stand here to override the President's veto, because we believe in the same things they want—fairness, the right to choose their cable company and programming and that we believe in the rights of all consumers.

This bill would allow the Federal Communications Commission to ensure that rates for basic service are reasonable. It permits citizens, local government, and public organizations to file petitions to challenge charges for other tiers of service.

I repeat, it is time for those of us in this Congress who want to bring fairness and competition and program diversity into the television marketplace to stand tall and say no to President Bush and his veto of the cable bill, and yes to consumers.

Mr. Speaker, I urge my colleagues to join the distinguished list of organizations that support this bill, including the Illinois AFL-CIO, the city of Chicago, the village of Oak Park, the National Council of Senior Citizens, and the National Association of Black-Owned Broadcasters, and vote to override this veto.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5954. An act to amend the Rural Electrification Act of 1936 to clarify the status of the Rural Telephone Bank and its accounting policies, and for other purposes.

H.R. 5851. An act to establish the Commission on Information Technology and Paperwork Reduction.

H.R. 5237. An act to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, to establish a grant program to improve the provision of health care services and educational services in rural areas by enabling providers of such services to obtain access to modern interactive telecommunications systems, and for other purposes.

H.R. 4786. An act to designate the facility of the United States Postal Service located at 20 South Main Street in Beaver, Utah, as the "Abe Murdock United States Post Office Building".

H.R. 2014. An act to designate the United States Post Office Building located at 153 East 110th Street, New York, New York, as the "Oscar Garcia Rivera Post Office Building".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4016) "An Act to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of.".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5427) "An Act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes.".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5368) "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.".

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 362. An act to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.

S. 568. An act to require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya.

S. 1294. An act to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 2652. An act to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

S. 2875. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to better assist children in homeless shelters, to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC), and for other purposes.

S. 2975. An act to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes.

S. 3275. An act to amend the Foreign Service Act of 1980 to allow additional deductions by the Agency for International Development from the salaries of Inspector General Foreign Service criminal investigators for retirement purposes, to increase the mandatory retirement age of Foreign Service criminal investigators from 55 to 57 years of age and to include Administratively Uncontrollable Overtime as basic pay in computing the annuity of a noncommissioned Foreign Service criminal investigator.

S. 3325. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1993, to provide that States are subject to suit for certain infringements of patents and plant variety protections, and infringements of trademarks, and for other purposes.

S. 3326. An act to amend the Federal Deposit Insurance Act.

S. 3327. An act to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes.

S. 3330. An act making a technical amendment of the Clayton Act.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of the proposal to override the President's veto of the conference report on S. 12, the Cable Television Consumer Protection and Competitiveness Act of 1992, and I thank the gentleman from Massachusetts [Mr. MARKEY] for his diligent work on behalf of our Nation's cable consumers and the gentleman from Connecticut [Mr. SHAYS], for his efforts on this bill.

Mr. Speaker, a significant number of my constituents from my congressional district in New York have expressed alarm over the lack of adequate service and the dramatic increases in cable rates since deregulation. It is obvious that the deregulation of the Cable Communications Act of 1984 has not helped the consumer.

The conference report on S. 12 which was passed overwhelmingly by the House on September 17 will protect cable consumers by requiring the FCC to regulate basic cable rates where there is no effective competition and to devise a formula for setting basic tier rates.

While many of our cable companies have been responsive and responsible, there are also many cable companies who have taken advantage of the consumer. This measure will permit consumers to file complaints with the FCC and includes provisions on programming access and carriage of local commercial television signals that will benefit the cablewatching residents of my congressional district and of our Nation.

Accordingly, in the interests of protecting consumers, I urge my colleagues to override the veto of this important legislation.

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Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. I thank the gentleman for yielding.

Mr. Speaker, the eyes of the Nation are on us tonight. They are wondering whether this Congress will vote for the most important piece of consumer legislation in this Congress. They are wondering whether we are going to stand up for the American consumer or whether we are going to side with the special interests, the unregulated monopoly, the cable lobby.

I hope and pray that this Congress tonight will follow the example of the other body, which voted 74 to 25 to override the President's veto.

As has been pointed out, this is a bipartisan issue. The is the Danforth bill we are talking about. This is an issue with which we have had great cooperation not only from the gentleman from Connecticut [Mr. SHAYS], but also the minority leader on the other side, the gentleman from Illinois [Mr. MICHEL]. We have had great leadership on our side. From our side, both Mr. MARKEY and Mr. DINGELL have put together a good bill, a bill that we can be proud of, a bill that will lower cable rates for our subscribers, and will help our satellite dish owners who have gotten a raw deal for too long.

In particular, the Tauzin amendment, the program access amendment, will do more to spur competition than any other legislative proposal which has reached this floor.

We can do even more on competition, and I look forward to that. But the cable lobby has been against us every inch of the way when it comes to spurring competition.

Let us all vote to override the President's veto on this bill.

Mr. LENT. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Speaker, I voted for the House bill, but I cannot support the override of this veto.

The conferees took a proconsumer bill and—for purposes not of sound public policy but of strategic advantage—decided to make common cause with one industry at the expense of another industry.

No one can look me in the eye and tell me that retransmission consent is proconsumer. It is decidedly anticonsumer, to the tune of anywhere from $300 million to $1 billion, by the admission of one of the leaders of the broadcast industry.

This is a deal, pure and simple, and while there is certainly nothing untoward about that, we do have an obligation to look at its consequences. Retransmission consent is very costly for consumers. It gratuitously shafts a key industry in my State, it will take a very large toll on the U.S. balance of trade, and it certainly tortures the web of copyright and communications law to impose retransmission consent without repealing the cable compulsory license.

A key impetus for this bill was the widely accepted notion that it was time to remove some of the exemptions and protections earlier enacted by Congress to prop up a fledgling cable industry. Well and good: that is why I supported the House bill. But retransmission consent, by allowing broadcasters to withhold their signal from cable but not permitting copyright owners to do likewise with their programming, in essence repeals the cable compulsory license for broadcasters but not for the program owners. That is patently inequitable.

What is so unfortunate about this situation is that it need not have come to this. In the Judiciary Committee, we have developed a solution which would have reconciled the interests of consumers, broadcasters, and the motion picture industry. The broadcasters wanted it all, and they may end up with nothing.

I want to support responsible cable legislation; indeed I did when I voted for the House bill. I cannot support this override of the veto, and I urge my colleagues to vote nay as well.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, as a father and a former schoolteacher, in this discussion about cable I feel compelled to say the most important entity that should regulate cable are the parents. So if we are on national television and if you have cable at home, you are the person who should regulate cable into your home. Turn it off once in awhile; actually turn it off a lot.

I have nothing against the cable industry, because they are in business to make money. But the parents are the premier force to regulate cable into the home. Beyond that, I support the cable bill because I think it does four things, four very important things:

It does regulate the rates, but I think it does it in a way to stabilize rates. It improves competition because of the things that are in the bill. It improves service. It does allow a reasonable profit for the cable industry.

So I think this is a good bill. Other than that, I think the parents should turn the TV off a little bit more. If we have to have regulation, I think this is a reasonable form of regulating the rates.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, one of the previous speakers mentioned the fact that people are going to be pulling their hair out over this bill. The reality is, all across America people are pulling their cables out.

The reality is that people cannot afford this remarkable service.

This legislation is pro-competition because it provides alternative programming; it prohibits exclusive franchises. More importantly, it preserves America's electronic front porch, our local broadcaster.

We do not care what the weather is in Atlanta or Chicago, we need to know whether our schools are closed tomorrow for our children.

For far too long, what has happened in the cable industry is that they have been taking someone else's property, they have stolen it fair and square, they are charging consumers for it and then putting the money of the local broadcasters' programming in their pocket.

In fact, we are told it will cost consumers a fortune. The reality is that John Malone, the head of TCI said in the New York Times, and I quote, "We won't pay a penny for a local signal."

Now, if the special interests do not control this place, and we are going to tell the world that because we will not let them.

To my colleagues, let me say this: We tried to do it the way, the modest way my friend from New York suggested. In 1990, by unanimous vote we passed a modest bill, less competition, old-fashioned technology, and no local Government involvement.

Two years ago, 2 days plus, cable killed it. Then, in 1991, we tried to regulate it. Through the FCC, the Republican administration, FCC, and cable killed it.

We are back tonight because Harry Truman, so often quoted this year, told us once again that the things we do not know are simply what we have forgotten.

We tried it the modest way, we tried it your way, we tried it their way, and cable says "no."

Ten years ago, Ronald Reagan stood on these steps and challenged America by simply saying, "If not us, who; and if not now, when?"

Cable killed our best efforts. We cannot let that happen tonight. With the overriding of this veto, we will send a strong message that in this House the people rule.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise in opposition to this cruel hoax on the American consumer. And that is just exactly what this is, a hoax on the consumer.

It is argued that there is a monopoly on cable service in most areas. Well, that is true, and to the degree that service is not up to par and if prices are too high, it is for that reason. That is still no excuse to reregulate the industry and to stick the taxpayers with all the costs of added regulation.

If the problem is local monopoly, this body can easily modify the right of local areas to grant local cable monopolies. So that after a matter of years, when the initial investment for cable wiring is earned back, local cable companies will be open to compete.

So why, if simply opening up cable to competition will achieve the desired ends and more, why are we seriously considering reinstituting an expensive regulatory process? It is simple: It is an election year. The politicians are promising something for nothing.

The commercials flooding the airwaves about the courage to vote for this reregulation are nonsense and misinformation.

Who is paying for those philosophy ads that are being seen by the American people?

I hope the public begins asking them, "Is there some special interest at work?" Well, the real courage in the Nation's capital can be found with those who look their constituents in the eye and tell them, "Sorry, you can't get something for nothing," that this cable regulation bill is not only wrong, but it will really mess things up in the long run. The real courage in this town is coming from the President of the United States, who is willing to take a stand like this during an election year when he is behind and the time for this reregulation could not have been worse.

Competition is about to descend on the cable industry as never before. The telephone companies may soon be offering information, and entertainment services by fiber optics, direct satellite broadcasts are only a short time away, and crippling the cable industry at this time means that competition in the near future will also be crippled.

□ 2100

What appears to have been a well-intended reform has become a power play between the big boys, and the big boys are the ones paying for those ads that people are seeing on TV. Mom and Dad's cable service is no longer priority number one for this bill. Instead discontentment over prices and services is being manipulated for the benefit of television networks.

There you go. Those are the guys who are going to benefit. They are going to make a mega-killing on this legislation.

Cable companies will be forced by this bill as it stands to pay huge sums to the networks which will become a legitimate expense, and then cable will pass it on to the customer. The net effect of this legislation will be higher cable bills.

Cable companies will become the collection agents for the networks. They will take the money from the pockets of their customers and pass it on to the networks.

And it does not end there. There are hidden costs, regulatory costs. Every lobbyist, lawyer or accountant hired by the cable industry to deal with the new bureaucracy will of course be on the local cable bills; but all the government lawyers, accountants, executives, secretaries, word processors, copy machines, and the health benefits for those, all those that expect to be hired and financed and go through with this regulation and to enforce it, they will be in the consumer's tax bill from the Federal Government.

There are many added costs to this bill that will be paid for by the consumers.

This bill is a travesty of consumer protection. It is what happens when the Government goes beyond its legitimate bounds. While the rest of the world is privatizing and going to competition to try to solve these kinds of problems, it is insane that our Congress is going in the opposite direction to cut out competition, which this will do in the long run, and to go for regulation, expensive Government regulation.

Mr. Speaker, I call for the President's veto to be sustained.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, according to USA Today, competition exists in only 55 of the Nation's 11,070 cable systems.

The Wall Street Journal said in a front page article on September 24:

> Competition is the last thing big cable operators want * * * they have vigorously lobbied local and state governments to keep their turf exclusive.

Mr. Speaker, I have voted for this bill twice. I will vote to override the President tonight, but reluctantly. I have strongly supported the President on most things.

Also, I do not really believe we need another law with pages of rules and regulations. What we really need is more competition. Every place there is competition, cable prices have gone down and service has gone up. But where monopoly condition exist, the consumer needs some limited protection, and that is what this bill does.

Most of its provisions do not apply where there is true competition.

If the cable companies want their monopolies, they will have to also accept some regulations.

Thus, I will vote for this bill; however, what consumers all over the Nation need to do is to demand that the monopoly deals end. Then prices will go down and service will go up, if we let the free enterprise system go to work.

Mr. MARKEY. Mr. Speaker, I yield ½ minute to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, the people of Long Island who are consumers like millions of others across this country want the President's veto overridden, because despite the view that some have that this is a battle between powerful special interests, they are smart enough to know that regulating cable will ultimately be in their interests.

It seems hard to imagine that somehow the people who are advocating for the large cable operators are interested in the consumer. Nothing could be further from the truth. The people of Long Island want to see regulation.

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Speaker, we have heard a lot of talk tonight about consumers. Well, since 1984, when cable, then an infant industry, was deregulated, there were some 10 million consumers in 1984. Today there are 60 million consumers.

We politicians know something about elections. The consumers have voted with their feet.

In 1984, there was an average of some 10 channels. Today the average is 37 channels in the home.

We like to talk about creating jobs. This telecommunications community has been creative. It has created some 100,000 jobs directly, and indirectly 600,000 jobs.

And what about those communities that have effective competition today? They get slammed with retransmission consent costs, which of course will be passed on to consumers and the prices that they pay will increase.

I have with me a letter from the esteemed mayor of the city of Allentown, PA, Joseph S. Daddona. Mayor Daddona's administration is largely confined for the benefits of competitive cable that Allentown and its area now enjoy.

He writes that since the local competitive cable systems will not be subject to rate regulation under this act, the consumers will get socked big time as a result of the regulatory provisions contained in the legislation, in particular the retransmission consent provisions.

No one knows what the true effect of this bill will be on cable rates and service, because the real regulatory work is yet to be done by the FCC, whose budget we just slashed and which now is expected to conduct a myriad of rulemakings in an extremely tight timeframe.

One thing is for certain, however, that the price of issuing and implementing and compliance with the regulations will be expensive for the Federal Government, for the local municipalities, for the cable systems, and ultimately passed on to subscribers.

This is a lawyer's and accountant's bill. So we are left with a bill which increases cable rates in my district, and probably in the rest of the country.

The bill also micromanages cable so that it provides disincentives for operators to explore different programming and service options.

Also it is a bill which requires huge capital investments for soon to be antiquated technology, talking about the buy-through technology.

I mean, let us face it. We have had job creation, channel creation. We have had major innovation and now we are going to regulate. It makes no sense.

Mr. Speaker, I include the letter from Mayor Daddona, as follows:

CITY OF ALLENTOWN,
Allentown, PA, Sept. 25, 1992.

Hon. DONALD RITTER,
Congressman,
Washington, DC.

DEAR CONGRESSMAN RITTER: We greatly would appreciate your treating what follows on an extremely urgent basis: When the conference committee report on cable television was presented last week it became apparent municipalities such as Allentown and the surrounding area, which have a complete cable overbuild and competition between two excellent cable companies, and as a result not subject to the regulatory provisions of the proposed legislation, will get socked big time as a result of having to pay retransmission fees to over the air networks, the specific amounts of which are to be negotiated without community participation.

We have been informed not only through the national media, but as well by our two local cable operators, who are relatively small businesses owned locally and they will have to pass on the retransmission charges directly to our consumers. Thus the cable bill will have the exact opposite effect as intended in the Lehigh Valley!

Dense municipalities such as Allentown generally are exempted from the regulation provisions of the legislation; it is only fair that we be excluded as well from the retransmission fees provisions. Although the amount of money involved obviously would be relatively small, since there are probably fewer than a hand full of situations similar to ours throughout the country, then it also would be fair for the exclusion to incorporate the payment of the retransmission fees.

My staff informs me amending a conference report is difficult, at best. However, I assume it would be possible, particularly if there are extenuating circumstances, if there is the probability of extended debate in the Senate and the House for there to be reconsideration of what obviously had been overlooked.

We strongly urge that the Senate and House, by whatever appropriate means, exclude municipalities such as Allentown from the retransmission fees provision; we would be helpless to object subsequently when payments are required, since we would have no regulatory powers as a result of our generally favorable overbuild situation.

The irony of all of this is through a lot of hard work, successful relationships with our two cable operators, and citizens cooperation generally, we have an excellent cable television situation. Now the Federal government, without being requested on our part certainly, is interfering and will cause our citizens extreme grief. Estimates provided to me are that our monthly cable rates will rise anywhere from 20–30 percent.

In a nutshell, this is not fair—and cannot be tolerated by our subscribers.

Thank you for your consideration of this letter and for your anticipated assistance.

Sincerely,

JOSEPH S. DADDONA,
Mayor.

Mr. MARKEY. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

Mr. DINGELL. Mr. Speaker, we have here tonight a splendid opportunity to study and to serve the public interest.

S. 12 is a good bill for all Americans, whether or not they are cable subscribers.

The original bill passed the House by 340 to 73, the conference report by 280 to 128.

The veto has just been overriden by the U.S. Senate.

This is not a partisan issue. This is an issue on which there has consistently been bipartisan support. Both sides of the aisle have supported what it is we seek to do.

The proposal before us is endorsed by the Consumer Federation of America. The Consumer Federation of America says that it will save the American public $6 billion a year.

The FCC says it will save $5.3 billion.

The AFL–CIO, the UAW, support it.

The National Association of State Attorneys-General, the National League of Cities, the U.S. Conference of Mayors, the rural co-ops, and the competitors to cable, the local broadcasters, all support this legislation.

☐ 2110

Who is opposed?

Hollywood, the studios and cable. Cable, an unregulated monopoly, opposes this bill because they want to continue to be what?

An unregulated monopoly, an unregulated monopoly which raises its rates three to six times as fast as the rate of inflation. It is an industry which has increased its cost to the consumers by about 60 percent since it was deregulated.

Mr. Speaker, it is said by the President in his veto message that this is special interest legislation. The special interests that support this legislation, I would reiterate for my colleagues, are the Consumer Federation of America, the AFL–CIO, the UAW, the National Association of State Attorneys General, the National League of Cities, the U.S. Conference of Mayors, the rural co-ops.

But who is it that supports the override of the veto? One of the most special interest institutions of all and one which is an unregulated monopoly whose purpose is to remain an unregulated monopoly, free to set up whatever conditions they like to skin the American consumers, to overcharge them.

The legislation requires that the FCC set up a mechanism under which the State and local units of the government will regulate cable, and it requires two things to be done: one, protection of consumers on rates; and, two, assurance that decent service is afforded to the American consuming public.

One of the remarkable things that we can observe is that service by cable to their customers has been so bad that New York had to amend the charter of the cable company. Why? To make them answer their telephone. If I have ever seen or heard an example of public be damned, that is it.

Let us regulate an unregulated monopoly. Let us see to it that the consumers are protected. Let us protect the public interest. Let us reregulate cable. And let us see to it that we protect the American consuming public. Those are the issues before us tonight.

Mr. Speaker, I urge my colleagues to vote to override an unwise and unfortunate veto, to see to it that an unregulated monopoly is regulated and that the public interest is served.

Mr. SHAYS. Mr. Speaker, may I inquire as to how much time each side has remaining?

The Speaker pro tempore (Mr. MAZZOLI). The gentleman from Connecticut [Mr. SHAYS] has 2½ minutes remaining, the gentleman from New York [Mr. LENT] has 4½ minutes remaining, and the gentleman from Massachusetts [Mr. MARKEY] has 3 minutes remaining.

Mr. SHAYS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. SHAYS] is recognized for 2½ minutes.

Mr. SHAYS. Mr. Speaker, I have absolutely tremendous respect for the President of the United States. He did what he felt was right, and in fact he showed a lot of courage because it was not the popular thing to do. But with all due respect, Mr. Speaker, I think the President was wrong in vetoing this bill.

The constitutional process is working. The President did what he should do; he felt he should veto the bill. The question in this Chamber is for us to do what we think we should do.

If we feel the President is right, if we think we should not have more competition, that we should not have more regulation in this unregulated, monopolistic environment, then we should choose to vote against the bill.

My hope and plea is that we will vote the way we did last time when the cable bill passed overwhelmingly and that we will do what we did the time before when it passed overwhelmingly.

The constitutional process is working. We should do what we, this Chamber, thinks is right, and then we can live with the vote however it turns out.

I have tremendous respect for the bipartisan effort in support of this bill, and I have respect for the bipartisan opposition to this bill. It is not a partisan issue.

Mr. Speaker, I hope in the end we choose to vote with the consumers instead of the cable operators, but that is for each one of us to decide.

Mr. Speaker, whatever time I have remaining I yield to the gentleman from Massachusetts [Mr. MARKEY].

The SPEAKER pro tempore. The gentleman from Massachusetts will be recognized for an additional minute and, therefore, has 4 minutes remaining.

The gentleman from New York [Mr. LENT] has 4½ minutes remaining.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I rise in support of the attempt to override this Presidential veto.

Mr. LENT. Mr. Speaker, I yield the balance of my time to the distinguished minority whip, the gentleman from Georgia [Mr. GINGRICH].

The SPEAKER pro tempore. The gentleman from Georgia [Mr. GINGRICH] is recognized for 4½ minutes.

Mr. GINGRICH. Let me say first of all, Mr. Speaker, that the odds are very, very good that in a few minutes history will be made and President Bush will be overridden for the first time in his administration. Frankly that does not particularly trouble me despite the networks' efforts to overblow that as some indication of the President's strength because I think it is good for the country to contemplate what it will be like when President Clinton signs all the bills sent to him by a Democratic Congress, and rather than have a veto block bad legislation, we instead have, as Governor Clinton indicated in a press release today, his signing everything the Congress sends down.

Mr. Speaker, I do not know if that is bad, but let me say to all of my colleagues that, "If you vote yes to override, you are taking on yourself the burden of being so correct that you're prepared to override a Presidential veto."

Next year, my colleagues, cable charges are going to go up. Nobody disputes that. I mean everybody who is for the bill and has studied it says, "Yes, they'll go up, but not as much." The cable prices are going to go up, and next year my colleagues' consumers are going to come to see us at townhall meetings, they are going to call us, and they are going to write us. I ask my colleagues, "What are you going to say to them?"

"Oh, yes, I know your prices went up because, after all, I voted for the cable bill so they didn't go up as much."

Mr. Speaker, I wish my colleagues luck in that. But let me say something to those of us who lived through the catastrophic health care bill. I can tell you that this is going to become the catastrophic cable bill, and for a very practical reason. There are two fundamental things wrong with this bill.

□ 2120

The first is it has built in it a cost-plus feature which in defense has been just a disaster.

What this bill basically says to the cable companies is maximize your costs. You can pass them on and take a profit on top.

Now, retransmission, which I think is probably the greatest con job of recent times, says the following: A broadcast television station, which has already sold advertising to pay for its program, will now be able to charge the cable company for carrying the program, including the advertising which has already paid for the program.

We are told by the supporters of the bill this is not going to increase cable costs? Does anybody in America seriously think that when your local cable company starts paying your local TV or your network for the right to carry, it will not mean higher costs?

Let me just repeat this, because I think it is so important. Retransmission means the cable companies will now pay the broadcasters to broadcast on cable something which the broadcasters have already sold advertising to pay for, and if you are a cable viewer you will both get to watch the advertising and pay a higher fee. So when the fees inevitably go up, as they will under this bill, people will be angry.

But second, this is a bill which specifically goes toward more bureaucracy, more regulation, at the very time we are telling the Russians and others you should go to more competition and more free markets. So it is in exactly the wrong direction.

Lastly, I just want to read into the RECORD one sentence out of a letter I got from a TV station which will explain to a lot of people what is going to happen tonight. This is what one of my local stations said: "When you are looking for exposure to your constituents, you look to television stations like station X. And yet you are voting against us."

I think that is the most overt example of blackmail by a television station I have seen. I am confident it is against the Federal communications law, and yet I know that Member after Member after Member has had phone calls that have said in effect, "If you vote against the broadcasters getting richer, you will in some way be punished."

So I just say to the cable consumers of America, when your cable bill goes up next year, look at tonight's vote. If somebody voted yes for this bill or yes to override, hold them accountable, take your higher cable price in to them, and ask them why they voted for a cost-plus regulatory system that guarantees more money for NBC, more money for CBS, money for ABC, a guaranteed profit on top of cost for the cable company, and a guaranteed higher price for every single cable user in America.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for 4 years we have been working to produce a piece of cable legislation on a bipartisan basis. Tonight represents the culmination of all of that effort. The gentleman from Michigan [Mr. DINGELL], Mr. DANFORTH on the other side, myself, the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Ohio [Mr. ECKART] on our side, the gentleman from Connecticut [Mr. SHAYS], the gentleman from New Jersey [Mr. RINALDO], and others on the other side have worked long and hard to craft a bill without a taint of partisanship.

Only in the last 72 hours has there been an attempt to inject partisanship. That has been the furthest thing from any of our minds for 4 years. We are trying to construct a telecommunications policy, a cable policy, which will work for the American people.

Eight years ago we deregulated the cable industry. We did so with a certain flawed assumption. That assumption was that there would be competition in the cable industry.

Well, 8 years later we have to come back and admit that we made a mistake. Cable companies do not compete against other cable companies. In 99 percent of the communities in America, there is a monopoly. Whichever company has the franchise has it exclusively. So they are free, with no rate regulation, to increase rates as much as they want, and for the last 8 years there has been no other industry in the United States like it. Three times the rate of inflation rates have gone up every year for 8 years.

Tonight we bring to the House a bill which will end that.

Now, those on the other side who are arguing that this bill will increase rates have a difficult obstacle to overcome, because we have three levels of rate regulation: One, we regulate the basis rate; two, we regulate the tiers that include the Disney channel and ESPN that are immediately above the basic rate; and three, we build in a cost-based regulation for the clickers, for the remote controls, for the converter boxes, so they just can't continue to raise rates indiscriminately.

Those protections for rate increases will stay on the books, and the FCC is mandated in this legislation to ensure that there are reasonable rates for every citizen in America. We mandate that.

How can rates be going up at triple inflation if that mandate is given to the FCC unless they ignore what we are telling them to do here tonight?

Mind you, this regulation is only meant to be kept on the books until the new competition which we add finally comes to fruition. One, we build in access to programming to the competitors of cable, to satellites, to MMDS, to other multimedia technology, so that they can also offer to every American the chance to have a way of gaining access to media without having to go to their cable company.

Second, we ban cities from ever again giving exclusive franchises to only one cable company. They are banned from doing that. Competition will be the rule of thumb.

Third, we for the first time allow cities to have their own cable systems. They can build them in competition to the private sector if they want to, like they do with municipal light, with water, with gas.

Now, how in the world can this bill be characterized as Democrat-Republican? This is a bipartisan bill. It is a bill which will protect consumers. It is a bill which has passed overwhelmingly through the House and the Senate three times.

My colleagues in this body, please do not characterize this as a Democrat-Republican issue. Join with the gentleman from Connecticut [Mr. SHAYS], join with Senator DANFORTH, join with all the Members here who want to protect the consumers of America against cable rate gouging, and vote tonight "yes" to override the President's veto.

Mr. AUCOIN. Mr. Speaker, George Bush's veto of this pro-consumer bill was a stand with the price-gouging cable monopolies. By overriding this veto, the House has the opportunity to let American consumers know that we stand with them.

They haven't bought the millions that cable monopolies have spent on slick advertising and scare tactics to kill this bill and neither should we. Even Wall Street thinks the cable monopolies' tales of gloom and doom are a bill of goods.

The evidence is clear. While service remains poor, for some Oregonians the cost of keeping basic cable has soared 134 percent, and there are parts of the State where geography makes cable a must. This bill will get these skyrocketing rates and poor services back under control.

You know, cable deregulation is a snapshot of the Reagan-Bush economic debacle: The big cable companies are cash cows, and consumers are the goat. It's long past time we dump the failed Reagan-Bush experiment in deregulation, and give consumers some real protection against the price gouging cable monopolies.

Vote to override this veto.

Ms. NORTON. Mr. Speaker, I rise today in support of S. 12, the Cable Television Consumer Protection and Competition Act. For the past couple of weeks we have all been inundated with letters, ads, and editorials about this legislation. Amid this flurry of competing and provocative assertions we must not lose sight of the true objective at hand, ensuring that consumers continue to have access to cable technology at affordable rates. The only real question before us is whether or not S. 12 accomplishes this.

In my own district, cable television costs remain below the national average, but they still have risen faster than the rate of inflation. In March 1990, basic cable in D.C. cost $18.95. By February 1991, the rate for the expanded basic tier, which provides the same service as the old basic level, had risen to $20.95, an increase of 10.6 percent in less than a year. One year later, in February 1992, the price for the expanded basic service had risen to $22.45, an additional increase of 7.2 percent. This far out paces the 4- to 5-percent increase in the Consumer Price Index for each of the last 2 years.

On a national level, cable TV rates have risen three times the rate of inflation for a total increase of 60 percent since 1984. When the increases are contrasted with the drops in real income for the average American over the last 8 years, the rate increases take on even greater significance, and the need to control them becomes imperative.

The Consumer Federation of America has concluded that enactment of the cable legislation could drive rates down as much as 30 percent. This would save consumers as much as $6 billion per year. The cable companies, on the other hand, have tried to convince the public that because the legislation would require them to negotiate with broadcasters for the right to retransmit broadcast signals, the operating cost for cable TV would rise—as much as $1 billion—and that these costs would then be passed onto the consumer. But estimates of retransmission cost increases are based on undocumented speculation.

Also of importance, women and minorities have long been underrepresented in management in the cable industry. This legislation would require the FCC to write regulations to promote opportunities for women and minorities in 15 different specified job categories. Although this provision does not guarantee change, it is a first step in the right direction to ensure equal opportunity for women and minorities in this important, new and growing 21st century industry.

When cable TV was deregulated by the Congress in 1984, there was hope that competition would develop—either from other cable companies or alternative broadcasting systems. This has not occurred. Today, in 95 percent of American communities there is no effective competition with cable and for the foreseeable future, cable companies will remain monopolies. For this reason, maintaining a strong regulatory framework at the local level is absolutely necessary.

S. 12 is not a perfect bill, but it is certainly not the nightmare regulatory bill that its opponents suggest. The bill is simply a measure which attempts to return to government some regulatory control over the quality of services, prices and employment practices of the cable industry. I urge my colleagues to override the President's Veto.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is, will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 308, nays 114, answered "present" 1, not voting 9, as follows:

[Roll No. 477]

YEAS—308

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barrett
±Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Boucher
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chapman
Clay
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hancock
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hutto
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowey (NY)
Machtley

Manton
Markey
Marlenee
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—114

Allard
Andrews (NJ)
Anthony
Archer
Armey
Baker
Ballenger
Barton
Berman
Bliley
Boehner
Borski
Brooks
Burton
Camp
Campbell (CA)
Campbell (CO)
Clinger
Combest
Coughlin
Cox (CA)
Crane
Cunningham
DeLay
Dickinson
Dixon
Doolittle
Dornan (CA)
Dreier
Fawell
Fazio
Feighan
Fields
Franks (CT)
Gallo
Gekas
Gibbons
Gillmor
Gingrich
Goodling
Hall (OH)
Hammerschmidt
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Hughes
Hunter
Hyde
Ireland
James
Johnson (CT)
Johnson (TX)
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Laughlin
Lent
Levine (CA)
Lewis (CA)
Lowery (CA)
Martin
Matsui
McCandless
McCrery
McEwen
Miller (OH)
Moorhead
Murphy
Myers
Olin
Orton
Oxley
Packard
Parker
Pastor
Paxon
Penny
Pickett
Pursell
Regula
Rhodes
Richardson
Ridge
Ritter
Rohrabacher
Roukema
Russo
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shuster
Skaggs
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stump
Thomas (CA)
Vander Jagt
Vucanovich
Walker
Weldon
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Luken

NOT VOTING—9

Barnard
Boxer
Chandler
Clement
Edwards (OK)
Lehman (FL)
Lipinski
McDade
Stearns

2147

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

AUTHORIZING CORRECTIONS IN ENROLLMENT OF H.R. 5006, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 379) directing the Clerk of the House of Representatives to make certain corrections in the enrollment of the bill H.R. 5006, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. DICKINSON. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the distinguished gentleman from Mississippi [Mr. MONTGOMERY] if he would describe the resolution that has just been offered.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am glad to yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Alabama for yielding.

This resolution would only make technical corrections in the enrollment of the Defense authorization bill as reported to the committee of conference and adopted in the House. These are technical corrections.

Mr. Speaker, I include for the RECORD the list of technical corrections to the joint explanatory statement of the committee of conference on the DOD authorization bill, as follows:

CHANGES TO THE JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE—H.R. 5006

(1) Substitute the attached Summary Table for the Summary Table currently included in the text.

(2) In the report language on section 1041 the word "emergent" should read "emergent."

(3) In the report language relating to section 4495, after the sentence that begins "The Senate recedes with an amendment . . ." add the following new sentence: "In addition, the amendment changes the amount authorized for this program to $75 million."

(4) In the report language relating to section 4436, the section heading should read "Separation Pay."

(5) In the report language entitled "Research and Development, Air Force, Overview," the amount recommended by the conferees should read $14,231.7 million rather than $14,230.7 million.

(6) In the report language entitled "Research and Development, Navy, Electronic warfare development," the amount recommended by the conferees should read "$126.2 million" rather than "$126.3."

(7) In the report language relating to section 433, the amount "$76,311 million" should read "$76,511 million."

(8) In the report language relating to section 332, the title of the section should read as follows: "Report on Indemnification of Contractors Performing Environmental Restoration."

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 1993

[In millions of dollars]

	Authorization request	House authorization	Senate authorization	Conference authorization	Budget authority implications				
					Amended request	House	Senate	Conference vs. request	Conference
Aircraft Procurement, Army	1,291.259	1,501.259	1,328.909	1,553.909	1,291.259	1,501.259	1,328.909	262.650	1,553.909
Missile Procurement, Army	982.298	1,083.110	1,037.893	1,118.652	982.298	1,083.110	1,037.893	136.354	1,118.652
Weapons & Tracked Combat Vehicles	623.441	736.641	839.841	877.754	623.441	736.641	839.841	254.313	877.754
Procurement of Ammunition, Army	823.600	940.007	764.280	829.444	823.600	940.007	764.280	5.844	829.444
Other Procurement, Army	3,093.508	3,157.893	3,032.220	3,129.452	3,093.508	3,157.893	3,032.220	35.944	3,129.452
Aircraft Procurement, Navy	6,653.679	6,352.167	5,950.477	5,899.395	6,653.679	6,352.167	5,950.477	−754.284	5,899.395
Weapons Procurement, Navy	3,718.950	3,728.950	3,538.948	3,700.098	3,718.950	3,728.950	3,538.948	−18,852	3,700.098
Shipbuilding & Conversion, Navy	5,319.472	6,590.872	5,526.463	5,958.663	3,444.372	6,590.872	5,526.463	639.191	4,083.563
Other Procurement, Navy	5,868.813	5,758.876	5,722.283	5,660.684	5,868.813	5,758.876	5,722.283	−208.129	5,660.684
Procurement, Marine Corps	558.546	931.246	690.127	729.727	588.546	931.246	690.127	141.181	729.727
Aircraft Procurement, Air Force	10,928.701	10,144.817	9,274.999	10,034.314	10,928.701	10,144.817	9,274.999	−894.387	10,034.314
Missile Procurement, Air Force	5,378.708	4,937.540	4,125.590	4,399.390	5,378.708	4,937.540	4,125.590	−979.318	4,399.390
Other Procurement, Air Force	8,346.588	8,132.500	8,100.970	7,894.396	8,346.588	8,132.500	8,100.970	−452.192	7,894.396
Procurement, Defense Agencies	2,146.935	1,748.634	3,538.963	1,950.704	2,146.935	1,748.634	3,538.963	−196.231	1,950.704
National Guard & Reserve Equipment		635.800	872.100	695.600		635.800	872.100	695.600	695.600
Defense Production Act Purchases									
Chemical Agents & Munitions Destruction	526.400	526.400	517.300	515.300	526.400	526.400	517.300	−11.100	515.300
Inspector General Procurement	0.800	0.800	0.500	0.800					

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 1993—Continued

[In millions of dollars]

	Authorization request	House authorization	Senate authorization	Conference authorization	Budget authority implications				
					Amended request	House	Senate	Conference vs. request	Conference
Total procurement	56,921.698	56,907.512	53,861.863	54,948.282	54,415,798	56,906.712	53.861.363	−1,343.416	53,072.382
R,D,T&E Army	5,414.477	5,481.133	5,307.744	5,919.048	5,414.477	5,481.133	5,307.744	504.571	5,919.048
R,D,T&E Navy	8,517.778	8,802.296	8,921.805	8,984.717	8,517.778	8,802.296	8,921.805	466.939	8,984.717
R,D,T&E Air Force	14,532.375	14,242.087	14,070.731	14,231.700	14,532.375	14,242.087	14,070.731	−300.675	14,231.700
R,D,T&E Defense Agencies	10,053.381	9,629.643	10,390.969	10,203.425	10,053.381	9,629.643	10,390.969	150.044	10,203.425
Development Test & Evaluation	281.707	261.707	261.707	261.707	281.707	261.707	261.707	−20.000	261.707
Operational Test & Evaluation	12.983	12.983	12.983	12.983	12.983	12.983	12.983		12.983
Total research & development	38,812.701	38,429.849	38,965.939	39,613.580	38,812.701	38,429.849	38.965.939	800.879	39,613.580
O&M, Army	15,419.100	13,581.406	14,193.215	13,901.912	16,905.100	15,067.406	16,422,215	−674.188	16,230.912
O&M, Navy	20,728.600	18,271.494	20,371.281	19,532.996	20,588.500	18,131.394	20,262.681	−1,064.104	19,524.396
O&M, Marine Corps	1,607.500	1,557.300	1,453.515	1,558.515	1,646.500	1,596.300	1,512.015	−29.485	1,617.015
O&M, Air Force	17,581.000	15,437.134	16,876.477	16,592.857	18,029.000	15,885.134	17,548.477	−664.143	17,364.857
O&M, Defense Agencies	9,033.000	9,563.094	8,384.605	9,266.879	9,033.000	9,563.094	8,996.605	333.879	9,366.879
Office Of The Inspector General	125.200	218.900	125.500	125.200	126.000	219.700	126.300		126.000
O&M, Army Reserve	990.300	991.219	1,033.773	1,014.773	990.300	991.219	1,033.773	24.473	1,014.773
O&M, Navy Reserve	852.700	852.700	878.792	865.492	852.700	852.700	878.792	12,792	865.492
O&M Marine Corps Reserve	74.700	75.950	74.821	75.171	74.700	75.950	74.821	0.471	75.171
O&M Air Force Reserve	1,215.723	1,214.823	1,213.887	1,214.287	1,215.723	1,214.823	1,213.887	−1.436	1,214.287
O&M, Army National Guard	2,134.100	2,216.700	2,251.213	2,238.013	2,134.100	2,216.700	2,251.213	103.913	2,238.013
O&M, Air National Guard	2,552.624	2,551.924	2,512.475	2,513.175	2,552.624	2,551.924	2,512.475	−39.449	2,513.175
Rifle Practice, Army	2.700	2.700	2.700	2.700	2.700	2.700	2.700		2.700
Court of Military Appeals, Defense	5.900	5.900	5.893	5.893	5.900	5.900	5.893	−0.007	5.893
Drug Interdiction	1,263.400	1,263.400	1,263.400	1,263.400	1,263.400	1,263.400	1,263.400		1,263.400
Summer Olympics		2.000	2.000	2.000		2.000	2.000	2.000	2.000
World University Games		6.000	6.000	6.000		6.000	6.000	6.000	6.000
World Cup Games			9.000	9.000			9.000	9.000	9.000
Defense Health Program	9,507.457	9,089.424	9,507.072	9,159.039	9,507.457	9,089.424	9,507.072	−348.418	9,159.039
Environmental Restoration, Defense	901.200	901.200	1,513.200	1,513.200	1,513.200	1,513.200	1,513.200		1,513.200
Humanitarian Assistance	13.000	13.000	25.000	25.000	13.000	13.000	25.000	12.000	25.000
Restoration Of The Rocky Mt. Arsenal					17.000	17.000	22.000		17.000
Total Operation & Maintenance	84,008.204	77,816.268	81,703.819	80,885.502	86,470.904	80,278.968	85,189.519	−2,316.702	84,154.202
National Defense Stockpile Transaction Fund			−150.000	−150.000			−150.000	−150.000	−150.000
Defense Business Operations Fund	1,123.800	16.600	1,123.800	1,145.000	−912.200	−2,019.400	−1,930.200	−996.800	−1,909.000
Pentagon Reservation Maintenance									
Total Revolving/Management Funds	1,123.800	16.600	973.800	995.000	−912.200	−2,019.400	−2,080.200	−1,146.800	−2,059.000
National Defense Sealift Fund	1,201.400			613.200	3,076.500			−588.200	2,488.300
Total Military Personnel			77,316.200	76,511.000	77,080.200	77,293.200	77,316.200	−569.200	76,511.000
Military Construction, Army	995.548	1,015.818	512.450	470.660	1,009.548	1,029.818	526.450	−524.888	484.660
Military Construction, Navy	838.848	853.425	354.109	403.849	838.848	853.425	354.109	−434.999	403.849
Military Construction, Air Force	1,118.844	1,048.594	773.530	850.980	1,118.844	1,048.594	773.530	−267.864	850.980
Milt. Construction, Defense Agencies	483.468	521.618	284.196	354.446	479.888	518.038	280.616	−129.022	350.866
NATO Infrastructure	221.200	121.200	221.200	60.000	221.200	121.200	221.200	161.200	60.000
Milt. Construction, Army National Guard	46.700	199.411	142.627	208.672	46.700	199.411	142.627	161.972	208.672
Milt. Construction, Air National Guard	173.270	261.259	229.679	305.759	173.270	261.259	229.679	132.489	305.759
Military Construction, Army Reserve	31.500	31.500	36.505	34.850	31.500	31.500	36.505	3.350	34.850
Military Construction, Naval Reserve	37.772	37.772	15.715	17.200	37.772	37.772	15.715	−20.572	17.200
Milt. Construction, Air Force Reserve	52.880	56.380	34.353	36.580	52.880	56.380	34.353	−16.300	36.580
Base Realignment & Closure Part I	440.700	440.700	440.700	440.700	440.700	440.700	440.700		440.700
Base Realignment & Closure Part II	1,743.600	1,743.600	1,743.600	1,743.600	1,743.600	1,743.600	1,743.600		1,743.600
Prior Year Deauth/Authorization Cap			−64.008	−496.300			−64.008	−496.300	−496.300
Total Military Construction	6,184.330	6,331.277	4.724.656	4,430.996	6,194.750	6,341.697	4,735.076	−1,753.334	4,441.416
Family Housing, Army	1,556.117	1,586.917	1,576.517	1,523.737	1,555.990	1,586.790	1,576.390	−32.380	1,523.610
Family Housing, Navy	1,017.247	1,035.817	1,187.927	1,046.680	1,017.247	1,035.817	1,187.927	29.433	1,046.680
Family Housing, Air Force	1,264.398	1,270.242	1,290.898	1,211.727	1,264.398	1,270.242	1,290.898	−52.671	1,211.727
Family Housing, Defense Agencies	28.400	28.400	28.400	28.400	28.400	28.400	28.400		28.400
Homeowners Assistance Fund	133.000	133.000	133.000	133.000	138.000	138.000	138.000		138.000
Total Family Housing	3,999.162	4,054.376	4,216.742	3,943.544	4,004.035	4.059.249	4,221.615	−55.618	3,948.417
Conversion/Community Assistance [1]		1,000.000	200.000			1,000.000	200.000		
Non-Proliferation		40.000				40.000			
Burdensharing		−3,500.000				−3,500.000			
Savings From Davis-Bacon Reform					−110.000	−110.000		−110.000	
Trust Funds/Offsetting Receipts					−792.300	−792.300	−792.300		−792.300
Total DoD Military	191,621.295	181,095.882	261,963.019	261.941.104	268,240.388	257,927.975	261,617.212	−6,862.391	261,377.997
Weapons Activities	4,622.089	4,548.749	4,415.089	4,502.249	4,622.089	4,548.749	4,415.089	−119.840	4,502.249
New Production Reactor	170.028	171.800	33.978	34.028	170.028	171.800	33.978	−136.000	34.028
Defense Environmental Restoration & Waste Man	4,805.492	4,663.009	4,852.772	4,831.547	4.805.492	4,663.009	4,852.772	26.055	4,831.547
Materials Production & Other Defense Programs	2,521.020	2,559.361	2,487.510	2,554.301	2,521.020	2,559.361	2,487.510	33.281	2,554.301
Defense Nuclear Facilities Safety Board	13.000	13.000	13.000	13.000	13.000	13.000	13.000		13.000
Total Atomic Energy Defense Activities	12,131.629	11,955.919	11,802.349	11,935.125	12,131.629	11,955.919	11,802.349	−196.504	11,935.125
Intelligence Community Staff					30,651	30,651		−30.651	
Community Management Staff							10.500	9.800	9.800
Community Management Account								77.100	77.100
National Security Education Trust Fund								30.000	30.000
Coast Guard					203.100	203.100	203.100		203.100
Ready Reserve Force					234.000	234.000	234.000		234.000
CIA Retirement					168.900	168.900	168.900		168.900
FEMA Civil Defense	142.565	132.565	152.565	142.565	293.461	283.461	303.461		293.461
Selective Service					28.616	28.616	28.616		28.616
FBI Special Program	80.000				80.000	80.000		−80.000	
Radiation Exposure Compensation					173.472	173.472	173.472		173.472
Total Other Defense	222.565	132.565	152.565	142.565	1,212.200	1,202.200	1,122.049	6.249	1,218.449
Total National Defense Function (Excluding Desert Shield/Storm)	203,975.489	193,184.366	273,917.933	274,018.794	281,584.217	271,086.094	274,541.610	−7,052.646	274,531.571

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 1993—Continued

[In millions of dollars]

	Authorization request	House authorization	Senate authorization	Conference authorization	Budget authority implications				
					Amended request	House	Senate	Conference vs. request	Conference
Title XII—Desert Storm Supplemental FY1993 New Authorizations			87.700	87.700			87.700	87.700	87.700

[1] The conference agreement authorizes funds for conversion within the separate titles of the bill.

Mr. DICKINSON. I thank the gentleman for his answer. Let me say the bill had over 2,000 differences to resolve between the House and Senate. It is impossible to do it all at one time. This is very necessary, and it is strictly clerical.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

H. CON. RES. 379

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 5006) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 4, strike out "$273,921,787,000" and "$253,454,264,000" and insert in lieu thereof "$274,121,787,000" and "$253,654,264,000", respectively.

(2) In the quoted matter in section 111(b), strike out "103(3)(A)" and insert in lieu thereof "101(3)".

(3) In section 411(c)(2), strike out "from active duty or full-time National Guard duty".

(4) In section 433, strike out "$76,311,000,000" and insert in lieu thereof "$76,511,000,000."

(5) In section 653—

(A) in subsection (a)(2), strike out "adding at the end" and insert in lieu thereof "inserting after subsection (g)";

(B) strike out subsection (h) of section 1408 of title 10, United States Code, as proposed to be inserted by subsection (a)(2), and insert in lieu thereof the following:

"(h) BENEFITS FOR DEPENDENTS WHO ARE VICTIMS OF ABUSE BY MEMBERS LOSING RIGHT TO RETIRED PAY.—(1) If, in the case of a member or former member of the armed forces referred to in paragraph (2)(A), a court order provides (in the manner applicable to a division of property) for the payment of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible spouse or former spouse of that member or former member, the Secretary concerned, beginning upon effective service of such court order, shall pay that amount in accordance with this subsection to such spouse or former spouse.

"(2) A spouse or former spouse of a member or former member of the armed forces is eligible to receive payment under this subsection if—

"(A) the member or former member, while a member of the armed forces and after becoming eligible to be retired from the armed forces on the basis of years of service, has eligibility to receive retired pay terminated as a result of misconduct while a member involving abuse of a spouse or dependent child (as defined in regulations prescribed by the Secretary of Defense); and

"(B) the spouse or former spouse—

"(i) was the victim of the abuse and was married to the member or former member at the time of that abuse; or

"(ii) is a natural or adopted parent of a dependent child of the member or former member who was the victim of the abuse.

"(3) The amount certified by the Secretary concerned under paragraph (4) with respect to a member or former member of the armed forces referred to in paragraph (2)(A) shall be deemed to be the disposable retired pay of that member or former member for the purposes of this subsection.

"(4) Upon the request of a court or an eligible spouse or former spouse of a member or former member of the armed forces referred to in paragraph (2)(A) in connection with a civil action for the issuance of a court order in the case of that member or former member, the Secretary concerned shall determine and certify the amount of the monthly retired pay that the member or former member would have been entitled to receive as of the date of the certification—

"(A) if the member or former member's eligibility for retired pay had not been terminated as described in paragraph (2)(A); and

"(B) if, in the case of a member or former member not in receipt of retired pay immediately before that termination of eligibility for retired pay, the member or former member had retired on the effective date of that termination of eligibility.

"(5) A court order under this subsection may provide that whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount payable under the court order to the spouse or former spouse of a member or former member described in paragraph (2)(A) shall be increased at the same time by the percent by which the retired pay of the member or former member would have been increased if the member or former member were receiving retiredd pay.

"(6) Notwithstanding any other provision of law, a member or former member of the armed forces referred to in paragraph (2)(A) shall have no ownership interest in, or claim against, any amount payable under this section to a spouse or former spouse of the member or former member.

"(7)(A) If a former spouse receiving payments under this subsection with respect to a member or former member referred to in paragraph (2)(A) marries again after such payments begin, the eligibility of the former spouse to receive further payments under this subsection shall terminate on the date of such marriage.

"(B) A person's eligibility to receive payments under this subsection that is terminated under subparagraph (A) by reason of remarriage shall be resumed in the event of the termination of that marriage by the death of that person's spouse or by annulment or divorce. The resumption of payments shall begin as of the first day of the month in which that marriage is so terminated. The monthly amount of the payments shall be the amount that would have been paid if the continuity of the payments had not been interrupted by the marriage.

"(8) Payments in accordance with this subsection shall be made out of funds in the Department of Defense Military Retirement Fund established by section 1461 of this title.

"(9)(A) A spouse or former spouse of a member or former member of the armed forces referred to paragraph (2)(A), while receiving payments in accordance with this subsection, shall be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a spouse or a former spouse of a retired member of the armed forces is entitled to receive on the basis of being a spouse or former spouse, as the case may be, of a retired member of the armed forces in the same manner as if the member or former member referred to in paragraph (2)(A) was entitled to retired pay.

"(B) A dependent child of a member or former member referred to in paragraph (2)(A) who was a member of the household of the member or former member at the time of the misconduct described in paragraph (2)(A) shall be entitled to receive medical and dental care, to use commissary and exchange stores, and to have other benefits provided to dependents of retired members of the armed forces in the same manner as if the member or former member referred to in paragraph (2)(A) was entitled to retired pay.

"(C) If a spouse or former spouse or a dependent child eligible or entitled to receive a particular benefit under this paragraph is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that spouse or former spouse or dependent child to such benefit shall be determined under such other provision of law instead of this paragraph.

"(10) In this subsection, the term 'dependent child', with respect to a member or former member of the armed forces referred to in paragraph(2)(A), means an unmarried legitimate child, including an adopted child or a stepchild of the member or former member, who—

"(A) is under 18 years of age;

"(B) is incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is dependent on the member or former member for over one-half of the child's support; or

"(C) if enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this subparagraph, is under 23 years of age and is dependent on the member or former member for over one-half of the child's support."; and

(C) in subsection (c), strike out "entitlement to".

(6) In section 1077—

(A) in subsection (a)(1), strike out "under section 5551(a) of that title";

(B) in subsection (b)(1)(A), strike out "60 days" and insert in lieu thereof "180 days"; and

(C) in subsection (d), strike out "under section 5551" in the last sentence and all that follows and insert in lieu thereof a period.

(7) In section 2401(a)—

(A) strike out "paragraphs (2), (3), (4), and (5)" and insert in lieu thereof "paragraphs (2) through (6)"; and

(B) in the item relating to Millington Naval Air Station, Tennessee, in the table in such section, strike out "$10,000,000" and insert in lieu thereof "$15,000,000".

(8) In section 2403(c)—

(A) redesignate paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) insert after paragraph (3) the following:

"(4) $5,000,000 (the balance of the amount authorized for the life-safety upgrade of the Naval Hospital at Millington Naval Air Station, Tennessee);"

(9) In section 3105(c)(1)(C), insert "from a contractor-owned, contractor-operated facility" after "government-owned, contractor-operated facility".

(10) In section 4101(7), insert "reinvestment," after "conversion,".

(11) In section 4223(e)—

(A) insert "(1)" before "Subsection"; and

(B) add at the end the following:

(2) Subsection (e)(1) of such section is amended by striking out "70 percent" and inserting in lieu thereof "50 percent".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3489, OMNIBUS EXPORT AMENDMENTS ACT OF 1991, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. GORDON from the Committee on Rules, submitted a privileged report (Rept. No. 102-1032) on the resolution (H. Res. 607) waiving points of order against the conference report to accompany the bill (H.R. 3489) to reauthorize the Export Administration Act of 1979, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4996, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1992, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. GORDON from the Committee on Rules, submitted a privileged report (Rept. No. 102-1033) on the resolution (H. Res. 608) waiving points of order against the conference report to accompany the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 604 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 604

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time I yield the customary 30 minutes for the purpose of debate only to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 604 provides for the consideration of the conference report on H.R. 429, the Reclamations Projects Authorization and Adjustment Act of 1992.

The conference report is debatable for 1 hour.

The rule waives all points of order against the conference report and against its consideration.

Finally, the rule provides that the conference report will be considered as read.

Mr. Speaker, the conference report on H.R. 429 authorizes more than a dozen water reclamation projects including the central Utah project, the Buffalo Bill Dam and Reservoir, and the mid-Dakota project. The conference report also includes several provisions which address water pollution control and salinity reduction problems. Additionally, H.R. 429 includes water resource management reforms which will improve the efficiency of water use in the western United States.

I urge my colleagues to adopt the resolution.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the House considered the Central Valley project amendments to H.R. 429 on June 18, I applauded, as I normally do, my good friend from California [Mr. MILLER], for his efforts to find a reasonable compromise on the very contentious issue of water resource management in a State where water is clearly a scarce commodity.

After listening to several members of the California delegation from both sides of the aisle this morning in the Rules Committee, it appears that the effort to fashion a compromise ended on that afternoon of June 18.

This rule, if adopted, will make in order a bill that will do irreparable harm to the already hard hit economy of California. Worse yet, the bill violates virtually every rule of the House governing the consideration of conference reports in an effort to achieve this objective.

Mr. Speaker, this rule is an accomplice to this assault with California's farmers, agriculture workers, and cities that rely on water supplies from the Central Valley project.

The chairman of the Interior and Insular Affairs Committee, Mr. MILLER, handed us a list of scope violations while in the Rules Committee, and he argued that these are just technical violations that do not affect policy or substance. However, the explanation provided by the chairman differs drastically from his statement.

Mr. Speaker, with respect to the Central Valley project, the document states:

> New policy elements not in either bill: more money in trust, different methods for making water available under different conditions, new fee imposed on water transferred out of CVP to certain customers.

□ 2200

Mr. Speaker, the CVP provisions were totally rewritten in conference with virtually no consultations with our colleagues who represent the Central Valley region.

Mr. Speaker, for this reason, I am going to urge my colleagues to defeat the previous question so that this rule can be amended to permit points of order against the more egregious scope violations in the conference report. In that regard, Mr. Speaker, I want to point to an October 2 "Dear Conferee" letter signed by Messrs. LEHMAN, CONDIT, HERGER, MATSUI, DOOLEY, DOOLITTLE, CUNNINGHAM, PANETTA, and MINETA. They state:

> It has been almost 3 weeks since the first and only meeting of the conference committee. We have waited patiently for a second meeting to be convened so that alternative proposals could be debated fully. No such meeting has been held. Now, at the 11th hour, we are being asked to approve a large and complex bill virtually sight unseen.

Now, as I said, that letter was written in a bipartisan way with six Democrats and three Republicans signing it.

Mr. Speaker, I am submitting for the RECORD a copy of the "Dear Conferee" letter as well as a list of the scope violations.

I am also submitting for the RECORD a letter from our former colleague here in Congress, now Gov. Pete Wilson, who strongly opposes this conference report.

It says:

As California struggles to deal with almost 10 percent unemployment and the loss of over 700,000 jobs during the current recession, it is simply inexcusable to cripple our agriculture sector and threaten the loss of hundreds of thousands of jobs in the processing, packaging, distribution, and marketing of California produce by the cavalier passage of this measure.

Mr. Speaker, simply put, this conference report legislates a permanent drought on water users in the State of California.

Mr. Speaker, it is important that the Interior Department, and I am very happy to see the Secretary on the floor here this evening, as well as the Governor of California have the necessary flexibility and authority to balance competing water allocation needs. The only way we can achieve this objective is by defeating the previous question so that points of order can be raised against the numerous substantive and economically damaging scope violations in this conference report.

Mr. Speaker, I am going to urge a "no" vote on the previous question.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 2, 1992.

DEAR CONFEREE: Very soon, perhaps within the next few hours, you will be asked to sign a conference report on H.R. 429. It is our expectation that the report will contain provisions to drastically alter the operation of the Central Valley Project (CVP) to California. As representatives of the areas that will be most directly affected by these provisions, we urge you not sign the conference report until it has been given complete, careful and public consideration in an open meeting of the conference committee.

Regardless of how you feel about the water policy issues involved in this legislation, we're sure that you will agree that they are far too important to decide in a cursory or precipitous fashion.

We understand that time is short, but there is still time to convene a meeting of the conference committee to examine this important legislation. It has been almost three weeks since the first and only meeting of the conference committee. We have waited patiently for the second meeting to be convened so that alternative proposals could be debated fully. No such meeting has been held. Now, at the eleventh hour, we are being asked to approve a large and complex bill virtually sight-unseen.

We don't know what the proposed conference report will look like. None of the members most affected by the CVP legislation have been involved in the "negotiations" between House and Senate proponents of radical CVP "reform." But, based on what we've seen of Chairman George Miller's latest offer, we are not optimistic that the final product will be beneficial or any sort of "compromise."

According to the Department of Interior's September 25, 1992 review of Chairman Miller's latest House Proposal, had this legislation been law in 1990 and 1991, the CVP would have had zero water deliveries to both agricultural and urban users.

Chairman Miller's offer would eliminate water that might be available for transfer to cities, would cause sinking economies in the Central Valley to fall faster, and add a heavy burden to the State's overall economy. It would irrevocably and immediately commit a minimum of 1 million acre feet of the CVP water supply for fish and wildlife, without any kind of study or assessment of actual need.

Simply put—Chairman Miller's CVP proposal means: job losses in the thousands; immediate bankruptcy for many farm families; unemployment for farm workers; economic devastation of small farm communities and CVP agriculture; and no water to thirsty cities that rely on CVP supplies.

It would be imprudent and premature for conferees to act on any measure until such time as sufficient consideration can be given to the impact of our actions. Simply committing water to the environment without specific purpose or anticipated results or the transfer of water without assurances or protection for agricultural and urban users is not in the best interest of the state and our constituencies. Our State is suffering through the seventh year of a drought and this proposal does nothing to develop water, only to move the small amount of water currently in the system away from its present beneficiaries.

We urge you not to sign a conference report that does not take these essential factors fully into consideration.

Sincerely,

RICK LEHMAN.
GARY CONDIT.
WALLY HERGER.
ROBERT MATSUI.
CAL DOOLEY.
JOHN DOOLITTLE.
RANDY "DUKE" CUNNINGHAM.
LEON PANETTA.
NORMAN MINETA.

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, CA, October 4, 1992.
MEMBERS OF THE CONGRESS OF THE UNITED STATES,
Washington, DC.

DEAR MEMBER OF CONGRESS: This letter is to state, in no uncertain terms, that the Western Water Package, H.R. 429, is completely unacceptable to the state of California. Our objections are exclusively directed to the provisions affecting California, and in no way relate to the projects proposed in other states. Indeed, the California provisions are unrelated to the other projects in the bill and should not be linked to them. The California provisions should be severed from H.R. 429. This thirty title measure includes a provision that would dramatically reallocate 20% of our state's water, strike a vicious economic blow to California, and create a second century of California water wars whose only winners will be the litigators.

Senator Seymour and other members of California's Congressional delegation were excluded from the negotiations over the Central Valley Project reform proposal that was pushed upon the conferees. A back room deal, hastily negotiated in the final days of session with no analysis to explain its impacts, is no substitute for the care and fairness needed to make the policy that will allocate California's critically important water supply. Such political maneuvering is unconscionable given the grave harm this measure threatens to California.

Anyone who has been even casually involved with this issue knows that lasting and beneficial reform of the Central Valley Project can be achieved only through solutions that take into consideration and effectively balance the needs of all the California water user groups: metropolitan and industrial, agricultural, and environmental. Sadly, the measure currently before you is so skewed that far from solving the problem of water allocation, it instead will drive a wedge between environmental, agricultural, and urban interests, making the needed and possible consensus for solution all the more difficult to achieve, despite all of our hard work in the state to do so.

As California struggles to deal with almost 10% unemployment and the loss of over 700,000 jobs during the current recession, it is simply inexcusable to cripple our agricultural sector—and threaten the loss of the hundreds of thousands of jobs in the processing, packaging, distribution, and marketing of California produce—by the cavalier passage of this measure.

Water is California's lifeblood. There can be no justification for members of Congress to exclude California's elected representatives and arrogate the decision making process that will determine California's water future to those from other states

Doing so will set a dangerous and indefensible precedent. Decisions that should be taken up in statehouses will be made in the closed hearing rooms of the Congress, closed even to the representatives of the state whose future is being decided, closed even to that state's conferees.

There can be no justification for this result. Those who know better and who would object strenuously were they and their states subjected to this treatment should not succumb to extortion. They should instead insist upon the de-coupling of the authorization for needed water projects in other states from the provisions of H.R. 429 that threaten to inflict on California such grave harm and such great inequity.

I cannot urge you too strongly either to de-couple and sever the California provisions, or do whatever is required to refuse passage to H.R. 429 as presently drafted.

Sincerely,

PETE WILSON.

LIST OF SCOPE VIOLATIONS

TITLE XI—SALTON SEA RESEARCH

Amendment expands scope of research study.

TITLE XVIII—GRAND CANYON PROTECTION

Amendment making studies subject to appropriations in certain case, not in either bill.

TITLE XX—LAKE ANDES-WAGNER RURAL WATER SYSTEM

Conference agreement includes new elements, including new cost sharing study and new reviews by agencies not in either bill.

TITLE XXIX—SAN JUAN SUBURBAN

Agreement making credit applicable to 1992 not in either bill.

TITLE XXIV—CENTRAL VALLEY PROJECT

New policy elements not in either bill: more money in trust, different methods for making water available under different conditions, new fee imposed on water transferred out of CVP to certain customers.

TITLE XVI—STANDING ROCK INDIAN RESERVATION

Indexing of MR&I water portion of Garrison unit not in either bill.

TITLE XIX—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

Terms and conditions of study not in either bill.

TITLE XXVIII—MONTANA IRRIGATION PROJECTS

Stipulation that Secretary of Energy must determine districts to be public agencies is not in either bill.

TITLE XXXI—WESTERN WATER PROJECTS

Responsibility of the Secretary of the Army (Corps) not in either bill.

TITLE XXXV—THREE AFFILIATED TRIBES

Technical amendment correcting budget act problem not in either bill.

TITLE XXXIX—SAN CARLOS TRIBE

Amendment dealing with expedited judicial review not in either bill.

TITLE XL—NATIONAL HISTORIC PRESERVATION

Potential technical scope problem.

Mr. Speaker, I reserve the balance of my time.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendments of the House to the bill (S. 1583) entitled "An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations and to improve pipeline safety, and for other purposes," with an amendment.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5006) "An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes."

The message also announced resolved, that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5504) "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes."

CONFERENCE REPORT ON H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

Mr. GORDON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Speaker, I, too, rise in opposition to this rule, and many parts, on the same grounds as the previous speaker indicated.

Many of us have been involved for months in negotiating a reform to the Central Valley project, one which would respect all of our constituencies, both the urban and our agriculture constituencies. We worked hard during the committee process. Our chairman of the Committee on the Interior, the gentleman from California [Mr. MILLER], I have to say, in good conscience worked and negotiated well with us during that time.

We are a little upset and unhappy because what has transpired since this bill went to the House-Senate conference committee when many of us were integral parts and parties trying to develop a compromise to this were unaware of what was going to be presented as a House offer when that House-Senate conference committee met. In fact, those of us did not even see this House offer until about 5 minutes before the conference committee met.

We are asking you to defeat this rule on the grounds that many of the issues which we are so concerned with that go beyond the scope go at the heart of the controversy of this district.

When you represent a district in central California which is primarily dependent on the agricultural economy, water is its lifeblood, and the reforms or the bill that is coming out of the House-Senate conference committee is one which will tear the heart out of the economy of the Central Valley.

What is embodied in the House-Senate conference compromise that was not a part of the Senate-passed bill nor was it a part of the House-passed bill is a provision that takes 800,000 acre feet of water up front from agriculture and urban contractors. What this means, in practical terms, is that for the last 3 years, in 1990, 1991, and 1992, agriculture contractors nor urban contractors would have received one drop of water from the Central Valley project. That is not good policy. That is not something which will ensure the continued prosperity of California agriculture, nor is it in the best interests of the economy of California.

You know, it is unfortunate that in part of 429 it has some very great projects, projects that benefit Utah with the central Utah project, that will benefit Wyoming and the Buffalo Bill project, but the bottom line is that these projects are being held hostage to the reform.

The CVP and the reform of the CVP that is a part of this conference committee is bad policy that will devastate the Central Valley of California.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to my hardworking colleague from Bakersfield, the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker why are we here? This bill is going nowhere. All you have to do is look at the calender. It was a noble effort. The rule is stacked. The procedures are flawed. The substance is opposed by the administration. Time has run out.

But the people who are pushing this bill are going to put you through one more hoop. They have put this entire House through the hoop. They have put the Senate through the hoop. They have a number of provisions in this bill that were absolutely necessary so that the medicine could go down. The only problem is they have not read the label. You need more than 10 days for the President to swallow this medicine, and he is not going to swallow it.

The Secretary of Agriculture has said:

> I will recommend the President veto H.R. 429 so long as it contains provisions that cause substantial harm to American agriculture and the economy.

The Secretary of the Interior has said:

> The administration strongly recommends that the objectionable titles outlined herein be deleted or appropriately amended in order that worthwhile and justified projects and provisions can be considered on their own merits and enacted in a responsible manner and no longer be held hostage to unacceptable and contentious provisions.

That was dated October 5. It has been difficult, but we are trying to stay current with the many twists and turns of this particular bill.

As it is brought before you today, it is unacceptable to the President. It is unacceptable to those who would wish to redefine the economics of California.

The Secretary of the Interior indicated that this bill should no longer hold hostages.

Mr. Speaker, at the end of the debate, I will introduce a motion to recommit with instructions. That motion will delete title XXXIV, which is the Central Valley project, which will free the other hostages.

There are a number of worthwhile programs in Wyoming, in Utah, in Arizona, in the Dakotas and other States. These projects do not deserve to be held hostage any longer.

GEORGE, do not replay Dog Day Afternoon. Give up the hostages. Your goal was within sight. It is no longer available. Do not sink the other projects.

Vote for the motion to recommit with instructions so that we can freeup those worthwhile projects and go home.

□ 2210

Mr. GORDON. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I hope the gentleman from Tennessee [Mr. GORDON] does reserve the balance of his time because we have a lot of members who want to defeat the previous question on this. I am happy to yield 3 minutes to one of those, the gentleman from Marysville California [Mr. HERGER].

Mr. HERGER. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to oppose the previous question and in support of the Dreier amendment.

Mr. Speaker, I rise in reluctant opposition to the conference report on H.R. 429, primarily because of title XXXIV, which deals with the management of the Central Valley Project. I am very disappointed that the conference committee was not able to come up with a bill that balances recreational, agricultural, environmental and urban needs fairly.

Mr. Speaker, we need legislation to help us solve the legitimate environmental problems brought on by 6 consecutive years of drought. I have been working for 4 years to pass consensus legislation which would protect fish and wildlife. I was an original cosponsor of H.R. 3613 in the 101st Congress, and H.R. 1728 and H.R. 3876 in this session. These bills would have provided specific programs to protect fish and wildlife and northern California water users, without destroying our recreational or agricultural industries.

Unfortunately, H.R. 429 would have substantial adverse economic impacts on northern California recreation and agricultural interests. By diverting unnecessarily large amounts of water in order to achieve arbitrary environmental purposes, the reservoirs at Trinity, Whiskeytown, Shasta, and Folsom Lakes could be virtually drained. This would devastate recreation in northern California. In essence, this bill would legislate a permanent drought, thus bankrupting many family farmers in the Sacramento Valley. Unemployment rates are already in the double digit levels in our northern California counties—this legislation would result in still more job losses and losses in economic activity. While we certainly need legislation to address legitimate environmental concerns, this bill is much too costly.

I had hoped to achieve a piece of legislation this Congress that balanced the needs of recreation, agriculture, and fish and wildlife. I have urged the leadership to reconvene the conference, which met only once. Unfortunately, the leadership has chosen to rush this conference report prematurely to the floor after much delay. We drastically need a reasonable bill this year; however, the conference report is neither balanced nor liveable.

I urge my colleagues to reject this conference report so that the conference may reconvene and develop legislation which achieves the necessary balance between environmental, fishery, recreational, and agricultural interests.

Mr. GORDON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I favor this legislation.

Mr. Speaker, I stand in strong support of H.R. 429, the Water Reclamation Projects Authorization and Adjustment Act. My main interest in this legislation is title XL, the National Historic Amendments Act of 1991. Title XL is similar to legislation I introduced in the beginning of this Congress and it was included in the water bill because of the hard work and dedication exhibited by Senators WYCHE FOWLER, and BENNETT JOHNSTON, and Chairman BRUCE VENTO.

I want to pay a tribute particularly to BRUCE VENTO, who has been so helpful to me on so many Interior projects—not only this one, and especially the creation of the Timucuan Ecological and Historic preserve in my district. The gentleman from Minnesota is a treasured friend and I deeply appreciate his work on my behalf.

Title XL of H.R. 429 will help protect and preserve our Nation's rich architectural and cultural heritage. This legislation improves upon our already excellent system of historic preservation which has operated with much success for 25 years.

Statistics show that one-third of the work performed by architects in this country last year was in preservation and rehabilitation, a 5-percent increase over the previous year. Now if one-third of last year's design work was in rehabilitation, we can safely surmise that a good portion of the construction work being performed this year is in rehabilitation. Our experts tell us that a very significant percentage of the buildings we will be using in the 21st century already exists today. Therefore, preservation is not a luxury, it is a necessity.

We need title XL to help us meet the challenges that the future presents; we must ensure that the proper administrative bodies are in place and that they work efficiently; our design and construction personnel must be properly trained in historic building materials and methods; and preservation technology and research must be organized, accurate, and readily available so we can keep our buildings safe without harming their historic character.

Title XL will strengthen current preservation law, codify the relationship between the States and the National Park Service, recognize the important roles of native Americans and native Hawaiians in our preservation programs, and expand our Federal education, training, and information programs.

Just to give you an indication of the broad base of support for this legislation, the bill has been endorsed by the Advisory Council on Historic Preservation, the National Trust for Historic Preservation, the American Institute of Architects, Preservation Action, the National Conference of State Historic Preservation Officers, the National Alliance of Preservation Commissions, and many others. This gives a great deal of confidence for the importance of this legislation, because anytime you have that many diverse organizations, showing common support, who actually agree on a bill, then you know you are doing something right.

For one who is enthusiastically interested in historic preservation, this legislation is an exciting step forward. I appreciate the efforts of everyone involved who helped bring this legislation to fruition and I urge its passage.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. I thank the gentleman very much.

Mr. Speaker, I rise in opposition to this rule. There is no reason to put this House through a debate tonight on a matter as controversial as the one before us with as little chance of becoming law as this has.

And the way to decouple this bill is exactly the way Mr. DREIER suggested earlier: defeat the previous question on the rule so we can have a rule which does just that.

My colleagues, there is no reason to hold the dozens of new water projects authorized by this bill hostage to one Member's desire to reallocate California's water and inflict irreparable damage on irrigated agriculture.

Yes, it might have been possible to have a bill on the floor tonight that we could all support. But the manner in which this bill has been brought to the conference committee has made that entirely impossible. There is no reason tonight to put 20,000 farm families who depend on this water, and all of those who work for them, in grave jeopardy.

There is no reason tonight to put urban areas in California in the northern part of our State at risk in order to ship more water to urban areas in the southern part of California. There is no reason to move this bill forward without ever having the benefit of an objective analysis to determine its impact on our economy unless you do not want the Members of this body or the public to know what these impacts are.

This conference report, with 30 titles, was only made available in the last few hours. In his letter today to Members of the House, Secretary Lujan said;

> It provides for a number of expensive measures, many of which have not been subjected to analysis and would be financed largely at Federal expense.

That is right; no studies have been done on the costs of this bill to the economy of California, and no studies have been done on the results of the costs mandated by the features of this bill to the taxpayers of the State or to our water users. Most of the features, as Mr. DREIER pointed out, are also outside the scope of the conference. That is why this rule waives all points of order against the bill. This morning in the Rules Committee we received a copy of the scope problems removed by this rule. Under Central Valley project, title XXIV, it says, "New policy elements in either bill: More money in trusts, different methods of making water available under different conditions," and that is just about everything, "new fee on water transfer out of season CVP to certain customers." In other words, a complete rewrite not reflective of either the House or the Senate position. Yet, in a mad scramble to ram this bill down our throats, our rights are being waived by this rule.

For example, when the bill left the House, it took no new off-the-top water from farm and urban users. Neither did the Senate version. Now the bill before us tonight takes 800,000 feet from current farm and urban users and allocates the water to fish.

For example, when the bill left the House, it contained a $15 million restoration fund to come from water users. The Senate version contained no such provision, no such funds. Where is the compromise here? The new so-called compromise contains a $30 million fund far above the House version and clearly outside the scope of the conference.

Mr. Speaker, the problem that this bill addresses—and there are problems in California with regard to water use and allocation of water and problems with respect to the environment, but those problems are not going to be solved through coercion and intimidation, as this bill seeks to do. They are going to be solved through consensus and cooperation.

My constituents are not going to be intimidated.

Reject this rule.

The junior Senator from California has already stated his intention to use all parliamentary tools available to him including the filibuster to defeat this bill in the Senate. The Secretary of the Interior Mr. Lujan, who is on the floor, and the Secretary of Agriculture Mr. Madigan have both written Chairman MILLER and expressed their determination to recommend a veto of the legislation should it reach the President's desk in anything approaching the form it is in tonight.

The Governor of California, Pete Wilson wrote to every Member of the House today urging them to reject this measure. He said and I quote:

> A back room deal, hastily negotiated in the final days of the session with no analysis to explain its impact, is no substitute for the care and fairness needed to make the policy that will allocate California's critical water supply. Such political maneuvering is unconscionable given the grave harm this measure threatens to California. * * * those who know better and who would object strenuously were they and their states subjected to this treatment should not succumb to extortion. They should instead insist upon the decoupling of the authorization for needed water projects in other states from the provisions of H.R. 429 that threaten to inflict on California such grave harm and such great inequity.

□ 2220

Mr. DREIER of California. Mr. Speaker, to demonstrate the fact that the opposition to this measure and support of our attempt to defeat the previous question spreads throughout California, I am happy to yield 3 minutes to my friend, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise to defeat the previous question and make the amendment of the gentleman from California [Mr. DREIER] in order.

I rise in strong opposition to H.R. 429, the Reclamation Project Reauthorization Adjustment Act. Although there are many important provisions in this legislation that I support, I must oppose the bill due to the fact of section XXXIV of the bill, and that is what we are talking about here, pertaining to the Central Valley water project.

Mr. Speaker, it would be noted as being almost 3 weeks since the first and only conference took place. I am a conferee and have not even been called by the sponsor of title XXXIV, not one single time.

To show you how they try and ramrod things around here, he went around and tried to get signatures with the staff.

Who has worked this thing? Who is running this place, the Members or the staff?

Not one single time, I say to the gentleman from California [Mr. MILLER] did he call me or my office. Instead, the gentleman tried to ramrod the thing through that is going to put fish more important than people and agriculture.

I will tell you, I am quite upset with it. That is not the way it is supposed to be done around here.

California needs water in a drought situation. It will cause economic devastation of small farm communities and CVP agriculture, no water to thirsty cities that rely on CVP supplies; sewer damage that hurts the farmers.

This language would surely affect the already hard struck economics of the Central Valley.

And let me tell you one thing about California. We have lost over a million jobs. And why? Because of the special interests.

I have seen this not only on this bill, but other bills, from the California plan right on down the line.

This Member is upset with the tactics, the behind-the-door tactics that that Member uses to get these bills passed.

It is not in the best interests of Californians.

And why did the gentleman from California [Mr. MILLER] not call this Member, who is a conferee, not even once, and try to work it behind the back doors?

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield 8 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, we have heard now from those who oppose this legislation with respect to the California titles. What the House has heard is the same arguments that it has heard now for the last 4 years. Those who have resisted any change in California water policy, who seek the status quo for a very simple reason. They represent a privileged few people who have long-term contracts to highly subsidized Federal water. They would prefer not to have those contracts disturbed. They would suggest to you, however, that that is the prevailing view in the State of California. They would suggest to you that they are on the prevailing side in this debate, which they are not, because I think what is important for the House to understand—and the House has voted time and again to reform this project—that there is a raging debate in California, and it is about California's future. It is about whether or not California's future economic growth is going to be controlled by 50-year-old contracts where the farmers today have the absolute right to another 40 years on that contract under the same terms and conditions, or whether we are going to put flexibility into the California water policy so our State can grow economically.

They have suggested that somehow this will devastate our State.

Interestingly enough, those entities that are responsible for supplying water for economic growth—the metropolitan water district of southern California, that serves some 13 to 15 million Californians—strongly supports this, strongly opposed and rejected the notion that the cities would be without water. They sell water to more people than any other entity in this Nation. They are looking for water. They believe this bill is helpful.

Their constituent district is San Diego. That is the size of this water district.

The port of San Francisco and the port of Oakland support this, and yet we have been told that somehow this will hurt the impact on San Francisco Bay.

Water district after water district support this.

The Los Angeles Times, the San Francisco Chronicle, the San Francisco Examiner, the San Diego Union, all say this is the way to go. We must come to the future.

The Bay Area Economic Council, the Bank of America who makes loans to these farmers believe in fact that will be secure.

So on the merits, they cannot argue the merits, so they decided to argue process.

Let us talk about that process a little bit. That process was give and take. We negotiated throughout the committee hearings. We negotiated with the gentleman from California [Mr. LEHMAN] and the gentleman from California [Mr. DOOLEY]. They voted the bill out of committee.

Then we took additional amendments when it came to the floor from them, and they said they could no longer support the bill.

In spite of that opposition, I thought the gentleman from California [Mr. LEHMAN] should be on the conference committee. On the conference committee, the House sent an offer. The full conference committee sent an offer to the Senate some 3 weeks ago.

To suggest that these points of view were not represented in that conference committee is to belie the facts.

The gentleman from California [Mr. FAZIO] opened up a deadlocked conference with a letter suggesting changes that could be made to provide additional benefits in the fish and wildlife area, at the same time providing additional benefits in the agricultural area. As a result of that, they now say that we reserved 800,000-acre feet for fish and wildlife. They know that is the amount of water that the Bay Delta Studies Endangered Species Act is going to require. It is a question whether we do it or the courts do it.

The gentleman from California [Mr. FAZIO] took that from 1 million to 800,000.

We had 100,000 set aside for M&I water. The gentleman from California [Mr. FAZIO] took that out of the bill completely.

We had additional waters into the Trinity River. The amendment of the gentleman from California [Mr. FAZIO], supported by the gentleman from California [Mr. LEHMAN], and the gentleman from California [Mr. DOOLEY], took that water away. A half-million acre feet of water came back into the system. For people who had no power in the process, that is an awful powerful set of amendments.

But there are 25 amendments like that. We wanted a 15-percent charge on people who sold water outside the CVP. They did not like that. It was changed to $25.

They did not like the tier pricing that we had. They said it was too steep. We have 60–20–20, where you have to pay higher prices. They changed that to 80–10–10 at the behest of the gentleman from California [Mr. FAZIO] and others, because the Agriculture Committee did not like that.

They were concerned about the water renewal contracts for the Friant water district. That was changed at the suggestion of the gentleman from California [Mr. LEHMAN] and the gentleman from California [Mr. DOOLEY].

They were terribly concerned about the language of the contract. I insisted on no contracts being renewed. They insisted upon 25 years. The contract language is now 25 years, with an option to renew another contract for 25 years.

So the point is this. This has been a free and open debate and negotiations. There are reams of paper, of faxes and letters back and forth, not to my office, and quite properly so because we have a different point of view. Congressmen LEHMAN, DOOLEY, and FAZIO and I do not agree on all this.

The fact is, here they are, letters back and forth with suggestions that were taken in this bill. The items that were not in scope in either bill were introduced by the opponents of this legislation.

So those who wanted to be involved, in fact were involved, but they chose another method. We all understand political leverage. They felt they would get a better hearing if they went to Senator SIMPSON or Senator WALLOP, and they worked with them. When they expired on this subject, they went to Senator BURNS and Senator BENNETT JOHNSTON, and those amendments were incorporated into this legislation, because quite properly so, they felt that those people were more friendly to their view than I was. That is part of the conference process. You have all been there. You have sat on this conference. You have seen when the Senate has represented the views of the House.

So the point here is page after page, change after change, major changes as to amounts of water, the price of water, the acreage that is eligible, who gets the water, when they get the water, major changes at the behest of the agricultural community and others.

And yet what do we have here tonight? We have a bill that is supported by almost every major editorial board in the State, by business interests in the State, by the urban water users throughout the West, throughout our State of California, the fish and game groups, the wildlife groups, the commercial fishermen, the other entities that must share this water.

□ 2230

So, this is where the rubber hits the road. We must vote, as we voted in the past, to reform this project.

This bill is quite the opposite of what the gentleman from California [Mr. THOMAS] suggested. It is going somewhere. Senator BRADLEY was just here. Senator MITCHELL plans to take this bill up on the floor of the Senate. So, it will go to the President's desk, and it will be signed by the President of the United States.

So, the notion that we are here because I want to be—no. We are here because this is an important measure, an important reform. The House has voted overwhelmingly on it. There is much more reform in this legislation, but other Members will speak to their projects when we speak under general debate.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my friend from Martinez, CA, has indicated that, because we cannot on this side argue substance, we are arguing process. But the fact of the matter is this process has been entirely shutting out those who represent the Central Valley of California and who wanted to have some kind of input on determining the future of their constituents and the largest industry in the State of California.

There are a number of my colleagues who would like to respond, and I am happy at this point to be yielding to one of those who represents California's agriculture industry.

Mr. Speaker, I yield 1 minute to my friend, the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, it is rather bizarre being criticized for arguing procedure instead of substance when we are considering the rule on the bill. I thought it was supposed to be procedure at this time. We are going to have plenty of time to argue the substance.

The chairman of the Committee on Interior and Insular Affairs, the gentleman from California [Mr. MILLER], indicated that those who are opposed to this want only the status quo. He is wrong. No one on this floor wants the status quo. But no one wants his point of view, and therein lies the fundamental problem.

I say to the gentleman, your point of view cannot carry the day. You may succeed in the House. It will be taken up in the Senate. In will not become law. Every dog has its day, Mr. Chairman. You've had yours. Don't turn it into a dog day afternoon. There is no bus. There is no airplane. Free the hostages, and let's go forward. Why do you continue to hold hostage good and worthy projects because you want your view imposed on California?

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I need to speak to my colleagues from the reclamation States that do not begin with California. When we get to the substance of this bill, I am going to pay substantial tribute to the efforts that the chairman of the Committee on Interior and Insular Affairs has lent to us to help us get our portions of this bill to the point where we can hope to see them passed.

But at this point in time, Mr. Speaker, I am going to say what the chairman knows and has known for 4 years, that I object very strenuously to the process by which we have gotten here, which is to take the meritorious projects of all the reclamation States and put them together into one bill that, in fact, will be decided based upon the outcome of an intra-California fight, and that is not right.

But I am going to urge all my colleagues, every one of my colleagues who has an interest in this bill, to vote for this rule because this is our last best hope. If our interests in this bill are going to be considered, and if our interests in this bill have one single last prayer to be considered on their merits before this Congress adjourns, this rule must pass, and this bill must pass.

I have no commitment whatsoever from the gentleman from California [Mr. MILLER], but, if this rule passes, and our bill passes, and we get to the Senate, and the Senate ties this up and says this bill will not pass, I have no commitment from the gentleman from California [Mr. MILLER] at all, and I want all of my colleagues to understand that, that he then will allow our individual interests to be taken apart and to be considered alone. I have not even approached him on that.

But this is our last best chance. If the central Utah project is going to have a chance, if the Grand Canyon Protection Act is going to have a chance, if the San Carlos Indian water rights settlement is going to have a chance, if the central Arizona project proposals that we have in this bill are going to have a chance to stand on their own and be approved by this Congress before we adjourn, if they are going to have just that much of a chance, then this rule has got to be approved, and this bill has got to be passed.

So, for the last time, so there is no question, I am not putting any words in Mr. MILLER's mouth. I am not suggesting that he has made any commitment at all. He has not. But if we are going to be able to at 3 or 4 o'clock tomorrow morning, when this overall bill has come to an impasse in the Senate, if it does, if we are going to have an opportunity to be able to go to GEORGE and say GEORGE, please let our bills go, we will not be able to do that if we have not passed the rule and if we have not passed the bill.

So, Mr. Speaker, let me plead with my colleagues. We have an intra-California fight that we have no control over. It is their fight. They have to resolve it. But we have an interest in it, and the only way that we can address our interest is if we pass the rule and then assist in passing the bill.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to my friend, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I say to the gentleman, Mr. MILLER, I hope you're hearing what everybody is saying. Your point of view is not going to make it through. You said that we all sat in conference. Well, we only had one conference, and I have yet to get one single phone call, not in 3 weeks. We're in a 6-year drought in the State of California, especially down in San Diego. We need water. Mr. FAZIO that you mentioned tried just last week to build a dam that had a hole in it that would not hold water. I don't know what his position is on this. You mentioned Mr. DOOLEY. Mr. DOOLEY opposes the title XXXIV section in this. The Governor of the State of California opposes this title XXXIV. The Secretary of Agriculture opposes this section. There are good things in this bill, but this Member cannot support it with that title XXXIV within it, and, if you listen, that's what most of the people on the floor are trying to tell you. Take it out, and, as my friend from northern California states, "Get on the bandwagon."

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Speaker, I rise in opposition to the rule for H.R. 429. As has already been stated, California has had some really tough times in the last few years. We have gone through droughts, we have, gone through freezes, we in the agricultural area have had a difficult time, and I do not think that, as has been said already, we disagree that there needs to be changes in the CVP.

□ 2240

But as the proposal exists right now, H.R. 429 is totally devastating to the Central Valley of California.

Let me just put it in numbers so that you understand. We are talking about 10,000 jobs that we are going to lose in the Central Valley of California. We are going to lose over $200 million in lost wages. We are going to lose over $1 billion in revenue, in farm revenue. And contrary to what some people may think in this House, it is farming in California that is the engine of the economy of California. And when agriculture is doing good in California, California does well.

Given what has happened with the agricultural community, this is the last thing we need. We do not need this devastation placed upon the agricultural community in California.

Now, it has been said by the chairman, and we have tried to work very closely with the chairman, the chairman said there are water districts, there are regions of the State, that support H.R. 429. And that is correct.

But let me tell Members, and I do not mean to hurt anyone's feelings, but this is about rural California. This is about farming country in California, some of the country that some of you never think about. The Central Valley of California where we make our living by growing crops, producing things. We need a little help. Rural California needs a little help right now.

Mr. Speaker, I want to ask my colleagues, please, vote against this rule, let us recommit, and let us take up the worthy projects that are in the balance of this bill.

In the last few years, the agriculture industry in California has been hurt by a variety of natural and man-made problems.

The 6-year drought and the 1990 freeze are beyond the power of Government to solve, but Government, by its planning and preparation, can mitigate problems associated with the needs of California in addition to the environment.

There is no doubt California agriculture, and the millions of people who depend on it, would not have survived the 6 consecutive years of drought we are now facing without the construction of the Central Valley project.

Unfortunately, many groups and individuals see the water issue as it relates to the Central Valley in simplistic terms.

Many people ignore the vital importance of water to valley residents and stereotype them as greedy, corporate farmers who do not care for the future of our environment.

The truth is quite opposite.

Why would the farm community, people who have lived in this area for many generations, want to destroy an environment they must produce from every day?

I want to express my commitment to support public policy that addresses concerns about the impact of the CVP upon the environment as long as such a policy accounted for the needs and concerns of those who depend upon the CVP as well.

H.R. 429 as reported to the House floor does not represent this equal balance.

I urge members to support rural California and defeat this rule and defeat this conference report.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield 1 minute to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Speaker, once again I rise in opposition to the rule. I would like to respond to some of the comments of Chairman MILLER, who insinuated in his discussion of this rule that some of us in the Central Valley of California should be grateful for many of the concessions that the gentleman has made.

We are grateful in large part because we have gone from what would have been over 2 million acre-feet that would have been taken from us to a little over 1 million acre-feet.

But nobody that is representing the Central Valley of California in good conscience can support a piece of legislation which legislates a permanent drought to the Central Valley, a piece of legislation that if enacted, and had been enacted over the last 3 years, would have resulted in zero deliveries of water to agricultural contractors in the Central Valley of California.

Many of us there in the Central Valley represent an agriculture industry that is a $5 billion-plus industry. It is the lifeblood of our economy. Our small communities live and die on whether or not our agriculture economy has water.

That is why we are opposing this. That is why we are saying this piece of legislation is bad policy, and that is why we are asking people to vote down the rule.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I thank my friend from southern California, the Los Angeles area, for yielding.

Mr. Speaker, I also want to clear up something that Chairman MILLER said tonight, and that had to do with the issue of contracts. Under existing law, farm families have 40-year contracts that are renewable. They have to renegotiate to renew those contracts, but they can renew them.

Under the proposal that the gentleman from California [Mr. MILLER] has before us tonight in this bill, farmers do not have a right to renew those contracts.

I ask anyone on the floor tonight, what is your property worth at the end of 10 or 15 years if you do not have the right to renew your contract for water? Your property is not worth anything. The only thing that gives that property value is the right to take water to it.

So you are not going to have people being able, in the future, to make investments in their property. You are not going to have banks lending money on that property if there is no right to renew the water to that property.

This is in fact a taking. This is in fact an attempt to drive those people out of farming. That is the bottom line. After 25 years, it will not be a question of whether or not they can renew their contract. They will not have been able to borrow money in advance of that money because of the uncertainty created in the banking and lending community about whether or not they are going to be able to have any water at the end of that period.

Mr. Speaker, when you take the certainty out of the ability of the land to have water, you take the value out of the land, you take the equity out of the property, and you take everything that those people for generations have saved and built up away from them. All in this instance so you can give the water to fish in northern California. It does not make sense.

Our own analysis shows that 800,000 acres will be taken out of production by this piece of legislation. In a multibillion dollar agriculture economy, it is an absolutely devastating effect to our community, as the gentleman from California [Mr. DOOLEY] pointed out, to our State, and ultimately to the consumers of this Nation. And we are going to do it all on the floor tonight, without even having the benefit of an objective economic analysis of the results.

Mr. Speaker, it is a disgrace. Vote down the rule.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to my friend, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, a minute ago I misspoke and referred to the gentleman from California [Mr. MILLER] as Mr. SMITH. I apologize for that.

Mr. Speaker, I want the gentleman to know the only agriculture I have in my district is at the swap meet. This is not an ag interest for me. But I grew up around Fresno and I used to cut grapes as a kid, and I know how those kids get hurt and those farmers get hurt. I have also fished right below the dam right there. I know that water is important, not only to farmers, but to Fresno, the city and the Central Valley.

The water that comes across the San Andreas Fault comes into San Diego. If we have a major earthquake, we are going to be devastated. So we not only need the all-purpose dam in northern California, we need the reserve of water that comes down the Central Valley, and we need dams like the Palma Valley and three other dam sites that special interest groups have shut down.

Mr. Speaker, we need water in San Diego. We are in a 6-year drought. This title XXXIV would not only be devastating for Central Valley, but other parts of California as well.

Mr. Speaker, I would say to the gentleman from California [Mr. MILLER], I beg you, please remove title XXXIV on your own and let us get on with it.

Mr. DREIER of California. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, there are some who would like to argue that this is a California battle, some internecine struggle going on among the 45 members of our delegation.

Nothing could be further from the truth. This is a battle about fairness here in the U.S. House of Representatives.

Mr. Speaker, if I finish this term I am finishing 2 years of service on the Committee on Rules. I happen to love this institution. But I have to say that in the Committee on Rules we regularly see that rights of every Republican Member of this institution violated.

What we have seen on the treatment of this rule is the rights of Republicans and many Democrats who have a particular interest in a piece of legislation violated. During the debate today we on several occasions heard a term called scope violations. For those who do not have a handy glossary of legislative terminology, let me quickly point out that a scope violation is not a failure to use mouthwash. It is something that is far more serious than that, Mr. Speaker.

Under clause 4 of House rule XXIII, Members appointed to a committee of conference between the House and Senate may not insert in a conference report anything that was not committed to conference by either House. Any attempt to introduce new matter into a conference report goes beyond the scope of conference, and such a violation is punishable by death—of the conference report, that is.

□ 2250

As was pointed out here earlier today during debate on the Defense appropriations conference report, when conferees know that they can come up to our Committee on Rules in the final days and expect to get special rules waiving all points of order, including points of order for scope violations, they are all the more inclined to violate scope by writing new law out of whole cloth.

I attempted in the Committee on Rules to amend this rule so that it would be subject to a point of order for violating scope. That amendment lost in the Committee on Rules. I am, therefore, renewing my attempt to amend the rule here on the floor by asking for a no vote on the previous question.

I urge my colleagues to join me in drawing the line against these egregious violations of House rules. I urge my colleagues to vote down the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LANCASTER). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 182, not voting 20, as follows:

[Roll No. 478]

YEAS—230

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (TX)
Anthony
Applegate
Aspin
Atkins
AuCoin
Beilenson
Bennett
Bereuter
Berman
Bevill
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carr
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Evans
Fascell
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Glickman
Gonzalez
Gordon
Grandy
Green
Guarini

Gunderson
Hall (OH)
Hamilton
Hansen
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Rhodes
Richardson
Riggs
Roe
Ros-Lehtinen
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swift
Synar
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Zimmer

NAYS—182

Allard
Allen
Anderson
Andrews (NJ)
Archer
Armey
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bilbray
Bilirakis
Bliley
Boehner
Broomfield
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Donnelly
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Espy
Ewing
Fawell
Fazio
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Hall (TX)
Hammerschmidt
Hancock
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Lagomarsino
Lehman (CA)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Luken
Marlenee
Martin
McCandless
McCloskey
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Montgomery
Moorhead
Morrison
Myers
Nichols
Nussle
Olin
Oxley
Packard
Panetta
Paxon
Payne (VA)
Perkins
Peterson (FL)
Pickett
Pursell
Quillen
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Torricelli
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—20

Annunzio
Barnard
Boxer
Chandler
Clement
Davis
Dorgan (ND)
Edwards (OK)
Gaydos
Hatcher
Ireland
Kolter
Lehman (FL)
Lipinski
McDade
Nagle
Rose
Stearns
Traxler
Yatron

□ 2312

Messrs. SKELTON, PAYNE of Virginia, KASICH, and RIDGE changed their vote from "yea" to "nay."

Messrs. GRANDY, VOLKMER, BUSTAMANTE, and HUGHES changed their vote from "nay" to "yea."

So, the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LANCASTER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 260, nays 144, not voting 28, as follows:

[Roll No. 479]

YEAS—260

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Feighan
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hansen
Harris
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Rhodes
Richardson
Riggs
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Studds
Sundquist
Swett
Swift
Synar
Tallon
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Vucanovich
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Zimmer

NAYS—144

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Clinger
Coble
Coleman (MO)
Condit
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fazio
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gillmor
Gingrich
Goodling
Goss
Gradison
Hall (TX)
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Lagomarsino
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Luken
Marlenee
Martin
McCandless
McCollum
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Moorhead
Morrison
Myers
Nichols
Nussle
Olin
Oxley
Packard
Panetta
Paxon
Perkins
Pursell
Quillen
Regula
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema

Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stenholm
Stump
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Upton
Vander Jagt
Volkmer
Walker
Weber
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—28

Annunzio
Anthony
Barnard
Boxer
Chandler
Clement
Davis
Dorgan (ND)
Edwards (OK)
Ford (MI)
Gaydos
Gordon
Hatcher
Hefner
Ireland
Kolter
Lehman (FL)
Lipinski
Mavroules
McCrery
McDade
Nagle
Ray
Rose
Stearns
Stokes
Traxler
Yatron

□ 2329

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MILLER of California. Mr. Speaker, pursuant to House Resolution 604, I call up the conference report on the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations and for other projects.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 604, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Monday, October 5, 1992.)

The SPEAKER pro tempore. The gentleman form California [Mr. MILLER] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

Mr. LEHMAN of California. Mr. Speaker, I would like to inquire if the gentleman from Utah is in opposition or in support of the bill.

Mr. HANSEN. Mr. Speaker, I am in support of the bill.

Mr. LEHMAN of California. Mr. Speaker, then I would like to claim time in opposition.

The SPEAKER pro tempore. The gentleman from California [Mr. LEHMAN] would be entitled to one-third of the time, 10 minutes from each.

Mr. MILLER of California. Mr. Speaker, I believe under the rule, I will be allowed 20 minutes, the gentleman from Utah [Mr. HANSEN] will be allowed 20 minutes, and the gentleman from California [Mr. LEHMAN], claiming the time in opposition, will be allowed 20 minutes. Is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference agreement on H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1992.

This conference agreement culminates nearly 5 years of hard work to bring reform to several western water projects. This agreement is the product of many, many hours of negotiation, controversy, and hard work. The result of all this effort is an agreement which brings environmental and fiscal sanity to several multibillion-dollar water projects.

In addition to instituting reforms, the agreement will increase the cost ceilings to allow completion of certain important water projects, including the central Utah project. The conference agreement includes the Grand Canyon Protection Act, several provisions to control water pollution and reduce salinity problems at Bureau of Reclamation projects, and several important water resource management and demonstration projects which can improve the efficiency of water use in the West.

Title XXXIV of the conference agreement contains truly historic reforms that inaugurate a new era in California water and environmental policy.

We are at the moment of truth in the battle to reform California water policy.

Our comprehensive reform provides a critical foundation for jobs and the economic security of our State. It recognizes that the environment can no longer be degraded and destroyed for short-term gain.

We have negotiated, we have consulted, and we have accommodated. Hundreds of hours have been spent listening to the concerns of farmers, cities, environmentalists, and others. Dozens of amendments have been incorporated into the final agreement to address those concerns.

Now, it is time to vote.

I do not pretend that everyone supports this bill. Some people do not want any change. No amount of concession is enough.

If you are one of the small number of Californians with a 40-year contract for subsidized water years ago, with assurances that it will be renewed indefinitely, you have no interest in reform.

But if you are one of the other 30 million Californians, passage of H.R. 429 is absolutely crucial to your future, and the future of our State.

That is why the leading economic organizations, the banks, the newspapers, the water districts throughout our State, north and south, support this legislation.

I read Governor Wilson's letter with dismay. Two years ago, when he was in the Senate, he refused to participate in the negotiations on our earlier water reforms, even when he was presented with a blank sheet. Over the past 2 years, his administration has never sent a substantive suggestion to either the House or Senate concerning CVP reform, preferring instead the smokescreen of transferring the project to the State.

Over the past 2 days, I have heard with amazement claims of valley representatives and Senator SEYMOUR that they were locked out of the process.

Let's be real clear on the facts.

I offered to meet with Senator SEYMOUR nearly 2 years ago to discuss this legislation. Never, at any time, did he request I do so. He complained that he was not involed in preparing the offer sent to the Senate by the House. That is because House offers generally are drafted by House Members. He and his colleagues on the Republican side have had a full opportunity to participate in the Senate.

During the actions of the Interior Committee, I met with and agreed to extensive amendments proposed by my colleagues, Mr. DOOLEY and Mr. LEHMAN. We accepted dozens of them. Congressmen DOOLEY and LEHMAN voted for the bill. And yet, just a day before that product went to the full House, they announced they still opposed it.

On the floor, they had an open rule. Any amendment was in order. They offered none. They weren't excluded.

They had the right to ask for a recorded vote. They didn't request one either on amendments offered by others, or on the bill itself. They weren't excluded.

Following House passage, we continued discussions. The House offer that was sent to the Senate contained more than a dozen major changes recommended by Congressman FAZIO and others on behalf of the agriculture community. They weren't excluded.

After our offer was sent to the Senate, dissenting House Members continued their negotiations with Members of the Senate. Additional changes were proposed, offered by the Senate, and accepted by the House. In fact, we accepted scores of change from the Senate in the final offer. They weren't excluded.

We changed the volume of water devoted to fish and wildlife four times.

We changed the tiered water pricing reforms to lower subsidies in response to farmer concerns.

We extended the length of new contracts, and allowed for one automatic 25-year renewal.

We dropped the auction for 100,000 acre-feet of water to urban areas.

We dropped the citizen suit provision.

We have made change after change after change.

But the truth is we cannot make enough changes to satisfy some critics, because any change in the status quo is unacceptable to them. And so, at the last hour, they choose to delay, to confuse, and to oppose.

They offer specious arguments: "This bill will destroy jobs." "This bill will dry up farms." "This bill will hurt cities." "We need more studies." "We need more hearings."

These are delay tactics, and nothing more.

Governor Wilson and Senator SEYMOUR, among others, warn this bill will hurt the future economy of our State.

Let's recall that virtually all economic analysts disagree.

Here is what Richard Rosenberg, chairman and CEO of the Bank of America, May 14, 1992, wrote to Senator SEYMOUR:

> The current system of allocating California's water among its many users threatens the economic, social, and political fabric of the state. Bank of America supports changing the allocation system so that market forces rather than political forces are the primary forces determining how much each water user receives. Such a system can respond better to the continual changes in the state's economy, population and natural resources, and can provide water users with some predictability of water supplies and costs.

And Mr. Rosenberg observed very correctly:

> The history of the CVP is based on serving agriculture; today the CVP needs to function in the larger context which includes fish, wildlife, manufacturers and all consumers.

The Bank of America is not alone.

James Harvey, chairman of TransAmerica, told Senator SEYMOUR:

> California businesses desperately need access to more water, and a free market for water transfers is the quickest and most effective way to obtain that water. Passage of CVP reform legislation is crucial for a free market to function properly.

Economic interests as diverse as the Bay Area Economic Forum, the Business Roundtable, the Valley Industry, and Commerce Association agree that the economic security of our State depends on the water reforms contained in H.R. 429.

Urban water districts from Los Angeles to San Francisco, representing tens of millions of Californians, endorse these reforms—because they are good for the entire State, which is why everyone in the State, except for those who currently have subsidized water contracts, supports our reforms.

Carl Boronkay, the manager of the metropolitan water district that serves 17 million Californians, in today's newspaper disputes the scare tactics of our opponents. He says:

> It is California's first major water policy advancement in decades and provides benefits for farmers, cities and the environment. Passage of this bill is the crucial element of good water supply management.

Mr. Boronkay also disputes Senator SEYMOUR's claim that our bill will leave no water for farmers to sell to cities.

> I don't have any serious doubt that there will be enough water for sale.

The Met's support is echoed by other business leaders.

"The bay area and California business communities support this legislation and we hope to see it passed now," says Michael McGill, executive director of the Bay Area Economic Forum.

The Carson Water District, the Central Basin Water District, the West Basin Water District, the Sierra Club, the sport fishing industry, the Grasslands Conservation District, United Anglers, the Golden Gate Fishermen's Association, Trout Unlimited—all these diverse groups and millions of Californians agree this is essential legislation that must be enacted now.

Let's please put the scare tactics and special interests aside and think, for once, about the overall and future needs of 31 million Californians.

We are at the end of a long process in which everyone has been heard, everyone has had an opportunity to participate. Those who seek to frustrate the process and prevent this long-delayed and urgently needed measure from being considered are not doing the people's business and are not acting in the best interests of California.

In addition to the Central Valley project reform title, H.R. 429 contains 39 other titles. Specific provisions of the bill are as follows:

Title I of the bill increases the authorization ceiling for the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, WY.

Titles II through VI of the bill authorize a comprehensive reformation of the central Utah project.

Title III of the bill authorizes the Secretary of the Interior to design, construct, and maintain a water treatment plant to treat mine drainage water from the Leadville Mine Drainage Tunnel, CO.

The bill would allow the Secretary of the Interior to construct the Lake Meredith salinity control project, New Mexico and Texas.

Title IX of the bill authorizes the Secretary of the Interior to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, KS, and to enter into contracts with the State of Kansas to reformulate operation of the project.

Title X would authorize a series of studies to improve water deliveries to the Pine Ridge and Rosebud Sioux Indian Reservations in South Dakota.

The bill authorizes the Secretary of the Interior to conduct a research project for the development of an enhanced evaporation system for saline water treatment in the vicinity of the Salton Sea, CA.

The bill provides the consent of Congress to an amendment to the Sabine River compact, Louisiana and Texas.

The bill designates the Salt-Gila Aqueduct of the central Arizona project as the Fannin-McFarland Aqueduct.

Title XIV clarifies an irrigation district's ownership of a lake within the district while insuring that the lake is managed as a wildlife refuge.

The bill contains a title protecting the water resources of the San Luis Valley, CO, and imposes stringent requirements on any export of water from the valley.

The bill initiates a comprehensive set of feasibility studies for urban wastewater reuse and ground water management in major cities throughout the West.

Title XVII clarifies the lands which can be irrigated by the Standing Rock Indian Tribe.

Title XVIII is the Grand Canyon Protection Act. This title directs the Interior Secretary to implement new operating procedures for Glen Canyon Dam to protect and mitigate adverse impacts to, and improve the condition of, the resources of the Colorado River downstream from the dam.

The bill would authorize appropriations of $100 million for design and construction of a rural water system to provide good quality drinking water to more than 30,000 residents of central South Dakota.

Title XX authorizes the Lake Andes-Wagner/Marty II project in South Dakota. The Secretary, in cooperation with other Federal agencies and the State of South Dakota, would also undertake a comprehensive study of selenium contamination associated with drainage water from irrigation projects.

The bill also changes the cost-sharing requirements for the Rio Grande Floodway, NM.

Title XXII authorizes the sale of certain facilities of the Bureau of Reclamation to the Sunnyside Valley Irrigation District, WA.

The bill authorizes the Secretary of the Interior to transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado.

Titles XXIV and XXV authorize the early repayment of two small reclamation project loans.

Title XXVI of the bill authorizes a $14 million increase in the appropriation ceiling for the High Plains States Groundwater Demonstration Program.

The next title would authorize the delivery of subsidized federally produced power to two irrigation districts in Montana.

Title XXVIII amends and clarifies the Federal Water Project Recreation Act and resolves certain problems now being experienced by local governments who manage recreation facilities at Federal reservoir sites.

The next title of the bill authorizes the Secretary of the Interior to credit for repayment the San Juan Suburban Water District in California for the purchase of pumps and motors that were acquired by the District on behalf of the Bureau of Reclamation.

Title XXX would authorize the President to establish a bipartisan commission to review western water policies.

Title XXXI would allow for the clarification and restructuring of a repayment contract with the Mountain Park Conservancy District, OK.

The next title would authorize the establishment of a South Dakota biological diversity trust and for a wetland habitat restoration trust also in South Dakota.

Title XXXIII would transfer certain properties from the Bureau of Reclamation to the Elephant Butte Irrigation District in New Mexico.

Title XXXXIV, as I discussed earlier, provides for a comprehensive reform of the operation of the Central Valley project, CA.

The next title would compensate the Three Affiliated Tribes and the Standing Rock Sioux Tribe of North Dakota for certain lands that were taken from the tribes to build the Garrison and Oahe Reservoirs.

Title XXXVI would authorize the Sonoma baylands wetland demonstration project in the San Francisco Bay area.

Title XXXVII provides for a water rights settlement with the San Carlos Apache Tribe in Arizona.

The next two titles provide for a San Francisco water reclamation and reuse demonstration project, and for repayment of the repair of siphons in the central Arizona project.

The last title would provide for amendment and reauthorization of the National Historic Preservation Act.

Mr. Chairman, the enactment of H.R. 429 will solve many critical water resource problems. The bill presents many opportunities for innovative projects to solve problems related to drought, needs of fish and wildlife resources, contamination resulting from irrigation, and other issues. I urge my colleagues to support H.R. 429.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 429, the Reclamation Projects Authorization and Adjustment Act. This is a major piece of legislation. There are 40 separate bills contained in this legislation. It is 400 pages long, directly affects 13 States and indirectly affect the entire Western United States.

One of the major provisions of the legislation deals with an increase in the authorization levels for the central Utah water project.

For the purpose of clarifying a certain portion of this legislation I am engaging the chairman of the Interior Committee in a short colloquy.

It is my understanding that the CUP titles of this bill require that 90 percent of the project's irrigation water be under contract prior to funds being obligated or expended for construction for the irrigation system. Is this correct?

Mr. MILLER of California. The gentleman from Utah is correct.

Mr. HANSEN. It is my understanding that this requirement does not prohibit funds being obligated for project planning, design and engineering. Is that correct?

Mr. MILLER of California. The gentleman from Utah is correct.

Mr. HANSEN. I thank the chairman.

Mr. Speaker, the central Utah water project is the last, great water project in the West to go through Congress. This process started in the early 1950's with the passage of the Colorado River Storage Act and now, almost a half century later, we seek the final authorizations to finish this water project.

During the last 3 years, there has been an intense effort to craft Utah water legislation to meet the new challenges of reclamation development. We have learned that in order to build water projects, we need to be cost efficient and environmentally sound.

The Utah delegation has negotiated a very complex piece of legislation which has the support of various environmental, public power interests, native Americans, water districts and local governments. The negotiations have not been easy; rather, they have been long and hard. This coalition has come together after a tremendous, bipartisan effort. I salute the many people who have brought us this far and express appreciation for their excellent work. Among others, I want to express my appreciation to Chairman MILLER for his leadership on this bill.

I would like to make four major points in my remarks today. First, the central Utah water project titles in this bill cut new ground in reclamation law. For the first time, the local water district, in this case the central Utah water conservancy district, will construct the remaining water delivery features. As a result, the cost of the construction can be reduced significantly because private enterprise will engineer and construct the water systems rather than a more expensive Federal agency with its built-in overhead costs. We have determined this amounts to a 35-percent reduction in costs.

The second point concerns one of the most aggressive water conservancy plans in the Nation. Local districts have agreed to plans to protect the scarce water supplies the CUP will provide.

The third point deals with local cost sharing and repayment obligations set forward in the legislation. This bill is not a gift to the State of Utah. There are local cost sharing obligations which require local parties to pay 35 percent of the cost of the systems in the bill. This is a substantial sum to the citizens in the State of Utah and was part of a long, drawn out compromise. We have determined while this might be a burden, it will be a sacrifice the people of Utah will have to make to assure themselves a long-term water supply.

Regarding repayment obligations, the legal basis for the Bureau of Reclamation's repayment policy is based on a series of Federal laws dating back to the Reclamation Act of 1902. The Reclamation Project Act of 1939 provided for irrigation repayment to be based on the irrigator's ability to pay for water from the increased net income from irrigated farming. Contracts for the repayment of the irrigation construction obligation are based on payment capacity remaining after operation, maintenance and repayment costs have been deducted. It is the Bureau of Reclamation's policy to collect 100 percent of remaining payment capacity after the OM&R costs have been deducted.

Under Reclamation law, the cost allocated to irrigation are fully repaid without interest over a repayment period not to exceed 40 years. Assistance is also available from power revenues to repay the costs that are beyond the irrigators ability to pay. In essence, irrigators pay on construction costs up to their ability to pay and power repayment revenues provide the balance.

The need for municipal and industrial water in the West has been historically a growing concern. The basis for the repayment of M&I was established in the Reclamation Project Act of 1939 and the Water Supply Act of 1958. Interest is charged on M&I water development and allows a payback over a 50-year period.

Of course, these water facilities will have a long term operational life period and their value should exceed their repayment periods easily. They are assets of the Federal Government. The point here on repayment is that this legislation calls for increased authorizations to finish the Central Utah water project. Utah is the second driest State in the Union. The Federal moneys will not be a gift, the moneys will be repaid in the future. The Federal Government will be making an investment in Utah's future, and as a result of securing these water supplies, the economy of Utah will be able to produce more goods and services adding to the overall prosperity of this great country.

My fourth and final point relates to the environment. The Utah titles in this legislation provide for the completion of the environmental mitigation features associated with the CUP. It creates a commission to oversee the various environmental initiatives and allows for significant funding to make sure actions are taken.

And finally, like other large and complex bills, there may be items within this legislation I personally disagree with. However, this is a omnibus bill. There are other important titles in this package. Water is critical to the development of the West. Much of this bill has already passed this body three times in recent years.

Mr. Speaker, I urge adoption of H.R. 429.

Mr. Speaker, I reserve the balance of my time.

□ 2340

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE RELATIVE TO SUSPENSION CALENDAR

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 591, the Chair reannounces a list of possible suspension motions, all of which have been listed for more than two hours at the rostrum and in the cloakrooms as previously agreed upon: H.R. 3088; H.R. 6126; H.R. 5237; H.R. 4016; H.R. 5483; S. 3134; S. 2875; H.R. 1637; S. 2941; S 1704; H. Res. 605 relating to H.R. 1216; S. 1664; S. 474; S. 2902; H.R. 5730; H.R. 3635; H.R. 4484; H.R. 5055; H.R. 4310; S. 1405; S. 1583; H.R. 6018; S. Con. Res. 130; H.R. 6138; H.R. 4542; H.R. 5617; S. 3327; H.R. 5954; S. 1985; H.R. 6161; H.R. 6162; H.R. 6163; and H.R. 6164.

Also H.R. , Water Resources Development Act; and H.R. , Intermodal Surface Transportation Corrections Act, both of which were announced at 10:30 p.m.

Also newly added are: S. 1491; S. 1577; S. 1392; S. 1579; H.R. 3047; and H.R. 5000.

The chair will continue to announce any of these suspensions as they are added to this long list.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. MICHEL was allowed to proceed out of order.)

Mr. MICHEL. Mr. Speaker, I have asked to proceed out of order so that I might inquire of the distinguished majority leader how we will proceed for the balance of this legislative day.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader.

Mr. GEPHARDT. We, obviously, are going to finish the bill that we are on. There will undoubtedly be a vote on that.

At the end of that vote, we will either go to one of the following conference reports: The EximBank or the Defense Production Act or the Export Administration or Jobs Through Export Act, if the tax bill is not ready for consideration when this bill is finished. If the tax bill is ready for consideration, I understand it will be in front of the Rules Committee in 45 minutes. Then we would take up the tax bill first, but if it is not, we will put one of these conference reports in before the tax bill, and then after the tax bill we will take up the other three conference reports that I mentioned, or again if the tax bill is ready, we would take up all four after the tax bill is finished.

When we finish those four conference reports, after the tax bill, we would then propose to go into suspensions, but we would try to roll the votes, any needed votes on suspensions for a hiatus period so that Members could get some rest for 3 or 4 hours before we start up again in the morning, and then we intend to finish and have the last vote not later than noon tomorrow.

Mr. MICHEL. The Chair a few moments ago read an extensive list of suspensions. Is it absolutely necessary that all of them be considered? Are there some that are more important than others, some that will not get any time of the day over in the other body that we are just spinning our wheels here if we spend our time on those? Is there any way of separating these out as those that really have to be done and those that do not have to be done?

Mr. GEPHARDT. Hopefully, they will go quickly. We will try to look at them again, but I think we can get through them in this hiatus period.

Again, we will hold the votes so there will not be votes in that period. We will tell Members when we start those suspensions when the first vote might occur, so they will know they will not have votes for 3 or 5 hours, whatever it is.

Mr. MICHEL. Then the distinguished majority leader said that Members could count pretty much on leaving by noon tomorrow?

Mr. GEPHARDT. There will be no votes after noon.

Mr. MICHEL. Would that be a sine die adjournment at that time?

Mr. GEPHARDT. What we are hoping for, since the other body is involved in the possibility of filibusters, we would have what we call an anticipatory adjournment sine die resolution, but again, there would be no votes required here for the rest of the year.

Mr. MICHEL. All right, Mr. Speaker, I guess that is all I can inquire of the leader about at this juncture, and we will go for several hours and see if there is any change in the program.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all through the long duration of this legislation, I have talked to Members of this body and solicited their support in an effort to defeat this legislation. Time and time again over that period of time, I have been told, "You're right, RICK, we would like to help you, RICK, but we got a little project in the bill."

It seems from the time when this bill started until today it has grown and grown. Every time we have gotten a little more support in opposition to the bill, there have been more projects stuffed in the bill.

If you look back to when the bill was introduced, to where it is today, you see it is many times the size that it was then. Indeed, it is probably one of the biggest water project bills ever to come to the floor of the House today.

I submit the sole reason for the size of the bill is also that Chairman MILLER can do what he wants to do with the Central Valley project in California.

So I really envy those of you who have gotten your projects in this bill. I do not really want to attack any of those projects specifically, but I just want you to know personally, you have made us in the San Joaquin Valley pay one heck of a price for you to get your project. You have put us in a position where we are about to lose most of the water we have most of the time. So while you are out there enjoying your projects and while you are out there enjoying what you think you are going to get, I hope you remember the high price if this bill passes that we have had to pay in the San Joaquin Valley for you to enjoy that.

The projects that are authorized by this bill, many of them also have not been covered by feasibility studies. Many of them also have no analysis as to the price that we are going to pay for them that is before us today, as do most of the things mandated within the new configuration of the San Joaquin Valley and the CVP.

This bill legislates permanent drought for the San Joaquin Valley. Just 2 weeks ago in the dire supplemental appropriations bill, we allocated $30 million for the San Joaquin Valley to pay for the natural drought that existed over the past 3 years. Under the formulas and under the models developed by the Bureau of Reclamation in implementing the provisions of this bill, we would have had no water for the past 3 years. When you take almost a third of our water off the top, we are in a permanent drought situation under this legislation.

It is interesting, Mr. Speaker, how the shortages are calculated under this bill. Under the chairman's formula, when we are short water in California the fish and wildlife and environmental concerns in this bill only take a 25-percent cut, but the municipal, industrial, and agricultural users have to take up to the full 100-percent cut, and indeed for the last 3 years we would have had to have taken that full 100-percent cut.

There is absolutely no analysis available on the floor tonight to give anyone in this room a definitive idea of what the overall income impact of this bill will be to the State of California.

I cannot possibly imagine how we can take a bill like this up with the possible consequences it has without knowing absolutely what they will be.

Mr. Speaker, this bill should not be on the floor tonight. There is no reason to hold every project in this country hostage to hanging the CVP. Each of these projects should stand and fall on their merits.

If we reject this bill tonight, if we vote for the motion to recommit, you can have a chance to take your projects up or down on the merits and not attempt to get them at the expense of the people of northern California and at the expense of the farmers in the San Joaquin Valley.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota [Mr. JOHNSON].

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Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in strong support of the rule and the conference report on H.R. 429, the Water Reclamation Projects Authorization and Adjustment Act. This legislation is critically important and goes a long way toward addressing many important water development issues in many Western States, including my State in South Dakota. With the hard work and dedication of the chairman of the Interior Committee, this legislation has been carefully crafted over the past few years and the time has finally come for its enactment. I am grateful for the efforts of the chairman to bring this important conference report before the House so that we may pass legislation which will do much to improve the infrastructure of the United States.

I am strongly supportive of two specific titles in the conference report, the Lake Andes-Wagner/Marty II Irrigation Units and the mid-Dakota rural water supply system. Both of these projects are important components in South Dakota's water development efforts. These projects complement each other, and I have worked closely over the past several years with the project sponsors, my Senate colleagues from South Dakota and the State of South Dakota, as well as the chairman and other members of the Interior Committee, toward their authorization.

I am a strong advocate of an expanded Federal role in rural water delivery. It makes no sense to me that we allow people in our Nation to drink water of exceedingly poor quality. The mid-Dakota rural water supply project is an effort to secure a steady supply of safe, clean, drinking water for residents of east-central South Dakota.

Water is life's most basic commodity. Without it we cannot survive, and surviving on poor quality water imperils lives and the economy. The poor quality of ground water supplies in South Dakota has been documented through hearings and reports on previous South Dakota water projects. As in these other regions, much of the water in the mid-Dakota project area exceeds safe drinking water levels in iron, sodium, sulfates, total dissolved solids, manganese, and, in some areas, nitrates and bacteria. These unsafe levels pose a serious threat to public health. Nitrates pose an especially severe risk to infants since they rob babies of oxygen, which can lead to suffocation. A baby died in South Dakota in 1986 because of the water it drank, and many families in the project area are forced to face this deadly threat. It seems incongruous that water can kill, but in this region, it has that potential.

In addition to the public health threat from water of such poor quality, this water has a direct impact on the local economy since livestock, especially the young, are also put at risk when they drink the water. Agriculture is South Dakota's primary economy generator, and a steady supply of clean water would be a welcome benefit to area livestock. By improving the water supply, livestock operations, and thus the local economy, will also be improved.

In addition to the drinking water aspects of the mid-Dakota title, the project sponsors have developed a unique wetland enhancement component, which has great potential to improve existing wetlands and create new wetlands. As you all know, the prairie pothole region of the Great Plains, including this portion of South Dakota, plays an integral role in the central flyway. These wetlands have been important habitat for numerous species of waterfowl, as well as other birds and animals, for centuries. Unfortunately, much of this habitat has been lost over the years. The wetland enhancement component of this project provides us with excellent opportunity to help repair some of this damage while also providing a model for similar future cooperative ventures. I would like to thank the project sponsor for developing this plan and making it a key part of their proposal.

The mid-Dakota rural water supply project has strong support across the board. There are no divisions among Republicans and Democrats or State versus local interests. This project is strongly supported in the project area, as well as by the State, and it has the strong support of the entire congressional delegation. It is supported by State environmental organizations as well as the rural electric community. We have everyone on board for this well-thought-out project, and we will continue working together after the authorization of mid-Dakota.

The Lake Andes-Wagner/Marty II project would also help to strengthen South Dakota's rural economy. Irrigation helps to stabilize production, especially during times of drought. South Dakota has recently been in the grip of a drought, and as many of my colleagues in the West know all too well, this drought has lasted for 5 or 6 years in some areas, and while this project would have no immediate impact, it would guarantee a day not far down the road when farmers could depend on harvesting a decent crop. In addition to stabilization, irrigation would allow for crop diversification. Current rainfall excludes the planting of a number of crops, whereas with a guaranteed water level, farmers could easily expand to potatoes, sweet corn, edible beans, and other new crops. The promise of guaranteed yields on these new crops would also attract food processing plants and other new economic enterprises.

The point I am making is that this irrigation project means economic development for this rural region of South Dakota and is a direct improvement of our country's infrastructure. Without expanding into new economic opportunities, the trend of out migration in our Nation's heartland will continue. Unfortunately, our young people are leaving rural America because of a lack of opportunity. Unless we help to supply the tools to generate new businesses, we will witness a continued decline in population and the loss of a lifestyle that has defined the United States for much of its history.

Unlike many of the Bureau of Reclamation's earlier irrigation projects, this one will clearly fulfill the Bureau's original mission of helping the family farmer. It will also parallel the Bureau's original mission to help settle the West—although, in this case, we will be working to ensure that the West stays settled. This project is not an attempt to enrich a few wealthy landowners, it is an attempt to help preserve our family farmers. These are the same family farmers who help to put food on our tables at a reasonable price.

Economic development would be particularly welcomed on the Marty II portion of this project. The Marty II unit would be operated by the Yankton Sioux Tribe, which has an unemployment rate of nearly 90 percent. While irrigation development would by no means fully address this problem, it would certainly be a positive step in the right direction toward developing local economic initiatives.

This authorization also includes wildlife enhancement provisions, which would particularly benefit wildlife refuges within the project area, including Lake Andes, Owens Bay, and the Redlake Refuge. These are important wetland areas that would greatly benefit from a steady source of water.

As the chairman well knows, questions have developed over the past several years about potential problems with selenium in the project area. I am very sensitive to these concerns and agree that we need to demonstrate that no negative environmental impacts will result from this project before we go forward. For these reasons, I am very supportive of the selenium demonstration program that is part of the Lake Andes title. I must commend the project sponsors for their efforts to develop this proposal. After the sponsors learned of the potential selenium problem, they immediately went to work developing a solution. The demonstration program is a collaborative effort that involved the Bureau of Reclamation, the EPA, the U.S. Fish and Wildlife Service, the Bureau of Indian Affairs, the U.S. Geological Survey, and appropriate State agencies as well as the project sponsors. This group spent a considerable amount of time and effort in developing the demonstration program portion of the Lake Andes/Wagner title before us. Research into selenium will have benefits far beyond the borders of South Dakota since other agricultural areas in the Nation have also encountered selenium problems.

Many years ago, South Dakota was promised a significant level of water development in return for the development of the Pick-Sloan Missouri River Basin Program. The development of Lake Andes-Wagner/Marty II and mid-Dakota would be a significant step in the direction of compensation for the promised development that never materialized. In addition to simply living up to past obligations, these are good projects that can stand on their own merits, and I am pleased to have them included in this western water package. Both of these projects will help to stabilize the rural economy in their areas and help to preserve a lifestyle that, although very much alive, may be threatened unless action is taken.

Water is the lifeblood for development in the West; both of these projects demonstrate the useful purposes of soundly developed water resources, especially for those whose lives they would touch.

I want to again thank the chairman of the full Interior Committee for all of his efforts in helping to make important water development in South Dakota a reality.

Mr. Speaker, I request to engage in a colloquy with the chairman of the Committee on Interior and Insular Affairs relative to provisions in title XX, Lake Andes-Wagner/Marty II, of the conference report on H.R. 429.

I say to the gentleman, Mr. Chairman, I want to thank you for taking this opportunity to engage in a colloquy relative to several provisions in title XX of H.R. 429 which authorizes the Lake Andes-Wagner/Marty II project.

Legislation authorizing this project was introduced separately before being included as a title of H.R. 429. This original legislation included language in the planning reports-environmental impact statements section which referred to the use of feasibility methodologies consistent with those employed in the Lake Andes-Wagner unit planning report—final environmental impact statement, filed September 17, 1985.

This planning report was the effort of many years of hard work between the State of South Dakota, local project sponsors, the Secretary, and the Bureau of Reclamation and it was completed with an understanding of the needs for this particular area and project. The feasibility methodologies used reflect the specific circumstances involving the Lake Andes-Wagner/Marty II project and the surrounding project area.

I would like to clarify with the chairman that by deleting this language from the conference report that is was not the intent of the committee to rule out the use of those methodologies during preparation of the final reports, but rather the committee expects the final reports to be consistent with the feasibility methodologies in the 1985 report and did not want to rule out the future consideration of other methodologies which may be better suited to the Lake Andes-Wagner/Marty II project.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of South Dakota. I yield to the gentleman from California.

Mr. MILLER of California. That is generally correct. It is not the intention of the committee to preclude the use of the feasibility methodologies consistent with the Lake Andes-Wagner 1985 planning report. The committee expects the final reports to be consistent with feasibility methodologies used in previous reports, and, to the extent possible, more contemporary standards used in planning water projects.

Mr. JOHNSON of South Dakota. Mr. Speaker, if I may continue with further discussion of the Lake Andes-Wagner title of the conference report, language was also deleted from original authorizing legislation which referred to the proposal dated September 29, 1987, supplemented October 30, 1987—and on file with the Interior Committee—which provided for the funding and responsibilities of the State of South Carolina and the Lake Andes-Wagner Irrigation District. I would like to clarify with the chairman that by deleting the reference to the proposal dated 1987, it was not the intent of the committee to prevent an agreement between the Secretary of the Interior and State and local interests of a similar nature. As the chairman is fully aware, the 1987 agreement was carefully authored to ensure a fair non-Federal cost share and allows for the district to administer the project at a substantial savings to the Federal Government, a savings which future cost-share agreements should reflect.

Mr. MILLER of California. I agree with the gentleman from South Dakota that it was not the intent of the committee to prevent a cost-share agreement between the Secretary of State and local interests which is similar to the 1987 proposal. I certainly understand and appreciate the willingness of the State and local interests to engage in an equitable sharing of the costs and the committee agrees that those savings generated by the district's administration of the design and construction of the project should be reflected in future cost-share agreements. Deletion of this language in the conference report of H.R. 429 is intended simply to reflect the difficulty the committee had in stating with certainty what the costs associated with this project will be since it is a project which is a few years away from construction.

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona [Mr. RHODES], a member of the Subcommittee on Water, Power and Offshore Energy Resources.

Mr. RHODES. Mr. Speaker, I rise in support of H.R. 429. This 40 title reclamation package represents nearly 4 full years of work. A package similar to this died in October 1990, in the closing hours of the 101st Congress. Some of us over the past 3 years have urged that several of these projects be allowed to proceed separately because of the delay caused by controversies about certain parts of the overall package. But it certainly, to the credit of the chairman of the committee, the gentleman from California [Mr. MILLER], that we finally made it to this point. His dogged determination has brought us to the verge of success, and although some of my colleagues on both sides of the aisle have differences with certain parts of the bill, just as I am less satisfied with parts of the bill, the fact is that the gentleman from California [Mr. MILLER] has kept his promise to move our bills during this Congress. I appreciate his tenacity, his diligence, his guidance, his help and support for issues of crucial concern to the residents of my State, and I thank him for all of that.

Having done all of that, I would like to engage the gentleman in a short colloquy if he does not mind.

Title XXXVII, section 3708(f)(1) regarding claims, provides that CAWCD and others, may, within 2 years of the enactment of this act, bring any claim in the U.S. district court or the U.S. claims court on an expedited basis. Would the chairman explain what is meant by "claims?"

Mr. MILLER of California. Section 3708(f)(2) is intended to describe claims for damages that certain irrigation districts have alleged in the past, concerning the allocation of the so-called Ak-Chin surplus water under section 3704(a) of the act to the San Carlos Apache Tribe.

Mr. RHODES. Is section 3708(f) intended to authorize a suit to challenge of enjoin the reallocation of the Ak-Chin surplus by the Secretary to the tribe as part of the tribe's settlement?

Mr. MILLER of California. No. Congress intends that the Ak-Chin water, as the other water set forth in the title, become a permanent part of the tribe's water right. Section 3708(f) is intended only to permit an expedited route for anyone who thinks they have been damaged by this reallocation, to prove up those damages, if any.

It is not intended in this title that anyone should be able to frustrate this settlement and the intent of Congress by attempting to prevent the reallocation or to set the reallocation aside, once it is complete. Section 3708(f) is not intended to enjoin or interfere with the Secretary's authority under CAP.

Mr. RHODES. I thank the gentleman for that clarification. The chairman's explanation reflects my understanding and support for section 3708(f). I want to speak briefly about two of the more important projects pertaining to Arizona in this bill—the Grand Canyon Protection Act and the San Carlos Apache Tribe water rights settlement.

GRAND CANYON PROTECTION ACT

Chairman MILLER introduced the first Grand Canyon Protection Act bill in April 1990. It passed the House that year but died in the closing hours of the 101st Congress, despite efforts by a few of us to break the Grand Canyon bill free from the omnibus package.

Chairman MILLER and I each introduced Grand Canyon protection legislation in February 1991. The bill before us contains provisions of my bill, the Interior Committee bill, and the Senate-passed Grand Canyon Protection Act.

Its essence is to require an environmental impact statement to be prepared on the effects of the operations of Glen Canyon Dam on downstream natural and cultural resources.

In 1989, the Secretary of the Interior acted on his own to begin an EIS, which is now in progress, and which must be completed within 2 years of enactment of this legislation. Permanent interim flows have now been instituted, until the EIS is completed.

The bill requires that as a result of the scientific information gathered from the environmental studies, the Secretary is to develop and implement a long-term operating regime for Glen Canyon Dam, to protect and mitigate adverse impacts to the values for which the Grand Canyon National Park was established.

In addition, and importantly, the legislation directs the Secretary to reallocate to all beneficiaries, the costs of construction, operation, maintenance, and other expenditures for Glen Canyon Dam.

Finally, the bill makes partially nonreimbursable, certain costs for the EIS and supporting studies, and the long-term monitoring program.

Mr. Speaker, this is an important bill that has been a long time coming. Working in concert with the actions already taken by the Secretary of the Interior, my hope is our actions will result in the intended purpose—to mitigate adverse impacts to and protect the rich natural and cultural resources along the Colorado River in the Grand Canyon.

Again, I thank Chairman MILLER for his leadership in passing this legislation which is important not only to those of us from Arizona, but to all Americans and others who enjoy the natural, cultural, and aesthetic riches of the Grand Canyon and the Colorado River.

SAN CARLOS APACHE WATER SETTLEMENT

The San Carlos Apache Tribe water rights settlement in title XXXVII of the bill resolves long-standing Indian and non-Indian water-rights issues we have been trying to address for over 2 years.

The legislation not only provides certainty to tribal water rights, and prevents years of costly litigation, but also provides a source of leased water for use by non-Indian residents of several east valley cities and other cities in Arizona.

Finally, the legislation authorizes and directs the Secretary of the Interior to exchange Federal lands for the 8,000-acre Planet Ranch property owned by the city of Scottsdale.

The effect of this exchange will be to provide Federal protection and enhancement of significant riparian resources along an additional 5 miles of the Bill Williams River.

The Bill Williams riparian area is home to an array of fish and wildlife species, including desert bighorn sheep, mountain lions, mule deer, quail, mourning doves, Canadian geese, several species of duck, a nesting pair of bald eagles, peregrine falcons, osprey, and the desert tortoise, to mention just a few.

This exchange will bring this property and its water rights under Federal management, preferably the BLM, and will add this important area to the several other riparian areas we have designed in Arizona over the past several years.

OTHER ARIZONA PROJECTS

SIPHON REPAIR-REPLACEMENT

Also a part of this bill is a title to authorize cost-sharing between the Federal Government and the central Arizona water conservation district, for the repair and replacement of six faulty underground water siphons that are a part of the central Arizona project.

The Bureau of Reclamation admits that the design and/or construction of these huge siphons was flawed, causing potential rupture of the prestressed concrete pipes.

Frankly, the district, and its water users, should not have to pay any of the costs associated with Reclamation's failure to construct a reliable water delivery system, especially since the project has not been turned over to the district. This compromise is not intended to interfere with or preclude other actions available to the district regarding the siphons.

FANNIN-MCFARLAND AQUEDUCT

Another title is identical to a bill I first introduced in 1989, to rename the CAP Salt-Gila Aqueduct the "Fannin-McFarland Aqueduct." This action honors two former U.S. Senators and former Governors of Arizona, who were also two of the original visionaries and movers of the central Arizona project—Paul J. Fannin and Ernest W. McFarland.

PHOENIX AND TUCSON WASTEWATER REUSE PROJECTS

Finally, H.R. 429 also includes authorization for a cost-shared study, design and construction of a wastewater reclamation and reuse project for the Phoenix metropolitan area, and a cost-shared study of a comprehensive wastewater reclamation and reuse system to serve southern Arizona.

I urge my colleagues to support the bill, and I urge the President to sign the bill.

Mr. Speaker, this bill contains much that is extremely important to those of us who represent the Western reclamation States. I will nod my empathy and my sympathy to the gentleman from California [Mr. LEHMAN], to the gentleman from California [Mr. THOMAS], the other Members of the California delegation.

I know exactly what it is that you are telling the House, and I sympathize with you. I wish that we were not doing it this way. Unfortunately, we are.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, today I rise in opposition to H.R. 429. I rise in opposition, despite my support for reform of the Central Valley project. Although I believe that reform of the Central Valley project is critical to the future of California and will be to the benefit of all users, I also believe that H.R. 429 is going to have a devastating impact on small family farmers who may well lose their farms as a result of this bill.

Furthermore, H.R. 429 is so sweeping in its impact that it is penalizing those water districts who are paying a fair price for their water, along with farmers who are paying a mere $2.50 per acre foot. H.R. 429 fails to make any distinction between the various types of water contracts, and consequently, San Benito County water district is going to suffer immensely.

San Benito currently pays $16.50 per acre foot of water and is required to negotiate the price every 5 years. Why should they be penalized for failing to renegotiate their contract, when they are already paying a fair price and are in accord with the stated purpose of the bill?

Another water district that I represent, Pajaro Valley Water Management Agency will also be hard hit by this bill. Ground water monitoring wells have confirmed the presence of seawater intrusion inland. Continued overdraft and seawater intrusion threaten Pajaro Valley agriculture, which is the economic base of this productive valley. Hundreds of thousands of dollars have been invested in order to study the tidal basin to determine whether Pajaro Valley wants to contract for CVP water from the San Felipe division. After years and years of invested time and money, they are certain that they do want to contract for CVP water. However, as a result of this bill's no new contracts provision, Pajaro Valley will be prohibited from entering the contract.

Mr. Speaker, I think that the Central Valley Project Improvement Act has gone awry. An act that was intended to improve the Central Valley project, and to in turn restore dwindling fish and wildlife habitat in the Central Valley has turned into an antiagriculture bill without any certainty that its requirements will result in the desired environmental impact. Although the environment may improve as a result of this bill, it will be at a tremendous cost to the California agricultural industry, and it will be at a cost that is not justified.

I am a great friend of the environment. And, I am certainly in favor of protecting it, evidenced by my recent efforts toward having the Monterey Bay Sanctuary become law. However, when doing that bill, and when doing all environmental bills, we must take into consideration all the interests and effectively balance the needs of those interests.

When I worked on the Monterey Bay Sanctuary, I made sure that it would not have a devastating impact on fishermen. Such considerations are critical when considering environmental policies. The key to protecting our environment is including as many people as possible, not alienating them. Each person must do his or her part to protect the environment. This CVP reform alienates all farmers, those who wish to take conservation measures and those who do not, those who currently pay a fair price and those who do not and finally, large corporate farmers and small family farmers. Effective environmental policy does not pit one group against another. Effective environmental policy involves all groups and ideally results in all the groups working together.

I believe that reform of the Central Valley project has the potential to benefit the farmer, the urbanite and the environmentalist alike. I know that everyone, including farmers, has to change his or her ways with respect to water use, and I also know that these changes, at first, will be painful. But, this bill causes unnecessary pain, without achieving its desired end.

Moreover, we cannot afford this bill economically. The impact on the economy is potentially drastic. Between increased prices in produce, and an increase in unemployment, as a result of this bill, California and the rest of our Nation is going to suffer. California, as we all know, is in dire fiscal times and cannot bear the impact that this bill will have.

Mr. Speaker, I would just like to reemphasize I do support reform of the Central Valley project. I think that such reform is critical to all of California, including farmers. Farmers cannot afford to farm, without taking the necessary measures to conserve in the long term. There simply is not enough water. Additionally, farmers should pay a fairer price for the water they receive. One that more accurately reflects the market price. California must conserve its water for both environmental as well as economic reasons. California must protect its agricultural industry for the same reasons. There is a balance that can be struck and I urge my colleagues to oppose this bill, so that a real solution can be found, one that considers the interests of all water users.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I wish to enter into a colloquy, if I may, with the gentleman from California [Mr. MILLER]. Mr. Speaker, section 3406(b)(1)(B) of the bill states that instream flow needs for fish and wildlife for all Central Valley project streams and rivers will be determined by the Secretary of the Interior, based upon the recommendations of the U.S. Fish and Wildlife Service which are to be developed in consultation with the California Department of Fish and Game.

Given our experiences with owls, timber and the current Secretary, it is very much my fear that—absent this provision—the Secretary might get the recommendations of the Fish and Wildlife Service but listen to the Bureau of Reclamation. I understand that it is precisely this situation that the provision is intended to address.

Is it your intent that the Secretary adhere to the recommendations that are developed by the Fish and Wildlife Service, and deviate from them only if there is clear and convincing evidence that an alternative will better suit fish and wildlife needs?

Mr. MILLER of California. Mr. Speaker, if the gentleman will yield, my answer is: Absolutely.

Mr. STUDDS. I would like to engage the gentleman in one further issue relating to the 800,000 acre feet per year for doubling the stocks of anadromous fish in the Central Valley.

Section 3406(b)(2) of the bill provides that the Secretary of the Interior can use this water for other purposes if the Secretary makes a finding that it is not needed for fish and wildlife needs.

Is it the intent of the Interior Committee that this finding would be solely based on a scientific analysis of the water supply needs of fish and wildlife and would reflect the expertise of the U.S. Fish and Wildlife Service and the California Department of Fish and Game?

Mr. MILLER of California. Yes, that is correct.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to identify myself with the comments of the gentleman from Arizona [Mr. RHODES] and to announce that there is life and water outside of California.

I recognize the difficult problems that you have there, different problems than we have in some other places. So I am hopeful that we will not and suggest that we do not lump all these things together.

This is sort of a deja vu. We did this 2 years ago, the very same thing. The underlying bill here, House bill 429, was my bill that I introduced to complete the Buffalo Bill Dam, an authorization for $5 billion. It has turned into a $2 billion colossus.

The fact is that the Buffalo Bill project was a symbol, or is a symbol, of State and Federal cooperation. It is a $135 million project. The State has paid for $50 million, and we need an authorization to complete it. It is very close to completion. We need to plant trees, I think. This project had been going on for about 10 years.

But there are 40 projects that are being held hostage here. I, too, sympathize. There are some other things that are useful here. I think it shifts some of the responsibility for paying the EIS in the Grand Canyon away from consumers of electricity to the multiple use idea. We have taken out the reclassification restriction projects on crops, and that is good.

Mr. Speaker, I really do wish that the difficult problems in California could be resolved and, as suggested earlier on the floor, not hold hostage the 40 projects here, each of which I think would receive fairly easy favorable consideration if they had the chance to be presented to the House.

Mr. Speaker, I rise in support of the bill.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Speaker, I rise today in opposition to the conference report on H.R. 429 and urge Members to support a motion to recommit H.R. 429 to the conference committee.

Despite our every effort to work productively toward resolving conflicting issues, there has been no resolution.

Californians, both rural and urban alike, will be adversely impacted if Congress adopts radical changes in the Central Valley project's [CVP] operation.

The Central Valley project, by providing a reliable supply of water, has led to the development of the San Joaquin Valley as the most productive agricultural area of the Nation and has supported urban growth both by providing the economic base for our communities and municipal water supplies.

Simply put, H.R. 429 means: job losses in the thousands; immediate bankruptcy for many family farms; unemployment for farm workers; economic devastation of small farm communities; and no water to cities that rely on CVP supplies.

In short, title XXXIV of H.R. 429 does not reform the CVP, it destroys the project as a valuable Federal asset and in the process causes water policy nightmare for California and long-term economic disaster for the Central Valley.

I urge all members concerned about the Nation's agriculture community, the economy, and a citizens rights to chose their own livelihood, to vote against this conference report and support the motion to recommit.

Mr. MILLER of California. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise, first of all, to commend the gentleman for his untiring efforts to move this legislation through this Congress. And I fully support his efforts.

I need clarification regarding section 1614 of the Reclamation Projects Authorization and Adjustment Act of 1992. With my urging, you have graciously agreed to include in the conference report, language passed by the Senate, which establishes a conjunctive use project in the San Gabriel ground water basin in my district in southern California.

The San Gabriel ground water basin is contiguous with the central ground water basin and the two basins are connected by an area known as Whittier Narrows. And, while the Secretary will participate with the metropolitan water district of southern California and the main San Gabriel water quality authority in the design, planning and construction of the conjunctive use facility in the San Gabriel basin, would it not be appropriate for the Secretary to also cooperate with the appropriate agencies in the central ground water basin regarding any project that affects the Whittier Narrows area? * * * And specifically in so far as the project may affect the movement of contaminated ground water into the central ground water basin?

Mr. MILLER of California. I yield to the gentleman from California for a response. The gentleman is correct. All appropriate agencies in the central ground water basin, including the water replenishment district of southern California, should be consulted regarding any project the Secretary deems will affect the water flowing through Whittier Narrows into the central ground water basin.

Mr. TORRES. I thank the chairman for his assurances.

□ 0010

Mr. HANSEN. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member would begin by commending the distinguished gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs, as well as the distinguished gentleman from Utah [Mr. HANSEN], the ranking member of the subcommittee, and other Members for their assistance in including in the conference report to H.R. 429 legislation introduced by this Member which amends the High Plains States Groundwater Demonstration Act, which this Member authored in a previous Congress with the support of the distinguished former chairman, Morris Udall and the distinguished former ranking Republican, Manuel Lujan. Importantly, title XXVI of the conference report would increase the authorization of the High Plains Groundwater Program from $20 to $31 million and makes other relatively minor changes in the initial authorization.

Under this program, the Secretary of the Interior, acting through the Bureau of Reclamation, other Agencies and State governments, investigates the potential for artificial recharge of aquifers and establishes groundwater recharge demonstration projects. In 1987, the 21 authorized projects were estimated to cost $18,520,400 which was under the $20 million authorized.

Seventeen projects are now underway or completed, while 4 have been deferred due to lack of sufficient funding under the current ceiling. Of the 17 projects, 6 projects have been reduced in scope or are limited to paper feasibility studies because field demonstration activities have been deleted in order to stay within the $20 million ceiling. H.R. 429 would raise the ceiling to $31 million to allow for an under-estimate of costs and the inevitable impact of the inflation that has occurred since the estimates were made in 1989 for completion of all demonstration projects directed by the original High Plains Groundwater Demonstration Program Act of 1983.

This $11 million increase in the authorization level would result in the completion of the following nine projects in eight States: Rillito Creek, Tucson, AZ; Arcade, Sacramento, CA; Stockton East, Stockton, CA, Equus Beds, Newton, KS, Big Creek, Hays, KS, Woodward, Woodward, OK, Southwest Irrigation District, ID, Wood River, Grand Island, NE, Texas High Plains, Texas Panhandle.

Mr. Speaker, many Members of this body are all too familiar with the serious shortages of water in the semiarid and arid areas of the High Plains and the West. The chronic water shortages which California and other Western States have suffered, and which have become even more serious in recent years, serve to further emphasize the need for new approaches to water management and development.

The basic purpose of the High Plains Groundwater Demonstration Program is to evaluate different ways of putting water back into the ground—artificial recharge. The program is designed to move ground water recharge technology from the research mode to the pilot demonstration phase and then, to evaluate the potential for building or rehabilitating larger operational projects.

Mr. Speaker, again, this Member would like to thank the distinguished gentleman from California [Mr. MILLER], and the distinguished gentleman from Utah [Mr. HANSEN] for their recognition of the importance of these ground water demonstration projects. Learning how to successfully recharge ground water resources in an environmentally safe fashion is very important. By taking new initiatives to conserve and enlarge our ground water resources, and preserve the high quality of those ground water resources, we will be successful.

Mr. LEHMAN of California. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Speaker, I rise in strong opposition to the conference report. Title 34 of the conference report would dramatically alter the operations of California's Central Valley project [CVP], which is the foundation of the economy of the State's Central Valley, the most productive farming region in the world. The mandates of this conference report would cripple operation of the CVP, deny water to thousands of farmers who simply cannot farm without it, and severely reduce supplies to urban areas throughout the State. The bill's promised environmental benefits are illusory at best. The legislation's principal mechanism for addressing the very real environmental problems of the Central Valley is simply to throw large amounts of water at them without regard for need or consequences.

I believe there is a real need for legislation to reform the operations of the Central Valley project so that it can more effectively meet the demands of agriculture, the environment, and California's growing cities. But this legislation does not do that. It would only worsen rather than solve California's water problems and, in the process, guarantee years of litigation and bitterness.

The farming communities of my congressional district will suffer immediate, real, and irreparable harm if this conference report becomes law. I'm not talking about the big so-called "corporate farms" that urban newspapers, the environmental community, and so many people around here like to harp about. I mean the small family farms that make up the vast majority of farming in the Central Valley. I'm talking about the 100- and 200-acre citrus farms that predominate in the Friant area of my congressional district.

The CVP serves 21,000 farms, 38,000 people working 2.2 million acres to produce more than 200 varieties of crops with a gross value that exceeds $3.5 billion annually. Sure, some of those farms are big farms, and they will be hurt by this legislation, but they will adapt and adjust and survive. Many of the small farms won't. They'll just go under. The owners and their employees will take no comfort from the knowledge that their homes, businesses and jobs were destroyed because somebody in Washington thought that dumping more water down the river might improve the environment.

This bill takes—immediately—a minimum of 1.23 million acre-feet from agriculture and urban uses and dedicates it to the environment. The 1.23 million acre-feet comes out of an average delivery of 6 million acre-feet. This year, the 7th year of a drought, the CVP delivered less than half the average.

The conference report mandates that 800,000 acre-feet be managed for fish restoration and protection; it allocates an additional 230,000 acre-feet for wildlife refuges, and another 200,000 acre-feet for fisheries on the Trinity River. Plus, the bill includes numerous other operation directives that the Bureau of Reclamation says will deprive farmers of additional water, but those figures can't be quantified yet.

Based solely on the water in the bill that can be quantified, the Bureau of Reclamation estimates that if H.R. 429 were law, nonwater rights farmers in the San Joaquin Valley would have received no water at all in 1990, 1991, and 1992. No water at all. Can you imagine what that means for a farmer in the arid West? The valley's groundwater resources are rapidly being depleted as a result of the current drought, and once that water is gone, there won't be any farming in large areas of the valley under this legislation.

It is not just farmers. The small towns and cities that depend upon the CVP for water supplies also would have been zeroed out in each of the past 3 years, according to the Bureau.

While farms and cities go without water during a drought, the environmental purposes created by the bill would receive nearly a full supply, no less than 75 percent. How is that sharing the water when farmers and small towns receive nothing at all?

Much has been made of the fact that this legislation would allow big cities like Los Angeles to buy water from Central Valley farmers. Water marketing is a good idea, but it won't work under this bill during a drought—when cities want to buy water—because all of the available water is reserved for environmental uses.

In addition to drastically reducing agricultural water supplies, the conference report would undermine the agriculture economy by depriving farmers of the certainty of water contract renewal. It also would dramatically increase the price of water to pay for environmental restoration and impose a blatantly punitive tiered pricing formula. The Bureau of Reclamation estimates that during dry years, water rates for small towns in the Central Valley could increase by as much as 60 percent.

I understand that rejecting the Central Valley project title of the conference report means rejecting many worthwhile projects that are also included in this legislation. I am not opposed to those projects and I regret we are in this situation. Last year, I and several other Members of the California delegation asked the distinguished chairman of the Senate Energy Committee to keep CVP legislation separate from the projects bill, but that request was not granted.

The CVP provisions are too weak to stand on their own. That is why they have been packaged with other projects. The idea is to guarantee votes for something that many Members would otherwise reject as bad public policy.

With this legislation, the House is being asked to do nothing less than shape the future of California. On that point there is absolutely no disagreement because the House is being asked to allocate the State's most precious of resources, water, on which all prosperity depends. It is being asked to strike a balance between the conflicting demands for that resource, and to ensure that it is fairly shared. It is being asked to decide whether the farming people of my congressional district can keep their livelihoods, or see them wither and disappear.

If the House is to help shape a prosperous future for California, then it must reject this legislation. If the House wants to fairly and equitably allocate California's water, then it must reject this conference report. If the House wants to ensure a future for the family farmers of California's Central Valley—the people who do more than their share to help feed this Nation—then the House must reject this conference report.

In an October 4 letter to all Members of Congress, Gov. Pete Wilson of California called the CVP title of the conference report "completely unacceptable to the State of California."

He's right. This bill is bad for farming, bad for urban water users, bad for California. Reject it.

Mr. MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the chairman for yielding time to me. I wish to commend the gentleman from California [Mr. MILLER], Chair of the committee, and the ranking member, the gentleman from Utah [Mr. HANSEN] for their excellent work in bringing H.R. 429 to the floor. I rise in support of the conference report.

I want to commend my friend and colleague, Chairman GEORGE MILLER, for his able work and the excellent product of his efforts—H.R. 429.

There are many facets to this legislation, and I am certain you will hear about every one of them today. Much of the discussion will dwell on the Central Valley project and who gets what out of the system. I think the important concept to remember in this discussion is: change is necessary.

Certain California water users have had almost exclusive access to their water at discount rates, while many other users, urban, environmental, and industrial, have been excluded from this advantage.

Beyond the discussion of the Central Valley project, I would like to bring to the attention of this body other innovative projects included in H.R. 429 that will provide valuable economic benefits to California.

First, the Sonoma Baylands wetlands demonstration project, which would recycle dredge material to restore wetlands. California has experienced a significant loss of wetlands in this century; over a half million acres have been lost in the bay area since 1850, leaving approximately 45,000 acres existing today. There exists a strong need to address this diminishing resource and to be creative in our approach.

The importance of dredging, to sustain maritime commerce and to maintain a stable economy, is a fact of life we cannot ignore. At the same time, the importance of wetlands to preserving water quality and providing flood control cannot be ignored.

The Sonoma Baylands project will provide a means to restore rapidly diminishing wetlands by utilizing safe dredge material to restore a 322-acre tidal marsh habitat. Over the next 50 years, it is projected that almost one-half billion cubic yards will need to be dredged from San Francisco Bay. Development of the Sonoma Baylands wetland site is a priority because of the environmental importance of recycling suitable dredge material for beneficial reuse, and because of it economic importance for continuing commerce in our community.

This innovative approach would couple the need to dredge with an effort to preserve the bay's natural environment. Both are essential for promoting the economic vitality of the bay area. The Sonoma Baylands project could serve as a creative environmental model for other water-based communities that depend on dredging to support commerce and the economy.

Also included in H.R. 429 is a project referred to as solar aquatics. The technology made available in this project is based on a greenhouse system to purify water naturally by simulating small-scale pond and marsh ecosystems. Toxic elements and other concentrated elements are broken down symbiotically to produce quality water for reclamation and reuse.

Because of the severe drought that has plagued California for the past 6 years, the possibility that an environmentally sound technology could be devised for the purpose of reclaiming wastewater is an extremely important idea to pursue. This reclamation process could provide water that is now unavailable to maintain parks and landscaping and could also substitute for the water used in firefighting, as well as for other nonpotable uses.

Solar aquatics will enable us to experiment with a new natural-based treatment to produce much needed water for California communities, and other areas in the country under drought conditions. The savings anticipated from such a project, compared to the expensive conventional technologies, would be tremendous for our cities. This demonstration project is useful in determining whether or not similar projects could be applied to other communities in the Nation where savings might be realized. I commend the chairman for his forward thinking on this project and for his support of this environmentally based reclamation technology.

A third reclamation project, which calls for study, would analyze the feasibility of transporting nonpotable wastewater, to be combined with clean water, for irrigation purposes in agricultural districts. I believe this is an area of potential where urban areas might aid in reclaiming water to export and reuse elsewhere in the State, and to benefit agricultural water users. Again, this is an innovative approach where we are charting new territory. Given the severity of drought conditions in California, these are imaginative ideas that should be pursued on behalf of all water users in our State. And, as I mentioned, the importance of providing models for other communities should not be ignored.

In closing, Mr. Chairman, I commend the efforts of those who brought H.R. 429 before us today. Many long hours went into this final product. It is a worthy effort, and one that will not only bring reform, but bring a stronger, coherent water policy to our State. It is time to pull the plug on the present system. Thank you, and I urge my colleagues to support H.R. 429.

□ 0020

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, for the last 5 years, I have spent a large part of my time working on legislation to complete the central Utah water project. Its enactment will be the highlight of my service in this House. At the end of the last Congress, we came agonizingly close to final passage and signature by the President, only to be denied by the lack of a last-hour compromise on some of the same difficult California water-use issues that appear to be close to resolution here tonight.

I want to commend the chairman of the Interior Committee, Mr. MILLER, for pushing these needed reforms and water projects over the last few years. I know it has not been easy. The central Utah project, the product of 5 years of negotiation between water-users and environmentalists, is consensus legislation and has not itself been controversial, but the thorny issue of California water use and conservation has been a real challenge to resolve. My congratulations to Chairman MILLER and his staff for their untiring efforts.

The central Utah project is a model for future water projects in the United States, a model of environmental enhancement as well as of water development. The water-users in Utah will be required to make one of the largest contributions of any water project that has ever come before Congress. The CUP contains water conservation measures that are the most far reaching ever passed. American water policy is badly in need of reform. In the West, this, our most precious resource, has too often been squandered. The CUP not only demonstrates that water can be used responsibly, but that groups as diverse as farmers, environmentalists, native Americans, can reach consensus on that issue.

Utah is the second most arid State in the country, and water is the key to economic development. If we do not have the water to sustain our growth, we cannot attract business. Without water for future, we will wither. With that water, we will blossom. The central Utah project is Utah's link to the future, protecting both our economic vitality and our environmental heritage. I believe this may be the most important piece of Utah-specific legislation since statehood almost 100 years ago.

The original central Utah project was proposed 35 years ago as the largest trans-basin diversion of water in the country. As initially planned and partially developed, it was inconsistent with our environmental ethic and inflicted great damage to Utah's natural environment. It was also inconsistent with the Nation's fiscal realities, with some planned water projects that were clearly uneconomical and unnecessary. This bill corrects both of those failures.

More than 50 sportsmen's and environmental groups have spent the last 4 years working with the Utah delegation to rehabilitate and redesign the CUP. We left more water in the mountains, established minimum stream flow requirements, and quadrupled class A fishing streams. We will complete a series of parks along the Jordan River in the Salt Lake valley and establish a wildlife refuge on Utah Lake, one of the ten most important and still unprotected wetlands in the West. We will establish a mitigation commission, to coordinate agency projects and address fish and wildlife problems and provide $170 million for environmental repair, enhancements, and mitigation. The bill also provides a settlement for the Ute Indian tribe of over $125 million which fulfills a long-standing Federal promise to the tribe.

On the fiscal side, we placed a cap on bureaucratic overhead, killed hundreds of millions of dollars of unneeded water projects, and with the Utah share of the cost set at 35 percent the largest of any such water project, we have responsibly protected the American taxpayer.

Utahns will benefit from the environmental care and growth opportunities developed in this bill. I am proud of these accomplishments, and I express my appreciation for the dedication and spirit of the individuals who worked on this bill. I think it is very significant, that the interested parties and Utah's congressional delegation have achieved consensus on every aspect of the project.

That consensus has not been accidental, and it has certainly not been easy, but it has been the result of a willingness by many people with divergent interests to find a compromise that is acceptable to all. It represents a huge expenditure of time and energy to rationally redesign and update an antiquated project for the people of Utah.

Utah needs the central Utah project and the country needs the sensible water reforms contained in H.R. 429. The bottom line is that we can no longer afford to waste water in the West. The provisions in the conference report today are necessary to correct longstanding errors in U.S. water policy. Once again, I hope the House will resoundingly demonstrate its commitment to this new and appropriate vision of modern water use by passing this conference report today.

Mr. MILLER of California. Mr. Speaker, could the Chair inform us how much time we have remaining?

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Utah [Mr. HANSEN] has 5 minutes remaining, the gentleman from California [Mr. LEHMAN] has 7 minutes remaining, and the gentleman from California [Mr. MILLER] has 8 minutes remaining. The gentleman from California [Mr. MILLER] is entitled to close debate.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota.

Mr. Speaker, I want to commend Chairman MILLER and the Interior Committee for their excellent work on the conference report on the Water Reclamation Authorization and Adjustment Act. There are many important features in this bill, but I will not attempt to enumerate them all at this late hour in the session. Permit me to emphasize one provision of the agreement on which Congress has been at work since the mid-1980's.

The conference agreement on H.R. 429 incorporates provisions of my bill H.R. 2414, and the Senate companion bill S. 168. These bills were introduced to compensate the Standing Rock Sioux Tribe and Three Affiliated Tribes for unrequited damages following the Federal Government's construction of massive hydroelectric projects on their respective reservations in the Dakotas.

This committee has played a vital role in protecting the interests of these and other tribes adversely affected by Federal projects and I commend Chairman MILLER for his active oversight of these matters. I also want to acknowledge the work of the late Senator Quentin Burdick and Senator KENT CONRAD from North Dakota in advancing this bill, May I also thank the Senate Committee on Indian Affairs, which favorably reported the bill that eventually was incorporated as title XXXV of this bill.

Title XXXV will provide long-overdue compensation to two Indian tribes from the Dakotas whose lives and lands were devastated by public power projects. I might point out that the Standing Rock Reservation straddles the border between the Dakotas, while the Three Affiliated Tribes reside in North Dakota. This title will compensate the Three Affiliated Tribes and the Standing Rock Sioux Tribe for having their reservations inundated by the reservoirs behind the Garrison and Oahe Dams.

I might also note that H.R. 2414 is part of a wider and ongoing effort to compensate all the citizens of North Dakota for the loss of 500,000 acres of prime farmland and the adverse impacts of the Garrison and Oahe Dams. My State is still struggling to realize the promise of water development provided by the Garrison Diversion Reformulation Act.

TRIBAL LOSSES FROM POWER PROJECTS

The tribes themselves lost over 200,000 acres of land as reservoirs swept across their tribal homelands. In the process, schools, hospitals, homes, and the only bridges spanning the Missouri River sectors of the reservations were destroyed. And so were a traditional culture, society, and economy which had sustained these proud peoples for generations.

Uprooted from the fertile Missouri River bottomlands, hundreds of Indian families were forced to abandon a way of life. Sadly, many have not found health or happiness in their new towns and new communities. The Three Affiliated Tribes, I learned at a 1987 hearing, lost their customary source of fresh fruits and vegetables and soon suffered a diabetes rate over 10 times the national average.

Tribal members at Standing Rock faced much the same fate. Switching to the high sodium, high fat commodity foods and abandoning traditional diets has compounded the staggering problems of heart disease, diabetes, and kidney problems on the reservation. A 1990 hearing which I held has pointed the way for some needed improvements, but there is still much to do.

Unemployment rates often exceeding 50 percent and rampant alcoholism continue to debilitate the lives of tribal members on both reservations. Despite earnest efforts to generate jobs and to curb alcoholism, progress has been slow at best.

I am pleased that the Interior Committee recently agreed to my amendment to the Indian Health Care amendments which will establish a model alcoholism treatment program at Standing Rock, which already has under way a promising cooperative program involving the tribe, the Indian Health Service, and the North Dakota Department of Human Services. I hope that this model program will be replicated at Fort Berthold, too, whose own treatment program was recently certified by the State of North Dakota.

This compensation legislation offers the opportunity to reverse these sorry trends and to write a new chapter in the history of Federal-tribal relations. The agreement declares that the Federal Government unfairly compensated these tribes and now must seek to redress those wrongs, beyond the insufficient payments they received at the time of the taking acts.

JTAC AND GAO RECOMMENDATIONS

The legislation grows out of recommendations from the Joint Tribal Advisory Commission [JTAC], the special investigative body impaneled by Secretary of the Interior Hodel in 1985. The commission reported that:

> The tribes of the Standing Rock and Fort Berthold Reservations bore an inordinate share of the cost of implementing the Pick-Sloan Missouri River Basin Program mainstream reservoirs.

The panel recommended financial and other compensation to make up the difference between the tribes' actual loss and the amount they received at the time of the taking. The commission recommendations ranged from $180 to $350 million for Standing Rock and from $180 million to some $400 million for Fort Berthold. The General Accounting Office has determined that the commission overstated tribal losses and that a more accurate accounting would put the respective losses at between $64 to $170 million for Standing Rock and $52 to $149 million for Fort Berthold.

The conference agreement provides compensation below the JTAC levels—as result of the GAO review and years of hard work and compromises. The challenge was to find a level of compensation which reasonably redressed the tribes' losses while also taking account our present fiscal pressures. Title XXXV, therefore, authorizes economic recovery funds of approximately $90 million in compensation to both tribes. This reflects a midpoint in the range of GAO recommendations made on April 12, 1991. These levels are identical to those in the House and Senate bills.

I would also like to clarify that the Garrison Diversion Reformulation Act, another product of a mid-1980's Interior review, does not address any compensation to which JTAC said the tribes were entitled. This conference agreement does, however, convert a $60 million authorization for irrigation by the Three Affiliated Tribes contained in the Garrison Diversion Reformulation Act into additional funds to be rolled into the Fort Berthold Recovery Fund.

COMPENSATION FOR EDUCATION AND ECONOMIC DEVELOPMENT

The compensation is provided not as direct payments but in the form of economic recovery funds. I stress that the provision bars per capita payments. The tribes may use only the interest from these funds for education, social welfare, economic development, and other tribal programs which must be approved by the Secretary of the Interior.

I would further stress the importance of effective plans, clear accountability, and grassroots tribal involvement in developing and implementing the recovery programs. The conference agreement did not include explicit provisions to do so. However, as an author of the legislation I want to state for the record that certain accountability should be included in the criteria by which the Secretary of the Interior would approve plans mandated by the conference report.

The title also embraces recommendations to sell or transfer certain lands no longer needed for management of the reservoirs to the tribes or to the prior Indian or non-Indian owners—or heirs. This is a matter of simple equity for all persons in the affected areas.

It further clarifies that the Standing Rock Sioux Tribe may undertake approved irrigation projects under the Garrison Reformulation Act throughout the reservation. The Bureau of

Reclamation has currently imposed a legalistic limitation which confines irrigation to the immediate vicinity of the town of Fort Yates. This change will afford the tribe more flexibility in advancing economic development throughout the reservation.

Let me finally observe that the intent of this bill is to compensate two Dakota tribes without causing an increase in public power rates—an increase which would adversely and inappropriately affect rural electric co-ops both on and off the reservations.

This legislation concludes a long and frustrating struggle for justice on the part of the Standing Rock Sioux and the Three Affiliated Tribes. I want to thank the tribes for their unending patience and commend the Interior Committee, in turn, for its cooperation in seeing that justice is finally done.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in support of H.R. 429, the Water Reclamation Projects Authorization and Adjustment Act. This bill contains many water projects important to Arizona and is the product of years of work.

This bill includes language necessary to protect one of this Nation's crown jewels, the Grand Canyon. Releases from the Glen Canyon Dam have had adverse effect on the natural and cultural resources downstream from the dam. The bill requires scientific environmental studies to mitigate and resolve the negative impacts on the Grand Canyon. The Grand Canyon is simply too precious not to protect and this bill establishes the framework to do it.

H.R. 429 also will settle water rights claims in Arizona by including the terms of the San Carlos Apache Water Rights Settlement Act. The language in the settlement is the result of years of negotiations and will benefit Arizonans by providing certainty and avoiding time-consuming and expensive litigation.

Another important provision in this bill will result in the repair and replacement of 6 defective underground water siphons as part of the central Arizona project. The language requires a 50-50 cost share between the central Arizona water conservation district and the Federal Government. Although the design and construction of the siphons is defective, the Central Arizona Water Conservation District has agreed to pay for half the cost of repair. This is a good deal for the Federal Government and the CAWCD should be commended for its willingness to compromise.

Finally, this bill includes two important cost-shared water reuse projects in Phoenix and Tucson. The Tucson project is for a study of a comprehensive wasterwater reclamation and reuse system for southern Arizona.

I would like to thank Chairman MILLER for his work on this bill. A bill of this magnitude, 40 titles, many of them controversial, most of them complex, requires perseverance and leadership, both of which have been demonstrated by the chairman. I would also extend my appreciation to the ranking Republican, Mr. HANSEN, and I would also like to thank my colleague and friend from Arizona, JAY RHODES. Without his dedication, knowledge, and leadership there would not be a water bill with such vital provisions for Arizona and the country. All those who depend on water supplies in Arizona and all those who enjoy the spectacular beauty of the Grand Canyon will benefit from this bill. I urge support for this legislation.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding time to me. Mr. Speaker, I would like to engage the distinguished chairman of the Interior and Insular Affairs Committee, Chairman MILLER, in a colloquy on the conference report which accompanies the bill H.R. 429.

Mr. Speaker, as you know, I have serious concerns about title 34 of this legislation. Under this title, many local water districts in California may be adversely affected by the lack of safeguards not only during normal water years, but particularly during drought. Specifically, the water which is contracted for, by municipal and industrial contracts of the Central Valley project, will be at serious risk. These M&I water districts supply drinking water to many cities in California. One of these water districts, severely affected, is the Santa Clara Valley Water District, which provides the only Federal source of drinking water for my district.

Currently, the Bureau of Reclamation has been treating certain similarly situated CVP M&I contractors differently. A few of the CVP M&I contractors have preferential clauses in their contracts which protect them against a shortage of water during dry years. This protection places a limit on the amount of water that the Bureau of Reclamation can cut off during drought. I believe that all CVP M&I districts who are in the same situation should be treated the same way. We should not leave major cities of California without a drop of water during drought.

Would you agree, Mr. Chairman, that the intent of this legislation is not to unduly burden the urban areas of California—leaving them with no reliable source of drinking water during a drought? Mr. Chairman, would you join me in a letter to the Secretary of Interior advising the Bureau of Reclamation to ensure that there is sufficient water available to the Santa Clara Valley Water District and other CVP M&I contractors during a drought? I would be happy to work with the gentleman to ensure that the Secretary directs the Bureau to adopt, with due haste, a policy to provide a basis protection to the urban districts of California.

Would the gentleman agree to hold hearings when the 103rd Congress convenes and to consider additional legislation to resolve this serious problem with far-reaching consequences to my urban district and many other urban districts in California?

Mr. MILLER of California. Will the gentleman yield?

Mr. MINETA. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I agree with the concerns of the gentleman over the Bureau's inequitable treatment of CVP M&I contractors, and it is not the intent of this legislation to deprive CVP M&I contractors of a reliable water supply.

I would point out that section 3406(b)(2)(C) addresses the concerns you have raised by directing the Secretary to operate the project in times of drought in a way that does not jeopardize human health and safety. This language was included because the Bureau of Reclamation has a history of ignoring the needs of urban areas in order to meet the needs of agricultural customers.

And, I would be happy to work with the gentleman to see the Secretary directs the Bureau to adopt a more realistic policy to provide a basic protection to the urban districts of California.

Mr. MINETA. Mr. Speaker, I agree with the distinguished gentleman, and I want to thank him for the leadership which he has taken on this issue.

Mr. Speaker, I rise in strong opposition to this bill.

The problem of how to allocate scarce water supplies is one of the most important issues facing California today. Water is the lifeblood of California, which has been suffering from drought these last 6 years.

There is no doubt that we need reforms in the way that water from the Central Valley project is allocated and used. In particular, I am in strong support of the need to provide water for environmental protection—including fish and wildlife protection.

However, I am concerned about one aspect of this legislation that could put my constituents in Santa Clara County, and Californians in other urban areas, in danger of having their water completely cut off in times of drought.

Specifically, I am concerned about the bill's lack of protections for CVP's municipal and industrial water users during times of drought.

Currently, some M&I contractors have preferential clauses in their contracts which protect them against a shortage of water during dry years. But there are at least 13 different CVP municipal and industrial water contractors, serving California's urban areas, which lack any such protection.

I believe that this legislation should have provided minimal drought protections to all M&I water contractors, in the same way that basic protections were provided to other water users. Unfortunately, that is not the case.

As the legislation is written now, some communities served by M&I contractors, including my constituents, could find themselves with no water available during times of drought. According to this legislation, whether that would happen would be up to the Secretary of the Interior.

Frankly, I do not think it should be up to some bureaucrat in Washington to decide whether the people of San Jose have water to drink.

Unfortunately, too many of the decisions on this bill were made at the last minute, behind closed doors, in backroom deals. I don't believe that's the way we should do business in Congress, especially on such critical issues.

This bill is dangerously flawed in its lack of minimal commonsense protections for communities and cities and counties all over California. I cannot support a bill that will force the people of Santa Clara County to beg for water from some Washington bureaucrat.

Mr. Speaker, I urge a "no" vote on this bill.

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Mr. LEHMAN of California. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, it is with some sadness that I rise recognizing the fact that the gentleman from California [Mr. MILLER] who chairs a full committee is at the end of an era. His procedure in putting bills together is a classic mode. Unfortunately, that model for him will not be available in the next Congress or in future Congresses.

It is the idea of holding people hostage. You heard only one person come to the microphone tonight and say he was a willing participant. And we are all familiar with the Patty Hearst syndrome.

It does not have to be this way. Just about a month ago, Members of the Committee on Ways and Means came to the floor with individual Members' bills. We decided that it made sense that the individual tax position that a Member was pushing stand or fall on its own merit. Some of them went on suspension. We moved individual bills. They do not have to be packaged.

There is a reason why they are packaged. I mentioned earlier the movie "Dog Day Afternoon." Some of you are familiar with it. What started out as a good idea wound up falling apart. That is exactly where we are.

The vault is not going to open, GEORGE. The President will not sign this bill. You are holding hostage a number of very worthwhile projects. Give them up. JAY RHODES' mother asks you, give him up. JIM HANSEN'S mother says let him go. It ain't going to work.

I will offer shortly a motion to recommit with instructions which frees all of these other worthwhile projects. If you want to free Wyoming, Utah, Colorado, Texas, New Mexico, Kansas, Arizona, South Dakota, Washington, Nebraska, Oklahoma, or Idaho, support the motion to recommit.

It does not have to be this way. The motion to recommit with instructions will remove that very controversial portion which is going to sink every other worthwhile project in the bill. If you vote for the motion to recommit with instructions, we will remove title 34, and then all of these other projects, all of those Members who came reluctantly to the well and said we wish it were otherwise, but it is not and, therefore, we will have to go along with it, will then be free.

GEORGE MILLER can set the tone for a new era. He can agree that the idea of taking hostages is no longer the way to package legislation, or he can decide that if he cannot get his way, no one else is going to get theirs.

It is your decision. Is he going to sink everybody, or are we going to separate it so in the last hours of this Congress those good and worthy projects can go forward?

If you vote yes on the motion to recommit with instructions, the hostages will be set free.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I rise today to voice my reluctant opposition to H.R. 429, the Omnibus Western Water Projects Act, because of my vehement opposition to title 34. The Central Valley project reforms contained within this legislation have the potential to cause devastating harm to millions of Californians and consumers alike who benefit from the nuts, cotton, fresh fruit, and vegetables produced in the San Joaquin Valley.

Currently, the Central Valley project serves nearly 21,000 farms, 38,000 people, and 2.2 million acres. The resulting gross crop value exceeds $3.5 billion.

This is basically a good bill. Unfortunately, the increased costs and decreased water availability that would result from title 34 could cost thousands of jobs, millions of dollars in lost wages, eliminate thousands of productive farm acres, and result in millions of dollars in lost farm receipts.

While it's unclear what effect the so-called CVP reform will have on fish and wildlife, the damaging impact of the CVP provision is all too clear. Farmers, related industries, and consumers would be harmed.

Title 34 of the Western Water Projects Act is opposed by Secretary Lujan, Secretary Madigan, Senator SEYMOUR, Governor Wilson, the farm community, California Resource Conservation Districts, and the Association of California Water Agencies. Because of the title 34 provisions, I reluctantly urge the President to veto this measure.

Mr. Speaker, I would like to close by reading the conclusion to an analysis recently compiled by the U.S. Department of the Interior:

> In summary, the Department of the Interior believes that the enactment of the CVP reform would have negative economic and environmental impacts and would undoubtedly result in many years of litigation during which time no progress would be made towards restoration of environmental values. It would also represent a significant step backwards in achieving the fair and equitable allocation of the resource and would severely exacerbate the current state of polarization that exists among the three major groups of water users in California—urban, agricultural, and environmental.

I urge my colleagues to oppose this measure.

Mr. LEHMAN of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it is really with great sadness that we reach this hour on the floor tonight. I had hoped for 2 years that we could have reached this point with a consensus bill developed out of the spirit of cooperation instead of this bill that has been developed without that cooperation and is indeed an attempt to thrust something very difficult down our throats.

This legislation has lofty intentions, I do not question that. The restoration of fish and wildlife on a grand scale is something to be desired. But these goals are never going to be accomplished through the ruthless policies that this bill embraces.

Those who advocate this legislation will face the consequences of their action in due time. Remember the 21,000 farming families farming over 2.2 million acres with crop values up to $3.5 billion who will have the value of their land ripped out from under them by this legislation. Remember the dozens of communities depending on this water as the sole source of their economy.

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And remember that you cannot take away all this productivity without destroying a major source for the consumers of this country.

I urge support for the motion to recommit. Let us take the California portions out of this bill and vote on the projects.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on H.R. 429, the Reclamation Projects Act. The bill has many good provisions. It represents many years of work, under the leadership and guidance of Interior Committee Chairman GEORGE MILLER, to bring much needed reform to our water reclamation policies. As an Interior Committee member and a House conferee, I was pleased to be able to serve with Chairman MILLER to help achieve the objectives and much needed changes in policy, especially as they relate to the Central Valley project in California. With this agreement, an immense system which was operating as if it was the 1930's will be reformed to the realities of the 1990's. Mr. Speaker, I well recall in the late 1970's when I joined the Interior Committee and those of us who sought reform were shut out—with limited progress by the power in the House.

As a House conferee, I had principal responsibility for title 40, the Historic Preservation Act Amendments, which had been added to H.R. 429 by the Senate. After many years of effort by the historic preservation community and significant effort by the House and Senate, and considerable assistance from our excellent House parks and public lands staff member Heather Huyck, we have agreement on the amendments to the National Historic Preservation Act. This act, first enacted in 1966, is the cornerstone of historic preservation in this country. The National Historic Preservation Program, established by the 1966 act, has clearly proven its value to this country. Without the National Historic Preservation Act, we may well have forfeited much of our inheritance to wanton and unthinking destruction. This act has allowed us to make conscious decisions about preserving our heritage.

I particularly want to thank my friend and colleague CHARLIE BENNETT for his House leadership on this legislation. His passion for historic preservation has been notable for many years, including authorship of the Timucuan Ecological and Historic Preserve and the Abandoned Shipwreck Act. I also want to thank all the members of the preservation community—American Institute of Architects, the American Institute for Conservation, the Association for Preservation Technology, the American Society for Landscape Architecture, the Federal Preservation Officers, the National Coordinating Council for the Promotion of History, the National Conference of State Historic Preservation Officers, the National Council for Preservation Education, the National Council for Public History, the National Trust for Historic Preservation, and the Society for American Archaeology, as well as the many other public and private preservationists who worked so hard to assist us in our efforts to ensure that title 40 of the conference report was a good and balanced policy. The preservation program is well served by this legislation, and I thank each and every one of them for their efforts. Clearly with such a range of issues weaving together sound policy on a collaborative basis is a challenge but the fact is that such interest is a real strength to protect the cultural resources—our heritage.

Under the National Historic Preservation Act we have a partnership among the Federal Government, the States, and the private sector. With these amendments, we explicitly acknowledge that the Indian Tribes and native Hawaiians are an integral part of that partnership. Within the Federal Government the National Park Service and the Advisory Council on Historic Preservation serve as the lead agencies, each with distinct responsibilities. Other Federal agencies, whether land managing or not, whether civilian or military have explicit and essential responsibilities for this partnership. The State Historic Preservation Offices also play an essential role in the Historic Preservation Program, as do the localities that work with the States, as well as the National Trust for Historic Preservation which has a key role in the partnership. In order for the Historic Preservation Program to work well, there must be a balance of responsibilities and authorities among the partners, much as we have a system of checks and balances in our government. Another principle of the program is that historic preservation is an orderly process rather than an absolute prescription for how we care for our heritage. A balance must be found between the preservation of our Nation's heritage and the needs of our future.

As originally proposed a few years ago, the proposed bill envisioned establishing a separate Federal agency for historic preservation, much like the now defunct Heritage Recreation and Conservation Service. After careful consideration, that approach was rejected, in the belief that the proper focus for the National Register of historic places and the programs associated with the National Register is in the National Park Service. As this bill is enacted, the preservation functions of the Secretary of the Interior are firmly grounded within the National Park Service. The National Park Service has a dual responsibility to the Heritage resources located in the parks and to those resources outside them.

I want to take particular note of several key provisions which strengthen the national Historic Preservation Act. First, the anticipatory demolition provision ensures that those people who deliberately destroy historic properties in order to bypass the National Historic Preservation Act cannot automatically or easily then receive Federal assistance on the properties they have damaged. Second, Indian tribes and native Hawaiians are properly recognized as partners in historic preservation and preservation programs tailored to their circumstances are established. Third, the center for preservation technology and training is established in Natchitoches, LA to provide research, information distribution and training in the many varied disciplines of historic preservation.

Fourth, the historic sites act of 1935 is amended to prevent the obligation or appropriation of funds being made under that act without proper authorization. Fifth, the Secretary may enter into contracts and cooperative agreements with states to assist the secretary in carrying out several of the functions of the historic preservation program. The secretary retains final authority in all decisions, as he must to ensure national consistency and to protect the program from unwarranted interference. Sixth, the bill strengthens the definition of "undertaking" and clarifies that conservation and landscape architecture are also historic preservation disciplines. This bill strengthens the professionalism of employees and contractors active in historic preservation. It prohibits Federal agency heads from delegating to others their decision to walk away from negotiations with the Advisory Council on Historic Preservation and requires that such agency decisions to terminate consultation with the Advisory Council on Historic Preservation be documented. It directs the Secretary to work with owners of historic resources to assist them in preserving such properties. Such an approach will help provide alternatives to outright acquisition and gives the Secretary a stronger mandate to work with the public in such preservation. By establishing a single grant ratio for States this bill will simplify bookkeeping. By placing a cap on administrative expenses it will ensure that the funds from the historic preservation fund go to actual preservation personnel and activities and not to high overhead rates.

The establishment of the Center for Preservation Technology and Training has long been a goal of the historic preservation community. The center is to be a practical approach to enhancing the physical protection of our heritage, using the expertise of all the disciplines involved in preservation. I intend to pursue legislation in the next Congress to strengthen the legal protection of such heritage. The decision to have a preservation technology and training grants program rather than affiliated preservation centers was based on the simple principle that the funds appropriated for preservation technology and training should go to actual on-the-ground and in-the-lab-and-classroom work and not to overhead. Grants must be distributed to the various preservation disciplines, as well as be used to increase the coordination and cooperation among them. They need to be used both for high technology research and implementation and for high skills research and implementation. We can study preservation problems with the most sophisticated methods and instruments possible but if we do not utilize that research on the tangible resources themelves we have accomplished little. Utilizing research often entails highly skilled craftspeople patiently applying their knowledge to the complexity of real-life problems. Grants need to be for both. Often high technology analysis is coupled with high skills implementation.

The diversity of existing preservation training programs is impressive—some 75 programs and more than 200 courses teaching different aspect of preservation practice. Eligible preservation grant recipients include accredited schools of architecture and landscape architecture; departments of history; museum programs; historic sites; laboratories; units of the national park system, and the State, tribal, and Hawaiian historic preservation offices. A list whose variety reflects historic preservation itself.

Concern was expressed that the programs of the National Park Service—the National Register of Historic Places, Tax Act certification, National Historic Landmark Monitoring, State program review—would be diminished by these amendments. I want to be quite clear that I support those programs, that I want them to become stronger and to better serve as a bridge between the national park service and the larger community. I do not support a transfer of existing National Park Service functions to other entities. I do support an expansion of National Park Service efforts to be better coordinated with the State programs.

In the process of enacting this legislation, the richness of existing resources for preservation technology and training became apparent. For example, the association for preservation technology specializes in just these concerns. There are also many different centers within the National Park Service, including the facilities at Harpers Ferry, WV, and the preservation center at Lowell, as well as the Western Archeological and Conservation Center in Tucson, AZ. These centers need to be better coordinated with each other, with the parks and with the larger community. They also need to work with the center for preservation technology and training.

The original house proposal added landscapes as a category of historic resources. Because of disagreement about an appropriate definition of historic landscapes, they were subsequently deleted from the bill. I hope that soon an appropriate definition can be agreed to and landscapes be fully recognized as integral to our heritage. I do note that the bill clearly includes landscape architecture as one of the preservation disciplines. The bill explicitly includes curation and conservation as preservation disciplines. Curators and conservators care for objects which have long been listed as historic resources on the National Register for Historic Places. Conservators also care for structures.

At the same time, the conferees rejected the addition of intangible resources to the National Register of Historic Places. Such a rejection does not imply that we consider such resources less valuable but that the body of law and policy developed around the National Register of Historic Places should continue to apply to tangible resources, not intangible ones, as it has for 25 years. The bill also specifies that religious properties are eligible for preservation grants as long as the grants do not further religion.

Mr. Speaker, I believe these changes will stand the Historic Preservation Act in good stead for many years and I am pleased to have helped shape this law so central to the protection of our Nation's cultural resources.

Mr. MILLER of California. Mr. Speaker, Members of the House, the hour is late, but the need is great.

The need for water reform in California is here and now. It is not an issue to be decided by members of the California delegation. It is an issue to be decided by the U.S. Congress, because the issue goes to one of fairness and equity to your taxpayers, whether you live in New Jersey or Connecticut or Maryland or Texas, Nevada or Arizona; your taxpayers have pumped in billions and billions and billions of dollars to provide highly subsidized water to a small segment of California agriculture.

The question that we must answer now is: When do those taxpayers get fairness and equity in return?

These growers have had 40 years of subsidized water by virtue of their contract.

The question is about the return of fairness to the system. If we do not change this law, these same farmers will get another 40 years as mandated under the current law, another 40 years of highly subsidized water to grow, in many instances, subsidized crops, because unfortunately we were not able to keep that amendment into this bill.

So this is a question about fairness and equity for your taxpayers. It is about a question of fairness and equity for the people of the State of California.

Should they continue to be governed in a water policy that was drawn in 1940 and 1950? Should they be continued to be governed by that policy that is outdated as those days were compared to today? Or should we have the opportunity and the flexibility on behalf of the citizens to move water around our State where new need arises based upon economics, based upon population, based upon the future of the State? That is the issue that we, as Californians, have to decide with this legislation. Our Governor, our State legislature, the Congress and others will be able to decide that policy.

Without it, we will have the same policy that is now 40 years old.

Now, when you say who supports this bill, as I pointed out, business, labor, and environmentalists, newspapers. Every major newspaper in the State cries out for this Central Valley reform.

They say that this will kill business. But, interestingly enough, the biggest California bank that makes the loans to businesses in our State, the Bank of America, is asking for this CVP reform. The Trans-America Corp., the Bay Area Business Council. Why? Because California cannot prosper under the existing law. California cannot expand its economy.

An acre-foot of water put into the Santa Clara Valley creates as many as 2,000 jobs. In agriculture it creates 19 jobs. That is what it is about. It is about the opportunity of California to have future growth, future opportunity to change its direction. It is about introducing a market system for this resource to get these people out of the Federal trough, give them a chance at the market system.

Speaker after speaker talked about how they did not get subsidized water. One speaker said his farmers did not get any subsidized water. He ought to check the books. It costs $80 of your taxpayer money to get that water to their farm, and they pay $16. Who does he think is picking up the rest of the bill?

So this is an issue of national scope, national scope about fairness to the taxpayers and to the Treasury. It is about the deficit. It is about whether or not, now that we have turned people into multimillionaires, can we wean them just a little bit from the habit, the addiction of subsidies to the Federal Treasury? It is about fairness of the environment and trying to go back and to restore some of the mistakes we made in 1940 and in 1950 and in 1960, and it is about our future. It is about the hope that California can recover and that the water can allow us to do that.

So we will not be blackmailed by these same farmers, when we need water in San Diego or Los Angeles or Santa Clara or other urban areas.

That is the future of California. It is not with the agriculture of the 1940's, not with the agriculture of the 1950's.

You owe it to your taxpayers, you owe it to the environment, you owe it to our State to vote for this legislation.

There are many other good projects in this bill, many other good reforms, where people for the first time are paying local cost-sharing, for the first time are putting up local money, something unheard of in the policies of the past.

Water reform is controversial. It is tough. It is difficult. But it is due to the people of this country.

Mr. FAZIO. Mr. Speaker, I would first like to say that I greatly appreciate the consideration that the chairman of the committee, Mr. MILLER, and his counterparts in the other body have given to the concerns that I have expressed over the last several weeks about the initial House offer on title 34, the Central Valley Project Improvement Act.

I have found the chairman to be open and receptive to proposed changes to better protect the interests of the State of California and the Central Valley in particular. And, while not all of the issues of particular interest to my constituents were addressed, certainly many of their concerns are reflected in this much improved product.

As reflected in this conference report, title 34 is, in large measure, workable and balanced. It imposes additional burdens on the project to meet fish and wildlife mitigation, protection, restoration and enhancement purposes, but it does so in a clearly defined and reasonable fashion.

And, let us not forget, it imposes this additional burden because at every level, government has failed to protect these natural resources adequately. The Central Valley project is not responsible for the entire decline in the fishery and wildlife resources in the Central Valley. But it is responsible in part. And, the failure to confront this responsibility represents the greatest threat to all concerned—the State's fishing industry, the agricultural and municipal customers of the Central Valley project and the fish and wildlife affected by the operations of the Central Valley project.

Failure to adequately address Central Valley project reform will result in a continuation of crisis-based management of our fish and wildlife resources. Management by crisis will not solve the serious problems we face now and will continue to face in the future.

Management by crisis will reinforce inequitable and ineffective efforts to address this problem. Nowhere is this more evident than in the cases of the Glenn-Colusa Irrigation District [GCID] and the Anderson Cottonwood Irrigation District. In the case of GCID, the ESA has forced diversions to be cut by over 40 percent, even though these diverters are among the most senior water right holders in the valley. Acreage in production this year is less than 50 percent of normal.

GCID is the only diverter on the river that is subject to a restriction on diversions, specifically emanating out of the decision to list the winter run of the Chinook salmon. GCID is shouldering an unfair share of the burden for restoring this important run, in part because the National Marine Fisheries Service has decided not to challenge other diverters.

What we need is a balanced and broad program to restore the fishery and wildlife habitat values in the Central Valley so that all beneficiaries will share the burden equally. The conferees have made enormous strides in that direction.

With that said, I would like to take just a minute to highlight some of the specific improvements that have been made in the Central Valley project title over earlier versions of this measure.

First, the bill requires the provision of 200,000 acre feet of upfront waste less than was originally proposed.

The bill clearly allows this so-called upfront water to serve other project purposes. The language which would have barred the conjunctive use of upfront water has been stricken.

The bill also credits the upfront water toward other requirements imposed on the project under the Endangered Species Act and the requirements that we anticipate being imposed on the project under the bay-delta process. The Secretary of the Interior is required, to the greatest degree practicable, to manage the fish and wildlife water in such a manner so as to avoid duplication with these other requirements.

The conference report also establishes a clear limit on the amount of water that is provided for fish and wildlife purposes pursuant to this title—800,000 acre-feet in normal water years and 600,000 acre-feet in dry years. This is far better than the open ended, unlimited demand that would have been placed on the project pursuant to the earlier versions of title 34. It provides certainty on this score, which is of significant benefit to both the water users and the environment.

The bill also includes a provision which gives the Secretary a clear measure by which to determine when the project is meeting the new fish and wildlife "protection, mitigation, restoration and enhancement" purposes imposed on the project. The bill states that when the requirements authorized in section 3406 are implemented, the project will have met these new project purposes.

The bill also requires the Secretary to develop a plan within 3 years that will, within 15 years, increase the project yield by the amount of water dedicated to fish and wildlife under the measure. The effect of this provision is that the current beneficiaries are lending the environment the water and that no later than 15 years from now, current beneficiaries will face shortages which are no more frequent or severe than they are today.

The bill also authorizes the construction of the structural improvements that need to be made in the project to help us meet the goal of doubling the fishery. According to the Bureau of Reclamation, when implemented these structural and operational improvements will increase the effective yield of the Central Valley project by 1 million acre-feet of water. These improvements include the Shasta Dam temperature control device, a plan correcting the fish passage problems at Red Bluff Diversion Dam and a new fish screen for the GCID's Hamilton City pumping plant.

The conference report also sets up a restoration fund that limits water and power user contributions to $30 million. The bill also says that a water district's charge for the restoration fund cannot be in excess of a district's ability to pay and, under no circumstances, can such charge exceed $6 per acre-foot of water.

This restoration fund is also set up as a direct appropriation offset. This means that every dollar collected will be spent for the purposes for which it was intended. We are not creating another trust fund where millions of dollars will accumulate with no means to access them.

The conference report also includes areas of origin protections for transfers. This will give contractors in the Sacramento Valley access to about 65,000 acre-feet of water in wet years that is not currently being used by the prior rights contractors in the Sacramento Valley.

And, finally, the bill specifically exempts all settlement and exchange contract water. These contractors have a prior right to the water they receive. They were entitled to this water before the project was constructed. They are held harmless from the imposition of any new requirements, and that is appropriate given the seniority of their water rights.

I might add, Mr. Speaker, that I am certainly very pleased that the conference report before us and title 34 in particular, includes the extension of the Tehama-Colusa Canal service area to all of Yolo, Napa, and Solano Counties. This will allow these three additional counties to have first right of refusal on any water available for transfer for M&I purposes outside of the service area, and this is critical to these communities given the very serious water shortages these communities now face.

Despite all of the improvements that have been made in title 34, I am still deeply disappointed that the conference report does not include the provision I had proposed that would have provided dry year protection for the agricultural contractors within the area of origin. This was a modest provision to address the unfair way shortages are currently allocated.

Specifically, in the Sacramento Valley there are a number of contractors that have severely deficient contracts. Many have less than half the water under contract that they normally use. And because shortages are imposed on the basis of the contract amount, rather than the amount a district has historically used, these districts face even more severe cutbacks in dry years. When other agricultural districts receive 25 percent of their contract amount, these districts receive less than 12.5 percent of their normal supply. In my view, this remains a very serious deficiency in the proposal.

In addition, the fact that the measure does not include the Solano project transfer and Putah Creek enhancement title is very disappointing. The Solano bill passed the House twice and the House insisted on this provision when the House and Senate went to conference. But the Senate refused to include the provision in the conference report.

For these two reasons—the lack of a dry year shortage provision in title 34 and the fact that the conference report does not include the Solano project title—I must rise in reluctant opposition to the conference report.

On another matter Mr. Speaker, the bill requires that the delivery of the 800,000 acre feet of upfront water in the bill shall be temporarily reduced during dry years by up to 25 percent.

So, in dry years when agricultural service contracts are reduced by 25 percent or more, your intention is that the upfront water in the bill will also be reduced by up to 25 percent to 600,000 acre feet of water.

It is also the intent of the bill that after such reductions this reduced amount shall be managed to meet the purpose of the act and future obligations imposed on the project under State or Federal law, including but not limited to obligations resulting from enforcement of the Endangered Species Act or emanating from the bay-delta process.

To reiterate the bill requires the Secretary to manage the upfront water for fish and wildlife purposes, whether it has been reduced due to shortages or not. The Secretary may make a finding based on the water supply needs of fish and wildlife that some of the fishery water is available for other project purposes, as long as they are consistent with the implementation of the fish, wildlife, and habitat restoration purposes and measures authorized by title 34.

In addition, Mr. Speaker, it is also my understanding that section 3407(d) requires that contributions to the restoration fund be assessed to water and power users in the same proportions as their respective CVP repayment obligation, on a 10-year average basis. The intent of that provision is to allow for annual variations in the share of the $30 million that comes from water and power users but, over a 10-year rolling period, to ensure that neither group contributes more than its proportional share of the project's repayment obligation.

Mr. BROWN. Mr. Speaker, I rise to thank the conferees for bringing this important legislation to the floor for final action. This is an unusually complex bill with more than 40 titles and more than a little controversy.

I just want to bring to the attention of my colleagues a lesser renowned part of this bill—title 40—which pertains to the National Historic Preservation Program. In particular, I am keenly interested in and supportive of this title to establish a National Center for Preservation Technology and Training. This portion of the bill grew out of a study conducted by the Congressional Office of Technology Assessment in 1986.

This conference agreement reflects a solid consensus of the national preservation community, including its technical and scientific specialists.

In light of recent floor battles, I am also very pleased to see included in this title language making clear that any support given to the National Center is to be awarded only in accordance with accepted professional standards and rigorous peer review of projects.

I urge my colleagues to support this important legislation.

Mr. STUDDS. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 429, the Reclamation Projects Authorization and Adjustment Act. This omnibus water reclamation package is the culmination of major legislative efforts to provide adequate and equitable supplies of Western water for fish, wildlife, habitat, agriculture, and municipal interests.

Water in the West is a precious commodity. The presence or absence of water influences whether human, wildlife, fish, and plant populations flourish or not, whether regional economies prosper or not, and whether politics and environmental concerns are pitted against one another or not. During the last 7 years, the Western States have suffered a series of droughts that have parched the land, stretched the water resources, damaged numerous crops and farmers' livelihoods, and played havoc with the fish and wildlife populations which depend on water for survival.

The Committee on Merchant Marine and Fisheries received joint referrals on many provisions in H.R. 429. The titles of most concern to our committee are those that protect, mitigate, restore, and enhance both riparian and estuarine wetlands to the benefit of fish and wildlife, both within and outside of national wildlife refuges.

I support efforts to study the high salinity effects on the fish and wildlife in the Salton Sea area of southern California. I am encouraged by provisions in the Central Utah Project that recognize the necessity of instream flow requirements for fish and wildlife. A rich ground water source beneath two national wildlife refuges in southern Colorado is protected from development and water transfer. A wetlands trust and a biological diversity trust are established in South Dakota. Heavy metal contaminants in streams, sediments, and aquatic life will be monitored in central Colorado. Numerous Western fish hatcheries will be upgraded and better managed. Dredged material from the San Francisco Bay and Delta will be disposed of in such a way as to not harm fish and wildlife interests and restore and expand wetland areas. The bill includes an innovative demonstration project for the San Francisco Bay area, which utilizes artificial wetlands via a solar aquatic technique to reclaim wastewater.

Title 34, the Central Valley Project Improvement Act is of significant interest to the Merchant Marine and Fisheries Committee. It does a great deal for fish and wildlife of the Central Valley of California. Specifically, under this bill:

First, there is water dedicated over the next 10 years, 800,000 acre-feet per year, for the primary purposes of protecting, restoring, and enhancing fisheries in the Central Valley of California;

Second, there is a firm supply of water for wildlife and refuges. Even though this water is defined as supplemental, the Secretary is required to provide water of good quality to maintain and improve wetlands habitat on Federal and State wildlife refuges and wildlife management areas in the Central Valley;

Third, the Secretary will have to procure this supplemental water using various mechanisms such as conservation, water banking, purchase, lease, or similar activities, but no matter how the Secretary obtains this water, its delivery to refuges must be increased by at least 10 percent annually;

Fourth, if water deliveries to fish, wildlife, or their habitats must be reduced due to continued drought conditions or during intermittent dry years, water amounts will never be decreased more than 25 percent in any 1 year; and

Fifth, most importantly, a restoration fund is established, made up of moneys from water contract renewals, mitigation and restoration assessments, water transfers, and other deposits and donations—67 percent of which will be used for habitat restoration, improvement, and acquisition, and—33 percent of which will be used for construction projects that will benefit fish and wildlife and for incentives to encourage farmers to flood their fields during times of year when migratory waterfowl are passing through.

Water quality, quantity, and the timing of that water's delivery is critical for fish and wildlife, even more so in the arid Central Valley. It is essential that the U.S. Fish and Wildlife Service use its expertise to play a role in any decisions made by the Secretary of the Interior relating to water delivery or reclamation that may have serious effects on fish, wildlife, or the habitats upon which they depend.

Mr. MILLER of California. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is the gentleman opposed to the conference report?

Mr. THOMAS of California. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. THOMAS of California moves to recommit the conference report on the bill H.R. 429 to the committee of conference with instructions to the managers on the part of the House to disagree to Title XXXIV (Central Valley Project Improvement Act) in the conference substitute recommended by the committee of conference.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Chair would also want to point out that pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time in which a vote will be taken by electronic device. The Chair is saying that this vote will be 15 minutes, and if there is a second vote, that will be 5 minutes.

The vote was taken by electronic device, and there were—yeas 159, nays 244, not voting 29, as follows:

[Roll No. 480]

YEAS—159

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehner
Broomfield
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Clinger
Coble
Coleman (MO)

Coleman (TX)
Condit
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (TX)
Emerson
English
Espy
Fawell
Fazio
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gillmor
Gingrich
Goss
Gradison
Grandy
Hall (TX)
Hammerschmidt
Hancock
Harris
Hefley
Henry
Herger
Hobson
Hochbrueckner
Holloway
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Lagomarsino
Lehman (CA)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Luken
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Michel
Miller (OH)
Mineta
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Olin
Oxley
Packard
Panetta
Parker
Paxon
Payne (VA)
Perkins
Pickett
Pursell
Ray
Regula
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Roth
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Spence
Staggers
Stallings
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Valentine
Vander Jagt
Volkmer
Walker
Walsh
Weber
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NAYS—244

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dymally
Early
Edwards (CA)
Engel
Erdreich
Evans
Ewing
Fascell
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hamilton
Hansen
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hopkins
Horn
Horton
Houghton
Hoyer
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Rhodes
Richardson
Riggs
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solomon
Spratt
Stark
Stokes
Studds
Swett
Swift
Synar
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Vento
Visclosky
Vucanovich
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Zimmer

NOT VOTING—29

Alexander
Annunzio
Barnard
Boxer
Chandler
Clement
Davis
Dickinson
Dwyer
Eckart
Edwards (OK)
Foglietta
Gaydos
Goodling
Hall (OH)
Hatcher
Jones
Kolter
Lehman (FL)
Lipinski
McDade
Rose
Schulze
Sharp
Solarz
Stearns
Traxler
Yates
Yatron

☐ 0109

Mrs. COLLINS of Illinois changed her vote from "yea" to "nay."

Messrs. ARMEY, SKELTON, and STUMP changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report to H.R. 429, which was just agreed to.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. DORNAN of California. Mr. Speaker, on rollcall 470, the vote on H.R. 5368, the Foreign Assistance Appropriation Act, I was delayed getting to the floor to cast my vote. In the rush of events I inadvertently voted "nay" when I wanted to vote "yea."

May the historical RECORD show my support of this key legislation involving the absorption loan guarantees to Israel.

DIRECTING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 382) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 429 and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. Is the objection to the request of the gentleman from California.

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 382

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

In section 1804(e), strike out "nonreimbursable." at the end or the proviso and insert in lieu thereof "reimbursable.".

In section 1807, strike out "nonreimbursable." at the end of the proviso and insert in lieu thereof "reimbursable.".

In section 3405(d), strike out "goals and objectives" and insert in lieu thereof "purposes".

In section 3405(e), strike out "on Central" in the matter preceding paragraph (1) and insert in lieu thereof "of Central".

In section 3406(b)(13), strike out "Diversion Dam in" and insert in lieu thereof "Diversion Dam, and in".

In section 3708(f)(2), strike out "3904(a)" and insert in lieu thereof "3704(a)".

Mr. MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3590. An act for the relief of Lloyd B. Gamble.

H.R. 5483. An act to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5482) "An Act to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes.".

CONFERENCE REPORT ON H.R. 5504, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1993

Mr. MURTHA submitted the following conference report and statement on the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–1015)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and to recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 39, 45, 65, 68, 70, 88, 89, 97, 99, 101, 104, 106, 107, 108, 120, 121, 124, 127, 139, 143, 148, 154, 161, 167, 168, 169, 173, 176, 181, 185, 187, 189, 197, 199, 203, 207, 210, 211, 213, 216, 219, 220, 222, 229, 233, 234, 235, 238, 242, 245, 247, 252, 253, 255, 261, 279, 280, 282, 283, 285, 289, and 291.

That the House recede from its disagreement to the amendments of the Senate numbered 11, 13, 14, 15, 16, 17, 20, 22, 23, 24, 29, 30, 36, 42, 44, 47, 49, 50, 54, 58, 62, 64, 66, 71, 72, 73, 76, 78, 79, 83, 87, 90, 92, 100, 102, 109 110, 113, 116, 118, 126, 129, 131, 136, 138, 140, 142, 144, 146, 150, 151, 152, 155, 157, 158, 159, 160, 162, 163, 164, 171, 172, 175, 183, 184, 191, 192, 195, 201, 202, 214, 215, 226, 231, 237, 139, 241, 244, 246, 248, 251, 254, 257, 258, 259, 260, 262, 264, 265, 266, 270, 271, 272, and 273, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$23,238,457,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$19,228,564,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,980,998,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$18,522,963,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,170,496,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,653,200,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$345,526,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$729,019,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,239,702,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,166,100,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$13,442,418,000*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

After the word "Alabama'" named in said amendment insert the following: *: Provided further, That of the funds appropriated under this paragraph, $14,000,000 shall be available for Presidio of San Francisco, to be expended for ongoing operations and maintenance costs associated with the transition to the National Park Service, to be jointly determined with the National Park Service: Provided further, That of the funds appropriated under this paragraph, $100,000 shall be available only to connect Lowry Grove Mobile Home Park to the St. Anthony, Minnesota, municipal water supply system*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$19,108,558,000 and, in addition $94,500,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: Provided, That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: Provided further, That of the amounts appropriated under this heading, $25,000,000 shall not be obligated or expended until such time as the Secretary of Defense certifies to the Committee on Appropriations of the House of Representatives and the Senate that the percentage of United States military base operations and foreign national employee pay costs offset by financial or assistance-in-kind contributions made by European governments will increase during the fiscal year ending September 30, 1993: Provided further, That of the funds appropriated under this heading, $1,000,000 shall be made available only for the conduct of an Environmental Impact Study at Bellows Air Force Base: Provided further, That of the funds appropriated under this heading $900,000 shall be made available only for the development of a military land use plan in Hawaii, under the direction of the Commander-in-Chief, United States Pacific Command*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,383,138,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$16,009,040,000 and, in addition, $672,000,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: Provided, That of the amounts appropriated under this heading, $30,000,000 shall not be obligated or expended until such time as the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that the percentage of United States military base operations and foreign national employee pay costs offset by financial or assistance-in-kind contributions made by European governments will increase during the fiscal year ending September 30, 1993: Provided further, That, of the funds appropriated under this heading, $7,000,000 shall be made available only for the operation of the Theater Air Command Control and Simulation Facility at Kirtland Air Force Base: Provided further, That of the funds appropriated under this heading, $15,500,000 shall be made available only to operate, maintain and enhance the Tactical Interim CAMS and REMIS Reporting System (TICARRS) and the Smart Data System (SDS): Provided further, That SDS be maintained, with direct maintenance data input, as the supporting system for the F–117A aircraft: Provided further, That TICARRS be maintained, with direct maintenance data input, as the supporting system for the F–15 and F–16 aircraft supported by TICARRS as of October 1, 1992: Provided further, That of the funds appropriated under this heading, $4,000,000 shall be made available only to immediately complete the necessary com-*

prehensive testing and continued environmental restoration of the former Olmsted Air Force Base, Pennsylvania; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,778,004,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment insert: *$815,110,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

After the word "Provided" named in said amendment insert: *further*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That of the funds appropriated under this heading, $500,000 may be made available only for the Hawaiian Volcano Observatory for monitoring volcanic activity affecting the U.S. Army Pohakuloa Training Area: Provided further, That of the funds appropriated under this heading, $50,000,000 may be made available to the Office of Economic Adjustment for economic conversion projects at the Philadelphia Naval Shipyard: Provider further, That of the funds appropriated under this heading, $40,000,000 may be made available for the Civilian Community Corps program: Provided further, That not less than $2,000,000 shall be made available only for a feasibility study on the use of a rotary reactor thermal destruction technology in the treatment and disposal of waste regulated under the Resource Conservation and Recovery Act of 1976*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,038,525,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$850,745,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$77,870,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,195,024,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$2,255,623,000: Provided, That of the funds appropriated in this paragraph, $10,000,000 shall be available for a National Guard Outreach Program in the Los Angeles School District*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,493,689,000*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,199,700,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That if an entity to which property is transferred (or leased) is a State or political subdivision of a State, the United States shall hold harmless, defend and indemnify such entity from and against all claims, demands, losses, damages, liens, liabilities, injuries, deaths, penalties, fines, lawsuits and other proceedings, judgments, awards and costs and expenses arising out of, or in any manner predicated upon, the presence, release or threatened release of any hazardous substance, pollutant or contaminant resulting from the activities of the Department of Defense, (including the activities of any lessee, licensee or other person on the property during any time that the property was under the control of the Department of Defense)*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That the terms "hazardous substance" ("pollutant or contaminant" and "release" shall mean any hazardous waste, substance or toxic material, or their discharge or release, that is regulated under any environmental law or regulation applicable to the property, and) shall include petroleum, including crude oil; natural gas, liquefied natural gas; and asbestos: Provided further, That the term "State or political subdivision of a State" shall include the State's or the political subdivision's successors, assigns, transferees and lessees, and any person who, without participating in the management of the property, holds indicia of ownership primarily to protect its security interest in the property or improvements on the property*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$28,000,000* and strike out all after line 3 down to and including "law" on line 9 on page 17 of the House of Representatives engrossed bill, H.R. 5504 and insert: *For transportation for humanitarian relief for the people of Afghanistan and Cambodia, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian relief supplies, and excess non-lethal property for worldwide humanitarian relief, as authorized by law*; and the Senate agreed to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

After the word "personnel" named in said amendment insert: *in conjunction with humanitarian relief operations*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *, as follows:*

Army, $507,962,000,
Navy, $354,246,000,
Marine Corps, $96,679,000,
Air Force, $356,929,000,
Defense Agencies, $67,261,000,
Army Reserve, $20,502,000,
Navy Reserve, $24,631,000,
Air Force Reserve, $25,186,000,
Army National Guard, $30,400,000,
Air National Guard, $36,233,000;

In all: $1,520,029,000, to remain available for obligation until September 30, 1994, and in addition, during the current fiscal year, the Secretary of Defense shall transfer such funds as are available to up to $400,000,000 from the National Defense Stockpile Transaction Fund, to remain available for obligation until September 30, 1994: Provided further, That $200,000,000 of the funds transferred from the National Defense Stockpile Transaction Fund shall be available for the minor construction and major repair of real property for the military services and Defense Agencies, and the remainder shall be available only for repairing property which has been identified by the Department of Defense as part of a backlog of maintenance and repair projects in the justification material accompanying the President's budget request for fiscal year 1993: Provided further, That the funds transferred from the National Defense Stockpile Transaction Fund for repairing property identified as part of a backlog of maintenance and repair projects shall be allocated by the Comptroller, Department of Defense, for the projects determined by the Department of Defense as the highest priority for repair: Provided further, That of the funds available under this heading, $27,000,000 shall be available only for the repair of property identified as part of a backlog of maintenance and repair projects at the Presidio of San Francisco; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,441,842,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,051,667,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$921,389,000*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Provided, That notwithstanding any other provision of law, funds received from the sale of M48- and M60-series tanks from the Army inventory by the United States under the Arms Export Control Act in the amount of $196,625,000 in fiscal year 1991 and $771,000 in fiscal year 1992 shall be available only for the M1-series tank upgrade program;* and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,094,260,000, of which $200,000,000 shall be available only for the Armament Retooling and Manufacturing Support Initiative*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of "5 vehicles" named in said amendment insert: *1 vehicle*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,047,053,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,026,213,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,760,697,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$305,000,000: Provided, That the Secretary of the Navy is hereby granted the authority to enter into a contract for an LHD–1 amphibious assault ship which shall be funded on an incremental basis*; and the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$236,205,000*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *and inflation adjustments, $682,373,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$5,978,287,000*; and the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,615,325,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$824,607,000*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$10,029,285,000*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,369,524,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of "2 vehicles" named in said amendment insert: *1 vehicle*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$7,686,524,000*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,567,200,000*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,962,058,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$6,032,860,000, to remain available for obligation until September 30, 1994: Provided, That the general reduction of $180,583,000 taken against the appropriation level provided herein shall be applied, except for the $210,000,000 for breast cancer research, on a pro rata basis by subproject within each R–1 program element as modified by this Act: Provided further, That $210,000,000 of the funds appropriated in this paragraph shall be available for a peer reviewed breast cancer research program with the Department of the Army as executive agent: Provided further, That the Army shall coordinate with the Armed Services Biomedical Research and Evaluation Management (ASBREM) Committee to involve facilities and medical and research personnel of the Department of the Navy and the Department of the Air Force, or other entities, in addition to facilities, medical and research personnel, and resources of the Department of the Army in the breast cancer research program: Provided further, That the Department of the Army, as executive agent, shall provide a report to the congressional defense committees not later than June 1, 1993, setting forth the details of the breast cancer research program, noting inter alia the benefits which may be achieved through such research in the reduction of future costs of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS): Provided further, That $7,500,000 of the funds in this paragraph shall be made available only for establishment of a flexible manufacturing center at the Scranton Army Ammunition Plant and may be transferred to another appropriation in title III of this Act: Provided further, That*; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That $3,000,000 shall be made available only for synaptic transmission research*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That $20,000,000 for the funds appropriated in this paragraph may be made available in the Acquired Immune Deficiency Syndrome program element only for a large-scale Phase III clinical investigation of the GP–160 vaccine: Provided further, That the funds referred to in the preceding proviso may be obligated unless, within six months after the date of the enactment of this Act, the Secretary of Defense, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs submit to the Committees on Appropriations of the Senate and House of Representatives a written certification containing a determination of such officials that the large-scale Phase III clinical investigation should not proceed, the reasons for that determination, and an assessment of the GP–160 vaccine: Provided further, That if such certification is presented, the Secretary of Defense may use these funds only for other AIDS research needs of the Department of Defense*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the word "Act" named in said amendment insert: *paragraph* and in lieu of the word "shall" named in said amendment insert: *may*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *8,930,381,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That the general reduction of $277,682,000 taken against this appropriation account, as reflected in the total appropriation level provided herein, shall be applied on a pro rata basis by subproject within each R–1 program element as modified by this Act: Provided further, That not less than $1,500,000 of the funds appropriated in this paragraph shall be made available only as a grant to the West Virginia High Technology Corporation for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$13,199,006,000*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment insert: *$55,500,000*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That the general reduction of $410,515,000 taken against this appropriation account, as reflected in the total appropriation level provided herein, shall be applied on a pro rata basis by subproject within each R–1 program element as modified by this Act: Provided further, That of the funds appropriated in this paragraph, not less than $39,500,000 shall be made available in the SPACETRACK program element only to continue the Advanced Electro-Optical System project at the Air Force Maui Optical Station: Provided further, That of the funds appropriated in this paragraph, not less than $11,600,000 shall be made available in the Advanced Weapons Technology program element only for a Laser Imaging Detection and Ranging (LIDAR) project*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the words "not less than $500,000 shall" named in said amendment insert: *$500,000 may*; and the Senate agreed to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That of the funds appropriated in this paragraph, $10,000,000 shall be available only for grants to be made for the development of dual use space launch facilities to support Department of Defense and commercial space launch requirements, consistent with the terms of the National Space Policy Directive: Provided further, That the Secretary of the Air Force shall provide the Committees on Appropriations of the House of Representatives and the Senate a plan to implement this grant program not later than March 15, 1993*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the sums proposed by said amendment insert: *$9,799,911,000*; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That the general reduction of $189,065,000 taken against this appropriation account, as reflected in the appropriation level provided herein, shall be applied, except for the $3,724,800,000 for the Strategic Defense Initiative, on a pro rata basis by project within each R–1 program element as modified by this Act: Provided further, That not less than $135,000,000 of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT) missile: Provided further, That not less than $57,776,000 of the funds appropriated in this paragraph are available only for the Arrow Continuation Experiments: Provided further, That not less than $111,140,000 of the funds appropriated in this paragraph are available only for the Patriot missile program*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

After the word "Provided" named in said amendment insert: *further*; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That not less than $5,000,000 of the funds provided under the previous proviso shall be made available only to establish one of the demonstration sites for the aforementioned electric vehicle technology program in the State of Hawaii and not less than $2,500,000 of the funds provided under the previous proviso shall be made available only to establish one of the demonstration sites for the aforementioned electric vehicle technology program in Sacramento, California*; and the Senate agreed to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *Provided further, That not less than $5,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Texas Regional Institute for Environmental Studies for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $7,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Maryland for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $3,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Scranton for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $15,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Spokane Intercollegiate Research and Technology Institute for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $9,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Northeastern University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $5,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Colorado State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $4,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Louisiana State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $5,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Illinois Institute of Technology for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $5,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to Loma Linda University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Miami (Florida) for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Michigan for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $7,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Pennsylvania for lab-*

oratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $3,000,000 of the funds appropriated in this paragraph shall be made available as a grant only for the Science Center of Connecticut for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to Villanova University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $1,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Medical College of Ohio for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $3,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Rochester Institute of Technology for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to Bryant College of Rhode Island for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $7,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to Bradley University (Illinois) for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of South Florida for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That of the funds provided in this paragraph, $10,000,000 shall be made available as a grant to the National Biomedical Research Foundation for laboratory efforts associated with major research programs in neurology, oncology, virology, cardiology, pediatrics and associated specialty areas of critical importance to the Department of Defense.

GENERAL PROVISION

SEC. 401. Funds appropriated in this title that are directed to be made available for a grant to, or contract with, a college or university for the performance of research and development or for construction of a research or other facility shall be made available for that purpose without regard to, and (to the extent necessary) in contravention of, section 2361 of title 10, United States Code, which is hereby modified and superseded to the extent necessary to make each such grant or award each such contract, and any such grant or contract shall be made without regard to any of the conditions specified in subsection (b) of that section or section 2304 of title 10, United States Code.

And the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$259,707,000*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided, That, in addition to any other transfer authority contained in this Act, $1,045,800,000 shall be transferred from the Defense Business Operations Fund to appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: $480,000,000 to Operation and Maintenance, Navy; $150,800,000 to Operation and Maintenance, Marine Corps; $312,700,000 to Operation and Maintenance, Air Force, and $111,300,000 to Operation and Maintenance, Defense Agencies*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

NATIONAL DEFENSE SEALIFT FUND

(INCLUDING TRANSFER OF FUNDS)

For the National Defense Sealift Fund, $613,400,000 to remain available until expended, and in addition, to be derived by transfer, $1,875,100,000 of funds previously appropriated for sealift under the heading "Shipbuilding and Conversion, Navy" in fiscal years 1990, 1991 and 1992: Provided, That section 1024 of the National Defense Authorization Act for Fiscal Year 1993, as it passed the Senate on October 3, 1992, shall be amended in subsection 2218(c)(2) proposed for inclusion in Chapter 131 of title 10 by deleting all after "expended only" down to and including "appropriations Act" and inserting in lieu thereof, "in amounts authorized by law": Provided further, That for purposes of this paragraph, this Act shall be treated as having been enacted after the National Defense Authorization Act for Fiscal Year 1993 (regardless of the actual dates of enactment).

And the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,242,572,000*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,948,800,000*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *, of which $92,251,000 shall be for real property maintenance to remain available for obligation until September 30, 1994;*

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

After the number "1989" named in said amendment insert the following: *: Provided further, That funds made available in this section shall be obligated thirty days after the Inspector General of the Department of Defense and the Inspector General of the Department of Health and Human Services have jointly reported solely on the amounts claimed by the Health Care Financing Administration under this provision, and addressed possible procedures to avoid any future billing inaccuracies: Provided further, That the Inspectors General shall submit this report to the Secretaries of the Departments of Defense and Health and Human Services and to the Committees on Appropriations of the Senate and the House of Representatives not later than March 31, 1993: Provided further, That the Health Care Financing Administration shall refrain from pursuit of recoupment actions until such funds are obligated*; and the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That notwithstanding any other provision of law or regulation, there will be no requirement for the Secretary of Defense or any other Government official to perform any Congressionally-directed certification before the CHAMPUS Reform Initiative managed care program is expanded: Provided further, That this provision shall only apply to sites listed in Section 9032 of this Act and the Northern CHAMPUS Region*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$518,600,000*; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$244,700,000*; and the Senate agree to the same.

Amendment numbered 149:

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,140,651,000*; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$77,700,000*; and the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for transition benefits for military and civilian employees of the Department of Defense, assistance to communities and industries affected by the military drawdown, and for other expenses associated with reinvestment for economic growth as authorized in the Defense Conversion, Reinvest-

ment, and Transition Assistance Act of 1992, in addition to amounts appropriated elsewhere in this Act for such purposes; $472,000,000, to remain available for obligation until September 30, 1994: Provided, That, of the funds appropriated under this heading, $80,000,000 may be transferred by the Secretary of Defense under established procedures to the Department of Commerce, Economic Development Administration only for programs which assist workers and communities affected by the military drawdown: Provided further, That, of the funds appropriated under this heading, $76,000,000 may be made available to the Secretary of Defense for the provision of temporary health transition assistance for military and civilian employees of the Department of Defense: Provided further, That, of the funds appropriated under this heading, $72,000,000 may be made available to the Secretary of Defense for Department of Defense civilian personnel transition initiatives: Provided further, That, of the funds appropriated under this heading, $65,000,000 may be made available to the Secretary of Defense for his efforts to provide training in the field of education for military and civilian employees of the Department of Defense to relieve shortages of elementary and secondary school teachers and teacher's aides: Provided further, That, of the funds appropriated under this heading, $20,000,000 may be made available to the Secretary of Defense for Defense environmental research, education, and retraining programs: Provided further, That, of the funds appropriated under this heading, $84,000,000 may be made available to the Secretary of Defense to support job training and employment and educational opportunities for members of the armed forces who are discharged or released from active duty: Provided further, That, of the funds appropriated under this heading, $75,000,000 may be made available to the Secretary of Defense for military service members occupational conversion and training: Provided further, That amounts made available under this heading, which the Director of the Office of Management and Budget would, upon review, classify as domestic discretionary spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be withheld from obligation until provision is made for alternative use of such funds in a subsequent appropriations Act: Provided further, That for the purposes of this paragraph, this Act shall be treated as having been enacted after the National Defense Authorization Act for Fiscal Year 1993 (regardless of the actual dates of enactment).

And the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

After the number "25" named in said amendment insert: *and the Enhanced Modular Signal Processor*; and the Senate agree to the same.

Amendment numbered 166:

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of "69,929" named in said amendment insert: *70,363*

In lieu of "46,306" named in said amendment insert: *46,449* and the Senate agree to the same.

Amendment numbered 170:

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9017A* and in lieu of the number "125,000" named in said amendment insert: *131,250*; and the Senate agree to the same.

Amendment numbered 174:

That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment, as follows:

In lieu of the section named in said amendment insert: *9027A*; and the Senate agree to the same.

Amendment numbered 177:

That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted in said amendment insert: *Washington, Oregon, and the Alexandria, Louisiana (England Air Force Base), Fort Worth, Texas (Carswell Air Force Base) and Austin, Texas (Bergstrom Air Force Base) regions: Provided further*, and the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted in said amendment insert: *Washington, New Orleans, and the Alexandria, Louisiana (England Air Force Base), Fort Worth, Texas (Carswell Air Force Base) and Austin, Texas (Bergstrom Air Force Base) regions*; and the Senate agree to the same.

Amendment numbered 179:

That the House recede from its disagreement to the amendment of the Senate numbered 179, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *preserve the basic design in operation*; and the Senate agree to the same.

Amendment numbered 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That no provision of this or any other Act shall be interpreted as granting authority under title 10, United States Code, section 2304(c)(5) to contract with CHAMPUS fiscal intermediaries (FI), without soliciting competitive, at-risk proposals for health care services, for the purpose of giving them more responsibility for implementing or otherwise administering a health care delivery management program: Provided further, That this restriction shall not apply to the current FI contracts for the Tidewater area of Virginia and the Southeastern CHAMPUS Region: Provided further, That this restriction shall not apply to FI contracts at base closure and realignment sites, except in the Northern CHAMPUS Region, if the contracts are expiring within 18 months: Provided further, That within thirty days following enactment of this Act, the Department shall take action to amend the contract award under solicitation number MDA 903-90-R-0027 or release a competitive solicitation for a new contract to begin providing services in Alexandria, Louisiana, and the regions of Fort Worth and Austin, Texas, by May 1, 1993*; and the Senate agree to the same.

Amendment numbered 182:

That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That the preemption provisions of section 1103(a) of title 10, United States Code, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to all contracts entered into pursuant to this general provision and Solicitation Number MDA 906-92-R-0004 and shall preempt any and all State and local laws and regulations which relate to health insurance or health care plans*; and the Senate agree to the same.

Amendment numbered 186:

That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9036A*; and the Senate agree to the same.

Amendment numbered 188:

That the House recede from its disagreement to the amendment of the Senate numbered 188, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9040A*; and the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9041A*; and the Senate agree to the same.

Amendment numbered 193:

That the House recede from its disagreement to the amendment of the Senate numbered 193, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 9047. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing, Data Processing Installation, Central Design Activity, or Information Technology Facility consolidation plans, or (2) to make reductions in force or transfers in personnel, end strengths, billets, functions, or missions that affect the Naval Computer and Telecommunications Stations, the Enlisted Personnel Management Center, and the Naval Reserve Personnel Center and related missions, functions and commands, except in the National Capital Region, until sixty legislative days after the Secretary of Defense submits a report, including complete review comments and a certification, by the General Accounting Office, to the Committees on Appropriations of the House and Senate justifying any consolidations or reductions in force or transfers in personnel, end strengths, billets, and functions in terms of: (1) addressing the overall mission, functions, and operations staffing of all active and reserve Naval And Department of Defense Automatic Data Processing, Information Technology Facilities, Central Design Activities, all active and reserve Naval personnel functions, commands and field activities, and the establishment, as part of DMRD 918, of a Data Processing Installation and Central Design Activity megacenter, including reserve functions, at the Naval Computer and Telecommunications Station, New Orleans; and (2) certifying that any consolidation plans, new operations or reductions in force or transfers in personnel, end strengths, billets, functions, or missions: (a) do not duplicate functions presently conducted, do not adversely impact, in terms of reductions in force or transfers in personnel, end strength, billets, functions, or missions, the Naval Computer and Telecommunications Station, New Orleans, the

Enlisted Personnel Management Center, or the Naval Reserve Personnel Center, do not consolidate or transfer Department of Defense or Service Data Processing Installations, Central Design Activities, or Information Technology Facilities, or claim savings, that are in more than one defense management report plan; (b) are the most cost effective from a budgetary standpoint; (c) will not adversely affect the mission, readiness and strategic considerations of the Navy and the Naval Reserve, and will not adversely impact on the quality of life and economic benefits of the individual serviceman, dependents, and civilian personnel or have an adverse economic impact on a metropolitan region.

And the Senate agree to the same.

Amendment numbered 194:

That the House recede from its disagreement to the amendment of the Senate numbered 194, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9047A*; and the Senate agree to the same.

Amendment numbered 196:

That the House recede from its disagreement to the amendment of the Senate numbered 196, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$18,500,000*; and the Senate agree to the same.

Amendment numbered 198:

That the House recede from its disagreement to the amendment of the Senate numbered 198, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9061A*; and the Senate agree to the same.

Amendment numbered 200:

That the House recede from its disagreement to the amendment of the Senate numbered 200, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9062A*; and the Senate agree to the same.

Amendment numbered 204:

That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9078A*; and the Senate agree to the same.

Amendment numbered 205:

That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 9080. Section 8090 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172) is amended by deleting subsections (c), (d), and (e).

And the Senate agree to the same.

Amendment numbered 206:

That the House recede from its disagreement to the amendment of the Senate numbered 206, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9080A*; and the Senate agree to the same.

Amendment numbered 208:

That the House recede from its disagreement to the amendment of the Senate numbered 208, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9082A*; and the Senate agree to the same.

Amendment numbered 209:

That the House recede from its disagreement to the amendment of the Senate numbered 209, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *notwithstanding any other provision of law, the amount payable for services provided under this section shall not be less than the amount calculated under the coordination of benefits reimbursement formula utilized when CHAMPUS is a secondary payor to medical insurance programs other than Medicare, and $20,000,000*; and the Senate agree to the same.

Amendment numbered 212:

That the House recede from its disagreement to the amendment of the Senate numbered 212, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *Navy and Navy Reserve*; and the Senate agree to the same.

Amendment numbered 217:

That the House recede from its disagreement to the amendment of the Senate numbered 217, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 9089A. Not less than $74,790,000 of the funds appropriated under the heading "Research, Development, Test and Evaluation, Defense Agencies" in title IV of this Act shall be made available as grants to the following institutions in the following amounts for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: University of Arizona, $5,000,000; St. Norbert College, $3,900,000; Johns Hopkins University, $15,000,000; University of Wisconsin Center for Advanced Propulsion, $15,000,000; John Carroll University, $5,300,000; University of Northern Iowa, $50,000; Medical College of Wisconsin, $15,000,000; University of St. Thomas, St. Paul, Minnesota, $15,000,000: Provided, That the funds made available by this section shall be distributed under the terms and conditions established in section 401, as amended, to title IV of Public Law 102–172: Provided further, That the Secretary of Defense shall review the grants made available and specified by this section and shall award such amounts as he deems appropriate based on the potential contribution each proposed project may make to the national scientific and technical posture: Provided further, That the funds made available by this section may be obligated only in accordance with a merit based selection process, utilizing recommendations of a peer review process, consistent with the provisions of section 2361(a) of title 10, United States Code: Provided further, That the Secretary of Defense shall select persons to participate in such peer review process only from the faculty or staff of institutions that are members of the National Association of State Universities and Land Grant Colleges or the American Association of State Colleges and Universities.

And the Senate agree to the same.

Amendment numbered 218:

That the House recede from its disagreement to the amendment of the Senate numbered 218, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 9090. (a) Funds appropriated in this Act to finance activities of Department of Defense (DOD) Federally Funded Research and Development Centers (FFRDSs) may not be obligated or expended for an FFRDC if a member of its Board of Directors or Trustees simultaneously serves on the Board of Directors or Trustees of a profit-making company under contract to the Department of Defense unless the FFRDC has a DOD approved conflict of interest policy for its members.

(b) None of the funds appropriated in this Act are available to establish a new FFRDC, either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other nonprofit entities.

(c) The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $300,000,000 to reflect savings from the decreased use of non-FFRDC consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1993, report to the Senate and the House Committee on Appropriations how this reduction was allocated among the Services and Defense Agencies: Provided, That this subsection does not apply to the reserve components.

And the Senate agree to the same.

Amendment numbered 221:

That the House recede from its disagreement to the amendment of the Senate numbered 221, and agree to the same with an amendment, as follows:

In lieu of "9091. (a)" named in said amendment insert: *9091A*; and the Senate agree to the same.

Amendment numbered 223:

That the House recede from its disagreement to the amendment of the Senate numbered 223, and agree to the same with an amendment, as follows:

In lieu of section number "9092" named in said amendment insert: *9092A*; and the Senate agree to the same.

Amendment numbered 224:

That the House recede from its disagreement to the amendment of the Senate numbered 224, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That none of the funds shall be used to purchase bridge or machinery control systems, or interior communications equipment, and auxiliary equipment, including pumps for all shipboard services, for sealift ships unless the system or equipment is manufactured in the United States or more than half the value in terms of cost has been added in the United States*; and the Senate agree to the same.

Amendment numbered 225:

That the House recede from its disagreement to the amendment of the Senate numbered 225, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That the Secretary of the military department responsible for such procurement of bridge or machinery control systems, or interior communications equipment, and auxiliary equipment, included pumps for all shipboard services, may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes* ; and the Senate agree to the same.

Amendment numbered 227:

That the House recede from its disagreement to the amendment of the Senate numbered 227, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

After section number "9099." named in said amendment strike out all the matter that follows down to and including "California." and insert the following new subsection (a):

(a) Of the funds made available by this Act in title II, Operation and Maintenance, Army, $23,270,000 shall be available only to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

And after the words "be borne by the purchaser." named in said amendment insert the following new subsections:

(g) Notwithstanding any other provision of law, the Agreement and Modification may be amended to authorize the purchaser or its affiliates, in lieu of the Government, to manage and let contracts or subcontracts for the cleanup of landfill No. 26 in accordance with the Record of Decision, as modified, as a means of demonstrating the economic efficiencies that would accrue as a result of non-federal management of environmental restoration projects. In providing for such cleanup management, the Department of Defense may impose such terms and conditions, and grant such indemnifications, as are appropriate to provide for an effective and efficient cleanup consistent with the public interest.

Provided that:

(1) the purchaser agrees (i) to manage the cleanup in accordance with plans and specifications approved by the Department of Defense, and (ii) to continue to perform its management obligations in the event it terminates and withdraws from the sale under the Agreement and Modification; and,

(2) payments made pursuant to this section shall be within the funds made available for the cleanup under this, any prior, and any future appropriations Act, but shall not exceed the Department of Defense's estimate of the cost it would have incurred in accomplishing the same work (as such estimates may be adjusted to reflect changed circumstances).

(h) The Department of Defense shall not make any payment to the purchaser for the costs of the cleanup under any such amendment unless and until the Department of Defense has certified that the cleanup, or any portion of the work associated with the cleanup, for which the purchaser requests payment is in accordance with the approved plans.

(i) Nothing in this section shall be deemed to diminish the U.S. Government's liability with respect to the landfill contamination.

And the Senate agree to the same.

Amendment numbered 228:

That the House recede from its disagreement to the amendment of the Senate numbered 228, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

Sec. 9099A. Section 112(e)(1) of title 32, United States Code, is amended by inserting "(or during fiscal year 1993 otherwise implementing)" immediately after "administering".

And the Senate agree to the same.

Amendment numbered 230:

That the House recede from its disagreement to the amendment of the Senate numbered 230, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9101A* and immediately preceding "SEC." named in said amendment insert the following center head: *(TRANSFER OF FUNDS)*; and the Senate agree to the same.

Amendment numbered 232:

That the House recede from its disagreement to the amendment of the Senate numbered 232, and agree to the same with an amendment, as follows:

After the words "provided to Congress." named in said amendment insert the following new subsection (d):

(d) The requirements contained in subsections (a) through (c), above, shall not apply to LIMDIS programs, projects, sub-projects, or activities within the National Foreign Intelligence Program

And the Senate agree to the same.

Amendment numbered 236:

That the House recede from its disagreement to the amendment of the Senate numbered 236, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9109*; and the Senate agree to the same.

Amendment numbered 240:

That the House recede from its disagreement to the amendment of the Senate numbered 240, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

(TRANSFER OF FUNDS)

Sec. 9110. (a) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to $400,000,000 to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992: Provided, That amounts so transfereed shall be in addition to amounts transferred pursuant to the authority provided in section 108 of Public Law 102–229 (105 Stat. 1708).

(b) Of the funds transferred pursuant to subsection (a):

(1) not less than $10,000,000 shall be available only for the study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic region;

(2) not less than $25,000,000 shall be available only for project PEACE;

(3) not more than $50,000,000 may be made available for the Multilateral Nuclear Safety Initiative announced in Lisbon, Portugal on May 23, 1992;

(4) not more than $40,000,000 may be made available for demilitarization of defense industries;

(5) not more than $15,000,000 may be made available for military-to-military contacts;

(6) not more than $25,000,000 may be made available for joint research and development programs; and

(7) not more than $10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program.

(c) The Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1993 or from balances in working capital funds not to exceed $15,000,000 to the appropriate accounts within the Department of Defense for the purposes authorized in section 109 of Public Law 102–229.

(d) The authority provided in sections 108 and 109 of Public Law 102–229 (105 Stat. 1708) to transfer amounts appropriated for fiscal year 1992 shall continue to be in effect during fiscal year 1993.

(e) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds available to the Department of Defense for fiscal year 1993, up to $40,000,000 to be available for international nonproliferation activities authorized in the Weapons of Mass Destruction Control Act of 1992: Provided, That such transfer authority shall not be available for payments either to the "Contributions to International Organizations" account of the Department of State or to activities carried out by the International Atomic Energy Agency which have traditionally been the responsibilities of the Departments of State or Energy: Provided further, That up to $20,000,000 of the transfer authority provided in this section may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(f) The transfer authority provided in this section shall be in addition to any other transfer authority contained in this Act.

And the Senate agree to the same.

Amendment numbered 243:

That the House recede from its disagreement to the amendment of the Senate numbered 243, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the section number named in said amendment, insert: *9111*; and the Senate agree to the same.

Amendment numbered 249:

That the House recede from its disagreement to the amendment of the Senate numbered 249, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9114*; and the Senate agree to the same.

Amendment numbered 250:

That the House recede from its disagreement to the amendment of the Senate numbered 250, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 9115. During the current fiscal year, none of the funds available to the Department of Defense may be used to procure or acquire (1) defensive handguns or defensive handgun ammunition unless such handguns or handgun ammunition are the M9 9mm Department of Defense standard handgun or ammunition for such handguns, or (2) offensive handguns and ammunition except for the Special Operations Forces.

And the Senate agree to the same.

Amendment numbered 256:

That the House recede from its disagreement to the amendment of the Senate numbered 256, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 9119. Funds appropriated by this Act for the Defense Health Program shall be used to maintain at minimum a 50-bed medical care facility at Silas B. Hays Army Community Hospital at Fort Ord, California during fiscal year 1993.

And the Senate agree to the same.

Amendment numbered 263:

That the House recede from its disagreement to the amendment of the Senate numbered 263, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9122*; and the Senate agree to the same.

Amendment numbered 267:

That the House recede from its disagreement to the amendment of the Senate numbered 267, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of section number "9127" named in said amendment insert: *9123*; and the Senate agree to the same.

Amendment numbered 268:

That the House recede from its disagreement to the amendment of the Senate numbered 268, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named in said amendment insert *9124*; and the Senate agree to the same.

Amendment numbered 269:

That the House recede from its disagreement to the amendment of the Senate numbered 269, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 9125. None of the funds appropriated in this Act or made available to the Department of Defense and deposited into the Pentagon Reservation Maintenance Revolving Fund may be used for the purpose of renovation or construction which would result in an expansion of the net usable space of the Pentagon. Funds deposited into the Pentagon Reservation Maintenance Revolving Fund may be used for other purposes including necessary day-to-day operations and real property maintenance to meet health and safety requirements of the Pentagon Reservation. Not later than March 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the House and Senate a report setting forth (1) a revised renovation program for the Pentagon Reservation limited to concerns of health and safety; and (2) a construction schedule with an associated cost estimate based upon normal construction procedures which eliminates additional costs for expediting construction.

And the Senate agree to the same.

Amendment numbered 274:

That the House recede from its disagreement to the amendment of the Senate numbered 274, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert *9126*; and the Senate agree to the same.

Amendment numbered 275:

That the House recede from its disagreement to the amendment of the Senate numbered 275, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

(TRANSFER OF FUNDS)

SEC. 9127. (a) Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Weapons Procurement, Navy, 1992/1994": Torpedoes and Related Equipment, $9,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990": LHD–1 amphibious assault ship program, $9,300,000;

From:

Under the heading, "Weapons Procurement, Navy, 1992/1994": Torpedoes and Related Equipment, $16,300,000;

Under the heading, "Other Procurement, Navy, 1992/1994", $13,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994": T–AGOS surveillance ship program, $13,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991": AOE fast combat support ship program, $16,300,000; T–AO fleet oiler program, $13,000,000; T–ACS auxiliary crane ship program, $13,300,000: Provided, That notwithstanding any other provision of law or regulation, the Secretary of the Navy and the Secretary of Transportation are authorized and directed to increase the current contract price (the contract price, including all modifications as of the date of enactment of this Act) for the T–ACS 7 and T–ACS 8 conversion and reactivation contract by $13,300,000 based upon the Defense Contract Audit Agency's estimated incurred costs sustained by the contractor and shall pay to the contractor which built and delivered T–ACS 7 and T–ACS8 the amount of $13,300,000, no later than November 1, 1992: Provided further, That the contractor shall execute a release discharging the Government, its officers, agents and employees from any additional liability arising under or relating to the contract for T–ACS 7 and 8: Provided further, That the contractor shall agree to dismiss with prejudice its pending action in the United States District Court;

From:

Under the heading, "Aircraft Procurement, Navy, 1991/1993", $131,800,000;

Under the heading, "Aircraft Procurement, Navy, 1992/1994", $17,700,000;

Under the heading, "Weapons Procurement, Navy, 1992/1994": Torpedoes and Related Equipment, $63,700,000;

Under the heading, "Other Procurement, Navy, 1992/1994", $30,900,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996": TAGS 39/40 program, $15,000,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992": CVN nuclear aircraft carrier program, $229,500,000; LHD–1 amphibious assault ship program, $3,600,000; T–AO fleet oiler program, $10,500,000; LSD–41 cargo variant ship program, $15,500,000;

From:

Under the heading, "Aircraft Procurement, Navy, 1992/1994", $112,300,000;

Under the heading, "Weapons Procurement, Navy, 1992/1994"; Other Missile Programs, $31,500,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994": T–AGOS surveillance ship program, $45,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996": LCAC landing craft air cushion program, $74,000,000; DDG–51 destroyer program, $89,400,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993": TRIDENT ballistic missile submarine program, $2,100,000; SSN–688 attack submarine program, $8,800,000; SSN–21 attack submarine program, $284,800,000; DDG–51 destroyer program, $41,300,000; MHC coastal mine hunter program, $11,900,000; AOE combat support ship program, $3,300,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996": T–AGOS surveillance ship program, $62,400,000; MHC coastal mine hunter program, $25,500,000;

Under the heading, "Weapons Procurement, Navy, 1992/1994": Other Missile Programs, $53,200,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994": TRIDENT ballistic missile submarine program, $5,900,000; SSN–688 attack submarine program, $6,800,000; DDG–51 destroyer program, $5,400,000; ENTERPRISE refueling/modernization program, $93,200,000; Oceanographic ship program, $9,900,000; AOE combat support ship program, $3,900,000; LSD–41 dock landing ship cargo variant program, $16,000,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995": DDG–51 destroyer program, $19,800,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995": TRIDENT ballistic missile submarine program, $19,800,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996": T–AGOS surveillance ship program, $77,200,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995": TRIDENT ballistic missile submarine program, $22,100,000; SSN–21 attack submarine program, $40,100,000; LSD–41 dock landing ship cargo variant program, $15,000,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996": T–AGOS surveillance ship program, $8,900,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996": Oceanographic ship program, $8,900,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996": LCAC landing craft air cushion program, $45,000,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989": T–AO fleet oiler program, $45,000,000.

(b) (1) Notwithstanding any other provision of law or regulation, the Secretary of the Navy is authorized and directed to increase the ceiling price of the T–AO 191 and 192 completion contract in the amount of $45,000,000 and maintain the same ceiling price to target cost ratio as in the existing contract (115%). Such increase shall be made upon the Contractor's execution of a full and final release discharging the Government, its officers, agents and employees from any liability for activities under, or associated with, the T–AO 191 and 192 completion contract occurring prior to the effective date of the Contract Modification resulting from this Act.

(2) The Secretary of the Navy shall pay the contractor, within ten days of enactment of this Act, an amount equal to the difference between the total of the Contractor's incurred costs, properly certified, less retentions and the total of payments made to that date by the Navy.

And the Senate agree to the same.

Amendment numbered 276:

That the House recede from its disagreement to the amendment of the Senate numbered 276, and agree to the same with an amendment, as follows:

In lieu of section number "9126" named in said amendment insert: *9128*; and the Senate agree to the same.

Amendment numbered 277:

That the House recede from its disagreement to the amendment of the Senate numbered 277, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9129*; and the Senate agree to the same.

Amendment numbered 278:

That the House recede from its disagreement to the amendment of the Senate numbered 278, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert *9130*; and the Senate agree to the same.

Amendment numbered 281:

That the House recede from its disagreement to the amendment of the Senate numbered 281, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 9131. (a) None of the funds appropriated or otherwise made available in this Act may be *used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.*

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

And the Senate agree to the same.

Amendment numbered 284:

That the House recede from its disagreement to the amendment of the Senate numbered 284, and agree to the same with an amendment, as follows:

In lieu of the section number "9134" named in said amendment insert: *9132*; and the Senate agree to the same.

Amendment numbered 286:

That the House recede from its disagreement to the amendment of the Senate numbered 286, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert *9133*; and the Senate agree to the same.

Amendment numbered 288:

That the House recede from its disagreement to the amendment of the Senate numbered 288, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9134* and in lieu of the word "May" named in said amendment insert: *July*; and the Senate agree to the same.

Amendment numbered 290:

That the House recede from its disagreement to the amendment of the Senate numbered 290, and agree to the same with an amendment, as follows:

In lieu of section number "9140" named in said amendment insert: *9135* and in lieu of the sum "$100,000,000" named in both instances insert: *$65,000,000*; and the Senate agree to the same.

Amendment numbered 292:

That the House recede from its disagreement to the amendment of the Senate numbered 292, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9136*; and the Senate agree to the same.

Amendment numbered 293:

That the House recede from its disagreement to the amendment of the Senate numbered 293, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9137* and in lieu of the word "Senate" named in said amendment insert: *Congress*; and the Senate agree to the same.

Amendment numbered 294:

That the House recede from its disagreement to the amendment of the Senate numbered 294, and agree to the same with an amendment, as follows:

In lieu of section number "9144" named in said amendment insert: *9138*; and the Senate agree to the same.

Amendment numbered 295:

That the House recede from its disagreement to the amendment of the Senate numbered 295, and agree to the same with an amendment, as follows:

In lieu of section number "9145" named in said amendment insert: *9139* and in lieu of the word "Hereafter" named in said amendment insert: *During the current fiscal year*; and the Senate agree to the same.

Amendment numbered 296:

That the House recede from its disagreement to the amendment of the Senate numbered 296, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *9140* and at the end of said amendment insert the following new provisions:

SEC. 9141. (a) Of the funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Army" thirty-five percent of the funds made available for each of the Comanche Light Armed Scout Helicopter, Apache-Longbow, and Apache-C programs may not be obligated and expended until the Secretary of Defense submits a report addressing the military and fiscal validity of the programs.

(b) Of the funds appropriated in this Act under the headings "Research, Development, Test and Evaluation, Navy" and "Research, Development, Test and Evaluation, Air Force" thirty-five percent of the funds made available for each of the AX Advanced Attack Aircraft, F-18 E/F upgrade variant, and F-22 Advanced Tactical Fighter programs may not be obligated and expended until the Secretary of Defense submits a report addressing the military and fiscal validity of the programs.

(c) The reports required in sub-sections (a) and (b) above shall be submitted, in both classified and unclassified versions, to the congressional defense committees no later than May 15, 1993.

SEC. 9142. Of the funds appropriated in this Act, not more than nor less than $3,800,000,000 shall be available only for the Strategic Defense Initiative.

SEC. 9143. Title II of Public Law 102-368 is amended in the paragraph "Operation and maintenance, Defense Agencies", under the heading "SUPPLEMENTAL APPROPRIATIONS" by inserting ", including those" after "school districts" in the first proviso (relating to educational assistance to school districts).

SEC. 9144. None of the funds provided in this Act shall be available for use by a Military Department for the operation of any Officers Candidate School, War College, Command and General Staff College, or Military Academy unless, within 60 days of the enactment of this Act, the Chief of Staff of the United States Army, the Chief of Staff of the United States Air Force, the Chief of Naval Operations, and the Commandant of the Marine Corps each provides written certification to the Armed Services and Appropriations Committees of the House of Representatives and of the Senate that appropriate measures have been taken to publish and enforce regulations which expressly prohibit discrimination on the basis of race, color, religion, sex, or national origin.

SEC. 9145. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in this Act, not less than $20,000,000 shall be made available only for the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence (NDCEE): Provided, That nothing in the contract for this effort shall prohibit use of the NDCEE by industry, associations, other Department of Defense services and agencies, and other government agencies for efforts to be separately negotiated and funded.

SEC. 9146. During the current fiscal year, the amount of individual loans, guarantees, purchase agreements and other actions under sections 301, 302, and 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2091, 2092, and 2093) may not exceed $50,000,000.

SEC. 9147. (a) The project for Bonneville Lock and Dam, Columbia River, Oregon and Washington, authorized by the Act of August 20, 1937 (50 Stat. 731), and modified by the Water Resources Development Act of 1974 (93 Stat. 35), is further modified to direct the Secretary of the Army to complete the relocation of the city of North Bonneville, Washington, by undertaking and completing the following actions:

(1) On or before the 30th day following the date of the enactment of this Act, convey to the city, at no cost to the city, all right, title, and interest of the United States to all constructed municipal facilities, utilities, fixtures, and equipment for the relocated town, together with associated easements and rights of entry.

(2) On or before the 30th day following the date of the enactment of this Act, convey to the city, at no cost to the city, all right, title, and interest of the United States to all public lands, as designated in the plats of the initial town. Such lands are identified as open spaces, municipal lots, street rights-of-way, and city park and community center lot (lot 2, block 5), as shown on the plat of relocated North Bonneville.

(3) In accordance with subsection (b), convey to the city all right, title, and interest of the United States to the following parcels of optimum town land, as described and identified in Committee Print 102-67 of the Committee on Public Works and Transportation:

(A) Parcels 2, B, C, and H on or before the 30th day following the date of the enactment of this Act.

(B) Parcel 1 (other than those lands, not to exceed 10 acres, which are necessary and appropriate for fish and wildlife mitigation as determined by the Secretary of the Army, in consultation with the Secretary of the Interior) on or before the 30th day following receipt by the Secretary of the Army of certification by the State of Washington Department of Ecology that remedial actions required by such department to address contamination on parcel 1 have been completed to the satisfaction of such department.

(4) Execute and transmit to the city a release of a claim of the United States in the amount of $365,181.12 (plus interest) for operation and maintenance costs incurred by the Secretary of the Army during the period in which the city relocation was not completed.

(5) At the time of conveyance of the parcels under paragraph (3), grant easements—

(A) for reasonable public pedestrian and vehicular access to the Columbia River; and

(B) for storm drain outfalls reasonably required to serve the city of North Bonneville.

(b) Conveyance of the parcels under subsection (a)(3) shall be in consideration of $597,804 to be paid by the city of North Bonneville to the United States. The Secretary of the Army shall determine the portion of such sum represented by each parcel and upon the conveyance of a parcel shall require payment for such parcel, without interest, not later than 10 years after the date of such conveyance.

(c) Completion of the actions required under subsection (a) shall constitute completion of the relocation of the city of North Bonneville and shall fully satisfy any claim of the city for just compensation relating to the taking by the United States of the municipal facilities and utilities of the city. Upon completion of actions required under subsection (a) and request by the Secretary of the Army, the city shall transmit to the Secretary of the Army written certification of such completion and a release of any future claim of the city for just compensation relating to such taking.

SEC. 9148. Notwithstanding any other provision of law, the Secretary of Defense shall participate in an infrastructure demonstration program conducted by the Regional Equipment Center, Cambria County, Pennsylvania: Provided, That within ninety days following enactment of this Act, the Secretary shall provide di-

rectly such property within the control of the Department of Defense or any component thereof as mutually agreed to by the Regional Equipment Center and the Secretary and as necessary to carry out the provisions of this section: Provided further, That of the funds available to the Defense Logistics Agency, $1,000,000 shall be available only to establish the Regional Equipment Center in Cambria County, Pennsylvania.

SEC. 9149. For expenses necessary for the purpose of acquiring, transporting and drawing down crude oil to be stored in the Strategic Petroleum Reserve for national defense purposes, $125,625,000 is appropriated to the Secretary of Defense, which shall be transferred to the Secretary of Energy by November 1, 1992, to remain available until expended: Provided, that the Secretary of Energy may transfer up to $700,000 to the Strategic Petroleum Reserve Account for purposes of operating, maintaining and managing the Strategic Petroleum Reserve: Provided further, That the acquisition and storage of crude oil authorized under this heading shall be in addition to any acquisition or storage of crude oil for the Strategic petroleum Reserve authorized or required by any other law, except that the crude oil acquired under this heading may be comingled with other petroleum products in the Strategic Petroleum Reserve: Provided further, That upon the Presidential findings under section 161(d) of the Energy Policy and Conservation Act (42 U.S.C. 6241(d)), and upon the recommendation of the Secretary of Defense, the Secretary of Energy shall draw down and distribute for the Department of Defense, for its use, sale, or exchange, the amount of crude oil acquired under this heading: Provided further, That crude oil acquired under this heading may be stored, drawn down and distributed, used, sold, or exchanged, without regard to: (a) the Strategic Petroleum Reserve Plan; (b) otherwise applicable Federal contracting statutes and regulations; and (c) requirements of section 154 (b)–(e), 159 (a)–(f) and 161(e) of the Energy Policy and Conservation Act (42 U.S.C. 6234 (b)–(e), 6239 (a)–(f) and 6241(e)): Provided further, That the costs of the draw down shall be reimbursed to the Strategic Petroleum Reserve Account, Department of Energy, from funds available to the Secretary of Defense at the time of the draw down: Provided further, That upon draw down and sale of the oil acquired under the authority hereunder, the receipts of sale shall be deposited in this account and shall remain available until expended for the acquisition of oil and related expenses for the purposes herein stated: Provided further, That no amendment to the Strategic Petroleum Reserve Plan is required for the implementation under this heading: Provided further, That outlays under this heading shall not be counted against any outlay ceiling established in the SPR Petroleum Account: Provided further, That any appropriation under this heading shall not be counted as an appropriation for the purposes of section 160(g)(4) of the Energy Policy and Conservation Act (42 U.S.C. 6240 (g)(4)).

SEC. 9150. Notwithstanding any other provision of law, the Secretary of Defense is authorized to expend up to $5,000,000 of funds available to the Department of Defense during the current fiscal year or hereafter for the purpose of acquiring approximately 1,502 acres of tidelands in the State of Washington from the Coast Oyster Company: Provided, That as soon as practicable following such acquisition, such tidelands shall be conveyed without a requirement for compensation to the State of Washington: Provided further, That such acquisition and transfer shall be for mitigating responsibilities related to tideland access guaranteed under treaties between American Indian tribes in the Puget Sound region and the Federal Government: Provided further, That the Government of the United States shall be held harmless or indemnified for any and all risks and claims resulting from activities carried out on such land prior to its conveyance to the State of Washington.

SEC. 9151. During the current fiscal year, funds available to the Department of Defense used for a system or item procured by, or provided to, the Department of Defense containing manufactured carbonyl iron powders shall be available only for a system or item containing domestically manufactured carbonyl iron powders: Provided, That the Secretary of Defense may waive the provision of this section upon a determination that it is in the national interest: Provided further, That for the purpose of this section "domestically manufactured" means manufactured in a facility located in the United States or Canada.

SEC. 9152. Notwithstanding the provisions of section 351 (a) of the National Defense Authorization Act for Fiscal Year 1993 or any other provision of law, no funds appropriated or available to the Department of Defense shall be made available to prevent or delay the transfer and execution of the tactical missile maintenance consolidation to Letterkenny Army Depot and, in addition, no funds shall be made available for a depot selection competition to assess depot level tactical missile maintenance. For purposes of this section, this Act shall be treated as having been enacted after the National Defense Authorization Act for Fiscal Year 1993 (regardless of the actual dates of enactment).

SEC. 9153. Funds available for disaster relief activities of the Department of Defense may be used to provide bridge financing for the National Guard, for pay and allowances of members of the National Guard assisting in times of emergencies and natural disasters, until such time as a federal emergency has been declared.

SEC. 9154. Funds appropriated in this Act under the heading "Operation and Maintenance, Navy" shall be available for payments arising out of the deaths and injuries that resulted from the accidental striking of the Turkish ship Muavenet by a missile fired from the aircraft carrier Saratoga on October 1, 1992.

SEC. 9155. Section 206(a) of the International Emergency Economic Powers Act (50 U.S.C. 1705(a)) is amended by striking out "$50,000" and inserting in lieu thereof '$10,000".

SEC. 9156. The energy, educational, and medical facilities listed in amendment number 37 of the conference agreement on H.R. 5373, an act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes, as reported and filed by the Committee of Conference on September 15, 1992 in the House of Representatives (House Report 102–866) for which the sum of $94,800,000 was included therein for such facilities, are hereby authorized and that sum as named in the appropriation shall be available only for these facilities in lieu of competitive merit-review awards or any other provision contained in that appropriation as enacted into law.

SEC. 9157. In addition to amounts appropriated elsewhere in this Act to the Department of Defense, $4,500,000 is appropriated only for the construction of a visitors center at the U.S. Naval Academy, Annapolis, Maryland; $5,500,000 is appropriated only for the construction of a library at Fort Bragg, North Carolina; $9,700,000 is appropriated only for the construction of the 154th Composite Group Consolidated Support Facility, Hickam Air Force Base, Oahu, Hawaii; $1,050,000 is appropriated only for the construction of an armory at Kaunakakai, Molokai, Hawaii; $8,500,000 is appropriated only for the construction of FACP facilities at Barking Sands Naval Air Station, Kauai, Hawaii; and $4,300,000 is appropriated only for the construction of an armory at Wahiawa, Oahu, Hawaii.

SEC. 9158. From within funds provided in title II of this Act, the Secretary of Defense, in consultation with the Secretary of State, may obligate up to $100,000,000 to provide goods, services, and other support for international peacekeeping and humanitarian relief efforts under the authorities of the U.N. Participation Act of 1945, as amended (Public Law 79–264).

SEC. 9159. SACRAMENTO AND AMERICAN RIVERS FLOOD CONTROL PROJECT, CALIFORNIA: PRECONSTRUCTION ENGINEERING AND DESIGN; NATOMAS LEVEE CONSTRUCTION.

(a) CONTINUATION OF ENGINEERING AND DESIGN.—The Secretary of the Army is directed to reevaluate the project for flood control and recreation, Sacramento and American Rivers, California, as described in the feasibility report of the Chief of Engineers, entitled the "American River Watershed Investigation", dated July 1, 1992, subject to the provisions of this Section.

(b) NATOMAS LEVEE FEATURES.—

(1) CONSTRUCTION.—The Secretary of the Army is authorized and directed to construct the Natomas levee features of the project as described in the feasibility report referred to in subsection (a), subject to entering into appropriate local cost-sharing agreements from the non-Federal sponsors of the project, provided that such construction does not encourage the development of deep floodplains.

(2) CREDIT FOR CERTAIN NON-FEDERAL WORK.—The Secretary of the Army shall credit against the non-Federal share of the cost of construction under paragraph (1), or reimburse the non-Federal sponsors, for any planning and construction work performed by the non-Federal sponsors to protect the Natomas area which is commenced prior to the Army Corps of Engineers' receiving appropriations to initiate such construction and which is consistent with the feasibility report referred to in subsection (a).

(c) GATING AND EXPANDABILITY REPORT.—In carrying out the reevaluation described in subsection (a) and in consultation with the State of California, the local non-Federal sponsors, and other interested groups, the Secretary of the Army is directed, within 1 year after the date of the enactment of this Act, to submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report which:

(1) analyzes the outlet design of the flood control dam proposed as a feature of the project referred to in subsection (a), including an analysis of various configurations and capacities of gates (including a completely ungated configuration, a partly ungated configuration, emergency gates, operational gates, or a combination thereof) to ensure the safety of the flood control dam itself, to provide for system safety, to minimize small event flooding of the Auburn Canyon, and to minimize damages to the vegetation, soils, and habitat in the canyon; and

(2) includes further analysis as to whether any feature or characteristic of the flood control dam would preclude its efficient expansion for water, power, or other purposes, and whether the design would create any greater difficulty for an expanded dam to meet seismic requirements than a multipurpose dam would otherwise encounter, and further assessment of the extra costs attributable to installation into an expanded dam such penstocks, operational gates and other features of a multipurpose dam which would not be included in an expandable dam lacking advanced features.

(d) REPAYMENT OF DESIGN WORK.—The non-Federal share of the costs of the design and reevaluations described in subsection (a) shall not be required to be repaid until after the execution of the agreement required by section 103(j) of the

Water Resources Development Act of 1986 and immediately prior to the initiation of construction of the project or the appropriate separable element.

(e) SPECIAL EVALUATION REPORTS.—

(1) In carrying out the reevaluation described in subsection (a) and in consultation with the State of California, the local non-Federal sponsors, and other interested groups, the Secretary of the Army shall perform further evaluation of, and, within 12 months after the date of the enactment of this Act, submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on, other features and operational procedures that should be implemented in a coordinated plan to provide flood protection sufficiently high for a major urban areas subject to risk of frequent floods causing great economic, environmental, and social damage. The report shall specifically address, at a minimum, the following:

(i) The reliability, costs, environmental impacts, and public safety risks associated with increasing objective flows in the Lower American River above the 115,000 cubic feet per second design capacity, as well as the costs and impacts of permanent reoperation of Folsom Reservoir at different levels of increased flood storage, including the appropriate alternatives for sharing costs associated with Folsom Dam.

(ii) The costs and benefits of lowering the spill-way at Folsom Dam in order to improve the dam's ability to pass a maximum probable flood and improve its operational flexibility for flood control.

(iii) The costs and benefits of transferring flood control obligations from the Folsom Reservoir to a new flood control facility at Auburn, increasing the Folsom Reservoir's capability for water supply.

(iv) The costs and benefits of utilizing existing and increased flood space in the upstream reservoirs to enhance the flood control capability at Folsom Dam and of establishing offstream storage in Deer Creek, alone or on combination with the alternatives referenced in paragraphs (i) and (ii) of this subsection.

(2) The Secretary of the Army shall further consult with, and solicit the views of, the National Academy of Engineering on the contingency assumptions, hydrological methodologies used in the preparation of the American River Project, and other engineering assumptions and methodologies influencing the scope and formulation of the American River flood control alternatives. Such consultation shall also solicit the views of the National Academy of Engineering on the merits of normalized use of reservoir surcharge space in a flood control regime for Sacramento. Any options with respect to these and other issues rendered by the National Academy of Engineering shall be made available to the public and included in the reports transmitted to Congress pursuant to this section.

(f) FOLSOM DAM.—

(1) IN GENERAL.—Congress recognizes the urgency of ensuring that Folsom Dam is operated correctly, safely, efficiently and prudently for flood control purposes. The Secretary of the Interior (in consultation with the Sacramento Flood Control Agency and the Secretary of the Army) shall operate Folsom Dam to provide the maximum level of flood protections.

(2) FLOOD MANAGEMENT PLAN.—(A) Not later than one year after the date of enactment of this Act, and consistent with existing law, the Secretaries of the Army and Interior shall jointly develop and implement a flood management plan for the American River and Folsom Dam that ensures prompt, reliable, and full utilization of the flood control capability at Folsom Dam and other existing water resources development projects located in the American River watershed, California. Consistent with existing law, the plan should maximize the flood control capability within Folsom Dam's flood space reservation. The plan shall also identify opportunities and make recommendations to improve the stream gauge network and flood forecast system for the upper American River watershed. The Plan should also recognize that Reservoir releases need to be made as quickly as possible in anticipation of incoming flow and in accordance with existing documents: "1959 Reservoir Regulations, Appendix II, the Corps Master Manual, Sacramento River Basin Reservoir Regulation Manual, Folsom Dam/Reservoir, American River: October 1, 1956," revised March 1959.

(B) The components of the inflow forecasting system and revised flood release rules and practices, and hydrographic and flood frequency models shall give due references to the National Academy of Engineering findings developed pursuant to subsection (e)(2) of this section.

SEC. 9160. In addition to amounts appropriated elsewhere in this Act, $500,000 shall be available only for the settlement of subcontractor claims associated with the Army Corps of Engineers contract DACA85-88-0025, for the construction of an Aircraft Maintenance Management Facility at Eielson Air Force Base: Provided, That the Secretary of the Air Force shall evaluate such claims as may be submitted by subcontractors engaged under this contract, and, notwithstanding any other provision of law, may pay such amounts from the funds provided in this paragraph as the Secretary deems appropriate to settle completely any claims the Secretary determines to have merit: Provided further, That the Secretary shall report to the House and Senate Committees on Appropriations the resolution of such claims as are presented for consideration not later than March 15, 1993.

SEC. 9161. Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

SEC. 9162. Notwithstanding any other provision of law, from the funds made available in Title II of this Act, the Secretary of Defense may make a grant of $34,000,000 to the American Red Cross for reimbursement for disaster relief expenditures for Guam, American Samoa and Puerto Rico.

SEC. 9163. Notwithstanding any other provision of law or regulation, the Secretary of the Navy is authorized and directed to increase the current contract price (the contract price including all modifications as of the date of enactment of this Act) for the T-AGS 39 and 40 design and construction contract by $40,000,000 using funds provided in P.L. 102-172 for this program, and shall pay to the contractor which built and delivered T-AGS 39 and 40 the amount of $40,000,000, no later than December 31, 1992: Provided, That the contractor shall execute a release discharging the Government, its officers, agents and employees from any additional liability arising under or relating to the contract for T-AGS 39 and 40: Provided further, That the contractor shall agree to dismiss with prejudice its pending action in the United States Claims Court.

SEC. 9164. Notwithstanding any other provision of law, prior to March 1, 1993, the Secretary of the Air Force is directed to enter into a Supplemental Agreement to Air Force Prime Contract F04701-85-C-0019 for a Heavy Lift Expendable Launch Vehicle: Provided, That such a Supplemental Agreement shall address the Solid Rocket Motor Upgrade (SRMU) program and shall provide up to $350,000,000 in payment to the prime contractor and the agreed upon payments to the subcontractor for costs associated with: (a) conversion of the existing SRMU subcontract to a Fixed Price Incentive subcontract with equitable changes to the Titan VI Prime contract as necessary to encompass this conversion and subsections (b), (c), and (d) of this paragraph; (b) removal of concurrency in the SRMU development and production programs; (c) working capital contributions related to SRMU development, tooling and production; and (d) amortization of deferred nonrecurring development, qualification and tooling: Provided further, That as a condition of the Supplemental Agreement, the Air Force shall require the prime contractor to certify that all legal disputes have been completely and finally resolved between the parties to the SRMU subcontract: Provided further, That the Air Force shall restructure the SRMU program to align production with mission model launch requirements: Provided further, That within funds appropriated to the Department of the Air Force either in this Act or in Public Law 102-172 not less than $200,000,000 nor more than $300,000,000 shall be available for the Supplemental Agreement and that such sums shall be in addition to any amounts appropriated specifically for the Titan IV program in this Act or in Public Law 102-172: Provided further, That the Secretary of the Air Force may use incremental funding for the restructured Titan IV program under the existing contract for 41 vehicles: Provided further, That the prime contractor shall certify all costs for which reimbursement is received and all such costs shall be subject to the normal allowability standards of the United States Government: Provided further, That the Air Force shall notify the Committees on Appropriations of the House and Senate of the results of the negotiations and how funds will be made available to pay the negotiated settlement.

SEC. 9165. Within funds appropriated in this Act for the National Foreign Intelligence Program, the Director of Central Intelligence may transfer up to $32,000,000 to the Federal Bureau of Investigation for special programs: Provided, That the Director of Central Intelligence shall notify the House and Senate Committees on Appropriations prior to transferring any funds pursuant to this section.

SEC. 9166. In addition, to amounts appropriated or otherwise made available by this Act, $303,000,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard, of which $253,000,000 shall be merged with and be available for the same purposes and same time period as "Operating Expenses" for fiscal year 1993 and $50,000,000 shall be merged with and be available for the same purposes and same time period as "Reserve Training" for fiscal year 1993: Provided, That the foregoing transfers shall be made immediately upon enactment of this Act.

SEC. 9167. None of the funds available to the Department of Defense may be obligated or expended for construction of a Ground Wave Emergency Network (GWEN) site in the Commonwealth of Massachusetts in Fiscal Year 1993.

SEC. 9168. S. 2681, as passed by the Senate on September 12, 1992, is hereby enacted into law,

And the Senate agree to the same.

JOHN P. MURTHA,
NORM DICKS,
CHARLES WILSON,
W.G. BILL HEFNER,
LES AUCOIN,
MARTIN OLAV SABO,
JULIAN C. DIXON,
BERNARD J. DWYER,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
C.W. BILL YOUNG,
CLARENCE MILLER,
BOB LIVINGSTON,
JERRY LEWIS,
Managers on the Part of the House.

DANIEL K. INOUYE,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
ROBERT BYRD,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
TED STEVENS,
JAKE GARN,
BOB KASTEN,
ALFONSE M. D'AMATO,
WARREN RUDMAN,
THAD COCHRAN,
ARLEN SPECTER,
PETE V. DOMENICI,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5504), making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Department of Defense Appropriations Act, 1993, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 102–627 and Senate Report 102–408 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Active personnel:				
Army	23,372,600	23,153,900	23,236,700	23,238,457
Navy	19,641,570	19,529,200	19,231,770	19,228,564
Marine Corps	6,104,900	6,113,200	5,973,700	5,980,998
Air Force	18,647,800	18,663,400	18,520,900	18,522,963
Reserve personnel:				
Army	2,147,480	2,187,700	2,218,880	2,170,496
Navy	1,634,527	1,679,000	1,672,327	1,653,200
Marine Corps	340,132	349,900	346,632	345,526
Air Force	737,119	735,200	727,219	729,019
National Guard personnel:				
Army	3,167,100	3,293,400	3,272,573	3,239,702
Air Force	1,188,800	1,191,300	1,167,922	1,166,100
Total, military personnel	76,982,028	76,896,200	76,368,623	76,275,025

TEMPORARY LODGING EXPENSE

The conferees agree to provide $25,000,000 for Temporary Lodging Expense, which allows the Service Secretaries to extend the period of time from four to ten days for which subsistence expenses may be paid, and agree that the additional funding shall be for all active military personnel.

MILITARY PERSONNEL, ARMY

Amendment No. 1: Appropriates $23,238,457,000 instead of $23,153,900,000 as proposed by the House and $23,236,700,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Temporary lodging expense	6,300	4,500	6,300
Force structure adjustment	−225,000	0	0
Fiscal year 1992 understrength	0	−372,000	−372,000
Repricing	0	231,600	231,557
Total, military personnel, Army	−218,700	−135,900	−134,143

MILITARY PERSONNEL, NAVY

Amendment No. 2: Appropriates $19,228,564,000 instead of $19,529,200,000 as proposed by the House and $19,231,770,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Temporary lodging expense	2,800	6,000	2,800
Force structure adjustment	−232,000	0	0
Repricing	0	−415,800	−415,806
Total, military personnel, Navy	−229,200	−409,800	−413,006

MILITARY PERSONNEL, MARINE CORPS

Amendment No. 3: Appropriates $5,980,998,000 instead of $6,113,200,000 as proposed by the House and $5,973,700,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Reserve support	8,000	0	8,000
Temporary lodging expense	300	1,000	300
Fiscal year 1992 understrength	0	−7,000	−7,000
Repricing	0	125,200	125,202
Total, military personnel, Marine Corps	8,300	−131,200	−123,902

MARINE CORPS READINESS

The conferees are concerned that the current projected force levels may curtail the Marine Corps' ability to properly carry out its global security responsibilities. The restructured Marine Corps will not have the necessary range of forces to maintain the coverage that it now provides. The conferees intend to scrutinize future budget submissions to ensure that the Marine Corps is properly manned and equipped to continue to perform its critical national security function.

The conferees have provided funding for U.S. Marine Corps active duty end strength in fiscal year 1993 consistent with the expectations that the fiscal year 1995 end strength will remain 177,000 as currently required by law. The conferees do not intend to support reduction in the active duty U.S. Marine Corps end strength to 159,000 as currently suggested in the base force plan.

MILITARY PERSONNEL, AIR FORCE

Amendment No. 4: Appropriates $18,522,963,000 instead of $18,663,400,000 as proposed by the House and $18,520,900,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Temporary lodging expense	15,600	13,500	15,600
Fiscal year 1992 understrength	0	−70,000	−70,000
Repricing	0	−70,400	−70,437
Total, military personnel, Air Force	15,600	−126,900	−124,837

NATIONAL GUARD AND RESERVE FORCES

The conferees agree to provide $9,304,043,000 in Reserve personnel appropriations, $7,911,476,000 in operation and maintenance appropriations, and $1,567,200,000 in the National Guard and Reserve Equipment appropriation. In addition, approximately $250,000,000 is provided for Guard and Reserve forces in "Drug Interdiction and Counter-Drug Activities, Defense". These funds support a Selected Reserve strength of 1,079,930, an AGR ceiling of 71,071, and a Technician floor of 70,363, broken out as follows:

RESERVE STRENGTHS

[Fiscal year 1993]

	Budget	Conference	Conference versus budget
Selected Reserve:			
Army Reserve	257,500	279,615	22,115
Navy Reserve	125,800	133,675	7,875
Marine Corps Reserve	38,900	42,315	3,415
Air Force Reserve	82,200	82,300	100
Army National Guard	383,100	422,725	39,625
Air National Guard	119,200	119,300	100
Total	1,006,700	1,079,930	73,230
AGR/TARS:			
Army Reserve	12,152	12,637	485
Navy Reserve	20,926	21,701	775
Marine Corps Reserve	2,130	2,285	155
Air Force Reserve	636	636	
Army National Guard	22,637	24,686	2,049
Air National Guard	9,131	9,126	5
Total	67,612	71,071	3,459
Technicians:			
Army Reserve	6,178	7,339	1,161
Air Force Reserve	10,416	10,516	100
Army National Guard	25,146	27,084	1,938
Air National Guard	25,302	25,424	122
Total	67,042	70,363	3,321

RESERVE PERSONNEL, ARMY

Amendment No. 5: Appropriates $2,170,496,000 instead of $2,187,700,000 as proposed by the House and $2,218,880,000 as proposed by the Senate. The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Force structure/end strength	44,500	115,000	66,616
Repricing	0	−43,600	43,600
Total, Reserve personnel, Army	44,500	71,400	23,016

RESERVE PERSONNEL, NAVY

Amendment No. 6: Appropriates $1,653,200,000 instead of $1,679,000,000 as proposed by the House and $1,672,327,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Force structure/end strength	45,700	68,000	42,873
Repricing	0	−36,600	−36,600
C–130 squadron	6,000	....	6,000
COOP program	....	6,400	6,400
Total, Reserve personnel, Navy	51,700	37,800	18,673

CRAFT OF OPPORTUNITY PROGRAM

The conferees have provided funding in both military personnel and operation and maintenance accounts for the Navy to continue the Craft of Opportunity program.

RESERVE PERSONNEL, MARINE CORPS

Amendment No. 7: Appropriates $345,526,000 instead of $349,900,000 as proposed by the House and $346,632,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Force structure/end strength	12,200	13,000	11,894
Repricing	0	−6,500	−6,500
Total, Reserve personnel, Marine Corps	12,200	6,500	5,394

RESERVE PERSONNEL, AIR FORCE

Amendment No. 8: Appropriates $729,019,000 instead of $735,200,000 as proposed by the House and $727,219,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Repricing	0	−11,900	−11,900
WC–130 weather reconn mission	1,000	1,000	1,000
New uniform	1,800	....	1,800
End strength	....	1,000	1,000
Total, Reserve personnel, Air Force	2,800	−9,900	−8,100

WC–130 WEATHER RECONNAISSANCE MISSION

The conferees agree to provide an additional $1,000,000 in Reserve Personnel, Air Force and $5,900,000 in Operation and Maintenance, Air Force Reserve to support the Weather/Hurricane Reconnaissance Mission of the Air Force Reserve in accordance with the plan submitted to the Committee by the Secretary of the Air Force, dated June 24, 1992, except as indicated in the next paragraph

The conferees concur in the decision of August 28, 1992, by the Air Force Chief of Staff to establish a stand-alone squadron, and for fiscal year 1993 and beyond direct that this stand-alone squadron be manned with 8 Air Reserve Technician (ART) line-assigned aircrews and 12 Reserve line-assigned aircrews. The conferees further direct that 10 PAA/2 BAI aircraft be dedicated to the weather/hurricane stand-alone squadron in fiscal year 1993. The Committee will re-evaluate the need for the two BAI aircraft during fiscal year 1994.

NATIONAL GUARD PERSONNEL, ARMY

Amendment No. 9: Appropriates $3,239,702,000 instead of $3,293,400,000 as proposed by the House and $3,272,573,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Force structure/end strength	126,300	161,000	138,102
Repricing	0	−65,500	−65,500
Drug interdiction	0	7,819	0
Drug demand reduction	0	2,154	0
Total, National Guard personnel, Army	126,300	105,473	72,602

ARMY NATIONAL GUARD SOF UNITS

In the fiscal year 1992 Defense Appropriations Act, the Congress limited any conversion of National Guard missions to the active component. The conferees were troubled to learn that the Special Operations Command was considering just such a transition for selected Army National Guard Special Operations units. The conferees expect the Army Special Operations Command to maintain units through fiscal year 1993, and the conferees reject any plan or initiative to expand the active component special operations forces to replace these National Guard units. The Commander in Chief, U.S. Special Operations Command, shall report to the House and Senate Committees on Appropriations the five-year force structure plan for Army Special Operations Forces not later than February 15, 1993.

NATIONAL GUARD PERSONNEL, AIR FORCE

Amendment No. 10: Appropriates $1,166,100,000 instead of $1,191,300,000 as proposed by the House and $1,167,922,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
New uniform	2,500	0	2,500
Repricing	0	−26,200	−26,200
168th air refueling squadron	0	1,000	1,000
Drug interdiction	0	2,922	0
Drug demand reduction	0	1,400	0
Total, National Guard personnel, Air Force	2,500	−20,878	−22,700

TITLE II—OPERATION AND MAINTENANCE

A summary of the Conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Summary	Budget	House	Senate	Conference
Army	15,962,533	12,909,166	15,652,198	13,442,418
Navy	21,135,930	19,272,649	19,385,258	19,108,558
Marine Corps	1,719,128	1,431,700	1,511,288	1,383,138
Air Force	17,988,897	16,141,190	16,876,216	16,009,040
Defense Agencies	9,109,111	9,473,310	8,796,325	8,778,004
Army Reserve	1,013,500	1,033,842	1,016,866	1,038,525
Navy Reserve	880,572	844,049	863,961	850,745
Marine Corps Reserve	74,700	76,592	74,820	77,870
Air Force Reserve	1,244,223	1,209,312	1,191,874	1,195,024
Army National Guard	2,168,500	2,218,580	2,189,580	2,255,623
Air National Guard	2,593,624	2,535,250	2,495,039	2,493,689
National Board for the Promotion of Rifle Practice, Army	2,700	2,700	2,700	2,700
Court of Military Appeals	5,900	5,900	5,893	5,900
Environmental Restoration, Defense	901,200	901,200	1,511,700	1,199,700
Humanitarian Assistance	13,000	15,000	25,000	28,000
World Cup USA 1994	....	9,000	9,000	9,000
World University Competition	0	6,000	6,000	6,000
Summer Olympics	0	2,000	2,000	2,000
Real Property Maintenance, Defense	0	3,622,762	2,332,029	1,520,029
Grand Total, Operation and Maintenance	74,813,518	71,710,202	73,947,844	69,405,963
By Transfer	(2,684,000)	....	(3,666,000)	3,454,000

0–1 BUDGET DISPLAY

In the report accompanying its version of the FY 1993 Defense Appropriations bill, the Senate presented an allocation of its recommended adjustments for various O&M appropriation accounts consistent with the 0–1 categories established by the Department. After extensive consultation with the military services and the Office of the Comptroller, the conferees have adopted the allocation display proposed by the Senate, with adjustments as agreed to by the conferees. Allocations by 0–1 category are made for the Army, Navy, Marine Corps, Air Force and Defense Agencies accounts.

Recognizing the time it may take to fully implement the allocation procedures proposed by the Senate, the conferees modify the 0–1 allocation guidelines as follows:

The military services and defense agencies may shift funds between 0–1 categories as necessary prior to the submission of the fiscal year 1994 budget request. The Department may also revise and consolidate the 0–1 categories presented in this conference report in that submission, with an explanation to accompany such consolidations.

The 0-1 submission accompanying the fiscal year 1994 budget request shall display the new 0-1 allocation for fiscal year 1993, and a separate narrative shall be provided to the House and Senate Committees on Appropriations for any adjustment to any single 0-1 category in excess of ten percent of the allocation identified in this conference report.

Not later than June 1, 1993, the Comptroller of the Department shall submit to the House and Senate Committees on Appropriations and Armed Services a revised 0-1 display, identifying all adjustments up to that time. A narrative must be provided for any adjustment to a single 0-1 category in excess of ten percent of the allocation identified in the President's budget submission.

During the remainder of fiscal year 1993, the Department may adjust the allocation to the 0-1 categories as necessary, but must report to the House and Senate Committees on Appropriations and Armed Services any adjustment in excess of ten percent of the allocation for each category shown in the June revision.

The conferees do not seek to impede the orderly management of O&M programs at the base, installation or major command level, and no action adopted in this report should have that effect. The conferees wish to better understand the management and allocation of O&M funds, to ensure that critical needs are met and addressed through the Congressional funding process. The conferees intend to work with the Comptroller of the Department to ensure that accurate and useful information on the budgeting and expenditure of funds for critical O&M programs is available to both the Department and the Congress.

The conferees request that the Comptroller of the Defense Department identify to the Committees on Appropriations and Armed Services any shortfalls in the military service or defense agency accounting systems that will impede the execution of the direction provided in this report, and expect a plan to redress any such shortfalls not later than March 15, 1993.

REAL PROPERTY MAINTENANCE

The conferees agree to the Senate's recommendations for real property maintenance (RPM), including funding for RPM programs in the military services' O&M accounts at the levels requested, with the following exceptions:

Funding levels for minor construction and major repair in the Real Property Maintenance, Defense account are specified in bill language for each relevant component.

Prorated reductions totaling $200,000,000 are made to funding provided in the RPM, Defense account, though these are to be offset by transfers from the National Defense Stockpile Transaction Fund.

A total of $400,000,000 is appropriated for transfer to the RPM, Defense account from the Stockpile, instead of $612,000,000 approved by the Senate.

The conferees agree that the RPM initiatives proposed by the House in House Report 102-627 are to be adhered to in the following manner:

The Department shall provide at least $179,000,000 for barracks and dormitories modernization and repair from the relevant O&M accounts in the amounts identified in the House report.

Funding for reserve component backlog maintenance projects and armories repair and maintenance is to come from the RPM, Defense account in the amounts and for the projects identified by the House in its report. The Department should consider these projects to be of highest priority when allocating amounts available for transfers to the RPM, Defense account from the National Defense Stockpile Transaction Fund.

DEPOT MAINTENANCE

The conferees reviewed the House and Senate recommendations for the Department's depot maintenance programs and agree to: provide an additional $51,000,000 for the Army's communications and electronics maintenance programs; add $11,100,000 for the Navy's aircraft maintenance program and $30,000,000 for its ship maintenance program; and accept the Senate reductions in other depot maintenance programs. With respect to the additional funds provided for ship depot maintenance, the Navy is expected to abide by the plan submitted to the Senate, as noted in Senate Report 102-408.

The conferees agree to retain the general provision allowing full and open competition between public and private sector entities for depot maintenance workload, so that the Department may achieve its cost savings goals for these programs identified in the Defense Management Review.

EXCESS INVENTORY ADJUSTMENTS

The conferees approve the adjustments for spare parts and supply purchases identified under the Senate's "Excess Inventory Initiative". These adjustments include:

A total reduction of $1,018,000,000 to the service O&M accounts to encourage military commanders to return excess supplies to the supply system. Bill language directs transfers in the same amount from the Defense Business Operations Fund (DBOF) to the appropriate O&M accounts.

A reduction of $571,800,000 in conjunction with a general provision (Section 9086) which limits DBOF supply purchasing authority to 70 percent of sales. Section 9101 directs transfers from the DBOF to various O&M accounts, offsetting this reduction.

A $400,000,000 reduction to the O&M appropriations to account for the effects of past Congressional initiatives limiting DBOF purchasing authority. Section 9101 directs transfers from the DBOF to the appropriate O&M accounts, offsetting this reduction.

A reduction totaling $400,000,000 to the Army and Air Force O&M requests to encourage these services to expedite excess-on-order contract terminations. Section 9101 directs transfers from the DBOF to the appropriate O&M accounts, offsetting this reduction.

A reduction of $21,200,000 to the services' supply operations funding requests.

A total cut of $521,814,000 to the O&M appropriations, reducing funding available to the services and defense agencies for purchasing supplies and spare parts in light of the current military draw down.

The conferees will continue to monitor the Department's efforts to reduce unneeded spare parts.

TRAINING AND EDUCATION

The conferees agree to reduce the funding for the Department's Training and Education programs. The conferees expect that funding for career and professional development programs shall be reduced significantly. The conferees further expect the Department to vigorously pursue consolidation of service schools and related training programs associated with career and professional development in order to achieve greater savings. The conferees have learned that the Department freely grants requests for Defense personnel to pursue post-graduate work. Therefore, the conferees direct the Department to tighten the review and approval process for this program and make necessary changes to its regulations accordingly. The Department must only approve requests from individuals to pursue post-graduate work if it is absolutely critical in the accomplishment of the mission of the armed forces.

Additionally, the funding reduction shall not affect the ROTC programs or military training programs that are critical for mission accomplishment.

SES MANPOWER

The conferees agree to Section 9123 as passed in the Senate's version of the 1993 Defense Appropriations Bill. Moreover, the conferees agree that reductions in SES manpower should be made at rates similar to those for flag officers so that the total percentage reduction made to SES manpower levels is equivalent to that for flag officers at the completion of the military draw down.

BURDENSHARING

The conferees concur with the Senate recommendations on allied contributions in Europe, but have made additional reductions in several operation and maintenance accounts to reflect actions consistent with fiscal year 1993 Defense Authorization Act. Thus, the conferees agree to reduce funding by $250,000,000 for operation and maintenance and foreign nationals employed by U.S. bases in Europe and prohibit the obligation of an additional $175,000,000 until the Secretary of Defense notifies Congress that negotiations to revise the current agreements governing European allied contributions yield increased contributions from the allies.

These actions reflect the views of the conferees that the level of the Japanese burdensharing effort should be emulated by our European allies. Even if European contributions were increased by $350,000,000, the entire amount affected under the Senate recommendation, the total would still be 40 percent less than the level of Japanese contributions in FY 1993. Thus, the conferees direct the Department to seek multi-year agreements with European governments similar to our agreements with Japan, which ensure increasing levels of contributions.

The conferees do not specify the activities from which the recommended reductions are to be taken, leaving this determination to the discretion of the Department. However, the conferees expect that the numbers of foreign nationals employed at U.S. installations in Europe will decrease at a rate commensurate to or greater than the drawdown of U.S. troops stationed in Europe.

GSA LEASES IN THE NATIONAL CAPITAL REGION

The conferees are not satisfied with the way the General Services Administration manages and controls office space leased by the Department of Defense in the National Capital Region. Leasing office space from the General Services Administration (GSA) has become cost-prohibitive. Unless the General Services Administration changes its leasing policies regarding DOD activities and demonstrates a reduction in lease costs during the coming fiscal year, the conferees will prohibit the Department from leasing office space from GSA for DOD activities located in the National Capital Region.

BASE REALIGNMENT ACTIONS

It has come to the attention of the conferees that the Department of Defense is contemplating the use of rented facilities in order to speed up implementation of base realignment and closure actions. While the conferees understand the desire for prompt consolidation of facilities, it is not acceptable to incur unnecessary expenses in doing so. The Department should be aware that the conferees will require, in advance, a detailed accounting of anticipated expenditures for base realignment actions which involve rented facilities at installations gaining personnel, if those facilities duplicate available space at installations losing personnel.

SECURITY LOCKS

The conferees strongly agree with the Senate initiative regarding security locks. The conferees agree that every effort should be made to ensure that government-wide physical security standards are maintained so as to never compromise our nation's most valuable information. For that reason, the conferees direct that, within the funds appropriated for Fiscal Year 1993, $15 million shall be used by the Defense Logistics Agency to provide to the Services and Agencies funded in the bill, the self-powered locks (to be considered Government Furnished Equipment) necessary to initiate a retrofit program to replace locks which do not meet current specifications (FF-L-2740). The conferees reiterate that the procurement of locks meeting MIL-L-15596 specifications is to be discontinued.

PRINTING

In the report accompanying its version of the 1993 Defense Appropriations bill, the House directed that the Department's plan to consolidate printing activities meet certain requirements. The conferees support the requirements established in the House report and direct that the printing efficiencies identified in the Senate report language be achieved. In addition, appropriated funds are not to be made available for the acquisition of new printing or duplicating equipment until certified by the Joint Committee on Printing.

The conferees support the consolidation of printing activities but direct the Department to adhere to the requirements of Title 44, United States Code and the Government Printing and Binding Regulations issued pursuant to that Law.

DEFENSE SPR PETROLEUM ACCOUNT

To facilitate the Department of Defense's strategic interests, $125,625,000 is appropriated for transfer to the Department of Energy for the purchase of crude oil for the Department of Defense to be stored in the Strategic Petroleum Reserve so that the Department of Defense may have access to a supply of crude oil, at the direction of the President, for national defense in an energy supply disruption. These funds will allow for the purchase, transportation, storage in existing facilities, and drawdown of approximately six million barrels of crude oil from the Strategic Petroleum Reserve.

RECRUITING AND ADVERTISING

The conferees agree that the Department's recruiting and advertising budget should be reduced in fiscal year 1993, and expect the Department to take whatever actions are necessary to economize and streamline recruiter functions in order to reach the Department's recruiting goals. The conferees do not agree with the House position that television and radio advertising be eliminated, but agree that across-the-board reductions need to be made to all areas of the recruiting and advertising budget.

AUTOMATED DATA PROCESSING

Appropriation	House	Senate	Conference
O&M, Army:			
General reduction	−75,000	0	−20,000
Desktop IV	0	−10,000	−10,000
O&M Navy:			
General reduction	−75,000	0	−20,000
Desktop IV	0	−10,000	−10,000
O&M, Air Force:			
General reduction	−75,000	0	−20,000
Desktop IV	0	−10,000	−10,000
PC–III	0	−7,000	0
CALS	+13,000	0	+37,000
CAMS/REMIS	0	+500	+500
O&M, Defense Agencies: General reduction	−75,000	0	0
Other Procurement, Army:			
ADP execution	0	−6,000	−6,000
ARPERCEN	+9,000	0	+9,000
RCAS	+15,000	0	+15,000
Other Procurement, AF:			
ADP execution	0	−4,000	−4,000
PC–III	0	−8,900	0
CALS	+18,000	0	+9,000
Procurement, Def Ag: Supercomputer	+50,000	0	+45,000
RDT&E, Air Force: CALS	+20,000	0	0

INDEFINITE DELIVERY/INDEFINITE QUANTITY (IDIQ) CONTRACTS.

The Conferees direct the Department to continue to limit the level of fiscal year 1993 IDIQ ADP purchases to those amounts requested in the fiscal year 1993 amended President's budget exhibit 43, as adjusted by final congressional action. Authority to exceed these controls must be granted by the DOD senior official for information resource management in the Office of the Assistant Secretary of Defense (C3I). The Conferees request an interim report of waivers granted by dollar amount and appropriation through the third quarter of fiscal year 1993 to be provided not later than July 15, 1993, and a final report on fiscal year 1993 waivers due not later than November 30, 1993.

COMPOSITE HEALTH CARE SYSTEM (CHCS)

The Conferees support the Department's continuing investigation of other commercial off the shelf applications that may enhance the current Inpatient Order Entry (IPOE) computer application and direct the Department to submit a report not later than June 30, 1993, to detail the status of the IPOE computer application to include its impact on the Department's plan to field CHCS. Additionally, the Department is directed to encourage the sub-contracting of other applications, such as anatomic pathology, new critical-care management technology, CHCS catchment-wide integration, and other areas with state-of-the-art technology from existing vendors to insure a timely cost-effective complete implementation of CHCS.

COMPUTER-AIDED ACQUISITION AND LOGISTICS SYSTEM (CALS)

The Conferees direct that the Assistant Secretary of Defense (Production and Logistics) shall exercise management control over the various CALS programs through the Joint Logistics Systems Center. Technical corrections to the Senate report are included in the following list of CALS programs, including an increase of $8,100,000 in the Army Flexible Computer Integrated Manufacturing (FCIM) program at the Letterkenny Army Depot:

COMPUTER-AIDED ACQUISITION & LOGISTICS SYSTEM (CALS)—FISCAL YEAR 1993—Continued

Functional area and program	Service	Amount
Tech manuals:		
JCALS	Army	$85,900,000
ACAPS	Army	400,000
EOPDB	Army	190,000
EPMS	Army	110,000
ETPS	MARCORPS	3,000,000
NUBS–NPFC	Navy	900,000
ATOS	Air Force	3,840,000
Subtotal, tech manuals		(94,340,000)
Database management:		
IMIS	Air Force	6,600,000
IDS	Air Force	14,800,000
ITDS	Air Force	20,000,000
Subtotal, database management		(41,400,000)
Flexible computer integrated manufacturing (FCIM):		
JFCIM	Navy	7,800,000
RAMP	Navy	31,800,000
AFCIM	Army	39,100,000
DMAMTI	Air Force	3,000,000
SPARES	Air Force	2,350,000
Subtotal, FCIM		(84,050,000)
Engineering data management:		
EDMICS	Navy	22,400,000
TD/CMS	Army	2,500,000
ADACS	Army	2,000,000
CAD II	Navy	5,000,000
DRWG PROC	Navy	14,000,000
NEDALS	Navy	500,000
ERCARS	Air Force	8,600,000
DLA EDMICS	DLA	3,900,000
MPCASS	DLA	2,700,000
Subtotal, engineering data management.		(61,600,000)
Printing:		
AFIPS	Air Force	5,400,000
ADMAPS	Navy	8,300,000
EDPODS I	Navy	2,000,000
EDPODS II	Navy	3,000,000
EDPODS III	Navy	5,000,000
NPODS	Navy	1,700,000
TMPODS	Navy	15,000,000
Subtotal, printing		(40,400,000)
CALS shared resources center nodes:.		
AFCALS	Air Force	46,000,000
Grand total CALS		367,790,000

The Conferees recommend providing $37,000,000 to operation and maintenance, Air Force, and $9,000,000 to other procurement, Air Force to provide for continued operations of CALS Shared Resource Center (CSRC) nodes in Johnstown, Pennsylvania and Palestine, Texas, as well as for the establishments of additional CSRC nodes located in Orange, Texas; San Antonio, Texas; Dayton, Ohio; Cleveland, Ohio; and Fairfax, Virginia. These adjustments are made with the direction that this program falls under the management auspices of the Assistant Secretary of Defense (P&L) as do other CALS programs detailed above. No additional CSRC nodes, other than those identified, may be established in fiscal year 1993. Further, no CSRC nodes will be established in the future unless full funding for the established nodes and the nodes proposed for establishment is included within the budget requests.

CORE AUTOMATED MAINTENANCE SYSTEM (CAMS)/RELIABILITY AND MAINTAINABILITY INFORMATION SYSTEM (REMIS)

For fiscal year 1993, the Conferees support continued operations and enhancements of CAMS/REMIS and the Tactical Interim CAMS and REMIS Reporting System (TICARRS) as they are currently operating. Enhancements or expansions of each system in fiscal year 1993 is at the discretion of the Department. The Conferees provide $15,500,000 within operation and maintenance, Air Force for the continued operation of TICARRS as the supporting system for the F-15 and F-16 aircraft which are being supported by TICARRS as of October 1, 1992. Further, the Air Force shall not expand TICARRS support for other aircraft or weapon systems in fiscal year 1993. The Department is also directed to maintain support for the F-117A aircraft by the Smart Data System (SDS) for fiscal year 1993. Expansion or enhancements of the SDS in fiscal year 1993 will be at the discretion of the Department. Finally, the Conferees have provided $500,000 to operation and maintenance, Air Force to perform an independent cost and operational effectiveness analysis through the Institute for Defense Analysis to compare CAMS/REMIS and TICARRS. The Conferees request that the results of this study be provided to the Committees on Appropriations by July 30, 1993.

OPERATION AND MAINTENANCE, ARMY

Amendment No. 11. Inserts heading.

Amendment No. 12. Appropriates $13,442,418,000 instead of $12,909,166,000 as proposed by the House and $13,423,198,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Army	House	Senate	Conference
Combat training centers		10,000	10,000
SIGINT equip retire		−35,500	−35,500
Arms control		−5,000	−5,000
Communications		−25,600	0
Second destination transportation		−19,300	−19,300
Desert Shield Costs		−65,893	−65,893
Real estate administration	0	15,000	15,000
Foreign nationals	−1,170,000	0	0
Wage grade pay adjustment		−5,900	−5,900
Headquarters and administration	−11,000	−5,600	−8,300
SOUTHCOM HQ management	−2,400		−2,400
International HQs and agencies	−2,000		0
Consultants, contract studies and mgmt services	−13,000	−9,600	−13,000
Audits and monetary benefits	−25,000		−12,500
Automated data processing	−75,000	−10,000	−30,000
Intelligence/classified programs	−155,141	−132,800	−132,975
Special technical project	−2,500		0
Recruiting, advertising and examining	−34,600	−12,500	−20,000
Training/education	−84,000	−80,000	−80,000
Burdensharing	0	−120,000	−130,000
Transfer from DBOF		743,000	0
DBOF technical adjustments	−96,700		0
Depreciation charges for mil con projects	(−96,700)		0
Purchases from DBOF		−110,982	−110,982
Return excess supplies		−743,000	−743,000
Fiscal year 1993 obs-to-sales		−121,614	−121,614
Prior obs-to-sales		−85,074	−85,074
Supply operations		−14,700	−14,700
Excess-on-order		−250,000	−250,000
New acquisition strategy		−700	−700
O&M purchase threshold		1,725	0
Pentagon reservation maintenance revolving fund	−32,500		−32,500
Criminal investigations tranfer	0	0	0
Nursing demonstration program-Mount Aloysius	2,000		2,000
Memorial Day and July 4th celebrations	900	900	900
Presidio of San Francisco real property maintenance	50,000	22,330	22,330
Foreign currency repricing	−53,600		0
Rent Payments to GSA	−72,958		−7,000
Consolidation of criminal investigation functions	−28,500		0
Civilian training, educ & devel	−28,000		−10,000
Communications & electronics depot maint backlog	51,000		51,000
ROTC demonstration project	750		750
SES manpower	−7,085		−3,500
Real property maintenance	−748,000		0
Real property maintenance, OCONUS	(−316,000)		0
Transfer to RPM, defense	−574,798		−574,798
Residual value		−100,000	−70,000
Interim contractor support transfer	27,400		0
Hamilton cleanup			23,270
Travel		−32,500	−32,500
Printing		−9,529	−9,529
Environ Lab consolidation		−5,000	−5,000
Revised inflation		−17,200	−17,200
Pohakuloa training		1,000	1,000
Army Environmental Policy Institute		1,500	1,500
MP training		1,000	1,000
Total adjustments			−2,520,115

O–1 ALLOCATIONS

Allocation reflecting the agreements reached by the conferees are made by 0–1 categories and are shown in the table below. Included in the allocations are transfers identified in the bill under this heading.

OPERATION AND MAINTENANCE, ARMY

[Dollars in thousands]

Activity description	Budget estimate	Conference agreement	Change
201 Combat developments activities	251,806	251,806	0
202 Land forces	4,480,297	4,480,297	0
203 JCS exercises	69,260	69,260	0
204 Unified commands	32,307	28,827	(3,480)
206 P2M environmental	191,560	194,198	2,638
207 RPMA: land forces	518,562	506,449	(12,113)
208 BASOPS(-): land forces	2,061,645	1,964,436	(97,209)
301 Non-Defense communications system support	307,890	263,729	(44,161)
302 Strategic command and control	68,357	55,995	(12,362)
303 Information services	504,766	428,401	(76,365)
304 Communications security	18,468	16,479	(1,989)
305 Defense communications system support	225,468	192,084	(33,384)
306 P3C environmental	2,085	1,860	(225)
307 RPMA: communications	5,107	4,557	(550)
308 BASOPS(-): communications	23,787	20,992	(2,795)
309 Strategic intelligence and arms control	415,225	368,829	(46,396)
702 Single manager for conventional ammo (SMCA)	305,755	206,931	(98,824)
703 Troop issue subsistance activities	33,301	29,714	(3,587)
704 Logistics support activities	583,118	519,614	(63,504)
705 Real estate	111,591	99,572	(12,019)
706 Supply operations	673,098	585,903	(87,195)
707 Transportation	662,747	572,066	(90,681)
708 P7S environmental	56,872	45,747	(11,125)
709 RPMA: Supply activities	61,157	54,570	(6,587)
710 BASOPS(-): Supply activities	243,532	214,921	(28,611)
711 Other depot maintenance	772,692	769,070	(3,622)
813 Officer acquisition	45,549	41,451	(4,098)
814 Flight training	266,167	232,635	(33,532)
815 One station training	15,425	13,482	(1,943)
816 Professional education	56,564	49,438	(7,126)
817 Acquisition corps	72,414	63,291	(9,123)
818 Recruit training	5,250	4,589	(661)
819 Senior ROTC	97,493	85,211	(12,282)
820 Specialized training	208,049	181,839	(26,210)
821 Training support	443,583	387,701	(55,882)
822 P8T environmental	36,659	32,041	(4,618)
823 RPMA: training and education	163,209	142,648	(20,561)
824 BASOP(-): training and education	856,201	740,964	(115,237)
825 Army continuing education system	98,289	98,066	(223)
826 Civilian training, education and development	110,231	99,981	(10,250)
827 Armed Forces radio and TV service	18,397	18,355	(42)
828 Junior ROTC	33,324	51,938	18,614
829 Family programs	144,691	144,362	(329)
830 Personnel support activities	210,347	209,869	(478)
831 Recruiting and examining	250,374	237,305	(13,069)
832 Veterans Education Assistance Program	35,632	35,551	(81)
833 BASOPS(-): Recruiting and examination	138,170	136,505	(1,665)
901 Criminal investigation activities	24,355	24,355	0
902 Headquarters support	121,540	113,240	(8,300)
903 Public affairs	11,476,	11,476	0
904 Service-wide support	414,568	418,968	4,400
905 BASCOP(-): leases	111,382	78,882	(32,500)
1001 International military HQS and agencies	216,420	216,420	0
1002 Misc support to other nations	18,888	18,888	0
Addendum:			
Classified programs		(132,975)	(132,975)
Budget amendment	(31,365)	(31,365)	
Total Army		15,671,418	(1,202,317)

TRADOC ACTIVITIES

The conferees recognize the central role played by the various activities of the Army's Training and Doctrine Command to provide a trained, ready, and well-equipped Army. The adjustments identified in the O–1 allocation represent a distribution of the overall reductions made to the Army O&M account, and are made without prejudice to any TRADOC mission or installation. The flexibility provided in this conference report to adjust to O–1 allocations should be employed to minimize the disruption of missions and civilian workforce levels at key TRADOC installations, including Ft. Sill, Ft. Leavenworth and Ft. Huachuca.

MILITARY POLICE TRAINING

An Interservice Training Review Organization study recently concluded it would be cost-effective to consolidate Marine Corps military police basic training at the Army's Military Police School at Fort McClellan, Alabama. This training is currently done at Lackland Air Force Base, Texas. The conferees have provided an additional $1,000,000 in Operation and Maintenance, Army, for this purpose and have reduced Operation and Maintenance, Air Force, by the same amount.

REAL ESTATE ADMINISTRATION

The conferees agree to provide $15,000,000 for design and planning activities to initiate the Hawaii Family Housing Deficit Reduction Program.

Amendment No. 13. Inserts Senate language which allows transfers from the Defense Business Operations Fund.

Amendment No. 14. Inserts Senate language which fences funds until the Secretary of Defense certifies that European countries are increasing their contributions to pay costs for base operations and foreign labor costs.

Amendment No. 15. Inserts Senate language which provides $36,000,000 for the procurement of the Extended Cold Weather Clothing System.

Amendment No. 16. Inserts Senate language which provides $1,715,000 for the environmental assessment and cleanup of the Badger Army Ammunition plant.

Amendment No. 17. Inserts Senate language which provides $7,000,000 for the environmental cleanup of the National Presto Industries Eau Claire facility.

Amendment No. 18. Inserts Senate language which earmarks $1,000,000 for military police training; earmarks $14,000,000 for the Presidio of San Francisco real property maintenance program; and $100,000 for ammunition plant contamination.

PRESIDIO OPERATIONS

In order to effect a smooth transition of the Presidio of San Francisco between the Department of the Army and the Department of the Interior, both Departments have agreed to an annual operating funding requirement of $45,550,000 as a necessary common operational need from FY 1993 to FY 1995. The Department of the Interior is to assume 25 percent of the common operational responsibilities during FY 1993 to meet the earlier transfer date requested by the Department of Army, September 30, 1994. A total of $14,000,000 for the Presidio shall be transferred to the Park Service within 30 days to meet its 25 percent share of common operating responsibilities and program and planning functions, including the utilization of Conservation Corps assistance where appropriate.

AMMUNITION PLANT CONTAMINATION

The conferees agree to make available $100,000 to cover the cost of connecting the Lowry Grove Mobile Home Park in St. Anthony, Minnesota, to the municipal water system. The conferees take this action in an effort to mitigate the effects of environmental contamination which may have emanated from the Twin City Army Ammunition Plant. Funding for this project in no way constitutes an admission of Government liability for contamination in the vicinity of the Lowry Grove Mobile Home Park or the basis for future payments.

OPERATION AND MAINTENANCE, NAVY

Amendment No. 19. Appropriates $19,108,558,000 instead of $19,272,649,000 as proposed by the House and $19,290,758,000 as proposed by the Senate; deletes House language on competition for ship overhaul and repair; restores House language directing facilities, activities and personnel levels at the Memphis Naval Complex remain at fiscal year 1984 levels; and restores Senate language allowing transfer from the Defense Business Operations Fund, fencing funds until the Secretary of Defense certifies that European countries are increasing their contributions to pay costs for base operations and foreign labor costs, providing funds to conduct an environmental impact study at Bellows Air Force Base and providing funds for the development of a military land use plan in Hawaii.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Navy	House	Senate	Conference
Arms control		−7,300	−7,300
Strategic communications		−7,300	−7,300
PACAF exercises		25,000	0
Desert Shield costs		−1,300	−1,300
SOSUS		9,465	9,465
Nuclear fuel processing		−200,400	−115,000
Communications		−5,800	0
Second destination transportation		−7,300	−7,300
Aircraft maintenance		11,100	11,100
Ship maintenance		30,000	30,000
Other maintenance		−38,250	−38,250
ASW fleet support		−6,756	−6,756
Logistic support		−7,500	−3,750
Engineering support		−3,900	−3,900
NAVSEA field operations		−22,600	
U.S. Coast Guard transfer			−203,100
Foreign nationals	−191,300		
Headquarters and administration	−8,000	−7,600	−8,000
Consultants	−1,000	−24,600	−24,600
Audits and monetary benefits	−25,000		−12,500
Automated data processing	−75,000	−10,000	−30,000
Intelligence/classified programs	−44,992	−36,200	−32,972
Classified weapons			5,000
Special technical project	−20,000		0
Recruiting, advertising and examining	−2,000	−4,700	−2,000
Training/Education	−71,000	−62,000	−62,000
Burdensharing	0	−25,000	−50,000
DBOF transfer		31,500	0
DBOF Technical adjustment/excess cash	−527,000	−280,000	−480,000
Depreciation charges for mil con projects	(−167,500)		0
Prior period losses	(−359,500)		0
Purchases from DBOF		−160,640	−160,640
Return excess supplies		−31,500	−31,500
Fiscal year 1993 obs-to-sales		−176,028	−176,028
Prior obs-to-sales		−123,139	−123,139
Supply operations		−2,900	−2,900
New acquisition strategy		−7,400	−7,400
O&M purchase threshold		10,250	0
Pentagon reservation maintenance revolving fund	−22,400		−22,400
Distribution costs for Pearl Harbor Medal	100	100	100
Continuing education assistance	175		175
Foregin currency repricing	−4,300		0
Consolidation of criminal investigation functions	−54,200		0
Rental payments to GSA	−51,313		−5,000
SES manpower	−2,721		−1,400
Real property maintenance	−477,700		0
Real property maintenance, OCONUS	(−50,000)		0
Transfer to RPM, defense	−400,856		−400,856
Interim contractor support transfer	118,200		0
Base operations		−11,097	0
Travel		−8,000	−8,000
Printing		−4,691	−4,691
Revised inflation		−20,900	−20,900
Environmental lab consolidation		−5,000	−5,000
Naval observatory		1,600	1,600
Total adjustments			−2,027,372

O–1 ALLOCATIONS

Allocations reflecting the agreements reached by the conferees are made by O–1 categories and are shown in the table below. Included in the allocations are transfers identified in the bill under this heading.

OPERATION AND MAINTENANCE, NAVY

[Dollars in thousands]

Activity description	Budget estimate	Conference agreement	Change
101 Strategic communications	86,108	73,121	(12,987)
102 Trident program	102,906	96,305	(6,601)
103 Strategic weapons systems	897,083	836,257	(60,826)
104 Space systems operations	26,667	25,216	(1,451)
105 Claims and other court-directed activites	755	714	(41)
106 Ship operations	78,326	74,063	(4,263)
107 Environmental protection	3,859	3,649	(210)
108 Fleet command and staff (FC&S)	19,268	18,219	(1,049)
109 Base operations	104,866	99,158	(5,708)
110 Maintenance of real property	27,585	26,084	(1,501)
111 Ship maintenance	597,374	594,861	(2,513)
112 Military construction support	307	290	(17)
201 Cruise missile	104,493	98,806	(5,687)
202 TACAIR/ASW–A/C operations	1,584,281	1,498,053	(86,228)
203 Fleet air support (FAS)	298,605	282,353	(16,252)
204 Claims and other court-directed activites	41,570	39,307	(2,263)
206 Ship operations	1,876,559	1,684,023	(192,536)
207 Fleet operations support	474,974	432,902	(42,072)
208 Environmental protection	33,076	31,276	(1,800)
209 Combat support forces	121,895	115,261	(6,634)
210 Fleet command and staff	101,964	96,414	(5,550)
211 Base operations	1,398,878	1,332,991	(65,887)
212 Maintenance of real property	243,429	230,180	(13,249)
213 Unified commands	34,418	32,545	(1,873)
214 Other warfare support	97,295	92,000	(5,295)
215 Fleet air training	436,192	412,451	(23,741)
216 Fleet ship training	47,954	45,344	(2,610)
217 Ship maintenance	2,943,703	2,783,486	(160,217)
219 Military construction support	6,290	5,948	(342)
301 Claims and other court-directed activities	1,328	1,256	(72)
302 Environmental protection	268	253	(15)
303 Base operations	98,288	92,938	(5,350)
304 Maintenance of real property	17,718	16,754	(964)
305 Security program	566,192	533,076	(33,116)
306 Leased communciations	139,589	130,492	(9,097)
307 Management headquarters	17,447	16,497	(950)
308 Other communications	176,401	164,800	(11,601)
309 WWMCCS	19,206	18,161	(1,045)
310 Environmental/prediction supp (EPS)	173,287	163,855	(9,432)
311 Naval observatory	9,844	9,308	(536)
312 Military construction support	2,393	2,263	(130)
401 Claims and other court-directed activities	9	9	(0)
402 Sealift Prepositioning/surge	390,198	368,961	(21,237)
701 Claims and other court-directed activities	15,880	15,016	(864)
702 Environmental protection	48,629	40,982	(7,647)
703 Command and administration	83,514	78,969	(4,545)
704 Base operations	275,604	249,407	(26,197)
705 Maintenance of real property	88,687	83,860	(4,827)
706 Retail sales operations	288,160	272,476	(15,684)
707 Aircraft rework and maintenance	614,316	591,981	(22,335)
708 Other aviation systems maintenance	169,023	159,824	(9,199)
709 Other ship systems maintenance	304,515	260,541	(43,974)
712 Air launched weapons R & M	138,646	131,100	(7,546)
713 Ship launched weapons R & M	196,849	171,885	(24,964)
714 Electronic systems R & M	10,150	9,598	(552)
715 Engineering and support services	409,692	383,494	(26,198)
716 Industrial preparedness	4,334	4,098	(236)
717 Logistic support activites	443,614	411,969	(31,645)
718 Contract tech/maintenance support	0	0	0

OPERATION AND MAINTENANCE, NAVY—Continued

[Dollars in thousands]

Activity description	Budget estimate	Conference agreement	Change
719 Field operations	681,220	621,543	(59,677)
720 ASW systems support	7,800	7,375	(425)
721 ASW systems maintenance	234,728	217,952	(16,776)
724 Procurement operations	432,950	401,886	(31,064)
725 Service-wide transportation	239,934	219,575	(20,359)
726 Military construction support	5,639	5,332	(307)
801 Claims and other court-directed activites	4,575	4,166	(409)
802 Training carrier operations	0	0	0
803 Environmental protection	7,753	7,060	(693)
804 Base operations	372,682	339,368	(33,314)
805 Maintenance of real property	87,730	79,888	(7,842)
806 Specialized skill training	182,995	166,637	(16,358)
807 Officer acquisition	58,540	53,307	(5,233)
808 Flight training	337,117	306,982	(30,135)
809 NROTC	56,363	51,325	(5,038)
810 Recruiting advertising	78,198	66,508	(11,690)
811 Other personnel activities	164,008	149,347	(14,661)
812 Advertising activities	15,585	14,192	(1,393)
813 Recruit training	4,765	4,339	(426)
814 Junior NROTC	15,015	13,713	(1,302)
816 Civilian education programs	28,954	26,443	(2,511)
817 Other trianing support (OTS)	249,622	227,973	(21,649)
818 Professional development education (PDE)	53,411	50,863	(2,548)
825 Off-duty volunt educ prog (ODVEP)	50,132	47,741	(2,391)
826 Military construction support	5,892	5,611	(281)
901 Claims and other court-directed activities	3,402	3,402	0
902 Environmental protection	254	254	0
903 Base operations	165,916	145,116	(20,800)
904 Maintenance of real property	12,619	12,619	0
905 SECNAV staff offices	52,386	48,986	(3,400)
906 External public affairs	2,836	2,836	0
907 Insurv, legal and admin activities	74,201	74,201	0
908 Navy-wide finance activities	119,603	119,603	0
909 Naval audit service	35,841	35,841	0
911 Civilian manpower mgmt headquarters	27,328	27,328	0
913 CNO staff offices	23,826	22,826	(1,000)
914 Navy manpower analysis	7,800	7,800	0
915 Bureau of naval personnel	95,367	92,367	(3,000)
916 Naval family allowance activities	3,801	3,801	0
917 Special program support	81,801	81,901	100
918 Military manpower management	9,965	9,965	0
1001 Support of other nations	7,959	7,959	0
Addendum: Classified programs		(27,972)	(27,972)
Total Navy		19,203,058	(1,391,916)

PHOTOGRAMMETRY

The conferees remain concerned that the Navy is further developing applications for photogrammetry using in-house resources when such services can be obtained commercially. While the conferees encourage the Navy to continue the photogrammetric effort resident in the Charleston Navy Shipyard, they expect that the Navy will obtain photogrammetric services from the private sector when it is cost effective to do so, using established public/private cost comparison techniques to make this determination. The expertise resident in the Charleston Yard will be used to train Navy personnel on the proper use of this technology, so that proper specifications can be written and the quality of work and proposals obtained from the private sector can be evaluated. The Navy shall report to the Committees on Appropriations by January 1, 1993 on the status of its in-house activities and use of contractors for photogrammetric services. That report shall include a methodology for evaluating the relative costs of in-house versus contractor performance and should be prepared in consultation with representatives of private firms in this field. Until submission of this report, the Navy is directed to cease establishment of new in-house photogrammetry activities.

CITY OF AMERICA

The conferees express their continued support to transfer the USS ORISKANY (CV-34) to a non-profit organization for the purposes of preserving the vessel and promoting international understanding. The conferees encourage the Navy to continue its exploration of acceptable terms for the transfer and note that the delayed sale of the USS BENNINGTON and the USS HORNET may provide additional time for the ORISKANY transfer to be completed.

OPERATION AND MAINTENANCE, MARINE CORPS

Amendment No. 20. Inserts heading.

Amendment No. 21. Appropriates $1,383,138,000 instead of $1,431,700,000 as proposed by the House and 1,452,788,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Marine Corps	House	Senate	Conference
Operating forces		−30,000	−5,000
Field logistics support		−8,028	−8,028
OSD—Directed reduction	−39,000	(−39,000)	−39,000
Recruiting, advertising and examining	0	−32,600	−1,000
Foreign currency repricing	−100		
Real property maintenance, OCONUS	(−35,000)		
Transfer to RPM, defense	−109,400		−109,400
Base operations		−4,710	−4,710
Foreign national employees	−41,800		
DBOF technical adjustment/excess cash		−50,800	−150,800
DBOF transfer		19,500	0
Purchases from DBOF		−10,980	−10,980
Return excess suppl		−19,500	−19,500
Fiscal year 1993 obs-to-sales		−12,031	−12,031
Prior obs-to-sales		−8,417	−8,417
Training and education		−6,000	−2,000
Wage grade pay raise		−1,200	−1,200
Printing		−1,224	−1,224
Revised inflation		−1,700	−1,700
O&M purchase threshold		250	
Total adjustments			−335,990

O–1 ALLOCATIONS

Allocations reflecting the agreements reached by the conferees are made by O–1 categories and are shown in the table below. Included in the allocations are transfers identified in the bill under this heading.

OPERATION AND MAINTENANCE, MARINE CORPS

[Thousands of dollars]

Activity description	Budget estimate	Conference agreement	Change
201 Operating Forces	300,281	274,340	(25,941)
202 Service-wide Activities	52,027	44,503	(7,524)
203 Maintenance of Real Property	106,220	90,859	(15,361)
204 Base Operations	372,770	313,903	(58,867)
205 Base Communications	18,121	15,500	(2,621)
702 Supply Depot Operations	30,925	26,453	(4,472)
703 Inventory Control Points	6,580	5,628	(952)
704 Transportation of Things	30,898	26,430	(4,468)
705 Field Logistics Support	117,716	101,479	(16,237)
706 Other Logistics Support	51,732	44,251	(7,481)
708 Equipment Maintenance	46,390	39,681	(6,709)
709 Subsistence Purchases	78,444	67,100	(11,344)
710 Service-wide Activities	10,828	9,262	(1,566)
711 Maintenance of Real Property	8,267	7,071	(1,196)
712 Base Operations	35,363	30,249	(5,114)
713 Base Communications	7,624	6,521	(1,103)
801 Recruit Training	6,076	5,197	(879)
802 Specialized Skill Training	21,866	17,704	(4,162)
803 Professional Development	6,029	5,157	(872)
804 Officer Acquisition	233	199	(34)
805 Flight Training	187	160	(27)
806 Training Support	50,103	40,858	(9,245)
807 Recruiting	43,373	37,748	(5,625)
808 Advertising	8,657	8,053	(604)
809 Off-Duty Education	9,897	9,207	(690)
810 USMC Junior ROTC	5,824	5,418	(406)
811 Other Training and Personnel Activities	24,321	21,625	(2,696)
812 Service-wide Activities	9,687	9,011	(676)
813 Maintenance of Real Property	18,846	16,532	(2,314)
814 Base Operations	68,510	62,032	(6,478)
815 Base Communications	2,942	2,737	(205)
901 Departmental Administration	6,966	6,966	0
902 Staff Management Activity	22,094	22,094	0
903 Other Administrative Activities	61,074	59,850	(1,224)
904 Service-wide Activities	412	412	0
905 Maintenance of Real Property	501	501	0
906 Base Operations	4,189	4,189	0
907 Base Communications	2,755	2,755	0
Total Marine Corps		1,441,638	(207,090)

Amendment No. 22: Inserts Senate language which allows transfers of funds from the Defense Business Operations Fund.

Amendment No. 23: Inserts Senate language providing funds for the child abuse prevention program.

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 24: Inserts heading.

Amendment No. 25: Appropriates $16,009,040,000 instead of $16,141,190,000 as proposed by the House and $16,204,216,000 as proposed by the Senate; restores and amends House language that provides $15,500,000 only to operate, maintain and enhance the Tactical Interim CAMS and REMIS Reporting System (TICARRS) and the Smart Data System (SDS); maintains the Smart Data System as the supporting system for the F-117A aircraft; and maintains TICARRS as the supporting system for F-15 and F-16 aircraft; and deletes House language making $704,056,000 subject to authorization; deletes Senate language on TICARRS and SDS; inserts Senate language allowing transfers from the Defense Business Operations Fund; fencing funds until the Secretary of Defense certifies that European countries are increasing their contributions to pay costs for base operations and foreign labor costs; earmarking $7,000,000 for the Theater Air Command Control and Simulation Facility at Kirtland Air Force Base; and adds $4,000,000 for the immediate completion of the necessary comprehensive testing and cleanup of additional contamination found at the site of the former Olmsted Air Force Base, Pennsylvania.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Air Force	House	Senate	Conference
SIOP planning		−4,961	−4,961
KC–135 flying hours		−74,200	0
B–1 flying hours		−4,500	−4,500
EC–135 flying hours		−7,400	−7,400
PACAF exercises	0	0	25,000
Arms control		−6,800	−6,800
Communications		−49,200	0
LOGAIR		−44,000	−44,000
B–52 maintenance costs		−2,500	−2,500
Combat support		−15,500	0
Logistics support		−33,900	−33,900
Foreign nationals	−105,000		0
Wage grade pay adjustment	0	−11,600	−11,600
Headquarters and administration	−17,000		−8,500
Consultants	−16,000	−9,000	−16,000
Audits and monetary benefits	−25,000		−12,500
Automated data processing	−75,000	−16,500	−29,500
Recruiting, advertising and examining	−200	−1,800	−200
Training/education	−46,000	−44,000	−44,000
Hamilton cleanup			−23,270
Windsor school renovation	1,500		1,500
Burdensharing	0	−30,000	−70,000
DBOF Technical adjustment/excess cash	−253,500	−112,700	−312,700
Depreciation charges for mil con projects	(−40,800)		0
Prior period losses	(−112,700)		0
Workload carryover excesses	(−100,000)		0
Purchases from DBOF		−135,570	−135,570
DBOF transfer		224,000	0
Return excess supplies		−224,000	−224,000
Fiscal year 1993 obs-to-sales		−148,557	−148,557
Prior obs-to-sales		−103,992	−103,992
Supply operations		−3,600	−3,600
Excess-on-order		−150,000	−150,000
Purchases inflation		−18,300	−18,300

[Amounts in thousands of dollars]

Operation and maintenance, Air Force	House	Senate	Conference
Pentagon reservation maintenance revolving fund	−24,200		−24,200
Intelligence/classified programs	−94,341	−40,100	−48,806
Special technical project	−30,000		0
Civil Air Patrol	1,331	1,331	1,331
JCS exercises	9,000		9,000
Computer-aided acquisition and logistics system	13,000		37,000
Consolidation of criminal investigation functions	−41,000		0
Foreign currency repricing	−25,600		0
Turkish base maintenance contract	−68,000		−68,000
Military family services	3,000		3,000
Rent payments to GSA	−18,185		−2,500
SES manpower	−2,931		−1,500
Real property maintenance	−904,284		0
Real property maintenance, OCONUS	(−400,000)		0
Transfer to RPM, Defense	−403,892		−403,892
Residual value		−25,000	−20,000
Interim contractor support transfer	274,100		0
Manual desalinators	2,000		2,000
Printing		−8,310	−8,310
O&M purchase threshold		9,000	0
Environ lab consolidation		−5,000	−5,000
Military-to-civilian conversions		−21,000	−21,000
NOAA		17,000	17,000
CLS for TR–1		−25,200	−25,200
JP4–8 fuel conversion		−30,000	−30,000
MP training		−1,000	−1,000
Senate undistributed		70	70
Total adjustments			−1,979,850

O–1 ALLOCATIONS

Allocations reflecting the agreements reached by the conferees are made by O–1 categories and are shown in the table below. Included in the allocations are transfers identified in the bill under this heading.

OPERATION AND MAINTENANCE, AIR FORCE

[Dollars in thousands]

Activity description	Budget estimate	Conference agreement	Change
101 Offensive Aircraft	942,370	928,711	(13,659)
102 Missiles	356,923	331,024	(25,899)
103 Other Offensive Operations	86,346	80,080	(6,266)
104 Offensive Telecom and Command Control Program	161,408	137,335	(24,073)
105 Offensive Base Operating Support	538,655	499,569	(39,086)
107 Surveillance and Warning-Radar	177,631	164,742	(12,889)
108 Defensive Satellites	0	0	0
109 Other Defensive Operations	43,199	40,064	(3,135)
110 Offensive Telecom & Command Control Program	29,262	27,139	(2,123)
111 Defensive Base Operating Support	27,754	25,740	(2,014)
202 Tac Fighters/Weapons/Support Aircraft & Tng	1,770,929	1,745,260	(25,669)
203 Tac Reconnaissance and Electronic Warfare	38,761	10,748	(28,013)
204 JCS Directed and Coordinated Exercises	24,596	22,811	(1,785)
205 Combat Support	171,164	143,244	(27,920)
206 Other Command and Control	231,706	214,893	(16,813)
207 Other Tactical Operations	107,586	99,779	(7,807)
208 Major Range and Test Facilities	24,756	39,960	15,204
209 Tactical Intelligence and Special Activities	148,747	137,953	(10,794)
210 Base Operations	1,571,050	1,459,050	(112,000)
212 Telecom & Command Control Program	123,987	114,990	(8,997)
302 Communications Security and Intelligence Act	841,180	780,141	(61,039)
303 Other Communications	427,991	380,135	(47,856)
304 Station Operations—Communications	218,296	202,456	(15,840)
305 Leased Communications	257,972	239,253	(18,719)
306 Service-wide Activities	349,028	284,501	(64,527)
307 Space Support	1,124,646	1,043,038	(81,608)
308 Base Operations	223,704	207,471	(16,233)
401 Assigned Airlift Mission	1,640,984	1,580,252	(60,732)
402 Mission Support	276,050	256,019	(20,031)
403 Special Operations and Combat Rescue	16,535	15,335	(1,200)
404 Command Support	40,855	37,890	(2,965)
405 Telecomm and Command Control Program	26,154	24,256	(1,898)
406 Base Operating Support	383,972	356,110	(27,862)
701 Telecomm and Command Control Program	45,638	42,326	(3,312)
702 Depot Maintenance	1,431,500	1,313,526	(117,974)
703 Logistics Support Programs	699,987	615,294	(84,693)
704 Industrial Preparedness	11,377	10,551	(826)
705 Command	108,211	100,359	(7,852)
706 Aerospace Maintenance & Regeneration Center,	7,441,	6,901	(540)
707 Acquisition and Command Support	311,033	288,464	(22,569)
708 Test Ranges	13,433	12,458	(975)
709 Transportation	192,201	134,254	(57,947)
710 Commissary Operations/SIK	48,112	44,621	(3,491)
712 Base Operating Support	694,287	636,907	(57,380)
801 Recruiting	33,110	28,907	(4,203)
802 Examining	2,947	2,733	(214)
803 Recruit Training	3,904	3,503	(401)
804 Specialized Training	150,255	134,833	(15,422)
805 Officer Acquisition Training	72,380	64,951	(7,429)
806 Flight Training	304,762	273,483	(31,279)
807 Professional Development Education	62,090	55,717	(6,373)
808 Education and Training—Health Care	0	0	0
809 Training Support Activities	67,218	60,319	(6,899)
810 Other Training Activities	135,490	121,584	(13,906)
811 Other Personnel Education	165,754	148,742	(17,012)
812 Base Communications	25,622	22,992	(2,630)
813 Base Operating Support—Training	475,648	419,830	(55,818)
814 Telecommunications	211	211	0
815 Hospital Operations	1,183	1,183	0
815 Base Operations Support—Medical	3,772	3,772	0
901 Departmental Headquarters,	91,810	88,810	(3,000)
902 Service-wide Support	293,354	286,585	(6,769)
903 Personnel Activities	55,016	55,016	0
904 Other Support Activities	26,058	26,058	0
905 Telecomm and Command Control Program	11,046	11,046	0
906 Base Operations—Administration	74,795	74,795	0
1002 International Headquarters Activities	5,319	5,319	0
1003 NATO Airborne Early Warning & Control Program	3,844	3,844	0
Addendum: Classified programs		(48,806)	(48,806)
Total Air Force		16,681,040	(1,351,965)

EAKER AFB

The conferees concur with the Senate action to provide $1,200,000 for airstrip operations services at Eaker Air Force Base. The conferees will monitor the Air Force's compliance with this provision and expect full and timely action by the Air Force to obligate these funds.

CONTRACTOR LOGISTICS SUPPORT TO THE TR–1

Funding for this program is transferred to the DGIP.

JP–4 TO JP–8 FUEL CONVERSION

The conferees have carefully reviewed the economic, readiness and safety issues connected with the Air Force decision to fully transition from the use of JP–4 to JP–8 fuels for its aircraft. While the conferees support this decision, they are also cognizant of the safety risks associated with the transition process itself and the dislocation caused to small JP–4 refiners brought about by this necessary decision.

Therefore, the conferees direct that the Air Force, in conjunction with the Defense Fuel Supply Center (DFSC), report to the Committees on Appropriations of the Senate and House no later than 30 days following the enactment of this Act, on the ways in which they intend to assist small refiners and associated minority businesses to transition from the production and distribution of JP–4 fuel to JP–8 fuel. The conferees believe that the Air Force and DFSC have a responsibility to those companies, with which it has a longstanding relationship, to find ways to ease the economic burdens associated with fuel conversion.

Lastly, the conferees are aware of the possibility that B–1 bomber bases may be able to convert to JP–8 earlier than scheduled. The conferees direct the Air Force to schedule an earlier JP–8 fuel conversion for the B–1 fleet by April 1, 1993, but only if an earlier conversion is more effective and improves safety.

The conferees direct the Secretary of the Air Force to initiate a plan to assist small JP–4 refiners with the economic dislocation brought about by their transition to JP–8 no later than March 1, 1993.

A–10S TO U.S. FOREST SERVICE

The House report directed the Secretary of the Air Force to transfer two A–10 aircraft to the U.S. Forest Service to be used in a fire-fighting role. The conferees agree to the House language with the understanding that the transfer will not occur until the Secretary of the Air Force has determined that the A–10s are excess to Air Force needs and has so certified to the Committees on Appropriations.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

Amendment No. 26: Appropriates $8,778,004,000 instead of $9,473,310,000 as proposed by the House and $8,796,325,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

Operation and maintenance, Defense agencies	Budget	House	Senate	Conference
Defense Commissary Agency (DeCA)	0	$1,051,700	0	0
Classified and Communications Programs	$3,142,885	2,882,869	$2,953,385	$2,910,723
Special Technical Project		−30,000	0	0
DISA—National Communications System		20,000		0
Defense Logistics Agency (DLA)	1,382,395	1,397,395	1,349,395	+1,394,395
National Def Stockpile Operating Expenses		(−4,000)	(33,000)	(−4,000)
Procurement Technical Assistance Program		(19,000)		(16,000)
Defense Mapping Agency (DMA)	663,665	663,665	653,165	658,415
DOD Dependents Education (DODDE)	1,201,389	1,201,389	1,201,389	1,201,389
Defense Technology Security Administration (DTSA)	9,050	7,050	9,050	8,150
Major Systemic Weaknesses		(−2,000)		(−900)
Office, Economic Adjustment (OEA)	4,912	4,912	29,912	+79,912
Philadelphia Naval Shipyard				(+50,000)
On-site Inspection Agency (OSIA)	153,434	153,434	128,434	139,134
Arms Control		0	(−25,000)	(−14,300)
US Special Operations Command	832,010	845,110	747,116	815,110
DBOF Technical Adjustment/Excess Cash		−11,300	−11,300	−111,300
Prior Period Losses		(−11,300)	0	0
Reduce purchases from DBOF			−16,129	−16,129
Foreign National Civilians		−42,100		0
Wage Grade Pay Adjustment		0	−9,200	−9,200
Headquarters and Administration		−17,000		−17,000

Operation and maintenance, Defense agencies	Budget	House	Senate	Conference
Consultants, Contract Studies and Services		−15,000	−16,800	−16,800
Audits and Monetary Benefits		−25,000		−12,500
Automated Data Processing		−75,000		0
Leases		−11,000		0
Recruiting, Advertising and Examining		0	−400	−200
Classroom Training		−6,000		−3,000
Pentagon Reservation Maintenance Fund		−33,600		−33,600
Physician Assistant Demonstration Program		1,000		1,000
Guard and Reserve Medical Care Pilot Program		1,500		1,500
Rent Payments to GSA		−47,598		−5,000
Foreign Currency Repricing		−4,600		0
SES Manpower		−1,549		−1,549
Real Property Maintenance Transfer	76,111	76,111		76,111
Real Property Maintenance		−48,927		0
Transfer to RPM, Defense		−76,111		−76,111
Printing	(48,927)		−5,151	−5,151
Legacy Resource Management Program			40,000	40,000
Academy Athletic Programs			350	350
Disaster Relief Planning			10,000	10,000
Disaster Relief Efforts			50,000	50,000
Project Peace			25,000	0
Nuclear Waste Response			1,000	1,000
Abused Dependents			1,000	1,000
Defense Conversion Commission			5,000	5,000
FY1993 Obs to Sales			−17,675	−17,675
Prior Obs to Sales			−12,364	−12,364
Mobility Enhancements			70,000	70,000
O&M Purchase Threshold			32,375	0
Purchases Inflation			−9,200	−9,200
Average Salary Reduction			−63,621	−30,000
OSD Environmental Office Management			−366	−366
Civilian Community Corps				+40,000
All other items	1,643,260	1,651,960	1,651,960	1651960
Total, Defense Agencies	9,109,111	9,473,310	8,796,325	8,778,004

0–1 ALLOCATIONS

Allocations reflecting the agreements reached by the conferees are made by 0–1 categories and are shown in the table below.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

[Dollars in thousands]

Activity description	Budget estimate	Conference agreement	change
201 The Joint Staff—CINC Support	323,740	316,037	(7,703)
301 Defense Investigative Service	178,549	174,301	(4,248)
302 Defense Mapping Agency	663,665	642,624	(21,041)
303 Defense Nuclear Agency	85,881	83,838	(2,043)
304 On-Site Inspection Agency	153,434	135,483	(17,951)
305 Classified and Communications Programs	3,142,885	2,865,702	(277,183)
701 Defense Logistics Agency	1,382,395	1,293,000	(88,585)
801 Office of Dependents Education	1,201,389	1,172,803	(28,586)
802 American Forces Information Services	69,937	68,272	(1,665)
803 Uniformed Services Univ. of Health Sciences	0	0	0
804 CHAMPUS	0	0	0
805 Defense Medical Support Activity	0	0	0
806 Defense Health Program	0	0	0
901 Office of the Secretary of Defense	212,299	347,881	135,582
902 Defense Technology Security Agency	9,050	8,835	(215)
903 Office of Economic Adjustment	4,912	89,795	84,883
904 The Joint Staff	88,142	86,045	(2,097)
905 Defense Contract Audit Agency	330,400	331,238	838
906 Corporate Information Management	134,668	131,464	(3,204)
907 Defense Support Activities	59,055	58,000	(1,055)
908 Washington Headquarters Service	153,767	150,108	(3,659)
909 Defense Legal Services Agency	6,822	6,660	(162)
1101 U.S. Special Operations Command	832,010	815,110	(16,900)
Total Defense Agencies		8,778,004	(254,996)

MOBILITY ENHANCEMENT

Funding of $70,000,000 is provided in support of the Senate recommendations to enhance U.S.-based military force mobility. These funds are to be used for the programs and activities outlined in Senate Report 102–408.

EQUIPMENT CENTER

The conferees agree to include language which provides the Secretary of Defense with authority to enter into an infrastructure improvement demonstration program conducted by the Regional Equipment Center, Cambria County, Pennsylvania. This authority should allow the Department of Defense through the Defense Logistics Agency to enter into an agreement with the Regional Equipment Center, Cambria County, and to provide by loan or transfer to the Center any mutually agreed upon heavy equipment, machinery, and tools necessary for the Department to conduct and evaluate this pilot demonstration program.

In addition, the conferees are concerned that as the facilities of the Defense Department are closed or drawn down, DOD will be left with unneeded vast quantities of this type of equipment which could be used by States, local municipalities, and non-profit organizations. Therefore, the conferees request the Department to evaluate this situation and request legislative relief as necessary.

Of the funds that have been made available to the Defense Logistics Agency, $1,000,000 is provided to establish the Regional Equipment Center at Cambria County, Pennsylvania.

DEFENSE TECHNOLOGY SECURITY ADMINISTRATION

The conferees support the House concerns over major systemic weaknesses in DTSA's organization identified by the Department's Inspector General and have therefore reduced fiscal year 1993 funding by $900,000. The conferees expect the Department to expeditiously address all IG concerns and quickly implement corrective actions.

STORAGE AND WAREHOUSING IN THE OZARK MOUNTAINS

The cost of storage and warehousing of necessary materials and supplies is a concern. The conferees urge the Secretary of Defense through the Defense Logistics Agency (DLA) to study the cost savings which could result from utilizing underground caverns in the Ozark Mountains region.

The U.S. Army Corps of Engineers shall assist DLA with an environmental impact study and shall offer such other analyses and reports as needed to assist the Secretary to report to the Committees on Appropriations of the House and Senate no later than June 30, 1993.

Amendment No. 27: Restores and amends House language to provide $815,110,000 for the Special Operations Command.

SPECIAL OPERATIONS FORCES ADJUSTMENTS

The conferees agree to the following adjustments under Title II Operation and Maintenance, Defense Agencies for Special Operations Forces in fiscal year 1993.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
USSOCOM Management Headquarters		−7,810	−3,700
USASOC Aviation OPTEMPO		−3,959	−2,823
AFSOC Active OPTEMPO		−55,008	−9,649
AFSOC Management Headquarters		−1,271	−1,271
AFSOC SOF ATS		−13,331	−1,673
Headquarters JSOC		−5,636	−5,600
AFSOC Combat Talon II			−743
Advanced Acquisition			−2,000
GSA Managed Supplies and Materials			−1,069
Other Contracts			−1,672
Civilian Work Years			−4,800
Subtotal			−35,000
Theater SOCs	+13,100		+13,100
JCS Exercises			+5,000
Total	13,100	−87,015	−16,900

SOF JUSTIFICATION MATERIAL

The conferees direct that $20,000,000 of the funds appropriated for Operation and Maintenance, Defense Agencies for Special Operations Forces for fiscal year 1993 be withheld from obligation or expenditure until USSOCOM provides the Committees on Appropriations with a detailed report, no later than March 30, 1993, on how it intends to improve the presentation of its annual budget justification documents and supporting material.

The conferees agree that the quality and reliability of this year's budget submission as well as some of the back-up information requested during the course of the fiscal year have not been satisfactory. While the conferees acknowledge the improvements that have been made in budget justification materials over the last two years, much more needs to be done to improve clarity and precision.

The conferees remain strongly supportive of the special operations mission.

The conferees are committed to working with USSOCOM to improve this situation and expect the Command to institute new procedures for budget data collection, presentation, reporting and the development of performance indicator.

The conferees direct that USSOCOM follow the guidance provided under the Operation and Maintenance heading in the Senate report (S. Rept. 102–408) in the preparation and submission of its annual budget justification. The conferees expect that these procedures will be followed in the fiscal year 1994 submission. In addition, the conferees expect that USSOCOM will ensure greater clarity and standardization in the preparation of its procurement service reports.

SPECIAL OPERATIONS FUNDING SHORTFALL

The conferees recognize the increasing demands placed upon Special Operations Forces (SOF) in the post-Cold War era. Therefore, it is essential that USSOCOM exercise greater care in its budgeting process. The Committees will work closely with USSOCOM to identify funding shortfalls in those areas deemed to be critical to the accomplishment of the expanded roles and missions of SOF. The conferees will make every effort to address these emerging needs in the future. It is the intention of the conferees that any additional funds made available to the USSOCOM be directed exclusively to field activities and not to headquarters and management activities.

Amendment No. 28: Inserts Senate language which provides $50,000,000 for the global disaster relief activities of the Department of Defense.

DISASTER RELIEF ASSISTANCE

The conferees agree to appropriate not less than $50,000,000 from funds provided under the heading "Operation and Maintenance, Defense Agencies", only for disaster relief assistance. These funds are to be used to meet both emergency planning and response requirements stemming from natural and man-made disasters world-wide. The Secretary of Defense is to exercise discretion over how, and for what purposes, these funds are expanded.

Amendment No. 29: Inserts Senate language which provides $10,000,000 for the disaster relief planning and studies of the Department of Defense as they relate to DOD installations world-wide.

DISASTER RELIEF PLANNING

The conferees agree to make not less than $10,000,000 available for disaster relief planning, studies and associated activities connected only with emergency relief preparedness and disaster recovery at United States military installations world-wide.

Amendment No. 30: Inserts Senate language that provides $50,000,000 for the Legacy Resource Management Program.

Amendment No. 31: Provides funds for the Hawaiian Volcano Observatory for monitoring volcanic activity affecting the Army Pohakuloa training area; provides funds for economic conversion projects at the Philadelphia Naval Shipyard; provides funds for the Civilian Community Corps program; and provides funds for a feasibility study on the use of a rotary reactor thermal destruction technology.

Operation and Maintenance, Army Reserve

Amendment No. 32: Appropriates $1,038,525,000 instead of $1,033,842,000 as proposed by the House and $1,016,866,000 as proposed by the Senate and deletes House language making $42,623,000 subject to authorization.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Army Reserve	House	Senate	Conference
Restructured Training	25,000		15,000
Army Reserve Center—Univ of Miami	400		400
Recruiting/Advertising	38,172	36,272	37,222
Force structure adjustment	28,300	46,000	32,309
Equipment Modernization	19,000		19,000
Real Property Maintenace	0	29,158	29,158
Transfer to RPM, Defense	−23,200		−23,200
Reduce purchases from DBOF		−5,070	−5,070
Wage Grade Pay Raise		−600	−600
Printing		−1,422	−1,422
Revised Inflation		−1,000	−1,000
Obligation limitations, 1993		−5,556	−5,556
Obligation limitations, prior years		−3,886	−3,886
Total adjustments			+25,025

Operation and Maintenance, Navy Reserve

Amendment No. 33. Appropriates $850,745,000 instead of $844,049,000 as proposed by the House and $863,961,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Navy Reserve	House	Senate	Conference
Recruiting/Advertising	14,333	13,533	13,933
Force structure adjustment	17,000	33,000	13,384
Craft of Opportunity Program		3,200	3,200
C–130 Squadrons	6,000		6,000
Real Property Maintenance Transfer	27,872		27,872
Real Property Maintenance	0	31,651	31,651
Transfer to RPM, Defense	−27,872		−27,872
Reduce Purchases from DBOF		−8,014	−8,014
Printing		−301	−301
Revised Inflation		−900	−900
Obligation limitation, 1993		−8,781	−8,781
Obligation limitation, prior years		−6,143	−6,143
Total adjustments			−29,827

Operation and Maintenance, Marine Corps Reserve

Amendment No. 34: Appropriates $77,870,000 instead of $76,592,000 as proposed by the House and $74,820,000 as proposed by the Senate; and deletes House language making $642,000 subject to authorization.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Marine Corps Reserve	House	Senate	Conference
Recruiting/Advertising	7,076	6,976	7,026
Force Structure Reinstatement	5,100	2,000	5,000
Reduce Purchases From DBOF		−405	−405
Obligation Limitation, 1993		−444	−444
Obligation Limitation, prior years		−310	−310
Purchases Inflation	−621	−621	-621
Total adjustments			+3,170

Operation and Maintenance, Air Force Reserve

Amendment No. 35: Appropriates $1,195,024,000 instead of $1,209,312,000 as proposed by the House and $1,191,874,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Air Force Reserve	House	Senate	Conference
Recruiting/Advertising	6,500	6,200	6,350
Force structure reinstatement	0	1,000	1,200
WC-130 Weather reconnaissance	3,100	3,100	5,900
Reduce Purchases From DBOF		−8,508	−8,508
Wage Grade Pay Raise		−1,900	−1,900
Printing		−197	−197
Obligation Limitation, 1993		−9,323	−9,323
Obligation Limitation, prior years		−6,521	−6,521
Purchases Inflation		−1,200	−1,200
Total adjustments			−49,199

Operation and Maintenance, Army National Guard

Amendment No. 36: Inserts Senate language establishing the STARBASE youth education program.

Amendment No. 37. Appropriates $2,255,623,000 instead of $2,218,580,000 as proposed by the House and $2,191,677,000 as proposed by the Senate; deletes House language making $1,880,000 subject to authorization; and inserts language making available $10,000,000 for a National Guard Outreach Program in Los Angeles.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Army National Guard	House	Senate	Conference
Restructured Training	25,000		15,000
Recruiting/Advertising	31,923	30,323	31,123
Force structure reinstatement	69,100	97,000	71,900
Equipment Modernization	42,000		42,000
Real Property Maintenance	0	53,720	53,720
Urban Youth Prog & Youth Conserv Corps Camp	2,100		2,100
Reduce Purchases From DBOF		−16,810	−16,810
Wage Grade Pay Raise		−3,600	−3,600
Printing		−1,405	−1,405
Revised Inflation		−2,200	−2,200
National Guard Civilian Youth Opportunities		10,800	10,800
U.S. Property and Fiscal Officers		845	845
Drug Demand Reduction		3,854	0
Obligation limitations, 1993		−18,421	−18,421
Obligation limitations, Prior Years		−12,886	−12,886
C–23 Contractor Logistics support			5,000
Nat. Gd. Civilian Youth Opportunities Pilot Program			30,000
Total adjustments			+87,123

C–23 AIRCRAFT FOR THE ARMY NATIONAL GUARD

The conferees agree to provide $5,000,000 for the operation and maintenance of the C–23 aircraft fleet in operation with the Army National Guard. These funds will be made available for their continued operation and maintenance, and contractor logistic support required by the Guard to keep their C–23 Sherpa aircraft operational during fiscal year 1993.

NATIONAL GUARD OUTREACH PROGRAM—LOS ANGELES

The Conferees agree to earmark $10,000,000 to be used by the National Guard to establish an outreach program in the Los Angeles Unified School District. The conferees direct the Army National Guard, in consultation and cooperation with the Los Angeles Unified School District, to set up programs to train students in engineering and other science related disciplines to this school district. The National Guard shall serve as administrator of the funds, which shall be allocated to the Los Angeles Unified School District's magnet programs.

ENVIRONMENTAL EVALUATION

A negotiated agreement has been reached between the State of Washington and the federal government to provide a cost free 50 year lease in the Port of Tacoma, Washington, to the Army National Guard for use by the 144th Transportation Battalion in exchange for land currently owned by the Guard at 3001 N. Starr Street in Tacoma being transferred to the city. Authorization has been previously provided by the Congress to implement the agreement.

However, the execution of the agreement has been delayed as a result of the necessity to determine whether environmental remediation may be required at the site to be transferred to the city. To expedite the agreement, and avoid lease costs at the present location of the 144th Transportation Battalion, the conferees direct that $250,000 of funds provided be allocated to perform an evaluation of what remediation, if any, is required at this site. If remediation is warranted, the Department is directed to execute remediation actions as an immediate priority.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

Amendment No. 38: Appropriates $2,493,689,000 instead of $2,535,250,000 as proposed by the House and $2,493,039,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Air National Guard	House	Senate	Conference
Recruiting/Advertising	4,900	4,600	4,750
Urban Youth Prog & Youth Conserv Corps Camp	900		900
Reduce Purchases From DBOF		−21,387	−21,387
Wage Grade Pay Raise		−4,400	−4,400
Printing		−368	−368
Revised Inflation		−2,600	−2,600
End Strength Restoration		1,000	1,200
168th Refueling Squadron		2,500	2,500
Drug Demand Reduction		2,600	0
National Guard Civilian Youth Program		3,200	3,200
STARBASE Program		2,000	2,000
Obligation Limitations, 1993		−23,436	−23,436
Obligations Limitations, Prior Years		−16,394	−16,394
Total adjustments			+87,123

C–130 SUPPORT AIRCRAFT

The conferees believe that the Air National Guard has not sufficiently considered the impact of replacing four C–130 operational support aircraft located in Florida, Louisiana, South Carolina, and Alabama with C–26 aircraft. The conferees, therefore, direct that the National Guard not transfer the four C–130 aircraft from their assignments during fiscal year 1993. The Guard Bureau is directed to study and validate the mission requirements of the states, and provide the Committees on Appropriations of the House and Senate with recommendations not later than May 1, 1993.

COURT OF MILITARY APPEALS, DEFENSE

Amendment No. 39: Appropriates $5,900,000 as proposed by the House instead of $5,893,000 as proposed by the Senate.

ENVIRONMENTAL RESTORATION, DEFENSE

Amendment No. 40: Appropriates $1,199,700,000 instead of $901,200,000 as proposed by the House and $1,511,700,000 as proposed by the Senate.

ENVIRONMENTAL MANAGEMENT

The conferees fully support the Senate in its call for a reform of the way environmental programs within the Office of the Secretary of Defense are managed and organized. Likewise, the conferees concur with language directing a reduction in funding for excessive growth in the budgeted overhead for the Office of the Deputy Assistant Secretary (Environment). Increased funding for the Department's environmental programs must be accompanied by greater accountability and responsiveness to Congress if public support for this important activity is to be sustained. The conferees encourage the Secretary of Defense to initiate a broad review of the Department's environmental management structure and funding requirements.

OLMSTEAD AIR FORCE BASE

The conferees find that the Department's ongoing environmental restoration project at the site of the former Olmstead Air Force Base (OAFB) is progressing in a satisfactory manner as relates to the removal of underground storage tanks (USTs) and related fuel lines. However, additional contamination of this site resulting from disposal and burial of hazardous wastes over the decades long operations conducted by the Air Force poses serious issues regarding remediation and current and future use of the site. The conferees find that the contamination identified at the site of the former base (Middletown Airfield EPA National Priorities List Site) has already been documented to be primarily a result of the United States Air Force operations. The conferees therefore find that the Department should enter into negotiations with Region III of the Environmental Protection Agency (EPA) and the Pennsylvania Department of Environmental Resources (PA–DER) to begin remediation at the North Base Landfill Area (EPA December 1990, ROD Operable Unit 4), and immediately complete the necessary comprehensive testing of OAFB. The conferees have provided $4,000,000 and bill language in Title II, Operation and Maintenance, Air Force appropriation for this purpose. Wherever possible, the Department is directed to expedite completion of Memoranda of Understanding (MOU) to accomplish these tasks.

FORMER RARITAN ARSENAL

The conferees support the House position and direct that adequate levels of funding be provided.

HAMILTON CLEANUP

The conferees support the House position on the cleanup of Hamilton Air Force Base and have transferred $23,270,000 from the Operation and Maintenance, Air Force account to the Operation and Maintenance, Army account specifically for the continuation of this cleanup. This issue is further addressed in the General Provisions section of this Statement.

ACQUISITION OF INTEREST IN LAND, NAVAL RADIO STATION JIM CREEK

The conferees support Navy plans to acquire approximately 225 acres of old growth timber at Jim Creek Naval Computer and Telecommunications Station in Snohomish County, Washington from funds provided to the Navy and the Legacy Resource Management Program. The conferees expect, however, that the Navy will ensure that no more than fair market value is paid for the timber rights. Similarly, the conferees expect a detailed, long-term management and inventory plan will be developed for the Jim Creek timber tract no later than six months following the acquisition of the timber rights.

The Navy has sought to purchase the timber to preserve the lakes and creeks in the area that provide water essential to the mission of the Radio Station. Preservation of the timber, the last low elevation old growth Sitka spruce forest in the Puget Trough, will also help to preserve the many plant and animal species present in the area.

Amendment No. 41: Restores and amends House language which provides indemnification for States and political subdivisions of States which acquire DOD property containing possible environmental contamination.

INDEMNIFICATION

The conferees understand the provision for the United States to hold harmless, defend and indemnify a State, or political subdivision of a State, which is transferred property from the United States, against all claims arising out of the presence, release, or threatened release of a hazardous substance resulting from the activities of the Department of Defense might be a departure from existing law and practice in allocating risks associated with property transfer. Nonetheless, the conferees have supported this provision as a way to possibly expedite the return of closing military facilities and return them to productive use.

This provision will require careful monitoring during fiscal year 1993. The conferees reserve the right to reevaluate this provision next year in light of lessons learned. The conferees do not want this provision to serve as a precedent for future actions.

Amendment No. 42: Deletes House language defining contamination responsibilities.

Amendment No. 43: Restores and amends House language providing definitions of "hazardous substance" and "State" and "political subdivision of a State".

Amendment No. 44: Inserts Senate language providing $200,000,000 for the expedited cleanup of environmentally contaminated sites.

Amendment No. 45: Deletes Senate language providing $3,500,000 for bioremediation technology.

HUMANITARIAN ASSISTANCE

Amendment No. 46: Appropriates $28,000,000 instead of $15,000,000 as proposed by the House and $25,000,000 as proposed by the Senate.

The conferees express their strong support for the Humanitarian Assistance Program of the Department of Defense and have increased its funding to $28,000,000 as a demonstration of its continuing support. The conferees concur with the Senate language on the Humanitarian Assistance Program.

In addition, the conferees agree that of this amount, $3,000,000 shall be used only for the acquisition of automatic building machines (ABMs) and steel for use in Kurdish relief operations. The conferees direct the Secretary of Defense to consider the broader application of ABMs in the Department's humanitarian relief and disaster relief activities, with particular emphasis on their use in Eastern Europe and the former Soviet Union.

Amendment No. 47: Deletes House language making $2,000,000 subject to authorization.

Amendment No. 48: Inserts and amends Senate language providing for emergency transportation of humanitarian relief personnel in conjunction with humanitarian relief operations.

WORLD CUP USA 1994

Amendment No. 49: Deletes House language making a portion of the appropriation subject to authorization.

REAL PROPERTY MAINTENANCE, DEFENSE

Amendment No. 50: Inserts heading.

Amendment No. 51: Appropriates $1,520,029,000 instead of $3,622,762,000 as proposed by the House and $1,720,029,000 as proposed by the Senate; restores House language earmarking real property maintenance funds to Service components and Defense Agencies; inserts Senate language which allows fund to remain available until September 30, 1994; allows transfers in the amount of $400,000,000 from the Defense Stockpile Transaction Fund; and allows the Department of Defense Comptroller to determine the priority for repair projects.

[Amounts in thousands of dollars]

Real property maintenance, Defense	House	Senate	Conference
Real Property Maintenance	3,622,762	2,332,029	1,520,029
Transfer from National Defense Stockpile		(612,000)	400,000

PUGET SOUND NAVAL SHIPYARD SEWER UPGRADE

Puget Sound Naval Shipyard (PSNS) has encountered problems with its sewage system that have resulted in more than 40 discharges of sewage into Puget Sound over the last three years due to leaking pipes, defective, antiquated equipment, and poor operating procedures. As a result, the Navy has received a notice of intent to sue under Section 505 (b) of the Clean Water Act.

In order to expedite remedial action to upgrade the PSNS sewage system, and minimize both environmental pollution and legal liability, the conferees direct that $6,300,000 of the funds provided for Real Property Maintenance, Defense be used to take corrective actions to eliminate sewage spills, and that $700,000 of the funds provided under Other Procurement, Navy be used to purchase related equipment.

SAN FRANCISCO CONSERVATION CORPS AT PRESIDIO

The conferees provide $500,000 for the San Francisco Conservation Corps (SFCC), through the National Park Service, out of the funds available in the Real Property Maintenance, Defense account. These funds would allow at-risk youth in San Francisco to contribute to an important defense conversion project in an urban setting.

TITLE III—PROCUREMENT

GENERAL CONFERENCE ISSUES

BUDGETING FOR AMMUNITION PROCUREMENT

Both House and Senate bills included a general provision (Section 9113) which prohibits the Department of Defense from changing the way that ammunition is budgeted, appropriated, and procured. The Senate amended the House version of this provision only to make a portion of it permanent law. The Senate receded for technical reasons.

The conferees strongly believe that there is no justification for making any changes in the current practices and procedures for budgeting and procuring ammunition and interpret the provision to prohibit the Department from taking any action which would in any way alter the status quo. Furthermore, since the Department has already spent more than $1,000,000 to study proposed changes, the conferees direct that no further expenditures be made for additional studies of this matter. The conferees intend to make this provision permanent law next year. Any additional attempts of the Department to change other current procurement budgeting practices, such as putting sonobuoy procurement in DBOF, will be addressed in this permanent legislation.

INTERIM CONTRACTOR SUPPORT

The House bill disapproved the budget proposal to transfer interim contractor support costs from operation and maintenance to procurement. The House bill included general reductions in the procurement appropriations to reflect this position. The Senate bill supported the budget. The conference agreement includes interim contractor support costs in procurement as proposed by the budget and the Senate bill. The conferees agree, however, that these funds cannot be used for any other purpose during execution of the fiscal year 1993 program without prior approval of the committees. Furthermore, the conferees direct that interim contractor support costs be specifically identified in future budget presentations.

INFLATION

The conference agreement includes inflation-related reductions totalling $313,000,000 in the procurement appropriations. These reductions result from readjustment of baseline costs based on lower than budgeted inflation (3.1% to 2.7%) and a change in inflation assumptions for fiscal year (3.3% to 3.1%). The reductions are as follows:

Aircraft Procurement, Army	$7,000,000
Missile Procurement, Army	6,000,000
Procurement of Weapons and Tracked Combat Vehicles, Army	3,000,000
Procurement of Ammunition, Army	5,000,000
Other Procurement, Army	18,000,000
Aircraft Procurement, Navy	39,000,000
Weapons Procurement, Navy	21,000,000
Shipbuilding and Conversion, Navy	20,000,000
Other Procurement, Navy	34,000,000
Procurement, Marine Corps	3,000,000
Aircraft Procurement, Air Force	63,000,000
Missile Procurement, Air Force	31,000,000
Other Procurement, Air Force	48,000,000
Procurement, Defense Agencies	12,000,000
Chemical Weapons Destruction	3,000,000

MISSILE QUANTITIES

It is the intent of the conferees that the agreed upon quantities designated within the House, Senate, and Conference reports for new missile procurement in all services are to be considered minimum quantities. If the services, through favorable negotiation, can procure additional missiles within the funds provided, the conferees expect the services to exercise this option. If, however, the services cannot procure the minimum quantities designated within the reports, the Conferees expect notification of this fact prior to contract award with a full explanation as to why the minimum quantity can not be bought.

PROCUREMENT OF HANDGUNS

The conference agreement restores the House general provision which prohibited the procurement of handguns other than the Department of Defense standard M9 9mm handgun and amends the provision to clarify its intentions. The amendment specifies that the provision applies only to defense handguns but also confines the procurement of offensive handguns to the Special Operations Forces.

The conferees agree with the discussion and direction concerning this issue in the House report. It is the intention of the conferees that no handguns other than the standard be acquired or made available, directly or indirectly, to forces of the Department of Defense.

COMMAND, CONTROL, COMMUNICATION, COMPUTER, AND INTELLIGENCE FOR THE WARRIOR

The Conferees are pleased that the Department of Defense has initiated the C4I for the Warrior Program to meet the requirement for improved joint force operational C4I interoperability. Selection by the Joint Staff of the Naval Electronic Systems Engineering Activity (NESEA), which has extensive experience with joint operational C4I interoperability and related problems, for a leadership technical support role ensures a good start for the initial QUICK FIX phase of this program. The Committees on Appropriations have a long established interest in improving interoperability of DOD operations. The Conferees therefore direct the Department to include in conjunction with its presentation of the fiscal year 1994 budget request to the Committees on Appropriations a report on the progress of the C4I for the Warrior Program.

STU–III PROGRAM

The Conferees have provided specific direction concerning this program in the classified annex to this report.

NATURAL GAS UTILIZATION EQUIPMENT

The conference agreement provides $8,000,000 in each of the "Other Procurement" accounts for Natural Gas Utilization Equipment. In each of these accounts $2,000,000 is for natural gas chillers for the air conditioning of Department of Defense facilities. The remaining $6,000,000 is for procurement of non-developmental item (NDI) natural gas fuel cells currently in production in the United States. These fuel cells are for power generation at military installations, and the conferees recommend that some of the cells be installed at locations in need of enhanced air quality.

DEFENSE INDUSTRY EXECUTIVE SALARIES AND BENEFITS

The conferees are concerned with recent reports highlighting the extraordinarily high levels of compensation for certain defense industry executives. The conferees fully understand the need to compensate our defense industry leaders adequately to ensure that the best available personnel remain interested in managing our national security programs. However, reports of annual salaries and benefits exceeding $10,000,000 indicate that monetary rewards in some instances are no less than price gouging of U.S. taxpayers. Therefore, the conferees direct the Secretary of Defense to examine total compensation of defense industry executives and allowable overhead costs and report to the Committees on Appropriations of the House and Senate by April 15, 1993. In this review, the Secretary should consider changing allowable cost regulations to eliminate charging excessive executive compensation as overhead on Department of Defense contracts. The review should also consider a study currently underway by the Securities and Exchange Commission on the general subject of industry executive compensation.

GENERAL REDUCTION

The conference agreement provides for a 2 percent general reduction to each Other Procurement account within this title.

The conferees direct that the 2 percent general reduction shall be allocated to each P–1 line on a pro-rata basis.

AIRCRAFT PROCUREMENT, ARMY

Amendment No. 52: Appropriates $1,441,842,000 for Aircraft Procurement, Army instead of $1,414,659,000 as proposed by the House and $1,256,842,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Aircraft procurement, Army	Budget	House	Senate		Conference
AH–64 attack helicopter (Apache) (MYP)	147,763	107,763	147,763		147,763
UH–60 Blackhawk (MYP)	252,428	252,428	252,428	52	196,428
AH–64 MODS	49,139	9,139	91,839		91,839
Flight data recorder	9,738	5,238	9,738		9,738
AHIP		225,000		36	225,000

[In thousands of dollars]

Aircraft procurement, Army	Budget	House	Senate	Conference	
GPS MODS			−28,600		−28,600
Spares and repair parts	101,012	101,012	98,487		98,487
Aircraft survivability equipment	75,154	75,154	29,162		52,162
General reduction, int. contr. supt		−17,100			
General reduction—inflation					−7,000

AIRCRAFT SURVIVABILITY EQUIPMENT

The Senate deleted funds for the AVR–2 laser warning receiver because of delays in the program. The Army currently intends to accelerate production on this system which would necessitate full funding in fiscal year 1993. The conferees agree to provide $23,000,000 for the AVR–2. The conferees believe that the production rate should not be accelerated, but agree that if the funds provided are insufficient to avoid a production break, the Army should use other funds within the Aircraft Survivability Equipment program to avoid this outcome.

MISSILE PROCUREMENT, ARMY

Amendment No. 53: Appropriates $1,051,667,000 for Missile procurement, Army, instead of $1,139,004,000 as proposed by the House and $1,022,126,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Missile procurement, Army	Budget	House	Senate	Conference	
Stinger system summary	9,459	64,459	9,459	300	35,000
Laser hellfire sys summary	103,376	103,376	83,376	2,158	83,376
MLRS rocket	2,169	94,300	110,898	30,000	110,898
MLRS launcher	197,270	203,000	146,329	44	146,329
Tow MODS	4,998	14,998	4,998		14,998
Spares and repair parts	42,142	42,142	40,037		40,037
General reduction, int. contr. supt		−10,300			
General reduction—inflation					−6,000

STINGER MISSILE

The conferees agree that the $25,000,000 provided above the request is for the procurement of as many Stinger missiles as possible. The conferees expect the Army to reduce production rates to a minimum and take other steps as necessary to attempt to keep open the Stinger production line. The funds included in the House bill for the Bradley Stinger Fighting Vehicle have been addressed in the research and development section of this statement.

Amendment No. 54: Deletes House proviso making part of the Missile procurement, Army appropriation subject to authorization.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

Amendment No. 55: Appropriates $921,389,000 for Procurement of Weapons and Tracked Combat Vehicles, Army instead of $807,989,000 as proposed by the House and $878,552,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Procurement of W&TCV, Army	Budget	House	Senate	Conference	
Bradley base sustainment program		200,000	150,000		125,000
M1 Abrams tank training devices	965		965		
M1 Abrams tank (MOD)	25,202	25,202			25,202
M–1 Upgrade program			122,400		161,000
Modifications less than $2.0M (TCV–WTCV)	986	986	986		8,986
Spares and repair parts	52,032	52,032	49,432		49,432
Grenade launcher, auto, 40MM, MK19–3			25,000	1,500	25,000
General reduction—inflation					−3,000

BRADLEY FIGHTING VEHICLE—BASE SUSTAINMENT PROGRAM

The conference agreement includes $125,000,000 for the Bradley Fighting Vehicle production base sustainment program. The conferees agree that the allocation of these funds between new production and modifications should properly be done by the Army. However, the Army is directed to include both new production and an A0- to an A2-configuration upgrade program in its plan. Furthermore, the Army plan shall provide sufficient Bradley-equivalent production to fill the current void between delivery of vehicles now on contract and delivery of vehicles from the fiscal year 1994 funded delivery period. The conferees understand this quantity to be 147.

M1 TANK UPGRADE PROGRAM

The conference agreement includes $161,000,000 for the M1 tank upgrade program. An additional $225,000,000 appropriated in fiscal year 1992 is available for this program. Finally, the conference agreement in amendment 56 makes available for this program $197,396,000 from the sale of tanks from the Army inventory in fiscal year 1991 ($196,625,000) and fiscal year 1992 ($771,000). The sales receipts were credited to procurement appropriations under the expectation that they would procure replacement tanks. Since replacement tanks are not now needed, the funds are made available for the upgrade program. The conferees intend to make available similar receipts from future tank sales, as they become available, in future appropriation acts.

In conformity with authorizing legislation and the previously stated views of the conferees, the upgrade program will convert the older M1 series 105mm tanks to the M1A2 configuration.

MODIFICATIONS LESS THAN $2 MILLION

VEHICULAR INTERCOMMUNICATION SYSTEM

The Army recently announced the winner of the NDI vehicle intercommunication system (VIS) production competition. The Army plans to incorporate this new system in new production vehicles and in vehicle modifications. The conferees have been longstanding and strong supporters of this program. The conference agreement includes $8,000,000 over the budget to continue this program in fiscal year 1993. The conferees expect the Army to include funding for the VIS in future budgets and to identify these funds on the appropriate modification lines in future budget presentations.

Amendment No. 56: Deletes House language which made a portion of the appropriation available for obligation only after enactment of authorizing legislation.

PROCUREMENT OF AMMUNITION, ARMY

Amendment No. 57: Appropriates $1,094,260,000 for Procurement of Ammunition, Army instead of $1,175,433,000 as proposed by the House and $707,180,000 as proposed by the Senate and earmarks $200,000,000 for the Armament Retooling and Manufacturing Support Initiative.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Procurement of ammunition, Army	Budget	House	Senate	Conference	
CTG, 5.56MM, all types	25,167	44,767	25,167		33,767
CTG, 7.62MM, all types	10,494	15,294	10,494		15,294
CTG, 20MM, all types		11,300			
CTG, 25MM, all types	4,663		4,663		4,663
CTG, 40MM, all types	29,545	28,695	29,545		28,695
CTG, Mortar, 120MM, HE/MO, XM934	13,377		13,377		
CTG, Mortar, 60MM, 1/10 PRACTICE		3,200		11,000	3,200
CTG, Tank, 105MM, TP–T, M490A1		29,300		80	20,000
CTG, Tank, 105MM, DS–TP, M724A1		29,500		80	20,000
Proj, Arty, 155MM, Baseburner M864	172,117	172,117	90,917	119	90,917
Proj, Arty, 155MM, Sadarm, XM898	35,486	35,486			
Proj, Arty, 155MM, HE, M107		35,000	17,500	185	35,000
Prop Chg, 155MM, RED BAG, M203	37,513	149,813	37,513	120	60,000
Mine, Volcano, AT/AP, M87		60,000			60,000
Rocket Hydra 70, all types	10,030	36,430	10,030		10,030
Simulators, all types	6,079	5,399	6,079		5,399
Ammo Components, all types	18,182	14,082	14,082		24,082
Classified programs	69,379	96,379	67,379		96,379
Layaway of industrial facilities	31,690	29,990	26,876		26,876
Maintenance of inactive facilities	75,177	82,000	68,277		68,277
Conventional ammo demilitarization	23,600	35,000	23,600		35,000
Arms initiative					200,000
General reduction—inflation					−5,000

M864 155MM BASEBURNER PROJECTILE

The conference agreement includes a total of $172,117,000 for procurement of M864 155mm baseburner projectiles, the amount included in the House bill. The conference agreement distributes this total to Procurement of Ammunition, Army ($90,917,00 for 119,000 projectiles) and Procurement, Marine Corps ($81,200,000 for 106,000 projectiles).

The conferees agree that the baseburner projectile may continue to be procured using the existing procurement strategy and vendor base unless the Army informs the committees that a different approach is desirable.

CLASSIFIED PROGRAMS

The conference agreement provides $96,379,000 for classified programs. This total includes the House funding level for M829A2 120mm tank round. When combined with $18,000,000 which is being reprogrammed, the total funding will provide for an initial low rate production run for this round. The conferees emphasize, however, that this action in no way endorses further production of this round beyond fiscal year 1993.

The conferees agree that the issues raised in last year's conference report and in the Senate report are important and merit further attention. However, some of these issues, such as cost and producibility, can only be resolved after some limited low rate initial production experience. The conferees agree that while production experience is being gained, the General Accounting Office will examine issues concerning this round and report to the committees, as directed in the Senate report, by July 15, 1993. These issues include the current state of the stockpile for 120mm kinetic energy ammunition and the way in which the inventory objective is calculated, the combat suitability of the present stockpile and the need for the advanced round, industrial base implications of various future production options for 120mm kinetic energy tank ammunitions, shelf life and ballistic characteristic considerations, production/surge capability, and cost effectiveness.

The conferees reserve judgement, pending the outcome of additional experience and study, as to whether this family of ammunition should remain in production and, if so, whether it should be the current round or the improved version.

MINE, VOLCANO, AT/AP, M87

The conferees agree to provide $60,000,000 for procurement of Volcano mines one year in advance of the scheduled procurement date. This action is taken to ensure the maintenance of a strong defense industrial base. The conferees want to assure a level production program and therefore expect that this action will be reflected in the fiscal year 1994 budget submission.

ROCKET, HYDRA 70, ALL TYPES

The conferees agree to provide the budget request of $10,030,000 for the procurement of Hydra 70 rockets for the Army. The conferees recognize that the Army may have an increased requirement for this item in fiscal year 1993 and will consider a reprogramming adjustment to the appropriated funding level if it can be fully justified.

AMMUNITION COMPONENTS, ALL TYPES

The conference agreement provides $24,082,000 for the ammunition components, all types line, an increase or $5,900,000 above the budget estimate. The conferees agree that of this total $10,000,000 shall be used to procure Field Artillery Projectile Pallets. As discussed in the House report, the conferees recommend that this program be a minority set-aside procurement.

CONVENTIONAL AMMUNITION DEMILITARIZATION

The conferees agree with the House and Senate language directing the Secretary of the Army to prepare a comprehensive conventional ammunition demilitarization master plan.

The conferees also agree to fund conventional ammunition demilitarization at the House recommended level of $35,000,000. However, the conferees direct that only $11,400,000 of this amount be made available immediately. The remaining $23,600,000 shall remain unobligated and unexpended until May 30, 1993, the date the Secretary of the Army is directed to submit a Master Plan for conventional ammunition demilitarization to the Committees on Appropriations of the Senate and House.

In addition, the conferees direct that the $2,500,000 earmarked in the House bill for the Iowa Army Ammunition Plant be executed in conformance with the Army's Master Plan.

Lastly, the conferees direct that nothing be done to prejudice ongoing negotiations, contract solicitations or award for a project by a West Virginia company to perform conventional ammunition resource recovery to include demilitarization, component reutilization and recycling for small caliber ammunition.

ARMAMENT RETOOLING AND MANUFACTURING SUPPORT (ARMS) INITIATIVE

The conference agreement earmarks $200,000,000 from funds provided in this appropriation only for the Armament Retooling and Manufacturing Support Initiative (hereafter referred to as the "ARMS Initiative"). Appropriation of this sum is intended to demonstrate the importance which the conferees attach to the maintenance of the ammunition industrial base and the critical role which the ARMS Initiative can play in meeting that national security objective.

Of the total amount provided for the ARMS Initiative, $60,000,000 shall be available to begin this program upon enactment of this Act. The conferees direct that these funds be used by the Secretary of the Army to establish the ARMS Initiative, to carry out its purposes and to demonstrate how new and innovative incentive programs might be permanently structured. These funds may also be used to cover the incremental cost of administering the ARMS Initiative. Notification shall be provided to the Committees on the obligation of these funds.

The remaining funds appropriated for the ARMS Initiative, $140,000,000, shall be available for obligation by the Secretary of the Army after August 15, 1993, and only after the Committees on Appropriations have approved the results of the following actions: The Secretary is directed to:

Establish a public-private task force to make recommendations on the permanent structure and implementation of the ARMS Initiative;

Conduct a comprehensive market survey to include, but not be limited to, an assessment of the extent of contractor and subcontractor interest in participating in the ARMS Initiative and the range of incentives which might be necessary to carry out its purposes;

Determine which legal authorities currently available to the Secretary of the Army could be used to support activities under the ARMS Initiative;

Propose legislation for any new activities under the ARMS Initiative not covered by existing authorities;

Devise a comprehensive plan and timetable for the expedited implementation of the ARMS Initiative. The plan should consider new and innovative approaches to fulfilling the purposes of the ARMS Initiative;

Submit a plan for the disposal of excess ammunition production equipment and the use of funds derived from any sales to further the purposes of the ARMS Initiative and reduce the manufacturing and overhead costs associated with government-owned ammunition facilities;

Provide quarterly reports to the Committees on Appropriations on the progress of the ARMS Initiative, including a full accounting, by project and activity, of all disbursements and planned disbursements of program funds.

The conferees believe that the authorizing legislation for the ARMS Initiative in the National Defense Authorization Act for fiscal year 1993, the Defense conversion program authorized by that Act, and other authorities, provide sufficient statutory authority to begin the ARMS Initiative. Should additional authorizing legislation be needed to implement future elements of the ARMS Initiative, the conferees expect that the Secretary of the Army will move swiftly to seek that authorization.

The conferees agree that the fundamental purpose of the ARMS Initiative is to ensure a continued industrial base for the manufacture of ammunition by encouraging the peacetime use of government-owned ammunition manufacturing facilities for military and non-military commercial manufacturing. To accomplish this purpose, the proper incentives must be in place to encourage facility contractors, subcontractors and the Army to carry out activities in support of the ARMS Initiative.

To achieve these objectives, the Secretary of the Army should consider pursuing, under existing law or proposed legislation, the following activities to include, but not be limited to, the establishment of: a loan guarantee program, a financial incentive program, a revolving maintenance fund, free-trade zones at ammunition manufacturing facilities, the waiver of regulations, the indemnification of contractors and subcontractors for risks resulting from activities of the United States Government, or any other measures which the Secretary deems appropriate.

The conferees fully expect the Secretary will continue to examine new and innovative ideas, beyond those already proposed for the ARMS Initiative, that might stimulate expanded commercial interest in Government-owned ammunition facilities. The conferees expect that these ideas will be in consonance with the purposes of the ARMS Initiative and urge that funds available for the Initiative be apportioned to take advantage of emerging needs.

Finally, the conferees believe that an equitable mechanism must be established for the shared cost of maintenance and upkeep of common use infrastructure at government-owned ammunition plants between the government, contractors and subcontractors.

RADFORD ARMY AMMUNITION PLANT (RAAP)

The conferees are concerned about the social and economic impact of the downsizing of the Radford Army Ammunition Plant (RAAP). Currently, the RAAP is the only active Government Owned-Contractor Operated propellant plant in the United States and for the foreseeable future will remain a part of the defense mobilization base.

The downsizing of RAAP is a necessary and inevitable part of the overall consolidation throughout the ammunition industrial base. However, the conferees believe strongly that the effects of the RAAP downsizing can be mitigated, if not reversed, by creative planning and cooperative relations between labor and management along with Federal, state and local governments.

Therefore, the conferees direct the Army to initiate a pilot program at RAAP to encourage the innovative use of the facility for non-government commercial subcontracting. This program should begin with the formation of a regional task force in which teams comprised equally of labor and management will report on the expanded use of RAAP facilities while still fulfilling the Army's readiness mission. The Secretary of the Army shall make planning and study grants available for this purpose.

This program, organized under the direction of the new ARMS Initiative, should address such issues as: joint labor-management strategic planning, flexible work rules, retraining, productivity incentive and interactive management programs, small and minority business development and specialty manufacturing.

The Secretary of the Army is directed to report to the Committees on Appropriations of the House and Senate no later than July 4, 1993, on the work of the regional task force and the progress made by the facility contractor and representatives of the RAAP work force to develop a partnership strategy for the enhanced utilization of RAAP and the strengthening of community-plant relations.

Amendment No. 58: Deletes House language which made a portion of the appropriation available for obligation only after enactment of authorizing legislation.

OTHER PROCUREMENT, ARMY

Amendment No. 59: Inserts and amends Senate language to provide for the purchase of one armored sedan.

Amendment No. 60: Appropriates $3,047,053,000 for Other Procurement, Army, instead of $3,022,667,000 as proposed by the House and $2,978,318,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Other procurement, Army	Budget	House	Senate		Conference
Tactical trailers/dolly sets	11,787	11,787	41,787		41,787
Semitrailer, tank, 5000G		25,000		250	25,000
Family of medium tactical VEH (MYP)	291,101	270,101	291,101	1,979	258,101
Heavy equipment transporter sys		40,000		118	40,000
General purpose vehicles	5,957	5,057	5,957		5,237
Spares and repair parts	11,797	11,797	11,297		11,297
Defense satellite communications system	112,393	97,393	104,243		97,393
Navstar global positioning system	29,386	28,000	27,894	2,171	27,894
Single channel object tact term (Scott)	38,412	8,412	14,000	2	14,000
WMMCCS information system (WIS)	7,887	7,887	6,887		6,887
Army data distribution system (ADDS)	27,297	59,297	24,297		56,297
Mobile subscriber equip (MSE)	58,528	58,528	53,428		53,428
SINCGARS family	223,190	157,490	223,190		223,190
EAC communications	6,459	6,459	40,959		40,959
C–E contingency/fielding equip	8,133	5,763	8,133		5,763
Defense data network (DDN)	6,059	6,059	4,209		4,209
Information systems	66,211	66,211	57,611		66,211
Local area network (LAN)	29,262	19,262	5,462		5,462
Pentagon telecom ctr (PTC)	4,069	3,069	4,069		3,069
General defense intell prog (GDIP)	26,013	29,251	26,013		25,013
All source analysis sys (ASAS) (TIARA)	54,319	44,319	47,719		47,719
Mod of in-svc equip (intel spt) (TIARA)	20,842	20,842	20,842		24,342
Artillery accuracy equip	13,773	11,000	13,773		13,773
Forward entry device (FED)	17,149	17,149	15,991		15,991
Maneuver control system (MCS)	17,453	17,253	17,500		17,253
Automated data processing equip	147,789	156,789	141,789		150,789
Reserve component automation sys (RCAS)	152,222	167,222	152,222		167,222
Integrated family of test equip (IFTE)	39,055	51,065	33,065		51,065
Initial spares	68,911	68,911	62,911		65,917
Production base support (C–E)	3,610	11,710	3,610		11,710
Special programs	47,782	14,000			5,000
LSV landing craft		18,000			18,000
Natural gas utilization equipment		8,000			8,000
Combat training centers support	21,948	5,348	21,948		21,948
Training devices, nonsystem	90,668	83,000	88,900		87,668
Spares and repair parts	13,341	13,341	11,341		11,341
Raise O&M purchase threshold			−1,725		
General reduction—inflation					−18,000
2% General reduction					−61,777

FAMILY OF MEDIUM TACTICAL VEHICLES

The conference agreement includes $258,101,000 for procurement of the Family of Medium Tactical Vehicles, a reduction of $33,000,000 below the budget. The reduction reflects a General Accounting Office finding, agreed to by the Army, that 405 trucks, costing $33,000,000 will not be put onto contract until December, 1993. Therefore, these trucks can be budgeted in fiscal year 1994. The conferees fully support this program and the multiyear contract now in effect. The Army is expected to include all necessary budget requirements to continue this contract in its fiscal year 1994 budget.

INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)

The conferees agree to provide $51,065,000, an increase of $12,000,000 above the budget request for the procurement of the Integrated Family of Test Equipment (IFTE). Further, the conferees agree to provide $17,461,000, an increase of $9,000,000 above the budget request for the continued research and development of automatic test equipment (ATE). Of the amounts provided within the Army's ATE research and development account, funds will be made available for the development of the Contact Test Set Electro-Optic Adjunct (EOA) and program sets for the Apache-Longbow, Ground Based Radar and the TOW-Cobra.

The conferees direct the Army not to replace DSESTS as primary test equipment for the Abrams series tank, the Bradley fighting vehicle and attached systems, the Abrams' Gunners Primary Sight and the Armored Gun System, without using appropriate waiver authority, until the end of current test equipments' useful life. Finally, the conferees are aware that the Army has obligated over $17,000,000 annually for spare sights for the Bradley/TOW system, which clearly raises a supportability issue. As modified DSESTS were used to support Bradley TOW during Desert Shield/Storm, the conferees direct the Secretary of the Army to have the appropriate support agency determine if it would be more cost effective to continue the current maintenance method or transition the Bradley/TOW workload to DSESTS. This study is to be completed no later than May 1, 1993.

PRODUCTION BASE SUPPORT (C-E)

The conferees agree to provide $11,710,000 for production base support. This includes an increase of $8,100,000 for full implementation of the Flexible Computer Integration Manufacturing (FCIM) program at the Letterkenny Army Depot. This program is part of the Computer-Aided Acquisition and Logistics System (CALS); therefore the management of this effort is to be directed by the Assistant Secretary of Defense for Production and Logistics. Further elaboration is contained in the CALS section of this report.

MODIFICATION OF IN SERVICE EQUIPMENT

The conferees agree to provide $24,342,000 for modification of in service equipment for intelligence support, an addition of $3,500,000 to the budget request. The additional funds are provided only for the acquisition of communications and ADP equipment related to the upgrade program for the Army's Single Source Processor—SIGINT.

AIRCRAFT PROCUREMENT, NAVY

Amendment No. 61: Appropriates $6,026,213,000 for Aircraft Procurement, Navy, instead of $6,638,127,000 as proposed by the House and $5,749,209,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Aircraft procurement, Navy	Budget	House	Senate	Conference	
EA-6B/REMFG (electronic warfare) Prowler	482,690	494,000	482,690	3	482,690
AV-8B (V/STOL) Harrier		25,000			25,000
F/A-18 (fighter) Hornet	1,658,301	1,570,601	1,078,301	36	1,200,000
F/A-18 (fighter) Hornet (AP-CY)	150,294	150,294	150,294		110,294
SH-60B (ASW helicopter) Seahawk	216,920	216,920	115,726	12	216,920
SH-60B (ASW helicopter) Seahawk (AP-CY)	45,858	45,858	20,858		20,858
SH-600F CV (ASW helicopter)	221,335	189,335	108,248	9	144,460
SH-60 CV (ASW helicopter) (AP-CY)	40,151	40,151	25,000		30,000
T-45TS (trainer) Goshawk (AP-CY)	47,725	47,725	25,725		25,725
C-20 Aircraft				1	25,000
A-6 Series	156,598	166,598	171,598		166,598
F-18 Series	30,021	30,021	50,021		70,021
E-2 Series	94,108	94,108	69,000		75,000
Spares and repair parts	835,549	830,349	752,677		773,576
Night vision devices for aviators		5,000			
General reduction, int. contr. supt.		−72,400			
Global positioning satellite equipment			−49,609		−49,609
Airborne self-protection jammer			−55,887		−55,887
General reduction—inflation					−39,000

EA-6B PROWLER

The conferees agree to provide $503,013,000 for the remanufacture of three EA-6B aircraft and advance procurement for the fiscal year 1994 program. The House had included $11,310,000 in this program for procurement of an electronic environmental simulator. The conferees have agreed to fund the simulator procurement in the Other Procurement, Navy account.

AV-8B HARRIER

The conferees agree to the House allowance of $25,000,000 for the AV-8B program to initiate an AV-8B remanufacture program if the Secretary of the Navy certifies that such a program is funded in the fiscal year 1994 budget and out-year program. Otherwise these funds are to be combined with $40,000,000 provided in fiscal year 1992 which remain to be obligated. These funds can then only be used to alleviate survivability, maintainability, and/or spares/support equipment shortfalls for the AV-8B.

The Navy is directed to provide a report on the plan to expend these funds prior to submission of the fiscal year 1994 budget request.

F/A-18 HORNET

The conferees agree to provide $1,300,000,000 for procurement of 36 F/A-18 aircraft in fiscal year 1993 and advance procurement funding of $110,294,000.

SH-60 HELICOPTERS

The House funded 12 SH-60B and 12 SH-60F helicopters, while the Senate provided funds for only six of each. The conferees agree to provide $216,920,000 for 12 SH-60B helicopters as recommended by the House and $144,460,000 for 9 SH-60F helicopters. The amount provided for the SH-60F program includes a reduction for training equipment as recommended by the House. The conferees further agree to provide advance procurement funds to support production of 7 SH-60B and 9 SH-60F helicopters in the future. The reduction in future production rates results from the Navy's decision to decrease the procurement of SH-60B helicopters and the conferees direction to reduce the SH-60F production rate to account for a decrease of 25 helicopters in the program's inventory objective.

T-45 GOSHAWK ADVANCE PROCUREMENT

The conferees agree to provide $25,725,000 in advance procurement funding to support acquisition of 18 aircraft in fiscal year 1994. The amount provided is $22,000,000 less than requested in the President's budget.

T-45 ENGINE COMPETITION

This issue is addressed in the Navy Research, Development, Test, and Evaluation section of the conference statement of managers.

C-20 AIRCRAFT

The conferees agree to provide $25,000,000 for acquisition of one C-20 aircraft which is to be transferred to the Coast Guard.

A-6 SERIES MODIFICATIONS

The conferees agree to provide $171,590,000 for A-6 modifications. The amount provided is $10,000,000 above the budget request. The increase is to be used only for acquisition of A-6E Mission Recorder/Reproducer Systems. The low risk technology involved in the program leads the conferees to conclude that procurement can begin prior to formal verification and validation approval.

The conferees were not able to sustain the increase in funding proposed by the House for rewinging of A-6 aircraft for the reserves. However the conferees encourage the Navy to explore other measures to expedite rewinging reserve A-6 aircraft. In addition, the conferees endorse the measures being taken by the Navy to ensure a steady workload at the facilities which will be used in the future for the follow-on program of putting new composite material wings on existing A-6 aircraft.

F-14 SERIES MODIFICATION

The House and Senate recommended $200,555,000 for F-14 series modifications, an increase of $175,000,000 to the budget request. The House suggested the increase be used to accelerate a comprehensive upgrade of the current F-14A configuration to include re-engining. The Senate concurred with the House.

The conferees are concerned that the Navy not abandon the F-14 until the replacement has matured and can be deployed. The Navy has testified that the F-14 will be in the inventory until at least 2010 and that the fleet has established re-engining as its number one priority. Therefore, the conferees request the Department to submit a complete FY 1994 budget upgrade plan to include re-engining, for the projected F-14 inventory.

F/A-18 SERIES MODIFICATIONS

The conferees agree to provide $70,021,000 for F/A-18 series modifications. The amount provided is $40,000,000 above the budget request. The increase is for acquisition of ALR-67 radar warning receivers for reserve F/A-18 aircraft.

E-2C SERIES MODIFICATION

The conferees agree to provide $75,000,000 for E-2C series modifications. The amount provided is $19,108,000 below the budget request. The reduction is based upon delays in contract awards for the program.

COMMON ECM EQUIPMENT

The conferees direct that from within existing funds, the Department of the Navy is to use not less than $7,500,000 to procure navigational forward looking infrared systems for Marine Corps UH-1N utility helicopters.

SPARES AND REPAIR PARTS

The conferees agree to provide $773,576,000 for spares and repair parts. The reduction of $61,973,000 is consistent with changes in aircraft quantities addressed elsewhere in this statement.

Amendment No. 62: Deletes a House provision making a portion of the appropriation subject to authorization.

Weapons Procurement, Navy

Amendment No. 63: Appropriates $3,760,697,000 for Weapons procurement, Navy instead of $3,337,482,000 as proposed by the House and $3,593,915,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Weapons procurement, Navy	Budget	House	Senate	Conference	
Trident II	763,802	663,802	763,802	21	763,802
Trident II (AP-CY)	223,000	123,000	223,000		223,000
Tomahawk	404,194	404,194	229,194	200	404,194
AMRAAM	137,478	137,478	122,778	140	122,778
Slam		100,000	90,000	90	90,000
Aerial targets	170,199	162,199	170,199		166,199
Weapons industrial facilities	28,971	28,971	41,471		41,471
Fleet satellite communications (MYP)	325,983	40,983	263,883		263,883
Arctic satellite communications	17,507		9,500		
Ordnance support equipment	77,169	77,169	149,169		149,169
Vertical launched ASROC (AP)		10,000			10,000
Quickstrike mine	8,801		2,801		
General purpose bombs PY savings			−10,600		−10,600
Practice bombs	5,441	15,441	5,441		15,441
CIWS ammunition	917	10,000	917		10,000
Spares and repair parts	85,672	85,672	81,387		81,387
Special technical projects		−1,500			
Classified program			−30,000		−30,000
General reduction, int. contr. supt		−900			
General reduction—Inflation					−21,000

TOMAHAWK

The conferees have provided the budget request of $404,194,000 for 200 Tomahawk missiles with the understanding that two producers will be maintained in the program until fiscal year 1994.

AERIAL TARGETS

The conference agreement includes $166,199,000 for aerial targets, including $39,451,000 for BQM-34S targets. The Navy is urged to execute the engineering change proposal incorporating used J85 engines as soon as possible in order to maximize the resulting savings.

FLEET SATELLITE COMMUNICATIONS

Both the House and the Senate deleted funding for satellite number 10 for the Navy's new Ultra Frequency satellite system. However, the conferees agree to a reduction of $62,100,000 as recommended by the Senate.

ARCTIC SATELLITE COMMUNICATIONS

The conferees agree to delete the entire $17,507,000 requested for this new program. While the conferees acknowledge the requirement for Arctic communications, they also agree with the House position that if the Department of Defense would improve its overall communications satellite architecture planning process, such stand-alone systems may well no longer be required.

Shipbuilding and Conversion, Navy

Amendment No. 64: Deletes a center heading proposed by the House.

Amendment No. 65: Appropriates $832,200,000 for the carrier replacement program as proposed by the House instead of $350,000,000 as proposed by the Senate.

Amendment No. 66: Appropriates $3,265,770,000 for the DDG-51 destroyer program as proposed by the Senate instead of $705,262,000 and a transfer of $1,900,000,000 from the Defense Business Operations Fund as proposed by the House.

Amendment No. 67: Appropriates $305,000,000 for incremental funding of the LHD-1 amphibious assault ship program instead of $1,205,000,000 as proposed by the House and $1,050,000,000 as proposed by the Senate.

Amendment No. 68: Appropriates $300,000,000 for the LSD-41 cargo variant ship program as proposed by the House.

Amendment No. 69: Appropriates $236,205,000 for the MHC coastal mine hunter program instead of $246,205,000 as proposed by the House and $222,140,000 as proposed by the Senate.

Amendment No. 70: Appropriates $300,000,000 for the AOE combat support ship program as proposed by the House.

Amendment No. 71: Appropriates $19,500,000 for the oceanographic ship program as proposed by the Senate instead of $109,500,000 as proposed by the House.

Amendment No. 72: Deletes the House proposed funding for the sealift ship program.

Amendment No. 73: Deletes the House proposed funding for cost growth on prior years programs.

Amendment No. 74: Appropriates $682,373,000 for craft, outfitting, post delivery, first destination transportation, and inflation adjustments instead of $781,425,000 as proposed by the House and $581,673,000 as proposed by the Senate.

Amendment No. 75: Appropriates a total of $5,978,287,000 instead of $5,513,231,000 and a transfer of $1,900,000,000 from the Defense Business Operations Fund as proposed by the House and $5,526,322,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Shipbuilding and conversion, Navy	Budget	House	Senate	Conference	
Carrier replacement program	832,200	832,200	350,000		832,200
DDG-51	3,346,543	682,162	3,253,670	4	3,253,670
(by transfer from DBOF)		(1,900,000)			
DDG-51 (AP-CY)	23,100	23,100	12,100		12,100
LHD-1 amphibious assault ship		1,205,000	1,050,000		305,000
LSD-41 (CY)		300,000		1	300,000
MHC mine hunter coastal	246,205	246,205	222,140	2	236,205
AOE		300,000			300,000
Oceanographic ships		90,000			
Sealift/prepositioning		801,400			
Service craft	200,228	200,228	28,270		125,970
Outfitting	385,321	352,061	347,267		347,267
Post delivery	223,105	223,105	200,105		223,105

[In thousands of dollars]

Shipbuilding and conversion, Navy	Budget	House	Senate	Conference	
Cost growth on prior year program		195,000			
General reduction—Inflation					−20,000

SONAR COMMUNICATIONS SETS

The conferees agree that competition is advantageous to the government and has encouraged competition when more than one source is qualified to produce an item. Therefore, the conferees direct that procurement of the Sonar Communication Set AN/WQC-2A shall be conducted through competitive procurement.

CARRIER ADVANCE PROCUREMENT

The conferees agree to provide $832,200,000 for advance procurement of long lead items for the nuclear carrier CVN–76. The amount provided is the same as requested in the President's budget and $482,200,000 more than provided by the Senate. The conferees agree with the Senate direction that the Secretary of the Navy is to use the funds provided in the most efficient manner for procuring the CVN–76, preserving the option of fully funding the ship in fiscal year 1995.

DDG–51 DESTROYER

The conferees agree to provide $3,265,770,000 for acquisition of four DDG–51 class destroyers in fiscal year 1993. The amount provided is $103,873,000 less than requested in the President's budget. The reduction reflects anticipated contract savings based upon recent experience.

LHD AMPHIBIOUS ASSAULT SHIP

The conferees agree to provide $305,000,000 in funds to initiate the purchase of one LHD–1 class amphibious assault ship. The conferees have provided authority for the Navy Secretary to enter into a contract for this ship even though full funding has not yet been provided to the Navy. The conferees request that the Navy award a contract for construction of this vessel and include the additional funds required for this program in its fiscal year 1994 budget request. The conferees fully expect that the Navy will make this award before the current contract option expires to allow the Navy to take full advantage of favorable contract options currently available to the government.

MINE HUNTER COASTAL (MHC)

The conferees agree to provide $236,205,000 for purchase of two MHC minehunters, instead of $246,205,000 as recommended by the House and $222,140,000 as recommended by the Senate. Estimates of current MHC contract requirements indicate that funds could be reduced from the budget request. The Navy, however, believes that the amount required will likely be about $14,065,000 above that recommended by the Senate because the program is in its final year. Therefore, the conferees have agreed to provide funds at that level. The conferees believe the amount provided is sufficient to meet the Navy's estimated cost of the ship.

AOE FAST COMBAT SUPPLY SHIP

The conferees agree to provide $300,000,000 for the AOE program. The amount provided, combined with $200,000,000 of fiscal year 1992 funds for this program, provides sufficient resources to allow for an expeditious award of the AOE–10 ship construction contract.

SERVICE CRAFT

The conferees recommend $125,970,000 for the purchase of service craft. No funds are provided for the acquisition of a floating drydock, because sufficient drydock capacity already exists in the Navy.

The funds provided are to be used for procurement of four YC's, four YD's, and two YON's. In addition, the conferees direct the $96,200,000 be provided for berthing barges, of which $32,600,000 shall be for the acquisition and conversion of existing commercial barges, rather than new construction. The conferees also agree that the Navy needs to examine its berthing barge requirements in light of the fleet reductions and the availability of adequate ashore facilities to house ships crews. The conferees reject the Navy's plan which would purchase berthing barges to be used primarily as offices instead of the primary quarters for the ship's crew.

OUTFITTING

The conferees agree to the reductions as proposed by the Senate and identified in the report accompanying the Senate bill.

ESCALATION

The conferees agree with the Senate report regarding the use of escalation funds provided in fiscal year 1992. The conferees further agree with the reallocation of these funds, as proposed by the Senate, except that the amount for the 1989 SSN–21 shall be $66,709,000 and the amount for the 1991 SSN–21 shall be $47,993,000.

SHIP COST ADJUSTMENT

In section 9127, the conferees authorize the transfer of prior year funds to cover cost increases in various ship programs. Each increase and decrease from ship programs is addressed specifically in the bill. The conferees have also assumed that funds appropriated in fiscal year 1991 for SSN–21 advance procurement will be made available for full funding on the fiscal year 1991 SSN–21. The sources for these funds were assets identified by Navy officials. Included in the offsets, were funds which were no longer required for the 1991 AV–8B, spare parts and A–6 modifications programs. Similar savings were identified in the 1992 Navy aircraft ASPJ program, in Navy other procurement and in the Mk–48 torpedo, and AMRAAM and SM–2 missile programs.

OTHER PROCUREMENT, NAVY

Amendment No. 77: Appropriates $5,615,325,000 for Other Procurement, Navy instead of $5,774,446,000 as proposed by the House and $5,629,152,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Other procurement, Navy	Budget	House	Senate	Conference	
AN/SPS–48	9,927	61,427	9,927		61,427
AN/SPS–49	20,462	18,062	20,462		18,062
Surface sonar support equipment	22,310	18,910	22,310		18,910
AN/BQQ–5	179,857	179,857	176,005		176,005
Surface sonar windows and dome	12,413	12,413	9,908		9,908
Sonar switches and transducers	33,090	33,090	31,090		31,090
Submarine advanced combat system	29,900	29,900	27,900		27,900
SOSUS	87,033	87,033	76,133		87,033
AN/SLQ–32	126,912	125,112	126,912		125,112
AN/WLR–8	14,908	12,408	14,908		12,408
C–3 countermeasures	32,019	32,019	20,019		20,019
Naval intell processing system	9,519	9,519	7,919		7,919
AN/WLQ–4 depot	2,219	219	2,219		219
Navy tactical data system	54,008	66,708	50,693		64,000
LINK 16 hardware	42,984	42,984			42,984
Minesweeping system replacement	21,551	19,151	13,482		19,151
Navstar GPS receivers	13,216	13,216	9,201	588	9,201
Space system processing	4,387		4,387		
EMI control instrumentation	11,672	11,672	10,272		10,272
Submarine communication equipment	7,427	7,427	6,427		6,427
Satcom ship terminals	193,607	193,607	180,107		180,107
Secure voice system	76,956	76,556	76,956		76,556
AN/SSQ–36 Sonobuoy	2,778		2,778		
Signal, underwater sound (SUS)	1,792		1,792		
Weapons range support equipment	51,454	51,454	51,454		62,764
Airborne min countermeasures	11,038	1,038	11,038		11,038
Aegis support equipment	154,317	159,317	154,317		159,317
Vertical launch systems	89,271	89,271	54,271	2	89,271
Surface ASW support equipment	15,005	12,100	15,005		12,100
Ship expendable countermeasure	45,246	43,646	45,246		43,646
Amphibious equipment	1,714	23,714	1,714		23,714
Natural gas utilization equipment		8,000			8,000
Special purpose supply systems	115,830	100,830	78,747		78,747

[In thousands of dollars]

Other procurement, Navy	Budget	House	Senate	Conference	
Ship system trainers	22,277	17,177	22,277		17,177
Intelligence support equipment	64,276	58,970	49,476		50,900
Spares and repair parts	580,541	500,000	551,511		500,000
General reduction, Int. contr. supt		−44,900			
Raise O&M purchase threshold			−10,250		
General reduction—inflation					−34,000
2% general reduction					−114,598

DEGAUSSING RANGE

The conferees agree that the $1,285,000 provided for the procurement of a degaussing range be used to acquire an in-service NDI transportable degaussing range which includes the capability to measure acoustic signatures to reduce the threat of magnetic and acoustic influenced mines to surface vessels. The conferees believe that the Navy should refocus its degaussing range activities to the acquisition and deployment of transportable ranges which are more cost-effective and have greater flexibility in deployment than the fixed ranges currently in use.

NAVY TACTICAL DATA SYSTEM

The conferees agree to provide $64,000,000 for the Navy Tactical Data System (NTDS). The amount provided by the conferees includes a reduction of $2,708,000 due to a premature acquisition request for an AN/UYK computer system and an increase of $12,700,000 which is made available only to procure Range NTDS Display Emulation Systems (RNDES) equipment.

The conferees believe that ship classes such as the DD-963, FFG-7 and other non-Aegis platforms are currently dependent on obsolete NTDS display equipment that is difficult to maintain. The prohibitive cost of previously planned Combat Direction System upgrades has resulted in the postponement of needed modernization for these combatants. The availability of the RNDES low-cost C3 display suite presents an opportunity to free up militarized equipment now installed in land based sites for shipboard use. Accordingly, the conferees direct that RNDES equipment be procured to replace existing militarized equipment installed in land-based facilities which would be available for shipboard installation.

WEAPONS RANGE SUPPORT EQUIPMENT

The conferees agree to provide $62,764,000, an increase of $11,310,000 above the budget request, for Weapons Range Support Equipment. The increase is for the AN/FSQ-T22 Electronic Combat Environment Simulator. The funds for the AN/FSQ-T22 had originally been included in the House bill in the Aircraft Procurement, Navy account.

PUGET SOUND NAVAL SHIPYARD

Within available funds, $700,000 is earmarked for environmental enhancement equipment for the Puget Sound Naval Shipyard.

LUBE OIL PUMPS FOR SUBMARINES

The conferees note that the oil service pumps developed for the SSN-21 submarines have very low noise levels. The Navy has just completed sea trials using a similar retrofit kit for the pumps on the 688 class submarines, and the initial results appear to be quite good. The conferees direct that within available funds, $1,000,000 is provided for the procurement of five ship sets of oil pump kits to be retrofitted on 688 class submarines.

Amendment No. 78: Deletes House language which earmarked funds for sonobuoy procurement and made a portion of the appropriation available for obligation only after enactment of authorizing legislation.

Amendment No. 79: Deletes House language which allowed for the procurement of the Enhanced Modular Signal Processor under a multiyear contract. This procurement is now addressed in a general provision.

PROCUREMENT, MARINE CORPS

Amendment No. 80: Appropriates $824,607,000 for Procurement, Marine Corps instead of $792,128,000 as proposed by the House and $628,677,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Procurement, Marine Corps	Budget	House	Senate	Conference	
5.56 MM, all types	14,766	14,766	13,166		13,166
7.62 MM, all types	5,333	12,333	5,333		9,000
155MM M864 proj baseburner				106	81,200
83 MM rocket HEAA (SMAW)	29,352	5,000	29,352		17,000
RKT motor 5 IN	6,018	6,018			
Ammo modernization	9,980	6,980	9,980		6,980
MLRS		152,200		24	66,800
Light Armored Vehicle			10,000		10,000
Modification kits (TRKD VEH)	1,150	1,150	16,150		16,150
Manpack radios and equip			3,000		3,000
Intelligence support equipment	18,387	41,387	28,287		41,387
Logistics vehicle system		18,000			18,000
Armored combat excavator (ACE)	28,011	63,700	28,011	91	63,700
Tray ration heating system	3,324		3,324		
Training devices	4,580	4,580	8,580		8,580
Marine enhancement program			11,500		8,000
Automatic building machines			2,500		2,500
Spares and repair parts	27,398	27,398	26,028		26,028
Raise O&M purchase threshold			−250		
General reduction—inflation					−3,00

LIGHT ARMORED VEHICLE—AIR DEFENSE (LAV-AD)

The conference agreement provides $10,000,000 in procurement funding in fiscal year 1993 for the Marine Corps' LAV-AD. The Commandant, in recent discussions with members of Congress, has indicated that because of outyear funding constraints, the original inventory objective of 100 LAV-AD's may no longer be affordable. The conferees, however, have been assured by the Commandant that the Marine Corps will execute the negotiated production option for 21 vehicles in fiscal year 1994. The $10,000,000 in procurement funding provided in this bill is intended to support that assurance and may be used for production readiness activities, but not for advance procurement. The conferees support the Commandant's decision to execute the 21 vehicle production option in fiscal year 1994 and expect that sufficient funding will be provided in fiscal year 1994, in combination with funds in this bill, to fully fund this restructured program.

MULTIPLE LAUNCH ROCKET SYSTEM (MLRS)

The conference agreement provides $62,500,000 for the procurement of 24 MLRS launchers by the Marine Corps. The conferees direct that none of these funds shall be available for obligation until the Chairman of the Joint Chiefs of Staff has completed the "Roles and Missions" study required by the fiscal year 1993 Defense Authorization conference agreement. The conferees further direct that the MLRS program manager shall ensure that these additional launchers are produced on a schedule that stabilizes the launcher production base and workforce level.

AIRCRAFT PROCUREMENT, AIR FORCE

Amendment No. 81: Appropriates $10,029,285,000 for Aircraft procurement, Air Force instead of $9,427,005,000 as proposed by the House and $9,260,783,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Aircraft procurement, Air Force	Budget	House	Senate	Conference	
B–1B	214,897	214,897	50,000		167,400
F–16 C/D	683,230	614,830		24	614,830
F–16 C/D (AP–CY)		68,400			68,400
C–17	2,513,935	1,905,935	1,855,935	6	1,810,635
C–17 (AP–CY)	205,605	155,605	250,905		250,905
C–130H	300,358		300,358	8	300,358
HC–130H			100,000	2	100,000
E–8B	310,572	310,572	511,772	2	511,772
E–8B (AP–CY)	50,658	38,058	79,116		79,116
B–1B	50,254	50,254	45,754		45,754
F–16	274,496	174,496	238,096		174,496
EF–111	8,975	8,975			8,975
C–22	4,697		4,697		
C–141	14,673	14,673	40,673		40,673
C–12	5,714	214	5,714		214
C–135	526,674	526,674	392,974		526,674
E–3	76,350	76,350	37,750		76,350
Other aircraft	101,593	69,493	79,493		79,493
Spares and repair parts	690,426	672,426	523,836		498,836
Other production charges	686,581	568,324	615,281		598,778
Special technical projects		−21,600			
General reduction, int. contr. supt		−222,300			
Global positioning system equipment			−72,300		−62,103
General reduction—Inflation					−63,000

AIRLIFT AIRCRAFT

C–17 AIRCRAFT

The conferees recommend $1,810,635,000 for the purchase of six C–17 aircraft and advance procurement of $250,905,000 to support production of eight aircraft in fiscal year 1994. The conferees understand from the Air Force that this funding is sufficient to purchase six aircraft. The conferees agree with the report language of the Senate regarding future production rates, denying funds for tooling and productivity investment, and requiring the submission of a new acquisition plan.

OTHER AIRLIFT

C–130H

The conferees have agreed with the Senate recommendation to provide $300,358,000 for 8 C–130H aircraft for the active forces. However, the Department's action earlier in the year proposing the rescission of funds for reserve component C–130s while requesting new funds for active component C–130s remains troubling. Accordingly, the Department is directed to submit a plan to the Congressional defense Committees delineating the relative contributions of active and reserve forces to C–130 tactical airlift along with proposals for modernizing the assets of both the active and reserve components.

MODERNIZATION OF INSERVICE AIRCRAFT

C–141

The conferees have included $26,000,000 above the budget request for C–141 modifications. The funds are for nonrecurring costs of a potential C–141 service life extension program. None of these funds may be obligated or expended until a cost and operational effectiveness analysis concerning a C–141 SLEP has been conducted and the Congressional defense committees have been briefed on its results.

E–3 AWACS

The conference agreement includes $76,350,000 for electronic support measures for AWACS aircraft. None of the funds may be obligated until the Office of the Secretary of Defense has certified to the Congressional defense committees that the new ESM capability is a significant improvement on and not duplicative of any current Air Force system.

OTHER PRODUCTION CHARGES

The reductions to other production charges are discussed in the classified annex to this report.

GROUND COLLISION AVOIDANCE SYSTEM

The conferees agree with the direction in the House report only that the Air Force should proceed expeditiously with providing ground collision avoidance systems for its large cargo-type aircraft and should consider such systems for assets such as AWACS and JSTARS.

AIRCRAFT TIRE PROCUREMENT

The conferees recognize the need to maintain a strong aircraft tire industry to competitively supply tires for military aircraft. The Air Force process for procuring aircraft tires has not been effective in fostering a strong, competitive industrial base. Therefore, the Air Force is directed to develop a long term strategy for procuring aircraft tires while encouraging a competitive process and protecting the industrial base. One option to be considered is the split buy process similar to that used in procuring aircraft engines. A report examining this strategy should be submitted to the Appropriations Committees by April 1, 1993.

C–135

The House bill included $440,300,000 for reengining kits to support one reserve component squadron of 10 KC–135E aircraft modified to the KC–135R configuration, to reengine at least four KC–135A/Q aircraft, and to begin reengining the RC–135 fleet. The Senate bill strongly supported reengining the RC–135 fleet and indicated backing for the reserve component reengining beginning in 1994.

The conference agreement provides the entire budget request of $526,074,000 for C–135 modifications. The conferees note the significant contributions of both the RC–135 and KC–135E operations and support the reengining of both fleets. The Air Force is directed to submit a plan to the Congressional defense committees within 60 days of the date of enactment of this legislation outlining the most cost effective use of the funding available in a manner which will ensure that 17 reengining kits are procured in 1993. No fiscal year 1993 funds may be obligated for reengining kits until receipt and approval of such plan by the Committees on Appropriations of the House of Representatives and the Senate.

The Air Force is further directed to comply with the imperative in the Senate report regarding preparation of a master plan for the future active and reserve components air refueling force structure (including upgrading "E" models to "R" models) as soon as practicable, but not later than March 15, 1993.

MISSILE PROCUREMENT, AIR FORCE

Amendment No. 82: Appropriates $4,369,524,000 for Missile procurement, Air Force instead of $4,327,902,000 as proposed by the House and $4,125,590,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Missile procurement, Air Force	Budget	House	Senate	Conference	
Peacekeeper (M–X)			27,500		27,500
Advanced cruise missile			127,100		127,100
AMRAAM	731,396	731,396	632,696	900	632,696
AGM–88A Harm	218,400	218,400	104,700	846	218,400
Target drones	60,883	72,883	72,883	92	66,883
Advanced cruise missile	4,907		4,907		4,907
Spares and repair parts	54,942	54,942	52,192		52,192
Global positioning (MYP)	188,301	113,101	128,401	4	128,401
Space shuttle operations	88,300	33,300	88,300		88,300
Space boosters (MYP)—(Titan IV)	382,169	262,169	382,169		382,169
Solid rocket motor upgrade		120,000			
Medium launch vehicle (AP–CY)	46,303		46,303		46,303

[In thousands of dollars]

Missile procurement, Air Force	Budget	House	Senate	Conference	
National launch system		46,303			
Defense support program (MYP) (AP–CY)	147,000	85,000	147,000		107,000
Defense satellite comm system (MYP)	25,471	15,471	25,471		25,471
Ionds (MYP)	37,966	35,966	21,300	4	21,300
Special update programs	69,507	51,276	69,507		60,507
Special programs	2,330,476	1,684,276	1,608,276		1,586,276
Special technical projects		−10,100			
General reduction, int. contr. supt		−11,700			
General reduction			−238,234		
General reduction—Inflation					−31,000

OTHER MISSILES

STRATEGIC MISSILES

ADVANCED CRUISE MISSILE

The conferees recommend $127,100,000 for the advanced cruise missile. According to Air Force officials, these funds are sufficient to complete the procurement of a 450 missile program, including projected closeout costs and support requirements. The conferees note that the Air Force has already invested considerable resources developing an organic depot capability for the ACM. The Air Force should follow the guidance in the Senate report concerning competitively awarded contractor logistics support for the ACM sensor, guidance, software and surveillance programs only if its analysis indicates that approach is the most efficient and cost effective manner to support the missile.

AGM–130

The conferees recommendation for the AGM–130 missile includes $10,380,000 for a producibility upgrade to install a focal plane array in the seeker. The Air Force is directed to proceed in the most cost effective manner in implementing the upgrade.

TARGET DRONES

The conferees are concerned that the Air Force did not have operational drone decoys of its own during Operation Desert Storm, and borrowed assets from the Navy. The conferees are also distressed that the Air Force has not provided a road map for the requirement and use of the drone decoys. Both House and Senate had added $12,000,000 above the budget request for procurement of drone decoys. The conference agreement retains the total but has distributed $6,000,000 of the funds provided for Research and Development, Air Force, to review the mission requirements and evaluate alternatives to meet these requirements, and $6,000,000 for Missile Procurement, Air Force, to acquire systems identified by the review. The Air Force shall consider all off the shelf candidate systems and those with very near term potential applicability, including, but not necessarily limited to: BQM–34, BQM–74, MQM–107D(IP), and TALD/ITALD. The Air force has indicated that six months are necessary to conduct this review. The review shall also include how the Air Force plans to integrate the drone decoys on the appropriate aircraft. The procurement funding shall not be obligated until submission of the review to the Committees on Appropriations.

DEFENSE SUPPORT PROGRAM

The conferees agree to provide $107,000,000 for the Defense Support Program (DSP) a reduction of $40,000,000 from the budget request. As stated in bill language contained elsewhere in this conference report, the conferees authorize the acquisition of DSP satellites 23, 24, and 25 on a multi-year basis. The conferees also agree to the Senate provision which directs the Air Force to include well-defined limited liabilities which will provide a low-cost option to terminate the production of satellite 25 if the situation warrants this action. The conferees direct the Air Force to provide the Committees on Appropriations and Armed Services the details of the termination liabilities prior to contract award.

Amendment No. 83: Deletes House language which made $120,000,000 available solely for development costs associated with the Titan IV Solid Rocket Motor Upgrade program. The House criticized both the Air Force and industry for the many problems surrounding the program and directed the Secretary of the Air Force to bring these matters to a resolution before January 1, 1993. The Senate did not concur in the recommendations of the House, but agreed to revisit the issue in conference.

The conferees agree that the Titan IV and SRMU programs are critically important to both the national security and civilian space launch capabilities of the United States. Furthermore, the conferees are dismayed that the Air Force has failed to cooperate with the Congress on this issue or to provide the leadership to resolve the several issues surrounding the program. This lack of action by the Air Force is especially dismaying in light of the conclusions of the Inspector General of the Department of Defense in report number 92–132 dated September 2, 1992, which stated that "the Air Force could either let the ongoing litigation run its course or move proactively to put the SRMU development effort on a sound and equitable financial footing. We recommended the latter option." The IG report also concluded that the prime contractor and subcontractor "initiated discussions to negotiate damages concerning ... recovery of SRMU development costs. We fully support the speedy completion of these negotiations, which would enable the Air Force to preserve the continuity of the SRMU development effort."

The conferees note that the contractors involved proceeded to take aggressive action to resolve their differences, including absorbing as much as a quarter of a billion dollars in costs attributable to prior program difficulties. The Air Force, however, has refused to assume a leadership role in resolution of the program difficulties, preferring to let the program languish during what would undoubtedly become very long and very expensive litigation proceedings among the contractors and the government, potentially adversely affecting the launch capabilities of the United States.

The conferees, therefore, agree to include section 9164 in the Act which imposes an equitable solution on the parties involved and provides for reimbursement to the contractors for costs which the DOD IG and the conferees believe are the responsibility of the Air Force.

The conferees direct the Air Force to expeditiously and equitably resolve any claims currently outstanding, and also direct that all payments made as a part of the Supplemental Agreement shall be made in a timely manner, but in no case later than what would be usual and customary under otherwise applicable U.S. government regulations.

The conferees also agree to permit the Air Force to use incremental funding as a part of their plan to restructure the existing acquisition contract for 41 Titan IV vehicles.

OTHER PROCUREMENT, AIR FORCE

Amendment No. 84: Inserts and amends Senate language to allow for the procurement of one armored sedan.

Amendment No. 85: Appropriates $7,686,524,000 for Other Procurement, Air Force instead of $7,640,888,000 as proposed by the House and $7,926,649,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Other procurement, Air Force	Budget	House	Senate	Conference	
20MM training	3,807	17,000	3,807	2,100	10,300
CBU–87 (combined effects munitions)			60,000		60,000
Items less than $2,000,000	3,631	2,765	3,631		2,765
Special programs	13,061		13,061		13,061
Armored sedan	354		354	1	180
Items less than $2,000,000	16,581	8,000	16,581		8,000
Truck crash P–23	22,116		22,116	48	22,116
Heavy rescue vehicle	4,346		4,346		
Spares and repair parts	2,606	2,606	2,476		2,476
Tactical air control sys improve	118,774	118,774	65,460		118,774
Weather observ/forcast	62,947	52,947	61,580		52,947
Defense support program	57,123	53,923	37,123		47,123
SAC command and control	63,104	63,104	59,104		59,104
Cheyenne mountain complex	31,437	31,437	28,437		28,437

[In thousands of dollars]

Other procurement, Air Force	Budget	House	Senate	Conference
Defense meteorological sat prog	15,165	11,265	12,656	11,265
Air base operability	9,504		9,504	
Imagery trans	18,531	18,531	16,531	16,531
Automatic data processing equip	75,677	75,677	71,677	71,677
MAC command and control support	28,813	27,613	26,813	27,613
Air Force physical security system	36,208	30,208	30,970	30,970
Base level data auto program	22,981	22,981	20,981	20,981
ESMC/WSMC I&M	93,984	93,984	90,324	93,984
AFMC CALS		18,000		9,000
Telephone exchange	80,490	73,390	77,933	77,933
Joint tactical comm program (MYP)	53,960	47,860	53,960	47,860
MILSTAR	211,470	211,470	20,890	88,400
Tactical C–E equipment	37,631	34,531	37,631	34,531
Radio equipment	14,229	14,229	157	157
Spares and repair parts	210,422	190,422	180,422	190,422
Comm elect mods	26,143	23,643	23,143	23,143
Air base operability	17,274	16,474	17,274	16,474
Items less than $2,000,000	20,113	17,613	20,113	20,113
Natural gas utilization equipment		8,000		8,000
Intelligence production activity	72,676	69,878	76,776	73,742
Selected activities	5,560,059	4,979,913	5,452,659	5,286,063
General reduction, int. contr. supt		−12,600		
Raise O&M purchase threshold			−9,000	
General reduction—inflation				−48,000
2% general reduction				−156,868

WEATHER OBSERVATION/FORECAST

Of the funds provided for the procurement and installation of NEXRAD weather radar systems, no funds may be obligated to procure or install any NEXRAD systems outside the United States during fiscal year 1993. The Air Force, after consultation with the FAA and the National Weather Service, shall proceed to accelerate the installation of these systems at sites already identified to support key Pacific Command operating locations at Hickam AFB, Elmendorf AFB and Eielson AFB. The Secretary of the Air Force shall report the revised plan for the acquisition and installation of NEXRAD systems to the Committees on Appropriations of the House and Senate not later than March 15, 1993.

NATIONAL GUARD AND RESERVE EQUIPMENT

Amendment No. 86: Appropriates $1,567,200,000 for National Guard and Reserve Equipment instead of $1,132,150,000 as proposed by the House and $751,100,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

National Guard & Reserve equipment	Budget	House	Senate	Conference	
Night vision goggles			20,000		20,000
Hemtt trucks		7,500		198	7,500
Miscellaneous equipment		15,000			
C–12J			42,300	12	42,300
C–130T aircraft				2	68,000
C–130H aircraft		50,000	34,100		
MH–53 helicopters		10,000			10,000
Lamps MK–1 ASW upgrade		68,000			35,000
P–3 upgrades		25,000			25,000
MIUW vans		15,000			15,000
FFG–7 display systems		8,750			8,750
Miscellaneous equipment			10,000		
KC–130T aircraft		70,000		2	70,000
AH–1W Cobra aircraft		126,000		10	126,000
Night vision		9,000			9,000
C–20			25,000		27,000
Miscellaneous equipment			14,750		
C–130 aircraft		100,000		4	120,000
47 MH—60G helicopters		4,800			4,800
Fire arms training system			700		700
Electronic tandem network			750		750
Medium tactical trucks slep		50,000			50,000
Five ton trucks		50,000			30,000
C–23 simulator			2,000		2,000
C–26 aircraft		23,000		6	23,000
UV–18 replacement			57,900		
CH–47D helicopters			78,000	7	78,000
MLRS launchers				29	80,700
M9 Ace		35,000		35	25,000
Family of M113 vehicles		15,000			15,000
Communications electronics		5,000			
AH–1 MODS C—nite		15,000			15,000
C–212 aircraft		57,900		10	57,900
M–915/916 trucks		10,000			10,000
P–180 Army National Guard				4	16,000
UH–60 helicopters			56,000	8	56,000
Night vision goggles			20,000		20,000
C–130 aircraft		200,000	306,600	10	306,600
C–26 aircraft		23,000		6	23,000
P–180 Air National Guard			16,000		
F–15 MSIP					10,000
F–16 engine upgrades					20,000
F–15 ALE–40		1,200			1,200
MCE		71,000			71,000

ARMY RESERVE
AUTOMATIC TEST EQUIPMENT

The conferees note that the Army Reserve has a $30,000,000 shortage of automatic test equipment. Although no funds were specifically identified to procure modern Integrated Family of Test Equipment (IFTE), the conferees are concerned that reserve maintenance units do not have the equipment on-hand that they will be expected to use in the event they are activated.

Although Guard/Reserve dedicated procurement funds are normally not used to buy major pieces of test equipment, the size of the Army Reserve's shortage of this equipment warrants an exception to policy. Therefore, the conferees agree that, subject to the same restrictions as the active force, the Chief, Army Reserve may use these funds to procure one or more IFTE Base Station Test Facilities to meet TO&E requirements.

NAVAL RESERVE
FFG–7 MODERNIZATION

The conferees agree to provide $8,750,000 as proposed by the House instead of no funding as proposed by the Senate. The conferees note that in order to modernize the current combat training capability in support of the Naval Reserve Fleet (NRF) FFG–7 class ships (OJ–452 and associated equipment), the Naval Reserve has supported an effort to replace currently installed Mil-spec equipment by procuring and installing the low cost Range NTDS Display Emulation System (RNDES) display suite. The availability of the RNDES display suite represents an opportunity to free up militarized equipment now installed in land-base site for shipboard use. Accordingly, the conferees direct that $8,000,000 is available only to procure and install the RNDES display equipment to support NRF combat training ashore.

The conferees also direct that $750,000 is available only to procure and install a training system comprised to the RNDES display equipment and the AEGIS Computer Aided Submode Training (CAST) simulator to support NRF officer training ashore.

C–130T AIRCRAFT

The conferees agree to provide $68,000,000 for two C–130T aircraft for the Navy reserves. The conferees direct the Navy to complete the stand-up of C–130 squadrons of six aircraft each, at New Orleans, LA and Martinsburg, W.VA prior to stand-up of any other C–130 units.

MARINE CORPS RESERVE
C–20 AIRCRAFT

The conferees agree to provide $27,000,000 for procurement of one C–20 aircraft for the Marine Corps Reserve. The conferees further agree that this aircraft should be based at Marine Corps Air Station Futenma, Okinawa, Japan, to replace the T–39 which reached the end of its service life during January 1992.

AIR FORCE RESERVE

The conference agreement includes $120,000,000 for four C–130H aircraft for the Air Force Reserve. These aircraft are intended for the 910th Tactical Airlift Group at Youngstown, Ohio. These aircraft will bring the total of new planes to 16 and will complete the modernization effort for the Youngstown Air Reserve Unit.

ARMY NATIONAL GUARD
FAMILY OF M113 VEHICLES

The conference agreement includes $15,000,000 for the M113 family of vehicles. The conferees agree that these funds are only for the M113A3 conversion program.

ARMY NATIONAL GUARD
C–23 SHERPA

The conferees provide $60,000,000 for the purchase of 10 aircraft. The conferees agree that one of the C–23 aircraft provided in this bill shall be designated for the Vermont Army National Guard. The Vermont Guard requires a replacement aircraft for its aging U–8 aircraft which the unit uses to move its mission equipment for training activities.

AIR NATIONAL GUARD
C–130H

The conference agreement includes $306,600,000 for 10 C–130H aircraft. It is the conferees' understanding that eight of the planes are intended for the North Carolina Air National Guard and two are for the Hawaii Air National Guard. The conferees further direct the Air Force to comply with the guidance in the 1992 conference agreement to provide a C–130H aircraft to the North Dakota Air National Guard.

CHAFF/FLARE DISPENSERS

The conferees have provided $1,200,000 for the installation of ALE–40 interim capability chaff/flare dispensers for reserve component F–15 aircraft as directed in the House language to be used only for that purpose unless the Chief of the National Guard Bureau certifies that it can begin the scheduled installations of the ALE–45 system by the second quarter of fiscal year 1993.

F–15 MSIP

The conferees recommend $10,000,000 to accelerate completion of the F–15 MSIP program.

Amendment No. 87: Deletes House language which made a portion of the appropriation available for obligation only after enactment of authorizing legislation.

Amendment No. 88: Deletes language which made an additional appropriation for procurement of UH–60 helicopters for the Army National Guard.

Amendment No. 89: Deletes Senate language which made an additional appropriation for procurement of night vision equipment.

PROCUREMENT, DEFENSE AGENCIES

Amendment No. 90: Inserts Senate language which permits procurement of one armored sedan.

Amendment No. 91: Appropriates $1,962,058,000 for Procurement, Defense Agencies instead of $1,575,178,000 as proposed by the House and $2,068,752,000 as proposed by the Senate and deletes House earmark for the Special Operations Forces.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Procurement, Defense agencies	Budget	House	Senate		Conference
Motor vehicles	379	379	224	—	224
Remotely piloted vehicles	148,952	29,952	138,952	—	138,952
Supercomputers	—	50,000	—	—	45,000
Major equipment	463,407	36,500	239,107	—	185,800
Major equipment, OJCS	30,722	30,722	22,898	—	22,898
Tactical sigint/elint fund	—	—	166,662	—	56,962
Patriot	62,500	62,500	75,200	—	75,200
MC–130H combat Talon II	53,955	53,955	35,207	—	53,955
C–130 modifications	110,560	191,560	110,560	—	133,560
HH–53 modifications	7,319	7,645	7,319	—	7,645
Other aircraft modifications	—	7,674	—	—	3,000
Aircraft support	138,438	119,338	138,438	—	119,338
SOF PYRO/DEMO	25,291	15,291	13,291	—	13,291
Comm equipment and electronics	81,687	89,187	81,687	—	89,187
SOF intelligence systems	34,289	32,639	19,289	—	45,289
Miscellaneous equipment	14,995	10,382	5,752	—	10,382
Classified programs	110,197	109,697	110,197	—	110,197
General reduction, int. contr. supt	—	−27,500	—	—	—
Classified programs	504,554	402,867	516,954	—	454,388
Mentor-protege program	—	—	55,000	—	45,000
Defense modeling/simulation office	—	—	10,000	—	10,000
Special technical projects	—	−2,000	—	—	−600
Raise O&M procurement threshold	—	—	−32,375	—	—
General reduction—inflation	—	—	—	—	−12,000

SPECIAL OPERATIONS FORCES
COMMUNICATIONS EQUIPMENT

The conferees insist that the Department ensure that the special operations forces receive the necessary communications equipment that is critical to the accomplishment of its mission. The conferees will no longer tolerate shortages of common communications equipment that are supposed to be provided by the individual services to the special operations forces and expect this situation to be remedied in fiscal year 1993.

UNMANNED AIR VEHICLES

The conferees agree to provide $138,952,000 for the Unmanned Air Vehicle program, a reduction of $10,000,000 to the budget request. Of these funds $10,000,000 is only for the acquisition of spare and repair parts for the Pioneer unmanned air vehicle. The additional funds will ensure that the operational readiness of the Pioneer fleet is maintained until the Joint Short Range system is deployed.

LANDSAT

The conferees agree to provide the full request of $78,800,000 for procurement and $6,000,000 for research and development to begin the acquisition of LANDSAT 7. The conferees also agree that NASA must meet its funding responsibility to provide a total of $25,000,000 in fiscal year 1993. Consequently, the conferees direct that no DOD LANDSAT 7 funds are available for obligation or expenditure after May 1, 1993 unless the Director of NASA certifies to the House and Senate Committees on Appropriations that $25,000,000 in fiscal year 1993 NASA funds are available for and reserved solely for obligation for LANDSAT 7.

DEFENSE PRODUCTION ACT PURCHASES

Amendment No. 92: Deletes House language which included an appropriation paragraph for the Defense Production Act Purchases, appropriated $25,000,000, and made the appropriation subject to authorization.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

TACTICAL AVIATION PROGRAMS

The conferees agree with the Senate concerns about the six major programs being conducted by the Army, Navy, and Air Force to modernize their tactical combat aircraft. These programs are the Army Comanche light armed scout helicopter, AH–64 Apache Longbow heavy attach helicopter, the Apache C variant, the Navy AX advanced tactical aircraft and F–18 E/F upgrade, and the Air Force F–22 advanced tactical fighter.

However, the Conferees do not agree to fund these programs in a single appropriations account or to restrict the use of two-thirds of the funds until the Secretary submits a report on the fiscal and military validity of the programs, as recommended by the Senate. Instead, the Conferees have restored funds for each of the programs to the separate service accounts and restricted the obligation of 35 percent of the funds for each of the programs pending the submission of two reports by the Secretary.

The conferees direct that Army aviation programs, and Navy/Marine Corps and Air Force programs, be addressed in separate reports. Each report shall provide the information about the respective aviation programs, as mandated in the Senate report. The report addressing Navy and Air Force programs also shall provide the required information about existing Air Force aircraft and Marine Corps tactical aviation.

A new general provision is recommended to implement the conference agreement.

SCIENCE AND TECHNOLOGY ADVANCED DEMONSTRATIONS

The conferees agree strongly with the Senate's concerns about the greatly expanded science and technology advanced technology demonstrations proposed in the fiscal year 1993 defense budget. The conferees have agreed to the Senate's proposed reductions in these activities, with minor adjustments.

In making these reductions, however, the conferees are not rejecting the general goals and objectives of the proposed demonstrations. The reductions are made to permit the Defense Department to restructure these programs into more fiscally-sustainable, prudently-paced efforts which no longer contain the deficiencies highlighted by the Senate.

The conferees will review any demonstrations proposed in the fiscal year 1994 budget request from this perspective.

With respect to specific recommendations, the conferees direct that the reduction made in the Army Global Surveillance/Air Defense/Precision Strike Technology program element shall be assessed only against the classified Tractor Hike project. The funds provided in the Navy Global Surveillance/Air Defense/Precision Strike Technology program element are available only for simulation work and concept studies. The reduction made in the Air Force Global Surveillance/Air Defense/Precision Strike Technology program element is made to the precision strike project, and the remaining funds are available only for joint air/land/sea project simulation activities.

GROUND COMBAT IDENTIFICATION

The conferees agree with House language which directs the Army to take the lead for ground combat identification and have transferred $15,000,000 from the Defense Agencies to the Army. The Army should continue to coordinate its plan with the Director, Defense Research and Engineering (DDR&E) and with far-term technology efforts in the Defense Advanced Research Projects Agency, and should be in compliance with the Army's strategy for land warfare combat identification.

In addition, the conferees direct that the Army develop ground IFF systems for the Marine Corps. The Marine Corps is directed to assign a senior officer to the Army program office to make sure that Marine Corps' interests are represented.

ROCKET WEAPON SYSTEMS

The conferees agree with the intent of the House language on the proliferation of programs to develop and/or procure small rocket systems in the Defense Department. The conferees agree that any new rocket weapon systems to replace the Hydra-70 proposed by the Army should be accomplished jointly with the Advanced Rocket System (ARS) of the Marine Corps. In addition, the conferees further agree that the joint rocket system which this program develops will replace the Hydra-70 rocket on the Marine Corps LAV-105.

The above direction is for new systems and should not be applied to the Hydra-70 product improvement program.

MILITARY SPACE PROGRAMS

The conferees agree to several reductions in the many separate programs which fund space and related programs. With the projected decline in defense and intelligence budgets, the conferees agree that the Secretary of Defense and the Director of Central Intelligence must take aggressive action to improve and better coordinate their requirements determination and program planning processes to prevent what appears to be a proliferation of independent space-related programs.

DEFENSE SATELLITE COMMUNICATIONS SYSTEM

The conferees agree that no funds are available for development of a follow-on to the current Defense Satellite Communications System satellite.

ELECTRIC VEHICLE TECHNOLOGY

The conferees agree to provide $25,000,000 to the Defense Advanced Research Projects Agency for electric vehicle demonstration projects. Within this amount, the conferees agree that $5,000,000 shall be made available only for a project in the State of Hawaii and $2,500,000 shall be made available only for a project in Sacramento, CA, involving the McClellan Air Force Base and the Sacramento Municipal Utility District.

In addition, the conferees agree with House language which directed that each demonstration project shall carry a 1:1 federal/non-federal matching funding requirement and that no one project should receive more than 25 percent of total funding. The conferees direct that in-kind contributions by non-profit corporations or non-federal government entities or educational institutions may be used to offset the non-federal matching requirement.

NATURAL GAS VEHICLES

The House provided funding in each of the services' RDT&E appropriations for a demonstration to acquire, field, and evaluate the infrastructure utility, efficiency, and environmental benefits of dedicated natural gas vehicles. The conferees agree to provide $10,000,000 to the Defense Advanced Research Projects Agency for this demonstration.

MEDICAL RESEARCH

The Conferees have agreed not to fund medical research in Title VI, the Defense Health Program, as proposed by the Department and have transferred $313,033,000 back to Title IV. Total funding for medical research, including this transferred funding, is detailed below:

[In thousands of dallars]

	HAC	SACac	Conf
RDT&E, Army			
0601101A: In-House Lab Ind Reser	+5,707	+5,707	+5,707
0601102A:			
Def Res Sciences	+51,904	+46,838	+46,838
Nutrition	(+250)	(+675)	(+675)
0602787A:			
Med Technology	+109,820	+96,455	+96,455
Nutrition	(+750)	(+750)	(+750)
Artificial Limbs	(+1,000)	(+1,000)	(+1,000)
Dengue Fever	0	(+1,941)	(+1,941)
0603002A:			
Medical Adv Tech	+55,462	+250,922	+255,437
Prostate Cancer	(+2,000)	(+2,000)	(+2,000)
Breast Cancer	(+25,000)	(+210,000)	(+210,000)
Laser Burn Research	0	(+2,000)	(+2,000)
Nutrition	(+750)	(+750)	(+750)
Inflatable Intravenous Membrane Oxygenator	(+1,000)	0	(+1,000)
Synaptic Transmission	(+3,000)	0	(+3,000)

[In thousands of dallars]

	HAC	SACac	Conf
Lyme Disease	(+800)	0	0
Shigella Dysentery	0	0	(+515)
0603105A: AIDS	+36,247	+56,891	+56,891
0603807A: Med Sys—Adv Dev	+32,089	+29,042	+29,042
0604807A: Med Mat/Med Bio Def Eq	+25,937	+20,209	+20,209
0605801A: Med cmd Spt	+3,495	+3,495	+3,495
0605898A:			
Mgmt HQs	+5,870	+5,452	+5,452
Akamai	0	+7,000	+7,100
Subtotal	326,531	522,011	526,626
RDT&E, Navy:			
0601152N: In-House Lab Ind Res	+1,245	+1,245	+1,245
0601153N: Def Res Sciences	+4,664	+2,869	+2,869
0602233N: Miss Spt Technology	+6,466	+4,330	+4,330
0603706N:			
Medical Development	+39,200	+12,449	+47,899
Bone Marrow	(+31,000)	0	(+31,000)
0604771N: Medical Development	+4,160	+4,113	+4,113
0605152N: Studies & Analysis	+113	+111	+111
0605861N: RDT&E Sci & Tech Mgmt	+7,990	+7,990	+7,990
0605862N: RDT&E Inst Mod	+3,859	+3,139	+3,139
Subtotal	67,697	36,246	71,696
RDT&E, Air Force:			
0604703F: Aeromedical Sys Dev	+2,753	+2,753	+2,753
0605306F: RANCH HAND II	+9,460	+9,460	+9,460
Subtotal	12,213	12,213	12,213
RDT&E, Def. Ags:			
0601101W:			
In-House Lab Ind Res	+2,323	+4,323	+4,323
Nursing Research	0	(+2,000)	(+2,000)
0602227D: Medical Free Electron	+20,000	+20,000	+20,000
Subtotal	22,323	24,323	24,323
Total	428,764	594,793	634,858

SHIGELLA DYSENTERY VACCINE

The conferees have provided $515,000 for further product development and formulation studies to support continued testing of a passive milk-derived vaccine against Shiegella Dysentery.

BREAST CANCER RESEARCH

Of the funds provided for breast cancer research, the conferees urge the Army to pursue interservice research with the Navy in the area of breast cancer screening for early diagnosis using advances in intelligent, adaptive filtering techniques for automatic enhancement of breast x-ray images and in Very Large Scale Integrated circuits (specialized computer chips) for automatic and interactive extraction of key features of breast x-ray images.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

Amendment No. 93: Appropriates $6,032,860,000 instead of $5,962,532,000 as proposed by the House and $5,307,737,000 as proposed by the Senate; amends Senate language on breast cancer research; deletes a ceiling set for RDT&E, Defense Agencies; deletes a ceiling for the Strategic Defense Initiative program; and inserts an earmark for a flexible manufacturing center.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

Research development test & eval, Army	Budget	House	Senate	Conference
Defense research science	166,645	218,549	213,483	213,483
Akamai			7,000	7,100
Materials technology	13,983	13,983	17,983	17,983
Electronic survivability and fuzing technology	19,204	29,204	19,204	29,204
Survivability enhancement	14,551	14,551	24,551	24,551
Aviation technology	46,611	46,611	47,611	46,611
Missile technology	33,164	33,164	33,164	41,764
Modeling and simulation		5,000	3,000	5,000
Combat vehicle and automotive technology	46,992	89,992	46,992	60,992
Weapons and munitions technology	37,270	40,070	37,270	37,270
Electronics and electronic devices	18,011	22,961	21,361	21,661
Night vision technology	35,706	42,706	29,706	34,706
Environmental quality technology	18,447	67,447	23,947	66,347
Command, control, communications technology	24,301	21,844	17,801	17,801
Computer and software technology	3,094	18,094	3,094	3,094
Military engineering technology	45,879	45,879	41,879	41,879
Logistics technology	36,241	43,241	36,241	38,241
Medical technology		109,820	96,455	96,455
MPIM technology		8,600		
Logistics advanced technology	11,289	11,289	11,289	19,089
Medical advanced technology		28,462	40,922	45,437
Prostate disease research		2,000		
Breast cancer research		25,000	210,000	210,000
Weapons and munitions advance technology	49,074	81,974	67,474	62,474
Command, control, communications advanced technology	15,350	10,350	12,850	10,350
Materials and structures advanced technology	3,177	3,177	6,677	6,677
Acquired immune deficiency syndrome (AIDS) research		36,247	56,891	56,891
Global surveillance/air defense/precision strike tech.	50,000	50,000	23,000	36,500
Night vision advanced technology	28,436	32,436	46,436	28,436
Advanced tactical computer science and technology	22,441	27,441	7,673	19,673
Anti-satellite weapon (ASAT)	24,768		24,768	20,000
Classified programs	19,009	14,735	10,735	12,735
LOSAT			122,848	122,848
Artillery propellent development	7,057	7,057	17,057	17,057
Single channel ground and airborne radio system	214	214	5,214	5,214
Soldier support and survivability	7,921	7,921	13,921	13,921
Aviation—adv dev	14,029	17,229	14,029	17,229
Medical systems—adv dev		32,089	29,042	29,042
Armed, deployable OH–58D		8,100		8,100
Light armed scout helicopter	443,007	443,007		418,007
All source analysis system	50,754	40,754	50,754	57,054
Heavy tactical vehicles	961	1,961	961	1,961
Advanced tank cannon (ATAC)	41,526	31,526	27,026	27,026
Engineering mobility equipment	2,238	8,438	2,238	2,238

[In thousands of dollars]

Research development test & eval, Army	Budget	House	Senate	Conference
Combat feeding, clothing, and equipment	9,463	9,463	27,463	27,463
Automatic test equipment development	8,461	17,461	8,461	17,461
Tractor jewel	74,206		96,206	96,206
Joint surveillance/target attack radar system	31,213	31,213	66,213	66,213
Medical material/medical biological defense equip		25,937	20,209	20,209
Sense and destroy armament missile—eng dev	63,037	63,037	98,000	98,000
Longbow—eng dev	281,802	306,802		306,802
LOSAT	122,848	122,848		
Combat vehicle improvement programs	22,558	81,158	13,282	38,300
Missile/air defense product improvement program	56,315	66,315	67,315	71,815
Other missile product improvement programs	16,429	18,429	30,029	30,029
Rocket systems		−20,000		
Classified programs	149,273	178,273	149,273	178,273
SATCOM ground environment	137,027	137,027	118,627	118,627
Army kwajalein atoll	184,454	159,454	184,454	184,454
Productivity investments	7,547	11,747	7,547	11,747
Management headquarters (research and development)	8,661	14,531	14,113	14,113
Industrial preparedness	19,703	7,000	10,841	
Manufacturing technology development		49,282		34,473
Excess inventory			−4,218	−4,281
Inflation dividend			−8,000	−24,000
Travel			−14,057	−14,057
3% general reduction				−180,583
Army advanced automotive development			10,000	

MISSILE TECHNOLOGY

The conferees agree to provide $8,600,000 for the Multi-Purpose Individual Munitions program to complete the final year of the current technology base development effort.

COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY

The conferees agree to provide $60,992,000 for this program element in fiscal year 1993, $14,000,000 above the budget request. Of the additional funds provided, the conferees direct the Army to make available $1,000,000 for a pilot program at Fort Hood, Texas, to convert non-military fleet vehicles to use compressed natural gas. Further, the conferees provide $13,000,000 for advanced automotive technology development activities at the Tank Automotive Research, Development and Engineering Center (TARDEC) to conduct or manage research activities such as gear technology for heavy vehicles; ground vehicle mobility, reliability and maintainability in cold environments; and advanced automotive development activities for future Armored Systems Modernization applications.

ENVIRONMENTAL QUALITY TECHNOLOGY

The conferees agree to provide $66,347,000 for this program element, an increase of $47,900,000 above the budget. Of the additional funds provided, the conferees direct that $5,000,000 shall be available only for the National Defense Center for Environmental Excellence to perform the three projects listed in the House report and to initiate a program to systematically examine and document health effects and costs associated with toxic substances found in the defense manufacturing environment. Further, the conferees provide $4,400,000 only for starch-based polymer technology to manufacture biodegradable food and other packaging products at U.S. Army Natick R&D Center; $1,000,000 only for the Hawaii Small Business Development Center for the commercialization of agricultural-industrial products of interest to DOD; $10,000,000 only to establish a national research and development center for advancing the state-of-the-art in unexploded ordnance remediation at Jefferson Proving Ground; $5,000,000 only for plasma technology and pink water demonstration projects at U.S. Army Toxic and Hazardous Material Agency; $10,000,000 only for the National Environmental Waste Technology Testing and Evaluation Center to develop and use new technologies designed to expedite the remediation and cleanup of residual waste; and $10,000,000 only to develop products currently used by DOD which can be produced from agricultural crops at U.S. Army Natick R&D Center.

LOGISTICS TECHNOLOGY

The conferees agree to provide $38,241,000, of which $2,000,000 is only for the Army to continue its research on the establishment of cold pasteurization/sterilization techniques for meals-ready-to-eat as proposed by the House.

The $2,000,000 should be directed to a program that has begun research in this area applying pulsed electric fields and oscillating magnetic fields to fresh or pretreated food products. For the development of prototypes, such a program would allow for development from laboratory stage to a prototype. It should also have an instrumentation laboratory capable of making the specialized electronic and mechanical experimental apparatus needed for the program and specialized laboratories for evaluating physical and sensory properties. The institution should have, also, an established record of scientific publications using the above mentioned technologies.

LOGISTICS ADVANCED TECHNOLOGY

The conferees agree to provide $19,089,000, of which $2,800,000 is only to support a program for standardization/consolidation and advancement of future munitions packaging technologies and $5,000,000 is only for the Southwest Research Institute for Acousto-Optic Tunable Filter technology.

WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY

The conferees agree to provide $62,474,000, of which $5,000,000 is only for the Bunker Defeat Munitions program; $5,000,000 is only to continue necessary research into electro-thermal chemical guns and electro-thermal chemical power supply development; and $3,400,000 is only for the development of the XM-982 155mm extended range artillery projectile.

ARMAMENT ENHANCEMENT INITIATIVE

In addition to the budget request, the conferees agree to provide $4,000,000 for the Smart Target Activated Fire and Forget (STAFF) 120mm tank round.

LINE-OF-SIGHT, ANTITANK (LOSAT)

The conferees agree to provide $122,848,000 for the Line of Sight Antitank (LOSAT) program. The conferees direct that a robust technology demonstration strategy be pursued that has the potential to move the program into Engineering, Manufacturing and Development in fiscal year 1996. Further, the conferees believe that the magnitude of this effort justifies a separate program element and directs that a new 6.3a LOSAT technology demonstration program element be created and the $122,848,000 be placed in that program element.

ARTILLERY PROPELLENT DEVELOPMENT

The conferees agree to provide $17,057,000, of which $10,000,000 is only to complete the development and operational testing of the 52-caliber cannon system.

COMANCHE LIGHT ARMED SCOUT HELICOPTER

The conferees agree that an additional $2,400,000 of funds provided for fiscal year 1992 for this program may be used to continue proposal preparation activities for the T-800 growth engine project.

ALL SOURCE ANALYSIS SYSTEM

The conferees agree to provide $57,054,000 for the All Source Analysis System (ASAS), an addition of $6,300,000 to the budget request. The conferees are encouraged to learn that the Army has recently certified that ASAS is the single funded Army program which meets tactical intelligence fusion requirements. The conferees note that the Program Executive Officer, Command and Control Systems is the single management office responsible for developing, acquiring, and fielding ASAS. The Program Manager will ensure technology initiatives, rapid prototyping, and NDI systems will be synchronized with ASAS developments. Any CINC initiatives to procure prototype systems or interim contingency capabilities, such as Project Warrior, will be executed by the Program Manager. The conferees also note that future budget request for tactical intelligence fusion efforts that are not part of the ASAS program management structure will not be approved.

The conferees have provided an additional $6,300,000 to the budget request for ASAS. The conferees direct that these funds be used for the upgrading of the communications and intelligence analysis capabilities of the Army's existing Single Source Processor—SIGINT (SSP-S) and development of a lightweight, portable equivalent for support of contingency operations and low intensity conflict. The conferees note that this effort will have direct applicability to the ASAS Block II program. The conferees further direct that the Army provide a report on this development activity to the Committees on Appropriations no later than March 31, 1993.

ADVANCED TANK CANNON (ATAC)

The conferees agree to provide $27,026,000 for the advanced tank cannon development efforts in fiscal year 1993. The conferees believe that the Army should undertake type classification of the XM291 gun in fiscal year 1993 to fold into the M1A2 upgrade program as soon as possible. The Army's efforts should lead to a fiscal year 1994 demonstration of a modified M1A2 including a XM291 120mm gun, fire control modifications, second generation FLIR, laser designator, and continuous muzzle reference system.

ENGINEERING MOBILITY DEVELOPMENT

The conferees agree to provide $2,232,000 for the Heavy Assault Bridge (HAB) program, and expect the Army to provide sufficient funding for HAB in the Army's Future Years Defense Plan. In addition, the conferees direct the Army to submit an in-depth, in-progress review of the HAB program and funding profile not later than March 31, 1993.

COMBAT VEHICLE IMPROVEMENT PROGRAM

The conferees agree to provide $38,300,000 for this program element, of which $15,800,000 is for upgrades to the Bradley Fighting Vehicle and $2,500,000 is for M1 live-fire testing. In addition, $20,000,000 is only to demonstrate the application of the Inter-Vehicular Information System (IVIS) to aid in the reduction of fratricide on the modern battlefield. The demonstration will include both the M1 series tank and its companion Bradley fighting vehicle conducting combined operations. The test will focus on interoperability with specific emphasis on positive identification capability required for anti-fratricide measures during target identification prior to weapons release and on target identification and hand off to other fighting elements of the combined arms team using the Airborne Target Hand-off System (ATHS).

The conferees further agree that none of the IVIS demonstration funds shall be obligated until the Secretary of the Army has provided a demonstration plan, including milestones and funding to the congressional defense committees.

MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM

The conferees agree to provide $71,815,000. With the demise of the air defense antitank system [ADATS], the Committee is concerned as to how the Army intends to fill its mobile air defense needs. The conference agreement provides $7,750,000 above the budget request for the Army to restructure the growth options of the Bradley Stinger Fighting Vehicle (BSFV) to immediately review the cost and operational effectiveness of mounting existing air defense turrets on the Bradley Fighting Vehicle. The conferees direct the Army to provide a report on the cost and operational effectiveness of turret integration into the Army's future mobile air defense plans no later than May 31, 1993.

The conferees are aware that upgrades to address shortfalls of the Stinger missile are not expected to become operational until fiscal year 1997 at the earliest. The conferees provide $7,750,000 within this program element for the Army to perform a review with Marine Corps participation of candidate missiles for an adjunct or complementary missile to Stinger on the Avenger, Bradley and LAV-AD air defense platforms. The Army shall provide a report to the Committees on Appropriations justifying how these funds will be used before obligating any of the funds provided for these activities.

TEST RANGES AND FACILITIES

The conferees agree to provide $2,000,000 of available funds to conduct a feasibility engineering study to determine the viability of establishing a centralized, independent Rotary Aircraft Flight Parts Concurrent Engineering Test and Evaluation Center.

HIGH ENERGY LASER TEST FACILITY

The conferees agree it would be useful to receive the information about HELSTF directed in the Senate report. In addition to that information, the conferees recognize the importance of the core capabilities of the Nation's only High Energy Laser Test Facility, including the Sea-lite Beam Director. The conferees direct the Secretary of Defense to assess the advantages of maintaining these core capabilities.

MANUFACTURING TECHNOLOGY DEVELOPMENT

The conferees agree to provide $34,473,000 for industrial preparedness and manufacturing technology, as follows: $10,841,000 for programs approved in the Senate bill and $1,132,000 for environmentally acceptable processes. These projects were transferred from the Army Industrial Preparedness program element. In addition, the conferees agree to provide $15,000,000 only for the National Defense Center for Environmental Excellence.

Flexible Manufacturing Center.—The Army Armament, Munitions and Chemical Command is planning to establish flexible manufacturing centers for metalworking associated with ammunition production. The conferees support this initiative, and have provided $7,500,000 for establishment of such a center at the Scranton Army Ammunition Plant. The conferees agree to include language enabling the Army to apply these funds to the necessary appropriations accounts required to carry out this direction.

Amendment No. 94: Restores House language providing $3,000,000 only for synaptic transmission research and deletes House language making a portion of the appropriation subject to authorization.

Amendment No. 95: Inserts and amends Senate language providing an additional $20,000,000 for a large-scale Phase III clinical investigation of the GP-160 vaccine providing that the Secretary of Defense, the Director of the National Institutes of Health and the Commissioner of Food and Drugs do not object within six months of enactment of this Act. If written certification objecting to this testing is presented, the Secretary of Defense may use this funding for other AIDS research needs of the Department of Defense.

Amendment No. 96: Inserts and amends Senate language which earmarks $4,000,000 for Assistive Technology Center at the National Rehabilitation Technology Hospital.

Amendment No. 97: Deletes Senate language which earmarked $10,000,000 for advanced automotive development for future Armored Systems Modernization applications. This subject was addressed with amendment no. 93.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

Amendment No. 98: Appropriates $8,930,381,000 for Research, Development, Test and Evaluation, Navy instead of $9,315,969,000 as proposed by the House and $7,098,773,000 as proposed by the Senate.

Amendment No. 99: Restores language proposed by the House and stricken by the Senate which provides $1,000,000 as a grant for the National Center for Physical Acoustics.

Amendment No. 100: Deletes House language on the Ship Self Defense Program.

Amendment No. 101: Restores language proposed by the House which provides limitations on the Destroyer Variant program.

Amendment No. 102: Deletes language proposed by the House requiring authorization for certain amounts.

Amendment No. 103: Deletes language proposed by the Senate concerning the T-45 aircraft and inserts new language dealing with a general reduction of funds and providing for a research project with the West Virginia High Technology Corporation.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

Research, development, test and eval, Navy	Budget	House	Senate	Conference
Defense Research Sciences	457,389	417,053	429,832	429,832
Anti-Air Warfare/Anti-Surface Warfare Technology	86,931	71,931	66,090	72,699
Surface Ship Technology	26,113	50,113	30,113	50,113
Aircraft Technology	25,821	20,821	25,307	25,636
Marine Corps Landing Force Technology	21,019	21,019	19,019	21,019
Command, Control, and Communications Technology	22,627	17,627	20,480	20,480
Mission Support Technology	36,118	45,084	34,285	42,748
Systems Support Technology	93,810	102,310	80,713	97,611
Electronic Warfare Technology	18,474	18,474	17,363	18,474
Undersea Surveillance and Weapons Technology	146,194	131,194	122,369	138,194
Mine and Special Warfare Technology	45,536	45,536	34,745	42,536
Submarine Technology	21,476	16,476	17,179	17,891
Nuclear Propulsion	15,876	10,876	15,876	10,876
Ocean and Atmospheric Support Technology	49,593	49,593	43,781	46,687
Air Systems Advanced Technology Development	20,079	30,156	20,079	30,156
Global Surveillance/Air Defense/Precision Strike Tech.	50,000	25,000	....	10,000
Advanced Electronic Warfare Technology	30,814	15,814	5,814	5,814
Undersea Superiority Technology Demonstration	100,000	50,000	65,000	65,000
Marine Corps Advanced Technology Demonstration (ATD)	23,138	18,138	23,138	23,138
Medical Development	4,250	43,450	16,699	47,899
Manpower, Personnel and Training Adv Tech Dev	18,458	8,458	18,458	18,458
Generic Logistics R&D Technology Demonstrations	16,551	40,551	28,051	30,051
Advanced Anti-Submarine Warfare Technology	49,666	67,666	49,666	67,666
Shallow Water MCM Demos	10,625	10,625	14,825	10,625
Advanced Technology Transition	84,682	69,682	89,282	89,282
C3 Advanced Technology	2,110	25,810	2,110	25,810
Tactical Space Operations	2,015	....	2,015	....
Trident II	65,898	65,898	49,398	49,398
SSBN Security Technology Program	72,553	72,553	63,553	63,553

[In thousands of dollars]

Research, development, test and eval, Navy	Budget	House	Senate	Conference
T–45 Training System	32,028	32,028	57,028	52,028
Air Crew Systems Technology	9,697	19,697	9,697	19,697
Non-Acoustic Anti-Submarine Warfare (ASW)	12,983		12,983	
Advanced ASW Target	16,499	8,499	16,499	16,499
Retract Juniper	48,725	48,725	63,725	63,725
Surface ASW	70,194	70,194	51,094	51,094
Advanced Submarine System Development	154,967	96,967	132,767	134,767
Ship Development	11,945	11,945	8,745	8,745
Sealift Ship Tech. Program			13,400	13,400
Electric Drive	99,177	43,177	83,784	78,000
Joint Advanced Systems	106,783		152,783	152,783
Conventional Munitions	62,317	52,317	62,317	62,317
Lightweight 155MM Howitzer			13,100	13,100
MK 48 ADCAP—Adv Dev	29,553	29,553	15,953	29,553
Ocean Engineering Technology Development	12,589	13,589	12,589	12,589
Link Plumeria	21,044	21,044	15,444	15,444
Retract Elm	173,010	138,010	112,530	112,530
Ship Self Defense	160,408	193,408	207,059	222,408
Standard Avionics Development	11,994	11,994	5,290	8,262
Lamps	31,840	36,340	31,840	36,340
Helicopter Development	15,117	10,415	15,117	20,117
AV–8B Aircraft—Eng Dev	11,053	12,553	11,053	12,553
P–3 Modernization Program	35,473	162,473	8,258	14,058
ATA/AX	165,583	165,583		165,583
V–22A		755,000		755,000
Air Crew Systems Development	18,246	21,946	18,246	21,946
EW Development	136,903	111,903	126,227	134,041
AEGIS Combat System Engineering	89,902	99,902	70,406	109,302
Close-in Weapon System (Phalanx)	9,013	9,013	14,013	14,013
Non-Acoustic Mine Detection		27,000		13,500
Combat Information Center Conversion	18,719	10,000	18,719	18,719
Deep Submergence Technology	21,085	21,085		
Unguided Conventional Air-Launched Weapons	10,291		10,291	10,291
Joint Direct Attack Munition	26,541	11,541	26,541	26,541
Marine Corps Assault Vehicles—Eng Dev		14,700		14,700
Surface Warfare Training Devices	3,100	8,100	3,100	8,100
Medical Developments		4,160	4,113	4,113
Fixed Distributed System—Eng	154,486	154,486	168,486	168,486
C2 Surveillance/Reconnaisance Support	14,032	8,032	14,032	11,032
F/A–18 Squadrons	1,133,589	1,136,589	53,689	943,589
Surface Combatant Ordnance—Tomahawk	25,450	30,450	25,450	28,450
Ship-Towed Array Surveillance Systems	21,381	21,381	23,581	23,581
F–14 Upgrade	101,228	151,228	101,228	126,228
Marine Corps Ground Combat/Supporting Arms Systems	20,445	20,445	48,845	35,845
Navy Command and Control Planning and Development	3,033	3,033	1,516	1,516
Classified Programs	649,894	573,938	619,094	555,894
Electronic Warfare Simulator Development	30,608	22,608	30,608	30,608
Target Systems Development	40,036	30,036	33,236	40,036
Studies and Analysis Support—MC	1,958	1,958	979	979
Studies and Analysis Support—Navy	5,680	5,793	2,951	2,951
Fleet Tactical Development and Evaluation	7,797	7,797	3,898	3,898
Technical Information Services	14,619	9,619	14,619	14,619
Management and Technical Support	12,747	12,747	6,373	9,560
RDT&E Instrumentation Modernization	15,500	19,359	18,639	18,639
RDT&E Ship and Aircraft Support	108,555	98,355	108,555	108,555
Test and Evaluation Support	353,226	335,226	345,700	345,700
Industrial Preparedness	45,384	15,000	18,949	
Manufacturing Technology Development		136,250		104,999
Excess Inventory			−362	−362
Inflation Dividend			−16,000	−49,000
Travel			−22,114	−22,114
3 Percent General Reduction				−277,682

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

The conferees agree to the following specific program adjustments DD Form 1414 for fiscal year 1993 shall show the items marked with an asterisk ("*") as Congressional interest items, a change (other than to reflect prorata, general reductions) to which requires prior approval.

[in thousands of dollars]

	Budget	House	Senate	Conference
Anti-Air Warfare/Anti-Surface Warfare Technology	86,931	71,931	66,090	72,699
Long Range Air-to-air Weapons				(−2,323)
2010 Ship Self-defense Weapon				(−2,642)
Relocatable Target Standoff Weapon				(−3,303)
Late-1990's Tomahawk Upgrades				(−5,964)
Aircraft Technology	25,821	20,821	25,307	25,636
ASTOVL				*(−185)
Command, Control, and Communications	22,627	17,627	20,480	20,480
Excessive Growth				(−2,147
Mission Support Technology	36,118	45,084	34,285	42,748
Disposal of Pyrotechnic materials and explosive D chemicals				*(+1,300)
Mine Battery Development				*(+1,000)
Medical (as noted in the medical heading)				(+4,330)
Systems Support Technology	93,810	102,310	80,713	97,611
Embedded Sensors				*(+3,500)
Process Technology and Material Productibility for Fibers, Metal Matrix Composites, and Advanced Ceramics				*(+5,000)
Laser technology efforts				(−4,699)
Expansion of NESEA electronic technical manual project to other platforms/sensors				*(3,000)
Note: Navy should provide an implementation plan to Congress by March 1, 1933, for the NESEA paperless ship project.				
Undersea Surveillance and Weapons Technology	146,194	131,194	122,369	138,194
Shallow Water Active Acoustic Signals Classification				(−3,300)
Full Spectrum Acoustic Signals Processing Technology				(−3,300)
Advanced Torpedo Technology Demonstrations				(−1,400)
Mine and Special Warfare Technology	45,536	45,536	34,745	42,536
Self Contained Sweep Mine-Hunting Systems				*(+2,500)
Program Acceleration				(−5,500)
Submarine Technology	21,476	16,476	17,179	17,891
Propulsors				(−3,585)
Ocean and Atmospheric Support Technology	49,593	49,593	43,781	46,687
Program Acceleration				(−2,906
Global Surveillance/AirDefense/Precision Strike Technology	50,000	25,000	0	10,000
Simulation and Concept Studies Only				*(10,000)
Generic Logistics R&D	16,551	40,551	28,051	30,051

[in thousands of dollars]

	Budget	House	Senate	Conference
RAMP at the Naval Supply Systems Command				*(+11,500)
RAMP technology to Philadelphia Naval Shipyard Study				*(+2,000)
Note: Navy also should assess applying RAMP technology to any future defense conversion uses for the Philadelphia Naval Shipyard.				
Trident II	65,898	65,898	49,398	49,398
Trident System Studies				(−4,000)
D–5 Yield/Accuracy Efforts and New Warhead Studies				(−4,000)
Missile Support Efforts				(−8,500)
Single Piece Chip Carrier				*(−2,000)
Advanced Submarine System Development	154,967	96,967	132,767	134,767
Preplanned Product Improvements for Centurion				(−12,200)
Large Diameter Torpedo Tube				(−8,000)
Suprelite Transition				*(2,000)
Gas Generator Emergency Main Ballast Tank Blow System				*(2,000)
Note: Conferees did not agree to House restrictions on electric drive.				
Electric Drive	99,177	43,177	83,784	78,000
Note: $4,000 is only for the permanent magnet generator.				
Ship Self Defense	160,408	193,408	207,059	222,408
Classified				(+21,000)
Infrared Technologies				(+5,900)
Quick Reaction Combat Capability (QRCC)				(+18,000)
NULKA Decoy Testing				(+2,000)
Infrared Rolling Airframe Missile (RAM) Variant				(+10,000)
Evolved Sea Sparrow Missile				*(+2,100)
Sensor Integration at NESEA				*(+3,000)
Standard Avionics Development	11,994	11,994	5,290	8,262
Standard Compass/Attitude Heading Reference System				*(2,972)
Helicopter Development	15,117	10,415	15,117	20,117
Stabilized Fire Control System				*(5,000)
P–3 Modernization Program	35,473	162,473	8,258	14,058
Update IV Termination Cost Only				*(5,800)
Note: Conferees did not agree to House language on Update IV.				
Acoustic Search Sensors	47,530	33,730	33,730	33,730
Extended Echo Ranging ASW				*(500)
EW Development	136,903	111,903	126,227	134,041
ASPJ Baseline System Testing only				*(7,814)
Note: ASPJ funds are not for P3I activities.				
AEGIS Combat System	89,902	99,902	70,406	109,302
Integration Activities for DDG–51 flight IIA				(+9,400)
AN/UYH–16 Optical Product				*(+10,000)
F/A–18 Squadrons	1,133,589	1,136,589	53,689	943,589
Chaff Laucher Rail				*(3,000)
F–18 E/F				(−190,000)
Note: Chaff launcher rail could apply to any series F–18 aircraft.				
Surface Combatant ordnance—Tomahawk	25,450	30,450	25,450	28,450
Tomahawk Engine Upgrade Studies Only				*(3,000)
Non-acoustic Mine Detection	0	27,000	13,500	13,500
Note: Funds provided only to finish testing of the Magic Lantern (ML–90) system to prepare for engineering and manufacturing development, and to further refine a contingent deployment capability.				
Technical Information Services	14,619	9,619	14,619	14,619
West Virginia National Technology Transfer Center				*(1,500)
Note: Budget request plus $1,500 is special interest item.				
Manufacturing technology development	0	136,250	0	104,999
Automated Manufacturing Research Facility[1]				(6,000)
National Shipbuilding Research Program[1]				(2,500)
Advanced Propulsor Manufacturing Technology[1]				(2,000)
Manufacturing Technology for Laser Assisted Metalworking[1]				(1,700)
National center of Excellence for Metalworking Technology[1]				*(20,000)
National center of Excellence for Composities Manufacturing Technology[1]				*(20,000)
Manufacturing Technology Strategic Planning[1]				(749)
Manufacturing Technology Project Support[1]				(6,000)
EA–6B Program, including the Receiver Processor group				*(7,200)
Semi-Solid Metal Forming				*(4,000)
ND–YAG Laser				*(350)
National Center for Advanced Gear Manufacturing				*(5,000)
Multi-function Self-Aligned Gate (MSAG)				*(5,000)
National Center of Excellence—Ship Hull/Electronics Design				*(5,000)
Ductile Iron Projectiles				*(15,000)
Electroslag				*(1,500)
Advanced Telecommunications Manufacturing Technology				*(3,000)

[1] These projects were transferred from the Navy Industrial preparedness program element.

C3 ADVANCED TECHNOLOGY

The conferees agree to provide $25,800,000, of which $23,700,000 is available only to competitively acquire a ruggedized workstation which supports the replacement of the Navy Tactical Data System/Advanced Combat Direction System consoles, as well as satisfies the needs of the ship self defense program.

C3 TECHNOLOGY DEMONSTRATION

The conferees direct the Department of the Navy to examine the possibility of using commercial C3 and reconnaissance aircraft with real-time satellite video relay and integral RPV capability to demonstrate the application of television enhanced situational awareness in support of military operations. If the results of this examination so warrant, the Committees on Appropriations will consider a prior approval reprogramming to fund a technology demonstration program in this area. The conferees direct that the Navy report the results of this examination to the Committees on Appropriations no later than March 31, 1993.

ELECTRONIC WARFARE TECHNOLOGY

The conferees direct that within the amount provided, $200,000 is only for a small business innovative research program for constructing and testing an infrared random signal processor brass board that reduces or eliminates background/clutter interference.

AIR CREW SYSTEMS TECHNOLOGY

The conferees agree to provide $19,697,000 as recommended by the House. The conferees direct that the Navy's original budget request for the national Biodynamics Laboratory (NBDL) and the additional $6,200,000 (including $5,000,000 only for the collaborative research effort described in the House report for this program element) be allocated only for the NBDL and related research, except that the funds for the collaborative research effort shall remain available for obligation for two years. The funding increases and earmarks within them are special Congressional interest items. The conferees also agree with the House regarding the collocation of the NBDL, but direct the Secretary of Defense not to implement any reductions of force, including through attrition, or implement any realignments impacting the NBDL until 60 days after notification has been submitted to the Committees on Appropriations.

T–45 TRAINING SYSTEM

The conferees agree to provide $52,028,000 for the T–45 Training System. The conferees further agree that the Department of the Navy is to use the increase of $20,000,000 to explore an engine competition, if determined to be cost effective and consistent with direction contained in Senate report 102–408 and the Conference Report (102–328) accompanying the Department of Defense Appropriations Act, 1992. The conferees also agree that the Department of the Navy is directed to transfer up to $25,000,000 of 1992 Aircraft Procurement Navy funding to Navy research and development to cover increases in testing costs resulting from the crash of one of the T–45 test aircraft.

SHIP SELF DEFENSE

The conferees do not agree to bill language proposed by the House concerning the ship self defense program. The conferees expect, however, that increased management attention will be given to this program since it has been recently designated for formal oversight by the Defense Acquisition Board. The conferees have included $3,000,000 only for the Naval Electronic Systems Engineering Activity to develop a capability of multisensor data fusion, which may include identification-of-friend-or-foe, non-cooperative target recognition, SLQ-20, electro-optical, and infrared, with doctrinal processing tailored to ship weapons capabilities, geographic displays, and international commercial air routes. The conferees direct that the additional $2,100,000 provided for the Evolved Sea Sparrow Missile (ESSM) activity may be used only for milestone documentation and cost-and-operational-effectiveness analysis efforts. The conferees direct that no contractual commitments for development of ESSM may be made without prior Congressional approval, and that no funds in any other DOD program element may be used for ESSM activities during fiscal year 1993.

AEGIS SYSTEM COMBAT ENGINEERING

The conferees agree to restore the funds deleted by the Senate for development of the EDM-4B radar. The conferees direct that not more than $11,600,000 may be obligated until the Secretary of the Navy certifies to the Congressional Defense Committees that development and procurement of the radar are fully funded in the next Future Years Defense Plan and provides an updated threat assessment addressing the need for the system. The Navy has informed the conferees that the restriction on funds directed above will not have a negative impact on ongoing contractor activities and personnel.

AIRBORNE ASW DEVELOPMENTS

The conferees do not agree to the Senate report language concerning the Advanced Low Frequency Sonar system.

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The conferees agree to provide $755,000,000 and have included bill language to allow the Defense Department to proceed with the program.

MANUFACTURING TECHNOLOGY DEVELOPMENT

Within the amount provided, $3,000,000 is only for development of dual use process integration technologies for information networks, media systems, and broadband ISDN to advance the integration of computing and communications technologies with applied telecommunications management in support of this effort.

LIGHTWEIGHT 155MM HOWITZER

The conferees agree to provide $13,100,000 for the side-by-side evaluation of candidate lightweight 155mm howitzers in fiscal year 1993. The conferees further agree with the Senate restrictions on funds until a joint Marine Corps/Army program office has been established and a joint operational requirements document (JORD) has been completed and approved by the Joint Requirements Oversight Council (JROC).

MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS

The conferees agree to provide $35,845,000 for this activity in fiscal year 1993, of which $9,400,000 is only for the acceleration of the LAV-AD development program and $6,000,000 is only for Soldier/Marine enhancement efforts as identified in the Senate report.

ADVANCED ASSAULT AMPHIBIOUS VEHICLE

The conferees agree to provide $55,626,000 for the Advanced Assault Amphibious Vehicle. The conferees agree that the Marine Corps has not yet decided whether to develop a new vehicle or to have a selected block upgrade development approach for this program.

SUBMARINE LASER COMMUNICATIONS

The conferees agree to provide $15,000,000 for the submarine laser communications project, which brings the total appropriated for fiscal years 1992 and 1993 to $25,000,000. The conferees agree that $10,000,000 of the fiscal year 1993 funds may not be obligated until the Secretary of the Navy meets the certification and reporting requirements contained in the Senate report.

The conferees further agree to modify the House language to permit the total amount of funds provided to be used solely for planning and executing a fleet demonstration of a laser communication system between an aircraft and a submarine, and for planning of a follow-on submarine laser communications system, to include the evaluation of satellite versus aircraft platform utility cost.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

Amendment No. 104: Deletes Senate heading "(Including Transfer of Funds)".

Amendment No. 105: Appropriates $13,199,006,000 instead of $13,731,603,000 as proposed by the House and $11,373,380,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

Research, development, test & eval, AF	Budget	House	Senate	Conference
In-House Laboratory Independent Research	9,806	9,806	2,000	5,000
Defense Research Sciences	237,414	241,914	224,196	229,696
Geophysics	42,456	41,556	39,056	39,056
Materials	84,779	87,779	75,079	75,079
Aerospace Flight Dynamics	73,928	73,928	66,417	71,117
Human Systems Technology	66,199	66,199	64,034	64,034
Aerospace Propulsion	85,420	74,420	69,810	71,810
Aerospace Avionics	105,497	105,497	74,397	74,397
Personnel, Training and Simulation	32,777	47,777	32,777	32,777
Rocket Propulsion and Astronautics Technology	42,160	32,160	40,460	37,860
Advanced Weapons	43,493	43,493	48,493	48,493
Conventional Munitions	67,407	67,407	37,867	37,867
Command Control and Communications	115,319	92,519	86,519	86,519
Natural Gas Vehicles		5,000		
General Reduction		−95,000		
Advanced Avionics for Aerospace Vehicles	51,617	51,617	41,217	41,217
Crew Systems and Personnel Protection Technology	18,049	19,149	18,049	19,149
Global Surveillance/Air Defense/Precision Strike Tech.	25,000	25,000		5,000
Advanced Fighter Technology Integration	18,735	18,735	16,735	16,735
Advanced Avionics Integration	24,676	24,676	18,326	24,676
National Aero Space Plane Technology Program	175,489	175,489		150,000
Space and Missile Rocket Propulsion	15,516	15,516	13,516	13,516
Advanced Strategic Missile Systems	66,608	66,608	63,313	63,313
Advanced Spacecraft Technology	36,205	25,205	33,205	29,000
Space Surveillance Technology	24,801	4,500	4,401	4,401
Conventional Weapons	39,330	39,330	22,388	29,309
Advanced Weapons Technology	54,837	33,041	54,837	66,437
Advanced Computer Technology	11,138	11,138	11,138	17,138
General Reduction		−20,000		
B-1B	90,691	90,691	24,291	86,391
ICBM Modernization	54,913	54,913	38,730	54,913
Adv. Guidance Program	(53,913)	(53,913)	(37,730)	(53,913)
B-52 Squadrons	13,300	28,300	13,300	22,000
KC-135 Squadrons	16,700	16,700	3,700	3,700
Minuteman Squadrons	28,700	28,700	22,741	28,700
Milstar Satellite Communications System (AF terminals)	1,261,896	1,261,896	1,195,496	1,211,896
Spacetrack	53,100	10,200	93,800	73,400
Airlift Mission Activities (NON—IF)	6,800		6,800	
Classified Programs	399,200	424,200	397,000	381,200
C-17 Program	210,000	210,000	180,800	180,800
Advanced Tactical Fighter FSD	2,224,268	2,024,268		2,024,268
EW Development	158,500	158,500	98,900	164,500
Chemical/Biological Defense Equipment	15,200	16,500	15,200	16,500
Joint Direct Attack Munition	33,300	33,300	30,100	30,100
Computer Resources Management Technology	8,900	21,400	12,400	21,400
Joint Surveillance/Target Attack Radar System (JSTARS)	355,900	355,900	333,400	333,400
F-15A/B/C/D Squadrons	3,300	3,300	33,300	33,300
F-16 Squadrons	183,800	183,800	183,800	117,800
F15-E Squadrons	54,000	54,000	51,000	54,000
Follow-on Tactical Reconnaissance System	55,600	72,200	55,600	62,600
Airborne Warning and Control System (AWACS)	130,900	130,900	67,000	67,000
Special Operations Forces	2,000	2,000		
Classified Programs	801,800	552,000	823,800	809,800
Defense Satellite Communications System	15,300	10,000	15,300	13,700

[In thousands of dollars]

Research, development, test & eval, AF	Budget	House	Senate	Conference
Traffic Control, Approach, and Landing System (Tracals Classified Programs	2,395,354	2,035,267	2,555,754	2,369,629
Space Test Program	53,700	39,700	53,700	53,200
Advanced Launch System	125,000	168,000		10,000
Range Improvement	69,772	69,772	55,338	55,338
Test and Evaluation Support	423,826	411,326	401,513	401,513
Development Planning	20,603	14,000	8,126	10,000
RDT&E Aircraft Support	45,300	45,300	43,500	43,500
Base Operations—RDT&E	123,300	123,300	123,300	103,300
Medium Launch Vehicles	41,800	41,800	51,800	51,800
Upper Stage Space Vehicles	42,700	125,700	13,848	57,348
Titan Space Launch Vehicles	142,800	142,800	99,400	128,300
Industrial Preparedness	73,370	23,370	44,425	
Manufacturing Technology Development		115,000		102,595
AFMC Cals		20,000		
Advanced Optical System		17,500		17,500
Excimer Laser		30,000	20,000	20,000
Special Technical Projects		−2,500		
Excess Inventory			−3,878	−3,878
Inflation Dividend			−27,000	−81,000
Excessive Personnel Costs			−59,346	−20,000
Travel			−37,729	−37,729
3 Percent General Reduction				−410,515

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

The conferees agree to the following specific program adjustments. DD Form 1414 for fiscal year 1993 shall show the items marked with an asterisk ("*") as Congressional interest items, a change (other than to reflect pro rata, general reductions) to which requires prior approval.

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Research Sciences	237,414	241,914	224,196	229,696
IRIS Seismic Research				*(+6,500)
Space Sciences Project				(−1,000)
Program Growth				(−13,218)
Micro-mechanism Matching				(1,000)
Aerospace Flight Dynamics Microencapsulated phase	73,928	73,928	66,417	71,117
Change Materials				(4,700)
Aerospace Propulsion	85,420	74,420	69,810	71,810
Endothermic Coal Fuels				*(2,000)
Rocket Propulsion and Astronautics Technology	42,160	32,160	40,460	37,860
Space Systems Propulsion Technology				(−2,600)
Space Vehicles Technology				(−1,700)
Missile Systems Propulsion				*(7,764)
Advanced Spacecraft Technology	36,205	25,205	33,205	29,000
Space Communication Subsystems Integration				(−3,000)
Advanced Space Communications Technology				(−1,400)
Advanced Spacecraft Technology Integration				(−2,805)
Conventional Weapons	39,330	39,330	22,388	29,309
High Speed Tactical Weapon				(−500)
Precision Strike				(−6,300)
Boosted Penetrator				*(−3,221)
Operational Concept Demonstration Only				*(3,700)
Advanced Computer Technology	11,138	11,138	11,138	17,138
Rome AFB Computer Upgrade				*(+6,000)
Spacetrack	53,100	10,200	93,800	73,400
Advanced Electro-Optical System				*(+39,500)
Short Wavelength Infrared (SWIR)				
Coude Spectrograph				*(+1,200)
Space Surveillance Network				(−13,000)
Anti-Satellite BM/C3				*(−7,400)
Space Test Program	53,700	39,700	53,700	53,200
Quick Response Shuttle Missions				(−500)
Titan Space Launch Vehicles	142,800	142,800	99,400	128,300
Undefinitized Overruns/Claims				(−14,500)
Manufacturing Technology Development		115,000		102,595
Requested Amount Only for Projects Approved in the Senate Bill[1]				(+44,425)
Microelectronics Manufacturing Science and Technology[1]				(+5,170)
National Center for Manufacturing Sciences				*(+45,000)
Continuous Fiber Metal Matrix Composites				*(+5,000)
Ductile Iron Cast Modeling				*(+2,000)
Flexible Repair Center				*(+1,000)
PACIS Manufacturing Technology Project				*(1,500)

[1] These projects were transferred from the Air Force Industrial Preparedness program element.

CONVENTIONAL WEAPONS

The conferees agree to provide $3,221,000 for the boosted penetrator project. These funds may not be obligated until the Secretary of the Air Force certifies that a validated operational requirements document exists for this weapon and the project is fully funded in the fiscal years 1994–1999 Future Years Defense Program for engineering and manufacturing development and procurement.

ADVANCED COMPUTER TECHNOLOGY

The conferees agree to provide $6,000,000 only for Rome Lab/Griffiss Air Force Base to upgrade a high-speed hypercube computer for speech modulation research. Research is now underway to develop a speech modulation model to enhance the Air Force's capability to process, fuse and disseminate useful and timely intelligence. A high performance parallel computer is required for the timely development of voice simulation algorithms in connection with this work.

B–1B

The conferees agree to provide $86,391,000 for the B–1B bomber program and to permit efforts to upgrade the aircraft's conventional capabilities to proceed. The conferees direct that no funds may be obligated and expended for any risk reduction or development activities associated with correcting deficiencies in the aircraft's electronic countermeasures (ECM) systems until 30 days after the Congressional defense committees have received a report providing all the information and documents highlighted in the Senate report as incomplete or unavailable about the entire B–1B upgrade program. This restriction shall not apply to use of funds to conduct paper studies and analyses associated with correcting the ECM systems deficiencies. The conferees agree with House direction to conduct studies to determine which systems can meet the B–1B's ECM requirements without undue risk or cost and with Senate direction with respect to assessing the modification of the B–1B to carry the conventional air-launched cruise missile.

ADVANCED WEAPONS TECHNOLOGY

The conferees agree to provide $11,600,000 and to transfer management responsibilities to the Air Force for the Laser Imaging Detection and Ranging project approved by the Senate in the Defense Agencies RDT&E account. The conferees direct that the Air Force comply with the recommendation for this project as expressed in the Strategic Defense Initiative discussion in the Senate report. The conferees further direct that the funds provided are available only to develop the ground-based prototype and to assess the feasibility for its adaptation for deployment on an aircraft.

The conferees note the potential contributions of this technology to addressing requirements of the Tactical Intelligence and Related Activities (TIARA) programs. The conferees direct the Secretary of Defense to assess this potential and to ensure that this development program is coordinated with the TIARA programs so as to make best use of the LIDAR technologies in these activities.

SPACETRACK

The conferees direct that none of the reduction to the Space Surveillance Network Improvement Program shall be assessed against any activities or upgrades associated with the Air Force Maui Optical Station or the Maui Optical Tracking Facility.

ELECTRONIC WARFARE DEVELOPMENT

The conferees agree to restore the $59,600,000 deleted by the Senate for the EF-111 System Improvement Program (SIP). However, the conferees direct that not more than 50 percent of the funds provided for the SIP may be obligated until the Secretary of Defense reports to the Congressional defense committees on the advantages and disadvantages of transferring the stand-off jamming mission for all the armed services to a single service and certifies that the fiscal years 1994–99 Future Years Defense Program contains full funding for SIP acquisition and for maintaining the current EF-111 force structure.

CHEYENNE MOUNTAIN

The conferees do not agree to the bill language proposed by the House concerning the Cheyenne Mountain computer upgrades. The conferees understand that the Air Force and GAO have reached agreement on the specific actions the Air Force must take to complete this important program: (1) completing the process in place to develop an Integrated Tactical Warning/Attack Assessment architecture; (2) completing on-going detailed analyses that describe the impact of adding new capabilities to Cheyenne Mountain, such as the Follow-on Early Warning System and theater ballistic missile defenses; (3) requiring that all subsystem and system testing be performed by the Air Force Operational Test and Evaluation Command; and (4) requesting that the National Security Agency provide an independent assessment of the security protection provided by the Cheyenne Mountain subsystems. The conferees direct the Air Force to provide a report to the Congressional Defense Committees by April 1, 1993 describing its progress in accomplishing these actions.

COMPUTER RESOURCES MANAGEMENT TECHNOLOGY

The conferees agree to provide $9,000,000 as proposed by the House only for the Central Archive for Reusable Defense Software (CARDS) program.

F-16 SQUADRONS

The conferees agree to reduce this program element by $66,000,000 identified by the Air Force as unneeded due to uncertain program requirements. The conferees also agree to the restrictions contained in the Senate report, with the exception of deciding not to apply those restrictions to $1,800,000 for LANTIRN system software updates.

In making the reduction, the conferees reserve judgment on the different proposals to upgrade the close air support/battlefield air interdiction capabilities of the F-16 fighter aircraft. The conferees expect that the reports mandated by the Senate will assist Congress to evaluate these alternatives.

MULTI-SERVICE LAUNCH SYSTEM

The conferees strongly agree with the Senate that the Air Force improperly began the Multi-Service Launch System without presenting a funding request or even notifying the Congress of its intention to initiate such an effort. While there may well be a requirement for the MSLS capability it has yet to be demonstrated. Consequently, the conferees agree to provide the $4,000,000 denied by the Senate, but direct that $2,000,000 may not be obligated until the Secretary of the Air Force provides a detailed payload requirements analysis which demonstrates how only the MSLS program, as opposed to other existing or planned launch vehicles, is able to meet this requirement. The Secretary shall also provide detailed information on the specific testing requirements which will be met by the system.

FOLLOW-ON EARLY WARNING SYSTEM (FEWS)

The conferees fully support the requirement for FEWS, but strongly agree with the Senate criticism that DOD has inadequately funded the program in the outyears. The conferees agree that half of the FEWS funds may not be obligated pending certification by the Secretary of Defense that the outyear requirements are fully funded.

NATIONAL LAUNCH SYSTEM

The National Launch System (NLS) was intended to develop a new family of launch vehicles for an initial launch capability after the year 2000 and was to be jointly funded by DOD and NASA. Over the past few years, the funding burden has largely fallen on DOD, with NASA providing only token amounts.

This year the House provided $250,000,000 for the NLS, an increase of $125,000,000 above the budget request, to fully fund the fiscal year 1993 program requirement and in recognition of the fact that NASA would again be providing virtually no funds. The Senate provided no funds and directed termination of the program.

The conferees believe that the budgetary pressures on both DOD and NASA will preclude allocating the more than $10 billion required for this effort. The conferees agree that there appears to be little Congressional support for this program since only small amounts of funds are authorized and appropriated for NASA annually, and significant reductions in the DOD request are authorized annually. Therefore, the conferees direct that the program be terminated immediately and provide $10,000,000 which is to be used only for termination costs.

RANGE IMPROVEMENT

The conferees agree to provide $5,000,000 to begin the Air Force's planned addition of test capabilities to the Benefield Anechoic Facility under the proposed electronic combat integration test program.

The conferees are also aware that the Air Combat Environment Test and Evaluation Facility (ACETEF) at Naval Air Warfare Center, Patuxent, MD, is one of the most sophisticated, integrated test facilities in the world and that funds have been provided to begin the process of constructing a large anechoic chamber at Patuxent. The conferees are supportive of this effort as well as efforts by the Navy to complete ACETEF as a category I test facility. The conferees expect that the Secretary of Defense and the Secretary of the Navy will move quickly to accomplish the goal of completing this national asset for test and evaluation at Patuxent.

DEVELOPMENT PLANNING

The conferees agree with the specific denials and approvals of projects as proposed by the Senate. Since this program element includes studies prior to milestone 0, the conferees agree to provide $10,000,000. These funds can be used to fund studies on emerging new efforts or on any of the 12 denied projects after the Air Force has submitted a detailed justification for any such studies to the Committees on Appropriations and received prior approval.

PERSONNEL COSTS

The conferees agree with Senate language concerning excessive personnel costs in this appropriation and agree to a general reduction of $20,000,000. The conferees expect that this reduction should be taken through attrition. If there is a shortfall of funds, the Air Force may reprogram funds into this program element upon submittal of a justification to the Committees on Appropriations.

EXCIMER LASER

The conferees agree to recommend $20,000,000 for excimer laser technology activities to be conducted by both the Air Force and the Navy.

Amendment No. 106: Restores House language which earmarked $2,000,000 to continue the research program on development of coal-based, high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels.

Amendment No. 107: Restores House language which earmarked $6,500,000 for the Joint Seismic Program administered by the Incorporated Research Institutions for Seismology.

Amendment No. 108: Restores House language which earmarked $45,000,000 for the National Center for Manufacturing Sciences (NCMS), of which not less than $5,000,000 is for the National Center for Tooling and Precision Components.

AUTOMATIC TEST EQUIPMENT (ATE)

Amendment No. 109: Deletes House language which prohibited the Air Force from procuring or developing Automatic Test Equipment (ATE) other than to adapt the Army's Integrated Family of Test Equipment (IFTE) or the Navy's Consolidated Automated Support System (CASS) to meet Air Force Requirements. Even though the restrictive language has been deleted from the bill, the conferees firmly believe that the Department of the Air Force cannot afford to develop service-unique, weapons systems-unique test equipment. The conferees agree with the Senate language and direct that current families of Air Force support equipment, as well as IFTE and CASS, be considered as the department works to establish a common family of support equipment. The conferees further direct the Secretary of Defense to develop a DOD-wide policy requiring ATE commonality in standards among the Services along with an oversight system to ensure compliance; to ensure that the Air force establishes a Secretarial mandate and control procedures for standardized test equipment; and to provide a report by April 1, 1993, which addresses the results of the DOD's ATE investment and standardization strategy study, its potential savings, and how the strategy is being implemented.

In the interim, before any of the Services, and particularly the Department of the Air Force, can develop or procure weapon system-unique automatic test equipment, the

Secretary of Defense must submit a cost/benefits analysis to the congressional defense committees. This cost/benefits analysis must include a comparison of the recommended system with existing systems within the Department of Defense, the IFTE or CASS system, a modified IFTE or CASS system, and modular components of existing systems. This analysis should also address the impact on weapons systems development schedules.

These restrictions on ATE apply to all new weapons systems being developed and to modifications for upgrading existing avionics systems, except for the F-15 downsize tester contract which is to be awarded in the near future.

Amendment No. 110: Deletes House language earmarking $160,300,000 for the Cheyenne Mountain Upgrade program and providing restrictions on the use of the funds.

Amendment No. 111: Restores and amends House language to provide that not less than $55,500,000, instead of $123,852,000 as recommended by the House, shall be made available only for the Space Nuclear Thermal Propulsion program.

Amendment No. 112: Inserts new language reducing this appropriation by $410,515,000; restores Senate language which earmarks $39,500,000 in the SPACETRACK program element only to continue the Advanced Electro-Optical system project at the Air Force Maui Optical Station; and inserts language which earmarks $11,600,000 only for Laser Imaging Detection and Ranging (LIDAR).

Amendment No. 113: Inserts Senate language which earmarks $5,000,000 in the Advanced Weapons program element only to continue the establishment and operation of an image information processing center supporting the Air Force Maui Optical Station and the Maui Optical Tracking Facility.

Amendment No. 114: Inserts and amends Senate language which earmarks $500,000 as a grant to the Maui Economic Development Board to assist in refining the defense and industrial requirements and user base for the aforementioned image information processing center.

Amendment No. 115: Inserts and amends Senate language which directed the transfer of $10,000,000 to the Department of Transportation for a grants program for military and civilian dual use space launch facilities.

The conferees provide $10,000,000 as recommended by the Senate, but modify the Senate amendment to establish within the Department of Defense a new grant program to support the design, development and availability of dual use space launch facilities. Recognizing the priorities established in the National Space Policy Directive and in the Implementation Memorandum executed by the Deputy Secretary of Defense, the conferees believe DOD should play a lead role in supporting the expansion of the national space launch facility infrastructure. The Secretary of the Air force shall establish this grant program to promote and achieve that objective, and shall use the $10,000,000 provided in this appropriation to provide grants to public or private entities engaged in the development of space launch facilities that would meet Department of Defense needs. Priority should be given to entities and locations currently utilized by the Department of Defense and NASA for space launch services. The Secretary shall provide the House and Senate Committees on Appropriations the plan to implement this new grant program not later than March 15, 1993. The conferees expect the Secretary to work closely with NASA and the National Space Council in the establishment, implementation and execution of this initiative.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

Amendment No. 116: Deletes a heading.

Amendment No. 117: Appropriates $9,799,911,000 for Research, Development, Test and Evaluation, Defense Agencies instead of $9,485,354,000 as proposed by the House and $8,524,222,000 as proposed by the Senate.

Amendment No. 118: Deletes language proposed by the House earmarking funds for the Special Operations Command.

Amendment No. 119: Restores and amends language proposed by the House concerning tactical missile defense programs managed by the Strategic Defense Initiative Organization and provides a general reduction.

Amendment No. 120: Restores language proposed by the House concerning EPSCoR.

Amendment No. 121: Restores language proposed by the House concerning the superconductive magnetic energy storage system.

Amendment No. 122: Inserts language proposed by the Senate concerning electric vehicles.

Amendment No. 123: Inserts and amends language proposed by the Senate concerning electric vehicle demonstration sites.

Amendment No. 124: Deletes language proposed by the Senate concerning synthetic aperture radar digital terrain mapping.

Amendment No. 125: Deletes language proposed by the Senate concerning laser imaging detection and ranging, and inserts new language concerning research projects.

Amendment No. 126: Deletes language proposed by the House concerning a rescission of funds.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

Research, development, test & eval, Def Ag	Budget	House	Senate	Conference
Defense Research Sciences	126,078	120,378	108,578	118,078
In-House Laboratory Independent Research		2,323	4,323	4,323
University Research Initiatives	99,909	161,909	208,359	325,359
Superconductive Magnetic Energy Storage		50,000		20,000
Counterterror Technical Support	6,990	6,990	9,990	9,990
Historically Black Colleges and Univ/Minority Inst			15,000	15,000
Strategic Technology	377,100	397,100	262,027	372,827
Tactical Technology	109,300	94,300	100,192	92,346
Particle Beam Technology		6,000		6,000
Integrated Command and Control Technology		100,000		160,000
Materials and Electronic Technology	71,800	251,600	122,800	264,600
Post Launch Destruct Technology		15,000		5,000
Defense Nuclear Agency	409,957	362,957	382,804	399,757
Strategic Defense Initiative (SDI)		3,239,775	3,724,800	3,724,800
Theater Missile Defenses	140,000	140,000		
Theater Missile Defenses	857,725	857,725		
Experimental Evaluation of Major Innovative Tech	270,867	250,529	232,087	268,267
National Guard/DARPA Simulation			20,000	20,000
National Guard SIMNET Center			10,000	10,000
Advanced Submarine Technology	57,900	57,900	39,697	57,900
Strategic Environmental Research Program		15,500	200,000	180,000
Computer Aided Logistics Support	11,216	16,216	11,216	16,216
Balanced Technology Initiative	172,340	65,000	162,540	150,540
Cooperative DOD/VA Medical Research		30,000		30,000
Manufacturing Technology	255,400	180,400	121,800	213,775
Sematech		100,000		100,000
Consolidated DOD Software Initiative	9,019	34,019	9,019	34,019
High Performance Computing Modernization			43,000	
Special Operations Technology Development	2,940	3,940	2,940	3,940
Special Operations Advanced Technology Development	14,399	14,399	13,299	13,649
Island Sun Support	31,045	31,045	18,882	21,633
Air Defense Initiative	197,220	197,220	166,520	172,520
WWMCCS Systems Engineer	9,182	4,410	9,182	9,182
Non-Acoustic ASW	30,000	55,000	30,000	46,000
Aim-9 Consolidated Program	28,143	62,763	15,000	15,000
Mobile Offshore Base Analysis		7,000		7,000
Joint Tactical Information Distribution System (JTIDS)	80,802	80,802	74,100	74,100
Joint Remotely Piloted Vehicles Program	129,059	147,059	139,259	139,259
Special Operations Tactical Systems Development	158,223	152,323	116,667	125,267
Special Operations Intelligence Systems Development	11,897	28,897	11,897	28,897
SOF Operational Enhancements	73,681	73,181	73,681	73,681
Long-Haul Communications (DCS)	15,968	10,968	15,968	13,468
Support of the National Communications System	3,295	1,768	3,295	3,295
Defense Reconnaissance Support Activities	55,835	55,835	55,835	63,335
Center for Information Management	3,470		3,470	3,470
Classified Programs	1,156,283	1,210,413	1,192,883	1,219,371
NATO Research and Development	80,804	30,804	64,804	64,804
Defense Modeling/Simulation Office			60,000	60,000
Technical Support to USD(A)	39,161	34,161	31,060	31,060
DTS—Joint Project Office		15,000		15,000
Defense Support Activities	13,400	29,400	13,400	13,400

[In thousands of dollars]

Research, development, test & eval, Def Ag	Budget	House	Senate	Conference
Management Headquarters (Research and Development)	20,175	20,175	22,175	22,175
Manufacturing Technology Development		29,000		55,000
Special Technical Projects		5,000		
International Nuclear Nonproliferation		40,000		
Joint US/CIS Research and Development Program		25,000		
Electric Vehicle Technology			25,000	25,000
Excess Inventory			−397	−397
Inflation Dividend			−19,000	−57,000
Travel			−26,100	−26,100
Laser Imaging Detection and Ranging System (LIDAR)			7,000	
Synthetic Aperture Radar Digital Terrain Mapping			16,000	
Natural Gas Vehicles				10,000
Rescission		−25,500		
Dual Use Critical Technology Partnerships				100,000
Commercial-Military Integration Partnerships				50,000
Regional Technology Alliances				100,000
Defense Advanced Manufacturing Technology Partnerships				25,000
Manufacturing Engineering Education				25,000
Manufacturing Managers in the Classroom				5,000
Manufacturing Extension Programs				100,000
Dual Use Assistance Extension Programs				100,000
Advanced Materials Partnerships				30,000
U.S.-Japan Management Training				10,000
3 Percent General Reduction				−189,065

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

The conferees agree to the following specific program adjustments. DD Form 1414 for fiscal year 1993 shall show the items marked with an asterisk ("*") as Congressional interest items, a change (other than to reflect prorata, general reductions) to which requires prior approval.

[In thousands of dollars]

	Budget	House	Senate	Conference
University Research Initiatives	99,909	61,909	208,359	325,359
AASERT				(+50,000)
EPSCOR				(+12,000)
Research projects				(+163,450)
Strategic Technology	377,100	397,100	262,027	372,827
RAASP (transfer to another line)				(−16,600)
Maui fiberoptics				*(+1,500)
Non-proliferation				(+15,000)
Survivability research				(−4,173)
STARS ASSET Source for Software Engineering Tech (ASSET)				*(2,000)
Note: None of the non-proliferation funds may be obligated and expended until the report mandated by the Senate and conference reports on the fiscal year 1992 Appropriations Act is received by the Congressional Defense Committees.				
Tactical Technology	109,300	94,300	100,192	92,346
TPV modular cogenerators				*(+1,600)
Ground IFF (transfer to Army)				(−15,000)
Execution reduction				(−4,554)
Advanced landing system to assist precision approaches at non-equipped landing facilities				*(+1,000)
Integrated Command and Control Technology	0	100,000	0	160,000
High Definition Systems				*(+100,000)
National Center for Advanced Information Components Manufacturing				*(+60,000)
Note: Funds for NCAICM are directed to be made available to DDR&E to establish the center, which will use the experience of a Department of Energy national weapons laboratory in agile manufacturing of microelectronics and electronic systems, advanced sensors, and displays.				
Materials and Electronics Technology	71,800	251,600	122,800	264,600
Continuous fiber metal matrix composites				*(+26,000)
Optoelectronics				*(+25,000)
Acoustic charge transport				*(+5,000)
Advanced lithography				*(+75,000)
Metal matrix/ceramic insertion				*(+10,000)
Diamond materials				*(+10,000)
High temperature superconducting materials for multi-chip module applications				*(+15,000)
Infrared sensitive materials				*(+15,000)
Carbonate-based fuel cell				*(+11,800)
Note: The $9,000 project in the House report for a cooperative education advanced materials research center has been funded in the university research initiatives line.				
Defense Nuclear Agency	409,957	362,957	382,804	399,757
Biohazards research				*(3,000)
Los Alamos National Lab Meson Physics Facility				*(15,000)
Note: Conferees agree to Senate level with restoral of $15,953 for supercomputer acquisition and $3,000 for the transportable nuclear weapon storage system.				
Experimental Evaluation of Major Innovative Technologies	270,867	250,529	232,087	268,267
Advanced Space Technology programs				(−30,400)
Light Contingency Vehicle				(−6,200)
Transfer to Management Headquarters line				(−2,000)
MSAG				*(+10,000)
Resonance Imaging				*(+5,000)
ASTOVL				*(+5,000)
SAR Digital Terrain Mapping (IFSAR)				*(+16,000)
Advanced Sonor Automation System				*(5,000)
Wingship				*(5,000)
Earth Conservancy				*(20,000)
Note: ASTOVL funds may not be obligated until the Secretary of Defense certifies that the ASTOVL Phase II technical evaluation demonstration program is fully funded in the FYDP, and has identified to Congress all funding by program element throughout DOD. Prior approval reprogramming is required for funding increases. IFSAR funds are provided to finance the second and final year of this two year project.				
Strategic Environmental R&D	0	0	200,000	180,000
Bioremediation				*(3,500)
CIESIN				*(5,000)
CIERA				*(500)
Manufacturing Technology	255,400	180,400	121,800	213,775
SEMATECH				(−80,000)
Coal Center				*(+5,000)
Advanced Flexible Manufacturing Institute				*(+4,000)
Multichip Modules				*(+26,000)
RAASP				(+2,375)
National Center of Excellence for Display Technology				*(+1,000)
Air Defense Initiative	197,220	197,220	166,520	172,520
Note: Conferees agree to Senate position but $2,000 of AMRAAM reduction is restored.				
Non-Acoustic ASW	30,000	55,000	30,000	46,000
Note: Funds transferred from Navy for project ATD–111 are provided at the budgeted level, which is a special interest item.				
NATO R&D	80,804	30,804	64,804	64,804
Note: House earmark of $15,000,000 for liquid magnetohydrodynamic drive is funded in the University Research Initiatives line.				
Manufacturing Technology	0	29,000	0	55,000
Precision tools				*(7,000)

[In thousands of dollars]

	Budget	House	Senate	Conference
Combat rations				*(6,600)
Sewn products				*(4,500)
Generalized emulation of microcircuits				*(3,000)
Agile manufacturing				*(30,000)
CBN Grinding Machine				*(3,500)
Note: Instrumented Factory for Gears is funded in another line.				
Defense Research Sciences	126,078	120,378	108,578	118,078
Research on Electronic and Optoelectronic Devices				(−5,000)
Pilot Production Line for Solid State Batteries (funded elsewhere in this account)				(−3,000)
Special Operations Advanced Technology Development	14,399	14,399	13,299	13,649
Modular Communications Package				(350)
Special Operations Tactical Systems Development	158,223	152,323	116,667	125,267
SEAL Delivery Vehicle (SDV)				(−7,884)
Advanced SEAL Delivery System (ASDS)				(−5,697)
Special Operations Media System A (SOMS A)				(−16,375)
Active Infrared Countermeasures System (IRCM)				(−3,000)
SOF Electronic Documentation				*(1,000)

EPSCOR

The conferees agree to provide $12,000,000 to continue the Defense Department's Experimental Program to Stimulate Competitive Research (EPSCoR). The Secretary of Defense should continue to work closely with the Director of the National Science Foundation and participating States to identify State and institutional barriers to competitive scientific research programs, develop comprehensive improvement plans to address those barriers, and, following merit review procedures, implement improvement plans that focus on strengthening infrastructure, research enhancement, and human resources development.

UNIVERSITY RESEARCH INITIATIVES

The conferees agree that the Defense Department should consider funding, from within available funds in this program element, a newly-authorized computer assisted education and training pilot project to demonstrate the educational and cost saving benefits of a national education and training interactive technology network. Among other purposes, the network would allow reserve forces to be trained in the latest technology without the additional cost and inconvenience of travelling away from their communities. Any funds provided by the Defense Department should be used to establish this pilot project and to develop software programs to use the community-based training concept, with emphasis on access, quality, and affordability.

BIOENVIRONMENTAL HAZARDS RESEARCH

The conferees agree that $3,000,000 of the funds available to DNA may be used only to continue DNA's ongoing high risk interdisciplinary bioenvironmental hazards research into the health, engineering and basic science aspects of environmental problems of special interest to the Department utilizing existing established cooperative programs. The conferees direct the Department to budget for this research in fiscal year 1994 and beyond.

DP-2

The conferees agree that of the funds provided in the Tactical Technology line, not to exceed $15,000,000 is only for the DP-2 Vectored Thrust Technology Demonstration project for SOF applications. These funds may not be diverted to other DARPA programs without the prior approval of Congress.

EXPERIMENTAL EVALUATION OF MAJOR INNOVATIVE TECHNOLOGIES

The conferees direct that, from within the total amount of funds appropriated for this program element, $5,000,000 is available only for the Wingship project and $5,000,000 is available only for the advanced sonar automation system project. The conferees direct that in providing funds for these projects, the Defense Advanced Research Projects Agency shall not decrement any other activities to which Congress has added funds or which have been designated as items of special Congressional interest.

The funds to be made available for the Wingship project may only be used for experimental planning and may not be used to enter into any contractual arrangement which would commit the government to proceed beyond the planning stage. No later than May 1, 1993, the Secretary of Defense is directed to report to the Congressional defense committees whether there is a validated military requirement for a wingship and how any need for such a system relates to other programs to improve U.S. airlift and sealift capabilities. This report also should contain a clear statement of policy whether the Defense Department would want to pursue a wingship program.

UNMANNED AIR VEHICLES

The conferees agree to provide a $139,259,000 as proposed by the Senate instead of $147,059,000 as proposed by the House. The conferees agree to the Senate reduction of $4,800,000 to the Short Range Block III development effort. The conferees have also provided an additional $15,000,000 for the VTOL UAV program. The conferees direct that these funds shall be used for technology improvements and enhancements to VTOL UAV candidates including but not limited to counter-rotating and intermeshing rotor technologies. In order to maintain competition and reduce program and technical risk, these funds shall be used to incorporate engine and other improvements in selected air vehicles designated by the joint program office that may be reasonably expected to be available for consideration in the UAV program.

SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT

The conferees agree with the Senate language and direct the Air Force to proceed immediately with execution of the active infrared countermeasures system development for Special Operations Forces (SOF) aircraft. The conferees are disappointed with the Air Force's apparent deferral of this project in view of the urgent requirement for this capability.

ELECTRONIC DOCUMENTATION FOR THE SPECIAL OPERATIONS FORCES

The conferees direct that of the funds available to Special Operations Command, $1,000,000 shall be available for the Naval Operations Command, $1,000,000 shall be available for the Naval Electronic Systems Engineering Activity to initiate a program to apply Interactive Electronic Technical Manual technology to the activities of the Special Operations Forces (SOF). The conferees further direct the Special Operations Command to submit an implementation plan for this initiative to the Committees on Appropriations of the House and Senate by March 1, 1993.

SINGLE STAGE ROCKET TECHNOLOGY

The conferees agree not to delete $35,676,000 allocated within the SDI program for this project as recommended by the House. The conferees agree that the SDIO may complete the sub-scale, sub-orbital demonstration and tests planned for fiscal year 1993, but also agree that no funds are being provided or may be used for either full-scale or orbital planning or development without prior Congressional approval.

RAPTOR/TALON

The conferees agree not to delete the funds allocated within the SDI program for the RAPTOR/TALON project to detect, track, and destroy theater ballistic missiles. However, the conferees agree that innovative U.S. technologies exist which might meet the requirements of the RAPTOR/TALON effort. Therefore, the conferees direct that no action shall be taken without prior Congressional approval to exclude from participation in the project unmanned aerial vehicles of U.S. manufacture under contract with U.S. firms.

DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES

Condor. The conferees have added $5,000,000 to this program element for fiscal year 1993 only to store the Condor program assets and data. The conferees support an assessment of the utility of these resources for environmental activities conducted by the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration. The conferees direct the Defense Secretary to conduct such as assessment to determine the costs and uses of the Condor assets for these purposes and whether these other agencies are prepared to pay any of these costs. The results of this assessment shall be reported to the Committees on Appropriations of the House and Senate by June 1, 1993. The conferees direct that none of the funds provided may be used to enter into any contract arrangement other than for storage of the Condor assets and data.

Air National Guard. As discussed elsewhere, the conferees agree to provide $2,500,000 to establish the Air National Guard C^{3}I Planning Office.

MARK-V FAST PATROL BOAT

The conferees reaffirm their strong support for the Mark-V fast patrol boat requirement of the Navy Special Warfare Command (NAVSPECWARCOM) and fully endorse the Senate language on the process leading to its acquisition. The conferees expect that USSOCOM will pursue an expedited test and procurement schedule for the Mark-V that sees the purchase or lease of the most likely candidates for test and evaluation beginning no later than January 1, 1993 and ending no later than the end of the second quarter of 1993. A portion of the research and development funds provided in fiscal year 1993 should be used for that purpose.

The conferees insist that each of the prototype boats considered by USSOCOM will be non-developmental items (NDI) and of proven design, requiring only the most minimal modification or upgrading for the missions for which they are being procured. The conferees are confident that a fair, open and vigorous competition between the strongest NDI contenders will yield a boat meeting USSOCOM requirements and ready for fielding at the earliest possible date.

Amendment No. 127: Deletes language proposed by the Senate concerning establishment of a Tactical Aviation Modernization Appropriation Account.

Amendment No. 128: Appropriates $259,707,000 for Developmental Test and Evaluation, Defense instead of $261,707,000 as proposed by the House and $260,707,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

Director of Test and Eval Defense	Budget	House	Senate	Conference
Central Test and Evaluation Investment Development (CT)	116,060	116,060	108,060	108,060
Foreign Comparative Testing	35,301	35,301	31,301	31,301
Development Test and Evaluation	119,268	99,268	111,268	111,268
Inflation Dividend			−1,000	−2,000

F–14 DIGITAL FLIGHT CONTROL SYSTEM

The conferees direct the Department of Defense to complete the on-going integration and evaluation of an existing digital flight control system (DFCS) for the F–14 aircraft under the Foreign Comparative Testing program. Following completion of the development effort, the conferees expect the Navy to conduct a full and open competition for production of the DFCS. The conferees direct that procurement of the F–14 DFCS be limited to units manufactured in the United States.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE BUSINESS OPERATIONS FUND

Amendment No. 129: Appropriates $1,123,800,000 as proposed by the Senate instead of $16,600,000 as proposed by the House. The conference agreement is as follows:

[Amounts in thousands of dollars]

	House	Senate	Conference
Defense Business Operations Fund	16,600	1,123,800	1,123,800
Defense Commissary Agency	(−1,107,200		0

DEFENSE BUSINESS OPERATIONS FUND

Accumulated prior year losses.—The conferees agree with the Senate's recommendations to eliminate funding requested in the Operation and Maintenance accounts to cover the costs of prior year revenue losses by business activities of the Defense Business Operations Fund (DBOF). Bill language under this heading directs the transfer of $454,800,000 to the appropriate O&M accounts to offset these reductions.

The conferees direct the Department to work with the General Accounting Office and the relevant congressional committees to establish a suitable policy for recovering prior year losses.

Excess DBOF cash.—The conferees agree to transfer excess cash reserves of $600,000,000 that will accrue to the Defense Business Operations Fund to various Operation and Maintenance (O&M) accounts. Reductions totaling $600,000,000 are made to the same O&M accounts that will be offset by these transfers.

Amendment No. 130: Amends Senate language directing the transfer of funds from the Defense Business Operations Fund and earmarks these funds to the Services and Defense Agencies operation and maintenance appropriations.

Amendment No. 131: Inserts Senate language earmarking funds to purchase 1.8 million cases of Meals Ready to Eat.

PENTAGON RENOVATION

Section 9125 prohibits the Department from undertaking renovation efforts which would expand the size of the Pentagon. The Department, however, may make interim space alterations and/or repairs to building equipment and systems to support mission essential activities, downsizing initiatives, other prudent space adjustments, and necessary health and safety renovations.

Amendment No. 132: Appropriates $613,400,000 for the National Defense Sealift Fund and transfers prior years' Shipbuilding and Conversion, Navy appropriations of $1,875,100,000 instead of a new appropriation of $1,201,400,000 as proposed by the Senate, and amends the text inserted by the Senate.

NATIONAL DEFENSE SEALIFT FUND

The conferees agree to provide $613,400,000 for the National Defense Sealift Fund instead of $1,201,400,000 as proposed by the Senate, and $801,400,000 which the House proposed for sealift programs under Shipbuilding and Conversion, Navy. The conferees have also transferred $1,875,100,000 in previously appropriated sealift funds into this new appropriation to be merged with the available funding. In addition, the conferees endorse the Senate language which stipulates that prior approval reprogramming is required before any of the funds may be used for any purpose other than for construction and conversion of ships.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

Amendment No. 133: Appropriates $9,242,572,000 instead of $9,302,675,000 as proposed by the House and $9,263,226,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Operation and maintenance	House	Senate	Conference
Excess Inventories	−98,738	0	0
Dental Benefit	50,000	40,000	50,000
Home Health Care Benefit	25,000	25,000	−50,000
Head Injury Project	6,000	0	6,000
USTF to HCFA Reimbursement	40,000	0	40,000
Reduced Purchases from DBOF	0	−27,319	−27,319
Training and Education	0	−8,000	−8,000
Revised Inflation	0	−9,700	−9,700
Nurse Practitioners	0	1,000	1,000
Pediatric EMS	0	450	450
Brown Tree Snakes	0	1,000	1,000
Portable Ventilators	0	5,000	2,500
Fiscal year 1993 Obligations to Sales	0	−29,937	−29,937
Prior Year Obligations to Sales	0	−20,943	−20,943
Lyme Disease Training	0	0	846
Non-Conference Items	8,980,764	8,992,903	8,993,403
Subtotal	9,003,026	8,969,454	8,948,800
Research and Development	0	0	0
Procurement	299,649	293,772	293,772
Total	9,302,675	9,263,226	9,242,572

Amendment No. 134: Earmarks $8,948,800,000 instead of $9,003,026,000 as proposed by the House and $8,969,454,000 as proposed by the Senate.

NATIONAL ENVIRONMENTAL TRAINING CENTER FOR LYME DISEASE

The conferees have provided $846,000 for a National Environmental Training Center for Lyme Disease. The Assistant Secretary of Defense for Health Affairs shall work with an institution that has a demonstrated capability to provide sophisticated scientific teaching and training in an environment which is supportive and sensitive to the needs of the military. The institution will have a scientific staff which demonstrates significant experience in Lyme disease research, provides a national stature as measured by published papers, funded research and presentations, with a research environment focused on applied problem solving. The center should be located in close proximity to an area where Lyme disease is found and a location accessible to military installations, and contain a broadly diverse faculty capable of responding to the needs of the Center staff.

WILLIAM BEAUMONT ARMY MEDICAL CENTER

The conferees support efforts to regionalize health care automation around William Beaumont Army Medical Center using the existing information system at the site only until the implementation of the Composite Health Care System scheduled for fiscal year 1995.

LEAD POISONING

The conferees support the views expressed in the House report on the Department's continuing inability to issue rules implementing Congressional direction on lead poisoning. Federal health agencies have concluded that lead blood poisoning is a serious environmental health problem, and the Department's failure to act is difficult to understand. The conferees direct the Department to immediately resolve any outstanding problems and issue the required regulations without delay.

PSYCHOLOGISTS PRESCRIBING DRUGS

The conferees are pleased with the progress being made on the psychology prescription training program and especially the efforts to develop relevant training modules which complement the trainees' expertise. Ongoing external evaluation and selection of the next class are expected to proceed.

PODIATRISTS AND DENTISTS

The conferees agree with the Senate and direct the Department to increase the number of podiatrists on active duty in the Army to the number on active duty in fiscal year 1990 and to maintain that number until such time as the Department can justify to the Committees on Appropriations the need for any reductions. In addition, the conferees direct the Department of Defense to maintain the fiscal year 1992 level of dental personnel until such time as the Department can justify to the Committees on Appropriations the need for any reductions.

NURSING DEMONSTRATION PROJECT

The conferees concur with the House on the need for a nursing demonstration project and have included $2,000,000 for the Army Surgeon General to establish such a program only at Mount Aloysius College, Pennsylvania.

NATIONAL CLAIMS PROCESSING SYSTEM

The conferees defer to the Armed Services conferees on this issue.

DALLAS-FORT WORTH/AUSTIN, TEXAS MEDICAL ISSUES

The conferees commend the Department for its recent efforts to deliver cost-effective and sustainable health services to meet beneficiary needs in the Dallas-Fort Worth and Austin areas which are experiencing base closures. The conferees note the Department's recent offer to continue pharmacy services, similar in convenience and simplicity to pharmacy services currently being provided to all DOD beneficiaries, including Medicare eligibles. The conferees expect the Department to provide a comprehensive managed care program commencing not later than May 1, 1993, for Dallas-Fort Worth and Austin, which could include those options recently offered by DOD and those programs mandated by Congress, so that duplicative services are not offered.

U.S./ISRAEL TRAUMA/EMERGENCY MEDICINE STUDY

The conferees understand that the U.S.-Israel trauma/emergency medicine study requested last year is in the final stages of preparation and coordination. The conferees are informed that the results of this study could yield areas of possible joint medical collaboration. In order not to preclude subsequent action on the part of the Department, the conferees recommend that up to $1,000,000 may be made available from funds appropriated to the Defense Health Program, at the discretion of the Assistant Secretary of Defense for Health Affairs, for the promotion of joint U.S.-Israel medical activities, consistent with conclusions in the final study.

HOME HEALTH CARE BENEFIT

The conferees support the new home health care benefit but have reduced the President's budget request based upon the assumptions of the Congressional Budget Office that this new benefit will save the Department $50,000,000 annually.

CURTIS HAND CENTER

The conferees are pleased with the Army's interest in research on improved artificial limbs and are aware that the Army has an existing relationship with the Raymond Curtis Hand Center at Union Memorial Hospital in Baltimore, Maryland. The conferees encourage the Department of Defense to continue its relationship with the Center in research, surgical procedures, rehabilitation and therapy. The conferees believe that an expansion of the Center's programs and facilities can be a major benefit to the Armed Services' prosthetic device development program.

CHILDHOOD IMMUNIZATIONS

The conferees are concerned about the possibility that some base health facilities may be considering plans to discontinue providing immunizations for military dependents. The conferees note that immunizations are among the most cost-effective of preventive medicine strategies, saving as much as $13 for each dollar invested. Discontinuation of this service is not a wise medical or economic decision, and the already-strained public clinics will not be able to absorb additional clients in need of immunizations. The conferees direct the Department of Defense to continue to provide immunizations to military dependents.

Amendment No. 135: Restores and amends House language which provides $92,251,000 for real property maintenance to be available until September 30, 1994.

Amendment No. 136: Earmarks $293,772,000 as proposed by the Senate instead of $299,649,000 as proposed by the House.

Amendment No. 137: Restores House language which provides $40,000,000 to the Uniformed Services Treatment Facilities program to be used only to fulfill any recoupment action of the Health Care Financing Administration for health care provided to eligible Department of Defense beneficiaries over age 65 between October 1, 1986, and December 30, 1989.

Amendment No. 138: Deletes House provision that would have prohibited the Department from funding specific positions in the office of the Assistant Secretary of Defense for Health Affairs.

Amendment No. 139: Deletes Senate provision that would prohibit the Department from implementing regulations that would have denied non-funded abortions in military medical treatment facilities outside the continental United States.

Amendment No. 140: Inserts Senate provision that includes the State of Hawaii in a test implementation of a mail service pharmacy benefit.

Amendment No. 141: Restores and amends House language that provides for no Congressionally-directed certification requirements before the CHAMPUS Reform Initiative can be expanded.

Amendment No. 142: Deletes House provision that would have expanded CHAMPUS Reform Initiative to the National Capital Region.

Amendment No. 143: Restores House language providing $7,500,000 to Northeast Regional Cancer Institute for programs of major importance to the Department of Defense.

MOLECULAR BIOLOGY INSTITUTE

The conferees agree to the House recommendation providing $7,500,000 as a grant to the Northeast Regional Cancer Institute. These funds are to be used to establish a Molecular Biology Institute for research efforts directed at recombinant DNA, biotechnology and microbiology. Researchers associated with the Northeast Regional Cancer Institute, working in conjunction with the Air Force's Armstrong Laboratory, have achieved impressive results in the development of gene probes with a variety of military applications. Air Force officials have indicated such research possesses tremendous future potential. The funds provided are intended to expand upon the Air Force's existing programs in these area and are to be used to establish, equip and operate the new Institute.

Amendment No.144: Deletes House language making a portion of the appropriation subject to authorization.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

Amendment No. 145: Appropriates a total of $518,600,000 for Chemical Agents and Munitions Destruction, Defense instead of $494,100,000 as proposed by the House and $524,400,000 as proposed by the Senate.

OPERATION AND MAINTENANCE

Amendment No. 146: Earmarks $267,400,000 for operation and maintenance as proposed by the Senate instead of $246,400,000 as proposed by the House.

The conference agreement provides the following funding levels for Chemical Agent and Munitions Destruction, Defense operation and maintenance activities:

[Dollars in millions]

Item	House	Senate	Conference
Johnston Island	98.1	98.1	98.1
Performance and reliability testing	23.4	23.4	23.4
Tooele	31.7	37.3	37.3
Training facility	6.0	6.0	6.0
Anniston	6.8	6.8	6.8
Pueblo	2.5	2.5	2.5
CSDP planning	2.1	2.1	2.1
Program and integration support	12.1	12.1	12.1
Program management	15.9	15.9	15.9
Engineering services	20.8	20.8	20.8
Existing stockpile study	0.0	2.0	2.0
CAMDS study	0.0	2.0	2.0
CSEPP software prototype	0.0	5.0	5.0
CSEPP	27.0	33.4	33.4
Total	246.4	267.4	267.4

PROCUREMENT

Amendment No. 147: Earmarks $244,700,000 for procurement instead of $241,200,000 as proposed by the House and $254,500,000 as proposed by the Senate.

The conferees agree with the House reduction of $13,300,000 for procurement funding requested for the Lexington/Blue Grass, Newport, and Aberdeen facilities in fiscal year 1993.

The conference agreement provides $12,100,000 for the Chemical Stockpile Emergency Preparedness Program (CSEPP), an increase of $6,500,000 above the budget request. The conferees agree that procurement funds which become available as a result of further program slippages may be used to fund procurement shortfalls in the CSEPP program.

The conference agreement also includes a general reduction of $3,000,000 for an inflation baseline adjustment.

The House report limited the obligation of procurement funds for the Anniston, Umatilla, and Pine Bluff facilities until successful completion of the Johnston Island Operational Verification Test (OVT). The conferees support this limitation but agree that if a compelling case can be made, the Army may request authority from the House and Senate Appropriations committees to waive this limitation on a case-by-case basis.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Amendment No. 148: Earmarks $6,500,000 for Research, Development, Test and Evaluation as proposed by the House instead of $2,500,000 by the Senate.

The conference agreement includes $6,500,000, the House amount, for Research, Development, Test and Evaluation. This is an increase of $4,000,000 above the budget. This will allow continuation of work on the cryofracture alternative to the baseline technology. In continuance of the Appropriations Committees' long standing support of the cryofracture technology, the conferees now expect the Army to proceed with construction of a cryofracture plant unless there is overwhelming evidence to the contrary which has not been provided to the Congress. The conferees note that the cryofracture process is especially well suited for the disposal of artillery projectiles, which remain one of the most challenging functions for the baseline process, and that there has been substantial, successful cryofracture of explosively loaded projectiles during design verification testing.

The Army's reluctance to pursue a vigorous cryofracture program has been justified in the past on its strong confidence that the baseline approach will prove to be technically viable and cost effective. Experience to date belies this confidence. Costs have quadrupled and the schedule has slipped by ten years. Furthermore, the House Surveys and Investigations Staff has called into question a recent Army estimate which unfavorably compared the cost of a cryofracture facility with a baseline facility.

If the Army elects to proceed without including a cryofracture facility in its program, the Army is to submit to the committees a detailed justification and rationale for that decision at least 30 days before obligating any further funding for a baseline facility at a site which has been considered for a cryofracture plant.

The conferees agree with direction in the Senate report that the Army continue operation of the Dugway cryofracture testing facility until a decision is made as to the future of a cryofracture demonstration facility.

CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM (CSEPP)

The conferees agree with the Senate direction that the Army shall assume the lead in all affairs of the Chemical Stockpile Emergency Preparedness Program. With the transition of the CSEPP program to the execution phase, the goal is to streamline procedures, be responsive to the immediate needs of the State and local jurisdictions and to align the local and State budgeting process more closely with the Army's budgeting timelines.

Drug Interdiction and Counter-Drug Activities, Defense

Amendment No. 149: Appropriates $1,140,651,000 instead of $1,261,900,000 as proposed by the House and $1,259,200,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference	Change
Military Personnel:					
350 Army Reserve	$5,800	$5,800	$5,800	$5,800	$0
355 Army National Guard	104,346	104,346	104,346	114,319	9,973
360 Navy Reserve	3,800	3,800	3,800	3,800	0
365 Marine Corps Reserve	1,300	1,300	1,300	1,300	0
370 Air Force Reserve	2,200	2,200	2,200	2,200	0
375 Air National Guard	24,908	24,908	24,908	29,230	4,322
Subtotal, Military Personnel	142,354	142,354	142,354	156,649	14,295
Operation and Maintenance:					
400 Army	176,452	176,452	176,452	176,452	0
410 Navy	293,193	291,193	293,193	293,193	0
420 Marine Corps	12,044	12,044	12,044	12,004	0
430 Air Force	216,568	216,568	216,568	216,568	0
431 SOC	0	0	10,002	10,002	10,002
440 Defense Agencies	97,418	95,418	79,316	89,418	−8,000
450 Army Reserve	11,069	11,069	11,069	11,069	0
460 Navy Reserve	5,927	5,927	5,927	5,927	0
470 Marine Corps Reserve	1,411	1,411	1,411	1,411	0
480 Air Force Reserve	1,814	1,814	1,814	1,814	0
490 Army National Guard	42,133	42,133	42,133	45,987	3,854
500 Air National Guard	22,564	22,564	22,564	25,164	2,600
510 Civil Air Patrol	(1,000)	2,000	1,000	2,000	1,000
520 LEA Support	(10,000)	30,000	0	20,000	10,000
521 OPTEMPO	0	−20,000	−30,000	−30,000	−30,000
522 Demand Reduction	0	−6,000	−15,000	−10,000	−10,000
541 Counter-Drug Surveillance Plan	0	5,000	0	0	0
542 Consolidated Surveillance Account	0	89,300	0	0	0
550 Classified	0	−89,300	0	0	0
551 Reduction	0	0	0	0	0
552 Gulf States Initiative	0	7,500	7,500	7,500	7,500
553 National Guard LAV Support	0	0	2,000	2,000	2,000
554 Sea-based Aerostats	0	0	25,400	0	0
555 Regional Police Info System	0	0	1,000	1,000	1,000
Subtotal, O&M	880,593	895,093	864,393	881,549	956
Procurement					
560 Procurement, Army	51,747	51,747	51,747	51,747	0
570 Procurement, Navy	9,942	8,642	9,942	9,942	0
580 Procurement, MC	6,633	3,133	6,633	6,633	0
590 Procurement, AF	16,256	16,256	16,256	16,256	0
600 Procurement, Def Ags	52,948	51,463	51,463	51,463	−1,485
601 Procurement, SOC	0	0	1,485	1,485	1,485
610 National Guard/Reserve	31,308	32,308	31,308	31,308	0
621 Classified	(43,763)	0	0	0	0
622 National Guard LAV's	0	0	12,000	12,000	12,000
Subtotal, Procurement	168,834	163,549	180,834	180,834	12,000
Research, Development, Test and Evaluation					
630 Army	9,693	9,693	9,693	9,693	0
640 Navy	0	0	0	0	0
650 Air Force	0	0	0	0	0
660 Defense Agencies	61,926	51,211	61,926	61,926	0
670 Classified	(14,766)	0	0	0	0
Subtotal, RDT&E	71,619	60,904	71,619	71,619	0
General Reduction	0	0	0	−150,000	−150,000
Total, Drug Interdiction	1,263,400	1,261,900	1,259,200	1,140,651	−122,749

DRUG DEMAND REDUCTION

The House supports the Senate's additional funding for Military Personnel and Operation and Maintenance for drug demand reduction, but transferred this funding from Title II to Title VI. These funds will be used for purposes specified in Senate report language under the heading "Drug Interdiction and Drug Demand Reduction Programs, National Guard".

CONTRABAND DETECTION TECHNOLOGIES

The House recedes to the Senate language and adds language that none of the reduction made in the drug interdiction account shall be applied to this program.

LINGUIST AND INTELLIGENCE ANALYSIS SERVICES

The conferees direct the Department of Defense to provide $5,000,000 from funds made available for drug interdiction for linguist and intelligence analysis services for local law enforcement agencies to support the DEA demonstrated centralized digitized translation system.

COAST GUARD FACILITIES

The conferees support the Department allocating adequate levels of funding to remove contamination from Coast Guard facilities formerly owned by the Department of Defense.

SOUTHWEST BORDER STATES INFORMATION MANAGEMENT PLAN (SWBSIMP)

The conferees agree that the Department may make available up to $11,200,000 from this account to assist the southwest border states to coordinate their counter-drug efforts and share intelligence with each other, DOD, and other federal agencies. This funding can be used to build upon a prototype regional drug intelligence computer network being developed by the Defense Information Systems Agency.

UH-1 TRANSFER/UPGRADE FOR BORDER PATROL

The conferees agree to provide $4,900,000 of funds made available for the upgrade of no fewer than five Army UH-1 utility helicopters, otherwise destined for decommissioning, to be loaned to the U.S. Border Patrol to enhance its effectiveness in conducting drug interdiction operations along the Arizona and New Mexico border with Mexico. These funds shall be used for the upgrade and operation and maintenance of these helicopters to demonstrate the potential role of the upgraded UH-1 helicopter in the counter-drug operations of the Border Patrol along the southwest border of the United States. The conferees believe that the upgrade, loan and use of the surplus UH-1 helicopters for drug interdiction purposes, is consistent with the Department's detection and monitoring role, the President's plan to use surplus UH-1s for counter-drug purposes in Latin America, and with congressional intent to use existing surplus military assets to enhance anti-drug activities among the civilian drug enforcement agencies.

PLACEMENT OF THE GREAT INAGUA AEROSTAT

The conferees concur with the Senate position and direct the Department not to take any action toward the permanent placement or temporary relocation of the Great Inagua aerostat until 30 days after providing a report to the Committees on Appropriations of the House and Senate. This report should be submitted no later than January 15, 1993, and include a mission statement for the aerostat and an explanation of how it provides a unique complement to the counter-narcotics sensor mix already operating in the Caribbean.

INTEROPERABILITY FOR COUNTER-NARCOTICS ACTIVITIES

U.S. counter-narcotic activities today involve numerous defense and civilian agencies, including the U.S. Customs Service, the Drug Enforcement Administration, Immigration and Naturalization Service, the Border patrol, the U.S. Coast Guard, and the U.S. military services. A fundamental capability lacking in these efforts has been secure, effective, and interoperable communications. The conferees understand that this problem is being addressed by the Naval Electronic Systems Engineering Activity, which has proven expertise in SOF tactical communications and in interoperability issues.

The conferees note the leadership role provided by the Navy, which is using the unique capabilities of NESEA to address communications and interoperability problems impeding the work of this multi-Service-Agency effort. The conferees would like to improve the effectiveness of U.S. counter-narcotic activities, and direct the Navy to submit a report on the progress it is making on resolving these communications and interoperability problems to the Committees on Appropriations by March 15, 1993. The conferees do not intend that this language be used to justify any upgrades or modifications to the sea-based aerostats in fiscal year 1993.

SEA BASED AEROSTATS (SBA)

The conferees recommend full funding for the Army SBA mission. The conferees recommend that $25,500,000 be made available from funds already provided to the Army for drug interdiction and counter-drug activities, only for the operation and maintenance of five Sea Based Aerostat (SBA) boats in support of the U.S. Coast Guard's drug detection and monitoring activities. None of these funds shall be used to further the integration of the SASS and SBA missions or upgrades to the SBA system.

The conferees expect the Army to ensure that the Department operate all five sea-based aerostats to provide 24-hour a day coverage in support of United States Coast Guard operations in the Caribbean choke points and other drug trafficking regions identified by the Coast Guard.

The Committees on Appropriations direct the General Accounting Office to investigate efforts by the Department of Defense to combine the SBA/SASS missions in the Caribbean and to report back to the Committee no later than June 30, 1993, on the use of funds appropriated in fiscal year 1992 for the operation and maintenance of the SBAs for purposes not authorized by Congress.

The conferees are aware that upgrades to the SBA system may be required and is prepared to examine this issue in the coming year only after proper prior notification and justification is made in the course of the normal budget process.

Amendment No. 150: Inserts Senate language to either lease or procure and evaluate an existing airship as an integrated sensor platform for detection and monitoring missions in the Department's drug interdiction program.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 151: Appropriates $126,000,000 as proposed by the Senate instead of $219,700,000 as proposed by the House.

Amendment No. 152: Earmarks $125,200,000 as proposed by the Senate instead of $218,900,000 as proposed by the House.

TITLE VII—RELATED AGENCIES

COMMUNITY MANAGEMENT STAFF

Amendment No. 153: Appropriates $77,700,000 for the Community Management Staff instead of no funding as proposed by the House and $9,500,000 as proposed by the Senate.

NATIONAL SECURITY EDUCATION TRUST FUND

Amendment No. 154: Appropriates no funding for the National Security Education Trust Fund as proposed by the House instead of $35,000,000 as proposed by the Senate.

TITLE VIII—DEFENSE REINVESTMENT FOR ECONOMIC GROWTH

Amendments No. 155–156: Appropriates $472,000,000 for defense reinvestment for economic growth instead of providing $1,000,000,000 within available funds as proposed by the House and appropriating $2,000,000,000 as proposed by the Senate.

The conferees strongly support the objectives of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992. To help accomplish the goals of that legislation, this conference agreement includes at least $1,767,000,000 in this title and elsewhere as follows:

Title VIII:

Community Economic Adjustment Assistance through the Economic Development Administration	$80,000,000
Temporary health transition assistance	76,000,000
Department of Defense civilian personnel transition initiatives	72,000,000
Defense efforts to relieve shortages of elementary and secondary school teachers and teacher's aides	65,000,000
Environmental education and retraining programs	20,000,000
Job training and employment and educational opportunities	84,000,000
Service members occupational conversion and training	75,000,000
Subtotal, Title VIII	472,000,000

Title I:

Active forces transition enhancements (temporary early retirement authority)	254,000,000
Guard and Reserve transition initiatives	40,000,000
Job placement assistance and career training	210,000
Subtotal, Title I	294,210,000

Title II:

National Guard Civilian Youth Opportunities Pilot Program	30,000,000
Civilian Community Corps	20,000,000
Other programs of the Commission on National and Community Service	20,000,000
Philadelphia Naval Shipyard economic conversion initiatives	50,000,000
Subtotal, Title II	120,000,000

Title IV:

Dual Use Critical Technology Partnerships	100,000,000
Commercial-Military Integration Partnerships	50,000,000
Regional Technology Alliances Assistance Program	100,000,000
Defense Advanced Manufacturing Technology Partnerships	25,000,000
Manufacturing Extension Programs	100,000,000
Manufacturing Engineering Education Programs	30,000,000
Defense Dual Use Assistance Extension Program	100,000,000
Agile Manufacturing and Enterprise Integration	30,000,000
Advanced Materials Synthesis and Processing	30,000,000
U.S.-Japan Management Training	10,000,000
Subtotal, Title IV	575,000,000

In addition, several programs in the Research, Development, Test and Evaluation budget constitute defense conversion initiatives. Several of these are the result of Congressional interest and impetus. The list below excludes programs such as SEMATECH and advanced lithography, which also offer many economic conversion features. The following amounts (including increases above the budget) are also contained in title IV of the bill:

Multi-use high performance computing	$68,600,000
Infrared focal plane array technology	15,000,000
Rapid prototyping of application specific signal processors	26,000,000
Multi-chip modules	46,200,000
Multi-function self aligned gate technology	10,000,000

Acoustic charge transport	5,000,000
High temperature superconductor/diamond materials	65,000,000
National Center for Advanced Gear Manufacturing Technology	5,000,000
National Center for Manufacturing Sciences	45,000,000
Superconducting magnetic energy storage	20,000,000
Subtotal	305,800,000
Grand total, economic conversion initiatives	$1,767,010,000

VIETNAM VETERANS LEADERSHIP PROGRAM

The conferees have earmarked $210,000 in defense economic conversion funding for the Vietnam Veterans Leadership Program in Pittsburgh. This entity has provided job assistance and supportive services to western Pennsylvania since 1982. The program has a 65 percent placement rate and has helped more than 500 veterans begin new careers in the last three years. The large influx of veterans resulting from the current U.S. military drawdown has strained the activity's resources. The funding will enable the program to continue delivering valuable job assistance to recently separated veterans.

DEFENSE INDUSTRY AND TECHNOLOGY BASE PROGRAMS

The conferees have included $575,000,000 in Title IV for defense industry and technology base programs specifically authorized by the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992. The conferees direct that the activities shown below be funded in the amounts and categories as follows:

A. Dual Use Critical Technology Partnership:	
1. Battery technology	$7,700,000
2. Low cost composites	8,800,000
3. Center for Advanced Control Systems	3,000,000
4. Applied research and development for commercial shipbuilding	15,000,000

The conferees are concerned with the general decline in the health of the American shipbuilding industry. The funds recommended will establish and implement viable opportunities for conversion of the defense oriented shipbuilding industry to market driven commercial production activities, help maintain the defense industrial base, and further the development and maintenance of an adequate merchant marine.

5. Manufacture of high performance composites	$5,000,000
B. Commercial—Military Integration Partnerships	
1. Nanoelectronics	9,000,000
2. Microelectronics extension service for industrial base conversion	10,000,000

These funds shall be made available only for establishment of a microelectronics extension service for industrial base conversion. This project will use the unique capabilities of two Department of Energy national weapons laboratories in precision machining and design and manufacture of complex components. Extension centers will redirect manufacturing and the training of the work force to support the infrastructure of the microelectronics industry.

3. Electronics manufacturing process improvement	$2,000,000
4. Electronics manufacturing	2,800,000
c. Regional Technology Alliances Assistance Program	
1. Regional rapid prototyping center	500,000
2. Optics/electro-optics	4,931,000
3. Reliability without hermeticity for multichip modules	1,320,000
4. Greater Philadelphia Consortium for Science and Technology Education and Training	10,000,000
5. Center for Health Technologies	1,000,000

The center, a consortium of South Florida business leaders, educators, health care experts and scientists, will provide direct support to small businesses, including those adversely affected by the defense build down, to promote economic growth in high technology industries.

6. Ben Franklin Partnership and Industrial Resource Center	7,000,000

Efforts such as the Franklin Partnership are proven economic conversion successes. This regional center, in which the State of Pennsylvania has invested more than $2,000,000 during the past decade, provides a broad range of technological services. Funding in the Act will provide matching funds for new and existing state programs to modernize small and medium size defense and manufacturing firms.

D. Manufacturing Extension Programs	
1. Electronics Manufacturing Productivity Facility	$6,435,000
2. Life cycle improvement through networking critical technologies	6,000,000
3. Community college association for technology transfer	2,000,000
4. Moline, Illinois Manufacturing Technology Consortium	2,000,000
E. Defense Dual Use Assistance Extension Program	
1. Image Storage and Retrieval Systems	4,000,000

The technology developed for exploitation of intelligence derived from airborne reconnaissance systems has been successfully converted into an image achieving system providing archiving, storage, and data retrieval capabilities. This system, the Medical Diagnostic Imaging System (MDIS), has already been introduced into military and veterans hospitals ("filmless hospitals"), cutting costs and increasing efficiency by eliminating cumbersome paper and hard copy storage. This technology is being developed for civilian hospitals and is also expected to have applications in financial and accounting recordkeeping. The conferees believe leveraging additional uses from such innovative applications of existing defense technology merits strong support. The funds shall be used for product engineering, training, facilitization, and prototyping of MDIS-Derivative systems for expanded use in both military and civilian applications.

2. Instrumented factory for gears	$8,500,000
3. Product data application protocols for composites	1,275,000
4. Product data application protocols for electronics	1,650,000
5. Modernization of obsolete manufacturing information systems	3,500,000

This amount shall be made available to the Assistant Secretary of Defense for Production and Logistics only to use the capabilities of a Department of Energy national weapons laboratory to develop a systematic method for modernizing obsolete manufacturing information systems. This project will incorporate the cooperative work of one or more industry partners, which will share the cost, and will build on work which the national laboratory already has begun in converting the legacy databases associated with the nuclear weapons stockpile.

ECONOMIC CONVERSION OF THE KANSAS ARMY AMMUNITION PLANT

The conferees support the effort now underway at the Kansas Army Ammunition Plant to convert production at that facility from lead azide to sodium azide, the chemical compound used to rapidly inflate automobile air bags. Successful conversion of the facility would not only make better use of an underutilized government owned facility and create employment opportunities, but would also lessen the automotive industry's reliance on imported sodium azide. The conferees believe this innovative use of the Kansas facility is fully consistent with the purposes of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 and support the use of funds for the conversion of the facility.

TITLE IX—GENERAL PROVISIONS

Amendment No. 157: Inserts Senate language which excludes Turkey and the Philippines from pay raise limitations.

Amendment No. 158: Provides $1,500,000,000 as the ceiling on transfer authority available to the Department of Defense as proposed by the Senate instead of $2,500,000,000 as proposed by the House.

Amendment No. 159: Inserts Senate language which prohibits the use of foreign coal at United States defense facilities in Europe when American coal is available.

Amendment No. 160: Inserts the word "regional" as proposed by the Senate.

Amendment No. 161: Restores House language which allows the use of furnished heat at Landstuhl Army Regional Medical Center and Ramstein Air Base if provisions are included for the consideration of United States coal, and deletes Senate language which required the Air Force to certify that a fair competitive bidding process is used for the selection of heating facility modernization and that any competition include United States coal.

The conferees have agreed to the Senate provision prohibiting the purchase of foreign coal for use at United States defense facilities in Europe when American coal is available.

The conferees do not agree to the Senate provision on competitive bidding for heating facilities at Landstuhl Army Regional Medical Center and Ramstein Air Force Base, Federal Republic of Germany, but do agree that furnished heat at these locations may be obtained from private, regional or municipal services.

With regard to proposed heating facility modernization at Ramstein, the conferees continue to express their interest that American coal be considered as the energy source whenever a heating facility replacement or modernization is undertaken at a U.S. defense facility.

The Air Force is to be commended for its diligence in pursuing agreements (which include American anthracite coal) for heating facility modernization in the Kaiserslauten Military Community. The conferees express the hope that these agreements may be concluded in the near future.

The conferees urge the Air Force to work equally diligently in resolving problems with heating facility modernization at Ramstein. The Air Force should consider the transferral of the Kaiserslauten system technology with possible implementation for Ramstein Air Base either by heating network extension or onbase application.

Amendments No. 162–164: Delete House language and insert Senate language which clarifies CHAMPUS pricing reform.

Amendment No. 165: Inserts and amends Senate language to allow multiyear procurement contracts for Defense Support Satellites and the Enhanced Modular Signal Processor.

Amendment No. 166: Restores and amends House language which places a floor on military (civilian) technicians, places a ceiling on Active/Reserve (AGR) personnel, and exempts military (civilian) technicians from civilian end strength ceilings and administratively imposed freezes on civilian personnel. The floor for technician personnel is 70,363, and the ceiling on AGR personnel is 46,449.

Amendment No. 167: Deletes Senate language which sets an end strength and force structure allowance for the National Guard and Reserves.

Amendment No. 168: Deletes Senate language which prohibits the inactivation of any unit in the Selected Reserve of the Army, Navy, Air Force, or Marine Corps, with certain exceptions.

Amendment No. 169: Restores House language which prohibits the Department of Defense from managing on the basis of any end strength.

Amendment No. 170: Inserts and amends Senate language which limits civilian workyears overseas and amends section number.

Amendment No. 171: Deletes House language which has been codified in public law.

Amendment No. 172: Inserts Senate language to establish an appropriated trust fund for the operation and maintenance of "Fisher Houses".

Amendment No. 173: Restores House language which places restrictions on the procurement of 120mm mortars and ammunition.

Amendment No. 174: Inserts Senate language which prohibits the use of funds for purchasing security locks other than specifications in regulation FF–L–2740 dated October 12, 1989, and amends section number.

Amendment No. 175: Inserts Senate language which prohibits funds to inactivate, disestablish, or discontinue the Navy's Craft of Opportunity Program.

Amendment No. 176: Deletes Senate language that provides that CHAMPUS Reform Initiative contract costs in California and Hawaii cannot exceed the total fiscal year 1987 cost plus price and program growth.

Amendment Nos. 177–178: Restore and amend House language which expand CHAMPUS Reform Initiative to the States of Washington and Oregon, and the areas including England Air Force Base, Louisiana, and Bergstrom and Carswell Air Force Bases, Texas.

Amendment No. 179: Deletes House language and inserts Senate language which directs DOD to preserve the basic design of the CHAMPUS Reform Initiative.

Amendment No. 180: Restores and amends House language which prohibits the Department from contracting with CHAMPUS fiscal intermediaries without soliciting competitive, at-risk proposals.

Amendment No. 181: Restores House language that provides a six-month transition period for CHAMPUS Reform Initiative.

Amendment No. 182: Restores and amends House language which preempts certain managed health care contracts from State and local laws and regulations which relate to health insurance or prepaid health care plans.

Amendment No. 183: Inserts Senate language which directs the Department to begin delivery of services under the Uniformed Services Treatment Facilities managed care program no later than October 1, 1993.

Amendment No. 184: Inserts Senate language which allows expenditures for certain costs for the installation of modification equipment.

Amendment No. 185: Restores House language on the Reserve Component Automation System (RCAS).

Amendment No. 186: Inserts Senate language which provides that procurement or research funds may not be obligated or expended for any automated Computer Aided Logistics System unless specifically approved by Assistant Secretary of Defense for Production and Logistics; and changes section number to 9036A.

Amendment No. 187: Restores House language which prohibits the purchase of certain molded shipboard anchor and mooring chains outside the United States unless waived for specific reasons by the Service secretary.

Amendment No. 188: Inserts Senate language which requires the Secretary of Defense to take such action as necessary to assure that a minimum of 75 percent of the coal and petroleum pitch carbon-fiber requirements be procured from domestic sources by 1994, and amends the section number.

Amendment No. 189: Restores House language which provides authority for the Department of Defense to exempt military technicians and medical personnel/programs from sequestration.

Amendment No. 190: Inserts Senate language concerning National Defense Science and Engineering Graduate Fellowships and changes section number.

Amendment Nos. 191–192: Deletes House language and inserts Senate language on CHAMPUS mental health benefits to remove those sections which have already been codified.

Amendment No. 193: Restores and amends House language which prohibits certain ADP and personnel consolidations or reductions in the greater New Orleans area and southeast Louisiana until 60 days after DOD submits a report on future plans.

NAVY/DEFENSE ADP/PERSONNEL ACTIVITIES

The conferees have agreed to amend House bill language prohibiting certain Navy and Defense Department ADP and personnel activities pending the submission of detailed justification reports to the Committees on Appropriations. The conferees direct the Departments of Defense and Navy to follow this direction provided in House Report 102–627, page 40–41, except with regard to consolidations impacting economically depressed areas that have at least 15% of its population with annual incomes at or below the current annual Federal poverty level.

Amendment No. 194: Inserts Senate language which allows the Secretary of Defense to establish with host nation governments in NATO member states a separate account to receive residual value amounts and that such funds can be used for construction of facilities for the U.S. forces at overseas installations and changes section number.

Amendment No. 195: Deletes House language providing for a chiropractic care demonstration project.

Amendment No. 196: Inserts and amends Senate language which provides an $18,500,000 funding level for the Fort Bragg mental health care demonstration project.

FORT BRAGG CHILD/ADOLESCENT DEMONSTRATION PROJECT

The conferees understand that this project is entering its final 16 months and believe it is important to maintain the project's integrity, and therefore the conferees urge the Department not to incorporate this demonstration into any other initiatives during fiscal year 1993.

The conferees have also learned that Department of the Army problems in providing data for the comparison sites have delayed the project's evaluation. The conferees direct that the Department assure the availability of CHAMPUS data and other information required to evaluate the demonstration.

The introduction of Gateway to Care has further delayed the completion of the evaluation. To compensate for these delays and allow for a complete study, the evaluation should be extended by nine months into fiscal year 1994.

Amendment No. 197: Restores House language which prohibits the use of more than $50,000 to move any DOD activity or function into the National Capital Region including the Air Force Office of Medical Support at Brooks Air Force Base.

Amendment No. 198: Inserts Senate language which directs the Department of Defense to include a provision requiring contractors to employ certain individuals who are residents in States that are not contiguous with another State and changes section number.

LOCAL HIRE IN NONCONTIGUOUS STATES

Language in Section 9061A is again included in this year's Act to require the Department of Defense to include in construction and service contracts to be performed in states that are not contiguous with other states, with unemployment rates in excess of the national average, a contract clause requiring the employment of residents of those states. The Department of Defense is requested to implement this provision in its acquisition regulation to ensure that all contracting officers are aware of this requirement and to ensure that the clause is included in all applicable solicitations so it can be enforced through bid protests to the Comptroller General.

Amendment No. 199: Restores House language which prohibits the Secretary of Defense from moving certain truck maintenance functions from Letterkenny Army Depot until 50 percent of the Joint Service Missile Mission is in place at Letterkenny Army Depot.

Amendment No. 200: Inserts Senate language which provides funds for expenses of the Kahoolawe Island Commission and changes section number.

Amendment Nos. 201–202: Delegates House language and inserts Senate language which makes technical changes to correct a cite.

Amendment No. 203: Restores House language which establishes the National Drug Intelligence Center.

Amendment No. 204: Inserts Senate language which prohibits the use of funds to conduct munitions delivery training on Kahoolawe Island, Hawaii.

Amendment No. 205: Restores and amends House language dealing with the V–22 aircraft program. This item is discussed under Research, Development, Test and Evaluation, Navy.

Amendment No. 206: Inserts Senate language which restricts development of airborne instrumentation systems for flight test data acquisition and changes section number.

Amendment No. 207: Restores House language which prohibits funds to procure a Multibeam Sonar Mapping System not manufactured in the United States unless waived for specific reasons by the Service secretary.

Amendment No. 208: Inserts Senate language which authorizes the Department of Defense to develop and procure LANDSAT 7, and amends section number.

Amendment No. 209: Inserts and amends Senate language which provides $20,000,000 for CHAMPUS disabled individuals and provides that benefits will be paid under the coordination of benefits formula.

Amendment No. 210: Restores House language which prohibits the Department of Defense from obligating against the stock funds in excess of 70 percent of sales.

Amendment No. 211: Inserts "(a)" as proposed by the House.

Amendment No. 212: Restores House language and inserts Senate language which prohibits funds to reduce or disestablish the operation of the P–3 squadrons of the Navy and Navy Reserve below the levels funded in this Act.

Amendment No. 213: Restores House language which requires the Secretary of the Navy to obligate fiscal year 1991, 1992, and 1993 funds for modernization of P–3B aircraft of the Navy Reserve aircraft being kept in the fleet more than five years.

The Navy Reserve may utilize the $25,000,000 appropriated in the National Guard and Reserve Equipment appropriation for P–3 aircraft and the $53,000,000 remaining from the funds previously appropriated from testing of the IPADS system to procure P–3 equipment as required by the Navy Reserve.

The conferees direct the Navy Reserve to submit a status report on the use of fiscal years 1991, 1992, and 1993 funds appropriated in the National Guard and Reserve Equipment appropriation for P–3 equipment. This report should indicate the types and quantity of equipment and the contract status of each.

Amendment No. 214: Inserts Senate language which provides additional funds to pay claims due U.S. personnel for damages resulting from the volcanic eruption of Mt. Pinatubo.

Amendment No. 215: Inserts Senate language which provides additional funds for the relocation of Air Force units from U.S. bases in the Philippines.

Amendment No. 216: Restores House language which places restrictions on the award of contracts or grants to universities or institutions of higher learning.

Amendment No. 217: Inserts and amends Senate language dealing with various research projects and changes section number.

Amendment No. 218: Restores and amends House language on Federally Funded Research and Development Centers (FFRDCs) to prohibit funds to finance a FFRDC if a member of its Board of Directors or Trustees simultaneously serves on the Board of Directors or Trustees of a profit-making company under contract to the Department of Defense unless the FFRDC has a DOD approved conflict of interest policy for its members; to prohibit funds to establish a new FFRDC; and to reduce funds appropriated in this Act by $300,000,000 to reflect savings from the decreased use of non-FFRDC consulting services by DOD.

Amendment No. 219: Deletes Senate language on FFRDCs since two subsections have been moved to amendment No. 218. The conferees agree to delete the subsection which limited funds to finance activities of FFRDCs to 10 percent below the fiscal year 1992 level. This action was taken because the conferees agreed to take a 3 percent general reduction in each RDT&E appropriation, which should be applied equally to funds to finance FFRDC activities and programs.

The conferees direct that the Director of Defense Research and Engineering shall submit with the fiscal year 1994 budget request a report to the Committees on Appropriations on the allocation of the 3 percent general reduction in each RDT&E appropriations to each of the FFRDCs.

Amendment No. 220: Restores House language which prohibits funds to implement Deputy Secretary of Defense guidance on debarment and suspension.

Amendment No. 221: Inserts Senate language which allows payments from procurement appropriations to be made under the Indian Financing Act and changes section number.

Amendment No. 222: Restores house language which prohibits funds to procure carbon, alloy or armor steel plate which were not melted and rolled in the United States unless waived for specific reasons by the Service secretary.

Amendment No. 223: Inserts Senate language which prohibits studies of the transportation of chemical weapons and of the future use of chemical weapon disposal facilities and changes section number.

Amendment No. 224: Restores and amends House language which specifies domestic acquisition of shipboard components for sealift ships.

Amendment No. 225: Restores and amends House language providing Secretarial wavier authority.

Amendment No. 226: Inserts Senate language which changes the certifying authority for successful bids resulting from Navy ship repair and maintenance competition.

Amendment No. 227: Restores and amends House language which provides for the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, California.

Amendment No. 228: Inserts and amends Senate language which makes technical changes to Active Guard and Reserve and Drug Interdiction language; and changes section number to 9099A.

Amendment No. 229: Restores House language which allows the Department to transfer funds from the Defense Business Operations fund for energy conservation improvement projects under the Department of Defense Energy Conservation Improvement Program.

Amendment No. 230: Inserts and amends Senate language which adds a heading and allows transfer of funds from the Defense Business Operations Fund to the Services and Defense Agencies operation and maintenance appropriations, and changes section number.

Amendment No. 231: Deletes House language which provided authority to transfer funds from the National Defense Stockpile Transactions Fund to Environmental Restoration, Defense.

Amendment No. 232: Inserts and amends Senate language concerning "limited dissemination" programs to specify that the restriction does not apply to National Foreign Intelligence Programs, and amends section number.

Amendment No. 233: Restores House language which allows the Department of Defense to use revenues from transfers or disposals of real property and from leases of real property for environmental restoration and facility maintenance repair at military installations.

Amendment No. 234: Deletes Senate language which raises item purchase threshhold from $15,000 to $25,000 for each item.

Amendment No. 235: Restores House language which prohibits funds to award a contract for procurement of four-ton dolly jacks if manufactured outside the United States unless waived for specific reasons by a Service secretary.

Amendment No. 236: Inserts Senate language which makes available to the Air Force, instead of the United States Treasury general fund, funds paid to the United States by the NATO allies for participation in the AWACS Radar System Improvement Program, and amends the section number.

Amendment No. 237: Deletes House language which provided up to $650,000,000 in transfer authority for the Nuclear Threat Reduction Act of 1992. The conferees agree to provide similar authority in section 9110 as a part of amendment 240.

Amendment No. 238: Deletes Senate language which would have prohibited the use of funds for F–16 aircraft until the Secretary of the Air Force has complied with earlier Congressional guidance regarding equipping Air National Guard units.

Amendment No. 239: Deletes House language which provided up to $115,000,000 in transfer authority for humanitarian aid to the countries of the former Soviet Union. The conferees agree to provide similar authority in section 9110 as a part of amendment 240.

Amendment No. 240: Inserts and amends Senate language contained in section 9110 which provided additional transfer authority for the Former Soviet Union Demilitarization Act of 1992.

The House included sections 9109 (amendment number 237) and 9110 (amendment number 239) which provided transfer authority across fiscal years 1992 and 1993 for up to $650,000,000 for the Nuclear Threat Reduction Act of 1992 and up to $115,000,000 for humanitarian aid to the countries of the former Soviet Union.

The Senate included section 9110 which provided fiscal year 1993 transfer authority of up to $400,000,000 for the Former Soviet Union Demilitarization Act of 1992 and extended into fiscal year 1993 the fiscal year 1992 transfer authorities contained in sections 108 (nuclear threat reduction) and 109 (humanitarian aid) of Public Law 102–229 totalling up to $400,000,000 and $100,000,000, respectively.

The conferees agree to include section 9110 which provides: (a) fiscal year 1993 authority to transfer up to $400,000,000 for the Former Soviet Union Demilitarization Act of 1992, including not less than $10,000,000 for former Soviet nuclear waste in the Arctic region, not less than $25,000,000 for Project PEACE, not more than $50,000,000 for the Multilateral Nuclear Safety Initiative, not more than $40,000,000 for demilitarization of defense industries, not more than $15,000,000 for military-to-military contacts, not more than $25,000,000 for joint research and development programs, and not more than $10,000,000 for the Volunteers Investing in Peace and Security program; (b) fiscal year 1993 authority to transfer up to $15,000,000 for humanitarian aid; (c) an extension through fiscal year 1993 of the transfer authorities contained in sections 108 and 109 of Public Law 102–229; and (d) fiscal year 1993 authority to transfer up to $40,000,000 for the Weapons of Mass Destruction Control Act of 1992, including up to $20,000,000 for the On-Site Inspection Agency, but excluding payments to either Contributions to International Organizations or other costs which have traditionally been the funding responsibility of either the Department of State or the Department of Energy.

The conferees agree to the directive language contained in Senate report 102–408 concerning reporting requirements and the availability of no less than $10,000,000 concerning nuclear dumping and weapons disposal in the Arctic region by the former Soviet Union or successor states.

The conferees agree to make available from funds appropriated to the Department of Defense not less than $25,000,000 to establish and support the purposes of Project PEACE within the amount provided in this Act and pursuant to language provided in Senate report 102–408. The conferees expect that these funds will be transferred to Project PEACE no later than 60 days following the enactment of this Act.

The conferees urge the Secretary of Defense to vigorously support the defense conversion efforts now underway in Eastern Europe and the former Soviet Union and to establish, wherever possible, prototype conversion projects in cooperation with the U.S. private sector and local governments from these newly independent countries. The conferees are encouraged by the steps already taken by the Department of Defense to study the conversion and clean-up potential of the Milovice Military Area, the Bozi-Dar Airfield and the Haradcany Military area in the Czech Republic and urge that they be pursued as prototype conversion projects in conjunction with the Czech Environmental Commission.

The conferees believe that Project PEACE offers unique opportunities for international cooperation and urge the Secretary of Defense, in conjunction with the President's coordinator for U.S. Government assistance to the newly independent states, to encourage our allies to contribute their funding and technical expertise as well to this initiative.

In addition to the activities targeted by Project PEACE, the Secretary is urged to assist the countries of Eastern Europe and the former Soviet Union in the management and disposal of excess defense property and the use of funds generated through this effort for other defense conversion, environmental and humanitarian relief initiatives.

Lastly, the conferees believe that there is an urgent need to improve the investment climate in this region and that this effort can be assisted by ensuring greater coordination between the U.S. private sector and agencies of the U.S. Government concerned with former Soviet defense conversion. Therefore, the conferees direct that no later than April 30, 1993, the President's Coordinator should establish a comprehensive database of investment opportunities available in the region and that the process for obtaining demonstration project grants should be streamlined and expedited.

The conferees agree that DOD has a critical role to play in the defense conversion activities in Eastern Europe and the former Soviet Union. This is an activity of the highest priority for the United States and should be viewed by the Department, as it is by the conferees, as a vital and evolving part of its new national security mission.

Amendment No. 241: Deletes House language which prohibited funds for the procurement of non-United States high purity quartz yarn or fiber and required the Department to test qualify domestically produced high-purity quartz yarn or fiber.

Amendment No. 242: Deletes Senate language which would have transferred funds recovered through sales of military items to the Defense Department research, development, test and evaluation appropriations.

Amendment No. 243: Restores House language which directs the Department that any disposal of chromite and manganese ore from the National Defense Stockpile must be limited to domestic sources, and changes section number.

Amendment No. 244: Inserts Senate language concerning participation of Naval shipyards in manufacturing extension programs.

Amendment No. 245: Deletes Senate language which made into permanent law a portion of a general provision dealing with the budgeting for ammunition procurement. This matter is discussed further in the Procurement section of this statement.

Amendment No. 246: Deletes House language which placed restrictions on the M1 tank upgrade program.

Amendment No. 247: Deletes Senate language which made available certain funds for the M1 tank upgrade program. This item is addressed under Procurement of Weapons and Tracked Combat Vehicles, Army.

Amendment No. 248: Deletes House language which prohibited the sale of LTV Aerospace and Defense to a foreign entity.

Amendment No. 249: Inserts Senate language which requires Department of Defense activities to procure alcoholic beverages locally in non-contiguous States, and changes section number.

Amendment No. 250: Restores and amends House language to prohibit the procurement of defensive handguns other than the Department of Defense standard M9 9mm handgun and to prohibit procurement of offensive handguns other than for the Special Operations Forces, and changes section number.

Amendment No. 251: Inserts Senate language which provides $8,000,000 for the mitigation of environmental impacts on Indian lands by DOD activities.

Amendment No. 252: Restores House language which provides authority for the Department of Defense to reimburse a member of a reserve component travel and transportation allowances while performing active duty for training and inactive duty training.

Amendment No. 253: Deletes Senate language which provided an additional year of household goods storage for personnel who are involuntarily separated.

Amendment No. 254: Deletes House language which provided authority for additional military leave to National Guard technicians who perform airlift and refueling missions overseas.

Amendment No. 255: Deletes Senate language which allowed final destination transportation costs for the involuntarily separated to be available for an extra year.

Amendment No. 256: Restores and amends House language which provides that the Department maintain at least a 50-bed medical care facility at the Silas B. Hays Army Community Hospital at Fort Ord, California; and changes section number to 9119.

SILAS B. HAYS HOSPITAL

The conferees are concerned with the future of medical care for military members, their dependents, and retirees on the Monterey peninsula. Originally, the House proposed designating the hospital as a Uniformed Services Treatment Facility to continue to provide care to eligible beneficiaries.

The conferees, however, have mandated that the hospital continue to be operated as at least a minimum 50-bed facility in fiscal year 1993 until the future of military medical care on the Monterey peninsula is adequately addressed by the Department.

Amendment No. 257: Inserts Senate language which provides a ceiling on Uniformed Services Treatment Facilities program funding.

Amendment No. 258: Deletes House language which prohibits any funds to be obligated for the Defense Printing Service Management Office.

Amendment No. 259: Inserts Senate language which prohibits the use of any funds for activities of the Tailhook Association, including travel and other related activities. The provision does not prohibit the use of funds for consultations or investigations by the Secretary of the Navy and the Tailhook Association.

Amendment No. 260: Deletes House language which limits payments to the General Services Administration.

Amendment No. 261: Deletes Senate language which prohibited funds to implement the United States Army Corps of Engineers Reorganization Study until authorized by law after the date of enactment of this Act.

Amendment No. 262: Deletes House language which reduces the number of Senior Executive Service personnel.

Amendment No. 263: Inserts Senate language which sets the rate of reductions in SES personnel equal to that of other civilians, and amends section number.

Amendment No. 264: Deletes House language which directs the Department of Defense to provide supplies free of charge from the Defense Business Operations Fund.

Amendment No. 265: Deletes House language concerning consolidation of research and development laboratories.

Amendment No. 266: Deletes House language which requires a GAO report on the Navy's accounting practices of nuclear shipyards.

Amendment No. 267: Restores House language which creates a Command, Control, Communications and Intelligence (C^3I) Planning Office under the Director of the Air National Guard, and amends the section number to 9123. The conferees also agree to provide to the Air National Guard C^3I Planning Office a total of $2,500,000 under the Defense Reconnaissance Support Activities in RDT&E, Defense Agencies.

Intelligence personnel in the Reserve and National Guard represent a valuable resource that could be better utilized in support of peacetime intelligence missions. The conferees understand that in the Plan for Restructuring Defense Intelligence, the Assistant Secretary of Defense for C^3I, together with the National Security Agency and Defense Intelligence Agency, are developing plans to achieve this objective. The conferees expect this plan to focus on increased integration of guard and reserve forces with active forces through improved resource management, increased secure ADP connectivity, and additional man-day support to active duty intelligence production, collection, language, and analysis requirements. To support this effort, the conferees direct that $2,000,000 of the funds provided be reserved for the C^3I Planning Office to respond to tasking by the Assistant Secretary of Defense for C^3I. It is the conferees intent that the Air National Guard C^3I Planning Office be established as the Executive Agent for all guard and reserve C^3I modernization planning. If additional personnel should be required for the Air National Guard to fulfill the Executive Agent responsibility, the conferees agree that the Assistant Secretary of Defense for C^3I may with the concurrence of the Reserve Component Director, task the other reserve components to detail additional manpower with the requisite expertise.

The conferees agree that the remaining $500,000 is to be reserved for initial costs associated with compliance with House report 102-627 which requires the Air National Guard to "begin immediate long range planning to assume selected C^3I missions in a phased manner in support of: (a) broad area search imagery; (b) civilian communications satellites; (c) tactical warning and attack assessment; (d) tactical SIGINT aircraft; and (e) other classified missions."

Amendment No. 268: Restores House language which requires a 2% reduction below fiscal year 1992 actual levels in the fiscal year 1993 actual end strength of personnel assigned to or serving in the National Foreign Intelligence program, and amends section number. The House language directs that reductions to Senior Intelligence Service positions shall be equal to or exceed reductions made to non-Senior Intelligence Service positions. The House language also directs that reductions to positions in the National Capital Region shall be equal to or exceed reductions outside the National Capital Region.

Amendment No. 269: Restores and amends House language which restricts the scope of the Pentagon renovation project, and amends section number.

Amendment No. 270: Deletes House language which would have prohibited DOD from issuing policy statements or regulations prohibiting non-funded abortions at overseas military treatment facilities.

Amendment No. 271: Deletes House language which reduced funds for severance pay to foreign nationals in the Philippines.

Amendment No. 272: Deletes House language which reduced funds to reflect savings with respect to secondary excess inventory items.

Amendment No. 273: Deletes House language which reduced funds to reflect savings resulting from decreased use of consulting services.

Amendment No. 274: Inserts Senate language which, by reference, incorporates the Classified Annex into law and amends the section number.

Amendment No. 275: Inserts and amends Senate language which makes transfers of funds required to finance prior year shipbuilding programs.

Amendment No. 276: Inserts Senate language which amends Section 166a of Title 10, U.S.C., to enable the Chairman of the Joint Chiefs of Staff to propose activities involving States not assigned to the responsibility of a commander of a combatant command, for funding through the CINC's initiative fund, and amends section number.

Amendment No. 277: Inserts Senate language which restricts analyses of the impact of terminations and reductions of Defense programs and changes section number.

Amendment No. 278: Inserts Senate language which allows firms of any NATO member nation or of any major non-NATO ally, to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense and amends section number.

Amendment No. 279: Deletes Senate language which reduced procurement appropriations to account for inflation. This item is addressed further in the Procurement section of this statement.

Amendment No. 280: Deletes Senate language which appropriated funds for the Arms Manufacturing Support Initiative. This item is discussed further in the Procurement of Ammunition, Army section of this statement.

Amendment No. 281: Inserts and amends Senate language which prohibits transportation of chemical weapons to Johnston Atoll, and changes section number.

Amendment No. 282: Deletes Senate language appropriated funds for procurement of the A-6E Mission Recorder/Reproducer System. This item is addressed in the Aircraft Procurement, Navy section of this statement.

Amendment No. 283: Deletes Senate language on environmental remediation at Hamilton Air Force Base, California.

Amendment No. 284: Inserts Senate language which requires that the budget for appropriations identify clearly and separately the amounts for salaries and expenses related to administrative services, and amends section number.

Amendment No. 285: Deletes Senate language which would have authorized the Army to undertake a program to control nuisance aquatic vegetation in Lake Gaston, Virginia and North Carolina.

Amendment No. 286: Inserts Senate language which prohibits obligation of funds to implement any test of changes in the Department's domestic interstate household goods program, and changes section number.

Amendment No. 287: Deletes Senate language which appropriated funds for procurement of C-20 aircraft. This item is addressed under the National Guard and Reserve Equipment section of this report.

Amendment No. 288: Inserts and amends Senate language which requires an independent study of the Trident missile system by July 1, 1993, and changes section number.

Amendment No. 289: Deletes Senate language which authorizes the Secretary of the Interior to issue special-use permits to the Department of Veterans Affairs for use of parcels of property in Arizona.

Amendment No. 290: Inserts and amends Senate language which provides additional authorizations and appropriations for the National Oceanic and Atmospheric Administration, and amends section number.

Amendment No. 291: Deletes Senate language which reduces the amount available for obligation for salaries and administrative expenses of the Department of Defense during FY 1993 to the FY 1992 level.

Amendment No. 292: Inserts Senate language providing $35,000,000 from the Drug Interdiction and Counter-Narcotics Program for the purposes of leasing up to 15 T-47 aircraft and modifying these aircraft with improved radars and FLIRS; and changes section number to 9136.

Amendment No. 293: Inserts and amends Senate language which expresses the sense of the Congress regarding evaluation by the Army Corps of Engineers of new concrete construction technologies for use in the construction of Department of Defense facilities in regions susceptible to hurricanes, and amends section number.

Amendment No. 294: Inserts Senate language which requires the Secretary of Defense to transmit to Congress a report on whether to participate in an international rapid deployment force for use in international crises in the Western Hemisphere, and amends section number.

Amendment No. 295: Inserts and amends Senate language which requires prompt approval action on proposed interim leases for the use of installations and facilities of the Armed Forces being closed under the base closure law, and amends section number.

Amendment No. 296: Inserts and amends Senate language which expresses the sense of the Congress regarding unresolved commercial disputes in Saudi Arabia, and inserts several new provisions as follows:

COMMERCIAL DISPUTES

The conferees agree to the amendment of the Senate. To realize the goals set in this provision, the conferees urge the Secretary of Defense, the Secretary of State and the Secretary of Commerce to proceed to establish a United States-Saudi Arabia Contract Claims Review Commission, that would have the mission of resolving disputes related to contracts between U.S. firms and the government of Saudi Arabia. The close links between the U.S. and Saudi Arabia should not be strained by differences in the legal and contractual systems of the two nations. This new Commission, including both government and private sector representatives from both countries, should act as a mediating force to quickly settle outstanding claims, to ensure the continued deepening of U.S.-Saudi national and commercial ties.

EDUCATIONAL ASSISTANCE

The conferees agree to insert a new general provision which makes a technical correction to the "Supplemental Appropriations, Transfers and Rescissions Bill, 1992" (Public Law 102-368), relating to educational assistance.

ANTI-DISCRIMINATION POLICIES

The conferees agree to insert a new general provision which restricts the obligation of funds in support of military education programs until the service chiefs have certified that their respective services have published and taken steps to enforce anti-discrimination regulations expressly prohibiting discrimination on the basis of race, color, religion, sex, or national origin. The conferees included this provision because of concerns raised by the prejudicial treatment of Mr. Bruce Yamashita by the U.S. Marine Corps. In August, 1991, the Marine Corps acknowledged that the Corps engaged in racially discriminatory conduct in its treatment of Mr. Yamashita while he was attending Officer Candidate School. The conferees have acted to ensure that all minorities, who volunteer for military service in the future, will not face discriminatory conduct in violation of their civil rights and in contravention of the basic principles of our Government which our armed services are pledged to defend.

NATIONAL DEFENSE CENTER FOR ENVIRONMENTAL EXCELLENCE (NDCEE)

The conferees agree to provide language which earmarks $20,000,000 for the National

Defense Center for Environmental Excellence and states the contract shall not prohibit the use of the NCDEE by industry, other services and agencies for efforts to be separately negotiated and funded.

The conferees agree with House language concerning the NDCEE and direct the Secretary of the Army to enter into a five-year program to fully utilize this facility. The conferees further direct the Secretary of the Army to submit by March 15, 1993, the Army's five year plan for this Center.

DEFENSE PRODUCTION ACT THRESHOLD

The conferees agree to insert a new general provision which provides the Department of Defense authority to increase the threshold of individual programs under sections 301, 302, and 303 of the Defense Production Act of 1950, as amended, from $25,000,000 to $50,000,000. This action enables the Department to continue the Accelerated Cooled/Direct Quenched Steel project.

DEFENSE SPR PETROLEUM ACCOUNT

To facilitate the Department of Defense's strategic interest, $125,625,000 is appropriated for transfer to the Department of Energy for the purchase of crude oil for the Department of Defense to be stored in the Strategic Petroleum Reserve so that the Department of Defense may have access to a supply of crude oil, at the direction of the President, for national defense in an energy supply disruption. These funds will allow for the purchase, transportation, storage in existing facilities, and drawdown of approximately six million barrels of crude oil from the Strategic Petroleum Reserve.

CARBONYL IRON POWDERS

The conferees agree to insert a general provision which requires that a system or item procured by, or provided to, the Department of Defense shall contain domestically manufactured carbonyl iron powders unless waived for national security reasons.

DISASTER RELIEF

The conferees agree to insert a new general provision which provides for pay and allowances of members of the National Guard who assist States, prior to declaration of a Federal emergency, in times of emergencies and natural disasters.

ACCIDENT CLAIM COMPENSATION

The conferees are in agreement that funds provided under "Operation and maintenance, Navy," are available to pay claims arising from the accidental striking of the Turkish ship Muavenet by a missile fired from the USS Saratoga on October 1, 1992.

INFRASTRUCTURE IMPROVEMENTS

The conferees make available $4.5 million for the construction of a visitor's center at the U.S. Naval Academy. The conferees expect that commencing with the first full year of operation of the visitor's center, the Secretary of the Navy shall ensure that 50 percent of annual net revenues are deposited in the Treasury of the U.S. until the appropriated amount is fully recouped by the federal government. The remaining funds should be used for upkeep, repair, and furbishment of the facility.

AIR FORCE CLAIMS

The conferees provide $500,000 to the Secretary of the Air Force to pay claims emanating from the contract to construct an Aircraft Maintenance Management Facility at Eielson AFB. The conferees understand that these claims were caused by the default of the original prime contractor for this project, and that the Secretary currently lacks authority to resolve these requests. The conferees provide the Secretary with authority to settle such claims as are found to have merit.

RED CROSS REIMBURSEMENT

The conferees agree to a general provision, section 9162, which transfers $34,400,000 from funds made available by this Act to cover reimbursements for the American Red Cross. Over the past ten years, the American Red Cross has spent $105,600,000 assisting victims in Puerto Rico, the Virgin Islands, American Samoa, Guam, Palau and the Northern Mariana Islands with little reimbursement and only meager support from private contributions for these efforts.

Since 1991, the Red Cross has incurred extraordinary expenditures in the Pacific and the Caribbean. These costs include $3,800,000 for victims of Typhoon Yuri and Cyclone Val in Guam; $12,800,000 for victims of Cyclone Val in American Samoa; and $5,900,000 for victims of floods in Puerto Rico. It is anticipated that additional reimbursements will be required for natural disasters in these regions. Accordingly, the conference provision will allocate funds to reimburse these costs.

SRMU CONTRACT

The conferees agree to include section 9164 directing certain changes in the Air Force Titan IV contract. Specific details of the conference agreement are included under Amendment No. 83.

FBI TRANSFER

The conferees agree to include section 9165 which provides permissive authority to the Director of Central Intelligence to transfer up to $32,000,000 to the Federal Bureau of Investigation. Additional language is contained in the classified report which accompanies this joint statement.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follows:

New budget (obligational) authority, fiscal year 1992	$270,099,340,000
Budget estimates of new (obligational) authority, fiscal year 1993	261,133,506,000
House bill, fiscal year 1993	251,866,714,000
Senate bill, fiscal year 1993	250,685,639,000
Conference agreement, fiscal year 1993	253,788,663,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1992	−16,310,677,000
Budget estimates of new (obligational) authority, fiscal year 1993	−7,344,843,000
House bill, fiscal year 1993	+1,921,949,000
Senate bill, fiscal year 1993	+3,103,024,000

JOHN P. MURTHA,
NORM DICKS,
CHARLES WILSON,
W.G. BILL HEFNER,
LES AUCOIN,
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JOSEPH M. MCDADE,
C.W. BILL YOUNG,
CLARENCE MILLER,
BOB LIVINGSTON,
JERRY LEWIS,
Managers on the Part of the House.

DANIEL K. INOUYE,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
ROBERT BYRD,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
TED STEVENS,
JAKE GARN,
BOB KASTEN,
ALFONSE M. D'AMATO,
WARREN RUDMAN,
THAD COCHRAN,
ARLEN SPECTER,
PETE V. DOMENICI,
MARK O. HATFIELD,
Managers on the Part of the Senate.

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today in strong support of H.R. 5504, the fiscal year 1993 Defense Appropriations Act. Specifically, I would like to commend the hard work and expertise of Representative MURTHA, the chairman of the Defense Appropriations Subcommittee. Every year, Chairman MURTHA successfully accomplishes the difficult job of bringing to the floor the largest of the 13 appropriations bills. It is to his credit that despite the complexity of this task, the Defense appropriations bill is brought to the floor each year, and passed with bipartisan support.

Mr. Speaker, I would like to bring to the attention of the House instructions which have been given to the Navy by the Senate Appropriations Committee, and discuss some of the issues surrounding these instructions.

Specifically, I am referring to the report of the Senate Appropriations Committee to accompany H.R. 5504. The report states the following:

> U.S.S. *Kennedy* complex overhaul.—The 1991 Defense Base Closure and Realignment Commission recommended that the Philadelphia Naval Shipyard [PNSY] be closed but acknowledged that PNSY would perform the Service Life Extension Program for the U.S.S. *Kennedy* from September 1993 until mid-1996. The work on the U.S.S. *Kennedy* subsequently changed to a 24-month complex overhaul, which Congress required to be performed by PNSY. The Secretary of Defense concurred in this plan in September 1991. The Committee is deeply concerned that the Navy is not assigning sufficient work to PNSY to keep the work force at adequate levels to perform the complex overhaul of the U.S.S. *Kennedy* on time and to specification. Accordingly, the Committee directs the Secretary of the Navy to assign to PNSY such ship repair and maintenance work as will be necessary to maintain adequate work force levels at PNSY to support the U.S.S. *Kennedy* overhaul on time and to specification. Further, the Committee directs the Secretary to consider assigning the U.S.S. *Biddle*, the U.S.S. *Detroit*, and the U.S.S. *Kidd* to PNSY to provide work to keep the work force at sufficient levels to begin work on the U.S.S. *Kennedy* in September 1993.

These instructions raise a series of potential questions which I would like to take the opportunity to address:

First, is it feasible for the U.S. Navy to assign work to Philadelphia Naval Shipyard in the manner which the committee directs?

The U.S. Navy routinely assigns ship repair work to public shipyards in order to achieve certain goals. For example, the following article appeared in a recent issue of "Inside the Navy" magazine:

> LONG BEACH NAVAL SHIPYARD RECEIVES SHIP-REPAIR WORK WITHOUT COMPETITION
>
> The Long Beach Naval Shipyard reportedly has landed ship-maintenance without competition between the public and private yards. Industry sources said the naval shipyard was assigned three warships that industry was led to believe would be competed between the public and private yards. The Navy's Long Beach supervisor of shipbuilding for conversion and repair confirmed in a recent meeting on port workloads that in fact there would be no competition, according to the sources. Clearly, the Navy is trying to keep the naval shipyard alive, one source said . . .
>
> Long Beach reportedly will work on the Austin Class amphibious ship Ogden (LPD–5), the Anchorage Class amphibious ship Mount Vernon (LSD–39) and the Spruance Class destroyer Foster (DD–964). The work is scheduled to begin between February and June of next year, an industry source said. [Inside the Navy, August 31, 1992]

This article shows that the Navy is able and willing to assign ship repair work without public-private competition for the legally questionable motives which the article's sources identify. The Navy is equally able to assign ship repair work to Philadelphia Naval Shipyard in order to fulfill the legal mandate created by the fiscal year 1992 Defense Authorization Act that the U.S.S. *Kennedy* be performed at Philadelphia, and the Appropriations Committee mandate that the work be completed on time and to specification.

Second, what work force levels are necessary for the U.S.S. *Kennedy* to be completed on time and to specifications?

The Appropriations Committee has directed the Navy to "assign the Philadelphia Naval Shipyard such ship repair and maintenance work as will be necessary to maintain adequate work force levels to perform the complex overhaul of the U.S.S. *Kennedy* on time and to specification."

There is no simple formula for deriving the necessary work force level to complete a carrier overhaul. The difficulty is that an overhaul requires a large, technically qualified work force with a variety of labor skills. These skills vary from basic industrial manufacturing and repair skills to high-technology electronics knowledge and even design, planning, and drafting expertise. While all of these skills are vitally important, the labor intensity for each varies as the overhaul progresses. For example, welding, electronics repair, critical machining, combat system testing, and drydocking a ship are all skills which are used at various times during an overhaul and which must be available at all times for unexpected situations. A deficit of skills in any of these areas, or in dozens of others as well, would preclude the overhaul from being accomplished on time and to specifications.

In order to maintain this trade skill mix, particularly during a large and complex overhaul such as an aircraft carrier, the shipyard must maintain an amount of ship repair work which will sustain a workforce slightly larger than and equally diverse to that required for the peak performance period of a carrier overhaul. An analysis of the history of carrier overhauls at Philadelphia Naval Shipyard shows that work on carriers has averaged 66 percent of the total ship repair work in the yard at any one time over the last 11 years. During the past 2 years carrier work has averaged 77 percent of the total ship repair work in the yard at any one time. This balance between carrier work and other ship work has allowed the shipyard to maintain the trade skill mix and balance needed for success. Philadelphia Naval Shipyard has maintained the lowest manday rate and the highest productivity ratio of any public yard in the country during this period, and continues to do so today.

Under Philadelphia Naval Shipyard's current work schedule, 88 percent of the ship work to be done at any one time during the first 6 months of 1993 will be on one carrier, the U.S.S. *Forrestal*. Moreover, 93 percent of the ship work to be done at any one time during 1993 and 1994 will be carrier work. All work on the U.S.S. *Kennedy* in fiscal year 1994 will be performed with 93 percent of the yard's ship work dedicated to that project. If this happens, the skill mix at the yard will be destroyed and there will be no way for the yard to complete the *Kennedy* on time and to specification. This is the situation to which the Appropriations Committee referred to when it stated that, "The Committee is deeply concerned that the Navy is not assigning sufficient work to Philadelphia Naval Shipyard to keep the work force at adequate levels to perform the complex overhaul of the U.S.S. *Kennedy* on time and to specification."

The work devoted to carrier work at any one time should not exceed 75 percent to 80 percent of the total ship work in process to insure proper skill-mix balance and successful performance. In order to determine how much additional work will be required to achieve balance and insure on time, to specification performance on the *Kennedy*, the point of maximum work on the *Kennedy* must be ascertained. Work on the *Kennedy* in 1994 is scheduled to peak at approximately 2,350 mandays per day in the March through July period. This means that Philadelphia Naval Shipyard should be performing approximately 2,940 to 3,130 mandays of ship work per day at that time. This also means that in order to preserve the necessary skill mix, 2,940 to 3,130 mandays per day of ship repair work should be consistently performed at Philadelphia Naval Shipyard through that time.

As currently scheduled, the ship work in the Philadelphia Naval Shipyard drops dramatically from 4,166 to 2,154 mandays per day between October 1992 and January 1993, and decreases gradually from there to reach a low point of 1,787 mandays per day in December 1993. This will cause a reduction in force and commensurate layoff of over 1,000 skilled workers and more than 500 supporting staff. Most of these displaced workers will be forced to move from the area to find work since the local economy is already suffering from high unemployment. However, starting in January 1994 the U.S.S. *Kennedy* workload will increase toward its peak of 2,350 mandays per day. The work which the Appropriations Committee directs to be assigned to Philadelphia Naval Shipyard between now and June 1994 will prevent the impending loss of many skilled tradesman necessary to perform the *Kennedy* overhaul and help to sustain the requisite skill mix for successfully completing the *Kennedy* on time and to specifications.

Therefore, in order to fulfill the mandate of the Senate Appropriations Committee, the Navy must assign enough work to Philadelphia Naval Shipyard to maintain the performance of 2,940 mandays per day of ship work through the 1994 peak in *Kennedy* work.

Third, in what manner should the Secretary consider assignment of the U.S.S. *Biddle*, U.S.S. *Detroit*, and U.S.S. *Kidd* to Philadelphia Naval Shipyard?

The Appropriations Committee directed the Secretary of the Navy "to consider assigning the U.S.S. *Biddle*, the U.S.S. *Detroit*, and the U.S.S. *Kidd* to Philadelphia Naval Shipyard to provide work to keep the work force at sufficient levels" to complete the U.S.S. *Kennedy* on time and to specification.

While the committee stated that the Secretary should consider assigning this work to Philadelphia Naval Shipyard, this does not weaken its earlier explicit mandate that the Navy should assign to Philadelphia Naval Shipyard "such ship repair and maintenance work as will be necessary" to complete the *Kennedy* on time and to specification. As discussed above, this requires a work load of at least 2,940 mandays per day through the 1994 peak. In fact, if the Navy assigned to Philadelphia Naval Shipyard all three of the ships suggested for consideration by the Appropriations Committee, it would not completely fulfill this mandate.

As stated before, under its current schedule the workload at Philadelphia Naval Shipyard would drop dramatically from 4,166 to 2,154 mandays per day between October 1992 and January 1993. This necessitates assignment of repair projects to Philadelphia Naval Shipyard which will begin in January 1993.

In order to achieve this, the Appropriations Committee suggested the assignment of the U.S.S. *Biddle* (CG–34), a guided missile cruiser of the *Belknap* (CG–26) class which is homeported in Norfolk, VA. It is scheduled to undergo a repair availability from January through June 1993. The repairs and alterations are estimated to require 48,000 mandays and over $15 million. The work package will necessitate drydocking and includes hull, mechanical, electrical combat systems and electronics. The assignment of the *Biddle* to Philadelphia Naval Shipyard will significantly improve the workload for early and mid-1992, and will reduce the almost immediate loss of hundreds of skilled workers vital to the overhaul of the *Kennedy*.

If the Secretary is unable to assign the U.S.S. *Biddle* to Philadelphia Naval Shipyard, it can fulfill the Appropriations Committee mandate by assignment of the U.S.S. *Yorktown* (CG–48). This is an Aegis guided missile cruiser of the *Ticonderoga* (CG–47) class and is also homeported in Norfolk. It is scheduled to undergo a repair availability from January 1993 through April 1993. The repairs and alterations are estimated to require 36,000 mandays and over $11 million. The work package includes hull, mechanical, electrical, combat systems and electronics and will also require drydocking. Assignment of the U.S.S.

Yorktown to Philadelphia would be an ideal substitute for the *Biddle*, in both timing and workload, in the event the Navy is unable to assign the *Biddle's* work to Philadelphia Naval Shipyard.

The assignment of either of these work packages will fulfill the Appropriation Committee's mandate through mid-1993. Thereafter, the committee suggests and assignment to Philadelphia Naval Shipyard, of the U.S.S. *Detriot* (AOE–4), a fast combat support ship of the *Sacramento* (AOE–1) class which is homeported near Philadelphia in Earle, NJ. It is scheduled to undergo a phased maintenance availability from May through October 1993. The repairs and alterations are estimated to require 48,000 mandays and over $15 million. The work package includes hull, mechanical and electrical work, but is much less intensive in combat systems and electronics than is the work on a combatant such as the *Biddle*. The work will again require drydocking. The assignment of the *Detroit* to Philadelphia will maintain a constant level and trade mix of skilled workers from mid to late 1993.

Assignment of the U.S.S. *Lasalle* (AGF–3) to Philadelphia would be an ideal complement to the assignment of the *Detroit* in both timing and workload. The *Lasalle* is a communications command ship which traditionally serves as the flagship for the Commander of the Middle East Forces, and is homeported in Philadelphia. It is scheduled to undergo a regular overhaul from May through November 1993. The repairs and alterations are estimated to require 60,000 mandays and over $19 million. The work package includes hull, mechanical, electrical, and electronics work, and will require drydocking. The *Lasalle* would provide an even better trade skill mix than the *Detroit*, in that it has a higher level of electronic work scheduled, thus helping to retain those critical skills for the U.S.S. *Kennedy*.

After the Navy exercises the options above, it will still need to assign work to the Philadelphia Naval Shipyard for the second half of 1993. For this reason, the Appropriations Committee has suggested the assignment of the U.S.S. *Kidd* (DDG–993), a guided missile destroyer and lead ship of the *Kidd* class ships which is homeported in Staten Island, NY. It is scheduled to undergo a repair availability from June 1993 through January 1994. The repairs and alterations are estimated to require 19,000 mandays and over $6 million. The work package includes hull, mechanical, electrical, combat systems, and electronics, and will require drydocking. Assignment of the *Kidd* to Philadelphia will, in concert with the work on the *Detroit* and/or *LaSalle*, maintain the necessary level of work and trade mix through the end of the 1993 calendar year. This will ensure the availability of a trained work force for the *Kennedy*, particularly in the combat systems and electronics skills.

As the earlier analysis shows, in order to complete the U.S.S. *Kennedy* on time and to specifications, the Philadelphia Naval Shipyard must maintain this work level until the *Kennedy* workload reaches its peak in June 1994. In order to accomplish this, the Navy could assign to Philadelphia the U.S.S. *Turner* (CG–20), a guided missile cruiser of the *Leahy* (CG–16) class which is homeported in Charleston. It is scheduled to undergo a phased maintenance availability from December 1993 through July 1994. The repairs and alterations were originally estimated to require 65,000 mandays and over $20 million, but a decrease in the planned work has reduced this to 46,000 mandays and $15 million. However, older ships such as the *Turner* traditionally have large increases in the scope of work after the beginning of the overhaul, and the original estimate is probably close to the actual cost. The work will require drydocking and will include hull, mechanical, electrical, combat systems, and electronics. The assignment of the *Turner* to Philadelphia, although not in the legislative report language, will maintain the necessary level and mix of skills at the Philadelphia Naval Shipyard through the peak workload on the U.S.S. *Kennedy* in June 1994.

The various options for ship repair assignments which I have explained here are not the exclusive ways which the Navy could comply with the Appropriations Committee mandate. Other possible assignments include the scheduled work packages on the U.S.S. *Philippine Sea* (CG–58), the U.S.S. *Conolly* (DDG–979), the U.S.S. *Comte de Grasse* (DDG–974), the U.S.S. *Thomas Gates* (CG–51), the U.S.S. *Sprague* (FFG–16), and the U.S.S. *Saipan* (LHA–2).

Mr. Speaker, I am confident that the Navy will comply with the legal requirement of the fiscal year 1992 defense authorization bill that the complex overhaul of the U.S.S. *Kennedy* be completed at the Philadelphia Naval Shipyard, and with the mandate of the Appropriations Committee that sufficient work be assigned to the Philadelphia Naval Shipyard so that the *Kennedy* is completed on time and to specification. I hope that my remarks today have made clear for the Navy what steps need to be taken to comply with these mandates. I look forward to working with the Navy to see that these requirements are met.

CONFERENCE REPORT ON H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. MILLER of California submitted the following conference report and statement on the bill (H.R. 429) to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–1016)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 429), to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu, of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term "Secretary" means the Secretary of the Interior.

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TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(a) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(b) In section 102, amend the heading to read "recreational facilities, conservation, and fish and wildlife", and add at the end "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(c) In section 106(a), strike "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and insert "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)", and strike "modifications" and all that follows and insert "modifications." in lieu thereof.

(d) There are authorized to be appropriated such sums as may be required due to increased costs of construction attributable to delays in enactment of any additional authorization of appropriations for the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities; Provided, that such additional sums shall be nonreimbursable and nonreturnable under the Federal reclamation laws.

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE AND DEFINITIONS FOR TITLES II–VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) DEFINITIONS.—For the purposes of titles II–VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comment on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 30, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $924,206,000 (January 1991) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: Provided, however, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in the Report of the Senate Committee on Energy and Natural Resources accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88–45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant;

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development;

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with the District for construction of such project, and (2) the Secretary has requested, or the Congress has appropriated, construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made immediately available in their entirety to the District and the Commission as provided for pursuant to the provisions of this Act.

(e) SECRETARIAL RESPONSIBILITY.—The Secretary is responsible for carrying out the responsibilities as specifically identified in this Act and may not delegate his responsibilities under this Act to the Bureau of Reclamation. The District at its sole option may use the services of the Bureau of Reclamation on any project features.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriate for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph.

Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) in lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(1). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in Section 207(e)(2) for related purposes.

(C) The feasibility study and the Project construction authorization shall be subject to the non-federal contribution requirements of Section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(3) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(3). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(3).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) PROVO RIVER STUDIES.—(A) $2,000,000 for the District to conduct, with public involvement:

(i) a hydrologic study that includes a hydrologic model analysis of the Provo River Basin with all tributaries, water imports and exports, and diversions, an analysis of expected flows and storage under varying water conditions, and a comparison of steady state conditions with proposed demands being placed on the river and affected water resources, including historical diversions, decrees, and water rights, and

(ii) a feasibility study of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The studies shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified. In addition to funds appropriated after the enactment of this Act, the Secretary is authorized to utilize Section 8 funds which may be available from FY 1993 appropriations for the Central Utah Project for the purposes of carrying out the studies described in this paragraph.

(B) The cost of the studies provided for in subparagraph (A) shall be treated as an expense under section 8: Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed. Within its available

funds, the U.S. Geological Survey is directed to consult with the District in the preparation of the study identified in subparagraph (5)(A)(1).

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(6). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within Sections 2 and 13, T. 3 S., R. 12 W., and Sections 7 and 8, T. 3 S., R. 11 W., Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

(c) The Secretary is authorized to utilize any unexpended budget authority provided in title II and such funds as may be provided by the Commission for fish and wildlife purposes, to provide 65 percent Federal share pursuant to section 204, of engineering, design, and construction of Hatchtown dam in Garfield County and associated facilities to deliver supplemental project water from Hatchtown dam. The District shall establish a viable minimum conservation pool in Hatchtown dam and shall ensure maintenance of viable instream flows in the Sevier River between Hatchtown dam and the Piute dam with the concurrence of the Commission and in consultation with the Division of Wildlife Resources of the State of Utah. The District shall comply with the provisions of section 202(a)(1) with respect to the features to be provided for in this subparagraph.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no federally appropriated funds for such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTORS.—Amounts authorized to carry out section (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 203(a). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43–3825 (Application No. A36642) and Water Right No. 43–3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6–05–01–00143, as last revised on September 19, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, U.S. Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total reimbursable costs and shall be paid concurrently with the Federal share, except that for the facilities specified in 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by section 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Within 120 days of enactment of this Act, the Secretary shall execute a cost sharing agreement which binds the District to provide annually such sums as may be required to satisfy the non-Federal share of the separate features authorized and approved for construction pursuant to this Act. The Secretary is not authorized to broaden the scope of the cost sharing agreement beyond assuring that the non-Federal interests will satisfy the cost sharing provisions as set forth in this section Any feature to which this section applies shall not be initiated until after the non-Federal interests enter into a cost sharing agreement with the Secretary to provide the share required by this section. The District may commence any study authorized herein prior to entering into a cost sharing agreement, and upon execution of a cost sharing agreement the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, federally appropriated funds may not be obligated or expended by the District for construction of the features authorized in section 202(a)(1) or 203 until—

(1) the District completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the U.S. Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to the District until the District enters into a binding agreement with the Secretary to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act. The Secretary shall execute such binding agreement within 120 days of enactment of this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make sums available to the District as required by the District, for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65% of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses;

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25% of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10% of recorded annual water deliveries.

The minimum goal for the District shall be thirty thousand acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and,

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally acceptable measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Each plan or plan supplement shall be technically sound, internally consistent and supported by objective analysis.

Not less than 90 days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(b) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water, environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account.

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 302(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50% of the water conservation goal within seven years after submission of the initial plan and 100% of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been satisfied; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the U.S. Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1994, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are:

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will:

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and groundwater supplies and storage capability.

The District may incorporate measures developed by the study of the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50% of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. The Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65% of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b) and shall thereafter be available for the purposes of this paragraph. The Federal share shall be allocated between the purposes of municipal and industrial water supply and irrigation, as appropriate, and shall be repaid in the manner of repayment for each such purpose.

(f) Utah Water Conservation Advisory Board.—(1) Within two years of the date of enactment of this Act, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.)

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction;

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems;

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D) or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved after January 1, 1992, by a conservation measure which is placed on the active inventory shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Within three years of the date of enactment of this Act, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgement of the Board, will be most likely to be promulgated within four years of the date of enactment of this Act, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) Compliance.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after 90 days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, five percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(B) for the second year of substantial noncompliance, ten percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, fifteen percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within 12 months after the first determination of substantial noncompliance, the Secretary shall refund 100% of the surcharge levied.

(h) Reclamation Reform Act of 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) Judicial Review.—(1) For the purposes of sections 701 through 706 of Title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of Title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of Title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) Citizen Suits.—(1) In General.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) Jurisdiction and venue.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) Limitations.—(A) No action may be commenced under paragraph (1) before 60 days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) Costs awarded by the court.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) Disclaimer.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) Preservation of State Law.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) Limitation.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) Colorado River Basin Waters.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes in prohibited.

SEC. 209. OPERATING AGREEMENTS.

The district, in consultation with the Commission and the Utah Division of Water Rights, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir within two years of the date of enactment of this Act.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary may prescribe, and within one year of the date of enactment of this Act, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be nec-

essary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. SURPLUS CORPS.

Notwithstanding any other provision of law relating to a charge for irrigation water supplies to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949, as amended, if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) Purpose.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation, and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) Establishment.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) Duties.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) Membership.—(1) The Commission shall be composed of 5 members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives representing the State.

(B) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the members of the Senate representing the State.

(C) 1 from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) 1 from a list of residents of the State submitted by the District.

(E) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of 4 years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of 3 years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of 2 years.

(3) A vacancy in the Commission shall be filled within 90 days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be 1 year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) Director and Staff of Commission; Use of Consultants.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of Title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) Implementation of Mitigation and Conservation Measures.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) Reallocation of section 8 funds.—Notwithstanding any provision of this act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: Provided, however, That the Commission shall obtain the prior approval of the U.S. Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) Funding for NEPA compliance.—The Commission shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for project features constructed pursuant to titles II and III of this Act.

(4) Contracting authority.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment,

modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, non-profit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(g) Planning and Reporting.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) Final Plan.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) Public Involvement and Agency Consultation.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than 90 days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) Agency Consultation.—Commission plans developed in accordance with this subsection, or implemented under subsection (f), that affect National Forest System lands shall be developed and implemented in consultation with the Secretary of Agriculture.

(6) Reporting.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least 60 days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) Discretionary Duties and Powers.—In addition to any other duties and powers provided by law—

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation: Provided, however, That the commission shall obtain the prior approval of the U.S. Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act,

(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and

(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (l) or condemnation proceedings initiated by other agencies.

(i) Funding.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 402(b)(3)(C).

(j) Availability of Unexpended Amounts Upon Completion of Construction Projects.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the Account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) Transfer of Property and Authority Held by the Commission.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of federal land ownerships, to the appropriate federal agency.

(l) Representation by Attorney General.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) Congressional Oversight.—The activities of the Commission shall be subject to oversight by the Congress.

(n) Termination of Bureau Activities.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within 30 days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) the District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the U.S. Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A)The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within 30 days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the U.S. Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(A) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the

Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of federal land ownerships, to the appropriate federal agency, for management as a big game winter range. In the case of such transfers, lands acquired within the boundaries of a national forest shall be administered by the Secretary of Agriculture as a part of the National Forest System. Of the amounts authorized to be appropriated by Section 201, $1,300,000 shall be available only for the purposes of this subsection.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by Section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a Federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2000 feet out into the Bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm watery fishery and other related issues; and

(B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.

(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS

(a) REVISION OF PLAN.—(1) The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV-166, dated 1987), to a level of practical necessity.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trail, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 For the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.

(b) The sections referred to in subsection (a) of this section are as follows: Title III, and 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreage, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—(1) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102–267).

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102–267).

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Waiver Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increases production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the U.S. Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, three percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to:

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the order purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will:

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Instream flows:				
1.a. Lease of Daniels Creek water rights	$500	$500	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$10,0000	$10,000	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$15,000	$5,000	$5,000	5,000
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$4,000	$500	$1,500	$1,500
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$500	$100	$100	$100
Subtotal	$30,000	$16,100	$6,000	$6,600

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	*Appropriations (Thousands of 1990 Dollars)*			
	TOTAL	*FY93*	*FY94*	*FY95*
	FY96	*FY97*	*FY98*	
Instream flows:				
1.a. Lease of Daniels Creek water rights	*$0*	*$0*	*$0*	
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	*$0*	*$0*	*$0*	
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	*$0*	*$0*	*$0*	
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	*$500*	*$0*	*$0*	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	*$100*	*$100*	*0*	
Subtotal	*$600*	*$100*	*$0*	
	TOTAL	*FY93*	*FY94*	*FY95*
Wildlife lands and improvement:				
1. Acquisition of big game winter range [Sec. 305(a)]	*$1,300*	*$0*	*$100*	*$200*
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	*$750*	*$0*	*$0*	*$250*
Subtotal	*$2,050*	*$0*	*$100*	*$450*
	FY96	*FY97*	*FY98*	
Wildlife lands and improvement:				
1. Acquisition of big game winter range [Sec. 305(a)]	*$500*	*$500*	*$0*	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	*$250*	*$250*	*$0*	
Subtotal	*$750*	*$750*	*$0*	
	TOTAL	*FY93*	*FY94*	*FY95*
Wetland acquisition, rehabilitation, and development:				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	*$14,000*	*$1,000*	*$2,600*	*$2,600*
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	*$7,000*	*$300*	*$1,200*	*$1,500*
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	*$1,500*	*$250*	*$250*	*$250*
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	*$16,690*	*$1,690*	*$3,000*	*$3,000*
Subtotal	*$39,190*	*$3,240*	*$7,050*	*$7,350*
	FY96	*FY97*	*FY98*	
Wetland acquisition, rehabilitation, and development:				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	*$2,600*	*$2,600*	*$2,600*	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	*$2,000*	*$2,600*	*$0*	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	*$250*	*$250*	*$250*	
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	*$3,000*	*$3,000*	*$3,000*	
Subtotal	*$7,850*	*$7,850*	*$5,850*	
	TOTAL	*FY93*	*FY94*	*FY95*
Fisheries acquisition and restoration:				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	*$750*	*$50*	*$0*	*$100*
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	*$4,000*	*$0*	*$400*	*$600*
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	*$1,000*	*$200*	*$200*	*$200*
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	*$1,500*	*$300*	*$300*	*$300*
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	*$1,000*	*$150*	*$150*	*$200*
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	*$1,000*	*$0*	*$0*	*$0*
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	*$475*	*$50*	*$50*	*$75*
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	*$1,150*	*$0*	*$0*	*$100*
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	*$5,000*	*$0*	*$0*	*$0*
10. Department of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	*$22,800*	*$100*	*$3,500*	*$4,200*
Subtotal	*$38,675*	*$85-*	*$4,600*	*$5,775*
	FY96	*FY97*	*FY98*	
Fisheries acquisition and restoration:				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	*$200*	*$200*	*$200*	
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	*$1,000*	*$1,000*	*$1,000*	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	*$200*	*$200*	*$0*	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	*Appropriations (Thousands of 1990 Dollars)*			
	TOTAL	*FY93*	*FY94*	*FY95*
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	*$300*	*$300*	*$0*	
5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]	*$150*	*$150*	*$200*	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	*$100*	*$500*	*$400*	
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	*$100*	*$100*	*$100*	
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	*$300*	*$400*	*$350*	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	*$500*	*$2,000*	*$2,500*	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	*$5,000*	*$5,000*	*$5,000*	
Subtotal	*$7,850*	*$9,850*	*$9,750*	
	TOTAL	*FY93*	*FY94*	*FY95*
Watershed Improvements:				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	*$2,500*	*$0*	*$500*	*$500*
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	*$1,125*	*$125*	*$200*	*$200*
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	*$4,000*	*$500*	*$700*	*$700*
Subtotal	*$7,625*	*$625*	*$1,400*	*$1,400*
	FY96	*FY97*	*FY98*	
Watershed Improvements:				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	*$500*	*$500*	*$500*	
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	*$200*	*$200*	*$200*	
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	*$700*	*$700*	*$700*	
Subtotal	*$1,400*	*1,400*	*1,400*	
	TOTAL	*FY93*	*FY94*	*FY95*
Stream Access and Riparian Habitat Development:				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	*$750*	*$0*	*$250*	*$250*
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	*$250*	*$0*	*$0*	*$50*
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	*$350*	*$0*	*$0*	*$50*
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	*$8,500*	*$500*	*$1,000*	*$1,500*
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	*$400*	*$50*	*$75*	*$75*
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	*$750*	*$75*	*$75*	*$150*
Subtotal	*$11,000*	*$625*	*$1,400*	*$2,075*
	FY96	*FY97*	*FY98*	
Stream Access and Riparian Habitat Development:				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	*$250*	*$0*	*$0*	
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	*$100*	*$100*	*$0*	
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	*$100*	*$100*	*$100*	
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	*$1,500*	*$2,000*	*$2,000*	
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	*$75*	*$75*	*$50*	
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	*$150*	*$150*	*$150*	
Subtotal	*$2,175*	*$2,425*	*$2,300*	
	TOTAL	*FY93*	*FY94*	*FY95*
Recreation funds:				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	*$2,000*	*$125*	*$275*	*$400*
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	*$750*	*$50*	*$100*	*$150*
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	*$1,000*	*$0*	*$75*	*$75*
4. Provo River corridor development [Sec. 311(e)]	*$1,000*	*$0*	*$75*	*$75*
Subtotal	*$4,750*	*$175*	*$525*	*$700*
Total Additional	*$133,290*	*$21,615*	*$21,675*	*$24,350*
	FY96	*FY97*	*FY98*	
Recreation funds:				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	*$400*	*$400*	*$400*	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$150	$150	$150	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$200	$300	$350	
4. Provo River corridor development [Sec. 311(e)]	$200	$300	$350	
Subtotal	$950	$1,150	$1,250	
Total Additional	$21,575	$23,525	$20,550	
	TOTAL	FY93	FY94	FY95
Strawberry collection system:				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$2,700	$900	$900	$900
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$3,990	$666	$803	$790
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$3,000	$600	$600	$600
Subtotal	$9,690	$3,966	$1,403	$1,390
	FY96	FY97	FY98	
Strawberry collection system:				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$453	$604	$674	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$600	$600	$0	
Subtotal	$1,053	$1,204	$674	
	TOTAL	FY93	FY94	FY95
Duchesne canal rehabilitation:				
1. Acquire and develop 782 acres along Duchesne River	$160	$160	$0	$0
Subtotal	$160	$160	$0	$0
	FY96	FY97	FY98	
Duchesne canal rehabilitation:				
1. Acquire and develop 782 acres along Duchesne River	$0	$0	$0	
Subtotal	$0	$0	$0	
	TOTAL	FY93	FY94	FY95
Municipal and industry system:				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$226	$100	$126	$0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$525	$525	$0
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$900	$0	$0
Subtotal	$2,176	$1,525	$651	$0
Total DPR	$12,026	5,651	2,054	$1,390
Grand Total	$145,316	$27,266	23,729	$25,740
	FY96	FY97	FY98	
Municipal and industry system:				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	
Subtotal	$0	$0	$0	
Total DPR	$1,053	$1,204	$674	
Grand Total	$22,628	$24,729	$21,224	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant states in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colo-

rado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this Title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-federal funds from the District.

(B) $5,000,000 annually by the Secretary of Energy out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPECTED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b)(1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive:

(A) All amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the U.S. Forest Service, the Bureau of Land Management of the Department of the Interior, and the U.S. Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following—

(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing one year after the date of enactment of this Act, and continuing for 50 years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonne-

ville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to re-ratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact; Provided, however, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to the appropriated by section 501, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year-period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all nongame fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases into Rock Creek to maintain 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $3,000,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Pan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Plan shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of

September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) Resurrection of Claims.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. AUTHORIZATION.

The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by said treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, in order that water flowing from the Leadville Tunnel may meet water quality standards, and to contract with the Colorado Division of Wildlife to monitor concentrations of heavy metal contaminants in water, stream sediment, and aquatic life in the Arkansas River downstream of the water treatment plant.

SEC. 702. COSTS NONREIMBURSABLE.

Construction, operation, and maintenance costs of the works authorized by this title shall be nonreimbursable.

SEC. 703. OPERATION AND MAINTENANCE.

The Secretary shall be responsible for operation and maintenance of the water treatment plant, including sludge disposal authorized by this title. The Secretary may contract for these services.

SEC. 704. APPROPRIATIONS AUTHORIZED.

There is hereby authorized to be appropriated beginning October 1, 1989, for construction of a water treatment plant for water flowing from the Leadville Mine Drainage Tunnel, including sludge disposal, and concrete lining the rehabilitated portion of the tunnel, the sum of $10,700,000 (October 1988 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation and maintenance of the works authorized by this title, including but not limited to $1,250,000 which shall be for a program to be conducted by the Colorado Division of Wildlife to monitor heavy metal concentrations in water, stream sediment, and aquatic life in the Arkansas River.

SEC. 705. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel.

SEC. 706. DESIGN AND OPERATION NOTIFICATION.

Prior to the initiation of construction and during construction of the works authorized by section 701, the Secretary shall submit the plans for design and operation of the works to the Administrator of the Environmental Protection Agency and the State of Colorado to obtain their views on the design and operation plans. After such review and consultation, the Secretary shall notify the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the discharge from the works to be constructed will meet the requirements set forth in Federal Facilities Compliance Agreement No. FFCA 89-1, entered into by the Bureau of Reclamation and the Environmental Protection Agency on February 7, 1989, and in National Pollutant Discharge Elimination System permit No. CO 0021717 issued to the Bureau of Reclamation in 1975 and reissued in 1979 and 1981.

SEC. 707. FISH AND WILDLIFE RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, to formulate and implement, subject to the terms of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River Basin impacted by the effluent discharged from the Leadville Mine Drainage Tunnel. The formulation of the program shall be undertaken with appropriate public consultation.

(b) Prior to implementing the fish and wildlife restoration program, the Secretary shall submit a copy of the proposed restoration program to the President Pro Tempore of the Senate and the Speaker of the House of Representatives for a period of not less than sixty days.

SEC. 708. WATER QUALITY RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, the Administrator of the Environmental Protection Agency, and other Federal entities, to conduct investigations of water pollution sources and impacts attributed to mining-related and other development in the Upper Arkansas River basin, to develop corrective action plans, and to implement corrective action demonstration projects. Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act for costs or damages as a result of actions taken or omitted in the course of implementing an approved work plan developed under this section; Provided, That this subsection shall not preclude liability for costs or damages which result from negligence on the part of such persons. The Secretary shall have no authority under this section at facilities which have been listed or proposed for listing on the National Priorities List, or are subject to or covered by the Resource Conservation and Recovery Act. For the purpose of this section, the term "Upper Arkansas River basin" means the Arkansas River hydrologic basin in Colorado extending from Pueblo Dam upstream to its headwaters.

(b) The development of all corrective action plans and subsequent corrective action demonstration projects shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations promulgated under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Administrator of the Environmental Protection Agency.

(c) The Secretary shall arrange for cost sharing with the State of Colorado and for the use of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans. The Federal share of costs associated with corrective action plans shall not exceed 60 percent.

(d) Prior to implementing any corrective action demonstration project, the Secretary shall submit a copy of the proposed project plans to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(e) Nothing in this title shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.

(f) There is authorized to be appropriated such sums as may be required to fulfill the provisions of sections 707 and 708 of this title.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

SEC. 801. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY.

(a) Authority to Contract.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) Construction Contingent on Contract.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) Canadian River Municipal Water Authority Share.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) Federal Share.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) Preconstruction.—The Secretary shall, upon entering into the contract specified in sec-

tion 802 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) Termination of Construction.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 805. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 806. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION.

The Secretary, pursuant to the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create:

(a) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(b) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, water sales, fish, wildlife, and recreation purposes; and for other purposes.

SEC. 902. CONTRACT.

The Secretary is authorized to enter into a contract with the State of Kansas for the sale, use, and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT.

(1) The Secretary is authorized to enter into a contract with the State of Kansas, accepting a payment of $365,424, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir, as full satisfaction of reimbursable costs associated with irrigation of the Cedar Bluff Unit, including the Cedar Bluff Irrigation District's obligations under Contract No. 0–07–70–W0064. After the reformulation of the Cedar Bluff Unit authorized by this title, any revenues in excess of operating and maintenance expenses received by the State of Kansas from the sale or water from the Cedar Bluff Unit shall be paid to the United States and covered into the reclamation Fund to the extent that an operation, maintenance and replacement charge or reimbursable capital obligation exists for the Cedar Bluff Unit under Reclamation law. Once all such operation, maintenance and replacement charges or reimbursable obligations are satisfied, any additional revenues shall be retained by the State of Kansas.

(b) The Secretary is authorized to transfer title of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary is authorized to transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached.

SEC. 905. LIABILITY AND INDEMNIFICATION.

The transferee of any interest conveyed pursuant to this title shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 906. ADDITIONAL ACTIONS.

The Secretary is authorized to take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—SOUTH DAKOTA WATER PLANNING STUDIES

SEC. 1001. AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

(a) The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100–516).

(b) Section 3(f) of Public Law 100–516 is hereby amended to insert a new subsection (3) as follows:

"(3) Notwithstanding subsections (1) and (2), the Secretary is authorized and directed to obligate up to $1.466 million of the funds appropriated under Public Law 100–516 to construct an interim water system for the White Clay and Wakpamni Districts of the Pine Ridge Indian Reservation as soon as the final engineering report for that segment of the Oglala Rural Water Supply System has been completed and the requirements of the National Environmental Policy Act of 1969 for that segment of the System have been met."

TITLE XI—SALTON SEA RESEARCH PROJECT, CALIFORNIA

SEC. 1101. RESEARCH PROJECT.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity, provide endangered species habitat, enhance fisheries, and protect human recreational values in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding inwater segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 50 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1201. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1203, to the interstate compact, described in section 1202, relating to the waters of the Sabine River and its tributaries.

SEC. 1202. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 1203. AMENDMENT.

The amendment referred to in section 1201 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: Provided, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XIII—SALT-GILA AQUEDUCT, ARIZONA

SEC. 1301. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1302. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1301 hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XIV—VERMEJO PROJECT RELIEF, NEW MEXICO

Section 401 of the Act of December 19, 1980, (94 Stat. 3227) is amended by striking the text that begins: "Transfer of project facilities to the district shall be without . . ." and ends with ". . . shall be maintained consistently with existing arrangements" and inserting in lieu thereof "Effective as of the date of the written consent of the Vermejo Conservancy District to amend contract 178r-458, all facilities are hereby transferred to the District. The transfer to the district of project facilities shall be without any additional consideration in excess of the existing repayment contract of the district and shall include all related lands or interest in lands acquired by the Federal Government for the project, but shall not include any lands or interests in land, or interests in water, purchased by the Federal Government from various landowners in the district, consisting of approximately 2,800 acres, for the Maxwell Wildlife Refuge and shall not include certain contractual arrangements, namely Contract No. 14-06-500-1713 between the Bureau of Reclamation and the Bureau of Sport Fisheries and Wildlife, and concurred in by the district, dated December 5, 1969, and the lease agreement between the district and the Secretary dated January 17, 1992, and expiring January 17, 1995, for 468.38 acres under the district's Lakes 12 and 14, which contractual arrangements shall be maintained consistent with the terms thereof. The Secretary, acting through the United States Fish and Wildlife Service, shall retain the right to manage Lake 13 for the conservation, maintenance, and development of the area as a component of the Maxwell National Wildlife Refuge in accordance with Contract 14-06-500-1713 and in a manner that does not interfere with operation of the Lake 13 dam and reservoir for the primary purposes of the Vermejo Reclamation Project."

TITLE XV—SAN LUIS VALLEY PROTECTION, COLORADO

SEC. 1501 PERMIT ISSUANCE PROHIBITED.

(a) No agency or instrumentality of the United States shall issue any permit, license, right-of-way, grant, loan or other authorization or assistance for any project or feature of any project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or export to any portion of another State, unless the Secretary of the Interior determines, after due consideration of all findings provided by the Colorado Water Conservation Board, that the project will not:

(1) increase the costs or negatively affect operation of the Closed Basin Project;

(2) adversely affect the purposes of any national wildlife refuge or federal wildlife habitat area withdrawal located in the San Luis Valley, Colorado; or

(3) adversely affect the purposes of the Great Sand Dunes National Monument, Colorado.

(b) Nothing in this title shall be construed to alter, amend, or limit any provision of Federal or State law that applies to any project or feature of a project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or another State. Nothing in this title shall be construed to limit any agency's authority or responsibility to reject, limit, or condition any such project on any basis independent of the requirements of this title.

SEC. 1502. JUDICIAL REVIEW.

The Secretary's findings required by this title shall be subject to judicial review in the United States district courts.

SEC. 1503. COSTS.

The direct and indirect costs of the findings required by section 1501 of this title shall be paid in advance by the project proponent under terms and conditions set by the Secretary.

SEC. 1504. DISCLAIMERS.

(a) Nothing in this title shall constitute either an expressed or implied reservation of water or water rights.

(b) Nothing in this title shall be construed as establishing a precedent with regard to any other federal reclamation project.

TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

SEC. 1601. SHORT TITLE.

This title may be referred to as the "Reclamation Wastewater and Groundwater Study and facilities Act".

SEC. 1602. GENERAL AUTHORITY.

(a) The Secretary of the Interior (hereafter "Secretary"), acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter "Federal reclamation laws"), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

(b) Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended.

(c) The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of this title.

(d) The Secretary shall not investigate, promote or implement, pursuant to this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

SEC. 1603. APPRAISAL INVESTIGATIONS.

(a) The Secretary shall undertake appraisal investigations to identify opportunities for water reclamation and reuse. Each such investigation shall take into account environmental considerations as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof, and shall include recommendations as to the preparation of a feasibility study of the potential reclamation and reuse measures.

(b) Appraisal investigations undertaken pursuant to this title shall consider, among other things—

(1) all potential uses of reclaimed water, including, but not limited to, environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation;

(2) the current status of water reclamation technology and opportunities for development of improved technologies;

(3) measures to stimulate demand for and eliminate obstacles to use of reclaimed water, including pricing;

(4) measures to coordinate and streamline local, state and Federal permitting procedures required for the implementation of reclamation projects; and

(5) measures to identify basic research needs required to expand the uses of reclaimed water in a safe and environmentally sound manner.

(c) The Secretary shall consult and cooperate with appropriate State, regional, and local authorities during the conduct of each appraisal investigation conducted pursuant to this title.

(d) Costs of such appraisal investigations shall be nonreimbursable.

SEC. 1604. FEASIBILITY STUDIES.

(a) The Secretary is authorized to participate with appropriate Federal, State, regional, and local authorities in studies to determine the feasibility of water reclamation and reuse projects recommended for such study pursuant to section 1603 of this title. The Federal share of the costs of such feasibility studies shall not exceed 50 per centum of the total, except that the Secretary may increase the Federal share of the costs of such feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the non-Federal participant, that the non-Federal participant is unable to contribute at least 50 per centum of the costs of such study. The Secretary may accept as part of the non-Federal cost share the contribution of such in-kind services by the non-Federal participant that the Secretary determines will contribute substantially toward the conduct and completion of the study.

(b) The Federal share of feasibility studies, including those described in sections 1606 and 1608 through 1610 of this title, shall be considered as project costs and shall be reimbursed in accordance with the Federal reclamation laws, if the project studied is implemented.

(c) In addition to the requirements of other Federal laws, feasibility studies authorized under this title shall consider, among other things—

(1) near- and long-term water demand and supplies in the study area;

(2) all potential uses for reclaimed water;

(3) measures and technologies available for water reclamation, distribution, and reuse;

(4) public health and environmental quality issues associated with use of reclaimed water; and,

(5) whether development of the water reclamation and reuse measures under study would—

(A) reduce, postpone, or eliminate development of new or expanded water supplies, or

(B) reduce or eliminate the use of existing diversions from natural watercourses or withdrawals from aquifers.

SEC. 1605. RESEARCH AND DEMONSTRATION PROJECTS.

The Secretary is authorized to conduct research and to construct, operate, and maintain cooperative demonstration projects for the development and demonstration of appropriate treatment technologies for the reclamation of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters. The Federal share of the costs of demonstration projects shall not exceed 50 percent of the total cost including operation and maintenance. Rights to inventions developed pursuant to this section shall be governed by the provisions of the Stevenson-Technology Innovation Act of 1980 (Pub L. 96-480) as amended by the Technology Transfer Act of 1986 (Pub. L. 99-502).

SEC. 1606. SOUTHERN CALIFORNIA COMPREHENSIVE WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized to conduct a study to assess the feasibility of a comprehensive water reclamation and reuse system for Southern California. For the purpose of this title, the term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, Sand Bernadino, Riverside, San Diego, and Ventura within the south coast and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(b) The Secretary shall conduct the study authorized by this section in cooperation with the

State of California and appropriate local and regional entities. The Federal share of the costs associated with this study shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than six years after appropriation of funds authorized by this title.

SEC. 1607. SAN JOSE AREA WATER RECLAMATION AND REUSE PROGRAM.

(a) The Secretary, in cooperation with the city of San Jose, California, and the Santa Clara Valley Water District, and local water suppliers, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Jose metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1608. PHOENIX METROPOLITAN WATER RECLAMATION STUDY AND PROGRAM.

(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall conduct a feasibility study of the potential for development of facilities to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge and direct potable reuse in the Phoenix metropolitan area, and in cooperation with the city of Phoenix design and construct facilities for environmental purposes, ground water recharge and direct potable reuse.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total. The Federal share of the costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1609. TUCSON AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the State of Arizona and appropriate local and regional entities, shall conduct a feasibility study of comprehensive water reclamation and reuse system for Southern Arizona. For the purpose of this section, the term "Southern Arizona" means those portions of the counties of Pima, Santa Cruz, and Pinal within the Tucson Active Management Hydrologic Area as defined by the Arizona Department of Water Resources.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1610. LAKE CHERAW WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized, in cooperation with the State of Colorado and appropriate local and regional entities, to conduct a study to assess and develop means of reclaiming the waters of Lake Cheraw, Colorado, or otherwise ameliorating, controlling and mitigating potential negative impacts of pollution in the waters of Lake Cheraw on groundwater resources or the waters of the Arkansas River.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1611. SAN FRANCISCO AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the city and county of San Francisco, shall conduct a feasibility study of the potential for development of demonstration and permanent facilities to reclaim water in the San Francisco area for the purposes of export and reuse elsewhere in California.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1612. SAN DIEGO AREA WATER RECLAMATION PROGRAM.

(a) The Secretary, in cooperation with the city of San Diego, California or its successor agency in the management of the San Diego Area Wastewater Management District, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Diego metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1613. LOS ANGELES AREA WATER RECLAMATION AND REUSE PROJECT.

(a) The Secretary is authorized to participate with the city and county of Los Angeles, State of California, West Basin Municipal Water District, and other appropriate authorities, in the design, planning, and construction of water reclamation and reuse projects to treat approximately one hundred and twenty thousand acre-feet per year of effluent from the city and county of Los Angeles, in order to provide new water supplies for industrial, environmental, and other beneficial purposes, to reduce the demand for imported water, and to reduce sewage effluent discharged into Santa Monica Bay.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

SEC. 1614. SAN GABRIEL BASIN DEMONSTRATION PROJECT.

(a) The Secretary, in cooperation with the Metropolitan Water District of Southern California and the Main San Gabriel Water Quality Authority or a successor public agency, is authorized to participate in the design, planning and construction of a conjunctive-use facility designed to improve the water quality in the San Gabriel groundwater basin and allow the utilization of the basin as a water storage facility; Provided, That this authority shall not be construed to limit the authority of the United States under any other Federal statute to pursue remedial actions or recovery of costs for work performed pursuant to this subsection.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1615. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of sections 1601 through 1614 of this title.

SEC. 1616. GROUNDWATER STUDY.

(a) In furtherance of the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), the Secretary of the Interior, acting through the Bureau of Reclamation and Geological Survey, shall conduct an investigation and analysis of the impacts of existing Bureau of Reclamation projects on the quality and quantity of groundwater resources. Based on such investigation and analysis, the Secretary shall prepare a reclamation groundwater management and technical assistance report which shall include—

(1) a description of the findings of the investigation and analysis, including the methodology employed;

(2) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on groundwater, and

(3) The Secretary's recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a groundwater management and technical assistance program in the Department of the Interior in order to assist Federal and non-Federal entity development and implementation of groundwater management plans and activities.

(b) In conducting the investigation and analysis, and in preparation of the report referred to in this section, the Secretary shall consult with the Governors of the affected States.

(c) The report shall be submitted to the Committees on Appropriations and Interior and Insular Affairs of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate within three years of the appropriation of funds authorized by section 1617.

SEC. 1617. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $4,000,000 to carry out the study authorized by section 1616.

TITLE XVII—IRRIGATION ON STANDING ROCK INDIAN RESERVATION, NORTH DAKOTA

SEC. 1701. IRRIGATION ON STANDING ROCK INDIAN RESERVATION.

(a) Section 5(e) of Public Law 89-108, as amended by section 3 of the Garrison Diversion Unit Reformulation Act of 1986 (Pub. L. 99-294), is amended by striking "Fort Yates" and inserting "one or more locations within the Standing Rock Indian Reservation".

(b) Section 10 of Public Law 89-108, as amended by section 8 of Public Law 99-294, is further amended by adding subsection (e) as follows:

"(e) The portion of the $61 million authorized for Indian municipal, rural, and industrial water features shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after October 1, 1986, as indicated by engineering costs indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged."

TITLE XVIII—GRAND CANYON PROTECTION

SEC. 1801. SHORT TITLE.

This Act may be cited as the "Grand Canyon Protection Act of 1992".

SEC. 1802. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam in accordance with the addi-

tional criteria and operating plans specified in section 1804 and exercise other authorities under existing law in such a manner as to project, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established, including, but not limited to natural and cultural resources and visitor use.

(b) COMPLIANCE WITH EXISTING LAW.—The Secretary shall implement this section in a manner fully consistent with and subject to the Colorado River Compact, the Upper Colorado River Basin Compact, the Water Treaty of 1944 with Mexico, the decree of the Supreme Court in Arizona v. California, and the provisions of the Colorado River Storage Project Act of 1956 and the Colorado River Basin Project Act of 1968 that govern allocation, appropriation, development, and exportation of the waters of the Colorado River basin.

(c) RULE OF CONSTRUCTION.—Nothing in this title alters the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or affects the authority and responsibility of the Secretary with respect to the management and administration of the Grand Canyon National Park and Glen Canyon National Recreation Area, including natural and cultural resources and visitor use, under laws applicable to those areas, including, but not limited to, the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented.

SEC. 1803. INTERIM PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) INTERIM OPERATIONS.—Pending compliance by the Secretary with section 1804, the Secretary shall, on an interim basis, continue to operate Glen Canyon Dam under the Secretary's announced interim operating criteria and the Interagency Agreement between the Bureau of Reclamation and the Western Area Power Administration executed October 2, 1991 and exercise other authorities under existing law, in accordance with the standards set forth in Section 1802, utilizing the best and most recent scientific data available.

(b) CONSULTATION.—The Secretary shall continue to implement Interim Operations in consultation with—

(1) Appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) The Secretary of Energy;

(3) The Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) Indian Tribes; and

(5) The general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) DEVIATION FROM INTERIM OPERATIONS.—The Secretary may deviate from Interim Operations upon a finding that deviation is necessary and in the public interest to—

(1) comply with the requirements of Section 1804(a);

(2) respond to hydrologic extremes or power system operation emergencies;

(3) comply with the standards set forth in Section 1802;

(4) respond to advances in scientific data; or

(5) comply with the terms of the Interagency Agreement.

(d) TERMINATION OF INTERIM OPERATIONS.—Interim operations described in this section shall terminate upon compliance by the Secretary with Section 1804.

SEC. 1804. GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; LONG-TERM OPERATION OF GLEN CANYON DAM.

(a) FINAL ENVIRONMENTAL IMPACT STATEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a final Glen Canyon Dam environmental impact statement, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) AUDIT.—The Comptroller General shall—

(1) audit the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the environmental impact statement described in subsection (a); and

(2) report the results of the audit to the Secretary and the Congress.

(c) ADOPTION OF CRITERIA AND PLANS.—(1) Based on the findings, conclusions, and recommendations made in the environmental impact statement prepared pursuant to subsection (a) and the audit performed pursuant to subsection (b), the Secretary shall—

(A) adopt criteria and operating plans separate from and in addition to those specified in section 602(b) of the Colorado River Basin Project Act of 1968 and

(B) exercise other authorities under existing law, so as to ensure that Glen Canyon Dam is operated in a manner consistent with section 1802.

(2) Each year after the date of the adoption of criteria and operating plans pursuant to paragraph (1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act of 1968 on the preceding year and the projected year operations undertaken pursuant to this Act.

(3) In preparing the criteria and operating plans described in section 602(b) of the Colorado River Basin Project Act of 1968 and in this subsection, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including—

(A) representatives of academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) REPORT TO CONGRESS.—Upon implementation of long-term operations under subsection (c), the Secretary shall submit to the Congress the environmental impact statement described in subsection (a) and a report describing the long-term operations and other reasonable mitigation measures taken to protect, mitigate adverse impacts to, and improve the condition of the natural recreational, and cultural resources of the Colorado River downstream of Glen Canyon Dam.

(e) ALLOCATION OF COSTS.—The Secretary of the Interior, in consultation with the Secretary of Energy, is directed to reallocate the costs of construction, operation, maintenance, replacement and emergency expenditures for Glen Canyon Dam among the purposes directed in section 1802 of this Act and the purposes established in the Colorado River Storage Project Act of April 11, 1956 (70 Stat. 170). Costs allocated to section 1802 purposes shall be nonreimbursable. Except that in Fiscal Year 1993 through 1997 such costs shall be nonreimbursable only to the extent to which the Secretary finds the effect of all provisions of this Act is to increase net offsetting receipts; Provided, further that if the Secretary finds in any such year that the enactment of this Act does cause a reduction net offsetting receipts generated by all provisions of this Act, the costs allocated to section 1802 purposes shall remain nonreimbursable. The Secretary shall determine the effect of all the provisions of this Act and submit a report to the appropriate House and Senate committees by January 31 of each fiscal year, and such report shall contain for that fiscal year a detailed accounting of expenditures incurred pursuant to this Act, offsetting receipts generated by this Act, and any increase or reduction in net offsetting receipts generated by this Act.

SEC. 1805. LONG-TERM MONITORING.

(a) IN GENERAL.—The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with that of section 1802.

(b) RESEARCH.—Long-term monitoring of Glen Canyon Dam shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1804(c) on the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(c) CONSULTATION.—The monitoring programs and activities conducted under subsection (a) shall be established and implemented in consultation with—

(1) the Secretary of Energy;

(2) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(3) Indian tribes; and

(4) the general public, including representatives of academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1806. RULES OF CONSTRUCTION.

Nothing in this title is intended to affect in any way—

(1) the allocations of water secured to the Colorado Basin States by any compact, Law, or decree; or

(2) any Federal environmental law, including the Endangered Species Act (16 U.S.C. et seq.).

SEC. 1807. STUDIES NONREIMBURSABLE.

All costs of preparing the environmental impact statement described in section 1804, including supporting studies, and the long-term monitoring programs and activities described in section 1805 shall be nonreimbursable. The Secretary is authorized to use funds received from the sale of electric power and energy from the Colorado River Storage Project to prepare the environmental impact statement described in section 1804, including supporting studies, and the long-term monitoring programs and activities described in section 1805, except that such funds will be treated as having been repaid and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 170). Except that in Fiscal Year 1993 through 1997 such provisions shall take effect only to the extent to which the Secretary finds the effect of all the provisions of this Act is to increase net offsetting receipts; Provided, further that if the Secretary finds in any such year that the enactment of this Act does cause a reduction in net offsetting receipts generated by all provisions of this Act, all costs described in this section shall remain nonreimbursable. The Secretary shall determine the effect of all the provisions of this Act and submit a report to the appropriate House and Senate committees by January 31 of each fiscal year, and such report shall contain for that fiscal year a detailed accounting of expenditures incurred pursuant to this Act, offsetting receipts generated by this Act, and any increase or reduction in net offsetting receipts generated by this Act.

SEC. 1808. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC. 1809. REPLACEMENT POWER.

The Secretary of Energy in consultation with the Secretary of the Interior and with represent-

atives of the Colorado River Storage Project power customers, environmental organizations and the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming shall identify economically and technically feasible methods of replacing any power generation that is lost through adoption of long-term operational criteria for Glen Canyon Dam as required by Section 1804 of this title. The Secretary shall present a report of the findings, and implementing draft legislation, if necessary, not later than two years after adoption of long-term operating criteria. The Secretary shall include an investigation of the feasibility of adjusting operations at Hoover Dam to replace all or part of such lost generation. The Secretary shall include an investigation of the modifications or additions to the transmission system that may be required to acquire and deliver replacement power.

TITLE XIX—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1901. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1992".

SEC. 1902. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1905 of this title;

(2) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(3) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(4) the term "Secretary" means the Secretary of the Interior;

(5) the term "summer electrical season" means May through October of each year;

(6) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(7) the term "Western" means the Western Area Power Administration;

(8) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report; and

(9) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990.

SEC. 1903. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies; mitigation of wetland areas; and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1905 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1912 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for pre-payment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1904. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1905. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds the non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1906. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1907. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.;

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be pre-

cluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1908. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1909. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or groundwater, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any groundwater resources.

SEC. 1910. USE OF GOVERNMENT FACILITIES.

The use and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the purposes for which they are authorized.

SEC. 1911. AUTHORIZATION OF APPROPRIATIONS.

(a) Water System.—There is authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1903, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available under expended.

(b) Wetland Component.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1904; and

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1904;

TITLE XX—LAKE ANDES-WAGNER/MARTY II, SOUTH DAKOTA

SEC. 2001. SHORT TITLE.

This title may be cited as the "Lake Andes-Wagner/Marty II Act of 1992".

SEC. 2002. DEMONSTRATION PROGRAM.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, and in coordination with the Secretary of Agriculture and with the assistance and cooperation of an oversight committee consisting of representatives of the Bureau of Indian Affairs, Department of Agriculture, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water Systems, Inc., carry out a demonstration program (hereinafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Mary II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) The objectives of the Demonstration Program shall include:

(1), development of accurate and definitive means of quantifying projected irrigation and drainage requirements and providing reliable estimates of drainage return flow quality and quantity with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving special emphasis to crops of agricultural commodities for which an acreage reduction program is not in effect under the provisions of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions:

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Demonstration Program shall provide for the—

(A) supply of all water, delivery system, pivot systems and drains;

(B) operate and maintain the irrigation system;

(C) Secretary of Agriculture to supply all seed, fertilizers and pesticides and make standardized equipment available;

(D) Secretary of Agriculture to determine crop rotations and cultural practices;

(E) have unrestricted access to leased lands;

(3) the Secretary and the Secretary of Agriculture may contract with the lessor and/or custom operators to accomplish agriculture work, which work shall be performed in accordance with the Demonstration Program;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their pre-leased condition at no expense to the lessor.

(d) The Secretary of Agriculture shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary. Any crops not sold shall be disposed of as the Secretary determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. The Secretary of Agriculture shall provide for lessors to preserve the cropland base and history on lands leased to the Demonstration Project under the same terms and conditions provided for under section 1236(b) of the Food Security Act of 1985 (7 U.S.C. 3836(b)). Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Energy and Natural Resources of the Senate, to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out on the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall:

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare, in coordination with the Secretary of Agriculture, a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriated for the Demonstration Program, shall transfer to the other Federal agencies funds appropriated for their expenses.

SEC. 2003. PLANNING REPORTS—ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 2002, the Secretary, with respect to the Lake Andes-Wagner Unit and the Marty II Unit, shall comply with the study and reporting requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof. The final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the

prevention or avoidance of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains. The Secretary shall not recommend that any funds be appropriated for construction of such Unit unless the respective report prepared pursuant to subsection (a) is accompanied by findings by the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards and avoid significant adverse effects to fish and wildlife resulting from the bioaccumulation of selenium.

(c) The construction of a Unit may not be undertaken until the final report pertaining to that Unit, and the findings referred to in subsection (b) of this section, have lain before the Congress for not less than one hundred and eighty days and the Congress has appropriated funds for the initiation of construction.

SEC. 2004. AUTHORIZATION OF THE LAKE ANDES-WAGNER UNIT AND THE MARTY II UNIT, SOUTH DAKOTA.

Subject to the requirements of section 2003 of this title, the Secretary is authorized to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota, as units of the South Dakota Pumping Divisions, Pick-Sloan Missouri Basin Program. The units shall be integrated physically and financially with other Federal works constructed under the Pick-Sloan Missouri Basin Program.

SEC. 2005. CONDITIONS.

(a) The Lake Andes-Wagner Unit shall be constructed, operated and maintained to irrigate not more than approximately 45,000 acres substantially as provided in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement filed September 17, 1985, supplemented as provided in section 2003 of this title. The Lake Andes-Wagner Unit shall include on-farm pumps, irrigation sprinkler systems, and other on-farm facilities necessary for the irrigation of not to exceed approximately 1,700 acres of Indian-owned lands. The use of electric power and energy required to operate the facilities for the irrigation of such Indian-owned lands and to provide pressurization for such Indian-owned lands shall be considered to be a project use.

(b) The Marty II Unit shall include a river pump, irrigation distribution system, booster pumps, irrigation sprinkler systems, farm and project drains, electrical distribution facilities, and the pressurization to irrigate not more than approximately 3,000 acres of Indian-owned land in the Yankton-Sioux Indian Reservation, substantially as provided in the final report for the Marty II Unit prepared pursuant to section 2003 of this title.

(c) The construction costs of the Lake Andes-Wagner Unit allocated to irrigation of non-Indian owned lands (both those assigned for return by the water users and those assigned for return from power revenues of the Pick-Sloan Missouri Basin Program) shall be repaid no later than forty years following a determination by the Secretary that the project is substantially complete. Repayment of the construction costs of the Lake Andes-Wagner Unit apportioned to serving Indian-owned lands and of the Marty II Unit allocated to irrigation shall be governed by the Act of July 1, 1932 (47 Stat. 564 Chapter 369; 25 U.S.C. 386a).

(d) Indian-owned lands, or interests therein, required for the Lake Andes-Wagner Unit or the Marty II Unit may, as an alternative to their acquisition pursuant to existing authority under the Federal reclamation laws, be acquired by exchange for land or interests therein of equal or greater value which are owned by the United States and administered by the Secretary or which may be acquired for that purpose by the Secretary.

(e) For purposes of participation of lands in the Lake Andes-Wagner Unit and the Marty II Unit in programs covered by title V of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) as amended by subtitle A of title XI of the Food, Agriculture, Conservation and Trade Act of 1990 the crop acreage base determined under title V of that Act as so amended and the program payment yield determined under title V of the Act as so amended shall be the crop acreage base and program payment yield established for the crop year immediately preceding the crop year in which the development period for each Unit is initiated. For any successor programs established for crop years subsequent to 1995, the acreage and yield on which any program payments are based shall be determined without taking into consideration any increase in acreage or yield resulting from the construction and operation of the Units.

(f) Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the facilities authorized by this section shall be concurrent with the construction of the Unit involved and shall be on an acre-for-acre basis, based on ecological equivalency. In addition to the fish and wildlife enhancement to be provided by the fish rearing pond of the Lake Andes Unit, other facilities of that Unit may be utilized to provide fish and wildlife benefits beyond the mitigation required to the extent that such benefits may be provided without increasing costs of construction, operation, maintenance or replacement allocable to irrigation or impairing the efficiency of that Unit for irrigation purposes.

SEC. 2006. INDIAN EMPLOYMENT.

In carrying out sections 2002, 2004 and 2005 of this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions, training and employment opportunities shall be provided to members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 2007. FEDERAL RECLAMATION LAWS GOVERN.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof). The Federal reclamation laws shall govern all functions undertaken pursuant to this title, except as otherwise provided in this title.

SEC. 2008. COST SHARING.

(a) IN GENERAL.—The Secretary is authorized and directed to enter into negotiations with State and local interests for an agreement providing for the equitable sharing of the costs of constructing the Lake Andes-Wagner Unit.

(b) The agreement shall include provisions for:

(1) the establishment and capitalization of the non-Federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(2) the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes-Wagner Unit;

(3) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the ring dike; and

(4) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the Unit's closed drainage system; subject to the conditions that:

(A) construction of the closed drainage system shall commence not earlier than the sixth year of full operation of the Unit and shall continue over a period of thirty-five years as required by the Secretary subject to such modifications in the commencement date and the construction period as the Secretary determines to be required on the basis of physical conditions; and

(B) the District, in addition to such annual assessment as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after issuance by the Secretary of a notice that construction of the Unit (other than drainage facilities) has been completed, levy assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in paragraph (1), to finance the construction of the closed drainage system.

(c) Notwithstanding any other requirements of this section, the Secretary shall require that the agreement to be negotiated pursuant to this section shall provide that the total non-Federal share of the costs of construction allocable to irrigation of the facilities of the Lake Andes-Wagner Unit to be constructed pursuant to subsection (a) of section 2004 of this title (other than the costs apportionable to serving Indian-owned lands and the facilities described in the second sentence of that subsection) shall be 30 percent. The 30 percent non-Federal share shall include:

(1) funds to be deposited in the non-Federal fund referred to in paragraph (1) of subsection (b) of this section and interest earned thereon;

(2) all funds heretofore or hereafter made available to the United States by non-Federal interests, or expended by such interests, for planning or advance planning assistance for the Lake Andes-Wagner Unit or for the Marty II Unit; and

(3) any feature to which this section applies shall not be initiated until after the District and the State have entered into the cost-share agreement with the United States required by this section.

SEC. 2009. AUTHORIZATION OF APPROPRIATIONS.

(a) LAKE ANDES-WAGNER UNIT.—There are authorized to be appropriated, subject to the findings required pursuant to section 2003(b) of this title—

(1) $175,000,000 (October 1989 price levels) for construction of the Lake Andes-Wagner Unit (other than the facilities described in the second sentence of subsection (a) of section 2005 of this title) less the non-Federal contributions as provided in subsections (b) and (c) of section 2008 of this title; and

(2) $1,350,000 (October 1989 price levels) for construction of the facilities described in the second sentence of subsection (a) of section 2005 of this title, which amounts include costs of the Lake Andes-Wagner Irrigation District in administering design and construction of the irrigation distribution and drainage systems.

(b) MARTY II UNIT.—There are authorized to be appropriated $24,000,000 (January 1989 price levels) for construction by the Bureau of Reclamation in consultation with the Bureau of Indian Affairs of the Marty II Unit.

(c) The amounts authorized to be appropriated by subsections (a) and (b) of this section shall be plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved.

(d) DEMONSTRATION PROGRAM.—There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program.

(e) OPERATION AND MAINTENANCE.—There are authorized to be appropriated such amounts as may be necessary for the operation and maintenance of each Unit.

SEC. 2010. INDIAN WATER RIGHTS.

Nothing in this title shall be construed as affecting any water rights or claims thereto of the Yankton-Sioux tribe.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

SEC. 2101. CLARIFICATION OF COST-SHARE REQUIREMENTS.

Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by section 203 of the Flood Control Act of 1948 (Public Law 80–858) and amended by section 204 of the Flood Control Act of 1950 (Public Law 82–516) is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties: Provided, however, That the Federal property benefits exceed 50 per centum of the total project benefits.

TITLE XXII—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2201. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXIII—PLATORO RESERVOIR AND DAM, SAN LUIS VALLEY PROJECT, COLORADO

SEC. 2301. FINDINGS AND DECLARATIONS.

The Congress finds that and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States and the District (Contract No. Ilr–1529, as amended); and

(C) determine such one-time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and maintaining a minimum stream flow as provided in section 2302(d) of this title.

SEC. 2302. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the district in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr–1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam, and Reservoir under Federal and State law; and,

(B) that the District shall have the exclusive use and sole responsibility for maintenance of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite. The District shall have sole responsibility for maintaining the land and buildings in a condition satisfactory to the United States Forest Service.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such contract No. Ilr–1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The district will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases of bypass from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(b) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: Provided, however, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to regularly monitor operation of Platoro Reservoir, including releases from it for instream flow purposes, and to enforce the provisions of this subsection under the laws, regulations, and rules applicable to the National Forest System.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with water supply use of the reservoir, with the administration of the Rio Grande compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2302 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 2303. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XXIV—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

SEC. 2401. SALE OF BUREAU OF RECLAMATION LOANS.

(a) The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall conduct appropriate investigations regarding, and is authorized to, sell, or accept prepayment on, loans made pursuant to the Small Reclamation Projects Act (43 U.S.C. 422a–4221) to the Redwood Valley County Water District.

(b) Any sale or prepayment of such loans, which are numbered 14–06–200–8423A and 14–06–200–842A Amendatory to the Redwood Valley County Water District, shall realize an amount to the federal government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth

in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the federal government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2402. SAVINGS PROVISIONS.

Nothing in this title, including prepayment or other disposition of any loans, shall—

(a) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the applications of the provisions of Federal Reclamation Law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment; or

(b) authorize the transfer of title to any federally owned facilities funded by the loans specified in section 2201 of this title without a specific act of Congress.

SEC. 2403. FEES AND EXPENSES OF PROGRAM.

In addition to the amount to be realized by the United States as provided in section 2201, the Redwood Valley County Water District shall pay all reasonable fees and expenses incurred by the Secretary relative to the sale.

SEC. 2404. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXV—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

SEC. 2501. SALE OF THE FREEMAN DIVERSION IMPROVEMENT PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the United Water Conservation District in California (referred to in this title as the "District") for the Freeman Diversion Improvement Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7-07-20-W0615 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the federal government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2502. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 2301(b)—

(1) the District's obligation under the loan contract described in section 2301(a)(2) shall be terminated;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Freeman Diversion Improvement Project to the District; and,

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Freeman Diversion Improvement Project.

SEC. 2503. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g-1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—MONTANA IRRIGATION PROJECTS

SEC. 2701. PICK-SLOAN PROJECT PUMPING POWER.

(a) The Secretary of the Interior, in cooperation with the Secretary of Energy, shall make available, as soon as practicable after the date of enactment of this Act, project pumping power from the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved December 22, 1944 (58 Stat. 891) (commonly known as the "Flood Control Act of 1944") to two existing non-Federal irrigation projects known as the—

(1) Haidle Irrigation Project, Prairie County, Montana; and

(2) Hammond Irrigation District, Rosebud County, Montana.

Provided, That the two districts are determined by the Secretary of Energy to be public agencies, as that term is used in section 9(c) of the Reclamation Project Act of 1939, U.S.C. section 485h(c).

(b) Power made available under this section shall be at the firm power rate.

TITLE XXVIII—RECLAMATION RECREATION MANAGEMENT ACT

SEC. 2801. SHORT TITLE.

This title may be cited as the "Reclamation Recreation Management Act of 1992".

SEC. 2802. FINDINGS.

The Congress finds and declares the following:

(1) There is a Federal responsibility to provide opportunities for public recreation at Federal water projects.

(2) Some provisions of the Federal Water Project Recreation Act are outdated because of increases in demand for outdoor recreation and changes in the economic climate for recreation managing entities.

(3) Provisions of such Act relating to non-Federal responsibility for all costs of operation, maintenance, and replacement of recreation facilities result in an unfair burden, especially in cases where the facilities are old or underdesigned.

(4) Provisions of such Act that limit the Federal share of recreation facility development at water projects completed before 1965 to $100,000 preclude a responsible Federal share in providing adequate opportunities for safe outdoor recreation.

(5) There should be Federal authority to expand existing recreation facilities to meet public demand, in partnership with non-Federal interests.

(6) Nothing in this title changes the responsibility of the Bureau to meet the purposes for

which Federal Reclamation projects were initially authorized and constructed.

(7) It is therefore in the best interest of the people of this Nation to amend the Federal Water Project Recreation Act to remove outdated restrictions and authorize the Secretary of the Interior to undertake specific measures for the management of Reclamation lands.

SEC. 2803. DEFINITIONS.

For the purposes of this title:

(1) The term "Reclamation lands" means real property administered by the Secretary, acting through the Commissioner of Reclamation and includes all acquired and withdrawn lands and water areas under jurisdiction of the Bureau.

(2) The term "Reclamation program" means any activity authorized under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371)), and Acts supplementary thereto and amendatory thereof).

(3) The term "Reclamation project" means any water supply or water delivery project constructed or administered by the Bureau of Reclamation under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

(4) The term "Secretary" means the Secretary of the Interior.

SEC. 2804. AMENDMENTS TO THE FEDERAL WATER PROJECT RECREATION ACT.

(a) ALLOCATION OF COSTS.—Section 2(a) of the Federal Water Project Recreation Act (16 U.S.C. 4601–13a)) is amended, in the matter preceding paragraph (1), by striking "all the costs of operation, maintenance, and replacement" and inserting "not less than one-half the costs of operation, maintenance, and replacement".

(b) RECREATION AND FISH AND WILDLIFE ENHANCEMENT.—Section 3(b)(1) of the Federal Water Project Recreation Act (16 U.S.C. 4601–14(b)(1)) is amended—

(1) by striking "within ten years"; and

(2) by striking "all costs of operation, maintenance, and replacement attributable" and inserting "not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable".

(c) LEASE OF FACILITIES.—Section 4 of the Federal Water Project Recreation Act (16 U.S.C. 4601–15) is amended by striking "costs of operation, maintenance, and replacement of existing" and inserting "not less than one-half the costs of operation, maintenance and replacement of existing".

(d) EXPANSION OR MODIFICATION OF EXISTING FACILITIES.—Section 3 of the Federal Water Project Recreation Act (16 U.S.C. 4601–14) is amended by adding at the end the following new subsection:

"(c)(1) Any recreation facility constructed under this Act may be expanded or modified if—

"(A) the facility is inadequate to meet recreational demands; and

"(B) a non-Federal public body executes an agreement which provides that such public body—

(i) will administer the expanded or modified facilities pursuant to a plan for development for the project that is approved by the agency with administrative jurisdiction over the project; and

(ii) will bear not less than one-half of the planning and capital costs of such expansion or modification and not less than one-half of the costs of the operation, maintenance, and replacement attributable to the expansion of the facility.

"(2) The Federal share of the cost of expanding or modifying a recreational facility described in paragraph (1) may not exceed 50 percent of the total cost of expanding or modifying the facility.".

(e) LIMITATION.—Section 7(a) of the Federal Water Project Recreation Act (16 U.S.C. 4601–18(a)) is amended—

(1) by striking "purposes: Provided," and all that follows through the end of the sentence and inserting "purposes"; and

(2) by striking "subsection 3(b)" and inserting "subsection (b) or (c) of section 3".

SEC. 2805. MANAGEMENT OF RECLAMATION LANDS.

(a) ADMINISTRATION.—(1) Upon a determination that any such fee, charge, or commission is reasonable and appropriate, the Secretary acting through the Commissioner of Reclamation, is authorized to establish—

(A) filing fees for applications and other documents concerning entry upon and use of Reclamation lands;

(B) recreation user fees; and

(C) charges or commissions for the use of Reclamation lands.

(2) The Secretary, acting through the Commissioner of Reclamation, shall promulgate such regulations as the Secretary determines to be necessary—

(A) to carry out the provisions of this section and section 2806;

(B) to ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands; and

(C) to ensure the protection of resource values.

(b) INVENTORY.—The Secretary, acting through the Commissioner of Reclamation, is authorized to—

(1) prepare and maintain on a continuing basis an inventory of resources and uses made of Reclamation lands and resources, keep records of such inventory, and make such records available to the public; and

(2) ascertain the boundaries of Reclamation lands and provide a means for public identification (including, where appropriate, providing signs and maps).

(c) PLANNING.—(1)(A) The Secretary, acting through the Commissioner of Reclamation, is authorized to develop, maintain, and revise resource management plans for Reclamation lands.

(B) Each plan described in subparagraph (A)—

(i) shall be consistent with applicable laws (including any applicable statute, regulation, or Executive order);

(ii) shall be developed in consultation with—

(I) such heads of Federal and non-Federal departments or agencies as the Secretary determines to be appropriate; and

(II) the authorized beneficiaries (as determined by the Secretary) of any Reclamation project included in the plan; and

(iii) shall be developed with appropriate public participation.

(C) Each plan described in subparagraph (A) shall provide for the development, use, conservation, protection, enhancement, and management of resources of Reclamation lands in a manner that is compatible with the authorized purposes of the Reclamation project associated with the Reclamation lands.

(d) NONREIMBURSABLE FUNDS.—Funds expended by the Secretary in carrying out the provisions of this title shall be nonreimbursable under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

SEC. 2806. PROTECTION OF AUTHORIZED PURPOSES OF RECLAMATION PROJECTS.

(a) Nothing in this title shall be construed to change, modify, or expand the authorized purposes of any Reclamation project.

(b) The expansion or modification of a recreational facility constructed under this title shall not increase the capital repayment responsibilities or operation and maintenance expenses of the beneficiaries of authorized purposes of the associated Reclamation project. The term "beneficiaries" does not include those entities who sign agreements or enter into contracts for recreation facilities pursuant to the Federal Water Project Recreation Act.

TITLE XXIX—SAN JUAN SUBURBAN WATER DISTRICT

SEC. 2901. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project ratesetting policy, an amount equal to the documented price paid by the District for pumps and motors provided by the District to the Bureau of Reclamation, in 1991 and 1992, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps and motors, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps and motors from the seller to the Bureau of Reclamation.

(2) The credit is effective on the dates the pumps and motors were delivered to the Bureau of Reclamation for installation at Folsom Dam.

TITLE XXX—WESTERN WATER POLICY REVIEW

SEC. 3001. SHORT TITLE.

This title may be cited as the "Western Water Policy Review Act of 1992."

SEC. 3002. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Nation needs an adequate water supply for all states at a reasonable cost;

(2) the demands on the Nation's finite water supply are increasing;

(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy;

(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

(7) the appropriations doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

(8) the Federal Government has recognized and continues to recognize the primary jurisdiction of the several States over the allocation, priority, and use of water resources of the States, except to the extent such jurisdiction has been preempted in whole or in part by the Federal government, including, but not limited to, express or implied Federal reserved water rights either for itself or for the benefit of Indian Tribes, and that the Federal Government will, in exercising its authorities, comply with applicable State laws;

(9) the Federal Government recognizes its trust responsibilities to protect Indian water rights and assist Tribes in the wise use of those resources;

(10) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to

have major responsibilities in assisting States in the wise management and allocation of scarce water resources; and

(11) the Secretary of the Interior, given his responsibilities for management of public land, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey, and the Secretary of the Army, given his responsibilities for flood control, water supply, hydroelectric power, recreation, and fish and wildlife enhancement, have the resources to assist in a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

SEC. 3003. PRESIDENTIAL REVIEW.

(a) The President is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources, whether surface or subsurface, and to submit a report on the President's findings, together with recommendations, if any, to the Committees on Energy and Natural Resources, Environment and Public Works and Appropriations of the Senate and the Committees on Interior and Insular Affairs, Public Works and Transportation, Merchant Marine and Fisheries and Appropriations of the House of Representatives.

(b) Such report shall be submitted within three years from the date of enactment of this Act.

(c) In conducting the review and preparing the report, the President is directed to consult with the Advisory Commission established under section 3004 of this title, and may request the Secretary of the Interior and the Secretary of the Army or other federal officials or the Commission to undertake such studies or other analyses as the President determines would assist in the review.

(d) The President shall consult periodically with the Commission, and upon the request of the President, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

SEC. 3004. THE ADVISORY COMMISSION.

(a) The President shall appoint an Advisory Commission (hereafter in this title referred to as the "Commission") to assist in the preparation and review of the report required under this title.

(b) The Commission shall be composed of eighteen members as follows:

(1) Ten members appointed by the President including:

(A) the Secretary of the Interior or his designee;

(B) the Secretary of the Army or his designee;

(C) at least one representative chosen from a list submitted by the Western Governors Association;

(D) at least one representative chosen from a list submitted by Tribal governments located in the Western states.

(2) In addition to the ten members appointed by the President, twelve Members from the United States Congress shall serve as ex officio members of the Commission. For the United States Senate: the Chairmen and the Ranking Minority Members of the Committees on Energy and Natural Resources, and Appropriations, and the Subcommittee of the Committee on Energy and Natural Resources which has jurisdiction over the Bureau of Reclamation. For the United States House of Representatives: the Chairman and Ranking Minority Members of the Committees on Interior and Insular Affairs, Public Works and Transportation, and Appropriations.

(c) The President shall appoint one member of the Commission to serve as Chairman.

(d) Any vacancy which may occur on the Commission shall be filled in the same manner in which the original appointment was made.

(e) Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3005. DUTIES OF THE COMMISSION.

The Commission shall—

(1) review present and anticipated water resource problems affecting the nineteen Western States, making such projections of water supply requirements as may be necessary and identifying alternative ways of meeting these requirements—giving considerations, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the most beneficial use of water and recent technological advances.

(2) examine the current and proposed Federal programs affecting such States and recommend to the President whether they should be continued or adopted and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

(3) review the problems of rural communities relating to water supply, potable water treatment, and wastewater treatment;

(4) review the need and opportunities for additional storage or other arrangements to augment existing water supplies including, but not limited to, conservation;

(5) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including, but not limited to, interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law and the Secretary of the Army under water resources law;

(6) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

(7) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation, the Department of the Army, and those agencies whose decisions would impact on water resource availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

SEC. 3006. REPRESENTATIVES.

(a) The Chairman of the Commission shall invite the Governor of each Western State to designate a representative to work closely with the Commission and its staff in matters pertaining to this title;

(b) The Commission, at its discretion, may invite appropriate public or private interest groups including, but not limited to, Indian and Tribal organizations to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

SEC. 3007. POWERS OF THE COMMISSION.

(a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

(3) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(4) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

(c) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum annual rate of basic pay payable for Level II of the Executive Schedule.

(1) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate but only to the extent that such personnel can not be obtained from the Secretary of the Interior or by detail from other federal agencies. Such personnel may be appointed without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

(2) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of Title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

(d) The Secretary of the Interior and the Secretary of the Army shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require.

SEC. 3008. POWERS AND DUTIES OF THE CHAIRMAN.

(a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (4) of section 3007(a).

(b) The Chairman may make such provisions as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Director or other personnel of the Commission.

SEC. 3009. OTHER FEDERAL AGENCIES.

(a) The Commission shall, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the President may direct the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 3007(a)(7) of this title, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with the Commission on a reimbursable basis such personnel

within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Secretary of the Interior.

SEC. 3010. APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of sections 3001 through 3009 of this title.

TITLE XXXI—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

SEC. 3101. PAYMENT BY MOUNTAIN PARK MASTER CONSERVANCY DISTRICT.

(A) In General.—The Secretary shall conduct appropriate investigations regarding, and is authorized to accept prepayment of, the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city, and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs.

(b) Payment Amount.—Any prepayment made pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining repayment obligation by the interest rate determined according to this section.

(c) Interest Rate.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) Investigations.—In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) Tax Exempt Financing.—If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the federal government for the direct or indirect loss of future tax revenues.

(f) Limit on Interest Rate.—Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) Approval.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any prepayment made pursuant to this title.

(h) Termination of Authority.—The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

(i) Title to Project Facilities.—Notwithstanding any payments made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.

(j) Definitions.—For the purposes of this section—

(1) the term "city" means the city of Frederick, Oklahoma; the city of Snyder, Oklahoma; or the city of Altus, Oklahoma;

(2) the term "District" means the Mountain Park Master Conservancy District of Mountain Park, Oklahoma;

(3) the term "project" means the Mountain Park Project, Oklahoma; and

(4) the term "Secretary" means the Secretary of the Interior.

SEC. 3102. RESCHEDULE OF REPAYMENT OBLIGATION.

(a) The Secretary shall conduct appropriate investigations regarding the ability of the District to meet its repayment obligation.

(b) If the Secretary finds that the District does not have the ability to pay its repayment obligation, then the Secretary shall offer the District a revised schedule of payments for purposes of meeting the repayment obligation of the District: Provided, That such schedule of payments shall—

(1) be consistent with the ability to pay of the District, and

(2) have the same discounted present value as the repayment obligation of the District.

(c) The Secretary shall conduct the investigations and make any offer of a revised schedule of payments pursuant to this section no later than 12 months after the date of enactment of this section.

TITLE XXXII—SOUTH DAKOTA PRESERVATION AND RESTORATION TRUST

Subpart A—Biological Diversity Trust

SEC. 3201. SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST.

(a) The Secretary, subject to the provisions of subsection (d) of this section, shall make an annual Federal contribution to a South Dakota Biological Diversity Trust established in accordance with subsection (b) of this section and operated in accordance with subsection (c) of this section. Contributions from the State of South Dakota may be paid to the Trust in such amounts and in such manner as may be agreed upon by the Governor and the Secretary. The total Federal contribution pursuant to this section, including subsection (d), shall not exceed $12,000,000.

(b) A South Dakota Biological Diversity Trust shall be eligible to receive Federal contributions pursuant to subsection (a) of this section if it complies with each of the following requirements:

(1) The Trust is established by non-Federal interests as a non-profit corporation under the laws of South Dakota with its principal office in South Dakota.

(2) The trust is under the direction of a Board of Trustees which has the power to manage all affairs of the corporation, including administration, data collection, and implementation of the purposes of the Trust.

(3) The Board is comprised of five persons appointed as follows, each for a term of five years:

(A) 1 person appointed by the Governor of South Dakota;

(B) 1 person appointed by each United States Senator from South Dakota;

(C) 1 person appointed by the United States Representative from South Dakota; and

(D) 1 person appointed by the South Dakota Academy of Science.

(4) Vacancies on the Board are filled in the manner in which the original appointments were made. Any member of the Board is eligible for reappointment for successive terms. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed is appointed only for the remainder of such term. A member may serve after the expiration of his or her term until his or her successor has taken office. Members of the Board shall serve without compensation.

(5) The corporate purposes of the Trust are to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity, its rare species, exemplary examples of plant and animal communities and large-scale natural ecosystems.

(c) A South Dakota Biological Diversity Trust established by non-Federal interests as provided in subsection (b) shall be deemed to be operating in accordance with this subsection if, in the opinion of the Secretary, each of the following requirements are met:

(1) the Trust is operated to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity; its rare species, extraordinary examples of plant and animal communities and large-scale natural ecosystems in accordance with its corporate purpose; and

(2) the Trust is managed in a fiscally responsible fashion by investing in private and public financial vehicles with the goal of producing income and preserving principal. The principal will be inviolate, but income will be used to accomplish the goals of the trust.

(3) Proceeds from the Trust are used for the following purposes;

(A) $10,000 per year or 5 percent of the total funds expended by the Trust (whichever is larger) will be provided to the South Dakota Natural Heritage Program (currently as part of the South Dakota Game, Fish, and Parks Departments), in order to do this following:

(i) maintain and update the South Dakota Biodiversity Priority Site List;

(ii) conduct inventory to discover and survey new sites for the Priority Site List; and

(iii) manage data to maintain the Natural Heritage Databases needed to produce and document the Priority Site List.

(B) Up to 5 percent of the costs of each project are used for preserve design or site planning to ensure that sites are selected for funding which are well-designed to maintain the long-term viability of the significant species and communities found at the site.

(C) Proceeds from the Trust may be used to complete land protection projects designed to protect biological diversity.

(D) Projects may include acquisition of land, water rights or other partial interests from willing sellers only, or arranging management agreements, registry and other techniques to protect significant sites.

(E) Ownership of land acquired with Trust proceeds will be held by the public agency or private non-profit organization which proposed and completed the project, or another conservation owner with the approval of the Board. The land will be managed and used for the protection of biological diversity. If the property is used or managed otherwise, title will revert to the Trust for disposition.

(F) Projects eligible for funding must be included on the South Dakota Biodiversity Priority List and located within the borders of South Dakota.

(G) At the discretion of the Board, Trust proceeds may be used for direct project costs including direct expenses incurred during project completion. Land project funding may also include the creation of a stewardship endowment subject to the following terms:

(i) Up to 25 percent of the total fair market value of the project may be placed in a separate endowment.

(ii) The proceeds from the endowment will be used for the ongoing management costs of maintaining the biological integrity and viability of the significant biological features of the site.

(iii) Endowment funds may not be used for activities which primarily promote recreational or economic use of the site.

(iv) The endowment for each site will be held in a separate account from the body of the Trust and other endowments. The endowments will be managed by the Trust Board but the owner or manager of the site may draw upon the proceeds of the stewardship endowment to fund management activities with approval of the Board. Additional management funds may be secured from other public and private sources.

(H) Should the biological significance of a site be destroyed or greatly reduced, the land may be disposed of but the proceeds and any stewardship endowment will revert to the Trust for use in other projects.

(I) Proceeds from the Trust may be used for management of public or private lands, including but not restricted to lands purchased with Trust funds, except that only those management projects that result in the maintenance or restoration of statewide biological diversity are eligible for consideration.

(d) For each fiscal year after 1992, 2 percent of the Federal contributions for the same fiscal year, determined pursuant to subsection (a) of this section, shall be used by the Secretary in order to do the following:

(1) restore damaged natural ecosystems on public lands and waterways affected by the Reclamation program outside South Dakota;

(2) acquire from willing sellers only other lands and properties or appropriate interests therein outside South Dakota with restorable damaged natural ecosystems and restore such ecosystems;

(3) provide jobs and suitable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties (or appropriate interests therein) where repair of compositional, structural and functional values will do the following:

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities and ecosystems that are unable to survive onsite without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna which are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing preserves or enhance the viability, defensibility and manageability of preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation and other water quality improvement capacity.

(f) The Secretary shall annually report on activities under this section to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Interior and Insular Affairs and the Committee on Appropriations of the House of Representatives.

(g) There are authorized to be appropriated not to exceed $12,000,000 for the purposes of this title.

SUBPART B—WETLAND HABITAT RESTORATION PROGRAM

SEC. 3202. DEFINITIONS.

*(a) * * **

(1) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota; and

(2) the term "wetland trust" means a trust established in accordance with section 3602(b) and operated in accordance with section 3602(c).

SEC. 3203. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—Subject to appropriations therefore, the Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetlands trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: Provided, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities

under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 3204. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $7,000,000 for the Federal contribution to the wetland trust established under section 3203.

TITLE XXXIII—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

SEC. 3301. TRANSFER.

The Secretary is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assume responsibility for operating and maintaining their portion of the project.

SEC. 3302. LIMITATION.

Title to and responsibility for operation and maintenance of Elephant Butte and Caballo dams, and Percha, Leasburg, and Mesilla diversion dams and the works necessary for their protection and operation shall be unaffected by this title.

SEC. 3303. EFFECT OF ACT ON OTHER LAWS.

Nothing in this title shall affect any right, title, interest or claim to land or water, if any, of the Ysleta del Sur Pueblo, a federally recognized Indian Tribe.

TITLE XXXIV—CENTRAL VALLEY PROJECT IMPROVEMENT ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the "Central Valley Project Improvement Act."

SEC. 3402. PURPOSES.

The purposes of this title shall be:

(a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California;

(b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;

(c) to improve the operational flexibility of the Central Valley Project;

(d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation;

(e) to contribute to the State of California's interim and long-term efforts to protect the San Francisco Bay/Sacramento-San Joaquin Delta Estuary;

(f) to achieve a reasonable balance among competing demands for use of Central Valley Project water, including the requirements of fish and wildlife, agricultural, municipal and industrial and power contractors.

SEC. 3403. DEFINITIONS.

As used in this title—

(a) the term "anadromous fish" means those stocks of salmon (including steelhead), striped bass, sturgeon, and American shad that ascend the Sacramento and San Joaquin rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in San Francisco Bay or the Pacific Ocean;

(b) the terms "artificial propagation" and "artificial production" mean spawning, incubating, hatching, and rearing fish in a hatchery or other facility constructed for fish production;

(c) the term "Central Valley Habitat Joint Venture" means the association of Federal and State agencies and private parties established for the purpose of developing and implementing the North American Waterfowl Management Plan as it pertains to the Central Valley of California;

(d) the terms "Central Valley Project" or "project" mean all Federal reclamation projects located within or diverting water from or to the watershed of the Sacramento and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850) and all Acts amendatory or supplemental thereto, including but not limited to the Act of October 17, 1940 (54 Stat. 1198, 1199), Act of December 22, 1944 (58 Stat. 887), Act of October 14, 1949 (63 Stat. 852), Act of September 26, 1950 (64 Stat. 1036), Act of August 27, 1954 (68 Stat. 879), Act of August 12, 1955 (69 Stat. 719), Act of June 3, 1960 (74 Stat. 156), Act of October 23, 1962 (76 Stat. 1173), Act of September 2, 1965 (79 Stat. 615), Act of August 19, 1967 (81 Stat. 167), Act of August 27, 1967 (81 Stat. 173), Act of October 23, 1970 (84 Stat. 1097), Act of September 28, 1976 (90 Stat. 1324) and Act of October 27, 1986 (100 Stat. 3050);

(e) the term "Central Valley Project service area" means that area of the Central Valley and San Francisco Bay Area where water service has been expressly authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project;

(f) the term "Central Valley Project water" means all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Central Valley Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(g) the term "full cost" has the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982;

(h) the term "natural production" means fish produced to adulthood without direct human intervention in the spawning, rearing, or migration processes;

(i) the term "Reclamation laws" means the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto;

(j) the term "Refuge Water Supply Report" means the report issued by the Mid-Pacific Region of the Bureau of Reclamation of the U.S. Department of the Interior entitled Report on Refuge Water Supply Investigations, Central Valley Hydrologic Basin, California (March 1989);

(k) the terms "repayment contract" and "water service contract" have the same meaning as provided in sections 9(d) and 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195), as amended;

(l) the terms "Restoration Fund" and "Fund" mean the Central Valley Project Restoration Fund established by this title; and,

(m) the term "Secretary" means the Secretary of the Interior.

SEC. 3404. LIMITATION ON CONTRACTING AND CONTRACT REFORM.

(a) NEW CONTRACTS.—Except as provided in subsection (b) of this section, the Secretary shall not enter into any new short-term, temporary, or long-term contracts or agreements for water supply from the Central Valley Project for any purpose other than fish and wildlife before:

(1) the provisions of subsections 3406(b)–(d) of this title are met;

(2) the California State Water Resources Control Board concludes the review ordered by the California Court of Appeals in U.S. v. State Water Resources Control Board, 182 Cal. App. 3rd 82 (1986) and determines the means of implementing its decision, including the obligations of the Central Valley Project, if any, and the Administrator of the Environmental Protection Agency shall have approved such decision pursuant to existing authorities; and,

(3) at least one hundred and twenty days shall have passed after the Secretary provides a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives explaining the obligations, if any, of the Central Valley Project system, including its component facilities and contracts, with regard to achieving its responsibilities for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary as finally established and approved by relevant State and Federal authorities, and the impact of such obligations on Central Valley Project operations, supplies, and commitments.

(b) EXCEPTIONS TO LIMIT ON NEW CONTRACTS.—The prohibition on execution of new contracts under subsection (a) of this section shall not apply to contracts executed pursuant to section 305 of Pub. L. 102–250 or section 206 of Pub. L. 101–514 or to one-year contracts for delivery of surplus flood flows or contracts not to exceed two years in length for delivery of class II water in the Friant Unit. Notwithstanding the prohibition in the Energy and Water Development Appropriations Act of 1990, the Secretary is authorized, pursuant to section 203 of the Flood Control Act of 1962, to enter into a long-term contract in accordance with the Reclamation laws with the Tuolumne Regional Water District, California, for the delivery of water from the New Melones project to the county's water distribution system and a contract with the Secretary of Veteran Affairs to provide for the delivery in perpetuity of water from the project in quantities sufficient, but not to exceed 850 acre-feet per year, to meet the needs of the San Joaquin Valley National Cemetery, California.

(c) RENEWAL OF EXISTING LONG-TERM CONTRACTS.—Notwithstanding the provisions of the Act of July 2, 1956 (70 Stat. 483), the Secretary shall, upon request, renew any existing long-term repayment or water service contract for the delivery of water from the Central Valley Project for a period of 25 years and may renew such contracts for successive periods of up to 25 years each.

(1) No such renewals shall be authorized until appropriate environmental review, including the preparation of the environmental impact statement required in section 3409 of this title, has been completed. Contracts which expire prior to the completion of the environmental impact statement required by section 3409 may be renewed for an interim period not to exceed three years in length, and for successive interim periods of not more than two years in length, until the environmental impact statement required by section 3409 has been finally completed, at which time such interim renewal contracts shall be eligible for long-term renewal as provided above. Such interim renewal contracts shall be modified to comply with existing law, including provisions of this title. With respect to all contracts renewed by the Secretary since January 1, 1988, the Secretary shall incorporate in said contracts a provision requiring payment of the charge mandated in subsection 3406(c) and sub-

section 3407(b) of this title and all other modifications needed to comply with existing law, including provisions of this title. This title shall be deemed "applicable law" as that term is used in Article 14(c) of contracts renewed by the Secretary since January 1, 1988.

(2) Upon renewal of any long-term repayment or water service contract providing for the delivery of water from the Central Valley Project, the Secretary shall incorporate all requirements imposed by existing law, including provisions of this title, within such renewed contracts. The Secretary shall also administer all existing, new, and renewed contracts in conformance with the requirements and goals of this title.

(3) In order to encourage early renewal of project water contracts and facilitate timely implementation of this title, the Secretary shall impose on existing contractors an additional mitigation and restoration payment of one and one-half times the annual mitigation and restoration payment calculated under subsection 3407(d) of this title for every year starting October 1, 1997 or January 1 of the year following the year in which the environmental impact statement required under section 3409 is completed, whichever is sooner, and ending on the effective date of the renewed contract payable prior to the renewal of such contract, to be covered to the Restoration Fund; Provided, however, That this paragraph shall not apply to contracts renewed after January 1, 1988, and prior to the date of enactment of this title or, in the event the environmental impact statement required by section 3409 is not completed by October 1, 1997, to any holder of a contract in existence on the date of enactment of this title who enters into a binding agreement with the Secretary prior to October 1, 1997, to renew its contract immediately upon completion of that environmental impact statement, if such contract has not expired prior to such date.

SEC. 3405. WATER TRANSFERS, IMPROVED WATER MANAGEMENT AND CONSERVATION.

(a) WATER TRANSFERS.—In order to assist California urban areas, agricultural water users, and others in meeting their future water needs, subject to the conditions and requirements of this subsection, all individuals or districts who receive Central Valley Project water under water service or repayment contracts, water rights settlement contracts or exchange contracts entered into prior to or after the date of enactment of this title are authorized to transfer all or a portion of the water subject to such contract to any other California water user or water agency, State or Federal agency, Indian Tribe, or private non-profit organization for project purposes or any purpose recognized as beneficial under applicable State law. Except as provided herein, the terms of such transfers shall be set by mutual agreement between the transferee and the transferor.

(1) CONDITIONS FOR TRANSFERS.—All transfers to Central Valley Project water authorized by this subsection shall be subject to review and approval by the Secretary under the conditions specified in this subsection. Transfers involving more than 20 percent of the Central Valley Project water subject to long-term contract within any contracting district or agency shall also be subject to review and approval by such district or agency under the conditions specified in this subsection:

(A) No transfer to combination of transfers authorized by this subsection shall exceed, in any year, the average annual quantity of water under contract actually delivered to the contracting district or agency during the last three years of normal water delivery prior to the date of enactment of this title.

(B) All water under the contract which is transferred under authority of this subsection to any district or agency which is not a Central Valley Project contractor at the time of enactment of this title shall, if used for irrigation purposes, be repaid at the greater of the full-cost or cost of service rates, or, if the water is used for municipal and industrial purposes, at the greater of the cost of service or municipal and industrial rates.

(C) No transfers authorized by this subsection shall be approved unless the transfer is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon.

(D) No transfer authorized by this subsection shall be approved unless the transfer is consistent with State law, including but not limited to provisions of the California Environmental Quality Act.

(E) All transfers authorized by this subsection shall be deemed a beneficial use of water by the transferor for the purposes of section 8 of the Act of June 17, 1902, 32 Stat. 390, 43 U.S.C. 372.

(F) All transfers entered into pursuant to this subsection for uses outside the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's total costs associated with the development and negotiation of the transfer.

(G) No transfer authorized by this subsection shall be considered by the Secretary as conferring supplemental or additional benefits on Central Valley Project water contractors as provided in section 203 of Public Law 97-293 (43 U.S.C. 390(cc)).

(H) The Secretary shall not approve a transfer authorized by this subsection unless the Secretary has determined, consistent with paragraph 3405(a)(2) of this title, that the transfer will not violate the provisions of this title or other Federal law and will have no significant adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations or fish and wildlife obligations under this title because of limitations in conveyance or pumping capacity.

(I) The water subject to any transfer undertaken pursuant to this subsection shall be limited to water that would have been consumptively used or irretrievably lost to beneficial use during the year or years of the transfer.

(J) The Secretary shall not approve a transfer authorized by this subsection unless the Secretary determines, consistent with paragraph 3405(a)(2) of this title, that such transfer will have no significant long-term adverse impact on groundwater conditions in the transferor's service area.

(K) The Secretary shall not approve a transfer unless the Secretary determines, consistent with paragraph 3405(a)(2) of this title, that such transfer will have no unreasonable impact on the water supply, operations, or financial conditions of the transferor's contracting district or agency or its water users.

(L) The Secretary shall not approve a transfer if the Secretary determines, consistent with paragraph 3405(a)(2) of this title, that such transfer would result in a significant reduction in the quantity or decrease in the quality of water supplies currently used for fish and wildlife purposes, unless the Secretary determines pursuant to findings setting forth the basis for such determination that such adverse effects would be more than offset by the benefits of the proposed transfer. In the event of such a determination, the Secretary shall develop and implement alternative measures and mitigation activities as integral and concurrent elements of any such transfer to provide fish and wildlife benefits substantially equivalent to those lost as a consequence of such transfer.

(M) Transfers between Central Valley Project contractors within countries, watersheds, or other areas of origin, as those terms are utilized under California law, shall be deemed to meet the conditions set forth in subparagraphs (A) and (I) of this paragraph.

(2) REVIEW AND APPROVAL OF TRANSFERS.—All transfers subject to review and approval under this subsection shall be reviewed and approved in a manner consistent with the following:

(A) Decisions on water transfers subject to review by a contracting district or agency or by the Secretary shall be rendered within ninety days of receiving a written transfer proposal from the transferee or transferor. Such written proposal should provide all information reasonably necessary to determine whether the transfer complies with the terms and conditions of this subsection.

(B) All transfers subject to review by a contracting district or agency shall be reviewed in a public process similar to that provided for in section 226 of Pub. L. 97-293.

(C) The contracting district or agency or the Secretary shall approve all transfers subject to review and approval by such entity if such transfers are consistent with the terms and conditions of this subsection. To disapprove a transfer, the contracting district or agency or the Secretary shall inform the transferee and transferor, in writing, why the transfer does not comply with the terms and conditions of this subsection and what alternatives, if any, could be included so that the transfer would reasonably comply with the requirements of this subsection.

(D) If the contracting district or agency or the Secretary fails to approve or disapprove a proposed transfer within ninety days of receiving a complete written proposal from the transferee or transferor, then the transfer shall be deemed approved.

(3) Transfers executed after September 30, 1999 shall only be governed by the provisions of subparagraphs 3405(a)(1)(A)-(C), (E), (G), (H), (I), (L), and (M) of this title, and by State law.

(b) METERING OF WATER USE REQUIRED.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title, shall provide that the contracting district or agency shall ensure that all surface water delivery systems within its boundaries are equipped with water measuring devices or water measuring methods of comparable effectiveness acceptable to the Secretary within five years of the date of contract execution, amendment, or renewal, and that any new surface water delivery systems installed within its boundaries on or after the date of contract renewal are so equipped. The contracting district or agency shall inform the Secretary and the State of California annually as to the monthly volume of surface water delivered within its boundaries.

(c) STATE AND FEDERAL WATER QUALITY STANDARDS.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title, shall provide that the contracting district or agency shall be responsible for compliance with all applicable State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated within its boundaries. This

subsection shall not affect or alter any legal obligation of the Secretary to provide drainage services.

(d) WATER PRICING REFORM.—All Central Valley Project water service or repayment contracts for a term longer than three years for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title shall provide that all project water subject to contract shall be made available to districts, agencies, and other contracting entities pursuant to a system of tiered water pricing. Such a system shall specify rates for each district, agency or entity based on a inverted block rate structure with the following provisions:

(1) the first rate tier shall apply to a quantity of water up to 80 percent of the contract total and shall not be less than the applicable contract rate;

(2) the second rate tier shall apply to that quantity of water over 80 percent and under 90 percent of the contract total and shall be at a level halfway between the rates established under paragraphs (1) and (3) of this subsection;

(3) the third rate tier shall apply to that quantity of water over 90 percent of the contract total and shall not be less than the full cost rate; and

(4) the Secretary shall charge contractors only for water actually delivered.

The Secretary shall waive application of this subsection as it relates to any project water delivered to produce a crop which the Secretary determines will provide significant and quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced; Provided, That such waiver shall apply only if such habitat values can be assured consistent with the goals and objectives of this title through binding agreements executed with or approved by the Secretary.

(e) WATER CONSERVATION STANDARDS.—The Secretary shall establish and administer an office on Central Valley Project water conservation best management practices that shall, in consultation with the Secretary of Agriculture, the California Department of Water Resources, California academic institutions, and Central Valley Project water users, develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982.

(1) Criteria developed pursuant to this subsection shall be established within six months following enactment of this title and shall be reviewed periodically thereafter, but no less than every three years, with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices. The criteria shall include, but not be limited to agricultural water suppliers' efficient water management practices developed pursuant to California State law or reasonable alternatives.

(2) The Secretary, through the office established under this subsection, shall review and evaluate within 18 months following enactment of this title all existing conservation plans submitted by project contractors to determine whether they meet the conservation and efficiency criteria established pursuant to this subsection.

(3) In developing the water conservation best management practice criteria required by this subsection, the Secretary shall take into account and grant substantial deference to the recommendations for action specific to water conservation and drainage source reduction proposed in the Final Report of the San Joaquin Valley Drainage Program, entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(f) INCREASED REVENUES.—All revenues received by the Secretary as a result of the increased repayment rates applicable to water transferred from irrigation use to municipal and industrial use under subsection 3405(a) of this section, and all increased revenues received by the Secretary as a result of the increased water prices established under subsection 3405(d) of this section, shall be covered to the Restoration Fund.

SEC. 3406. FISH, WILDLIFE AND HABITAT RESTORATION.

(a) AMENDMENTS TO CENTRAL VALLEY PROJECT AUTHORIZATIONS.—Act of August 26, 1937.—Section 2 of the Act of August 26, 1937 (chapter 832; 50 Stat. 850), as amended, is amended—

(1) in the second proviso of subsection (a), by inserting "and mitigation, protection, and restoration of fish and wildlife" after "Indian reservations,";

(2) in the last proviso of subsection (a), by striking "domestic uses;" and inserting "domestic uses and fish and wildlife mitigation, protection and restoration purposes;" and by striking "power" and inserting "power and fish and wildlife enhancement";

(3) by adding at the end the following: "The mitigation for fish and wildlife losses incurred as a result of construction, operation, or maintenance of the Central Valley Project shall be based on the replacement of ecologically equivalent habitat and shall take place in accordance with the provisions of this title and concurrent with any future actions which adversely affect fish and wildlife populations or their habitat but shall have no priority over them."; and

(4) by adding at the end the following: "(e) Nothing in this title shall affect the State's authority to condition water rights permits for the Central Valley Project."

(b) FISH AND WILDLIFE RESTORATION ACTIVITIES.—The Secretary, immediately upon the enactment of this title, shall operate the Central Valley Project to meet all obligations under state and federal law, including but not limited to the federal Endangered Species Act, 16 U.S.C. §1531, et seq., and all decisions of the California State Water Resources Control Board establishing conditions on applicable licenses and permits for the project. The Secretary, in consultation with other State and Federal agencies, Indian tribes, and affected interests, is further authorized and directed to:

(1) develop within three years of enactment and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in Central Valley rivers and streams will be sustainable, on a long-term basis, at levels not less than twice the average levels attained during the period of 1967–1991; Provided, That this goal shall not apply to the San Joaquin River between Friant Dam and the Mendota Pool, for which a separate program is authorized under subsection 3406(c) of this title; Provided further, That the programs and activities authorized by this section shall, when fully implemented, be deemed to meet the mitigation, protection, restoration, and enhancement purposes established by subsection 3406(a) of this title; And provided further, That in the course of developing and implementing this program the Secretary shall make all reasonable efforts consistent with the requirements of this section to address other identified adverse environmental impacts of the Central Valley Project not specifically enumerated in this section.

(A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through habitat restoration actions, modifications to Central Valley Project operations, and implementation of the supporting measures mandated by this subsection; shall be reviewed and updated every five years; and shall describe how the Secretary intends to operate the Central Valley Project to meet the fish, wildlife, and habitat restoration goals and requirements set forth in this title and other project purposes.

(B) As needed to achieve the goals of this program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish, except that such flows shall be provided from the quantity of water dedicated to fish, wildlife, and habitat restoration purposes under paragraph (2) of this subsection; from the water supplies acquired pursuant to paragraph (3) of this subsection; and from other sources which do not conflict with fulfillment of the Secretary's remaining contractual obligations to provide Central Valley Project water for other authorized purposes. Instream flow needs for all Central Valley Project controlled streams and rivers shall be determined by the Secretary based on recommendations of the U.S. Fish and Wildlife Service after consultation with the California Department of Fish and Game.

(C) The Secretary shall cooperate with the State of California to ensure that, to the greatest degree practicable, the specific quantities of yield dedicated to and managed for fish and wildlife purposes under this title are credited against any additional obligations of the Central Valley Project which may be imposed by the State of California following enactment of this title, including but not limited to increased flow and reduced export obligations which may be imposed by the California State Water Resources Control Board in implementing San Francisco Bay/Sacramento-San Joaquin Delta Estuary standards pursuant to the review ordered by the California Court of Appeals in U.S. v. State Water Resources Control Board, 182 Cal.App.3rd 82 (1986), and that, to the greatest degree practicable, the programs and plans required by this title are developed and implemented in a way that avoids inconsistent or duplicative obligations from being imposed upon Central Valley Project water and power contractors.

(D) Costs associated with this paragraph shall be reimbursable pursuant to existing statutory and regulatory procedures.

(2) upon enactment of this title dedicate and manage annually 800,000 acre-feet of Central Valley Project yield for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this title; to assist the State of California in its efforts to protect the waters of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; and to help to meet such obligations as may be legally imposed upon the Central Valley Project under state or federal law following the date of enactment of this title, including but not limited to additional obligations under the federal Endangered Species Act. For the purpose of this section, the term "Central Valley Project yield" means the delivery capability of the Central Valley Project during the 1928–1934 drought period after fishery, water quality, and other flow and operational requirements imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing at the time of enactment of this title have been met.

(A) Such quantity of water shall be in addition to the quantities needed to implement paragraph 3406(d)(1) of this title and in addition to all water allocated pursuant to paragraph (23) of this subsection for release to the Trinity River

for the purposes of fishery restoration, propagation, and maintenance; and shall be supplemented by all water that comes under the Secretary's control pursuant to subsections 3406(b)(3), 3408(h)–(i), and through other measures consistent with subparagraph 3406(b)(1)(B) of this title.

(B) Such quantity of water shall be managed pursuant to conditions specified by the U.S. Fish and Wildlife Service after consultation with the Bureau of Reclamation and the California Department of Water Resources and in cooperation with the California Department of Fish and Game.

(C) The Secretary may temporarily reduce deliveries of the quantity of water dedicated under this paragraph up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water; Provided, That such reductions shall not exceed in percentage terms the reductions imposed on agricultural service contractors; provided further, That nothing in this subsection or subsection 3406(e) shall require the Secretary to operate the project in a way that jeopardizes human health or safety.

(D) If the quantity of water dedicated under this paragraph, or any portion thereof, is not needed for the purposes of this section, based on a finding by the Secretary, the Secretary is authorized to make such water available for other project purposes.

(3) develop and implement a program in coordination and in conformance with the plan required under paragraph (1) of this subsection for the acquisition of a water supply to supplement the quantity of water dedicated to fish and wildlife purposes under paragraph (2) of this subsection and to fulfill the Secretary's obligations under paragraph 3406(d)(2) of this title. The program should identify how the Secretary intends to utilize, in particular the following options: improvements in or modifications of the operations of the project; water banking; conservation; transfers; conjunctive use; and temporary and permanent land fallowing, including purchase, lease, and option of water, water rights, and associated agricultural land.

(4) develop and implement a program to mitigate for fishery impacts associated with operations of the Tracy Pumping Plant. Such program shall include, but is not limited to improvement or replacement of the fish screens and fish recovery facilities and practices associated with the Tracy Pumping Plant. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California. The reimbursable share of funding for this and other facility repairs, improvements, and construction shall be allocated among project water and power users in accordance with existing project cost allocation procedures.

(5) develop and implement a program to mitigate for fishery impacts resulting from operations of the Contra Costa Canal Pumping Plant No. 1. Such program shall provide for construction and operation of fish screening and recovery facilities, and for modified practices and operations. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(6) install and operate a structural temperature control device at Shasta Dam and develop and implement modifications in CVP operations as needed to assist in the Secretary's efforts to control water temperatures in the upper Sacramento River in order to protect anadromous fish in the upper Sacramento River. Costs associated with planning and construction of the structural temperature control device shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(7) meet flow standards and objectives and diversion limits set forth in all laws and judicial decisions that apply to Central Valley Project facilities, including, but not limited to, provisions of this title and all obligations of the United States under the "Agreement Between the United States and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" dated May 20, 1985, as well as Pub. L. 99–546.

(8) make use of short pulses of increased water flows to increase the survival of migrating anadromous fish moving into and through the Sacramento-San Joaquin Delta and Central Valley rivers and streams.

(9) develop and implement a program to eliminate, to the extent possible, losses of anadromous fish due to flow fluctuations caused by the operation of any Central Valley Project storage or re-regulating facility. The program shall be patterned where appropriate after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex.

(10) develop and implement measures to minimize fish passage problems for adult and juvenile anadromous fish at the Red Bluff Diversion Dam in a manner that provides for the use of associated Central Valley Project conveyance facilities for delivery of water to the Sacramento Valley National Wildlife Refuge complex in accordance with the requirements of subsection (d) of this section. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(11) rehabilitate and expand the Coleman National Fish Hatchery by implementing the U.S. Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan, and modify the Keswick Dam Fish Trap to provide for its efficient operation at all project flow release levels and modify the basin below the Keswick Dam spillway to prevent the trapping of fish. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 50 percent shall be reimbursed as main project features and 50 percent shall be considered a nonreimbursable Federal expenditure.

(12) develop and implement a comprehensive program to provide flows to allow sufficient spawning, incubation, rearing, and outmigration for salmon and steelhead from Whiskeytown Dam as determined by instream flow studies conducted by the California Department of Fish and Game after Clear Creek has been restored and a new fish ladder has been constructed at the McCormick-Saeltzer Dam. Costs associated with channel restoration, passage improvements, and fish ladder construction required by this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California. Costs associated with providing the flows required by this paragraph shall be allocated among project purposes.

(13) develop and implement a continuing program for the purpose of restoring and replenishing, as needed, spawning gravel lost due to the construction and operation of Central Valley Project dams, bank protection projects, and other actions that have reduced the availability of spawning gravel and rearing habitat in the Upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam in the American and Stanislaus Rivers downstream from the Nimbus and Goodwin Dams, respectively. The program shall include preventive measures, such as re-establishment of meander belts and limitations on future bank protection activities, in order to avoid further losses of instream and riparian habitat. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(14) develop and implement a program which provides for modified operations and new or improved control structures at the Delta Cross Channel and Georgiana Slough during times when significant numbers of striped bass eggs, larvae, and juveniles approach the Sacramento River intake to the Delta Cross Channel or Georgiana Slough. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(15) construct, in cooperation with the State of California and in consultation with local interests, a barrier at the head of Old River in the Sacramento-San Joaquin Delta to be operated on a seasonal basis to increase the survival of young outmigrating salmon that are diverted from the San Joaquin River to Central Valley Project and Sate Water Project pumping plants and in a manner that does not significantly impair the ability of local entities to divert water. The costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(16) establish, in cooperation with independent entities and the State of California, a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley to assess the biological results and effectiveness of actions implemented pursuant to this subsection. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(17) develop and implement a program to resolve fishery passage problems at the Anderson-Cottonwood Irrigation District Diversion Dam as well as upstream stranding problems related to Anderson-Cottonwood-Irrigation District Diversion Dam operations. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California.

(18) if requested by the State of California, assist in developing and implementing management measures to restore the striped bass fishery of the Bay-Delta estuary. Such measures shall be coordinated with efforts to protect and restore native fisheries. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States and 50 percent to the State of California. The United

States' share of costs associated with implementation of this paragraph shall be nonreimbursable.

(19) reevaluate existing operational criteria in order to maintain minimum carryover storage at Sacramento and Trinity River reservoirs to protect and restore the anadromous fish of the Sacramento and Trinity Rivers in accordance with the mandates and requirements of this subsection and subject to the Secretary's responsibility to fulfill all project purposes, including agricultural water delivery.

(20) participate with the State of California and other federal agencies in the implementation of the on-going program to mitigate fully for the fishery impacts associated with operations of the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant. Such participation shall include replacement of the defective fish screens and fish recovery facilities associated with the Hamilton City Pumping Plant. This authorization shall not be deemed to supersede or alter existing authorizations for the participation of other federal agencies in the mitigation program. 75 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(21) assist the State of California in efforts to develop and implement measures to avoid losses of juvenile anadromous fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, the Sacramento-San Joaquin Delta, and the Suisun Marsh. Such measures shall include but shall not be limited to construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing nonfunctioning screens, and relocation of diversions to less fishery-sensitive areas. The Secretary's share of costs associated with activities authorized under this paragraph shall not exceed 50 percent of the total cost of any such activity.

(22) provide such incentives as the Secretary determines to be appropriate or necessary, consistent with the goals and objectives of this title, to encourage farmers to participate in a program, which the Secretary shall develop, under which such farmers will keep fields flooded during appropriate time periods for the purposes of waterfowl habitat creation and maintenance and for Central Valley Project yield enhancement; Provided, That such incentives shall not exceed $2,000,000 annually, either directly or through credits against other contractual payment obligations, including the pricing waivers authorized under subsection 3405(d) of this tile; Provided further, That the holder of the water contract shall pass such incentives through to farmers participating in the program, less reasonable contractor costs, if any; And provided further, That such water may be transferred subject to section 3405(a) of this title only if the farmer waives all rights to such incentives. This provision shall terminate by the year 2002.

(23) in order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to meet the fishery restoration goals of the Act of October 24, 1984, Pub. L. 98–541, provide through the Trinity River Division, for water years 1992 through 1996, an instream release of water to the Trinity River of not less than 340,000 acre-feet per year for the purposes of fishery restoration, propagation, and maintenance and,

(A) by September 30, 1996, the Secretary, after consultation with the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the U.S. Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery; and

(B) not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subparagraph (A) of this paragraph, to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established under this paragraph and the operating criteria and procedures referred to in subparagraph (A) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established under this paragraph shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe. Costs associated with implementation of this paragraph shall be reimbursable as operation and maintenance expenditures pursuant to existing law.

If the Secretary and the State of California determine that long-term natural fishery productivity in all Central Valley Project controlled rivers and streams resulting from implementation of this section exceeds that which existed in the absence of Central Valley Project facilities, the costs of implementing those measures which are determined to provide such enhancement shall become credits to offset reimbursable costs associated with implementation of this subsection.

(c) SAN JOAQUIN AND STANISLAUS RIVERS.—The Secretary shall, by not later than September 30, 1996:

(1) develop a comprehensive plan, which is reasonable, prudent, and feasible, to address fish, wildlife, and habitat concerns on the San Joaquin River, including but not limited to the streamflow, channel, riparian habitat, and water quality improvements that would be needed to reestablish where necessary and to sustain naturally reproducing anadromous fisheries from Friant Dam to its confluence with the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. Such plan shall be developed in cooperation with the California Department of Fish and Game and in coordination with the San Joaquin River Management Program under development by the State of California; shall comply with and contain any documents required by the National Environmental Policy Act and contain findings setting forth the basis for the Secretary's decision to adopt and implement the plan as well as recommendations concerning the need for subsequent Congressional action, if any; and shall incorporate, among other relevant factors, the potential contributions of tributary streams as well as the alternatives to be investigated under paragraph (2) of this subsection. During the time that the Secretary is developing the plan provided for in this subsection, and until such time as Congress has authorized the Secretary to implement such plan, with or without modifications, the Secretary shall not, as a measure to implement this title, make releases for the restoration of flows between Gravelly Ford and the Medota Pool and shall not thereafter make such releases as a measure to implement this title without a specific Act of Congress authorizing such releases. In lieu of such requirement, and until such time as flows of sufficient quantity, quality and timing are provided at and below Gravelly Ford to meet the anadromous fishery needs identified pursuant to such plan, if any, entities who receive water from the Friant Division of the Central Valley Project shall be assessed, in addition to all other applicable charges, a $4.00 per acre-foot surcharge for all Project water delivered on or before September 30, 1997; a $5.00 per acre-foot surcharge for all Project water delivered after September 30, 1997 but on or before September 30, 1999; and a $7.00 per acre-foot surcharge for all Project water delivered thereafter, to be covered into the Restoration Fund.

(2) in the course of preparing the Stanislaus River Basin and Calaveras River Water Use Program Environmental Impact Statement and in consultation with the State of California, affected counties, and other interests, evaluate and determine existing and anticipated future basin needs in the Stanislaus River Basin. In the course of such evaluation, the Secretary shall investigate alternative storage, release, and delivery regimes, including but not limited to conjunctive use operations, conservation strategies, exchange arrangements, and the use of base and channel maintenance flows, in order to best satisfy both basin and out-of-basin needs consistent, on a continuing basis, with the limitations and priorities established in the Act of October 23, 1962 (76 Stat. 173). For the purposes of this subparagraph, "basin needs" shall include water supply for agricultural, municipal and industrial uses, and maintenance and enhancement of water quality, and fish and wildlife resources within the Stanislaus River Basin as established by the Secretary's June 29, 1981 Record of Decision; and "out-of-basin" needs shall include all such needs outside of the Stanislaus River Basin, including those of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and those of the San Joaquin River under paragraph (1) of this subsection.

(d) CENTRAL VALLEY REFUGES AND WILDLIFE HABITAT AREAS—In support of the objectives of the Central Valley Habitat Joint Venture and in furtherance of the purposes of this title, the Secretary shall provide, either directly or through contractual agreements with other appropriate parties, firm water supplies of suitable quality to maintain and improve wetland habitat areas on units of the National Wildlife Refuge System in the Central Valley of California; on the Gray Lodge, Los Banos, Volta, North Grasslands, and Mendota state wildlife management areas; and on the Grasslands Resources Conservation District in the Central Valley of California.

(1) Upon enactment of this title, the quantity and delivery schedules of water measured at the boundaries of each wetland habitat area described in this paragraph shall be in accordance with Level 2 of the "Dependable Water Supply Needs" table for those habitat areas as set forth in the Refuge Water Supply Report and two-thirds of the water supply needed for full habitat development for those habitat areas identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. Such water shall be provided through long-term contractual agreements with appropriate parties and shall be supplemented by the increment of water provided for in paragraph (1) of this subsection; Provided, That the Secretary shall be obligated to provide such water whether or not such long-term contractual agreements are in effect. In implementing this paragraph, the Secretary shall endeavor to diversify sources of supply in order to minimize possible adverse effects upon Central Valley Project contractors.

(2) Not later than ten years after enactment of this title, the quantity and delivery schedules of water measured at the boundaries of each wetland habitat area described in this paragraph shall be in accordance with Level 4 of the "Dependable Water Supply Needs" table for those habitat areas as set forth in the Refuge Water Supply Report and the full water supply needed

for full habitat development for those habitat areas identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. The quantities of water required to supplement the quantities provided under paragraph (1) of this subsection shall be acquired by the Secretary in cooperation with the State of California and in consultation with the Central Valley Habitat Joint Venture and other interests in cumulating increments of not less than ten percent per annum through voluntary measures which include water conservation, conjunctive use, purchase, lease, donations, or similar activities, or a combination of such activities which do not require involuntary reallocations of project yield.

(3) All costs associated with implementation of paragraph (1) of this subsection shall be reimbursable pursuant to existing law. Incremental costs associated with implementation of paragraph (2) of this subsection shall be fully allocated in accordance with the following formula: 75 percent shall be deemed a nonreimbursable Federal expenditure; and 25 percent shall be allocated to the State of California for recovery through direct reimbursements or through equivalent in-kind contributions.

(4) The Secretary may temporarily reduce deliveries of the quantity of water dedicated under paragraph (1) of this subsection up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water; Provided, That such reductions shall not exceed in percentage terms the reductions imposed on agricultural service contractors. For the purpose of shortage allocation, the priority or priorities applicable to the increment of water provided under paragraph (2) of this subsection shall be the priority or priorities which applied to the water in question prior to its transfer to the purpose of providing such increment.

(5) The Secretary is authorized and directed to construct or to acquire from non-Federal entities such water conveyance facilities, conveyance capacity, and wells as are necessary to implement the requirements of this subsection; Provided, That such authorization shall not extend to conveyance facilities in or around the Sacramento-San Joaquin Delta Estuary. Associated construction or acquisition costs shall be reimbursable pursuant to existing law in accordance with the cost allocations set forth in paragraph (3) of this subsection.

(6) The Secretary, in consultation with the State of California, the Central Valley Habitat Joint Venture, and other interests, shall investigate and report on the following supplemental actions by not later than September 30, 1997:

(A) alternative means of improving the reliability and quality of water supplies currently available to privately owned wetlands in the Central Valley and the need, if any, for additional supplies; and

(B) water supply and delivery requirements necessary to permit full habitat development for water dependent wildlife on 120,000 acres supplemental to the existing wetland habitat acreage identified in Table 8 of the Central Valley Habitat Joint Venture's "Implementation Plan" dated April 19, 1990, as well as feasible means of meeting associated water supply requirements.

(e) Supporting Investigations.—Not later than five years after the date of enactment of this title, the Secretary shall investigate and provide recommendations to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House on the feasibility, cost, and desirability of developing and implementing each of the following, including, but not limited to, the impact on the project, its users, and the State of California:

(1) measures to maintain suitable temperatures for anadromous fish survival in the Sacramento and San Joaquin rivers and their tributaries, and the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent, and by restoring riparian forests;

(2) opportunities for additional hatchery production to mitigate the impacts of water development and operations on, or enhance efforts to increase Central Valley fisheries; Provided, That additional hatchery production shall only be used to supplement or to re-establish natural production while avoiding adverse effects on remaining wild stocks;

(3) measures to eliminate barriers to upstream and downstream migration of salmonids in the Central Valley, including but not limited to screening programs, barrier removal programs and programs for the construction or rehabilitation of fish ladders on tributary streams;

(4) installation and operation of temperature control devices at Trinity Dam and Reservoir to assist in the Secretary's efforts to conserve cold water for fishery protection purposes;

(5) measures to provide for modified operations and new or improved control structures at the Delta Cross Channel and Georgiana Slough to assist in the successful migration of anadromous fish; and

(6) other measures which the Secretary determines would protect, restore, and enhance natural production of salmon and steel-head trout in tributary streams of the Sacramento and San Joaquin Rivers, including but not limited to the Merced, Mokulumne, and Calaveras Rivers and Battle, Butte, Deer, Elder, Mill, and Thomes Creeks.

(f) Report on Project Fishery Impacts.—The Secretary, in consultation with the Secretary of Commerce, the State of California, appropriate Indian tribes, and other appropriate public and private entities, shall investigate and report on all effects of the Central Valley Project on anadromous fish populations and the fisheries, communities, tribes, businesses and other interests and entities that have now or in the past had significant economic, social or cultural association with those fishery resources. The Secretary shall provide such report to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives not later than two years after the date of enactment of this title.

(g) Ecosystem and Water System Operations Models.—The Secretary, in cooperation with the State of California and other relevant interests and experts, shall develop readily usable and broadly available models and supporting data to evaluate the ecologic and hydrologic effects of existing and alternative operations of public and private water facilities and systems in the Sacramento, San Joaquin, and Trinity River watersheds. The primary purpose of this effort shall be to support the Secretary's efforts in fulfilling the requirements of this title through improved scientific understanding concerning, but not limited to, the following:

(1) a comprehensive water budget of surface and groundwater supplies, considering all sources of inflow and outflow available over extended periods;

(2) related water quality conditions and improvement alternatives, including improved temperature prediction capabilities as they relate to storage and flows;

(3) surface-ground and stream-wetland interactions;

(4) measures needed to restore anadromous fisheries to optimum and sustainable levels in accordance with the restored carrying capacities of Central Valley rivers, streams, and riparian habitats;

(5) development and use of base flows and channel maintenance flows to protect and restore natural channel and riparian habitat values;

(6) implementation of operational regimes at State and Federal facilities to increase springtime flow releases, retain additional floodwaters, and assist in restoring both upriver and downriver riparian habitats;

(7) measures designed to reach sustainable harvest levels of resident and anadromous fish, including development and use of systems of tradeable harvest rights;

(8) opportunities to protect and restore wetland and upland habitats throughout the Central Valley;

(9) measures to enhance the firm yield of existing Central Valley Project facilities, including improved management and operations, conjunctive use opportunities, development of offstream storage, levee setbacks, and riparian restoration.

All studies and investigations shall take into account and be fully consistent with the fish, wildlife, and habitat protection and restoration measures required by this title or by any other state or federal law. 75 percent of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost; the remaining 25 percent shall be borne by the State of California.

(h) The Secretary shall enter into a binding cost-share agreement with the State of California with respect to the timely reimbursement of costs allocated to the State in this title. Such agreement shall provide for consideration of the value of direct reimbursements, specific contributions to the Restoration Fund, and water, conveyance capacity, or other contributions in-kind that would supplement existing programs and that would, as determined by the Secretary, materially contribute to attainment of the goals and objectives of this title.

SEC. 3407. RESTORATION FUND.

(a) Restoration Fund Established.—There is hereby established in the Treasury of the United States the "Central Valley Project Restoration Fund" (hereafter "Restoration Fund") which shall be available for deposit of donations from any source and revenues provided under sections 3404(c)(3), 3405(f), 3406(c)(1), and 3407(d) of this title. Amounts deposited shall be credited as offsetting collections. Not less than 67 percent of all funds made available to the Restoration Fund under this title are authorized to be appropriated to the Secretary to carry out the habitat restoration, improvement and acquisition (from willing sellers) provisions of this title. Not more than 33 percent of all funds made available to the Restoration Fund under this title are authorized to be appropriated to the Secretary to carry out the provisions of paragraphs 3406(b)(4)–(6), (10)–(18), and (20)–(22) of this title. Monies donated to the Restoration Fund by non-Federal entities for specific purposes shall be expended for those purposes only and shall not be subject to appropriation.

(b) Authorization of Appropriations.—Such sums as are necessary, up to $50,000,000 per year (October 1992 price levels), are authorized to be appropriated to the Secretary to be derived from the Restoration Fund to carry out programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of this title. Any funds paid into the Restoration Fund by Central Valley Project water and power contractors and which are also used to pay for the projects and facilities set forth in section 3406(b), shall act as an offset against any water and power contractor cost share obligations that are otherwise provided for in this title.

(c) Mitigation and Restoration Payments by Water and Power Beneficiaries.—

(1) To the extent required in appropriation Acts, the Secretary shall assess and collect addi-

tional annual mitigation and restoration payments, in addition to the charges provided for or collected under sections 3404(c)(3), 3405(a)(1)(C), 3405(f), and 3406(c)(1) of this title, consisting of charges to direct beneficiaries of the Central Valley Project under subsection (d) of this section in order to recover a portion or all of the costs of fish, wildfish, and habitat restoration programs and projects under this title.

(2) The payments described in this subsection shall be established at amounts that will result in collection, during each fiscal year, of an amount that can be reasonably expected to equal the amount appropriated each year, subject to subsection (d) of this section, and in combination with all other receipts identified under this title, to carry out the purpose identified in subsection (b) of this section; Provided, That, if the total amount appropriated under subsection (b) of this section for the fiscal years following enactment of this title does not equal $50,000,000 per year (October 1992 price levels) on an average annual basis, the Secretary shall impose such charges in fiscal year 1998 and in each fiscal year thereafter, subject to the limitations in subsection (d) of this section, as may be required to yield in fiscal year 1998 and in each fiscal year thereafter total collections equal to $50,000,000 per year (October 1992 price levels) on a three-year rolling average basis for each fiscal year that follows enactment of this title.

(d) ADJUSTMENT AND ASSESSMENT OF MITIGATION AND RESTORATION PAYMENTS.—

(1) In assessing the annual payments to carry out subsection (c) of this section, the Secretary shall, prior to each fiscal year, estimate the amount that could be collected in each fiscal year pursuant to subparagraphs 2(A) and (B) of this subsection. The Secretary shall decrease all such payments on a proportionate basis from amounts contained in the estimate so that an aggregate amount is collected pursuant to the requirements of paragraph (c)(2) of this section.

(2) The Secretary shall assess and collect the following mitigation and restoration payments, to be covered to the Restoration Fund, subject to the requirements of paragraph (1) of this subsection:

(A) The Secretary shall require Central Valley Project water and power contractors to make such additional annual payments as are necessary to yield, together with all other receipts, the amount required under paragraph (c)(2) of this subsection; Provided, That such additional payments shall not exceed $30,000,000 (October 1992 price levels) on a three-year rolling average basis; Provided further, That such additional annual payments shall be allocated so as not to exceed $6.00 per acre-foot (October 1992 price levels) for agricultural water sold and delivered by the Central Valley Project, and $12.00 per acre-foot (October 1992 price levels) for municipal and industrial water sold and delivered by the Central Valley Project; Provided further, that the charge imposed on agricultural water shall be reduced, if necessary, to an amount within the probable ability of the water users to pay as determined and adjusted by the Secretary no less than every five years, taking into account the benefits resulting from implementation of this title; Provided further, That the Secretary shall impose an additional annual charge of $25.00 per acre-foot (October 1992 price levels) for Central Valley Project water sold or transferred to any State or local agency or other entity which has not previously been a Central Valley Project customer and which contracts with the Secretary or any other individual or district receiving Central Valley Project water to purchase or otherwise transfer any such water for its own use for municipal and industrial purposes, to be deposited in the Restoration Fund; And Provided further, That upon the completion of the fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406 of this title, the Secretary shall reduce the sums described in paragraph (c)(2) of this section to $35,000,000 per year (October 1992 price levels) and shall reduce the annual mitigation and restoration payment ceiling established under this subsection to $15,000,000 (October 1992 price levels) on a three-year rolling average basis. The amount of the mitigation and restoration payment made by Central Valley Project water and power users, taking into account all funds collected under this title, shall, to the greatest degree practicable, be assessed in the same proportion, measured over a ten-year rolling average, as water and power users' respective allocations for repayment of the Central Valley Project.

(e) FUNDING TO NON-FEDERAL ENTITIES.—If the Secretary determines that the State of California or an agency or subdivision thereof, an Indian tribe, or a non-profit entity concerned with restoration, protection, or enhancement of fish, wildlife, habitat, or environmental values is able to assist in implementing any action authorized by this title in an efficient, timely, and cost effective manner, the Secretary is authorized to provide funding to such entity on such terms and conditions as he deems necessary to assist in implementing the identified action.

(f) RESTORATION FUND FINANCIAL REPORTS.—The Secretary shall, not later than the first full fiscal year after enactment of this title, and annually thereafter, submit a detailed report to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, and the Committee on Interior and Insular Affairs, the Committee on Merchant Marine and Fisheries, and the Committee on Appropriations of the House of Representatives. Such report shall describe all receipts to and uses made of monies within the Restoration Fund and the Restoration Account during the prior fiscal year and shall include the Secretary's projection with respect to receipts to and uses to be made of the finds during the next upcoming fiscal year.

SEC. 3408. ADDITIONAL AUTHORITIES.

(a) REGULATIONS AND AGREEMENTS AUTHORIZED.—The Secretary is authorized and directed to promulgate such regulations and enter into such agreements as may be necessary to implement the intent, purposes and provisions of this title.

(b) USE OF ELECTRICAL ENERGY.—Electrical energy used to operate and maintain facilities developed for fish and wildlife purposes pursuant to this title, including that used for groundwater development, shall be deemed as Central Valley Project power and shall, if reimbursable, be repaid in accordance with Reclamation law at a price not higher than the lowest price paid by or charged to other Central Valley Project contractors.

(c) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.—The Secretary is authorized to enter into contracts pursuant to Reclamation law and this title with any Federal agency, California water user or water agency, State agency, or private non-profit organization for the exchange, impoundment, storage, carriage, and delivery of Central Valley Project and non-project water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose, except that nothing in this subsection shall be deemed to supersede the provisions of section 103 of Pub. L. 99-546 (100 Stat. 3051).

(d) USE OF PROJECT FACILITIES FOR WATER BANKING.—The Secretary, in consultation with the State of California, is authorized to enter into agreements to allow project contracting entities to use project facilities, where such facilities are not otherwise committee or required to fulfill project purposes or other Federal obligations, for supplying carry-over storage of irrigation and other water for drought protection, multiple-benefit credit-storage operations, and other purposes. The use of such water shall be consistent with and subject to State law. All or a portion of the water provided for fish and wildlife under this title may be banked for fish and wildlife purposes in accordance with this subsection.

(e) LIMITATION ON CONSTRUCTION.—This title does not and shall not be interpreted to authorize construction of water storage facilities, nor shall it limit the Secretary's ability to participate in water banking or conjunctive use programs.

(f) ANNUAL REPORTS TO CONGRESS.—Not later than September 30 of each calendar year after the date of enactment of this title, the Secretary shall submit a detailed report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall describe all significant actions taken by the Secretary pursuant to this title and progress toward achievement of the intent, purposes and provisions of this title. Such report shall include recommendations for authorizing legislation or other measures, if any, needed to implement the intent, purposes and provisions of this title.

(g) RECLAMATION LAW.—This title shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof.

(h) LAND RETIREMENT.—

(1) The Secretary is authorized to purchase from willing sellers land and associated water rights and other property interests identified in paragraph (h)(2) which receives Central Valley Project water under a contract executed with the United States, and to target such purchases to areas deemed most beneficial to the overall purchase program, including the purposes of this title.

(2) The Secretary is authorized to purchase, under the authority of paragraph (h)(i), and pursuant to such rules and regulations as may be adopted or promulgated to implement the provisions of this subsection, agricultural land which, in the opinion of the Secretary—

(A) would, if permanently retired from irrigation, improve water conservation by a district, or improve the quality of an irrigation district's agricultural wastewater and assist the district in implementing the provisions of a water conservation plan approved under section 210 of the Reclamation Reform Act of 1982 and agricultural wastewater management activities developed pursuant to recommendations specific to water conservation, drainage source reduction, and land retirement contained in the final report of the San Joaquin Valley Drainage Program (September, 1990); or

(B) are no longer suitable for sustained agricultural production because of permanent damage resulting from severe drainage or agricultural wastewater management problems, groundwater withdrawals, or other causes.

(i) WATER CONSERVATION.—

(1) The Secretary is authorized to undertake, in cooperation with Central Valley Project irrigation contractors, water conservation projects or measures needed to meet the requirements of this title. The Secretary shall execute a cost-sharing agreement for any such project or measure undertaken. Under such agreement, the Secretary is authorized to pay up to 100 percent of the costs of such projects or measures. Any water saved by such projects or measures shall be governed by the conditions of subparagraph 3405(a)(1) (A) and (J) of this title, and shall be made available to the Secretary in proportion to the Secretary's contribution to the total cost of

such project or measure. Such water shall be used by the Secretary to meet the Secretary's obligations under this title, including the requirements of paragraph 3406(b)(3). Such projects or measures must be implemented fully by September 30, 1999.

(2) There are authorized to be appropriated through the end of fiscal year 1998 such sums as may be necessary to carry out the provisions of this subsection. Funds appropriated under this subsection shall be nonreimbursable Federal expenditure.

(j) Project Yield Increase.—In order to minimize adverse effects, if any, upon existing Central Valley Project water contractors resulting from the water dedicated to fish and wildlife under this title, and to assist the State of California in meeting its future water needs, the Secretary shall, not later than three years after the date of enactment of this title, develop and submit to the Congress, a least-cost plan to increase, within fifteen years after the date of enactment of this title, the yield of the Central Valley Project by the amount dedicated to fish and wildlife purposes under this title. The plan authorized by this subsection shall include, but shall not be limited to a description of how the Secretary intends to use the following options:

(1) improvements in, modification of, or additions to the facilities and operations of the project;

(2) conservation;

(3) transfers;

(4) conjunctive use;

(5) purchase of water;

(6) purchase and idling of agricultural land; and

(7) direct purchase of water rights.

Such plan shall include recommendations on appropriate cost-sharing arrangements and shall be developed in a manner consistent with all applicable State and Federal law.

(k) Except as specifically provided in this title, nothing in this title is intended to alter the terms of any final judicial decree confirming or determining water rights.

SEC. 3409. ENVIRONMENTAL REVIEW.

Not later than three years after the date of enactment of this title, the Secretary shall prepare and complete a programmatic environmental impact statement pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts and benefits of implementing this title, including all fish, wildlife, and habitat restoration actions and the potential renewal of all existing Central Valley Project water contracts. Such statement shall consider impacts and benefits within the Sacramento, San Joaquin, and Trinity River basins, and the San Francisco Bay/Sacramento-San Joaquin River Delta Estuary. The cost of the environmental impact statement described in this section shall be treated as a capital expense in accordance with Reclamation law.

SEC. 3410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Funds appropriated under this title shall remain available until expended without fiscal year limitation.

SEC. 3411. COMPLIANCE WITH STATE WATER LAW AND COORDINATED OPERATIONS AGREEMENT.

(a) Nothwithstanding any other provision of this title, the Secretary shall, prior to the reallocation of water from any purpose of use or place of use specified within applicable Central Valley Project water rights permits and licenses to a purpose of use or place of use not specified within said permits or licenses, obtain a modification in those permits and licenses, in a manner consistent with the provisions of applicable State law, to allow such change in purpose of use or place of use.

(b) The Secretary, in the implementation of the provisions of this title, shall fully comply with the United States' obligations as set forth in the "Agreement Between the United Sates of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" dated May 20, 1985, and the provisions of Pub. L. 99–546; and shall take no action which shifts an obligation that otherwise should be borne by the Central Valley Project to any other lawful water rights permittee or licensee.

SEC. 3412. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339), authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting "Tehama, Glenn, Colusa, Solano, and Napa Counties, those portions of Yolo County within the boundaries of Colusa Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, or".

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM, NORTH DAKOTA

SEC. 3501. SHORT TITLE.

This title may be cited as the "Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act."

SEC. 3502. DEFINITIONS.

As used in this title, the term—

(1) "Secretary" means the Secretary of the Interior;

(2) "Three Affiliated Tribes" means the Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation, a Federal reservation established by treaty and agreement between the Tribes and the United States;

(3) "Standing Rock Sioux Tribe" means the members of the Great Sioux Nation that reside on the Standing Rock Indian Reservation, established by treaty between the Tribe and the United States; and

(4) "Joint Tribal Advisory Committee" means the commission established by the Secretary on May 10, 1985, for the purpose of assessing the impacts of the Garrison and Oahe Dams on the Three Affiliated Tribes and the Standing Rock Sioux Tribe.

SEC. 3503. FINDINGS; DECLARATIONS.

(a) Findings.—In recognition of the findings, conclusions, and recommendations of the Secretary's Joint Tribal Advisory Committee, Congress finds that the Three Affiliated Tribes and the Standing Rock Sioux Tribe should be adequately compensated for the taking, in the case of the Three Affiliated Tribes, of 156,000 acres of reservation lands and, in the case of the Standing Rock Sioux Tribe, 56,000 acres of reservation lands, as the site for the Garrison Dam and Reservoir, and the Oahe Dam and Reservoir. Congress concurs in the Advisory Committee's findings and conclusions that the United States Government did not justly compensate such Tribes when it acquired those lands.

(b) Declarations.—(1) The Congress declares that the Three Affiliated Tribes are entitled to additional financial compensation for the taking of 156,000 acres of their reservation lands, including thousands of acres of prime agricultural bottom lands, as the site for the Garrison Dam and Reservoir, and that such amounts should be deposited in the Recovery Fund established by section 3054(a) for use in accordance with this title.

(2) The Congress declares that the Standing Rock Sioux Tribe is entitled to additional financial compensation for the taking of over 56,000 acres of its reservation lands, as the site for the Oahe Dam and Reservoir, and that such amounts should be deposited in the Standing Rock Sioux Tribe Economic Recovery Fund established by section 3504(b) for use in accordance with this title.

SEC. 3504. FUNDS.

(A) Three Affiliated Tribes Economic Recovery Fund.—(1)

There is established in the Treasury of the United States the "Three Affiliated Tribes Economic Recovery Fund" (hereinafter referred to as the "Recovery Fund").

(2) Commencing with fiscal year 1993, and each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Three Affiliated Tribes Economic Recovery Fund an amount, which shall be nonreimbursable and nonreturnable equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts deposited to the Fund established by this subsection for compensation for the Three Affiliated Tribes pursuant to this paragraph and paragraph (3) exceed $149,200,000.

(3) For payment to the Three Affiliated Tribes of amounts to which they remain entitled pursuant to the Act entitled "An Act to make certain provisions in connection with the construction of the Garrison Diversion unit, Missouri River Basin Project, by the Secretary of the Interior," approved August 5, 1965 (79 Stat. 433), there is authorized to be appropriated to the Recovery Fund established by subsection (a) for fiscal year 1994 and each of the next following 9 fiscal years, the sum of $6,000,000.

(4) The Secretary of the Treasury shall deposit the interest which accrues on deposits to the Three Affiliated Tribes Economic Recovery Fund in a separate account in the Treasury of the United States. Such interest shall be available, without fiscal year limitation, for use by the Secretary of the Interior, commencing with fiscal year 1998, and each fiscal year thereafter, in making payments to the Three Affiliated Tribes for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary. No part of the principal of the Three Affiliated Tribes Economic Development Fund shall be available for making such payments.

(b) Standing Rock Sioux Tribe Economic Recovery Fund.—(1) There is established in the Treasury of the United States the "Standing Rock Sioux Tribe Economic Recovery Fund."

(2) Commencing with fiscal year 1993, and for each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Standing Rock Sioux Tribe Economic Recovery Fund an amount, which shall be nonreimbursable and nonreturnable equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts deposited to the Recovery Fund established by this subsection for compensation for the Standing Rock Sioux Tribe pursuant to this paragraph exceed $90,600,000.

(3) The Secretary of the Treasury shall deposit the interest which accrues on deposits to the

Standing Rock Sioux Tribe Economic Recovery Fund in a separate account in the Treasury of the United States. Such interest shall be available, without fiscal year limitation, for use by the Secretary of the Interior, commencing with fiscal year 1998, and each fiscal year thereafter, in making payments to the Standing Rock Sioux Tribe for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary. No part of the principal of the Standing Rock Sioux Tribe Economic Recovery Fund shall be available for making such payments.

SEC. 3505. ELIGIBILITY FOR OTHER SERVICES NOT AFFECTED.

No payments pursuant to this title shall result in the reduction, or the denial, of any Federal services or programs that the Three Affiliated Tribes or the Standing Rock Sioux Tribe, or any of their members, are otherwise entitled to, or eligible for, because of their status as a federally recognized Indian tribe or member pursuant to Federal law. No payments pursuant to this title shall be subject to Federal or State income tax, or affect Pick-Sloan Missouri River Basin power rates in any way.

SEC. 3506. PER CAPITA PAYMENTS PROHIBITED.

No part of any moneys in any fund under this title shall be distributed to any member of the Three Affiliated Tribes or the Standing Rock Sioux Tribe on a per capita basis.

SEC. 3507. STANDING ROCK SIOUX INDIAN RESERVATION.

(a) IRRIGATION.—The Secretary of the Interior is authorized to develop irrigation within the boundaries of the Standing Rock Indian Reservation in a 2,380 acre project service area, except that no appropriated funds are authorized to be expended for construction of this project unless the Secretary has made a finding of irrigability of the lands to receive water as required by the Act of July 31, 1953 (43 U.S.C. 390a). Repayment for the units authorized under this subsection shall be made pursuant to the Act of July 1, 1932 (25 U.S.C. 386a).

(b) SPECIFIC.—There is authorized to be appropriated, in addition to any other amounts authorized by this title, or any other law, to the Secretary of the Interior $4,660,000 for use by the Secretary of the Interior in carrying out irrigation projects for the Standing Rock Sioux Tribe.

(c) DISCLAIMER.—This section shall not limit future irrigation development, in the event that such irrigation is subsequently authorized.

SEC. 3508. TRANSFER OF LANDS.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Three Affiliated Tribes by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949 and which are within the external boundary of the Fort Berthold Indian Reservation and located at or above contour elevation 1,860 feet mean sea level.

(b) FOUR BEARS AREA.—All rights, title, and interest of the United States in the following described lands (including the improvements thereon) and underlying Federal minerals are hereby declared to be held in trust by the United States for the Three Affiliated Tribes as part of the Fort Berthold Indian Reservation:

(1) approximately 142.2 acres, more or less, lying above contour elevation 1,854 feet mean sea level and located south of the southerly right-of-way line of North Dakota State Highway No. 23, in the following sections of Township 152 North, Range 93 West of the 5th Principal meridian, McKenzie County, North Dakota:

Section 15: South Half of the Southwest Quarter;

section 21: Northeast Quarter and Northwest Quarter of the Southeast Quarter;

Section 22: North Half of the Northwest Quarter; and

(2) approximately 45.80 acres, more or less, situated in the East half of the Southwest Quarter and the East Half of the West Half of the Southwest Quarter of Section 15, lying at or above contour elegation 1,854 mean sea level, located North of the Northerly right-of-way line of North Dakota State Highway No. 23 and Southeasterly of the following described line:

Commencing at a point on the West line of said Section 15, said point being 528.00 feet Northerly of the existing Northerly right-of-way line of North Dakota State Highway No. 23; thence North 77 00' 00" East to the West line of said East Half of the West Half of the Southwest Quarter of section 15, and the point of beginning of such line; thence Northeasterly to the Northwest corner of the East Half of the Southwest Quarter and the point of termination.

(c) FORMER NONTRIBAL LANDS—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are—

(A) those Federal lands acquired from individual Indian owners by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949; and

(B) those lands acquired from non-Indian owners by the United States for such Project (either by purchase or condemnation);

and which are within the external boundary of the Fort Berthold Reservation, and located at or above contour elevation 1,860 feet mean sea level.

(d) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Three Affiliated Tribes, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to such Tribes, owners, heirs, or assigns, to purchase at fair market value any land, in the case of individual Indian and non-Indian owners, described in subsection (c), which was so acquired. If any such former owner, or his or her heirs or assigns, refuses or fails to exercise his or her right to repurchase, an option to purchase such land shall be afforded to the Three Affiliated Tribes.

(2) Lands purchased from the Secretary of the Interior by former owners, or their heirs or assigns, under this subsection shall not be sold by former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Three Affiliated Tribes has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribes—

(A) 30 days from such notification to inform the prospective seller whether the Tribes intend to exercise their right of first refusal to purchase such lands at the price of the bona fide offer; and

(B) 1 year from such notification to complete the purchase of such lands under their right of first refusal.

(e) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevations 1,860 feet mean sea level (for subsections (a) and (c)) and 1,854 feet mean sea level (for subsection (b)) by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(f) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege, and easement permanently to overflow, flood, submerge, saturate, percolate, and erode the land described in subsections (a), (b), and (c) in connection with the operation and maintenance of the Garrison Dam Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris, and natural obstructions which, in the opinion of the Secretary of the Army, may be detrimental to the Project. The Three Affiliated Tribes, and the owners or their heirs or assigns who reacquired such lands pursuant to this title may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easements hereby reserved.

(g) PROHIBITIONS.—With respect to any lands described in this section that are below 1,860 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land, and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(h) EXCAVATION.—With respect to lands described in subsections (a), (b), or (c), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(i) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a), (b), and (c) prior to the date of the enactment of this title.

(j) TRUST LANDS.—(1) All rights, title, and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Three Affiliated Tribes.

(2) The improvements and facilities referred to in paragraph (1) are the Red Butte Bay Public Use Area and the Deepwater Bay Public Use Area. The recreation facilities include those facilities located both above and below contour elevation 1,860 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair, or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

SEC. 3509. TRANSFER OF LANDS AT OAHE DAM AND LAKE PROJECT.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph 91) are those Federal lands which were acquired from the Standing Rock Sioux Tribe by the United States for the Oahe Dam Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85-915), and—

(A) which extend southerly from the south shore of Cannonball River, in Sioux County,

North Dakota, to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,6520 feet mean sea level.

(b) FORMER NONTRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands acquired from individual Indian owners by the United States for the Oahe Dams and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85–915), and from non-Indian owners (either by purchase or condemnation), and-

(A) which extend southerly from the south shore of the Cannonball River, in Sioux County, North Dakota to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(c) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Standing Rock Sioux Tribe, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to the Standing Rock Sioux Tribe, owners, heirs or assigns, to purchase at fair market value and land, in the case of the Standing Rock Sioux Tribe, Described in subsection (a), and in the case of individual Indian and non-Indian owners, described in subsection (b), which was so acquired. If any such owner, or his or her heirs or assigns, refuses or fails to exercise their right to repurchase, an option to purchase such lands shall be afforded to the Standing Rock Sioux Tribe.

(2) Lands purchased from the Secretary of the Interior by such former owners, or their heirs or assigns, under this subsection shall not be sold by the former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Standing Rock Sioux Tribe has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribe—

(A) 30 days from such notification to inform the prospective seller whether the Tribe intends to exercise its right of first refusal to purchase such lands at the price of the bona fide offer, and

(B) 1 year from such notification to complete the purchase of such lands under its right of first refusal.

(d) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevation 1,620 feet mean sea level by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(e) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege and easement permanently to overflow, flood, saturate, percolate and erode the land described in subsections (a) and (b) in connection with the operation and maintenance of the Oahe Dam and Lake Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris and natural obstructions which, in the opinion of the Secretary of the Army may be detrimental to the Project. The Standing Rock Sioux Tribe, and the owners or their heirs and assigns, who reacquired any such lands pursuant to this title, may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easement and hereby reserved.

(f) PROHIBITIONS.—With respect to lands described in this section that are below 1,620 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land and no other structures shall be constructed or maintained on the land and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(g) EXCAVATION.—With respect to lands described in subsections (a) or (b), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(h) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a) and (b) prior to the date of the enactment of this title.

(i) TRUST LANDS.—(1) All rights, title and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Standing Rock Sioux Tribe.

(2) The improvements and facilities referred to in paragraph (1) are the levee around the City of Fort Yates Recreation area, the Walker Bottoms Recreation Area, and the Grand River Recreation Area, including those recreation facilities located both above and below contour elevation 1,620 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreations facilities in this subsection shall be the responsibility of the Department of the Interior.

(j) EXCEPTION.—Notwithstanding subsection (i), the transfer of such improvements and facilities pursuant to subsection (i) does not include the improvements and facilities located at the Indian Memorial Recreation Area and the Grand River Fish Spawning Station, unless and until the State of South Dakota consents in writing and then only upon amendment of the "Agreement Between the United States and the State of South Dakota for Recreation and Fish and Wildlife Development at Lake Oahe, South Dakota" entered into on September 2, 1983, which amendment shall specifically provide for such transfer.

(k) FISH AND WILDLIFE.—Notwithstanding any other provision of law, the lands transferred under subsection (a) which, prior to the date of enactment of this title, were designated by the Corps of Engineers as mitigation lands for purposes of fish and wildlife conservation in accordance with the Fish and Wildlife Conservation Act of 1958, shall be included in any subsequent determination of the Corps' compliance with the fish and wildlife mitigation requirements of the Fish and Wildlife Conservation Act of 1958. The Standing Rock Sioux Tribe shall use its best efforts to conduct fish and wildlife conservation and mitigation on such lands. Notwithstanding the provisions of the Fish and Wildlife Conservation Act of 1958, the State of South Dakota shall have no claim, right, or cause of action pursuant to Federal law to compel designation of additional lands currently under the jurisdiction of the Corps of Engineers, for purposes of fish and wildlife conservation in lieu of the lands transferred by subsection (a).

SEC. 3510. CONFORMING AMENDMENT.

Section 10(a)(2) of Public Law 89–108 is amended by striking "$67,910,000" and inserting "$7,910,000."

SEC. 3511. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 3504 of this title.

TITLE XXXVI—SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT, CALIFORNIA

SEC. 3601. SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Army is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project under this section.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation and site monitoring.

(3) TARGET DATES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed within 6 months of the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including the construction of on-site improvements, shall be completed within 10 months of the date of the enactment of this Act.

(C) THIRD PHASE.—The third phase of the plan, including dredging, transportation, and placement of material, shall be started no later than July 1, 1994.

(D) FOURTH PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—Any work undertaken pursuant to this title shall be initiated only after non-Federal interests have entered into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to:

(1) provide 25 percent of the cost associated with the project, including provision of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the cost of operation, maintenance, replacement, and rehabilitation costs associated with the project.

(e) REPORTS TO CONGRESS.—The Secretary shall report to Congress at the end of each of *the time periods referred to in subsection (c)(3) on the progress being made toward development and implementation of the project under this section.*

(f) AUTHORIZATION OF APPROPRATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

TITLE XXXVII—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT, ARIZONA

SEC. 3701. SHORT TITLE.

This title may be cited as the "San Carlos Apache Tribe Water Rights Settlement Act of 1992".

SEC. 3702. CONGRESSIONAL FINDINGS.

(a) SPECIFIC FINDINGS.—The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water rights are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately 58,735 acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) PURPOSES OF TITLE.—It is the purpose of this title—

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this title.

SEC. 3703. DEFINITIONS.

For purposes of this title:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 3710(c) and 3711(a)(7) of this title.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona and all the decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Acts of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(8) "Secretary" means the Secretary of the Interior.

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act of June 7, 1924 (42 Stat. 475), expanded pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

SEC. 3704. WATER.

(a) REALLOCATION OF WATER.—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of October 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14–0906–09W–09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) PARTIAL SATISFACTION OF CLAIMS.—Notwithstanding any other provision of this title, in the event the authorizations contained in section 3708(b) do not become effective, the water referred to in subsection 3704(a) of this title shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source," Maricopa County Superior Court Nos. W–091, W–092, W–093, and W–094 (consolidated), as against the parties identified in section 3703(2) of this title.

(c) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe an annual entitlement to 14,655 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12446 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 3706, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14–0906–09W–09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe and annual entitlement to 3,480 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 3706, water service capital charges, or any other charges or payments of such CAP water other than operation, maintenance and replacement costs shall be

nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of contract No. 14–0906–09W–09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) WATER STORAGE POOL.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP for irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of 12,700 acrefeet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 3710(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII (2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) EXECUTION OF AGREEMENT.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 3710(d) of this title, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 3708(b) of this title, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) GILA RIVER EXCHANGES.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

SEC. 3705. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) RATIFICATION OF CONTRACT.—Except as provided in section 3710(i), the contract between the SRP and RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) SUBCONTRACT.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of Exhibit "A" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) RESTRICTIONS.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) DISCLAIMER.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this title.

(e) FULL COST PRICING PROVISIONS.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(f) CERTAIN EXTENSIONS AUTHORIZED.—Notwithstanding any other provision of law or any other provision of this title, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to 100 years, subject to payment of rental at a rate based upon fair market retail value.

SEC. 3706. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) AMENDMENT OF CONTRACT.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community dated October 2, 1985, as is necessary to satisfy the requirements of section 3704(a) of this title.

(b) CONTRACT AMENDMENT.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows: water from those sources described in subsections (a), (c), and (d) of section 3704 of this title; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to delivery CAP water shall not exceed the cost of construction of the delivery and distribution system for the 12,700 acrefeet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the terms and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Tempe and the town of Gilbert.

(c) APPROVAL OF AMENDMENTS.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) CHARGES NOT TO BE IMPOSED.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) WATER LEASE.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as authorized by section 3706 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d) of section 3704, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charges for any water use or lease from the effective date of this title through September 30, 1995.

(f) ALLOCATION AND REPAYMENT OF COSTS.—For the purpose of determining allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14–0906–09W–09245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) AGREEMENTS.—The Secretary shall, in consultation with the Tribe, enter into agreements

necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to its under its Tribal CAP Delivery Contract, as amended.

(h) RATIFICATION.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) USE OF WATER.—As among the parties to the Agreement, the right of the city of Safford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) WITHDRAWAL AND USE OF WATER.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) PROHIBITIONS.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this title may be sold, leased, transferred or in any way used off the Tribe's Reservation.

SEC. 3707. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) DUTIES.—

(1) The Secretary is directed, pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et. seq.), to design and construct new facilities for the delivery of 12,700 acre-feet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this title;

(2) The Secretary of Commerce is directed to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07–0981–09000210, to provide that all remaining repayment obligations owing to the United States on the date of the enactment of this title are discharged.

(b) FUND.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the $3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from leases or options to lease water authorized by section 3706 of this title. Such sums shall be invested in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162(a).

(c) AUTHORIZATION.—There are authorized to be appropriated $38,400,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this title at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) USE OF FUND.—When the authorizations contained in section 3708(b) of this title are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges are appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: Provided, however, That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, The Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure the use of the funds shall be in accordance with the approved budget.

(e) REGULATIONS.—The Secretary shall, no later than 30 days after the date the authorizations contained in section 3708(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) DISCLAIMER.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Fund.

SEC. 3708. SATISFACTION OF CLAIMS

(a) FULL SATISFACTION OF CLAIMS.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this title shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this title. Notwithstanding the foregoing, nothing in this title shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from time immemorial to the effective date of this title, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this title, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) ADDITIONAL RELEASES.—Except as provided in the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) SAVINGS PROVISION.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 3711(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) DISCLAIMER.—Nothing in this title shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

(f) CLAIMS.—(1) The United States District Court for the District of Arizona and the United States Claims Court are authorized to hear and decide any claim brought by the Central Arizona Water Conservation District or other contractors of CAP water. Any such claim shall be filed within two years of the date of enactment of this Act, and shall be heard by the court on an expedited basis. If such a claim is filed and the court grants judgment for the plaintiff(s), the court shall award such relief as it deems proper, and shall award costs and attorneys' fees to the plaintiff(s). Any judgment of the court shall be subject to appeal on the same basis that other judgments of that court are subject to review under existing law.

(2) For purposes of this subsection, "claim" means a claim that the reallocation of water to the Tribe pursuant to section 3904(a) of this Act has unlawfully deprived the Central Arizona Water Conservation District or other contractors of CAP water of legal rights to such water.

SEC. 3709. ENVIRONMENTAL COMPLIANCE.

(a) NO MAJOR FEDERAL ACTION.—Execution of the settlement agreement by the Secretary as provided for in section 3710(c) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the settlement under this title, including mitigation measures adopted by the Secretary.

(c) LEAD AGENCY.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) ENVIRONMENTAL ACTS.—The Secretary shall comply with all aspects of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

SEC. 3710. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this title or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) CERTAIN CLAIMS PROHIBITED.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this title or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) APPROVAL OF AGREEMENT.—Except to the extent that the Agreement conflicts with the

provisions of this title, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) Ground Water Management Plan.—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as a management plan developed under Arizona law.

(e) Amendment to the Act of April 4, 1938.—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390) is amended by inserting immediately before the period at the end thereof a colon and the following: "Provided further, That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe".

(f) San Carlos Reservoir.—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which the Gila River Indian Community and the San Carlos Irrigation and Drainage District had as right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) Limitation.—No part of the Fund established by section 3707(b) of this title, including principal and income, or income from options to lease water or water leases authorized by section 3706, may be used to make per capita payments to members of the Tribe.

(h) Disclaimer.—Nothing in this title shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) Water Rights.—Nothing in this title shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, other than the San Carlos Apache Tribe.

(j) Planet Ranch.—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located in the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: Provided, however, That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) Repeal.—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of a Federal reclamation project established prior to September 30, 1968 pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries.

(l) Water Rights.—Nothing in this title shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this title be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

SEC. 3711. EFFECTIVE DATE.

(a) Effective Date of Authorization.—The authorization contained in section 3708(b) of this title shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 3704 and 3706;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as provided in section 3705(b);

(3) the funds authorized by section 3707(c) have been appropriated and deposited into the Fund;

(4) the contract referred to in section 3707(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this title, and has been executed by the Secretary.

(b) Conditions.—(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section have not occurred by December 31, 1994, subsections (c) and (d) of section 3704, subsections (a) and (b) of section 3705, section 3706, subsections (a)(2), (c), (d), and (f) of section 3707, subsections (b) and (c) of section 3708, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 3710 of this title, together with any contracts entered into pursuant to any such section or subsection, shall not be effective on and after the date of enactment of this title, and any funds appropriated pursuant to section 3707(c), and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated on the date of enactment of this title, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 3705 of this title have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

TITLE XXXVIII—SAN FRANCISCO WATER RECLAMATION AND REUSE DEMONSTRATION PROJECT

The Secretary of the Interior is authorized and directed to undertake a demonstration project in the City and County of San Francisco to examine the feasibility and effectiveness of using advanced ecologically engineered technology for water reclamation and reuse in accordance with the title 22 standards of the California Water Code. "Advanced Ecologically Engineered Technology" refers to a green house-based, ecologically engineered technology which employs highly populated pond and marsh ecosystems to produce water for reclamation and reuse. One-half of the costs associated with implementation of this title shall be borne by the United States as a nonreimbursable cost; the other one-half shall be borne by the State of California and the City and County of San Francisco.

TITLE XXXIX—SIPHON REPAIR AND REPLACEMENT

(a) Congress finds that the prestressed concrete pipe siphons installed in the Hayden-Rhodes Aqueduct portion of the Central Arizona Project designed and constructed by the Secretary pursuant to the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) have been determined to be defective, inadequate and unsuitable for aquaduct purposes and must be replaced or substantial repairs completed for the transfer of the operation of the Project to its local sponsors.

(b) Notwithstanding any other provision of law or contract, 50 percent of the costs incurred in the repair, modification or replacement, together with associated costs, of the Hayden-Rhodes Aqueduct siphons at Salt River, New River, Hassayampa River, Jackrabbit Wash, Centennial Wash and Aqua Fria River, all features of the Central Arizona Project, shall be borne by the United States and shall be nonreimbursable and nonreturnable and the remaining costs shall be allocated to the authorized purposes of the project.

TITLE XL—NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

SEC. 4001. SHORT TITLE.

This title may be cited as the "National Historic Preservation Act Amendments of 1992".

SEC. 4002. POLICY.

Section 2 of the National Historic Preservation Act (15 U.S.C. 470-1) is amended as follows—

(1) In paragraph (2) insert "and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments" after "community of nations".

(2) In paragraph (6) insert ", Indian tribes and Native Hawaiian organizations" after "local governments".

SEC. 4003. REVIEW OF THREATS TO PROPERTIES.

Section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)) is amended by adding the following new paragraph at the end thereof:

"(8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to—

"(A) determine the kinds of properties that may be threatened;

"(B) ascertain the causes of the threats; and

"(C) develop and submit to the President and Congress recommendations for appropriate action.".

SEC. 4004. STATE HISTORIC PRESERVATION PROGRAMS.

Section 101(b) of the National Historic Preservation Act (16 U.S.C. 470a(b)) is amended as follows:

(1) Amend paragraph (2) to read as follows:

"(2)(A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council on the appropriate provisions of this Act, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this Act.

"(B) If, at any time, the Secretary determines that a major aspect of a State program is not

consistent with this Act, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer under this Act, until the program is consistent with this Act, unless the Secretary determines that the program will be made consistent with this Act within a reasonable period of time.

"(C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without undue review burdens on State Historic Preservation Officers.

"(D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system—

"(i) establishes and maintains substantially similar accountability standards; and

"(ii) provides for independent professional peer review.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.".

(2) Amend paragraph (3) as follows:

(A) In subparagraph (G), strike "relating to the Federal and State Historic Preservation Programs; and" and insert "in historic preservation;".

(B) In subparagraph (H), strike the period at the end thereof and insert a semicolon.

(C) Add at the end thereof the following new subparagraphs—

"(I) consult with appropriate Federal agencies in accordance with this Act on—

"(i) Federal undertakings that may affect historic properties; and

"(ii) the content and sufficiency of any plans developed to protect, manage, or reduce or mitigate harm to such properties; and

"(J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.".

(3) Amend paragraph (5) by striking "1980" and inserting "1992".

(4) Add at the end thereof the following new paragraphs:

"(6)(A) Subject to subparagraphs (C) and (D), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State—

"(i) Identification and preservation of historic properties.

"(ii) Determination of the eligibility of properties for listing on the National Register.

"(iii) Preparation of nominations for inclusion on the National Register.

"(iv) Maintenance of historical and archaeological data bases.

"(v) Evaluation of eligibility for Federal preservation incentives.

Nothing in this paragraph shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.

"(B) The Secretary may enter into a contract or cooperative agreement under subparagraph (A) only if—

"(i) the State Historic Preservation Officer has requested the additional responsibility;

"(ii) the Secretary has approved the State historic preservation program pursuant to section 101(b)(1) and (2);

"(iii) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that such Officer is fully capable of carrying out such responsibility in such manner;

"(iv) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to such contract or cooperative agreement; and

"(v) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such responsibility.

"(C) For each significant program area under the Secretary's authority, the Secretary shall establish specific conditions and criteria essential for the assumption by State Historic Preservation Officers of the Secretary's duties in each such program.

"(D) Nothing in this subsection shall have the effect of diminishing the preservation programs and activities of the National Park Service.".

SEC. 4005. CERTIFICATION OF LOCAL GOVERNMENTS.

Section 101(c) of the National Historic Preservation Act (16 U.S.C. 470a(c)) is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of this section the term—

"(A) 'designation' means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

"(B) 'protection' means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to subsection (c).".

SEC. 4006. TRIBAL HISTORIC PRESERVATION PROGRAMS.

(a) REVISION OF EXISTING LAW.—Section 101 of the National Historic Preservation Act (16 U.S.C. 470a) is amended as follows—

(1) Redesignate subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively.

(2) Insert after subsection (c) the following new subsection:

"(d)(1)(A) The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their particular historic properties. The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

"(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal heritage preservation goals and objectives. The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each tribe's chief governing authority.

"(C) The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1994.

"(2) A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3), with respect to tribal lands, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary, if—

"(A) the tribe's chief governing authority so requests;

"(B) the tribe's designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or as a tribal ordinance may otherwise provide;

"(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

"(D) the Secretary determines, after consulting with the tribe, the appropriate State Historic Preservation Officer, the Council (if the tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106), and other tribes, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

"(i) that the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under subparagraph (C);

"(ii) that the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer;

"(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b)(2) and (b)(3); and

"(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

"(3) In consultation with interested Indian tribes, other Native American organizations and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 103(a) with respect to tribal programs that assume responsibilities under paragraph (2).

"(4) At the request of a tribe whose preservation program has been approved to assume functions and responsibilities pursuant to paragraph (2), the Secretary shall enter into contracts or cooperative agreements with such tribe permitting the assumption by the tribe of any part of the responsibilities referred to in subsection (b)(6) on tribal land, if—

"(A) the Secretary and the tribe agree on additional financial assistance, if any, to the tribe for the costs of carrying out such authorities;

"(B) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this Act; and

"(C) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

"(i) the tribe's traditional cultural authorities;

"(ii) representatives of other tribes whose traditional lands are under the jurisdiction of the tribe assuming responsibilities; and

"(iii) the interested public.

"(5) The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consider-

ation equivalent to those afforded by the Council's regulations.

"(6)(A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

"(B) In carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).

"(C) In carrying out his or her responsibilities under subsection (b)(3), the State Historic Preservation Officer for the State of Hawaii shall—

"(i) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;

"(ii) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and

"(iii) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.".

(b) CONFORMING AMENDMENT.—Section 110(c) of the National Historic Preservation Act (16 U.S.C. 470h–2(c)) is amended by striking "101(g)" and inserting "101(h)".

SEC. 4007. MATCHING GRANTS.

Section 101(e) of the National Historic Preservation Act, as redesignated by section 4006(a)(1) of this title, is amended as follows—

(1) Amend paragraph (1) to read as follows:

"(1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act.".

(2) Add the following at the end thereof:

"(4) Grants may be made under this subsection for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not promote religion, and seeks to protect those qualities that are historically significant. Nothing in this paragraph shall be construed to authorize the use of any funds made available under this section for the acquisition of any property referred to in the preceding sentence.

"(5) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this Act as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.

"(6)(A) As part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note), the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled 'Joint Resolution to approve the "Compact of Free Association" between the United States and Government of Palau, and for other purposes' (48 U.S.C. 1681 note). The goal of the program shall be to establish historic and cultural preservation programs that meet the unique needs of each Micronesian State so that at the termination of the compacts the programs shall be firmly established. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations.

"(B) The amounts to be made available to the Micronesian States shall be allocated by the Secretary on the basis of needs as determined by the Secretary. Matching funds may be waived or modified.".

SEC. 4008. EDUCATION AND TRAINING.

Section 101 of the National Historic Preservation Act (16 U.S.C. 470a), as amended by section 4005 of this Act, is further amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary shall, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.

"(2) The education and training program described in paragraph (1) shall include—

"(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

"(B) increased preservation training opportunities for other Federal, State, tribal and local government workers, and students;

"(C) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs;

"(D) coordination of the following activities, where appropriate, with the National Center for Preservation Technology and Training—

"(i) distribution of information on preservation technologies;

"(ii) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and

"(iii) support for research, analysis, conservation, curation, interpretation, and display related to preservation.".

SEC. 4009. REQUIREMENTS FOR AWARDING OF GRANTS.

Section 102 of the National Historic Preservation Act (16 U.S.C. 470b) is amended as follows:

(1) Amend paragraph (3) of subsection (a) to read as follows:

"(3) for more than 60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in section 101(b)(3) in any one fiscal year.".

(2) In subsection (b) strike ", in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory for the Secretary".

(3) Add at the end thereof the following new subsections:

"(d) The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.

"(e) The total administrative costs, direct and indirect, charged for carrying out State projects and programs may not exceed 25 percent of the aggregate costs except in the case of grants under section 101(e)(6).".

SEC. 4010. APPORTIONMENT OF GRANT FUNDS.

Section 103 of the National Historic Preservation Act (16 U.S.C. 470c) is amended as follows—

(1) In subsection (a) strike "for comprehensive statewide historic surveys and plans under this Act", and insert "for the purposes this Act".

(2) In subsection (b) strike "by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans." and insert "as the Secretary determines to be appropriate.".

(3) At the end of subsection (b) insert "The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.".

SEC. 4011. EXTENSION OF AUTHORIZATION FOR HISTORIC PRESERVATION FUND.

Section 108 of the National Historic Preservation Act (16 U.S.C. 470h-2) is amended by striking "1992" and inserting "1997".

SEC. 4012. FEDERAL AGENCY HISTORIC PRESERVATION PROGRAMS.

Section 110 of the National Historic Preservation Act (16 U.S.C. 470h-2) is amended as follows—

(1) In subsection (a)(1) strike"101(f)" and insert "101(g)".

(2) Amend subsection (a)(2) read as follows:

"(2) Each Federal agency shall establish (unless exempted pursuant to section 214), in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Such program shall ensure—

"(A) that historic properties under the jurisdiction or control of the agency, are identified, evaluated, and nominated to the National Register;

"(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106 and gives special consideration to the preservation of such values in the case of properties designated as having National significance;

"(C) that the preservation of properties not under the jurisdiction or control of the agency actions are given full consideration in planning;

"(D) that the agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and with the private sector; and

"(E) that the agency's procedures for compliance with section 106—

"(i) are consistent with regulations issued by the Council pursuant to section 221;

"(ii) provide a process for the identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate, regarding the means by which adverse effects on such properties will be considered; and

"(iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3(c) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 300(c)).".

(3) Add at the end thereof the following new subsections:

"(k) Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 106, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse affect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the effect created or permitted by the applicant.

"(l) With respect to any undertaking subject to section 106 which adversely affects any property included in or eligible for inclusion in the National Register, and for which Federal agency has not entered into an agreement with the Council, the head of such agency shall document any decision made pursuant to section 106. The head of such agency may not delegate his or her responsibilities pursuant to such section. Where a section 106 memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all of its parts.".

SEC. 4013. LEASE OR EXCHANGE OF FEDERAL HOUSING PROPERTIES.

Section 111(a) of the National Historic Preservation Act (16 U.S.C. 470h-3(a)) is amended by striking "may, after consultation with the Advisory Council on Historic Preservation," and inserting "after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may".

SEC. 4014. PROFESSIONAL STANDARDS.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 112. PROFESSIONAL STANDARDS.

"(a) In General.—Each Federal agency that is responsible for the protection of historic resources, including archaeological resources pursuant to this Act or any other law shall ensure each of the following—

"(1)(A) All actions taken by employees or contractors of such agency shall meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of the disciplines involved, specifically archaeology, architecture, conservation, history, landscape architecture, and planning.

"(B) Agency personnel or contractors responsible for historic resources shall meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of the disciplines involved. The Office of Personnel Management shall revise qualification standards within 2 years after the date of enactment of this Act for the disciplines involved, specifically archaeology, architecture, conservation, curation, history, landscape architecture, and planning. Such standards shall consider the particular skills and expertise needed for the preservation of historic resources and shall be equivalent requirements for the disciplines involved.

"(2) Records and other data, including data produced by historical research and archaeological surveys and excavations are permanently maintained in appropriate data bases and made available to potential users pursuant to such regulations as the Secretary shall promulgate.

"(b) Guidelines.—In order to promote the preservation of historic resources on properties eligible for listing in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this Act include plans to—

"(1) provide information to the owners of properties containing historic (including architectural, curatorial, and archaeological) resources with demonstrated or likely research significqnce, about the need for protection of such resources, and the available means of protection;

"(2) encourage owners to preserve such resources intact and in place and offer the owners of such resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

"(3) encourage the protection of Native American cultural items (within the meaning of section 2 (3) and (9) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 (3) and (9)) and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups; and

"(4) encourage owners who are undertaking archaeological excavations to—

"(A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;

"(B) donate or lend artifacts of research significance to an appropriate research institution;

"(C) allow access to artifacts for research purposes; and

"(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3(a)(2) (B) or (C) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(a)(2) (B) and (C), given notice to and consult with such Indian tribe or Native Hawaiian organization.".

SEC. 4015. INTERSTATE AND INTERNATIONAL TRAFFIC IN ANTIQUITIES.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended by adding at the end thereof of the following new section after section 112:

"SEC. 113. INTERSTATE AND INTERNATIONAL TRAFFIC IN ANTIQUITIES.

"(a) Study.—In order to help control illegal interstate and international traffic in antiquities, including archaeological, curatorial, and architectural objects, and historical documents of all kinds, the Secretary shall study and report on the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

"(b) Consultation.—In conducting the study described in subsection (a) the Secretary shall consult with the Council and other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations or that have responsibilities for other kinds of antiquities and with State Historic Preservation Officers, archaeological, historical, conservation, and curatorial organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

"(c) Report.—Not later than 18 months after the date of enactment of this section, the Secretary shall submit to Congress a report detailing the Secretary's findings and recommendations from the study described in subsection (a).

"(d) Authorization.—There are authorized to be appropriated not more than $500,000 for the study described in subsection (a), such sums to remain available until expended.".

SEC. 4016. MEMBERSHIP OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended as follows:

(1) Strike "and" at the end of paragraph (9).

(2) Strike the period at the end of paragraph (10) and insert "; and".

(3) Add at the end thereof the following new paragraph:

"(11) one member of an Indian tribe or Native Hawaiian organization who represents the interests of the tribe or organization of which he or she is a member, appointed by the President.".

SEC. 4017. AUTHORIZATION OF APPROPRIATONS FOR ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 212(a) of the National Historic Preservation Act (16 U.S.C. 470) and following is amended by striking the last sentence thereof and inserting "There are authorized to be appropriated for purposes of this title not to exceed $5,000,000 for each of the fiscal years 1993 through 1996.".

SEC. 4018. ADVISORY COUNCIL REGULATIONS.

Section 211 of the National Historic Preservation Act (16 U.S.C. 470s) is amended by striking the period at the end of the first sentence and inserting "in its entirety.".

SEC. 4019. DEFINITIONS.

(a) Amendment and Addition of Definitions.—Section 301 of the National Historic Preservation Act (16 U.S.C. 470w) is amended as follows—

(1) In paragraph (1) strike "Code," and all that follows through the end of the paragraph, and insert in lieu thereof "Code.".

(2) In paragraph (2) strike "the Trust Territories of the Pacific Islands" and insert "the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau".

(3) Amend paragraph (4) to read as follows:

"(4) 'Indian tribe' or 'tribe' means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(4) In paragraph (5) strike "Register" and all that follows through the end of the paragraph and insert "Register, including artifacts, records, and material remains related to such a property or resource.".

(5) Amend paragraph (7) to read as follows:

"(7) 'Undertaking' means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

"(A) those carried out by or on behalf of the agency;

"(B) those carried out with Federal financial assistance;

"(C) those requiring a Federal permit license, or approval; and

"(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.".

(6) In paragraph (8) strike "maintenance and reconstruction," and insert "maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities,".

(7) In paragraph (9) strike "urban area" and insert "area".

(8) In paragraph (10) strike "urban area of one or more neighborhoods and" and insert "area".

(9) In paragraph (11) after "of the Interior" insert "acting through the Director of the National Park Service".

(10) In paragraph (12) strike "and architecture" and insert "architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture".

(11) In paragraph (13) strike "archaeology" and insert "prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture".

(12) Add at the end thereof the following new paragraphs:

"(14) 'Tribal lands' means—

"(A) all lands within the exterior boundaries of any Indian reservation; and

"(B) all dependent Indian communities.

"(15) 'Certified local government' means a local government whose local historic preservation program has been certified pursuant to section 101(c)

"(16) 'Council' means the Advisory Council on Historic Preservation established by section 201.

"(17) 'Native Hawaiian' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

"(18) 'Native Hawaiian organization' means any organization which—

"(A) serves and represents the interests of Native Hawaiians;

"(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

"(C) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.".

(b) TECHNICAL AMENDMENT.—Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended by striking "(hereafter referred to as the 'Council')".

SEC. 4020. ACCESS TO INFORMATION.

Section 304 of the National Historic Preservation Act (16 U.S.C. 4702–3) is amended to read as follows:

"SEC. 304. ACCESS TO INFORMATION.

"(a) AUTHORITY TO WITHHOLD FROM DISCLOSURE.—The head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

"(1) cause a significant invasion of privacy;

"(2) risk harm to the historic resources; or

"(3) impede the use of a traditional religious site by practitioners.

"(b) ACCESS DETERMINATION.—When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this Act.

"(c) CONSULTATION WITH COUNCIL.—When the information in question has been developed in the course of an agency's compliance with section 106 or 110(f), the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).".

SEC. 4021. RECOMMENDATIONS.

The Secretary of the Interior, in consultation with the Advisory Council, shall seek to ensure that historic properties preserved under the National Historic Preservation Act fully reflect the historical experience of this nation.

SEC. 4022. NATIONAL CENTER FOR PRESERVATION TECHNOLOGY AND TRAINING.

The National Historic Preservation Act (16 U.S.C. 470 and following) is amended by adding the following at the end thereof:

"TITLE IV—NATIONAL CENTER FOR PRESERVATION TECHNOLOGY AND TRAINING

"SEC. 401. FINDINGS.

"The Congress finds and declares that, given the complexity of technical problems encountered in preserving historic properties and the lack of adequate distribution of technical information to preserve such properties, a national initiative to coordinate and promote research, distribute information, and provide training about preservation skills and technologies would be beneficial.

"SEC. 402. DEFINITIONS.

"For the purposes of this title—

"(1) The term 'Board' means the National Preservation Technology and Training Board established pursuant to section 404.

"(2) The term 'Center' means the National Center for Preservation Technology and Training established pursuant to section 403.

"(3) The term 'Secretary' means the Secretary of the Interior.

"SEC. 403. ESTABLISHMENT OF NATIONAL CENTER.

"(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior a National Center for Preservation Technology and Training. The Center shall be located at Northwestern State University of Louisiana in Natchitoches, Louisiana.

"(b) PURPOSES.—The purposes of the Center shall be to—

"(1) develop and distribute preservation and conservation skills and technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources;

"(2) develop and facilitate training for Federal, State and local resource preservation professionals, cultural resource managers, maintenance personnel, and others working in the preservation field;

"(3) take steps to apply preservation technology benefits from ongoing research by other agencies and institutions;

"(4) facilitate the transfer of preservation technology among Federal agencies, State and local governments, universities, international organizations, and the private sector; and

"(5) cooperate with related international organizations including, but not limited to the International Council on Monuments and Sites, the International Center for the Study of Preservation and Restoration of Cultural Property, and the International Council on Museums.

"(c) PROGRAMS.—Such purposes shall be carried out through research, professional training, technical assistance, and programs for public awareness, and through a program of grants established under section 405.

"(d) EXECUTIVE DIRECTOR.—The Center shall be headed by an Executive Director with demonstrated expertise in historic preservation appointed by the Secretary with advice of the Board.

"(e) ASSISTANCE FROM SECRETARY.—The Secretary shall provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center to carry out its activities.

"SEC. 404. PRESERVATION TECHNOLOGY AND TRAINING BOARD.

"(a) ESTABLISHMENT.—There is established a Preservation Technology and Training Board.

"(b) DUTIES.—The Board shall—

"(1) provide leadership, policy advice, and professional oversight to the Center;

"(2) advise the Secretary on priorities and the allocation of grants among the activities of the Center; and

"(3) submit an annual report to the President and the Congress.

"(c) MEMBERSHIP.—The Board shall be comprised of—

"(1) the Secretary, or the Secretary's designee;

"(2) 6 members appointed by the Secretary who shall represent appropriate Federal, State, and local agencies, State and local historic preservation commissions, and other public and international organizations, and

"(3) 6 members appointed by the Secretary on the basis of outstanding professional qualifications who represent major organizations in the fields of archeology, architecture, conservation, curation, engineering, history, historic preservation, landscape architecture, planning, or preservation education.

"SEC. 405. PRESERVATION GRANTS.

"(a) IN GENERAL.—The Secretary, in consultation with the Board, shall provide preservation technology and training grants to eligible applicants with a demonstrated institutional capability and commitment to the purposes of the Center, in order to ensure an effective and efficient system of research, information distribution and skills training in all the related historic preservation fields.

"(b) GRANT REQUIREMENTS.—(1) Grants provided under this section shall be allocated in such a fashion to reflect the diversity of the historic preservation fields and shall be geographically distributed.

"(2) No grant recipient may receive more than 10 percent of the grants allocated under this section within any year.

"(3) The total administrative costs, direct and indirect, charged for carrying out grants under this section may not exceed 25 percent of the aggregate costs.

"(c) ELIGIBLE APPLICANTS.—Eligible applicants may include Federal and non-Federal laboratories, accredited museums, universities, nonprofit organizations; offices, units, and Cooperative Park Study Units of the National Park System, State Historic Preservation Offices, tribal preservation offices, and Native Hawaiian organizations.

"(d) STANDARDS.—All such grants shall be awarded in accordance with accepted professional standards and methods, including peer review of projects.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary.

"SEC. 406. GENERAL PROVISIONS.

"(a) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—

"(1) grants and donations from private individuals, groups, organizations, corporations, foundations, and other entities; and

"(2) transfers of funds from other Federal agencies.

"(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—Subject to appropriations, the Center may enter into contracts and cooperative agreements with Federal, State, local, and tribal governments, Native Hawaiian organizations, educational institutions, and other public entities to carry out the Center's responsibilities under this title.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the establishment, operation, and maintenance of the Center. Funds for the Center shall be in addition to existing National Park Service programs, centers, and offices.

"SEC. 407. NATIONAL PARK SERVICE PRESERVATION.

"In order to improve the use of existing National Park Service resources, the Secretary shall fully utilize and further develop the National Park Service preservation (including conservation) centers and regional offices. The Secretary shall improve the coordination of such centers and offices within the National Park Service, and shall, where appropriate, coordinate their activities with the Center and with other appropriate parties.

SEC. 4023. REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR PROJECTS UNDER THE HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT.

Section 6 of the Act entitled "An Act to provide for the preservation of historic American *sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461–467) is amended to read as follows:*

"SEC. 6. REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR PROJECTS UNDER THE HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT.

"(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of the Interior to carry out section 2(e) or 2(f) may be obligated or expended after the date of enactment of this section—

"(1) unless the appropriation of such funds has been specifically authorized by law enacted on or after the date of enactment of this section; or

"(2) in excess of the amount prescribed by law enacted on or after such date.

"(b) SAVINGS PROVISION.—Nothing in this section shall prohibit or limit the expenditure or obligation of any funds appropriated prior to January 1, 1993.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Except as provided by subsection (a), there is authorized to be appropriated for carrying out the purposes of this Act such sums as the Congress may from time to time determine.".

SEC. 4024. MARTIN LUTHER KING, JUNIOR, NATIONAL HISTORIC SITE AND PRESERVATION DISTRICT.

(a) BOUNDARY MODIFICATION.—Subsection (a) of the first section of the Act entitled "An Act to establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes" (Public Law 96–428; 94 Stat. 1839), establishing the Martin Luther King, Junior, National Historic Site and Preservation District; is amended by striking "numbered NASM/SERO/20, 109–C, and dated May 1980" and inserting in lieu thereof "numbered 489/80,013B, and dated September 1992".

(b) LIMITATION ON APPROPRIATIONS.—Section 6 of Public Law 96–0428 (94 Stat. 1842) is amended by striking ", but not to exceed $1,000,000 for the development, $100,000 for local planning, and $3,500,000 for the acquisition of lands and interests therein".

SEC. 4025. SECRETARIAL REPORT.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior shall prepare and submit to the Congress a report on the manner in which properties are listed or determined to be eligible for listing on the National Register, including but not limited to, the appropriateness of the criteria used in determining such eligibility, and the effect, if any, of such listing or finding of eligibility.

(b) PREPARATION.—In preparing the report, the Secretary shall consult with, and consider the views and comments of other Federal agencies, as well as interested individuals and public and private organizations, and shall include representative comments received as an appendix to the report.

And the Senate agree to the same.

From the Committee on Interior and Insular Affairs, for consideration of titles I and VII–XL of the Senate amendment, and titles I and VII–XXXIV of the House amendment, and modifications committed to conference:

GEORGE MILLER,
NICK RAHALL,
SAM GEJDENSON,
BRUCE F. VENTO,
PETER H. KOSTMAYER,
RON DE LUGO,
ED MARKEY,
JAMES V. HANSEN,
JOHN J. RHODES,
CRAIG THOMAS,
DON YOUNG
(opposed to title 34),

From the Committee on Interior and Insular Affairs, for consideration of titles II–VI of the Senate amendment, and titles II–VI of the House amendment, and modifications committed to conference:

GEORGE MILLER,
NICK RAHALL,
SAM GEJDENSON,
BRUCE F. VENTO,
PETER H. KOSTMAYER,
RON DE LUGO,
WAYNE OWENS,
JAMES V. HANSEN,
JOHN J. RHODES,
CRAIG THOMAS,
DON YOUNG
(opposed to title 34),

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles II–VI, IX, XXXIII, XXXIV, XXXVI, and XXXVIII of the Senate amendment, and titles II–VI, IX, XXX, and XXXIV of the House amendment, and modifications committed to conference:

GERRY E. STUDDS,
WILLIAM J. HUGHES,
DENNIS M. HERTEL,
TOM CARPER,
THOMAS J. MANTON,
NITA M. LOWEY,
JOLENE UNSOELD,
JACK FIELDS,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles I, VII, XI, XII, XIV, XV, XIX, and XX of the Senate amendment, and titles I, VII, XI, and XVIII–XX of the House amendment, and modifications committed to conference:

GERRY E. STUDDS,
WILLIAM J. HUGHES,

As additional conferees from the Committee on Public Works and Transportation, for consideration of titles XXI, XXXI, and XXXVIII and sections 3001–04, 3007, 3508, and 3509 of the Senate amendment, and section 3411 of the House amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
HENRY J. NOWAK,
ROBERT A. BORSKI,
JOE KOLTER,
TIM VALENTINE,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
WILLIAM F. CLINGER,
THOMAS E. PETRI,

As additional conferees from the Committee on Public Works and Transportation, for consideration of title VII and section 3404(c)(7) of the Senate amendment, and title VII of the House amendment, and modifications committed to conference:

ROBERT A. ROE,
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,

As additional conferees from the Committee on Agriculture, for consideration of section 212 of the Senate amendment, and title XXV and section 212 of the House amendment, and modifications committed to conference:

E DE LA GARZA,
BEN NIGHTHORSE CAMPBELL,

As additional conferees from the Committee on Agriculture, for consideration of titles XIII, XIV, XVIII, and XXXVI and section 202 of the Senate amendment, and titles XIX and XX and sections 301, 305, 308, and 2302 of the House amendment, and modifications committed to conference:

E DE LA GARZA,
Managers on the Part of the House.

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL H. FORD,
BILL BRADLEY,
JEFF BINGAMAN,
TIMOTHY E. WIRTH,
WYCHE FOWLER, JR.,
MALCOLM WALLOP,
MARK O. HATFIELD,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 429) to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck all of the Senate amendment and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House and an amendment that is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SECTION 1. SHORT TITLE

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

SECTION 2. DEFINITION AND TABLE OF CONTENTS

This section defines the term "Secretary" and contains a table of contents.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

Title I of the House bill authorizes a 4.5 megawatt increase in hydroelectric generating capacity associated with Buffalo Bill Dam. It authorizes construction of recreational facilities and requires equal State-Federal cost-sharing for those facilities. Title I also authorizes an $80 million Federal cost ceiling for the project, deleting from existing law the requirement that the total authorized cost (State and Federal contributions) be reduced by sums contributed by the State. In addition, section 3414 of the House bill authorized additional, nonreimbursable appropriations for increased construction costs due to delays in enactment of additional appropriations authority.

Title I of the Senate amendment is identical to the House bill, but does not contain a comparable provision for section 3414.

Title I of the Conference substitute adopts the Senate provision with the addition of the House language on the nonreimbursability of supplemental appropriations.

TITLES II–VI—CENTRAL UTAH PROJECT COMPLETION

Titles II through VI of the House bill provide for the orderly completion of the Central Utah Project (CUP) by authorizing an increase in the appropriations ceiling for the project, authorizing certain water conservation and wildlife mitigation projects, and by providing for the construction of certain project features for delivery of municipal and irrigation water to specified areas within the CUP service area.

Titles II through VI of the Senate amendment are identical to titles II through VI of the House bill except for the deletion of the study of the status of Colorado River Storage Project participating projects at which construction had not begun by 1991, and certain technical, non-substantive changes.

Titles II through VI of the Conference substitute adopt the Senate language with two modifications. First, section 202 is amended to authorize the Secretary to use any unexpended budget authority to provide the Federal share of construction of the Hatchtown dam. Second, section 212 is amended to incorporate the House language on crops of certain agricultural commodities, specifying that this section applies only to the Central Utah Project.

TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

Title VII of both the House bill and the Senate amendment authorizes funds for the construction and operation of a facility to treat mine drainage from the Leadville Tunnel in Colorado, a facility owned by the Bureau of Reclamation. Additional activities, including restoration of fish and wildlife resources and water quality conditions, and monitoring of the effectiveness of the treatment facility, are also authorized.

The Senate amendment additionally provides for 60 percent non-Federal cost-sharing of certain project elements and indexing of project construction costs.

Title VII of the Conference substitute adopts the Senate language without modifications.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

Title VIII of the House bill authorizes construction of this project to improve water quality entering Lake Meredith, Texas. Federal contributions are limited to 33 percent of the total project costs under the House bill.

The Senate amendment estimates the Federal share of project costs to be 33 percent, and provides for indexing of construction costs.

Title VIII of the Conference substitute adopts the House provision without modifications.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

Title IX of the House bill and the Senate amendment both authorize the reformulation of the Cedar Bluff Unit. Both bills provide for the termination of the existing repayment contract upon receipt by the United States of a payment from the State of Kansas. Both bills also provide for the orderly transfer of certain facilities and various interests to the State of Kansas or others, provided that certain conditions are met.

The House bill and the Senate Amendment differ by $15,424 in the amount of payment required to allow the United States to terminate the local district's repayment obligation. Once the project reformulation goals have been accomplished, the Senate amendment provides that any revenues from the sale of project water received by the State of Kansas in excess of operating and maintenance expenses may be retained by the State of Kansas, once financial obligations to the United States have been satisfied. The House bill provides that all net revenues from the sale of project water be credited to the Reclamation Fund.

Title IX of the Conference substitute adopts the Senate language without modifications.

TITLE X—SOUTH DAKOTA WATER PLANNING STUDIES

Title XVII of the Senate amendment authorized the Secretary of the Interior to perform an assessment of the Rosebud Sioux Reservation's current and future water needs and to determine the desirability, feasibility, and cost of extending the Mni Wiconi water pipeline to the Rosebud Sioux Reservation in South Dakota. In performing the assessment work, the Bureau of Reclamation must use existing funds, not funds appropriated under the Mni Wiconi Project Act of 1988 (Public Law 100-516) for other purposes.

The House bill has no comparable provision.

The Conference substitute adopts the Senate language with two amendments. First, the last sentence of the Senate amendment is deleted as unnecessary. Second, the Secretary of the Interior is authorized to spend $1.446 million from funds appropriated under Public Law 100-516 to construct an interim water system for the White Clay and Wakpamni Districts of the Pine Ridge Indian Reservation as soon as the final engineering report and the National Environmental Policy Act requirements for that segment of the Oglala Rural Water Supply System (ORWSS) has been completed.

Title X of the House bill addressed two issues associated with the Central Valley Project, California: (1) authorizing the expansion of the service area of the Tehama-Colusa Canal, and (2) authorizing a water service contract for the Tuolumne Regional Water District. These provisions have been combined in Title XXXIV of the Conference substitute.

TITLE XI—SALTON SEA RESEARCH PROJECT, CALIFORNIA

Both the House bill and the Senate amendment authorize a saline water research project in the area of the Salton Sea in California.

Title XI of the House bill requires non-Federal interests to share 25 percent of the project costs, while the Senate amendment requires a 50 percent cost-share. Both bills authorize an appropriation of $10,000,000 for the research project.

Title XI of the Conference substitute adopts the language of the Senate amendment, with an amendment expanding the scope of the research project to include endangered species habitat, fisheries enhancement, and recreational values.

TITLE XII—AMENDMENT TO SABINE RIVER COMPACT

Title XII of the House bill and Title XXVII of the Senate amendment provide the consent of Congress to an amendment to the interstate compact relating to the waters of the Sabine River and its tributaries.

The language in the corresponding titles of the House bill and the Senate amendment is identical.

Title XII of the Conference substitute adopts the language of Title XXVII of the Senate amendment, without modification.

TITLE XIII—SALT-GILA AQUEDUCT, ARIZONA

Title XIII of the House bill and Title X of the Senate amendment re-name the Salt-Gila Aqueduct of the Central Arizona Project the "Fannin-McFarland Aqueduct".

The language in the corresponding titles of the House bill and the Senate amendment is identical.

Title XIII of the Conference substitute adopts the language of Title XIII of the House bill, without modification.

TITLE XIV—VERMEJO PROJECT RELIEF, NEW MEXICO

Title XI of the Senate amendment would transfer Lake 13 to the Vermejo Conservancy District, while preserving the right of the Secretary, acting through the United States Fish and Wildlife Service, to manage Lake 13 for the conservation, maintenance, and development of the area as a component of the Maxwell National Wildlife Refuge, in accordance with an existing contract with the District, and in a manner that does not interfere with operation of the lake for Vermejo Project purposes.

The House bill has no comparable provision.

Title XIV of the Conference substitute adopts the Senate language without amendment.

In the original House bill, Title XIV would have amended the "Warren Act" to expand its applicability to additional categories of water use in several Bureau of Reclamation projects in California. Similar language was included in H.R. 355, the Reclamation States Emergency Drought Relief Act, enacted as Public Law 102-250. The Conference adopts the position of the Senate and drops the provision from the Conference substitute.

TITLE XV—SAN LUIS VALLEY PROTECTION, COLORADO

Title XV of the Senate amendment would prohibit the United States from granting any permit, loan, or other assistance for any project to withdraw water from Colorado's San Luis Valley for export to another basin in Colorado or elsewhere unless the Secretary of the Interior finds that the project meets criteria established to protect Federal interests in San Luis Valley water resources, including two National Wildlife Refuges, the Great Sand Dunes National Monument, and the Bureau of Reclamation's Closed Basin Project.

The House bill has no comparable provision.

Title XV of the Conference substitute adopts Title XV of the Senate amendment with modification.

Title XV of the original House bill would have amended section 8(h) of the Reclamation Project Act of 1939 to eliminate the requirement that Congress be advised of increases in a project construction obligation or repayment rate resulting from a classification or reclassification of irrigable lands. The Senate amendment did not include any provision comparable to Title XV of the House bill. The Conference adopts the position of the Senate and drops this provision from the Conference substitute.

TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

Title XIX of the Senate amendment directs the Secretary of the Interior to study cost-shared opportunities to reclaim and reuse agricultural, domestic, municipal, and industrial wastewater and naturally impaired ground and surface waters through five specific feasibility studies and four demonstration projects. Title XIX further directs the Secretary to study the Reclamation program's impact on groundwater resources.

The House bill has no comparable provision.

The Conference substitute adopts the Senate language without amendment. The Conferees note that several projects authorized by this title afford unique opportunities to resolve long-standing water management disputes. In particular, section 1613 of the Conference substitute, which authorizes a project to develop 120,000 acre-feet per year of reclaimed water in Southern California, is expected to offset water diversions from the environmentally sensitive Mono Lake Basin in California.

Title XVI of the original House bill authorizes the Secretary of the Interior to participate with the City of San Diego, California, in the conduct of a study of conceptual plans for water reclamation and reuse. A comparable provision is included in section 1912 of the Senate amendment and in Title XVI of the Conference substitute.

The House title would have provided for a 50 percent Federal share of the costs of the study, and authorized an appropriation of $250,000 for the study. The Senate amendment (section 1912) limits the Federal share to 25 percent of total costs, and further differs from the House bill by authorizing the Secretary of the Interior to participate in the planning, design, and construction of facilities to reclaim and reuse water in the San Diego area.

TITLE XVII—IRRIGATION ON STANDING ROCK INDIAN RESERVATION, NORTH DAKOTA

Title XVI of the Senate amendment clarifies the Garrison Diversion Unit Reformulation Act of 1986 by deleting a particular reference to "Fort Yates" and substituting therefor "one or more locations within the Standing Rock Indian Reservation." The Senate language does not modify the existing requirement that a finding of irrigability be made by the Secretary of the Interior prior to any irrigation development on the Standing Rock Sioux Indian Reservation in North Dakota.

The House bill has no comparable provision.

Title XVII of the Conference substitute adopts Title XVI of the Senate amendment with an additional provision indexing the Indian municipal, rural, and industrial water portion of the authorized limits of the Garrison Diversion Unit, resulting in an increase in the appropriation ceiling of approximately $3,000,000.

Title XVII of the original House bill incorporated a series of recommendations made in 1989 by the General Accounting Office to clarify the application of the acreage and pricing limitations contained in the Reclamation Reform Act of 1982. The Senate amendment did not include any provision comparable to Title XVII of the original House bill. The Conference adopts the position of the Senate and drops this provision from the Conference substitute.

TITLE XVIII—GRAND CANYON PROTECTION

Title XVIII of the House bill and Title XII of the Senate amendment contained similar provisions dealing with the operation of the Glen Canyon Dam and its effects on Glen Canyon National Area and Grand Canyon National Park.

The House recedes to the Senate with an amendment to make this title budget neutral.

TITLE XIX—MID-DAKOTA RURAL WATER SYSTEM

Title XIX of the House bill and Title XIV of the Senate amendment authorize the Secretary of the Interior to make grants and loans available for the construction of the Mid-Dakota Rural Water System in South Dakota.

Sections 1901–1910 of the House bill are almost identical to the corresponding sections of the Senate amendment (sections 1401–1410).

Section 1911 of the House bill authorizes the establishment of a wetland trust in South Dakota, the purposes of which are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota. The Senate amendment includes the wetland trust authorization in its Title XXXVI rather than as part of the Mid-Dakota authorization.

In formulating Title XIX of the Conference substitute, the Conferees agreed to adopt Title XIV of the Senate amendment, with modification. The Conferees encourage the State and local sponsors of this project to make their cost-sharing contributions at the earliest possible time. By so doing, the added expense of possible future project cost increases attributable to inflation or other factors may be avoided.

TITLE XX—LAKE ANDES-WAGNER/MARTY II, SOUTH DAKOTA

Title XX of the House bill and Title XIII of the Senate amendment authorize a field demonstration program to study selenium contamination in agricultural drainage flows associated with the proposed Lake Andes-Wagner/Marty II Units. The Senate title would additionally authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota, as units of the South Dakota Pumping Divisions, Pick-Sloan Missouri Basin Program.

Title XX of the Conference substitute adopts the Senate amendment, with the following amendments:

Section 2003 requires that, prior to requesting funding for construction of the Units, the Secretary of the Interior must obtain certain certifications of compliance with water quality standards and further requires certification that the project will not result in significant adverse environmental effects from selenium contamination;

The time allotted for Congressional review of the project planning report is extended from 125 days to 180 days;

The project repayment period is modified to begin following a determination that the project is "substantially complete", eliminating the development period; and,

A new cost-sharing agreement is required.

Inclusion of House language on the role of the Secretary of Agriculture.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

Title XXI of the Senate amendment modifies the Rio Grande Floodway Project. San Acacia to Bosque del Apache Unit, New Mexico, to reduce the non-Federal contribution for the project based on the percentage of benefits attributable to Federal properties.

The House bill has no comparable provision.

Title XXI of the Conference substitute adopts the Senate language without amendment.

Title XXI of the original House bill would have authorized a comprehensive study of how the long-term water, sewerage, and power needs of the Insular areas can be resolved. The Senate amendment did not include a comparable provision. The Conference adopts the position of the Senate and drops the Insular Areas Study provision from the Conference substitute.

TITLE XXII—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

Both Title XXII of the House bill and Title XXV of the Senate amendment provide for the conveyance of certain real property, and certain interests in that property, located in the town of Sunnyside, Washington, to the Sunnyside Valley Irrigation District.

The language of the House bill and the Senate amendment are identical. Title XXII of the Conference substitute adopts the language included in Senate title XXV.

TITLE XXIII—PLATORO DAM AND RESERVOIR, COLORADO

Title XXIII of the House bill and Title XVIII of the Senate amendment provide for the transfer of operation, maintenance, and replacement responsibilities for the Platoro Dam and Reservoir to the Conejos Water Conservation District of the State of Colorado.

The House bill and the Senate amendment are nearly identical.

Title XXIII of the Conference substitute adopts the language of the Senate amendment, with an amendment to section 1802(a)(2)(B) of the Senate amendment (strike section 1802(a)(2)(B) of the Senate amendment and insert in lieu thereof the text of section 2302(a)(2)(B) of the House bill).

TITLE XXIV—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

Title XXII of the Senate amendment authorizes the Secretary of the Interior to conduct investigations and to sell or accept prepayment of two Small Reclamation Projects Act loans made to the Redwood Valley County Water District. The sale or repayment price must realize an amount to the Federal government calculated by discounting the remaining payments due on the loans by the interest rate set forth in Office of Management and Budget Circular A-129.

The House bill has no comparable provision.

Title XXIV of the Conference substitute adopts the Senate language without amendment.

Title XXIV of the original House bill would have authorized the sale of the Sly Park Unit of the Central Valley Project. The Senate amendment did not contain comparable language. The Conference adopts the position of the Senate and drops the Sly Park provision from the Conference substitute.

TITLE XXV—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

Title XXIII of the Senate amendment authorizes the Secretary of the Interior to conduct investigations and to sell or accept prepayment of the Small Reclamation Projects Act loan made to the United Water Conservation District. The sale or prepayment price must realize an amount to the Federal government calculated by discounting the remaining payments due on the loans by the interest rate set forth in OMB Circular A-129.

The House bill has no comparable provision.

Title XXV of the Conference substitute adopts the Senate language without amendment.

Title XXV of the original House bill would have required that, upon specified dates, Bureau of Reclamation contracts that are entered into, renewed, or amended shall require water users who are participants in a USDA acreage reduction program to pay 50% or 100% of full cost for the delivery of Federal irrigation water used to grow such commodities if the Secretary declares such commodities to be in surplus.

The Senate amendment did not contain a similar "surplus crops" provision. The Conference adopts the position of the Senate and drops the "surplus crops" provision from the Conference substitute.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

Title XXVI of both the House bill and the Senate amendment provides for an increase in the appropriation ceiling for the High Plains State Groundwater Demonstration Program. This program was originally authorized in 1983 by P.L. 98-434. That Act established an appropriation ceiling of $20,000,000, an amount now known to be inadequate to complete the second and final phase of the program. This title also clarifies the reporting requirements and duration of the program.

The new appropriation ceiling established in the House bill is $34,000,000. The Senate amendment provides for a new ceiling of $31,000,000. Conferees were advised by the Bureau of Reclamation that the appropriation ceiling specified in the Senate amendment is sufficient to continue the program.

Title XXVI of the Conference substitute adopts the language of the Senate amendment without modifications.

TITLE XXVII—MONTANA IRRIGATION PROJECTS

Title XXVIII of the Senate amendment directs the Secretary of Energy to make available low-cost Pick-Sloan power at the firm power rate to the Haidle Irrigation Project, Prairie County, Montana and the Hammond Irrigation District, Rosebud County, Montana.

The House bill has no comparable provision.

Title XXVII of the Conference substitute adopts the Senate language, with an amendment requiring that the district be considered as "public agencies" within the meaning of the Reclamation Project Act of 1939.

Title XXVII of the original House bill would have authorized the transfer of portions of the Solano Project, California, to local water users. This title prescribes a value for the facilities, defines the responsibilities of all affected parties, and sets forth conditions for the sale and operation of facilities to be transferred.

The Senate amendment did not contain a comparable provision. The Conference adopts the position of the Senate and drops the Solano Project transfer provision from the Conference substitute.

TITLE XXVIII—RECLAMATION RECREATION MANAGEMENT ACT

Title XXX of the Senate amendment amends the Federal Water Project Recreation Act to allow 50 percent Federal cost sharing in operation, maintenance, replacement and expansion of recreational facilities' associated with Federal water resources agencies including Bureau of Reclamation and Corps of Engineers water projects through partnerships with non-Federal sponsors.

The House bill has no comparable provision.

The Conference substitute is intended to allow the Bureau of Reclamation and the Corps of Engineers to address more effectively the condition of recreation facilities at Federal water projects, many of which are overused, inadequate, and neglected. Example of projects with critically inadequate recreation facilities include Paonia and Rifle Gap in Colorado, and Canyon Ferry in Montana.

The Conference substitute adopts the Senate language with two modifications proposed by the Administration. First, section 3006(b) of the Senate amendment is amended to clarify that the term "beneficiaries" does not include those entities who sign agreements or enter into contracts for recreation facilities pursuant to the Federal Water Project Recreation Act. Second, section 3007 of the Senate amendment is deleted to avoid limiting the authority of the Secretary to allocate funds for project purposes and reducing management flexibility.

Tile XXVIII of the original House bill would have authorized the Secretary of the Interior to provide technical assistance to states and local government entities to assist in the development, construction, and operation of water desalination project.

The Senate amendment did not contain comparable language.

A similar provision was enacted as part of the Reclamation States Emergency Drought Relief Act (P.L. 102-250, Sec. 201); the Conferees therefore agreed not to include this provision in the Conference substitute.

TITLE XXIX—SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA

Title XXIX of the House bill and Title XXIV of the Senate amendment require the Secretary of the Interior to credit to the unpaid capital obligation of the San Juan Suburban Water District, California, the amount paid in 1991 by the District for pumps purchased for installation at Folsom Dam.

The language of the House bill and the Senate amendment is nearly identical.

Title XXIX of the Conference substitute adopts the language of the House bill, with an amendment to authorize credit for additional purchases made on behalf of the Bureau of Reclamation in 1992.

TITLE XXX—WESTERN WATER POLICY REVIEW

Title XXXI of the Senate amendment directs the President to undertake a comprehensive review of western water resource problems and issues, including programs administered by the U.S. Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior.

The House bill has no comparable provision.

Title XXX of the Conference substitute adopts the Senate language without modification.

Title XXX of the original House bill would have required the Seccretary of the Interior to provide a minimum instream water release of 340,000 acre-feet per year to the Trinity River, California. Additional flow releases to the Trinity will be required when inflow into Shasta Reservoir exceeds certain amounts. This title of the House bill also would have required the completion of certain studies relating to the Trinity River, with recommendations from those studies to be submitted to Congress.

The Senate amendment did not contain a comparable provision as a separate title. The Trinity River provision agreed to by the Conference has been included in Title XXXIV of the Conference substitute, the Central Valley Project Improvement Act.

TITLE XXXI—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

Title XXXII of the Senate amendment authorizes the Secretary of the Interior to conduct investigations and to sell or accept prepayment of the repayment obligation or revise the schedule of repayments for reimbursable construction costs allocable to the municipal and industrial water supply for the City of Frederick. The sale or prepayment price must realize an amount to the Federal government calculated by discounting the remaining payments due on the loans by the interest rate set forth in OMB Circular A-129.

The House bill has no comparable provision.

Title XXXI of the Conference substitute adopts the Senate language without amendment.

Title XXXI of the original House bill would have required the Secretary of the Interior to comply with the provisions of the Buy American Act of 1933, as amended. The Senate amendment did not contain a comparable provision. The Conference adopts the position of the Senate and drops this provision from the Conference substitute.

TITLE XXXII—SOUTH DAKOTA PRESERVATION AND RESTORATION TRUST

Title XXXIII of the Senate amendment authorizes the Secretary of the Interior to make contributions to a South Dakota Biological Diversity Trust, established by non-Federal interests as a non-profit corporation in South Dakota, to select and provide funding for projects that protect or restore South Dakota's biological diversity, its rare species of plant and animal communities, and large-scale natural ecosystems.

Title XXXVI of the Senate amendment authorizes the Secretary of the Interior to make contributions to a wetland trust to be administered by the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation in South Dakota, to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota.

The House bill had a wetland trust as part of Title XIX, the Mid-Dakota Project.

Title XXXII of the Conference substitute adopts both Titles XXXIII and XXXVI of the Senate amendment and combines them into one title establishing a South Dakota Preservation and Restoration Trust.

Title XXXII of the original House bill would have limited expenditures authorized for Bureau of Reclamation activities for Fiscal Year 1992. The Senate amendment did not contain a comparable provision. It is noted that Fiscal Year 1992 has ended, making this Title moot. The Conference adopts the position of the Senate and drops this provision from the Conference substitute.

TITLE XXXIII—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

Title XXXIII of the House bill and Title XXIX of the Senate amendment authorize the Secretary of the Interior to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, title to certain facilities, easements, and rights-of-way.

The provisions of the House bill and the Senate amendment are nearly identical.

Title XXXIII of the Conference substitute adopts the Senate language without modifications.

TITLE XXXIV—CENTRAL VALLEY PROJECT IMPROVEMENT ACT

The House bill and the Senate amendment both contained titles providing for certain changes in the operation of the Bureaua of Reclamation's Central Valley Project, California. House and Senate provisions differed significantly in areas of water supply, funding, and other terms related to restoration of fish and wildlife, and presented other differences regarding voluntary water transfers, water conservation, water contract renewal, among other matters.

The Conference substitute addresses these matters as described generally below:

The Central Valley Project is authorized to be operated for fish and wildlife mitigation, protection, restoration and (subject to certain limitations) enhancement.

Purchasers of Central Valley Project water and power will be required to fund and provide a specified amount of water to support fish and wildlife mitigation and restoration programs and activities identified in the title.

Voluntary transfers of Central Valley Project water are authorized, subject to certain rules and procedures.

The Secretary of the Interior is required to renew existing water contracts, subject to certain terms and conditions, and is authorized to enter into certain new contracts.

The Secretary is directed to perform a study of measures to increase the yield of the Central Valley Project in order to provide additional water for agriculture, municipal and industrial users, fish and wildlife, and other project beneficiaries.

The Secretary is directed to undertake certain actions to encourage and assist water conservation in the Central Valley Project.

The Secretary is authorized to extend the service area of the Tehama-Colusa Canal.

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM, NORTH DAKOTA

Title XXXV of the Senate amendment implements certain recommendations of the Garrison Unit Joint Tribal Advisory Committee that the Federal government provide additional financial compensation to the Three Affiliated Tribes of the Fort Berthold Reservation and the Standing Rock Sioux Tribe for the taking of reservation lands for the site of the Garrison Dam and Reservoir and the Oahe Dam and reservoir; it provides financial compensation to the tribes; and orders the return of land taken from the tribes, individuals and the State of North Dakota in excess of project requirements.

The House bill has no comparable provision.

Title XXXV of the Conference substitute adopts the Senate language, but shifts the date at which time the accrued interest will become available for payments to the Three Affiliated Tribes and Standing Rock Sioux Tribe. It is not the intent of the conferees to limit the ability of the Secretary of the Army to adequately operate projects at Garrison Dam and Reservoir and Oahe Dam and Reservoir.

TITLE XXXVI—SONOMA BAYLANDS WETLANDS DEMONSTRATION PROJECT, CALIFORNIA

Title XXXVIII of the Senate amendment authorizes the Secretary of the Army to conduct a wetland demonstration project in the San Francisco Bay-Sacramento/San Joaquin Delta using dredged material to restore, protect, and expand the Sonoma Baylands.

Section 3411 of the House bill authorizes the Secretary of the Army with State and local consultation to study a program using dredged material to restore, protect, and expand San Francisco Bay and Delta wetlands.

Title XXXVI of the Conference report adopts the Senate language without amendment.

TITLE XXXVII—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT, ARIZONA

Title XXXIX of the Senate amendment authorizes and confirms the settlement of the water rights claims of the San Carlos Indian Tribe against the Federal government and a number of non-Indian entities. In return for the extinguishment of claims filed by the United States on behalf of the San Carlos Indian Tribe for 292,406 acre-feet of water per year, the Tribe would receive from both Federal and non-Federal sources 152,435 acre-feet of water per year. There is authorized to be appropriated $36.2 million, together with funds from State and local sources, to develop the beneficial uses of this water on the reservation.

The House bill has no comparable provision.

Title XXXVII of the Conference substitute adopts the Senate language with two amendments. First, the Conference substitute deletes section 3908(f) which would have exempted non-Indian users of Central Arizona Project (CAP) agricultural water from the ownership and full cost pricing limitations of Federal reclamation law. Second, the Conference substitute would allow for expedited consideration of certain claims to unallocated CAP water.

Title XXXVII of the original Senate amendment would have authorized the Secretary of the Interior and the Secretary of Veteran Affairs to enter into a permanent water service contract to provide no more than 850 acre-feet of water annually from the Central Valley Project for the San Joaquin Valley National Veterans Cemetery.

The House bill had no comparable provision. The San Joaquin Valley National Cemetery provision has been included in Title XXXIV of the Conference substitute, the Central Valley Project Improvement Act.

TITLE XXXVIII—SAN FRANCISCO WATER RECLAMATION AND REUSE DEMONSTRATION PROJECT

Section 3415 of the House bill authorized the Secretary of the Interior to undertake a demonstration project in the City and County of San Francisco to examine the feasibility and effectiveness of using advanced ecologically engineered technology for water reclamation and reuse.

The Senate amendment did not contain a comparable provision. Title XXXVIII of the Conference substitute incorporates the language of section 3415 of the House bill as a separate title.

TITLE XXXIX—SIPHON REPAIR AND REPLACEMENT

Section 3413 of the House bill provides for the repair, modification or replacement of the Hayden-Rhodes Aqueduct siphons at Salt River, New River, Hassayampa River, Jackrabbit Wash, Centennial Wash and Aqua Fria River, all features of the Central Arizona Project.

The Senate amendment did not include a comparable provision. Title XXXIX of the Conference substitute incorporates the language of section 3413 of the House bill, with an amendment providing that costs associated with these efforts shall be borne equally as a reimbursable main project feature and a nonreimbursable Federal expenditure.

TITLE XL—NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

Title XL of the Senate amendment amends the National Historic Preservation Act of 1966, as amended, to clarify, strengthen and streamline numerous provisions of that Act to help facilitate the preservation of historic resources.

The House bill has no comparable provision.

Title XL of the Conference substitute adopts the Senate language with several modifications.

From the Committee on Interior and Insular Affairs, for consideration of titles I and VII-XL of the Senate amendment, and titles I and VII-XXXIV of the House amendment, and modifications committed to conference:

GEORGE MILLER,
NICK RAHALL,
SAM GEJDENSON,
BRUCE F. VENTO,
PETER H. KOSTMAYER,
RON DE LUGO,
ED MARKEY,
JAMES V. HANSEN,
JOHN J. RHODES,
CRAIG THOMAS,
DON YOUNG
(opposed to title 34),

From the Committee on Interior and Insular Affairs, for consideration of titles II-VI of the Senate amendment, and titles II-VI of the House amendment, and modifications committed to conference:

GEORGE MILLER,
NICK RAHALL,
SAM GEJDENSON,
BRUCE F. VENTO,
PETER H. KOSTMAYER,
RON DELUGO,
WAYNE OWENS,
JAMES V. HANSEN,
JOHN J. RHODES,
CRAIG THOMAS,
DON YOUNG
(opposed to title 34),

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles II-VI, IX, XXXIII, XXXIV, XXXVI, and XXXVIII of the Senate amendment, and titles II-VI, IX, XXX, and XXXIV of the House amendment, and modifications committed to conference:

GERRY E. STUDDS,
WILLIAM J. HUGHES,
DENNIS M. HERTEL,
TOM CARPER,
THOMAS J. MANTON,
NITA M. LOWEY,
JOLENE UNSOELD,
JACK FIELDS,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles I, VII, XI, XII, XIV, XV, XIX, and XX of the Senate amendment, and titles I, VII, XI, and XVIII-XX of the House amendment, and modifications committed to conference:

GERRY E. STUDDS,
WILLIAM J. HUGHES,
ROBERT A. ROE,
GLENN M. ANDERSON,
HENRY J. NOWAK,
ROBERT A. BORSKI,
JOE KOLTER,
TIM VALENTINE,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
WILLIAM F. CLINGER,
THOMAS E PETRI,
E DE LA GARZA,
BEN NIGHTHORSE CAMPBELL,

As additional conferees from the Committee on Agriculture, for consideration of titles XIII, XIV, XVIII, and XXXVI and section 202 of the Senate amendment, and titles XIX and XX and sections 301, 305, 308 and 2302 of the House amendment, and modifications committed to conference:

E DE LA GARZA,
Managers on the Part of the House.

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL H. FORD,
BILL BRADLEY,
JEFF BINGAMAN,
TIMOTHY E. WIRTH,
WYCHE FOWLER, JR.,
MALCOLM WALLOP,
MARK O. HATFIELD,
PETE V. DOMENICI,
Managers on the Part of the Senate.

□ 0110

CONFERENCE REPORT ON H.R. 4996, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1992

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the conference report on the bill, H.R. 4996, to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of today, Monday, October 5, 1992.)

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Speaker, the conference agreement for H.R. 4996, the Jobs Through Exports Act of 1992, will accomplish what is needed most right now in this economic downturn—the creation of jobs here at home. It will also increase the size and improve the effectiveness of U.S. export promotion programs. This legislation will generate approximately 100,000 jobs each year.

Title VIII of the conference agreement contains language which prohibits funds authorized under this act to be used as a financial incentive to a business enterprise currently located in the United States which wishes to relocate overseas if that relocation is likely to put U.S. workers out of a job. The provision further prohibits any funding for projects or activities that violate internationally recognized worker rights.

We have all seen the recent press reports accusing the administration of exporting U.S. jobs with our foreign assistance dollars. This new language firmly states that no money in this act could be used for that purpose. This legislation will promote the export of U.S. commodities—not U.S. jobs.

Having said that, let me now describe the content of the rest of the conference agreement. The purpose of this legislation is to offer a more level playing field for U.S. exporters as they try to market their products and services overseas. The legislation reauthorizes both the Overseas Private Investment Corporation, or OPIC, and the Trade and Development Program. It also authorizes the Enterprise for the Americas Initiative.

The remaining titles will significantly enhance the ability of the U.S. Government to provide grants for capital projects using U.S. exports and services, and increase funding to the Department of Commerce. The legislation provides an authorization to establish three overseas commercial centers in order to create a partnership between the public and private sectors to identify and aggressively pursue strategic export markets.

Finally, the conference agreement authorizes approximately $30 million less than the bill which passed this body in August.

I would like to express my appreciation to the ranking minority member of the Subcommittee on International Economic Policy and Trade, Mr. ROTH. Mr. ROTH's leadership, contribution, and cooperation on this legislation stands as an example of what can be accomplished if the Congress decides to put the American worker first.

I would also like to thank Chairman FASCELL and Mr. BROOMFIELD for their continued leadership in the promotion of the competitiveness of U.S. industry. Their skills and experience on these and other issues will be sorely missed in the next Congress.

Mr. BROOMFIELD. Mr. Speaker, I rise in support of the conference report on the Jobs Through Exports Act of 1992. As we approach the end of the 102d Congress, we must ensure that we can carry through on our commitment to assist the independent States of the former Soviet Union and to implement President Bush's vision for a prosperous and democratic Latin America and Caribbean.

This conference report accomplishes both objectives in reauthorizing the programs of the Overseas Private Investment Corporation and enacting the bilateral debt restructuring provisions of the Enterprise for the Americas Initiative.

OPIC's authorization to extend its insurance and guarantee programs has lapsed as of September 30. Therefore, it is vital for us to pass this conference report and speed this measure toward enactment so that this agency can continue to play its present role on the front lines of assisting our companies in the emerging democracies of Eastern and Central Europe.

No provision in this rewrite of OPIC's charter—or any other provision in this bill for that matter—is designed to encourage the export of U.S. jobs overseas. I point out to my colleagues that a provision has been added to this bill in conference that would prevent any funds from being used for any financial incentive for a business to relocate overseas and reduce the number of jobs in this country.

I would like to commend the chairman of the Foreign Affairs Committee, Mr. FASCELL, as well as the subcommittee chairman, Mr. GEJDENSON, for their tireless efforts in bringing this bill before us today.

On our side of the aisle, I would like to pay tribute to the ranking member of the subcommittee, Mr. ROTH, for his work on this legislation. While promoting programs that assist our exporters, he has a keen eye for protecting the interests of the taxpayer and for spotting instances of waste, fraud, and abuse in our Agency for International Development programs.

Finally, I would like to pay special tribute to the gentleman from Nebraska, [Mr. BEREUTER], who has taken the leading role in fashioning some innovative and much needed reforms in our foreign aid programs.

His efforts to incorporate basic human needs concerns into the capital projects programs of AID deserve our support and that of our colleagues on the Appropriations Committee. His efforts to provide the necessary authorization for the President's Enterprise for the Americas Initiative deserve special praise. This program by itself promises to revitalize our relationship with all the countries of Latin America and the Caribbean.

I urge my colleagues to give their full support to this conference report.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of the conference report to H.R. 4996, the Jobs Through Exports Act of 1992.

Thanks to the hard work and persistence of the subcommittee chairman, the distinguished gentleman from Connecticut [Mr. GEJDENSON], with important contributions from the distinguished ranking member of the subcommittee, the gentleman from Wisconsin [Mr. ROTH], and other Members, this body has the opportunity to pass legislation which can stimulate this Nation's economy by promoting the sale of United States exports in foreign markets including the Republics of the former Soviet Union. This Member commends him for his efforts and joins with him in urging its approval.

Mr. Speaker, the objectives of this bill are clear and compelling—to create American jobs through increased exports. The Jobs Through Exports Act accomplishes this objective by reauthorizing the Overseas Private Investment Corporation, providing grant funding for U.S. participation in capital projects in developing countries, and creating a public-private sector partnership to pursue strategic export markets.

OPIC is nearly unique in that it requires no Federal funds; it pays for its own operations through fees and insurance premiums, and it is extremely effective in aiding U.S. investors by providing loans and loan guarantees as well as insurance for investments in such locations as the Republics of the former Soviet Union. OPIC is a critical vehicle for new export opportunities.

Mr. Speaker, because of this Member's initiative, supported by my colleagues, the Jobs Through Exports Act also enhances the authority of the Trade and Development Program to promote U.S. exports in the world's developing countries by funding U.S. consultants, designers, and engineers involved in the crucial, earliest formative stages of projects for multilateral development bank loans. These multilateral projects, which generate a significant portion of international trade in goods and services, will provide excellent opportunities for U.S. exporters, because increased participation of U.S. consultants at the earliest stage, can often help U.S. exporters secure successful bids. Currently, our competitors are reaping extraordinary benefits from their support for their architects, engineers, and other consultants.

Thus, one of the legislatives simplest provisions has the potential to greatly increase the export of U.S. goods and services—especially for small- and medium-sized business. The legislation will boost the ability of U.S. business to tap a huge export market of $25 million per year in procurement for projects financed by the World Bank and the regional development banks in Asia, Africa, the Americas, and Eastern and Central Europe.

In the office of the U.S. Executive Director at each of the five multilateral development banks, the Secretary of Commerce is authorized to put additional procurement specialists on staff to help U.S. businesses make timely and successful bids for these billions of dollars in overseas contracts. These are real projects where the financing is already placed. The bidding is open and internationally competitive. Alert, proactive procurement officers can get the word out to U.S. medium- and small-sized businesses so they can aggressively compete and win more of the work on these projects while creating more jobs here at home.

Mr. Speaker, I am also pleased the conference report has retained a provision offered by this Member which encourages the Administrator of the Agency for International Development to study how to be more effective in addressing the basic needs of the desperately poor and the need for environmental and sanitative improvements through small-scale infrastructure capital projects as part of our development programs.

One billion people in the world do not have clean drinking water. One and a half billion do not have even rudimentary sanitation. U.S. engineering and environmental expertise is already at work in developing countries to make clean water available and to create basic sanitation systems to prevent disease and pollution. This is development assistance that is aimed at assisting the most disadvantaged people in the world, while creating jobs for the United States. This is the kind of foreign assistance and the types of capital projects that every Member can be proud to support.

Finally, Mr. Speaker, this Member is especially pleased the conference report contains a provision added by this Member which includes a substantial portion of the Enterprise for the America's Act. This important and innovative debt relief program is designed to promote trade, investment, and growth in Latin America, the Caribbean, and the United States. This goal of improved economic growth in our hemisphere will create export-oriented jobs in the United States by creating demands for U.S. exports. Already, 1 in 7 dollars of U.S. exports goes to Latin America and the Caribbean, which is the fastest growing regional market for U.S. exports. Innovative debt relief trust funds will help to ensure that these newly developing countries will pursue an environmentally sound and sustainable development path to development.

Mr. Speaker, the Jobs Through Exports Act is indeed a bipartisan effort that has enjoyed overwhelming support. It is significant and positive trade legislation designed to boost our Nation's exports—which alone have accounted for two-fifths of this Nation's real growth between 1986 and 1990. I urge my colleagues to support the conference report to H.R. 4996.

Mr. GILMAN. Mr. Speaker, I rise in strong support of the conference report to the Jobs Through Export Act of 1992. I am an ardent supporter of export promotion programs, and this legislation strengthens the export programs that will lead the United States into the 21st century.

For over 20 years, OPIC programs have been a successful means of assisting the development of third world countries, while also urging U.S. private businesses to invest in their countries. With the collapse of communism in Eastern Europe and the former Soviet Union, OPIC can only grow as it assists both United States companies invest in these countries and the development of these newly democratic States.

Another important facet of this bill is the creation of an office of capital projects in the Agency for International Development. Capital projects are a sound way for AID to use its resources because U.S. companies are hired for construction projects such as water treatment plants and roads. This is foreign aid that helps the United States as well.

This conference report also retains an important segment of the House bill: The Enterprise for the Americas Initiative. This provision sets into motion one of the most ambitious attempts to create economic and democratic growth in the Western Hemisphere. The implementation of EAI will put the dreams of a hemisphere-wide free trade area one step closer to reality.

One of the most important aspects of the conference report is protection for both U.S. and foreign workers. The report ensures that no funds from this legislation will be used to assist the relocation of U.S. companies to foreign countries at the expense of U.S. jobs. In addition, no funds can be used in projects that violate workers' rights. This language can put to rest any fears that the export promotion programs of the United States are really exporting jobs.

I would like to commend my good friends, the chairman and ranking Republican member of the Foreign Affairs Committee, Mr. FASCELL and Mr. BROOMFIELD. Their leadership on this legislation will leave an important mark on U.S. foreign policy well into the future. I would especially like to commend the subcommittee chairman and ranking Republican member, Mr. GEJDENSON and Mr. ROTH, for formulating a bipartisan measure that will not only assist less developed countries, but will do so while promoting U.S. businesses and workers as well.

I urge my colleagues to support this conference report.

Mr. ROTH. Mr. Speaker, let me just make a couple of points on the Jobs Through Exports Act. Chairman GEJDENSON and I started working on this bill more than a year ago. It is truly a bipartisan bill. It creates jobs by expanding exports. Using the Commerce Department's formula, enactment of this bill will create 100,000 new jobs.

Most important, the bill reauthorizes the Overseas Private Investment Corporation. Our companies have to be established overseas if they are going to compete in Europe and Asia. OPIC is critical to that expansion, by providing the financing and risk insurance to support our businesses.

OPIC does not cost the taxpayer $1—it is completely self-sufficient, because it earns enough on its insurance business to cover its financing activities.

Let me emphasize one provision: Our bill specifically prohibits OPIC or any of the other export promotion agencies from any activity which would move American jobs overseas. We also expand the Trade and Development Agency, which helps American companies get in on the ground floor of overseas construction projects.

Our bill establishes a capital projects office, to channel some of our aid money into projects that will be reserved for American contractors and American workers.

If Congress is going to spend money overseas, then at least American business should have preference on any projects that are funded. Our bill is a first step toward meeting that goal. To help American business people overseas, we authorize a new pilot program of business support centers in Europe, Asia, and Africa. These centers will provide translators, communications equipment, and technical advisers—the basic services that business people need when they are overseas.

The bottom line is, we are being out hustled in foreign markets by our competitors in Europe and Asia. We have to help our businesses meet that competition, or we will fall further behind. This bill helps American business. So I urge my colleagues to join me in voting for this bill, which is a solid step forward in strengthening our economic future.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 11, REVENUE ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged resolution (H. Res. 609; Rept. No. 102-1035) waiving points of order against the conference report to accompany the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

Mr. MOAKLEY Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 609 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 609

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 609 waives all points of order against the conference report on H.R. 11, the Revenue Act of 1992, and against its consideration. The rule also provides that the conference report will be considered as read.

This bill is the last big piece in the puzzle of the 102d Congress. The rule is necessary to bring up the conference report in the last hours of the session.

The conference agreement provides tax incentives for investment in distressed areas by allowing the designation of 50 enterprise zones. The agreement also authorizes Weed and Seed Programs targeted for enterprise zones.

The Revenue Act of 1992 includes growth initiatives, which the President proposed. It extends—for 1 year—several expiring tax benefits. The bill repeals the luxury tax and boat user fee, simplifies tax rules; and makes changes in Medicare, and modifies certain trade laws; it establishes trade sanctions against driftnet fishing and includes miscellaneous tax bills passed by the House under suspension.

Mr. Speaker, this conference report is a carefully crafted compromise. But I am deeply distressed that tax incentives for employer-provided prepaid legal services were dropped in conference. The provision was in both the House and Senate bills. It was dropped, as best I can understand, because of a feud between two Senators.

Mr. Speaker, I will be back in January. I am going to be working hard to see that prepaid legal services are restored for hard-working middle-class employees, and restored retroactively to the expiration date, but there is nothing more I can do at this stage.

Mr. Speaker, I urge adoption of the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am hoping that my colleagues will listen a little bit so I can ask them: Do you remember 1986? The 1986 Tax Simplification Act that ruined the economy? That sent this country into a recession that we're still in? Look at this. You can get a hernia.

As my colleagues know, a lot of good work went into this tax bill that weighs—I do not know—about 40 pounds, I think. A lot of good work has gone into it, but so has a lot of other stuff, so that there is not one man or one woman in this Chamber that knows what is in this bill.

I am going to tell my colleagues, you're going to come back here in 3, and 4, and 5 years; at least some of you are, and you're going to catch it like you caught it before when you voted for that bill that did away with passive losses and did away with a lot of other things that really just about destroyed this economy.

I just want to take 1 second to mention what we tried to do upstairs because my good friend and a good friend of my colleagues over here named Senator AL D'AMATO is presently participating in a filibuster over in the Senate because we have a problem in this Nation with jobs going out of this country, and I tried to offer an amendment to this bill which would have prevented Smith Corona from going out of business, would have prevented the Zenith Corp. in Chicago from going out of business, Corning Glass up in New York, Phillips, and I could go on and I could name a corporation in every single city in this Nation that is affected by this problem.

□ 0120

Now, what I was seeking to do was to offer the amendment to the rule which would have provided an automatic adoption of House Concurrent Resolution 380 which I introduced about an hour ago on behalf of AL D'AMATO and many members of the New York delegation. It was a bill that was introduced by the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Michigan [Mr. LEVIN], and the gentleman from New York [Mr. MCGRATH], and was passed in this House by a vote of 280 to 145.

The provision would have blunted efforts by foreign manufacturers to evade antidumping duties by establishing plants in the United States for assembly of foreign made products into products for sale here.

Practically everybody on that side of the aisle voted for this. A lot of Members on this side did. It was the legislation of the gentleman from Missouri [Mr. GEPHARDT].

Mr. Speaker, it would solve this problem. Yes; there is a tax increase in the bill, but it is a tax increase on foreign corporations. Not one American or one American company is taxed because of this.

We do not have to take it lying down from that other body over there. We can simply enact my amendment by defeating the rule and then send this bill over there. They will cave in. We will do American business and industry a big favor.

Mr. Speaker, I can tell Members that both business and industry and the AFL-CIO support this amendment to this bill.

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to my friend from New York.

Mr. MARTIN. Mr. Speaker, I would ask the gentleman from New York [Mr. SOLOMON], is what we are considering tonight that 2-foot-high pile of papers to your left?

Mr. SOLOMON. That is it.

Mr. MARTIN. Is there a print of this bill other than that pile of papers that you have in front of you?

Mr. SOLOMON. This may be the only one that you are able to lift, yes.

Mr. MARTIN. Has the gentleman from New York [Mr. SOLOMON] had the opportunity to read each and every page of that and understand what it is all about?

Mr. SOLOMON. Mr. Speaker, I just carried it downstairs. I am going to read it during this debate. I would invite anyone else to come over and read it. You would be surprised what you will find in there.

Mr. MARTIN. I would ask the gentleman from New York [Mr. SOLOMON], he has been here some 14 years. Does the gentleman have any reason to believe any single person in the world has read that stack of documents right there?

Mr. SOLOMON. Mr. Speaker, I think it is impossible.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker while I commend Chairman ROSTENKOWSKI for his efforts, I reluctantly rise in opposition to this bill. The fact is that the chief negotiator from the other body unabashedly made the retention of his Super IRA proposal his No. 1 objective.

The Super IRA proposal contained in this bill is terrible policy. Rest assured that this proposal will confer most of its benefit on upper income Americans. It is simply absurd to claim otherwise. Furthermore, Super IRA's will not improve net nationals savings, as supporters insist. In fact, they will likely cause a reduction in net national savings.

What I find most offensive and irresponsible about the Super IRA proposal is the manner by which it is funded in this bill. Last year, this proposal was estimated to cost $26 billion over 5 years. By budgetary sleight of hand, it was whittled down in the Senate to just over $6 billion over 5 years. Now, the effective date of much of the proposal has been pushed back in order to hide even more of the proposal's true cost.

Don't be fooled by the purported reduction in the cost of the Super IRA proposal. Super IRA's will ultimately cost over $11 billion per year. It is a travesty that these provisions have become the centerpiece of what was once an urban assistance package. I cannot in good conscience vote in favor of this bill. Vote "no" on the conference report.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, let us talk a little bit about what is in this bill that nobody has read.

First, H.R. 11 violates the Budget Enforcement Act of the 1990 pay-as-you-go rule. It will lose, and get this, almost $6 billion over 6 years, and it will lose money in every year but 1997. Did anybody know that?

It contains approximately $14.5 billion in tax increases to offset its revenue losing tax provisions—$14.5 billion in tax increases.

Mr. Speaker, the tax increases I am particularly concerned about include the following:

First, it extends the 55-percent top estate tax rate until 1998. Under current law the top estate tax rate will drop from 55 to 50 percent after 1992. They call this a tax extender, but for those affected, it is a tax increase.

Second, it caps the moving expense tax deduction at $5,000. This will be bad for people who must move, and it will be bad for movers such as Mayflower Van Lines.

Third, this is a very onerous provision. It requires self-employed taxpayers to pay 115 percent of their previous year's tax liability in order to avoid tax penalties. Right now we are in a recession. People are having real trouble with just making ends meet, and we are going to tax people 115 percent of their previous year's tax liability in order to avoid tax penalties. Under prior law a taxpayer was OK as long as he paid estimated taxes equaling last year's tax liability.

Fourth, it raises corporate estimated taxes. This is going to hurt businesses who are struggling during this recession.

Fifth, it lengthens depreciation for commercial real estate from 31.5 years to 40 years. If you know anybody in the real estate business, they will tell you this is going to be extremely bad on real estate investments and it is going to hurt the economy for years to come.

Sixth, it denies 5-year forward averaging for lump sum distributions. This will force some retirees to pay a huge tax bill the year they receive a lump sum pension payment. So those who are going to retire, think what this is going to do to them.

Finally, it imposes new burdensome market-to-market security rules for security dealers.

Mr. Speaker, this is a bad bill. But the worst part of it is is that no one knows what is in that bill in addition to the things I have talked about. We are all going to go home from here and in about 3 or 4 or 5 weeks we are going to find out what is in this bill and what we have done to the American taxpayer, and it is going to be around election time. It is going to be in the newspaper, and we are all going to bear the responsibility for passing this bill that nobody knows what it contains.

□ 0130

Mr. GRANDY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Iowa.

Mr. GRANDY. I just want to tell the gentleman that he is quoting provisions that have been modified from the version that we are about to vote on. Those are not the same provisions that are in this bill.

There are variations on that, and I do not know where the gentleman got that information, but it is not up to date.

I might also add that the market-to-market provisions were requested by the administration and were in their 1993 budget proposal.

Mr. BURTON of Indiana. Mr. Speaker, let me just tell my colleague that my staff spent several hours going over this. If he can go through that stack of papers of about maybe 1,000 pages and show me where all these provisions have been changed, then I will change my mind. I do not find that.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I am going to vote for the rule and the bill. I think there are some good things in this bill. The luxury tax repeal, that affects my area, that I am thankful to the gentleman from Illinois [Mr. ROSTENKOWSKI] for the health care provisions, the tax extenders.

I want to tell my colleagues, I agree with the gentleman from New York [Mr. SOLOMON]. Only God knows what is in this bill, and he is going to have to read a very long time to figure out all the precise provisions.

It is disgraceful how we bring up tax bills. This bill will affect people's lives more than anything else we have done in the last 3 or 4 days, average people at home, and very few of us know very much about it. And we have delegated this responsibility because that is the way the customs and the procedures of the House are.

But that process has to change. Really, when we come back next year, it is incumbent upon all of us to look at the way we deal with tax bills, to try to make the process a bit more democratic. Maybe the Hamilton-Gradison proposal will do that. Because too often we get embarrassed. We get hit. We get boomeranged by secrets or by unclear provisions in tax legislation that maybe nobody means to have hurt us but ends up hurting a lot of us and a lot of our constituents.

So while I am going to support it, let us change the way we do business on tax bills next year.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I have only been here 14 years, and I have heard these statements made in closing hours of sessions by Members stating that next Congress we are going to have to reform how we work so we will know what is in bills.

We all know what is going on here. These bills are brought up in closing hours with the reality of Members wanting to get out of here, and the senior Members who bring them up do it deliberately so that nobody really knows what is in them.

Mr. GLICKMAN. Mr. Speaker, I do not think there is anything insidious going on here. I think it is the way we are cultivated to deal with these kinds of things.

I operate on the theory that today is the first day of the rest of our lives. The next session is going to be better than this session, and we have got an opportunity to improve the process next session.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Kansas makes an excellent point. No one does know what is in here. We are sort of taking this kind of lightly because it is 1:30 in the morning, and we are all getting a little punchy, I guess.

I think the fact that the gentleman from Indiana [Mr. BURTON] and our good friend, the gentleman from Iowa [Mr. GRANDY] had differences of opinion over what is in the bill just shows that no Member does know what is in the bill.

I was handed in the Committee on Rules about 25 minutes ago a 4-page pamphlet here which says, "Highlights of the Revenue Provisions of the Conference Report." Every Member ought to have that. They do not have it.

I was handed this rather thick summary here that says, "Estimated Budget Effects of a Possible Conference Agreement to H.R. 11." This was made up before all this was put together, yet this is the latest that we have to judge on how we are going to vote on it.

That really is not fair. Last, I would just point out that, Mr. Speaker, the Speaker has not yet appointed his members to the Hamilton-Gradison Select Committee, which is going to try to do something about this terrible mess that we have here tonight. I sure hope he will do it in the waning hours.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I rise in opposition to this rule also. Just several hours ago, the gentleman from New York [Mr. SOLOMON] offered an amendment in the Committee on Rules to allow a provision that would have strengthened the laws to prevent predatory pricing practices and dumping by a Japanese company that is putting 875 people in central New York out of work. Provisions would blunt the efforts by foreign manufacturers to evade antidumping duties by establishing plants in the United States for assembly of foreign-made parts into products for sale here.

These jobs, my colleagues, are good jobs; 875 jobs, some of those people have worked at that plant for over 30 years. They are going to Mexico.

Our Commerce Department is not standing behind the rules that we have. We need to strengthen them. We need to send them a message. And without our ability to amend this rule, that message will not be sent but those jobs will.

I urge my colleagues to oppose this rule.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I thank the gentleman for yielding time to me.

I merely rise briefly to rebut some of the points made by my friend, the gentleman from Indiana [Mr. BURTON].

The point is, Mr. Speaker, that the growth initiatives in this proposal are predominantly those proposed by the President himself. No, we have not read every page of this bill. Nor did we read every page of the DOD bill we just passed. Nor every page of the Energy bill. In the last days of any session, we cannot do that. But we do expect committees to be honest with us and tell us what is in the bills.

Most of the things that are in this bill are things that have either been passed by this House and have been carefully worked over by the committee in consultation with the administration.

The growth initiatives are there. The ACE depreciation correction for real estate is very important. The gentleman from Indiana mentioned only the down side of the bill on the real estate. There are some very important up sides. For example, modification of the passive loss rules which many of the Members in this Chamber are supporting is included. So is permanent extension of low income housing credits and mortgage revenue bonds.

Orphan drug credit, deduction for health costs for the self-insured and R&D development tax credits, are also included.

All of those things are very important, as well as the appeal of the luxury tax on boats, which a large portion of this body also supports.

Also included is the taxpayer's bill of rights, which most of the Members of this body support. There are also 25 miscellaneous tax bills in this measure which have been overwhelmingly approved by this House already under suspension, requiring a two-thirds vote. Finally, most of the financing sections in this bill were taken directly from the President's budget request.

So I think it is easy to stand up tonight and criticize, but the gentleman from Indiana [Mr. BURTON], I hope, will understand that most of the items in this bill are very, very defensible. This is a solid bill with a lot of strong, carefully worked-over provisions. Although the hour is late, this is not something that has come in in a surprising or unexpected way.

This bill is revenue neutral. The gentleman from Indiana mentioned $14 billion in tax increases. He will be happy to know those are all offsets, so the bill is not a tax increase in net but revenue neutral. We should support the rule and the bill.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

I want my colleagues to look at this. This is the complete Internal Revenue Code. This is the entire U.S. Code. Look at it.

Look, can my colleagues see over there? Look at the difference. This is the whole code. This is what we are adding to it, and we are going to vote on it. We are going to vote on that.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, we are all going to be going home, and we are going to, in the next couple of weeks, we are going to be hearing about this tax bill.

What I wanted to say for the good of the House, because when we think about this, this really is absurd. It is 1:30 in the morning. We are probably going to debate for another hour or two, and then we are going to vote at 2:30 or 3:30 in the morning on this big thick bill, most of which was probably written by staff and maybe not signed off by Members.

The bottom line is that for all of us, Members really are tired about the way we are trying to function down here.

□ 0140

They have some legitimate complaints. To bring a bill up like this at almost 2 o'clock in the morning that we are going to be reading about for weeks, this is just no way to do our business. One would think that after all the public opinion polls and everything else that we see in this country about the way people have questions about the way we operate, we should not be doing this tonight.

I would agree with the gentleman from Wisconsin [Mr. MOODY] that there are some provisions in this bill that are good. The problem that I think many Members are going to have over here, and on the other side, as well, is to do this at this hour, without knowing, just makes no sense. We really ought to put this stuff aside and get back to this the beginning of next year, or at least wait until tomorrow, until people can have a chance to see what is in it.

Mr. MOODY. Will the gentleman yield?

Mr. KASICH. I am glad to yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Speaker, a great deal of the origin of this bill comes from the President's request.

Mr. KASICH. I understand that, Mr. Speaker.

Mr. MOODY. If the gentleman will continue to yield, the rest of the bill has already passed on the floor in many other versions.

Mr. KASICH. I know the gentleman knows this. I would say to the gentleman from Wisconsin, he just came through a very tough race where his opponent beat him up because of the way in which Congress functions. The gentleman knows as well as I do that when they analyze this bill, there is going to be stuff in there, lots of stuff in there that the gentleman does not know is in there. That is just special little deals that we are going to be reading about for weeks in the newspaper.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only I yield 4 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, let me address something in the bill that is known and is important and is something that we should all contemplate. There are occasions, rare in our lives, when certain things happen that pierce our consciousness. One occurred the other day when a young man named Gregory "K" divorced his parents, and that story was national news. What was not national news was the fact that divorcing his parents and the problems that that particular case engendered happen all the time and could have been avoided.

Two weeks ago Oprah Winfrey had a show called "Scared Silent" about child abuse and neglect. In 1980, there were 900,000 American children who were neglected and abused. In 1992 there were 2.7 million. There are now 50 percent more children in foster care, nearly half a million nationwide than there were just 6 years ago.

The problems of children simply cannot wait. You cannot recover a lost childhood. The Members cannot imagine, or maybe you can, the pain and suffering that tens of thousands of American children are undergoing tonight in foster homes, living in fear with parents who have drug and alcohol problems.

We talk a great deal about the problems of American children. We do not do very much about them. In this bill we provide money to try and keep families together. It is a program that has worked all over the country. It started in Seattle in 1974. It has been tested in urban areas and rural settings. It is called Homebuilders. It puts a trained social worker in a family, often a single parent family, to try and solve family problems that might result in the child being removed from the home. It works. Over 85 percent of the cases where Homebuilders has been tried the families remain together.

We spend $2.8 billion on children in foster care, and only $274 million to try and save the family. This bill changes that. It provides over $3 billion to do this sort of intervention that will keep families together, and it also provides money to make sure when the children are in foster care, that they do not languish there.

In our subcommittee we heard testimony from a child who had been in 11 different foster care homes, and this child, a 10-year-old young boy, said he slept on a roll of his clothes because he never knew when he would have to move again.

We provide the money to stop that sort of thing. We make sure that these kids' cases are quickly reviewed and when feasible reunited with their families. Adoption assistance is also provided so they can get into permanent homes where they will be loved.

This is not a partisan issue. I understand that it is late. It is late for too many American children. I beg the Members, take the time, and I know it is short, to take a look at these provisions, but understand in this bill that the Senate and the House have done something very important, something that all of the Members will be very proud of if we pass this bill.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. CRANE], a member of the Committee on Ways and Means. The gentleman has helped draft the tax-cutting part of this bill.

Mr. CRANE. Mr. Speaker, I thank my distinguished colleague for yielding. We are all sitting here assembled at 1:45 trying to kill time until we can bring the bill up for consideration, so there is opportunity for anyone to get prolix, but let me just say one thing. We know we are engaged in a charade. This is total nonsense. This is going nowhere.

Let me tell the Members something further. There are provisions involving tax cuts in this bill that everyone on a bipartisan basis embraces, but under the guidelines of our Committee on Ways and Means we have to guarantee revenue neutrality, so we are balancing that off with tax increases. The tax increases will bring us back here next year to figure out how we address the unseen grievances that are included in those tax increases, moving expenses being a basic one.

However, there are other grievances contained in this legislation. This is a charade. We know it is going nowhere. We are going to sit in here for another hour after the bill comes to the floor, when our distinguished majority leader told us we were going to get 4 hours sleep tonight.

Let us get out of this Chamber. Let them handle their special orders, and we will go get some rest in our offices. We can reconvene at 7 or 8 in the morning and forget about this nonsense. It is going nowhere. This is a total waste of all Members' time.

I thank the gentleman for yielding time to me.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I thank the distinguished chairman for yielding time to me. I shall try not to take the time, but I would like to say that in the large bill that is before the gentleman from New York [Mr. SOLOMON] there are quite a few provisions that affect Medicare. These provisions have been reviewed by the ranking minority member of the Subcommittee on Health of the Committee on Ways and Means. They are all reported, almost all reported out of the Committee on Ways and Means' Subcommittee on Health on a bipartisan basis. They are largely technical, things like revising the way we pay for EKG's that most physician groups approved.

I doubt if there are many items in there that would require a great deal of debate, so I would like to assure the distinguished ranking minority member of the Committee on Rules that this was a bipartisan effort, and that particular section of the bill I think the ranking member of the Committee on Ways and Means would assure the gentleman covers issues which most Members will find acceptable.

Those items added by the Senate, they largely added some additional funds to rural hospitals, and again, I think would not be found objectionable by the Members. I hope this will not become an item. The Members may vote different ways on the tax proposals, but I think they would find broad general support for the Medicare issues.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], who has had a chance to read a few pages of the bill.

Mr. BURTON of Indiana. Mr. Speaker, some of my colleagues disagreed with the things I said a few minutes ago, so I have in front of me the four-page summary that I know all of the Members have read tonight about the revenue enhancers that are in this bill. Do the Members know how many revenue enhancers there are? There are 27 tax increases or tax extenders, 27, 27.

Let me just tell the Members, I said a while ago that they were going to increase the estimated tax to 115 percent of previous years's taxes. I was wrong, it is 120 percent. It is more onerous than we though previously. That was changed in conference.

The market-market, that provision phases in the accounting change more than previous versions, and raises $3.8 billion in new revenues over 5 years. The estimated tax increase I talked about just a minute ago increases $9.6 billion over 5 years. The moving expenses, that change is going to increase revenues $3.2 billion over 5 years.

The depreciation on the real estate that is going to extend it from 31.5 years to 40 years, that increase is $3 billion over 5 years. Then we go on and on and on. There are 27 of these.

Now, we wonder why the American people are upset. The deficit is going out of sight, and in the cover of darkness, at a quarter until 2 in the morning, we are talking about raising billions and billions and billions of dollars in new taxes in a bill nobody even knows anything about, and these guys are saying this is the greatest thing since sliced bread. Baloney. You are going to go home and the people are going to find out about this and they are going to be on your necks. Start being responsible. This should not be done in the dead of night on the last day of the session.

Mr. SOLOMON. Will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague from New York.

Mr. SOLOMON. I might just correct my colleague. He said there are 27 revenue enhancers. He is only reading from the highlights.

□ 0150

That list of 27 highlights does not include all of them, there are a lot more.

Mr. BURTON of Indiana. I stand corrected. It is worse than I thought. But probably only about 10 or 15 even read this summary that we went through just now, and I guarantee you that thousands or hundreds of pages that are in this bill nobody has looked at, and this is irresponsible.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I would like to say to the gentleman from New York [Mr. SOLOMON], and for those listening to the debate, I think the gentleman from New York [Mr. SOLOMON] wants them to believe that this is unusual that you have a very large bill set before you at the desk that you have not had the opportunity to read. I would say to the gentleman from New York [Mr. SOLOMON], you did not read the energy bill tonight, I am sure. That bill was nearly as large as this. I do not think you read that.

Mr. SOLOMON. I did not vote for it, either.

Mr. DORGAN of North Dakota. And you did not read the Defense bill when it came to the floor, which was larger than that. You did not read it. Nobody in here read it.

What we do is we work on these in committees, and we do the best job we can, and bring them to the floor, and the way the system works is conferences produce compromises.

But what is in this is largely not too mysterious. Much of this corrects some of the problems from the 1986 act. Much of this represents the kind of thing we have been involved in for an entire 2-year period, enterprise zones, targeted jobs tax credits, R&D tax credits. These are not things that are mysterious to you and me and others in this Chamber.

So I just do not want people to think boy, this is really unusual. We have a giant bill and no one knows what is in here.

Every conference report that comes to the floor, I say to the gentleman from New York [Mr. SOLOMON], if you set it in front of you as you have done this one, you would also have to admit, "Gee, I haven't had an opportunity to read this either." Well that is too bad. I have not had an opportunity, nor has anyone else. But most of us understand most of these committees do a pretty good job, do the best work that they can, and mostly you know what is in this bill.

What is in this bill is much of what the President has requested us to do. We have done it as well as we can. If we pass it tonight, I think it will be good for this country.

Mr. SOLOMON. Oh, for a line-item veto.

Mr. Speaker, let me yield 2 minutes to my good friend, the gentleman from Illinois, [Mr. FAWELL], chairman of the porkbusters task force.

Mr. FAWELL. Mr. Speaker, my vote on H.R. 11, the Revenue Act of 1992, is a particularly difficult one. There are several provisions of the bill that I support, including enterprise zones, the IRA provisions, the permanent extension of various tax credits, and the passive loss relief provision, to name a few.

This bill raises taxes to support new programs. Some of these new programs are good programs. This bill also raises taxes in order to get rid of bad taxes passed in 1990. Notably missing is any effort to cut spending in order to promote these new programs, again, some of which are good programs, or in order to get rid of bad taxes. I urge my colleagues not to get stuck in what I call the Washington budget box. We do not have to raise taxes to cut taxes. We do not have to raise taxes to finance new programs. We could just as easily cut spending. But Congress does not want to cut spending. Taxes are the only building blocks the majority likes to play with. So they resort to raising taxes to do most everything.

One of the many tax increases in this bill would lengthen the depreciation period for commercial real estate to 40 years. This is a tax increase for the commercial real estate industry. Before voting on this bill, I suggest every Member of this body pick up the phone and call some of their constituents in the commercial real estate industry and ask, "How is business going?" I suspect you'd hear business is not too good. And if business is finally picking up after this recession, ask them what effect a tax increase would have on business.

There are many other tax increases in this bill.

Most Members of this body have little understanding of these tax increases, no matter how much you might say we have seen them before, because we just got them, and nobody has actually read the bill.

We have been down this road before. We did it when we passed a revenue raiser called the luxury tax. We were going to raise billions of dollars. Instead it ended up losing revenue.

For a moment allow me to get back to my point of cutting spending to pay for good programs such as enterprise zones.

I just read a report called "Real Deficit Reduction Demands Real Spending Cuts," put out by the Heritage Foundation. It details $788 billion in potential savings over 5 years from cutting Federal spending. Many programs that have outlived their usefulness would be eliminated. Many lower priority programs would be cut back. There would be some sacrifices.

Just once in a while we should think in terms of cutting some spending, and notably it is absolutely absent in this bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of H.R. 11. The riots in Los Angeles were the impetus for this bill. It is indeed unfortunate that it took such a tragedy to refocus attention on our Nation's cities.

The bill before us today is an attempt to deal with some of the more serious problems facing our cities. I have been a supporter of enterprise zones since coming to the House so I am pleased they have been included. My State of Connecticut has a State Enterprise Zone Program. The combination of State and Federal benefits should really help revitalize our inner cities.

This bill permanently extends the mortgage revenue bond program, the low-income housing credit and the Targeted Jobs Tax Credit Program. These are important urban programs. In 1991, in the midst of a recession, the MRB program produced 40,000 jobs and generated over $1.1 billion in wages and tax revenues. The low-income credit program produced 56,000 jobs in 1991 and generated over $1.8 billion in wages and tax revenues.

There are a number of other important items contained in this bill. Many of you have heard from your constituents by the hundreds on the luxury tax. The luxury tax on boats, planes, furs, and jewelry is repealed and is indexed for cars. While I would prefer to see the luxury tax on autos totally repealed, I understand that this was not possible due to revenue constraints.

There are a number of important things in this bill. I stand here tonight and see them look at this bill, at the size of the bill. What about our committee that spent hundreds of hours working on this bill? There has been staff time on this bill, Members' time on this bill, conference time on this bill.

This is not a bad bill. This is a bill that is going to help America. I urge Members to support it.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I rarely come to the well at 5 o'clock in the afternoon, much less at 2 o'clock in the morning. But I am about to conclude that I cannot do much worse than some of the others have done.

I want to associate myself with the statement made by the gentleman from Kansas [Mr. GLICKMAN]. It is inexcusable that this bill is before us at 2 o'clock a.m. on this day.

I do not mean to speak for the President, but I suspect if this bill had been handed to him 5 months ago he probably would have signed it. That cow is out of the barn. Too late to worry about that now. Now what we have to do, my friends, is to weigh the good versus the bad, and most of us in this Chamber are provincial by nature.

Now, my hot provincial button in this piece of legislation happens to be the repeal of the luxury tax. The finest boats in America, pardon my immodesty, are built in High Point, NC, by Hatteras Yachts. I went through their assembly line room some months ago, and it was not unlike a cemetery at midnight. There was no assembly. They employ 500 fewer people today than when we imposed that luxury tax way back yonder.

□ 0200

Mr. Speaker, my words were prophetic on that day. I heard one of my colleagues say, "Well, we will show the guy who buys these half-million-dollar boats." I said to him, "No. We show the guy who builds the boats," and that is who has been damaged.

Luxury taxes, my friends, are illusory, and it takes us, at 2 o'clock in the morning, to learn that, unfortunately.

I am not suggesting that just because the luxury tax is herein it makes it a good bill. I am sure there is much in this bill that is unsavory. But we must weigh the good against the bad and then try to be equitable and fair in the end and hopefully, before the cock crows, we will all get a wink or two of sleep.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I would like to believe that most of the speeches in the last 45 minutes are for the purpose of entertaining ourselves, either individually or in groups. I would hope that we are not too serious, and I hope that the American people are not being too amused by the positions we take.

I would like to make one appeal to you. This bill is serious business. It is not something that was cooked up yesterday or this morning. This debate has been going on now for over a year.

Essentially, this bill is the same bill, the guts of it, that we had early this year. The President vetoed that. That is unfortunate. We tried again to tailor a bill that would meet with his approval. We made an earnest effort to do that. At the administration's request, we put in the enterprise zones. They are in there essentially because the administration wants them. We tried to make other corrections.

The Senate did put in the individual retirement accounts, and as the gentleman from New York [Mr. DOWNEY] said so eloquently, we have added the foster care aspect. These are very important things.

Ninety percent of the things in the bill we have seen before. You know it and I know it. It has been thoroughly worked on.

I now make one last statement to you. Yes, if we could have voted on this 5 months ago, that would have been desirable. We could not get it out 5 months ago. We could not, 5 months ago, get word from the President on what he wanted. We tried to find out how we could write a bill that would meet with his approval, that he would sign. We earnestly made that effort.

The bill you have before you tonight is an honest, intelligent effort to try to move this country forward without a big tax increase. The claims that these are nothing more than tax increases is more rhetoric than fact. There is no PEP or Pease such as we had at one point, that is, the phasing out of exemptions or limiting itemized deductions. We have accepted in many ways the suggestions the administration made to raise the revenue.

If you do not approve of this tax bill, you will never ever, in the words of a fellow we know, you will never ever be able to pass any kind of revenue bill.

This is a sound bill, and we ought to be serious about it.

I hope the rule passes and the bill passes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE RELATIVE TO SUSPENSION CALENDAR

The SPEAKER pro tempore (Mr. MAZZOLI). Before the Chair proceeds, the Chair announces the following have been added to the list of bills on the suspension calendar previously announced: S. 3312, H.R. 3591, H.R. 5938, H.R. 5193, S. 1671, H.R. 6168, H.R. 6179, H.R. 5258, S. 2880, S. 3327, and H.R. 4844.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I do hope that my colleagues in the House are not too rough on our President. Everything in this bill are things that he had requested.

Some people have called this the urban aid bill. It is not. It is not even a Band-Aid. But it is something that we can consider for the future.

It does give us an opportunity to see whether or not enterprise zones can work. It gives us a chance to take moneys and invest in social services. It gives us the opportunity not to wait until our inner cities blow up before we come in with billions of dollars and the National Guard to see how many people that we can put in jails. It gives us an opportunity to have our youth and our young people to get an education, to get job training, to get employment so that they would believe that when we talk about this land of the free that we are talking about them.

This is not just a question of what happened in Los Angeles. This is a question of the festering of people without jobs, without hope, and without homes around the United States of America.

We have the targeted jobs credit in order to bring some equity to get people employable, and we have made that permanent. We are talking about low-income housing credits, because we do not have a housing program, and we have made that permanent. We are not talking about raising $27 billion in new taxes. We are talking about balancing and cutting back taxes $27 billion and raising the funds that are necessary, so that it is revenue neutral.

I hope the President will have the guts and the courage to stand up for what he asked us to do. It was Republicans, it was Democrats, it was liberals, it was conservatives, it was House Members, it was Senate Members that came together and said that we will try to do it. It was Darman who told us from the Office of Management and Budget that it is costing this great Nation of ours $300 billion a year in lost productivity and lost revenues.

Let us turn that around and make America productive and competitive.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS], a member of the Committee on Ways and Means.

Mr. THOMAS of California. Mr. Speaker, I take this 1-minute on the rule to explain something.

I have heard several times now mentioned commercial real estate has been extended to 40 years. Since the day after the 1986 tax bill passed, which I voted against, I have been working on passive loss. It was not until just recently that the President decided that he was for passive loss. The Democrats have come around on passive loss, and the Republicans have come around on passive loss.

Guess what, changing the Tax Code on passive loss costs money. Where does that come from? It came from the same area that is going to get the money, the commercial real estate industry, and the broadest coalition came together and said, "We want modifications in passive loss." They said, "We will pay for it." What more do you want? It is symmetry.

If you cannot understand that, this is one example. I can go through 3,000 other examples to show you the revenue treatment coming from the same people. This is a workmanlike job, and if anybody wants to blast the 40 years on depreciation, do not stand up and support passive loss. They go together.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, there is much in this bill that has been before this House on many occasions. In fact, a good deal of this bill has been before this House since the beginning of this term.

We have a lot of proposals that have been made by this administration and by Members of this House for economic stimulus of this country, enterprise zone legislation that is included in this legislation.

We have made the targeted jobs tax credit a permanent extension as well as the low-income housing tax credit a permanent extension, so that we do not have to go through the annual agony of whether we are going to extend those tax credits.

This legislation and conference report will make it permanent. We deal with the real estate industry and the passive losses that the gentleman from California [Mr. THOMAS] referred to.

We deal with R&D credit. We deal with the self-employed ability to deduct their insurance premiums. We deal with that. We deal with luxury taxes. Many, many of these provisions have been before this House and are important that we enact before this Congress adjourns.

The gentleman from California [Mr. THOMAS] raises a very good point. I am happy with the way that this bill is financed. I would have liked to have a look at more permanent ways of raising revenue to offset the revenue cost of these proposals. We have PEP and Pease, which would have been ways of looking at it, permanent ways to raise those revenues. We have tried to work in a way to conform to the President's definition of new taxes, and I think that the conference committee has been sensitive to that point so that we can bring you a bill that should be signed into law.

The conference report is a good report. It is a compromise. I urge my colleagues to support the rule and to support the conference report.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. ALLEN], a gentleman we are going to miss. He is a very fine Member of this body.

Mr. ALLEN. Mr. Speaker, last July, I supported the House version of H.R. 11 because this bill contained several provisions which would have stimulated economic growth, such as some passive loss relief for real estate investors; repeal of the counterproductive luxury tax on boats; permanent extension of small issue industrial development bonds; extension of expiring tax benefits to encourage research and development, investment in employer provided educational assistance; 50 urban and rural enterprise zones; and a 12-month extension of the 25-percent health insurance deduction for the self-employed. Although, this legislation was one step in the right direction, I was disappointed the bill did not include the capital gains tax reduction; restoration of the investment tax credit; and the $5,000 tax credit for first-time home buyers, which would have created over 300,000 new jobs. These additional provisions, as well as deficit reduction and less unnecessary Federal regulation, are essential ingredients for economic recovery. These tax cuts should be offset by spending cuts not more tax increases.

Unfortunately, the conferees failed to consider any of these solid ideas, stepped backward and loaded down H.R. 11 with numerous tax increases which were not included in the House passed bill. For example, under the conference agreement, estimated tax payments will become a nightmare for many self-employed taxpayers and small businesses. Mr. Speaker, I am, therefore, unable to support this legislation, although it does include several economic growth provisions I support. Overall, it is too little, too late. And quite frankly, Mr. Speaker, it is a political ploy intended to force the President to veto economic growth legislation, as weak as it may be, just before the election because of the slew of new tax increases imposed on businesses, the self-employed and those who suffer casualty losses.

Finally, no one knows what tax provisions are actually contained in this 2,000-plus page tax bill that is dumped on the House at 1:30 a.m. to be voted upon by 3 a.m. You can be certain that there will be unscrutinized outlandish special tax breaks that will be revealed in the next few months.

I ask my colleagues to vote against this rule and against this bill not just because of the unknown but primarily because of what we do know about it.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank the gentleman for yielding to me.

This Member has been beat up pretty bad today on a lot of different bills. It is late at night on this one. But if we had a bill that would increase taxes but cut the budget deficit, I think most of us would vote on it. The President tried that in 1990, made a deal that for every $1 that was brought in by taxes we would cut the deficit by $3. But that did not work out because what we have done on both sides of the aisle is increase spending $9 for every $1 that comes in.

We have got to increase revenue, but at the same time we have got to cut taxes and create the jobs that are needed.

We cannot do that without things like—in this bill there are so many that are not good, we cannot support it.

I want you to think about it. If Governor Clinton were the President, he would not veto this tax bill, and I think the American people need to think about that because there is a 2,000-page bill that we would be hurt by.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

In yielding back the balance of my time, let me just say that I do not know how many Members paid attention a few minutes ago when the Speaker read off a list of new suspension bills. Did Members notice that most of them began with the letter "S"? We do not need to play second fiddle to that other body. This is their bill.

All of it is their bill. There are hundreds of single rifle shots in this conference report. They are not single rifle shots to help our districts; they belong to the Senators.

Do not vote for this thing like we did in 1986 for that tax bill. Every one of us regrets it. I regret it. Do not be blind; stand up like a man or woman and vote down this rule.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 191, not voting 28, as follows:

[Roll No. 481]

AYES—213

Abercrombie
Ackerman
Anderson
Andrews (TX)
Anthony
Applegate
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Gradison
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Olver
Ortiz
Orton
Owens (UT)
Pallone
Parker
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rangel
Reed
Richardson
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Towns
Traficant
Unsoeld
Vander Jagt
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wolpe
Wyden

NOES—191

Allard
Allen
Andrews (ME)
Andrews (NJ)
Archer
Armey
Atkins
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carper
Carr
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeFazio
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Jontz
Kanjorski
Kaptur
Kasich
Kolbe
Kyl
LaFalce
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Neal (NC)
Nichols
Nussle
Obey
Olin
Owens (NY)
Oxley
Packard
Panetta
Pastor
Patterson
Paxon
Pease
Penny
Porter
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Sanders
Santorum
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shays
Shuster
Skeen
Slattery
Smith (OR)
Smith (TX)
Solomon
Spence
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Upton
Valentine
Vucanovich
Walker
Walsh
Weber
Weldon
Wise
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—28

Alexander
Annunzio
Aspin
Barnard
Boehlert
Boucher
Boxer
Chandler
Clement
Dwyer
Edwards (OK)
Foglietta
Gaydos
Hatcher
Jones
Kolter
Lehman (FL)
Lipinski
McDade
Myers
Roe
Savage
Skaggs
Solarz
Stearns
Traxler
Yates
Yatron

□ 0235

Messrs. SCHULZE, DAVIS, HUTTO, and TAYLOR of Mississippi changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 609, I call up the conference report on the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Clerk read the title of the bill.

(For conference report, see prior pages of the proceedings of the House of today, Monday, October 5, 1992.)

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 609, the conference report is considered as having been read.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on H.R. 11, the Revenue Act of 1992, and urge my colleagues on both sides of the aisle to vote in favor of it.

H.R. 11 is legislation of vital importance to this Nation's urban and rural distressed areas. It responds to many of the problems threatening our country's economic well-being. A full $11.6 billion in the conference report is dedicated to desperately needed relief for our economically distressed urban and rural areas.

The conference report also makes permanent several expiring provisions which are very important to distressed areas, such as the low-income housing credit, and extends several other popular tax incentives that have expired under current law, such as the R&D tax credit and the deduction for health insurance for self-employed individuals.

The conference report also expands individual retirement accounts to provide new savings incentives for individuals and to allow penalty-free withdrawals for certain types of major expenses that confront middle-income Americans.

It also provides important relief to real estate, one of the hardest hit sectors of our economy during this recession.

It repeals the luxury tax and boat user fee. It simplifies the tax laws for taxpayers and for the Internal Revenue Service. It provides new, straightforward rules for deducting the costs of intangible assets; strengthens incentives for charitable giving; protects taxpayers in dealing with the Internal Revenue Service with a new taxpayer bill of rights; and includes technical corrections to prior legislation. H.R. 11 pays for itself over 5 years, and does so without relying on provisions that President Bush has said he cannot support.

The $11.6 billion urban relief package is the centerpiece of this bill. The Enterprise Zone Program provides for the creation of 50 enterprise zones through 1996—25 zones in urban areas and 25 in rural areas. An array of tax incentives both for labor and capital investment will be available to entrepreneurs who invest in zone businesses—a tax credit for wages paid to zone residents who are employed in an enterprise zone, additional expensing for small businesses, more favorable loss deductions, liberalized tax-exempt bond rules, immediate deductions for purchases of stock in zone businesses, and capital gains tax reductions and deferral for gains earned on assets of zone businesses. The eligibility criteria are flexible enough to allow many needy areas of our cities and rural areas to be considered for zone designation. New economic incentives for Indian reservations with high unemployment will also be available.

The conference report also includes the permanent extension of the low-income housing tax credit, the targeted jobs tax credit, mortgage revenue bonds and mortgage credit certificates, and a 15-month extension of small-issue industrial development bonds. These extensions have enjoyed broad support in this body. For example, 286 Members of this House have cosponsored legislation to extend the targeted jobs tax credit. These extender provisions will help the most needy and impoverished families with housing and jobs.

The conference agreement also authorizes a total of $2.65 billion over 5 years for the Weed and Seed programs—programs like Head Start, community health centers and the Job Corps. Additionally, the Federal share of spending on the Job Opportunity and Basic Skills [JOBS] Program will increase.

The expansion of individual retirement accounts, although cut back considerably from the Senate bill, will allow more American families to save in tax-preferred accounts, and to apply these savings to additional purposes, beyond just retirement. The liberalized rules for early withdrawals from IRA's will waive any penalties if the funds are used for education or medical expenses, or first-time home purchases, or if the funds are withdrawn by a taxpayer who has been unemployed for a lengthy period.

The real estate provisions of H.R. 11 will relax some of the rules regarding the deduction of passive losses and will facilitate investment in real estate by pension funds. The original passive loss legislation had 338 cosponsors in the House. It will help boost the real estate industry out of its economic slump.

The changes in depreciation deductions for the corporate alternative minimum tax will facilitate investment by capital intensive industries in our Nation's future growth and competitiveness.

H.R. 11 would also repeal the excise tax on luxury boats, airplanes, jewelry, and furs and will reduce the tax on luxury autos by indexing it for inflation. This, too, attracted a significant number of cosponsors in this House—182 of my colleagues. H.R. 11 will also repeal the user fee on recreational boat owners, a proposal that 261 of our colleagues have cosponsored and that has already been passed by this body overwhelmingly three times.

The many simplification provisions in H.R. 11 will streamline taxpaying for individuals, for corporations, for partnerships and for subchapter S corporations. Simplification addresses the several areas of income taxation, tax-exempt bonds, pensions, foreign taxation, accounting, estate and gift taxation, excise taxes, and IRS administration.

H.R. 11 is funded without tax rate increases, and without the Senate provisions proposing to permanently extend the limitation on itemized deductions [Pease] and the phaseout of personal exemptions [PEP]. These latter two provisions were dropped due to the President's warning that their inclusion in the conference report would provoke a veto of the bill.

To fund the bill, the conference report would require market-to-market accounting of inventories for securities dealers, reduce allowable deductions for moving expenses, lengthen the recovery period of depreciable real estate, deny deductions for club dues, deny double-dip deductions for certain federally assisted acquisitions of savings and loan institutions, tighten certain reporting requirements, and modify estimated tax rules for both individuals and corporations.

Many of the provisions in H.R. 11, including several of the revenue raisers, were directly requested or explicitly supported by President Bush—these include enterprise zones, including capital gains tax reductions for zone assets, expanded IRA's, penalty-free early withdrawals from IRA's, passive loss relief, pension fund investment in real estate, luxury tax and boat user fee repeal, tax simplification, minimum tax depreciation changes, new rules for charitable giving, marketomarket accounting rules for securities dealers, new rules for estimated tax filings by individuals, denial of doubledip deductions for savings and loan purchasers, as well as many of the extender provisions.

The conferees have made every attempt to produce a bill the President can and should sign, and I hope that he will. In passing this conference report, Congress will have done all that it can do. It will then be up to the President. He will have to decide whether our inner city and distressed areas should receive much-needed economic assistance.

Once we pass this conference report, it will be up to the President to decide whether to extend or deny much-needed incentives for low-income housing, targeted jobs and research and development, whether to provide or deny deductions for the health insurance costs of millions of small businesses and self-employed individuals.

Once we pass this conference report, it will be up to the President to decide whether to provide or deny expanded IRA savings opportunities for millions of middle-income American families. Once we have completed our job, it will be up to the President to decide whether to provide much-needed relief to the real estate industry, whether to repeal the luxury tax and the boat user fee, whether to significantly simplify the Tax Code, to strengthen taxpayers' rights, and expand incentives for charitable giving.

The conferees have cooperated to the fullest extent possible with the President. We have extended the hand of compromise, in an effort to prove that Government—even at this late hour and in this political season—can in fact work in the best interests of the American people.

Mr. Speaker, I urge the support of my colleagues for this important conference report.

□ 0240

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the conference report.

Although the bill has attractive features, the overall package simply demands too dear a price.

There are hundreds of changes to the Tax Code and at least 40 significant tax increases.

When the House passed H.R. 11, it was already quite large at $19 billion. However, the other body passed a version of H.R. 11 that was nearly twice as large and pressured the House conferees to accept a compromise bill that split the difference at $28 billion. That is $28 billion of revenue increases.

Let's take a look at some of them.

For individual taxpayers, the bill increases the estimated tax safe harbor to 120 percent of last year's tax liability. By doing this, we are requiring millions of taxpayers to choose between significantly overpaying their taxes or risking punitive penalties. The estimated tax increase is not limited to those with higher incomes or those with significant income increases; it applies to everyone.

Corporations are also targeted for an estimated tax increase. The new rules would require larger corporations to know to the penny, each and every quarter, their total tax liability for the year. Do we really expect this kind of exactitude in cases where final accountings can take months, interpretations have gray areas, and regulations often have not been issued? Of course not. This is just a way to get corporations to overpay their taxes.

For individuals who move in order to take a new job, this bill increases their costs to move. Previously deductible moving expenses would not be limited both as to type and amount. Moreover, moves would have to be almost twice as far as required under current law in order for there to be any deduction at all. Taking $3.2 billion out of the pockets of people changing jobs in this economy just doesn't strike me as enlightened policy.

For other unfortunate individuals, those affected by a fire, theft, earthquake, hurricane, or other disaster, the bill would make it more difficult to deduct losses. An additional $400 of every loss would now be nondeductible. What exactly is it that we are trying to say to these people?

What about real estate? Others will talk about the good news for the industry. It falls to me to mention the bad.

This bill would increase the depreciation period for commercial real estate from 31½ years to 40 years. In 10 years the Congress will have nearly tripled the depreciation period—from 15 years in 1982 to 40 years in 1992. For a business considering building a new factory, warehouse, or office, this bill will say think again. For out-of-work people in the construction trades, this bill will say don't plan on coming back to work soon.

Time is too short for me to talk about all of the tax increases, so I will just mention a few in passing:

The diesel fuel tax would be applied to noncommercial motorboats;

Estate taxes, largely paid on family farms and businesses, would be increased starting next year;

Pension distributions would be more heavily taxed;

Employee death benefits would be made taxable;

Securities dealers would be forced to pay heavier taxes on their inventories, which can only increase the cost to investors;

Second home owners would be forced to do their accounting as if they were full-time landlords when they rent the home for even 1 day, this in a bill which prides itself on simplification;

Legitimate business deductions for travel and business promotion would be curtailed.

Finally, this bill is not revenue neutral on a year-by-year basis and will open the door to increase the deficit by $2½ billion in the fifth year.

The NFIB has written the following letter relative to this conference report:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, October 5, 1992.

Hon. BILL ARCHER,
House of Representatives, Washington, DC.

DEAR BILL: On behalf of the 595,000 members of the National Federation of Independent Business (NFIB), I urge you to oppose the conference report to H.R. 11, The Revenue Act of 1992.

In its final form, H.R. 11 contains very little of benefit to this nation's small business owners and several provisions that could be quite damaging. Unfortunately, H.R. 11 failed to develop into legislation that would generate economic growth. Instead it contains a series of modest benefits for a few select industries. These benefits are paid for with a long list of miscellaneous tax increases that will both increase the tax burden and complicate the tax code.

The conference report contains no provision addressing the number one problem facing small businesses—the cost of health care. In addition, the report maintains the inequity in the deductibility of health insurance. Non-incorporated business owners will still be able to deduct only 25% of the cost of their health insurance.

The conference report also contains a provision that, if enacted, will almost assuredly come back to haunt Congress. This provision makes changes in the estimated tax payment rules that would force the smallest business owners to make a Hobson's choice. They must either pay more taxes than they actually owe or hire an accountant three times a year to estimate their taxes. Small business owners across the country will be outraged when they hear that they must pay more in taxes than they actually owe and then later apply for a refund. This change in the law makes no sense at a time when cash flow is cited as the third biggest problem facing small business.

The conference report on H.R. 11 would result in a net loss for the segment of our economy producing the most new jobs—small business. For that reason, I ask you to oppose its passage.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

This country, at this time, does not need dozens of tax increases. I must urge the Members of the House to vote no on the conference agreement on H.R. 11.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, when I think about the complaints that the President has had and the Secretary of HUD has had about the Congress not responding to this plea for enterprise zones, why, they went out there to Los Angeles and said,

> If the Congress had responded to this earlier, we would not have even had the problem.

The truth of the matter is this very House and Senate had already passed the enterprise zone bill, and we have done it in working with the administration and working with the Secretary.

What are we going to say this time when the President says he sends the bill down there and they don't do anything with it?

□ 0250

Do my colleagues think that this enterprise zone is going to resolve the problems that we have in urban communities, half of them for the rural communities because they identify the poor there that need some help? But what it does do is stop this business about, we can afford to ignore the problems that are festering in our cities.

I think it was Jesse Jackson who talked about some of the things that happen when a youth goes to jail. He is taken off of the street. He does not have to worry about being shot. He gets 3 meals. He gets clothing. He has a balanced adult supervision program, and he meets people who respect him.

I think what we have to do is do what we are doing in this bill, where we take $2½ billion over a 5-year period and do something in education, do something in job training, do something in providing incentives to businesses that come into these communities and start working.

There has not been a Republican on the Committee on Ways and Means that has not supported this concept. We got the support of the leaders on both sides of the aisle. It is a pilot project. It is only a demonstration, and it is the last time we will have a chance to do anything this year.

The question of targeted jobs credits we are saying, it is no excuse to be disabled. It is no excuse to be unemployable. We will give an incentive to the employer to take a risk with a person and the program has worked, and it has not cost the Government anything because we have put people off of welfare on the work rolls.

God knows, when we take a look at the housing problems that we face, it is a disgrace in this rich, beautiful country of ours that we cannot go to a city without having to walk over people who have no jobs and have no homes.

Ninety-five percent of the housing that has been built for people who make less than $20,000, where the rental is $450 or less, has been built under the low-income housing credit.

The credit is working. The credit has expired, and we owe it to those people who are in the business to provide shelters, since the Government is out of it, to continue these programs.

Members have said that we are raising taxes. Why do they not talk about the taxes that we are cutting? Why do they not talk about the incentives that we are giving? Entrepreneurs and everyone else has come and asked us to extend the breaks that we have given them because it is in the public good.

I think we owe it, no matter what the President does, to vote for this bill. It is a good bill, and we know it on both sides of the aisle.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a member of the Committee on Ways and Means.

Mr. SCHULZE. Mr. Speaker, I rise in support of the conference report on H.R. 11. While this measure is not by any means perfect, it includes needed relief for distressed urban areas, incentives for Americans to save, relief for a beleaguered real estate industry, and important protections for taxpayer rights.

In 1988, we passed the original taxpayer bill of rights. It was a good start, but more needed to be done. H.R. 11 continues the campaign for better taxpayer safeguards.

For example, the conference report would curb the ability of the IRS to assert a tax deficiency against a taxpayer based only on uncorroborated information returns. This marks an important shift from the normal principle that the taxpayer is guilty until proven innocent. Now, taxpayers will receive the benefit of the doubt, instead of being automatically judged guilty by the IRS.

This measure also addressed the growing problem of bookkeepers or low-level employees being held responsible for their employer's failure to remit payroll withholding to the IRS. These employees are now potentially liable because they have authority to sign checks for the employer. The new taxpayer bill of rights gives important new safeguards to these employees. In particular, it will protect employees who voluntarily report missed payroll deposits within 10 days of their due date.

Finally, the taxpayer bill of rights two will curb the ability of the IRS to issue regulations with a retroactive effective date. Taxpayers are willing to obey the law, but they are not clairvoyant; they cannot read the mind of the IRS in advance.

These are just three examples of new protections for taxpayer rights. They may not grab headlines in the newspapers, but they are important provisions if we are to keep the faith of American taxpayers that they have rights when dealing with the Internal Revenue Service.

Mr. Speaker, considering the size of this bill and that we are in a Presidential election year, I'm somewhat surprised the bill is not all that bad.

I only hope that in the next Congress, we can pass a tax bill to simplify, modernize, and improve our tax code to compete in the global marketplace. Our tax system as it now stands, is an embarrassment and impediment to economic growth.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I rise today in support of H.R. 11, the Revenue Act of 1992. As one of the House sponsors of the super IRA bill, which garnered the support of 269 of my colleagues in the House, I am especially pleased that this bill incorporates much needed changes for IRA's. And, of course, I am pleased we were able to extend the expiring provisions, especially the research and development tax credit. But, there are a number of provisions in this bill which have not received the attention they deserve. They are, nonetheless, very important to improving the operations of Government and maintaining the confidence of taxpayers.

The bill before us contains a number of strong, protaxpayer safeguards and protections known as taxpayer bill of rights two. Taxpayer bill of rights two will help those taxpayers who are honestly trying to comply with the tax law, but get caught up in a dispute with the IRS. As my time is short, I will share with the Members just some of the most important of these new safeguards. The bill before the House today:

Establishes a taxpayer's advocate, nominated by the President, confirmed by the Senate, and reporting directly to the Congress, with expanded authority to issue taxpayer assistance orders to force the IRS to act on behalf of taxpayers;

Improves the procedures concerning liens, levies, and offers in compromise;

Provides additional notice and protections for taxpayers who are determined to be responsible officers in Federal tax deposit situations; and,

Expands the authority of the IRS to abate interest payments and gives taxpayers 21 days after receiving a notice of additional tax due to pay the tax without further interest.

For the record, I would note that two additional provisions were not included because of the strong opposition of the administration. Currently, the IRS collects a failure to pay penalty when a taxpayer, because of financial difficulty, enters into an installment agreement to pay taxes over time. This penalty is assessed even though the taxes are paid in full and with interest.

It is very unfortunate that the Treasury insists on collecting this penalty. This penalty is being collected for revenue purposes, not to improve compliance with the law. In my judgment it is unclean money, and we ought to stop this abuse.

Further, it is unfortunate that the administration's top priority in opposing the taxpayer bill of rights two was to eliminate the provision to protect taxpayers from arbitrary, capricious, and malicious acts by IRS agents. My colleague, Mr. JACOBS has sought the adoption of this amendment for many years, in an effort to protect the public, to no avail.

Also, included in this bill is the Federal Program Improvement Act of 1992. These provisions are pure good government and will eliminate fraud, waste, and abuse in our Federal programs. Specifically, by approving this bill today, Congress can:

Stop the payment of Federal benefit checks to dead people;

Stop scams involving the sale of durable medical equipment to Medicare beneficiaries;

Stop Medicare from paying people's health bills when private insurance companies should be paying;

Stop mismanagement of inspector overtime pay by the U.S. Customs Service, and

Provide the Congress with information on underfunded federally insured pension plans.

Eliminating waste and abuse in these areas will save the American taxpayer at least $78 million and possibly hundreds of millions more. Adoption of these measures is long overdue and demonstrates how Congress is out there protecting the taxpayer's pocketbook.

H.R. 11 also contains provisions which would prohibit the use of deceptive mailings which prey on our senior citizens and other unsuspecting recipients and make tax-exempt organizations accountable to the public.

Finally, this bill reduces the risks to taxpayers posed by newly created Government related corporations by ensuring that they have adequate capital and effective Federal supervision.

Adoption of these provisions will help protect taxpayers, save money, and improve government. I strongly urge that they be favorably acted upon today.

Mr ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MCGRATH], a member of the Committee on Ways and Means.

Mr. MCGRATH. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of the conference report on H.R. 11. Mr. Speaker, this is likely to be my last floor speech in this institution. And while I am not going to miss these early morning affairs much, I certainly am going to miss the membership on the Committee on Ways and Means and my colleagues on the committee, our chairman and ranking member.

□ 0300

I agree, Mr. Speaker, that with many of our earlier speakers the process of enacting tax legislation sometimes leaves much to be desired, but to those Members of both parities who have not been directly involved in these efforts, let me offer a word of advice. Support this bill. Support the last best chance to enact enterprise zones. Support the last best chance to enact an IRA provision, or a passive loss provision, or expand the expiring provisions.

I personally believe this bill represents a fair effort to do the work of the Nation. I have personally worked with a least a dozen Members of this body on provisions in this bill for those people who are not members of the Committee on Ways and Means, and this is the last best chance to enact those provisions of those people who have interest in this bill.

Many of the tax increases mentioned in this bill are offset by benefits to the same sector of the economy. Many of the provisions have been subject to lengthy hearings over the last 5 years. Our President has requested several key elements of the package. Other items have been enacted on a temporary basis by huge majorities in the past on several occasions.

Mr. Speaker, I entered public service to contribute to the process of governing our Nation, and this bill, in my estimation, is an honest initiative toward that end.

If our process was perfect, maybe we could pass the bill in the middle of the day in March or April, but democracy is not quick or clean. I hope my colleagues will recognize the good faith effort that was put forth here and support this initiative.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, the social provisions of this legislation respond to two revolutions, one that occurred on April 28 in Los Angeles. We attempt to deal with the problems of our cities with enterprise zones and Weed and Seed programs.

The other provisions address a more subtle but still pervasive revolution that is going on within the fabric of American life. In 1960 there were 64 million children under the age of 18. Of that 64 million children, 243,000 of them lived with a mother who had never been married. Move ahead 32 years, there are still 64 million children under the age of 18, but now there are 5 million who live with a mother who has never been married. The number of women who are single family heads of households has quadrupled over the last 30 years.

A canister of mace is standard equipment for women in our cities these days. They use this mace and they live in fear from a generation of children who we have left completely out in the cold. There is a connection, between the sad plight of America's children and the violence in American cities, and the desperate way American children live.

We cannot solve all those problems right away, but we make a determined effort in this legislation to try and help single families stay together, and when they are torn asunder, to try and put those children in permanent, loving homes through adoption and through the kinship placement out of foster care.

The millions of neglected and abused children have overwhelmed most State budgets. The vast majority of States today can do nothing more than simply deal with their neglected and abused kids. They cannot spend the money that we provide in this bill to try and keep families together. They cannot spend the money that we provide in this bill to give adoption subsidies so that these special children can be quickly and safely adopted. We do that here, $3 billion that the States desperately need and desperately want for child welfare services.

Welfare reform is also dealt with here, not in as comprehensive way as we did in 1988, but fine-tuning the jobs proposal to try and make sure that people who want to work can get the skills to get to work, even if they are living lives of dependence.

It is simple to say at a late hour that there are many provisions in a bill like this that the Members do not like. I understand that. But there are many more provisions here that will make an enormous difference to millions of American children. They need our help and we provide it with this bill.

Mr. ARCHER. Mr. Speaker, I yield a minute and 30 seconds to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the gentleman from New York [Mr. DOWNEY] has just told us about a number of problems. How do we set about, in this bill, solving those problems? I have taken a look at just one section of the bill, the human resources section, to which the gentleman referred. In that section we go about solving the problems with 18 new studies, five new advisory committees and commissions, and 12 demonstration projects. The Members might be interested in how we are spending the money for all of these things.

For example, what we have is a study of reasonable efforts, whatever that may be; a Secretary's evaluation of State programs; a Secretary's study of workloads; a Secretary's report on welfare dependency. I do not know if we are for it or against it. I assume from what I am hearing that we may be for it. A Secretary's report of the difference in the Food Stamp Program, AFDC, and Medicaid Program rules. If the Secretary does not know the difference between them, who does?

I mean, good heavens. Then we have a Commission on Staff Training, and then we are going to form another Commission on Welfare Dependency Advisory Boards. Again, I do not know if we are for it or against it.

Then we have a demonstration project. One of them is called, here, not more than three demos by States on eight topics listed in the text. We have a Home Builders, a New Hope demo. We have a ton of these things.

Mr. Speaker, that is just one section of the bill. Who knows what else is down in this bill? In just that one section, though, 18 studies, 5 committees and commissions, and 12 demonstration projects. That is not going to solve the problems that the gentleman from New York outlined, and it is certainly not going to be something which the American people are going to take very kindly to when they find out what is really down in this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in support of H.R. 11. I would like to thank Majority Leader GEPHARDT for all his support throughout this process. In addition, I would like to thank Congressman RANGEL for all he has done as this legislation has evolved over the months.

Over 5 months ago, the city of Los Angeles erupted in anger. It has taken this long to produce a modest, experimental response to the severe crisis we face in urban America. This bill is not a solution to the problems of our inner cities. It is barely a beginning. However, at this point, I suppose, it is all we can hope for.

It is a sad political commentary that the only way to pass an urban aid bill is to attach loads of popular tax breaks for corporations onto the same bill. I would have preferred this not to be the case, but it is the reality.

Nonetheless, there are several provisions in the investment portion of this program that if expanded and continued, could make a real difference in the lives of many inner city residents. I have talked about the 17–30 year old African-American and Latino men who have dropped off America's agenda. We have attempted to address the problems of these people—former gang members who are no longer fighting—who need an opportunity.

I would like to briefly mention the part of this bill that have the most potential to bring about real change: A stipend-based job training program for young adults; a $10-billion loan guarantee program for cities for economic development; Youthbuild, to give inner cities kids job and apprenticeship training; funds for community development corporations to give community-based organizations a say in economic development programs; family investment centers to bring job banks into public housing facilities; funds for minority farmers in rural enterprise zones; a lifting of the CDBG public service cap in Los Angeles to increase the city's ability to respond to the crisis; as well as child care and community policing funds.

This is not a final answer, Mr. Speaker. We will be back first thing next year, hopefully with a new President. This bill must be the first step in this Government's commitment to revive our inner cities.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW], a member of the committee.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it gets a little rough at 3 o'clock in the morning to get enthusiastic over a tax bill, but I am enthusiastic over this bill. This bill is, on the Republican side of the aisle, I can say, probably as good as we can do in this Congress, considering the ratio that we have with the Democrats here in the House and the committee.

The Committee on Ways and Means has crafted a bill which I feel is very carefully balanced. The Committee on Ways and Means in the House has really prevailed over most of the tax increases that were in the Senate bill. I think in an election year, and particularly when we are talking about no new taxes, we have to define what are "new taxes." What are no "new taxes?" In this particular bill there are revenue raisers, yes. I look at new taxes as increases in the rates, what most of the people are having to pay.

□ 0310

There are no new taxes in this bill that I look at.

We are looking at a bill that is undoing a lot of the problems that were created in the 1986 and the 1990 tax bill. We are doing away with the luxury tax on many of the items, including the boat industry in this country. The boat building industry in this country creates more jobs than the steel industry does, and it is on its knees. The problem is being created by not only a recession, but a 10-percent luxury tax. It is killing the yacht building industry in this country, which is a most important industry which creates thousands of jobs all across this country.

This bill does away with that luxury tax in addition to other luxury taxes that must be done away with.

This bill also creates a taxpayers' bill of rights, restores passive loss deductions, and creates enterprise zones, all of which are most important. I urge my colleagues to vote for H.R. 11. It is a good bill. On balance, it is the best that we on the Republican side can do.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman for yielding. I join those who will not be back here in the next session. Having served on the Ways and Means Committee, I must say that the chairman, the other members of the committee and the ranking member have been good members to serve with. This is an awfully good committee that tries to do a good job, and I think brings to the floor of the House tonight a bill that is very worthy of the support of the Members of the Congress.

Regrettably, the regular and the persistent attacks on this body for the failure to get things done has become pretty much a popular American sport these days. And the irony is that some of those leading attacks on this body, some of the most persistent critics of this body serve in this body and are the ones who try to prevent us from getting things done.

This bill tonight is an attempt to get something done for this country, and it is a good bill. It includes things that relate to economic developments that the President has requested, that we believe make sense to move this country ahead and help America grow again. It includes some things that are important to America's children. It includes some things that are important for tax fairness.

This is an awfully good bill, and if you are back home, and most of us have been saying we want to do things to further this country's economic interest, then you dare not, and you should not stand up here tonight and vote no on this legislation.

This legislation is a compromise. It is a bipartisan compromise that represents the best of what all of us have to offer. No, it is not perfect, but it is awfully good. And if you vote for this bill, in my judgment, you further the best interests of this country.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING], a member of the committee.

Mr. BUNNING. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today in support of H.R. 11, the Revenue Act of 1992.

This is a good bill on issues important to Social Security. As vice chairman of the Subcommittee on Social Security and a conference on the Social Security provisions, I want to strongly endorse those provisions in this bill.

Early in the year, we took a look at organizations who use deceptive mailing practices to raise money from our Nation's senior citizens. We've all gotten calls from frantic seniors who have gotten mail making outrageous claims that Social Security was broke or that

Congress was going to slash benefits unless they send some of their hard earned money to some organization.

These letters are a blatant attempt to use fear and lies to raise money. In this bill, we protect senior citizens from these money grubbers by putting some much needed teeth in the deceptive mailings act and increasing the penalties for this despicable practice.

Also, we recently held hearings on Government employees who illegally disclose Social Security information to people outside the Government. In H.R. 11, we increase the criminal penalty for this kind of illegal disclosure.

Several other important measures which I helped initiate are also in H.R. 11. First, the conferees included the provisions of H.R. 5644, a bill which I introduced to make it easier for charitable foundations to assist in Superfund cleanup of sites they previously owned.

The Brown Foundation of Louisville, KY, has been seeking this change for many years and it had passed the Senate on three occasions. We were able to get this bill through the committee earlier this year and it passed the House as a free-standing bill. I am pleased that it is included in this package.

Second, the bill contains provisions to establish a taxpayers' ombudsman who would be totally independent from the Internal Revenue Service. When the Oversight Subcommittee dealt with the taxpayers bill of rights, I insisted that, in order to be effective, the ombudsman had to be independent.

Finally, H.R. 11 contains an oversight provision to ban the telemarketing of durable medical equipment.

Overall, this bill is a good piece of legislation which will have a positive effect on our economy.

It contains provisions to establish enterprise zones in rural and urban areas. We know that zones will not work if there is no incentive for investment in them and this bill allows for a 50-percent reduction in long-term capital investment within the zone.

State enterprise zones have worked very well in my district at creating new jobs and its time to take this show on the road creating jobs nationwide.

The bill also makes permanent several tax provisions important to Kentuckians. One of the most effective programs at getting people off welfare and into jobs is the targeted jobs tax credit and this tax credit is made permanent under H.R. 11. Also made permanent is the tax credit for mortgage revenue bonds—a program which has helped put 32,000 low- and middle-income Kentucky families into their own homes. Likewise, the low-income housing tax credit is made permanent and this program has helped build 10,000 rental housing units in Kentucky. Other tax provisions are temporarily extended.

Nearly a year ago, several of us called for an economic stimulus package to get the economy going again.

Many of the provisions which we thought deserved immediate action on are now included in this package. Changes in passive loss rules, luxury tax repeal, and making it easier for pension plans to invest in real estate are all included in H.R. 11.

Finally, this bill contains some badly needed incentives for savings in this country. Individual retirement accounts are expanded and penalty-free withdrawals are allowed for first-time home purchases, health care costs, and higher education expenses. Additionally, penalty-free withdrawals are allowed for people who are long-term unemployed.

Some may try to characterize this bill as a tax increase. I challenge them to read the bill. As a whole, it does not raise taxes. It is revenue neutral. In short, on taxes, it's a wash. It is no tax increase bill.

Mr. Speaker, I urge adoption of the Revenue Act of 1992.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the chairman for yielding me the time and I rise in support of the bill. I think the enterprise zone legislation's time has come. It is important to know what will happen when we impact on our urban and rural areas that need that kind of special treatment.

And I want to associate myself with the remarks of the gentleman from New York [Mr. DOWNEY] about the profamily part of this legislation that relates to children in need, women who are heads of households. I think that is important.

I also think that there is some very valuable demonstration projects that will be continued under Medicare, such as the whole influenza immunization project, and Alzheimer's project.

I do not think the gentleman from Pennsylvania should demean these kinds of demonstration projects. I think they are very, very important.

In addition to that, there are some provisions that we know will create jobs for the boat industry, et cetera, and I think on balance it is a good bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, I think there is one central fact. If this bill were being considered 6 months before the Presidential election instead of 1, it would pass overwhelmingly with bipartisan support.

Some have said the bill is a political ploy, but what is really the ploy is the prospective veto. To try to cure an inconsistency, what is being imposed on some, I fear, is another inconsistency. You, in order to try to keep a no-new-tax pledge, a new one, many of you will have to be opposed to what you have been in favor of, enterprise zones, IRA provisions, extension of the low-income housing credit, the R&D tax credit, the education assistance, passive loss, the repeal of the luxury tax. And also in order to be consistent, to cure an inconsistency, you would have to be inconsistent with previous positions of the administration in terms of revenue raisers. The estimated tax payment provision was discussed and worked out with the administration. Market-to-market was a proposal of the administration as I remember it.

So this is not a perfect bill. It is not coming up at a perfect time. But most imperfect would be to allow it to become a victim of Presidential politics. This is a sound bill deserving bipartisan support, which it would have had 6 months ago. It deserved it and would have had it then. It should have it today.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY], another member of the committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. GRANDY].

The SPEAKER pro tempore. The gentleman from Iowa [Mr. GRANDY] is recognized for 3 minutes.

□ 0320

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me begin by recalling a phrase, Mr. Speaker, that if you are careful enough, nothing good or bad will ever happen to you. We are trying to do good in this bill. We may do bad. We cannot foresee the unintended consequences of some of the tax breaks and tax increases that we levy tonight.

We could evidently not foresee in 1990 that the luxury taxes were more harmful to the economy than they were helpful. But tonight we are repealing that mistake, and inevitably we will be back at a future date dealing with some of the unintended consequences we create tonight.

But I want to talk about some of the unquestioned good in this bill, and although this is ostensibly an urban enterprise, urban aid bill, there is more for rural communities in this piece of legislation than I have seen in my 6 years in the House. I want to refer to the Medicare technicals that are highlighted in the bill referenced by the gentleman from California [Mr. STARK] earlier.

The gentleman from Texas [Mr. STENHOLM] and the gentleman from Kansas [Mr. ROBERTS], as cochairs of the rural health care coalition, have worked for years to extend the payments for Medicare-dependent hospitals. These reimbursements are a lifeline for rural small hospitals in frontier and rural areas. They have worked to get rural hospital transition grants so services could be expanded and personnel could be recruited. They have worked to get regional referral center classifications so smaller hospitals on the periphery of urban areas could be reclassified and get a higher reimbursement from Medicare. They have tried to create the essential access community hospital network which allows smaller hospitals to pool resources, band together, create resources, and develop a rural health care network.

Every single provision is in this piece of legislation and paid for. This is the greatest triumph for the rural health care coalition that I have seen since becoming a member of this body.

Let me say also that there are welfare provisions in this bill not highlighted but specifically requested by the administration. One is to expand the asset base of people on AFDC so they can save some money, so that they do not have to be penalized if they earn a little bit more money and try and set it aside and, similarly, if they try to save that money and put it into a small self-employed business, a microenterprise. That is in this bill, a provision fought for by the gentleman from Ohio [Mr. HALL] and the gentleman from Missouri [Mr. EMERSON] on the Hunger Committee and aided by myself on the Committee on Ways and Means.

These are bipartisan efforts to expand opportunities for poor people in rural and urban communities. I think that it surely deserves our support tonight over and above the good or bad consequences of the tax bill.

I hope all of us will give this bill serious consideration.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON], a member of the committee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of this bill, recognizing that there are some problems with it that I think, and I hope, we will eventually be able to address.

I think the IRA hemorrhaging of funds after the 5-year period is going to come back to haunt us if we do not address it. I think the committee will be able to do that.

Since I only have 1 minute, I just wanted to point out a couple of things. First of all, the family preservation section, foster care reform section, are very, very, very important. It makes some money available for those approaches that we know keep families together, prevent breakups, reduce the cost of foster care, and reduce the trauma and destruction of out-of-home placements.

It also, for this first time, will allow Federal reimbursement for respite care, and provide some money for improving the court process by which we terminate parental rights, and in this age of drug parents, we have really got to do that.

So it is a very good section, desperate need, and I am proud to support that part of the bill along with the rest of the bill.

In the Medicare area, there is the rural health care, and there are some other fixes that are well worth your attention.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, first, I want to commend the chairman and the ranking member for the effort to try to adopt a tax bill here that was fully paid for.

When H.R. 11 left this body, it was fully paid for. Unfortunately, that is not the case with the conference report that we now deal with. It obviously contains a variety of tax benefits for urban areas, for children in foster care, for upper income taxpayers, for real estate, boat dealers, for corporations, and other interests. Some of these provisions I support, and some I do not.

But that is not my main concern. My main concern is the revenue loss that the bill creates, particularly after 1997.

Because the bill is a budgetbuster outside of the budget window that has been created here, I oppose it.

It is true that within the 5-year period, the $27 billion bill that we deal with tries to be offset by revenue provisions. But afterward, the benefits live on while the offsets die away.

The IRA provisions, I think, are the worst provisions that fall into that category. While they cost less than about a billion dollars in the first 5 years, in the outyears, as they roll over, the costs go up to about $11 billion a year permanently into the future.

I do not oppose the use of tax increases to offset tax cuts. I think it is ridiculous for the President of the United States to say never, ever, ever will we use taxes when it comes to paying for anything.

But it is equally ridiculous at a time when we have entitlements that are continuing to feed into the deficit on an automatic basis to now create tax cuts that automatically are going to create deficits in the future.

It is for those reasons that I oppose this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, let me pay tribute to the chairman, since this will be my last appearance on the floor, and to the other members of the committee and to the ranking members of this excellent committee and to the staff.

Mr. Speaker, this is an excellent bill with, of course, some flaws like every big bill has. It is a bipartisan product.

I think one of the most telling features of this bill is that it enjoys the solid support of a majority of the members on the Republican side of the committee. They have worked hard on the bill. They know what is in the bill, and they have done a good job explaining to all of us tonight why this is a good bill.

Most of the revenue items, most of the correction items, and most of the initiatives, growth initiatives, in this bill are, in fact, proposed by the administration, not in every case, but in most cases they are. Certainly the guts of this bill comes out of administration proposals.

The urban and rural distressed initiatives, the enterprise zones we have heard about; we have heard about the weed and seed which is an administration proposal; we have got permanent extensions of the low-income housing credit, targeted jobs tax credit, and the mortgage revenue bonds. Most of the people on this floor want to see that made permanent. I think that should be.

You have the President's growth initiatives explicitly laid out, liberalization of the passive loss rules, elimination of barriers to pension plan investments in real estate, elimination of the ACE depreciation adjustment for the AMT, penalty-free withdrawals from IRA's for first-time home buyers, education expenses and medical expenses, all of those proposed by the administration.

The other growth incentives are R&D, development credits, deduction of health insurance costs for self-employed, and all of that is very important to most of us, employer-provided educational assistance, orphan-drug credit, qualified small issue IDBD's extended for 15 months. We have mentioned we repealed the luxury tax on boats, taxes on boats, et cetera.

Taxpayer bill of rights; the gentleman from Texas [Mr. PICKLE] explained why that is so important and why all of us in this body should support that.

We have simplified treatment of intangibles. That is very important for us also.

Technical amendments to the Medicare bill, of course, are very important to the rural parts of our country, and that has been expanded on by the gentleman from Iowa [Mr. GRANDY].

One thing I want to draw the Members' attention to, particularly on the minority side, this bill does not, repeat, not include the things that the President objected to which he said he would veto the bill if they were included. One is the Pease provision which is phasing out. It does not extend that, and that would be the elimination, I mean, the limitation on permanent tax deductions. And No. 2, the so-called PEP provision; namely, the phaseout of permanent exemptions for high-income taxpayers. Those are not in the bill at the request of the administration.

So for all of the reasons I cited, bipartisan, bicameral, worked out in close collaboration with both sides of the aisle, a long, hard work product, I urge my friends and colleagues in this body to adopt this bill.

☐ 0330

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois, a member of the committee [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I thank my distinguished minority leader for recognizing me. I want to pay tribute to the members of the committee, especially to our chairman, who is operating under guidelines which to me are totally unacceptable. But that is not his decision. I say totally unacceptable because we just passed a defense appropriation bill $10 billion under the President's request, for 1 year.

Now we have revenue losses in some vital areas here that we could have addressed that are less than the $10 billion that we subtract from the President's request on defense. But our chairman and the committee are not allowed to subtract from expenditures as a means of covering what are defined under static analysis as revenue losses. That is what we have in this bill.

All of the tax cuts in this bill in my estimation are highly desirable. They do not go nearly far enough to satisfy me. This is especially true with regard to the extenders. It is true also with amortization of intangibles, real estate tax provisions dealing with the correction of what we did in the 1986 laws on passive loss relief, and also the luxury excise taxes. In 1990 we were going to sock it to the rich. What we did was throw thousands of people out of work.

So here we are in 1992 administering the correction to our errant behavior at that time based upon pure demagogy. It did not work. As Paul Tsongas says, you can defend the employees but you do not have employees without employers. You want to sock it to the employers; you are going to see employees out on the streets drawing relief.

Now, the interesting thing about so many of the provisions that involved tax cuts in this proposal are provisions that are remedying prior mistakes. Isn't that special?

I mean how many times have we done this? How many provisions in the revenue raisers in this are we going to be addressing next year or the year after because of the unforeseen consequences?

That is why we err tonight in dealing with this at 3:30 in the morning. We worked on this for a year. I am not faulting the chairman or the gentleman on the minority side. We tried. Here we are at the tail end of the session engaged in this charade when everybody in this Chamber knows this is not going anywhere. This is a dead issue. Yet there are vital concerns. If we had stripped it down to bare bones, dealt with the bare bones, you are talking over a 5-year timeframe of less than $10 billion in revenue losses. Over 5 years it works out to under $2.3 billion per year, $2.3 billion per year in revenue losses that would have positive dynamic impact on our economy.

I urge all of my colleagues to reject this nonsense. Let us get out of here and adjourn.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this tax bill. The opposition is quite right when they say this is a late hour. But they are not right when they say that nobody has read the provisions of this bill. The fact is that most of the provisions in this bill have been discussed for months, some of them years. The real estate provisions have been discussed for almost 5 years, ever since we realized what the 1986 Tax Reform Act did to the real estate industry.

Getting that passive loss provision reinstated, opening up the $2 trillion in pension funds, the creditworthy real estate investments, simplifying the UBIT requirements, eliminating the tax penalties, the loan restructuring, all of that is absolutely essential if this economy is going to get back on its feet again.

The reality is that we have lost a trillion dollars in real estate value just in the last 2½ years alone. When you think of the multiplier effect that that has, given the fact that real estate is the principal means of collateralizing small business and individual loans, it is having a devastating impact on our economy. That is why the National Association of Realtors is backing this bill so strongly.

Ladies and gentlemen, 75 percent of the funds that are spent on our schools, on our police, on our fire, ambulance, our libraries, come from real estate property taxes. We all know what is happening in the local jurisdictions because of the devaluation of real estate. Until we can stabilize that most important asset in this economy, our economy is not going to get back on its feet.

We have never recovered from a major recession without real estate leading the way. We destabilized it with many of the provisions in that 1986 Tax Reform Act put in on the Senate side. The House has got to insist on reinstating those.

Do you know that for the first time in 27 years banks today have more Federal Government debt in their portfolio than small business and real estate loans? That is why we cannot recover from this recession. This bill must be passed, and it must be passed now.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. I thank the chairman for yielding this time to me.

Mr. Speaker, I have just spent the last 2 hours going through every page of that material. I can tell you as a tax attorney that much of this is old material that indeed we have been working on for the last several years. The new material that is in there, most of it has been in the Senate under consideration for several months.

I can tell you there are no zingers in it.

I may not agree with it 100 percent, with everything in the bill, but there is certainly nothing in there that my colleagues or my friends on the other side of the aisle should be frightened of.

In fact, most of it is material that we on both sides of the aisle have been pleading with the chairman for months, if not years, to act upon.

The tax provisions of this bill are good provisions. They are needed. The Medicare provisions are needed. The urban aid package is needed. I do have concerns about the outlying costs and concerns over the costs of the IRA provisions.

But I would commend our chairman. He has done a magnificent job on this, eliminating what the President said he would veto. I would urge all of my colleagues to support this package and urge the President to sign it into law.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Speaker, no American should fear their Government. I do not know how this all started, but a lot of people fear the IRS.

I want to thank Chairman PICKLE, and Chairman ROSTENKOWSKI, for including in this bill my taxpayer protection bill of rights. Thank you, Mr. Chairman.

I also rise to support the chairman and say this: This is the only bill that is going to give some help to the urban areas. No urban area is hurt more in America than mine. I expect the Youngstown, Warren metropolitan area that has been hurt now for 20 years, lost 55,000 jobs—I hope HUD is listening and Congress is listening—to have that metropolitan area included in the urban enterprise zone concept here.

So, Mr. Chairman, I rise to support you, commend you for a tough bill, at a tough time, on a tough vote, and urge and encourage the Congress to support you as well.

Mr. ARCHER. Mr. Speaker, I yield the remainder of our time to the distinguished minority leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I am not sure that my constituents are watching these proceedings at this hour, but the record has to be made.

Mr. Speaker, submerged between the flotsam and jetsam of this $28 billion tax bill is a good, simple idea: The response to unrest in Los Angeles and the President's proposed enterprise zones to aid distressed urban and rural areas announced on May 12.

How such a good idea came to be lost amidst innumerable, unidentified flying tax objects in this Revenue Act of 1992 makes an instructive and, I guess, a sad story.

Earlier in the year, the President called for an economic stimulus package. The Democratic majority responded with a blatant political ploy involving a temporary middle-income tax cut paid for by a large permanent tax increase. The tax ploy was ultimately vetoed and assigned its rightful place in the Museum of Failed Political Ploys.

At the time, we were told emphatically by the Democratic leadership that there would be only one tax bill this year. Well, imagine our surprise to discover that now, at the 11th hour before adjournment of the 102d Congress, the Democrat majority have once again led us to their favorite location: deep in the heart of taxes.

Today, as we rush to adjourn, we are all forced to vote on a $28 billion tax bill, well over 1,000 pages. Except for the members of the Committee on Ways and Means and possibly the Senate Finance Committee and a few others who have nothing else to do but do an awful lot of reading around here, most of us will be voting out of the depths of our ignorance on what is and is not in this measure.

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We have been had before when 3 or 4 weeks afterwards the technicians really get down to telling us what this thing really does. It is a maze inside a labyrinth surrounded by a jungle—impenetrable to normal human beings even if we had the time to study it.

But I can tell you that all of these special provisions tucked away will be ferreted out over the next few weeks, after Congress has left town.

Some will argue that we must pass the legislation because it contains an extension of various tax provisions that expired on June 30. But it is not the President's fault that Congress let these provisions expire. Congress could have acted earlier this year to extend these provisions rather than waiting until after the fact. Now they are lumped together into this omnibus tax bill.

We are told the entire conglomeration must be accepted—take it or leave it, like or lump it.

Others will argue that this bill represents the President's program. As the kids say nowadays, "Not."

We may find several provisions that the President has proposed, but the heart of the President's economic stimulus proposal is nowhere to be found in this massive tax bill. The first-timer homebuyer tax credit to get the housing industry moving again; the investment tax credit and expensing of depreciation to encourage industry to modernize and retool, thereby creating new jobs.

Writing large tax bills at the end of a session behind closed doors is what angers the American people most, and this bill is going to confirm our worst fears.

I would certainly urge my colleagues to vote against the bill. I do not see how the President can possibly sign it. I am reminded of the comments of my colleague, the gentleman from Michigan [Mr. LEVIN], which were on the mark, that had some of this been done earlier in the year and not become so politicized to the degree it has, it might very well have been enacted. There are certainly things in here that I would like to have corrected from the 1986 Tax Reform Act, but in this particular climate and in this last-minute rush to adjourn, I have to tell the Members quite frankly that the President, I do not think, has any alternative but to veto the bill if it ever reaches his desk.

Mr. Speaker, I am asking the Members to oppose this bill.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Illinois [Mr. ROSTENKOWSKI] has 2 minutes to close debate.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. CARDIN].

The SPEAKER pro tempore. The gentleman from Maryland [Mr. CARDIN] is recognized for 2 minutes to close debate.

Mr. CARDIN. Mr. Speaker, first I want to thank Chairman ROSTENKOWSKI for his patience in dealing with the tax issue during this session of Congress. I think all the Members of the House owe a debt of gratitude to Chairman ROSTENKOWSKI for bringing forward a conference report that contains in large measure those provisions that have been asked for by the overwhelming majority of the Members of this House, from tax extenders to the growth initiative to urban issues to Social Security changes to Medicare changes and human resource issues. There are all matters that have been brought to the attention of the Committee on Ways and Means through Members of this House. We have to pay for it, and the chairman has had a very difficult assignment in trying to figure out ways we can pay for this package. There are some people who believe that by extending the racing season in Arkansas we are raising taxes. We need to take a look at ways we have to pay for these particular provisions, and as Mr. THOMAS indicated, it is reasonable if we are making changes for the real estate industry in passive losses to look at the depreciation schedules in order to pay for that particular change.

We made changes in the pension law by simplification to make it easier for people to have pension plans. It is reasonable to ask that that be paid for by changing the 5-year averaging rule. That is what the conference committee has brought forward. They brought forward a balanced package.

We now have a choice. We can vote against the conference report and stop the process or we can support the conference report and move it forward. This bill is important to our constituents, from the self-employed person who depends upon the ability to deduct his medical insurance premiums to the people who work in the boatbuilding industry. They are holding on by a thread and waiting for us to pass this bill.

Mr. Speaker, I urge my colleagues in the House not to lose this opportunity. It is time to agree to this conference report.

Ms. SNOWE. Mr. Speaker, I rise in support of the conference committee report on H.R. 11, the Revenue Act of 1992. I support passage and enactment of this measure for one primary reason: it repeals the luxury tax on boats, which has devastated Maine's recreational boatbuilding industry and our State's economy.

As originally drafted during the budget summit of 1990, the luxury tax on boats was supposed to make sure that the wealthy paid their fair share of taxes. Instead, as our State has discovered, this tax has resulted in hundreds of workers losing their jobs, at a time in Maine when finding new employment is extremely difficult. And, as this tax has remained on the books for far too long, it has also jeopardized the job security of many other Mainers.

It is imperative that the 102d Congress approve legislation that repeals this tax, and that President Bush sign the bill into law, as soon as possible. Maine's boatbuilding industry has waited far too long for this much-needed relief.

Enacting legislation that repeals this tax has been one of my very highest legislative priorities for the past 18 months. Last April, I met with 50 boatbuilding workers in Ellsworth, ME. These workers told me that the luxury tax on boats was threatening their jobs, because their employees, boatbuilding companies, did not have enough work to justify maintaining their existing level of personnel. Consequently, boatbuilding companies were laying off highly skilled workers due to a lack of business.

Since that time, I have been involved in numerous bipartisan efforts to pass and enact legislation that would repeal this tax. I have introduced by own bill repealing this tax, cosponsored other similar bills, cosigned several letters to the Ways and Means Committee in support of the repeal effort, voted in support of passage and enactment of H.R. 4210, urged the Bush administration to support legislation repealing this tax, and finally, voted in support of passage and enactment for the bill before us today.

It has become painfully obvious that the luxury tax on boats has not raised any new revenues from upper income taxpayers because they are not buying any boats. Thus, no taxes are being collected. And, to make matters worse, boatbuilding companies were laying off workers because there was not sufficient demand for their products.

Before concluding my remarks in support of H.R. 11, I would like to acknowledge the fact that I am very pleased to note that it contains numerous other provisions of importance to the people and State of Maine, including: expanded individual retirement accounts [IRA's], permanent extensions of the low-income housing tax credit, Small-Issue Industrial Development Bond and Mortgage Revenue Bond Program, and the targeted jobs tax credit, 12-month extensions of the 25-percent health insurance cost deduction and employer-provided educational assistance program, passive loss relief for the real estate industry, and repeal of the U.S. Coast Guard user fee program.

In conclusion, by approving the final version of H.R. 11, and sending it to President Bush for his signature, the 102d Congress will send a positive signal to Maine's boatbuilding community that the 102d Congress is aware of their troubles and is taking corrective action to address them. I urge all of my colleagues in the House to join with me in supporting final passage of this bill.

Mr. GOSS. Mr. Speaker, I rise in decidedly reluctant opposition to this legislation, which makes many needed changes and adjustments in the Tax Code. I am afraid, however, that in trying to be all things to all people, H.R. 11 does not go far enough to provide real help for most people and the price is too high.

The first question I hear from my constituents concerning H.R. 11 is: "What is it?" If it is an urban aid bill, why have we not allowed more enterprise zones, and provided more substantial incentives inside these zones—such as elimination of the capital gains tax? If this is a growth package, then again, why are we being so timid in implementing commonsense incentives? For instance, the $5,000 tax credit for first-time homebuyers was first watered down—cut to $2,500 and offered over a severely limited window of opportunity—and finally dropped altogether.

I don't want to give the wrong impression—there are useful provisions in this bill. For instance, we would finally be rid of the so-called luxury tax. In the relatively short life of this tax, thousands of Florida boatworkers have lost their jobs, and the Treasury has actually lost revenue. One would think repeal of this tax would have been a speedy and popular motion—not so. Because some chose to make the luxury tax a political football, it has taken us 2 years to try to correct this mistake.

I have worked hard to repeal the coast guard user fee. As all recreational boaters know, this is not an actual user fee, but an arbitrary tax. Boaters receive nothing in return for their dollars; the money they are forced to pay does not go to the coast guard—which has been given the added responsibility of collecting the fee—but instead is funnelled straight into the treasury for deficit reduction. To add insult to injury, this tax too has fallen far short of the original revenue projections.

These provisions, as well as the targeted jobs tax credit, the driftnet moratorium, and the passive loss allowances are all positive steps, and we need to take them. But we should not forget the needlessly long time it has taken to act on these commonsense measures, and the sloppy way we have handled them this late in the session. Above all, how can we justify billions in tax increases when we haven't cut waste, haven't adopted a line-item veto and haven't achieved a balanced budget—or even a process to achieve one? A fitting epitaph for this legislation, one that can be applied equally well to the 102d Congress, might be: it was well within our abilities to do better. As badly as I want to pass many of the provisions, I deeply regret the price of the total package is too steep for me—and for the U.S. taxpayers.

Mrs. COLLINS of Illinois. Mr. Speaker, as chairwoman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, I was named a conferee to the section of H.R. 11 that relates to standards for issuing and selling Medigap insurance and certain other health insurance policies. I am pleased to say that the Medigap insurance standards that have been included in H.R. 11 constitute a significant improvement to existing law.

The question of how to pay for health insurance and health care has become one of the most important questions facing our country today, and it is of great concern to seniors living on limited incomes. Aware of the fact that Medicare or Medicaid does not provide 100 percent health care coverage, many of these seniors have been seduced into purchasing health insurance policies that do little to increase their health care coverage. Instead, they waste their premium dollars by duplicating benefits to which they are already entitled.

The bill we are considering now will prohibit the sale of Medigap policies that duplicate an individual's coverage for health benefits under Medicare, Medicaid, and certain other health insurance products. It further provides for the development of standardized forms that disclose the extent to which other types of health insurance policies will duplicate Medicare benefits. In addition, it directs the Secretary of Health and Human Services to establish an 800 number consumers may use to receive information on Medicare, Medicaid, and Medigap insurance.

These provisions will assist seniors and other insurance consumers in purchasing beneficial health insurance products while eliminating expensive and unnecessary purchases. They have my full support.

Mr. RANGEL. Mr. Speaker, I rise to support this bill even though I'm not sure it is quite the urban aid package that it was advertised to be. When it comes to attacking the cities' ills this package is nothing more than a Band-Aid. If I had my way I would attack the problems of poverty everywhere, but at this time I'll take what I can get from the President.

It is sad that it took the problems in Los Angeles to wake up the President and Congress to the needs of the inner city and to motivate this bill. It was only because some of us insisted that we were able to attach any of the important direct spending provisions to improve the social infrastructure of the inner city; infrastructure necessary before any entrepreneur would invest. Therefore, while this package may not be all that I would have liked to have seen, we have at least a $3.5 billion plus effort for the inner city.

I hope that whatever success there is from the enterprise zones, the low-income housing tax credit, and the TJTC they will serve as a blueprint for the effort we need to turn around every forgotten community. I hope whoever is in the White House next year will recognize how big this problem is and expand the concepts we've just passed to make a comprehensive effort to deal with despair everywhere.

I hope the President keeps his commitment to help the cities that he made when he toured Los Angeles. So, as incomplete an effort as this bill represents, I just hope he doesn't veto the bill.

I have said, and my conclusions have been confirmed with the numbers provided by OMB Director Dick Darman, that unless we address the despair of the inner city we are doomed because of drugs and crime to spend or lose in our economy in excess of $300 billion per year in police, criminal justice, jails and prisons, health care, drug treatment, and lost productivity.

I am not sure that we can continue to spend over $21 billion per year to maintain penal institutions and the people in them. We have got to get to the communities where these young men who fill the cells come from and give them the tools to make it. Chances are that if we did, a lot fewer would pass through the revolving door penal system. Consequently, we'd spend less on prisons and have a more productive society.

It has been difficult to get support for an effort to deal with the inner-city problems. But, I am convinced that the only way to bring a large segment of our Nation back from the depths of despair is to invest in people and targeted communities that are feeling the pain the most. This legislation is a step in that direction.

This bill is by itself not the answer, but it certainly will help make some difference as we battle against growing poverty rolls, the lengthening unemployment lines and the overall worsening plight of the underclass Americans who live in the inner cities, their voices unheard and their faces unseen. So much of the increase we see in drug use and crime is directly related to the lack of an effective urban policy.

I take note that in the debate on assistance to Eastern Europe the distinguished majority leader in support of the legislation drew a parallel with the Marshall plan and how against public opinion President Truman, General Marshall, and a bipartisan effort in Congress persisted in the knowledge that the money spent to rebuild Europe would return dividends in the future. He made the argument that the money spent in Eastern Europe today will return dividends as well. The majority leader pointed out how it may not be politically popular to support assistance for Eastern Europe, but that we have to look to our long term needs.

Likewise, it's obvious that it's not popular to spend money to help those in the inner city; it took a dramatic civil disturbance to make so many of us acutely aware of the need. Just as President Truman and General Marshall recognized Europe had to be raised up from the despair the war had created if there was to be a free and prosperous world, I want to tell my colleagues that money properly spent in the inner city today to produce hope instead of despair and turn young men and women into productive citizens will pay dividends for this nation for years to come.

I am mindful of the emphasis put on the tax provisions for enterprise zones in this bill. I recognize that many of my colleagues see me as a leader in the effort to enact these tax provisions. Indeed, I appreciate Secretary Jack Kemp's enthusiasm for the tax provision as a means of encouraging business in the inner city.

But, tax incentives alone cannot do the job. I am convinced no businessman is going to go into a neighborhood where the job pool is in large part junkies and ex-cons, the housing is inadequate and the education lacking, and the hospitals are overcrowded because there is an inadequate health care delivery system. We need to deal with these problems before we can make the tax benefit work.

That is why I believe the focus for the next generation should be on how to concentrate social services and improve the delivery of job training, health care, and education. We need to move away from jails and drug rehabilitation to job training and making our communities more productive. This bill gives us a blueprint on how to reach these goals.

It does not take a rocket scientist to see that America's cities are dying from within. Unless we invest in people and make every American, regardless of circumstances he or she is born into, feel as though they have a chance to succeed and be a part of the social fabric, we are doomed to continue the socioeconomic slide that we find ourselves in now. We have to destroy this cancer now before it spreads.

Since we declared the war on poverty 25 years ago, our approach has always been to put a Band-Aid on a deep cut. We have not thought long term as did Truman and Marshall. We have failed to see the importance of rebuilding communities by building up people and their families. Without jobs, educational opportunities, training, and counseling for those addicted to harmful substances and without any hope provided to people in desperate straits that they do have a shot at the American dream, we have no chance at improving the conditions of the growing underclass. No program or plan, no matter how well funded, has a chance of succeeding without these comprehensive components.

At this time I want to explain the social investment title of this bill and how it will help in dealing with the problems about which I have been talking.

Mr. Speaker, title VIII of the House bill authorized $2.5 billion over 5 years for investment in the social and economic infrastructures of those rural and urban communities designated as tax enterprise zones. For the same purposes title VIII of the Senate amendment, authorizing $5.2 billion over 5 years, closely paralleled the construction of the House title. This title is the part of the bill Members refer to as the Weed and Seed amendment.

Both bills authorize $500 million for fiscal year 1993 for appropriations signed into law by the President as part of the emergency supplemental last month.

Title XI of the conference agreement authorizes $2.650 billion over 5 years, maintaining the same $500 million authorization level for fiscal year 1993 as set forth in the House bill and Senate amendment.

Both the House and Senate provided a two-tiered formula for the allocation of the $500 million through Federal programs which strengthen the social and economic fabric of destitute neighborhoods, while making their streets more secure through more effective law enforcement.

The first tier of programs in the conference report is described as national public-private partnerships, providing $180 million for needy communities through Head Start, Job Corps, community health centers, YouthBuild, and the Neighborhood Reinvestment Corporation.

In addition, the House conferees accepted two new programs proposed in the Senate amendment to assist in economic development in the zones through nonprofit community development corporations [CDC's] and local financial intermediaries like community development credit unions and loan funds. The new National Community Development Partnership provides critical technical and financial assistance to CDC's engaged in the creation of new businesses and services in low-income communities. The enterprise capital access fund offers low-income and minority entrepreneurs access to credit and capital which has become increasingly difficult in these areas.

Community development corporations like the Ann Arbor CDC in Michigan, Coastal Enterprises Inc., in Maine, Northern Communities Investment Corporation in Vermont, the Community Development Corporation of Kansas City, Chicanos Porla Causa in Phoenix, and those represented by CANDO in Chicago are providing a critical role in bringing back distressed communities through innovative and creative local financing.

The conferees note that these kinds of community-based initiatives are playing a significant role revitalizing many inner-city neighborhoods and struggling rural communities. It is our expectation that they will be a major source of new capital for entrepreneurs and community development groups seeking to revitalize the economic infrastructure of the enterprise zone neighborhoods. Our intention is that this capital and other resources be invested in distressed communities with the intention that it remain there for reinvestment and future economic development. We expect that the infusion of resources into these zones to be an incentive for further private sector investment, particularly from banks and other for profit lending institutions. We expect our efforts to complement similar affirmative efforts of these institutions. We express our appreciation to the chairmen of the authorizing committees with jurisdiction over these programs for their cooperative and enthusiastic assistance in helping work out the details of these two new programs.

In this first tier the House conferees receded to the Senate on the House's desire to fund activities of U.S. attorneys and SBA's Minority Enterprise Business Investment Companies Program. The conferees note that funding for the U.S. attorneys' participation in the Justice Department's Weed and Seed Program has been increased and reclassified in the Commerce, Justice, State, and judiciary appropriations bill we have just sent to the President. The House conferees felt that increased access to capital by low-income and minority entrepreneurs is an important goal which can be more effectively accomplished through the new enterprise capital access fund.

Of the $180 million authorized in this first tier, $150 million is allocated to these programs for expanded activities solely within the enterprise zones. The bill provides $30 million—half the amount authorized in the National Community Development Partnerships and the enterprise capital access fund—to be available on a competitive basis to programs in other needy communities without regard to their proximity to an enterprise zone. The conferees wanted to give these two programs initial flexibility in the use of these funds in the event CDC's and financial intermediaries in the zones are not able to fully utilize them during the period in which they will be available in the next fiscal year.

The second tier of funding is provided through a new block program to expand Federal social and economic programs in the zones. Both the House and Senate bills provided for block grants in this second tier. The block grant makes available funding for those communities which have received designations as urban enterprise zones or rural development investment zones to be expended among up to 36 Federal domestic programs. This menu of programs is divided into five categories—criminal justice and community policing; job training; child care and education; health, nutrition, and family assistance; and housing and community development. Zones must allocate 20 percent of their block grant funding to programs in each of the five categories to insure a comprehensive and balanced approach in the Federal component.

The intention of conferees is that the block grant provide residents of the enterprise zones significant flexibility in designing the form and content of the Federal Government's participation in this aspect of the program. Programs in both tiers were selected to complement the configuration of tax incentives in other titles of the bills. These programs will give zone residents a significant helping hand in addressing the social and economic needs of neighborhoods in transition to a better life and a brighter future. We believe community leaders know best their own needs. Our desire is not to impose solutions to local problems from Washington, but to provide resources to those around the country who are already finding solutions to their problems through community leadership and creativity.

Funds authorized under this title will be made available to the zones within 60 days of the filing of menu designations with an interagency council comprised of Cabinet officers and agency heads whose jurisdictions are represented in menu. The primary purpose of the task force is to expedite Federal assistance to enterprise zones. The duty of the task force members is to certify program eligibility for those activities in the menu for which funds are requested. The conferees expect that the relevant Cabinet officers and agency heads will personally oversee the certification of zone eligibility and the implementation of program expansions under their jurisdictions.

The bill makes no change in eligibility standards for any existing program, nor does it provide waivers except those already authorized in law under separate statutes.

The presence of the Attorney General on the council is significant because the conferees believe that aggressive and creative law enforcement is essential for the success of the enterprise zone idea. We hope that communities in the zones will use block grant funding to develop community-based policing programs like those in New York City and Philadelphia which have successfully reduced local street violence. We expect the Attorney General will insure maximum coordination among Federal, State, and local law enforcement programs, and an integrated, comprehensive approach to addressing the needs of at-risk neighborhoods.

In selecting programs for this title, the conferees were particularly mindful of the needs of children, teenagers, and young adults in the Nation's destitute communities. It is their horizons we most fervently hope to broaden with this bill. We hope enterprise communities will utilize funds for alternative sanctions—particularly for nonviolent first-time offenders—to assist young people in trouble in discovering a positive, law-abiding role for themselves in our society.

At the urging of its Senate Members, the conferees reviewed progress on the 20 sites currently participating in the Justice Department's Weed and Seed Program. The purpose of this department initiative is to weed violent criminals from the streets of dangerous communities and seed them with programs offering alternatives to drugs and crime. While the DOJ program has never been authorized by Congress, it has received funding through the Commerce, Justice, State, and Judiciary appropriations bills for fiscal year 1991 and fiscal year 1992.

The administration has asked that $100 million of the $500 million in this title be designated for Seed programs at these sites. The program is contained in neither the House bill nor the Senate amendment.

After a lengthy review of data provided by the administration, the conferees felt the inclusion of the DOJ program would be inappropriate in this legislation even though it shows promise. Testimony we have heard from any number of experts suggests that strategic targeting of these limited funds is essential if the enterprise zone concept is to have any chance of success. This same logic guides our thinking on the tax incentives. We must make the most of finite resources available to us. Adding the 20 DOJ sites to those to be designated as enterprise zones would diminish the limited social investment in both programs almost to a point of insignificance.

Furthermore, the conferees are concerned that every community in the country be eligible to compete on an equal footing for these limited funds. The DOJ site selection process was closed. Only communities preselected by the Attorney General were invited to apply to the program, and all applicants received funding. There was no competition; nor does it appear DOJ made these awards on the basis of the precise economic criteria which we have set forth for the selection of the zones. There are many areas of our country in such great need, it would be unfair to have preassigned even some of these resources before this bill is signed into law.

While the legislative history of this DOJ program does not reflect a congressional commitment to fund it beyond that Congress which already appropriated, the conferees suggest to the Secretary of Housing and Urban Development and the Secretary of Agriculture they view favorably the presence of a successful DOJ Weed and Seed Program in areas competing for designations as enterprise zones.

As noted above, we feel this $500 million social investment component effectively implements the weed and seed concept in the enterprise zones. The concept we have applied in providing a balanced and creative approach to law enforcement, coupled with a strong investment in the social and economic life of these communities gives us confidence that we have properly applied these limited funds.

I wish to thank all those who have worked long hours to see this measure become law. It is a good bill, but more importantly it is a sound blueprint for the future of our Nation's most endangered communities.

Mr. FORD of Michigan. Mr. Speaker, I rise in opposition to the conference report on H.R. 11.

Mr. Speaker, this measure began as an effort to reach poor and unemployed people in this Nation's cities following events in Los Angeles this summer. At a time when we should be moving forward to help the poor and unemployed in this country, this bill is too little, too late. The exercise of this past summer has been lost in what has become yet another bundle of tax cuts for enterprising fat cats. This bill creates tax breaks we cannot afford for people who need them the least.

The enterprise zones in the conference report will not create jobs. They will simply shift jobs from one depressed area to another. The proposed zones will not solve the problems of urban blight nor the desperate need for employment in inner cities. It is just the wrong way to go.

Mr. Speaker, I recognize that there are some very valuable elements which have been included in this package: repealing the excise tax on boats, extending employer-provided educational assistance, extending the self-employed health deduction, making permanent the targeted jobs tax credit and the low-income housing tax credit, making permanent the authority of States and localities to issue mortgage revenue bonds, and extending a number of provisions which would benefit institutions of high education. But these good elements are far outweighed by the special interest tax breaks in the bill.

Revenue losers are offset by some 38 tax increases in the conference report. While the luxury tax on yachts and planes is retroactively repealed, the luxury tax on automobiles, while indexed, is retained. While a recreational boat registration fee would be repealed, recreational boats would lose their exemption from the 20.1-cent-per-gallon diesel tax. Moving expense deductions would be capped. This package also amends the laws governing pilot pensions to permit Federal Express to avoid collective bargaining. It creates a new definition of "leased employees" which will let employers avoid tax and pension obligations. And, it permits the write-off of intangibles—goodwill—which will encourage further mergers at the peril of workers.

The lion's share of relief in this bill is in the form of tax benefits to individuals and businesses—bonuses for those who can afford to get their high paid lobbyists to Capitol Hill.

At a time when the Nation's cities are hemorrhaging, when unemployment continues to rise, and when the American people are hurting, this tax giveaway and band-aid approach to relief is tragic. I urge my colleagues to join me in opposing H.R. 11.

I submit for the RECORD a letter from the American Federation of Labor and Congress of Industrial Organizations on H.R. 11, the Revenue Act of 1992.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, October 5, 1992.

DEAR REPRESENTATIVE: The AFL–CIO urges you to vote against H.R. 11, the Revenue Act of 1992.

While some minor details of this legislation remain unclear, it is quite clear that H.R. 11 is a $28 billion "business-as-usual" tax bill. Although the legislation contains a few beneficial provisions, the legislation provides the bulk of its tax relief to wealthy individuals and corporations. It does little for working men and women and their families.

This legislation was drafted initially to provide aid for our urban areas. It was intended as a response to the violent and tragic Los Angeles riots. There is little in this bill which will provide any type of real relief for the major problems America's urban areas face.

While we support the $2 billion grant in aid to our cities, the urban tax provisions will rely exclusively on untried federal enterprises zones which we believe will just shift jobs from one area to another. However, less than $4 billion of this $28 billion is earmarked for our cities.

We oppose the new definition of "leased employees" which will facilitate the ability of employers to avoid tax and pension obligations. We oppose the provision that amends the long standing law that governs pilot pension plans and thereby assists Federal Express in avoiding collective bargaining. We oppose the intangible "reform" section which will encourage further mergers that will result in workers being fired or be required to take lower wages. H.R. 11 also eliminates an existing worker benefit, employer-provided group legal service, which is not continued in H.R. 11 along with other "extenders".

Both the content and the politics leave no alternative: H.R. 11 should be defeated. The bill is little more than a bail out for the wealthy individuals and corporations. Any necessary tax provisions that require action can be achieved early in the new Congress and may be weighed against new national priorities.

Sincerely,
ROBERT M. MCGLOTTEN,
Director.

Mr. LEWIS of Florida. Mr. Speaker, I rise in opposition to H.R. 11, the Revenue Act, and against the bill itself.

Mr. Speaker, there are many items in this bill which I support. Or let me rephrase that. I am told that there are many things in this bill which I support.

I am told that the repeal of the luxury tax is in this bill, along with modifications to passive loss rules and new individual retirement accounts.

I was also told that onerous tax increases such as to the estate tax and depreciation of real estate are in the bill. Now, I am told they have been modified.

Do we never learn our lesson in this body? Do we really believe the American people want to continue this business as usual?

According to budget rules, all tax decreases must be offset by tax increases. My colleague from Indiana, Mr. BURTON, informs me that there are 40 tax increases for offsets in this bill. This is just in the highlights in the four-page summary.

The most ironic, and most irresponsible, aspect of this debate is that this bill seeks to correct many mistakes in tax bills which were made under similar circumstances. The luxury taxes and boat fees were enacted in the dead of night without proper consideration.

Now, as we repeal those taxes, we are passing new taxes which are just as onerous, and also ill-considered. It is after 2 a.m. and nobody in this Chamber has read this bill.

Finally, we could finance these tax cuts with spending cuts. Instead, we are raising taxes again.

Mr. Speaker, I opposed the 1990 budget summit in part because of the boat taxes and the fact that we had not seen the entire bill. That bill caused a lingering recession and cost thousands of jobs. Given these same irresponsible circumstances, I cannot believe the results of this bill will be any different.

Mr. RAMSTAD. Mr. Speaker, when I voted for H.R. 11 in July, it was a $17 billion bill that included several provisions I believed would help spur economic growth. However, at the time I stated that I had reservations about certain provisions, and hoped that these concerns would be addressed in the conference committee.

Mr. Speaker, the majority party ignored those concerns, added billions of dollars in tax increases, and returned H.R. 11 to the House as a $28 billion measure. The tax increases needed to pay for the additional provisions in this bill threaten to further harm our already-fragile economy just as badly as the tax increases that resulted from the 1990 budget agreement.

In addition, rather than paying for the many laudable provisions included in the bill with spending reductions—which most Americans would welcome—the Democratic leadership arrogantly assumed that all the funding of this measure should come from increasing the tax burden on American workers.

Mr. Speaker, back in 1990, Congress adopted new taxes in an effort to raise revenue. Instead of reducing the Federal budget deficit, tax increases—like the luxury tax—virtually destroyed a number of industries, throwing thousands out of work and losing millions of dollars in tax revenue from those now-unemployed workers. Now, to repair the damage caused by that ill-fated tax hike, the Democrats propose new taxes, aimed at different industries, that will be equally harmful to our economy.

Because of the tax increases, I cannot support H.R. 11, despite the fact that it includes several critical provisions, many of which I consponsored and would wholeheartedly support in separate legislation.

For example, by reinstating the passive loss deduction for real estate professionals, this bill would have restored the attractiveness of real estate investment, boosted currently low market prices, increased construction jobs and made low-income housing more available. But the bill deals a devastating blow to the commercial real estate industry by extending the depreciation period from 31½ years to 40 years. It makes no sense to repeal one bad tax provision that harms the real estate industry only to replace it with another provision equally harmful to the real estate industry.

In addition, H.R. 11 increases taxes on the inventory of securities dealers threatening the capital formation which is so badly needed to stimulate long-term economic growth.

The bill caps the deductible of moving expenses, increases the quarterly estimate tax payments for individuals and corporations, extends the higher estate tax rates adopted in 1990, stiffens reporting requirements for charitable donations, and extends the excise tax on diesel fuel to noncommercial motor boats. H.R. 11 includes 18 other tax hikes, all of which will adversely impact a number of industries.

Mr. Speaker, it is simply wrong to force feed the American people these tax increases in exchange for the incentives our economy so desperately needs. The fact that the democratic leadership of Congress transformed H.R. 11 into an 11th hour, $28 billion tax hike is nothing more than the politics-as-usual that the American people so disdain.

It's time to put an end to the politics and do what's best for the American people—even in an election year.

Mr. CARDIN. Mr. Speaker, I rise in support of the conference report to accompany H.R. 11.

First, my thanks go to Chairman ROSTENKOWSKI for his work, under tremendous time pressure, to conclude this conference agreement. He has presented the House with a package that deserves the support of the members of the House.

This bill is the product of 5 months' work by the President, the House, and the Senate. The heart of the bill is a proposal to establish 50 enterprise zones, half in rural areas, half in urban areas.

To those who say the plan's economic stimulus for the America's battered, neglected cities is too little, too late, I offer a different view. Surely the bill will not solve all the miseries of Baltimore or America's other great urban centers. This bill, if signed into law by the President, would put in place incentives to invest in the cities.

For years, private employers who hire disadvantaged workers under the targeted jobs tax credit program have lived with the uncertainty of whether Congress would extend the credit beyond the next 6 or 9 months, or year and a half. The same uncertainty has constrained the planning of developers who use the low-income housing tax credit to expand the nation's inadequate supply of housing for the poor.

Under this bill, those uncertainties would finally be eliminated. The bill extends permanently the targeted jobs and low income housing tax credits. These popular, effective, proven programs have brought jobs and housing to millions of Americans. This bill, if signed into law by the President, would extend those opportunities permanently.

The bill also offers badly needed relief to the real estate industry by easing the passive loss restrictions enacted in 1986. For 6 years the real estate industry has sought relief from those overly restrictive measures. Those Americans engaged in the real estate business as their principal life's work deserve the same fair treatment of passive losses as any other American currently can claim under the tax laws. H.R. 11, if the President signs it into law, will extend this fairness.

I am particularly pleased that the conference report retains a provision of pension simplification that I sponsored in the House. We have a crisis in this country of Americans who have no pension coverage. The complexity of nondiscrimination testing of pension plans has discouraged many businesses from offering pension coverage to their workers.

H.R. 11 includes a design-based safe harbor for 401(k) plans that will permit employers to offer pension coverage without meeting the burden of nondiscrimination testing. Modeled after the Federal thrift plan, the design requires employers to provide a very generous match as an incentive to employees to participate, or to make a nonelective contribution of 3 percent of payroll for every employee. If it is signed by the President, this proposal will expand the opportunity of 401(k) plans to millions of Americans.

To pay for these proposals for economic growth and enhanced savings, the bill includes a range of revenue-raising provisions. Raising revenue is always less pleasant than lowering taxes, and so we have a tendency to seek the least painful methods we can devise to do so.

In this bill, regrettably, in the attempt to raise revenues necessary to offset the revenue-losing provisions of the bill, I believe we have resorted to bookkeeping gimmicks. Of the $29 billion in revenues raised by this bill, nearly one-fourth of the money comes from provisions that count as new revenues only because of our strange scoring system.

Of course, Mr. Speaker, the principal reason we must employ such methods is to satisfy the President's refusal to deal responsibly and constructively with this legislation. The President insists on defining the term "tax increase" to include ridiculous items like an extension of the racing season in Arkansas, or the imposition of a $1 fee on convicted criminals to cover court costs. By boxing himself into that corner, the President now threatens to deny the American people the many worthwhile and positive economic growth incentives in this legislation.

Mr. Speaker, as I stated earlier, H.R. 11 deserves the support of this House. In addition to the provisions I have already described, the bill includes other provisions which enjoy the support of most members. The bill expands eligibility for individual retirement accounts. It extends the research and development tax credit. It eliminates the ACE depreciation adjustment under the alternative minimum tax, which has unfairly penalized American manufacturing.

For the boat-building industry of Maryland, which has lost thousands of jobs since enactment of the luxury tax, this bill offers the hope of economic renewal. As a cosponsor of legislation to repeal the luxury tax, I strongly believe it is critically important that we repeal this ill-conceived tax and help the America's boatbuilding industry get back on its feet.

In addition, there are many provisions in the conference report which deal with technical changes that are long overdue in our laws. For example, there is a provision that clarifies the Maryland waiver under the Medicare rules that allows this program to continue to benefit the people of my State and save tax dollars for the Federal taxpayer. I believe the Maryland program should serve as a model for national health care reform.

On balance, this is a bill that will stimulate economic activity, remove offensive and unduly complex provisions from the Tax Code, and ease a backlog that has kept us bottled up, in some cases, for years. If the President will sign it into law.

I urge the House to adopt the conference report.

Mr. STARK. Mr. Speaker, I am pleased that H.R. 11, the Revenue Act of 1992, includes a number of important Medicare provisions.

The Subcommittee on Health devoted a great deal of effort this year to the Medicare amendments that were incorporated in title IV of H.R. 5502, the Health Care Cost Containment and Reform Act of 1992 that was reported by the Subcommittee on Health on July 22, 1992. Many of the Medicare provisions adopted in H.R. 5502 were included in the conference agreement.

The conference agreement addresses several important modifications to Medicare part A, including an extension of programs that are of particular concern to rural hospitals.

Modifications are also made in the area of physician payments. In particular, the agreement includes provisions pertaining to payments for EKG's and payments for new physicians. While I have concerns about the effect of these two provisions on payments for primary care services, they are strongly supported by the physician community, including the American Medical Association.

In line with our continuing efforts to strengthen Medicare's antifraud and abuse provisions, the conference agreement includes tough new policies to reduce fraud and abuse in the area of durable medical equipment and to improve collections from private payers when Medicare is secondary payer.

Current law in the area of physician ownership referral is improved, particularly with respect to treatment of group practice laboratories. In addition, Medigap consumer protection standards pertaining to the sale of duplicate health insurance policies and other matters are clarified.

A summary of the major provisions follow:

SUMMARY OF MEDICARE PROVISIONS OF H.R. 11

1. MEDICARE PART A

General Hospital Provisions: Medicare's new hospital outlier payment policy would be phased in. Hemophilia clotting factor payments would be extended through fiscal year 1994. Certain wage areas would be held harmless from reductions caused by geographic reclassification. Uniformed services treatment facilities would be protected. Clinical psychologists would be authorized to supervise inpatients.

Rural Hospitals: Special payments to Medicare-dependent, small rural hospitals would be extended. The Rural Transition Grant program would be reauthorized for 5 years. The designation of hospitals as regional referral centers would be extended for two years. Rural demonstration projects would be extended through 1995. The EACH program would be expanded from 7 to 9 States, and a variety of clarifying amendments would be made to the program.

State Hospital Payment Programs: Provisions relating to the New Jersey and Maryland hospital payment programs are included.

2. MEDICARE PART B

Payments for EKGs and New Physicians: The prohibition on payment for interpretations of EKGs performed in conjunction with a visit would be repealed. The reductions in Medicare payments in the first four years of practice of new physicians and practitioners would be repealed.

Extra-billing Limits: The agreement provides that physicians who collect amounts in excess of the extra-billing limits would be required to refund or credit excess charges.

The agreement includes additional provisions relating to physicians for anesthesiology, allergy antigens, use of more recent data in determining geographic adjustments, and development of RB RVS for pediatric services.

DME Fraud and Abuse: DME suppliers would be prohibited from telemarketing items to Medicare beneficiaries. Suppliers would be required to submit claims to the carrier having jurisdiction over the geographic area that includes the patient's home. The agreement would establish standards that must be met by DME suppliers. Payments for TENS devices would be reduced, and rental and purchase payments for nebulizers and aspirators would be limited. National payment limits would be established for ostomy supplies.

Extension of Demonstrations: The Alzheimer's Disease Demonstration would be extended for one year. The Medicare Influenza Vaccination Demonstration would be extended for six months. The four municipal health service demonstration projects would be extended for four years.

Other items in Part B include capping the penalty for late enrollment under Part B for certain Federal retirees, extending coverage to oral cancer therapies, and modifying Medicare payments for services provided in facilities operated by Indian tribes.

3. MEDICARE PARTS A AND B

Physician Ownership and Referral: A variety of clarifying amendments would be made to the ban on physician financial relationships with laboratories to which referrals are made including provisions exempting multiple group practice laboratories, services provided under arrangements to hospitals, shared service provided under arrangements to hospitals, shared service laboratories, bona fide employment relationships, relationships involving rural providers, and various other compensation arrangements.

Graduate Medical Education: The Secretary would be required to adjust the base year payment amount for certain State family practice residency programs. The base year amount would also be adjusted for hospitals not required to pay FICA taxes or make a contribution to certain pension plans prior to the passage of OBRA '90.

Immunosuppressive Drugs: Medicare coverage of immunosuppressive drug therapy for Medicare beneficiaries who have received organ transplants would be extended beyond 12 months to 36 months on a phased-in basis.

Payments for Erythropoietin: Medicare payments for erythropoietin (EPO) would be reduced by $1.00 per 1,000 units.

Secondary Payer Fraud and Abuse: A number of provisions would improve identification of cases and collection of payments when Medicare is secondary payer to other plans.

Qualified Medicare Beneficiary Outreach: The Secretary would collect information that could be used to identify Medicare beneficiaries whose family incomes are below 100 percent of poverty (120 percent in 1995) who may be eligible for certain benefits under the Qualified Medicare Beneficiary program.

Medicare Appeals: The appeals process under Part B would be clarified.

Medicare Administration Budget Process: The Budget Enforcement Act would be amended to authorize additional spending for Medicare administration in each of the next three fiscal years.

Standards for Medicare Supplemental Insurance (Medigap): Technical and conforming amendments would be made to the Medigap provisions of OBRA '90 pertaining to preventing duplication, loss ratios and pre-existing condition limitations.

Mr. KOLBE. Mr. Speaker, one of the last notes of the 102d Congress' swan song is the vote on H.R. 11, the Revenue Act of 1992. And like many of the discordant songs heard on the House floor at the 11th hour, this song is no different.

The bill was written behind closed doors with no conferees. We have no hard copy to analyze, no time to review the document, and we will be restricted to only a single up-or-down vote on a complicated tax proposal. This is the way we do tax proposals around here. What was originally presented to the House as an urban aid measure has now ballooned into a major omnibus bill during its progress through the Congress—and it includes tax increases. It is because of these tax increases that I will oppose this bill, despite the many good provisions that are a part of H.R. 11. I simply cannot support a bill that relies on tax increases rather than spending cuts to finance its tax reform provisions, and strays so far from its original intent to aid distressed urban cities.

Mr. Speaker, this bill contains many good proposals that I have supported this year and in the past. Proposals such as enterprise zones, super-IRA's that would permit the penalty free withdrawal from an IRA for first-time homebuyers, educational expenses, medical expenses, and long-term unemployment, and the so-called taxpayers bill of rights, a new advocate for IRS accountability.

H.R. 11 would also make permanent important expiring tax provisions such as the low-income housing tax credit, targeted jobs tax credit, and mortgage revenue bonds—measures that should have been made permanent years ago.

H.R. 11 would extend for 15 months small issue industrial development bonds and for 12 months the R&E tax credit. H.R. 11 would also provide for the amortization of intangibles, passive loss relief, repeal of luxury taxes and the income tax credit for payroll taxes on cash tips.

These are all good proposals, but not in this fashion, not in this form. That is because these good ideas have been coupled with tax increases that simply are bad economic policy.

If we were serious about fiscal responsibility, then we should have to find a way to offset these important proposals with spending reductions.

The revenue raisers in H.R. 11 include increasing the estimated tax payment for individuals to 120 percent of prior year tax liability to qualify for the safe harbor provision, and permanently increasing the estimated tax payments for large corporations to 100 percent, from 97 percent, of estimated current year taxes. These two provisions would actually force taxpayers to loan the Government, interest free, another 23 percent of your tax liability.

H.R. 11 would also slow the depreciation write-off of commercial real estate to 40 years from 31½ years—a provision that bodes ill for the real estate industry.

H.R. 11 would also cap the deductibility of moving expenses at $10,000, phase-in the mark to marketing accounting change more quickly, extend the top estate tax rate of 55 percent for 5 years instead of permitting it to drop to 50 percent on January 1, 1993, as provided in current law, and increase the casualty loss deductible threshold from $100 to $500—a real kick in the teeth to victims of Hurricane Andrew.

No matter how I size it—I see tax increases and tax increases are bad policy. Period. Why do we always seem to forget that spending cuts is another way to pay for tax reductions?

Yes Mr. Speaker, I have endorsed many parts of this bill before, just as the President has, but not in this patchwork of provisions we have before us today. It is not sound fiscal policy. H.R. 11 would place unwarranted tax burdens on the self-employed and small businesses—the engines producing the most new jobs in our economy.

Plain and simple—the bad outweighs the good—and we don't even know what is really in the bill. H.R. 11, though well intentioned, would increase the deficit and fail to generate economic growth. It demands too dear a price to pay at $28 billion in revenue increases, at this hour in the morning and for years to come.

Mr. FAZIO. Mr. Speaker, I rise in support of passage of the conference report on H.R. 11, the bill which will make a much needed long-term investment in both rural and urban areas across the country. It will also stimulate the economy and make it easier for American families—both rural and urban—to succeed and prosper.

H.R. 11 is a prompt, responsible response to the poverty, unemployment and hopelessness that grip so many areas of our Nation. It provides an effective method of addressing the obvious problems that have been plaguing our communities for years, but that have only been highlighted in recent months.

H.R. 11 creates 25 rural development investment zones and 25 urban enterprise zones in distressed areas across the country. This concept provides incentives—in the way of tax credits—to businesses in an effort to attract them to relocate and invest in targeted areas. The end result is improved economic development for the involved community and its people.

Then, to stimulate growth within the targeted zone community itself, H.R. 11 funds job training, education, health and nutrition, housing and community development, child care and crime prevention. It supports solutions proven to be successful—like Head Start, community health centers, and drug treatment and housing assistance programs. These include job training and education for welfare recipients to get them off welfare and working. It will permit communities to attack crime, address their health and welfare needs, and invest in their own development. It fosters activities which have shown over time to have the greatest benefit across the country.

In addition to providing tax breaks for businesses that invest in enterprise zones, H.R. 11 includes tax provisions designed to stimulate overall economic growth throughout the Nation. For example, H.R. 11 provides penalty-free withdrawals from IRAs for first-time home buyers, for education and medical expenses, and for the long-term unemployed. For single taxpayers with incomes up to $75,000 and married taxpayers with incomes up to $100,000, the bill restores deductible IRA's and creates special IRA's to which nondeductible amounts may be contributed and withdrawn without incurring tax liability if held by the special IRA for at least 5 years. H.R. 11 repeals the luxury tax on boats, furs, and jewelry—a tax that had an adverse impact on employment in the affected industries. By repealing this tax, H.R. 11 will alleviate the job loss and economic strain placed on those industries affected by this tax. It also repeals the boat user fee and provides a new business tax credit for employers for FICA taxes paid on tip income. H.R. 11 also simplifies tax rules and contains a provision that will protect taxpayer rights.

Last, but not least, the bill pays for itself. It includes provisions designed to generate revenue, including requiring that some securities firms' inventories be marked to market for income tax purposes and modifying the substantiation requirements for charitable contributions.

We must again begin to place domestic issues at the top of our agenda. The investment that H.R. 11 makes in our communities is a good place to start. We have to see that all our children have safe schools and safe neighborhoods. We must ensure that everyone who can work, does. We must see that every member of society has access to equal opportunity and fair treatment. These are great challenges that we began to address in the 1960's and must continue to meet today.

H.R. 11 will promote development in our communities, support businesses who participate in this effort, provide economic relief for families trying to make ends meet, help to jump-start our economy, and generate revenue to pay for itself. I urge my colleagues on both sides of the aisle to support passage of this important piece of legislation.

Mr. REED. Mr. Speaker, I rise in support of the conference report on H.R. 11, the Revenue Act of 1992. However, I am very concerned that a proposal to allow amortization of intangible assets could be detrimental to the economy. As such, my support of the conference report is premised on my hope that Congress will move to eliminate this provision.

I plan to support the House-Senate compromise because it contains a number of important provisions including: The permanent extension of mortgage revenue bonds and the low-income housing tax credit, passive loss reform, continuing the health insurance deduction for the self-employed, a 12-month extension of the targeted jobs tax credit and the research and development tax credit, and urban enterprise zones.

However, as I mentioned above, I am disturbed that this conference report contains language which could lead to a merger and acquisition binge similar to that which occurred during the 1980's. I speak specifically of the language dealing with the amortization of certain intangible assets, particularly goodwill.

As I have argued before, there is a need to address the issue of intangibles like small business customer lists. Goodwill on the other hand, is not so easily quantifiable, hence the potential for a repeat of the 1980's debacle of leveraged buyouts driven by tax benefits, not financial worth or long-term strategies. Businesses undertook buyouts for the great tax writeoffs. Meanwhile, this tax writeoff translated into the jobs of American workers being written off.

Mr. Speaker, in the interest of addressing the needs of many Americans for affordable housing, urban job creation, and the President's call for a tax bill he can sign, I will vote for the conference report on H.R. 11. However, it is my belief that this conference report's provision on intangible assets should have been removed during conference. I hope that next year, Congress will strike this provision from the Tax Code.

Mr. WAXMAN. Mr. Speaker, I rise in support of the conference report on H.R. 11, the Revenue Act of 1992.

This legislation includes a number of important Medicare provisions that will expand coverage of certain benefits and improve administration of the program.

I would like to particularly highlight several key provisions which would:

Make clinics and other health facilities operated by tribes under the Indian Self-Determination Act and similar clinics serving native Americans residing in urban areas eligible for payment under Medicare;

Provide coverage of certain oral cancer drugs and immunosuppressive drugs under Medicare; and

Extend Medicare demonstrations projects relating to coverage of influenza vaccinations, Alzheimer's disease, and social health maintenance organizations.

These provisions take important steps toward improving access for Medicare beneficiaries to needed health services. In addition, the bill clarifies and strengthens the extra-billing limits which protect beneficiaries from increasing out-of-pocket expenses for their health care.

Mr. Speaker, H.R. 11 also repeals the ban on medicare payments for the interpretation of electrocardiograms [EKG's] and the reductions in payments for new physicians and other practitioners. These changes are intended to make the Medicare fee schedule for physicians' services more equitable.

Finally, this bill includes a number of important revisions to the standards for Medigap policies which were enacted in OBRA 1990. These amendments clarify the intent of Congress with respect to the prohibition on the sale or issuance of duplicate policies, application of the loss ratio and premium refund requirements, and limitations on the use of preexisting conditions in such policies.

Mr. Speaker, the conferees on H.R. 11 have worked hard to forge an agreement on these important Medicare policies. I recognize that this legislation also includes other, controversial provisions, but I want to urge my colleagues in the House not to overlook these valuable improvements in the Medicare Program.

I urge adoption of the conference report.

Mr. DEFAZIO. Mr. Speaker, members should know what they aren't voting on today when we vote for H.R. 11, the urban aid tax bill. You aren't voting for real urban aid. Only about 10 percent of the $27 billion in this bill will actually go to urban aid. Both liberal and conservative critics of the bill have labeled the urban aid provisions too little, too late. You're not voting for economic stimulus either, since the conferees dropped virtually all of the parts of the bill that were intended to give our economy a boost. Among the major omissions is the incredible shrinking first-time home buyer tax credit. First it was $5,000, then $2,500, now it's nothing.

So what are you voting for, if you support this bill? Instead of helping urban America and first-time homebuyers, this bill gives a bonanza to wealthy investors. Among other things, you are voting to refuel and reignite the mergers and acquisitions mania that built so many paper fortunes in the 1980's while it was erasing millions of American jobs. With almost no attention, a new tax break for amortization of corporate goodwill snuck its way through both Houses of Congress. Make no mistake about it; the primary purpose of this goodwill loophole is to make sure that U.S. taxpayers subsidize a whole new round of corporate takeovers, to the tune of more than $2 billion a year. Writing for the County NatWest Securities Spotlight, a prominent securities analyst noted:

> Under the proposed legislation, buyers would be able to add goodwill to interest payments for deduction, adding fuel to any resurgence in LBOs. Deal value should escalate from the moment the ink is dry on [this proposal].

In fact, buy-out sharks like RJR/Nabisco and Philip Morris began circling companies with high brand loyalty and customer goodwill long before the conference committee finished its work. If you want to go back to the debt-laden days of merger mania, again at taxpayer expense, I can't think of a better way than to vote for this bill.

Not only will this bill set up a whole new range of tax shelters for wealthy speculators, it includes at least one special tax break for the Federal Express Co. The only purpose of this tax giveaway is to influence the outcome of a union organizing election by the company's pilots. No matter which side you support, it is incredible that this Congress could endorse the use of taxpayer money to prevent workers from organizing.

There are parts of this bill that I strongly support. I've always been a firm believer in the targeted jobs tax credit, the research and experimentation tax credit, the exclusion for employer-provided education assistance, and deductibility for the health insurance payments for the self-employed. But I'm afraid that these important provisions and the desperate need for help in urban America are being used to drag a whole series of special tax breaks for Wall Street and the wealthy into our Tax Code. Instead of passing a whole grab-bag of tax breaks for the wealthy under the guise of helping the urban poor, we should defeat this bill and go back to the drawing board.

Mrs. MEYERS of Kansas. Mr. Speaker, with great reluctance, I will be voting against H.R. 11, the Revenue Act of 1992. This entire exercise is a charade, as the President has said he will veto the bill. We don't know what unexpected surprises are lurking in this legislation, and Members should not be expected to vote in the middle of the night on a bill they have not had an opportunity to review.

This bill includes $28 billion in tax increases that will hurt many of our constituents. You may not have heard from them yet on these tax increases, but you will once the revenue provisions are fully enacted and become effective. The two provisions that come to mind are the changes in estimated taxes and the elimination of 5-year averaging for lump-sum pension distributions. The estimated tax changes will adversely affect many self-employed individuals, and this is why the bill is opposed by the National Federation of Independent Business.

While I will vote against this bill, there are many provisions in it that I support, and that I have advocated for quite some time. The passive-loss changes and the enterprise zone developments will be beneficial to economic growth. In addition, I have cosponsored repeal of the luxury taxes, and that measure is included in H.R. 11.

I have supported continuation of most of the tax extenders, including the R&D tax credit, low-income housing tax credits, mortgage revenue bonds, health insurance deductions for the self-employed, and targeted jobs tax credits.

The expanded IRA provisions of H.R. 11 will encourage savings, and this is helpful to the long-term welfare of our economy.

It does seem preposterous, however, that we have waited all year to enact an economic growth/urban aid bill. Frankly, there isn't much in this bill that will promote economic growth—other than the passive loss changes for real estate. Two measures that I think would be most effective in jump-starting the economy—a first-time home buyer tax credit and additional investment tax allowances for business equipment purchases—are not even included in the conference report.

Mr. Speaker, let's reject the conference report to H.R. 11 and the likely surprises we and our constituents will face should this bill actually pass and be signed into law.

Mr. KOSTMAYER. Mr. Speaker, today we have before us a bill that has some very important provisions, provisions which will help Americans in need. These provisions are aimed at helping needy individuals and working families; the very people for whom this bill was initially intended.

I am pleased that the conference committee included changes to the Medicare Program for which I have been fighting. The Medicare section of this bill includes provisions without increasing Federal expenditure, which will reduce inequities and administrative hassles in the Medicare Program and will go a long way in making Medicare a friendlier place for recipients and providers. I am particularly pleased that the conference included a provision, which I sponsored, eliminating administrative burdens in the processing of certificates of medical necessity for home medical equipment supplies. Correcting problems with the reimbursement of electrocardiograms and new physicians and eliminating unnecessary paper shuffling and administrative hassles are also important provisions for which I have long fought and which are included in this bill.

I particularly want to highlight two health care provisions aimed at assisting low-income individuals which were included at my request. The first involves the Qualified Beneficiary Program [QMB]. This program, established in 1988, was intended to ensure that Medicare out-of-pocket costs for low-income senior citizens would be paid by the Medicaid Program. At that time, Congress determined that a senior citizen earning less than $7,000 a year could ill afford to pay thousands of dollars a year in premiums, deductible, and copayments. Unfortunately, over 50 percent of those eligible for this program are not enrolled, and the Department of Health and Human Services [HHS] and the States refuse to make the efforts necessary to enroll seniors in this program. This legislation includes a provision, at my request, which mandates that HHS determine the QMB eligibly status for all Medicare recipients. Once we know their status, it will be quite simple to ensure that they are enrolled.

The second issue involves residential drug treatment programs for pregnant women and their chairman. Every year 375,000 infants are exposed to drugs before birth, yet pregnant women are largely shut out of substance abuse treatment services. Essentially, poor pregnant women are forced to choose between seeking treatment and keeping their family intact. Earlier this year, along with Mr. TOWNS, I introduced legislation to expand Medicaid coverage for residential drug treatment programs for pregnant women and their children. The conference committee included a language to increase this coverage. Pennsylvania has established one of this Nation's best residential drug treatment programs, and with this language they will be able to expand it.

There are other portions of this bill which I also wanted to take note of. While I am very disappointed that the committee removed the language pertaining to tax credits for first-time home buyers, I am pleased that the committee did include provisions allowing for penalty-free IRA withdrawals for first-time home buyers, modification of passive-loss regulations, and permanent extension of the low-income housing tax credit and the mortgage revenue bond program.

I have long supported these provisions and I am grateful to see them included along with the valuable health care provisions I've already noted. I appreciate the efforts of those who have worked on behalf of these measures, and I thank those Members who supported my efforts to include items of special interests to me. I regret that other provisions of the bill, outweigh, in my judgment, these very positive measures, and that therefore, with much reluctance, I will cast my vote against this bill.

Mr. HUGHES. Mr. Speaker, I rise today in opposition to H.R. 11, the Revenue Act of 1992.

Tonight I face one of the most difficult decisions in my career. In good conscience, I can not support H.R. 11, the urban aid tax bill. Unfortunately, in the fray of partisan politics, the original intent of this bill—urban aid—has been sadly lost. Regrettably, so has our opportunity to reach out and offer true assistance to those Americans who are now in the greatest need of assistance.

Although H.R. 11 contains some worthwhile tax relief provisions, it is inundated with shortsighted revenue-raising gimmicks which leave the bill fiscally irresponsible. Simply stated, the bill forgives more taxes for the less needy and fails to raise sufficient revenue to cover the cost.

For instance, the heralded super-IRA provision essentially creates a constant stream of tax-exempt income for the more affluent. The advocates of the super-IRA merely speculate that this will increase the incentive retirement saving. Clearly, all this provision will accomplish is give tax relief to the upper echelon of income earners and increase the deficit. What ever happened to urban aid?

Undoubtedly, this bill contains some very worthwhile provisions that I have, and always will strongly support; for instance, the provisions to repeal the boat user fee as well as the luxury tax. This ill-advised tax has burdened individual boat builders, since its enactment; and has absolutely decimated the entire boating industry before my very eyes. I have fought very hard to repeal this tax and it deeply saddens me to see the opportunity to help this deteriorating industry go by.

In addition, the relaxation of the passive loss rules, as well as the overall simplification of the Tax Code are both changes that are long overdue. Such provisions would tremendously help the wavering real estate market as well as struggling small businesses.

Furthermore, I strongly support the responsible provisions in this bill that would make permanent the targeted job credits, the Mortgage Revenue Bond Program, as well as the Low-income Housing Credit Program which is, to date, the most productive Government-run, low-income housing program.

Clearly, these particular tax credits are aimed to help those hard-working Americans in the greatest need of assistance. These tax credits are, indeed the very essence of urban aid. However, the cost for these worthwhile provisions is far too excessive.

Overall, H.R. 11 will increase the deficit, hurt our economy and in the long term, seriously jeopardize the future financial soundness of America.

H.R. 11, offers urban aid in name only; it is for this reason that I, painfully, cannot support the measure.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 208, nays 202, not voting 23, as follows:

[Roll No. 482]

YEAS—208

Abercrombie
Ackerman
Anderson
Andrews (TX)
Anthony
Atkins
Bacchus
Bateman
Berman
Bevill
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown
Bryant
Bunning
Bustamante
Cardin
Carper
Clay
Clinger
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Foley
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Huckaby
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (GA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McDermott
McGrath
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Neal (MA)
Nowak
Oakar
Olver
Orton
Owens (UT)
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Price
Rangel
Ravenel
Reed
Richardson
Ritter
Roberts
Roe
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Studds
Sundquist
Swift
Tallon
Tanner
Taylor (NC)
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Upton
Vander Jagt
Vento
Washington
Waters
Waxman
Wheat
Wilson
Wolpe
Wyden
Young (AK)

NAYS—202

Allard
Allen
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
AuCoin
Baker
Ballenger
Barrett
Barton
Beilenson
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Blackwell
Bliley
Boehner
Brooks
Broomfield
Bruce
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chapman
Coleman (MO)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeFazio
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (TX)
Emerson
English
Evans
Ewing
Fawell
Fields
Ford (MI)
Franks (CT)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Goodling
Goss
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hobson
Holloway
Hopkins
Horton
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Jontz
Kaptur
Kasich
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCurdy
McEwen
McHugh
McMillan (NC)
Meyers
Michel
Miller (WA)
Mink
Molinari
Mollohan
Moorhead
Murphy
Myers
Natcher
Neal (NC)
Nichols
Nussle
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Oxley
Packard
Pallone
Panetta
Patterson
Paxon
Pease
Penny
Perkins
Porter
Poshard
Pursell
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rowland
Sanders
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shays
Shuster
Skaggs
Skeen
Skelton
Slattery
Smith (IA)
Smith (OR)
Smith (TX)
Solomon
Spence
Staggers
Stallings
Stump
Swett
Synar
Tauzin
Taylor (MS)
Thomas (WY)
Thornton
Unsoeld
Valentine
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wise
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—23

Alexander
Annunzio
Aspin
Barnard
Boxer
Chandler
Clement
Dwyer
Edwards (OK)
Gaydos
Hatcher
Kolter
Lehman (FL)
Levine (CA)
Lipinski
McDade
Miller (OH)
Solarz
Stearns
Traxler
Whitten
Yates
Yatron

□ 0407

Mr. BROOMFIELD and Mr. STAGGERS changed their vote from "yea" to "nay."

Mr. WAXMAN and Mr. COLEMAN of Texas changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MILLER of Ohio. Mr. Speaker, on rollcall No. 482, I was present in the House Chamber and voted "no" on the conference report on H.R. 11, the Revenue Act of 1992; however, my vote was not recorded. I would like the RECORD to show that I was opposed to the conference report.

BROWN VERSUS BOARD OF EDUCATION HISTORIC SITE

Mr. VENTO. Mr. Speaker, I ask unanimous consent to vacate the ordering of the yeas and nays on S. 2890, as amended, and that the Speaker put the question de novo.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. VOLKMER. Mr. Speaker, reserving the right to object, I do so to allow the gentleman from Minnesota [Mr. VENTO] to explain his request.

Mr. VENTO. Mr. Speaker, if the gentleman will yield, Brown versus Board of Education, which was on suspension last night, is a noncontroversial and bipartisan bill.

Mr. VOLKMER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2890, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2890, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 0410

CONFERENCE REPORT ON H.R. 5739, EXPORT ENHANCEMENT ACT OF 1992

Ms. OAKAR. Mr. Speaker, pursuant to House Resolution 591, I call up the conference report on the bill (H.R. 5739) to reauthorize the Export-Import Bank of the United States.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to House Resolution 591, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Sunday, October 4, 1991, at page 31429.)

The SPEAKER. The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 5739, the Export Enhancement Act of 1992, legislation that reauthorizes the charter of the Export-Import Bank for another 5 years. I would like to commend my distinguished Banking Committee colleague and ranking member of my subcommittee—Congressman JIM LEACH—for his outstanding work and invaluable help on this legislation. In this regard, I would also like to thank the members of the International Development Subcommittee for their active and able participation during the process of developing this bill.

H.R. 5739 originated in our Subcommittee on International Development, where an impressive parade of trade and export groups testified in behalf of Exim charter renewal. Subsequently, both the House and Senate passed similar Exim charter renewal bills this past August, and this conference report represents the diligent work since then of the Banking Committee members and their staffs from the two Chambers to resolve minor differences. This is, therefore, consensus legislation whose speedy passage is essential, in view of the fact that Exim's current charter expired on September 30, 1992.

H.R. 5739 is intended to protect and strengthen Eximbank's ability to finance American exports and keep our country competitive in the global marketplace. To accomplish this, H.R. 5739 extends the general authority of the Bank for 5 years and the war chest authority for 3 years; increases the Bank's aggregate ceiling for total financing; enhances the commercial bank guarantee program; provides one-stop centers to assist small and medium-sized exporters; and consolidates the Bank's programs into a coherent export strategy.

Exports play a major role in trade and commerce and, ultimately, in economic growth and prosperity. United States exports expanded from $227 billion in 1986 to $422 billion in 1991—an increase of 85.6 percent. Eximbank's 1991 annual report estimates that exports support about 7 million American jobs and a considerable proportion of this country's economic growth. Eximbank possesses the tools required to assist American exporters to be competitive abroad and take advantage of historic new trading opportunities in the post-cold-war era.

My own State of Ohio illustrates both the necessity and impact of Exim bank financing. Ohio ranks third among the States in the value of exported goods. In 1991, Eximbank financed $165 million worth of Ohio-based exports. In addition, 20 to 25 percent of manufacturing employment in northeast Ohio is tied directly to export markets.

The city of Cleveland itself is home to several companies that supply critical parts to Boeing commercial airplane group—one of Exim's biggest and most important users of export financing.

This legislation also provided much-needed assistance to small business through a number of Exim programs and designed specifically for that purpose. In this regard, I'd like to thank my good friend and colleague, Chairman LAFALCE of the Small Business Committee, for his hard work in helping us craft language that reflected his expert understanding of the special needs of small businessmen and women.

Mr. Speaker, we cannot delay further in approving this legislation, if Eximbank is to be permitted to fulfill its crucial function as our Government's preeminent agency in financing U.S. goods and services abroad. I ask my colleagues for their support in passing this conference report, because it's good for the export business community, good for our economy, and good for our country.

COMMENDATION OF THE BANK AND ITS MANAGEMENT

Mr. Speaker, the Bank in recent years has done an admirable job. Last year, Eximbank financed $12.1 billion in U.S. exports, the highest total in a decade. In the opinion of the business community, and of the committees that have exercised legislative oversight in these matters over the past year, the Bank is being well managed by President John Macomber. Our conference report is a bipartisan vote of confidence on the recent operations of the Bank, and I am asking that the House add its approval, which, in my opinion, it amply deserved.

FUTURISTIC THRUST OF THE LEGISLATION

Mr. Speaker, one of the Banking Committee's prime objectives in drafting this conference report legislation was to focus the Export-Import Bank of the future. Traditionally, the Bank has responded to the applications placed before it by private sector businesses seeking direct loans, commercial bank guarantees, or foreign credit insurance.

Since the charter is being renewed for 5 years, we wanted to equip the Bank to make the most of the opportunities that are being presented by global markets now and over the 5-year period during which the new charter will be in force.

The following are some graphic examples of export opportunities that came to light during our public hearings of May 6, 1992, and associated committee research:

Environmental products and services, including waste and sanitation items—$300 billion annually world-wide.

Power generation and distribution—$100 billion yearly.

Telecommunications systems—$100 billion yearly.

Aircraft—$45 billion yearly.

Beyond these industries, the Commerce Department informed the subcommittee that, over the past 5 years, we have seen 11 industrial groups whose exports have grown more than 100 percent and 4 that have grown more than 200 percent including radio and TV products and steel mill products. Witnesses also made the subcommittee aware of the almost limitless possibilities of agricultural products such as advanced, environmentally benign herbicides and pesticides, genetically engineered seeds, and other biotech products.

In order to help position the United States to provide the maximum help to our exporters in this post-cold-war era of new business possibilities during the next 5 years, this bill enacts a series of forward looking provisions, as follows:

A rather long renewal period of 5 years, so the Bank can operate and plan in a stable environment;

Elevation of the trade promotion coordinating committee to statutory status, so export policy can be coordinated across the lines of Federal agencies in the context of some overall strategy;

Instructions to the Bank to study and closely monitor the forthcoming demand for, and current market development in, export financing to the newly emergent economies of Central and Eastern Europe, the Baltic States, and the former Soviet Union, so the Bank, as a matter of sound management, can gain an idea of the magnitude of the future demand for its services in these important areas;

Providing for an innovative initiative by the Bank, in cooperation with other Federal agencies, in maximizing the possibility of future environmental exports world-wide, which is consistent with the potential brought to light in our hearings;

A direction to the Bank to study the demand for high technology service and intangible exports to newly emergent economies;

Authorization for a program of working with high technology and small firms to promote the export of leading edge technology products to these emergent nations;

A series of measures to help small businesses, including:

Expanding the financing authority of the Bank from 80 to 100 percent of U.S. export,

Setting up one-stop centers where representatives of various Federal agencies will be cross-trained to inform potential exporters of the range of Federal information and financing programs,

Expanding the Bank's horizons regarding the contribution of small businesses to existing and potential exporters by means of the studies described above,

Enhancing cooperative relationships between the Bank and State export promotion and financing agencies, and

Making clear that the previous 1983 set-aside of 10 percent of the Bank's resources for small business is to be interpreted as direct support, rather than indirect support.

IMPORTANCE OF WORLD TRADE AND U.S. EXPORT TRADE

Trade has been one of the great success stories of the post-World War II era. Trade has grown faster than world output in nearly every year since 1946.

Since the value of the dollar began to decline from its lofty peaks of the mid-1980's, the United States has regained its status as the world's largest exporter.

In fact, from 1986 to 1991, U.S. exports rose from $227 to $421.6 billion, an increase of 85.6 percent.

Exports mean that products originate in this country, and generate jobs for American workers, orders for American suppliers, and business for American service providers.

Exports are therefore critical to our national economic health. Over the past several years, the Commerce Department has estimated that U.S. exports, which support about 7 million U.S. jobs, account for the equivalent of between 40 and 70 percent of the meager, recession-dampened U.S. economic growth for this period. Without exports, the current recession, with 9.7 million Americans out of work, could be a depression.

Trade NOW accounts for about 25 percent of the American economy, up from about 10.6 percent in 1965, according to the March 1992 report of the congressionally appointed Competitiveness Policy Council. Thus, competition is being forced on us, year by year by day by day. American industry and workers must increasingly be world-class just to hold our own in our domestic markets.

PERFORMANCE OF THE U.S. GOVERNMENT IN EXPORT POLICY

We know that maintaining or penetrating the promising export markets of the future will not be easy. American companies and American workers must demonstrate quality, price, delivery, and financing terms that equal or exceed those offered by foreign sellers and their export credit agencies. We know from past experience that our foreign competitors will have the full backing of their governments in this competition.

How is our own Government doing in this competitive environment? The answer is: Not as well as it should.

A book recently published by the Brookings Institution called the United States the world's biggest export underachiever—"Going Global," by William Nothdurft. The book points out that European nations spend up to 8 times more than the United States for export promotion (see "The U.S. as Exporter: Superpower on Subpar," Washington Post, Sept. 20, 1992, P. H1).

The General Accounting Office [GAO] has also emphasized that exports play a larger role in the economies of other industrial nations, constituting 27 percent of the gross domestic product [GDP] of Germany and 16 percent of the GDP of Italy and 7.1 percent of United States GDP in 1990, which was a good year for American exports, "Export Promotion," GAO/GGD 92-97, June 1992.

GAO found that not only is the United States at the lower end of the scale of export promotion expenditures—59 cents per $1,000 compared to a high of $1.99 per $1,000 for France—but what our country does spend is not well allocated. In testimony before my subcommittee on May 6, 1992, GAO stated that, although the Export-Import Bank accounts for over half of the export credits, 52 percent, it controls only 12.3 percent of the promotion funds. This 52 percent closely parallels the 48 percent of U.S. exports accounted for by capital goods and automotive products, according to the 1991 Economic Report of the President, page 406. Industrial materials account for another 25.1 percent. Now, agriculture, which accounts for 11.5 percent of U.S. exports, expends 74.3 percent of the promotional funds.

Is this a cost-effective or competitive Federal export policy?

The GAO also found that many foreign governments assign more staff to promoting exports than the United States, and most significantly of all, U.S. export efforts "are not centrally managed or implemented under a strategic plan based on a set of national priorities." Moreover, said GAO: In the United States "private sector groups play a much more limited role in promotion activities and are not coordinated with Federal efforts," "Export Promotion," June 1992, page 3.

So, the bottom line is that Federal export policy and implementation are not up to par, and the U.S. private sector could do much better in world markets if the Federal Government cleans up its act and does what many other governments are already doing.

Our Export Enhancement Act legislation attempts to remedy the Government problems recognized by the Brookings Institution, the Washington Post, and the GAO by elevating the recently established Trade Promotion Coordinating Committee to statutory status, and giving it, and the Export-Import Bank, additional responsibilities to coordinate U.S. export promotion efforts, particularly to small- and medium-sized businesses.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I rise in support of the Export Enhancement Act conference report. As the gentlewoman from Ohio has mentioned, this bill would renew the charter of the Export-Import Bank for 5 years. The charter of the Eximbank expired on September 30, 1992, and I think it is imperative that the Congress quickly act on this renewal before Eximbank operations are impeded any further.

No money is being appropriated by this bill. We are simply renewing its charter.

Many industries in Columbus and, indeed, in the State of Ohio benefit from the Eximbank. I think the Eximbank is one of the best tools the United States has to encourage exports abroad. And through the use of its war chest, the Eximbank is also an instrument in combating unfair export financing practices from other countries.

The conference report contains language implementing the President's enterprise for the Americas initiative. The authority to sell and reduce the amount of Eximbank debt owed by these countries was requested by the administration as part of the initiative.

During these slow economic times exports have been the bright spots of the American economy. The Export-Import Bank has been a key to that success, and I urge support of the conference report.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of the Conference Report on H.R. 5739. It is urgent and important to move forward with this 5-year reauthorization of the export financing programs of the Export-Import Bank of the United States, which expired on September 30, 1992.

Strong and expanding exports are a key to renewed economic growth for the United States. Export markets are changing rapidly with the many changes in the world's political and economic situation. Stable export finance programs must be in place to allow U.S. firms to enter and remain in these markets on a competitive basis. The Export-Import Bank, with its direct loan, guarantee, and insurance programs, is a cornerstone of that stability for the export sector and for the private financial institutions that are active in trade finance. The overall lending authority in the bill will allow present program levels to be maintained and even expanded, subject to annual appropriations of the subsidy to be set aside under credit reform calculations. For fiscal year 1993, the subsidy amount approved in the conference report on foreign operations appropriations approved earlier today was $757 million, an increase over fiscal year 1992.

The war chest, also reauthorized in this legislation for 3 years at up to $500 million per year, has been and continues to be an important instrument of leverage to obtain and enforce the OECD agreements that limit predatory use of tied aid and export finance. The reauthorization of substantial sums for aggressive war chest use—whenever and wherever necessary to deter unfair, trade-distorting use of mixed credits by other countries in violation of international OECD guidelines—is critical to maintain a level playing field for U.S. exporters.

This conference report also includes an important measure to improve the climate for U.S. exports to Latin America and the Caribbean, our fastest growing export region. In his enterprise for the Americas proposal, the President requested, and this bill contains, an authority to restructure Eximbank debts of eligible countries in the region, when such restructuring contributes to a better climate for U.S. exports and jobs.

There are other excellent features of this bill: a stronger focus on assisting exports by small businesses, legislative recognition of the importance of a Trade Promotion Coordinating Committee in the executive branch with a clear responsibility for coordinated strategic planning and implementation of Federal trade promotion efforts, further clarification that Eximbank will not finance defense articles or dual-use articles for military uses, and updating outmoded provisions.

Mr. Speaker, this legislation is good for U.S. exporters, good for the U.S. economy, and good for U.S. jobs. I urge my colleagues to support it.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I rise in opposition to this bill. We have American companies which cannot get loans from the SBA or even from private sources. This bill increases the cap on American taxpayer loans to foreign companies up to $72 billion. We paid $12 billion worth of these loans to foreign companies last year alone.

This bill authorizes $600 to subsidize or pay the expenses of making these loans.

Already so many of these loans are nonperforming or underperforming, in other words, are bad that the president of the Export-Import Bank himself estimated that the American taxpayers would end up with a $5.4 billion loss or $5.4 billion in the hole, if we liquidated the bank today.

According to the GAO, the Bank lost $889 million in 1990 and, even worse, it lost almost $2 billion in 1991.

American taxpayers should not be subsidizing bad loans to foreign companies. A portion of the Caribbean Basin initiative, which received such controversial publicity Sunday night on "60 Minutes", is combined into the Enterprise for the Americas Act, which is in this bill.

This is a bill which we do not need and which we cannot afford at this time of a $4 trillion national debt.

□ 0420

I realize this bill would not pass by a large margin, but this is definitely a bill that should be looked into and studied more and should not be passed at 4:20 in the morning, at a time when almost no one has had a chance to see what is in the conference report.

Mr. LEACH. Mr. Speaker, the Export-Import Bank is a key element of U.S. trade policy. This conference report will renew its charter for 5 more years.

In the 6 years since the Congress last renewed the Eximbank charter, trade throughout the world has become increasingly interdependent, competitive, and critical to U.S. economic health. In 1991 alone, Eximbank supported about 12 billion dollars' worth of U.S. exports; since its inception in 1935, $260 billion.

In addition to the charter extension, the conference report we are voting on today contains a portion of the President's highly acclaimed enterprise for the Americas initiative. This legislation grants the President authority to conduct debt sales and reduction of Eximbank debt owed by some Latin American and Caribbean countries. The savings from this debt restructuring will help promote environmental and other progressive development programs and provide a more favorable climate for private investment and free enterprise.

Eximbank has distinguished itself as a flexible institution that responds to private sector demand and market trends. This legislation will ensure that U.S. exporters will not be denied legitimate foreign sales because of financing. It will also ensure that they are able to compete against the predatory and unfair export financing practices of other countries.

Mr. Speaker, I urge passage of the Export Enhancement Act of 1992.

Mr. MORAN. Mr. Speaker, I rise in support of the conference report on the Export-Import Bank charter renewal, H.R. 5739.

This legislation was developed during a year-long process which included a series of hearings, a study by the General Accounting Office, and extensive consultation with major industry exporter and financial organizations.

The result is a forward-looking bill that calls upon the Federal Government to coordinate its export assistance efforts and the Export-Import Bank to assess the export opportunities over the 5-year period of the charter renewal, and to take steps to maximize these opportunities for small, medium-sized, and large industry exporters.

I am particularly pleased that the two amendments which I proposed to the House Banking Committee are included in the final version of the bill.

These amendments instruct the Bank to survey the possibilities for enhancing exports of high-technology services, such as computer software, information technology, and, generally, services and products that may be intangible in nature. We look forward to the Bank's report as to these matters which tend to be in the highest value categories of exports.

My amendments also support a bank initiative to work with high technology and small entrepreneurial business in promoting cutting edge products and services to newly emerging economies.

These authorities—together with the provision of one-stop centers for potential exporters—will allow the Export-Import Bank to be more proactive during the 5-year period of its charter renewal.

I urge a favorable vote on the conference report.

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I reluctantly yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DUNCAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 332, nays 44, not voting 56, as follows:

[Roll No. 483]

YEAS—332

Abercrombie
Ackerman
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Archer
Bacchus
Baker
Barrett
Barton
Bateman
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Downey
Durbin
Early
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lent
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waxman
Weber
Weldon
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Young (AK)
Young (FL)

NAYS—44

Allard
Armey
Bennett
Burton
Coble
Costello
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dreier
Duncan
Eckart
Ewing
Gingrich
Hancock
Hastert
Henry
Herger
Holloway
Jacobs
James
Johnson (TX)
Lewis (CA)
Marlenee
Packard
Petri
Quillen
Rahall
Rohrabacher
Schaefer
Sensenbrenner
Shuster
Smith (TX)
Solomon
Spence
Stump
Taylor (MS)
Taylor (NC)
Walker
Zeliff
Zimmer

NOT VOTING—56

Alexander
Annunzio
Aspin
Atkins
AuCoin
Ballenger
Barnard
Beilenson
Boehner
Boucher
Boxer
Chandler
Chapman
Clement
Conyers
Dellums
Dooley
Dwyer
Dymally
Edwards (OK)
Fields
Foglietta
Ford (MI)
Gaydos
Gibbons
Hall (OH)
Hatcher
Horton
Jenkins
Kolter
Lehman (CA)
Lehman (FL)
Levine (CA)
Lipinski
Martinez
Mavroules
McDade
McGrath
Nowak
Oxley
Pastor
Roe
Russo
Savage
Schulze
Serrano
Solarz
Stark
Stearns
Torricelli
Traxler
Waters
Whitten
Wilson
Yates
Yatron

□ 0439

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, unfortunately I was detained and missed rollcall votes 471 and 483. Had I been present, I would have voted "nay" on rollcall vote 471 and "aye" on rollcall vote 483.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Speaker, during rollcall vote no. 483 on H.R. 5739 conference report I was unavoidably detained. Had I been present I would have voted "yea".

PERSONAL EXPLANATION

Mr. FIELDS. Mr. Speaker, due to official business in my district, I was unable to vote on S. 3100, S. 1704, H.R. 5739, and H.R. 6179. Had I been here, I would have voted against final passage of S. 3100, No. 484; S. 1704, No. 485; and H.R. 6179, No. 487; and voted in favor of H.R. 5739, No. 483.

LEGISLATIVE PROGRAM

(Without objection, Mr. MICHEL was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked to proceed for 1 minute that I might again inquire of the distinguished majority leader how we will proceed for the balance of the morning.

I am happy to yield to my distinguished friend.

Mr. GEPHARDT. I thank the gentleman for yielding.

We will now go into a conference report on the Defense Production Act. I am told there will likely not be a vote on that, and consideration will be very short.

We will then take up the adjournment resolution, which we are now talking about with the minority, and we will have it ready in a few minutes. On that there may be vote.

We then will go to a period of time for unanimous-consent requests that have been approved, and suspensions. We now have 18 unanimous-consent requests that have been approved on both sides, and 22 suspensions that have been approved on both sides.

□ 0440

During that period of time, which could be 2 hours, maybe 3 hours, I do not know exactly how long it will take us to go through those, there will not be votes. Members can rest, get breakfast, do whatever, and then at the end of that period we will come back. There may be some more suspensions that may be added to that list. If there are not, whatever suspensions are left will be taken up, and there may be votes on those suspensions, but we will finish at 12 noon.

Mr. MICHEL. I thank the distinguished gentleman. No question.

Obviously being a party to this, I will ask the majority leader, he just mentioned that we would bring the adjournment resolution up following the vote on the bill.

Mr. GEPHARDT. Following the Defense Production Act.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Wisconsin.

Mr. GUNDERSON. I appreciate the distinguished minority leader yielding. Is it not possible to set a time certain when the votes on the suspensions begin, say, 9 or 10 o'clock or something like that? If we are going to hold votes over, could we not hold those votes over to a time certain so the Members could go home and take a shower?

Mr. GEPHARDT. My only concern is if we go through that quickly, in, say 2 hours, we then may want to start up the rest of the suspensions that we can get done by noon. We will give Members 30 minutes' notice before any votes could begin.

Mr. GUNDERSON. I do not think anybody has any objection to bringing up further suspensions if they have been approved on both sides. What I think most Members would like to do is simply hold the votes over to a time certain, 10 o'clock or whatever, so that we then can act accordingly.

Mr. GEPHARDT. Let us say 9 o'clock would be the time we would shoot for.

Mr. GUNDERSON. Thank you very much.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. If I could ask the gentleman from Illinois [Mr. MICHEL] a question, there was an original list of suspensions, I think of about 50 or 60, and apparently that list has been shortened to a list which has received the approval of the minority and the majority. There is also a UC list.

Can I ask: What was the basis for arriving at that list? And if the ranking member of the Committee on the Interior, the gentleman from Alaska [Mr. YOUNG], supports the one that I had on the suspension list, could we add that?

Mr. MICHEL. We have been in constant touch with the majority side. We were frank to say that that large list was just going to keep us bogged down here for indefinitely and could we not scrub that somewhat. There are those that have a priority over others for whatever reasons, timing or something, that would not matter if it went over.

Mr. KOSTMAYER. Well, I could assure the gentleman from Illinois that we could limit the discussion to 60 seconds or less on H.R. 6179 if it could be added to the list. I would ask if I could ask unanimous consent, along with the gentleman from Alaska [Mr. YOUNG], the ranking member, that it be added to the list.

Mr. MICHEL. Well, I think that could not be made under my time. But let me simply say that let us give consideration to that one and ask the appropriate parties here where we are on the gentleman's request.

CONFERENCE REPORT ON S. 347, DEFENSE PRODUCTION ACT AMENDMENTS OF 1991

Mr. CARPER. Mr. Speaker, pursuant to House Resolution 591, I call up the conference report on the Senate bill (S. 347) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

(For conference report, see prior proceedings of the House of today, Monday, October 5, 1992.)

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Delaware [Mr. CARPER] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. RIDGE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this conference agreement on the Defense Production Act Amendments of 1992. Our efforts to provide a comprehensive reauthorization of the act date back to the 101st Congress.

Considering the conference agreement before us, the time was well spent. This legislation would bring the Defense Production Act of 1950—a cold war baby—into the postcold war era. It would do so in the following ways:

First, recognize the need to transition our defense industrial base into a competitive civilian industry by promoting the production of dual-use technologies;

Second, ensure reliable supplies of critical technology items and components;

Third, prohibit anyone who is found to have fraudulently used "made in America" labels on products from getting contracts under the Defense Production Act—a problem brought to light by the "60 Minutes" program just last Sunday night.

Fourth, provide for a top-to-bottom review of Federal programs to ensure they are all geared toward the preservation of this Nation's defense industrial base; and

Fifth, require the President to conduct a review of foreign efforts to undermine U.S. technological leadership through coordinated acquisitions of U.S. techology firms or industrial espionage.

This legislation is a real step forward in our efforts to shore up U.S. competitiveness in industry and to ensure that our industrial base is capable of providing essential materials to ensure our national security both in peacetime and emergency. The bill has been years in the works, and has improved with age.

At this time, I would like to thank Mr. GONZALEZ, Mr. WYLIE, Mr. RIDGE, and Ms. OAKAR, who was critical in developing this bill as chairwoman of the Economic Stabilization Subcommittee, in the 101st Congress.

Many thanks also to members of the Armed Services, Energy and Commerce, Government Operations, Ways and Means, and Judiciary Committees who participated in this successfull conference.

I urge my colleagues to support this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. RIDGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Defense Production Act bill recognizes the impending world of civilian technology competition rather than military competition. Mr. CARPER has worked hard on this bill. Let me give you some examples. The bill adds a new test that Federal assistance should, as far as possible, go to projects that will have useful life beyond the Federal assistance. Such a policy will encourage dual-use technologies, where the civilian sector will benefit from the creativity of the defense sector.

The bill also directs that all projects receiving DPA assistance will be tested for production if the producer so requests, thus strengthening a link between assistance and marketplace performance. We've got to stress real-world performance at every step.

By passing this legislation, we also recognize the growing interdependence among foreign countries for military materials. A fair and open trade policy does not mean we should be cavalier about protecting our defense needs. This bill therefore requires a better accounting of where this Nation procures its critical defense technologies, and it requires a very important report on the identification of potential vulnerabilities—situations where a foreign adversary could deny this country, directly or indirectly, access to a vital component.

The bill will allow the United States to stockpile critical components that cannot be acquired from domestic producers, and it allows the President some discretion in limiting the production of critical components to domestic manufacturers.

Finally, the bill also puts more faith in the productive capacity and creativity of our small business sector, a sector that generally receives more lip service than legislation.

I thank Mr. CARPER for his perseverance on this bill. For a great long time the fair trade in financial services bill held up the DPA. We worked long and hard on the fair trade bill. This member wanted a fair trade bill, one that increased Treasury's leverage on target countries denying U.S. firms access without harmfully diffusing the power of the trade representative. I deeply regret that we never found the formula to allow that policy to become law. We will try again in the future.

Mr. Speaker, this Defense Production Act has been long in coming, and I commend it to my peers.

Mr. CARPER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I congratulate the chairman for a terrific job.

Mr. Speaker, I rise in support of the conference report on S. 347, the Defense Production Act Amendments of 1992. I'd like to thank Chairman CARPER of the Economic Stabilization Subcommittee for his able leadership in getting this legislation to the floor. As former chair of this subcommittee from 1986 to 1990, I take special pride in seeing this legislation come to fruition as a result of the extensive series of hearings and passage of a DPA bill in the previous Congress. This legislation will enable us to establish and sustain an industrial base that not only meets our defense needs but also our peacetime requirements.

S. 347 reflects both an awareness and consensus that statutory authority is essential to maintaining our country's military and industrial readiness to respond to crisis situations without having to depend on uncertain foreign sources of critical defense components. The Persian Gulf conflict is only the most recent evidence of the compelling necessity for keeping our industrial base self-sufficient and self-sustaining. Indeed, it is neither hyperbole nor exaggeration to say that ensuring the integrity and the independence of our domestic defense supplies is vital to the long-term security of our Nation.

The testimony given to the Congress during the past several years has dramatized in vivid detail the urgent need to encourage and assist the domestic production of materials that are critical to our defense requirements. Since my first days in Congress, I have argued strenuously and steadfastly for protection of our metal fastener industry in the interest of our Nation's security. Metal fasteners and machine tools are an essential component of many kinds of defense articles. This bill, for example, would benefit my own State of Ohio, which has an important metal fastener and machine tool industry and which is the ninth largest defense contractor, with $5 billion in defense contracts.

What gives this bill its real clout is the information system it sets up to perform production base analysis, with the ability to identify potential production-stopping conditions, such as dependence on foreign sources.

The legislation before us this evening would help American makers of defense-critical components to reclaim their lost share of the domestic market by enacting the statutory authority to modernize, strengthen, and secure the permanent productive capacity of our defense-industrial base. A vote in favor of this legislation is truly a vote in favor of assuring the ready availability, in times of international crisis or national emergency, of essential materials that serve the strategic and national security needs of our country.

I urge my colleagues to support this legislation.

Mr. RIDGE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I include my statement in the RECORD at this point.

I would call attention to one provision in here which all the Members would want to brag about, and that is the fact that the conference report would prohibit the use of any funds being used under this act to hire a contractor that has fraudulently used a Made in the USA label. I support this.

If people feel a desire to buy American, it should be the real thing, not a fake.

Mr. RIDGE. Mr. Speaker, I say to my colleagues there are a variety of reasons to support this conference report. You know them all.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CARPER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

FEDERALLY SUPPORTED HEALTH CENTERS ASSISTANCE ACT OF 1992

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary and the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 6183) to amend the Public Health Service Act to provide protections from legal liability for certain health care professionals providing services pursuant to such act, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. GEKAS. Mr. Speaker, reserving the right to object, I would ask the gentleman from Massachusetts [Mr. FRANK] if he would explain to the body the procedure that leads to this request.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. Further reserving the right to object, I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, this is a bill only very slightly altered from one we passed on suspension unanimously a couple of weeks ago cosponsored by the gentleman from Oregon [Mr. WYDEN] and the gentlewoman from Connecticut [Mrs. JOHNSON] and others.

It essentially allows neighborhood health centers to use part of their appropriation at no additional cost to be covered under the Federal Court Claims Act, obviating the need for them to spend millions of dollars a year on private malpractice insurance.

□ 0450

We have tried to work out with the esteemed, distinguished, estimable Senate how to do this and, having passed it once and sent it to them, we now have to pass it again and send it to them to give that very distinguished, eminent legislative body a chance to get it right the second time.

Mr. GEKAS. Mr. Speaker, further reserving the right to object, I simply want to state that indeed this body has already registered its approval of this measure. I want to thank Ray Smeitanka, of our staff, for bringing us up to date on all of this.

Mr. Speaker, I withdraw my reservation of objection and ask that the bill be passed.

The SPEAKER pro tempore. (Mr. SKAGGS). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federally Supported Health Centers Assistance Act of 1992".

SEC. 2. LIABILITY PROTECTIONS FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) IN GENERAL.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding at the end the following new subsection:

"(g)(1) For purposes of this section, an entity described in paragraph (4) and any officer, employee, or contractor (subject to paragraph (5)) of such an entity who is a physician or other licensed or certified health care partitioner shall be deemed to be an employee of the Public Health Service for a calendar year that begins during a fiscal year for which a transfer of the full amount estimated under subsection (k)(1)(A) was made under subsection (k)(3) (subject to paragraph (3)). The remedy against the United States for an entity described in paragraph (4) and any officer, employee, or contractor (subject to paragraph (5)) of such an entity who is deemed to be an employee of the Public Health Service pursuant to this paragraph, shall be exclusive of any other civil action or proceeding to the same extent as the remedy against the United States is exclusive pursuant to subsection (a).

"(2) If, with respect to an entity or person deemed to be an employee for purposes of paragraph (1), a cause of action is instituted against the United States pursuant to this section, any claim of the entity or person for benefits under an insurance policy with respect to medical malpractice relating to such cause of action shall be subrogated to the United States.

"(3) This subsection shall apply with respect to a cause of action arising from an act or omission which occurs on or after January 1, 1993. This subsection shall not apply with respect to a cause of action arising from an act or omission which occurs on or after January 1, 1996.

"(4) An entity described in this paragraph is a public or non-profit private entity receiving Federal funds under any of the following grant programs:

"(A) Section 329 (relating to grants for migrant health centers).

"(B) Section 330 (relating to grants for community health centers).

"(C) Section 340 (relating to grants for health services for the homeless).

"(D) Section 340A (relating to grants for health services for residents of public housing).

"(5) For purposes of paragraph (1), an individual may be considered a contractor of an entity described in paragraph (4) only if—

"(A) the individual normally performs on average at least 32½ hours of service per week for the entity for the period of the contract; or

"(B) in the case of an individual who normally performs on average less than 32½ hours of services per week for the entity for the period of the contract and is a licensed or certified provider of obstetrical services—

"(i) the individual's medical malpractice liability insurance coverage does not extend to services performed by the individual for the entity under the contract, or

"(ii) the Secretary finds that patients to whom the entity furnishes services will be deprived of obstetrical services if such individual is not considered a contractor of the entity for purposes of paragraph (1)."

(b) Requirement of Appropriate Polices and Procedures Regarding Health Care Professionals.—Section 224 of the Public Health Service Act, as amended by subsection (a), is further amendment by adding at the end the following new subsection

"(h) Nothwithstanding subsection (g)(1), the Secretary, in consultation with the Attorney General, may not deem an entity described in subsection (g)(4) to be an employee of the Public Health Service Act for purposes of this section unless the entity—

"(1) has implemented appropriate policies and procedures to reduce the risk of malpractice and the risk of lawsuits arising out of any health or health-related functions performed by the entity;

"(2) has reviewed and verified the professional credentials, references, claims history, fitness, professional review organization findings, and license status of its physicians and other licensed or certified health care practitioners, and, where necessary, has obtained the permission from these individuals to gain access to this information;

"(3) has no history of claims having been filed against the United States as a result of the application of this section to the entity or its officers, employees, or contractors as provided for under this section, or, if such a history exists, has fully cooperated with the Attorney General in defending against any such claims and either has taken, or will take, any necessary corrective steps to assure against such claims in the future; and

"(4) has fully cooperated with the Attorney General in providing information relating to an estimate described under subsection (k).".

(c) Authorization for the Attorney General To Exclude Certain Health Care Professionals From Coverage.—Section 224 of the Public Health Service Act, as amended by subsections (a) and (b), is further amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding subsection (g)(1), the Attorney General, in consultation with the Secretary, may determine, after notice and opportunity for a hearing, that an individual physician or other licensed or certified health care practitioner who is an officer, employee, or contractor of an entity described in subsection (g)(4) shall not be deemed to be an employee of the Public Health Service for purposes of this section, if treating such individual as such an employee would expose the Government to an unreasonably high degree of risk of loss because such individual—

"(A) does not comply with the policies and procedures that the entity has implemented pursuant to subsection (h)(1);

"(B) has a history of claims filed against him or her as provided for under this section that is outside the norm for licensed or certified health care practitiones within the same specialty;

"(C) refused to reasonably cooperate with the Attorney General in defending against any such claim;

"(D) provided false information relevant to the individual's performance of his or her duties to the Secretary, the Attorney General, or an applicant for or recipient of funds under this Act, or

"(E) was the subject of disciplinary action taken by a State medical licensing authority or a State or national professional society.

"(2) A final determination by the Attorney General under this subsection that an individual physician or other licensed or certified health care professional shall not be deemed to be an employee of the Public Health Service shall be effective upon receipt by the entity employing such individual of notice of such determination, and shall apply only to acts or omissions occurring after the date such notice is received.".

SEC. 3. HOSPITAL ADMITTING PRIVILEGES FOR CERTAIN HEALTH CARE PROVIDERS.

Section 224 of the Public Health Service Act, as amended by section 2, is further amended by adding at the end the following new subsection:

"(j) In the case of a health care provider who is an officer, employee, or contractor of an entity described in subsection (g)(4), section 335(a) shall apply with respect to the provider to the same extent and in the same manner as such section applies to any member of the National Health Service Corps.".

SEC. 4. PAYMENTS OF JUDGMENTS.

Section 224 of the Public Health Service Act, as amended by sections 2 and 3, is further amended by adding at the end the following new subsection:

"(k)(1)(A) For each of the fiscal years 1993, 1994, and 1995, the Attorney General, in consultation with the Secretary, shall estimate by the beginning of the year (except that an estimate shall be made for fiscal year 1993 by December 31, 1992, subject to an adjustment within 90 days thereafter) the amount of all claims which are expected to arise under this section (together with related fees and expenses of witnesses) for which payment is expected to be made in accordance with section 1346 and chapter 171 of title 28, United States Code, from the acts or omissions, during the calendar year that begins during that fiscal year, of entities described in subsection (g)(4) and of officers, employees, or contractors (subject to subsection (g)(5) of such entities.

"(B) The estimate under subparagraph (A) shall take into account—

"(i) the value and frequency of all claims for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions by entities described in subsection (g)(4) or by officers, employees, or contractors (subject to subsection (g)(5)) of such entities who are deemed to be employees of the Public Health Service under subsection (g)(1) that, during the preceding 5-year period, are filed under this section or, with respect to years occurring before this subsection takes effect, are filed against persons other than the United States,

"(ii) the amounts paid during that 5-year period on all claims described in clause (i), regardless of when such claims were filed, adjusted to reflect payments which would not be permitted under section 1346 and chapter 171 of title 28, United States Code, and

"(iii) amounts in the fund established under paragraph (2) but unspent from prior fiscal years.

"(2) Subject to appropriations, for each of the fiscal years 1993, 1994, and 1995, the Secretary shall establish a fund of an amount equal to the amount estimated under paragraph (1) that is attributable to entities receiving funds under each of the grant programs described in paragraph (4) of subsection (g), but not to exceed a total of $30,000,000 for each such fiscal year.

"(3) In order for payments to be made for judgments against the United States (together with related fees and expenses of witnesses) pursuant to this section arising from the acts or omissions of entities described in subsection (g)(4) and of officers, employees, or contractors (subject to subsection (g)(5)) of such entities, the total amount contained within the fund established by the Secretary under paragraph (2) for a fiscal year shall be transferred not later than December 31 that occurs during the fiscal year to the appropriate accounts in the Treasury.".

SEC. 5. REPORT ON RISK EXPOSURE OF COVERED ENTITIES.

(a) In General.—Not later than April 1, 1995, the Attorney General, in consultation with the Secretary of Health and Human Services (hereafter referred to as the "Secretary"), shall submit a report to Congress on the medical malpractice liability claims experience of entities subject to section 224(g) of the Public Health Service Act (as added by section 3(a)) and the risk exposure associated with such entities.

(b) Effect of Liability Protections on Costs Incurred by Covered Entities.—The Attorney General's report under subsection (a) shall include an analysis by the Secretary comparing—

(1) the Secretary's estimate of the aggregate amounts that such entities (together

with the officers, employees, and contractors of such entities who are subject to section 224(g) of such Act) would have directly or indirectly paid to obtain medical malpractice liability insurance coverage had section 224(g) of the Public Health Service Act not been enacted into law, with

(2) the aggregate amounts by which the grants received by such entities under the Public Health Service Act were reduced as a result of the enactment of section 224(k)(2) of such Act.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUPPLEMENTAL COMPACT BETWEEN THE COMMONWEALTH OF PENNSYLVANIA AND THE STATE OF NEW JERSEY

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2964) granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. GEKAS. Mr. Speaker, reserving the right to object, I ask the gentleman from Massachusetts [Mr. FRANK] to detail the contents of this legislation.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Speaker, we did this one, again, 2 weeks ago and, again, we have to give the Senate a second chance. This is a compact between the State of New Jersey and the Commonwealth of Pennsylvania. We have to ratify compacts.

They made a compact, we have to ratify it. And that is what this is.

Mr. GEKAS. Mr. Speaker, I withdraw my reservation of objection and ask for a unanimous vote in favor of the legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to a supplemental compact or agreement between The Commonwealth of Pennsylvania and the State of New Jersey amending articles I, II, III, IV, XII, and XIII of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties". The supplemental compact or agreement is substantially as follows:

(1) Article I of the "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties", as amended and supplemented, is amended to read as follows:

"The body corporate and politic, heretofore created and known as the Delaware River Joint Commission hereby is continued under the name of the Delaware River Port Authority (hereinafter in this agreement called the 'commission'), which shall constitute the public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for the following public purposes, and which shall be deemed to be exercising an essential governmental function in effectuating such purposes, to wit:

"(a) The operation and maintenance of the bridge, owned jointly by the 2 States, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, including its approaches, and the making of additions and improvements thereto.

"(b) The effectuation, establishment, construction, acquisition, operation, and maintenance of railroad or other facilities for the transportation of passengers across any bridge or tunnel owned or controlled by the commission, including extensions of such railroad or other facilities necessary for efficient operation in the Port District.

"(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance, or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto, either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation or in any other manner.

"(d) Co-operation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware River and the Port District.

"(e) The procurement from the Government of the United States of any consents which may be requisite to enable any project within its powers to be carried forward.

"(f) The construction, acquisition, operation and maintenance of other bridges and tunnels across or under the Delaware River, between the city of Philadelphia or the county of Delaware in the Commonwealth of Pennsylvania and the State of New Jersey, including approaches and the making of additions and improvements thereto.

"(g) The promotion as a highway of commerce of the Delaware River, and the promotion of increased passenger and freight commerce on the Delaware River and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

"(h) To study and make recommendations to the proper authorities for the improvement of terminal, lighterage, wharfage, warehouse and other facilities necessary for the promotion of commerce on the Delaware River.

"(i) Institution through its counsel, or such other counsel as it shall designate, or intervention in, any litigation involving rates, preferences, rebates, or other matters vital to the interest of the Port District; provided, that notice of any such institution of or intervention in litigation shall be given promptly to the Attorney General of the Commonwealth of Pennsylvania and to the Attorney General of the State of New Jersey, and provision for such notices shall be made in a resolution authorizing any such intervention or litigation and shall be incorporated in the minutes of the commission.

"(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express mail, and baggage, or any of them, between points in New Jersey within the Port District and points in Pennsylvania within the Port District, and intermediate points. Such system may be established either by utilizing existing rapid transit systems, railroad facilities, highways, and bridges within the territory involved or by the construction or provision of new rail facilities where deemed necessary, and may be established either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

"(k) The performance of such other functions which may be of mutual benefit to the Commonwealth of Pennsylvania and the State of New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels.

"(l) The performance or effectuation of such additional bridge, tunnel, railroad, rapid transit, transportation, transportation facility, terminal, terminal facility, and port improvement and development purposes within the Port District as may hereafter be delegated to or imposed upon it by the action of either State concurred in by legislation of the other.

"(m) The unification of the ports of the Delaware River through (i) the acquisition or taking control of any terminal, terminal facility, transportation facility or marine terminal or port facility or associated property within the Port District through purchase, lease, or otherwise, or by the acquisition, merger, becoming the successor to or entering into contracts, agreements, or partnerships with any other port corporation, port authority, or port related entity which is located within the Port District, all in accordance with the applicable laws of the State in which the facility, corporation, or authority is located; (ii) the exercise of the other powers granted by this compact; or (iii) the establishment (whether solely or jointly with any other entity or entities) of such subsidiary corporation or corporations or maritime or port advisory committees as may be necessary or desirable to effectuate this purpose.

"(n) The planning, financing, development, acquisition, construction, purchase, lease, maintenance, marketing, improvement and operation of any project, including but not limited to any terminal, terminal facility, transportation facility, or any other facility of commerce or economic development activity; from funds available after appropriate allocation for maintenance of bridge and other capital facilities.".

(2) Article II of the agreement is amended to read as follows:

"The commission shall consist of sixteen commissioners, eight resident voters of the Commonwealth of Pennsylvania and eight resident voters of the State of New Jersey, who shall serve without compensation.

"The commissioners for the State of New Jersey shall be appointed by the Governor of New Jersey with the advice and consent of the Senate of New Jersey, for terms of five years, and in case of a vacancy occurring in the office of commissioner during a recess of the Legislature, it may be filled by the Governor by an ad interim appointment which shall expire at the end of the next regular session of the Senate unless a successor shall be sooner appointed and qualify and, after the end of the session, no ad interim appointment to the same vacancy shall be made unless the Governor shall have submitted to the Senate a nomination to the office during the session and the Senate shall have adjourned without confirming or rejecting it, and no person nominated for any such vacancy shall be eligible for an ad interim appointment to such office if the nomination shall have failed of confirmation by the Senate.

"Six of the eight commissioners for the Commonwealth of Pennsylvania shall be appointed by the Governor of Pennsylvania for terms of five years. The Auditor General and the State Treasurer of said Commonwealth shall be ex officio commissioners for said Commonwealth, each having the privilege of appointing a representative to serve in his place at a meeting of the commission which he does not attend personally. Any commissioner who is an elected public official shall have the privilege of appointing a representative to serve and act in his place at any meeting of the commission which he does not attend personally.

"All commissioners shall continue to hold office after the expiration of the terms for which they are appointed or elected until their respective successors are appointed and qualify, but a period during which any commissioner shall hold over shall be deemed to be an extension of his term of office for the purpose of computing the date on which his successor's term expires.".

(3) Article III of the agreement is amended to read as follows:

"The commissioners shall have charge of the commission's property and affairs and shall for the purpose of doing business constitute a board, but no action of the commissioners shall be binding unless a majority of the members of the commission from Pennsylvania and a majority of the members of the commission from New Jersey shall vote in favor thereof.

"Notwithstanding the above, each State reserves the right to provide by law for the exercise of a veto power by the Governor of that State over any action of any commissioner from that State at any time within 10 days (Saturdays, Sundays, and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.".

(4) Article IV of the agreement is amended to read as follows:

"For the effectuation of its authorized purposes the commission is hereby granted the following powers:

"(a) To have perpetual succession.

"(b) To sue and be sued.

"(c) To adopt and use an official seal.

"(d) To elect a chairman, vice-chairman, secretary, and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

"(e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties, and compensation.

"(f) To enter into contracts.

"(g) To acquire, own, hire, use, operate, and dispose of personal property.

"(h) To acquire, own, use, lease, operate, mortgage, and dispose of real property and interests in real property, and to make improvements thereon.

"(i) To grant by franchise, lease, or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

"(j) To borrow money upon its bonds or other obligations, either with or without security, and to make, enter into, and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates, or other charges to be established, levied, made, and collected for any use of any such property or facility, or the application, use, and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds of any such tolls, rents, rates, or other charges or any other revenues or moneys of the commission.

"(k) To exercise the right of eminent domain within the Port District.

"(l) To determine the exact location, system, and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate, or control.

"(m) In addition to the foregoing, to exercise the powers, duties, authority, and jurisdiction heretofore conferred and imposed upon the aforesaid the Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said 2 States.

"(n) To exercise all other powers not inconsistent with the constitutions of the 2 States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

"(o) To acquire, purchase, construct, lease, operate, maintain, and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

"(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

"(q) To establish 1 or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

"The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

"It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.".

(5) Article XII of the agreement is amended to read as follows:

"The Commission shall, within 90 days after the end of each fiscal year, submit to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey a complete and detailed report of the following:

"(1) its operations and accomplishments during the completed fiscal year;

"(2) its receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes;

"(3) its assets and liabilities at the end of the fiscal year, including the status of reserve, depreciation, special or other funds including debits and credits of these funds;

"(4) a schedule of bonds and notes outstanding at the end of the fiscal year;

"(5) a list of all contracts exceeding $100,000 entered into during the fiscal year;

"(6) a business or strategic plan for the commission and for each of its operating divisions; and

"(7) a five year capital plan.

"Not less than once every five years, the commission shall cause a management audit of its operational effectiveness and efficiency to be conducted by an independent consulting firm selected by the commission. The first management audit to be conducted shall commence within 3 years of the date of coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act. This audit is in addition to any other audit which the commission determines to conduct from time to time.

"The commission shall, not later than 2 years after the date of the coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act, prepare a comprehensive master plan for the development of the Port District. The plan shall include, but not be limited to, plans for the construction, financing, development, reconstruction, purchase, lease, improvement, and operation of any terminal, terminal facility, transportation facility or any other facility of commerce or economic development activity. The master plan shall include the general location of such projects and facilities as may be included in the master plan and shall to the maximum extent practicable include, but not be limited to, a general description of each such project and facility, the land use requirements necessary therefor, and estimates of project costs and of a schedule for commencement of each such project. Prior to adopting such master plan, the commission shall give written notice to, afford a reasonable opportunity for comment, consult with and consider any recommendations from States, county and municipal government, as well as commissions, public corporations and authorities, and the private sector. The commission may modify or change any part of the plan in the same form and manner as provided for the adoption of the original plan. At the time the commission authorizes any project or facility, the commission shall promptly provide to the Governor and Legislature of each State a detailed report on the project including its status within the master plan. The commission shall include within the authorization a status of the project or facility in the master plan and any amendment thereof, and no project shall be authorized if not included in the master plan or amendment thereof. Any project which has been commenced and approved by the commission prior to the adoption of the master plan shall be included, for informational purposes only, in the master plan. The commission shall provide notice of such on-going projects to those States, county and municipal governments, as well as entities in the private sector who would be entitled to such notice had the project not been commenced in anticipation of adopting the master plan, but there shall be no requirement that the project be delayed or deferred due to these provisions.

"In addition to other powers conferred upon it, and not in limitation thereof, the commission may acquire all right, title and interest in and to the Tacony-Palmyra bridge, across the Delaware River at Palmyra, New Jersey, together with any approaches and interests in real property necessary thereto. The acquisition of such bridge, approaches and interests by the commission shall be by purchase or by condemnation in accordance with the provisions of the Federal law consenting to or authorizing the construction of such bridge or approaches, or the acquisition of such bridge, approaches or interests by the commission shall be pursuant to and in accordance with the provisions of section 48:5–22 and 48:5–23 of the Revised Statutes of New Jersey, and for all the purposes of said provisions and sections the commission is hereby appointed as the agency of the State of New Jersey and the Commonwealth of Pennsylvania exercising the rights and powers granted or reserved by said Federal law or sections to the State of New Jersey and Commonwealth of Pennsylvania jointly or to the State of New Jersey acting in conjunction with the Commonwealth of Pennsylvania. The commission shall have authority to so acquire such bridge, approaches and interests, whether the same be owned, held, operated or maintained by any private person, firm, partnership, company, association or corporation or by any instrumentality, public body, commission, public agency or political subdivision (including any county or municipality) of, or created by or in, the State of New Jersey or the Commonwealth of Pennsylvania, or by any instrumentality, public body, commission, or public agency of, or created by or in, a political subdivision (including any county or municipality) of the State of New Jersey or the Commonwealth of Pennsylvania. None of the provisions of the preceding paragraph shall be applicable with respect to the acquisition by the commission, pursuant to this paragraph, of said Tacony-Palmyra bridge, approaches and interests. The power and authority herein granted to the commission to acquire said Tacony-Palmyra bridge, approaches and interests shall not be exercised unless and until the Governor of the State of New Jersey and the Governor of the Commonwealth of Pennsylvania have filed with the commission their written consents to such acquisition.

"Notwithstanding any provision of this agreement, nothing herein contained shall be construed to limit or impair any right or power granted or to be granted to the Pennsylvania Turnpike Commission or the New Jersey Turnpike Authority, to finance, construct, operate, and maintain the Pennsylvania Turnpike System or any turnpike project of the New Jersey Turnpike Authority, respectively, throughout the Port District, including the right and power, acting alone or in conjunction with each other, to provide for the financing, construction, operation, and maintenance of one bridge across the Delaware River south of the city of Trenton in the State of New Jersey; provided that such bridge shall not be constructed within a distance of 10 miles, measured along the boundary line between the Commonwealth of Pennsylvania and the State of New Jersey, from the existing bridge, operated and maintained by the commission, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, so long as there are any outstanding bonds or other securities or obligations of the commission for which the tolls, rents, rates, or other revenues, or any part thereof, of said existing bridge shall have been pledged. Nothing contained in this agreement shall be construed to authorize the commission to condemn any such bridge.

"Anything herein contained to the contrary notwithstanding, no bridge or tunnel shall be constructed, acquired, operated, or maintained by the commission across or under the Delaware River north of the boundary line between Bucks County and Philadelphia county in the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said river, and any new bridge or tunnel authorized by or pursuant to this compact or agreement to be constructed or erected by the commission may be constructed or erected at any location south of said boundary line notwithstanding the terms and provisions of any other agreement between the Commonwealth of Pennsylvania and the State of New Jersey. Except as may hereafter be otherwise provided in conformity with Article IX hereof with respect to specific properties designated by action of the Legislatures of both of the signatory States, no property or facility owned or controlled by the commission shall be acquired from it by any exercise of powers of condemnation or eminent domain.".

(6) Article XIII of the agreement is amended to read as follows:

"As used herein, unless a different meaning clearly appears from the context:

" 'Port District' shall mean all the territory within the counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia in Pennsylvania, and all the territory within the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem in New Jersey.

" 'Commission' shall mean the Delaware River Port Authority and, when required by the context, the board constituting the governing body thereof in charge of its property and affairs.

" 'Commissioner' shall mean a member of the governing body of the Delaware River Port Authority.

" 'Economic development activity' or 'economic development' means any structure or facility or any development within the Port District in connection with manufacturing, port-oriented development, foreign trade zone site development or research, commercial, industrial, or recreational purposes, or for purposes of warehousing or consumer and supporting services directly relating to any of the foregoing or to any authority project or facility which are required for the sound economic development of the Port District.

" 'Terminal' shall include any marine, motor truck, motorbus, railroad, and air terminal or garage, also any coal, grain, and lumber terminal and any union freight and other terminals used or to be used in connection with the transportation of passengers and freight, and equipment, materials, and supplies therefor.

" 'Transportation facility' and 'facilities for transportation of passengers' shall include railroads operated by steam, electricity, or other power, rapid transit lines, motor trucks, motorbuses, tunnels, bridges, airports, boats, ferries, carfloats, lighters, tugs, floating elevators, barges, scows, or harbor craft of any kind, and aircraft, and equipment, materials, and supplies therefor.

" 'Terminal facility' shall include wharves, piers, slips, berths, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, floatbridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil, and fresh water stations, markets, and every kind of terminal, storage, or supply facility now in use, or hereafter designed for use to facilitate passenger transportation and for the handling, storage, loading, or unloading of freight at terminals, and equipment, materials, and supplies therefor.

" 'Transportation of passengers' and 'passenger transportation' shall mean the transportation of passengers by railroad or other facilities.

" 'Rapid transit system' shall mean a transit system for the transportation of passengers, express mail, and baggage by railroad or other facilities, and equipment, materials, and supplies therefor.

" 'Project' shall mean any improvement, betterment, facility or structure authorized by or pursuant to this compact or agreement to be constructed, erected, acquired, owned, or controlled or otherwise undertaken by the commission. 'Project' shall not include undertakings for purposes described in Article I, subdivisions (d), (e), (g), (h), and (i).

" 'Railroad' shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, powerhouses, substations, lines for the transmission of power, carbarns, shops, yards, sidings, turnouts, switches, stations, and approaches thereto, cars, and motive equipment.

" 'Bridge' and 'tunnel' shall include such approach highways and interests in real property necessary therefor in the Commonwealth of Pennsylvania or the State of New Jersey as may be determined by the commission to be necessary to facilitate the flow of traffic in the vicinity of a bridge or tunnel or to connect a bridge or tunnel with the highway system or other traffic facilities in said Commonwealth or said State; provided, however, that the power and authority herein granted to the commission to construct new or additional approach highways shall not be exercised unless and until the Department of Transportation of the Commonwealth of Pennsylvania shall have filed with the commission its written approval as to approach highways to be located in said Commonwealth and the State Highway Department of the State of New Jersey shall have filed with the commission its written approval as to approach highways to be located in said State.

" 'Facility' shall include all works, buildings, structures, property, appliances, and equipment, together with appurtenances necessary and convenient for the proper construction, equipment, maintenance, and operation of a facility or facilities or any 1 or more of them.

" 'Personal property' shall include choses in action and all other property now commonly, or legally, defined as personal property, or which may hereafter be so defined.

" 'Lease" shall include rent or hire.

" 'Municipality' shall include a county, city, borough, village, township, town, public agency, public authority, or political subdivision.

"Words importing the singular number include the plural number and vice versa.

"Wherever legislation or action by the Legislature of either signatory State is herein referred to it shall mean an act of the Legislature duly adopted in accordance with the provisions of the Constitution of such State.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE 2D SESSION, 102D CONGRESS

Mr. GEPHARDT. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 384) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 384

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, October 8, 1992, or Friday, October 9, 1992, pursuant to a motion by the Majority Leader, or his designee, it stand adjourned sine die, and that when the Senate adjourns on the calendar day of Thursday, October 8, 1992, or any day thereafter, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned sine die or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER. Without objection, the concurrent resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

ADJOURNMENT TO THURSDAY, OCTOBER 8, 1992

Mr. GEPHARDT. I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Thursday, October 8, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

VETERANS HEALTH CARE ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5193) to improve the delivery of health-care services to eligible veterans and to clarify the authority of the Secretary of Veterans Affairs with Senate amendments thereto, and concur in the Senate amendments with the amendments that are at the desk.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendments to the Senate amendments as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCE TO TITLE 38.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs Improvement Act of 1992".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—NURSE PAY

SEC. 101. REVISION TO NURSE PAY GRADE SCHEDULE.

(a) REVISION.—Section 7404(b)(1) is amended in the matter relating to "NURSE SCHEDULE" by striking out "Director grade." and all that follows through "Entry grade." and inserting in lieu thereof the following:

"Nurse V.
"Nurse IV.
"Nurse III.
"Nurse II.
"Nurse I.".

(b) CONFORMING AMENDMENT.—Section 7451(b) of such title is amended by striking out "four" and inserting in lieu thereof "five".

SEC. 102. AUTHORITY TO ESTABLISH SPECIAL RATES OF PAY FOR EMPLOYEES OF FACILITIES LOCATED OUTSIDE THE CONTIGUOUS UNITED STATES, ALASKA, AND HAWAII.

Section 7451(a)(3) is amended—

(1) by striking out "(3) The rates" and inserting in lieu thereof "(3)(A) Except as provided in subparagraph (B), the rates"; and

(2) by adding at the end the following new subparagraph:

"(B) Under such regulations as the Secretary shall prescribe, the Secretary shall establish and adjust the rates of basic pay for covered positions at the following health-care facilities in order to provide rates that enable the Secretary to recruit and retain sufficient numbers of health-care personnel in such positions at such facilities:

"(i) The Veterans Memorial Medical Center in the Republic of the Philippines.

"(ii) Department of Veterans Affairs health-care facilities located outside the contiguous States, Alaska, and Hawaii.".

SEC. 103. AUTHORITY TO CARRY OUT CERTAIN SURVEYS OF LABOR MARKETS IN DETERMINING RATES OF COMPENSATION OF HEALTH CARE PROFESSIONALS.

Section 7451(d)(3) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraphs (C) and (D):

"(C) In the event that the director of a Department health-care facility who conducts a survey of beginning rates of compensation for corresponding health-care professionals in the labor-market area of the facility under subparagraph (B) determines (under regulations prescribed by the Secretary) that the size or composition of the labor-market area provides information that is not sufficient to permit the adjustments referred to in that subparagraph for the applicable covered positions, the director may conduct a survey of such rates of compensation in other comparable labor-market areas (as so determined). Any survey under this subparagraph shall be conducted in accordance with the provisions of subparagraph (B).

"(D) In the event that the director of a Department health-care facility who conducts a survey of beginning rates of compensation for certified registered nurse anesthetists in the labor-market area of the facility under subparagraph (B), and, if appropriate, a survey of such rates of compensation for such nurse anesthetists in comparable labor-market areas under subparagraph (C), determines (under regulations prescribed by the Secretary) that neither of the survey methods described in such subparagraphs is sufficient to permit the adjustments referred to in subparagraph (B) for such nurse anesthetists employed by the facility, the director may use data on the beginning rates of compensation paid to certified registered nurse anesthetists who are employed on a salary basis by entities that provide anesthesia services through certified registered nurse anesthetists in the labor-market area. For the purposes of this subparagraph, certified registered nurse anesthetists who are so employed by such entities shall be deemed to be corresponding health-care professionals to the certified registered nurse anesthetists employed by the facility.".

SEC. 104. REVISION OF BASIS FOR CALCULATION OF COMPENSATION OF CORRESPONDING HEALTH CARE POSITIONS.

Section 7451(d)(6)(A)(i) is amended by striking out "established" and inserting in lieu thereof "paid".

SEC. 105. ADJUSTMENT IN GRADE OR STEP OF CERTAIN HEALTH-CARE PROFESSIONALS WHO TRANSFER TO OTHER DEPARTMENT OF VETERANS AFFAIRS FACILITIES.

(a) AUTHORITY TO ADJUST.—Subsection (e) of section 7452 is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph (2):

"(2) The Secretary may establish for an employee referred to in paragraph (1) who transfers upon the request of the Secretary (but not pursuant to a disciplinary action otherwise authorized by law) to a new facility a rate of basic pay that is higher than the rate of basic pay otherwise paid by the new facility to an employee of that grade and step if the Secretary determines that such rate of pay is necessary to recruit the employee for employment in the new facility. Whenever the Secretary exercises the authority under the preceding sentence relating to the rate of basic pay of a transferred employee, the Secretary shall, in the next annual report required under section 7451(g) of this title, provide justification for doing so.".

(b) CONFORMING AMENDMENT.—Section 7451(g) is amended by adding at the end the following new paragraph:

"(9) The justification required by section 7452(e)(2) of this title.".

TITLE II—PREVENTIVE HEALTH CARE

SEC. 201. IMPROVEMENT OF PREVENTIVE HEALTH SERVICES.

(a) In General.—The text of section 1762 is—

(1) transferred to section 1701; and

(2) redesignated as paragraph (9) of such section 1701.

(b) Improvement.—Such paragraph (9) is amended—

(1) by striking out "For the purposes of this subchapter, the term 'preventive health-care services' means" and inserting in lieu thereof "The term 'preventive health services' means";

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), and (K), respectively; and

(3) by striking out subparagraphs (A) and (B) (as so redesignated) and inserting in lieu thereof the following:

"(A) periodic medical and dental examinations (including screening for high blood pressure, glaucoma, high cholesterol, and colorectal and gender-specific cancers);

"(B) patient health education (including education relating to nutrition, stress management, physical fitness, and stopping smoking);".

(c) Conforming Amendment.—Section 1701(6)(A)(i) is amended by striking out "preventive health-care services as defined in section 1762 of this title," and inserting in lieu thereof "preventive health services,".

(d) Effective Date.—The amendments made by subsections (a), (b), and (c) shall take effect on the date of the enactment of this Act.

SEC. 202. REPEAL OF PILOT PROGRAM.

(a) Repeal.—Subchapter VII of chapter 17 is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 is amended by striking out the matter relating to subchapter VII.

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

SEC. 203. NATIONAL CENTER FOR PREVENTIVE HEALTH.

(a) Establishment.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

"§7318. National Center for Preventive Health

"(a)(1) The Chief Medical Director shall establish and operate in the Veterans Health Administration a National Center for Preventive Health (hereafter in this section referred to as the 'Center').

"(2) The head of the Center is the Director of Preventive Health (hereafter in this section referred to as the 'Director').

"(3) The Chief Medical Director shall provide the Center with such staff and other support as may be necessary for the Center to carry out effectively its functions under this section.

"(b) The purposes of the Center are as follows:

"(1) To provide a central office for monitoring and encouraging the activities of the Veterans Health Administration with respect to the provision, evaluation, and improvement of preventive health services.

"(2) To promote the expansion and improvement of clinical, research, and educational activities of the Veterans Health Administration with respect to such services.

"(c) In carrying out the purposes of the Center under this section, the Director shall—

"(1) develop and maintain current information on clinical activities of the Veterans Health Administration relating to preventive health services, including activities relating to—

"(A) the on-going provision of regularly-furnished services; and

"(B) patient education and screening programs carried out throughout the Administration;

"(2) develop and maintain detailed current information on research activities of the Veterans Health Administration relating to preventive health services;

"(3) in order to encourage the effective provision of preventive health services by Veterans Health Administration personnel—

"(A) ensure the dissemination to such personnel of any appropriate information on such services that is derived from research carried out by the Administration; and

"(B) acquire and ensure the dissemination to such personnel of any appropriate information on research and clinical practices relating to such services that are carried out by researchers, clinicians, and educators who are not affiliated with the Administration;

"(4) encourage and monitor the implementation within the Veterans Health Administration of the recommendations on preventive health services of the Advisory Committee on Preventive Health Services established under section 7319 of this title;

"(5) ensure transmission to the Advisory Committee of inquiries of the Secretary or the Chief Medical Director, and the responses of the Advisory Committee to such inquiries;

"(6) facilitate the optimal use of the unique resources of the Department for cooperative research into health outcomes by initiating recommendations, and responding to requests of the Chief Medical Director and the Director of the Medical and Prosthetic Research Service, for such research into preventive health services; and

"(7) provide advisory services to personnel of Department health-care facilities with respect to the planning or furnishing of preventive health services by such personnel.

"(d) In this section, the term 'preventive health services' has the meaning given such term in section 1701(9) of this title.".

(2) The table of sections at the beginning of chapter 73 is amended by adding after the item relating to section 7317 the following:

"7318. National Center for Preventive Health.".

(b) Position of Director of Center.—

(1) Position.—Subsection (a) of section 7306 is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph (7):

"(7) The Director of the National Center for Preventive Health, who shall be responsible to the Chief Medical Director for the operation of the Center.".

(2) Conforming Amendment.—Subsection (c) of such section is amended in the second sentence by striking out "and (4)" and inserting in lieu thereof "(4), and (7)".

(c) Annual Report.—(1) Not later than August 31, 1993, and on an annual basis thereafter, the National Center for Preventive Health established under section 7318 of title 38, United States Code (as added by subsection (a)), shall issue a report on the programs, activities, and findings of the Department of Veterans Affairs on preventive health services during the 12-month period preceding the date of the report to health-care professionals and organizations that have an interest in the provision of such services.

(2) In this subsection, the term 'preventive health services' has the meaning given such term in section 1701(9) of title 38, United States Code (as added by section 201 of this Act).

(d) Authorization of Appropriations.—There is authorized to be appropriated $2,500,000 to the Medical Care General and Special Fund of the Department of Veterans Affairs for each fiscal year after fiscal year 1992 for the purpose of permitting the National Center for Preventive Health established under section 7318 of title 38, United States Code (as added by subsection (a)), to carry out research, clinical, educational, and administrative activities under such section 7318. Such activities shall be deemed to be part of the operation of health-care facilities of the Department without regard to the location at which such activities are carried out.

SEC. 204. ADVISORY COMMITTEE ON PREVENTIVE HEALTH SERVICES.

(a) Establishment.—Subchapter II of chapter 73, as amended by section 203 of this Act, is further amended by inserting after section 7318 the following new section:

"§7319. Preventive Health Services Advisory Committee

"(a) The Secretary shall establish a Preventive Health Services Advisory Committee (hereafter in this section referred to as the 'Committee').

"(b)(1) The membership of the Committee shall be appointed by the Secretary, upon the recommendation of the Chief Medical Director, from individuals who are not employees of the Department, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to the provision of preventive health services, and at least one representative of veterans who receive health-care services from the Veterans Health Administration.

"(2) The Secretary, upon the recommendation of the Chief Medical Director, shall invite appropriate representatives of other departments and agencies of the Federal Government to participate in the activities of the Committee.

"(3) The Secretary shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this section.

"(c)(1) The Committee shall—

"(A) identify for the Secretary—

"(i) the types of preventive health services that are appropriate for particular groups of veterans; and

"(ii) the areas of inquiry within the field of such services that the Committee determines to be suitable for the pursuit of new or additional clinical research by the Department;

"(B) make recommendations to the Secretary on—

"(i) various means of initiating, enhancing, modifying, or discontinuing the provision of preventive health services by the Department in order to ensure that such groups of veterans are provided with appropriate preventive health services; and

"(ii) various means of ensuring the continued provision of preventive health services by the Department;

"(C) advise the Secretary on general developments in the fields of research and clinical activities related to preventive health services; and

"(D) respond to requests of the Secretary or the Chief Medical Director for information on specific research and clinical activities and ethical matters related to such activities.

"(2) The Committee shall transmit any identifications, recommendations, and advice to the Secretary under subparagraphs (A), (B), and (C) of paragraph (1) through the Chief Medical Director.

"(d)(1) Not later than August 1, 1993, and on an annual basis thereafter, the Committee shall submit to the Secretary a report on the activities of the Committee with respect to the matters referred to in subsection (c)(1) during the 12-month period preceding the date of the report.

"(2) The Committee shall submit to the Secretary, through the Chief Medical Director, such reports in addition to the reports referred to in paragraph (1) as the Committee considers appropriate with respect to the matters referred to in subsection (c)(1). Not later than 90 days

after receipt of a report under this paragraph, the Secretary shall transmit the report, together with the Secretary's comments and recommendations thereon, to the appropriate committees of the Congress.

"(e) In this section, the term 'preventive health services' has the meaning given such term in section 1701(9) of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7318, as added by section 203 of this Act, the following:

"7319. Preventive Health Services Advisory Committee.".

SEC. 205. REPORTS.

(a) Reports.—Not later than October 31, 1993, and on an annual basis thereafter, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report including the following:

(1) A description of the programs and activities of the Department of Veterans Affairs with respect to preventive health services during the 12-month period preceding the date of the report, including—

(A) the programs conducted by the Department—

(i) to educate veterans with respect to health promotion and disease prevention; and

(ii) to provide veterans with preventive health screenings and other clinical services, with such description setting forth the types of resources used by the Department to conduct such screenings and services and the number of veterans reached by such screenings and services;

(B) the means by which the Secretary addressed the specific preventive health services needs of particular groups of veterans (including veterans with service-connected disabilities, elderly veterans, low-income veterans, women veterans, institutionalized veterans, and veterans who are at risk for mental illness);

(C) the manner in which the provision of such services was coordinated with the activities of the Medical and Prosthetic Research Service of the Department and the National Center for Preventive Health;

(D) the manner in which the provision of such services was integrated into training programs of the Department, including initial and continuing medical training of medical students, residents, and Department staff;

(E) the manner in which the Department participated in cooperative preventive health efforts with other governmental and private entities (including State and local health promotion offices and not-for-profit organizations);

(F) the specific research carried out by the Department with respect to the long-term relationships among screening activities, treatment, and morbidity and mortality outcomes; and

(G) the cost effectiveness of such programs and activities, including an explanation of the means by which the costs and benefits (including the quality of life of veterans who participate in such programs and activities) of such programs and activities are measured.

(2) A specific description of research activities on preventive health services carried out during that period using employees, funds, equipment, office space, or other support services of the Department, with such description setting forth—

(A) the source of funds for such activities;

(B) the articles or publications (including the authors of such articles and publications) in which such activities are described;

(C) the Federal, State, or local governmental entity or private entity, if any, with which such activities were carried out; and

(D) the clinical, research, or staff education projects for which funding applications were submitted (including the source of the funds applied for) and upon which a decision is pending or was denied.

(3) With respect to the Preventive Health Services Advisory Committee established under section 7319 of title 38, United States Code (as added by section 204 of this Act)—

(A) the membership list of the Advisory Committee during the 12-month period preceding the date of the report;

(B) a description of matters referred by the Secretary or the Chief Medical Director of the Department to the Advisory Committee during that period;

(C) the most recent annual report submitted to the Secretary by the head of the Advisory Committee;

(D) the comments and recommendations of the Secretary, after consultation with the Chief Medical Director, with respect to that annual report; and

(E) a description of any activities of the Department to carry out any proposals or recommendations contained in that annual report.

(4) An accounting of the expenditure of funds during that period by the National Center for Preventive Health established under section 7318 of title 38, United States Code (as added by section 204 of this Act).

(b) Definition.—In this section, the term "preventive health services" has the meaning given such term in section 1701(9) of title 38, United States Code (as added by section 201 of this Act).

TITLE III—STATE HOME FACILITIES

SEC. 301. TREATMENT OF COMPENSATION OF VETERANS UNDER CERTAIN REHABILITATIVE SERVICES PROGRAMS.

Section 1718 is amended by adding at the end the following new subsection:

"(g)(1) Neither a veteran's participation in a program of rehabilitative services that is provided as part of the veteran's care furnished by a State home and is approved by the Secretary as conforming appropriately to standards for activities carried out under this section nor a veteran's receipt of payment as a result of such participation may be considered as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

"(2) A payment made to a veteran under a program of rehabilitative services described in paragraph (1) shall be considered for the purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.".

SEC. 302. EXTENSION OF PERIOD FOR COMPLETION OF CONDITIONALLY APPROVED APPLICATIONS FOR CONSTRUCTION.

(a) Extension of Period.—Section 8135(b)(6)(A) is amended by striking out "90 days" and inserting in lieu thereof "180 days".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to projects conditionally approved on or after that date.

SEC. 303. LIMITED PROHIBITION ON OBLIGATION OF FUNDS FOR RESCINDED PROJECTS.

(a) Prohibition.—Section 8135(b)(6)(B) is amended by adding at the end the following: "In the event the Secretary rescinds conditional approval of a project under this subparagraph, the Secretary may not further obligate funds for the project during the fiscal year in which the Secretary rescinds such approval.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to rescissions made on or after that date.

SEC. 304. COMMENCEMENT DATE FOR RECAPTURE PERIOD.

(a) Commencement Date.—Section 8136 is amended by striking out "within 20 years after completion of any project" and inserting in lieu thereof "within the 20-year period beginning on the date of the approval by the Secretary of the final architectural and engineering inspection of any project".

(b) Technical Amendment.—Such section is further amended by striking out "such facilities cease" and inserting in lieu thereof "the facilities covered by the project cease".

SEC. 305. COMMENCEMENT DATE FOR PAYMENT OF PER DIEM.

Section 1741 is amended by adding at the end the following:

"(e) Subject to section 1743, the payment of per diem for care furnished in a State home facility shall commence on the date of the completion of the inspection for recognition of the facility under section 1742(a) of this title if the Secretary determines, as a result of that inspection, that the State home meets the standards described in such section 1742(a).".

TITLE IV—RURAL HEALTH-CARE CLINICS

SEC. 401. RURAL HEALTH-CARE CLINIC PROGRAM.

(a) Establishment of Program.—Chapter 17 is amended by adding at the end of subchapter II the following new section:

"§1720D. Health care through rural clinics

"(a) During the three-year period beginning on October 1, 1992, the Secretary shall conduct a rural health-care clinic program in States where significant numbers of veterans reside in areas geographically remote from existing health-care facilities (as determined by the Secretary). The Secretary shall conduct the program in accordance with this section.

"(b)(1) In carrying out the rural health-care clinic program, the Secretary shall furnish medical services to the veterans described in subsection (c) through use of—

"(A) mobile health-care clinics equipped, operated, and maintained by personnel of the Department; and

"(B) other types of rural clinics, including part-time stationary clinics for which the Secretary contracts and part-time stationary clinics operated by personnel of the Department.

"(2) The Secretary shall furnish services under the rural health-care clinic program in areas—

"(A) that are more than 100 miles from a Department general health-care facility; and

"(B) that are less than 100 miles from such a facility, if the Secretary determines that the furnishing of such services in such areas is appropriate.

"(c) A veteran eligible to receive medical services through rural health-care clinics under the program is any veteran eligible for medical services under section 1712 of this title.

"(d) The Secretary shall commence operation of at least three rural health-care clinics (at least one of which shall be a mobile health-care clinic) in each fiscal year of the program. The Secretary may not operate more than one mobile health-care clinic under the authority of this section in any State in any such fiscal year.

"(e) Not later than December 31, 1996, the Secretary shall submit to Congress a report containing an evaluation of the program. The report shall include the following:

"(1) A description of the program, including information with respect to—

"(A) the number and type of rural health-care clinics operated under the program;

"(B) the States in which such clinics were operated;

"(C) the medical services furnished under the program, including a detailed specification of the cost of such services;

"(D) the veterans who were furnished services under the program, setting forth (i) the numbers and percentages of the veterans who had service-connected disabilities, (ii) of the veterans

having such disabilities, the numbers and percentages who were furnished care for such disabilities, (iii) the ages of the veterans, (iv) taking into account the veterans' past use of Department health-care facilities, an analysis of the extent to which the veterans would have received medical services from the Department outside the program and the types of services they would have received, and (v) the financial circumstances of the veterans; and

"(E) the types of personnel who furnished services to veterans under the program, including any difficulties in the recruitment or retention of such personnel.

"(2) An assessment by the Secretary of the cost-effectiveness and efficiency of furnishing medical services to veterans through various types of rural clinics (including mobile health-care clinics operated under the pilot program conducted pursuant to section 113 of the Veterans' Benefits and Services Act of 1988 (Public Law 100–322; 38 U.S.C. 1712 note)).

"(3) Any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate.

"(f) For the purposes of this section, the term 'Department general health-care facility' has the meaning given such term in section 1712A(i)(2) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1720C the following new item:

"1720D. Health care through rural clinics.".

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated to the Department of Veterans Affairs to carry out the rural health-care clinics program provided for in section 1720D of title 38, United States Code (as added by subsection (a)), the following:

(A) For fiscal year 1993, $3,000,000.

(B) For fiscal year 1994, $6,000,000.

(C) For fiscal year 1995, $9,000,000.

(2) Amounts appropriated pursuant to such authorization may not be used for any other purpose.

(3) No funds may be expended to carry out the rural health-care clinics program provided for in such section 1720D (as so added) unless expressly provided for in an appropriations Act.

TITLE V—TELEPHONE USE DEMONSTRATION PROJECT

SEC. 501. DEMONSTRATION PROJECTS TO EVALUATE TELEPHONES FOR PATIENT USE AT DEPARTMENT HEALTH-CARE FACILITIES.

(a) DEMONSTRATION PROJECTS.—In accordance with this section, the Secretary of Veterans Affairs shall carry out demonstration projects to evaluate the feasibility and desirability of—

(1) the installation of telephones in Department of Veterans Affairs health-care facilities; and

(2) the use of such telephones by the patients of such health-care facilities.

(b) DEMONSTRATION FACILITIES.—The Secretary shall carry out a demonstration project under this section at the following Department health-care facilities:

(1) Philadelphia Department of Veterans Affairs Medical Center, Philadelphia, Pennsylvania.

(2) Tucson Department of Veterans Affairs Medical Center, Tucson, Arizona.

(c) PROJECT ACTIVITIES.—(1) In carrying out a demonstration project under this section at a facility referred to in subsection (b), the Secretary shall—

(A) install and maintain telephones of an appropriate number and type (as determined by the Secretary) in patient rooms of the facility; and

(B) subject to paragraph (2), provide for the use of such telephones by patients who are assigned to such rooms while receiving care at the facility.

(2) The Secretary shall ensure that patients who use telephones pursuant to paragraph (1)(B) shall bear financial responsibility for the cost of any long-distance telephone calls made during such use.

(d) PROJECT EVALUATION.—In evaluating the feasibility and desirability of the installation and use of the telephones referred to in subsection (c), the Secretary shall determine—

(1) the cost to each health-care facility referred to in subsection (b) of the installation, use, and maintenance of such telephones, including—

(A) the cost to the facility of such installation, use, and maintenance;

(B) the amount of any savings which accrue to the facility by reason of such installation and use (including the amount of any savings that result from a decrease in the amount of assistance in using telephones that the staff of the facility would otherwise provide to patients); and

(C) any costs that result from the necessity of providing special telephones or other special equipment to facilitate the use of telephones by disabled veterans (including veterans who are receiving long term psychiatric care or nursing care or who are blind or hearing impaired); and

(2) the impact of the use of such telephones on the therapeutic course of veterans who receive care at the facility, including the veterans referred to in paragraph (1)(C).

(e) REPORT.—Not later than September 30, 1994, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report containing—

(1) the determinations of the Secretary under subsection (d);

(2) an assessment by the Secretary of the feasibility and desirability of providing telephones for patients in other health-care facilities of the Department; and

(3) any additional information and recommendations with respect to the provision and use of patient telephones at Department health-care facilities as the Secretary considers appropriate.

TITLE VI—PROCUREMENT OF PHARMACEUTICALS

SEC. 601. SHORT TITLE.

This title may be cited as the "Federal Health Programs Pharmaceutical Pricing Act of 1992".

SEC. 602. MASTER AGREEMENTS WITH GENERAL SERVICES ADMINISTRATION.

(a) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by adding at the end thereof the following new title:

"TITLE X—PHARMACEUTICAL PRICING AGREEMENTS

"SEC. 1001. MASTER AGREEMENTS.

"(a) IN GENERAL.—(1)(A) A manufacturer of a drug or biological may not—

"(i) sell drugs or biologicals to any Federal agency described under subsection (b),

"(ii) be deemed to have an agreement under section 1927 of the Social Security Act (42 U.S.C. 1396r–8), or

"(iii) receive payment for the purchase of a drug or biological directly or indirectly from any entity that receives funds under the Public Health Service Act (42 U.S.C. 201 et seq.),

unless such manufacturer enters into an agreement with the Administrator as described in subparagraph (B)(i) within 5 months of the date of the enactment of this title or, in the case of a drug or biological first marketed by such manufacturer after such date, such manufacturer complies with the requirements of paragraph (2).

"(B)(i) An agreement is described in this subparagraph if such agreement requires a manufacturer referred to in subparagraph (A) to enter into one or more pharmaceutical pricing agreements with Federal agencies desiring such agreements with respect to any drug or biological marketed by such manufacturer within 6 months of the date of the enactment of this title, or, if such a pricing agreement is not desired by a Federal agency within such period, within 30 days after such Federal agency requests such a pricing agreement.

"(ii) The Administrator shall prescribe procedures under which a Federal agency shall notify a drug or biological manufacturer that the Federal agency desires to enter into a pharmaceutical pricing agreement under clause (i).

"(2) Any manufacturer of a drug or biological first marketed after the date of the enactment of this title shall—

"(A) within 2 months after the date such marketing begins—

"(i) if the manufacturer has an agreement with the Administrator under paragraph (1)(A), enter into an amendment of such agreement with respect to such drug or biological, or

"(ii) if the manufacturer does not have an agreement with the Administrator under paragraph (1)(A), enter into such an agreement with respect to such drug or biological; and

"(B) enter into pharmaceutical pricing agreements with respect to such drug or biological—

"(i) within 3 months after the date such marketing begins; or

"(ii) if such a pricing agreement is not desired by a Federal agency within such 3-month period, within 30 days after such Federal agency requests such a pricing agreement.

"(b) FEDERAL AGENCIES.—Federal agencies described in this subsection are as follows:

"(1) The Department of Veterans Affairs with respect to sales to the Department of Veterans Affairs and State homes receiving funds under section 1741 of title 38, United States Code.

"(2) The Department of Defense.

"(3) The Department of Health and Human Services with respect to sales to the Public Health Service and certain clinics described in section 2145(a) of the Public Health Service Act.

"(c) PHARMACEUTICAL PRICING AGREEMENTS.—For purposes of subsection (a), the term 'pharmaceutical pricing agreement' means an agreement or amendments to an agreement in force on the date of the enactment of this title with any Federal agency described in subsection (b) or with the Department of Health and Human Services under title XIX of the Social Security Act regarding pharmaceutical pricing and subject to the following relevant provisions:

"(1) Subchapter VI of chapter 81 of title 38, United States Code.

"(2) Section 1107 of title 10, United States Code.

"(3) Section 1927 of the Social Security Act (42 U.S.C. 1396r–8).".

SEC. 603. PRICES OF DRUGS AND BIOLOGICALS UNDER THE FEDERAL SUPPLY SCHEDULE.

(a) IN GENERAL.—Chapter 81 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—PROCUREMENT OF DRUGS AND BIOLOGICALS

"§8171. Definitions

"For the purposes of this subchapter—

"(1) The term 'additional price discount amount', in the case of the price of a drug or biological whose price is established under an agreement under this subchapter, means—

"(A) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the amount of the difference, if any, between—

"(i) the Federal average price differential (as determined under paragraph (6)(A)); and

"(ii) the amount equal to—

"(I) the Federal average manufacturer price of the drug or biological for the 3-month period ending on the date that is 12 months before the last day of the last month before the effective date of the agreement for which price index data and price data for the drug or biological are available, multiplied by

"(II) the percentage increase in the price index during that 12-month period; or

"(B) in the case of a drug or biological for which such data does not permit the calculation of that price for as many months, the amount of the difference, if any, between—

"(i) the Federal average price differential (as determined under paragraph (6)(B)); and

"(ii) an amount equal to—

"(I) the Federal average manufacturer price of the drug or biological for the 3-month period beginning on the first day of the month next following the month in which marketing of the drug or biological begins, multiplied by

"(II) the percentage increase in the price index during the period beginning on such day and ending on the last day of the last month before the effective date of the agreement for which price index data are available.

"(2) The term 'covered drug or biological' means—

"(A) any drug marketed under a new drug application approved by the Secretary of Health and Human Services under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

"(B) any biological marketed under a product licensing application approved by the Administrator of the Food and Drug Administration pursuant to section 351 of the Public Health Service Act (42 U.S.C. 262).

"(3) The term 'depot' means a centralized commodity management system operated by the Department through which drugs and biologicals procured for the use of entities of the Department are—

"(A) received, stored, and delivered through—

"(i) a warehouse system under the jurisdiction and operation of the Department; or

"(ii) a commercial entity operating under contract with the Department; or

"(B) delivered directly from the manufacturer to the entity using the drugs or biologicals.

"(4) The term 'depot price' means the price of a drug or biological under an agreement between the Secretary and the manufacturer of the drug or biological to determine the price of the drug or biological for purchase through depots.

"(5) The term 'manufacturer', with respect to a drug or biological, means—

"(A) an entity that both manufactures and distributes the drug or biological; or

"(B) if no such entity exists, an entity that distributes the drug or biological.

The term does not include a wholesale distributor of drugs or biologicals, a retail pharmacy licensed under State law, or a practitioner licensed under State law and authorized to dispense drugs or biologicals.

"(6) The term 'non-Federal average manufacturer price', with respect to a covered drug or biological and a specified period of time, means—

"(A) in the case of a covered drug or biological for which the majority of units were distributed to the retail class of trade during that period, the weighted average price of a single form and dose unit of the drug or biological that is paid to the manufacturer of the drug or biological, taking into account any prompt payment discounts, cash discounts, rebates, or similar price reductions, during that period in the United States by wholesalers for distribution to the retail class of trade; or

"(B) in the case of a covered drug or biological for which the majority of units were not distributed to the retail class of trade during that period, the weighted average price of a single form and dose unit of the drug or biological that is paid to the manufacturer of the drug or biological, taking into account any prompt payment discounts, cash discounts, rebates, or similar price reductions, during that period in the United States by wholesalers (other than a price paid by the Federal Government).

"(7) The term 'non-Federal average price differential', with respect to a covered drug or biological whose price is established under an agreement under this subchapter, means—

"(A) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months—

"(i) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the last day of the last month before the effective date of the agreement for which price data and price index data are available, minus

"(ii) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the date that is 1 year before the ending of such 3-month period; or

"(B) in the case of a drug or biological for which such data does not permit the calculation of that price for as many months—

"(i) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the last day of the last month before effective date of the agreement for which price data and price index data are available, minus

"(ii) the Federal average manufacturer price of the drug or biological during the 3-month period beginning on the first day of the first month next following the month in which marketing of the drug or biological begins.

"(8) The term 'price index' means the Consumer Price Index for all urban consumers (U.S. city average) published monthly by the Bureau of Labor Statistics.

"(9) The term 'weighted average price', with respect to a covered drug or biological and a specified period of time, means—

"(A) the sum of the products of—

"(i) the average price per unit of each package quantity of the drug or biological sold during the period, and

"(ii) the number of units of the drug or biological sold of each package quantity; divided by

"(B) the total number of units of the drug or biological sold during the period.

"§8172. Prices of drugs and biologicals under Federal Supply Schedule contracts

"(a)(1) In accordance with the provisions of this section, the Secretary may enter into agreements with the manufacturers referred to in paragraph (2) under which agreements the Secretary and such manufacturers shall provide for the price under the supply schedule of drugs and biologicals that are marketed by such manufacturers.

"(2) The Secretary may enter into agreements under this section with each manufacturer of a drug or biological that enters into a master agreement with the Administrator of the General Services Administration with respect to that drug or biological under section 1001 of the Federal Property and Administrative Services Act of 1949.

"(b) Subject to subsection (g), the price under an agreement under this section of a covered drug or biological that was listed on the supply schedule on September 1, 1990, and is listed on the supply schedule on the date of the enactment of this Act, shall be as follows:

"(1) During the 1-year period beginning on the effective date of the agreement, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(A) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is positive—

"(i) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(ii) the additional price discount amount (as determined under section 8171(1)(A) of this title); or

"(B) in the case of a drug or biological whose Federal average price differential is not positive (as determined under section 8171(6)(A) of this title), the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based).

"(2) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(c) Subject to subsection (g), the price under an agreement under this section of a covered drug or biological that was listed on the supply schedule on September 1, 1990, but not listed on the supply schedule on the date of the enactment of this Act, shall be as follows:

"(1) During the 1-year period beginning on the effective date of the agreement, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(A) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is positive—

"(i) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(ii) the additional price discount amount (as determined under section 8171(1)(A) of this title); or

"(B) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based).

"(2) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(d) Subject to subsection (g), the price under an agreement under this section of a covered drug or biological that was not listed on the supply schedule on September 1, 1990, but was approved by the Administrator of the Food and Drug Administration on or before the date of the enactment of this Act, shall be as follows:

"(1) During the 1-year period beginning on the effective date of the agreement—

"(A) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the price shall be an amount no

greater than .76 multiplied by an amount equal to—

"(i) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is positive—

"(I) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(II) the additional price discount amount (as determined under section 8171(1)(A) of this title); or

"(ii) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based); or

"(B) in the case of a drug or biological for which such data does not permit the calculation of Federal average manufacturer price for as many months, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(i) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(B) of this title) is positive—

"(I) the Federal average manufacturer price of the drug or biological for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before the effective date of the agreement for which price data are available (as so based), minus

"(II) the additional price discount amount (as determined under section 8171(1)(B) of this title); or

"(ii) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(B) of this title) is not positive, the Federal average manufacturer price of the drug or biological for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before the effective date of the agreement for which price data are available (as so based).

"(2) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(e) Subject to subsection (g), the price under an agreement under this section of a covered drug or biological that is approved by the Administrator of the Food and Drug Administration after the date of the enactment of this Act shall be as follows:

"(1) During the 1-year period beginning on the effective date of the agreement—

"(A) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(i) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is positive—

"(I) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(II) the additional price discount amount (as determined under section 8171(1)(A) of this title); or

"(ii) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based); or

"(B) in the case of a drug or biological for which such data does not permit the calculation of Federal average manufacturer price for as many months, the price shall be an amount no greater than .76 multiplied by an amount equal to the Federal average manufacturer price of the drug or biological (as so based) for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before such effective date for which such data are available.

"(2) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(f) Subject to subsection (g), the price under an agreement under this section of a covered drug or biological whose price under the supply schedule was determined under subsection (b), (c), (d), or (e), or under this subsection, pursuant to an agreement that is expiring, shall be as follows:

"(1) During the 1-year period beginning on the effective date of the agreement, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(A) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is positive—

"(i) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(ii) the additional price discount amount (as determined under section 8171(1)(A) of this title); or

"(B) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based).

"(2) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(g)(1) In entering into an agreement under subsections (b) through (f) for the price under the supply schedule of a covered drug or biological, the Secretary may provide for a price of a drug or biological during the 1-year period beginning on the effective date of the agreement that is nominally in excess (as determined by the Secretary) of the price that would be determined for the drug or biological during that period under that subsection if the Secretary determines that such excess price is in the best interests of the Department.

"(2) If the Secretary exercises the authority under this section to establish an excess price with respect to the price of a drug or biological during a 1-year period, the determination of the amount of the increase in the price of the drug or biological for the succeeding 1-year period, if any, shall be based on such excess price.

"(h) The price under an agreement under this section of a drug or biological (other than a covered drug or biological) shall be jointly determined by the Secretary and the manufacturer of the drug or biological.

"(i)(1) Except as provided in paragraph (2), the Secretary shall enter into agreements with manufacturers under this section not later than the later of—

"(A) 6 months after the date of the enactment of this section; or

"(B) 30 days after the Secretary notifies the manufacturers of the Secretary's intention to enter into such agreements.

"(2) In the case of a drug or biological that is first marketed after the date that is 5 months after the date of the enactment of this section, the Secretary shall enter into an agreement referred to in paragraph (1) not later than the later of—

"(A) 3 months after the date such marketing begins; or

"(B) 30 days after the Secretary notifies the manufacturer of the Secretary's intention to enter into such an agreement.

"(j) The Secretary shall determine the term of any agreement entered into by the Secretary and a manufacturer under this section.

"§8173. Report and audit of prices of drug and biologicals

"(a)(1) The manufacturer of a covered drug or biological whose price is determined by an agreement under section 8172 or 8174 of this title shall report to the Secretary the Federal average manufacturers price of the drug or biological during each calendar quarter in which the agreement is in force. The manufacturer shall report such price not more than 30 days after the expiration of a covered quarter.

"(2) The reports required under paragraph (1) shall be in addition to the reports required under subparagraphs (A)(i) and (B) of subsection (b)(1), subparagraphs (A)(i) and (B) of subsection (c)(1), clauses (i)(I) and (ii) of subsection (d)(1)(A), clauses (i)(I) and (ii) of subsection (d)(1)(B), clauses (i)(I) and (ii) of subsection (e)(1)(A), and subsection (e)(1)(B) of section 8172 of this title, under clauses (i)(I) and (ii) of section 8174(c)(1)(A) of this title, and under subsections (d) and (e) of section 8174 of this title. The reports required under such subparagraphs shall be submitted upon the request of the Secretary.

"(b)(1) The Secretary may impose a civil monetary penalty in an amount equal to $10,000 on any manufacturer that fails to report the information required under paragraph (1) of subsection (a) on a timely basis. Such amount shall be paid to the Treasury. The amount of the penalty shall be increased by $10,000 for each day in which such information has not been reported, and such amount shall be paid to the Treasury. If such information with respect to a drug or biological is not reported within 90 days of the deadline imposed, the Secretary may prohibit the purchase of the drug or biological through the supply schedule or Department depots after the end of such 90-day period and until the date such information is reported but in no case shall such prohibition be for a period of less than 30 days.

"(2) Any manufacturer that knowingly reports false information to the Secretary under

paragraph (1) of subsection (a) or the provisions of law referred to in paragraph (2) of that subsection is subject to a civil monetary penalty in an amount not to exceed $100,000 for each item of false information reported. Such amount shall be paid to the Treasury.

"(3) The civil money penalties described in paragraphs (1) and (2) are in addition to other penalties as may be prescribed by law.

"(c) In order to determine the accuracy of any price of a drug or biological that is reported to the Secretary under the provisions of law referred to in subsection (b)(2), the Secretary may audit—

"(1) the relevant records of any manufacturer of a covered drug or biological that is the subject of an agreement under subsections (b) through (f) of section 8172 or under subsections (c) through (f) of section 8174 of this title; and

"(2) the relevant records of any wholesaler that distributes such a drug or biological.

"(d) All information contained in a report submitted to the Secretary under this section by a manufacturer shall remain confidential.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 is amended by adding after the item relating to subchapter V the following new items:

"SUBCHAPTER VI—PROCUREMENT OF DRUGS AND BIOLOGICALS

"8171. Definitions.

"8172. Prices of drugs and biologicals under Federal Supply Schedule contracts.

"8173. Report and audit of prices of drugs and biologicals.".

SEC. 604. PROCUREMENT OF DRUGS AND BIOLOGICALS UNDER CONTRACTS RELATING TO DEPARTMENT OF VETERANS AFFAIRS DEPOTS.

(a) IN GENERAL.—Subchapter VI of chapter 81 (as added by section 603 of this Act) is amended by adding at the end the following new section:

"§8174. Procurement of drugs and biologicals through Department depots

"(a) The Secretary shall enter into agreements with manufacturers referred to in section 8172(a)(2) of this title under which agreements the Secretary and such manufacturers shall determine the prices of drugs and biologicals manufactured by such manufacturers and available for purchase through depots of the Department.

"(b) Notwithstanding section 8125(a) of this title, the Secretary may procure for any Department health-care facilities any drug or biological that is subject to an agreement under this section.

"(c)(1) Subject to paragraph (2), the price under an agreement under subsection (a) of a covered drug or biological that was the subject of a contract for procurement by the Department through a depot on September 1, 1990, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(i) in the case of a drug or biological whose Federal average price differential (as determined under section 8171(6)(A) of this title) is positive—

"(I) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(II) the additional price discount amount (as determined under section 8171(1)(A) of this title); or

"(ii) in the case of a drug or biological whose Federal average price differential is not positive (as determined under section 8171(6)(A) of this title), the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based).

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(2)(A) In entering into an agreement under paragraph (1) for the price of a drug or biological, the Secretary may provide for a price of a drug or biological during the 1-year period beginning on the effective date of the agreement that is nominally in excess (as determined by the Secretary) of the price that would be determined for the drug or biological during that period under that paragraph if the Secretary determines that such excess price is in the best interests of the Department.

"(B) If the Secretary exercises the authority under this section to establish an excess price with respect to the price of a drug or biological during a 1-year period, the determination of the amount of the increase in the price of the drug or biological for the succeeding 1-year period, if any, shall be based on such excess price.

"(d) The price under an agreement under subsection (a) of a covered drug or biological that was not the subject of a contract referred to in subsection (c) on September 1, 1990, but was approved by the Administrator of the Food and Drug Administration on or before the date of the enactment of this Act, shall be determined in the manner set forth for the determination of the price of a drug or biological under section 8172(d) of this title.

"(e) The price under an agreement under subsection (a) of a covered drug or biological that is approved by such Administrator after such date, shall be determined in the manner set forth for the determination of the price of a drug or biological under section 8172(e) of this title.

"(f) The price under an agreement under subsection (a) of a covered drug or biological whose price was determined under subsections (c), (d), or (e), or under this subsection, pursuant to an agreement that is expiring, shall be determined in the manner set forth for the determination of the price of a drug or biological under section 8172(f) of this title.

"(g) The price under an agreement under subsection (a) of a drug or biological (other than a covered drug or biological) shall be jointly determined by the Secretary and the manufacturer of the drug or biological.

"(h)(1) Except as provided in paragraph (2), the Secretary shall enter into agreements with manufacturers under this section not later than the later of—

"(A) 6 months after the date of the enactment of this section; or

"(B) 30 days after the Secretary notifies the manufacturers of the Secretary's intention to enter into such agreements.

"(2) In the case of a drug or biological that is first marketed after the date that is 5 months after the date of the enactment of this section, the Secretary shall enter into an agreement referred to in paragraph (1) not later than the later of—

"(A) 3 months after the date such marketing begins; or

"(B) 30 days after the Secretary notifies the manufacturer of the Secretary's intention to enter into such an agreement.

"(i) The Secretary shall determine the term of any agreement entered into by the Secretary and a manufacturer under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 is amended by adding after the item relating to section 8173 (as added by section 603(b) of this Act) the following new item:

"8174. Procurement of drugs and biologicals through Department depots.".

(c) CONFORMING AMENDMENT.—Section 8125(a) is amended by striking out "this section," and inserting in lieu thereof "this section and section 8174(b) of this title,".

SEC. 605. PRICES OF DRUGS AND BIOLOGICALS PROCURED BY STATE HOMES.

(a) IN GENERAL.—Subchapter VI of chapter 81 (as amended by section 604 of this Act), is further amended by adding at the end the following new section:

"§8175. Prices of drugs and biologicals purchased by State homes

"In the event that a State home procures a drug or biological listed on the supply schedule, the price of the drug or biological shall be not more than the price of the drug or biological on the supply schedule on the date of the procurement.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 is amended by adding after the item relating to section 8174 (as added by section 604(b) of this Act) the following new item:

"8175. Prices of drugs and biologicals purchased by State homes.".

SEC. 606. DEMONSTRATION PROJECT ON UNIFIED PHARMACEUTICAL AWARD CONTRACTS.

(a) IN GENERAL.—Subchapter VI of chapter 81 (as amended by section 605 of this Act) is further amended by adding at the end the following new section:

"§8176. Unified pharmaceutical award contracts

"(a) The Secretary shall conduct a demonstration project to evaluate the cost and effectiveness of a unified contracting process for procuring pharmaceuticals on behalf of the entities referred to in subsection (d).

"(b) The Secretary may, on behalf of the entities referred to in subsection (c), negotiate and enter into one or more unified pharmaceutical award contracts (hereafter in this section referred to as a 'UPAC') with manufacturers relating to the procurement by such entities under such contracts of drugs or biologicals that are manufactured by such manufacturers.

"(c)(1) Subject to paragraph (2), an entity on whose behalf the Secretary may enter into a UPAC under this section is any of the following entities that directly furnishes health-care services and procures a drug or biological in connection with the furnishing of health-care services:

"(A) A department or agency of the Federal Government, including the Department of Veterans Affairs.

"(B) A State home.

"(C) An entity of the type described in section 2145(a) of the Public Health Service Act which the Secretary of Health and Human Services has certified is eligible to receive a discount under such section 2145.

"(2) The Secretary may not negotiate or enter into a UPAC on behalf of an entity unless the entity enters into an agreement with the Secretary—

"(A) to participate in a UPAC on a basis to be determined by the Secretary;

"(B) to purchase under the UPAC a quantity (as determined by the Secretary) of the drug or biological that is the subject of the UPAC;

"(C) to provide to the Secretary adequate evidence (as determined by the Secretary) of the entity's fiscal capability of making the purchase referred to in subparagraph (B);

"(D) to ensure that the drug or biological purchased through the UPAC is not resold; and

"(E) to pay into the revolving supply fund referred to in section 8121 of this title an amount that the Secretary determines is sufficient to cover any administrative costs of the Secretary in negotiating, entering into, or administering the UPAC.

"(d)(1) A entity on whose behalf the Secretary enters into a UPAC under this section with respect to a drug or biological may not—

"(A) resell or otherwise transfer the drug or biological to a person other than a patient of the entity;

"(B) purchase the drug or biological on behalf of any person or entity other than the entity on whose behalf the Secretary enters into the UPAC; or

"(C) dispense or administer, directly or through a contract, the drug or biological to an individual who is not receiving the drug or biological as a patient of the entity.

"(2)(A) An entity found to have sold, dispensed, or administered a drug or biological in violation of this subsection shall be subject to a civil penalty in the amount of $25,000 for each such violation. Such amount shall be paid to the Treasury.

"(B) The civil money penalty referred to in subparagraph (A) is in addition to any other such penalties as may be prescribed by law.

"(e) The authority of the Secretary to enter into unified pharmaceutical award contracts under this section shall terminate on December 31, 1997.

"(f) Not later than March 31, 1997, the Secretary shall transmit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the use of the authority under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 is amended by adding after the item relating to section 8175 (as added by section 605(b) of this Act) the following new item:

"8176. Unified pharmaceutical award contracts.".

SEC. 607. PROCUREMENT OF DRUGS AND BIOLOGICALS UNDER CONTRACTS RELATING TO DEPARTMENT OF DEFENSE DEPOTS.

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"§1107. Procurement of drugs and biologicals through depots

"(a) IN GENERAL.—(1) The Secretary of Defense may enter into agreements with manufacturers referred to in paragraph (2) under which agreements the Secretary of Defense and such manufacturers shall determine the price of drugs and biologicals manufactured by such manufacturers and available for purchase through depots of the Department of Defense.

"(2) The manufacturers referred to in paragraph (1) are any manufacturers of drugs or biologicals that have entered into an agreement with the Administrator of the General Services Administration with respect to such drugs or biologicals under section 1001 of the Federal Property and Administrative Services Act of 1949.

"(b) PROCUREMENT OF DRUGS AND BIOLOGICALS.—The Secretary of Defense may procure for any facility of the uniformed services any drug or biological that is subject to an agreement under this section.

"(c) PRICES.—(1) Subject to subsection (d), the price under an agreement under this section of a covered drug or biological that was the subject of a contract for procurement by the Department of Defense through a depot on September 1, 1990, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(i) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(A)) is positive—

"(I) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary of Defense by the manufacturer), minus

"(II) the additional price discount amount (as determined under subsection (h)(1)(A)); or

"(ii) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(A)) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based).

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(2) Subject to subsection (d), the price under an agreement under this section of a covered drug or biological that was not the subject of a contract referred to in paragraph (1) on September 1, 1990, but was approved by the Administrator of the Food and Drug Administration on or before the date of the enactment of this Act, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement—

"(i) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(I) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(A)) is positive—

"(aa) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary of Defense by the manufacturer), minus

"(bb) the additional price discount amount (as determined under subsection (h)(1)(A)); or

"(II) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(A)) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based); or

"(ii) in the case of a drug or biological for which such data does not permit the calculation of Federal average manufacturer price for as many months, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(I) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(B)) is positive—

"(aa) the Federal average manufacturer price of the drug or biological for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before the effective date of the agreement for which price data are available (as so based), minus

"(bb) the additional price discount amount (as determined under subsection (h)(1)(B)); or

"(II) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(B)) is not positive, the Federal average manufacturer price of the drug or biological for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before the effective date of the agreement for which price data are available (as so based).

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during such the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(3) Subject to subsection (d), the price under an agreement under this section of a covered drug or biological that is approved by the Administrator of the Food and Drug Administration after the date of the enactment of this Act, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement—

"(i) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(I) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(A)) is positive—

"(aa) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary of Defense by the manufacturer), minus

"(bb) the additional price discount amount (as determined under subsection (h)(1)(A)); or

"(II) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(A)) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based); or

"(ii) in the case of a drug or biological for which such data does not permit the calculation of Federal average manufacturer price for as many months, the price shall be an amount no greater than .76 multiplied by an amount equal to the Federal average manufacturer price of the drug or biological (as so based) for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before such effective date for which such data are available.

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during such the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(4) Subject to subsection (d), the price under an agreement under this section of a covered drug or biological whose price was determined under paragraph (1), (2), or (3), or under this paragraph, pursuant to an agreement that is expiring, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement, the price of the drug or biological shall be an amount no

greater than .76 multiplied by an amount equal to—

"(i) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(A)) is positive—

"(I) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(II) the additional price discount amount (as determined under subsection (h)(1)(A)); or

"(ii) in the case of a drug or biological whose Federal average price differential (as determined under subsection (h)(6)(A)) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based).

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(5) The price under an agreement under this section of a drug or biological (other than a covered drug or biological) shall be jointly determined by the Secretary of Defense and the manufacturer of the drug or biological.

"(d) Excess Price.—(1) In entering into an agreement under paragraphs (1), (2), (3), or (4) of subsection (c) for the depot price of a drug or biological, the Secretary of Defense may provide for a price of a drug or biological during the 1-year period beginning on the effective date of the agreement that is nominally in excess (as determined by that Secretary) of the price that would be determined for the drug or biological during that period under that paragraph if that Secretary determines that such excess price is in the best interests of the Department of Defense.

"(2) If the Secretary of Defense exercises the authority under this subsection to establish an excess price with respect to the price of a drug or biological during a 1-year period, the determination of the amount of the increase in the price of the drug or biological for the succeeding 1-year period, if any, shall be based on such excess price.

"(e) Entry Into Agreements.—(1) Except as provided in paragraph (2), the Secretary of Defense shall enter into agreements with manufacturers under this section not later than the later of—

"(A) 6 months after the date of the enactment of this section; or

"(B) 30 days after that Secretary notifies the manufacturers of that Secretary's intention to enter into such agreements.

"(2) In the case of a drug or biological that is first marketed after the date that is 5 months after the date of the enactment of this section, the Secretary of Defense shall enter into an agreement referred to in paragraph (1) not later than the later of—

"(A) 3 months after the date such marketing begins; or

"(B) 30 days after that Secretary notifies the manufacturer of that Secretary's intention to enter into such an agreement.

"(f) Term of Agreement.—The Secretary of Defense shall determine the term of any agreement entered into by that Secretary and a manufacturer under this section.

"(g) Reports on Prices.—(1)(A) The manufacturer of a covered drug or biological whose price is determined by an agreement under this section shall report to the Secretary of Defense the Federal average manufacturers price of the drug or biological during each calendar quarter in which the agreement is in force. The manufacturer shall report such price not more than 30 days after the expiration of a covered quarter.

"(B) The reports required under subparagraph (A) shall be in addition to the reports required under clauses (i)(I) and (ii) of subsection (c)(1)(A), subclauses (I)(aa) and (II) of subsection (c)(2)(A)(i), subclauses (I)(aa) and (II) of subsection (c)(2)(A)(ii), subclauses (I)(aa) and (II) of subsection (c)(3)(A)(i), and subsection (c)(3)(A)(ii). The reports required under such subparagraphs shall be submitted upon the request of the Secretary of Defense.

"(2) The Secretary of Defense may impose a civil monetary penalty in an amount equal to $10,000 on any manufacturer that fails to report the information required under paragraph (1) on a timely basis. Such amount shall be paid to the Treasury. The amount of the penalty shall be increased by $10,000 for each day in which such information has not been reported, and such amount shall be paid to the Treasury. If such information with respect to a drug or biological is not reported within 90 days of the deadline imposed, the Secretary of Defense may prohibit the purchase of the drug or biological through the supply schedule or Department depots after the end of such 90-day period and until the date such information is reported but in no case shall such prohibition be for a period of less than 30 days.

"(3) Any manufacturer that knowingly reports false information to the Secretary of Defense under subparagraph (A) of paragraph (1) or the provisions of law referred to in subparagraph (B) of such paragraph is subject to a civil monetary penalty in an amount not to exceed $100,000 for each item of false information reported. Such amount shall be paid to the Treasury.

"(4) The civil money penalties described in paragraphs (2) and (3) are in addition to other penalties as may be prescribed by law.

"(5) In order to determine the accuracy of the price of a covered drug or biological that is reported to the Secretary of Defense under the provisions of law referred to in paragraph (3), the Secretary of Defense may audit—

"(A) the relevant records of any manufacturer of a covered drug or biological that is the subject of an agreement under this section; and

"(B) the relevant records of any wholesaler that distributes such a drug or biological.

"(6) All information contained in a report submitted to the Secretary of Defense under this section by a manufacturer shall remain confidential.

"(h) Definitions.—In this section:

"(1) The term 'additional price discount amount', in the case of the price of a drug or biological whose price is established under an agreement under this subchapter, means—

"(A) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the amount of the difference, if any, between—

"(i) the Federal average price differential (as determined under paragraph (6)(A)); and

"(ii) the amount equal to—

"(I) the Federal average manufacturer price of the drug or biological for the 3-month period ending on the date that is 12 months before the last day of the last month before the effective date of the agreement for which price index data and price data for the drug or biological are available, multiplied by

"(II) the percentage increase in the price index during that 12-month period; or

"(B) in the case of a drug or biological for which such data does not permit the calculation of that price for as many months, the amount of the difference, if any, between—

"(i) the Federal average price differential (as determined under paragraph (6)(B)); and

"(ii) an amount equal to—

"(I) the Federal average manufacturer price of the drug or biological for the 3-month period beginning on the first day of the month next following the month in which marketing of the drug or biological begins, multiplied by

"(II) the percentage increase in the price index during the period beginning on such day and ending on the last day of the last month before the effective date of the agreement for which price index data are available.

"(2) The term 'covered drug or biological' means—

"(A) any drug marketed under a new drug application approved by the Secretary of Health and Human Services under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

"(B) any biological marketed under a product licensing application approved by the Administrator of the Food and Drug Administration pursuant to section 351 of the Public Health Service Act (42 U.S.C. 262).

"(3) The term 'depot' means a centralized commodity management system operated by the Department of Defense through which drugs and biologicals procured for the use of entities of the Department of Defense are—

"(A) received, stored, and delivered through—

"(i) a warehouse system under the jurisdiction and operation of the Department of Defense; or

"(ii) a commercial entity operating under contract with the Department of Defense; or

"(B) delivered directly from the manufacturer to the entity using the drugs or biologicals.

"(4) The term 'depot price' means the price of a drug or biological under an agreement between the Secretary of Defense and the manufacturer of the drug or biological to determine the price of the drug or biological for purchase through depots.

"(5) The term 'manufacturer', with respect to a drug or biological, means—

"(A) an entity that both manufactures and distributes the drug or biological; or

"(B) if no such entity exists, an entity that distributes the drug or biological.

The term does not include a wholesale distributor of drugs or biologicals, a retail pharmacy licensed under State law, or a practitioner licensed under State law and authorized to dispense drugs and biologicals.

"(6) The term 'non-Federal average manufacturer price', with respect to a covered drug or biological and a specified period of time, means—

"(A) in the case of a covered drug or biological for which the majority of units were distributed to the retail class of trade during that period, the weighted average price of a single form and dose unit of the drug or biological that is paid to the manufacturer of the drug or biological, taking into account any prompt payment discounts, cash discounts, rebates, or similar price reductions, during that period in the United States by wholesalers for distribution to the retail class of trade; or

"(B) in the case of a covered drug or biological for which the majority of units were not distributed to the retail class of trade during that period, the weighted average price of a single form and dose unit of the drug or biological that is paid to the manufacturer of the drug or biological, taking into account any prompt payment discounts, cash discounts, rebates, or similar price reductions, during that period in the United States by wholesalers (other than a price paid by the Federal Government).

"(7) The term 'non-Federal average price differential', with respect to a covered drug or biological whose price is established under an agreement under this subchapter, means—

"(A) in the case of a drug or biological for which data that is available before the effective

date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months—

"(i) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the last day of the last month before the effective date of the agreement for which price data and price index data are available, minus

"(ii) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the date that is 1 year before the ending of such 3-month period; or

"(B) in the case of a drug or biological for which such data does not permit the calculation of that price for as many months—

"(i) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the last day of the last month before effective date of the agreement for which price data and price index data are available, minus

"(ii) the Federal average manufacturer price of the drug or biological during the 3-month period beginning on the first day of the first month next following the month in which marketing of the drug or biological begins.

"(8) The term 'price index' means the Consumer Price Index for all urban consumers (U.S. city average) published monthly by the Bureau of Labor Statistics.

"(9) The term 'weighted average price', with respect to a covered drug or biological and a specified period of time, means—

"(A) the sum of the products of—

"(i) the average price per unit of each package quantity of the drug or biological sold during the period, and

"(ii) the number of units of the drug or biological sold of each package quantity; divided by

"(B) the total number of units of the drug or biological sold during the period.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended by adding after the item relating to section 1106 the following new item:

"1107. Procurement of drugs and biologicals through depots.".

TITLE VII—SEXUAL TRAUMA SERVICES

SEC. 701. CARE AND SERVICES FOR WOMEN VETERANS WHO HAVE EXPERIENCED SEXUAL TRAUMA.

(a) REQUIREMENT TO FURNISH CARE AND SERVICES.—Chapter 17 is amended by adding at the end of subchapter II the following new section:

"§1720D. Counseling and treatment of women veterans for sexual trauma

"(a) A woman veteran who is diagnosed by a Department health professional designated by the Chief Medical Director (following an examination of the veteran by such professional) to be in need of counseling or treatment for sexual trauma resulting from events that occurred during the period of the woman veteran's service on active duty, shall be furnished care and services with respect to such trauma pursuant to sections 1710(a)(1)(A) and 1712(a)(1)(A) of this title, even though such trauma has not been determined to be service-connected.

"(b)(1) The Secretary may enter into contracts with appropriate non-Department facilities (as determined by the Secretary) in order to furnish women veterans with the care and services (including any diagnostic services) referred to in subsection (a).

"(2) Not later than March 31, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the use made of the authority provided under paragraph (1) before the date of the report. The report shall (A) describe the extent of the use of that authority and the types of care and services furnished to women veterans under contracts entered into under that authority, and (B) contain such recommendations regarding the extension or modification of that authority as the Secretary considers appropriate.

"(3) The Secretary may not enter into contracts under this subsection after September 30, 1994. Any contract entered into under this subsection shall expire not later than 90 days after that date.

"(c) For the purposes of this section, the term 'sexual trauma' means the immediate and long-term physical or psychological trauma resulting from rape, sexual assault, sexual harassment, or other act of sexual violence.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1720C the following new item:

"1720D. Counseling and treatment of women veterans for sexual trauma."

SEC. 702. INFORMATION AND REFERRALS FOR WOMEN VETERANS.

(a) INFORMATION SYSTEM.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall commence the provision of information and referrals relating to the care and services referred to in paragraph (2) by means of a telephone information system utilizing a toll-free telephone number (commonly referred to as an 800 number).

(2) The care and services referred to in paragraph (1) are the care and services relating to sexual trauma that are available to women veterans in the communities in which such veterans reside, including care and services available under programs of the Department of Veterans Affairs (including the care and services available under section 1720D of title 38, United States Code (as added by section 701 of this Act)) and from non-Department agencies or organizations.

(b) SYSTEM REQUIREMENTS.—In providing information and referrals under subsection (a), the Secretary shall ensure that the telephone information system described in that subsection—

(1) is operated by Department personnel who are trained in the provision of the information and referrals described in that subsection to persons who have experienced sexual trauma;

(2) is operated in a manner that protects the confidentiality of persons who place telephone calls to the system; and

(3) operates at all times.

SEC. 703. REPORT ON NEED FOR CARE AND SERVICES OF VETERANS WHO HAVE EXPERIENCED SEXUAL TRAUMA.

(a) REPORT.—Not later than December 31, 1993, the Secretary of Veterans Affairs shall submit to Committees on Veterans' Affairs of the Senate and House of Representatives a report on the study carried out by the Secretary under subsection (b).

(b) STUDY.—(1) The Secretary, in consultation with and with the assistance of the Secretary of Defense, shall carry out a study of the needs of women veterans for counseling, medical care, and other services for sexual trauma.

(2) In carrying out the study, the Secretary of Veterans Affairs shall, to the extent feasible and to the extent that data are available, determine the following:

(A) The extent to which women have experienced rape, sexual assault, sexual harassment, or other acts of sexual violence while on active military, naval, or air service.

(B) The extent of any under-reporting of incidents of rape, sexual assault, sexual harassment, or other acts of sexual violence among the population of women members of the Armed Forces, and the extent to which the rate of such under-reporting differs from the rate of under-reporting of such incidents among the general population of women in the United States.

(C) The extent to which women members of the Armed Forces and women veterans who have experienced sexual trauma have utilized counseling, medical care, and other services furnished by the Department of Defense and the Department of Veterans Affairs in order to respond to such experiences.

(D) The same types of information with respect to men who are members of the Armed Forces and men who are veterans as is required under subparagraphs (A), (B), and (C) with respect to women members and veterans.

SEC. 704. REPORT RELATING TO SERVICES AVAILABLE TO VETERANS WHO HAVE EXPERIENCED SEXUAL TRAUMA.

Not later than March 1, 1993, and December 31 of each of calendar years 1993 through 1997, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a comprehensive report on the care and services furnished by the Department of Veterans Affairs to veterans who have experienced sexual trauma. The report shall include the following:

(1) A detailed description and review of the medical care, counseling, outreach, and other services available under programs of the Department to veterans who have experienced sexual trauma resulting from events that occurred during the period of such veterans' service in the active military, naval, or air service, including the number of male and female counselors employed by the Department who have been provided specialized training in the counseling of persons who have experienced sexual trauma.

(2) An assessment by the Secretary of any quantitative or qualitative deficiencies in such programs in meeting the needs of such veterans for counseling, medical care, and other services in response to such experiences.

(3) A detailed description of the plans of the Secretary to eliminate such deficiencies and a schedule for implementation of such plans.

SEC. 705. PROVISION OF INFORMATION ON SERVICES TO WOMEN WHO ARE SEPARATING FROM THE ARMED FORCES.

The Secretary of Veterans Affairs and the Secretary of Defense shall jointly carry out a program to ensure that women who are being separated from active military, naval, or air service are provided information on (1) the counseling, medical care, and other services and assistance relating to sexual trauma that are available to women veterans under programs carried out by the Department of Veterans Affairs, and (2) the requirements of eligibility for or entitlement to, and the procedures for applying for, such counseling, medical care, and other services and assistance. The Secretaries shall ensure that such information is provided through an in-person interview conducted with the woman being separated.

SEC. 706. REPORT RELATING TO DETERMINATIONS OF SERVICE CONNECTION FOR SEXUAL TRAUMA.

(a) Not later than December 31, 1992, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's assessment of—

(A) the difficulties that women veterans encounter in obtaining from the Department of Veterans Affairs determinations that disabilities relating to sexual trauma that are the results of events that occurred during active duty are service-connected disabilities; and

(B) the extent to which Department personnel fail to make determinations that such disabilities are service-connected disabilities; and

(2) the Secretary's recommendation of actions to be undertaken to respond in a fair manner to such difficulties and to eliminate such failures.

SEC. 707. DEFINITIONS.

For the purposes of this title—

(1) The terms "Armed Forces", "service-connected", and "active military, naval, or air service" have the meanings given such terms in paragraphs (10), (16), and (24) of section 101 of title 38, United States Code, respectively.

(2) The term "sexual trauma" means the immediate and long-term physical or psychological trauma resulting from rape, sexual assault, sexual harassment, or other act of sexual violence.

TITLE VIII—HEALTH CARE FOR WOMEN VETERANS

SEC. 801. WELL-WOMEN CARE SERVICES.

(a) WELL-WOMEN CARE SERVICES.—Section 1701 is amended—

(1) in paragraph (6)(A)(i), by inserting "well-women care services," after "section 1762 of this title,"; and

(2) by adding at the end the following new paragraph:

"(9)(A) The term 'well-women care services' means health care services provided to women outside the maternity cycle, including counseling and services relating to the following:

"(i) Papanicolaou tests (pap smear).

"(ii) Breast examinations and mammography.

"(iii) General reproductive health care.

"(iv) The management of infertility.

"(v) Menopause.

"(vi) Physical or psychological conditions arising out of acts of sexual violence.

"(B) The term does not include the following services:

"(i) Pregnancy care (including prenatal and delivery care), except care relating to a pregnancy that is complicated, or in which the risks of complication are increased, by a service-connected condition.

"(ii) Abortion.".

(b) CONTRACTS FOR WELL-WOMEN CARE SERVICES.—Section 1703(a) is amended by adding at the end the following new paragraph:

"(9) Well-women care services for veterans on an ambulatory or outpatient basis, but only under contracts that expire not later than December 31, 1994.".

(c) REPORT ON THE PROVISION OF HEALTH CARE TO WOMEN.—(1) Not later than January 1 of each of 1993 through 1997, the Secretary shall submit to Congress a report on the provision of health care services to women veterans.

(2) The report shall contain the following with respect to the most recent fiscal year before the date of the report:

(A) A description of the personnel of the Department who provided health-care services to women veterans, including the number of employees (including both the number of individual employees and the number of full-time employee equivalents) and the professional qualifications or specialty training of such employees and the Department facilities to which such personnel were assigned.

(B) A description of any actions taken by the Secretary to ensure the retention of the personnel described in subparagraph (A), and any actions undertaken to recruit additional personnel or personnel to replace such personnel.

(C) A description of the type and amount of well-women care services provided by such personnel, including information on—

(i) the type and amount of such services provided at each Department facility;

(ii) the number of women provided such services at each Department facility; and

(iii) the numbers of inpatient stays and the number of outpatient visits through which such services were provided.

(D) A description of the type and amount of well-women care services provided under contracts with non-Department facilities, including information on—

(i) the type and amount of such services provided under each contract;

(ii) the number of women provided such services through each non-Department facility under each contract; and

(iii) the numbers of inpatient stays and the number of outpatient visits through which such services were provided.

(E) An assessment by the Secretary of any difficulties experienced by the Secretary in the furnishing of such services and the actions taken by the Secretary to resolve such difficulties.

(F) A description of the actions taken by the Secretary to foster and encourage the expansion of research relating to health care issues of concern to women veterans.

(3) In this subsection, the term "well-women care services" has the meaning given such term in section 1701(8) of title 38, United States Code (as added by subsection (a)).

SEC. 802. EXPANSION OF RESEARCH RELATING TO WOMEN VETERANS.

(a) EXPANSION OF MEDICAL RESEARCH PROGRAM.—(1) Subject to paragraph (3), in carrying out the medical research program of the Department under section 7303 of title 38, United States Code, the Secretary, in consultation with the Chief Medical Director (who shall consult with the Director of Nursing Service, officials of the Central Office assigned responsibility for women's programs and the program carried out under such section 7303, members of the Advisory Committee on Women Veterans established under section 542 of such title, and members of appropriate task forces within the Department of Veterans Affairs (such as the Task Force on Treatment of Women Who Suffer Sexual Abuse)), shall foster and encourage the initiation and expansion of research into the health consequences for women veterans of the matters referred to in paragraph (2).

(2) The Secretary shall foster and encourage the initiation and expansion of research under paragraph (1) on the following matters as they relate to women:

(A) Breast Cancer.

(B) Gynecological and hormonal matters.

(C) Cancer of the organs of the reproductive system.

(D) Alzheimer's Disease.

(E) Osteoporosis.

(F) Post-traumatic stress disorder.

(G) Substance abuse.

(H) Sexual violence.

(b) STUDY OF ADMITTANCE OF VETERANS TO DEPARTMENT MEDICAL CARE FACILITIES.—The Comptroller General of the United States shall carry out a study to determine—

(1) the percentage of all admissions of women veterans to Department facilities that are based on a diagnosis of psychotic illness;

(2) the percentage of all admissions of men veterans to such facilities that are based on a diagnosis of psychotic illness;

(3) an explanation of the difference, if any, in the percentages referred to in paragraphs (1) and (2), including an assessment of—

(A) the extent, if any, to which psychotic illness is more prevalent among women veterans who seek care at Department facilities than among men veterans who seek such care;

(B) the extent to which gender-related factors impede or complicate diagnoses made by Department personnel; and

(C) the extent to which, among veterans with psychotic illness, women and men seek and receive Department health-care services in different proportions.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Funds are authorized to be appropriated for the Department of Veterans Affairs to carry out subsections (a) and (b) as follows:

(A) For fiscal year 1993, $1,500,000.

(B) For fiscal year 1994, $2,000,000.

(C) For fiscal year 1995, $2,500,000.

(2) Funds appropriated pursuant to the authorization of appropriations under paragraph (1) are in addition to other funds appropriated or otherwise made available to the Department of Veterans Affairs for research.

SEC. 803. RESEARCH OF THE DEPARTMENT OF VETERANS AFFAIRS RELATING TO WOMENS' HEALTH-CARE ISSUES.

Section 7303 is amended by adding at the end the following new subsection:

"(d)(1) To the extent that the Secretary determines that the quantity and nature of information available to Department personnel with respect to issues relating to health care for women veterans is inadequate to permit such personnel to carry out research relevant to the health-care needs of women veterans, the Secretary shall take actions to ensure that medical research carried out by the Secretary gives consideration to issues relating to the health of the general population of adult women in the United States, with particular emphasis on health conditions that affect large numbers of such women and therefore are likely to be prevalent to a significant degree among women veterans and health conditions for which the risk factors, treatment responses, and other factors determined relevant by the Secretary of women veterans may differ from those of the general population of adult women in the United States.

"(2) To the maximum extent practicable, the Secretary shall ensure that the personnel engaged in research pursuant to the research program described under paragraph (1)—

"(A) include—

"(i) personnel of the Department in facilities of the Department, including personnel of the geriatric research, education, and clinical centers designated pursuant to section 7314 of title 38, United States Code; and

"(ii) personnel of the National Center for Post-Traumatic Stress Disorder established pursuant to section 110(c) of the Veterans Health Care Act of 1984 (Public Law 98–528; 98 Stat. 2692); and

"(B) are informed of the existence and progress of other research relating to women veterans conducted by or under the jurisdiction of the Secretary.".

SEC. 804. POPULATION STUDY OF THE NEED OF WOMEN VETERANS FOR HEALTH-CARE SERVICES.

(a) STUDY.—(1) The Secretary shall conduct an on-going study to determine the needs of women veterans for health-care services.

(2) Before carrying out the study, the Secretary shall—

(A) request the advice of the Advisory Committee on Women Veterans established under section 542 of title 38, United States Code; and

(B) in consultation with the Secretary of Defense, request the advice of the Advisory Committee on Women in the Services.

(3)(A) In carrying out the study, the Secretary (with the assistance of the Secretary of Defense) shall—

(i) examine the medical, biopsychosocial, and demographic histories of an appropriate sample of women veterans and women members of the Armed Forces who are serving on active duty;

(ii) to the extent feasible, use data from the most recent decennial census and official census statistics; and

(iii) to the extent feasible, use information contained in the report submitted to the Secretary under section 102(b) of the Veterans' Health Care Amendments of 1983 (Public Law 98–160; 38 U.S.C. 1712A note).

(B) The sample referred to in subparagraph (A)(i) shall include women veterans and women members of the Armed Forces who are serving on active duty and shall, to the extent feasible, provide a representative sampling (as determined by the Secretary) of the ages, the ethnic, social, and economic backgrounds, the enlisted and officer grades, and the branches of service of all women veterans and women members of the Armed Forces.

(C) The protocol for the study shall meet standards for scientific merit prescribed by the Secretary.

(b) REPORTS.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives reports relating to the results of the study as follows:

(1) Not later than 6 months after the date of the enactment of this Act, an interim report on the study describing—

(A) the status of the study on the date of the report; and

(B) the information and advice obtained by the Secretary from the Advisory Committees referred to in paragraph (2)(A).

(2) Not later than April 1, 1994, a report describing the results of the report as of that date.

(3) Not later than April 1 of each of 1996, 1998, 2000, 2002, and 2004, a report describing the results of the study as of the date of such report.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs $1,500,000 to carry out the purposes of this section. Amounts appropriated pursuant to this authorization of appropriations shall be available for obligation until expended without fiscal year limitation.

SEC. 805. REPORT ON RESEARCH RELATING TO WOMEN VETERANS.

Not later than July 1 of each of 1993, 1994, 1995, and 1996, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) a description (as of May 31 of the year in which the report is submitted) of the status of any research relating to women veterans being carried out by or under the jurisdiction of the Secretary (including the research carried out under section 7303(d) of title 38, United States Code (as added by section 803 of this Act)); and

(2) recommendations of the Secretary as to future research (including a proposal for any legislation relating to such research) relating to women veterans.

SEC. 806. SUPPORT FOR WOMEN VETERANS COORDINATORS.

The Secretary shall take appropriate actions to ensure that—

(1) sufficient funding is provided to each Department facility in order to permit the women veterans coordinator to carry out the functions of the coordinator at the facility;

(2) sufficient clerical and communications support is provided to each such coordinator for that purpose; and

(3) each such coordinator has direct access to the Director or Chief of Staff of the facility to which the coordinator is assigned.

SEC. 807. REGIONAL WOMEN VETERANS COORDINATORS.

(a) REQUIREMENT OF APPOINTMENT.—The Secretary shall appoint a regional women veterans coordinator to serve in each regional office of the Veterans Health Administration. A person appointed as a coordinator under this section shall serve in the position on a full-time basis.

(b) RESPONSIBILITIES.—Each regional women veterans coordinator shall—

(1) coordinate the training of women veterans coordinators who are assigned to Department facilities in the region under the jurisdiction of such regional coordinator; and

(2) provide appropriate technical support and guidance to Department facilities in that region with respect to outreach activities to women veterans.

SEC. 808. FUNDING FOR CERTAIN ACTIVITIES OF THE ADVISORY COMMITTEE ON WOMEN VETERANS.

From funds available to the Department of Veterans Affairs, the Secretary shall provide funds to be used for the members of the Advisory Committee on Women Veterans established under section 542 of title 38, United States Code, for the following purposes:

(1) For travel in connection with a reasonable number of visits to Department facilities in order to permit such members to carry out the responsibilities of the Advisory Committee.

(2) For the conduct of meetings of the Advisory Committee.

SEC. 809. DEFINITIONS.

For the purposes of this title—

(1) The term "Secretary" means the Secretary of Veterans Affairs.

(2) The term "Department" means the Department of Veterans Affairs.

(3) The term "Department facilities" means the following facilities at which the Secretary furnishes medical services:

(A) Facilities over which the Secretary has direct jurisdiction.

(B) Government facilities for which the Secretary contracts.

(4) The term "medical services" has the meaning given such term in section 1701(6) of title 38, United States Code (as amended by section 801(a) of this Act).

(5) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

TITLE IX—MISCELLANEOUS

SEC. 901. PERMANENT AUTHORITY TO FURNISH RESPITE CARE.

Section 1720B is amended by striking out subsection (c).

SEC. 902. EXTENSION OF AUTHORITY TO ENTER INTO CONTRACTS WITH RESPECT TO THE VETERANS MEMORIAL MEDICAL CENTER IN THE PHILIPPINES.

Section 1732(a) is amended in the matter above paragraph (1) by striking out "September 30, 1992," and inserting in lieu thereof "December 31, 1996,".

SEC. 903. PERMANENT AUTHORITY TO WAIVE CERTAIN LIMITATIONS APPLICABLE TO RECEIPT OF RETIREMENT PAY BY NURSES.

Section 7426(c) is amended by striking out the second sentence.

SEC. 904. EXTENSION OF AUTHORITY TO CARRY OUT HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM.

Section 7618 is amended by striking out "September 30, 1992" and inserting in lieu thereof "December 31, 1997".

SEC. 905. PERMANENT AUTHORITY TO MAKE GRANTS TO STATES RELATING TO STATE HOMES.

Section 8133(a) is amended in the first sentence by striking out "through September 30, 1992." and inserting in lieu thereof a period.

SEC. 906. MEDICAL CARE COST RECOVERY.

(a) RECOVERY OF CARE FURNISHED CHAMPVA BENEFICIARIES.—(1) Section 1729 is amended—

(A) by striking out "veteran" and "veteran's" each place they appear and inserting in lieu thereof "VA beneficiary" and "VA beneficiary's", respectively;

(B) by striking out "veterans" in subsection (h)(1)(B) and inserting in lieu thereof "VA beneficiary"; and

(C) by adding at the end of subsection (i) the following new paragraph:

"(4) The term 'VA beneficiary' means a veteran or a person eligible for care under section 1713 of this title.".

(2) The amendments made by paragraph (1) shall apply with respect to care and services furnished under section 1713 of title 38, United States Code, after the date of the enactment of this Act.

(b) INCLUSION OF MEDICARE SUPPLEMENTAL INSURANCE IN CLASS OF THIRD-PARTY PAYORS.—(1) Subsection (i)(1)(A) of section 1729 is amended by inserting ", including a medicare supplemental insurance policy," after "arrangement".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) COST RECOVERY FROM ISSUERS OF MEDICARE SUPPLEMENTAL INSURANCE.—(1) Subsection (c) of section 1729 is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall collect or recover the cost of care or services furnished to VA beneficiaries under subsection (a)(1) from third party issuers of medicare supplemental insurance policies to such VA beneficiaries in accordance with the provisions of this paragraph.

"(B) The Secretary, in consultation with the Secretary of Health and Human Services, shall establish procedures for the treatment of claims of the Department for the recovery of the cost of care or services under this paragraph.

"(C) In establishing procedures under subparagraph (B), the Secretary shall provide for—

"(i) the review of such claims by persons or entities jointly designated by the Secretary and the Secretary of Health and Human Services, for the purpose of determining the extent, if any, to which the cost of such care or services would be covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) if provided by a participating provider; and

"(ii) the transmittal to third party issuers of the results of such reviews and any additional information that may be necessary to determine the liability of such third party issuers for the cost of the care or services.

"(D) The results and information referred to in subparagraph (C)(ii) shall be transmitted to issuers of medicare supplemental insurance policies not later than the later of—

"(i) the expiration of the period provided for under title XVIII of such Act for the timely filing of claims; or

"(ii) the expiration of the period provided for in the medicare supplemental insurance policy for such filing.

"(E) The Secretary of Health and Human Services shall establish a fee for each claim reviewed by the persons or entities designated under subparagraph (C)(i) under the procedures established under that subparagraph. The amount of the fee (i) shall reflect the estimated cost of processing the claim for which the fee is collected, (ii) shall be paid to such persons or entities, and (iii) shall reduce the amount recovered by the Secretary of Veterans Affairs under this paragraph.".

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act and apply to the recovery of costs for care and services furnished after that date.

SEC. 907. MEDICAL CARE COST RECOVERY.

(a) RECOVERY OF CARE FURNISHED CHAMPVA BENEFICIARIES.—(1) Section 1729 is amended—

(A) by striking out "veteran" and "veteran's" each place they appear and inserting in lieu thereof "VA beneficiary" and "VA beneficiary's", respectively;

(B) by striking out "veterans" in subsection (h)(1)(B) and inserting in lieu thereof "VA beneficiary"; and

(C) by adding at the end of subsection (i) the following new paragraph:

"(4) The term 'VA beneficiary' means a veteran or a person eligible for care under section 1713 of this title.".

(2) The amendments made by paragraph (1) shall apply with respect to care and services furnished under section 1713 of title 38, United States Code, after the date of the enactment of this Act.

(b) INCLUSION OF MEDICARE SUPPLEMENTAL INSURANCE IN CLASS OF THIRD-PARTY PAYORS.—(1) Subsection (i)(1)(A) of section 1729 is amended by inserting ", including a medicare supplemental insurance policy," after "arrangement".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) COST RECOVERY FROM ISSUERS OF MEDICARE SUPPLEMENTAL INSURANCE.—(1) Subsection (c) of section 1729 is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall collect or recover the cost of care or services furnished to VA beneficiaries under subsection (a)(1) from third party issuers of medicare supplemental insurance policies to such VA beneficiaries in accordance with the provisions of this paragraph.

"(B) The Secretary, in consultation with the Secretary of Health and Human Services, shall establish procedures for the treatment of claims of the Department for the recovery of the cost of care or services under this paragraph.

"(C) In establishing procedures under subparagraph (B), the Secretary shall provide for—

"(i) the review of such claims by an entity or entities jointly designated by the Secretary and the Secretary of Health and Human Services, for the purpose of determining the extent, if any, to which the cost of such care or services would be covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) if provided by a participating provider; and

"(ii) the transmittal to third party issuers of the results of such reviews and any additional information that may be necessary to determine the liability of such third party issuers for the cost of the care or services.

"(D) The results and information referred to in subparagraph (C)(ii) shall be transmitted to issuers of medicare supplemental insurance policies not later than the later of—

"(i) the expiration of the period provided for under title XVIII of such Act for the timely filing of claims; or

"(ii) the expiration of the period provided for in the medicare supplemental insurance policy for such filing.

"(E) The Secretary of Health and Human Services shall establish a fee for each claim reviewed the entity or entities designated under subparagraph (C)(i) under the procedures established under that subparagraph. The amount of the fee (i) shall reflect the estimated cost of processing the claim for which the fee is collected, (ii) shall be paid to the entities designated under subparagraph (C)(i), and (iii) shall reduce the amount recovered by the Secretary of Veterans Affairs under this paragraph.".

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act and apply to the recovery of costs for care and services furnished after that date.

SEC. 908. DISCOUNTS FOR THE PURCHASE OF CERTAIN DRUGS.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended—

*(1) in the title heading by adding at the end thereof the following: "**AND CERTAIN DRUG PURCHASES**"; and*

(2) by adding at the end thereof the following new part:

"Part E—Prices For The Purchase of Certain Drugs

"Subpart 1—General Provisions

"SEC. 2141. DEFINITIONS.

"As used in this part:

"(1) ADDITIONAL PRICE DISCOUNT AMOUNT.—The term 'additional price discount amount', in the case of the price of a drug or biological whose price is established under an agreement under this section, means—

"(A) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the amount of the difference, if any, between—

"(i) the Federal average price differential (as determined under paragraph (8)(A)); and

"(ii) the amount equal to—

"(I) the Federal average manufacturer price of the drug or biological for the 3-month period ending on the date that is 12 months before the last day of the last month before the effective date of the agreement for which price data and price index data for the drug or biological are available, multiplied by

"(II) the percentage increase in the price index during that 12-month period; or

"(B) in the case of a drug or biological for which such data does not permit the calculation of that price for as many months, the amount of the difference, if any, between—

"(i) the Federal average price differential (as determined under paragraph (8)(B)); and

"(ii) an amount equal to—

"(I) the Federal average manufacturer price of the drug or biological for the 3-month period beginning on the first day of the month next following the month in which marketing of the drug or biological begins, multiplied by

"(II) the percentage increase in the price index during the period beginning on such day and ending on the last day of the last month before the effective date of the agreement for which price index data are available.

"(2) COVERED DRUG OR BIOLOGICAL.—The term 'covered drug or biological' means—

"(A) for the purposes of section 2142—

"(i) any drug marketed under a new drug application approved by the Secretary of Health and Human Services under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

"(ii) any biological marketed under a product licensing application approved by the Administrator of the Food and Drug Administration pursuant to section 351 of the Public Health Service Act (42 U.S.C. 262); or

"(B) for the purposes of section 2145, the meaning given such term in subsection (a) of such section 2145.

"(3) COVERED ENTITY.—The term 'covered entity' means an entity described in any of paragraphs (1) through (13), and the matter immediately following such paragraphs, of section 2145(a).

"(4) DEPARTMENT.—The term 'Department' means the Department of Health and Human Services.

"(5) DEPOT.—The term 'depot' means a centralized commodity management system operated by the Department through which drugs and biologicals procured for the use of entities of the Department are—

"(A) received, stored, and delivered through—

"(i) a warehouse system under the jurisdiction and operation of the Department; or

"(ii) a commercial entity operating under contract with the Department; or

"(B) delivered directly from the manufacturer to the entity using the drugs or biologicals.

"(6) DEPOT PRICE.—The term 'depot price' means the price of a drug or biological under an agreement between the Secretary and the manufacturer of the drug or biological to determine the price of the drug or biological for purchase through depots.

"(7) FEDERAL AVERAGE MANUFACTURER'S PRICE.—The term 'Federal average manufacturer price', with respect to a covered drug or biological and a specified period of time, means the weighted average price of a single form and dose unit of the drug or biological that is paid to the manufacturer of the drug or biological, taking into account any cash discounts or similar price reductions, during that period in the United States by wholesalers (other than a price paid by the Federal Government).

"(8) FEDERAL AVERAGE PRICE DIFFERENTIAL.—The term 'Federal average price differential', with respect to a covered drug or biological whose price is established under an agreement under this section, means—

"(A) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months—

"(i) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the last day of the last month before the effective date of the agreement for which price data and price index data are available, minus

"(ii) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the date that is 1 year before the ending of such 3-month period; or

"(B) in the case of a drug or biological for which such data does not permit the calculation of that price for as many months—

"(i) the Federal average manufacturer price of the drug or biological during the 3-month period ending on the last day of the last month before effective date of the agreement for which price data and price index data are available, minus

"(ii) the Federal average manufacturer price of the drug or biological during the 3-month period beginning on the first day of the first month next following the month in which marketing of the drug or biological begins.

"(9) MANUFACTURER.—The term 'manufacturer', with respect to a drug or biological, means—

"(A) an entity that both manufactures and distributes the drug or biological; or

"(B) if no such entity exists, an entity that distributes the drug or biological.

Such term does not include a wholesale distributor of drugs or biologicals or a retail pharmacy licensed under State law and authorized to dispense drugs and biologicals.

"(10) OVER THE COUNTER DRUG.—The term 'over the counter drug' means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law). Such drugs shall be subject to a discount equal to the percentage provided under section 1927(c)(4) of the Social Security Act (as such section existed on the date of the enactment of this Act).

"(11) PRICE INDEX.—The term 'price index' means the Consumer Price Index for all urban consumers (United States city average) published monthly by the Bureau of Labor Statistics.

"(12) WEIGHTED AVERAGE.—The term 'weighted average price', with respect to a covered drug or biological and a specified period of time, means—

"(A) the sum of the products of—

"(i) the average price per unit of each package quantity of the drug or biological sold during the period, and

"(ii) the number of units of the drug or biological sold of each package quantity; divided by

"(B) the total number of units of the drug or biological sold during the period.

"SEC. 2142. PROCUREMENT OF DRUGS AND BIOLOGICALS THROUGH DEPARTMENT DEPOTS.

"(a) IN GENERAL.—The Secretary shall enter into agreements with manufacturers of drugs or biologicals that enter into a master agreement with the Administrator of the General Services Administration with respect to such drugs or biologicals under section 1001 of the Federal Property and Administrative Services Act of 1949, under which agreements the Secretary and such manufacturers shall determine the prices of drugs and biologicals manufactured by such manufacturers and available for purchase through depots of the Department.

"(b) PROCUREMENT.—The Secretary may procure for any Department health-care facilities any drug or biological that is subject to an agreement under this section.

"(c) PRICES.—

"(1) PRICE OF COVERED DRUGS AND BIOLOGICALS SUBJECT TO DEPOT CONTRACTS ON SEPTEMBER 1, 1990.—Subject to subsection (d), the price under an agreement under this section of a covered drug or biological that was the subject of a contract for procurement by the Department through a depot on September 1, 1990, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement, the price shall be an amount no greater than an amount equal to .76 multiplied by an amount equal to—

"(i) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(A) is positive—

"(I) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(II) the additional price discount amount (as determined under section 2141(1)(A)); or

"(ii) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(A) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based).

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(2) PRICE OF COVERED DRUGS AND BIOLOGICALS NOT SUBJECT TO SUCH CONTRACTS BUT APPROVED BEFORE DATE OF ENACTMENT.—Subject to subsection (d), the price under an agreement under subsection (a) of a covered drug or biological that was not the subject of a contract referred to in paragraph (1) on September 1, 1990, but was approved by the Administrator of the Food and Drug Administration on or before the date of the enactment of this Act, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement—

"(i) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(I) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(A) is positive—

"(aa) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(bb) the additional price discount amount (as determined under section 2141(1)(A)); or

"(II) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(A)) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based); or

"(ii) in the case of a drug or biological for which such data does not permit the calculation of Federal average manufacturer price for as many months, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(I) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(B)) is positive—

"(aa) the Federal average manufacturer price of the drug or biological for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before the effective date of the agreement for which price data are available (as so based), minus

"(bb) the additional price discount amount (as determined under section 2141(1)(B)); or

"(II) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(B)) is not positive, the Federal average manufacturer price of the drug or biological for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before the effective date of the agreement for which price data are available (as so based).

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during such the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(3) PRICES OF COVERED DRUGS AND BIOLOGICALS APPROVED AFTER DATE OF ENACTMENT.—Subject to subsection (d), the price under an agreement under this section of a covered drug or biological that is approved by the Administrator of the Food and Drug Administration after the date of the enactment of this Act, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement—

"(i) in the case of a drug or biological for which data that is available before the effective date of the agreement permits the calculation of Federal average manufacturer price for at least 15 months, the price shall be an amount no greater than .76 multiplied by an amount equal to—

"(I) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(A)) is positive—

"(aa) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer), minus

"(bb) the additional price discount amount (as determined under section 2141(1)(A)); or

"(II) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(A)) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based); or

"(ii) in the case of a drug or biological for which such data does not permit the calculation of Federal average manufacturer price for as many months, the price shall be an amount no greater than .76 multiplied by an amount equal to the Federal average manufacturer price of the drug or biological (as so based) for the period beginning on the first day of the month next following the month in which marketing of the drug or biological begins and ending on the last day of the last month before such effective date for which such data are available.

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during such the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(4) PRICES UNDER EXPIRING AGREEMENTS.—Subject to subsection (d), the price under an agreement under this section of a covered drug or biological whose price was determined under paragraph (1), (2), or (3), or under this paragraph, pursuant to an agreement that is expiring, shall be as follows:

"(A) During the 1-year period beginning on the effective date of the agreement, the price shall be an amount not greater than .76 multiplied by an amount equal to—

"(i) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(A)) is positive—

"(I) the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (based on reports of such price to the Secretary by the manufacturer); minus

"(II) the additional price discount amount (as determined under section 2141(1)(A)); or

"(ii) in the case of a drug or biological whose Federal average price differential (as determined under section 2141(8)(A)) is not positive, the Federal average manufacturer price of the drug or biological for the most recent 12-month period before such effective date for which data used to calculate such price are available (as so based).

"(B) During a succeeding 1-year period (including a 1-year period that succeeds a succeeding 1-year period), the price may not exceed the price of the drug or biological during the preceding 1-year period, increased by the same percentage as the increase in the price index during the most recent 12-month period before the commencement of such succeeding 1-year period for which price index data are available.

"(5) PRICES OF NON-COVERED DRUGS AND BIOLOGICALS.—The price under an agreement under this section of a drug or biological (other than a covered drug or biological) shall be jointly determined by the Secretary and the manufacturer of the drug or biological.

"(d) PRICE IN BEST INTERESTS.—

"(1) IN GENERAL.—In entering into an agreement under paragraph (1), (2), (3), or (4) of subsection (c) for the price of a covered drug or biological, the Secretary may provide for a price of a drug or biological during the 1-year period beginning on the effective date of the agreement that is nominally in excess (as determined by the Secretary) of the price that would be determined for the drug or biological during that period under that paragraph if the Secretary determines that such excess price is in the best interests of the Department.

"(2) EXCESS PRICE.—If the Secretary exercises the authority under this section to establish an excess price with respect to the price of a drug or biological during a 1-year period, the determination of the amount of the increase in the price of the drug or biological for the succeeding 1-year period, if any, shall be based upon such excess price.

"(e) TIME FOR ENTERING INTO AGREEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall enter into agreements with manufacturers under this section not later than the later of—

"(A) 6 months after the date of the enactment of this section; or

"(B) 30 days after the Secretary notifies the manufacturers of the Secretary's intention to enter into such agreements.

"(2) EXCEPTION.—In the case of a drug or biological that is first marketed after the date that is 5 months after the date of the enactment of this section, the Secretary shall enter into an

agreement referred to in paragraph (1) not later than the later of—

"(A) 3 months after the date such marketing begins; or

"(B) 30 days after the Secretary notifies the manufacturer of the Secretary's intention to enter into such an agreement.

"(f) REPORTING AND AUDIT REQUIREMENTS FOR FEDERAL AVERAGE MANUFACTURER PRICES.—

"(1) REPORTING.—

"(A) QUARTERLY REPORT.—The manufacturer of a drug or biological whose price is determined by an agreement under paragraph (1), (2), (3), or (4) of subsection (c) shall report to the Secretary the Federal average manufacturers price of the drug or biological during each calendar quarter in which the agreement is in force. The manufacturer shall report such price not more than 30 days after the expiration of a covered quarter.

"(B) SPECIAL REPORTING REQUIREMENT.—The reports required under subparagraph (A) shall be in addition to the reports required under subclauses (I)(aa) and (II) of subsection (c)(1)(A)(ii), subclauses (I)(aa) and (II) of subsection (c)(2)(A)(i), subclauses (I)(aa) and (II) of subsection (c)(2)(A)(ii), and subclauses (I)(aa) and (II) of subsection (c)(3)(A)(i). The reports required under such subparagraphs shall be submitted upon the request of the Secretary.

"(2) PENALTIES.—

"(A) FAILURE TO REPORT.—The Secretary may impose a civil monetary penalty in an amount equal to $10,000 on any manufacturer that fails to report the information required under paragraph (1)(A) on a timely basis. Such amount shall be paid to the Treasury. The amount of the penalty may be increased by $10,000 for each day in which such information has not been reported, and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the Secretary may prohibit purchase of the drug or biological through Public Health Service depots after the end of such 90-day period and until the date such information is reported but in no case shall such prohibition be for a period of less than 30 days.

"(B) FALSE INFORMATION.—Any manufacturer that knowingly reports false information to the Secretary under subparagraph (A) of paragraph (1) and the provisions of law referred to in subparagraph (B) of that paragraph is subject to a civil monetary penalty in an amount not to exceed $100,000 for each item of false information reported. Such amount shall be paid to the Treasury.

"(C) CIVIL MONEY PENALTIES.—Such civil money penalties imposed pursuant to subparagraph (A) or (B) are in addition to other penalties as may be prescribed by law.

"(3) AUDITS.—In order to determine the accuracy of the price of the drug or biological that is reported to the Secretary under paragraph (1), the Secretary may audit—

"(A) the relevant records of any manufacturer of a covered drug or biological that is the subject of an agreement under this section; and

"(B) any wholesaler that distributes such a drug or biological.

"(g) TERM OF AGREEMENT.—The Secretary shall determine the term of any agreement entered into by the Secretary and a manufacturer under this section.

"Subpart 2—Discounts for the Purchase of Certain Drugs

"SEC. 2143. PURPOSE.

"It is the purpose of this subpart to ensure that certain entities funded under this Act receive a discount on prices for prescription drugs comparable to the Medicaid rebate amount without creating a new best price for purposes of calculating the Medicaid rebate, and with a minimum of administrative costs and burdens.

"SEC. 2144. REQUIREMENT.

"(a) IN GENERAL.—An entity that receives funds under this Act may not purchase any drug or biological described in this subpart that is produced by a manufacturer unless the manufacturer has entered into the agreements described in section 1107 of title 10, United States Code, section 8172 of title 38, United States Code, section 1001 of title 40, United States Code, and section 2142(a) of this Act, if appropriate, and an agreement under this subpart that requires the manufacturer to provide a discount price, as determined under section 2145(b), to a covered entity for the purchase of drugs as described in section 2145(a) or the manufacturer enters into a negotiated agreement under subsection (b) of such section.

"(b) PHARMACEUTICAL PRICING AGREEMENTS.—Pharmaceutical pricing agreements with the Department of Health and Human Services, as described in section 1001(c) of the Federal Property and Administrative Services Act of 1949, shall be subject to the provisions of this part.

"SEC. 2145. DISCOUNTS.

"(a) COVERED ENTITIES.—A drug of the type described in section 2144 shall be a drug as defined in section 1927(k)(2) of the Social Security Act (as such section existed on the date of the enactment of this Act), and any over the counter drug, birth control device, or vaccine that is purchased and dispensed by, or under a contract entered into for on-site pharmaceutical services with—

"(1) a migrant health center receiving assistance under section 329;

"(2) a community health center receiving assistance under section 330;

"(3) an entity receiving assistance under section 340;

"(4) an alcohol or drug treatment entity or mental health entity receiving assistance under title V or title XIX;

"(5) a family planning project described in section 1001;

"(6) an entity receiving assistance under title XXVI;

"(7) a black lung clinic authorized under this Act;

"(8) a clinic that treats sexually transmitted diseases and is authorized under section 318;

"(9) an entity receiving funds to provide primary health services to residents of public housing under section 340A;

"(10) a non-Federal entity authorized under the Indian Self-Determination Act;

"(11) a tuberculosis clinic receiving assistance under section 317(j)(2) or 317(k)(2);

"(12) a Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act); and

"(13) a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act as such section existed on the date of enactment of this section) that the Secretary certifies—

"(A) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan under title XIX of such Act;

"(B) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act; and

"(C) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement;

or purchased or dispensed by any satellite entity of any of the entities described in paragraphs (1) through (12), and used for the purpose for which funding is provided for such entities pursuant to this section as specified in paragraphs (1) through (12). This section shall apply to entities described in paragraphs (1) through (12) only if such entities are principally engaged in the purpose for which funding is provided under this Act. An entity with respect to which funds are provided under this Act and which is a distinct part of a larger organization (whether or not it is legally distinct) shall be treated as a separate entity for purposes of this section.

"(b) AMOUNT.—

"(1) IN GENERAL.—The discount price described in section 2144 shall not exceed an amount equal to the average manufacturer price for covered drugs and biologicals (as defined in section 1927 of the Social Security Act as such section exited on the date of enactment of this section) in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2).

"(2) REBATE PERCENTAGE DEFINED.—For a covered drug or biological procured in a calendar quarter, the 'rebate percentage' is the amount (expressed as a percentage) equal to—

"(A)(i) the average total rebate required under section 1927 of the Social Security Act (as such section existed on the date of enactment of this section) with respect to the covered drug or biological (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

"(ii) the average manufacturer price for such a unit of the drug during such quarter;

except that vaccines and birth control devices shall be subject to such rebate percentage as if they were included under such section 1927 (as such section existed on the date of the enactment of this Act); or

"(B) the price negotiated with or on behalf of the covered entity making the purchase;

whichever is lowest.

"(3) NO PROHIBITION ON LARGER DISCOUNTS.—Nothing in this section shall prohibit a manufacturer from providing a discount that is greater than the discount required under this section.

"(c) CERTIFICATION OF ELIGIBLE ENTITIES.—

"(1) DEVELOPMENT OF PROCESS.—Not later than 60 days after the date of enactment of this section, the Secretary shall develop and implement a process for the certification of entities that are eligible to receive the discounts provided for under this section.

"(2) INCLUSION OF PURCHASE INFORMATION.—The process developed under paragraph (1) shall include a requirement that an entity applying for certification under such paragraph submit information to the Secretary concerning the amount such entity expended for drugs and biologicals in the preceding year so as to assist the Secretary and drug manufacturers in evaluating the validity of the entity's subsequent purchases of drugs and biologicals at discounted prices.

"(3) CRITERIA.—The Secretary shall submit to all drug and biological manufacturers a description of the criteria for eligibility for discounts under this section and the certification process developed under paragraph (1).

"(4) LIST OF PURCHASERS AND DISPENSERS.—The certification process developed by the Secretary under paragraph (1) shall include procedures under which each State shall, not later than 30 days after the submission of the descriptions under paragraph (3), prepare and submit a report to the Secretary that contains a list of those entities in the State that purchase and dispense drugs and biologicals and are provided with assistance under part B of title XIX.

"(5) RECERTIFICATION.—The Secretary shall require the recertification of eligible entities on

a not more frequent than annual basis, and shall require that such entities submit information to the Secretary to permit the Secretary to evaluate the validity of subsequent purchases by such entities in the same manner as that required under paragraph (2).

"(d) Bid Process.—Not later than 90 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a bid process to establish a prime vendor program under which covered entities compensate wholesalers for distribution and related services to facilitate drug purchases to which discounts will apply under this section. In order to receive discounts under this section, distribution with respect to drug purchases must be made through wholesalers. If a manufacturer distributes drugs or biologicals to which this section applies directly to a covered entity, such manufacturer shall be responsible for the distribution costs incurred.

"(e) Relation to Rebates.—The Secretary shall establish a mechanism to ensure that a manufacturer is not required to pay both a discount under this section and a rebate under title XIX of the Social Security Act with respect to a covered outpatient drug (as defined in section 1927(k)(2) of the Social Security Act (as such section existed on the date of the enactment of this Act)) dispensed to an individual entitled to benefits under a State plan approved under such title XIX.

"(f) Report.—Not later than 18 months after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall contain—

"(1) a description of the drugs or biologicals purchased under agreements entered into under this section and the amounts of such purchases;

"(2) an assessment of the effectiveness of the discount program under this section, including the savings achieved and the administrative costs associated with such program;

"(3) recommendations for legislation that would improve such program, including the desirability of excluding from the coverage of an agreement under this section any product of a manufacturer that the Secretary determines is purchased in such small quantities by covered entities so as to make the savings achieved in applying this section to such purchases insignificant when compared to the administrative burden; and

"(4) any other information determined appropriate by the Secretary.

"(g) Prohibition on Resale.—A covered entity that receives a discount under this section for the purchase of a drug or biological may not—

"(1) resell or otherwise transfer such drug or biological to a person other than a patient of the covered entity;

"(2) purchase such drug or biological on behalf of an entity that is considered a separate entity under subsection (a) or on behalf of any person other than the covered entity; or

"(3) dispense or administer, directly or through a contract, such drug or biological to an individual who is not receiving the drug or biological as a patient of the covered entity.

A covered entity found to have sold a drug in violation of this subsection shall be subject to a civil penalty in the amount of $25,000 for each such violation.

"(h) Dispute Resolution.—

"(1) Application.—This subsection shall apply when a manufacturer that is subject to an agreement under this section, or when a covered entity, believes that—

"(A) information utilized under this section with respect to such manufacturer or covered entity is inaccurate, incomplete, or discrepant in a material respect; or

"(B) the Secretary has breached the discount agreement with respect to such manufacturer or covered entity in any material respect.

"(2) Notice.—If a manufacturer determines that a dispute may exist with respect to any of the matters described in paragraph (1), such manufacturer shall provide prompt notice of the disputed item to the Secretary. Such notice shall describe the disputed item in sufficient detail to permit the Secretary to understand the issue, prepare a response, and participate in negotiations with the manufacturer concerning such dispute.

"(3) Best efforts at resolution.—The Secretary and a manufacturer submitting a notice described in paragraph (2) shall utilize their best efforts to resolve the dispute informally within 60 days of the Secretary's receipt of such notification.

"(4) Failure to resolve.—If the Secretary and a manufacturer submitting a notice under paragraph (2) are unable to resolve the dispute through the informal process undertaken under paragraph (3) within the period specified in such paragraph, the Secretary shall appoint a hearing officer to conduct a hearing concerning the dispute, either on the record or through the presentation of testimony.

"(5) Hearing.—

"(A) Conduct.—A hearing shall be conducted not earlier than 30 days after notice of such hearing is provided to the parties by the hearing officer appointed under paragraph (4).

"(B) Recommendation.—Not later than 10 days after the close of a hearing conducted under this paragraph, the hearing officer shall issue a recommended decision.

"(C) Decisions.—The decision of a hearing officer under subparagraph (B) shall be based upon the evidence presented at the hearing or otherwise included in the hearing record. Such decision shall be made in writing and shall contain findings of fact and statement of reasons. A copy of such decision shall be mailed to each party to the hearing.

"(D) Submissions.—Not later than 30 days after receiving a copy of the hearing officer's recommendation under subparagraph (C), a party to the hearing may file a written submission in support of the position of such party.

"(E) Final decision.—Not later than 60 days after the issuance of a recommendation under subparagraph (B), the Secretary shall issue a final decision with respect to the dispute involved. If such decision is adverse to the manufacturer, the manufacturer may seek such any judicial review available under Federal law.

"(F) Suspension of discount.—A manufacturer's obligation to provide a discount with respect to that quantity of a covered drug that is the subject of a dispute under this paragraph shall be suspended until the Secretary has made a final decision under subparagraph (E). Once the Secretary issues a final decision with respect to such dispute that is adverse to the manufacturer, the discount price determined by the Secretary under such decision shall apply retroactively to the date on which such dispute arose.

"(i) Audits.—The Secretary and the manufacturer of a covered drug to which a discount has been applied under this section may perform audits under this section. The Secretary, covered entities, wholesalers, and such manufacturers shall make available the statements and information utilized in making determination under such subsection and such underlying records as may exist. Adjustments to discounts shall be made to the extent that information indicates that the number of units of a covered drug purchased by such covered entities or the prices provided by the manufacturer were greater or lesser than previously specified. The manufacturer may only audit those records relating to their products.

"(j) Confidentiality.—All information contained in any statements, information or records provided or made available by a manufacturer or a wholesaler to the Secretary or a hearing officer under this section shall remain confidential.".

Amend the title so as to read: "An Act to amend title 38, United States Code, to revise certain pay authorities that apply to Department of Veterans Affairs nurses, to improve preventive health services for veterans, to improve health-care services for women veterans, and to enable the Department to purchase pharmaceuticals at reasonable prices, and for other purposes.".

House amendments to Senate amendments.

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Veterans Health Care Act of 1992".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—WOMEN VETERANS HEALTH PROGRAMS

Sec. 101. Short title.
Sec. 102. Sexual trauma counseling.
Sec. 103. Priority for outpatient care for sexual trauma counseling.
Sec. 104. Commencement of provision of information on services.
Sec. 105. Report on implementation of sexual trauma counseling program.
Sec. 106. Health care services for women.
Sec. 107. Report on health care and research.
Sec. 108. Coordination of services.
Sec. 109. Research relating to women veterans health.
Sec. 110. Population study of women veterans.

TITLE II—HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

Sec. 201. Temporary expansion of authority for sharing agreements.
Sec. 202. Requirement for improvement in services for veterans.
Sec. 203. Expanded sharing agreements with Department of Defense.
Sec. 204. Expiration of authority.
Sec. 205. Consultation with veterans service organizations.
Sec. 206. Annual report.

TITLE III—NURSE PAY

Sec. 301. Revision to nurse pay grade schedule.
Sec. 302. Authority to establish special rates of pay for employees of facilities located outside the contiguous United States, Alaska, and Hawaii.
Sec. 303. Salary data for nurse anesthetists.
Sec. 304. Rates of pay for transferring nurses.
Sec. 305. Nursing personnel qualification standards.
Sec. 306. Report on pay for chief nurse position.
Sec. 307. Report on pay compression.
Sec. 308. Effective date.

TITLE IV—STATE HOME AMENDMENTS

Sec. 401. Treatment of earnings of veterans under certain rehabilitative services programs.
Sec. 402. Permanent authority to make grants to States relating to State homes.

Sec. 403. Extension of period for completion of conditionally approved applications for construction.
Sec. 404. Limited prohibition on obligation of funds for rescinded projects.
Sec. 405. Commencement date for recapture period.
Sec. 406. Commencement date for payment of per diem.

TITLE V—GENERAL HEALTH CARE AND ADMINISTRATION

Subtitle A—General Health

Sec. 501. Contract hospital care for veterans with permanent and total service-connected disabilities.
Sec. 502. Permanent authority for respite care program.
Sec. 503. Extension of authority to contract with the Veterans Memorial Medical Center, Republic of the Philippines.

Subtitle B—Preventive Health

Sec. 511. National Center for Preventive Health.
Sec. 512. Annual report on preventive health services.
Sec. 513. Preventive health services.
Sec. 514. Repeal of pilot program.

Subtitle C—Health Care Administration and Personnel

Sec. 521. Geriatric research, education, and clinical centers.
Sec. 522. Extension of authority to waive certain limitations applicable to receipt of retirement pay by nurses.
Sec. 523. Health professionals education programs.
Sec. 524. Real property at Temple Junior College, Temple, Texas.
Sec. 525. Demonstration project to evaluate installation of telephones for patient use at Department health-care facilities.
Sec. 526. Use of tobacco products in department facilities.

TITLE VI—DRUG PRICING AGREEMENTS

Sec. 601. Treatment of prescription drugs procured by Department of Veterans Affairs or purchased by certain clinics and hospitals.
Sec. 602. Limitations on prices of drugs purchased by certain clinics and hospitals.
Sec. 603. Limitation on prices of drugs procured by Department of Veterans Affairs and certain other Federal agencies.

TITLE VII—PERSIAN GULF WAR VETERANS' HEALTH STATUS

Sec. 701. Short title.
Sec. 702. Persian Gulf War Veterans Health Registry.
Sec. 703. Health examinations and counseling for veterans eligible for inclusion in certain health-related registries.
Sec. 704. Expansion of coverage of Persian Gulf registry.
Sec. 705. Study by Office of Technology Assessment of Persian Gulf Registry and Persian Gulf War Veterans Health Registry.
Sec. 706. Agreement with National Academy of Sciences for review of health consequences of service during the Persian Gulf War.
Sec. 707. Coordination of government activities on health-related research on the Persian Gulf War.
Sec. 708. Definition.

TITLE VIII—COURT OF VETERANS APPEALS

Sec. 801. Disciplinary procedures for judges of Court of Veterans Appeals.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—WOMEN VETERANS HEALTH PROGRAMS

SEC. 101. SHORT TITLE.

This title may be cited as the "Women Veterans Health Programs Act of 1992".

SEC. 102. SEXUAL TRAUMA COUNSELING.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by adding at the end of subchapter II the following new section:

"§ 1720D. Counseling to women veterans for sexual trauma

"(a)(1) During the period through December 31, 1995, the Secretary may provide counseling to a woman veteran who the Secretary determines requires such counseling to overcome psychological trauma, which in the judgment of a mental health professional employed by the Department, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the veteran was serving on active duty.

"(2) To be eligible to receive counseling under this subsection, a veteran must seek such counseling from the Secretary within two years after the date of the veteran's discharge or release from active military, naval, or air service.

"(3) In furnishing counseling to a veteran under this subsection, the Secretary may, during the period through December 31, 1994, provide such counseling pursuant to a contract with a qualified mental health professional if (A) in the judgment of a mental health professional employed by the Department, the receipt of counseling by that veteran in facilities of the Department would be clinically inadvisable, or (B) Department facilities are not capable of furnishing such counseling to that veteran economically because of geographical inaccessibility.

"(b) In providing services to a veteran under subsection (a), the period for which counseling is provided may not exceed one year from the date of the commencement of the furnishing of such counseling to the veteran. However, the Secretary may authorize a longer period in any case if, in the judgment of the Secretary, a longer period of counseling is required.

"(c)(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling under subsection (a). In the case of a veteran eligible for such counseling who requires other care or services under this chapter for trauma described in subsection (a)(1), the Secretary shall ensure that the veteran is furnished counseling under this section in a way that is coordinated with the furnishing of such other care and services under this chapter.

"(2) In establishing a program to provide counseling under subsection (a), the Secretary shall—

"(A) provide for appropriate training of mental health professionals and such other health care personnel as the Secretary determines necessary to carry out the program effectively;

"(B) seek to ensure that such counseling is furnished in a setting that is therapeutically appropriate, taking into account the circumstances that resulted in the need for such counseling; and

"(C) provide referral services to assist women veterans who are not eligible for services under this chapter to obtain those from sources outside the Department.

"(d) The Secretary shall provide information on the counseling available to women veterans under this section. Efforts by the Secretary to provide such information—

"(1) may include establishment of an information system involving the use of a toll-free telephone number (commonly referred to as an 800 number), and

"(2) shall include coordination with the Secretary of Defense seeking to ensure that women who are being separated from active military, naval, or air service are provided appropriate information about programs, requirements, and procedures for applying for counseling under this section.

"(e) In this section, the term 'sexual harassment' means repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character.".

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1720C the following new item:

"1720D. Counseling to women veterans for sexual trauma.".

(b) TRANSITION PROVISION.—In the case of a veteran who was discharged or released from active military, naval, or air service before December 31, 1991, the two-year period specified in section 1720D(a)(2) of title 38, United States Code, as added by subsection (a), shall be treated as ending on December 31, 1993.

SEC. 103. PRIORITY FOR OUTPATIENT CARE FOR SEXUAL TRAUMA COUNSELING.

Section 1712(i)(2) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof ", (B)"; and

(2) by inserting before the period at the end thereof the following: ", or (C) who is eligible for counseling under section 1720D of this title, for the purposes of such counseling".

SEC. 104. COMMENCEMENT OF PROVISION OF INFORMATION ON SERVICES.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall commence the provision of information on the counseling relating to sexual trauma that is available to women veterans under section 1720D of title 38, United States Code (as added by section 102) in accordance with the provisions of subsection (d) of that section.

SEC. 105. REPORT ON IMPLEMENTATION OF SEXUAL TRAUMA COUNSELING PROGRAM.

Not later than March 31, 1994, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a comprehensive report on the Secretary's actions under section 1720D of title 38, United States Code (as added by section 102), and on the use made of the authority provided under that section. The report shall include the following:

(1) The numbers of veterans who have received counseling under such section, shown by reference to the facility that provided that counseling and including the use made of the contract authority under such section.

(2) The number of veterans who received care or services under chapter 17 of title 38, United States Code, under the circumstances described in subsection (c)(1) of such section and the numbers referred to sources outside

the Department, shown by reference to the facility that provided those services or made those referrals.

(3) A listing and description of the specific training programs which the Secretary has instituted to ensure that the counseling program established under such section is carried out effectively.

(4) A description of the specific efforts taken by the Secretary to ensure that the counseling furnished by the Secretary under such section is furnished in settings that are therapeutically appropriate, taking into account the circumstances that resulted in the need for such counseling.

SEC. 106. HEALTH CARE SERVICES FOR WOMEN.

(a) GENERAL AUTHORITY.—In furnishing hospital care and medical services under chapter 17 of title 38, United States Code, the Secretary of Veterans Affairs may provide to women the following health care services:

(1) Papanicolaou tests (pap smears).

(2) Breast examinations and mammography.

(3) General reproductive health care, including the management of menopause, but not including under this section infertility services, abortions, or pregnancy care (including prenatal and delivery care), except for such care relating to a pregnancy that is complicated or in which the risks of complication are increased by a service-connected condition.

(b) RESPONSIBILITIES OF DIRECTORS OF FACILITIES.—The Secretary shall ensure that directors of medical facilities of the Department identify and assess opportunities under the authority provided in title II of this Act to (1) expand the availability of, and access to, health care services for women veterans under sections 1710 and 1712 of title 38, United States Code, and (2) provide counseling, care, and services authorized by this title.

SEC. 107. REPORT ON HEALTH CARE AND RESEARCH.

(a) IN GENERAL.—Not later than January 1, 1993, January 1, 1994, and January 1, 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the provision of health care services and the conduct of research carried out by, or under the jurisdiction of, the Secretary relating to women veterans.

(b) CONTENTS.—The report under subsection (a) shall include the following information with respect to the most recent fiscal year before the date of the report:

(1) The number of women veterans who have received services described in section 106 of this Act in facilities under the jurisdiction of the Secretary (or the Secretary of Defense), shown by reference to the Department facility which provided (or, in the case of Department of Defense facilities, arranged) those services;

(2) A description of (A) the services provided at each such facility, and (B) the extent to which each such facility relies on contractual arrangements under section 1703 or 8153 of title 38, United States Code, to furnish care to women veterans in facilities which are not under the jurisdiction of the Secretary where the provision of such care is not furnished in a medical emergency.

(3) The steps taken by each such facility to expand the provision of services at such facility (or under arrangements with a Department of Defense facility) to women veterans.

(4) A description (as of October 1 of the year preceding the year in which the report is submitted) of the status of any research relating to women veterans being carried out by or under the jurisdiction of the Secretary, including research under section 109 of this Act.

SEC. 108. COORDINATION OF SERVICES.

The Secretary of Veterans Affairs shall ensure that an official in each regional office of the Veterans Health Administration shall serve as a coordinator of women's services. The responsibilities of such official shall include the following:

(1) Conducting periodic assessments of the needs for services of women veterans within such region.

(2) Planning to meet such needs.

(3) Assisting in carrying out the purposes of section 106(b) of this title.

(4) Coordinating the training of women veterans coordinators who are assigned to Department facilities in the region under the jurisdiction of such regional coordinator.

(5) Providing appropriate technical support and guidance to Department facilities in that region with respect to outreach activities to women veterans.

SEC. 109. RESEARCH RELATING TO WOMEN VETERANS' HEALTH.

(a) INITIATION AND EXPANSION OF RESEARCH.—The Secretary of Veterans Affairs, in carrying out the Secretary's responsibilities under section 7303 of title 38, United States Code, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Funds are authorized to be appropriated to the Secretary to initiate new studies in accordance with subsection (a) as follows:

(A) For fiscal year 1993, $1,500,000.

(B) For fiscal year 1994, $2,000,000.

(C) For fiscal year 1995, $2,500,000.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) are in addition to other funds appropriated or otherwise made available to the Department of Veterans Affairs for research.

SEC. 110. POPULATION STUDY OF WOMEN VETERANS.

(a) STUDY.—(1) The Secretary, subject to subsection (d), shall conduct a study to determine the needs of veterans who are women for health-care services. The study shall be based on an appropriate sample of veterans who are women.

(2) Before carrying out the study, the Secretary shall request the advice of the Advisory Committee on Women Veterans on the conduct of the study.

(3) In carrying out the study, the Secretary shall include in the sample veterans who are women and members of the Armed Forces serving on active duty who are women.

(b) REPORTS.—The Secretary shall submit to the Committees on Veterans Affairs of the Senate and House of Representatives reports relating to the study as follows:

(1) Not later than 9 months after the date of the enactment of this Act, an interim report describing (A) the information and advice obtained by the Secretary from the Advisory Committee on Women Veterans, and (B) the status of the study.

(2) Not later than December 31, 1995, a final report describing the results of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the general operating expenses account of the Department of Veterans Affairs $2,000,000 to carry out the purposes of this section. Amounts appropriated pursuant to this authorization of appropriations shall be available for obligation until expended without fiscal year limitation.

(d) LIMITATION.—No funds may be used to conduct the study described in subsection (a) unless expressly provided for in an appropriation Act.

TITLE II—HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

SEC. 201. TEMPORARY EXPANSION OF AUTHORITY FOR SHARING AGREEMENTS.

The Secretary of Veterans Affairs may enter into an agreement with the Secretary of Defense under this section to expand the availability of health-care sharing arrangements with the Department of Defense under section 8111(c) of title 38, United States Code. Under such an agreement—

(1) the head of a Department of Veterans Affairs medical facility may enter into agreements under section 8111(d) of that title with (A) the head of a Department of Defense medical facility, (B) with any other official of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility, or (C) with a contractor of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility; and

(2) the term "primary beneficiary" shall be treated as including—

(A) with respect to the Department of Veterans Affairs, any person who is described in section 1713 of title 38, United States Code; and

(B) with respect to the Department of Defense, any person who is a covered beneficiary under chapter 55 of title 10, United States Code.

SEC. 202. REQUIREMENT FOR IMPROVEMENT IN SERVICES FOR VETERANS.

A proposed agreement authorized by section 201 that is entered into by the head of a Department of Veterans Affairs medical facility may take effect only if the Chief Medical Director finds, and certifies to the Secretary of Veterans Affairs, that implementation of the agreement—

(1) will result in the improvement of services to eligible veterans at that facility; and

(2) will not result in the denial of, or a delay in providing, access to care for any veteran at that facility.

SEC. 203. EXPANDED SHARING AGREEMENTS WITH DEPARTMENT OF DEFENSE.

Under an agreement under section 201, guidelines under section 8111(b) of title 38, United States Code, may be modified to provide that, notwithstanding any other provision of law, any person who is a covered beneficiary under chapter 55 of title 10 and who is furnished care or services by a facility of the Department of Veterans Affairs under an agreement entered into under section 8111 of that title, or who is described in section 1713 of title 38, United States Code, and who is furnished care or services by a facility of the Department of Defense, may be authorized to receive such care or services—

(1) without regard to any otherwise applicable requirement for the payment of a copayment or deductible; or

(2) subject to a requirement to pay only part of any such otherwise applicable copayment or deductible, as specified in the guidelines.

SEC. 204. EXPIRATION OF AUTHORITY.

The authority to provide services pursuant to agreements entered into under section 201 expires on October 1, 1996.

SEC. 205. CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.

In carrying out this title, the Secretary of Veterans Affairs shall consult with organizations named in or approved under section 5902 of title 38, United States Code.

SEC. 206. ANNUAL REPORT.

(a) IN GENERAL.—For each of fiscal years 1993 through 1996, the Secretary of Defense and the Secretary of Veterans Affairs shall include in the annual report of the Secretaries under section 8111(f) of title 38, United States Code, a description of the Secretaries' implementation of this section.

(b) ADDITIONAL MATTERS FOR FISCAL YEAR 1996 REPORT.—In the report under subsection (a) for fiscal year 1996, the Secretaries shall include the following:

(1) An assessment of the effect of agreements entered into under section 201 on the delivery of health care to eligible veterans.

(2) An assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces, dependents of members or former members of a uniformed service, and beneficiaries under section 1713 of title 38, United States Code.

(3) Any plans for administrative action, and any recommendations for legislation, that the Secretaries consider appropriate to include in the report.

TITLE III—NURSE PAY

SEC. 301. REVISION TO NURSE PAY GRADE SCHEDULE.

(a) REVISION.—Section 7404(b)(1) is amended in the matter relating to "NURSE SCHEDULE" by striking out "Director grade." and all that follows through "Entry grade." and inserting in lieu thereof the following:

"Nurse V.
"Nurse IV.
"Nurse III.
"Nurse II.
"Nurse I.".

(b) CONFORMING AMENDMENT.—Section 7451(b) of such title is amended by striking out "four" and inserting in lieu thereof "five".

SEC. 302. AUTHORITY TO ESTABLISH SPECIAL RATES OF PAY FOR EMPLOYEES OF FACILITIES LOCATED OUTSIDE THE CONTIGUOUS UNITED STATES, ALASKA, AND HAWAII.

Section 7451(a)(3) is amended—

(1) by striking out "(3) The rates" and inserting in lieu thereof "(3)(A) Except as provided in subparagraph (B), the rates"; and

(2) by adding at the end the following new subparagraph:

"(B) Under such regulations as the Secretary shall prescribe, the Secretary shall establish and adjust the rates of basic pay for covered positions at the following health-care facilities in order to provide rates of basic pay that enable the Secretary to recruit and retain sufficient numbers of health-care personnel in such positions at those facilities:

"(i) The Veterans Memorial Medical Center in the Republic of the Philippines.

"(ii) Department of Veterans Affairs health-care facilities located outside the contiguous States, Alaska, and Hawaii.".

SEC. 303. SALARY DATA FOR NURSE ANESTHETISTS.

Section 7451(d)(3) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) A director of a Department health-care facility may use data on the beginning rates of compensation paid to certified registered nurse anesthetists who are employed on a salary basis by entities that provide anesthesia services through certified registered nurse anesthetists in the labor-market area only if the director—

"(I) has conducted a survey of beginning rates of compensation for certified registered nurse anesthetists in the local labor market area of the facility under subparagraph (B);

"(II) has used all available administrative authority with regard to collection of survey data; and

"(III) makes a determination (under regulations prescribed by the Secretary) that such survey methods are insufficient to permit the adjustments referred to in subparagraph (B) for such nurse anesthetists employed by the facility.

"(ii) For the purposes of this subparagraph, certified registered nurse anesthetists who are so employed by such entities shall be deemed to be corresponding health-care professionals to the certified registered nurse anesthetists employed by the facility.

"(iii) The authority of the director to use such additional data under this subparagraph with respect to certified registered nurse anesthetists expires on April 1, 1995.".

SEC. 304. RATES OF PAY FOR TRANSFERRING NURSES.

(a) SAVE-PAY AUTHORITY FOR NURSES TRANSFERRING TO ANOTHER FACILITY.—Section 7452(e) is amended by striking out the period at the end and inserting in lieu thereof ", except that in the case of an employee whose transfer (other than pursuant to a disciplinary action otherwise authorized by law) to another health-care facility is at the request of the Secretary, the Secretary may provide that for at least the first year following such transfer the employee shall be paid at a rate of basic pay up to the rate applicable to such employee before the transfer, if the Secretary determines that such rate of pay is necessary to fill the position. Whenever the Secretary exercises the authority under the preceding sentence relating to the rate of basic pay of a transferred employee, the Secretary shall, in the next annual report required under section 7451(g) of this title, provide justification for doing so.".

(b) CONFORMING AMENDMENT.—Section 7451(g) is amended by adding at the end the following new paragraph:

"(9) The justification required by section 7452(e) of this title.".

SEC. 305. NURSING PERSONNEL QUALIFICATION STANDARDS.

(a) REVISION.—The Secretary of Veterans Affairs shall conduct a review of the qualification standards used for nursing personnel at Department health-care facilities and the relationship between those standards and the compression of nursing personnel in the existing intermediate and senior grades. Based upon that review, the Secretary shall revise those qualification standards—

(1) to reflect the five grade levels for nursing personnel under the Nurse Schedule, as amended by section 301; and

(2) to reduce the compression of nursing personnel in the existing intermediate and senior grades.

(b) DEADLINE FOR PRESCRIBING STANDARDS.—The Secretary shall prescribe revised qualification standards for nursing personnel pursuant to subsection (a) not later than six months after the date of the enactment of this Act.

(c) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's findings and actions under this section. The report shall be submitted not later than six months after the date on which revised qualification standards for nursing personnel are prescribed pursuant to subsection (b).

SEC. 306. REPORT ON PAY FOR CHIEF NURSE POSITION.

(a) REVIEW.—The Secretary of Veterans Affairs shall conduct a review of—

(1) the process for determining the rate of basic pay applicable to the Chief Nurse position at Department of Veterans Affairs health-care facilities; and

(2) the relationship between the rate of such basic pay and the rate of basic pay applicable to nurses in positions subordinate to the Chief Nurse at the respective Department facilities.

The review shall include an assessment of the adequacy of that process in determining an equitable pay rate for the Chief Nurse position, including an assessment of the accuracy of data collected in the survey process and the difficulties in obtaining accurate data.

(b) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the review and assessment conducted under subsection (a). To the extent that the review discloses difficulties in obtaining accurate data in the survey process with respect to the Chief Nurse position at Department facilities, the Secretary shall include in the report recommendations for corrective action. The Secretary shall also include in the report (1) a listing of the salary differential (expressed as a percentage) between the Chief Nurse at a facility and the highest paid nurse (excluding certified registered nurse anesthetists) serving in a position subordinate to the Chief Nurse, and (2) an analysis of such data. The report shall be submitted not later than 12 months after the date of the enactment of this Act.

SEC. 307. REPORT ON PAY COMPRESSION.

Section 7451(g) (as amended by section 304(b)) is further amended by adding at the end the following new paragraph:

"(10) The number of nurses, shown by facility and by grade, who are on pay retention or in the top step of any grade and, with respect to those employees, comprehensive information (by facility) as to whether an extension of the pay grades was sought for these positions, and with respect to each such request for extension, whether such request was granted or denied.".

SEC. 308. EFFECTIVE DATE.

The amendments made by sections 301, 302, 303, and 304 shall take effect with respect to the first pay period beginning on or after the end of the six-month period beginning on the date of the enactment of this Act.

TITLE IV—STATE HOME AMENDMENTS

SEC. 401. TREATMENT OF EARNINGS OF VETERANS UNDER CERTAIN REHABILITATIVE SERVICES PROGRAMS.

Subsection (f) of section 1718 is amended to read as follows:

"(f)(1) The Secretary may not consider any of the matters stated in paragraph (2) as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

"(2) Paragraph (1) applies to the following:

"(A) A veteran's participation in an activity carried out under this section.

"(B) A veteran's receipt of a distribution as a result of participation in an activity carried out under this section.

"(C) A veteran's participation in a program of rehabilitative services that (i) is provided as part of the veteran's care furnished by a State home and (ii) is approved by the Secretary as conforming appropriately to standards for activities carried out under this section.

"(D) A veteran's receipt of payment as a result of participation in a program described in subparagraph (C).

"(3) A distribution of funds made under this section and a payment made to a veteran under a program of rehabilitative services described in paragraph (2)(C) shall be considered for the purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.".

SEC. 402. PERMANENT AUTHORITY TO MAKE GRANTS TO STATES RELATING TO STATE HOMES.

Section 8133(a) is amended in the first sentence by striking out "through September 30, 1992".

SEC. 403. EXTENSION OF PERIOD FOR COMPLETION OF CONDITIONALLY APPROVED APPLICATIONS FOR CONSTRUCTION.

(a) EXTENSION OF PERIOD.—Section 8135(b)(6)(A) is amended by striking out "90 days" and inserting in lieu thereof "180 days".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to projects that are conditionally approved after September 30, 1992.

SEC. 404. LIMITED PROHIBITION ON OBLIGATION OF FUNDS FOR RESCINDED PROJECTS.

(a) PROHIBITION.—Section 8135(b)(6)(B) is amended by adding at the end the following: "In the event the Secretary rescinds conditional approval of a project under this subparagraph, the Secretary may not further obligate funds for the project during the fiscal year in which the Secretary rescinds such approval.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to rescissions of conditional approval of projects after the date of the enactment of this Act.

SEC. 405. COMMENCEMENT DATE FOR RECAPTURE PERIOD.

(a) COMMENCEMENT DATE.—Section 8136 is amended by striking out "If, within 20 years after completion of any project" and inserting in lieu thereof "If, within the 20-year period beginning on the date of the approval by the Secretary of the final architectural and engineering inspection of any project".

(b) TECHNICAL AMENDMENT.—Such section is further amended by striking out "such facilities cease" and inserting in lieu thereof "the facilities covered by the project cease".

SEC. 406. COMMENCEMENT DATE FOR PAYMENT OF PER DIEM.

Section 1741 is amended by adding at the end the following new subsection:

"(e) Subject to section 1743 of this title, the payment of per diem for care furnished in a State home facility shall commence on the date of the completion of the inspection for recognition of the facility under section 1742(a) of this title if the Secretary determines, as a result of that inspection, that the State home meets the standards described in such section.".

TITLE V—GENERAL HEALTH CARE AND ADMINISTRATION

Subtitle A—General Health

SEC. 501. CONTRACT HOSPITAL CARE FOR VETERANS WITH PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITIES.

Section 1703(a)(1) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a disability of a veteran who has a total disability permanent in nature from a service-connected disability.".

SEC. 502. PERMANENT AUTHORITY FOR RESPITE CARE PROGRAM.

Section 1720B is amended by striking out subsection (c).

SEC. 503. EXTENSION OF AUTHORITY TO CONTRACT WITH THE VETERANS MEMORIAL MEDIAL CENTER, REPUBLIC OF THE PHILIPPINES.

Section 1732(a) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

Subtitle B—Preventive Health

SEC. 511. NATIONAL CENTER FOR PREVENTIVE HEALTH.

(a) ESTABLISHMENT.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

"§ 7318. National Center for Preventive Health

"(a)(1) The Chief Medical Director shall establish and operate in the Veterans Health Administration a National Center for Preventive Health (hereinafter in this section referred to as the 'Center'). The Center shall be located at a Department health care facility.

"(2) The head of the Center is the Director of Preventive Health (hereinafter in this section referred to as the 'Director').

"(3) The Chief Medical Director shall provide the Center with such staff and other support as may be necessary for the Center to carry out effectively its functions under this section.

"(b) The purposes of the Center are the following:

"(1) To provide a central office for monitoring and encouraging the activities of the Veterans Health Administration with respect to the provision, evaluation, and improvement of preventive health services.

"(2) To promote the expansion and improvement of clinical, research, and educational activities of the Veterans Health Administration with respect to such services.

"(c) In carrying out the purposes of the Center, the Director shall do the following:

"(1) Develop and maintain current information on clinical activities of the Veterans Health Administration relating to preventive health services, including activities relating to—

"(A) the on-going provision of regularly-furnished services; and

"(B) patient education and screening programs carried out throughout the Administration.

"(2) Develop and maintain detailed current information on research activities of the Veterans Health Administration relating to preventive health services.

"(3) In order to encourage the effective provision of preventive health services by Veterans Health Administration personnel—

"(A) ensure the dissemination to such personnel of any appropriate information on such services that is derived from research carried out by the Administration; and

"(B) acquire and ensure the dissemination to such personnel of any appropriate information on research and clinical practices relating to such services that are carried out by researchers, clinicians, and educators who are not affiliated with the Administration.

"(4) Facilitate the optimal use of the unique resources of the Department for cooperative research into health outcomes by initiating recommendations, and responding to requests of the Chief Medical Director and the Director of the Medical and Prosthetic Research Service, for such research into preventive health services.

"(5) Provide advisory services to personnel of Department health-care facilities with respect to the planning or furnishing of preventive health services by such personnel.

"(d) There is authorized to be appropriated $1,500,000 to the Medical Care General and Special Fund of the Department of Veterans Affairs for each fiscal year for the purpose of permitting the National Center for Preventive Health to carry out research, clinical, educational, and administrative activities under this section. Such activities shall be considered to be part of the operation of health-care facilities of the Department without regard to the location at which such activities are carried out.

"(e) In this section, the term 'preventive health services' has the meaning given such term in section 1701(9) of this title.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating section 7317 the following new item:

"7318. National Center for Preventive Health.".

(b) DIRECTOR OF CENTER.—(1) Subsection (a) of section 7306 is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph (7):

"(7) The Director of the National Center for Preventive Health, who shall be responsible to the Chief Medical Director for the operation of the Center.".

(2) Subsection (c) of such section is amended in the second sentence by striking out "and (4)" and inserting in lieu thereof "(4), and (7)".

(c) SELECTION OF FACILITY AT WHICH CENTER TO BE ESTABLISHED.—In order to establish the National Center for Preventive Health pursuant to section 7318 of title 38, United States Code, as added by subsection (a), the Chief Medical Director of the Department of Veterans Affairs shall solicit proposals from Department health care facilities to establish the center. The Chief Medical Director shall establish such center at the facility or facilities which the Chief Medical Director determines, on the basis of a review and analysis of such proposals, would most effectively carry out the purposes set forth in subsection (b) of such section.

SEC. 512. ANNUAL REPORT ON PREVENTIVE HEALTH SERVICES.

(a) ANNUAL REPORT.—Chapter 17 in amended by inserting after section 1703 the following new section:

"§ 1704. Preventive health services: annual report

"Not later than October 31 each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on preventive health services. Each such report shall include the following:

"(1) A description of the programs and activities of the Department with respect to preventive health services during the preceding fiscal year, including a description of the following:

"(A) The programs conducted by the Department—

"(i) to educate veterans with respect to health promotion and disease prevention; and "(ii) to provide veterans with preventive health screenings and other clinical services, with such description setting forth the types of resources used by the Department to conduct such screenings and services and the number of veterans reached by such screenings and services.

"(B) The means by which the Secretary addressed the specific preventive health services needs of particular groups of veterans (including veterans with service-connected disabilities, elderly veterans, low-income veterans, women veterans, institutionalized veterans, and veterans who are at risk for mental illness).

"(C) The manner in which the provision of such services was coordinated with the activities of the Medical and Prosthetic Research Service of the Department and the National Center for Preventive Health.

"(D) The manner in which the provision of such services was integrated into training programs of the Department, including initial and continuing medical training of medical students, residents, and Department staff.

"(E) The manner in which the Department participated in cooperative preventive health efforts with other governmental and private entities (including State and local health promotion offices and not-for-profit organizations).

"(F) The specific research carried out by the Department with respect to the long-term relationships among screening activities, treatment, and morbidity and mortality outcomes.

"(G) The cost effectiveness of such programs and activities, including an explanation of the means by which the costs and benefits (including the quality of life of veterans who participate in such programs and activities) of such programs and activities are measured.

"(2) A specific description of research activities on preventive health services carried out during that period using employees, funds, equipment, office space, or other support services of the Department, with such description setting forth—

"(A) the source of funds for those activities;

"(B) the articles or publications (including the authors of the articles and publications) in which those activities are described;

"(C) the Federal, State, or local governmental entity or private entity, if any, with which such activities were carried out; and

"(D) the clinical, research, or staff education projects for which funding applications were submitted (including the source of the funds applied for) and upon which a decision is pending or was denied.

"(3) An accounting of the expenditure of funds during that period by the National Center for Preventive Health under section 7318 of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1703 the following new item:

"1704. Preventive health services: annual report.".

SEC. 513. PREVENTIVE HEALTH SERVICES.

(a) In General.—The text of section 1762 is transferred to the end of section 1701, redesignated as paragraph (9), and amended—

(1) by striking out "For the purposes of this subchapter, the term 'preventive health-care services' means" and inserting in lieu thereof "The term 'preventive health services' means"; and

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), and (K), respectively.

(b) Conforming Amendment.—Section 1701(6)(A)(i) is amended by striking out "preventive health-care services as defined in section 1762 of this title," and inserting in lieu thereof "preventive health services,".

SEC. 514. REPEAL OF PILOT PROGRAM.

(a) Repeal.—Subchapter VII of chapter 17 is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 is amended by striking out the items relating to subchapter VII (including the items relating to the sections of that subchapter).

Subtitle C—Health Care Administration and Personnel

SEC. 521. GERIATRIC RESEARCH, EDUCATION, AND CLINICAL CENTERS.

Section 7314 is amended—

(1) in subsection (c), by inserting after "unless" in the matter preceding paragraph (1) the following: "the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals which have met the highest competitive standards of scientific and clinical merit, and";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(3) by inserting after subsection (c) the following new subsection (d):

"(d)(1) In order to provide advice to assist the Chief Medical Director and the Secretary to carry out their responsibilities under this section, the Assistant Chief Medical Director described in section 7306(b)(3) of this title shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of new centers under this section.

"(2) The membership of the panel shall consist of experts in the fields of geriatric and gerontological research, education, and clinical care. Members of the panel shall serve as consultants to the Department for a period of no longer than six months.

"(3) The panel shall review each proposal submitted to the panel by the Assistant Chief Medical Director and shall submit its views on the relative scientific and clinical merit of each such proposal to the Assistant Chief Medical Director.

"(4) The panel shall not be subject to the Federal Advisory Committee Act.".

SEC. 522. EXTENSION OF AUTHORITY TO WAIVE CERTAIN LIMITATIONS APPLICABLE TO RECEIPT OF RETIREMENT PAY BY NURSES.

Section 7426(c) is amended by striking out "September 30, 1992" and inserting in lieu thereof "December 31, 1994".

SEC. 523. HEALTH PROFESSIONALS EDUCATION PROGRAMS.

(a) Extension of Health Scholarship Program.—Section 7618 is amended by striking out "September 30, 1992" and inserting in lieu thereof "December 31, 1995".

(b) Health Professionals.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs may not provide payments to health-care professional employees of the Department of Veterans Affairs for payment of tuition loans.

SEC. 524. REAL PROPERTY AT TEMPLE JUNIOR COLLEGE, TEMPLE, TEXAS.

(a) Removal of Restrictions on Use of Previously Conveyed Land.— Subject to subsection (b), the Secretary of Veterans Affairs shall release all restrictions and conditions (including a right of reverter) imposed in a quitclaim deed executed by the Administrator of Veterans' Affairs on March 8, 1968, pursuant to Public Law 90-197 (81 Stat. 582; December 14, 1967), in which the United States, acting through the Administrator of Veterans Affairs, conveyed a tract of land consisting of 73 acres, more or less, to Temple Junior College, Temple, Texas.

(b) Requirement for Payment.—Subsection (a) shall be effective upon the payment to the Secretary of Veterans Affairs of such monetary consideration as the Secretary determines to be appropriate. Any amount received by the Secretary pursuant to this subsection shall be deposited in the general fund of the Treasury.

(c) Execution of Legal Instruments.—The Secretary of Veterans Affairs shall execute such legal documents as necessary to carry out subsection (a). The Secretary may include in such legal documents such terms, conditions, reservations, easements, and restrictions (other than those released pursuant to subsection (a)) as the Secretary considers necessary to protect the interest of the United States.

SEC. 525. DEMONSTRATION PROJECT TO EVALUATE INSTALLATION OF TELEPHONES FOR PATIENT USE AT DEPARTMENT HEALTH-CARE FACILITIES.

(a) Demonstration Project.—The Secretary of Veterans Affairs shall carry out a demonstration project to evaluate—

(1) the feasibility and desirability of (A) providing telephone service in patient rooms in Department of Veterans Affairs health-care facilities which do not currently provide such service, and (B) the use of telephones by the patients of such health-care facilities; and

(2) the relative feasibility and cost-effectiveness of a variety of options for providing such service.

(b) Project Activities.—(1) In carrying out the demonstration project under this section, the Secretary shall, at an appropriate number (as determined by the Secretary) of health care facilities, provide patients reasonable access to telephone service in patients' rooms to the extent feasible, and subject to paragraph (2).

(2) The Secretary shall ensure that patients who use such telephones bear financial responsibility for the cost of any long-distance telephone calls made during such use.

(c) Project Evaluation.—In carrying out the evaluation under subsection (a), the Secretary shall determine—

(1) the cost of the installation, use, and maintenance of such telephones, including—

(A) the amount of any savings which accrue to the facility by reason of such installation and use (including the amount of any savings that may result from any decrease in the amount of assistance in using telephones that the staff of the facility would otherwise provide to patients); and

(B) any costs that result from providing special telephones or other special equipment to facilitate the use of telephones by disabled veterans; and

(2) the effect of the use of such telephones on the therapeutic course of veterans who receive care at the facility; and

(3) the relative feasibility and cost effectiveness of a range of options for providing access to telephone service, including—

(A) the expenditure of appropriated funds;

(B) the receipt of donated funds, equipment, and services; and

(C) the procuring of equipment and services by the Veterans Canteen Service.

(d) Report.—Not later than September 30, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the demonstration project. The report shall contain the following:

(1) The determinations of the Secretary under subsection (c).

(2) An assessment by the Secretary of the feasibility and desirability of providing telephones for patients in other health-care facilities of the Department.

(3) The experience of the Secretary in using, and an assessment by the Secretary of the feasibility and cost effectiveness of, alternative arrangements to the expenditure of appropriated funds for securing telephone service for patients in health-care facilities of the Department.

(4) Any additional information and recommendations with respect to the provision and use of patient telephones at Department health-care facilities as the Secretary considers appropriate.

SEC. 526. USE OF TOBACCO PRODUCTS IN DEPARTMENT FACILITIES.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall take appropriate actions to ensure that, consistent with medical requirements and limitations, each facility of the Department described in subsection (b)—

(1) establishes and maintains—

(A) a suitable indoor area in which patients or residents may smoke and which is ventilated in a manner that, to the maximum extent feasible, prevents smoke from entering other areas of the facility; or

(B) an area in a building that—

(i) is detached from the facility;

(ii) is accessible to patients or residents of the facility; and

(iii) has appropriate heating and air conditioning; and

(2) provides access to an area established and maintained under paragraph (1), consistent with medical requirements and limitations, for patients or residents of the facility who are receiving care or services and who desire to smoke tobacco products.

(b) COVERED FACILITIES.—A Department facility referred to in subsection (a) is any Department of Veterans Affairs medical center, nursing home, or domiciliary care facility.

(c) REPORTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility of the establishment and maintenance of areas for smoking in Department facilities under this section. The report shall include information on—

(A) the cost of, and a proposed schedule for, the establishment of such an area at each Department facility covered by this section;

(B) the extent to which the ventilating system of each facility is adequate to ensure that use of the area for smoking does not result in health problems for other patients or residents of the facility; and

(C) the effect of the establishment and maintenance of an area for smoking in each facility on the accreditation score issued for the facility by the Joint Commission on the Accreditation of Health Organizations.

(2) Not later than 120 days after the effective date of this section, the Secretary shall submit to the committees referred to in paragraph (1) a report on the implementation of this section. The report shall include a description of the actions taken at each covered facility to ensure compliance with this section.

(d) EFFECTIVE DATE.—The requirement to establish and maintain areas for smoking under subsection (a) shall take effect 60 days after the date on which the Comptroller General submits to the committees referred to in subsection (c)(1) that report required under that subsection.

TITLE VI—DRUG PRICING AGREEMENTS

SEC. 601. TREATMENT OF PRESCRIPTION DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS OR PURCHASED BY CERTAIN CLINICS AND HOSPITALS.

(a) EXCLUSION OF PRICES FROM CALCULATION OF BEST PRICES FOR MEDICAID REBATE AGREEMENTS.—Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(C)) is amended by striking "(excluding" and inserting "(excluding any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in subsection (a)(5)(B), any prices charged under the Federal Supply Schedule of the General Services Administration, or any prices used under a State pharmaceutical assistance program, and excluding".

(b) AGREEMENTS REQUIRED TO RECEIVE PAYMENT.—

(1) IN GENERAL.—The first sentence of section 1927(a)(1) of such Act (42 U.S.C. 1396r-8(a)(1)) is amended by striking "manufacturer)." and inserting "manufacturer), and must meet the requirements of paragraph (5) (with respect to drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992) and paragraph (6).".

(2) AGREEMENTS DESCRIBED.—Section 1927(a) of such Act (42 U.S.C. 1396r-8(a)) is amended by adding at the end the following new paragraphs:

"(5) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of this paragraph.

"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in section 340B(a)(4) of the Public Health Service Act.

"(C) ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) ENTITIES.—Each covered entity shall inform the single State agency under section 1902(a)(5) when it is seeking reimbursement from the State plan for medical assistance described in section 1905(a)(12) with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) STATE AGENCY.—Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B the Public Health Service Act (as in effect immediately after the enactment of this paragraph) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of this paragraph.

"(6) REQUIREMENTS RELATING TO MASTER AGREEMENTS FOR DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer complies with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

"(B) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether a master agreement described in subparagraph (A) meets the requirements of section 8126 of title 38, United States Code, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(C) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 8126 of title 38, United States Code (as in effect immediately after the enactment of this paragraph) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of this paragraph.".

(3) CONFIDENTIALITY OF INFORMATION.—Section 1927(b)(3)(D) of such Act (42 U.S.C. 1396r-8(b)(3)(D)) is amended—

(A) by striking "this paragraph" and inserting "this paragraph or under an agreement with the Secretary of Veterans Affairs described in subsection (a)(6)(A)(ii)";

(B) by striking "Secretary" each place it appears and inserting "Secretary or the Secretary of Veterans Affairs"; and

(C) by striking "except" and all that follows through the period and inserting: "except—

"(i) as the Secretary determines to be necessary to carry out this section,

"(ii) to permit the Comptroller General to review the information provided, and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.".

(4) TERMINATION OF REBATE AGREEMENTS.—Section 1927(b)(4)(B) of such Act (42 U.S.C. 1396r-8(b)(4)(B)) is amended—

(i) in clause (ii), by striking "such period" and inserting "the calendar quarter beginning at least 60 days",

(ii) in clause (ii), by striking "of the notice" and all through "the agreement)." and inserting "the manufacturer provides notice to the Secretary.", and

(iii) by adding at the end the following new clauses:

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of agreements described in section 340B(a)(1) of the Public Health Service Act and master agreements described in section 8126(a) of title 38, United States Code.".

(c) BUDGET NEUTRALITY ADJUSTMENT.—Section 1927(c)(1)(B) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(B)) is amended—

(1) by striking "January 1, 1993," and inserting "October 1, 1992,";

(2) by striking "and" at the end of clause (i); and

(3) by striking clause (ii) and inserting the following:

"(ii) for quarters (or other periods) beginning after September 30, 1992, and before January 1, 1994, the greater of—

"(I) 15.7 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug;

"(iii) for quarters (or other periods) beginning after December 31, 1993, and before January 1, 1995, the greater of—

"(I) 15.4 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug;

"(iv) for quarters (or other periods) beginning after December 31, 1994, and before January 1, 1996, the greater of—

"(I) 15.2 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug; and

"(v) for quarters (or other periods) beginning after December 31, 1995, the greater of—

"(I) 15.1 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug.".

(d) REPORTS ON BEST PRICE CHANGES AND PAYMENT OF REBATES.—

(1) IN GENERAL.—Not later than 90 days after the expiration of each calendar quarter that begins on or after October 1, 1992, and ends on or before December 31, 1995, the Secretary of Health and Human Services shall submit a report to Congress that contains the following information relating to prescription drugs dispensed in the quarter (subject to paragraph (2)):

(A) With respect to single source drugs and innovator multiple source drugs (as such terms are defined in section 1927(k)(7) of the Social Security Act)—

(i) the percentage of such drugs whose best price (as reported to the Secretary under section 1927(b) of the Social Security Act) increased compared to the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(ii) the percentage of such drugs whose best price (as so reported) decreased compared to the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(iii) the percentage of such drugs whose best price (as so reported) was the same as the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(iv) the median and mean percentage increase (or decrease) in the best price of such single source drugs (as so reported) compared to the best price during the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed;

(v) the median and mean percentage increase (or decrease) in the best price of such innovator multiple source drugs (as so reported) compared to the best price during the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed; and

(vi) the median and mean percentage increase (or decrease) in the best price of all such drugs (as so reported) compared to the best price during the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed.

(B) With respect to all drugs for which manufacturers are required to pay rebates under section 1927(c) of the Social Security Act, the Secretary's estimate, on a State-by-State and a national aggregate basis, of—

(i) the total amount of all rebates paid under such section during the quarter, broken down by the portions of such total amount attributable to rebates described in paragraphs (1), (2), and (3) of such section;

(ii) the percentages of such total amount attributable to rebates described in paragraphs (1), (2), and (3) of such section; and

(iii) the amount of the portion of such total amount attributable to the rebate described in paragraph (1) of such section that is solely attributable to the application of subclause (II) of clause (i), (ii), (iii), (iv), or (v) of such paragraph.

(2) LIMITATION ON DRUGS SUBJECT TO REPORT.—No report submitted under paragraph (1) shall include any information relating to any prescription drug unless the Secretary finds that expenditures for the drug are significant expenditures under the medicaid program. In the previous sentence, expenditures for a drug are "significant" if the drug was one of the 1,000 drugs for which the greatest amount of the Federal financial assistance attributable to prescription drugs was paid under section 1903(a) of the Social Security Act during calendar year 1991.

(3) SPECIAL RULE FOR INITIAL REPORT.—For purposes of the first report required to be submitted under paragraph (1)—

(A) the Secretary shall submit the report not later than May 1, 1993; and

(B) the information contained in the report shall include information on prescription drugs dispensed during each calendar quarter that began on or after January 1, 1991, and ended on or before December 31, 1992.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments to State plans under title XIX of the Social Security Act for calendar quarters (or periods) beginning on or after January 1, 1993 (without regard to whether or not regulations to carry out such amendments have been promulgated by such date).

SEC. 602. LIMITATIONS ON PRICES OF DRUGS PURCHASED BY CERTAIN CLINICS AND HOSPITALS.

(a) IN GENERAL.—Part D of title III of the Public Health Service Act is amended by adding the following subpart:

"Subpart VII—Drug Pricing Agreements

"LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES

"SEC. 340B. (a) REQUIREMENTS FOR AGREEMENT WITH SECRETARY.—

"(1) IN GENERAL.—The Secretary shall enter into an agreement with each manufacturer of covered drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of this section, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2).

"(2) REBATE PERCENTAGE DEFINED.—

"(A) IN GENERAL.—For a covered outpatient drug purchased in a calendar quarter, the 'rebate percentage' is the amount (expressed as a percentage) equal to—

"(i) the average total rebate required under section 1927(c) of the Social Security Act with respect to the drug (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

"(ii) the average manufacturer price for such a unit of the drug during such quarter.

"(B) OVER THE COUNTER DRUGS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), in the case of over the counter drugs, the 'rebate percentage' shall be determined as if the rebate required under section 1927(c) of the Social Security Act is based on the applicable percentage provided under section 1927(c)(4) of such Act.

"(ii) DEFINITION.—The term 'over the counter drug' means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

"(3) DRUGS PROVIDED UNDER STATE MEDICAID PLANS.—Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act.

"(4) COVERED ENTITY DEFINED.—In this section, the term 'covered entity' means an entity that meets the requirements described in paragraph (5) and is one of the following:

"(A) A Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act).

"(B) An entity receiving a grant under section 340A.

"(C) A family planning project receiving a grant or contract under section 1001.

"(D) An entity receiving a grant under subpart II of part C of title XXVI (relating to categorical grants for outpatient early intervention services for HIV disease).

"(E) A State-operated AIDS drug purchasing assistance program receiving financial assistance under title XXVI.

"(F) A black lung clinic receiving funds under section 427(a) of the Black Lung Benefits Act.

"(G) A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act.

"(H) A Native Hawaiian Health Center receiving funds under the Native Hawaiian Health Care Act of 1988.

"(I) An urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.

"(J) Any entity receiving assistance under title XXVI (other than a State or unit of local government or an entity described in subparagraph (D)), but only if the entity is certified by the Secretary pursuant to paragraph (7).

"(K) An entity receiving funds under section 318 (relating to treatment of sexually transmitted diseases) or section 317(j)(2) (relating to treatment of tuberculosis) through a State or unit of local government, but only if the entity is certified by the Secretary pursuant to paragraph (7).

"(L) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that—

"(i) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan under this title;

"(ii) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act; and

"(iii) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.

"(5) REQUIREMENTS FOR COVERED ENTITIES.—

"(A) PROHIBITING DUPLICATE DISCOUNTS OR REBATES.—

"(i) IN GENERAL.—A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

"(ii) ESTABLISHMENT OF MECHANISM.—The Secretary shall establish a mechanism to ensure that covered entities comply with clause (i). If the Secretary does not establish a mechanism within 12 months under the previous sentence, the requirements of section 1927(a)(5)(C) of the Social Security Act shall apply.

"(B) PROHIBITING RESALE OF DRUGS.—With respect to any covered outpatient drug that is subject to an agreement under this subsection, a covered entity shall not resell or otherwise transfer the drug to a person who is not a patient of the entity.

"(C) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered outpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraphs (A) or (B) with respect to drugs of the manufacturer.

"(D) ADDITIONAL SANCTION FOR NONCOMPLIANCE.—If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraphs (A) or (B), the covered entity shall be liable to the manufacturer of the covered outpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the entity and the manufacturer under this paragraph.

"(6) TREATMENT OF DISTINCT UNITS OF HOSPITALS.—In the case of a covered entity that is a distinct part of a hospital, the hospital shall not be considered a covered entity under this paragraph unless the hospital is otherwise a covered entity under this subsection.

"(7) CERTIFICATION OF CERTAIN COVERED ENTITIES.—

"(A) DEVELOPMENT OF PROCESS.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall develop and implement a process for the certification of entities described in subparagraphs (J) and (K) of paragraph (4).

"(B) INCLUSION OF PURCHASE INFORMATION.—The process developed under subparagraph (A) shall include a requirement that an entity applying for certification under this paragraph submit information to the Secretary concerning the amount such entity expended for covered outpatient drugs in the preceding year so as to assist the Secretary in evaluating the validity of the entity's subsequent purchases of covered outpatient drugs at discounted prices.

"(C) CRITERIA.—The Secretary shall make available to all manufacturers of covered outpatient drugs a description of the criteria for certification under this paragraph.

"(D) LIST OF PURCHASERS AND DISPENSERS.—The certification process developed by the Secretary under subparagraph (A) shall include procedures under which each State shall, not later than 30 days after the submission of the descriptions under subparagraph (C), prepare and submit a report to the Secretary that contains a list of entities described in subparagraphs (J) and (K) of paragraph (4) that are located in the State.

"(E) RECERTIFICATION.—The Secretary shall require the recertification of entities certified pursuant to this paragraph on a not more frequent than annual basis, and shall require that such entities submit information to the Secretary to permit the Secretary to evaluate the validity of subsequent purchases by such entities in the same manner as that required under subparagraph (B).

"(8) DEVELOPMENT OF PRIME VENDOR PROGRAM.—The Secretary shall establish a prime vendor program under which covered entities may enter into contracts with prime vendors for the distribution of covered outpatient drugs. If a covered entity obtains drugs directly from a manufacturer, the manufacturer shall be responsible for the costs of distribution.

"(9) NOTICE TO MANUFACTURERS.—The Secretary shall notify manufacturers of covered outpatient drugs and single State agencies under section 1902(a)(5) of the Social Security Act of the identities of covered entities under this paragraph, and of entities that no longer meet the requirements of paragraph (5) or that are no longer certified pursuant to paragraph (7).

"(10) NO PROHIBITION ON LARGER DISCOUNT.—Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

"(b) OTHER DEFINITIONS.—In this section, the terms 'average manufacturer price', 'covered outpatient drug', and 'manufacturer' have the meaning given such terms in section 1927(k) of the Social Security Act.

"(c) REFERENCES TO SOCIAL SECURITY ACT.—Any reference in this section to a provision of the Social Security Act shall be deemed to be a reference to the provision as in effect on the date of the enactment of this section.

"(d) COMPLIANCE WITH REQUIREMENTS.—A manufacturer is deemed to meet the requirements of subsection (a) if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after the enactment of the Veterans Health Care Act of 1992), as applied by the Secretary, and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section (or the application of this section) after the date of the enactment of such Act.".

(b) STUDY OF TREATMENT OF CERTAIN CLINICS AS COVERED ENTITIES ELIGIBLE FOR PRESCRIPTION DRUG DISCOUNTS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the feasibility and desirability of including entities described in paragraph (3) as covered entities eligible for limitations on the prices of covered outpatient drugs under section 340B(a) of the Public Health Service Act (as added by subsection (a)).

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report—

(A) a description of the entities that are the subject of the study;

(B) an analysis of the extent to which such entities procure prescription drugs; and

(C) an analysis of the impact of the inclusion of such entities as covered entities under section 340B(a) of the Public Health Service Act on the quality of care provided to and the health status of the patients of such entities.

(3) ENTITIES DESCRIBED.—An entity described in this paragraph is an entity—

(A) receiving funds from a State for the provision of mental health or substance abuse treatment services under subparts I or II of part B of title XIX of the Public Health Service Act or under title V of such Act; or

(B) receiving funds from a State under title V of the Social Security Act for the provision of maternal and child health services that are furnished on an outpatient basis (other than an entity described in section 340B(a)(4)(G) of the Public Health Service Act).

SEC. 603. LIMITATION ON PRICES OF DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.

(a) AGREEMENTS WITH SECRETARY OF VETERANS AFFAIRS.—(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

"§8126. Limitation on prices of drugs procured by Department and certain other Federal agencies

"(a) Each manufacturer of covered drugs shall enter into a master agreement with the Secretary under which—

"(1) beginning January 1, 1993, the manufacturer shall make available for procurement on the Federal Supply Schedule of the General Services Administration each covered drug of the manufacturer;

"(2) with respect to each covered drug of the manufacturer procured by a Federal agency described in subsection (b) on or after January 1, 1993, that is purchased under depot contracting systems or listed on the Federal Supply Schedule, the manufacturer has entered into and has in effect a pharmaceutical pricing agreement with the Secretary (or the Federal agency involved, if the Secretary delegates to the Federal agency the authority to enter into such a pharmaceutical pricing agreement) under which the price charged during the one-year period beginning on the date on which the agreement takes effect may not exceed 76 percent of the non-Federal average manufacturer price (less the amount of any additional discount required under subsection (c)) during the one-year period ending one month before such date (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period are not available, during such period preceding such date as the Secretary considers appropriate), except that such price may nominally exceed such amount if found by the Secretary to be in the best interests of the Department or such Federal agencies;

"(3) with respect to each covered drug of the manufacturer procured by a State home receiving funds under section 1741 of this title, the price charged may not exceed the price charged under the Federal Supply Schedule at the time the drug is procured; and

"(4) unless the manufacturer meets the requirements of paragraphs (1), (2), and (3), the manufacturer may not receive payment for the purchase of drugs or biologicals from—

"(A) a State plan under title XIX of the Social Security Act, except as authorized under section 1927(a)(3) of such Act,

"(B) any Federal agency described in subsection (b), or

"(C) any entity that receives funds under the Public Health Service Act.

"(b) The Federal agencies described in this subsection are as follows:

"(1) The Department.

"(2) The Department of Defense.

"(3) The Public Health Service, including the Indian Health Service.

"(c) With respect to any covered drug the price of which is determined in accordance with a pharmaceutical pricing agreement entered into pursuant to subsection (a)(2), for calendar quarters beginning on or after January 1, 1993, the manufacturer shall provide a discount in an amount equal to the amount by which the change in non-Federal price exceeds the amount equal to—

"(1) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the last day of the month preceding the month during which the contract for the covered drug goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the month during which the contract goes into effect as the Secretary considers appropriate); increased by

"(2) the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last month of the period described in paragraph (1) and the last month preceding the month during which the contract goes into effect for which Consumer Price Index data are available.

"(d) In the case of a covered drug of a manufacturer that has entered into a multi-year contract with the Secretary under subsection (a)(2) for the procurement of the drug—

"(1) during any one-year period that follows the first year for which the contract is in effect, the price charged may not exceed the price charged during the preceding one-year period, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last months of such one-year periods for which Consumer Price Index data are available; and

"(2) in applying subsection (c) to determine the amount of the discount provided with respect to the drug during a year that follows the first year for which the contract is in effect, any reference in such subsection to 'the month during which the contract goes into effect' shall be considered a reference to the first month of such following year.

"(e)(1) The manufacturer of any covered drug the price of which is determined in accordance with a pharmaceutical pricing agreement entered into pursuant to subsection (a)(2) shall—

"(A) not later than 30 days after the first day of the last quarter that begins before the agreement takes effect (or, in the case of an agreement that takes effect on January 1, 1993, not later than 30 days after the date of the enactment of this section), report to the Secretary the non-Federal average manufacturer price for the drug during the 1-year period that ends on the last day of the previous quarter; and

"(B) not later than 30 days after the last day of each quarter for which the agreement is in effect, report to the Secretary the non-Federal average manufacturer price for the drug during such quarter.

"(2) The provisions of subparagraphs (B) and (C) of section 1927(b)(3) of the Social Security Act shall apply to drugs described in paragraph (1) and the Secretary in the same manner as such provisions apply to covered outpatient drugs and the Secretary of Health and Human Services under such subparagraphs, except that references in such subparagraphs to prices or information reported or required under 'subparagraph (A)' shall be deemed to refer to information reported under paragraph (1).

"(3) In order to determine the accuracy of a drug price that is reported to the Secretary under paragraph (1), the Secretary may audit the relevant records of the manufacturer or of any wholesaler that distributes the drug, and may delegate the authority to audit such records to the appropriate Federal agency described in subsection (b).

"(4) Any information contained in a report submitted to the Secretary under paragraph (1) or obtained by the Secretary through any audit conducted under paragraph (3) shall remain confidential, except as the Secretary determines necessary to carry out this section and to permit the Comptroller General and the Director of the Congressional Budget Office to review the information provided.

"(f) The Secretary shall supply to the Secretary of Health and Human Services—

"(1) upon the execution or termination of any master agreement, the name of the manufacturer, and

"(2) on a quarterly basis, a list of manufacturers who have entered into master agreements under this section, and

"(g)(1) Any reference in this section to a provision of the Social Security Act shall be deemed to be a reference to the provision as in effect on the date of the enactment of this section.

"(2) A manufacturer is deemed to meet the requirements of subsection (a) if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after the enactment of this section), and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section after the date of the enactment of this section.

"(h) In this section:

"(1) The term 'change in non-Federal price' means, with respect to a covered drug that is subject to an agreement under this section, an amount equal to—

"(A) the non-Federal average manufacturer price of the drug during the 3-month period that ends with the month preceding the month during which a contract goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period as the Secretary considers appropriate); minus

"(B) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the end of the period described in subparagraph (A) (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the period described in subparagraph (A) as the Secretary considers appropriate).

"(2) The term 'covered drug' means—

"(A) a drug described in section 1927(k)(7)(A)(ii) of the Social Security Act, or that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act;

"(B) a drug described in section 1927(k)(7)(A)(iv) of the Social Security Act, or that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act;

"(C) any biological product identified under section 600.3 of title 21, Code of Federal Regulations; or

"(D) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'depot' means a centralized commodity management system through which covered drugs procured by an agency of the Federal Government are—

"(A) received, stored, and delivered through—

"(i) a federally owned and operated warehouse system, or

"(ii) a commercial entity operating under contract with such agency; or

"(B) delivered directly from the commercial source to the entity using such covered drugs.

"(4) The term 'manufacturer' means any entity which is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(5) The term 'non-Federal average manufacturer price' means, with respect to a covered drug and a period of time (as determined by the Secretary), the weighted average price of a single form and dosage unit of the drug that is paid by wholesalers in the United States to the manufacturer, taking into account any cash discounts or similar price reductions during that period, but not taking into account—

"(A) any prices paid by the Federal Government; or

"(B) any prices found by the Secretary to be merely nominal in amount.

"(6) The term 'weighted average price' means, with respect to a covered drug and a period of time (as determined by the Secretary) an amount equal to—

"(A) the sum of the products of the average price per package unit of each quantity of the drug sold during the period and the number of package units of the drug sold during the period; divided by

"(B) the total number of package units of the drug sold during the period.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8125 the following new item:

"8126. Limitation on prices of drugs procured by Department.".

TITLE VII—PERSIAN GULF WAR VETERANS' HEALTH STATUS

SEC. 701. SHORT TITLE.

This title may be cited as the "Persian Gulf War Veterans' Health Status Act".

SEC. 702. PERSIAN GULF WAR VETERANS HEALTH REGISTRY.

(a) Establishment of Registry.—The Secretary of Veterans Affairs shall establish and maintain a special record to be known as the "Persian Gulf War Veterans Health Registry" (in this section referred to as the "Registry").

(b) Contents of Registry.—Except as provided in subsection (c), the Registry shall include the following information:

(1) A list containing the name of each individual who served as a member of the Armed Forces in the Persian Gulf theater of operations during the Persian Gulf War and who—

(A) applies for care or services from the Department of Veterans Affairs under chapter 17 of title 38, United States Code;

(B) files a claim for compensation under chapter 11 of such title on the basis of any disability which may be associated with such service;

(C) dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under chapter 13 of such title on the basis of such service;

(D) requests from the Department a health examination under section 703; or

(E) receives from the Department of Defense a health examination similar to the health examination referred to in subparagraph (D) and requests inclusion in the Registry.

(2) Relevant medical data relating to the health status of, and other information that the Secretary considers relevant and appropriate with respect to, each individual described in paragraph (1) who—

(A) grants to the Secretary permission to include such information in the Registry; or

(B) at the time the individual is listed in the Registry, is deceased.

(c) Individuals Submitting Claims or Making Requests Before Date of Enactment.—If in the case of an individual described in subsection (b)(1) the application, claim, or request referred to in such subsection was submitted, filed, or made, before the date of the enactment of this Act, the Secretary shall, to the extent feasible, include in the Registry such individual's name and the data and information, if any, described in subsection (b)(2) relating to the individual.

(d) Department of Defense Information.—The Secretary of Defense shall furnish to the Secretary of Veterans Affairs such information maintained by the Department of Defense as the Secretary of Veterans Affairs considers necessary to establish and maintain the Registry.

(e) Relation to Department of Defense Registry.—The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall ensure that information is collected and maintained in the Registry in a manner that permits effective and efficient cross-reference between the Registry and the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

(f) Ongoing Outreach to Individuals Listed in Registry.—The Secretary of Veterans Affairs shall, from time to time, notify individuals listed in the Registry of significant developments in research on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

SEC. 703. HEALTH EXAMINATIONS AND COUNSELING FOR VETERANS ELIGIBLE FOR INCLUSION IN CERTAIN HEALTH-RELATED REGISTRIES.

(a) In General.—(1) The Secretary of Veterans Affairs—

(A) shall, upon the request of a veteran described in subsection (b)(1), provide the veteran with a health examination and consultation and counseling with respect to the results of the examination; and

(B) may, upon the request of a veteran described in subsection (b)(2), provide the veteran with such an examination and such consultation and counseling.

(2) The Secretary shall carry out appropriate outreach activities with respect to the provision of any health examinations and consultation and counseling services under paragraph (1).

(b) Covered Veterans.—(1) In accordance with subsection (a)(1)(A), the Secretary shall provide an examination, consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in the Persian Gulf War Veterans Health Registry established by section 702.

(2) In accordance with subsection (a)(1)(B), the Secretary may provide an examination, consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in any other similar health-related registry administered by the Secretary.

SEC. 704. EXPANSION OF COVERAGE OF PERSIAN GULF REGISTRY.

(a) In General.—Subsections (a) and (b) of section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note) are amended to read as follows:

"(a) Establishment of Registry.—The Secretary of Defense shall establish and maintain a special record (in this section referred to as the 'Registry') relating to the following members of the Armed Forces:

"(1) Members who, as determined by the Secretary, were exposed to the fumes of burning oil in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

"(2) Any other members who served in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

"(b) Contents of Registry.—(1) The Registry shall include—

"(A) with respect to each class of members referred to in each of paragraphs (1) and (2) of subsection (a)—

"(i) a list containing each such member's name and other relevant identifying information with respect to the member; and

"(ii) to the extent that data are available and inclusion of the data is feasible, a description of the circumstances of the member's service during the Persian Gulf conflict, including the locations in the Operation Desert Storm theater of operations in which such service occurred and the atmospheric and other environmental circumstances in such locations at the time of such service; and

"(B) with respect to the members referred to in subsection (a)(1), a description of the circumstances of each exposure of each such member to the fumes of burning oil as described in such subsection (a)(1), including the length of time of the exposure.

"(2) The Secretary shall establish the Registry with the advice of an independent scientific organization.".

(b) Conforming Amendments.—(1) Subsection (c)(1) of such section is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a)(1)".

(2) Subsection (d) of such section is amended by inserting "pursuant to subsection (a)(1)" after "Registry".

SEC. 705. STUDY BY OFFICE OF TECHNOLOGY ASSESSMENT OF PERSIAN GULF REGISTRY AND PERSIAN GULF WAR VETERANS HEALTH REGISTRY.

(a) Study.—The Director of the Office of Technology Assessment shall, in a manner consistent with the Technology Assessment Act of 1972 (2 U.S.C. 472(d)), assess—

(1) the potential utility of each of the Persian Gulf Registry and the Persian Gulf War Veterans Health Registry for scientific study and assessment of the intermediate and long-term health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War;

(2) the extent to which each registry meets the requirements of the provisions of law under which the registry is established;

(3) the extent to which data contained in each registry—

(A) are maintained in a manner that ensures permanent preservation and facilitates the effective, efficient retrieval of information that is potentially relevant to the scientific study of the intermediate and long-term health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War; and

(B) would be useful for scientific study regarding such health consequences;

(4) the adequacy of any plans to update each of the registries;

(5) the extent to which the Department of Defense or the Department of Veterans Affairs, as the case may be, is assembling and maintaining information on the Persian Gulf theater of operations (including information on troop locations and atmospheric and weather conditions) in a manner that facilitates the usefulness of, maintenance of, and retrieval of information from, the applicable registry; and

(6) the adequacy and compatibility of protocols for the health examinations and counseling provided under section 703 and health

examinations provided by the Department of Defense to members of the Armed Forces for the purpose of assessing the health status of members of the Armed Forces who served in the Persian Gulf theater of operations during the Persian Gulf War.

(b) ACCESS TO INFORMATION.—The Secretary of Veterans Affairs and the Secretary of Defense shall provide the Director with access to such records and information under the jurisdiction of each such secretary as the Director determines necessary to permit the Director to carry out the study required under this section.

(c) REPORTS.—The Director shall—

(1) not later than 270 days after the date of the enactment of this Act, submit to Congress a report on the results of the assessment carried out under this section of the Persian Gulf Registry and health-examination protocols; and

(2) not later than 15 months after such date, submit to Congress a report on the results of the assessment carried out under this section of the Persian Gulf War Veterans Health Registry.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "Persian Gulf Registry" means the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

(2) The term "Persian Gulf War Veterans Health Registry" means the Persian Gulf War Veterans Health Registry established under section 702.

SEC. 706. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES FOR REVIEW OF HEALTH CONSEQUENCES OF SERVICE DURING THE PERSIAN GULF WAR.

(a) AGREEMENT.—(1) The Secretary of Veterans Affairs and Secretary of Defense jointly shall seek to enter into an agreement with the National Academy of Sciences for the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the Academy to review existing scientific, medical, and other information on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(2) The agreement shall require MFUA to provide members of veterans organizations and members of the scientific community (including the Director of the Office of Technology Assessment) with the opportunity to comment on the method or methods MFUA proposes to use in conducting the review.

(3) The agreement shall permit MFUA, in conducting the review, to examine and evaluate medical records of individuals who are included in the registries referred to in section 705(d) for purposes that MFUA considers appropriate, including the purpose of identifying illnesses of those individuals.

(4) The Secretary of Veterans Affairs and the Secretary of Defense shall seek to enter into the agreement under this section not later than 180 days after the date of the enactment of this Act.

(b) REPORT.—(1) The agreement under this section shall require the National Academy of Sciences to submit to the committees and secretaries referred to in paragraph (2) a report on the results of the review carried out under the agreement. Such report shall contain the following:

(A) An assessment of the effectiveness of actions taken by the Secretary of Veterans Affairs and the Secretary of Defense to collect and maintain information that is potentially useful for assessing the health consequences of the military service referred to in subsection (a).

(B) Recommendations on means of improving the collection and maintenance of such information.

(C) Recommendations on whether there is sound scientific basis for an epidemiological study or studies on the health consequences of such service, and if the recommendation is that there is sound scientific basis for such a study or studies, the nature of the study or studies.

(2) The committees and secretaries referred to in paragraph (1) are the following:

(A) The Committees on Veterans' Affairs of the Senate and House of Representatives.

(B) The Committees on Armed Services of the Senate and House of Representatives.

(C) The Secretary of Veterans Affairs.

(D) The Secretary of Defense.

(c) FUNDING.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall make available up to a total of $500,000 in fiscal year 1993, from funds available to the Department of Veterans Affairs and the Department of Defense in that fiscal year, to carry out the review. Any amounts provided by the two departments shall be provided in equal amounts.

(2) If the Secretary of Veterans Affairs and the Secretary of Defense enter into an agreement under subsection (a) with the National Academy of Sciences—

(A) the Secretary of Veterans Affairs shall make available $250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Veterans Affairs in each such fiscal year, to the National Academy of Sciences for the general purposes of conducting epidemiological research with respect to military and veterans populations; and

(B) the Secretary of Defense shall make available $250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Defense in each such fiscal year, to the National Academy of Sciences for the purposes of conducting the research referred to in subparagraph (A).

SEC. 707. COORDINATION OF GOVERNMENT ACTIVITIES ON HEALTH-RELATED RESEARCH ON THE PERSIAN GULF WAR.

(a) DESIGNATION OF COORDINATING ORGANIZATION.—The President shall designate, and may redesignate from time to time, the head of an appropriate department or agency of the Federal Government to coordinate all research activities undertaken or funded by the Executive Branch of the Federal Government on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(b) REPORT.—Not later than March 1 of each year, the head of the department or agency designated under subsection (a) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and results of all such research activities undertaken or funded by the Executive Branch of the Federal Government during the previous year.

SEC. 708. DEFINITION.

For the purposes of this title, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

TITLE VIII—COURT OF VETERANS APPEALS

SEC. 801. DISCIPLINARY PROCEDURES FOR JUDGES OF COURT OF VETERANS APPEALS.

Section 7253(g) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The provisions of paragraphs (7) through (15) of section 372(c) of title 28, regarding referral or certification to, and petition for review in, the Judicial Conference of the United States and action thereon, shall apply to the exercise by the Court of the powers of a judicial council under paragraph (1) of this subsection. The grounds for removal from office specified in subsection (f)(1) shall provide a basis for a determination pursuant to paragraph (7) or (8) of section 372(c) of title 28, and certification and transmittal by the Conference shall be made to the President for consideration under subsection (f).

"(3)(A) In conducting hearings pursuant to paragraph (1), the Court may exercise the authority provided under section 1821 of title 28 to pay the fees and allowances described in that section.

"(B) The Court shall have the power provided under section 372(c)(16) of title 28 to award reimbursement for the reasonable expenses described in that section. Reimbursements under this subparagraph shall be made from funds appropriated to the Court.".

In lieu of the Senate amendment to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to improve health care services for women veterans, to expand authority for health care sharing agreements between the Department of Veterans Affairs and the Department of Defense to revise certain pay authorities that apply to Department of Veterans Affairs nurses, to improve preventive health services for veterans, to establish discounts on pharmaceuticals purchased by the Department of Veterans Affairs, to provide for a Persian Gulf War Veterans Health Registry, and to make other improvements in the delivery and administration of health care by the Department of Veterans Affairs.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

Mr. STUMP. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman for an explanation.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 5193, as amended, which includes most of the health care provisions considered by our committee this year. These amendments represent an agreement we have reached with the leadership of the Senate Veterans' Affairs Committee on S. 2575 which they sent to the House last week.

During each Congress, the Veterans' Committee brings many bills to the floor. But this year we were unusually busy, especially in working on VA medical programs. A review of the agreement we're taking up today is a good example of our concern about the status of health care for our veterans.

This is a wide-ranging measure. Among other things, it establishes a comprehensive health services program for women veterans. The agreement would expand the range of services provided to women veterans; establish a new counseling program for women who were sexually harassed or assaulted in service, and provide a new emphasis on research on women's health issues in VA.

The agreement would provide much-needed help to others as well. It takes a series of steps toward providing answers for Persian Gulf veterans concerned about possible health risks associated with their service. These include authorizing VA to establish a registry for those who served, and establishing a scientific framework for further analysis of possible health risks. The bill would call on the congressional Office of Technology Assessment to review the manner in which VA and DOD maintain their registries and would authorize VA to enter into an agreement with the National Academy of Sciences to review these health care concerns.

VA nurses who face problems of pay compression will also find relief in this agreement. It has provisions to fine-tune the Nurse Pay Act which was enacted in the 101st Congress.

This agreement should also provide a good solution to the problem of excessive pharmaceutical prices that has plagued the Department since April 1991. We have tried to bring the Department back to the market environment which was in place prior to 1991 and to reestablish discounted drug prices without hurting the Medicaid Program. Developing this remedial legislation was difficult, but I want to thank Mr. DINGELL, Mr. WAXMAN, Mr. LENT, and Mr. DANNEMEYER of the Energy and Commerce Committee for sticking with veterans and helping us resolve this issue.

Of course, I want to thank the ranking minority member of our Subcommittee on Hospitals and Health Care, JOHN PAUL HAMMERSCHMIDT, as well as the ranking minority member of the full committee, BOB STUMP. BOB and I appeared before Mr. WAXMAN's subcommittee on behalf of this legislation, and I am very grateful for his strong support of this bill.

Another important provision of the agreement would expand VA's authority to share health care resources with the Department of Defense. It would permit the VA hospitals to enter into agreements with DOD facilities to provide services on a space-available basis to members of the military, their dependents and military retirees. Before entering into such an agreement, however, VA would be required to show that it would improve services to veterans at the facility and that care to veterans would not be diminished. This measure promises veterans improved services through better access or shorter waiting times.

The agreement also contains certain improvements to general health care and administration programs. It will make permanent VA's authority to provide respite care to veterans who are cared for in a home-setting, establish a National Center for Preventive Health and extend the Health Professional Scholarship Program.

The agreement authorizes a demonstration project to examine options for, and the cost effectiveness of, providing bedside telephones in VA hospitals. This project would tell the committee more about the problems, if any, and the cost involved in providing telephone service for veteran patients in our veterans hospitals.

Finally, the agreement includes a very reasonable compromise on the issue of accommodating veterans who want to smoke at our veterans hospitals by requiring the Secretary to provide an accessible, protected area for smoking, either inside the hospital or nearby, that will not adversely affect the health of other patients and staff.

I urge my colleagues to support the proposed House amendments.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I just want to point out that we worked very closely together on this legislation insofar as it applies to the Medicaid Program. I urge support for the legislation.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I rise in strong support of H.R. 5193, the Veterans Health Care Improvement Act of 1992. It contains many important provisions which will improve certain programs at the Department of Veterans Affairs.

The bill reflects compromises which have been worked out between the House and Senate Committees on Veterans' Affairs, as well as, the Energy and Commerce Committee. This bill also marks the last legislative initiative bearing the efforts of two prominent congressional advocates for our Nation's veterans. Mr. Speaker, my good friend Congressman JOHN PAUL HAMMERSCHMIDT the ranking minority member of the Subcommittee on Hospitals and Health Care and long-time member of the committee and Senator ALAN CRANSTON, the chairman of the Senate Committee on Veterans' Affairs are retiring.

I want the RECORD to show my deep appreciation for all of their efforts because they have greatly improved the lives of many individual veterans, and I would like to take this opportunity to pay tribute to JOHN PAUL.

Along with Chairman MONTGOMERY, JOHN PAUL has worked tirelessly to promote veterans' programs and garner support for them at the highest levels of Government. He has provided leadership and experienced counsel to the minority members of this committee for two decades. He has been the ranking member of the subcommittee since 1975. Additionally, JOHN PAUL served as ranking member of the full Committee on Veterans' Affairs from 1973 to 1987.

His nonpartisan approach to veterans' issues forged the best working relationship between minority and majority members of any committee in Congress. In all the years I have known JOHN PAUL, he has always set aside partisan politics in the name of advancing veterans' programs and benefits.

JOHN PAUL, on behalf of the minority members of this committee let me say thanks for your commitment and monumental contributions to American's 27 million veterans.

The Veterans' Committee is also losing CHALMERS WYLIE, CRAIG JAMES, and DICK NICHOLS at the end of this session and I would like to take this opportunity to recognize each one of them.

CHALMERS has long been a supporter of veterans' benefits and services, particularly in his role as former ranking minority member of the Education, Training and Employment Subcommittee.

CRAIG, while relatively new to the committee, has shown solid commitment to Florida veterans, and we thank him for his work.

Despite the harsh realities of redistricting, which put his reelection in jeopardy some time ago, DICK has made an extra effort to acquaint himself with the issues and fully participate in the committee's deliberations.

On behalf of the minority members of the committee we certainly wish them all the best in their future endeavors.

The compromise agreement we have before us today will provide counseling services for women veterans who have incurred sexual trauma while on active duty in the Armed Forces and makes general improvements to providing health care services to women.

Recent hearings have highlighted the need for the Department to take a more active role in providing services to women who now make up more than 4.2 percent of all veterans. In addition, we have expanded sharing agreements between the VA and the Department of Defense with the intention of adding more CHAMPS eligible women to VA's case mix which will promote cost-effective expansion of services to women veterans and in fact, all veterans. Title III of the bill contains certain improvements to the locality base pay system for VA nurses. The committee enacted nurse pay reform in the 101st Congress and the law is working extremely well overall. The amendments to that law will only serve to make technical improvements to nurse pay.

This bill also contains a compromise agreement on provisions contained in H.R. 2890, the Drug Procurement Amendments of 1992. H.R. 2890 pass this body on September 22, and is intended to reverse a trend of pharmaceutical price hikes which the Department has experienced since the enactment of OBRA 90.

This bill requires the Secretary of Veterans Affairs to establish a special registry of all veterans who served in the Persian Gulf theater of operations, provide medical examinations upon the veteran's request and list in the registry all relevant medical data regarding the veteran's health status. It also establishes a registry maintained by the Secretary of Defense which would identify where in the theater of operations the veteran served and to the extent feasible, the atmospheric and environmental circumstances at that location. This provision is intended to put in law what the Department of Defense is already doing on its own initiative.

The remainder of the bill contains general health care and administration improvements such as amendments to the Veterans State Home Programs, and the establishment of a National Center for Preventive Health.

Finally, Mr. Speaker, the bill contains a demonstration project which will provide bedside telephones at VA medical centers. Many veterans have complained over the years that the difficulty in accessing a phone while recuperating from an illness in a VA medical center only increases the isolation associated with hospitalization. This demo will identify for the committee the problems, if any, and the expense of wiring VA medical centers in order to provide bedside telephones to veterans.

I want to thank my colleagues, chairman MONTGOMERY, Senator CRANSTON, Senator SPECTER, and Congressman JOHN PAUL HAMMERSCHMIDT for their hard work on these provisions. Mr. Speaker, H.R. 5193 is a good bill and the administration has no objection to its passage. I urge the support of my colleagues.

Mrs. SCHROEDER. Mr. Speaker, over the past year and a half, America has been hearing heartwrenching stories of women who were sexually abused in the military. These women need help—help in bringing a sense of justice back into their lives and help in getting services they deserve.

In August, with the support of many of my colleagues from the Veterans' Committee, Representatives LANE EVANS, JILL LONG MARILYN LLOYD, and DON EDWARDS and I introduced H.R. 5885 to provide veterans who suffered sexual violence in the military with comprehensive psychological and medical services on a priority basis. The bill improved necessary women's health services care at VA hospitals. It also mandated extensive research on women veterans so we can learn why women veterans contract cancer at twice the rate of civilian women, and make the VA more responsive to the unique health problems facing women.

The bill we are considering tonight, H.R. 5193, does not go as far as H.R. 5885, but it is a good beginning.

H.R. 5193 allows women veterans, at the discretion of the Secretary, to receive sexual trauma counseling at the VA for 1 year, and only if the veteran applies for services within 2 years of separating from the military. This bill provides limited contract authority to the VA for such treatment only through 1994. Furthermore, although H.R. 5193 will improve mammography, pap smears, and general reproductive health care at VA hospitals, it does not provide services for medical complications due to sexual trauma. In addition, the research provisions for women veterans remain vague.

H.R. 5193 is a start, but we're not finished yet. I look forward to working with the committee next year on making the VA more receptive to women veterans.

Mr. HAMMERSCHMIDT. I rise today in strong support of H.R. 5193, as amended, the Veterans Health Care Improvement Act of 1992. This is a very comprehensive and substantive bill which contains provisions relating to issues affecting a broad range of veterans' programs. I want to thank Chairman MONTGOMERY and the ranking member, Representative STUMP, or their hard work and resolve in bringing H.R. 5193 before us today as we near the end of a hectic legislative schedule.

First, H.R. 5193 contains a provision to establish a Persian Gulf war veterans registry to track adverse health effects experienced by these men and women. We are hearing more and more reports each day of Persian Gulf veterans suffering from health effects related to exposure to such environmental hazards as the oil fires in Kuwait and other potentially toxic materials.

The Department of Veterans Affairs [VA] is to be commended for their efficiency in establishing three referral centers in Houston, Washington, DC, and Los Angeles, to handle cases of unusual symptoms in our newest group of veterans. Nevertheless, it is critical that we provide the VA with the legislative authority to set up this computerized registry to further assess the health condition of Persian Gulf veterans.

H.R. 5193 also contains the provisions of H.R. 2890, the VA-Medicaid Drug Procurement Amendments of 1992, which the House passed on September 22. This measure is critical to alleviating the effect of unprecedented pharmaceutical price increases to the VA health care system. H.R. 5193 will exclude Federal prices from pharmaceutical manufacturers' calculation of best price used to fix Medicaid rebates. Additionally, this legislation requires that the VA receive a 24-percent discount off the average prices charged to non-Federal pharmaceutical buyers.

H.R. 5193 also expands current health care sharing agreements between the VA and the Department of Defense [DOD]. The Secretary of Veterans Affairs would be authorized to provide services on a space-available basis to any CHAMPUS beneficiary under VA–DOD sharing agreements, as well as permit the VA to provide such services in areas where there is no DOD health care facility or where such a facility will be closing.

This legislation is very timely in light of two factors, the first being the numerous base closings that are leaving military retirees and their dependents without direct access to health care facilities. Second, a 10-year trend of underfunding of the VA health care system has naturally taken its toll. It is imperative that these cost-sharing proposals be tested in order to preserve and enhance the ability of the VA to care for its veteran population.

Furthermore, H.R. 5193 establishes counseling services for women veterans who have suffered from sexual trauma in the Armed Forces and makes much needed improvements in VA health care services for women.

Finally, I want to mention that H.R. 5193 makes technical improvements to Public Law 101–366, the Nurse Pay Act, to address some problem areas, specifically pay compression at the intermediate and senior grades.

Mr. Speaker, H.R. 5193 is a compromise bill which will greatly improve a range of services for our Nation's veterans. I urge my colleagues to support H.R. 5193.

Mr. SLATTERY. Mr. Speaker, I rise in support of this measure, which I believe is landmark legislation regarding the health care of our Nation's veterans.

I specifically would like to highlight title VI of this legislation which reflects provisions that were included in a bill I introduced earlier this evening on behalf of Energy and Commerce Committee Chairman DINGELL and Veterans' Committee Chairman MONTGOMERY, both committees on which I serve. This bill, the Medicaid and Department of Veterans Affairs Drug Rebate Amendments of 1992 Act, is a carefully crafted compromise between the House and Senate Veterans' Committees and the House Energy and Commerce Committee.

I commend the efforts of Representatives WAXMAN, BLILEY, and STUMP for their work reflected in the title VI provisions which establish limits on the price of drugs procured by the Department of Veterans Affairs [DVA] and by certain Federal health care entities.

While I believe that more work needs to be done in this area, I believe we've done as much as we can this year. I regret that we could not achieve a compromise on this issue which would have fixed the problem in a more comprehensive way. However, I am very pleased that there is a real fix in this bill for veterans and for attendees of public health service clinics and other Federal entities who will now be better protected from unfair drug pricing.

Title VI, the Medicaid and Department of Veterans Affairs Drug Rebate Amendments of 1992 Act, basically exempts the DVA and certain Federal health care entities from the Medicaid Best Price Program enacted in 1990 with requirements for agreements to be made by manufacturers and the Secretaries of Health and Human Services and Veterans Affairs.

I do remain concerned that Congressional Budget Office [CBO] predictions will come true and that the best price discounts we have seen for brand name drugs will continue to fade away. I believe that a flat rebate program would minimize the cost shifting that is currently taking place under the best price program. And that is why earlier this year I introduce H.R. 5614, a flat rebate alternative.

I would have preferred, at this time, to have addressed the concerns voiced by many public and private institutions such as nursing homes, HMO's, and hospitals which have experienced massive drug price hikes on their most frequently purchased products. These groups represent an important segment of consumers and include many of our constituents. They should not have to bear the brunt of cost shifting taking place under the current best price system.

I am encouraged, however, that Representatives WAXMAN and BLILEY recognize that this issue will have to be revisited and have indicated a willingness to hold hearings early next Congress before the House Energy and Commerce Subcommittee on Health. In the meantime, the data from the rebate-reporting provision included in this title will be very useful in assessing all aspects of the current rebate program.

I believe that title VI provisions of this bill accomplish an important first step in an effort to more broadly reform the current Medicaid prescription drug reimbursement system.

Mr. KOSTMAYER. Mr. Speaker, I rise today to support the compromise version of the veterans health care bill of 1992 because it includes a number of important provisions. It will insure that those veterans who need special respite care will continue to get it. It will also extend the Department of Veterans Affairs [VA] Health Professions Scholarship Program, which provides incentives and assistance to people who want to enter the health profession, yet find it difficult to pay for.

I also support this bill because it contains legislation which I introduced several months ago requiring the VA to install bedside telephones as a pilot program in the Philadelphia VA hospital.

It is unconscionable that in order for a patient to make a telephone call in a VA hospital, one must search for quarters and wander up and down the halls searching for an available pay phone. That it is nearly impossible for a patient to receive a phone call from family or friends is equally disturbing. The inclusion of this provision should go far in finally providing veterans needing hospital care with some of the conveniences which the rest of us have come to expect.

Mr. STUMP. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

VETERANS HOME LOAN PROGRAM REVITALIZATION ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 939) to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Home Loan Program Revitalization Act of 1992".

SEC. 2. ADJUSTABLE RATE MORTGAGE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program under this section during fiscal years 1993 through 1997 to demonstrate the feasibility of guaranteeing mortgages that provide for periodic adjustments by the mortgagee in the effective rate of interest charged. A mortgage may be guaranteed under this section only if it meets the requirements of chapter 37 of title 38, United States Code, except as those requirements are modified by this section.

(b) ADJUSTMENTS AUTHORIZED.—Interest rate adjustments or a mortgage guaranteed under this section shall—

(1) correspond to a specified national interest rate index approved in regulations by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis on the anniversary of the date on which the loan was closed;

(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

(c) UNDERWRITING STANDARDS.—The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(d) REGULATIONS.—The Secretary shall issue regulations requiring that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first 5 years of the mortgage term.

(e) LIMITATIONS.—The aggregate number of mortgages and loans guaranteed under this section, may not exceed 10 percent of the aggregate number of mortgages and loans guaranteed by the Secretary under chapter 37 of title 38, United States Code, during the preceding fiscal year.

(f) REPORTS.—Not later than 1 year after the date on which the Secretary first exercises the authority to guarantee loans under this section, and for each of the four years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pilot program under this section. Each report shall contain a summary of loan activity for loans guaranteed under this section, including information pertaining to defaults and comparisons with the default rates for fixed-rate loans guaranteed under chapter 37 of title 38, United States Code, fixed-rate and adjustable rate loans insured under title II of the National Housing Act, and loans made in the conventional mortgage market.

SEC. 3. ENERGY EFFICIENT MORTGAGES.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program under this section during fiscal years 1993 and 1994 to demonstrate the feasibility of guaranteeing mortgages for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling. A mortgage may be guaranteed under this section only if it meets the requirements of chapter 37 of title 38, United States Code, except as those requirements are modified by this section.

(b) IMPROVEMENTS AUTHORIZED.—The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not—

(1) exceed the greater of—

(A) $4,000; or

(B) an amount that is equal to 5 percent of the value of the dwelling before installation of the energy efficiency improvements but does not exceed $8,000; or

(2) increase the monthly payment for principal and interest by an amount greater than the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

(c) GUARANTEE.—The Secretary shall guarantee a loan under this section in the same proportion as the guaranty that would be provided under section 3703(a)(1)(A) of title 38, United States Code, for the dwelling without the energy efficiency improvements. The amount of a veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of title 38, shall not be affected by the incremental amount of the guaranty provided for the portion of the loan necessary to finance the energy efficiency improvements.

(d) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

(e) LIMITATIONS.—The pilot program under this section shall be carried out in not fewer than 5 nor more than 10 States. The aggregate number of mortgages and loans guaranteed under this section, may not exceed 1,250 during fiscal years 1993 and 1994.

(f) OUTREACH.—The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors in the States in which the pilot program will be carried out of the availability of loan guarantees under this section and the procedures and requirements that apply to the obtaining of such guarantees.

(g) TERMINATION.—If the Secretary finds that the aggregate incremental cost of the pilot program under this section will exceed a total of $2,000,000 during fiscal years 1993 and 1994, the Secretary may terminate the program under this section prior to the close of fiscal year 1994.

(h) REPORTS.—Not later than 1 year after the date on which the Secretary first exercises the authority to guarantee loans under this section, and for each of the 5 years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pilot program under this section. Each such report shall contain information pertaining to default rates on the mortgages guaranteed under this section and information on the effect of energy efficiency improvements on resale values and home utility consumption and costs.

(i) EFFECT ON OTHER LAW.—This section does not supersede or otherwise affect the guarantee authority under section 3710(a)(7) of title 38, United States Code.

SEC. 4. NEGOTIATED INTEREST RATES.

(a) IN GENERAL.—Section 3703(c) of title 38, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for" and inserting "applicable to"; and

(B) by striking all that follows "(12 U.S.C. 1709(b))" and inserting a period; and

(2) by adding at the end the following:

"(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary shall elect to require that such loans bear interest at a rate that is—

"(i) agreed upon by the veteran and the mortgagee; or

"(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

"(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

"(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

"(D) This paragraph shall expire on December 31, 1994.".

(b) Report.—Not later than March 1, 1994, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points. If the Secretary has implemented that authority, the Secretary shall include in the report an assessment of the effect of that action on—

(1) the ability of veterans to obtain guaranteed and insured loans;

(2) the interest rates applicable to the loans bearing negotiated rates; and

(3) the prices paid by veterans for homes securing the loans bearing negotiated rates.

SEC. 5. EXTENSION OF ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SEC. 6. ELIGIBILITY OF SELECTED RESERVE FOR HOUSING LOANS.

(a) Eligibility.—Chapter 37 of title 38, United States Code, is amended—

(1) in section 3701(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual not otherwise eligible for the benefits of this chapter who has completed a total of service of at least 6 years in the Selected Reserve and who, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) In this paragraph, the term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components, as required to be maintained under section 268(b) of title 10."; and

(2) in section 3702(a)(2), by adding at the end the following:

"(E) Each veteran described in section 3701(b)(5) of this title.".

(b) Fees.—(1) Section 3729(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan under this chapter made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or for construction with respect to which the veteran makes a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost.".

(2) Subparagraphs (A) and (B) of section 3725(c)(2) of such title are each amended by inserting "(other than loans described in section 3729(a)(2)(D) of this title)" after "for each loan".

(c) Effective Date; Sunset.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1992, and expire on December 31, 1998.

(d) Report by Secretary of Veterans Affairs.—Not later than September 30, 1997, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the veterans provided housing loan benefits under chapter 37 of title 38, United States Code, as a result of the amendments made by subsection (a). The report shall contain information on—

(1) the number of individuals provided such benefits under that chapter by reason of such amendments during the period beginning on October 1, 1992, and ending on the date of the report;

(2) the default rates on loans provided to such veterans under that chapter by reason of such amendments during that period; and

(3) the extent to which such default rates differ from the default rates on other loans provided under that chapter during that period.

Amend the title so as to read: "An Act to amend title 38, United States Code, with respect to housing loans for veterans.".

House amendment to Senate amendments: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Home Loan Program Amendments of 1992".

SEC. 2. ELIGIBILITY OF SELECTED RESERVE.

(a) Selected Reserve.—Chapter 37 of title 38, United States Code, is amended—

(1) in section 3701(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10."; and

(2) in section 3702(a)(2), by adding at the end the following:

"(E) For the 7-year period beginning on the date of enactment of this subparagraph, each veteran described in section 3701(b)(5) of this title.".

(b) Fees.—(1) Section 3729(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost; and".

(2) Subparagraphs (A) and (B) of section 3725(c)(2) of such title are amended by inserting "(other than loans described in section 3729(a)(2)(D) of this title)" after "for each loan".

(c) Report.—The Secretary of Veterans Affairs shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1994, and annually thereafter. The report shall contain—

(1) a declaration of the number of veterans (as defined by section 3701(b)(5) of title 38, United States Code) who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a);

(2) a comparison of the default rate of veterans described in paragraph (1) with the default rate for all other veterans who have received loans guaranteed or insured by the Secretary; and

(3) a comparison of the proportion of veterans who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a) who are first time homebuyers with the proportion of all other veterans who receive mortgage loans guaranteed or insured by the Secretary and who are first time homebuyers.

SEC. 3. ADJUSTABLE RATE MORTGAGE DEMONSTRATION PROGRAM.

(a) In General.—(1) Chapter 37 of title 38, United States Code, is amended by adding after section 3706 the following new section:

"§ 3707. Adjustable rate mortgages

"(a) The Secretary shall carry out a demonstration project under this section during fiscal years 1993, 1994, and 1995 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

"(b) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

"(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

"(2) be made by adjusting the monthly payment on an annual basis on the anniversary of the date on which the loan was closed;

"(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

"(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

"(c) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

"(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

"(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

"(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

"(4) such other factors as the Secretary finds appropriate.

"(d) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.".

(2) The table of sections for chapter 37, of title 38, United States Code, is amended by inserting after the item relating to section 3706 the following new item:

"3707. Adjustable rate mortgages.".

(b) REPORT.—The Secretary shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1993, containing a description of the project carried out under section 3707 of title 38, United States Code (as added by subsection (a)), and shall continue to make annual reports to the Committees with respect to the default rate and other information concerning the loans guaranteed under such section. Such reports shall—

(1) compare the number of adjustable rate mortgages guaranteed under such section with the number of fixed rate loans guaranteed or insured under chapter 37 of such title and contrast this ratio with a corresponding ratio for loans for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act;

(2) compare the initial interest rate of the adjustable rate mortgages guaranteed under such section with the fixed interest rate on loans guaranteed or insured under chapter 37 of such title;

(3) describe the monthly mortgage payment savings to the veteran, if any, under an adjustable rate mortgage guaranteed under such section compared with the payments that would have been required if the loan bore interest at a maximum fixed rate established by the Secretary;

(4) discuss whether the market share for housing loans guaranteed under chapter 37 of such title has increased or decreased since the implementation of such section;

(5) compare the default rate on mortgages guaranteed under such section with the default rate of fixed-rate mortgages guaranteed or insured under chapter 37 of such title; and

(6) compare the number of first time homebuyers using adjustable rate mortgage loans under such section with the number of first time homebuyers using any other loan guaranteed under chapter 37 of such title.

SEC. 4. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SEC. 5. FEES FOR REFINANCING LOANS.

Section 3729(a)(2) of title 38, United States Code (as amended by section 2(b) of this Act), is amended—

(1) in subparagraph (A), by inserting "(other than section 3712(a)(1)(F))" after "section 3712"; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a loan guaranteed under section 3710(a)(8), 3710(a)(9)(B)(i), or 3712(a)(1)(F) of this title, the amount of such fee shall be 0.5 percent of the total loan amount.".

SEC. 6. GUARANTY AMOUNT RELATIVE TO LOAN REFINANCINGS.

Chapter 37 of title 38, United States Code, is amended—

(1) in section 3710(e), by amending paragraph (1)(D) to read as follows:

"(D) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (i) the original guaranty amount of the loan being refinanced, or (ii) 25 percent of the loan;"; and

(2) in section 3712(a)(4), by amending subparagraph (A)(iv) to read as follows:

"(iv) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (I) the original guaranty amount of the loan being refinanced, or (II) 25 percent of the loan;".

SEC. 7. EXTENSION OF LENDER APPRAISAL PROGRAM.

Section 3731(f)(3) of title 38, United States Code, is amended by striking out "1992" and inserting in lieu thereof "1995".

SEC. 8. NATIVE AMERICAN VETERANS DIRECT HOUSING LOAN PILOT PROGRAM.

(a) PROGRAM.—Chapter 37 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"§3761. Pilot program

"(a) The Secretary shall establish and implement a pilot program under which the Secretary may make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall establish and implement the pilot program in accordance with the provisions of this subchapter.

"(b) In carrying out the pilot program under this subchapter, the Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety of geographic areas and in areas experiencing a variety of economic circumstances.

"(c) No loans may be made under this subchapter after September 30, 1997.

"§3762. Direct housing loans to Native American veterans

"(a) The Secretary may make a direct housing loan to a Native American veteran if—

"(1) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; and

"(2) the memorandum is in effect when the loan is made.

"(b)(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

"(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

"(i) holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

"(ii) will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

"(B) That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

"(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

"(i) to evaluate the advisability of the loan; and

"(ii) to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

"(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

"(i) procedures for foreclosing the interest; and

"(ii) procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

"(E) That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that the pilot program established under this subchapter is implemented in a responsible and prudent manner.

"(2) The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

"(c)(1)(A) Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American under this section may not exceed $80,000.

"(B) The Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

"(2) Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

"(3) Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

"(d)(1) The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

"(2) The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

"(e) Loans made under this section shall be repaid in monthly installments.

"(f) In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

"(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

"(1) take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

"(2) determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

"(3) make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary's functions under this section; and

"(4) in a manner consistent with the provisions of this chapter and with the Secretary's functions under this subchapter, employ, utilize, and compensate any persons, organizations, or departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

"(h) The Secretary shall carry out an outreach program to inform and educate tribal organizations and Native American veterans of the pilot program provided for under this subchapter and the availability of direct housing loans for Native American veterans who live on trust lands.

"§ 3763. Housing loan program account

"(a) There is hereby established in the Treasury of the United States an account known as the 'Native American Veteran Housing Loan Program Account' (hereafter in this subchapter referred to as the 'Account').

"(b) The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

"§ 3764. Definitions

"For the purposes of this subchapter—

"(1) The term 'trust land' means any land that—

"(A) is held in trust by the United States for Native Americans;

"(B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

"(C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

"(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

"(2) The term 'Native American veteran' means any veteran who is a Native American.

"(3) The term 'Native American' means—

"(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

"(B) a native Hawaiian, as that term is defined in section 201(a)(7) of the Hawaiian Homes Commission Act, 1920 (Public Law 67–34; 42 Stat. 108);

"(C) an Alaska Native, within the meaning provided for the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

"(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

"(4) The term 'tribal organization' shall have the meaning given such term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)) and shall include the Department of Hawaiian Homelands, in the case of native Hawaiians, and such other organizations as the Secretary may prescribe.".

(b) CONSULTATION.—In carrying out the direct housing loan pilot program authorized under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), the Secretary of Veterans Affairs shall consider the views and recommendations, if any, of the Advisory Committee on Native-American Veterans established under section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99–272; 100 Stat. 388).

(c) CONFORMING AMENDMENT.—The table of sections of such chapter is amended by adding at the end the following new matter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"3761. Pilot program.
"3762. Direct housing loans to Native American veterans.
"3763. Housing loan program account.
"3764. Definitions.".

(d) ANNUAL REPORTS.—Not later than February 1 of each of 1994 through 1998, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to—

(1) the implementation of the Native American veterans direct housing loan pilot program established under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), during the period ending on September 30 of the year preceding the date of the report;

(2) the Secretary's exercise of the authority provided under section 3762(c)(1)(B) of such title (as so added) to make loans exceeding the maximum loan amount;

(3) the appraisals performed for the Secretary during that period under the authority of section 3732(d)(2) of such title (as so added), including a description of—

(A) the manner in which such appraisals were performed;

(B) the qualifications of the appraisers who performed such appraisals; and

(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States; and

(4) the Secretary's recommendations, if any, for legislation regarding the pilot program.

(e) AUTHORIZATION OF APPROPRIATIONS.—New direct loan obligations for Native American veteran housing loans under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), may be incurred only to the extent that appropriations of budget authority to cover the anticipated cost, as defined in section 502 of the Congressional Budget Act of 1974, for such loans are made in advance. There is authorized to be appropriated for such purpose $5,000,000 for fiscal year 1993, which amount shall remain available without fiscal year limitation.

(f) CONFORMING FUNDING AMENDMENT.—Title I of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 is amended by striking out "direct loans authorized by" and all that follows through "Veterans' Affairs)" under the heading "NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT" and inserting in lieu thereof "direct loans authorized by subchapter V of chapter 37 of title 38, United States Code".

SEC. 9. ENERGY EFFICIENT MORTGAGES.

(a) IN GENERAL.—Subsection (d) of section 3710 of title 38, United States Code, is amended to read as follows:

"(d)(1) The Secretary shall carry out a program to demonstrate the feasibility of guaranteeing loans for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling or for energy efficiency improvements to a dwelling owned and occupied by a veteran. A loan may be guaranteed under this subsection only if it meets the requirements of this chapter, except as those requirements are modified by this subsection.

"(2) The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not exceed the greater of—

"(A) the cost of the energy efficiency improvements, up to $3,000; or

"(B) $6,000, if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

"(3) Notwithstanding the provisions of section 3703(a)(1)(A) of this title, any loan guaranteed under this subsection shall be guaranteed in an amount equal to the sum of—

"(A) the guaranty that would be provided under those provisions for the dwelling without the energy efficiency improvements; and

"(B) an amount that bears the same relation to the cost of the energy efficiency improvements as the guaranty referred to in subparagraph (A) bears to the amount of the loan minus the cost of such improvements.

"(4) The amount of the veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of this title, shall not be affected by the amount of the guaranty referred to in paragraph (3)(B).

"(5) The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors of the availability of loan guarantees under this subsection and the procedures and requirements that apply to the obtaining of such guarantees.

"(6) For the purposes of this subsection:

"(A) The term 'energy efficiency improvement' includes a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system, and the application of a residential energy conservation measure.

"(B) The term 'solar heating' has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

"(C) The terms 'solar heating and cooling' and 'combined solar heating and cooling' have the meaning given such terms in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

"(D) The term 'passive system' includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Secretary to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

"(E) The term 'residential energy conservation measure' means—

"(i) caulking and weatherstripping of all exterior doors and windows;

"(ii) furnace efficiency modifications limited to—

"(I) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(II) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(III) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(iii) clock thermostats;

"(iv) ceiling, attic, wall, and floor insulation;

"(v) water heater insulation;

"(vi) storm windows and doors;

"(vii) heat pumps; and

"(viii) such other energy conservation measures as the Secretary may identify for the purposes of this subparagraph.

"(7) A loan may not be guaranteed under this subsection after December 31, 1995.".

(b) PURCHASE OR CONSTRUCTION WITH ENERGY EFFICIENCY IMPROVEMENTS.—(1) Section 3710(a)(7) of such title is amended to read as follows:

"(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through energy efficiency improvements, as provided in subsection (d).".

(2) Section 3710(a) of such title is further amended by adding after paragraph (9) the following:

"(10) To purchase a dwelling to be owned and occupied by the veteran as a home and make energy efficiency improvements, as provided in subsection (d).".

(c) REPORTS.—Not later than 1 year after the date on which the Secretary of Veterans Affairs first exercises the authority to guarantee loans under section 3710(d) of title 38, United States Code (as added by subsection (a) of this section), and for each of the 3 years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the program under such section. Each such report shall contain information pertaining to—

(1) the number of mortgages guaranteed under such section;

(2) the average amount of money added to the mortgage to finance energy efficiency features;

(3) the types of energy efficiency features obtained with mortgages under such section; and

(4) the default rates on the mortgages guaranteed under such section compared with the default rates on all other types of mortgages guaranteed by the Secretary.

SEC. 10. NEGOTIATED INTEREST RATES.

(a) IN GENERAL.—Section 3703(c) of title 38, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for" and inserting "applicable to"; and

(B) by striking all that follows "(12 U.S.C. 1709(b))" and inserting a period; and

(2) by adding at the end the following:

"(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is—

"(i) agreed upon by the veteran and the mortgagee; or

"(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

"(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

"(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

"(D) This paragraph shall expire on December 31, 1995.".

(b) REPORT.—Not later than December 31, 1993, and annually thereafter, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points under section 3703(c)(4) of title 38, United States Code (as added by subsection (a)). If the Secretary has implemented that authority, the Secretary shall include in the report—

(1) a comparison of the interest rates paid by veterans for loans that bear interest rates negotiated under section 3703(c)(4) of such title with interest rates allowable under mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and interest rates charged under conventional mortgage loan programs for single family housing;

(2) a comparison of the negotiated interest rates being charged under paragraph 4 of section 3703(c) of such title with the interest rate that the Secretary would have established under paragraph (1) of such section during the same time period;

(3) a comparison of the number of discount points charged by the lender for mortgage loans that bear interest rates negotiated under section 3703(c)(4) of such title with the number of discount points charged for mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and the number of discount points charged under conventional mortgage loan programs for single family housing;

(4) a discussion of the extent to which borrowers or sellers are paying the discount points on negotiated interest rate loans under section 3703(c)(4) of such title;

(5) a discussion of whether the market share for housing loans guaranteed under such title has increased or decreased since the implementation of the authority to guarantee and insure loans that bear negotiated interest rates under section 3703(c)(4) of such title, and a discussion of the extent to which any change in market share was the result of that authority;

(6) in claims paid following foreclosure, a discussion of the difference in the interest portion paid on loans guaranteed under section 3703(c)(4) of such title to what the interest portion would have been under the interest rate established under section 3703(c)(1) of such title; and

(7) the number of first time homebuyers using loans that bear negotiated interest rates under section 3703(c)(4) of such title.

SEC. 11. ELIGIBILITY FOR FLAGS AND GRAVE MARKERS.

(a) FLAGS.—Section 2301(a) of title 38, United States Code, is amended to read as follows:

"(a) The Secretary shall furnish a flag to drape the casket of each—

"(1) deceased veteran who—

"(A) was a veteran of any war, or of service after January 31, 1955;

"(B) had served at least one enlistment; or

"(C) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty; and

"(2) deceased individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

(b) HEADSTONES OR MARKERS.—Section 2306(a) of title 38, United States Code, is amended by adding at the end thereof the following:

"(5) Any individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

SEC. 12. TECHNICAL AMENDMENT.

Section 5 of Public Law 102-54 (105 Stat. 268) is amended by striking out "3102" and inserting in lieu thereof "5302".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

Mr. STUMP. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentleman from Mississippi for an explanation.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, the compromise measure we have agreed to with the Senate would enhance the home loan guaranty program for veterans and extend the program to members of the Reserves and National Guard who have served at least 6 years.

My colleagues will recall the role of the Reserve and National Guard units that were called to active duty during the Persian Gulf war. They proved they are a critical part of the total force concept and the individuals who served there are already entitled to home loan benefits because of their active duty service. This bill will extend the home loan benefit to those who are not called to active duty but who have demonstrated their commitment to this Nation by serving at least one term.

The Montgomery GI Bill Act of 1984 extended education benefits to certain reservists. Studies have indicated that the continuing rate for Montgomery GI bill participants is 15.2 percent higher than that for Reserve members not participating. It is not unrealistic to expect that the opportunity to participate in the home loan guaranty program would also have an effect on the numbers joining and staying in the Reserves. This measure would also extend gravemarker and burial flag eligibility to reservists and National Guardsmen who have 20 years of service.

The compromise measure certain reforms to the home loan guaranty program which hopefully will reduce veterans' costs in housing. Some of these include the introduction of adjustable rate mortgages, lower fees for interest rate reduction loans, financing energy efficiency improvements to lower heating and cooling utility bills.

Finally, the compromise would establish a 5-year direct loan program for native Americans residing on trust lands. The loan could not exceed $80,000. This provision of the bill is identical to the bill introduced by our colleague, Mr. Nighthorse Campbell, H.R. 6097. I want to commend the gentleman from Illinois [Mr. Evans], who also introduced a bill for this purpose.

I want to thank my friend, the very able ranking minority member of the full committee, Bob Stump, and the ranking Minority member of the Subcommittee, Dan Burton, for their leadership in helping reach a compromise with the other body on this housing bill. In particular, I want to commend Harley "Bucky" Staggers for his efforts during his chairmanship of the Subcommittee on Housing and Memorial Affairs.

Mr. Speaker, I submit for the Record a joint explanatory statement which outlines in further detail the differences between the House and Senate-passed measures and the compromise agreement reached between the two bodies as follows.

Mr. Speaker, I urge my colleagues to support H.R. 939.

Joint Explanatory Statement for H.R. 939, the Proposed Veterans Home Loan Amendments of 1992

H.R. 939, the proposed, "Veterans Home Loan Amendments of 1992" reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on four bills passed by the Senate and the House during the 102nd Congress. These are: H.R. 939 as passed by the House on March 3, 1992 (hereinafter referred to as "House bill"), H.R. 4368 as passed by the House on June 9, 1992 (hereinafter referred to as "H.R. 4368"), S. 3108 as passed by the Senate as a substitute amendment to H.R. 939 on October 1, 1992 (hereinafter referred to as "Senate amendment"), and S. 2528 as passed by the Senate on September 18, 1992, (hereinafter referred to as "S. 2528").

The Committees on Veterans' Affairs have prepared the following explanation of H.R. 939 as amended (hereinafter referred to as "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

ELIBILITY OF SELECTED RESERVE

Current law: Section 3702(a)(2) of title 38, United States Code, requires, as a condition of eligibility for VA-guaranteed loans, active-duty service of at least 180 consecutive days, or a total of 90 days if at least one day was during a designated wartime period. Section 5303A imposes an additional minimum-service requirement for VA benefits eligibility. Under section 5303A, a person who originally enlists after September 7, 1980 (or enters active duty as an officer after October 16, 1981) generally must have served either two years of active-duty service or the length of the period for which he or she was called to active duty.

Section 3729 requires veterans to pay a loan fee of 1.25 percent of the loan for loans with no downpayment, 0.75 percent for loans with a downpayment of at least 5 percent, or 0.5 percent for loans with a downpayment of at least 10 percent. Veterans with compensable service-connected disabilities are exempt from paying the VA loan fee. Loans for manufactured housing require a VA fee of 1 percent.

House bill: Section 1(a) would amend section 3701(b) of title 38 to make eligible for VA-guaranteed loans individuals who have completed a total of six years of service in the Selected Reserve (as defined by section 286(b) of title 10) and continue serving in the Selected Reserve or, following the completion of service, are honorably discharged or transferred to the Standby Reserve or another element of the Selected Reserve after honorable service during the six-year period.

Section 1(b) would amend section 3729 of title 38 to require these individuals to pay a VA loan fee 0.75 percent higher than the equivalent fees for veterans.

Senate amendment: Section 6 is similar to the House provision, except that it would take effect October 1, 1992, and expire December 31, 1998. Section 6(d) would require the Secretary to report to the Senate and House Committees on Veterans' Affairs by September 30, 1997, on reservists' participation in the VA guaranteed home loan program.

Compromise agreement: Section 2 follows the House bill, except that the provisions would expire seven years after the date of enactment. Section 2(c) would require the Secretary to report annually to the Committees on Veterans' Affairs on reservists' participation in the home-loan program. The first report would be due by December 31, 1994.

ADJUSTIBLE RATE MORTGAGES

Current law: Section 3703(c)(1) prohibits VA-guaranteed loans from bearing interest at a rate exceeding the rate that the Secretary finds the loan market demands. In setting this rate, the Secretary must consult with the Secretary of Housing and Urban Development to coordinate interest-rate policy on FHA-insured and VA-guaranteed loans.

House bill: Section 3 would require the Secretary of Veterans Affairs to establish a demonstration program, during FYs 1993 and 1994, of VA-guaranteed adjustable rate mortgages (ARMs) in a manner similar to the Federal Housing Administration (FHA) insured ARMs program under section 251 of the National Housing Act. The Secretary would be required to conduct the pilot program at not fewer than two nor more than 10 regional offices.

Senate amendment: Section 2(a) would establish a pilot program, during FY 1993 through FY 1997, of VA-guaranteed ARMs. Section 2(b) would require annual adjustments in the interest rate on the ARMs, on the anniversary date of the loan closing, based on an index specified in regulations promulgated by the Secretary. Information on the index would have to be readily accessible to mortgagors at any time from generally available, published sources. The annual interest-rate adjustment would be limited to no more than 1 percentage point higher or lower than the interest rate of the loan at the time of the adjustment, and the maximum interest rate at any time during the term of the loan would be limited to no more than 5 percentage points above the initial rate.

Section 2(c) would require the Secretary to promulgate underwriting requirements for these loans that take into account (a) the interest rate derived from the most recent VA-specified index available at the time the underwriting decision is made, regardless of the actual initial rate offered by the lender; (b) the maximum and likely increases in mortgage payments that the loans would require; (c) the underwriting standards that apply to FHA ARMs; and (d) any other factors specified by the Secretary.

Section 2(e) would limit the number of ARMs VA could guarantee each fiscal year to no more than 10 percent of the total number of all loans VA guaranteed during the previous fiscal year.

Section 2(f) would require the Secretary to submit to the Veterans' Affairs Committees five annual reports on the program, beginning one year after the date on which VA guarantees the first loan under this program. The reports would have to contain information about defaults, including comparisons with the default rates for fixed-rate VA-guaranteed home loans and both fixed- and adjustable-rate loans either insured by FHA or made under conventional terms for single-family homes.

Compromise agreement: Section 3 follows the House bill, except that it would incorporate the interest-rate limitations and underwriting guidelines in the Senate amendment. There would be no limitation on the number of ARMs VA would guarantee during a fiscal year.

Section 3(b) would require the Secretary to submit to the Senate and House Committees on Veterans' Affairs annual reports on the pilot program, with the first report due by December 31, 1993.

ENHANCED LOAN ASSET SALE AUTHORITY

Current law: Under section 3720(h) of title 38, VA is authorized to guarantee timely payment of principal and interest on securities backed by VA "vendee" loans. These are direct loans VA makes to those who purchase houses that VA acquired through the foreclosure of a VA-guaranteed loan. VA pools these loans and sells them to a trust that issues pass-through securities backed by the vendee-loan pool. VA's authority to guarantee such payment for certificates or other securities expires December 31, 1992.

House bill: Section 4 would make the authority permanent.

Senate amendment: Section 5 would extend the expiration date of section 3720(h) of title 38 from December 31, 1992, to December 31, 1995.

Compromise agreement: Section 4 follows the Senate amendment.

LOAN FEES FOR REFINANCING

Current law: Section 3710(a)(8) of title 38 requires VA to guaranty, under certain circumstances, loans to refinance an existing loan guaranteed, insured, or made by VA. Section 3710(e) requires that the interest rate on the refinancing loan be lower than the interest rate on the original loan and establishes several other requirements for such "interest-rate-reduction" refinancing loans.

Section 3710(a)(9) of title 38 requires VA to guarantee certain interest-rate-reduction refinancing loans for manufactured housing under generally the same conditions that apply to other interest-rate-reduction refinancing loans.

Section 3729 of title 38 requires those eligible for a VA-guaranteed home loan to pay a fee to VA, unless the borrower is a veteran with a compensable, service-connected disability or the surviving spouse of a veteran who died on active duty or as a result of a service-connected disability. The fee generally is 1.25 percent of the loan, but is reduced to 0.75 percent if the borrower makes a downpayment of at least 5 percent but not more than 10 percent of the purchase price, and reduced to 0.5 percent if the borrower makes a downpayment of at least 10 percent. VA-guaranteed loans for manufactured housing require a 1-percent VA loan fee.

House bill: Section 2 of H.R. 4368 would reduce the VA loan fee for VA-guarantee interest-rate-reduction refinancing loan to 0.5 percent of the loan. The reduced fee also would apply to all VA-guaranteed refinancing loans for manufactured housing, regardless of whether the interest rate is reduced by the new loan.

Senate amendment: No provision.

Compromise agreement: Section 5 follows the House bill, except that the reduced fee would not apply to refinancing loans for manufactured housing unless the interest rate is lower on the new loan.

GUARANTY AMOUNT RELATIVE TO LOAN REFINANCING

Current law: Under sections 3710(e) and 3712(a)(4) of title 38, interest-rate-reduction refinancing loans secured by a home or manufactured housing may include certain closing costs, fees, and discount points. These sections, however, limit the guaranty on the new home to no more than the amount of the guaranty on the loan being refinanced.

Section 3703(a) sets forth specific limits on the amount of the VA guaranty for loans of various amounts. The lowest guaranty-to-loan ratio specified in that section is 25 percent.

The maximum principal amount of an interest-rate-reduction refinancing loan is the sum of the principal balance of the original loan, plus closing costs, fees, and discount points. Since the guaranty cannot exceed the amount of the guaranty on the original loan, however, the guaranty-to-loan ratio can drop below the 25-percent level. This can require the borrower to make a down payment on a portion of the new loan in order to meet the lender security requirements.

House bill: Section 3 of H.R. 4368 would ensure that the VA guaranty on interest-rate-reduction refinancing loans is at least 25 percent of the new loan, regardless of the amount of the guaranty on the original loan.

Senate amendment: No provision.

Compromise agreement: Section 6 follows the House bill.

EXTENSION OF LENDER APPRAISAL PROGRAM

Current law: Section 3710(b) of title 38 establishes limits on the amount of a VA-guaranteed home loan, based on the reasonable value of the property or construction being financed or refinanced. Section 3731 of title 38 sets forth the requirements for reasonable-value determinations and the appraisals upon which they are based.

Generally, under section 3731(c) of title 38, the appraiser forwards an appraisal directly to VA, which makes the determination of reasonable value and notifies the veteran and, upon request, to the lender proposing to make the VA-guaranteed loan.

Under section 3731(f), the Secretary may authorize qualified lenders to determine the reasonable value of the property based on an appraisal submitted by the appraiser directly to the lender, rather than to VA. The Secretary is required to monitor this lender appraisal processing program (LAPP) by reviewing lenders' determinations of reasonable value and the appraisals upon which the determinations are based.

The LAPP expires on December 31, 1992.

House bill: Section 4 of H.R. 4368 would extend LAPP through December 31, 1995.

Senate amendment: No provision.

Compromise agreement: Section 7 follows the House provision.

NATIVE AMERICAN VETERANS DIRECT HOUSING LOAN PILOT PROGRAM

Current law: Section 312 of the Veterans Home Loan Indemnity and Restructuring Act of 1989, title III of Public Law 101-237, required the Secretaries of Veterans Affairs and of the Interior jointly to conduct a study to determine the extent of participation in the VA-guaranteed home loan program by Native American veterans who live on trust lands; the reasons for any lower participation by these veterans, compared to other veterans; and the legislative, regulatory, and administrative actions necessary to improve the access of these Native American veterans to VA housing benefits. The Secretaries were required to report to the Senate and House Committees on Veterans' Affairs on the results of the study by June 1, 1990, and the Secretaries submitted the report to the Committees on August 8, 1991.

VA-guaranteed loans, which are made by private lenders and guaranteed by VA under chapter 37 of title 38, generally require clear title to the property in order to provide adequate security for the loan. Land on Indian reservations and other land held in trust for Native Americans are not freely alienable and generally cannot serve as security for a VA-guaranteed loan.

VA currently is authorized to make direct loans to veterans under two programs. Section 3711 of title 38 authorizes VA to make direct loans to veterans in "housing credit shortage areas," rural areas or small cities or towns in which the Secretary finds that private capital for housing loans is not generally available. Public law 91-506 expanded the direct-loan program to allow loans for specially adapted housing for veterans with certain service-connected disabilities. Appropriations acts since 1981 have restricted VA direct loans to severely disabled veterans who require specially adapted housing.

House bill: No provision.

Senate bill: Section 2(a) of S. 2528 would amend chapter 37 of title 38 by adding a new subchapter V under which VA would conduct a five-year pilot program of direct loans to Native American veterans to purchase, construct, or improve dwellings on trust lands. The Secretary would be required, to the extent practicable, to make the loans to eligible veterans who are located in a variety of geographic areas and in areas experiencing a variety of economic circumstances.

Under proposed new section 3762 of title 38, before VA would be authorized to make a loan to a veteran, VA and the tribal organization having jurisdiction over the veteran would be required to enter into a memorandum of understanding providing that (a) the veteran would have a meaningful interest in the trust-land property on which the home is or will be located; (b) the veteran would convey to the Secretary by an appropriate instrument a security interest in the veteran's interest in the property as collateral for the loan; (c) VA would have access to trust lands in connection with the loan; (d) the tribal organization would be required to have established procedures for foreclosure and resale of the veteran's interest in the property in the event of default by the veteran; and (e) the tribal organization would agree to other terms and conditions the Secretary may require to carry out the loan program. The Secretary would be required to determine that the memorandum of understanding reasonably protects the financial interests of the United States.

Under proposed new section 3762(c) of title 38, VA would be authorized to make loans of up to $80,000, at an interest rate determined by the Secretary (not to exceed the rate for VA-guaranteed loans), and the veteran would be required to pay closing costs and loan-origination expenses or a fee representing these expenses. The Secretary would be authorized to exceed the $80,000 loan limit in areas with high housing costs.

Under proposed new section 3762(c) of title 38, the Secretary would be required to establish special credit underwriting standards that take into account the purpose of the pilot program, which is to make housing available to Native American veterans living on trust lands. VA would be allowed to accept the appraisal of qualified, but not necessarily VA-approved, appraisers.

Under proposed new subsection (f) of section 3762 of title 38, the Secretary would be authorized to make cash advances in connection with construction or home-improvement loans.

Under proposed new subsection (h) of section 3762 of title 38, the Secretary would be required to conduct outreach and education to increase the awareness of tribal governments and education to increase the awareness of tribal governments and Native American veterans of the availability of direct housing loans for veterans living on tribal trust lands.

Proposed new section 3763 of title 38 would establish a native American Veterans Housing Loan program account in the Treasury to provide the funding mechanism necessary to carry out the pilot program.

Proposed new section 3764 of title 38 would define "trust land" as any land that is (a) held in trust by the United States for Native Americans; (b) subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands); (c) owned by a Regional Corporation or a Village Corporation, as those terms are defined in the Alaska Native Claims Settlement Act; or (d) on any island in the Pacific Ocean if the land is, by cultural tradition (as determined by the secretary), communally owned land.

The term "Native American" would be defined as (a) an Indian, as defined in the Indian Self-Determination and Education Assistance Act; (b) a native Hawaiian, as defined in the Hawaiian Homes Commission Act; (c) an Alaska Native, within the meaning provided for the term "Native" in the Alaska Native Claims Settlement Act; and (d) a Pacific islander, within the meaning of the Native American Programs Act of 1974.

The term "tribal organization" would be defined as having the meaning given to that term in the Indian Self-Determination and Education Assistance Act, and would include the Department of Hawaiian Homelands, in the case of Native Hawaiians, and such other organizations as the Secretary may prescribe.

Under proposed section 3764(b) of title 38, the Secretary would be required, in carrying out the pilot program, to consider the views and recommendations of the Advisory Committee on Native American Veterans.

Section 3 of S. 2528 would require the Secretary to submit to the Senate and House Committees on Veterans' Affairs on February 1 of 1994 through 1998, reports on implementation of the pilot program, including any recommendations by the Secretary for legislation regarding the pilot program.

Section 4 of S. 2528 would authorize appropriations during FY 1993 of $5 million for loans made under the pilot program.

Compromise agreement: Section 8 contains the Senate provision. The conference report on H.R. 5679, the VA, HUD, and Independent Agencies Appropriations Act for FY 1993, appropriates $5 million for the pilot program.

ENERGY EFFICIENT MORTGAGES

Current law: Section 3710(a)(7) provides a VA guaranty on loans to improve a dwelling or farm residence owned and occupied by the veteran through installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system or through the application of a residential energy conservation measure. Subsection (d) of that section defines these terms and includes in the definition of "residential energy conservation measure" a subparagraph authorizing the Secretary to identify additional energy conservation measures that would qualify for energy efficient mortgages under subsection (a)(7).

House bill: No provision.

Senate amendment: Sections 3 (a) and (e) would establish a pilot program of energy efficient mortgages (EMMs) under which the Secretary would be authorized to guarantee not more than a total of 1,250 EEMs during Fys 1993 and 1994 in at least five, but not more than 10, States.

Section 3(b) would allow the new EEMs only for existing homes for which the energy efficiency measures being financed are likely to reduce monthly energy costs by at least as much as they would increase the borrower's monthly payments of principal and interest on the EEM.

Section 3 (b) and (c) would require VA to guarantee the loan for the energy efficiency improvements in the same proportion as the guaranty that VA could provide for the underlying loan without the energy efficiency improvements, provided that the cost of the energy efficiency measures is no more than the greater of (a) $4,000, or (b) 5 percent of the value of the home without the energy efficiency improvements, not to exceed $8,000.

Section 3(c) would provide that the portion of the guaranty attributable to energy efficiency measures may be in addition to the current applicable maximum guaranty and shall not affect the loan-guaranty benefit to which the borrower otherwise is entitled.

Section 3(f) would require VA to encourage participation in the program by notifying eligible veterans, participating lenders, and interested realtors in the States in which the pilot program would be carried out about the availability of loan guaranties under the pilot program and the procedures and requirements to obtain these loans.

Section 3(g) would provide the Secretary with authority to halt the demonstration project if the Secretary estimates that the total incremental costs (government subsidy) attributable to the two-year pilot program will exceed $2 million.

Section 3(h) would require the Secretary to report to the Committees on Veterans' Affairs on the program one year after VA guarantees the first EEM under the program and annually thereafter for five more years. The reports would be required to include information on the default rates for EEMs and the effects, if any, of the energy efficiency measures on resale values and home utility consumption and costs.

Section 3(i) would provide that the pilot program would not affect the VA EEM program currently operated under the authority of section 3710(a)(7) of title 38.

Compromise agreement: Section 9 would amend chapter 37 of title 38 to modify the current EEM program by (a) allowing EEMs for improvements to a veteran's current home or to finance the combined cost of acquiring an existing dwelling and making energy efficiency improvements to the dwelling; (b) allowing veterans to finance the cost of energy efficiency measures that do not exceed the greater of (1) $3,000 or (2) $6,000, if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the improvements; (c) requiring VA to guarantee the EEM in the same proportion as the guaranty VA would have provided for the underlying loan without the energy efficiency improvements; (d) providing that the portion of the guaranty attributable to energy efficiency measures may be in addition to the guaranty limits set forth in section 3703(a)(1)(A) and would not affect the veteran's maximum loan-guaranty entitlement; and (e) requiring the Secretary to take appropriate actions to notify eligible veterans, participating lenders, and interested realtors of the availability of VA-guaranted EEMs and the procedures and requirements to obtain these loans. The Secretary would be required to report to the Senate and House Committees on Veterans' Affairs on the EEM program no later than one year after guaranteeing the first EEM under the amendments made by section 8 and for each of the three years thereafter.

NEGOTIATED INTERESTED RATES

Current law: Section 3703(c)(1) of title 38 requires VA-guaranteed loans to bear interest at a rate that does not exceed such rate as the Secretary may from time to time find the loan market demands. In setting this rate, the Secretary must consult with the Secretary of Housing and Urban Development to coordinate interest-rate policy on loans insured by the Federal Housing Administration and VA-guaranteed loans.

Section 3703(c)(3) allows a veteran to pay discount points on loans guaranteed under chapter 37 of title 38 if the loan is for a purpose specified in that section. The specified loans do not include loans to purchase or construct a dwelling or purchase a farm residence or condominium.

House bill: No provision.

Senate amendment: Section 4(a) would, during FY 1993 and FY 1994, require the Secretary to establish either (a) a uniform maximum interest rate and general prohibition on a borrower paying discount points, as required under current section 3703(c) of title 38, or (b) procedures for allowing interest on VA-guaranteed loans at rates negotiated between borrowers and lenders. The Secretary would be authorized to change between uniform maximum rates and negotiated rates at any time.

If the Secretary allows negotiated interest rates, the Secretary would be required to allow a borrower to pay reasonable discount points on the loan, as negotiated between the borrower, the seller, and the lender. Veterans would be prohibited from financing the discount points as part of the VA-guaranteed loan.

The Secretary would be required to notify the Committees on veterans' Affairs within 10 days after exercising the authority to provide for negotiated rates and discount points or returning to a uniform maximum rate and to provide with the notification an explanation of the reasons for the change in policy.

Section 4(b) would require the Secretary to report to the Committees on Veterans' Affairs no later than March 1, 1994, on whether the Secretary has implemented negotiated interest rates and discount points under the authority of this legislation and, if so, the effects of this policy on borrowers' ability to obtain VA-guaranteed loans and on the interest rates at which borrowers were able to obtain the loans.

Compromise agreement: Section 10 follows the Senate provision, except that the pilot program would expire on December 31, 1995, and reports would be by December 31, 1993, and annually thereafter.

The Committees expect the Secretary to exercise the authority to allow negotiated interest rates and discount points, but has provided a mechanism for returning to an administered rate at any time if experience with negotiated rates indicated that the policy is harming veterans.

ELIGIBILITY FOR FLAGS AND GRAVE MARKERS

Current law: Under section 2402(2) of title 38, members of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard are eligible for burial in any open national cemetery in the National Cemetery System only if the member's death occurs under honorable conditions while the member is hospitalized or undergoing treatment, at the expense of the United States, for an injury or disease contracted or incurred under honorable conditions while the member is performing active duty for training, inactive duty training, or undergoing hospitalization or treatment at the expense of the United States. Section 2402(6) of title 38 authorizes the Secretary to designate other persons or classes of persons eligible for burial in any open national cemetery.

Section 2301 of title 38 requires the Secretary to furnish a flag to drape over the casket of certain deceased veterans and deceased persons buried in a national cemetery by virtue of eligibility under section 2402(6) of title 38 for such burial.

Under section 2306 of title 38, deceased members of the Reserves are eligible for headstones or grave markers only if they are eligible for burial in a national cemetery.

House bill: Section 1 of H.R. 4368 would extend eligibility for burial in a national cemetery and burial flags to individuals who have 20 years of service that counts toward retired pay as members of a Reserve component of the Armed Forces.

Senate amendment: No provision.

Compromise agreement: Section 11 would make eligible for a headstone or grave marker, and a flag to drape the casket of, a person who, at the time of death, was entitled to retired pay under chapter 67 of title 10, United States Code, or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

Mr. STUMP. I thank the gentleman for his explanation.

Mr. Speaker, I support H.R. 939, as amended, a bill to amend title 38 with respect to housing loans for veterans and other purposes.

H.R. 939 will expand VA home loan entitlement to include members of the National Guard and Reserve. It will authorize a demonstration program to test the use of adjustable rate mortgages. And it will allow veterans to negotiate interest rates directly with lenders.

This measure was originally passed in the House over a year and a half ago. Since then, many hours of hard work and negotiation with the other body have gone into this bill. My good friend, SONNY MONTGOMERY, the chairman of the Committee on Veterans' Affairs, has done an outstanding job in moving this legislation.

Mr. Speaker, I also want to commend HARLEY STAGGERS, chairman of the Subcommittee on Housing and Memorial Affairs, and DAN BURTON, the ranking member of that subcommittee, for their joint achievement in H.R. 939.

Mr. Speaker, I urge my colleagues to consider favorably this veterans' housing legislation, and I withdraw my reservation to object.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of H.R. 939, and in particular the section of the bill which establishes a direct loan program for native American veterans.

Mr. Speaker, the statistics on the VA Home Loan Program provide a succinct statement of a major problem with the VA home loan guaranty program: the program has been in existence since 1944; 13 million veterans have purchased homes under the program; VA home loans total $13 billion; and there is not one documented loan to a native American veteran on trust or communal land.

Mr. Speaker, I have been trying to get a VA home loan program in my district since I assumed office in 1989, yet I feel like I have encountered one stumbling block after another. Through a Veterans' Committee oversight hearing Chairman LANE EVANS held in Honolulu earlier in this Congress, members of the Veterans' Affairs Committee and Members representing veterans in the Pacific were able to see and hear for ourselves the many problems veterans in the Pacific encounter.

Mr. Speaker, I cannot go home for longer than 48 hours without at least one veteran asking me why he cannot get a VA home loan in Samoa. I always explain to them the difficulties in trying to adapt general Federal legislation to the unique features of other cultures, but they are never really satisfied with that explanation.

H.R. 939 will provide at least a partial answer to their questions, and for that the veterans in my district are extremely grateful.

Mr. Speaker, I want to commend the distinguished chairman of the House Veterans Affairs Committee, Mr. MONTGOMERY, for bringing this legislation to the floor for final consideration and passage in the Congress.

I also want to thank Chairman LANE EVANS, House Veterans' Affairs Subcommittee on Oversight/Investigations, for his outstanding leadership and assistance to provide for this special provision in H.R. 939 to allow our military veterans who are native Americans, Native Alaskans, native Hawaiians, and native Samoans to participate in the VA Home Loan Program under the auspices of this pilot program where trust and communal lands are to be utilized to benefit them and their families.

Mr. STAGGERS. Mr. Speaker, I want to commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his leadership in moving the compromise measure through so expeditiously, and in addition, I want to thank the gentleman from Arizona [Mr. STUMP], and the ranking minority member of the subcommittee, the gentleman from Indiana [Mr. BURTON], and all of the committee members for their favorable support. In particular, I want to acknowledge the efforts of Mr. JONES, Mr. HARRIS, and Mr. NICHOLS. All of these subcommittee members demonstrated a strong commitment to helping the Nation's veterans. You could count on them to come to the subcommittee meetings on time and to contribute greatly to the shaping of legislation to benefit veterans. They will be missed, but I wish them and their families all the best in their future endeavors.

Mr. Speaker, the proposed compromise agreement contains most of the provisions passed by the House in two bills, H.R. 939 and H.R. 4168. The agreement we have reached with the other body is a reasonable compromise. Let me explain what we have agreed to do.

The compromise measure would expand entitlement to the Department of Veterans Affairs Home Loan Guaranty Program to members of the Reserves and National Guard who have served at least 6 years. Both the House and Senate bills had a similar provision. As demonstrated by the Persian Gulf war, the scope, size, and importance of missions assigned to Reserve components have increased dramatically.

The change to afford home loan entitlement to reservists is needed at this time to recognize the expanded responsibilities of the Reserves in this Nation's defense. An overwhelming majority of reservists responded willingly to the call to active duty during the Persian Gulf war, but the recent call up did disrupt lives and, in many cases, caused real economic hardship. Many reservists will be reevaluating their participation in the Reserve components on the basis of their Desert Storm experience. Whether or not members of the Guard and Reserve continue to serve in the Reserve components depends in part on the relief and benefits that are made available to them. With the reduction of the active military forces, the Reserve components will be relied on to provide an adequate cost-effective total force. Hence incentives to recruit and retain reservists and National Guardsmen may become even more important, particularly in light of the personal sacrifices required of recently recalled reservists.

The compromise would also establish a 3-year pilot program on adjustable rate mortgages in order to make the program fully responsive to market developments. Both the House and Senate bills contained provisions of this issue. Adjustable rate mortgages [ARMS] have become commonplace in the home loan market and the Department of Veterans Affairs is the only major mortgage market participant without the authority to guaranty an ARM. The 3-year pilot program will determine whether veteran borrowers would benefit from this type of mortgage which is often the preferred mortgage arrangement of nonveteran borrowers.

This ARM is tailored in a manner similar to those insured by the Federal Housing Administration [FHA] with limits on yearly interest rate increases as well as a maximum cap over the life of the loan. The interest rate may not escalate more than 1 percent per year with a cap of 5 percent over the life of the loan. The Department of Veterans Affairs would also be required to furnish the Congress with a report by December 31, 1994, containing a description of the results of this project.

The VA's vendee loan sale program would benefit by extending the authority for the guaranty of certificates that are marketed and traded as securities from December 31, 1992, through December 31, 1995. Again, both the House and the Senate bills contained provisions which addressed this matter. Public Law 102–291, which became effective May 20, 1992, authorized VA to guaranty the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans—vendee loans—made in connection with the sale of properties acquired under chapter 37. This change in law offered the kind of simple, straightforward, full faith and credit promise that investors are familiar with in the case of Government National Mortgage Association [GNMA] certificates. A VA analysis of the first sale of these securities on June 25, 1992, indicated that the Government guaranty produced $5 million more in proceeds than VA would have received without providing this guaranty. Extension of this authority should result in additional gains.

Mr. Speaker, I am pleased that the Senate agreed to adopt the House provision which would decrease the funding fee on interest rate reduction refinancing loans from 1.25 percent to 0.5 percent. Currently, section 3729 of title 38, United States Code, requires collection of a funding fee on Department of Veterans Affairs [VA] guaranteed home loans, except loans to veterans receiving or entitled to receive service-connected disability compensation. This fee is collected on all loans, including those for the purchase of new or existing homes and those to refinance existing liens of record. The fee is currently 1.25 percent of the loan except when the Veteran makes a downpayment on a loan to purchase or construct a home. Funding fees for loans with downpayments of 5 and 10 percent are 0.75 and 0.5 percent respectively. The purpose of this fee is to partially offset the cost to the Government for the loan guaranty program.

When a veteran obtains an interest rate reduction refinancing loan [IRRRL], it not only serves to substantially reduce the mortgage payment, the foreclosure risk to the government is reduced. As an example, the Department of Veterans Affairs furnished statistics on the foreclosure liquidation rates to the committee for fiscal years 1985–91. These indicated that the foreclosure rate on loans closed in 1985 was 12.82 percent when the interest rate averaged almost 12 percent compared to a 3.65-percent foreclosure rate on loans closed in 1987 when the interest rate averaged approximately 9 percent. Requiring that the veteran pay an additional funding fee of 1.25 percent to obtain an interest rate reduction refinancing loan could deter some veterans from seeking these loans. Since the veteran has already paid a fee to offset the cost of administering the loan guaranty benefit, it seems inequitable to charge the veteran the same fee or even more in some instances, to obtain the benefit of a reduced interest rate, especially since the Government shares in the benefit through a reduced risk of loss on the loan.

The Senate also agreed to the House provision to permit the amount of guaranty of the new IRRRL to be increased to an amount equal to the greater of the original guaranty amount or 25 percent of the new loan. In most cases, the increase in guaranty needed to achieve 25 percent would be minimal, but would help many veterans obtain loans to lower their interest rates and reduce their monthly mortgage payments.

Under current law, a problem arises when the guaranty amount of the interest rate reduction refinancing loan falls below 25 percent due to the inclusion of closing costs and discount points. In these cases, the secondary mortgage market requires the veteran to pay the difference—between 25 percent of the loan amount and the guaranty amount—in cash. Veterans who do not have the additional cash required at closing may be unable to obtain the loan needed to reduce the interest rate on their mortgages. This is an unfortunate result since, as noted above, IRRRL's benefit the veterans by reducing the monthly mortgage payment and also benefit the Government, as the lower monthly payments resulting from the lower interest rate reduce the likelihood of mortgage default by the borrower.

The Senate also agreed to the House provision to extend authority for the lender appraisal processing program from December 31, 1992 to December 31, 1995. Public Law 100–198 provided that the Department of Veterans Affairs may, in accordance with standards and procedures established in regulations, authorize a lender to determine the reasonable value of property if the lender is authorized to make loans which are automatically guaranteed. In such a case, the appraiser, selected by the Department on a rotational basis from the panel of appraisers it has determined are qualified, submits the completed appraisal report directly to the lender for review. The lender reviews the appraisal, determines the reasonable value of the property and, as soon as possible thereafter, furnishes a copy of the appraisal to the veteran who is applying for the loan. The lender can then close the loan on an automatic basis. The intended benefit of the lender appraisal processing program [LAPP] to veterans is to speed the time to loan closing.

Mr. Speaker, the compromise agreement would establish a 5-year pilot program of direct loans up to $80,000 to native Americans on trust lands. Currently, the American Indian and Alaska Native population living on trust lands have very limited opportunities for financing homes. The nature of Indian trust land is that it is held by the Federal Government in a unique Government-to-Government relationship with Indian tribes and is considered inalienable from the tribes. This complicates the ability of a private lender from obtaining a security interest in the property which is nearly always required in private real estate transactions. So while other Americans may take advantage of private financing or even federally guaranteed mortgages, residents on trust land have few options to finance a home. Thus, Native American veterans, who are entitled to certain benefits such as assistance with home financing because of their veteran status, cannot exercise this right in their homeland areas to obtain decent and affordable housing.

The compromise would require the Secretary to demonstrate the feasibility of guaranteeing mortgages for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling. The VA currently has a program to facilitate including the cost of energy conservation improvements in VA loans. Under this program, VA guaranteed home loans may be increased by: First, the actual cost of the improvements up to $2,000 without a separate determination of the value of the energy-related improvements; second, the actual cost of the improvements up to $3,500 if supported by a value determination by a designated appraiser; or third more than $3,500 subject to a value determination by VA. These dollar limitations were established in 1980 and have not been updated since that time.

Under the compromise, the cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not exceed the greater of the cost of the energy efficiency improvements up to $3,000 or $6,000 if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the energy efficiency improvements. Energy related improvements may include solar heating and/or cooling systems, thermostats, water heaters, other types of heating/cooling systems, attic insulation, insulation for floors and foundation walls, weatherstripping/caulking, storm windows/doors.

Mr. Speaker, the compromise measure would permit the Secretary to elect whether loans bear interest at a rate that is agreed upon by the veteran and the mortgagee. Under current law, VA administratively establishes a national maximum interest rate for VA-guaranteed loans, and veterans are prohibited from paying discount points. When the administered rate lags behind the market rate, lenders are willing to make VA-guaranteed loans only if they can receive a substantial upfront premium in the form of discount points. Since current law requires the seller to pay the points on a VA-guaranteed loan, sellers generally attempt to make up the difference by requiring a higher purchase price. It is hoped that this new authority will ultimately reduce veterans' cost in housing.

Mr. Speaker, I am disappointed that the Senate did not accept the House provision to extend national cemetery burial eligibility to reservists and National Guardsmen who have 20 years of service creditable for retired pay as members of a reserve component on the Armed Forces. I am pleased, however, that they did agree on our provision to provide these reservists and National Guardsmen burial flag and gravemarker eligibility.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous matter, on H.R. 939.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. STUMP. Mr. Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

The House amendment to the Senate amendment was agreed to.

A motion to reconsider was laid on the table.

□ 0500

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from

the Speaker's table the bill (H.R. 1578) to amend title 38, United States Code, with respect to employment and reemployment rights of veterans and other members of the uniformed services, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the amendment made by the Senate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services Employment and Reemployment Rights Act of 1992".

SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

"CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

"SUBCHAPTER I—PURPOSES, RELATION TO OTHER LAW, AND DEFINITIONS

"Sec.
"4301. Purposes; sense of Congress.
"4302. Relation to other law and plans or agreements.
"4303. Definitions.
"4304. Character of service.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"4321. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
"4322. Reemployment rights of persons who serve in the uniformed services.
"4323. Reemployment positions.
"4324. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
"4325. Employee pension benefit plans.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE AND ENFORCEMENT

"4331. Assistance in obtaining employment or reemployment; assistance in asserting claims with respect to State or local government or private employers.
"4332. Assistance in obtaining employment or reemployment by the Federal Government.
"4333. Enforcement of employment or reemployment rights with the Federal Government.
"4334. Enforcement of employment or reemployment rights with a State or private employer.

"SUBCHAPTER IV—INVESTIGATION OF COMPLAINTS

"4341. Conduct of investigation; subpoenas.

"SUBCHAPTER V—MISCELLANEOUS PROVISIONS

"4351. Regulations.
"4352. Reports.
"4353. Outreach.

"SUBCHAPTER I—PURPOSES, RELATION TO OTHER LAW, AND DEFINITIONS

"§ 4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

"(3) to prohibit discrimination against persons because of their service in the uniformed services.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the reemployment practices provided for in this chapter.

"§ 4302. Relation to other law and plans or agreements

"(a) Nothing in this chapter shall supersede, nullify, or diminish any Federal or State law (including any local law or ordinance) or any practice, policy, agreement, plan, or other matter provided by an employer which establishes rights or benefits which are greater than or in addition to those provided in this chapter.

"(b) This chapter supersedes State laws (including any local law or ordinance), employer practices, policies, agreements, and plans, and other matters that reduce, limit, or eliminate in any manner rights or benefits provided by this chapter, including the establishment of additional prerequisites to the exercise of such rights.

"§ 4303. Definitions

"For the purposes of this chapter:

"(1) The term 'Attorney General' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit', 'benefit of employment', or 'rights and benefits' means any aspect of the employment relationship, other than wages or salary for work performed, provided by contract or employer practice or custom, that offers advantage, profit, privilege, gain, status, account, or interest and includes, but is not limited to, pension plans and payments, insurance coverage and awards, employee stock ownership plans, bonuses, severance pay, supplemental unemployment benefits, vacations, and selection of work hours or locations of employment.

"(3)(A) Except as provided in subparagraphs (B) and (C), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State; and

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4325.

"(4) The term 'Federal Government' includes the executive branch, the judicial branch, and the legislative branch, with the executive branch including—

"(A) any department, administration, agency, commission, board, or independent establishment in, or other part of, the executive branch (including any executive agency as defined in section 105 of title 5);

"(B) the United States Postal Service and the Postal Rate Commission;

"(C) any nonappropriated fund activity of the United States; and

"(D) any corporation wholly owned by the United States.

"(5) The term 'health plan' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(6) The term 'notice' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

"(7) The term 'other than a temporary position' means a position of employment as to which there is a reasonable expectation that it will continue indefinitely.

"(8) The term 'qualified' means having the ability to perform the essential tasks of an employment position.

"(9) The term 'reasonable efforts' means actions, including training provided by an employer, that do not create an undue hardship on the employer.

"(10) Notwithstanding section 101 of this title, the term 'Secretary' means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

"(11) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(12) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(13) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

"(14) The term 'uniformed services' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

"§ 4304. Character of service

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) A dismissal of such person permitted under section 1161(a) of title 10.

"(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"§ 4321. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, service, application for service, or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can demonstrate that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation.

"(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

"§ 4322. Reemployment rights of persons who serve in the uniformed services

"(a) Subject to subsections (b) and (c), any person who is absent from a position of employment (other than a temporary position) by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) except as provided in subsection (c) of this section, the cumulative length of the absence and of any previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (d).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

"(c) Subsection (a) shall apply if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

"(1) that is required, beyond five years, to complete an initial period of obligated service;

"(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

"(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned to be necessary for professional development or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is—

"(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10;

"(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

"(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

"(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

"(d)(1) Subject to paragraphs (2) and (3), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

"(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the workplace of the employer; or

"(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service.

"(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

"(2) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated by, the performance of a period of service in the uniformed services shall report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph) at the end of the period (not to exceed two years) that is necessary for the person to recover from such illness or injury. Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the time limit specified in this paragraph impossible or unreasonable.

"(3) A person referred to in subparagraphs (A) or (B) of paragraph (1) who fails to report to an employer within the time period referred to in such subparagraph shall be considered to have failed to report for such work on schedule but may be treated by the employer no less favorably than the employer treats other absent employees pursuant to the employer's established policy or the general practices of the employer relating to employee absences.

"(e) A person who fails to report for employment or reemployment within the time limits specified in subsection (d) does not automatically forfeit such person's right under subsection (a) but shall be subject to the conduct rules of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

"(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (d)(1) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not terminated under section 4304 of this title.

"(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

"(3) The failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A) through (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"(4) It shall be unlawful for an employer to delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

"(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

"(h) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service or the nature of such training or service (including voluntary service) in the uniformed services shall not be a basis for denying protection of such training or service if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (d) are met.

"§4323. Reemployment positions

"(a) Subject to subsections (b) and (c), a person entitled to reemployment under section 4322 of this title upon completion of a period of service in the uniformed services shall be promptly reemployed in a position of employment in accordance with the following priority:

"(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(3) In the case of a person who has a disability incurred during, or as a result of, a period of service in the uniformed services, and if, after reasonable efforts by the employer to accommodate the disability, such person is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service or the position of employment in which such person was employed on the date of the commencement of the service in the uniform services—

"(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

"(B) if not employed under subparagraph (A), in a position which is the nearest approximation in terms of seniority, status, and pay consistent with circumstances of such person's case.

"(4) In the case of a person who is not qualified to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service or in the position of employment in which such person was employed on the date of the commencement of the service in the uniform services for any reason other than disability incurred during, or as a result of, a period of service in the uniformed services and who cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

"(b)(1) An employer is not required to reemploy a person under this chapter if the employer's circumstances have so changed as to make such reemployment impossible or unreasonable or, in the case of a person entitled to reemployment under subsections (a)(3), (a)(4), and (c)(2)(B), would impose an undue hardship on the operation of the employer.

"(2) In any administrative or judicial proceeding involving an issue of whether (A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances, or (B) any accommodation, training, or effort referred to in subsection (a)(3) would impose an undue hardship on the operation of the business of the employer, the employer shall have the burden of proving the impossibility or unreasonableness or undue hardship.

"(c)(1) If two or more persons are entitled to reemployment under section 4322 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to be reemployed in that position.

"(2) Any person entitled to reemployment under this section who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

"(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case.

"(B) In the case of a person who has a disability incurred during, or as a result of, a period of service in the uniform services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case.

"§4324. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

"(a) A person who is reemployed under this chapter is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

"(b) A person who performs service in the uniformed services is considered to be on furlough or leave of absence while in the uniformed services and is also entitled to such other rights and benefits, not determined by seniority, relating to other employees on furlough or leave of absence which were in effect by contract, policy, or practice, at the commencement of such period of service or were established while such person is performing such service. Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to the preceding sentence.

"(c)(1) A person who performs service in the uniformed services shall, at such person's request, continue to be covered by any insurance provided by such employer for up to 18 months. Such person may be required to pay the entire cost of any benefit continued pursuant to the preceding sentence, except that in the case of persons ordered to training or service for fewer than 31 days, such person may be required to pay only the employee share, if any, of the cost of such benefit.

"(2) In the case of employer-sponsored health benefits, an exclusion or waiting period may not be imposed in connection with coverage of a health or physical condition of a person entitled to participate in these benefits, either under paragraph (1) or upon reinstatement, or in connection with a health or physical condition of any other person who is covered by the benefit by reason of the coverage of such person, if—

"(A) the condition arose before or during that person's period of training or service in the uniformed services;

"(B) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by such person in the benefits; and

"(C) the condition of such person has not been determined by the Secretary of Veterans Affairs to be service-connected.

"(d) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

"(1) if such person's period of service was 181 days or more, within one year;

"(2) if such person's period of service was 31 days or more but less than 181 days, within six months; or

"(3) if such person's period of service was less than 31 days, within a period of time that is equal to the period of service concerned.

"(e) Any person who is absent from or leaves a position (other than a temporary position) in the employ of any employer for voluntary or involuntary service in the uniformed services may utilize, with respect to the employer and during any period of such service, accrued or other leave which the person could have utilized if the person had remained in such position.

"§4325. Employee pension benefit plans

"(a)(1) In the case of a right provided pursuant to an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

"(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1) An employer reemploying a person under this chapter shall be liable to an employee benefit pension plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2). For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145) or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan described in this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan may provide (or, if the sponsor does not so provide, shall be allocated to the last employer employing the person before the period described in subsection (a)(2)(B)).

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person or employer would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during any continuous period (beginning with the date of reemployment) as the employer and the person may agree.

"(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B)—

"(A) shall be computed at the same rate as the employee received from the employer immediately before such period; or

"(B) if the employee's compensation was not based on a fixed rate, shall be computed on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE AND ENFORCEMENT

"§ 4331. Assistance in obtaining employment or reemployment; assistance in asserting claims with respect to State or local government or private employers

"(a) The Secretary (through the Veterans' Employment and Training Service) shall provide assistance in obtaining employment or reemployment to any person entitled to rights or benefits under this chapter. The Secretary may use existing Federal and State agencies engaged in similar or related activities and the assistance of volunteers.

"(b) Any person who claims that a private employer or a State or political subdivision thereof has denied or is about to deny such person any right or benefit under this chapter may apply to the Secretary for assistance in asserting that claim.

"§ 4332. Assistance in obtaining employment or reemployment by the Federal Government

"(a) Except as provided in subsections (c), (d), and (e), if a person is entitled to be reemployed under section 4322 by the Federal Government, such person shall be reemployed in a position of employment as described in sections 4323 and 4324.

"(b) Any person who claims that the Federal Government, as employer, has denied or is about to deny such person any right or benefit under this chapter may apply to the Secretary for assistance in asserting that claim.

"(c) If the employer of a person described in subsection (a) was, at the time such person entered service in the uniformed services, an agency in the executive branch, and the Director of the Office of Personnel Management determines that—

"(1) such employer no longer exists and its functions have not been transferred to another part of the executive branch; or

"(2) it is not feasible for such employer to reemploy such person.

the Director shall identify an alternative position of like seniority, status, and pay for which such person is qualified in another part of the executive branch, and the Director shall cause employment in such position to be offered to such person.

"(d) If the employer of a person described in subsection (a) was, at the time such person entered service in the uniformed services, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that—

"(1) it is not feasible for such employer to reemploy such person; and

"(2) such person is otherwise eligible to acquire a status for transfer to a position in the competitive service in accordance with section 3304(c) of title 5,

such person shall, upon application to the Director of the Office of Personnel Management, be considered for and offered employment in an alternative position in the executive branch on the same basis as described in subsection (c).

"(e) If the adjutant general of a State determines that it is not feasible to reemploy a person who was a National Guard technician employed under section 709 of title 32, and such person is otherwise eligible to acquire a status for transfer to a position in the competitive service in accordance with section 3304(d) of title 5, such person shall, upon application to the Director of the Office of Personnel Management, be considered for and offered employment in an alternative position in the executive branch of the Federal Government on the same basis as described in subsection (c).

"§ 4333. Enforcement of employment or reemployment rights with the Federal Government

"(a) Any person who claims that—

"(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by the Federal Government; and

"(2)(A) such employer has failed or refused to comply with the provisions of this chapter; or

"(B) the Office of Personnel Management has failed or refused to comply with the provisions of this chapter,

may file a complaint with the Secretary, and the Secretary shall investigate such complaint. Subsection (a) of section 4341 shall be applicable to such investigation but not subsections (b) and (c) of such section.

"(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint. Before the receipt of a written complaint, the Secretary shall, upon request, provide advice or technical assistance to the potential claimant and, if the Secretary determines it appropriate, to such claimant's employer.

"(c) If the Secretary, after investigation, is reasonably satisfied that such a failure to comply with the provisions of this chapter has occurred, if efforts to obtain voluntary compliance are not successful, and if the claimant requests that the claim be referred for litigation before the Merit Systems Protection Board, the Secretary shall refer the case to the Office of the Special Counsel. If the Special Counsel is reasonably satisfied that the person requesting representation is entitled to the rights or benefits sought, the Special Counsel shall appear and act as attorney for the claimant in filing an appeal to the Merit Systems Protection Board and in pursuing that appeal.

"(d) If the Special Counsel declines to represent a person after receiving a referral from the Secretary or if a person chooses not to apply to the Secretary for assistance or to utilize the Special Counsel for representation under this section, such person may be represented before the Merit Systems Protection Board by counsel of the person's choice.

"(e)(1) If the Merit Systems Protection Board concludes that the Federal Government, as employer, has failed or refused to comply with the provisions of this chapter or that the Director of the Office of Personnel Management has not met an obligation set forth in subsection (c), (d), or (e) of section 4332, the Board shall enter an order specifically requiring the employing agency or the Director to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of the employing agency's or the Director's unlawful action.

"(2) Any such compensation shall be in addition to and shall not be deemed to diminish any of the other rights or benefits provided for by this chapter.

"(f)(1) A claimant under this chapter may petition the United States Court of Appeals for the Federal Circuit to review a decision of the Merit Systems Protection Board denying such claimant the relief sought, in whole or in part, subject to the conditions and in accordance with the procedures set forth in section 7703 of title 5.

"(2) The Secretary and the Special Counsel shall not represent persons with respect to review of decisions of the Merit Systems Protection Board under this chapter in the United States Court of Appeals for the Federal Circuit or the Supreme Court.

"(3) If a person seeks such judicial review, or in any case in which a person is involved in the Board's decision being appealed by another party, such person may be represented by counsel of the person's choice.

"§ 4334. Enforcement of employment or reemployment rights with a State or private employer

"(a) A person who claims that—

"(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by a State or political subdivision thereof or a private employer; and

"(2) such employer or potential employer has failed or refused to comply with the provisions of this chapter,

may file a complaint with the Secretary, and such complaint shall be investigated under the provisions of subchapter IV.

"(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint. Before the receipt of a written complaint, the Secretary shall, upon request, provide advice or technical assistance to the potential claimant and, if the Secretary determines it appropriate, to such claimant's employer.

"(c) If the Secretary, after investigation, is reasonably satisfied that the employer has failed to comply with the provisions of this chapter, if efforts to obtain voluntary compliance are not successful, and if the claimant requests that the claim be referred for litigation, the Secretary shall refer the case to the Attorney General. If the Attorney General is reasonably satisfied that the person requesting representation is entitled to the rights or benefits sought, the Attorney General shall appear and act as attorney for the claimant in the filing of a complaint and other appropriate motions and pleadings and the prosecution thereof.

"(d)(1)(A) The district courts of the United States may—

"(i) require the employer to comply with the provisions of this chapter;

"(ii) require the State or private employer, as the case may be, to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter; and

"(iii) require the employer to pay the person an amount equal to the amount referred to in clause (ii) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

"(B) Any compensation under clauses (ii) and (iii) of subparagraph (A) shall be in addition to, and shall not be deemed to diminish, any of the benefits provided for in the provisions of this chapter.

"(2)(A) No fees or court costs shall be charged or taxed against any person claiming rights or benefits under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person described in subsection (a) who obtained private counsel for such action or proceeding, the court, in its discretion, may award any such person who prevails in such action or proceeding a reasonable attorney's fee, expert witness fees, and other litigation expenses.

"(3) The court may use its full equity powers, including temporary or permanent injunctions and temporary restraining orders, to vindicate fully the rights or benefits of persons under this chapter.

"(4) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, not by an employer, prospective employer, or other entity with obligations under this chapter.

"(5) If the Attorney General refuses to represent a person after receiving a referral from the Secretary or if a person chooses not to apply to the Secretary for assistance or to utilize the Attorney General for representation under this section, such person may be represented before the district court by counsel of the person's choice.

"(6) In any action under this chapter, only the employer shall be deemed a necessary party respondent.

"(7) No State statute of limitations shall apply to any proceedings under this chapter.

"(8) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

"SUBCHAPTER IV—INVESTIGATION OF COMPLAINTS

"§ 4341. Conduct of investigation; subpoenas

"(a) In carrying out investigations under this chapter, the Secretary's duly authorized representatives shall at all reasonable times have access to, for the purpose of examination, and the right to copy and receive, any documents of any person or employer.

"(b) In carrying out investigations under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply (other than with respect to an investigation carried out under section 4333(a)) to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the Secretary's subpoena.

"(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter (other than an investigation carried out under section 4333(a)). The district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court (other than with respect to an investigation carried out under section 4333(a)).

"SUBCHAPTER V—MISCELLANEOUS PROVISIONS

"§ 4351. Regulations

"(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to States, local governments, and private employers.

"(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to the Federal Government as employer. Such regulations shall be consistent with the regulations pertaining to the States and private employers, except that employees of the Federal Government may be given greater or additional rights. Nothing in this subsection constitutes authority for the Director to prescribe any matter for which any regulation may be prescribed under paragraph (2).

"(2) Regulations may be prescribed—

"(A) by the Merit Systems Protection Board to carry out its responsibilities under this chapter; and

"(B) by the Office of Special Counsel to carry out its responsibilities under this chapter.

"§ 4352. Reports

"The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4333(c) and no later than February 1, 1994, and each February 1 thereafter, transmit to the Congress, a report containing the following matters for the fiscal year ending before such February 1:

"(1) The number of cases reviewed by the Department of Labor under this chapter during the fiscal year for which the report is made.

"(2) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4334(c) or 4333(c), respectively, during such fiscal year.

"(3) The number of pleadings filed by the Attorney General pursuant to section 4334(c) during such fiscal year.

"(4) The nature and status of each case reported on pursuant to paragraph (1), (2), or (3).

"(5) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

"(6) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

"§ 4353. Outreach

"The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter.".

SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph;

"(G) to benefits under chapter 43 of this title.".

SEC. 4. CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 38.—The tables of chapters at the beginning of title 38, United States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

"43. Employment and reemployment rights of persons who serve in the uniformed services .... 4301".

(b) Amendment to Title 5.—(1) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 2023" and inserting in lieu thereof "chapter 43".

(2) Subchapter II of chapter 35 of such title is repealed.

(3) The table of sections for chapter 35 of such title is amended by striking out the items relating to subchapter II.

(c) Amendment to Title 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 2021" and inserting in lieu thereof "chapter 43".

(d) Amendments to Title 28.—Section 631 of title 28, United States Code, is amended—

(1) by striking out subsection (j);

(2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and

(3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

SEC. 5. TECHNICAL AMENDMENT.

Section 9(d) of Public Law 102–16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

SEC. 6. TRANSITION RULES AND EFFECTIVE DATES.

(a) Applicability of Chapter 43 to Persons Commencing Service After Date of Enactment.—

(1) After 90 days after such date.—The provisions of chapter 43 of title 38, United States Code (as amended by section 2(a) of this Act), and section 5303A(b)(3)(G) of such title (as added by section 3 of this Act) shall apply to persons who commence periods of service in the uniformed services after the 90-day period beginning on the date of the enactment of this Act.

(2) Within 90 days after such date.—Any person who commences the performance of a period of service in the uniformed services during the 90-day period referred to in paragraph (1) shall be covered during such 90-day period by the provisions of chapter 43 of title 38, United States Code, in effect on the day before the date of the enactment of this Act.

(b) Applicability of Chapter 43 to Persons Performing Active Duty on Date of Enactment.—

(1) In general.—Any person who is performing service in the uniformed services on the date of the enactment of this Act shall be covered during the 90-day period beginning on such date by the provisions of chapter 43 of title 38, United States Code, in effect on the day before such date.

(2) Continuing service.—(A) Any person whose service in the uniformed services described under paragraph (1) continues after the 90-day period referred to in that paragraph shall be covered during the period of such service after that 90-day period by the provisions of chapter 43 of title 38, United States Code, as amended by section 2(a) of this Act, and section 5303A(b)(3)(G) of such title (as added by section 3 of this Act).

(B)(i) Except as provided in clause (ii), for the purposes of section 4322(a)(1) of such title (as added by section 2(a) of this Act), a person referred to in subparagraph (A) shall be deemed to have satisfied the notification requirement referred to in such section.

(ii) Any person referred to in subparagraph (A) who was subject to the requirement under section 2024(d) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), of requesting a leave of absence with respect to the service described in that subparagraph from the person's employer shall be deemed to have met the requirement of notifying the person's employer under such section 4322(a)(1) if the person requested the leave of absence.

(C) For the purposes of calculating the cumulative length of service performed by a person referred to in this paragraph under section 4322(a)(2) of such title (as so added), any service in the uniformed services (other than service referred to in section 4322(c) of such title (as so added) shall be included.

(3) Alternative reporting requirement.—A person referred to in paragraph (1) shall report to work in accordance with the provisions of section 2024(d) of title 38, United States Code, in effect on the day before the date of the enactment of this Act.

(c) Special Rule for Applicability of Insurance Provisions.—Notwithstanding subsections (a)(2) and (b)(2), a person referred to in such subsections shall be covered by the provisions of section 2021(b)(1) of title 38, United States Code (relating to insurance benefits), in effect on the day before the date of the enactment of this Act until the person has received notice of the provisions of section 4324(c) of such title (as added by section 2(a) of this Act) and has had a reasonable opportunity to elect to be covered by the provisions of such section 4324(c) (as so added). If such an election is made, insurance coverage may remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment.

(d) Reemployment of Disabled Persons.—

(1) In general.—Section 4323(a)(3) of chapter 43 of title 38, United States Code (as added by section 2(a) of this Act) shall apply to reemployments initiated on or after August 1, 1990.

(2) Repeal.—(A) Effective as of August 1, 1990, section 2027 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), is repealed.

(B) Effective as of August 1, 1990, the table of sections at the beginning of chapter 43 of such title (as in effect on the day before the date of the enactment of this Act) is amended by striking out the item relating to section 2027.

(e) Discrimination.—The provisions of section 4321(c) of title 38, United States Code (as added by section 2(a) of this Act) and the provisions of subchapters III and IV of such title (as so added), shall become effective on the date of the enactment of this Act.

(f) Employee Pension Benefit Plan.—Section 4325 of title 38, United States Code (as amended by section 2(a) of this Act), shall apply to reemployment initiated on or after August 1, 1990.

(g) Savings Provision.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act do not effect rights, benefits, and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of the pertinent provision of this Act.

(h) Definition.—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given such term in section 4303(12) of title 38, United States Code (as added by section 2(a) of this Act).

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Skaggs). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Mississippi?

Mr. STUMP. Reserving the right to object, Mr. Speaker, I yield to the gentleman for an explanation.

Mr. MONTGOMERY. Mr. Speaker, the House first approved the Uniformed Services Employment and Reemployment Rights Act of 1991—H.R. 1578, as amended—on May 14, 1991. On October 1, 1992, the Senate amended H.R. 1578 with the language of S. 1095 and returned the bill to the House. Unfortunately, after many hours of discussion and good-faith negotiating on both sides, we were not able to reach agreement with the other body on compromise language. Although there are few areas of disagreement, we believe the unresolved issues are critical to the fair and equitable implementation of veterans' employment and reemployment rights. Accordingly, the measure we are now considering reflects only House views.

By way of background, the veterans' reemployment rights [VRR] provisions of Federal law, which protect employment and reemployment rights in civilian employment of members of the uniformed services, have been in effect for over 50 years. Although the law has effectively served the interests of veterans, members of the Selected Reserve, the armed services, and employers, the current statute—chapter 43, title 38, United States Code—is complex, at times ambiguous, and in some instances does not reflect court interpretations made through the years. Consequently, members of the uniformed services and employers have expressed concern that they are occasionally uncertain of their rights and responsibilities under VRR. It was, and continues to be, the intent of the committee, when undertaking the rewriting of chapter 43, to clarify, simplify, and, where necessary, to strengthen the existing veterans' employment and reemployment rights provisions.

The underlying principle of VRR law is to ensure that the men and women who serve in our Nation's uniform services are not disadvantaged by the service. Without such protection, it would be impossible to recruit the smart, competent individuals our military needs to maintain a strong national defense, and the total force policy, under which members of the Reserve components have been tasked with greater responsibility for every phase of military preparedness, would be unworkable.

The employer community, for 50 years, has understood the absolute necessity for their full cooperation and compliance with the VRR statutes and has generally gone the extra mile to accommodate and assist our men and women in uniform. This commitment was most recently demonstrated during the Persian Gulf war, when employers across the country not only complied with their responsibilities under chapter 43 but in many instances went well beyond the requirements of law in order to do their part during a national emergency. Many businesses, both large and small, even made up the salary differences for those members of the Selected Reserve whose military pay was lower than their civilian wages.

The strength of the United States is dependent on the recognition of all citizens that they are a responsibility to contribute to the national well-being and that, in order to ensure the preservation of our country, some sacrifice may be required. Clearly, those who volunteer for duty in the uniform services made significant sacrifices and, in order to support their effort, concessions and adjustments must be made by their families, friends, coworkers, and employers. The enactment of H.R. 1578, as amended, would protect the rights and benefits of members of the uniformed services and, at the same time, ensure that no unreasonable burden is imposed on the employer community.

H.R. 1578, as amended, is a good bill, and I urge my colleagues to support it.

Further reserving the right to object, Mr. Speaker, I rise in strong support of the House amendment to the Senate amendment to H.R. 1578, the Uniformed Services Employment and Reemployment Rights Act of 1992.

The House amendment reflects a number of compromise agreements with the other body. Unfortunately, the two bodies have not been able to reach agreement on the provision regarding employee pension benefit plans. This is a complex and highly technical area, and I firmly believe it is extremely important for this provision to be perfected.

Agreement may still be possible, but the time left in this session is very short indeed. If no agreement is reached, reemployment rights should be a top item on the agenda for the next session.

Mr. Speaker, I urge my colleagues to approve the House amendment to the Senate amendment.

Mr. PENNY. Mr. Speaker, I am very disappointed that we were unable to reach a compromise with the other body on H.R. 1578, veterans' reemployment rights legislation. This is a very technical area, and I know that a great deal of time, thought, and study went into the development of the bills on both sides. Our fundamental disagreements, however, regarding certain rights and benefits for members of the uniformed services could not be resolved.

The amendment we are considering tonight, which largely clarifies current law, would continue to provide the protection necessary to ensure that active duty service members and members of the Selected Reserve are not in any way disadvantaged as a result of their military service when they return to their civilian employment. Additionally, responsibilities imposed on employers under the amendment are not significantly different from those now in place.

Although current law—chapter 43, title 38, United States Code—adequately protect the employment and reemployment rights of members of the uniformed services, clarification of the statute is necessary, and I expect to pursue this issue in the 103d Congress. Our military personnel and the employer community deserve to have in place a statute which clearly delineates their rights and responsibilities.

Mr. Speaker, I want to take this opportunity to extend my thanks to the employer community for their extraordinary support of our service men and women during the Persian Gulf war. In spite of the hundreds of thousands of members of the Selected Reserve who were activated during Desert Shield/Desert Storm, very few service members had problems when they returned to their civilian jobs, and we on the committee did not receive a single letter of complaint from an employer regarding employer responsibilities under chapter 43.

I commend the employers of this country for their cooperation and patriotism, and I know this spirit of support will continue as we consider veterans' reemployment rights legislation in the next Congress.

Mr. STUMP. Mr. Speaker, I thank the gentleman for the explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on H.R. 1578 and the amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ESTABLISHING MEMORIAL TO HONOR THOMAS PAYNE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the bill (H.R. 6165) to amend certain provisions of laws relating to establishment in the District of Columbia or its environs of the memorial to honor Thomas Payne, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Connecticut?

Mr. ALLEN. Reserving the right to object. Mr. Speaker, I yield to the gentleman for an explanation.

Mr. GEJDENSON. Mr. Speaker, this bill accomplishes two purposes. First, I correct the name of the organization authorized to establish the Thomas Payne Memorial; and second, it corrects the text of an earlier passed bill which should have contained the language in this bill.

The House and the Senate sponsors have asked that these corrections be made, and the authorizing committees of the House and the Senate concur.

Mr. ALLEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective as of the enactment of the Act entitled "An Act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes" (H.R. 1628, One Hundred Second Congress), such Act is amended to read as follows:

"SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

"(a) IN GENERAL.—The Thomas Paine National Historical Association is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor Thomas Paine.

"(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled 'An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes' approved November 14, 1986 (40 U.S.C. 1001, et seq.).

"SEC. 2. PAYMENT OF EXPENSES.

"The Thomas Paine National Historical Association shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

"SEC. 3. DEPOSIT OF EXCESS FUNDS.

"If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance of funds received for the establishment of the memorial, the Thomas Paine National Historical Association shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 6165, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

RELATING TO HUMANITARIAN RELIEF AND THE HUMAN RIGHTS SITUATION IN SUDAN

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 140) relating to humanitarian relief and the human rights situation in Sudan, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The Speaker pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. ROTH. Reserving the right to object, Mr. Speaker, I yield to the gentleman for an explanation.

Mr. GEJDENSON. Mr. Speaker, this resolution recognizes the situation in Sudan, the tremendous human rights situation. I am sure all the Members of the House would like to see it passed.

Mr. GILMAN. Mr. Speaker, I rise in strong support for Senate Concurrent Resolution 140, legislation regarding humanitarian relief and human rights in Sudan. I want to thank the chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL,] and the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD,] for bringing Senate Concurrent Resolution 140 to the floor. I also want to thank the chairman and ranking minority member of the Africa Subcommittee, Mr. DYMALLY and Mr. BURTON, for their deep concern and attention to this issue.

I am outraged and angered that the Government of Sudan recently executed one, possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal.

This is an extraordinary action that demands a strong and uncompromising response. We must demand that those responsible are brought to justice. In addition, we should hold accountable the Government of Sudan for the crime.

Accordingly, I strongly support Senate Concurrent Resolution 140 and urge my colleagues to vote for the bill.

Mr. ROTH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 140

Whereas the Government of Sudan engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas Sudanese military forces and the resistance movement, the Sudan Peoples' Liberation Army, are currently engaged in a battle for the southern capital of Juba without regard for the welfare of its civilian population, some 300,000 of whom are existing only on the intermittent provision of relief supplies;

Whereas the Government of Sudan is engaging in gross abuses of human rights elsewhere in the country, including a campaign of forced displacement of tens of thousands of Nuba from their ancestral homes in southern Kordofan Province, the destruction of Nuba villages, and the killing of hundreds of civilians;

Whereas the Government of Sudan has undertaken a cruel campaign to relocate some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city, has announced plans to relocate an additional 250,000 in the coming months, and inhibited many international relief agencies from aiding the displaced;

Whereas the Government of Sudan has systematically harassed international relief agencies and workers whose only objective is to reduce suffering among Sudanese citizens in need;

Whereas the Government of Sudan is engaging in the imprisonment, torture, and execution of suspected dissidents across the country; and

Whereas, in September 1992, the Government of Sudan executed in Juba one and possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

(1) condemns the egregious human rights abuses by the Government of Sudan and calls upon the Government of Sudan to cease its abuses of internationally recognized human rights and specifically—

(A) to allow free movement for all civilians who wish to leave the southern city of Juba and to cease the human rights abuses, including summary executions, of those civilians held against their will in Juba;

(B) to allow unrestricted and unconditional access for the International Committee of the Red Cross, United States officials, and other relief organizations to all parts of the country, including Juba;

(C) to guarantee the personal safety and security of all relief workers, including Sudanese employees of relief agencies working in Sudan;

(D) to provide a full accounting of the recent deaths of employees of the United States Agency for International Development in Juba;

(E) to cease its violent campaign of forced displacement of the Nuba people of Kordofan Province and the displaced people from Khartoum, to permit a greater number of international relief organizations to attend to their needs, and to initiate a process for just settlement of claims of those who have been relocated and whose homes and belongings have been destroyed;

(F) to permit international human rights groups to visit all areas of Sudan, including places of detention and displaced persons camps; and

(G) to lift the ban on the institutions of independent civil society such as the press and labor unions, and to restore freedom of speech and expression;

(2) calls upon the Sudan Peoples' Liberation Army to end its human rights abuses and interference with relief efforts; and

(3) calls upon the President to work with United Nations Secretary General Boutros Boutros-Ghali to convene a Security Council meeting to discuss the human rights situation in Sudan and to consider further international means, including within the United Nations system, to ameliorate the humanitarian situation in Sudan.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONCERNING U.S. PARTICIPATION IN THE CASCADIA CORRIDOR COMMISSION

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 383) concerning the United States participation in the Cascadia Corridor Commission, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 383

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. It is the sense of Congress that:

(a) CASCADIA CORRIDOR COMMISSION.—The United States should continue negotiations with the Government of Canada and State, provincial, and local governments in the urbanized Cascadia corridor along Interstate 5/Highway 99 from Vancouver, British Columbia (including Vancouver Island), to Eugene, Oregon, in order to establish a commission to—

(1) act as a forum to coordinate consideration of regional issues in the Cascadia area by representatives from the private sector, nonprofit organizations, and local, State, provincial, regional, and national governments;

(2) develop a strategy for environmentally sound economic development in the Cascadia region which includes consideration of environmental issues, urban development, transportation, communications, and education; and

(3) submit a plan, developed by the commission and incorporating such strategy, to the Congress, the Canadian Parliament, the legislature of British Columbia, and the State legislatures of Oregon and Washington.

(b) ADVISORY COMMISSION.—The commission should be authorized to function only in an advisory capacity and should have no authority concerning any local, State, or Federal agency or government.

(c) COMPOSITION OF UNITED STATES DELEGATION.—If the United States and Canada conclude an agreement to establish such a commission concerning the Cascadia region, the United States delegation to the commission should include—

(1) 1 member appointed by the President, who should be a nonvoting member;

(2) a Washington State delegation; and

(3) an Oregon delegation.

(d) COST-SHARING AMONG U.S. DELEGATION.—Upon appointment of the United States delegation to such a commission, the United States delegation should decide the cost-sharing arrangements among the Federal, State, and local participants of the delegation. Federal Government contributions of the United States may not exceed one-fourth of the total budget of the commission for any fiscal year.

If a Cascadia commission is established, it is the sense of the Congress that of funds appropriated for "International Commissions" for the Department of State $200,000 for fiscal year 1993 and $200,000 for fiscal year 1994 should be available for the commission.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PEACE CORPS AUTHORIZATIONS, FISCAL YEAR 1993

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3309) to amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATIONS OF APPROPRIATIONS.

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended to read as follows:

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this Act $218,146,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.".

SEC. 2. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 15 the following new section:

"SEC. 16. FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.

"(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States an account to be known as the 'Foreign Currency Fluctuations, Peace Corps, Account'. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

"(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

"(b) USE OF FUNDS IN THE ACCOUNT.—Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) EXCHANGE RATES APPLICABLE TO OBLIGATIONS.—An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) TRANSFERS BACK TO ACCOUNT.—Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) LIMITATION ON TRANSFERS BACK.—A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

"(f) TRANSFERS TO THE ACCOUNT FROM REGULAR APPROPRIATIONS.—(1) At the end of the fiscal year or other period for which appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

"(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance of an appropriation Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

"(h) REPORTS.—Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.

SEC. 3. EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.

(A) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

"(c) Reports to the Peace Corps.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and recommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishings of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) REPORT TO CONGRESS.—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

SEC. 4. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.

(a) IN GENERAL.—Not later than May 31, 1992, the Director of the Peace Corps and the Secretary of Labor shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) RECOMMENDATIONS.—The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "Federal Employees Compensation Act (FECA)" means chapter 81 of title 5, United States Code.

SEC. 5. PEACE CORPS PROGRAMS IN THE FORMER SOVIET UNION.

(a) AVAILABILITY OF FUNDS.—Up to $6,000,000 of the funds made available to carry out the Peace Corps Act for fiscal year 1993 shall be made available for establishing Small Business Development Programs in the independent states of the former Soviet Union. The programs shall include the promotion of local economic development by providing technical assistance and training in municipal restructuring and financing, privatization, valuation of state-owned enterprises, the development and promotion of business associations, and the identification of investment opportunities and requirements.

(b) DEFINITION.—For purposes of this section, the term "independent states of the former Soviet Union" means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ENABLING UNITED STATES TO MAINTAIN LEADERSHIP IN LAND REMOTE SENSING

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology, be discharged from further consideration of the bill (H.R. 6133) to enable the United States to maintain its leadership in land remote sensing by providing data continuity in the Landsat Program to establish a new national land remote sensing policy and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BARTON of Texas. Reserving the right to object, Mr. Speaker, I yield to the gentleman to explain the bill.

Mr. BROWN of California. Mr. Speaker, enactment of this legislation is necessary to create a new policy framework for the Landsat Program. The language of this bill has been developed in close cooperation between the House and the other body, and between Congress and the administration. This is a good bill, an important bill, and a necessary bill that will help preserve and enhance one of the Nation's most successful space programs.

On June 9, 1992, the House adopted H.R. 3614, the National Landsat Policy Act of 1992. On August 11, 1992, the Committee on Commerce, Science, and Transportation of the U.S. Senate ordered reported similar legislation, S. 2297, which was filed on September 30, 1992. H.R. 6133 is a compromise bill that has been negotiated and agreed to between the House Committee on Science, Space, and Technology and the Senate Committee on Commerce, Science, and Transportation, and between these two committees and the administration.

The language of H.R. 6133 is identical to the language of a bill currently pending floor consideration in the Senate. We have introduced this bill, and are asking unanimous consent for its adoption, due to a concern about achieving final enactment of this legislation before adjournment.

The floor debate on H.R. 3614, and the legislative reports on that bill and on S. 2297, provide explanation for most of the provisions of the bill currently before us. Those materials should be referenced for an understanding of congressional intent, except in regards to provisions that have been changed in the development of the compromise bill. To assist the executive branch in understanding congressional intent in relation to these new provisions, I would like to provide the following explanatory remarks.

Section 3, paragraph (2), defines the term "cost of fulfilling user requests" as "the incremental costs associated with providing product generation, reproduction, and distribution of unenhanced data in response to user requests and shall not include any acquisition, amortization, or depreciation of capital assets originally paid for by the U.S. Government or other costs not specifically attributable to fulfilling user requests." This is a very important definition. It is a restrictive definition. It is not intended to permit the inclusion of any costs other than the incremental costs specifically attributable to fulfilling user requests. This definition shall not be exploited to permit the inclusion costs—such as marketing or extraneous administrative costs—that are not directly attributable to fulfilling user requests.

Section 103(a) directs the Landsat Program management to enter into negotiations with the Landsat 6 contractor to formalize an arrangement with respect to pricing, distribution, acquisition, archiving, and availability of unenhanced data for which the Landsat 6 contractor has responsibility under its contract. This section further provides that the outcome of the negotiations shall be a phased transition to a data policy consistent with the Landsat 7 data policy, developed pursuant to section 105, and that the conditions of the phased arrangement should require the Landsat 6 contractor to adopt, by the final phase of the transition, certain provisions specified in section 103(a) (1) through (8).

Section 103(a) does not mandate an outcome for these negotiations. However, this section provides a clear statement of congressional preference. We believe that each of the provisions of section 103(a) (1) through (8) are important and that progress on every one of these items should be evident within each of the phases of the transition that will be negotiated pursuant to this section.

Of particular importance is progress on the first provision of section 103(a). The intent of this provision is to achieve reduced data prices for "the United States Government and its affiliated users," which is a defined term in the bill. The objective is to bring the price of data for these users down to the cost of fulfilling user requests as quickly as possible.

Although the legislation specifies that the data policy on Landsat 4 through 6 should be modified through a negotiated, phased transition, we expect that: First, the first of these phases should begin promptly after agreement is reached between the Landsat program management and the Landsat 6 contractor; second, the final phase should begin well before the launch of Landsat 7; and third, the number of distinct phases should be small, so that the data policies and prices of Landsat 4 through 6 data are not constantly changing. Ideally, implementation of the final phase should begin at least by the end of 1995, which would be 2 years before the launch of Landsat 7.

Section 105 directs the Landsat Program management, in consultation with other appropriate U.S. Government agencies, to develop a data policy for Landsat 7. This section specifies that the Landsat 7 data policy should, among other things, ensure that unenhanced data are available to all users at the cost of fulfilling user requests.

It is our belief that the best data policy for Landsat 7 would be one that ensured that unenhanced data are available to all users at the cost of fulfilling user requests. Such a policy would be a boost to the commercial market for remote sensing, since the number of data users will expand greatly as the price of the data is reduced from its current levels. Such a policy particularly would be a boost for environmental research and public interest activities, since nonprofit entities have been the ones that have found current commercial prices so difficult to afford. Finally, such a policy would strongly support U.S. foreign policy objectives. By making the data available to all users at the cost of fulfilling user requests, the United States would be helping developing countries help themselves through increased use of the valuable information contained in Landsat imagery.

Section 105(c) directs the Landsat Program management to develop and submit to Congress by July 15, 1994, a report that contains a Landsat 7 data policy plan. We believe that such a report will be important as a way of informing users and private sector entities of the specific policies planned for Landsat 7. We anticipate that Landsat 7 data may be processed and distributed by multiple data distributors and value-added companies. If so, the Landsat 7 data policy plan will enable private sector entities who may be interested in becoming data distributors to see how they might play a role within the Landsat 7 data distribution system.

Section 105(d) requires that within 12 months after submission of the Landsat 7 data policy plan, and annually thereafter until the launch of Landsat 7, the Landsat Program management shall prepare and submit a report to Congress which: First, provides justification for the Landsat 7 data policy in terms of the civilian, national security, commercial, and foreign policy needs of the United States; and second, provides justification for any elements of the Landsat 7 data policy which are not consistent with the provisions of section 105(a).

As I already have mentioned, we believe that the provisions of section 105(a) are the right ones. As such, we believe that any justifications provided pursuant to 105(d)(2) will have to be compelling ones. In the absence of such compelling justifications, the Landsat Program management should develop and implement a policy that is fully consistent with the provisions of section 105(a).

Mr. Speaker, this legislation provides the United States with an opportunity to restore its lost leadership in land remote sensing. This is a comprehensive bill, which balances and reflects the Nation's civilian, national security, commercial, and foreign policy needs. The bill represents a major change—an important, constructive, and necessary change—in United States land remote sensing policies. I urge my colleagues to support this legislation.

Mr. BARTON of Texas. Further reserving the right to object, Mr. Speaker, has the minority membership on the committee approved this?

Mr. BROWN. Mr. Speaker, if the gentleman will yield, yes.

Mr. BARTON of Texas. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SCHEUER. Mr. Speaker, for the last 12 years, I have been intimately involved with the efforts to commercialize the Landsat Program. I have learned a number of things from this experience, the most significant of which is the fact that the Reagan-Bush administrations have utterly failed to support the privatization of this program. Despite much self-promotion about their support for the private sector, the current administration and its predecessor has turned its back on the promises made to the private sector and done its best to squander years of hard-won achievement in the Landsat Program.

The bill before us represents an effort to place this valuable program on a secure footing and provide authorization for the next generation satellite—Landsat 7. However, I must note in all candor that this is a bill that is far from what many of us would have preferred. Specifically, the compromise with our colleagues in the other body, altered the House position of Landsat 7 data policy and, in my view, prematurely attempts to legislate a policy that will not come into effect more than 5 years from now. Fortunately, we were able to insert language that provides a large degree of flexibility in setting the data policy. Buy inclusion of the word "should", we intend that the Landsat Program management have sufficient flexibility to retain the commercial aspects of this program. The private sector does and should have a continuing role in this program.

Through the years, a strong bipartisan consensus has formed on the Science Committee to support the multifaceted objectives of the Landsat Program. The distinguished chairman of the full committee, Mr. BROWN, and the ranking Republican member, Mr. WALKER have been steadfast in their support. I would also like to commend the gentleman from Maryland [Mr. MCMILLEN] for his insight and knowledge of this vital program.

This may well be the last time I address this body—a priviledge I have had for almost 28 years. Throughout these years, I have attempted to do the people's business in as forthright and honest fashion as possible. As we move to the final minutes of my last Congress, let me tell you it has been a real honor to have served with you ladies and gentlemen and I will miss you.

The Clerk read the bill, as follows:

H.R. 6133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be as the "Land Remote Sensing Policy Act of 1992".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The continuous collection and utilization of land remote sensing data from space are of major benefit in studying and understanding human impacts on the global environment, in managing the Earth's natural resources, in carrying out national security functions, and in planning and conducting many other activities of scientific, economic, and social importance.

(2) The Federal Government's Landsat system established the United States as the world leader in land remote sensing technology.

(3) The national interest of the United States lies in maintaining international leadership in satellite land remote sensing and in broadly promoting the beneficial use of remote sensing data.

(4) The cost of Landsat data has impeded the use of such data for scientific purposes, such as for global environmental change research, as well as for other public sector applications.

(5) Given the importance of the Landsat program to the United States, urgent actions, including expedited procurement procedures, are required to ensure data continuity.

(6) Full commercialization of the Landsat program cannot be achieved within the foreseeable future, and thus should not serve as the near-term goal of national policy on land remote sensing; however, commercialization of land remote sensing should remain a long-term goal of United States policy.

(7) Despite the success and importance of the Landsat system, funding and organizational uncertainties over the past several years have placed its future in doubt and have jeopardized United States leadership in land remote sensing.

(8) Recognizing the importance of the Landsat program in helping to meet national and commercial objectives, the President approved, on February 11, 1992, a National Space Policy Directive which was developed by the National Space Council and commits the United States to ensuring the continuity of Landsat coverage into the 21st century.

(9) Because Landsat data are particularly important for national security purposes and global environmental change research, management responsibilities for the program should be transferred from the Department of Commerce to an integrated program management involving the Department of Defense and the National Aeronautics and Space Administration.

(10) Regardless of management responsibilities for the Landsat program, the Nation's broad civilian, national security, commercial, and foreign policy interests in remote sensing will best be served by ensuring that Landsat remains an unclassified program that operates according to the principles of open skies and nondiscriminatory access.

(11) Technological advances aimed at reducing the size and weight of satellite systems hold the potential for dramatic reductions in the cost, and substantial improvements in the capabilities, of future land remote sensing systems, but such technological advances have not been demonstrated for land remote sensing and therefore cannot be relied upon as the sole means of achieving data continuity for the Landsat program.

(12) A technology demonstration program involving advanced remote sensing technologies could serve a vital role in determining the design of a follow-on spacecraft to Landsat 7, while also helping to determine whether such a spacecraft should be funded by the United States Government, by the private sector, or by an international consortium.

(13) To maximize the value of the Landsat program to the American public, unenhanced Landsat 4 through 6 data should be made available, at a minimum, to United States Government agencies, to global environmental change researchers, and to other researchers who are financially supported by the United States Government, at the cost of fulfilling user requests, and unenhanced Landsat 7 data should be make available to all users at the cost of fulfilling user requests.

(14) To stimulate development of the commercial market for unenhanced data value-added services, the United States Government should adopt a data policy for Landsat 7 which allows competition within the private sector for distribution of unenhanced data and value-added services.

(15) Development of the remote sensing market and the provision of commercial value-added services based on remote sensing data should remain exclusively the function of the private sector.

(16) It is in the best interest of the United States to maintain a permanent, comprehensive Government archive of global Landsat and other land remote sensing data for long-term monitoring and study of the changing global environment.

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) The term "cost of fulfilling user requests" means the incremental costs associated with providing product generation, reproduction, and distribution of unenhanced data in response to user requests and shall not include any acquisition, amortization, or depreciation of capital assets originally paid for by the United States Government or other costs not specifically attributable to fulfilling user requests.

(3) The term "data continuity" means the continued acquisition and availability of unenhanced data which are, from the point of view of the user—

(A) sufficiently consistent (in terms of acquisition geometry, coverage characteristics, and spectral characteristics) with previous Landsat data to allow comparisons for global and regional change detection and characterization; and

(B) compatible with such data and with methods used to receive and process such data.

(4) The term "data preprocessing" may include—

(A) rectification of system and sensor distortions in land remote sensing data as it is received directly from the satellite in preparation for delivery to a user;

(B) registration of such data with respect to features of the Earth; and

(C) calibration of spectral response with respect to such data, but does not include conclusions, manipulations, or calculations derived from such data, or a combination of such data with other data.

(5) The term "land remote sensing" means the collection data which can be processed into imagery of surface features of the Earth from an unclassified satellite or satellites, other than an operational United States Government weather satellite.

(6) The term "Landsat Program Management" means the integrated program management structure—

(A) established by, and responsible to, the Administrator and the Secretary of Defense pursuant to section 101(a); and

(B) consisting of appropriate officers and employees of the National Aeronautics and Space Administration, the Department of Defense, and any other United States Government agencies the President designates as responsible for the Landsat program.

(7) The term "Landsat system" means Landsats 1, 2, 3, 4, 5, and 6, and any follow-on land remote sensing system operated and owned by the United States Government, along with any related ground equipment, systems, and facilities owned by the United States Government.

(8) The term "Landsat 6 contractor" means the private sector entity which was awarded the contract for spacecraft construction, operations, and data marketing rights for the Landsat 6 spacecraft.

(9) The term "Landsat 7" means the follow-on satellite to Landsat 6.

(10) The term "national Satellite Land Remove Sensing Data Archive" means the archive established by the Secretary of the Interior pursuant to the archival responsibilities defined in section 502.

(11) The term "noncommercial purposes" refers to those activities undertaken by individuals or entities on the condition, upon receipt of unenhanced data, that—

(A) such data shall not be used in connection with any bid for a commercial contract, development of a commercial product, or any other non-United States Government activity that is expected, or has the potential, to be profitmaking;

(B) the results of such activities are disclosed in a timely and complete fashion in the open technical literature or other method of public release, except when such disclosure by the United States Government or its contractors would adversely affect the national security or foreign policy of the United States or violate a provision of law or regulation; and

(C) such data shall not be distributed in competition with unenhanced data provided by the Landsat 6 contractor.

(12) The term "Secretary" means the Secretary of Commerce.

(13) The term "unenhanced data" means land remote-sensing signals or imagery products that are unprocessed or subject only to data preprocessing.

(14) The term "United States Government and its affiliated users" means—

(A) United States Government agencies;

(B) researchers involved with the United States Global Change Research Program and its international counterpart programs; and

(C) other researchers and international entities that have signed with the United States Government a cooperative agreement involving the use of Landsat data for noncommercial purposes.

SEC. 4. REPEAL OF LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984.

The Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) is repealed.

TITLE I—LANDSAT

SEC. 101. LANDSAT PROGRAM MANAGEMENT.

(a) ESTABLISHMENT.—The Administrator and the Secretary of Defense shall be responsible for management of the Landsat Program. Such responsibility shall be carried out by establishing an integrated program management structure for the Landsat system.

(b) MANAGEMENT PLAN.—The Administrator, the Secretary of Defense, and any other United States Government official the President designates as responsible for part of the Landsat Program, shall establish, through a management plan, the roles, responsibilities, and funding expectations for the Landsat Program of the appropriate United States Government agencies. The management plan shall—

(1) specify that the fundamental goal of the Landsat Program Management is the continuity of unenhanced Landsat data through the acquisition and operation of a Landsat 7 satellite as quickly as practicable which is, at a minimum, functionally equivalent to the Landsat 6 satellite, with the addition of a tracking and data relay satellite communications capability;

(2) include a baseline funding profile that—

(A) is mutually acceptable to the National Aeronautics and Space Administration and the Department of Defense for the period covering the development and operation of Landsat 7; and

(B) provides for total funding responsibility of the National Aeronautics and Space Administration and the Department of Defense, respectively, to be approximately equal to the funding responsibility of the other as spread across the development and operational life of Landsat 7;

(3) specify that any improvements over the Landsat 6 functional equivalent capability for Landsat 7 will be funded by a specific sponsoring agency or agencies, in a manner agreed to by the Landsat Program Management, if the required funding exceeds the baseline funding profile required by paragraph (2), and that additional improvements will be sought only if the improvements will not jeopardize data continuity; and

(4) provide for a technology demonstration program whose objective shall be the demonstration of advanced land remote-sensing technologies that may potentially yield a system which is less expensive to build and operate, and more responsive to data users, than is the current Landsat system.

(c) RESPONSIBILITIES.—The Landsat Program Management shall be responsible for—

(1) Landsat 7 procurement, launch, and operations;

(2) ensuring that the operation of the Landsat system is responsive to the broad interests of the civilian, national security, commercial, and foreign users of the Landsat system;

(3) ensuring that all unenhanced Landsat data remain unclassified and that, except as provided in section 506 (a) and (b), no restrictions are placed on the availability of unenhanced data;

(4) ensuring that land remote sensing data of high priority locations will be acquired by the Landsat 7 system as required to meet the needs of the United States Global Change Research Program, as established in the Global Change Research Act of 1990, and to meet the needs of national security users;

(5) Landsat data responsibilities pursuant to this Act;

(6) oversight of Landsat contracts entered into under section 102 and 103;

(7) coordination of a technology demonstration program, pursuant to section 303; and

(8) ensuring that copies of data acquired by the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive.

(d) AUTHORITY TO CONTRACT.—The Landsat Program management may, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, enter into contracts with the private sector for services such as, but not limited to, satellite operations and data preprocessing.

(e) LANDSAT ADVISORY PROCESS.—

(1) ESTABLISHMENT.—The Landsat Program Management shall seek impartial advice and comments regarding the status, effectiveness, and operation of the Landsat system, using existing advisory committees and other appropriate mechanisms. Such advice shall be sought from individuals who represent—

(A) a broad range of perspectives on basic and applied science and operational needs with respect to land remote sensing data;

(B) the full spectrum of users of Landsat data, including representatives from United States Government agencies, State and local government agencies, academic institutions, nonprofit organizations, value-added companies, the agricultural, mineral extraction, and other user industries, and the public; and

(C) a broad diversity of age groups, sexes, and races.

(2) REPORTS.—Within 1 year after the date of the enactment of this Act and biennially thereafter, the Landsat Program Management shall prepare and submit a report to the Congress which—

(A) reports the public comments received pursuant to paragraph (1); and

(B) includes—

(i) a response to the public comments received pursuant to paragraph (1);

(ii) information on the volume of use, by category, of data from the Landsat system; and

(iii) any recommendations for policy or programmatic changes to improve the utility and operation of the Landsat system.

SEC. 102. PROCUREMENT OF LANDSAT 7.

(a) CONTRACT NEGOTIATIONS.—The Landsat Program Management shall, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, expeditiously contract with a United States private sector entity for the development and delivery of Landsat 7.

(b) DEVELOPMENT AND DELIVERY CONSIDERATIONS.—In negotiating a contract under this section for the development and delivery of Landsat 7, the Landsat Program Management shall—

(1) seek, as a fundamental objective, to have Landsat 7 operational by the expected end of the design life of Landsat 6;

(2) seek to ensure data continuity by the development and delivery of a satellite which is, at a minimum, functionally equivalent to the Landsat 6 satellite; and

(3) seek to incorporate in Landsat 7 any performance improvements required to meet United States Government needs that would not jeopardize data continuity.

(c) NOTIFICATION OF COST AND SCHEDULE CHANGES.—The Landsat Program Management shall promptly notify the Congress of any significant deviations from the expected cost, delivery date, and launch date of Landsat 7, that are specified by the Landsat Program Management upon award of the contract under this section.

(d) UNITED STATES PRIVATE SECTOR ENTITIES.—The Landsat Program Management shall, for purposes of this Act, define the term "United States private sector entities", taking into account the location of operations, assets, personnel, and other such factors.

SEC. 103. DATA POLICY FOR LANDSAT 4 THROUGH 6.

(a) CONTRACT NEGOTIATIONS.—Within 30 days after the date of enactment of this Act, the Landsat Program Management shall enter into negotiations with the Landsat 6 contractor to formalize an arrangement with respect to pricing, distribution, acquisition, archiving, and availability of unenhanced data for which the Landsat 6 contractor has responsibility under its contract. Such arrangement shall provide for a phased transition to a data policy consistent with the Landsat 7 data policy (developed pursuant to section 105) by the date of initial operation of Landsat 7. Conditions of the phased arrangement should require that the Landsat 6 contractor adopt provisions so that by the final phase of the transition period—

(1) such unenhanced data shall be provided, at a minimum, to the United State Government and its affiliated users at the cost of fulfilling user requests, on the condition that such unenhanced data are used solely for noncommercial purposes;

(2) instructional data sets, selected from the Landsat data archives, will be made available to educational institutions exclusively for noncommercial, educational purposes at the cost of fulfilling user requests;

(3) Landsat data users are able to acquire unenhanced data contained in the collective archives of foreign ground stations as easily and affordably as practicable;

(4) adequate data necessary to meet the needs of global environmental change researchers and national security users are acquired;

(5) the United States Government and its affiliated users shall not be prohibited from reproduction or dissemination of unenhanced data to other agencies of the United States Government and other affiliated users, on the condition that such unenhanced data are used solely for noncommercial purposes;

(6) non-profit, public interest entities receive vouchers, data grants, or other such means of providing them with unenhanced data at the cost of fulfilling user requests, on the condition that such unenhanced data are used solely for noncommercial purposes.

(7) a viable role for the private sector in the promotion and development of the commercial market for value added and other services using unenhanced data from the Landsat system is preserved; and

(8) unenhanced data from the Landsat system are provided to the national Satellite Land Remote Sensing Data Archive at no more than the cost of fulfilling user requests.

(b) FAILURE TO REACH AGREEMENT.—If negotiations under subsection (a) have not, by September 30, 1993, resulted in an agreement that the Landsat Program management determines generally achieves the goals stated in subsection (b)(1) through (8), the Administrator and the Secretary of Defense shall, within 30 days after the date of such determination, jointly certify and report such determination to the Congress. The report shall include a review of options and projected costs for achieving such goals, and shall include recommendations for achieving such goals. The options reviewed shall include—

(1) retaining the existing or modified contract with the Landsat 6 contractor;

(2) the termination of existing contracts for the exclusive right to market unenhanced Landsat data; and

(3) the establishment of an alternative private sector mechanism for the marketing and commercial distribution of such data.

SEC. 104. TRANSFER OF LANDSAT 6 PROGRAM RESPONSIBILITIES.

The responsibilities of the Secretary with respect to Landsat 6 shall be transferred to the Landsat Program Management, as agreed to between the Secretary and the Landsat Program Management, pursuant to section 101.

SEC. 105. DATA POLICY FOR LANDSAT 7.

(a) LANDSAT 7 DATA POLICY.—The Landsat Program Management, in consultation with other appropriate United States Government agencies, shall develop a data policy for Landsat 7 which should—

(1) ensure that the unenhanced data are available to all users at the cost of fulfilling user requests;

(2) ensure timely and dependable delivery of unenhanced data to the full spectrum of civilian, national security, commercial, and foreign users and the National Satellite Land Remote Sensing Data Archive;

(3) ensure that the United States retains ownership of all unenhanced data generated by Landsat 7;

(4) support the development of the commercial market for remote sensing data;

(5) ensure that the provision of commercial value-added services based on remote sensing data remains exclusively the function of the private sector; and

(6) to the extent possible, ensure that the data distribution system for Landsat 7 is compatible with the Earth Observing System Data and Information System.

(b) In addition, the data policy for Landsat 7 may provide for—

(1) United States private sector entities to operate ground receiving stations in the United States for Landsat 7 data;

(2) other means for direct access by private sector entities to unenhanced data from Landsat 7; and

(3) the United States Government to charge a per image fee, license fee, or other such fee to entities operating ground receiving stations or distributing Landsat 7 data.

(c) LANDSAT 7 DATA POLICY PLAN.—Not later than July 15, 1994, the Landsat Program Management shall develop and submit to Congress a report that contains a Landsat 7 Data Policy Plan. This plan shall define the role and responsibilities of the various public and private sector entities that would be involved in the acquisition, processing, distribution, and archiving of Landsat 7 data and in operations of the Landsat 7 spacecraft.

(d) REPORTS.—Not later than 12 months after submission of the Landsat 7 Data Policy Plan, required by subsection (c), and annually thereafter until the launch of Landsat 7, the Landsat Program Management, in consultation with representatives of appropriate United States Government agencies, shall prepare and submit a report to the Congress which—

(1) provides justification for the Landsat 7 data policy in terms of the civilian, national security, commercial, and foreign policy needs of the United States; and

(2) provides justification for any elements of the Landsat 7 data policy which are not consistent with the provisions of subsection (a).

TITLE II—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

SEC. 201. GENERAL LICENSING AUTHORITY.

(a) LICENSING AUTHORITY OF SECRETARY.—(1) In consultation with other appropriate United States Government agencies, the Secretary is authorized to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote sensing operations of such space system.

(b) COMPLIANCE WITH THE LAW, REGULATIONS, INTERNATIONAL OBLIGATIONS, AND NATIONAL SECURITY.—No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(c) DEADLINE FOR ACTION ON APPLICATION.—The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) IMPROPER BASIS FOR DENIAL.—The Secretary shall not deny such license in order to protect any existing licensee from competition.

(e) REQUIREMENT TO PROVIDE UNENHANCED DATA.—(1) The Secretary, in consultation with other appropriate United States Government agencies and pursuant to paragraph (2), shall designate in a license issued pursuant to this title any unenhanced data required to be provided by the licensee under section 202(b)(3).

(2) The Secretary shall make a designation under paragraph (1) after determining that—

(A) such data are generated by a system for which all or a substantial part of the development, fabrication, launch, or operations costs have been or will be directly funded by the United States Government; or

(B) it is in the interest of the United States to require such data to be provided by the licensee consistent with section 202(b)(3), after considering the impact on the licensee and the importance of promoting widespread access to remote sensing data from United States and foreign systems.

(3) A designation made by the Secretary under paragraph (1) shall not be inconsistent with any contract or other arrangement entered into between a United States Government agency and the licensee.

SEC. 202. CONDITIONS FOR OPERATION.

(a) LICENSE REQUIRED FOR OPERATION.—No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote sensing space system without a license pursuant to section 201.

(b) LICENSING REQUIREMENTS.—Any license issued pursuant to this title shall specify that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve the national security of the United States and to observe the international obligations of the United States in accordance with section 506;

(2) make available to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government as soon as such data are available and on reasonable terms and conditions;

(3) make unenhanced data designated by the Secretary in the license pursuant to section 201(e) available in accordance with section 501;

(4) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, and inform the Secretary immediately of any deviation; and

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities.

(c) ADDITIONAL LICENSING REQUIREMENTS FOR LANDSAT 6 CONTRACTOR.—In addition to the requirements of paragraph (b), any license issued pursuant to this title to the Landsat 6 contractor shall specify that the Landsat 6 contractor shall—

(1) notify the Secretary of any value added activities (as defined by the Secretary by regulation) that will be conducted by the Landsat 6 contractor or by a subsidiary or affiliate; and

(2) if such activities are to be conducted, provide the Secretary with a plan for compliance with section 501 of this Act.

SEC. 203. ADMINISTRATIVE AUTHORITY OF THE SECRETARY.

(a) FINDINGS.—In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, condition, or transfer licenses under this Act;

(2) seek an order of injunction or similar judicial determination from a United States District Court with personal jurisdiction over the licensee to terminate, modify, or suspend licenses under this title and to terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provisions of this Act, with any terms, conditions, or restrictions of such licensee, or with any international obligations or national security concerns of the United States.

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed $10,000 (each day of operation in violation of such licenses or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpoenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report pursuant to a warrant from a magistrate based on a showing of probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this Act.

(b) REVIEW OF AGENCY ACTION.—Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsection (a)(1), (a)(3), (a)(5), or (a)(6) shall be entitled to adjudication by the Secretary on the record after an opportunity for an agency hearing with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5, United States Code.

SEC. 204. REGULATORY AUTHORITY OF THE SECRETARY.

The Secretary may issue regulations to carry out this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code.

SEC. 205. AGENCY ACTIVITIES.

(a) LICENSE APPLICATION AND ISSUANCE.—A private sector party may apply for a license to operate a private remote sensing space system which utilizes, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for such system. The Secretary, pursuant to this title, may license such system if it meets all conditions of this title and—

(1) the system operator agrees to reimburse the Government in a timely manner for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(2) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for such civilian platform.

(b) ASSISTANCE.—The Secretary may offer assistance to private sector parties in finding appropriate opportunities for such utilization.

(c) AGREEMENTS.—To the extent provided in advance by appropriation Acts, any United States Government agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote sensing space system is licensed by the Secretary before commencing operation.

(d) APPLICABILITY.—This section does not apply to activities carried out under title III.

(e) EFFECT ON FCC AUTHORITY.—Nothing in this title shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.).

TITLE III—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

SEC. 301. CONTINUED FEDERAL RESEARCH AND DEVELOPMENT.

(a) ROLES OF NASA AND DEPARTMENT OF DEFENSE.—(1) The Administrator and the Secretary of Defense are directed to continue and to enhance programs of remote sensing research and development.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other United States Government agencies and with public and private research entities (including private industry, universities, non-profit organizations, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b) ROLES OF DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF INTERIOR—

(1) In order to enhance the ability of the United States to manage and utilize its renewable and nonrenewable resources, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.

(c) ROLE OF OTHER FEDERAL AGENCIES.—Other United States Government agencies are authorized and encouraged to conduct research and development on the use of remote sensing in their fulfillment of their authorized missions, using funds appropriated for such purposes.

SEC. 302. AVAILABILITY OF FEDERALLY GATHERED UNENHANCED DATA.

(a) GENERAL RULE.—All unenhanced land remote sensing data gathered and owned by the United States Government, including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303, shall be made available to users in a timely fashion.

(b) Protection for Commercial Data Distributor.—The President shall seek to ensure that unenhanced data gathered under the technology demonstration program carried out pursuant to section 303 shall, to the extent practicable, be made available on terms that would not adversely affect the commercial market for unenhanced data gathered by the Landsat 6 spacecraft.

SEC. 303. TECHNOLOGY DEMONSTRATION PROGRAM.

(a) Establishment.—As a fundamental component of a national land remote sensing strategy, the President shall establish, through appropriate United States Government agencies, a technology demonstration program. The goals of such program shall be to—

(1) seek to launch advanced land remote sensing system components within 5 years after the date of the enactment of this Act.

(2) demonstrate within such 5-year period advanced sensor capabilities suitable for use in the anticipated land remote sensing program; and

(3) demonstrate within such 5-year period an advanced land remote sensing system design that could be less expensive to procure and operate than the Landsat system projected to be in operation through the year 2000, and that therefore holds greater potential for private sector investment and control.

(b) Execution of Program.—In executing the technology demonstration program, the President shall seek to apply technologies associated with United States National Technical Means of intelligence gathering, to the extent that such technologies are appropriate for the technology demonstration and can be declassified for such purposes without causing adverse harm to United States national security interests.

(c) Broad Application.—To the greatest extent practicable, the technology demonstration program established under subsection (a) shall be designed to be responsive to the broad civilian, national security, commercial, and foreign policy needs of the United States.

(d) Private Sector Funding.—The technology demonstration program under this section may be carried out in part with private sector funding.

(e) Landsat Program Management Coordination.—The Landsat Program Management shall have a coordinating role in the technology demonstration program carried out under this section.

(f) Report to Congress.—The President shall assess the progress of the technology demonstration program under this section and, within 2 years after the date of enactment of this Act, submit a report to the Congress on such progress.

TITLE IV—ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM

SEC. 401. ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM.

(a) Assessment.—Within 5 years after the date of the enactment of this Act, the Landsat Program Management, in consultation with representatives of appropriate United States Government agencies, shall assess and report to the Congress on the options for a successor land remote sensing system to Landsat 7. The report shall include a full assessment of the advantages and disadvantages of—

(1) private sector funding and management of a successor land remote sensing system;

(2) establishing an international consortium for the funding and management of a successor land remote seeing system;

(3) funding and management of a successor land remote sensing system by the United States Government; and

(4) a cooperative effort between the United States Government and the private sector for the funding and management of a successor land remote sensing system.

(b) Goals.—In carrying out subsection (a), the Landsat Program Management shall consider the ability of each of the options to—

(1) encourage the development, launch, and operation of a land remote sensing system that adequately serves the civilian, national security, commercial, and foreign policy interests of the United States;

(2) encourage the development, launch, and operation of a land remote sensing system that maintains data continuity with the Landsat system; and

(3) incorporate system enhancements, including any such enhancements developed under the technology demonstration program under section 303, which may potentially yield a system that is less expensive to build and operate and more responsive to data users, than is the Landsat system projected to be in operation through the year 2000.

(c) Preference for Private Sector System.—If a successor land remote sensing system to Landsat 7 can be funded and managed by the private sector while still achieving the goals stated in subsection (b) without jeopardizing the domestic, national security, and foreign policy interests of the United States, preference should be given to the development of such a system by the private sector without competition from the United States Government.

TITLE V—GENERAL PROVISIONS

SEC. 501. NONDISCRIMINATORY DATA AVAILABILITY.

(a) General Rule.—Except as provided in subsection (b) of this section, any unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government shall be made available to all users without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 506) regarding delivery, format, pricing, or technical considerations which would favor one customer or class of customers over another.

(b) Exceptions.—Unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government may be made available to the United States Government and its affiliated users at reduced prices, in accordance with this Act, on the condition that such unenhanced data are used solely for noncommercial purposes.

SEC. 502. ARCHIVING OF DATA.

(a) Public Interest.—It is in the public interest for the United States Government to—

(1) maintain an archive of land remote sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) control the content and scope of the archive; and

(3) assure the quality, integrity, and continuity of the archive.

(b) Archiving Practices.—The Secretary of Interior, in consultation with the Landsat Program Management, shall provide for long-term storage, maintenance, and upgrading of a basic, global, land remote sensing data set (hereinafter referred to as the "basic data set") and shall follow reasonable archival practices to assure proper storage and preservation of the basic data set and timely access for parties requesting data.

(c) Determination of Content of Basic Data Set.—In determining the initial content of, or in upgrading, the basic data set, the Secretary of Interior shall—

(1) use as a baseline the data archived on the date of enactment of this Act;

(2) take into account future technical and scientific developments and needs, paying particular attention to the anticipated data requirements of global environmental change research;

(3) consult with and seek the advice of users and producers of remote sensing data and data products;

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of seasons, spectral bands, resolution, or other relevant factors;

(5) include, as the Secretary of Interior considers appropriate, unenhanced data generated either by the Landsat system, pursuant to title I, or by licensees under title II;

(6) include, as the Secretary of Interior considers appropriate, data collected by foreign ground stations or by foreign sensing space; and

(7) ensure that the content of the archive is developed in accordance with section 506.

(d) Public Domain.—After the expiration of any exclusive right to sell, or after relinquishment of such right, the data provided to the National Satellite Land Remote Sensing Data Archive shall be in the public domain and shall be made available to requesting parties by the Secretary of the Interior at the cost of fulfilling user requests.

SEC. 502. NONREPRODUCTION.

Unenhanced data distributed by any licensee under Title II of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser for commercial purposes.

SEC. 503. REIMBURSEMENT FOR ASSISTANCE.

The Administrator, the Secretary of Defense, and the heads of other United States Government agencies may provide assistance to land remote sensing system operators under the provisions of this Act. Substantial assistance shall be reimbursed by the operator, except as otherwise provided by law.

SEC. 504. ACQUISITION OF EQUIPMENT.

The Landsat Program Management may, by means of a competitive process, allow a licensee under title II or any other private party to buy, lease, or otherwise acquire the use of equipment from the Landsat system, when such equipment is no longer needed for the operation of such system or for the sale of data from such system. Officials of other United States Government civilian agencies are authorized and encouraged to cooperate with the Secretary in carrying out this section.

SEC. 505. RADIO FREQUENCY ALLOCATION.

(a) Application to Federal Communications Commission.—To the extent required by the Communications Act of 1934 (47 U.S.C. 151 et seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with commercial remote sensing space systems licensed under title II.

(b) Deadline for FCC Action.—It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934 (47 U.S.C. 151 et seq.), upon the application of any private sector party or consortium operator of any commercial land remote sensing space system subject to this Act, within 120 days of the receipt of an application for such licensing. If final action has not occurred within 120 days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(c) DEVELOPMENT AND CONSTRUCTION OF UNITED STATES SYSTEMS.—Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(d) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS AND PUBLIC INTEREST.—Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

SEC. 506. CONSULTATION.

(a) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary and the Landsat Program Management shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary and the Landsat Program Management promptly of such conditions.

(b) CONSULTATION WITH SECRETARY OF STATE.—(1) The Secretary and the Landsat Program Management shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying promptly the Secretary and the Landsat Program Management of such conditions.

(2) Appropriate United States Government agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid.

(3) The Secretary of State shall promptly report to the Secretary and Landsat Program Management any instances outside the United States of discriminatory distribution of Landsat data.

(c) STATUS REPORT.—The Landsat Program Management shall, as often as necessary, provide to the Congress complete and updated information about the status of ongoing operations of the Landsat system, including timely notification of decisions made with respect to the Landsat system in order to meet national security concerns and international obligations and policies of the United States Government.

(d) REIMBURSEMENTS.—If, as a result of technical modifications imposed on a licensee under title II on the basis of national security concerns, the Secretary, in consultation with the Secretary of Defense or with other Federal agencies, determines that additional costs will be incurred by the licensee, or that past development costs (including the cost of capital) will not be recovered by the licensee, the Secretary may require the agency or agencies requesting such technical modifications to reimburse the licensee for such additional or development costs, but not for anticipated profits. Reimbursements may cover costs associated with required changes in system performance, but not costs ordinarily associated with doing business abroad.

SEC. 507. ENFORCEMENT.

(a) IN GENERAL.—In order to ensure that unenhanced data from the Landsat system received solely for noncommercial purposes are not used for any commercial purpose, the Secretary (in collaboration with private sector entities responsible for the marketing and distribution of unenhanced data generated by the Landsat system) shall develop and implement a system for enforcing this prohibition, in the event that unenhanced data from the Landsat system are made available for noncommercial purposes at a different price than such data are made available for other purposes.

(b) AUTHORITY OF SECRETARY.—Subject to subsection (d), the Secretary may impose any of the enforcement mechanisms described in subsection (c) against a person who—

(1) receives unenhanced data from the Landsat system under this Act solely for noncommercial purposes (and at a different price than the price at which such data are made available for other purposes); and

(2) uses such data for other than noncommercial purposes.

(c) ENFORCEMENT MECHANISMS.—Enforcement mechanisms referred to in subsection (b) may include civil penalties of not more than $10,000 (per day per violation), denial of further unenhanced data purchasing privileges, and any other penalties or restrictions the Secretary considers necessary to ensure, to the greatest extent practicable, that unenhanced data provided for noncommercial purposes are not used to unfairly compete in the commercial market against private sector entities not eligible for data at the cost of fulfilling user requests.

(d) PROCEDURES AND REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section and shall establish standards and procedures governing the imposition of enforcement mechanisms under subsection (b). The standards and procedures shall include a procedure for potentially aggrieved parties to file formal protests with the Secretary alleging instances where such unenhanced data has been, or is being, used for commercial purposes in violation of the terms of receipt of such data. The Secretary shall promptly act to investigate any such protest, and shall report annually to the Congress on instances of such violations.

TITLE VI—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES

SEC. 601. PROHIBITION.

Neither the President nor any official of the Government shall make any effort to lease, sell, or transfer to the private sector, or commercialize, any portion of the weather satellite systems operated by the Department of Commerce or any successor agency.

SEC. 602. FUTURE CONSIDERATIONS.

Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President nor any official shall take any action prohibited by section 601 unless this title has first been repealed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROWN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 6133; the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1993

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology, be discharged from further consideration of the bill (H.R. 6135) to authorize appropriations for the National Aeronautics and Space Administration for research and development, space flight control and data communications, construction of facilities, research and program management and inspector-general, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BARTON of Texas. Reserving the right to object, Mr. Speaker, I yield to the gentleman to explain the purpose of the legislation.

Mr. BROWN. Mr. Speaker, this bill constitutes a compromise which we have worked out with the Senate on the NASA authorization bill. Although we passed the NASA bill, H.R. 4364, in the House 6 months ago, it has not yet come to the Senate floor.

This bill containing agreed upon funding and policy provisions, will provide another option for Senate action in the closing hours of this Congress.

MAJOR DIFFERENCES BETWEEN H.R. 6135 AND H.R. 4364

OVERALL

The bill authorizes a total of $14.892 billion for FY 1993. This represents a reduction of $347.4 million from the House passed bill and $100.9 million from the President's request.

The bill provides an authorization for all NASA programs under a single title in contrast to the two-tiered approach in the House passed bill.

The bill restricts authorization of appropriations to FY 1993 in contrast to the multi-year authorization approach in the House passed bill.

TITLE I: FUNDING INITIATIVES

Space Station: The bill provides $2.1 billion, a reduction of $150 million from the House passed bill and President's request.

Space Transportation Capability Development: The bill provides $733.7 million of which $30 million is authorized for development of the Space Transportation Main Engine. Overall, this represents a reduction of $16 million from the House passed bill and $130 million from the President's request.

Physics and Astronomy: The bill provides $1,096 billion of which $22 million is authorized for the Shuttle Test of Relativity Experiment. Overall, this represents a $12.5 million reduction from the House passed bill and $17.5 million from the President's request.

Life Sciences: The bill provides $153.7 million of which $2 million is authorized for cooperative life science activities on the Space Station Mir. Overall, this represents a $10 million reduction from the House passed bill and $23.5 million from the President's request.

Planetary Exploration: The bill provides $472.2 million of which $10 million is authorized for Magellan mission operations. Overall, this represents a $5 million increase over the House passed bill and a $15 million reduction from the President's request.

Earth Science and Applications: The bill provides $838.5 million, a general reduction of $10 million from the House passed bill and $30 million from the President's request. Landsat remains fully funded.

Materials Processing in Space: The bill provides $155.3 million, a reduction of $30 million from the House passed bill and $40 million from the President's request.

Information Systems: The bill provides $40.7 million of which $8.5 million is authorized for the enhancement of existing visualization and mass storage capacity in support of earth and space science flight projects. The authorization is the same as the House passed bill and the President's request.

Space Science Research Operations Support: The bill provides $91 million, a reduction of $3 million from the House passed bill and $7 million from the President's request.

Commercial Programs: The bill provides $156.6, a general reduction of $4 million from the House passed bill and $15 million from the President's request.

Aeronautical Research and Technology: The bill provides $885.2 million of which $89.9 million is authorized for High-Speed Research. Overall, this represents a reduction of $5 million from both the House passed bill and the President's request.

Transatmospheric Research and Technology: The bill provides $45 million, a $35 million reduction from both the House passed bill and President's request.

Space Research and Technology: The bill provides $308.5, a $3.5 million reduction in the House passed bill and $23.5 million from the President's request.

Space Exploration: The bill provides $15.9 million, a $15.9 million reduction from both the House passed bill and the President's request.

Space Shuttle Production and Operational Capability: The bill provides $1,315.8 million of which $315 million is authorized for the Advanced Solid Rocket Motor Program. Overall, this represents a $118 million reduction from the House passed bill and an increase of $303 million over the President's request. The increase over the President's request was primarily due to the addition of funding for the Advanced Solid Rocket Motor in FY 1993.

This bill also deletes the condition that the Advanced Solid Rocket Motor be available for the sixth Space Station assembly flight in the House passed bill. However, the main justification for the Advanced Solid Rocket Motor remains its use in supporting Space Station assembly.

Space Transportation Enhancement: The bill provides $7 million to study possible future enhancements to the Space Shuttle. This new line item reflects a provision that had been contained in Title II of the House passed bill.

Space Shuttle Operations: The bill provides $3,085.2 million, a reduction of $20 million from the House passed bill and $30 million from the President's request.

Space and Ground Network, Communications, and Data Systems: The bill provides $903.5 million, a general reduction of $7.5 million from the House passed bill and $17.5 from the President's request.

Construction of Facilities: The bill provides $479.2 million including $165 million for the Advanced Solid Rocket Motor Facility, an overall increase of $90 million above the House passed bill and $160 million over the President's request.

TITLE II. GENERAL PROVISIONS

Reprogramming authority for transamospheric research and technology has been provided within the Research and Development account to provide NASA with the flexibility to commit additional funds for the continuation of the National Aerospace Plane program.

The bill authorizes the National Science Foundation to foster and support access by the research and education communities to computer networks.

A section on space cooperation has been incorporated that is similar to H.R. 4447 and Title VI of the Freedom Support Act. The bill requires notice if approval is denied and a report on space cooperation and trade activities. The section authorizes the Office of Space Commerce to conduct trade missions and advise NASA on potential adverse impacts to U.S. industry.

The bill directs NOAA to establish an Institute for Aviation Weather Prediction, expanding upon the activities of the aviation unit at the National Severe Storms Forecast Center in Kansas City, Missouri.

The section on limiting appropriations statutorily in the House passed bill has been deleted. The section requiring the Administrator to report unauthorized appropriations to Congress remains.

TITLE III: EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH IN SPACE AND AERONAUTICS

Title III of the bill establishes the Experimental Program to Stimulate Competitive Research on Space and Aeronautics, providing up to $10 million from the appropriations authorized for Research and Development in FY 1993. This program is modelled after the National Science Foundation's EPSCOR.

TITLE IV: HIGH RISK R&D CONTRACT ADMINISTRATION

Title IV of the bill provides for the High Risk Research and Development Contract Administration. Within this title, the section promulgating regulations was modified from the House passed bill to reflect the results of the required assessment.

TITLE V: COMMERCIAL SPACE COMPETITIVENESS

Title V of the bill incorporates several provisions contained in H.R. 3848, The Commercial Space Competitiveness Act. The bill establishes programs to encourage the growth and development of commercial space activities.

The Launch Voucher Demonstration Program has been identified to apply solely to payloads funded by NASA's Office of Commercial Programs in contrast to the House passed bill which was applied NASA-wide. This demonstration program is modified to sunset after two years.

The Space Transportation Infrastructure Matching Grants program is modified from the House passed bill to authorize $10 million to provide grants only to state agencies and require specific environmental certifications.

TITLE VI: BIOMEDICAL RESEARCH IN SPACE

Title VI of the bill incorporates several provisions contained in H.R. 3922, Biomedical Research in Space. The bill establishes a joint biomedical research in space program between NASA and National Institutes of Health, providing up to $3.75 million from the appropriations authorized for Research and Development in FY 1993.

I would like to include for the RECORD a full explanation of the differences between this compromise bill and the original House-passed version. In addition, I would like to include a spread sheet detailing programmatic budgetary actions.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION BUDGET SUMMARY

[In millions of dollars]

	Fiscal year—			
	1992 appropriation	1993 President's request	1993 authorization compromise	
			Amount	Change
Research and development	6,850.8	7,731.4	7,224.0	
Space station	2,028.9	2,250.0	2,100.0	−150
Space transportation capability development	719.5	863.7	733.7	
Upper Stages	61.7			
Spacelab	99.2	122.6	122.6	
Engineering & Technical Base	215.8	224.2	221.7	−2.5
Payload Operations & Supp. Equip.	119.1	153.6	143.6	−10
Tethered Satellite System	16.4	3.4	3.4	
Advanced Programs	34.7	57.7	41.2	−16.5
New Launch System	28.0	125.0	30.0	−95
Research Operations Support	144.6	177.2	171.2	−6
Space science and applications	2,728.8	2,985.0	2,852.0	
Physics and Astronomy	1,047.3	1,113.5	1,096.0	
General Reduction			(22.0)	−22
Advanced X-Ray Astrophysics Facility	151.0	174.0	169.0	−5
Global Geospace Science	75.3	60.1	60.1	

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION BUDGET SUMMARY—Continued

[In millions of dollars]

	Fiscal year—			
	1992 appropriation	1993 President's request	1993 authorization compromise	
			Amount	Change
Shuttle/Spacelab Payload Mission Mgmt.	88.0	101.1	101.1	
Payload & Instrument Development	116.5	78.2	100.2	+22
Explorer Development	105.0	112.5	112.5	
Mission Operation & Data Analysis	380.8	440.9	428.4	−12.5
Research & Analysis	70.5	81.4	81.4	
Suborbital Program	60.2	65.3	65.3	
Life Sciences	148.9	177.2	153.7	
Research & Analysis	64.2	69.1	53.1	−16
Flight Experiments	84.7	108.1	100.6	−7.5
Planetary Exploration	534.5	487.2	472.2	
Mars Observer	76.9	0.0	0.0	
Mars Balloon Relay Experiment	1.2	0.0	0.0	
Cassini	210.7	210.0	195.0	−15
Mission Operations & Data Analysis	155.0	170.3	180.3	+10
Research & Analysis	90.7	106.9	96.9	−10
Space Applications	998.1	1,207.1	1,130.1	
Earth Science & Applications	747.5	868.5	838.5	
General Reduction			(10.0)	−10
Earth Observing System (EOS)	188.4	308.4	288.4	−20
EOS Data and Information System	82.6	82.6	82.6	
Earth Probes	92.8	88.9	88.9	
Airborne Science and Applications	20.3	22.9	22.9	
Ocean Topography Experiment	59.9	0.0	0.0	
Payload & Instrument Development	39.6	49.4	49.4	
Missions Operations & Data Analysis	88.8	142.1	142.1	
Research & Analysis	175.1	174.2	174.2	
Materials Processing	120.8	195.3	155.3	−40
Communications	12.5	4.6	4.6	
Information Systems	35.0	40.7	40.7	
Space Science Research Operations Support	82.3	98.0	91.0	−7
Commercial programs	147.6	171.6	156.6	
General Reduction			(15.0)	−15
Technology Utilization	32.5	31.7	31.7	
Commercial Use of Space	115.1	139.9	139.9	
Aeronautical research and technology	784.3	890.2	885.2	−5
Transatmospheric res. & tech. (NASP)	5.0	80.0	45.0	−35
Space research & technology	314.3	332.0	308.5	
General Reduction			(5.0)	−5
Research & Technology Base	157.9	173.8	173.8	
Civil Space Technology Initiative	151.4	158.2	139.7	−18.5
Exploration Mission Studies	5.0			
Space exploration activities	(5.0)	31.8	15.9	−15.9
Safety, reliability & qual. assurance	33.6	32.5	32.5	
Academic programs	66.8	71.4	71.4	
Tracking & data advanced systems	22.0	23.2	23.2	
Space flight, control & data com.	5,384.8	5,266.5	5,519.0	
Shuttle production & ops. cap.	1,327.8	1,012.8	1,315.8	
Orbiter Operational Capability	246.1	305.5	325.5	+20
Propulsion Systems	715.4	357.7	664.7	+307
Launch & Mission Support	261.7	210.7	210.7	
Assured Shuttle Availability	104.6	138.9	114.9	−24
Space transportation enhancement			7.0	+7
Space shuttle operations	2,943.4	3,115.2	3,085.2	
General Reduction			(25.0)	−25
Flight Operations	790.3	740.4	740.4	
Flight Hardware	1,297.1	1,455.3	1,455.3	
Launch and Landing Operations	628.3	639.9	639.9	
Research Operations Support	227.7	279.6	274.6	−5
Launch services	195.3	217.5	207.5	−10
Space & ground networks, com.	918.3	921.0	903.5	
General Reduction			(17.5)	−17.5
Space Network	353.9	298.2	298.2	
Ground Network	283.0	314.6	314.6	
Communications & Data Systems	281.4	308.2	308.2	
Construction of facilities	525.0	319.2	479.2	
Construction Projects			484.2	+165
General Reduction			(5.0)	−5
Research and program management	1,577.6	1,660.0	1,654.0	−6
Inspector General	14.6	15.9	15.9	
Total	14,352.8	14,993.0	14,892.1	−100.9

I would like to highlight some specific provisions which deserve special attention.

The bill provides a total of $14.892 billion for fiscal year 1993 representing a reduction of $101 million from the President's request.

The bill provides $2.1 billion for the space station *Freedom*, a program that was debated at length this year. While it has proved impossible to provide full funding for fiscal year 1993, the intent of this legislation is to honor the commitments made to our international partners in the Space Station Program directed at ultimately providing a capability of 75 kilowatts of power and a crew of eight.

Funding is provided to continue the highly productive Magellan mission, as well as the shuttle test of relativity. This action, together with that of the appropriations bill, is intended to direct the administration to identify funds for these projects in future budget requests.

The bill provides funds for cooperative life science research with the Russians on the Mir space station. We are cognizant that this amount provides only a part of what will be required to carry out the cooperative program now envisioned. The committee intends to review a more comprehensive reprogramming request when the full budgetary impact becomes known.

Full funding is provided for the Landsat Program, a critical element of the U.S. Global Change Research Program.

Funding has been provided to initiate a program of robotic precursor spacecraft to survey the Moon. This program, while more modest in scope than that envisioned in the House-passed bill, will provide the managerial and operational innovations needed to make eventual human exploration of the Moon and Mars cost effective.

The bill provides funding for the advanced solid rocket motor. While the bill contains no explicit linkage of ASRM to a particular space station assembly flight, the committee reiterates its belief that the main justification for the ASRM is the Space Station Program and that its development should be timed to support the station's assembly.

The bill contains a title to improve high risk research and development contract administration. This title is intended to encourage NASA to consider a wide range of options in its assessment, including performance-based contracting, negative award fees, and, where cost effective, limits on the use of waivers of liability. The committee wishes to emphasize its intent that subsequent rulemaking on the subject of high risk research and development contracts be based on the results of the assessment. Although this title is limited in scope to NASA, the committee intends that NASA's procurement policies be generally consistent with those of other Federal agencies conducting high risk research and development. The committee anticipates that other agencies such as the Department of Defense will also comply with the guidance of the Office of Federal Procurement Policy in implementing these reforms.

The bill contains a title to enhance the Nation's commercial space competitiveness. This title includes most of the provisions contained in H.R. 3848. Not included in this title are sections 202 and 203 of H.R. 3848, which extend current policy for the procurement of commercial expendable launch vehicles to the Department of Defense and to NASA's Suborbital Program. Although this extension is not a part of this bill, the committee nevertheless strongly encourages NASA to transition toward a fully commercial acquisition policy for all expendable launch vehicles, including sounding rockets. Finally, the committee is cognizant that DOD largely complies with the policies contained in H.R. 3848 and does not envision that these would have any major impact other than establishing governmentwide policy consistency.

The bill also contains a title which establishes a cooperative biomedical research program between the National Institutes of Health and the National Aeronautics and Space Administration. With this statement, I would like to include an exchange of letters recognizing the jurisdiction of the Committee on Energy and Commerce in this matter.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 25, 1992.
Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of September 23, 1992 concerning H.R. 3922, the "Biomedical Research in Space Act of 1992."

I appreciate your consideration and acknowledgement of the Committee's jurisdiction over this issue. Our Committee has no objection to your plan to accept the agreed language as a Senate amendment to the NASA Authorization Act of 1992. Your sensitivity to and cooperation in addressing our jurisdictional and substantive concerns is greatly appreciated.

Sincerely,
JOHN D. DINGELL,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, DC, September 23, 1992.
Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As Space Subcommittee Chairman Hall has mentioned to you, he has become extremely interested in developing a closer working relationship between the National Aeronautics and Space Administration (NASA) and the National Institutes of Health (NIH) in carrying out biomedical research in space. Mr. Hall introduced the "Biomedical Research in Space Act of 1992" (H.R. 3922), which I believe accomplishes this purpose. As you know, this bill was jointly referred to the Energy and Commerce Committee.

The House Committee on Science, Space and Technology reported H.R. 3922 in June, and provisions have been incorporated into the NASA Authorization Act of 1992 which we anticipate receiving from the Senate shortly. It would be our desire to accept the Senate version under Unanimous Consent.

I am seeking your agreement on the biomedical title, and enclose the suggested language. Your staff, and that of Subcommittee Chairman Waxman have worked with our staff, and I believe they find the wording acceptable. In view of the limited time remaining for House consideration of legislation, we have worked to see that the Senate version is acceptable and protective of the Energy and Commerce Committee's jurisdiction.

I believe that the provisions relating to NIH in H.R. 3922 are straightforward and will greatly enhance the chances of success in carrying out such space-related research. Thus, I hope that you will have no objection to our moving this bill as soon as possible after Senate passage. Your continued cooperation on matters of mutual concern is appreciated, and I want to thank you for your consideration in this matter.

Sincerely,
GEORGE E. BROWN, Jr.,
Chairman.

Mr. Speaker, this is a visionary piece of legislation that establishes congressional priorities and funding requirements in a time of tightly constrained budgets and provides important policy guidelines for the Nation's Civil Space and Aeronautics Program.

There is no question that we are living in challenging times for the Nation's Space and Aeronautics Program. Yet it is also a time of rare opportunity. The end of the cold war has led us to revisit many of the assumptions that have guided the program for the last 35 years. This has opened up possibilities for cooperation with our former adversaries as well as new avenues for applying technologies originally developed for the Nation's defense to the civil space sector. H.R. 6135 takes account of these opportunities while maintaining a healthy and productive Space and Aeronautics Program in the midst of our constrained fiscal environment.

Mr. Speaker, this concludes my statement. I urge my colleagues to support H.R. 4364 and give it speedy passage.

Mr. HALL of Texas. Mr. Speaker, I rise in support of H.R. 6135, the National Aeronautics and Space Administration Authorization Act, fiscal year 1993. The bill includes many of the provisions in the House bill and, overall, I think it represents valuable guidance for NASA.

I would like to commend Mr. BROWN, chairman of the Committee on Science, Space, and Technology, for his leadership on this legislation. I would also like to recognize the contributions of Mr. WALKER as well as Mr. BACCHUS and Mr. PACKARD to title V of the bill, which represents most of the provisions that were originally passed by the House on August 6, 1992, in H.R. 3848, the Commercial Space Competitiveness Act of 1992. Finally, I would like to thank Mr. SENSENBRENNER, the ranking Republican on the Subcommittee on Space, for his close cooperation on this bill.

I am particularly pleased that the bill authorizes $2.1 billion for space station *Freedom*, a project that the Committee on Science, Space, and Technology has worked very hard to preserve. Space station *Freedom* is a cornerstone of a balanced space program. As we complete space station *Freedom*, we should also work with the Russians on their Mir space station. By using Mir, we could learn valuable lessons about how to build and operate space station *Freedom* and prepare for the life sciences research that will be conducted on space station *Freedom*.

I am also pleased that the Senate has agreed to include the language that was in the House bill which calls for NASA to carry out the Earth Observing System [EOS] as a policy-driven program that addresses the highest priority international climate change research goals. The language requires NASA to develop a resiliency plan for the EOS Program which ensures that the highest priority measurements are obtained on schedule to the greatest extent possible while deleting or deferring lower priority measurements. This plan should set forth technical and programmatic changes that NASA would make in the event of funding shortfalls in order to ensure that such a prioritized program is maintained.

The committee believes that this plan is necessary because NASA is planning for substantial funding increases for EOS over the next few years at a time when the Federal budget, and NASA's budget in particular, are likely to be very constrained. I support the EOS Program and hope that it can be adequately funded. However, it is very possible that the desired budget profile for EOS will not be fully attainable, so NASA should specifically design the EOS Program to be capable of adapting as easily as possible to funding shortfalls. Finally, this language recognizes the great importance of the EOS Data and Information System [EOSDIS], including the critical need to minimize risks and obtain the full input of the EOS data user community through prototyping.

I would like to note that the bill authorizes the full request for the Landsat Program. The committee believes that this is a critical program for global change research and that full funding is essential to minimize the possibility of a gap in data continuity between Landsat 6, which is scheduled for launch in a few months and is expected to last for 5 years, and Landsat 7. Landsat is even more important given the changes to the EOS Program recently announced in general terms by the NASA Administrator. In this restructuring, the HIRIS instrument would be deleted, eliminating the only U.S.-built Landsat-type instrument in the EOS Program. The committee believes that these reasons alone justify full funding for Landsat.

The fact that Landsat is now a joint program between NASA and the Department of defense makes it even more important that NASA's share of the program be fully funded, since the management plan agreed to by the two agencies, as well as the Land Remote Sensing Act of 1992 (H.R. 3614), call for roughly equal funding from each agency over the life of the Landsat 7 Program.

The Committee expects that NASA's operating plan for fiscal year 1993 will provide the full $25 million for Landsat as agreed to in the management plan. I note that H.R. 6135 authorizes $371 million for the EOS Program, which is $20 million less than the request and is the same level that was authorized in both the House and Senate versions of the authorization bill. The committee believes that this level is adequate to keep the EOS Program on track, especially given the cost-saving measures recently announced by the NASA Administrator. Therefore, the committee believes that NASA will have sufficient room to provide the Landsat Program with full funding in the operating plan.

I would also like to note the inclusion of most of H.R. 3848, the Commercial Space Competitiveness Act of 1992, as title V of the bill. This part of the bill is significant because it attempts to make the Federal Government a better customer for commercial space goods and services, thereby reducing the cost of Federal space programs and encouraging commercial space activities.

Mr. Speaker, I would like to summarize the main differences between title V of this compromise bill and H.R. 3848 as it was passed by the House of Representatives.

Sections 202 and 203 of H.R. 3848 were dropped. These sections would have extended the requirement to purchase commercial launch services to suborbital payloads and to agencies beyond just NASA. The committee still believes strongly that NASA should and can purchase commercial launch services for suborbital payloads. NASA should not be in the business of building and launching rockets when the private sector can do the job, and can do it more efficiently.

Current law already required NASA to purchase commercial launch services for its large payloads delivered to orbit or beyond, unless certain exceptions apply. The committee continues to see no reason why this cannot be done for sounding rockets—which carry suborbital payloads—as well, without doing any harm to the space science program. The committee believes that NASA should make maximum use of commercial launch services for suborbital payloads, a policy that is fully consistent with the Commercial Space Policy Guidelines the agency agreed to implement in 1991. The committee plan to review this issue with NASA in the coming year.

The launch voucher demonstration program (section 204 of H.R. 3848) is included in the bill, as section 504, with some modifications to make it acceptable to the Senate. First, the demonstration program is limited initially to NASA's Office of Commercial Programs, which gives grants to centers for the Commercial Development of Space for the construction of experimental payloads and the purchase of sounding rockets. Second, the voucher demonstration is made effective for 2 years beginning October 1, 1993, which gives NASA a year to plan for the implementation of the demonstration program. If vouchers prove to be feasible and advantageous, then NASA should consider their use in other programs in which NASA buys sounding rockets for recipients of NASA grants.

The space transportation infrastructure matching grant program (section 205 of H.R. 3848) is included in revised form as section 505 of the bill. The major changes requested by the Senate include the addition of environmental review requirements, language specifying that grants would be awarded to State or local agencies, authorization of $10 million for the program, and elimination of the selection committee composed of representatives from three agencies.

Section 206 of H.R. 3848, which would have required that revenues from user fees collected by the Department of Transportation for launch licensing be deposited in a trust fund and used only for purposes approved by the companies that pay the fees, was not included in H.R. 6135. The committee nevertheless believes that such user fees should be eliminated. However, if such user fees are collected, they should be directed toward purposes that benefit the fee payers rather than for the administrative expenses of the Department of Transportation. Section 211 of the bill contains language prohibiting the collection of user fees.

Finally, section 507 of the bill—anchor tenancy and termination liability—is identical to section 301 of H.R. 3848 except that the preference for no payments prior to delivery of a good or service under this section was deleted at the request of the Senate. The committee nevertheless believes that such up-front payments should be minimized.

The last title of the bill incorporates H.R. 3922, the Biomedical Research in Space Act of 1992. The only major change from H.R. 3922 is that funds are authorized only for NASA in this title. I am hopeful that NASA and the National Institutes of Health [NIH] will use the authority of this title to apply the unique strengths and capabilities of each agency to a vigorous program of joint space-based biomedical research. I am confident that the results of that research ultimately will deliver many benefits to our citizens here on Earth.

Mr. Speaker, tightly constrained budgets and an evolving consensus on why our Nation should be in space will continue to place great stresses on NASA. H.R. 6135 gives important policy guidance and funding authority for our space and aeronautics program at this critical moment in its history. Mr. Speaker, this compromise bill is a valuable piece of legislation that will go far in setting policy and budgetary guidelines for our Nation's space program. I urge my colleagues to support and pass H.R. 6135.

Mr. BARTON of Texas. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993".

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. FINDINGS.

Congress finds that—

(1) investments in research and development are directly linked to long-term productivity and economic growth;

(2) as a major driver of advanced technology, the space program can play a major role in the Nation's reinvestment in civilian research and development;

(3) in addition to carrying out the Nation's goals in science and exploration, the space program makes a significant and direct contribution to the national employment base and, through the development of advanced technologies, will contribute to sustaining a healthy employment base and economy in the future;

(4) the long-term health of the United States space program is critically dependent on maintaining a stable and continuously evolving core program of science, space transportation, space exploration, space technology, and space applications;

(5) such a core program must be based on a realistic projection of resources that will be available and, in the near term, should not exceed inflationary growth;

(6) in addition to carrying out a core space program, international leadership, technological advancement, and expanded scientific knowledge will be enhanced by an expanded space program based on special initiatives in science, exploration, space transportation, space technology, and space applications;

(7) the Nation's space program can provide a productive environment for utilizing the skills of scientists and engineers formerly involved in the Nation's defense sector;

(8) civil space activities of the United States, whether made possible by, or in response to, Cold War strategic competition with the Soviet Union, must, in an era of declining political conflict, mature as instruments of United States foreign policy, and grow to support the national interest during the post-Cold War era;

(9) the national interest is furthered by trade and cooperation among friendly nations, and to the extent the former Soviet republics have shown themselves willing and capable of fostering a friendship with the United States, the national interest is furthered through trade and cooperation of mutual advantage between the United States and the former Soviet republics in civil aerospace, space science, and space exploration;

(10) a vigorous and coordinated effort by the United States and other spacefaring nations is needed to minimize the growth of orbital debris, and space activities should be conducted in a manner that minimizes the likelihood of additional orbital debris creation;

(11) the aerospace industry, rooted in aeronautics, is a major positive contributor to United States international influence and competitiveness;

(12) aeronautical research and development sustains our leadership in air transport and military aviation worldwide; and

(13) the National Aero-Space Plane is a core technology for any national aerospace policy and will permit the United States to maintain a worldwide competitive posture into the future.

SEC. 102. FISCAL YEAR 1993 AUTHORIZATION OF APPROPRIATIONS.

(a) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Research and Development" for the following programs:

(1) Space Station Freedom, $2,100,000,000.

(2) Space Transportation Capability Development, $733,700,000, of which $30,000,000 is authorized for the development of the Space Transportation Main Engine.

(3) Physics and Astronomy, $1,096,000,000, of which $22,000,000 is authorized for the Shuttle Test of Relativity Experiment.

(4) Life Sciences, $153,700,000, of which $2,000,000 is authorized for cooperative life science activities on the Space Station Mir. None of the funds appropriated pursuant to this Act shall be used for the Search for Extraterrestrial Intelligence (SETI).

(5) Planetary Exploration, $472,200,000, of which $10,000,000 is authorized for Magellan mission operations.

(6) Earth Science and Applications, $838,500,000.

(7) Materials Processing in Space, $155,300,000.

(8) Communications $4,600,000.

(9) Information Systems, $40,700,000, of which $8,500,000 is authorized for the enhancement of existing visualization and mass storage capacity in support of earth and space science flight projects.

(10) Space Science Research Operations Support, $91,000,000.

(11) Commercial Programs, $156,600,000.

(12) Aeronautical Research and Technology, $885,200,000, of which $89,900,000 is authorized for High-Speed Research.

(13) Transatmospheric Research and Technology, $45,000,000.

(14) Space Research and Technology, $308,500,000, of which $5,000,000 is authorized for carrying out a program of component technology development, validation, and demonstration directed at reducing the cost and improving the capabilities and reliability of commercial launch vehicles.

(15) Space Exploration, $15,900,000.

(16) Safety, Reliability, and Quality Assurance, $32,500,000

(17) Academic Programs, $71,400,000.

(18) Tracking and Data Advanced Systems, $23,200,000.

(b) SPACE FLIGHT, CONTROL, AND DATA COMMUNICATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Space Flight, Control, and Data Communications" for the following programs:

(1) Space Shuttle Production and Operational Capability, $1,315,800,000, of which $315,000,000 is authorized for the Advanced Solid Rocket Motor Program.

(2) Space Transportation Enhancement, $7,000,000, for assessment of the mission need and cost justification of providing for the incremental improvement in the Space Shuttle fleet, including—

(A) the extension of on-orbit duration;

(B) the development of unmanned Shuttle capabilities;

(C) the increase in lift performance; and

(D) the enhancement of existent Shuttle flight reliability.

(3) Space Shuttle Operations, $3,085,200,000.

(4) Launch Services, $207,500,000.

(5) Space and Ground Network, Communications, and Data System, $903,500,000.

(c) CONSTRUCTION OF FACILITIES.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Construction of Facilities", including land acquisition, as follows:

(1) Construction of Space Station Processing Facility, Kennedy Space Center, $24,000,000.

(2) Modifications for Payload Operations Integration Center, Marshall Space Flight Center, $1,800,000.

(3) Replacement of Aircraft Operations Support Facilities, Johnson Space Center, $1,600,000.

(4) Modification of Electrical and Mechanical System, Utility Annex, Kennedy Space Center, $4,400,000.

(5) Rehabilitation of Explosive Safe Area-60 High Bays Support System, Kennedy Space Center, $2,000,000.

(6) Rehabilitation of LC-39 Area Fire Alarm Reporting System, Kennedy Space Center, $4,300,000.

(7) Replacement of Boiler House Components, Michoud Assembly Facility, $2,300,00

(8) Restoration of High Pressure Gas Facility, Stennis Space Center, $6,800,000.

(9) Rehabilitation of Crawlerway, Kennedy Space Center, $2,000,000.

(10) Rehabilitation of Information and Electronic Systems Laboratory, Marshall Space Flight Center, $5,000,000.

(11) Rehabilitation and Expansion of Communications Duct Banks, Kennedy Space Center. $1,500,000.

(12) Replacement of Central Plant Chilled Water Equipment, Johnson Space Center, $4,000,000.

(13) Restoration of Underground Communications Distribution System, Stennis Space Center. $2,200,000.

(14) Restoration/Modernization of Electrical, Distribution System, Goddard Space Flight Center, $4,500,000.

(15) Modernization of Unitary Plan Wind Tunnel Complex, Ames Research Center, $8,000,000.

(16) Modifications to 14- by 22-foot Subsonic Wind Tunnel, Langley Research Center, $2,200,000.

(17) Repair and Modernization of the 12-foot Pressure Wind Tunnel, Ames Research Center, $21,400,000.

(18) Rehabilitation of Icing Research Tunnel, Lewis Research Center, $2,700,000.

(19) Modernization of 16-foot Transonic Tunnel, Langley Research Center, $3,600,000.

(20) Rehabilitation of Central Air System, Lewis Research Center, $12,200,000.

(21) Construction of 34-meter Multifrequency Antenna, Canberra, Australia, Jet Propulsion Laboratory, $15,600,000.

(22) Construction of 34-meter Multifrequency Antenna, Madrid, Spain, Jet Propulsion Laboratory $16,200,000.

(23) Restoration and Modernization of Infrared Telescope Facility, Mauna Kea, Hawaii, $2,000,000.

(24) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $22,300,000.

(25) Construction of Advance Solid Rocket Motor, Facilities (various locations), $165,000,000.

(26) Repair of facilities at various locations, not in excess of $1,000,000 per project, $31,900,000.

(27) Rehabilitation and modification of facilities at various locations, not in excess of $1,000,000 per project, $34,000,000.

(28) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $750,000 per project, $14,000,000.

(29) Environmental Compliance and Restoration Program, $40,000,000.

(30) Facility Planning and Design, $26,700,000.

Notwithstanding paragraphs (1) through (30), the total amount authorized to be appropriated under this subsection shall not exceed $479,200,000.

(d) RESEARCH AND PROGRAM MANAGEMENT.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Research and Program Management" $1,654,000,000.

(e) INSPECTOR GENERAL.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Inspector General" $15,900,000.

(f) REPORTS ON NEW LAUNCH SYSTEM AND EXPENDABLE LAUNCH VEHICLES.—(1) Within 180 days after the date of enactment of this Act, the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator") shall submit to Congress a report setting forth requirements for a New Launch System, including

(A) a comparison of the New Launch System to existing launch systems in terms of cost, operability, safety, resilience and robustness, and ability to compete in the world launch market;

(B) a cost/benefits analysis and 10-year life cycle cost estimate of the New Launch System, including development costs to be borne by each participating agency, and expected operating costs;

(C) a payload traffic model, including commercial and both civil government and military payloads in production as of the date of enactment of this Act, those approved by Congress as of the date of enactment of this Act, and those expected to be requested of Congress;

(D) a technology development plan, including—

(i) a summary of high-risk technologies that will lower life-cycle costs;

(ii) specific benchmarks which can validate the achievement of such technological goals at discrete programmatic milestones during the development phase of the program; and

(iii) an indication of how the accomplishment of technological milestones will relate to the achievement of overall system performance during the operational phase;

(E) an implementation plan describing how the New Launch system will be phased into operational usage at the National Launch ranges and the overlap with existing systems at those Ranges; and

(F) a detailed comparison, including specific cost, payload, and risk assessments, of the New Launch System to other potential launch technologies, whose services could be procured in a commercial manner by the National Aeronautics and Space Administration.

(2) Within 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report on possible steps to improve the efficiency and availability of United States expendable launch vehicles, including Scout, Delta, Atlas, and Titan, through modernization of facilities, infrastructure improvements, improved management, new or modified procedures, and otherwise.

(g) EARTH OBSERVING SYSTEM.—(1) The Administrator shall carry out an Earth Observing System program that addresses the highest priority international climate change research goals as defined by the Committee on Earth and Environmental Sciences and the Intergovernmental Panel on Climate Change.

(2)(A) Within 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a plan which will ensure that the highest priority measurements are maintained on schedule to the greatest extent practicable while lower priority measurements are deferred, deleted, or obtained through other means.

(B) Within 90 days after the date of enactment of this Act, the Core System of the Earth Observing System Data and Information System, the Administrator shall submit to Congress a Development Plan which—

(i) identifies the highest risk elements of the development effort and the key advanced technologies required to significantly increase scientific productivity;

(ii) provides a plan for the development of one or more prototype systems for use in reducing the development risk of critical system elements and obtaining feedback for scientific users;

(iii) provides a plan for research into key advanced technologies;

(iv) identifies sufficient resources for carrying out the Development Plan; and

(v) identifies how the Earth Observing System Data Information System will connect to and utilize other federally-supported research networks, including the National Research and Education Network.

(h) REPORT ON SPACE TRANSPORTATION ENHANCEMENT.—By September 30, 1993, the Administrator shall submit to Congress a full report outlining the specific actions recommended under subsection (b)(2).

TITLE II—GENERAL PROVISIONS

SEC. 201. USE OF FUNDS FOR CERTAIN ITEMS AND GRANTS.

(a) AUTHORIZED USES.—Appropriations authorized under this Act for "Research and Development" and "Space Flight, Control, and Data Communications" may be used for—

(1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administrations of the National Aeronautics and space Administration for the performance of research and development contracts; and

(2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

(b) VESTING OF TITLE; GRANT CONDITIONS.—Title to facilities described in subsection (a)(2) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each grant under subsection (a)(2) shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

(c) LIMITATION.—None of the funds appropriated for "Research and Development" and "Space Flight, Control, and Data Communications" pursuant to this Act may be used in accordance with this section for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

SEC. 202. AVAILABILITY OF APPROPRIATED AMOUNTS.

Appropriations authorized under this Act for "Research and Development", for "Space Flight, Control, and Data Communications", or for "Construction of Facilities" may remain available until expended. Contracts may be entered into under "Inspector General" and "Research and Program Management" for training, investigations, and costs associated with personnel relocation and for other services provided during the fiscal year following the fiscal year in which funds are appropriated.

SEC. 203. LIMITED USE OF FUNDS.

(a) USE FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.—Appropriations authorized under this Act for "Research and Development" may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(b) USE FOR FACILITIES.—(1) Appropriations authorized under this Act for "Research and Development" and "Space Flight, Control, and Data Communications" may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, except that the cost of each such project, including collateral equipment, shall not exceed $200,000.

(2) Appropriations authorized under this Act for "Research and Development" and "Space Flight, Control, and Data Communications" may be used for unforeseen programmatic facility project needs, except that the cost of each such project, including collateral equipment, shall not exceed $750,000.

(3) Appropriations authorized under this Act for "Research and Development" may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, except that the cost of each project, including collateral equipment, shall not exceed $500,000.

SEC. 204. REPROGRAMMING FOR TRANSATMOSPHERIC RESEARCH AND TECHNOLOGY.

The Administrator may reprogram up to $45,000,000 of the amount authorized for "Research and Development" for fiscal year 1993 to use for the purposes described in section 102(a)(13). No such funds may be obligated until a period of 30 days has passed after the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space and Technology of the House of Representatives of such reprogramming.

SEC. 205. REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.

Appropriations authorized under this Act for "Construction of Facilities"—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward by 10 percent; or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward by 25 percent, to meet unusual cost variations.

The total amount authorized to be appropriated for "Construction of Facilities" shall not be increased as a result of actions authorized under paragraphs (1) and (2).

SEC. 206. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 102(a) and (b) to the "Construction of Facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 102(c) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 207. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 102(a), (b), and (d); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee, unless a period of 30 days has passed after the receipt, by each such committee, of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with respect to all activities and responsibil-

ities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 208. LIMITATION ON OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.

Not later than 30 days after the later of the date of enactment of an Act making appropriations to the National Aeronautics and Space Administration for fiscal year 1993 or the date of enactment of this Act, the Administrator shall submit a report to Congress and to the Comptroller General which specifies—

(1) the portion of such appropriations which are for programs, projects, or activities not specifically authorized under this Act, or which are in excess of amounts authorized for the relevant program, project, or activity under this Act; and

(2) the portion of such appropriations which are specifically authorized under this Act.

SEC. 209. GEOGRAPHICAL DISTRIBUTION.

It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 210. TRANSMISSION OF BUDGET ESTIMATES.

The Administrator shall, at the time of submission of the President's annual budget, transmit to the Congress—

(1) a 5-year budget detailing the estimated development costs for each individual program under the jurisdiction of the National Aeronautics and Space Administration for which development costs are expected to exceed $200,000,000; and

(2) an estimate of the life-cycle costs associated with each such program.

SEC. 211. COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION.

Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended—

(1) by striking "1992" and all that follows through "(2)" and inserting in lieu thereof "1993."; and

(2) by adding at the end the following: "There are authorized to be appropriated to the Secretary for fiscal year 1993 $4,900,000 to carry out this Act. The Secretary may not collect any user fees for any regulatory or other services conducted pursuant to this Act, unless specifically authorized by this Act.".

SEC. 212. NATIONAL SPACE COUNCIL AUTHORIZATION.

There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,598,000 for fiscal year 1993, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

SEC. 213. OFFICE OF SPACE COMMERCE AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce $515,000 for fiscal year 1993.

SEC. 214. LAUNCH TECHNOLOGY STUDIES.

(a) REPORT ON SINGLE STAGE ROCKET TECHNOLOGY FLIGHT TEST PROGRAM.—Not later than 45 days following completion of the Strategic Defense Initiative Organization's Single Stage Rocket Technology flight test program, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives providing an independent analysis of the program and the potential application of this launch technology to the civil space program.

(b) NATIONAL AEROSPACE TRANSPORTATION TECHNOLOGY PLAN.—Not later than 180 days after the date of enactment of this Act, the National Space Council, in consultation with the Administrator, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a national aerospace transportation, technology plan. The plan shall consider—

(1) the needs of the National Aeronautics and Space Administration and other agencies for a hypersonic research flight vehicle, including the National Aerospace Plane; and

(2) the relationship between the National Aerospace Plane and the supersonic High Speed Civil Transport, the Single Stage Rocket Technology Program, nuclear propulsion concepts, and other proposed aeronautical and space transportation technology concepts.

SEC. 215. SPACE AGENCY FORUM ON INTERNATIONAL SPACE YEAR.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it is in the national interest that the Space Agency Forum on International Space Year (in this section referred to as "SAFISY") maintain its facilitating role in the coordination of current and planned complementary Earth and space science research findings so as to maximize scientific return;

(2) the initiative for multilateral scientific cooperation among space agencies and international scientific organizations undertaken by SAFISY should continue beyond 1992, the International Space Year; and

(3) the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration should pursue implementation of proposals for long-term multilateral scientific cooperation developed during the International Space Year, notably those contained in the report of the second Pacific ISY Conference.

(b) REPORT TO CONGRESS.—At the earliest practicable date, but not later than September 1, 1993, the National Aeronautics and Space Administration shall submit to Congress its plan for continuing SAFISY activities, with particular reference to planned coordination of current and future complementary Earth and space science research finding, and other acts of multilateral scientific cooperation.

SEC. 216. CRAF/CASSINI MISSION.

Section 103(a)(1)(S) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (Public Law 101-611; 104 Stat. 3192), is repealed.

SEC. 217. COMPUTER NETWORKS.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 218. SPACE COOPERATION WITH THE FORMER SOVIET REPUBLICS.

(a) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act, the President shall submit to Congress a report describing—

(1) the opportunities for increased space related trade with the independent states of the former Soviet Union;

(2) a technology procurement plan for identifying and evaluating all unique space hardware, space technology, and space services available to the United States from the independent states of the former Soviet Union, specifically including those technologies the National Aeronautics and Space Administration has identified as high priority in its Space Research and Technology Integrated Technology Plan.

(3) the trade missions carried out pursuant to subsection (c), including the private participation and the results of such missions;

(4) the offices and accounts of the National Aeronautics and Space Administration to which expenses for either cooperative activities or procurement actions, involving the independent states of the former Soviet Union, are charged;

(5) any barriers, regulatory or practical, that, inhibit space-related trade between the United States and the independent states of the former Soviet Union, including such barriers in either the United States or the independent states; and

(6) any anticompetitive issues raised by a potential acquisition.

(b) NOTIFICATION TO CONGRESS.—If any United States Government agency denies a request for a license or other approval that may be necessary to conduct discussions on space-related matters with the independent states of the former Soviet Union, that agency shall immediately notify the Speaker of the House of Representatives and President of the Senate. Each such notification shall include a statement of the reasons for the denial.

(c) ROLE OF THE OFFICE OF SPACE COMMERCE.—The Office of Space Commerce of the Department of Commerce is authorized and encouraged to conduct trade missions to appropriate independent states of the former Soviet Union for the purpose of familiarizing United States aerospace industry representatives with space hardware, space technologies, and space services that may be available from the independent states, and with the business practices and overall business climate in the independent states. The Office of Space Commerce shall also advise the Administrator as to the impact on United States industry of each potential acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union, specifically including any anticompetitive issues the Office may observe.

SEC. 219. USE OF DOMESTIC PRODUCTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Administrator, before January 1, 1994, shall report to Congress of procurements covered by this subsection of products that are not domestic products.

(b) INAPPLICABILITY IN CASE OF VIOLATION OF INTERNATIONAL AGREEMENT.—This section shall not apply to the extent that the United States Trade Representative determines that an award under this section would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 220 USE OF ABANDONED AND UNDERUTILIZED BUILDINGS, GROUNDS, AND FACILITIES.

(a) GENERAL RULE.—In meeting the needs of the National Aeronautics and Space Administration for additional facilities, the Administrator shall investigate the use of abandoned and underutilized buildings, grounds, and facilities in depressed communities that can be converted to National Aeronautics and Space Administration facilities and shall prioritize such uses where cost effective, as determined by the Administrator.

(b) DEFINITION.—For purposes of this section, the term "depressed communities" means rural and urban communities that are relatively depressed, in terms of age of housing, extent of poverty, growth of per capita income, extent of unemployment, job lag, or surplus labor.

SEC. 221. STUDY OF USES OF TECHNICAL INFORMATION.

The Administrator shall undertake a study of the extent to which technical information developed by the National Aeronautics and Space Administration, by itself or in cooperation with industry, academic, or other government partners or contractors, is brought to market by foreign aerospace firms or their subcontractors more quickly than by United States companies. The Administrator shall report the results of such study to Congress no later than October 1, 1993.

SEC. 222. INSTITUTE FOR AVIATION WEATHER PREDICTION.

The Administrator of the National Oceanic and Atmospheric Administration shall establish an Institute for Aviation Weather Prediction. The Institute shall provide forecasts, weather warnings, and other weather services to the United States aviation community. The Institute shall expand upon the activities of the aviation unit currently at the National Severe Storms Forecast Center in Kansas City, Missouri, and shall be established in the Kansas City Missouri area. The Administrator of the National Oceanic and Atmospheric Administration shall provide a full and fair opportunity for employees at the National Severe Storms Center to assume comparable duties and responsibilities within the Institute.

TITLE III—EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH ON SPACE AND AERONAUTICS

SEC. 301. SHORT TITLE.

This title may be cited as the "Experimental Program to Stimulate Competitive Research on Space and Aeronautics Act".

SEC. 302. FINDINGS.

Congress finds that—

(1) the report of the Advisory Committee on the Future of the United States Space Program has provided a framework within which a consensus on the goals of the space program can be developed;

(2) the National Aeronautics and Space Administration's space science and applications, aeronautical research and technology, and space research and technology programs will serve as the fulcrum for future initiatives by the United States in civil space and aviation;

(3) colleges and universities in many States are currently not able to compete successfully for research grants awarded by the National Aeronautics and Space Administration through its space science and applications, aeronautical research and technology, and space research and technology programs;

(4) balanced programs of space science and applications, aeronautical research and technology, and space research and technology should include initiatives designed to foster competitive research capacity in all geographic areas of the Nation; and

(5) by strengthening the competitive research capacity in those geographic areas of the Nation which are not currently fully competitive, the education and training of scientists and engineers important to the future of the United States civil space and aviation programs will be fostered.

SEC. 303. POLICY.

It is the policy of the United States that—

(1) the Administrator, in planning for national programs in space science and applications, aeronautical research, space flight, and exploration, should ensure the resilience of the space and aeronautics research infrastructure;

(2) a stable and balanced program of space science and applications, aeronautical research and technology, and space research and technology should include programs to assure that geographic areas of the United States that currently do not successfully participate in competitive space and aeronautical research activities are enabled to become more competitive; and

(3) programs to improve competitive capabilities should be a part of the research and the educational activities of the National Aeronautics and Space Administration.

SEC. 304. REQUIREMENTS.

(a) COMPETITION.—Making use of the existing infrastructure established in eligible States by the National Science Foundation, the Administrator shall conduit a merit grant competition among the eligible States in areas of research important to the mission of the National Aeronautics and Space Administration. With respect to a grant application by an eligible State, the Administrator shall consider—

(1) the application's merit and relevance to mission of the National Aeronautics and Space Administration;

(2) the potential for the grant to serve as a catalyst to enhance the ability of researchers in the State to become more competitive for regular National Aeronautics and Space Administration funding;

(3) the potential for the grant to improve the environment for science, mathematics, and engineering education in the State; and

(4) the need to assure the maximum distribution of grants among eligible States, consistent with merit.

(b) SUPPLEMENTAL GRANTS.—Administrator shall endeavor, where appropriate, to supplement grants made under subsection (a) with such grants for fellowships, traineeships, equipment, or instrumentation as are available.

(c) ELIGIBLE STATES DEFINED.—In this section, the term "eligible State" means a State designated by the Administrator as eligible to compete in the Foundation's Experimental Program to Stimulate Competitive Research.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

In carrying out the programs listed in section 102(a), the Administrator should ensure that up to $10,000,000 from the appropriations authorized for "Research and Development", for fiscal year 1993 are also used for purposes of establishing and developing an Experimental Program to Stimulate Competitive Research on Space and Aeronautics.

TITLE IV—HIGH RISK RESEARCH AND DEVELOPMENT CONTRACT ADMINISTRATION

SEC. 401. ACQUISITION POLICY ASSESSMENT.

(a) ASSESSMENT.—Within 180 days after the date of enactment of this Act, the Administrator, in coordination as necessary with the Office of Federal Procurement Policy and the Federal Acquisition Regulation Council, shall carry out an assessment of the allocation of risk between the National Aeronautics and Space Administration and its contractors for future research and development contracts in order to identify options for allocating risk for correction of defects in materials and workmanship or other failures to conform to contract requirements.

(b) CONTENTS.—In carrying out the assessment required by subsection (a), the Administrator shall consider—

(1) technical uncertainty, market dynamics, and equity to both the National Aeronautics and Space Administration and the contractor community.

(2) the use of positive fee incentives reflecting the level of cost, schedule, and performance risk accepted by the contractor;

(3) the use of negative fee incentives, including provisions providing for less than full cost recovery for work determined to be defective in materials or workmanship or which otherwise fail to conform to contract requirements;

(4) the appropriate use of rollovers;

(5) the appropriate use of retroactive award fee adjustments;

(6) the appropriate use of value engineering;

(7) the use of warranties to ensure that the end product or a specified subproduct of a contract meets the performance requirements of a contract;

(8) the recovery of costs for the replacement or correction of articles which are defective in materials or workmanship, or which otherwise fail to conform to contract requirements; and

(9) the appropriate use of performance-based contracting.

SEC. 402. PROMULGATION OF REGULATIONS.

Within 180 days after the completion of the acquisition policy assessment required by section 401, the Administrator, in coordination as necessary with the Office of Federal Procurement Policy, consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413), and the Federal Acquisition Regulation Council, shall initiate a rulemaking proceeding under section 22 of such Act (41 U.S.C. 418b), on the administration of research and development contracts which propose specific changes to National Aeronautics and Space Administration Procurement Regulations and, as necessary, Federal Acquisition Regulations to consider implementing the recommendations of the assessment required by section 401, as well as—

(1) the establishment of policies and procedures for the use of performance-based contracts, incorporating positive and/or negative fee incentives to the maximum extent practicable; and

(2) the establishment of policies and procedures—

(A) for limiting the use of clauses of the Federal Acquisition Regulations which otherwise obligate the Government to pay the cost of correction of defects in materials and workmanship and work which otherwise fails to conform to contract requirements, and eliminating the use of such clauses where the defect or failure is within the control of the contractor; and

(B) to provide for less than full cost recovery for work determined to be defective in materials and workmanship or which otherwise fails to conform to contract requirements.

SEC. 402. DEFINITIONS.

For the purposes of this title—

(1) the term "performance-based contracting" means structuring all aspects of an acquisition around the purpose of the work to be performed as opposed to either the manner by which the work is to be performed or broad statements of work;

(2) the term "positive fee incentive" means that element of the potential total remuneration that a contractor may receive for contract performance over and above the allowable costs;

(3) the term "negative fee incentive" means a rebate payable to the National Aeronautics and Space Administration by a contracting party whose deliverable item or service is not in conformance with contract requirements or is otherwise deemed to be defective work; and

(4) the term "rollover" means the act of reallocating any positive fee incentives not earned by a contractor due to less than excellent performance to subsequent opportunities for award available in the contract.

TITLE V—COMMERCIAL SPACE COMPETITIVENESS

SEC. 501. FINDINGS.

The Congress finds that—

(1) commercial activities of the private sector have substantially contributed to the strength of both the United States space program and the national economy;

(2) a robust United States space transportation capability remains a vital cornerstone of the United States space program;

(3) the availability of commercial launch services is essential for the continued growth of the United States commercial space sector.

(4) a timely extension of the excess third party claims payment provisions of the Commercial Space Launch Act is appropriate and necessary to enable the private sector to continue covering maximum probable liability risks while protecting the private sector from uninsurable levels of liability which could hinder international competitiveness;

(5) a program to demonstrate how recipients of Federal grants can purchase launch services directly from the private sector has the potential to improve the capabilities of the United States commercial launch industry;

(6) improvements and additions to the Nation's space transportation infrastructure contribute to a robust and cost-effective space transportation capability for both public sector and private sector users;

(7) private sector use of available Government facilities on a reimbursable basis contributes to a stronger commercial space sector;

(8) the Federal Government should purchase space goods and services which are commercially available, or could be made available commercially in response to a Government procurement request, whenever such goods or services meet Government mission requirements in a cost effective manner;

(9) it is appropriate for the Government to act as an anchor tenant for commercial space development projects which have a reasonable potential to develop non-Federal markets and which meet Federal needs in a cost effective manner; and

(10) the provision of compensation to commercial providers of space goods and services for termination of contracts at the convenience of the Government assists in enabling the private sector to invest in space activities which are initially dependent on Government purchases.

SEC. 502. DEFINITIONS.

For the purposes of this title—

(1) the term "agency" means an executive agency as defined by section 105 of title 5, United States Code;

(2) the term "anchor tenancy" means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable;

(3) the term "commercial" means having—

(A) private capital at risk; and

(B) primary financial and management responsibility for the activity reside with the private sector;

(4) the term "cost effective" means costing no more than the available alternatives, determined by a comparison of all related direct and indirect costs including, in the case of Government costs, applicable Government labor and overhead costs as well as contractor charges, and taking into account the ability of each alternative to accommodate mission requirements as well as the related factors of risk, reliability, schedule, and technical performance;

(5) the term "launch" means to place, or attempt to place, a launch vehicle and its payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space;

(6) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch;

(7) the term "launch support facilities" means facilities located at launch sites or launch ranges that are required to support launch activities, including launch vehicle assembly, launch vehicle operations and control, communications, flight safety functions, and payload operations, control, and processing.

(8) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space or in suborbital trajectories, and includes components of that vehicle;

(9) the term "payload" means an object which a person undertakes to launch, and includes subcomponents of the launch vehicle specifically designed or adapted for that object;

(10) the term "payload integration services" means activities involved in integrating multiple payloads into a single payload for launch or integrating a pay load with a launch vehicle;

(11) the term "space recovery support facilities" means facilities required to support activities related to the recovery of payloads returned from space to a space recovery site, including operations and control, communications, flight safety functions, and payload processing;

(12) the term "space transportation infrastructure" means facilities, associated equipment, and real property, including launch sites, launch support facilities, space recovery sites, and space recovery support facilities, required to perform launch or space recovery activities;

(13) the term "State" means the several States, the District of Columbia, Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(14) the term "United States" means the States, collectively.

SEC. 503. EXTENSION OF GOVERNMENT PAYMENT OF EXCESS THIRD PARTY CLAIMS.

Section 16(b)(5) of the Commercial Space Launch Act (49 App. U.S.C. 2615(b)(5)) is amended by striking "the date that is 5 years following the date of enactment of the Commercial Space Launch Act Amendments of 1988" and inserting in lieu thereof "January 1, 2000".

SEC. 504. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

(a) COMMERCIAL SPACE VOUCHER DEMONSTRATION PROGRAM; EFFECTIVE PERIOD.—The Administrator shall establish a demonstration program to award vouchers for the payment of commercial launch services and payload integration services for the purpose of launching payloads funded by the Office of Commercial Programs within the National Aeronautics and Space Administration to become effective October 1, 1993. Such program shall not be effective after September 30, 1995.

(b) AWARD OF VOUCHERS.—The Administrator shall award vouchers under subsection (a) to appropriate individuals as a part of grants administered by the National Aeronautics and Space Administration for the launch of—

(1) payloads to be placed in suborbital trajectories; and

(2) small payloads to be placed in orbit.

(c) ASSUMPTION OF CERTAIN RESPONSIBILITIES.—In carrying out the demonstration program established under subsection (a), the Administrator, in awarding vouchers, is limited to the launch of payloads funded by the Office of Commercial Programs within the National Aeronautics and Space Administration.

(d) ASSISTANCE.—The Administrator may provide voucher award recipients with such assistance, including contract formulation and technical support during the proposal evaluation, as may be necessary, to ensure the purchase of cost effective and reasonably reliable commercial launch services and payload integration services.

(e) REPORT.—The Administrator shall conduct an ongoing review of the program established under this section, and shall, not later than January 31, 1995, report to Congress the results of such a review, together with recommendations for further action relating to the program.

SEC, 505. SPACE TRANSPORTATION INFRASTRUCTURE MATCHING GRANTS.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "commercial space transportation infrastructure development" may include—

(A) the construction or improvement of space transportation infrastructure within the United States;

(B) the engineering and designing of such space transportation infrastructure; and

(C) technical studies to define how new or enhanced space transportation infrastructure can best meet the needs of the United States commercial space transportation industry;

(2) the term "project" means a project (or separate projects submitted together) for the accomplishment of commercial space transportation infrastructure development, including the combined submission of all projects to be undertaken at a particular site in a fiscal year;

(3) the term "project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects;

(4) the term "public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, or a tax-supported organization;

(5) the term "Secretary" means the Secretary of Transportation; and

(6) the term "sponsor" means any public agency which, either individually or jointly with one or more other such entities, submits to the Secretary, in accordance with this section, an application for financial assistance for commercial space transportation infrastructure development.

(b) ESTABLISHMENT OF GRANT PROGRAM.—In order to ensure the resiliency of the Nation's space transportation infrastructure, the Secretary is authorized to make project grants to sponsors in accordance with this section. There is authorized to be appropriated $10,000,000 for such grants beginning after September 30, 1992. Such funds shall remain available until expended.

(c) SELECTION OF PROJECTS.—(1) In selecting projects for grants under subsection (b), the Secretary shall consider—

(A) the contribution of the proposed project to industry capabilities which serve Federal space transportation needs;

(B) the extent of industry's financial contribution to the proposed project;

(C) the extent of industry participation in the proposed project;

(D) the positive impact of the proposed project on the international competitiveness of the United States space transportation industry;

(E) the extent of the state contributions to the proposed project; and

(F) the impact of the proposed project on launch operations and other activities at Federal launch ranges.

(2) The Secretary shall consult with the Department of Defense, the National Aeronautics and Space Administration, and other appropriate Federal agencies concerning paragraphs (1)(A) and (1)(F).

(3) The Secretary shall give preference to those applications with grater levels of industry financial contributions, all other factors being equal.

(d) SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.—(1) Any sponsor of a project may submit to the Secretary a project grant application for one or more projects, in a form containing such information as the Secretary may prescribe, setting forth the project proposed to be undertaken.

(2) No project grant application shall be approved by the Secretary unless the Secretary is satisfied that—

(A) the project will contribute to the purposes of this section;

(B) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies which are authorized by the State in which such project is located and which are responsible for the development of the area surrounding the project site;

(C) if the application proposes to use Federal Government property, the specific consent of the appropriate Federal agency head has been obtained;

(D) the project will be completed without undue delay;

(E) the sponsor which submitted the project grant application has the legal authority to engage in the project as proposed; and

(F) all additional requirements prescribed by the Secretary have been met.

(e) ENVIRONMENTAL REQUIREMENTS.—(1) It is declared to be national policy that projects authorized pursuant to this section shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreational assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have a significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(2)(A) No project grant application may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearing for the purpose of considering the economic, social, and environmental effects of the project and its consistency with the goals of objectives of such planning as had been carried out by the community.

(B) When hearings are held under paragraph (2)(A), the project sponsor shall submit a copy of the transcript to the Secretary.

(3) No project grant application may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within 60 days after the project application has been received by the Secretary.

(4) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(5) The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this section in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary at any time. Nothing in this paragraph shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 App. U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(f) ALLOCATION OF PROJECT COSTS.—(1) The project grant for any project under this section shall not exceed 50 percent of the total cost of such project.

(2) No project grant shall be awarded under this section for any project for which less than 10 percent of the total cost of such project will be borne by the private sector.

SEC. 506. IDENTIFICATION OF LAUNCH SUPPORT FACILITIES.

(a) IDENTIFICATION.—The Administrator and the Secretary of Defense, as appropriate, in coordination with the Secretary of Transportation, shall conduct an inventory and identify all launch support facilities owned by the United States Government. To the extent practicable, the Administrator and the Secretary of Defense shall also identify any launch support facilities which could be made available for use by non-Federal entities on a reimbursable basis without interfering with Federal activities.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Secretary of Defense each shall submit to Congress a report containing the results of the identification required under subsection (a). Portions of such report may be classified and protected from public disclosure if such classification is necessary to protect national security.

SEC. 507. ANCHOR TENANCY AND TERMINATION LIABILITY.

(a) ANCHOR TENANCY CONTRACTS.—Subject to appropriations, the Administrator or the Administrator of the National Oceanic and Atmospheric Administration may enter into multiyear anchor tenancy contracts for the purchase of a good or service in the appropriate Administrator determines that—

(1) the good or service meets the mission requirements of the National Aeronautics and Space Administration or the National Oceanic and Atmospheric Administration, as appropriate;

(2) the commercially procured good or service is cost effective;

(3) the good or service is procured through a competitive process;

(4) existing or potential customers for the good or service other than the United States Government have been specifically identified;

(5) the long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government supporter; and

(6) private capital is at risk in the venture.

(b) TERMINATION LIABILITY.—(1) Contracts entered into under subsection (a) may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(2) Contracts that provide for the payment of termination liability, as described in paragraph (1), shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(3) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or

service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

(c) LIMITATIONS.—(1) Contracts entered into under this section shall not exceed 10 years in duration.

(2) Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) In any such contract, the appropriate Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contract's actual or anticipated failure to perform its contractual obligations.

SEC. 508. USE OF GOVERNMENT FACILITIES.

(a) AUTHORITY.—Federal Agencies, including the National Aeronautics and Space Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that—

(1) the facilities will be used to support commercial space activities;

(2) such use can be supported by existing or planned Federal resources;

(3) such use is compatible with Federal activities;

(4) equivalent commercial services are not available on reasonable terms; and

(5) such use is consistent with public safety, national security, and international treaty obligations.

In carrying our paragraph (5), each agency head shall consult with appropriate Federal officials.

(b) REIMBURSEMENT PAYMENT.—(1) The reimbursement referred to in subsection (a) may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term "direct costs" means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) The amount of any payment received by the United States for use of facilities under this subsection shall be credited to the appropriation from which the cost of providing such facilities was paid.

SEC. 509. PROTECTION OF INFORMATION DEVELOPED UNDER SPACE ACT AGREEMENTS.

Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended—

(1) by inserting "(a)" after "SEC. 303";

(2) by striking "and (B)" and inserting in lieu thereof "(B)";

(3) by inserting ", and (C) information described in subsection (b)" after "national security"; and

(4) by adding at the end the following new subsection:

"(b) The Administrator, for a period of up to 5 years after the development of information that results from activities conducted under an agreement entered into under section 203(c)(5) and (6) of this Act, and that would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party participating in such an agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.".

SEC. 510. COMMERCIAL SPACE ACHIEVEMENT AWARD.

(a) ESTABLISHMENT.—There is established a Commercial Space Achievement Award. The award shall consist of a medal, which shall be of such design and materials and bear such inscriptions as determined by the Secretary of Commerce. A cash prize may also be awarded if funding for the prize is available under subsection (d).

(b) CRITERIA FOR AWARD.—The Secretary of Commerce shall periodically make, and the Chairman of the National Space Council shall present, awards under this section to individuals, corporations, corporate divisions, or corporate subsidiaries substantially engaged in commercial space activities who in the opinion of the Secretary of Commerce best meet the following criteria:

(1) For corporate entities, at least one-half of the revenues from the space-related activities of the corporation, division, or subsidiary is derived from sources other than the United States Government.

(2) The activities and achievements of the individual, corporation, division, or subsidiary have substantially contributed to the United States gross national product and the stature of United States industry in international markets, with due consideration for both the economic magnitude and the technical quality of the activities and achievements.

(3) The individual, corporation, division, or subsidiary has substantially advanced space technology and space applications directly related to commercial space activities.

(c) LIMITATIONS.—No individual or corporate entity may receive an award under this section more than once every 5 years.

(d) FUNDING FOR AWARD.—The Secretary of Commerce may seek and accept gifts of money from public and private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, only such money may be used for that purpose, and the Secretary of Commerce shall make publicly available an itemized list of the sources of such funding.

TITLE VI—BIOMEDICAL RESEARCH IN SPACE

SEC. 601. FINDINGS.

The Congress finds that—

(1) the space program can make significant contributions to selected areas of health-related research and should be an integral part of the Nation's health research and development program;

(2) the continuing development of trained scientists and engineers is essential to carrying out an effective and sustained program of biomedical research in space and on the ground;

(3) the establishment and maintenance of an electronically accessible archive of data on space-related biomedical research is essential to advancement of the field;

(4) cooperation with the republics of the former Soviet Union, including use of former Soviet orbital facilities, offers the potential for greatly enhanced biomedical research activities and progress; and

(5) the establishment and maintenance of an international telemedicine consultation satellite capability to support emergency medical service provision can provide an important aid to disaster relief efforts.

SEC. 602. BIOMEDICAL RESEARCH JOINT WORKING GROUP.

(a) ESTABLISHMENT.—The Administrator and the Director of the National Institutes of Health shall jointly establish a working group to coordinate biomedical research activities in areas where a microgravity environment may contribute to significant progress in the understanding and treatment of diseases and other medical conditions. The joint working group shall formulate joint and complementary programs in such areas of research.

(b) MEMBERSHIP.—The joint working group shall include equal representation from the National Aeronautics and Space Administration and the National Institutes of Health, and shall include representation from National Institutes of Health councils, as selected by the Director of the National Institutes of Health, and from the National Aeronautics and Space Administration Advisory Council.

(c) ANNUAL REPORTING REQUIREMENT.—The joint working group shall report annually to Congress on its progress in carrying out this section.

(d) ANNUAL BIOMEDICAL RESEARCH SYMPOSIA.—The working group shall organize annual symposia on biomedical research described in subsection (a) under the joint sponsorship of the National Aeronautics and Space Administration and the National Institutes of Health.

SEC. 603. BIOMEDICAL RESEARCH GRANTS.

(a) ESTABLISHMENT OF PROGRAM.—The Administrator and the Director of the National Institutes of Health shall establish a joint program of biomedical research grants in areas described in section 602(a), where such research requires access to a microgravity environment. Such program shall be consistent with actions taken by the joint working group under section 602.

(b) RESEARCH OPPORTUNITY ANNOUNCEMENTS.—The grants program established under subsection (a) shall annually issue joint research opportunity announcements under the sponsorship of the National Institutes of Health and the National Aeronautics and Space Administration. Responses to the announcements shall be evaluated by a peer review committee whose members shall be selected by the Director of the National Institutes of Health and the Administrator, and shall include individuals not employed by the National Aeronautics and Space Administration or the National Institutes of Health.

SEC. 604. BIOMEDICAL RESEARCH FELLOWSHIPS.

The Administrator and the Director of the National Institutes of Health shall create a joint program of graduate research fellowships in biomedical research described in section 602(a). Fellowships under such program may provide for participation in approved research conferences and symposia.

SEC. 605. JOINT FORMER SOVIET UNION STUDIES IN BIOMEDICAL RESEARCH.

The Administrator, in consultation with the Director of the National Institutes of Health, shall, as soon as practicable, establish and submit to Congress a plan for the conduct of joint biomedical research activities by the republics of the former Soviet Union and the United States, including the use of the United States Space Shuttle and former Soviet orbital facilities such as the Mir space station.

SEC. 606. ESTABLISHMENT OF AN ELECTRONIC DATA ARCHIVE.

The Administrator shall create and maintain a national electronic data archive for biomedical research data obtained from space-based experiments.

SEC. 607. ESTABLISHMENT OF EMERGENCY MEDICAL SERVICE TELEMEDICINE CAPABILITY.

The Administrator shall with the Director of the Federal Emergency Management Agency, the Director of the Office of Foreign Disaster, and the Surgeon General of the United States jointly create and maintain an international telemedicine satellite consultation capability to support emergency medical services in disaster-stricken areas.

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

The Administrator should ensure that up to $3,750,000 from the appropriations authorized for "Research and Development" for fiscal year 1993 are also used to carry out this title.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 6138) to amend the Consolidated Farm and Rural Development Act.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 306C(a) (2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) is amended to read a follows:

"(2) CERTAIN AREAS TARGETED.—

"(A) IN GENERAL.—Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

"(i) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

"(ii) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), loans and grants under paragraph (1) may also be made if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a rural area that was recognized as a colonia as of October 1, 1989.".

Mr. de la GARZA. Mr. Speaker, H.R. 6138 clarifies eligibility for the loan and grant programs authorized under section 306C of the Consolidated Farm and Rural Development Act.

Section 306C authorizes the loan and grant program for providing water and wastewater services to communities facing water-related health risks. Under the 1990 Farm Act, those impoverished communities along the United States-Mexico border known as colonias are given a preference in the awarding of grants and loans.

This technical amendment simply clarifies that any area recognized as a colonia as of October 1, 1989, should be eligible for the preference. Mr. Speaker, I urge passage of H.R. 6138.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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PRESCRIPTION DRUG USER FEE ACT OF 1992

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 6181) to impose fees on prescription drug manufacturers in order to increase the resources at FDA for the review of drug applications.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

Mr. LENT. Reserving the right to object, Mr. Speaker, while I will not object, I take this reservation for the purpose of asking the gentleman from California [Mr. WAXMAN] to explain what changes have been made by the Senate to this legislation.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman from New York [Mr. LENT] for yielding to me.

Mr. Speaker. The House passed H.R. 5952 on September 22, 1992. Mr. DINGELL, Mr. LENT and I have been involved in negotiating certain changes in H.R. 5952 with the Senate. The changes have been agreed to and we had expected the Senate to pass H.R. 5952 with the Senate amendments today so that we could pass the bill, as amended, tonight.

Unfortunately, Mr. Speaker, there is a filibuster in the Senate tonight, and as a result the Senate may not be able to enact H.R. 5952 before the House recesses. Therefore, Mr. DINGELL and I have introduced a new bill, H.R. 6181, which is identical to H.R. 5952, with the amendments worked out in the Senate. As a result, the Committee Report to H.R. 5952 and the other legislative history will apply with equal force to H.R. 6181, as if the House had passed H.R. 5952 with the Senate amendments.

Title I of the bill is the Prescription Drug User Fee Act of 1992. Title I is essentially identical to H.R. 5952, which the House passed on September 22, 1992. The agreement worked out with the Senate makes only a few technical and clarifying amendments to the bill. They are self-evident from the Senate amendment and are explained in the joint statement of Senators KENNEDY and HATCH which appears in the CONGRESSIONAL RECORD.

Title II is the Dietary Supplement Act of 1992. This Act will extend until December 31, 1993, the deadlines for issuing certain final regulations pertaining to dietary supplements. During this period of a little more than 1 year, Congress, the Food and Drug Administration and other interested parties will have the opportunity to study the issue of how dietary supplements should be regulated. I have also prepared a statement to explain the intent of title II which I ask be printed after my statement.

This issue has been extremely controversial during the past year. Consumers and manufacturers of supplements are plainly very unhappy with the FDA and with Congress. I do not know what is the right answer to the vexing questions that have been raised pertaining to these products. But I do believe that the 1-year moratorium provided by this bill, which pertains only to dietary supplements and not to conventional foods, is beneficial and I fully support it.

Mr. Speaker. This bill is the product of an extraordinary bipartisan, cooperative effort between the House and the Senate, as well as cooperation from the drug industry. I would like to acknowledge the work of staff, including Howard Cohen, counsel for the Minority on the Energy and Commerce Committee, Dave Keaney, counsel for the Majority on the Committee, and Bill Schultz, counsel to our Subcommittee on Health and Environment.

STATEMENT OF INTENT H.R. 6181, TITLE II

The purpose of the Dietary Supplement Act of 1992" is to institute a moratorium, through December 31, 1993, on the implementation of the provisions of the Nutrition Labeling and Education Act of 1990, Public Law 101–535; 104 Stat. 2353 [NLEA] with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

Dietary supplements can play a beneficial role in nutrition. We encourage efforts to continue rigorous scientific research, conducted by qualified experts, into the function of dietary supplements.

The Dietary Supplement Act of 1992 will permit the Congress and the Food and Drug Administration [FDA] of the United States Department of Health and Human Services [HHS] to examine issues related to the regulation of dietary supplements and specifically the provisions of the NLEA as they relate to these products.

As both the statutory text and legislative record reveal, the NLEA primarily addresses food products. Because of the differences in the history of use and function of dietary supplements and conventional foods, it is appropriate for Congress to enact this moratorium so that the issue of how best to regulate dietary supplements may be carefully considered.

Specifically, this legislation creates a moratorium in the implementation of the NLEA with respect to dietary supplements. This legislation also requires the Secretary to repropose NLEA regulations applicable to dietary supplements no later than June 15, 1993. Final regulations will be issued by December 31, 1993.

The moratorium will provide time for the Congress, HHS, consumer groups, industry, and other affected parties to identify more fully and to consider the public health issues associated with use of dietary supplements, and to develop a comprehensive approach for reforming the regulation of dietary supplements.

The general policy goal is clear: The American public must be assured that the dietary supplements they choose to consume are safe, made to quality standards, bear informative labeling, and that health- or disease-related claims are properly supported. Both the regulator—the FDA—and the regulated—including manufacturers, distributors, and suppliers of dietary supplements—have important responsibilities in meeting this goal. In attempting to improve the regulatory framework for these products, the moratorium will advance this goal.

The FDA has proposed that the existing U.S. recommended daily allowances [U.S. RDA's] be replaced as the food label standard for vitamins and minerals by a new concept, the reference daily intakes [RDI's]. The NLEA does not mandate changing the U.S. RDA and does not contain the RDI concept. This legislation enacts a moratorium delaying the implementation of the RDI proposal in order to allow additional time for obtaining a thorough assessment of the scientific rationale for any proposed changes from the existing U.S. RDA's.

While this moratorium is in effect, dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances not in the form of conventional food shall be subject to the provisions of the Federal Food, Drug, and Cosmetic Act [FFDC Act], as in effect on November 7, 1990. Under the terms of the moratorium, the labeling of dietary supplements may contain claims identified under clauses vi and x of section 3(b)(1)(A) of the NLEA for which the Secretary determines that a significant scientific agreement exists.

Two studies are called for by this act. The first will be conducted by the Comptroller General to determine how FDA utilizes resources to regulate potential health risk and risk from deception with respect to using dietary supplements. The second study requests the Office of Technology Assessment to examine how other industrialized countries regulate dietary supplements and the health effects of these regulatory schemes.

During the moratorium, it is expected that attention will be focused on the issue of what standards and procedures should be applied to dietary supplements, including standards for claims under section 403(r)(5)(D) of the FFDC Act. In order to take advantage of the new information and developments that may occur under the moratorium, it is possible that FDA may wish to propose new regulations, guidelines, and enforcement criteria affecting dietary supplements, or to repropose rules under section (r)(5)(D) of the NLEA.

In the course of the moratorium, FDA's enforcement policies and practices with respect to dietary supplements will be examined. While it is clear that the existing legal mechanisms will continue to be in effect during the moratorium, one of the key questions to be considered next year is the proper role of the food additive provisions contained in section 409 of the FFDC Act in the regulation of dietary supplements and whether section 409 should be replaced by a new statutory standard for dietary supplements.

Mr. LENT. Mr. Speaker, I have no objection to the enactment of this legislation.

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of H.R. 5952, the Prescription Drug User Fee Act as amended to include the Dietary Supplement Act of 1992. The Prescription Drug User Fee Act will begin to address the backlog of new drug approvals at the Food and Drug Administration by providing them with additional resources generated by dedicated user fees paid by pharmaceutical companies.

I also want to thank and commend Chairman DINGELL and Chairman WAXMAN for their assistance and support of the Dietary Supplement Act which was added during Senate consideration of H.R. 5952 by our Senate colleague, Senator ORRIN HATCH. I want to commend Senator HATCH for his outstanding and tireless efforts in this area.

As the House sponsor of H.R. 5746, the Health Choices Freedom Act protecting consumers' rights to obtain nutritional supplements, and ensuring that such products are safe, of the highest quality, and that their labels bear accurate information, I strongly support the Dietary Supplement Act which will institute a moratorium through December 31, 1993, on the implementation of the Nutrition Labeling and Education Act of 1990 with respect to vitamins, minerals, herbs, or other similar nutritional substances.

Over 120 million Americans use dietary supplements on a regular basis and yet neither the FDA nor the Congress has reviewed the regulation of these products in over a decade. FDA's regulatory oversight of dietary supplements was last reviewed by Congress in 1976 during passage and consideration of the Proxmire amendment which precluded FDA from establishing maximum limits on the potency of vitamins and minerals.

In the intervening years, much research has been done establishing the health benefits of dietary supplements. Earlier this year, the New York Academy of Sciences held a conference entitled the "New Views on the Function and Health Effects of Vitamins," which detailed the links between vitamin consumption and disease prevention. Time magazine has reported that scientists now believe supplements "play a much more complex role in ensuring vitality and optimal health than was previously thought * * * often in doses much higher than those usually recommended." Articles in U.S. News and World Report and the New York Times have reported similar findings.

Additionally, in July of this year, the Centers for Disease Control formally recommended that women of child-bearing age consume an adequate amount of folic acid in order to reduce the risk of neural tube birth defects. Unfortunately, despite the CDC recommendation, the antiquated labeling requirements governing dietary supplements, such as folic acid, prevent all consumers, including women, from learning the potential benefits of this and other supplements. The fact is, dietary supplements are neither foods nor drugs and regrettably Congress and the FDA have failed to provide the proper statutory and regulatory framework for these products.

As a strong supporter of the Nutrition Labeling and Education Act of 1990 which was designed to revise food labels to provide accurate and nonmisleading health information to consumers, I believe the moratorium established by the Dietary Supplement Act is narrowly tailored and drafted to exempt only dietary supplements. More importantly, the Dietary Supplement Act will enable Congress, consumers, and the dietary supplement industry to develop the appropriate statutory and regulatory framework, one which protects consumer choice, protects consumer health, and encourages continued scientific research into the function of dietary supplements.

I urge my colleagues' support of this important legislation.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—USER FEES

SEC. 101. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Prescription Drug User Fee Act of 1992".

(b) REFERENCE.—Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 102. FINDINGS.

The Congress finds that—

(1) prompt approval of safe and effective new drugs is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications; and

(3) the fees authorized by this title will be dedicated toward expediting the review of human drug applications as set forth in the goals identified in the letters of September 14, 1992, and September 21, 1992, from the Commissioner of Food and Drugs to the Chairman of the Energy and Commerce Com-

mittee of the House of Representatives and the Chairman of the Labor and Human Resources Committee of the Senate, as set forth at 138 Cong. Rec. H9099-H9100 (daily ed. September 22, 1992).

SEC. 103. FEES RELATING TO DRUGS.

Chapter VII, as amended by section 106, is amended by adding at the end of subchapter C the following:

"PART 2—FEES RELATING TO DRUGS

"SEC. 735. DEFINITIONS.

"For purposes of this subchapter:

"(1) The term 'human drug application' means an application for—

"(A) approval of a new drug submitted under section 505(b)(1),

"(B) approval of a new drug submitted under section 505(b)(2) after September 30, 1992, which requests approval of—

"(i) a molecular entity which is an active ingredient (including any salt or ester of an active ingredient), or

"(ii) an indication for a use,

that had not been approved under an application submitted under section 505(b),

"(C) initial certification or initial approval of an antibiotic drug under section 507, or

"(D) licensure of a biological product under section 351 of the Public Health Service Act.

Such term does not include a supplement to such an application, does not include an application with respect to whole blood or a blood component for transfusion, does not include an application with respect to a bovine blood product for topical application licensed before September 1, 1992, an allergenic extract product, or an in vitro diagnostic biologic product licensed under section 351 of the Public Health Service Act, and does not include an application with respect to a large volume parenteral drug product approved before September 1, 1992.

"(2) The term 'supplement' means a request to the Secretary to approve a change in a human drug application which has been approved.

"(3) The term 'prescription drug product' means a specific strength or potency of a drug in final dosage form—

"(A) for which a human drug application has been approved, and

"(B) which may be dispensed only under prescription pursuant to section 503(b).

Such term does not include whole blood or a blood component for transfusion, does not include a bovine blood product for topical application licensed before September 1, 1992, an allergenic extract product, or an in vitro diagnostic biologic product licensed under section 351 of the Public Health Service Act, and does not include a large volume parenteral drug product approved before September 1, 1992.

"(4) The term 'final dosage form' means, with respect to a prescription drug product, a finished dosage form which is approved for administration to a patient without further manufacturing.

"(5) The term 'prescription drug establishment' means a foreign or domestic place of business which is—

"(A) at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more prescription drug products are manufactured in final dosage form, and

"(B) under the management of a person that is listed as the applicant in a human drug application for a prescription drug product with respect to at least one such product.

For purposes of this paragraph, the term 'manufactured' does not include packaging.

"(6) The term 'process for the review of human drug applications' means the following activities of the Secretary with respect to the review of human drug applications and supplements:

"(A) The activities necessary for the review of human drug applications and supplements.

"(B) The issuance of action letters which approve human drug applications or which set forth in detail the specific deficiencies in such applications and, where appropriate, the actions necessary to place such applications in condition for approval.

"(C) The inspection of prescription drug establishments and other facilities undertaken as part of the Secretary's review of pending human drug applications and supplements.

"(D) Activities necessary for the review of applications for licensure of establishments subject to section 351 of the Public Health Service Act and for the release of lots of biologics under such section.

"(E) Monitoring of research conducted in connection with the review of human drug applications.

"(7) The term 'costs of resources allocated for the process for the review of human drug applications' means the expenses incurred in connection with the process for the review of human drug applications for—

"(A) officers and employees of the Food and Drug Administration, employees under contract with the Food and Drug Administration who work in facilities owned or leased for the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources,

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

"(D) collecting fees under section 736 and accounting for resources allocated for the review of human drug applications and supplements.

"(8) The term 'adjustment factor' applicable to a fiscal year is the lower of—

"(A) the Consumer Price Index for all urban consumers (all items; U.S. city average) for August of the preceding fiscal year divided by such Index for August 1992, or

"(B) the total of discretionary budget authority provided for programs in the domestic category for the immediately preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985) divided by such budget authority for fiscal year 1992 (as reported in the Office of Management and Budget final sequestration report submitted after the end of the 102d Congress, 2d Session).

The terms 'budget authority' and 'category' in subparagraph (B) are as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as in effect as of September 1, 1992.

"SEC. 736. AUTHORITY TO ASSESS AND USE DRUG FEES.

"(a) TYPES OF FEES.—Beginning in fiscal year 1993, the Secretary shall assess and collect fees in accordance with this section as follows:

"(1) HUMAN DRUG APPLICATION AND SUPPLEMENT FEE.—

"(A) IN GENERAL.—Each person that submits, on or after September 1, 1992, a human drug application or a supplement shall be subject to a fee as follows:

"(i) A fee established in subsection (b) for a human drug application for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required for approval.

"(ii) A fee established in subsection (b) for a human drug application for which clinical data with respect to safety or effectiveness are not required or a supplement for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required.

"(B) PAYMENT SCHEDULE.—

"(i) FIRST PAYMENT.—50 percent of the fee required by subparagraph (A) shall be due upon submission of the application or supplement.

"(ii) FINAL PAYMENT.—The remaining 50 percent of the fee required by subparagraph (A) shall be due upon—

"(I) the expiration of 30 days from the date the Secretary sends to the applicant a letter designated by the Secretary as an action letter described in section 735(6)(B), or

"(II) the withdrawal of the application or supplement after it is filed unless the Secretary waives the fee or a portion of the fee because no substantial work was performed on such application or supplement after it was filed.

The designation under subclause (I) or the waiver under subclause (II) shall be solely in the discretion of the Secretary and shall not be reviewable.

"(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If a human drug application or supplement was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver), the submission of a human drug application or a supplement for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

"(D) REFUND OF FEE IF APPLICATION NOT ACCEPTED FOR FILING.—The Secretary shall refund 50 percent of the fee paid under subparagraph (B)(i) for any application or supplement which is not accepted for filing.

"(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.—Each person that—

"(A) owns a prescription drug establishment, at which is manufactured at least 1 prescription drug product which is not the, or not the same as a, product approved under an application filed under section 505(b)(2) or 505(j), and

"(B) after September 1, 1992, had pending before the Secretary a human drug application or supplement,

shall be subject to the annual fee established in subsection (b) for each such establishment, payable on or before January 31 of each year.

"(3) PRESCRIPTION DRUG PRODUCT FEE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each person—

"(i) who is named as the applicant in a human drug application for a prescription drug product which is listed under section 510, and

"(ii) who, after September 1, 1992, had pending before the Secretary a human drug application or supplement,

shall pay for each such prescription drug product the annual fee established in subsection (b). Such fee shall be payable at the time of the first such listing of such product in each calendar year. Such fee shall be paid only once each year for each listed prescription drug product irrespective of the number of times such product is listed under section 510.

"(B) EXCEPTION.—The listing of a prescription drug product under section 510 shall not require the person who listed such product to pay the fee prescribed by subparagraph (A) if such product is the same product as a product approved under an application filed under section 505(b)(2) or 505(j).

"(b) FEE AMOUNTS.—

"(1) SCHEDULE.—Except as provided in paragraph (2) and subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be paid in accordance with the following schedule:

	Fiscal year—				
	1993	1994	1995	1996	1997
Drug application fee:					
Subsection (a)(1)(A)(i) fee	*$100,000*	*$150,000*	*$208,000*	*$217,000*	*$233,000*
Subsection (a)(I)(A)(ii) fee	*50,000*	*75,000*	*104,000*	*108,000*	*116,000*
Fee revenue	*12,000,000*	*18,000,000*	*25,000,000*	*26,000,000*	*28,000,000*
Annual establishment fee:					
Fee per establishment	*60,000*	*88,000*	*126,000*	*131,000*	*138,000*
Fee revenue	*12,000,000*	*18,000,000*	*25,000,000*	*26,000,000*	*28,000,000*
Annual product fee:					
Fee per product	*6,000*	*9,000*	*12,500*	*13,000*	*14,000*
Fee revenue	*12,000,000*	*18,000,000*	*25,000,000*	*26,000,000*	*28,000,000*
Total fee revenues	*36,000,000*	*54,000,000*	*75,000,000*	*78,000,000*	*84,000,000*

"(2) SMALL BUSINESS EXCEPTION.—Any business which has fewer than 500 employees, including employees of affiliates, and which does not have a prescription drug product introduced or delivered for introduction into interstate commerce shall pay one-half the amount of the fee for human drug applications it submits and shall pay the entire amount of the fee for supplements it submits. Such a business shall not be required to pay any portion of any fee required under subsection (a)(1)(A) until 1 year after the date of the submission of the application involved. For purposes of this paragraph, one business is an affiliate of another business when, directly or indirectly, one business controls, or has the power to control, the other business or a third party controls, or has the power to control, both businesses.

"(c) INCREASES AND ADJUSTMENTS.—

"(1) REVENUE INCREASE.—The total fee revenues established by the schedule in subsection (b)(1) shall be increased by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

"(A) the total percentage increase that occurred during the preceding fiscal year in the Consumer Price Index for all urban consumers (all items; U.S. city average), or

"(B) the total percentage increase for such fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

"(2) ANNUAL FEE ADJUSTMENT.—Subject to the amount appropriated for a fiscal year under subsection (g), the Secretary shall, within 60 days after the end of each fiscal year beginning after October 1, 1992, adjust the fees established by the schedule in subsection (b)(1) for the following fiscal year to achieve the total fee revenues, as may be increased under paragraph (1). Such fees shall be adjusted under this paragraph to maintain the proportions established in such schedule.

"(3) LIMIT.—The total amount of fees charged, as adjusted under paragraph (2), for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of human drug applications.

"(d) FEE WAIVER OR REDUCTION.—The Secretary shall grant a waiver from or a reduction of 1 or more fees under subsection (a) where the Secretary finds that—

"(1) such waiver or reduction is necessary to protect the public health,

"(2) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

"(3) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of human drug applications for such person, or

"(4) assessment of the fee for an application or a supplement filed under section 505(b(1) pertaining to a drug containing an active ingredient would be inequitable because an application for a product containing the same active ingredient filed by another person under section 505(b)(2) could not be assessed fees under subsection (a)(1).

In making the finding in paragraph (3), the Secretary may use standard costs.

"(e) EFFECT OF FAILURE TO PAY FEES.—A human drug application or supplement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid.

"(f) ASSESSMENT OF FEES.—

"(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 1993 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 1992 multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for human drug applications and supplements, prescription drug establishments, and prescription drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"(g) CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and shall be available in accordance with appropriation Acts until expended without fiscal year limitation.

"(2) COLLECTIONS AND APPROPRIATION ACTS.—The fees authorized by this section—

"(A) shall be collected in each fiscal year in an amount equal to the amount specified in appropriation Acts for such fiscal year, and

"(B) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of human drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs for fiscal year 1992 multiplied by the adjustment factor.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) $36,000,000 for fiscal year 1993,

"(B) $54,000,000 for fiscal year 1994,

"(C) $75,000,000 for fiscal year 1995,

"(D) $78,000,000 for fiscal year 1996, and

"(E) $84,000,000 for fiscal year 1997,

as adjusted to reflect increases in the total fee revenues made under subsection (c)(1).

"(h) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

"(i) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employers, and advisory committees not engaged in the process of the review of human drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.".

SEC. 104. ANNUAL REPORTS.

(a) FIRST REPORT.—Within 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services shall submit a report stating the Food and Drug Administration's progress in achieving the goals identified in section 102(3) of this Act during such fiscal year and that agency's future plans for meeting such goals.

(b) SECOND REPORT.—Within 120 days after the end of each fiscal year during which such fees are collected, the Secretary of Health and Human Services shall submit a report on the implementation of the authority for such fees during such fiscal year and on the use the Food and Drug Administration made of the fees collected during such fiscal year for which the report is made.

(c) COMMITTEES.—The reports described in subsections (a) and (b) shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 105. SUNSET.

The amendments made by section 103 shall not be in effect after October 1, 1997 and section 104 shall not be in effect after 120 days after such date.

SEC. 106. CONFORMING AMENDMENTS TO CHAPTER VII.

Chapter VII is amended—

(1) by striking out in the chapter heading "ADMINISTRATIVE PROVISIONS" and inserting in lieu thereof "AUTHORITY",

(2) by inserting before the section heading for section 701 the following:

"SUBCHAPTER A—GENERAL ADMINISTRATIVE PROVISIONS",

(3) by redesignating section 702A (21 U.S.C. 372a) as section 706 and by inserting it after section 705 (21 U.S.C. 375) and by redesignating section 712 (21 U.S.C. 379d) as section 711,

(4) by moving section 706 (21 U.S.C 376), as in effect on the date of the enactment of this Act, to the end of chapter VII, by redesignating the section as section 721, and by inserting before the section heading for the section the following:

"SUBCHAPTER B—COLORS",

(5) by inserting after section 721 (as so redesignated) the following:

"SUBCHAPTER C—FEES

"PART 1—FREEDOM OF INFORMATION FEES", and

(6) by inserting section 711 (21 U.S.C. 379c), as in effect on the date of the enactment of this Act, after the heading for part 1 of subchapter C and redesignating it as section 731.

SEC. 107. GENERAL CONFORMING AMENDMENTS.

To conform the Federal Food, Drug, and Cosmetic Act, to the amendments made to that Act by section 106(4), the following conforming amendments are made:

(1) Section 201(u) (21 U.S.C. 321(u)) is amended by striking out "706" and inserting in lieu thereof "721".

(2) Section 301(i)(1) (21 U.S.C. 331(i)(1)) is amended by striking out "706" and inserting in lieu thereof "721".

(3) Section 301(j) (21 U.S.C. 331(j)) is amended by striking out "706" and inserting in lieu thereof "721".

(4) Section 402(c) (21 U.S.C. 342(c)) is amended by striking out "706" and inserting in lieu thereof "721".

(5) Section 403(i) (21 U.S.C. 343(i)) is amended by striking out "706" and inserting in lieu thereof "721".

(6) Section 403(m) (21 U.S.C. 343(m)) is amended by striking out "706" and inserting in lieu thereof "721".

(7) Section 408(g) (21 U.S.C. 346a(g)) is amended by striking out "706" and inserting in lieu thereof "721".

(8) Section 501(a)(4) (21 U.S.C 351(a)(4)) is amended by striking out "706" each place it occurs and inserting in lieu thereof "721".

(9) Section 502(m) (21 U.S.C. 352(m)) is amended by striking out "706" and inserting in lieu thereof "721".

(10) Section 520(g)(2)(A) (21 U.S.C. 360j(g)(2)(A)) is amended by striking out "706" and by inserting in lieu thereof "721".

(11) Section 601(e) (21 U.S.C. 361(e)) is amended by striking out "706" and inserting in lieu thereof "721".

(12) Section 602(e) (21 U.S.C. 362(e)) is amended by striking out "706" and inserting in lieu thereof "721".

(13) Section 4(g)(2)(D) of the Poultry Products Inspection Act (21 U.S.C. 453(g)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(14) Section 1(m)(2)(D) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(15) Section 4(a)(2)(D) of the Egg Products Inspection Act (21 U.S.C. 1033(a)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(16) Section 10(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended—

(A) in paragraph (2)—

(i) by striking "(1) 24" and inserting "(A) 24"; and

(ii) by striking "(2) action" and inserting "(B) action";

(B) by indenting, and aligning the margins of, paragraph (2) so as to align with paragraph (1); and

(C) by indenting, and aligning the margins of, subparagraphs (A) and (B) of paragraph (2) (as so designated by subparagraph (A)) so as to align with the subpargraphs of paragraph (1).

(17) Section 10(c)(2)(A) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) (as amended by section 1 of the Act entitled "An Act to make Technical Amendments to the Nutrition Information and Labeling Act, and for other purposes", approved August 17, 1991 (Public Law 102–108; 105 Stat. 549) is amended by striking "706" and inserting "721".

SEC. 108. ANIMAL DRUG USER FEE STUDY.

(a) STUDY.—The Secretary, in consultation with manufacturers of animal drug products and other interested persons, shall undertake a study to evaluate whether, and under what conditions, to impose user fees to supplement appropriated funds in order to improve the process of reviewing applications (including abbreviated and supplemental applications) for new animal drugs under section 512 of the Federal Food, Drug, and Cosmetic Act. The study shall include—

(1) an assessment of the overall review process for animal drugs at the Center for Veterinary Medicine, including the number of applications received, and the average times for interim and final decisions on each type of application,

(2) the current allocation of funds to the animal drug review process,

(3) recommendations for goals for decision making times on applications submitted to the Center for Veterinary Medicine and for additional resources required to meet the goals, and

(4) recommendations for supplementing the resources for the animal drug review process through user fees.

(b) COMPLETION.—The results of the study required by subsection (a) shall be presented no later than January 4, 1994, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

TITLE II—DIETARY SUPPLEMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Dietary Supplement Act of 1992".

SEC. 202. PROHIBITION.

(a) IN GENERAL.—

(1) PROHIBITION ON IMPLEMENTATION.—Notwithstanding any other provision of law and except as provided in subsection (b) and in the amendment made by paragraph (2)(A), the Secretary of Health and Human Services may not implement the Nutrition Labeling and Education Act of 1990 (Public Law 101–535; 104 Stat. 2353), or any amendment made by such Act, earlier than December 15, 1993, with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(2) FEDERAL REGULATORY ACTION.—

(A) PROPOSED REGULATIONS.—The first sentence of section 2(b)(1), and the first sentence of section 3(b)(1)(A), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: ", except that the Secretary shall issue, not later than June 15, 1993, proposed regulations that are applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances to implement such section".

(B) FINAL REGULATIONS.—

(i) ISSUANCE OF FINAL REGULATIONS.—The second sentence of section 2(b)(1), and section 3(b)(1)(B), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: ", except that the Secretary shall issue, not later than December 31, 1993, such a final regulation applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.".

(ii) REGULATIONS CONSIDERED TO BE FINAL.—The first sentence of section 2(b)(2), and the first sentence of section 3(b)(2), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: ", except that the proposed regulations applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances shall not be considered to be final regulations until December 31, 1993".

(C) CONSTRUCTION.—The amendments made by subparagraph (B) shall not be construed to modify the effective date of final regulations under sections 2(b) and 3(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) with respect to foods that are not such dietary supplements.

(3) STATE ACTION.—Section 10(a)(1)(C) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by inserting before the comma the following: ", except that such amendments shall take effect with respect to such dietary supplements on December 31, 1993".

(4) PREEMPTION.—Section 10(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by adding at the end the following:

"(3) REQUIREMENTS PERTAINING TO CERTAIN CLAIMS.—Notwithstanding subparagraphs (D) and (E) of paragraph (1) and except with respect to claims approved in accordance with section 202(b) of the Dietary Supplement Act of 1992, the requirements described in paragraphs (4) and (5) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a) (4) and (5)) that pertain to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances shall not take effect until the date final regulations take effect to implement subsection (q) or (r), as appropriate, of section 403 of such Act with respect to such dietary supplements.".

(b) HEALTH CLAIMS.—Notwithstanding section 403(r)(5)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(5)(D)) and subsection (a), the Secretary of Health and Human Services may, earlier than December 15, 1993, approve claims made with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances that are claims described in clauses (vi) and (x) of section 3(b)(1)(A) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note).

SEC. 203. UNITED STATES RECOMMENDED DAILY ALLOWANCES.

Notwithstanding any other provision of Federal law, no regulations that require the use of, or are based upon, recommended daily allowances of vitamins or minerals may be promulgated before November 8, 1993 (other than regulations establishing the United States recommended daily allowances specified at section 101.9(c)(7)(iv) of title 21, Code of Federal Regulations, as in effect on October 6, 1992, or regulations under section 403(r)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(1)(A)) that are based on such recommended daily allowances).

SEC. 204. ENFORCEMENT REPORT.

(a) CONTENTS.—The Secretary of Health and Human Services shall prepare a report containing a statement of the enforcement priorities and practices of the Food and Drug Administration under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(b) REPORT.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit the report described in subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 205. MANAGEMENT ACTIVITIES STUDY.

(a) STUDY.—The Comptroller General shall conduct a study of the management of activities of the Food and Drug Administration that are related to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(b) CONTENTS.—In conducting the study, the Comptroller General shall examine, with respect to such activities—

(1) the means by which the Food and Drug Administration makes a determination that a substance poses a risk to public health and safety that justifies the expenditure of resources by the agency;

(2) the means by which the Food and Drug Administration makes a determination that a substance is adulterated, misbranded, or improperly manufactured;

(3) the means by which the Food and Drug Administration makes a determination relating to the quantitative management of the agency response to specific issues, in order to adjust the efforts of the agency to be commensurate with the severity of the problem addressed by the agency;

(4) the approach by which the Food and Drug Administration determines the adequacy of proof related to the risk posed by, or the safety of, a substance, and the adequacy of such approach; and

(5) the relationship between—

(A)(i) the number of hours devoted by Food and Drug Administration personnel, and the expertise of such personnel, in conducting such activities;

(ii) the cost of conducting such activities; and

(iii) the cost to manufacturers of such supplements to achieve compliance with such activities; and

(B)(i) the level of risk suspected to be posed by such supplements; and

(ii) the level of risk determined to be posed by such supplements.

(c) APPROACH.—In conducting the study, the Comptroller General shall analyze the current practices of the Food and Drug Administration and the practices of the agency within the 5 years prior to the date of enactment of this Act.

(d) ANALYSIS.—In conducting the study, the Comptroller General shall—

(1) determine the relative proportion of resources devoted to Food and Drug Administration regulatory and enforcement activities that are related to—

(A) dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances;

(B) food additives that are not such dietary supplements;

(C) foods that are not such dietary supplements;

(D) drugs that are not such dietary supplements, and devices; or

(E) cosmetics; and

(2) determine, with respect to such supplements, with respect to food additives, and with respect to foods, the proportion of the resources devoted to such regulatory and enforcement activities that are used to—

(A) determine whether a substance is misbranded;

(B) determine whether an improper manufacturing practice occurred during the manufacturing of a substance;

(C) determine whether a substance is unsafe; and

(D) determine whether a substance is adulterated or otherwise in violation of the Federal Food, Drug, and Cosmetic Act (other than by making a determination described in subparagraph (A), (B), or (C)).

(e) REPORTS.—

(1) INTERIM REPORT.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate an interim report containing the findings resulting from the study and the recommendations described in subparagraph (B).

(B) RECOMMENDATIONS.—Such report shall include the recommendations of the Comptroller General for administrative reform, including recommendations regarding opportunities for encouraging economy and efficiency through the appropriate targeting of problems, managing resources appropriately, and making adequate determinations of risk or safety, in carrying out activities related to such supplements.

(2) FINAL REPORT.—

(A) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a final report containing the findings resulting from the study and the recommendations described in subparagraph (B).

(B) RECOMMENDATIONS.—Such report shall contain the recommendations described in paragraph (1)(B).

SEC. 206. SAFETY AND REGULATORY OUTCOMES STUDY.

(a) SAFETY STUDY.—The Director of the Office of Technology Assessment, in cooperation with the Congressional Research Service and subject to the approval of the Technology Assessment Board, shall conduct a study of the relationship between—

(1) regulatory systems affecting the development and sale of dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances; and

(2) health outcomes.

(b) CONTENTS.—

(1) IN GENERAL.—In carrying out the study, the Director of the Office of Technology Assessment shall examine the efforts of industrialized nations (including the United States) to regulate the manufacture and sale of such dietary supplements and the effect of the regulatory efforts on human health.

(2) INFORMATION.—The study shall include information regarding—

(A) whether and how other countries regulate products that are regulated as such dietary supplements in the United States;

(B) the classification systems used in regulating such products, such as systems that classify such supplements by safety, function, source, usage, dose, or other characteristics;

(C) the effect of the classification on the regulation of the supplements;

(D) how safety concerns, including safety concerns at the time of manufacture and sale of the product are addressed by the regulatory process;

(E) how deception concerns (including misbranding) are addressed by the regulatory process; and

(F) the labeling requirements, if any, for the sale of the products.

(3) ANALYSIS.—The study shall also examine—

(A) whether there are disparate rates of morbidity and mortality associated with the consumption of such dietary supplements among nations;

(B) whether particular regulatory systems may be associated with lower morbidity and mortality rates; and

(C) whether a causal relationship may be demonstrated between the regulatory system used and the health outcomes of the populations affected.

(c) REPORT.—The Director of the Office of Technology Assessment shall, not later than 6 months after the date on which the study is approved by the Technology Assessment Board, submit a report containing the findings of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TELECOMMUNICATIONS AUTHORIZATION ACT OF 1992

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6180) to authorize appropriations for the National Telecommunications and Information Administration, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. RINALDO. Mr. Speaker, reserving the right to object, while I will not object, I take this reservation for the purpose of asking the gentleman from Massachusetts [Mr. MARKEY] to explain this piece of legislation.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, this bill, H.R. 6180, is a bill to authorize the National Telecommunications and Information Administration. This bill closely tracks legislation that passed the House unanimously last year affecting the NTIA and the FCC. The amendment to those bills makes a number of changes that I support, and that deserve the support of the House. It is my understanding that this has been approved by the minority.

This legislation would authorize $17.6 million for fiscal year 1992 and $17.9 million for fiscal year 1993 for the administration of the National Telecommunications and Information Administration. The bill also would codify the existence of the NTIA, and makes miscellaneous changes to the FCC.

Perhaps the most vital role of the NTIA for the national economy is its role as keeper of the Federal spectrum. This role is important because the better and more efficient the Government manages its spectrum, the more is available for private industry to use in exciting new ways. This bill recognizes that important job by setting down fundamental spectrum management principles, and also making clear that NTIA has the authority to properly manage the Government's use of the spectrum.

This legislation would also prohibit any officer or employee of the NTIA to solicit any gift from any entity for the purpose of furthering any authorized function if this solicitation were to create or appear to create a conflict of interest. These gifts may take the form of real or personal property, including money, that has been given to supplement the resources allotted to particular projects of the NTIA. I believe that solicitations such as these undermine the appropriations power of Congress, thus undermining the constitutional power of Congress to determine the activities of the Government. In addition, they have the effect of creating the appearance of a conflict of interest which detracts from the ability of NTIA to do its job effectively. For this reason, these kinds of solicitations should be clearly prohibited.

Finally, the bill includes an important provision that has the NTIA, in consultation with other Federal agencies, conduct a study of the use of modern telecommunications to spread messages of hate and bigotry. In light of the disturbing increase in our society of hate crimes, and of the use of electronic media to advocate violence against ethnic, religious, and racial minorities, the study will give us the information we need to intelligently review this situation. I expect the NTIA to reach out to other Government agencies and to media organizations, civil rights groups, and individuals outside of the Government to best accomplish the goal of comprehensively studying these insidious events. Meanwhile, I also expect NTIA to be sensitive to privacy concerns. This study would not give the Government license to engage in the surveillance of the public's actions, but it would give the Government a means of engaging in thorough research from all available sources that must be pursued on this important subject.

This legislation also includes a number of provisions affecting the Federal Communications Commission.

I commend my colleagues Mr. DINGELL and Mr. RINALDO for their work in putting together this legislation. I urge the House to approve this bill.

Mr. RINALDO. Mr. Speaker, I urge my colleagues to join me in supporting H.R. 6180, the National Telecommunications and Information Administration [NTIA] authorization bill. This bill is similar to the NTIA bill the House approved last October. Specifically, the bill provides authorizations of $17.6 and $17.9 million for fiscal years 1992 and 1993, respectively.

The NTIA plays a crucial role in setting domestic telecommunications policy. The agency coordinates telecommunications policymaking within the executive branch. Consequently, NTIA has become an important roleplayer in America's quest to be the world leader in the global telecommunications marketplace. Along with the Federal Communications Commission and the State Department, the NTIA is a member of a tripartite delegation that represents U.S. interests in international telecommunications negotiations.

Importantly, the bill also would provide the NTIA with statutory authority. Since 1978, NTIA has operated under the authority of an executive order issued during the Carter administration. Recently, the NTIA has been subject to an internal attempt to reorganize it. Had that attempt succeeded, the importance of the NTIA might have ultimately been downgraded within the Commerce Department. Codifying the authority of NTIA will guarantee that it will remain an effective voice within the executive branch for formulating and advancing U.S. telecommunications policy.

In addition to authorizing NTIA, this bill addresses several important matters that concern the FCC, such as extending the authorization for the FCC's Older American Program under which the Commission provides grants or enters into agreements with nonprofit groups to utilize the talents of older Americans.

The bill also clarifies the Commission's refund authority. It makes clear that the Commission has the authority to order refunds when a successful challenge is made to a tariffed rate change. It is intended that the modification authority be applied prospectively only, and should not influence pending cases.

The bill sets out the FCC's application fees for low-Earth orbit satellite systems. To assist the Commission to meet its increasing regulatory responsibilities given current budget constraints, the bill authorizes the Commission to accept gifts and requests of property.

Finally, in response to concerns raised during the Persian Gulf crisis, the bill directs the Commission to consider how to lower international telephone rates and procedures for U.S. Armed Forces serving abroad.

Mr. Speaker, I would like to commend my good friends, Messrs. DINGELL, LENT, and MARKEY, for their leadership on this issue. I, again, urge my colleagues to support the legislation.

Mr. LENT. Mr. Speaker, I rise in strong support of H.R. 6180, the NTIA organization and authorization bill, and urge the passage of this important measure. The bill provides for the authorization of $17.6 and $17.9 million in fiscal years 1992 and 1993, respectively.

I also strongly support the language which codifies the 1978 Executive order which created the NTIA. The NTIA has existed since its creation without statutory authority. In fact, there have been efforts in the past to reorganize the agency in a manner that would have seriously downgraded it.

For example, under one reorganization plan, the NTIA would have lost its direct access to the Secretary and instead would have reported through the undersecretary for technology. This legislation will give the NTIA the statutory authority it needs and deserves.

In addition to authorizing NTIA, this bill addresses several administrative matters within the FCC, such as extending the authorization for the FCC's Older Americans Program.

The bill also sets out the FCC's application fees for low-Earth orbit satellite systems and authorizes the Commission to accept gifts and bequests of property. Finally, the bill directs the Commission to conduct a study of telephone rates and procedures for U.S. Armed forces serving abroad. This is intended to correct problems that the men and women of our Armed forces faced during the Persian Gulf crisis.

Once again, I urge my colleagues to join me in supporting H.R. 6180.

Mr. RINALDO. Mr. Speaker, I have no objection to this request, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Authorization Act of 1992".

TITLE I—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

Part A—Organization and Functions

SEC. 101. SHORT TITLE.

This title may be cited as the "National Telecommunications and Information Administration Organization Act".

SEC. 102. DEFINITIONS; FINDINGS; POLICY.

(a) DEFINITIONS.—In this title, the following definitions apply:

(1) The term "NTIA" means the National Telecommunications and Information Administration.

(2) The term "Assistant Secretary" means the Assistant Secretary for Communications and Information.

(3) The term "Secretary" means the Secretary of Commerce.

(4) The term "Commission" means the Federal Communications Commission.

(5) The term "Corporation" means the Communications Satellite Corporation authorized in title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.).

(b) FINDINGS.—The Congress finds the following:

(1) Telecommunications and information are vital to the public welfare, national security, and competitiveness of the United States.

(2) Rapid technological advances being made in the telecommunications and information fields make it imperative that the United States maintain effective national and international policies and programs capable of taking advantage of continued advancements.

(3) Telecommunications and information policies and recommendations advancing the strategic interests and the international competitiveness of the United States are essential aspects of the Nation's involvement in international commerce.

(4) There is a critical need for competent and effective telecommunications and information research and analysis and national and international policy development, advice, and advocacy by the executive branch of the Federal Government.

(5) As one of the largest users of the Nation's telecommunications facilities and resources, the Federal Government must manage its radio spectrum use and other internal communications operations in the most efficient and effective manner possible.

(6) It is in the national interest to codify the authority of the National Telecommunications and Information Administration, an agency in the Department of Commerce, as the executive branch agency principally responsible for advising the President on telecommunications and information policies, and for carrying out the related functions it currently performs, as reflected in Executive Order 12046.

(c) POLICY.—The NTIA shall seek to advance the following policies:

(1) Promoting the benefits of technological development in the United States for all users of telecommunications and information facilities.

(2) Fostering national safety and security, economic prosperity, and the delivery of critical social services through telecommunications.

(3) Facilitating and contributing to the full development of competition, efficiency, and the free flow of commerce in domestic and international telecommunications markets.

(4) Fostering full and efficient use of telecommunications resources, including effective use of the radio spectrum by the Federal Government, in a manner which encourages the most beneficial uses thereof in the public interest.

(5) Furthering scientific knowledge about telecommunications and information.

SEC. 103. ESTABLISHMENT; ASSIGNED FUNCTIONS.

(a) ESTABLISHMENT.—

(1) ADMINISTRATION.—There shall be within the Department of Commerce an administration to be known as the National Telecommunications and Information Administration.

(2) HEAD OF ADMINISTRATION.—The head of the NTIA shall be an Assistant Secretary of Commerce for Communications and Information, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) ASSIGNED FUNCTIONS.—

(1) IN GENERAL.—Subject to section 105(d), the Secretary shall assign to the Assistant Secretary and the NTIA responsibility for the performance of the Secretary's communications and information functions.

(2) COMMUNICATIONS AND INFORMATION FUNCTIONS.—Subject to section 105(d), the functions to be assigned by the Secretary under paragraph (1) include (but are not limited to) the following functions transferred to the Secretary by Reorganization Plan Number 1 of 1977 and Executive Order 12046:

(A) The authority delegated by the President to the Secretary to assign frequencies to radio stations or classes of radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke such assignments, but not including the authority to make final disposition of appeals from frequency assignments.

(B) The authority to authorize a foreign government to construct and operate a radio station at the seat of Government of the United States, but only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Commission.

(C) Functions relating to the communications satellite system, including authority vested in the President by section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)) and delegated to the Secretary under Executive Order 12046, to—

(i) aid in the planning and development of the commercial communications satellite system and the execution of a national program for the operation of such a system;

(ii) conduct a continuous review of all phases of the development and operation of such system, including the activities of the Corporation;

(iii) coordinate, in consultation with the Secretary of State, the activities of governmental agencies with responsibilities in the field of telecommunications, so as to ensure that there is full and effective compliance at all times with the policies set forth in the Communications Satellite Act of 1962;

(iv) make recommendations to the President and others as appropriate, with respect to steps necessary to ensure the availability and appropriate utilization of the communications satellite system for general governmental purposes in consonance with section 201(a)(6) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)(6));

(v) help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad;

(vi) assist in the preparation of Presidential action documents for consideration by the President as may be appropriate under section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)), make necessary recommendations to the President in connection therewith, and keep the President informed with respect to the carrying out of the Communications Satellite Act of 1962; and

(vii) serve as the chief point of liaison between the President and the Corporation.

(D) The authority to serve as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(E) The authority to advise the Director of the Office of Management and Budget on the development of policies relating to the procurement and management of Federal telecommunications systems.

(F) The authority to conduct studies and evaluations concerning telecommunications research and development and concerning the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems and advising agencies of the results of such studies and evaluations.

(G) Functions which involve—

(i) developing and setting forth, in coordination with the Secretary of State and other interested agencies, plans, policies, and programs which relate to international telecommunications issues, conferences, and negotiations;

(ii) coordinating economic, technical, operational, and related preparations for United States participation in international telecommunications conferences and negotiations; and

(iii) providing advice and assistance to the Secretary of State on international telecommunications policies to strengthen the position and serve the best interests of the United States in support of the Secretary of State's responsibility for the conduct of foreign affairs.

(H) The authority to provide for the coordination of the telecommunications activities of the executive branch and assist in the formulation of policies and standards for those activities, including (but not limited to) considerations of interoperability, privacy, security, spectrum use, and emergency readiness.

(I) The authority to develop and set forth telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(J) The responsibility to ensure that the views of the executive branch on telecommunications matters are effectively presented to the Commission and, in coordination with the Director of the Office of Management and Budget, to the Congress.

(K) The authority to establish policies concerning spectrum assignments and use by radio stations belonging to and operated by the United States.

(L) Functions which involve—

(i) developing, in cooperation with the Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources;

(ii) performing analysis, engineering, and administrative functions, including the maintenance of necessary files and data bases, as necessary for the performance of assigned functions for the management of electromagnetic spectrum resources;

(iii) conducting research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility; and

(iv) conducting research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies.

(M) The authority to conduct studies and make recommendations concerning the impact of the convergence of computer and communications technology.

(N) The authority to coordinate Federal telecommunications assistance to State and local governments.

(O) The authority to conduct and coordinate economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned functions.

(P) The authority to contract for studies and reports relating to any aspect of assigned functions.

(Q) The authority to participate, as appropriate, in evaluating the capability of telecommunications resources, in recommending remedial actions, and in developing policy options.

(R) The authority to participate with the National Security Council and the Director of the Office of Science and Technology Policy as they carry out their responsibilities under sections 4-1, 4-2, and 4-3 of Executive Order 12046, with respect to emergency functions, the national communication system, and telecommunications planning functions.

(S) The authority to establish coordinating committees pursuant to section 10 of Executive Order 11556.

(T) The authority to establish, as permitted by law, such interagency committees and working groups composed of representatives of interested agencies and consulting with such departments and agencies as may be necessary for the effective performance of assigned functions.

(3) Additional communications and information functions.—In addition to the functions described in paragraph (2), the Secretary under paragraph (1)—

(A) may assign to the NTIA the performance of functions under section 504(a) of the Communications Satellite Act of 1962 (47 U.S.C. 753(a)); and

(B) shall assign to the NTIA the administration of the Public Telecommunications Facilities Program under sections 390 through 393 of the Communications Act of 1934 (47 U.S.C. 390-393), and the National Endowment for Children's Educational Television under section 394 of the Communications Act of 1934 (47 U.S.C. 394).

SEC. 104. SPECTRUM MANAGEMENT ACTIVITIES.

(a) Revision of Regulations.—Within 180 days after the date of the enactment of this Act, the Secretary of Commerce and the NTIA shall amend the Department of Commerce spectrum management document entitled "Manual of Regulations and Procedures for Federal Radio Frequency Management" to improve Federal spectrum management activities and shall publish in the Federal Register any changes in the regulations in such document.

(b) Requirements for Revisions.—The amendments required by subsection (a) shall—

(1) provide for a period at the beginning of each meeting of the Interdepartmental Radio Advisory Committee to be open to the public to make presentations and receive advice, and provide the public with other meaningful opportunities to make presentations and receive advice;

(2) include provisions that will require (A) publication in the Federal Register of major policy proposals that are not classified and that involve spectrum management, and (B) adequate opportunity for public review and comment on those proposals;

(3) include provisions that will require publication in the Federal Register of major policy decisions that are not classified and that involve spectrum management;

(4) include provisions that will require that nonclassified spectrum management information be made available to the public, including access to electronic databases; and

(5) establish procedures that provide for the prompt and impartial consideration of requests for access to Government spectrum by the public, which procedures shall include provisions that will require the disclosure of the status and ultimate disposition of any such request.

(c) Certification to Congress.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall certify to Congress that the Secretary has complied with this section.

(d) Radio Services.—

(1) Assignments for radio services.—In assigning frequencies for mobile radio services and other radio services, the Secretary of Commerce shall promote efficient and cost-effective use of the spectrum to the maximum extent feasible.

(2) Authority to withhold assignments.—The Secretary of Commerce shall have the authority to withhold or refuse to assign frequencies for mobile radio service or other radio service in order to further the goal of making efficient and cost-effective use of the spectrum.

(3) Spectrum plan.—By October 1, 1993, the Secretary of Commerce shall adopt and commence implementation of a plan for Federal agencies with existing mobile radio systems to use more spectrum-efficient technologies that are at least as spectrum-efficient and cost-effective as readily available commercial mobile radio systems. The plan shall include a time schedule for implementation.

(4) Report to congress.—By October 1, 1993, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report summarizing the plan adopted under paragraph (3), including the implementation schedule for the plan.

SEC. 105. GENERAL ADMINISTRATIVE PROVISIONS.

(a) Interagency Functions.—

(1) Agency consultation.—Federal agencies shall consult with the Assistant Secretary and the NTIA to ensure that the conduct of telecommunications activities by such agencies is consistent with the policies developed under section 103(b)(2)(K).

(2) Report to president.—The Secretary shall timely submit to the President each year the report (including evaluations and recommendations) provided for in section 404(a) of the Communications Satellite Act of 1962 (47 U.S.C. 744(a)).

(3) Coordination with secretary of state.—The Secretary shall coordinate with the Secretary of State the performance of the functions described in section 103(b)(2)(C). The Corporation and concerned executive agencies shall provide the Secretary with such assistance, documents, and other cooperation as will enable the Secretary to carry out those functions.

(b) Advisory Committees and Informal Consultations With Industry.—To the extent the Assistant Secretary deems it necessary to continue the Interdepartmental Radio Advisory Committee, such Committee shall serve as an advisory committee to the Assistant Secretary and the NTIA. As permitted by law, the Assistant Secretary may establish one or more telecommunications or information advisory committees (or both) composed of experts in the telecommunications and/or information areas outside the Government. The NTIA may also informally consult with industry as appropriate to carry out the most effective performance of its functions.

(c) General Provisions.—

(1) Regulations.—The Secretary and NTIA shall issue such regulations as may be necessary to carry out the functions assigned under this title.

(2) Support and assistance from other agencies.—All executive agencies are authorized and directed to cooperate with the NTIA and to furnish it with such information, support, and assistance, not inconsistent with law, as it may require in the performance of its functions.

(3) Effect on vested functions.—Nothing in this title reassigns any function that is, on the date of enactment of this Act, vested by law or executive order in the Commission, or the Department of State, or any officer thereof.

(d) Reorganization.—

(1) Authority to reorganize.—Subject to paragraph (2), the Secretary may reassign to another unit of the Department of Commerce a function (or portion thereof) required to be assigned to the NTIA by section 103(b).

(2) Limitation on authority.—The Secretary may not make any reassignment of a function (or portion thereof) required to be assigned to the NTIA by section 103(b) unless the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a statement describing the proposed reassignment and containing an explanation of the reasons for the reassignment. No reassignment of any such function (or portion thereof) shall be effective until 90 legislative days after the Secretary submits that statement to such Committees. For purposes of this paragraph, the term "legislative days" includes only days on which both Houses of Congress are in session.

(e) Limitation on Solicitations.—Notwithstanding section 1 of the Act of October 2, 1964 (15 U.S.C. 1522), neither the Secretary, the Assistant Secretary, nor any officer or employee of the NTIA shall solicit any gift or bequest of property, both real and personal, from any entity for the purpose of furthering the authorized functions of the NTIA if such solicitation would create a conflict of interest or an appearance of a conflict of interest.

Part B—Special and Temporary Provisions

SEC. 131. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATION.

There are authorized to be appropriated for the administration of the NTIA $17,600,000 for fiscal year 1992 and $17,900,000 for fiscal year 1993, and such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

SEC. 132. NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION.

Section 394(h) of the Communications Act of 1934 (47 U.S.C. 394(h)) is amended—

(1) by striking "1991 and" and inserting in lieu thereof "1991,"; and

(2) by inserting ", $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994" immediately after "1992".

SEC. 133. PEACESAT PROGRAM.

(a) FINDINGS.—Section 2(a) of the Act entitled "An Act to authorize appropriations for activities of the National Telecommunications and Information Administration for Fiscal Years 1990 and 1991", approved November 15, 1990 (Public Law 101-555; 104 Stat. 2758), is amended—

(1) in paragraph (2) by striking "the Soviet Union and";

(2) in paragraph (8)—

(A) by striking "since 1988, significant progress has been" and inserting in lieu thereof "in fiscal years 1988 and 1989, significant progress was"; and

(B) by striking "negotiating to acquire" and inserting in lieu thereof "acquiring"; and

(3) by striking all after paragraph (8) and inserting in lieu thereof the following new paragraphs:

"(9) because these activities exhausted the funds previously appropriated for the PEACESAT program, Congress authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as necessary for fiscal year 1991 for use by the Secretary of Commerce in the negotiation for and acquisition of satellite capacity and equipment under subsection (c)(1) of this section and the management and operation of satellite communications services under subsection (c)(2) of this section;

"(10) while no funds were appropriated for fiscal year 1990 because of the availability of carry-over funds, Congress appropriated $1,000,000 for fiscal year 1991 for the ongoing maintenance and operation of the GOES-3 satellite, for the administration of the PEACESAT program, for the acquisition and installation of earth stations and the training of engineers to operate the Earth stations, and for the study of a long-term solution to the satellite needs of the PEACESAT program;

"(11) with these funds, the PEACESAT program has been reestablished, over 20 new Earth terminals have been installed (some at the expense of the individual user groups), and the use of the PEACESAT network is expanding;

"(12) while the PEACESAT program has now been reestablished, additional funding continues to be necessary for the ongoing administrative and operational expenses of the PEACESAT program and especially for the acquisition of satellite capacity after 1994;

"(13) the importance of the PEACESAT program to the educational and cultural communications in the Pacific Ocean region makes it imperative that the Secretary of Commerce and the PEACESAT users explore every available option for long-term satellite capacity, including the possibility of using foreign-owned satellites or engaging in joint ventures with foreign entities to satisfy these long-term needs for transmission capacity; and

"(14) whether or not a domestic or foreign-owned satellite is used for transmission, it is essential to the achievement of United States policy goals that the headquarters, management, and operation of the PEACESAT program be located and conducted in the United States.".

(b) AUTHORIZATION.—The first sentence of section 2(d) of such Act of November 15, 1990 (104 Stat. 2758), is amended by striking all through "fiscal year 1991" and inserting in lieu thereof "There are authorized to be appropriated $400,000 for fiscal year 1992 and $1,500,000 for fiscal year 1993".

SEC. 134. COMMUNICATIONS FOR RURAL HEALTH PROVIDERS.

(a) PURPOSE.—It is the purpose of this section to improve the ability of rural health providers to use communications to obtain health information and to consult with others concerning the delivery of patient care. Such enhanced communications ability may assist in—

(1) improving and extending the training of rural health professionals; and

(2) improving the continuity of patient care in rural areas.

(b) ADVISORY PANEL.—The Secretary of Commerce, in conjunction with the Secretary of Health and Human Services, shall establish an advisory panel (hereafter in this section referred to as the "Panel") to develop recommendations for the improvement of rural health care through the collection of information needed by providers and the improvement in the use of communications to disseminate such information.

(c) COMPOSITION OF PANEL.—The Panel shall be composed of individuals from organizations with rural constituencies and practitioners from health care disciplines, representatives of the National Library of Medicine, and representatives of different health professions schools, including nurse practitioners.

(d) SELECTION OF CONSULTANTS.—The Panel may select consultants to provide advice to the Panel regarding the types of information that rural health care practitioners need, the procedures to gather and disseminate such information, and the types of communications equipment and training needed by rural health care practitioners to obtain access to such information.

(e) REPORT TO CONGRESS.—Not later than 1 year after the Panel is established under subsection (b), the Secretary of Commerce shall prepare and submit, to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report summarizing the recommendations made by the Panel under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Commerce to carry out this section $1,000,000 to remain available until expended.

SEC. 135. REPORT ON THE ROLE OF TELECOMMUNICATIONS IN HATE CRIMES.

(a) REQUIREMENT OF REPORT.—Within 240 days after the date of enactment of this Act, the NTIA, with the assistance of the Commission, the Department of Justice, and the United States Commission on Civil Rights, shall prepare a report on the role of telecommunications in crimes of hate and violent acts against ethnic, religious, and racial minorities and shall submit such report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) SCOPE OF REPORT.—The report required by subsection (a) shall—

(1) analyze information on the use of telecommunications, including broadcast television and radio, cable television, public access television, computer bulletin boards, and other electronic media, to advocate and encourage violent acts and the commission of crimes of hate, as described in the Hate Crimes Statistics Act (28 U.S.C. 534), against ethnic, religious, and racial minorities.

(2) include any recommendations deemed appropriate and necessary by the NTIA.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION

SEC. 201. TRAVEL REIMBURSEMENT PROGRAM.

Section 4(g)(2)(D) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)(D)) is amended by striking "1992" and inserting in lieu thereof "1994".

SEC. 202. HAWAII MONITORING STATION.

Section 9(a) of the Federal Communications Commission Authorization Act of 1988 (Public Law 100-594; 102 Stat. 3024) is amended by striking "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1991, 1992, 1993, and 1994".

SEC. 203. CLARIFICATION OF COMMISSION REFUND AUTHORITY.

Section 204(a)(1) of the Communications Act of 1934 (47 U.S.C. 204(a)(1)) is amended—

(1) by striking "an increased charge" and inserting in lieu thereof "a revised charge";

(2) by striking "or increased" and inserting in lieu thereof "or revised";

(3) by striking "increased charges" and inserting in lieu thereof "revised charges";

(4) by striking "charge increased, or sought to be increased" and inserting in lieu thereof "new or revised charge, or a proposed new or revised charge"; and

(5) by striking "increased charge" and inserting in lieu thereof "new or revised charge".

SEC. 204. ELECTRONIC FILING OF APPLICATIONS.

(a) WAIVER OF FREQUENCY OR SPECTRUM CLAIM.—Section 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking "signed a waiver of" and inserting in lieu thereof "waived".

(b) SIGNING OF LICENSE APPLICATIONS.—Section 308(b) of the Communications Act of 1934 (47 U.S.C. 308(b)) is amended by inserting "in any manner or form, including by electronic means, as the Commission may prescribe by regulation" immediately before the period at the end.

(c) SIGNING OF CONSTRUCTION PERMIT APPLICATIONS.—Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by inserting "in any manner or form, including by electronic means, as the Commission may prescribe by regulation" immediately before the period at the end.

SEC. 205. LICENSED OPERATORS.

Section 318 of the Communications Act of 1934 (47 U.S.C. 318) is amended—

(1) by striking "(3) stations engaged in broadcasting other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations)"; and

(2) by striking "(4)" and inserting in lieu thereof "(3)".

SEC. 206. STATUTE OF LIMITATIONS FOR FORFEITURE PROCEEDINGS.

Section 503(b)(6) of the Communications Act of 1934 (47 U.S.C. 503(b)(6)) is amended—

(1) by striking "so long as such violation occurred within 3 years prior to the date of issuance of such required notice"; and

(2) by adding at the end the following: "For purposes of this paragraph, 'date of commencement of the current term of such license' means the date of commencement of the last term of license for which the licensee has been granted a license by the Commission. A separate license term shall not be deemed to have commenced as a result of continuing a license in effect under section 307(c) pending decision on an application for renewal of the license.".

SEC. 207. TELEPHONE OPERATOR SERVICES.

Section 226(d)(4)(A) of the Communications Act of 1934 (47 U.S.C. 226(d)(4)(A)) is amended by inserting "and aggregators" immediately after "operator services".

SEC. 208. GIFT AND BEQUEST AUTHORITY.

Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of law, in furtherance of its functions the Commission is authorized to accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property (including voluntary and uncompensated services, as authorized by section 3109 of title 5, United States Code).

"(B) The Commission, for purposes of providing radio club and military-recreational call signs, may utilize the voluntary, uncompensated, and unreimbursed services of amateur radio organizations authorized by the Commission that have tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986.

"(C) For the purpose of Federal law on income taxes, estate taxes, and gift taxes, property or services accepted under the authority of subparagraph (A) shall be deemed to be a gift, bequest, or devise to the United States.

"(D) The Commission shall promulgate regulations to carry out the provisions of this paragraph. Such regulations shall include provisions to preclude the acceptance of any gift, bequest, or donation that would create a conflict of interest or the appearance of a conflict of interest.".

SEC. 209. CHANGES TO SCHEDULE OF CHARGES.

(a) Fees for Low-Earth Orbit Satellite Systems.—The Schedule of Charges under section 8(g) of the Communications Act of 1934 (47 U.S.C. 158(g)) is amended by adding at the end of the matter under the heading "Common Carrier Services" the following:

"22. Low-Earth Orbit Satellite Systems	
a. Application for Authority to Construct (per system of technology identical satellites)	6,000.00
b. Application for Authority to Launch and Operate (per system of technologically identical satellites)	210,000.00
c. Assignment or Transfer (per request)	6,000.00
d. Modification (per request)	15,000.00
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)	1,500.00
f. Amendment of Application (per request)	3,000.00
g. Extension of Construction Permit/Launch Authorization (per request)	1,500.00".

(b) Fee for Inspection of Great Lakes Vessels.—The matter under the heading "Miscellaneous Charges" in the Schedule of Charges for section 8(g) of the Communications Act of 1934 (47 U.S.C. 158(g)) is amended by striking "360.00" in item 3.c. (relating to the inspection of vessels under the Great Lakes Agreement) and inserting in lieu thereof "75.00".

SEC. 210. TOWER SAFETY ACCOUNTABILITY.

(a) Liability Extended to Tower Owners.—Section 303(q) of the Communications Act of 1934 (47 U.S.C. 303(q)) is amended by inserting ", and the tower owner in any case in which the owner is not the permittee or licensee," immediately after "permittee or licensee".

(b) Liability for Forfeiture.—Section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended—

(1) by striking "system operator or" and inserting in lieu thereof "system operator,"; and

(2) by inserting ", or in the case of violations of section 303(q), if the person involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by section 303(q) from the Commission or the permittee or licensee who uses that tower" immediately after "section 307(e)".

(c) Effective Date.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

SEC. 211. REVIEW OF LICENSE TRANSFER.

(a) Requirement for Hearing.—The Federal Communications Commission shall not approve any assignment or transfer of control of a license held by any corporation identified in subsection (b) without first holding a full hearing on the record, with notice and opportunity for comment.

(b) Applicability.—Subsection (a) applies to any corporation holding a television broadcast license, the transfer of which was approved by the Federal Communications Commission on November 14, 1985, and which is a corporation owned or controlled directly or indirectly by a corporation organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(c) Report to Congress.—The Federal Communications Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate concerning the proposed transfer 30 days prior to authorizing any such transfer. The report required by this subsection shall include a review of the consistency of such transfer with the Commission's minority ownership policies.

(d) Waiver.—The requirements of subsections (a) and (c) shall not apply in any case in which the Native Regional corporation identified in subsection (b) requests in writing that this section be waived by the Federal Communications Commission.

SEC. 212. COMMUNICATIONS SUPPORT FROM OLDER AMERICANS.

(a) Authority for Grants and Cooperative Agreements.—Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended—

(1) by striking "1988, 1989, 1990, and 1991" and inserting in lieu thereof "1992 and 1993"; and

(2) by inserting "designated by the Secretary of Labor under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)" immediately after "private nonprofit organizations".

(b) Certification.—Section 6(b) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended—

(1) by adding "or" at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

SEC. 213. TELEPHONE RATES FOR MEMBERS OF ARMED FORCES DEPLOYED ABROAD.

(a) In General.—The Federal Communications Commission shall make efforts to reduce telephone rates for Armed Forces personnel in the following countries: Germany, Japan, Korea, Saudi Arabia, Great Britain, Italy, Philippines, Panama, Spain, Turkey, Iceland, the Netherlands, Greece, Cuba, Belgium, Portugal, Bermuda, Diego Garcia, Egypt, and Honduras.

(b) Factors to Consider.—In making the efforts described in subsection (a), the Federal Communications Commission, in coordination with the Department of Defense, Department of State, and the National Telecommunications and Information Administration shall consider the cost to military personnel and their families of placing telephone calls by—

(1) evaluating and analyzing the costs to Armed Forces personnel of such telephone calls to and from American military bases abroad;

(2) evaluate methods of reducing the rates imposed on such calls;

(3) determine the extent to which it is feasible for the Federal Communications Commission to encourage the carriers to adopt flexible billing procedures and policies for members of the Armed Forces and their families for telephone calls to and from the countries listed in subsection (a); and

(4) advise executive branch agencies of methods for the United States to persuade foreign governments to reduce the surcharges that are often placed on such telephone calls.

SEC. 214. AM RADIO IMPROVEMENT STANDARD.

The Federal Communications Commission shall—

(1) within 60 days after the date of enactment of this Act, initiate a rulemaking to adopt a single AM radio stereophonic transmitting equipment standard that specifies the composition of the transmitted stereophonic signal; and

(2) within one year after such date of enactment, adopt such standard.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF H.R. 3047, SECURITIES EXCHANGE ACT OF 1934 AMENDMENTS

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3047) to amend the Securities Exchange Act of 1934 to permit members of the national securities exchanges to effect certain transactions with respect to accounts for which such members exercise investment discretion, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. RINALDO, Mr. Speaker, reserving the right to object, and while I will not object, I want to take this opportunity to ask the chairman of the subcommittee two things; first of all, to explain what is in this particular piece of legislation; and, second, to explain for the benefit of the leadership on this side of the aisle whether or not this bill has currently been cleared with the Senate because I understand that earlier it was removed from the list of acceptable bills because it was being held up by the Senate.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, the bill has been cleared by the Senate majority leader for action.

PARLIAMENTARY INQUIRY

Mr. MARKEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. MARKEY. When would it be appropriate for me to offer an amendment?

Mr. RINALDO. Further reserving the right to object, has the bill been cleared by the minority in the Senate?

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, we have no information on that subject.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later today.

CONFERENCE REPORT ON H.R. 3635, PREVENTIVE HEALTH AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report is to revise and extend a number of authorities regarding preventive health services. These include: The preventive health block grant, screening of children for lead poisoning, injury control, adolescent health, prevention of infertility, immunizations, screening for prostate cancer, prevention of infant mortality, and the study of birth defects.

In addition, this bill authorizes the creation of a nonprofit foundation for public health services.

I know of no opposition to this important legislation. I urge its adoption.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3635.

The SPEAKER pro tempore. If there is objection to the request of the gentleman from California?

There was no objection.

□ 0520

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report, and I thank the chairman and the chairman of the Subcommittee on Health and the Environment for their cooperative efforts in the development of a truly bipartisan bill.

This bill reauthorizes some of those small but powerful Federal programs for which we are always on the lookout. It does not cost tens of billions of dollars. It does not set in place hundreds of bureaucratic fiefdoms. And yet, it can accomplish an enormous amount of good.

These preventive health and health promotion programs are structured and funded cooperatively by the Federal Government and the States. In particular, the block grant program leverages State, local and private funding with Federal dollars to ensure that some of the States' highest priority health promotion objectives are met. In many States, it is only because of the availability of these funds that States can conduct major disease prevention initiatives, and can educate their citizens about how to prevent injury, about the importance of childhood immunization, and about avoiding or controlling risk factors for diseases such as cancer and heart disease.

I am especially pleased that this bill requires that priority setting with respect to the block grant be tied to the national health objectives defined in the report "Healthy People 2000." The reporting of baseline data, and progress toward these objectives will be an essential part of the information base we need nationally to make greater progress in the promotion of health.

Positive action on this conference report is one important step in the enormous task of controlling health care costs. Disease prevention and health promotion are relatively inexpensive, as compared with the cost of treating both acute and chronic illnesses. While estimates vary greatly, it is certain that for every dollar spent on prevention hundreds or thousands are saved in health care costs. This is a bill where to say "An ounce of prevention is worth a pound of cure" is not a cliche.

Finally, Mr. Speaker, I want to express my gratitude to our health staff on the Energy and Commerce Committee for their work on this bill and on many other public health bills we have dealt with in these last few weeks. I am especially grateful for the continuing support and dedication of Howard Cohen and Melody Hughson. On this bill particularly Howard and Melody have worked cooperatively and successfully with David Keaney of the majority staff, and Tim Westmoreland and Ruth Katz of the subcommittee staff. I thank them for their help.

Mr. Speaker, I support this legislation, and I urge my colleagues to support it.

Mr. Speaker, I have no further requests, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and agree to the conference report on the bill, H.R. 3635.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

DNA IDENTIFICATION ACT OF 1992

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3088) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes; as amended.

The Clerk read as follows:

H.R. 3088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "DNA Identification Act of 1992".

SEC. 2. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a

DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards of a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 3 of the DNA Identification Act of 1992;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iii) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3 of the DNA Identification Act of 1992.".

(c) Authorization of Appropriations.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 379(a)) is amended—

(1) by redesignating the last 3 paragraphs sequentially as paragraphs (7), (8), and (9); and

(2) by adding at the end the following:

(10) There are authorized to be appropriated for each of the fiscal years 1993 through 1997 $10,000,000 for grants to the States for DNA analysis.".

SEC. 3. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) Publication of Quality Assurance and Proficiency Testing Standards.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials. The advisory board shall include as members scientists from state and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) Administration of the Advisory Board.—For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5. U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

SEC. 4. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.

(a) In General.—The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) Content of Index.—Such index may include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 3 of the DNA Identification Act of 1992;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3 of the DNA Identification Act of 1992; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) for criminal defense programs, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(C) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) of this section are not met.

SEC. 5. FEDERAL BUREAU OF INVESTIGATION

(a) Proficiency Testing Requirements.—

(1) Generally.—Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3(b). Within one year of the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this paragraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) Report.—For five years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests referred to in paragraph (1).

(b) Privacy Protection Standards.—

(1) Generally.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes; or

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) Exception.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) Criminal Penalty.—(1) Whoever—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) willfully discloses such information in any manner to any person or agency not entitled to receive it; shall be fined not more than $100,000.

(2) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1993 through 1997 to carry out sections 3, 4, and 5 of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. Edwards] will be recognized for 20 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

The purpose of this bill is to promote the use of DNA technology for law enforcement purposes, and to establish minimum quality control and privacy standards for DNA tests.

The bill: Authorizes Federal funding for State and local governments to establish DNA crime labs. Establishes minimum quality control and privacy standards. Requires the FBI to issue standards for quality control. Requires the FBI to establish an advisory board of outside experts on DNA standards, and authorizes the FBI to establish a national index of DNA profiles of convicted offenders.

This legislation is an expansion of a bill first introduced by the gentleman

from New York [Mr. HORTON], who deserves much of the credit for this bill. The bill enjoys widespread support from law enforcement, including the FBI and the American Society of Crime Lab Directors.

DNA IDENTIFICATION ACT OF 1992

PURPOSE

The purpose of the DNA Identification Act of 1992 is to promote the use of DNA identification technology for law enforcement purposes, in accordance with appropriate quality control and privacy standards. The Act authorizes federal funding for state and local governments to establish or improve DNA forensic capabilities; requires grant recipients and the FBI laboratory to adhere to minimum quality control, proficiency testing and privacy standards; requires the FBI to establish a forensic DNA advisory policy board to provide the FBI with advice from a range of DNA experts, including scientists from outside the forensic field; and authorizes the FBI to establish a national index of DNA profiles of convicted offenders, pursuant to minimum quality control, proficiency testing and privacy standards.

BACKGROUND

Deoxyribonucleic acid (DNA) carries the genetic code of each human being. Since each person's DNA is unique, the DNA found in blood, skin tissue and semen offers law enforcement a means of identifying murderers, rapists, and other violent criminals. The recognition of DNA's value to law enforcement is quite recent, however. The first law enforcement use of DNA was in England in 1986. The first use in the United States was in Florida in 1987.

Forensic DNA technology has evolved rapidly and continues to evolve. Law enforcement agencies are now developing second and third generation techniques.

To be reliable, DNA tests must be properly performed and interpreted. Several courts have rejected DNA evidence because of reliability concerns and other have criticized laboratory procedures in cases before them. In 1990, the congressional Office of Technology Assessment issued a report concluding: "Standards are necessary if high-quality DNA forensic analysis is to be ensured, and the situation demands immediate attention." In 1992, the National Research Council issued a long-awaited report strongly emphasizing the need for comprehensive quality control programs at forensic DNA laboratories.

The forensic community has developed a consensus that DNA laboratories should adhere to a comprehensive quality control program including proficiency testing. The Federal Bureau of Investigation (FBI) has convened a technical working group on DNA analysis methods (TWGDAM), which has developed a set of quality control guidelines. The American Society of Crime Laboratory Directors (ASCLD) has also taken a strong position in support of quality assurance, proficiency testing and accreditation of DNA laboratories. However, compliance with the FBI protocols and the ASCLD program is strictly voluntary.

State ad local law enforcement agencies are rapidly developing their own DNA testing laboratories and looking to the federal government for potential financial support.

The FBI is designing a nationwide databank that would index DNA "profiles" of convicted offenders, based on DNA samples taken by state law enforcement and correctional authorities. If DNA in blood or semen recovered from a crime scene could be matched against the databanked DNA of prior offenders, a suspect could be identified where traditional methods had failed. However, as the OTA report noted, given the very nature of DNA, "proposals to store a person's genetic information in a national network evoke several concerns about privacy."

The purpose of the DNA Identification Act is to address these various issues of funding, standards, quality control and privacy. It is based on hearings held by the Subcommittee on Civil and Constitutional Rights on the forensic application of DNA on March 22, 1989 and June 13, 1991.

Quality control and reliability concerns

As with any technology, a laboratory's failure to work carefully when analyzing DNA can produce errors or questionable results. While DNA evidence has been accepted in numerous cases, it has often been accepted without a concerted challenge by defense exports and consequently without careful judicial scrutiny. Where there has been a careful scrutiny, the results have been mixed. DNA evidence has been rejected by several courts, and even courts accepting the evidence have raised questions about data quality or about the reliability of the probabilities associated with matches.

In *State* v. *Schwartz*, the Minnesota Supreme Court, while finding that the science underlying DNA testing had gained wide acceptance, concluded that the particular test results at issue were inadmissible because the laboratory did not follow appropriate quality control procedures and did not make its experimental studies available.

In the New York State murder trial of *People v. Castro*, a 12-week pretrial hearing was held, with extensive testimony from molecular biologists and genetic experts. The court concluded that the theories underlying DNA testing were valid, but the performance of the particular tests in the case was so flawed that the evidence could not be admitted.

In *United States v. Yee*, while admitting the DNA evidence after six weeks of pretrial hearings, the federal magistrate criticized what he called "the remarkably poor quality of the FBI's work and infidelity to important scientific principles." Among other problems, the court noted that the Bureau's "continued use of ethidium bromide invites sound scientific criticism," "the FBI program of proficiency testing has serious deficiencies," "the problems manifest" in one of the Bureau's population databases were "not satisfactorily explained by the government witnesses," and an examination of the FBI's validation study "raises troublesome questions about the quality of the Bureau's work." These deficiencies, the magistrate found, went to the weight of the evidence and not its admissibility.

In *Commonwealth v. Curnin*, the Massachusetts Supreme Court reversed a conviction based on DNA evidence, holding that there was no demonstrated general acceptance or inherent rationality in the process by which the laboratory calculated the accuracy of the test results. The court stated that future cases should focus not only on the soundness and general acceptance of the particular testing process for forensic use of DNA, but also on the proper implementation of the process in the specific case.

In *United States v. Porter*, after an extensive hearing, a superior court judge held that DNA tests were inadmissible in the District of Columbia because the government had failed to demonstrate general acceptance of its methodology for calculating the probability of a DNA match.

An expert panel on forensic DNA appointed by the New York state director of criminal justice concluded, "Questions about the quality of the work being done by the private laboratories have not been satisfactorily answered, and the laboratories' adherence to accepted scientific procedures has not been demonstrated."

DNA quality control/quality assurance standards

Forensic laboratories operate under a system of self-regulation that has long been the subject of data quality concerns. While those concerns are important background when evaluating forensic application of DNA, certain factors make legislated standards all the more important for DNA:

(1) DNA offers the promise of unique identification, something previously available only with fingerprints.

(2) DNA has gained general acceptance as a forensic identifier in far less time than any other technology.

(3) The technology has evolved rapidly and continues to evolve, putting even more pressure on scientists and the criminal justice system to evaluate its reliability.

(4) The federal government, through the FBI, is promoting the rapid adoption of DNA identification.

(5) Nationwide databanking requires consistent application of a single protocol and raises serious privacy concerns.

The OTA study on DNA concluded, "Instituting quality assurance mechanisms should proceed without delay."

The New York DNA panel endorsed the creation of national standards: "The creation of national standards would enable one state to search the databases of every other jurisdiction. Further, by establishing national standards against which to measure laboratories' performances, the important goal of ensuring that appropriate quality controls are observed by laboratories would be furthered."

Noted privacy expert Alan Westin has concluded, "Both government and private laboratories doing DNA analysis for forensic use should meet designated quality standards and be subject to periodic inspections."

Proficiency testing

There is widespread agreement that an external proficiency testing program for labs performing DNA analysis for criminal cases would give greater assurance of reliability.

The FBI's TWGDAM guidelines are clear on the desirability of proficiency testing: "Participation in a proficiency testing program is a critical element of a successful QA [quality assurance] program and is an essential requirement for any laboratory performing forensic DNA analysis."

The TWGDAM guidelines specifically endorse blind testing: "Ideally, blind proficiency test specimens should be presented to the testing laboratory through a second agency. . . . The blind proficiency test serves to evaluate all aspects of the laboratory examination procedure, including evidence handling, examination/testing and reporting. It is highly desirable that the DNA laboratory participate in a blind proficiency test program. . . ."

The New York panel also recommended blind proficiency testing: "Another way, used by the forensic as well as the clinical and medical communities, to ensure quality control is to insist that each laboratory performing such tests be evaluated periodically by proficiency testing techniques—preferably blind proficiency testing techniques. . . . These tests should be blind, that is, the laboratory should not know whether the samples were test samples or actual forensic case samples."

The American Society of Crime Laboratory Directors/Laboratory Accreditation Board has developed a DNA Accreditation Program that includes, for those submitting to the voluntary accreditation process, mandatory participation in a semi-annual proficiency testing program administered by a contractor meeting rigid specifications.

Lifecodes, one of the pioneers in forensic application of DNA, strongly endorsed proficiency testing in testimony submitted for the June 13, 1991 hearing of the Subcommittee on Civil and Constitutional Rights: "[W]e at Lifecodes believe that proficiency testing is key. . . . Labs should be subject to continual proficiency tests, both blind and open. Individuals should be tested quarterly."

Databanking and privacy

The advent of DNA typing in the courtroom has been followed by proposals to establish a national databank of previously analyzed samples which could be searched for a match in somewhat the same way that latent fingerprints are searched against a computer database. At least 11 states have enacted laws requiring blood samples from convicted criminals for this purpose. For example, California requires two blood and two saliva samples from each convicted sex offender.

These states plan to establish in-state databanks of DNA profiles and also to submit copies of their test results to the FBI to establish a national databank. However, the state laws requiring that DNA samples be taken from convicted offenders vary widely in the attention they give to privacy.

Under the national database concept now being developed by the FBI, the FBI would set up a computer file to store and match DNA profiles submitted by the states. The FBI is also developing designs for databases on unknown subjects (DNA drawn from blood or semen in cases where there are no active suspects, to be used in an effort to link serial crimes by the same perpetrator) and missing persons and unidentified dead persons to assist in identification.

Proposals to establish DNA databases raise several privacy concerns. For example, can the test results be used for purposes other than identification? Will the tests be accessible to non-law enforcement agencies or private parties?

The New York DNA panel concluded, "Substantial privacy concerns must be overcome before a DNA databank should be established." The panel recommended, "Use of a databank for other than law enforcement suspect identification purposes should be expressly prohibited and subject the abuser to criminal penalties."

SECTION-BY-SECTION ANALYSIS

Section 1 is the short title, the "DNA Identification Act of 1992."

Section 2

Subsection 2(a) amends the Omnibus Crime Control and Safe Streets Act to authorize grants to state and local agencies to develop or improve DNA testing capabilities in their forensic laboratories.

Subsection 2(b) requires that any state receiving federal funding for a DNA laboratory must certify that the laboratory is complying with the DNA quality assurance guidelines issued pursuant to the Act, that DNA samples obtained by the DNA analyses performed at such laboratory will be maintained in accordance with specified privacy standards, and that the laboratory and each analyst performing DNA analyses will undergo external proficiency testing at intervals not to exceed 180 days.

Section 3 requires the FBI Director to appoint an advisory board on DNA quality assurance methods. The board shall develop and recommend to the Director standards for quality assurance, including standards for proficiency testing. (Recognizing that proficiency testing is one component of a quality assurance program, the Act nonetheless addresses it as a separate item in light of its importance.) The board is expected to keep itself familiar with the implementation of the standards adopted by the FBI Director and shall recommend changes in those standards whenever appropriate. As new forms of DNA forensic analysis emerge, the board shall develop recommended quality assurance standards.

While the board is designated a board on DNA quality assurance methods, the board may also advise the Director on other scientific and policy questions relating to forensic applications of DNA. In particular, it would be appropriate for the board to address the population genetics issues that have been raised and recommend research programs to resolve those issues.

The board established pursuant to Section 2 may subsume the existing TWGDAM, which may become a subcommittee of the board focusing on technical issues. However, the Act also allows the FBI to continue the TWGDAM as a separate, informal body.

Based on the recommendations of the Board, the FBI Director shall issue, and revise from time to time as appropriate, standards for quality assurance and proficiency testing. Until the board is functional and has made its recommendations and the Director has acted upon them, the TWGDAM guidelines for a quality assurance program for DNA analysis published in April 1991 and any amendments thereto shall be considered the Director's standards for purposes of this Act.

Under the Act, the FBI is not responsible for administering a proficiency testing program for other laboratories. Laboratories required to undergo external proficiency testing under the Act—as a condition of receipt of federal funds or of submitting their data to the federal index—will be able to contract for proficiency testing with entities that offer DNA proficiency testing products meeting the standards issued under this Act. At least one DNA proficiency testing package is currently available at a modest cost.

Section 4 authorizes the FBI to establish an index of DNA profiles of convicted offenders, subject to quality assurance, proficiency testing and privacy requirements.

Section 4 allows the indexing of analyses prepared by public or private laboratories. At least one state intends to contract out its DNA profiling requirements to a private laboratory. Results of tests performed by a private laboratory under contract with a state or local law enforcement agency may be indexed in the national database if that laboratory, in its work for the law enforcement agency, complies with the minimum data quality standards established under this Act.

The FBI will have to assure itself that laboratories submitting data to the federal index are complying with the quality assurance, proficiency testing and privacy standards established under the Act. However, it is not intended and not expected that the FBI would use its management of the national DNA index to impose on laboratories submitting data for the index standards that are arbitrary or inconsistent with the guidelines established pursuant to this Act.

Section 5 requires the FBI to adhere in its DNA forensic work to minimum quality assurance, proficiency testing and privacy standards. In one respect, the proficiency testing requirements for the FBI go beyond those required of other laboratories: the FBI must undergo periodic *blind* external proficiency tests. The definition of "blind" is drawn from the TWGDAM guidelines.

Section 5 states that DNA analyses performed by a federal law enforcement agency may be used only for law enforcement purposes. It does not preclude an agency such as the FBI from performing DNA analyses for humanitarian purposes. Analyses performed for humanitarian purposes would not be subject to the privacy restrictions of this Act, although they should still be handled with sensitivity to privacy interests.

Section 5 also establishes criminal penalties, based on the Privacy Act, for misuse of DNA information indexed in a federal database.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, DNA is the basic genetic material within each living cell that contains the complete genetic blueprint for any individual. DNA testing is typically used to identify individuals using small samples of body fluids or tissue, such as blood, semen or hair, left at a crime scene.

DNA analysis has proven an extremely effective investigative tool in the criminal justice process. When properly performed, DNA testing can, with a great deal of certainty, verify or reject an association between a suspect and a victim or crime scene. As DNA technology is increasingly employed in the courtroom, however, there has been growing concern over issues of quality assurance and standards for conducting DNA testing.

There is general agreement among those involved in DNA testing, including the FBI, State and local law enforcement and crime laboratories, and forensic scientists, that there is a need for standards to ensure quality services. This bill will guarantee that needed quality assurance standards are developed and implemented.

The legislation directs the FBI to appoint an advisory board to develop and recommend standards for quality assurance and develop standards for testing the proficiency of forensic laboratories. It authorizes funds under title I of the Omnibus Crime Control and Safe Streets Act of 1968 for States and local governments to develop and improve their ability to perform DNA analysis for forensic purposes.

Laboratories receiving such funds will be required to undergo external proficiency testing twice a year and comply with the standards to be issued by the FBI's advisory board.

The legislation also authorizes the FBI to establish an index of DNA identification records of persons convicted of crimes and of DNA samples recovered from crime scenes and unidentified human remains. This index, containing previously analyzed samples, will allow DNA recovered from the scene of a crime to be searched against stored DNA profiles of known offenders. The legislation specifies that DNA profiles in the index must meet quality control and privacy requirements.

In conclusion, this legislation will help to ensure reliable and accurate results for DNA analysis, and I urge its adoption.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 3088, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RURAL ELECTRIFICATION ADMINISTRATION IMPROVEMENT ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 5237) to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, to establish a grant program to improve the provision of health care services and educational services in rural areas by enabling providers of such services to obtain access to modern interactive telecommunications systems, and for other purposes.

The Clerk read as follows:

Amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Administration Improvement Act of 1992"

SEC. 2. DISCOUNTED LOAN PREPAYMENT.

(a) IN GENERAL.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) EXCEPTION.—On request of the borrower, an electric loan made under this Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the present value of the loan discounted from the face value at maturity at the rate established by the Administrator.

"(3) DISCOUNT RATE.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) TAX EXEMPT FINANCING.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) ELIGIBILITY.—

"(A) IN GENERAL.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

(i) a borrower that has prepaid a loan, either before or after the date of enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act during the 120-month period beginning on the date of the prepayment; and

"(ii) a borrower that prepaid a loan before the date of enactment of this subsection at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

"(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

"(B) EFFECT ON EXISTING AGREEMENTS.— If a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before the date of enactment of this subsection, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(C) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) DEFINITIONS.—As used in this subsection:

"(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

"(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305.".

(b) CONFORMING AMENDMENT.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) MERGERS OF ELECTRIC BORROWERS.—Notwithstanding".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5237 simply allows the prepayment of loans by Rural Electrification Administration borrowers. Nearly identical legislation under the same bill number has passed the House of Representatives twice—on August 5, 1992, and on September 23, 1992.

Over the past 2 weeks the Committee on Agriculture has worked with the Senate Committee on Agriculture, Nutrition, and Forestry to reach a fair and reasonable compromise on this legislation. H.R. 5237, as approved by the Senate earlier today, reflects that compromise and is acceptable to the Committee on Agriculture.

H.R. 5237 will allow the local rural electric cooperatives the option of prepaying their REA loans, thus reducing the Federal Government's exposure to future repayment risk and freeing the cooperative from the rules and regulations of the REA.

H.R. 5237, like the version that previously passed the House, authorizes prepayments based on the present value of the debt owed to the Government, discounted from the face value of the debt at a discount rate equal to the cost of funds to the Treasury.

This version of H.R. 5237 contains two changes from the previously passed bill. Those two changes pertain to the length of time an electric cooperative is ineligible to receive further REA loans if that cooperative chooses to prepay its outstanding debt obligation to REA.

Under the previous bill, a borrower prepaying a loan either before or after the date of enactment would have to sit out for 5 years; now that borrower has to sit out for 10 years.

A borrower that prepaid a loan before the date of enactment would have to sit out for 10 years under the earlier version. Under H.R. 5237 as passed by the Senate today, that borrower must sit out for 15 years.

These two changes ensure that the bill carries no cost in the OMB budget estimates.

Mr. Speaker, this legislation allows the REA program to better meet the needs of our Nation's rural electric cooperatives. Currently, there is a 2-year waiting list of requests for REA loans. H.R. 5237 allows financially healthy REA borrowers to prepay their loans and allows other cooperatives greater access to the REA Program.

Congress has authorized similar REA prepayment programs in the past, primarily through reconciliation legislation.

Mr. Speaker, again, I would like to commend Congressman ENGLISH, the chairman of our Subcommittee on Conservation, Credit, and Rural Development, for proposing this legislation and guiding it through the approval process. Mr. Speaker, I urge passage of H.R. 5237.

Mr. Speaker, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5237. This bill needs to be adopted prior to adjournment and signed by the President.

This legislation, which has been amended by the other body and returned to the House, is a scaled down version of the same House numbered bill that passed the House, 359–60, on August 5, 1992.

It contains none of the rural telephone provisions or medical and educational telecommunications language that some Members opposed in the original bill.

This bill authorizes REA borrowers to prepay outstanding loans on the condition that they may not return to the REA for any further financing for a period of 10 years beginning on the date a borrower prepays the loan.

The legislation also allows distribution cooperatives that purchase power from a generation and transmission cooperative that is in default on its REA loans to prepay their REA loans so that the distribution cooperatives may seek non-REA lending sources.

This bill should ease the currently overburdened REA administrative operations, making it easier for cooperatives that need to borrow from REA to do so. I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and concur in the Senate amendment to H.R. 5237.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 5483) to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes.

The Clerk read as follows:

Amendments:

(1)On page 3, line 25, strike out [and]

(2)On page 3, after line 25, add the following:

(B) in paragraph (4) by amending the paragraph to read as follows:

" (4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing."; and

(3)On page 4, line 1, strike [(B)] and insert *(C)*

(4)Beginning on page 4, strike out line 12 and all that follows through line 17 on page 5, and insert the following new section:

"SEC. 104. ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS.

"(a) GENERAL AUTHORITY.—(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 105, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf and individuals who are hard of hearing throughout the Nation.

"(B) The elementary and secondary programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

"(C) The elementary and secondary programs described in subparagraph (A) shall include—

"(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for high school and other secondary study; and

"(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for college, other postsecondary opportunities, or the workplace."

(5)On page 6, line 8, before the semicolon insert: *or hard of hearing*

(6)On page 6, line 11, after "deaf" insert: *or hard of hearing*

(7)On page 6, line 12, after "deaf" insert: *or hard of hearing*

(8)On page 6, line 20, after "deaf" insert: *or hard of hearing*

(9)On page 11, line 25, strike [and] after the semicolon

(10)On page 12, line 10, strike the period and insert: *; and*

(11)On page 12, between lines 10 and 11, insert the following:

(3) in subsection (b) by adding, at the end the following new paragraph:

"(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing.".

(12)On page 15, line 5, insert before the period *, except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions*

(13)On page 16, line 15, strike the end quotation marks and the second period.

(14)On page 16, between lines 15 and 16, insert the following new subparagraph:

"(C) The Secretary is not authorized to add items to those specified in subparagraph (B).".

(15)On page 19, line 14, strike [Section] and insert *(a)* **Education of the Deaf Act.**—*Section*

(16)On page 19, line 17, strike **[and evaluation]** and insert: **, evaluation, and reporting**

(17)On page 20, between lines 17 and 18, insert the following new subsection:

(b) REPORT.—Not later than 180 days after the date of enactment of the Education of the Deaf Act Amendments of 1992, the Secretary of Education shall submit a report to Congress regarding progress made by the Department of Education in implementing the recommendations of the Commission on Education of the Deaf pertaining to the provision of a free and appropriate public education to children who are deaf, and children who are hard of hearing, and with respect to the establishment of standards for programs and personnel to meet the educational, communicative, and psychological needs of children who are deaf, and children who are hard of hearing. In preparing this report, the Secretary of Education shall solicit input from the community of individuals who are deaf, and individuals who are hard of hearing.

(18)On page 21, line 2, before the period insert: *or hard of hearing*

(19)On page 21, line 14, after "deaf" insert: *or hard of hearing*

(20)Beginning on page 22, strike line 4, and all that follows through line 23 on page 27, and insert the following new subsections:

"(a) ESTABLISHMENT OF PROGRAMS.—

"(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

"(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

"(b) FEDERAL PAYMENTS.—

"(1) The Secretary shall, consistent with this section, make payments to the Federal endow-

ment funds established under subsection (a) from amounts appropriated under subsection (h) for the fund involved.

"(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

"(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved).

"(c) INVESTMENTS.—

"(1) Except as provided in subsection (e), the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of the Internal Revenue Code of 1986, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

"(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the Advisory Board of NTID is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothocate, encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

"(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

"(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

"(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

"(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

"(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) INVESTMENT AND EXPENDITURE FLEXIBILITY.—The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations and to the withdrawal and expenditure limitations of subsection (d)(3).

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

"(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'corpus', with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

"(2) The term 'Federal endowment fund' means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

"(3) The term 'income', with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

"(4) The term 'institution involved' means the University or NTID, as the case may be.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

"(i) EFFECTIVE DATE.—The provisions of this section shall take effect as if included in the provisions of the Education of the Deaf Act of 1986.".

(21)On page 29, line 17, strike "71" and all that follows through "1997."." on line 20, and insert: *75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995.*

(22)On page 29, between lines 20 and 21, add the following new subsections:

"(c) REDUCTION OF SURCHARGE.—Beginning the academic year 1993–1994 and thereafter, the University or NTID may reduce the surcharge under subsection (b) to 50 percent if—

"(A) a student described under subsection (b) is from a developing country;

"(B) such student is unable to pay the tuition surcharge under subsection (b); and

"(C) such student has made a good faith effort to secure aid through such student's government or other sources.

"(d) DEFINITION.—For purposes of subsection (c), the term 'developing country' means a country that has a 1990 per capita income not in excess of $4000 in 1990 United States dollars.".

(23)Beginning on page 32, strike out line 9 and all that follows through line 12 on page 36 and insert the following:

SEC. 201. POSTSECONDARY EDUCATION.

(a) REGIONAL CENTERS.—Section 625(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1424a(a)) is amended by inserting after the first sentence in paragraph (6) the following new sentences: "The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C–G of the Act is extended by September 30, 1994."

(b) STUDY.—There shall be conducted a General Accounting Office study of the four regional centers for the deaf under section 625(a)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1424(a)(2)). The scope of such study shall be determined by the Chairpersons and Ranking Minority members of the Subcommittee on Disability Policy of the Committee on Labor and Human Resources in the Senate, and of the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives.

(24)Beginning on page 39, strike out line 8 and all that follows through line 10 on page 40.

(25)On page 40, line 11, strike **[Subtitle C]** and insert: **Subtitle B**

(26)On page 40, strike lines 13 through 16 and insert the following:

The amendments described in this title shall take effect on October 1, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of H.R. 5483 as amended by the Senate. This bill reauthorizes the Education of the Deaf Act of 1986.

The amended bill before the House represents a bipartisan compromise that maintains the integrity of the original House bill which reflects many of the issues identified in the 1986 report, "Towards Equality: The Education of the Deaf," including:

First, accountability for the expenditure of Federal appropriations by Gallaudet University and the National Technical Institute for the Deaf [NTID].

Second, educational programs for students who are deaf and from minority backgrounds, and for students who are deaf and have secondary disabilities.

Third, personnel training.

Fourth, increased tuition surcharge for international students.

Fifth, GAO study to review the four regional demonstration programs.

The provisions of the bill related to these and other issues will move us closer to providing an appropriate quality education for all students who are deaf or hard of hearing. I hope my colleagues will agree by voting in favor of H.R. 5483 as amended.

I wish to thank Mr. BALLENGER and his staff for their efforts in developing this bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of this bill, H.R. 5483, to reauthorize the Education of the Deaf Act of 1986. This act provides for the education of individuals who are deaf through Gallaudet University and the National Technical Institute for the Deaf. In addition, Gallaudet University operates the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf.

For fiscal year 1992, the Federal appropriation provided a significant portion of the funding for Gallaudet University and the National Technical Institute for the Deaf. Both the elementary and secondary demonstration schools receive 100 percent of their funding from the Federal Government. The Committee on Education and Labor has worked closely with the Department of Education, Gallaudet University and the National Technical Institute for the Deaf in developing this bill to provide for increased accountability from the schools, while allowing them to continue to function independently.

This bill extends the specific due process provisions under part B of the Individuals With Disabilities Education Act to children placed by their parents in the elementary and secondary programs. These protections, which are currently afforded to children placed by local educational agencies, will now apply to all children at the elementary and secondary education programs. The Education and Labor Committee considered these provisions to be among the most critical of the bill.

During the reauthorization hearings, testimony was heard from several witnesses about the need for minority deaf teachers and role models for minority children who are deaf. Likewise, the Commission on the Education of the Deaf recommended in their February 1988 report to the Congress that there was a need to reestablish Federal support for teacher preparation, particularly for the recruitment of highly qualified applicants in the field of education of the deaf.

I am pleased that my proposal for a scholarship program for individuals who are deaf and pursuing careers in deaf education or special education has been included in this bill. The Secretary of Education can provide grants to institutions of higher education which have teacher training programs in deaf education or special education. Priority consideration for these scholarships will be given to individuals who are deaf and from underrepresented backgrounds.

I hope that my colleagues will support this legislation.

Mr. BALLENGER. Mr. Speaker, I am very pleased to rise in support of this bill extending and amending the authorizations for Gallaudet University and the National Technical Institute for the Deaf. The Federal appropriation for fiscal year 1992 was $76.5 million for Gallaudet University, representing approximately 73 percent of their total income. The Federal appropriation for NTID was $39.4 million, approximately 83 percent of their income.

Clearly, the Federal Government has an interest in the efficiency and effectiveness of these educational programs for individuals who are deaf. In addition, the Federal Government should have access to whatever information is needed to ensure that funds are used appropriately.

Overall, the bill increases accountability for funds provided to both Gallaudet University and NTID. The bill prohibits the use of Federal funds for certain expenditures, such as: alcoholic beverages, goods or services for personal use, housing and personal living expenses, and lobbying.

The two schools will also be required to develop internal policies regarding the allowablity and reasonableness of all expenditures. This will increase the accountability for both schools and provide the Congress with more information about how the funds are being used.

This bill limits the enrollment of international students at Gallaudet University and NTID to approximately 10 percent of the total enrollment at each school. There is presently no limit on the number of international students allowed to enroll at the schools.

International students are currently charged 50 percent more for tuition than U.S. students. This bill requires international students to pay a tuition surcharge of 90 percent. It would also provide for a lower surcharge rate of 50 percent for students from developing countries.

While I recognize that the presence of international students at the schools is beneficial in many ways, I do not think that the taxpayers should be subsidizing the cost of educating international students. Currently, the tuition charged to international students only represents a small to moderate proportion of the estimated cost for their education. I very much support a higher tuition surcharge, however, the 90-percent surcharge provided for in this bill is a step in the right direction.

At a subcommittee hearing this past March in my district, we heard testimony from professionals and students at Lenoir Rhyne College in Hickory, NC, about the need for teacher training programs and educational interpreters. Many interpreters do not have the necessary training to appropriately work with students in elementary and secondary educational programs. This bill permits the Secretary of Education to make grants under the Individuals with Disabilities Education Act to institutions of higher education to establish or continue educational interpreter training programs.

In closing, I would like to commend Mr. OWENS and the staff on both sides of the aisle for the hard work in developing this bipartisan bill.

I urge my colleagues to support this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and concur in the Senate amendment to H.R. 5483.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

READY TO LEARN ACT

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3134) to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes; as amended.

The Clerk read as follows:

S. 3134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ready to Learn Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) expand the availability of educational and instructional video programming and supporting educational resources for preschool and elementary school children and their parents as a tool to improve school readiness and literacy; and

(2) to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children.

SEC. 3. READY TO LEARN PROGRAMS.

The Elementary and Secondary Education Act of 1965 is amended by adding after part F of title IV the following:

"PART G—READY TO LEARN TELEVISION

"SEC. 4701. READY TO LEARN.

"(a) IN GENERAL.—The Secretary is authorized to enter into contracts, cooperative agreements, or grants with entities described in section 4702(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the national education goals.

"(b) AVAILABILITY.—In making such contracts, cooperative agreements, or grants, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

"SEC. 4702. EDUCATIONAL PROGRAMMING.

"(a) AWARDS.—The Secretary shall award contracts, cooperative agreements, or grants to eligible entities to—

"(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

"(2) contract with entities (such as public broadcasting entities and those funded under the Star Schools Assistance Act) in order that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a contract, cooperative agreement, or grant under subsection (a), an entity shall be—

"(1) a nonprofit, nongovernmental entity able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

"(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

"(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

"SEC. 4703. DUTIES OF SECRETARY.

"The Secretary is authorized—

"(1) to establish and administer a Special Projects of National Significance program to award contracts, cooperative agreements, or grants to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

"(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

"(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

"(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

"(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

"(3) to develop and disseminate training materials, including—

"(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

"(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

"(4) coordinate activities with the Secretary of Health and Human Services in order to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) provide information to grantees of Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

"SEC. 4704. APPLICATIONS.

"Each eligible entity desiring a contract, cooperative agreement, or grant under section 4701 or 4703 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 4705. REPORTS AND EVALUATION.

"(a) ANNUAL REPORT TO SECRETARY.—An entity receiving funds under section 4701 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

"(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

"(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

"(1) a summary of the information made available under section 4702(a);

"(2) a description of the training materials made available under section 4703(3), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

"SEC. 4706. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $25,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 4702.

"(b) SPECIAL PROJECTS.—Of the amount appropriated under subsection (1) for each fiscal year, at least 10 percent of such amount shall be utilized in each such fiscal year for activities under section 4703(1)(C).

"SEC. 4707. ADMINISTRATIVE COSTS.

"With respect to the implementation of section 4702, entities receiving a contract, cooperative agreement, or grant from the Secretary may use up to 5 percent of the amounts received under such section for the normal and customary expenses of administering the contract, cooperative agreement, or grant.

"SEC. 4708. DEFINITION.

"For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the ready to learn Television Act of 1992.

This act will expand the availability of educational video programming and materials to preschool and elementary school children, their parents, and the other early childhood caregivers. Over the past several years this body has voted several times in support of legislation promoting the national education goals.

One of the goals is that all children will enter school ready to learn. In a world of increasing economic competition it is essential that we use all possible resources to ensure that our children reach their full potential. One of the keys to this is providing stimulating learning experiences at early ages.

Modern communications technology is an obvious resource for that purpose.

This bill requires the secretary of education to:

Award grants for the production and distribution of educational videos designed to improve children's school readiness; and

Award grants for the production and distribution of videos and other instructional material designed to enhance the knowledge of child development among parents, teachers and Head Start, and child care providers.

The amendments to the bill strengthen provisions promoting family literacy.

This program is attractive because it uses existing technology that will reach a large number of children and the people who care for them.

It will mean that our children are better prepared to learn, and that our country will be better prepared to enter the 21st century.

I urge my colleagues to support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise in support of the legislation. Senator KENNEDY and I joined in introducing ready to learn legislation this year because we believe that dollar for dollar these programs will pay big dividends. Young people across the country are often unequipped to learn and this legislation is one practical way to address this crisis. In addition this legislation moves America closer to reaching the goals of the Presidents education summit. Senator KENNEDY has provided outstanding leadership on this legislation and I urge my colleagues to support the legislation.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we all know, too many of our young children arrive at school with a learning deficit. They are not prepared to take advantage of the education presented to them and, as a result fall further and further behind their peers.

Programs such as Even Start and Head Start are designed to help young children and their families get the assistance they need to arrive at school ready to learn. However, these programs, on their own, are often not enough to overcome the multiple problems that face these children and families.

We also know that young children spend a tremendous amount of time, often more than 5 hours a day, watching television. It seems like common sense that if we could make even a portion of that time educational, then children might be more likely to arrive at school prepared to learn and keep up with their peers.

The bill before us would stimulate the development of more and better educational video programming for children and their families. I am especially supportive of the provisions that would authorize the creation of programming to support family literacy. These would focus on both the children and parents and, if done creatively, lead to increased literacy for the whole family.

We have reduced the authorization level of the original bill and made it an amendment to the Elementary and Secondary Education Act [ESEA]. This means we will reconsider this program as part of the reauthorization of ESEA in the next Congress. At that time, I hope that our committee will take a comprehensive look at how the broad array of modern technologies can be applied to improving the Nation's education system.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the Senate bill, S. 3134, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

SMALL BUSINESS RESEARCH AND DEVELOPMENT ENHANCEMENT ACT OF 1992

Mr. SKELTON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2941) to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

The Clerk read as follows:

S. 2941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Research and Development Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM
Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Amendments to small business innovation research program.
Sec. 104. Extension of SBIR program.
Sec. 105. Reports of the Comptroller General.
Sec. 106. Recommendations of the Secretary of Defense.
TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM
Sec. 201. Short title.
Sec. 202. Establishment of small business technology transfer pilot program.
TITLE III—MISCELLANEOUS PROVISIONS
Sec. 301. Discretionary technical assistance to SBIR awardees.
Sec. 302. Extension of the technology transfer demonstration program.
Sec. 303. Reporting requirements.
Sec. 304. Small Business Institutes.
Sec. 305. Additional SBIR and STTR provisions.
Sec. 306. Sense of the Congress concerning American-made equipment and products.
Sec. 307. Technical corrections.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Innovation Research Program Reauthorization Act of 1992".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982, (hereafter in this Act referred to as the "SBIR" program) has been a successful method of involving small business concerns in Federal research and development;

(2) the small business innovation research program has been an effective catalyst for the development of technological innovations by small business concerns;

(3) small business innovation research program participants have provided high quality research and development in a cost-effective manner;

(4) the innovative products and services developed by small business concerns participating in the small business innovation research program have been important to the national defense, as well as to the missions of the other participating Federal agencies;

(5) the small business innovation research program has effectively stimulated the commercialization of technology developed through Federal research and development, benefiting both the public and private sectors of the Nation;

(6) by encouraging the development and commercialization of technological innovations, the small business innovation research program has created jobs, expanded business opportunities for small firms, stimulated the development of new products and services, and improved the competitiveness of the Nation's high technology industries;

(7) the small business innovation research program has also helped to increase exports from small business concerns;

(8) despite the general success of the small business innovation research program, the proportion of Federal research and development funds received by small business concerns has not increased over the life of the program, but has remained at 3 percent; and

(9) although the participating Federal agencies have successfully implemented most aspects of the small business innovation research program, additional outreach efforts are necessary to stimulate increased participation of socially and economically disadvantaged small business concerns.

(b) PURPOSES.—The purposes of this title are—

(1) to expand and improve the small business innovation research program;

(2) to emphasize the program's goal of increasing private sector commercialization of technology developed through Federal research and development;

(3) to increase small business participation in Federal research and development; and

(4) to improve the Federal Government's dissemination of information concerning the

small business innovation research program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

SEC. 103. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) DEFINITION OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—Section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential, as described in subparagraph (B)(ii)," after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) a second phase, to further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal's commercial potential, as evidenced by—

"(i) the small business concern's record of successfully commercializing SBIR or other research;

"(ii) the existence of second phase funding commitments from private sector or non-SBIR funding sources;

"(iii) the existence of third phase, follow-on commitments for the subject of the research; and

"(iv) the presence of other indicators of the commercial potential of the idea; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; and

"(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria; and".

(b) REQUIRED EXPENDITURES FOR SBIR BY FEDERAL AGENCIES.—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended to read as follows:

"(f) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

"(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of $100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

"(A) not less than 1.5 percent of such budget in each of fiscal years 1993 and 1994;

"(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; and

"(C) not less than 2.5 percent of such budget in each fiscal year thereafter,

specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) LIMITATIONS.—A Federal agency shall not—

"(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

"(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an SBIR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).".

(c) INCLUSION OF CERTAIN DEPARTMENT OF DEFENSE RESEARCH AND DEVELOPMENT ACTIVITIES.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended in paragraph (1), by striking "for the Department of Defense" and all that follows through "development" and inserting "for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs".

(d) SBIR SOLICITATIONS.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) unilaterally determine research topics within the agency's SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified by—

"(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; or

"(B) the Secretary of Defense, in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority;".

(e) DEADLINE FOR FINAL PAYMENT UNDER SBIR FUNDING AGREEMENTS.—Section 9(g)(7) of the Small Business Act (15 U.S.C. 638(g)(7)) (as redesignated by subsection (d)(1)) is amended by inserting before the semicolon the following: "and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements".

(f) MODIFICATIONS TO SBIR POLICY DIRECTIVES.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(3) by inserting before "The Small Business Administration" the following:

"(1) POLICY DIRECTIVES.—"; and

(4) by adding at the end the following new paragraph:

"(2) MODIFICATIONS.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

"(A) retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of not less than 4 years;

"(B) continued use by a small business concern participating in the third phase of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(C) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program enters into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production;

"(D) an increase to $100,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to $750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations;

"(E) a process for notifying the participating SBIR agencies and potential SBIR participants of the 1991, 1992, and the current critical technologies, as identified—

"(i) by the National Critical Technologies Panel (or its successor), in accordance with section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(ii) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by women in technological innovation and in SBIR programs, including the third phase of such programs, and the collection of data to document such participation;

"(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program;

"(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for the first phase of an SBIR program and that has received more than 15 second phase SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; and

"(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992.".

(g) ELIMINATION OF SURVEYING AND REPORTING REQUIREMENT.—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

"(k) [Reserved].".

(h) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(l) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

"(1) SINGLE PROPOSAL.—If a Federal agency required to establish an SBIR program under subsection (f) makes an award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in its next quarterly report to the Administration and in the agency's next annual report required under subsection (g)(8).

"(2) MULTIPLE AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for the first phase of an SBIR program during the reporting period to entities that have received more than 15 awards for the second phase of an SBIR program during the preceding 5 fiscal years.

"(3) CRITICAL TECHNOLOGY AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8), an accounting of the number of awards it has made to critical technology topics, as defined in subsection (g)(3), including an identification of the specific critical technologies topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such critical technology topics.".

(2) CONFORMING AMENDMENT.—Section 9(g)(5) of the Small Business Act (15 U.S.C. 638(g)(5)) (as redesignated by subsection (d)) is amended by inserting "subject to subsection (*l*)," before "unilaterally".

(i) INFORMATION ON ALLOWABLE EXPENSES.—Section 9(g)(5) of the Small Business Act (as redesignated by subsection (d)) is amended by inserting before the semicolon the following: "and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement".

SEC. 104. EXTENSION OF SBIR PROGRAM.

(a) REPEAL PROVISION.—Section 5 of the Small Business Innovation Development Act of 1982 is hereby repealed.

(b) TERMINATION DATE.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(m) TERMINATION.—The authorization to carry out the Small Business Innovation Research Program under this section shall terminate on October 1, 2000.".

SEC. 105. REPORTS OF THE COMPTROLLER GENERAL.

(a) INTERIM REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress an interim report concerning the quality of research performed under SBIR program funding agreements entered into during fiscal year 1993 and thereafter. Copies of the interim report shall be furnished to each agency that has participated in the SBIR program in fiscal year 1993 or thereafter.

(2) CONTENTS OF REPORT.—The Comptroller General shall include in the interim report required under paragraph (1)—

(A) an assessment of the quality of the research performed under the SBIR program funding agreements entered into by each agency that has participated in the SBIR program beginning in fiscal year 1993 or thereafter, specifically addressing—

(i) with respect to each such agency, whether or not there has been a demonstrable reduction in research quality; and

(ii) in the case of such reduction, whether an increase in each such agency's required SBIR participation in accordance with section 9(f)(1) of the Small Business Act (as amended by subsection (b) of this section) would adversely affect the performance of the agency's research programs;

(B) an analysis of the program authorized by section 301 of the Small Business Research and Development Enhancement Act of 1992, considering, among other things—

(i) the extent to which each SBIR agency has implemented the program and the extent to which the program has improved the quality of agency-sponsored research and development;

(ii) the effect of the program on recipient companies' ability to develop and commercialize technology;

(iii) the cost of the program and the average cost per recipient company; and

(iv) the extent to which SBIR companies continue to use the service after completion of the program; and

(C) such other factors as the Comptroller General may deem appropriate.

(b) FINAL REPORT.—The Comptroller General of the United States shall transmit to the Congress a final report containing—

(1) a review of the progress made by Federal agencies in meeting the requirements of section 9(f) of the Small Business Act (as amended by this Act), including increases in expenditures required by that subsection;

(2) an analysis of participation by small business concerns in the third phase of SBIR programs, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization;

(3) an analysis of the extent to which awards under SBIR programs are made pursuant to section 9(*l*) of the Small Business Act (as added by section 103(h)) in cases in which a program solicitation receives only 1 proposal;

(4) an analysis of the extent to which awards in the first phase of the SBIR program are made to small business concerns that have received more than 15 second phase awards under the SBIR program in the preceding 5 fiscal years, considering—

(A) the extent to which such concerns were able to secure Federal or private sector follow-on funding;

(B) the extent to which the research developed under such awards was commercialized; and

(C) the amount of commercialization of research developed under such awards, as compared to the amount of commercialization of SBIR research for the entire SBIR program;

(5) the results of periodic random audits of the extramural budget of each such Federal agency;

(6) a review of the extent to which the purposes of this title and the Small Business Innovation Development Act of 1982 have been met with regard to fostering and encouraging the participation of women-owned small business concerns and socially and economically disadvantaged small business concerns (as defined in the Small Business Act) in technological innovation, in general, and the SBIR program, in particular;

(7) an analysis of the effectiveness of the SBIR program in promoting the development of the critical technologies identified by the Secretary of Defense and the National Critical Technologies Panel (or its successor), as described in subparagraph 9(j)(2)(E) of the Small Business Act;

(8) an analysis of the impact of agency application review periods and funding cycles on SBIR program awardees' financial status and ability to commercialize; and

(9) recommendations to the Congress for tracking the extent to which foreign firms, or United States firms with substantial foreign ownership interests, benefit from technology or products developed as a direct result of SBIR research research or research and development.

(c) DATES OF SUBMISSION.—The report required—

(1) under subsection (a), shall be submitted to the Congress not later than March 31, 1995; and

(2) under subsection (b), shall be submitted to the Congress not later than 5 years after the date of enactment of this title.

SEC. 106. RECOMMENDATIONS OF THE SECRETARY OF DEFENSE.

Not later than March 31, 1996, the Secretary of Defense shall submit a recommendation to the Congress addressing whether there has been a demonstrable reduction in the quality of research performed under the SBIR program since the beginning of fiscal year 1993, such that increasing the percentage under section 9(f)(1)(C) of the Small Business Act (as amended by section 103 of this Act) would adversely affect the performance of the research programs of the Department of Defense.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Technology Transfer Act of 1992".

SEC. 202. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM.

(a) ADDITIONAL SBA DUTIES.—Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (4), by inserting "and small business technology transfer pilot programs" after "small business innovation research programs"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place such term appears.

(b) SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM DEFINED.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'Small Business Technology Transfer Program' or 'STTR' means a pilot program under which a portion of a Federal agency's extramural research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having—

"(A) a first phase, to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

"(B) a second phase, to further develop proposed ideas to meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of STTR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-STTR Federal funding awards; and

"(ii) for which awards from non-STTR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria;

"(7) the term 'cooperative research and development' means research or research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern, and not less than 30 percent of the work is performed by the research institution; and

"(8) the term 'research institution' means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto).".

(c) ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS BY CERTAIN FEDERAL AGENCIES.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

"(n) REQUIRED EXPENDITURES FOR STTR BY FEDERAL AGENCIES.—

"(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of $1,000,000,000 in fiscal year 1994, 1995, or 1996, is authorized to expend with small business concerns—

"(A) not less than 0.05 percent of such budget in fiscal year 1994;

"(B) not less than 0.1 percent of such budget in fiscal year 1995; and

"(C) not less than 0.15 percent of such budget in fiscal year 1996,

specifically in connection with STTR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) LIMITATIONS.—A Federal agency shall not—

"(A) use any of its STTR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses, or, in the case of a small business concern or a research institution, costs associated with salaries, expenses, and administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Acquisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act); or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentage specified in paragraph (1).

"(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an STTR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).

"(o) FEDERAL AGENCY STTR AUTHORITY.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

"(1) unilaterally determine categories of projects to be included in its STTR program;

"(2) issue STTR solicitations in accordance with a schedule determined cooperatively with the Administration;

"(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

"(A) by the National Critical Technologies Panel (or its successor) in reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(4) unilaterally receive and evaluate proposals resulting from STTR solicitations;

"(5) unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement;

"(6) administer its own STTR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of the completion of such requirements;

"(8) submit an annual report on the STTR program to the Administration and the Office of Science and Technology Policy;

"(9) develop a model agreement not later than July 31, 1993, to be approved by the Administration, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(10) develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers (as defined in subsection (e)(8)) that participate in STTR agreements—

"(A) are free from organizational conflicts of interests relative to the STTR program;

"(B) do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

"(C) use outside peer review, as appropriate; and

"(11) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

"(A) the small business concern's record of successfully commercializing STTR or other research;

"(B) the existence of second phase funding commitments from private sector or non-STTR funding sources;

"(C) the existence of third phase follow-on commitments for the subject of the research; and

"(D) the presence of other indicators of the commercial potential of the idea.

"(p) STTR POLICY DIRECTIVE.—

"(1) ISSUANCE.—The Administrator shall issue a policy directive for the general conduct of the STTR programs within the Federal Government. Such policy directive shall be issued after consultation with—

"(A) the heads of each of the Federal agencies required by subsection (n) to establish an STTR program;

"(B) the Commissioner of Patents and Trademarks; and

"(C) the Director of the Office of Federal Procurement Policy.

"(2) CONTENTS.—The policy directive required by paragraph (1) shall provide for—

"(A) simplified, standardized, and timely STTR solicitations;

"(B) a simplified, standardized funding process that provides for—

"(i) the timely receipt and review of proposals;

"(ii) outside peer review, if appropriate;

"(iii) protection of proprietary information provided in proposals;

"(iv) selection of awardees;

"(v) retention by a small business concern of the rights to data generated by the concern in the performance of an STTR award for a period of not less than 4 years;

"(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(vii) cost sharing;

"(viii) cost principles and payment schedules; and

"(ix) 1-year awards for the first phase of an STTR program, generally not to exceed $100,000, and 2-year awards for the second phase of an STTR program, generally not to exceed $500,000, greater or lesser amounts to be awarded at the discretion of the awarding agency;

"(C) minimizing regulatory burdens associated with participation in STTR programs;

"(D) guidelines for a model agreement, to be used by all agencies, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(E) procedures to ensure that—

"(i) a recipient of an STTR award is a small business concern, as defined in section 3 and the regulations promulgated thereunder; and

"(ii) such small business concern exercises management and control of the performance of the STTR funding agreement pursuant to a business plan providing for the commercialization of the technology that is the subject matter of the award; and

"(F) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for such research, development, or production.".

(d) TIMING OF ISSUANCE OF POLICY DIRECTIVE.—The policy directive required by section 9(p) of the Small Business Act (as added by subsection (c) of this section) shall be published—

(1) in proposed form (with an opportunity for public comment of not less than 30 days), not later than April 30, 1993; and

(2) in final form, not later than July 31, 1993.

(e) REPORT OF THE COMPTROLLER GENERAL.—Not later than March 31, 1996, the Comptroller General of the United States shall submit a report to the Congress and the head of each agency that is required to make expenditures under the STTR program that—

(1) sets forth the Comptroller General's assessment, with respect to each such agency, of—

(A) the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program;

(B) whether or not the STTR program has affected the performance of that agency's research programs; and

(C) the commercial potential of research conducted under the STTR program, if sufficient data is available;

(2) contains the Comptroller General's assessment as to the effects of the STTR pro-

gram, if any, on the research quality and goals of the SBIR program; and

(3) determines the agencies and the federally-funded research and development centers' compliance with the procedures developed under section 9(g)(10) of the Small Business Act, as amended by this section.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DISCRETIONARY TECHNICAL ASSISTANCE TO SBIR AWARDEES.

(a) In General.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(q) Discretionary Technical Assistance.—

"(1) In general.—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in SBIR projects with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through on-line data bases, for the purpose of assisting such concerns in—

"(A) making better technical decisions concerning such projects;

"(B) solving technical problems which arise during the conduct of such projects;

"(C) minimizing technical risks associated with such projects; and

"(D) developing and commercializing new commercial products and processes resulting from such projects.

"(2) Vendor selection.—Annually, each agency may select a vendor for purposes of this subsection using competitive, merit-based criteria, to assist small business concerns to meet the goals listed in paragraph (1).

"(3) Additional technical assistance.—

"(A) First phase.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR award recipients in an amount equal to not more than $4,000, which shall be in addition to the amount of the recipient's award.

"(B) Second phase.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than $4,000 per year.

SEC. 302. EXTENSION OF THE TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM.

Section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note) is amended—

(1) in subsection (g), by striking "1993" and inserting "1995"; and

(2) in subsection (i), by striking "1991, 1992, and" and inserting "1994 and 1995".

SEC. 303. REPORTING REQUIREMENTS.

(a) Report on Deficient Subcontracting Plans.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraph (12) as paragraph (11).

(b) Small Purchases From Federal Prison Industries.—Section 4124(c) of title 18, United States Code, is amended in the first sentence by striking "to the General Services Administration" and all that follows through "Procurement Policy Act" and inserting "acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions".

SEC. 304. SMALL BUSINESS INSTITUTES.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended—

(1) by redesignation subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities.".

SEC. 305. ADDITIONAL SBIR AND STTR PROVISIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), is amended by adding at the end the following new subsection:

"(r) Third Phase Agreements.—

"(1) In general.—In the case of a small business concern that is awarded a funding agreement for the second phase of an SBIR or STTR program, a Federal agency may enter into a third phase agreement with that business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements with that agency or any other agency.

"(2) Definition.—In this subsection, the term 'third phase agreement' means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

"(3) Intellectual property rights.—Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.".

SEC. 306. SENSE OF THE CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) Purchase of American-Made Equipment and Products.—It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

(b) Notice to SBIR Awardees.—Each Federal agency that awards funding agreements under the SBIR program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection (a).

SEC. 307. TECHNICAL CORRECTIONS.

(a) Small Business Participation Rates.—Section 714(b)(4) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended by inserting "or other services in support of such contracts" after "(including surveying and mapping)".

(b) Microloan Program Funding.—Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended—

(1) in subparagraph (A), by adding at the end the following: "If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992."; and

(2) in subparagraph (B), by striking "In the second" and inserting "In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second".

(c) Definition of Intermediary.—Section 7(m)(11)(A)(ii) of the Small Business Act (15 U.S.C. 636(m)(11)(A)(ii)) is amended by inserting "private," before "nonprofit".

(d) Secondary Loan Markets.—Section 5(f)(4) of the Small Business Act (15 U.S.C. 634(f)(4)) is amended by striking "5(e), 7(a)(6), or 7(a)(8)" and inserting "7(a)(6)(C) or subsection (e) of this section".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. Skelton] will be recognized for 20 minutes, and the gentleman from Florida [Mr. Ireland] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. Skelton].

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Kentucky [Mr. Hopkins] and I were to have a colloquy on this issue. However, we have worked it out.

Mr. Speaker, I would like to state that the gentleman from Florida [Mr. Ireland], the ranking member of the Committee on Small Business and also a very active member of the Committee on Armed Services, is making his last appearance on this floor. The gentleman has been a good friend, truly an outstanding Member of Congress, and I wish him well.

Mr. Speaker, the bill before us today is really a refinement of a measure that already passed the House by an overwhelming margin in August. S. 2941, the Small Business Research and Development Enhancement Act of 1992 is taken almost entirely from H.R. 4400, the Small Business Innovation Development Act Amendments of 1992 which many of my colleagues cosponsored and which reauthorizes and expands the Small Business Innovation Research Program [SBIR]. The SBIR Program has been remarkably successful in its 10-year history and its reauthorization and expansion has received overwhelming support here and from the administration.

The changes made to our original text by the other body are not extensive and do not alter the character of the program we have already approved. Indeed, I believe most of their additions improve the program.

The key changes that S. 2941 makes in the language we have already passed in H.R. 4400 are as follows:

S. 2941 slightly alters the timetable for the periodic increases in the SBIR program, starting immediately at 1.5 percent of extramural R&D allocated for small businesses in 1993 and 1994, then rising to 2 percent in 1995 and 1996. Finally, the full level of 2.5 percent would be reached in 1997 and thereafter; while this changes our steady yearly implementation schedule of .25 percent per year from 1994 through 1998, we believe the result will be the same.

Agency heads would no longer make a determination whether or not the program will continue to grow past the 2 percent level nor review program quality. The General Accounting Office will still issue their report of the progress of the growth, but only DOD, which has the largest program, will make recommendations with regard to the increases in SBIR. Congress is free to terminate the proposed increases if there is a problem.

Requires the agencies in formulating their solicitations to consider topics which address the needs expressed in the national critical technologies lists that are compiled by the Department of Defense and the Department of Commerce; to assist small businesses, the SBA is directed to help agencies notify potential participants of critical technologies; also, agencies are directed to keep track of how many projects relate to critical technologies and GAO will report on it.

Instructs the SBA to do more to reach out to socially and economically disadvantaged firms and women-owned businesses.

Provides a specific prohibition against any agency using part of their SBIR allocation for administrative costs.

Increases the amount of money that may be awarded in phase I of the SBIR Program to $100,000; our bill raised the amount from $50,000 to $75,000 but agencies are free to award less if they choose or more if they request a liberally granted waiver.

Increases the amount of money that may be awarded in phase II of the SBIR Program to $750,000 from $500,000.

Instructs SBA to provide guidance to encourage agencies to adopt gap-funding programs that help small businesses bridge the gap between a phase I award and a phase II award.

Requires a phase I applicant that has won 15 phase II awards within the last 5 years to demonstrate the extent to which it was able to receive Phase III funding for those projects. Requires the agency to keep track of that information and GAO to report the information in 4 years; this will safeguard against proposal mills, those companies which win awards but do not work very hard to commercialize them. If there is a real problem, this information will allow us to pinpoint it and take the necessary action.

Directs GAO to keep track of the extent to which foreign firms or U.S. firms with substantial foreign ownership benefit from technology and products form SBIR.

A new section, section 301 of the bill, provides that an agency may allow an SBIR winner an additional amount up to $4,000 above their given award to be used for technical assistance services such as scientific information networks. The Agencies will keep track of their use of this program and GAO will report on it; this amendment stems from a study done by the House Small Business Committee showing that such methods of technology transfer leverages the benefits produced by small businesses.

One part I would particularly like to mention, the Small Business Technology Transfer Program [STTR] has been revised by the other body will be implemented on a 3-year pilot program basis at five agencies—DOD, HHS, NASA, DOE, and NSF. As modified in the Senate, it will be funded through a small allocation from the agencies' extramural R&D budgets, subject to limitations placed upon the program by the Appropriations Committees in future legislation.

I would also like to congratulate GLENN POSHARD and our Chairman JOHN LAFALCE for their hard work on this promising new program. It should bring a whole new dimension to high-tech business development.

Mr. Speaker, these 12 small changes do not change the basic character of the bill we have already passed and, in most cases, added improvements. I urge my colleagues to support this successful program.

□ 0530

Mr. Speaker, I reserve the balance of my time.

Mr. IRELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support S. 2941, the Small Business Research and Development Enhancement Act of 1992. The other body has made several positive changes to our original legislation and I compliment my friend IKE SKELTON for discussing them in such detail. I have spoken often on this subject. Let me begin today with a salute to several American heroes whose tireless effort and commitment have led to this reauthorization.

Our Small Business Committee chairman, JOHN LAFALCE, gave top priority to reauthorizing the SBIR Program. He pushed our final product, H.R. 4400, through our committees, several other committees, and the full House last summer.

IKE SKELTON, our Procurement Subcommittee chairman, did yeoman's work on his subcommittee as well as a brilliant negotiation job with other committees and was very ably assisted by his ranking member and fellow Missourian MEL HANCOCK. Small Business Committee staff both on the full committee and on the subcommittee performed in a very careful and professional manner.

Finally I would like to cite the efforts of a private citizen—Mr. Milton D. Stewart. Mr. Stewart was the first chief counsel of advocacy at the Small Business Administration. In the 12 years since he left that post he has spent almost the full time educating the small business community about the SBIR Program. During the summer he even went to extraordinary lengths. He put on a full day exhibition of SBIR success stories in both the House and Senate. I cannot tell you the value of that exercise to the Congress—it is incalculable. He is one example of what one citizen can do.

Mr. Speaker, this legislation contains one of the most important strides recently made in this Nation in the area of research and development. We will eventually move the allocation of Federal research dollars from 1¼ percent of qualified taxpayer money available to an allocation of 2½ percent of available funds. This is an admirable and long overdue reallocation.

By this time most citizens are as fed up as I am at the constant stories of fraud and abuse in great amounts that seem to beset the 98¾-percent set-aside that major universities, Federal labs, and large companies have been feasting and grazing upon for far too long. Why we need such a huge poorly policed set-aside in our budget is a mystery to me. Small business has earned and deserves a larger allocation. Today we correct the situation.

Mr. Speaker, in conclusion, the SBIR allocation of Federal research and development dollars over the years has been a good one for America. The program has been dissected and investigated by everyone it seems except the KGB. The program has been shown to be a positive one. It has proven itself. It deserves reauthorization and expansion. I urge support of S. 2941 and I reserve the balance of my time.

Mr. Speaker, I would like to say to my friends on the Armed Services Committee that I share their concerns over the quality of Federal Research. The meager allocation given to small business should be closely checked. However we should show similar concern for the huge 98-percent set-aside that goes to Federal labs and large universities and businesses.

I would remind everyone that Stanford University the last few years has done to the American taxpayer what they did to Notre Dame on Saturday. Their transgressions alone in recent years probably have squandered more Federal dollars than were spent on the entire SBIR Program.

Mr. VALENTINE. Mr. Speaker, I rise in support of the compromise version of H.R. 4400, the Small Business Research and Development Enhancement Act of 1992, a bill of great importance to innovative small businesses across the country.

I wish to compliment the gentleman from New York [Mr. LAFALCE], the gentleman from Missouri [Mr. SKELTON], and all the other Members who worked hard to bring this bill before us.

I am sure that the other members of the Committee on Science, Space, and Technology would agree with me when I say that the Committee on Small Business has been quite responsive to our concerns and recommendations and that their collegial attitude has led to a strong bill that all should support.

There were many concerns raised before my subcommittee when we held our legislative hearings. The General Accounting Office report indicated that certain companies were receiving a large share of the financial benefits of the program but were achieving a smaller share of the commercial successes. Certain agencies were concerned with the speed with which the program would grow.

Some small businesses had concerns about the timing of assistance under the SBIR Program. Positive changes have been made in each of these areas.

The version of H.R. 4400 before us now has a very positive emphasis on development and commercialization of advanced technology. It will aid those small businesses which are most likely to come up with the inventions and products America needs to be competitive in the future with grants that are now large enough to make a difference.

Mr. Speaker, I am fortunate to come from a district that has a wealth of innovative small businesses. I am familiar with the difference the current modest SBIR Program has made for these companies and I am convinced that there are more good ideas than funds in these companies.

Therefore, I urge my colleagues to enhance the SBIR Program by voting for H.R. 4400 and to allow America's small businesses to make an even stronger contribution to our economy of the future.

Mrs. LLOYD. Mr. Speaker, I rise today in the strongest possible support for S. 2941, the Small Business Research and Development Enhancement Act. This critical legislation reauthorizes the highly successful and job producing Small Business Innovative Research Program.

My colleagues, the American people have demanded job growth and industrial competitiveness. The Small Business Innovative Research Program is a job creating initiative that establishes Goverment small business partnerships in high-technology fields. The technologies are then commercialized for use in our Nation's industrial sector. The object is to modernize and increase the efficiency of our industrial base and to improve competitiveness and job growth.

SBIR has worked magnificently in Tennessee's Third District. Approximately 700 jobs have been created in my district through SBIR and many of those same businesses have other important work pending reauthorization of the program. In a time of increasing pressure on Congress to weed out wasteful programs and concentrate on the economy, S. 2941 comes at exactly the right time. Reauthorization of this job creating, investing in our future program is precisely the type of legislative medicine that our ailing economy needs.

Mr. Speaker, I want to draw the attention of the Members to a new program included within S. 2941, the Small Business Technology Transfer Program, or STTR. This new initiative carries SBIR one step further, by allowing members of our scientific community employed at government contractor operated national labs and prominent universities to engage in SBIR-like partnerships with business. The goal of STTR is the same as SBIR, to exploit and commercialize new technologies. Without STTR, a great resource goes untapped. Both the Science Committee and the Armed Services Committee support this program.

Specifically, this bill would direct five agencies to implement STTR programs—including DOE, NASA, and the National Science Foundation, which are under the purview of the Science Committee. STTR would be a 3-year pilot program and could be limited by the Appropriations Committee in future legislation. I am convinced that this pilot program will prove successful, and that when we revisit the issue in 1996, we will look back on what we started here today with a great sense of accomplishment.

I urge support for S. 2941.

Mr. HOPKINS. Mr. Speaker, when the predecessor to this bill, H.R. 4400, passed the House, we on the Armed Services Committee added a provision which allowed the head of each agency to review the SBIR Program and interrupt its growth at the 2-percent level if the proposals were failing to maintain the high standard of quality we expect of the program. The determination was to be made by the agency head after reviewing a GAO study of the program. The original bill also contained a slow but steady growth schedule to insure that the agency infrastructure could keep pace with the growing number of proposals. I understand that the other body objected to this agency determination and simply provided for a recommendation by the Secretary of Defense to Congress if the program deteriorates at the 2-percent level. In addition, I understand they have accelerated the scheduled increases.

The true danger to the SBIR Program is that the quality might deteriorate if its size outstrips its base of qualified small R&D business. This is a greater possibility in the DOD SBIR Program than any other agency because the bill also adds a substantial new pool of funds to the SBIR formula which will, in effect, triple the size of the DOD SBIR Program.

Reasonable latitude would mean a good faith effort by the DOD to increase the size of their program to meet the prescribed levels in 1993, 1995, and 1997.

And finally, it is the gentleman's intention that the Armed Services Committee and the Small Business Committee give serious and prompt consideration to the recommendation made by the Secretary. And further, that the DOD would be within their reasonable latitude if it waited for 1 year if the Secretary makes a negative recommendation before implementing further increases to see if Congress were going to act.

Mr. SKELTON. Mr. Speaker, I have examined the gentleman's statement and the gentleman raises an excellent point. Frankly, we felt, and I know the gentleman agrees, that new products, new jobs, and growing businesses are vitally important to our economy. We feel the evidence supports controlled growth in this highly successful program. But we recognize that the DOD will have the most difficult time, among the various agencies, absorbing the growth. DOD has the largest program to begin with and an additional budget segment—6.6 research—is being added by this bill. The implementation formula, adopted by the other body, reflects a desire to set out uniform participation levels but I believe all parties agree that the DOD should be allowed reasonable latitude to digest their disproportionately larger increase. It is the foremost intention of the authors that the program be flexible enough so that quality can be maintained.

Mr. HAYES. Mr. Speaker, I rise in strong support of S. 2941, the Small Business Research and Development Enhancement Act of 1992. I strongly supported this legislation when it was first passed by the House in August, and I am very pleased to move this bill to the President's Desk.

Whether you control a fortune 500 firm or a small business, it is clear that the current emphasis on competitiveness is critical in any decision you make. Our foreign competitors understand this. That is why in Germany and Japan, the Government and private industry cooperate in an effort to commercialize important technologies which will provide economic opportunity to their people.

S. 2941 and H.R. 4400, the House legislation sponsored by Congressman IKE SKELTON, seeks to do no more than is already being done in Germany and Japan. It will seek to increase American competitiveness by allocating funding to small businesses who work to commercialize Federal technology under the Small Business Innovation Research [SBIR] Program. It will increase the amount of money available to individual small businesses as well as to the program as a whole.

This bill also establishes some new provisions under the SBIR Program. One of the most important is the expansion of this program to the Department of Defense and the Department of Energy. Considering the vast amounts of money and research that have been poured into the Department of Defense in the last decade, it is important we begin to use this technology for our economic security as well as our military security.

S. 2941 will also establish the Technology Transfer Pilot Program [STTR]. This program will allow small businesses working nonprofit institutions to also commercialize important technology.

As our economy continues to struggle, I believe strongly that we must support legislation like this, which seeks to combine the best of our Government with the best and most vibrant companies in our economy. We have all been awed by American technology at work in the Desert Storm, now let us take our knowledge and apply it to job creation and economic growth in our country.

Mr. LAFALCE. Mr. Speaker, I am pleased to rise today in support of S. 2941, the Small Business Research and Development Enhancement Act of 1992. This legislation is the Senate counterpart to H.R. 4400, which passed the House by voice vote on August 11, and is similar to H.R. 4400 in most major respects. Like H.R. 4400, it would reauthorize and expand the successful Small Business Innovation Research Program [SBIR] and would establish a new Small Business Technology Transfer Program [STTR]. The expansion of SBIR will bring more than $1 billion annually in research grants and contracts to small businesses in this country, more than doubling the size of the existing program. And STTR will draw upon the talents of small businesses to tap into a vast new reservoir of commercially promising ideas that originate in the Nation's universities, Federal laboratories, and nonprofit research institutions.

Senator RUDMAN and I, and the many others who worked to establish the SBIR Program in 1982, look back at what we accomplished then with a great sense of pride. During its 10 years of existence, SBIR has established itself as perhaps the most effective technology program in the Federal Government. Study after study by the GAO and SBA show that this program generated a remarkable amount of innovation by small companies. The most recent GAO study documented that SBIR awards over 1984–87 generated more than $1 billion in commercial spinoff of innovative products and developmental funding, and are likely to generate $3 billion more by the end of 1993.

The significance of the program therefore transcends the small business community and the Federal R&D effort; it goes to the much larger issue of long-term economic growth in this country. In the effort to revive long-term growth, nothing is more important than new technology. Technological advance accounts for nearly 50 percent of growth in GNP per person employed during this century, according to growth-accounting studies. And so programs like SBIR and STTR, which can give a major impetus to technological innovation, may be the key to reversing the economic stagnation of the past 4 years and, indeed, of the past two decades.

The House version of this bill, H.R. 4400, was reported upon favorably by all three committees of the House that considered it—the Small Business Committee, the Armed Services Committee, and the Science, Space, and Technology Committee. In addition, we have worked in consultation with the Energy and Commerce Committee to make sure that its concerns were met.

I wish to recognize the important role of the chairman of our Procurement Subcommittee, IKE SKELTON, in developing the original SBIR reauthorization bill earlier this year and guiding it through our committee. Our ranking minority member, ANDY IRELAND, has played a critical part in this process with his forceful advocacy of a larger role for small business in the Federal R&D effort. And Congressman GLENN POSHARD deserves recognition for his role as the chief sponsor and advocate of the STTR Program.

The main differences between S. 2941 and H.R. 4400 are as follows. S. 2941 contains a slightly faster expansion of SBIR than H.R. 4400. Whereas H.R. 4400 would have increased the SBIR percentage to 2.5 percent by fiscal year 1998, S. 2941 increases it to 2.5 percent by fiscal year 1997. In addition, whereas H.R. 4400 would have given the agencies an opportunity to hold the program to 2.0 percent in fiscal year 1996, S. 2941 leaves the burden on Congress to slow the expansion if that is judged to be in the interest of the country. Both bills expand the base of extramural research from which the SBIR percentage is calculated.

The STTR Program has been scaled back somewhat compared to the House version. As included in S. 2941, STTR will be a 3-year pilot program, and will be funded through an allocation from the agencies' extramural R&D budgets, rather than from their total R&D budgets. Furthermore, Federal laboratory participation will be limited to the contractor-operated Federal laboratories. Finally, at the request of the Senate Appropriations Committee, the bill language was modified to make it clear that the Appropriations Committees have an ongoing role to play in this program. Specifically, in S. 2941, STTR is constituted not as an automatic allocation from extramural R&D budgets, but rather as an authorization which the Appropriations Committees can limit or otherwise circumscribe in the future, if they so choose. The authorizing committees, however, fully expect that the agencies will initiate and implement STTR programs, unless instructed otherwise in subsequent appropriations bills.

The Senate bill also contains an important provision offered by Senator WELLSTONE which could significantly improve the quality of research conducted under this program and rate of commercialization. This provision allows each agency to contract with one vendor, chosen through a competitive process, to provide technical assistance services to SBIR awardees. The agency can provide phase I awardees with access to such services in addition to the amount of the award, to be paid from agency SBIR budgets. The agency may also allow phase II awardees to purchase such services with their SBIR awards.

This provision was modeled on Minnesota Project Outreach, a State program which provides small companies with subsidized access to a national network of technical experts and to interactive literature searching. Direct, systematic evidence indicates that the Minnesota program has a strong and consistent effect on the productivity of small companies. In addition, a survey of all 17 SBIR companies in Minnesota that participate in the Minnesota program found an overwhelming consensus that the program has had a major effect on the quality of these companies' research and their ability to commercialize.

Mr. ASPIN. Mr. Speaker, I rise to urge my colleagues to support S. 2941, which reauthorizes and expands the Small Business Innovation Research [SBIR] Program.

Recognizing the untapped capabilities of our Nation's small high-technology firms, the Congress established the SBIR Program 10 years ago to strengthen the role of small innovative companies in Federal research and development. Since 1982, it has been one of the shining stars among small business programs.

For the Department of Defense alone, which provides the largest amount of SBIR funds of any of the 11 agencies participating in the program, the quality of SBIR research projects and the subsequent transferring of that research into useful commercial products has been outstanding.

We are taking steps today to extend the program into the year 2000 and expand it by increasing the percentage share of Federal R&D dollars going to small businesses, and broadening the pools of defense funds available for the program. While there is some concern that we may be doing too much, too fast, in expanding the program at the rate provided in S. 2941, I believe with proper congressional oversight and agency responsiveness, we will continue to have an excellent SBIR Program.

In addition, S. 2941 would establish a Small Business Technology Transfer [STTR] initiative. Within the Department of Defense, an STTR Program can play a key role in enabling researchers at our Nation's universities, and federally funded research and development centers to team up with small companies to bring new ideas from the research institution to the commercial marketplace. As provided in the legislation, the Defense Department would start a 3-year pilot STTR Program, funded through a small allocation from DOD's extramural R&D budget and subject to limitations that the Appropriations Committee may place on the program. This new initiative has a great deal of merit, and should be fully tested.

In conclusion, I again urge my colleagues to support S. 2941.

Mr. POSHARD. Mr. Speaker, I rise in support of S. 2941. Ten years ago, it was the vision of legislators like JOHN LAFALCE, IKE SKELTON, NEAL SMITH, ANDY IRELAND, WARREN RUDMAN, and others that resulted in the establishment of the SBIR Program. SBIR has turned out to be perhaps the most effective innovation program in the country. The legislation we consider today, S. 2941, is equally visionary. Not only does it significantly expand the SBIR Program, but it creates a new Small Business Technology Transfer Program—STTR—which I believe could be of historic importance. With the support and assistance of Chairman LAFALCE, I offered the amendment to create STTR in the Small Business Committee. I wish to express my gratitude to him, as well as to my colleagues IKE SKELTON, NICK MAVROULES, TIM VALENTINE, AND MARILYN LLOYD for their crucial support of this initiative as it worked its way through three committees.

The STTR Program provided for in S. 2941 is a somewhat smaller version of the program that was authorized in the original House bill, H.R. 4400. STTR, as provided for in S. 2941, will be a 3-year pilot program at five agencies. The program will be funded through an allocation from agency extramural R&D budgets, rather than from total R&D budgets, as in the original bill. Federal laboratory participation will be limited to those which are contractor-operated. And the legislation was modified in the

Senate to clarify that STTR is not an automatic allocation from agency R&D budgets, but rather is subject to limitations that the Appropriations Committees may place upon the program in subsequent legislation.

But, above all, I am pleased that the STTR concept will finally be implemented. I believe that, one day, we will regard this program as a landmark in the economic development of this Nation.

STTR will tap a technological resource of enormous proportions which, heretofore, we have not deployed effectively—our Nation's universities, Federal laboratories, and nonprofit research institutions. These institutions employ 1 in 4 scientists and engineers in the United States, and perform more than $40 billion in research and development each year. They have brought this Nation to undisputed world leadership in basic research and many areas of applied research. They have generated the research breakthroughs that made the United States a military superpower in the post-war era.

The quarter of a million scientists and engineers in these insitutions often recognize important commercial applications of their research. But the way that research funding works in this country, there is no efficient mechanism enabling these scientists and engineers to pursue these commerical applications. Regular research grants generally do not fund commercially oriented research, and these researchers cannot participate in the SBIR Program in a significant way as long as they remain primarily employed at the university.

And so, many potential commerical applications languish in the research laboratory and never see the light of day. That is true at research institutions in my State, Mr. Speaker, and across the United States, from the research triangle in North Carolina, to the national laboratories in Tennessee and New Mexico, to the great research universities of California. The result, as the MIT Commission on Industrial Productivity has noted, is the "the scale of the [U.S.] scientific enterprise is unequaled, and [the United States] is second to none in making new discoveries. Yet U.S. companies increasingly find themselves lagging behind their foreign rivals in the commerical exploitation of inventions and discoveries."

We cannot go on wasting the talent of one-quarter of our Nation's scientists and engineers and expect to compete in the world economy of the 21st century. We must learn to be first not only in the generation of new knowledge, but in the commerical exploitation of that knowledge.

STTR will be an important step in that direction. STTR will allocate a small percentage of the Federal R&D budget to fund cooperative R&D projects involving a small company and a researcher at a research institution. STTR will thus join together two powerful forces for technological progress—the entrepreneurial talent of small businesses and the innovative ideas of the thousands of scientists and engineers in the Nation's research institutions. John Preston, Director of Technology Licensing at M.I.T. and Lincoln Laboratories, has testified that:

> The STTR proposal would supply funding at the most critical point in technology commercialization—before investors are willing to make risk investments, and after Government research funding sources consider the project too commercial to fund. Much of our technology has languished in this gap only to be recognized by foreign competitors and developed abroad. There is no question in my mind that the STTR program would strengthen U.S. competitiveness.

Specifically, under STTR as enacted, each of the five Federal agencies whose extramural R&D budget exceeds $1 billion per year will allocate a small percentage of that budget to fund cooperative R&D projects involving a small company and a researcher at a university, contractor-operated Federal laboratory, or nonprofit research institution. Each STTR project will thus join the scientific and technical expertise of the researcher, and the entrepreneurial expertise of the small company. The STTR percentage will start at 0.05 percent in fiscal year 1994, which amounts to about $22 million, and will rise to 0.15 percent by fiscal year 1996. As under SBIR, the research project will have to support the mission of the sponsoring agency.

Whereas SBIR exploits commercially-promising ideas that originate in the small business community, STTR will exploit a vast new reservoir of commercially promising ideas that originate in universities, Federal laboratories, and nonprofit research institutions. Thus STTR, I believe, could create the kind of small business, high-technology economic development now seen along Route 128 in Massachusetts and in Silicon Valley in California, around research institutions across the United States.

The STTR proposal recognizes that small, high-technology companies are the best vehicle for innovation in the economy. Studies commissioned by the National Science Foundation and others indicate that, on average, small companies contribute 2½ times more innovations per employee than large firms. They also contribute a disproportionately large share of the most significant innovations, including such notable examples as the small computer, Apple; the supercomputer, Cray; the planar integrated circuit, Fairchild; the instant camera, Polaroid; and the Xerox copier, Haloid.

Moreover, studies show that university collaboration with small companies in R&D, such as that envisioned by STTR, has a potent effect on innovation—more potent than company R&D performed solely in a company laboratory. Route 128 in Massachusetts and Silicon Valley in California are centers of high-technology economic development precisely because of university interaction with small, innovative companies.

Mr. Speaker, at this point I would like to address a number of specific questions that have arisen regarding the proposed STTR program.

What is the purpose of the STTR program?

STTR would be a vehicle for converting the Nation's $40-billion-per-year investment in research at universities, Federal laboratories, and nonprofit research institutions into new commercial technologies, in order to advance U.S. economic competitiveness and high-technology economic development. To move ideas from the research institution to the market, STTR would draw upon the talents of small, innovative companies, and use an approach parallel to that of the successful SBIR Program.

How would STTR complement the existing SBIR program?

SBIR exploits commercially-promising ideas which originate in the small business community, and university involvement in SBIR projects, while common, tends to be in a minor consulting or subcontracting role. STTR would use small companies to exploit a vast new reservoir of commercially-promising ideas which originate in universities, Federal laboratories, and nonprofit research institutions.

While the two programs would be separate and distinct, they would both harness the ability of small businesses to innovate and commercialize research.

Why does STTR fund cooperative R&D between small companies and research institutions? Is that the best way to move ideas from the institution to the marketplace?

A large body of evidence indicates that university collaboration with small companies in R&D has a potent effect on innovation—more potent than company R&D performed solely in a company laboratory. That has been established in systematic studies of emerging industries like biotechnology as well as more established manufacturing industries, and is evident in the examples of Route 128 and Silicon Valley.

Since such collaboration is so important, it makes sense to create a separate pot of money [STTR] which can only be accessed through such collaborations. That creates a strong incentive for researchers and small companies to find each other and work together, because the only way they can access STTR funding is by working together. The program also gives the research institutions themselves a strong incentive to facilitate R&D collaborations between their researchers and small companies, because only through such collaborations can the institutions and their researchers access STTR funding and patent royalties.

Why does STTR target small companies as the vehicle for moving ideas from the research institution to the marketplace?

According to the evidence, small companies are best suited for the job. Recent studies show that, on average, small companies contribute 2.5 times as many innovations per employee as large companies, and also contribute a disproportionately large share of the most significant innovations. As discussed earlier, other studies show that university collaboration with industry—and particularly with small companies—has a potent effect on innovation.

Wouldn't STTR drain agency research budgets at a time when those budgets are declining?

No. STTR, like SBIR, does not take a dime out of agency research budgets. Rather, it directs each agency to spend a small percentage of its R&D budget with certain performers of R&D—namely, small companies working cooperatively with research institutions. If the record of SBIR is any indication, that small reallocation of R&D performers will not adversely affect the agencies' research programs. The record is very clear on this with respect to SBIR—all 11 agencies that participate in that program report that it has had a positive impact on their research programs, and GAO found that the quality of SBIR research compares favorably with that of other agency research. There is every reason to believe that STTR would, likewise, sponsor mission-oriented research of the highest quality.

What effect would STTR have on basic research?

I believe that basic research in this country would be an important beneficiary of the STTR Program, because public support for funding of basic research depends ultimately on whether the public can see tangible evidence of a payoff to the economy and to the quality of life.

The Federal Technology Transfer Act of 1986 established procedures for cooperative R&D involving Federal laboratories. How would STTR dovetail with the 1986 act?

STTR would build upon the framework established in the Federal Technology Transfer Act. That act set up the basic statutory and regulatory structure on which STTR is built. It set up the Cooperative Research and Development Agreement [CRDA] mechanism at the Federal laboratories. It enabled Federal laboratory researchers to benefit financially from their patented inventions. And it directed the agencies to develop the conflict of interest regulations that govern cooperative R&D. STTR would operate within this existing statutory and regulatory structure and would not change it.

By almost all accounts, we are only beginning to tap the vast potential or our Nation's Federal laboratories and universities, despite more than 10 years of technology transfer legislation. What STTR would do is to dramatically accelerate the process—dramatically increase collaborations between researchers and companies—because it would add to the existing statutory and regulatory structure a very powerful incentive: money. STTR would, for the first time, establish a pot of money which can only be accessed by research institutions working collaboratively with small companies. Research institutions which sit on their hands and don't get into the technology transfer business will not get any of the STTR money. But research institutions which are good at linking their researchers with small companies will get a share of the STTR money, and will also get a share of the resulting patent royalties. And so, STTR would create a healthy competition among research institutions for technology transfer funding, and that competition could do dramatic things for economic development in this country.

How important would the Federal laboratories be in this program?

The Federal laboratories perform over $20 billion in R&D each year, or 14 percent of all R&D done in this country in both the public and private sectors. They are, by most accounts, an enormous—and largely untapped—reservoir of commercially promising ideas. STTR would provide a systematic mechanism for moving such ideas to the market, without impairing the missions of the laboratories.

The STTR legislation, as it passed the House, included all Federal laboratories. But because of concerns in the Senate Small Business Committee about the participation of Federal employees in this program, the legislation as enacted restricts Federal laboratory participation to the contractor-operated Federal laboratories.

Is there precedent for university or Federal laboratory researchers benefiting financially from federally funded research?

The precedent is well-established in existing law. For example, the Federal technology Transfer Act of 1986 requires the agencies to give Federal laboratory investors 15 percent of the patent royalties from their inventions, and to develop a cash awards program for such inventors. Similarly, the Bayh-Dole Act of 1980 provides that Federal R&D contractors which are small businesses, universities, or nonprofits retain the patent rights to inventions resulting from their R&D contract. The purpose of both of these laws was to give performers of Federal R&D the financial incentive to commercialize their research, because of the tremendous benefit that innovation represents for the economy.

It is important to remember that, as under SBIR, all research funded under STTR must support the mission of the sponsoring agency—it must respond to an agency R&D need or interest as set forth in the agency's STTR solicitation. Thus, although a particular STTR research project may result in a financial benefit to the researcher, the project will also meet an R&D need or interest of the Federal Government.

Does the STTR legislation contain any safeguards to prevent conflict of interest problems that may arise when researchers collaborate with industry?

Yes, the legislation gives the agencies 1 year to develop procedures to address such issues of conflict of interest in accord with existing law. To a large extent, these conflict of interest issues have been addressed in previous legislation, such as the Federal Technology Transfer Act of 1986, and in existing agency rules. STTR does not conflict with any existing conflict of interest statutes.

In addition, the STTR legislation provides that, in STTR projects, the small business would contract with the research institution itself, rather than with the individual researcher who will be involved in the collaboration. This will give such institutions the ability to oversee the conduct of their researchers and to prevent systematic conflict of interest problems.

Mr. MAVROULES. Mr. Speaker, we are considering a bill to reauthorize a very important small business program through the year 2000. Begun 10 years ago, the Small Business Innovation Research Program is perhaps one of our most successful small business programs—giving small high-technology firms the opportunity to prove themselves in the Federal R&D arena, which traditionally involved only large businesses and universities.

Today, we are able to consider legislation to extend and expand this important program thanks to the tireless efforts of my good friend, Congressman IKE SKELTON. Because of his initiative, we are guaranteed of having an SBIR Program as we enter the 21st century.

In early August, we debated and approved Congressman SKELTON'S proposal, H.R. 4400, which would continue the program for another 7 years, increase the percentage set-aside for SBIR to 2.5 percent by 1998, and expand the pools of money available from the DOD pot.

Three committees—Small Business, Armed Services, and Science, Space, and Technology—had input in crafting H.R. 4400. And an identical proposal, applying only to the Defense Department's SBIR Program, was inserted in the DOD authorization bill.

The bill we consider today, S. 2941, is slightly different than Congressman SKELTON'S original proposal, especially in a couple of critical areas that impact upon the Department of Defense. The statements of Congressman HOPKINS and SKELTON, which I fully agree with, make note of this.

Both measure remove the current statutory exclusions on certain DOD and DOE research funds—the atomic energy research done by DOE, and the operational research, the so-called 6.6 funds of DOD. By doing so, we will be adding approximately $81 million to the SBIR Program each year. Coupled with the percentage increase to 2.5 percent, the size of the DOD program will almost triple.

Although I am certain that DOD will benefit if the SBIR Program could tap into those funds, we need to ensure the high quality that has been the trademark of the SBIR Program to date. That is why H.R. 4400 called for an assessment, to be done at the 2-percent level of the quality of the proposals being received. If the report was positive, then the program would automatically increase to 2.5 percent; if not, the program would remain at the 2-percent level. I think its important to maintain the integrity of the SBIR Program.

However, S. 2941 deletes this absolute determination instead asking that the Secretary of Defense make a recommendation to Congress. Under S. 2941, the 2.5-percent level would be achieved by 1997—unfortunately that's not a lot of time for Congress to consider any recommendations made by DOD. Since we are practically tripling the DOD program, the additional year allowed under H.R. 4400, would have given Congress time to thoroughly review the full impact of the changes on the DOD SBIR Program. Due to the late date at which we are considering this bill, we have not had an opportunity to have a conference on this bill and resolve the differences between S. 2941 and H.R. 4400. Instead, we are faced with accepting the Senate bill as is, or risking our chances at having a bill altogether. Given that choice, I believe it imperative that we proceed with adoption of the Senate bill, knowing that we may find ourselves having to revisit this issue in the future.

I think we owe it to DOD and our Nation's small high-technology firms that the changes we make today will ensure a topnotch, highly competitive SBIR Program for the 21st century.

Again, I commend Congressman IKE SKELTON for his foresight, and I urge my colleagues to support S. 2941.

Mr. BROWN. Mr. Speaker, I rise in support of the compromise version of H.R. 4400, the Small Business Research and Development Enhancement Act of 1992, and ask my colleagues to add their strong support to this measure. I wisk to thank Chairman LAFALCE and Subcommittee Chairman SKELTON for their cooperation with the Committee on Science, Space and Technology and their willingness to incorporate many of our views in the final product. I feel we have arrived at a version of H.R. 4400 which should be a source of pride for each of its many authors.

Expansion of the SBIR Program comes at a time of great challenge for America in high technology. We have just completed a decade when an abnormally high percentage of our Government's and country's research and development effort has been directed to national defense or at least supported by our defense infrastructure. The end of the cold war and the crumbling of our major military competition suddenly makes much of this research far less relevant and decreases our ability to depend on Department of Defense spinoffs for our commercial well-being. At the same time, we are facing a record level of sophistication from the overseas competitors of American civilian manufacturers. The need for a redirection of resources has never been greater.

H.R. 4400 will contribute to our defense conversion effort in a number of ways. In testimony before the Committee on Science, Space, and Technology we have heard repeatedly that small high-technology businesses are currently financially constrained. Venture capital is scarce; banks are reluctant to take chances. A doubling of the SBIR resources will fund a much higher percentage of the creative ideas these companies are anxious to develop and market. The increases in the sizes of the phase I and phase II grants are long overdue as well. Research and development costs for small business have increased rapidly since the levels were originally set, so it is time for more reasonable allotments. The act's increased emphasis on commercialization of technology should pay dividends as well.

The companies to be supported by these grants are a large part of our hope for a prosperous future and the programs contained in the legislation are well-designed and carefully thought out. Therefore, I urge our colleagues to give their overwhelming approval to this important legislation.

Mr. SKELTON. Mr. Speaker, I wish to present an analysis of the current SBIR Program.

HOW THE SBIR PROGRAM WORKS

Under the SBIR program, each of the 11 Federal agencies with extramural R&D budgets in excess of $100 million per year is required to earmark at least 1.25 percent of that budget to fund research projects at small businesses. The purpose is to use small, innovative businesses to meet the Federal agencies' R&D needs, and thereby stimulate the development of new commercial technologies and innovations to benefit the economy.

EFFECTIVENESS OF SBIR

During its 10 years of existence, the SBIR Program has established itself as one of the most effective technology programs in the Federal Government:

A 1992 report of the National Academy of Sciences recommended an increase in the size of the program, describing SBIR as "a important program that supports civilian technology development."

A 1989 GAO study found that the quality of SBIR research was at least comparable to the quality of other agency-funded research, and was in some cases better. The study also found that SBIR research was significantly more likely to lead to innovation than non-SBIR research.

All 11 agencies which participate in the SBIR Program report that it has had a favorable impact on their research programs.

A 1992 study by GAO found that the SBIR Program has been strikingly successful in stimulating the development of new commercial products. The study found that SBIR awards over 1984–1987 generated more then $1 billion in new commercial activity, and are expected to generate more than $2 billion in additional commercial activity by the end of 1993.

A House Armed Services Committee panel on the defense industrial base—the McCurdy panel—recently called for a doubling of the size of the Defense Department's SBIR Program, as did the Senate Republican Task Force on the Adjustment of the Defense Base.

Typical of the views of the Federal agencies is this comment from a report of the Secretary of Health and Human Services:

> * * * SBIR has succeeded in filling a variety of scientific gaps in the Public Health Service's research programs * * *. More than any other single feature, the SBIR program has clearly accelerated the translation of research findings into useful and marketable products. SBIR awardees have sought innovative means of exploiting fundamental knowledge and technology to develop products that are not only cleverly designed but meet a market need.

In all the reports, no waste fraud or abuse has been found. None.

The White House strongly endorsed the program and called for doubling.

The SBIR bill adopted by the Small Business Committee, as amended by the Armed Services Committee and the Science and Technology Committee:

General explanation

H.R. 4400, as reported by the Small Business Committee, the Armed Services Committee, and the Science and Technology Committee, changes existing law in four ways:

First, H.R. 4400 would have reauthorized and expand the SBIR Program. It would reauthorize the program for 7 more years, until October 1, 2000. It would gradually increase the set-aside percentage starting in fiscal year 1994, from the current 1.25 percent to 2.5 percent in fiscal year 1997—5 years. To insure that the program does not out grow its small business base, the GAO and each participating agency head will conduct a study after 3 years and the program will be capped at 2 percent at that point if it is having growth problems.

Second, H.R. 4400 and S. 2941 would increase the program's emphasis on commercialization of SBIR research done for the Federal Government.

Third, H.R. 4400 and S. 2941 would enhance the protections for participating small businesses in the following areas: data rights, timely payment of award money, use of equipment, and subsequent agency work resulting from an SBIR project.

Fourth, H.R. 4400 would create a Small Business Technology Transfer [STTR] Program. STTR would be a separate but parallel program to SBIR, which would use small, innovative companies to commercialize research at universities, Federal laboratories, and nonprofit research institutions through joint ventures. This is a pilot program funded over 3 years to test the structure of STTR.

THE INCREASED LEVEL OF SBIR IS WARRANTED

The Small Business Committee maintains—with the concurrence of the other committees—that the success of the program has earned it the right to a higher percentage.

In 1982, the original SBIR proposal set the award level at 3 percent of extramural R&D budgets. Some jointly referred committees expressed concern about devoting the full portion to an untried program, preferring to test the concept at a much more limited level and withholding complete support until SBIR proved itself—1.25 percent was finally agreed to and some types and categories of research were excluded—particularly intelligence areas, nuclear areas, and applied research.

As explained above, the SBIR Program has been thoroughly studied and has now proved itself successful beyond anyone's expectations. Indeed, other nations have studied the program and copied it. The commercialization program has garnered praise for its effectiveness and its unique ability to deliver innovative ideas to the marketplace by leveraging Federal technology using private sector investment and techniques. Based on GAO research, fully 27 percent of SBIR phase II winners commercialize their research.

When compared to other private research purchases by the Federal Government, the SBIR share is truly modest. According to estimates by the Office of Technology Assessment, the Federal Government can expect to spend $75 billion for R&D in fiscal year 1992. Of that, $38 billion will be spent for "extramural" R&D—the pot that pays for university research, SBIR, and so forth. Of that $38 billion, the Nation's 3,500 colleges and universities will receive $15 billion—with 84 percent, or $13 billion, going to the top 100 institutions. SBIR firms will receive about $460 million, or about 3.5 percent of the amount universities receive.

At the 2.5 percent level recommended by the committees, SBIR firms will win just under $1 billion—after 5 phase-in years—or about 6 percent of what all universities get and only half of what the Nation's top 10 university winners receive. When you consider, as agency project officers have, that SBIR participants are twice as likely to commercialize their innovations, it becomes clear that this small investment will pay for itself in jobs, growth, and increased tax revenue.

The Small Business Committee argued that, having proven itself worthy, the SBIR had earned its wings and deserved the opportunity to be restored to the level originally proposed—3 percent with all extramural budgets restored. The Armed Services Committee and the Science Tech Committee have reached a compromise which doubles the program—2.5 percent—over 5 years. This would include new categories such as nuclear energy and applied research. This level was adopted by the Senate in their bill S. 2941. To allay their concerns about the adequacy of the small business base to support such growth, we have agreed to a review of the program once we reach the 2 percent level, with DOD making a recommendation about the impact of the growth to that point on the quality of research in the program. We believe that the Secretary of Defense and the GAO, which will be performing a companion study, will find small business fully able to meet the Government's research needs.

STTR IS NEEDED

Purpose of STTR

SBIR has been remarkably successful at cultivating commercially promising ideas within the small business community. STTR, by contrast, is designed to exploit a vast new reservoir of commercially promising ideas in universities, Federal laboratories, and nonprofit research institutions, using an approach parallel to that of SBIR. STTR would thereby foster the kind of small business, high-tech economic development now seen along route 128 in Massachusetts and Silicon Valley in California, around research institutions across the country. At the same time, STTR would—like SBIR—sponsor top-quality research that meets the Government's R&D needs.

How STTR would work

Under STTR, each Federal agency whose total R&D budget exceeds $1 billion per year would earmark a modest 0.25 percent of that budget to fund cooperative research projects involving a small company and a researcher from a university, Federal laboratory, or nonprofit research institution. Each STTR research project would thus combine the two elements that are essential for successful innovation—the scientific and technical expertise of the researcher, and the commercialization expertise of the small company. As under SBIR, each research project would support the mission of the sponsoring agency.

STTR addresses key problem in U.S. competitiveness

Our inability to translate our leadership in research into economic advantage. As the MIT Commission on Industrial Productivity has written:

> * * * the nation's technological strength depends on far more than the health of its research laboratories, important as that is. Prowess in research does not lead automatically to commercial success * * *. The United States is still unarguably the leader in basic research. The scale of its scientific enterprise is unequaled, and it is second to none in making new discoveries. Yet U.S. companies increasingly find themselves lagging behind their foreign rivals in the commercial exploitation of inventions and discoveries.

Transfer mechanism needed

What is needed is an effective, systematic "technology transfer" mechanism to move new knowledge from the research institution to industry, where it can be used for the Nation's economic benefit. STTR would provide that mechanism. As John Preston, director of technology licensing at MIT and Lincoln Laboratories, has testified:

> The STTR proposal would supply funding at the most critical point in technology commercialization—before investors are willing to make risk investments, and after Government research funding sources consider the project too commercial to fund. Much of our technology has languished in this gap only to be recognized by foreign competitors and developed abroad. There is no question in my mind that the STTR Program would strengthen U.S. competitiveness.

Necessary safeguards are provided to small business participants

Clarifies that phase 1 and phase 2 awards process satisfies the Competition in Contracting Act for the award of a phase 3 contract by an agency and specifically authorizes the agency to make such an award based on the competition.

Requires agency to experiment with broad topics which small R&D businesses participate in writing and refining. Also stresses topics and proposals which would address "National Critical Technologies."

Requires agencies to make final payment "in lieu of audit" within 12 months after completion of their research or research and development.

Extends small businesses rights in the data they have developed from 2 year to 4 years.

Instructs SBA to develop help agencies develop "gap funding" mechanisms.

Requires agencies to extend their outreach to minority owned and women-owned businesses.

Permits small business participants to continue to use property they have developed for 2 years as long as they are actively pursuing phase 3 commercialization.

Requires agencies to use awardees "to the extent practicable" if the agency chooses to go further with the project or production.

Increases the phase 1 award ceiling from $50,000 to $100,000 for small businesses.

Increases the phase 2 award ceiling from $500,000 to $750,000

Requires the reporting to SBA of any "single proposal" awards.

Requires the GAO to report on the following:

Progress of the increase in the program and ability of the small business high technology community to provided top quality research in view of the growth;

Progress in implementing commercialization;

Amount of sole source awards;

Random audits of the base budget;

Ability of Small Businesses to sustain, participation of disadvantaged small businesses;

An analysis of gap-funding efforts;

Foreign ownership and participation in SBIR.

Addressing multi-winner commercialization

The GAO report indicated that Congress should continue to observe multiwinners, those who win five SBIR awards or more. Their level of commercialization appeared to be low when compared to participants who have won less. Testimony at our hearings made clear, some multiwinners who have not commercialized up to the so-called average are doing complex long-term projects that will have real value for our Nation. S. 2941 requires businesses who won 15 phase 2 awards over the past 5 years to report on their efforts to commercialize. Agencies would keep track of this information, and the GAO would report the results in their report. In this way Congress would have the information necessary to know if there was a problem.

The House included in its report on H.R. 4400, for example, a diagram from Foster Miller, Inc., one of our largest SBIR winners, showing the fascinating, yet unbelievably complex network of projects they are doing in just one area—liquid crystal polymers. They also demonstrated, for example, that only 18 percent of their income comes from SBIR and that they themselves produce many of the products that are the products of their research.

In conclusion, the SBIR Program is neither a giveaway nor a set-aside. There is ample proof in the record these businesses have provided first-class, top quality research that benefits the agency and benefits the taxpayer by providing jobs, exports, and a higher standard. I can only hope that all agencies will do as some agencies have done and increase this program on their own above the floor level we seek to set today. This is not a set-aside for small businesses; it is instead a gold mine for our country, and we should be using programs like this to point the way into the 21st century.

Mr. IRELAND. Mr. Speaker, I yield back the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Missouri [Mr. SKELTON] that the House suspend the rules and pass the Senate bill, S. 2941.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PROFESSIONAL AND AMATEUR SPORTS PROTECTION ACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 474) to prohibit sports gambling under State law, as amended.

The Clerk read as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional and Amateur Sports Protection Act".

SEC. 2. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) IN GENERAL.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§ 3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A), "(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including on lands described in section 4(4) of such Act (25 U.S.C. 2703(4)),

"(3) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more professional athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(4) the term 'person' has the meaning given such term in section 1 of title 1, and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§ 3702. Unlawful sports gambling

"It shall be unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

"§ 3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States, or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of such violation.

"§ 3704. Applicability

"(a) Section 3702 shall not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme was conducted by that State or other governmental entity at any time during the period beginning January 1, 1976, and ending August 31, 1990;

"(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity where both—

"(A) such scheme was authorized by a statute as in effect on October 2, 1991; and

"(B) a scheme described in section 3702 (other than one based on parimutuel animal racing or jai-alai games) actually was conducted in that State or other governmental entity at any time during the period beginning September 1, 1989, and ending October 2, 1991, pursuant to the law of that State or other governmental entity;

"(3) a betting, gambling, or wagering scheme, other than a lottery described in paragraph (1), conducted exclusively in casinos located in a municipality, but only to the extent that—

"(A) such scheme or a similar scheme was authorized, not later than one year after the effective date of this chapter, to be operated in that municipality; and

"(B) any commercial casino gaming scheme was in operation in such municipality throughout the 10-year period ending on such effective date pursuant to a comprehensive system of State regulation authorized by that State's constitution and applicable solely to such municipality; or

"(4) parimutuel animal racing or jai-alai games.

"(b) Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) CLERICAL AMENDMENTS.—The table of chapters for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure .... 3001",

and

(2) by adding at the end the following:

"178. Professional and Amateur Sports Protection .... 3701".

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on January 1, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS]

The purpose of this legislation is to stop the spread of legalized gambling on sporting events. It would prohibit States from operating or authorizing any lottery or other gambling scheme based on professional or amateur sports events. It also would permit the U.S. Government or an affected sports organization to sue to enjoin such gambling activity.

Mr. Speaker, the framework of this amendment is the sports gambling provision which was included as part of the conference report on the crime bill which the House passed last November. Regrettably, the crime bill was held hostage for 10 months in the other body. Now that the larger effort has been stymied, I feel it is important to move this crucial legislation separately.

For so many of us, the playing field is the crucible where character, drive and team effort is formed and developed. It is of paramount importance that we safeguard and protect both the image and reality of integrity in sports from the corrupting influence of gambling and the enticements of money on the American tradition of free and honest athletic competition.

I want to commend my colleague from Texas, Mr. Bryant, as well as the ranking minority member of the committee, Mr. FISH, who have taken a lead on this issue. I also want to note the contribution of the distinguished gentleman from New Jersey [Mr. HUGHES] who has worked hard to safeguard the interests of his home State within the framework of this legislation while fully supporting the laudable goal of the legislation.

Time is of the essence in pursuing the aims of S. 474, and I urge its swift passage today.

Mr. HUGHES. Mr. Speaker, I rise in support of S. 474, the Sports Betting Act, as admended by the House.

Under this legislation, legalized betting on amateur and professional sports would be prohibited in all States except Nevada, Oregon, Delaware, and Montana, where it has previously been approved by the voters of those States.

The legislation also includes an amendment which I wrote which would exempt New Jersey from this ban until January 1, 1994. The purpose of this exemption is to give the voters of New Jersey a 1-year opportunity to decide for themselves if they want to legalize sports betting in Atlantic City's casinos.

I believe this exemption is warranted because of New Jersey's unique role in the gaming industry.

As most of you know, New Jersey has had a highly regulated, legalized gaming industry in place in Atlantic City since 1978. There is no other State in the country except Nevada which has a comparable, state-regulated gaming industry.

New Jersey and Nevada are in direct competition when it come to the gaming industry. Nevada already had legalized sports betting in place in its cansinos. New Jersey has been considering this issue, but has not put it on the ballot as yet.

It just would not be fair for Congress to give Nevada a virtual monoply on sports betting, without first giving New Jersey residents the opportunity to vote on this proposal and decide it for themselves.

My amendent does not in any way guarantee that a sports betting referendum will be placed on the ballot in New Jersey or that it will pass. Indeed, this is a very controversial and emotional issue in may State, and the legislature decided earlier this year not to place a sports betting referedum on the ballot this November.

This legislation is very carefully drawn so that the exemption applies only to Atlantic City, and gives the State only until January 1, 1994 to authorize such a betting program.

Mr. Speaker, the House previously approved this exemption for New Jersey when I added it to the crime bill, and I would hope my colleagues would do the same this time as well.

This is not a vote in favor or legalizing sports betting in New Jersey. Only the voters or New Jersey can do that. This bill would simply give them the chance to decide this issue on their own, and not have the Federal Government decide it for them.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased that this important measure is being considered in the House of Representatives today. I am the principal Republican sponsor of the House version of this legislation—H.R. 74—introduced by my Judiciary Committee colleague, Congressman JOHN BRYANT of

Texas. I want to compliment Congressman BRYANT for the leadership role he has taken in this effort and for the excellent work he has done on behalf of its enactment. I also want to express my appreciation to Chairman BROOKS for bringing this bill to the floor at this time.

Our version was favorably reported by the Subcommittee on Economic and Commercial Law on September 17, 1991. Subsequently, the text of H.R. 74 was included as title XXI in the Omnibus Crime Control Act—H.R. 3371—and passed the House of Representatives on October 22, 1991. It then was included as title XXX in the conference report on that same measure and again passed this House on November 27, 1991. However, because agreement could not be reached on the crime legislation our purposal has languished. Now we have the opportunity, in the waning hours of the 102d Congress, to resuscitate this bill.

This legislation would prospectively prevent States from authorizing any new forms of sports gambling or expanding existing sports lotteries. S. 474 would not apply to the Oregon sports lottery, which has instituted prior to introduction of the legislation, to private sports gambling in Nevada nor to parimutuel racing. In addition, this legislation would not preempt the State of Montana from conducting sports pools, which are capped at $1,000; the State of North Dakota which allows sports pools based on the outcome of professional sporting events if conducted by qualified organizations; and the State of Arizona which allows social gambling to include wagering on the outcome of sporting events up to $100.

Under this legislation, civil actions for declaratory and injunctive relief, to enjoin violations of the law by any State, could be brought by the Department of Justice or any affected sports organization. Furthermore, this legislation would not affect lotteries with a sports theme, as long as the lottery winners are not selected on the basis of the outcome of actual games between existing teams. Existing prohibitions, particularly regarding the use of trademarks, would remain fully applicable to all activities.

I would like to stress that I am a long-time supporter of State-conducted and State-operated lotteries. In the last two decades the growth of State lotteries in the United States has been dramatic. These lotteries have provided a new important and needed source of revenue for important programs at both the State and local level. In my own State, the New York Lottery has been in operation since 1967 and continues to be a great success story. The New York Lottery has raised over $6 billion for education in my State.

However, I do not believe that it is either wise or necessary for the States to use the results of professional and/or collegiate sporting events as the basis for determining their lottery winners. This is not a debate about the existence or advisability of State-sponsored lotteries. The issue is whether or not widespread State-sponsored or State-sanctioned sports gambling would be a positive development in our society.

In my view, the establishment of sports-based State lotteries would have a number of adverse consequences. First, it threatens to undermine public confidence and the integrity of the games themselves. Mere breaks of the game or strategy choices by coaches would become the source of suspicion and cynicism—unfairly subverting the honesty of what transpires on the field. Close or controversial calls would be viewed differently because of their impact on lottery winnings. The bottom line is that coast-to-coast gambling would threaten the credibility of popular sports events.

Second, sports-based lotteries could convert team sports from wholesome family entertainment into a mere vehicle for gambling. It would communicate very negative values about sports and the legitimacy of sports events to America's youth. Widespread State-sanctioned sports gambling could encourage young people to gamble in increasing numbers. Many successful athletes are inspirational role models for our Nation's youth; we simply should not allow anything to change that situation. There should not be a connection between sports and gambling in the minds of our young people.

Third, the further legalization of team sports betting by a State or municipality would increase the chances that persons gambling on games would attempt to influence the outcome of those games. Congress has already recognized this as a national problem by adopting provisions in the Federal Criminal Code with outlaw conspiracy and bribery aimed at influencing the outcome of a sports event. Senator Ken Keating of New York sponsored that legislation in the mid-1960's.

Fourth, State government sponsorship of sports lotteries would carry with it the unintended symbolism of legitimacy. If a large number of States and localities make betting on sports a public institution, they are really incorporating it into the fabric of public policy and implicitly giving it the stamp of an official sanction. Furthermore, sports lotteries would be trading on the property and goodwill of others. For example, no one has an unrestricted right to use such legendary names as "New York Yankees", "Boston Celtics", or "Chicago Bears" for their own profit. The trademarks, logos and business goodwill of professional and collegiate sports teams are their property and on one else's.

In summary, Mr. Speaker, the various State lotteries have been a financial success without having their winnings depend upon the outcome of football, baseball, basketball or hockey games. There is simply no reason to change what has been a successful system at the cost and expense of the legitimacy of professional and collegiate sports in the United States. I am hopeful we can enact this bill before 102d Congress adjourns.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 474, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An Act to prohibit sports gambling under State law, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LAND MANAGEMENT AGENCY HOUSING IMPROVEMENT ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1704) to improve the administration and management of public lands, national forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost-effective housing for employees needed to effectively manage the public lands, as amended.

The Clerk read as follows:

S. 1704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. SHORT TITLE.

This title may be cited as the "Land Management Agency Housing Improvement Act of 1992".

SEC. 102. DEFINITIONS.

As used in this title,

(1) the term—"Secretaries" means the Secretary of the Interior and the Secretary of Agriculture,

(2) the term—"agency" refers to the Forest Service in the Department of Agriculture, and to the National Park Service, the United States Fish and Wildlife Service, the Bureau

of Land Management, the Bureau of Reclamation, and the Bureau of Indian Affairs in the Department of the Interior.

(3) the term—"suitable quarters" means well-constructed, and well-maintained housing appropriate to the individual and family needs of the employee.

(4) the term—"field employee" means an employee who is exclusively assigned to perform duties at a field unit (including but not limited to a national forest, national park, or national refuge). Such term does does not include any person assigned to any regional or central office except those employees who are grade nine or below on the General Schedule.

SEC. 103. SURVEY OF QUARTERS.

(a)(1) Within one year after enactment of this Act and each four years thereafter, the Secretaries shall conduct and submit to the Committees on Interior and Insular Affairs and Appropriations of the United States House of Representatives and the Committees on Energy and Natural Resources and Appropriations of the United States Senate a study of suitable quarters available for field employees of the Department of the Interior and the Department of Agriculture. The study shall expand upon existing studies and information available.

(2) The study shall analyze the distinct needs of permanent and temporary employees, as well as the particular needs of employees located in isolated, urban, and high-cost areas. The study shall be undertaken in consultation with employees, their families, experts in real estate, architectural consultants, and employee organizations.

(b) The study shall include an analysis of—

(1) the availability and affordability of suitable quarters at field units under each Secretary's jurisdiction;

(2) non-Federal suitable quarters available for field employees with recommendations for alternatives to Federal suitable quarters; and

(3) appropriate public and private partnerships for increasing the availability and affordability of suitable housing for field employees, considering the particular needs of field employees.

(c) The first such study shall also include an analysis of the benefits and disadvantages to the agency and to employees of "required occupancy" of federal quarters.

SEC. 104. SURVEY OF EXISTING FACILITIES.

(a) Within one year after the date of enactment of this Act, the Secretaries shall survey all existing governmental owned employee housing facilities under the jurisdiction of the Department of the Interior and the Department of Agriculture to assess the physical condition of such housing and the suitability of such housing for the effective prosecution of the agency mission. The Secretaries shall develop an agency wide priority listing, by structure, identifying those units in greatest need for repair, rehabilitation, replacement or initial construction, as appropriate. The survey and priority listing study shall be submitted to the Committees on Interior and Insular Affairs and Appropriations of the United States House of Representatives and the Committees on Energy and Natural Resources and Appropriations of the United States Senate.

(b) Unless otherwise provided by law, expenditure of any funds appropriated for construction, repair or rehabilitation shall follow, in sequential order, the priority listing established by each agency. Funding available from other sources for employee housing repair may be distributed by the Secretaries.

SEC. 105. SECONDARY QUARTERS.

The Secretaries shall provide suitable secondary quarters for field employees who are permanently duty stationed at remote locations and are regularly required to relocate for temporary periods as necessary for the effective administration of an area under the jurisdiction of the respective agency.

SEC. 106. QUARTERS RENTAL.

Increases in the Governmental housing rental rates for the agencies covered under this title shall not be in excess of ten percent more than the rental rates which were in effect on September 1, 1992, until twelve months after submission of the studies specified in Sections 103 and 104.

SEC. 107. HOUSING ACCOUNTS.

(a) Notwithstanding title 5, United States Code, or any other provision of law, rents and charges collected by payroll deduction or otherwise for use or occupancy of quarters of agencies identified in this Act shall, after the date of enactment of this Act, be deposited in a special fund for each agency in the Treasury, to remain available until expended, for the maintenance and operation of the quarters of that agency.

(b) All funds generated from rental income shall be deposited to a reimbursable account at no lower than the agency regional office level in order to ensure maximum efficiency in fund utilization.

SEC. 108. APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II—COLORADO MILITARY LANDS

SEC. 201. SHORT TITLE.

This title may be cited as the "Fort Carson-Pinon Canyon Military Lands Withdrawal Act".

SEC. 202. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 3,133.02 acres of public land and 11,415.16 acres of federally-owned minerals in El Paso, Pueblo and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated February 1992, and filed in accordance with section 204.

SEC. 203. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Pinon Canyon Maneuver Site that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 2,517.12 acres of public lands and 130,139 acres of federally-owned minerals in Las Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon site", dated February 1992, and filed in accordance with section 204.

SEC. 204. MAPS AND LEGAL DESCRIPTIONS.

(a) PREPARATION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and a legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) LEGAL EFFECT.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) LOCATION OF COPIES.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 205. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT GUIDELINES.—(1) Except as provided in section 206, during the period of withdrawal, the Secretary of the Army shall manage for military purposes the lands covered by this title and may authorize use of the lands by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads and trails on the lands withdrawn by this title commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this section shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—The Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 202 and 203 for the period of withdrawal. The plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands;

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining or mineral and geothermal leasing, including mineral materials disposal; and

(4) be developed not later than 5 years after the date of enactment of this Act.

(c) LISTING OF LANDS SUITABLE FOR MINING.—On completion of the management plan prepared pursuant to subsection (b), the Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined under such subsection to be suitable for opening to mining, and mineral and geothermal leasing, including mineral materials disposal, and specifying the opening date.

(d) IMPLEMENTATION OF MANAGEMENT PLAN.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 208.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(e) REEXAMINATION OF LANDS FOR SUITABILITY FOR MINING.—At least every five years after the initial identification of lands suitable for opening to mining required by subsection (b)(3), the Secretary of the Army and the Secretary of the Interior shall determine those withdrawn lands, if any, which the Secretaries consider suitable for opening to mining, mineral and geothermal leasing, or mineral material disposal, and those acquired lands, if any, which the Secretaries consider suitable for opening to mineral and geothermal leasing or mineral material disposal. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suitable for opening and specifying the opening date.

(f) USE OF CERTAIN RESOURCES.—The Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources when the use of such resources is required for construction needs of the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 206. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

(a) AUTHORITY OF SECRETARY OF THE INTERIOR.—Notwithstanding any other provision of law, and except as provided in section 205 of this title, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources contained within the boundaries of the Fort Carson Reservation and Pinon Canyon Maneuver Site.

(b) EFFECT OF IDENTIFICATION OF LANDS AS SUITABLE FOR MINING.—On the day specified by the Secretary of the Interior in the notice published in the Federal Register pursuant to subsections (c) and (e) of section 205, the land identified as suitable for opening to the operation of the mining, mineral, and geothermal leasing and the mineral material disposal laws shall automatically be open to the operation of such laws without the necessity for further action by either the Secretary of the Interior or the Congress.

(c) EXCEPTION FROM CERTAIN LAWS.—No deposit of minerals or materials of the types identified by section 3 of the Act of July 23, 1955 (30 U.S.C. 611; 69 Stat. 368), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), on lands described in sections 202 and 203.

(d) REGULATIONS.—On lands identified for opening to mining, mineral, and geothermal leasing or mineral material disposal by section 205(b)(3), or by subsequent amendments to the management plan described in section 205, all minerals contained in those lands shall be subject to mining, mineral, and geothermal leasing or mineral material disposal under such rules and regulations as the Secretary of the Interior may promulgate pursuant to the terms and conditions of section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466).

(e) CLOSURE OF LANDS UNDER CERTAIN CIRCUMSTANCES.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the Army, shall close any lands that have been opened to mining, mineral, and geothermal leasing or mineral material disposal pursuant to this section.

(f) MINING CLAIMS.—(1) Except as otherwise provided in this title, mining claims located pursuant to this title shall be subject to the provisions of the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.). In the event of a conflict between that law and this title, this title shall prevail.

(2) All mining claims located under the terms of this title shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) PATENTS FOR LOCATABLE MINERALS.—(1) Patents issued pursuant to this title for locatable minerals shall convey title to the locatable minerals only, and shall be issued together with an appropriate authorization for use of so much of the surface as may be necessary for purposes incident to mining under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this section, all minerals subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), are referred to as "locatable minerals".

SEC. 207. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 208. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) TERMINATION DATE.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this Act.

(b) DETERMINATION OF CONTINUING MILITARY NEED.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this title, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing and thereafter may take necessary steps, in accordance with applicable law, to prevent uses inconsistent with such extension for a period not in excess of 2 years after the termination of the withdrawal and reservation made by this title.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this title, or if, during the period of withdrawal, the Secretary of the Army decides to relinquish any or all of the lands withdrawn and reserved under this title, the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) DETERMINATION OF CONTAMINATION.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by this title, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this title at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this title as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SEC. 209. DELEGATION.

The functions of the Secretary of the Army under this title may be delegated. The functions of the Secretary of the Interior under this title may be delegated, except that the order referred to in section 208(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 210. HOLD HARMLESS.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral, or geothermal leasing activity conducted on lands comprising the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 211. AMENDMENT TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606, 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) The Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE III—"IN LIEU" LAND CLAIMS

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Pursuant to the invitation and requirements contained in the 15th paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended or supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 4, 1901 (31 Stat. 1010, 1037), and September 22, 1922 (42 Stat. 1067), certain landowners or entrymen within forest reserves acted to transfer their lands to the United States as the basis for an in lieu selection of other Federal lands (hereafter in this Act referred to as "lieu lands") in exchange for such lands within such reserves (hereafter in this Act referred to as "base lands").

(2) By the Act of March 3, 1905 (33 Stat. 1264), Congress repealed the in lieu selection provisions of the Act of June 4, 1897, as amended, and terminated the right to select lieu lands, but expressly preserved the rights of land owners who had valid pending applications for in lieu selections, most of which have subsequently been granted.

(3) Other persons affected by the Acts cited in paragraphs (1) and (2) who acted to transfer base lands, or their successors in interest, have never obtained either (A) a patent to the lieu lands or any other consideration for their relinquishment, or (B) a quitclaim of their base lands, notwithstanding relief legislation enacted in 1922 and 1930.

(4) By the Act of July 6, 1960 (74 Stat. 334), Congress established a procedure to compensate persons affected by the Acts cited in paragraphs (1) and (2) who had not received appropriate relief under prior legislation. However, no payments of such compensation were made under that Act.

(5) Section 4 of the Act of July 6, 1960, further provided that lands with respect to which compensation under that Act were or could have been made, and not previously disposed of by the United States, shall be a part of any national forest, national park, or other area withdrawn from the public domain wherein they are located.

(6) Absent further legislation, lengthy and expensive litigation will be required to resolve existing questions about the title to lands covered by section 4 of the 1960 Act.

(b) PURPOSE.—The purpose of this title is to resolve the status of the title to base lands affected by the past legislation cited in subsection (a).

SEC. 302. IDENTIFICATION AND QUITCLAIM OF FEDERAL INTEREST IN BASE LANDS.

(a) QUITCLAIM.—Except as otherwise provided by this Act, and subject to valid existing rights, but notwithstanding any other provision of law, the United States hereby quitclaims to the listed owner or entryman, his heirs, devisees, successors, and assigns, all right, title, and interest of the United States in and to the base lands described on a final list published pursuant to subsection (d)(1), effective on the date of publication of such list.

(b) PREPARATION OF INITIAL LISTS.—(1) Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior, with respect to lands under such Secretary's jurisdiction, and the Secretary of Agriculture with respect to National Forest System lands, shall each prepare an initial list of all parcels of base lands that were relinquished to the United States pursuant to the Act of June 4, 1897 (as amended), and for which selection or other rights under that Act or supplemental legislation were not realized or exercised.

(2) The initial lists prepared under paragraph (1) shall be based on information in the actual possession of the Secretaries of the Interior and Agriculture on the date of enactment of this Act, including information submitted to Congress pursuant to the directive contained in Senate Report No. 98-578, issued for the Fiscal Year 1985 Interior and Related Agencies Appropriation, as revised and updated. The initial lists shall be published and distributed for public review in accordance with procedures adopted by the Secretary concerned.

(3) For a period of 180 days after publication of a list pursuant to paragraph (2), persons asserting that particular parcels omitted from such a list should have been included may request the Secretary concerned to add such parcels to the appropriate list. The Secretary concerned shall add to the list any such parcels which the Secretary determines meet the conditions specified in paragraph (1).

(c) NATIONALLY SIGNIFICANT LANDS.—(1) During preparation or revision of an initial list under subsection (b), the Secretary concerned shall identify those listed lands which are located wholly or partially within any conservation system unit and all other listed lands which Congress has designated for specific management or which the Secretary concerned decides, in the concerned Secretary's discretion, should be retained in order to meet public, resource protection, or administrative needs. For purposes of this paragraph, the term "conservation system unit" means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or National Wilderness Preservation System, a national forest monument, or a national conservation area, a national recreation area, or any lands being studied for possible designation as part of such a system or unit.

(2) The provisions of subsection (a) shall not apply to any lands identified by the Secretary concerned pursuant to paragraph (1). The Secretary concerned shall not include any such lands on any list prepared pursuant to subsection (d). Subject to valid existing rights arising from factors other than those described in subsection (b)(1), any right, title, and interest in and to lands identified pursuant to paragraph (1) and not previously vested in the United States is hereby vested and confirmed in the United States.

(3) In the same manner as the initial list was published and distributed pursuant to subsection (b)(2), the Secretary concerned shall publish and distribute an identification of all lands in which right, title, and interest is vested and confirmed in the United States by paragraph (2).

(d) FINAL LISTS.—(1) As soon as possible after considering any requests made pursuant to subsection (b)(3) and the identification of lands pursuant to subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall each publish a final list, consisting of lands included on each Secretary's initial list not identified pursuant to subsection (c)(1). Unless a Secretary has published a final list on or before the date 18 months after the date of publication, pursuant to subsection (b)(2), of such Secretary's initial list, the initial list prepared by such Secretary shall be deemed on such date to be the final list required to be published by such Secretary, and thereafter no lands included on such initial list shall be excluded from operation of subsection (a).

(2) If a court makes a final decision that a parcel of land was arbitrarily and capriciously excluded from operation of subsection (a), such parcel shall be deemed to have been included on a final list published pursuant to paragraph (1), unless such parcel

is located wholly or partially inside a conservation system unit or any other area which Congress has designated for specific management, in which case such parcel shall be subject to the provisions of subsection (c)(2).

(e) ISSUANCE OF INSTRUMENTS.—(1) Except as otherwise provided in this title, no later than 6 months after the date on which the Secretary concerned publishes a final list of lands pursuant to subsection (d), the Secretary concerned shall issue deeds confirming the quitclaim made by subsection (a) of this section of all right, title, and interest of the United States in and to the lands included on such final list, subject to valid existing rights arising from factors other than a relinquishment to the United States of the type described in subsection (b). Each such confirmatory deed shall operate to estop the United States from making any claim of right, title, or interest of the United States in and to the base lands described in the deed, shall be made in the name of the listed owner or entryman, his heirs, devisees, successors, and assigns, and shall be in a form suitable for recordation and shall be filed and recorded by the United States with the recorder of deeds or other like official of the county or counties within which the lands covered by such confirmatory deed are located so that the title to such lands may be determined in accordance with applicable State law.

(2) The United States shall not adjudicate and, notwithstanding any provision of law to the contrary, does not consent to be sued in any suit instituted to adjudicate the ownership of, or to quiet title to, any base land included in a final list and described in a confirmatory deed.

(3) Neither the Secretary of the Interior nor the Secretary of Agriculture shall be required to inspect any lands included on a final list nor to inform any member of the public regarding the condition of such lands prior to the issuance of the confirmatory deeds required by this subsection, and nothing in this Act shall be construed as affecting any valid rights with respect to lands covered by a confirmatory deed issued pursuant to this subsection that were in existence on the date of issuance of such confirmatory deed.

(f) WAIVER OF CERTAIN CLAIMS AGAINST THE UNITED STATES.—Any person or entity accepting the benefits of this Act of failing to act to seek such benefits within the time allotted by this Act with respect to any base or other lands shall be deemed to have waived any claims against the United States, its agents or contractors, with respect to such lands, or with respect to any revenues received by the United States from such lands prior to the date of enactment of this Act. All non-Federal, third party rights granted by the United States with respect to base lands shall remain effective subject to the terms and conditions of the authorizing document. The United States may reserve any rights-of-way currently occupied or used for Government purposes.

SEC. 303. OTHER CLAIMS.

(a) JURISDICTION AND DEADLINE.—(1) Subject to the requirements and limitations of this section, a party claiming right, title, or interest in or to land vested in the United States by section 302(c)(2) of this title may file in the United States Claims Court a claim against the United States seeking compensation based on such vesting. Notwithstanding any other provision of law, the Claims Court shall have exclusive jurisdiction over such claim.

(2) A claim described in paragraph (1) shall be barred unless the petition thereon is filed within 1 year after the date of publication of a final list pursuant to section 302(d) of this title.

(3) Nothing in this title shall be construed as authorizing any claim to be brought in any court other than a claim brought in the United States Claims Court based upon the vesting of right, title, and interest in and to the United States made by section 302(c)(2) of this title.

(b) LIMITATIONS, DEFENSES, AND AWARDS.—(1) Nothing in this Act shall be construed as diminishing any existing right, title, or interest of the United States in any lands covered by section 302(c), including but not limited to any such right, title, or interest established by the Act of July 6, 1960 (74 Stat. 334).

(2) Nothing in this title shall be construed as precluding or limiting any defenses or claims (including but not limited to defenses based on applicable statutes of limitations, affirmative defenses relating to fraud or speculative practices, or claims by the United States based on adverse possession) otherwise available to the United States.

(3) Nothing in this title shall be construed as entitling any party to compensation from the United States. However, in the event of a final judgment of the United States Claims Court in favor of a party seeking such compensation, or in the event of a negotiated settlement agreement made between such a party and the Attorney General of the United States, the United States shall pay such compensation from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(c) SAVINGS CLAUSE.—This title does not include within its scope selection rights required to be recorded under the Act of August 5, 1955 (69 Stat. 534), regardless of whether compensation authorized by the Act of August 31, 1964 (78 Stat. 751) was or was not received.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 305. TIME EXTENSION.

Section 103(c) of the Wildfire Disaster Recovery Act of 1989 (16 U.S.C. 551 note) is amended in the first sentence by striking out "1991" and inserting in lieu thereof "1992".

TITLE IV—NATIONAL PARK SYSTEM PROVISIONS

SEC. 401. ABRAHAM LINCOLN INTERPRETIVE CENTER.

The Act entitled "An Act to authorize the Secretary of the Interior to establish the Lincoln Home National Historic Site in the State of Illinois, and for other purposes", approved August 18, 1971 (85 Stat. 347), is amended by adding at the end the following new section:

"SEC. 4. ABRAHAM LINCOLN INTERPRETIVE CENTER.

"(a) ESTABLISHMENT.—In order to provide for the education, inspiration and benefit of the American people, and to further the interpretation of the life and contributions of Abraham Lincoln and his times, the Secretary of the Interior is authorized to establish at or near the Lincoln Home National Historic Site an interpretive center which shall be known as the Abraham Lincoln Interpretive Center (hereafter in this section referred to as the 'center'). The center shall be added to and administered as part of the Lincoln Home National Historic Site. Upon establishment of the center, the boundary of the Lincoln Home National Historic Site is hereby modified to include the center.

"(b) ACQUISITION OF LAND.—For the purposes of this section, the Secretary may acquire land or interests in land near the Lincoln Home National Historic Site by donation, purchase with donated or appropriated funds, or exchange. Lands or interests therein owned by the State of Illinois or any political subdivision thereof may be acquired only by donation.

"(c) CONSTRUCTION, OPERATION, AND MAINTENANCE OF FACILITIES.—In carrying out this section, the Secretary is authorized to construct, operate, and maintain a facility, including an exhibit area, in order to preserve and make available materials related to the life of Abraham Lincoln and to provide interpretive and educational services which communicate the meaning of the life of Abraham Lincoln.

"(d) COOPERATIVE AGREEMENTS.—In carrying out this section, the Secretary may enter into cooperative agreements with (1) appropriate Federal agencies and the State of Illinois, or any political subdivision thereof, for the interpretation of resources at the center, and (2) with the owners of documents and artifacts of historical or cultural significance as determined by the Secretary.

"(e) DOCUMENTS AND ARTIFACTS.—In carrying out this section, the Secretary may acquire by purchase with donated funds, exchange, loan, or donation documents and artifacts related to the purposes of the center for display at the center.

"(f) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 3, there is authorized to be appropriated not more than $18,000,000 to carry out this section.".

SEC. 402. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—(1) The Secretary of the Interior, acting through the Director of the National Park Service, is hereby authorized to enter into one or more cooperative agreements as specified in paragraph (2) that meet the requirements of subsection (b).

(2) The cooperative agreements authorized by this Act are:

(A)(i) with appropriate organizations or groups, on the basis of equal-dollar matching, in order to promote education concerning the natural and cultural resources of the Santa Monica Mountain National Recreation Area and lands adjacent thereto; and

(ii) with the William O. Douglas Outdoor Classroom whereby the Secretary agrees to maintain the facilities at 2600 Franklin Canyon Drive in Beverly Hills, California for nine years and to provide funding for programs of the William O. Douglas Outdoor Classroom that utilize such facilities for a maximum of nine years after the date of enactment of this Act, and whereby in return the William O. Douglas Outdoor Classroom agrees that at the end of the term of such agreement, all right, title, and interest in such facilities shall be donated to the United States for addition to and operation as a part of the Santa Monica Mountains National Recreation Area; and

(B) with the Santa Monica Mountains and Seashore Foundation and the University of California at Los Angeles (jointly) for completion of an archeological survey, vegetation mapping, historical context, and history of lands within the Santa Monica Mountains National Recreation Area.

(3) Federal funds may be expended on non-Federal property located within the San Monica Mountains National Recreation Area pursuant to any cooperative agreement described in paragraph (2) that meets the requirements of subsection (b) of this section.

(b) REQUIREMENTS.—(1) The provisions of clause (i) of subsection (a)(1)(A) shall apply only to a cooperative agreement under which there will be visits by students or other beneficiaries to Federally-owned lands within the Santa Monica Mountains National Recreation Area and under which the responsibility of the Secretary will be limited to the providing of interpretation services concerning the natural and cultural resources of the Santa Monica Mountain National Recreation Area, while the other party or parties will be responsible for all other costs.

(2) The Secretary may enter into the agreement specified in clause (ii) of subsection (a)(1)(A) only if the Secretary determines that acquisition of the facilities described therein would further the purposes of the Santa Monica Mountains National Recreation Area. The provisions of such clause shall not be construed as authorizing an agreement by the Secretary for reimbursement of expenses incurred by such organization that are not directly related to use of the facilities specified in such clause (ii) for environmental education and interpretation of the resources and values of the Santa Monica Mountains National Recreation Area and associated lands and resources.

(3) The provisions of subsection (a)(1)(B) shall apply only to a cooperative agreement under which work on non-Federal lands shall be done only with the consent of the owner thereof and under which all information obtained will be used by the Secretary to further public education and the interpretation and management of the resources and values of the Santa Monica Mountains National Recreation Area.

(C) AUTHORIZATION.—There are hereby authorized to be appropriated not to exceed $2,100,000 to implement the provisions of section 402(a)(2)(A) and not to exceed $300,000 to implement the provisions of section 402(a)(2)(B).

SEC. 403. REVERE BEACH, MASSACHUSETTS.

(a) FINDINGS.—The Congress finds that—

(1) Revere Beach played an important historic role as a public beach and park set aside for public leisure and recreation;

(2) Revere Beach represents a valuable example of the social and cultural aspects of early 20th century American working class history;

(3) Original structures and public buildings of Revere Beach remain to be preserved and interpreted;

(4) Revere Beach is located within easy access of a large urban population center and within reach of tourists visiting the historic city of Boston; and

(5) given the interest by organized groups and local and State governments in the preservation of Revere Beach, a coordinated evaluation should be conducted to consider options for preserving the historical, cultural, national and recreational resources of Revere Beach.

(b) STUDY.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") shall conduct a study to identify potential means to preserve and interpret Revere Beach. As part of the study, the Secretary shall propose alternatives for cooperation in the preservation and interpretation of Revere Beach, including providing recommendations on the suitability and feasibility of establishing Revere Beach as a unit of the National Park System.

(c) CONTENTS OF STUDY.—The study of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the role played by Revere Beach in the processes in industrialization, urbanization, and immigration;

(2) the historical, cultural, natural, and outdoor recreational values of Revere Beach;

(3) the types of Federal, State, and local programs that are available to preserve, develop, and make accessible Revere Beach to public use;

(4) the use of, and coordination with, Federal, State, and local programs to manage in the public interest the historical, cultural, natural, and recreational resources of Revere Beach; and

(5) the possible kinds and general intensities of development, including a visitor facility with sufficient space to accommodate exhibits and information regarding the history of Revere Beach, that would be associated with public enjoyment and use of Revere Beach, including general location and anticipated costs.

(d) CONGRESSIONAL REVIEW.—The Secretary shall transmit the study to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 12 months after the enactment of this Act.

(e) CONSULTATION.—In preparing the study under this section, the Secretary shall consult with the public, representatives of the city of Revere and the Commonwealth of Massachusetts, historians, planners, recreation specialists, and historic preservationists knowledgeable in American History, historic preservations, and architecture. The Secretary shall seek expertise from both local and national organizations.

(f) AUTHORIZATION.—There is authorized to be appropriated $200,000 to carry out this section.

TITLE V—REPORT ON STATE OF THE NATION'S RIVERS

SEC. 501. AMENDMENT OF OUTDOOR RECREATION ACT OF 1963.

The Outdoor Recreation Act of 1963 (16 U.S. 1901 and following) is amended by adding the following new section at the end thereof:

"SEC. 5. STATE OF THE NATION'S RIVERS REPORT.

"(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') acting through the National Park Service, in consultation with the United States Geological Survey, shall enter into a contract or other appropriate arrangement with the National Academy of Sciences or with any other independent entity having appropriate scientific expertise to prepare a 'State of the Nation's River Systems' report providing an assessment of the status and trends of the Nation's river resources and their associated riparian resources (hereinafter in this section referred to as the 'report'). The report shall be prepared by an independent panel of experts in fields of biology, zoology, ecology, and related fields and shall be based on existing data and information relating to the chemical, physical, and biological elements and processes of river resources and their associated riparian resources. The contract or other appropriate agreement shall provide for the formation of a partnership with the States in the development of the report, which shall include financial assistance to the States for the States' efforts. The contract or other arrangement shall provide for updating the report every 5 years after publication of the initial report. The initial report shall contain guidelines on how each subsequent report shall be developed. Each such updated report shall utilize additional information which becomes available after the publication of the prior report, including the information obtained through the information system established in accordance with subsection (b). The initial report shall be submitted to the Congress within 18 months after the enactment of this section.

"(b) COMPONENTS OF THE REPORT.—The report shall include, but not be limited to, the following components:

"(1) An evaluation of the existing status and historic and projected future trends on a national and regional level related to the riverine resource characteristics.

"(2) Identification of current and potential threats to the riverine resource characteristics.

"(3) A list of river systems and river reaches in the Nation for each ecoregion (as defined by the Secretary), the riverine resources characteristics of which have the highest natural qualities with particular emphasis on free-flowing river systems.

"(4) A list of river systems and river reaches in the Nation for each ecoregion the riverine resource characteristics of which are degraded but for which restoration is a feasible goal.

"(5) A standard methodology, describing resource definitions, data collection, methods, and other items needed for a comprehensive information system relating to river and riparian zone resources.

"(c) DISTRIBUTION OF REPORT.—Upon completion of the report, and following submission to Congress, the Secretary shall distribute the report to the heads of affected Federal departments, agencies, and instrumentalities, the States, including all State river management agencies and to the public. The report shall be utilized to improve the management of riparian areas under their respective jurisdictions. The Secretary shall utilize the report to educate the public on the importance of river systems and the issues and threats related to river systems nationwide."

TITLE VI—CALIFORNIA RAILROAD LAND TITLE CLEARANCES

SEC. 601. SHORT TITLE.

This title may be cited as the "Railroad Right-of-Way Conveyance Validation Act".

SEC. 602. VALIDATION OF CONVEYANCES.

Except as provided in section 605, the conveyances described in section 3 (involving certain lands in Nevada County, State of California) and section 4 (involving certain lands in San Joaquin County, State of California) concerning lands that form parts of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489), hereby are legalized, validated, and confirmed, as far as any interest of the United States in such lands is concerned, with the same force and effect as if the land involved in each such conveyance had been held, on the date of such conveyance, under absolute fee simple title by the grantor of such land.

SEC 603. CONVEYANCES OF LANDS IN NEVADA COUNTY, STATE OF CALIFORNIA.

The conveyances of land in Nevada County, State of California, referred to in section 602 are as follows:

(1) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and David G. "Otis" Kantz and Virginia Thomas Bills Kantz, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15995

in the official records of the county of Nevada.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Antone Silva and Martha E. Silva, his wife, grantees, recorded June 10, 1987, as instrument number 87-15996 in the official records of the county of Nevada.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Charlie D. Roeschen and Renee Roeschen, husband and wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15997 in the official records of the county of Nevada.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Manuel F. Nevarez and Margarita Nevarez, his wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15998 in the official records of the county of Nevada.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Susan P. Summers, grantee, recorded June 10, 1987, as instrument number 87-15999 in the official records of the county of Nevada.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James L. Porter, a single man, as his sole and separate property, grantee, recorded June 10, 1987, as instrument number 87-16000 in the official records of the county of Nevada.

(7) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert L. Helin, a single man, grantee, recorded June 10, 1987, as instrument number 87-16001 in the official records of the county of Nevada.

(8) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas S. Archer and Laura J. Archer, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16002 in the official records of the county of Nevada.

(9) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Wallace L. Stevens, a single man, grantee, recorded June 10, 1987, as instrument number 87-16003 in the official records of the county of Nevada.

(10) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Sierra Pacific Power Company, grantees, recorded June 10, 1987, as instrument number 87-16004 in the official records of the county of Nevada.

(11) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Truckee Public Utility District, grantees, recorded June 10, 1987, as instrument number 87-16005 in the official records of the county of Nevada.

(12) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Dwayne W. Haddock and Bertha M. Haddock, his wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16006 in the official records of the county of Nevada.

(13) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William C. Thorn, grantee, recorded June 10, 1987, as instrument number 87-16007 in the official records of the county of Nevada.

(14) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Jose Guadelupe Lopez, grantees, recorded June 10, 1987, as instrument number 87-16008 in the official records of the county of Nevada.

(15) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harold O. Dixon, an unmarried man, as to an undivided half interest, and Pedro Lopez, a married man, as to an undivided half interest, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16009 in the official records of the county of Nevada.

(16) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert E. Sutton and Patricia S. Sutton, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16010 in the official records of the county of Nevada.

(17) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Angelo C. Besio and Eva G. Besio, his wife, grantees, recorded June 10, 1987, as instrument number 87-16011 in the official records of the county of Nevada.

(18) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Lawrence P. Young and Mary K. Young, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16012 in the official records of the county of Nevada.

(19) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and the estate of Charles Clyde Cozzaglio, grantee, recorded June 10, 1987, as instrument number 87-16013 in the official records of the county of Nevada.

(20) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Noel T. Hargreaves, an unmarried woman, as her sole and separate property, grantee, recorded June 10, 1987, as instrument number 87-16014 in the official records of the county of Nevada.

(21) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Athleisure Enterprises, Incorporated, a Nevada corporation, grantees, recorded January 24, 1989, as instrument number 89-01803 in the official records of the county of Nevada.

(22) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Richard Bwarie, a single man as to an undivided one-half interest, and Roger S. Gannam and Lucille Gannam, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89-01804 in the official records of the county of Nevada.

(23) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William Campbell and Juanita R. Campbell, his wife as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01805 in the official records of the county of Nevada.

(24) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William E. Cannon and Lynn M. Cannon, husband and wife, as joint tenants as to an undivided one-half interest, and Brent Collinson and Dianne Collinson, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89-01806 in the official records of the county of Nevada.

(25) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton and Bernadette M. Eaton, husband and wife as community property, grantees, recorded January 24, 1989, as instrument number 89-01807 in the official records of the county of Nevada.

(26) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton grantee, recorded January 24, 1989, as instrument number 89-01808 in the official records of the county of Nevada.

(27) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Valeria M. Kelly, an unmarried woman, grantee, recorded January 24, 1989, as instrument number 89-01809 in the official records of the county of Nevada.

(28) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William J. Kuttel and Delia Rey Kuttel, husband and wife, grantees, recorded January 24, 1989, as instrument number 89-01810 in the official records of the county of Nevada.

(29) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas A. Lippert and Laurel A. Lippert, husband and wife, grantees, recorded January 24, 1989, as instrument number 89-01811 in the official records of the county of Nevada.

(30) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Fred J. Mahler, a single man, grantee, recorded January 24, 1989, as instrument number 89-01812 in the official records of the county of Nevada.

(31) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Francis Doyle McGwinn also known as Doyle F. McGwinn, a widower, grantee, recorded January 24, 1989, as instrument number 89-01813 in the official records of the county of Nevada.

(32) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James D. Ritchie and Susan Ritchie, 24, husband and wife, as joint tenants, grantees, recorded January 1989, as instrument number 89-01814 in the official records of the county of Nevada.

(33) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William R. Smith and Joan M. Smith, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01815 in the official records of the county of Nevada.

(34) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Anthony J. Stile and Laura A. Stile, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01816 in the official records of the county of Nevada.

(35) The conveyance entered into between the Southern Pacific Transportation Company, grantor and Thomas R. Stokes, a single man, and Carla J. Stewart, a single woman, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01817 in the official records of the county of Nevada.

(36) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California Corporation, grantees, recorded January 24, 1989, as instrument number 89-01818 in the official records of the county of Nevada.

(37) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California corporation, grantees, recorded January 24, 1989, as instrument number 89-01819 in the official records of the county of Nevada.

(38) The conveyance entered into between the Southern Pacific Transportation Com-

pany, grantor, and Harry M. Welch and Betty R. Welch, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01820 in the official records of the county of Nevada.

(39) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, grantees, recorded February 2, 1989, as instrument number 89-02748 in the official records of the county of Nevada.

(40) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Edward Candler and May Candler, husband and wife as community property, as to an undivided two-thirds interest; and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, as to an undivided one-third interest, grantees, recorded February 2, 1989, as instrument number 89-02749 in the official records of the county of Nevada.

(41) The conveyance entered into between the Central Pacific Railroad, grantor, and E.W. Hopkins and J.O.B. Gann, grantees, recorded April 7, 1984, in Book 79 of Deeds at page 679, official records of the county of Nevada.

(42) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and John David Gay and Elizabeth Jean Gay, as Trustees of the David and Elizabeth Gay Trust, grantees, recorded October 3, 1991, as instrument number 91-30654 of the official records of the county of Nevada.

SEC. 604. CONVEYANCES OF LAND IN SAN JOAQUIN COUNTY, STATE OF CALIFORNIA.

The conveyances of land in San Joaquin County, State of California, referred to in section 602 are as follows:

(1) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Ronald M. Lauchland and Lillian R. Lauchland, grantees, recorded October 1, 1985, as instrument number 85066621 in the official records of the county of San Joaquin.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Bradford A. Lange and Susan J. Lange, his wife, as to an undivided one-half, and Randall W. Lange and Charlene J. Lange, his wife, as to an undivided one-half interest, grantees, recorded October 1, 1985, as instrument number 85066623 in the official records of the county of San Joaquin.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Leo G. Lewis and Vasiliki L. Lewis, and Billy G. Lewis and Dimetria Lewis, grantees, recorded October 1, 1985, as instrument number 85066625 in the official records of the county of San Joaquin.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Louis J. Bennett, grantees, recorded October 1, 1985, as instrument number 85066627 in the official records of the county of San Joaquin.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Joe Alves Correia and Leontina Correia, his wife, grantees, recorded September 1, 1970, instrument number 33915, in book 3428, page 461, of the official records of the county of San Joaquin.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Willard H. Fike, Jr., and Doria E. Fike, his wife, grantees, recorded January 7, 1988, instrument number 88001473 of the official records of the county of San Joaquin.

(7) The conveyance entered into between Central Pacific Railway, Grantor, and Nettie M. Murray and Marie M. Hallinan, Grantees, dated May 31, 1949, recorded June 14, 1949, in volume 1179 at page 394 of the official records of the county of San Joaquin.

(8) The conveyance entered into between the Central Pacific Railway Company, a corporation, and its Lessee, Southern Pacific Company, a corporation, Grantor, and Lodi Winery, Incorporated, Grantee, dated August 2, 1938, recorded May 23, 1940, in volume 692, page 249, of the official records of the county of San Joaquin.

SEC. 605. LIMITATIONS ON VALIDATION OF CONVEYANCES.

Nothing in this Act shall be construed to—

(1) diminish the right-of-way referred to in section 602 to a width of less than fifty feet on each side of the center of the main track or tracks maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) legalize, validate, or confirm, with respect to any land that is the subject of a conveyance referred to in section 603 or 604 any right or title to, or interest in, such land arising out of adverse possession, prescription, or abandonment, and not confirmed by such conveyance.

(3) diminish any of the right, title, or interest of the United States with respect to oil, gas, and other minerals, or with respect to prospecting for or mining or removal thereof, in any of the lands that are the subject of a conveyance referred to in section 603 or 604.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. TAYLOR] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield my self such time as I may consume.

Mr. Speaker, in our continuing effort to complete the Interior Committee's unfinished business in these final hours of the session, we have included in S. 1704, a Senate-passed measure, a number of provisions from other bills that have been approved by the committee and for the most part passed by the House as well. So, the bill now before us has several separate titles.

Title I includes many of the provisions of the Senate-passed S. 1704, the Land Management Agency Housing Improvement Act of 1992, sponsored by Senator WALLOP. In recent years, the Committee has heard much of the unsatisfactory quality of housing available to the employees of the National Park Service, the Forest Service, the Bureau of Land Management and the Fish and Wildlife Service.

In addition, quarters rental rates have increased at a rate much faster than salaries, creating genuine hardship for employees struggling to live on salaries often inadequate for the basic necessities. Because employees cannot subsist on sunsets alone, a careful and deliberate analysis of the housing situation will help us work with the agencies to improve these conditions for employees. As a way of protecting employees from further quarter rate increases and as a strong incentive to the Secretaries to complete the studies the bill includes a rate cap.

Title I directs the Secretaries of the Interior and of Agriculture to study the need and availability of suitable quarters, to provide secondary quarters when needed and to cap title marks the first step in solving the housing crisis of the land managing agencies. I have asked the General Accounting Office to undertake an extensive study of housing and look forward to working with our colleagues in the Senate to make further changes in housing policy after receiving their report.

Title II is identical to H.R. 4404, A bill by Mr. HEFLEY of Colorado, that has already passed the House as part of S. 1183. It provides for a withdrawal of certain public lands and minerals in Colorado, for military use by the Department of Defense. The administration has requested this legislation, and while the House has passed it the Senate has not taken action on it. I am hopeful that including it in this bill will facilitate its early approval in the other body.

Title III corresponds to H.R. 1514, by the gentleman from California [Mr. LAGOMARSINO]. This also has already been passed by the House but still awaits Senate action. It is an important measure that will benefit people in a number of States who have found that the titles to their lands are clouded because of the tangled history of the so-called In Lieu Law of 1897. The bill is explained in detail in the Interior committee's report on H.R. 1514. I have had the pleasure of working with Mr. LAGOMARSINO on this for several years, and I sincerely hope that including it in this measure will assist in its speedy enactment.

Title IV groups several measures related to the National Park System previously approved by the Interior committee. These include an authorization for a study of Revere Beach, in Massachusetts; authorization for cooperative agreements for outdoor education in the Santa Monica Mountains National Recreation Area, in California; and an authorization for a center for interpretation of the life and contributions of President Abraham Lincoln, at the Lincoln Home National Historic Site, in Springfield, IL.

Title V provides for a report by the National Park Service, working with the U.S. Geological Survey and the National Academy of Sciences or other appropriate groups, concerning the state of the Nation's rivers and their associated resources. Similar provisions were included in H.R. 5001, by the gentleman from Pennsylvania [Mr. KOSTMAYER], which was reported by the Interior Committee and passed by the House last month.

Title VI is identical to H.R. 711, by the gentleman from California [Mr. DOOLITTLE], another bill that has already been passed by the House. It would clear the title to a number of parcels of land in Truckee and other California communities by resolving problems associated with their former status as part of the right-of-way granted for the first transcontinental railroad.

Mr. Speaker, this bill includes a variety of provisions involving management of the National Park System and the public lands, assisting in national defense, and resolving the legal problems of many landowners in California and other States. I urge its approval by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to S. 1704, the now misnamed housing for employees of public lands bill. The origin of this bill rests with the concern by Members on this side of the aisle to try to improve the deplorable housing conditions faced by Park Service, Forest Service and other Land Management Agency personnel around the country. We currently have employees living in land-sea shipping containers, unwinterized homes, buildings without indoor plumbing and often at exorbitant rents.

I am saddened today to see that the chairman of the Parks and Public Lands Subcommittee has seen fit to take this simple bill sent over by the Senate and load it up with nearly $600 million in pork barrel spending. In effect saying to Senator WALLOP who orchestrated passage of this bill in the Senate, if you want this bill, you will have to support A $20 million visitor center at the Lincoln homesite, A $500 million authorization to buy land at Santa Monica Mountains, a $2.5 million authorization to buy the unneeded William O. Douglas Nature Center, and a study to examine the possibility of a Federal takeover of the third worst beach in the country. These are all measures strongly opposed by the administration, as well as Members on this side of the aisle and on which the Senate has never even held hearings.

When Senator WALLOP introduced this bill, it was for no great political gain. While he no doubt has a handful of constituents in Wyoming who live in the dilapidated housing which characterizes so many of our great parks, Senator WALLOP introduced this bill because he believed it was the right thing to do. The gentleman from Minnesota responds by making this bill into a Christmas tree, with numerous highly objectionable provisions, and in effect killing this important bill.

When Republican Members who had titles added to this bill in an effort to provide bipartisan cover found out that their provisions were being used in an attempt to garner their support for this bill, each one of them requested they be removed from the bill. While those titles remain, this measure is by no means bipartisan.

When you have a chance to vote down this measure later this morning, portions of which have already been rejected by this body on a previous suspension vote, you will be making two statements. First, you will be casting a vote against wasteful Government spending. Second, you will be casting a vote which sends a message that we should not play political games with the very real concerns of our public employees.

I hope we will be able to return in the next Congress and work in a bipartisan fashion to improve the unacceptable housing conditions in our parks and forests.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I just want to call to the gentleman's attention that we have removed the authorization of the Santa Monica Mountains so that type of authorization, that debate is not in here. We are only dealing with the educational center. I thought that was clear to the gentleman.

Mr. TAYLOR of North Carolina. Mr. Speaker, as I understand the gentleman, they have removed a $500 million authorization. There is still the $20 million that I mentioned earlier. There is a $2.5 million authorization for the William O. Douglas Nature Center. There is a study to examine the Federal takeover of the beach mentioned earlier by the gentleman, and many measures that I oppose and I feel add to legislation that is totally intended for a different purpose. Mr. Speaker, I would object to this legislation.

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Mr. TAYLOR of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1704, as amended.

The question was taken.

Mr. TAYLOR of North Carolina. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL MARINE SANCTUARIES PROGRAM AMENDMENTS ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5617) to provide Congressional approval of a Governing International Fishery Agreement, as amended.

The Clerk read as follows:

H.R. 5617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT

SEC. 101. APPROVAL OF AGREEMENT.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of the Republic of Estonia, as contained in the message to Congress from the President of the United States dated June 24, 1992, is approved by the Congress as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this title.

TITLE II—NATIONAL MARINE SANCTUARIES PROGRAM

SEC. 201. SHORT TITLE.

This Act may be cited as the "National Marine Sanctuaries Program Amendments Act of 1992".

Subtitle A—Amendments to Marine Protection, Research, and Sanctuaries Act of 1972

SEC. 2101. FINDINGS, PURPOSES, AND POLICIES.

(a) FINDINGS.—Section 301(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431(a)) is amended—

(1) in paragraph (2) by inserting ", and in some cases international," after "national";

(2) in paragraph (4)—

(A) by inserting ", research," after "conservation"; and

(B) by striking "and" after the semicolon at the end;

(3) in paragraph (5) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(6) protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations.".

(b) PURPOSES AND POLICIES.—Section 301(b) of the (16 U.S.C. 1431(b)) Marine Protection, Research, and Sanctuaries Act of 1972 is amended to read as follows:

"(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

"(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance;

"(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

"(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;

"(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment;

"(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

"(6) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

"(7) to create models of, and incentives for, ways to conserve and manage these areas;

"(8) to cooperate with global programs encouraging conservation of marine resources; and

"(9) to maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate."

SEC. 2102. DEFINITIONS.

(a) Marine Environment.—Section 302(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(3)) is amended by adding "including the exclusive economic zone," after "jurisdiction,"

(b) Damages.—Section 302(6) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(6)) is amended—

(1) in subparagraph (A)(ii) by striking "and" at the end;

(2) in subparagraph (B) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;".

(c) Response Costs.—Section 302(7) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(7)) is amended by inserting "or authorized" after "taken".

(d) Exclusive Economic Zone.—Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—(1) by striking the period at the end of paragraph (8) and inserting "; and"; and (2) by adding after paragraph (8) the following: "(9) 'exclusive economic zone' means the exclusive economic zone as defined in the Magnuson Fishery Conservation and Management Act.".

(e) Technical Correction.—Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) in paragraph (1) by striking "304(a)(1)(E)" and inserting "304(a)(1)(C)(v)"; and

(2) in paragraph (5) by striking "and" after the semicolon.

SEC. 2103. SANCTUARY DESIGNATION STANDARDS.

(a) Standards.—Section 303(a)(2)(B) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)(2)(B)) is amended by inserting "or should be supplemented" after "inadequate".

(b) Factors and Consultations.—

(1) Section 303(b)(1)(A) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(b)(1)(A)) is amended by inserting "maintenance of critical habitat of endangered species," after "assemblages,".

(2) Section 303(b)(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(b)(3)) is amended—

(A) by inserting ", governmental," after "other commercial" and inserting ", governmental," after "any commercial";

(B) by adding at the end the following: "The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations."; and

(C) by striking "304(a)(1)" and inserting "304(a)(2)".

SEC. 2104. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) Sanctuary Proposal.—Section 304(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)) is amended—

(1) by striking "prospectus" wherever it appears and inserting "documents";

(2) in paragraph (1)(C) by striking "a prospectus on the proposal which shall contain—" and inserting "documents, including an executive summary, consisting of—"; and

(3) in paragraph (5)—

(A) by striking "United States Fishery Conservation Zone" and inserting "exclusive economic zone"; and

(B) by adding at the end: "The Secretary shall also cooperate with other appropriate fishery management authorities with rights responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.".

(b) Taking Effect of Designations.—Section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)) is amended—

(1) in paragraph (1) by striking the dash after "unless" and all that follows and inserting ", in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seward boundary of the State.";

(2) in paragraph (2)—

(A) striking "paragraph (1)(A) or (B)" and inserting "paragraph (1)";

(B) by striking "not disapproved under paragraph (1)(A) or"; and

(C) by striking "paragraph (1)(B)" and inserting "paragraph (1)"; and

(3) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) Access and Valid Rights.—Section 304(c)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(c)(2)) is amended to read as follows:

"(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.".

(d) Interagency Cooperation; Review of Management Plan.—Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended by adding at the end the following new subsections:

"(d) Interagency Cooperation.—

"(1) Review of agency action.—

"(A) In general.—Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

"(B) Agency statements required.—Subject to any regulations the Secretary * * * establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

"(2) Secretary's recommended alternatives.—If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

"(3) Response to recommendations.—The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

"(e) Review of Management Plans.—Not more than 5 years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding 5 years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this title.".

SEC. 2105. APPLICATION OF REGULATIONS; INTERNATIONAL COOPERATION.

(a) Enforceability; International Cooperation.—Section 305 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1435) is amended—

(1) in subsection (a)—

(A) by striking "The" in the first sentence and inserting in lieu thereof "This title and the"; and

(B) by inserting "or be enforced against" immediately after "apply to"; and

(2) by adding at the end the following new subsection:

"(c) International Cooperation.—The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this title and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas.".

(b) Technical Amendment.—The section heading for section 305 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1435) is amended by striking all after "REGULATIONS" and inserting in lieu thereof "; INTERNATIONAL NEGOTIATIONS AND COOPERATION.".

SEC. 2106. PROHIBITED ACTIVITIES.

Section 306 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1436) is amended to read as follows:

"SEC. 306. PROHIBITED ACTIVITIES.

"It is unlawful to—

"(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

"(2) possess, sell, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

"(3) interfere with the enforcement of this title; or

“(4) violate any provision of this title or any regulation or permit issued pursuant to this title.”.

SEC. 2107. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) Section 307(c)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(C)(1)) is amended by striking “$50,000” and inserting “$100,000”.

(2) Section 307(c)(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(c)(3)) is amended—

(a) by striking “and may be proceeded” and all that follows through “jurisdiction”; and

(B) by adding at the end of the following sentence: “Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.”.

(b) PROCEEDS FROM CIVIL FORFEITURES.—Section 307(d)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(d)(1) is amended by adding at the end the following new sentence: “The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 312. None of those proceeds shall be subject to set-off.”.

(c) USE OF RECEIVED AMOUNTS.—Section 307(e) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(e)) is amended by striking paragraph (1) and inserting the following:

“(1) EXPENDITURES.—

“(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Responses, Compensation and Liability Act (42 U.S.C. 9607(f)(1)).

“(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this title or any regulation or permit issued under this title.

“(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—

“(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty of forfeiture;

“(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation or permit issued under this title; and

“(iii) manage and improve any other national marine sanctuary.”.

(d) CONFORMING AMENDMENT.—Section 312(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(d)) is amended—

(d) by striking “and civil penalties under section 307”;

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(e) ENFORCEABILITY.—Section 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437) is amended by adding at the end the following new subsection:

“(j) AREA OF APPLICATION AND ENFORCEMENT.—The areas of application and enforceability of this title includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty of the United States, and the United States exclusive economic zone, consistent with international law.”.

SEC. 2108. RESEARCH, MONITORING, AND EDUCATION.

Section 309 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1440) is amended to read as follows:

“SEC. 309. RESEARCH, MONITORING, AND EDUCATION.

“(a) IN GENERAL.—The Secretary shall conduct research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of this title.

“(b) PROMOTION AND COORDINATION OF SANCTUARY USE.—The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of national marine sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons to promote use of one or more sanctuaries for research, monitoring, and education, including coordination with the National Estuarine Research Reserve System.”.

SEC. 2109. COOPERATIVE AGREEMENTS; DONATIONS, AND ACQUISITIONS.

Section 311 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1442) is amended to read as follows:

“SEC. 311. COOPERATIVE AGREEMENTS; DONATIONS, AND ACQUISITIONS.

“(a) COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—The Secretary may enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title.

“(b) AUTHORIZATION TO SOLICIT DONATIONS.—The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this title.

“(c) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

“(d) ACQUISITIONS.—The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this title.”.

SEC. 2110. DESTRUCTION OF LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) LIABILITY FOR INTEREST.—Section 312(a)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)(1)) is amended to read as follows:

“(1) LIABILITY TO UNITED STATES.—Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

“(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

“(B) interest on that amount calculated in the manner described under section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

(b) LIABILITY IN REM.—Section 312(a)(2) of the Marine Protection, Research and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)(2)) is amended by adding at the end the following: “The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.”.

(c) LIMITS TO LIABILITY.—Section 312(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)) is amended by adding at the end the following:

“(4) LIMITS TO LIABILITY.—Nothing in sections 4281–4289 of the Revised Statutes of the United States or section 3 of the Act of February 13, 1893, shall limit the liability of any person under this title.”.

(d) RESPONSE ACTIONS.—Section 312(b)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(b)(1)) is amended by inserting “or authorize” after “undertake”.

(e) USE OF RECOVERED AMOUNTS.—Section 312(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(d)) is amended in paragraph (3), as redesignated by this Act, by inserting “the court decree or settlement agreement, and” after “in accordance with”.

SEC. 2111. AUTHORIZATION OF APPROPRIATIONS.

Section 313. of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444) is amended to read as follows:

“SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary to carry out this title the following—

“(1) $8,000,000 for fiscal year 1993;

“(2) $12,500,000 for fiscal year 1994;

“(3) $15,000,000 for fiscal year 1995; and

“(4) $20,000,000 for fiscal year 1996.”.

SEC. 2112. ADVISORY COUNCILS AND SHORT TITLE.

The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended by adding at the end the following new sections:

“SEC. 315. ADVISORY COUNCILS.

“(a) ESTABLISHMENT.—The Secretary may establish one or more advisory councils (in this section referred to as an ‘Advisory Council’) to provide assistance to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

“(b) MEMBERSHIP.—Members of the Advisory Councils may be appointed from among—

“(1) persons employed by Federal or State agencies with expertise in management of natural resources;

“(2) members of relevant Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852); and

“(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

“(c) LIMITS ON MEMBERSHIP.—For sanctuaries designated after the date of enactment of the National Marine Sanctuaries Program Amendments Act of 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

“(d) STAFFING AND ASSISTANCE.—The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

"(e) PUBLIC PARTICIPATION AND PROCEDURAL MATTERS.—The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

"(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

"(2) Emergency meetings may be held at the call of the chairman or presiding officer.

"(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register.

"(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

"SEC. 316. SHORT TITLE.

"This title may be cited as 'The National Marine Sanctuaries Act'.".

Subtitle B—Miscellaneous

SEC. 2201. GRAVEYARD OF THE ATLANTIC ARTIFACTS.

(a) ACQUISITON OF SPACE.—Pursuant to section 314 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1445) and consistent with the Cooperative Agreement entered into in October, 1989, between the National Oceanic and Atmospheric Administration and the Mariner's Museum of Newport News, Virginia, the Secretary of Commerce shall make a grant for the acquisition of space in Hatteras Village, North Carolina, for—

(1) the display and interpretation of artifacts recovered from the area of the Atlantic Ocean adjacent to North Carolina generally known as the Graveyard of the Atlantic, including artifacts recovered from the Monitor National Marine Sanctuary; and

(2) administration and operations of the Monitor National Marine Sanctuary.

(b) AUTHORIZATION.—To carry out the responsibilities of the Secretary of Commerce under this section, there are authorized to be appropriated to the Secretary of Commerce a total of $800,000 for fiscal years 1993 and 1994, to remain available until expended.

(c) FEDERAL SHARE.—Not more than two-thirds of the cost of space acquired under this section may be paid with amounts provided pursuant to this section.

SEC. 2202. STELLWAGEN BANK NATIONAL MARINE SANCTUARY.

(a) DESIGNATION.—The area described in subsection (b) is designated as the Stellwagen Bank National Marine Sanctuary (hereafter in this section referred to as the "Sanctuary").

(b) AREA.—The Sanctuary shall consist of all submerged lands and waters, including living and nonliving marine resources within those waters, bounded by the area described as Boundary Alternative 3 in the Draft Environmental Impact Statement and Management Plan for the Proposed Stellwagen Bank National Marine Sanctuary, published by the Department of Commerce in January 1991, except that the western boundary shall be modified as follows:

(1) The southwestern corner of the Sanctuary shall be located at a point off Provincetown, Massachusetts, at the following coordinates: 42 degrees, 7 minutes, 44.89 seconds (latitude), 70 degrees, 28 minutes, 15.44 seconds (longitude).

(2) The northwestern corner of the Sanctuary shall be located at a point off Cape Ann, Massachusetts, at the following coordinates: 42 degrees, 37 minutes, 53.52 seconds (latitude), 70 degrees, 35 minutes, 52.38 seconds (longitude).

(c) MANAGEMENT.—The Secretary of Commerce shall issue a management plan for the Sanctuary in accordance with section 304 of the Marine Protection, Research, and Sanctuary Act of 1972 (16 U.S.C. 1434), as amended by this title.

(d) SAND AND GRAVEL MINING ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, exploration for, and mining of, sand and gravel and other minerals in the Sanctuary is prohibited.

(e) CONSULATION.—In accordance with the procedures established in section 304(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this title, the appropriate Federal agencies shall consult with the Secretary on proposed agency actions in the vicinity of the Sanctuary that may affect Sanctuary resources.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for carrying out the purposes of this section $570,000 for fiscal year 1993 and $250,000 for fiscal year 1994.

(d) OFFICE.—The Secretary of Commerce shall consider establishing a satellite office for the Stellwagen Bank National Marine Sanctuary in Provincetown, Gloucester, or Hull, Massachusetts.

SEC. 2203. MONTEREY BAY NATIONAL MARINE SANCTUARY.

(a) ISSUANCE OF DESIGNATION NOTICE.—Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)), the designation of the Monterey Bay National Marine Sanctuary (hereinafter in this section the "Sanctuary"), as described in the notice of designation submitted to the Congress on September 15, 1992, shall take effect on September 18, 1992.

(b) OIL AND GAS ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, no leasing, exploration, development, or production of oil or gas shall be permitted within the Sanctuary as provided by section 944.5 of the Final Environmental Impact Statement and Management Plan for the Monterey Bay National Marine Sanctuary, published by the Department of Commerce in June 1992.

(c) CONSULTATION.—Section 304(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this title, shall apply to the Sanctuary as designated by the Secretary of Commerce.

(d) VESSEL TRAFFIC.—Within 18 months after the date of enactment of this title, the Secretary of Commerce and the Secretary of Transportation, in consultation with the State of California and with adequate opportunity for public comment, shall report to Congress on measures for regulating vessel traffic in the Sanctuary if it is determined that such measures are necessary to protect Sanctuary resources.

SEC. 2204. ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES.

(a) IN GENERAL.—Beginning on the date of enactment of this title, the Secretary shall conduct a 2-year pilot project to enhance funding for designation and management of national marine sanctuaries.

(b) PROJECT.—The project shall consist of—

(1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries;

(2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;

(4) the authorization by the Secretary of the use of any symbol published under paragraph (1) by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(5) the establishment and collection by the Secretary of fees from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);

(6) the retention of any fees assessed under paragraph (5) by the Secretary in an interest-bearing revolving fund; and

(7) the expenditure of any fees and any interest in the fund established under paragraph (6), without appropriation, by the secretary to designate and manage national marine sanctuaries.

(c) CONTRACT AUTHORITY.—The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (b).

(d) RESTRICTIONS.—The Secretary may restrict the use of the symbols published under subsection (b), and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

(e) PROPERTY OF UNITED STATES.—Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (b) is deemed to be the property of the United States.

(f) PROHIBITED ACTIVITIES.—(1) It is unlawful for any person—

(A) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national marine sanctuary, except to the extent that a person who is not so designated may do so;

(B) to represent himself or herself to be an official sponsor absent a designation by the Secretary;

(C) to manufacture, reproduce, or use any symbol adopted by the Secretary absent designation as an official sponsor and without payment of a fee to the Secretary; and

(D) to violate any regulation promulgated by the Secretary under this section.

(2) Violation of this subsection shall be considered a violation of title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(g) REPORT.—No later than 30 months after the date of enactment of this Act, the Secretary shall submit a report on the pilot project to Congress regarding the success of the program in providing additional funds for management and operation of national marine sanctuaries.

(h) DEFINITIONS.—In this section

(1) the term "national marine sanctuary" or "national marine sanctuaries" means a national marine sanctuary or sanctuaries designated under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), or by other law in accordance with title III of the Marine Protection, Research, and Sanctuaries Act of 1972;

(2) the term "official sponsor" means any person designated by the Secretary who is authorized to manufacture, reproduce, or use any symbol created, adopted, and published in the Federal Register under this section for a fee paid to the Secretary; and

(3) the term "Secretary" means the Secretary of Commerce.

SEC. 2205. TECHNICAL CORRECTIONS RELATING TO COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) AMENDMENT OF COASTAL ZONE MANAGEMENT ACT OF 1972.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(b) TECHNICAL CORRECTIONS.—

(1) The Act is amended by—

(A) striking "coastal State" each place it appears and inserting "coastal state";

(B) striking "coastal States" each place it appears and inserting "coastal states"; and

(C) striking "coastal State's" each place it appears and inserting "coastal state's".

(2) Section 6203(b)(1) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–301, relating to section 303(2) of the Coastal Zone Management Act of 1972) is amended by striking "as well as the" the first place it appears and inserting "as well as to".

(3) Section 6204(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–302, relating to section 304(1) of the Coastal Zone Management Act of 1972) is amended—

(A) in the matter preceding paragraph (1) by striking "The third sentence of section" and inserting "Section";

(B) in paragraph (1) by inserting after "period at the end" the following: "of the third sentence"; and

(C) in paragraph (2) by inserting after "territorial sea.'" the following: "at the end of the second sentence".

(4) Section 6204(b) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–302) is amended by striking "following'" and inserting "following:".

(5) Section 304(1) (16 U.S.C. 1453(1)) is amended in the second sentence—

(A) by striking "the outer limit of" the first place it appears; and

(B) by striking "1705," and inserting "1705),".

(6) Section 304(2) (16 U.S.C. 1453(2)) is amended by striking "the term" and inserting "The term".

(7) Section 304(9) (16 U.S.C. 1453(9)) is amended to read as follows:

"(9) The term 'Fund' means the Coastal Zone Management Fund established under section 308(b).".

(8) Section 306(b) (16 U.S.C. 1455(b)) is amended by striking the semicolon at the end and inserting a period.

(9) Section 6216(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–314, relating to section 306A(b)(1) of the Coastal Zone Management Act of 1972) is amended by striking "306a(b)(1)" and inserting "306A(b)(1)".

(10) Section 306A(a)(1)(B) (16 U.S.C. 1455a(a)(1)(B)) is amended by striking "specified" and all that follows through the end of the sentence and inserting "specified in section 303(2)(A) through (K).".

(11) Section 306A(b) (16 U.S.C. 1455a(b)) is amended—

(A) in paragraph (2) by striking "that are designated" and all that follows through the end of the paragraph and inserting "that are designated in the state's management program pursuant to section 306(d)(2)(C) as areas of particular concern."; and

(B) in paragraph (3) by—

(i) striking "access of" and inserting "access to"; and

(ii) striking "in accordance with" and all that follows through the end of the paragraph and inserting "in accordance with the planning process required under section 306(d)(2)(G).".

(12) Section 306A(c) (16 U.S.C. 1455a(c)) is amended in paragraph (2)(C) in the matter following clause (iii) by striking "shall not by" and inserting "shall not be".

(13) Section 6208(b)(3)(B) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–308, relating to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972) is amended by inserting "with" after "complies".

(14) Section 307(i) (16 U.S.C. 1456(i)) is amended—

(A) by inserting "(1)" after "(i)";

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph) by striking the second sentence; and

(C) by adding at the end the following:

"(2)(A) The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c).

"(B) If the Secretary waives the application fee under paragraph (1) for an applicant, the Secretary shall waive all other fees under this subsection for the applicant.

"(3) Fees collected under this subsection shall be deposited into the Coastal Zone Management Fund established under section 308.".

(15) Section 6209 of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–308, relating to section 308 of the Coastal Zone Management Act of 1972) is amended in the matter preceding the quoted material by striking "1456" and inserting "1456a".

(16) Section 308(a)(1) (16 U.S.C. 1456a(a)(1)) is amended in the first sentence by striking "pursuant to this Act" and inserting "pursuant to this title".

(17) Section 308(b)(1) (16 U.S.C. 1456a(b)(1)) is amended by striking "(hereinafter" and all that follows through "'Fund')".

(18) Section 308(b)(1) (16 U.S.C. 1456a(b)(1)) is amended by inserting after "subsection (a)" the following: "and fees deposited into the Fund under section 307(i)(3)".

(19) The first section 313 (16 U.S.C. 1459) is amended—

(A) in subsection (a) by striking "section 308" and inserting "section 308, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990,"; and

(B) in paragraph (1) of subsection (b) by striking "section 208(d)" and all that follows through the end of the paragraph and inserting "section 308, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990; and".

(20) The second section 313 (16 U.S.C. 1460, relating to Walter B. Jones excellence in coastal zone management awards) is amended—

(A) by redesignating that section as section 314;

(B) in subsection (a) by inserting after "under section 308" the following: "and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315)"; and

(C) in subsection (e) by inserting after "under section 308" the following: "and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315)".

(21) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking "National Estuarine Reserve Research System" and inserting "National Estuarine Research Reserve System".

(22) Section 315(c)(4) (16 U.S.C. 1461(c)(4)) is amended by striking "subsection (1)" and inserting "paragraph (1)".

(23) Section 316(a) (16 U.S.C. 1462(a)) is amended in clause (5) by striking "subsections (c) and (d) of this section" and inserting "subsections (c) and (d) of section 312".

(24) Section 6217(i)(3) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–319, relating to definitions under that Act) is amended—

(A) by striking the comma; and

(B) by inserting "Zone" after "Coastal".

SEC. 2206. RESEARCH TO IMPROVE MANAGEMENT.

(a) FLORIDA NATIONAL MARINE SANCTUARY.—Section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note) is amended by striking paragraph (4); by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and by inserting after paragraph (3) the following new paragraphs:

"(4) identify priority needs for research and amounts needed to—

"(A) improve management of the Sanctuary, and in particular, the coral reef ecosystem within the Sanctuary; and

"(B) identify clearly the cause and effect relationships between factors threatening the health of the coral reef ecosystem in the Sanctuary;

"(5) establish a long-term ecological monitoring program and data base, including methods to disseminate information on the management of the coral reef ecosystem;".

(b) DEADLINES NOT AFFECTED.—The amendments made by subsection (a) shall not be construed to modify, by implication or otherwise, the deadlines established under

(1) section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act regarding completion of the comprehensive management plan and final regulations; or

(2) section 8(a) of that Act regarding development of the water quality protection program.

SEC. 2207. OLYMPIC COAST NATIONAL MARINE SANCTUARY.

No oil gas leasing or preleasing activity shall be conducted within the area designated as the Olympic Coast National Marine Sanctuary in accordance with Public Law 100–627.

SEC. 2208. PROVASOLI-GUILLARD CENTER FOR CULTURE OF MARINE PHYTOPLANKTON.

(a) FINDINGS.—The Congress finds the following:

(1) The oceans cover 70 percent of the surface of the Earth.

(2) The foundation of the food webs and fisheries productivity of the oceans rests with microscopic plants known as phytoplankton.

(3) Phytoplankton serve as a vital natural resource in the oceans.

(4) By serving as primary agents in the control of the flux of atmospheric carbon dioxide to the deep ocean, phytoplankton influence climate and the rate of global warming.

(5) There is limited knowledge of the biology, physiology, chemistry, and taxonomy of phytoplankton, and it is of vital interest to this Nation to improve the body of knowledge relating to phytoplankton to benefit this Nation and other countries.

(6) The Provasoli-Guillard Center for the Culture of Marine Phytoplankton located in West Boothbay Harbor, Maine, houses a

phytoplankton collection that contains species from each of the ocean environments of the World, and is recognized as the largest collection of phytoplankton in the World.

(7) The Provasoli-Guillard Center for the Culture of Marine Phytoplankton is of vital interest to oceanographers in this Nation and throughout the World, and provides cultures of phytoplankton for critical research on global issues.

(b) DESIGNATION.—In light of the findings under subsection (a), the Provasoli-Guillard Center for the Culture of Marine Phytoplankton located in West Boothbay Harbor, Maine, is designated as a National Center and Facility.

SEC. 2209. FLORIDA KEYS NATIONAL MARINE SANCTUARY.

(a) IMPLEMENTATION.—Section 8 of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note) is amended by adding at the end the following new subsection:

"(d) IMPLEMENTATON.—(1) The Administrator of the Environmental Protection Agency and the Governor of the State of Florida shall implement the program required by this section, in cooperation with the Secretary of Commerce.

"(2)(A) The Regional Administrator of the Environmental Protection Agency shall with the Governor of the State of Florida establish a Steering Committee to set guidance and policy for the development and implementation of such program. Membership shall include representatives of the Environmental Protection Agency, the National Park Service, the United States Fish and Wildlife Service, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the Florida Department of Community Affairs, The Florida Department of Environmental Regulation, the South Florida Water Management District, and the Florida Keys Aqueduct Authority; three individuals in local government in the Florida Keys; and three citizens knowledgeable about such program.

"(B) The Steering Committee shall, on a biennial basis, issue a report to Congress that—

"(i) summarizes the progress of the program;

"(ii) summarizes any modifications to the program and its recommended actions and plans; and

"(iii) incorporates specific recommendations concerning the implementation of the program.

"(C) The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration shall cooperate with the Florida Department of Environmental Regulation to establish a Technical Advisory Committee to advise the Steering Committee and to assist in the design and prioritization of programs for scientific research and monitoring. The Technical Advisory Committee shall be composed of scientists from Federal agencies, State agencies, academic institutions, private non-profit organizations, and knowledgeable citizens.

"(3)(A) The Regional Administrator of the Environmental Protection Agency shall appoint a Florida Keys Liaison Officer. The Liaison Officer, who shall be located within the State of Florida, shall have the authority and staff to—

"(i) assist and support the implementation of the program required by this section, including administrative and technical support for the Steering Committee and Technical Advisory Committee;

"(ii) assist and support local, State, and Federal agencies in developing and implementing specific action plans designed to carry out such program;

"(iii) coordinate the actions of the Environmental Protection Agency with other Federal agencies, including the National Oceanic and Atmospheric Administration and the National Park Service, and State and local authorities, in developing strategies to maintain, protect, and improve water quality in the Florida Keys;

"(iv) collect and make available to the public publications, and other forms of information that the Steering Committee determines to be appropriate, related to the water quality in the vicinity of the Florida Keys; and

"(v) provide for public review and comment on the program and implementing actions.

"(4)(A) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995, for the purpose of carrying out this section.

"(B) There are authorized to be appropriated to the Secretary of Commerce $300,000 for fiscal year 1993, $400,000 for fiscal year 1994, and $500,000 for fiscal year 1995, for the purpose of enabling the National Oceanic and Atmospheric Administration to carry out this section.

"(C) Amounts appropriated under this paragraph shall remain available until expended.

"(D) No more than 15 percent of the amount authorized to be appropriated under subparagraph (A) for any fiscal year may be expended in that fiscal year on administrative expenses.".

(B) TECHNICAL AMENDMENT.—Section 8(c) of the Florida Keys National Marine Sanctuary Protection Act (16 U.S.C. 1433 note) is amended by striking "paragraph (1)" and inserting in lieu thereof "subsection (a)".

Subtitle C—Hawaii Islands Humpback Whale Sanctuary

SEC. 2301. SHORT TITLE.

This subtitle may be cited as the "Hawaiian Islands National Marine Sanctuary Act".

SEC. 2302. FINDINGS.

The Congress finds the following:

(1) Many of the diverse marine resources and ecosystems within the Western Pacific region are of national significance and importance.

(2) There are at present no ocean areas in the Hawaiian Islands designated as national marine sanctuaries or identified on the Department of Commerce's Site Evaluation List of sites to be investigated as potential candidates for designation as a national marine sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(3) The Hawaiian Islands consist of 8 major islands and 124 minor islands, with a total land area of 6,423 square miles and a general coastline of 750 miles.

(4) The marine environment adjacent to and between the Hawaiian Islands is a diverse and unique subtropical marine ecosystem.

(5) The Department of Commerce recently concluded in its Kahoolawe Island National Marine Sanctuary Feasibility Study that there is preliminary evidence of biological, cultural, and historical resources adjacent to Kahoolawe Island to merit further investigation for national marine sanctuary status.

(6) The Department of Commerce also concluded in its Kahoolawe Island National Marine Sanctuary Feasibility Study that there are additional marine areas within the Hawaiian archipelago which merit further consideration for national marine sanctuary status and that the national marine sanctuary program could enhance marine resource protection in Hawaii.

(7) The Hawaiian stock of the endangered humpback whale, the largest of the three North Pacific stocks, breed and calve within the waters of the main Hawaiian Islands.

(8) The marine areas surrounding the main Hawaiian Islands, which are essential breeding, calving, and nursing areas for the endangered humpback whale, are subject to damage and loss of their ecological integrity from a variety of disturbances.

(9) The Department of Commerce recently promulgated a humpback whale recovery plan which sets out a series of recommended goals and actions in order to increase the abundance of the endangered humpback whale.

(10) An announcement of certain Hawaiian waters frequented by humpback whales as an active candidate for marine sanctuary designation was published in the Federal Register on March 17, 1982 (47 FR 11544).

(11) The existing State and Federal regulatory and management programs applicable to the waters of the main Hawaiian Islands are inadequate to provide the kind of comprehensive and coordinated conservation and management of humpback whales and their habitat that is available under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(12) Authority is needed for comprehensive and coordinated conservation and management of humpback whales and their habitat that will complement existing Federal and State regulatory authorities.

(13) There is a need to support, promote, and coordinate scientific research on, and monitoring of, that portion of the marine environment essential to the survival of the humpback whale.

(14) Public education, awareness, understanding, appreciation, and wise use of the marine environment are fundamental to the protection and conservation of the humpback whale.

(15) The designation, as a national marine sanctuary, of the areas of the marine environment adjacent to the main Hawaiian Islands which are essential to the continued recovery of the humpback whale is necessary for the preservation and protection of this important national marine resource.

(16) The marine sanctuary designated for the conservation and management of humpback whales could be expanded to include other marine resources of national significance which are determined to exist within the sanctuary.

SEC. 2303. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) The term "adverse impact" means an impact that independently or cumulatively damages, diminishes, degrades, impairs, destroys, or otherwise harms.

(2) The term "Sanctuary" means the Hawaiian Islands Humpback Whale National Marine Sanctuary designated under section 2305.

(3) The term "Secretary" means the Secretary of Commerce.

SEC. 2304. POLICY AND PURPOSES.

(a) POLICY.—It is the policy of the United States to protect and preserve humpback whales and their habitat within the Hawaiian Islands marine environment.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to protect humpback whales and their habitat in the area described in section 2305(b);

(2) to educate and interpret for the public the relationship of humpback whales to the Hawaiian Islands marine environment;

(3) to manage such human uses of the Sanctuary consistent with this subtitle and title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this Act; and

(4) to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary designated in section 2305(a).

SEC. 2305. DESIGNATION OF SANCTUARY.

(a) DESIGNATION.—Subject to subsection (c), the area described in subsection (b) is designated as the Hawaiian Islands Humpback Whale National Marine Sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1451 et seq.), as amended by this title.

(b) AREA INCLUDED.—(1) Subject to subsections (c) and (d), the area referred to in subsection (a) consists of the submerged lands and waters off the coast of the Hawaiian Islands seaward of the upper reaches of the wash of the waves on shore—

(A) to the 100-fathom (183-meter) isobath adjoining the islands of Lanai, Maui, and Molokai, including Penguin Bank but excluding the area within 3 nautical miles of the upper reaches of the waves on the shore of Kahoolawe Island;

(B) to the deep water area of Pailolo Channel from Cape Halawa, Molokai, to Nakalele Point, Maui, and southward; and

(C) to the 100-fathom (183-meter) isobath adjoining the Kilauea National Wildlife Refuge on the island of Kauai.

(2)(A) On January 1, 1996, the area of the marine environment within 3 nautical miles of the upper reaches of the wash of the waves on the shore of Kahoolawe Island is designated a part of the Sanctuary, unless during the 3-month period immediately preceding January 1, 1996, the Secretary certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives that the area is not suitable for inclusion in the Sanctuary. If such certification is made, it shall be accompanied by a written explanation of the Secretary's reasoning in support of the certification.

(B) After a certification of unsuitability is made under subparagraph (A), the Secretary shall annually make a finding concerning the suitability of the area for inclusion in the Sanctuary and submit to such congressional committees a report on that finding and the reasons therefor. If the Secretary finds that the area is suitable for inclusion in the Sanctuary, the area is designated a part of the Sanctuary on the 30th day after such report is submitted.

(C) Upon designation of the area under subparagraph (A) or (B), the area shall be managed as if it has been designated under section 2305, and the Secretary shall—

(i) publish a notice in the Federal Register announcing the designation and identifying the area; and

(ii) issue such regulations for the area as are necessary to fulfill the Secretary's responsibilities under this subtitle and title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(3) The Secretary shall generally identify and depict the Sanctuary on National Oceanic and Atmospheric Administration charts. Those charts shall be maintained on file and kept available for public examination during regular business hours at the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration. The Secretary shall update the charts to reflect any boundary modification under subsection (d), and any additional designation under paragraph (2) of this subsection.

(c) EFFECT OF OBJECTION BY GOVERNOR.—(1) If within 45 days after the date of enactment of this title the Governor of Hawaii certifies to the Secretary that the designation (including the prospective additional designation under subsection (b)(2) of the area within 3 nautical miles of Kahoolawe Island) is unacceptable, the designation shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

(2) If within 45 days after the date of issuance of the comprehensive management plan and implementing regulations under section 2306 the Governor of Hawaii certifies to the Secretary that the management plan, any implementing regulation, or any term of the plan or regulations is unacceptable, the management plan, regulation, or term, respectively, shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

(3) If the Secretary considers that an action taken under paragraph (1) or (2) will affect the Sanctuary in a manner that the goals and objectives of this subtitle cannot be fulfilled, the Secretary may terminate the entire designation under subsection (a). At least 30 days prior to such termination, the Secretary shall submit written notification of the proposed termination to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

(d) BOUNDARY MODIFICATIONS.—No later than the date of issuance of the draft environmental impact statement for the Sanctuary under section 304(a)(1)(C)(vii) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)(1)(C)(vii)), the Secretary, in consultation with the Governor of Hawaii, if appropriate, may make modifications to the boundaries of the Sanctuary as necessary to fulfill the purposes of this subtitle. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a written notification of such modifications.

SEC. 2306. COMPREHENSIVE MANAGEMENT PLAN.

(a) PREPARATION OF PLAN.—The Secretary, in consultation with interested persons and appropriate Federal, State, and local government authorities, shall develop and issue not later than 18 months after the date of enactment of this title a comprehensive management plan and implementing regulations to achieve the policy and purposes of this subtitle. In developing the plan and regulations, the Secretary shall follow the procedures specified in sections 303 and 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433 and 1434), as amended by this title. Such comprehensive management plan shall—

(1) facilitate all public and private uses of the Sanctuary (including uses of Hawaiian natives customarily and traditionally exercised for subsistence, cultural, and religious purposes) consistent with the primary objective of the protection of humpback whales and their habitat;

(2) set forth the allocation of Federal and State enforcement responsibilities, as jointly agreed by the Secretary and the State of Hawaii;

(3) identify research needs and establish a long-term ecological monitoring program with respect to humpback whales and their habitat;

(4) identify alternative sources of funding needed to fully implement the plan's provisions and supplement appropriations under section 2307 of this subtitle and section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444);

(6) ensure coordination and cooperation between Sanctuary managers and other Federal, State, and local authorities with jurisdiction within or adjacent to the Sanctuary; and

(7) promote education among users of the Sanctuary and the general public about conservation of humpback whales, their habitat, and other marine resources.

(b) PUBLIC PARTICIPATION.—The Secretary shall provide for participation by the general public in development of the comprehensive management plan or any amendment thereto.

SEC. 2307. AUTHORIZATION OF APPROPRIATIONS.

For carrying out this subtitle, there are authorized to be appropriated to the Secretary $500,000 for fiscal year 1993 and $300,000 for fiscal year 1994. Of the amounts appropriated under this section for fiscal year 1993—

(1) not less than $50,000 shall be used by the Western Pacific Regional Team to evaluate potential national marine sanctuary sites for inclusion on the Department of Commerce's Site Evaluation List; and

(2) not less than $50,000 shall be used to continue the investigation of biological, cultural, and historical resources adjacent to Kahoolawe Island.

TITLE III—MARINE MAMMAL STRANDINGS

SEC. 301. SHORT TITLE.

This title may be cited as the "Marine Mammal Health and Stranding Response Act".

SEC. 302. FINDINGS.

The Congress finds the following:

(1) Current stranding network participants have performed an undeniably valuable and ceaseless job of responding to marine mammal strandings over the last 15 years.

(2) Insufficient understanding of the connection between marine mammal health and the physical, chemical, and biological parameters of their environment prevents an adequate understanding of the causes of marine mammal unusual mortality events.

(3) An accurate assessment of marine mammal health, health trends in marine mammal populations in the wild, and causes of marine mammal unusual mortality events cannot be made without adequate reference data on marine mammals and the environment in which they live.

(4) A systematic assessment of the sources, presence, levels, and effects of potentially harmful contaminants on marine mammals would provide a better understanding of some of the causes of marine mammal unusual mortality events and may serve as an indicator of the general health of our coastal and marine environments.

(5) Responses to marine mammal unusual mortality events are often uncoordinated, due to the lack of sufficient contingency planning.

(6) Standardized methods for the reporting of dying, dead, or otherwise incapacitated

marine mammals in the wild would greatly assist in the determination of the causes of marine mammal unusual mortality events and enhance general knowledge of marine mammal species.

(7) A formal system for collection, preparation, and archiving of, and providing access to, marine mammal tissues will enhance efforts to investigate the health of marine mammals and health trends of marine mammal populations, and to develop reference data.

(8) Information on marine mammals, including results of analyses of marine mammal tissues, should be broadly available to the scientific community, including stranding network participants, through a marine mammal data base.

SEC. 303. MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following new title:

"TITLE III—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"SEC. 301. ESTABLISHMENT OF PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, establish a program to be known as the 'Marine Mammal Health and Stranding Response Program'.

"(b) PURPOSES.—The purposes of the Program shall be to—

"(1) facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the world;

"(2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters; and

"(3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 304.

"SEC. 302. DETERMINATION; DATA COLLECTION AND DISSEMINATION.

"(a) DETERMINATION FOR RELEASE.—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

"(b) COLLECTION.—The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

"(1) procedures and practices for—

"(A) rescuing and rehabilitating stranded marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

"(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

"(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

"(3) strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and

"(4) other life history and reference level data, including a marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.

"(c) AVAILABILITY.—The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.

"SEC. 303. STRANDING RESPONSE AGREEMENTS.

"(a) IN GENERAL.—The Secretary may enter into agreement under section 112(c) with any person to take marine mammals under section 209(h)(1) in response to a stranding.

"(b) REQUIRED PROVISION.—An agreement authorized by subsection (a) shall—

"(1) specify each person who is authorized to perform activities under the agreement; and

"(2) specify any terms and conditions under which a person so specified may delegate that authority to another person.

"(c) REVIEW.—The Secretary shall periodically review agreements under section 112(c) that are entered into pursuant to this title, for performance adequacy and effectiveness.

"SEC. 304. UNUSUAL MORTALITY EVENT RESPONSE.

"(a) RESPONSE.—

"(1) WORKING GROUP.—

"(A) The Secretary, acting through the Office, shall establish, in consultation with the Secretary of the Interior, a marine mammal unusual mortality event working group, consisting of individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, marine conservation, and medical science, to provide guidance to the Secretary and the Secretary of the Interior for—

"(i) determining whether an unusual mortality event is occurring;

"(ii) determining, after an unusual mortality event has begun, if response actions with respect to that event are no longer necessary; and

"(iii) developing the contingency plan in accordance with subsection (b), to assist the Secretary in responding to unusual mortality events.

"(B) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to the marine mammal unusual mortality event working group established under this paragraph.

"(2) RESPONSE TIMING.—The Secretary, in consultation with the Secretary of the Interior, shall to the extent necessary and practicable—

"(A) within 24 hours after receiving notification from a stranding network participant that an unusual mortality event might be occurring, contact as many members as is possible of the unusual mortality event working group for guidance; and

"(B) within 48 hours after receiving such notification—

"(i) make a determination as to whether an unusual mortality event is occurring;

"(ii) inform the stranding network participant of that determination; and

"(iii) if the Secretary has determined an unusual mortality event is occurring, designate an Onsite Coordinator for the event, in accordance with subsection (c).

"(b) CONTINGENCY PLAN.—

"(1) IN GENERAL.—The Secretary shall, in consultation with the Secretary of the Interior and the unusual mortality event working group, and after an opportunity for public review and comment, issue a detailed contingency plan for responding to any unusual mortality event.

"(2) CONTENTS.—The contingency plan required under this subsection shall include—

"(A) a list of persons, including stranding network participants, at a regional, State, and local level, who can assist the Secretary in implementing a coordinated and effective response to an unusual mortality event;

"(B) the types of marine mammal tissues and analyses necessary to assist in diagnosing causes of unusual mortality events;

"(C) training, mobilization, and utilization procedures for available personnel, facilities, and other resources necessary to conduct a rapid and effective response to unusual mortality events; and

"(D) such requirements as are necessary to—

"(i) minimize death of marine mammals in the wild and provide appropriate care of marine mammals during an unusual mortality event;

"(ii) assist in identifying the cause or causes of an unusual mortality event;

"(iii) determine the effects of an unusual mortality event on the size estimates of the affected populations of marine mammals; and

"(iv) identify any roles played in an unusual mortality event by physical, chemical, and biological factors, including contaminants.

"(c) ONSITE COORDINATORS.—

"(1) DESIGNATION.—

"(A) The Secretary shall, in consultation with the Secretary of the Interior, designate one or more Onsite Coordinators for an unusual mortality event, who shall make immediate recommendations to the stranding network participants on how to proceed with response activities.

"(B) An Onsite Coordinator so designated shall be one or more appropriate Regional Directors of the National Marine Fisheries Service or the United States Fish and Wildlife Service, or their designees.

"(C) If, because of the wide geographic distribution, multiple species of marine mammals involved, or magnitude of an unusual mortality event, more than one Onsite Coordinator is designated, the Secretary shall, in consultation with the Secretary of the Interior, designate which of the Onsite Coordinators shall have primary responsibility with respect to the event.

"(2) FUNCTIONS.—

"(A) An Onsite Coordinator designated under this subsection shall coordinate and direct the activities of all persons responding to an unusual mortality event in accordance with the contingency plan issued under subsection (b), except that—

"(i) with respect to any matter that is not covered by the contingency plan, an Onsite Coordinator shall use his or her best professional judgment; and

'(ii) the contingency plan may be temporarily modified by an Onsite Coordinator, consulting as expeditiously as possible with the Secretary, the Secretary of the Interior, and the unusual mortality event working group.

"(B) An Onsite Coordinator may delegate to any qualified person authority to act as an Onsite Coordinator under this title.

"SEC. 305. UNUSUAL MORTALITY EVENT ACTIVITY FUNDING.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund to be known as the 'Marine Mammal Unusual Mortality

Event Fund', which shall consist of amounts deposited into the Fund under subsection (c).

"(b) USES.—

"(1) IN GENERAL.—Amounts in the Fund—

"(A) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior—

"(i) to compensate persons for special costs incurred in acting in accordance with the contingency plan issued under section 304(b) or under the direction of an Onsite Coordinator for an unusual mortality event; and

"(ii) for reimbursing any stranding network participant for costs incurred in preparing and transporting tissues collected with respect to an unusual mortality event for the Tissue Bank; and

"(B) shall remain available until expended.

"(2) PENDING CLAIMS.—If sufficient amounts are not available in the Fund to satisfy any authorized pending claim, such claim shall remain pending until such time as sufficient amounts are available. All authorized pending claims shall be satisfied in the order received.

"(c) DEPOSITS INTO THE FUND.—There shall be deposited into the Fund—

"(1) amounts appropriated to the Fund;

"(2) other amounts appropriated to the Secretary for use with respect to unusual mortality events; and

"(3) amounts received by the United States in the form of gifts, devises, and bequests under subsection (d).

"(d) ACCEPTANCE OF DONATIONS.—For purposes of carrying out this title, the Secretary may accept, solicit, and use the services of volunteers, and may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"SEC. 306. LIABILITY.

"(a) IN GENERAL.—A person who is authorized to respond to a stranding pursuant to an agreement entered into under section 112(c) is deemed to be an employee of the government for purposes of chapter 171 of title 28, United States, with respect to actions of the person that are—

"(1) in accordance with the agreement; and

"(2) in the case of an unusual mortality event, in accordance with—

"(A) the contingency plan issued under section 304(b);

"(B) the instructions of an Onsite Coordinator designated under section 304(c); or

"(C) the best professional judgment of an Onsite Coordinator, in the case of any matter that is not covered by the contingency plan.

"(b) LIMITATION.—Subsection (a) does not apply to actions of a person described in that subsection that are grossly negligent or that constitute willful misconduct.

"SEC. 307. NATIONAL MARINE MAMMAL TISSUE BANK AND TISSUE ANALYSIS.

"(a) TISSUE BANK.—

"(1) IN GENERAL.—The Secretary shall make provision for the storage, preparation, examination, and archiving of marine mammal tissues. Tissues achieved pursuant to this subsection shall be known as the 'National Marine Mammal Tissue Bank'.

"(2) GUIDANCE FOR MARINE TISSUE COLLECTION, PREPARATION, AND ARCHIVING.—The Secretary shall, in consultation with individuals with knowledge and expertise in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for marine mammal tissue collection, preparation, archiving, and quality control procedures, regarding—

"(A) appropriate and uniform methods and standards for those activities to provide confidence in marine mammal tissue samples used for research; and

"(B) documentation of procedures used for collecting, preparing, and archiving those samples.

"(3) SOURCE OF TISSUE.—In addition to tissue taken during marine mammal unusual mortality events, the Tissue Bank shall incorporate tissue samples taken from other sources in the wild, including—

"(A) samples from marine mammals taken incidental to commercial fishing operations;

"(B) samples from marine mammals taken for subsistence purposes;

"(C) biopsy samples; and

"(D) any other samples properly collected.

"(b) TISSUE ANALYSIS.—The Secretary shall, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for analyzing tissue samples (by use of the most effective and advanced diagnostic technologies and tools practicable) as a means to monitor and measure overall health trends in representative species or populations of marine mammals, including—

"(1) the levels of, and if possible, the effects of, potentially harmful contaminants; and

"(2) the frequency of, and if possible, the causes and effects of abnormal lesions or anomalies.

"(c) DATA BASE.—

"(1) IN GENERAL.—The Secretary shall maintain a central data base which provides an effective means for tracking and accessing data on marine mammals, including relevant data on marine mammal tissues collected for and maintained in the Tissue Bank.

"(2) CONTENTS.—The data base established under this subsection shall include—

"(A) reference data on the health of marine mammals and populations of marine mammals; and

"(B) data on species of marine mammals that are subject to unusual mortality events.

"(d) ACCESS.—The Secretary shall, in consultation with the Secretary of the Interior, establish criteria, after an opportunity for public review and comment, for access to—

"(1) marine mammal tissues in the Tissue Bank;

"(2) analyses conducted pursuant to subsection (b); and

"(3) marine mammal data in the data base maintained under subsection (c);

which provide for appropriate uses of the tissues, analyses, and data by qualified scientists, including stranding network participants.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated—

"(1) to the Secretary for carrying out this title (other than sections 305 and 307) $250,000 for each of fiscal years 1993 and 1994;

"(2) to the Secretary for carrying out section 307, $250,000 for each of fiscal years 1993 and 1994; and

"(3) to the Fund, $500,000 for fiscal year 1993.

"SEC. 309. DEFINITIONS.

"In the title, the following definitions apply:

"(1) The term 'Fund' means the Marine Mammal Unusual Mortality Event Fund established by section 305(a).

"(2) The term 'Office' means the Office of Protected Resources, in the National Marine Fisheries Service.

"(3) The term 'stranding' means an event in the wild in which—

"(A) a marine mammal is dead and is—

"(i) on a beach or shore of the United States; or

"(ii) in waters under the jurisdiction of the United States (including any navigable waters); or

"(B) a marine mammal is alive and is——

"(i) on a beach or shore of the United States and unable to return to the water;

"(ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or

"(iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

"(4) The term 'stranding network participant' means a person who is authorized by an agreement under section 112(c) to take marine mammals as described in section 109(h)(1) in response to a stranding.

"(5) The term 'Tissue Bank' means the National Marine Tissue Bank provided for under section 307(a).

"(6) The term 'unusual mortality event' means a stranding that—

"(A) is unexpected;

"(B) involves a significant die-off of any marine mammal population; and

"(C) demands immediate response."

(b) IMPLEMENTATION.—The Secretary of Commerce shall—

(1) in accordance with section 302 (a) and (b) of the Marine Mammal Protection Act of 1972, as amended by this Act, and not later than 24 months after the date of enactment of this Act—

(A) develop and implement objective criteria to determine at what point a marine mammal undergoing rehabilitation is returnable to the wild; and

(B) collect and make available information on marine mammal health and health trends; and

(2) in accordance with section 304(b) of the Marine Mammal Protection Act of 1972, as amended by this Act, issue a detailed contingency plan for responding to any unusual mortality event—

(A) in proposed form by not later than 18 months after the date of enactment of this Act; and

(B) in final form by not later than 24 months after the date of enactment of this Act.

SEC. 304. CONFORMING AMENDMENTS.

(a) CROSS REFERENCES.—The Marine Mammal Protection Act of 1972 is amended—

(1) in section 102(a) (16 U.S.C. 1372(a)) by inserting "or title III" after "this title" the first place it appears;

(2) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by inserting "or title III" after "this title"; and

(3) in section 112(c) (16 U.S.C. 1382(c)) by inserting "or title III" after "this title".

(b) DEFINITION OF SECRETARY.—Section 3(11) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(11)) is amended—

(1) by striking "The term" and inserting "(A) Except as provided in subparagraph (B), the term";

(2) by redesignating subparagraph (A) as clause (i);

(3) by redesignating subparagraph (B) as clause (ii); and

(4) by adding at the end the following new subparagraph:

"(B) In title III the term 'Secretary' means the Secretary of Commerce."

SEC. 305. COASTAL IMPROVEMENTS.

The Secretary of the Army shall conduct studies for navigation projects for Provincetown Harbor, Massachusetts, and Aunt Lydia's Cove, Chatham, Massachusetts, and shall evaluate the benefits of the projects to commercial fishermen at full manufacturing wages. After completion of the studies, the Secretary of the Army shall carry out the projects under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577).

SEC. 306. TECHNICAL CLARIFICATION.

Section 4283B of the Revised Statutes (46 App. U.S.C. 183c) is amended in paragraph (2) by adding the word "any" before the word "court".

TITLE IV—NEW YORK ZEBRA MUSSELS

SEC. 402. NEW YORK CITY ZEBRA MUSSEL PROGRAM.

(a) MONITORING AND PREVENTION.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, the Governor of the State of New York and the Mayor of the city of New York, shall—

(A) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system;

(B) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(C) provide technical assistance to the State of New York and the city of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

(2) COST SHARING.—The Secretary shall not initiate any monitoring, prevention, or technical assistance project or program under this subsection until appropriate non-Federal interests agree, by contract, to contribute 25 percent of the cost for such project or program during the period of such project or program.

(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subsection, there is authorized to be appropriated to the Secretary $2,000,000 for each fiscal years 1993, 1994, 1995, 1996, and 1997. Such sums shall remain available until expended.

(b) EXOTIC AQUATIC ORGANISMS.—

(1) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end the following new paragraph:

"(3) In addition to issuing regulations under paragraph (1), the Secretary, in consultation with the Task Force shall, not later than 24 months after the date of the enactment of this paragraph, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River north of the George Washington Bridge.".

(2) TECHNICAL CORRECTIONS.—The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 *et seq.*) is amended—

(A) by striking paragraph (1) of section 1003 and renumbering paragraphs (2) through (15) as paragraphs (1) through (14); and

(B) in subparagraph 1101(b)(2)(A) by striking "require" and inserting "apply to".

TITLE V—COAST GUARD AUTHORIZATION

SEC. 501. SHORT TITLE.

This title may be cited as the "Coast Guard Authorization Act of 1992".

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,603,000,000, of which—

(A) $253,100,000 shall be transferred from the Department of Defense;

(B) $31,876,000 shall be derived from the Oil Spill Liability Trust Fund; and

(C) $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids-to-navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $419,300,000 to remain available until expended, of which—

(A) $18,000,000 shall be transferred from the Department of Defense; and

(B) $38,122,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $29,900,000, to remain available until expended, of which $4,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Administration Program, $12,600,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $30,500,000, to remain available until expended.

SEC. 503. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,732. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For Fiscal Year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 504. SHORE FACILITIES IMPROVEMENTS AT GROUP CAPE HATTERAS.

Of amounts authorized to be appropriated for acquisition, construction rebuilding and improvement, the Secretary of Transportation shall expend not more than $5,500,000, in Fiscal Years 1993, 1994, 1995, 1996, and 1997, for shore facilities improvements within Group Cape Hatteras, North Carolina.

SEC. 505. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in fiscal year 1993, the Secretary of Transportation shall expend not more than—

(1) $890,000 to acquire and preposition oil spill response equipment at Houston, Texas; and

(2) $1,160,000 for the enhancement of Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Maritime Fire and Safety Association.

SEC. 506. OIL SPILL TRAINING SIMULATORS.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in fiscal year 1993, the Secretary of Transportation shall make available not more than—

(1) $1,250,000 to the Texas Center for Marine Training and Safety at Galveston, Texas, for the purchase of a marine oil spill management simulator; and

(2) $1,250,000 to the Massachusetts Center for Marine Environmental Protection, located at Buzzards Bay, Massachusetts, for the purchase of a marine oil spill management simulator.

SEC. 507. EVACUATION ALLOWANCE.

Section 208 of the Dire Emergency Supplemental Appropriations Act, 1992 (Public Law 102-368) applies to military personnel and civilian employees of the United States Coast Guard to the same extent as that section applies to the Department of Defense, except that funds available to the Coast Guard shall be used.

Subtitle A—Boating Safety

SEC. 5101. TREATMENT OF UNOBLIGATED ALLOCATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13104 of title 46, United States Code, is amended to read as follows: § 13104. Availability of allocations

"(a)(1) Amounts allocated to a State shall be available for obligation by that State for a period of 3 years after the date of allocation.

"(2) Amounts allocated to a State that are not obligated to the end of the 3-year period referred to in paragraph (1) shall be withdrawn and allocated by the Secretary in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

"(b) Amounts available to the Secretary for State recreational boating safety programs for a fiscal year that have not been allocated at the end of the fiscal year shall be allocated among States in the next fiscal year in addition to amounts otherwise available for allocation to States for the next fiscal year.".

SEC. 5102. INCREASED PENALTIES FOR OPERATING A VESSEL WHILE INTOXICATED.

Section 2302(c)(1) of title 46, United States Code, is amended by striking "$1,000;" and inserting "$1,000 for a first violation and not more than $5,000 for a subsequent violation;"

SEC. 5103. FUTURE BOATERS EDUCATION PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan to increase the availability of voluntary safe boating education to individuals 16 years of age or younger. In developing the plan, the Secretary shall consider using the resources of the Coast Guard Auxiliary to provide boating education to the greatest extent possible.

Subtitle B—Miscellaneous

SEC. 5201. COAST GUARD BAND DIRECTOR.

Section 336(d) of title 14, United States Code, is amended by striking "lieutenant".

SEC. 5202. RECYCLING PROGRAM.

Section 641 of title 14, United States Code, is amended by adding the following:

"(c)(1) The Commandant may—

"(A) provide for the sale of recyclable materials that the Coast Guard holds;

"(B) provide for the operation of recycling programs at Coast Guard installations; and

"(C) designate Coast Guard installations that have qualified recycling programs for the purposes of subsection (d)(2).

"(2) Recyclable materials shall be sold in accordance with section 203 of the Federal Property and Administrative Services Act of 1949 (U.S.C. 484).

"(d)(1) Proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation.

"(2) If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. The cost of the project may not be greater than 50 percent of the amount permissible for a minor construction project.

"(3) The remaining balance available to a Coast Guard installation may be transferred to the Coast Guard Morale, Welfare and Recreation Program.

"(e) If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of $200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.".

SEC. 5203. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) Title 14, United States Code is amended by inserting after section 644 the following new section:

"§ 645. Confidentiality of medical quality assurance records; qualified immunity for participants

"(a) In this section—

"(1) 'medical quality assurance program' means any activity carried out by or for the Coast Guard to assess the quality of medical care, incuding activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics) medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

"(2) 'medical quality assurance record' means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Coast Guard as part of a medical quality assurance program.

"(3) 'health care provider' means any military or civilian health care professional who, under regulations prescribed by the Secretary, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

"(b) Medical quality assurance records created by or for the Coast Guard as part of a medical quality assurance program are confidential and privileged. The records may not be disclosed to any person or entity except as provided in subsection (d).

"(c)(1) Medical quality assurance records are not subject to discovery and may not be admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (d).

"(2) Except as provided in this section, an individual who reviews or creates quality assurance records for the Coast Guard or who participates in any proceeding that reviews or creates the records may not testify in any judicial or administrative proceeding with respect to the records or with respect to any finding, recommendation, evaluation, opinion, or action taken by that person in connection with the records.

"(d)(1) Subject to paragraph (2), a medical quality assurance record may be disclosed, and an individual referred to in subsection (c) may testify in connection with a record only as follows:

"(A) To a Federal executive agency or private organization, if necessary to license, accredit, or monitor Coast Guard health care facilities.

"(B) To an administrative or judicial proceeding commenced by a present or former Coast Guard or Coast Guard Public Health Service assignee, health care provider concerning the termination, suspension, or limitation of clinical privileges of the health care provider.

"(C) To a governmental board or agency or to a professional health care society or organization, if necessary to perform licensing, or privileging, or to monitor professional standards for a health care provider who is or was a member or an employee of the Coast Guard or the Public Health Service assigned to the Coast Guard.

"(D) To a hospital, medical center, or other institution that provides health care services, if necessary to assess the professional qualifications of any health care provider who is or was a member or employee of the Coast Guard or the Public Health Service assigned to the Coast Guard and who has applied for or been granted authority or employment to provide health care services in or on behalf of the institution.

"(E) To an officer, member, employee, or contractor of the Coast Guard or the Public Health Service assigned to the Coast Guard if for official purposes.

"(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of the agency or instrumentality makes a written request that the record or testimony be provided for a purpose authorized by law.

"(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of the proceeding.

"(2) Except in a quality assurance action, the identity of any individual receiving health care services from the Coast Guard or the identity of any other individual associated with the agency for the purposes of a medical quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of the record is made outside the Coast Guard. This requirement does not apply to the release of information under section 552a of title 5.

"(d) Except as provided in this section, a person having possession of or access to a record or testimony described by this section may not disclose the contents of the record or testimony.

"(e) Medical quality assurance records may not be made available to any person under section 552 of title 5.

"(f) An individual who participates in or provides information to an individual that reviews or creates medical quality assurance records is not civilly liable for participating or providing the information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

"(g) Nothing in this section shall be construed as—

"(1) authority to withhold from any person aggregate statistical information regarding the results of Coast Guard medical quality assurance programs;

"(2) authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the General Accounting Office if the record pertains to any matter within their respective jurisdictions;

"(3) limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

"(h) Except as otherwise provided in this section, an individual who willfully discloses a medical quality assurance record knowing that the record is a medical quality assurance record, is liable to the United States Government for a civil penalty of not more than $3,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense."

(b) The analysis for chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 644 the following new item:

"§ 645. Confidentiality of medical quality assurance records; qualified immunity for participants".

SEC. 5204. TELEPHONE INSTALLATION AND CHARGES.

(a) Title 14, United States Code, is amended by adding the following new section:

"§ 669. Telephone installation and charges

"Under regulations prescribed by the Secretary, amount appropriated to the Department of Transportation are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes in other private residences."

(b) The analysis for chapter 17 of title 24, United States Code, is amended by adding at the end the following new item:

"§ 669. Telephone installation and charges".

SEC. 5205. SPECIAL PAY.

(a) Section 306(a) of title 37, United States Code, is amended by striking "of pay grade O-3, O-4, O-5, or O-6" and inserting "of pay grade O-6 or below", and by striking the chart and inserting the following new chart:

"Pay Grade	Monthly Rate
O–6	$150
O–5	100
O–4 and below	50".

(b) Section 306(c) of title 307, United States Code, is amended by striking "in pay grade O–3," and inserting "in each of the pay grades O–3 and below,".

SEC. 5206. AMENDMENT OF INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended by amending Rule 1(d) (33 U.S.C. 2001(d)) to read as follows:

"(d) Traffic separation schemes may be established for the purpose of these rules. Vessel traffic service regulations may be in effect in certain areas."; and

(2) by amending Rule 10 (33 U.S.C. 2010) to read as follows:

"RULE 10

"TRAFFIC SEPARATION SCHEMES

"(a) This Rule applies to traffic separation schemes and does not relieve any vessel of her obligation under any other Rule.

"(b) A vessel using a traffic separation scheme shall:

"(i) proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;

"(ii) so far as practicable keep clear of a traffic separation line or separation zone;

"(iii) normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from either side shall do so at as small an angle to the general direction of traffic flow as practicable.

"(c) A vessel shall, so far as practicable, avoid crossing traffic lanes but if obliged to do so shall cross on a heading as nearly as practicable at right angles to the general direction of traffic flow.

"(d)(i) A vessel shall not use an inshore traffic zone when she can safely use the appropriate traffic lane within the adjacent traffic separation scheme. However, vessels of less than 20 meters in length, sailing vessels, and vessels engaged in fishing may use the inshore traffic zone.

"(ii) Notwithstanding subparagraph (d)(i), a vessel may use an inshore traffic zone when en route to or from a port, offshore installation or structure, pilot station, or any other place situated within the inshore traffic zone, or to avoid immediate danger.

"(e) A vessel other than a crossing vessel or a vessel joining or leaving a land shall not normally enter a separation zone or cross a separation line except:

"(i) in cases of emergency to avoid immediate danger; or

"(ii) to engage in fishing within a separation zone.

"(f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.

"(g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.

"(h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.

"(i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

"(j) A vessel of less than 20 meters in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

"(k) A vessel restricted in her ability to maneuver when engaged in an operation for the maintenance of safety of navigation in a traffic separation scheme is exempted from complying with this rule to the extent necessary to carry out the operation.

"(l) A vessel restricted in her ability to maneuver when engaged in an operation for the laying, servicing, or picking up of a submarine cable, within a traffic separation scheme, is exempted from complying with this rule to the extent necessary to carry out the operation.".

SEC. 5207. STATE MARITIME ACADEMY VESSEL INSPECTION FEE RELIEF.

Section 2110 of title 46, United States Code, is amended by adding at the end the following:

"(j) The Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle of training vessels operated by state maritime academies.".

SEC. 5208. INSPECTION OF GREAT LAKES BARGES.

(a) Section 2101 of title 46, United States Code, is amended by inserting after paragraph (13) the following new paragraph:

"(13a) 'Great Lakes barge' means a non-self-propelled vessel of at least 3,500 gross tons operating on the Great Lakes."

(b) Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(13) Great Lakes barges.".

(c) For Great Lakes barges placed in operation after the date of enactment of this Act, the amendments made by this section take effect on the date of enactment of this Act.

(d)(1) For Great Lakes barges in operation on the date of enactment of this Act, the amendments made by this section take effect one year after the date of enactment of this Act.

(2) The Secretary of Transportation may impose reasonable interim requirements to assure safe operation of the barges affected by paragraph (1).

SEC. 5209. TANK VESSEL DEFINITION CLARIFICATION.

(a) In this section, "offshore supply vessel", "fish tender vessel", "fishing vessel", and "tank vessel" have the meanings given those terms under section 2101 of title 46, United States Code.

(b) The following vessels are deemed not to be a tank vessel for the purposes of any law:

(1) An offshore supply vessel.

(2) A fishing or fish tender vessel of not more than 750 gross tons that transfers without charge to a fishing vessel owned by the same person.

(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 46, United States Code, as provided in the Aleutian Trade Act of 1990 (Public Law 101–595).

(d) Current regulations governing the vessels in subsection (b) remain in effect.

SEC. 5210. AUTHORITY FOR THE COAST GUARD TO INSPECT AND WITHHOLD DOCUMENTS OF CERTAIN FOREIGN PASSENGER VESSELS.

(a) Section 3303(a) of title 46, United States Code, is amended in the first sentence—

(1) by striking "only" immediately after "is subject"; and

(2) by striking "the condition of the vessel's propulsion equipment and lifesaving equipment are" and inserting in lieu thereof "the condition of the vessel is".

(b) Section 3505 of title 46, United States Code, is amended by striking "or domestic vessel of more than 100 gross tons having berth or stateroom accommodations for at least 50 passengers" and insert "vessel".

SEC. 5211. REIMBURSEMENT FOR OVERSEAS INSPECTIONS AND EXAMINATIONS.

Section 3317(b) of title 46, United States Code, is amended—

(1) by striking "chapter" and inserting "part"; and

(2) by inserting "or a foreign vessel" immediately after "documented vessel".

SEC. 5212. WATCHSTANDING ON CERTAIN VESSELS.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (g), by inserting "a vessel used only to respond to a discharge of oil or a hazardous substance," after "an offshore supply vessel,"; and

(2) by redesignating the second subsection (n) as subsection (o).

SEC. 5213. DENIAL AND REVOCATION OF ENDORSEMENTS.

(a) Chapter 121 of title 46, United States Code, is amended—

(1) in section 12103(a), by striking "On" and inserting "Except as provided in section 12123 of this title, on";

(2) by amending section 12110(c) to read as follows:

"(c) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

"(1) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(2) when a vessel is employed in a trade without an appropriate trade endorsement; or

"(3) when a documented vessel with a recreational endorsement is operated other than for pleasure."; and

(3) by adding the following new section:

§12123. Denial and revocation of endorsements

"When the owner of a vessel fails to pay a civil penalty assessed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement or revoke the endorsement on a certificate of documentation issued under this chapter.".

(b) The analysis for chapter 121 of title 46, United States Code, is amended by adding at the end the following:

§12123. Denial and revocation of endorsements".

SEC. 5214. ACCEPTANCE OF EVIDENCE OF PAYMENT OF COAST GUARD FEES.

The Secretary of Transportation may not issue a citation for failure to pay a fee or charge established under section 2110 of title 46, United States Code, to an owner or operator of a recreational vessel who provides reasonable evidence of prior payment of the fee or charge to a Coast Guard boarding officer.

SEC. 5215. SCHEDULE FOR OPERATION OF DRAWBRIDGE OF WOODROW WILSON MEMORIAL BRIDGE.

(a)(1) The Secretary of the department in which the Coast Guard is operating (in this section referred to as the "Secretary") shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge in the following periods for the passage of a commercial vessel:

(A) Monday through Friday (except Federal holidays), 5:00 a.m. to 10:00 a.m. and 2:00 p.m. to 8:00 p.m.

(B) Saturday, Sunday, and Federal holidays, 2:00 p.m. to 7:00 p.m.

(2) The Secretary need not operate the drawbridge of the Woodrow Wilson Memorial

Bridge for the passage of a commercial vessel under paragraph (1) unless—

(A) the owner or operator of the vessel provides the bridge tender with an estimate of the approximate time of that passage at least 12 hours in advance; and

(B) the owner or operator of the vessel notifies the bridge tender at least 4 hours in advance of the requested time for that passage.

(3) Not later than 180 days after the date of enactment of this Act, the Secretary shall issue an Advance Notice of Proposed Rulemaking to solicit comments on whether there are practical ways to encourage owners and operators of commercial vessels to make every reasonable effort to notify the bridge tender of the time a vessel will pass the Woodrow Wilson Memorial Bridge by not later than 24 hours before that passage.

(b)(1) The Secretary shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge in the following periods for the passage of a recreational vessel:

(A) Monday through Friday (except Federal holidays), 5:00 a.m. to 12:00 midnight;

(B) Saturday, Sunday, and Federal holidays, 7:00 a.m. to 12:00 midnight, except as provided in paragraph (2).

(2) Notwithstanding paragraph (1)(B), the Secretary may operate the drawbridge of the Woodrow Wilson Memorial Bridge beginning at 10:00 p.m. on Saturday, Sunday, or a Federal holiday for the passage of a recreational vessel, if the owner or operator of the vessel notifies the Secretary of the time of that passage by not later than 12 hours before that time.

(3) This subsection shall not be construed to prohibit a recreational vessel from passing the Woodrow Wilson Memorial Bridge at any time at which the drawbridge is being operated for the passage of a commercial vessel.

(c) The Secretary shall operate the drawbridge of the Woodrow Wilson Memorial Bridge on signal at anytime for a vessel in distress.

SEC. 5216. STATION BRANT POINT BOAT HOUSE.

(a)(1) The Secretary of Transportation shall convey to the town of Nantucket, Massachusetts, all right, title, and interest of the United States in and to the building known as the Station Brant Point Boat House located at Coast Guard Station Brant Point, Nantucket, Massachusetts.

(2) A conveyance of the building under paragraph (1) shall be made—

(A) without the payment of consideration; and

(B) subject to appropriate terms and conditions the Secretary considers necessary.

(b)(1) The Secretary shall enter into a lease of not less than 20 years permitting the town of Nantucket to occupy the property on which the Brant Point Boat House is located, subject to appropriate terms and conditions the Secretary considers necessary.

(2) If the Secretary determines that the property leased under paragraph (1) is necessary for purposes of Coast Guard, the Secretary—

(A) may terminate the lease without payment of compensation; and

(B) shall provide the town of Nantucket with not less than 12 months notice of the requirement to vacate the site and move the Boat House to another location.

SEC. 5217. STUDY OF THE APPLICATION OF TILTROTOR AIRCRAFT TECHNOLOGY TO COAST GUARD MISSIONS.

(a) Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit a study to Congress on the application of the V-22 Osprey tiltrotor technology to Coast Guard missions.

(b) In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the application of tiltrotor technology to Coast Guard mission including—

(A) search and rescue at sea; and

(B) the enforcement of laws of the United States especially with respect to drug interdiction;

(2) determine whether use of the technology in the Coast Guard marine environmental protection program would minimize the damage caused by oil or hazardous substances spills in the waters of the United States; and

(3) determine what effect the technology would have on Coast Guard manpower and operating costs, compared to those costs associated with technology currently used by the Coast Guard.

SEC. 5218. ENFORCEMENT AGREEMENTS.

The Coast Guard and the Department of Commerce shall enter into a Memorandum of Agreement regarding fisheries enforcement practices and procedures that provide at a minimum for the opportunity, if timely requested, to appear in person to respond to charges of violation of law or regulation when the opportunity for a hearing is granted by statue. The Memorandum of Agreement shall also provide that all enforcement procedures shall be fair and consistently applied.

SEC. 5219. AUTHORIZING PAYMENTS TO CERTAIN SUBCONTRACTORS.

(a) Not later than 6 months after the date of enactment of this title, the Secretary of Transportation shall determine the amounts that MZP, Incorporated, owes to all subcontractors that performed work or supplied materials under Coast Guard contract DTCG50-87-C-00096.

(b) Investigation or interviews conducted to determine amounts owed under subsection (a) shall be conducted in Ketchikan, Alaska.

(c) Not later than two months after making the determinations under subsection (a), the Secretary is authorized to pay the subcontractors the amounts owed.

SEC. 5220. SANKATY HEAD LIGHT STATION.

(a)(1) The Secretary of Transportation shall convey to the Nantucket Historical Association in Nantucket, Massachusetts, by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Sankaty Head Light Station.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section snall be made—

(A) without the payment of consideration;

(B) subject to the condition that all or part of the property may be sold and the money from the sale used for the purpose of moving the Sankaty Head Lighthouse to a location at which the Lighthouse can be maintained and preserved and for its maintenance and preservation in accordance with paragraph (2); and

(C) subject to such other terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Sankaty Head Lighthouse shall immediately revert to the United States if the Lighthouse ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Nantucket, Massachusetts.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Nantucket Historical Association may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Sankaty Head Lighthouse as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed, or the property to which the Sankaty Head Lighthouse is relocated, without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Nantucket Historical Association shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section or on property to which the Sankaty Head Lighthouse may be relocated.

(c) The Nantucket Historical Association shall maintain the Sankaty Head Lighthouse in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(d) For purposes of this section—

(1) "Sankaty Head Light Station" means the Coast Guard lighthouse located on the eastern shore of Nantucket Island, Massachusetts, including the keeper's dwelling, adjacent Coast Guard rights of way, and such land as may be necessary to enable the Nantucket Historical Association to use the proceeds from the sale of the land for the relocation, maintenance and preservation of the Sankaty Head Lighthouse; and

(2) "Sankaty Head Lighthouse" means the Coast Guard lighthouse located at the Sankaty Head Light Station.

SEC. 5221. STUDY OF BUOY CHAIN PROCUREMENT PRACTICES.

(a) Not later than 6 months after the date of enactment of this title, the Secretary of Transportation shall submit a study to Congress on acquisition of Coast Guard buoy chain.

(b) In conducting the study under subsection (a), the Secretary shall consider—

(1) the ability of United States buoy chain manufacturers to successfully compete for United States Government contracts to provide buoy chain to the Coast Guard; and

(2) the effect on the national security of United States dependence on foreign sources for acquisition of buoy chain.

SEC. 5222. CORRECTION REGARDING CERTAIN EXEMPTIONS.

Section 4506 of title 46, United States Code, is amended by striking "4502(b)(2)" and inserting "4502(b)(2)(B)".

SEC. 5223. CONTRACT FOR CERTAIN SERVICES AT COAST GUARD SUPPORT CENTER IN KODIAK, ALASKA.

Notwithstanding any other law, the Coast Guard is authorized, pursuant to the provisions of applicable acquisition regulations, to enter into a negotiated contract with PTI, at a fair and reasonable price that reflects a fair allocation of costs between Alaska ratepayers and the Coast Guard, to provide Digitrex central-office-based business services to the Coast Guard Support Center in Kodiak, Alaska, at Building 576. The Coast Guard shall pay only for service and service enhancements received or to be received by the United States at the Coast Guard Support Center, Kodiak, Alaska. The termination liability of such contract shall be negotiated, but shall not exceed $842,047.

Subtitle C—Abandoned Barges

SEC. 5301. SHORT TITLE.

This subtitle may be cited as the "Abandoned Barge Act of 1992".

SEC. 5302. ABANDONMENT OF BARGES.

Part B of subtitle II of title 46, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 47—ABANDONMENT OF BARGES

"Sec.
"4701. Definitions.
"4702. Abandonment of barge prohibited.
"4703. Penalty for unlawful abandonment of barge.
"4704. Removal of abandoned barges.
"4705. Liability of barge removal contractors.

"§ 4701. Definitions

"In this chapter—

"(1) 'abandon' means to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons unattended for longer than forty-five days.

"(2) 'barge removal contractor' means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

"(3) 'navigable waters of the United States' means waters of the United States, including the territorial sea.

"(4) 'removal' or 'remove' means relocation, sale, scrapping, or other method of disposal.

"§ 4702. Abandonment of barge prohibited

"(a) An owner or operator of a barge may not abandon it on the navigable waters of the United States. A barge is deemed not to be abandoned if—

"(1) it is located at a Federally- or State-approved mooring area;

"(2) it is on private property with the permission of the owner of the property; or

"(3) the owner or operator notifies the Secretary that the barge is not abandoned and the location of the barge."

"§ 4703. Penalty for unlawful abandonment of barge

"Thirty days after the notification procedures under section 4704(a)(1) are completed, the Secretary may assess a civil penalty of not more than $1,000 for each day of the violation against an owner or operator that violates section 4702. A vessel with respect to which a penalty is assessed under this chapter is liable in rem for the penalty.

"§ 4704. Removal of abandoned barges

"(a)(1) The Secretary may remove a barge that is abandoned after complying with the following procedures;

"(A) If the identity of the owner or operator can be determined, the Secretary shall notify the owner or operator by certified mail—

"(i) that if the barge is not removed it will be removed at the owner's or operator's expense; and

"(ii) of the penalty under section 4703.

"(B) If the identity of the owner or operator cannot be determined, the Secretary shall publish an announcement in—

"(i) a notice to mariners; and

"(ii) an official journal of the county in which the barge is located

that if the barge is not removed it will be removed at the owner's or operator's expense.

"(2) The United States, and any officer or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.

"(b) The owner or operator of an abandoned barge is liable, and an abandoned barge is liable in rem, for all expenses that the United States incurs in removing an abandoned barge under this chapter.

"(c)(1) The Secretary may, after providing notice under subsection (a)(1), solicit by public advertisement sealed bids for the removal of an abandoned barge.

"(2) After solicitation under paragraph (1) the Secretary may award a contract. The contract—

"(A) may be subject to the condition that the barge and all property on the barge is the property of the barge removal contractor; and

"(B) must require the barge removal contractor to submit to the Secretary a plan for the removal.

"(3) Removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(1).

"§ 4705. Liability of barge removal contractors

"(a)(1) A barge removal contractor and its subcontractor not liable for damages that result from actions taken or omitted to be taken in the course of removing a barge under this chapter.

"(2) Paragraph (1) does not apply—

"(A) with respect to personal injury or wrongful death; or

"(B) if the contractor or subcontractor is grossly negligent or engages in willful misconduct.".

SEC. 5303. APPLICATION TO CERTAIN BARGES.

Chapter 47 of title 46, United States Code, as added by subsection (a), does not apply to a barge abandoned before June 11, 1992, if the barge was removed before the date that is 1 year after the date of enactment of this title.

SEC. 5304. CLERICAL AMENDMENT.

The analysis of subtitle II at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 45 the following:

"47. Abandonment of barges .... 4701".

SEC. 5305. NUMBERING OF BARGES.

Section 12301 of title 46, United States Code, is amended—

(1) by inserting "(a)" before "An undocumented vessel"; and

(2) by adding at the end the following:

"(b) The Secretary shall require an undocumented barge more than 100 gross tons operating on the navigable waters of the United States to be numbered.".

Subtitle D—Honoring the Coast Guard Women's Reserve

SEC. 5401. FINDINGS.

The Congress finds the following:

(1) The Congress passed legislation 50 years ago establishing the Coast Guard Women's Reserve.

(2) The Congress recognized both women's right to participate in the total war effort and the military's pressing need for women during World War II.

(3) The Congress responded to women's commitment and dedication by creating the Coast Guard Women's Reserve as a sister service to the WACS, and the Women Marines.

(4) The first director of the Coast Guard Women's Reserve, Captain Dorothy C. Stratton, named the Coast Guard Women's Reserve SPAR, an acronym derived from the Latin and English translations of the Coast Guard motto, Semper Paratus Always Ready.

(5) The first director recruited the best and brightest women from industry, educational institutions, and homes.

(6) SPARs' high level of education and experience greatly reduced the need for further training and SPARs only needed to be taught military structure and Coast Guard missions and traditions.

(7) SPARs made history by being the first women trained at a service academy.

(8) SPARs performed admirably as executive officers, division heads, officers of the day, watch officers, and courts martial members.

(9) SPARs served our Nation as boatswain mates, coxswains, gunners mates, carpenters, and machinists mates.

(10) SPARs served with distinction in highly specialized jobs during the Korean War and the Vietnam conflict.

(11) A group of Coast Guard Women's Reserves remained on active duty during the 1950's and 1960's primarily at Coast Guard headquarters.

(12) In 1950, women were integrated into the Organized Reserve Training Program.

(13) In every phase of Coast Guard history, women have served our Nation with dedication, honor, and sacrifice.

SEC. 5402. DESIGNATION OF SPAR ANNIVERSARY WEEK.

November 17 through November 23, 1992, is designated as "SPAR Anniversary Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Subtitle E—Merchant Marine Provisions

SEC. 5501. COASTWISE LAWS.

(a)(1) Section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), is amended to read as follows:

"SECTION 1. VESSELS THAT MAY ENGAGE IN DREDGING.

"(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

"(1) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920 and section 2 of the Shipping Act, 1916 for engaging in the coastwise trade;

"(2) when chartered, the charterer of the vessel is a citizen of the United States under section 2 of the Shipping Act, 1916 for engaging in the coastwise trade; and

"(3) for a vessel that is at least 5 net tons, the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) EXCEPTION.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

"(c) PENALTY.—When a vessel is operated in knowing violation of this section, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.".

(2) The amendment made by paragraph (1) does not apply to—

(A)(i) the vessel STUYVESANT, official number 648540;

(ii) any other hopper dredging vessel documented under chapter 121 of title 46, United States Code before the effective date of this Act and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest; however, this exception expires on December 3, 2022, or when the vessel STUYVESANT ceases to be documented under chapter 121, whichever first occurs; and

(iii) any other non-hopper dredging vessel documented under chapter 121 and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest, as is necessary (a) to fulfill dredging obligations under a specific contract, including any extension periods; or (b) as temporary replacement capacity for a vessel which has become disabled but only for so long as the disability shall last and until the vessel is in a position to fully resume dredging operations; however, this exception expires on December 8, 2022, or when the vessel STUYVESANT ceases to be documented under chapter 121, whichever first occurs;

(B) the vessel COLUMBUS, official number 590658, except that the vessel's certificate of documentation shall be endorsed to prohibit the vessel from engaging in the transportation of merchandise (except valueless material), including dredge material of value, between places within the navigable waters of the United States;

(C) a vessel that is engaged in dredged material excavation if that excavation is not more than a minority of the total cost of the construction contract in which the excavation is a single, integral part, and the vessel is—

(i) built in the United States;

(ii) a non-self-propelled mechanical clamshell dredging vessel; and

(iii) owned or chartered by a corporation that had on file with the Secretary of Transportation, on August 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1); or

(D) any other documented vessel engaged in dredging and time chartered to an entity that, on August 1, 1989, was, and has continuously remained, the parent of a corporation that had on file with the Secretary of Transportation on August 1, 1989, a certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1) if the vessel is—

(i) not engaged in a federally funded navigation dredging project; and

(ii) engaged only in dredging associated with, and integral to, accomplishment of that parent's regular business requirements.

(b) Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended by striking "merchandise" the first place it appears and inserting "merchandise, including merchandise owned by the United States Government, a State (as defined in section 2101 of title 26, United States Code), or a subdivision of a State,".

(c) The Act of June 7, 1988 (Public Law 100–329; 102 Stat. 588), including the amendments made by that Act, does not apply to a vessel—

(1) engaged in the transportation of valueless material or valueless dredged material; and

(2) owned or chartered by a corporation that had on file with the Secretary of Transportation on August 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1).

SEC. 5502. TREATMENT OF CERTAIN SEIZED FISHING VESSELS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) Notwithstanding another law, each of the vessels described in subsection (b) of this section is deemed to have been covered by an agreement, beginning August 13, 1992, and ending September 29, 1992, with the Secretary of State under section 7 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977).

(b) The vessels referred to in subsection (a) are the following:

(1) THE KANAOLA (United States official number 923848).

(2) THE MANA LOA (United States official number 919649).

(3) THE MANA OLA (United States official number 902605).

(4) THE MANA IKI (United States official number 906800).

Subtitle F—Clean Vessel

SEC. 5601. SHORT TITLE.

This subtitle may be cited as the "Clean Vessel Act of 1992".

SEC. 5602. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operated.

(3) There is currently an inadequate number of pumpout stations for type III marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to localized degradation of water quality in the United States.

(b) PURPOSE.—The purpose of this subtitle is to provide funds to States for the construction, renovation, operation, and maintenance of pumpout stations and waste reception facilities.

SEC. 5603. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

(a) SURVEY.—Within 3 months after the notification under section 5605(b), each coastal State shall conduct a survey to determine—

(1) the number and location of all operational pumpout stations and waste reception facilities at public and private marinas, mooring areas, docks, and other boating access facilities within the coastal zone of the state; and

(2) the number of recreational vessels in the coastal waters of the State with type III marine sanitation devices or portable toilets, and the areas of those coastal waters where those vessels congregate.

(b) PLAN.—Within 6 months after the notification under section 5605(b), and based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Secretary of the Interior a plan for any construction or renovation of pumpout stations and waste reception facilities that are necessary to ensure that, based on the guidance issued under section 5605(a), there are pumpout stations and waste reception facilities in the State that are adequate and reasonably available to meet the needs of recreational vessels using the coastal waters of the State; and

(2) submit to the Secretary of the interior with that plan a list of all stations and facilities in the coastal zone of the State which are operational on the date of submittal.

(c) PLAN APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after a plan is submitted by a State under subsection (b), the Secretary of the Interior shall approve or disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan, based on the guidance issued under section 5605(a), to meet the construction and renovation needs of the recreational vessels identified in the survey.

(2) NOTIFICATION OF STATE; MODIFICATION.—The Secretary of the Interior shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Secretary of the Interior shall recommend necessary modifications and return the plan to the affected Governor.

(3) RESUBMITTAL.—Not later than 60 days after receiving a plan returned by the Secretary of the Interior, the governor shall make the appropriate changes and resubmit the plan.

(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations and waste reception facilities.

(2) NOTIFICATION OF NOAA.—

(A) LISTS OF STATIONS AND FACILITIES.—The Secretary of the Interior shall transmit to the Under Secretary of Commerce of Oceans and Atmosphere each list of operational stations and facilities submitted by a State under subsection (b)(2), by not later than 30 days after the date of receipt of that list.

(B) COMPLETION OF PROJECT.—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this subtitle, by not later than 30 days after the date of notification by a State of the completion of the project.

SEC. 5604. FUNDING.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16, U.S.C. 777c), is amended—

(1) by striking "So much, not to exceed 6 per centum," and all that follows through "shall apportion the remainder of the appropriation for each fiscal year among the several States" and inserting the following:

"(a) The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 3 of this Act as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (title III, Public Law 101–646). Notwithstanding the provisions of section 3 of this Act, such sums shall remain available to carry out such Act through fiscal year 1999.

"(b) Of the balance of each such annual appropriation remaining after making the distribution under subsection (a), an amount equal to $10,000,000 for fiscal year 1993, $15,000,000 for each of fiscal years 1994 and 1995, and $20,000,000 for each of fiscal years 1996 and 1997 shall be used as follows:

"(1) One-half shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code; and

"(2) One-half of amounts made available under this subsection in a fiscal year shall be available for two years for obligation under section 5604(c) of the Clean Vessel Act of

1992. The Secretary of Interior may make grants for qualified projects in an amount up to the amount available under this paragraph. Amounts unobligated by the Secretary of the Interior after 2 years shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

In fiscal year 1998, an amount equal to $20,000,000 of the balance remaining after the distribution under subsection (a) shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

"(c) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between 2 or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available until the expiration of the next succeeding fiscal year.

"(d) The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c), respectively, shall apportion the remainder of each such annual appropriation among the several States"; and

(2) by inserting "(e)" before "So much of any sum" and redesignating the last 2 sentences of that section as subsection (e).

(b) ACCESS INCREASE.—Section 8 of the Act of August 9, 1950 (16 U.S.C. 777g), is amended—

(1) in subsection (b)(1) by:

(A) striking "10 per centum" and inserting "12½ per centum"; and

(B) inserting after the first sentence the following: "Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 12½ per centum in a fiscal year, provided that the total regional allocation averages 12½ per centum over a 5 year period.";

(2) in subsection (b)(2) by:

(A) striking "fiscal year" after "succeeding" the first time it appears and inserting "four fiscal years"; and

(B) striking "succeeding fiscal year" the second time it appears and inserting "period";

(3) in subsection (c) by inserting "and outreach" in the first sentence after "education"; and

(4) by adding at the end the following new subsection:

"(d) Pumpout Stations and Waste Reception Facilities.—Amounts apportioned to States under section 4 of this Act may be used to pay not more than 75 percent of the costs of constructing, renovating, operating, or maintaining pumpout stations and waste reception facilities (as those terms are defined in the Clean Vessel Act of 1992).".

(c) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior may obligate an amount not to exceed the amount made available under section 4(b)(2) of the Act of August 8, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act), to make grants to—

(A) coastal States to pay not more than 75 percent of the cost to a coastal State of—

(i) conducting a survey under section 5603(a);

(ii) developing and submitting a plan and accompanying list under section 5603(b);

(iii) constructing and renovating pumpout stations and waste reception facilities; and

(iv) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

(B) inland States, which can demonstrate to the Secretary of the Interior that there are an inadequate number of pumpout stations and waste reception facilities to meet the needs of recreational vessels in the waters of that State, to pay 75 percent of the cost to that State of—

(i) constructing and renovating pumpout stations and waste reception facilities in the inland state; and

(ii) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

(2)PRIORITY.—In awarding grants under this subsection, the Secretary of the Interior shall give priority consideration to grant applications that—

(A) in coastal States, propose constructing and renovating pumpout stations and waste reception facilities in accordance with a coastal State's plan approved under section 5603(c);

(B) provide for public/private partnership efforts to develop and operate pumpout stations and waste receptions facilities; and

(C) propose innovative ways to increase the availability and use of pumpout stations and waste reception facilities.

(d) DISCLAIMER.—Nothing in this subtitle shall be interpreted to preclude a State from carrying out the provisions of this subtitle with funds other than those described in this section.

SEC. 5605. GUIDANCE AND NOTIFICATION.

(a) ISSUANCE OF GUIDANCE.—Not later than 3 months after the date of the enactment of this subtitle, the Secretary of the Interior shall, after consulting with the Commandant of the Coast Guard, issue for public comment pumpout station and waste reception facility guidance. The Secretary of the Interior shall finalize the guidance not later than 6 months after the date of enactment of this subtitle. The guidance shall include—

(1) guidance regarding the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with amounts available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this subtitle, and appropriate location of the stations and facilities within a marina or boatyard;

(2) guidance defining what constitutes adequate and reasonably available pumpout stations and waste reception facilities in boating areas;

(3) guidance on appropriate methods for disposal of vessel sewage from pumpout stations and waste reception facilities;

(4) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(5) guidance on the waters most likely to be affected by the discharge of sewage from vessels; and

(6) other information that is considered necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect United States waters.

(b) NOTIFICATION.—Not later than 1 month after the guidance issued under subsection (a) is finalized, the Secretary of the Interior shall provide notification in writing to the fish and wildlife, water pollution control, and coastal zone management authorities of each State, of—

(1) the availability of amounts under the Act of August 9, 1950 (16 U.S.C. 777a et seq.) to implement the Clean Vessel Act of 1992; and

(2) the guidance developed under subsection (a).

SEC. 5606. EFFECT ON STATE FUNDING ELIGIBILITY.

This subtitle shall not be construed or applied to jeopardize any funds available to a coastal State under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), if the coastal State is, in good faith, pursuing a survey and plan designed to meet the purposes of this subtitle.

SEC. 5607. APPLICABILITY.

The requirements of section 5603 shall not apply to a coastal State if within 6 months after the date of enactment of this subtitle the Secretary of the Interior certifies that—

(1) the State has developed and is implementing a plan that will ensure that there will be pumpout stations and waste reception facilities adequate to meet the needs of recreational vessels in the coastal waters of the State; or

(2) existing pumpout stations and waste reception facilities in the coastal waters of the State are adequate to meet those needs.

SEC. 5608. DEFINITIONS.

For the purposes of this subtitle the term:

(1) "coastal State"—

(A) means a State of the United States in, or bordering on the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

(B) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(C) does not include a State for which the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one.

(2) "coastal waters" means—

(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

(B) in other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

(3) "coastal zone" has the same meaning that term has in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1));

(4) "inland State" means a State which is not a coastal state;

(5) "type III marine sanitation device" means any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge human body wastes;

(6) "pumpout station" means a facility that pumps or receives human body wastes out of type III marine sanitation devices installed on board vessels;

(7) "recreational vessel" means a vessel—

(A) manufactured for operation, or operated, primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(8) "waste reception facility" means a facility specifically designed to receive wastes from portable toilets carried on vessels, and does not include lavatories.

Subtitle G—Maritime Amendments.

SEC. 5701. STUDENT INCENTIVE PAYMENTS.

(a) AMOUNT OF ANNUAL PAYMENT.—

(1) INCREASE IN AMOUNT.—Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1) is amended by striking "$1,200" and inserting "$3,000".

(2) APPLICATION.—The amendment made by subsection (a) shall apply to payments under section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) made with respect to academic years beginning after the date of the enactment of this Act.

(b) MANNER OF PAYMENT.—Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) is further amended—

(1) in subparagraph (B) by inserting "and" after the semicolon;

(2) by striking subparagraph (C);

(3) by redesignating subparagraph (D) as subparagraph (C); and

(4) in subparagraph (C) (as so redesignated) by striking ", for the academic years after those years specified in subparagraph (C),".

(c) CONFORMING AMENDMENT.—Section 1304(g)(4) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1293c(g)(4)) is amended by striking "paragraph (1)(C) of this subsection" and inserting "paragraph (1)".

SEC. 5702. TRANSFER OF CERTAIN VESSELS.

The Secretary of the Navy shall transfer to the Department of Transportation the following vessels, to be assigned as training ships to Texas A&M University at Galveston, Texas, and to the Maine Maritime Academy at Castine, Maine, when those vessels are no longer required for use by the Navy.

(1) U.S.N.S. CHAUVENET (T-AG-29).

(2) U.S.N.S. HARKNESS (T-AG-32).

SEC. 5703. MASSACHUSETTS CENTER FOR MARINE ENVIRONMENTAL PROTECTION.

For Fiscal Year 1993, $242,000 is authorized to be appropriated to the Maritime Administration for the Massachusetts Center for Marine Environmental Protection located at the Massachusetts Maritime Academy.

SEC. 5704. FEDERAL SHIP MORTGAGE INSURANCE FOR CERTAIN CONSTRUCTION AND RECONSTRUCTION.

Section 1104B(b)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274a(b)(2)) is amended by striking "75 percent" and inserting "87½ percent".

SEC. 5705. TECHNICAL CORRECTIONS.

(a) MERCHANT SHIP SALES ACT OF 1946.—Section 11(b) of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744), as amended by section 6 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 693; commonly referred to as the "Maritime Administration Authorization, 1990"), is amended to read as if it had not been repealed by section 307(12) of the Coast Guard Authorization Act of 1989 (Public Law 101-225; 103 Stat. 1925). The effective date of this subsection is December 12, 1989.

(b) MERCHANT MARINE ACT, 1920.—Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended—

(1) in paragraph (1)(b) by striking "sysetms" and inserting "systems"; and

(2) in paragraph (7)(d) by striking "in proceedings under paragraph (1)(b)(7) of this section," and inserting "under subdivision (b),".

TITLE VII—PARTNERSHIPS FOR WILDLIFE

SEC. 7101. SHORT TITLE.

This title may be cited as the "Partnerships for Wildlife Act".

SEC. 7102. FINDINGS.

The Congress finds the following:

(1) Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing and trapping.

(2) In 1985, Americans spent over $14 billion on non-consumptive wildlife-related recreation.

(3) The United States and Canada are inhabited by approximately two thousand six hundred vertebrate species of native fish and wildlife, which have provided food, clothing, and other essentials to a rapidly expanding human population.

(4) Over 80 percent of vertebrate fish and wildlife species in North America are not harvested for human use.

(5) The continued well-being of this once-abundant fish and wildlife resource, and even the very existence of many species, is in peril.

(6) In 1987, the United States Fish and Wildlife Service reported that forty-five common migratory bird species, which are not hunted, had exhibited significant declines in abundance, and that thirteen of these species have experienced widespread, systematic declines of 46.9 percent during a twenty-year study period.

(7) There have been nationwide declines in frogs and other amphibians.

(8) Over two hundred and seventy-five of vertebrate fish and wildlife species in the United States are now officially classified as threatened or endangered by the Federal Government.

(9) During the past decade, fish and wildlife species, including invertebrates, were added to the rapidly growing list of threatened and endangered species in North America at the average rate of over one per month.

(10) Currently, eighty-two species of invertebrates in the United States are listed as threatened or endangered under the Endangered Species Act, and another nine hundred and fifty-one United States invertebrate species are candidates for listing under that Act.

(11) Proper management of fish and wildlife, before species become threatened or endangered with extinction, is the key to reversing the increasingly desperate status of fish and wildlife.

(12) Proper fish and wildlife conservation includes not only management of fish and wildlife species taken for recreation and protection of endangered and threatened species, but also management of the vast majority of species which fall into neither category.

(13) Partnership in fish and wildlife conservation, such as the Federal Aid in Wildlife Restoration Program, the Federal Aid in Sport Fish Restoration Program, and the North American Wetlands Conservation Act have benefitted greatly the conservation of fish and wildlife and their habitats.

(14) A program that encourages partnerships among Federal and State governments and private entities to carry out wildlife conservation and appreciation projects would benefit all species of fish and wildlife through such activities as management, research, and interagency coordination.

(15) Many States, which are experiencing declining revenues, are finding it increasingly difficult to carry out projects to conserve the entire array of diverse fish and wildlife species and to provide opportunities for the public to associate with, enjoy, and appreciate fish and wildlife through nonconsumptive activities.

SEC. 7103. PURPOSES.

The purposes of this title are to establish a partnership among the United States Fish and Wildlife Service, designated State agencies, and private organizations and individuals—

(1) to carry out wildlife conservation and appreciation projects to conserve the entire array of diverse fish and wildlife species in the United States and to provide opportunities for the public to use and enjoy these fish and wildlife species through nonconsumptive activities;

(2) to enable designated State agencies to respond more fully and utilize their statutory and administrative authorities by carrying out wildlife conservation and appreciation projects; and

(3) to encourage private donations, under the leadership of the National Fish and Wildlife Foundation, to carry out wildlife conservation and appreciation projects.

SEC. 7104. DEFINITIONS.

As used in this title—

(1) The terms "conserve" and "conservation" means to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the educational, aesthetic, cultural, recreational, scientific, and ecological enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(2) The term "designated State agency" means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(3) The term "fish and wildlife" means wild members of the animal kingdom that are in an unconfined state.

(4) The term "Fund" means the Wildlife Conservation and Appreciation Fund established under section 5(f) of this Act.

(5) The term "National Fish and Wildlife Foundation" means the charitable and nonprofit corporation established under section 2 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701).

(6) The term "nonconsumptive activities" means fish and wildlife associated activities other than harvesting of fish and wildlife and includes, but is not limited to, photographing, observing, learning about, or associating with, fish and wildlife.

(7) The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(8) The term "wildlife conservation and appreciation project" means a project which is directed toward nonconsumptive activities or toward the conservation of those species of fish and wildlife that—

(A) are not ordinarily taken for recreation, fur, or food; except that if under applicable State law, any fish and wildlife may be taken for recreation, fur, or food in some but not all, areas of the State, a wildlife conservation and appreciation project may be directed toward the conservation of any of such fish and wildlife within any area of the State in which such taking is not permitted.

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543); and

(C) are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1362(5)).

SEC. 7105. WILDLIFE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—The secretary shall provide the amounts available in the Fund to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under subsection (b) of this section.

(b) ELIGIBLE PROJECTS.—The following wildlife conservation and appreciation projects shall be eligible for matching funds from the Fund:

(1) inventory of fish and wildlife species;

(2) determination and monitoring of the size, range and distribution of populations of fish and wildlife species;

(3) identification of the extent, condition, and location of the significant habitats of fish and wildlife species;

(4) identification of the significant problems that may adversely affect fish and wildlife species and their significant habitats;

(5) actions to conserve fish and wildlife species and their habitats; and

(6) actions of which the principal purpose is to provide opportunities for the public to use and enjoy fish and wildlife through nonconsumptive activities.

(c) PROJECT STANDARDS.—The Secretary shall not provide funding to carry out as eligible wildlife conservation and appreciation project unless the Secretary determines that such a project—

(1) is planned adequately to accomplish the stated objective or objectives;

(2) utilizes accepted fish and wildlife management principles, sound design and appropriate procedures;

(3) will yield benefits pertinent to the identified need at a level commensurate with project costs;

(4) provides for the tracking of costs and accomplishments related to the project;

(5) provides for monitoring, evaluating, and reporting of the accomplishment of project objectives; and

(6) complies with all applicable Federal environmental laws and regulations.

(d) LIMITATIONS ON FEDERAL PAYMENT.—The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State Agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

(1) may not exceed $250,000;

(2) may not exceed one third of the total project cost for that fiscal year;

(3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project;

(4) may not be used to defray the administrative cost of State programs; and

(5) may not exceed the State share of the cost of implementing such a project.

(e) FORM OF STATE SHARE.—The share of the cost of carrying out eligible projects under this section shall be from a non-Federal source and shall not be in the form of an in-kind contribution.

(f) ELIGIBILITY OF DESIGNATED STATE AGENCIES.—No designated State agency shall be eligible to receive matching funds from the Wildlife Conservation and Appreciation Fund if revenue derived from activities regulated by such an agency is diverted for any purpose other than the management and conservation of fish and wildlife. Such revenue shall include, but not be limited to, all income from the sale of hunting, fishing and trapping licenses; all income from nongame checkoff systems; all income from the sale of waterfowl, habitat conservation, and other stamps that are requisite for engaging in certain activities regulated by the designated State agency; all income from the sale of any commodities and products by the designated State agency from lands and waters administered by the State for fish and wildlife purposes; and all funds apportioned to the designated State agency under the Federal Aid in Wildlife and Sport Fish Restoration Programs.

(g) ESTABLISHMENT OF FUND.—(1) The Secretary shall establish the Fund, which shall consist of amounts deposited into the Fund by the Secretary under paragraph (2) of this subsection.

(2) The Secretary shall deposit into the Fund—

(A) amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary and the National Fish and Wildlife Foundation to defray the costs of administering this Act and evaluating wildlife conservation and appreciation projects; and

(B) amounts received as donations from the National Fish and Wildlife Foundation or other private entities or persons for deposit to the Fund.

(3) The Secretary may accept and use donations from the National Fish and Wildlife Foundation and other private entities or persons for purposes of assisting States under this section.

(4) Of the total amount provided from the Fund to assist a State in carrying out a wildlife conservation and appreciation project under subsection (a) of this section, at least 50 percent shall have been donated to the Fund by the National Fish and Wildlife Foundation.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund and to the Secretary for each of fiscal years 1992 through 1995 not to exceed $6,250,000 to match the amount of contributions made to the Fund by the National Fish and Wildlife Foundation.

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

SEC. 8001. SHORT TITLE.

This title may be cited as the "North Pacific Anadromous Stocks, Convention Act of 1992".

SEC. 8002. PURPOSE.

It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

SEC. 8003. DEFINITIONS.

As used in this title, the term—

(1) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 8009(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of State.

(17) "United States Section" means the United States Commissioners of the Commission.

SEC. 8004. UNITED STATES COMMISSIONERS.

(a) COMMISSIONERS.—The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Of the Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) ALTERNATE COMMISSIONERS.—The Secretary, in consultation with the Secretary of

Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) UNITED STATES SECTION.—The United States Section, in consultation with the Advisory Panel established in section 8005, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

(d) COMPENSATION.—United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

SEC. 8005. ADVISORY PANEL.

(a) ESTABLISHMENT OF PANEL.—An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

(1) The Commissioner of the Alaska Department of Fish and Game.

(2) The Director of the Washington Department of Fisheries.

(3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) QUALIFICATIONS.—Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4), the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) LIMITATION ON SERVICE.—Any person appointed to the Advisory panel pursuant to subsection (a)(4) shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) FUNCTIONS.—The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) COMPENSATION AND EXPENSES.—The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

SEC. 8006. COMMISSION RECOMMENDATIONS.

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

SEC. 8007. ADMINISTRATION AND ENFORCEMENT OF CONVENTION.

(a) RESPONSIBILITIES.—The Secretary of Commerce shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

(b) CONSULTATION AND COOPERATION.—In carrying out such functions, the Secretary of Commerce—

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any party.

SEC. 8008. COOPERATION WITH OTHER AGENCIES.

(a) IN GENERAL.—Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the convention. Such agency may accept reimbursement from the Commission.

(b) FUNCTIONS OF SECRETARY OF COMMERCE.—In carrying out the provisions of the Convention and this title, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

SEC. 8009. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES OF COMMERCE AND TRANSPORTATION.—This title shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations issued under this title. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) POWERS OF ENFORCEMENT OFFICERS.—Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if he or she has reasonable cause to believe that such person has committed an act prohibited by section 8010;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this title, or regulations issued under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (c);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) ADDITIONAL POWERS.—(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation issued under this title; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

SEC. 8010. UNLAWFUL ACTIVITIES.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title or any regulation issued under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any en-

forcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation issued under this title.

SEC. 8011. PENALTIES.

(a) CIVIL PENALTIES.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 8010 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against who a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission mission of an act prohibited by section 8010 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States have jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) OFFENSES.—(1) A person is guilty of an offense if that person commits any act prohibited by section 8010 (5), (6), (7), or (8).

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

(c) FORFEITURE.—(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 1810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 8009(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 8010 were taken or retained in violation of the Convention and this title.

SEC. 8012. FUNDING REQUIREMENTS.

(a) AUTHORIZATION.—There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States share of the joint expenses of the Commission.

(b) RESEARCH.—Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

SEC. 8013. DISPOSITION OF PROPERTY.

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

SEC. 8014. REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954.

The Act of August 12, 1954 (16 U.S.C. 1021-1035) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5617, as amended by the committee amendment, is a good, composite bill that deserves broad support. It is comprised of five separate reauthorizations which reflect the traditional bipartisan approach of the Merchant Marine Committee and its Senate counterparts.

Title I of the amendment confers congressional approval on a new fisheries agreement between the United States and the Republic of Estonia. The agreement is necessitated by the breakup of the former Soviet Union and will make possible joint fishing ventures between the United States and Estonia in the United States exclusive economic zone. It is strongly supported by the administration.

Title II of the amendment is comprised of a House-Senate text of a bill to reauthorize and strengthen the marine sanctuaries program, which is of considerable importance to many Members and to the administration. It represents a bipartisan agreement on the reauthorization and is to my knowledge without opposition.

As one of authors of H.R. 4310, the National Marine Sanctuaries Reauthorization and Improvement Act of 1992, Mr. Speaker, I cannot emphasize enough its importance to protecting the marine environment. Ever since its creation 20 years ago, the National Marine Sanctuary Program has been visionary in one very important aspect of coastal management—preserving special areas of the coast for a variety of uses.

Balancing human needs against the fragility of our marine environments is not easy. But the bill we bring before this body today manages just such a balance.

H.R. 4310 was passed by the House under suspension of the rules on August 3. The title we offer here is virtually identical to the House-passed version.

The bill streamlines the sanctuary designation process, and clarifies and strengthens NOAA's management authority by adding a provision requiring Federal agencies to consult with NOAA on proposed actions that are likely to harm sanctuary resources. Finally, the bill designates new sanctuaries at Stellwagen Bank, MA, and in the Hawaiian Islands.

I would like to thank my colleagues on the Merchant Marine and Fisheries Committee who worked hard to get a good strong sanctuaries bill out of the committee—Mr. HERTEL, who has chosen to leave us at the end of this year for calmer and, I assume, greener pastures; and Mr. YOUNG, whose efforts to negotiate a bill acceptable to both sides of the aisle deserve special thanks.

Mr. Speaker, I am pleased to include as title III, the text of H.R. 3486, the Marine Mammal Health and Stranding Response Act, in this composite.

This bill is a response to the need to understand and better coordinate our responses to the mass strandings of whales and dolphins that regularly occur along the coasts of our Nation.

Until just a few years ago, it was believed that nothing could be done to help these animals. Fortunately, that has changed. On Cape Cod, thanks to the tireless efforts of hundreds of volunteers willing to do anything from handing out coffee to supporting exhausted and disoriented whales in the cold midwinter waters of Cape Cod Bay, we know that—with human assistance—stranded whales can survive, and we no longer stand by in frustration and watch them die.

H.R. 3486 was passed by the House under suspension of the rules on August 3, and the title presented here is virtually identical to the bill passed by this body. It provides a means by which we can monitor health trends of marine mammals, and use those trends to determine the general health of the marine environment.

H.R. 3486 is a good bill, thanks to the efforts of my colleague from Delaware, who authored the legislation. The administration supports the bill as well, and I'm pleased to bring it before you today.

This title also includes an amendment to section 4283B of the revised statutes (46 App. U.S.C. 183c) to make it clear that plaintiffs may bring actions for bodily injury or loss of life in any court of competent jurisdiction. This amendment is needed because of the Supreme Court ruling in *Carnival Cruise Lines* v. *Shute*, 111 S.Ct. 1522, 113 LEd.2d 662, 1991 AMC 1697 (1991), which allowed a cruise line to enforce a forum selection cause.

The amendment ensures that the general prohibition in section 4283B of the revised statutes against stipulations purporting to lessen, weaken, or avoid the passenger's right to a trail apply to forum selection clauses. It would overturn the result in *Carnival*. Allowing the plaintiff to choose the forum will further the plaintiff's due process rights.

Title IV contains the provisions of S. 36, as passed by the Senate, that would address the continuing problems of zebra mussel infestations. Its purpose is to require the Corps of Engineers to establish a monitoring and remediation program for the New York City water supply system. Title IV also requires the Coast Guard to establish a mandatory ballast water exchange program for vessels entering the upper reaches of the Hudson River.

Title V of the bill authorizes approximately $3.6 billion for the U.S. Coast Guard in fiscal year 1993, which represents a modest increase of 6 percent over fiscal year 1992 spending levels. Approximately 60 percent of this increase is attributable to personnel costs, including cost-of-living increases, improved family housing, barracks upgrades, and child care centers. This emphasis reflects Commandant Kime's commitment to improving the quality of life for the Coast Guard's most valuable resources—its people. While not exactly a windfall, it will allow the Coast Guard to fulfill its missions of search and rescue, protection of the marine environment, law enforcement, and national security.

This bill does more than just fund the operations of the Coast Guard. Once again, the Coast Guard authorization bill has become the end-of-session vehicle to move other important legislative initiatives through the Halls of Congress.

Several of those provisions are particularly important to my own State of Massachusetts. The bill provides $1.5 million for a marine management oil-spill training simulator at the Massachusetts Center for Marine Environmental Protection. This center, located at the Massachusetts Maritime Academy, is operated in conjunction with the Woods Hole Oceanographic Institution. The chief purpose of the center is to educate and train undergraduates and professionals in environmentally sound maritime operations and the simulator will be a great tool with which to teach effective oilspill response.

The legislation also transfers the boat house at Coast Guard Station Brant Point to the town of Nantucket. This boathouse, constructed in 1936, is obsolete. It's too small for the Coast Guard's rescue boats and badly in need of repair. The town of Nantucket has been leasing the building for the past decade, and currently uses it as an aquaculture shellfish laboratory. This provision would permanently convey the building to Nantucket, while allowing the Coast Guard to reclaim access to the land should it be required for its operations.

Also the bill provides for the transfer of the Sankaty Head Light Station—a national historic monument—to the Nantucket Historical Association. The association plans to maintain the lighthouse as a nonprofit center for the preservation of the maritime history and culture of the Coast Guard and the town of Nantucket.

While these Massachusetts provisions are immensely important, this legislation also addresses myriad other matters. In short, it: improves the quality of medical care for Coast Guard personnel; pays tribute to the Coast Guard's Women's Reserve; empowers the Coast Guard to remove thousands of abandoned barges that currently foul our waterways; increases the stockpile of repositioned oil spill response equipment; and improves safety on our waterways.

I am inserting in the RECORD at this point a detained section-by-section analysis of the Coast Guard Authorization Act.

Mr. Speaker, we have also included selected provisions from H.R. 4484, the fiscal year 1993 authorization for the Maritime Administration [MarAd], approved by the House on September 9, 1992. The provisions include changes in State maritime academy programs and an authorization of $242,000 for the nation's first Center for Maritime Environmental Protection and Safety located at the Massachusetts Maritime Academy.

SECTION-BY-SECTION ANALYSIS OF TITLE V—COAST GUARD AUTHORIZATION ACT OF 1992

AUTHORIZATION OF APPROPRIATIONS

Section 5001. Short title

This section states that the Act may be cited as the Coast Guard Authorization Act of 1992.

Section 5002. Authorization of appropriations

This section authorizes the appropriation of approximately $3.615 billion to support Coast Guard activities in Fiscal Year 1993.

Subsection (1) authorizes the appropriation of $2.603 billion for Coast Guard operations and maintenance. Of this amount, $253.1 million is to be transferred from the Department of Defense; $31.876 million is to be derived from the Oil Spill Liability Trust Fund; and $35 million is to be expended from the Boat Safety Account as authorized by section 6 of the Coast Guard Authorization Act of 1988 (Public Law 100–448).

Subsection (2) authorizes the appropriation of $419.3 million for acquisition, construction, rebuilding, and improvements (the AC&I Account). These funds are for the acquisition, construction, rebuilding, and improvement of aids-to-navigation, shore and offshore facilities, vessels, aircraft and related equipment. Of this amount, $18 million is to be transferred from the Department of Defense, and $38.122 million is to be derived from the Oil Spill Liability Trust Fund.

Subsection (3) authorizes an appropriation of $29.9 million for research and development, of which $4 million is to be derived from the Oil Spill Liability Trust Fund.

Subsection (4) authorizes an appropriation of $519.7 million for retired pay and related benefits.

Subsection (5) authorizes the appropriation of $12.6 million for alteration or removal of bridges that obstruct navigation over navigable waters of the United States.

Subsection (6) authorizes the appropriation of $30.5 million for the Environmental Compliance and Restoration Account. This Account is used to clean up and minimize environmental problems at Coast Guard facilities.

Section 5003. Authorized levels of military strength and military training

Subsection (a) authorizes an end-of-year (as of September 30, 1993) strength for active duty personnel of 39,732 for the Coast Guard. This does not include members of the Ready Reserve authorized under section 712 of title 14, United States Code.

Subsection (b) authorizes training levels for recruitment and special training, (2,653 student years); flight training, (110 student years); professional training in civilian and military institutions, (362 student years); and officer acquisition (878 student years).

Section 5004. Shore facilities improvements at group Cape Hatteras

This section requires the Secretary of Transportation, in Fiscal Years 1993–1997, to expend not more than $5.5 million for shore facilities within Coast Guard Group Cape Hatteras, North Carolina. This is to be expended from the AC&I Account. Expenditures at or near this level will be necessary to eliminate the deplorable conditions noted by the Committee on Merchant Marine and Fisheries in Committee Report 102–564. The Coast Guard is given flexibility to determine how to allocate these funds over a five-year period.

Section 5005. Prepositioned oil spill cleanup equipment

This section requires the Secretary of Transportation to expend $890,000 to acquire and preposition oil spill response equipment at Houston, Texas, and $1.16 million for certain activities of the Maritime Fire and Safety Association located in Portland, Oregon. These funds are to be derived from the Oil Spill Liability Trust Fund through the AC&I Account.

Section 5006. Oil spill training simulators

This section provides that, of the amount derived from the Oil Spill Liability Trust Fund through the AC&I Account, the Secretary of Transportation shall expend $2.5 million for the purchase of two marine oil spill management training simulators. These simulators are to be located at the Texas Center for Marine Training and Safety at Texas A&M University at Galveston, Texas, and at the Massachusetts Center for Marine Environmental Protection at Buzzards Bay, Massachusetts. These funds are to be evenly divided between these two institutions.

Section 5007. Evacuation allowance

Section 208 of the Dire Emergency Supplemental Appropriations Act, 1992 (Public Law 102–368) authorizes the Department of Defense to pay evacuation allowances for victims of Hurricane Andrew retroactively to August 23, 1992. However, Coast Guard military personnel and civilian employees were inadvertently omitted from coverage. Section 107 would correct this oversight. It also provides that Coast Guard funds are to be made available for these payments.

SUBTITLE A—BOATING SAFETY

Section 5101. Treatment of unobligated allocations for State recreational boating safety programs

This section amends section 13104 of title 46, United States Code, to modify the cap on the Boat Safety Account. Current laws provides that funds from the Boat Safety Account that have been allocated to a state but not obligated by the state within three years shall be withdrawn from the state, added to funds appropriated for that fiscal year and reallocated by the Secretary. The need to reallocate funds may be caused by a variety of reasons. For example, the Coast Guard may allocate the full amount but retain a small amount from the nonprofit grant program, or states may not make actual expenditures and request reimbursements in the years the funds are allocated.

Because of the cap on the total amount that can be credited to the Boat Safety Account at any given time, the fact that funds are reallocated means that not all of the amounts appropriated by Congress are transferred into the Account. Any amounts not actually obligated by the States within the three-year period provided in current law are, in effect, lost by virtue of the fact that the full amount authorized cannot be deposited into the Account. In the past, funds authorized for the state grant programs have been lost as a result of this cap.

This corrective amendment would require no increase in the Federal budget.

Section 5102. Increased penalties for operating a vessel while intoxicated

Under section 2302(c)(1) of title 46, United States Code, the civil penalty for an individual who operates a vessel under the influence of alcohol or a dangerous drug is not more than $1,000. This section retains the $1,000 penalty for a first violation, and provides for a civil penalty of not more than $5,000 for subsequent violations.

Section 5103. Future boaters education program

This section requires the Secretary of Transportation to submit a plan to the House Committee on Merchant Marine and Fisheries and to the Senate Committee on Commerce, Science, and Transportation on ways to increase the availability of voluntary safe boating education to individuals 16 years of age or younger.

SUBTITLE B—MISCELLANEOUS

Section 5201. Coast Guard band director

This section amends current law to allow the Coast Guard to promote the Coast Guard band director to the grade of commander. Currently, the Coast Guard band director's maximum attainable grade is lieutenant commander, two pay grades below his counterparts in the other armed services.

Section 5202. Recycling program

This section authorizes the Coast Guard to establish programs for the sale of recyclable materials. Proceeds will be credited to the Coast Guard's Operations and Maintenance Account to defray the costs associated with processing recyclable materials. Coast Guard installations with a qualifying recycling program may apply up to 50 percent of any remaining funds to pollution abatement, energy conservation, and occupational safety and health projects. All remaining funds may be transferred to the Coast Guard Morale, Welfare, and Recreation Program to fund morale activities. If at the end of a fiscal year, more than $200,000 remains available, it will be transferred to the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

Section 5203. Confidentiality of medical records

This section amends title 14, United States Code, by adding a new section 645, which concerns confidentiality of medical quality assurance records and qualified immunity for participants. These records are developed by the Coast Guard in the course of peer reviews of Coast Guard physicians and health care providers. This section protects the confidentiality of these records and proceedings. The restrictions on disclosure extend to testimony concerning these records or proceedings taken in connection with developing these records. Finally, this section would confer "good faith" civil immunity on persons who are involved in medical quality assurance activities. The section provides limited exceptions for disclosure to government bodies and other appropriate institutions.

This section gives the Coast Guard the same protection the Department of Defense has in its peer review programs. Central to quality assurance review activities is the peer review process, which consists of the evaluation of the performance of physicians and other health care providers by individuals or committees. In order to elicit candid appraisals and evaluations of fellow professionals, this type of peer review must operate in an environment of confidentality.

Section 5204. Telephone installation and charges

This section adds a new section to title 14, United States Code, to allow for the installation of a Federal Telecommunications System (FTS) and other phone lines in residences owned or leased by the Federal government and, when necessary for national defense purposes, in other private residences. This section will enable Coast Guard flag officers to have both FTS and secure (classified) telephones installed in their homes.

Section 5205. Special pay

This section amends 306 of title 37, United States Code, to permit special pay for certain junior officers. The change would give the Secretary the discretion to award additional compensation to persons at pay grades

0-1 and 0-2 and commissioned warrant officers who are serving in positions of unusual responsibility.

Section 5206. Amendment of inland navigation rules

This section amends section 2 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2001 et seq.) to conform United States Inland Rules 1(d) and 10 with corresponding provisions in the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS).

The COLREGS entered into force for the United States by Presidential Proclamation on July 15, 1977. They apply to all vessels operating on the high seas and in all waters connected therewith that are navigable by seagoing vessels. The Inland Navigational Rules Act of 1980 applies to all vessels operating on the inland waters of the United States, and to all vessels of the United States on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law.

In line with Rule 1(b) of the International Regulations and the policy of the United States every effort has been made to maintain consistency, as much as possible, between the International Regulations and the Inland Navigational Rules. This consistency avoids confusion for vessel operators thereby promoting safety.

The inconsistency between Inland Rules 1(d) and 10 and the corresponding International Regulations was reviewed by the Navigation Safety Advisory Council (formerly the Rules of the Road Advisory Council) at its December 1991 meeting. The Council resolved that Inland Rule 1(d) should be amended, consistent with the International Regulations, to acknowledge that traffic separation schemes (TSS's) may be established for the purposes of the Inland Rules. The Council unanimously resolved that Inland Rule 10 should be amended to incorporate the operative language of International Rule 10 in order to prevent vessel collisions and to provide specific guidance to vessels on how to enter, depart, cross, and navigate safely with a TSS.

Inland Navigational Rule 10 currently provides that each vessel required to participate in a vessel traffic service (VTS) shall comply with the applicable VTS regulations. The only rules that direct vessel navigation in inshore traffic separation schemes are those found in the VTS regulations (33 C.F.R. 161). With the exception of the Puget Sound VTS, however, where the rules apply to all vessels, VTS regulations generally apply only to vessels subject to the Vessel Bridge-to-Brige Radiotelephone Act of 1971 (33 U.S.C. 1201 et seq.). That includes: (1) power-driven vessels of 20 meters or over in length; (2) vessels of 100 gross tons or more carrying one or more passengers for hire; (3) towing vessels of 26 feet or more in length; and (4) dredges and floating plants engaged in or near a channel or fairway in operations likely to restrict or affect navigation of other vessels.

Section 5207. State maritime academy vessel inspection fee relief

This section prohibits the Secretary of Transportation from imposing Coast Guard fees for the inspection of vessels operated by state maritime academies.

Section 5208. Inspection of Great Lakes barges

This section amends sections 2101 and 3301 of title 46, United States Code, to require the Coast Guard to inspect barges and other non-self-propelled vessels of at least 3,500 gross tons operating on the Great Lakes. The inspection requirement also includes freight ships permanently converted to barges and operating with a dedicated tug.

This section is effective one year after the date of enactment of this Act for barges of at least 3,500 gross tons currently in operation on the Great Lakes. The inspection requirement is effective on the date of enactment of this Act for barges placed in operation after the date of enactment of this Act. The Secretary of Transportation is authorized to impose reasonable interim requirements to assure the safe operation of these barges.

Section 5209. Tank vessel definition clarification

This section states that offshore supply vessels and fishing or fish tender vessels under 750 gross tons that transfer fuel without charge to a fishing vessel owned by the same person are not tank vessels for the purposes of any law. Subsection (c) provides that the Secretary of Transportation continues to have authority to regulate these vessels under title 33, United States Code. Subsection (c)(2) clarifies that this section does not affect the requirements of the Aleutian Trade Act. Uninspected fish tender vessels engaged in the Aleutian trade may carry dry bulk cargo only in accordance with the provisions of the Aleutian Trade Act. Furthermore, this section does not provide any additional authority for these vessels to engage in any other trade or activity. Regulations in effect on the effective date of this Act would continue to be effective until modified or repealed. Definitions for these vessels are provided in section 2102 of title 46, United States Code.

Section 5210. Authority for the Coast Guard to inspect and withhold the documents of certain foreign passenger vessels

Currently, section 3303(a) of title 46, United States Code provides that the Coast Guard may inspect a vessel registered in a country that is a party to the International Convention for the Safety of Life at Sea (SOLAS) to ensure that the vessel's propulsion and life saving equipment are as stated in the certificate of registry. Section 310 of H.R. 5055 amends current law to permit the Coast Guard to inspect these vessels to ensure the condition of the vessel is as stated in the certificate of registry. This change brings domestic law into compliance with SOLAS.

This section also amends section 3505 of title 46, United States Code, to clarify U.S. authority to treat smaller foreign passenger vessels the same as larger foreign passenger vessels for purposes of ensuring that the vessels are in compliance with SOLAS. Current law provides that vessels over 100 gross tons having accommodations for a least 50 passengers may not depart from a U.S. port with passengers embarked at that port if the vessel is not in compliance with SOLAS. The Coast Guard now uses SOLAS authority instead to prevent noncomplying smaller passenger vessels from departing. This section would align domestic law with SOLAS.

Section 5211. Reimbursement for overseas inspections and examination

This section amends current law to permit the Coast Guard to inspect or examine a vessel at a foreign place. It further requires the owner or operator of a foreign vessel who requests an overseas inspection or examination to reimburse the Coast Guard for travel and subsistence expenses incurred for those services overseas. The reimbursement received will be credited to the Coast Guard's Operations and Maintenance Account.

Inspecting or examining a foreign vessel overseas, instead of waiting until it enters U.S. waters, can benefit both the Coast Guard and the vessel owner. The Coast Guard currently examines foreign vessels on their arrival in the United States for compliance with the International Convention for the Safety of Life at Sea (SOLAS), other international conventions, and U.S. laws and regulations. The Coast Guard currently inspects foreign tank vessels carrying hazardous liquids or liquefied gases, other tank vessels, and passenger vessels when they arrive in the U.S. for the first time or following a major rebuilding or structural modification.

In many cases, the Coast Guard's inspections can be more effectively conducted while a vessel is being constructed or while a vessel is in dry dock. This section will enable the Coast Guard to identify and evaluate problems before a foreign vessel enters a U.S. port.

Section 5212. Watchstanding on certain vessels

This section amends section 8104(g) of title 46, United States Code, to allow a two-section watchstanding system aboard Oil Spill Response Vessels (OSRV). An OSRV is a vessel used only to respond to a discharge of oil or hazardous substances. Normally, merchant vessels of over 100 gross tons require a three-section watchstanding system. This amendment requires OSRV's to conform to the same watchstanding requirements as vessels of similar class, such as towing vessels, offshore supply vessels, fishing vessels, and fish processing vessels.

Section 5213. Denial and revocation of endorsements

This section authorizes the Secretary of Transportation to deny the issuance or renewal of a trade or recreation endorsement on a certificate of documentation issued under chapter 121 of title 46, United States Code, and to revoke the endorsement if the Secretary finds that the vessel's owner has not paid an assessment of a civil penalty after final agency action for a violation of law for which as assessment has been made by the Secretary.

Section 5214. Acceptance of evidence of payment of coast guard fees

This section prohibits the Coast Guard from issuing a citation to a boater for failing to display a recreational vessel user fee (RVF) decal if the boater is able to provide evidence of prior purchase of the RVF decal to the boarding officer.

Section 5215. Schedule for operation of drawbridge of Woodrow Wilson Memorial Bridge

This section restricts the opening of the drawbridge portion of the Woodrow Wilson Memorial Bridge to non-rush hour periods of the day. The purpose of this section is to improve automobile safety and avoid the traffic gridlock that occurs when the bridge is opened during weekday rush hours.

The Woodrow Wilson Memorial Bridge spans the Potomac River in the Metropolitan Washington areas and is part of the Interstate 95 highway system. When the bridge is raised during rush hours, traffic backs up over 2.5 miles and when it is lowered, usually after about ten minutes, it takes over three hours for traffic to return to normal. The bridge was designed to carry 75,000 vehicles per day and it now carries over 165,000 vehicles every day.

This section continues to allow midday openings for commercial vessels, but prohibits openings during the morning and evening rush hour. It requires recreational vessels to pass through the bridge between midnight and 5:00 a.m. on weekdays and midnight and 7:00 a.m. on weekends. Recreational vessels may also pass through the bridge when opened for commercial vessels.

It also requires a commercial vessel operator to give the bridge tender a 12-hour estimate of the approximate time of the vessel's passage through the bridge followed by a 4-hour advance notice of the vessel's approach to the bridge.

In addition, not later than 180 days after the date of enactment, the Secretary is required to issue an Advanced Notice or Proposed Rulemaking to solicit comments on whether there are practical ways to encourage owners and operators of commercial vessels to make every reasonable effort to notify the bridge tender of the time a vessel will pass the Woodrow Wilson Memorial Bridge by not later than 24 hours before that passage.

Section 5216. Station Brant Point boat house

This section conveys the building known as the Station Brant Point Boat House to the Town of Nantucket, Massachusetts. In addition, it authorizes the Coast Guard to lease the land the Boat House occupies to the town of Nantucket for a period of at least twenty years. The Coast Guard may terminate the lease if the property is needed for Coast Guard purposes. However, the Coast Guard must provide the Town of Nantucket with not less than 12 months notice of the need to vacate the property.

The Boat House was constructed in 1936 and no longer is suitable for Coast Guard use. Currently, the Town of Nantucket leases the building from the Coast Guard and uses it as an aquaculture shellfish laboratory. The current lease will expire in March of 1994. Both parties are interested in entering into a new lease agreement. This section will expedite the leasing process, transfer the building to the Town at no cost, and protect the Coast Guard's interest in using the property for other purposes in the future.

Section 5217. Study of the application of tiltrotor technology to Coast Guard missions

This section requires the Secretary of Transportation to report to Congress on the applications of V-22 Osprey tiltrotor aircraft technology to Coast Guard missions.

Section 5218. Enforcement agreements

This section directs the Coast Guard to enter into a Memorandum of Agreement with the Department of Commerce regarding fisheries enforcement practices and procedures. The memorandum shall provide for the opportunity for an in person hearing to respond to charges of violations if requested in a timely manner. The Memorandum shall also provide that all enforcement procedures shall be fair and consistently applied.

Section 5219. Authorizing payments to certain subcontractors

This section requires the Secretary of Transportation, within six months of enactment of this Act, to determine amounts owed to subcontractors under Coast Guard contract number DTCG50-87-C-00096. The Coast Guard has compensated the general contractor, MZP, Incorporated, for work performed under this contract, however, MZP, Incorporated, did not compensate its subcontractors for work they performed under the contract. Under the unique circumstances surrounding this contract, the Coast Guard has an obligation to ensure that the subcontractors are compensated for work they performed under this contract. The Coast Guard has changed its contracting procedures to avoid a recurrence of this contracting problem.

This section requires the Coast Guard to hold investigations in Ketchikan, Alaska, to determine amounts owed under the contract to avoid further expenses to the subcontractors. Not later than two months after making the necessary determinations, the Secretary is authorized to pay the subcontractors the amounts they are owed.

Section 5220. Sankaty Head Light Station

This section requires the Secretary of Transportation to convey to the Nantucket Historical Association in Nantucket, Massachusetts, all right, title, and interest of the United States in and to property comprising the Sankaty Head Light Station.

The conveyance is to be made without the payment of consideration. The property may be sold and the proceeds from the sale may be used to move the Lighthouse to a location where the Lighthouse can be preserved. In addition, the Secretary may convey the property subject to other terms and conditions the Secretary considers appropriate.

The Lighthouse is to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Nantucket, Massachusetts. If the Lighthouse ceases to be used for these purposes, it would revert to the United States.

This section also requires that the conveyance include conditions to assure that the aids-to-navigation continue to be operated and maintained by the United States as long as they are needed for this purpose. The Nantucket Historical Association is prohibited from interfering with those aids. The United States retains the right to replace any aids-to-navigation, and to enter the property to maintain the aids.

The Nantucket Historical Association is directed to maintain the Lighthouse, but is not required to maintain any active aids-to-navigation equipment located on property where the Lighthouse is located

Section 5221. Study of Coast Guard buoy chain procurement practices

This section requires the Secretary of Transportation, within six months of enactment of the Act, to submit a study to Congress on the acquisition of buoy chain. The Secretary is to consider the ability of United States buoy chain manufacturers to successfully compete for United States Government contracts for buoy chain and the effect on the national security of United States dependence on foreign acquired buoy chain.

Section 5222. Correction regarding certain exemptions

When the Aleutian Trade Act (ATTA) was passed in 1990, section 4502(b) of title 46, United States Code, was renumbered. Prior to ATA, section 4506 provided an exemption from the liferaft carriage requirements of section 4502, combined with the failure to change the cross-reference in 4506, resulted in small vessels being exempted from all safety requirements. This amendment returns the law to its original intent.

Section 5223. Contract for certain services at Coast Guard support center in Kodiak, Alaska

This section authorizes the Coast Guard, in accordance with applicable acquisition regulations, to enter into a negotiated contract with PTI for Digitrex central office based business services to Coast Guard Support Center, Kodiak, Alaska. This contract is to be at a fair allocation of costs between Alaska ratepayers and the Coast Guard. The termination liability of the contract is required to be negotiated, but is not to exceed $842,047.

SUBTITLE C—ABANDONED BARGE ACT

Section 5301. Short title

This section states that this title may be cited as the "Abandoned Barge Act of 1992".

Section 5302. Abandonment of barges

This section amends Part B of subtitle II of title 46, United States Code, by adding a new chapter 47.

The new chapter is entitled "Abandonment of Barges", and it includes the following provisions.

Section 4701. Definitions

This section contains definitions of terms used throughout the new chapter.

"Abandon" means to moor, strand, wreck, sink, or leave for longer than 45 days a barge of more than 100 gross tons.

"Barge removal contractor" is defined as a person that enters into a contract with the United States to remove an abandoned barge.

"Navigable waters of the United States" are the waters of the United States, including the territorial sea. This definition is identical to that in the Oil Pollution Act of 1990, and the Clean Water Act.

"Removal and remove" means relocation, sale, scrapping, or any other method of disposal.

Section 4702. Abandonment of barge prohibited

A barge owner or operator is prohibited from abandoning a barge on the navigable waters of the United States. This section is designed to prohibit abandonment without interfering with a barge's normal day-to-day operation. A barge is not abandoned, however, if it is located at a Federally- or state-approved mooring area, is on private property with the permission of the property owner, or if the barge owner or operator notifies the Secretary of the barge's location, and of his intention not to abandon the barge. It must be moored more than 45 days before this notification would be required.

Section 4703. Penalty for unlawful abandonemt of barge

This section permits the Secretary to assess a civil penalty of up to $1,000 against an owner or operator for each day a barge is abandoned in violation of section 4702. The barge is also liable *in rem* for the penalty. The penalty may not be assessed until 30 days after the notification procedures under section 4704 are completed.

Section 4704. Removal of abandoned barges

The authority to remove abandoned barges, and the procedures necessary to exercise that authority, are set forth in this section.

This section provides that if the barge owner's or operator's identity can be determined, the Secretary must notify the owner or operator by certified mail that if the barge is not removed, it will be removed at the owner's or operator's expense, and that a penalty may be assessed under section 4703.

This section provides that if the barge owner's or operator's identity is unknown, the Secretary must publish notice in "a notice to mariners" and "an official journal of the county in which the barge is located". The notice must advise that if the barge is not removed, it will be removed by the Coast Guard and the owner or operator, if subsequently identified will be assessed the costs of removal and civil penalties. Removal of an abandoned barge may begin 30 days after the Secretary completes the notification procedures under this section.

The barge owner or operator, and the vessel, *in rem*, bear all liability for any expense incurred during removal of an abandoned barge. The United States, and any of its officers or employees, are not liable to an owner or operator for damages resulting from removal of an abandoned barge.

This section also provides for the removal of a barge by a contractor. Removal services may be solicited by public advertisement for sealed bids, after notice is provided to the barge owner under this chapter. The Secretary may award a contract for removal, and may condition that contract on the barge removal contractor: 1) assuming all property rights in the barge and property on the barge; and 2) submitting a plan for barge removal to the Secretary.

Finally, this section provides that the United States is not liable to the owner or operator of an abandoned barge for damages caused by removal of the abandoned barge. The United States may, however, be liable to other persons damaged by the removal of the barge.

Section 4705. Liability of barge removal contractors

This section limits the liability of barge removal contractors and their subcontractors when performing work under this chapter. A barge removal contractor is not liable for damages that result from actions taken or omitted in the course of removing a barge. This section's liability limitation does not apply if the contractor is grossly negligent or engages in willful misconduct. This section's liability limitation also does not apply with respect to personal injury or wrongful death.

Section 5303. Application to certain barges

Section 403 of the bill provides that one year after the date of enactment of this Act, the Secretary may assess a civil penalty under section 4703 against an owner or operator of a barge abandoned before June 11, 1992, that continues to be abandoned one year after the enactment date.

Section 5304. Clerical amendment

Section 404 of the bill amends the analysis of subtitle II at the beginning of title 46, United States Code, by inserting a reference to new chapter 47.

Section 5305. Numbering of barges

Section 405 amends section 12301 of title 46, United States Code. It requires undocumented barges of more than 100 gross tons operating on the navigable waters of the United States to be numbered.

SUBTITLE D—HONORING THE COAST GUARD WOMEN'S RESERVE

Section 5401. Findings

This section recognizes the fiftieth anniversary of the legislation that created the Coast Guard Women's Reserve also known as the SPARs (Semper Paratus—Always Ready). The SPARs were established during World War II and made significant contributions to the Nation's total war effort. The SPARs were the forerunners of today's fully integrated Coast Guard.

Section 5402. Designation of SPAR Anniversary Week

This section designates November 17 through November 23, 1992, as "SPAR Anniversary Week". In addition, it authorizes and requests the President to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

SUBTITLE E—MERCHANT MARINE PROVISIONS

Section 5501. Coastwise laws

This section amends section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292) to clarify the application of the coastwise trade laws to certain dredges.

New section 1(a) requires all vessels that are engaged in dredging operations in the navigable waters of the United States (including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988) to meet the same requirements as other vessels engaged in coastwise operations. Therefore, these vessels must be U.S.-built, U.S.-owned, and U.S.-flag. If the vessel is over five net tons, it also must be documented under chapter 121 of title 46, United States Code, with a coastwise endorsement.

Additionally, if the vessel is chartered, the charterer of the vessel must be a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802) for purposes of engaging in the coastwise trade.

New section 1(b) exempts vessels that are engaged in the dredging of gold in Alaska from the coastwise eligibility requirements by allowing U.S. documented vessels with a registry endorsement to engage in these operations. Therefore, a U.S.-flag vessel that is foreign-built and foreign-controlled may engage in the dredging of gold in waters of the State of Alaska.

New section 1(c) provides that a vessel that is operated in knowing violation of this section and its equipment are liable to seizure by and forfeiture to the United States Government. This is in addition to other penalties provided under section 12122 for violation of the documentation laws.

Subsection (a)(2) of the bill grandfathers certain existing vessels that do not currently comply with these new requirements and vessels that are used as an integral part of an operation where dredging is a minority of the total costs of that operation.

Subsection (b) of the bill amends the Merchant Marine Act, 1920 (46 App. U.S.C. 883), commonly referred to as the "Jones Act", to clarify that merchandise owned by the United States Government, a State, or a subdivision of a state is subject to the coastwise trade laws.

Subsection (c) of the bill grandfathers a vessel under Public Law 100-329. Public Law 100-329 incorporated the transportation of valueless material or valueless dredge material within the coastwise trade laws. This vessel had been engaged in dredging before the enactment of that law, and this amendment restores its ability to continue these operations.

Section 5502. Treatment of certain seized fishing vessels under Fishermen's Protective Act of 1967

Subsection (a) includes four U.S. registered vessels under an agreement with the Secretary of State under section 7 of the Fishermen's Protective Act of 1967. This inclusion makes the vessel owners eligible for reimbursement of costs incurred as a result of seizure and illegal detention by a foreign nation that was in direct contravention of the freedom of navigation recognized under international law.

Subsection (b) describes the four vessels referred to in subsection (a).

SUBTITLE F—CLEAN VESSELS

Section 5601. Short title

This section provides that this subtitle shall be referred to as the "Clean Vessel Act of 1992".

Section 5602. Findings; purpose

Subsection (a) states the findings of Congress that the discharge of untreated sewage is illegal under federal law, the discharge of treated sewage is prohibited in many areas under state and federal law, there are an inadequate number of pumpout stations for Marine Sanitation Devices (MSD) where recreational vessels operate and sewage discharges from MSDs is a water quality problem in many U.S. waters.

Subsection (b) provides that the purpose of the Act is to provide funds for the construction, renovation, operation, and maintenance of pumpout stations and waste reception facilities in states.

Section 5603. Determination and plan regarding State marine sanitation device pumpout station needs

Subsection (a) directs each coastal state to conduct a survey to determine whether pumpout stations for MSDs and portable toilets are adequate and reasonably available to meet the recreational vessel needs within the state. The survey should focus on obtaining two pieces of information: (1) the number and location of all operational MSD or portable toilet pumpout stations; and (2) the number and areas where recreational vessels with type III MSDs or portable toilets congregate (i.e., marinas, mooring areas, and docks). This survey should include pumpout facilities at both public and private boating access facilities (i.e., marinas, docks, and boat launches). A list of the location of all operational pumpout stations is required to be transmitted to the Secretary of the Interior under subsection (b). Each coastal state is to use the guidance developed pursuant to section 5605(b) of this subtitle to determine what constitutes an adequate and reasonably available number of pumpout stations for the recreational vessels which operate on its waters. Amounts available under section 8(d) of the Dingell-Johnson Act (as added by this subtitle) may be used to conduct this survey.

Subsection (b) directs each coastal state to develop and submit to the Secretary of the Interior a plan for the construction or renovation of Marine Sanitation Device and portable toilet pumpout stations that are adequate and reasonably available, based on the guidance developed pursuant to section 5605(a) of this subtitle, to meet the recreational vessel needs in the state. At the same time that it submits the plan to the Secretary of the Interior, each state should submit a list of the MSD and portable toilet pumpout stations which were operational when the survey mandated by subsection (a) was conducted. The plan and the list should be based on information developed and needs identified in the survey mandated by subsection (a). The plan may include proposals to construct pumpout facilities at private as well as public boating access facilities.

Subsection (c) requires the Secretary of the Interior to approve or disapprove each state's plan within 60 days of receipt. The Secretary of the Interior is to base this decision on the adequacy of the survey conducted by the state under subsection (a), and the ability of the plan to meet the construction and renovation needs identified in the survey. The Secretary of the Interior is to promptly notify the affected governor of the approval or disapproval of the plan. If the plan is disapproved, the Secretary of the Interior shall state the reasons and recommend the necessary modifications. The affected governor has 60 days after the plan is returned to make the necessary changes and resubmit the plan.

Subsection (d) directs the Under Secretary of Commerce for Oceans and Atmosphere to indicate the locations of pumpout facilities for MSDs and portable toilets on charts published by NOAA. This directive only applies to NOAA charts that are published for use by recreational boaters. To assist NOAA in updating its charts, the Secretary of the Interior is to transmit each coastal state's list of existing pumpout facilities to NOAA within 30 days of receipt. The U.S. Fish and Wildlife Service is also directed to notify NOAA within 30 days of the completion of each project funded under the Clean Vessel Act of 1992, so that the location of these facilities can be indicated on the NOAA nautical charts. The Committee anticipates that NOAA will carry out the mandates of this subsection as part of its normal nautical chart revisions.

Section 5604. Funding

This section amends current law to provide additional funding from the Sport Fish Restoration Account for boat access, pumpout stations, and boating safety grants to states.

Subsection (a) deals with increasing the funding for pumpout stations and boating safety. Under this subsection, 18 percent of monies in the Sport Fish Account will be used to implement the Coastal Wetlands Planning, Protection, and Restoration Act.

After this deduction, an amount will be deducted and evenly divided between the Secretary of the Interior and the Secretary of Transportation. Funds to the Secretary of the Interior shall be used to provide grants to states to implement the Clean Vessel Act of 1992. Funds to the Secretary of Transportation shall be used to provide grants under the Boating Safety Grant Program established by Chapter 131 of title 46, United States Code. These funds shall be allocated among the states in accordance with section 13106(a)(1) of title 46, United State Code. The amount transferred to the Secretaries shall be $10 million in Fiscal Year 1993; $15 million in Fiscal Years 1994 and 1995; and $20 million in Fiscal Years 1996, 1997, and 1998. In Fiscal Year 1998, the entire amount will be allocated to the Secretary of Transportation for distribution as state boating safety grants. Any funds not obligated by the Secretary of the Interior within two years would be transferred to the Secretary of Transportation and distributed as state boating grants in accordance with section 13106(a)(1) of title 46, United States Code.

From amounts remaining in the fund, the Secretary of the Interior may use up to six percent for investigatory, administrative, and other appropriate purposes to promote the conservation and management of sport fishing.

Subsection (b) increases funding for facilities to improve public access to the waters of the United States. Under current law, states are required to allocate ten percent of their Sport Fish funds for public access; this subsection would increase that requirement to 12.5 percent. This change will allow the states within a U.S. Fish and Wildlife Service Administrative Region the flexibility to spend more or less than the required per centum each year under the Boat Access Account to meet priority needs. It will permit scheduling projects in an orderly fashion without being constrained by annual state level allocations. It does not change the annual apportionment to each state, and it does not allow for the transfer of appropriations between states. It does provide that if the USFWS regional allocation target is met, the states can spend any remaining apportioned funds on any qualified Sport Fish Restoration Project, and not have to satisfy, by individual state, the 12½ percent minimum spending requirements under the Boat Access Account.

Subsection (b) also adds the term "outreach" to the allowed uses under the education set aside of the Sport Fish Restoration Program. The term "outreach" encompasses the following activities: development, publication and distribution of print, audio and visual materials for and about the Aquatic Resources Trust Fund, particularly on the program's accomplishments; promotion of sound ethics programs; and cooperative programs with the sport fishing industry.

This section will increase grants to state recreational boating safety programs. These grants are currently financed through the Boat Safety Account of the Aquatic Resources Trust Fund, which is funded from excise taxes on fishing tackle and gasoline used by boaters. Currently, $70 million in gasoline excise taxes is annually transferred from the Trust Fund to the Boat Safety Account and is available for appropriation to the Coast Guard. Half of this amount is used for Coast Guard operating expenses and half is used for grants to state safe boating programs. These state grants have been enormously successful in reducing boating accidents and saving lives. The remaining monies in the Trust Fund are transferred to the Sport Fish Restoration Account.

As a result of the recent increase in the motorboat fuel tax, additional funds are flowing into the Trust Fund. Under current law, the additional monies are deposited into the Sport Fish Restoration Account. This provision uses a portion of this new gas tax money to increase funding for state boating safety programs.

The Committee believes that there are a number of boating problems that are not being adequately addressed. Additional funding for the following would likely lead to a reduction in boating accidents and an improvement in the marine environment: increased boater education; additional training and resources to improve investigations of the causes of boating accidents; the placement of buoys and other aids-to-navigation to assure the safety of our waterways; increased training and other resources for state officers charged with detecting the use of alcohol and drugs; increased training for state officials about the role of small boats in the drug trade; increased resources to prevent boat theft which is a major tool of the drug cartels; and state-wide and cooperative training of emergency response teams to deal with water-related emergencies, such as hazardous chemical spills.

Paragraph (1) of subsection (c) authorizes the Secretary of the Interior to obligate an amount not to exceed the amount made available under section 4(b)(2) of the Sport Fish Restoration Act to make matching grants. Grants are authorized to pay 75 percent of the cost to a coastal state of: (1) conducting a survey under section 5603(b); (2) developing and submitting a plan and list under section 5603(b); (3) constructing and renovating marine sanitation devices and waste reception facilities; and (4) conducting a program to educate boaters about sewage discharges from boats. This authorization does not preclude the Secretary from awarding grants that do not meet a coastal state's plan developed pursuant to section 5603. However, priority should be given projects that implement a coastal state's plan. Grants are also authorized to pay 75 percent of the cost to an inland state, which can demonstrate that it has an inadequate number of pumpout stations and waste reception facilities, of: (1) constructing and renovating pumpout stations and waste reception facilities; and (2) conducting a program to educate boaters about sewage discharges from boats.

Paragraph (2) directs the Secretary of the Interior to give priority consideration to state grant applications that fall into any of three categories. First, priority should be given to projects which implement a coastal state's approved construction and renovation plan. Compliance with a state plan is necessary because projects should be funded in the context of the overall needs of the state.

Second, priority should be given to projects which include public/private partnerships to develop and operate pumpout stations and waste reception facilities. Public/private partnerships will enable states to leverage more projects with this grant money. These partnerships will also ensure the long-term operation of these facilities. However, projects built at private facilities must be available to the public on the same basis as patrons of the private facility. In addition, operators of private facilities may only charge for the operation and maintenance of facilities and may not charge the public more than their patrons to use the facilities. The owners or operators of private facilities shall be required to pay at least 25 percent of the cost of projects funded with a grant awarded under this section. Priority should be given to grant proposals which include more than 25 percent private money.

Finally, priority should be given to projects which propose innovative ways to increase the availability and use of pumpout stations and waste reception facilities. There are a variety of portable pumpout stations (wheeled units and barges) which have the potential to increase pumpout use by boaters. These and other new technologies should be encouraged.

Subsection (d) states that nothing in this subtitle is intended to prevent a state from carrying out the requirements of the title with funds other than Sport Fish Restoration monies.

Section 5605. Guidance and Notification

Subsection (a) requires the Secretary of the Interior to, after consulting with the Administrator of the Environmental Protection Agency, the Under Secretary of Commerce for Oceans and Atmosphere, and the Commandant of the Coast Guard, issue guidance for pumpout stations and waste reception facilities guidance for public comment within three months of the date of enactment. The guidance shall include: (1) guidance on the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with funds available under the Sport Fish Restoration Act; (2) guidance on what constitutes adequate and reasonably available pumpout facilities and waste reception facilities; (3) guidance on appropriate methods for disposal of vessel sewage from pumpout facilities; (4) guidance on appropriate connector fittings to facilitate discharge of sewage from vessels; (5) guidance on the waters most likely to be affected by the discharge of sewage from vessels; (6) other information considered necessary to promote the establishment of pumpout stations and waste reception facilities. This guidance is to be finalized no later than six months after the date of enactment of this subtitle.

Subsection (b) directs the Secretary of the Interior to, not later than one month after the guidance in subsection (a) is finalized, to notify in writing each state fish and wildlife, water pollution control, and coastal zone authority of: (1) the availability of Sport Fish Restoration monies to implement this subtitle; and (2) the guidance developed under (2).

Section 5606. Effect on State Funding Eligibility

This section clarifies that this subtitle will not jeopardize any funds available to a coastal state under the Sport Fish Restoration Program if the state is pursuing a survey and plan designed to meet the purposes of this subtitle.

Section 5607. Applicability

This section states that section 5603 does not apply if a state can demonstrate to the Secretary of the Interior that it has: (1) developed and is implementing a pumpout station construction plan to meet the needs of recreational vessels in the state; or (2) adequate pumpout stations to meet the needs of recreational vessels in the state.

Section 5608. Definitions

For the purposes of this subtitle several terms are defined.

The term "coastal state" is defined as a state bordering on the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or a state bordering one or more of the Great Lakes. The term includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa. The term does not include a state for which the ratio of the number of recreational vessels in the state to the number of miles of shoreline is less than one, and the Governor certifies to the Secretary of the Interior that water quality in the state is not significantly affected by sewage discharged from recreational vessels.

The term "coastal waters" is defined as waters within the territorial jurisdiction of the United States and includes Great Lakes waters within the jurisdiction of the United States.

The term "coastal zone" has the same meaning the term has in section 304(1) of the Coastal Zone Management Act.

The term "inland state" means any state which is not a coastal state.

The term "type III marine sanitation device" is defined as any equipment for installation on board a vessel which is designed to receive, retain, and discharge sewage.

The term "pumpout station" means a facility that pumps or receives human body wastes out of type III marine sanitation devices.

The term "recreational vessel" is defined as vessel which is manufactured for operation, or operated primarily for pleasure, or is leased, rented, or chartered to another for the latter's pleasure.

The term "waste reception facility" means a facility specifically designed to receive wastes from portable toilets.

TITLE VI—DOCUMENTATION OF VESSELS—

SUBTITLE A

Section 6101. General waivers

Section 6101 waives the vessel documentation laws to waive certain restrictions for coastwise endorsements, great lakes endorsements, and fisheries endorsements so that the Secretary of Transportation may issue these endorsements for the 29 vessels listed. The waivers are mainly for the inability of vessel owners to prove the continuous ownership of the vessels by U.S. citizens and because some of the vessels were constructed in foreign shipyards.

Section 6102. Waiver for oil spill activities

Section 6102 waives the U.S. building requirement for the U.S.M.V. *Deliverer* and allows the Secretary of Transportation to issue a limited coastwise and great lakes endorsement for limited use in support of oil spill activities.

Section 6103. Limited waiver

Section 6103 waives the U.S. building requirement for the vessel *Tesoro* so this vessel may engage in the coastwise trade.

Section 6104. Limited waiver for Yupik Star

Section 6104 waives the U.S. building requirement for the *Yupik Star* and allows the Secretary of Transportation to issue a certificate of documentation with a coastwise endorsement for this vessel.

Section 6105. Sale of vessels

Section 6105 allows 3 vessels built with the aid of construction-differential subsidy, the *Ocean Challenger*, *Ocean Runner*, and *Ocean Wizard*, to be transferred to foreign registry before they reach the normal 20-year CDS life for these vessels. However, the transfers must be approved by the Secretary of Transportation under section 9 of the Shipping Act, 1916.

SUBTITLE B

Section 6201. Student incentive payments

Section 6201 amends Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) by raising the amount of Student Incentive Payments from $1,200 to $3,000 a year. The $3,000 payment applies to payments made in academic years beginning after the date of the enactment of the bill. The current section 1304(g)(1)(C) is deleted so that a student will not have to wait until the second academic year to receive the $3,000 for the first year.

Section 6202. Transfer of certain vessels

Section 6202 transfers the U.S.N.S. *Chauvenet* (T-AG-29) and the U.S.N.S. *Harkness* (T-AG-32) from the Secretary of the Navy to the Department of Transportation for assignment of these vessels to Texas A&M University at Galveston, Texas and to the Maine Maritime Academy at Castine, Maine, for use as training vessels at these state maritime academies.

Section 6203. Massachusetts Center for Marine Environmental Protection

Section 6203 authorizes $242,000 for assistance to the Massachusetts Center for Marine Environmental Protection located at the Massachusetts Maritime Academy.

Section 6204. Federal ship mortgage insurance for certain construction and reconstruction

Section 6204 amends section 1104(B)(b(2) to allow the Secretary of Transportation to issue loan guarantees for 87½ percent of the loan amount for tank vessels under the title XI loan guarantee program. This will allow the Secretary to guarantee the same percentage of the loan amount as the Secretary may guarantee for all other vessels.

Section 6205. Technical correction

Section 6005 corrects an error in the Coast Guard Authorization Act of 1989 (Public Law 101-225) that mistakenly repealed a section of the Merchant Ship Sales Act and corrects a spelling and cross reference error in the Merchant Marine Act, 1920.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Massachusetts [Mr. STUDDS] has explained, this legislation has passed eight different pieces of legislation in here. Most of them have passed the House, one has passed the Senate, so we concur in its passage.

Mr. HERTEL. Mr. Speaker, I am pleased that the House will complete consideration on legislation tonight that will reauthorize the National Marine Sanctuary Program for 4 years. As chairman of the House Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf, I have enjoyed working with my colleagues on the Merchant Marine and Fisheries Committee on this important title to the Marine Protection, Research and Sanctuaries Act. I know we will all enjoy the benefits of this bill's enactment.

Originally authorized in 1972, the National Marine Sanctuary Program established a special governmental designation process and trust for managing unique, discrete marine areas and protecting their most fragile resources. This legislation marks how substantially the program has grown and changed during its 20-year history.

During consideration of H.R. 4310, the Subcommittee on Oceanography, Great Lakes, and the Outer Continental Shelf and the Subcommittee on Fisheries and Wildlife Conservation and the Environment held two joint hearings. The first hearing was held on November 7, 1991; the second, on March 31, 1992.

After considerable attention to the recommendations of various witnesses, scientists, resource managers, policymakers, and each other, members of the Merchant Marine and Fisheries Committee formulated a consensus on the process for selection and designation of sanctuaries, on management improvements necessary to meet program objectives, and on areas that require immediate sanctuary designation by statute.

Throughout the legislative process, I emphasized the need for sufficient funds to support the necessary manpower, equipment, and resources NOAA will require to implement effectively the range of its full responsibilities under the National Marine Sanctuary Program. Although deliberations have tailored my initial recommendation for authorization funding growth, I continue to believe that this issue will be the key to future program effectiveness.

Additionally, I believe firmly that the National Marine Sanctuary Program should be elevated in priority—not to glorify the coastal waters of isolated areas in the backyards of a few—but to offer a national schematic for protecting our most precious marine and freshwater areas. These areas are a national treasure requiring national, not just local, support. They require commitment, management, and wise planning so that we, and generations after us, can enjoy their splendor and be proud.

Over the course of my chairmanship of the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf, I have personally visited five of the sites proposed to become, or designated as, national marine sanctuaries. I found that the coastline of each one is as diverse as the weather that envelopes them. Their locations and expanse differ substantially, and the marine life that inhabits these areas is unique, precious and irreplaceable.

In my visits, I have become personally moved by the thought that over time without a measured hand protecting them, each of these areas could become exploited—devoid of fisheries and marine life, wasted by navigational traffic, polluted by carelessness or accident, and overwrought by a variety of poisons that come almost automatically with population growth, industrialization, and unchecked use.

There is no marine sanctuary near my home in Michigan, nor is there one near the homes of any of my constituents. Yet, I am pleased to share a part in this process for them, because it is a process of developing legislation to protect something that is national—not something purely parochial. Some day soon, I hope that each of my constituents will, as I have, be able to visit a national marine sanctuary. Perhaps then they will join me to advocate for a greater Federal commitment of funds to the National Marine Sanctuary Program so that the future of all sanctuaries is certain and safe.

Mr. Speaker, with that background, allow me please to summarize some of the provisions of the bill before us. The first sections of H.R. 4310 add strength to the purposes and policies of the National Marine Sanctuaries Act—with special focus on education and long-term monitoring and research. With these new goals, sanctuary resources will be protected through comprehensive, well-coordinated, multiuse management plans.

Under the legislation, sanctuary designation procedures are streamlined, and interagency cooperation will ensure that consultation and joint cooperation remain cornerstones to conserving resources in selected, discrete marine and coastal areas. Strengthened enforcement and penalties against prohibited activities will aid in restoring damage to sanctuary resources and allow for monitoring and research necessary to keep these resources thriving for generations to come.

A variety of provisions I authored encourage partnerships in managing sanctuary resources. These include cooperative agreements in the bill that will enable the Secretary of Commerce to get help from other Government agencies and private organizations with funds or activities that support a sanctuary. Also incorporated are streamlined arrangements for the use or purchase of equipment and facilities, such as docks, minimizing current bureaucratic red tape.

Advisory councils for each sanctuary, established in the legislation, guarantee that the variety of interests—especially those who live or work near a sanctuary—are heard publicly and are taken into account in any designation or management decisions.

Appropriations are authorized in the first section of the bill at $8 million in the current fiscal year; augmented to $12.5 million in 1994; $15 million in 1995; and $20 million in 1996. These amounts, plus additional earmarked levels for specific designations in other sections of the bill, allow for modest growth in a climate of budget constraint. A new emphasis on funding of field activities continues to be a key focus of this legislation to ensure that effective on-site management of sanctuaries already designated, or under evaluation, is accomplished smoothly.

Every aspect of this reauthorization legislation has involved consultation. This bill is the product of a blending of philosophies and principles securing a positive direction for the National Marine Sanctuaries Act in the next 4 years.

In closing, Mr. Speaker, I would like to thank the senior Senator from Massachusetts for his cooperation and support in working on this legislation. I am grateful to have had the opportunity to work with all of my colleagues on the Merchant Marine and Fisheries Committee to reinforce the national direction and special mission of the National Marine Sanctuary Program.

Mr. HERTEL. Mr. Speaker, H.R. 2130/S. 1405, the National Oceanic and Atmospheric Administration Authorization Act of 1992 is significant—for the first time in NOAA's 32-year history, this act will authorize appropriations for the agency's operation.

I introduced this bill on April 30 of last year, along with Chairman Jones, Mr. Bateman, Mr. Davis, Mr. Studds, Mr. Young, and Mr. Hughes. Since that time, the bill has been revised to include authorization for so many of the broad array of programs that NOAA manages. As it is presented to us for final passage tonight, H.R. 2130 includes authorization for NOAA's research, monitoring, and management of NOAA's coastal, marine and freshwater programs and for NOAA's atmospheric, weather and satellite programs.

From the depths of our Nation's oceans and Great Lakes, to the outer reaches of our Earth's atmosphere, NOAA scientists have sought to understand the vast complexity of both wet and dry processes that threaten the life and limb of our citizens and critically determine the economic and environmental well-being of our Nation's resources.

The bill before us today will do much to clarify the wide array of missions under NOAA's umbrella, while improving program oversight. Moreover, H.R. 2130 encourages new directions in NOAA science in response to newly emerging problems.

I'm very pleased that a new coastal water quality monitoring provision of the bill will include the Great Lakes in a joint NOAA–EPA initiative to develop a comprehensive strategy and standardized protocols for assessing the environmental health of our Nation's coastal waters. All too often in the past, our Great Lakes have been denied the national scientific attention that they fully warrant, at a time when global supplies of clean surface freshwater are declining at an alarming rate.

Two other subsections of the bill will also encourage NOAA to focus its science on problems related to management and protection of freshwater resources. Section 202(b) authorizes funds to support ongoing research by NOAA's Cooperative Institute for Limnology and Ecosystems Research [CILER]. CILER is the youngest of seven cooperative institutes established between NOAA Environmental Research Laboratories and participating universities. It is a unique partnership between NOAA's Great Lakes Environmental Research Laboratory, the University of Michigan, Michigan State University, and other participating universities from around the Great Lakes. Support and development of this new program promises large and cost-effective returns in the scientific understanding of processes of the Great Lakes and other freshwater ecosystems throughout the world.

Section 202(c) of the bill authorizes a new NOAA initiative directed toward the comparative scientific study of select large lakes around the world. A large lake is any lake with a surface area greater than 192 square miles—a surface area that is about 2.8 times as large as the surface area of the District of Columbia.

There are 189 large lakes around the globe and collectively, they contain 85 percent of the Earth's surface freshwater. Aside from the large water supplies these lakes contain, some of these lakes are up to 30 million years old and possess valuable geological records from which scientists can document changes in climate, plant and animal communities and most recently, effects of man—namely the transport and fate of toxic contaminants.

Closer to home, the scientific knowledge gained from the study of large lakes will help improve management and protection of our Great Lakes. These lakes alone, contain 20 percent of the world's surface freshwater. By looking at how large lakes around the world function, scientists hope to understand more fully how our own Great Lakes work and how we might more effectively manage and protect them.

Finally, I'm pleased that the bill before us today includes a title providing for the replacement and modernization of NOAA's rapidly-aging national civilian oceanographic fleet. Much of the language of this title, title VI, is derived from H.R. 5324, The NOAA Fleet Replacement and Modernization Act, a bill I introduced on June 4, 1992, with several members of the Merchant Marine and Fisheries Committee—our former Chairman Walter B. Jones, ranking Minority Member Davis, Acting Chairman Gerry Studds, Mr. Bill Hughes, Mr. Billy Tauzin, Mr. Herbert Bateman, and Mr. James Saxton.

Over the past 4 years, a study by General Accounting Office and subsequent studies have documented the deterioration of the NOAA fleet, while emphasizing the critical need to begin immediate vessel modernization and replacement. Title VI of the bill authorizes the Secretary of Commerce to carry out a 15-year program to replace and modernize the NOAA fleet, while prescribing requirements for: a fleet replacement and modernization plan; vessel design; multiyear contract authority; use of vessels; and interoperability with Navy vessels where practicable.

Additionally, section 607 prohibits repair or construction of NOAA vessels by shipyards that receive significant subsidies. This provision was added to ensure fair, competitive terms for NOAA fleet construction and repair contracts to shipyards that do not engage in subsidy practices that do not comply with our international trade agreements. After much debate and negotiation, I am pleased that we will pass a bill tonight that incorporates a strong provision to protect jobs in the ailing American shipbuilding industry and that, according to administration representatives, will finally be signed by the President.

In its initial form, although more strict "Buy America" language was passed by the House, the Senate followed the President's direction in opposing that provision of H.R. 2130. The bill before us today includes a compromise negotiated to honor progress made already and the promise for further future progress in international shipbuilding and procurement agreements. Most importantly, the codification of the term "significant subsidy" establishes for the first time that we do have a national policy position that strengthens America's position when competing for shipbuilding and ship repair contracts. I believe this is the most important provision in this legislation for American workers.

Mr. Speaker, having highlighted only a few of the many provisions of H.R. 2130 that have been thoughtfully drafted by committee and subcommittee staff under the wise guidance of members of the Merchant Marine and Fisheries Committee, I commend all who support this legislation and urge its final approval for swift signature by the President.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5617, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "To provide Congressional approval of a Governing International Fishery Agreement, and for other purposes."

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5617, NATIONAL MARINE SANCTUARIES PROGRAM AMENDMENTS ACT OF 1992

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 5617, including corrections in spelling, punctuation, section numbering, and cross-referencing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2130, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 610) to provide for the consideration of the Senate amendment to H.R. 2130.

The Clerk read as follows:

H. RES. 610

Resolved, That upon adoption of this resolution, the bill (H.R. 2130), the National Oceanic and Atmospheric Administration Act of 1991, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same are hereby, agreed to with the following amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1992".

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

SEC. 101. NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $311,532,000 for fiscal year 1992 and $395,822,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, aviation, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

(b) PACIFIC WEATHER BUOYS.—Of the sums authorized under subsection (a), $840,000 for fiscal year 1992 and $1,135,000 for fiscal year 1993 are authorized to be appropriated for the purpose of operating and maintaining weather buoys off the coast of California, Oregon, Washington, and Hawaii.

(c) COOPERATIVE WEATHER OBSERVER PROGRAM.—The Secretary of Commerce may use funds otherwise available for conducting weather observations to strengthen the Cooperative Weather Observer Program and encourage public participation in the program. The Secretary may—

(1) provide distinctive insignia or paraphernalia to Cooperative Weather Observers; and

(2) make awards of nominal value to recognize continued participation in the program by observers or to recognize outstanding achievements by such observers or groups of observers without regard to any law restricting expenditures for such purposes to Federal employees.

SEC. 102. PUBLIC WARNING AND FORECAST SYSTEMS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, $132,034,000 for each of the fiscal years 1992 and 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) WEATHER RADAR COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary of Commerce for all fiscal years beginning with fiscal year 1993, not to exceed $426,971,000, to remain available until expended, to complete the acquisition and deployment of the Next Generation Weather Radar system, and to cover all associated activities (including program management and operations and maintenance through September 30, 1996).

(2) None of the funds are authorized to be appropriated for any fiscal year under paragraph (1), unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary of Commerce—

(A) certifies to the Congress that—

(i) the radars, including system software, meet the technical performance specifications included in the radar procurement contract as in effect on October 1, 1992;

(ii) the system contract is viable, and the Secretary does not foresee circumstances which would prevent fulfillment of the contract;

(iii) the system can be fully sited, commissioned, and operational without requiring further authorization of appropriations beyond amounts authorized under paragraph (1); and

(iv) the Secretary does not foresee further delays in the system deployment and operation schedule; or

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the deployment and operation schedule and radar coverage; and

(iv) a justification for proceeding with the program, if appropriate.

SEC. 103. CLIMATE AND AIR QUALITY RESEARCH.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $100,718,000 for fiscal year 1992 and $103,877,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a), $67,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

SEC. 104. ATMOSPHERIC RESEARCH.

There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $43,935,000 for fiscal year 1992 and $44,781,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SEC. 105. SATELLITE OBSERVING SYSTEMS.

(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $305,744,000 for fiscal year 1992 and $336,000,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station modifications for polar orbiting and geostationary environmental satellite systems, as well as the operation of such satellites and land remote-sensing satellites.

(2) Of the sums authorized under paragraph (1), $2,300,000 in fiscal year 1993 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(b) EMERGENCY CONTINGENCY FUND.—There are authorized to be appropriated to the Secretary of Commerce, $110,000,000 for fiscal year 1992, to be deposited in an Emergency Weather Satellite Contingency Fund. Such Fund shall be available subject to the restrictions of appropriations Acts, without fiscal year limitation, to the Secretary only for the purpose of enabling the National Oceanic and Atmospheric Administration to maintain geostationary environmental satellite coverage for monitoring and prediction of hurricanes and severe storms, including but not limited to the procurement of gap filler satellites, launch vehicles, and payments to foreign governments.

(c) STRATEGIC PLAN.—(1) The Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration shall jointly develop and, not more than 120 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a strategic plan for development, procurement, and operation of the environmental satellite program of the Department of Commerce.

(2) The objectives of the strategic plan shall be—

(A) to ensure continuous and adequate operational environmental satellite coverage; and

(B) to require direct Federal fiscal and administrative accountability in all aspects of such environmental satellite program.

(3) The strategic plan shall—

(A) delineate the management duties and functions of each Federal department or agency involved in such satellite program;

(B) establish funding responsibilities for each Federal department or agency in a manner which reflects their respective management duties and functions;

(C) set forth procedures to be followed in the development, procurement, and operations of environmental satellites in such program;

(D) minimize the potential for developmental procurement problems, and for cost overruns;

(E) provide for effective interagency and international coordination;

(F) provide for research and development activities to ensure that the procurement of operational environmental satellites relies on proven technologies, and to investigate potential improvements in data applications and operations for such satellites in order to improve the national weather warning and forecast system; and

(G) specify legislative and administrative actions necessary to implement the plan and to accomplish the objectives described in paragraph (2).

(d) GEOSTATIONARY SATELLITE COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary of Commerce for all fiscal years beginning with fiscal year 1993, not to exceed $1,005,255,000, to remain available until expended, to complete the procurement of Geostationary Operational Environmental Satellites I, J, K, L, and M, and the procurement of the launching and supporting ground systems of such satellites.

(2) None of the funds are authorized to be appropriated for any fiscal year under paragraph (1), unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary of Commerce—

(A) certifies to the Congress that—

(i) the results of testing indicate that the satellite instruments are likely to meet the technical performance specifications included in the satellite contract as in effect on October 1, 1992;

(ii) the procurements can be completed without requiring further authorization of appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary foresees no gap in two-satellite service operations resulting from non-performance of the satellite contract; or

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the launch schedule and satellite coverage; and

(iv) a justification for proceeding with the program, if appropriate.

SEC. 106. DATA AND INFORMATION SYSTEMS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $32,628,000 for fiscal year 1992 and $39,596,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geographic data services, and environmental assessment and information services.

(b) MODERNIZATION INITIATIVE.—Of the sums authorized under subsection (a), $10,000,000 in fiscal year 1992 and $15,000,000 in fiscal year 1993 are authorized to be appropriated for the purpose of modernizing the data and information systems of the National Oceanic and Atmospheric Administration to meet increasing requirements for managing, archiving, and distributing environmental data and information.

(c) NEEDS ASSESSMENT FOR DATA MANAGEMENT, ARCHIVAL, AND DISTRIBUTION.—(1) Not later than 12 months after the date of enactment of this Act and at least biennially thereafter, the Secretary of Commerce shall complete an assessment of the adequacy of the environmental data and information systems of the National Oceanic and Atmospheric Administration. In conducting such an assessment, the Secretary shall take into consideration the need to—

(A) provide adequate capacity to manage, archive, and disseminate environmental data and information collected and processed, or expected to be collected and processed, by the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(B) establish, develop, and maintain information bases, including necessary management systems, which will promote consistent, efficient, and compatible transfer and use of data;

(C) develop effective interfaces among the environmental data and information systems of the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(D) develop and use nationally accepted formats and standards for data collected by various national and international sources; and

(E) integrate and interpret data from different sources to produce information that can be used by decisionmakers in developing policies that effectively respond to national and global environmental concerns.

(2) Not later than 12 months after the date of enactment of this Act and biennially thereafter, the Secretary of Commerce shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive plan, based on the assessment under paragraph (1), to modernize and improve the environmental data and information systems of the National Oceanic and Atmospheric Administration. The report shall—

(A) set forth modernization and improvement objectives for the 10-year period beginning with the year in which the plan is submitted, including facility requirements and critical new technological components that would be necessary to meet the objectives set forth;

(B) propose specific agency programs and activities for implementing the plan;

(C) identify the data and information management, archival, and distribution responsibilities of the National Oceanic and Atmospheric Administration with respect to other Federal departments and agencies and international organizations, including the role of the National Oceanic and Atmospheric Administration with respect to large data systems like the Earth Observing System Data and Information System; and

(D) provide an implementation schedule and estimate funding levels necessary to achieve modernization and improvement objectives.

SEC. 107. HURRICANE RECONNAISSANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

(2) The Secretary of Commerce shall establish the Tropical Cyclone Research Advisory Committee, an advisory committee of tropi-

cal cyclone research scientists, to make recommendations for tropical cyclone research activities and reconnaissance procedures.

(b) Responsibilities.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under this section and to transfer the data to the Secretary of Commerce. Program responsibility may not be transferred to any other Federal department or agency, including the Coast Guard, without the agreement and approval of the Secretary of Defense, the Secretary of Commerce, and the head of any other Federal agency or department to which the responsibility is transferred.

(2) The Secretary of Commerce shall have the responsibility to provide funding for data gathering and research by remote sensing, ground sensing, research aircraft, and other technologies necessary to accomplish the program established under this section.

(c) Management Plans.—The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under this section, which shall include organizational structure, goals, major tasks, and funding profiles for 5-year duration of the program.

(2) The Secretary of Defense and the Secretary of Commerce, in consultation with the Tropical Cyclone Research Advisory Committee established by section 107(a)(2), shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(3) The management plans and programs required by this section shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability, or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

SEC. 108. UNITED STATES WEATHER RESEARCH PROGRAM.

(a) Establishment.—The Secretary of Commerce, in cooperation with the Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, shall establish a United States Weather Research Program to—

(1) increase benefits to the Nation from the substantial investment in modernizing the public weather warning and forecast system in the United States;

(2) improve local and regional weather forecasts and warnings;

(3) address critical weather-related scientific issues; and

(4) coordinate governmental, university, and private-sector efforts.

(b) Implementation Plan—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan for implementation of the United States Weather Research Program which shall—

(1) establish, for the 10-year period beginning in the year the plan is submitted, the goals and priorities for Federal weather research which most effectively advance the scientific understanding of weather processes and provide information to improve weather warning and forecast systems in the United States.

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, demonstration of potential operational forecast applications, and education and training required to achieve such goals and priorities; and

(3) set forth the role of each Federal agency and department to be involved in the United States Weather Research Program, identifying and addressing, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to such Program.

SEC. 109. WEATHER SERVICE OFFICE IN RENO, NEVADA.

(a) Facility Acquisition.—The Administrator of the National Oceanic and Atmospheric Administration is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years,

a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada area. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in paragraph (1) or (2).

(b) Reimbursement Authority.—The Administrator is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) Operations.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 110. WEATHER SERVICE FACILITIES IN SOUTH FLORIDA.

(a) Construction of Facility.—The Administrator of the National Oceanic and Atmospheric Administration is authorized to construct, on land to be leased from Florida International University at the University's Tamiami campus, a facility for the National Hurricane Center, a Weather Forecast Office, an upper air facility, and associated site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the South Florida area. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this subsection.

(b) Operations.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 111. WEATHER FORECAST OFFICE, HONOLULU.

(a) Facility Acquisition.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the State of Hawaii, for a term of up to 20 years. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this paragraph.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) Alterations.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) Operations.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 112. INSTITUTE FOR AVIATION WEATHER PREDICTION.

The Administrator of the National Oceanic and Atmospheric Administration shall establish an Institute for Aviation Weather Prediction. The Institute shall provide forecasts, weather warnings, and other weather services to the United States aviation community. The Institute shall expand upon the activities of the aviation unit currently at the National Severe Storms Forecast Center in Kansas City, Missouri, and shall be established in the Kansas City, Missouri area. The Administrator shall provide a full and fair opportunity for employees at the National Severe Storms Forecast Center to assume comparable duties and responsibilities within the Institute.

SEC. 113. WEATHER SERVICE OFFICE IN OKLAHOMA.

(a) Facility Acquisitions.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space to be constructed by the University of Oklahoma, Norman, for the operation of the National Severe Storms Laboratory, Weather Forecast Office, NEXRAD Operational Support Facility, and National Institute for Storm Prediction as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program, for a term of up to 20 years. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this paragraph.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) Alterations.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operations listed in subsection (a)(1).

(c) Operations.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 114. TRANSFER OF DATA ARCHIVING RESPONSIBILITY.

(a) Findings.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C.

4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) PROVISION OF UNENHANCED DATA.—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4242(b)(4)) is amended by inserting "of the Interior" immediately after "Secretary".

(c) ARCHIVING OF DATA.—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting "of the Interior" immediately after "Secretary" each place it appears; and

(2) by adding at the end the following new subsection:

"(h) In carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.".

SEC. 115. WEATHER OFFICE IN EUREKA, CALIFORNIA.

Notwithstanding any other law, any property and improvements to that property located on Woodley Island in the city of Eureka, California, that are—

(1) acquired by the Secretary of Commerce from Hubolt Bay Harbor Recreation and Conservation District, California, for use as a weather forecasting office; and

(2) determined by the Secretary to be excess property, shall revert to that district.

SEC. 116. REPORT ON SATELLITE OCEANOGRAPHY.

SEC. 116. (a) IN GENERAL.—The Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, in consultation with Federal, academic, and commercial users of remotely sensed data, shall consider and develop findings and recommendations regarding—

(1) the most urgent current needs of oceanographic researchers within the Federal Government, the academic community, and the private sector, for remote sensing capabilities and remotely sensed data, including findings regarding the present inadequacies in these capabilities and data; and

(2) the major goals of satellite oceanography for the next 10 years.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Federal Coordinating Council for Science, Engineering, and Technology shall submit to the Congress a report which describes the findings and recommendations of the Committee on Earth and Environmental Sciences, including recommendations for, or a description of actions to be taken toward—

(1) correcting the inadequacies in remote sensing capabilities;

(2) improving the availability of remotely sensed data; and

(3) achieving the major goals of satellite oceanography developed pursuant to subsection (a)(2).

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

SEC. 201. NATIONAL OCEAN SERVICE.

(a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $50,917,000 for fiscal year 1992 and $51,087,000 for fiscal year 1993.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and other law involving those activities, $57,273,000 for fiscal year 1992 and $57,273,000 for fiscal year 1993; and

(2) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992 and $11,000,000 for fiscal year 1993.

(c) COASTAL OCEAN PROGRAM.—Of the sums authorized under subsection (b)(1), $17,352,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purposes of conducting a Coastal Ocean Program. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include efforts to improve predictions of fish stocks, to better conserve and manage living marine resources, to improve predictions of coastal ocean pollution to help correct and prevent degradation of the ocean environment to promote development of ocean technology to support the effort of science to understand and characterize the role oceans play in global climate and environmental analysis, and to improve predictions of coastal hazards to protect human life and personal property.

(d) LONG ISLAND SOUND CIRCULATION MODEL.—No moneys appropriated pursuant to the authorizations in this Act shall be used to conduct analyses of samples collected under the National Status and Trends Program until the Policy Committee of the Long Island Sound Study certifies that the National Oceanic and Atmospheric Administration has completed the water circulation model for Long Island Sound.

(e) CIRCULATION MODEL FUNDING.—Of the sums authorized under subsection (b) for fiscal year 1992, $600,000 is available for completion of the water circulation model for Long Island Sound and $400,000 is available for National Status and Trends Program stations in Long Island Sound.

(f) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992 and $1,823,000 for fiscal year 1993.

SEC. 202. OCEAN AND GREAT LAKES RESEARCH.

(a) OCEAN AND GREAT LAKES RESEARCH AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992 and $39,800,000 for fiscal year 1993.

(b) COOPERATIVE INSTITUTE FOR LIMNOLOGY AND ECOSYSTEMS RESEARCH.—In addition to amounts authorized under subsection (a), there are authorized to be appropriated to the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration $250,000 for fiscal year 1992 and $260,000 for fiscal year 1993, for use by the Cooperative Institute for Limnology and Ecosystems Research (established in partnership with the State of Michigan and the Great Lakes Environmental Research Laboratory) for—

(1) research conducted by the Institute;

(2) development of the Institute; and

(3) for preparation of a five-year plan for research and development.

(c) LARGE LAKES RESEARCH.—(1) In addition to amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary of Commerce for use by the Office of Oceanic and Atmospheric Research $2,000,000 for fiscal year 1992 and $2,080,000 for fiscal year 1993 for use for preparing a plan for large lakes research.

(2) Amounts appropriated under this subsection may be used for—

(A) preparation of a 5-year plan designating large lake study sites, research activities, and anticipated research products; and

(B) collection of physical, chemical, and biological data required for preparing that plan.

(3) Activities conducted with amounts appropriated under this subsection shall be coordinated through the Great Lakes Environmental Research Laboratory, working in association with the Cooperative Institute for Limnology and Ecosystems Research and the National Undersea Research Program.

SEC. 203. AQUATIC NUISANCE PREVENTION AND CONTROL PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $11,000,000 for fiscal year 1992 and $11,440,000 for fiscal year 1993 for use in implementing the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101-646).

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Congress on progress toward establishing a nonindigenous aquatic nuisance prevention and control program within the National Oceanic and Atmospheric Administration and projected funding for such a program for the following five fiscal years.

SEC. 204. REPEAL OF NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978.

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701-1709) is repealed.

SEC. 205. NOAA OIL AND HAZARDOUS SUBSTANCE SPILL COST REIMBURSEMENT.

(a) TREATMENT OF AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES.—Notwithstanding any other provision of law, amounts received by the United States as reimbursement of expenses related to oil or hazardous substance spill response activities, or natural resource damage assessment, restoration, rehabilitation, replacement, or acquisition activities, conducted (or to be conducted) by the National Oceanic and Atmospheric Administration—

(1) shall be deposited into the Fund;

(2) shall be available, without fiscal year limitation and without apportionment, for use in accordance with the law under which the activities are conducted; and (3) shall not

be considered to be an augmentation of appropriations.

(b) APPLICATION.—Subsection (a) shall apply to amounts described in subsection (a) that are received—

(1) after the date of the enactment of this Act; or

(2) with respect to the oil spill associated with the grounding of the EXXON VALDEZ.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Fund" means the Damage Assessment and Restoration Revolving Fund of the National Oceanic and Atmospheric Administration referred to in title I of Public Law 101-515 under the heading "National Oceanic and Atmospheric Administration" (104 Stat. 2105); and

(2) the term "expenses" includes incremental and base salaries, ships, aircraft, and associated indirect costs, except the term does not include base salaries and benefits of National Oceanic and Atmospheric Administration Support Coordinators.

TITLE III—NOAA MARINE FISHERY PROGRAMS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210, 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "$26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$47,933,000 for fiscal year 1992 and $59,162,000 for fiscal year 1993";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,290,000 for fiscal year 1992 and $35,594,000 for fiscal year 1993"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$12,182,000 for fiscal year 1992 and $18,838,000 for fiscal year 1993".

SEC. 302. DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING.

Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

(d) Of the sums authorized under subsection (a) of this section, $1,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

"(1) cooperative research to improve understanding of the behavior association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

SEC. 303. FISHERIES RESEARCH.

Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4) respectively, and by inserting immediately after "FISHERIES RESEARCH.—" the following: "(1) The Secretary shall initiate and maintain in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

SEC. 304. FISHERY FACILITIES.

Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) for acquaculture, including operations on land or elsewhere—

"(A) any structure or appurtenance thereto designed for acquaculture.

"(B) the land necessary for any such structure or appurtenance described in subparagraph A;

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagrah (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

SEC. 305. STUDY OF JOINT ENFORCEMENT OF FISHERIES REGULATIONS.

Not later than 4 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts in the western Pacific Ocean under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for the western Pacific Ocean, particularly in the exclusive economic zone adjacent to the Hawaiian Islands, the Northern Marina Islands, and the territories and possessions of the United States;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts to improve and maximize effective enforcement of fisheries regulations, including but not limited to the chartering of light aircraft for fisheries surveillance and enforcement; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

SEC. 306. STUDY ON EFFECTS OF DOLPHIN FEEDING.

(a) STUDY.—The Secretary of Commerce shall conduct a study in the eastern Gulf of Mexico on the effects of feeding of noncaptive dolphins by human beings. The study conducted pursuant to this section shall be designed to detect any behavior or diet modification resulting from this feeding and to identify the effects, if any, of these modifications on the health and well-being of the dolphins.

(b) EXTERNAL REVIEW.—In design and conduct of the study required under subsection (a), the Secretary shall consult with the National Academy of Sciences and the Marine Mammal Commission.

(c) REPORT.—Within 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted pursuant to subsection (a).

SEC. 307. CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.

(a) ESTABLISHMENT.—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter referred to as the "Office").

(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesabeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving max-

imum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

(c) BUDGET LINE ITEM.—The Secretary of Commerce shall identify, in the President's annual budget to the Congress, the funding request for the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409), as amended by section 302 of this Act, is further amended by adding at the end the following new subsection:

"(e) Of the sums authorized under subsection (a) of this section, no more than $2,500,000 are authorized to be appropriated for each of the fiscal years 1992 and 1993 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 306 of the National Oceanic and Atmospheric Administration Authorization Act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.".

(e) CHESAPEAKE EXECUTIVE COUNCIL.—For purposes of this section, "Chesapeake Executive Council" means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

SEC. 308. NATIONAL SHELLFISH INDICATOR PROGRAM.

(a) ESTABLISHMENT OF A RESEARCH PROGRAM.—The Secretary of Commerce, in cooperation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall establish and administer a 5-year national shellfish research program (hereafter in this section referred to as the "Program") for the purpose of improving existing classification systems for shellfish growing waters using the latest technological advancements in microbiology and epidemiological methods. Within 12 months after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the advisory committee established under subsection (b) and the Consortium, shall develop a comprehensive 5-year plan for the Program which shall at a minimum provide for—

(1) an environmental assessment of commercial shellfish growing areas in the United States, including an evaluation of the relationships between indicators of fecal contamination and human enteric pathogens;

(2) the evaluation of such relationships with respect to potential health hazards associated with human consumption of shellfish;

(3) a comparison of the current microbiological methods used for evaluating indicator bacteria and human enteric pathogens in shellfish and shellfish growing waters with new technological methods designed for this purpose;

(4) the evaluation of current and projected systems for human sewage treatment in eliminating viruses and other human enteric pathogens which accumulate in shellfish;

(5) the design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption; and

(6) recommendations for revising Federal shellfish standards and improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption.

(b) ADVISORY COMMITTEE.—(1) For the purpose of providing oversight of the Program on a continuing basis, an advisory committee (hereafter in this section referred to as the "Committee") shall be established under a memorandum of understanding between the Interstate Shellfish Sanitation Conference and the National Marine Fisheries Service.

(2) The Committee shall—

(A) identify priorities for achieving the purpose of the Program;

(B) review and recommend approval or disapproval of Program work plans and plans of operation;

(C) review and comment on all subcontracts and grants to be awarded under the Program;

(D) receive and review progress reports from the Consortium and Program subcontractors and grantees; and

(E) provide such other advice on the Program as is appropriate.

(3) The Committee shall consist of at least ten members and shall include—

(A) three members representing agencies having authority under State law to regulate the shellfish industry, of whom one shall represent each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions;

(B) three members representing persons engaged in the shellfish industry in the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions (who shall be appointed from among at least six recommendations by the industry members of the Interstate Shellfish Sanitation Conference Executive Board), of whom one shall represent the shellfish industry in each region;

(C) three members, of whom one shall represent each of the following Federal agencies: the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Food and Drug Administration; and

(D) one member representing the Shellfish Institute of North America.

(4) The Chairman of the Committee shall be selected from among the Committee members described in paragraph (3)(A).

(5) The Committee shall establish and maintain a subcommittee of scientific experts to provide advice, assistance, and information relevant to research funded under the Program, except that no individual who is awarded, or whose application is being considered for, a grant or subcontract under the Program may serve on such subcommittee. The membership of the subcommittee shall, to the extent practicable, be regionally balanced with experts who have scientific knowledge concerning each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions. Scientists from the National Academy of Sciences and appropriate Federal agencies (including the National Oceanic and Atmospheric Administration, Food and Drug Administration, Centers for Disease Control, National Institutes of Health, Environmental Protection Agency, and National Science Foundation) shall be considered for membership on the subcommittee.

(6) Members of the Committee and its scientific subcommittee established under this subsection shall not be paid for serving on the Committee or subcommittee, but shall receive travel expenses as authorized by section 5703 of title 5, United States Code.

(c) CONTRACT WITH CONSORTIUM.—Within 30 days after the date of enactment of this Act, the Secretary of Commerce shall seek to enter into a cooperative agreement or contract with the Consortium under which the Consortium will—

(1) be the academic administrative organization and fiscal agent for the Program;

(2) award and administer such grants and subcontracts as are approved by the Committee under subsection (b);

(3) develop and implement a scientific peer review process for evaluating grant and subcontractor applications prior to review by the Committee;

(4) in cooperation with the Secretary of Commerce and the Committee, procure the services of a scientific project director;

(5) develop and submit budgets, progress reports, work plans, and plans of operation for the Program to the Secretary of Commerce and the Committee; and

(6) make available to the Committee such staff, information, and assistance as the Committee may reasonably require to carry out its activities.

(d) REPORTING REQUIREMENTS.—Within 3 months after the date of enactment of this Act and within each of the next three consecutive 3-month intervals, the Secretary of Commerce shall provide Congress with written assessments of Federal efforts to implement this section. In addition, the Secretary of Commerce shall submit an annual report to Congress on the Program, including a description of the research funded under the Program and the results of such research.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) Of the sums authorized under section 4(a) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409), there are authorized to be appropriated to the Secretary of Commerce $5,200,000 for each of the fiscal years 1993 through 1997 for carrying out the Program. Of the amounts appropriated pursuant to this authorization, not more than 5 percent of such appropriation may be used for administrative purposes by the National Oceanic and Atmospheric Administration. The remaining 95 percent of such appropriation shall be used to meet the administrative and scientific objectives of the Program.

(2) The Interstate Shellfish Sanitation Conference shall not administer appropriations authorized under this section, but may be reimbursed from such appropriations for its expenses in arranging for travel, meetings, workshops, or conferences necessary to carry out the Program.

(f) DEFINITIONS.—As used in this section, the term—

(1) "Consortium" means the Louisiana Universities Marine Consortium; and

(2) "shellfish" means any species of oyster, clam, or mussel that is harvested for human consumption.

SEC. 309. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY.

The Secretary of Commerce shall acquire on a long-term basis from the Administrator of General Services space on Pivers Island in Beaufort, North Carolina, that is needed to implement the memorandum of understanding of March 2, 1989, between the National

Oceanic and Atmospheric Administration, Duke University, and the University of North Carolina establishing the Cooperative Institute of Fisheries Oceanography. This section shall not apply if the annual cost of leasing the required space exceeds $2,000,000.

SEC. 310. UNITED STATES GULF OF MEXICO AND SOUTH ATLANTIC SHRIMP FISHERY STUDY.

(a) STUDY.—(1) The Secretary of Commerce shall conduct a comprehensive economic study to provide baseline information to guide policy decisions on the future of the United States Gulf of Mexico and South Atlantic shrimp fishery. Funds shall only be expended under the terms of paragraph (2) of this section.

(2) The study shall—

(A) gather information as to the extent to which governmental and economic factors have affected or may affect the United States Gulf of Mexico and South Atlantic shrimp fishery;

(B) attempt to expand available historical data through survey contracts and cooperation with the industry; and

(C) incorporate the results of the studies on the United States Gulf of Mexico and South Atlantic shrimp fishery that are underway or completed on the date this section is effective.

(b) REPORT.—The Secretary of Commerce shall submit a report to Congress detailing the results of this study no later than October 1, 1993.

(c) AUTHORIZATION.—There is authorized to be appropriated to carry out the provisions of this section $1,000,000 for fiscal year 1993. None of the funds authorized under section 304(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(g)) may be used to carry out the provisions of this section.

SEC. 311. REPORT ON SATELLITE CAPABILITIES FOR FISHERIES ENFORCEMENT.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the heads of other Federal agencies, shall prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report describing how current and planned satellite capabilities of the Federal Government can aid in the enforcement of Federal fisheries laws and international fisheries conservation programs.

(b) REPORT CONTENTS.—The report under subsection (a) shall include consideration of—

(1) active, transponder-based systems and passive, vessel signature-based technologies capable of localizing or identifying individual vessels without the use of vessel-carried transmitters;

(2) the resolution, coverage periods, and all-weather effectiveness of each technology and the real-time data delivery capacity of the various systems;

(3) a description of the technological requirements (including data processing and transfer procedures) and institutional requirements necessary to transfer satellite data to end users for management and enforcement purposes; and

(4) the status of foreign civil satellites and the feasibility of their application to international vessel location and monitoring.

SEC. 312. DEMONSTRATION PROJECT FOR SEAFOOD HANDLING TRAINING AND EDUCATION.

"(a) GRANTS.—The Secretary of Commerce may make annual grants to the City of San Francisco and the Port of San Francisco for each of the fiscal years 1992 and 1993 for a joint project at the San Francisco Wharf to demonstrate safe seafood handling and to conduct seafood education programs.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriate to the Secretary of Commerce—

(1) $250,000 for fiscal year 1992; and

(2) $350,000 for fiscal year 1993.

Such funds shall remain available until expended.

SEC. 313. BOWHEAD WHALE STUDY.

Notwithstanding any other provision of law, the Department of Commerce and the Department of the Interior are authorized to pay as appropriate, $48,464, plus interest since June 6, 1988, to reimburse any unpaid costs incurred in the research and preparation of a paper entitled "Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos", which was presented by the United States to the 40th Annual Meeting of the International Whaling Commission.

SEC. 314. FISHERIES RESEARCH CENTER.

The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct a building, on approximately 15 acres of land to be leased from the University of Southwest Louisiana for a 99-year term. This section shall not apply if the annual cost of leasing the required land exceeds one dollar. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this section.

SEC. 315. PASCAGOULA LABORATORY WAREHOUSE FACILITIES.

Due to the logistical crisis at the National Marine Fisheries Service Laboratory at Pascagoula, Mississippi, the Administrator of the National Oceanic and Atmospheric Administration should give immediate consideration to upgrading dock and warehouse support facilities at such Laboratory in fiscal year 1993.

TITLE IV—ADMINISTRATION AND OTHER ACCOUNTS

SEC. 401. PROGRAM SUPPORT.

(a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, $68,460,000 for fiscal year 1992 and $75,750,000 for fiscal year 1993.

(b) MARINE SERVICES.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,407,000 for fiscal year 1992 and $68,518,000 for fiscal year 1993.

(2) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1993.

(3) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $1,040,000 for fiscal year 1993 for the reactivation and operation of the research vessel ALBATROSS IV.

(4)(A) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

(B) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives 60 days prior to the proposed deactivation of any other research vessel of the National Oceanic and Atmospheric Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.

(5) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate cost effective and practical measures to all vessels of the National Oceanic and Atmospheric Administration to be interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(c) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1990 and any other law involving those activities, $8,865,000 for fiscal year 1992 and $10,336,000 for fiscal year 1993.

SEC. 402. CONSTRUCTION.

There are authorized to be appropriated to the Secretary of Commerce, for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $34,917,000 for fiscal year 1992 and $94,500,000 for fiscal year 1993.

SEC. 403. NOTICE OF REPROGRAMMING.

(a) IN GENERAL.—The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representatives, not less than 15 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lesser of $250,000 or 5 percent of the total funding of such program, project, or activity if the reprogramming—

(1) augments an existing program, project, or activity;

(2) reduces by 5 percent or more (A) the funding for an existing program, project, or activity or (B) the numbers of personnel therefore as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in an existing program, project, or activity.

(b) NOTICE OF REORGANIZATION.—The Secretary of Commerce shall provide notice to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate not later than 15 days before any major reorganization of any program, project, or activity of the National Oceanic and Atmospheric Administration.

SEC. 404. FINANCIAL ASSISTANCE.

(a) PROCESSING OF APPLICATIONS.—Within 12 months after the date of enactment of this Act, the Secretary of Commerce shall develop and, after notice and opportunity for public comment, promulgate regulations or guidelines to ensure that a completed application for a grant, contract, or other financial assistance under a nondiscretionary assistance program shall be processed and approved or disapproved within 75 days after submission of the application to the responsible program office of the National Oceanic and Atmospheric Administration.

(b) NOTIFICATION OF APPLICANT.—Not later than 14 days after the date on which the Secretary of Commerce receives an application for a contract, grant, or other financial assistance provided under a nondiscretionary assistance program administered by the National Oceanic and Atmospheric Administration, the Secretary shall indicate in writing to the applicant whether or not the application is complete and, if not complete, shall specify the additional material that the applicant must provide to complete the application.

(c) EXEMPTION.—In the case of a program for which the recipient of a grant, contract or other financial assistance is specified by statute to be, or has customarily been, a State or an interstate fishery commission, such financial assistance may be provided by the Secretary to that recipient on a sole-source basis, notwithstanding any other provision of law.

(d) DEFINITION.—In this section, the term "nondiscretionary assistance program" means any program for providing financial assistance—

(1) under which the amount of funding for, and the intended recipient of, the financial assistance is specified by Congress; or

(2) the recipients of which have customarily been a State or an interstate fishery commission.

SEC. 405. PRICE FREE ON CHARTS AND OTHER PRODUCTS OF NOAA.

Notwithstanding section 1307 of title 44, United States Code, the price of nautical charts or other nautical products produced or published by the National Oceanic and Atmospheric Administration and sold after the date of the enactment of this Act shall not exceed the price of that type of chart or product on the date of enactment of this Act adjusted for inflation. This section shall not apply after September 30, 1994.

SEC. 406. COOPERATIVE AGREEMENTS.

The Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, may enter into cooperative agreements and other financial agreements with any nonprofit organization to—

(1) aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs; and

(2) solicit private donations for the support of such activities.

SEC. 407. RECRUITMENT OF MINORITIES AND WOMEN FOR NOAA SCIENCE EDUCATION ACTIVITIES.

(a) FINDINGS.—The Congress finds the following:

(1) In this decade, more than two-thirds of the new entrants to the United States labor force will be minorities and women—groups which for the most part have been historically underrepresented in the sciences.

(2) The National Science Foundation estimates that by the year 2000, the United States will face a shortfall of more than 400,000 science and engineering personnel.

(3) Given the demographics of the United States workforce, the problem of underrepresented minorities and women in the sciences and engineering could seriously compromise the industrial and technological capability of the United States, as well as its ability to compete in international marketplaces.

(4) The National Oceanic and Atmospheric Administration has made important efforts to promote education programs in the sciences for students, teachers, and other citizens.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the National Oceanic and Atmospheric Administration should continue to expand its educational programs in the sciences, and in this effort, that the National Oceanic and Atmospheric Administration should develop and promote programs that reach out to and recruit minorities and women for education in the sciences.

TITLE V—NATIONAL MARINE MONITORING PROGRAM

SEC. 501. AMENDMENT.

The Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding at the end the following new title:

"TITLE V—NATIONAL COASTAL MONITORING ACT

"SEC. 501. PURPOSES.

"The purposes of this title are to—

"(1) establish a comprehensive national program for consistent monitoring of the Nation's coastal ecosystems;

"(2) establish long-term water quality assessment and monitoring programs for high priority coastal waters that will enhance the ability of Federal, State, and local authorities to develop and implement effective remedial programs for those waters;

"(3) establish a system for reviewing and evaluating the scientific, analytical, and technological means that are available for monitoring the environmental quality of coastal ecosystems;

"(4) establish methods for identifying uniform indicators of coastal ecosystem quality;

"(5) provide for periodic comprehensive reports to Congress concerning the quality of the Nation's coastal ecosystems;

"(6) establish a coastal environmental information program to distribute coastal monitoring information;

"(7) provide state programs authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) with information necessary to design land use plans and coastal zone regulations that will contribute to the protection of coastal ecosystems; and

"(8) provide certain water pollution control programs authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) with information necessary to design and implement effective coastal water pollution controls.

"SEC. 502 DEFINITIONS.

"For the purposes of this title, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'coastal ecosystem' means a system of interacting biological, chemical, and physical components throughout the water column, water surface, and benthic environment of coastal waters;

"(3) 'coastal water quality' means the physical, chemical and biological parameters that relate to the health and integrity of coastal ecosystems;

"(4) 'coastal water quality monitoring' means a continuing program of measurement, analysis, and synthesis to identify and quantify coastal water quality conditions and trends to provide a technical basis for decisionmaking;

"(5) 'coastal waters' means waters of the Great Lakes, including their connecting waters and those portions of rivers, streams, and other bodies of water having unimpaired connection with the open sea up to the head of tidal influence, including wetlands, intertidal areas, bays, harbors, and lagoons, including waters of the territorial sea of the United States and the contiguous zone"; and

"(6) 'Under Secretary' means Under Secretary of Commerce for Oceans and Atmosphere.

"SEC. 503. COMPREHENSIVE COASTAL WATER QUALITY MONITORING PROGRAM.

"(a) AUTHORITY: JOINT IMPLEMENTATION.—(1) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall jointly develop and implement a program for the long-term collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's coastal ecosystems pursuant to this section. Monitoring conducted pursuant to this section shall be coordinated with relevant monitoring programs conducted by the Administrator, Undersecretary, and other Federal, State, and local authorities.

"(2) Primary leadership for the monitoring program activities conducted by the Environmental Protection Agency pursuant to this section shall be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

"(b) PROGRAM ELEMENTS.—The Comprehensive Coastal Water Quality Monitoring Program shall include, but not be limited to—

"(1) identification and analysis of the status of environmental quality in the Nation's coastal ecosystems, including but not limited to, assessment of—

"(A) ambient water quality, including contaminant levels in relation to criteria and standards issued pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.);

"(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to criteria and standards issued pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.); and

"(C) health and quality of living resources.

"(2) identification of sources of environmental degradation affecting the Nation's coastal ecosystems;

"(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the environmental degradation of the Nation's coastal ecosystems;

"(4) assessment of the accumulation of floatables along coastal shorelines;

"(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's coastal ecosystems; and

"(6) the development and implementation of intensive coastal water quality monitoring programs in accordance with subsection (d).

"(c) MONITORING GUIDELINES AND PROTOCOLS.

"(1) GUIDELINES.—Not later than 18 months after the date of the enactment of this title, the Administrator and the Under Secretary shall jointly issue coastal water quality monitoring guidelines to assist in the development and implementation of coastal water quality monitoring programs. The guidelines shall—

"(A) provide an appropriate degree of uniformity among the coastal water quality monitoring methods and data while preserving the flexibility of monitoring programs to address specific needs;

"(B) establish scientifically valid monitoring methods that will—

"(i) provide simplified methods to survey and assess the water quality and ecological health of coastal waters;

"(ii) identify and quantify through more intensive efforts the severity of existing or anticipated problems in selected coastal waters;

"(iii) identify and quantify sources of pollution that cause or contribute to those problems, including point and nonpoint sources;

"(iv) evaluate over time the effectiveness of efforts to reduce or eliminate pollution from those sources;

"(C) provide for data compatibility to enable data to be efficiently stored and shared by various users; and

"(D) identify appropriate physical, chemical, and biological indicators of the health and quality of coastal ecosystems.

"(2) Technical protocols.—Guidelines issued under paragraph (1) shall include protocols for—

"(A) designing statistically valid coastal water quality monitoring networks and monitoring surveys, including assessment of the accumulation of floatables.

"(B) sampling and analysis, including appropriate physical and chemical parameters, living resource parameters, and sediment analysis techniques; and

"(C) quality control, quality assessment, and data consistency and management.

"(3) Periodic review.—The Administrator and the Under Secretary shall periodically review the guidelines and protocols issued under this subsection to evaluate their effectiveness, the degree to which they continue to answer program objectives and provide an appropriate degree of uniformity while taking local conditions into account, and any need to modify or supplement them with new guidelines and protocols, as needed.

"(4) Discharge permit data.—The Administrator or a State permitting authority shall ensure that compliance monitoring conducted pursuant to section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)) for permits for discharges to coastal waters is consistent with the guidelines issued under this subsection. Any modifications of discharge permits necessary to implement this subsection shall be deemed to be minor modifications of such permit. Nothing in this subsection requires discharges to conduct monitoring other than compliance monitoring pursuant to permits under section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)).

"(d) Intensive Coastal Water Quality Monitoring Programs.—

"(1) In general.—The Comprehensive Coastal Water Quality Monitoring Program established pursuant to this section shall include intensive coastal water quality monitoring programs developed under this subsection.

"(2) Designation of intensive monitoring areas.—Not later than 24 months after the date of enactment of this title and periodically thereafter, the Administrator and the Under Secretary shall, based on recommendations by the National Research Council, jointly designate coastal areas to be intensively monitored.

"(3) Identification of suitable coastal areas.—(A) The Administrator and the Under Secretary shall contract with the National Research Council to conduct a study to identify coastal areas suitable for the establishment of intensive coastal monitoring programs. In identifying these coastal areas, the National Research Council shall consider areas that—

"(i) are representative of coastal ecosystems throughout the United States;

"(ii) will provide information to assess the status and trends of coastal water quality nation-wide; and

"(iii) would benefit from intensive water quality monitoring because of local management needs.

"(B) In making recommendations under this paragraph, the National Research Council shall consult with Regional Research Boards established pursuant to title IV of this Act.

"(C) The National Research Council shall, within 18 months of the date of enactment of this title, submit a report to the Administrator and the Under Secretary listing areas suitable for intensive monitoring.

"(D) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall develop and implement multi-year programs of intensive monitoring for Massachusetts and Cape Cod Bays, the Gulf of Maine, the Chesapeake Bay, the Hudson-Raritan Estuary, and each area jointly designated by the Administrator and the Under Secretary pursuant to paragraph (2).

"(4) Intensive coastal water quality monitoring programs.—Each intensive coastal water quality monitoring program developed pursuant to this subsection shall—

"(A) identify water quality conditions and problems and provide information to assist in improving coastal water quality;

"(B) clearly state the goals and objectives of the monitoring program and their relationship to the water quality objectives for coastal waters covered by the program;

"(C) identify the water quality and biological parameters of the monitoring program and their relationship to these goals and objectives;

"(D) describe the types of monitoring networks, surveys and other activities to be used to achieve these goals and objectives, using where appropriate the guidelines issued under subsection (c);

"(E) survey existing Federal, State, and local coastal monitoring activities and private compliance monitoring activities in or on the coastal waters covered by the program, describe the relationship of the program to those other monitoring activities, and integrate them, as appropriate, into the intensive monitoring program;

"(F) describe the data management and quality control components of the program;

"(G) specify the implementation requirements for the program, including—

"(i) the lead Federal, State, or regional authority that will administer the program;

"(ii) the public and private parties that will implement the program;

"(iii) a detailed schedule for program implementation;

"(iv) all Federal and State responsibilities for implementing the program; and

"(v) the changes in Federal, State, and local monitoring programs necessary to implement the program;

"(H) estimate the costs to Federal and State governments, and other participants, of implementing the monitoring program; and

"(I) describe the methods to assess periodically the success of the monitoring program in meeting its goals and objectives, and the manner in which the program may be modified from time-to-time.

"(5) Criteria for monitoring Massachusetts and Cape Cod Bays.—In addition to the criteria listed in paragraph (4), the intensive monitoring program for Massachusetts and Cape Cod Bays shall establish baseline data on environmental phenomena (such as quantity of bacteria and quality of indigenous species, and swimmability) and determine the ecological impacts resulting from major point source discharges.

"(6) Memorandum of understanding.—Prior to implementing any intensive coastal water quality monitoring program under this subsection, the Administrator and the Under Secretary shall enter into a Memorandum of Understanding to implement the intensive coastal water quality monitoring programs and may extend the Memorandum of Understanding to include other appropriate Federal agencies. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities.

"(7) Implementation.—(A) The Administrator, the Under Secretary, and the Governor of each State having waters subject to an intensive coastal water quality monitoring program developed pursuant to this subsection shall ensure compliance with that program.

"(B) The Administrator and the Under Secretary are authorized to enter into cooperative agreements to provide financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under this subsection. Federal financial assistance may only be provided on the condition that not less than fifty percent of the costs of the monitoring to be conducted by a non-Federal agency or institution is provided from non-Federal funds.

"(e) Comprehensive implementation strategy.—

"(1) In general.—Within 1 year after the date of enactment of this title, the Administrator and the Under Secretary shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Coastal Monitoring Program pursuant to this section.

"(2) Consultation.—The Administrator and the Under Secretary shall consult with the National Academy of Sciences, the Director of the U.S. Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the Secretary of Agriculture, the heads of any other relevant Federal or regional agencies, and the Governors of coastal States in developing the Strategy.

"(3) Public comment.—Not less than 3 months before submitting the Strategy to Congress, the Administrator and the Under Secretary shall jointly publish a draft version of the Strategy in the Federal Register and shall solicit public comments regarding the Strategy.

"(4) Memorandum of understanding.—Within 1 year after submission of the Strategy under paragraph (1), the Administrator and the Under Secretary shall enter into a Memorandum of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal coastal monitoring programs. The Memorandum of Understanding shall identify the monitoring and reporting responsibility of each agency and shall encourage the coordination of monitoring activities where possible.

"SEC. 504. REPORT TO CONGRESS.

"On September 30 of every other year beginning in 1993, the Administrator and the Under Secretary shall jointly submit to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries, and the Committee on Public Works and Transportation of the House of Representatives a report describing the condition of the Nation's coastal ecosystems, including the following:

"(1) an assessment of the status and health of the Nation's coastal ecosystems;

"(2) an evaluation of environmental trends in coastal ecosystems;

"(3) identification of sources of environmental degradation affecting coastal ecosystems;

"(4) an assessment of the extent to which floatables degrade coastal ecosystems, including trends in the accumulation of floatables and the threat posed by floatables to aquatic life;

"(5) an assessment of the impact of government programs designed to abate the degradation of coastal ecosystems;

"(6) an evaluation of the adequacy of monitoring programs and identification of any additional program elements which may be needed; and

"(7) a summary of monitoring results in areas monitored under subsection 503(d).

"SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

"(a) NOAA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Under Secretary amounts not to exceed $5,000,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, $10,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

"(b) EPA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Administrator amounts not to exceed $5,000,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.".

TITLE VI—NOAA FLEET MODERNIZATION

SEC. 601. SHORT TITLE.

This title may be cited as the "NOAA Fleet Modernization Act".

SEC. 602. DEFINITIONS.

In this title, the term—

(1) "NOAA" means the National Oceanic and Atmospheric Administration within the Department of Commerce.

(2) "NOAA fleet" means the fleet of research vessels owned or operated by NOAA.

(3) "Plan" means the NOAA Fleet Replacement and Modernization Plan described in section 604.

(4) "Secretary" means the Secretary of Commerce.

(5) "UNOLS" means University-National Oceanographic Laboratory System.

SEC. 603. FLEET REPLACEMENT AND MODERNIZATION PROGRAM.

The Secretary is authorized to implement, subject to the requirements of this Act, a 15-year program to replace and modernize the NOAA fleet.

SEC. 604. FLEET REPLACEMENT AND MODERNIZATION PLAN.

(a) IN GENERAL.—To carry out the program authorized in section 603, the Secretary shall develop and submit to Congress a replacement and modernization Plan for the NOAA fleet covering the years authorized under section 610.

(b) TIMING.—The Plan required in subsection (a) shall be submitted to Congress within 30 days of the date of enactment of this Act, and updated on an annual basis.

(c) PLAN ELEMENTS.—The Plan required in subsection (a) shall include the following—

(1) the number of vessels proposed to be modernized or replaced, the schedule for their modernization or replacement, and anticipated funding requirements;

(2) the number of vessels proposed to be constructed, leased, or chartered;

(3) the number of vessels, or days at sea, that can be obtained by using the vessels of the UNOLS;

(4) the number of vessels that will be made available to NOAA by the Secretary of the Navy, or any other federal official, and the terms and conditions for their availability;

(5) the proposed acquisition of modern scientific instrumentation for the NOAA fleet, including acoustic systems, data transmission positioning and communication systems, physical, chemical, and meteorological oceanographic systems, and data acquisition and processing systems; and

(6) the appropriate role of the NOAA Corps in operating and maintaining the NOAA fleet.

(d) CONTRACTING LIMITATION.—The Secretary may not enter into any contract for the construction, lease, or service life extension of a vessel of the NOAA fleet before the date of the submission to Congress of the Plan required in subsection (a).

SEC. 605. DESIGN OF NOAA VESSELS.

(a) DESIGN REQUIREMENT.—Except for the vessel designs identified under subsection (b), the Secretary, working through the Office of the NOAA Corps Operations and the Systems Procurement Office, shall—

(1) prepare requirements for each class of vessel to be constructed or converted under the Plan; and

(2) contract competitively from non-governmental entities with expertise in shipbuilding for vessel design and construction based on the requirements for each class of vessel to be acquired.

(b) EXCEPTION.—The Secretary shall—

(1) report to Congress identifying any existing vessel design or design proposal that meets the requirements of the Plan within 30 days after the date of enactment of this Act and shall promptly advise the Congress of any modification of those designs; and

(2) submit to Congress as part of the annual update of the Plan required in section 604, any subsequent existing vessel design or design proposals that meet the requirements of the Plan.

SEC. 606. CONTRACT AUTHORITY.

(a) MULTIYEAR CONTRACTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31, United States Code and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary may acquire vessels for the NOAA fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(2) REQUIRED FINDINGS.—The Secretary may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

(A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from Congress funding for the contract at the level required to avoid contract termination; and

(B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the NOAA fleet.

(3) REQUIRED CONTRACT PROVISIONS.—The Secretary may not enter into a contract pursuant to this subsection unless the contract includes—

(A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision that specifies the term of effectiveness of the contract; and

(C) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

(i) an amount specified in the contract for such a termination; or

(ii) amounts that—

(I) were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

(II) are unobligated on the date of the termination.

(b) SERVICE CONTRACTS.—Notwithstanding any other provision of law, the Secretary may enter into multiyear contracts for oceanographic research, fisheries research, and mapping and charting services to assist the Secretary in fulfilling NOAA missions. The Secretary may only enter into these contracts if—

(1) the Secretary finds that it is in the public interest to do so;

(2) the contract is for not more than 7 years; and

(3)(A) the cost of the contract is less than the cost (including the cost of operation, maintenance, and personnel) to the NOAA of obtaining those services on NOAA vessels; or

(B) NOAA vessels are not available or cannot provide those services.

(c) BONDING AUTHORITY.—Notwithstanding any other law, the Secretary may not require a contractor for the construction, alteration, repair, or maintenance of a NOAA vessel to provide a bid bond, payment bond, performance bond, completion bond, or other surety instrument in an amount greater than 20 percent of the value of the base contract quantity (excluding options) unless the Secretary determines that requiring an instrument in that amount will not prevent a responsible bidder or offeror from competing for the award of the contract.

SEC. 607. RESTRICTION WITH RESPECT TO CERTAIN SHIPYARD SUBSIDIES.

(a) IN GENERAL.—The Secretary of Commerce may not award a contract for the construction, repair (except emergency repairs), or alteration of any vessel of the National Oceanic and Atmospheric Administration in a shipyard, if that vessel benefits or would benefit from significant subsidies for the construction, repair, or alteration of vessels in that shipyard.

(b) DEFINITION.—In this section, the term "significant subsidy" includes, but is not limited to, any of the following:

(1) Officially supported export credits.

(2) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to—

(A) grants;

(B) loans and loan guarantees other than those available on the commercial market;

(C) forgiveness of debt;

(D) equity infusions on terms inconsistent with commercially reasonable investment practices; and

(E) preferential provision of goods and services.

(3) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to the kinds of support listed in paragraph (2) (A) through (E), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

(4) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprise.

(5) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions, and preferences, including accelerated depreciation, if such benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(6) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

(7) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to supplies of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

(8) Any export subsidy identified in the illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

SEC. 608. USE OF VESSELS.

(a) VESSEL AGREEMENTS.—In implementing the NOAA fleet replacement and modernization program, the Secretary shall use excess capacity of UNOLS vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

(b) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act, the Comptroller General of the United States shall provide a report to Congress, in consultation with the Secretary, comparing the cost-efficiency, accounting, and operating practices of the vessels of NOAA, UNOLS, other Federal agencies, and the United States private sector in meeting the missions of NOAA.

SEC. 609. INTEROPERABILITY.

The Secretary shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken, on a reimbursable basis, to ensure that NOAA vessels are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out this title—

(1) $50,000,000 for fiscal year 1993;

(2) $100,000,000 for fiscal year 1994; and such sums as are necessary for each of the fiscal years 1995, 1996, and 1997.

(b) LIMITATION ON FLEET MODERNIZATION ACTIVITIES.—All National Oceanic and Atmospheric Administration fleet modernization, shipbuilding, and conversion shall be conducted in accordance with this title.

TITLE VII—WEATHER SERVICE MODERNIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Weather Service Modernization Act".

SEC. 702. DEFINITIONS.

For the purpose of this title, the term—

(1) "automate" means to replace employees with automated weather service equipment;

(2) "change operations at a field office" means transfer service responsibility, commission weather observation systems, decommission a National Weather Service radar, change staffing levels significantly, or move a field office to a new location inside the local commuting and service area;

(3) "Committee" means the Modernization Transition Committee established by section 707;

(4) "degradation of service" means any decrease in or failure to maintain the quality and type of weather services provided by the National Weather Service to the public in a service area, including but not limited to a reduction in existing weather radar coverage at an elevation of 10,000 feet;

(5) "field office" means any National Weather Service Office or National Weather Service Forecast Office;

(6) "Plan" means the National Implementation Plan required under section 703;

(7) "relocate" means to transfer from one location to another location that is outside the local commuting or service area;

(8) "Secretary" means the Secretary of Commerce;

(9) "service area" means the geographical area for which a field office provides services or conducts observations, including but not limited to local forecasts, severe weather warnings, aviation support, radar coverage, and ground weather observations; and

(10) "Strategic Plan" means the 10-year strategic plan for the comprehensive modernization of the National Weather Service, required under section 407 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note).

SEC. 703. NATIONAL IMPLEMENTATION PLAN.

(a) NATIONAL IMPLEMENTATION PLAN.—As part of the budget justification documents submitted to Congress in support of the annual budget request for the Department of Commerce, the Secretary shall include a National Implementation Plan for modernization of the National Weather Service for each fiscal year following fiscal year 1993 until such modernization is complete. The Plan shall set forth the actions, during the 2-year period beginning with the fiscal year for which the budget request is made, that will be necessary to accomplish the objectives described in the Strategic Plan, and shall include—

(1) detailed requirements for new technologies, facilities, staffing levels and positions, and funding, in accordance with the overall schedule for modernization;

(2) notification of any proposed action to change operations at a field office and the intended date of such operational change;

(3) identification of any field office that the Secretary intends to certify under section 706, including the intended date of such certification;

(4) special measures to test, evaluate, and demonstrate key elements of the modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of the modernization in an integrated manner for a sustained period;

(5) detailed plans and funding requirements for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize the new technologies being implemented in the modernization; and

(6) training and education programs to ensure that employees gain the necessary expertise to utilize the new technologies and to minimize employee displacement as a consequence of modernization.

(b) TRANSMITTAL TO COMMITTEE.—The Secretary shall transmit a copy of each annual Plan to the Committee.

(c) CONSULTATION.—In developing the Plan, the Secretary shall consult, as appropriate, with the Committee and public entities responsible for providing or utilizing weather services.

SEC. 704. MODERNIZATION CRITERIA.

(a) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall contract with the National Research Council for a review of the scientific and technical modernization criteria by which the Secretary proposes to certify action to close, consolidate, automate, or relocate a field office under section 706. In conducting such review, the National Research Council shall prepare and submit to the Secretary, no later than 9 months after the date of enactment of this Act, a report which—

(1) assesses requirements and procedures for commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area;

(2) assesses the statistical and analytical measures that should be made for a service area to form an adequate basis for determining that there will be no degradation of service; and

(3) includes such other recommendations as the National Research Council determines are appropriate to ensure public safety.

(b) CRITERIA.—No later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the National Research Council and the Committee and after notice and opportunity for pubic comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures), based on the report required under this section, for—

(1) commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area; and

(2) certifying action to close, consolidate, automate, or relocate a field office under section 706.

SEC. 705. CHANGES IN FIELD OFFICE OPERATIONS.

(a) NOTIFICATION.—The Secretary shall not change operations at a field office pursuant to implementation of the Strategic Plan unless the Secretary has provided the notification required by section 703.

(b) WEATHER RADAR DECOMMISSIONING.—The Secretary shall not remove or permanently decommission any National Weather Service radar until the Secretary has prepared radar commissioning and decommissioning reports documenting that such action would be consistent with the modernization criteria established under section 704(b)(1). The commissioning report shall document that the radar system performs reliably, satisfactory maintenance support is in place, sufficient staff with adequate training are present to operate the system, technical coordination with weather service users has been completed, and the radar being commissioned satisfactorily supports field office operations. The decommissioning report shall document that the replacement radar has been commissioned, technical coordination with service users has been completed, and the radar being decommissioned is no longer needed to support field office operations.

(c) Surface Observing Systems Commissioning.—The Secretary may not commission an automated surface observing system located at an airport unless it is determined, in consultation with the Secretary of Transportation, that the weather services provided after commissioning will continue to be in full compliance with applicable flight aviation rules promulgated by the Federal Aviation Administration.

SEC. 706. RESTRUCTURING FIELD OFFICES.

Sec. 706. (a) Prohibition.—The Secretary shall not close, before January 1, 1996, any field office pursuant to implementation of the Strategic Plan.

(b) Certification.—The Secretary shall not close, consolidate, automate, or relocate any field office, unless the Secretary has certified that such action will not result in any degradation of service. Such certification shall include—

(1) a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(2) a detailed comparison of the services provided within the service area and the services to be provided after such action;

(3) a description of any recent or expected modernization of National Weather Service operations which will enhance services in the service area;

(4) an identification of any area within any State which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(5) evidence, based upon operational demonstration of modernized National Weather Service operations, which was considered in reaching the conclusion that no degradation in service will result from such action; and

(6) any report of the Committee submitted under section 707(c) that evaluates the proposed certification.

(c) Public Review.—Each certification decision shall be preceded by—

(1) publication in the Federal Register of a proposed certification; and

(2) a 60-day period after such publication during which the public may provide comments to the Secretary on the proposed certification.

(d) Final Decision.—If after consideration of the public comment received under subsection (c) the Secretary, in consultation with the Committee, decides to close, consolidate, automate, or relocate any such field office, the Secretary shall publish a final certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(e) Special Circumstances.—The Secretary may not close or relocate any field office—

(1) which is located at an airport, unless the Secretary, in consultation with the Secretary of Transportation and the Committee, first conducts an air safety appraisal, determines that such action will not result in degradation of service that affects aircraft safety, and includes such determination in the certification required under subsection (b); or

(2) which is the only office in a State, unless the Secretary first evaluates the effect on weather services provided to in-State users, such as State agencies, civil defense officials, and local public safety offices, and includes in the certification required under subsection (b) the Secretary's determination that a comparable level of weather services provided to such in-State users will remain.

(f) Liaison Officer.—The Secretary may not close, consolidate, automate, or relocate a field office until arrangements have been made to maintain for a period of at least 2 years at least one person in the service area to act as a liaison officer who—

(1) provides timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring; and

(2) works with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts.

SEC. 707. MODERNIZATION TRANSITION COMMITTEE.

(a) Establishment.—There is established a committee of 12 members to be known as the Modernization Transition Committee.

(b) Membership and Terms.—(1) The Committee shall consist of—

(A) five members representing agencies and departments of the United States which are responsible for providing or using weather services, including but not limited to the National Weather Service, the Department of Defense, the Federal Aviation Administration, and the Federal Emergency Management Agency; and

(B) seven members to be appointed by the Secretary from civil defense and public safety organizations, news media, any labor organization certified by the Federal Labor Relations Authority as an exclusive representative of weather service employees, meteorological experts, and private sector users of weather information such as pilots and farmers.

(2) The term of office of a member of the Committee shall be 3 years; except that, of the original membership, four shall serve a 5-year term, four shall serve a 4-year term, and four shall serve a 3-year term. No individual may serve for more than one additional 3-year term.

(3) The Secretary shall designate a chairman of the Committee from among its members.

(c) Duties.—(1) The Committee may review any proposed certification under section 706 for which the Secretary has provided a notice of intent to certify in the Plan, and should review such a proposed certification if there is a significant possibility of degradation of service within the affected service area. Upon the request of the Committee, the Secretary shall make available to the Committee the supporting documents developed by the Secretary in connection with the proposed certification. The Committee may prepare and submit to the Secretary, prior to publication of the proposed certification, a report which evaluates the proposed certification on the basis of the modernization criteria and with respect to the requirement that there be no degradation of service.

(2) The Committee shall advise the Congress and the Secretary on—

(A) the implementation of the Strategic Plan, annual development of the Plan, and establishment and implementation of modernization criteria; and

(B) matters of public safety and the provision of weather services which relate to the comprehensive modernization of the National Weather Service.

(d) Pay and Travel Expenses.—Members of the Committee who are not employees of the United States shall each be paid at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Committee. Members shall receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(e) Staff.—The Secretary shall make available to the Committee such staff, information, and assistance as it may reasonably require to carry out its activities.

(f) Termination.—The Committee shall terminate on December 31, 1999.

SEC. 708. WEATHER SERVICE REPORT.

(a) Report.—The Secretary shall prepare a report on the proposed modernization of the National Weather Service and transmit the report, not later than 6 months after the date of enactment of this Act, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(b) Contents.—(1) The report required by subsection (a) shall identify the size of the geographic area of responsibility of each proposed Weather Forecast Office and shall include an explanation of the number and type of personnel required at each Weather Forecast Office. For each proposed Weather Forecast Office covering a geographic area greater than two times the average geographic area of responsibility of Weather Forecast Offices nationwide, the report shall detail the reasons for assigning those Weather Forecast Offices a geographic area which differs significantly from the national average.

(2) The report shall list the number of next generation weather radars that will be associated with each Weather Forecast Office nationwide under the proposed modernization plan. If some Weather Forecast Offices will be associated with more than one such radar, the report shall explain the deviation from the National Weather Service's stated policy of associating one such radar with one Weather Forecast Office, and shall analyze and compare any differences in the expected efficiency of those Weather Forecast Offices with Weather Forecast Offices that will be associated with only one such radar.

(c) Consultation.—In preparing portions of the report that address Weather Forecast Offices located in areas of the Nation that are uniquely dependent on general aviation as a means of transportation, the Secretary shall consult with local aviation groups. In the case of Alaska, such local groups shall include the Alaska Aviation Safety Foundation, the Alaska Airmen's Association, and the regional representatives of the Aircraft Owners and Pilots Association.

SEC. 709. REPEALS.

The National Aeronautics and Space Administration Authorization Act, Fiscal Year

1989 (15 U.S.C. 313 note), is amended by repealing—

(1) subsections (b), (c), and (d) of section 407; and

(2) section 408.

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

SEC. 801. SHORT TITLE.

This title may be cited as the "North Pacific Anadromous Stocks Act or 1992".

SEC. 802. PURPOSE.

It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

SEC. 803. DEFINITIONS.

As used in this title, the term—

(1) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 809(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) "Enforcment officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel described in subparageph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of State.

(17) "United States Section" means the United States Commissioners of the Commission.

SEC. 804. UNITED STATES COMMISSIONERS.

(a) COMMISSIONERS.—The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Of the Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) ALTERNATE COMMISSIONERS.—The Secretary, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of the United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) UNITED STATES SECTION.—The United States Section, in consultation with the Advisory Panel established in section 805, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, an species.

(d) COMPENSATION.—United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

SEC. 805. ADVISORY PANEL.

(2) ESTABLISHMENT OF PANEL.—An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

(1) The Commissioner of the Alaska Department of Fish and Game.

(2) The Director of the Washington Department of Fisheries.

(3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) QUALIFICATIONS.—Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4), the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) LIMITATION ON SERVICE.—Any person appointed to the Advisory Panel pursuant to subsection (a)(4) shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) FUNCTIONS.—The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) COMPENSATION AND EXPENSES.—The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

SEC. 806. COMMISSION RECOMMENDATIONS.

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

SEC. 807. ADMINISTRATION AND ENFORCEMENT OF CONVENTION.

(a) RESPONSIBILITIES.—The Secretary of Commerce shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

(b) CONSULTATION AND COOPERATION.—In carrying out such functions, the Secretary of Commerce—

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

SEC. 808. COOPERATION WITH OTHER AGENCIES.

(a) IN GENERAL.—Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) FUNCTIONS OF SECRETARY OF COMMERCE.—In carrying out the provisions of the Convention and this title, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

SEC. 809. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES OF COMMERCE AND TRANSPORTATION.—This title shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations issued under this title. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) POWERS OF ENFORCEMENT OFFICERS.—Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by section 810;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this title, or regulations issued under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) ADDITIONAL POWERS.—(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation issued under this title; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

SEC. 810. UNLAWFUL ACTIVITIES.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation issued under this title.

SEC. 811. PENALTIES.

(a) CIVIL PENALTIES.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission mission of an act prohibited by section 810 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, any may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) OFFENSES.—(1) A person is guilty of an offense if the person commits any act prohibited by section 810(5), (6), (7), or (8).

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

(c) FORFEITURE.—(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of

the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 810 were taken or retained in violation of the Convention and this title.

SEC. 812. FUNDING REQUIREMENTS.

(a) Authorization.—There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States' share of the joint expenses of the Commission.

(b) Research.—Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

SEC. 813. DISPOSITION OF PROPERTY.

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

SEC. 814. REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954.

The Act of August 12, 1954 (16 U.S.C. 1021–1035) is repealed.

TITLE IX—NEW ENGLAND GROUNDFISH

SEC. 901. FISHERY ENFORCEMENT.

Section 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) Enforcement of Northeast Multispecies Fishery Management Plan.—

"(1) Enforcement agreements.—Beginning not later than October 1, 1993, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a), with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

"(2) Reimbursement.—An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

"(3) Coast guard enforcement working group.—

"(A) Establishment.—The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

"(B) Membership.—The working group shall consist of members selected by the Commander, and shall include—

"(i) individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

"(ii) captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

"(iii) other individuals the Commander considers appropriate.

"(C) Non-Federal status of working group members.—An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

"(D) Meetings.—The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

"(4) Use of fines and penalties.—Amounts available to the Secretary under this Act which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan.".

SEC. 902. FISHERIES REINVESTMENT PROGRAM.

(a) Program.—Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

"SEC. 314. NORTHWEST ATLANTIC OCEAN FISHERIES REINVESTMENT PROGRAM.

"(a) Program.—(1) Not later than October 1, 1993, the Secretary shall establish a Northwest Atlantic Ocean Fisheries Reinvestment Program for the purposes of—

"(A) promoting development of commercial fisheries and markets for underutilized species of the northwest Atlantic Ocean;

"(B) developing alternative fishing opportunities for participants in the New England groundfish fishery;

"(C) providing technical support and assistance to United States fishermen and fish processors to improve the value-added processing of underutilized species and to make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable;

"(D) creating new economic opportunities through the improved processing and expanded use of fish waste; and

"(E) helping to restore overfished New England groundfish stocks through aquaculture or hatchery programs.

"(2) Consultation.—In establishing and implementing the Northwest Fisheries Reinvestment Program, the Secretary shall consult with representatives of the commercial fishing industry, the seafood processing industry, and the academic community (including the National Sea Grant Program).

"(3) Activities under program.—Subject to the availability of appropriations, the Secretary shall award contracts, grants and other financial assistance to United States citizens to carry out the purposes of subsection (1), under the terms and conditions provided in section 2(c) of the Act of August 11, 1939 (15 U.S.C. 713c–3(c); commonly referred to as the 'Saltonstall-Kennedy Act'), except that, in making awards under this section for projects involving participation in fisheries for underutilized species, the Secretary shall give the highest priority to a person who owns or operates a fishing vessel permitted under this Act to participate in the New England groundfish fishery who agrees to surrender that permit to the Secretary during the duration of the contract, grant or other assistance.

"(4) Authorization of appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1993 through 1997 to carry out the purposes of this section. For fiscal year 1993 no more than $1,000,000, and for fiscal year 1994 no more than $2,000,000, of such funds may be provided from monies made available under section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)).

"(b) Assistance of Other Agencies.—The Secretary shall actively seek the assistance of other Federal agencies in the development of fisheries for underutilized species of the northwest Atlantic Ocean, including to the extent permitted by other applicable laws, assistance from the Secretary of Agriculture in including such underutilized species as agricultural commodities in the programs of the Foreign Agricultural Service for which amounts are authorized under the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

"(c) Management Plans for Underutilized Species.—The New England Fishery Management Council, in consultation with other appropriate Councils, shall develop fishery management plans as soon as possible for any underutilized species of the northwest Atlantic Ocean that is not covered under such a plan, in order to prevent overfishing of that species.

"(d) Underutilized Species Defined.—For purposes of this section, the term 'underutilized species of the northwest Atlantic Ocean' means any fish species of the northwest Atlantic Ocean that is identified, by the Director of the Northeast Fisheries Center of the National Marine Fisheries Service, as an underutilized species.".

(b) Conforming Amendment.—The table of contents in the first section of the Magnuson

Fishery Conservation and Management Act is amended by inserting immediately after the item relating to section 313 the following new item: "Sec. 314. Northwest Atlantic Oceans Fisheries Reinvestment Program.".

(c) AMENDMENTS TO THE SALTONSTALL-KENNEDY ACT.—Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A)); commonly referred to as the "Saltonstall-Kennedy Act"), is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following new clause:

"(iii) to implement the Northwest Atlantic Ocean Fisheries Reinvestment Program established under section 314 of the Magnuson Fishery Conservation and Management Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2130, the National Oceanic and Atmospheric Administration Authorization Act of 1992, provides a comprehensive authorization for NOAA in fiscal year 1993 and additional authorizations for important activities like the modernization of NOAA's fleet.

The chairman of our Oceanography, Great Lakes, and the Outer Continental Shelf Subcommittee, Mr. HERTEL, is to be commended for his diligent work during two Congresses to bring this legislation to resolution.

The bill authorizes $1.65 billion for NOAA programs including $117 million for marine fisheries programs not authorized under other laws, over $94 million for maintenance and construction of NOAA facilities, $67 million for global change research, and $50 million for a much-needed modernization of the NOAA fleet.

In addition, H.R. 2130 establishes a comprehensive coastal water quality monitoring program to be run by NOAA and the Environmental Protection Agency. This program will ensure that information from Federal, State, and local water quality monitoring efforts provides a comprehensive national picture of coastal environmental quality.

I would like to thank the chairman of the Committee on Public Works and Transportation for his cooperation in establishing this program. The Public Works Committee shares jurisdiction with the Merchant Marine and Fisheries Committee over many issues concerning water pollution, and I recognize that committee's legitimate interest in this monitoring program.

I would also like to thank the chairman of the Committee on Science, Space, and Technology for his commitment to completing the work that we started early in this Congress. The breadth of NOAA's missions requires close cooperation between our two committees, and I hope we can continue to cooperate in matters of mutual interest.

I fully support the bill. It is not controversial, and I urge my colleagues to support its enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support for this measure.

For the 22 years of its existence, the National Oceanic and Atmospheric Administration has never had an omnibus authorization bill. Although authorizing appropriations for fiscal years 1992 and 1993 only, this legislation can serve as an important blueprint for future authorizations for the agency and help to preserve its status within the Department of Commerce.

Although the bill contains many meritorious provisions, several deserve special mention. The most important of these is Chairman HERTEL's provision establishing a comprehensive program for the modernization of the deteriorating NOAA fleet. It is clear that NOAA's 22 vessels can no longer support the agency's oceanographic research mission, and it is time the agency put forth a comprehensive plan outlining their commitment to remedy this serious problem. NOAA has been appropriated over $60 million over the last 2 fiscal years for its fleet; this provision will be Mr. HERTEL's legacy that this money will be spent wisely.

I also want to commend Chairman STUDDS for his work in developing a comprehensive water quality monitoring program. I am especially pleased that this program will involve the Great Lakes, and I trust the work authorized under this title of the bill will help the United States further advance the goals of the Great Lakes Water Quality Agreement and protect and improve this international resource.

Finally, the NOAA Authorization Act also authorizes several programs of particular interest to the Great Lakes: zebra mussel control, international large lakes research, an authorization for the Cooperative Institute for Limnology and Ecosystems Research. Although NOAA's role in the Great Lakes has been limited in the past, I hope the work I have pursued during my time on the Merchant Marine and Fisheries Committee has strengthened its presence and that it will continue to grow.

I urge support for this measure.

Mr. Speaker, to the NOAA authorization bill there is no objection. We have already passed the bill in the House. I know of no objection. We have negotiated any differences between the House and the Senate. There should be no objections.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, almost a year ago the House passed this legislation. It provided 1993 authorizations for the National Oceanic and Atmospheric Administration well in advance of the budget and appropriations cycle. But as is happening all too often around here, the Senate dropped the ball and sat on this bill until it has become almost irrelevant. Frustratingly, this has become the unacceptable pattern of Senate inaction.

Still, there are a few provisions that make passage worthwhile. First, a new approach to funding and controlling large, capital-intensive technology development projects is adopted. This landmark complete program authorization language was proposed by Chairman BROWN and me to provide the necessary funding through the turn of the century for the new doppler radar system [NexRad] and the new weather satellite system [GOES]. This endorses completion of these critical weather service modernization initiatives, caps their cost, and prevents any additional funding if they go over budget, do not stay on schedule, or don't meet technical specs.

As far as the authorizations go, they are actually $40 million below the budget request for 1993 for the dry NOAA programs under the Science Committee's jurisdiction. This is $1.2 billion, including adequate resources for weather office operations, while the required growth for procurement of life-saving forecasting and warning technology, such as the radar system and satellites, is fully covered. A major blemish, however, is the construction account, $40 billion over budget to provide for earmarked projects unrelated to NOAA's mission.

Finally, we have attempted to clarify and improve the certification process for Weather Service modernization. First, we have defined "automate" and "relocate" as they relate to required certifications by the Secretary of Commerce. The intention is to convey an automation requiring certification essentially resulting in an unmanned office.

A relocation requiring certification is linked to office moves outside the commuting or service area. A commuting area as the Science Committee understands it, is commonly considered to involve a radius of at least 50 miles as remoteness is defined in the Federal Personnel Manual.

And an undefined certification trigger, a consolidation, as I understand it, means combining one autonomous field office at one location with another at a different location that would otherwise be a relocation.

Also included is the requirement that the national implementation plan include a multistation operational demonstration of key elements, but not necessarily all components of the modernized system, before national implementation. An individual certification shall then include an operation demonstration as well, but not necessarily a multistation demonstration.

The last point of clarification is the prohibition on field office closures before 1996. I would note this does not apply to consolidations, automations or relocations.

Mr. DAVIS. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the resolution, House Resolution 610.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H. RES. 610

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of House Resolution 610 providing for consideration of the Senate amendment to H.R. 2130, National Oceanic and Atmospheric Administration Authorization Act of 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PIPELINE SAFETY ACT OF 1992

Mr. MINETA. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the Senate bill (S. 1583) to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations and to improve pipeline safety, and for other purposes, with Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The Clerk read as follows:

Senate amendment to House amendments: Page 58, after line 25, insert:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. PAGE AVENUE EXTENSION.

(a) Upon submission of a request by the State of Missouri for Federal Highway Administration approval of the Page Avenue Extension project (hereinafter cited in this section as "the project"), the Secretary of the United States Department of Transportation (hereinafter cited in this section as "the Secretary") is authorized to waive the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, for the alignment designated by the State of Missouri as the "Red Alignment", as described in the draft environmental impact statement approved by the Federal Highway Administration on May 30, 1990, if:

(1) the Secretary determines that a final environmental impact statement has been completed by the State of Missouri and approved by the Secretary; and

(2) the State of Missouri enters into an enforceable agreement with the Secretary to implement a project mitigation plan that includes, at a minimum—

(A) expansion of the Creve Coeur Lake Memorial Park (hereinafter cited in this section as "the Park") in the vicinity of St. Louis, Missouri, by at least fifty percent, through acquisition and addition to the Park of not less than 600 acres of land;

(B) development of a walking and bicycle path that is not less than ten feet in width and connects the Park to the KATY Trail State Park in St. Charles County, Missouri;

(C) construction of nature trails in the wooded upland portion of the additions to the Park referred to in subparagraph (A);

(D) development of a Wetland Wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features in the Park or in one of the additions to the Park referred to in subparagraph (A);

(E) dredging of Creve Coeur Lake to help remedy a chronic siltation problem and to promote fish and wildlife populations;

(F) construction of a new lake in one of the additions to the Park referred to in subparagraph (A) to help alleviate the recurrence of a chronic siltation problem in a manner that minimizes, to the maximum extent practicable and in accordance with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), the disturbance of any existing wetlands;

(G) design and construction of features to minimize the visual and physical impact of the project in the vicinity of the Park, consistent, to the extent practicable, with recommendations of the design committee established in accordance with subsection (c), including—

(i) the use of textured concrete, as appropriate,

(ii) the minimization of bridge pier sizing in the elevated portion of the project;

(iii) the use of a bridge design that is more aesthetically pleasing than standard elevated roadway designs;

(iv) construction of bridge siderails with materials that are effective noise attenuators to reduce operational noise levels near the bridge;

(v) design and construction of a drainage system to prevent contamination of Creve Coeur Lake and Creve Coeur Creek with pollution from roadway runoff;

(vi) landscaping of the area between the elevated roadway and Creve Coeur Mill Road to enhance visual parameters without compromising road user safety; and

(vii) the placement of signs to direct road users to appropriate park entrances and facilities;

(H) such other mitigation measures as the Secretary may determine are appropriate to ensure that the environmental benefits of the project mitigation plan exceed the environmental damage associated with the project; and

(I) a monetary contribution by the State of Missouri as may be necessary to implement the entire mitigation plan, in an amount not less than $6,000,000, including the payment of not less than $250,000 for facility improvements in the Park, and all funds to develop and implement the mitigation plan shall come from non-federal sources of funding.

(b) None of the costs to develop or implement the project mitigation plan referred to in subsection (a) shall be considered expenditures pursuant to or in satisfaction of the transportation enhancement requirements of section 133 of title 23, United States Code (as amended by section 1007 of The Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1927-1931).

(c) The Governor of the State of Missouri shall establish a design committee to develop recommendations concerning design and construction features to minimize the visual and physical impact of the project in the vicinity of the Park. The Committee shall include representatives of local elected officials, regional park officials, local community groups, design professionals, environmental organizations, and business organizations.

(d) To the maximum extent practicable, the State of Missouri shall implement the project mitigation plan referred to in subsection (a) prior to the commencement of construction of the Page Avenue Extension project. At a minimum, the mitigation measures specified in subsection (a)(2)(A) and (a)(2)(C) shall be completed prior to commencement of construction of the Page Avenue Extension project.

(e) If the project does not comply with all other requirements of federal environmental law that are applicable to the project, including sections 134 and 135 of title 23, United States Code (as amended by sections 1024 and 1025 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, 105 Stat. 1955-1962 and 105 Stat. 1962-1965) and all other requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240, 105 Stat. 1914 et seq.), any waiver of the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, granted by the Secretary under the authority of this section shall be stayed pending a determination by the Secretary that the project has been brought into compliance with such other requirements. Any determination by the Secretary under the preceding sentence shall be subject to judicial review.

SEC. 602. RURAL ACCESS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037-2042) is amended in item number 52, relating to Bedford Springs, Pennsylvania—

(1) by striking "Bedford Springs,";

(2) by inserting "in Bedford Springs, Pennsylvania," after "access road"; and

(3) by inserting "or other projects in the counties of Bedford, Blair, Fulton, and Huntington, as selected by the State of Pennsylvania" after "therewith".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MINETA] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1583, the Pipeline Safety Act of 1992, which authorizes funds to carry out the safety programs established under the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act and for other purposes. These programs were last authorized by the Pipeline Safety Reauthorization Act of 1988.

The bill before you was passed by the House on September 15, 1992, and sent back to the Senate. The pipeline provisions of the bill were not changed by the Senate. However, two very important transportation related issues were added and that is the reason the House must again take action on the bill.

Mr. Speaker, I urge the Members to join with me in supporting passage of S. 1583.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this important safety legislation.

I am pleased we are able to finalize this important piece of legislation on the floor today. The House passed the Pipeline Safety Act of 1992 on September 15. The Senate has passed the House bill today with minor amendments with which we are prepared to agree.

I would like to again thank all those involved in the process of developing this final package, including my colleagues on the Public Works and Transportation Committee—Chairman BOB ROE, subcommittee Chairman NORM MINETA, and ranking Republican JOHN HAMMERSCHMIDT. Thanks is also extended to our colleagues on the Energy and Commerce Committee—Chairman JOHN DINGELL, subcommittee Chairman PHIL SHARP, ranking Republican NORMAN LENT, and Congressman CARLOS MOORHEAD.

I urge my colleagues to again approve this important safety legislation so that we can send it to President Bush for his signature.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Arkansas, the ranking member of the full committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of S. 1583.

Mr. Speaker, I am pleased we are able to bring this important piece of legislation to the floor today. I would like to commend my colleagues on the Public Works and Transportation Committee—Chairman BOB ROE, subcommittee chair, NORM MINETA, and Congressman BUD SHUSTER for their leadership in putting this bill together. My thanks is also extended to our colleagues on the Energy and Commerce Committee—Chairman JOHN DINGELL, subcommittee chair, PHIL SHARP, Congressman NORMAN LENT, and Congressman CARLOS MOORHEAD for their cooperation.

The safety of our natural gas and hazardous liquid pipeline systems is of upmost importance. The Department of Transportation has authority over approximately 1.6 million miles of natural gas pipeline and 151,000 miles of hazardous liquid pipeline. These pipelines transport precious energy and heat to our Nation's homes and industries every day.

The fact that the safety record of these pipelines is already excellent is a tribute to the industry itself, the Office of Pipeline Safety at the Department of Transportation, and the Congress for its diligent oversight of this safety program. Of the over 43,000 transportation fatalities in the United States last year, only 14 were attributed to pipelines. However, in the safety business, even one injury or fatality is too many. The bill before us will continue the industry's strong record and give direction to DOT to proceed with safety initiatives in some new areas to ensure that record improves.

I speak in full support of this legislation and urge my colleagues to do the same.

Mr. LENT. Mr. Speaker, will the gentleman from Pennsylvania yield to me?

Mr. SHUSTER. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, I rise in support of the legislation. I believe this is a good bill. I would urge my colleagues to support it.

Mr. Speaker, I rise again in support of S. 1583, the Pipeline Safety Act of 1992. This bill extends the authorization of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.

Less than a month ago we passed this bill by voice vote. It has been returned to us with a minor amendment.

The substance of this bill has not been changed. This bill improves our Pipeline Safety Program by providing for environmental protection; enhanced accident prevention, through increased inspection requirements, operator training, and customer notifications; and rulemakings to deal with the use of new technology such as excess flow valves, instrumented internal inspection devices, and emergency flow restricting devices.

I believe this is a good bill and I again urge my colleagues to support it.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, I rise again in strong support of H.R. 1489, the Pipeline Safety Act of 1992. This bill, which I was pleased to cosponsor with subcommittee Chairman SHARP, reauthorizes the natural gas and hazardous liquids pipeline safety programs through 1995. H.R. 1489 also makes some important substantive changes in our pipeline safety laws.

Less than a month ago we passed this bill on the House floor by voice vote. Today we are presented with essentially the same bill.

H.R. 1489 is a good bill because it requires the Department of Transportation to undertake new pipeline safety measures only where safety considerations warrant them. It matches new safety initiatives with demonstrated safety needs.

I believe the changes in the pipeline safety program made in H.R. 1489 are positive ones and will further enhance the safety of natural gas and hazardous materials pipelines.

So, I urge my colleagues to support this bill.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I thank my good friend, the gentleman from California, for yielding time to me.

Mr. Speaker, I support this legislation. I commend the distinguished gentleman from California [Mr. MINETA] for his handling of this legislation. This is legislation which is in the shared jurisdiction of the Committee on Energy and Commerce. It has been handled in a most friendly and accommodating agreement between the two. The technical amendments are within the jurisdiction of the Committee on Public Works. I support them, the handling of that legislation. I commend the gentleman for the way in which this matter was handled.

Mr. SHARP. Mr. Speaker, the Energy and Commerce Committee is pleased to join with the Public Works Committee in recommending that the House pass H.R. 1489, the Pipeline Safety Act of 1992. I also would like to thank Chairmen DINGELL and ROE of the two committees; my colleagues on the two committees involved, particularly the comanager of the bill, Chairman MINETA; and Mr. LENT, Mr. MOORHEAD, Mr. BREWSTER, Mr. VENTO, and Mr. TAUZIN.

The Public Works Committee and the Energy and Commerce Committee this year have continued the spirit of cooperation on pipeline safety that has enabled us to continually improve this program over the past decade. In this spirit, we are jointly offering a substitute amendment. The substitute amendment draws from the best of the wisdom embodied in the Energy and Commerce Committee version, the Public Works version, and the Senate version.

This legislation is important because between 1971 and 1986, pipeline failures caused an average of 11 deaths and 48 injuries annually and incurred an average annual cost of $25 million in property damage, product loss, and cleanup charges. This includes an estimated 309,000 barrels of oil lost. This legislation will reduce those risks.

Among the highlights of the legislation are, first, a new emphasis on environmental protection, including several specific near-term actions that the Department of Transportation [DOT] must take, as well as new authority which DOT can use to protect the environment;

Second, the bill improves damage prevention, by means of increased inspection requirements, a national program to inspect underwater pipelines to ensure they are properly buried and do not impose a hazard to navigation—in 1990, Congress required such a program for the Gulf of Mexico—better operator training, penalties for pipeline operators and excavators who fail to participate in State and local damage prevention programs, and analysis and corrective action regarding abandoned underwater pipelines;

Third, it expands the universe of pipelines covered by the safety acts, including elimination of the blanket exemption for low internal stress pipelines and creating a program to require some DOT regulation of some gathering lines;

Fourth, it establishes requirements to improve safety by using state-of-the-art technology, including excess flow valves, smart pigs, and emergency flow restricting devices;

Fifth, the bill authorizes the full 50-percent funding of State pipeline safety programs allowed under the existing pipeline safety statutes, which is financed by a user fee;

Sixth, it requires that States be given notice and an opportunity to comment on consent agreements between DOT and pipeline operators; and

Seventh, it establishes requirements for improving the safety of customer-owned natural gas service lines.

The requirements for improving the safety of customer-owned pipe merit some discussion. Mr. MINETA and I are pleased that we were able to reach a reasonable compromise on this matter. We want everyone to know that the controversy over these provisions has led us to take a deep personal interest in the safety of customer-owned pipe. Next Congress, we intend to actively oversee DOT's and the natural gas industry's compliance with the law. We plan to ensure that the safety review is completed in the time and manner specified in the legislation; that the public is aggressively brought into the regulatory process through the survey; and that the public safety is protected. We are optimistic that no additional legislation on this manner will be necessary, but if we learn that it is, we will take the lead in ensuring that it is enacted, if necessary before the next reauthorization cycle.

The customer-owned pipe issue merits some further discussion. The three organizations responsible for ensuring pipeline safety have identified customer-owned natural gas service lines as a major cause for concern: The National Transportation Safety Board, the Department of Transportation, and the National Association of State Pipeline Safety Representatives. I support and agree with the views of all of these organizations on this matter.

The National Transportation Safety Board addressed this issue in its report entitled "Kansas Power and Light Company Natural Gas Accidents September 16, 1988 to March 29, 1989" [NTSB/PAR–90/01]. The report says,

> The actions of both the KCC (Kansas Corporation Commission) and of RSPA (the Research and Special Programs Administration of DOT, the federal organization responsible for pipeline safety) recognized that to attain reasonable public safety, specific tests must be performed on buried gas pipelines without regard to ownership and that gas customers generally cannot be expected to recognize or to perform these tests.

In a January 24 letter to me and to several members of the Public Works Committee, the NTSB said:

> According to testimony given at the Safety Board's public hearing on the KPL accidents, local plumbers would not be adversely affected by requiring gas operators to periodically survey for gas leaks and for corrosion in all buried customer-owned pipe between the gas main and the building being served. Plumbers and other local contractors generally do not perform or offer to perform such services; rather they respond to customers' repair requests after the customers or others have detected the odor of leaking gas. Furthermore, a plumber in the Kansas City area testified that residents who owned a segment of the buried pipe generally refused to protect their lines from corrosion because they did not understand why such protection was needed and because other plumbers told them that corrosion protection was not required. Whether or not it is the supplying gas company that repairs or replaces the customer's pipe, the Safety Board believes the gas company should be required to perform the leak and corrosion tests on buried customer-owned piping that transports gas to buildings. Usually only the gas company has the equipment and qualified people needed to perform such tests. When hazards are detected, the gas company should be required to discontinue gas service until the hazards have been eliminated.

As the Secretary of Transportation said in his May 14, 1991, letter to the Speaker of the House transmitting DOT's proposed pipeline safety legislation, "Within the last several years, gas explosions have destroyed homes and killed and injured residents in Kansas and Missouri. The explosions were due to deteriorated gas lines located in the homeowners' yards. These accidents might have been averted had the distribution company provided necessary maintenance for the lines." I completely agree with the Secretary's assessment.

The Secretary has repeated in numerous letters to the many parties who have expressed interest in the customer-owned pipe provisions, "We at RSPA [DOT] are concerned about the safety of customer-owned gas piping and are examining ways of assuring greater oversight of these pipelines." I support these efforts, and I expect them to accelerate after this bill passes.

Subsection (c) of section 115 does not expand, limit, or change the definition of "transportation of gas" in section 2(3) of the Natural Gas Pipeline Safety Act. Rather, it requires that the Department of Transportation, the States, the pipeline operators and the customers will take whatever action is necessary to address this important safety issue.

The smart pig provisions also merit some elaboration. The Secretary must require periodic inspection by a smart pig or by an equally effective method. In determining whether alternatives provide an equivalent degree of safety to that provided by smart pigs, the Secretary should place the greatest weight on the comparative predictive capability.

In sum, the bill continues the steady congressional effort to improve the safety of our pipelines, and I urge the House to pass it.

Mr. SHUSTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and concur in the Senate amendments to the House amendments to the Senate bill, S. 1583.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendments to the House amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANTI-CAR-THEFT ACT OF 1992

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4542) to prevent and deter auto theft, as amended.

The Clerk read as follows:

H.R. 4542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Car Theft Act of 1992".

TITLE I—TOUGHER LAW ENFORCEMENT AGAINST AUTO THEFT

Subtitle A—Enhanced Penalties for Auto Theft

SEC. 101. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.

(a) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

"§ 2119. Motor vehicles

"Whoever, possessing a firearm as defined in section 921 of this title, takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person or presence of another by force and violence or by intimidation, or attempts to do so, shall—

"(1) be fined under this title or imprisoned not more than 15 years, or both,

"(2) if serious bodily injury (as defined in section 1365 of this title) results, be fined under this title or imprisoned not more than 25 years, or both, and

"(3) if death results, be fined under this title or imprisoned for any number of years up to life, or both.".

(b) FEDERAL COOPERATION TO PREVENT "CARJACKING" AND MOTOR VEHICLE THEFT.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, the Attorney General, acting through the Federal Bureau of Investigation and the United States Attorneys, are urged to work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and as appropriate and consistent with prosecutorial discretion, prosecute persons who allegedly violate such law and other relevant Federal statutes.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles.".

SEC. 102. IMPORTATION AND EXPORTATION.

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

SEC. 103. TRAFFICKING IN STOLEN VEHICLES.

Each of sections 2312 and 2313(a) of title 18, United States Code, are amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

SEC. 104. CIVIL AND CRIMINAL FORFEITURE.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding after subparagraph (E) the following:

"(F) Any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 553 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 553 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce);

shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of such violation.".

SEC. 105. CHOP SHOPS.

(a) AMENDMENT.—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

"§ 2322. Chop shops

"(a) IN GENERAL.—

"(1) UNLAWFUL ACTION.—Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by a fine under this title or by imprisonment for not more than 15 years, or both. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

"(2) INJUNCTIONS.—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation.".

"(b) DEFINITION.—For purposes of this section, the term 'chop shop' means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by adding at the end the following new item:

"2322. Chop shops.".

Subtitle B—Targeted Law Enforcement

SEC. 130. GRANT AUTHORIZATION.

(a) PURPOSE.—The purpose of this subtitle is to supplement the provisions of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program to help the States to curb motor vehicle thefts and the related violence.

(b) GRANTS.—The Director of the Bureau of Justice Assistance shall make grants to Anti Car Theft Committees submitting applications in compliance with the requirements of this subtitle.

SEC. 131. APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this subtitle, a chief executive of an Anti Car Theft Committee shall submit an application to the Director of the Bureau of Justice Assistance.

(b) CONTENT.—The application submitted under subsection (a) shall include the following:

(1) A statement that the applicant Anti Car Theft Committee is either a State agency or an agency of a unit of local government.

(2) A statement that the applicant Anti Car Theft Committee is or will be financed in part (A) by a fee on motor vehicles registered by the State or possessed or insured within the State (and that such fee is not less than $1 per vehicle), or (B) in the same manner and to the same extent as is a similar program financed and implemented in a State like Michigan.

(3) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under such grant.

(4) A statement that the resources of the applicant Anti Car Theft Committee will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the export of stolen vehicles.

(5) A description of the budget for the applicant Anti Car Theft Committee for the fiscal year for which a grant is sought.

SEC. 132. AWARD OF GRANTS.

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the total funds available under this subtitle that is equal to the proportion of the number of motor vehicles registered in such State to the total number of motor vehicles registered in the United States. The Director shall ensure that all applicant States have an opportunity to receive grants from an available appropriation. Any State that has not met the requirements described in section 203 of this Act shall be excluded from any allocation under this subsection.

(b) GRANT AMOUNTS.—If one Anti Car Theft Committee within a State submits an application in compliance with section 131, the Director shall award to such Anti Car Theft Committee a grant equal to the total amount of funds allocated to such State under this section. In no case shall the Anti Car Theft Committee receive a grant that is more than 50 percent of the preaward budget for such Anti Car Theft Committee.

(c) MULTIPLE COMMITTEES.—If two or more Anti Car Theft Committees within a State submit applications in compliance with section 131, the Director shall award to such Anti Car Theft Committees grants that in sum are equal to the total amount of funds allocated to such State under this section. In no case shall an Anti Car Theft Committee receive a grant that is more than 50 percent of the preaward budget for such Anti Car Theft Committee. The Director shall allocate funds among two or more Anti Car Theft Committees with a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient Anti Car Theft Committees within such State.

(d) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 to carry out this subtitle for each of the fiscal years 1993, 1994, and 1995.

Subtitle C—Report Regarding State Motor Vehicle Titling Programs to Combat Motor Vehicle Thefts and Fraud

SEC. 140. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Transportation and the Attorney General of the United States, working together, shall, as soon as practicable after the date of the enactment of this Act but not later than 180 days after such date, establish a task force to study problems which relate to motor vehicle titling, vehicle registration, and controls over motor vehicle salvage which may affect the motor vehicle theft problem. The study shall include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles. It shall also consider the adoption of a title brand on all certificates of title indicating that the applicable vehicle was previously issued a title brand or a title signifying "rebuilt", "reconstructed", or "flood".

(2) REPORT.—The task force shall prepare a report containing the results of such study and shall submit such report to the President and the Congress and to the chief executive officer of each State not later than 12 months after the task force is established, together with appropriate recommendations to solve these problems.

(b) MEMBERSHIP.—The task force shall consist of—

(1) the Secretary of Transportation, or the Secretary's delegate;

(2) the Attorney General of the United States, or the Attorney General's delegate;

(3) the Secretary of Commerce, or the Secretary's delegate;

(4) the Secretary of the Treasury, or the Secretary's delegate;

(5) at least 3 representatives, to be designated by the Attorney General of the United States;

(6) at least 5 representatives of State motor vehicle departments, to be designated by the Secretary of Transportation; and

(7) at least 1 representative, to be designated by the Secretary of Transportation, from each of the following groups:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of Motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Insurance Crime Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) REIMBURSEMENT.—

(1) SALARY.—The members of the task force shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) CHAIR.—The Secretary of Transportation, or the Secretary's delegate, shall serve as chairman of the task force. The task force may also invite representatives of the Governors and State legislators to participate.

(d) REPORT.—

(1) BASIS.—The report required by subsection (a)(2) shall be made after a meaningful consultative process and review of existing laws, practices, studies, and recommendations regarding the problems specified in subsection (a)(1).

(2) CONTENT.—The report shall specify the key aspects of motor vehicle antitheft measures necessary to prevent the disposition or use of stolen motor vehicles, or the major components of motor vehicles, and to prevent insurance and other fraud based upon false reports of stolen motor vehicles. The report shall indicate any of the antitheft measures for which national uniformity would be crucial in order for the measure to be adequately effective. The report shall recommend viable ways of obtaining any national uniformity which is necessary.

(3) RECOMMENDATIONS.—The report also shall include other recommendations for legislative or administrative action at the State level or at the Federal level, and recommendations for industry and public actions.

TITLE II—AUTOMOBILE TITLE FRAUD

SEC. 201. DEFINITIONS.

For purposes of this title:

(1) The term "automobile" has the meaning given such term by section 501(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(1)).

(2) The term "certificate of title" means a document issued by a State evidencing ownership of an automobile.

(3) The term "insurance carrier" means an individual, corporation, or other entity which is engaged in the business of underwriting automobile insurance.

(4) The term "junk automobile" means any automobile which is incapable of operation on roads or highways and which has no value except as a source of parts or scrap.

(5) The term "junk yard" means any individual, corporation, or other entity which is engaged in the business of acquiring or owning junk automobiles for resale, either in their entirety or as spare parts, for rebuilding or restoration, or for crushing.

(6) The term "operator" means a person or entity authorized or designated as the operator of the information system pursuant to section 202(a)(2) or if no such person or entity is authorized, the Secretary.

(7) The term "salvage automobile" means any automobile which is damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on roads or highways would exceed the fair market value of the automobile immediately prior to the occurrence causing its damage.

(8) The term "salvage yard" means any individual, corporation, or other entity which is engaged in the business of acquiring or owning salvage automobiles for resale, either in their entirety or as spare parts, or for rebuilding or restoration, or for crushing.

(9) The term "Secretary" means the Secretary of Transportation.

(10) The term "State" means any State of the United States or the District of Columbia.

SEC. 202. NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.

(a) INFORMATION SYSTEM.—

(1) ESTABLISHMENT.—Not later than January 1996, the Secretary, in cooperation with the States, shall establish an information system (in this title referred to as the "National Motor Vehicle Title Information System") which will enable States and others to gain instant and reliable access to information maintained by other States pertaining to the titling of automobiles, unless the Secretary determines that an existing information system meets the requirements of subsections (b) and (c) of this section and will enable the Secretary to implement this title as early as possible and designates, in consultation with the Attorney General of the United States, such system as the information system for purposes of this title. In establishing the system, the Secretary, working with the Attorney General of the United States and the States, shall ascertain the extent to which title and related information to be included in the system will be adequate, timely, reliable, uniform, and capable of aiding in efforts to prevent the introduction or reintroduction into interstate commerce of stolen vehicles or parts.

(2) OPERATION.—The Secretary may authorize the operation of the information system established or designated under paragraph (1) by contract through an agreement with a State or States, or by redesignating, after consultation with the States, a third party which represents the interests of the States.

(3) FEES.—Operation of the information system established or designated under paragraph (1) shall be paid for by a system of user fees and should be self-sufficient and not be dependent on Federal funds. The amount of fees collected and retained subject to annual appropriation Acts, by the operator pursuant to this paragraph, not including fees collected by the operator and passed on to a State or other entity providing information to the operator, shall not exceed the costs of operating the system.

(b) MINIMUM FUNCTIONAL CAPABILITIES.—The information system established or designated under subsection (a)(1) shall, at a minimum, enable a user of the system instantly and reliably to determine—

(1) the validity and status of a document purporting to be a certification of title,

(2) whether an automobile bearing a known vehicle identification number is titled in a particular State,

(3) whether an automobile known to be titled in a particular State is or has been a junk vehicle or a salvage vehicle,

(4) for an automobile known to be titled in a particular State, the odometer reading information, as required in section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988), of such vehicle on the date its certificate of title was issued and such later odometer information, if noted by the State, and

(5) whether an automobile bearing a known vehicle identification number has been reported as a junk vehicle or a salvage vehicle pursuant to section 204.

(c) AVAILABILITY OF INFORMATION.—

(1) TO STATE.—Upon request of a participating State, the operator makes available to such State information in the information system pertaining to any automobile.

(2) TO LAW ENFORCEMENT.—Upon request of a Federal, State, or local law enforcement official, the operator makes available to such official information in the information system pertaining to a particular automobile, salvage yard, or junk yard.

(3) TO PROSPECTIVE PURCHASERS.—Upon request of a prospective purchaser of an automobile, including an auction company or an entity that is in the business of purchasing used automobiles, the operator makes available to such prospective purchaser information in the information system pertaining to such automobile.

(4) TO INSURANCE CARRIERS.—Upon request of a prospective or current insurer of an automobile, the operator makes available to such prospective or current insurer information in the information system pertaining to such automobile.

(5) PRIVACY.—Notwithstanding any provision of paragraphs (1) through (4), the operator shall release no information other than what is necessary to reasonably satisfy the requirements of subsection (b). In no event shall the operator collect an individual's social security number or enable users of the information system to obtain an individual's address or social security number.

SEC. 203. STATE PARTICIPATION IN THE NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.

(a) REQUIREMENTS.—

(1) INFORMATION SHARING.—Each State shall make titling information maintained by such State available for use in establishing the National Motor Vehicle Title Information System established under section 202.

(2) TITLE VERIFICATION.—Each State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. Such instant title verification check shall consist of—

(A) communicating to the operator the vehicle identification number of the vehicle for which the certificate of title is sought, the name of the State which issued the most recent certificate of title pertaining to the vehicle, and the name of the individual or entity to whom such certificate was issued; and

(B) affording the operator an opportunity to communicate to the participating State the results of a search of the information.

(b) GRANTS TO STATES.—

(1) REVIEW OF STATE SYSTEMS.—Not later than January 1, 1994, the Secretary, in cooperation with the States, shall—

(A) conduct a review of systems used by the States to compile and maintain information concerning the titling of automobiles, and

(B) determine, for each State, the cost of making titling information maintained by such State available to the operator of the National Motor Vehicle Title Information System for the purpose of meeting the requirements of subsection (b).

(2) AWARD OF GRANTS.—The Secretary may award grants to participating States to be used in making titling information maintained by such States available to the operator of the National Motor Vehicle Title Information System if—

(A) for any State that is a recipient of such a grant, the grant does not exceed—

(i) 25 percent of the cost of making titling information maintained by such State available to the operator of the National Motor Vehicle Title Information System as determined by the Secretary under subsection (d)(1)(B); or

(ii) $300,000;

whichever is lower; and

(B) the Secretary determined that such grants are fair, reasonable, and necessary for the establishment of the National Motor Vehicle Title Information System under section 202(a)(1).

(c) REPORT TO CONGRESS.—No later than January 1, 1997, the Secretary shall report to Congress which States have met the requirements imposed by section 203. If any State has not met these requirements, the Secretary shall describe the impediments that have resulted in the State's failure to meet the requirements.

SEC. 204. REPORTING.

(a) OPERATORS OF JUNK OR SALVAGE YARD.—

(1) INVENTORY REPORT.—Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of the National Motor Vehicle Title Information System, any person or entity in the business of operating an automobile junk yard or automobile salvage yard shall file a monthly report with the operator. Such report shall contain an inventory of all junk vehicles or salvage vehicles obtained by the junk yard or salvage yard during the preceding month. Such inventory shall contain the vehicle identification number of each vehicle obtained, the date on which it was obtained, the name of the person or entity from whom the reporter obtained the vehicle, and a statement of whether the vehicle was crushed or otherwise disposed of for sale or other purposes.

(2) APPLICATION.—Paragraph (1) shall not apply to—

(A) persons or entities that are required by State law to report the acquisition of junk vehicles or salvage vehicles to State or local authorities if such authorities make such information available to the operator, or

(B) any person who is issued a verification under section 607 of the Motor Vehicle Information and Cost Savings Act stating that the vehicle or parts from such vehicle are not reported as stolen.

(b) INSURANCE CARRIERS.—Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of the National Motor Vehicle Title Information System, any person or entity engaged in the business of an insurance carrier shall file, directly or through a designated agent, a monthly report with the operator. Such report shall contain an inventory of all vehicles of the current model year or any of the 4 preceding model years which such carrier has, during the preceding month, obtained possession of and determined to be salvage or junk vehicles. Such inventory shall contain the vehicle identification number of each vehicle obtained, the date on which it was obtained, the name of the person or entity from whom the reporter obtained the vehicle, and the owner of the vehicle at the time of the filing of the report.

(c) ENFORCEMENT PROVISIONS.—

(1) PENALTY AMOUNT.—Whoever violates this section may be assessed a civil penalty of not to exceed $1,000 for each violation.

(2) PENALTY PROCEDURE.—Any such penalty shall be assessed by the Secretary and collected in a civil action brought by the Attorney General of the United States. Any such penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.

(d) PROCEDURES AND PRACTICES.—The Secretary shall establish by rule procedures and practices to facilitate reporting in the least burdensome and costly fashion.

TITLE III—AMENDMENTS ON THEFT PREVENTION REGARDING "CHOP SHOP" RELATED THEFTS

SEC. 301. DEFINITIONS.

(a) CARS, SPECIALTY VEHICLES, AND LIGHT-DUTY TRUCKS.—Section 601(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2021(1)) is amended to read as follows:

"(1) The term 'passenger motor vehicle' includes any multipurpose passenger vehicle and light-duty truck that is rated at 6,000 pounds gross vehicle weight or less.".

(b) CHOP SHOP DEFINITION.—Section 601 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2021) is amended by adding at the end the following:

"(11) The term 'chop shop' means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.".

(c) MAJOR REPLACEMENT PART.—Section 601(8) (15 U.S.C. 2021(8)) is amended to read as follows:

"(8) The term 'major replacement part' means any major part—

"(A) which is not installed in or on a motor vehicle at the time of its delivery to the first purchaser and the equitable or legal title to which has not been transferred to any first purchaser, or

"(B) which is a customized or modified version of an original major part in or on a completed motor vehicle after the manufacture of such vehicle but before the time of its delivery to the first purchaser.".

SEC. 302. THEFT PREVENTION STANDARD.

Section 602 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2022) is amended—

(1) by amending subsection (d)(1) to read as follows:

"(d)(1) In the case of major parts installed by the motor vehicle manufacturer, the standard under this section may not require any part to have more than a single identification.", and

(2) by adding at the end the following:

"(f)(1) Within 2 years after the date of the enactment of the Anti-Car Theft Act of 1992, the Secretary shall promulgate a vehicle theft standard which conforms to the requirements of this title and which applies with respect to the covered major parts which are installed by all foreign and domestic manufacturers into passenger motor vehicles (other than light-duty trucks) in not to exceed one-half of the lines not designated under section 603 as high theft lines. Such rule shall be effective for model years applicable to such passenger motor vehicles as provided in subsection (c)(4) of this section.

"(2) Within 3 years after the rule under paragraph (1) is promulgated, the Secretary, based on the Attorney General's finding under paragraph (3), shall designate all the remaining such lines of such passenger motor vehicles (other than light-duty trucks) and apply such standard to such lines in conformance with the requirements of this title. Such rule shall also apply to the major replacement parts for the major parts described in this paragraph. Such rule shall be effective, for model years applicable to such passenger motor vehicles as provided in subsection (c)(4) of this section.

"(3) The Attorney General shall make a finding prior to the Secretary's initiation and promulgation of a rule under paragraph (2) that the rule shall be promulgated unless the Attorney General finds, based upon the information collected and analyzed under section 615 and such other information as the Attorney General may develop (after notice and after a public hearing), that requiring such additional parts marking for all of the applicable passenger motor vehicles would not substantially inhibit chop shop operations and vehicle thefts. The Attorney General shall also take into account as part of the record additional costs, effectiveness, competition, and available alternatives factors. The Attorney General shall transmit the finding and the record upon which the finding is based to the Secretary. Such finding and record shall be a part of the Secretary's rulemaking record.

"(4) The Attorney General of the United States shall by December 31, 1999, determine, after notice and a public hearing, whether one or both rules promulgated under this subsection have been an effective means to substantially inhibit the operation of chop shops and vehicle theft, taking into account the additional cost, competition, and available alternatives. The Attorney General shall base his determination on information collected and analyzed under section 615, the 3-year and 5-year reports issued by the Secretary under this title, and such other information as he may develop and include in the public record. He shall take into consideration the effectiveness, extent of use, and the extent to which civil and criminal penalties under section 610(b) of this title and 18 U.S.C. 2322 regarding chop shops have been effective in substantially inhibiting chop shop operations and vehicle theft. The Attorney General shall promptly transmit his finding to the Secretary. If the determination is that one or both rules have not been an effective means to substantially inhibit chop shop operations and vehicle theft, the Secretary shall within 180 days after receipt of such finding terminate by order 1 or both of the rules promulgated under this subsection effective the next model year following the issuance of such order.

"(5) The Attorney General shall make a separate determination by December 31, 1999, after notice and a public hearing, as to whether the antitheft devices for which an exemption under section 605 is authorized are an effective substitute for parts marking in substantially inhibiting vehicle theft, taking into account the additional cost, competition, and available alternatives. If the Attorney General determines that such antitheft devices are an effective substitute for parts marking in substantially inhibiting vehicle theft, the Secretary shall continue to grant exemptions under section 605 at the level authorized prior to the date of the enactment of the Anti Car Theft Act of 1992 or at the level authorized for model year 2000, as determined by the Attorney General. Nothing in this paragraph affects exemptions granted in model year 2000 or earlier to any manufacturer.

"(6) The Secretary and the Attorney General shall keep the appropriate legislative committees of Congress with jurisdiction over this Act and 18 U.S.C. 2322 informed about the actions taken or planned under this subsection.

"(g) The Secretary is authorized to periodically redetermine and establish by rule the median theft rate under subsection (a)(1), but not more than every 2 years.".

SEC. 303. DESIGNATION OF HIGH THEFT VEHICLE LINES AND PARTS.

Section 603 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2023) is amended—

(1) by striking in subsection (a)(1)(A) "in which the final standard is promulgated" and inserting in lieu thereof "in which the Anti Car Theft Act of 1992 is enacted";

(2) by striking out paragraph (3) of subsection (a) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) by striking "or (3)" in redesignated paragraphs (3) and (4) of subsection (a);

(4) by adding at the end of subsection (a) (as amended by paragraph (2)) the following:

"(5) Any motor vehicle line subject, on the date of enactment of the Anti Car Theft Act of 1992, to parts marking requirements under section 602 and this section shall continue to be subject to such requirements unless such motor vehicle line becomes exempt from such requirements under section 605.", and

(5) by striking paragraph (4) of subsection (b) and redesignating paragraph (5) as paragraph (4).

SEC. 304. LIMITED EXEMPTION FOR NEW VEHICLES EQUIPPED WITH EFFECTIVE ANTITHEFT AS ORIGINAL EQUIPMENT.

(a) CONTINUING CURRENT LAW.—The second sentence of section 605(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2025(a)(2)) is amended by inserting "through model year 1996" after "model year".

(b) MODEL YEARS AFTER MODEL YEAR 1996.—Section 605(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2025(a)(2)) is amended by adding at the end the following: "For model year 1997 through model year 2000, the Secretary may grant such an exemption for not more than 1 additional line of any manufacturer and such exemption shall not affect the validity of the exemption of any line previously exempted under this paragraph. For model years subsequent to 2000, the number of lines for which the Secretary may grant such an exemption (if any) shall be determined by the Attorney General under section 602(f)(5).

SEC. 305. PROHIBITED ACTS.

(a) RULES.—Section 610(a)(2) of the Motor Vehicle Information and Cost Savings Act (as so redesignated by section 306 of this Act) is amended by inserting "or Attorney General" after "Secretary".

(b) CHOP SHOPS.—Section 610 of the Motor Vehicle Information and Cost Savings Act (as so redesignated by section 306 of this Act) (15 U.S.C. 2027) is amended by adding at the end the following:

"(c)(1) It shall be unlawful for any person to knowingly own, operate, maintain, or control a chop shop or conduct operations in a chop shop of any kind or transport by any means any passenger motor vehicle or passenger motor vehicle part to or from a chop shop.

"(2) The Secretary shall, as appropriate and in consultation with the Attorney General, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation or the Secretary shall assess and recover a civil penalty of not more than $100,000 per day for each such violation, or both.".

SEC. 306. VERIFICATION.

(a) IN GENERAL.—Title VI of the Motor Vehicle Information and Cost Savings Act is amended by redesignating sections 607 through 614 as sections 610 through 617, respectively, by striking in section 602(e) "and 612" and inserting "and 615", and by inserting after section 606 the following:

"VERIFICATION OF VEHICLE AS LEGAL SALVAGE OR JUNK VEHICLE

"SEC. 607. (a) Any person engaged in business as an insurance carrier to sell comprehensive insurance coverage for motor vehicles shall, if such carrier obtains possession of and transfers a junk motor vehicle or a salvage motor vehicle—

"(1) verify, in accordance with procedures established by rule under section 609 by the Attorney General and in consultation with the Secretary of Transportation, whether that motor vehicle is reported as stolen, and

"(2) provide verification to whomever such carrier transfers or sells any such salvage or junk motor vehicle identifying the vehicle identification number or derivative thereof of such vehicle and verifying that such vehicle has not been reported as stolen or, if reported as stolen, that such insurance carrier has recovered the vehicle and has proper legal title to the vehicle.

For purposes of paragraph (2), the term 'vehicle identification number' means a unique identification number assigned to a passenger motor vehicle by a manufacturer in compliance with applicable regulations or a derivative thereof. Nothing in this paragraph shall be construed to prohibit such carrier from transferring a motor vehicle if, within a reasonable period of time during normal business operations (as determined by the Attorney General under section 609 of this title) using reasonable efforts, such carrier has not received a determination under section 609 that the vehicle has not been reported as stolen or to otherwise determine whether such vehicle has been reported as stolen, except that such carrier shall provide a written certification of such lack of determination.

"(b) The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are needed to ensure that verification performed and provided by insurance carriers under subsection (a)(2) is uniform, effective, and resistant to fraudulent use.".

(b) EFFECTIVE DATE.—The regulations required by section 607(b) of the Motor Vehicle Information and Cost Savings Act shall be promulgated within 6 months after the date of the enactment of this subsection. The amendment made by subsection (a) shall take effect within 3 months after such regulations are promulgated, but not before the system in section 609 of the Motor Vehicle Information and Cost Savings Act is operational.

(c) PARTS.—Title VI of such Act, as amended by subsection (a), is amended by inserting after section 607 the following new section:

"PARTS

"SEC. 608. (a) No person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles shall knowingly sell or distribute in commerce or transfer or install a major part marked with an identification number without—

"(1) first determining, through a procedure established by rule by the Attorney General in consultation with the Secretary of Transportation under section 609 that such major part has not been reported as stolen; and

"(2) providing the purchaser or transferee with a verification identifying the vehicle identification number or derivative thereof of such major part, and verifying that such major part has not been reported as stolen.

"(b) The Attorney General, in consultation with the Secretary of Transportation, shall promulgate such regulations as are needed to ensure that verifications provided by persons under subsection (a)(2) are uniform, effective, and resistant to fraudulent use.

"(c) Subsection (a) shall not apply to a person who is the manufacturer of the major part, who has purchased the major part directly from the manufacturer, who has received a verification from an insurance carrier pursuant to section 607 that the motor vehicle from which such major part is derived has not been reported as stolen, or that such carrier has failed, in accordance with section 607, to determine whether such vehicle has been stolen. Such person shall be required to provide such verification to any person to whom such vehicle, or any major part of such vehicle, is thereafter transferred or sold in commerce. The Attorney General shall promulgate regulations to implement this section.".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall be effective on the date that the system required by section 609 is established.

(e) NATIONAL STOLEN AUTO PART INFORMATION SYSTEM.—Title VI of such Act, as amended by subsection (c), is amended by inserting after section 608 the following new section:

"NATIONAL STOLEN AUTO PART INFORMATION SYSTEM

"SEC. 609. (a) The Attorney General shall, within 9 months of the date of the enactment of the Anti Car Theft Act of 1992, maintain in the National Crime Information Center an information system containing the identification numbers of stolen passenger motor vehicles and stolen passenger motor vehicle parts. The Attorney General shall also consult with State and local law enforcement agencies in the establishment of such system. The Attorney General shall also consult with the National Crime Information Center Policy Advisory Board to ensure the security of the information in such system and that such system will not compromise the security of stolen vehicle and vehicle parts information in such information system.

"(b) The Attorney General shall specify procedures by rule by which individuals or entities seeking to transfer a vehicle or vehicle parts may obtain a determination whether a part is listed in the system as stolen. If the Attorney General determines that the National Crime Information Center is not able to perform the functions of the information system required under subsection (a), the Attorney General shall enter into an agreement for the operation of such a system separate from the National Crime Information Center.

"(c) The information system under subsection (a) shall, at a minimum, include the following information pertaining to each passenger motor vehicle reported to a law enforcement authority as stolen and not recovered:

"(1) The vehicle identification number of such passenger motor vehicle.

"(2) The make and model year of such passenger motor vehicle.

"(3) The date on which the passenger motor vehicle was reported as stolen.

"(4) The location of the law enforcement authority that received the reports of the passenger motor vehicle's theft.

"(5) If the passenger motor vehicle at the time of its theft contained parts bearing identification numbers or the derivative thereof different from the vehicle identification number of the stolen passenger motor vehicle, the identification numbers of such parts.

"(d) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The National Stolen Auto Part Information System to be maintained under subsection (a) is to be developed by the Attorney General with the advice and recommendation of the advisory committee established under paragraph (2).

"(2) ESTABLISHMENT.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall establish in the Department of Justice and appoint an advisory committee with respect to the National Stolen Auto Part Information System to be maintained under subsection (a).

"(3) MEMBERSHIP.—The advisory committee established under paragraph (2) shall be composed of 10 members as follows:

"(A) The Attorney General shall serve as the chairperson of the advisory committee.

"(B) The Secretary of Transportation.

"(C) One individual appointed by the Attorney General who is qualified to represent the interests of the law enforcement community at the State level.

"(D) One individual appointed by the Attorney General who is qualified to represent the interests of the law enforcement community at the local level.

"(E) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive recycling industry.

"(F) One individual appointed by the Attorney General who is qualified to represent the interests of automotive repair industry.

"(G) One individual appointed by the Attorney General who is qualified to represent the interests of automotive rebuilders industry.

"(H) One individual appointed by the Attorney General who is qualified to represent the interests of automotive parts suppliers industry.

"(I) One individual appointed by the Attorney General who is qualified to represent the interests of the insurance industry.

"(J) One individual appointed by the Attorney General who is qualified to represent the interests of consumers.

"(4) DUTIES.—The advisory committee established under paragraph (2) shall make recommendations regarding—

"(A) the development and implementation of the National Stolen Auto Part Information System, and

"(B) the development and implementation of a verification system as required by section 607.

"(5) REPORT.—Not later than 6 months after the date of the enactment of the Anti Car Theft Act of 1992, the advisory committee established under paragraph (2) shall submit to the Attorney General, the Secretary of Transportation, and the Congress a report containing the committee's recommendations.".

"(e) Upon request by an insurance carrier, a person lawfully selling or distributing in interstate commerce passenger motor vehicle parts, or an individual or enterprise engaged in the business of repairing passenger motor vehicles, the Attorney General, or the entity or entities designated by the Attorney General, shall immediately provide such insurance carrier or person with a determination as to whether the information system under subsection (a) contains a record of a passenger motor vehicle or a passenger motor vehicle part bearing a particular vehicle identification number or derivative thereof having been reported stolen. The Attorney General may require such verification as the Attorney General deems appropriate to ensure that the request is legitimate and will not compromise the security of the system.

"(f) There are authorized to be appropriated such sums as may be necessary to carry out this section. The information system established under subsection (a) shall be effective as provided in the rules promulgated by the Attorney General.".

(e) STUDY.—Section 617 of the Motor Vehicle Information and Cost Savings Act (as so redesignated) is amended in subsection (a)(1) by striking "after the date of the enactment of this title" and in subsection (b)(1) by striking "after the promulgation of the standard required by this title" and inserting in each place "after the date of the enactment of the Anti Car Theft Act of 1992".

TITLE IV—EXPORT OF STOLEN AUTOMOBILES

SEC. 401. RANDOM CUSTOMS INSPECTIONS FOR STOLEN AUTOMOBILES BEING EXPORTED.

Part VI of title IV of the Tariff Act of 1930 is amended by inserting after section 646 the following new sections:

"SEC. 646A. RANDOM CUSTOMS INSPECTIONS FOR STOLEN AUTOMOBILES BEING EXPORTED.

"The Commissioner of Customs shall direct customs officers to conduct at random inspections of automobiles, and of shipping containers that may contain automobiles that are being exported, for purposes of determining whether such automobiles were stolen.

"SEC. 646B. EXPORT REPORTING REQUIREMENT.

"The Commissioner of Customs shall require all persons or entities exporting used automobiles, including automobiles exported for personal use, by air or ship to provide to the Customs Service, at least 72 hours before the export, the vehicle identification number of each such automobile and proof of ownership of such automobile. The Commissioner shall establish specific criteria for randomly selecting used automobiles scheduled to be exported, consistent with the risk of stolen automobiles being exported and shall check the vehicle identification number of each automobile selected pursuant to such criteria against the information in the National Crime Information Center to determine whether such automobile has been reported stolen. At the request of the Director of the Federal Bureau of Investigation, the Commissioner shall make available to the Director all vehicle identification numbers obtained under this section.".

SEC. 402. PILOT STUDY AUTHORIZING UTILITY OF NONDESTRUCTIVE EXAMINATION SYSTEM.

The Secretary of the Treasury, acting through the Commissioner of Customs, shall conduct a pilot study of the utility of a nondestructive examination system to be used for inspection of containers that may contain automobiles leaving the country for the purpose of determining whether such automobiles have been stolen.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

□ 1750

Mr. SCHUMER. Mr. Speaker, I yield 10 minutes of my time to the gentleman from Michigan [Mr. DINGELL] chairman of the Committee on Energy and Commerce and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from New York?

There was no objection.

We have been hearing all year that Congress does not work, Congress cannot solve problems. Well, the Congress can work, and this bill is the proof. Our constituents have a problem, a costly, frustrating, and often violent problem—auto theft. I could read you the statistics, but I'm sure you don't need them—like me, you have been hearing loud and clear from back home that people are fed up with auto theft.

Auto theft has been on cruise control for too long—it's time to put on the brakes. The only contact criminals should have with our cars is to make the license plates for them.

The good news is that there are solutions. These solutions are not ideological, they do not require a lot of rhetoric or posturing. They do require that everybody work together—law enforcement, auto manufacturers, repair shops, and insurers.

That is what Congress can and should do—identify a problem, find practical, effecitve solutions, and show legislative leadership in getting all the parties to work together in implementing these solutions. That is what we did with the cable bill earlier this evening, and that is what we have done with this bill. This bill will keep car owners, not car thieves, in the driver's seat.

We start with tough law enforcement. Our constituents are being terrorized by an insidious new form of car theft called carjacking. This bill makes armed carjacking a Federal crime and stiffens sentences for other auto-theft related offenses.

But we cannot have a police officer on every corner, so the bill goes beyond that. Experts in law enforcement know why people steal cars. Mostly, they do it for profit: to resell the car, to export it, or—and this is the most common—to chop it up and sell the parts. Knowing how thieves profit, we can squeeze out that profit and stop the crime at its source. The new, professional car thief is a high-speed racer, running laps around law enforcement. This bill gives law enforcement the tools it needs to catch him.

This bill does that by requiring that major car parts be marked with ID numbers, and that insurance companies and repair shops use these ID numbers to avoid buying and selling stolen parts. We may not realize it, but many of us have probably had stolen parts put into our cars by repair shops. If we can stop that kind of transaction—where a stolen part enters the stream of legitimate commerce as a repair part—we can make a tremendous dent in auto theft.

The problem is not that repair shops deliberately seek out stolen parts to use. The problem is that they have no way of knowing whether a used part has been stolen. This bill would make it the repair shops' responsibility not to sell stolen parts by giving them access—through a simple, toll-free telephone call—to the FBI database of stolen car ID numbers. Before a repair shop installs a used part, it would have to check to make sure that the part is not stolen.

The bill takes the profit out of car theft in other ways as well. It will help State motor vehicle departments coordinate with each other so thieves cannot get phony or washed titles for stolen cars. It will also beef up customs supervision of outgoing cars, so thieves cannot export stolen cars.

I have worked closely with many of my colleagues on this bill. First and foremost, I want to thank and commend my colleague from Wisconsin, JIM SENSENBRENNER, the ranking member of the Crime Subcommittee. We introduced this bill together 7 months ago, after the hearings our subcommittee held on auto theft. Since then we have worked together to bring the bill through the Judiciary Committee and to the floor. I would also like to recognize the contributions of Chairpersons BROOKS, ROSTENKOWSKI, ROE, GIBBONS, MINETA, and COLLINS.

Finally, a great deal of the credit for this bill goes to Chairman DINGELL, and I commend him for it. Although we had our differences about the relative merits of different approaches to fighting auto theft, but the final product incorporates, I believe, much of the best of what all of us had to offer. The basic parts marking program remains intact, and will have a real chance to show its effectiveness. Chairman DINGELL has argued powerfully that strategies other than parts marking should also be tried, and the bill provides for that by retaining a limited exemption for cars with parts marking devices. The interplay and the debate between the Judiciary Committee and the Energy and Commerce Committee has been fruitful, and the bill that emerged is a strong one. It is a bill that will have a real impact on a serious problem, and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York [Mr. SCHUMER], chairman of our subcommittee, has adequately described this bill. It is a compromise from the bill which he and I originally introduced, and basically the compromise phases in the vehicle identification numbering system which we believe is the guts of this bill.

While much attention in the public has been drawn to the fact that this bill makes armed carjacking a Federal crime, the guts of this bill is to deter car theft by putting the vehicle identification numbers on the major parts which are resold to chop shops, and hopefully using that to deter the market for these parts from stolen cars. With the phase-in, and a determination by the Attorney General on December 31, 1999, we believe we have reached a broad bipartisan agreement to allow this bill to be placed on the suspension calendar. This is a practical alternative to the problem of armed carjacking as well as to the problem of car theft which causes about 88 percent of the premiums for the comprehensive part of every person's auto insurance.

I hope we can speedily enact this bill, and the other body will adopt it so that we can come back with an accomplishment in the 102d Congress.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding me the time. As a member of the Crime Subcommittee, I want to commend Chairman SCHUMER and ranking member SENSENBRENNER for their bipartisan effort on this legislation.

The threat of carjacking has put fear in the hearts and minds of all law-abiding Americans. People are outraged and terrified by the heinous carjacking epidemic currently upon us.

How can any civilized nation tolerate the brutal killing of a mother dragged 2 miles to her death, while desperately trying to reach for her infant child inside her commandeered car?

How can any civilized people tolerate such despicable, outrageous criminal acts? They cannot and they will not.

The American people should not have to tolerate this crime wave of carjackings. They want Congress to act now to pass this important legislation which imposes a 25-year prison term for anyone convicted of this crime.

Let the message be crystal clear to would-be carjackers: this crime will not be tolerated. Let these thugs know: If you do this crime, you will do the time.

As a cosponsor of this important legislation, I urge my colleagues to vote for the Anti-Car Theft Act of 1992.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as the sponsor of the original legislation enacted by the Congress some years ago to require the placement of vehicle identification numbers on auto parts in addition to the dashboard and the engine, I rise to support H.R. 4542.

My bill, which Congress ultimately enacted in modified form, originally required vehicle identification numbers on major parts. Unfortunately, because of auto industry opposition, the bill got modified as it proceeded through the committee process, and the result was that only a minority of major auto parts now carry vehicle identification numbers. Thus the system has been far less effective than it should be.

This bill will, over time, end the loopholes that were driven into the legislation I sponsored. It will thus make the vehicle identification number system a far more effective device for dealing with the theft of cars to deliver them to chop shops, which cannibalize stolen cars to supply the parts market, and thus victimize consumers, legitimate parts manufacturers and recyclers, and legitimate repair shops alike.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan, [Mr. UPTON].

Mr. UPTON. Mr. Speaker, I just want to commend all of the parties here for their hard work to get a compromise so we could bring such a bill to the floor at 5 in the morning, or maybe 6.

I am pleased to rise today in support of H.R. 4542, the Anti-Car Theft Act of 1992. The events of recent weeks have underscored the need for legislation which firmly addresses the problem of auto theft and its associated violence.

This bill contains tough Federal penalties for those thugs who prey on the innocent through carjackings. This problem is particularly acute here in Washington, and the added jurisdiction given to Federal authorities under this legislation should have a major impact on this terrible crime.

This bill also seeks to deter thefts committed solely for individual car parts. This bill encourages the marking of individual parts. Chop shops are lucrative operations these days, and this bill will help the police put them out of business.

The bill also encourages the continued installation of antitheft devices.

The study commissioned by this legislation will provide the Secretary of Transportation and the Attorney General with a mechanism by which parts marking and antitheft technologies can be fairly evaluated to determine their effectiveness.

Car theft is a crime which costs American drivers and consumers hundreds of millions of dollars each year—and this is only the cost in property. The costs of the increasing violence associated with car theft, of course, cannot be measured in dollars.

The Committees on Energy and Commerce, the Judiciary, and Ways and Means have worked diligently to bring this legislation to the floor. I would like to particularly thank Dave Finnegan and Bruce Gwinn of Mr. DINGELL's and Mrs. COLLINS' staff, and Doug Bennett and Hugh Halpern of our minority staff for their efforts.

This bill is a positive step toward bringing the problem of car theft under control. I urge my colleagues to support this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the substitute amendment offered by the gentleman from New York, [Mr. SCHUMER] on H.R. 4542 the Anti-Car Theft Act of 1992. He has been a vigorous leader in seeking to curb the increasing threat of thefts.

At the outset I want to express my appreciation for the cooperative efforts of the gentleman in working out this agreement on legislation which is of great significance to the Committee on the Judiciary and to the Committee on Energy and Commerce, and over which our committees share jurisdiction, particularly with regard to the provisions in titles I, II, and III.

I also want to express my appreciation for the hard work of the gentlewoman from Illinois [Mrs. COLLINS], who chairs the Subcommittee on Commerce, Consumer Protection, and Competitiveness, and that of the ranking minority member, Mr. ALEX MCMILLAN. Their staffs also participated in this effort and they are to be commended for their patience, cooperation, and substantive input. In addition, I want to express appreciation to Representative UPTON and other members of our committee for their help.

Mr. Speaker, I think that this compromise is a reasonable one. It will help to deal with the problem of car theft. It seeks to balance burdens on all of the affected industries and, in particular, it seeks to deal effectively with the concerns expressed by small businesses and auto makers. I believe it is workable and fair, and I expect the Attorney General and the Secretary of Transportation to implement this legislation in a way that is going to assure reasonableness and fairness, and will avoid economic harm or disruption to these industries and their employees.

I urge support for the amended bill.

Mr. Speaker, the amendment adopts the provisions of the bill as reported by our committee on September 22, 1992, on H.R. 4542 with a number of changes to reflect the concerns expressed by Mr. SCHUMER. I am pleased that we have agreed to toughen the penalties against carjacking as contained in the Commerce Committee version and to address the problem of motor vehicle title fraud among the States.

In title III regarding motor vehicle parts labeling designed to deter auto theft and chop shop operations:

First, the bill allows two additional rulemakings to provide for additional parts marking of passenger cars and specialty vehicles, but not light duty trucks. The first rulemaking will take place 2 years after enactment and will be by the Secretary of Transportation. The second rulemaking will take place after a finding by the Attorney General that parts marking substantially inhibits illegal chop shop operations and reduces auto theft and which must occur before the rulemaking is started. That rulemaking will take place 3 years after the first rule is promulgated. At this point, I want to make it clear that the timeframes of 2 years to 3 years are expected to be adhered to firmly. I also expect the Attorney General and the Secretary to be fair in their determinations and rules.

Second, the bill provides a sunset provision whereby the Attorney General can determine whether or not the two rulemakings just mentioned should continue to apply to the applicable vehicles or should be terminated in whole or in part. The Attorney General must make the determination by December 31, 1999. The amendment spells out the information he is to use. Again, I expect the Attorney General to be fair and not biased in this matter.

Third, the legislation continues the present exemptions under section 605(a) for antitheft devices and a manufacturer may add two car lines annually for 3 model years and then one additional car line annually for 4 more model years. It again provides for a particular determination by the Attorney General concerning the continuance of this exemption either at the two car line level or at the one car line level.

Fourth, the amendment adopts clarifying provisions adopted by our committee relative to requirements of action by insurance carriers, salvage yard operators, and auto body repair shops. These industries and small businesses, along with automobile manufacturers and law enforcement personnel would be making valued contributions to deter auto theft. These verification provisions are an important part of this legislation. They were specifically developed by our committee in recognition of legitimate concerns of small businesses. Clearly, the Justice Department and the Transportation Department must implement these in a manner that will do no economic harm to these people. Verification procedures and measures must be effective and reasonable. It must protect future purchases.

Section 607(b) of the bill provides that, "The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are needed to ensure the verification performed and provided by insurance carriers under subsection (a)(2) is uniform, effective, and resistant to fraudulent use."

Through this provision, I expect that the Attorney General would give special attention to the requirement that verification procedures performed by insurance carriers meet a standard of effectiveness. The effectiveness of the stolen part information system established in section 609 should be of prime concern to the Attorney General in promulgating the section 607(b) regulations. I understand, for example, that in some cases vehicles may have parts with different VIN numbers. The Attorney General should consider the extent of this problem and provide reasonable solutions where appropriate.

Mr. Speaker, I believe these changes are sound and helpful. Again, I want to commend Mr. SCHUMER for his efforts and I also want to commend his able staff.

I urge adoption of the amendment.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois [Mrs. COLLINS], chairman of the subcommittee.

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of H.R. 4542, the Anti-Car Theft Act of 1992.

I want to commend the gentleman from New York (Mr. SCHUMER] for his leadership on the issue of car theft. I also want to commend the chairman of the Energy and Commerce Committee [Mr. DINGELL] for his hard work to improve the workings of the bill during its sequential referral to our committee.

I am a cosponsor of this legislation, and the Subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, shares jurisdiction over the bill. I want, therefore, to thank the gentleman from North Carolina [Mr. MCMILLAN], who is the ranking minority member of our subcommittee for his contributions to this important legislation.

The bill we are considering is a compromise between H.R. 4542, as reported by the Committee on Energy and Commerce, and the version reported by the Judiciary Committee.

As a cosponsor of H.R. 4542, I strongly support its provisions to make carjacking a Federal crime, and to make it more difficult for car thieves to sell stolen automobiles. Our subcommittee has responsibility for the current Motor Vehicle Theft Prevention Program. When the Judiciary Committee completed its consideration of this bill, our committee had less than 2 weeks under the sequential referral to act. We immediately held a hearing on the bill, and just 1 week later the committee reported it out with some modifications. Incidentally, at the hearing, on September 10, I think all of our Members and witnesses shared my concerns that we take action against this growing problem across this Nation.

In Chicago alone, over 50,000 cars were stolen in 1990 and in New York City the figure was about 150,000. Total losses are estimated to have been $8 billion—costs which are borne by all consumers in the automobile insurance rates they pay.

In the past several months, the public has become alarmingly aware that car theft is more than an economic crime; it has become a human tragedy.

The first time I heard of a carjacking was about 3 or 4 years ago when a young couple met with violence just off an exit ramp of the Eisenhower Expressway in my district.

The most shocking case involved a young mother, who was dragged 2 miles to her death during a carjacking in Savage, MD, and whose baby was literally thrown from the car. This has absolutely galvanized public opinion and outcry that this Congress act now to address this awesome despicable crime.

This bill would make carjacking a Federal crime with tough penalties, including a sentence of up to life in prison if carjacking results in death. It would also make it illegal to operate a chop shop. Under this bill, the Secretary of Transportation is given authority to seek an injunction against the operation of a chop shop. More importantly, anyone convicted of knowingly operating a chop shop would be subject to not only a fine, but to a 15-year prison term.

Further, H.R. 4542 would create a much stronger, and more effective, parts marking program than that which is now in operation. Currently half of all passenger automobiles are subject to the parts marking requirement.

H.R. 4542 would immediately expand the number of vehicles subject to parts marking by including specialty vehicles, such as minivans, sport utility vehicles, and light trucks. Two years later, the number of vehicles required to be marked would be expanded to include the first 25 percent of the car lines that fall below the median theft rate threshold.

Three years after that, the last 25 percent of the car lines below the theft rate threshold would be subject to parts marking, unless the Attorney General determined the program was ineffective. Current authority, to exempt certain car lines on which auto theft devices are installed would be continued.

Finally, this bill would require that insurance companies verify that junk or salvage vehicles are not reported as stolen, before they sell such vehicles to salvage firms or anyone else. Such verification would be passed on to the purchaser. Similarly, if a salvage firm sells a salvage vehicle that it has not obtained from an insurance company, the same kind of verifications would have to be made and passed on to the purchaser.

Mr. Speaker, I believe this bill will inhibit chop shop operations which are one important reason car thefts in our country have skyrocketed. It also establishes strong penalties that should help reduce car theft, as well as provisions to promote uniform vehicle titling at the State level that should help law enforcement officials investigate car theft.

I urge my colleagues to vote for this bill.

Mr. DINGELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I once again want to thank the gentleman from Wisconsin [Mr. SENSENBRENNER] for his help on this, and the gentleman from Michigan, [Mr. DINGELL] for his generosity and ability to sit down and compromise, as well as the gentlewoman from Illinois [Mrs. COLLINS], as well as the gentleman from New York and the gentleman from Michigan. I think this is a bill that will be a notable accomplishment of this Congress.

Mr. HOYER. Mr. Speaker, I rise today in strong support of H.R. 4542, the Anti-Car Theft Act of 1992. I would like to thank and commend the chairman of the Judiciary Subcommittee on Crime, Mr. SCHUMER, and chairmen BROOKS and DINGELL, for working so diligently to bring this timely legislation to the floor.

I doubt there are very many people in this area who have not heard about the young mother dragged to her death by carjackers. This senseless tragedy is but one of the many which has been occurring with increasing regularity across the country. The callous disregard for life under which criminals now operate calls for the strongest possible response. Carjacking, the taking of a vehicle by force, has reached epidemic proportions in many urban areas and is now permeating suburban enclaves usually viewed as safe havens from violent crime.

We have an opportunity, to play an active role in decreasing a rash of senseless violent crimes. FBI Director William Sessions has said that carjacking is "a violent crime that deserves the full attention of the FBI." We have a responsibility as federal legislators to assist in this effort and H.R. 4542, contains provisions that will achieve this goal.

By creating a new federal offense of armed carjacking and imposing stiffer penalties, thugs may think twice about stealing a car, if not, they will at least pay a high price for their actions.

Carjacking is not just an impulsive, joyriding crime, but is oftentimes motivated by profit. Titles I through III of the bill, contain provisions that will significantly reduce the profitability for car thieves and chop shop operators.

I am pleased however, that this compromise agreement relieves some of the regulatory burden from the shoulders of the automotive aftermarket industry. As legitimate small businesses they should not be penalized for those who participate in criminal activities.

Mr. Speaker, we can no longer afford to allow car thieves who are perpetrating their crimes with increasing violence to profit financially or escape harsh punishment. This legislation is critical, it is timely and we owe it to our constituents to take an active role in combating this latest rash of violent crime.

Mrs. LOWERY of New York. Mr. Speaker, I rise in strong support of H.R. 4542, the Anti-Car Theft Act.

I am sure that I am not the only Representative that has received a constituent phone call from someone whose car was recently ripped off. Our constituents are angry at this wave of crime and they want something done about it now.

This legislation is absolutely critical if we are to strike back against the auto thieves and the carjackers. Last year, more than 1.7 million cars valued at $8 billion were stolen in the United States. In addition, the recent rash of carjacking endangers the lives of all Americans who own cars. In many cases, auto thieves have gotten away with murder.

The bill we have before us will make substantial progress in deterring auto theft. It will require new automobiles to have their parts marked with identification numbers. This simple move will enable law enforcement agencies to quickly trace stolen car parts.

The legislation will also make carjacking a Federal offense punishable by up to 15 years in jail. If bodily harm accompanies the carjacking, then the mandatory sentence is increased to 25 years in jail. And if the carjackers cause the death of the victim, the legislation will lock them up and throw away the key. This is a tough response to what has become a national problem. With brutal attacks occurring in broad daylight throughout the cities of America, this action is overdue.

Our constituents are demanding action and action is what we have before us. I understand that the other body is expected to act once this bill is approved by the House. That being the case, I urge my constituents to support its speedy adoption.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 4542, the Anti-Car Theft Act.

Auto theft is no longer confined to youngsters out looking for a vehicle for joyriding. It has evolved into carjacking—a version of auto theft that involves armed robbery of a vehicle while the driver is present—an extremely lucrative business in this country. Carjacking has become a high-growth industry that includes both professional thieves and parts shops that deal in stolen auto parts, merchandise which can be worth up to 4 times as much as the car, itself. And the crime is becoming more and more linked to violence—to severe beatings, and even murder.

Every 22 seconds, an auto theft takes place. In 1991, 1.5 million vehicles were stolen here in the United States—55 percent more than in 1983. Auto theft accounts for almost half of the total property lost to crime each year, and up to 88 percent of comprehensive car insurance premiums are a result of car theft. And the numbers continue to grow. Auto theft has become too easy and too profitable and presents a growing threat to both our property and—more important—to our physical safety.

But, H.R. 4542 responds to our need to deal with this menace by making carjacking a Federal offense. Its provisions also include increasing Federal sentences for auto theft; providing start-up funding for computerized crosslinking of State motor vehicle departments so that States can crosscheck vehicle ownership; establishing a grant program, funded by individual automobile taxes and fees, so that State and local governments can set up anti-car theft programs in their communities; and tightening the Customs Service's supervision of exported automobiles.

Our neighborhoods and communities are no longer safe. We are afraid to stop at stoplights, to frequent fast-food outlets, to leave our cars in garages and in shopping mall parking lots, and even to stop for gas. Women are scared to walk to their cars after dark, and families are being victimized in front of their homes and in their driveways.

Americans are sick of talking about crime. They want action, and we here in Congress have a responsibility to deliver it to them. H.R. 4542 meets this carjacking epidemic head on by increasing the risk for the perpetrators and minimizing the profitability for all involved. I urge my colleagues on both sides of the aisle to support its passage.

Ms. NORTON. Mr. Speaker, I rise in strong support of H.R. 4542, the Anti-Car Theft Act of 1992, which I cosponsored because it offers a comprehensive approach to deterring a vicious, new auto theft crime. The recent, highly publicized, tragic carjackings in the Washington metropolitan area have my constituents frightened to drive their cars. The rate of carjacking has escalated to an average of one car per day in the Washington area, which has people wondering when they will become the next victim. In addition to the emotional cost of this epidemic, District residents must also bear the burden of higher insurance rates because of high theft rates. One report indicates that as much as 88 percent of an automobile owner's comprehensive insurance premium is attributable to theft claims.

I support the recent compromises that have made this critically needed bill possible, and I appreciate the efforts during these last days of the session to wrap up legislation that is both effective for law enforcement purposes and agreeable to automobile manufacturers.

With good reason, H.R. 4542 makes armed carjacking a Federal offense punishable by imprisonment for up to 15 years. These thefts often cross State lines, and, indeed, to do an effective job, law enforcement agencies have had to work regionally and nationally, rather than just locally. Our local police agencies are now working with FBI agents on a newly formed car-theft task force, and the U.S. attorney's office has created a regional computerized database of suspects and carjacked vehicles. Carjacking is a classic case for Federal intervention.

H.R. 4542 will greatly strengthen local efforts. This bill requires automobile manufacturers to place vehicle identification numbers on major automobile parts of high theft rate vehicles, and requires repair shops to check the identification numbers with a National Stolen Auto Part Information System. In order to combat vehicle title fraud, H.R. 4542 establishes a National Vehicle Information System. H.R. 4542 also directs the Customs Service to spot check export containers for stolen vehicles.

This legislation will take away much of the profit incentive for reckless car thieves, many of whom have dramatically escalated the risk of simply owning or driving a car. I strongly urge my colleagues to support H.R. 4542.

Mr. ANDREWS of Texas. Mr. Chairman, I rise in strong support of H.R. 4542, the Anti-Car Theft Act.

Very little attention has been given to the problem of crime and its solutions in this election year, despite the fact that 76 percent of Americans identify it as an issue that is very important for the Presidential candidates to address.

While we were fighting a war in the deserts of Saudi Arabia, Americans were losing the war on our streets against crime. In 1990, a violent crime was reported once every 17 seconds in the U.S., a quarter of all American households reported being victimized by crime, and over $16 billion was lost by American citizens to property crime.

The U.S. Federal Government must take a lead in marshalling the forces in the war against crime as we did in the war against Iraq—providing badly needed funds to States and localities to increase law enforcement, for beefing up the overburdened parole system, and to construct additional prison facilities to keep hardened criminals off of the streets and to provide a real deterrent to crime.

I commend my colleagues in the Judiciary Committee for H.R. 4542, the Anti-Car Theft Act. This bill proposes an ingenious plan to end the single greatest type of property crime in the United States—auto theft—in a simple, effective and inexpensive manner.

Auto theft accounts for over half of the total cost of all property crimes committed in the United States—between $8–9 billion a year—but only presents car thieves with a 1 in 50 chance of serving any jail time.

The Schumer-Sensenbrenner proposal gets to the heart of the matter: make stealing cars less profitable by drying up the market for stolen auto parts.

A car's parts are worth four times more than the whole car. Mark the parts with the vehicle ID number and you take the profit—and the incentive—right out of car theft.

H.R. 4542, as amended, requires that a vehicle ID number be inscribed on major auto parts of 75 percent of all car models in 2 years and establishes an information clearinghouse so that thieves will be caught selling stolen parts to repair shops.

Such a marking program will be effective—both as a deterrent for auto theft and as a tool for law enforcement to use in recovering stolen vehicles.

At a cost of less than $5 per vehicle to mark car parts, we cannot afford to do without this key weapon in auto theft.

I urge my colleagues to support the passage amended version of H.R. 4542 under suspension of the rules to require the marking of auto parts—nothing less will take the profit out of stealing cars.

Mr. CLEMENT. Mr. Speaker, several grisly carjackings here in the Nation's Capital earlier this month have propelled H.R. 4542 to a vote in this House. Car theft hits close to home, in my home district and the district of every member here.

Our colleague from New York, Mr. SCHUMER, deserves to be congratulated for his leadership on this issue. He has worked long and hard on this legislation. His proposal for a computerized national motor vehicle title information system recognizes that most car thefts are not for joy-riding, but for profit. They are fodder for chop shops.

We face the modern day equivalent of cattle-rustling. Car parts, like cow parts, are easier to transport on the hoof. Stolen parts are valuable only when a chop shop tacks them onto a car that's been junked. The newly rebuilt car is then resold to an unknowing consumer—at a price four or five times what it is worth. That leaves plenty of profit for the chop shop and the thief. This is a double-edged crime. The consumer is not only defrauded, but also made—albeit unwittingly—to pay the carjacker's salary.

I have seen how title-washing occurs. I recently distributed to members two copies of real certificates of title. One was issued by the State of Mississippi in September 1991. It plainly indicates that the vehicle was salvaged. I also distributed a certificate issued in November—just a few weeks later—by the State of Texas. The VIN on each certificate is identical. It's the same car. But the Texas title is clean as a whistle. To the consumer there is no indication that the car is salvaged or rebuilt and the consumer pays dearly for the absence of that information. This has got to stop—now.

This salvage fraud scam is estimated to cost consumers $3 billion a year. In addition, consumers who unknowingly purchase junk vehicles face heightened risks of death or serious injury in accidents.

H.R. 4542 recognizes these lapses in State motor vehicle titling procedures that make it easy for chop shops and their customers to wash the salvage history off a vehicle's title. The bill establishes a task force to study this problem. Especially since it will take years before the new title information system is operational, I would prefer to cut the chop shops down to size—now—using information and other resources that already exist.

When the new Congress meets, I intend to introduce legislation to require nationally uniform title procedures so that a salvage or rebuilt brand means the same thing from one State to another. Unlike the current practice, every State immediately would have to repeat another State's junk brand when it issues a new title for these vehicles. This bill attacks this problem now using information that is already available in every case. This approach already has the support of members, of the

Committees on Public Works, Energy and Commerce and Judiciary, as well as the motor vehicle administrators, law enforcement officials and the automotive industry.

Mr. Speaker, I urge my colleagues to support H.R. 4542.

Mr. GOSS. Mr. Speaker, I don't need to draw your attention to violent crime across this country, because my colleagues and I have confronted it right here in our Nation's Capitol. Members of Congress and their staff are certainly not immune to the senseless murders, rapes and beatings, the armed robberies and carjackings, that claim the lives of tens of thousands of Americans every year. Today, this heightened awareness leads us to consider the Anti-Car Theft Act of 1992, an admirable piece of legislation designed to deter auto theft crime. The rash of car thefts across this country is disturbing for several reasons—the increasing incidence of armed car theft, and the fact that 62 percent of all persons arrested for this offense were under 21 years of age. This is a deadly combination that will certainly not end with the passage of one piece of legislation. In fact I am very disturbed that today's debate is limited to only one relatively small aspect of the whole problem. There is a virulent epidemic of crime and lawlessness sweeping this Nation. It's brutal, it's real, it's starting with younger and younger individuals and United States citizens are frightened. Every day we read of another beating or slaying and know that behind those headlines, there are many more unreported incidents. Law enforcement cannot keep our streets, our businesses, our homes, free from crime because we are not giving them the tools to do their job. We have got to reexamine the priority we place on tough crime legislation. We need a comprehensive approach, empowering our police forces, streamlining our judicial process and protecting victims with the same vigor that we use to protect criminals. The statistics are staggering: The 1991 violent crime rate was 4 percent higher than the 1990 rate, 24 percent above the 1987 rate, and 33 percent above the 1982 figure. It's a frightening trend. We have spent our days wasting time and money with partisan bickering and bureaucratic shuffling, when across this country, American citizens live in fear. The get-tough-on-crime Congress must face up to the fact that this session has not yielded one comprehensive piece of legislation that could make a real difference for the American people. We must renew the fight against crime in the next Congress. The facts are indisputable, the violent crime wave is getting worse and we must take aggressive action soon. It's a matter of life or death—literally. Surely, we can protect our people as well as, or better, than our cars. I can always get another car, But I can never replace a loved-one lost to a violent crime. We need tough anticrime legislation that punishes criminals and restores decency. The other way—the liberal way—doesn't work. The proof is everywhere.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 4542, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 0600

GENERAL LEAVE

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4542, the bill just passed.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 4016, COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 3, 1992, at page 31234.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT]

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remark, and include extraneous material, on H.R. 4016, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers the conference report on H.R. 4016, the Community Environmental Response Facilitation Act. This bill was introduced by the Honorable LEON PANETTA of California to address troubling situations that are occurring with increasing regularity as more Federal facilities are closed due to budget constraints. One need not look far to see the economic pain that results when a DOE plant or a military base closes. Such closures will become more numerous as the Department of Defense builds down, the Nuclear Energy Program is downsized, and the budget deficit further constricts the breadth of Government activities.

The problem is twofold. First, as Federal facilities close, communities nearby are subjected to economic dislocation. The land, however, can be used for economic development. But in response, State, and local governments are focusing economic growth efforts on redevelopment of property within the closed facility.

This approach is constructive, and should be pursued. However, it leads to the second problem, which is that many Federal facilities slated for closure are contaminated by hazardous substances or petroleum products, and require environmental response actions.

Thus, we are faced with a dilemma: closed or soon-to-be closed Federal facilities could supply inexpensive land for future development; but environmental and public health concerns brought on by preexisting contamination must be addressed before that can happen.

H.R. 4016 steps into the breech to provide a sensible mechanism to allow State and local governments to pursue economic growth measures where Federal facilities have closed their doors. It amends the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA] to expedite the identification of uncontaminated Federal land so it can be transferred for non-Federal uses.

This bill sets up a process within CERCLA by which Federal agencies with jurisdiction over property slated for closure can evaluate and identify uncontaminated property within a facility. When this is done, the agency involved shall seek concurrence in the identification from regulatory officials. For properties listed on the national priorities list [NPL], concurrence must be rendered by the EPA Administrator; for properties not on the NPL, concurrence must be given by the appropriate State official. Once concurrence is given, or deemed given, the property may be transferred and redeveloped for the benefit of the community.

H.R. 4016 does one other thing. Perhaps most importantly, the bill provides that any cleanup action found necessary after the date such property is transferred shall remain the responsibility of the U.S. Government.

This is a sensible, bipartisan, good-Government bill. It is procommunity and proenvironment. It protects the integrity of the environmental statutes while providing a vehicle for responding to economic problems in communities.

I appreciate and commend the constructive efforts of the ranking member of the subcommittee and his staff in crafting a work product that addresses a critical issue in a timely fashion. I also wish to commend the good work of the sponsor, Mr. PANETTA, and thank him for his assistance in this process. In addition, the other body has shared in a bicameral commitment to addressing this issue; their work has been excellent. This is a timely, well-thought-out conference report for which I urge my colleagues' strong support.

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 4016, a bill to amend the Comprehensive Environmental Response, Compensation and Liability Act—or CERCLA—better known as superfund.

Mr. Speaker, this legislation is a good example of bipartisan cooperation in clearly identifying a problem and tailoring legislation to address the specific issue. I believe this demonstrates that Congress can tackle tough environmental issues in a more thoughtful fashion when we do not force everything into huge, megabills. And I want to thank my good friend, the gentleman from Washington [Mr. SWIFT], for his leadership in moving this legislation, originally introduced by the gentleman from California, Mr. PANETTA.

The goal of this legislation is to break the logjam at closing government facilities to free up clean property for productive use. Expeditious property transfers are particularly important for the people in the communities near these facilities. Many communities frequently see the best hope for economic survival in quickly converting the closed facility to productive new uses.

This legislation seeks to speed up the transfer of property that is not contaminated by clarifying the process of distinguishing uncontaminated land from areas of contamination. The conference report contains provisions from the Senate bill that establish special procedures and timetables for military bases closed under the various base closure laws.

The conference report contains important language indicating that this legislation is not meant to duplicate efforts already undertaken by the Department of Defense or other agencies. To the extent possible, the determination of whether a parcel is clean and ready for transfer, can and should be based on existing studies.

Mr. Speaker, I would note that much more needs to be done if this country is to balance budgetary concerns, the needs of local communities, and the need for a clean environment.

Studies indicate that under existing law, the Nation may spend between $750 billion to $1.2 trillion over the next 30 years in cleaning up contaminated sites. I am afraid that much of this cost will go for lawyers or overly prescriptive programs which certainly jack up the cost of cleanup and may actually slow the pace of cleanup.

In the next Congress, I hope I can continue to work with Mr. SWIFT and others in a bipartisan fashion to craft additional reforms to remove some of the current disincentives and redtape which impede expeditious and cost-effective cleanup.

Mr. Speaker, I would urge all of my colleagues to support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield such time as he may consume to the author of this legislation, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I introduced H.R. 4016 last fall after careful analysis of a clear and growing problem afflicting communities grappling with the loss of Federal installations. The Community Environmental Response Facilitation Act [CERFA] is a tailored response to that defined problem, and the passage of the conference report on H.R. 4016 today in the House of Representatives is absolutely required. The House approved this legislation by voice vote on August 10, and the Senate adopted a modified version by voice vote on September 18. I appreciate the chance to urge my colleagues to approve the report of the conferees, a report which has only improved the legislation. I am very pleased with the conference report, and as the author of the bill, I take great pleasure in calling on my colleagues to support it.

Mr. Speaker, I cannot exaggerate the urgency of this bill, cities and towns around the Nation are waiting to develop and implement the reuse of closing Federal facilities. Municipalities across the Nation have contacted me again and again, asking when this measure will pass the Congress. CERFA's final passage today will assist them within several months, if not weeks, as they struggle to mitigate the devastating economic losses suffered when a Federal installation closes.

To recapitulate the impetus for this act, I would remind my colleagues that existing Federal property transfer practices exacerbate rather than overcome the difficulties our communities face as they attempt to reuse Federal facilities. Current law and regulations do not facilitate studies to confirm which areas of closing installations are free of hazardous waste, needlessly delaying their transfer to State, local, or private interest. Our communities' losses are doubled in this process; they are unable to reap the potential of closed Federal facilities even as they continue to suffer losses stemming from the original closure.

The Community Environmental Response Facilitation Act would require the Federal Government to identify property free of contamination for sale to non-Federal interests at closing Federal facilities at the earliest opportunity. In a comprehensive hearing held by the Subcommittee on Transportation and Hazardous Materials on April 9, 1992, and in subsequent letters of support, the National Association of Attorneys General, the attorney general of the State of Texas, the United States Conference of Mayors, the counties of Monterey and Alameda in California, Friends of the Earth, and the Natural Resources Defense Council expressed unreserved support for the legislation. In testimony before the subcommittee, the Department of Defense said H.R. 4016 "hits the mark." Finally, as Chairman SWIFT has noted, the Subcommittee on Transportation and Hazardous Materials and the Committee on Energy and Commerce each reported H.R. 4016 by a voice vote with bipartisan support. With Senator MITCHELL as its chief sponsor in the other body, the Senate has likewise given its strong approval to the legislation by voice vote.

Under the bill, identifications of waste-free property under most Federal agencies would be made at least 6 months before the termination of operations at the facility. Once such an identification had been made, the Federal Government would be empowered to declare the property excess and allow its transfer for redevelopment.

The conference agreement establishes a reasonable exception for closing and downsizing military bases. Identification of uncontaminated areas at bases closed or realigned under previous base closure laws would be mandated within 18 months of the enactment of this act, providing a single date certain by which all such bases must be examined. Identification of such clean areas at bases closed or realigned in the future would be required within 18 months of their selection for closure or realignment. The Senate had added other amendments which I am happy to say were dropped from the legislation in conference.

The Government's liability for hazardous substances remaining in lands formerly owned by the Federal Government is a related community concern. Accordingly, the legislation mandates that deeds entered into for the sale or transfer of Federal property to a non-Federal interest contain a convenant warranting that the Federal Government must conduct any remediation of waste for which it is responsible, even after transfer of the property.

H.R. 4016 also clarifies congressional intent with respect to environmental restoration efforts at closing Federal facilities. The bill includes the criterion that environmental cleanups at Federal facilities must be undertaken with a view to facilitating and advancing both environmental protection and the prompt transfer of excess property in order to mitigate the ill economic effects of closures. Importantly, the bill allows us to address community concerns without sacrificing the quality of environmental restoration.

Finally, CERFA mandates that the EPA must concur in any agency's determination that property is free of contamination on Superfund facilities and, in the case of non-Superfund sites, States must concur in that determination. The EPA is the one Federal agency whose mission it is to safeguard and monitor environmental standards. Clearly, the agency with the expertise to make findings of contamination ought to have the power to concur or not concur in these important determinations. Too much is at risk not to involve the EPA or a State's environmental agency. This legislation expedites the transfer of clean property to communities, but it does not authorize the transfer of properties that turn out to be contaminated.

I want to thank Chairmen SWIFT and DINGELL for their critical assistance in moving this legislation forward promptly, with all due deliberation and with the solicited views of every interest affected. I would also pay tribute, again, to Chairman ROE of the Public Works and Transportation Committee, who, despite his committee's jurisdiction over this issue, recognized the urgency of the bill's passage and allowed it to proceed to the floor in August without delay, and to the majority leader of the other body, who moved quickly to facilitate the Senate's examination of the legislation. Finally, I would like to thank counsels Dick Frandsen and Ric Ilgenfritz very much for all the expertise and dedication they contributed as the bill took shape over the past year.

My friends, the passage of this act will not receive much notice, but it is yet another example of the Congress taking a proactive step to address a defined problem with a carefully designed, widely supported solution. This act represents a responsible Government at work and we can all be proud of its passage.

Mr. RITTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this was a bill that was passed in an extremely bipartisan way. I want to thank all of those Members who worked on it.

Mr. MATSUI. Mr. Speaker, I rise today in strong support of the conference report on H.R. 4016, the Community Environmental Response Facilities which will promote the smooth conversion and transfer to excess Federal property for other economically productive uses.

H.R. 4016 provides a commonsense approach to the conversion of Federal property without impeding environmental cleanup. It allows local communities to move ahead expeditiously with their plans for the property without sacrificing sound environmental remediation in the least. It is important to note that this legislation in no way absolves Agencies of responsibility for the cleanup and proper disposal of toxics located on excess Federal property, nor does it abridge the laws regulating standards and procedures for environmental remediation. This bill in no way compromises comprehensive, safe, and prompt cleanup efforts.

Under this legislation, only property in which no hazardous substances were stored, released, or disposed of can be investigated and submitted for approval by an appropriate State official to be sold or transferred. Contaminated facilities and other specific hot spots will be held in possession by the Federal Agency in possession of the property until they are properly cleaned up.

This legislation serves the dual goals of cleaning up environmentally hazardous areas and allowing for the rapid disposition of unused but valuable property which might otherwise lie wasted for years until isolated sites, perhaps great distances from the useful and environmentally sound acreage, are cleaned up. It is important, particularly in these tough economic times, that unnecessary impediments to economic growth be eliminated in order to help our Nation recover from the recession in which we have been mired for so long.

This legislation is absolutely essential for making effective use of property and capital now being used for defense purposes. I have two military bases in my congressional district, Mather Air Force Base and the Sacramento Army Depot. Mather Air Force Base is scheduled to close late in 1993, while the Sacramento Army Depot will be closing at the end of 1996. There are sites of both facilities which have been contaminated by toxic chemicals, but I would like to focus on the situation at Mather Air Force Base for purposes of illustrating the problem that will be addressed by H.R. 4016.

Only 200 of the 6,300 acres of land at the Mather facility are currently known to be contaminated. There are ongoing studies to determine whether there are other contaminated sites on the base but the majority of the acreage at Mather is uncontaminated and is ready to be converted to productive use. The entire 6,300 acres of land will remain off limits for purposes of conversion without the help offered by Mr. PANETTA's legislation, and will sit idle while the hot spots await cleanup. Without this legislation, the city and county of Sacramento will be unable to go forward with the transformation of Mather from a military installation into a vibrant element of our local community.

I congratulate my friend Congressman LEON PANETTA for his hard work and leadership on this issue, and I urge my colleagues to support the conference report of H.R. 4016. It is good legislation, in touch with the needs of the times without sacrificing the welfare of our environment.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and agree to the conference report on the bill, H.R. 4016.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

DESIGNATING CERTAIN FEDERAL BUILDINGS

Mr. MINETA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6163) to designate certain Federal buildings, as amended.

The Clerk read as follows:

H.R. 6163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MITCHELL H. COHEN UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse under construction at 400 Cooper Street in Camden, New Jersey, shall be known and designated as the "Mitchell H. Cohen United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in subsection (a) shall be deemed to be a reference to the "Mitchell H. Cohen United States Courthouse".

SEC. 2. CLARKSON S. FISHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The Federal building and United States courthouse located at 402 East State Street in Trenton, New Jersey, shall be known and designated as the "Clarkson S. Fisher Federal Building and United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Clarkson S. Fisher Federal Building and United States Courthouse".

SEC. 3. THEODORE ROOSEVELT FEDERAL BUILDING.

(a) DESIGNATION.—The Federal building currently occupied by the Office of Personnel Management and located at 1900 E Street, Northwest, Washington, D.C., known as Federal Office Building Number 9, shall be known and designated as the "Theodore Roosevelt Federal Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other paper of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Theodore Roosevelt Federal Building".

SEC. 4. GEORGE C. YOUNG UNITED STATES COURTHOUSE AND FEDERAL BUILDING.

(a) DESIGNATION.—The building located at 80 North Hughey Avenue in Orlando, Florida, shall be known and designated as the "George C. Young United States Courthouse and Federal Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "George C. Young United States Courthouse and Federal Building".

SEC. 5. GLENN M. ANDERSON FEDERAL BUILDING.

(a) DESIGNATION.—The Federal building located at 501 West Ocean Boulevard in Long Beach, California, shall be known and designated as the "Glenn M. Anderson Federal Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Glenn M. Anderson Federal Building".

SEC. 6. ROBERT A. GRANT FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The Federal building and United States courthouse located at 204 South Main Street in South Bend, Indiana, shall be known and designated as the "Robert A. Grant Federal Building and United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Robert A. Grant Federal Building and United States Courthouse".

SEC. 7. ROBERT A. ROE FEDERAL BUILDING.

(a) DESIGNATION.—The Federal building located at 200 Federal Plaza in Paterson, New Jersey, shall be known and designated as the "Robert A. Roe Federal Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Robert A. Roe Federal Building".

SEC. 8. JOHN PAUL HAMMERSCHMIDT FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The Federal building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, shall be known and designated as the "John Paul Hammerschmidt Federal Building and United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and courthouse referred to in subsection (a) shall be deemed to be a reference to the "John Paul Hammerschmidt Federal Building and United States Courthouse".

SEC. 9. RONALD REAGAN FEDERAL BUILDING AND COURTHOUSE.

(a) DESIGNATION.—The Federal building and courthouse to be constructed at 5th and Ross Streets in Santa Ana, California, shall be known and designated as the "Ronald Reagan Federal Building and Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and courthouse referred to in subsection (a) shall be deemed to be a reference to the "Ronald Reagan Federal Building and Courthouse".

SEC. 10. RICHARD H. CHAMBERS UNITED STATES COURT OF APPEALS BUILDING.

(a) DESIGNATION.—The United States Court of Appeals building located at 125 South Grand Avenue in Pasadena, California, shall be known and designated as the "Richard H. Chambers United States Court of Appeals Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "Richard H. Chambers United States Court of Appeals Building".

SEC. 11. MARTIN LUTHER KING, JR. FEDERAL BUILDING.

(a) DESIGNATION.—The Federal building located at Main and Church Streets in Victoria, Texas, shall be known and designated as the "Martin Luther King, Jr. Federal Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Martin Luther King, Jr. Federal Building".

SEC. 12. QUENTIN N. BURDICK UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse to be constructed in Fargo, North Dakota, shall be known and designated as the "Quentin N. Burdick United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in subsection (a) shall be deemed a reference to the "Quentin N. Burdick United States Courthouse".

SEC. 13. JOSEPH G. MINISH PASSAIC RIVER WATERFRONT PARK AND HISTORIC AREA.

(a) DESIGNATION.—The area for which environmental and other streambank restoration measures are authorized by section 101(a)(18)(B) of the Water Resources Development Act of 1990, relating to the project for flood control, Passaic River Mainstem, New Jersey and New York, shall be known and designated as the "Joseph G. Minish Passaic River Waterfront Park and Historic Area".

(b) REFERENCES.—Any reference in a law, regulation, document, record, map, or other paper of the United States to the area referred to in section 1 shall be deemed to be a reference to the "Joseph G. Minish Passaic River Waterfront Park and Historic Area".

SEC. 14. JOHN PAUL HAMMERSCHMIDT LAKE, ARKANSAS.

(a) DESIGNATION.—The reservoir created by the James W. Trimble Lock and Dam on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall be known and designated as the "John Paul Hammerschmidt Lake".

(b) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the "John Paul Hammerschmidt Lake".

SEC. 15. ROBERT C. BYRD LOCKS AND DAM.

(a) DESIGNATION.—The Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), is designated as the "Robert C. Byrd Locks and Dam".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the locks and dam referred to in section 1 shall be deemed to be a reference to the "Robert C. Byrd Locks and Dam".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MINETA] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is primarily a compilation of previously passed House naming bills. It includes the naming of buildings for two former Presidents of the United States, retiring and deceased Members of Congress, the great civil rights leader Martin Luther King, Jr., and certain members of the judiciary.

Mr. Speaker, I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has been explained by the previous speaker, sections 1 through 12 of H.R. 6163 designate 12 different Federal buildings after distinguished Americans. The House has already passed separate bills on 11 of these designations. The exception is the designation of a courthouse yet to be constructed in Fargo, ND, after the late Senator Quentin Burdick.

I would like to add that two of these buildings are named after two of the most distinguished Members in the history of Congress, the gentleman from New Jersey [Mr. ROE] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the chairman and the ranking member of the committee on Public Works and Transportation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 6163, which packages 12 separate naming bills together in one bill. The house has already passed separate bills on all but one of these initiatives.

Included in this package is S. 3224 which will designate the United States Courthouse to be constructed in Fargo, ND as the "Quentin N. Burdick United States Courthouse." Quentin Burdick had a long and distinguished career in the Senate, and this is a most appropriate way to honor his service.

Senator Burdick's early association with the non-partisan league helped to shape his political philosophy of making government work for the people.

After being elected to the U.S. House of Representatives in 1958, he began what was to be a life-long pursuit of speaking up for the rights and interests of the American farmer. Perhaps the best example of this is his commitment to protecting water rights for his rural constituents.

Using his committee assignments in the House and later in the Senate, Quentin Burdick was able to promote and protect major water projects for North Dakota such as the Garrison Diversion project, which provided North

Dakota with Missouri river water to compensate for losses associated with the construction of the Garrison Dam.

His influence as chairman of the Senate Environment and Public Works Committee can be seen in several major highway and clean water bills. Most notably, his leadership on the Intermodal Surface Transportation Efficiency Act of 1991 was instrumental in getting that vital piece of legislation through both houses.

It is an honor and a privilege for me to support H.R. 6163 which will honor several distinguished Americans, and I urge my colleagues to do likewise.

Mr. INHOFE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MINETA] that the house suspend the rules and pass the bill, H.R. 6163, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6163, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WATER RESOURCES DEVELOPMENT ACT OF 1992

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6167) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes.

The Clerk read as follows:

H.R. 6167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Secretary defined.

TITLE I—WATER RESOURCES PROJECTS

Sec. 101. Project authorizations.
Sec. 102. Project modifications.
Sec. 103. Visitor centers.
Sec. 104. Small navigation projects.
Sec. 105. Small flood control projects.
Sec. 106. Sonoma baylands wetland demonstration project.
Sec. 107. Upper Mississippi River plan.
Sec. 108. Quarantine facility.
Sec. 109. Columbia, Snake, and Clearwater Rivers.
Sec. 110. Outer Harbor, Buffalo, New York.
Sec. 111. Small streambank control project, Walnut Canyon Creek, California.
Sec. 112. Montgomery Point Lock and Dam, Arkansas.
Sec. 113. Major rehabilitation.
Sec. 114. Studies.
Sec. 115. Continuation of authorization of certain projects and studies.
Sec. 116. Project deauthorizations.
Sec. 117. Deauthorization of a portion of the Canaveral Harbor, Florida, project.
Sec. 118. Namings.

TITLE II—GENERALLY APPLICABLE PROVISIONS

Sec. 201. Ability to pay.
Sec. 202. Projects for improvements of the environment.
Sec. 203. Voluntary contributions for environmental and recreation projects.
Sec. 204. Beneficial uses of dredged material.
Sec. 205. Definition of rehabilitation for inland waterway projects.
Sec. 206. Construction of shoreline protection projects by non-Federal interests.
Sec. 207. Cost-sharing for disposal of dredged material on beaches.
Sec. 208. Fees for development of State water plans.
Sec. 209. Dam safety program extension.
Sec. 210. Safety award and promotional materials.
Sec. 211. Work for others.
Sec. 212. Use of private sector resources in surveying and mapping.
Sec. 213. Use of domestic products.
Sec. 214. Rural project evaluation and selection criteria.
Sec. 215. Compensation of Corps of Engineers employees.
Sec. 216. Dredged material disposal areas.
Sec. 217. Reuse of waste water.
Sec. 218. Demonstration of waste water technology, Santa Clara Valley Water District and San Jose, California.
Sec. 219. Environmental infrastructure.
Sec. 220. Environmental infrastructure assistance for Benton and Washington Counties, Arkansas.
Sec. 221. Environmental infrastructure assistance for Erie County, New York.
Sec. 222. Environmental infrastructure assistance for Lewiston, New York.
Sec. 223. Board of Engineers.
Sec. 224. Channel depths and dimensions.
Sec. 225. Challenge cost-sharing program for the management of recreation facilities.
Sec. 226. Debarment of persons convicted of fraudulent use of "Made in America" labels.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Extension of jurisdiction of Mississippi River Commission.
Sec. 302. New York City zebra mussel program.
Sec. 303. Susquehanna River, Pennsylvania.
Sec. 304. Broad Top region of Pennsylvania.
Sec. 305. Construction of boat ramps and docks at J. Strom Thurmond Lake, Georgia.
Sec. 306. West Virginia trailhead facilities.
Sec. 307. Water quality projects.
Sec. 308. Baltimore Harbor, Maryland.
Sec. 309. Additional studies.
Sec. 310. Rend Lake, Illinois.
Sec. 311. Portugese and Bucana Rivers, Puerto Rico.
Sec. 312. Little Goose and Lower Granite, Washington.
Sec. 313. South Central Pennsylvania environmental restoration infrastructure and resource protection development pilot program.
Sec. 314. Illinois and Michigan Canal.
Sec. 315. Virginia Beach, Virginia, technical amendments.
Sec. 316. Transfer facility for beneficial uses of dredged material, San Francisco Bay.
Sec. 317. Pikeville Lake, Kentucky.
Sec. 318. Raystown Lake, Pennsylvania.
Sec. 319. Santa Rosa plain, California.
Sec. 320. Klamath Glen levee, California.
Sec. 321. Phoenix, Arizona.
Sec. 322. Water supply needs of Mahoning Valley Sanitary District, Ohio.
Sec. 323. Sault Sainte Marie, Michigan.
Sec. 324. Hackensack Meadowlands area, New Jersey.
Sec. 325. Land exchange, Allatoona Lake, Georgia.
Sec. 326. New York Bight and Harbor study.
Sec. 327. Availability of contaminated sediments information.
Sec. 328. Milwaukee Harbor, Wisconsin.
Sec. 329. Arthur Kill, New York and New Jersey.
Sec. 330. Harbor Maintenance Trust Fund deposits and expenditures.
Sec. 331. Conemaugh River Basin, Pennsylvania.
Sec. 332. Transfer of locks and appurtenant features, Fox River System, Wisconsin.
Sec. 333. Fish and wildlife mitigation.
Sec. 334. Chesapeake Bay beneficial use site management.
Sec. 335. Declaration of nonnavigability for portions of Cuyahoga County, Ohio.
Sec. 336. Lockwoods Folly River, Brunswick County, North Carolina.
Sec. 337. Port Everglades, Florida.
Sec. 338. 1993 World University Games.
Sec. 339. Nuisance aquatic vegetation in Lake Gaston, Virginia and North Carolina.
Sec. 340. Southern West Virginia environmental restoration infrastructure and resource protection development pilot program.
Sec. 341. Tennessee River Heritage Museum and Education Facility.
Sec. 342. Tennessee Valley Exhibit Commission of Alabama.
Sec. 343. Red Rock Dam and Lake, Iowa.
Sec. 344. Environmental project modifications, Sacramento River, California.
Sec. 345. Bank stabilization and marsh creation.
Sec. 346. Connecticut coastal saltmarsh restoration authorization.
Sec. 347. Winfield, Buffalo, and Eleanor, West Virginia.
Sec. 348. Land conveyance, city of Fort Smith, Arkansas.
Sec. 349. Rahway River, New Jersey.
Sec. 350. San Francisco Bay, California.

Sec. 351. Flood warning response system.
Sec. 352. Tarrant County, Texas.
Sec. 353. Release of certain use restriction.
Sec. 354. Fort Point, Galveston, Texas.
Sec. 355. Presidio of San Francisco, California.
Sec. 356. Sediment management strategy for Maumee River, Toledo Harbor.
Sec. 357. Southeast light on Block Island, Rhode Island.
Sec. 358. Allendale Dam, North Providence, Rhode Island.
Sec. 359. Lake Degray water supply.
Sec. 360. Souris River, North Dakota.
Sec. 361. Abandoned and wrecked barge removal.
Sec. 362. Quonset Point-Davisville, Rhode Island.
Sec. 363. Stillwater, Minnesota.
Sec. 364. Stormwater discharges.

TITLE IV—INFRASTRUCTURE TECHNOLOGY, RESEARCH AND DEVELOPMENT

Sec. 401. International outreach program.
Sec. 402. Marine technology review.
Sec. 403. La Guardia Dike, New York.
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Sec. 405. Sediments decontamination technology.

TITLE V—CONTAMINATED SEDIMENT AND OCEAN DUMPING

Sec. 501. Short title and definitions.
Sec. 502. National Contaminated Sediment Task Force.
Sec. 503. Sediment survey and monitoring.
Sec. 504. Concurrence by the Administrator.
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Sec. 506. Site designation.
Sec. 507. Permit conditions.
Sec. 508. Ocean dumping penalties.
Sec. 509. Authorization of appropriations.
Sec. 510. Report to Congress.

SEC. 2. FINDINGS.

Congress finds that—

(1) a sound and strong infrastructure is the essential core and foundation of the Nation's economic well-being and growth and its ability to compete in the global economy;

(2) the Nation's infrastructure has been sorely neglected for years, and there is a desperate need at every level of government to increase infrastructure investment for the benefit of future generations;

(3) it is the responsibility of the Federal Government to provide coordination, direction, and assistance in the restoration and maintenance of a sound infrastructure, including a national transportation system involving surface, air, and water transportation and facilities for restoration and preservation of water quality, prevention of damages from floods, and provision of hydroelectric power and municipal and industrial water supplies;

(4) it should be a goal of the United States to develop a national intermodal transportation system that moves people and goods in an efficient manner;

(5) the Nation's future economic direction is dependent on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, water pollution, and the need to rebuild the Nation's infrastructure;

(6) a national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation which moves people and goods in the most efficient manner;

(7) a national intermodal transportation system will enhance the ability of United States industry to compete in the global marketplace by reducing transportation costs;

(8) all forms of transportation, including the transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development and productivity growth;

(9) investment in the infrastructure of the United States will pay immediate and long-term dividends in jobs and economic productivity and provide the foundation for the Nation's continued leadership in the global economic competition of the 21st century;

(10) infrastructure investment differs significantly from other forms of government spending because it creates new wealth for the Nation;

(11) the wealth and economic strength of the United States is in the Nation's infrastructure which provides the foundation for all aspects of life;

(12) failure to invest in the Nation's infrastructure has placed the United States in danger of becoming a service-oriented economy rather than having a strong and independent manufacturing-based economy;

(13) foreign competitors in the global economy have surpassed the Nation's productivity growth through massive infrastructure investments, and many foreign competitors have committed to making multi-trillion dollar infrastructure investments in the future;

(14) the improvement of the Nation's coastal ports is critical to its ability to compete in the global economy through the efficient import and export of goods;

(15) the improvement of the Nation's inland waterway system is a central part of a national intermodal transportation system which permits the efficient transport of goods between markets within the Nation and between inland markets and coastal ports;

(16) the prevention of massive flood damages to the Nation's cities, industries, cultural facilities, municipal facilities, and transportation system plays a vital role in the protection of the Nation's infrastructure and the efficient conduct of commerce;

(17) the provision of municipal and industrial water supply plays a crucial role in the well-being and functioning of the Nation's communities and industries and in the health, environment, and quality of life of the Nation;

(18) the generation of hydroelectric power contributes significantly to the Nation's supply of low-cost energy and plays a significant role in reducing air pollution;

(19) the provision of recreational opportunities and the protection and enhancement of fish and wildlife habitat and environmental values contribute to the well-being of the people of the Nation; and

(20) improvement and protection of the Nation's infrastructure is an essential, proper, and necessary role of government at all levels.

SEC. 3. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

Except as provided in this section, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this section:

(1) SOUTHEAST ALASKA HARBORS OF REFUGE, ALASKA.—The project for navigation, Southeast Alaska Harbors of Refuge, Alaska: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $15,013,000, with an estimated Federal cost of $11,250,000 and an estimated non-Federal cost of $3,763,000.

(2) WHITEMAN'S CREEK, ARKANSAS.—The project for flood control, Whiteman's Creek, Arkansas: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $4,978,000, with an estimated Federal cost of $2,838,000 and an estimated non-Federal cost of $2,140,000.

(3) MORRO BAY HARBOR, CALIFORNIA.—The project for navigation, Morro Bay Harbor, California: Report of the Chief of Engineers, dated June 4, 1992, at a total cost of $2,056,000, with an estimated Federal cost of $1,644,000 and an estimated non-Federal cost of $412,000.

(4) SACRAMENTO METRO AREA, CALIFORNIA.—The project for flood control, Sacramento Metro Area, California: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $17,000,000, with an estimated Federal cost of $12,800,000 and an estimated non-Federal cost of $4,200,000.

(5) RIO GRANDE ALAMOSA, COLORADO.—The project for flood control, Rio Grande Alamosa, Colorado: Report of the Chief of Engineers, dated October 7, 1991, at a total cost of $7,080,000, with an estimated Federal cost of $5,250,000 and an estimated non-Federal cost of $1,830,000.

(6) DELAWARE RIVER MAINSTEM AND CHANNEL DEEPENING, DELAWARE, NEW JERSEY, AND PENNSYLVANIA.—The project for navigation, Delaware River Mainstem and Channel Deepening, Delaware, New Jersey, and Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $294,931,000, with an estimated Federal cost of $195,767,000 and an estimated non-Federal cost of $99,164,000.

(7) CANAVERAL HARBOR, FLORIDA.—The project for navigation, Canaveral Harbor, Florida: Report of the Chief of Engineers, dated July 24, 1991, as modified by the letter of the Secretary dated October 10, 1991, at a total cost of $11,780,000, with an estimated Federal cost of $6,100,000 and an estimated non-Federal cost of $5,680,000.

(8) KISSIMMEE RIVER RESTORATION, FLORIDA.—The project for the ecosystem restoration of the Kissimmee River, Florida: Report of the Chief of Engineers, dated March 17, 1992, at a total cost of $426,885,000, with an estimated Federal cost of $139,943,000 and an estimated non-Federal cost of $286,942,000. The Secretary is further authorized to construct the Kissimmee River headwaters revitalization project in accordance with the report prepared under section 1135 of the Water Resources Development Act of 1986 (100 Stat. 4251–4252) for such headwaters project and any modifications as are recommended by the Secretary based on the benefits derived for the environmental restoration of the Kissimmee River basin, at a total cost of $92,210,000, with an estimated Federal cost of $46,105,000 and an estimated non-Federal cost of $46,105,000. The Secretary shall take such action as may be necessary to ensure that implementation of the project to restore the Kissimmee River will maintain the same level of flood protection as is provided by the current flood control project.

(9) PORT EVERGLADES HARBOR, FLORIDA.—The project for navigation, Port Everglades Harbor, Florida: Report of the Chief of Engineers, dated September 23, 1991, at an annual cost of $94,500.

(10) SAVANNAH HARBOR, GEORGIA AND SOUTH CAROLINA.—The project for navigation, Sa-

vannah Harbor, Georgia and South Carolina: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $47,416,000, with an estimated Federal cost of $15,112,000 and an estimated non-Federal cost of $32,304,000. The Secretary is authorized to increase the Federal cost share of the recommended plan in accordance with the cost-sharing provisions of the Water Resources Development Act of 1986 (Public Law 99–662) if the Secretary determines that such an increase is warranted and appropriate.

(11) AMITE RIVER AND TRIBUTARIES, LOUISIANA.—The project for flood control, Amite River and Tributaries, Louisiana: Report of the Chief of Engineers, dated August 27, 1991, as modified by the letter of the Secretary, dated January 28, 1992, at a total cost of $65,902,000, with an estimated Federal cost of $32,951,000 and an estimated non-Federal cost of $32,951,000.

(12) SAUGUS RIVER AND TRIBUTARIES, MASSACHUSETTS.—The project for flood control, Saugus River and Tributaries, Massachusetts: Report of the Chief of Engineers, dated August 1, 1990, at a total cost of $95,700,000, with an estimated Federal cost of $61,360,000 and an estimated non-Federal cost of $34,340,000.

(13) LAS VEGAS WASH AND TRIBUTARIES, NEVADA.—The project for flood control, Las Vegas Wash and Tributaries, Nevada: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $204,300,000, with an estimated Federal cost of $144,000,000 and an estimated non-Federal cost of $60,300,000. The Secretary is further authorized to construct recreation features as proposed in the draft Feasibility Report and Environmental Impact Statement for Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), dated July 1990, at a total cost of $10,000,000, with an estimated Federal cost of $5,000,000 and an estimated non-Federal cost of $5,000,000.

(14) MOREHEAD CITY HARBOR, NORTH CAROLINA.—The project for navigation, Morehead City Harbor, North Carolina: Report of the Chief of Engineers, dated May 21, 1991, at a total cost of $10,030,000, with an estimated Federal cost of $6,360,000 and an estimated non-Federal cost of $3,670,000.

(15) WEST ONSLOW AND NEW RIVER INLET, NORTH CAROLINA.—The project for flood control, West Onslow and New River Inlet, North Carolina: Report of the Chief of Engineers, dated November 19, 1991, at a total cost of $14,100,000, with an estimated Federal cost of $7,600,000 and an estimated non-Federal cost of $6,500,000.

(16) LACKAWANNA RIVER AT OLYPHANT, PENNSYLVANIA.—The project for flood control, Lackawanna River at Olyphant, Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $11,354,000, with an estimated Federal cost of $7,691,000 and an estimated non-Federal cost of $3,663,000.

(17) LACKAWANNA RIVER AT SCRANTON, PENNSYLVANIA.—The project for flood control, Lackawanna River at Scranton, Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $15,117,000, with an estimated Federal cost of $11,344,000 and an estimated non-Federal cost of $3,773,000.

(18) LOCKS AND DAMS 2, 3, AND 4, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Locks and Dams 2, 3, and 4, Monongahela River, Pennsylvania: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $556,400,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(19) RIO GRANDE DE LOIZA, PUERTO RICO.—The project for flood control, Rio Grande De Loiza, Puerto Rico: Report of the Chief of Engineers, dated March 5, 1992, at a total cost of $122,285,000, with an estimated Federal cost of $97,009,000 and an estimated non-Federal cost of $25,276,000.

(20) SARGENT BEACH, TEXAS.—The project for navigation, Sargent Beach, Texas: Report of the Chief of Engineers, dated June 25, 1992, at a total cost of $67,667,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(21) SHOAL CREEK, AUSTIN, TEXAS.—The project for flood control, Shoal Creek, Austin, Texas: Report of the Chief of Engineers, dated June 16, 1992, at a total cost of $6,808,000, with an estimated Federal cost of $5,106,000 and an estimated non-Federal cost of $1,702,000.

(22) SANDBRIDGE BEACH, VIRGINIA BEACH, VIRGINIA.—The project for beach erosion control and hurricane protection, Sandbridge Beach, Virginia Beach, Virginia: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $8,850,000, with an estimated Federal cost of $5,750,000 and an estimated non-Federal cost of $3,100,000.

SEC. 102. PROJECT MODIFICATIONS.

(a) TENNESSEE-TOMBIGBEE WATERWAY, ALABAMA AND MISSISSIPPI.—

(1) IN GENERAL.—The Tennessee-Tombigbee Waterway Wildlife Mitigation project, Alabama and Mississippi, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4138), is modified to authorize—

(A) the Secretary to review lands acquired for the project to determine if such lands can be made available for related project uses (including port, industrial, and other community or regional economic development endeavors);

(B) the Secretary to sell or exchange any lands which are determined by the Secretary to be available for such related uses; and

(C) the Secretary to acquire from willing sellers lands to replace any lands sold or exchanged by the Secretary under this subsection.

(2) LIMITATIONS.—Lands acquired under this subsection shall fully replace lost wildlife habitat value. Acquisition of lands under this subsection may be by purchase, exchange, or a combination thereof. Sales, exchanges, and acquisitions under this subsection shall be at fair market value and shall be with the consent of appropriate Federal and State fish and wildlife agencies. No lands may be sold under this subsection until replacement lands have been acquired under this subsection. Management of lands acquired under this subsection and reimbursement of costs with respect to such lands shall be the same as for lands acquired for the project before the date of the enactment of this Act.

(b) GOLETA AND VICINITY, CALIFORNIA.—The project for flood protection, Santa Barbara County Coastal Streams and tributaries in the area of Goleta, California, authorized by section 201 of the Flood Control Act of 1970 (84 Stat. 1862), is modified to authorize the Secretary to carry out the recommendations contained in the report of the Chief of Engineers relating to flood protection for Goleta and vicinity, California, dated March 25, 1991, at a total cost of $6,800,000, with an estimated Federal cost of $4,800,000 and an estimated non-Federal cost of $2,000,000.

(c) OCEANSIDE HARBOR, CALIFORNIA.—The project for navigation, Oceanside Harbor, California, authorized by the River and Harbor Act of 1965 (79 Stat. 1092), is modified to authorize the Secretary to repair, operate, and maintain the extension of the south jetty constructed in 1968.

(d) SAN LEANDRO MARINA, CALIFORNIA.—

(1) MAINTENANCE OF SOUTHERN CHANNEL.—The project for navigation, San Leandro Marina, Jack D. Maltester Channel, California, authorized under section 201 of the Flood Control Act of 1965 by resolutions adopted by the Committee on Public Works and Transportation of the House of Representatives on June 22, 1971, and adopted by the Committee on Environment and Public Works of the Senate on December 15, 1970, is modified to direct the Secretary to maintain the 8-foot deep and 100-foot wide access channel extending from the southern auxiliary access channel to the boat launching ramp in the small boat lagoon.

(2) DEAUTHORIZATION OF NORTHERN CHANNEL.—The northern auxiliary access channel of the project referred to in paragraph (1) is not authorized after the date of the enactment of this Act.

(3) NAMING OF SOUTHERN CHANNEL.—

(A) DESIGNATION.—The southern auxiliary channel referred to in paragraph (1) shall be known and designated as the "Jack D. Maltester Channel".

(B) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the channel referred to in subparagraph (A) shall be deemed to be a reference to the "Jack D. Maltester Channel".

(e) CROSS FLORIDA BARGE CANAL.—Section 1114 of the Water Resources Development Act of 1986 (16 U.S.C. 460tt) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) CONTRACT FOR CONTINUED O&M.—

"(1) IN GENERAL.—During the period beginning on November 28, 1992, and ending on September 30, 1993, the Secretary is authorized and directed to offer to enter into a contract with the St. Johns River Water Management District and the Southwest Florida Water Management District of the State of Florida for the continued operation and maintenance by the Secretary of the portions of the project described in subsection (d). The maintenance shall be performed at a level of service that is necessary to ensure safe operating conditions and to prevent deterioration of the structures. No major rehabilitations or renovations shall be performed by the Secretary in such portions of the project during such period.

"(2) FUNDING.—Funding for the continued operation and maintenance of the barge canal project by the Secretary under this subsection shall not exceed $300,000. The State of Florida shall pay a non-Federal share of $600,000 to fund the continued maintenance of the portions of the project described in subsection (d) in accordance with paragraph (1).".

(f) O'HARE SYSTEM OF THE CHICAGOLAND UNDERFLOW PLAN, ILLINOIS.—The project for flood control, O'Hare System of the Chicagoland Underflow Plan, Illinois, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4115), is modified to authorize the Secretary to construct the project, at a total cost of $29,000,000, with an estimated Federal cost of

$17,800,000 and an estimated non-Federal cost of $11,200,000.

(g) ILLINOIS RIVER, ILLINOIS.—The project for inland navigation, Illinois River, Illinois, authorized by the Rivers and Harbors Act of 1935 (49 Stat. 1035), is modified to direct the Secretary to acquire dredged material disposal areas for such project, at a total Federal cost of not to exceed $7,000,000.

(h) SOUTH FRANKFORT, KENTUCKY.—The project for flood protection, South Frankfort, Kentucky, authorized by section 102(o) of the Water Resources Development Act of 1990 (104 Stat. 4613), is modified to provide that the cost of conducting preconstruction engineering and design for the project shall not be included in the computation for determining the benefit-cost ratio for the project.

(i) LOCKS AND DAM 26, MISSISSIPPI RIVER, ALTON, ILLINOIS AND MISSOURI.—Section 102(l) of the Water Resources Development Act of 1990 (104 Stat. 4613) is amended by inserting before the period at the end of the last sentence "or other non-Federal interests".

(j) LAKE PONTCHARTRAIN, LOUISIANA.—The project for hurricane-flood protection on Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified—

(1) to direct the Secretary to construct measures to intercept and convey drainage from the landside slopes of project levees in Jefferson Parish, Louisiana, directly to the existing drainage system;

(2) to direct the Secretary to reevaluate the benefits of the constructed portions of the project which accrue to St. Bernard Parish and to the Lake Borgne Basin Levee District for the purposes of determining the portion of the benefits which were expected to accrue to the parish and district but which were not realized;

(3) to direct the Secretary to reduce the non-Federal share of the capital costs and operation and maintenance attributable to the parish and district by the percentage of the expected benefits which were not realized; and

(4) to provide that the parish and district shall not be required to make payments on their respective non-Federal responsibilities until the Secretary has made the reductions, if any, under paragraph (3).

In carrying out paragraphs (2) and (3), the Secretary shall utilize results of the study conducted under section 116(k) of the Water Resources Development Act of 1990 and any other relevant information.

(k) PARISH CREEK, SHADY SIDE, MARYLAND.—The project for navigation, Parish Creek, Shady Side, Maryland, authorized by the first section of the River and Harbor Act of August 30, 1935 (49 Stat. 1031), is modified to reduce the length of the western boundary of the turning basin by 100 feet.

(l) BUFFUMVILLE LAKE, MASSACHUSETTS.—The flood control project for Buffumville Lake, Massachusetts, authorized by section 3 of the Flood Control Act of August 18, 1941 (55 Stat. 639), is modified to add low flow augmentation as a project purpose and to direct the Secretary to operate the project to improve water quality on the French River, Connecticut and Massachusetts.

(m) SOUTH FORK ZUMBRO RIVER, MINNESOTA.—The project for flood control, South Fork Zumbro River Watershed, Rochester, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project at a total cost of $123,100,000, with an estimated Federal cost of $90,800,000 and an estimated non-Federal cost of $32,300,000.

(n) NEW MADRID HARBOR, MISSOURI.—The project for navigation, New Madrid Harbor, Missouri, authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), is modified to direct the Secretary to assume responsibility for maintenance of New Madrid County Harbor constructed by non-Federal interests before the date of the enactment of this Act in lieu of maintaining the existing Federal channel.

(o) PAPILLION CREEK AND TRIBUTARIES LAKES, NEBRASKA.—The project for flood control, Papillion Creek and Tributaries Lakes, Nebraska, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 743) and section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4119), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1992, at a total cost of $12,469,000, with an estimated Federal cost of $8,783,000 and an estimated non-Federal cost of $3,686,000.

(p) PASSAIC RIVER MAIN STEM, NEW JERSEY AND NEW YORK.—Section 101(a)(18) of the Water Resources Development Act of 1990 (104 Stat. 4607–4610) is amended—

(1) by adding at the end of subparagraph (A) the following new clause:

"(vi) FLOOD WARNING SYSTEM.—The Secretary is authorized to establish, operate, and maintain, at full Federal expense, the Passaic River flood warning system element of the project before completion of construction of the tunnel element of the project.";

(2) in subparagraph (B) by striking "Jackson" and inserting "Brill";

(3) in subparagraph (B) by striking "$6,000,000" and inserting "$25,000,000";

(4) in subparagraph (B) by striking "and scenic overlook facilities" and inserting "scenic overlook facilities, and public access to Route 21";

(5) in subparagraph (B) by inserting after the first sentence the following new sentence: "The project element authorized by this subparagraph shall be carried out, in cooperation with the city of Newark, so that it is compatible with the proposed reconstruction plans for Route 21 and the proposed arts center.";

(6) in subparagraph (B) by striking "may be undertaken" and inserting "shall be undertaken";

(7) in the first sentence of subparagraph (C)(vi) by inserting after "for" the first place it appears "the purpose of assuring the integrity of";

(8) in subparagraph (C)(vii) by inserting "the additional" after "Act, the fair market value of";

(9) in subparagraph (C)(vii) by inserting "integrity of the" before "Wetlands Bank";

(10) in subparagraph (C)(vii) by inserting "and any other flood control project in the Passaic River basin" after "by this paragraph";

(11) in subparagraph (C)(viii) by striking "for the Wetlands Bank" and inserting "in accordance with clauses (ii) and (vi)"; and

(12) in subparagraph (C)(viii) by inserting "and financial" after "economic".

(q) RARITAN BAY AND SANDY HOOK BAY, NEW JERSEY.—The project for hurricane-flood protection, Raritan Bay and Sandy Hook Bay, New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181), is modified to provide periodic beach nourishment for Cliffwood Beach for 50 years.

(r) SANDY HOOK TO BARNEGAT INLET, NEW JERSEY.—The project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, authorized by the River and Harbor Act of 1958, is modified to provide that costs incurred by the non-Federal interests to stabilize the seawall at Belmar and Spring Lake, New Jersey, shall be credited, to the extent that the Secretary determines that the work of stabilizing the seawall is compatible with the project, against the non-Federal share of the cost of construction and maintenance of section 2 of the project (Asbury Park to Manasquan).

(s) RIO GRANDE FLOODWAY, NEW MEXICO.—Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by section 203 of the Flood Control Act of 1948 (Public Law 80–858) and amended by section 204 of the Flood Control Act of 1950 (Public Law 81–516), is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties; except that, for purposes of this subsection, Federal property benefits may not exceed 50 percent of the total project benefits.

(t) JONES INLET, NEW YORK.—The project for navigation, Jones Inlet, New York, is modified to authorize and direct the Secretary to conduct a reconnaissance and feasibility study on placing noncontaminated dredged material on beach areas downdrift from the federally maintained channel at full Federal expense for purposes of mitigating environmental and other attendant damages resulting from the interruption of littoral system natural processes caused by jetty construction and continued dredging of the Federal channel.

(u) WESTHAMPTON BEACH, NEW YORK.—The project for beach erosion control and hurricane protection for Westhampton Beach, New York, authorized by the Water Resources Development Act of 1974, and modified by the Water Resources Development Act of 1986, is further modified to extend the period of beach nourishment for 30 years from the date of project completion. The non-Federal share of project costs shall not exceed 35 percent of the total project cost as provided in such Acts.

(v) BROKEN BOW LAKE, RED RIVER BASIN, OKLAHOMA.—The project for flood control and water supply, Broken Bow Lake, Red River Basin, Oklahoma, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 309) and modified by the Flood Control Act of 1962, is further modified to provide for the reallocation of a sufficient amount of existing and available water supply storage space in Broken Bow Lake to support the Mountain Fork trout fishery. Releases of water from Broken Bow Lake for the Mountain Fork trout fishery shall be undertaken under terms and conditions acceptable to the Secretary.

(w) WYOMING VALLEY, PENNSYLVANIA.—The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified—

(1) to direct the Secretary to complete the final phase II design memorandum for the project (including the results of a review of nonstructural mitigation plans for the purpose of ameliorating damages from induced flooding) not later than August 8, 1994;

(2) to authorize the Secretary—

(A) to cooperate with non-Federal interests to make use of equipment and employees of the non-Federal interests in carrying out the project; and

(B) to credit the non-Federal share of the cost of the project for the value of the use of such equipment and employees; and

(3) to provide that, notwithstanding the last sentence of subsection (c) of section 104 of the Water Resources Development Act of 1986—

(A) non-Federal interests may apply for crediting under such section 104, against the non-Federal share of the cost of the project, the cost of work carried out after June 1, 1972, by the non-Federal interests which the Secretary determines is compatible with the project; and

(B) the Secretary may approve of such crediting to the extent the Secretary determines appropriate.

(x) CHETCO RIVER, OREGON.—The project for navigation, Chetco River, Oregon, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092), is modified to direct the Secretary to assume responsibility for operation and maintenance of the approximately 200-foot long access channel to the south commercial boat basin consistent with authorized project depths.

(y) PORT ORFORD, OREGON.—Section 117 of the River and Harbor Act of 1970 (84 Stat. 1822) is amended by striking the last sentence and inserting the following: "The Secretary is authorized to maintain the authorized Federal navigation channel at Port Orford, Oregon, including those portions of the channel within 50 feet of the port facility.".

(z) CLIFF WALK, NEWPORT, RHODE ISLAND.—Notwithstanding any other provision of law and any agreement, the Federal share of the cost of repairs and improvements to the Cliff Walk, Newport, Rhode Island, in fiscal year 1993 and succeeding fiscal years shall not be less than 50 percent of the total cost of the project.

(aa) RAY ROBERTS LAKE, ELM FORK OF THE TRINITY RIVER, TEXAS.—The project for navigation, Ray Roberts Lake, Elm Fork of the Trinity River, Texas, authorized by the River and Harbor Act of 1965 (79 Stat. 1091), is modified to direct the Secretary to construct access ramps to permit boat launching access during periods of high water at the Sanger, Jordan, and FM–372 access areas, at an estimated total cost of $55,000. Operation and maintenance of the access ramps shall be a non-Federal responsibility.

(bb) SIMS BAYOU, TEXAS.—The project for flood control, Sims Bayou, Texas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4125), is modified to direct the Secretary to include, to the extent practicable, measures to improve environmental quality and riparian habitat.

(cc) VIRGINIA BEACH, VIRGINIA.—The project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), is modified to authorize the Secretary to construct the project at a total cost of $112,000,000, with an estimated Federal cost of $72,800,000 and an estimated non-Federal cost of $39,200,000, and an average annual cost of $2,000,000 for the periodic beach nourishment over the 50-year economic life of the project, with an estimated Federal cost of $1,300,000 and an estimated non-Federal cost of $700,000. In carrying out the project, the Secretary is directed to construct the project with a uniform level of protection against a 100-year storm event, plus or minus 15 years, from Rudee Inlet to 89th Street by construction of a seawall from Rudee Inlet to 58th Street with a maximum top of seawall elevation of 13.5 feet (NGVD), dune reconstruction where necessary from 58th Street to 89th Street with a maximum top of dune elevation of 18 feet (NGVD), and construction of a beach berm from Rudee Inlet to 89th Street to a maximum design elevation of 10 feet (NGVD), and a width at design elevation to obtain the desired level of protection. In carrying out the project, the Secretary is also directed to provide for interior storm water to be collected into a pipe which will run longitudinally beneath the reconstructed boardwalk and to be discharged offshore by pumping through subsurface pipelines.

(dd) LOWER GRANITE LOCK AND DAM, WASHINGTON.—The Lower Granite Lock and Dam feature of the project for navigation, Snake River, Oregon, Washington, and Idaho, authorized by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21–22), is modified to authorize the Secretary to construct an all weather surface road in Whitman County, Washington, from Whitman County Road 9000 at the mouth of the Wawawai Canyon to existing roads in the vicinity of the Lower Granite Dam. The cost of such construction shall be assigned to navigation.

(ee) BEECH FORK LAKE, WEST VIRGINIA.—The project for flood control, Beech Fork Lake, West Virginia, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1188), is modified to direct the Secretary to complete a study at a cost of not to exceed $500,000 and issue a report on relocation of the lodge resort complex authorized to be constructed as part of the project and to carry out the project substantially in accordance with such report.

(ff) BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.—The project for flood control, Bluestone Lake, Ohio River Basin, West Virginia, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to take such measures as are technologically feasible to prohibit the release of drift and debris into waters downstream of the project, including measures to prevent the accumulation of drift and debris at the project, the collection and removal of drift and debris on the segment of the New River upstream of the project, and the removal (through the use of temporary or permanent systems) and disposal of accumulated drift and debris at Bluestone Dam.

(gg) LA CROSSE AND SHELBY, WISCONSIN.—The project for flood protection of State Road and Ebner Coulees, city of La Crosse and Shelby Township, Wisconsin, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742), is modified to direct the Secretary to reimburse the non-Federal sponsor $1,467,000 for the Federal share of work performed by the non-Federal sponsor in connection with the project. Such reimbursement shall be in addition to amounts previously reimbursed by the Secretary for such work.

SEC. 103. VISITOR CENTERS.

(a) MELVIN PRICE LOCK AND DAM, ALTON, ILLINOIS.—

(1) CONSTRUCTION.—The Secretary may construct a regional visitor center of at least 24,000 square feet at the Melvin Price Lock and Dam, Alton, Illinois.

(2) PURPOSES.—The purposes of the visitor center to be constructed under this subsection shall be to inform the public of—

(A) the role of the United States Army Corps of Engineers in inland navigation along the Mississippi River and its tributaries,

(B) the role of the Melvin Price Lock and Dam in such inland navigation,

(C) the socioeconomic development of the surrounding area, and

(D) events of historical, archaeological, cultural, and natural significance in such area.

(b) MT. MORRIS DAM, NEW YORK.—

(1) CONSTRUCTION.—The Secretary shall construct a visitor center at Mt. Morris Dam, Mt. Morris, New York, in accordance with alternative 2 contained in the report of the District Engineer, Buffalo District, entitled "Mt. Morris Dam, Interpretive Development Prospectus, Visitor Reception Area", dated February 22, 1991.

(2) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "William B. Hoyt II Visitor Center".

(c) LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE.—

(1) ESTABLISHMENT.—The Secretary shall establish and operate in accordance with this subsection an interpretive facility (including a museum and interpretive site) in Vicksburg, Mississippi, which shall be known as the "Lower Mississippi River Museum and Riverfront Interpretive Site".

(2) LOCATION OF MUSEUM.—The museum shall be located on property currently held by the Resolution Trust Corporation in the vicinity of the Mississippi River Bridge in Vicksburg, Mississippi. Title to the property shall be transferred to the Secretary at no cost.

(3) INTERPRETIVE SITE.—The interpretive site shall be located on riverfront property between the Mississippi River Bridge and the Mississippi Riverpark in Vicksburg, Mississippi. The Secretary is authorized to acquire surface use easements for such site on a willing seller basis.

(4) LIMITATION ON ACQUISITION AUTHORITY.—The Secretary may not use condemnation of property in carrying out this subsection.

(5) PURPOSES OF THE MUSEUM AND INTERPRETIVE SITE.—The purposes of the Lower Mississippi River Museum and Riverfront Interpretive Site are to—

(A) promote an understanding of the Lower Mississippi River and the United States Army Corps of Engineers' role in developing and managing this nationally significant resource;

(B) interpret the United States Army Corps of Engineers historic presence in the Lower Mississippi River Valley and its administration of the Mississippi River and Tributaries project;

(C) provide an understanding of the many Corps of Engineers branches and facilities in the Vicksburg area and their relationship to flood control, navigation, and environmental conservation in the Mississippi River;

(D) highlight the Mississippi River's influence on the Vicksburg area and the river valley's natural, historic, and cultural resource contributions;

(E) highlight local Corps of Engineers projects and management strategies;

(F) provide an understanding of the surrounding natural riparian environment adjacent to the Mississippi River through public access and interpretive displays; and

(G) promote the worldwide application of water resource technologies learned from using the Mississippi River as a working model.

(6) RELATED AGENCIES AND PROGRAMS.—

(A) SMITHSONIAN INSTITUTION.—The Secretary shall consult with the Secretary of the Smithsonian Institution in the planning and design of the museum and riverfront interpretive site under this subsection.

(B) DEPARTMENT OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior and the Director of the National Park Service in the planning, design, and implementation of interpretive programs for the museum and riverfront interpretive site to be established under this subsection.

(C) VISITOR SERVICES.—The Secretary is directed to provide increased and enhanced visitor services at the United States Army Corps of Engineers, Waterways Experiment Station in Vicksburg, Mississippi.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this subsection, including acquiring and restoring under paragraph (2) the property held by the Resolution Trust Corporation and planning, designing, and constructing the museum and riverfront interpretive site under this subsection.

(d) NORTHEASTERN NEW JERSEY REGIONAL FLOOD OPERATIONS-RESPONSE, ENGINEERING, AND VISITOR CENTER.—

(1) CONSTRUCTION.—The Secretary is directed to construct a visitor center in northeastern New Jersey of at least 15,000 square feet to serve as the center for the United States Army Corps of Engineers operations and emergency response engineering activities within the Passaic, Hackensack, Raritan, and Atlantic Coast floodplain areas and to inform the public of the Corps of Engineers' flood damage reduction and emergency preparedness roles for these areas, the socioeconomic development of the region, and events of historical, archaeological, cultural, and natural significance to these areas.

(2) PARK LAND FOR VISITOR ACCESS.—The visitor center to be constructed under this subsection shall include approximately 5 acres of public park land for visitor access.

(3) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "Northeastern New Jersey Regional Flood Operations-Response, Engineering, and Visitor Center".

(4) INTERIM MEASURES.—The Secretary is directed to provide increased and enhanced flood emergency operations and engineering preparedness and visitor services at the Corps of Engineers' Passaic River Division office in Hoboken, New Jersey, until such time as the center to be constructed under this subsection is operational.

(e) JOHN PAUL HAMMERSCHMIDT LAKE, ARKANSAS.—

(1) CONSTRUCTION.—The Secretary shall construct a visitors center for the Army Corps of Engineers at the John Paul Hammerschmidt Lake, Arkansas River, Arkansas.

(2) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "John Paul Hammerschmidt Visitor Center".

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 104. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) CALCASIEU RIVER, LOUISIANA.—A navigation project for the Calcasieu River, Louisiana, to enlarge the existing channel to the Port of Cameron to dimensions of 18 feet by 200 feet.

(2) CALCASIEU RIVER, LOUISIANA.—A navigation project for the Calcasieu River, Louisiana, to enlarge the southern portion of the Cameron Loop to dimensions of 18 feet by 140 feet.

(3) PROVINCETOWN HARBOR, MASSACHUSETTS.—A navigation project for Provincetown Harbor, Massachusetts.

(4) AUNT LYDIA'S COVE, CHATHAM, MASSACHUSETTS.—A navigation project for Aunt Lydia's Cove, Chatham, Massachusetts.

(5) GRAND MARAIS, MINNESOTA.—A project for a harbor of refuge, Grand Marais, Minnesota.

(6) GRAND PORTAGE, MINNESOTA.—A project for a harbor of refuge, Grand Portage, Minnesota.

(7) SILVER BAY, MINNESOTA.—A project for a harbor of refuge, Silver Bay, Minnesota.

(8) SEAWAY PIER, BUFFALO, NEW YORK.—A navigation project for construction of a floating breakwater at Seaway Pier, Buffalo, New York.

(9) TANGIER ISLAND, VIRGINIA.—A navigation project for construction of a breakwater to protect navigation facilities at Tangier Island, Virginia.

SEC. 105. SMALL FLOOD CONTROL PROJECTS.

(a) PROJECT AUTHORIZATIONS.—The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) BLUE RIVER AND BROCK CREEK, SALEM, INDIANA.—A project for flood control, West Fork of the Blue River and Brock Creek, Salem, Indiana.

(2) WHITE RIVER, ELNORA, INDIANA.—A project for flood control, White River, Elnora, Indiana.

(3) WHITE RIVER, GIBSON COUNTY, INDIANA.—A project for flood control, White River, Hazelton, Gibson County, Indiana.

(4) WHITE RIVER, PETERSBURG, INDIANA.—A project for flood control, White River, Petersburg, Indiana.

(5) WABASH RIVER, KNOX COUNTY, INDIANA.—A project for flood control Wabash River, Knox County, Indiana.

(6) RED RIVER AT GRAND MARAIS OUTLET, MINNESOTA.—A project for flood control, Red River at Grand Marais Outlet, Minnesota.

(7) SULLIVAN RUN CREEK, BUTLER, PENNSYLVANIA.—A project for flood control, Sullivan Run Creek, Butler, Pennsylvania. The non-Federal share of the cost of the project shall be determined in accordance with section 103(m) of the Water Resources Development Act of 1986.

(8) LITTLE FOSSIL CREEK, TEXAS.—A project for flood control, Little Fossil Creek, Tarrant County, Texas.

(9) TURPENTINE RUN, ST. THOMAS, VIRGIN ISLANDS.—A project for flood control, Turpentine Run, St. Thomas, Virgin Islands.

(b) ST. PETERS, ST. CHARLES COUNTY, MISSOURI.—

(1) MAXIMUM ALLOTMENT.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, St. Peters, St. Charles County, Missouri, shall be $10,000,000 instead of $5,000,000. The Secretary shall revise the local cooperation agreement for such project entered into under section 221 of the Flood Control Act of 1970 to conform with the increase under this paragraph in the Federal participation in such project.

(2) COST SHARING.—Nothing in this subsection shall be construed as affecting any cost sharing requirements applicable to the project under the Water Resources Development Act of 1986.

SEC. 106. SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of San Francisco Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation, and site monitoring.

(3) PHASES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed not later than the last day of the 6-month period beginning on the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including construction of on-site improvements, shall be completed not later than the last day of the 10-month period beginning on the date of the enactment of this Act.

(C) THIRD PHASE.—The third phase of the plan, including dredging, transportation, and placement of material, shall be started not later than July 1, 1994.

(D) FINAL PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—

(1) NON-FEDERAL SHARE.—The non-Federal share of the cost of developing and carrying out the project under this section shall be 25 percent.

(2) LANDS EASEMENTS AND RIGHTS-OF-WAY.—Subject to paragraph (1), non-Federal interests shall provide lands, easements, and rights-of-way necessary to carry out the project the value of which shall be credited toward the non-Federal share.

(e) REPORTS TO CONGRESS.—Not later than the last day of each of the time periods referred to in subsection (c)(3), the Secretary shall report to Congress on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 107. UPPER MISSISSIPPI RIVER PLAN.

(a) EXTENSION OF AUTHORIZATION.—Section 1103(e) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)) is amended—

(1) in paragraph (2) by striking "ten" each place it appears and inserting "15";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) TRANSFER OF AMOUNTS.—

"(A) GENERAL RULE.—Subject to subparagraph (B), for each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior, and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer not to exceed 20 percent of the amount appropriated to carry out each of subparagraphs (A), (B), and (C) of paragraph (1) to carry out any other of such subparagraphs.

"(B) LIMITATION.—The aggregate amounts obligated in fiscal years 1988 through 2002—

"(i) to carry out paragraph (1)(A) may not exceed $189,600,000;

"(ii) to carry out paragraph (1)(B) may not exceed $78,800,000; and

"(iii) to carry out paragraph (1)(C) may not exceed $12,040,000.".

(b) FISH AND WILDLIFE HABITAT REHABILITATION AND ENHANCEMENT PROJECTS.—Section 1103(e) of such Act is amended by striking paragraph (7)(A), as redesignated by subsection (a)(2), and inserting the following new paragraph:

"(7)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 906(e) of this Act; except that the costs of operation and maintenance of projects located on Federal lands or lands owned or operated by a State or local government shall be borne by the Federal, State, or local agency that is responsible for management activities for fish and wildlife on such lands.".

SEC. 108. QUARANTINE FACILITY.

(a) CONSTRUCTION.—The Secretary, in consultation with the Governor of Florida, shall construct a research and quarantine facility in Broward County, Florida, to be used in connection with efforts to control Melaleuca and other exotic plant species that threaten native ecosystems in the State of Florida.

(b) OPERATION AND MAINTENANCE.—After construction, the Secretary shall transfer the facility constructed under this section to the Secretary of Agriculture. The facility shall be jointly maintained and operated by the Department of Agriculture and an appropriate agency or agencies of the State of Florida.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $1,000,000 for the construction of the facility described in subsection (a). Such sums shall remain available until expended.

SEC. 109. COLUMBIA, SNAKE, AND CLEARWATER RIVERS.

(a) DREDGING.—The Secretary is authorized to maintain navigation access to, and berthing areas at, all currently operating public and private commercial dock facilities associated with or having access to the Federal navigation project on the Columbia, Snake, and Clearwater Rivers from Bonneville Dam to and including Lewiston, Idaho, at a depth commensurate with the Federal navigation project.

(b) EXEMPTION FROM LIABILITY.—The Federal Government is exempted from any liability for damages to public and private facilities resulting from work performed under this section, including any damages to docks adjacent to the access channel and berthing areas.

SEC. 110. OUTER HARBOR, BUFFALO, NEW YORK.

The Secretary may construct such bulkheads along the Outer Harbor, Buffalo, New York, as may be necessary to protect the shoreline and reduce the flow of pollutants into Lake Erie.

SEC. 111. SMALL STREAMBANK CONTROL PROJECT, WALNUT CANYON CREEK, CALIFORNIA.

The Secretary shall conduct a study for a streambank and shoreline protection project for Walnut Canyon Creek, Anaheim, California, and, if the Secretary determines that the project is feasible, shall carry out such project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r). The project shall be carried out in accordance with the locally preferred plan, and the non-Federal sponsor shall provide 100 percent of any costs incurred in carrying out the project which are in excess of the costs which would have been incurred in carrying out the project in accordance with the National Economic Development Plan developed by the Secretary.

SEC. 112. MONTGOMERY POINT LOCK AND DAM, ARKANSAS.

The Secretary shall proceed expeditiously with design, land acquisition, and construction of the Montgomery Point Lock and Dam on the White River, Arkansas, authorized as part of the McClellan-Kerr Waterway by section 10 of the River and Harbor Act of December 22, 1944 (58 Stat. 895).

SEC. 113. MAJOR REHABILITATION.

The costs of major rehabilitation of the following projects are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund:

(1) Brandon Road Lock, Dresden Lock, Marseille Lock, and Lockport Lock, Illinois Waterway, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $32,700,000.

(2) Lock and dam number 13, Mississippi River, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $21,280,000.

(3) Locks and dam number 15, Mississippi River, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $19,180,000.

SEC. 114. STUDIES.

(a) CENTRAL BASIN GROUND WATER PROJECT, CALIFORNIA.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to conduct a study for the purpose of determining whether there is contaminated ground water flowing downstream from the San Gabriel Valley Ground Water Basin to the Central Ground Water Basin in California through existing Federal facilities at Whittier Narrows Dam, Los Angeles County, California.

(b) SANTA PAULA CREEK, CALIFORNIA.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete the general reevaluation study for the project for flood control, Santa Paula Creek, California, authorized by the Flood Control Act of 1948 (62 Stat. 1175–1182) and transmit to Congress a report on the results of such study.

(c) SUCCESS RESERVOIR, TULE RIVER, CALIFORNIA.—Not later than May 31, 1994, the Secretary shall complete and transmit to Congress a feasibility study for enlargement of the flood control project for the Success Reservoir, on the Tule River, California, authorized by section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 901). The study shall include a review of the need for, and desirability of, construction of an upstream toe berm for reservoir embankment stability. The non-Federal share of the enlargement of the project shall be determined in accordance with section 903(c) of the Water Resources Development Act of 1986.

(d) DISTRICT OF COLUMBIA AND MARYLAND.—

(1) IN GENERAL.—The Secretary shall, as part of the ongoing review of the Anacostia River Watershed in the District of Columbia and Maryland—

(A) carry out a comprehensive assessment of adverse impacts to such watershed from Federal facilities;

(B) review current plans for reducing such adverse impacts; and

(C) carry out a feasibility study to identify and recommend measures for implementation to eliminate such adverse impacts.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(e) CANAVERAL HARBOR, FLORIDA.—The Secretary shall expeditiously complete the General Design Memorandum for the sand transfer portion of the navigation project for Canaveral Harbor, Florida, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1174).

(f) TAMPA HARBOR, ALAFIA RIVER AND BIG BEND, FLORIDA.—The Secretary shall complete in an expeditious manner that portion of the navigation study for Tampa Harbor, Alafia River and Big Bend, Florida, relating to the Alafia River. The Secretary may accept contributions from non-Federal sponsors to cover costs incurred by the Secretary in carrying out such portion of such study.

(g) CEDAR RIVER AND TRIBUTARIES, BLACKHAWK, IOWA.—The Secretary shall complete the feasibility study for Cedar River and tributaries, Blackhawk, Iowa, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.

(h) PORT FOURCHON NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall complete the study for Federal maintenance of the Port Fourchon Navigation Channel, Louisiana, not later than the last day of the 12-month period beginning on the date of the enactment of this Act.

(i) BROCKTON, MASSACHUSETTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study of—

(A) the water supply, distribution, and transmission needs of the city of Brockton, Massachusetts, for the purpose of developing recommendations for Federal participation in meeting such needs;

(B) the economic, engineering, and environmental feasibility of providing additional water supply for Brockton, Massachusetts, and vicinity in the Taunton River Basin with a view toward providing for future regional increase in municipal and industrial water demands; and

(C) the water quality and quantity and related land resources of the Taunton River for the purpose of developing a detailed survey and evaluation of existing and future uses of the resources.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the

Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1). The report must include, at a minimum, a recommendation for the best location of a reservoir for water supply storage on the Taunton River as well as a treatment plant and a recommendation for a route for piping the water from the treatment plant to Brown's Crossing and to Brockton.

(j) HAVERHILL, MASSACHUSETTS.—

(1) STUDY.—The Secretary shall conduct a study on proposed uses of the seawall located in Haverhill, Massachusetts.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(k) GRAND MARAIS HARBOR, MICHIGAN.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall conduct an economic reevaluation of proposed improvements at Grand Marais Harbor, Michigan.

(l) YAZOO BASIN, MISSISSIPPI.—

(1) REVIEW AND EVALUATION.—The Secretary shall conduct a review and evaluation of the recreational master plan for Yazoo Basin, Mississippi.

(2) PURPOSE.—The purpose of the review and evaluation to be conducted under paragraph (1) is to develop recommendations for Federal and non-Federal participation in the master plan referred to in paragraph (1).

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the review and evaluation to be conducted under this subsection.

(m) RAMAPO RIVER AT OAKLAND, NEW JERSEY.—The Secretary shall conduct a study of the project for flood control, Ramapo River, Oakland, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4120), for the purpose of determining the feasibility of modifying the project to include realignment of the Ramapo River channel modification through Potash Lake, replacement of the Pompton Lake Dam bascule flood gates with taintor gates, and provision of a 40-year level of flood protection.

(n) LITTLE RIVER, NIAGARA FALLS, NEW YORK.—The Secretary shall complete the feasibility study for Little River, City of Niagara Falls, New York, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.

(o) STRAWBERRY ISLAND, NEW YORK.—

(1) COMPLETION OF STUDY.—The Secretary shall complete the feasibility study of shoreline protection for Strawberry Island, New York, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.

(2) INTERIM EMERGENCY MEASURES.—Pending completion of the study of shoreline protection for Strawberry Island, New York, the Secretary shall undertake such emergency measures as may be necessary to provide shoreline protection for Strawberry Island.

(p) WISTER LAKE, OKLAHOMA.—

(1) STUDY.—The Secretary shall complete a study of the flood control project for Wister Lake, LeFlore County, Oklahoma, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1218), for the purpose of determining the feasibility of modifying the project to increase the level of the conservation pool by 1 foot and to adjust the seasonal pool operation to accommodate the change in the conservation pool elevation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of study conducted under paragraph (1).

(q) SALMON HARBOR, OREGON.—The Federal share of the cost of completion of the study for mitigation of shoreline damage attributable to the Federal navigation project at Salmon Harbor, Oregon, authorized by section 111 of the River and Harbor Act of 1968 (82 Stat. 735), shall be 100 percent.

(r) HAMPTON AND POQUOSON, VIRGINIA.—

(1) STUDY.—The Secretary shall conduct independent studies to determine the Federal interest in and feasibility of providing improvements to the Chesapeake Bay shoreline in the cities of Hampton and Poquoson, Virginia, for environmental protection and enhancement, and protection against high tides and wave action as a result of hurricane and other storm events.

(2) REPORT.—The Secretary shall submit to Congress a report on the results of the studies conducted under this subsection together with a plan of action which the Secretary recommends and an estimate of the cost of implementing such plan.

(s) CORPUS CHRISTI SHIP CHANNEL, TEXAS.—The Secretary shall conduct a study of the project for navigation, Corpus Christi Ship Channel, Texas, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 298), for the purpose of determining the feasibility of modifying the project to include maintenance of the Jewel Fulton Canal at a depth of 17 feet as a Federal responsibility.

(t) TUG VALLEY GREENWAY, WEST VIRGINIA.—

(1) STUDY.—The Secretary is directed to conduct a study to determine the feasibility of establishing a "Tug Valley Greenway", in relation to those projects along the Tug Fork River in West Virginia authorized by section 202 of Public Law 96–367, for the purpose of utilizing the river environment for public recreation opportunities. Specific consideration shall be given in the study to providing for hiking trails, fishing access points, bike paths, and scenic overlooks.

(2) CONSULTATION.—In conducting the study under this subsection, the Secretary shall consult with interested State and local government authorities and nonprofit organizations.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

SEC. 115. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS AND STUDIES.

(a) GENERAL RULE FOR PROJECTS.—Notwithstanding section 1001 of the Water Resources Development Act of 1986, the following projects shall remain authorized to be carried out by the Secretary:

(1) GREEN BAY LEVEE DISTRICT, IOWA.—The project for flood control, Green Bay Levee District, Iowa, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115).

(2) LAKE PONTCHARTRAIN, NORTH SHORE, LOUISIANA.—The project for beach erosion control, navigation, and recreation, Lake Pontchartrain, North Shore, Louisiana, authorized by section 601 of the Water Resources Development Act of 1986 (100 Stat. 4142).

(3) ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.—The project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

(4) DEAL LAKE, MONMOUTH COUNTY, NEW JERSEY.—The project for removal of silt and stumps and the control of pollution from nonpoint sources, Deal Lake, Monmouth County, New Jersey, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148–4149).

(5) TYRONE, PENNSYLVANIA.—The project for flood protection, Tyrone, Pennsylvania, on the Little Juniata River authorized by section 10 of the Flood Control Act of December 23, 1944 (58 Stat. 893). The Secretary shall examine lower cost alternative measures for providing flood protection for Tyrone, Pennsylvania, and submit to Congress a report on the results of such examination not later than April 1, 1994.

(6) BIG PINE LAKE, TEXAS.—The project for flood control, Big Pine Lake, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1186).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

SEC. 116. PROJECT DEAUTHORIZATIONS.

The following projects are not authorized after the date of the enactment of this Act:

(1) BOOTHBAY HARBOR, MAINE.—The following portion of the project for navigation, Boothbay Harbor, Maine, authorized by the River and Harbor Act of 1912, shoreward (easterly) of the line described below:

Beginning at a bend in the Federal navigation channel whose coordinates are N. 370950.51, E. 642621.79, running thence in a southwesterly direction about 200 feet to a point whose coordinates are N. 370766.64, E. 642543.09, running thence in a southerly direction about 270.10 feet to a point whose coordinates are N. 370500.00, E. 642500.00.

(2) BOSTON INNER HARBOR CHANNEL, MASSACHUSETTS.—The following 305,340-square-foot portion of the 35-foot channel in Boston Inner Harbor lying easterly of the Charlestown waterfront and westerly of the 40-foot main ship channel, authorized by the River and Harbor Act of June 13, 1902:

Commencing at a point of the intersection of the 35-foot channel line and the westerly 40-foot main ship channel line in Boston Harbor, said point being opposite the east face of Pier 11, Charlestown, Massachusetts; thence running south 10 degrees 17 minutes 15 seconds east 323.54 feet to a point; thence turning and running south 15 degrees 21 minutes 11 seconds west 1,785.75 feet to a point, said last two courses being along the westerly 40-foot main ship channel line; thence turning and running south 65 degrees 18 minutes 42 seconds west 573.52 feet to a point at the bend in the existing westerly 35-foot channel line southeasterly of Pier 4 at Charlestown, Massachusetts; thence turning and running north 50 degrees 11 minutes 25 seconds east 523.55 feet to a point; thence turning and running north 15 degrees 21 minutes 11 seconds east 2,016.68 feet to a point of beginning, said last two courses being along the westerly 35-foot channel line.

(3) NEWBURYPORT, MASSACHUSETTS.—The following portion of the project for navigation, Newburyport Harbor, Massachusetts, authorized by the River and Harbor Act of 1910 (36 Stat. 632):

Commencing at a point north 661793.19 east 768152.83 a line running: north 39 degrees 07 minutes 47 seconds east 227.04 feet to a point north 661969.31 east 768296.11 thence turning and running, south 68 degrees 53 minutes 36 seconds east 2402.44 feet to a point north 661104.18 east 770537.38 thence turning and running, north 84 degrees 27 minutes 35 seconds east 1325.37 feet to a point north 661232.14 east 771856.55 thence turning and running, south 54 degrees 05 minutes 43 seconds west 327.30 feet to a point north 661040.20 east 771591.44 thence turning and running, south 25 degrees 40 minutes 37 seconds west 579.02 feet to a point north 660518.31 east 771340.53 thence turning and running, north 67 degrees 15 minutes 59 seconds west 1791.61 feet to a point north 661210.67 east 769688.11 thence turning and running, north 77 degrees 45 minutes 23 seconds west 1187.30 feet to a point north 661462.46 east 768527.82 thence turning and running, north 48 degrees 35 minutes 19 seconds west 500.00 feet returning to a point north 661793.19 east 768152.83.

(4) GREILICKVILLE, MICHIGAN.—The following portion of the navigation project for Greilickville, Michigan, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1173):

Beginning at the northwest corner of the turning basin, Federal navigation project, Grielickville Harbor, Leelanau County, Michigan, having a northing of 1,199,300 and an easting of 529,501 (Michigan Transverse Mercator, Central Zone, NAD 27) and being depicted on the Department of the Army, Detroit District Corps of Engineers Condition of Channel, sheet 1 of 1, dated March 1991; thence 77 degrees 18 minutes 20.4 seconds a distance of 250.7 feet, thence 167 degrees 18 minutes 20.4 seconds a distance of 175 feet, thence 94 degrees 12 minutes 39.2 seconds a distance of 222.8 feet, thence 167 degrees 36 minutes 07.2 seconds a distance of 600 feet, thence 303 degrees 41 minutes 24.2 seconds a distance of 57.7 feet, thence 257 degrees 22 minutes 57.6 seconds a distance of 421.2 feet, thence 347 degrees 19 minutes 23.2 seconds a distance of 797.4 feet to the point of beginning, containing 7.48 acres more or less.

(5) SOUTH HAVEN HARBOR, MICHIGAN.—The following portion of the navigation project for South Haven Harbor, Michigan, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and prevention of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1036):

Beginning at the southwest corner of the turning basin, Federal navigation project, South Haven, Van Buren County, Michigan, having a northing of 330,253.86 and an easting of 358,150.44 (Michigan Transverse Mercator, East Zone, NAD 27) and being depicted on the Department of the Army, Detroit District, Corps of Engineers, condition of channel sheet 2 of 2 dated February 1992; thence north 22 degrees 27 minutes 11 seconds east, along the westerly boundary, a distance of 412.51 feet, thence north 70 degrees 45 minutes 39 seconds east, a distance of 41.91 feet, thence south 61 degrees 05 minutes 08 seconds east, a distance of 325.77 feet, thence south 87 degrees 33 minutes 26 seconds east, a distance of 39.89 feet, thence south 43 degrees 25 minutes 55 seconds west, a distance of 110.35 feet, thence south 70 degrees 45 minutes 56 seconds west, a distance of 472.65 to the point of beginning (containing 2.19 acres, more or less).

(6) SAG HARBOR, NEW YORK.—The navigation project (other than the breakwater) for Sag Harbor, New York, authorized by the first section of the River and Harbor Act of August 30, 1935 (49 Stat. 1030).

SEC. 117. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

Section 1080 of the Intermodel Surface Transportation Efficiency Act of 1991 (105 Stat. 2020) is amended by inserting "thence north 00°-18′-51″ west, a distance of 764.43 feet;" after "551.30 feet;".

SEC. 118. NAMINGS.

(a) LOCK AND DAM 3, ARKANSAS RIVER, ARKANSAS.—

(1) DESIGNATION.—Lock and dam numbered 3 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall be known and designated as the "Joe Hardin Lock and Dam."

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Joe Hardin Lock and Dam".

(b) GREERS FERRY LAKE VISITORS CENTER, ARKANSAS.—

(1) DESIGNATION.—The visitors center at Greers Ferry Lake, Arkansas, authorized by section 4 of the Act of June 28, 1938 (52 Stat. 2218), shall be known and designated as the "William Carl Garner Visitors Center".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the visitors center referred to in paragraph (1) shall be deemed to be a reference to the "William Carl Garner Visitors Center".

(c) JOHN PAUL HAMMERSCHMIDT LAKE, ARKANSAS.—

(1) DESIGNATION.—The reservoir created by the James W. Trimble Lock and Dam on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall be known and designated as the "John Paul Hammerschmidt Lake".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the "John Paul Hammerschmidt Lake".

(d) RED RIVER WATERWAY, LOUISIANA.—

(1) DESIGNATION.—The lock numbered 5 on the Red River Waterway, Louisiana, is designated as the "Joe D. Waggonner, Jr. Lock".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, map, or other paper of the United States to the lock referred to in paragraph (1) shall be deemed to be a reference to the "Joe D. Waggonner, Jr. Lock".

(e) PASSAIC RIVER STREAMBANK AREA, NEW JERSEY.—

(1) DESIGNATION.—The area for which environmental and other streambank restoration measures are authorized by section 101(a)(18)(B) of the Water Resources Development Act of 1990, relating to the project for flood control, Passaic River Mainstem, New Jersey and New York, shall hereafter be known and designated as the "Joseph G. Minish Passaic River Waterfront Park and Historic Area".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the area referred to in paragraph (1) shall be deemed to be a reference to the "Joseph G. Minish Passaic River Waterfront Park and Historic Area".

(f) BUENA VISTA FLOOD CONTROL PROJECT, VIRGINIA.—

(1) DESIGNATION.—The project for flood control, Buena Vista, Virginia, authorized by section 101(a)(24) of the Water Resources Development of 1990 (104 Stat. 4610), shall hereafter be known and designated as the "James R. Olin Flood Control Project".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the flood control project referred to in paragraph (1) shall be deemed to be a reference to the "James R. Olin Flood Control Project".

(3) PLAQUE.—The Secretary is authorized to install in an appropriate place a plaque to identify the flood control project referred to in paragraph (1) as the "James R. Olin Flood Control Project".

(g) GALLIPOLIS LOCKS AND DAM, OHIO RIVER, OHIO AND WEST VIRGINIA.—

(1) DESIGNATION.—The Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), shall hereafter be known and designated as the "Robert C. Byrd Locks and Dam".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the locks and dam referred to in paragraph (1) shall be deemed to be a reference to the "Robert C. Byrd Locks and Dam".

(h) MILL CREEK RESERVOIR, WASHINGTON.—

(1) DESIGNATION.—The Mill Creek Reservoir, authorized by section 4 of the River and Harbor Act of June 28, 1938 (52 Stat. 1222), shall hereafter be known and designated as the "Virgil B. Bennington Lake".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the reservoir referred to in paragraph (1) shall be deemed to be a reference to the "Virgil B. Bennington Lake".

TITLE II—GENERALLY APPLICABLE PROVISIONS

SEC. 201. ABILITY TO PAY.

(a) GENERAL RULE.—Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—Any cost-sharing agreement under this section for flood control or agricultural water supply shall be subject to the ability of a non-Federal interest to pay. The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.".

(b) REVIEW OF REGULATIONS.—The Secretary shall review regulations on ability to pay contained in part 241 of title 33, Code of Federal Regulations, published in the Federal Register, Volume 56, Number 114, on June 13, 1991, in light of locally prevailing conditions such as those associated with the projects listed in subsection (c) and shall amend the regulations to the extent that the Secretary determines necessary to more appropriately take into account locally prevailing conditions which would limit the ability of local interest to participate as non-Federal project sponsors in accordance with established cost-sharing formulas.

(c) PROJECTS.—The projects referred to in subsection (b) are as follows:

(1) FEATHER CREEK, CLINTON, INDIANA.—The project for flood control, Feather Creek, Clinton, Indiana, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701(s)).

(2) PERRY CREEK, SIOUX CITY, IOWA.—The project for flood control, Perry Creek, Sioux

City, Iowa, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4116) and reauthorized by this Act.

(3) ALOHA-RIGOLETTE, LOUISIANA.—The project for flood control, Aloha-Rigolette, Louisiana, authorized by section 101(a)(12) of the Water Resources Development Act of 1990 (104 Stat. 4607).

(4) ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.—The project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

(5) STE. GENEVIEVE, MISSOURI.—The project for flood control, Ste. Genevieve, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

(6) BUENA VISTA, VIRGINIA.—The project for flood control, Buena Vista, Virginia, authorized by section 101(a)(24) of the Water Resources Development Act of 1990 (104 Stat. 4610).

SEC. 202. PROJECTS FOR IMPROVEMENTS OF THE ENVIRONMENT.

Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a; 100 Stat. 4251–4252) is amended—

(1) by inserting at the end of subsection (b) the following new sentence: "No modification shall be carried out under this section without specific authorization by Congress if the estimated cost exceeds $5,000,000."; and

(2) in subsection (e) by striking "$15,000,000" and inserting "$25,000,000".

SEC. 203. VOLUNTARY CONTRIBUTIONS FOR ENVIRONMENTAL AND RECREATION PROJECTS.

(a) ACCEPTANCE.—In connection with carrying out a water resources project for environmental protection and restoration or a water resources project for recreation, the Secretary is authorized to accept contributions of cash, funds, materials, and services from persons, including governmental entities but excluding the project sponsor.

(b) DEPOSIT.—Any cash or funds received by the Secretary under subsection (a) shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8662)" and shall be available until expended to carry out water resources projects described in subsection (a).

SEC. 204. BENEFICIAL USES OF DREDGED MATERIAL.

(a) IN GENERAL.—The Secretary is authorized to carry out projects for the protection, restoration, and creation of aquatic and ecologically related habitats, including wetlands, in connection with dredging for construction, operation, or maintenance by the Secretary of an authorized navigation project.

(b) SECRETARIAL FINDINGS.—Subject to subsection (c) of this section, projects for the protection, restoration, or creation of aquatic and ecologically related habitats may be undertaken in any case where the Secretary finds that—

(1) the environmental, economic, and social benefits of the project, both monetary and nonmonetary, justify the cost thereof; and

(2) the project would not result in environmental degradation.

(c) COOPERATIVE AGREEMENT.—Any project undertaken pursuant to this section shall be initiated only after non-Federal interests have entered into a cooperative agreement in accordance with the requirements of section 221 of the Flood Control Act of 1970 in which the non-Federal interests agree to—

(1) provide 25 percent of the cost associated with construction of the project for the protection, restoration, and creation of aquatic and ecologically related habitats, including provision of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the operation, maintenance, replacement, and rehabilitation costs associated with the project for the protection, restoration, and creation of aquatic and ecologically related habitats.

(d) DETERMINATION OF CONSTRUCTION COSTS.—Costs associated with construction of a project for the protection, restoration, and creation of aquatic and ecologically related habitats shall be limited solely to construction costs which are in excess of those costs necessary to carry out the dredging for construction, operation, or maintenance of the authorized navigation project in the most cost effective way, consistent with economic, engineering, and environmental criteria.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $15,000,000 annually to carry out this section. Such sums shall remain available until expended.

SEC. 205. DEFINITION OF REHABILITATION FOR INLAND WATERWAY PROJECTS.

For purposes of laws relating to navigation on inland and intracoastal waterways of the United States, the term "rehabilitation" means—

(1) major project feature restoration—

(A) which consists of structural work on an inland navigation facility operated and maintained by the Corps of Engineers;

(B) which will significantly extend the physical life of the feature;

(C) which is economically justified by a benefit-cost analysis;

(D) which will take at least 2 years to complete; and

(E)(i) which is initially funded before October 1, 1994, and will require at least $5,000,000 in capital outlays; or

(ii) which is initially funded on or after such date and will require at least $8,000,000 in capital outlays; and

(2) structural modification of a major project component (not exhibiting reliability problems)—

(A) which will enhance the operational efficiency of such component or any other major component of the project by increasing benefits beyond the original project design; and

(B) which will require at least $1,000,000 in capital outlays.

Such term does not include routine or deferred maintenance. The dollar amounts referred to in paragraphs (1) and (2) shall be adjusted annually according to the economic assumption published each year as guidance in the Annual Program and Budget Request for Civil Works Activities of the Corps of Engineers.

SEC. 206. CONSTRUCTION OF SHORELINE PROTECTION PROJECTS BY NON-FEDERAL INTERESTS.

(a) AUTHORITY.—Non-Federal interests are authorized to undertake shoreline protection projects on the coastline of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of actual construction.

(b) STUDIES AND ENGINEERING.—

(1) BY NON-FEDERAL INTERESTS.—A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and engineering for any construction to be undertaken under subsection (a).

(2) BY SECRETARY.—Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies and engineering during the period that the studies and engineering will be conducted.

(c) COMPLETION OF STUDIES.—The Secretary is authorized to complete and transmit to the appropriate non-Federal interests any study for shoreline protection which was initiated before the date of the enactment of this Act or, upon the request of such non-Federal interest, to terminate the study and transmit the partially completed study to the non-Federal interest for completion. Studies subject to this subsection shall be completed without regard to the requirements of subsection (b).

(d) AUTHORITY TO CARRY OUT IMPROVEMENT.—

(1) IN GENERAL.—Any non-Federal interest which has received from the Secretary pursuant to subsection (b) or (c) a favorable recommendation to carry out a shoreline protection project or separable element thereof, based on the results of completed studies and engineering for the project or element, may carry out the project or element if a final environmental impact statement has been filed for the project or element.

(2) PERMITS.—Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.

(3) MONITORING.—The Secretary shall monitor any project for which permits are granted under this subsection in order to ensure that such project is constructed (and, in those cases where such activities will not be the responsibility of the Secretary, operated and maintained) in accordance with the terms and conditions of such permits.

(e) REIMBURSEMENT.—

(1) GENERAL RULE.—Subject to the enactment of appropriation Acts, the Secretary is authorized to reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized shoreline protection project, or separable element thereof, constructed under this section—

(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by such non-Federal interest; and

(B) if the Secretary finds, after a review of studies and engineering prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.

(2) MATTERS TO BE CONSIDERED IN REVIEWING PLANS.—In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary deems appropriate.

(3) MONITORING.—The Secretary shall regularly monitor and audit any project for shore protection constructed under this section by a non-Federal interest in order to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.

(4) LIMITATION ON REIMBURSEMENTS.—No reimbursement shall be made under this section unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with applicable permits or approved plans.

SEC. 207. COST-SHARING FOR DISPOSAL OF DREDGED MATERIAL ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by striking the last sentence and inserting the following new sentences: "At the request of the State, the Secretary may enter into an agreement with a political subdivision of the State to place sand on the beaches of the political subdivision of the State under the same terms and conditions required in the first sentence of this section; except that the political subdivision shall be responsible for providing any payments required under such sentence in lieu of the State. In carrying out this section, the Secretary shall give consideration to the schedule of the State, or the schedule of the responsible political subdivision of the requesting State, for providing its share of funds for placing such sand on the beaches of the State or the political subdivision and shall, to the maximum extent practicable, accommodate such schedule.".

SEC. 208. FEES FOR DEVELOPMENT OF STATE WATER PLANS.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-16) is amended—

(1) in subsection (b) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) IN-KIND SERVICES.—Up to ½ of the non-Federal contribution for preparation of a plan subject to the cost sharing program under this subsection may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the plan."; and

(2) in subsection (d) by inserting "Indian tribes," after "States of the United States,".

SEC. 209. DAM SAFETY PROGRAM EXTENSION.

(a) STATE SAFETY PROGRAMS.—The first sentence of section 7(a) of Public Law 92-367 (33 U.S.C. 467f(a)) is amended by striking "1992" and inserting "1994".

(b) STATE TRAINING PROGRAMS.—The second sentence of section 11 of Public Law 92-367 (33 U.S.C. 467j) is amended by striking "1992" and inserting "1994".

(c) RESEARCH PROGRAM.—The last sentence of section 12 of Public Law 92-367 (33 U.S.C. 467k) is amended by striking "1992" and inserting "1994".

(d) DAM INVENTORY.—The second sentence of section 13 of Public Law 92-367 is amended by striking "1992" and inserting "1994".

(e) MUSSERS DAM, MIDDLE CREEK, SNYDER COUNTY, PENNSYLVANIA.—

(1) IN GENERAL.—The Secretary is authorized to provide planning, engineering and design, construction, technical, and other assistance to non-Federal interests for repair, reconstruction, replacement, or other modification to Mussers Dam, Middle Creek, Snyder County, Pennsylvania, in order to bring such dam into compliance with the safety requirements which the Federal Energy Regulatory Commission has determined to be necessary.

(2) COORDINATION.—The Secretary shall provide any assistance under paragraph (1) in coordination with the Federal Energy Regulatory Commission and State and local interests.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as affecting or modifying—

(A) the obligations of non-Federal interests under the Federal Power Act or any license, permit, or exemption issued under such Act; or

(B) the duties and responsibilities of the Federal Energy Regulatory Commission under the Federal Power Act to require and enforce on a timely basis safety compliance with such Act and any license, permit, or exemption issued under such Act.

(4) FEDERAL SHARE.—The Federal share of the cost of repair, reconstruction, replacement, and other modification to Mussers Dam for the purpose described in paragraph (1) shall be 75 percent.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(f) BEAVER LAKE, ARKANSAS.—All costs incurred in carrying out the project to correct seepage problems at Beaver Lake, Arkansas, shall be treated as costs incurred for a dam safety project and shall be subject to cost sharing in accordance with section 1203 of the Water Resources Development Act of 1986.

SEC. 210. SAFETY AWARD AND PROMOTIONAL MATERIALS.

(a) PROMOTION OF SAFETY PROGRAM.—

(1) PROCUREMENT OF PROMOTIONAL MATERIALS.—The Secretary is authorized to procure materials that, in the judgment of the Secretary, are necessary to promote the Corps of Engineers safety program.

(2) DISTRIBUTION OF MATERIALS TO EMPLOYEES.—The items purchased pursuant to this subsection shall be distributed to employees of the Corps of Engineers to advance the goals of the safety program.

(b) EMPLOYEE RECOGNITION.—The Secretary is authorized to incur necessary expenses for the honorary recognition of the outstanding safety performance of employees of the Corps of Engineers. Such recognition may be in the form of certificates, plaques, cash, or other forms of awards.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $350,000 for each fiscal year beginning after September 30, 1992, for carrying out the purposes of this section.

SEC. 211. WORK FOR OTHERS.

Section 3036(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, the term 'State' includes the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, territories and possessions of the United States, and Indian tribes.".

SEC. 212. USE OF PRIVATE SECTOR RESOURCES IN SURVEYING AND MAPPING.

To the maximum extent practicable, the Secretary shall make use of private sector resources in carrying out surveying and mapping activities in the Civil Works Program of the Corps of Engineers.

SEC. 213. USE OF DOMESTIC PRODUCTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that procurements with funds appropriated to carry out this Act are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c), popularly known as the "Buy American Act".

(2) LIMITATION ON APPLICABILITY.—This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of the enactment of this Act.

(3) REPORTS.—The Secretary shall report to Congress on procurements covered under this subsection of products that are not domestic products.

(b) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 214. RURAL PROJECT EVALUATION AND SELECTION CRITERIA.

Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives with specific legislative and other recommendations on—

(1) improving the equitable distribution of water resources development projects in rural areas, including recommendations for—

(A) giving greater value to properties in rural areas;

(B) making the ability to pay provision of section 103(m) of the Water Resources Development Act of 1986 apply more equitably; and

(C) giving greater value to crop lands and crops; and

(2) giving greater emphasis to—

(A) projected increases in values of property, crop lands, and crops which will result from completion of a proposed water resources development project;

(B) projected increases in the ability to pay by residents which will result from completion of a proposed water resources development project; and

(C) other benefits assumed to increase upon completion of a proposed water resources development project.

SEC. 215. COMPENSATION OF CORPS OF ENGINEERS EMPLOYEES.

(a) SPECIAL POWER RATE EMPLOYEES.—The Secretary shall conduct a comparative analysis, on a regional basis, of—

(1) the compensation (including basic wage rates and differential pay) provided to employees of the Corps of Engineers who are paid from the Corps of Engineers Special Power Rate Schedule and who are employed at water resources projects of the Corps; and

(2) the compensation provided to employees of other Federal agencies who perform duties similar to those performed by such employees of the Corps of Engineers.

(b) REGULATORY EMPLOYEES.—The Secretary shall conduct a comparative analysis of—

(1) the compensation provided to employees of the Corps of Engineers who carry out regulatory functions; and

(2) the compensation provided to employees of other Federal agencies who carry out functions similar to those performed by such employees of the Corps of Engineers;

for the purpose of determining whether or not an adjustment to the compensation provided to such employees of the Corps of Engineers is needed.

(c) PUBLIC PARTICIPATION.—In conducting the analyses under subsections (a) and (b), the Secretary shall provide opportunities for public participation.

(d) Reports.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the analyses conducted under subsections (a) and (b), together with any recommendations of the Secretary, and shall implement such recommendations.

SEC. 216. DREDGED MATERIAL DISPOSAL AREAS.

(a) Study.—The Secretary shall conduct a study on the need for changes in Federal law and policy with respect to dredged material disposal areas for the construction and maintenance of harbors and inland harbors by the Secretary. As part of the study, the Secretary shall evaluate the need for any changes in Federal and non-Federal cost sharing for such areas and harbor projects, including sources of funding.

(b) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), together with recommendations of the Secretary.

SEC. 217. REUSE OF WASTE WATER.

(a) In General.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out projects described in subsection (c) for the beneficial reuse of waste water. Such assistance may be in the form of technical and planning and design assistance. If the Secretary is to provide any design or engineering assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—

(1) the service would require the use of a new technology unavailable in the private sector; or

(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

(b) Non-Federal Share.—The non-Federal share of the cost of assistance provided under this section shall not be less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.

(c) Project Descriptions.—The projects for which the Secretary is authorized to provide assistance under subsection (a) are as follows:

(1) Southern California comprehensive water reuse system.—

(A) Description.—A regional water reuse system for Southern California to treat, store, and transfer water in order to provide a new increment of water supply for agricultural, municipal, industrial, and environmental needs of Southern California.

(B) Cooperation.—The Secretary shall carry out this paragraph in cooperation with the State of California and appropriate local and regional entities.

(C) Southern California defined.—For purposes of this paragraph, the term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, San Diego, Ventura, Santa Barbara, and San Luis Obispo, California, within the south coast, central coast, and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(2) San Diego area water reuse demonstration facilities.—Water reuse facilities (which are not inconsistent with facilities mandated by the United States District Court in San Diego, California) to develop advance technology for economically and environmentally sound alternative water supplies for the San Diego metropolitan area.

(3) Santa Rosa water reuse projects.—

(A) Description.—Water reuse projects for the city of Santa Rosa, California, to treat waste water and store such treated water for the purposes of providing new water supplies for agriculture, municipal, environmental, and other purposes and reducing the use of potable water supplies for purposes where treated waste water is a viable substitute.

(B) Cooperation.—The Secretary shall carry out this paragraph in cooperation with the city of Santa Rosa, California, and other appropriate authorities.

(4) Monterey county, California.—

(A) Description.—Reduction of salt water intrusion into aquifers in the vicinity of Castroville, California, for the purposes of improving the water quality of Monterey Bay and enhancing long-term water supply in the area.

(B) Cooperation.—The Secretary shall carry out this paragraph in cooperation with the Monterey Regional Water Pollution Control Agency and the Monterey County Water Resources Agency.

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $5,000,000. Such sums shall remain available until expended.

SEC. 218. DEMONSTRATION OF WASTE WATER TECHNOLOGY, SANTA CLARA VALLEY WATER DISTRICT AND SAN JOSE, CALIFORNIA.

(a) In General.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to provide design and construction assistance to the Santa Clara Valley Water District in San Jose, California, and to the city of San Jose, California, for demonstrating and field testing public use innovative processes which advance the technology of waste water reuse and treatment and which promote the use of treated waste water for critical water supply purposes and for the protection of fish and wildlife in the San Francisco Bay. All design, construction, and comprehensive health effects studies shall be carried out by non-Federal interests.

(b) Purposes of Assistance.—Assistance may be provided under this section—

(1) for the design and construction of an innovative nonpotable waste water reuse treatment facility with distribution systems;

(2) for the design and construction of an innovative potable waste water reuse pilot plant;

(3) for implementation of a comprehensive health effects study of the performance of the potable waste water reuse pilot plant; and

(4) after the pilot plant is constructed and is operational, for the design and construction of a potable waste water reuse project, along with integration of the additional potable processes into the existing nonpotable facilities, and the extension of the distribution systems to groundwater recharge areas, if the Secretary, in cooperation with the Administrator of the Environmental Protection Agency, determines that the established public health requirements and water quality goals and objectives are being met by the pilot plant, the public health and safety is not at risk as a result of the operation of the pilot plant, and the pilot plant is operating reliably.

(c) Cost Sharing.—Total project costs under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $10,000,000. Such sums shall remain available until expended.

SEC. 219. ENVIRONMENTAL INFRASTRUCTURE.

(a) In General.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out water-related environmental infrastructure and resource protection and development projects described in subsection (c), including waste water treatment and related facilities and water supply, storage, treatment, and distribution facilities. Such assistance may be in the form of technical and planning and design assistance. If the Secretary is to provide any design or engineering assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—

(1) the service would require the use of a new technology unavailable in the private sector; or

(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

(b) Non-Federal Share.—The non-Federal share of the cost of projects for which assistance is provided under this section shall not be less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.

(c) Project Descriptions.—The projects for which the Secretary is authorized to provide assistance under subsection (a) are as follows:

(1) Washington, D.C. and Maryland.—Measures to alleviate adverse water quality impacts resulting from storm water discharges from Federal facilities in the Anacostia River watershed, Washington, D.C. and Maryland.

(2) Atlanta, Georgia.—A combined sewer overflow treatment facility for the city of Atlanta, Georgia.

(3) Hazard, Kentucky.—A water system (including a 13,000,000 gallon per day water treatment plant), intake structures, raw water pipelines and pumps, distribution lines, and pumps and storage tanks for Hazard, Kentucky.

(4) Rouge river, Michigan.—Completion of a comprehensive streamflow enhancement project for the Western Townships Utility Authority, Rouge River, Wayne County, Michigan.

(5) Jackson county, Mississippi.—Provision of an alternative water supply for Jackson County, Mississippi.

(6) Epping, New Hampshire.—Evaluation and assistance in addressing expanded and advanced wastewater treatment needs for Epping, New Hampshire.

(7) Manchester, New Hampshire.—Elimination of combined sewer overflows in the city of Manchester, New Hampshire.

(8) ROCHESTER, NEW HAMPSHIRE.—Provision of advanced wastewater treatment for the city of Rochester, New Hampshire.

(9) PATERSON AND PASSAIC COUNTY, NEW JERSEY.—Drainage facilities to alleviate flooding problems on Getty Avenue in the vicinity of St. Joseph's Hospital for the city of Paterson, New Jersey, and Passaic County, New Jersey.

(10) STATE OF NEW JERSEY AND NEW JERSEY WASTEWATER TREATMENT TRUST.—The development of innovative beneficial uses of sewage sludge and conventional and innovative facilities to dispose of sewage sludge or to make reusable products from sewage sludge for local government units that ceased the discharge of sewage sludge in the Atlantic Ocean.

(11) ERIE COUNTY, NEW YORK.—A tunnel from North Buffalo, New York, to Amherst Quarry to relieve flooding and improve water quality.

(12) ERIE COUNTY, NEW YORK.—A sludge processing disposal facility to serve the Erie County Sewer District 5, New York.

(13) OTSEGO COUNTY, NEW YORK.—A water storage tank and an adequate water filtration system for the Village of Milford, Otsego County, New York.

(14) CHENANGO COUNTY, NEW YORK.—A primary source water well and improvement of a water distribution system for New Berlin, Chenango County, New York.

(15) GREENSBORO AND GLASSWORKS, PENNSYLVANIA.—A sewage treatment plant for the borough of Greensboro, Pennsylvania, and the unincorporated village of Glassworks, Pennsylvania.

(16) LYNCHBURG, VIRGINIA.—Alleviation of combined sewer overflows for Lynchburg, Virginia, in accordance with combined sewer overflow control plans adopted by, and currently being implemented by, the non-Federal sponsor.

(17) RICHMOND, VIRGINIA.—Alleviation of combined sewer overflows for Richmond, Virginia, in accordance with combined sewer overflow control plans adopted by, and currently being implemented by, the non-Federal sponsor.

(18) COLONIAS ALONG UNITED STATES-MEXICO BORDER.—Wastewater treatment facilities, water systems (including water treatment plants), intake structures, raw water pipelines and pumps, distribution lines, and pumps and storage tanks for colonias in the United States along the United States-Mexico border.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing assistance under this section $5,000,000. Such sums shall remain available until expended.

SEC. 220. ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE FOR BENTON AND WASHINGTON COUNTIES, ARKANSAS.

(a) IN GENERAL.—The Secretary is authorized to provide design and construction assistance to appropriate non-Federal interests for a water transmission line from the northern part of Beaver Lake, Arkansas, into Benton and Washington Counties, Arkansas, at a total cost of $5,000,000.

(b) COST SHARING.—Total project costs under subsection (a) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

SEC. 221. ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE FOR ERIE COUNTY, NEW YORK.

(a) BEST MANAGEMENT PRACTICES FOR COMBINED SEWER SYSTEM.—The Secretary is authorized to provide design and construction assistance to the Buffalo Sewer Authority, Buffalo, New York, for the development and implementation of best management practices to reduce pollution from the combined sewer system in the city, at a total cost of $6,800,000.

(b) STORM WATER CONTROL PROJECT.—The Secretary is authorized to provide design and construction assistance to the town of Amherst, New York, for a storm water control project on Sheridan Drive between Evans Road and Transit Road in the town of Amherst, New York, at a total cost of $200,000.

(c) COST SHARING.—Total project costs under each of subsections (a) and (b) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

SEC. 222. ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE FOR LEWISTON, NEW YORK.

(a) IN GENERAL.—The Secretary is authorized to provide design and construction assistance to the city of Lewiston, New York, for construction of a storm water control project, at a total cost of $200,000.

(b) COST SHARING.—Total project costs under subsection (a) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

SEC. 223. BOARD OF ENGINEERS.

The Board of Engineers for Rivers and Harbors, established by section 3 of the River and Harbor Act of June 13, 1902 (33 U.S.C. 541), shall cease to exist on the 180th day following the date of the enactment of this Act. The Secretary may reassign to other elements within the Department of the Army such duties and responsibilities of the Board as the Secretary determines to be necessary.

SEC. 224. CHANNEL DEPTHS AND DIMENSIONS.

Section 5 of the Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 562), is amended—

(1) by inserting "and after the project becomes operational" before the first comma;

(2) by inserting "lower" after "mean" the first place it appears;

(3) by inserting ", as defined by the Department of Commerce for nautical charts and tidal predictions," after "water" each place it appears"; and

(4) by inserting "and after the project becomes operational" before "the channel dimensions".

SEC. 225. CHALLENGE COST-SHARING PROGRAM FOR THE MANAGEMENT OF RECREATION FACILITIES.

(a) IN GENERAL.—The Secretary is authorized to develop and implement a program to share the cost of managing recreation facilities and natural resources at water resource development projects under the Secretary's jurisdiction.

(b) COOPERATIVE AGREEMENTS.—To implement the program under this section, the Secretary is authorized to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of recreation facilities and natural resources at civil works projects under the Secretary's jurisdiction where such facilities and resources are being maintained at complete Federal expense.

(c) CONTRIBUTIONS.—For purposes of carrying out this section the Secretary may accept contributions of funds, materials, and services from non-Federal public and private entities. Any funds received by the Secretary under this section shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8662)" and shall be available until expended to carry out the purposes of this section.

SEC. 226. DEBARMENT OF PERSONS CONVICTED OF FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States which is not made in the United States and which is used in a civil works project of the Secretary, the Secretary shall debar the person from contracting with the Federal Government for a period of not less than 3 years and not more than 5 years. For purposes of this section, the term "debar" has the meaning that term has under section 2393(c) of title 10, United States Code.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. EXTENSION OF JURISDICTION OF MISSISSIPPI RIVER COMMISSION.

The jurisdiction of the Mississippi River Commission (established by the Act of June 29, 1879 (33 U.S.C. 641)) is extended to include—

(1) Terrebonne Parish, Louisiana; and

(2) the area bounded by the East Atchafalaya Basin Protection Levee, the Mississippi River Levee, and Bayou Lafourche and extending from Morganza, Louisiana, to the Gulf of Mexico, insofar as such area is affected by the flood waters of the Mississippi River.

SEC. 302. NEW YORK CITY ZEBRA MUSSEL PROGRAM.

(a) MONITORING AND PREVENTION.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the city of New York, shall—

(A) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system;

(B) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(C) provide technical assistance to the State of New York and the city of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

(2) COST SHARING.—The Secretary shall not initiate any monitoring, prevention, or technical assistance project or program under this subsection until appropriate non-Federal interests agree, by contract, to contribute 25 percent of the cost for such project or program during the period of such project or program.

(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subsection, there is authorized to be appropriated to the Secretary $2,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997. Such sums shall remain available until expended.

(b) EXOTIC AQUATIC ORGANISMS.—

(1) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end the following new paragraph:

"(3) In addition to issuing regulations under paragraph (1), the Secretary, in consultation with the Task Force shall, not later than 24 months after the date of the enactment of this paragraph, issue regulations to prevent the introduction and spread of aquatic nuisance species in the Great Lakes through ballast water carried on vessels that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River north of the George Washington Bridge.".

(2) DEFINITION.—Paragraph (1) of section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 is amended by inserting "the Committee on Public Works and Transportation and" after "means".

SEC. 303. SUSQUEHANNA RIVER, PENNSYLVANIA.

(a) WETLANDS DEMONSTRATION PROJECT.—The Secretary, in cooperation with appropriate Federal agencies, may enter into a cooperative agreement with the Earth Conservancy to develop, and carry out along the Susquehanna River between Wilkes-Barre and Sunbury, Pennsylvania, a wetlands demonstration project for the purposes of—

(1) enhancing municipal waste water treatment in the region;

(2) restoring and maintaining the physical, chemical, and biological integrity of the Susquehanna River and its tributaries as well as nearby lands; and

(3) developing cleanup technologies which can be utilized for various environmental restoration initiatives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000. Such sums shall remain available until expended.

SEC. 304. BROAD TOP REGION OF PENNSYLVANIA.

(a) WATERSHED RECLAMATION AND WETLANDS PILOT PROJECT.—The Secretary, in cooperation with appropriate Federal and State agencies, shall enter into a cooperative agreement with non-Federal interests to develop and carry out along the Juniata River and its tributaries, Pennsylvania, a watershed reclamation and protection and wetlands creation and restoration project for the purposes of—

(1) restoring and maintaining the physical, chemical, and biological integrity of Trough Creek, Stroups Run, and the Raystown Branch of the Juniata River as well as nearby lands;

(2) constructing or restoring wetlands and using other methods to treat acid mine drainage and other runoff to protect surface and ground water;

(3) enhancing municipal water supplies in the region; and

(4) developing innovative reclamation technologies, removing public safety hazards, and developing related recreation facilities for various environmental restoration and cultural resource and economic development opportunities.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under the cooperative agreement entered into under subsection (a) shall be 75 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,500,000. Such sums shall remain available until expended.

SEC. 305. CONSTRUCTION OF BOAT RAMPS AND DOCKS AT J. STROM THURMOND LAKE, GEORGIA.

Section 1134(e) of the Water Resources Development Act of 1986 (100 Stat. 4251) is amended by inserting "(1)" before "In any case" and by adding at the end the following new paragraph:

"(2) If a person who purchased property under paragraph (1) for replacement of property for which a lease held by such a person was terminated under this section and the property for which the lease was terminated had a boat ramp or dock, or both, the Secretary shall permit such person to construct or have constructed a boat ramp or dock, or both, as the case may be, at the replacement property. A boat ramp or dock constructed under this paragraph shall be comparable in size and configuration to, and shall be maintained in accordance with, regulations issued by the Secretary.".

SEC. 306. WEST VIRGINIA TRAILHEAD FACILITIES.

The Secretary is authorized to conduct a study and develop a plan for trailhead facilities at the following projects in West Virginia:

(1) Beech Fork Lake.

(2) R.D. Bailey Lake.

(3) East Lynn Lake.

(4) Projects authorized by section 202 of Public Law 96-367.

SEC. 307. WATER QUALITY PROJECTS.

(a) PROJECT DESCRIPTION.—The Secretary is authorized to design and construct projects to address water quality problems associated with storm water discharges from large storm events for the New Orleans, Louisiana, metropolitan area, from within the Jefferson and Orleans Parishes from which waters discharge into Lake Pontchartrain and the Mississippi River; the watershed areas of Onondaga County and Syracuse, New York, from which waters discharge into Onondaga Lake, New York; the watershed areas of the Penobscot River in the vicinity of Bangor, Maine, and the Casco Bay in the vicinity of Portland, Maine; and the watershed areas of Narragansett Bay in the vicinity of the Providence, Rhode Island, metropolitan area, including East Providence, Pawtucket, and Central Falls, Rhode Island.

(b) PROJECT DESIGN.—The design of projects under subsection (a) shall ensure the development of effective Federal and non-Federal actions which will contribute toward compliance with the Federal Water Pollution Control Act.

(c) COST SHARING.—Total project costs under subsection (a) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $70,000,000 to carry out this section. Such sums shall remain available until expended.

SEC. 308. BALTIMORE HARBOR, MARYLAND.

(a) ANALYTICAL PROCEDURES.—

(1) STUDY.—The Secretary shall conduct a study of Baltimore Harbor, Maryland, for the purpose of developing analytical procedures and criteria for contaminated dredged material in order to distinguish those materials which should be placed in containment sites from those materials which could be used in beneficial projects (such as beach nourishment, shoreline erosion control, island reclamation, and wetlands creation) or which could be placed in open waters without being chemically altered.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(b) DECONTAMINATION STUDY.—

(1) STUDY.—The Secretary shall conduct a study of Baltimore Harbor, Maryland, for the purpose of determining the feasibility and necessity of decontaminating dredged materials and the feasibility of dewatering and recycling dredged materials for use as marketable products. In conducting the study, the Secretary shall consider requirements and locations for a processing or staging area, evaluate the marketability of potential products, and assess financial costs.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this section. Such sums shall remain available until expended.

SEC. 309. ADDITIONAL STUDIES.

(a) OHIO RIVER AND TRIBUTARIES.—

(1) STUDY.—The Secretary shall review the report of the Chief of Engineers on the Ohio River and Tributaries, published as House Document 306, 74th Congress, 1st Session, and other pertinent reports to determine whether modifications of the recommendations contained in such report are advisable at the present time, with particular reference to improvements for water and related land resource needs, including abatement of acid mine drainage in Wheeling Creek, Glenns Run, Little Short Creek, and Yellow Creek in Belmont and Jefferson Counties, Ohio.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(b) COASTAL PROTECTION STUDY.—

(1) STUDY.—The Secretary shall conduct a study of the economic benefits of Federal and significant non-Federal shore protection activities in the Mid-Atlantic region from New York to Virginia. In conducting such study, the Secretary shall assess—

(A) the public investment in such activities;

(B) damage incurred by such shore protection activities by coastal storms of October 1991 and January 1992;

(C) the prevention of damage by coastal storms of October 1991 and January 1992 to coastal and upland resources, including public and private properties and other economic activities, as a result of such shore protection activities; and

(D) the extent to which the prevention of damage to coastal and upland resources, including public and private properties and other economic activities, is considered in benefit-cost ratios for shore protection activities.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing the findings of the Secretary with respect to the study conducted under this subsection.

(c) HARRISON COUNTY, MISSISSIPPI.—

(1) STUDY.—The Secretary is authorized to enter into a memorandum of understanding with the Secretary of Agriculture for the purpose of studying problems associated with flooding in Harrison County, Mississippi. Under the memorandum of understanding, the Secretary and the Secretary of Agriculture will jointly conduct a reconnaissance study of Harrison County, Mississippi, and the following bodies of water and associated watersheds:

(A) Wolf River.

(B) Big Biloxi River.

(C) Little Biloxi River.

(D) Turkey Creek.

(E) Saucier Creek.

(F) Hog Branch Creek.

(G) Flat Branch Creek.

(H) Tuxachanie Creek.

(I) Tchoutacabouffa River.

(2) CONTENTS.—The reconnaissance study to be conducted under paragraph (1) shall include the following:

(A) REVIEW OF RELEVANT REPORTS.—A review of relevant reports of the Chief of Engineers and other reports which the Secretary of Agriculture and the Secretary, in consultation with the Chief of Engineers, determine to be appropriate.

(B) PLAN FOR IMPLEMENTATION.—The development of a plan to implement measures to address the problems associated with flooding identified in the study, including measures for the development, use, and conservation of water resources in the geographic areas that are the subject of the study. The development of the plan shall include, to the extent practical, an evaluation of alternative measures.

(C) COST ESTIMATE.—A cost estimate for each measure described in subparagraph (B).

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary and the Secretary of Agriculture shall jointly transmit to Congress a written report that includes—

(A) findings on the study conducted under paragraph (1);

(B) a reasonable schedule for the implementation of the measures described in the plan developed under paragraph (2)(B); and

(C) a cost estimate determined in accordance with paragraph (2)(C) for the implementation of the plan developed under paragraph (2)(B).

(d) REYNOLDS CHANNEL.—

(1) STUDY.—The Secretary is authorized to conduct a study on the need for navigation improvements in Reynolds Channel and the connecting State Boat Channel between Captree Island and Oak Beach.

(2) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this subsection.

(e) ORCHARD BEACH, BRONX, NEW YORK.—

(1) REVIEW.—The Secretary is authorized to review the reports of the Chief of Engineers and other pertinent documents pertaining to Orchard Beach, Bronx, New York, and to make appropriate recommendations concerning storm damage prevention, recreation, environmental restoration, and other purposes.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $400,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(f) EAST RIVER, NEW YORK.—

(1) STUDY.—The Secretary is authorized to conduct a study on the need for erosion protection along the East River, New York, in the vicinity of Brooklyn, Queens, and Manhattan with a view toward mitigating the deleterious effects of drift removal on protecting the adjacent shoreline from erosion.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(g) LAKE CHAMPLAIN AND THE NARROWS OF LAKE CHAMPLAIN, VERMONT.—

(1) STUDY.—The Secretary is authorized to conduct a reconnaissance and feasibility study of remediation of contaminated sediments in Lake Champlain and the Narrows of Lake Champlain, Vermont. Such activities shall be coordinated with the State of Vermont and the Water Resources Research Center at the University of Vermont.

(2) FUNDING.—Funds previously expended by the State of Vermont and the Water Resources Research Institute at the University of Vermont in investigating sediment contamination shall be considered toward any joint funding requirement relating to the study to be conducted under this subsection.

(h) LAKE CHAMPLAIN, VERMONT.—The Secretary is authorized to conduct a reconnaissance and feasibility study of providing additional boat access points on Lake Champlain, Vermont.

(i) MONTPELIER, VERMONT.—The Secretary is authorized to conduct a reconnaissance and feasibility study on providing additional flood protection for Montpelier, Vermont.

(j) NEW ENGLAND COASTAL DREDGED MATERIAL.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of long-term coastal dredged material disposal needs along the Maine and New Hampshire coasts. Beginning in 1995, any dredge material resulting from a project proposed as a result of this study shall be disposed of at a site which is permanently designated by the Environmental Protection Agency pursuant to title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

(2) FUNDING.—$500,000 is authorized under General Investigations to conduct the study under this subsection, which will take into account the 2 States' dredged material disposal needs.

(k) ST. JOHN'S RIVER CHANNEL, FLORIDA.—In studying the feasibility of Federal improvements to the St. John's River Channel, Florida, the Secretary shall examine the commercial and military uses of the channel in those areas traversed by both military and commercial vessels and shall coordinate the efforts of the Secretary with the Secretary of the Navy to utilize available studies and resources which project future military dredging needs in the St. John's River Channel.

(l) CENTRAL AND SOUTHERN FLORIDA.—The Chief of Engineers shall review the report of the Chief of Engineers on central and southern Florida, published as House Document 643, 80th Congress, 2d Session, and other pertinent reports, with a view to determining whether modifications to the existing project are advisable at the present time due to significantly changed physical, biological, demographic, or economic conditions, with particular reference to modifying the project or its operation for improving the quality of the environment, improving protection of the aquifer, and improving the integrity, capability, and conservation of urban water supplies affected by the project or its operation.

SEC. 310. REND LAKE, ILLINOIS.

(a) STUDY.—The Secretary shall conduct a study on whether or not to relieve the State of Illinois of the requirement to make annual payments for unused water supply storage in Rend Lake on the Big Muddy River in Illinois.

(b) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations for any conditions which the Secretary considers to be appropriate if the State of Illinois is to be relieved of the requirement to make the annual payments referred to in subsection (a).

(c) INTERIM PAYMENTS.—Until 6 months after the date on which the Secretary transmits to Congress the report under subsection (b), the State of Illinois shall not be required to make any payments under its contract with the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois.

SEC. 311. PORTUGESE AND BUCANA RIVERS, PUERTO RICO.

Section 31 of the Water Resources Development Act of 1988 (102 Stat. 4030) is amended by striking "temporarily residing and".

SEC. 312. LITTLE GOOSE AND LOWER GRANITE, WASHINGTON.

(a) MEASURES.—The Secretary is directed to undertake such measures as are necessary to compensate for damages caused to public and private property by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington. The costs of such measures shall be considered project costs and shall be allocated in accordance with existing cost allocations for the Little Goose and Lower Granite projects.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts previously appropriated, there is authorized to be appropriated to carry out this section $8,000,000. Such sums shall remain available until expended.

SEC. 313. SOUTH CENTRAL PENNSYLVANIA ENVIRONMENTAL RESTORATION INFRASTRUCTURE AND RESOURCE PROTECTION DEVELOPMENT PILOT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a pilot program for providing environmental assistance to non-Federal interests in south central Pennsylvania. Such assistance may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in south central Pennsylvania, including projects for waste water treatment and related facilities, water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) CONSULTATION WITH SARCD COUNCIL.—In carrying out this section, the Secretary shall consult the SARCD Council.

(d) LOCAL COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this Act, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with the SARCD Council and other appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to assure the effective long-term operation of the project by the non-Federal interest.

(3) COST-SHARING.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs but not to exceed 25 percent of total project costs. Operation and maintenance costs shall be 100 percent non-Federal.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law which would otherwise apply to a project to be carried out with assistance provided under this section.

(f) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(g) AUTHORIZATION AND ALLOCATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $17,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(2) ALLOCATION.—Funds appropriated to carry out this section for each of fiscal years 1993 through 1998 shall be expended as follows: 50 percent for providing assistance in the Chesapeake Bay watershed area of south central Pennsylvania and 50 percent for providing assistance in the Ohio River watershed area of south central Pennsylvania.

(3) TRANSFERS.—The Secretary may expend up to 20 percent of the amounts required to be expended under paragraph (2) for providing assistance in a watershed area for providing assistance in the other watershed area referred to in paragraph (2); except that the aggregate amount expended for providing assistance in the Chesapeake Bay watershed area for fiscal years 1993 through 1998 shall be 50 percent of the aggregate of the funds appropriated to carry out this section for such fiscal years.

(h) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SARCD COUNCIL.—The term "SARCD Council" means the Southern Allegheny Resource Conservation and Development Council.

(2) SOUTH CENTRAL PENNSYLVANIA.—The term "south central Pennsylvania" means Bedford, Blair, Cambria, Fulton, Huntingdon, and Somerset Counties, Pennsylvania.

SEC. 314. ILLINOIS AND MICHIGAN CANAL.

(a) IN GENERAL.—The Secretary is authorized to make capital improvements to the Illinois and Michigan Canal.

(b) AGREEMENTS.—The Secretary shall, with the consent of appropriate local and State entities, enter into such arrangements, contracts, and leases with public and private entities as may be necessary for the purposes of rehabilitation, renovation, preservation, and maintenance of the Illinois and Michigan Canal and its related facilities, including trailside facilities for recreational use connecting the waterways referred to in subsection (c).

(c) ILLINOIS AND MICHIGAN CANAL DEFINED.—For the purpose of this section, the "Illinois and Michigan Canal" consists of the following existing waterways: the Chicago River from and including its mouth at Navy Pier through and including its south branch; the Chicago Sanitary and Ship Canal; and the entire length of those waterways designated as the Illinois and Michigan Heritage Canal between Chicago, Illinois, and LaSalle/Peru, Illinois.

(d) FEDERAL SHARE.—The Federal share of the cost of capital improvements under this section shall be 50 percent.

SEC. 315. VIRGINIA BEACH, VIRGINIA, TECHNICAL AMENDMENTS.

Section 407(a) of the Water Resources Development Act of 1990 (104 Stat. 4647) is amended—

(1) by striking "145" and inserting "156"; and

(2) by striking "33 U.S.C. 426j" and inserting "42 U.S.C. 1962d-5f".

SEC. 316. TRANSFER FACILITY FOR BENEFICIAL USES OF DREDGED MATERIAL, SAN FRANCISCO BAY.

(a) STUDY.—The Secretary shall study the feasibility of establishing a transfer facility at the Leonard Ranch property owned by the Sonoma Land Trust and adjacent to Port Sonoma-Marin, California, for the drying and rehandling of dredged material from San Francisco Bay which is to be transported to an upland site for beneficial uses, including lining, capping, and cover material for sanitary landfills, levee maintenance, and restoration of subsided agricultural lands.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 317. PIKEVILLE LAKE, KENTUCKY.

(a) PLAN.—Subject to the provisions of section 1135 of the Water Resources Development Act of 1986, the Secretary is directed to develop and implement a plan for modifying the channel bypass element of the Levisa Fork, Kentucky, project for the purpose of water quality improvement in and restoration of Pikeville Lake, Kentucky, including lake restoration, elimination of stagnant water, and other measures necessary for water quality improvement.

(b) CONTENTS.—Subject to approval of final plans by the Secretary, the plan to be developed and implemented under subsection (a) shall include design and construction of a sewage collection system and related infrastructure, lake restoration (including elimination of stagnant water), and other measures necessary for water quality improvement.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 318. RAYSTOWN LAKE, PENNSYLVANIA.

The Secretary shall undertake a revision of the master plan for the Raystown Lake project, Pennsylvania, and submit to Congress for approval any proposed changes that significantly change uses of the Lake, the surrounding land resources, or any facilities located thereon. As part of the revision, the Secretary shall evaluate opportunities for development of portions of the Lake and adjacent lands by private parties. Pending submission to and approval by the Congress of the results of the revision, the Secretary may not make any significant land use changes at the project.

SEC. 319. SANTA ROSA PLAIN, CALIFORNIA.

The Secretary may study the feasibility of developing and preserving seasonal wetlands on the Santa Rosa plain in California and may provide technical assistance to the Sonoma County Vernal Pool Task Force in developing a plan for the development and preservation of such wetlands.

SEC. 320. KLAMATH GLEN LEVEE, CALIFORNIA.

The Secretary shall determine whether or not a design deficiency exists at the Klamath Glen levee at the confluence of Klamath River and Tewer Creek in Del Norte County, California, that is resulting in erosion at the toe of the levee. If the Secretary determines that such a deficiency does exist, the Secretary shall take such actions as may be necessary to correct the deficiency.

SEC. 321. PHOENIX, ARIZONA.

The Secretary may participate in the study and construction of a water resources project in the vicinity of Phoenix, Arizona, for the purpose of providing flood control and improving water quality in the Tres Rios wetlands, Arizona, at a total cost of $6,500,000.

SEC. 322. WATER SUPPLY NEEDS OF MAHONING VALLEY SANITARY DISTRICT, OHIO.

The Secretary shall cooperate with State and local officials in reviewing the water supply needs of the Mahoning Valley Sanitary District, Ohio. As part of such review, the Secretary shall conduct a study of current and future water allocations at Lake Milton and Neander and Berlin Reservoirs, Ohio.

SEC. 323. SAULT SAINTE MARIE, MICHIGAN.

Section 202 of the Water Resources Development Act of 1990 (104 Stat. 4632) is amended by striking "the parcel of land" and all that follows through the period at the end and inserting the following: "for use as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan, the parcel of land, with a building located thereon, lying in the north one-half of fractional Section 5, T47N, R1E, Michigan Meridian, city of Sault Sainte Marie, Chippewa County, Michigan, commencing at the northeast corner of Lot 561 of Assessors Subdivision No. 13, city of Sault Ste. Marie, Chippewa County, Michigan; thence North 24 degrees 01 minutes 00 seconds East, 128.20 feet to the point of beginning; thence North 65 degrees 59 minutes 00 seconds West, 77.30 feet; thence North 08 degrees 04 minutes 00 seconds East, 152.00 feet; thence North 30 degrees 02 minutes 00 seconds East, 40.80 feet; thence North 59 degrees 46 minutes 00 seconds East, 72.75 feet; thence South 65 degrees 59 minutes 00 seconds East, 72.30 feet; thence South 24 degrees 01 minutes 00 seconds West, 245.80 feet to the point of beginning, containing 0.565 acre more or less.".

SEC. 324. HACKENSACK MEADOWLANDS AREA, NEW JERSEY.

(a) IN GENERAL.—The Secretary is authorized to provide design and construction assistance to the Hackensack Meadowlands Development Commission of the State of New Jersey for the development of the Phase I Environmental Improvement Program of the Special Area Management Plan for the Hackensack Meadowlands area, New Jersey.

(b) REQUIRED ELEMENTS.—The program to be developed under subsection (a) shall include at a minimum the following areas:

(1) Mitigation and enhancement for significant wetlands that contribute to the Meadowlands ecosystem.

(2) Development and implementation of a regional system to protect, preserve, and monitor wetlands.

(3) Water quality monitoring.

(4) Watershed cleanup at Bellmans and Penhorn Creeks.

(5) Storm water management research and demonstration.

(6) Tide gate improvement and reconstruction to control flooding in the Berry's Creek drainage basin.

(7) Research and development for a water quality improvement program.

(c) COST SHARING.—Total project costs under subsection (a) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 325. LAND EXCHANGE, ALLATOONA LAKE, GEORGIA.

(a) IN GENERAL.—The Secretary may initiate a program to exchange lands above 863 feet in elevation which are excess to the operational needs of Allatoona Lake, Georgia, for lands on the north side of Allatoona Lake which are needed for wildlife management and for protection of the water quality and overall environment of Allatoona Lake.

(b) TERMS AND CONDITIONS.—Land exchanges under the program to be conducted under subsection (a) shall be subject to the following terms and conditions:

(1) Lands acquired under the program must be contiguous to the lands in Federal Government ownership on the date of the enactment of this Act.

(2) Lands acquired under the program shall be from willing sellers only.

(3) The basis for all land exchanges under the program shall be a fair market appraisal so that lands exchanged are of equal value.

SEC. 326. NEW YORK BIGHT AND HARBOR STUDY.

(a) IN GENERAL.—As a continuation of the study pursuant to section 728 of the Water Resources Development Act of 1986, the Secretary shall study a hydro-environmental monitoring and information system in the New York Bight and New York Harbor and tributaries to the head of tide, in the form of a system using computerized buoys and radio telemetry that allows for the continual monitoring (at strategically located sites throughout the New York Bight and Harbor region) of the following: wind, wave, current, salinity, and thermal gradients and sea chemistry, in order to measure the effect of changes due to air and water pollution, including changes due to continued dumping in the Bight. This effort will include the study of a verified, nested, high-resolution Harbor/Bight Apex numerical model, and supportive monitoring and information systems.

(b) HYDRAULIC MODEL.—In addition, the Secretary shall study a proper physical hydraulic model of the New York Bight and the tying in of such model to the existing inshore physical hydraulic model of the Port of New York and New Jersey operated by the United States Army Corps of Engineers.

(c) PURPOSE.—This New York Bight and Harbor effort will address the engineering, environmental, and social impacts of natural and man-made changes to the New York Bight, including water quality parameters such as contaminant and sediment transport effects, and nutrient eutrophication.

(d) COORDINATION WITH EPA; REPORTS.—The Secretary shall coordinate fully with the Administrator of the Environmental Protection Agency in carrying out the study described in the section and shall report any findings and recommendations to Congress. The Secretary and the Administrator shall also consider the views of other appropriate Federal, State, and local agencies, academic institutions, and members of the public who are concerned about water and sediment quality in the New York Bight and Harbor region.

(e) REMEDIATION TECHNIQUES.—

(1) IN GENERAL.—To test and verify contaminant and sediment tracking ability of the models, and to reduce the problems associated with the dredging and disposal of dioxin contaminated sediments in the region, a study shall be performed to identify appropriate remediation techniques (including isolation and treatment) for mitigating dioxin contaminated sediments at their sources. The study and report are not intended to encumber civil works projects under development or scheduled to be maintained. Work on these projects shall proceed along the present schedule.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate, the Committee on Public Works and Transportation of the House of Representatives, and to the State of New Jersey a report on—

(A) the dioxin study and monitoring required in this subsection; and

(B) the effectiveness and costs of all reasonable remediation measures, including recommendations as to a plan for implementation of the most time and cost-effective measures.

(f) FUNDING.—There is authorized to be appropriated $1,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 327. AVAILABILITY OF CONTAMINATED SEDIMENTS INFORMATION.

(a) STUDY.—The Secretary shall—

(1) conduct a national study on information that is currently available on contaminated sediments of the surface waters of the United States; and

(2) compile information obtained in such study for the purpose of identifying the location and nature of contaminated sediments in the Nation.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), including recommendations for the collection of additional data on the contaminated sediments and including the compilation of information referred to in subsection (a).

SEC. 328. MILWAUKEE HARBOR, WISCONSIN.

(a) IN GENERAL.—The Secretary is authorized to cooperate with non-Federal interests in the completion of a study on contaminated sediments in Milwaukee Harbor, Wisconsin, and surrounding areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 329. ARTHUR KILL, NEW YORK AND NEW JERSEY.

The Secretary shall complete planning and design of the project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098) after the Secretary has entered into appropriate agreements with non-Federal interests for completion of such planning and design.

SEC. 330. HARBOR MAINTENANCE TRUST FUND DEPOSITS AND EXPENDITURES.

(a) REPORT.—Not later than March 1, 1993, and annually thereafter, the President shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on expenditures from and deposits into the Harbor Maintenance Trust Fund.

(b) CONTENTS.—

(1) IN GENERAL.—Each report to be transmitted under subsection (a) shall contain the following:

(A) A description of expenditures made from the trust fund in the previous fiscal year on a project-by-project basis.

(B) A description of deposits made into the trust fund in the previous fiscal year and the sources of such deposits.

(C) A 5-year projection of expenditures from and deposits into the trust fund.

(2) PREVIOUS YEARS INFORMATION.—In addition to information required under paragraph (1), the initial report to be transmitted under subsection (a) shall contain the information described in subparagraphs (A) and (B) of paragraph (1) for fiscal years 1987 through 1992.

SEC. 331. CONEMAUGH RIVER BASIN, PENNSYLVANIA.

The Secretary, in cooperation with Federal, State, and local agencies, is authorized—

(1) to conduct investigations and surveys of the watersheds of the rivers in the Conemaugh River Basin, Pennsylvania; and

(2) to develop and implement restoration projects for abatement and mitigation of surface water quality degradation caused by abandoned mines and mining activity in such basin.

SEC. 332. TRANSFER OF LOCKS AND APPURTENANT FEATURES, FOX RIVER SYSTEM, WISCONSIN.

(a) TRANSFER.—The Secretary is authorized to transfer to the State of Wisconsin the locks and appurtenant features of the navigation portion of the Fox River System, Wisconsin, extending from Green Bay, Wisconsin, to Lake Winnebago, Wisconsin, subject to the execution of an agreement by the Secretary and the State of Wisconsin which specifies the terms and conditions for such transfer.

(b) TREATMENT OF LOCKS AND APPURTENANT FEATURES.—The locks and appurtenant features to be transferred under subsection (a) shall not be treated as part of any Federal project after the effective date of the transfer.

(c) OPERATION AND MAINTENANCE.—Operation and maintenance of all features of the Fox River System, Wisconsin, other than the locks and appurtenant features to be transferred under subsection (a), shall continue to be a Federal responsibility after the effective date of the transfer under subsection (a).

SEC. 333. FISH AND WILDLIFE MITIGATION.

(a) LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—Section 906(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(c)) is amended by inserting ", including lands, easements, rights-of-way, and relocations," before "for implementation and operation".

(b) CONFORMING AMENDMENTS.—

(1) HARBORS.—Section 101(a)(3) of such Act (33 U.S.C. 2211(a)(3)) is amended by striking

"The non-Federal" and inserting "Except as provided under section 906(c), the non-Federal".

(2) FLOOD CONTROL AND OTHER PURPOSES.—Section 103(i) of such Act (33 U.S.C. 2213(i)) is amended by striking "The non-Federal" and inserting "Except as provided under section 906(c), the non-Federal".

SEC. 334. CHESAPEAKE BAY BENEFICIAL USE SITE MANAGEMENT.

(a) STUDY.—The Secretary is authorized to conduct a study on environmentally beneficial ways to expand or supplement existing placement options and sites serving channel dredging operations of the Port of Baltimore. Such study shall enhance an ongoing long-term management study for the Chesapeake Bay area being conducted by the State of Maryland and the Secretary.

(b) CONDUCT.—In conducting the study under subsection (a), the Secretary shall—

(1) in coordination with Federal agencies and the Maryland Port Administration, demonstrate beneficial uses of dredged materials to enhance public recreational opportunities, increase living resource habitats, and enhance the environmental quality of the Chesapeake Bay;

(2) identify areas for beneficial use placement of dredged materials to enable the Port of Baltimore to continue maintenance dredging until a long-term management study recommends viable alternatives; and

(3) develop options for beneficial use placement of dredged materials for each site identified under paragraph (2).

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 335. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF CUYAHOGA COUNTY, OHIO.

(a) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of the county of Cuyahoga, Ohio, described as follows, are not in the public interest then, subject to subsections (b) and (c), those portions of such county, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the city of Cleveland, county of Cuyahoga, and State of Ohio, T7N, R13W, and known as being a part of original two acre lots numbers 16, 17, 18, 19, and 20 and the northerly extensions thereof, and being more fully described as follows:

Beginning at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of Relocated Erieside Avenue, N.E. (70 feet wide); thence south 56 degrees 06 minutes 52 seconds west on the centerline of Relocated Erieside Avenue, N.E., a distance of 112.89 feet to a point; thence north 33 degrees 53 minutes 08 seconds west a distance of 35.00 feet to a ⅝ inch rebar on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E.; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 335.00 feet and whose chord bears south 42 degrees 36 minutes 52 seconds west 156.41 feet, an arc distance of 157.87 feet to a ⅝-inch rebar; thence south 29 degrees 06 minutes 52 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 119.39 feet to a ⅝-inch rebar; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 39 degrees, 49 minutes 33 seconds west 247.19 feet, an arc distance of 248.64 feet to a ⅝-inch rebar and the true place of beginning of the parcel herein described; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 53 degrees, 17 minutes 33 seconds west 64.05 feet, an arc distance of 64.08 feet to a ⅝-rebar set; thence south 56 degrees 03 minutes 30 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 248.38 feet to a ⅝-rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 265.00 feet and whose chord bears north 79 degrees 02 minutes 42 seconds west 374.09 feet, an arc distance of 415.31 feet to a drill hole set; thence north 34 degrees 08 minutes 55 seconds west on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 505.30 feet to a ⅝-inch rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 112.00 feet and whose chord bears north 40 degrees 32 minutes 41 seconds west 24.95 feet, an arc distance of 25.01 feet to a drill hole set on the southerly right-of-way line of former Erieside Avenue, as vacated by city of Cleveland Ordinance No. 1100–87, passed June 16, 1987; thence northeasterly on the former right-of-way line along the arc of a curve to the right, with a radius of 515.00 feet and whose chord bears north 75 degrees 36 minutes 18 seconds east 136.45 feet, an arc distance of 136.85 feet to a ⅝-inch rebar set; thence north 86 degrees 13 minutes 04 seconds east on said former right-of-way line a distance of 294.57 feet to a ⅝-inch rebar set; thence north 52 degrees 57 minutes 23 seconds east on said former right-of-way line a distance of 56.98 feet to a ⅝-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 244.65 feet to a ⅝-inch rebar set; thence south 78 degrees 53 minutes 08 seconds east a distance of 105.04 feet to a ⅝-inch rebar set; thence north 56 degrees 06 minutes 52 seconds east a distance of 70.75 feet to a ⅝-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 274.74 feet to the true place of beginning containing 325,706 square feet (7.477 acres) more or less.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply to those parts of the areas described in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbor Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set forth in subsection (b), or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 336. LOCKWOODS FOLLY RIVER, BRUNSWICK COUNTY, NORTH CAROLINA.

(a) IN GENERAL.—The Secretary shall carry out an exchange rate demonstration project under section 1135 of the Water Resources Development Act of 1986 (100 Stat. 4251) at the Eastern Channel of the Lockwoods Folly River, Brunswick County, North Carolina.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 337. PORT EVERGLADES, FLORIDA.

(a) DETERMINATION.—The Secretary shall review the construction performed by non-Federal interests at the project for navigation, Port Everglades, Florida, to determine the Federal navigation interest in such work.

(b) REIMBURSEMENT.—If the Secretary determines under subsection (a) that the work performed by non-Federal interests is consistent with the Federal navigation interest, the Secretary may reimburse non-Federal interests an amount equal to the estimate of the Federal share of the cost of construction of the Southport channel and turning notch at Port Everglades, Florida.

SEC. 338. 1993 WORLD UNIVERSITY GAMES.

The Secretary is authorized to use available resources (both personnel and material) to the greatest extent possible to support the logistical and minor construction needs of the local organizing committee of the 1993 World University Games in Western New York for the purpose of supplementing the involvement by the Secretary in the games requested by the Department of Defense, Office of Special Events Management.

SEC. 339. NUISANCE AQUATIC VEGETATION IN LAKE GASTON, VIRGINIA AND NORTH CAROLINA.

(a) IN GENERAL.—The Secretary is authorized to undertake a program to control nuisance aquatic vegetation for the purpose of preserving the recreational uses of the waters of Lake Gaston, Virginia and North Carolina.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Federal share of the cost of the program authorized by this section $200,000 per fiscal year for each of fiscal years 1993 and 1994.

SEC. 340. SOUTHERN WEST VIRGINIA ENVIRONMENTAL RESTORATION INFRASTRUCTURE AND RESOURCE PROTECTION DEVELOPMENT PILOT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a pilot program for providing environmental assistance to non-Federal interests in southern West Virginia. Such assistance may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in southern West Virginia, including projects for waste water treatment and related facilities, water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) LOCAL COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this Act, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of each such legal and institutional structures as are necessary to assure the effective long-term operation of the project by the non-Federal interest.

(3) COST-SHARING.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs but not to exceed 25 percent of total project costs. Operation and maintenance costs shall be 100 percent non-Federal.

(d) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law which would otherwise apply to a project to be carried out with assistance provided under this section.

(e) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(f) SOUTHERN WEST VIRGINIA DEFINED.—For purposes of this section, the term "Southern West Virginia" means Raleigh, Wayne, Cabell, Fayette, Lincoln, Summers, Wyoming, Webster, Mingo, McDowell, Logan, Boone, Mercer, Pocahontas, Greenbrier, and Monroe Counties, West Virginia.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 341. TENNESSEE RIVER HERITAGE MUSEUM AND EDUCATION FACILITY.

The Tennessee Valley Authority is authorized to establish a facility to be known as the "Tennessee River Heritage Museum and Education Facility" for the purpose of encouraging science and technology as it relates to developing, managing, and preserving rivers as a nationally significant resource.

SEC. 342. TENNESSEE VALLEY EXHIBIT COMMISSION OF ALABAMA.

(a) COOPERATION BY TENNESSEE VALLEY AUTHORITY.—The Tennessee Valley Authority shall cooperate with the Tennessee Valley Exhibit Commission of Alabama to establish an exhibit in Florence, Alabama, on research and development in the area of inland navigation, tributary development and related activities.

(b) CONTRIBUTIONS.—The Tennessee Valley Authority may accept contributions from private sources in carrying out this section.

SEC. 343. RED ROCK DAM AND LAKE, IOWA.

(a) STUDY.—The Comptroller General shall conduct a study to review the operation of the project for flood control, Red Rock Dam and Lake, Iowa, authorized by the Flood Control Act of June 28, 1938.

(b) PURPOSE.—The purpose of the study to be conducted under subsection (a) shall be—

(1) to determine whether the property adjacent to the project referred to in subsection (a) is being inundated by high reservoir levels beyond the levels permitted by existing easements; and

(2) to review actions taken by the Secretary to implement the requirement contained in section 108(b) of Public Law 99-190 (99 Stat. 1316).

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under this section, including recommendations on whether easements of the Secretary referred to in subsection (b)(1) should be renegotiated with landowners.

SEC. 344. ENVIRONMENTAL PROJECT MODIFICATIONS, SACRAMENTO RIVER, CALIFORNIA.

(a) IN GENERAL.—In carrying out modifications, under section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), in the structures and operations of the project for flood control, Sacramento River, California, authorized by section 2 of the Flood Control Act of 1917 (39 Stat. 949), for the purpose of improving the quality of the environment in the public interest, the Secretary shall—

(1) credit the value of all lands, easements, and rights-of-way provided by non-Federal interests for such modifications to the non-Federal share of the cost of such modifications;

(2) include the one-time construction of the operation and maintenance facilities as part of project costs for the purposes of cost sharing; and

(3) in addition to the plan contained in the Yolo Basin Wetlands Project Modification Report dated April 1992, plan, design, and construct as part of such modifications historical wetlands at an alternative site located contiguous to the Yolo Bypass, immediately east of the Davis Water Pollution Control Plant, and along the north side of the Willow Slough Bypass.

(b) REPORT DEADLINE.—The Secretary shall complete a separate project modification report to carry out subsection (a)(3) for planning, design, and construction requirements on or before September 30, 1993.

SEC. 345. BANK STABILIZATION AND MARSH CREATION.

(a) STUDY.—The Secretary shall conduct a study on bank stabilization and marsh creation by construction of a system of retaining dikes and by beneficial use of dredged material along the Calcasieu River Ship Canal, Louisiana, at critical locations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), including recommendations for specific measures to be undertaken under section 205 of this Act (relating to beneficial uses of dredged material) as a result of such study.

SEC. 346. CONNECTICUT COASTAL SALTMARSH RESTORATION AUTHORIZATION.

Subject to the cost sharing provisions of the Water Resources Development Act of 1986, the Secretary shall, as part of the long term goal of Corps of Engineers water resources development program of increasing the quality and quantity of the Nation's wetlands, investigate and carry out saltmarsh restoration projects along the coastline of the State of Connecticut.

SEC. 347. WINFIELD, BUFFALO, AND ELEANOR, WEST VIRGINIA.

(a) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the towns of Winfield, Buffalo, and Eleanor, West Virginia, for the purpose of assisting the residents of such towns in analyzing and understanding the remedial options available for dealing with substances posing a risk to the environment at the Corps of Engineers lock and dam construction site in the vicinity of Winfield, West Virginia.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 348. LAND CONVEYANCE, CITY OF FORT SMITH, ARKANSAS.

The Secretary may convey to the city of Fort Smith, Arkansas, all right, title, and interest of the United States (excluding all oil, gas, and other minerals and subject to existing encumbrances) in and to a tract of real property (including improvements thereon) of approximately 400 acres located adjacent to the city and under the jurisdiction of the Secretary. Such conveyance shall be subject to terms and conditions agreed to between the Secretary and the city and to such other terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 349. RAHWAY RIVER, NEW JERSEY.

The Secretary is authorized to conduct a study on flooding problems along the Rahway River, township of Woodbridge and city of Rahway, New Jersey, and to implement such measures as the Secretary determines feasible in the interest of flood control along the Rahway River and the South Branch of the Rahway River.

SEC. 350. SAN FRANCISCO BAY, CALIFORNIA.

The Secretary is authorized to participate as an active Federal member in the Memorandum of Understanding for the Interagency Ecological Study Program for implementation of the monitoring requirements in the San Francisco Bay—Delta Estuary, California, dated October 19, 1990, and March 9, 1992, including the coordination, conduction, and transfer of funds, equipment, and personnel between the cooperating agencies.

SEC. 351. FLOOD WARNING RESPONSE SYSTEM.

Section 17(a) of the Water Resources Development Act of 1988 (102 Stat. 4026) is amended by striking "consistent" and all that follows through "1986" and inserting "at full Federal expense".

SEC. 352. TARRANT COUNTY, TEXAS.

Section 101(n) of Public Law 99-500 (100 Stat. 1783-345) and section 101 of Public Law 99-591 (100 Stat. 3341-345-3341-346) are each amended by striking ": *Provided*, That in" and all that follows through "and Marine Creek".

SEC. 353. RELEASE OF CERTAIN USE RESTRICTION.

(a) RELEASE.—Notwithstanding any other provision of law, the Tennessee Valley Authority is authorized and directed to grant a release or releases, without monetary consideration, from the restriction and covenant which requires that property described in subsection (b) shall at all times be used solely for the purpose of erecting docks and buildings for shipbuilding purposes or for the manufacture or storage of products for the purpose of trading or shipping in transportation.

(b) DESCRIPTION OF PROPERTY.—This section shall apply only to those lands situated in the city of Decatur, Morgan County, Alabama, and described in an indenture conveying such lands to the Ingalls Shipbuilding Corporation dated July 29, 1954, and recorded in Deed Book 535 at page 6 in the office of the Probate Judge of Morgan County, Alabama, which are owned or may hereafter be acquired by the city of Decatur, Alabama.

SEC. 354. FORT POINT, GALVESTON, TEXAS.

(a) CONSTRUCTION OF INTERAGENCY CHILD CARE FACILITY.—Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to construct, establish, equip, maintain, and operate (or assist in constructing, equipping, maintaining, and operating) an interagency child care facility at Fort Point, Galveston, Texas, on Federal property under the management and control of the Galveston District, United States Army Corps of Engineers. The purpose of such facility shall be to provide child care services for children who are members of households of Federal employees.

(b) FEES, TRANSFERS, AND ACCEPTANCE OF DONATIONS.—

(1) FEES.—The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Galveston District, United States Army Corps of Engineers, employees and others who are beneficiaries of the services provided by the child care facility to be constructed under this section.

(2) TRANSFERS.—A Federal agency may transfer to the Secretary for use in connection with the child care facility to be constructed under this section amounts available to the agency for child care services.

(3) DONATIONS.—The Secretary is authorized to accept donations of money, equipment, and other property for use in connection with the child care facility to be constructed under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section for fiscal years beginning after September 30, 1992, $1,500,000. Such sums shall remain available until expended.

SEC. 355. PRESIDIO OF SAN FRANCISCO, CALIFORNIA.

(a) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to offer technical assistance to the National Park Service on infrastructure repairs and improvements at the Presidio of San Francisco, California, during the transition period from Army to Park Service management and after its inclusion into the Golden Gate National Recreation Area.

(b) IDENTIFICATION OF OPPORTUNITIES.—The Secretary shall assist the National Park Service in identifying opportunities at the Presidio for demonstration and education programs of environmentally sustainable and innovative technologies, and shall make available a liaison from its Construction Engineering Research Laboratory for this purpose.

(c) COOPERATION.—The Secretary will cooperate with other Federal agencies (such as the Environmental Protection Agency and Department of Energy) which the National Park Service identifies as having an interest and role in such programs at the Presidio.

SEC. 356. SEDIMENT MANAGEMENT STRATEGY FOR MAUMEE RIVER, TOLEDO HARBOR.

(a) DEVELOPMENT.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in coordination with the Toledo Port Authority and the Ohio Environmental Protection Agency, shall develop a comprehensive 5-year and 20-year sediment management strategy for the Maumee River, Toledo Harbor. The strategy may include a combination of several sediment disposal alternatives and shall emphasize innovative, environmentally benign alternatives, including reuse and recycling for wetland restoration.

(b) IMPLEMENTATION.—The Secretary is authorized to conduct the engineering and construction activities necessary to implement the 5-year sediment management strategy developed pursuant to subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out subsection (a) and $3,000,000 to carry out subsection (b).

SEC. 357. SOUTHEAST LIGHT ON BLOCK ISLAND, RHODE ISLAND.

Section 416 of the Water Resources Development Act of 1990 (104 Stat. 4651–4652) is amended by striking subsection (c) and inserting the following:

"(c) COST-SHARING.—The non-Federal share of the cost of relocating the lighthouse under this section shall be $970,000. Administrative costs of the Army Corps of Engineers in carrying out this section shall not be treated, for purposes of this section, as costs of relocating the lighthouse and shall not be paid from amounts appropriated to carry out this section.".

SEC. 358. ALLENDALE DAM, NORTH PROVIDENCE, RHODE ISLAND.

(a) RECONSTRUCTION.—The Secretary is authorized to reconstruct the Allendale Dam in North Providence, Rhode Island, at a total cost of $90,000, with an estimated Federal cost of $67,500 and an estimated non-Federal cost of $22,500. The Secretary shall not rebuild the dam until title to such dam has been transferred to a nonprofit watershed council or the city of North Providence.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project authorized by this section shall be 25 percent.

SEC. 359. LAKE DEGRAY WATER SUPPLY.

The Secretary is directed to execute a water supply contract with the Ouachita River Water District for withdrawals from Lake DeGray, Arkansas, as provided in the agreement forwarded by the Vicksburg District Corps of Engineers dated March 1992.

SEC. 360. SOURIS RIVER, NORTH DAKOTA.

Section 1124(d) of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended by striking "$69,100,000" and inserting "$120,800,000".

SEC. 361. ABANDONED AND WRECKED BARGE REMOVAL.

(a) IN GENERAL.—In order to alleviate a hazard to navigation, the Secretary is authorized to remove a sunken barge from waters off the shore of the Narragansett Town Beach in Narragansett, Rhode Island, at a total cost of $200,000, with an estimated Federal cost of $150,000 and an estimated non-Federal cost of $50,000. The Secretary shall not remove the barge until title to such barge has been transferred to the United States.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project authorized by this section shall be 25 percent. Revenue derived from the sale of scrap from this barge shall be credited toward the non-Federal share of the project cost.

SEC. 362. QUONSET POINT-DAVISVILLE, RHODE ISLAND.

The Secretary is authorized to construct 2 elevated water storage towers at Quonset Point-Davisville, Rhode Island, at a total cost of $1,500,000, with an estimated Federal cost of $1,125,000 and an estimated non-Federal cost of $375,000. In conjunction with this project, the Secretary is authorized to relocate 6,000 linear feet of sewer lines to West Davisville, Rhode Island, at a total cost of $1,000,000, with an estimated Federal cost of $750,000 and an estimated non-Federal cost of $250,000.

SEC. 363. STILLWATER, MINNESOTA.

The Secretary is authorized to undertake the repair and reconstruction of a flood wall system at Stillwater, Minnesota, including an extension of such system to prevent the continuous eroding of the riverfront, at a total cost of $3,200,000, with an estimated Federal cost of $2,400,000 and an estimted non-Federal cost of $800,000.

SEC. 364. STORMWATER DISCHARGES.

Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) is amended—

(1) in paragraph (1) by striking "October 1, 1992" and inserting "October 1, 1994"; and

(2) in paragraph (6) by striking "October 1, 1992" and inserting "October 1, 1993".

TITLE IV—INFRASTRUCTURE TECHNOLOGY, RESEARCH AND DEVELOPMENT

SEC. 401. INTERNATIONAL OUTREACH PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to engage in activities to inform the United States maritime industry and port authorities of technological innovations abroad that could significantly improve waterborne transportation in the United States, both inland and deep draft. Such activities may include—

(1) development, monitoring, assessment, and dissemination of information about foreign water transportation and port facilities that could significantly improve water transportation in the United States;

(2) research, development, training, and other forms of technology transfer and exchange; and

(3) offering technical services which cannot be readily obtained in the private sector to be incorporated in the proposals of port authorities or other water transportation developers if the costs for assistance will be recovered under the terms of each project.

(b) COOPERATION.—The Secretary may carry out the provisions of this section in cooperation with Federal departments and agencies, State and local agencies, authorities, institutions, corporations (profit or nonprofit), foreign governments, or other organizations.

(c) FUNDING.—The funds to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating entity or organization according to cost-sharing agreements proscribed by the Secretary. Reimbursement for services provided under this section shall be credited to the appropriation concerned.

SEC. 402. MARINE TECHNOLOGY REVIEW.

(a) DREDGING NEEDS.—The Secretary is authorized to conduct such studies as are necessary to provide a report to Congress on the dredging needs of the national ports and harbors of the United States. The report shall include existing and projected future project depths, types and sizes of ships in use, and world trade patterns, an assessment of the future national waterside infrastructure needs, and a comparison of drafts of United States and selected world ports.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,500,000 to carry out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 403. LA GUARDIA DIKE, NEW YORK.

The responsibility of the Federal Government to maintain and operate a 1,400-foot earthen dike constructed by local interests in lieu of a 1,400-foot steel sheetpile breakwater authorized as part of the Flushing Bay and Creek, New York, project by the River and Harbor Act of 1962 (76 Stat. 1174) is not authorized after the date of the enactment of this Act.

SEC. 404. ATLANTIC COAST OF NEW YORK.

(a) DEVELOPMENT OF PROGRAM.—The Secretary is authorized and directed to develop a data collection and monitoring program of coastal processes for the Atlantic Coast of New York, from Coney Island to Montauk Point, with a view toward providing information necessary to develop a program for addressing post storm actions and long-term shoreline erosion control.

(b) INITIAL PLAN.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall provide an initial plan for data collection and monitoring to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. Such initial plan shall be fully coordinated with and agreed to by appropriate agencies of the State of New York.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,400,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out this section. Such sums shall remain available until expended.

SEC. 405. SEDIMENTS DECONTAMINATION TECHNOLOGY.

(a) DECONTAMINATION PROJECT.—

(1) SELECTION OF TECHNOLOGIES.—Based upon a review of decontamination technologies identified pursuant to section 412(c) of the Water Resources Development Act of 1990, the Administrator of the Environmental Protection Agency and the Secretary shall, within 1 year after the date of the enactment of this Act, jointly select removal, pre-treatment, post-treatment, and decontamination technologies for contaminated marine sediments for a decontamination project in the New York/New Jersey Harbor.

(2) RECOMMENDED PROGRAM.—Upon selection of technologies, the Administrator and the Secretary shall jointly recommend a program of selected technologies to assess their effectiveness in rendering sediments acceptable for unrestricted ocean disposal or beneficial reuse, or both.

(b) DECONTAMINATION DEFINED.—For purposes of this section, "decontamination" may include local or remote prototype or production and laboratory decontamination technologies, sediment pre-treatment and post-treatment processes, and siting, economic, or other measures necessary to develop a matrix for selection of interim prototype of long-term processes. Decontamination techniques need not be preproven in terms of likely success.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

TITLE V—CONTAMINATED SEDIMENT AND OCEAN DUMPING

SEC. 501. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the "National Contaminated Sediment Assessment and Management Act".

(b) DEFINITIONS.—For the purposes of sections 502 and 503 of this title—

(1) the term "aquatic sediment" means sediment underlying the navigable waters of the United States;

(2) the term "navigable waters" has the same meaning as in section 502(7) of the Federal Water Pollution Control Act (33 U.S.C. 1362(7));

(3) the term "pollutant" has the same meaning as in section 502(6) of the Federal Water Pollution Control Act (33 U.S.C. 1362(6)); except that such term does not include dredge spoil, rock, sand, or celler dirt;

(4) the term "contaminated sediment" means aquatic sediment which—

(A) contains chemical substances in excess of appropriate geochemical, toxicological or sediment quality criteria or measures; or

(B) is otherwise considered by the Administrator to pose a threat to human health or the environment; and

(5) the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 502. NATIONAL CONTAMINATED SEDIMENT TASK FORCE.

(a) ESTABLISHMENT.—There is established a National Contaminated Sediment Task Force (hereinafter referred to in this section as the "Task Force"). The Task Force shall—

(1) advise the Administrator and the Secretary in the implementation of this title;

(2) review and comment on reports concerning aquatic sediment quality and the extent and seriousness of aquatic sediment contamination throughout the Nation;

(3) review and comment on programs for the research and development of aquatic sediment restoration methods, practices, and technologies;

(4) review and comment on the selection of pollutants for development of aquatic sediment criteria and the schedule for the development of such criteria;

(5) advise appropriate officials in the development of guidelines for restoration of contaminated sediment;

(6) make recommendations to appropriate officials concerning practices and measures—

(A) to prevent the contamination of aquatic sediments; and

(B) to control sources of sediment contamination; and

(7) review and assess the means and methods for locating and constructing permanent, cost-effective long-term disposal sites for the disposal of dredged material that is not suitable for ocean dumping (as determined under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.)).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The membership of the Task Force shall include 1 representative of each of the following:

(A) The Administrator.

(B) The Secretary.

(C) The National Oceanic and Atmospheric Administration.

(D) The United States Fish and Wildlife Service.

(E) The Geological Survey.

(F) The Department of Agriculture.

(2) ADDITIONAL MEMBERS.—Additional members of the Task Force shall be jointly selected by the Administrator and the Secretary, and shall include—

(A) not more than 3 representatives of States;

(B) not more than 3 representatives of ports, agriculture, and manufacturing; and

(C) not more than 3 representatives of public interest organizations with a demonstrated interest in aquatic sediment contamination.

(3) COCHAIRMEN.—The Administrator and the Secretary shall serve as cochairmen of the Task Force.

(4) CLERICAL AND TECHNICAL ASSISTANCE.—Such clerical and technical assistance as may be necessary to discharge the duties of the Task Force shall be provided by the personnel of the Environmental Protection Agency and the Army Corps of Engineers.

(5) COMPENSATION FOR ADDITIONAL MEMBERS.—The additional members of the Task Force selected under paragraph (2) shall, while attending meetings or conferences of the Task Force, be compensated at a rate to be fixed by the cochairmen, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Task Force. While away from their homes or regular places of business in the performance of services for the Task Force, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(c) REPORT.—Within 2 years after the date of the enactment of this Act, the Task Force shall submit to Congress a report stating the findings and recommendations of the Task Force.

SEC. 503. SEDIMENT SURVEY AND MONITORING.

(a) SURVEY.—

(1) IN GENERAL.—The Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Secretary, shall conduct a comprehensive national survey of data regarding aquatic sediment quality in the United States. The Administrator shall compile all existing information on the quantity, chemical and physical composition, and geographic location of pollutants in aquatic sediment, including the probable source of such pollutants and identification of those sediments which are contaminated pursuant to section 501(b)(4).

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Administrator shall report to the Congress the findings, conclusions, and recommendations of such survey, including recommendations for actions necessary to prevent contamination of aquatic sediments and to control sources of contamination.

(b) MONITORING.—

(1) IN GENERAL.—The Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Secretary, shall conduct a comprehensive and continuing program to assess aquatic sediment quality. The program conducted pursuant to this subsection shall, at a minimum—

(A) identify the location of pollutants in aquatic sediment;

(B) identify the extent of pollutants in sediment and those sediments which are contaminated pursuant to section 501(b)(4);

(C) establish methods and protocols for monitoring the physical, chemical, and biological effects of pollutants in aquatic sediment and of contaminated sediment;

(D) develop a system for the management, storage, and dissemination of data concerning aquatic sediment quality;

(E) provide an assessment of aquatic sediment quality trends over time;

(F) identify locations where pollutants in sediment may pose a threat to the quality of drinking water supplies, fisheries resources, and marine habitats; and

(G) establish a clearing house for information on technology, methods, and practices available for the remediation, decontamination, and control of sediment contamination.

(2) Report.—The Administrator shall submit to Congress a report on the findings of the monitoring under paragraph (1) on the date that is 2 years after the date specified in subsection (a)(2) and biennially thereafter.

SEC. 504. CONCURRENCE BY THE ADMINISTRATOR.

(a) Concurrence by the Administrator.—Section 103(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413(c)) is amended to read as follows:

"(c) Concurrence by the Administrator.—

"(1) Notification.—Prior to issuing a permit to any person under this section, the Secretary shall first notify the Administrator of the Secretary's intention to do so and provide necessary and appropriate information concerning the permit to the Administrator. Within 30 days of receiving such information, the Administrator shall review the information and request any additional information the Administrator deems necessary to evaluate the proposed permit.

"(2) Concurrence by administrator.—Within 45 days after receiving from the Secretary all information the Administrator considers to be necessary to evaluate the proposed permit, the Administrator shall, in writing, concur with (either entirely or with conditions) or decline to concur with the determination of the Secretary as to compliance with the criteria, conditions, and restrictions established pursuant to sections 102(a) and 102(c) relating to the environmental impact of the permit. The Administrator may request one 45-day extension in writing and the Secretary shall grant such request on receipt of the request.

"(3) Effect of concurrence.—In any case where the Administrator makes a determination to concur (with or without conditions) or to decline to concur within the time period specified in paragraph (2) the determination shall prevail. If the Administrator declines to concur in the determination of the Secretary no permit shall be issued. If the Administrator concurs with conditions the permit shall include such conditions. The Administrator shall state in writing the reasons for declining to concur or for the conditions of the concurrence.

"(4) Failure to act.—If no written documentation is made by the Administrator within the time period provided for in paragraph (2), the Secretary may issue the permit.

"(5) Compliance with criteria and restrictions.—Unless the Administrator grants a waiver pursuant to subsection (d), any permit issued by the Secretary shall require compliance with such criteria and restrictions.".

(b) Conforming Amendment.—Section 103(e) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413(e)) is amended by inserting "and section 104(a) and (d)" before the period.

SEC. 505. STATE OCEAN DUMPING REQUIREMENTS.

Section 106(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416(d)) is amended to read as follows:

"(d) State Programs.—

(1) State rights preserved.—Except as expressly provided in this subsection, nothing in this title shall preclude or deny the right of any State to adopt or enforce any requirements respecting dumping of materials into ocean waters within the jurisdiction of the State.

"(2) Federal projects.—In the case of a Federal project, a State may not adopt or enforce a requirement that is more stringent than a requirement under this title if the Administrator finds that such requirement—

"(A) is not supported by relevant scientific evidence showing the requirement to be protective of human health, aquatic resources, or the environment;

"(B) is arbitrary or capricious; or

"(C) is not applicable or is not being applied to all projects without regard to Federal, State, or private participation and the Secretary of the Army concurs in such finding.

"(3) Exemption from state requirements.—The President may exempt a Federal project from any State requirement respecting dumping of materials into ocean waters if it is in the paramount interest of the United States to do so.

"(4) Consideration of site of origin prohibited.—Any requirement respecting dumping of materials into ocean waters applied by a State shall be applied without regard to the site of origin of the material to be dumped.".

SEC. 506. SITE DESIGNATION.

(a) Site Designation Amendments.—Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1412(c)) is amended to read as follows:

"(c) Designation of Sites.—

(1) In general.—The Administrator shall, in a manner consistent with the criteria established pursuant to subsection (a), designate sites or time periods for dumping. The Administrator shall designate sites or time periods for dumping that will mitigate adverse impact on the environment to the greatest extent practicable.

"(2) Prohibitions regarding site or time period.—In any case where the Administrator determines that, with respect to certain materials, it is necessary to prohibit dumping at a site or during a time period, the Administrator shall prohibit the dumping of such materials in such site or during such time period. This prohibition shall apply to any dumping at the site or during such time period. This prohibition shall apply to any dumping at the site or during the time period, including any dumping under section 103(e).

"(3) Dredged material disposal sites.—In the case of dredged material disposal sites, the Administrator, in conjunction with the Secretary, shall develop a site management plan for each site designated pursuant to this section. In developing such plans, the Administrator and the Secretary shall provide opportunity for public comment. Such plans shall include, but not be limited to—

"(A) a baseline assessment of conditions at the site;

"(B) a program for monitoring the site;

"(C) special management conditions or practices to be implemented at each site that are necessary for protection of the environment;

"(D) consideration of the quantity of the material to be disposed of at the site, and the presence, nature, and bioavailability of the contaminants in the material;

"(E) consideration of the anticipated use of the site over the long term, including the anticipated closure date for the site, if applicable, and any need for management of the site after the closure of the site; and

"(F) a schedule for review and revision of the plan (which shall not be reviewed and revised less frequently than 10 years after adoption of the plan, and every 10 years thereafter).

"(4) General site management plan requirement; prohibitions.—After January 1, 1995, no site shall receive a final designation unless a management plan has been developed pursuant to this section. Beginning on January 1, 1997, no permit for dumping pursuant to this Act or authorization for dumping under section 103(e) of this Act shall be issued for a site unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 103(b).

"(5) Management plans for previously designated sites.—The Administrator shall develop a site management plan for any site designated prior to January 1, 1995, as expeditiously as practicable, but not later than January 1, 1997, giving priority consideration to management plans for designated sites that are considered to have the greatest impact on the environment.".

(b) Site Use Clarification.—Section 103(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413(b)) is amended—

(1) in the last sentence by inserting "maximum" before "extent feasible"; and

(2) by adding at the end the following: "In any case in which the use of a designated site is not feasible, the Secretary may, with the concurrence of the Administrator, select an alternative site. The criteria and factors established in section 102(a) relating to site selection shall be used in selecting the alternative site in a manner consistent with the application of such factors and criteria pursuant to section 102(c). Disposal at or in the vicinity of an alternative site shall be limited to a period of not greater than 5 years unless the site is subsequently designated pursuant to section 102(c); except that an alternative site may continue to be used for an additional period of time that shall not exceed 5 years if—

"(1) no feasible disposal site has been designated by the Administrator;

"(2) the continued use of the alternative site is necessary to maintain navigation and facilitate interstate or international commerce; and

"(3) the Administrator determines that the continued use of the site does not pose an unacceptable risk to human health, aquatic resources, or the environment.".

SEC. 507. PERMIT CONDITIONS.

(a) Management Plan.—Section 104(a)(4) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414(a)(4)) is amended to read as follows: "(4) such requirements, limitations, or conditions as are necessary to assure consistency with any site management plan approved pursuant to section 102(c);".

(b) Permit Term.—Section 104(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414(a)), is amended by adding at the end the following: "Permits issued under this title shall be issued for a period of not to exceed 7 years.".

(c) Review.—Section 104(d) of the Marine Protection, Research, and Sanctuaries Act of

1972 (33 U.S.C. 1414(d)) is amended by adding after "where he finds" the following: ", based upon monitoring data from the dump site and surrounding area,".

SEC. 508. OCEAN DUMPING PENALTIES.

(a) PENALTY.—Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)) is amended to read as follows:

"(b) CRIMINAL PENALTIES.—In addition to any action that may be brought under subsection (a)—

"(1) any person who knowingly violates any provision of this title, any regulation promulgated under this title, or a permit issued under this title, shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; and

"(2) any person who is convicted of such a violation pursuant to paragraph (1) shall forfeit to the United States—

"(A) any property constituting or derived from any proceeds that the person obtained, directly or indirectly, as a result of such violation; and

"(B) any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.".

(b) SEIZURE AND FORFEITURE.—Section 105 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415) is amended by adding at the end the following:

"(i) SEIZURE AND FORFEITURE.—

"(1) IN GENERAL.—Any vessel used to commit an act for which a penalty is imposed under section 105(b) shall be subject to seizure and forfeiture to the United States under procedures established for seizure and forfeiture of conveyances under sections 413 and 511 of the Controlled Substances Act (21 U.S.C. 853, 881).

"(2) LIMITATION ON APPLICATION.—This subsection does not apply to an act committed substantially in accordance with a compliance agreement or enforcement agreement entered into by the Administrator under section 104B(c).".

SEC. 509. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended by striking "for each of" and all that follows through the period at the end of the section and inserting the following: "for fiscal year 1993 and not to exceed $14,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997, to remain available until expended.".

(b) TASK FORCE, SURVEY AND MONITORING.—There is authorized to be appropriated to the Administrator to carry out sections 502 and 503 such sums as may be necessary.

SEC. 510. REPORT TO CONGRESS.

Section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1421) is amended by adding at the end the following: "Such report shall include a description of the number of permits issued under this title (including the number of permits issued by the Secretary with the concurrence of the Administrator), any actions taken under subsections (c) and (d) of section 103, and for each permit, the site receiving the material, the volume and characteristics of material dumped (including the extent and nature of pollutants in such material), and the management practices implemented in connection with each disposal activity.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6167 means jobs, productive jobs for American workers, it means the further rebuilding of our Nation's infrastructure and it means the continued development of our Nation's water resources.

This bill will integrate our water resources development program with the National Intermodal Transportation System that was created last year.

The bill authorizes major expansions and improvements of our water resources infrastructure through projects that will mean thousands of jobs in every part of our Nation.

I want to pay my compliments to JOHN PAUL HAMMERSCHMIDT of Arkansas, our ranking Republic member, HENRY NOWAK of New York, The Chairman of the Subcommittee on Water Resources, and THOMAS PETRI of Wisconsin, the subcommittee's ranking Republican member for their outstanding efforts on this bill.

I also want to thank our counterparts in the Senate, Senator MOYNIHAN of New York, Senator CHAFEE of Rhode Island, and Senator SYMMS of Idaho. Also, I want to express my thanks to the staff of the Public Works and Transportation Committee for their work on this bill and many others over the years.

This bill is a joint effort that reflects the views of the House, the Senate, and the administration.

Investment in our Nation's water resources infrastructure means jobs and it means an increased ability for our Nation to compete in the global economy.

This bill continues the progress in our water resources development program that began with our 1986 water resources bill, it begins to blend our ports and inland waterways into the Intermodal Transportation System that we created last year and it furthers the process of rebuilding our environmental infrastructure.

Our water resources program is a vital part of our Nation's infrastructure rebuilding program and Intermodal Transportation System that includes highways, transit, aviation, and other forms of transportation. Getting the goods to market is critical.

The Water Resources Development Act of 1992 will continue the process of rebuilding the infrastructure and the ports and waterways that are part of the Intermodal Transportation System.

Based on the recommendations of the Corps of Engineers, the bill authorizes and modifies 23 water resources projects at a total of $2.2 billion. There are 8 port developments, 2 inland waterways, 11 flood control projects, 1 environmental restoration project, and 1 beach erosion control project.

This bill recognizes that the Corps of Engineers is a tremendous asset for our entire Nation. It is crucial for the quality of life of all our residents to use the valuable and abundant resources and expertise of the corps to rebuild our Nation's environmental infrastructure.

We are bringing before this House a program for water resources development that is environmentally sound and that will meet our Nation's needs for the 1990's and the 21st century.

This legislation will continue the great progress that has been made in the water resources development area and the Corps of Engineers program since passage of the 1986 Water Resources Act. We will be maintaining the 2-year water resources authorization cycle which is absolutely essential for the proper functioning of the entire program.

At the request of the administration, several authorities to provide grants or loans to communities for important and needed environmental infrastructure projects were changed to authorize the Secretary to provide design and construction assistance in lieu of grants or loans. Such assistance may include planning, engineering, design, and construction of these needed infrastructure improvements.

This bill is vitally needed this year. I urge the Members to vote in support of H.R. 6167, the Water Resources Development Act of 1992 and send this bill to the President for his signature.

I am submitting additional explanatory material concerning section 102(P) with my statement.

Section 102(P) of the House Act also corrects and clarifies the original intent of Sections 101(a)(18)(C) (vii) and (viii) of the Water Resources Development Act of 1990 for the Passaic River Mainstem project, New Jersey and New York, to insure that the full value of credits is available to the project in light of the national importance of the wetlands bank provisions. In recognition of the broad environmental goals of the wetlands bank and the protection of additional open space lands, including Passaic River watershed areas outside of New Jersey, clause 101(a)(18)(C)(vii) requires that the fair market value of such lands be fully credited to the non-federal share of the cost of the project. It is intended that such credits shall be applied to costs allocated to all Passaic River Mainstem project purposes and any other Passaic River basin flood control project, and shall not be limited to offsets against the sponsor's share of costs assigned only to the Passaic River Mainstem project flood control purpose. Additionally, section 102(P) directs that the wetlands bank and additional lands shall not be treated as project costs for purposes of the financial evaluation of the project. The wetlands bank, and the protection of additional open space and watershed lands, are non-Federal programs. It is clearly intended that the value of such lands shall not be considered as a project cost, nor added to or otherwise treated as a project cost for the project's economic and financial evaluations.

In accordance with Sections 101 18(A)(iv) and (v) of Public Law 101-640 the Secretary of the Army is directed to establish a Corps of Engineers operating center for the Passaic River Flood Warning System completed in 1988, under Section 205 of the 1948 Flood Control Act, and amended. The Committee recognizes that the monitoring of rainfall and stream flows over the Passaic River watershed is central to the Federal responsibilities established in Section 101 18(A)(iv) of PL 101-640. Therefore, in accordance with Section 101 18(A)(v) of said Act, which affirms the Flood Warning System element as an integral component of the Main Stem Project, funding is provided for the Corps of Engineers to initiate those transition activities needed to interface with the State of New Jersey, who is currently operating the system, and to plan and prepare for assuming full Federal operation, maintenance, repair, and rehabilitation and replacement in conjunction with the Federal role for the tunnel. The Committee is aware that the system is technically complex requiring sophisticated hydrologic and operations analytical capability including the accurate and timely measurement and computerized evaluation of rainfall and stream flows.

DEPARTMENT OF THE ARMY,
Washington, DC, October 2, 1992.

Hon. ROBERT A. ROE,
Chairman, Committee on Public Works and Transportation,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the cash required from the State sponsor for the Passaic Mainstem Tunnel Project. The fully funded cost of the authorized project, including future inflation, and assuming initiation of project construction is in 1988 and project completion in 2008, is $1.94 billion. The cash required would be $113,000,000 assuming the State dedicates sufficient lands currently in public ownership under 101 (18)(c)(vii) of Public Law 101-640.

I hope that this information will be of benefit to you in your deliberations with the State of New Jersey. Once the State has made the necessary long-term commitment to project implementation, the Department of Army is prepared to support continued implementation of this much needed flood control project through the annual budget process.

Sincerely,
G. EDWARD DICKEY,
Acting Assistant Secretary of the Army (Civil Works).

After consultation with staff and the Army Corps of Engineers, it is the intention of the Committee that the above referenced clarifications of sections 101(a)(18)(C) (vii) and (viii) of the Water Resources Development Act of 1990 will have the effect of reducing the State of New Jersey's cash contribution established in the above letter from $113 million to $90 million as reflected in the following chart:

PASSAIC RIVER MAINSTEM PROJECT, NEW JERSEY AND NEW YORK

[COST SHARING COMPUTATION ASSUMING APPLICATION OF $410 MILLION NON-FEDERAL CREDIT FOR INTEGRAL WORK OR WETLANDS BANK]

	Total	Non-Federal[1]				Federal	Non-Federal
	Project cost	Credits	Cash	LERRD[2]	Total		Share—percent
Structural flood control	1,755m	(348m)	372m	67m	439m	1,316m	25
Natural storage (non-structural F.C.)	36	(9)	−27	36	9	27	25
Storm damage reduction	148	(52)	38	14	52	96	35
Recreation	1.3	(0.7)	0.7	0	0.7	0.6	50
Non-Federal	N/A	410	−293[3]	−117[4]	0	N/A	N/A
Total	1,940m	410m	90m[5]	0	500m	1,440m	26

Note.—All numbers in table are estimates based on 1992 price levels with assigned allocation demonstrating the intent of the provisions classified by section 102 (P) of the Water Resources Development Act of 1992.

[1] Totals are rounded; non-Federal shares based on P.L. 99-662 cost sharing.
[2] All lands, easements, rights-of-way and disposal areas [LERRD's] are displayed as non-Federal and do not reflect specific credit offsets or authorized advance purchased by the Federal Government.
[3] Credit allocation of $410m to cash (except for required 5 percent during construction).
[4] Allocation of remaining portion of $410m to other than 5 percent mandatory cash contribution for flood control.
[5] Equivalent to 5 percent of costs assigned to flood control.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Water Resources Development Act of 1992. This compromise legislation, embodying a final agreement between House and Senate negotiators, contains authorizations for numerous water projects and new or revised policy directives of the Army Corps of Engineers. Among those provisions of particular merit are new authorities for improvement of the environment, beneficial use of dredged material and the many new water projects or modifications to existing water projects which will provide many diverse benefits to the country. In addition, the bill will keep Congress and the administration on track in continuing a 2-year authorization cycle for omnibus water resources legislation.

First, let me congratulate and commend the leadership of the House Public Works and Transportation Committee—most notably, Chairman BOB ROE; Water Resources Subcommittee Chairman HENRY NOWAK; and subcommittee ranking member, TOM PETRI. This represents the last omnibus Corps of Engineers bill Chairmen ROE and NOWAK will work on, as they are retiring at the end of this session. The entire House, and certainly the Public Works and Transportation Committee, will miss their leadership and bipartisan cooperation. I also want to express my appreciation to the retiring chairman emeritus, GLENN ANDERSON, for his many years of service on the committee and to the country.

Let me also congratulate and commend the leadership of the Senate Environment and Public Works Committee and, in particular, the Water Resources, Transportation, and Infrastructure Subcommittee: Chairman DANIEL PATRICK MOYNIHAN, ranking Republican JOHN CHAFEE, and subcommittee ranking Republican Member STEVE SYMMS.

They have worked long and hard with us to produce an acceptable compromise. I would also be remiss in not paying tribute to the late Senator Quentin Burdick, who so ably chaired the full committee and was instrumental in so many ways to help produce this bill.

In addition, Mr. Speaker, I want to thank the administration, officials at the Department of the Army, the Corps of Engineers and the Office of Management and Budget, for their willingness to work with the Congress in developing a bill all of us can accept if not necessarily embrace. In particular, I want to give a special thanks to staff in the corps' Congressional Liaison Office, who worked tirelessly to produce this consensus legislation.

Finally, Mr. Speaker, let me acknowledge the contributions of the many staff who have assisted me and the Members of this House in developing a water resources bill all of us can and should support. The staff who have helped to put this important bill together include Jack Schenendorf, Bob Bergman, Gabe Rozsa, Ben Grumbles, Debbie Gebhardt, Dottie Chepp and Jeff Loveng on the House minority staff and John Doyle, Sante Esposito, Errol Tyler, Ken Kopocis, Scott Slesinger, Cathy Evans, Kevin O'Hara, Karen Rose, Rose Hamlin, and Maggie Cotter on the House majority staff. The many hours of effort by our outstanding legislative counsels, David Mendelsohn and Curt Haensel deserve our gratitude.

Mr. Speaker, allow me to describe the history of the bill currently before us. H.R. 5754 was introduced on August 3, 1992 after careful review of the hearings and many requests submitted to our committee. On August 5, our Subcommittee on Water Resources marked up the bill, followed by full committee markup the next day and House passage on September 23, 1992.

After passage of H.R. 5754 in the House, the leadership of the House and Senate Public Works Committees and officials of the Office of the Assistant

Secretary of the Army, the Corps of Engineers, and the administration began to work on an acceptable compromise. Our goal was to produce a bill that reflected House and Senate provisions in H.R. 5754 and S. 2734, while adequately responding to various concerns raised by the administration, the Army, the corps and others.

Mr. Speaker, we have met our goal. The bill before us is an excellent compromise that Congress and the administration can and should support. In fact, in an October 5, 1992 letter to the Public Works Committees, the Office of the Assistant Secretary of the Army praises the compromise bill and indicates that the Department of the Army will recommend that the President approve it.

As the Acting Assistant Secretary of the Army for Civil Works indicates in this letter of October 5, 1992, the bill "continues the vital role of the army corps of engineers in building and maintaining a strong water resources program within a consistent policy framework and realistic fiscal expectations."

Mr. Speaker, in order to obtain the administration's support we were not able to retain every project and provision in H.R. 5754. Quite frankly, we had to make some major changes in order to reach a consensus with the Senate and the administration. On balance, though, the resulting bill is an excellent compromise that will keep Congress and the administration of track with a manageable 2-year authorization process.

Because the other body is not going to be able to take up the compromise package before the House is scheduled to go out, we introduced the compromise bill, H.R. 6167, just a few hours ago. That legislation is currently before us. Our hope is to pass the bill and send it immediately to the Senate so this landmark legislation can become law in the coming weeks.

Mr. Speaker, allow me to highlight some of the provisions in our compromise water resources bill. H.R. 6167 includes authorizations for Corps of Engineers' projects related to, among other things, flood control, navigation, hydropower, shoreline protection, recreation, water supply, environmental protection and resource management, and infrastructure development. It makes important modifications to existing projects and policies, and it involves the corps in new areas and missions.

One provision of particular importance, section 112, involves the Montgomery Point Lock and Dam on the Arkansas River. In my region, we have been struggling for years to get the corps to move forward on this badly needed project to ensure the integrity of the McClellan-Kerr Waterway. During low water conditions, access to the project is frequently blocked. According to detailed and lengthy studies prepared by the corps, a new lock—originally authorized as part of the overall project but never constructed—is needed to correct the situation.

The Assistant Secretary's office, however, is asking for more study, which will increase the cost of the project and could delay the start of construction. To speed up work on the project, our bill includes language directing the corps to proceed expeditiously with design, land acquisition and construction of the project.

Mr. Speaker, there may be a need for some clarification regarding the level of authorized funds for certain provisions in the bill. For example, section 219 (relating to environmental infrastructure), section 313 (relating to south central Pennsylvania), and section 340 (relating to southern West Virginia) authorize numerous activities to meet various infrastructure and development needs. Authorization levels are for total, not annual, appropriations. In the coming years, these levels may prove to be inadequate and may need to be revised.

Another project of importance to my region of the country is section 209(f), which clarifies that needed repairs at Beaver Dam in Arkansas will be treated as dam safety repairs for purposes of the cost-sharing requirements of the Water Resources Development Act of 1986. This means that local ratepayers will have over $15 million of the costs of these needed repairs.

Section 220 authorizes $5 million in Federal funds for 75 percent of the cost of environmental infrastructure assistance for Benton and Washington Counties, AR. The Secretary of the Army is to provide assistance for the design and construction of a water transmission line to help meet the region's water supply needs.

The bill also contains language in section 348 to allow the Secretary of the Army to transfer title to a 400-acre parcel of land to the city of Fort Smith under terms and conditions acceptable to the Secretary. The land is needed by the city for a waste facility which will serve the surrounding community, including nearby Fort Chaffee. The Secretary of the Army's office has worked closely with the city in developing a plan acceptable to all parties. The language in the bill will allow this needed project to go forward.

Similar language was included in H.R. 5006, the Department of Defense authorization bill for fiscal year 1993. Our intent is that the more general language in our bill, H.R. 6167, is controlling if there is a need to resolve any inconsistencies.

Section 224 of the bill will deauthorize the Board of Engineers for Rivers and Harbors 6 months after enactment of this bill. The Secretary is to reassign to other elements within the Department of the Army such duties and responsibilities of the Board as are necessary. We expect the Washington Level Review Center to continue to play a major role in this process. Nothing in this section affects authorities under title 33, U.S. Code sections 542 and 541, relating to survey resolutions and special reports.

Section 364, Stormwater Discharges, is based on my bill, H.R. 6004, which passed the House on September 29, 1992. The provision amends the Clean Water Act to extend permit application and regulation deadlines for certain stormwater discharges. It provides regulatory relief to small and rural towns across America, while ensuring that EPA and the States will have greater opportunity to fashion reasonable, environmentally protective management strategies for stormwater.

Mr. Speaker, section 364 is not identical to the bill I introduced and the House passed. In essence, the regulatory relief is not quite as extensive as I had hoped. H.R. 6004 would have amended section 402(p)(1) of the Clean Water Act to extend the October 1, 1992 permitting moratorium date for 2 years (to October 1, 1994). The bill also would have extended by 2 years the section 402(p)(6) requirement that EPA issue regulations for discharges not enumerated in section 402(p)(2). Section 364 of the water resources bill extends the (p)(1) deadline by 2 years but the (p)(6) deadline by one 1 year.

An additional comment is warranted regarding the overall thrust of this provision and the entire permitting, management, and control program authorized under section 402(p). We are providing EPA and others more time to address certain so-called phase II discharges. At the same time, though, EPA and others must ensure an effective permitting program, to address so-called phase I discharges, that avoids unnecessary, duplicative, or costly sampling, testing, monitoring, reporting, and other requirements.

For example, in cases where groups have undertaken sampling in order to comply with current deadlines, it would make sense that data already gathered could serve as the basis for future applications. Such an approach could help avoid redundant testing.

Section 364 is a small but important step towards more realistic deadlines and more reasonable regulations. Water quality officials and small towns and other potentially regulated entities will appreciate this moderate level of relief.

Mr. Speaker, despite my support for the overall bill, I have a number of concerns about title V of the bill. That title was taken from language of the Senate bill and establishes new regulatory requirements for the assessment and management of contaminated sediments, including new requirements with respect to the discharge of dredged material in connection with the construction and maintenance of navigation channels. The language has been significantly modified to address concerns with the Senate's earlier language including concerns raised by the Administration and navigation interests. However, I believe that the language could have been further clarified to ensure that the new regulatory process is environmentally protective yet will not unnecessarily interfere with important navigation projects.

For example, section 504 amends section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (commonly referred to as the Ocean Dumping Act) to provide EPA with what amounts to a veto over Corps of Engineers' permitting decisions for the ocean dumping of dredged materials. The language requires that EPA notify the Corps of any additional information the administrator "deems necessary to evaluate the proposed permit" within 30 days of receiving the "necessary and appropriate information" from the secretary and requires the administrator to act on the basis of that information within 45 days or to request an additional 45 day extension. What is "appropriate and necessary" will need to be clearly spelled out in regulations as is the case now under EPA's existing ocean dumping regulations which have been in effect since January 11, 1977 (see 40 C.F.R. 225.2 (a) and (b)).

Congress clearly intends to set a limit on how long EPA can take to render a decision on the proposed permit and the provisions need to be read with that intent in mind. EPA should not be allowed to drag out a decision by claiming that they need additional information beyond that requested during the 30-day window specified in new section 103(c)(1). EPA must identify what information is needed within 30 days as required under paragraph (c)(1) of the amendment and act on the basis of that information within the time specified in paragraph (c)(2). This approach is not only consistent with congressional intent but also with EPA's own regulations currently in effect concerning ocean dumping permits (40 C.F.R. part 225).

In conclusion, Mr. Speaker, H.R. 6167 is critically needed legislation which deserves our support. We have worked closely with the administration and the other body to develop acceptable compromises. This bipartisan consensus bill authorizes justified projects, makes appropriate adjustments to corps policy, and yet exercises the kind of fiscal restraint needed to obtain the President's signature. I urge my colleagues to give this bill their strongest support.

□ 0610

Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, I am pleased to rise in support of the Water Resources Development Act of 1992 and urge my colleagues to give the bill their support.

Mr. Speaker, this bill continues the biennial authorization cycle for the Water Resources Development Program of the U.S. Army Corps of Engineers.

The bill which we are considering today reflects a compromise of the bill, H.R. 5754, which passed the House by the overwhelming margin of 326 to 87 on September 23, 1992. This is a smaller bill with over $1 billion in cuts from the House-passed bill. Reducing the bill was a difficult task, but a necessary task to assure administration approval of the bill.

The Committee on Public Works and Transportation filed a report to accompany H.R. 5754, House Report 102-842. Since this bill is a compromise version of that bill, the language in that report, to the extent it describes or explains provisions in this bill, should be used to aid in the legislative history of this bill.

The bill will authorize the construction of water resources development projects by the U.S. Army Corps of Engineers for flood control, navigation, beach erosion control, and related purposes. The bill also contains deauthorizations of previously authorized projects, authorizations for studies of water resources problems, modifications to previously authorized projects, and provisions related generally to the water resources development program of the Army Corps of Engineers.

This bill is an effort to balance the water resources needs of the Nation and the need to make the program with Corps of Engineers more responsive to environmental concern.

The committee is deeply concerned about the continuing deterioration of the Nation's infrastructure, but is optimistic that legislation such as the Water Resources Development Act of 1992 will allow the Nation to move forward in the improvement of its infrastructure by enhancing intermodal transportation methods and to strengthen its competitive position in world markets.

I would like to specifically address several provisions of the bill. First, I note that the bill includes numerous specific authorizations for appropriations for fiscal years after 1993 for projects, studies, and technical assistance. Unless specifically stated, the amounts authorized for appropriations are not annual appropriations, but total amounts authorized until expended.

Mr. Speaker, at the request of the Administration, several authorities to provide grants or loans to communities for important and needed environmental infrastructure projects were changed to authorize the Secretary to provide design and construction assistance in lieu of grants or loans. Such design and construction assistance can include assistance in planning, engineering, design, and construction of these needed infrastructure improvements.

There is also a provision which abolishes the Board of Engineers for Rivers and Harbors. As the corps readies itself for the 21st century, and tries to reduce its bureaucracy and its overhead, the Board's duties have become duplicative of activities performed at other offices within the corps. Since 1902 the Board has had many duties within the corps including reviewing prior reports in response to resolutions of our committee or the Senate Committee on Environment and Public Works, and standardizing corps project reports from divisions and districts. The bill gives the corps 6 months to make an orderly transfer of the Board's authorities given by law or the Secretary to other entities. It is expected that the duties and responsibilities of the Board will be reassigned within the corps as necessary, including the responsibility to review prior surveys in response to committee resolutions. This provision was supported by the corps.

Finally, the bill deletes a provision requiring the Secretary to reconstruct lands adversely affected by construction of a water resources project. The corps indicates that this provision is redundant—that such actions are a part of any construction of a water resources project. Based upon this assurance from the corps, it became possible to accede to the request of the administration to delete the provision.

I urge my colleagues to support the Water Resources Development Act of 1992.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the ranking member of the Subcommittee on Water Resources, the gentleman from Wisconsin [Mr. PETRI]

Mr. PETRI. Mr. Speaker, the Water Resources Development Act of 1992 we are considering this morning represents the joint efforts of the House Public Works and Transportation Committee, the Senate Environment and Public Works Committee, and the U.S. Army Corps of Engineers.

This bill authorizes 22 navigation and flood control projects, as recommended by the Corps of Engineers. Modifications to ongoing projects, environmental initiatives, and new policies to improve the corps program are also included.

Since the House first passed H.R. 5754—our original water resources bill—on September 23, 1992, we have been working to come up with a package that would be acceptable to the House, the Senate, and the administration.

The bill before us today is the result of those efforts, and the Department of the Army has informed the committee that it would recommend that the legislation be approved by the President.

Between 1970 and 1986, no true water resources authorization bill was enacted into law, and the corps program suffered because of it.

Then, in 1986, we enacted major cost-sharing reforms which improved the program, and we have been able to pass an authorization bill every 2 years since then. It would be most unfortunate if we were to break that tradition this Congress.

But, in order to reach this point, very difficult decisions had to be made. It was necessary to scale back the scope and cost of the bill which was passed last month and, in some circumstances, include authorization limits in order to get a bill which can be signed into law and thus continue the 2-year authorization cycle for water resources legislation.

So, I hope that Members will understand and be aware of the pressures we were working under as we consider this legislation tonight.

Mr. Speaker, we had a difficult task before us, but I believe we have met the challenge of bringing a reasonable bill, which is acceptable to the administration, to the floor of the House. I urge my colleagues to approve H.R. 6167 today.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. I thank the gentleman for yielding, and I rise in support of H.R. 6167. Mr. Speaker, this includes a number of critical water projects. I also want to add my thanks and accolades to all the gentlemen who worked so hard on this bill, the water resources bill, for the length of time that I have been in Congress.

Chairman BOB ROE, ranking minority member JOHN PAUL HAMMERSCHMIDT, the gentleman from New York [Mr. NOWAK] are leaving. Mr. PETRI is remaining. The three of those gentlemen are outstanding Members. I add my accolades to their performance and also wish them well wherever life takes them.

Mr. HAMMERSCHMIDT. Mr. Speaker, despite my support for H.R. 6167, the Water Resources Development Act of 1992, I have a number of concerns about title V of the bill. That title was taken from language of the Senate bill and establishes new regulatory requirements for the assessment and management of contaminated sediments, including new requirements with respect to the discharge of dredged material in connection with the construction and maintenance of navigation channels. The language has been significantly modified to address concerns with the Senate's earlier language including concerns with the Senate's earlier language including concerns raised by the administration and navigation interests. However, I believe that the language could have been further clarified to ensure that the new regulatory process is environmentally protective yet will not unnecessarily interfere with important navigation projects.

For example, section 504 amends section 103 of the Marine Protection, research, and Sanctuaries Act of 1972—commonly referred to as the Ocean Dumping Act—to provide EPA with what amounts to a veto over Corps of Engineers' permitting decisions for the ocean dumping of dredged materials. The language requires that EPA notify the corps of any additional information the Administrator "deems necessary to evaluate the proposed permit" within 30 days of receiving the "necessary and appropriate information" from the Secretary and requires the Administrator to act on the basis of that information within 45 days or to request an additional 45-day extension. What is "appropriate and necessary" will need to be clearly spelled out in regulations as is the case now under EPA's existing ocean dumping regulations which have been in effect since January 11, 1977—see 40 CFR 225.2 (a) and (b).

Congress clearly intends to set a limit on how long EPA can take to render a decision on the proposed permit and the provisions need to be read with that intent in mind. EPA should not be allowed to drag out a decision by claiming that they need additional information beyond that requested during the 30-day window specified in new section 103(c)(1). EPA must identify what information is needed within 30 days as required under paragraph (c)(1) of the amendment and act on the basis of that information within the time specified in paragraph (c)(2). This approach is not only consistent with congressional intent but also with EPA's own regulations currently in effect concerning ocean dumping permits—40 CFR part 225.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I would like to add one more comment as far as the staff is concerned: I thank them for their vigorous effort and extraordinary job that they did in working out not only this piece of legislation but the legislation of the committee over the years.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 6167.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6182), to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

The Clerk read as follows:

H.R. 6182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mammography Quality Standards Act of 1992".

SEC. 2. CERTIFICATION OF MAMMOGRAPHY FACILITIES.

Part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—Mammography Facilities

"SEC. 354. CERTIFICATION OF MAMMOGRAPHY FACILITIES.

"(a) DEFINITIONS.—As used in this section:

"(1) ACCREDITATION BODY.—The term 'accreditation body' means a body that has been approved by the Secretary under subsection (e)(1)(A) to accredit mammography facilities.

"(2) CERTIFICATE.—The term 'certificate' means the certificate described in subsection (b)(1).

"(3) FACILITY.—

"(A) IN GENERAL.—The term 'facility' means a hospital, outpatient department, clinic, radiology practice, or mobile unit, an office of a physician, or other facility as determined by the Secretary, that conducts breast cancer screening or diagnosis through mammography activities. Such term does not include a facility of the Department of Veterans Affairs.

"(B) ACTIVITIES.—For the purposes of this section, the activities of a facility include the operation of equipment to produce the mammogram, the processing of the film, the initial interpretation of the mammogram and the viewing conditions for that interpretation. Where procedures such as the film processing, or the interpretation of the mammogram are performed in a location different from where the mammogram is performed, the facility performing the mammogram shall be responsible for meeting the quality standards described in subsection (f).

"(4) INSPECTION.—The term 'inspection' means an onsite evaluation of the facility by the Secretary, or State agency on behalf of the Secretary.

"(5) MAMMOGRAM.—The term 'mammogram' means a radiographic image produced through mammography.

"(6) MAMMOGRAPHY.—The term 'mammography' means radiography of the breast.

"(7) SURVEY.—The term 'survey' means an onsite physics consultation and evaluation performed by a medical physicist as described in subsection (f)(1)(E).

"(b) CERTIFICATE REQUIREMENT.—

"(1) CERTIFICATE.—No facility may conduct an examination or procedure described in paragraph (2) involving mammography after October 1, 1994, unless the facility obtains—

"(A) a certificate—

"(i) that is issued, and, if applicable, renewed, by the Secretary in accordance with subsection (c)(1);

"(ii) that is applicable to the examination or procedure to be conducted; and

"(iii) that is displayed prominently in such facility; or

"(B) a provisional certificate—

"(i) that is issued by the Secretary in accordance with subsection (c)(2);

"(ii) that is applicable to the examination or procedure to be conducted; and

"(iii) that is displayed prominently in such facility.

The reference to a certificate in this section includes a provisional certificate.

"(2) EXAMINATION OR PROCEDURE.—A facility shall obtain a certificate in order to—

"(A) operate radiological equipment that is used to image the breast;

"(B) provide for the interpretation of a mammogram produced by such equipment at the facility or under arrangements with a qualified individual at a facility different from where the mammography examination is performed; and

"(C) provide for the processing of film produced by such equipment at the facility or under arrangements with a qualified individual at a facility different from where the mammography examination is performed.

"(c) ISSUANCE AND RENEWAL OF CERTIFICATES.—

"(1) IN GENERAL.—The Secretary may issue or renew a certificate for a facility if the person or agent described in subsection (d)(1)(A) meets the applicable requirements of subsection (d)(1) with respect to the facility. The Secretary may issue or renew a certificate under this paragraph for not more than 3 years.

"(2) PROVISIONAL CERTIFICATE.—The Secretary may issue a provisional certificate for an entity to enable the entity to qualify as a facility. The applicant for a provisional certificate shall meet the requirements of subsection (d)(1), except providing information required by clauses (iii) and (iv) of subsection (d)(1)(A). A provisional certificate may be in effect no longer than 6 months from the date it is issued, except that it may be extended once for a period of not more than 90 days if the owner, lessor, or agent of the facility demonstrates to the Secretary that without such extension access to mammography in the geographic area served by the facility would be significantly reduced and if the owner, lessor, or agent of the facility will describe in a report to the Secretary steps that will be taken to qualify the facility for certification under subsection (b)(1).

"(d) APPLICATION FOR CERTIFICATE.—

"(1) SUBMISSION.—The Secretary may issue or renew a certificate for a facility if—

"(A) the person who owns or leases the facility or an authorized agent of the person, submits to the Secretary, in such form and manner as the Secretary shall prescribe, an application that contains at a minimum—

"(i) a description of the manufacturer, model, and type of each x-ray machine, image receptor, and processor operated in the performance of mammography by the facility;

"(ii) a description of the procedures currently used to provide mammography at the facility, including—

"(I) the types of procedures performed and the number of such procedures performed in the prior 12 months;

"(II) the methodologies for mammography; and

"(III) the names and qualifications (educational background, training, and experience) of the personnel performing mammography and the physicians reading and interpreting the results from the procedures;

"(iii) proof of on-site survey by a qualified medical physicist as described in subsection (f)(1)(E); and

"(iv) proof of accreditation in such manner as the Secretary shall prescribe; and

"(B) the person or agent submits to the Secretary—

"(i) a satisfactory assurance that the facility will be operated in accordance with standards established by the Secretary under subsection (f) to assure the safety and accuracy of mammography;

"(ii) a satisfactory assurance that the facility will—

"(I) permit inspections under subsection (g);

"(II) make such records and information available, and submit such reports, to the Secretary as the Secretary may require; and

"(III) update the information submitted under subparagraph (A) or assurances submitted under this subparagraph on a timely basis as required by the Secretary; and

"(iii) such other information as the Secretary may require.

An applicant shall not be required to provide in an application under subparagraph (A) any information which the applicant has supplied to the accreditation body which accredited the applicant, except as required by the Secretary.

"(2) APPEAL.—If the Secretary denies an application for the certification of a facility submitted under paragraph (1)(A), the Secretary shall provide the owner or lessor of the facility or the agent of the owner or lessor who submitted such application—

"(A) a statement of the grounds on which the denial is based, and

"(B) an opportunity for an appeal in accordance with the procedures set forth in regulations of the Secretary published at 42 C.F.R. 498 and in effect on the date of the enactment of this section.

"(3) EFFECT OF DENIAL.—If the application for the certification of a facility is denied, the facility may not operate unless the denial of the application is overturned at the conclusion of the administrative appeals process provided in the regulations referred to in paragraph (2)(B).

"(e) ACCREDITATION.—

"(1) APPROVAL OF ACCREDITATION BODIES.—

"(A) IN GENERAL.—The Secretary may approve a private nonprofit organization or State agency to accredit facilities for purposes of subsection (d)(1)(A)(iv) if the accreditation body meets the standards for accreditation established by the Secretary as described in subparagraph (B) and provides the assurances required by subparagraph (C).

"(B) STANDARDS.—The Secretary shall establish standards for accreditation bodies, including—

"(i) standards that require an accreditation body to perform—

"(I) a review of clinical images from each facility accredited by such body not less often than every 3 years which review will be made by qualified practicing physicians; and

"(II) a review of a random sample of clinical images from such facilities in each 3-year period beginning October 1, 1994, which review will be made by qualified practicing physicians;

"(ii) standards that prohibit individuals conducting the reviews described in clause (i) from maintaining any financial relationship to the facility undergoing review which would constitute a conflict of interest;

"(iii) standards that limit the imposition of fees for accreditation to reasonable amounts;

"(iv) standards that require as a condition of accreditation that each facility undergo a survey at least annually by a medical physicist as described in subsection (f)(1)(E) to ensure that the facility meets the standards described in subparagraphs (A) and (B) of subsection (f)(1);

"(v) standards that require monitoring and evaluation of such survey, as prescribed by the Secretary;

"(vi) standards that are equal to standards established under subsection (f) which are relevant to accreditation as determined by the Secretary; and

"(vii) such additional standards as the Secretary may require.

"(C) ASSURANCES.—The accrediting body shall provide the Secretary satisfactory assurances that the body will—

"(i) comply with the standards as described in subparagraph (B);

"(ii) comply with the requirements described in paragraph (4);

"(iii) submit to the Secretary the name of any facility for which the accreditation body denies, suspends, or revokes accreditation;

"(iv) notify the Secretary in a timely manner before the accreditation body changes the standards of the body;

"(v) notify each facility accredited by the accreditation body if the Secretary withdraws approval of the accreditation body under paragraph (2) in a timely manner; and

"(vi) provide such other additional information as the Secretary may require.

"(D) REGULATIONS.—Not later than 9 months after the date of the enactment of this section, the Secretary shall promulgate regulations under which the Secretary may approve an accreditation body.

"(2) WITHDRAWAL OF APPROVAL.—

"(A) IN GENERAL.—The Secretary shall promulgate regulations under which the Secretary may withdraw the approval of an accreditation body if the Secretary determines that the accreditation body does not meet the standards under subparagraph (B) of paragraph (1), the requirements of clauses (i) through (vi) of subparagraph (C) of paragraph (1), or the requirements of paragraph (4).

"(B) EFFECT OF WITHDRAWAL.—If the Secretary withdraws the approval of an accreditation body under subparagraph (A), the certificate of any facility accredited by the body shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such facility to obtain another accreditation.

"(3) ACCREDITATION.—To be accredited by an approved accreditation body a facility shall meet—

"(A) the standards described in paragraph (1)(B) which the Secretary determines are applicable to the facility, and

"(B) such other standards which the accreditation body may require.

"(4) COMPLIANCE.—To ensure that facilities accredited by an accreditation body will continue to meet the standards of the accreditation body, the accreditation body shall—

"(A) make onsite visits on an annual basis of a sufficient number of the facilities accredited by the body to allow a reasonable estimate of the performance of the body; and

"(B) take such additional measures as the Secretary determines to be appropriate.

Visits made under subparagraph (A) shall be made after providing such notice as the Secretary may require.

"(5) REVOCATION OF ACCREDITATION.—If an accreditation body revokes the accreditation of a facility, the certificate of the facility shall continue in effect until such time as may be determined by the Secretary.

"(6) EVALUATION AND REPORT.—

"(A) EVALUATION.—The Secretary shall evaluate annually the performance of each approved accreditation body by—

"(i) inspecting under subsection (g)(2) a sufficient number of the facilities accredited by the body to allow a reasonable estimate of the performance of the body; and

"(ii) such additional means as the Secretary determines to be appropriate.

"(B) REPORT.—The Secretary shall annually prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the evaluation conducted in accordance with subparagraph (A).

"(f) QUALITY STANDARDS.—

"(1) IN GENERAL.—The standards referred to in subsection (d)(1)(B)(i) are standards established by the Secretary which include—

"(A) standards that require establishment and maintenance of a quality assurance and quality control program at each facility that is adequate and appropriate to ensure the reliability, clarity, and accuracy of interpretation of mammograms and standards for appropriate radiation dose;

"(B) standards that require use of radiological equipment specifically designed for mammography, including radiologic standards and standards for other equipment and materials used in conjunction with such equipment;

"(C) a requirement that personnel who perform mammography—

"(i)(I) be licensed by a State to perform radiological procedures; or

"(II) be certified as qualified to perform radiological procedures by an organization described in paragraph (2)(A); and

"(ii) during the 2-year period beginning October 1, 1994, meet training standards for personnel who perform mammography or meet experience requirements which shall at a minimum include 1 year of experience in the performance of mammography; and

"(iii) upon the expiration of such 2-year period meet minimum training standards for personnel who perform mammograms;

"(D) a requirement that mammograms be interpreted by a physician who is certified as qualified to interpret radiological procedures, including mammography—

"(i)(I) by a board described in paragraph (2)(B); or

"(II) by a program that complies with the standards described in paragraph (2)(C); and

"(ii) who meets training and continuing medical education requirements as established by the Secretary;

"(E) a requirement that individuals who survey mammography facilities be medical physicists—

"(i) licensed or approved by a State to perform such surveys, reviews, or inspections for mammography facilities;

"(ii) certified in diagnostic radiological physics or certified as qualified to perform such surveys by a board as described in paragraph (2)(D); or

"(iii) in the first 5 years after the date of the enactment of this section, who meet other criteria established by the Secretary which are comparable to the criteria described in clause (i) or (ii);

"(F) a requirement that a medical physicist who is qualified in mammography as described in subparagraph (E) survey mammography equipment and oversee quality assurance practices at each facility;

"(G) a requirement that—

"(i) a facility that performs any mammogram maintain the mammogram in the permanent medical records of the patient—

"(I) for a period of not less than 5 years, or not less than 10 years if no additional mammograms of such patient are performed at the facility, or longer if mandated by State law; or

"(II) until such time as the patient should request that the patient's medical records be forwarded to a medical institution or a physician of the patient;

whichever is longer; and

"(ii)(I) a facility must assure the preparation of a written report of the results of any mammography examination signed by the interpreting physician;

"(II) such written report shall be provided to the patient's physicians (if any);

"(III) if such a physician is not available or if there is no such physician, the written report shall be sent directly to the patient; and

"(IV) if such report is sent to the patient, the report shall include a summary written in terms easily understood by a lay person; and

"(H) standards relating to special techniques for mammography of patients with breast implants.

Subparagraph (G) shall not be construed to limit a patient's access to the patient's medical records.

"(2) CERTIFICATION OF PERSONNEL.—The Secretary shall by regulation—

"(A) specify organizations eligible to certify individuals to perform radiological procedures as required by paragraph (1)(C);

"(B) specify boards eligible to certify physicians to interpret radiological procedures, including mammography, as required by paragraph (1)(D);

"(C) establish standards for a program to certify physicians described in paragraph (1)(D); and

"(D) specify boards eligible to certify medical physicists who are qualified to survey mammography equipment and to oversee quality assurance practices at mammography facilities.

"(g) INSPECTIONS.—

"(1) ANNUAL INSPECTIONS.—

"(A) IN GENERAL.—The Secretary may enter and inspect certified facilities to determine compliance with the standards established under subsection (f). The Secretary shall, if feasible, delegate to a State agency the authority to make such inspections.

"(B) IDENTIFICATION.—The Secretary, or State agency acting on behalf of the Secretary, may conduct inspections only on presenting identification to the owner, operator, or agent in charge of the facility to be inspected.

"(C) SCOPE OF INSPECTION.—In conducting inspections, the Secretary or State agency acting on behalf of the Secretary—

"(i) shall have access to all equipment, materials, records, and information that the Secretary or State agency considers necessary to determine whether the facility is being operated in accordance with this section; and

"(ii) may copy, or require the facility to submit to the Secretary or the State agency, any of the materials, records, or information.

"(D) QUALIFICATIONS OF INSPECTORS.—Qualified individuals, as determined by the Secretary, shall conduct all inspections. The Secretary may request that a State agency acting on behalf of the Secretary designate a qualified officer or employee to conduct the inspections, or designate a qualified Federal officer or employee to conduct inspections. The Secretary shall establish minimum qualifications and appropriate training for inspectors and criteria for certification of inspectors in order to inspect facilities for compliance with subsection (f).

"(E) FREQUENCY.—The Secretary or State agency acting on behalf of the Secretary shall conduct inspections under this paragraph of each facility not less often than annually.

"(F) RECORDS AND ANNUAL REPORTS.—The Secretary or a State agency acting on behalf of the Secretary which is responsible for inspecting mammography facilities shall maintain records of annual inspections required under this paragraph for a period as prescribed by the Secretary. Such a State agency shall annually prepare and submit to the Secretary a report concerning the inspections carried out under this paragraph. Such reports shall include a description of the facilities inspected and the results of such inspections.

"(2) INSPECTION OF ACCREDITED FACILITIES.—The Secretary shall inspect annually a sufficient number of the facilities accredited by an accreditation body to provide the Secretary with a reasonable estimate of the performance of such body.

"(3) INSPECTION OF FACILITIES INSPECTED BY STATE AGENCIES.—The Secretary shall inspect annually facilities inspected by State agencies acting on behalf of the Secretary to assure a reasonable performance by such State agencies.

"(4) TIMING.—The Secretary, or State agency, may conduct inspections under paragraphs (1), (2) and (3), during regular business hours or at a mutually agreeable time and after providing such notice as the Secretary may prescribe, except that the Secretary may waive such requirements if the continued performance of mammography at such facility threatens the public health.

"(5) LIMITED REINSPECTION.—Nothing in this section limits the authority of the Secretary to conduct limited reinspections of facilities found not to be in compliance with this section.

"(h) SANCTIONS.—

"(1) IN GENERAL.—In order to promote voluntary compliance with this section, the Secretary may, in lieu of taking the actions authorized by subsection (i), impose one or more of the following sanctions:

"(A) Directed plans of correction which afford a facility an opportunity to correct violations in a timely manner.

"(B) Payment for the cost of onsite monitoring.

"(2) CIVIL MONEY PENALTIES.—The Secretary may assess civil money penalties in an amount not to exceed $10,000 for—

"(A) failure to obtain a certificate as required by subsection (b),

"(B) each failure by a facility to substantially comply with, or each day on which a facility fails to substantially comply with, the standards established under subsection (f) or the requirements described in subclauses (I) through (III) of subsection (d)(1)(B)(ii), and

"(C) each violation, or for each aiding and abetting in a violation of, any provision of, or regulation promulgated under, this section by an owner, operator, or any employee of a facility required to have a certificate.

"(3) PROCEDURES.—The Secretary shall develop and implement procedures with respect to when and how each of the sanctions is to be imposed under paragraphs (1) and (2). Such procedures shall provide for notice to the owner or operator of the facility and a reasonable opportunity for the owner or operator to respond to the proposed sanctions and appropriate procedures for appealing determinations relating to the imposition of sanctions.

"(i) SUSPENSION AND REVOCATION.—

"(1) IN GENERAL.—The certificate of a facility issued under subsection (c) may be suspended or revoked if the Secretary finds, after providing, except as provided in paragraph (2), reasonable notice and an opportunity for a hearing to the owner or operator of the facility, that the owner, operator, or any employee of the facility—

"(A) has been guilty of misrepresentation in obtaining the certificate;

"(B) has failed to comply with the requirements of subsection (d)(1)(B)(ii)(III) or the standards established by the Secretary under subsection (f);

"(C) has failed to comply with reasonable requests of the Secretary for any record, information, report, or material that the Secretary concludes is necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards established under subsection (f);

"(D) has refused a reasonable request of the Secretary, any Federal officer or employee duly designated by the Secretary, or any State officer or employee duly designated by the State, for permission to inspect the facility or the operations and pertinent records of the facility in accordance with subsection (g);

"(E) has violated or aided and abetted in the violation of any provision of, or regulation promulgated under, this section; or

"(F) has failed to comply with a sanction imposed under subsection (h).

"(2) ACTION BEFORE A HEARING.—

"(A) IN GENERAL.—The Secretary may suspend the certificate of the facility before holding a hearing required by paragraph (1) if the Secretary makes the finding described in paragraph (1) and determines that—

"(i) the failure of a facility to comply with the standards established by the Secretary under subsection (f) presents a serious risk to human health; or

"(ii) a facility has engaged in an action described in subparagraph (D) or (E) of paragraph (1).

"(B) HEARING.—If the Secretary suspends a certificate under subparagraph (A), the Secretary shall provide an opportunity for a hearing to the owner or operator of the facility not later than 60 days from the effective date of the suspension. The suspension shall remain in effect until the decision of the Secretary is made after the hearing.

"(3) INELIGIBILITY TO OWN OR OPERATE FACILITIES AFTER REVOCATION.—If the Secretary revokes the certificate of a facility on the basis of an act described in paragraph (1), no person who owned or operated the facility at the time of the act may, within 2 years of the revocation of the certificate, own or operate a facility that requires a certificate under this section.

"(j) INJUNCTIONS.—If the Secretary determines that—

"(1) continuation of any activity related to the provision of mammography by a facility would constitute a serious risk to human health, the Secretary may bring suit in the district court of the United States for the district in which the facility is situated to enjoin continuation of the activity; and

"(2) a facility is operating without a certificate as required by subsection (b), the Secretary may bring suit in the district court of the United States for the district in which the facility is situated to enjoin the operation of the facility.

Upon a proper showing, the district court shall grant a temporary injunction or restraining order against continuation of the activity or against operation of a facility, as the case may be, without requiring the Secretary to post a bond, pending issuance of a final order under this subsection.

"(k) JUDICIAL REVIEW.—

"(1) PETITION.—If the Secretary imposes a sanction on a facility under subsection (h) or suspends or revokes the certificate of a facility under subsection (i), the owner or operator of the facility may, not later than 60 days after the date the action of the Secretary becomes final, file a petition with the United States court of appeals for the circuit in which the facility is situated for judicial review of the action. As soon as practicable after receipt of the petition, the clerk of the court shall transmit a copy of the petition to the Secretary or other officer designated by the Secretary. As soon as practicable after receipt of the copy, the Secretary shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

"(2) ADDITIONAL EVIDENCE.—If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order the additional evidence (and evidence in rebuttal of the additional evidence) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may determine to be proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file the modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of the original action of the Secretary with the return of the additional evidence.

"(3) JUDGMENT OF COURT.—Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to affirm the action, or to set the action aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(l) INFORMATION.—

"(1) IN GENERAL.—Not later than October 1, 1996, and annually thereafter, the Secretary shall compile and make available to physicians and the general public information that the Secretary determines is useful in evaluating the performance of facilities, including a list of facilities—

"(A) that have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks;

"(B) that have been subject to sanctions under subsection (h), together with a statement of the reasons for the sanctions;

"(C) that have had certificates revoked or suspended under subsection (i), together with a statement of the reasons for the revocation or suspension;

"(D) against which the Secretary has taken action under subsection (j), together with a statement of the reasons for the action;

"(E) whose accreditation has been revoked, together with a statement of the reasons of the revocation;

"(F) against which a State has taken adverse action; and

"(G) that meets such other measures of performance as the Secretary may develop.

"(2) DATE.—The information to be compiled under paragraph (1) shall be information for the calendar year preceding the date the information is to be made available to the public.

"(3) EXPLANATORY INFORMATION.—The information to be compiled under paragraph (1) shall be accompanied by such explanatory information as may be appropriate to assist in the interpretation of the information compiled under such paragraph.

"(m) STATE LAWS.—Nothing in this section shall be construed to limit the authority of any State to enact and enforce laws relating to the matters covered by this section that are at least as stringent as this section or the regulations issued under this section.

"(n) NATIONAL ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—In carrying out this section, the Secretary shall establish an advisory committee to be known as the National Mammography Quality Assurance Advisory Committee (hereafter in this subsection referred to as the 'Advisory Committee').

"(2) COMPOSITION.—The Advisory Committee shall be composed of not fewer than 13, nor more than 19 individuals, who are not officers or employees of the Federal Government. The Secretary shall make appointments to the Advisory Committee from among—

"(A) physicians,

"(B) practitioners, and

"(C) other health professionals,

whose clinical practice, research specialization, or professional expertise include a significant focus on mammography. The Secretary shall appoint at least 4 individuals from among national breast cancer or consumer health organizations with expertise in mammography and at least 2 practicing physicians who provide mammography services.

"(3) FUNCTIONS AND DUTIES.—The Advisory Committee shall—

"(A) advise the Secretary on appropriate quality standards and regulations for mammography facilities;

"(B) advise the Secretary on appropriate standards and regulations for accreditation bodies;

"(C) advise the Secretary in the development of regulations with respect to sanctions;

"(D) assist in developing procedures for monitoring compliance with standards under subsection (f);

"(E) make recommendations and assist in the establishment of a mechanism to investigate consumer complaints;

"(F) report on new developments concerning breast imaging that should be considered in the oversight of mammography facilities;

"(G) determine whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determine the effects of personnel or other requirements of subsection (f) on access to the services of such facilities in such areas;

"(H) determine whether there will exist a sufficient number of medical physicists after

October 1, 1999, to assure compliance with the requirements of subsection (f)(1)(E);

"(I) determine the costs and benefits of compliance with the requirements of this section (including the requirements of regulations promulgated under this section); and

"(J) perform other activities that the Secretary may require.

The Advisory Committee shall report the findings made under subparagraphs (G) and (I) to the Secretary and the Congress no later than October 1, 1993.

"(4) MEETINGS.—The Advisory Committee shall meet not less than quarterly for the first 3 years of the program and thereafter, at least biannually.

"(5) CHAIRPERSON.—The Secretary shall appoint a chairperson of the Advisory Committee.

"(o) CONSULTATIONS.—In carrying out this section, the Secretary shall consult with appropriate Federal agencies within the Department of Health and Human Services for the purposes of developing standards, regulations, evaluations, and procedures for compliance and oversight.

"(p) BREAST CANCER SCREENING SURVEILLANCE RESEARCH GRANTS.—

"(1) RESEARCH.—

"(A) GRANTS.—The Secretary shall award grants to such entities as the Secretary may determine to be appropriate to establish surveillance systems in selected geographic areas to provide data to evaluate the functioning and effectiveness of breast cancer screening programs in the United States, including assessments of participation rates in screening mammography, diagnostic procedures, incidence of breast cancer, mode of detection (mammography screening or other methods), outcome and follow up information, and such related epidemiologic analyses that may improve early cancer detection and contribute to reduction in breast cancer mortality. Grants may be awarded for further research on breast cancer surveillance systems upon the Secretary's review of the evaluation of the program.

"(B) USE OF FUNDS.—Grants awarded under subparagraph (A) may be used—

"(i) to study—

"(I) methods to link mammography and clinical breast examination records with population-based cancer registry data;

"(II) methods to provide diagnostic outcome data, or facilitate the communication of diagnostic outcome data, to radiology facilities for purposes of evaluating patterns of mammography interpretation; and

"(III) mechanisms for limiting access and maintaining confidentiality of all stored data; and

"(ii) to conduct pilot testing of the methods and mechanisms described in subclauses (I), (II), and (III) of clause (i) on a limited basis.

"(C) GRANT APPLICATION.—To be eligible to receive funds under this paragraph, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(D) REPORT.—A recipient of a grant under this paragraph shall submit a report to the Secretary containing the results of the study and testing conducted under clauses (i) and (ii) of subparagraph (B), along with recommendations for methods of establishing a breast cancer screening surveillance system.

"(2) ESTABLISHMENT.—The Secretary shall establish a breast cancer screening surveillance system based on the recommendations contained in the report described in paragraph (1)(D).

"(3) STANDARDS AND PROCEDURES.—The Secretary shall establish standards and procedures for the operation of the breast cancer screening surveillance system, including procedures to maintain confidentiality of patient records.

"(4) INFORMATION.—The Secretary shall recruit facilities to provide to the breast cancer screening surveillance system relevant data that could help in the research of the causes, characteristics, and prevalence of, and potential treatments for, breast cancer and benign breast conditions, if the information may be disclosed under section 552 of title 5, United States Code.

"(q) STATE PROGRAM.—

"(1) IN GENERAL.—The Secretary may, upon application, authorize a State—

"(A) to carry out, subject to paragraph (2), the certification program requirements under subsections (b), (c), (d), (g)(1), (h), (i), and (j) (including the requirements under regulations promulgated pursuant to such subsections), and

"(B) to implement the standards established by the Secretary under subsection (f), with respect to mammography facilities operating within the State.

"(2) APPROVAL.— The Secretary may approve an application under paragraph (1) if the Secretary determines that—

"(A) the State has enacted laws and issued regulations relating to mammography facilities which are the requirements of this section (including the requirements under regulations promulgated pursuant to such subsections), and

"(B) the State has provided satisfactory assurances that the State—

"(i) has the legal authority and qualified personnel necessary to enforce the requirements of and the regulations promulgated pursuant to this section (including the requirements under regulations promulgated pursuant to such subsections),

"(ii) will devote adequate funds to the administration and enforcement of such requirements, and

"(iii) will provide the Secretary with such information and reports as the Secretary may require.

"(3) AUTHORITY OF SECRETARY.—In a State with an approved application—

"(A) the Secretary shall carry out the Secretary's functions under subsections (e) and (f);

"(B) the Secretary may take action under subsections (h), (i), and (j); and

"(C) the Secretary shall conduct oversight functions under subsections (g)(2) and (g)(3).

"(4) WITHDRAWAL OF APPROVAL.—

"(A) IN GENERAL.—The Secretary may, after providing notice and opportunity for corrective action, withdraw the approval of a State's authority under paragraph (1) if the Secretary determines that the State does not meet the requirements of such paragraph. The Secretary shall promulgate regulations for the implementation of this subparagraph.

"(B) EFFECT OF WITHDRAWAL.—If the Secretary withdraws the approval of a State under subparagraph (A), the certificate of any facility accredited by the State shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such facility to obtain certification by the Secretary.

"(r) FUNDING.—

"(1) FEES.—

"(A) IN GENERAL.—The Secretary shall, in accordance with this paragraph assess and collect fees from persons described in subsection (d)(1)(A) (other than persons who are governmental entities, as determined by the Secretary) to cover the costs of inspections conducted under subsection (g)(1) by the Secretary or a State acting under a delegation under subparagraph (A) of such subsection. Fees may be assessed and collected under this paragraph only in such manner as would result in an aggregate amount of fees collected during any fiscal year which equals the aggregate amount of costs for such fiscal year for inspections of facilities of such persons under subsection (g)(1). A person's liability for fees shall be reasonably based on the proportion of the inspection costs which relate to such person.

"(B) DEPOSIT AND APPROPRIATIONS.—

"(i) DEPOSIT AND AVAILABILITY.—Fees collected under subparagraph (A) shall be deposited as an offsetting collection to the appropriations for the Department of Health and Human Services as provided in appropriation Acts and shall remain available without fiscal year limitation.

"(ii) APPROPRIATIONS.—Fees collected under subparagraph (A) shall be collected and available only to the extent provided in advance in appropriation Acts.

"(2) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated to carry out this section—

"(A) to award research grants under subsection (q), such sums as may be necessary for each of the fiscal years 1993 through 1997; and

"(B) for the Secretary to carry out other activities which are not supported by fees authorized and collected under paragraph (1), such sums as may be necessary for fiscal year 1993 through 1997.".

SEC. 3. STUDY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the certification program authorized by the amendment made by section 2 to determine—

(1) if the program has resulted in the improvement of the quality and accessibility of mammography services, and

(2) if the program has reduced the frequency of poor quality mammography and improved the early detection of breast cancer.

(b) REPORTS.—Not later than 3 years from the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an interim report of the results of the study under subsection (a). Not later than 5 years from such date the Comptroller General shall submit a final report on such study to such Committees.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a slightly amended version of H.R. 5938, which previously passed the House on the suspension calendar. The changes represent negotiations concluded with the Senate.

Mr. Speaker, the purpose of this legislation is to assure the availability of high quality mammography services in the fight against breast cancer. The benefits of early detection of breast cancer through mammography in terms of saving lives and scarce health dollars are well-documented.

This is not an arcane issue. Breast cancer will affect almost every American—personally, or because of the illness of a loved one or friend. It is the most frequent cancer in women. One out of every 9 American women will develop the disease during her lifetime. And, this year alone, almost 45,000 women will die from it.

Mr. Speaker, the bill before us establishes Federal quality standards for mammograms to protect against substandard providers and life-threatening care. The Secretary of HHS, working with the States and private accrediting organizations, would enforce appropriate requirements for the operation of mammography equipment and for the professionals who provide this vital service.

This legislation reflects the advice of experts in the field of mammography at the Department of Health and Human Services and in the private sector. We are especially grateful for the assistance of the congressional caucus for women's issues, and the leadership of Congresswoman SCHROEDER and Congresswoman LLOYD. In addition, a number of private organizations and agencies at the Department of Health and Human Services have given valuable assistance.

Mr. Speaker, I am proud to join Chairman DINGELL and our colleagues Congresswoman SCHROEDER and Congresswoman LLOYD as cosponsors of this bill in the House.

I urge my colleagues to support this bill so that we can continue our efforts to improve women's health and save lives.

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the goals of this legislation are commendable, and I support them.

Screening for early detection of breast cancer is a critical preventive health measure, encouraged by health and medical experts. There can be a tragic outcome, however, if the mammogram is of such poor quality, or is so incorrectly interpreted, that the individual receives false or misleading results.

A number of recent reports have indicated that some mammography facilities are using equipment that is inappropriate or poorly calibrated, that the reading and interpretation of mammograms and even the development of the film are of variable quality, and that many mammograms are being taken by individuals who are not properly trained.

These are situations which need to be remedied.

Mr. Speaker, I am concerned about establishing a large Federal regulatory scheme, which involves the Federal Government in the private practice of physicians. I would hope that the Secretary will implement this legislation in a way that will least intrude on the ability of mammography facilities to serve patients efficiently and effectively.

Mammography is a critically important preventive health measure. It is essential that mammograms be performed properly and interpreted correctly. Today, in many cases that is not being done. For these reasons, I support this legislation.

Mr. LENT. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no request for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 6182.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

CONSIDERATION OF REPORT ON H.R. 5938

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the report on H.R. 5938 be made part of the legislative history of the bill, H.R. 6182.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL TRAIL SYSTEM ACT AMENDMENTS

Mrs. BYRON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6184) to amend the National Trail System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentlewoman to explain the legislation.

Mrs. BYRON. I thank the gentleman for yielding.

Mr. Speaker, this is a bill that passed the House in June unanimously under suspension. It was amended in the Senate. Both sides have agreed to the amendment. There is a discussion going on in the Senate, and I wish to have this considered with the amendments attached to the new bill number.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I want to take just a moment to congratulate the gentlewoman from Maryland for her service in this institution and to the country.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The Clerk read the bill as follows:

H.R. 6184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF AMERICAN DISCOVERY TRAIL AS A STUDY TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(34) American Discovery Trail, extending from Pt. Reyes, California, across the United States through Nevada, Utah, Colorado, Kansas, Nebraska, Missouri, Iowa, Illinois, Indiana, Ohio, West Virginia, Maryland, and the District of Columbia, to Cape Henlopen State Park, Delaware; to include in the central United States a northern route through Colorado, Nebraska, Iowa, Illinois, and Indiana and a southern route through Colorado, Kansas, Missouri, Illinois, and Indiana.".

SEC. 2. DESIGNATION OF ALA KAHAKAI TRAIL AS A STUDY TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is further amended by adding at the end of the following new paragraph:

"(35) Ala Kahakai Trail in the State of Hawaii, an ancient Hawaiian trail on the Island of Hawaii extending from the northern tip of the Island of Hawaii approximately 175 miles along the western and southern coasts to the northern boundary of Hawaii Volcanoes National Park.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4844) to restore Olympic National Park and the Elwha River ecosystem and fisheries in the State of Washington.

The Clerk read as follows:

H.R. 4844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Elwha River Ecosystem and Fisheries Restoration Act."

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(a) The term "Administrator" means the Administrator of the Bonneville Power Administration.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "electric power" means electric peaking capacity or electric energy or both.

(d) The term "Elwha Project" means the Elwha River Hydroelectric Project, Federal Energy Regulatory Commission Project Number 2683, including appurtenant works and project lands, located on the Elwha River in Clallam County, Washington.

(e) The term "Glines Project" means the Glines Canyon Hydroelectric Project, Federal Energy Regulatory Commission Project Number 588, including appurtenant works and project lands, located on private and public lands both within and without the exterior boundaries of Olympic National Park on the Elwha River in Clallam County, Washington.

(f) The term "local industrial consumer" means the owner of the pulp and paper mill located on Ediz Hook in Port Angeles, Washington, that, on the date of enactment of this Act, receives and consumes the electric power produced by the Projects, or its successors or assignees.

(g) The term "local preference customer" means Port Angeles City Light.

(h) The term "owner" means the current owner of the Projects or its successors or assignees, but shall not mean the Secretary, the United States, or any other entity acquiring title to the Projects or features thereof pursuant to the terms of this Act.

(i) The term "Park" means Olympic National Park.

(j) The term "Project" or "Projects" means either or both the Elwha Project and the Glines Project, including project works and appurtenant lands.

(k) The term "project replacement power" means electric power delivered to the local industrial consumer to replace losses of electric power generation from the Projects following their acquisition by the Secretary pursuant to this Act, in an amount not to exceed 172.088 gigawatthours of energy in any year.

(l) The term "Secretary" means the Secretary of the Interior.

(m) The term "State" means the State of Washington, including its agencies and departments.

SEC. 3. ACQUISITION OF PROJECTS.

(a) Effective sixty days after submission to the Congress of the report referred to in section 3(c), the Secretary is authorized to acquire the Elwha and Glines Canyon Projects, and all rights of the owner and local industrial consumer therein, subject to the appropriation of funds therefor; *Provided*, That the Secretary shall not acquire the projects unless he has determined pursuant to subsection (c) that removal of the Project dams is necessary for the full restoration of the Elwha River ecosystem and native anadromous fisheries and that funds for that purpose will be available for such removal within two years after acquisition.

(b) The consideration for acquisition of the Projects shall be $29.5 million and no more, to be paid by the Secretary to the owner and local industrial consumer at the time of acquisition, and shall be conditioned on a release of liability providing that all obligations and liabilities of the owner and the local industrial consumer to the United States arising from the Projects, based upon ownership, license, permit, contract, or other authority, including, but not limited to, project removal and any ecosystem, fish and wildlife mitigation or restoration obligations, shall, from the moment of title transfer, be deemed to have been satisfied; *Provided*, That the United States may not assume or satisfy any liability, if any, of the owner or local industrial consumer to any federally recognized Indian Tribe nor shall such liability to the Tribe, if any, be deemed satisfied without the consent of such Tribe.

(c) The Secretary shall prepare a report on the acquisition of the Projects and his plans for the full restoration of the Elwha River ecosystem and the native anadromous fisheries and submit such report on or before January 31, 1994, to the Appropriations Committees of the United States Senate and the United States House of Representatives, as well as to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce, Interior and Insular Affairs, and Merchant Marine and Fisheries of the United States House of Representatives. The report shall contain, without limitation:

(1) The precise terms of acquisition of the Projects, with an analysis of the costs, in addition to the consideration set out in section 3(b), and potential liabilities and benefits, if any, to the Federal Government resulting from the acquisition and all other actions authorized under this Act;

(2) Alternatives, in lieu of dam removal, for the restoration of the Elwha River ecosystem and the native anadromous fisheries and wildlife of the Elwha River Basin, consistent with the management plan of the Park, the rights of any Indian tribe secured by treaty or other Federal law, and applicable State law. The report shall include feasibility studies for each alternative considered and a definite plan for removal. Such definite plan shall include the timetable after conveyance for removal of the dams and the plans for removal and disposal of sediment, debris, and other materials consistent with all applicable environmental laws and a detailed explanation of all costs of removal. In conducting the feasibility studies and in the preparation of the definite plan, the Secretary is authorized to use the services of any Federal agency on a reimbursable basis and the heads of all Federal agencies are authorized to provide such technical and other assistance as the Secretary may request. For each alternative considered, the Secretary shall estimate total costs, environmental risks and benefits, the potential for full restoration of the Elwha River ecosystem and native andromous fisheries, and the effect on natural and historic resources (together with any comments made by the Advisory Council on Historic Preservation for any properties which are listed, or eligible for listing, on the National Register of Historic Places).

(3) Specific proposals for management of all lands or interests therein acquired pursuant to this Act which are located outside the exterior boundaries of the Olympic National Park. The Secretary shall specifically address the suitability such lands, or portions thereof, for addition to the National Wildlife Refuge System; National Park System; transfer to the Lower Elwha Klallam Tribe in trust for tribal housing, cultural, or economic development purposes in accordance with a plan developed by the Lower Elwha Klallam Tribe in consultation with the Secretary; and development and use by the State. Upon acquisition, all lands and interests therein within the exterior boundaries of the Park shall be managed pursuant to authorities otherwise applicable to the Park.

For the purposes of protecting the Federal investment in restoration, that portion of the river outside the Park on which the Federal Government will acquire both banks shall, upon such acquisition, be managed in accordance with the declared policy of Section 1(b) of P.L. 90-542, except that modifications necessary to restore, protect, and enhance fish resources and to protect the existing quality of water supplied from the river are hereby authorized.

(4) Specific proposals and any Federal funding and the availability of that funding that may be necessary to protect the existing quality and availability of water from the Elwha River for municipal and industrial use from possible adverse impacts of dam removal.

(5) Identification of any non-Federal parties or entities, excluding Federally recognized Indian tribes, which would directly benefit from the commercial, recreational, and ecological values that would be enhanced by the restoration of the Elwha River ecosystem and fisheries, if the Secretary believes that such parties or entities should assume some portion of the cost involved in the restoration, together with the specific cost-share provisions which the Secretary deems necessary and reasonable.

(d) In preparing his report, the Secretary shall consult with appropriate State and local officials, affected Indian tribes, the Commission, the Environmental Protection Agency, the Secretary of Energy, the Administrator, the Pacific Northwest Power Planning Council, the Secretary of Commerce, and of the Advisory Council on Historic Preservation, as well as interested members of the public. In addition, the Secretary shall afford an opportunity for public comment on the report prior to its submission to the Congress.

(e) Upon the appropriation of the sum provided for in section 3(b) for the acquisition of the Projects and the determination that dam removal is necessary, the owner and local industrial consumer shall convey to the United States, through the Secretary, title to the Projects, including all property and all other rights and interests. Upon such conveyance and payment of the consideration as provided in section 3(b), and without further action by the United States, title shall transfer and vest in the United States, the owner and local industrial consumer shall be released from any further liability to the United States, as provided in section 3(b), and the acquisition from the owner and local industrial consumer shall be deemed to be completed.

SEC. 4. ECOSYSTEM AND FISHERIES RESTORATION.

(a) Effective sixty days after submission of the report referred to in section 3(c) and following the conveyance in section 3(e), the Secretary is authorized and directed, subject to the appropriation of funds therefor, to take such actions as are necessary to implement—

(1) the definite plan referred to in section 3(c)(2) for the removal of the dams and full restoration of the Elwha River ecosystem and native anadromous fisheries;

(2) management of lands acquired pursuant to this Act which are located outside the exterior boundaries of the Park; and

(3) protection of the existing quality and availability of water from the Elwha River for municipal and industrial uses from possible adverse impacts of dam removal.

(A) The definite plan referred to section 3(c)(2) must include all actions reasonably necessary to maintain and protect existing water quality for the City of Port Angeles, Dry Creek Water Association, and the industrial users of Elwha River water against adverse impacts of dam removal. The cost of such actions, which may include as determined by the Secretary, if reasonably necessary, design, construction, operation and maintenance of water treatment or related facilities, shall be borne by the Secretary. Funds may not be appropriated for removal of the dams, unless, at the same time, funds are appropriated for actions necessary to protect existing water quality.

(b) Nothing in this section shall be construed as an entitlement for which a claim against the United States may be made under the Tucker Act.

SEC. 5. PROJECT OPERATION AND REPLACEMENT POWER.

(a) Notwithstanding any other provision of law, neither the Federal Energy Regulatory Commission nor any other agency of the Federal Government shall have the authority or jurisdiction to issue a permanent license or similar order with respect to either Project prior to conveyance as provided in section 3(e), except that the Commission shall have jurisdiction under the Federal Power Act and is hereby authorized and directed to issue or maintain in effect annual licenses or authorizations for both Projects, authorizing continued operation of both Projects by the owner and local industrial consumer, such operation to be under such terms and conditions and in accordance with such practices as existed on September 1, 1992, until (1) the date the Secretary has acquired title to the Projects or (2) if the Secretary's report required in section 3(c) does not provide for dam removal, five years after the expiration of the current annual license or authorization then in effect, after which time the Commission shall have authority under the Federal Power Act to issue appropriate licenses with respect to such Projects to the extent the Commission has jurisdiction over such Projects under such Act on the date of enactment of this Act.

(b) To ensure the availability of adequate electric power supplies to the operating facilities of the local industrial consumer, the Administrator shall, following acquisition of the Projects pursuant to this Act, deliver all project replacement power required by the operating facilities of the local industrial consumer through the local preference customer at a rate equal to the priority firm rate, or the rate which is then the equivalent of the priority firm rate if that designation is no longer used by the Administrator, as such rate is fixed by the Administrator from time to time, without regard to any new large single load determinations or similar factors. The local industrial consumer shall pay the local preference customer for such project replacement power at the same rate as all other industrial consumers of the local preference customer.

(c) Upon conveyance of the Projects to the United States, the Secretary shall maintain the dams in a safe condition for the period prior to their removal.

SEC. 6. LEASE OF FEDERAL LANDS.

(a) LEASE OF LANDS TO THE CITY OF PORT ANGELES.—After the Secretary makes the determination to remove the dams and actually acquires the Projects and funds are appropriated for such conveyance and removal, the Secretary is authorized to issue a lease to the City of Port Angeles, Washington, for those lands situated on Ediz Hook, Clallam County, Washington, currently leased to the City under Lease No. DOT–CG13–4811–72, dated April 4, 1972, as amended, except for that parcel of land described in subsection (b)(2). Such lease shall be issued pursuant to the Act of June 14, 1926, as amended, (43 U.S.C. 869) for a period of 99 years, beginning on a date to be determined by the Secretary, without right of patent.

(b) LEASE OF LANDS TO THE LOWER ELWHA KLALLAM TRIBE.—(1) After the Secretary makes the determination to remove the dams and actually acquires the Projects and funds are appropriated for such conveyance and removal, the Secretary is authorized to lease to the Lower Elwha Klallam Tribe that parcel of land situated on Ediz Hook, Clallam County, Washington, described in paragraph (2) for the purposes of the construction and operation of a tribal cultural facility, such as a longhouse or a museum, and associated interpretive and parking facilities. Such lease shall be issued pursuant to the Act of June 14, 1926, as amended, (43 U.S.C. 869) for a period of 99 years beginning on a date determined by the Secretary, without right of patent.

(2) The parcel of land to be leased to the Lower Elwha Klallam Tribe is that parcel of land lying south of the existing roadway and extending southward to the southern boundary of the land currently leased to the City of Port Angeles (Lease No. DOT–CG13–4811–72, dated April 4, 1972, as amended) and beginning at the north-south line 200 feet east of the western boundary of Out Lot 6 and running easterly 600 feet to the north-south line 300 feet west of the eastern boundary of Out Lot 6.

(3) In addition to the general terms and conditions applicable under the Act of June 14, 1926, as amended, (43 U.S.C. 869), the lease to the Tribe shall be subject to the following terms and conditions:

(A) There shall be public access to the beach along the south side of the parcel at all times.

(B) The City of Port Angeles shall have the right to construct and maintain a waterfront trail adjacent to the existing roadway along the north side of the parcel, the location of which shall be determined in conjunction with the Secretary.

(C) Parking facilities on the parcel shall be open to the public at all times.

(c) In addition to the terms and conditions described in this section for the leases to the City and the Tribe, the Secretary shall incorporate by reference into each lease the Agreement entered into on August 11, 1992, between the City and the Tribe regarding the use of the adjacent leaseholds.

SEC. 7. TRIBAL LAND ACQUISITION AND DEVELOPMENT.

(a) After the Secretary makes the determination to remove the dams and actually acquires the Projects and funds are appropriated for such conveyance and removal, the Secretary is authorized to acquire by purchase, and hold in trust in reservation status for the benefit of the Lower Elwha Klallam Tribe, lands in Clallam County, Washington, for housing, economic development, and moorage for the Tribal commercial fishing fleet.

(b) There is authorized to be appropriated an amount not to exceed $4,000,000 to carry out the land acquisition purposes of this section.

SEC. 8. SAVINGS.

(a) Nothing in this Act shall abridge or modify existing rights to Elwha River water.

(b) Nothing in this Act shall affect the rights of any Indian Tribe secured by Treaty or other law of the United States.

(c) This Act does not modify any of the Administrator's obligations or require the Administrator to take any actions regarding the protection, mitigation, or enhancement of fish and wildlife or expand those provided for under the Pacific Northwest Power Planning and Conservation Act, P.L. 96–501. Notwithstanding any other provision of law, the Administrator shall not be required to make any expenditures from the Bonneville Power Administration fund for the operation, maintenance, rehabilitation, improvement, or removal, breach, or bypass of the Projects.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior for expenditure through the Assistant Secretary for Fish, Wildlife and Parks and to the Secretary of Commerce for expenditure through the National Marine Fisheries Service such sums as may be necessary to carry out the purposes of this Act; *Provided*, That such authorization shall not become effective until sixty days following submission of the report provided for in section (3)(c) of this Act.

Mr. SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill provides that there should be studied various alternative strategies that would lead to full restoration of the Elwha River ecosystem. If the optimum strategy is determined to be dam removal, then provisions of this bill go into effect.

There are two dams, one inside the Olympic National Park and one downriver on the Elwha River, slightly just outside the park. They would be acquired under those circumstances by the U.S. Government for subsequent removal. The present owners of the dam will give them up and receive replacement power and appropriate compensation.

The water supply in Port Angeles will be protected. The Elwha tribe will have an opportunity to acquire much-needed land on the Elwha River ecosystem, including the magnificent salmon runs will be fully restored. This resolves a great many problems and a great deal of uncertainty. The fact is if we do not deal with this matter legislatively, it is going to be resolved probably at much greater cost in the courts. We already have lawsuits by the environmentalists with regard to the Endangered Species Act, we have lawsuits filed by the Parks Department against FERC, we have possible lawsuits by the Elwha Indians under the

Indian Rights Claims. This is a way in which all of the relevant problems could be resolved. I heartily commend it to my colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this committee amendment substitute to the text of H.R. 4844 because it substantially improves the bill. As introduced, H.R. 4844 transferred ownership of two dams from James River Corp. to the Federal Government in exchange for the Federal Government being responsible for environmental restoration of the Elwha River and being responsible for providing replacement power from the Bonneville Power Administration. While estimates of the cost of environmental restoration under the original bill ranged from $30 million upward to $200 million, the committee amendment caps Federal fiscal responsibility at $29.5 million for dam acquisition. Also, the committee amendment requires the Secretary of Interior to determine that the dams should be torn down and requires the money necessary to tear them down be appropriated before title to the dams can be transferred to the Federal Government. These are significant improvements.

Unfortunately, the other major component of the bill which required BPA to provide replacement power at a preferred rate to the dam's hydropower customers and required BPA's other customers to be held harmless at taxpayer expense has not been fixed. As currently drafted, the U.S. taxpayer would pick up the tab, through BPA debt forgiveness, of holding BPA's customers harmless.

I support this bill as improved and hope that the BPA debt forgiveness problem can be fixed either by the Senate or in the next Congress.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 4844, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 0620

IMPLEMENTING RECOMMENDATIONS OF FEDERAL COURTS STUDY COMMISSION

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6185) to implement the recommendations of the Federal Courts Study Commission, and for other purposes.

The Clerk read as follows:

H.R. 6185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Courts Administration Act of 1992".

TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 101. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.

Section 1292 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d).".

SEC. 102. JURISDICTION OF MAGISTRATE JUDGES TO MODIFY OR REVOKE PROBATION OR SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "and to revoke or reinstate the probation of any person granted probation by him." and inserting "and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge."; and

(2) by adding at the end the following new subsections:

"(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

"(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended disposition under section 3583(e) of this title. The magistrate judge shall file his or her proposed findings and recommendations.".

SEC. 103. INTERCIRCUIT TRANSFERS.

Section 291(a) of title 28, United States Code, is amended to read as follows:

"(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.".

TITLE II—JUDICIAL SURVIVORS' ANNUITIES IMPROVEMENTS

SEC. 201. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) ELECTION.—Section 376(a)(1) of title 28, United States Code, is amended in the matter following subparagraph (G)—

(1) by striking "or" at the end of clause (v); and

(2) by inserting before the semicolon at the end of clause (vi) ", or (vii) the date of the enactment of the Federal Courts Administration Act of 1992".

(b) CONTRIBUTIONS.—Section 376(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in the first sentence by striking "including any 'retirement salary', a sum equal to 5 percent of that salary." and inserting "a sum equal to 2.2 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary—

"(A) of a justice or judge of the United States retired from regular active service who is described in section 371(b)(1) of this title,

"(B) of a justice or judge of the United States retired under section 372(a) of this title who is willing and able to perform judicial duties in accordance with section 294 of this title,

"(C) of a judge of the United States Court of Federal Claims retired under section 178(a) or (b) of this title who meets the requirements of section 178(d) of this title, or

"(D) of a judicial official on recall under section 155(b), 797, 373(c)(4), 375, or 636(h) of this title,

shall be an amount equal to 2.2 percent of retirement salary.";

(3) by redesignating all that follows the first sentence (as amended by paragraph (2) of this subsection) as paragraph (3) and inserting before such paragraph (3) the following new paragraph:

"(2) A judicial official who is not entitled to receive an immediate retirement salary upon leaving office but who is eligible to receive a deferred retirement salary on a later date shall file, within 90 days before leaving office, a written notification of his or her intention to remain within the purview of this section under such conditions and procedures as may be determined by the Director of the Administrative Office of the United States Courts. Every judicial official who files a written notification in accordance with this paragraph shall be deemed to consent to contribute, during the period before such a judicial official begins to receive his or her retirement salary, a sum equal to 3.5 percent of the deferred retirement salary which that judicial official is entitled to receive. Any judicial official who fails to file a written notification under this paragraph shall be deemed to have revoked his or her election under subsection (a) of this section."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "so deducted and withheld from the salary of each such judicial official" and inserting "deducted and withheld from the salary of each judicial official under paragraphs (1) and (2) of this subsection".

(c) DEPOSITS.—Section 376(d) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "5 percent" and inserting "3.5 percent"; and

(2) in paragraph (2) by striking "5 percent" and inserting "3.5 percent".

(d) REFUND OF DEPOSITS.—Section 376(g) of title 28, United States Code, is amended to read as follows:

"(g) If any judicial official leaves office and is ineligible to receive a retirement salary or leaves office and is entitled to a deferred retirement salary but fails to make an election under subsection (b)(2) of this section, all amounts credited to his or her account established under subsection (e), together with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, minus a sum equal to 2.2 percent of salary for service while deductions were withheld under subsection (b) or for which a deposit was made by the judicial official under subsection (d), shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this section, a 'reasonable period of time' shall be presumed to be no longer than 1 year following the date upon which such judicial official relinquishes his or her office.".

(e) Payment of Annuities.—Section 376(h)(1) of title 28, United States Code, is amended by striking "or while receiving 'retirement salary,' " and inserting "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section".

(f) Creditable Service.—Section 376(k) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period and inserting ", and"; and

(3) by adding at the end the following new paragraph:

"(5) those years during which such judicial official had deductions withheld from his or her retirement salary in accordance with subsection (b)(1) or (2) of this section.".

(g) Computation of Annuity.—Section 376(l) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "(i) during those three years of such service in which his or her annual salary" and inserting "(i) during those three years of such service, or during those three years while receiving a retirement salary, in which his or her annual salary or retirement salary"; and

(2) in paragraph (1) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) the number of years during which the judicial official had deductions withheld from his or her retirement salary under subsection (b)(1) or (2) of this section; plus".

(h) Termination.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(v) Subject to the terms of a decree, court order, or agreement described in subsection (t)(1), if any judicial official ceases to be married after making the election under subsection (a), he or she may revoke such election in writing by notifying the Director of the Administrative Office of the United States Courts. The judicial official shall also notify any spouse or former spouse of the application for revocation in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulation prescribe. The Director may provide under such regulations that the notification requirement may be waived with respect to a spouse or former spouse if the judicial official establishes to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.".

(i) Adjustment of Contribution Rate.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(w) The Comptroller General of the United States shall, at the end of each 3-fiscal year period, determine whether the contributions by judicial officials under subsection (b) during that 3-year period accounted for 50 percent of the costs of the Judicial Survivors' Annuities Fund and if not, then what adjustments in the contribution rates under subsection (b) should be made to achieve that 50 percent figure. The Comptroller General shall report the results of each determination under this subsection to the Congress.".

(j) Credit for Prior Contributions at Higher Rate.—Notwithstanding any other provision of law, the contribution under section 376(b) (1) or (2) of title 28, United States Code (as amended by this section), of any judicial official who is within the purview of such section 376 on the effective date of this title shall be reduced by 0.5 percent for a period of time equal to the number of years of service for which the judicial official has made contributions or deposits before the enactment of this Act to the credit of the Judicial Survivors' Annuities Fund or for 18 months, whichever is less, if such contributions or deposits were never returned to the judicial official. For purposes of this subsection, the term "years" shall mean full years and twelfth parts thereof.

(k) Redeposit of Prior Contributions.—Any judicial official as defined in section 376(a)(1) of title 28, United States Code, who makes an election under section 376(b) of title 28, United States Code, may make a redeposit, as required by section 7 of Public Law 94–554 and section 2(c)(2) of Public Law 99–336, to the credit of the Judicial Survivors' Annuities Fund in installments, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. If a judicial official elects to make a redeposit in installments—

(1) the Director shall require that the first installment payment made shall be in an amount no smaller than the last 18 months of salary deductions or deposits previously returned to that judicial official in a lump-sum payment; and

(2) the election under section 376(b) of title 28, United States Code, shall be effective upon payment of the first such installment.

(l) Audit by GAO.—The Comptroller General shall—

(1) conduct an audit of the judicial survivors annuities program under section 376 of title 28, United States Code, for the 3-year period beginning on the date of the enactment of this Act; and

(2) report to the Congress, not later than 60 days after the end of that 3-year period, on the results of such audit, comparing such program to other survivors annuities programs within the Federal Government.

SEC. 202. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE III—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 301. AWARD OF FILING FEES IN FAVOR OF THE UNITED STATES.

(a) Actions Commenced by the United States.—Section 2412(a) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) A judgment for costs, when awarded in favor of the United States in an action brought by the United States, may include an amount equal to the filing fee prescribed under section 1914(a) of this title. The preceding sentence shall not be construed as requiring the United States to pay any filing fee.".

(b) Disposition of Filing Fees.—Section 1931 of title 28, United States Code, is amended by striking "The following" and all that follows through the end and inserting the following:

"(a) Of the amounts paid to the clerk of court as a fee under section 1914(a) or as part of a judgment for costs under section 2412(a)(2) of this title, $60 shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States.

"(b) If the court authorizes a fee under section 1914(a) or an amount included in a judgment for costs under section 2412(a)(2) of this title of less than $120, the entire fee or amount, up to $60, shall be deposited into the special fund provided in this section.".

TITLE IV—JURY MATTERS

SEC. 401. JURY SELECTION.

Section 1863(b)(2) of title 28, United States Code, is amended by adding at the end the following: "The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.".

SEC. 402. GRAND JURY TRAVEL.

Section 1871(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines established by the Judicial Conference, the actual reasonable costs of travel by aircraft when travel by other means is not feasible and when certified by the chief judge of the district court in which the grand juror serves.".

SEC. 403. PERMANENT AUTHORIZATION FOR OPTIONAL USE OF NEW JURY SELECTION PROCESS.

(a) Authority To Use One-Step Procedure.—Section 1878 of title 28, United States Code, is amended to read as follows:

"§ 1878. Optional use of a one-step summoning and qualification procedure

"(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court's jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

"(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure authorized by this section.".

(b) Conforming Amendment.—The item relating to section 1878 in the table of sections for chapter 121 is amended to read as follows:

"1878. Optional use of a one-step summoning and qualification procedure.".

(c) Savings Provision.—For courts participating in the experiment authorized under section 1878 of title 28, United States Code (as in effect before the effective date of this section), the amendment made by subsection (a) of this section shall be effective on and after January 1, 1992.

TITLE V—MISCELLANEOUS

SEC. 501. PRETERMISSION OF REGULAR SESSIONS OF COURT OF APPEALS.

Section 48(c) of title 28, United States Code, is amended by striking ", with the consent of the Judicial Conference of the United States,".

SEC. 502. REPORTS AND STATISTICS.

(a) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENT.—After January 1, 1992, the Director of the Administrative Office of the United States Courts is not required to send a report under section 1121(a) of Public Law 95-630 (12 U.S.C. 3421(a)).

(b) TRANSFER OF REPORTING DUTY TO ADMINISTERING AGENCY.—Section 2412(d)(5) of title 28, United States Code, is amended by striking "The Director" and all that follows through "this title," and inserting "The Attorney General shall report annually to the Congress on".

(c) EXTENSION FOR JUDICIAL CENTER REPORT.—Section 302(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 104 Stat. 5104) is amended by striking "2 years" and inserting "2 years and 9 months".

SEC. 503. RECYCLING AND REUSE OF RECYCLABLE MATERIALS.

Section 604(g) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

"(B) The sale or disposal of recyclable materials under subparagraph (A) shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

"(C) Proceeds from the sale of recyclable materials under subparagraph (A) shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.".

SEC. 504. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.

Section 1391(a)(3) of title 28, United States Code, is amended by inserting before the period ", if there is no district in which the action may otherwise be brought".

SEC. 505. SUMMARIES OF REPORTS TO CONGRESS.

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101-650) is amended by striking "the reports" and inserting "summaries of the reports".

SEC. 506. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon "and the United States Court of Veterans Appeals".

(b) APPLICATION TO PENDING CASES.—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act, to any appeal filed in that court on or after such date, and to any appeal from that court that is pending on such date in the United States Court of Appeals for the Federal Circuit.

(c) FEE AGREEMENTS.—Section 5904(d) of title 38, United States Code, shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 5904(d) of title 38, United States Code, shall not apply with respect to any such award but only if, where the claimant's attorney receives fees for the same work under both section 5904 of title 38, United States Code, and section 2412(d) of title 28, United States Code, the claimant's attorney refunds to the claimant the amount of the smaller fee.

(d) EFFECTIVE DATE.—This section, and the amendment made by this section, shall take effect on the date of the enactment of this Act.

TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 601. JUDICIAL RETIREMENT MATTERS.

(a) JUDICIAL RETIREMENT FUNDS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after "Judicial survivors' annuities fund (10-8110-0-7-602);" the following:

"Judicial Officers' Retirement Fund (10-8122-0-7-602);

"Court of Federal Claims Judges' Retirement Fund (10-8124-0-7-602);".

(b) JUDICIARY TRUST FUNDS.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after "Payment to civil service retirement and disability fund (24-0200-0-1-805);" the following:

"Payment to Judiciary Trust Funds (10-0941-0-1-752);".

SEC. 602. FEDERAL JUDICIAL CENTER.

(a) FUNCTIONS.—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking "and" at the end;

(2) in paragraph (5) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.".

(b) CLERICAL COMPENSATION.—Subsection 625(c) of title 28, United States Code, is amended by striking "competitive service and" and inserting "competitive service without regard to".

TITLE VII—CRIMINAL ADMINISTRATIVE MATTERS

SEC. 701. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) PROBATION OFFICERS.—Section 3603 of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end;

(2) by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following new paragraph:

"(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

"(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee; and".

(b) PRETRIAL SERVICES.—Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (12) as paragraph (13); and

(2) by inserting after paragraph (11) the following new paragraph:

"(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

"(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.".

SEC. 702. GOVERNMENT RATES OF TRAVEL FOR CRIMINAL JUSTICE ACT ATTORNEYS AND EXPERTS.

The Administrator of General Services, in entering into contracts providing for special rates to be charged by Federal Government sources of supply, including common carriers and hotels (or other commercial providers of lodging) for official travel and accommodation of Federal Government employees, shall provide for charging the same rates for attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under section 3006A of title 18, United States Code, including community defender organizations established under subsection (g) of that section.

SEC. 703. TECHNICAL CORRECTION.

Section 3143(b)(1) of title 18, United States Code, is amended by striking "paragraph (b)(2)(D)" and inserting "subparagraph (B)(iv) of this paragraph".

TITLE VIII—STATE JUSTICE INSTITUTE REAUTHORIZATION

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

The text of section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996. Amounts appropriated for each such year are to remain available until expended.".

SEC. 802. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(b)) is amended—

(1) in paragraph (1)—

(A) by striking "shall give priority to grants, cooperative agreements, or contracts" and inserting "may award grants to or enter into cooperative agreements or contracts"; and

(B) in subparagraph (A) by striking the comma and inserting a semicolon;

(2) in paragraph (2) by inserting "to" after "award grants";

(3) by striking paragraph (3) and inserting the following:

"(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.";

(4) by redesignating paragraph (4) as paragraph (5); and

(5) by inserting after paragraph (3) the following new paragraph:

"(4) The Institute may enter into contracts with Federal agencies to carry out the purposes of this title.".

SEC. 803. TECHNICAL AMENDMENTS.

(a) BOARD OF DIRECTORS.—Section 204(a)(3) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(a)(3)) is amended in the second sentence by striking "conference" and inserting "Conference".

(b) USES OF FUNDS.—Section 206(c)(7) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)(7)) is amended by striking "effect" and inserting "affect".

SEC. 804. EFFECTIVE DATE.

The provisions of this title shall take effect on the date of the enactment of this Act.

TITLE IX—COURT OF FEDERAL CLAIMS

SEC. 901. SHORT TITLE.

This title may be cited as the "Court of Federal Claims Technical and Procedural Improvements Act of 1992".

SEC. 902. COURT DESIGNATION.

(a) IN GENERAL.—Chapters 7, 51, 91, and 165 of title 28, United States Code, are amended—

(1) by striking "United States Claims Court" each place it appears and inserting "United States Court of Federal Claims"; and

(2) by striking "Claims Court" each place it appears and inserting "Court of Federal Claims".

(b) OTHER PROVISIONS OF LAW.—Reference in any other Federal law or any document to—

(1) the "United States Claims Court" shall be deemed to refer to the "United States Court of Federal Claims"; and

(2) the "Claims Court" shall be deemed to refer to the "Court of Federal Claims".

SEC. 903. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.

(a) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 180. Military retirement pay for retired judges

"Section 371(e) of this title applies to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined in section 451 of this title.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end the following:

"179. Insurance and annuities programs.
"180. Military retirement pay for retired judges.".

SEC. 904. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.

(a) IN GENERAL.—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking ", a judge of the Claims Court," and ", judge of the Claims Court,";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.";

(3) by amending paragraph (3) of subsection (a) to read as follows:

"(3) For purposes of this section, the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984."; and

(4) in subsection (f)—

(A) by striking ", a judge of the Claims Court,"; and

(B) by striking ", a commissioner of the Court of Claims,".

(b) RECALL OF RETIRED JUDGES.—Section 797(d) of title 28, United States Code, is amended in the second sentence by striking "civil service".

SEC. 905. LAW CLERKS.

The first sentence of section 794 of title 28, United States Code, is amended by inserting after "may approve" the following: "for district judges".

SEC. 906. SITES FOR HOLDING COURT.

(a) IN GENERAL.—Section 798(a) of title 28, United States Code, is amended to read as follows:

"(a) The United States Court of Federal Claims is authorized to use facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services Administration, shall be made available for trials and other proceedings outside of the District of Columbia.".

(b) HEARING IN A FOREIGN COUNTRY.—Section 798 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) Upon application of a party or upon the judge's own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge of the Court of Federal Claims may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.".

(c) APPEAL JURISDICTION.—Section 1292(d)(2) of title 28, United Sates Code, is amended by inserting after "When" the following: "the chief judge of the United States Court of Federal Claims issues an order under section 798(b) of this title, or when".

SEC. 907. JURISDICTION.

Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended by adding at the end the following new paragraph:

"(6)(A) If the certification of a claim pursuant to this subsection is technically defective, a court or agency board of contract appeals may permit the certification to be corrected at any time prior to a final decision by the court or agency board of contract appeals unless the failure properly to certify in the first instance was fraudulent, in bad faith, or with reckless or grossly negligent disregard of the requirements of the relevant statutes or regulations.

"(B) If the contracting officer did not challenge the validity of the certification and the court or agency board of contract appeals permits the defective certification to be corrected under this section, interest shall accrue on the claim under section 12 of this Act from the date the claim was first submitted to the contracting officer.

"(C) This paragraph shall be effective with respect to cases filed with any court or agency board of contract appeals under section 8, 9, or 10 of this Act on or after the date of the enactment of this paragraph.".

SEC. 908. AWARDABLE COSTS.

(a) AWARD OF COSTS.—Section 1919 of title 28, United States Code, is amended—

(1) by striking "district court or" and inserting "district court,"; and

(2) by inserting after "Trade" the following: ", or the Court of Federal Claims".

(b) TECHNICAL AMENDMENTS.—(1) The section caption for section 1919 of title 28, United States Code, is amended to read as follows:

"§ 1919. Dismissal for lack of jurisdiction".

(2) The item relating to section 1919 in the table of sections for chapter 123 of title 28, United States Code, is amended to read as follows:

"1919. Dismissal for lack of jurisdiction.".

SEC. 909. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end the following:

"(d) For the purpose of construing sections 1821, 1915, 1920, and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.".

SEC. 910. SUBPOENAS AND INCIDENTAL POWERS.

(a) IN GENERAL.—Section 2521 of title 28, United States Code, is amended—

(1) by amending the section caption to read as follows:

"§ 2521. Subpoenas and incidental powers";

(2) by inserting "(a)" before "Subpoenas requiring"; and

(3) by adding at the end the following new subsections:

"(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

"2521. Subpoenas and incidental powers.".

SEC. 911. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation."; and

(2) by striking subsection (d) and inserting the following:

"(d) The Fund shall be available as follows:

"(1) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(2) Of the next $100,000,000 deposited in the Fund in a particular fiscal year—

"(A) 49.5 percent shall be available for grants under section 1403; and

"(B) 45 percent shall be available for grants under section 1404(a).

"(3) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(4) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

"(A) 47.5 percent shall be available for grants under section 1403.

"(B) 47.5 percent shall be available for grants under section 1404(a).

"(C) 5 percent shall be available for grants under section 1404(c).".

SEC. 1002. AUTHORITY TO LIMIT COLLECTION OF PRETRIAL INFORMATION IN CLASS A MISDEMEANOR CASES.

Section 3154(1) of title 18, United States Code, is amended by inserting before the period "; except that a district court may direct that information not be collected, verified, or reported under this paragraph on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title".

SEC. 1003. TERRORISM CIVIL REMEDY.

(a) Terrorism.—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332 as redesignated the following:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.";

(4) by adding after section 2332, as redesignated by paragraph (2) of this subsection, the following new sections:

"§ 2333. Civil remedies

"(a) Action and Jurisdiction.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) Estoppel Under United States Law.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) Estoppel Under Foreign Law.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) General Venue.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) Special Maritime or Territorial Jurisdiction.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) Service on Witnesses.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

"(d) Convenience of the Forum.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) In General.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

"(b) Calculation of Period.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in subsection (a).

"§ 2336. Other limitations

"(a) Acts of War.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"(b) Limitation on Discovery.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

"(c) Stay of Action for Civil Remedies.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§ 2337. Suits against Government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.

(b) TABLE OF CONTENTS.—The table of contents of part 1 of title 18, United States Code, is amended by striking

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals .... 2331"

and inserting

"113A. Terrorism .... 2331".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

TITLE XI—EFFECTIVE DATE

SEC. 1101. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall take effect on January 1, 1993.

(b) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill that was passed just a few days ago out of the House on a voice vote. It basically implements the Federal Courts Study Commission recommendations. Among other things, it makes improvements to the Judicial Survivors Annuity Program and makes some management and technical changes, housekeeping changes, to the courts throughout the country.

It is a good bill, and I would urge my colleagues to support it.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, as has been explained, is exactly the same as the one that passed the other day. It passed the House. One small section has been deleted because it had objections in the Senate. It adopts many of the suggestions of the Federal Court Study Committee on which I serve.

I believe it is a good piece of legislation and it will certainly help the operation of the courts and I ask for its adoption.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 6185.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER FROM H.R. 953, ANTI-INDIA BILL

Mr. PALLONE. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 953, the Anti-India bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to House Resolution 591, the Chair declares the House in recess to not later than 9 a.m. Bells will be rung 15 minutes prior to reconvening.

Accordingly (at 6 o'clock and 27 minutes a.m.) the House stood in recess until 9 a.m.

□ 0900

AFTER RECESS

The recess having expired, at 9 a.m., the House was called to order by the Speaker.

The SPEAKER. The Chair recognizes the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

PROVIDING FOR THE CONVENING OF THE FIRST SESSION OF THE 103D CONGRESS

Mr. GEPHARDT. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 563) providing that the first regular session of the 103d Congress shall begin at noon on Tuesday, January 5, 1993, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 563

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the first regular session of the One Hundred Third Congress shall begin at noon on Tuesday, January 5, 1993.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF REVISED EDITION OF RULES AND MANUAL OF THE HOUSE OF REPRESENTATIVES FOR THE 103D CONGRESS

Mr. GEPHARDT. Mr. Speaker, I send to the desk a resolution (H. Res. 611) providing for the printing of the revised edition of the Rules and Manual of the House of Representatives for the 103d Congress, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 611

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Third Congress be printed as a House document, and that two thousand additional copies shall be printed and bound for the use of the House of Representatives, of which seven hundred copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House for distribution to officers and Members of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RELATING TO EARLY ORGANIZATION OF THE HOUSE OF REPRESENTATIVES FOR THE 103D CONGRESS

Mr. GEPHARDT. Mr. Speaker, I send to the desk a resolution (H.Res. 612) providing that any organizational caucus or conference in the House of Representatives for the 103d Congress may begin on or after December 7, 1992, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 612

Resolved, That any organizational caucus or conference in the House of Representatives for the One Hundred Third Congress may begin on or after December 7, 1992.

SEC. 2. As used in this resolution, the term "organizational caucus or conference" means a party caucus or conference authorized to be called under section 202(a) of House Resolution 988, Ninety-third Congress, agreed to on October 8, 1974, and enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 29a(a)).

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS, APPOINT COMMISSIONS, BOARDS, AND COMMITTEES AUTHORIZED BY LAW OR BY THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the second session of the 102d Congress, the speaker and the minority leader be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri.

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, we all have been concerned about the Hamilton-Gradison Select Committee getting under way. Can the Chair enlighten us as to what we might be doing on that?

As the Chair knows, minority leader MICHEL and minority leader DOLE have both appointed their members. We were all anxious for it to become effective and to begin working.

The SPEAKER. The Chair will inform the gentleman that appointments granted to the Speaker will be made either immediately before or immediately after the adjournment of the 102d Congress.

Mr. SOLOMON. Mr. Speaker, I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND EACH SUBCOMMITTEE TO EXTEND AND REVISE REMARKS IN CONGRESSIONAL RECORD

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee be permitted to extend their remarks in the RECORD, up to and including the RECORD'S last publication, and to include a summary of the work of that committee or subcommittee.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND AND REVISE REMARKS IN CONGRESSIONAL RECORD

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks. But this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING FILING AND PRINTING OF COMMITTEE REPORTS FOLLOWING SINE DIE ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that following adjournment sine die, committees authorized to conduct investigations may be permitted to file reports with the Clerk; and that such reports, and reports on the activities of committees pursuant to clause 1(d), rule XI, may be printed by the Clerk as reports of the 102d Congress.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed on Sunday, October 4, 1992, and Monday, October 5, 1992.

Votes will be taken in the following order: S. 3100, by the yeas and nays; and S. 1704, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

LOUISIANA LAND CONVEYANCE; CAVE CREEK CANYON PROTECTION ACT

The SPEAKER. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 3100, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 3100, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 236, nays 102, not voting 94, as follows:

[Roll No. 484]

YEAS—236

Abercrombie
Andrews (ME)
Andrews (NJ)
Aspin
Bacchus
Baker
Bateman
Bennett
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Brown
Bruce
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Coleman (MO)
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dooley
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Evans
Ewing
Fascell
Fawell
Fazio
Fish
Flake
Ford (TN)
Frank (MA)
Franks (CT)
Gaydos
Gejdenson
Gephardt
Geren
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hochbrueckner
Holloway
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Markey
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Reed
Richardson
Roemer
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spratt
Staggers
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Waxman
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NAYS—102

Allard
Allen
Applegate
Archer
Armey
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Burton
Callahan
Camp
Campbell (CA)
Clinger
Coble
Coughlin
Cox (CA)
Crane
Dannemeyer
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Gallegly
Gallo
Gekas
Gingrich

Goodling
Goss
Gradison
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Kasich
Kyl
Lagomarsino
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
McCandless
McCollum
McMillan (NC)
Michel
Miller (OH)
Molinari
Murphy
Nichols
Nussle
Paxon
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Rinaldo
Rogers
Rohrabacher
Roth
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shuster
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff

NOT VOTING—94

Ackerman
Alexander
Anderson
Andrews (TX)
Annunzio
Anthony
Atkins
AuCoin
Barnard
Beilenson
Berman
Boucher
Boxer
Broomfield
Browder
Bryant
Bunning
Chandler
Clement
Collins (IL)
Combest
Condit
DeLay
Dellums
Dixon
Donnelly
Dwyer
Dymally
Edwards (OK)
Espy
Feighan
Fields
Foglietta
Ford (MI)
Frost
Gibbons
Gillmor
Grandy
Guarini
Hatcher
Hertel
Hopkins
Jenkins
Johnson (TX)
Kaptur
Kolbe
LaFalce
Lent
Lipinski
Manton
Marlenee
Martin
Martinez
Matsui
Mavroules
McCrery
McCurdy
McDade
McEwen
McGrath
Mrazek
Murtha
Oakar
Owens (NY)
Oxley
Packard
Pelosi
Perkins
Ray
Ridge
Riggs
Ritter
Roberts
Roe
Rose
Savage
Shaw
Slattery
Slaughter
Solarz
Stallings
Stark
Stearns
Stokes
Tauzin
Thomas (CA)
Torres
Towns
Traxler
Washington
Waters
Whitten
Wilson
Young (AK)

☐ 0932

The Clerk announced the following pair:

On this vote:

Mr. Guarini and Mr. Solarz for, with Mr. Johnson of Texas against.

Mr. APPLEGATE changed his vote from "yea" to "nay."

Mr. MOORHEAD and Mr. ZIMMER changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 0930

LAND MANAGEMENT AGENCY HOUSING IMPROVEMENT ACT OF 1992

The SPEAKER pro tempore. (Mr. MONTGOMERY). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1704, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1704, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 237, nays 107, not voting 88, as follows:

[Roll No. 485]

YEAS—237

Abercrombie
Andrews (ME)
Andrews (NJ)
Aspin
Bennett
Bentley
Bereuter
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bustamante
Byron
Campbell (CO)
Cardin
Carr
Chapman
Clay
Coleman (MO)
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dingell
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fazio
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Gallegly
Gaydos
Gejdenson
Gephardt
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Gunderson
Hall (OH)
Hamilton
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Huckaby
Hughes
Jacobs
Jefferson
Johnson (SD)
Jones
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Mazzoli
McCloskey
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (UT)
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Rinaldo
Roemer
Ros-Lehtinen
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Staggers
Stokes
Studds
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Traficant
Unsoeld
Vander Jagt
Vento
Visclosky
Walsh
Waters
Waxman
Wheat
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Applegate
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Armey
Bacchus
Baker
Ballenger
Barrett
Barton
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Bilirakis
Bliley
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Burton
Callahan
Camp
Campbell (CA)
Carper
Clinger
Coble
Coughlin
Crane
Dannemeyer
DeLay
Dickinson
Duncan
Ewing
Fawell
Fish
Franks (CT)
Gallo
Gekas
Geren
Gingrich
Goodling
Goss
Hall (TX)
Hammerschmidt
Hancock
Hefley
Henry
Herger
Holloway
Hubbard
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Kyl
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
McCandless
McCollum
Meyers
Miller (OH)
Murphy
Nichols
Nussle
Packard
Patterson
Paxon
Penny
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Rhodes
Rogers
Rohrabacher
Roth
Roukema
Schaefer
Schiff
Schulze
Sensenbrenner
Shuster
Skeen
Slattery
Smith (OR)
Smith (TX)
Solomon
Stenholm
Stump
Sundquist
Tallon
Taylor (MS)
Taylor (NC)
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Bunning
Chandler
Clement
Collins (IL)
Combest
Condit
Cunningham
Dellums
Dicks
Dixon
Donnelly
Dwyer
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Edwards (OK)
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Fields
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Hatcher
Hertel
Hopkins
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Hunter
Jenkins
Johnson (TX)
Johnston
Kaptur
Kolbe
Lent
Lipinski
Marlenee
Martin
Martinez
Matsui
Mavroules
McCrery
McCurdy
McDade
McEwen
McGrath
Mrazek
Murtha
Olin
Owens (NY)
Oxley
Pelosi
Perkins
Ray
Riggs
Ritter
Roberts
Roe
Rose
Savage
Shaw
Solarz
Stallings
Stark
Stearns
Tauzin
Thomas (CA)
Torres
Torricelli
Towns
Traxler
Washington
Whitten
Wilson
Young (AK)

☐ 0939

The Clerk announced the following pair:

On this vote:

Mr. Guarini and Mr. Solarz for, with Mr. Johnson of Texas against.

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 0940

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RUSSO). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later today, but prior to noon.

FAREWELL TO CHARLIE HAYES

(Mr. MFUME asked and was given permission to address the House for 1 minute.)

Mr. MFUME. Mr. Speaker, shortly this week the 102d Congress we all know will come to an end. While it has been a high privilege for all of us to come here and to seek to do the business of the American people, I would be remiss if I did not call to the Members' attention the departing of one of our more colorful Members.

Although it is in fact the Speaker who calls us to order, it is the gentleman from Illinois [Mr. HAYES] who calls us to regular order. Mr. Speaker, to the gentleman from Illinois, CHARLIE HAYES of Chicago, I know I join Members on both sides of the aisle in saying that we will miss his thundering refrain and we will miss his very special friendship.

May God bless you and keep you and grant you many, many more years to come.

WITHDRAWAL OF MOST-FAVORED-NATION STATUS FROM YUGOSLAVIA

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 5258) to provide for the withdrawal of most-favored-nation status from the Federal Republic of Yugoslavia and to provide for the restoration of such status if certain conditions are fulfilled, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read as follows:

Senate amendments: Strike out all after the enacting clause and insert:

SECTION 1. WITHDRAWAL OF MOST FAVORED NATION STATUS FROM SERBIA AND MONTENEGRO.

(a) FINDINGS.—The Congress finds that Serbia or Montenegro are not complying with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (also known as the "Helsinki Final Act"), particularly the provisions regarding human rights and humanitarian affairs and are not respecting minority rights in Kosovo and Vojvodina.

(b) WITHDRAWAL OF MFN STATUS.—Except as provided in subsection (c), nondiscriminatory treatment shall not apply with respect to any goods that—

(1) are the product of Serbia or Montenegro; and

(2) are entered into the customs territory of the United States on or after the 15th day after the date of the enactment of this Act.

(c) RESTORATION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding subsection (b), the President may restore nondiscriminatory treatment to goods that are the product of Serbia or Montenegro, as the case may be, 30 days after he certifies to the Congress that Serbia or Montenegro, as the case may be—

(1) has ceased its armed conflict with the other ethnic peoples of the region formerly comprising the Socialist Federal Republic of Yugoslavia;

(2) has agreed to respect the borders of the 6 republics that comprised the Socialist Federal Republic of Yugoslavia under the 1974 Yugoslav Constitution; and

(3) has ceased all support of Serbian forces inside Bosnia-Hercegovina.

Amend the title so as to read: "An Act to provide for the withdrawal of most favored nation status from Serbia and Montenegro and to provide for the restoration of such status if certain conditions are fulfilled.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed H.R. 5258 on September 22 under suspension of the rules by voice vote. The bill withdraws most-favored-nation treatment from the Federal Republic of Yugoslavia, and requires the President to certify to the Congress that specific conditions exist at least 30 days prior to restoring such treatment.

On September 30, the Senate passed H.R. 5258 with an amendment in the nature of a substitute and returned the bill to the House. The Senate amendment specifies that withdrawal of MFN treatment applies to Serbia and Montenegro, changes compliance with human rights conditions under the Helsinki Act from a certification requirement to a congressional finding, and adds as a condition for certification that Serbia or Montenegro has ceased all support of Serbian forces inside Bosnia-Hercegovina. Otherwise the Senate amendment is identical to, and in no way alters the fundamental purpose or substance of, the House-passed bill.

The principal sponsor of the House-passed bill, Mr. WOLF, agrees with the content of the bill as passed by the Senate. Therefore, I rise today to support passage of H.R. 5258, as amended by the Senate so that the bill can be sent to the President prior to adjournment.

I urge my colleagues to vote for H.R. 5258, as amended by the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have carefully considered this bill on our side and we support it. We have no objections to it.

Mr. HOYER. Mr. Speaker, I rise in strong support as a cosponsor of H.R. 5258, which withdraws most-favored-nation status [MFN] from the Federal Republic of Yugoslavia and provides for its restoration only under certain conditions. This bill was introduced by our colleague from Virginia, Representative FRANK WOLF, who serves as one of the most active members of the Helsinki Commission and who has just returned from visiting the beleaguered city of Sarajevo, as well as Belgrade, Vojvodina, Kosovo, and Macedonia. He is to be commended for his commitment to the cause of human rights, not just in the former Yugoslavia but throughout east-central Europe.

This bill strips MFN from Serbia and Montenegro, the two republics of the former Yugoslavia which proclaimed this new federation between them in April of this year. Together, they have become the pariah of Europe. Serbia's political leadership is responsible, first and foremost, for the horrifying scene in Bosnia-Hercegovina today, and for the denial of basic human rights and fundamental freedoms to other national or ethnic groups within their own borders. Even ethnic Serbs in Serbia cannot speak their views free from intimidation or persecution.

As Chairman of the Helsinki Commission, I have long advocated the responsible use of diplomatic and economic levers to promote human rights, and I can think of no more compelling case for doing so today than in the case of the new Yugoslavia.

Until peace has been restored and justice has been accomplished in Bosnia-Hercegovina, Belgrade should receive no benefit from the United States. Until human rights are respected in Kosovo and Vojvodina—indeed, throughout Serbia and Montenegro—Belgrade should obtain no advantage from the United States. Until the succession issue is genuinely settled by the mutual agreement of all parties, Belgrade should secure no gain from the United States. Until Helsinki principles are honored in word and deed, Belgrade should acquire no favored status from the United States. No less a message should be sent to Serbia and Montenegro.

Mr. Speaker, the U.N. General Assembly will decide on expelling the new Yugoslavia from this world organization, but first the current Prime Minister, Milan Panic, will be permitted to speak. Mr. Panic, and others within Serbia who may want to save their Republic from the catastrophic conditions in which it finds itself, should place responsibility for these conditions, and for our action here today, squarely on Serbian President

Slobodan Milosevic and his supporters. They should use it to demand change, for their own benefit as for the benefit of the victims of aggression in Bosnia-Hercegovina and elsewhere.

As we take this action, we hold no grudge against the Serbian people and the democratic forces among them. As we take this action, we should be prepared to respond when we see real steps toward positive, more democratic change. But we should not respond until we do, whether it takes weeks, months, or years.

Mr. MOODY. Mr. Speaker, the United States has taken the initiative at the United Nations in calling for a commission that could eventually lead to a war crimes tribunal empowered to bring to justice those who have been responsible for atrocities being committed in former Yugoslavia. Talking points are now being circulated among Security Council members by American diplomats, and movement toward establishing a preliminary commission could come sometime in the next month.

The underlying philosophy should be the same as the post World War II Nuremberg trials: even in the heat of war there are acts that cannot be tolerated. Most especially torture and murder of noncombatants, and mistreating or killing prisoners purely because of their race, religion, or ethnicity must not go uncondemned or unpunished.

Mr. Speaker, I strongly support establishing such a U.N.-sponsored tribunal. It would be appropriate not only as a matter of justice for heinous crimes against humanity but also as a means to issue a warning to those who continue to commit these crimes in Bosnia and elsewhere that their actions will not be tolerated by the civilized world community.

Civil wars, by their nature, are bitter and barbarous affairs. The inter-ethnic and communal conflicts we witness today in former Yugoslavia and some other regions of the old Soviet empire are typical in their ferocity and levels of mindless revenge. There is rising evidence that crimes of incredible brutality and viciousness have become almost routine in former Yugoslavia. Forcibly expelling members of one ethnic community by another have provided the atmosphere in which civilian noncombatants have been murdered and mutilated, where prisoners have reportedly been summarily executed or starved to death in notorious detention camps. While none of the three ethnic communities involved in these atrocities is totally innocent, there clearly are individuals whose infamy already cries out for justice.

One of the individuals the U.N. tribunal must consider bringing serious charges against is Zeljko Raznajatovic, better known by his nom de guerre, Arkan, the leader of an ultranationalist band of Serb para-military irregulars. He operates much like the bank-robbing underworld figure he reportedly was before civil war provided him with an excuse to formalize his brutality.

Credible allegations of murderous crimes has followed Arkan from Vukovar in Croatia last year to the Bosnian cities of Bejeljina in April and Brcko in May. There are also serious charges against Vojislav Seselj, a Deputy in the Serbian Parliament, whose followers have been accused of similar crimes.

The para-military leaders using the terrible violence of a civil war to settle ethnic grievances, whether they are Serb, or non-Serb, must be brought to book. Croation and Moslem irregulars have apparently been engaged in similar atrocities against Serbs in northeastern Bosnia and in Croatia. These groups and these leaders must know that winning or losing a battle, or a city, or even the civil war itself is no shield against the imposition of human justice after the fighting ceases.

Given the highly charged nature of the civil war in Yugoslavia it is particularly important that the effort to bring those guilty of crimes against humanity to justice focus on credible and solid evidence of crimes, not merely subjective claims and counter claims based on emotion and revenge.

Mr. Speaker, having lived and worked in Yugoslavia during 1959 and 1960, I have tried to keep informed, and visited four of the six republics of former Yugoslavia last year. In addition to the presidents and top government officials of Serbia, Croatia, Macedonia, and Bosnia, I met with a number of political and religious figures, military commanders and ultra-nationalist paramilitary leaders, including Arkan. while at the time I met him I had no idea who Arkan was, or of the allegations against him that already existed, it is ironic that one of the subjects of our discussion was my plea to him for the humane treatment of prisoners and noncombatant civilians. Since that meeting last December, I have seen reports that Arkan and his followers have been directly implicated in what would clearly be described as war crimes against civilians and combatant prisoners.

For nearly 2 years, the policy of the Bush administration toward the impending disintegration of Yugoslavia has been inconsistent and marked by abrupt changes. In my opinion, we have alternately sought to lead world opinion on Yugoslavia and abrogated that leadership to others. The United States can reestablish its moral leadership in this terrible civil war by spearheading the establishment to bring, at last an element of justice to this terrible and inhuman conflict.

Mr. ARCHER. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 5258.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. BILBRAY. Mr. Speaker, I have a point of parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BILBRAY. Mr. Speaker, under the rules we established under martial law the other day, was it not the fact that the conference report must lay on the desk for 2 hours?

The SPEAKER pro tempore. Not if it is under a suspension of the rules. This bill was on the list, has been announced, but there is no layover requirement.

CONFERENCE REPORT ON S. 1671, WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1671) to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, NM, and for other purposes,

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of today.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

POINT OF ORDER

Mr. BILBRAY. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BILBRAY. I would ask the Chair, is the gentleman from Arizona [Mr. RHODES] in opposition?

The SPEAKER pro tempore. Is the gentleman from Arizona [Mr. RHODES] opposed to the motion?

Mr. RHODES. No, Mr. Speaker, I am not.

Mr. BILBRAY. Mr. Speaker, I rise in opposition and demand time.

The SPEAKER pro tempore. The gentleman from Nevada [Mr. BILBRAY] will be recognized for 20 minutes in opposition to the bill.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the Members, quickly, this is the conference report on the Waste Isolation Facility in New Mexico to provide for the storage of radioactive waste and the conducting of tests of that facility. It is a conference report that has been worked out with the Committee on the Interior, the Committee on Energy and Commerce, and the Committee on Armed Services to provide for tests before the opening of that facility, for review of those tests, and for public comment on those tests and that facility.

If those tests are in fact successful for the opening of this facility, many of the Members have heard now for many years that we have put in over $1 billion into the construction of this facility, and we believe that it is time to get on with the testing to see whether or not we can use it as a permanent repository for this waste material that is now currently stored in a number of facilities scattered throughout the country.

I want to thank the members of the Committee on Energy and Commerce, the Committee on Armed Services, and the Committee on Interior and Insular Affairs who have worked very, very hard on this, and staffs of those committees, to come to this agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reason I rose in opposition to this bill after a long night with bloodshot eyes, and unshaven, is because the senior Senator from Louisiana has done it again. In section 8 of this particular bill he provides that "certain standards of the EPA will apply to the WIF facility," and that is all right. I understand that.

However, in subsection (b) of that same section he says, "The characterization licensing, construction, operation, or closure of any site required to be characterized under section 13(a) of Public Law 94-425 is exempted." It will not apply to that area.

□ 0950

Well, what is Public Law 97-425? It is the Yucca Mountain site. So the senior Senator from Louisiana again has established that the EPA requirements as promulgated at the WIPP facility will not apply at Yucca Mountain. He stuck it to us in the energy bill, he stuck it to us in the WIPP bill, and that is why I have risen in opposition.

Second, I felt in fairness, this report should have been made available 2 hours ago.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would tell the gentleman from Nevada [Mr. BILBRAY] that he should avoid personal references to Members of the Senate.

Mr. BILBRAY. Mr. Speaker, I have not said BENNETT JOHNSTON'S name once.

But, Mr. Speaker, the fact is it did not lie there for 2 hours. I did not get a copy of this until recently. But with the martial law we had, in fairness to everyone, we should have had an opportunity to look at this, and that is why I rose in opposition to this particular bill. It is unfair, it is unjust, but that is the way it happens around here.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield 5 minutes en bloc to the gentleman from Arizona [Mr. RHODES], and ask unanimous consent that he may use that time on debate out of his time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. RHODES] is recognized for 5 minutes of the debate time.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of the Conference Report on S. 1671, legislation withdrawing land for the Department of Energy's Waste Isolation Pilot Plant. This legislation is necessary for WIPP, as the plant is known, to begin receiving radioactive waste for testing to see if it can serve as a permanent repository for waste generated by the defense nuclear facilities.

Despite my support for this conference report, parts of it concern me. S. 1671 sets up a cumbersome process requiring DOE to obtain EPA approval of its test phase and retrieval plans. I fear that the process will take too long.

Despite my reservations about this conference report I support it for several reasons. For Congress to do nothing would be a huge institutional failure. I also support this conference report because many of my colleagues are sincerely convinced that DOE needs close scrutiny in order to test radioactive waste at WIPP. Finally, I support this conference report because it moves WIPP from the political arena to the regulatory arena.

For these reasons, Mr. Speaker, I urge my colleagues to vote in favor of this conference report.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the WIPP conference report. The conference report represents the culmination of many years of work by many members, particularly JOE SKEEN in the House and PETE DOMENICI in the Senate.

Well over a year ago the Subcommittee on Energy and the Environment of the Interior Committee, on which I serve as the ranking member, held the first hearing of the 102d Congress on issues related to WIPP in April 1991. So I feel a particular degree of satisfaction that this conference report has reached this stage.

The bill before us is a significant improvement over that which was passed by the House earlier this spring.

I must say, however, that several problems remain, particularly the very strong role of the EPA, including a great number of determinations and certifications which must be made by the agency during the life of the project.

Also there remains no hammer if EPA fails to approve the test and retrieval plans or fails to issue the final disposal standards in the allotted time.

Having said that, however, I believe that given the very clearly stated concerns of the majority in the House regarding the Department of Energy's past conduct at the WIPP site, and the flexibility, albeit reluctantly at times, demonstrated on that side of the aisle during the conference, I am satisfied that this bill is one I can support.

I urge my colleagues to support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. BILBRAY. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma, [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, the Waste Isolation Pilot Plant Land Withdrawal Act now before us has several provisions that resulted from negotiations between the House and Senate which are likely to create more problems than they solve.

Earlier this year, the House passed legislation that would have required that the U.S. Environmental Protection Agency [EPA] promulgate final disposal standards, and a certification by EPA that waste experiments were necessary to demonstrate compliance with those standards, before nuclear waste could be brought to WIPP.

This position would have ensured that no tests would be conducted except those that were truly needed and that this determination would be based on final EPA standards.

These tests which will cost hundreds of millions of dollars and take years to conduct should be based and aimed at demonstrating compliance with environmental standards in a timely manner and the House bill ensured that this would be the case.

Five years of oversight of WIPP convinced me that this requirement among others in the House bill, was essential to the establishment of credible and cost-effective test program.

Unfortunately, the deal struck in this conference report takes a different approach to this problem and simply requires the EPA to issue new regulations within 6 months of enactment and make a determination of suitability of the test plan within 10 months of enactment. If the agency kept to this schedule, there would not be a problem, but under the provisions of the bill the two requirements, stand alone and the test plan could, in fact, be approved in the absence of any standards.

While it is true that testing cannot begin at WIPP until final EPA standards are in place, the changes made by the conferees at this final hour could result in EPA's certification of the test plan to be a total sham. Clearly, this is not the intent of the conferees.

Earlier, I had supported the companion legislation reported by the House Energy and Commerce Committee and by the House.

I am in favor of solving our Nation's nuclear waste problems, but I am in favor of solving them the right way; with public credibility and accountability.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I support the conference report. I urge my colleagues to do like. This is a good resolution of a very difficult series of questions, and a very, very large number of conflicting interests and concerns. I believe it is fair to the people of the State involved, and I believe it is fair and in the best interests of the people of the country.

I commend my friend, the chairman of the Interior and Insular Affairs Committee, and the other chairmen and members who worked as conferees, and an extraordinarily fine group of staff members who made this possible.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I rise in full support of this conference agreement. This bill left the House as a product of a compromise of three committees. It was fairly deliberated by the Armed Services Committee, the Interior and Insular Affairs Committee, and the Energy and Commerce Committee, and went to conference, and was compromised again. But I think it was compromised in favor of the House.

This bill provides that before the actual insertion of waste at the Carlsbad facility can take place, a final rulemaking procedure must take place on the disposal standards, regulations for permanent disposal, and also final rulemaking procedure ending in the publication of a final rule must take place as to the testing and retrieval provisions.

This has been carefully crafted and well compromised. It is a good bill. I fully support it and urge others to vote for it.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, I rise in support of this conference report. This facility is in my district. It has been ready to go for a number of years.

What we have been exercising is intellectual flagellation in this body over this issue for a long, long time. We are never going to solve this problem of repositories for nuclear waste until we get one started.

□ 1000

That facility is ready to go. This conference report at least gives us a date certain and a starting point.

It is time we got on to do it, because we have wasted almost 6 to 8 years in monkeying around with the legislation, making everybody associated with the issue and interested in the issue, giving them an opportunity to prevail and waste a lot of time that we could have been gathering data for the EPA. Because they have none at the present time.

I am strongly for it. I urge your support, because it is time we got on with this thing, because the temporary storage situation that we have going on today is a total waste of time and very dangerous.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, in reference to what my friend, the gentleman from Oklahoma [Mr. SYNAR], said, the important point for the membership to remember here is none of this material can be buried at this site until the test standards and the disposal standards have been promulgated. Not one single cubic inch can go into the ground until that is done.

Probably none of this material will be deposited in New Mexico, I suspect, this century. It may be a good decade before it is completed.

We have taken every conceivable environmental precaution we could, and under the leadership of the gentleman from Michigan [Mr. DINGELL] and the gentleman from California [Mr. MILLER], we have won a strong, tough bill, and on most of the environmental issues, the environmentalists and the House have succeeded. It is important that we go ahead and proceed with this.

This really closes the loop in terms of the nuclear cycle, in being able to dispose of waste. If this works, it will be a very important step in the right direction for the industry and for the country in learning how to deal with the disposal of this waste.

Whether we are going to generate more nuclear waste or not is not the question. The question is we have got to get rid of the material we have. This facility will take only 20 percent of all the waste that we have. Still 80 percent will remain unburied. We have to deal with that.

This legislation calls for a plan to be developed. This is a good plan. It can work. I urge its adoption.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, this is a historic agreement for New Mexico and the Nation with respect to the disposal of transuranic nuclear waste at the waste isolation pilot plan [WIPP]. I want to commend my colleagues on the conference committee for their dedication and hard work to resolve this contentious issue in a manner that provides for fundamental health and safety standards while allowing WIPP to open without significant delay.

The most important aspect of this bill is that there are standards before any testing takes place.

As my colleagues know, I and many concerned New Mexicans have long held the position that WIPP be required to meet the Environmental Protection Agency's standards for radioactive waste disposal before any nuclear waste is emplaced in WIPP. We fought to achieve this standard for many years and finally right here on the floor of the House. Although we did not succeed, we must realize that we all are part of a democratic institution consisting of many ideals—a democratic institution in which by definition a single viewpoint rarely survives unscathed.

It is also important to realize that through this same democratic institution we have successfully implemented many critical health and safety provisions in the final version of the WIPP bill. I can remember during by first terms in Congress when the Department of Energy insisted on bringing upwards of 15 percent of the total waste capacity of WIPP in for the test phase—we have now limited that to one-half of 1 percent. I can remember when the Department of Energy insisted on having self-certification authority—we now have significant independent oversight by the EPA, the Mine Safety and Health Administration, the Occupational Safety and Health Administration, and the Nuclear Regulatory Commission.

I can remember when the Department of Energy insisted on limited public involvement on WIPP activities—we now have significant public involvement throughout the management and operation of WIPP. I can remember when the Department of Energy refused to have NRC certify the waste containers—NRC must now certify the design and quality of the containers. I can remember when the Department of Energy considered any actions taken by the Agency to go uncontested—we now have judicial review. Finally, I can remember when the State of New Mexico had no solid funding commitment to build safe highways and bypasses—we now have $300 million authorized.

Those of us in New Mexico who have fought so hard to ensure the safety of WIPP have achieved many milestones. We have set up a process in which WIPP activities are reviewed and approved by independent agencies. We have set up a process in which the Department of Energy must take remedial action or retrieve the waste if WIPP is found to be out of compliance with applicable environmental regulations. Finally, we have set up a process which allows for public involvement throughout the operation of WIPP. These are the critical elements of the conference agreement. It is in this respect that I feel confident that the public will be adequately protected.

Athough I cannot support the conference report, this is a positive step in the direction of environmental safety.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

I do not intend to ask for a recorded vote on this. I think clearly in the Department of Energy bill that was passed earlier in the day that it was clear what the will of this body is.

It will be cited in the Senate. The two Senators from Nevada are already filibustering the energy bill. They will address this bill on that side until that language is adopted acceptable to those two Senators; let us hope it will not happen.

I think it was unfair, what was done. I think it was deceiving. I think the fact that this conference report was not laid onto the desk for a number of hours so a Member could look at it is unfair. But the fact is unfairness seems to be the matter of the day here today, not fairness.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BRUCE). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and agree to the conference report on the Senate bill, S. 1671.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

AIRPORT AND AIRWAY SAFETY CAPACITY, NOISE IMPROVEMENT, AND INTERMODAL TRANSPORTATION ACT OF 1992

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 6168) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Declaration of policy.
Sec. 102. Airport improvement program.
Sec. 103. Airway improvement program.
Sec. 104. FAA operations.
Sec. 105. Linkage with passenger facility charges program.
Sec. 106. Apportionments.
Sec. 107. Military airports.
Sec. 108. Airport noise compatibility program.
Sec. 109. Maximum obligation of the United States.
Sec. 110. Terminal development.
Sec. 111. Letters of intent.
Sec. 112. Airport development defined.
Sec. 113. Public access and participation with respect to airports.
Sec. 114. National airway system.
Sec. 115. Definition of passengers enplaned.
Sec. 116. Extension of State block grant pilot program.
Sec. 117. Disadvantaged business enterprise.
Sec. 118. Extension of certain restrictions on contract and grant awards.
Sec. 119. Acquisition or construction of facilities for advanced training of maintenance technicians for air carrier aircraft.
Sec. 120. Air traffic controller staffing.
Sec. 121. Aviation safety inspectors.
Sec. 122. Limitation on privatization of operation of certain airport control towers.
Sec. 123. Effects of airport noise.
Sec. 124. Aviation safety inspectors.
Sec. 125. Aircraft operations in winter conditions.
Sec. 126. Visual flight rule routes for complex terminal airspace areas.
Sec. 127. Study on reflectorization of taxiway and runway markings.
Sec. 128. Options to purchase land.
Sec. 129. Lighting systems for aircraft obstructions and airport runways.
Sec. 130. Economic benefits of airport development projects.
Sec. 131. Soundproofing of certain residential buildings in areas surrounding airports.
Sec. 132. Laredo International Airport, Laredo, Texas.
Sec. 133. Study of small airport runway maintenance.
Sec. 134. Tucson study.
Sec. 135. Air traffic over Grand Canyon.
Sec. 136. Civil Tiltrotor Development Advisory Committee.
Sec. 137. Technical amendments.

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

Sec. 201. Procurement reform.
Sec. 202. Aviation security training.
Sec. 203. Hazards to safe and efficient air commerce.
Sec. 204. National commission to promote a strong and competitive airline industry.
Sec. 205. Strengthening of competition.
Sec. 206. Slot rule effective date.
Sec. 207. Emergency vision equipment.
Sec. 208. Technical amendments to civil penalties.

TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

Sec. 301. Short title.
Sec. 302. Aviation research authorization of appropriations.
Sec. 303. Deicing study.
Sec. 304. Aircraft noise research program.
Sec. 305. Use of domestic products.

TITLE IV—AVIATION INSURANCE

Sec. 401. Insurance for departments and agencies of the United States.
Sec. 402. Extension of program.
Sec. 403. Administration of aviation insurance program.
Sec. 404. Continuation of aviation insurance laws.

TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND

Sec. 501. Extension of Airport and Airway Trust Fund.
Sec. 502. Clarification of trust fund revenues.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Nation's aviation system must be part of an intermodal transportation system consisting of hubs and interconnections with other forms of transportation that will move people and goods in the fastest, most efficient manner;

(2) our Nation's airports are our interconnections with the global economy; expanded flight capacity and greatly improved ground access for passengers and cargo are essential to our Nation's ability to compete in the international marketplace;

(3) without significant additional financial resources, the Nation's airports will be unable to accommodate fully the growing aviation and ground traffic demands of the 1990's;

(4) 27 of the Nation's top 100 airports are now unacceptably congested and the resulting delays in flights are costing our economy billions of dollars a year in lost productivity and undermining the Nation's ability to compete in the global economy;

(5) unless the capacity of our airports is increased substantially, the problem of flight delays will escalate dramatically and, by the year 2000, 40 major airports will be congested and incurring more than 20,000 hours of flight delay a year;

(6) the Nation must undertake an airport improvement and development program costing at least $7,000,000,000 a year over the next decade just to prevent the problem of airport delay from growing worse in the 21st century;

(7) neither State, local, nor Federal Government can independently finance the needed airport and intermodal development and there must be a combined effort relying on all levels of government;

(8) both the Federal airport improvement program and local passenger facility charge programs are essential to funding the development, as part of an intermodal transportation system, of airports (including necessary ground access eligible for funding under such programs) which meet our Nation's needs;

(9) the Nation's air traffic control system must be modernized with the highest advanced technology to enable it to continue to move traffic safely and efficiently and the necessary development and procurement of capital equipment will cost at least $18,000,000,000 over the next decade;

(10) the modernization of the air traffic control system will result in productivity and safety benefits of $257,000,000,000 over the life of the equipment purchased; these benefits include the value of time saved by airline passengers, reductions in airline operating costs, and reduced government expenditures and benefits from increased safety;

(11) there will need to be a continuing increase in staffing for the air traffic control system to enable controllers to handle, safely and efficiently, the increased workload which will arise as air transportation grows over the next decade;

(12) the Federal Government must play a major role in developing our aviation system; full use must be made of the more than $5,000,000,000 which aviation users contribute to the Airport and Airway Trust Fund each year and the $7,400,000,000 surplus which has accumulated in the Trust Fund;

(13) although survival of a strong and competitive airline industry is essential to our Nation's economic future—the Nation's airlines are in a financial and competitive crisis which threatens our entire aviation system and our Nation's ability to move people; major airlines have lost more than $6,000,000,000 over the past 2 years; many airlines have merged or discontinued operations; and new entry into the industry has ceased;

(14) the opportunities for new entrants and financially weak airlines to compete successfully can be maximized by the development of new airport capacity, particularly terminal facilities and gates, which will facilitate the ability of new airlines to compete against the airlines which now dominate the facilities at major hub airports;

(15) investment in the aviation transportation infrastructure of the United States will pay immediate and long-term dividends in jobs and economic productivity and provide the foundation for the Nation's continued leadership in the global economic competition of the 21st century;

(16) infrastructure investment differs significantly from other forms of government spending because it creates new wealth for the Nation;

(17) the wealth and economic strength of the United States is in the Nation's infrastructure which provides the foundation for all aspects of life;

(18) failure to invest in the transportation infrastructure, including aviation, has placed the United States in danger of becoming a service-oriented economy, rather than having a strong and independent manufacturing-based economy;

(19) the creation of a national intermodal transportation system is central to the transportation issues of the coming decades and will create the new wealth of the Nation to provide the funds for the Nation to meet the challenges of the 21st century;

(20) our Nation should devote greater efforts to integrating the aviation system with highway and mass transit facilities providing access to airports;

(21) transportation planning, taking account of commerce and land-use patterns, must be improved at all levels and local officials must have a significant role in transportation decisions affecting their areas;

(22) failure to develop an improved intermodal transportation system for the 1990's and the 21st century will result in continuing the two decade trend of decline in United States competitiveness in the global economy and the accompanying decline in the Nation's standard of living;

(23) the safety of the traveling public is of paramount national importance;

(24) aircraft deicing is an important element of aviation safety and past aircraft incidents suggest that both the Federal Government and private industries should focus on methods to improve aircraft deicing procedures and facilities;

(25) noise associated with the use of our Nation's airports must be reduced and efforts to mitigate noise must be continued;

(26) airports must use the airport noise planning program to ensure that capacity expansion minimizes noise to the surrounding community;

(27) the Nation's air traffic control system must be modernized with the most advanced technology, and the necessary capital equipment must be developed and procured, in order to continue the safe and efficient operation of the national airspace system;

(28) there will need to be a continuing increase in the number of aviation safety inspectors to handle the current and future workload of the air carrier and commuter industry; and

(29) the United States airline industry lost more than $6 billion in 1990 and 1991, the number of air carriers serving the public has declined substantially as a result of the industry's financial distress and the absence of governmental policies to promote competition, and continued financial losses could result in the further loss of air carrier competition and service to the traveling public.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

SEC. 101. DECLARATION OF POLICY.

(a) National Transportation Policy.—Section 502 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201) is amended by adding at the end the following:

"(c) National Transportation Policy.—

"(1) It is a goal of the United States to develop a national intermodal transportation system that moves people and goods in an efficient manner. The Nation's future economic direction is dependent on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the Nation's infrastructure.

"(2) United States leadership in the world economy, the expanding wealth of the Nation, the competitiveness of the Nation's industry, the standard of living, and the quality of life are at stake.

"(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation which moves people and goods in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance United States industry's ability to compete in the global marketplace.

"(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

"(5) An intermodal transportation system consists of transportation hubs which connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the Nation's vast rural areas, as well as providing links to other forms of transportation and to intercity connections.

"(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

"(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the Nation to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The Nation's future economic prosperity depends on its ability to compete in an international marketplace that is teeming with competitors but where a full one-quarter of the Nation's economic activity takes place.

"(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will move people and goods faster in an efficient manner.".

(b) Capacity Expansion and Noise Abatement.—Such section is further amended by adding at the end the following new subsection:

"(d) Capacity Expansion and Noise Abatement.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.".

SEC. 102. AIRPORT IMPROVEMENT PROGRAM.

(a) Authorization of Appropriations.—Section 505(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204(a)) is amended—

(1) by striking "and" following "1991,"; and

(2) by inserting before the period at the end of the second sentence the following: ", and $15,966,700,000 for fiscal years ending before October 1, 1993".

(b) Obligational Authority.—Section 505(b)(1) of such Act is amended by striking "1992" and inserting "1993".

SEC. 103. AIRWAY IMPROVEMENT PROGRAM.

(a) Authorization of Appropriations.—Section 506(a)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(a)(1)) is amended—

(1) by striking "and" following "1991" and inserting a comma; and

(2) by inserting before the period at the end of the first sentence the following: ", $8,200,000,000 for fiscal years ending before October 1, 1993, $11,100,000,000 for fiscal years ending before October 1, 1994, and $14,000,000,000 for fiscal years ending before October 1, 1995".

(b) Capital Investment Plan Augmentation.—Section 506(a)(2) of such Act is amended to read as follows:

"(2) Capital Investment Plan Augmentation.—If the Secretary determines that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan submitted to Congress under section 504 of this title (including a determination that it is necessary to establish more than 23 area control facilities), there is authorized to be appropriated from the Trust Fund for fiscal year 1994 to carry out such augmentation or modification $100,000,000. Amounts appropriated under this paragraph shall remain available until expended.".

(c) Other Expenses.—

(1) Extension.—Section 506(c)(4) of such Act is amended—

(A) in the paragraph heading by striking "–1992" and inserting "–1995"; and

(B) by striking "and 1992" and inserting ", 1992, 1993, 1994, and 1995".

(2) CONFORMING AMENDMENT.—Section 506(e)(5) of such Act is amended by striking "1992" and inserting "1995".

(d) WEATHER SERVICES.—Section 506(d) of such Act is amended by striking the second sentence and inserting the following new sentence: "Expenditures for the purposes of carrying out this subsection shall be limited to $35,596,000 for fiscal year 1993, $37,800,000 for fiscal year 1994, and $39,000,000 for fiscal year 1995.".

(e) RADAR SYSTEM FOR NORTHERN MAINE.—Of amounts authorized under section 505(a)(1) of the Airport and Airway Improvement Act of 1982 for fiscal years 1993 and 1994, not less than $18,000,000 is authorized for site selection and installation of 1 Federal Aviation Administration long-range air route surveillance radar system for that portion of northern Maine currently served by approach control at Loring Air Force Base.

SEC. 104. FAA OPERATIONS.

Section 106(k) of title 49, United States Code, is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting before the period at the end the following: ", $4,716,500,000 for fiscal year 1993, $5,100,000,000 for fiscal year 1994, and $5,520,000,000 for fiscal year 1995".

SEC. 105. LINKAGE WITH PASSENGER FACILITY CHARGES PROGRAM.

Paragraph (4) of section 1113(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513(e)(4)) is amended by striking "under this subsection on or before" and all that follows through the period at the end of such paragraph and inserting the following:

"under this subsection on or before September 30, 1993, if, during fiscal year 1993, the amount available for obligation under section 419 of this Act is less than $38,600,000. This limitation on the authority to impose a fee shall not apply if the amount available in fiscal year 1993 for obligation under section 419 is less than $38,600,000 as a result of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriations Act. The provisions of this paragraph shall not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues derived from a fee imposed pursuant to an approval made under this subsection by a public agency which has received an approval to impose a fee under this subsection prior to September 30, 1993, regardless of whether such fee is being imposed on September 30, 1993.".

SEC. 106. APPORTIONMENTS.

(a) INCREASE FOR CARGO HUBS.—Section 507(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(a)(2)) is amended—

(1) by striking "3 percent" and inserting "3.5 percent"; and

(2) by striking "(but not to exceed $50,000,000)".

(b) LIMITS.—Section 507(b)(1) of such Act is amended by striking "$300,000 nor more than $16,000,000" and inserting "$400,000 nor more than $22,000,000".

(c) PRIMARY AND CARGO SERVICE AIRPORTS.—Section 507(b)(3) of such Act is amended by striking "49.5 percent" each place it appears and inserting "44 percent".

(d) RULES REGARDING CERTAIN ALASKA AIRPORTS.—Section 507(b)(5) of such Act is amended by adding at the end the following new subparagraph:

"(F) INCLUDED AIRPORTS.—For purposes of this paragraph, the airports referred to in subparagraph (A) include those public airports that received scheduled service as of September 3, 1982, but were not apportioned funds in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970 because the airports were not under the control of State or local public agencies.".

SEC. 107. MILITARY AIRPORTS.

(a) SET-ASIDE.—Section 508(d)(5) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2207(d)(5)) is amended by inserting after "1992" the following: ", not less than 2.25 percent of the funds made available under section 505 in fiscal year 1993, and not less than 2.5 percent of the funds made available under section 505 in each of fiscal years 1994 and 1995".

(b) DESIGNATION.—Section 508(f)(1) of such Act is amended—

(1) by striking "not more than 8" and inserting "not more than 12"; and

(2) by striking the second sentence.

(c) CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—

(1) FUNDING.—Section 508(f) of such Act is amended by adding at the end the following new paragraph:

"(6) FUNDING FOR CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—Not to exceed $4,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for fiscal years 1993, 1994, and 1995 may be used in the aggregate by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of airport surface parking lots, fuel farms, and utilities.".

(2) CONFORMING AMENDMENT.—Section 513(c) of such Act is amended by inserting after "this section" the following: "and section 508(f)(6) of this title".

(d) MILITARY BASE CLOSURE REPORT.—Within 30 days after the date on which the Secretary of Defense recommends a list of military bases for closure or realignment pursuant to section 2903(c) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; U.S.C. 2687 note), the Administrator of the Federal Aviation Administration shall submit to Congress and the Defense Base Closure and Realignment Commission a report on the effects of all those recommendations involving military airbases, including but not limited to, the effect of the proposed closures or realignments on civilian airports and airways in the local community and region; potential modifications and costs necessary to convert such bases to civilian aviation use; and in the case of air traffic control or radar coverage currently provided by the Department of Defense, potential installations or adjustments of equipment and costs necessary for the Federal Aviation Administration to maintain existing levels of service for the local community and region.

SEC. 108. AIRPORT NOISE COMPATIBILITY PROGRAM.

Section 508(d)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2207(d)(2)) is amended by striking "10 percent" and inserting "12.5 percent".

SEC. 109. MAXIMUM OBLIGATION OF THE UNITED STATES.

Section 512(b)(3) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2211(b)(3)) is amended by striking the period at the end and inserting the following: "; except that, for fiscal year 1993 and thereafter, for grants for the acquisition of land or interests in land, the maximum obligation of the United States may be increased for an airport (other than a primary airport) either by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable project costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.".

SEC. 110. TERMINAL DEVELOPMENT.

(a) ALLOWABLE PROJECT COSTS.—Section 513(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(b)(1)) is amended by adding at the end the following new sentence: "In the case of a commercial service airport which annually has .05 percent or less of the total enplanements in the United States, the Secretary may approve, under the preceding sentence as allowable project costs of a project for airport development at such airport, terminal development in revenue-producing areas and construction, reconstruction, repair, and improvement of nonrevenue-producing parking lots if the sponsor certifies that no project for needed airport development affecting safety, security, or capacity will be deferred by such approval.".

(b) FEDERAL SHARE.—Section 513(b)(5) of such Act is amended by inserting before the period at the end the following: "; except that the United States share of project costs allowable for any project under such paragraph at a commercial service airport which annually has .05 percent or less of the total enplanements in the United States shall be 85 percent".

(c) RETROACTIVE APPLICABILITY.—The amendment made by subsection (a) may be applied to any terminal development which is underway in calendar year 1992 or later.

SEC. 111. LETTERS OF INTENT.

Section 513(d)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(d)(1)) is amended by adding at the end the following new subparagraph:

"(G) OTHER CONSIDERATIONS.—A letter of intent issued under this paragraph shall not condition the obligation of any funds on the imposition of a passenger facility charge.".

SEC. 112. AIRPORT DEVELOPMENT DEFINED.

(a) AIRCRAFT DEICING EQUIPMENT.—Section 503(a)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)(B)) is amended—

(1) by striking "or" at the end of clause (v);

(2) by inserting after clause (vi) the following:

"(vii) aircraft deicing equipment and structures (other than aircraft deicing fluids and storage facilities for such equipment and fluids); or

"(viii) interactive training systems;".

(b) CONTROL TOWER AND NAVIGATIONAL AIDS RELOCATION; MEETING MANDATES OF CERTAIN FEDERAL LAWS; AIRCRAFT DEICING FACILITIES.—Section 503(a)(2) of such Act is further amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(E) the relocation, after December 31, 1991, of an air traffic control tower and any navigational aid (including radar) if such relocation is necessary to carry out a project approved by the Secretary under this title;

"(F) and if funded by a grant under this title, any construction, reconstruction, repair, or improvement of an airport (or any purchase of capital equipment for an airport) which is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, and the Federal Water Pollution Control Act with respect to the airport, other than construction or purchase of capital equipment which would primarily benefit a revenue producing area of the airport used by a nonaeronautical business; and

"(G) any acquisition of land for, or work necessary to construct, a pad suitable for deicing aircraft prior to takeoff at a commercial service airport, including construction or reconstruction of paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, and paved access for deicing vehicles and aircraft, but excluding acquisition of aircraft deicing fluids and construction and reconstruction of storage facilities for aircraft deicing equipment and fluids.".

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the cost and the feasibility of maintaining and operating navigational aids (including radar) for a transition period of up to 2 years at airports converting in whole or in part from military airports to civilian commercial or reliever airports.

SEC. 113. PUBLIC ACCESS AND PARTICIPATION WITH RESPECT TO AIRPORTS.

(a) PUBLIC ACCESS TO AIRPORT BUDGET.—Section 511(a)(11) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(11)) is amended by inserting "and a report of the airport budget will be available to the public at reasonable times and places" before the semicolon at the end.

(b) PUBLIC PARTICIPATION WITH RESPECT TO AIRPORT PROJECTS.—Section 509(b)(6)(A) of such Act (49 U.S.C. App. 2208(b)(6)(A)) is amended by inserting "(i)" after "unless" and by striking the period at the end and inserting the following: ", and (ii) the sponsor of the project certifies to the Secretary that the airport management board either has voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.".

SEC. 114. NATIONAL AIRWAY SYSTEM.

(a) ELIMINATION OF REPORTING REQUIREMENT.—Section 504(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)) is amended by striking paragraph (2).

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking "(1)";

(2) by striking "(A)", "(B)", and "(C)" and inserting "(1)", "(2)", and "(3)", respectively; and

(3) by striking "(i)", "(ii)", and "(iii)" and inserting "(A)", "(B)", and "(C)", respectively.

SEC. 115. DEFINITION OF PASSENGERS ENPLANED.

Section 503(a)(10) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(10)) is amended by inserting "or Alaska or Hawaii" after "contiguous States".

SEC. 116. EXTENSION OF STATE BLOCK GRANT PILOT PROGRAM.

(a) EXTENSION.—Section 534(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2227(a)) is amended by striking "1992" and inserting "1996".

(b) PARTICIPATING STATES.—Section 534(b) of such Act is amended—

(1) by striking "3" and inserting "7"; and

(2) by adding at the end the following new sentence: "The 7 States to be selected for participation in the program in fiscal years 1993, 1994, 1995, and 1996 shall include the 3 States selected for the participation in the program in fiscal year 1992 (Illinois, Missouri, and North Carolina).".

SEC. 117. DISADVANTAGED BUSINESS ENTERPRISE.

(a) ASSURANCE.—Section 511(a)(17) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(17)) is amended by inserting "or which provide ground transportation, baggage carts, automobile rentals, or other consumer services" after "or other consumer products".

(b) ADMINISTRATION OF DBE ASSURANCE.—Section 511 of such Act is further amended by adding at the end the following new subsection:

"(h) ADMINISTRATION OF DBE ASSURANCE.—

"(1) MANAGEMENT CONTRACTS.—In administering subsection (a)(17) of this section, an airport owner or operator is authorized to meet the overall percentage goal established under such subsection by including businesses operated through management contracts and subcontracts. The dollar amount of a management contract and subcontract with a DBE firm shall be added to the total of DBE participation in airport concessions and to the base from which the airport's overall percentage goal is calculated. The dollar amount of management contracts and subcontracts with non-DBE firms and the gross revenues of business activities to which management contracts and subcontracts pertain shall not be added to this base.

"(2) PURCHASE OF GOODS AND SERVICES.—Except as provided in subsection (h)(3), an airport owner or operator may meet the overall percentage goal established under subsection (a)(17) of this section by including the purchase from DBEs of goods or services used in businesses conducted on the airport, provided that good faith efforts shall be made by the airport owner or operator and the businesses conducted on the airport to explore all available options to achieve, to the maximum extent practical, compliance with such goal through direct ownership arrangements, including, but not limited to, joint ventures and franchises.

"(3) PROVISION FOR CAR RENTAL FIRMS.—

"(A) In complying with subsection (a)(17) of this section, an airport owner or operator shall include the revenues of car rental firms on the airport in the base from which the overall percentage goal set forth in such subsection is calculated.

"(B) An airport owner or operator may require a car rental firm to meet any requirement imposed under subsection (a)(17) of this section through the purchase or lease of goods or services from DBE's. In the event an airport owner or operator requires the purchase or lease of goods or services from DBE's, a car rental firm shall be permitted to meet such requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).

"(C) Nothing in this subsection or subsection (a)(17) of this section shall require a car rental firm to change its corporate structure to provide for direct ownership arrangements in order to meet the requirements of such subsection or subsection (a)(17).

"(4) GENERAL PROVISIONS.—

"(A) Nothing in this subsection or subsection (a)(17) shall preempt any State or local law, regulation, or policy enacted by the governing body of an airport owner or operator, or the authority of any State or local government or airport owner or operator to adopt or enforce any law, regulation, or policy relating to DBE's.

"(B) An airport owner or operator shall be permitted to afford opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals to participate through direct contractual agreement with such concerns.

"(5) EXCLUSION OF AIR CARRIER SERVICES.—Air carriers in providing passenger or freight-carrying services and other businesses that conduct aeronautical activities at an airport shall not be included in the overall percentage goal set forth in subsection (a)(17) of this section for participation of small business concerns at the airport.".

(c) BASIC PROGRAM.—Section 505(d)(2)(A) of such Act (49 U.S.C. App. 2204(d)(2)(A)) is amended by striking "$14,000,000" and inserting "$16,015,000".

(d) REGULATIONS.—Not later than the 180th day following the date of the enactment of this Act, the Secretary of Transportation shall issue regulations to carry out sections 511(a)(17) and 511(h) of the Airport and Airway Improvement Act of 1982, as amended by subsections (a) and (b) of this section, relating to the disadvantaged business enterprise assurance.

SEC. 118. EXTENSION OF CERTAIN RESTRICTIONS ON CONTRACT AND GRANT AWARDS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—Section 9130 of the Aviation Safety and Capacity Expansion Act of 1990 (49 U.S.C. App. 2226b) is amended by inserting ", section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b))" after "subtitle".

(b) FOREIGN GOVERNMENTS DISCRIMINATING AGAINST U.S. PRODUCTS.—Section 9131 of such Act (49 U.S.C. App. 2226c) is amended by inserting ", section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b))" after "subtitle".

SEC. 119. ACQUISITION OR CONSTRUCTION OF FACILITIES FOR ADVANCED TRAINING OF MAINTENANCE TECHNICIANS FOR AIR CARRIER AIRCRAFT.

(a) GRANTS.—The Administrator of the Federal Aviation Administration may make grants not to exceed 4 vocational technical institutions for the purpose of acquiring or constructing facilities to be used for the advanced training of maintenance technicians for air carrier aircraft.

(b) ELIGIBILITY CRITERIA.—The Administrator may only make a grant under this section to a vocational technical educational institution if such institution has a training curriculum which prepares aircraft maintenance technicians who hold an airframe and power plant certificate issued under subpart D of part 65 of title 14 of the Code of Federal Regulations to maintain, without direct supervision, air carrier aircraft.

(c) LIMITATION ON AMOUNTS OF GRANTS.—The maximum amount of Federal funds which a vocational technical educational institution may receive, in the aggregate, through grants made under this section shall be $5,000,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, from the Airport and Airway Trust Fund, such sums as may be necessary for carrying out this section for fiscal years 1993, 1994, and 1995. Such sums shall remain available until expended.

SEC. 120. AIR TRAFFIC CONTROLLER STAFFING.

The Administrator of the Federal Aviation Administration shall develop and submit annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States, a 3-year projection of the number of air traffic controllers needed to be employed to operate such system to meet such standards, and a detailed plan for employing such controllers, including projected budget requests.

SEC. 121. AVIATION SAFETY INSPECTORS.

The Administrator of the Federal Aviation Administration shall develop and submit by June 30, 1993, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a report on the criteria used to determine the required number of safety inspectors; and

(2) a 3-year projection of the number of inspectors needed, the training plans for such inspectors, and the support staff required for the inspector workforce.

SEC. 122. LIMITATION ON PRIVATIZATION OF OPERATION OF CERTAIN AIRPORT CONTROL TOWERS.

The Administrator of the Federal Aviation Administration shall not enter into any contract on or before September 30, 1994, with a private person for operation of an airport control tower at any airport which in fiscal year 1990 had 5,500 or more air carrier operations and 40,000 or more air taxi operations unless the owner or operator of such airport first agrees, in writing, to the Administrator entering into such contract.

SEC. 123. EFFECTS OF AIRPORT NOISE.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall—

(1) analyze the social, economic, and health effects of airport noise on populations within 65, 60, and 55 LDN noise areas to determine the actual level at which noise creates an adverse impact on populations; and

(2) study the effect of single event noise on populations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act and after providing notice and opportunity for public comment, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the analysis and study conducted under subsection (a).

SEC. 125. AIRCRAFT OPERATIONS IN WINTER CONDITIONS.

(a) IN GENERAL.—Before November 1, 1992, the Administrator of the Federal Aviation Administration shall require, by regulation, procedures to improve safety of aircraft operations during winter conditions.

(b) FACTORS TO BE CONSIDERED.—In determining procedures to be required under subsection (a), the Administrator shall consider, among other things, aircraft and air traffic control modifications, the availability of different types of deicing fluids (taking into account their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

SEC. 126. VISUAL FLIGHT RULE ROUTES FOR COMPLEX TERMINAL AIRSPACE AREAS.

Section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)) is amended by adding at the end the following: "In carrying out clause (3), the Administrator shall update and arrange for publication of clearly defined routes for navigating through a complex terminal airspace area, and to and from an airport located within such an area, where the Administrator determines that publication of such routes would promote safety in air navigation. Such routes shall be for the optional use of pilots operating under visual flight rules and shall be developed in consultation with pilots and other users of affected airports.".

SEC. 127. STUDY ON REFLECTORIZATION OF TAXIWAY AND RUNWAY MARKINGS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine whether the safety benefits derived from the reflectorization of runways and taxiways of all military airfields under Federal Specification TT–B–1325B should be extended to runways and taxiways of public use airports.

(b) REPORT.—Not later than June 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations concerning requirements for upgraded reflectorization of runways and taxiways at public use airports.

SEC. 128. OPTIONS TO PURCHASE LAND.

(a) STUDY.—The Secretary of Transportation shall conduct a study on the purchase of options to purchase land for airport development.

(b) CONTENT.—In conducting the study under subsection (a), the Secretary shall examine the following:

(1) ELIGIBILITY FOR FUNDING.—Whether or not the purchase of options to purchase land for airport development should be eligible for funding under the Airport Improvement Program.

(2) CONDITIONS.—If the purchase of such options become eligible for funding under the Airport Improvement Program—

(A) whether or not certain limitations should be imposed on such purchases;

(B) whether or not priority should be afforded to the funding of such purchases in relation to other airport development projects; and

(C) whether or not certain environmental requirements should be imposed on such purchases.

(c) REPORT.—Not later than December 31, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with any appropriate recommendations for legislative and administrative action.

SEC. 129. LIGHTING SYSTEMS FOR AIRCRAFT OBSTRUCTIONS AND AIRPORT RUNWAYS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the current Federal program for monitoring the installation and operation of lighting systems for aircraft obstructions and airport runways.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the study conducted under this section, together with recommendations on methods to ensure that the best available technologies are utilized in lighting systems described in subsection (a).

SEC. 130. ECONOMIC BENEFITS OF AIRPORT DEVELOPMENT PROJECTS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the economic benefits of carrying out airport development projects in areas designated as "redevelopment areas" under section 401 of the Public Works and Economic Development Act of 1965.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations on whether or not airport development projects in areas described in subsection (a) should receive priority consideration in the distribution of grants under the Airport Improvement Program.

SEC. 131. SOUNDPROOFING OF CERTAIN RESIDENTIAL BUILDINGS IN AREAS SURROUNDING AIRPORTS.

During the 2-year period beginning on the date of the enactment of this Act, the Secretary may make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for projects to soundproof residential buildings—

(1) if the operator of the airport involved received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(2) if the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(3) if the Secretary determines that the proposed projects are compatible with the purposes of the Aviation Safety and Noise Abatement Act of 1979.

SEC. 132. LAREDO INTERNATIONAL AIRPORT, LAREDO, TEXAS.

Section 313(c)(2)(C) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (101 Stat. 1531) is amended by striking "20 years" and inserting "40 years".

SEC. 133. STUDY OF SMALL AIRPORT RUNWAY MAINTENANCE.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the ability of airports which annually enplane .05 percent or less of total enplanements in the United States to finance the maintenance of runways, aprons, and taxiways constructed under the Airport Improvement Program, whether or not it would be desirable to make maintenance of runways, aprons, and taxiways eligible projects for grants under the Airport Improvement Program, and whether or not the result of making such maintenance eligible projects would be to reduce the long-term costs of airport development.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations.

SEC. 134. TUCSON STUDY.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the current and projected need for air traffic control and related services in the airspace in the vicinity of Tucson, Arizona. In particular the study shall focus upon—

(1) the facilities and personnel necessary to assist general aviation pilots in the vicinity of Tucson and the United States-Mexico border area with services such as weather and traffic advisories;

(2) flight plan filings; and

(3) notification of law enforcement agencies that monitor international air traffic between Arizona and Mexico.

(b) Report.—Not later than May 1, 1993, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subsection (a). The report shall include the Administrator's evaluation of the ability of the consolidation plans of the Federal Aviation Administration to assure no reduction or delay in the delivery of air traffic control and related services to pilots in the vicinity of Tucson.

(c) Status.—The Administrator of the Federal Aviation Administration shall not change the status (including reductions in staff, changes in operating hours, changes in jurisdiction, and disconnection of telephone lines) of the Tucson flight service station before the 60th day following the date on which the report required by subsection (b) is submitted.

SEC. 135. AIR TRAFFIC OVER GRAND CANYON.

(a) Study.—The Administrator of the Federal Aviation Administration, in consultation with the Director of the National Park Service, the State of Arizona, the State of Nevada, the Clark County Department of Aviation, affected Indian tribes, and the general public, shall conduct a study on increased air traffic over Grand Canyon National Park.

(b) Report.—The Administrator of the Federal Aviation Administration shall submit to Congress a report on the results of the study conducted under subsection (a). The report shall include the following:

(1) A report on the increase in air traffic over Grand Canyon National Park since 1987.

(2) A forecast of the increase in air traffic over Grand Canyon National Park through 2010.

(3) A report on the carrying capacity of the airspace over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by section 3 of the Act of August 18, 1987 (Public Law 100–91; 101 Stat. 676), including the substantial restoration of natural quiet at the Park.

(4) A plan of action to manage increased air traffic over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by such section 3 of the Act of August 18, 1987, including any measures to encourage or require the use of quiet aircraft technology by commercial air tour operators.

SEC. 136. CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE.

(a) Establishment.—The Secretary of Transportation shall establish in the Department of Transportation a Civil Tiltrotor Development Advisory Committee (hereinafter in this section referred to as the "Advisory Committee") to evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft and a national system of infrastructure to support the incorporation of tiltrotor aircraft technology into the national transportation system.

(b) Membership.—

(1) Appointment.—The Advisory Committee shall be composed of members appointed by the Secretary of Transportation, not later than 60 days after the date of the enactment of this Act, as follows:

(A) At least 1 representative of the Department of Transportation.

(B) At least 1 representative of the Federal Aviation Administration.

(C) At least 1 representative of the National Aeronautics and Space Administration.

(D) Representatives of other Federal departments and agencies, State and local governments, and private industry, as considered appropriate and necessary by the Secretary.

(2) Qualification.—Members appointed pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall be appointed from among individuals employed under the Federal departments and agencies described in such subparagraphs who receive an annual rate of basic pay which equals or exceeds the rate payable for level VI of the Senior Executive Service.

(3) Chairperson.—The Secretary of Transportation shall appoint a Chairperson of the Advisory Committee from among individuals employed under the Department of Transportation who receive an annual rate of basic pay which equals or exceeds the rate payable for level IV of the Executive Schedule.

(c) Duties.—The Advisory Committee shall—

(1) determine the costs, feasibility, and economic viability of developing a civil tiltrotor aircraft and establishing the necessary infrastructure to incorporate such aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(2) determine the benefits to the national economy and transportation system, including the potential for improved linkages and connections with other modes of transportation, of incorporating civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(3) determine further aeronautical research and development requirements needed to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(4) determine changes to regulatory standards governing use of the airspace which would be required to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system; and

(5) recommend which of the costs of developing civil tiltrotor aircraft and establishing the infrastructure necessary to support civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft should be paid by the Federal Government and which of such costs should be paid by private industry.

(d) Report.—Not later than the 365th day following the date of the first meeting of the Advisory Committee, the Advisory Committee shall transmit to Congress a report containing its determinations and recommendations under subsection (c).

(e) Termination.—The Advisory Committee shall terminate on the 30th day following the date of submission of its report under subsection (d).

SEC. 137. TECHNICAL AMENDMENTS.

(a) Exemption Related to Certain Agreements.—Section 9304(a)(2)(D) of the Airport Noise and Capacity Act of 1990 (49 U.S.C. App. 2153(a)(2)(D)) is amended by striking all after "changes" and inserting the following: ", unless an agreement relating to noise reductions at such airport is entered into between the airport proprietor and an airline or airlines constituting a majority of the airline use of such airport, in which case the exception to subsections (b) and (d) provided by this sentence shall apply only to local actions to enforce such agreement.".

(b) Aircraft Contracts.—Section 9309 of the Airport Noise and Capacity Act of 1990 (49 U.S.C. App. 2158) is amended—

(1) in subsection (a)(2) by striking "written contract executed" and inserting "legally binding contract entered into"; and

(2) in subsection (c)(2) by striking "air".

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

SEC. 201. PROCUREMENT REFORM.

(a) In General.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended by adding at the end the following new subsections:

"(g) Limited Sources of Procurement.—The Administrator shall have the same authority as the Administrator would have under section 2304(c)(1) of title 10, United States Code, if the Federal Aviation Administration were an agency listed under section 2303(a) of title 10, United States Code.

"(h) Contract Tower Program.—The Administrator may enter into a contract, on a sole source basis, with a State or political subdivision thereof for the purpose of permitting such State or political subdivision to operate an airport traffic control tower classified as a level I visual flight rules tower by the Administrator if the Administrator determines that the State or political subdivision has the capability to comply with the requirements of this subsection. Any such contract shall require that the State or political subdivision comply with all applicable safety regulations in its operation of the facility and with applicable competition requirements in the subcontracting of any work to be performed under the contract.".

(b) Conforming Amendment.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended by adding at the end the following:

"(g) Limited sources of procurement.

"(h) Contract tower program.".

SEC. 202. AVIATION SECURITY TRAINING.

Section 316(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1357(c)) is amended by inserting "(1)" after "(c)" and by adding at the end the following new paragraph:

"(2) Reimbursement for Certain Expenses.—At the discretion of the Administrator, reimbursement may be made for travel, transportation, and subsistence expenses for the security training of non-Federal domestic and foreign security personnel whose services will contribute significantly to carrying out civil aviation security programs under this section. To the extent practicable, air travel reimbursed under this paragraph shall be conducted on United States air carriers.".

SEC. 203. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE.

(a) Notice of Construction.—Section 1101(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1501(a)) is amended—

(1) by inserting after "of the construction or alteration," the following: "or the establishment or expansion,";

(2) by inserting after "or of the proposed construction or alteration," the following: "or of the proposed establishment or expansion,"; and

(3) by inserting "or sanitary landfill" after "structure".

(b) Landfill Hazard Study and Report.—

(1) Requirements.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study to determine whether a municipal solid waste facility located within a 5-mile radius of the end of a

runway may have the potential for attracting or sustaining bird movements (from feeding, watering, or roosting in the area) that may pose a hazard across the runways or approach and departure patterns of aircraft.

(2) REPORT.—Not later than December 31, 1993, the Secretary of Transportation shall transmit to Congress, after first having provided an opportunity for public comment, a report on the results of the study conducted under paragraph (1), together with an assessment of the threat posed to aviation safety by the location of solid waste facilities near airport runways. The report shall include recommendations concerning the construction of new solid waste facilities and the expansion of existing facilities within a 5-mile radius of an airport runway.

SEC. 204. NATIONAL COMMISSION TO PROMOTE A STRONG AND COMPETITIVE AIRLINE INDUSTRY.

(a) FINDINGS.—Congress finds the following:

(1) The Nation's airlines must be part of an intermodal transportation system that will move people and goods in the fastest, most efficient manner.

(2) The Nation's airlines provide our connections with the global economy. A strong airline industry is essential to our Nation's ability to compete in the international marketplace.

(3) The Nation's airlines are in a state of financial distress, having lost more than $6,000,000,000 in 1990 and 1991. These losses threaten the ability of our airlines to accommodate the growing aviation traffic demands of the 1990's which threaten to undermine our Nation's ability to compete in the global economy.

(4) Because of the airline industry's financial distress and the absence of government policies to promote competition, there has been a precipitous decline in the number of major airlines. Of the 22 airlines which entered the industry following airline deregulation, only 2 are now operating. The rest have either gone out of business or merged with other carriers.

(5) Concentration in the airline industry has advanced rapidly in the past few years. The top 4 major airlines now control 67 percent of aviation traffic and the top 7 airlines now control 91 percent of aviation traffic. Three major airlines, carrying 19 percent of aviation traffic, are in chapter 11 bankruptcy and their survival is in doubt.

(6) The continued success of a deregulated airline system requires the spur of effective actual and potential competition to force airlines to provide high quality service at the lowest possible fares.

(7) Further reductions in the number of major airlines may leave the industry without sufficient competition to ensure a continuation of the benefits consumers have received under airline deregulation.

(b) ESTABLISHMENT.—There is established a commission to be known as the "National Commission to Ensure a Strong Competitive Airline Industry" (hereinafter in this section referred to as the "Commission").

(c) FUNCTIONS.—

(1) INVESTIGATION AND STUDY.—The Commission shall make a complete investigation and study of the financial condition of the airline industry, the adequacy of competition in the airline industry, and legal impediments to a financially strong and competitive airline industry.

(2) POLICY RECOMMENDATIONS.—Based on the results of the investigation and study to be conducted under paragraph (1), the Commission shall recommend to the President and Congress those policies which need to be adopted to—

(A) achieve the national goal of a strong and competitive airline system which will facilitate the ability of the Nation to compete in the global economy;

(B) provide adequate levels of competition and service at reasonable fares in cities of all sizes;

(C) retard the flow of United States air carrier bankruptcies and accompanying loss of jobs for United States citizens;

(D) provide a stable work environment for airline industry employees; and

(E) continue to reduce noise for citizens around airports without damaging the economic or competitive positions of the air carriers.

(3) CONSIDERATION OF AIRCRAFT NOISE ABATEMENT.—In carrying out the study and investigation under paragraph (1), the Commission shall take into account aircraft noise abatement, a priority established by Congress by enactment of the Airport Noise and Capacity Act of 1990.

(d) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall specifically investigate and study under subsection (c)(1) the following:

(1) FINANCIAL CONDITION OF AIRLINE INDUSTRY.—The current financial condition of the airline industry and how the industry's financial condition is likely to change over the next 5 years, including—

(A) the profits or losses likely to be achieved by the airline industry over the next 5 years;

(B) whether or not any profits realized will be adequate to permit airlines to acquire the capital equipment necessary to meet the demand of the traveling public in a safe and efficient manner, while complying with environmental regulations; and

(C) whether or not any major airlines are likely to fail or sell major assets in order to survive.

(2) ADEQUACY OF COMPETITION.—The current state of competition in the airline industry, how the structure of airline industry competition is likely to change over the next 5 years, and whether or not the expected level of competition will be sufficient to continue the consumer benefits of airline deregulation.

(3) LEGAL IMPEDIMENTS TO A FINANCIALLY STRONG AND COMPETITIVE AIRLINE INDUSTRY.—Whether or not the Federal Government should take any legislative or administrative actions to improve the financial conditions of the airline industry or to enhance airline competition, including whether or not any changes are needed in the legal and administrative policies which govern—

(A) the initial award and the transfer of international airline routes;

(B) the allocation of slots at high density airports;

(C) the allocation of gates, particularly at airports dominated by 1 or a limited number of airlines;

(D) frequent flier programs;

(E) airline computer reservations systems;

(F) the rights of foreign investors to invest in United States airlines;

(G) the taxes and user fees imposed on United States airlines;

(H) the regulatory responsibilities imposed on United States airlines;

(I) the bankruptcy laws of the United States and related fitness rules administered by the Department of Transportation as they apply to airlines; and

(J) the obligations of failing airlines to meet pension obligations.

(4) INTERNATIONAL AVIATION POLICY.—Whether or not the policies and strategies followed by the United States in international aviation are promoting the ability of United States airlines to achieve long-term competitive success in international markets, including—

(A) the Government's general negotiating policy;

(B) the desirability of multilateral rather than bilateral negotiations;

(C) whether or not foreign countries have developed the necessary infrastructure of airports and airways to enable United States airlines to provide the service needed to meet the demand for aviation service between the United States and such countries;

(D) the rights granted foreign airlines to provide service in United States domestic markets ("cabotage"); and

(E) the rights granted foreign investors to invest in United States airlines.

(5) ASSESSMENT OF AIRCRAFT MANUFACTURING INDUSTRY.—The state of the United States aircraft manufacturing industry and make recommendations to the President and Congress concerning policies that will help foster a healthy, competitive United States aircraft manufacturing industry.

(6) STUDY OF INCENTIVES FOR EXPEDITED FLEET CONVERSION.—The possibility of long-term loan guarantees and tax incentives for air carriers to expedite the conversion of the commercial airline fleet from Stage 2 to Stage 3 aircraft in advance of the deadlines established by the Airport Noise and Capacity Act of 1990.

(e) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 7 members as follows:

(A) 1 member appointed by the President.

(B) 3 members appointed by the Speaker of the House of Representatives.

(C) 3 members appointed by the majority leader of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in transportation policy (including representatives of Federal, State, and local governments and other public authorities owning or operating airports) and organizations representing airlines, passengers, shippers, airline employees, aircraft manufacturers, general aviation, and the financial community.

(B) SECTORS REPRESENTED.—Members appointed pursuant to paragraph (1) shall be appointed in a manner such that the interests of both large hub airports and small airports with commercial air service will be taken into consideration. One member of the Commission shall be a citizen representing a consensus among citizen noise groups or noise affected municipalities.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(h) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (c)(2).

(k) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 205. STRENGTHENING OF COMPETITION.

Section 102 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1302) is amended by adding at the end the following new subsection:

"(c) STRENGTHENING OF COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants to provide such transportation, the Secretary shall consider the strengthening of competition among air carriers operating in the United States in order to prevent undue concentration in the air carrier industry, in addition to considering the factors specified in subsections (a) and (b) of this section.".

SEC. 206. SLOT RULE EFFECTIVE DATE.

The final rule of the Federal Aviation Administration which requires an increased level of minimum use for high density traffic airport slots (57 Federal Register 37308) shall take effect January 1, 1993.

SEC. 207. EMERGENCY VISION EQUIPMENT.

The Administrator of the Federal Aviation Administration shall evaluate and report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, no later than 9 months after the date of the enactment of this Act, on effects of quantities of smoke in the cockpit of an aircraft which could affect the pilot's vision. In such report, the Administrator shall also explore the efficiency of any existing technologies to evacuate smoke from the cockpit, shall evaluate the need for any change in requirements or operating rules, and shall estimate the cost of installation of such technologies for the commercial airline fleet.

SEC. 208. TECHNICAL AMENDMENT TO CIVIL PENALTIES.

Section 901(a)(3)(A) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(3)(A)) is amended by inserting "901(c), 901(d)," after "section".

TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1992".

SEC. 302. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows and inserting in lieu thereof the following:

"(A) for fiscal year 1993—

"(i) $14,700,000 solely for management and analysis projects and activities;

"(ii) $87,000,000 solely for capacity and air traffic management technology projects and activities;

"(iii) $28,000,000 solely for communications, navigation, and surveillance projects and activities;

"(iv) $7,700,000 solely for weather projects and activities;

"(v) $6,800,000 solely for airport technology projects and activities;

"(vi) $44,000,000 solely for aircraft safety technology projects and activities;

"(vii) $41,100,000 solely for system security technology projects and activities;

"(viii) $31,000,000 solely for human factors and aviation medicine projects and activities;

"(ix) $4,500,000 for environment and energy projects and activities; and

"(x) $5,200,000 for innovative/cooperative research projects and activities; and

"(B) for fiscal year 1994, $297,000,000.

Not less than 15 percent of the amount appropriated pursuant to this paragraph shall be for long-term research projects, and not less than 3 percent of the amount appropriated under this paragraph shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

SEC. 303. DEICING STUDY.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress on the feasibility of requiring commercial airports and commercial airlines to employ portable equipment to deice commercial aircraft immediately prior to takeoff by placing deicing equipment close to the departure end of the active runway. In addition, the Secretary shall undertake research to develop new techniques and to develop more efficient fluids and technologies for deicing.

SEC. 304. AIRCRAFT NOISE RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a research program to develop new technologies for quieter subsonic jet aircraft engines and airframes.

(b) GOAL.—The goal of the research program established by subsection (a) is to develop by the year 2000 technologies for subsonic jet aircraft engines and airframes which would permit a subsonic jet aircraft to operate at reduced noise levels.

(c) PARTICIPATION.—In carrying out the program established by subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of representatives of the aviation industry and academia.

(d) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress, on an annual basis during the term of the program established by subsection (a), a report on the progress being made under the program toward meeting the goal described in subsection (b).

SEC. 305. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary of Transportation, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

TITLE IV—AVIATION INSURANCE

SEC. 401. INSURANCE FOR DEPARTMENTS AND AGENCIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 1304(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1534(a)) is amended—

(1) by inserting after "under this title" the following: ", including insurance to cover any risk from the operation of an aircraft while such aircraft is engaged in intrastate, interstate, or overseas air commerce"; and

(2) by adding at the end the following new sentence: "In addition, such department or agency may, with the approval of the President, procure such insurance to cover any risk arising from the provision of goods or services directly related to and necessary for an operation of an aircraft covered by insurance procured under the preceding sentence if such operation is in the performance of a contract of such department or agency or is for the purpose of transporting military forces or materiel on behalf of the United States pursuant to an agreement between the United States and a foreign government.".

(b) CONFORMING AMENDMENT.—Section 1302(a)(3) of such Act (49 U.S.C. App. 1532(a)(3)) is amended by striking "Insurance" and inserting "Subject to section 1304(a), insurance".

SEC. 402. EXTENSION OF PROGRAM.

Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1542) is amended by striking "1992" and inserting "1997".

SEC. 403. ADMINISTRATION OF AVIATION INSURANCE PROGRAM.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958 during the Persian Gulf conflict for the purpose of determining methods of improving the efficiency of the administration of such program by reducing the paperwork and time period required for provision of insurance under such program.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the review conducted under subsection (a), together with any recommendations of the Comptroller General for improving the efficiency of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958.

SEC. 404. CONTINUATION OF AVIATION INSURANCE LAWS.

Notwithstanding any other provision of law, the provisions of title XIII of the Federal Aviation Act of 1958 and all insurance policies issued by the Secretary of Transportation under such title, as in effect on September 30, 1992, shall be treated as having continued in effect until the date of the enactment of this Act.

TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND

SEC. 501. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 1992" and inserting "October 1, 1995", and

(2) by striking in subparagraph (A) "(as such Acts were in effect on the date of the enactment of the Aviation Safety and Capacity Expansion Act of 1990)" and inserting "(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)".

SEC. 502. CLARIFICATION OF TRUST FUND REVENUES.

(a) IN GENERAL.—Paragraph (1) of section 9502(e) of the Internal Revenue Code of 1986 (relating to special rules for transfers into trust fund) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 11213 of the Revenue Reconciliation Act of 1990 on the date of the enactment of such Act.

Mr. CLINGER. Mr. Speaker, I rise in strong support of H.R. 6168. This legislation extends the Airport Improvement Program for 1 year, while extending for 3 years the FAA's facilities and equipment, and operations and maintenance programs.

As Members may be aware, the current AIP expired with the advent of the new fiscal year. The Airport Improvement Program is the principal funding mechanism for airport construction projects such as runways, terminal buildings, taxiways, navigation facilities, and the like. During fiscal year 1992, Congress obligated $1.9 billion from the aviation trust fund to support the AIP.

We on the Public Works Committee have been working under extreme duress to accommodate the Senate during the waning hours of the 102d Congress. This House passed the AIP reauthorization bill in early May. We have been very forthright in our deliberations on this measure; we've been forthcoming, sharing this legislation with all interested parties; and we've always held ourselves ready to negotiate at the convenience of the other body. Yet for reasons that remain a complete mystery to me, the bill has languished in the Senate and only last night did they give any indication of moving the legislation forward.

I hasten to point out that the full Senate has yet to act on the AIP reauthorization. The filibuster that has tied up the Senate since yesterday evening has seriously jeopardized any chances of conferencing on this legislation. The Senate has a tremendous amount of work ahead of it on some very substantial bills, yet this House is scheduled to conclude normal business within the next few hours.

By reporting H.R. 6168, we will give the Senate several options about how to proceed with the Airport Improvement Program reauthorization. Certainly, I would hope the Senate would find one of our measures now pending before them to be suitable and that they could report a bill without amendment and send it to the White House.

The Airport Improvement Program is essential to our Nation's commercial airways system. It is far too important to allow it to lapse. I urge all Members to support this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, this represents our third, and probably final, attempt to enact legislation to continue the Airport Improvement Program.

Last May, we passed H.R. 4691 which was a 2-year reauthorization. Last Friday, we passed H.R. 6093 which is a 3-year reauthorization.

Unfortunately, the response we have received from the Senate has not been acceptable.

Therefore we have taken our previously passed bills, as well the main elements of a companion Senate bill, and have combined them into an omnibus bill. This bill is a 1-year reauthorization of the Airport Improvement Program and a 3-year reauthorization of other aviation programs. It includes the tilt-rotor commission, the VFR corridors bill, and the war risk insurance bill, all of which previously passed the House.

In my view, this is a good bill. It is a fair compromise between the House and Senate versions.

Failure to enact this legislation would mean that many important airport improvements would come to an end. Others would never get off the ground. This would cause jobs to be lost and damage to local economies. It would also undermine the future growth of the aviation system.

Clearly we should not let the Airport Improvement Program lapse for too long. Therefore, I urge the House to approve this bill, and hopefully the Senate will do the same.

Mr. CLINGER. Mr. Speaker, section 117 of H.R. 6168 amends existing law regarding disadvantaged business enterprise performance requirements that must be met by airport authorities receiving Airport Improvement Program [AIP] grants from the U.S. Department of Transportation.

Section 117 of H.R. 6168 expands section 511(a)(17) of the Airport and Airway Improvement Act of 1982 [AAIA]. The question is whether car rental firms doing business at an airport would be held to the same standard applied to all other business enterprises located at an airport. Section 117 recognizes the unique characteristics of the car rental industry and provides for separate administration of DBE assurance for that industry.

Section 511(h)(2) of the Airport and Airway Improvement Act of 1982, as amended, does not apply to car rental firms doing business at an airport for the purposes of determining compliance with any requirement imposed pursuant to section 511(a)(17) of AAIA. Administration of DBE assurance for car rental firms shall be governed by section 511(h)(3) of the AAIA, as amended.

Section 511(h)(3) of AAIA, as amended, provides that nothing in the law on DBE assurance "shall require a car rental firm to change its corporate structure to provide for direct ownership arrangements." For example, a car rental firm is not required, but is permitted, by the DBE assurance sections 551(a)(17) and 511(h) of the AAIA, as amended, to transfer corporate assets to engage in joint ventures, partnership or subleases.

Section 117 of H.R. 6168 was agreed to by the American Car Rental Association, Hertz Car Rental Co., the Airports Council International, the American Association of Airport Executives, and the Airport Minority Advisory Council.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

(Amendment not available.)

Mr. OBERSTAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota [Mr. OBERSTAR].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. OBERSTAR: Amend the title so as to read: "A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations, and for other purposes.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6168, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

JOHN F. KENNEDY CENTER ACT AUTHORIZATION

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 6164) to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. INHOFE. Mr. Speaker, reserving the right to object, I do not intend to object. I am in full support of this.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. INHOFE. Further reserving the right to object, I am happy to yield to the gentleman from Minnesota for an explanation.

Mr. OBERSTAR. Mr. Speaker, this bill is a straightforward 2-year extension of the existing authority for the John F. Kennedy Center for the Performing Arts. This bill authorizes $20.8 million for fiscal year 1993 for operating and capital expenses of the Kennedy Center. That is the exact figure included in the appropriations conference agreement. The bill also authorizes $27 million for those same activities in fiscal year 1994.

H.R. 6164 does not change the current structure or responsibilities of the board of trustees of the Kennedy Center, nor does it alter in any way the relationship and responsibilities between the board and the National Park Service of the Department of the Interior.

This committee feels that changes are long overdue in these areas and next year the committee will address ways to make the Kennedy Center a truly more efficient public building of the United States.

Mr. Speaker, I urge passage of this bill in order to ensure that the Kennedy Center is authorized for the current fiscal year and to put into place authorization levels that would allow the Center's staff to plan effectively for the next fiscal year.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota.

There was no objection.

Mr. INHOFE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. I rise in support of H.R. 6164, which will provide a 2-year authorization for the Kennedy Center for maintenance, repair, and alterations.

Earlier this year, the Public Works and Transportation Committee approved H.R. 5755, which provides a 5-year authorization for maintenance and capital projects at the Kennedy Center. The bill also takes an important first step in addressing the ongoing structural problems at the Kennedy Center by making a significant change in the division of responsibilities between the National Park Service and the Kennedy Center Board of Trustees.

Unfortunately, due to a jurisdictional dispute with another committee, we were unable to bring H.R. 5755 to the floor.

Although H.R. 6164 does not fully address the pressing capital needs projects at the Kennedy Center, it does take care of some of the more immediate problems.

It is my hope that during the 103d Congress, there will be an opportunity to more completely respond to the Kennedy Center's long-term capital needs.

Mr. INHOFE. Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE, REPAIRS, AND OTHER BUILDING SERVICES.

Section 6(e)(3) of the John F. Kennedy Center Act (20 U.S.C. 761(e)(3)) is amended to read as follows:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior to carry out this subsection—

"(A) for fiscal year 1993, not more than—

"(i) $8,000,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $12,806,000 for deferred maintenance, repairs, and alterations; and

"(B) for fiscal year 1994, not more than—

"(i) $12,000,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,000,000 for deferred maintenance, repairs, and alterations.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6164, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

QUENTIN N. BURDICK U.S. COURTHOUSE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 3224) to designate the U.S. courthouse to be constructed in Fargo, ND, the "Quentin N. Burdick United States Courthouse," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Minnesota?

Mr. INHOFE. Reserving the right to object, and I will not object, I yield to the gentleman from Minnesota for an explanation.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, Senator Quentin Burdick was born in Munich, ND, on June 19, 1908, and was raised in Williston, where he grew up on his parents' ranch and attended local schools.

Following graduation from the University of Minnesota, where he earned his undergraduate and law degrees, Senator Burdick entered law practice in Fargo in 1932. He quickly became immersed in politics and was nominated for State's attorney in 1934 and 1940; for State senator in 1936; and for Lieutenant Governor in 1942. He also ran, although unsuccessfully, for Governor.

In 1958, he became the first Democrat ever to be elected to the House of Representatives from North Dakota. As a Congressman, the Senator focused on agriculture and water projects through his service on the Interior Committee.

After serving less than one term in the House, he won a special election in 1960 to fill the unexpired term of the late Senator William Langer. He was reelected to the Senate five times.

Senator Burdick served in the U.S. Senate with distinction on the Interior and Insular Affairs Committee; the Judiciary Committee, where he was a leader in rewriting bankruptcy legislation; and the Post Office and Civil Service Committee.

Because of his interest in public works, the Senator joined the Environment and Public Works Committee in 1973 and became chairman in 1987. His first actions as chairman were to pass major highway and clean water legislation, having to override Presidential vetoes on both.

Throughout his career Senator Burdick was a champion of our Nation's infrastructure. Whether it was surface transportation or economic development or water resources, he recognized the significance of public works to our Nation's economy and to the quality of life enjoyed by every American.

I had the personal privilege of working with the Senator last year on the Intermodal Surface Transportation Efficiency Act. Much of the success of that landmark law is a result of his dedication and hard work. When Quentin died on September 8, we lost a truly devoted colleague.

This bill is a fitting tribute to a man who spent 34 years in Congress and who only asked to be remembered as a man of the people.

Mr. Speaker, I urge adoption of S. 3224.

Mr. INHOFE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Courthouse to be constructed in Fargo, North Dakota shall be known and designated as the "Quentin N. Burdick United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Courthouse referred to in section 1 shall be deemed a reference to the "Quentin N. Burdick United States Courthouse".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

JOSEPH G. MINISH PASSAIC RIVER WATERFRONT PARK AND HISTORIC AREA

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 6162) to designate an area for which environmental and other streambank restoration measures are authorized as the "Joseph G. Minish Passaic River Waterfront Park and Historic Area," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. INHOFE. Mr. Speaker, reserving the right to object, I do not intend to object, I support the bill, but I yield to the gentleman from Minnesota for an explanation.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, the committee bill would name the new waterfront restoration area being created in the city of Newark as part of the Passaic River flood control project for our distinguished former colleague, Joseph G. Minish.

Joe Minish served in this body for 22 years, providing outstanding representation for the city of Newark and other parts of Essex County, NJ.

He worked long and hard, producing a great many notable achievements for the people of New Jersey on a wide range and broad array of issues.

Joe Minish was first elected to Congress in 1962. During his 22 years in the House, he served on the Banking and House Administration Committees but his interests extended much farther than those committees' jurisdictions.

Joe was involved in numerous issues on behalf of the State of New Jersey, whether it was the early stages of the Nation's Mass Transit Program, environmental protection for the pinelands or funding formulas and appropriations for the State.

Prior to his election to Congress, he had been a labor official in New Jersey.

He served as executive director and executive secretary of the Essex-West Hudson Industrial Union Council.

For more than two decades in this House, Joe Minish was an energetic advocate on behalf of the people of New Jersey. He stood for common sense, for decency, and for doing the right thing for all people.

Many of Joe Minish's accomplishments are not the kind on which we can hang a sign. They are tangible and concrete for the people of New Jersey, nevertheless. The new waterfront park will be a jewel that will place Newark in the forefront of our Nation's urban centers.

It is totally appropriate that this new park which will link a major flood control project with the New Jersey Center for the Arts and with the massive transportation improvements that will revitalize the city of Newark be named the Joseph G. Minish Passaic River Waterfront Park and Historic Area.

It is a well-deserved tribute for his outstanding work of more than two decades.

Mr. INHOFE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The area for which environmental and other streambank restoration measures are authorized by section 101(a)(18)(B) of the Water Resources Development Act of 1990, relating to the project for flood control, Passaic River Mainstem, New Jersey and New York, shall be known and designated as the "Joseph G. Minish Passaic River Waterfront Park and Historic Area".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the area referred to in section 1 shall be deemed to be a reference to the "Joseph G. Minish Passaic River Waterfront Park and Historic Area".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MITCHELL H. COHEN UNITED STATES COURTHOUSE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2625) to designate the U.S. courthouse being constructed at 400 Cooper Street in Camden, NJ, as the "Mitchell H. Cohen United States Courthouse," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. INHOFE. Mr. Speaker, reserving the right to object, I do not intend to object, and I yield to the gentleman from Minnesota for an explanation.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, Mitchell H. Cohen was born on September 11, 1904, in Philadelphia, PA. He attended Temple University and Dickinson School of Law, graduating in 1928. In 1930, he was admitted to the New Jersey Bar. He was city prosecutor for Camden, NJ, from 1936 to 1942. He served as a judge in the Camden Municipal Court in 1942; special deputy attorney general for New Jersey; served on the New Jersey County Court from 1958 to 1961, and the New Jersey Superior Court from 1961 to 1962.

In 1962, President Kennedy appointed him to the U.S. District Court for the District of New Jersey, becoming chief judge in 1973. He died on January 7, 1991.

Judge Cohen was a dedicated public servant who had a distinguished career that spanned over 50 years, and he is most deserving of this honor.

Mr. Speaker, S. 2565 is identical to H.R. 2475, which passed the House on suspension on March 3, 1992. In that regard, I want to commend BOB ANDREWS from New Jersey for authoring H.R. 2475 and for his hard work in bringing this matter to where it is today. I also want to pay special tribute to the distinguished junior Senator from New Jersey, FRANK LAUTENBERG, whom, I might add, is also a constituent of mine, for his work in support of the Senate side.

Mr. Speaker, I urge adoption of S. 2565.

Mr. INHOFE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse under construction at 400 Cooper Street in Camden, New Jersey, shall be known and designated as the "Mitchell H. Cohen United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Mitchell H. Cohen United States Courthouse".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REQUEST FOR CONSIDERATION OF H.R. 6161, ROBERT C. BYRD LOCKS AND DAM

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6161) to designate the Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, as the "Robert C. Byrd Locks and Dam", and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. INHOFE. Mr. Speaker, reserving the right to object, and I do not intend to object, I yield to the gentleman from Minnesota for an explanation.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, one of the greater leaders of the other body and one of its great students, is ROBERT C. BYRD of West Virginia. No one in the Senate has a better understanding of the history of the Senate and of the entire Congress, nor been its greatest defender from attempts of other branches to usurp the power of the legislative branch. A great student and teacher of American and world history, he has not hesitated from calling upon that knowledge to keep the Senate on a proper course. Senator BYRD has served ably as the Senate majority leader, minority leader, and now serves as chairman of the Senate Appropriations Committee and President pro tempore. In each capacity he has served his country and his party well. A Member of the Senate since 1958, he has held more Senate leadership positions than any other Senator of any party in Senate history.

His strong support for the needed water infrastructure improvements for West Virginia are well known. It is only fitting that we designate the Gallipolis Locks and Dam on the Ohio River as the Robert C. Byrd Locks and Dam. The Robert C. Byrd Locks and Dam will end a bottleneck in the Ohio River that will cut down the time to traverse the locks from as much as 3 hours to less than 20 minutes. His strong support for this needed project was instrumental in its completion. I am sure that the Congress will join me in supporting this bill to honor one of the great leaders of the Senate, ROBERT C. BYRD.

Mr. Speaker, I urge adoption of H.R. 6161.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. INHOFE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I thought we used to have a standard, which was that while Members were serving as incumbents and certainly while they intended to serve as incumbents for some time to come, that we did not name the public projects after those people who were serving in office. I am curious as to why we have this bill out here.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. INHOFE. Further reserving the right to object, I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding further.

Mr. Speaker, the gentleman has stated the case. That has been the policy of the Committee on Public Works and Transportation, not to name public buildings.

Mr. RAHALL. Mr. Speaker, I rise in support of this bill which will honor a great West Virginian by renaming the Gallipolis Locks and Dam the "Robert C. Byrd Locks and Dam". Last month, this House passed this same measure as part of the Water Resource Development Act. The uncertain future of that legislation prompted me to attempt to have this matter accomplished on its own.

Senator BYRD has done a great deal to assist the State of West Virginia. In his position as chairman of the Senate Committee on Appropriations, Senator BYRD was instrumental in obtaining funds to have the Gallipolis Locks and Dam upgraded. Before being upgraded, this structure was infamous for the chaos and danger it caused for barges traveling down the Ohio River. Too many times the hazards predicted in corps model engineering studies would come true. Downbound tows approaching Gallipolis during high flows have been swept into the dams or sent crashing into the lock walls. In fact, more navigational accidents had occurred at Gallipolis than at any other lock on the Ohio.

Senator BYRD understood the importance of upgrading this lock, which was in continuous service since 1937, to the industrial and commercial future of the Ohio Valley. He appreciated the value of a safe, consistent navigation along this vital inland artery and was willing to make the Federal financial commitment necessary to make the upgrade possible.

It is fitting that the Congress should recognize the contributions of this great legislator by naming this important structure in his honor. I am pleased to join my colleagues from West Virginia and this body in praising this great man.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ALZHEIMER'S DISEASE RESEARCH, TRAINING, AND EDUCATION AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1577) to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the act, and for other purposes and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BARTON of Texas. Mr. Speaker, reserving the right to object, I will not object, but I do ask the chairman of the subcommittee if this is the bill that Congresswoman OLYMPIA SNOWE has worked so diligently on?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct. She, among others of our colleagues has worked hard on this legislation, and I am pleased to present it to the House today on behalf of their efforts.

Mr. BARTON of Texas. Congresswoman SNOWE indicated to me last night that this was an excellent piece of legislation that she strongly wanted to see pass, and if this is the bill that she was discussing, I would withdraw my objection.

Mr. WAXMAN. If the gentleman would yield further, you can take her word for it, this is an excellent piece of legislation. I do not know if you have had a chance to read it over, but I concur in her comments to you and want to share them with others of our colleagues in the House.

Mr. Speaker, I rise in support of S. 1577, as amended, to revise and extend various authorities established under the 1986 Alzheimer's Disease and Related Dementias Research Act. Similar legislation which was introduced by two champions of research on Alzheimer's disease—our colleagues, Mr. BRUCE and Ms. SNOWE has already passed the House without controversy. The substitute amendment includes additional provisions to improve the Nation's efforts in addressing the needs of Alzheimer's patients and their families.

Both the original bill and the substitute enjoy broad bipartisan support. I know of no objection to the proposal now before us.

The purpose of the legislation, Mr. Speaker, is to reauthorize and improve a number of sections to the 1986 research law which established—for the first time—a comprehensive Alzheimer's disease research program.

Among the most important elements of this program is the Advisory Panel on Alzheimer's Research. This group has published a number of significant reports that include recommendations on appropriate action by both the Congress and the Department of Health and Human Services on Alzheimer's disease and other dementias. It continues to work on additional studies and recommendations for our consideration. S. 1577 would reauthorize the panel for a number of years so that it may be able to pursue this and other important matters.

S. 1577 also includes several minor changes and technical corrections to the 1986 statute. Together, these amendments will serve to improve the basic authority and operation of the Alzheimer's disease research program.

Again, Mr. Speaker, this legislation enjoys strong bipartisan support. I urge my colleagues to support this bill.

Ms. SNOWE. Mr. Speaker, I rise in support of H.R. 3082, the Alzheimer's Disease and Related Dementias Research Amendments of 1991. First, I would like to commend subcommittee chairman WAXMAN and ranking member DANNEMEYER for bringing this legislation to the House floor.

As our older population continues to grow, the human and financial costs of Alzheimer's disease will accelerate precipitously. Because of my concern for the two victims of Alzheimer's disease, the patient and the family, I have made a strong commitment to Alzheimer's research and family caregiving.

H.R. 3082 extends the Advisory Panel on Alzheimer's Disease, the Council on Alzheimer's Disease within the Department of Health and Human Services [DHHS], and research relating to services for individuals with Alzheimer's disease and related dementias, and their families. These advisory groups and research programs were originally authorized in Public Law 99-660. This is legislation that Senator GRASSLEY and I introduced in 1986, and in which Senator METZENBAUM also played a leading role.

The Advisory Panel on Alzheimer's Disease was established as a body of non-federal experts to advise Congress and the executive branch about emerging issues and priorities in biomedical research and service delivery regarding Alzheimer's disease and related dementias.

This panel recently released its third report on the current status of, and made recommendations for legislative and administrative action in, four mandated areas: biomedical and health services research, values and goals in the care of persons with Alzheimer's disease and related dementias, regulations and value clarification, and the financing of Alzheimer's disease programs. This report provides great insight into the problems faced by a society with an increasing number of persons diagnosed with Alzheimer's disease and related dementias.

Once again, this panel has fulfilled its mandates most effectively. However, given the magnitude of the disorder, the number of still unanswered questions and the need for further advice to Congress and the executive branch about new directions in research and the provisions of care, the Panel needs to be reauthorized.

Likewise, the Council on Alzheimer's Disease within DHHS coordinates and identifies the most promising areas of research on Alzheimer's disease. The council has very effectively facilitated coordination and collaboration among numerous and diverse programs and agencies within a broadbased research framework. As a result, there is a great need to extend the Council.

Finally, the need for research on available programs and services is clear. Until the cause, cure, and treatment is found, we must continue to make a Federal commitment to fund Alzheimer's disease research and to find methods for assisting victims of Alzheimer's disease and their families.

Mr. Speaker, I hope that I will have the support of my colleagues in passing H.R. 3082. Clearly, the reauthorization of the Advisory Panel and Council on Alzheimer's disease, and of services research, will help to provide the answers that are desperately needed to conquer this devastating disease.

Mr. BARTON of Texas. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alzheimer's Disease Research, Training, and Education Amendments of 1991".

SEC. 2. SHORT TITLE OF ACT.

Section 901 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 note) is amended by striking "Services Research Act of 1986" and inserting "Research Act of 1991".

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alzheimer's Disease and Related Dementias Research Act of 1991 (42 U.S.C. 11201 et seq.).

SEC. 4. FINDINGS.

Section 902 (42 U.S.C. 11201) is amended—

(1) by redesignating paragraphs (7) through (12) as paragraphs (9) through (14);

(2) by striking paragraphs (4), (5), and (6); and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the cost of caring for individuals with Alzheimer's disease and related dementias is great, and conservative estimates range between $38,000,000,000 and $42,000,000,000 per year solely for direct costs;

"(5) progress in the neurosciences and behavioral sciences has demonstrated the interdependence and mutual reinforcement of basic science, clinical research, and services research for Alzheimer's disease and related dementias;

"(6) programs initiated as part of the Decade of the Brain are likely to provide significant progress in understanding the fundamental mechanisms underlying the causes of, and treatments for, Alzheimer's disease and related dementias;

"(7) although substantial progress has been made in recent years in identifying possible leads to the causes of Alzheimer's disease and related dementias, and more progress can be expected in the near future, there is little likelihood of a breakthrough in the immediate future that would eliminate or substantially reduce—

"(A) the number of individuals with the disease and dementias; or

"(B) the difficulties of caring for the individuals;

"(8) the responsibility for care of individuals with Alzheimer's disease and related dementias falls primarily on their families, and the care is financially and emotionally devastating;".

SEC. 5. COUNCIL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 911 (42 U.S.C. 11211) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and Communicative Diseases" and inserting "Disorders";

(B) by striking paragraphs (10), (11), and (12); and

(C) by adding at the end the following new paragraphs:

"(10) the Administrator of the Agency for Health Care Policy and Research;

"(11) the Administrator of the Health Resources and Services Administration;

"(12) the Director of the National Center for Nursing Research;

"(13) the Chief Medical Director of the Department of Veterans Affairs;

"(14) the Director of the National Center for Health Statistics; and

"(15) such additional members as the Secretary of Health and Human Services (hereinafter referred to as the 'Secretary') considers appropriate.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) The Assistant Secretary for Health shall serve as the Chairman of the Council."; and

(3) in subsection (d), by striking "twice" and inserting "once".

(b) FUNCTIONS.—Section 912 (42 U.S.C. 11212) is amended—

(1) in subsection (a)—

(A) by adding "and" at the end of paragraph (3);

(B) by striking "; and" at the end of paragraph (4) and inserting a period; and

(C) by striking paragraph (5); and

(2) by striking subsection (b) and inserting the following new subsection:

"(b)(1) The Chairman of the Council shall submit to the committees listed in paragraph (2) an annual report containing information on—

"(A) progress made by research, sponsored by the Federal Government, on Alzheimer's disease and related dementias; and

"(B) new directions that the Council considers potentially important in research on Alzheimer's disease and related dementias.

"(2) The Chairman of the Council shall submit the report described in paragraph (1) to—

"(A) the Committee on Energy and Commerce of the House of Representatives;

"(B) the Committee on Ways and Means of the House of Representatives;

"(C) the Committee on Veterans' Affairs of the House of Representatives;

"(D) the Committee on Appropriations of the House of Representatives;

"(E) the Committee on Labor and Human Resources of the Senate;

"(F) the Committee on Finance of the Senate;

"(G) the Committee on Veterans' Affairs of the Senate; and

"(H) the Committee on Appropriations of the Senate.".

SEC. 6. ADVISORY PANEL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 921 (42 U.S.C. 11221) is amended—

(1) in subsection (a)(2), by striking "the Director of the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Administrator of the Agency for Health Care Policy and Research";

(2) in subsection (d), to read as follows:

"(d)(1)(A) Except as provided in subparagraph (B), members of the Panel appointed under subsection (a)(1) shall each serve for a term of 3 years.

"(B) Of the members appointed under subsection (a)(1) that are serving on the Panel on the day before the date of the enactment of this subsection—

"(i) five shall serve for a term that expires on such date;

"(ii) five shall serve for a term that expires 1 year after such date; and

"(iii) five shall serve for a term that expires 2 years after such date.

"(2) A vacancy on the Panel shall be filled in the same manner as the original appointment was made, and not later than 90 days after the date on which the vacancy first arises. A vacancy on the Panel shall not affect the powers of the Panel.";

(3) in subsection (f), by striking "twice" and inserting "once";

(4) in subsection (h), by striking "of $100 per day" and inserting "at the daily equivalent of the maximum rate specified for GS-15 of the General Schedule under section 5332 of title 5, United States Code,"; and

(5) by adding at the end the following new subsection:

"(i) Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), on September 30, 1996, the Panel shall be abolished and all programs established under this part shall terminate.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 923 (42 U.S.C. 11223) is amended to read as follows:

"SEC. 923. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $150,000 for fiscal year 1992, $157,500 for fiscal year 1993, $165,500 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 7. RESEARCH RELATING TO SERVICES FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DEMENTIAS AND FAMILIES OF THE INDIVIDUALS.

(a) RESPONSIBILITIES OF THE NATIONAL INSTITUTE OF MENTAL HEALTH.—

(1) GRANTS.—Section 931 (42 U.S.C. 11251) is amended—

(A) by striking subsections (b)(2) and (c);

(B) in subsection (a), by inserting "and specialized care" after "services"; and

(C) in subsection (b)(1)—

(i) by striking "Within 6 months" and all that follows through "plan shall" and inserting "The Director of the National Institute of Mental Health shall";

(ii) in subparagraph (A)—

(I) by striking "provide for" and inserting "ensure that the research conducted under subsection (a) includes";

(II) by striking clause (iii) and inserting the following new clause:

"(iii) the optimal range, types, and costeffectiveness of services and specialized care for individuals with Alzheimer's disease and related dementias and for their families, in community and residential settings (including home care, day care, and respite care), and in institutional settings, particularly with respect to—

"(I) the design of the services and care;

"(II) appropriate staffing for the provision of the services and care;

"(III) the timing of the services and care during the progression of the disease or dementias; and

"(IV) the appropriate mix and coordination of the services and specialized care;";

(III) in clause (iv), by inserting "the evaluation of best practices for the development of" before "appropriate"; and

(IV) in clauses (v) and (vii), by striking "and nursing home services" and inserting "nursing home services, and other residential services and care"; and

(iii) in subparagraph (B), by striking "research carried out under the plan" and inserting "the research".

(2) CONFORMING AMENDMENTS.—Section 931(b) (42 U.S.C. 11251(b)) is amended—

(A) by striking "(1)";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated by subparagraph (B) of this paragraph), by redesignating clauses (i) through (vii) as subparagraphs (A) through (G), respectively.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 933 (42 U.S.C. 11253) is amended to read as follows:

"SEC. 933. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(b) RESPONSIBILITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—

(1) RESEARCH PROGRAM AND PLAN.—Section 934 (42 U.S.C. 11261) is amended to read as follows:

"SEC. 934. RESEARCH PROGRAM.

"(a) GRANTS FOR RESEARCH.—The Administrator of the Agency for Health Care Policy and Research shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and for their families.

"(b) RESEARCH SUBJECTS.—The Administrator of the Agency for Health Care Policy and Research shall ensure that research conducted under subsection (a) shall include research—

"(1) concerning improving the organization, delivery, and financing of services for individuals with Alzheimer's disease and related dementias and for their families, including research on—

"(A) the design, staffing, and operation of special care units for the individuals in institutional settings, as well as individuals in home care, day care, and respite care; and

"(B) the exploration and enhancement of services such as home care, day care, and respite care that provide alternatives to institutional care;

"(2) concerning the costs incurred by individuals with Alzheimer's disease and related dementias and by their families in obtaining services, particularly services that are essential to the individuals and that are not generally required by other patients under long-term care programs;

"(3) concerning the costs, cost-effectiveness, and effectiveness of various interventions to provide services for individuals with Alzheimer's disease and related dementias and for their families;

"(4) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning the role of physicians in caring for persons with Alzheimer's disease and related dementias and for their families, including the role of a physician in connecting such persons with appropriate health care and supportive services, including those supported through State and area agencies on aging designated under section 305(a) (1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a) (1) and (2)(A)); and

"(5) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning legal and ethical issues, including issues associated with special care units, facing individuals with Alzheimer's disease and related dementias and facing their families.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 936 (42 U.S.C. 11263) is amended to read as follows:

"SEC. 936. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $4,000,000 for fiscal year 1992, $5,000,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 8. TRAINING AND EDUCATIONAL ACTIVITIES.

(a) ACTIVITIES.—Section 962 (42 U.S.C. 11292) is amended to read as follows:

"SEC. 962. EDUCATION OF THE PUBLIC, INDIVIDUALS WITH ALZHEIMER'S DISEASE AND THEIR FAMILIES, AND HEALTH AND LONG-TERM CARE PROVIDERS.

"(a) TRAINING AND CONTINUING EDUCATION GRANTS AND CONTRACTS.—

"(1) GRANTS AND CONTRACTS.—The Secretary, acting through the Director of the Bureau of Health Professions may make grants and enter into contracts to assist eligible entities in meeting the costs of projects—

"(A) to train the faculty of schools and graduate departments of medicine, nursing, osteopathic medicine, dentistry, public health, psychology, allied health, and clinical social work, and marriage and family therapists, to teach health care professionals, paraprofessionals, students, and family caregivers of patients with Alzheimer's disease and related dementias;

"(B) to improve the skills of health care professionals, paraprofessionals, and family care givers regarding the diagnosis, care, and treatment of Alzheimer's disease and related dementias; and

"(C) to develop and disseminate curricula relating to the care and treatment of individuals with Alzheimer's disease and related dementias.

"(2) AWARD OF GRANTS.—In awarding grants under this subsection, the Secretary shall—

"(A) award the grants on the basis of merit;

"(B) award the grants in a manner that will ensure access to the programs described in paragraph (1) by rural, minority, and underserved populations throughout the country;

"(C) ensure that the grants are distributed among the principal geographic regions of the United States; and

"(D) give preference to entities that demonstrate a multidisciplinary approach to training health professionals and paraprofessionals.

"(3) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require, including, at a minimum—

"(A) an assurance that the eligible entity will make the training programs and continuing education programs described in paragraph (1) available to—

"(i) health care professionals, including mental health professionals;

"(ii) health care paraprofessionals;

"(iii) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and to the families of the elderly; and

"(iv) family caregivers; and

"(B) an assurance that the entity will coordinate such training programs and continuing education programs with—

"(i) the Alzheimer's Disease Research Centers described in section 445(a) of the Public Health Service Act (42 U.S.C. 285e–(2)); and

"(ii) the State agency designated under section 305(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)), in the State in which the entity will provide such programs.

"(4) ELIGIBLE ENTITY.—To be eligible to receive grants under this subsection, an entity shall be—

"(A) an educational institution providing training and education in medicine, psychology, nursing, social work, gerontology, or health care administration;

"(B) an educational institution providing preparatory training and education of personnel for nursing homes, hospitals, and home or community settings;

"(C) an Alzheimer's Disease Research Center described in section 445(a) of the Public Health Service Act; or

"(D) any other public or not-for-profit sources of assistance to individuals with Alzheimer's disease or related disorders and the families of such individuals.

"(5) COORDINATION.—The Secretary shall coordinate the award of grants under this subsection with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.

"(b) NATIONAL INSTITUTE ON AGING GRANTS.—

"(1) TRAINING MODELS GRANTS.—

"(A) GRANTS.—The Director of the National Institute on Aging may award grants to eligible entities to assist the entities in developing and evaluating model training programs—

"(i) for—

"(I) health care professionals, including mental health professionals;

"(II) health care paraprofessionals;

"(III) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and the families of the elderly;

"(IV) family caregivers providing care and treatment for individuals with Alzheimer's disease and related disorders; and

"(V) personnel of local organizations (including community groups, business and labor groups, and religious, educational, and charitable organizations) that have traditionally not been involved in planning and developing long-term care services; and

"(ii) with attention to such variables as—

"(I) curricula development for training and continuing education programs;

"(II) care setting; and

"(III) intervention technique.

"(B) ELIGIBLE ENTITY.—To be eligible to receive a grant under this paragraph, an entity shall be an entity described in subparagraph (A), (B), or (C) of subsection (a)(4).

"(2) EDUCATIONAL GRANTS.—The Director of the National Institute on Aging is authorized to make grants to public and nonprofit private entities to assist such entities in establishing programs, for educating health care providers and the families of individuals with Alzheimer's disease or related disorders, regarding—

"(A) caring for individuals with such diseases or disorders; and

"(B) the availability in the community of public and private sources of assistance, including financial assistance, for caring for such individuals.

"(3) AWARD OF GRANTS.—The Director of the National Institute on Aging shall award grants under this subsection in accordance with the requirements specified in subparagraphs (A) through (C) of subsection (a)(2).

"(4) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Director of the National Institute on Aging at such time, in such manner, and containing or accompanied by such information, as the Director may reasonably require, including, at a minimum, an assurance that the entity will coordinate programs provided under this section with the State agency designated under section 305(a)(1) of the Older Americans Act of 1965, in the State in which the entity will provide such programs.

"(5) COORDINATION.—The Director of the National Institute on Aging shall coordinate the award of grants under this subsection with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 964 of such Act (42 U.S.C. 12294) is amended—

(1) by inserting "(a)" after "964.";

(2) in subsection (a), as designated by paragraph (1) of this section, by striking "this part" and inserting "sections 961 and 963"; and

(3) by adding at the end the following new subsections:

"(b) There are authorized to be appropriated $5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(a).

"(c) There are authorized to be appropriated $2,000,000 for fiscal year 1992, $2,000,000 for fiscal year 1993, $2,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(b)(1).

"(d) There are authorized to be appropriated $5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(b)(2).".

SEC. 9. ALZHEIMER'S DISEASE CENTERS.

Section 445 of the Public Health Service Act (42 U.S.C. 285e–2) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following new paragraphs:

"(2) Notwithstanding section 496(b), Federal payments made under a cooperative agreement or grant under subsection (a) may be used for construction of the centers described in subsection (a).

"(3) As used in this subsection:

"(A) The term 'construction' does not include the acquisition of land.

"(B) The term 'training' does not include research training for which National Research Service Awards may be provided under section 487."; and

(2) by adding at the end the following new subsection:

"(d) There are authorized to be appropriated to carry out subsection (b)(2) such sums as may be necessary for fiscal year 1992 and each of the subsequent fiscal years.".

SEC. 10. GRANTS FOR PROMOTING INDEPENDENCE AND PREVENTING SECONDARY DISABILITIES IN PERSONS WITH ALZHEIMER'S DISEASE.

Section 445C of the Public Health Service Act (42 U.S.C. 285e–5) is amended by adding at the end the following new subsection:

"(d) The Director of the Institute shall develop, or make grants to develop—

"(1) model techniques to—

"(A) promote greater independence, including enhanced independence in performing activities of daily living and instrumental activities of daily living, for persons with Alzheimer's disease and related disorders; and

"(B) prevent or reduce the severity of secondary disabilities, including confusional episodes, falls, bladder and bowel incontinence, and adverse effects of prescription and over-the-counter medications, in such persons; and

"(2) model curricula for health care professionals, health care paraprofessionals, and family caregivers, for training and application in the use of such techniques.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WAXMAN: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alzheimer's Disease Research, Training, and Education Amendments of 1992".

SEC. 2. SHORT TITLE OF ACT.

(a) IN GENERAL.—Section 901 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 note) is amended by striking "Services Research Act of 1986" and inserting "Research Act of 1992".

(b) CONFORMING AMENDMENT.—The Alzheimer's Disease and Related Dementias Research Act of 1992 (42 U.S.C. 11201 et seq.) is amended in the heading for title IX by striking "SERVICES".

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alzheimer's Disease and Related Dementias Research Act of 1992 (42 U.S.C. 11201 et seq.).

SEC. 4. FINDINGS.

Section 902 (42 U.S.C. 11201) is amended—

(1) by redesignating paragraphs (7) through (12) as paragraphs (9) through (14);

(2) by striking paragraphs (4), (5), and (6); and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the cost of caring for individuals with Alzheimer's disease and related dementias is great, and conservative estimates range between $38,000,000,000 and $42,000,000,000 per year solely for direct costs;

"(5) progress in the neurosciences and behavioral sciences has demonstrated the interdependence and mutual reinforcement of basic science, clinical research, and services research for Alzheimer's disease and related dementias;

"(6) programs initiated as part of the Decade of the Brain are likely to provide significant progress in understanding the fundamental mechanisms underlying the causes of, and treatments for, Alzheimer's disease and related dementias;

"(7) although substantial progress has been made in recent years in identifying possible leads to the causes of Alzheimer's disease and related dementias, and more progress can be expected in the near future, there is little likelihood of a breakthrough in the immediate future that would eliminate or substantially reduce—

"(A) the number of individuals with the disease and dementias; or

"(B) the difficulties of caring for the individuals;

"(8) the responsibility for care of individuals with Alzheimer's disease and related dementias falls primarily on their families, and the care is financially and emotionally devastating.".

SEC. 5. COUNCIL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 911 (42 U.S.C. 11211) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "Surgeon General of the United States" and inserting "Surgeon General of the Public Health Service";

(B) in paragraph (6), by striking "and Communicative Diseases" and inserting "Disorder";

(C) by striking paragraph (10), (11), and (12); and

(D) by adding at the end the following new paragraphs:

"(10) the Administrator of the Agency for Health Care Policy and Research;

"(11) the Administrator of the Health Resources and Services Administration;

"(12) the Director of the National Center for Nursing Research;

"(13) the Chief Medical Director of the Department of Veterans Affairs'

"(14) the Director of the National Center for Health Statistics; and

"(15) such additional members as the Secretary of Health and Human Services (hereinafter referred to as the 'Secretary') considers appropriate.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) The Assistant Secretary for Health shall serve as the Chairman of the Council."; and

(3) in subsection (d), by striking "twice" and inserting "once".

(b) FUNCTIONS.—Section 912 (42 U.S.C. 11212) is amended—

(1) in subsection (a)—

(A) by adding "and" at the end of paragraph (3);

(B) by striking "; and" at the end of paragraph (4) and inserting a period; and

(C) by striking paragraph (5); and

(2) by striking subsection (b) and inserting the following new subsection:

"(b)(1) The Chairman of the Council shall submit to the committees listed in paragraph (2) an annual report containing information on—

"(A) progress made by research, sponsored by the Federal Government, on Alzheimer's disease and related dementias; and

"(B) new directions that the Council considers potentially important in research on Alzheimer's disease and related dementias.

"(2) The Chairman of the Council shall submit the report described in paragraph (1) to—

"(A) the Committee on Energy and Commerce of the House of Representatives;

"(B) the Committee on Ways and Means of the House of Representatives;

"(C) the Committee on Veterans' Affairs of the House of Representatives;

"(D) the Committee on Appropriations of the House Representatives;

"(E) the Committee on Labor and Human Resources of the Senate;

"(F) the Committee on Finance of the Senate;

"(G) the Committee on Veterans' Affairs of the Senate; and

"(H) the Committee on Appropriations of the Senate.".

SEC. 6. ADVISORY ON PANEL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 921 (42 U.S.C. 11221) is amended—

(1) in subsection (a)(2), by striking "the Director of the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Administrator of the Agency for Health Care Policy and Research";

(2) in subsection (d), to read as follows:

"(d)(1)(A) Except as provided in subparagraph (B), members of the Panel appointed under subsection (a)(1) shall each serve for a term of 3 years.

"(B) Of the members appointed under subsection (a)(1) that are serving on the Panel on the day before the date of the enactment of this subsection—

"(i) five shall serve for a term that expires on such date;

"(ii) five shall serve for a term that expires 1 year after such date; and

"(iii) five shall serve for term that expires 2 years after such date.

"(2) A vacancy on the Panel shall be filled in the same manner as the original appointment was made, and not later than 90 days after the date on which the vacancy first arises. A vacancy on the Panel shall not affect the powers of the Panel.";

(3) in subsection (f), by striking "twice" and inserting "once";

(4) in subsection (h), by striking "of $100 per day" and inserting "at the daily equivalent of the maximum rate specified for GS–15 of the General Schedule under section 5332 of title 5, United States Code,"; and

(5) by adding at the end the following new subsection:

"(i) Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), on September 30, 1996, the Panel shall be abolished and all programs established under this part shall terminate.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 923 (42 U.S.C. 11223) is amended to read as follows:

"SEC. 923. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1992 through 1996.".

SEC. 7. RESEARCH RELATING TO SERVICES FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DEMENTIAS AND FAMILIES OF THE INDIVIDUALS.

(a) RESPONSIBILITIES OF THE NATIONAL INSTITUTE OF MENTAL HEALTH.—

(1) GRANTS.—Section 931 (42 U.S.C. 11251) is amended—

(A) by striking subsections (b)(2) and (c);

(B) in subsection (a), by inserting "and specialized care" after "services"; and

(C) in subsection (b)(1)—

(i) by striking "Within 6 months" and all that follows through "plan shall" and inserting "The Director of the National Institute of Mental Health shall";

(ii) in subparagraph (A)—

(I) by striking "provide for" and inserting "ensure that the research conducted under subsection (a) includes";

(II) by striking clause (iii) and inserting the following new clause:

"(iii) the optimal range, types, and cost-effectiveness of services and specialized care for individuals with Alzheimer's disease and related dementias and for their families, in community and residential settings (including home care, day care, and respite care), and in institutional settings, particularly with respect to—

"(I) the design of the services and care;

"(II) appropriate staffing for the provision of the services and care;

"(III) the timing of the services and care during the progression of the disease or dementias; and

"(IV) the appropriate mix and coordination of the services and specialized care;";

(III) in clause (iv), by inserting "the evaluation of best practices for the development of" before "appropriate"; and

(IV) in clauses (v) and (vii), by striking "and nursing home services" and inserting "nursing home services, and other residential services and care"; and

(iii) in subparagraph (B), by striking "research carried out under the plan" and inserting "the research".

(2) Conforming Amendments.—Section 931(b) (42 U.S.C. 11251(b)) is amended—

(A) by striking "(1)";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(C) in paragraph (1) (as redesignated by subparagraph (B) of this paragraph), by redesignating clauses (i) through (vii) as subparagraphs (A) through (G), respectively; and

(D) in paragraph (1)(C) (as so redesignated, and as amended by paragraph (1)(C)(ii)(II) of this subsection), by redesignating subclauses (I) through (IV) as clauses (i) through (iv), respectively.

(3) Authorization of Appropriations.—Section 933 (42 U.S.C. 11253) is amended to read as follows:

"SEC. 933. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1992 and 1996.".

(b) Responsibilities of the Agency for Health Care Policy and Research.—

(1) Research program and plan.—Subpart 2 of part D (42 U.S.C. 11261 et seq.) is amended—

(A) in the heading for the subpart, by striking "National Center" and all that follows and inserting the following: "Agency for Health Care Policy and Research"; and

(B) by striking section 934 and inserting the following new section:

"SEC. 934. RESEARCH PROGRAM.

"(A) Grants for Research.—The Administrator of the Agency for Health Care Policy and Research shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and for their families.

"(b) Research Subjects.—The Administrator of the Agency for Health Care Policy and Research shall ensure that research conducted under subsection (a) shall include research—

"(1) concerning improving the organization, delivery, and financing of services for individuals with Alzheimer's disease and related dementias and for their families, including research on—

"(A) the design, staffing, and operation of special care units for the individuals in institutional settings, as well as individuals in home care, day care, and respite care; and

"(B) the exploration and enhancement of services such as home care, day care, and respite care that provide alternatives to institutional care;

"(2) concerning the costs incurred by individuals with Alzheimer's disease and related dementias and by their families in obtaining services, particularly services that are essential to the individuals and that are not generally required by other patients under long-term care programs;

"(3) concerning the costs, cost-effectiveness, and effectiveness of various interventions to provide services for individuals with Alzheimer's disease and related dementias and for their families;

"(4) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning the role of physicians in caring or persons with Alzheimer's disease and related dementias and for their families, including the role of physician in connecting such persons with appropriate health care and supportive services, including those supported through State and area agencies on aging designated under section 305(a) (1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a) (1) and (2)(A)); and

"(5) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning legal and ethical issues, including issues associated with special care units, facing individuals with Alzheimer's disease and related dementias and facing their families.".

(2) Authorization of Appropriations.—Section 936 (42 U.S.C. 11263) is amended to read as follows:

"SEC. 936. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1992 through 1996.".

SEC. 8. TRAINING AND EDUCATIONAL ACTIVITIES.

(a) Activities.—Section 962 (42 U.S.C. 11292) is amended to read as follows:

"SEC. 962. EDUCATION OF THE PUBLIC, INDIVIDUALS WITH ALZHEIMER'S DISEASE AND THEIR FAMILIES, AND HEALTH AND LONG-TERM CARE PROVIDERS.

"(a) Training Models Grants.—

"(1) Grants.—The Director of the National Institute on Aging may award grants to eligible entities to assist the entities in developing and evaluating model training programs—

"(A) for—

"(i) health care professional, including mental health professionals;

"(ii) health care paraprofessionals;

"(iii) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services of the elderly and the families of the elderly;

"(iv) family caregivers providing care and treatment for individuals with Alzheimer's disease and related disorders; and

"(v) personnel of local organizations (including community groups, business and labor groups, and religious educational and charitable organizations) that have traditionally not been involved in planning and developing long-term car services; and

"(B) with attention to such variables as—

"(i) curricula development for training and continuing education programs;

"(ii) care setting; and

"(iii) intervention technique.

"(2) Eligible Entity.—To be eligible to receive grants under this subsection, an entity shall be—

"(A) an educational institution providing training and education in medicine, psychology, nursing, social work, gerontology, or health care administration;

"(B) an educational institution providing preparatory training and education of personnel for nursing homes, hospitals, and home or community settings; or

"(C) an Alzheimer's Disease Research Center described in section 445(a) of the Public Health Service Act.

"(b) Educational Grants.—The Director of the National Institute on Aging is authorized to make grants to public and nonprofit private entities to assist such entities in establishing programs, for educating health care providers and the families of individuals with Alzheimer's disease or related disorders, regarding—

"(1) caring for individuals with such diseases or disorders; and

"(2) the availability in the community of public and private sources of assistance, including financial assistance, for caring for such individuals.

"(c) Award of Grants.—In awarding grants under this section, the Director of the National Institute on Aging shall—

"(1) award the grants on the basis of merit;

"(2) award the grants in a manner that will ensure access to the programs described in subsections (a) and (b) by rural, minority, and underserved populations throughout the country; and

"(3) ensure that the grants are distributed among the principal geographic regions of the United States.

"(d) Application.—To be eligible to receive a grant under this section, an entity shall submit an application to the Director of the National Institute on Aging at such time, in such manner, and containing or accompanied by such information, as the Director may reasonably require, including, at a minimum, an assurance that the entity will coordinate programs provided under this section with the State agency designated under section 305(a)(1) of the Older Americans Act of 1965, in the State in which the entity will provide such programs.

"(e) Coordination.—The Director of the National Institute on Aging shall coordinate the award of grants under this section with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.".

(b) Authorization of Appropriations.—Section 964 of such Act (42 U.S.C. 11294) is amended—

(1) by inserting "(a)" after "964.";

(2) in subsection (a), as designated by paragraph (1) of this section, by striking "this part" and inserting "sections 961 and 963"; and

(3) by adding at the end the following new subsection:

"(b) There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1996, to carry out section 962.".

SEC. 9. GRANTS FOR PROMOTING INDEPENDENCE AND PREVENTING SECONDARY DISABILITIES IN PERSONS WITH ALZHEIMER'S DISEASE.

Section 445C of the Public Health Service Act (42 U.S.C. 285e–5) is amended by adding at the end the following new subsection:

"(d) The Director of the Institute may develop, or make grants to develop—

"(1) model techniques to—

"(A) promote greater independence, including enhanced independence in performing activities of daily living and instrumental activities of daily living, for persons with Alzheimer's disease and related disorders; and

"(B) prevent or reduce the severity of secondary disabilities, including confusional episodes, falls, bladder and bowel incontinence, and adverse effects of prescription and over-the-counter medications, in such persons; and

"(2) model curricula for health care professionals, health care paraprofessionals, and family caregivers, for training and application in the use of such techniques.".

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I present this bill on behalf of the gentleman from Illinois [Mr. BRUCE] and the gentlewoman from Maine [Ms. SNOWE]. It has already passed the House without controversy.

The amendment in the nature of a substitute includes additional provisions to improve the Nation's effort in addressing the needs of Alzheimer's patients and their families.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. WAXMAN].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1020

WIC INFANT FORMULA PROCUREMENT ACT OF 1992

Mr. KILDEE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2875) to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC), and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Michigan?

Mr. GUNDERSON. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Michigan to explain the legislation before us.

Mr. KILDEE. Mr. Speaker, S. 2875, the Children's Nutrition Assistance Act of 1992, promotes the good nutrition of some of our Nation's most vulnerable children.

The first title of the bill amends the Child Nutrition Homeless Demonstration Program to facilitate its administration so that it can serve more children under the age of 6 who are living in emergency homeless shelters.

The second title of the bill contains provisions designed to save money in the WIC Program, thereby enabling it to serve more nutritionally at-risk women, infants, and children.

Experience has shown that millions of dollars can be saved when State WIC agencies obtain infant formula for the program through a bidding process.

This bill establishes a voluntary program whereby State WIC agencies will have the option of entering into infant formula bids administered by the Secretary of Agriculture.

Another very important provision of the bill addresses the problem of bid-rigging which has been detrimental to the program in the past.

This bill will help prevent the recurrence of bid-rigging by increasing competition, authorizing the Secretary to levy civil penalties to recoup lost funds in the event of bid-rigging, and by disqualifying a company from the bidding process for 2 years if they disclose their bids prior to the time the bids are opened by the Secretary.

The benefits and cost effectiveness of WIC are well documented, but it still reaches only half of those eligible. Every measure that reduces costs for the program and therefore allows more people to be served must be supported.

I urge my colleagues to support the bill.

Mr. Speaker, I have no further requests for time. If the other side is prepared to yield back its time, I will yield back the balance of my time.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill (S. 2875) just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. GUNDERSON. Further reserving the right to object, Mr. Speaker, does the gentleman know if there is any objection from the administration?

Mr. KILDEE. There is no objection from the administration and none from the minority.

Mr. WYDEN. Mr. Speaker, will the gentlemen yield?

Mr. GUNDERSON. I yield to the gentleman from Oregon.

Mr. WYDEN. Mr. Speaker, I appreciate the gentleman yielding to me.

I, too, know of no objection. This is a very good bill because it will insure that more of the dollars get into the hands of the hungry infants.

Mr. Speaker, I urge all my colleagues on both sides of the aisle to support it.

Mr. Speaker, it is time that the taxpayers' money in the WIC Program stop lining the pockets of the big three infant formula manufacturers and start feeding hungry babies. That is why I introduced H.R. 5909, the companion bill to S. 2875, the WIC Infant Procurement Act.

The price of infant formula has skyrocketed in the last 10 years—an average of 155 percent. In the meantime, Federal support of the WIC Program has tripled from $736 million to $2.1 billion in the last decade. But despite this incredible increase, the program now only reaches a little more than half the women, infants and children who need it.

In 1987, because of my concerns about the business practices of the infant formula industry, both in the WIC Program and on the commercial market, I introduced legislation that encouraged State WIC Programs to serve more hungry mothers and babies by initiating competitive bidding for infant formula.

Senator LEAHY was instrumental in getting a version of that legislation enacted as a part of the Commodity Distribution Reform Act of 1987. Before 1987, the WIC Program—which accounts for 30 percent of the infant formula market—paid more for infant formula than the retail chain Toys R Us, because this store was able to buy formula wholesale, while WIC was paying retail prices.

But the infant formula manufacturers found ways to circumvent the competitive bidding process instituted in 1987. In a joint Senate hearing on infant formula marketing practices at which I testified, we heard extensive testimony on the practices of the infant formula companies, and the resulting costs to State WIC agencies.

This summer the Federal Trade Commission announced action it has taken against three of the manufacturers. The FTC charged that Mead Johnson & Co., American Home Products, and Abbott Laboratories engaged in anticompetitive practices in sales in Puerto Rico, including informing one another of their bids prior to the unsealing of bids.

The FTC charged that, as a result of these actions, the Federal Government is losing millions of dollars in rebates each year in Puerto Rico alone. The cost to the WIC Program nationally could be astronomical.

Last year, my Subcommittee on Regulation, Business Opportunities and Energy, obtained information from sources within the infant formula industry that the total cost of ingredients for infant formula is $0.22. This figure was confirmed by Carnation Co.—the first time anyone within the industry was able to say that the price of formula is much, much higher than the cost of ingredients. In many markets a can of infant formula can cost as much as $4.

It is obvious that Congress must step in to protect this valuable program from the greedy practices of a few companies. The WIC Infant Formula Procurement Act will help make our Federal investment in the WIC Program more effective.

The bill will increase competition for WIC formula contracts by allowing more players to come into the market. The legislation allows for the Secretary of Agriculture to solicit bids on behalf of WIC agencies from manufacturers for just milk-based formula or soy-based formula.

This lessens the chance that formula companies can rig their bids by offering a competitive bid for one type of formula, and an extremely high bid on the other. It also levels the playing field for smaller companies that produce only one type of formula.

WIC agencies who solicit their own bids retain the flexibility they currently enjoy, but have new opportunities for implementing cost-containment strategies. The legislation encourages smaller States to band together to solicit bids as a bloc.

There is a great deal of concern in the WIC community that smaller States are especially vulnerable to manipulation by the big three formula makers. If contracts continue to be awarded on a State-by-State basis, there is a risk of smaller States getting smaller and smaller bids because the largest companies just are not interested in their contracts.

Finally, the bill would subject the infant formula manufacturers to severe penalties—up to $100 million and a ban from participating in the WIC Program for up to 2 years—for engaging in anticompetitive practices.

I commend Senators LEAHY and METZENBAUM for their hard work and diligence over the years in protecting the health of the WIC Program, and applaud the result. I also want to thank Mr. KILDEE and his staff for their strong support and hard work to seeing this bill completed.

For every $1 spent through WIC, $3 is saved in the first year of a child's life by reducing the likelihood of low-birthweight and premature babies. Dollar for dollar, the WIC Program is one of the best. I urge your support for this critical legislation.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I just want to thank all of you for working so hard on this. I think it is very long overdue. I really, really salute the gentleman for getting it out here, and America's children, I am sure, will be more than grateful.

Mr. GOODLING. Mr. Speaker, I rise in support of S. 2875, the Children's Nutrition Assistance Act of 1992. Title I of the bill, which may be cited as the "Homeless Children's Assistance Act of 1992," essentially follows up on legislation enacted just 2 months ago which authorized State, city and county governments to join private nonprofit organizations in conducting projects providing food service to homeless children under the age of 6 in emergency shelters. While additional funding was provided for this activity even as its expansion was authorized, the U.S. Department of Agriculture quickly informed us that the increase in funding we had provided was just not going to be enough. Additional funding, USDA indicated, would be needed to cover their estimates of what would be required to fully respond to the project applications they anticipated receiving in fiscal years 1993 and 1994 and to meet their increased administrative costs. Title I of S. 2875 permits the use of not more than $4 million in child nutrition account funds not otherwise allocated to the States in fiscal years 1993 and 1994 for these worthy projects.

Title II of the bill, which may be cited as the "WIC Infant Formula Procurement Act of 1992," seeks to reduce the price of the infant formula purchased for use in the WIC Program by strengthening the hand of State and native American WIC agencies in their dealings with the three companies which manufacture 90 percent of the formula made in the United States. It does so primarily by offering WIC agencies the option of requesting USDA to conduct the bidding process on their behalf and to select the winning bidder.

Currently only 3 of the 29 native American WIC agencies and 17 of the 54 State WIC agencies are affiliated with 4 regional bidding consortia established at the States' initiative. While this legislation encourages nonaffiliated agencies to join existing or establish their own bidding consortia for formula and other foods used in WIC. It also recognizes that the smaller agencies may prefer to make use of the negotiating clout USDA will certainly provide.

Mr. Speaker, I urge my colleagues to give S. 2875 their support.

Mr. GUNDERSON. Mr. Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2875

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "WIC Infant Formula Procurement Act of 1992".

SEC. 2. WIC INFANT FORMULA PROTECTION.

(a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this Act to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC).

SEC. 3. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.".

SEC. 4. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall, no more frequently than annually, solicit bids for a cost-containment contract to be entered into by infant formula manufacturers and the State agencies that elect to have the Secretary perform the bid solicitation and selection process on each such State agency's behalf. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall consider whether infant formula manufacturers likely to submit bids can compete effectively and whether the size of the groups is sufficiently small to promote competition.

"(iii) State agencies electing to require the Secretary to perform the bid solicitation and selection process on their behalf shall enter into the resulting containment contract and shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v) The term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be for not less than 2 years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure, to the maximum extent possible, that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(H)(i) In soliciting bids for contracts for infant formula for WIC, the Secretary and State agencies shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited—

"(I) for both types of infant formula (a combined bid for both soy and milk based formula) to be supplied by the same manufacturer; and

"(II) for each type of infant formula, separately.

"(ii) The requirements of clause (i) shall not apply if the Secretary, or State agencies, determine for any particular solicitation, that—

"(I) the number of manufacturers and other suppliers eligible to bid will likely be decreased under the approach described in clause (i);

"(II) administrative costs involved in implementing the separate and joint bids would be excessive in relation to the benefits gained; or

"(III) the total rebates or discounts received are likely to decrease under such an approach.

"(iii) State agencies deciding not to accept bids for each type of formula under clause (i) shall advise the Secretary of the basis for the decision, taking into account the requirements set forth in clause (ii).

"(iv) The Secretary shall report to Congress by March 1, 1994, on the decisions State agencies and the Secretary have made regarding bid solicitations under clause (i), along with any recommendations the Secretary may have to increase competition by encouraging the participation of additional infant formula manufacturers in the program established by this section.

"(I) To reduce the costs of any supplemental foods, the Secretary shall—

"(i) promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) encourage and promote the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) encourage the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures;

"(III) the procedures would be consistent with the purposes of the program; and

"(vi) make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula by two or more State agencies, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) soliciting or accepting bids for each type of infant formula (milk or soy based) under subclauses (I) and (II) of subparagraph (H);

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program established under this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress and for up to 2 years from the date the bids are opened and shall be subject to fines of up to $100,000,000, as determined by the Secretary taking into account potential harm to the program established under this section. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

"(ii) The Secretary shall determine the length of the disqualification, and the amount of the fine, referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.".

SEC. 5. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for which such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.".

SEC. 6. INCENTIVE TO ENCOURAGE JOINT PURCHASING OF INFANT FORMULA.

Section 17(h)(2)(A) Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iv) be designated to provide funds, to the extent funds are not already provided under subparagraph (I)(vii) for the same purpose, to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula by two or more State agencies, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) soliciting or accepting bids for each type of infant formula (milk or soy based) under subclauses (I) and (II) of subparagraph (H);

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.".

SEC. 7. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

U.S. TRADE REPRESENTATIVE, U.S. INTERNATIONAL TRADE COMMISSION, AND U.S. CUSTOMS SERVICE AUTHORIZATIONS, 1993 AND 1994

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means be discharged from further consideration of the Senate bill (S. 2880) to authorize appropriations for fiscal years 1993 and 1994 for the Office of the U.S. Trade Representative, the U.S. International Trade Commission, and the U.S. Customs Service, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. ARCHER. Reserving the right to object, Mr. Speaker, I shall not object, but I take this time for the purpose of entering into a colloquy with the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, S. 2880, as passed by the Senate on September 9, authorizes appropriations for the U.S. Customs Service, the U.S. International Trade Commission, and the U.S. Trade Representative for fiscal years 1993 and 1994.

On July 8, the House approved similar trade agency authorizations as part of title III of H.R. 5100, the Trade Expansion Act of 1992.

Members will recall that H.R. 5100 also contained significant amendments which would modernize and automate the commercial operations of the customs service. This is the so-called Customs Modernization Act, which was developed by the Committee on Ways and Means on a bipartisan basis in close consultation with the administration and the business community.

Mr. Speaker, the amendment I am offering today consists of a complete substitute or S. 2880. Title I of the amendment primarily contains the customs and trade agency authorizations as agreed to by the House and Senate conferees on the tax bill. Title II of the amendment would substitute a revised version of the customs modernization bill which deletes the sections which are revenue related. This was necessary to preclude the Senate from offering nongermane revenue amendments to the bill.

Mr. Speaker, enactment of the Customs Modernization Act would be in the overall best interests of both the government and the private sector. Customs officers and the entire trading community will benefit from the procedural improvements contained in this bill. This is the reason that I am seeking to move this bill today, even though the Customs Modernization Act has passed the House as part of the conference report on the tax bill, H.R. 11.

The customs modernization provisions address four major areas: First, the facilitation of customs' processing of imported merchandise through automation, including the authorization of a national customs automation program allowing for remote entry filing; second, improving compliance with U.S. Customs laws by adopting or, where appropriate, increasing penalties for noncompliance; third, providing the trade community with greater certainty concerning customs rules and regulations—informed compliance; and fourth, streamlining customs' operations through a number of administrative changes.

Mr. Speaker, House passage of this amendment will allow us to expedite the bill to the President. I urge my colleagues to support this amended version of S. 2880.

Mr. Speaker, for purposes of legislative history, the committee report on the bill, H.R. 5100 (H. Rept. 102-607), which passed the House in July, contains a detailed description of the Customs Modernization Act in a form virtually identical to that contained in my amendment. Thus, the legislative history of H.R. 5100 (H. Rept. 102-607), constitutes the legislative history of the Customs Modernization Act contained in this bill.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for the explanation. We have no objection on our side. We support the amendment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CUSTOMS AND TRADE AGENCY AUTHORIZATIONS.

(a) UNITED STATES INTERNATIONAL TRADE COMMISSION.—Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

"(i) $45,152,000 for fiscal year 1993.

"(ii) $48,042,000 for fiscal year 1994.

"(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.".

(b) UNITED STATES CUSTOMS SERVICE.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

"(A) $536,582,000 for fiscal year 1993.

"(B) $558,045,000 for fiscal year 1994.

"(2) FOR COMMERCIAL OPERATIONS.—(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

"(i) $798,470,000 for fiscal year 1993.

"(ii) $830,408,000 for fiscal year 1994.

"(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

"(3) FOR AIR AND MARINE INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air and marine interdiction programs of the Customs Service not to exceed the following:

"(A) $138,983,000 for fiscal year 1993.

"(B) $144,542,000 for fiscal year 1994.".

(c) OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:

"(i) $21,697,000 for fiscal year 1993.

"(ii) $22,435,000 for fiscal year 1994.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

"(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $2,500,000 shall remain available until expended.".

SEC. 2. CUSTOMS FORFEITURE FUND.

Section 613A(f)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(2)(B)) is amended to read as follows:

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $15,000,000 for fiscal year 1993.

"(ii) $15,600,000 for fiscal year 1994.".

SEC. 3. REPORTS ON CUSTOMS ISSUES.

(a) ATTRITION.—Not later than February 1, 1993, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter in this section referred to as the "Committees") on the causes for the high attrition rates experienced by the United States Customs Service in its Southwest region, with particular focus on border ports of entry. The report shall include recommendations to the Committees for reducing the high attrition rate.

(b) STAFFING.—Not later than November 1, 1992, the Secretary of the Treasury shall submit a report to the Committees describing the Secretary's plans for staffing at full capacity on a port-by-port basis each of the facilities that has been or will be expanded, built, modernized, or otherwise improved under the Southwest Border Capital Improvements Program.

(c) LOCATION OF OFFICES AND AGENTS.—Not later than the date which is 3 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committees—

(1) a report analyzing the feasibility of moving the Customs Service office from downtown Portland, Oregon to the vicinity of the airport in Portland, Oregon, and

(2) a report analyzing the feasibility of placing drug enforcement agents in the Medford/Grants Pass area in Oregon.

SEC. 4. COMPETITIVENESS POLICY COUNCIL ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 5209 of the Competitiveness Policy Council Act (15 U.S.C. 4808) is amended—

(1) by striking "1991 and 1992" and inserting "1993 and 1994"; and

(2) by striking "$5,000,000" and inserting "$2,500,000".

(b) RENAMING OF COUNCIL.—The Competitiveness Policy Council Act (15 U.S.C. 4801 et seq.) is amended—

(1) in the subtitle heading—

(A) by inserting "**National**" before "**Competitiveness**"; and

(B) by striking "**Council**" and inserting "**Commission**";

(2) in section 5201—

(A) by inserting "National" before "Competitiveness"; and

(B) by striking "Council" and inserting "Commission";

(3) in section 5202(b)(2)—

(A) by inserting "National" before "Competitiveness"; and

(B) by striking "Council" and inserting "Commission";

(4) in section 5203—

(A) in the section caption, by striking "**COUNCIL**" and inserting "**COMMISSION**";

(B) by inserting "National" before "Competitiveness"; and

(C) by striking "Council" each place it appears and inserting;

(5) in section 5204—

(A) in the section caption, by striking "**COUNCIL**" and inserting "**COMMISSION**";

(B) by striking "Council" and inserting "Commission";

(6) in sections 5205 through 5208, by striking "Council" each place such term appears and inserting "Commission";

(7) in section 5207, in the section caption, by striking "**COUNCIL**" and inserting "**COMMISSION**"; and

(8) in section 5210—

(A) in paragraph (1)—

(i) by inserting "National" before "Competitiveness"; and

(ii) by striking "Council" each place it appears and inserting "Commission"; and

(B) in paragraph (2)—

(i) by inserting "National" before "Competitiveness"; and

(ii) by striking "Council" and inserting "Commission".

(c) DUTIES OF THE COMMISSION.—Section 5204 of the National Competitiveness Policy Commission Act (15 U.S.C. 4803) is amended by striking paragraphs (11) and (12) and inserting the following:

"(11) prepare, publish, and distribute reports that—

"(A) contain the analysis and recommendations of the Commission; and

"(B) comment on the overall competitiveness of the American economy, including the report described in section 5208; and

"(12) submit an annual report to the President and to the Congress on the activities of the Commission.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 5206 of the National Competitiveness Policy Commission Act (15 U.S.C. 4805) is amended—

(1) in subsection (a)(1), by striking "GS–18 of the General Schedule" and inserting "the highest level allowed under section 5376 of title 5, United States Code";

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting before paragraph (4), as redesignated, the following:

"(1) FULL-TIME STAFF.—The Executive Director may appoint such officers and employees as may be necessary to carry out the functions of the Commission in accordance with the Federal civil service and classification laws, and fix compensation in accordance with the provisions of title 5, United States Code.

"(2) SENIOR EXECUTIVE SERVICE.—The Commission may establish positions in the Senior Executive Service in accordance with the provisions of subchapter II of chapter 31 of title 5, United States Code.

"(3) TEMPORARY STAFF.—The Executive Director may appoint such employees as may be necessary to carry out the functions of the Commission for a period of not more than 1 year, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, at rates not to exceed the maximum rate payable under section 5376 of title 5, United States Code."; and

(3) in subsection (c), by striking "GS–16 of the General Schedule" and insert "the maximum rate payable under section 5376 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 5207 of the National Competitiveness Policy Commission Act (15 U.S.C. 4806) is amended—

(1) by inserting before the period at the end of subsection (b)(1)(B) ", except that such information may be provided to members and staff of the Council subject to existing national security laws and regulations";

(2) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(3) by inserting after subsection (f) the following:

"(g) CONTRACTING AUTHORITY.—Within the limitation of appropriations to the Commission, the Commission may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of carrying out its duties under this subtitle.".

(f) REPORTING REQUIREMENTS.—Section 5208 of the National Competitiveness Policy Commission Act (15 U.S.C. 4807) is amended—

(1) by striking the caption and inserting the following:

"SEC. 5208. ANNUAL PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.";

(2) in subsection (a)—

(A) by striking the subsection heading and inserting "(a) PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.—"; and

(B) by striking "on" and inserting "not later than"; and

(3) by adding at the end the following:

"(d) PERIODICAL REPORTS.—The Commission may submit to the President and the Congress such other reports containing analysis and recommendations as the Commission deems necessary.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ROSTENKOWSKI: Strike all after the enacting clause and insert the following:

TITLE I—CUSTOMS AND TRADE AGENCY AUTHORIZATIONS; OTHER CUSTOMS PROVISIONS

SEC. 101. CUSTOMS AND TRADE AGENCY AUTHORIZATIONS.

(a) UNITED STATES INTERNATIONAL TRADE COMMISSION.—Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

"(i) $45,152,000 for fiscal year 1993.

"(ii) $48,042,000 for fiscal year 1994.

"(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.".

(b) UNITED STATES CUSTOMS SERVICE.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

"(A) $536,582,000 for fiscal year 1993.

"(B) $558,045,000 for fiscal year 1994.

"(2) FOR COMMERCIAL OPERATIONS.—(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

"(i) $795,000,000 for fiscal year 1993.

"(ii) $826,800,000 for fiscal year 1994.

"(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

"(3) FOR AIR AND MARINE INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air and marine interdiction programs of the Customs Service not to exceed the following:

"(A) $138,983,000 for fiscal year 1993.

"(B) $144,000,000 for fiscal year 1994.".

(c) OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:

"(i) $21,697,000 for fiscal year 1993.

"(ii) $22,435,000 for fiscal year 1994.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

"(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and "(ii) not to exceed $2,500,000 shall remain available until expended.".

SEC. 102. CUSTOMS FORFEITURE FUND.

Section 613A(f)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(2)(B)) is amended to read as follows:

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $15,000,000 for fiscal year 1993.

"(ii) $15,450,000 for fiscal year 1994.".

SEC. 103. REPEAL OF EAST-WEST TRADE STATISTICS MONITORING SYSTEM.

(a) REPEAL.—Section 410 of the Trade Act of 1974 (19 U.S.C. 2440) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for such Act of 1974 is amended by striking out the following:

"Sec. 410. East-West Trade Statistics Monitoring System.".

SEC. 104. CUSTOMS PERSONNEL AIRPORT WORK SHIFT REGULATION.

Section 13031(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(g)) is amended—

(1) by striking out "In addition to the regulations required under paragraph (2), the" and inserting "The";

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 105. REPORTS ON CUSTOMS ISSUES.

(a) ATTRITION.—Not later than February 1, 1993, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter in this section referred to as the "Committees") on the causes for the high attrition rates experienced by the United States Customs Service in its Southwest region, with particular focus on border ports of entry. The report shall include recommendations to the Committees for reducing the high attrition rate.

(b) STAFFING.—Not later than February 1, 1993, the Secretary of the Treasury shall submit a report to the Committees describing the Secretary's plans for staffing at full capacity on a port-by-port basis each of the facilities that has been or will be expanded, built, modernized, or otherwise improved under the Southwest Border Capital Improvements Program.

(c) LOCATION OF OFFICES AND AGENTS.—Not later than the date which is 3 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committees—

(1) a report analyzing the feasibility of moving the respective Customs Service offices—

(A) from downtown Portland, Oregon to the vicinity of the airport in Portland, Oregon, and

(B) from downtown Chicago, Illinois, to O'Hare International Airport; and

(2) a report analyzing the feasibility of placing drug enforcement agents in the Medford/Grants Pass area in Oregon.

TITLE II—CUSTOMS MODERNIZATION

SEC. 201. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Customs Modernization and Informed Compliance Act".

(b) REFERENCE.—Whenever in subtitle A, B, or C of this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a part, section, subsection, or other provision, the reference shall be considered to be made a part, section, subsection, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

(c) TABLE OF CONTENTS.—

TITLE II—CUSTOMS MODERNIZATION

Sec. 201. Short title; reference; table of contents.

Subtitle A—Improvement in Customs Enforcement

Sec. 211. Penalties for violations of arrival, reporting, entry, and clearance requirements.
Sec. 212. Failure to declare.
Sec. 213. Customs testing laboratories; detention of merchandise.
Sec. 214. Recordkeeping.
Sec. 215. Examination of books and witnesses.
Sec. 216. Judicial enforcement.
Sec. 217. Review of protests.
Sec. 218. Repeal of provision relating to reliquidation on account of fraud.
Sec. 219. Penalties relating to manifests.
Sec. 220. Unlawful unlading or transshipment.
Sec. 221. Penalties for fraud, gross negligence, and negligence; prior disclosure.
Sec. 222. Interpretive rulings and decisions; public information.
Sec. 223. Seizure authority.

Subtitle B—National Customs Automation Program

Sec. 231. National Customs Automation Program.
Sec. 232. Effective date of rates of duty.
Sec. 233. Definitions.
Sec. 234. Manifests.
Sec. 235. Invoice contents.
Sec. 236. Entry of merchandise.
Sec. 237. Appraisement and other procedures.
Sec. 238. Voluntary reliquidations.
Sec. 239. Appraisement regulations.
Sec. 240. Limitation on liquidation.
Sec. 241. Abandonment and damage.
Sec. 242. Customs officer's immunity.
Sec. 243. Protests.
Sec. 244. Refunds and errors.
Sec. 245. Bonds and other security.
Sec. 246. Customhouse brokers.
Sec. 247. Conforming amendments.

Subtitle C—Miscellaneous Amendments to the Tariff Act of 1930

Sec. 251. Report of arrival.
Sec. 252. Entry of vessels.
Sec. 253. Unlawful return of foreign vessel papers.
Sec. 254. Vessels not required to enter.
Sec. 255. Unlading.
Sec. 256. Declarations.
Sec. 257. General orders.
Sec. 258. Unclaimed merchandise.
Sec. 259. Destruction of merchandise.
Sec. 260. Proceeds of sale.
Sec. 261. American trademarks.
Sec. 262. Seizure.
Sec. 263. Customs forfeiture fund.
Sec. 264. Limitation on actions.
Sec. 265. Collection of fees on behalf of other agencies.
Sec. 266. Authority to settle claims.

Subtitle D—Miscellaneous Provisions and Consequential and Conforming Amendments to Other Laws

Sec. 271. Amendments to title 28, United States Code.
Sec. 272. Amendments to the Revised Statutes of the United States.
Sec. 273. Amendments to title 18, United States Code.
Sec. 274. Amendment to the Act to Prevent Pollution From Ships.
Sec. 275. Amendments to the Act of November 6, 1966.
Sec. 276. Repeal of obsolete provisions of law.
Sec. 277. Reports to Congress.
Sec. 278. Applicability of amendments to entry or withdrawal of goods.

Subtitle A—Improvement in Customs Enforcement

SEC. 211. PENALTIES FOR VIOLATIONS OF ARRIVAL, REPORTING, ENTRY, AND CLEARANCE REQUIREMENTS.

Section 436 (19 U.S.C. 1436) is amended—

(1) by amending subsection (a)—

(A) by striking out "433" in paragraph (1) and inserting "431, 433, or 434 of this Act or section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)",

(B) by amending paragraph (2) to read as follows:

"(2) to present or transmit, electronically or otherwise, any forged, altered, or false document, paper information, data or manifest to the Customs Service under section 431(e), 433(d), or 434 of this Act or section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91) without revealing the facts; or", and

(C) by amending paragraph (3) to read as follows:

"(3) to fail to make entry or to obtain clearance as required by section 434 or 644 of this Act, section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91), or section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1509); or"; and

(2) by striking out "and entry" in the section heading and inserting "entry, and clearance".

SEC. 212. FAILURE TO DECLARE.

Section 497(a) (19 U.S.C. 1497(a)) is amended—

(1) by inserting "or transmitted" after "made" in paragraph (1)(A); and

(2) by amending paragraph (2)(A) to read as follows:

"(A) if the article is a controlled substance, either $500 or an amount equal to 1,000 percent of the value of the article, whichever amount is greater; and".

SEC. 213. CUSTOMS TESTING LABORATORIES; DETENTION OF MERCHANDISE.

(a) AMENDMENT.—Section 499 (19 U.S.C. 1499) is amended to read as follows:

"SEC. 499. EXAMINATION OF MERCHANDISE.

"(a) ENTRY EXAMINATION.—

"(1) IN GENERAL.—Imported merchandise that is required by law or regulation to be inspected, examined, or appraised shall not be delivered from customs custody (except under such bond or other security as may be prescribed by the Secretary to assure compliance with all applicable laws, regulations, and instructions which the Secretary or the Customs Service is authorized to enforce) until the merchandise has been inspected, appraised, or examined and is reported by the Customs Service to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States.

"(2) EXAMINATION.—The Customs Service—

"(A) shall designate the packages or quantities of merchandise covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise;

"(B) shall order such packages or quantities to be sent to such place as is designated by the Secretary by regulation for such purpose;

"(C) may require such additional packages or quantities as the Secretary considers necessary for such purpose; and

"(D) shall inspect a sufficient number of shipments, and shall examine a sufficient number of entries, to ensure compliance with the laws enforced by the Customs Service.

"(3) UNSPECIFIED ARTICLES.—If any package contains any article not specified in the invoice or entry and, in the opinion of the Customs Service, the article was omitted from the invoice or entry—

"(A) with fraudulent intent on the part of the seller, shipper, owner, agent, importer of record, or entry filer, the contents of the entire package in which such article is found shall be subject to seizure; or

"(B) without fraudulent intent, the value of the article shall be added to the entry and the duties, fees, and taxes thereon paid accordingly.

"(4) DEFICIENCY.—If a deficiency is found in quantity, weight, or measure in the examination of any package, the person finding the deficiency shall make a report thereof to the Customs Service. The Customs Service shall make allowance for the deficiency in the liquidation of duties.

"(5) INFORMATION REQUIRED FOR RELEASE.—If an examination is conducted, any information required for release shall be provided, either electronically or in paper form, to the Customs Service at the port of examination. The absence of such information does not limit the authority of the Customs Service to conduct an examination.

"(b) TESTING LABORATORIES.—

"(1) ACCREDITATION OF PRIVATE TESTING LABORATORIES.—The Customs Service shall establish and implement a procedure, under regulations promulgated by the Secretary, for accrediting private laboratories within the United States which may be used to perform tests (that would otherwise be performed by Customs Service laboratories) to establish the characteristics, quantities, or composition of imported merchandise. Such regulations—

"(A) shall establish the conditions required for the laboratories to receive and maintain accreditation for purposes of this subsection;

"(B) shall establish the conditions regarding the suspension and revocation of accreditation, which may include the imposition of a monetary penalty not to exceed $100,000 and such penalty is in addition to the recovery, from a gauger or laboratory accredited under paragraph (1), of any loss of revenue that may have occurred, but the Customs Service—

"(i) may seek to recover lost revenue only in cases where the gauger or laboratory intentionally falsified the analysis or gauging report in collusion with the importer; and

"(ii) shall neither assess penalties nor seek to recover lost revenue because of a good faith difference of professional opinion; and

"(C) may provide for the imposition of a reasonable charge for accreditation and periodic reaccreditation.

The collection of any charge for accreditation and reaccreditation under this section is not prohibited by section 13031(e)(6) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(6)).

"(2) APPEAL OF ADVERSE ACCREDITATION DECISIONS.—A laboratory applying for accreditation, or that is accredited, under this section may contest any decision or order of the Customs Service denying, suspending, or revoking accreditation, or imposing a monetary penalty, by commencing an action in accordance with chapter 169 of title 28, United States Code, in the Court of International Trade within 60 days after issuance of the decision or order.

"(3) TESTING BY ACCREDITED LABORATORIES.—When requested by an importer of record of merchandise, the Customs Service shall authorize the release to the importer of a representative sample of the merchandise for testing, at the expense of the importer, by a laboratory accredited under paragraph (1). The testing results from a laboratory accredited under paragraph (1) that are submitted by an importer of record with respect to merchandise in an entry shall, in the absence of testing results obtained from a Customs Service laboratory, be accepted by the Customs Service if the importer of record certifies that the sample tested was taken from the merchandise in the entry. Nothing in this subsection shall be construed to limit in any way or preclude the authority of the Customs Service to test or analyze any sample or merchandise independently.

"(4) AVAILABILITY OF TESTING PROCEDURE, METHODOLOGIES, AND INFORMATION.—Testing procedures and methodologies used by the Customs Service, and information resulting from any testing conducted by the Customs Service, shall be made available as follows:

"(A) Testing procedures and methodologies shall be made available upon request to any person unless the procedures or methodologies are—

"(i) proprietary to the holder of a copyright or patent related to such procedures or methodologies, or

"(ii) developed by the Customs Service for enforcement purposes.

"(B) Information resulting from testing shall be made available upon request to the importer of record and any agent thereof unless the information—

"(i) is proprietary to the holder of a copyright or patent related to the procedures or methodologies; or

"(ii) reveals information developed by the Customs Service for enforcement purposes.

"(5) MISCELLANEOUS PROVISIONS.—For purposes of this subsection—

"(A) any reference to a private laboratory includes a reference to a private gauger; and

"(B) accreditation of private laboratories extends only to the performance of functions by such laboratories that are within the scope of those responsibilities for determinations of the elements relating to admissibility, quantity, composition, or characteristics of imported merchandise that are vested in, or delegated to, the Customs Service.

"(c) DETENTIONS.—Except in the case of merchandise with respect to which the determination of admissibility is vested in an agency other than the Customs Service, the following apply:

"(1) IN GENERAL.—Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented for customs examination, the Customs Service shall decide whether to release or detain the merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise.

"(2) NOTICE OF DETENTION.—The Customs Service shall issue a notice to the importer or other party having an interest in detained merchandise no later than 5 days, excluding weekends and holidays, after the decision to detain the merchandise is made. The notice shall advise the importer or other interested party of—

"(A) the initiation of the detention;

"(B) the specific reason for the detention;

"(C) the anticipated length of the detention;

"(D) the nature of the tests or inquiries to be conducted; and

"(E) the nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention.

"(3) TESTING RESULTS.—Upon request by the importer or other party having an interest in detained merchandise, the Customs Service shall provide the party with copies of the results of any testing conducted by the Customs Service on the merchandise and a description of the testing procedures and methodologies (unless such procedures or methodologies are proprietary to the holder of a copyright or patent or were developed by the Customs Service for enforcement purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

"(4) SEIZURE AND FORFEITURE.—If otherwise provided by law, detained merchandise may be seized and forfeited.

"(5) EFFECT OF FAILURE TO MAKE DETERMINATION.—

"(A) The failure by the Customs Service to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for customs examination, or such longer period if specifically authorized by law, shall be treated as a decision of the Customs Service to exclude the merchandise for purposes of section 514(a)(4).

"(B) For purposes of section 1581 of title 28, United States Code, a protest against the decision to exclude the merchandise which has not been allowed or denied in whole or in part before the 30th day after the day on which the protest was filed shall be treated as having been denied on such 30th day.

"(C) Notwithstanding section 2639 of title 28, United States Code, once an action respecting a detention is commenced, unless the Customs Service establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.".

(b) EXISTING LABORATORIES.—Accreditation under section 499(b) of the Tariff Act of 1930 (as added by subsection (a)) is not required for any private laboratory (including any gauger) that was accredited or approved by the Customs Service as of the day before the date of the enactment of this Act; but any such laboratory is subject to reaccreditation under the provisions of such section and the regulations promulgated thereunder.

SEC. 214. RECORDKEEPING.

Section 508 (19 U.S.C. 1508) is amended—

(1) by amending subsection (a) to read as follows:

"(a) REQUIREMENTS.—Any—

"(1) owner, importer, consignee, importer of record, entry filer, or other party who—

"(A) imports, files a drawback claim, or transports or stores merchandise carried or held under bond, or

"(B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

"(2) agent of any party described in paragraph (1); or

"(3) person whose activities require the filing of a declaration or entry, or both;

shall make, keep, and render for examination and inspection such records (including, but not limited to, statements, declarations, documents and electronically generated or machine readable data) which—

"(A) pertain to any such activity, or to the information contained in the documents, records or electronically generated or machine readable data required by this Act in connection with such activity; and

"(B) are normally kept in the ordinary course of business."; and

(2) by amending subsection (c) to read as follows:

"(c) Period of Time.—The records required by subsections (a) and (b) shall be kept for such period of time, not to exceed 5 years from the date of entry or exportation, as appropriate, as the Secretary shall prescribe; except that records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.".

SEC. 215. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 (19 U.S.C. 1509) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "and taxes" wherever it appears and inserting ", fees and taxes";

(B) by inserting "or electronically generated or machine readable data," after "other document," in paragraph (1);

(C) by striking out the semicolon at the end of paragraph (1) and inserting ", except that—

"(A) if such record, statement, declaration, document, or electronically stored or transmitted information or data is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry) it shall be provided to the Customs Service within a reasonable time after demand for its production is made, taking into consideration the number, type, and age of the item demanded; and

"(B) if a person of whom demand is made under subparagraph (A) fails to comply with the demand, the person may be subject to penalty under subsection (g);";

(D) by amending that part of paragraph (2) that precedes subparagraph (D) to read as follows:

"(2) summon, upon reasonable notice—

"(A) the person who—

"(i) imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

"(ii) exported merchandise, or knowingly caused merchandise to be exported, to Canada,

"(iii) transported or stored merchandise that was or is carried or held under customs bond, or knowingly caused such transportation or storage, or

"(iv) filed a declaration, entry, or drawback claim with the Customs Service;

"(B) any officer, employee, or agent of any person described in subparagraph (A);

"(C) any person having possession, custody or care of records (including electronically generated or machine readable data) relating to the importation or other activity described in subparagraph (A); or"; and

(E) by striking out the comma at the end of subparagraph (D) and inserting a semicolon.

(2) Subsections (b) and (c) are redesignated as subsections (c) and (d), respectively.

(3) The following new subsection is inserted after subsection (a):

"(b) Regulatory Audit Procedures.—

"(1) In conducting a regulatory audit under this section (which does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone), the Customs Service auditor shall provide the person being audited, in advance of the audit, with a reasonable estimate of the time to be required for the audit. If in the course of an audit it becomes apparent that additional time will be required, the Customs Service auditor shall immediately provide a further estimate of such additional time.

"(2) Before commencing an audit, the Customs Service auditor shall inform the party to be audited of his right to an entry conference at which time the purpose will be explained and an estimated termination date set. Upon completion of on-site audit activities, the Customs Service auditor shall schedule a closing conference to explain the preliminary results of the audit.

"(3) Except as provided in paragraph (5), if the estimated or actual termination date for an audit passes without the Customs Service auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the appropriate regional commissioner, who, upon receipt of such a request, shall provide for such a conference to be held within 15 days after the date of receipt.

"(4) Except as provided in paragraph (5), the Customs Service auditor shall complete the formal written audit report within 90 days following the closing conference unless the appropriate regional commissioner provides written notice to the person being audited of the reason for any delay and the anticipated completion date. After application of any exemption contained in section 552 of title 5, United States Code, a copy of the formal written audit report shall be sent to the person audited no later than 30 days following completion of the report.

"(5) Paragraphs (3) and (4) shall not apply after the Customs Service commences a formal investigation with respect to the issue involved.".

(4) Subsection (d) (as redesignated by paragraph (2)) is amended—

(A) by striking out "or documents" in paragraph (1)(A) and inserting "documents, or electronically generated or machine readable data";

(B) by inserting ", unless such customhouse broker is the importer of record on an entry" after "broker" in paragraph (1)(C)(i);

(C) by striking out "import" in each of paragraphs (2)(B) and (4)(B);

(D) by inserting "described in section 508" after "transactions" in each of paragraphs (2)(B) and (4)(B); and

(E) by inserting ", fees," after "duties" in paragraph (4)(A).

(5) The following new subsections are added at the end thereof:

"(e) List of Records and Information.—The Customs Service shall identify and publish a list of the records or entry information that is required to be maintained and produced under subsection (a)(1)(A).

"(f) Recordkeeping Compliance Program.—

"(1) In general.—After consultation with the importing community, the Customs Service shall by regulation establish a recordkeeping compliance program which the parties listed in section 508(a) may participate in after being certified by the Customs Service under paragraph (2). Participation in the recordkeeping compliance program by recordkeepers is voluntary.

"(2) Certification.—A recordkeeper may be certified as a participant in the recordkeeping compliance program after meeting the general recordkeeping requirements established under the program or after negotiating an alternative program suited to the needs of the recordkeeper and the Customs Service. Certification requirements shall take into account the size and nature of the importing business and the volume of imports. In order to be certified, the recordkeeper must be able to demonstrate that it—

"(A) understands the legal requirements for recordkeeping, including the nature of the records required to be maintained and produced and the time periods involved;

"(B) has in place procedures to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance, and production of required records;

"(C) has in place procedures regarding the preparation and maintenance of required records, and the production of such records to the Customs Service;

"(D) has designated a dependable individual or individuals to be responsible for recordkeeping compliance under the program and whose duties include maintaining familiarity with the recordkeeping requirements of the Customs Service;

"(E) has a record maintenance procedure approved by the Customs Service for original records, or, if approved by the Customs Service, for alternative records or recordkeeping formats other than the original records; and

"(F) has procedures for notifying the Customs Service of occurrences of variances to, and violations of, the requirements of the recordkeeping compliance program or the negotiated alternative programs, and for taking corrective action when notified by the Customs Service of violations or problems regarding such program.

"(g) Penalties.—

"(1) Definition.—For purposes of this subsection, the term 'information' means any record, statement, declaration, document, or electronically stored or transmitted information or data referred to in subsection (a)(1)(A).

"(2) Effects of failure to comply with demand.—Except as provided in paragraph (4), if a person fails to comply with a lawful demand for information under subsection (a)(1)(A) the following provisions apply:

"(A) If the failure to comply is a result of the willful failure of the person to maintain, store, or retrieve the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $100,000, or an amount equal to 75 percent of the appraised value of the merchandise, whichever amount is less.

"(B) If the failure to comply is a result of the negligence of the person in maintaining, storing, or retrieving the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $10,000, or an amount equal to 40 percent of the appraised value of the merchandise, whichever amount is less.

"(C) In addition to any penalty imposed under subparagraph (A) or (B) regarding demanded information, if such information related to the eligibility of merchandise for a column 1 special rate of duty under title I, the entry of such merchandise—

"(i) if unliquidated, shall be liquidated at the applicable column 1 general rate of duty; or

"(ii) if liquidated within the 2-year period preceding the date of the demand, shall be reliquidated, notwithstanding the time limitation in section 514 or 520, at the applicable column 1 general rate of duty;

except that any liquidation or reliquidation under clause (i) or (ii) shall be at the applicable column 2 rate of duty if the Customs Service demonstrates that the merchandise should be dutiable at such rate.

"(3) Avoidance of penalty.—No penalty may be assessed under this subsection if the person can show—

"(A) that the loss of the demanded information was the result of an act of God or other natural casualty or disaster beyond the fault of such person or an agent of the person;

"(B) on the basis of other evidence satisfactory to the Customs Service, that the demand was substantially complied with; or

"(C) the information demanded was presented to and retained by the Customs Service at the time of entry or submitted in response to an earlier demand.

"(4) Penalties not exclusive.—Any penalty imposed under this subsection shall be in addition to any other penalty provided by law except for—

"(A) a penalty imposed under section 592 for a material omission of the demanded information, or

"(B) disciplinary action taken under section 641.

"(5) Remission or mitigation.—A penalty imposed under this section may be remitted or mitigated under section 618.

"(6) Customs summons.—Nothing in this subsection shall limit or preclude the Customs Service from issuing, or seeking the enforcement of, a customs summons.

"(7) Alternatives to penalties.—

"(A) In general.—When a recordkeeper who—

"(i) has been certified as a participant in the recordkeeping compliance program under subsection (f); and

"(ii) is generally in compliance with the appropriate procedures and requirements of the program;

does not produce a demanded record or information for a specific release or provide the information by acceptable alternative means, the Customs Service, in the absence of willfulness or repeated violations, shall issue a written notice of the violation to the recordkeeper in lieu of a monetary penalty. Repeated violations by the recordkeeper may result in the issuance of penalties and removal of certification under the program until corrective action, satisfactory to the Customs Service, is taken.

"(B) Contents of notice.—A notice of violation issued under subparagraph (A) shall—

"(i) state that the recordkeeper has violated the recordkeeping requirements;

"(ii) indicate the record or information which was demanded; and

"(iii) warn the recordkeeper that future failures to produce demanded records or information may result in the imposition of monetary penalties.

"(C) Response to notice.—Within a reasonable time after receiving written notice under subparagraph (A), the recordkeeper shall notify the Customs Service of the steps it has taken to prevent a recurrence of the violation.

"(D) Regulations.—The Secretary shall promulgate regulations to implement this paragraph. Such regulations may specify the time periods for compliance with a demand for information and provide guidelines which define repeated violations for purposes of this paragraph. Any penalty issued for a recordkeeping violation shall take into account the degree of compliance compared to the total number of importations, the nature of the demanded records and the recordkeeper's cooperation.".

SEC. 216. JUDICIAL ENFORCEMENT.

The second sentence of section 510(a) (19 U.S.C. 1510(a)) is amended by inserting "and such court may assess a monetary penalty" after "as a contempt thereof".

SEC. 217. REVIEW OF PROTESTS.

Section 515 (19 U.S.C. 1515) is amended by inserting at the end the following new subsections:

"(c) If a protesting party believes that an application for further review was erroneously or improperly denied or was denied without authority for such action, it may file with the Commissioner of Customs a written request that the denial of the application for further review be set aside. Such request must be filed within 90 days after the date of the notice of the denial. The Commissioner of Customs may review such request and, based solely on the information before the Customs Service at the time the application for further review was denied, may set aside the denial of the application for further review and void the denial of protest, if appropriate. If the Commissioner of Customs fails to act within 30 days after the date of the request, the request shall be considered denied. All denials of protests are effective from the date of original denial for purposes of section 2636 of title 28, United States Code. If an action is commenced in the Court of International Trade that arises out of a protest or an application for further review, all administrative action pertaining to such protest or application shall terminate and any administrative action taken subsequent to the commencement of the action is null and void.

"(d) If a protest is timely and properly filed, but is denied contrary to proper instructions, the Customs Service may on its own initiative, or pursuant to a written request by the protesting party filed with the appropriate district director within 90 days after the date of the protest denial, void the denial of the protest.".

SEC. 218. REPEAL OF PROVISION RELATING TO RELIQUIDATION ON ACCOUNT OF FRAUD.

Section 521 (19 U.S.C. 1521) is repealed.

SEC. 219. PENALTIES RELATING TO MANIFESTS.

Section 584 (19 U.S.C. 1584) is amended—

(1) by amending subsection (a)—

(A) by striking out "appropriate customs officer" wherever it appears and inserting "Customs Service",

(B) by striking out "officer demanding the same" in paragraph (1) and inserting "officer (whether of the Customs Service or the Coast Guard) demanding the same", and

(C) by inserting "(electronically or otherwise)" after "submission" in the last sentence of paragraph (1); and

(2) by amending subsection (b)—

(A) by striking out "the appropriate customs officer", "he" (except in paragraph (1)(F)), and "such officer" wherever they appear and inserting "the Customs Service";

(B) by striking out "written" wherever it appears (other than paragraph (1)(F)),

(C) by inserting "or electronically transmit" after "issue" wherever it appears, and

(D) by striking out "his intention" in the first sentence of paragraph (1) and inserting "intent".

SEC. 220. UNLAWFUL UNLADING OR TRANSSHIPMENT.

Section 586 (19 U.S.C. 1586) is amended—

(1) by inserting ", or of a hovering vessel which has received or delivered merchandise while outside the territorial sea," after "from a foreign port or place" wherever it appears; and

(2) by amending subsection (f)—

(A) by striking out "the appropriate customs officer of the" and "the appropriate customs officer within the" and inserting "the Customs Service at the"; and

(B) by striking out "the appropriate customs officer is" and inserting "the Customs Service is".

SEC. 221. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE; PRIOR DISCLOSURE.

Section 592 (19 U.S.C. 1592) is amended—

(1) by inserting "or electronically transmitted data or information" after "document" in subsection (a)(1)(A)(i);

(2) by inserting "The mere nonintentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct." at the end of subsection (a)(2);

(3) by amending subsection (b)—

(A) by amending the first sentence of paragraph (1)(A)—

(i) by striking out "the appropriate customs officer" and inserting "the Customs Service",

(ii) by striking out "he" and inserting "it", and

(iii) by striking out "his" and inserting "its", and

(B) by amending paragraph (2)—

(i) by striking out "the appropriate customs officer" wherever it appears and inserting "the Customs Service",

(ii) by striking out "such officer" wherever it appears and inserting "the Customs Service", and

(iii) by striking out "he" wherever it appears and inserting "it";

(4) by amending subsection (c)(4)—

(A) by striking "time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his" in subparagraphs (A)(i) and (B), and inserting "time of disclosure, or within 30 days (or such longer period as the Customs Service may provide) after notice by the Customs Service of its"; and

(B) by inserting after the last sentence the following: "For purposes of this section, a formal investigation of a violation is considered to be commenced with regard to the disclosing party and the disclosed information on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of a violation of subsection (a) existed."; and

(5) by amending subsection (d)—

(A) by striking out "the appropriate customs officer" and inserting "the Customs Service",

(B) by striking out "duties" wherever it appears and inserting "duties, taxes, or fees"; and

(C) by inserting ", Taxes or Fees" after "Duties" in the sideheading.

SEC. 222. INTERPRETIVE RULINGS AND DECISIONS; PUBLIC INFORMATION.

Section 625 (19 U.S.C. 1625) is amended to read as follows:

"SEC. 625. INTERPRETIVE RULINGS AND DECISIONS; PUBLIC INFORMATION.

"(a) Publication.—Within 90 days after the date of issuance of any interpretive ruling (including any ruling letter, or internal advice memorandum) or protest review decision under this chapter with respect to any customs transaction, the Secretary shall have such ruling or decision published in the Customs Bulletin or shall otherwise make such ruling or decision available for public inspection.

"(b) Appeals.—A person may appeal an adverse interpretive ruling and any interpretation of any regulation prescribed to implement such ruling to a higher level of authority within the Customs Service for de novo review. Upon a reasonable showing of business necessity, any such appeal shall be considered and decided no later than 60 days following the date on which the appeal is filed. The Secretary shall issue regulations to implement this subsection.

"(c) MODIFICATION AND REVOCATION.—A proposed interpretive ruling or decision which would—

"(1) modify (other than to correct a clerical error) or revoke a prior interpretive ruling or decision which has been in effect for at least 60 days; or

"(2) have the effect of modifying the treatment previously accorded by the Customs Service to substantially identical transactions;

shall be published in the Customs Bulletin. The Secretary shall give interested parties an opportunity to submit, during not less than the 30-day period after the date of such publication, comments on the correctness of the proposed ruling or decision. After consideration of any comments received, the Secretary shall publish a final ruling or decision in the Customs Bulletin within 30 days after the closing of the comment period. The final ruling or decision shall become effective 60 days after the date of its publication.

"(d) PUBLICATION OF CUSTOMS DECISIONS THAT LIMIT COURT DECISIONS.—A decision that proposes to limit the application of a court decision shall be published in the Customs Bulletin together with notice of opportunity for public comment thereon prior to a final decision.

"(e) PUBLIC INFORMATION.—The Secretary may make available in writing or through electronic media, in an efficient, comprehensive and timely manner, all information, including directives, memoranda, electronic messages and telexes which contain instructions, requirements, methods or advice necessary for importers and exporters to comply with the Customs laws and regulations. All information which may be made available pursuant to this subsection shall be subject to any exemption from disclosure provided by section 552 of title 5, United States Code.".

SEC. 223. SEIZURE AUTHORITY.

Section 596(c) (19 U.S.C. 1595a(c)) is amended to read as follows:

"(c) Merchandise which is introduced or attempted to be introduced into the United States contrary to law shall be treated as follows:

"(1) The merchandise shall be seized and forfeited if it—

"(A) is stolen, smuggled, or clandestinely imported or introduced;

"(B) is a controlled substance, as defined in the Controlled Substances Act (21 U.S.C. 801 et seq.), and is not imported in accordance with applicable law; or

"(C) is a contraband article, as defined in section 1 of the Act of August 9, 1939 (49 U.S.C. App. 781).

"(2) The merchandise may be seized and forfeited if—

"(A) its importation or entry is subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and the merchandise is not in compliance with the applicable rule, regulation, or statute;

"(B) its importation or entry requires a license, permit or other authorization of an agency of the United States Government and the merchandise is not accompanied by such license, permit, or authorization;

"(C) it is merchandise or packaging in which copyright, trademark, or trade name protection violations are involved (including, but not limited to, violations of section 42, 43, or 45 of the Act of July 5, 1946 (Public Law 95-410; 15 U.S.C. 1124, 1125, or 1127), section 506 or 509 of title 17, United States Code, or section 2318 or 2320 of title 18, United States Code);

"(D) it is trade dress merchandise involved in the violation of a court order citing section 43 of such Act of July 5, 1946 (15 U.S.C. 1125);

"(E) it is merchandise which is marked intentionally in violation of section 304; or

"(F) it is merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been marked in violation of section 304.

"(3) If the importation or entry of the merchandise is subject to quantitative restrictions requiring a visa, permit, license or other similar document, or stamp from the United States Government or from a foreign government or issuing authority pursuant to a bilateral or multilateral agreement, the merchandise shall be subject to detention in accordance with section 499 unless the appropriate visa, license, permit, or similar document or stamp is presented to the Customs Service; but if the visa, permit, license or similar document or stamp which is presented in connection with the importation or entry of the merchandise is counterfeit, the merchandise may be seized and forfeited.

"(4) If the merchandise is imported or introduced contrary to a provision of law which governs the classification or value of merchandise and there are no issues as to the admissibility of the merchandise into the United States, it shall not be seized except in accordance with section 592.

"(5) In any case where the seizure and forfeiture of merchandise are required or authorized by this section, the Secretary may—

"(A) remit the forfeiture under section 618, or

"(B) permit the exportation of the merchandise, unless its release would adversely affect health, safety, or conservation or be in contravention of a bilateral or multilateral agreement or treaty.".

Subtitle B—National Customs Automation Program

SEC. 231. NATIONAL CUSTOMS AUTOMATION PROGRAM.

Part I of title IV is amended—

(1) by striking out

"PART I—DEFINITIONS

and inserting

"PART I—DEFINITIONS AND NATIONAL CUSTOMS AUTOMATION PROGRAM

"Subpart A—Definitions"; and

(2) by inserting after section 402 the following:

"Subpart B—National Customs Automation Program

"SEC. 411. NATIONAL CUSTOMS AUTOMATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish the National Customs Automation Program (hereinafter in this subpart referred to as the 'Program') which shall be an automated and electronic system for processing commercial importations and shall include the following existing and planned components:

"(1) Existing components:

"(A) The electronic entry of merchandise.

"(B) The electronic entry summary of required information.

"(C) The electronic transmission of invoice information.

"(D) The electronic transmission of manifest information.

"(E) Electronic payments of duties, fees, and taxes.

"(F) The electronic status of liquidation and reliquidation.

"(G) The electronic selection of high risk entries for examination (cargo selectivity and entry summary selectivity).

"(2) Planned components:

"(A) The electronic filing and status of protests.

"(B) The electronic filing (including remote filing under section 414) of entry information with the Customs Service at any location.

"(C) The electronic filing of import activity summary statements and reconciliation.

"(D) The electronic filing of bonds.

"(E) The electronic penalty process.

"(F) The electronic filing of drawback claims, records, or entries.

"(G) Any other component initiated by the Customs Service to carry out the goals of this subpart.

"(b) PARTICIPATION IN PROGRAM.—The Secretary shall by regulation prescribe the eligibility criteria for participation in the Program. Participation in the Program is voluntary.

"SEC. 412. PROGRAM GOALS.

"The goals of the Program are to ensure that all regulations and rulings that are administered or enforced by the Customs Service are administered and enforced in a manner that—

"(1) is uniform and consistent;

"(2) is as minimally intrusive upon the normal flow of business activity as practicable; and

"(3) improves compliance.

"SEC. 413. IMPLEMENTATION AND EVALUATION OF PROGRAM.

"(a) OVERALL PROGRAM PLAN.—

"(1) IN GENERAL.—Before the 180th day after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committees an overall plan for the Program. The overall Program plan shall set forth—

"(A) a general description of the ultimate configuration of the Program;

"(B) a description of each of the existing components of the Program listed in section 411(a)(1); and

"(C) estimates regarding the stages on which planned components of the Program listed in section 411(a)(2) will be brought online.

"(2) ADDITIONAL INFORMATION.—In addition to the information required under paragraph (1), the overall Program plan shall include a statement regarding—

"(A) the extent to which the existing components of the Program currently meet, and the planned components will meet, the Program goals set forth in section 412; and

"(B) the effects that the existing components are currently having, and the effects that the planned components will likely have, on—

"(i) importers, brokers, and other users of the Program, and

"(ii) Customs Service occupations, operations, processes, and systems.

"(b) IMPLEMENTATION PLAN, TESTING, AND EVALUATION.—

"(1) IMPLEMENTATION PLAN.—For each of the planned components of the Program listed in section 411(a)(2), the Secretary shall—

"(A) develop an implementation plan;

"(B) test the component in order to assess its viability;

"(C) evaluate the component in order to assess its contribution toward achieving the program goals; and

"(D) transmit to the Committees the implementation plan, the testing results, and an evaluation report.

In developing an implementation plan under subparagraph (A) and evaluating components under subparagraph (C), the Secretary shall publish a request for comments in the Customs Bulletin and shall consult with the trade community, including importers, brokers, shippers, and other affected parties.

"(2) IMPLEMENTATION.—

"(A) The Secretary may implement on a permanent basis any Program component referred to in paragraph (1) on or after the date which is 30 days after paragraph (1)(D) is complied with.

"(B) For purposes of subparagraph (A), the 30 days shall be computed by excluding—

"(i) the days either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday and Sunday, not excluded under clause (i), when either House is not in session.

"(3) EVALUATION AND REPORT.—The Secretary shall—

"(A) develop a user satisfaction survey of parties participating in the Program;

"(B) evaluate the results of the user satisfaction survey on a biennial basis (fiscal years) and transmit a report to the Committees on the evaluation by no later than the 90th day after the close of each 2d fiscal year;

"(C) with respect to the existing Program component listed in section 411(a)(1)(G) transmit to the Committees—

"(i) a written evaluation of such component before the 180th day after the date of the enactment of this section and before the implementation of the planned Program components listed in section 411(a)(2) (B) and (C), and

"(ii) a report on such component for each of the 3 full fiscal years occurring after the date of the enactment of this section, which report shall be transmitted not later than the 90th day after the close of each such year; and

"(D) not later than the 90th day after the close of fiscal year 1993, and annually thereafter through fiscal year 1999, transmit to the Committees a written evaluation with respect to the implementation and effect on users of each of the planned Program components listed in section 411(a)(2).

In carrying out the provisions of this paragraph, the Secretary shall publish requests for comments in the Customs Bulletin and shall consult with the trade community, including importers, brokers, shippers, and other affected parties.

"(c) COMMITTEES.—For purposes of this section, the term 'Committees' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

"SEC. 414. REMOTE LOCATION FILING.

"(a) CORE ENTRY INFORMATION.—

"(1) IN GENERAL.—A Program participant may file an entry of merchandise with the Customs Service from a location other than the district designated in the entry for examination (hereafter in this section referred to as a 'remote location') if—

"(A) the Customs Service is satisfied that the participant has the capabilities referred to in paragraph (2) regarding such method of filing; and

"(B) the participant elects to file from the remote location.

"(2) REQUIREMENTS.—In order to qualify for filing from a remote location, a Program participant must have the capability to provide, on an entry-by-entry basis, for the following:

"(A) The electronic entry of merchandise.

"(B) The electronic entry summary of required information.

"(C) The electronic transmission of invoice information (when required by the Customs Service).

"(D) The electronic payment of duties, fees, and taxes.

"(E) Such other electronic capabilities within the existing or planned components of the Program as the Secretary shall by regulation require.

"(3) ALTERNATIVE FILING.—Any Program participant that is eligible under paragraph (1) to file entry information electronically from a remote location but chooses not to do so in the case of any entry must file any paper documentation for the entry at the designated location referred to in subsection (d).

"(b) ADDITIONAL ENTRY INFORMATION.—

"(1) IN GENERAL.—A Program participant that is eligible under subsection (a) to file entry information from a remote location may, if the Customs Service is satisfied that the participant meets the requirements under paragraph (2), also electronically file from the remote location additional information that is required by the Customs Service to be presented before the acceptance of entry summary information and at the time of acceptance of entry summary information.

"(2) REQUIREMENTS.—The Secretary shall publish, and periodically update, a list of those capabilities within the existing and planned components of the Program that a Program participant must have for purposes of this subsection.

"(3) FILING OF ADDITIONAL INFORMATION.—

"(A) IF INFORMATION ELECTRONICALLY ACCEPTABLE.—A Program participant that is eligible under paragraph (1) to file additional information from a remote location shall electronically file all such information that the Customs Service can accept electronically.

"(B) ALTERNATIVE FILING.—If the Customs Service cannot accept additional information electronically, the Program participant shall file the paper documentation with respect to the information at the appropriate filing location.

"(C) APPROPRIATE LOCATION.—For purposes of subparagraph (B), the 'appropriate location' is—

"(i) before January 1, 1999, a designated location; and

"(ii) after December 31, 1998—

"(I) if the paper documentation is required for release, a designated location; or

"(II) if the paper documentation is not required for release, a remote location designated by the Customs Service or a designated location.

"(D) OTHER.—A Program participant that is eligible under paragraph (1) to file additional information electronically from a remote location but chooses not to do so must file the paper documentation with respect to the information at a designated location.

"(c) POST-ENTRY SUMMARY INFORMATION.—A Program participant that is eligible to file electronically entry information under subsection (a) and additional information under subsection (b) from a remote location may file at any remote location designated by the Customs Service any information required by the Customs Service after entry summary.

"(d) DEFINITION OF DESIGNATED LOCATION.—For purposes of this section, the term 'designated location' means a customs office located in the customs district designated by the entry filer for purposes of customs examination of the merchandise.".

SEC. 232. EFFECTIVE DATE OF RATES OF DUTY.

Section 315 (19 U.S.C. 1315) is amended—

(1) by striking out "appropriate customs officer in the form and manner prescribed by regulations of the Secretary of the Treasury," in the first sentence of subsection (a) and inserting "Customs Service by written, electronic or such other means as the Secretary by regulation shall prescribe,";

(2) by striking out "customs custody" in the first sentence of subsection (b) and inserting "custody of the Customs Service"; and

(3) by striking out "section 1001, paragraph 813" in subsection (c) and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States".

SEC. 233. DEFINITIONS.

Section 401 (19 U.S.C. 1401) is amended—

(1) by amending subsection (k) to read as follows:

"(k) The term 'hovering vessel' means—

"(1) any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws of the United States; and

"(2) any vessel which has visited a vessel described in paragraph (1)."; and

(2) by inserting at the end thereof the following new subsections:

"(n) The term 'electronic transmission' means the transfer of data or information through an authorized electronic data interchange system consisting of, but not limited to, computer modems and computer networks.

"(o) The term 'electronic entry' means the electronic transmission to the Customs Service of—

"(1) entry information required for the entry of merchandise, and

"(2) entry summary information required for the classification and appraisement of the merchandise, the verification of statistical information, and the determination of compliance with applicable law.

"(p) The term 'electronic data interchange system' means any established mechanism approved by the Commissioner of Customs through which information can be transferred electronically.

"(q) The term 'National Customs Automation Program' means the program established under section 411.

"(r) The term 'import activity summary statement' refers to data or information transmitted electronically to the Customs Service, in accordance with such regulations as the Secretary prescribes, at the end of a specified period of time which enables the Customs Service to assess properly the duties, taxes and fees on merchandise imported during that period, collect accurate statistics and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(s) The term 'reconciliation' means an electronic process, initiated at the request of an importer, under which the elements of an entry, other than those elements related to the admissibility of the merchandise, that are undetermined at the time of entry summary are provided to the Customs Service at a later time. A reconciliation is treated as an entry for purposes of liquidation, reliquidation, and protest.".

SEC. 234. MANIFESTS.

Section 431 (19 U.S.C. 1431) is amended—

(1) by amending subsections (a) and (b) to read as follows:

"(a) IN GENERAL.—Every vessel required to make entry under section 434 or obtain clearance under section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91) shall have a manifest that complies with the requirements prescribed under subsection (d).

"(b) PRODUCTION OF MANIFEST.—Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle, or by any other authorized agent of the owner or operator of the vessel, aircraft, or vehicle in accordance with the requirements prescribed under subsection (d). A manifest may be supplemented by bill of lading data supplied by the issuer of such bill. If any irregularity of omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle, or any party responsible for such irregularity, shall be liable for any fine or penalty prescribed by law with respect to such irregularity. The Customs Service may take appropriate action against any of the parties."; and

(2) by inserting after subsection (c) the following new subsection:

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall by regulation—

"(A) specify the form for, and the information and data that must be contained in, the manifest required by subsection (a);

"(B) allow, at the option of the individual producing the manifest and subject to paragraph (2), letters and documents shipments to be accounted for by summary manifesting procedures;

"(C) prescribe the manner of production for, and the delivery for electronic transmittal of, the manifest required by subsection (a); and

"(D) prescribe the manner for supplementing manifests with bill of lading data under subsection (b).

"(2) LETTERS AND DOCUMENTS SHIPMENTS.— For purposes of paragraph (1)(B)—

"(A) the Customs Service may require with respect to letters and documents shipments—

"(i) that they be segregated by country of origin, and

"(ii) additional examination procedures that are not necessary for individually manifested shipments;

"(B) standard letter envelopes and standard document packs shall be segregated from larger document shipments for purposes of customs inspections; and

"(C) the term 'letters and documents' means—

"(i) data described in General Headnote 4(c) of the Harmonized Tariff Schedule of the United States,

"(ii) securities and similar evidences of value described in heading 4907 of such Schedule, but not monetary instruments defined pursuant to chapter 53 of title 31, United States Code, and

"(iii) personal correspondence, whether on paper, cards, photographs, tapes, or other media.".

SEC. 235. INVOICE CONTENTS.

Section 481 (19 U.S.C. 1481) is amended—

(1) by amending subsection (a)—

(A) by amending the matter preceding paragraph (1) to read as follows: "IN GENERAL.—All invoices of merchandise to be imported into the United States and any electronic equivalent thereof considered acceptable by the Secretary in regulations prescribed under this section shall set forth, in written, electronic, or such other form as the Secretary shall prescribe, the following:",

(B) by amending paragraph (3) to read as follows:

"(3) A detailed description of the merchandise, including the commercial name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;", and

(C) by amending paragraph (10) to read as follows:

"(10) Any other fact that the Secretary may by regulation require as being necessary to a proper appraisement, examination and classification of the merchandise.";

(2) by amending subsection (c) to read as follows:

"(c) IMPORTER PROVISION OF INFORMATION.—Any information required to be set forth on an invoice may alternatively be provided by any of the parties qualifying as an 'importer of record' under section 484(a)(2)(B) by such means, in such form or manner, and within such time as the Secretary shall by regulation prescribe."; and

(3) by inserting before the period at the end of subsection (d) the following: "and may allow for the submission or electronic transmission of partial invoices, electronic equivalents of invoices, bills, or other documents or parts thereof, required under this section".

SEC. 236. ENTRY OF MERCHANDISE.

Section 484 (19 U.S.C. 1484) is amended to read as follows:

"SEC. 484. ENTRY OF MERCHANDISE.

"(a) REQUIREMENT AND TIME.—

"(1) Except as provided in sections 490, 498, 552, 553, and 336(j), one of the parties qualifying as 'importer of record' under paragraph (2)(B), either in person or by an agent authorized by the party in writing, shall, using reasonable care—

"(A) make entry therefor by filing with the Customs Service—

"(i) such documentation or, pursuant to an electronic data interchange system, such information as is necessary to enable the Customs Service to determine whether the merchandise may be released from customs custody, and

"(ii) notification whether an import activity summary statement will be filed; and

"(B) complete the entry by filing with the Customs Service the declared value, classification and rate of duty applicable to the merchandise, and such other documentation or, pursuant to an electronic data interchange system, such other information as is necessary to enable the Customs Service to—

"(i) properly assess duties on the merchandise,

"(ii) collect accurate statistics with respect to the merchandise, and

"(iii) determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(2)(A) The documentation or information required under paragraph (1) with respect to any imported merchandise shall be filed or transmitted in such manner and within such time periods as the Secretary shall by regulation prescribe. Such regulations shall provide for the filing of import activity summary statements, covering entries made during a calendar month, within such time period as is prescribed in regulations but not to exceed the 20th day following such calendar month.

"(B) When an entry of merchandise is made under this section, the required documentation or information shall be filed or electronically transmitted either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 641. When a consignee declares on entry that he is the owner or purchaser of merchandise the Customs Service may, without liability, accept the declaration. For the purposes of this Act, the importer of record must be one of the parties who is eligible to file the documentation or information required by this section.

"(C) The Secretary, in prescribing regulations to carry out this subsection, shall establish procedures which insure the accuracy and timeliness of import statistics, particularly statistics relevant to the classification and valuation of imports. Corrections of errors in such statistical data shall be transmitted immediately to the Director of the Bureau of the Census, who shall make corrections in the statistics maintained by the Bureau. The Secretary shall also provide, to the maximum extent practicable, for the protection of the revenue, the enforcement of laws governing the importation and exportation of merchandise, the facilitation of the commerce of the United States, and the equal treatment of all importers of record of imported merchandise.

"(b) RECONCILIATION.—A party that electronically transmits an entry summary or import activity summary statement may at the time of filing such summary or statement notify the Customs Service of his intention to file a reconciliation pursuant to such regulations as the Secretary may prescribe. Such reconciliation must be filed by the importer of record within such time period as is prescribed by regulation but no later than 15 months following the filing of the entry summary or import activity summary statement. Before filing a reconciliation, an importer of record shall post bond or other security pursuant to such regulations as the Secretary may prescribe.

"(c) RELEASE OF MERCHANDISE.—The Customs Service may permit the entry and release of merchandise from customs custody in accordance with such regulations as the Secretary may prescribe. No officer of the Customs Service shall be liable to any person with respect to the delivery of merchandise released from customs custody in accordance with such regulations.

"(d) SIGNING AND CONTENTS.—Entries shall be signed by the importer of record, or his agent, unless filed pursuant to an electronic data interchange system. If electronically filed, each transmission of data shall be certified by an importer of record or his agent, one of whom shall be resident in the United States for purposes of receiving service of process, as being true and correct to the best of his knowledge and belief, and such transmission shall be binding in the same manner and to the same extent as a signed document. The entry shall set forth such facts in regard to the importation as the Secretary may require and shall be accompanied by such invoices, bills of lading, certificates, and documents, or their electronically submitted equivalents, as are required by regulation.

"(e) PRODUCTION OF INVOICE.—The Secretary may provide by regulation for the production of an invoice, parts thereof, or the electronic equivalents thereof, in such manner and form, and under such terms and conditions, as the Secretary considers necessary.

"(f) STATISTICAL ENUMERATION.—The Secretary, the Secretary of Commerce, and the United States International Trade Commission shall establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production and programs for achieving international harmonization of trade statistics, to establish the comparability thereof with such enumeration of articles. All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article.

"(g) STATEMENT OF COST OF PRODUCTION.—Under such regulations as the Secretary may prescribe, the Customs Service may require a verified statement from the manufacturer or producer showing the cost of producing the imported merchandise, if the Customs Service considers such verification necessary for the appraisement of such merchandise.

"(h) ADMISSIBILITY OF DATA ELECTRONICALLY TRANSMITTED.—Any entry or other information transmitted by means of an authorized electronic data interchange system shall be admissible in any and all administrative and judicial proceedings as evidence of such entry or information.".

SEC. 237. APPRAISEMENT AND OTHER PROCEDURES.

Section 500 (19 U.S.C. 1500) is amended—

(1) by striking out "The appropriate customs officer" and inserting "The Customs Service";

(2) by striking out "appraise" in subsection (a) and inserting "fix the final appraisement of";

(3) by striking out "ascertain the" in subsection (b) and inserting "fix the final";

(4) by amending subsection (c)—

(A) by inserting "final" after "fix the", and

(B) by inserting ", taxes, and fees" after "duties" wherever it appears; and

(5) by amending subsections (d) and (e) to read as follows:

"(d) liquidate the entry and reconciliation, if any, of such merchandise; and

"(e) give or transmit, pursuant to an electronic data interchange system, notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall by regulation prescribe.".

SEC. 238. VOLUNTARY RELIQUIDATIONS.

Section 501 (19 U.S.C. 1501) is amended—

(1) by striking out "the appropriate customs officer on his own initiative" and inserting "the Customs Service";

(2) by inserting "or transmitted" after "given" wherever it appears; and

(3) by amending the section heading to read as follows:

"SEC. 501. VOLUNTARY RELIQUIDATIONS BY THE CUSTOMS SERVICE.".

SEC. 239. APPRAISEMENT REGULATIONS.

Section 502 (19 U.S.C. 1502) is amended—

(1) by amending subsection (a)—

(A) by inserting "(including regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned)" after "law",

(B) by striking out "ports of entry, and" inserting "ports of entry. The Secretary",

(C) by inserting "or classifying" after "appraising" wherever it appears, and

(D) by striking out "such port" and inserting "any port, and may direct any customs officer at any port to review entries of merchandise filed at any other port"; and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 240. LIMITATION ON LIQUIDATION.

(a) AMENDMENTS.—Section 504 (19 U.S.C. 1504) is amended—

(1) by amending subsection (a)—

(A) by striking out "Except as provided in subsection (b)," and inserting "Unless an entry is extended under subsection (b) or suspended as required by statute or court order,",

(B) by striking out "or" at the end of paragraph (2),

(C) by inserting "or" after the semicolon at the end of paragraph (3), and

(D) by inserting the following new paragraph after paragraph (3):

"(4) if a reconciliation is filed, or should have been filed, the date of the filing under section 484 or the date the reconciliation should have been filed;"; and

(2) by amending subsections (b), (c), and (d) to read as follows:

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry if—

"(1) the information needed for the proper appraisement or classification of the merchandise, or for insuring compliance with applicable law, is not available to the Customs Service; or

"(2) the importer of record requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record and the surety of such importer of record. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record at the expiration of 4 years from the applicable date specified in subsection (a).

"(c) NOTICE OF SUSPENSION.—If the liquidation of any entry is suspended, the Secretary shall by regulation require that notice of the suspension be provided, in such manner as the Secretary considers appropriate, to the importer of record and to any authorized agent and surety of such importer of record.

"(d) REMOVAL OF SUSPENSION.—When a suspension required by statute or court order is removed, the Customs Service shall liquidate the entry within 6 months after receiving notice of the removal from the Department of Commerce, other agency, or a court with jurisdiction over the entry. Any entry not liquidated by the Customs Service within 6 months after receiving such notice shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record.".

SEC. 241. ABANDONMENT AND DAMAGE.

Section 506 (19 U.S.C. 1506) is amended—

(1) by striking out "the appropriate customs officer" and "such customs officer" wherever they appear and inserting "the Customs Service";

(2) by amending paragraph (1)—

(A) by striking out "not sent to the appraiser's stores for" and inserting "released without an",

(B) by striking out "of the examination packages or quantities of merchandise",

(C) by striking out "the appraiser's stores" and inserting "the Customs Service", and

(D) by inserting "or entry" after "invoice"; and

(3) by amending paragraph (2)—

(A) by inserting ", electronically or otherwise," after "files", and

(B) by striking out "written".

SEC. 242. CUSTOMS OFFICER'S IMMUNITY.

Section 513 (19 U.S.C. 1513) is amended to read as follows:

"SEC. 513. CUSTOMS OFFICER'S IMMUNITY.

"No customs officer shall be liable in any way to any person for or on account of—

"(1) any ruling or decision regarding the appraisement or the classification of any imported merchandise or regarding the duties, fees, and taxes charged thereon;

"(2) the collection of any dues, charges, duties, fees, and taxes on or on account of any imported merchandise, or

"(3) any other matter or thing as to which any person might under this Act be entitled to protest or appeal from the decision of such officer.".

SEC. 243. PROTESTS.

Section 514 (19 U.S.C. 1514) is amended—

(1) by amending subsection (a)—

(A) by striking out "appropriate customs officer" in the text preceding paragraph (1) and inserting "Customs Service",

(B) by inserting "or reconciliation as to the issues contained therein," after "entry," in paragraph (5),

(C) by striking out "and" and inserting "or" at the end of paragraph (6),

(D) by striking out the comma at the end of paragraph (7) and inserting a semicolon; and

(E) by striking out "appropriate customs officer, who" in the text following paragraph (7) and inserting "Customs Service, which";

(2) by amending subsection (b) by striking out "appropriate customs officer" and inserting "Customs Service";

(3) by amending the first sentence of subsection (c)(1) to read as follows: "A protest of a decision made under subsection (a) shall be filed in writing, or transmitted electronically pursuant to an electronic data interchange system, in accordance with regulations prescribed by the Secretary. A protest must set forth distinctly and specifically—

"(A) each decision described in subsection (a) as to which protest is made;

"(B) each category of merchandise affected by each decision set forth under paragraph (1);

"(C) the nature of each objection and the reasons therefor; and

"(D) any other matter required by the Secretary by regulation.";

(4) by redesignating paragraph (2) of subsection (c) as paragraph (3) and by striking out "such customs officer" in such redesignated paragraph and inserting "the Customs Service";

(5) by designating the last sentence of paragraph (1) of subsection (c) as paragraph (2);

(6) by striking out "customs officer" in subsection (d) and inserting "Customs Service"; and

(7) by amending the section heading to read as follows:

"SEC. 514. PROTEST AGAINST DECISIONS OF THE CUSTOMS SERVICE.".

SEC. 244. REFUNDS AND ERRORS.

Section 520 (19 U.S.C. 1520) is amended—

(1) by inserting "or reconciliation" after "entry" in paragraphs (1) and (4) of subsection (a); and

(2) by amending subsection (c)—

(A) by striking out "appropriate customs officer" wherever it appears and inserting "Customs Service",

(B) by inserting "or reconciliation" after "reliquidate an entry", and

(C) by inserting ", whether or not resulting from or contained in electronic transmission," after "inadvertence" the first place it appears in paragraph (1).

SEC. 245. BONDS AND OTHER SECURITY.

Section 623 (19 U.S.C. 1623) is amended—

(1) by inserting "and the manner in which the bond may be filed with or, pursuant to an authorized electronic data interchange system, transmitted to the Customs Service" after "form of such bond" in subsection (b)(1); and

(2) by inserting at the end of subsection (d) the following new sentence: "Any bond transmitted to the Customs Service pursuant to an authorized electronic data interchange system shall have the same force and effect and be binding upon the parties thereto as if such bond were manually executed, signed, and filed.".

SEC. 246. CUSTOMHOUSE BROKERS.

Section 641 (19 U.S.C. 1641) is amended—

(1) by adding at the end of subsection (a)(2) the following new sentence: "It also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with the Customs Service in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to Customs.";

(2) by amending subsection (c)(1) to read as follows:

"(1) IN GENERAL.—Each person granted a customs broker's license under subsection (b) shall be issued, in accordance with such regulations as the Secretary shall prescribe, either or both of the following:

"(A) A national permit for the conduct of such customs business as the Secretary prescribes by regulation.

"(B) A permit for each customs district in which that person conducts customs business and, except as provided in paragraph (2), regularly employs at least 1 individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.";

(3) by inserting at the end of subsection (c) the following new paragraph:

"(4) APPOINTMENT OF SUBAGENTS.—Notwithstanding subsection (c)(1), upon the implementation by the Secretary under section 413(b)(2) of the component of the National Customs Automation Program referred to in section 411(a)(2)(B), a licensed broker may appoint another licensed broker holding a permit in a customs district to act on its behalf as its subagent in that district if such activity relates to the filing of information that is permitted by law or regulation to be filed electronically. A licensed broker appointing a subagent pursuant to this paragraph shall remain liable for any and all obligations arising under bond and any and all duties, taxes, and fees, as well as any other liabilities imposed by law, and shall be precluded from delegating to a subagent such liability.";

(4) by amending subsection (d)(2)(B)—

(A) by striking out "appropriate customs officer" and inserting "Customs Service" in the first and third sentences,

(B) by striking out "he" and inserting "it" in the third sentence,

(C) by striking out "15 days" and inserting "30 days" in the third sentence,

(D) by striking out "the appropriate customs officer and the customs broker; they" and inserting "the Customs Service and the customs broker; which" in the sixth sentence,

(E) by striking out "his" and inserting "the" in the seventh sentence, and

(F) by striking out "for his decision" and inserting "for the decision" in the eighth sentence"; and

(5) by amending subsection (f) by striking out "United States Customs Service." and inserting "Customs Service. The Secretary may not prohibit customs brokers from limiting their liability to other persons in the conduct of customs business. For purposes of this subsection or any other provision of this Act pertaining to recordkeeping, all data required to be retained by a customs broker may be kept on microfilm, optical disc, magnetic tapes, disks or drums, video files or any other electrically generated medium. Pursuant to such regulations as the Secretary shall prescribe, the conversion of data to such storage medium may be accomplished at any time subsequent to the relevant customs transaction and the data may be retained in a centralized basis according to such broker's business system.".

SEC. 247. CONFORMING AMENDMENTS.

(a) PLACE OF ENTRY AND UNLADING.—Section 447 (19 U.S.C. 1447) is amended by striking out "the appropriate customs officer shall consider" and inserting "the Customs Service considers".

(b) UNLADING.—Section 449 (19 U.S.C. 1449) is amended by striking out "appropriate customs officer of such port issues a permit for the unlading of such merchandise or baggage," and inserting "Customs Service issues a permit for the unlading of such merchandise or baggage at such port,".

Subtitle C—Miscellaneous Amendments to the Tariff Act of 1930

SEC. 251. REPORT OF ARRIVAL.

Section 433 (19 U.S.C. 1433) is amended—

(1) by amending subsection (a)(1)—

(A) by striking out "or" at the end of subparagraph (B),

(B) by inserting "or" after the semicolon at the end of subparagraph (C), and

(C) by adding after subparagraph (C) the following:

"(D) any vessel which has visited a hovering vessel or received merchandise while outside the territorial sea;";

(2) by striking out "present to customs officers such" in subsection (d) and inserting "present, or transmit pursuant to an electronic data interchange system, to the Customs Service such information, data,"; and

(3) by amending subsection (e) to read as follows:

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, a vessel, aircraft or vehicle after arriving in the United States or Virgin Islands may, but only in accordance with regulations prescribed by the Secretary—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage).".

SEC. 252. ENTRY OF VESSELS.

Section 434 (19 U.S.C. 1434) amended to read as follows:

"SEC. 434. ENTRY; VESSELS.

"(a) FORMAL ENTRY.—Within 24 hours (or such other period of time as may be provided under subsection (c)(2)) after the arrival at any port or place in the United States of—

"(1) any vessel from a foreign port or place;

"(2) any foreign vessel from a domestic port;

"(3) any vessel of the United States having on board bonded merchandise or foreign merchandise for which entry has not been made; or

"(4) any vessel which has visited a hovering vessel or has delivered or received merchandise while outside the territorial sea;

the master of the vessel shall, unless otherwise provided by law, make formal entry at the nearest customs facility or such other place as the Secretary may prescribe by regulation.

"(b) PRELIMINARY ENTRY.—The Secretary may by regulation permit the master to make preliminary entry of the vessel with the Customs Service in lieu of formal entry or before formal entry is made. In permitting preliminary entry, the Customs Service shall board a sufficient number of vessels to ensure compliance with the laws it enforces.

"(c) REGULATIONS.—The Secretary may by regulation—

"(1) prescribe the manner and format in which entry under subsection (a) or subsection (b), or both, must be made, and such regulations may provide that any such entry may be made electronically pursuant to an electronic data interchange system;

"(2) provide that—

"(A) formal entry must be made within a greater or lesser time than 24 hours after arrival, but in no case more than 48 hours after arrival, and

"(B) formal entry may be made before arrival; and

"(3) authorize the Customs Service to permit entry or preliminary entry of any vessel to be made at a place other than a designated port of entry, under such conditions as may be prescribed.".

SEC. 253. UNLAWFUL RETURN OF FOREIGN VESSEL PAPERS.

Section 438 (19 U.S.C. 1438) is amended—

(1) by striking out "section 435" and inserting "section 434";

(2) by inserting ", or regulations issued thereunder," after "of this Act"; and

(3) by striking out "the appropriate customs officer of the port where such vessel has been entered." and inserting "the Customs Service in the port in which such vessel has entered.".

SEC. 254. VESSELS NOT REQUIRED TO ENTER.

Section 441 (19 U.S.C. 1441) is amended—

(1) by amending the text preceding paragraph (1) to read as follows: "The following vessels shall not be required to make entry under section 434 or to obtain clearance under section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91):";

(2) by amending paragraph (3) to read as follows:

"(3) Any vessel carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, if—

"(A) the vessel does not in any way violate the customs or navigation laws of the United States;

"(B) the vessel has not visited any hovering vessel; and

"(C) the master of the vessel, if there is on board any article required by law to be entered, reports the article to the Customs Service immediately upon arrival.";

(3) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and inserting after paragraph (3) the following:

"(4) Any United States documented vessel with recreational endorsement or any undocumented United States pleasure vessel not engaged in trade, if—

"(A) the vessel complies with the reporting requirements of section 433, and with the customs and navigation laws of the United States;

"(B) the vessel has not visited any hovering vessel; and

"(C) the master of, and any other person on board, the vessel, if the master or such person has on board any article required by law to be entered or declared, reports such article to the Customs Service immediately upon arrival;"; and

(4) by amending the section heading to read as follows:

"SEC. 441. EXCEPTIONS TO VESSEL ENTRY AND CLEARANCE REQUIREMENTS.".

SEC. 255. UNLADING.

Section 448(a) (19 U.S.C. 1448(a)) is amended—

(1) by amending the first sentence—

(A) by striking out "enter)" and inserting "enter or clear)",

(B) by striking out "or vehicle arriving from a foreign port or place" and inserting "required to make entry under section 434, or vehicle required to report arrival under section 433,",

(C) by inserting "or transmitted pursuant to an electronic data interchange system" after "issued", and

(D) by striking out the colon after "officer" and the proviso and inserting a period;

(2) by amending the second sentence—

(A) by striking out ", preliminary or otherwise,", and

(B) by inserting ", electronically pursuant to an authorized electronic data interchange system or otherwise," after "may issue a permit";

(3) by striking out the last sentence and inserting the following: "The owner or master of any vessel or vehicle, or agent thereof, shall notify the Customs Service of any merchandise or baggage so unladen for which entry is not made within the time prescribed by law or regulation. The Secretary shall by regulation prescribe administrative penalties not to exceed $1,000 for each bill of lading for which notice is not given. Any such administrative penalty shall be subject to mitigation and remittance under section 618. Such unentered merchandise or baggage shall be the responsibility of the master or person in charge of the importing vessel or vehicle, or agent thereof, until it is removed from the carrier's control in accordance with section 490."; and

(4) by striking out "the appropriate customs officer" and "such customs officer" wherever they appear and inserting "the Customs Service".

SEC. 256. DECLARATIONS.

Section 485 (19 U.S.C. 1485) is amended—

(1) by amending subsection (a)—

(A) by inserting "or transmit electronically" after "file", and

(B) by inserting "and manner" after "form";

(2) by amending subsection (d)—

(A) by striking out "A importer" and inserting "An importer", and

(B) by striking out "a importer" and inserting "an importer"; and

(3) by inserting after subsection (f) the following new subsection:

"(g) Exported Merchandise Returned as Undeliverable.—With respect to any importation of merchandise to which General Headnote 4(e) of the Harmonized Tariff Schedule of the United States applies, any person who gained any benefit from, or met any obligation to, the United States as a result of the prior exportation of such merchandise shall, in accordance with regulations prescribed by the Secretary, within a reasonable time inform the Customs Service of the return of the merchandise.".

SEC. 257. GENERAL ORDERS.

Section 490 (19 U.S.C. 1490) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Incomplete Entry.—

"(1) Whenever—

"(A) the entry of any imported merchandise is not made within the time provided by law or by regulation prescribed by the Secretary;

"(B) the entry of imported merchandise is incomplete because of failure to pay the estimated duties, fees, or interest;

"(C) in the opinion of the Customs Service, the entry of imported merchandise cannot be made for want of proper documents or other cause; or

"(D) the Customs Service believes that any merchandise is not correctly and legally invoiced;

the carrier (unless subject to subsection (c)) shall notify the bonded warehouse of such unentered merchandise.

"(2) After notification under paragraph (1), the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until—

"(A) entry is made or completed and the proper documents are produced;

"(B) the information and data necessary for entry are transmitted to the Customs Service pursuant to an authorized electronic data interchange system; or

"(C) a bond is given for the production of documents or the transmittal of data.";

(2) by amending subsection (b)—

(A) by amending the heading for subsection (b) to read as follows: "(b) Request for Possession by Customs.—", and

(B) by striking out "appropriate customs officer" and inserting "Customs Service"; and

(3) by adding at the end the following new subsection:

"(c) Government Merchandise.—Any imported merchandise that—

"(1) is described in any of paragraphs (1) through (4) of subsection (a); and

"(2) is consigned to, or owned by, the United States Government;

shall be stored and disposed of in accordance with such rules and procedures as the Secretary shall by regulation prescribe.".

SEC. 258. UNCLAIMED MERCHANDISE.

Section 491 (19 U.S.C. 1491) is amended—

(1) by amending subsection (a)—

(A) by striking out "customs custody for one year" in the first sentence and inserting "in a bonded warehouse pursuant to section 490 for 6 months",

(B) by striking out "public store or bonded warehouse for a period of one year" in the second sentence and inserting "pursuant to section 490 in a bonded warehouse for 6 months",

(C) by striking out "estimated duties and storage" in the first sentence and inserting "estimated duties, taxes, fees, interest, storage,",

(D) by inserting "taxes, fees, interest," after "duties," wherever it appears, and

(E) by striking out "duties" in the last sentence and inserting "duties, taxes, interest, and fees"; and

(2) by redesignating subsection (b) as subsection (e) and inserting after subsection (a) the following new subsections:

"(b) Notice of Title Vesting in the United States.—At the end of the 6-month period referred to in subsection (a), the Customs Service may, in lieu of sale of the merchandise, provide notice to all known interested parties that the title to such merchandise shall be considered to vest in the United States free and clear of any liens or encumbrances, on the 30th day after the date of the notice unless, before such 30th day—

"(1) the subject merchandise is entered or withdrawn for consumption; and

"(2) payment is made of all duties, taxes, fees, transfer and storage charges, and other expenses that may have accrued thereon.

"(c) Retention, Transfer, Destruction, or Other Disposition.—If title to any merchandise vests in the United States by operation of subsection (b), such merchandise may be retained by the Customs Service for official use, transferred to any other Federal agency or to any State or local agency, destroyed, or otherwise disposed of in accordance with such regulations as the Secretary shall prescribe. All transfer and storage charges or expenses accruing on transferred merchandise shall be paid by the receiving agency, otherwise the charges and expenses on such merchandise shall be paid out of the Customs Forfeiture Fund.

"(d) Petition.—Whenever any party, having lost a substantial interest in merchandise by virtue of title vesting in the United States under subsection (b), can establish such title or interest to the satisfaction of the Secretary within 30 days after the day on which title vests in the United States under subsection (b), or can establish to the satisfaction of the Secretary that the party did not receive notice under subsection (b), the Secretary may, upon receipt of a timely and proper petition and upon finding that the facts and circumstances warrant, pay such party out of the Customs Forfeiture Fund the amount the Secretary believes the party would have received under section 493 had the merchandise been sold and a proper claim filed. The decision of the Secretary with respect to any such petition is final and conclusive on all parties."; and

(3) by amending subsection (e) (as so redesignated) by striking out "appropriate customs officer" in paragraph (3) and inserting "Customs Service".

SEC. 259. DESTRUCTION OF MERCHANDISE.

Section 492 (19 U.S.C. 1492) is amended—

(1) by inserting ", retained for official use, or otherwise disposed of" after "destroyed"; and

(2) by striking out "appropriate customs officer" and inserting "Customs Service".

SEC. 260. PROCEEDS OF SALE.

Section 493 (19 U.S.C. 1493) is amended—

(1) by inserting "taxes, and fees," after "duties,";

(2) by striking out "by the appropriate customs officer in the Treasury of the United States" and inserting "in the Customs Forfeiture Fund"; and

(3) by striking out "such customs officer" and inserting "the Customs Service".

SEC. 261. AMERICAN TRADEMARKS.

Section 526(e)(3) (19 U.S.C. 1526(e)(3)) is amended—

(1) by striking out "1 year" and inserting "90 days"; and

(2) by striking out "appropriate customs officers" and inserting "the Customs Service".

SEC. 262. SEIZURE.

Section 612 (19 U.S.C. 1612) is amended—

(1) by amending subsection (a)—

(A) by striking out "the appropriate customs officer", "such officer" and "the customs officer" wherever they appear and inserting "the Customs Service", and

(B) by striking out "the appraiser's return and his" and inserting "its"; and

(2) by amending subsection (b) to read as follows:

"(b) If the Customs Service determines that the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, the Customs Service may promptly order the destruction or other appropriate disposition of such property under regulations prescribed by the Secretary. No customs officer shall be liable for the destruction or other disposition of property made pursuant to this section.".

SEC. 263. CUSTOMS FORFEITURE FUND.

(a) AMENDMENTS.—Section 613A (19 U.S.C. 1613b) is amended—

(1) by redesignating subparagraphs (E) and (F) of subsection (a)(3) as subparagraphs (G) and (H), respectively;

(2) by inserting after subparagraph (D) of subsection (a)(3) the following new subparagraphs:

"(E) the payment of transfer and storage charges and expenses under section 491(c);

"(F) the payment of claims against employees of the Customs Service settled by the Secretary under section 630;"; and

(3) by striking out "shall" in subsection (d) and inserting "may".

(b) REFERENCE.—After the effective date of section 9703 of title 31, United States Code, any reference in the Tariff Act of 1930 to the Customs Forfeiture Fund shall be treated as being a reference to the Department of the Treasury Forfeiture Fund established by such section 9703.

SEC. 264. LIMITATION ON ACTIONS.

Section 621 (19 U.S.C. 1621) is amended—

(1) by inserting "any duty under section 592(d), 593A(d), or" before "any pecuniary penalty"; and

(2) by striking out "discovered:" and all that follows thereafter and inserting the following: "discovered; except that—

"(1) in the case of an alleged violation of section 592 or 593A, no suit or action (including a suit or action for restoration of lawful duties under subsection (d) of such sections) may be instituted unless commenced within 5 years after the date of the alleged violation or, if such violation arises out of fraud, within 5 years after the date of discovery of fraud, and

"(2) the time of the absence from the United States of the person subject to the penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within the 5-year period of limitation.".

SEC. 265. COLLECTION OF FEES ON BEHALF OF OTHER AGENCIES.

The Tariff Act of 1930 is amended by inserting after section 528 the following new section:

"SEC. 529. COLLECTION OF FEES ON BEHALF OF OTHER AGENCIES.

"The Customs Service shall be reimbursed from the fees collected for the cost and expense, administrative and otherwise, incurred in collecting any fees on behalf of any government agency for any reason.".

SEC. 266. AUTHORITY TO SETTLE CLAIMS.

The Tariff Act of 1930 is amended by inserting after section 629 the following new section:

"SEC. 630. AUTHORITY TO SETTLE CLAIMS.

"(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary may settle, for not more than $50,000 in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Customs Service and acting within the scope of his or her employment.

"(b) LIMITATIONS.—The Secretary may not pay a claim under subsection (a) that—

"(1) concerns commercial property;

"(2) is presented to the Secretary more than 1 year after it occurs; or

"(3) is presented by an officer or employee of the United States Government and arose within the scope of employment.

"(c) FINAL SETTLEMENT.—A claim may be paid under this section only if the claimant accepts the amount of settlement in complete satisfaction of the claim.".

Subtitle D—Miscellaneous Provisions and Consequential and Conforming Amendments to Other Laws

SEC. 271. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) AMENDMENTS RELATING TO ACCREDITATION OF PRIVATE LABORATORIES.—Title 28 of the United States Code is amended as follows:

(1) Section 1581(g) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following:

"(3) any decision or order of the Customs Service to deny, suspend, or revoke accreditation of a private laboratory under section 499(b) of the Tariff Act of 1930.".

(2) Section 2631(g) is amended by inserting at the end the following new paragraph:

"(3) A civil action to review any decision or order of the Customs Service to deny, suspend, or revoke accreditation of a private laboratory under section 499(b) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose accreditation was denied, suspended, or revoked.".

(3) Section 2636 is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following new subsection:

"(h) A civil action contesting the denial, suspension, or revocation by the Customs Service of a private laboratory's accreditation under section 499(b) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within 60 days after the date of the decision or order of the Customs Service.".

(4) Section 2640 is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d) In any civil action commenced to review any order or decision of the Customs Service under section 499(b) of the Tariff Act of 1930, the court shall review the action on the basis of the record before the Customs Service at the time of issuing such decision or order.".

(5) Section 2642 is amended by inserting before the period the following: "or laboratories accredited by the Customs Service under section 499(b) of the Tariff Act of 1930".

(b) APPLICATION OF SUBSECTION (a) AMENDMENTS.—For purposes of applying the amendments made by subsection (a), any decision or order of the Customs Service denying, suspending, or revoking the accreditation of a private laboratory on or after the date of the enactment of this Act and before regulations to implement section 499(b) of the Tariff Act of 1930 are issued shall be treated as having been denied, suspended, or revoked under such section 499(b).

(c) FILING OF OFFICIAL DOCUMENTS.—Section 2635(a) of title 28, United States Code, is amended to read as follows:

"(a) In any action commenced in the Court of International Trade contesting the denial of a protest under section 515 of the Tariff Act of 1930 or the denial of a petition under section 516 of such Act, the Customs Service, as prescribed by the rules of the court, shall file with the clerk of the court, as part of the official record, any document, paper, information or data relating to the entry of merchandise and the administrative determination that is the subject of the protest or petition.".

SEC. 272. AMENDMENTS TO THE REVISED STATUTES OF THE UNITED STATES.

(a) ENROLLED OR LICENSED VESSELS.—Section 2793 of the Revised Statutes of the United States (19 U.S.C. 288; 46 U.S.C. App. 111, 123) is amended by striking out the first semicolon and all the text that follows thereafter and inserting a period.

(b) REGISTERED VESSELS AT FOREIGN PORTS.—Section 3126 of such Revised Statutes (19 U.S.C. 293) is amended—

(1) by striking out "Any vessel, on being duly registered in pursuance of the laws of the United States," and inserting "Any United States documented vessel with a registry and coastwise endorsements"; and

(2) by striking out all the text occurring after the first sentence.

(c) CLEARANCE REQUIREMENTS.—Section 4197 of such Revised Statutes (46 U.S.C. App. 91) is amended to read as follows:

"SEC. 4197. CLEARANCE; VESSELS.

"(a) WHEN REQUIRED; VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, any vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States if the vessel has on board bonded merchandise or foreign merchandise for which entry has not been made; or

"(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

"(b) WHEN REQUIRED; OTHER VESSELS.—Except as otherwise provided by law, any vessel that is not a vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States; or

"(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

"(c) REGULATIONS.—The Secretary of the Treasury may by regulation—

"(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance;

"(2) permit the Customs Service to grant clearance for a vessel under this section before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary of the Treasury conditioned upon the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary of the Treasury; and

"(3) authorize the Customs Service to permit clearance of any vessel to be obtained at a place other than a designated port of entry, under such conditions as he may prescribe.".

SEC. 273. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 965(a) of title 18, United States Code, is amended—

(1) by striking out "sections 91, 92, and 94 of Title 46" and inserting "section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) and section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91),";

(2) by striking out "the collector of customs for the district wherein such vessel is then located" and inserting "the Customs Service"; and

(3) by striking out "the collector like" and inserting in lieu thereof "the Customs Service like".

SEC. 274. AMENDMENT TO THE ACT TO PREVENT POLLUTION FROM SHIPS.

Section 9(e) of the Act to Prevent Pollution from Ships (94 Stat. 2301, 33 U.S.C. 1908(e)) is amended by striking out "shall refuse or revoke" and all of the text following thereafter and inserting "shall refuse or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91). Clearance may be granted upon the filing of a bond or other surety satisfactory to the Secretary.".

SEC. 275. AMENDMENTS TO THE ACT OF NOVEMBER 6, 1966.

Sections 2(e) and 3(e) of the Act of November 6, 1966 (46 U.S.C. App. 817d(e) and 817e(e)) are each amended—

(1) by striking out "The collector of customs at" and inserting "At"; and

(2) by inserting ", the Customs Service" after "subsection (a) of this section".

SEC. 276. REPEAL OF OBSOLETE PROVISIONS OF LAW.

(a) REVISED STATUTES.—The following provisions of the Revised Statutes of the United States are repealed:

(1) So much of section 2792 as is codified at 19 U.S.C. 289 and 46 U.S.C. App. 110 and 112 (as in effect on the date of the enactment of this Act).

(2) Section 3111 (19 U.S.C. 282).

(3) Section 3118 (19 U.S.C. 286).

(4) Section 3119 (19 U.S.C. 287).

(5) Section 3122 (19 U.S.C. 290).

(6) Section 3124 (19 U.S.C. 291).

(7) Section 3125 (19 U.S.C. 292).

(8) Section 4198 (46 U.S.C. App. 94).

(9) Section 4199 (46 U.S.C. App. 93).

(10) Section 4201 (46 U.S.C. App. 96).

(11) Section 4207.

(12) Section 4208 (46 U.S.C. App. 102).

(13) Section 4213 (46 U.S.C. App. 101).

(14) So much of section 4221 as is codified at 46 U.S.C. App. 113 (as in effect on the date of the enactment of this Act).

(15) Section 4222 (46 U.S.C. App. 126).

(16) Section 4332 (46 U.S.C. App. 274).

(17) Section 4348 (46 U.S.C. App. 293).

(18) Section 4358 (46 U.S.C. App. 306).

(19) Section 4361 (46 U.S.C. App. 307).

(20) Sections 4362 through 4369 (46 U.S.C. App. 308 through 315).

(21) Sections 4573 through 4576 (46 U.S.C. App. 674 through 677).

(b) TARIFF ACT OF 1930.—The following sections of the Tariff Act of 1930 are repealed:

(1) Section 432 (19 U.S.C. 1432).

(2) Section 435 (19 U.S.C. 1435).

(3) Section 437 (19 U.S.C. 1437).

(4) Section 439 (19 U.S.C. 1439).

(5) Section 440 (19 U.S.C. 1440).

(6) Sections 443, 444, and 445 (19 U.S.C. 1443, 1444, and 1445).

(7) Section 465 (19 U.S.C. 1465).

(8) Section 482 (19 U.S.C. 1482).

(9) Section 583 (19 U.S.C. 1583).

(10) Section 585 (19 U.S.C. 1585).

(c) MISCELLANEOUS PROVISIONS.—The following provisions are repealed:

(1) The last undesignated paragraph of section 201 of the Act of August 5, 1935 (19 U.S.C. 1432a), is repealed.

(2) The Act of June 16, 1937 (19 U.S.C. 1435b).

(3) Section 1 of the Act of July 3, 1926 (46 U.S.C. App. 293a).

(4) The Act of May 4, 1934 (46 U.S.C. App. 91a).

(5) Section 1403(b) of the Water Resources Development Act of 1986 (Public Law 99-662; 26 U.S.C. 4461 note).

SEC. 277. REPORTS TO CONGRESS.

(a) ANTIDUMPING AND COUNTERVAILING DUTY COLLECTIONS.—The Commissioner of Customs shall before the 60th day of each fiscal year after fiscal year 1992 submit to Congress a report regarding the collection during the preceding fiscal year of duties imposed under the antidumping and countervailing duty laws.

(b) CES FEE REPORT.—

(1) AMENDMENT.—Section 9501(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 3 note) is amended by adding at the end the following new paragraph:

"(3) The Commissioner of Customs is authorized to obtain from the operators of centralized cargo examination stations information regarding the fees paid to them for the provision of services at these stations.".

(2) REPORT.—Within 9 months after the date of the enactment of this subsection, the Commissioner of Customs shall submit to the Committees referred to in section 9501(c) of the Omnibus Budget Reconciliation Act of 1987, a report setting forth—

(A) an estimate of the aggregate amount of fees paid to operators of centralized cargo examination stations during fiscal year 1992; and

(B) the variations, if any, among customs districts with respect to the amounts of the fees charged for centralized cargo examination station services.

(c) COMPLIANCE WITH CUSTOMS LAWS.—Section 123 of the Customs and Trade Act of 1990 (19 U.S.C. 2083) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following:

"(d) COMPLIANCE PROGRAM.—The Commissioner of Customs shall—

"(1) devise and implement a methodology for estimating the level of compliance with the laws administered by the Customs Service; and

"(2) include as an additional part of the report required to be submitted under subsection (a) for each of fiscal years 1993, 1994, and 1995, an evaluation of the extent to which such compliance was obtained during the 12-month period preceding the 60th day before each such fiscal year.".

(d) COURIER SERVICES COMPLIANCE REPORT.—The Commissioner of Customs shall initiate a compliance review of certain courier services which may not be eligible for benefits under the regulations of the Customs Service prescribed in part 128 of title 19 of the Code of Federal Regulations and shall submit a report to Congress on the results of such review within 1 year after the date of the enactment of this Act.

SEC. 278. APPLICABILITY OF AMENDMENTS TO ENTRY OR WITHDRAWAL OF GOODS.

Any amendment made by this title that is applicable to the entry, or withdrawal from warehouse for consumption, of goods applies to any such entry or withdrawal that is made on or after the 15th day after the date of the enactment of this Act.

TITLE III—COMPETITIVENESS POLICY COUNCIL

SEC. 301. COMPETITIVENESS POLICY COUNCIL ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 5209 of the Competitiveness Policy Council Act (15 U.S.C. 4808) is amended—

(1) by striking "1991 and 1992" and inserting "1993 and 1994"; and

(2) by striking "$5,000,000" and inserting "$2,500,000".

(b) RENAMING OF COUNCIL.—The Competitiveness Policy Council Act (15 U.S.C. 4801 et seq.) is amended—

(1) in the subtitle heading—

(A) by inserting "**National**" before "**Competitiveness**"; and

(B) by striking "**Council**" and inserting "**Commission**";

(2) in section 5201—

(A) by inserting "National" before "Competitiveness"; and

(B) by striking "Council" and inserting "Commission";

(3) in section 5202(b)(2)—

(A) by inserting "National" before "Competitiveness"; and

(B) by striking "Council" and inserting "Commission";

(4) in section 5203—

(A) in the section caption, by striking "**council**" and inserting "**commission**";

(B) by inserting "National" before "Competitiveness"; and

(C) by striking "Council" each place it appears and inserting "Commission";

(5) in section 5204—

(A) in the section caption, by striking "**council**" and inserting "**commission**";

(B) by striking "Council" and inserting "Commission";

(6) in sections 5205 through 5208, by striking "Council" each place such term appears and inserting "Commission";

(7) in section 5207, in the section caption, by striking "**council**" and inserting "**commission**"; and

(8) in section 5210—

(A) in paragraph (1)—

(i) by inserting "National" before "Competitiveness"; and

(ii) by striking "Council" each place it appears and inserting "Commission"; and

(B) in paragraph (2)—

(i) by inserting "National" before "Competitiveness"; and

(ii) by striking "Council" and inserting "Commission".

(c) DUTIES OF THE COMMISSION.—Section 5204 of the National Competitiveness Policy Commission Act (15 U.S.C. 4803) is amended by striking paragraphs (11) and (12) and inserting the following:

"(11) prepare, publish, and distribute reports that—

"(A) contain the analysis and recommendations of the Commission; and

"(B) comment on the overall competitiveness of the American economy, including the report described in section 5208; and

"(12) submit an annual report to the President and to the Congress on the activities of the Commission.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 5206 of the National Competitiveness Policy Commission Act (15 U.S.C. 4805) is amended—

(1) in subsection (a)(1), by striking "GS–18 of the General Schedule" and inserting "the highest level allowed under section 5376 of title 5, United States Code";

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting before paragraph (4), as redesignated, the following:

"(1) FULL-TIME STAFF.—The Executive Director may appoint such officers and employees as may be necessary to carry out the functions of the Commission in accordance with the Federal civil service and classification laws, and fix compensation in accordance with the provisions of title 5, United States Code.

"(2) SENIOR EXECUTIVE SERVICE.—The Commission may establish positions in the Senior Executive Service in accordance with the provisions of subchapter II of chapter 31 of title 5, United States Code.

"(3) TEMPORARY STAFF.—The Executive Director may appoint such employees as may be necessary to carry out the functions of the Commission for a period of not more than 1 year, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, at rates not to exceed the maximum rate payable under section 5376 of title 5, United States Code."; and

(3) in subsection (c), by striking "GS–16 of the General Schedule" and insert "the maximum rate payable under section 5376 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 5207 of the National Competitiveness Policy Commission Act (15 U.S.C. 4806) is amended—

(1) by inserting before the period at the end of subsection (b)(1)(B) ", except that such information may be provided to members and staff of the Council subject to existing national security laws and regulations";

(2) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(3) by inserting after subsection (f) the following:

"(g) CONTRACTING AUTHORITY.—Within the limitation of appropriations to the Commission, the Commission may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of carrying out its duties under this subtitle.".

(f) REPORTING REQUIREMENTS.—Section 5208 of the National Competitiveness Policy Commission Act (15 U.S.C. 4807) is amended—

(1) by striking the caption and inserting the following:

"SEC. 5208. ANNUAL PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.";

(2) in subsection (a)—

(A) by striking the subsection heading and inserting "(a) PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.—"; and

(B) by striking "on" and inserting "not later than"; and

(3) by adding at the end the following:

"(d) PERIODIC REPORTS.—The Commission may submit to the President and the Congress such other reports containing analysis and recommendations as the Commission deems necessary.".

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KEWEENAW NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1664) to establish the Keweenaw National Historical Park, and for other purposes as amended.

The Clerk read as follows:

S. 1664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) The oldest and largest lava flow known on Earth is located on the Keweenaw Peninsula of Michigan. This volcanic activity produced the only place on Earth where large scale economically recoverable 97 percent pure native copper is found.

(2) The Keweenaw Peninsula is the only site in the country where prehistoric, aboriginal mining of copper occurred. Artifacts made from this copper by these ancient Indians were traded as far south as present day Alabama.

(3) Copper mining on the Keweenaw Peninsula pioneered deep shaft, hard rock mining, milling, and smelting techniques and advancements in related mining technologies later used throughout the world.

(4) Michigan Technological University, located in the copper district, was established in 1885 to supply the great demand for new technologies and trained engineers requested by the area's mining operations. Michigan Technological University possesses a wealth of both written and photographic historic documentation of the mining era in its archives.

(5) Michigan's copper country became a principal magnet to European immigrants during the mid-1800's and the cultural heritage of these varied nationalities is still preserved in this remarkable ethnic conglomerate.

(6) The corporate-sponsored community planning in Calumet, Michigan, as evidenced in the architecture, municipal design, surnames, foods, and traditions, and the large scale corporate paternalism was unprecedented in American industry and continues to express the heritage of the district.

(7) The entire picture of copper mining on Michigan's Keweenaw Peninsula is best represented by three components: the Village of Calumet, the former Calumet and Hecla Mining Company properties (including the Osceola #13 mine complex), and the former Quincy Mining Company properties. The Village of Calumet best represents the social, ethnic, and commercial themes. Extant Calumet and Hecla buildings best depict corporate paternalism and power, and the themes of extraction and processing are best represented by extant structures of the Quincy Mining Company.

(8) The Secretary of the Interior has designated two National Historic Landmark Districts in the proposed park area, the Calumet National Historic Landmark District and the Quincy Mining Company National Historic Landmark District.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve the nationally significant historical and cultural sites, structures, and districts of a portion of the Keweenaw Peninsula in the State of Michigan for the education, benefit, and inspiration of present and future generations; and

(2) to interpret the historic synergism between the geological, aboriginal, sociological, cultural technological, and corporate forces that relate the story of copper on the Keweenaw Peninsula.

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(1) "Commission" means the Keweenaw Historic Preservation Advisory Commission established by section 9.

(2) "park" means the Keweenaw National Historical Park established by section 3(a)(1).

(3) "Secretary" means the Secretary of the Interior.

SEC. 3. ESTABLISHMENT AND ADMINISTRATION OF PARK.

(a) ESTABLISHMENT AND ADMINISTRATION.—(1) There is hereby established as a unit of the National Park System the Keweenaw National Historical Park in and near Calumet and Hancock, Michigan.

(2) The Secretary shall administer the park in accordance with the provisions of this Act, and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2–4), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) BOUNDARIES AND MAP.—(1) The boundaries of the park shall be as generally depicted on the map entitled "Keweenaw National Historical Park, Michigan", numbered NHP–KP/20012–B and dated June, 1992. Such map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior, Washington, District of Columbia, and the office of the village council, Calumet, Michigan.

(2) Within 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries established under paragraph (a)(1).

SEC. 4. ACQUISITION OF PROPERTY.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary is authorized to acquire lands, or interests therein, within the boundaries of the park by donation, purchase with donated or appropriated funds, exchange, or transfer.

(b) STATE PROPERTY.—Property owned by the State of Michigan or any political subdivision of the State may be acquired only by donation.

(c) CONSENT.—No lands or interests therein within the boundaries of the park may be acquired without the consent of the owner, unless the Secretary determines that the land is being developed, or is proposed to be developed in a manner which is detrimental to the natural, scenic, historic, and other values for which the park is established.

(d) HAZARDOUS SUBSTANCES.—The Secretary shall not acquire any lands pursuant to this Act if the Secretary determines that such lands, or

any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)).

SEC. 5. COOPERATION BY FEDERAL AGENCIES.

(a) Any Federal entity conducting or supporting activities directly affecting the park shall—

(1) consult, cooperate, and, to the maximum extent practicable, coordinate its activities with the Secretary and the Commission;

(2) conduct or support such activities in a manner that—

(A) to the maximum extent practicable, is consistent with the standards and criteria established pursuant to the general management plan developed pursuant to section 6; and

(B) will not have an adverse effect on the resources of the park; and

(3) provide for full public participation in order to consider the views of all interested parties.

SEC. 6. GENERAL MANAGEMENT PLAN.

Not later than 3 fiscal years after the date of enactment of this Act, the Secretary shall prepare, in consultation with the Commission, and submit to Congress a general management plan for the park containing the information described in section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-7(b)). Such plan shall interpret the technological and social history of the area, and the industrial complexes of the Calumet and Hecla, and Quincy Mining Companies, with equal emphasis.

SEC. 7. COOPERATIVE AGREEMENTS.

The Secretary, after consultation with the Commission, may enter into cooperative agreements with owners of property within the park of nationally significant historic or other cultural resources in order to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to such property at specified, reasonable times for purposes of viewing such property or exhibits, or attending the programs established by the Secretary under this subsection; and

(2) the Secretary, with the agreement of the property owner, may make such minor improvements to such property as the Secretary deems necessary to enhance the public use and enjoyment of such property, exhibits, and programs.

SEC. 8. FINANCIAL AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary may provide to any owner of property within the park containing nationally significant historic or cultural resources, in accordance with cooperative agreements or grant agreements, as appropriate, such financial and technical assistance to mark, interpret, and restore non-Federal properties within the park as the Secretary determines appropriate to carry out the purposes of this Act, provided that—

(1) the Secretary, acting through the National Park Service, shall have right of access at reasonable times to public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to the agreements.

(b) MATCHING FUNDS.—Funds authorized to be appropriated to the Secretary for the purposes of this section shall be expended in the ratio of $1 of Federal funds for each $4 of funds contributed by non-Federal sources. For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this Act, any money so contributed. Donations of land, or interests in land, by the State of Michigan may be considered as a contribution from non-Federal sources for the purposes of this subsection.

SEC. 9. KEWEENAW NATIONAL HISTORICAL PARK ADVISORY COMMISSION.

(a) ESTABLISHMENT AND DUTIES.—There is established the Keweenaw National Historical Park Advisory Commission. The Commission shall—

(1) advise the Secretary in the preparation and implementation of a general management plan described in section 6;

(2) advise the Secretary on the development of and priorities for implementing standards and criteria by which the Secretary, pursuant to agreements referred to in sections 7 and 8, will provide financial as well as technical assistance to owners of non-Federal properties within the park;

(3) advise the Secretary on the development of rules governing the disbursal of funds for the development of non-Federal properties;

(4) advise the Secretary with respect to the selection of sites for interpretation and preservation by means of cooperative agreements pursuant to section 7;

(5) assist the Secretary in developing policies and programs for the conservation and protection of the scenic, historical, cultural, natural and technological values of the park which would complement the purposes of this Act;

(6) assist the Secretary in coordinating with local governments and the State of Michigan the implementation of the general management plan, and furthering the purposes of this Act;

(7) be authorized to carry out historical, educational, or cultural programs which encourage or enhance appreciation of the historic resources in the park, surrounding areas, and on the Keweenaw Peninsula; and

(8) be authorized to seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source, consistent with the purposes of this Act and the park management.

(b)(1) The Commission may acquire real property, or interests in real property, to further the purposes of the Act by gift or devise; or, by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, to further the purposes of this Act.

(2) For the purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed to be a gift to the United States.

(3) Any real property or interest in real property acquired by the Commission shall be conveyed by the Commission to the National Park Service or the appropriate public agency as soon as possible after such acquisition, without consideration, and on the condition that the real property or interest in real property so conveyed is used for public purposes.

(4) The value of funds or property, or interests in property, conveyed to the National Park Service by the Commission may be considered as non-Federal, at the Commission's discretion.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of seven members appointed by the Secretary, of whom—

(A) two members shall be appointed from nominees submitted by the Calumet Village Council and the Calumet Township Board;

(B) one member shall be appointed from nominees submitted by the Quincy Township Board and the Franklin Township Board;

(C) one member shall be appointed from nominees submitted by the Houghton County Board of Commissioners;

(D) one member shall be appointed from nominees submitted by the Governor of the State of Michigan; and,

(E) two members who are qualified to serve on the Commission because of their familiarity with National Parks and historic preservation.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members to serve a term of 3 years.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) TERMS OF SERVICE.—

(A) IN GENERAL.—Each member shall be appointed for a term of 3 years and may be reappointed not more than three times.

(B) INITIAL MEMBERS.—Of the members first appointed under subsection (b)(1), the Secretary shall appoint—

(i) two members for a term of 1 year;

(ii) two members for a term of 2 years; and

(iii) three members for a term of 3 years.

(5) EXTENDED SERVICE.—A member may serve after the expiration of that member's term until a successor has taken office.

(6) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or a majority of the members of the Commission.

(7) QUORUM.—Five members shall constitute a quorum.

(d) COMPENSATION.—Members shall serve without pay. Members who are full-time officers or employees of the United States, the State of Michigan, or any political subdivision thereof shall receive no additional pay on account of their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(g) STAFF.—The Commission may appoint and fix the pay of such personnel as the Commission deems desirable. The Secretary may provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties, on a cost reimbursable basis. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this section. The Secretary may accept the services of personnel detailed from the State of Michigan or any political subdivision of the State and reimburse the State or such political subdivision for such services. The Commission may procure additional temporary and intermittent services under section 3109(b) of title 5 of the United States Code, with funds obtained under section 9(a)(6), or as provided by the Secretary.

(h) HEARINGS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise any subpoena authority.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out this Act, but not to exceed $5,000,000 for the acquisition of lands and interests therein, $25,000,000 for development, and $3,000,000 for financial and technical assistance to owners of non-Federal property as provided in section 8.

(b) There are authorized to be appropriated annually to the Commission to carry out its duties under this Act, $100,000 except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on the Senate bill, S. 1664, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1664 is legislation to establish the Keweenaw National Historical Park on the Upper Peninsula of Michigan. This bipartisan legislation has been a longstanding interest of Senator CARL LEVIN, Congressman DALE KILDEE, and Congressman BOB DAVIS.

The Keweenaw Peninsula of Michigan was an important site for the development of the U.S. copper mining industry from the mid-1800's to the early 1900's. From 1867 until 1884, the Keweenaw region accounted for over 75 percent of all copper production in the United States. At times there were over 400 companies mining in the area. The boom continued until the early part of the 20th century, when the region was supplanted by the large copper mines in the western United States.

The village of Calumet was formed and prospered as part of the copper boom. Calumet was a true mining company town, dominated by the two major mining companies, the Calumet and Hecla Mining Co. and the Quincy Mining Co. Because of mining company dominance, corporate sponsored community planning was prevalent and is still evident today in the many old buildings found in the town. The need for a large mining work force also attracted a significant amount of immigrant labor and a dozen distinct ethnic groups formed in the community adding to the social and cultural diversity of the area.

S. 1664 as passed by the Senate would establish a historical park consisting of the mine shafts, smelting works and surface and administrative buildings of the Quincy Mining Co. and the commercial and residential area of the nearby village of Calument. The boundaries of the park are based on the Quincy and Calumet National Historic landmark districts. The bill also establishes a seven-member Keweenaw National Historical Park Advisory Commission to advise the Secretary on several issues including the preparation of a general management plan. The bill establishes limits on the amount of funds which could be spent on land acquisition and development. The bill also requires a 1 to 4 match of Federal to non-Federal funds for technical assistance to owners of historic properties within the park.

The Interior Committee has had this proposal under consideration for over 3 years and hearings were held by the subcommittee on National Parks and Public Lands in both the 101st and 102d Congresses. Following the subcommittee's 1989 hearing, Senator BUMPERS and I requested a suitability and feasibility study on the site from the National Park Service. That study was completed in February, 1991. The committee also delayed action pending the results of an Environmental Protection Agency study of the Torch Lake superfund site which is also located on the Keweenaw Peninsula.

S. 1664 was substantially amended in the Senate Energy and Natural Resources Committee. The revised bill is very similar to the bill submitted by the National Park Service. Although the Interior Committee did not markup the House version of this bill, the committee was consulted about the revisions to the Senate bill and the changes made to the bill are acceptable to the committee. The most important changes made were the prohibition on acquiring contaminated lands, the paring back of the duties and powers of the Commission to make the Commission advisory in nature, and placing an authorization ceiling placed on land acquisition, development and technical assistance. This substitute amendment substantially limits the potential costs of the park and ensures compatibility with Department of Interior guidelines concerning contaminated lands. It also resolved constitutional issues surrounding the spending powers of non-Federal commission members.

I am concerned though about a provision in the Senate bill allowing donations of land by the State of Michigan to be counted toward the non-Federal share of the match for financial and technical assistance for property owners. This provision was not in the National Park Service bill and it would not be a good precedent to give value to lands which the bill requires to be donated. I have discussed this provision with the sponsors of the bill and have assurances that we will correct this matter next year.

The Interior Committee also had some concern about this proposal because the National Park Service did not conduct a comparative study of other sites related to mining or extractive industries during its evaluation of the Keweenaw proposal. The National Park Service has requested funding to study two other sites related to mining in Alaska and Montana and these studies have not yet been completed. In response to the committee's question about the comparative suitability of different mining sites for inclusion in the national park system, the National Park Service replied:

> National Park Service planners who are familiar with both Calumet and the Kennicott site believe that Calumet is a far superior site in terms of telling the cooper mining story for a variety of reasons, including the social history and fabric that remains in Calumet, the wealth of technological advances that occurred in connection with the development of the upper Michigan copper mines, its accessibility to a larger number of Americans, and its importance in terms of the world production of copper ore.

The Committee received other testimony on the high value of the technological, historical, and cultural resources at the Keweenaw site. The committee is concerned about a proliferation of park proposals for various aspects of technological and industrial history and believes a national landmark theme study on this topic would be helpful to help identify the most significant, suitable and feasible sites related to our technological and industrial history. The labor history theme study currently underway may shed light on this important subject, but a separate study may be needed to ensure that only the best sites are included in the national park system. This is particularly important in a time of limited funds.

The committee also had concerns about hazardous wastes which could present a health or safety issue for park visitors or employees. The committee delayed action on the proposal for several years so that the results of the EPA study on the Torch Lake superfund site could be reviewed. The EPA testified before the subcommittee that there are no unacceptable human health risks posed by exposure to the sites which would be included in the boundaries of the park. The committee asked the National Park Service in the hearing and in followup questions about the potential risks to park visitors and employees and they stated that.

> Based on EPA studies, we believe the superfund sites pose minimal health risk to NPS employees and visitors, well within the bounds of acceptability.

The committee supports the prohibition on acquiring contaminated lands contained in the Senate bill and urges the National Park Service to be very careful in its implementation of this policy and in guaranteeing the safety of employees and visitors.

Mr. Speaker, the bill before us would preserve and interpret nationally significant historical resources which illustrate the development of the U.S. copper mining industry from the mid-1980's through the early 1990's. The bill would preserve those structures and sites for the benefit of present and future generations. The bill as passed by the Senate is reasonable in scope and consistent with precedents for park establishment. It has strong bipartisan support and I urge members to support the bill and send it to the President.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill that I have worked on personally for over 6 years. I want to thank a lot of people, but I am going to do that for the record.

However, I want to thank Chairman VENTO for his work. A lot of people have worked on this, Laurie Bink on my staff, Senator LEVIN on the Senate side.

I just want to say this is an excellent bill and I am very pleased that we are going to pass it today.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. VENTO) that the House suspend the rules and pass the Senate bill, S. 1664, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1030

INDIANA DUNES NATIONAL LAKESHORE ACCESS AND ENHANCEMENT ACT

Mr. VENTO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution House Resolution 605, which I send to the desk.

The Clerk read the resolution, as follows:

H. RES. 605

Resolved, That upon the adoption of this resolution the bill (H.R. 1216) to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with amendments as follows:

Page 1, beginning on line 13, strike out "September 1991, and numbered 62680039–A" and insert in lieu thereof the following: "October 1992, and numbered 626–80,039–C".

Page 2, after line 3, strike out the line in the proposed table relating to the map dated September 1991 and insert the following:

"Dated October 1992, No. 626–80,039–C October 1, 1991"

Page 5, strike out line 8 and insert in lieu thereof the following:

"SEC. 7. UNITS VII–D AND I–M.".

Page 5 line 11, insert "(a)" after "SEC. 26.".

Page 5, line 22, strike out the closing quotation marks and period.

Page 5, after line 22, insert the following:

"(b) Before acquiring lands or interests in lands in Unit I–M (as designated on the map referred to in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to State Road 49 and reconstruction and relocation of the interchange with State Road 49 and U.S. 20 so that the acquisition by the Secretary of lands or interests in lands in Unit I–M will not interfere with planned improvements to such interchange and State Road 49 in the area.".

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that House Resolution 605 be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. DAVIS. Reserving the right to object, Mr. Speaker, I shall not object. I do so for the purpose of having the gentleman from Minnesota [Mr. VENTO] explain the motion.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, House Resolution 605 is a resolution to provide for the concurrence by the House with amendments to the amendment of the Senate to H.R. 1216.

H.R. 1216 is a bill introduced by representative PETER VISCLOSKY to expand the boundaries of Indiana Dunes National Lakeshore in order to enhance park resources, improve access and promote efficient management of the lakeshore.

H.R. 1216 originally passed the House on July 15, 1991. The Senate considered the bill on July 29, 1992, and returned the bill to the House with an amendment.

The Senate made several technical changes to the bill as well as deleting three parcels that were included in the bill as passed by the House. The resolution before us would have the House accept all the Senate changes but one. This one change involves route 49 corridor properties. Discussions have been held between the House and Senate sponsors of this legislation and the House amendment today reflects the agreement of these parties on the route 49 corridor matter. Thus, I believe we can complete action on this worthy measure and send the bill quickly to the Senate and then the President for signature. I urge members to support this resolution so we can complete action on this compromise measure to expand the Indiana Dunes National Lakeshore.

Mr. VISCLOSKY. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Speaker, I simply wish to express my support for the resolution.

Mr. DAVIS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR].

The motion was agreed to.

A motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF H.R. 6179, WILD AND SCENIC RIVER ACT AMENDMENTS

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 6179) to amend the Wild and Scenic River Act and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. DAVIS. Mr. Speaker, reserving the right to object, I ask the gentleman from Minnesota for an explanation.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, this is a measure that provides for a study of the Delaware—wild and scenic study of the Delaware River, a bill sent to the Senate. Actually it provides for recreation and scenic designation of parts of the Delaware. This is a study which has been agreed to by the Senate, but, in order to expedite the action of it, we need to take it up at this time because the House will obviously not be in session to respond.

So, Mr. Speaker, it is a study of the Delaware River.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. Mr. Speaker, under my reservation of objection, I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I just would like to ask if this is the study of possible wilderness for downtown Minneapolis.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Minnesota.

Mr. VENTO. No, we have other studies that we would like to do in Minneapolis, and specifically of St. Paul. The gentleman from Minnesota [Mr. SABO] probably would not approve of my meddling in Minneapolis.

Mr. DANNEMEYER. I object, Mr. Speaker.

The Speaker pro tempore. Objection is heard.

RURAL ELECTRIFICATION ACT OF 1936 AMENDMENTS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the

Speaker's table the bill (H.R. 5954) to amend the Rural Electrification Act of 1936 to clarify the status of the rural telephone bank and its accounting policies, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

SECTION 1. IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS.

(a) Programs for Consortia in Qualified Local Exchange Service Areas.—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended by adding at the end the following new section:

"SEC. 2335A. SPECIAL HEALTH CARE AND DISTANCE LEARNING PROGRAM FOR QUALIFIED SERVICE AREAS.

"(a) Development of Consortia.—The Administrator shall encourage the development of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

"(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;

"(2) any number of institutions that provide health care services or educational services; and

"(3) not less that three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

"(b) Special Program for Qualified Local Exchange Carrier Service Areas.—

"(1) Regulations and special program.—Through regulations issued not later than 190 days after the date of enactment of this section, the Administrator shall establish a program under which qualified consortia described in subsection (a) located within qualified local exchange carrier service areas may apply to the Administrator for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

"(2) Selection of grantees.—The Administrator shall—

"(A) establish application procedures;

"(B) review the applications submitted under this subsection in a timely manner; and

"(C) make grants in accordance with this subsection and with regulations issued by the Administrator.

"(3) Priorities.—

"(A) In general.—Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;

"(ii) the greatest likelihood of improving health care services or educational services in the rural areas;

"(iii) coordination between local exchange carriers to carry out activities as described in the application; and

"(iv) unconditional financial support from each affected local community.

"(B) Geographic diversity.—In awarding grants, the Administrator shall seek to achieve geographic diversity among the grantees.

"(4) Maximum amount of grant.—The amount of each grant awarded under this subsection shall not exceed $1,500,000.

"(5) Distribution of grants.—Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

"(6) Use of funds.—

"(A) In general.—Grants under this subsection may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(i) in the case of grants to improve health care services—

"(I) consultations between health care providers;

"(II) transmitting and analyzing x-rays, lab slides, and other images;

"(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(IV) developing innovative health professions education programs;

"(ii) in the case of grants to improve educational service—

"(I) developing innovative education programs and expanding curriculum offerings;

"(II) providing continuing education to all members of the community;

"(III) providing means for libraries of educational institutions or public libraries to share resources;

"(IV) providing the public with access to State and national data bases;

"(V) conducting town meetings; and

"(VI) covering meetings of agencies of State government; and

"(iii) in all cases—

"(I) transmitting financial information; and

"(II) such other related activities as the Administrator considers to be consistent with the purposes of this section.

"(7) Limitation on acquisition of interactive telecommunications equipment.—Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

"(8) Limitation on use of consultants.—Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

"(9) Prohibitions.—Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

"(c) Expedited Telephone Loans.—Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Administrator shall respond to a completed application for such a loan no later than 45 days after receipt. The Administrator shall notify the applicant in writing of its decision regarding each such application.

"(d) Definition.—As used in this section, the term 'qualified local exchange carrier service area' means the service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Administrator for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

"(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

"(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

"(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

"(4) provide for the achievement of the goals described in subparagraphs (A) through (C) not later than 10 years after the approval of the plan.".

(b) Extension of Chapter 1.—Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section, shall be effective until September 30, 1997.

(c) Allocation of Funds.—Section 2335(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa-4) is amended by adding at the end the following new paragraph:

"(8) Use of appropriated funds.—

"(A) In general.—Subject to subparagraph (B), the Administrator shall make available—

"(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 2335A; and

"(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 2331 through 2335.

"(B) Release of funds.—Not earlier than April 1 and not later than May 1 of each year, the Administrator shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A).".

(d) Effect of Amendments.—The amendments made by this section shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993.

Amend the title so as to read: "An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes.".

Mr. de la GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. GUNDERSON. Mr. Speaker, reserving the right to object, I do so in order that the chairman might explain to the body what this is now, a refined, cut down, slimmed down, cleaned up version is acceptable to both sides.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, H.R. 5954 represents a streamlined version of the provisions contained in H.R. 5237, to promote health care and educational services in rural areas through telecommunications.

The House has passed this provision on three previous occasions—by a record vote of 359 to 60 on August 5, 1992, on September 23 as an amendment to S. 1709 on a voice vote, and again on October 4 as H.R. 6124.

Mr. Speaker, rather than establish a new program as envisioned under H.R. 5237, the agreement worked out with the Senate will simply broaden a Rural Electrification Administration program authorized in title 23 of the 1990 Farm Act. The change in H.R. 5954 will allow the Rural Electrification Administration to make grants to help eligible education and medical consortia acquire distance learning and medical link programs.

A grant under this bill may not exceed $1.5 million, which is the same as was in H.R. 5237.

Mr. Speaker, this legislation encourages the use of telecommunications technology to better meet the education and health needs of our rural residents. Our Nation has an obligation to ensure that its rural citizens—particularly those living in more remote areas—have access to quality education and health care services and experts. This legislation will help make that possible.

I want to commend Congressman ENGLISH for his yeoman's work on this issue, and I urge passage of the legislation.

Mr. GUNDERSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

AGRICULTURAL ADJUSTMENT ACT OF 1938 AMENDMENTS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3327) to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of acreage allotments for certain commodities, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. EMERSON. Mr. Speaker, reserving the right to object, I do not object. I do so to permit the distinguished chairman of the Committee on Agriculture to say whatever he will.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, S. 3327 makes technical changes to section 318 of the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of acreage allotments for certain commodities.

Section 318 of the 1938 act provides the terms and conditions for the sale or lease of allotments. The provision has been implemented in a way that the transfers from certain producers have been adjusted downward during the transfer so that the transferee actually receives a smaller allotment than was sold by the producer.

S. 3327 ensures that all such acreage allotment transfers would be done on an acre-for-acre basis. This change will help eliminate the confusion for producers who wish to sell or lease their allotments and will facilitate the smooth transfer of these allotments.

This technical amendment simply provides that producers of different commodities will be subject to consistent rules with respect to the sale or lease of their allotments. Mr. Speaker, I urge passage of H.R. 3227.

Mr. EMERSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACRE-FOR-ACRE TRANSFER OF CERTAIN ACREAGE ALLOTMENTS.

Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by striking subsection (e) and inserting the following new subsection:

"(e) The transfer of an allotment or quota under this section shall be approved acre for acre.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INTERNATIONAL NARCOTICS CONTROL ACT OF 1992

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the bill (H.R. 6187) to amend the Foreign Assistance Act of 1961 with respect to international narcotics control programs and activities, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not intend to object, but I ask the sponsor of the bill if he would explain the bill to our colleagues.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, the House had adopted this bill in the main back on October 2 and tendered it for Senate action, but because of the present difficulties in the other body and because of the House's impending adjournment, we worked out a text in this bill with the interested Members in the other body, and it represents that kind of agreed upon text. So, we are sending this clean bill with the agreed upon text over to the other body which will obviate any further need to act.

Mr. GILMAN. Further reserving the right to object, Mr. Speaker, let me explain the bill further.

Mr. Speaker, I strongly support H.R. 6187 the International Narcotics Control Act of 1992. Congressman FEIGHAN, the chairman of our task force on International Narcotics Control deserves special credit for making this legislation a reality.

Chairman FEIGHAN, who has unfortunately decided to retire after the 102d Congress, has spent many years fighting international drug traffic. He was the first chairman of the task force from 1983 to 1985. He resumed his position as chairman last year. Throughout his 10 years in Congress, ED FEIGHAN has typified a legislator who cares about policy, about the personnel charged with carrying out policy, and who is willing to listen to and consider all points of view. I know I speak for many in saying that we will miss his leadership on counternarcotics and many other issues.

The House passed H.R. 6018 on September 29. This legislation includes only slight charges and deserves our support.

H.R. 6187 is the product of a joint effort to modify the Foreign Assistance Act to reflect changes in the international struggle against narcotics traffickers. The annual certification process is linked to the 1988 U.N. convention—a globally accepted set of criteria which holds great potential to make the fight against international narcotics traffic a truly multinational battle.

H.R. 6187 also requires increased reporting on money laundering and precursor chemical countries in recognition of their crucial role in the illicit drug traffic. The legislation requires the annual international narcotics control strategy report to discuss the status of the 1988 U.N. convention and narcotics related corruption in all countries which receive U.S. counter narcotics assistance. This modest requirement will help those of us charged with oversight to better evaluate the effectiveness of our antidrug aid.

H.R. 6187 provides flexibilities requested by the administration on issues ranging from aircraft titling to weapons and property acquisition. We have included certain technical provisions to address new or unanticipated situations. Throughout our deliberations, we have been guided by one principle: Whatever our differences with a particular counterdrug policy, there are many dedicated Americans from many agencies working overseas in difficult—and often dangerous—conditions who deserve the best support we can provide. I believe that—under Chairman FEIGHAN's leadership—we have produced legislation which will improve our international drug control efforts and which will receive broad, bipartisan support in Congress.

Mr. BROOMFIELD. Mr. Speaker, H.R. 6187, the International Narcotics Control Act of 1992, is an important bill which will strengthen our overseas counterdrug programs. The Committee on Foreign Affairs has worked on this legislation for almost 2 years.

I would like to commend Chairman FASCELL for his diligent efforts to improve our antidrug capabilities. Congressman ED FEIGHAN, chairman of our Task Force on International Narcotics Control, and Congressman BEN GILMAN, Vice chair of the task force, have worked for many months to bring this legislation to the floor. All of them have spent many hours over the last decade in trying to improve U.S. counternarcotics efforts.

H.R. 6187 is a slight modification of H.R. 6018 which passed the House unanimously on September 29, 1992.

H.R. 6187 is the result of compromise by all parties. I understand the administration does not object to passage of the bill. H.R. 6187 will solve many problems which have arisen in our overseas counternarcotics efforts. Significant flexibility is granted to the administration in a number of areas. H.R. 6187 expands the annual narcotics report—especially in the increasingly important areas of money laundering and precursor chemical traffic—and highlights the U.N. convention in the annual certification process.

I believe this legislation will help provide the tools for all Americans working to lessen the flow of illegal drugs into the United States. I urge my colleagues to support H.R. 6187.

Mr. GILMAN. Accordingly, Mr. Speaker, I urge our colleagues to support the measure, the International Narcotics Control Act of 1992, and I withdraw my reservation of objection.

The Clerk read the bill, as follows:

H.R. 6187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Narcotics Control Act of 1992".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Authorizations of appropriations.
Sec. 4. Amendments relating to certain authorities and requirements.
Sec. 5. Annual reporting and certification requirements.
Sec. 6. Technical, conforming, and other amendments; repeal of obsolete provisions.
Sec. 7. Exemption of narcotics-related military assistance for fiscal years 1993 and 1994 from prohibition on assistance for law enforcement agencies.
Sec. 8. Waiver of restrictions for narcotics-related economic assistance.
Sec. 9. Transfers of excess defense articles for counternarcotics purposes.
Sec. 10. Participants in international military education and training programs.
Sec. 11. Definition of appropriate congressional committees.
Sec. 12. Export-Import Bank financing of sales of defense articles or services.

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$115,000,000 for fiscal year 1990" and inserting in lieu thereof "$147,783,000 for fiscal year 1993 and $171,500,000 for fiscal year 1994".

SEC. 4. AMENDMENTS RELATING TO CERTAIN AUTHORITIES AND REQUIREMENTS.

(a) POLICY STATEMENT.—Section 481 of the Foreign Assistance Act of 1961 is amended by striking out the section designation and section heading and subsection (a)(1) and inserting in lieu thereof the following:

"SEC. 481. POLICY, GENERAL AUTHORITIES, COORDINATION, FOREIGN POLICE ACTIONS, DEFINITIONS, AND OTHER PROVISIONS.

"(a) POLICY AND GENERAL AUTHORITIES.—

"(1) STATEMENTS OF POLICY.—(A) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

"(B) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

"(C) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

"(D) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

"(E) The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

"(F) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.".

(b) AUTHORITY TO CONCLUDE AGREEMENTS.—Section 481(a)(2) of that Act is amended by inserting ", including reciprocal maritime agreements," after "agreements".

(c) COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—Section 481(b) of that Act is amended to read as follows:

"(b) COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—

"(1) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

"(2) RULE OF CONSTRUCTION.—Nothing contained in this subsection or section 489(b) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.".

(d) MARITIME LAW ENFORCEMENT IN ARCHIPELAGIC WATERS.—Section 481(c)(4) of that Act is amended by inserting "or archipelagic waters" after "sea".

(e) PROCUREMENT OF WEAPONS AND AMMUNITION.—Section 482(b) of that Act is amended to read as follows:

"(b) PROCUREMENT OF WEAPONS AND AMMUNITION.—

"(1) PROHIBITION.—Except as provided in paragraph (2), funds made available to carry out this chapter shall not be made available for the procurement of weapons or ammunition.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to funds for the procurement of—

"(A) weapons or ammunition provided only for the defensive arming of aircraft used for narcotics-related purposes, or

"(B) firearms and related ammunition provided only for defensive purposes to employees or contract personnel of the Department of State engaged in activities under this chapter,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.".

(f) REQUIREMENTS RELATING TO AIRCRAFT AND OTHER EQUIPMENT.—

(1) RETENTION OF TITLE.—Section 484 of that Act is amended to read as follows:

"SEC. 484. REQUIREMENTS RELATING TO AIRCRAFT AND OTHER EQUIPMENT.

"(a) RETENTION OF TITLE TO AIRCRAFT.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), any aircraft made available to a foreign country under this chapter, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"(B) Subparagraph (A) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

"(2) EXCEPTIONS.—(A) Paragraph (1) shall not apply to the extent that—

"(i) the application of that paragraph with respect to particular aircraft would be contrary to the national interest of the United States; and "(ii) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

"(B) Paragraph (1) does not apply with respect to aircraft made available to a foreign country under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

"(3) ASSISTANCE FOR LEASING OF AIRCRAFT.—(A) For purposes of satisfying the requirement of paragraph (1), funds made available for the 'Foreign Military Financing Program' under section 23 of the Arms Export Control Act may be used to finance the leasing of aircraft under chapter 6 of that Act.

"(B) Section 61(a)(3) of that Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

"(C) To the extent that aircraft so leased were acquired under chapter 5 of that Act, funds used pursuant to this paragraph to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.".

(2) PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.—Chapter 8 of part I of that Act is amended—

(A) by striking out the section designation and section heading of section 489;

(B) in subsection (a) of section 489, by striking out "IN GENERAL" and inserting in lieu thereof "PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT";

(C) in subsection (b) of section 489 by striking out "subsection (e)" and inserting in lieu thereof "section 489(a)";

(D) by redesignating subsections (a) and (b) of section 489 as subsections (b) and (c) of section 484 and inserting those subsections after subsection (a) of section 484 (as amended by paragraph (1) of this subsection); and

(E) by repealing subsections (c) and (d) of section 489.

(3) RECORDS OF AIRCRAFT USE.—Section 485 of that Act is amended by striking out "Secretary of State" both places it appears and inserting in lieu thereof "President".

(g) ACQUISITION OF REAL PROPERTY; CONSTRUCTION OF FACILITIES.—Section 488 of that Act is amended to read as follows:

"SEC. 488. LIMITATIONS ON ACQUISITION OF REAL PROPERTY AND CONSTRUCTION OF FACILITIES.

"(a) ACQUISITION OF REAL PROPERTY.—

"(1) PROHIBITION.—Funds made available to carry out this chapter may not be used to acquire (by purchase or other means) any land or other real property for use by foreign military, paramilitary, or law enforcement forces.

"(2) EXCEPTION FOR CERTAIN LEASES.—Paragraph (1) shall not apply to the acquisition of real property by lease of a duration not to exceed 2 years.

"(3) REPORT.—The Secretary of State shall provide to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after the end of each quarter of the fiscal year a detailed report on all leases entered into pursuant to paragraph (2), including the cost and duration of such lease, a description of the property leased, and the purpose for which such lease was entered into.

"(b) CONSTRUCTION OF FACILITIES.—

"(1) LIMITATION.—Funds made available to carry out this chapter may not be used for construction of facilities for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such construction, the President notifies the appropriate congressional committees in accordance with procedures applicable to reprogramming notifications under section 634A.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the construction of facilities which would require the obligation of less than $750,000 under this chapter.".

SEC. 5. ANNUAL REPORTING AND CERTIFICATION REQUIREMENTS.

(a) REVISION OF REQUIREMENTS FOR FISCAL YEARS 1993 AND 1994.—Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by the preceding section of this Act, is amended by adding at the end the following:

"SEC. 489. REPORTING REQUIREMENTS FOR FISCAL YEARS 1993 AND 1994.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—Not later than April 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report containing the following:

"(1) For each country that received assistance under this chapter for either of the 2 preceding fiscal years, a report on the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

"(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including appropriate information on the status of negotiations between the United States and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

"(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries. The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

"(3) The identity of those countries which are—

"(A) major illicit drug producing countries or major drug-transit countries as determined under section 490(h);

"(B) the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States;

"(C) major sources of precursor chemicals used in the production of illicit narcotics; or

"(D) major money laundering countries.

"(4) In addition, for each country identified pursuant to paragraph (3), the following:

"(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

"(B) Whether as a matter of government policy or practice, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

"(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

"(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

"(B) which countries have established a procedure by which such records may be made available to United States law enforcement authorities; and

"(C) which countries have enacted national chemical control legislation which would impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

"(7) In addition, for those countries identified pursuant to paragraph (3)(D) the following:

"(A)(i) Which countries have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(ii) which countries identified pursuant to clause (i) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

"(iii) which countries identified pursuant to clause (ii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings.

"(B) Which countries—

"(i) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations; and

"(ii) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

"(C) Findings on each country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(vi) enacted laws for the sharing of seized narcotics assets with other governments;

"(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

"(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

"(b) Annual Reports on Assistance.—

"(1) In general.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) Information to be included.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided or to be provided;

"(B) include, for each country identified in subsection (a)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

"(i) the assistance provided or to be provided to such country by that agency, and

"(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(c) Definitions.—As used in this section—

"(1) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 902(33)); and

"(2) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.

"(d) Effective Dates of Sections.—This section applies only during fiscal years 1993 and 1994. Section 489A does not apply during those fiscal years.

"SEC. 489A. REPORTING REQUIREMENTS APPLICABLE AFTER SEPTEMBER 30, 1994.

"(a) International Narcotics Control Strategy Report.—

"(1) Requirement for report.—Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on United States policy to establish and encourage an international strategy to prevent the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances.

"(2) Contents.—Each report pursuant to this subsection shall include the following:

"(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including policy development, bilateral and multilateral funding and other support for international narcotics control projects, representations of the United States Government to international organizations and agencies concerned with narcotics control, training of foreign enforcement personnel, coordination of the international narcotics control activities of United States Government agencies, and technical assistance to international demand reduction programs.

"(B) A description of the activities of the United States in international financial institutions to combat the entry of narcotic and psychotropic drugs and other controlled substances into the United States for the fiscal year just ended, for the current fiscal year, and for the next fiscal year.

"(C) The identity of those countries which are the significant direct or indirect sources of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States. For each such country, each report shall include the following:

"(i) A detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(ii) A description of the assistance under this chapter and the other kinds of United States assistance which such country received in the preceding fiscal year, which are planned for such country for the current fiscal year, and which are proposed for such country for the next fiscal year, with an analysis of the impact that the furnishing of each such kind of assistance has had or is expected to have on the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances in such country.

"(iii) A description of the plans, programs, and timetables adopted by such country for the progressive elimination of the illicit cultivation of narcotic and psychotropic drugs and other controlled substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with these plans.

"(iv) A discussion of the extent to which such country has cooperated with United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.

"(D) For each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, a determination by the President of the maximum reductions in illicit drug production which are achievable during the next fiscal year. Each such determination shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.

"(E) For each major illicit drug producing country which received United States assistance for the preceding fiscal year, the actual reductions in illicit drug production achieved by that country during such fiscal year.

"(F) Specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have, during the preceding year, cooperated fully with such agencies (as described in section 490A(b)).

"(G) A description of the United States assistance for the preceding fiscal year which was denied, pursuant to section 490 or 490A, to each major illicit drug producing country and each major drug-transit country.

"(b) MIDYEAR REPORT.—Not later than September 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this chapter prior to such date. Such midyear report shall include the status of each agreement concluded prior to such date with other countries to carry out this chapter.

"(c) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided;

"(B) include, for each country which is a significant direct or indirect source of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"SEC. 490. ANNUAL CERTIFICATION PROCEDURES FOR FISCAL YEARS 1993 AND 1994.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653 for each major illicit drug producing country or major drug-transit country (as determined under subsection (h)) shall be withheld from obligation and expenditure, except as provided in subsection (b). This paragraph shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote, on and after April 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country (as determined under subsection (h)), except as provided in subsection (b). For purposes of this paragraph, the term 'multilateral development bank' means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

"(b) CERTIFICATION PROCEDURES.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489(a), that—

"(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

"(3) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(c) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 489(a), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—Subsection (e) shall apply to a country described in that subsection until—

"(1) the President, at the time of submission of the report required by section 489(a), makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(2) the President, at any other time, makes the certification described in subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

"(A) the President also certifies that—

"(i) that country has undergone a fundamental change in government, or

"(ii) there has been a fundamental change in the conditions that were the reason—

"(I) why the President had not made a certification with respect to that country under subsection (b)(1)(A), or

"(II) if he had made such a certification and the Congress enacted a joint resolution disapproving the determination contained in the certification, why the Congress enacted that joint resolution; or

"(B) the Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1)(B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

"(g) CONGRESSIONAL REVIEW PROCEDURES.—

"(1) SENATE.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(2) HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(h) DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES FOR FISCAL YEARS 1993 AND 1994.—Not later than January 1 of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this Act.

"(i) EFFECTIVE DATES OF SECTIONS.—This section applies only during fiscal years 1993 and 1994. During those fiscal years, section 490A does not apply and the definitions provided in section 481(e)(2) and (5) do not apply.

"SEC. 490A. ANNUAL CERTIFICATION PROCEDURES AFTER SEPTEMBER 30, 1994.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653 for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in subsection (b).

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b). For purposes of this paragraph, the term 'multilateral development bank' means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

"(b) CERTIFICATION PROCEDURE.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489A(a), that—

"(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (2)) or a multilateral agreement which achieves the objectives of paragraph (2),

"(ii) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

"(iii) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

"(iv) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) BILATERAL NARCOTICS AGREEMENT.—A bilateral narcotics agreement referred to in paragraph (1)(A)(i) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(A) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(B) increase drug interdiction and enforcement;

"(C) increase drug treatment;

"(D) increase the identification of and elimination of illicit drug laboratories;

"(E) increase the identification of, and elimination of trafficking in, essential precursor chemicals for use in the illicit production of narcotic and psychotropic drugs and other controlled substances;

"(F) increase cooperation with United States drug enforcement officials; and

"(G) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

"(3) REQUIREMENT FOR NARCOTICS AGREEMENT FOR CERTAIN COUNTRIES.—A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under paragraph (1)(A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of paragraph (2).

"(4) INFORMATION TO BE INCLUDED IN CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(5) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under paragraph (1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(c) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by subsection (b) with respect to a country, the President shall consider the following:

"(1) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 489A(a)(2)(D)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by subsection (b)(1)(A), to whether the government of that country has taken actions which have resulted in such reductions.

"(2) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

"(3) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(A) the enactment and enforcement by that government of laws prohibiting such conduct;

"(B) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering; and

"(C) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

"(4) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the illicit production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

"(5) Has that government, as a matter of government policy or practice, encouraged or facilitated the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(6) Does any senior official of that government engage in, encourage, or facilitate the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(7) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities has been the victim, since January 1, 1985, of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

"(8) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

"(9) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

"(10) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

"(11) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under subsection (b), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f)(1) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—

"(1) TIME OF RECERTIFICATION; CONGRESSIONAL ACTION.—Subsection (e) shall apply to a country described in that subsection until—

"(A) the President makes a certification under subsection (b) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(B) the President submits, at any other time, a certification described in subparagraph (A) or (B) of subsection (b)(1) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

"(2) CONGRESSIONAL REVIEW PROCEDURES.—(A) Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(g) DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES AFTER SEPTEMBER 30, 1994.—

"(1) ESTABLISHMENT OF GUIDELINES.—For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subparagraphs (A) and (B) of section 481(e)(5).

"(2) NOTICE TO CONGRESS OF PRELIMINARY STANDARDS.—Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(3) NOTICE TO CONGRESS OF PRELIMINARY DETERMINATIONS.—Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(A) which countries have been determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(B) which countries have been determined to be major illicit drug producing countries for that year.".

(b) DEFINITION OF UNITED STATES ASSISTANCE.—Paragraph (4) of section 481(i) of that Act is amended to read as follows:

"(4) the term 'United States assistance' means—

"(A) any assistance under this Act (including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation), other than—

"(i) assistance under this chapter,

"(ii) any other narcotics-related assistance under this part (including chapter 4 of part II), but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act,

"(iii) disaster relief assistance, including any assistance under chapter 9 of this part,

"(iv) assistance which involves the provision of food (including monetization of food) or medicine, and

"(v) assistance for refugees;

"(B) sales, or financing on any terms, under the Arms Export Control Act;

"(C) the provision of agricultural commodities, other than food, under the Agricultural Trade Development and Assistance Act of 1954; and

"(D) financing under the Export-Import Bank Act of 1945;".

SEC. 6. TECHNICAL, CONFORMING, AND OTHER AMENDMENTS; REPEAL OF OBSOLETE PROVISIONS.

(a) STATUTORY REFERENCES TO ANNUAL REPORTS, CERTIFICATIONS, AND DEFINITIONS.—After September 30, 1994, any reference in any provision of law to section 489 or 490 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to the corresponding provision of section 489A or 490A, respectively, unless the context requires otherwise. Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) or section 481(i) of that Act shall be deemed to be a reference to section 489 or section 481(e) (as amended by subsection (b)(3) of this section), respectively; and any reference in any provision of law enacted before the date of enactment of this Act to section 481(h) of that Act shall be deemed, as of October 1, 1992, to be a reference to section 490.

(b) TECHNICAL AND CONFORMING AMENDMENTS TO FOREIGN ASSISTANCE ACT.—Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) Section 481(d)(3) is amended by striking out "subsection (e)" and inserting in lieu thereof "section 489(a)".

(2) Subsections (e), (f), (g), (h), (j), and (k) of section 481 are repealed.

(3) Subsection (i) of section 481 is amended by striking out "(i) As used in this section—" and inserting in lieu thereof "(e) DEFINITIONS.—Except as provided in sections 490(h) and (i) with respect to the definition of major illicit drug producing country and major drug-transit country, for purposes of this chapter and other provisions of this Act relating specifically to international narcotics matters—".

(4) Subsection (c) of section 482 is repealed, and subsection (d) of that section is redesignated as subsection (c).

(5) Section 486 is amended—

(A) in subsection (a), in the text preceding paragraph (1), by striking out "481(h)" and inserting in lieu thereof "490"; and

(B) in subsection (b), by striking out "(relating to foreign military sales financing)" and inserting in lieu thereof "(relating to the 'Foreign Military Financing Program')".

(6) Section 487(a)(1) is amended by striking out "(as defined in section 481(i)(3) of this Act)".

(c) CONFORMING AMENDMENTS TO EXPORT-IMPORT BANK ACT.—Section 2(b)(6) of the Export-Import Bank Act of 1945 is amended—

(1) in subparagraph (B)(iii), by striking out "481(h)(5)" and inserting in lieu thereof "490(e)"; and

(2) in subparagraph (C)(ii), by striking out "defined in section 481(i)" and inserting in lieu thereof "determined under section 490(h) or 481(e), as appropriate,".

(d) AMENDMENT TO 1989 DRUG ACT.—Section 3 of the International Narcotics Control Act of 1989 is amended by adding at the end the following:

"(j) CERTAIN FUNDING LIMITATIONS.—The dollar limitations specified in subsections (c)(1) and (d)(1) shall not apply after the date of enactment of this subsection.".

(e) REPEAL OF OBSOLETE PROVISIONS.—

(1) 1988 DRUG ACT.—All sections of the International Narcotics Control Act of 1988 (which is title IV of the Anti-Drug Abuse Act of 1988) are repealed except for sections 4001, 4306, 4308, 4309, 4501, 4702, and 4804. Section 4501(b) of that Act is amended by striking out "Section 4601 of this title" and inserting in lieu thereof "Section 489(b) of the Foreign Assistance Act of 1961".

(2) 1986 DRUG ACT.—All sections of the International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986) are repealed except for sections 2001, 2010, 2015, 2018, and 2029.

SEC. 7. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEARS 1993 AND 1994 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

(a) EXEMPTION.—For fiscal years 1993 and 1994, section 660 of the Foreign Assistance Act of 1961 shall not apply with respect to—

(1) transfers of excess defense articles under section 517 of that Act;

(2) funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act that are used for assistance provided for narcotics-related purposes; or

(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 that is provided for narcotics-related purposes.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961.

SEC. 8. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For fiscal years 1992 through 1994, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any provision of law that restricts assistance to foreign countries (other than section 490(e) of that Act) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act.

SEC. 9. TRANSFERS OF EXCESS DEFENSE ARTICLES FOR COUNTERNARCOTICS PURPOSES.

(a) CHANGES IN AUTHORITIES.—Section 517 of the Foreign Assistance Act of 1961 is amended—

(1) in the section heading, by striking out "**MILITARY CAPABILITIES OF CERTAIN MAJOR ILLICIT DRUG PRODUCING**" and inserting in lieu thereof "**COUNTERNARCOTICS CAPABILITIES OF CERTAIN**";

(2) in subsection (a)(1), by striking out "(as defined in section 481(i)(2))" and inserting in lieu thereof "or a major drug-transit country";

(3) in subsection (b)—

(A) by inserting "and local law enforcement agencies" after "military forces";

(B) by striking out "with local law enforcement agencies" and inserting in lieu thereof "cooperatively"; and

(C) by striking out "(as defined in section 481(i)(3))";

(4) in subsection (d), by striking out "4601 of the International Narcotics Control Act of 1988" and inserting in lieu thereof "481(b) of this Act";

(5) in subsection (i), by striking out "30" and inserting in lieu thereof "15"; and

(6) by adding at the end the following:

"(j) LIMITATION ON USE OF OTHER AUTHORITIES TO TRANSFER EXCESS DEFENSE ARTICLES.—The transfer authority provided in sections 518 and 519 may not be exercised with respect to any major illicit drug producing country or major drug-transit country in Latin America or the Caribbean.

"(k) EXCESS COAST GUARD PROPERTY.—As used in this section, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard, and the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.".

(b) EXCLUSION OF CONSTRUCTION EQUIPMENT FROM DEFINITION OF EXCESS DEFENSE ARTICLES.—Section 644(g) of that Act is amended by inserting "(other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)" after "articles" the second place it appears.

SEC. 10. PARTICIPANTS IN INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAMS.

Section 541 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting ", and may also include legislators," after "ministries of defense"; and

(2) by striking out "or (iii)" and inserting in lieu thereof "(iii) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts, or (iv)".

SEC. 11. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

(a) FOREIGN ASSISTANCE ACT AMENDMENTS.—Section 481(e) of the Foreign Assistance Act of 1961, as amended by the preceding provisions of this Act, is amended—

(1) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(2) after paragraph (5) insert the following:

"(6) the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

(b) FREE-STANDING PROVISIONS OF THIS ACT.—As used in this Act, the term "appropriate congressional committees" has the definition given that term by section 481(e)(6) of the Foreign Assistance Act of 1961 (as added by subsection (a) of this section).

SEC. 12. EXPORT-IMPORT BANK FINANCING OF SALES OF DEFENSE ARTICLES OR SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 2(b)(6) of the Export-Import Bank Act of 1945 is amended by striking out "1992" in subparagraph (B)(vi) and inserting in lieu thereof "1997".

(b) ADDITIONAL CRITERIA FOR NATIONAL INTEREST WAIVER.—Section 2(b)(6)(D)(i) of that Act is amended by striking out "and" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following:

"(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and".

(c) CONFORMING AMENDMENTS.—

(1) EXPORT-IMPORT BANK ACT.—Section 2(b)(6) of that Act is amended—

(A) in subparagraph (A), by striking out "designated" and all that follows through the end of the subparagraph and inserting in lieu thereof ", except as otherwise provided in subparagraph (B).";

(B) in subparagraph (B)—

(i) by striking out ", and section 32 of the Arms Export Control Act,"; and

(ii) in clause (v), by striking out "and services" and inserting in lieu thereof "or services";

(C) in subparagraph (D)(i)(III), as so redesignated by subsection (b) of this section, by striking out "determination has" and inserting in lieu thereof "determinations have"; and

(D) in subparagraph (D)(ii), by striking out "sentence" and inserting in lieu thereof "clause".

(2) ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by repealing section 32.

(d) AVOIDANCE OF DUPLICATIVE AMENDMENTS.—If an Act is enacted during 1992 entitled "An Act to reauthorize the Export-Import Bank of the United States" that contains amendments identical to amendments made by this section, the amendments contained in this section that are identical to the amendments contained in that Act shall not be effective.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRUCE). The Chair will entertain 1-minute speeches.

TRIBUTE TO HON. WILLIAM E. DANNEMEYER

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute.)

Mr. BARTON of Texas. Mr. Speaker, since we are at a lull here, I think it would be in order to say some kind words about our good friend from California, Congressman BILL DANNEMEYER, who has steadfastly fought the good fight for the conservative cause. I am not sure who is going to bring up the gold standard in the next Congress. I am not sure who is going to do the Subcommittee on Health of the Committee on Energy and Commerce and cause our subcommittee chairman, the honorable gentleman from California [Mr. WAXMAN], to lose a little bit more of his hair than he already has.

We are obviously on our side going to sincerely miss BILL DANNEMEYER, and I have a sneaky suspicion that our friends on the Democrat side will miss him, too.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, I would just like to reiterate what the gentleman from Texas [Mr. BARTON] has said.

BILL DANNEMEYER came with me in the freshman class in 1978. I have watched his voting record for 14 years. Do you know the telling thing about his voting record? If everybody in this Congress had voted like BILL DANNEMEYER for these last 14 years, there would be no annual deficit. As a matter of fact, there would be no deficit at all.

Mr. Speaker, can you think how this economy would be roaring now if we had all voted like BILL DANNEMEYER?

BILL DANNEMEYER, God bless you.

Mr. WALKER. Mr. Speaker, I too want to echo what the gentleman from Texas [Mr. BARTON] has said and what the gentleman from New York [Mr. SOLOMON] has said. There are very few times you get people who truly serve with courage in the House of Representatives, someone who casts their vote based upon conscience, and BILL DANNEMEYER has certainly done that on a regular basis. He will be truly missed by those of us who have been his friend, who have been his political ally.

Mr. Speaker, I have a sneaky suspicion, like the gentleman from Texas [Mr. BARTON], that even the other side is going to miss his ability to articulate his conservative positions on the floor.

Mr. GILMAN. Mr. Speaker, if the gentleman will yield, I too want to join in paying tribute to BILL DANNEMEYER. While we may not have agreed on many issues, BILL DANNEMEYER certainly did his homework and reminds us all of some very important concerns for our Nation.

We wish BILL good health and happiness in the days ahead.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield, let me echo the sentiments of the gentleman from New York [Mr. SOLOMON] with respect to our friend from California, BILL DANNEMEYER.

In our side, mired in the minority as we have been for, lo, these 38 years, we have had some of our official objectors and conscience folks around here for a number of years, people dating back to the days of H.R. Gross, Dr. Hall, and, yes, BOB WALKER serves in that role.

On any number of issues, BILL DANNEMEYER, on the very important Committee on Commerce, where there are so many goodies to be ladled out and so many concerns to be met, has been the conscience of the House and that committee on many, many occasions.

Mr. Speaker, the gentleman has made his mark here in Congress, and, BILL, we are going to miss you and obviously wish for you and your wife all the best after you leave this body. I am sure it will not be the end of things for you. You will be just as active in your home State of California.

We do wish you well.

TRIBUTE TO COMMITTEE AND LEADERSHIP STAFF

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute.)

Mr. DE LA GARZA. Mr. Speaker, I wish to express, I think in behalf of all of us I am sure, our appreciation to all of the staff from all of the committees. Throughout the night we saw them working, standing behind their Members, and the staff from the leadership on both sides of the aisle, the Speaker, the majority leader.

The work gets done here, but there is an imprint left by those that work behind those of us that are the elected Members of this House and the appreciation and admiration for the great work they do.

So I would like to thank all of the staff from all of the committees and the leadership on both sides for their cooperation, their patience, in allowing us to do our duty as efficiently as we can with their help.

Thank you and bless you.

CONTINUING BANKING CRISIS DEMANDS ACTION

(Mr. VENTO asked and was given permission to address the House for 1 minute.)

Mr. VENTO. Mr. Speaker, I want to just sound a serious note of concern. As we wind up this session and leave, the morning's national press is carrying stories about the health of the banks in our country. They are pointing out in some detail what has been recognized and not thought out in public policy terms, and that is the continuing problem with the financial institutions of this country. In fact, the estimates this morning are that there are nearly 1,000 banks that will fail at a cost of $30 to $90 billion. In addition to that, the CBO has repeatedly indicated that there are anywhere from 500 to 700 savings and loans that are still experiencing difficulty.

Mr. Speaker, I raise that point today, again, and I think most of the Members are very concerned about this serious problem. We might hope for the best, but I think we ought to be pragmatic and realistic about the consequence of what is probable, and when we are back in session in 1993, those of us who may be reelected, we will have a serious problem to face yet again concerning banks and the S&L's.

Mr. Speaker, recently, taking testimony before the Committee on Banking, Finance and Urban Affairs with regard to the savings and loans, we found that nearly 1,000 savings and loans earn less than 2 percent on equity. Nobody is going to invest in those institutions and risk their investment for a 2-percent return.

I just raise these questions today, again, because I do not think it has received the type of media attention it deserves. The Bush administration, just like the Reagan administration, is in a state of denial as to the breadth of the problem.

We talk often about the shortcomings of financial institutions. We talk about the credit crunch. But the Bush administration regulators keep stating the problem is over, the crisis resolved. Such statements are election-year politics and bad policy. We really have to look very closely at bank and S&L assets.

Mr. Speaker, I would point out that while we talk often about shortcomings with the yield curve going down and the discount rate at 3 percent, this masks over significant problems that U.S. financial institutions are experiencing today. I fear that as the yield curve goes back up, the discount rate rises, we are going to witness banks and S&L's hitting a wall and suddenly the crisis so long denied will be upon the Nation.

Mr. Speaker, I hope we are all prepared and are thinking about this dilemma and planning our policy path fiscally and monetarily in the year ahead as we are addressing issues on the campaign trail in the month ahead. Surely, one reason the public is so concerned with Washington is that important issues and problems are not discussed until the crisis hits and panic and blame seem to be substituted for sound action.

TRIBUTE TO MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute.)

Mr. ALEXANDER. Mr. Speaker, for 24 years I have enjoyed the signal honor of representing the caring, hardworking, good people of the First Congressional District of Arkansas. Being their Representative in Congress has been a high personal honor while also meaningful and rewarding to me.

I want to take this time to thank all of the Members of Congress that I have served with over these years that have helped me create jobs in my district, provide more markets for our farmers and manufacturers, and to improve the quality of life of the people of north, northeast, and eastern Arkansas.

At no other time in my life have I been associated with so many talented people that have been committed to the causes that they represent. To all of you I owe a debt of gratitude.

I would like to also say thanks to my loyal and dedicated staff. The economic and social progress that we have made over two decades bridges the Old South and the new world order. The lives of our constituents are better because of you. Each of you has made a real difference to make the world a little better.

The staffs in Arkansas and in Washington have labored long and hard on weekends and holidays to set a standard of public service in Arkansas that is unmatched. To all of those who have served in recent and former years, thank you for being the best.

This tribute is incomplete if I fail to notice and say thanks to the staff in Congress. Nowhere do people work harder than they do as members of staffs in the Congress.

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Whether it is committee staff, congressional office staff, pages, those who man the cloakrooms, the Capitol Police, the waitresses and waiters in the House restaurant, the servers in the cafeteria, all deserve a word of gratitude.

We are blessed to serve a nation that has such a high degree of individual freedom, where people can express themselves openly by free speech, a free press, free elections to elect those who represent us in the U.S. House of Representatives.

I will conclude by paraphrasing the legendary former Speaker, Sam Rayburn. His thoughts and his words live here today.

The House of Representatives is a house of hope, where men and women from the farm and from the factory, from small towns and from cities, of all races, colors, and creeds, brown, black, white, and yellow, come to Washington in order to make life better for the people they represent. May Mr. Sam's dream continue to live in this House forever.

CANCER REGISTRIES AMENDMENT ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3312) entitled "Cancer Registries Amendment Act," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from California?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. WAXMAN] to explain how this matter will be handled.

Mr. WAXMAN. Mr. Speaker, this legislation is important in improving survival rates for Americans with cancer. It is a new step in understanding the nature and epidemiology of this disease. I believe all Members can be proud to support it.

I will, if there is no objection to taking up this legislation, have an amendment at the desk which will assure that no additional appropriation will be required for this implementation.

Mr. DANNEMEYER. Mr. Speaker, further reserving the right to object, it is my understanding that the amendment which the gentleman from California will offer to this legislation will have the result of funding this new authorization from existing appropriations, which means there will be no additional money appropriated for this purpose; is that right?

Mr. WAXMAN. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct in the sense that we will allow the Secretary to fund this initiative without additional appropriations.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cancer Registries Amendment Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) cancer control efforts, including prevention and early detection, are best addressed locally by State health departments that can identify unique needs;

(2) cancer control programs and existing statewide population-based cancer registries have identified cancer incidence and cancer mortality rates that indicate the burden of cancer for Americans is substantial and varies widely by geographic location and by ethnicity;

(3) statewide cancer incidence and cancer mortality data, can be used to identify cancer trends, patterns, and variation for directing cancer control intervention;

(4) the American Association of Central Cancer Registries (AACCR) cites that of the 50 States, approximately 38 have established cancer registries, many are not statewide and 10 have no cancer registry; and

(5) AACCR also cites that of the 50 States, 39 collect data on less than 100 percent of their population, and less than half have adequate resources for insuring minimum standards for quality and for completeness of case information.

(b) PURPOSE.—It is the purpose of this Act to establish a national program of cancer registries.

SEC. 3. NATIONAL PROGRAM OF CANCER REGISTRIES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART M—NATIONAL PROGRAM OF CANCER REGISTRIES

"SEC. 399H. NATIONAL PROGRAM OF CANCER REGISTRIES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States, or may make grants or enter into contracts with academic or nonprofit organizations designated by the State to operate the State's cancer registry in lieu of making a grant directly to the State, to support the operation of population-based, statewide cancer registries in order to collect, for each form of in-situ and invasive cancer (with the exception of basal cell and squamous cell carcinoma of the skin), data concerning—

"(1) demographic information about each case of cancer;

"(2) information on the industrial or occupational history of the individuals with the cancers, to the extent such information is available from the same record;

"(3) administrative information, including date of diagnosis and source of information;

"(4) pathological data characterizing the cancer, including the cancer site, stage of disease (pursuant to Staging Guide), incidence, and type of treatment; and

"(5) other elements determined appropriate by the Secretary.

"(b) MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State, or the academic or nonprofit private organization designated by the State to operate the cancer registry of the State, involved agrees, with respect to the costs of the program, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs or $1 for every $3 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION; MAINTENANCE OF EFFORT.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) With respect to a State in which the purpose described in subsection (a) is to be carried out, the Secretary, in making a determination of the amount of non-Federal contributions provided under paragraph (1), may include only such contributions as are in excess of the amount of such contributions made by the State toward the collection of data on cancer for the fiscal year preceding the first year for which a grant under subsection (a) is made with respect to the State. The Secretary may decrease the amount of non-Federal contributions that otherwise would have been required by this subsection in those cases in which the State can demonstrate that decreasing such amount is appropriate because of financial hardship.

"(c) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—No grant shall be made by the Secretary under subsection (a) unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such a manner, and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and in accordance with the requirements of this section, that the application will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a) of this section, and that the applicant will comply with the peer review requirements under sections 491 and 492.

"(2) ASSURANCES.—Each applicant, prior to receiving Federal funds under subsection (a), shall provide assurances satisfactory to the Secretary that the applicant will—

"(A) provide for the establishment of a registry in accordance with subsection (a);

"(B) comply with appropriate standards of completeness, timeliness, and quality of population-based cancer registry data;

"(C) provide for the annual publication of reports of cancer data under subsection (a); and

"(D) provide for the authorization under State law of the statewide cancer registry, including promulgation of regulations providing—

"(i) a means to assure complete reporting of cancer cases (as described in subsection (a)) to the statewide cancer registry by hospitals or other facilities providing screening, diagnostic or therapeutic services to patients with respect to cancer;

"(ii) a means to assure the complete reporting of cancer cases (as defined in subsection (a)) to the statewide cancer registry by physicians, surgeons, and all other health care practitioners diagnosing or providing treatment for cancer patients, except for cases directly referred to or previously admitted to a hospital or other facility providing screening, diagnostic or therapeutic services to patients in that State and reported by those facilities;

"(iii) a means for the statewide cancer registry to access all records of physicians and surgeons, hospitals, outpatient clinics, nursing homes, and all other facilities, individuals, or agencies providing such services to patients which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified patient;

"(iv) for the reporting of cancer case data to the statewide cancer registry in such a format, with such data elements, and in accordance with such standards of quality timeliness and completeness, as may be established by the Secretary;

"(v) for the protection of the confidentiality of all cancer case data reported to the statewide cancer registry, including a prohibition on disclosure to any person of information reported to the statewide cancer registry that identifies, or could lead to the identification of, an individual cancer patient, except for disclosure to other State cancer registries and local and State health officers;

"(vi) for a means by which confidential case data may in accordance with State law be disclosed to cancer researchers for the purposes of cancer prevention, control and research;

"(vii) for the authorization or the conduct, by the statewide cancer registry or other persons and organizations, of studies utilizing statewide cancer registry data, including studies of the sources and causes of cancer, evaluations of the cost, quality, efficacy, and appropriateness of diagnostic, therapeutic, rehabilitative, and preventative services and programs relating to cancer, and any other clinical, epidemiological, or other cancer research; and

"(viii) for protection for individuals complying with the law, including provisions specifying that no person shall be held liable in any civil action with respect to a cancer case report provided to the statewide cancer registry, or with respect to access to cancer case information provided to the statewide cancer registry.

"(d) RELATIONSHIP TO CERTAIN PROGRAMS.—

"(1) IN GENERAL.—This section may not be construed to act as a replacement for or diminishment of the program carried out by the Director of the National Cancer Institute and designated by such Director as the Surveillance, Epidemiology, and End Results Program (SEER).

"(2) SUPPLANTING OF ACTIVITIES.—In areas where both such programs exist, the Secretary shall ensure that SEER support is not supplanted and that any additional activities are consistent with the guidelines provided for in subsection (c)(2)(C) and (D) and are appropriately coordinated with the existing SEER program.

"(3) TRANSFER OF RESPONSIBILITY.—The Secretary may not transfer administration responsibility for such SEER program from such Director.

"(4) COORDINATION.—To encourage the greatest possible efficiency and effectiveness of Federally supported efforts with respect to the activities described in this subsection, the Secretary shall take steps to assure the appropriate coordination of programs supported under this part with existing Federally supported cancer registry programs.

"(e) REQUIREMENT REGARDING CERTAIN STUDY ON BREAST CANCER.—In the case of a grant under subsection (a) to any State specified in section 399K(b), the Secretary may establish such conditions regarding the receipt of the grant as the Secretary determines are necessary to facilitate the collection of data for the study carried out under section 399C.

"SEC. 399I. PLANNING GRANTS REGARDING REGISTRIES.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of developing plans that meet the assurances required by the Secretary under section 399B(c)(2).

"(2) OTHER ENTITIES.—For the purpose described in paragraph (1), the Secretary may make grants to public entities other than States and to nonprofit private entities. Such a grant may be made to an entity only if the State in which the purpose is to be carried out has certified that the State approves the entity as qualified to carry out the purpose.

"(b) APPLICATION.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary, the application contains the certification required in subsection (a)(2) (if the application is for a grant under such subsection), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"SEC. 399J. TECHNICAL ASSISTANCE IN OPERATIONS OF STATEWIDE CANCER REGISTRIES.

"The Secretary, acting through the Director of the Centers for Disease Control, may, directly or through grants and contracts, or both, provide technical assistance to the States in the establishment and operation of statewide registries, including assistance in the development of model legislation for statewide cancer registries and assistance in establishing a computerized reporting and data processing system.

"SEC. 399K. STUDY IN CERTAIN STATES TO DETERMINE THE FACTORS CONTRIBUTING TO THE ELEVATED BREAST CANCER MORTALITY RATES.

"(a) IN GENERAL.—Subject to subsections (c) and (d), the Secretary, acting through the Director of the National Cancer Institute, shall conduct a study for the purpose of determining the factors contributing to the fact that breast cancer mortality rates in the States specified in subsection (b) are elevated compared to rates in other States.

"(b) RELEVANT STATES.—The States referred to in subsection (a) are Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia.

"(c) COOPERATION OF STATE.—The Secretary may conduct the study required in subsection (a) in a State only if the State agrees to cooperate with the Secretary in the conduct of the study, including providing information from any registry operated by the State pursuant to section 399H(a).

"(d) PLANNING, COMMENCEMENT, AND DURATION.—The Secretary shall, during each of the fiscal years 1993 and 1994, develop a plan for conducting the study required in subsection (a). The study shall be initiated by the Secretary not later than fiscal year 1994, and the collection of data under the study may continue through fiscal year 1998.

"(e) REPORT.—Not later than September 30, 1999, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and recommendations made as a result of the study.

"SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.

"(a) REGISTRIES.—For the purpose of carrying out this part, there are authorized to be appropriated $30,000,000 for each of the fiscal years 1993 through 1997. Out of any amounts appropriated for any such fiscal year, the Secretary may obligate not more than 25 percent for carrying out section 399I, and not more than 10 percent may be expended for assessing the accuracy, completeness and quality of data collected, and not more than 10 percent of which is to be expended under subsection 399J.

"(b) BREAST CANCER STUDY.—Of the amounts appropriated for the National Cancer Institute under subpart 1 of part C of title IV for any fiscal year in which the study required in section 399K is being carried out, the Secretary shall expend not less than $1,000,000 for the study.".

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: Page 14, line 6, strike "there are authorized to be appropriated" and insert in lieu thereof "the Secretary may use".

Page 14, line 8, strike "appropriated" and insert in lieu thereof "used".

The SPEAKER pro tempore. Without objection, the amendment is agreed to.

Mr. SANDERS. Mr. Speaker, reserving the right to object, S. 3312, the Cancer Registries Amendment Act, was originally passed by both the House and the Senate as part of the NIH reauthorization conference report, H.R. 2507. It was passed by the Senate as a separate bill by unanimous consent last Friday, October 2.

This bill enables States to establish and/or upgrade their population-based cancer registries. It authorizes $30 million per year for 4 years in grants to States for this purpose. It would also launch a study of the Northeastern and mid-Atlantic States that are leading the Nation in breast cancer mortality, with $1 million in funding authorized.

The bill now has 117 cosponsors in the House, from both sides of the aisle. Groups supporting it include the Breast Cancer Coalition, the American Cancer Society, the congressional caucus on women's issues, and the American Association of Central Cancer Registries.

In the major article of the June 1992 issue of Reader's Digest, Dr. John H. Healey, chief of orthopedic surgery at Memorial Sloan Kettering Cancer Center in New York City, called this bill "The cancer weapon America needs most." He said that "It could save thousands of lives and billions of dollars."

I urge passage of the Cancer Registries Amendment Act.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I want to commend the gentleman for authoring this legislation. It is an important bill. It will be worthwhile to find out more about cancer so that we can tackle this dreaded disease.

I think the gentleman has been most tenacious in getting us to focus on this issue, and I am so pleased that at this late date in the session we will be able to pass it.

Mr. SANDERS. Mr. Speaker, I would like to thank the gentleman for his excellent work and the gentleman from Michigan [Mr. DINGELL] and Senator LEAHY and everyone else.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. (Mr. ECKART). The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

The Senate bill, as amended, was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING FBI TO OBTAIN PHONE SUBSCRIBER INFORMATION

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3316) to amend title 18, United States Code, to authorize the Federal Bureau of Investigation to obtain certain telephone subscriber information, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FISH. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the distinguished gentleman from California [Mr. EDWARDS] if he would explain the measure to the body.

I yield to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, This bill concerns the authority of the FBI to obtain information identifying certain telephone subscribers for use in foreign counterintelligence and international terrorism investigations.

The language in this bill was carefully negotiated with the FBI, to ensure that the needs of the FBI were met while at the same time protecting the privacy of telephone records.

The bill amends section 2709 of the Electronic Communications Privacy Act [ECPA], 18 U.S.C., 2709, to require that a wire or electronic communication service provider give the FBI access, without a court order or subpoena, to information identifying certain telephone subscribers.

BACKGROUND

The adopting ECPA in 1986, Congress established certain privacy protections for subscriber records and other information held by telephone companies and other electronic communication service providers. Congress provided that the Government could obtain a subscriber's transactional records or other information from a telephone company without the subscriber's permission only pursuant to a subpoena, search warrant or court order where there is reason to believe that the information is relevant to a legitimate law enforcement inquiry. 18 U.S.C. 2703.

Congress created a limited exception to this rule for use in counterintelligence and international terrorism cases. In 18 U.S.C. 2709, Congress gave the FBI authority to compel production of identifying information and toll records with a so-called national security letter, signed by an FBI official without judicial review and without relevance to a criminal investigation, where the subscriber is believed to be a foreign power or agent of a foreign power, as defined in the Foreign Intelligence Surveillance Act. Foreign power includes international terrorist groups.

The FBI has concluded that the authority in section 2709 is, in one specific respect, too narrow. To illustrate the problem, the Bureau cites the case of a former employee of the U.S. Government who called a foreign embassy and offered to provide sensitive U.S. Government information. The conversation was monitored, but the former employee did not identify himself. The former employee subsequently met with representatives of the foreign nation and compromised highly sensitive information about U.S. intelligence capabilities. The FBI argues that if it had been able to trace the number from which the first call offering information was placed, it might have been able to identify the former employee sooner or prevent the loss of information.

However, under sections 2703 and 2709 as they were adopted in 1986, the FBI could not, without a subpoena or court order, obtain the identity of a subscriber, unless there was a reason to believe that the subscriber was a foreign power or agent of a foreign power. In the case described above, the FBI did not have reason to believe that the caller was a foreign agent. Instead, the caller appeared to be a possible volunteer to be an agent, and therefore did not meet the section 2709 standard.

In response to this limitation, the FBI asked Congress to expand the reach of section 2709, to allow the FBI certification to require phone companies to identify not only suspected agents of foreign powers but also persons who have been in contact with foreign powers or suspected agents of foreign powers. As originally proposed by the FBI, the amendment would have applied to any caller to a foreign diplomatic establishment and any caller to official foreign visitors such as scholars from government universities abroad. This was deemed by the committee to be too broad.

Exempt from the judicial scrutiny normally required for compulsory process, the national security letter is an extraordinary device. New applications are disfavored. However, after careful study, the committee concluded that a narrow change in section 2709 to meet the FBI's focused and demonstrated needs was justified. The provision reported by the committee is a modification of the language originally proposed by the FBI. It allows access where: First, there is a contact with a suspected intelligence officer or a suspected terrorist, or second, the circumstances of the conversation indicate, as they did in the case described above, that it may involve spying or an offer of information.

In addition to covering a future case like the one described above, this new authority would allow the FBI to identify subscribers in the following types of cases, cited by the FBI in justifying its need for this amendment:

First, persons whose phone numbers were listed in an address book seized from a suspected terrorist;

Second, all persons who call an embassy and ask to speak with a suspected intelligence officer; and

Third, all callers to the home of a suspected intelligence officer or the apartment of a suspected terrorist.

Section 2709 as enacted in 1986 used the phrase subscriber information and toll billing records information to describe the information that the FBI could obtain. Instead of subscriber information, the amendment here uses more specific terms: names, address, length of service. As used in this section, toll billing records consist of information maintained by a wire or electronic communication service provider identifying the telephone numbers called from a particular phone or attributable to a particular account for which a communication service provider might charge a service fee. The committee intends, and the FBI agrees, that the authority to obtain subscriber information and toll billing records under section 2709 does not require communications service providers to create records which they do not maintain in the ordinary course of business.

Section 1706(b) strengthens congressional oversight of the exercise of this authority by amending section 2709(e) to add a requirement that the FBI report on its use of the authority to both House and Senate Judiciary Committees as well as both intelligence committees. It is the committee's intent regarding this section that the FBI should, without identifying the subjects of pending investigations, inform the committees, as part of this report, of the facts and circumstances that are the basis for obtaining information concerning any domestic political organization or groups under section 2709.

Under section 2703(e), wire or electronic communication service providers who provide information in response to a court order, warrant, subpoena or certification under this chapter are protected from liability for such disclosure. The certification signed by the Director or the Director's designee under the section 2709(b) is a certification for purposes of section 2703(e).

SECTION-BY-SECTION ANALYSIS

The bill amends 18 U.S.C. 2709 by striking subsection (b) and inserting in lieu thereof a new subsection containing two paragraphs.

Paragraph one of the new section 2709(b) re-enacts the existing authority for FBI access to the name, address, length of service, and toll billing records of a person or entity when the Director or the Director's designee certifies in writing to the wire or electronic communication service provider to which the request is made that first, the information sought is relevant to an authorized foreign counterintelligence investigation; and second, there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in the Foreign Intelligence Surveillance Act.

Paragraph two of the new section 2709(b) authorizes the FBI Director or the Director's designee to obtain the name, address, and length of service of a person or entity if the Director or the Director's designee certifies in writing to the wire or electronic communications service provider to which the request is made that first, the information sought is relevant to an authorized foreign counterintelligence investigation; and second, there is reason to believe that communications facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States, or a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism or clandestine intelligence activities.

The bill also adds the House and Senate Judiciary Committees to the oversight provision in section 2709(e).

Mr. FISH. Mr. Speaker, further reserving the right to object, I thank the gentleman from California very much.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill.

(Senate bill not available.)

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, am I correct that other now than commemoratives, we have, in fact, completed the legislative business that is known to the House and are prepared then to go to commemoratives and shut down the rest of the legislative calendar?

The SPEAKER pro tempore. The Chair is not fully prepared to answer, but it is the Chair's understanding that the commemoratives are now the next order of business for the House.

Mr. WALKER. Mr. Speaker, and that the list of legislation that we knew of at least at this point has now been completed?

The SPEAKER pro tempore. The list that we know of is completed, and the Chair reserves the right, of course, to recognize someone else who may have an additional item from that list.

Mr. WALKER. Mr. Speaker, going a bit beyond a parliamentary inquiry, I would hope that we can get to a point of cold shutdown here fairly quickly, because it seems to me we have completed everything that I knew that was on any list. It would be helpful to be able, I think, to inform Members that we are not going to proceed further with legislative business.

The SPEAKER pro tempore. The Chair will certainly draw the gentleman's remarks to the attention of the gentlemen seated in the front row.

NATIONAL CUSTOMER SERVICE WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 166) designating the week of October 4 through 10, 1992, as "National Customer Service Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I know we have come to a part of today's program that everybody has been anticipating for the past 24 hours.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 166

Whereas recognizing the value and importance of the customer drives the quality of customer service;

Whereas the high cost of attracting new customers today further emphasizes the need to keep existing customers through effective service;

Whereas when customer service is recognized as contributing to the profit of a company, the professional status of customer service continues to increase;

Whereas when customer service distinguishes successful companies that understand the importance and influence a customer has on success; and

Whereas excellent customer service contributes to the growth and success of every company: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 4 through 10, 1992, is designated as "National Customer Service Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD POPULATION AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unamious consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 458) designating the week of October 25, 1992, as "World Population Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlemen form Ohio.

There was no objection.

Mr. MOODY. Mr.Speaker, I would like to thank the chairman of the Subcommittee on Census and Population, Mr. SAWYER, and his staff for their work in getting World Population Awareness Week, House Joint Resolution 458, to the floor. I would also like to thank the 220 cosponsors of this resolution.

I am pleased to see the House pass this legislation which will designate October 25, 1992, as World Population Awareness Week. By recognizing this week we will help draw attention to and educate Americans about global population concerns. Hundreds of events took place throughout the country last year during World Population Awareness Week and many Governors proclaimed this week as a time for Americans to reflect upon the implications of rapid population growth, particularly in economically struggling parts of the world.

Through my experience working with CARE and the Peace Corps, I have seen firsthand how many problems in the developing world are directly linked to or further exacerbated by rapid population growth. Poor health, hunger, environmental degradation, urban deterioration, economic instability, and political unrest can all be results of rapid population growth.

When I went to Bangladesh with the Peace Corps in 1961, the population of that country—the same physical size as Wisconsin with a population of about 4 million—was 45 million. Today it has nearly 120 million people, living in a Malthusian world of starvation and environmental degradation.

My hope for World Population Awareness Week is that it will not only be a time to call attention to the expanding planet, but it will also be a time to renew our commitment to improving the lives of the people who suffer from the effects of rapid population growth. About 50 percent of the 10 million infant deaths and 25 percent of the 500,000 maternal deaths that occur each year could be prevented if voluntary means of child spacing and maternal health programs were expanded to meet minimal needs in developing countries. Many families in developing nations want family planning but lack either the information or the means to obtain it. Increasing population assistance is inexpensive, it saves lives, it improves the quality of life, and it is essential for those countries struggling with social, economic, and environmental problems.

World Population Awareness Week provides us with an opportunity to think about the effects of rapid population growth and to focus on policies that would improve the lives of the many people who would like to control the size and spacing of their own families.

Mr. GILMAN. Mr. Speaker, I rise today in support of House Joint Resolution 458, designating the week starting October 25, 1992, as "World Population Awareness Week," I wish to commend the gentleman from Wisconsin, [Mr. MOODY], for introducing this measure.

Today we are faced with a population that is exceeding 5 billion presently and still growing at an unprecedented rate as we speak. Unfortunately, the greatest explosion of population is occurring in the poorest of countries of the world. It is these countries that are least able to provide even the most basis of services for their current citizens.

During the 102d Congress, we have increasingly focused our attention on the problems of global warming, rain forest deforestation, natural resource depletion, Third World Debt, and the dangers that population growth presents to the health and prosperity of the world and its people.

If the United States is to do something to address the pressing problems of today's planet, we must recognize the strain that rapid population growth places on the scarce resources of so many developing nations.

The demands of a growing population have contributed substantially to enormous environmental devastation and pose threats of even greater harm to many aspects of life. The developing world needs to be educated on maternal health programs and family planning in order to prevent unnecessary deaths, as well as curtail the booming population.

I have been a proud supporter of the legislation designating the week of October 25, 1992, as "World Population Awareness Week," and I am hopeful that we can educate ourselves as to better methods to save lives and our precious gem, Mother Earth.

H.J. RES. 458

Whereas in 1992 the population of the world exceeds 5,000,000,000 persons and is growing at an unprecedented rate of approximately 90,000,000 persons per year;

Whereas virtually all of this growth is occurring in the poorest countries, those countries least able to provide even basic services for their current citizens;

Whereas the demands of growing populations have contributed substantially to enormous environmental devastation and pose threats of even greater harm to the world;

Whereas one-half of the 10,000,000 infant deaths and one-quarter of the 500,000 maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded;

Whereas research reveals that one-half of the women of reproductive age in the developing world want to limit the size of their families but lack the means or ability to gain access to family planning;

Whereas for more than 20 years the global community has recognized that it is a fundamental human right for people to voluntarily and responsibly determine the number and spacing of their children and the United States has been a leading advocate of this right;

Whereas the demands of growing populations force many countries to borrow heavily and sell off their natural resources to cover the interest of their debt;

Whereas selling off natural resources in these circumstances often causes irretrievable losses, such as the destruction of the tropical rain forests at a rate of 50,000 acres per day;

Whereas the reliance of a rapidly growing world population on burning fuels is a critical factor in the emission of carbon dioxide into the atmosphere, which many scientists believe has already catalyzed a warming of the Earth's climate;

Whereas population is damaging the ozone layer to such an extent that within 40 years the ultraviolet light reaching our planet is expected to be up to 20 percent greater than it is today; and

Whereas in 1990 and 1991 the Congress designated and President Bush proclaimed "World Population Awareness Week" nationally, and in 1991 37 State governors proclaimed such week in their States, to call attention to the consequences of rapid population growth: Now, therefore, be it,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 25, 1992, is designated as "World Population Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

☐ 1100

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. (Mr. ECKART). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL MEDICAL STAFF SERVICES AWARENESS WEEK

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 399) designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DUNCAN. Mr. Speaker, this is a resolution in honor of all the certified medical staff coordinators all around the Nation. I appreciate very much the cosponsorship of this resolution by over half the Members of this body.

Mr. Speaker, as the sponsor of House Joint Resolution 399, I rise in strong support of this resolution. This resolution will help bring recognition to the thousands of men and women who have dedicated their lives to the enhancement and efficiency of health care services across our Nation.

Everyday, millions of Americans place themselves under the care of a physician in a hospital or other health care facilities. The process by which these doctors become affiliated with these health care organizations and the support they receive afterwards, is an important responsibility of one of the fastest growing professions within the nation's health care industry.

Medical staff services professionals play a vital role in credentialing physicians and serving as a liaison between the medical staff and the hospital administration.

It is very appropriate for the Congress of the United States to publicly and enthusiastically recognize and honor these outstanding individuals for their contribution to the quality of life in our country.

I encourage all members to join me in supporting House Joint Resolution 399, declaring the week of November 1, 1992, as "National Medical Staff Services Awareness Week," so that we can demonstrate our support for these dedicated Americans.

The Clerk read the joint resolution as follows:

H.J. RES. 399

Whereas there are more than 2,600 certified medical staff coordinators across the United States whose purpose is to enhance the professionalism and efficiency of health care in the United States;

Whereas the health care industry, especially hospital and medical staff personnel, has experienced tremendous change and challenges in recent years;

Whereas the role of medical staff services personnel has become essential to effective health care management;

Whereas complex legal, financial, and regulatory requirements have greatly increased the need for expanded administration of medical staff functions;

Whereas encouraging professional development for medical staff services personnel is essential for effective, productive, and competent hospital and medical staffs;

Whereas, in 1978, dedicated individuals organized to recognize and support the vitally important work of the medical staff services profession; and

Whereas a need exists to increase recognition of the valuable and important role of the medical staff services profession across the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 1, 1992, is designated as "National Medical Staff Services Awareness Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 309) designating the week beginning November 8, 1992, as "National Women Veterans Awareness Week", and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 495, which designates the week beginning November 8, 1992, as "National Women Veterans Recognition Week."

I would also like to commend the gentleman from Florida [Mr. BILIRAKIS] for introducing this important legislation.

As you may know, the Department of Veterans Affairs currently estimates that there are more than 1.2 million women veterans in this country, representing 4.2 percent of the total veteran population.

Women have played a vital role in our Nation's armed services. Official military participation for women began in 1901 with the formation of the Army Nurse Corps and was followed in 1903 with the formation of the Navy Nurse Corps.

During World War I, 13,000 women were enlisted by the Navy as telephone operators, clerical workers, typists, and stenographers. During World War II, the number of enlisted women in all four services was approximately 350,000. Additionally, women continued to play an active role in Korea and Vietnam.

Mr. Speaker, it is time for Congress to recognize the valuable contributions that women veterans have made throughout our Nation's history.

More recently, the contributions that our women veterans made during Desert Storm were vital. They served in a wide variety of jobs, such as: pilots, truck drivers, cargo handlers, intelligence specialists, flight controllers, communications experts, and ground-crew chiefs. It is time for our Nation to learn more about the important role women have played in our Armed Forces, and to express our gratitude to them for that service.

Accordingly, thus, I urge my colleagues to join with me in supporting this important resolution.

Mr. BILIRAKIS. As the sponsor of House Joint Resolution 495 which designates the week of November 8th as "National Women Veterans recognition week," I wish to thank Chairman SAWYER and the ranking minority member, TOM RIDGE, for their assistance and leadership in bringing this resolution to the floor.

In 1984, I sponsored the first piece of legislation introduced in Congress that called for national recognition of female veterans. At that time, I was surprised and disappointed that such recognition had not been given before. I am pleased Congress and the President have approved National Women Veterans Recognition Week every year since I initiated the endeavor.

I continue to sponsor National Women Veterans Recognition Week in order to honor the Women who have served in the Armed Forces and to increase public awareness of their significant contributions to the defense of our Nation. The VA estimates that there are more than 1.2 million women veterans in this country. These veterans comprise 4.2 percent of the total veteran population. I am proud to report that approximately 88,000 women veterans reside in my home State of Florida.

Although official female uniformed military participation began with the formation of the Army Nurse Corps in 1901, women have contributed to national defense in a variety of ways since our country was founded. In every U.S. war before the 20th century, small numbers of women disguised themselves as men in order to serve in combat.

World War II marked a turning point in the history of women in the military. A total of 350,000 women served in the four services during the conflict. Employed in virtually every occupation outside of direct combat, they performed their duties admirably. The many military women who were stationed overseas endured the same arduous living conditions as men. Additionally, 88 women were held as prisoner of war by the Japanese for more than 3 years.

Interestingly, 2d Lt. Reba Whittle Tobiason was the only American woman taken captive by Nazi Germany. She endured 4 months of imprisonment in German territory at Stalag 9c. After her release, she struggled with the U.S. Government bureaucracy to be officially recognized as a former prisoner of war. By the time of her death in 1981, the Government had finally acknowledged her status.

In 1947–48, Congress recognized the valuable service of women during World War II by granting them active duty status in the regular Army, Navy, Marine Corps, and Air Force. Women continued to play an active role in Korea and Vietnam. In 1975, Congress further recognized the important contributions of women by requiring the service academies to admit women. In 1980, the first women cadets graduated.

Although women are officially excluded from combat duty, the Persian Gulf War marked the first time women, other than nurses, were deployed to a combat area. During operations Desert Shield and Desert Storm, military women responded well to this new challenge.

Working next to male personnel, women often performed dangerous tasks such as piloting some of the 300 helicopters that airlifted men and equipment inside Iraqi territory. Female military personnel sustained 13 deaths during the operations and two women were taken prisoner by Iraqi forces.

Despite the continuous service of women throughout the history of our Nation, we have not always recognized their tremendous contributions, nor have we paid attention to their needs as veterans.

It is my hope that National Women Veterans Recognition Week will highlight the special needs of women veterans, particularly in the areas of health care, employment, and readjustment problems. Of greatest importance is to increase women veterans awareness of the availability of VA benefits and services for which they are eligible. Although much has been accomplished in the past several years, women veterans are still less likely than their male counterparts to use veterans benefits such as VA Health Care and the Home Loan Guarantee Program.

National Women Veterans Recognition Week is a time for the country to become better acquainted with the service of women veterans and to express our gratitude to them for that service. However, it is also time for women veterans themselves to remember their years in uniform and take pride in the many contributions they have made to the security and well-being of our country.

As new windows of opportunity open for women in the military, there will be an increasing number of female veterans eligible for health care and other benefits. It is incumbent upon us to see that those services are available to them.

In closing, I wish to thank both the women's organizations and veterans organizations who worked so diligently and the House Members who cosponsored this measure.

The Senate has already passed a companion resolution honoring our women veterans. It is my hope that we can act quickly so that the President can sign the proclamation in time to honor these brave and honorable women veterans.

The Clerk read the Senate joint resolution as follows:

S.J. Res. 309

Whereas 1992 marks the 50th anniversary of the establishment of the Women's Army Auxiliary Corps, the Women Accepted for Voluntary Emergency Service, the Women Air Force Service Pilots, and the Women's Reserve of the Coast Guard, in which more than 400,000 women served during World War II;

Whereas there are more than 1,200,000 women veterans in the United States representing 4.6 percent of the total veteran population;

Whereas the number of women serving in the United States Armed Forces and the number of women veterans continue to increase;

Whereas women veterans have contributed greatly to the security of the United States through honorable military service, often involving great hardship and danger;

Whereas women are performing a wider range of tasks in the United States Armed Forces, as demonstrated by the participation of women in the military actions taken in Panama and the Persian Gulf region;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas the lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and

Whereas designating a week to recognize women veterans with help both to promote important gains made by women veterans and to focus attention on the special needs of women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 8 1992, is designated as "National Women Veterans Recognition Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VIETNAM VETERANS MEMORIAL 10TH ANNIVERSARY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 318) designating November 13, 1992, as "Vietnam Veterans Memorial Tenth Anniversary Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, we strongly support this measure. I have no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of S.J Res. 318, legislation to designate November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day."

I would also like to commend my good friend and champion of veterans, the distinguished chairman of the Veterans' Committee, [Mr. MONTGOMERY] for introducing this important measure.

Mr. Speaker, the Vietnam Veterans Memorial is the most visited monument in Washington. November 13, 1992, will make the 10th anniversary of the formal dedication of this memorial.

The Vietnam Veterans Memorial is a tribute to those who sacrificed their lives in Vietnam to protect our Nation. Therefore, it is essential that we commemorate this important day with the appropriate ceremonies that our Nation's Vietnam veterans deserve.

Accordingly, I urge my colleagues to join with me in supporting this important resolution.

The Clerk read the Senate joint resolution as follows:

S. J. RES. 318

Whereas on November 13, 1982, the Vietnam Veterans Memorial was dedicated in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam War, particularly those who gave their lives or who remain missing;

Whereas the Vietnam Veterans Memorial, located on a site in West Potomac Park in the District of Columbia near the Lincoln Memorial as authorized by Public Law 96-297, was constructed with funds raised entirely from private sources;

Whereas this memorial, bearing the names of 58,183 men and women, has become the most visited memorial in the Nation's capital;

Whereas November 13, 1992, marks the 10th anniversary of the Vietnam Veterans Memorial, a milestone which will be observed during 1992 through educational seminars, a reading of the names on the Wall, veterans reunions, and other appropriate events;

Whereas this anniversary offers an opportunity for the entire country to reflect on the Vietnam Veterans Memorial and its role in healing the Nation's wounds from the Vietnam era; and

Whereas the anniversary will enable new generations to discuss lessons learned in the decade since the Memorial's dedication: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 13, 1992, is designated as "Vietnam Veterans Memorial 10th Anniversary Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD AIDS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 538) to designate December 1, 1992, as "World AIDS Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 538, legislation to designate December 1, 1992, as "World AIDS Day."

I would also like to commend the gentleman from Washington [Mr. MCDERMOTT] for introducing this important legislation.

Mr. Speaker, the World Health Organization has designated December 1, 1992, as "World AIDS Day"; a day for the exchange of information, education, and caring for the victims of AIDS.

The number of persons infected with the human immunodeficiency virus and likely to develop AIDS has reached an all time high. There are approximately 1 to 1.5 million HIV infected persons in the United States. Without treatment, about 50 percent of these people will develop AIDS within 10 years of becoming infected with HIV, and another 40 percent or more will develop other clinical illnesses associated with the HIV infection.

AIDS is affecting each and every one of us by creeping into our circle of family and friends. By the end of 1993, a projected total of 390,000 to 480,000 cases of AIDS will be diagnosed in the United States and 285,000 to 340,000 people will have died from this terrible disease. It is essential that we not only find ways to cure this disease, but to find ways to treat HIV/AIDS victims with love and compassion.

The number of AIDS cases that occur simply because individuals did not know how to take simple steps to prevent this tragic affliction is too high.

Education, increased dissemination of the information, and understanding will help to combat this epidemic. While these concepts are no panacea for the vast problems of AIDS, they are a step in the right direction.

Accordingly, Mr. Speaker, I urge my colleagues to join in adopting this resolution and to commit ourselves to provide substantial support for expanded medical research to combat this scourge on our society.

The Clerk read the joint resolution, as follows:

H.J. RES. 538

Whereas infection with the Human Immunodeficiency Virus (HIV) and the incidence of Acquired Immunodeficiency Syndrome (AIDS) have become a global problem of urgent proportions, with an estimated 1,000,000 AIDS cases and more than 12,000,000 HIV infections;

Whereas 5,000 individuals worldwide are infected with HIV every day and more than 400,000,000 men, women, and children will be infected with HIV by the year 2000;

Whereas 1,000,000 children have been born infected with HIV and as many as 15,000,000 children around the world will be orphaned by AIDS by the year 2000;

Whereas education and increased public awareness are the cornerstone of AIDS prevention activities;

Whereas the World Health Organization, in concert with governmental and nongovernmental organizations around the world, has accepted responsibility to safeguard the health of all individuals and control the spread of HIV infection through national policies and programs;

Whereas the worldwide action necessary to stop this global epidemic must continue without compromising the medical, ethical, socioeconomic, cultural and psychological well-being of HIV-infected individuals and individuals with AIDS or slowing the momentum that has allowed those engaged in the struggle to close in on the challenges posed by HIV and AIDS;

Whereas the World Summit of Ministers of Health on AIDS Prevention in 1988 recognized that the widest possible dissemination and exchange of information and educational messages is vital to the success of AIDS prevention programs and thus pledges to open fully channels of communication in each society by creating the basis for the declaration of a World AIDS Day as a day of information, education, and action on AIDS;

Whereas the first World AIDS Day on December 1, 1988, brought messages about the need of action, compassion, and understanding about AIDS to every country in the world;

Whereas the United States House of Representatives commemorated World AIDS Day in 1991, with the theme of "Sharing the Challenge," which underscored the global nature of the HIV/AIDS epidemic and recognized that awareness can be achieved only by pooling the efforts, resources, and imagination of all individuals; and

Whereas the theme of World AIDS Day, 1992, "AIDS: A Community Commitment," is inspired by countless examples of communities, such as neighborhoods, schools, private businesses, and family and friends, rising to the AIDS challenge and hopes to draw on the initiative and caring of communities to help combat the spread of HIV/AIDS: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That December 1, 1992, is designated "World AIDS Day." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities with a special focus on the pivotal role of the community in combatting HIV/AIDS.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL WALKING WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 547) designating May 2, 1993, through May 8, 1993, as "National Walking Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, since there were 218-plus cosponsors on this measure, we have no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. RITTER. Mr. Speaker, I rise in support of House Joint Resolution 547 to designate the week of May 2–8, 1992, as "National Walking Week."

I introduced this legislation on August 12 of this year and in less than 2 months, it has the direct support of 231 cosponsors.

The Coalition to Make America Walkable, which strongly supports this resolution, seeks to promote walking as an enjoyable, effective means of exercise and to encourage communities to look at their own transportation system and improve upon them with walkers' needs in mind.

The founding members of the coalition are employees of Rodale Press of Emmaus, PA, publishers of Prevention magazine which has a readership of 9 million in North America. Rodale Press also publishes books and magazines such as Runners World, Men's Health, Backpacker, and Bicycling.

As you probably know, trends in construction of roads and highways have made it very difficult for walkers and cyclists to get around, particularly in suburban areas. This is a shame, when you consider that walking is now being widely recognized as the safest and most economic form of exercise.

Recent research, including work being done at the Centers for Disease Control, strongly suggests that regular walking promotes good health in a number of ways. A healthier heart, lower blood pressure, lower cholesterol and weight control, and prevention of osteoporosis are just some of the benefits from walking.

I am confident that providing safe and enjoyable walkways will go a long way toward alleviating some of America's biggest health challenges.

According to a recent Louis Harris poll, 72 percent of all Americans would like a local community-based plan that makes walking an integral part of their area's transportation system. And 59 percent of all respondents would walk outdoors or walk more often if there were safe, designated paths or walkways.

More people walking more often may help control our Nation's escalating health care costs by improving peoples' general physical health.

It is no coincidence that the week that has been selected—the first week of May—falls in National Fitness Month.

It is my hope that celebration of a National Walking Week will draw attention to the need to make the streets and roadways of America amenable to safe and enjoyable walking.

I urge you to help make America a better place to walk by supporting this effort to establish a National Walking Week.

The Clerk read the joint resolution, as follows:

H.J. RES. 547

Whereas medical authorities have established that walking—

(1) powerfully protects against high blood pressure, cholesterol problems, and other factors that can contribute to heart disease;

(2) protects against adult onset (Type II) diabetes;

(3) builds strong bones and protects against osteoporosis, the weak-bone disease that afflicts millions of older women;

(4) probably offers protection against several forms of cancer that are believed to be preventable through regular and moderate exercise; and

(5) is a safe and dependable way for millions of overweight people to lose weight without stringent dieting;

Whereas the failure to regular exercise such as walking has been identified as the single greatest risk factor for heart disease;

Whereas the designation of "National Walking Week" will help promote the issue of pedestrian access and safety;

Whereas areas of America are becoming inaccessible or unsafe for walkers, so the benefits of the activity are being blocked;

Whereas people should be able to walk anywhere in their community, within reason; and

Whereas walking encourages community spirit and safety: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 2, 1993, through May 8, 1993, is designated as "National Walking Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL EDUCATION FIRST WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 543) designating November 30, 1992, through December 6, 1992, as "National Education First Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. FAZIO. Mr. Speaker, it is no secret that our educational system is in crisis. Our educators, parents, community leaders, and business people have been mourning the fact that our young adults lack the basic skills and training that they need to be productive workers in today's world.

Today, those of our young people who do not finish high school are qualified for about 40 percent of all available jobs. By the year 2000, not only will those who do not finish high school qualify for only 14 percent of what is out there in the job market, but a high school graduate with no additional skills will also not be able to compete.

House Joint Resolution 543 designates the week of November 30 through December 6, 1992, as "National Education First Week." This commemorative gives us an opportunity to use the media for raising political and public awareness of the importance of education and for stimulating students' interest in their own education.

During National Education First Week, cable and broadcast networks will carry programming and public service messages stressing the importance roles that school readiness, family involvement and self-esteem play in educational achievement for students of all ages, from all backgrounds. With additional strong support from radio broadcasters, television syndicators and the print media, National Education First Week 1992 has the potential to be the most effective public outreach effort to date in sounding the alarm on the state of education in America.

America's economic health depends on our ability to adequately educate all of our children. This media campaign can serve as a catalyst for possible grassroots and legislative solutions, moving us a step closer toward meeting this challenge.

I extend my appreciation to my California colleagues, Mr. MOORHEAD and Mr. BERMAN, for their support in bringing this measure to the floor, and urge my colleagues on both sides of the aisle to support its final passage.

The Clerk read the joint resolution, as follows:

H.J. RES. 543

Whereas the future economic success and democratic vitality of the United States depend primarily on the Nation's ability to provide a world class education from kindergarten through 12th grade;

Whereas all people of the United States have the right to a fulfilling, free, and safe elementary and secondary education that will enable them to be productive, skilled, and literate citizens;

Whereas the United States faces an unprecedented education crisis in which students fail to graduate from high school at a rate of 3,000 students a day (or more than 1,000,000 students a year) for the general population, and 46 percent for Black and Hispanic students;

Whereas 26,000,000 people in the United States are functionally illiterate, and only 40 percent of the Nation's students are able to solve math problems requiring 2 or more steps;

Whereas international competitors are outpacing the United States in preparing their students for the 21st century, as evidenced by data indicating that a Japanese student spends 30 percent more time in school than a student in the United States and that Japan has a literacy rate of almost 98 percent;

Whereas the education crisis of the United States places great strains on the Nation's economic, social, and political fabric, as evidenced by data indicating that 80 percent of prisoners are high school dropouts, 77 percent of college graduates (but only 37 percent of individuals with not more than an 8th grade education) voted in the 1988 presidential election, and only 3 percent of the Nation's high school graduates can understand distinctions among employee benefits plans;

Whereas the Nation's education crisis has reached such damaging proportions that only a coordinated, long-term effort by all sectors of the United States, including business, government, media, labor, and educators, can adequately address the challenge;

Whereas the media, including the television networks, the motion picture studios, and the cable television networks, are powerful tools to influence and arouse the public to a better understanding of the scope and severity of the education crisis, as well as to potential grassroots and legislative solutions to the crisis;

Whereas the commitment of the television networks to promote "Education First Week" represents the single greatest commitment of broadcast resources in the history of the television medium to address a national problem; and

Whereas "Education First Week" presents a unique opportunity to mobilize national and local political and public awareness through the media and is a significant step in confronting the Nation's education crisis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 30, 1992, through December 6, 1992, is designated as "National Education First Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMERICAN WINE APPRECIATION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 489) designating February 21 through 27, 1993, as "American Wine Appreciation Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I simply want to acknowledge the good work of my colleagues from California; first of all, Mr. FRANK RIGGS, who is the chief cosponsor of this measure, along with his colleague, VIC FAZIO. They have the required number of signatures.

Mr. FAZIO. Mr. Speaker, wine has been a part of the human diet for over 7,000 years. In America, since the early days of Thomas Jefferson, the American wine industry has steadily grown to become a major domestic industry.

Today, wine is produced in 43 States in the Union. The American wine industry earns over $8 billion in sales each year and supports more than 200,000 jobs nationwide. Even though the American wine industry is a relative newcomer to the art of winemaking, it now produces some of the finest wines in the world.

Because of the importance of the American wine industry to our Nation's history, culture and economy, we are today considering House Joint Resolution 489 to declare February 21 through 27, 1993 as "American Wine Appreciation Week."

I want to thank the gentleman from California [Mr. RIGGS] and the gentleman from New York [Mr. HORTON] for their help and assistance in bringing this resolution to the floor. The wine industry is clearly important to each of our States and I commend them for their efforts. I also want to thank Chairman SAWYER and his committee for their help in support of House Joint Resolution 489.

Mr. Speaker, American wine vintners and grape and fruit growers comprise a very important domestic industry. I urge my colleagues to honor and support this industry by supporting American Wine Appreciation Week.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 489

Whereas wine was produced by our Founding Fathers, including Thomas Jefferson, and winegrape growing and wine production in the United States continue today as a significant agricultural industry in 43 of the States;

Whereas the history of winegrape growing in the world dates back over 7,000 years and it continues as a proud tradition nurtured by the small farmer in all regions of the United States;

Whereas this agricultural industry is comprised of thousands of family-owned farms, many of which are passed on from generation to generation, sustaining responsible preservation of our agricultural resources;

Whereas more than 1,300 wineries and over 8,000 grape and fruit growers around the country work cooperatively to create wine;

Whereas over 85 percent of all wine consumed in the United States is produced by United States winemakers;

Whereas the direct economic impact of the United States wine industry is estimated to account for over $8,000,000,000 in sales annually, including the support of over 200,000 jobs as well as $1,000,000,000 in governmental taxes and fees;

Whereas the United States wine industry contributes to our quality of life by its ongoing contributions to organizations and associations in the health, civic, and educational sectors of the country;

Whereas acclaim for wine produced in the United States has grown internationally for many years and these products account for an increasing percentage of United States exports, helping to reduce the United States trade deficit;

Whereas wine, consumed in moderation, enhances the appetite and provides delicious accompaniment to all types of regional cuisine in the United States, enriching the quality of life for the citizenry of the United States; and

Whereas wine has fulfilled a valued role in a wide variety of the cultural, religious, and familial traditions of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That—

(1) the Congress commends the winegrape and fruit growers and vintners of the United States for the production of such high quality agricultural products; and

(2) February 21, 1993, through February 27, 1993, is designated as "American Wine Appreciation Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 304) designating January 3 through 9, 1993, as "National Law Enforcement Training Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to acknowledge the good work of our colleague, the gentlewoman from Nevada, BARBARA VUCANOVICH, who is the chief sponsor of this resolution.

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong support of Senate Joint Resolution 304, which is the companion to the resolution I introduced in the House to designate the week beginning January 3, 1993, as "National Law Enforcement Training Week." I would like to thank my colleagues on both sides of the aisle who have joined me in cosponsoring this legislation to recognize the often unsung individuals enforcement officials and to educate the public of the skill with which they carry out their craft.

In an era in which criminal activity has become increasingly violent and sophisticated, maintaining the safety of a free society is one that demands an unprecedented level of skill and professionalism. The difficult task of enforcing the law mandates an uncompromised commitment to securing the best available training for our law enforcement officials. In recognition of this fact, I introduced House Joint Resolution 530, and am pleased that we were able to obtain over 218 cosponsors for the resolution.

The riots in Los Angeles and in several other cities around the country have highlighted the need for professional and efficient law enforcement officers. House Joint Resolution 530 and Senate Joint Resolution 304 seek to emphasize the irreplaceable role that proper training and law enforcement techniques play in the protection of individual rights and liberties. These resolutions also pay special attention to heightening awareness among the youth of the Nation of the importance that law enforcement training holds in maintaining the security of the Nation.

Mr. Speaker, I am pleased that the House is approving this resolution to recognize those who contribute greatly to effective law enforcement in the United States.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of House Joint Resolution 530 designating the week beginning January 1993 as "National Law Enforcement Training Week." I wish to commend the gentlewoman from Nevada [Mrs. VUCANOVICH] for introducing this legislation.

Our Nation is fortunate to have 500,000 law enforcement officers who work to protect our safety each and every day. These brave men and women fight drug pushers, violent criminals, and others who seek to disturb the lives of law-abiding citizens. Law enforcement is a dangerous job. In the past 10 years, more than 1,500 law enforcement officers have been killed in the line of duty. Every 57 hours, an officer loses his or her life while protecting the American public from crime; 200,000 officers have been injured on the job in the last 10 years, and 600,000 have been assaulted.

Law enforcement training is crucial for the safety of our officers and the citizens of our towns and cities. It is our duty to honor those selfless individuals who risk their lives daily for our protection. Further, it is in the best interests of our National to encourage our young people to recognize the importance of law enforcement in America.

Mr. Speaker, I urge my colleagues to join me in support of this important legislation.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 304

Whereas law enforcement training and the sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property, and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of the Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and the sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training to the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 3, 1993, through January 9, 1993, is designated as "National Law Enforcement Training Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens, particularly the youth of this Nation, of the importance of law enforcement training and related disciplines.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL OCCUPATIONAL THERAPY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 471) designating September 16, 1992, as "National Occupational Therapy Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. It there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my friend from Pennsylvania for yielding to me.

Mr. Speaker, as the 102d Congress draws to a close, I want to take this opportunity to say a few words about the outstanding work of the gentleman from Pennsylvania, TOM RIDGE, who has served as the ranking member of the Subcommittee on Census and Population for the past 4 years.

I don't think a chairman in this body could have asked for a more sincere, knowledgeable, and hard working partner to carry out the enormously important, if often arcane, oversight of the Federal statistical system.

Our oversight of the 1990 census could have been clouded by political debate and efforts to secure partisan advantage. It wasn't.

TOM RIDGE and I focused our attention on ways to improve the conduct of the census and the accuracy of the results.

Even on issues where we disagreed, our differences were discussed openly, honestly, and professionally. We recognized our differences and sought to highlight the areas of common ground.

TOM, I am enormously grateful for our mutual appreciation of the importance of useful, accurate, and timely information.

I hope we have the opportunity to work together often in the next Congress.

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Mr. RIDGE. Continuing my reservation of objection, if Members will indulge me, I want to also take this opportunity after 4 years of working as the ranking minority member on this subcommittee, and working with my good friend from Ohio, TOM SAWYER, to say that this procedure, the commemorative procedure is one that brings us to the floor on many occasions, and we pass through it rather quickly. Four years ago we decided we were going to require all of our colleagues to get 218 cosponsors. We have stuck to that rule fairly closely during these 4 years, and it has not been easy. I certainly appreciate his willingness to set that standard and live by it.

Also, more importantly, when we did the work of this body dealing with the 1990 census, subsequent to the completion of that census, and prepared and began to look at the 1992 census, I found with my good friend a sincere commitment to seeing to it that what we did was done in as effective a way as possible. This man, TOM SAWYER, has spent countless hours, hundreds of hours working to see to it that the statistical accumulation that is so essential to not only how this body operates, but other levels of Government operate was done as fairly and openly and as properly as possible.

It has been a joy and a pleasure to work with him. He has been a true friend, and I just want to tip my hat to him, and tell him thanks, not only for the friendship and the leadership. I think it is unlikely during the next Congress that we will be doing these commemoratives, but I too look forward to the opportunity to work with the gentleman on other measures, hopefully in the 103d Congress. Thanks, TOM. I enjoyed working with you and I have enjoyed the experience.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ECKART). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 471

Whereas occupational therapy is a health and rehabilitation profession whose practitioners help to restore the highest quality of productive life to individuals recovering from illnesses or injuries;

Whereas practitioners of occupational therapy help individuals cope with developmental disabilities, psychosocial difficulties, or changes resulting from the aging process;

Whereas practitioners of occupational therapy in the United States treat more than 7,500,000 children and adults annually in a variety of settings, including hospitals, nursing facilities, outpatient rehabilitation facilities, psychiatric facilities, community mental health centers, private and public schools, and through independent practices and home health agencies;

Whereas practitioners of occupational therapy served the United States with great distinction from World War I to Operation Desert Storm by providing a wide variety of rehabilitation services to wounded members of the armed forces of the United States and by developing programs with the armed services to train additional occupational therapists;

Whereas the American Occupational Therapy Association, which was founded in 1917, is the oldest allied health professional society in the United States;

Whereas the membership of the American Occupational Therapy Association includes more than 45,000 occupational therapists, occupational therapy assistants, and students of occupational therapy from all of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and 65 foreign countries; and

Whereas 1992 marks the 75th anniversary of the founding of the American Occupational Therapy Association: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 16, 1992, is designated as "National Occupational Therapy Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: On page 2, line 3, strike "September 16, 1992," and insert "October 14, 1992."

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: AMEND THE TITLE SO AS TO READ: "JOINT RESOLUTION DESIGNATING OCTOBER 14, 1992, AS 'NATIONAL OCCUPATIONAL THERAPY DAY'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONGRATULATING COLLEGE OF WILLIAM AND MARY IN VIRGINIA ON 300TH ANNIVERSARY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the resolution (H. Res. 524) expressing the sense of the House of Representative to commend and congratulate the College of William and Mary in Virginia on the occasion of the 300th anniversary of its founding.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BATEMAN. Mr. Speaker, reserving the right to object, I am the chief sponsor of this resolution along with all of my colleagues from the Virginia delegation and our colleague, Mr. MOLLOHAN of West Virginia, a fellow alumnus of the College of William and Mary.

Mr. Speaker, I would like to commend my colleagues on the House Education and Labor Committee, especially the chairman, Mr. FORD, for bringing this resolution before the House for its consideration today.

Mr. Speaker, I rise in strong support of House Resolution 524 which I introduced earlier this year along with the entire Virginia congressional delegation and my fellow alumnus Representative ALAN B. MOLLOHAN of West Virginia. House Resolution 524 expresses that it is the sense of the House of Representatives to commend and congratulate the College of William and Mary in Virginia as it prepares to observe the 300th anniversary of its founding on February 8, 1993. I believe it is highly appropriate for this body to recognize this exceptional public institution of higher learning which has such a truly distinctive place in our country's educational and national heritage.

On February 8, 1693, King William III and Queen Mary II of England granted a royal charter to "establish a certain place of universal study within our Colony of Virginia * * * (that) shall for ever be called * * * the College of William and Mary in Virginia." The second oldest institution of higher learning in the United States, William and Mary was established in Middle Plantation, now Williamsburg, as an intellectual haven in the wilderness of the New World. From its royal roots to its current status today as one of the Nation's finest small public universities, William and Mary has been making history.

During its first hundred years, the College of William and Mary educated so many of our Nation's early leaders that it is known by many as the "Alma Mater of a Nation." In fact, the college was the intellectual crucible which forged the minds of those who led the American Revolution and later created our present form of Government.

William and Mary alumnus Thomas Jefferson authored and signed the Declaration of Independence which also was signed by alumni George Wythe, Benjamin Harrison, Carter Braxton, and Thomas Nelson, Jr. George Wythe, an eminent legal scholar and law professor at the college, participated in the Constitutional Convention. Three of the college's Virginia graduates, Thomas Jefferson, James Monroe and

John Tyler, went on to be elected President of the United States, and their fellow William and Mary alumnus John Marshall guided the development of the Supreme Court and the judicial branch of Government during his tenure as Chief Justice. Another of our Nation's Founding Fathers, George Washington, was serving as the college's first American chancellor when he was elected our country's first President. Today, the college's chancellor is retired Chief Justice of the Supreme Court, Warren E. Burger.

As the Nation's second oldest institution of higher learning, William and Mary has established a distinguished list of educational firsts or priorities. These priorities have set a standard of quality and excellence for liberal arts education that has been emulated by colleges and universities nationwide.

Among its many contributions to American education, the college is credited with establishing the first honor system in the country and founding Phi Beta Kappa in 1776, America's first and foremost scholastic fraternity. Thomas Jefferson, as Governor of Virginia, proposed the sweeping reorganization which united the college's faculties of medicine, law and the arts in 1779, making William and Mary America's first true university and the first to institute an elective course of study for its students. A complete list of the college's priories is affixed to the wall of the historic Sir Christopher Wren Building—North America's oldest academic building in continuous use as a classroom.

PRIORITES OF THE COLLEGE OF WILLIAM AND MARY

First college in the United States in its antecedents, which go back to the college proposed at Henrico, 1619. Second to Harvard University in actual operation.

First college to receive its charter from the Crown under the Seal of the Privy Council, 1693. Hence it was known as "their Majesties Royal College of William and Mary."

First and only American college to receive a coat-of-arms from the College of Heralds, 1694.

First college in the United States to have a full faculty consisting of a President, six professors, usher, and writing master, 1729.

First college to confer medallic prizes: the gold medals donated by Lord Botetourt in 1771.

First college to establish an intercollegiate fraternity, Phi Beta Kappa, December 5, 1776.

First college to have the elective system of study, 1779.

First college to have the honor system, 1779.

First college to have a school of modern languages, 1779.

First college to offer professional training in law, 1779.

First college to teach political economy, 1784.

First college to have a school of modern history, 1803.

First college to have a course in the fine arts.

While William and Mary is dedicated to preserving its truly historic legacy, it also is a forward-looking institution of higher learning eager to meet the challenges of the future. Through revolution and civil war, peace and prosperity, the college has accommodated the changing needs of students, faculty, the Commonwealth and the Nation. As it prepares to embark upon its fourth century, moreover, I am confident that the college will continue to be guided and well-served by its unwavering commitment to undergraduate liberal arts education as a foundation of a free and democratic society.

As House Resolution 524 clearly illustrates, the history of the College of William and Mary in Virginia constitutes a significant part of the history of the United States. Indeed, the college has played a leading role not only in cultivating the minds of some of America's most visionary and respected leaders, but in fostering the very ideals and system by which this country has sought to educate its citizenry.

For all of these reasons, the 300th anniversary of the college's founding is an occasion in which all Americans can take pride and satisfaction. While several major conferences and in array of programs in the arts, sciences, and humanities will take place at the college next year as part of its tercentenary celebration, I believe this anniversary provides every American with a rare opportunity both to reflect upon our Nation's heritage and to recognize one of this country's most distinguished institutions of public learning.

Let me conclude by saying that it has been truly a personal privilege for me, as an alumnus of the college, to offer this William and Mary resolution for consideration by the House of Representatives. I have enjoyed working on this project with William and Mary's presidents, faculty, students, friends, and its alumni—many of whom are continuing the college's tradition of public service throughout our Nation's Capital. I also have been proud to serve on the college's Tercentenary Observance Commission with my colleagues from the U.S. Senate, Mr. WARNER and Mr. ROBB. They introduced a resolution identical to mine that received the unanimous approval of the Senate on September 22, 1992.

Mr. Speaker, it is with particular satisfaction that I now urge my colleagues to support House Resolution 524 to commend and congratulate the College of William and Mary in Virginia on the occasion of its 300th anniversary, to recognize the many contributions it has made to the well-being of the people of Virginia and the United States, and to express the desire of the House of Representatives to see the College of William and Mary in Virginia continue to grow and prosper in the centuries yet to come.

Mr. MOLLOHAN. Mr. Speaker, as an alumnus of the College of William and Mary, it is with great pleasure that I offer my strong support to the resolution offered by the gentleman from Virginia.

It has been said, Mr. Speaker, that receiving an education is among the most humbling of experiences. This certainly is true. It is only when one begins to study and learn that one can appreciate the depth of knowledge of our greatest scholars, statesmen, and scientists.

For three centuries, the college in the town of Williamsburg, VA, has humbled generation after generation of students by introducing them to the wisdom that we, as a people, have accumulated. Generations also have been humbled by the accomplishments of the school's distinguished alumni. As an undergraduate at the College of William and Mary, I was awed by the thought that I was studying at the same institution which had schooled so many men of great stature. Thomas Jefferson, James Monroe, John Tyler, John Marshall. The list goes on.

Mr. Speaker, it is fitting that on the occasion of the 300th anniversary of the founding of the College of William and Mary, we commemorate the role it has played in educating such prominent figures in American history, and celebrate the tremendous contributions that these individuals have made to our Nation. It is proper, too, that we observe the achievements of men and women whose names do not only grace the pages of history books, but who also have applied an education received at William and Mary for the benefit of our society. Those who have pursued successful careers in teaching, science, the arts, law, social work, business, and Government service, to name but a few.

The College of William and Mary has been termed "the Alma Mater of a Nation" in recognition of its role in educating early American leaders. I believe the college continues to earn that title by providing its students with a quality education which they can apply to the challenges before our society, at every level.

I join my colleagues in commending the College of William and Mary on this milestone, and extend my best wishes for its continued success in serving educational needs of our Nation.

Mr. BATEMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 524

Whereas, throughout their history, the people of the United States have recognized that an educated citizenry is important to a democracy, and to that end have supported universal education as well as the development of centers of advanced learning for the benefit of the general welfare;

Whereas, on February 8, 1693, a royal charter was granted by King William III and Queen Mary II of England to found and establish "a certain place of universal learning" in the "good arts and sciences" to be known forever as the College of William and Mary in Virginia;

Whereas, on December 4, 1779, after the United States gained its independence, Thomas Jefferson, then Governor of the Commonwealth of Virginia and a former student of the College of William and Mary, led an effort to reorganize the curriculum of the College of William and Mary which resulted in the creation of the first elective system of study in the United States, the establishment of an honor system that remains an integral part of the College of William and Mary today, and the creation of the first Chair of Law in the United States;

Whereas the students of the College of William and Mary, the second oldest institution of higher learning in the United States, have contributed to the general welfare for three centuries, so that it has accurately been said that the history of the College of William and Mary forms a significant part of the history of the United States;

Whereas among the distinguished alumni of the College of William and Mary are three Presidents of the United States, Thomas Jefferson, James Monroe, and John Tyler; Chief Justice John Marshall and three Associate Justices of the United States; more than thirty United States Senators; more than sixty Members of the House of Representatives; eight members of Presidential cabinets; twenty-seven Governors of ten States; and countless other public officials and leaders in business, industry, military service, science, and the arts;

Whereas the College of William and Mary and the town of Williamsburg have flourished together, fulfilling a prediction made in 1699 that "the College will help make the Town", and together constituting an historical treasure to be enjoyed and appreciated by the people of the United States and the world;

Whereas in the past twenty-five years the College of William and Mary has established itself as a modern university with distinctive graduate programs and as a leader in higher education, while never wavering from its commitment to undergraduate liberal arts education as a foundation of a free society; and

Whereas, as the College of William and Mary prepares to embark upon its fourth century, it continues to educate men and women to be productive citizens in both public and private pursuits and to adapt its course of studies to the growing needs of the community and the Nation: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives to commend and congratulate the College of William and Mary in Virginia on the occasion of its three hundredth anniversary, to recognize the many contributions it has made to the well-being of the people of Virginia and the United States, and to express the hope of the people of the United States that the College of William and Mary will continue to grow and prosper in the centuries yet to come.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER H.R. 6186, JEMEZ NATIONAL RECREATION AREA

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6186) to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

RETIREMENT OF CONGRESSMAN BRIAN DONNELLY

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, when BRIAN DONNELLY announced in March that he would not seek reelection to an eighth term in the U.S. House of Representatives it took most of his colleagues by surprise. Since his election in 1978, he had faced no opposition, and his reelection to the House every 2 years had become a formality. But after lengthy discussions with his family, and following the retirement of his close friend, DENNIS ECKART, BRIAN DONNELLY decided to return to his hometown of Dorchester and begin a new career.

If you want to know what type of person BRIAN DONNELLY is, listen to his reason for retiring. Last March, he said, "my son and daughter are at a time in their lives when they deserve more than a part-time father. I can no longer reconcile spending a few hours every weekend with my children and missing important events in their young lives, and as acceptable to what my fatherly responsibilities demand." I think that statement, more than any other, offers us a real insight into BRIAN DONNELLY'S character.

While I respected his decision to retire, I can also say that it brought some sadness. Not only is he one of my closest friends in Washington, but he is one of the brightest Members serving in the House of Representatives. His outspoken leadership on the Ways and Means Committee, on Health Care issues, and on Irish affairs will be truly missed by each one of his colleagues. I for one will also miss his candor, insight, and sense of humor.

For the past 14 years BRIAN DONNELLY served the people of the 11th District with distinction and class. His decision to retire from the House and spend more time with his family is, in my opinion, consistent with his character. I was honored to serve with BRIAN for two terms in the Congress, I am proud to call him a close friend. On this, his day of retirement, I wish him, his wife, Virginia, and their two young children the very best in the years ahead.

TRIBUTE TO MARTY RUSSO

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I, too, want to join with the gentleman in paying tribute to BRIAN DONNELLY as a member of the Ways and Means Committee, but I also want to pay tribute to another member of the Ways and Means Committee who is not only a dear friend and a roommate, but an outstanding legislator, and that is MARTY RUSSO from Illinois. He is somebody I think all of us recognize as an outstanding whip, somebody who you always turned to when you wanted to get some legislation through the Congress. He was one of the most effective whips we have on the Democratic side.

He was also an outstanding member of the Ways and Means Committee, and someone who has been very involved in health care legislation.

But more importantly, he has been a dear friend. In Italian "paisano" means somebody who is more than a friend, and he has been a paisano not only to me, but I think to the House of Representatives.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I thank the distinguished gentleman from California for yielding. I would also like to say that Congressman RUSSO is one of the toughest outs on the Democratic baseball team. And we are glad to see he is retiring, because I think the last 3 years we have only got him out once or twice. So we are going to miss him in the congressional baseball game.

Mr. PANETTA. I thank the gentleman.

TRIBUTE TO THE HONORABLE DANTE FASCELL

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I join my colleagues in this fitting tribute to a much respected colleague and dear friend, DANTE FASCELL, as he concludes a distinguished congressional career spanning more than three decades. From the midst of the cold war to the fall of the Berlin Wall, DANTE has demonstrated an unwavering dedication to principles and commitment to upholding human rights.

Through his outstanding leadership, uncommon energy, and moral instinct he has helped shape U.S. foreign policy for more than a quarter century. My friend and colleague has honored this body with his service to the people of Florida, to the people of this country and to the thousands of individuals imprisoned and silenced by totalitarian governments. His is a career that few ever achieve but all envy.

Over the years, Chairman FASCELL has distinguished himself in numerous foreign policy fields including arms control, development assistance, and human rights. It would take much longer then I have to list all of his accomplishments in these particular fields. So I will focus on the CSCE which among a very select few, DANTE FASCELL has helped set the stage, tone and agenda.

He served as chairman of the Commission on Security and Cooperation in Europe for 8 years, from 1976 to 1985, and has remained an active member ever since. Critics at home opposed the establishment of the Commission for various reasons. Undaunted, DANTE was determined to prove that the Congress could and should play an active role in pressing human rights concerns abroad.

When the Soviet Union and other Warsaw pact countries denied him visas to travel to their countries to monitor human rights conditions shortly after the Commission was established, he took his concerns to key capitals in Western Europe in an effort to build support for promotion of human rights within the CSCE. He believed that the value of the Helsinki process would be reflected to the degree that human rights took its place center stage in international relations.

Shortly after the signing of the Helsinki Final Act, he observed that:

> One of the most significant aspects of the Final Act is that it carved a place on the international agenda for those questions of human rights which matter enormously to individuals but which have been slighted by their governments in dealing with one another.

With energy and determination he championed the cause of those denied their human rights and fundamental freedoms. Chairman FASCELL was attacked in the Soviet press and elsewhere for his human rights activities. Undeterred, he continued to speak out. He used every available opportunity to raise the cases of the well-known and the unknown alike. In the process he brought prestige and prominence to the work of the Helsinki Commission. He worked to develop better relations between the Commission and the Department of State on areas of common interest. Under his chairmanship the Commission developed into a widely respected organization and key player in the CSCE process.

DANTE FASCELL has played an active and leading role in the Helsinki process from the very difficult and dark days following the signing of the Helsinki Final Act to the present.

He served as cochairman of the U.S. delegations to the Belgrade and Madrid CSCE followup meetings. More recently, he was instrumental in the establishment of the CSCE Parliamentary Assembly, a body bringing together parliamentarians from the 52 CSCE participating States. He has served as chairman of the U.S. delegation to the assembly.

As the current chairman of the Helsinki Commission, I can attest to DANTE'S outstanding achievements in the human rights field. In a speech before a human rights group in late 1977, he observed that "we have started down a long road." DANTE FASCELL has been there every step of the way a long that long and often difficult road. But the journey is not yet complete.

I am very pleased that Chairman FASCELL has been nominated to serve as a human rights expert under the Human Dimension Mechanism of the CSCE to assist in resolving specific human rights problems. Few could do a better job.

Mr. Speaker, it is with great admiration and much affection that I commend this dear friend and distinguished colleague for his past work which will live on through many generations.

I wish him and Jeanne-Marie the very best for the future.

And on behalf of the thousands who have benefited from his strong moral force in this body and in U.S. foreign policy, I say thank you, thank you Chairman FASCELL. You have made a difference in our lives.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to my friend, the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I appreciate the gentleman's remarks. I want to join in and associate myself with those remarks.

As my friend, and as my next-door neighbor in the congressional district, DANTE FASCELL has been my mentor in this body for many years. I am sorry that he is leaving, although we are leaving together, because the United States and the country are losing a great American, and a great Congressman.

I appreciate the gentleman taking the time to say so.

Mr. HOYER. I thank the gentleman for his contribution.

Ms. PELOSI. Mr. Speaker, I rise today to join with other Members of the House in honoring our good friend and colleague, Representative DANTE FASCELL.

For 38 years, DANTE has worked diligently for the benefit of the people of Florida, the people of this Nation, and the integrity of this institution. Throughout his term of service, he has played an instrumental role in the development and passage of many of the most important bills passed by the Congress in the last half of the 20th century.

On the domestic front, among his many contributions are helping to create the Department of Housing and Urban Development and the Department of Education. He also led the successful effort to establish a national marine sanctuary to protect the fragile ecosystem of the area around the Florida Keys, preserving a national treasure for generations to enjoy.

DANTE is a tenacious fighter with a strong appreciation for the Constitution. He has worked hard and against strong odds to preserve the balance of powers by fighting for Congress' rightful role in the realm of foreign policy. DANTE is without equal in his commitment to keeping Congress involved in the foreign policy process. Without him, for example, we would not have the War Powers Act.

He has also contributed enormously to the integrity of this institution. In 1973, the Democratic Caucus adopted his amendment requiring congressional committee sessions to be open to the public, unless the members of the committee voted in public to close the session. He then moved on, successfully, to insist on the opening of House-Senate conferences. And, believing ardently that the functionings of Government by and for the people should be open to the people, he helped to pass the law to open executive agency meetings.

DANTE'S passion for the democratic system has stretched well beyond the borders of this country. During his tenure in Congress, many of the major foreign policy events that will shape the 21st century world have taken place. Throughout these events, DANTE has always stood firmly for the course of action he believed would strengthen democratic movements.

DANTE'S retirement will have an impact on the quality of national debate and policy. At the same time, it will have an impact on those of us continuing to serve in this institution. I will miss DANTE and wish him the best in all of his new endeavors.

Mr. HUGHES. Mr. Speaker, I rise today to pay tribute to our esteemed colleague DANTE FASCELL of Florida. After 38 years of service to this House, DANTE, one of our most experienced leaders and valued friends, will be retiring.

DANTE is a fine legislator with an excellent record of accomplishment. He has served the 19 district of Florida and this House with great distinction.

Through this admirable work as chairman, the House Foreign Affairs Committee has regained a prominent position in U.S. foreign policy development. In spearheading the House efforts to create a new, strong foreign aid bill, DANTE demonstrated his leadership and consensus building abilities.

As a fellow member of the Select Committee on Narcotics Abuse and Control, I have had the opportunity to work with DANTE to attempt to control the tide of illegal substances entering this country. His tireless efforts deserve our greatest praise.

It is with sadness that I bid farewell to my friend and colleague, but also with best wishes for success in all of his future endeavors.

Mr. PAYNE of New Jersey. Mr. Speaker, as a member of the House Foreign Affairs Committee, I rise to join in this tribute to our distinguished chairman, DANTE FASCELL.

Since my appointment to the Committee on Foreign Affairs Committee in my freshman term, I have always found Chairman FASCELL to be accessible, considerate, and fair.

His many years of experience have given him a unique perspective on both domestic and international issues.

Before coming to Congress, Chairman FASCELL distinguished himself through military service, through his legal expertise, and through his work as a State representative.

Since his election to Congress in 1954, Chairman FASCELL has been actively involved in a number of major issues. On the Foreign Affairs Committee, he serves also as chairman of the subcommittee on Arms Control, International Security and Scientific Affairs.

He was vice chairman of the House Committee to Investigate Covert Arms Transactions to Iran, and he is a member and former Chairman of the Commission on Security and Cooperation in Europe. With the exciting changes that have taken place around the globe in recent years as formerly oppressed nations embrace democracy, Chairman FASCELL has been able to see the fruits of his labor.

I also serve with Chairman FASCELL on the Select Committee on Narcotics Abuse and Control. We share an interest in eradicating the scourge of illegal drugs, whether it be in my home district of New Jersey or his area in Florida, and Chairman FASCELL has worked diligently toward that goal.

He has left is mark both in foreign and domestic affairs. Chairman FASCELL was involved in such important domestic endeavors as the creation of the Department of Housing and Urban Development. He recognized the importance of helping people meet basic housing needs in order to give their lives dignity and hope.

Mr. Speaker, I know that our chairman will remain active, both at home and in the international community. Although he is leaving this institution, we look forward to his continued input and counsel. Along with my colleagues, I extent my very warmest wishes to Chairman FASCELL as he goes on to meet new challenges in his life.

Mr. BERMAN. Mr. Speaker, it is with a measure of sadness that I rise today to salute my chairman, my colleague, my teacher, and my friend—DANTE FASCELL. I will miss him sorely.

Since I was first elected to Congress and began to serve on the Foreign Affairs Committee, DANTE has been an inspiration and guide.

Throughout his tenure in Congress, DANTE has sought to shape this country's approach to arms control by leading the fight to implement a comprehensive arms control policy.

In his capacity as chairman of the Arms Control Subcommittee, DANTE and I have worked closely together on arms control issues and he has recognized, more than most, the central importance of demilitarization to global peace and prosperity.

In 1961, at the height of the cold war, when the threat of nuclear annihilation was real and immediate for millions of people, DANTE was instrumental in creating the Arms Control and Disarmament Agency. His work put the issue firmly on the front burner of U.S. foreign policy and set the stage for the historic arms limitation and testing agreements of that era.

Throughout the years of the Reagan arms buildup DANTE was among a very few alerting the Congress and the public to the detrimental impact of this policy.

As far back as 1984, DANTE issued a report on the alarming cost and the adverse arms control implications for the strategic defense initiative—star wars. Even as the administration continues to find new justifications for this unneeded project, DANTE continues to point out that the best defense against ballistic missile threats is to strengthen the nonproliferation regime.

DANTE has been equally astute in recognizing the arms control challenges of the post-cold war era.

He has been a leader in urging the replacement of the conventional arms race with an international policy of arms restraint. This effort culminated with the enactment, in October 1991, of legislation calling for the establishment of a multilateral arms restraint regime with the other major supplier countries. Unfortunately, despite high sounding rhetoric, the administration has failed to live up to the goal of limiting arms sales to such volatile regions as the Middle East.

As he has worked for nonproliferation around the world, DANTE and I have worked closely together to restrict access to chemical and biological weapons as well as advanced military technology by particularly dangerous regimes such as Iran and Iraq.

Most recently, DANTE was among the first to recognize the importance of linking assistance to Russia and the other Republics of the former Soviet Union to the orderly and verifiable demilitarization of our former adversary and global arms supplier. He was instrumental in authorizing almost $1 billion to destroy and control the proliferation of weapons of mass destruction by the Republics of the former Soviet Union.

Mr. Speaker, the Nation owes a great debt to DANTE FASCELL. I wish him well in all his future endeavors.

Mr. PANETTA. Mr. Speaker, I would like to join in the tributes to the most honorable and distinguished chairman of the Foreign Affairs Committee, DANTE FASCELL, who is retiring this year after 38 years of service in the House. I have had the pleasure of getting to know and working with DANTE the past 15 years of his long and venerable congressional career. DANTE's service has special meaning for me, as he has been not just the chairman of the Foreign Affairs Committee and a leading Member of Congress on other issues, but also a leader of the Italian-American community, particularly in the Congress.

DANTE is known for his affable manner, but this congeniality belies a quick mind of sound judgment. His experience and skills as a leader and conciliator are renowned on and off the Hill, and DANTE got a lot done not just for the good people of southern Florida, but for the American people and our natural resources as well. From his championship of the National Marine Sanctuary Program to his stewardship of Florida's Everglades and Keys, DANTE has been a key leader in the struggle to protect our Nation's coastal regions.

In his work, DANTE has performed his office with consummate skill and tact. He is a true legislative craftsman, rarely taking time to boast of his accomplishments but prodigious in his output year after year. DANTE has also been a generous, patriotic, and devoted colleague of all of us, devoted to the people of Florida, to the Nation and to his family.

His accomplishments as chairman of the Foreign Affairs Committee are innumerable, but I would like to take special note of several aspects of his long and successful tenure at the helm of that important panel. DANTE is a man of global vision, and as the chairman of the Committee on Foreign Affairs, he has protected the Congress' jurisdiction on many aspects of national security even as he has worked closely with House, Senate and administration leaders during times of crisis to resolve major policy questions. In particular, DANTE has distinguished himself as a champion of the War Powers Resolution and the Congress' constitutional prerogative in the authorization of commitment of American troops to war.

DANTE has devoted 45 years to his service in the public trust, and his legacy includes more than legislation alone. We will not soon forget DANTE'S example of character, wisdom, his love of life, and his earnest desire to serve his fellow Americans. DANTE FASCELL, you've been a good friend of mine and a great Congressman, and I pay tribute to your years and years of hard work tonight. May you have a long and fulfilling retirement.

Mr. GREEN of New York. Mr. Speaker, I rise today to pay tribute to our colleague and esteemed chairman of the House Foreign Affairs Committee, DANTE B. FASCELL, who is retiring at the close of this Congress after 38 years of public service.

I should like to thank our colleague, the gentleman from Texas [Mr. BROOKS] for sponsoring tonight's special order in DANTE'S honor.

Our colleague from Florida has been a wonderful and charismatic leader on the House Foreign Affairs Committee. As a member of the House Subcommittee on Foreign Operations, I have worked closely with the gentleman from Florida and have found him to exemplify what public service and integrity are all about. As a result of his tireless efforts, Congress has played a direct role in the formulation of U.S. foreign policy.

At this time, I should like to offer DANTE my very best upon his retirement. He has gained the deserved respect of all of those who have had the pleasure of working with him in this body. I know that our colleagues join me in thanking him for his dedication to the State of Florida as well as the Nation as a whole.

Mr. GIBBONS. Mr. Speaker, DANTE FASCELL is my oldest and best friend in the Congress. I have known DANTE and Jeanne-Marie for 40 years. I served with him in the Florida Legislature, counseled with him while seeking election to my first term here in the Congress, got his ideas on how to organize and run a congressional office, and have followed his work and leadership as chairman of the Foreign Affairs Committee.

DANTE, as we all know, is a unique personality. He is full of high ideals, great energy, friendship and love. And he is a legislative craftsman.

Jeanne-Marie is an integral part of a wonderful husband-wife team. She is so nice, so thoughtful, and so intelligent. Martha and I have spent many happy hours—indeed, happy days—with the Fascells. We are going to miss them, but we will never forget them.

Mr. SOLOMON. Mr. Speaker, this is yet another one of those occasions that leave Members with a profound sense of ambivalence.

We look forward to having the opportunity of paying tribute to an esteemed colleague and friend, while at the same time we are filled with regret at the circumstance that makes just such an opportunity possible.

Today, of course, we are saying goodbye to DANTE FASCELL. It can rightly be said that few Members of Congress have ever had so great an impact on the times in which they served than did DANTE FASCELL.

Whenever future generations talk about the giants of Congress, they will be talking about our friend, DANTE. Whatever DANTE may lack in physical stature, he has more than made up for in leadership stature. His intellect, his tenacity, his burning desire to see the free world prevail in the great struggle of our time—all of these things set DANTE FASCELL apart as a man of uncommon distinction.

And I must say, as the ranking minority member of the Rules Committee, that I have always admired DANTE'S mastery of the rules. He learned early how this place works, and I greatly respect him for it.

Some Members have focused on DANTE'S many achievements in the field of domestic legislation. By contrast, I came to know DANTE best because of his interest in Foreign Affairs. And, Indeed, I served with him on the Foreign Affairs Committee—and for five of those years I served under his chairmanship.

Singling out his most important accomplishment is very difficult—there are so many things to choose from. But one thing that springs quickly to my mind is DANTE'S long championship of the National Endowment for Democracy.

There came a time in the protracted struggle known as the cold war when the free world in general, and the United States in particular, lost sight of the need to wage a positive, proactive campaign of ideas. We simply were not telling our story—or selling our ideas—to the people who were trapped behind the Iron Curtain and elsewhere.

This is when DANTE FASCELL entered the breach. He was instrumental in establishing the National Endowment for Democracy—and he has been indispensable in keeping it going. The endowment's work is still unfinished. But the tide of history is clearly running in favor of freedom, and so much has already happened.

When DANTE FASCELL was first elected to Congress, a worker's revolt in East Germany had recently been crushed and Orthodox Stalinism still held sway in the Soviet Union. Today, as DANTE prepares to leave Congress, East Germany, Stalinism, and all of the other trappings of Soviet communism are gone. The Warsaw Pact and the Soviet Union itself have disintegrated. Freedom—not communism—is everywhere on the march.

In his long congressional career, DANTE FASCELL made signal contributions to winning the cold war. And, somehow, I have the suspicion that he is going to be just as busy in retirement as he was in Congress. I hope so.

To you, DANTE, and to Jeanne-Marie, I extend best wishes for a happy and prosperous retirement. Come back and see us, too. The wit and wisdom of DANTE FASCELL will always be in demand here in Washington.

Mr. HORTON. Mr. Speaker, I want to pay tribute to DANTE FASCELL who will be retiring from the Congress at the end of the year. DANTE FASCELL has served this Nation with distinction as a Member of this body for 38 years.

DANTE FASCELL is one of the finest Members I have ever had the privilege of serving with. He is a true friend and an outstanding statesman. My wife Nancy and I have had both the privilege and pleasure of traveling with DANTE and his lovely wife Jeanne-Marie on countless foreign trips to locations such as London, Venice, and Vienna, in connection with our work on the North Atlantic Assembly and the United States-Canada Interparliamentary Group.

As you know, the North Atlantic Assembly is a panel of legislators from all the NATO countries and focuses on security issues of concern to NATO members. Similarly, the United States-Canada Interparliamentary Group is composed of Members from the Congress and the Canadian Parliament and focuses on border, trade, and security issues, as well as other items of mutual concern. DANTE FASCELL worked extensively on both panels, which have enabled many Members to be more effective legislators.

Nancy and I have even spent time in DANTE'S district when we had the opportunity to travel to Key West, FL. While there, we had the fortune of witnessing first hand many of the projects which DANTE helped bring to his district. It was evident to us that DANTE is held in high regard by his constituents. Knowing DANTE, and the kind of person that he is, we were not surprised by how much his constituents admire and respect him.

As chairman, DANTE has demonstrated tremendous leadership of the House Foreign Affairs Committee. His cool headed, bipartisan approach to foreign affairs has been the hallmark of this chairmanship. He worked very closely with Republicans and Democrats alike and has earned the respect and affection of members from both parties. His leadership will certainly be missed.

And although it is fashionable in some circles to denigrate this institution and its Members, and colleagues who remain behind and our successors would do well to look to the career of DANTE FASCELL as one to emulate. The essence of the Congress is for Members of different views to come together to discuss the issues, hash out the differences, and forge public policy that incorporates the best elements of the varying positions. DANTE FASCELL was a leader in that regard.

My wife Nancy joins me in extending our best wishes to DANTE FASCELL, Jeanne-Marie and their family. We wish them the best of luck in all of their future endeavors.

Mr. REGULA. I am pleased to join in this special order to recognize the accomplishments and contributions of a dedicated American, DANTE FASCELL. Others have detailed his multitude of legislative initiatives and successes during his 38 years as a leader in this body.

On a personal note as a member of the North Atlantic Assembly delegation from the House, I have admired his leadership in articulating to our assembly colleagues from the other 15 nations making up NATO the positions vital to the U.S. role in this organization.

The respect he commanded among the NATO delegates enhanced greatly the impact of U.S. policies.

DANTE leaves this body with the respect of his colleagues and with the goodwill of many friends.

Mary joins me in wishing DANTE and Jeanne good health and a life with new challenges.

Mr. BENNETT. Mr. Speaker, this country, next year and in years to come, will greatly miss the presence in Congress of Congressman DANTE FASCELL. DANTE has given our Nation and the international community of nations level-headed, thoughtful, and compassionate leadership. Without him at the helm in this difficult field of endeavor we could easily have had unneeded wars and tragedies; with him at the helm we developed great international friends and peace.

On a personal note no one in Congress is more beloved and respected. We all wish for him and his lovely wife Jeanne-Marie all happiness and fulfillment in their less stressful future.

Mr. RUSSO. Mr. Speaker, when DANTE FASCELL arrived in Congress, Dwight Eisenhower was President, we were only a few years out of a war in Korea, and the Berlin Wall was yet to be built. Time has marched right along since those relatively calm days of the 1950's, bringing events of a magnitude to reshape the world and our view of it, and DANTE has marched right along with history, reshaping the course of that history through his work in the U.S. Congress.

I can only imagine what DANTE'S accumulated files look like, considering the extent of his involvement in so many major issues through several decades, and his active leadership on the world stage. An archivist could study the course of legislative initiatives brought to fruition on subjects ranging from sunshine in government to housing, and could chart the course of democracy and human rights by reviewing hearings from his work as chairman of the Commission on Security and Cooperation in Europe and as chairman of the Committee on Foreign Affairs.

This leader's departure is a loss for the Congress and the Nation. And, in terms of his great accomplishments, I want the distinguished gentleman from Florida to know this before he departs: Just before I head out the door, I'll vote for the last foreign aid bill—and that's because of you DANTE. All my best wishes for the future to a great legislator and a great friend.

Mr. ANNUNZIO. Mr. Speaker, I rise to join my colleagues in recognizing Congressman DANTE FASCELL of the 19th District of Florida for his 38 years of outstanding service in the House of Representatives.

It is extremely difficult to capsulize the impact that Mr. FASCELL has had on the foreign policy of this Nation; he has been a member of the Committee on Foreign Affairs since 1957, longer than most of us have served in this House. As a member of the House delegation to the North Atlantic Assembly, which he leads as chairman of the Foreign Affairs Committee, I have witnessed the diplomacy and skill that he used in restoring the ability of the Foreign Affairs Committee in crafting this country's foreign policy. He also currently chairs the Subcommittee on Arms Control, International Security and Science. He has had a major hand in passing the War Powers Act of 1970, the INF Treaty, and the more recent resolution authorizing the use of force against Iraq.

While his dedication to foreign affairs has been the dominant focus of his congressional career, some of his other legislation also has had far-reaching effects, including the Government in the Sunshine Act, and the establishment of the National Endowment for Democracy. For his district on the tip of southern Florida, he established the Marine Sanctuary around the Florida Keys, and has vigorously opposed offshore oil drilling. Because of his deep concern over escalating illicit drug traffic, he sought and obtained an assignment to the Select Committee on Narcotics Abuse and Control, where he has made numerous contributions aimed at halting this traffic.

Congressman FASCELL leaves a great legacy of legislative accomplishments when he retires at the conclusion of this Congress. I congratulate him and wish for him a healthy, happy and well-deserved retirement.

Mr. MONTGOMERY. Mr. Speaker, I want to join my colleague from Texas in this special order to pay tribute to the gentleman form Florida, DANTE FASCELL. DANTE has been a member of the Foreign Affairs Committee since 1957 and its chariman since 1984. He has been one of the leaders in helping shape foreign policy issues over the years and has counseled Presidents on both sides of the aisle.

I think he has been an outstanding committee chairman on a committee that includes Members of Congress with very diverse opinions on the issues. It has not been an easy job, but he has handled it with great skill. Our colleague has made a tremendous contribution to the cause of democracy and human rights around the world and we are certainly going to miss his leadership and his experience in this Chamber.

I also want to acknowledge the help he has always given me on veterans issues over the years. He was a World War II veteran and has always been so supportive of programs to help improve the services and benefits for the men and women who have served our country.

I wish all the best to our colleague. He is a gentlemen in every respect and we will miss him.

Mr. YATRON. Mr. Speaker, I rise to pay special tribute to my very good friend and colleague, DANTE B. FASCELL, who is retiring after 38 years of distinguished service in the House.

I have had the privilege of serving with Congressman FASCELL on the House Foreign Affairs Committee during my 24 years in Congress, the last 10 of which DANTE was chairman.

DANTE's extraordinary leadership of the committee helped to successfully guide the Congress and the American people through some of the most difficult foreign policy crises to ever confront the Nation.

His legislative accomplishments in international relations were unparalleled and his wise counsel on important national security issues was sought by eight Presidents and their Secretaries of State. DANTE promoted human rights around the world long before it was the popular thing to do.

We live in a far more stable and secure world because of DANTE FASCELL. DANTE has earned the distinction of being called a statesman.

I am proud to have served under Chairman DANTE FASCELL. I am even prouder to call him my friend.

Mr. HUTTO. Mr. Speaker, one of the most outstanding Members of the House is retiring from this body at the end of the 102d Congress. Congressman DANTE FASCELL has served in the Congress since 1954 and has built an enviable record during these 38 years of service.

DANTE started his political career by being elected to the Florida House of Representatives in 1950. After two terms in that body he was elected to the Congress and has proven himself to be one of Florida's finest ever representatives in Congress. He is well known as an expert on foreign affairs and as chairman of the House Foreign Affairs Committee he is respected by everyone for his able leadership.

DANTE FASCELL is a true American patriot. A reasonable person, he is able to bring together competing factions in a consensus for the best interest of the Nation. Since becoming the chairman of this important committee in 1984, Congressman FASCELL has been able to steer to passage foreign affairs authorization bills that have been unable to get passage in previous years.

Though foreign affairs is his forte, he is knowledgeable on many issues. His support of human rights and his concern and compassion for people has been a source of hope and help for many thousands, perhaps millions of people. DANTE has been a popular Congressman for his south Florida district and seldom has serious opposition for reelection. Though his district has been radically changed in the recent reapportionment there is no question that he could have returned to the House had he chosen to do so.

DANTE, who is a graduate of the University of Miami, is a big booster of the Miami Hurricanes football team and in recent years, of course, he has great reason to rejoice as his team has run up a number of national football championships. On a personal note, it is good to know that DANTE has learned to relax by taking up golf again recently after laying off the game for many years. It was fun playing with him in the recent Congressional Golf Tournament and though DANTE will probably be looking for other things to do, I do not believe that he is yet ready to join the professional golf tour. Just kidding, DANTE, you play a pretty mean game and I encourage you to play a lot of golf when you leave Congress.

We will all miss DANTE FASCELL and Nancy and I wish to extend our very best wishes to DANTE and Jeanne-Marie and wish them Godspeed in their retirement.

Mr. DINGELL. Mr. Speaker, I would like to take this opportunity to pay tribute to my colleague and dear friend, Congressman DANTE FASCELL, who is retiring at the end of this year.

DANTE was elected to the 84th Congress in 1954 after serving two terms as a Florida State Representative. DANTE and I have served together in the House since the late 1950's, and I have always admired his dedication to his constituents and to his work as chairman of the Committee on Foreign Affairs. DANTE has proven to be an outstanding leader in the enactment of major domestic and international legislation.

My friend, DANTE, has demonstrated his steadfast commitment to the people and environment of southern Florida throughout his four decades in Congress. In the 1960's, he was crucial in the establishment of a drug enforcement administration office in Miami and the designation of the Port of Miami as a major shipping facility. DANTE's record on conservation of Florida's natural beauty is impressive as well. He has continuously obtained preservation rights for the State's Everglades and Biscayne National Parks and in 1990, he authored legislation establishing the Florida Keys National Marine Sanctuary.

DANTE has demonstrated his skill and knowledge in the international arena. He has proven himself to be a champion of democracy and strong advocate of human rights. As a member of the Committee on Foreign Affairs since 1957, and its chairman since 1984, he has demonstrated his leadership in virtually every major foreign policy issue. By Presidential appointment, he served as a member of the U.S. delegation to the 24th General Assembly of the United Nations in 1969, and later served on the U.S. delegation to the CSCE Conferences in Belgrade and Madrid.

Among his most significant legislative accomplishments are the War Powers Act of 1970, the creation of the Federal Government in the Sunshine Act and the establishment of the national endowment for democracy. DANTE has been a tireless advocate for nuclear nonproliferation, and as chairman of the House Foreign Affairs Committee, he was responsible for landmark legislation giving Congress the authority to review all major arms sales abroad. His leadership in foreign affairs is recognized worldwide. Over the years, we have worked well together in resolving numerous controversial issues demanding the steady hand and cool head of a leader like DANTE.

DANTE FASCELL's leadership and commitment to pubic service will be missed by all. I have nothing but the greatest respect for my colleague and dear friend, and I would like to thank him profusely for his years of devotion to his constituents and to the citizens of the United States.

Mr. HOUGHTON. Mr. Speaker, it's been a long night, and I won't take much time. But I did want to take a moment to express my appreciation to DANTE FASCELL. I served under him on Foreign Affairs and have benefited from his wisdom and counsel on a variety of projects. In a nutshell, Mr. Speaker, he's one of the best.

A man once told me that there were three kinds of people in life—the destroyers, who purposely went out of their way to create trouble; the free riders, who simply got along by getting along and left the work to others; and finally, the movers and shakers, the life producers who know that life, as G.K. Chesterton used to say, has to be fought for every minute of every day.

Chairman FASCELL is a life-producer. In a town often accused of fast talk and mixed signals, he is straightforward. He gets the job done. Period. No flash. No showboating. No ego. Just good, solid work that makes the difference. The Congress has been lucky to have him serve; I've been lucky to know him;

and we are all better for the standard he has set.

May we all follow where he has so ably led the way.

Mr. BEREUTER. Mr. Speaker, on the day that he announced his retirement, the lead editorial in one of the leading newspapers in this Member's home State of Nebraska was on DANTE FASCELL's departure from this body. This was extraordinary, Mr. Speaker, for several reasons. First, Lincoln, NE, is 1,500 miles from Miami and, as a rule, Nebraskans are not overly interested in the electoral politics of Florida. Second, it may come as a surprise to many of my colleagues, but seems to be an undercurrent of resentment toward incumbents, and one would think that in an era of term limit referendums that the departure of someone who has served for 38 years might be a welcome sign.

And yet, the lead editorial in that day's Lincoln Journal read: "House Lion Walks Away." The editorial correctly noted that Chairman FASCELL is "a gentleman who has done lasting service for the Nation. Even some Republicans, appreciative of FASCELL's human skills and superb legislative craftsmanship, will miss him." Such is the stature of DANTE B. FASCELL that his departure can provoke such a profound sense of loss, not just for Florida, but for the Nation.

Mr. Speaker, in a demonstration of the inate wisdom and sound judgement of Nebraskans, this Member inserts the May 29, 1992, editorial from the Lincoln Journal, a sincere tribute to DANTE FASCELL, at this point in my statement.

[From the Lincoln Journal, May 29, 1992]

HOUSE LION WALKS AWAY

Dante Fascell's unexpected decision to call it quits after 38 years in the House of Representatives carries a greater national importance than simply driving still higher—to 65—the number of current House members not coming back in January.

The Miami congressman is the biggest lion, thus far, to walk away from the Potomac's riverbank jungle.

He is also a gentleman who has done lasting services for the nation. Even some Republicans, appreciative of Fascell's human skills and superb legislative craftsmanship, will miss him.

Relatively unaffected by the bad check scandal, Fascell, 75, does not leave the House Foreign Affairs Committee chairmanship with a sense of maximum satisfaction. Frustration in dealing with two consecutive Republican presidents obsessed with foreign policy as they alone wanted to shape it is more the story. That, and coping with a contentious South Florida congressional redistricting.

The departure of both Fascell and the committee's ranking Republican, William Broomfield of Michigan, momentarily drains some stature from the panel. But not a massive amount.

The extraordinary Rep. Lee Hamilton, D-Ind., assuming his re-election, will become chairman. Tough-minded Hamilton is much respected on both sides of the aisle.

Quietly, cogently, Hamilton will not allow either the Senate or the next administration to dominate decision-making in dealing with the rest of the world. On that you can make book—although Hamilton may not be quite as intuitively sensitive as Fascell to hemispheric relations nuances.

DANTE FASCELL'S tenure as chairman of the Committee on Foreign Affairs has truly been a remarkable period. With issues related to Central America, South Africa, the PRC, Iran, and Iraq, our meetings were rarely dull. On many of these issues the committee has found itself deeply divided.

Yet Chairman FASCELL always led the committee in a fair and even handed manner. He always permitted full minority participation in the debate, and worked whenever possible to craft a bipartisan foreign policy.

With the collapse of the Warsaw Pact and the former Soviet Union, DANTE'S legislative skills have been put to a severe test. But in response, in 1989, Chairman FASCELL was the principle motivator behind the SEED Act, the legislation that seeks to promote democracy and free markets in Eastern Europe. And, in just the past few days, together he and the committee's outstanding ranking Republican, the gentleman from Michigan [Mr. BROOMFIELD], led this body in the passage of the Freedom Support Act that will come to the aid of the former Soviet Republics and yield great peace and economic benefits to the United States of America. As someone who has been deeply interested and involved in this legislation, this Member can unequivocally attest that this historic legislation would not have been possible were it not for the efforts of DANTE B. FASCELL in working with Democrats, Republicans, and the Bush administration.

There surely are many initiatives in which Chairman FASCELL can no doubt take pride. I would suspect that his longstanding efforts to promote democracy and human rights would be high on that list. We now see free and fair elections taking place in countries where, in previous years, such elections were inconceivable. Democracy has taken root in longstanding military dictatorships such as Chile, Uruguay, and Argentina. Elections have brought a peaceful conclusion to civil wars that ravaged Nicaragua, El Salvador, the Western Sahara, and Angola. Throughout Eastern Europe and the former Soviet Union, fledgling political parties are taking root. Across the globe, democracy is taking root. And the United States is able to assist in this wave of elections because, in important part, Chairman FASCELL has the vision to be the leader in creating the national endowment for democracy.

Mr. Speaker, all of us have our own favorite "DANTE FASCELL" story. Indeed, everyone who has ever been associated with the Congress of the United States has a DANTE FASCELL story, from the garage attendants with whom he is known to sit down for a cup of coffee, to the long list of Speakers who have depended upon DANTE. His friends and admirers are as extraordinary in number as are his achievements.

Mr. Speaker, while I wish Chairman FASCELL and his charming, very supportive, and lovely wife, JEANNIE-MARIE, all the best in the years ahead, this body will surely miss him. His deep knowledge on foreign affairs and national security matters, his strong leadership, his bipartisan approach to foreign policy, his warm and friendly manner, his candor, and his humor will all be deeply missed.

GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my 1-minute speech.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

TRIBUTE TO THE HONORABLE BRIAN DONNELLY

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, I rise to say farewell to an outstanding member of the Massachusetts delegation, my congressional neighbor and great friend, BRIAN DONNELLY. BRIAN and I have worked together closely on many issues facing our very similar constituencies since 1979. We have shared the Dorchester neighborhood within the city of Boston for the past 14 years.

During those seven Congresses, I have seen BRIAN mature into a seasoned, caring, capable, and dedicated public servant. Massachusetts' 11th District has been well served in having BRIAN DONNELLY represent its interests in Washington and his imprimatur on the district, the Commonwealth of Massachusetts and the Nation will long be felt.

Massachusetts' 11th District is one of the oldest in the Nation—its history dates to the Philadelphia Constitutional Convention and its congressional alumni include the likes of John Adams, John Quincy Adams, and Daniel Webster.

Congressional redistricting in the Commonwealth has dictated that 1992 will be the 11th District's last year to send a Representative to Washington. Its history began with John Adams and ended with BRIAN DONNELLY. In my book, that's pretty fair company.

In my mind, BRIAN DONNELLY embodies the concept of public service. His entire career, even in the years before his congressional career began, centered around the concept of service—teaching, coaching, and mentoring.

His legislative career in Washington, as a senior member of the Ways and Means Committee, a former member of the Budget Committee, and as a whip in the House democratic leadership allowed him the opportunity to invest his time and expertise in policy areas that had direct implications on the quality of people's lives.

BRIAN's leadership in the catastrophic health care debate in 1989 is legendary. Faced with senior citizen opposition to the bill after its passage, BRIAN diligently and effectively made the case for its repeal.

BRIAN'S sensitivity to the needs of seniors in Quincy, Dorchester, and

Brockton led him to mount a challenge which resulted in national headlines for BRIAN and financial savings and better health care for seniors throughout the Nation. BRIAN also made a mark in crafting legislation in the always difficult world of immigration law. DONNELLY'S district, it is said, is the most Irish in all of America. Indeed, the number of first and second generation Irish in the 11th is said to almost equal the population of Dublin.

In the wake of civil unrest in Ireland, with violent confrontations becoming a daily occurrence, BRIAN was instrumental in shaping legislation overhauling immigration policy with respect to Ireland. Donnelly visas have made BRIAN DONNELLY a household name throughout all of Ireland.

BRIAN'S work in processing Massachusetts' case in keeping the Quincy Shipyard open and functioning is also a hallmark of his tenure in Congress. There were those who said it could not be done and that it was not worth the fight; that Quincy had worn out its usefulness, worn out its welcome. But BRIAN fought the good fight and literally left no stone unturned as he pressed the shipyard and Massachusetts' case with the Navy Department and the administration. For that, he deserves the thanks of all of southeastern Massachusetts.

Above and beyond all of this, I'll miss B.D., as everyone calls BRIAN on a daily and personal basis. His humor, his sarcasm, his acute vote-counting ability are attributes not often found to such a degree in this Chamber.

I look forward to working with BRIAN often in the months and years ahead in whatever paths BRIAN'S career takes him. His talents, compassion, motivation, and drive will certainly find a nest soon and wherever that may be, I wish him all the best.

Mr. MAVROULES. Mr. Speaker, I rise today to pay tribute to a dear friend and fellow colleague from Massachusetts, BRIAN DONNELLY. for 14 years he has served with distinction in the House, faithfully serving the people of the 11th District.

Certainly, his list of accomplishments for the Bay State is worthy of praise. A fine example of his drive and dedication can clearly be seen by his efforts on health care issues, particularly as they impact the people of Massachusetts. Here in the House, BRIAN has strived to see a comprehensive health care policy enacted, so all Americans can receive the health care that should be the right of every citizen. Throughout his career, he has approached the most difficult and complex issues with the highest level of integrity.

It saddens me to see BRIAN leave, but I know he will succeed in all his future endeavors. Mr. Speaker, I truly wish to extend my heartfelt gratitude for all his work and send my best wishes to BRIAN and his family.

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GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my 1-minute of today.

The SPEAKER pro tempore (Mr. ECKART). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Energy and Commerce Committee be discharged from consideration of the bill (H.R. 6191) to protect the public interest in the future development of pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LENT. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from Washington to give him an opportunity to respond to this question: Is this new H.R. 6191 the same language of the bill the House previously approved; namely, S. 1579, with the substituted text of H.R. 3490?

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. LENT. Further reserving the right to object, I am happy to yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, it is.

Mr. LENT. Mr. Speaker, I thank the gentleman.

Mr. SWIFT. If the gentleman would yield further, with amendments agreed to by the Senate.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. LENT. Further reserving the right to object, I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I just wanted to observe that this is probably the last time I will deal with the gentleman officially on the floor of the House of Representatives.

He has been my dear friend, an outstanding Member of this body, and I shall miss him; I believe the House will miss him, and I wish him good luck, good health, good fortune and Godspeed.

Mr. LENT. Mr. Speaker, this will be the last bill upon which I will work, and I'd like to take this opportunity to express my gratitude and appreciation to the many people who have given their assistance throughout my 22 years in Congress. First, I'd like to thank my colleagues for their friendship, and in particular, I want to pay tribute to Chairman JOHN DINGELL, who I have found to be a tough negotiator, skillful legislator, and warm and decent human being.

I also want to thank my staff on the Energy and Commerce Committee, because my successes have in large part been due to their expertise, intelligence, and hard work, and I want to single out Minority Staff Director and Chief Counsel Margaret Durbin for her unflagging dedication and loyalty.

Lastly, I want to thank my personal staff, with whom I have worked side by side, sharing both good times and bad. I do not hesitate in stating that I have been privileged to have the finest staff of any Member of this body, and I will always treasure the memory of my association with them.

My colleagues in the House, it is fitting that I end my congressional career with the passage of this bill, for in a small way it encapsulates what I have tried to do here. After long preparation, a bill was introduced, taken to committee and to the floor. After lengthy negotiations, a bill—a good bill—is before this House, which will be sent to the President, who will sign it into law.

The result of the work, the time, and the effort is a bill of which I am personally proud. Likewise, I am proud of my efforts in this House, and I hope that the work I have done will bring greater prosperity and freedom to the people I have been privileged to serve.

So thank you, my friends. I wish you health and success in the years to come, and I hope that whatever may transpire in the future, you may always consider me your friend as well.

Mr. Speaker, with that, I could hardly do other than withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. COX of California. Mr. Speaker, reserving the right to object, earlier in the proceedings, several name bills were taken up by the House. Inadvertently, a name bill that had passed our Chamber earlier was not passed separately so that it could be referred to the other body and kept at the desk. I would like the opportunity to introduce that bill by unanimous consent.

The SPEAKER pro tempore. At this point in the proceedings, that motion, that unanimous-consent request, is not in order. The Chair will return to the gentleman after the disposition of this unanimous-consent request and may recognize him for that purpose, but it is not in order at this time.

Mr. COX of California. I understand, Mr. Speaker.

The SPEAKER pro tempore. The Chair will return to him for possible recognition as soon as the Chair can conclude this matter.

Mr. SLATTERY. Mr. Speaker, I rise in support of H.R. 6191, legislation that will establish important and necessary regulation of 900 number telephone services. I commend Representative SWIFT for his diligent work on this issue in the 102d Congress.

I want to bring to the attention of my colleagues, however, a provision included in title IV of this legislation that will lead to the allocation of radio spectrum for advanced utility metering technology. I want to express my appreciation to Energy and Commerce Committee Chairman JOHN DINGELL and Telecommunications and Finance Subcommittee Chairman ED MARKEY for their assistance in adding this provision to H.R. 6191.

This language is intended to provide for an expeditious investigation by the Department of Commerce, in conjunction with the Department of Energy, to determine that the application of automated utility meter technology is essential to the public interest in terms of energy and water conservation, public safety, and economic development.

Congress finds that the demonstration of this technology through the use of dedicated radio frequency spectrum will allow utilities to remotely read meters and assist utility customers in efficiently managing their energy and water needs in a timely fashion. Furthermore, application of this technology would enhance utility capability to respond to natural disasters including, but not limited to, earthquakes, hurricanes, tornadoes, and floods.

Congress further finds that the allocation of spectrum for the demonstration of this technology will provide the basis for the spawning of new and related technologies, and the creation of new industries with attendant employment growth. Congress also finds that the public interest will be well-served through this demonstration because it will present the opportunity for commercial and residential customers to exercise the necessary flexibility in determining their own respective energy needs.

Congress recognizes that other countries, such as Great Britain, have allocated radio frequency spectrum dedicated to the use of innovative utility communications services and equipment. Accordingly, our Nation can ill afford to fall behind in the development, testing, and utilization of this technology.

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 6191, the Telephone Disclosure and Dispute Resolution Act. This legislation reflects an agreement with the Senate on a compromise between H.R. 3490 and S. 1579, and needs to be passed at this point due to the parliamentary position in the other body. This bill provides for the first comprehensive set of regulations to protect an unsuspecting consumer from the unscrupulous or fraudulent actions of some 900 number service providers. The legislation will give the Federal Communications Commission and the Federal Trade Commission the tools they need to deal with the consumer complaints and confusion surrounding the 900 number industry.

Because 900 number pay-per-call services are so easily accessed through the use of the telephone, I believe the technology has the potential to bring to homes and businesses across the country the benefits of the information age. Yet, as is often the case with many new and rapidly expanding industries, problems have emerged that need Government guidance and regulation in order to protect consumers as well as the integrity of the Nation's telecommunications network.

The clear, constructive guidelines contained in this legislation will go a long way in restoring consumer confidence in the industry and in burnishing the tarnished image of honest, legitimate providers of 900 services who have been adversely affected by pay-per-call's renegade providers.

The legislation requires a preamble message for all 900 services that will avail callers of the opportunity to hear the total cost or cost per minute of the service as well as the right to hang up without incurring a charge for the call. It prevents telephone subscribers from having their local telephone service disconnected for nonpayment of separate 900 number charges. It requires that advertisements for 900 services clearly display and disclose the price of the calls and also prevents toll-free 800 numbers from being used to transfer callers to pay-per-call 900 number services. Finally, it ensures that consumers have a place to turn when they have a dispute over a bill for 900 services.

In addition, H.R. 6191 also contains a provision regarding the interception of cellular telecommunications. This provision is substantially the same as a provision I sponsored last year that was included in H.R. 1674, the FCC reauthorization measure, which passed the House on September 26, 1991. The Electronic Communications Privacy Act [ECPA] makes it illegal to intercept cellular telephone conversations, ensuring users of cellular telephones the same degree of Federal protection accorded those who use traditional wire telephone service. Cellular telephone users have an exception and a right to privacy, and this right is presently being threatened by a host of Listening Toms who surreptitiously scan the airwaves searching for conversations using special radio scanning equipment. The provision included in the bill updates the FCC's equipment certification process to bring it in line with the Privacy Act by restricting the manufacture of new radio scanners so that this equipment could not be used for illegal eavesdropping and interception of cellular frequencies. This amendment, of course, would not affect any scanner that is already in use.

I will submit the section pertaining to cellular privacy from the House Energy and Commerce Committee report on H.R. 1674 that pertain to this section be included as part of my statement. I'd also like to briefly clarify one part of the report by saying that scanners manufactured or imported in violation of FCC rules promulgated under this provision are subject to forfeitures under section 503.

The bill also contains a provision that would encourage the use of wireless communications to help conserve energy and increase efficiency. This provision provides an excellent example of how we can use telecommunications to solve our Nation's many problems. This provision has widespread support among the Members.

Again, this is carefully constructed, bipartisan legislation that deserves the support of all the Members.

I'd like to commend Congressman SWIFT for his work on this legislation as well as Congressmen RINALDO and RITTER for their support and contributions to the final product. As always the chairman of the full Energy and Commerce Committee, Mr. DINGELL, deserves tremendous credit for guiding this legislation through the Congress, legislation which is the product of two Energy and Commerce Subcommittees. I'd also like to commend the work of Congressman GORDON who has been a real force behind this legislation.

SECTION 9. INTERCEPTION OF CELLULAR TELECOMMUNICATIONS

The Committee finds that scanning receivers continue to be manufactured with the capability of monitoring the frequencies allocated to cellular telephone service. Such equipment enables users to violate the provisions of the 1986 Electronic Communications Privacy Act (ECPA), which extends Federal privacy protections to cellular telephone users. Equally disturbing, even equipment that blocks out cellular calls can often be easily modified to receive cellular transmissions, often by cutting a single wire. Moreover, the Committee has received numerous examples of "how-to" manuals for modifying scanners so that they can be used to eavesdrop on cellular calls. The Committee has obtained copies of advertisements for scanners that do not block out the cellular frequencies or that pitch easy restoration of such frequencies. This amendment is intended to address these ongoing problems, and bring the Commission's certification process in line with ECPA.

Section 8 of the bill amends the Communications Act of 1934 by adding a new subsection (d) to section 302. Subsection 302(d) requires the Commission to promulgate regulations denying equipment authorization under Part 15 (or any other part) of the Commission's rules for any scanning receiver that can (1) receive transmissions in the cellular frequencies; (2) readily be altered to receive such transmissions; or (3) be equipped with a decoder that can convert cellular transmissions to analog voice audio. The bar on scanners equipped with digital-to-analog converters that work in the cellular bands is intended to ensure that the additional privacy protection afforded by the conversion of cellular systems from analog to digital transmission is not undermined. Any question of whether such a receiver complies with those regulations shall be determined by the Commission.

Subsection 302(d)(2) prohibits the manufacture or importation of scanning receivers with the prohibited capabilities beginning one year after the effective date of the regulations required under subsection 302(d)(1). Subsection 302(d)(2) does not bar the sale or use of non-complying scanning receivers, since the Committee expects that the stock of new non-complying scanners available for sale or use will diminish rapidly once the regulations are adopted. The Committee takes note that this subsection contrasts with subsection 302 (a) and (b), which do bar the sale or use of certain radio frequency devices. As such, the section 510 enforcement powers, which apply to violations of section 302, would not be applicable to scanners other than those manufactured or imported subsequent to adoption of regulations required by this section. Subsection 302(b) applies to scanning receivers only to the extent that they fail to comply with the Commission's rules governing their interference potential.

For a number of years, several manufacturers have blocked voluntarily the reception of cellular frequencies in their scanning receivers. Additionally, some have refused to repair modified equipment that is returned for service, or have restored such equipment to its original configuration. However, methods of converting equipment have been devised and distributed by third parties. The Committee believes that as long as the equipment complies with the Commission's regulations adopted pursuant to subsection 302(d)(1), there shall be no liability under this section for manufacturers due to the actions of third parties.

Mr. COX of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Telephone Disclosure and Dispute Resolution Act".

(b) FINDINGS.—The Congress finds the following:

(1) The use of pay-per-call services, most commonly through the use of 900 telephone numbers, has grown exponentially in the past few years into a national, billion-dollar industry as a result of recent technological innovations. Such services are convenient to consumers, cost-effective to vendors, and profitable to communications common carriers.

(2) Many pay-per-call businesses provide valuable information, increase consumer choices, and stimulate innovative and responsive services that benefit the public.

(3) The interstate nature of the pay-per-call industry means that its activities are beyond the reach of individual States and therefore requires Federal regulatory treatment to protect the public interest.

(4) The lack of nationally uniform regulatory guidelines has led to confusion for callers, subscribers, industry participants, and regulatory agencies as to the rights of callers and the oversight responsibilities of regulatory authorities, and has allowed some pay-per-call businesses to engage in practices that abuse the rights of consumers.

(5) Some interstate pay-per-call businesses have engaged in practices which are misleading to the consumer, harmful to the public interest, or contrary to accepted standards of business practices and thus cause harm to the many reputable businesses that are serving the public.

(6) Because the consumer most often incurs a financial obligation as soon as a pay-per-call transaction is completed, the accuracy and descriptiveness of vendor advertisements become crucial in avoiding consumer abuse. The obligation for accuracy should include price-per-call and duration-of-call information, odds disclosure for lotteries, games, and sweepstakes, and obligations for obtaining parental consent from callers under 18.

(7) The continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress.

(8) Vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving billing disputes if they are to use this new marketplace for the sale of products of more than nominal value.

TITLE I—CARRIER OBLIGATIONS AND CONSUMER RIGHTS CONCERNING PAY-PER-CALL TRANSACTIONS

SEC. 101. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"SEC. 228. REGULATION OF CARRIER OFFERING OF PAY-PER-CALL SERVICES.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to put into effect a system of national regulation and review that will oversee interstate pay-per-call services;

"(2) to recognize the Commission's authority to prescribe regulations and enforcement procedures and conduct oversight to afford reasonable protection to consumers of pay-per-call services and to assure that violations of Federal law do not occur.

"(b) GENERAL AUTHORITY FOR REGULATIONS.—The Commission by regulation shall, within 270 days after the date of enactment of this section, establish a system for oversight and regulation of pay-per-call services in order to provide for the protection of consumers in accordance with this Act and other applicable Federal statutes and regulations. The Commission's final rules shall—

"(1) include measures that provide a consumer of pay-per-call services with adequate and clear descriptions of the rights of the caller;

"(2) define the obligations of common carriers with respect to the provision of pay-per-call services;

"(3) include requirements on such carriers to protect against abusive practices by providers of pay-per-call services;

"(4) identify procedures by which common carriers and providers of pay-per-call services may take affirmative steps to protect against nonpayment of legitimate charges; and

"(5) require that any service described in subparagraphs (A) and (B) of subsection (i)(1) be offered only through the use of certain telephone number prefixes and area codes.

"(c) COMMON CARRIER OBLIGATIONS.—Within 270 days after the date of enactment of this section, the Commission shall, by regulation, establish the following requirements for common carriers:

"(1) CONTRACTUAL OBLIGATIONS TO COMPLY.—Any common carrier assigning to a provider of pay-per-call services a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) shall require by contract or tariff that such provider comply with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act and the regulations prescribed by the Federal Trade Commission pursuant to those titles.

"(2) INFORMATION AVAILABILITY.—A common carrier that by tariff or contract assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of a pay-per-call service shall make readily available on request to Federal and State agencies and other interested persons—

"(A) a list of the telephone numbers for each of the pay-per-call services it carries;

"(B) a short description of each such service;

"(C) a statement of the total cost or the cost per minute and any other fees for each such service;

"(D) a statement of the pay-per-call service's name, business address, and business telephone; and

"(E) such other information as the Commission considers necessary for the enforcement of this section and other applicable Federal statutes and regulations.

"(2) COMPLIANCE PROCEDURES.—A common carrier that by contract or tariff assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of pay-per-call services shall terminate, in accordance with procedures specified in such regulations, the offering of a pay-per-call service of a provider if the carrier knows or reasonably should know that such service is not provided in compliance with title II or III of the Telephone Disclosure and Dispute Resolution Act or the regulations prescribed by the Federal Trade Commission pursuant to such titles.

"(3) SUBSCRIBER DISCONNECTION PROHIBITED.—A common carrier shall not disconnect or interrupt a subscriber's local exchange telephone service or long distance telephone service because of nonpayment of charges for any pay-per-call service.

"(4) BLOCKING AND PRESUBSCRIPTION.—A common carrier that provides local exchange service shall—

"(A) offer telephone subscribers (where technically feasible) the option of blocking access from their telephone number to all, or to certain specific, prefixes or area codes used by pay-per-call services, which option—

"(i) shall be offered at no charge (I) to all subscribers for a period of 60 days after the issuance of the regulations under subsection (b), and (II) to any subscriber who subscribes to a new telephone number until 60 days after the time the new telephone number is effective; and

"(ii) shall otherwise be offered at a reasonable fee; and

"(B) offer telephone subscribers (where the Commission determines it is technically and economically feasible), in combination with the blocking option described under subparagraph (A), the option of presubscribing to or blocking only specific pay-per-call services for a reasonable one-time charge.

The regulations prescribed under subparagraph (A)(i) of this paragraph may permit the costs of such blocking to be recovered by contract or tariff, but such costs may not be recovered from local or long-distance ratepayers. Nothing in this subsection precludes a common carrier from filing its rates and regulations regarding blocking and presubscription in its interstate tariffs.

"(5) VERIFICATION OF CHARITABLE STATUS.—A common carrier that assigns by contract or tariff a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of pay-per-call services that the carrier knows or reasonably should know is engaged in soliciting charitable contributions shall obtain from such provider proof of the tax exempt status of any person or organization for which contributions are solicited.

"(6) BILLING FOR 800 CALLS.—A common carrier shall prohibit by tariff or contract the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll free, in a manner that would result in—

"(A) the calling party being assessed, by virtue of completing the call, a charge for the call;

"(B) the calling party being connected to a pay-per-call service;

"(C) the calling party being charged for information conveyed during the call unless the calling party has a preexisting agreement to be charged for the information or discloses a credit or charge card number during the call; or

"(D) the calling party being called back collect for the provision of audio information services or simultaneous voice conservation services.

"(d) BILLING AND COLLECTION PRACTICES.—The regulations required by this section shall require that any common carrier that by tariff or contract assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of a pay-per-call service and that offers billing and collection services to such provider—

"(1) ensure that a subscriber is not billed—

"(A) for pay-per-call services that such carrier knows or reasonably should know was provided in violation of the regulations issued pursuant to title II of the Telephone Disclosure and Dispute Resolution Act; or

"(B) under such other circumstances as the Commission determines necessary in order to protect subscribers from abusive practices;

"(2) establish a local or a toll-free telephone number to answer questions and provide information on subscribers' rights and obligations with regard to their use of pay-per-call services and to provide to callers the name and mailing address of any provider of pay-per-call services offered by the common carrier;

"(3) within 60 days after the issuance of final regulations pursuant to subsection (b), provide, either directly or through contract with any local exchange carrier that provides billing or collection services to the common carrier, to all of such common carrier's telephone subscribers, to all new subscribers, and to all subscribers requesting service at a new location, a disclosure statement that sets forth all rights and obligations of the subscriber and the carrier with respect to the use and payment for pay-per-call services, including the right of a subscriber not to be billed and the applicable blocking option; and

"(4) in any billing to telephone subscribers that includes charges for any pay-per-call service—

"(A) display any charges for pay-per-call services in a part of the subscriber's bill that is identified as not being related to local and long distance telephone charges;

"(B) for each charge so displayed, specify, at a minimum, the type of service, the amount of the charge, and the date, time, and duration of the call; and

"(C) identify the toll-free number established pursuant to paragraph (2).

"(e) LIABILITY.—

"(1) COMMON CARRIERS NOT LIABLE FOR TRANSMISSION OR BILLING.—No common carrier shall be liable for a criminal or civil sanction or penalty solely because the carrier provided transmission or billing and collection for a pay-per-call service unless the carrier knew or reasonably should have known that such service was provided in violation of a provision of, or regulation prescribed pursuant to, title II or III of the Telephone Disclosure and Dispute Resolution Act or any other Federal law. This paragraph shall not prevent the Commission from imposing a sanction or penalty on a common carrier for a violation by that carrier of a regulation prescribed under this section.

"(2) CIVIL LIABILITY.—No cause of action may be brought in any court or administrative agency against any common carrier or any of its affiliates on account of any act of the carrier or affiliate to terminate any pay-per-call service in order to comply with the regulations prescribed under this section, title II or III of the Telephone Disclosure and Dispute Resolution Act, or any other Federal law unless the complainant demonstrates that the carrier or affiliate did not act in good faith.

"(f) SPECIAL PROVISIONS.—

"(1) CONSUMER REFUND REQUIREMENTS.—The regulations required by subsection (d) shall establish procedures, consistent with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act, to ensure that carriers and other parties providing billing and collection services with respect to pay-per-call services provide appropriate refunds to subscribers who have been billed for pay-per-call services pursuant to programs that have been found to have violated this section or such regulations, any provision of, or regulations prescribed pursuant to, title II or III of the Telephone Disclosure and Dispute Resolution Act, or any other Federal law.

"(2) RECOVERY OF COSTS.—The regulations prescribed by the Commission under this section shall permit a common carrier to recover its cost of complying with such regulations from providers of pay-per-call services, but shall not permit such costs to be recovered from local or long distance ratepayers.

"(3) RECOMMENDATIONS ON DATA PAY-PER-CALL.—The Commission, within one year after the date of enactment of this section, shall submit to the Congress the Commission's recommendations with respect to the extension of regulations under this section to persons that provide, for a per-call charge, data services that are not pay-per-call services.

"(g) EFFECT ON OTHER LAW.—

"(1) NO PREEMPTION OF ELECTION LAW.—Nothing in this section shall relieve any provider of pay-per-call services, common carrier, local exchange carrier, or any other person from the obligation to comply with Federal, State, and local election statutes and regulations.

"(2) CONSUMER PROTECTION LAWS.—Nothing in this section shall relieve any provider of pay-per-call services, common carrier, local exchange carrier, or any other person from the obligation to comply with any Federal, State, or local statute or regulation relating to consumer protection or unfair trade.

"(3) GAMBLING LAWS.—Nothing in this section shall preclude any State from enforcing its statutes and regulations with regard to lotteries, wagering, betting, and other gambling activities.

"(4) STATE AUTHORITY.—Nothing in this section shall preclude any State from enacting and enforcing additional and complementary oversight and regulatory systems or procedures, or both, so long as such systems and procedures govern intrastate services and do not significantly impede the enforcement of this section or other Federal statutes.

"(5) ENFORCEMENT OF EXISTING REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this section in fulfilling the requirements of this section to the extent that such regulations are consistent with the provisions of this section.

"(h) EFFECT ON DIAL-A-PORN PROHIBITIONS.—Nothing in this section shall affect the provisions of section 223 of this Act.

"(i) DEFINITION OF PAY-PER-CALL SERVICES.—For purposes of this section—

"(1) The term 'pay-per-call services' means any service—

"(A) in which any person provides or purports to provide—

"(i) audio information or audio entertainment produced or packaged by such person;

"(ii) access to simultaneous voice conversation services; or

"(iii) any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

"(B) for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

"(C) which is accessed through use of a 900 telephone number or other prefix or area code designated by the Commission in accordance with subsection (b)(5).

"(2) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.".

SEC. 102. TECHNICAL AMENDMENT.

Section 3(c) of the Telephone Consumer Protection Act of 1991 is amended by striking "section 228" and inserting "section 227".

TITLE II—REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH PAY-PER-CALL SERVICES

SEC. 201. FEDERAL TRADE COMMISSION REGULATIONS.

(a) IN GENERAL.—

(1) ADVERTISING REGULATIONS.—The Commission shall prescribe rules in accordance with this subsection to prohibit unfair and deceptive acts and practices in any advertisement for pay-per-call services. Such rules shall require that the person offering such pay-per-call services—

(A) clearly and conspicuously disclose in any advertising the cost of the use of such telephone number, including the total cost or the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred;

(B) in the case of an advertisement which offers a prize or award or a service or product at no cost or for a reduced cost, clearly and conspicuously disclose the odds of being able to receive such prize, award, service, or product at no cost or reduced cost, or, if such odds are not calculable in advance, disclose the factors determining such odds;

(C) in the case of an advertisement that promotes a service that is not operated or expressly authorized by a Federal agency but that provides information on a Federal program, include at the beginning of such advertisement a clear disclosure that the service is not authorized, endorsed, or approved by any Federal agency;

(D) shall not direct such advertisement at children under the age of 12, unless such service is a bona fide educational service;

(E) in the case of advertising directed primarily to individuals under the age of 18, clearly and conspicuously state in such advertising that such individual must have the consent of such individual's parent or legal guardian for the use of such services;

(F) be prohibited from using advertisements that emit electronic tones which can automatically dial a pay-per-call telephone number;

(G) ensure that, whenever the number to be called is shown in television and print media advertisements, the charges for the call are clear and conspicuous and (when shown in television advertisements) displayed for the same duration as that number is displayed;

(H) in delivering any telephone message soliciting calls to a pay-per-call service, specify clearly, and at no less than the audible volume of the solicitation, the total cost and the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred; and

(I) not advertise an 800 telephone number, or any other telephone number advertised or widely understood to be toll free, from which callers are connected to an access number for a pay-per-call service.

(2) PAY-PER-CALL SERVICE STANDARDS.—The Commission shall prescribe rules to require that each provider of pay-per-call services—

(A) include in each pay-per-call message an introductory disclosure message that—

(i) describes the service being provided;

(ii) specifies clearly and at a reasonably understandable volume the total cost or the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred;

(iii) informs the caller that charges for the call begin at the end of the introductory message;

(iv) informs the caller that parental consent is required for calls made by children; and

(v) in the case of a pay-per-call service that is not operated or expressly authorized by a Federal agency but that provides information on any Federal program, a statement that clearly states that the service is not authorized, endorsed, or approved by any Federal agency;

(B) enable the caller to hang up at or before the end of the introductory message without incurring any charge whatsoever;

(C) not direct such services at children under the age of 12, unless such service is a bona fide educational service;

(D) stop the assessment of time-based charges immediately upon disconnection by the caller;

(E) disable any bypass mechanism which allows frequent callers to avoid listening to the disclosure message described in subparagraph (A) after the institution of any price increase and for a period of time sufficient to give such frequent callers adequate and sufficient notice of the price change;

(F) be prohibited from providing pay-per-call services through an 800 number or other telephone number advertised or widely understood to be toll free;

(G) be prohibited from billing consumers in excess of the amounts described in the introductory message and from billing for services provided in violation of the rules prescribed by the Commission pursuant to this section;

(H) ensure that any billing statement for such provider's charges shall—

(i) display any charges for pay-per-call services in a part of the consumer's bill that is identified as not being related to local and long distance telephone charges; and

(ii) for each charge so displayed, specify, at a minimum, the type of service, the amount of the charge, and the date, time, and duration of the call;

(I) be liable for refunds to consumers who have been billed for pay-per-call services pursuant to programs that have been found to have violated the regulations prescribed pursuant to this section or title III of this Act or any other Federal law; and

(J) comply with such additional standards as the Commission may prescribe to prevent abusive practices.

(3) ACCESS TO INFORMATION.—The Commission shall by rule require a common carrier that provides telephone services to a provider of pay-per-call services to make available to the Commission any records and financial information maintained by such carrier relating to the arrangements (other than for the provision of local exchange service) between such carrier and any provider of pay-per-call services.

(4) EVASIONS.—The rules issued by the Commission under this section shall include provisions to prohibit unfair or deceptive acts or practices that evade such rules or undermine the rights provided to customers under this title, including through the use of alternative billing or other procedures.

(5) EXEMPTIONS.—The regulations prescribed by the Commission pursuant to paragraph (2)(A) may exempt from the requirements of such paragraph—

(A) calls from frequent callers or regular subscribers using a bypass mechanism to avoid listening to the disclosure message required by such regulations, subject to the requirements of paragraph (2)(E); or

(B) pay-per-call services provided at nominal charges, as defined by the Commission in such regulations.

(6) CONSIDERATION OF OTHER RULES REQUIRED.—In conducting a proceeding under this section, the Commission shall consider requiring, by rule or regulation, that providers of pay-per-call services—

(A) automatically disconnect a call after one full cycle of the program; and

(B) include a beep tone or other appropriate and clear signal during a live interactive group program so that callers will be alerted to the passage of time.

(7) SPECIAL RULE FOR INFREQUENT PUBLICATIONS.—The rules prescribed by the Commission under subparagraphs (A) and (G) of paragraph (1) may permit, in the case of publications that are widely distributed, that are printed annually or less frequently, and that have an established policy of not publishing specific prices, advertising that in lieu of the cost disclosures required by such subparagraphs, clearly and conspicuously disclose that use of the telephone number may result in a substantial charge.

(8) TREATMENT OF RULES.—A rule issued under this subsection shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) RULEMAKING.—The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule respecting unfair or deceptive acts or practices under section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)), communications common carriers shall be subject to the jurisdiction of the Commission for purposes of this title.

SEC. 202. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice which violates any rule of the Commission under section 201(a), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such pattern or practice, to enforce compliance with such rule of the Commission, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) VENUE.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(d) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(f) LIMITATION.—Whenever the Commission has instituted a civil action for violation of any rule or regulation under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(g) ACTIONS BY OTHER STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State for protection of consumers and who are designated by the Commission to bring an action under subsection (a) against persons that the Commission has determined have or are engaged in a pattern or practice which violates a rule of the Commission under section 201(a).

SEC. 203. ADMINISTRATION AND APPLICABILITY OF TITLE.

(a) IN GENERAL.—Except as otherwise provided in section 202, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act, except for purposes of this title.

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 201 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

SEC. 204. DEFINITIONS.

For purposes of this title:

(1) The term "pay-per-call services" has the meaning provided in section 228 of the Communications Act of 1934.

(2) The term "attorney general" means the chief legal officer of a State.

(3) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term "Commission" means the Federal Trade Commission.

TITLE III—BILLING AND COLLECTION

SEC. 301. REGULATIONS.

(a) IN GENERAL.—

(1) RULES REQUIRED.—The Commission shall, in accordance with the requirements of this section, prescribe rules establishing procedures for the correction of billing errors with respect to telephone-billed purchases. The rules prescribed by the Commission shall also include provisions to prohibit unfair or deceptive acts or practices that evade such rules or undermine the rights provided to customers under this title.

(2) SUBSTANTIAL SIMILARITY TO CREDIT BILLING.—The Commission shall promulgate rules under this section that impose requirements that are substantially similar to the requirements imposed, with respect to the resolution of credit disputes, under the Truth in Lending and Fair Credit Billing Acts (15 U.S.C. 1601 et seq.).

(3) TREATMENT OF RULE.—A rule issued under paragraph (1) shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57(a)(1)(B)).

(b) RULEMAKING SCHEDULE AND PROCEDURE.—The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices. Notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)), communications common carriers shall be subject to the jurisdiction of the Commission for purposes of this title.

(d) CORRECTION OF BILLING ERRORS AND CORRECTION OF CREDIT REPORTS.—In prescribing rules under this section, the Commission shall consider, with respect to telephone-billed purchases, the following:

(1) The initiation of a billing review by a customer.

(2) Responses by billing entities and providing carriers to the initiation of a billing review.

(3) Investigations concerning delivery of telephone-billed purchases.

(4) Limitations upon providing carrier responsibilities, including limitations on a carrier's responsibility to verify delivery of audio information or entertainment.

(5) Requirements on actions by billing entities to set aside charges from a customer's billing statement.

(6) Limitations on collection actions by billing entities and vendors.

(7) The regulation of credit reports on billing disputes.

(8) The prompt notification of credit to an account.

(9) Rights of customers and telephone common carriers regarding claims and defenses.

(10) The extent to which the regulations should diverge from requirements under the Truth in Lending and Fair Credit Billing Acts in order to protect customers, and in order to be cost effective to billing entities.

SEC. 302. RELATION TO STATE LAWS.

(a) STATE LAW APPLICABLE UNLESS INCONSISTENT.—This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to telephone billing practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Commission is authorized to determine whether such inconsistencies exist. The Commission may not determine that any State law is inconsistent with any provision of this chapter if the Commission determines that such law gives greater protection to the consumer.

(b) REGULATORY EXEMPTIONS.—The Commission shall by regulation exempt from the requirements of this title any class of telephone-billed purchase transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement.

SEC. 303. ENFORCEMENT.

The Commission shall enforce the requirements of this title. For the purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All the functions and powers of the Commission under that Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in that Act. The Commission may prescribe such regulations as are necessary or appropriate to implement the provisions of this title.

SEC. 304. DEFINITIONS.

As used in this title—

(1) The term "telephone-billed purchase" means any purchase that is completed solely as a consequence of the completion of the call or a subsequent dialing, touch tone entry, or comparable action of the caller. Such term does not include—

"(A) a purchase by a caller pursuant to a preexisting agreement with the vendor;

(B) local exchange telephone services or interexchange telephone services or any service that the Federal Communications Commission determines, by rule—

(i) is closely related to the provision of local exchange telephone services or interexchange telephone services; and

(ii) is subject to billing dispute resolution procedures required by Federal or State statute or regulation; or

(C) the purchase of goods or services which is otherwise subject to billing dispute resolution procedures required by Federal statute or regulation.

(2) A "billing error" consists of any of the following:

(A) A reflection on a billing statement for a telephone-billed purchase which was not made by the customer or, if made, was not in the amount reflected on such statement.

(B) A reflection on a billing statement of a telephone-billed purchase for which the customer requests additional clarification, including documentary evidence thereof.

(C) A reflection on a billing statement of a telephone-billed purchase that was not accepted by the customer or not provided to the customer in accordance with the stated terms of the transaction.

(D) A reflection on a billing statement of a telephone-billed purchase for a call made to an 800 or other toll free telephone number.

(E) The failure to reflect properly on a billing statement a payment made by the customer or a credit issued to the customer with respect to a telephone-billed purchase.

(F) A computation error or similar error of an accounting nature on a statement.

(G) Failure to transmit the billing statement to the last known address of the customer, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.

(H) Any other error described in regulations prescribed by the Commission pursuant to section 553 of title 5, United States Code.

(3) The term "Commission" means the Federal Trade Commission.

(4) The term "providing carrier" means a local exchange or interexchange common carrier providing telephone services (other than local exchange services) to a vendor for a telephone-billed purchase that is the subject of a billing error complaint.

(5) The term "vendor" means any person who, through the use of the telephone, offers goods or services for a telephone-billed purchase.

(6) The term "customer" means any person who acquires or attempts to acquire goods or services in a telephone-billed purchase.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PROPOSAL FOR DEMONSTRATING THE POTENTIAL OF INNOVATIVE COMMUNICATIONS EQUIPMENT AND SERVICES.

(a) DEMONSTRATION PROPOSAL.—Within 180 days after the date of enactment of this Act, the Assistant Secretary of Energy for Conservation and Renewable Energy, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall submit to Congress a proposal for demonstrating the ability of new and innovative communications equipment and services to further the national goals of conserving energy and protecting public health and safety.

(b) FACTORS TO BE ADDRESSED.—The demonstration proposal required by subsection (a) shall address—

(1) the feasibility of using communications technologies to read meters from remote locations;

(2) the feasibility of managing the consumption of electrical power and natural gas by residences and businesses, thereby reducing the demand for new and additional sources of energy, and controlling the cost of providing improved utility services; and

(3) the public safety implications of monitoring utility services outages during earthquakes, hurricanes, typhoons, tornadoes, volcanoes, and other natural disasters.

(c) PROJECT TO DEMONSTRATE ENERGY CONSERVATION POTENTIAL.—Upon submission of the demonstration proposal to the Congress, the Secretary of Energy shall consider requesting from the Assistant Secretary of Commerce for Communications and Information the authority to use radio frequencies, pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305), to carry out demonstration projects consistent with the proposal that are designed to demonstrate the energy conservation potential of communications technologies and which are administered by the Secretary of Energy.

SEC. 402. TECHNICAL AMENDMENTS.

Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) may, by rule or order, exempt from the requirements of paragraphs (1)(A)(iii) of this subsection calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect.".

SEC. 403. INTERCEPTION OF CELLULAR TELECOMMUNICATIONS.

(a) AMENDMENT.—Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following new subsection:

"(d)(1) Within 180 days after the date of enactment of this subsection, the Commission shall prescribe and make effective regulations denying equipment authorization (under part 15 of title 47, Code of Federal Regulations, or any other part of that title) for any scanning receiver that is capable of—

"(A) receiving transmissions in the frequencies allocated to the domestic cellular radio telecommunications service,

"(B) readily being altered by the user to receive transmissions in such frequencies, or

"(C) being equipped with decoders that covert digital cellular transmissions to analog voice audio.

"(2) Beginning 1 year after the effective date of the regulations adopted pursuant to paragraph (1), no receiving having the capabilities described in subparagraph (A), (B), or (C) of paragraph (1), as such capabilities are defined in such regulations, shall be manufactured in the United States or imported for use in the United States.".

(b) REPORT TO CONGRESS.—The Commission shall report to Congress no later than June 1, 1993, on available security features for both analog and digital radio signals. This report shall include a study of security technologies currently available as well as those in development. The study shall assess the capabilities of such technologies, level of security afforded, and cost, with wide-spread deployment of such technologies.

(c) EFFECT ON OTHER LAWS.—This section shall not effect section 2512(2) of title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST TO CONSIDER BILL DESIGNATING THE RONALD REAGAN FEDERAL BUILDING AND COURTHOUSE IN ORANGE COUNTY, CA

Mr. COX of California. Mr. Speaker, earlier in the proceedings there were under unanimous consent several bills to be taken up. One of them was to designate the courthouse in Orange County, CA, the Ronald Reagan Federal Building and Courthouse.

Mr. Speaker, I move consideration of the bill under a unanimous-consent request.

The SPEAKER pro tempore. At this point, the gentleman must draft a bill and clear its consideration by unanimous consent.

First, before the unanimous-consent request can be made, we need to have the bill for introduction.

MOTION TO ADJOURN

Mr. KYL. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. KYL moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. KYL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 97, nays 250, not voting 85, as follows:

[Roll No. 486]

YEAS—97

Allard
Allen
Anderson
Archer
Baker
Barrett
Barton
Bentley
Boehner
Bunning
Burton
Callahan
Camp
Clinger
Coble
Coughlin
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Franks (CT)
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Gunderson
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Inhofe
James
Johnson (TX)
Kasich
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Martin
McCandless
McCollum
McCrery
McNulty
Michel
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nichols
Nussle
Oxley
Packard
Paxon
Ramstad
Regula
Rhodes
Ridge
Rinaldo
Rohrabacher
Roth
Santorum
Saxton
Schaefer
Sensenbrenner
Smith (OR)
Smith (TX)
Solomon
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Upton
Walker
Weber
Wolf
Zeliff

NAYS—250

Abercrombie
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Aspin
Bacchus
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Coleman (TX)
Collins (IL)
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Frank (MA)
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Jones
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Peterson (FL)
Petri
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Riggs
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Spence
Spratt
Staggers
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vander Jagt
Vento
Visclosky
Walsh
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Young (FL)
Zimmer

NOT VOTING—85

Ackerman
Annunzio
Armey
Atkins
AuCoin
Ballenger
Barnard
Bateman
Beilenson
Berman
Blackwell
Bliley
Boxer
Broomfield
Chandler
Clay
Clement
Coleman (MO)
Collins (MI)
Combest
Coyne
Cunningham
Dellums
Dixon
Donnelly
Dwyer
Fields
Fish
Foglietta
Ford (TN)
Frost
Gallegly
Gaydos
Grandy
Green
Hansen
Hatcher
Hefner
Ireland

Jenkins
Johnston
Klug
Kolbe
Lipinski
Luken
Marlenee
Matsui
McDade
McDermott
McEwen
McGrath
Meyers
Mrazek
Murtha
Pelosi
Perkins
Peterson (MN)
Porter
Pursell
Ravenel
Ritter
Roberts
Roe
Russo
Savage
Schulze
Shaw
Shuster
Skeen
Smith (IA)
Solarz
Stallings
Stark
Stearns
Swett
Tauzin
Thomas (GA)
Thomas (WY)
Valentine
Volkmer
Vucanovich
Washington
Weldon
Yatron
Young (AK)

☐ 1148

Messrs. SCHEUER, MANTON, MORAN and Mrs. ROUKEMA changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

AMENDING THE WILD AND SCENIC RIVERS ACT

Mr. KOSTMAYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6179) to amend the Wild and Scenic Rivers Act.

The Clerk read as follows:

H.R. 6179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WILD AND SCENIC RIVER STUDY.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following new paragraph:

"( ) DELAWARE RIVER, PENNSYLVANIA AND NEW JERSEY.—(A) The approximately 3.6-mile segment from the Erie Lackawanna Railroad Bridge to the southern tip of Dildine Island.

"(B) The approximately 2-mile segment from the southern tip of Mack Island to the northern border of the town of Belvidere, New Jersey.

"(C) The approximately 12.5-mile segment from the southern border of the town of Belvidere, New Jersey, to the northern border of the city of Easton, Pennsylvania, excluding river mile 196.0 to 193.8.

"(D) The approximately 9.5-mile segment from the southern border of the town of Phillipsburg, New Jersey, to a point just north of the Gilbert Generating Station.

"(E) The approximately 14.2-mile segment from a point just south of the Gilbert Generating Station to a point just north of the Point Pleasant Pumping Station.

"(F) The approximately 6.5-mile segment from a point just south of the Point Pleasant Pumping Station to the north side of the Route 202 bridge.

"(G) The approximately 6-mile segment from the southern boundary of the town of New Hope, Pennsylvania, to the town of Washington Crossing, Pennsylvania.

"(H) The Cook's Creek tributary.

"(I) The Tinicum Creek tributary.

"(J) The Tohickon Creek tributary.".

(b) ELIGIBILITY STUDY AND REPORT.—Section 5(b) of the Wild and Scenic Rivers Act, as amended, (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"(11)(A) The study of the Delaware River segments and tributaries designated for potential addition to the National Wild and Scenic Rivers System pursuant to section 5(a)( ) of this Act shall be completed and the report submitted to Congress not later than one year after the date of enactment of this paragraph.

"(B) The Secretary shall—

"(i) prepare the study in cooperation and consultation with appropriate Federal, State, regional, and local agencies, including but not limited to, the Pennsylvania Department of Environmental Resources, the New Jersey Department of Environmental Protection and Energy, the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, and the Delaware and Raritan Canal Commission; and

"(ii) consider previous plans for the protection of affected cultural, recreational, and natural resources (including water supply and water quality) and existing State and local regulations, so as to avoid unnecessary duplication.

"(C) Pursuant to section 11(b)(1) of this Act, the Secretary shall undertake a river conservation plan for the segment of the Delaware River from the northern city limits of Trenton, New Jersey, to the Southern boundary of Bucks County, Pennsylvania.".

(c) EXISTING FACILITIES AND POSSIBLE ADDITIONS THERETO.—The study of the river segments and tributaries designated for potential addition to the National Wild and Scenic Rivers System under subsection (a) shall not be used in any proceeding or otherwise to preclude, prevent, restrict, or interfere with the completion, continued or changed operation, maintenance, repair, construction, reconstruction, replacement, or modification of the Gilbert Generating Station and associated facilities, the Point Pleasant Pumping Station and associated facilities, the Portland Generating Station and associated facilities, the Martins Creek Steam Electric Station and associated facilities, or the Merrill Creek Reservoir Project and associated facilities, or with the licensing, permitting, relicensing, or repermitting of such projects, stations, and associated facilities. Such study designation shall not preclude or interfere with the licensing, permitting, construction, operation, maintenance, repair, relicensing, or repermitting of any additions to any such facilities, so long as such additions are outside the segments of the Delaware River designated for study by subsection (a) and impounded backwater from any such addition does not intrude on any such segment, and so long as the values present in such segments on the date of enactment of this Act are not unreasonably diminished thereby.

(d) TRANSMISSION AND DISTRIBUTION FACILITIES.—The study of the river segments and tributaries designated for potential addition to the National Wild and Scenic Rivers System under subsection (a) of this Act shall not be used in any proceeding or otherwise to preclude, prevent, restrict, or interfere with the present or future access to or operation, maintenance, repair, construction, reconstruction, replacement, or modification of electric or gas transmission or distribution lines across or adjacent to such segments, or with the licensing, permitting, relicensing, or repermitting of such lines across such segments: *Provided, however,* That during the study of such segments, each new electric or gas transmission or distribution line across any such segment shall be located no further than ½ mile from the center line of any transmission or distribution line across any such segment in existence on the date of enactment of this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ECKART). The gentleman may state his parliamentary inquiry.

Mr. SOLOMON. Mr. Speaker, it is my understanding that this particular bill does not appear on any list that was given to us, and under the martial law rule that we are operating under, that this Member voted for, I just want to know how this bill could be before us.

Second, since we do not know the bill, what is the procedure for having the bill read in its entirety?

I did not hear anyone ask unanimous consent to suspend the reading of the bill.

The SPEAKER pro tempore. Under suspension of the rules, only the title is necessary to be read.

Pursuant to the discussion on the floor of the House yesterday, the Chair is advised that this bill was listed on the list provided to the membership.

Mr. SOLOMON. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. SOLOMON. Mr. Speaker, we are operating under an expedited procedure rule that was passed by this House, supported by the leadership on both sides of the aisle.

My parliamentary inquiry is that we were given a short list a little while ago that we would only take up the bills on that short list and there would be no votes after 12 o'clock.

☐ 1150

Many Members have gone home. We saw the count here. So my parliamentary inquiry is: How could this bill be made in order if it does not appear on that short list?

The SPEAKER pro tempore (Mr. ECKART). The Chair will respond to the gentleman's parliamentary inquiry. Under House Resolution 591, the motion to suspend the rules is in order at this time.

Pursuant to the rule, the gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KOSTMAYER].

PARLIAMENTARY INQUIRY

Mr. KYL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. KYL. Mr. Speaker, it is a parliamentary inquiry. I do not know the answer to this question.

I would like to have the bill read, and I wonder if the Chair would advise me how I could accomplish that fact.

The SPEAKER pro tempore. Under suspension of the rules in the House only the title of the bill is read. It is not an appropriate request at this time.

Mr. KYL. Mr. Speaker, I am sorry if I misunderstood. It is that entire text that needs to be read. What I am asking is whether we can require that it be read. That is my inquiry.

The SPEAKER pro tempore. The gentleman may ask unanimous consent to have the bill read in its entirety.

The Chair recognizes the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, I will take 1 minute. This bill requires the National Park Service to conduct a 1-year study to determine if 55 miles of the Delaware River should be included in the National Wild and Scenic River Act. This 55 miles falls entirely and exclusively within my congressional district. Across the Delaware River in New Jersey is the district represented by my colleague, the gentleman from New Jersey [Mr. ZIMMER], a Republican. He is a cosponsor of the bill. This is the Zimmer-Kostmayer bill.

The ranking member of the subcommittee, the gentleman from Arizona [Mr. RHODES], will speak. He is not opposed to the bill. It passed the House and the Senate unanimously, and the administration testified that it is in favor.

Mr. Speaker, I ask for its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I do represent the bulk of the New Jersey side of the Delaware River, a stretch that is addressed by this legislation. It provides for a study only by the National Park Service. The wild and scenic designation would follow only if the National Park Service found that it is appropriate designating it as such. There are, to my knowledge, no objections on the New Jersey side either from landowners, utility companies or the State.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just want to know if anyone knows how much this study will cost. Are there any cost estimates on the study?

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, about $150,000, I would say to the gentleman from Indiana.

Mr. RHODES. I yield myself such time as I may consume.

Mr. Speaker, this bill had hearings in the subcommittee, a markup in the subcommittee, a markup in the full committee, was not opposed by any administration. The minority has previously indicated the majority that we have no opposition to the bill, we have no opposition to the bill.

I have no further requests for time, and I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. KOSTMAYER] that the House suspend the rules and pass the bill, H.R. 6179.

The question was taken.

Mr. KYL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 256, nays 84, not voting 92, as follows:

[Roll No. 487]

YEAS—256

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Aspin
Atkins
AuCoin
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Coleman (TX)
Collins (IL)
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Cramer
Darden
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Guarini
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefley
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Jones
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowery (CA)
Lowey (NY)
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schumer
Serrano
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stenholm
Stokes
Studds
Synar
Tallon
Tanner
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Vento
Visclosky
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Yates
Zimmer

NAYS—84

Allen
Archer
Baker
Barrett
Barton
Bentley
Boehner
Bunning
Burton
Clinger
Coughlin
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Duncan
Edwards (OK)
Emerson
Fawell
Gekas
Gingrich
Goodling
Goss
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Herger
Hobson
Holloway
Hopkins
Hubbard
Hunter
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kasich
Kyl
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Marlenee
Martin
McCandless
McCollum
Michel
Miller (OH)
Molinari
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Ramstad
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Roth
Santorum
Schiff
Sensenbrenner
Smith (OR)
Solomon
Spence
Stump
Sundquist
Thomas (CA)
Vander Jagt
Walker
Weber
Wylie
Young (FL)
Zeliff

NOT VOTING—92

Ackerman
Annunzio
Armey
Bacchus
Ballenger
Barnard
Bateman
Beilenson
Berman
Bliley
Boxer
Broomfield
Chandler
Clay
Clement
Coble
Coleman (MO)
Collins (MI)
Combest
Coyne
Cunningham
Davis
Dellums
Dixon
Dwyer
Ewing
Fields
Fish
Foglietta
Frost
Gallegly
Gallo
Gaydos
Grandy
Green
Hammerschmidt
Hatcher
Hefner
Houghton
Jenkins
Johnston
Kennedy
Klug
Kolbe
Levine (CA)
Lipinski
Luken
Machtley
Manton
Matsui
McDade
McDermott
McEwen
McGrath
Meyers
Miller (WA)
Mrazek
Murtha
Perkins
Peterson (MN)
Porter
Pursell
Quillen
Ravenel
Rowland
Russo
Savage
Schroeder
Schulze
Sharp
Shaw
Shuster
Skeen
Smith (IA)
Stallings
Stark
Stearns
Swett
Swift
Tauzin
Taylor (NC)
Thomas (GA)
Thomas (WY)
Traxler

Valentine
Volkmer
Vucanovich
Walsh
Weldon
Wise
Yatron
Young (AK)

☐ 1214

Mr. KASICH changed his vote from "yea" to "nay."

Mr. SCHAEFER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, I missed rollcall votes 486, 487, and 488. Had I been present, I would have voted "aye" on rollcall vote 486, "nay" on rollcall vote 487, and "aye" on rollcall vote 488.

ORDER OF BUSINESS

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, it is my understanding that the gentleman from Texas [Mr. BROOKS] will pose a unanimous consent request which will be the last unanimous-consent request which will be offered on this side.

In the event that a motion to adjourn is offered as a privileged motion while the unanimous consent is pending, it will be my recommendation to Democratic Members to agree to it.

But special orders, which many Members would like to conclude this afternoon for departing Members and other purposes, of course, would be vitiated by such a motion. I would hope that without an ensuing motion to adjourn, the gentleman from Texas may offer his unanimous-consent agreement at that point.

Whether it is agreed to or not, we will have concluded the business for the day.

CONFERENCE REPORT ON H.R. 5334, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

Mr. GONZALES submitted the following conference report and statement on the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-1017)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5334), to amend and extend certain laws relating to housing and community development, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing and Community Development Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Effective date.

TITLE I—HOUSING ASSISTANCE

Subtitle A—General Provisions

Sec. 101. Low-income housing authorization.
Sec. 102. Extension of ceiling rents.
Sec. 103. Definitions of income and adjusted income and applicability to Indian housing programs.
Sec. 104. Public and section 8 housing tenant preference rules.
Sec. 105. Income eligibility for assisted housing.
Sec. 106. Family self-sufficiency program.

Subtitle B—Public and Indian Housing

Sec. 111. Major reconstruction of obsolete projects.
Sec. 112. Public housing tenant preferences.
Sec. 113. Reform of public housing management.
Sec. 114. Public housing operating subsidies.
Sec. 115. Public housing vacancy reduction.
Sec. 116. Public housing demolition and disposition.
Sec. 117. Public housing resident management.
Sec. 118. Public housing homeownership.
Sec. 119. Public housing family investment centers.
Sec. 120. Revitalization of severely distressed public housing.
Sec. 121. Choice in public housing management.
Sec. 122. Assisted housing for Indians and Alaska Natives.
Sec. 123. Public housing early childhood development services.
Sec. 124. Indian housing childhood development services.
Sec. 125. Public housing one-stop perinatal services demonstration.
Sec. 126. Public housing youth sports programs.
Sec. 127. National Commission on Distressed Public Housing.
Sec. 128. National Commission on American Indian, Alaska Native, and Native Hawaiian Housing.
Sec. 129. Rental assistance fraud recoveries.
Sec. 130. Project-based accounting.
Sec. 131. Sale of certain scattered-site housing.
Sec. 132. Homeownership demonstration program in Omaha, Nebraska.

Subtitle C—Section 8 Assistance

Sec. 141. Eligibility of low-income families to receive rental assistance.
Sec. 142. Contract adjustments for expiration of property tax exemption.
Sec. 143. Termination of contracts.
Sec. 144. Preferences for veterans with disabilities that prevent use of home.
Sec. 145. Termination of tenancy for criminal activity.
Sec. 146. Definitions of "project-based assistance" and "tenant-based assistance".
Sec. 147. Portability.
Sec. 148. Family unification assistance.
Sec. 149. Implementation of amendments to project-based certificate program.
Sec. 150. Effectiveness of section 8 assistance for FHA-owned units.
Sec. 151. Implementation of income eligibility provisions for section 8 new construction units.
Sec. 152. Moving to opportunity for fair housing.
Sec. 153. Directive to further fair housing objectives under certificate and voucher programs.
Sec. 154. Housing assistance in Jefferson County, Texas.
Sec. 155. Compliance of certain activities with limitations on project-based assistance.

Subtitle D—Other Programs

Sec. 161. Public and assisted housing drug elimination.
Sec. 162. Housing counseling.
Sec. 163. Use of funds recaptured from refinancing State and local finance projects.
Sec. 164. HOPE for youth.
Sec. 165. Extension for commencement of certain construction.

Subtitle E—Homeownership Programs

Sec. 181. HOPE programs.
Sec. 182. National Homeownership Trust demonstration.
Sec. 183. Nehemiah housing opportunity grants.
Sec. 184. Loan guarantees for Indian housing.
Sec. 185. Assistance under section 8 for homeownership.
Sec. 186. Enterprise zone homeownership opportunity grants.

Subtitle F—Implementation

Sec. 191. Implementation.

TITLE II—HOME INVESTMENT PARTNERSHIPS

Sec. 201. Authorization of appropriations.
Sec. 202. Home program thresholds.
Sec. 203. Elimination of restrictions on new construction.
Sec. 204. Policies and preference rules; use of tenant-based rental assistance amounts for security deposits.
Sec. 205. Use of home funds for homeless assistance.
Sec. 206. Per unit cost limits.
Sec. 207. Administrative costs as eligible use of investment.
Sec. 208. Affordable housing.
Sec. 209. Homeownership resale restrictions.
Sec. 210. Matching requirements.
Sec. 211. Assistance for insular areas.
Sec. 212. Community housing production set-aside.
Sec. 213. Housing education and organizational support for community land trusts.
Sec. 214. Land bank redevelopment.
Sec. 215. Research in providing affordable housing through innovative building techniques and technology.
Sec. 216. Use of innovative building technologies to provide cost-saving housing opportunities.
Sec. 217. Definition of community housing development organization.
Sec. 218. Inclusion of echo housing in definition of housing.
Sec. 219. Eligibility of manufactured homeowners as first-time homebuyers.
Sec. 220. Eligibility for assistance and contents of strategies.
Sec. 221. Location of activities.
Sec. 222. Regulations.
Sec. 223. Retroactive application of home amendments.

TITLE III—PRESERVATION OF LOW-INCOME HOUSING

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

Sec. 301. Authorization of appropriations.
Sec. 302. Guidelines for appraisals of preservation value.
Sec. 303. Second notice of intent.

Sec. 304. Plan of action.
Sec. 305. Approval of plan of action.
Sec. 306. Receipt of incentives to extend low-income use.
Sec. 307. Transfer to qualified purchasers.
Sec. 308. Criteria for plan of action involving incentives.
Sec. 309. Resident homeownership program.
Sec. 310. Definition of eligible low-income housing.
Sec. 311. Preemption of State and local laws.
Sec. 312. Technical assistance and capacity building.
Sec. 313. Transition provisions.
Sec. 314. Conditions of assistance.
Sec. 315. Delegated responsibility to State agencies.
Sec. 316. Insurance for second mortgage financing.
Sec. 317. Technical amendments.
Sec. 318. Study of projects assisted under flexible subsidy program.
Subtitle B—Other Preservation Provisions
Sec. 331. Eligibility of public mortgagors for section 236 mortgage insurance.
Sec. 332. Regulations.
TITLE IV—MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES
Sec. 401. Definitions.
Sec. 402. Required submission.
Sec. 403. Contents.
Sec. 404. Submission and review.
Sec. 405. Troubled multifamily housing.
Sec. 406. Flexible subsidy program.
Sec. 407. Capacity study.
Sec. 408. Flexible subsidy program.
TITLE V—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET
Subtitle A—FHA Mortgage Insurance Programs
Sec. 501. Limitation on insurance authority.
Sec. 502. Federal Housing Administration Advisory Board.
Sec. 503. Maximum mortgage amount.
Sec. 504. FHA annual report.
Sec. 505. Maximum principal obligation of mortgages for veterans.
Sec. 506. Prepurchase counseling requirement.
Sec. 507. Authority to decrease insurance premium charges.
Sec. 508. Statute of limitations on payment of distributive shares.
Sec. 509. Mortgage limits for multifamily projects.
Sec. 510. Insurance of loans for operating losses of multifamily projects.
Sec. 511. Eligibility of assisted living facilities for mortgage insurance under section 232.
Sec. 512. Expediting insurance for acquisition of Resolution Trust Corporation property.
Sec. 513. Energy efficient mortgages pilot program.
Sec. 514. Study regarding home warranty plans.
Sec. 515. Expenditures to correct defects.
Sec. 516. Payment of mortgage insurance claims.
Sec. 517. Coverage of the Multifamily Mortgage Foreclosure Act.
Sec. 518. Mortgagee Review Board.
Sec. 519. Definition of mortgagee.
Sec. 520. Exemption from section 137(b) of the Truth in Lending Act.
Subtitle B—Secondary Mortgage Market Programs
Sec. 531. Limitation on GNMA guarantees of mortgage-backed securities.
Sec. 532. Authority for GNMA to make hardship interest payments.
Subtitle C—Improvement of Financing for Multifamily Housing
Sec. 541. Short title.
Sec. 542. Multifamily mortgage credit demonstrations.
Sec. 543. National interagency task force on multifamily housing.
Sec. 544. Definitions.
TITLE VI—HOUSING FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES
Subtitle A—Supportive Housing Programs
Sec. 601. Funding for supportive housing for the elderly and for persons with disabilities.
Sec. 602. Supportive housing for the elderly.
Sec. 603. Supportive housing for persons with disabilities.
Sec. 604. Revised congregate housing services program.
Sec. 605. HOPE for elderly independence.
Sec. 605. Housing opportunities for persons with AIDS.
Subtitle B—Authority for Public Housing Agencies to Provide Designated Public Housing and Assistance for Disabled Families
Sec. 621. Definitions.
Sec. 622. Authority.
Sec. 623. Tenant-based assistance for persons with disabilities.
Sec. 624. Development and reconstruction of housing for disabled families.
Sec. 625. Conforming amendments.
Sec. 626. Inapplicability to Indian public housing.
Subtitle C—Standards and Obligations of Residency in Federally Assisted Housing
Sec. 641. Compliance by owners as condition of Federal assistance.
Sec. 642. Compliance with criteria for occupancy as requirement for tenancy.
Sec. 643. Establishment of criteria for occupancy.
Sec. 644. Assisted applications.
Subtitle D—Authority to Provide Preferences for Elderly Residents and Units for Disabled Residents in Certain Section 8 Assisted Housing
Sec. 651. Authority.
Sec. 652. Reservation of units for disabled families.
Sec. 653. Secondary preferences.
Sec. 654. General availability of units.
Sec. 655. Preference within groups.
Sec. 656. Prohibition of evictions.
Sec. 657. Treatment of covered section 8 housing not subject to elderly preference.
Sec. 658. Treatment of other federally assisted housing.
Sec. 659. Covered section 8 housing.
Sec. 660. Section 8 preference.
Sec. 661. Study.
Subtitle E—Service Coordinators for Elderly and Disabled Residents of Federally Assisted Housing
Sec. 661. Requirement to provide service coordinators.
Sec. 662. Required training of service coordinators.
Sec. 663. Costs of providing service coordinators in public housing.
Sec. 664. Costs of providing service coordinators in project-based section 8 housing.
Sec. 665. Costs of providing service coordinators for families receiving Federal tenant-based assistance.
Sec. 666. Grants for costs of providing service coordinators in multifamily housing assisted under National Housing Act.
Sec. 667. Expanded responsibilities of service coordinators in section 202 housing.
Subtitle F—General Provisions
Sec. 681. Comprehensive housing affordability strategies.
Sec. 682. Conforming amendments.
Sec. 683. Definitions.
Sec. 685. Applicability.
Sec. 686. Regulations.
TITLE VII—RURAL HOUSING
Sec. 701. Program authorizations.
Sec. 702. Eligibility of homes on leased land owned by community land trusts for section 502 loans.
Sec. 703. Maximum income of borrowers under guaranteed loans.
Sec. 704. Remote rural areas.
Sec. 705. Designation of underserved areas and reservation of assistance.
Sec. 706. Rural Housing Voucher program.
Sec. 707. Rental housing loans.
Sec. 708. Nonprofit set-aside.
Sec. 709. Consideration of certain areas as rural areas.
Sec. 710. Permanent authority for section 523.
Sec. 711. Housing preservation grants for replacement of housing.
Sec. 712. Preservation.
Sec. 713. Disaster assistance.
Sec. 714. Prohibition on transfer of rural housing programs.
Sec. 715. Site acquisition and development.
Sec. 716. Reciprocity in approval of housing subdivisions among Federal agencies.
TITLE VIII—COMMUNITY DEVELOPMENT
Subtitle A—Community Development Block Grants
Sec. 801. Community development authorizations.
Sec. 802. Units of general local government.
Sec. 803. Urban counties.
Sec. 804. Retention of program income.
Sec. 805. Economic development.
Sec. 806. Evaluation, selection, and review of economic development projects.
Sec. 807. Eligible activities.
Sec. 808. Reference to Fair Housing Act.
Sec. 809. Eligibility of enterprise zones.
Sec. 810. Assistance for colonias.
Sec. 811. State set-aside for technical assistance.
Sec. 812. Community development plans and reports.
Sec. 813. Delay use of 1990 census housing data to examine effect on targeting for CDBG formula.
Subtitle B—Other Community Development Programs
Sec. 831. Neighborhood Reinvestment Corporation.
Sec. 832. Neighborhood development program.
Sec. 833. Study regarding housing technology research.
Sec. 834. Designation of enterprise zones.
Subtitle C—Miscellaneous Programs
Sec. 851. Community Outreach Act.
Sec. 852. Computerized database of community development needs.
Sec. 853. Community Investment Corporation demonstration.
Sec. 854. Emergency assistance for Los Angeles.
TITLE IX—REGULATORY AND MISCELLANEOUS PROGRAMS
Subtitle A—Miscellaneous
Sec. 901. HUD research and development.
Sec. 902. Administration of Department of Housing and Urban Development.
Sec. 903. Participant's consent to release of information.
Sec. 904. National Institute of Building Sciences.
Sec. 905. Fair housing initiatives program.
Sec. 906. National Commission on Manufactured Housing.
Sec. 907. Manufactured housing.
Sec. 908. Real Estate Settlement Procedures Act of 1974.

Sec. 909. Community Reinvestment Act of 1977.
Sec. 910. Report on community development lending.
Sec. 911. Subsidy layering review.
Sec. 912. Solar assistance financing entity.
Sec. 913. Technical and Conforming Amendments relating to labor wage rates under housing programs.
Sec. 914. Energy efficient mortgages.
Sec. 915. Economic opportunities for low- and very low-income persons.
Sec. 916. Study of the effectiveness of section 3 of the Housing and Urban Development Act of 1968.
Sec. 917. Indian housing authorities.
Sec. 918. Study regarding foreclosure alternatives.
Sec. 919. Regulations clarifying the term "housing for older persons".
Sec. 920. Use of domestic products.
Sec. 921. Improved coordination of urban policy.
Sec. 922. Prohibition of lump-sum payments.
Sec. 923. Economic independence.
Sec. 924. Administrative provision.
Sec. 925. Performance goals.
Sec. 926. Regulation of consultants.
Sec. 927. Clarification on utility allowances.
Sec. 928. Flood control restoration zone.
Sec. 929. Salaries and expenses.
Sec. 930. The National Cities in Schools Community Development program.
Sec. 931. Bank Enterprise Act of 1991 and related provisions.
Sec. 932. Disclosures under the Home Mortgage Disclosure Act of 1975.
Sec. 933. Prohibition on use of "rule of 78's" in connection with mortgage refinancings and other consumer loans.

Subtitle B—Bank Regulatory Clarification Provisions

Sec. 951. Amendment relating to estimates of real estate settlement costs.
Sec. 952. Adjustable rate mortgage caps.
Sec. 953. Modifying separate capitalization rule for savings associations' subsidiaries engaged in activities not permissible for national banks.
Sec. 954. Real estate appraisal amendment.
Sec. 955. Insider lending.
Sec. 956. Clarification of compensation standards.
Sec. 957. Truth in Savings Act amendments.

TITLE X—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

Sec. 1001. Short title.
Sec. 1002. Findings.
Sec. 1003. Purposes.
Sec. 1004. Definitions.

Subtitle A—Lead-Based Paint Hazard Reduction

Sec. 1011. Grants for lead-based paint hazard reduction in target housing.
Sec. 1012. Evaluation and reduction of lead-based paint hazards in federally assisted housing.
Sec. 1013. Disposition of federally owned housing.
Sec. 1014. Comprehensive housing affordability strategy.
Sec. 1015. Task force on lead-based paint hazard reduction and financing.
Sec. 1016. National consultation on lead-based paint hazard reduction.
Sec. 1017. Guidelines for lead-based paint hazard evaluation and reduction activities.
Sec. 1018. Disclosure of information concerning lead upon transfer of residential property.

Subtitle B—Lead Exposure Reduction

Sec. 1021. Contractor training and certification.

Subtitle C—Worker Protection

Sec. 1031. Worker protection.
Sec. 1032. Coordination between environmental protection agency and department of labor.
Sec. 1033. NIOSH responsibilities.

Subtitle D—Research and Development

PART 1—HUD RESEARCH

Sec. 1051. Research on lead exposure from other sources.
Sec. 1052. Testing technologies.
Sec. 1053. Authorization.

PART 2—GAO REPORT

Sec. 1056. Federal implementation and insurance study.

Subtitle E—Reports

Sec. 1061. Reports of the Secretary of Housing and Urban Development.

TITLE XI—NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES

Sec. 1101. Authority.
Sec. 1102. New town plan.
Sec. 1103. New town development demonstration program requirements.
Sec. 1104. Federal mortgage insurance.
Sec. 1105. Secondary soft mortgage financing for housing.
Sec. 1106. Community development assistance.
Sec. 1107. Governing boards.
Sec. 1108. Reports.
Sec. 1109. Definitions.

TITLE XII—REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

Sec. 1201. Short title.
Sec. 1202. Purposes.
Sec. 1203. Definition of regulatory barriers to affordable housing.
Sec. 1204. Grants for regulatory barrier removal strategies and implementation.
Sec. 1205. Regulatory barriers clearinghouse.
Sec. 1206. Substantially equivalent Federal and State barrier assessment removal requirements.
Sec. 1207. Reports by Secretary.

TITLE XIII—GOVERNMENT SPONSORED ENTERPRISES

Sec. 1301. Short title.
Sec. 1302. Congressional findings.
Sec. 1303. Definitions.
Sec. 1304. Protection of taxpayers against liability.

Subtitle A—Supervision and Regulation of Enterprises

PART 1—FINANCIAL SAFETY AND SOUNDNESS REGULATOR

Sec. 1311. Establishment of Office of Federal Housing Enterprise Oversight.
Sec. 1312. Director.
Sec. 1313. Duty and authority of director.
Sec. 1314. Authority to require reports by enterprises.
Sec. 1315. Personnel.
Sec. 1316. Funding.
Sec. 1317. Examinations.
Sec. 1318. Prohibition of excessive compensation.
Sec. 1319. Authority to provide for review of enterprises by rating organization.
Sec. 1319A. Equal opportunity in solicitation of contracts.
Sec. 1319B. Annual reports by director.
Sec. 1319C. Public disclosure of final orders and agreements.
Sec. 1319D. Limitation on subsequent employment.
Sec. 1319E. Audits by GAO.
Sec. 1319F. Information, records, and meetings.
Sec. 1319G. Regulations and orders.

PART 2—AUTHORITY OF SECRETARY

SUBPART A—GENERAL AUTHORITY

Sec. 1321. Regulatory authority.
Sec. 1322. Prior approval authority for new programs.
Sec. 1323. Public access to mortgage information.
Sec. 1324. Annual housing report.
Sec. 1325. Fair housing.
Sec. 1326. Prohibition of public disclosure of proprietary information.
Sec. 1327. Authority to require reports by enterprises.
Sec. 1328. Reports by Secretary.

SUBPART B—HOUSING GOALS

Sec. 1331. Establishment.
Sec. 1332. Low- and moderate-income housing goal.
Sec. 1333. Special affordable housing goal.
Sec. 1334. Central cities, rural areas, and other underserved areas housing goal.
Sec. 1335. Other requirements.
Sec. 1336. Monitoring and enforcing compliance with housing goals.
Sec. 1337. Reports during transition.
Sec. 1338. Effective date of transition goals.

SUBPART C—ENFORCEMENT OF HOUSING GOALS

Sec. 1341. Cease-and-desist proceedings.
Sec. 1342. Hearings.
Sec. 1343. Judicial review.
Sec. 1344. Enforcement and jurisdiction.
Sec. 1345. Civil money penalties.
Sec. 1346. Public disclosure of final orders and agreements.
Sec. 1347. Notice of service.
Sec. 1348. Subpoena authority.
Sec. 1349. Regulations.

PART 3—MISCELLANEOUS PROVISIONS

Sec. 1351. Amendments to title 5, United States Code.
Sec. 1352. Prohibition of merger of office.
Sec. 1353. Protection of confidential information.
Sec. 1354. Review of underwriting guidelines.
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Sec. 1615. Technical corrections relating to title V of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 1616. Technical corrections relating to title VI of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 1617. Repeal of title consisting of amendments duplicated in the Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 1618. Effective date.

SEC. 2. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect and shall apply upon the date of the enactment of this Act, unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain.

TITLE I—HOUSING ASSISTANCE

Subtitle A—General Provisions

SEC. 101. LOW-INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) is amended by striking the paragraph designation and all that follows through the end of subparagraph (B) and inserting the following:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $830,900,800, of which amount not more than $257,320,000 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than $1,977,662,720, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,100,000,000;

"(iv) for assistance under section 8 for property disposition, not more than $93,032,000;

"(v) for assistance under section 8 for loan management, not more than $202,000,000;

"(vi) for extensions of contracts expiring under section 8, not more than $6,746,135,000, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than $1,350,000,000;

"(viii) for public housing lease adjustments and amendments, not more than $83,055,000;

"(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $12,767,000; and

"(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $300,000,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $865,798,634, of which amount not more than $268,127,440 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than $2,060,724,554, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,230,200,000;

"(iv) for assistance under section 8 for property disposition, not more than $96,939,344;

"(v) for assistance under section 8 for loan management, not more than $210,484,000;

"(vi) for extensions of contracts expiring under section 8, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than $1,406,700,000;

"(viii) for public housing lease adjustments and amendments, not more than $86,543,310;

"(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $13,303,214; and

"(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $312,600,000.".

SEC. 102. EXTENSION OF CEILING RENTS.

(a) Removal of 5-Year Limit.—Section 3(a)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)) is amended by striking "for not more than a 5-year period".

(b) Extension of Previous Ceiling Rents.—Section 3(a)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(B)) is amended—

(1) by striking the first sentence; and

(2) in the last sentence, by striking "for the 5-year period beginning on such date of enactment" and inserting "without time limitation".

SEC. 103. DEFINITIONS OF INCOME AND ADJUSTED INCOME AND APPLICABILITY TO INDIAN HOUSING PROGRAMS.

(a) In General.—

(1) Income.—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting after "family" the following: "and any amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7))".

(2) Adjusted income.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education;";

(B) by striking "and" at the end of subparagraph (E);

(C) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(D) by inserting after subparagraph (F) the following new subparagraph:

"(G) excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities.".

(3) Budget compliance.—To the extent that the amendments made by paragraphs (1) and (2) result in additional costs under this title, such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

(b) Applicability of Definitions to Indian Housing.—

(1) In general.—In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of sections 572, 573, and 574 of the Cranston-Gonzalez National Affordable Housing Act shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

(2) Effective date.—Paragraph (1) shall take effect as if such provision were enacted upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 104. PUBLIC AND SECTION 8 HOUSING TENANT PREFERENCE RULES.

Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston-Gonzalez National Affordable Housing Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon issuance.

SEC. 105. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

(a) Exemption from Waiting List Requirements.—Section 16(c) of the United States Housing Act of 1937 (42 U.S.C. 1437n(c)) is amended—

(1) in the first sentence, by striking the second comma and inserting "and";

(2) in the first sentence, by striking ", and shall" and inserting ". In developing such admission procedures, the Secretary shall"; and

(3) by inserting before the period at the end of the penultimate sentence the following: "; except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)".

(b) Exemption from Eligibility Restrictions.—Section 16(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437n(d)(2)) is amended by inserting before the period ", to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 5(h) of this title.".

SEC. 106. FAMILY SELF-SUFFICIENCY PROGRAM.

(a) Reservation of Operating Subsidies.—The last sentence of section 23(h)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(h)(2)) is amended to read as follows: "Of any amounts appropriated under section 9(c) for fiscal year 1993, $25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, $25,900,000 is authorized to be used for costs under this paragraph.".

(b) Exception to Required Establishment of Program.—Section 23(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)(2)) is amended by striking subparagraphs (A) through (D) and inserting the following:

"(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under the Job Training Partnerships Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; or

"(D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this Act, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.".

(c) Nonparticipation.—Section 23(b) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)) is amended by adding at the end the following new paragraph:

"(4) Nonparticipation.—Assistance under the certificate or voucher programs under section 8 for a family that elects not to participate in a local program shall not be delayed by reason of such election.".

(d) Contract of Participation.—Section 23(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(1)) is amended—

(1) in the second sentence, by inserting after "program" the following: ", shall establish specific interim and final goals by which compliance with and performance of the contract may be measured,"; and

(2) by striking the last sentence and inserting the following new sentences: "The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 6(k), that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).".

(e) SUPPORTIVE SERVICES.—The first sentence of section 23(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(2)) is amended by striking "to each participating family" the second place it appears.

(f) ESCROW SAVINGS ACCOUNTS.—Section 23(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)(2)) is amended in the last sentence by striking "only after" and all that follows through the end of the sentence and inserting the following: "after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.".

(g) INCENTIVES FOR PARTICIPATION.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)) is amended—

(1) by striking the subsection designation and heading and inserting the following:

"(d) INCENTIVES FOR PARTICIPATION.—"; and

(2) by adding at the end the following new paragraph:

"(3) PLAN.—Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency.".

(h) ACTION PLAN.—Section 23(g)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437u(g)(3)) is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting "; and";

(3) by redesignating subparagraphs (D) through (G) (as so amended) as subparagraphs (E) through (H), respectively;

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;"; and

(5) by adding at the end the following new paragraph:

"(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 assistance notwithstanding the provisions of this section.".

(i) DEFINITIONS.—Section 23(n) of the United States Housing Act of 1937 (42 U.S.C. 1437u(n)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'eligible family' means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program."; and

(3) by adding at the end the following new paragraph:

"(6) The term 'vacant unit' means a dwelling unit that has been vacant for not less than 9 consecutive months.".

(j) INDIAN HOUSING.—Section 23(o)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(o)(2)) is amended to read as follows:

"(2) APPLICABILITY TO INDIAN PUBLIC HOUSING AUTHORITIES.—Notwithstanding any other provision of law, the provisions of this section shall be optional for Indian housing authorities.".

Subtitle B—Public and Indian Housing

SEC. 111. MAJOR RECONSTRUCTION OF OBSOLETE PROJECTS.

(a) IN GENERAL.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)) is amended to read as follows:

"(2)(A) Notwithstanding any other provision of law, the Secretary may reserve not more than 20 percent of any amounts appropriated for development of public housing in each fiscal year for the substantial redesign, reconstruction, or redevelopment of existing obsolete public housing projects or buildings and for the costs of improving the management and operation of projects undergoing redesign, reconstruction, or redevelopment under this paragraph (to the extent that such improvement is necessary to maintain the physical improvements resulting from such redesign, reconstruction, or redevelopment).

"(B) For purposes of this paragraph, the term 'obsolete public housing project or building' means a public housing project or building (i) having design or marketability problems resulting in vacancy in more than 25 percent of the units, or (ii)(I) for which the costs for redesign, reconstruction, or redevelopment (including any costs for lead-based paint abatement activities) exceed 70 percent of the total development cost limits for new construction of similar units in the area, and (II) which has an occupancy density or a building height that is significantly in excess of that which prevails in the neighborhood in which the project is located, a bedroom configuration that could be altered to better serve the needs of families seeking occupancy to dwellings of the public housing agency, significant security problems in and around the project, or significant physical deterioration or inefficient energy and utility systems.

"(C) The Secretary shall allocate amounts reserved under this section to public housing agencies on the basis of a competition among public housing agencies applying for such amounts. The competition shall be based on—

"(i) the management capability of the public housing agency to carry out the redesign, reconstruction, or redevelopment;

"(ii) the expected term of the useful life of the project or building after redesign, reconstruction or redevelopment; and

"(iii) the likelihood of achieving full occupancy within the projects or buildings of the agency that are to be assisted under this paragraph.

"(D) The Secretary shall establish limitations on the total costs of any project or building receiving amounts under this paragraph for redesign, reconstruction, and redevelopment. The cost limitations shall not be related to the total development cost system for new development or to the cost limits for modernization and shall recognize the higher direct costs of such work.

"(E) Assistance may not be provided under this paragraph for any project or building assisted under section 14.

"(F)(i) For each fiscal year for which amounts are reserved or appropriated for the purposes of this paragraph, the Secretary shall establish performance goals to evaluate the effectiveness of the use of such amounts. The goals shall—

"(I) be designed to maximize the effectiveness of the expenditures in a quantifiable manner; and

"(II) describe the number of units to be redesigned, redeveloped, and reconstructed with such amounts and improvements in the management of projects so assisted to be accomplished with such amounts.

"(ii) Not later than 60 days after the end of each such fiscal year, the Secretary shall submit a report to the Congress, which shall describe the performance goals established for the fiscal year, the activities carried out with such amounts, and a statement of whether the performance goals were met. If the performance goals were not met, the report shall contain—

"(I) an explanation of why the goals were not met and a description of any managerial deficiencies or legal problems that contributed to not meeting such goals;

"(II) plans and a schedule for achieving the level of performance under such performance goals;

"(III) recommendations for legislative or regulatory changes necessary to achieve the performance goals or improve performance; and

"(IV) a statement of whether the performance goals established for the fiscal year were impractical or infeasible, and, if so, the factors that contributed and resulted in establishing such impractical or infeasible goals and recommendations of actions to meet such goals, which may include changing the goals or altering or eliminating the program under this paragraph for major reconstruction of projects.".

(b) MODERNIZATION AND DISPOSITION REQUIREMENTS.—

(1) MODERNIZATION.—Section 14(c) of the United States Housing Act of 1937 (42 U.S.C. 1437l(c)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by inserting "buildings of" after "for"; and

(ii) by striking "which";

(B) in each of paragraphs (1), (2), (3), and (4), by inserting "which projects" after the paragraph designation;

(C) in paragraph (3), by striking "and" at the end;

(D) by redesignating paragraph (4) as paragraph (5); and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) which buildings are not assisted under section 5(j)(2); and".

(2) DEMOLITION AND DISPOSITION.—Section 18(a) of the United States Housing Act of 1937 (42 U.S.C. 1437q(a)) is amended—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) in the case of an application proposing demolition or disposition of any portion of a public housing project, assisted at any time under section 5(j)(2)—

"(A) such assistance has not been provided for the portion of the project to be demolished or disposed within the 10-year period ending upon submission of the application; or

"(B) the property's retention is not in the best interest of the tenants or the public housing agency because of extraordinary changes in the area surrounding the project or other extraordinary circumstances of the project.".

(c) REGULATIONS.—The Secretary shall issue regulations necessary to carry out the amendments made by this section as provided under section 191 of this Act.

SEC. 112. PUBLIC HOUSING TENANT PREFERENCES.

Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by striking "70 percent" and inserting "50 percent".

SEC. 113. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) INDEPENDENT MANAGEMENT ASSESSMENT.—Section 6(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(2)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) Upon designating a public housing agency as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any review conducted under section 14(p), the Secretary shall provide for an on-site, independent assessment of the management of the agency.

"(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24.

"(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the 'assessment team') with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies."; and

(3) in subparagraph (C), as so redesignated by paragraph (1)—

(A) by striking "agency setting forth" and inserting the following: "agency, after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency's assessment team. Such agreement shall set forth"; and

(B) by inserting before the second sentence the following new flush sentence:

"To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency.".

(b) ADDITIONAL STATUTORY REMEDIES.—Section 6(j)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)(A)) is amended—

(1) in clause (i), by inserting after "agents" the first place it appears the following: "(which may be selected by existing tenants through administrative procedures established by the Secretary)";

(2) at the end of clause (ii), by striking "and";

(3) by redesignating clause (iii) as clause (iv);

(4) by inserting after clause (ii) the following new clause:

"(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available under section 14 for the housing; and"; and

(5) by adding at the end the following new flush sentence:

"Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.".

(c) RESOURCES.—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.".

(d) ANNUAL REPORTS.—Section 6(j)(5)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(4)(E)), as so redesignated by subsection (d)(1), is amended by inserting before the semicolon the following: ", including an accounting of the authorized funds that have been expended to support such actions".

(e) APPLICABILITY.—

(1) ASSESSMENT OF RESIDENT MANAGEMENT CORPORATIONS.—Section 6(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(1)) is amended—

(A) in the first sentence, by inserting "and resident management corporations" before the period;

(B) in the third sentence, by inserting "and resident management corporations" after "agencies"; and

(C) in the fourth sentence, by striking "indicators." and inserting "indicators for public housing agencies, to the extent practicable:".

(2) PROCEDURES.—Section 6(j)(2) of the United States Housing Act of 1937, as amended by subsection (a) of this section, is further amended by adding at the end the following new subparagraph:

"(D) The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.".

SEC. 114. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c)(1) There are authorized to be appropriated for purposes of providing annual contributions under this section $2,282,436,000 for fiscal year 1993 and $2,378,298,312 for fiscal year 1994.

"(2) There are also authorized to be appropriated to provide annual contributions under this section, in addition to amounts under paragraph (1), such sums as may be necessary for each of fiscal years 1993 and 1994, to provide each public housing agency with the difference between (A) the amount provided to the agency from amounts appropriated pursuant to paragraph (1), and (B) all funds for which the agency is eligible under the performance funding system without adjustments for estimated or unrealized savings.

"(3) In addition to amounts under paragraphs (1) and (2), there are authorized to be appropriated for annual contributions under this section to provide for the costs of the adjustments to income and adjusted income under the amendments made by sections 573(b) and (c) of the Cranston-Gonzalez National Affordable Housing Act such sums as may be necessary for fiscal years 1993 and 1994.".

(b) ADJUSTMENT OF PERFORMANCE FUNDING SYSTEM.—Section 9(a)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(A)) is amended by inserting after the period at the end the following new sentence: "Notwithstanding sections 583(a) and 585(a) of title 5, United States Code (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.".

(c) ENERGY SAVINGS.—Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 is amended by inserting before the semicolon at the end the following: ", and in subsequent years, if the energy savings are cost-effective, the Secretary may continue the sharing arrangement with the public housing agency for a period not to exceed 6 years".

SEC. 115. PUBLIC HOUSING VACANCY REDUCTION.

(a) FUNDING.—Section 14(p)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(5)) is amended to read as follows:

"(5)(A) Of any amounts available under this section in each of fiscal years 1993 and 1994 (after amounts are reserved pursuant to subsection (k)(1)), an amount equal to 4 percent of such remaining funds shall be available in each such fiscal year for the purposes under subparagraph (B).

"(B) Of such amounts available under subparagraph (A) in each such fiscal year—

"(i) 20 percent shall be available only for carrying out activities under section 6(j); and

"(ii) 80 percent shall be available for carrying out this subsection.".

(b) SCOPE OF PROGRAM.—Section 14(p)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(1)) is amended—

(1) by striking "or that" and inserting ", that"; and

(2) by inserting after "6(j)," the following: "or for which a receiver has been appointed pursuant to section 6(j)(3),".

(c) VACANCY REDUCTION ASSISTANCE.—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(4)) is amended—

(1) in subparagraph (B), by inserting before the semicolon the following: ", except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made"; and

(2) in subparagraph (C), by inserting before the semicolon the following: ", except that the Secretary may provide assistance to a public

housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made".

(d) AVAILABILITY OF ASSISTANCE.—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(4)) is amended by striking the first comma and all that follows through the second comma and inserting ", subject to the availability of amounts under paragraph (6),".

(e) USE OF AMOUNTS FOR ASSESSMENT TEAMS.—Section 14(p)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(3)) is amended by adding at the end the following new subparagraph:

"(D) The Secretary may use amounts made available under paragraph (6) for any travel and administrative expenses of assessment teams under this paragraph.".

(f) ASSESSMENT TEAM.—The second sentence of section 14(p)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(3)(A)) is amended—

(1) by striking "and" after "Development" and inserting a comma; and

(2) by striking "who" and inserting "and officials of the public housing agency, all of whom".

(g) RESERVATION OF ANNUAL CONTRIBUTIONS FOR ACTIVITIES UNDER PLAN.—Section 14(p) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) (as amended by the preceding provisions of this section) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Upon the expiration of the 24-month period beginning upon the receipt of assistance under paragraph (5) by a public housing agency, the Secretary shall, after reviewing the progress made in complying with the plan, reserve from the annual contribution attributable to each unit vacant for the 24-month period an amount determined by the Secretary but not exceeding 80 percent of such contribution. The Secretary may not reserve any amounts under this subparagraph for any vacant dwelling unit that is vacant because of modernization, reconstruction, or lead-based paint reduction activities.

"(B) The Secretary shall deposit any amounts reserved under subparagraph (A) in a separate account established on behalf of the public housing agency, and such amounts shall be available to the agency only for the purpose of carrying out activities in compliance with the vacancy reduction plan of the agency.

"(C) If, after the expiration of the 24-month period beginning upon the reservation under subparagraph (A) of amounts for a public housing agency, the Secretary determines that the agency has not made significant progress to comply with the provisions of the vacancy reduction plan of the agency, the amount remaining in the account for the agency established under subparagraph (B) shall be recaptured by the Secretary.".

(h) TECHNICAL CORRECTIONS.—Section 14(p)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(2)) is amended—

(1) in clause (D), by striking "modernization, reconstruction" and inserting "comprehensive modernization, major reconstruction"; and

(2) in clause (E), by striking "the modernization" and inserting "the comprehensive modernization".

SEC. 116. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

(a) COORDINATION WITH TENANTS.—Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by inserting "of the project or portion of the project covered by the application" after "tenant cooperative".

(b) REPLACEMENT PLAN.—Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by inserting before the semicolon at the end the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 8 having a term of not less than 5 years";

(B) in clause (iii), by inserting before the semicolon at the end the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under other Federal programs having a term of not less than 5 years"; and

(C) in clause (v), by inserting before the semicolon the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years";

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon;

(3) by redesignating subparagraphs (B) through (G) as subparagraphs (C) through (H), respectively;

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of an application proposing demolition or disposition of 200 or more units, shall provide that (notwithstanding the limitation under section 8(d)(2)(A) on the amount of project-based assistance provided by an agency)—

"(i) not less than 50 percent of such additional dwelling units shall be provided through the acquisition or development of additional public housing dwelling units or through project-based assistance; and

"(ii) not more than 50 percent of such additional dwelling units shall be provided through tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years;"; and

(5) by adding at the end the following new flush matter:

"except that, in any 5-year period, a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents.".

(c) SET-ASIDES FOR REPLACEMENT HOUSING.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for assistance under section 8 that is available for families not currently receiving such assistance not more than 10 percent of such budget authority for providing replacement housing under subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.

"(2) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for development of public housing under section 5(a)(2) not more than the lesser of 30 percent of such budget authorization or $150,000,000, for providing replacement housing under subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.".

(d) YOLO COUNTY HOUSING AUTHORITY.—The Secretary of Housing and Urban Development shall approve the application for disposition by the Yolo County Housing Authority (CA30-PO-003 and CA30-PO44-099), Provided that, the application states that the tenant councils, resident management corporation, and tenant cooperative, if any, shall be given appropriate opportunities to purchase the new replacement units, which shall be available and ready for occupancy before the disposition of the existing subject units. The new units shall be considered public housing for the purposes of the United States Housing Act of 1937 for which the Secretary shall provide annual contributions for operation using any amounts made available under section 9(c).

SEC. 117. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $4,750,000 for fiscal year 1993 and $4,949,500 for fiscal year 1994.".

SEC. 118. PUBLIC HOUSING HOMEOWNERSHIP.

(a) HOMEOWNERSHIP ASSISTANCE.—Section 21(a)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(2)(C)) is amended—

(1) in the first sentence, by striking "the effective date of the regulations implementing title III of this Act" and inserting "February 4, 1991"; and

(2) in the second sentence—

(A) by striking "effective"; and

(B) by striking "such Act" and inserting "the Cranston-Gonzalez National Affordable Housing Act".

(b) CONDITIONS OF PURCHASE.—Section 21(a)(3)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(3)(C)) is amended—

(1) in the first sentence, by striking "the effective date of the regulations implementing title III of this Act" and inserting "February 4, 1991"; and

(2) in the second sentence—

(A) by striking "effective"; and

(B) by striking "such title" and inserting "the Cranston-Gonzalez National Affordable Housing Act".

SEC. 119. PUBLIC HOUSING FAMILY INVESTMENT CENTERS.

Section 22(k) of the United States Housing Act of 1937 (42 U.S.C. 1437t(k)) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1993 and $26,050,000 for fiscal year 1994.".

SEC. 120. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 24. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

"(a) PROGRAM AUTHORITY.—The Secretary may make—

"(1) planning grants under subsection (c) to enable applicants to develop revitalization programs for severely distressed public housing in accordance with this section; and

"(2) implementation grants under subsection (d) to carry out revitalization programs for severely distressed public housing in accordance with this section.

"(b) DESIGNATION OF ELIGIBLE PROJECTS.—

"(1) IDENTIFICATION.—Not later than 90 days after the date of enactment of the Housing and Community Development Act of 1992, public housing agencies shall identify, in such form and manner as the Secretary may prescribe, any public housing projects that they consider to be severely distressed public housing for purposes of receiving assistance under this section.

"(2) REVIEW BY SECRETARY.—The Secretary shall review the projects identified pursuant to paragraph (1) to ascertain whether the projects are severely distressed housing (as such item is defined in subsection (h)). Not later than 180 days after the date of enactment of this section, the Secretary shall publish a list of those projects that the Secretary determines are severely distressed public housing.

"(3) APPEAL OF SECRETARY'S DETERMINATION.—The Secretary shall establish procedures for public housing agencies to appeal the Secretary's determination that a project identified by a public housing agency is not severely distressed.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—The Secretary may make planning grants under this subsection to applicants for the purpose of developing revitalization programs for severely distressed public housing under this section.

"(2) AMOUNT.—The amount of a planning grant under this subsection may not exceed $200,000 per project, except that the Secretary may for good cause approve a grant in a higher amount.

"(3) ELIGIBLE ACTIVITIES.—A planning grant may be used for activities to develop revitalization programs for severely distressed public housing, including—

"(A) studies of the different options for revitalization, including the feasibility, costs and neighborhood impact of such options;

"(B) providing technical or organizational support to ensure resident involvement in all phases of the planning and implementation processes;

"(C) improvements to stabilize the development, including security investments;

"(D) conducting workshops to ascertain the attitudes and concerns of the neighboring community;

"(E) preliminary architectural and engineering work;

"(F) planning for economic development, job training and self-sufficiency activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) designing a suitable replacement housing plan, in situations where partial or total demolition is considered;

"(H) planning for necessary management improvements; and

"(I) preparation of an application for an implementation grant under this section.

"(4) APPLICATIONS.—An application for a planning grant shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed, the schedule for completing the activities, the personnel necessary to complete the activities and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(5) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident interest and involvement in the development of a revitalization program for the project;

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) the extent of the need for and potential impact of the revitalization program; and

"(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this section in an effective and efficient manner.

"(6) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(d) IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Secretary may make implementation grants under this subsection to applicants for the purpose of carrying out revitalization programs for severely distressed public housing under this section.

"(2) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out revitalization programs for severely distressed public housing, including—

"(A) architectural and engineering work;

"(B) the redesign, reconstruction, or redevelopment of the severely distressed public housing development, including the site on which the development is located;

"(C) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this subsection as the Secretary may prescribe;

"(D) any necessary temporary relocation of tenants during the activity specified under subparagraph (B);

"(E) payment of legal fees;

"(F) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) necessary management improvements;

"(H) transitional security activities; and

"(I) any necessary support services, except that not more than 15 percent of any grant under this subsection may be used for such purpose.

"(3) APPLICATION.—An application for a implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(4) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident involvement in the development of a revitalization program for the project;

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) the extent of the need for and potential impact of the revitalization program; and

"(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(5) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(e) EXCEPTIONS TO GENERAL PROGRAM REQUIREMENTS.—

"(1) LONG-TERM VIABILITY.—The Secretary may waive or revise rules established under this title governing rents, income eligibility, and other areas of public housing management, to permit a public housing agency to undertake measures that enhance the long-term viability of a severely distressed public housing project revitalized under this section.

"(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the preferences specified under section 6(c)(4)(A)(i). Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency's jurisdiction.

"(f) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—Subject to the provisions of this section, the Secretary—

"(A) shall establish cost limitations on eligible activities under this section sufficient to provide for effective revitalization programs; and

"(B) may establish other cost limitations on eligible activities under this section.

"(2) ECONOMIC DEVELOPMENT.—Not more than an aggregate of $250,000 from amounts made available under subsections (c) and (d) may be

used for economic development activities under subsections (c) and (d) for any project, except that the Secretary may for good cause waive the applicability of this paragraph for a project.

"(g) ADMINISTRATION.—For the purpose of carrying out the revitalization of severely distressed public housing in accordance with this section, the Secretary shall establish within the Department of Housing and Urban Development an Office of Severely Distressed Public Housing Revitalization.

"(h) DEFINITIONS.—For the purposes of this section:

"(1) APPLICANT.—The term 'applicant' means—

"(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);

"(B) any public housing agency or private housing management agent selected, or receiver appointed pursuant, to section 6(j)(3);

"(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2), if such agency acts in concert with a private nonprofit organization, another public housing agency that is not designated as a troubled agency, resident management corporation or other entity approved by the Secretary; and

"(D) any public housing agency that is designated as troubled pursuant to section 6(j)(2) that—

"(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

"(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

"(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

"(2) PRIVATE NONPROFIT CORPORATION.—The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income families.

"(3) PUBLIC HOUSING AGENCY.—The term 'public housing agency' has the meaning given the term in section 3(b), except that it does not include any Indian housing authority.

"(4) RESIDENT MANAGEMENT CORPORATION.—The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term 'severely distressed public housing' means a public housing project—

"(A) that—

"(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including appropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

"(ii) is occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

"(iii) is in a location for recurrent vandalism and criminal activity (including drug-related criminal activity); and

"(iv) cannot remedy the elements of distress specified in clauses (i) through (iii) through assistance under other programs, such as the programs under section 9 or 14, or through other administrative means; or

"(B) that—

"(i) is owned by a public housing agency designated as troubled pursuant to section 6(j)(2);

"(ii) has a vacancy rate, as determined by the Secretary, of 50 percent or more, unless the project or building is vacant because it is awaiting rehabilitation under a modernization program under section 14 that—

"(I) has been approved and funded; and

"(II) as determined by the Secretary, is on schedule and is expected to result in full occupancy of the project or building upon completion of the program; and

"(iii) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

"(i) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

"(1) the number, type, and cost of public housing units revitalized pursuant to this section;

"(2) the status of projects identified as severely distressed public housing pursuant to subsection (b);

"(3) the amount and type of financial assistance provided under and in conjunction with this section; and

"(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.".

SEC. 121. CHOICE IN PUBLIC HOUSING MANAGEMENT.

(a) PURPOSE.—The purpose of this section is to encourage choice in management of distressed public housing projects by residents and increased resident management of public housing projects, as a means of improving living conditions in public housing projects, by providing for resident councils and resident management corporations to transfer the management of distressed projects to alternative managers.

(b) AMENDMENT TO 1937 ACT.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding after section 24 (as added by section 120 of this Act) the following new section:

"SEC. 25. CHOICE IN PUBLIC HOUSING MANAGEMENT.

"(a) SHORT TITLE.—This section may be cited as the 'Choice in Public Housing Management Act of 1992'.

"(b) FUNDING.—

"(1) REHABILITATION AND REDEVELOPMENT GRANTS.—From amounts reserved under section 14(k)(2) for each of fiscal years 1993 and 1994, the Secretary may reserve not more than $50,000,000 in each such fiscal year for activities under this section (which may include funding operating reserves for eligible housing transferred under this section). The Secretary may make grants to managers and ownership entities to rehabilitate eligible housing in accordance with this section, as appropriate.

"(2) TECHNICAL ASSISTANCE.—The Secretary may use up to 5 percent of the total amount reserved under paragraph (1) for any fiscal year to provide, by contract, technical assistance to residents of public housing and resident councils to help such residents and councils make informed choices about options for alternative management under this section.

"(c) PROGRAM AUTHORITY.—

"(1) TRANSFER OF MANAGEMENT.—

"(A) IN GENERAL.—The Secretary may approve not more than 25 applications submitted for fiscal years 1993 and 1994 by resident councils for the transfer of the management of distressed public housing projects, or one or more buildings within projects, that are owned or operated by troubled public housing agencies, from public housing agencies to alternative managers.

"(B) REQUIRED VOTES.—An application for such transfer may be submitted and approved only if a majority of the members of the board of the resident council has voted in favor of the proposed transfer of management responsibilities, and a majority of the residents has also voted in favor of the transfer in an election supervised by a disinterested third party.

"(C) ASSISTANCE OF MANAGEMENT SPECIALIST.—Any resident council seeking to transfer management of distressed public housing under this section shall, in cooperation with the public housing agency for such housing, select a qualified public housing management specialist to assist in identifying and acquiring a capable manager for the housing.

"(2) REHABILITATION AND CAPITAL IMPROVEMENTS.—The Secretary may make rehabilitation grants and provide capital improvement funding under subsection (e) in connection with the transfer of eligible housing to a manager under this section.

"(d) OPERATING SUBSIDIES.—

"(1) AUTHORITY TO PROVIDE.—The Secretary may make operating subsidies under section 9 available to managers under this section.

"(2) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount of the operating subsidies made available to a manager based on the share for the housing under section 9 as determined by the Secretary.

"(3) EFFECT ON PHA GRANT.—Operating subsidies for any public housing agency transferring management under this section shall be reduced in accordance with the requirements of section 9.

"(e) REHABILITATION GRANTS AND CAPITAL IMPROVEMENT FUNDING.—

"(1) REHABILITATION GRANTS.—An application under subsection (f) may request approval of amounts set aside under subsection (b) for the rehabilitation of eligible housing. The manager and the Secretary shall enter into a contract governing the use of any such assistance provided.

"(2) ANNUAL CAPITAL IMPROVEMENT FUNDING.—

"(A) AUTHORITY TO PROVIDE.—The Secretary may make funding for capital improvements available annually from amounts under section 14 to managers of eligible housing. In accordance with the contract entered into pursuant to subsection (h), each manager receiving such funding shall establish a capital improvements reserve account and deposit in the account each year an amount not less than the annual amount of comprehensive grant funds it receives. Amounts in the reserve account may be used only for capital improvements and replacements.

"(B) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount made available to a manager under paragraph (1) for capital improvements based on the share for the housing under the comprehensive grant formula and, to the extent practicable, the public housing agency's comprehensive grant plan, in accordance with section 14, as determined by the Secretary.

"(C) LIMITATION IN THE CASE OF RECENT REHABILITATION.—Where eligible housing has received rehabilitation funding under paragraph (1) or has otherwise been comprehensively modernized within 3 years before the effective date of the contract between the Secretary and the manager for management of the eligible housing, only the accrual portion of the comprehensive grant formula amount shall be available for payment to the manager.

"(D) EFFECT ON PHA GRANT.—The formula amount of a comprehensive grant for a public housing agency transferring the housing under this section shall be reduced in accordance with the requirements of section 14.

"(3) RELATIONSHIP TO SECTION 14.—The provisions of section 14 shall apply with respect to rehabilitation grants under paragraph (1) or capital improvement funding under paragraph (2); except that the Secretary may waive the applicability of any of the provisions of such section where such provisions are not appropriate to the assistance under this subsection.

"(f) APPLICATION.—

"(1) FORM AND PROCEDURES.—

"(A) IN GENERAL.—To be eligible for approval for transfer of management from a public housing agency to a manager and for a grant under subsection (e), a resident council shall submit an application to the Secretary in such form and in accordance with such procedures as the Secretary shall establish.

"(B) PHA COMMENT ON APPLICATION.—A resident council submitting an application shall provide the public housing agency that owns or operates the housing involved a reasonable opportunity to comment on the application, as the Secretary shall prescribe.

"(C) PHA PROPOSAL.—The public housing agency may present to the resident council a proposal for the continued management of the housing by the agency, and the resident council shall give reasonable consideration to any such proposal.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain—

"(A) a description of the resident council and documentation of its authority;

"(B) documentation of the votes required under subsection (c)(1)(B);

"(C) a description of the proposed manager selected by the applicant (in accordance with procedures established or approved by the Secretary) and documentation of its capacity to manage the eligible housing;

"(D) a plan for carrying out the manager's responsibilities for managing the eligible housing;

"(E) documentation that the project (or building or buildings) for which management transfer is proposed is eligible housing;

"(F) documentation that each of the requirements under paragraph (1)(B) have been fulfilled;

"(G)(i) if the application includes a request for a rehabilitation grant under subsection (e) (which shall be included in any application involving eligible housing that is 50 percent or more vacant), the basis for the estimate of the amount requested, including—

"(I) the estimate of the eligible housing's need under the public housing agency's comprehensive plan (under section 14(e)(1)); and

"(II) an explanation, where appropriate, if an amount higher than the amount planned by the agency is being requested; or

"(ii) if the application does not include a request for a rehabilitation grant under subsection (e), a demonstration that needs for capital improvements and replacement for the housing can reasonably be expected to be funded from funding for capital improvements under subsection (e);

"(H) if the manager proposes to administer a program to enable residents to achieve economic independence and self-sufficiency, a description of the program and evidence of commitment of resources to the program;

"(I) an analysis showing that the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost;

"(J) a certification that the manager will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

"(K) such other information that the Secretary considers appropriate.

"(g) REVIEW AND APPROVAL BY THE SECRETARY.—

"(1) APPLICATIONS NOT REQUESTING REHABILITATION ASSISTANCE.—In the case of applications for the transfer of management of public housing that do not include a request for rehabilitation assistance under subsection (e), the Secretary may approve an application that meets the requirements of subsection (f)(2) and this section.

"(2) APPLICATIONS REQUESTING REHABILITATION GRANTS.—In the case of applications that include a request for rehabilitation assistance under subsection (e), the Secretary shall select applicants for approval based on a national competition. The Secretary shall, by regulation, establish selection criteria for the competition which provide for separate rating of applicants under this paragraph and of applicants under this section, and for selections from a single list of all applicants. The criteria shall include—

"(A) the quality of the plan for rehabilitating the eligible housing;

"(B) the extent of the capacity or potential capacity of the proposed manager to manage the housing and to carry out the rehabilitation program;

"(C) the extent to which a program is proposed to enable residents to achieve economic independence and self-sufficiency;

"(D) the extent to which the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost; and

"(E) such other criteria as the Secretary may require.

"(h) CONTRACT BETWEEN SECRETARY AND MANAGER.—

"(1) TERMS.—After the Secretary approves an application, the Secretary shall enter into a contract with the manager for transfer of management of the eligible housing. In addition to other contract provisions required under this section, the contract shall—

"(A) give the manager the right to receive operating subsidies under subsection (d) and capital improvement funding under subsection (e);

"(B) require the manager to carry out all management responsibilities for the eligible housing, as provided in or required by the contract;

"(C) require the manager to carry out, for the eligible housing, all management responsibilities applicable to public housing agencies owning or operating public housing projects, including (I) maintaining the units in decent, safe, and sanitary condition in accordance with any standards for public housing established or adopted by the Secretary, (II) determining eligibility of applicants for occupancy of units subject to the requirements of this Act, (III) terminating tenancy in accordance with the procedures applicable to the section 8 new construction program, and (IV) determining the amount of rent paid for units in accordance with this Act; and

(D) permit, but not require, the manager to select applicants from the public housing waiting list maintained by the public housing agency.

"(2) EXTENSION, EXPIRATION, AND TERMINATION.—

"(A) IN GENERAL.—The Secretary shall provide for a resident council that has entered into a contract under this subsection to—

"(i) approve the renewal of the contract between the Secretary and the manager; or

"(ii) disapprove renewal and submit an application to the Secretary, in accordance with subsection (f), proposing another manager, which may be the public housing agency.

"(B) DEFAULT.—If the Secretary determines that a manager is in default of its responsibilities under the contract, the Secretary may require the resident council to submit another application proposing a different manager, which may be the public housing agency.

"(i) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—The Secretary may establish cost limitations on activities under this section. The amount of rehabilitation funds under subsection (e)(1) that may be approved may not exceed the per unit cost limit applicable to the comprehensive grant program under section 14.

"(2) DEMOLITION AND DISPOSITION NOT PERMITTED.—A manager may not demolish or dispose of eligible housing under this section.

"(3) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS.—To be eligible to become a manager under this section, a resident management corporation—

"(A) shall demonstrate to the Secretary its ability to manage public housing effectively and efficiently, as determined by the Secretary, which shall include evidence of its most recent financial audit; or

"(B) shall arrange for operation of the housing by a qualified management entity.

"(4) LIMITATIONS ON PHA LIABILITY.—A public housing agency shall not be liable for any act or failure to act by the manager or resident council.

"(5) BONDING AND INSURANCE.—Before assuming any management responsibility for eligible housing, a manager shall obtain fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements established by the Secretary. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the manager or its employees.

"(6) RESTRICTION ON DISPLACEMENT BEFORE TRANSFER.—A public housing agency may not involuntarily displace, as determined by the Secretary, any resident of eligible housing during the period beginning on the date that an application under subsection (f) is submitted by a resident council, and ending upon transfer of management of the housing or, if the application is disapproved, the date of the disapproval.

"(j) PERFORMANCE REVIEW AND COMPLIANCE.—

"(1) MONITORING.—The Secretary shall monitor the performance of managers under this section and shall assess their management performance using the performance indicators established under section 6(j)(1).

"(2) RECORDS, REPORTS, AND AUDITS OF MANAGERS.—

"(A) KEEPING OF RECORDS.—Each manager and resident council under this subtitle shall keep such records as may be reasonably necessary to disclose the amount and the disposition by the manager of the proceeds of assistance received under this section and to ensure compliance with the requirements of this section.

"(B) ACCESS TO DOCUMENTS.—

"(i) SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of a manager, resident council, and public housing agency that are pertinent to assistance received under, and to the requirements of, this section.

"(ii) GAO.—The Comptroller General of the United States, and any duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a manager and resident council that are pertinent to assistance received under, and to the requirements of, this section.

"(C) REPORTING REQUIREMENTS.—Each manager shall submit to the Secretary such reports

as the Secretary determines appropriate to carry out the Secretary's responsibilities under this section, including an annual financial audit.

"(D) ANNUAL REPORT.—The Secretary shall submit an annual report to the Congress evaluating management transfers under this section compared to other methods of dealing with severely distressed public housing.

"(k) NONDISCRIMINATION.—No person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(l) RELATIONSHIP TO OTHER PROGRAMS.—

"(1) HOMEOWNERSHIP.—After a transfer of management in accordance with this section, the eligible housing shall remain eligible for assistance under title III and for sale under section 5(h). Participation in a homeownership program shall be consistent with a contract between the Secretary and a manager.

"(2) SELF-SUFFICIENCY.—Where an application under subsection (f) proposes a program to enable residents to achieve economic independence and self-sufficiency, consistent with the objectives of the program under section 23, and demonstrates that the manager has the capacity to carry out a self-sufficiency program, the Secretary may approve such a program. Where such a program is approved, the Secretary shall authorize the manager to adopt policies consistent with section 23(d) (relating to maximum rents and escrow savings accounts) and section 23(e) (relating to effect of increases in family income).

"(m) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that—

"(A) is owned or operated by a troubled public housing agency; and

"(B) has been identified as severely distressed under section 24 of this Act.

In the case of an individual building, the building shall, in the determination of the Secretary, be sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section.

"(2) The term 'manager' means one of the following entities that has entered into a contract with the Secretary for the management of eligible housing under this section:

"(A) A public or private nonprofit organization (including, as determined by the Secretary, such an organization sponsored by the public housing agency).

"(B) A for-profit entity, if it has (i) demonstrated experience in providing low-income housing, and (ii) is participating in joint venture with an organization described in paragraph (3).

"(C) A State or local government, including an agency or instrumentality thereof.

"(D) A public housing agency (other than the public housing agency that owns the project).

The term does not include a resident council.

"(3) The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

The term includes resident management corporations.

"(4) The term 'public housing agency' has the meaning given such term in section 3(b), except that it does not include Indian housing authorities.

"(5) The term 'public nonprofit organization' means any public nonprofit entity, except the public housing agency that owns the eligible housing.

"(6) The term 'resident council' means any nonprofit organization or association that—

"(A) is representative of the residents of the eligible housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the eligible housing.

"(7) The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(8) The term 'troubled public housing agency' means a public housing agency with 250 or more units that—

"(A) has been designated as a troubled public housing agency for the current Federal fiscal year, and for the 2 preceding Federal fiscal years—

"(i) under section 6(j)(2)(A)(i); or

"(ii) before the implementation of such authority, under any other procedure for designating troubled public housing agencies that was used by the Secretary and is determined by the Secretary to be appropriate for purposes of this section; and

"(B) has not met targets for improved performance under section 6(j)(2)(C).".

SEC. 122. ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

(a) EXEMPTION FROM NEW CONSTRUCTION LIMITATION.—Section 201(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(c)) is amended by inserting before the period at the end the following: "or section 6(h) of the United States Housing Act of 1937 (relating to a limitation on contracts involving new construction)".

(b) MODERNIZATION.—Section 202(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)(2)) is amended by striking "single" in the second sentence.

(c) PAYMENTS TO MUNICIPALITIES.—Section 203(b) of the United States Housing Act of 1937 (42 U.S.C. 1437cc(b)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this Act, the Secretary shall make annual payments from funds appropriated under section 9(c) to municipalities providing such roads, facilities, and systems in a amount equal to—

"(1) 10 percent of the applicable shelter rent, minus the utility allowance; or

"(2) $150,

whichever is greater, for each rental housing unit covered by this subsection.".

SEC. 123. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT SERVICES.

Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriation Acts, of any amounts appropriated for fiscal year 1993 under section 103 of the Housing and Community Development Act of 1974, $5,000,000 shall be available to carry out this section. To the extent approved in appropriation Acts, of any amounts appropriated for fiscal year 1994 under section 5(c) of the United States Housing Act of 1937 for grants for the development of public housing, $5,210,000 shall be available to carry out this section. Any such amounts shall remain available until expended.".

SEC. 124. INDIAN HOUSING CHILDHOOD DEVELOPMENT SERVICES.

(a) FUNDING.—Section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note) is amended by striking the subsection designation and all that follows through the end of the first sentence and inserting the following:

"(a) FUNDING.—To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1993 for public housing grants for Indian housing, $5,200,000 may be used to carry out the demonstration program under this section. To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1994 for public housing grants for Indian housing, $5,418,400 may be used to carry out the demonstration program under this section.".

(b) ELIGIBLE RECIPIENTS.—The second sentence of section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note) is amended—

(1) by inserting ", Indian housing authorities, and Indian tribes" after "nonprofit organizations"; and

(2) by inserting ", housing authorities, and tribes" after "such organizations".

SEC. 125. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.

Section 521(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out the demonstration program under this section $200,000 for fiscal year 1993 and $208,400 for fiscal year 1994.".

SEC. 126. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

(a) FUNDING FROM PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION FUNDS.—Section 5130 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909) is amended by adding at the end the following new subsection:

"(c) SET ASIDE FOR YOUTH SPORTS PROGRAMS.—Of any amount made available in any fiscal year to carry out this chapter, 5 percent of such amount shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act for such fiscal year.".

(b) ELIGIBILITY OF INSTITUTIONS OF HIGHER LEARNING.—

(1) IN GENERAL.—Section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) is amended—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(8) institutions of higher learning that have never participated in a youth sports program assisted under this section.".

(2) TRANSPORTATION COSTS AS ELIGIBLE EXPENSE.—Section 520(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(d)) is amended by adding at the end the following new paragraph:

"(4) In the case only of an eligible entity described in subsection (b)(8), any transportation costs in connection with the program.".

(c) DEMONSTRATION PROGRAM.—Of any amounts made available in fiscal year 1993 for carrying out section 520 of the Cranston-Gon-

zalez National Affordable Housing Act, the Secretary of Housing and Urban Development shall provide not more than $500,000 for the program known as the Success Through Academic and Recreational Support program, administered by the City of Fort Myers, Florida, to demonstrate the effectiveness of programs that use trained counselors to run sports and academic activities for at-risk children, including children of low-income families residing in public housing. The grantee shall comply with all applicable program requirements under subsections (c), (d), (e), and (h) of such section. The Secretary shall evaluate the advantages of the program assisted under this subsection and determine how the program may provide a model for other cities conducting, or interested in conducting, similar activities.

SEC. 127. NATIONAL COMMISSION ON DISTRESSED PUBLIC HOUSING.

(a) TERMINATION.—Section 507 of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z–1a note) is amended by striking "upon the expiration of 18 months following the appointment of all the members under section 503(a)" and inserting "at the end of September 30, 1992".

(b) AUDIT.—Not later than December 30, 1992, the Comptroller General of the United States shall conduct an audit of the financial transactions of the National Commission on Distressed Public Housing to determine the use of any amounts received by the Commission from the Federal Government before the October 1, 1992, and shall submit a report to the Congress regarding the results of the audit. The Comptroller General and any duly authorized representatives of the Comptroller General shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession and control of the Commission that the Comptroller General considers relevant to the audit.

SEC. 128. NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 605 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 1437aa note) is amended to read as follows: "There is authorized to be appropriated to carry out this title $500,000 for fiscal year 1993.".

(b) EXTENSION OF TERMINATION DATE.—Section 602(g) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1437aa note) is amended by striking "upon the expiration of 18 months after all members of the Commission are appointed under paragraph (1)" and inserting "on October 1, 1993".

SEC. 129. RENTAL ASSISTANCE FRAUD RECOVERIES.

(a) IN GENERAL.—Section 326(d) of the Housing and Community Development Amendments of 1981 (42 U.S.C. 1437f note) is amended to read as follows:

"(d) RENTAL ASSISTANCE FRAUD RECOVERIES.—

"(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

"(A) 50 percent of the amount actually collected, or

"(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

"(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

"(3) RECOVERY.—Amounts may be recovered under this paragraph—

"(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or

"(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937."

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to actions by public housing agencies initiated on or after the date of the enactment of this Act.

SEC. 130. PROJECT-BASED ACCOUNTING.

Section 502(c)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437d note) is amended by inserting before the period the following: "for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units.

SEC. 131. SALE OF CERTAIN SCATTERED-SITE HOUSING.

The Secretary of Housing and Urban Development shall authorize the Delaware State Housing Authority in the State of Delaware to sell scattered-site public housing of the Authority under the provisions of section 5(h) of the United States Housing Act of 1937. Any proceeds from the disposition of such housing shall be used to purchase replacement scattered-site dwellings, which shall be considered public housing for the purposes of such Act and for which the Secretary shall provide annual contributions for operation, using amounts made available under section 9(c) of such Act.

SEC. 132. HOMEOWNERSHIP DEMONSTRATION PROGRAM IN OMAHA, NEBRASKA.

(a) ESTABLISHMENT.—The Secretary shall carry out a program to facilitate self-sufficiency and homeownership of single-family homes administered by the Housing Authority of the city of Omaha, in the State of Nebraska (in this section referred to as the "Housing Authority"), to demonstrate the effectiveness of promoting homeownership and providing support services.

(b) PARTICIPATING PUBLIC HOUSING UNITS.—For purposes of the demonstration program, the Secretary shall authorize the Housing Authority to designate single-family housing units for eventual homeownership. Over the term of the demonstration, the demonstration program may be applied to not more than 20 percent of the total number of public housing units administered by the Housing Authority. In conducting the demonstration, the Housing Authority shall affirmatively further fair housing objectives.

(c) NONDISPLACEMENT.—No person who is a tenant of public housing may be involuntarily relocated or displaced as a result of the demonstration program.

(d) ECONOMIC SELF-SUFFICIENCY.—

(1) ESTABLISHMENT OF PARTICIPATION CRITERIA.—The Housing Authority shall establish criteria for the participation of families in the demonstration program. Such criteria shall be based on factors that may reasonably be expected to predict a family's ability to succeed in the homeownership program established by this section.

(2) CONTENTS OF PARTICIPATION CRITERIA.—The criteria referred to in paragraph (1) shall include evidence of interest by the family in homeownership, the employment status and history of employment of family members, and maintenance by the family of the family's previous dwelling.

(e) PROVISION OF SUPPORTIVE SERVICES.—The Housing Authority shall ensure the availability of supportive services to each family participating in the demonstration program through its own resources and through coordination with Federal, State, and local agencies and private entities. Supportive services available under the demonstration program may include counseling, remedial education, education for completion of high school, job training and preparation, financial counseling emphasizing planning for homeownership, and any other appropriate services.

(f) REPORTS TO CONGRESS.—

(1) BIENNIAL REPORT.—Upon the expiration of the 2-year period beginning on the date of enactment of this Act, and each 2-year period thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the effectiveness of the demonstration program established under this section.

(2) FINAL REPORT.—Not later than 60 days after termination of the demonstration program pursuant to subsection (h), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program.

(g) REGULATIONS.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary shall issue interim regulations to carry out this section, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

(h) TERMINATION.—The demonstration program established under this section shall terminate 10 years after the date of the enactment of this Act.

Subtitle C—Section 8 Assistance

SEC. 141. ELIGIBILITY OF LOW-INCOME FAMILIES TO RECEIVE RENTAL ASSISTANCE.

(a) CERTIFICATES.—The first sentence of section 8(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(4)) is amended by inserting before the first comma the following: "or by a family that qualifies to receive assistance under subsection (b) pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990".

(b) VOUCHERS.—Section 8(o)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(A)) is amended—

(1) by striking "or" at the end of clause (iii); and

(2) by inserting before the period the following: ", or (v) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990".

SEC. 142. CONTRACT ADJUSTMENTS FOR EXPIRATION OF PROPERTY TAX EXEMPTION.

Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by inserting after the first sentence the *following new sentence: "The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption.".*

SEC. 143. TERMINATION OF CONTRACTS.

The last sentence of section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended by inserting before the period at the end the following: ", and such term shall include termination of the contract for business reasons".

SEC. 144. PREFERENCES FOR VETERANS WITH DISABILITIES THAT PREVENT USE OF HOME.

(a) CERTIFICATES.—Section 8(d)(1)(A)(ii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(ii)) is amended—

(1) by striking "(V)" and inserting "(VI)"; and

(2) by inserting after "adoption is not available;" the following: "(V) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes;".

(b) VOUCHERS.—The third sentence of section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended—

(1) by striking "(v)" and inserting "(vi)"; and

(2) by inserting after "adoption is not available;" the following: "(v) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes;".

SEC. 145. TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY.

Section 8(d)(1)(B)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(B)(iii)) is amended—

(1) by inserting ", any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises," before "or any drug-related"; and

(2) by striking "public housing tenant" and inserting "tenant of any unit".

SEC. 146. DEFINITIONS OF "PROJECT-BASED ASSISTANCE" AND "TENANT-BASED ASSISTANCE".

Section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'project-based assistance' means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2); and

"(7) the term 'tenant-based assistance' means rental assistance under subsection (b) or (o) that is not project-based assistance.".

SEC. 147. PORTABILITY.

Section 8(r)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended by inserting before the period at the end the following: "; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency".

SEC. 148. FAMILY UNIFICATION ASSISTANCE.

Section 8(x)(1) of the United States Housing Act of 1937 (12 U.S.C. 1437f(x)(1)) is amended to read as follows:

"(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $104,200,000 on or after October 1, 1993.".

SEC. 149. IMPLEMENTATION OF AMENDMENTS TO PROJECT-BASED CERTIFICATE PROGRAM.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston-Gonzalez National Affordable Housing Act not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.

SEC. 150. EFFECTIVENESS OF SECTION 8 ASSISTANCE FOR PHA-OWNED UNITS.

The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development.

SEC. 151. IMPLEMENTATION OF INCOME ELIGIBILITY PROVISIONS FOR SECTION 8 NEW CONSTRUCTION UNITS.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.

SEC. 152. MOVING TO OPPORTUNITY FOR FAIR HOUSING.

(a) AUTHORITY.—Using any amounts available under subsection (e), the Secretary of Housing and Urban Development shall carry out a demonstration program to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to assist very low-income families with children who reside in public housing or housing receiving project-based assistance under section 8 of the United States Housing Act of 1937 to move out of areas with high concentrations of persons living in poverty to areas with low concentrations of such persons. The demonstration program carried out under this section shall compare and contrast the costs associated with implementing such a program (including the costs of counseling, supportive services, housing assistance payments and other relevant program elements) with the costs associated with the routine implementation of the section 8 tenant-based rental assistance programs. The Secretary shall enter into annual contributions contracts with public housing agencies to administer housing assistance payments contracts under the demonstration.

(b) ELIGIBLE CITIES.—

(1) IN GENERAL.—The Secretary shall carry out the demonstration only in cities with populations exceeding 350,000 that are located in consolidated metropolitan statistical areas (as designated by the Director of the Office of Management and Budget) having populations exceeding 1,500,000.

(2) 1993.—Notwithstanding paragraph (1), in fiscal year 1993, only the 5 cities selected for the demonstration under the item relating to "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING (INCLUDING RESCISSION OF FUNDS)" of title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (105 Stat. 745), and the City of Los Angeles, California, shall be eligible for the demonstration under this section.

(c) SERVICES.—The Secretary shall enter into contracts with nonprofit organizations to provide counseling and services in connection with the demonstration.

(d) REPORTS.—

(1) BIENNIAL.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act (and biennially thereafter), the Secretary shall submit interim reports to the Congress evaluating the effectiveness of the demonstration program under this section. The interim reports shall include a statement of the number of persons served, the level of counseling and the types of services provided, the cost of providing such counseling and services, updates on the employment record of families assisted under the program, and any other information the Secretary considers appropriate in evaluating the demonstration.

(2) FINAL.—Not later than September 30, 2004, the Secretary shall submit a final report to the Congress describing the long-term housing, employment, and educational achievements of the families assisted under the demonstration program. Such report shall also contain an assessment of such achievements for a comparable population of section 8 recipients who have not received assistance under the demonstration program.

(e) FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for tenant-based assistance under section 8 of such Act is authorized to be increased by $50,000,000, on or after October 1, 1992, and by $52,100,000, on or after October 1, 1993, to carry out the demonstration under this section. Any amounts made available under this paragraph shall be used in connection with the demonstration under this section.

(f) IMPLEMENTATION.—The Secretary may, by notice published in the Federal Register, establish any requirements necessary to carry out the demonstration under this section and the amendment made by this section. The Secretary shall publish such notice not later than the expiration of the 90-day period beginning on the date of the enactment of this Act and shall submit a copy of such notice to the Congress not less than 15 days before publication.

SEC. 153. DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with individuals representing fair housing organizations, low-income tenants, public housing agencies, and other interested parties, shall—

(1) review and comment upon the study prepared by the Comptroller General of the United States pursuant to section 558(3) of the Cranston-Gonzalez National Affordable Housing Act;

(2) evaluate the implementation and effects of existing demonstration and judicially mandated programs that help minority families receiving

section 8 certificates and vouchers move out of areas with high concentrations of minority persons living in poverty to areas with low concentrations, including how such programs differ from the routine implementation of the section 8 certificate and voucher programs;

(3) independently assess factors (including the adequacy of section 8 fair market rentals, the level of counseling provided by public housing agencies, the existence of racial and ethnic discrimination by landlords) that may impede the geographic dispersion of families receiving section 8 certificates and vouchers;

(4) identify and implement any administrative revisions that would enhance geographic dispersion and tenant choice and incorporate the positive elements of various demonstration and judicially mandated mobility programs; and

(5) submit to the Congress a report describing its findings under paragraphs (1), (2), and (3), the actions taken under paragraph (4), and any recommendations for additional demonstration, research, or legislative action.

SEC. 154. HOUSING ASSISTANCE IN JEFFERSON COUNTY, TEXAS.

Section 213(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(e)) is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town in Town Project." and inserting "Jefferson County, Texas.".

SEC. 155. COMPLIANCE OF CERTAIN ACTIVITIES WITH LIMITATIONS ON PROJECT-BASED ASSISTANCE.

Rehabilitation activities undertaken by the Committee for Dignity and Fairness for the Homeless Housing Development, Inc. in connection with 46 dwelling units that were renovated for permanent housing for the homeless and that are located in Philadelphia, Pennsylvania, are hereby deemed to have been conducted pursuant to an agreement with the Secretary of Housing and Urban Development under clause (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)).

Subtitle D—Other Programs

SEC. 161. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 5130(a) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(a)) is amended to read as follows: "There are authorized to be appropriated to carry out this chapter $175,000,000 for fiscal year 1993 and $182,350,000 for fiscal year 1994.".

(b) FISCAL YEAR 1993 SET-ASIDES.—Section 5130(b) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(b)) is amended—

(1) by striking "SET-ASIDE FOR ASSISTED HOUSING" and inserting "SET-ASIDES"; and

(2) by inserting after the period at the end the following new sentence: "Notwithstanding any other provision of law, of any amounts appropriated for drug elimination grants under this chapter for fiscal years 1993 and 1994, not more than 6.25 percent shall be available for grants for federally assisted low-income housing and 5.0 percent shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act.".

(c) DRUG-RELATED ACTIVITY IN OTHER PHA-OWNED HOUSING.—Section 5124 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903) is amended—

(1) by inserting "(a) PUBLIC AND ASSISTED HOUSING.—" before "Grants"; and

(2) by adding at the end the following new subsection:

"(b) OTHER PHA-OWNED HOUSING.—Notwithstanding any other provision of this chapter, grants under this chapter may be used to eliminate drug-related crime in housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, for the activities described in paragraphs (1) through (7) of subsection (a), but only if—

"(1) the housing is located in a high intensity drug trafficking area designated pursuant to sectich 1005 of this Act; and

"(2) the public housing agency owning the housing demonstrates, to the satisfaction of the Secretary, that drug-related activity at the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing.".

(d) ELIGIBILITY OF PUBLIC HOUSING RESIDENT MANAGEMENT CORPORATIONS.—Chapter 2 of subtitle C of title 5 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.) is amended—

(1) in section 5123, by inserting after "(including Indian Housing Authorities)" the following: ", public housing resident management corporations that are principally managing, as determined by the Secretary, public housing projects owned by public housing agencies,";

(2) in paragraph (7) of section 5124(a) (as so designated by subsection (c) of this section), by inserting after "(7)" the following: "where a public housing agency receives a grant,"; and

(3) in the first sentence of section 5125(a), by inserting after "public housing agency" the following: ", a public housing resident management corporation,".

(e) PUBLICATION OF REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall publish such final regulations as may be necessary to implement section 5130(b) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909(a)).

SEC. 162. HOUSING COUNSELING.

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows through the period and inserting "except that for such purposes there are authorized to be appropriated $6,025,000 for fiscal year 1993 and $6,278,050 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to $500,000 shall be available for use for counseling and other activities in connection with the demonstration program under section 152 of the Housing and Community Development Act of 1992.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There are authorized to be appropriated to carry out this section $7,000,000 for fiscal year 1993 and $7,294,000 for fiscal year 1994, of which amounts $1,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D).".

(2) EXTENSION OF PROGRAM.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

(3) AVAILABILITY.—Section 106(c)(3)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(3)(A)) is amended—

(A) in clause (i), by striking "and" at the end; and

(B) by adding at the end the following new clause:

"(iii) have a high incidence of mortgages involving principal obligations (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the properties that are insured pursuant to section 203 of the National Housing Act; and".

(4) ELIGIBILITY.—Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended by adding at the end the following new flush sentence:

"An applicant for a mortgage shall be eligible for homeownership counseling under this subsection if the applicant is a first-time homebuyer who meets the requirements of section 303(b)(1) of the Cranston-Gonzalez National Affordable Housing Act and the mortgage involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property and is to be insured pursuant to section 203 of the National Housing Act.".

(5) NOTIFICATION OF AVAILABILITY.—Section 106(c)(5)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

"(i) REQUIREMENT.—Except as provided in subparagraph (C), the creditor of a loan (or proposed creditor) shall provide notice under clause (ii) to (I) any eligible homeowner who fails to pay any amount by the date the amount is due under a home loan, and (II) any applicant for a mortgage described in paragraph (4).

"(ii) CONTENT.—Notification under this subparagraph shall—

"(I) notify the homeowner or mortgage applicant of the availability of any homeownership counseling offered by the creditor (or proposed creditor);

"(II) if provided to an eligible mortgage applicant, state that completion of a counseling program is required for insurance pursuant to section 203 of the National Housing Act; and

"(III) notify the homeowner or mortgage applicant of the availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling, or provide the toll-free telephone number described in subparagraph (D)(i).".

(6) ANNUAL UPDATE OF LIST OF COUNSELING ORGANIZATIONS FOR TOLL-FREE NUMBER.—The matter preceding subclause (I) in section 106(c)(5)(D)(i) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(D)(i)) is amended by inserting ", which shall be updated annually," after "organizations".

(c) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—Section 106(d)(12) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)(12)) is amended to read as follows:

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $365,000 for fiscal year 1993 and $380,330 for fiscal year 1994.".

(d) ELIGIBILITY FOR COUNSELING ASSISTANCE UNDER HOUSING AND URBAN DEVELOPMENT ACT OF 1968 AND CERTIFICATION AND TRAINING PROGRAM.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsections:

"(e) CERTIFICATION.—

"(1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (c), or (d), unless the organization provides such counseling, to the extent practicable, by individuals who have been certified by the Secretary under this subsection as competent to provide such counseling.

"(2) STANDARDS AND EXAMINATION.—The Secretary shall, by regulation, establish standards

and procedures for testing and certifying counselors. Such standards and procedures shall require for certification that the individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas:

"(A) Financial management.

"(B) Property maintenance.

"(C) Responsibilities of homeownership and tenancy.

"(D) Fair housing laws and requirements.

"(E) Housing affordability.

"(F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.

"(3) ENCOURAGEMENT.—The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.

"(f) HOMEOWNERSHIP AND RENTAL COUNSELOR TRAINING AND CERTIFICATION PROGRAMS.—

"(1) ESTABLISHMENT.—To the extent amounts are provided in appropriations Acts under paragraph (7), the Secretary shall contract with an appropriate entity (which may be a nonprofit organization) to carry out a program under this subsection to train individuals to provide homeownership and rental counseling and to administer the examination under subsection (e)(2) and certify individuals under such subsection.

"(2) ELIGIBILITY AND SELECTION.—

"(A) ELIGIBILITY.—To be eligible to provide the training and certification program under this subsection, an entity shall have demonstrated experience in training homeownership and rental counselors.

"(B) SELECTION.—The Secretary shall provide for entities meeting the requirements of subparagraph (A) to submit applications to provide the training and certification program under this subsection. The Secretary shall select an application based on the ability of the entity to—

"(i) establish the program as soon as possible on a national basis, but not later than the date under paragraph (6);

"(ii) minimize the costs involved in establishing the program; and

"(iii) effectively and efficiently carry out the program.

"(3) TRAINING.—The Secretary shall require that training of counselors under the program under this subsection be designed and coordinated to prepare individuals for successful completion of the examination for certification under subsection (e)(2). The Secretary, in consultation with the entity selected under paragraph (2)(B), shall establish the curriculum and standards for training counselors under the program.

"(4) CERTIFICATION.—The entity selected under paragraph (2)(B) shall administer the examination under subsection (e)(2) and, on behalf of the Secretary, certify individuals successfully completing the examination. The Secretary, in consultation with such entity, shall establish the content and format of the examination.

"(5) FEES.—Subject to the approval of the Secretary, the entity selected under paragraph (2)(B) may establish and impose reasonable fees for participation in the training provided under the program and for examination and certification under subsection (e)(2), in an amount sufficient to cover any costs of such activities not covered with amounts provided under paragraph (7).

"(6) TIMING.—The entity selected under paragraph (2)(B) to carry out the training and certification program shall establish the program as soon as possible after such selection, and shall make training and certification available under the program on a national basis not later than the expiration of the 1-year period beginning upon such selection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $2,000,000 for fiscal year 1993 and $2,084,000 for 1994.".

(e) REGULATIONS.—The Secretary of Housing and Urban Development shall issue any regulations necessary to carry out the amendments made by subsection (d), not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 163. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

(a) IN GENERAL.—Section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended to read as follows:

"SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

"(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term 'qualified project' means any State financed project or local government or local housing agency financed project, that—

"(1) was—

"(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937; or

"(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section 8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

"(2) is being refinanced.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

"(c) APPLICABILITY AND BUDGET COMPLIANCE.—

"(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992, subject to the provisions of paragraph (2).

"(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.".

SEC. 164. HOPE FOR YOUTH.

Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa note et seq.) is amended by adding at the end the following new subtitle:

"Subtitle D—HOPE for Youth: Youthbuild

"SEC. 451. STATEMENT OF PURPOSE.

"It is the purpose of this subtitle—

"(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by utilizing the energies and talents of economically disadvantaged young adults;

"(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

"(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

"(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

"SEC. 452. PROGRAM AUTHORITY.

"The Secretary may make—

"(1) planning grants to enable applicants to develop Youthbuild programs; and

"(2) implementation grants to enable applicants to carry out Youthbuild programs.

"SEC. 453. PLANNING GRANTS.

"(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild programs under this subtitle. The amount of a planning grant under this section may not exceed $150,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop Youthbuild programs including—

"(1) studies of the feasibility of a Youthbuild program;

"(2) establishment of consortia between youth training and education programs and housing owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;

"(3) identification and selection of a site for the Youthbuild program;

"(4) preliminary architectural and engineering work for the Youthbuild program;

"(5) identification and training of staff for the Youthbuild program;

"(6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;

"(7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and

"(8) preparation of an application for an implementation grant under this subtitle.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities including activities conducted by Indian tribes;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy

of the State or unit of general local government within which the project is located; and

“(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

“(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

“(1) the qualifications or potential capabilities of the applicant;

“(2) the potential of the applicant for developing a successful and affordable Youthbuild program;

“(3) the need for the prospective program, as determined by the degree of economic distress—

“(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

“(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

“(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

“SEC. 454. IMPLEMENTATION GRANTS.

“(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

“(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used to carry out Youthbuild programs, including the following activities:

“(1) Architectural and engineering work.

“(2) Acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title, residential housing for homeless individuals, and low- and very low-income families, or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs.

“(3) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary determines is necessary to support capacity development by a private nonprofit organization.

“(4) Education and job training services and activities including—

“(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

“(B) services and activities designed to meet the educational needs of participants, including—

“(i) basic skills instruction and remedial education;

“(ii) bilingual education for individuals with limited-English proficiency;

“(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

“(iv) counseling and assistance in attaining post-secondary education and required financial aid;

“(C) counseling services and related activities;

“(D) activities designed to develop employment and leadership skills, including support for youth councils; and

“(E) support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment.

“(5) Wage stipends and benefits provided to participants.

“(6) Funding of operating expenses and replacement reserves of the property covered by the Youthbuild program.

“(7) Legal fees.

“(8) Defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

“(c) APPLICATION.—

“(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

“(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

“(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

“(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

“(C) a description of the proposed site for the program;

“(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

“(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

“(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, including agencies of Indian tribes, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

“(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

“(H) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, including vocational, adult and bilingual education programs, job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988, and housing and community development programs, including programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

“(I) assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or its equivalent;

“(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

“(K) a description of activities that will be undertaken to develop the leadership skills of participants;

“(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

“(M) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988;

“(N) identification and description of the financing proposed for any—

“(i) rehabilitation;

“(ii) acquisition of the property; or

“(iii) construction;

“(O) identification and description of the entity that will operate and manage the property;

“(P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

“(Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

“(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

“(1) the qualifications or potential capabilities of the applicant;

“(2) the feasibility of the Youthbuild program;

“(3) the potential for developing a successful Youthbuild program;

“(4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, poverty);

“(5) the apparent commitment of the applicant to leadership development, education, and training of participants;

“(6) the inclusion of previously homeless tenants in the housing provided;

“(7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988; and

“(8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

“(e) PRIORITY FOR APPLICANTS WHO OBTAIN HOUSING MONEY FROM OTHER SOURCES.—The Secretary shall give priority in the award of grants under this section to applicants to the extent that they propose to finance activities de-

scribed in paragraphs (1), (2), and (6) of subsection (b) from funds provided from Federal, State, local, or private sources other than assistance under this subtitle.

"(f) Approval.—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

"(g) Combined Planning and Implementation Grant Application Procedure.—The Secretary shall develop a procedure under which an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

"SEC. 455. YOUTHBUILD PROGRAM REQUIREMENTS.

"(a) Residential Rental Housing.—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

"(1) Occupancy by low- and very low-income families.—In the project—

"(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and

"(B) the remaining units shall be occupied, or available for occupancy, by low-income families.

"(2) Tenant protections.—

"(A) Lease.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless otherwise mutually agreed to by the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(B) Termination of tenancy.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

"(C) Maintenance and replacement.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

"(D) Tenant selection.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

"(i) are consistent with the purpose of providing housing for very low-income and low-income families and individuals;

"(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

"(iii) give reasonable consideration to the housing needs of families that would qualify for a preference under section 6(c)(4)(A) of the United States Housing Act of 1937; and

"(iv) provide for (I) the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and (II) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

"(3) Limitation on rental payments.—Tenants in each project shall not be required to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

"(4) Tenant participation plan.—For each project owned by a nonprofit organization, the organization shall provide a plan for and follow a program of tenant participation in management decisions.

"(5) Prohibition against discrimination.—A unit in a project assisted under this subtitle may not be refused for leasing to a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such assistance.

"(b) Transitional Housing.—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent limitations applicable to comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

"(c) Limitations on Profits for Rental and Transitional Housing.—

"(1) Monthly rental limitation.—The aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on any equity investment of the project owner.

"(2) Profit limitations on partners.—A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

"(A) not more than a 6 percent return on their equity investment from project operations; and

"(B) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

"(d) Homeownership.—Each homeownership project that receives assistance under this subtitle shall comply with the requirements of subtitle B or subtitle C of this title.

"(e) Restrictions on Conveyance.—The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

"(f) Conversion of Transitional Housing.—The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

"(g) Period of Restrictions.—A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

"SEC. 456. ADDITIONAL PROGRAM REQUIREMENTS.

"(a) Eligible Participants.—

"(1) In general.—Except as provided in paragraph (2), an individual may participate in a Youthbuild program receiving assistance under this subtitle only if such individual is—

"(A) 16 to 24 years of age, inclusive;

"(B) a very low-income individual or a member of a very low-income family; and

"(C) an individual who has dropped out of high school.

"(2) Exception for individuals not meeting income or educational need requirements.—Not more than 25 percent of the participants in such program may be individuals who do not meet the requirements of either paragraphs (1)(B) or (C), but who have educational needs despite attainment of a high school diploma or its equivalent.

"(3) Participation limitation.—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

"(b) Minimum Time Devoted to Educational Services and Activities.—A Youthbuild program receiving assistance under this subtitle shall be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in subparagraphs (B) through (F) of section 454(b)(4).

"(c) Authority Restriction.—No provision of this subtitle may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

"(d) State and Local Standards.—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

"(e) Wages, Labor Standards, and Nondiscrimination.—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act, relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act. This section may not be construed to prevent a recipient of a grant under this subtitle from using funds from non-Federal sources to increase wages and benefits under such programs, if appropriate.

"SEC. 457. DEFINITIONS.

"For purposes of this subtitle:

"(1) Adjusted income.—The term 'adjusted income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(2) Applicant.—The term 'applicant' means a public or private nonprofit agency, including—

"(A) a community-based organization;

"(B) an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

"(C) a community action agency;

"(D) a State and local housing development agency;

"(E) a community development corporation;

"(F) a State and local youth service and conservation corps; and

"(G) any other entity eligible to provide education and employment training under other Federal employment training programs.

"(3) Community-based organization.—The term 'community-based organization' means a private nonprofit organization that—

"(A) maintains, through significant representation on the organization's governing board or otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

"(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

"(4) Homeless individual.—The term 'homeless individual' has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(5) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

"(6) INCOME.—The term 'income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).

"(8) INDIVIDUAL WHO HAS DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965.

"(10) LIMITED-ENGLISH PROFICIENCY.—The term 'limited-English proficiency' has the meaning given the term in section 7003 of the Bilingual Education Act.

"(11) LOW-INCOME FAMILY.—The term 'low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(12) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(13) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

"(14) RELATED FACILITIES.—The term 'related facilities' includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities.

"(15) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(16) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

"(17) TRANSITIONAL HOUSING.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

"(18) VERY LOW-INCOME FAMILY.—The term 'very low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(19) YOUTHBUILD PROGRAM.—The term 'Youthbuild program' means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

"SEC. 458. MANAGEMENT AND TECHNICAL ASSISTANCE.

"(a) SECRETARY ASSISTANCE.—The Secretary may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Secretary in the management, supervision, and coordination of Youthbuild programs receiving assistance under this subtitle.

"(b) SPONSOR ASSISTANCE.—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle.

"(c) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

"(d) RESERVATION OF FUNDS.—In each fiscal year, the Secretary shall reserve 5 percent of the amounts available for activities under this subtitle pursuant to section 402 to carry out subsections (b) and (c) of this section.

"SEC. 459. CONTRACTS.

"Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies, including agencies of Indian tribes, and private organizations.

"SEC. 460. REGULATIONS.

"The Secretary shall issue any regulations necessary to carry out this subtitle.".

SEC. 165. EXTENSION FOR COMMENCEMENT OF CERTAIN CONSTRUCTION.

Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall extend the deadline for commencement of construction until September 30, 1993, for the application for assistance under such section 17 for HDG project number IL004HG702, and upon commencement of construction shall execute the grant agreement for such project as currently approved or amended.

Subtitle E—Homeownership Programs

SEC. 181. HOPE PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is amended by inserting after section 401 the following new section:

"SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

"(a) FISCAL YEAR 1993.—There are authorized to be appropriated for grants under this title $855,000,000 for fiscal year 1993, of which—

"(1) $285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, of which up to $4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

"(2) $285,000,000 shall be available for activities authorized under subtitle B, of which up to $3,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

"(3) $285,000,000 shall be available for activities under subtitle C, of which up to $2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.

Of the amounts appropriated pursuant to this subsection, up to $40,000,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

"(b) FISCAL YEAR 1994.—There are authorized to be appropriated for grants under this title $883,641,000 for fiscal year 1994, of which—

"(1) $294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to $4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

"(2) $294,547,000 shall be available for activities authorized under subtitle B, up to $3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

"(3) $294,547,000 shall be available for activities under subtitle C, up to $2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.

Of the amounts appropriated pursuant to this subsection, up to $41,680,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

"(c) TECHNICAL ASSISTANCE.—Technical assistance made available under Title III of the United States Housing Act of 1937 or subtitle B or subtitle C of this title may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under Title III of the United States Housing Act of 1937, or subtitle B or subtitle C of this title may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or subtitle for the fiscal year.".

(2) CONFORMING AMENDMENTS.—

(A) HOPE I.—Section 301 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa(c)) is amended by striking subsection (c).

(B) HOPE II AND HOPE III.—Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is amended—

(i) by striking subsection (c) of section 421; and

(ii) in section 441—

(I) by striking "(a) IN GENERAL.—"; and

(II) by striking subsection (b).

(3) GAO AUDIT OF TECHNICAL ASSISTANCE CONTRACTS.—The Comptroller General of the United States shall conduct an audit of all of the technical assistance contracts awarded for fiscal years 1993 and 1994 pursuant to section 402 of the Cranston-Gonzalez National Affordable Housing Act. The Comptroller General shall submit a report to the Congress describing the results of such audit not later than September 30, 1994.

(b) HOPE I MATCHING FUNDING.—Section 303(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-2 (c)(1)) is amended—

(1) in paragraph (1), by inserting after "expenses" the following: "and replacement housing"; and

(2) by inserting at the end the following new paragraph:

"(3) REDUCTION OF REQUIREMENT.—The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act.".

(c) GRANT SELECTION CRITERIA FOR HOPE I.—Section 303(e)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-2(e)(8)) is amended—

(1) by striking "of the type assisted under this title"; and

(2) by striking "appreciably".

(d) ELIGIBILITY OF MUTUAL HOUSING ASSOCIATIONS FOR HOPE II GRANTS.—Section 426(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(1)) is amended by adding at the end the following new subparagraph:

"(G) A mutual housing association.".

(e) ELIGIBLE PROPERTY UNDER HOPE II.—Section 426(3)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D)) is amended by inserting before the period at the end the following "or an agency or instrumentality thereof".

(f) PREFERENCE FOR ACQUISITION OF VACANT UNITS UNDER HOPE III.—Section 444 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12894) is amended by adding at the end the following new subsection:

"(f) PREFERENCE FOR ACQUISITION OF VACANT UNITS.—Each homeownership program under this subtitle shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.".

(g) TRANSFER OF SCATTERED SITE PUBLIC AND INDIAN HOUSING TO HOPE PROGRAMS.—

(1) HOPE I.—

(A) IN GENERAL.—Sections 303(b)(2) and 304(d) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–2(b)(2) and 42 U.S.C. 1437aaa–3(d)) are each amended by striking "(not including scattered site single family housing of a public housing agency)".

(B) OPERATING SUBSIDIES.—Section 303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa-2(b)(9)) is amended by inserting before the period at the end the following: ", and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program".

(2) HOPE III.—Section 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12896(4)) is amended by striking "(including scattered site single family properties, and" and inserting "(excluding public or Indian housing under the United States Housing Act of 1937 and including".

(h) ELIGIBILITY OF OTHER FEDERAL PROPERTY FOR HOPE PROGRAMS.

Sections 426(3)(D) and 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D) and 42 U.S.C. 12896(4)) are each amended by inserting after "Corporation," the following: "the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency,".

SEC. 182. NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION.

(a) EXTENSION OF TRUST.—Section 310 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12859) is amended by striking "on September 30, 1993" and inserting "September 30, 1994".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 308 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12857) is amended to read as follows:

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for assistance payments under this subtitle $520,665,600 for fiscal year 1993 and $542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 303(e). Any amount appropriated under this section shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 311.".

(c) USE OF TRUST AMOUNTS IN CONNECTION WITH MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Section 303 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852) is amended by adding at the end the following new subsection:

"(e) ASSISTANCE IN CONNECTION WITH HOUSING FINANCED WITH MORTGAGE REVENUE BONDS.—

"(1) AUTHORITY.—The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of the Internal Revenue Code of 1986), or (B) for which a credit is allowable under section 25 of such Code.

"(2) ELIGIBILITY.—To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

"(A) the certification under subsection (b)(3) shall not be required for assistance under this subsection;

"(B) the provisions of subsection (b)(2) shall not apply to assistance under this section; and

"(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.

"(3) LIMITATION OF ASSISTANCE.—Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

"(A) INTEREST RATE BUYDOWNS.—Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

"(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

"(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

"(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

"(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

"(B) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

"(3) AVAILABILITY.—The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.".

(2) CONFORMING AMENDMENT.—Section 303(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding at the end the following new paragraph:

"(3) ASSISTANCE IN CONNECTION WITH MORTGAGE REVENUE BONDS FINANCING.—Interest rate buydowns and downpayment assistance in the manner provided in subsection (e).".

(d) ELIGIBILITY OF MANUFACTURED HOME OWNERS.—Section 303(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(b)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and can not be brought into compliance with such codes for less than the cost of constructing a permanent structure.".

(e) SECOND MORTGAGE ASSISTANCE.—Section 303(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding after paragraph (3) (as added by subsection (c)(3) of this section) the following new paragraphs:

"(4) SECOND MORTGAGE ASSISTANCE.—Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and

"(5) CAPITALIZATION OF REVOLVING LOAN FUNDS.—Grants to public organizations or agencies to establish revolving loan funds to provide homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subtitle. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section.".

SEC. 183. NEHEMIAH HOUSING OPPORTUNITY GRANTS.

(a) HOMEOWNER INCENTIVE.—Section 604 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) in subsection (b)(4), by inserting before the period the following: ", subject to the provisions of subsection (c)"; and

(2) by adding at the end the following new subsection:

"(c) HOMEOWNER INCENTIVE.—The nonprofit organization may provide that, upon the sale or transfer of a property purchased with a loan made under this section, any proceeds remaining after repaying the first mortgage shall be distributed in the following order:

"(1) DOWNPAYMENT.—The amount of the downpayment made by the seller or transferor upon the purchase of the property shall be paid to the seller or transferor.

"(2) LOAN AND PROFIT.—Any amounts remaining after distribution under paragraph (1) shall be shared equally between the Secretary and the seller or transferor, but only to the extent that the Secretary recovers an amount equal to the amount of the loan made under this section. If such remaining amounts are insufficient for the Secretary to recover the full amount of the loan made under this section, the second mortgage held by the Secretary under subsection (b)(1) shall be cancelled.

"(3) PROFIT.—Any amounts remaining after distribution under paragraphs (1) and (2) shall be paid to the seller or transferor.".

(b) CONFORMING AMENDMENTS.—Section 606(e)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) by inserting "subject to the provisions of section 604(c)," after the comma; and

(2) by striking "(in which case" and all that follows through "repaid)".

(c) APPLICABILITY.—The amendments made by this section shall apply to any loan made under

section 604 of the Housing and Community Development Act of 1987 after July 1, 1990.

SEC. 184. LOAN GUARANTEES FOR INDIAN HOUSING.

(a) AUTHORITY.—To provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) made to an Indian family or Indian housing authority.

(b) ELIGIBLE LOANS.—Loans guaranteed pursuant to this section shall meet the following requirements:

(1) ELIGIBLE BORROWERS.—The loans shall be made only to borrowers who are Indian families or Indian housing authorities.

(2) ELIGIBLE HOUSING.—The loan shall be used to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.

(3) SECURITY.—The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.

(4) LENDERS.—The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:

(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.

(B) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title.

(C) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949.

(D) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(5) TERMS.—The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under section 404 and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) an amount equal to the sum of (I) 97 percent of $25,000 of the appraised value of the property, as of the date the loan is accepted for guarantee, and (II) 95 percent of such value in excess of $25,000; and

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property (i) in cash or its equivalent, or (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

(c) CERTIFICATE OF GUARANTEE.—

(1) APPROVAL PROCESS.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination. If the Secretary approves the loan for guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

(3) EFFECT.—A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(d) GUARANTEE FEE.—The Secretary shall fix and collect a guarantee fee for the guarantee of loans under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan. The fee shall be paid by the lender at time of issuance of the guarantee and shall be adequate, in the determination of the Secretary, to cover expenses and probable losses. The Secretary shall deposit any fees collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i).

(e) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

(f) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(g) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, or to exercise proper credit or underwriting judgment, the Secretary may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act with respect to mortgagees and lenders under such Act.

(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), the Secretary may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under this subsection if the loans were previously made in good faith.

(h) PAYMENT UNDER GUARANTEE.—

(1) LENDER OPTIONS.—

(A) IN GENERAL.—In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate shall provide written notice of the default to the Secretary. Upon providing such notice, the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

(i) FORECLOSURE.—The holder of the certificate may initiate foreclosure proceedings in a court of competent jurisdiction (after providing written notice of such action to the Secretary) and upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (e)) plus reasonable fees and expenses as approved by the Secretary. The Secretary shall be subrogated to the rights of the holder of the guarantee and the lender holder shall assign the obligation and security to the Secretary.

(ii) NO FORECLOSURE.—Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a claim for payment under the guarantee and the Secretary shall only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(2) ASSIGNMENT BY SECRETARY.—Notwithstanding paragraph (1), upon receiving notice of default on a loan guaranteed under this section from the holder of the guarantee, the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(3) LIMITATIONS ON LIQUIDATION.—In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(i) INDIAN HOUSING LOAN GUARANTEE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) CREDITS.—The Guarantee Fund shall be credited with—

(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated under paragraph (7);

(C) any guarantee fees collected under subsection (d); and

(D) any interest or earnings on amounts invested under paragraph (4).

(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent or in such amounts as are or have been provided in appropriations Acts for such fiscal year.

(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loan guarantees for such fiscal year.

(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 1993 and 1994 with an aggregate outstanding principal amount not exceeding such amount as may be provided in appropriation Acts for each such year.

(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for fiscal year 1993 and $50,000,000 for fiscal year 1994.

(j) REQUIREMENTS FOR STANDARD HOUSING.—The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

(1) be decent, safe, sanitary, and modest in size and design;

(2) conform with applicable general construction standards for the region;

(3) contain a heating system that—

(A) has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(B) is safe to operate and maintain;

(C) delivers a uniform distribution of heat; and

(D) conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) contain a plumbing system that—

(A) uses a properly installed system of piping;

(B) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(C) uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) be not less than—

(A)(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and not more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(B) the size provided under the applicable locally adopted standards for size of dwelling units;

except that the Secretary, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act.

(k) DEFINITIONS.—For purposes of this section:

(1) The term "family" means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(2) The term "Guarantee Fund" means the Indian Housing Loan Guarantee Fund established under subsection (i).

(3) The term "Indian" means person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(4) The term "Indian area" means the area within which an Indian housing authority is authorized to provide housing.

(5) The term "Indian housing authority" means any entity that—

(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "standard housing" means a dwelling unit or housing that complies with the requirements established under subsection (j).

(8) The term "tribe" means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.

(9) The term "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.

SEC. 185. ASSISTANCE UNDER SECTION 8 FOR HOMEOWNERSHIP.

(a) AUTHORITY.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), is amended by adding at the end the following new subsection:

"(y) HOMEOWNERSHIP OPTION.—

"(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP.—A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family—

"(A) is a first-time homeowner;

"(B)(i) participates in the family self-sufficiency program under section 23 of the public housing agency providing the assistance; or

"(ii) demonstrates that the family has income from employment or other sources (other than public assistance), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

"(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

"(D) participates in a homeownership and housing counseling program provided by the agency; and

"(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

"(2) MONTHLY ASSISTANCE PAYMENT.—

"(A) IN GENERAL.—Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (c)(1) exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family's monthly income.

"(B) EXCLUSION OF EQUITY FROM INCOME.—For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection.

"(3) RECAPTURE OF CERTAIN AMOUNTS.—Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

"(4) DOWNPAYMENT REQUIREMENT.—Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 23(d). Not more

than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.

"(5) INELIGIBILITY UNDER OTHER PROGRAMS.—A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.

"(6) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this subsection shall not be subject to the requirements of the following provisions:

"(A) Subsection (c)(3)(B) of this section.

"(B) Subsection (d)(1)(B)(i) of this section.

"(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

"(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

"(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

"(7) REVERSION TO RENTAL STATUS.—

"(A) FHA-INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

"(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

"(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

"(8) DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term 'first-time homeowner' means—

"(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

"(B) any other family, as the Secretary may prescribe.".

(b) FAMILY SELF-SUFFICIENCY PROGRAM.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended by adding at the end the following new paragraph:

"(3) USE OF ESCROW SAVINGS ACCOUNTS FOR SECTION 8 HOMEOWNERSHIP.—Notwithstanding paragraph (3), a family that uses assistance under section 8(y) to purchase a dwelling may use up to 50 percent of the amount in its escrow account established under paragraph (3) for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary.".

(c) USE OF FHA INSURANCE WITH SECTION 8 HOMEOWNERSHIP.—

(1) IN GENERAL.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(A) in the matter preceding subparagraph (A) in subsection (c)(2), by inserting "or of the General Insurance Fund pursuant to subsection (v)" after "Fund"; and

(B) by adding at the end the following new subsection:

"(v) Notwithstanding section 202 of this title, the insurance of a mortgage under this section in connection with the assistance provided under section 8(y) of the United States Housing Act of 1937 shall be the obligation of the General Insurance Fund created pursuant to section 519 of this title. The provisions of subsections (a) through (h), (j), and (k) of section 204 shall apply to such mortgages, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 204(f)(1) shall be retained by the Secretary and credited to the General Insurance Fund.".

(2) GENERAL INSURANCE FUND.—Section 519(e) of the National Housing Act (12 U.S.C. 1735c(e)) is amended by inserting after "203(b)" the following: "(except as provided in section 203(v))".

(3) MORTGAGE INSURANCE TRANSITION PREMIUMS.—The matter preceding paragraph (1) in section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended by inserting "or of the General Insurance Fund pursuant to section 203(v) of the National Housing Act" after "Fund".

(4) CONFORMING AMENDMENT.—The third sentence of section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)) is amended by inserting "or (y) or paying rent under section 8(c)(3)(B)" after "section 8(o)".

SEC. 186. ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANTS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

(b) DEFINITIONS.—For purposes of this section the following definitions shall apply:

(1) HOME.—The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(2) METROPOLITAN STATISTICAL AREA.—The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(3) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(c) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

(2) APPLICATIONS.—Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(d) ELIGIBLE USES OF ASSISTANCE.—

(1) IN GENERAL.—Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

(2) SPECIFIC REQUIREMENTS.—Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding $15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

(2) FAMILY NEED.—Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3-year period preceding such purchase.

(3) DOWNPAYMENT.—Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

(4) LEASING PROHIBITION.—No family purchasing a home under this section may lease such home.

(f) TERMS AND CONDITIONS OF ASSISTANCE.—

(1) LOCAL CONSULTATION.—No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

(2) PROGRAM SCHEDULE.—Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(3) LOCATION.—All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

(4) SALES CONTRACTS.—Sales contracts entered into under such program will contain provisions

requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(g) Program Selection Criteria.—

(1) In general.—In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

(2) Exception.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

(h) Regulations.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue final regulations to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

(i) Funding.—There are authorized to be appropriated to carry out this section $30,000,000 in each of fiscal years 1993 and 1994.

Subtitle F—Implementation

SEC. 191. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE II—HOME INVESTMENT PARTNERSHIPS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12724) is amended to read as follows:

"SEC. 205. AUTHORIZATION.

"There are authorized to be appropriated to carry out this title $2,086,000,000 for fiscal year 1993, and $2,173,612,000 for fiscal year 1994, of which—

"(1) not more than $14,000,000 for fiscal year 1993, and $14,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 233; and

"(2) not more than $11,000,000 for fiscal year 1993, and $11,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under subtitle C.".

SEC. 202. HOME PROGRAM THRESHOLDS.

(a) Participating Jurisdictions.—Section 216 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12746) is amended—

(1) in paragraph (3), by striking "A jurisdiction" and inserting "Except as provided in paragraph (10), a jurisdiction";

(2) in paragraph (9)(B), by inserting ", except as provided in paragraph (10)" after "in any 1 year"; and

(3) by adding at the end the following:

"(10) Threshold Reduction.—If the amount appropriated pursuant to section 205 for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year—

"(A) by substituting '$500,000' for '$750,000' both places it appears in paragraph (3); and

"(B) by substituting '$500,000', '$410,000', and '$335,000' for '$750,000', '$625,000', and '$500,000', respectively, where they appear in paragraph (9).".

(b) Supplemental Allocation.—Section 217(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)) is amended—

(1) in paragraph (3), by inserting ", except as provided in paragraph (4)" before the period at the end of the second sentence; and

(2) by adding at the end the following:

"(4) Threshold Reduction.—If the amount appropriated pursuant to section 205 for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year by substituting '$335,000' for '$500,000' where it appears in paragraph (3).".

(c) Applicability.—Notwithstanding any other provision of law, the grant thresholds provided for in section 216, as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act, as amended by this section, shall apply.

SEC. 203. ELIMINATION OF RESTRICTIONS ON NEW CONSTRUCTION.

(a) Eligible Uses of Investment.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended—

(1) in the last sentence of paragraph (2), by striking "under paragraph (3) of this subsection or";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) Formula Allocation.—Section 217(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)) is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (D), by striking "Except as provided in subparagraph (A), the basic formula established under subparagraph (B)" and inserting "The basic formula established under subparagraph (A)";

(3) in subparagraph (E), by striking "formulas in subparagraph (B)" and inserting "formula in subparagraph (A)";

(4) in subparagraph (F)—

(A) in the first sentence, by striking "subparagraph (B)" and inserting "subparagraph (A)"; and

(B) by striking the second sentence;

(5) in subparagraph (G), by striking "formulas in subparagraphs (A) and (B)" and inserting "formula in subparagraph (A)"; and

(6) by redesignating subparagraphs (B) through (G) (as amended by this paragraph) as subparagraphs (A) through (F), respectively.

(c) Conforming Amendment.—Section 218(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(g)) is amended by striking "Except as provided in section 217(b)(1)(A)(ii), if" and inserting "If".

SEC. 204. POLICIES AND PREFERENCE RULES; USE OF TENANT-BASED RENTAL ASSISTANCE AMOUNTS FOR SECURITY DEPOSITS.

(a) Policies and Preference Rules.—Section 212(a)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(3)), as so redesignated by section 203(a)(3) of this Act, is amended by adding at the end the following:

"(E) Security Deposit Assistance.—A jurisdiction using funds provided under this subtitle for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.".

(b) Security Deposits.—Section 212(a)(3)(A) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(4)(A)), as so redesignated by section 203(a)(3) of this Act, is amended by striking clause (ii) and inserting the following:

"(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937.".

SEC. 205. USE OF HOME FUNDS FOR HOMELESS ASSISTANCE.

Section 212(a)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by adding at the end the following: "For the purpose of this subtitle, the term 'affordable housing' includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.".

SEC. 206. PER UNIT COST LIMITS.

Section 212(d)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(d)(1)) is amended by inserting after the first sentence the following: "For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 221(d)(3)(ii) of the National Housing Act, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs.".

SEC. 207. ADMINISTRATIVE COSTS AS ELIGIBLE USE OF INVESTMENT.

(a) Housing Uses.—Section 212(a)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by inserting after "organizations," the following: "to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations,".

(b) Eligible Use.—Section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended—

(1) in subsection (c)(1), by inserting "that exceed the amount specified under subsection (c)" before the comma at the end;

(2) by redesignating subsections (c), (d) (as amended by the preceding provisions of this Act), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting after subsection (b) the following:

"(c) Administrative Costs.—In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made *available under this subtitle to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this subtitle, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this subtitle.''.*

(c) Recognition of Match.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended—

(1) in subsection (b)(2), by striking ''shall'' and all that follows and inserting ''may not be recognized for purposes of subsection (a).''; and

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(d) Limitation on Administrative Costs.—Section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended by adding at the end the following:

''(g) Limitation on Operating Assistance.—A participating jurisdiction may not use more than 5 percent of its allocation under this subtitle for the payment of operating expenses for community housing development organizations.''.

SEC. 208. AFFORDABLE HOUSING.

(a) Rent Calculations.—Section 215(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)) is amended—

(1) in paragraph (1)(A) by striking ''smaller and larger families'' and inserting ''number of bedrooms in the unit'';

(2) in paragraph (3), by adding at the end the following: ''The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986.''; and

(3) in the second sentence of paragraph (3), by striking ''not less than'' and inserting ''the lesser of the amount payable by the tenant under State or local law or''.

(b) Exception to Termination Rule.—Section 215(a)(1)(E) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)(1)(E)) is amended by inserting after ''Act'' the following: '', except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary''.

SEC. 209. HOMEOWNERSHIP RESALE RESTRICTIONS.

Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (4) and inserting the following:

''(4) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

''(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

''(i) provide the owner with a fair return on investment, including any improvements, and

''(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

''(B) recapture the investment provided under this title in order to assist other persons in accordance with the requirements of this subsection, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and''.

SEC. 210. MATCHING REQUIREMENTS.

(a) Tiered Contribution.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' and inserting a comma;

(B) by inserting ''and substantial rehabilitation'' after ''rehabilitation''; and

(C) by inserting ''and'' after the semicolon;

(2) in paragraph (2)—

(A) by striking ''33'' and inserting ''30''; and

(B) by striking ''substantial rehabilitation; and'' and inserting ''new construction.'';

(3) by striking paragraph (3); and

(4) in the matter preceding paragraph (1), by striking ''affordable housing assisted under this title'' and inserting ''housing that qualifies as affordable housing under this title''.

(b) Form.—Section 220(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(c)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

''(6) up to—

''(A) 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and

''(B) 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed,

but not more than 25 percent of the contribution required under subsection (a) may be derived from these sources;

''(7) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and

''(8) such other contributions to affordable housing as the Secretary considers appropriate.''.

(c) Reduction of Requirement.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended by striking subsection (d) and inserting:

''(d) Reduction of Requirement.—

''(1) In general.—The Secretary shall reduce the matching requirement under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year by—

''(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

''(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

''(2) Definitions.—For purposes of this section—

''(A) 'fiscal distress' means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

''(B) 'severe fiscal distress' means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

''(3) Distress criteria.—For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

''(A) Poverty rate.—The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

''(B) Per capita income.—The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

''(4) States.—In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

''(5) Waiver in disaster areas.—If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during that fiscal year by up to 100 percent.''.

(d) Applicability.—The amendments made by this section shall apply with respect to fiscal year 1993 and each fiscal year thereafter.

SEC. 211. ASSISTANCE FOR INSULAR AREAS.

(a) Repeal of Amendments Made by Public Law 102–230.—

(1) Definitions.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended to read as if the amendments made by section 2 of Public Law 102–230 (105 Stat. 1720) had not been enacted.

(2) Allocation of resources.—Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(A) by striking the first sentence of paragraph (1) and inserting the following: ''After reserving amounts under paragraph (2) for Indian tribes and after reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this title by formula as provided in subsection (b).'';

(B) by striking paragraph (3) (as added by Public Law 102–229; 105 Stat. 1709);

(C) by striking paragraph (3) (as added by Public Law 102–230; 105 Stat. 1720); and

(D) by adding after paragraph (2) the following:

''(3) Insular areas.—For each fiscal year, of any amounts approved in appropriation Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.''.

(3) Expedited issuance of regulation.—The regulation referred to in the amendment made by paragraph (2)(D) shall take effect not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act.

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to fiscal year 1993 and thereafter.

SEC. 212. COMMUNITY HOUSING PRODUCTION SET-ASIDE.

(a) Extension of Period.—Section 231 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771) is amended by striking ''18 months'' each place it appears in subsections (a) and (b) and inserting ''24 months''.

(b) Allocation for Use by Nonprofit Organization.—Section 231(a) of the Cranston-Gon-

zalez National Affordable Housing Act (42 U.S.C. 12771(a)) is amended by inserting after the second sentence the following: "If during the first 24 months of its participation under this title, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed $150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction.".

(c) OTHER REQUIREMENTS.—Section 234(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12774(b)) is amended—

(1) by striking ", together with other Federal assistance,"; and

(2) by inserting before the period the following: "or $50,000 annually, whichever is greater".

SEC. 213. HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT FOR COMMUNITY LAND TRUSTS.

(a) COMMUNITY LAND TRUSTS.—Section 233 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773) is amended—

(1) in subsection (a)(2), by inserting ", including community land trusts," after "organizations";

(2) in subsection (b), by adding at the end the following:

"(6) COMMUNITY LAND TRUSTS.—Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f)) and to community groups for the establishment of community land trusts."; and

(3) by adding at the end the following:

"(f) DEFINITION OF COMMUNITY LAND TRUST.—For purposes of this section, the term 'community land trust' means a community housing development organization (except that the requirements under subparagraphs (C) and (D) of section 104(6) shall not apply for purposes of this subsection)—

"(1) that is not sponsored by a for-profit organization;

"(2) that is established to carry out the activities under paragraph (3);

"(3) that—

"(A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

"(4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

"(5) whose board of directors—

"(A) includes a majority of members who are elected by the corporate membership; and

"(B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.".

(b) WOMEN IN HOMEBUILDING.—Section 233 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773), as amended by subsection (a) of this section, is further amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.".

(2) in subsection (b), by adding after paragraph (6) (as added by subsection (a)(2) of this section) the following:

"(7) FACILITATING WOMEN IN HOMEBUILDING PROFESSIONS.—Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an amount not exceeding 10 percent of any assistance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by the Secretary pursuant to title II of the National Housing Act and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as 'nontraditional occupations').";

(3) in subsection (c)(1)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(E) in the case of activities under subsection (b)(7), is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or"; and

(4) by adding at the end of subsection (e) the following: "The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development.".

SEC. 214. LAND BANK REDEVELOPMENT.

(a) PRIORITIES FOR CAPACITY DEVELOPMENT.—Section 242 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12782) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of this title.".

SEC. 215. RESEARCH IN PROVIDING AFFORDABLE HOUSING THROUGH INNOVATIVE BUILDING TECHNIQUES AND TECHNOLOGY.

The second sentence of section 244 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12784) is amended by inserting before the period at the end the following: ", through the use of cost-saving innovative building technology and construction techniques".

SEC. 216. USE OF INNOVATIVE BUILDING TECHNOLOGIES TO PROVIDE COST-SAVING HOUSING OPPORTUNITIES.

Subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12801 et seq.) is amended by adding at the end the following:

"SEC. 260. COST-SAVING BUILDING TECHNOLOGIES AND CONSTRUCTION TECHNIQUES.

"(a) IN GENERAL.—The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this title.

"(b) SELECTION CRITERIA.—The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

"(1) the extent to which innovative, cost-saving building and construction technologies are utilized;

"(2) the extent to which innovative, cost-saving construction techniques are utilized;

"(3) the extent to which units will be made available to low-income families and individuals;

"(4) the extent to which non-Federal public or private assistance is utilized; and

"(5) any other factor, determined by the Secretary to be appropriate.

"(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after the date of the enactment of the Housing and Community Development Act of 1992.

"(d) REPORT.—The Secretary shall submit a biennial report to the Congress on the utilization of the model program under this section.".

SEC. 217. DEFINITION OF COMMUNITY HOUSING DEVELOPMENT ORGANIZATION.

(a) IN GENERAL.—Section 104(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(6)) is amended by adding at the end the following new flush material:

"In the case of an organization serving more than one county, the Secretary may not require that such organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization's governing board low-income persons residing in each county served.".

(b) TRANSITION RULE.—For the purposes of determining compliance with the requirements of section 104(6) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary of Housing and Urban Development may provide an exception for organizations that meet the definition of community housing development organization, except for significant representation of low-income community residents on the board, if such organization fulfills such requirement within 6 months of receiving funds under title II of such Act or September 30, 1993, whichever is sooner.

SEC. 218. INCLUSION OF ECHO HOUSING IN DEFINITION OF HOUSING.

Section 104(8) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(8)) is amended by inserting before the period at the end the following: "and elder cottage housing opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings".

SEC. 219. ELIGIBILITY OF MANUFACTURED HOME OWNERS AS FIRST-TIME HOMEBUYERS.

Section 104(14) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(14)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.".

SEC. 220. ELIGIBILITY FOR ASSISTANCE AND CONTENTS OF STRATEGIES.

(a) Homelessness Information.—Section 105(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(2)) is amended—

(1) by inserting ", including rural homelessness," after "homelessness" the first place it appears; and

(2) by inserting "including tabular representation of such information," after "with homelessness,".

(b) Antidisplacement Plan and Antipoverty Strategy.—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by striking paragraph (14) and inserting the following:

"(14) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under title II, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act;".

(2) in paragraph (15), by striking the period at the end and inserting "; and" and

(3) by adding at the end the following:

"(16) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and".

(c) Linkage Between Housing Need and Allocation of Housing Resources.—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by redesignating paragraphs (8) through (16) as paragraphs (9) through (17), respectively; and

(2) by inserting after paragraph (7) the following:

"(8) describe how the jurisdiction's plan will address the housing needs identified pursuant to subparagraphs (1) and (2), describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;".

SEC. 221. LOCATION OF ACTIVITIES.

Section 218(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748a) is amended by inserting after "boundaries" the following: "or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions".

SEC. 222. REGULATIONS.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 223. RETROACTIVE APPLICATION OF HOME AMENDMENTS.

The amendments made by this title shall apply to unexpended funds allocated under title II of the Cranston-Gonzalez National Affordable Housing Act in fiscal year 1992, except as otherwise specifically provided.

TITLE III—PRESERVATION OF LOW-INCOME HOUSING

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 234 of the Housing and Community Development Act of 1987 (12 U.S.C. 4124) is amended to read as follows:

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated for assistance and incentives authorized under this subtitle $638,252,784 for fiscal year 1993 and $665,059,401 for fiscal year 1994.

"(b) Grants.—Subject to approval in appropriation Acts, not more than $50,000,000 of the amounts made available under subsection (a) for fiscal year 1993, and not more than $50,000,000 of the amounts made available under subsection (a) for fiscal year 1994, shall be available for grants under section 221(d)(2).".

SEC. 302. GUIDELINES FOR APPRAISALS OF PRESERVATION VALUE.

The first sentence of section 213(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 4103(c)) is amended by inserting before "and costs" the following: "simultaneous termination of any Federal rental assistance,".

SEC. 303. SECOND NOTICE OF INTENT.

Section 216(d) of the Housing and Community Development Act of 1987 (12 U.S.C. 4106(d)) is amended by adding at the end the following new paragraph:

"(3) Filing with the State or Local Government, Tenants, and Mortgagee.—Upon filing a second notice of intent under this subsection, the owner shall simultaneously file such notice of the intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.".

SEC. 304. PLAN OF ACTION.

(a) Supporting Documentation Regarding Plan of Action.—Section 217(a)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(a)(2)) is amended by inserting after the second sentence the following new sentence: "Each owner and the Secretary shall also, upon request, make available to the tenants of the housing and to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located all documentation supporting the plan of action, but not including any information that the Secretary determines is proprietary information.".

(b) Supporting Documentation Regarding Revisions.—Section 217(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(c)) is amended in the second sentence by inserting before the period the following: "and make available to the Secretary and tenants all documentation supporting any revision, but not including any information that the Secretary determines is proprietary information".

SEC. 305. APPROVAL OF PLAN OF ACTION.

Section 218 of the Housing and Community Development Act of 1987 (12 U.S.C. 4108) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) Standards and Procedure for Written Findings.—

"(1) Standards.—A written finding under subsection (a) shall be based on an analysis of the evidence considered by the Secretary in reaching such finding and shall contain documentation of such evidence.

"(2) Procedure and Criteria.—The Secretary shall, by regulation, develop (A) a procedure for determining whether the conditions under paragraphs (1) and (2) of subsection (a) exist, (B) requirements for evidence on which such determinations are based, and (C) criteria on which such determinations are based.".

SEC. 306. RECEIPT OF INCENTIVES TO EXTEND LOW-INCOME USE.

Section 219(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4109(a)) is amended—

(1) in the first sentence, by inserting after "receive" the following: "(for each year after the approval of the plan of action)"; and

(2) by adding at the end the following new sentence: "The Secretary shall take such actions as are necessary to ensure that owners receive the annual authorized return for the housing determined under section 214(a) during the period in which rent increases are phased in as provided in section 222(a)(2)(E), including (in order of preference) (1) allowing the owner access to residual receipt accounts (pursuant to subsection (b)(1) of this section), (2) deferring remittance of excess rent payments, and (3) providing an increase in rents permitted under an existing contract under section 8 of the United States Housing Act of 1937 (pursuant to subsection (b)(2) of this section).".

SEC. 307. TRANSFER TO QUALIFIED PURCHASERS.

(a) Eligibility for Assistance.—The matter preceding subparagraph (A) in section 220(d)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)) is amended by inserting after "purchasers" the following: "(including all priority purchasers other than resident councils acquiring under the homeownership program authorized by section 226)".

(b) Project Oversight.—Section 220(d)(2)(D) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(D)) is amended by inserting before the semicolon the following: ", and in the case of a priority purchaser, meet project oversight costs".

(c) Return.—Section 220(d)(2)(E) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(E)) is amended to read as follows:

"(E) receive a distribution equal to an 8 percent annual return on any actual cash investment (from sources other than assistance provided under this title) made to acquire or rehabilitate the project;".

(d) REIMBURSEMENT.—Section 220(d)(2)(F) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(F)) is amended to read as follows:

"(F) in the case of a priority purchaser, receive a reimbursement of all reasonable transaction expenses associated with the acquisition, loan closing, and implementation of an approved plan of action; and".

(e) INCENTIVES.—Section 220(d)(3)(A) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(3)(A)) is amended by striking "any residual receipts" and all that follows through "(b) or (c) and".

SEC. 308. CRITERIA FOR PLAN OF ACTION INVOLVING INCENTIVES.

(a) ELIMINATION OF WINDFALL PROFITS TEST.—Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 4112) is amended by striking subsection (e).

(b) RENT ADJUSTMENTS.—Section 222(a)(2)(G)(i) of the Housing and Community Development Act of 1987 (12 U.S.C. 4112(a)(2)(G)(i)) is amended by striking "by making changes in the annual authorized return under section 214" and inserting the following: ", where the owner is a priority purchaser, to the portion of rent attributable to project oversight costs".

SEC. 309. RESIDENT HOMEOWNERSHIP PROGRAM.

Section 226(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4116(b)) is amended—

(1) in paragraph (2)—

(A) by inserting "AND LIMITATION ON CONDITIONS OF APPROVAL" before the period at the end of the paragraph heading; and

(B) by inserting after the period at the end the following new sentence: "The Secretary may not require the prepayment of the mortgage on eligible low-income housing for the approval of a plan of action involving a homeownership program for the housing.";

(2) in paragraph (3)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) the low-income affordability restrictions shall continue to apply to any rental units in the housing for any period during which such units remain rental units.";

(3) in paragraph (8), by striking "Resident" and inserting "Except in the case of limited equity cooperatives, resident"; and

(4) in paragraph (10)—

(A) by striking ", as determined by the Secretary,";

(B) by striking "section 222(d)" and inserting "section 222(c)"; and

(C) by striking the last sentence.

SEC. 310. DEFINITION OF ELIGIBLE LOW-INCOME HOUSING.

Section 229(1)(A)(i) of the Housing and Community Development Act of 1987 (12 U.S.C. 4119(1)(A)(i)) is amended by striking "assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937" and inserting "receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965".

SEC. 311. PREEMPTION OF STATE AND LOCAL LAWS.

The first sentence of section 232(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4122(b)) is amended by striking "and" the first place it appears and inserting ", such as any law or regulation".

SEC. 312. TECHNICAL ASSISTANCE AND CAPACITY BUILDING.

Title II of the Housing and Community Development Act of 1987 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle C—Technical Assistance and Capacity Building

"SEC. 251. AUTHORITY.

"The Secretary of Housing and Urban Development may provide technical assistance and capacity building to further the preservation program established under this title.

"SEC. 252. PURPOSES.

"The purposes of this subtitle are—

"(1) to promote the ability of residents of eligible low-income housing to meaningfully participate in the preservation process established by this title and affect decisions about the future of their housing;

"(2) to promote the ability of community-based nonprofit housing developers and resident councils to acquire, rehabilitate, and competently own and manage eligible housing as rental or cooperative housing for low- and moderate-income people; and

"(3) to assist the Secretary in discharging the obligation under section 220 to notify potential qualified purchasers of the availability of properties for sale and to otherwise facilitate the coordination and oversight of the preservation program established under this title.

"SEC. 253. GRANTS FOR BUILDING RESIDENT CAPACITY AND FUNDING PREDEVELOPMENT COSTS.

"(a) IN GENERAL.—Assistance made available under this section shall be used for direct assistance grants to resident organizations and community-based nonprofit housing developers and resident councils to assist the acquisition of specific projects (including the payment of reasonable administrative expenses to participating intermediaries).

"(b) ALLOCATION.—30 percent of the assistance made available under this section shall be used for resident capacity grants in accordance with subsection (d). The remainder shall be used for predevelopment grants in connection with specific projects in accordance with subsection (e).

"(c) LIMITATION ON GRANT AMOUNTS.—A resident capacity grant under subsection (d) may not exceed $30,000 per project and a grant under subsection (e) for predevelopment costs may not exceed $200,000 per project, exclusive of any fees paid to a participating intermediary by the Secretary for administering the program.

"(d) RESIDENT CAPACITY GRANTS.—

"(1) USE.—Resident capacity grants under this subsection shall be available to eligible applicants to cover expenses for resident outreach, incorporation of a resident organization or council, conducting democratic elections, training, leadership development, legal and other technical assistance to the board of directors, staff and members of the resident organization or council.

"(2) ELIGIBLE HOUSING.—Grants under this subsection may be provided with respect to eligible low-income housing for which the owner has filed a notice of intent under subtitle B of this title or title II of the Emergency Low Income Housing Preservation Act of 1987 (pursuant to section 604 of the Cranston-Gonzalez National Affordable Housing Act).

"(e) PREDEVELOPMENT GRANTS.—

"(1) USE.—Predevelopment grants under this subsection shall be made available to community-based nonprofit housing developers and resident councils to cover the cost of organizing a purchasing entity and pursuing an acquisition, including third party costs for training, development consulting, legal, appraisal, accounting, environmental, architectural and engineering, application fees, and sponsor's staff and overhead costs.

"(2) ELIGIBLE HOUSING.—Such grants may only be made available with respect to any eligible low-income housing project for which the owner has filed an initial notice of intent to transfer the housing to a qualified purchaser in accordance with section 220 of this title, or has filed a notice of intent and entered into a binding agreement to sell the housing to a resident organization or nonprofit organization.

"(3) PHASE-IN OF GRANT PAYMENTS.—Grant payments under this subsection shall be made in phases, based on performance benchmarks established by the Secretary in consultation with intermediaries selected under section 255(b).

"(f) GRANT APPLICATIONS.—Grant applications for assistance under subsections (d) and (e) shall be received monthly on a rolling basis and approved or rejected on at least a quarterly basis by intermediaries selected under section 255(b).

"(g) APPEAL.—If an application for assistance under subsections (d) or (e) is denied, the applicant shall have the right to appeal the denial to the Secretary and receive a binding determination within 30 days of the appeal.

"SEC. 254. GRANTS FOR OTHER PURPOSES.

"The Secretary may provide grants under this subtitle—

"(1) to resident-controlled or community-based nonprofit organizations with experience in resident education and organizing for the purpose of conducting community, city or county wide outreach and training programs to identify and organize residents of eligible low-income housing; and

"(2) to State and local government agencies and nonprofit intermediaries for the purpose of carrying out such activities as the Secretary deems appropriate to further the preservation program established under this title.

"SEC. 255. DELIVERY OF ASSISTANCE THROUGH INTERMEDIARIES.

"(a) IN GENERAL.—The Secretary shall approve and disburse assistance under section 253 through eligible intermediaries selected by the Secretary under subsection (b). If the Secretary does not receive an acceptable proposal from an intermediary offering to administer assistance under this section in a given State, the Secretary shall administer the program in such State directly.

"(b) SELECTION OF ELIGIBLE INTERMEDIARIES.—

"(1) IN GENERAL.—The Secretary shall develop criteria to select eligible intermediaries, through a competitive process, to administer assistance under this subtitle. The process shall include provision for a reasonable administrative fee.

"(2) PRIORITY.—With respect to all forms of grants available under section 253, such criteria shall give priority to applications from eligible intermediaries with demonstrated expertise or experience with the program established under this title or under the Emergency Low Income Housing Preservation Act of 1987.

"(3) CRITERIA.—The criteria developed under this subsection shall—

"(A) not assign any preference or priority to applications from eligible intermediaries based on their previous participation in administering or receiving Federal grants or loans (but may exclude applicants who have failed to perform under prior contracts of a similar nature);

"(B) require an applicant to prepare a proposal that demonstrates adequate staffing, qualifications, prior experience, and a plan for participation; and

"(C) permit an applicant to serve as the administrator of assistance made available under

section 253(d) or (e), based on the applicant's suitability and interest.

"(4) GEOGRAPHIC COVERAGE.—The Secretary may select more than 1 State or regional intermediary for a single State or region. The number of intermediaries chosen for each State or region may be based on the number of eligible low-income housing projects in the State or region, provided there is no duplication of geographic coverage by intermediaries in the administration of the direct assistance grant program.

"(5) NATIONAL NONPROFIT INTERMEDIARIES.—National nonprofit intermediaries shall be selected to administer the assistance made available under section 253 only with respect to States or regions for which no other eligible intermediary, acceptable to the Secretary, has submitted a proposal to participate.

"(6) PREFERENCE.—With respect to assistance made available under section 254, preference shall be given to eligible regional, State, and local intermediaries, over national nonprofit organizations.

"(c) CONFLICTS OF INTEREST.—Eligible intermediaries selected under subsection (b) to disburse assistance under section 253 shall certify that they will serve only as delegated program administrators, charged with the responsibility for reviewing and approving grant applications on behalf of the Secretary. Selected intermediaries shall—

"(1) establish appropriate procedures for grant administration and fiscal management, pursuant to standards established by the Secretary; and

"(2) receive a reasonable administrative fee, except that they may not provide other services to grant recipients with respect to projects that are the subject of the grant application and may not receive payment, directly or indirectly, from the proceeds of grants they have approved.

"(d) DEFINITION OF ELIGIBLE INTERMEDIARIES.—For purposes of this section, the term 'eligible intermediary' means a State, regional, or national organization (including a quasi-public organization) or a State or local housing agency that—

"(1) has as a central purpose the preservation of existing affordable housing and the prevention of displacement;

"(2) does not receive direct Federal appropriations for operating support;

"(3) in the case of a national nonprofit organization, has been in existence for at least 5 years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

"(4) in the case of a regional or State nonprofit organization, has been in existence for at least 3 years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 or is otherwise a tax-exempt entity;

"(5) has a record of service to low-income individuals or community-based nonprofit housing developers in multiple communities and, with respect to intermediaries administering assistance under section 253, has experience with the allocation or administration of grant or loan funds; and

"(6) meets standards of fiscal responsibility established by the Secretary.

"SEC. 256. DEFINITIONS.

"For purposes of this subtitle—

"(1) the term 'community-based nonprofit housing developer' means a nonprofit community development corporation that—

"(A) has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

"(B) has been in existence for at least 2 years prior to the date of the grant application;

"(C) has a record of service to low- and moderate-income people in the community in which the project is located;

"(D) is organized at the neighborhood, city, county or multi-county level; and

"(E) in the case of a corporation acquiring eligible housing under subtitle B of this title, agrees to form a purchaser entity that conforms to the definition of a community-based nonprofit organization under such subtitle and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested; and

"(2) the terms 'eligible low-income housing', 'nonprofit organization', 'owner', and 'resident council' have the meanings given such terms in section 229.

"SEC. 257. FUNDING.

"The Secretary shall use not more than $25,000,000 of the amounts made available under section 234(a) for fiscal year 1993, and not more than $25,000,000 of the amounts made available under section 234(a) for fiscal year 1994, to carry out this subtitle. Of any amounts made available to carry out this subtitle in any appropriation Act, 90 percent shall be set aside for use in accordance with section 253 and 10 percent shall be set aside for use in accordance with subsection 254.".

SEC. 313. TRANSITION PROVISIONS.

(a) EFFECT OF ELECTION.—Section 604(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following sentence: "An owner that elects to be subject to the provisions of the Emergency Low Income Housing Preservation Act of 1987 shall comply with section 212(b), section 217(a)(2), and section 217(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.".

(b) CHANGES TO PROVISIONS OF 1987 ACT.—Section 604(c) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following new sentence: "With respect to housing for which such an election is made—

"(1) in making incentives under section 224 of such Act available to such housing, the Secretary—

"(A) shall, for approvable plans of action, provide assistance sufficient to enable a nonprofit organization that has purchased or will purchase an eligible low income housing project to meet project oversight costs; and

"(B) may not refuse to offer incentives referred to in such section to any owner who filed a notice of intent under section 222 of such Act before October 15, 1991, based solely on the date of filing of the plan of action for the housing; and

"(2) the provisions of section 233(1)(A)(i) of such Act shall not apply, and the term 'eligible low income housing' shall, for purposes of such Act, shall include housing financed by a loan or mortgage that is insured or held by the Secretary or a State or State agency under section 221(d)(3) of the National Housing Act and receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965.".

SEC. 314. CONDITIONS OF ASSISTANCE.

(a) ELIHPA OF 1987.—The Secretary may not require, as a condition of eligibility for or receipt of technical assistance made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139) (including any phase of a grant), that an applicant participate in a training program sponsored or conducted by the Department of Housing and Urban Development for acquisition of eligible low income housing under the provisions of the Emergency Low Income Housing Preservation Act of 1987, and may not provide any preference or priority for such assistance for any applicant based on participation in such a program.

(b) LIHPRHA OF 1990.—The Secretary may require, as a condition of eligibility for or receipt of technical assistance made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139) (including any phase of a grant), that an applicant participate in a training program sponsored or conducted by the Department of Housing and Urban Development for acquisition of eligible low-income housing under this title, and may provide preference or priority for such assistance for applicants based on participation in such a program, but only if the program is made available on a nationwide basis not later than March 1, 1993.

SEC. 315. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

The Secretary of Housing and Urban Development shall issue interim regulations implementing section 227 of the Housing and Community Development Act of 1987 (as amended by section 601(a) of the Cranston-Gonzalez National Affordable Housing Act) not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing such section 227 after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

SEC. 316. INSURANCE FOR SECOND MORTGAGE FINANCING.

(a) TERMS.—Section 241(f) of the National Housing Act (12 U.S.C. 1715z-6(f)) is amended—

(1) in paragraph (2)(B)(i), by inserting after "equal to" the following: "the amount of rehabilitation costs required by the plan of action and related charges and";

(2) in paragraph (3)(B), by inserting after "1990" the following: "and the amount of rehabilitation costs required by the plan of action and related charges and";

(3) in paragraph (5)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by striking subparagraph (A) and inserting the following new subparagraphs:

"(A)(i) in the case of equity loans, have a term not to exceed 40 years and amortization provisions which will, to the extent practicable, support the loan amount authorized under paragraph (2)(B); and

"(ii) in the case of acquisition loans, have a term of not less than 40 years; and

"(B) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee and be secured in such manner as the Secretary may require; and";

(4) by striking paragraph (6); and

(5) by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively.

(b) RENEGOTIATION.—Section 241(f) of the National Housing Act (12 U.S.C. 17z-6(f)) is amended by adding at the end the following new paragraph:

"(10) The Secretary shall renegotiate and modify the terms of an equity loan insured under this subsection, at the request of the owner of the project for which the loan is made, if—

"(1) the loan was made during the period beginning 30 days before the date of the enactment of the Housing and Community Development Act of 1992 and ending 90 days after such date of under this subsection; and

"(2) the loan was made pursuant to a plan of action under the provisions of the Emergency Low Income Housing Preservation Act of 1987 and accepted by the Secretary for processing in December 1991.".

(c) REGULATIONS.—Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, the Secretary shall issue regulations implementing section 241(f)(1) of the National Housing Act. The regulations shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code.

SEC. 317. TECHNICAL AMENDMENTS.

(a) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The Housing and Community Development Act of 1987 (12 U.S.C. 4101 et seq.) is amended—

(1) in section 215(a)(2), by inserting "Housing" after "United States";

(2) in section 216(b)(4), by striking "exceeds" and inserting "exceed";

(3) in the second sentence of section 221(c), by striking "that" and inserting "than";

(4) in section 222—

(A) in subsection (a)(2)(A), by striking "low income" and inserting "low-income";

(B) in subsection (c)(2), by striking "an hearing" and inserting "a hearing";

(C) in subsection (d)(2)(B), by inserting "the" after "that"; and

(D) in subsection (d)(2)(C)(ii), by inserting "in" before "default";

(5) in section 229(11)(A), by striking "resident" and inserting "residents"; and

(6) in section 231(b), by striking "section 222(d)" and inserting "section 222(c)".

(b) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 613(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4125(b)(2)) is amended by striking "section 224(e)" and inserting "section 222(d)".

(c) NATIONAL HOUSING ACT.—Section 241(f) of the National Housing Act (12 U.S.C. 1715z-6(f)) is amended—

(1) in paragraph (2)(B)(ii), by striking "and" at the end; and

(2) in paragraph (7), by striking "acquisiton loan" and inserting "acquisition loan".

SEC. 318. STUDY OF PROJECTS ASSISTED UNDER FLEXIBLE SUBSIDY PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of housing projects that (1) are assisted under section 236 of the National Housing Act or the proviso of section 221(d)(5) of such Act, and (2) have received or are receiving assistance under section 201 of the Housing and Community Development Amendments of 1978, to determine the cost of providing such projects with incentives under the Low-Income Housing Preservation and Resident Homeownership Act of 1990. The study shall examine any projects portions of which assisted under such section 236 that are assisted primarily by State agencies.

(b) REPORT.—The Secretary shall submit a report to the Congress regarding any findings and conclusions of the study under subsection (a) not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

Subtitle B—Other Preservation Provisions

SEC. 331. ELIGIBILITY OF PUBLIC MORTGAGORS FOR SECTION 236 MORTGAGE INSURANCE.

Section 236(j)(4)(A) of the National Housing Act (12 U.S.C. 1715z-1(j)(4)(A)) is amended by striking "private".

SEC. 332. REGULATIONS.

Except as otherwise provided in this title, the Secretary of Housing and Urban Development shall issue interim regulations implementing this title and the amendments made by this title not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing this title and the amendments made by this title after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

TITLE IV—MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

SEC. 401. DEFINITIONS.

For purposes of this title:

(1) COVERED MULTIFAMILY HOUSING PROPERTY.—The term "covered multifamily housing property" means any housing—

(A) that is—

(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959;

(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act);

(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act; and

(B) that is not eligible for assistance under—

(i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990;

(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act); or

(iii) the HOME Investment Partnerships Act.

(2) COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.—The term "covered multifamily housing property for the elderly" means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 402. REQUIRED SUBMISSION.

(a) IN GENERAL.—The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title.

(b) TIMING.—The Secretary shall require the owners of approximately one-third of the aggregate number of covered multifamily housing properties, and the owners of approximately one-third of the aggregate number of covered multifamily housing properties for the elderly, to submit the comprehensive needs assessments under this section for the properties in each of fiscal years 1993, 1994, and 1995, in a manner designed to ensure that upon the conclusion of fiscal year 1995 the assessments for all such properties have been submitted.

SEC. 403. CONTENTS.

(a) IN GENERAL.—Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

(4) A description of any assistance needed for the property under programs administered by the Secretary.

(b) PROJECTS FOR THE ELDERLY.—Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to the information required under subsection (a), the following information with respect to the property:

(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

(2) A description of any modernization needs and activities for the property.

(3) A description of any personnel needs for the property.

SEC. 404. SUBMISSION AND REVIEW.

(a) FORM.—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

(b) RESIDENT REVIEW.—The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

(c) STATE HOUSING FINANCE AGENCY REVIEW.—To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

(d) REVIEW.—The Secretary shall review each comprehensive needs assessment and shall approve the assessment before the expiration of the 90-day period beginning upon the receipt of the assessment, unless the Secretary determines that the assessment has not been provided in a substantially complete manner.

(e) COST OF PREPARATION OF STRATEGY.—The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed $5000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

(f) NOTICE.—The Secretary shall immediately notify each owner submitting a comprehensive

needs assessment (and any State housing finance agency to which the owner has submitted an assessment under subsection (d)) of the approval or disapproval of the assessment upon making such determination. Within 30 days after disapproving any assessment, the Secretary shall inform the owner in writing of the reasons for disapproval. The Secretary shall require any owner whose assessment is disapproved to resubmit an amended assessment not later than 30 days after the owner receives the notice of disapproval.

(g) ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.—

(1) REVIEW.—The Secretary shall annually conduct a comprehensive review of—

(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 403(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as congregate dining facilities and commercial kitchens) resulting from development of a property in compliance with cost-containment requirements established by the Secretary;

(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 403(b); and

(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act.

(2) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in section 402(b) and any findings and recommendations of the Secretary pursuant to the review.

SEC. 405. TROUBLED MULTIFAMILY HOUSING.

(a) MANDATORY ELEMENTS.—Section 201(d) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(d)) is amended—

(1) in paragraph (5), by striking "and";

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

"(8) the project has a feasible plan to involve the residents in project decisions;

"(9) the affirmative fair housing marketing plan meets applicable requirements; and

"(10) the owner certifies that it will comply with various equal opportunity statutes.".

(b) SELECTION CRITERIA.—

(1) REPEAL OF SECTION 201(k)(4).—Section 201(k)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(k)(4)) is repealed.

(2) NEW CRITERIA.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsection:

"(n)(1) The Secretary shall award assistance under this section to eligible projects on the basis of the following selection criteria:

"(A) The extent to which the project presents an imminent threat to the life, health, and safety of project residents.

"(B) The extent to which the project is financially troubled.

"(C) The extent of physical improvements needed by the project as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992.

"(D) The extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives).

"(E) The extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).

"(F) Such other criteria as the Secretary may specify by regulation or in a Federal Register notice of fund availability.

"(2) Eligible projects that have federally insured mortgages in force are to be selected for award of assistance under this section before any other eligible project.".

(c) LOW-INCOME AFFORDABILITY RESTRICTIONS.—Section 201(l)(2)(D) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(l)(2)(D)) is amended by adding at the end the following: "The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term 'remaining useful life' means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.".

(d) EXCLUSIVITY OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

"(o) Projects receiving assistance under this section are not eligible for prepayment incentives under the Emergency Low-Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Projects receiving financial assistance under such Acts are not eligible for assistance under this section.".

(e) OWNER CONTRIBUTIONS.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) in subparagraph (B), by striking "and";

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the Secretary shall give owners credit for advances made to the project during a 3-year period prior to the application for assistance.".

(f) COORDINATION OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

"(p) The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section 8(v) of the United States Housing Act of 1937 and section 203 of this Act to enhance the cost effectiveness of the Federal response to troubled multifamily housing.".

SEC. 406. FLEXIBLE SUBSIDY PROGRAM.

Section 201(d)(6) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)(6)) is amended by inserting before the period at the end the following: "; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved".

SEC. 407. CAPACITY STUDY.

Section 110(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12710(a)) is amended—

(1) by striking ", and"; and

(2) by striking the period at the end and inserting the following: ", and the ability to respond to areas identified as 'material weaknesses' by the Office of the Inspector General in financial audits or other reports.".

SEC. 408. FLEXIBLE SUBSIDY PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(j)(5) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(5)) is amended to read as follows:

"(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $52,200,000 for fiscal year 1993 and $54,392,400 for fiscal year 1994.".

(b) USE OF SECTION 236 RENTAL ASSISTANCE FUND AMOUNTS FOR FLEXIBLE SUBSIDY PAYMENTS.—Section 236(f)(3) of the National Housing Act (12 U.S.C. 1715z-1a(f)(3)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

TITLE V—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET

Subtitle A—FHA Mortgage Insurance Programs

SEC. 501. LIMITATION ON INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f–9(b)) is amended to read as follows:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $65,905,824,960 during fiscal year 1993 and $68,673,868,600 during fiscal year 1994.".

SEC. 502. FEDERAL HOUSING ADMINISTRATION ADVISORY BOARD.

Section 202(b) of the National Housing Act (12 U.S.C. 1708(b)) is amended by adding at the end the following new paragraph:

"(11) The Board shall terminate on January 1, 1995.".

SEC. 503. MAXIMUM MORTGAGE AMOUNT.

(a) IN GENERAL.—The first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as follows: "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

"(A) not to exceed the lesser of—

"(i) in the case of a 1-family residence, 95 percent of the median 1-family house price in the area, as determined by the Secretary; in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence,

130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as in effect on September 30, 1992) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of $25,000 but not in excess of $125,000; and

"(iii) 90 percent of such value in excess of $125,000.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only to mortgages executed on or after January 1, 1993.

(c) CONFORMING AMENDMENTS.—

(1) TITLE I—LOANS.—Notwithstanding any other provision of law, section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended by striking subparagraphs (C), (D), and (E) and inserting the following new subparagraphs:

"(C) $48,600 if made for the purpose of financing the purchase of a manufactured home;

"(D) $64,800 if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home; and

"(E) $16,200 if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan.".

(2) HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "for a 1-family residence" and inserting "for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located".

(3) RTC AFFORDABLE HOUSING PROGRAM.—Subparagraphs (D)(ii) and (G)(II) of section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) are each amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: "$67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence".

(4) FDIC AFFORDABLE HOUSING PROGRAM.—Paragraphs (4)(B) and (7)(B) of section 40(p) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)) are each amended to read as follows:

"(B) that has an appraised value that does not exceed the amount provided in section 203(b)(2)(A) of the National Housing Act except that such amount shall not exceed $101,250 in the case of a 1-family residence, $114,000 in the case of a 2-family residence, $138,000 in the case of a 3-family residence, and $160,000 in the case of a 4-family residence."

(d) GAO STUDY ON FHA LOAN LIMITS AND GSE CONFORMING LOAN LIMITS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, on or before September 1, 1993, a report which evaluates the methodology used to establish the annual conforming loan limits for the secondary market, pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, as well as the loan limits adjustments utilized under the single family mortgage insurance program under section 203 of the National Housing Act.

(2) CONTENTS.—The report shall—

(A) evaluate the methodology used to determine the annual adjustment to the conforming loan limit, including the accuracy of using the Mortgage Interest Rate Survey (MIRS) in determining the median home sales price each year;

(B) recommend any legislative or administrative changes to ensure that the conforming loan limits accurately reflect market dynamics;

(C) assess the long-term consequences of indexing the mortgage limits utilized under the FHA section 203(b) single family mortgage insurance program to the annual adjustments to the conforming loan limits for the secondary market;

(D) assess the impact of such annual adjustments on the ability of the FHA single family insurance program to serve low and moderate income borrowers; and

(E) recommend alternative measures that could be employed to ensure that FHA can meet the needs of low and moderate income families in low and high cost areas of the country.

SEC. 504. FHA ANNUAL REPORT.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following:

"(v) ANNUAL REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

"(1) an analysis of the income groups served by the single family insurance program, including—

"(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

"(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

"(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

"(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

"(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

"(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

SEC. 505. MAXIMUM PRINCIPAL OBLIGATION OF MORTGAGES FOR VETERANS.

(a) IN GENERAL.—The first sentence of the last undesignated paragraph of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "Notwithstanding any other provision of this paragraph," and inserting "Except with respect to mortgages executed by mortgagors who are veterans,".

(b) TECHNICAL AMENDMENT.—Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by striking "(except in a case to which the next to the last sentence of paragraph (2) applies)" and inserting "(except with respect to a mortgage executed by a mortgagor who is a veteran)".

SEC. 506. PREPURCHASE COUNSELING REQUIREMENT.

(a) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mortgages for which commitments for insurance are issued after the expiration of the 12-month period beginning on the date of the enactment of this Act.

SEC. 507. AUTHORITY TO DECREASE INSURANCE PREMIUM CHARGES.

(a) PERMANENT PROVISIONS.—Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding"; and

(B) in clause (ii), by striking "equal to 0.55 percent" and inserting "not exceeding 0.55 percent".

(b) TRANSITION PROVISIONS.—Section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding".

SEC. 508. STATUTE OF LIMITATIONS ON PAYMENT OF DISTRIBUTIVE SHARES.

(a) DISTRIBUTION OF SHARES.—Section 205(c) of the National Housing Act (12 U.S.C. 1711(c)) is amended by adding at the end the following two new sentences: "The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.".

(b) EXCEPTION.—Notwithstanding the 6-year limitation on distribution of shares of the Participating Reserve Account under section 205(c) of the National Housing Act, the Secretary shall distribute a share to an otherwise eligible mortgagor in accordance with section 205(c), if the mortgagor applies for payment of the share within 1 year after the date of enactment of this Act in accordance with procedures in effect on such date.

SEC. 509. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

(a) SECTION 207 LIMITS.—Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

(b) SECTION 213 LIMITS.—Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

(c) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

(d) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended by striking "$28,032", "$32,321", "$38,979", "$49,893", "$55,583", "$29,500", "$33,816", "$41,120", "$53,195", and "$58,392" and inserting "$33,638", "$38,785", "$46,775", "$59,872", "$66,700", "$35,400", "$40,579", "$49,344", "$63,834", and "$70,070", respectively.

(e) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended by striking "$25,228", "$28,636", "$34,613", "$43,446", "$49,231", "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$30,274", "$34,363", "$41,536", "$52,135", "$59,077", "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively.

(f) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(1) by striking "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300" and inserting "$28,782", "$32,176", "$38,423", "$46,238", and "$54,360", respectively; and

(2) by striking "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively.

(g) SECTION 234 LIMITS.—Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

(h) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations necessary to carry out the amendments made by subsections (a) through (g), which shall take effect not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(i) CONFORMING AMENDMENTS.—Clauses (i)(II) and (ii)(II) of section 21A(c)(9)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(E)) are each amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: ", for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), $29,500 per family unit without a bedroom, $33,816 per family unit with 1 bedroom, $41,120 per family unit with 2 bedrooms, $53,195 per family unit with 3 bedrooms, and $58,392 per family unit with 4 or more bedrooms".

SEC. 510. INSURANCE OF LOANS FOR OPERATING LOSSES OF MULTIFAMILY PROJECTS.

Section 223(d) of the National Housing Act (12 U.S.C. 1715n(d)) is amended by adding at the end the following new paragraph:

"(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits. If an operating loss loan was insured by the Secretary pursuant to this subsection before the date of the enactment of the Housing and Community Development Act of 1992 and was reduced solely to reflect the amount placed in escrow for initial operating deficits, the Secretary shall insure, to the extent of the availability of insurance authority provided in appropriation Acts, an increase in the existing loan or a separate loan, in an amount equal to the lesser of (A) the maximum amount permitted under this subsection and the applicable underwriting requirements established by the Secretary and in effect at the time the loan is to be made, or (B) the amount of the escrow for initial operating deficits.".

SEC. 511. ELIGIBILITY OF ASSISTED LIVING FACILITIES FOR MORTGAGE INSURANCE UNDER SECTION 232.

(a) PURPOSE.—Section 232(a) of the National Housing Act (12 U.S.C. 1715w(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "either" and inserting "any"; and

(2) by adding at the end the following new paragraph:

"(3) The development of assisted living facilities for the care of frail elderly persons.".

(b) DEFINITIONS.—Section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'assisted living facility' means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

"(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

"(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

"(C) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

"(7) the term 'frail elderly person' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.".

(c) MORTGAGE REQUIREMENTS.—Section 232(d) of the National Housing Act (12 U.S.C. 1715w(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", assisted living facility," before "or intermediate care facility";

(B) by striking "combined nursing home and intermediate care facility" and inserting "any combination of nursing home, assisted living facility, and intermediate care facility"; and

(C) by inserting after "intermediate care facility" the first place it appears the following: ", including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated,";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting "or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act)," before "including";

(3) in paragraph (3), by adding at the end the following: "The Secretary shall not promulgate regulations or establish terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate; and

(4) in paragraph (4), by adding at the end the following new subparagraph:

"(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

"(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

"(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

"(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.".

(d) FIRE SAFETY EQUIPMENT.—Section 232(i)(1) of the National Housing Act (12 U.S.C. 1715w(i)(1)) is amended by inserting ", assisted living facilities," after "nursing homes".

(e) ADMINISTRATION.—Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end the following new subsection:

"(j) The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.".

(f) AUTHORITY TO INSURE REFINANCING.—Section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) is amended by inserting "existing assisted living facility," after "existing nursing home," each place it appears.

SEC. 512. EXPEDITING INSURANCE FOR ACQUISITION OF RESOLUTION TRUST CORPORATION PROPERTY.

(a) IN GENERAL.—Section 534 of the National Housing Act (12 U.S.C. 1735f–12) is amended—

(1) by inserting "(a) STATE OFFICES.—" after "534."; and

(2) by adding at the end the following new subsection:

"(b) EXPEDITED PROCEDURE FOR RTC PROPERTIES.—To assist the Resolution Trust Corporation in disposing of the property to which it acquires title and to ensure the timely processing of applications for insurance of loans and mortgages under this Act that will be used to purchase multifamily residential property from the Resolution Trust Corporation, the Secretary shall establish an expedited procedure for considering such applications.".

(b) IMPLEMENTATION.—The procedure referred to in the amendment made by subsection (a) shall be established through interim and final regulations issued by the Secretary. The Secretary shall issue interim regulations implementing the procedure not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, which shall be effective upon issuance. The Secretary shall issue final regulations after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 513. ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) ORIGINATION.—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COST OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

(i) 5 percent of the property value (not to exceed $8,000); or

(ii) $4,000.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

(b) EXPANSION OF PROGRAM.—Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(d) RULE OF CONSTRUCTION.—This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 514. STUDY REGARDING HOME WARRANTY PLANS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall conduct a study of home and builder's warranties and protection plans regarding the construction of, and materials used in, 1- to 4-family dwellings subject to mortgages insured under title II of the National Housing Act.

(b) SCOPE OF STUDY.—The study shall analyze—

(1) the extent to which home sellers and builders use such warranties and plans,

(2) how such warranties and plans affect the single family mortgage insurance program under the National Housing Act and the solvency of the Mutual Mortgage Insurance Fund,

(3) any effects on homeowners of reliance upon such warranties and plans,

(4) the cost of inspections of mortgaged homes not covered by such warranties or plans,

(5) how quickly the issuers of such warranties and plans pay claims to homeowners under the warranties and plans,

(6) how well such warranties and plans provide for the prevention of structural damage before damage occurs,

(7) how responsive the issuers are to homeowner complaints,

(8) the extent to which homeowners are adequately informed of the extent of insurance coverage, the complaint procedures, and the arbitration procedures available to them under such warranties and plans,

(9) the extent to which the arbitration process used to settle claims under such warranties and plans provides fair and reasonable relief for homeowners,

(10) how well homeowners are informed of their right to appeal the decision of such arbitrators to the Secretary,

(11) whether the reporting and inspection requirements to which such warranties and plans are subject provide the Secretary with sufficient information to verify that such warranties and plans are acceptable,

(12) whether dwellings covered by such warranties and plans satisfy all requirements which would have been applicable if such dwellings had been approved for mortgage insurance by the Secretary before the beginning of construction, and

(13) any other issues relating to such warranties and plans that the Secretary considers appropriate.

(c) REPORT.—The Secretary shall submit a report to the Congress regarding the findings of the study and any recommendations of the Secretary resulting from the study, not later than the expiration of the 12-month period beginning on the date of the enactment of this Act.

SEC. 515. EXPENDITURES TO CORRECT DEFECTS.

Section 518(a) of the National Housing Act (12 U.S.C. 1735b(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; and

(2) by striking out "The Secretary" and all that follows through "make expenditures for" and inserting in lieu thereof the following:

"(1) The Secretary is authorized to make expenditures under this subsection with respect to any property that—

"(A) is a condominium unit (including common areas) or is improved by a one-to-four family dwelling;

"(B) was approved, before the beginning of construction, for mortgage insurance under this Act or for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan acceptable to the Secretary; and

"(C) the Secretary finds to have structural defects.

"(2) Expenditures under this subsection may be made for".

SEC. 516. PAYMENT OF MORTGAGE INSURANCE CLAIMS.

(a) PAYMENT OF INSURANCE.—Section 204 of the National Housing Act (12 U.S.C. 1710) is amended—

(1) in the fifth sentence of subsection (a), by striking ", subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value" and insert in lieu thereof the following: "issue to the mortgagee debentures having a par value";

(2) by striking subsection (c) and inserting the following:

"(c) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.";

(3) in the first sentence of subsection (d)—

(A) by striking "executed" and inserting "issued"; and

(B) by striking ", shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable" and inserting the following: "and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations"; and

(4) by striking in the fifth sentence of subsection (d) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty".

(b) RENTAL HOUSING INSURANCE.—Section 207 of the National Housing Act (12 U.S.C. 1713) is amended—

(1) by striking in the second sentence of subsection (g) ", subject to the cash adjustment provided for in subsection (j), issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a total face value" and inserting the following: "issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value";

(2) by striking in the first sentence of subsection (i) "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following: "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(3) by striking in the fourth sentence of subsection (i) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty"; and

(4) by striking subsection (j) and inserting the following:

"(j) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.".

(c) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE.—Section 220(h) of the National Housing Act (12 U.S.C. 1715k) is amended—

(1) by striking in the first sentence of paragraph (7), "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following: "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(2) by striking in the fourth sentence of paragraph (h)(7) "and the guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, the guaranty";

(3) by striking the sixth sentence of paragraph (7), and inserting the following: "Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations."; and

(4) by striking the last sentence of paragraph (7).

(d) HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES.—The second sentence of section 221(g)(4)(A) of the National Housing Act (12 U.S.C. 1715l(g)(4)(A)) is amended by striking ", subject to the cash adjustment provided herein, issue to the mortgagee debentures having total face value" and inserting the following: "issue to the mortgagee debentures having a par value".

SEC. 517. COVERAGE OF THE MULTIFAMILY MORTGAGE FORECLOSURE ACT.

(a) PURPOSES.—Section 362 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3701) is amended—

(1) in subsection (a)(1), by striking "real estate" and all that follows through "properties" and inserting: "multifamily mortgages"; and

(2) in subsection (b), by striking "multiunit" and all that follows through "1964" and inserting "multifamily mortgages".

(b) DEFINITION.—Section 363(2) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3702(2)) is amended to read as follows:

"(2) 'multifamily mortgage' means a mortgage held by the Secretary pursuant to—

"(A) section 608 or 801, or title II or X, of the National Housing Act;

"(B) section 312 of the Housing Act of 1964, as it existed immediately before its repeal by section 289 of the Cranston-Gonzalez National Affordable Housing Act;

"(C) section 202 of the Housing Act of 1959, as it existed immediately before its amendment by section 801 of the Cranston-Gonzalez National Affordable Housing Act;

"(D) section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act; and

"(E) section 811 of the Cranston-Gonzalez National Affordable Housing Act.".

(c) PREREQUISITES TO FORECLOSURE.—The last sentence of section 366 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3705) is amended by striking "status" and all that follows through "rents" and inserting the following: "status, relief under an assignment of rents, or transfer to a nonprofit entity pursuant to section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act) or section 811 of the Cranston-Gonzalez National Affordable Housing Act".

(d) NOTICE.—Section 367(b)(1) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3706(b)(1)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2)(A), the Secretary may require, as a condition and term of sale, that the purchaser at a foreclosure sale under this part agree to continue to operate the security property in accordance with the terms of the program under which the mortgage insurance or assistance was provided, or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.".

SEC. 518. MORTGAGEE REVIEW BOARD.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended—

(1) by inserting "temporarily" after "order";

(2) by inserting "(i)" after "Administration if";

(3) by inserting "(ii)" after "violations and"; and

(4) by striking the period after "6 months" and inserting the following: ", and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended.".

SEC. 519. DEFINITION OF MORTGAGEE.

Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(1) by striking paragraph (6)(D); and

(2) by redesignating paragraph (7) as paragraph (8), and inserting the following after paragraph (6):

"(7) DEFINITION OF 'MORTGAGEE'.—For purposes of this subsection, the term 'mortgagee' means—

"(A) a mortgagee approved under this Act;

"(B) a lender or a loan correspondent approved under title I of this Act;

"(C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or

"(D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.".

SEC. 520. EXEMPTION FROM SECTION 137(b) OF THE TRUTH IN LENDING ACT.

Section 255(j) of the National Housing Act (12 U.S.C. 1715z–20(j)) is amended by adding at the end the following: "Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.".

Subtitle B—Secondary Mortgage Market Programs

SEC. 531. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $88,000,000,000 during fiscal year 1993 and

$91,696,000,000 during fiscal year 1994. There is authorized to be appropriated such sums as may be necessary to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association.".

SEC. 532. AUTHORITY FOR GNMA TO MAKE HARDSHIP INTEREST PAYMENTS.

Section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting after the period at the end of the third sentence the following new sentence: "In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor.".

Subtitle C—Improvement of Financing for Multifamily Housing

SEC. 541. SHORT TITLE.

This subtitle may be cited as the "Multifamily Housing Finance Improvement Act".

SEC. 542. MULTIFAMILY MORTGAGE CREDIT DEMONSTRATIONS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall carry out programs through the Federal Housing Administration to demonstrate the effectiveness of providing new forms of Federal credit enhancement for multifamily loans. In carrying out demonstration programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

(b) RISK-SHARING PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a pilot program through the Federal Housing Administration to provide for risk sharing related to mortgages on multifamily housing.

(2) AUTHORITY FOR REINSURANCE AGREEMENTS.—The Secretary may enter into reinsurance agreements (as such term is defined in section 544) with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, qualified housing finance agencies, and the Federal Housing Finance Board. The agreements may provide for risk-sharing and other forms of credit enhancement with respect to mortgage lending on multifamily housing, including reinsurance with respect to pools of loans on multifamily housing properties, that the Secretary determines to be appropriate to carry out the purposes of this subsection. The agreements shall be in a form and have such terms and conditions as the Secretary determines to be appropriate to carry out the purposes of this subsection.

(3) DEVELOPMENT OF ALTERNATIVES.—The Secretary shall develop and assess a variety of risk-sharing alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this subsection. Such alternatives shall be designed—

(A) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

(B) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

(C) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

(D) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

(E) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

(F) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

(4) ELIGIBILITY STANDARDS.—The Secretary shall establish and enforce standards for financial institutions and entities to be eligible to enter into reinsurance agreements under this subsection, as the Secretary determines to be appropriate.

(5) FUNDING.—Using any authority provided in appropriation Acts to insure loans under the National Housing Act, the Secretary may enter into commitments under this subsection for risk sharing with respect to mortgages on not more than 15,000 units over fiscal years 1993 and 1994. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to Congress.

(6) FEES.—The Secretary shall establish and collect premiums and fees under this subsection as the Secretary determines appropriate to (A) achieve the purpose of this subsection, and (B) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

(7) NON-FEDERAL PARTICIPATION.—The Secretary shall carry out this subsection, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

(8) TIMING.—The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection not later than the expiration of the 8-month period beginning on the date of the enactment of this Act.

(c) HOUSING FINANCE AGENCY PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a specific pilot program in conjunction with qualified housing finance agencies to test the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such agencies.

(2) PILOT PROGRAM REQUIREMENTS.—

(A) IN GENERAL.—In carrying out the pilot program authorized under this subsection, the Secretary shall enter into risk-sharing agreements with qualified housing finance agencies.

(B) MORTGAGE INSURANCE.—Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the loans for affordable multifamily housing originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share equally the full amount of any loss on the insured mortgage.

(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

(i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;

(ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the housing finance agency under subparagraph (C);

(iii) funds pledged through a State or local guarantee fund; or

(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

(3) MORTGAGE INSURANCE PREMIUMS.—The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

(4) LIMITATION ON INSURANCE AUTHORITY.—Using any authority provided by appropriations Acts to insure mortgages under the National Housing Act, the Secretary may enter into commitments under this subsection with respect to mortgages on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to the Congress.

(5) IDENTITY OF INTEREST.—Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this subsection.

(6) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured under this subsection.

(7) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured under this subsection shall qualify as affordable

only if the housing is occupied by very low-income families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986.

(8) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out this subsection.

(d) INDEPENDENT STUDIES AND REPORTS.—

(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—The Federal National Mortgage Association, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(2) FEDERAL HOME LOAN MORTGAGE CORPORATION.—The Federal Home Loan Mortgage Corporation, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(3) SECRETARY.—The Secretary shall submit to the Congress, and publish, reports under this paragraph assessing the activities carried out under each of the pilot programs. The Secretary shall submit and publish a preliminary report under this paragraph not later than 9 months after the date of the implementation of each of the pilot programs, and a final report not later than 24 months after the date of implementation on which the pilot program is initiated, which shall include any recommendations by the Secretary for legislative changes to achieve the purposes of this section.

(4) COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out an evaluation of each of the pilot programs under this section and shall submit to the Congress, not later than 30 months after the date of implementation for each of the pilot programs, a report regarding the evaluation, together with any recommendations for legislative changes to achieve the purposes of this section. The Comptroller General shall also submit to the Congress a report containing a preliminary assessment of the pilot program not later than 18 months after the date of enactment of this Act.

(5) FEDERAL HOUSING FINANCE BOARD.—The Federal Housing Finance Board shall monitor and assess the activities carried out under the pilot programs under this section. The Federal Housing Finance Board shall submit a preliminary report containing any findings regarding such activities not later than 9 months after the date of the enactment of this Act, and a final report containing such findings not later than 24 months after the date on which the pilot program is initiated, which shall include any recommendations by the Board for legislative changes to achieve the purposes of this section.

SEC. 543. NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.

(a) PURPOSE.—The purpose of this section is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

(b) ESTABLISHMENT OF TASK FORCE.—There is established a Task Force known as the National Interagency Task Force on Multifamily Housing (hereafter in this section referred to as the "Task Force").

(c) MEMBERSHIP OF TASK FORCE.—

(1) FEDERAL OFFICIALS.—The Task Force shall be composed of—

(A) the Secretary of Housing and Urban Development;

(B) the Chairperson of the Federal Housing Finance Board;

(C) the Comptroller of the Currency;

(D) the Chairman of the Board of Governors of the Federal Reserve System;

(E) the Director of the Office of Thrift Supervision;

(F) the Chairperson of the Federal Deposit Insurance Corporation;

(G) the Chairperson of the Federal National Mortgage Association; and

(H) the Chairperson of the Federal Home Loan Mortgage Corporation,

or their designees, and the persons appointed under paragraphs (2) and (3).

(2) APPOINTMENTS BY THE SECRETARY.—The Secretary shall appoint as members of the Task Force—

(A) 1 individual who is a representative of a State housing finance agency;

(B) 1 individual who is a representative of a local housing finance agency;

(C) 1 individual who is a representative of the building industry with experience in multifamily housing; and

(D) 1 individual who is a representative of the life insurance industry with experience in multifamily loan performance data.

(3) APPOINTMENTS BY THE CHAIRPERSON OF THE FHFB.—The Chairman of the Federal Housing Finance Board shall appoint as members of the Task Force—

(A) 1 individual who is a representative from the financial services industry with experience in multifamily housing underwriting;

(B) 1 individual who is a representative from the nonprofit housing development sector with experience in subsidized multifamily housing development; and

(C) 1 individual who is a representative from a nationally recognized rating agency.

(d) ADMINISTRATION.—

(1) CHAIRPERSONS.—The Task Force shall be chaired jointly by the Secretary and the Chairman of the Federal Housing Finance Board.

(2) MEETINGS.—The Task Force shall meet no less than 4 times, at the call of the Chairpersons of the Task Force.

(3) QUORUM.—A majority of the members of the Task Force shall constitute a quorum for the transaction of business.

(4) VOTING.—Each member of the Task Force shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Task Force.

(5) VACANCIES.—Any vacancy on the Task Force shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(6) PROHIBITION ON ADDITIONAL PAY.—Members of the Task Force shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Task Force.

(e) FUNCTIONS OF THE TASK FORCE.—

(1) IN GENERAL.—The Task Force shall conduct a multifamily housing financial data project in order to improve the availability and efficiency of financing for multifamily rental housing. The project shall—

(A) analyze available data regarding the performance of multifamily housing mortgage loans in all regions of the country;

(B) prepare a comprehensive national database on the operation and financing of multifamily housing that will provide reliable information appropriate to meet the projected needs of lenders, investors, sponsors, property managers, and public officials;

(C) identify important factors that affect the long-term financial and operational soundness of multifamily housing properties, including factors relating to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards, and government policies;

(D) develop common definitions, standards, and procedures that will improve multifamily housing underwriting and accelerate the development of a strong, competitive, and efficient secondary market for multifamily housing loans; and

(E) make available appropriate information to various organizations in forms that will assist in improving multifamily housing loan underwriting and servicing.

(2) FINAL REPORT.—Not later than 1 year following the enactment of this Act, the Task Force shall submit to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(f) AUTHORITY OF TASK FORCE.—

(1) RULES AND REGULATIONS.—The Task Force may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(2) ACCESS TO DATA.—The members of the Task Force representing the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall make available to the Task Force a representative sample of multifamily housing mortgage loans in order for the Task Force to make its findings and recommendations, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(3) SAMPLE DATA.—In order to ensure a representative sample of multifamily housing data, the Department of Housing and Urban Development, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Cur-

rency, and the Federal Deposit Insurance Corporation are authorized to request loan data from a representative sample of mortgage originators or the government-sponsored enterprises regulated by these agencies, and mortgages originated by housing finance agencies and life insurance companies, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(4) AGENCY RESOURCES.—The Task Force may, with the consent of any Federal agency or department represented on the Task Force, utilize the information, services, staff and facilities of such agency or department on a reimbursable basis, to assist the Task Force in carrying out its duties under this section.

(5) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(6) CONTRACTING.—The Task Force may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of discharging its duties under this section.

(7) STAFF.—The Task Force may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of General Schedule pay rates.

(g) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall be authorized to conduct an independent analysis of the findings and recommendations submitted by the Task Force to the Congress under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $6,000,000 for fiscal year 1993 and $6,252,000 for fiscal year 1994. Funds appropriated under this subsection shall remain available until expended.

SEC. 544. DEFINITIONS.

For purposes of this subtitle:

(1) The term "multifamily housing" means a property consisting of more than 4 dwelling units.

(2) The term "qualified housing finance agency" means any State or local housing finance agency that—

(A) carries the designation of "top tier" or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;

(B) receives a rating of "A" for its general obligation bonds from a nationally recognized rating agency; or

(C) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to, its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State or local support.

(3) The term "reinsurance agreement" means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

TITLE VI—HOUSING FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES

Subtitle A—Supportive Housing Programs

SEC. 601. FUNDING FOR SUPPORTIVE HOUSING FOR THE ELDERLY AND FOR PERSONS WITH DISABILITIES.

(a) AGGREGATE FUNDING.—There are authorized to be appropriated for the purpose of providing assistance in accordance with section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act, $1,309,853,000 for fiscal year 1993 and $1,364,866,826 for fiscal year 1994.

(b) ALLOCATION.—Of any amounts made available for assistance under the sections referred to in subsection (a), 70 percent of such amount shall be used for assistance in accordance with section 202 of the Housing Act of 1959 and 30 percent of such amount shall be used for assistance in accordance with section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(c) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)) is amended—

(1) by striking "AUTHORIZATIONS.—" and inserting "ALLOCATION OF FUNDS.—";

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following new sentence: "Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1)."; and

(B) in the second sentence, by striking "Amounts so appropriated" and inserting "Such amounts";

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2)."; and

(4) in paragraph (3), by striking "under this subtitle" and inserting "for assistance under this section".

(d) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(l) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(l)) is amended—

(1) by striking "AUTHORIZATIONS.—" and inserting "ALLOCATION OF FUNDS.—";

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following new sentence: "Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1)."; and

(B) in the second sentence, by striking "Amounts so appropriated" and inserting "Such amounts";

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).";

(4) by redesignating paragraphs (1) and (2) (as so amended) as paragraphs (2) and (3), respectively; and

(5) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) ALLOCATION.—Of any amount made available for assistance under this section in any fiscal year, an amount shall be used for assistance under subsection (b) that is not less than the amount made available in appropriation Acts for such assistance in the preceding year, and the remainder shall be available for tenant-based assistance under subsection (n).

SEC. 602. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) TECHNICAL CORRECTIONS.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (g)(1), by striking "and persons with disabilities"; and

(2) in subsection (i)(1)(A), by striking "persons with disabilities" and inserting "elderly persons".

(b) REPEAL OF REQUIREMENT FOR STATE AND LOCAL CERTIFICATION OF SERVICES.—Section 202(e) of the Housing Act of 1959 (12 U.S.C. 1701q(e)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(c) SELECTION CRITERIA.—Section 202(f)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(2)) is amended by adding at the end ", taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities".

(d) ELDER COTTAGE HOUSING.—

(1) IMPLEMENTATION.—Section 806(b) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701q note) is amended to read as follows:

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including, as an eligible development cost under section 202 of the Housing Act of 1959, the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In conducting the demonstration, the Secretary shall determine whether the durability of such units is appropriate for making such units generally eligible for assistance under the programs under such sections.

"(2) ALLOCATION.—Notwithstanding any other law, the Secretary shall reserve from any amounts available for capital advances and project rental assistance under section 202 of the Housing Act of 1959, amounts sufficient in each of fiscal years 1993 and 1994 to provide not less than 100 units under the demonstration under this subsection in connection with each such section. Any amounts reserved under this paragraph shall be available only for carrying out the demonstration under this subsection and, for purposes of the demonstration, the cost of purchasing and installing an elder cottage housing opportunity unit shall be considered an eligible development cost under sections 202 of the Housing Act of 1959.

"(3) REPORT.—Not later than January 1, 1994, the Secretary shall submit a report to the Congress on the results of the demonstration under this subsection, which shall be based on actual experience in implementing this subsection.

"(4) IMPLEMENTATION.—The Secretary shall issue regulations to carry out the demonstration under this subsection not later than the expiration of the 6-month period beginning on the date of the enactment of the Housing and Community Development Act of 1992.".

(e) ACCESS TO RESIDUAL RECEIPTS.—Section 202(j) of the Housing Act of 1959 (12 U.S.C. 1701q(j)) is amended by adding at the end the following new paragraph:

"(6) ACCESS TO RESIDUAL RECEIPTS.—The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of $500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 802(d)(3) of the Cranston-Gonzalez National Affordable Housing Act, to provide a service coordinator for the project as described in section 802(d)(4) of such Act, or to provide supportive services (as such term is defined in section 802(k) of such Act) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section, the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.".

(f) WAIVER OF OWNER DEPOSIT.—Section 202(j)(3)(B) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(B)) is amended by adding at the end the following new sentence: "The Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary.".

(g) NONMETROPOLITAN ALLOCATION.—Section 202(l)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by striking "20 percent" and inserting "15 percent".

SEC. 603. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

Section 811(k)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(6)) is amended—

(1) by striking "incorporated private";

(2) by redesignating subparagraphs (A), (B), and (C), as subparagraphs (B), (C), and (D), respectively; and

(3) by inserting after "foundation—" the following new subparagraph:

"(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;".

SEC. 604. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 802(n)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(n)(1)) is amended by striking the matter preceding subparagraph (A) and inserting the following:

"(1) AUTHORIZATION AND USE.—There are authorized to be appropriated to carry out this section $21,000,000 for fiscal year 1993, and $21,882,000 for fiscal year 1994, of which not more than—".

(b) SUPPLEMENTAL CONTRIBUTIONS.—Section 802(i)(1)(B)(i) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(i)(1)(B)(i)) is amended by striking "3-year" each place it appears and inserting "6-year".

(c) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a copy of proposed interim regulations implementing section 802 of the Cranston-Gonzalez National Affordable Housing Act with respect to eligible federally assisted housing (as such term is defined in section 802(k) of such Act) administered by each such Secretary. Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, each such Secretary shall publish interim regulations implementing such section 802, which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), each such Secretary shall issue final regulations implementing section 802 of the Cranston-Gonzalez National Affordable Housing Act after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

(3) FAILURE UNDER 1990 ACT.—This subsection may not be construed to authorize any failure to comply with the requirements of section 802(m) of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 605. HOPE FOR ELDERLY INDEPENDENCE.

(a) SECTION 8 ASSISTANCE.—Section 803(j) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(j)) is amended to read as follows:

"(j) SECTION 8 FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under sections 8(b) and 8(o) of such Act is authorized to be increased by $38,288,000 on or after October 1, 1992, and by $39,896,096 on or after October 1, 1993. The amounts made available under this subsection shall be used only in connection with the demonstration under this section.

(b) SUPPORTIVE SERVICES AUTHORIZATION.—Section 803(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(k)) is amended to read as follows:

"(k) FUNDING FOR SERVICES.—There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section $10,000,000 to become available in fiscal year 1993, and $10,420,000 to become available in fiscal year 1994. Any such amounts appropriated under this subsection shall remain available until expended.".

(c) DEMONSTRATION PERIOD.—Section 803 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012) is amended—

(1) in subsection (a), by striking "beginning on the date of the enactment of this Act" and inserting "determined by the Secretary"; and

(2) by striking paragraph (1) of subsection (g) and inserting the following new paragraph:

"(1) The term 'demonstration period' means the 5-year period referred to in subsection (a).".

SEC. 606. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS.

(a) AMENDMENT OF CRANSTON-GONZALEZ NATIONAL HOUSING ACT.—Whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Cranston-Gonzalez National Affordable Housing Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 863 (42 U.S.C. 12912) is amended to read as follows:

"SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $150,000,000 for fiscal year 1993 and $156,300,000 for fiscal year 1994.".

(c) DEFINITIONS.—Section 853 (42 U.S.C. 12902) is amended—

(1) in paragraph (2), by striking "sponsor receiving assistance from a grantee" and inserting "organization eligible to receive assistance under this subtitle";

(2) in paragraph (5), by striking "metropolitan area" and inserting "metropolitan statistical area"; and

(3) by adding at the end the following new paragraphs:

"(11) The term 'city' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(12) The term 'eligible person' means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

"(13) The term 'nonprofit organization' means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

"(A) is organized under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

"(14) The term 'project sponsor' means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this subtitle.".

(d) GRANT ELIGIBILITY AND ALLOCATION.—Section 854 (42 U.S.C. 12903) is amended—

(1) in subsection (a), by striking "and units of general local government" and inserting ", units of general local government, and nonprofit organizations";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) IMPLEMENTATION OF ELIGIBLE ACTIVITIES.—A grantee shall carry out eligible activities under section 855 through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.";

(3) by striking paragraph (1) of subsection (c) and inserting the following new paragraph:

"(1) FORMULA ALLOCATION.—The Secretary shall allocate 90 percent of the amounts approved in appropriation Acts under section 863 among States and cities whose most recent comprehensive housing affordability strategy (or abbreviated strategy) has been approved by the Secretary under section 105 of this Act. Such amounts shall be allocated as follows:

"(A) 75 percent among—

"(i) cities that are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome; and

"(ii) States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in clause (i); and

"(B) 25 percent among cities that (i) are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 *cases of acquired immunodeficiency syndrome, and (ii) have a higher than average per capita incidence of acquired immunodeficiency syndrome.*

A single city may receive assistance allocated under subparagraph (A) and subparagraph (B). For purposes of allocating amounts under this paragraph for any fiscal year, the number of cases of acquired immunodeficiency syndrome shall be the number of such cases reported to and confirmed by the Director of the Centers for Disease Control of the Public Health Service as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and to be allocated.";

(4) in subsection (c)(3)—

(A) by striking the paragraph heading and inserting "NONFORMULA ALLOCATION.—"; and

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—The Secretary shall allocate 10 percent of the amounts appropriated under section 863 among—

"(i) States and units of general local government that (I) do not qualify for allocation of amounts under paragraph (1); and

"(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.";

(5) in the first sentence of subsection (d), by striking "approvable applications submitted by eligible applicants" and inserting "applications submitted by applicants and approved by the Secretary";

(6) in subsection (e), by striking "requirements of subsection (b)" and inserting "other requirements of this section"; and

(7) by adding at the end the following new subsection:

"(f) ADDITIONAL REQUIREMENT FOR CITY FORMULA GRANTEES.—In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances.".

(e) LIMITATION ON SPENDING FOR OTHER ACTIVITIES.—Section 855(6) (42 U.S.C. 12904(6)) is amended by inserting before the period at the end the following: ", except that activities developed under this paragraph may be assisted only with amounts provided under section 854(c)(3)".

(f) FEES AND LIMITATION ON USE OF GRANT AMOUNTS FOR ADMINISTRATIVE EXPENSES.—Section 856 (42 U.S.C. 12905) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) PROHIBITION OF FEES.—The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this subtitle."; and

(2) by adding at the end the following new subsection:

"(g) ADMINISTRATIVE EXPENSES.—

"(1) GRANTEES.—Notwithstanding any other provision of this subtitle, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

"(2) PROJECT SPONSORS.—Notwithstanding any other provision of this subtitle, each project sponsor receiving amounts from grants made under this title may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 855, including the costs of staff necessary to carry out eligible activities.".

(g) SHORT-TERM SUPPORTED HOUSING AND SERVICES.—Section 858 (42 U.S.C. 12907) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting before the period at the end the following: "(except that health services under this paragraph may only be provided to individuals with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments";

(B) by striking paragraphs (4) and (5); and

(C) by adding at the end the following new paragraphs:

"(4) OPERATION.—Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

"(5) ADMINISTRATION.—Providing staff to carry out the program under this section (subject to the provisions of section 856(g)).''; and

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking subparagraph (B);

(ii) in subparagraph (C), by striking "limitations under subparagraphs (A) and (B)" and inserting "limitation under subparagraph (A)"; and

(iii) by redesignating subparagraph (C) (as so amended) as subparagraph (B); and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(C) WAIVER.—Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.".

(h) RENTAL ASSISTANCE.—

(1) IN GENERAL.—Section 859 (42 U.S.C. 12908) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SEC. 859. RENTAL ASSISTANCE.";

(B) in the first sentence of subsection (a)(1), by striking "short-term"; and

(C) by adding at the end the following new subsection:

"(c) ADMINISTRATIVE COSTS.—A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 856(g)(2).".

(2) CONFORMING AMENDMENT.—Section 855(3) (42 U.S.C. 12904(3)) is amended by striking "short-term".

(i) COMMUNITY RESIDENCES AND SERVICES.—Section 861(c) (42 U.S.C. 12910(c)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this subtitle"; and

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 856(g)).".

(j) ELIGIBILITY OF FAMILIES.—

(1) Section 852 (42 U.S.C. 12901) is amended by inserting "and families of such persons" before the period at the end.

(2) Section 854(c)(3) (42 U.S.C. 12903(c)(3)) is amended by striking "persons with acquired immunodeficiency syndrome" and inserting "eligible persons" each place it appears.

(3) Section 855 (42 U.S.C. 12904) is amended—

(A) in the matter preceding paragraph (1), by striking "such persons with acquired immunodeficiency syndrome" and inserting "eligible persons"; and

(B) in paragraph (5), by striking "with acquired immunodeficiency syndrome".

(4) Section 856(c) (42 U.S.C. 12905(c)) is amended by striking "such individuals" and inserting "such eligible persons".

(5) Section 858(a)(3) (42 U.S.C. 12907(a)(3)) is amended by striking "individuals" and inserting "eligible persons".

(6) Section 859(b)(1) (42 U.S.C. 12908(b)(1)) is amended by striking "individuals" and inserting "eligible persons".

(7) Sections 859(b)(2) and 860(b)(2) (42 U.S.C. 12908(b), 12909(b)(2)) are amended by inserting "with acquired immunodeficiency syndrome or related diseases" after "any individual" each place it appears.

(8) Section 861(a) (42 U.S.C. 12910(a)) is amended by striking "persons with acquired immunodeficiency syndrome or related diseases" and inserting "eligible persons".

(9) Section 861(b)(1)(A)(iv) (42 U.S.C. 12910(b)(1)(A)(iv)) is amended by striking "such individuals" and inserting "such eligible persons".

(10) Section 861(d)(1) (42 U.S.C. 12910(d)(1)) is amended—

(A) in subparagraph (A), by striking "individuals" and inserting "eligible persons"; and

(B) in subparagraph (D), by inserting "with acquired immunodeficiency syndrome or related diseases" after "any individual".

(11) Subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.) is amended by striking "individuals with acquired immunodeficiency syndrome or related diseases" each place it appears in the following provisions and inserting "eligible persons":

(A) Section 856(c).

(B) Section 857.

(C) Section 858—

(i) in subsection (a), in the matter preceding paragraph (1); and

(ii) in subsection (b)(1)(A);

(D) Section 859(a)(1).

(E) Section 861—

(i) in subsection (b); and

(ii) in subsection (d).

(k) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a copy of proposed interim regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section). Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, the Secretary shall publish interim regulations implementing such subtitle (as amended), which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), the Secretary shall issue final regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section) after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States

Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

Subtitle B—Authority for Public Housing Agencies to Provide Designated Public Housing and Assistance for Disabled Families

SEC. 621. DEFINITIONS.

Paragraph 3 of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended to read as follows:

"(3) PERSONS AND FAMILIES.—

"(A) SINGLE PERSONS.—The term 'families' includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms. In determining priority for admission to housing under this Act, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence.

"(B) FAMILIES.—The term 'families' means families with children, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

"(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

"(D) ELDERLY PERSON.—The term 'elderly person' means a person who is at least 62 years of age.

"(E) PERSON WITH DISABILITIES.—The term 'person with disabilities' means a person who—

"(i) has a disability as defined in section 223 of the Social Security Act,

"(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

"(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

"(F) DISPLACED PERSON.—The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

"(G) NEAR-ELDERLY PERSON.—The term 'near-elderly person' means a person who is at least 50 years of age but below the age of 62.".

SEC. 622. AUTHORITY.

(a) IN GENERAL.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

"DESIGNATED HOUSING

"SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency whose allocation plan under subsection (f) (and any biannual update) has been approved by the Secretary may, to the extent provided in the allocation plan, provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families (subject to the provisions of subsection (e)), or (C) elderly and disabled families.

"(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated. Among such types of families, preference for occupancy in such projects (or portions) shall be given according to the preferences for occupancy under section 6(c)(4)(A).

"(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may (pursuant to the approved allocation plan under subsection (f) for the agency) provide that near-elderly families who qualify for preferences for occupancy under section 6(c)(4)(A) may occupy dwelling units in the project (or portion).

"(4) VACANCY.—Notwithstanding the authority under paragraphs (1) and (2) to designate public housing projects (or portions of projects) for occupancy by only certain types of families, a public housing agency shall make any dwelling unit that is ready for occupancy in such a project (or portion of a project) that has been vacant for more than 60 consecutive days generally available for occupancy (subject to the requirements of this title) without regard to such designation.

"(b) AVAILABILITY OF HOUSING.—

"(1) TENANT CHOICE.—The decision of any disabled family not to occupy or accept occupancy in an appropriate type of project or assistance made available to the family under this title shall not adversely affect the family with respect to a public housing agency making available occupancy in other appropriate projects in public housing or assistance under this title.

"(2) DISCRIMINATORY SELECTION.—Paragraph (1) shall not apply to any family who decides not to occupy or accept an appropriate dwelling unit in public housing or to accept assistance under this Act on the basis of the race, color, religion, sex, disability, familial status, or national origin of occupants of housing or the surrounding area.

"(3) APPROPRIATENESS OF DWELLING UNITS.—This section may not be construed to require a public housing agency to offer occupancy in any dwelling unit assisted under this Act to any family who is not of appropriate family size for the dwelling unit.

"(c) PROHIBITION OF EVICTIONS.—Any tenant who is lawfully residing in a dwelling unit in the project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) or because of any action taken by the Secretary of Housing and Urban Development or any public housing agency pursuant to this section.

"(d) ACCOMMODATION OF HOUSING AND SERVICE NEEDS.—In designing, developing, otherwise acquiring and operating, designating, and providing housing and assistance under this title, each public housing agency shall meet, to the extent practicable, the housing and service needs of eligible families applying for assistance under this title, as provided in any allocation plan of the agency approved under subsection (f). To meet such needs, public housing agencies may, wherever practicable and in accordance with any allocation plan of the agency—

"(1) provide housing in which supportive services are provided, facilitated, or coordinated, mixed housing, shared housing, family housing, group homes, congregate housing, and other housing as the public housing agency considers appropriate;

"(2) carry out major reconstruction of obsolete public housing projects and reconfiguration of public housing dwelling units; and

"(3) provide tenant-based assistance under section 811(b)(1).

"(e) APPLICATION FOR DESIGNATED HOUSING FOR DISABLED FAMILIES.—

"(1) REQUIREMENT.—A project (or portion of a project) may be designated under subsection (a)(1) for occupancy by only disabled families only if the public housing agency administering the project complies with the other requirements of this section and the Secretary approves an application under this subsection for such designation. The Secretary shall establish the form and procedures for submission and approval of applications under this subsection.

"(2) CONTENTS.—An application under this subsection shall contain—

"(i) a description of the projects (or portions of projects) to be designated (which may include group homes, independent living facilities, units in multifamily housing developments, condominium housing, cooperative housing, and scattered site housing);

"(ii) a supportive service plan—

"(I) describing the needs of persons with disabilities that the housing is expected to serve;

"(II) providing for delivery of supportive services appropriate to meet the individual needs of persons with disabilities occupying the housing;

"(III) describing the experience of the applicant (or service providers) in providing such services;

"(IV) describing the manner in which such services will be provided to such persons; and

"(V) identifying any State, local, other Federal, or other funds available for providing such services;

"(iii) any other information or certification that the Secretary considers appropriate.

"(3) APPROVAL.—The Secretary may approve an application under this subsection only if the Secretary determines that—

"(i) the persons with disabilities occupying the housing will receive supportive services based on their individual needs;

"(ii) the applicant (or service providers) have sufficient experience in providing supportive services;

"(iii) residential supervision will be provided in the housing sufficient to facilitate the provision of supportive services;

"(iv) the supportive services are adequately designed to meet the special needs of the tenants.

"(4) SUPPORTIVE SERVICES.—For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of tenants, and may include meal services, health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services.

"(f) ALLOCATION PLANS.—

"(1) REQUIREMENT.—A public housing agency may not designate a project (or portion of a

project) for occupancy under subsection (a)(1) unless the agency submits an allocation plan under this subsection and the plan is approved under paragraph (4) of this subsection.

"(2) CONTENTS.—An allocation plan submitted under this subsection by a public housing agency shall include—

"(A) a description of the projects (or portions of projects) to be designated and the types of tenants occupying such projects (or portions);

"(B) a description of the estimated pool of applicants for such housing, based on the waiting lists for such housing, and any information collected in the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction within which the area served by the public housing agency is located;

"(C) a statement identifying the projects or portions of projects (including the buildings or floors) to be designated for occupancy under subsection (a)(1) for only certain types of families, the types of families who will be eligible for occupancy in such projects (or portions), and the reasons for the designation;

"(D) documentation of the number of units in the projects (or portions) identified under subparagraph (C) which became vacant and available for occupancy during the preceding year;

"(E) an estimate of the number of units in the projects (or portions) identified under subparagraph (C) that will become vacant and available for occupancy during the ensuing 2-year period;

"(F) a description of the occupancy policies and procedures, including procedures for maintaining waiting lists for eligible applicants who are elderly families or disabled families for occupancy in units in projects administered by the agency sufficient to document the number and duration of instances in which housing assistance for eligible applicants will be denied or delayed by the agency because of a lack of appropriately designated units;

"(G) a plan for securing sufficient additional resources that the agency owns, controls, or has received preliminary notification that it will obtain, or for which the agency plans to apply, that will be sufficient to provide assistance to not less than the number of nonelderly disabled families that would have been housed if occupancy in such units were not restricted pursuant to this section; and

"(H) any comments of agencies, organizations, or persons with whom the public housing agency consults under paragraph (3).

"(3) DEVELOPMENT.—In preparing the initial allocation plan, or updates of a plan under paragraph (5), for submission under this subsection, a public housing agency shall consult with the State or unit of general local government in whose jurisdiction the area served by the public housing agency is located, public and private service providers, advocates for the interest of eligible elderly families, disabled families, and families with children, and other interested parties.

"(4) APPROVAL.—

"(A) CRITERIA.—The Secretary shall approve an allocation plan, or an updated plan, submitted under this subsection if the Secretary determines that, based on the plan and comments submitted pursuant to paragraph (2)(H)—

"(i) the information contained in the plan is complete and accurate and the projections are reasonable;

"(ii) implementation of the plan will not result in excessive vacancy rates in projects (or portions of projects) identified in paragraph (2)(C); and

"(iii) the plan under paragraph (2)(G) can reasonably be achieved.

"(B) NOTIFICATION.—

"(i) IN GENERAL.—The Secretary shall notify each public housing agency submitting an allocation plan under this subsection in writing of approval or disapproval of the plan.

"(ii) TIMING.—A plan shall be considered to be approved if the Secretary does not notify the public housing agency of approval or disapproval of the initial or revised plan within (I) 90 days after the submission of any plan that contains comments pursuant to paragraph (2)(H), or (II) 45 days for any other plan.

"(iii) RESUBMISSION.—If the Secretary disapproves the plan, the Secretary shall, for a period of not less than 45 days following the date of disapproval, permit amendments to, or resubmission of, the plan.

"(C) RULE OF CONSTRUCTION.—The approval of an allocation plan or updated plan under this subsection may not be construed to constitute approval of any request for assistance for major reconstruction of obsolete projects, assistance for development or acquisition of public housing, or assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, that are contained in the plan pursuant to subparagraph (H).

"(5) BIANNUAL UPDATE.—

"(A) IN GENERAL.—Each public housing agency that owns or operates a project (or portion of a project) that is designated for occupancy under subsection (a)(1) shall update the plan of the agency under this subsection not less than once every 2 years, as the Secretary shall provide. The Secretary shall notify each public housing agency submitting an updated plan under this paragraph of approval or disapproval of the updated plan as required under paragraph (4)(B), and the provisions of such paragraph shall apply to updated plans under this paragraph.

"(B) CONTENTS.—The updated plan shall include—

"(i) a review of the data and projections contained in the allocation plan and the most recent update submitted under this subsection;

"(ii) an assessment of the accuracy of the projections contained in such plan and update;

"(iii) a statement of the number of times a vacancy was filled pursuant to subsection (a)(4);

"(iv) a statement of the number of times an application for housing assistance by an eligible applicants was denied or delayed because of a lack of appropriately designated units; and

"(v) a plan for adjusting the allocation, if necessary, in accordance with the needs identified pursuant to this subparagraph.

"(C) STANDARDS FOR APPROVAL.—The Secretary shall establish standards for preparation, submission, and approval of updated plans.

"(g) PROHIBITION OF COERCION.—No elderly or disabled family residing in any public housing project may be required to accept services.".

(b) OCCUPANCY PREFERENCES.—The matter preceding clause (i) in section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by striking "specifically designated for elderly families" and inserting "designated for occupancy pursuant to section 7(a)".

(c) DEFINITIONS.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended by inserting after "project." the following new paragraphs:

"(4) The term 'congregate housing' means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

"(5) The terms 'group home' and 'independent living facility' have the meanings given such terms in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 623. TENANT-BASED ASSISTANCE FOR PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) by amending the section heading to read as follows:

"SEC. 811. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.";

(2) in subsection (b)—

(A) in the matter following paragraph (2)—

(i) by moving such matter 2 ems to the right; and

(ii) by striking "Such assistance" and inserting "assistance under this paragraph";

(B) by striking the subsection heading and all that follows through the end of paragraph (2) and inserting the following:

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary is authorized—

"(1) to provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4); and

"(2) to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

"(A) capital advances in accordance with subsection (d)(1), and

"(B) contracts for project rental assistance in accordance with subsection (d)(2);";

(3) in subsection (d)—

(A) in paragraphs (1) and (3), by striking "this section" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following new paragraph—

"(4) TENANT-BASED RENTAL ASSISTANCE.—Tenant-based rental assistance provided under subsection (b)(1) may be provided only through a public housing agency that has submitted, and had approved, an allocation plan under section 7(f) of the United States Housing Act of 1937, and a public housing agency shall be eligible to apply under this section only for the purposes of providing such assistance. Such assistance shall be made available to eligible persons with disabilities and administered under the same rules that govern rental assistance made available under section 8 of the United States Housing Act of 1937. In determining the amount of assistance provided under subsection (b)(1) for a public housing agency, the Secretary shall consider the needs of the agency as described in the allocation plan.";

(4) in subsection (e)(1), by striking "this section" and inserting "subsection (b)(2)";

(5) in subsection (f), in the first and second sentences, by striking "this section" and inserting "subsection (b)(2)"; and

(6) in subsection (g), by striking "this section" and inserting "subsection (b)(2)".

(b) SECTION 8 ASSISTANCE.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), is amended by inserting after subsection (h) the following new subsection:

"(i) The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.".

SEC. 624. DEVELOPMENT AND RECONSTRUCTION OF HOUSING FOR DISABLED FAMILIES.

(a) SET-ASIDE OF MAJOR RECONSTRUCTION FUNDS FOR RECONFIGURATION OF PROJECTS.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(G)(i) In fiscal years 1993 and 1994, the Secretary shall commit for use under clause (ii) not

less than 5 percent of any amounts reserved under subparagraph (A) for each such fiscal year.

"(ii) The amounts referred to in clause (i) shall be available to public housing agencies only for use for projects (or portions of projects) designated for occupancy under section 7(a)(1) and (e) by disabled families.

"(iii) In allocating amounts reserved under this subparagraph among public housing agencies, the Secretary shall consider the need for any such amounts as identified in the allocation plans submitted by agencies under section 7(f).".

(b) SET-ASIDE OF NEW CONSTRUCTION FUNDS FOR HOUSING DESIGNED FOR DISABLED FAMILIES AND SINGLE PERSONS.—Section 5(j) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)) is amended by adding at the end the following new paragraph:

"(3)(A) In fiscal years 1993 and 1994, the Secretary shall reserve for use under subparagraph (B) not less than 5 percent of any amounts approved in appropriation Acts for each such fiscal year for public housing grants under subsection (a)(2) that are not designated under such Acts for use under paragraph (2) of this subsection for the substantial redesign, reconstruction, or redevelopment of existing public housing projects, buildings, or units.

"(B) Any amount reserved under subparagraph (A) shall be available only to public housing agencies that have designated projects (or portions of projects) for occupancy under section 7(a)(1) for use only for the costs of development or acquisition of public housing projects or buildings designated for occupancy under section 7(a)(1) and (e) by disabled families. A building so assisted may not contain more than 25 dwelling units, except that the Secretary may (in the discretion of the Secretary) waive such limitation for a building.

"(C) The Secretary shall carry out a competition for budget authority reserved under subparagraph (A) among eligible public housing agencies and shall allocate such budget authority to public housing agencies pursuant to the competition, based on (i) the need of the agency for such assistance (taking into consideration the allocation plans submitted under section 7(f) by agencies), and (ii) the extent to which the public housing projects and buildings to be developed or assisted meet the requirements of section 7(e).".

(c) REQUIREMENT FOR USE OF NEW CONSTRUCTION FUNDS FOR PROJECTS DESIGNATED FOR ELDERLY FAMILIES.—Section 5(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(1)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by adding at the end the following new subparagraph:

"(E) in the case of an application for development of projects (or portions of projects) designated under section 7(a)(1) for occupancy for elderly families, only if the agency certifies to the Secretary that the use of such assistance will assist in expanding the housing available for eligible persons with disabilities identified in the allocation plan for the agency submitted under section 7(f); and".

SEC. 625. CONFORMING AMENDMENTS.

(a) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 3(b)(5)(B), by inserting "or disabled" after "elderly";

(2) in the last sentence of section 6(a), by striking "the elderly" and inserting "elderly or disabled families";

(3) in section 14(i)(1)(D)(ii), by striking "elderly families and handicapped families" and inserting "elderly and disabled families"; and

(4) in section 17(c)(2)(G)(i), by striking "the elderly" and inserting "elderly families".

(b) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The first sentence of section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438) is amended by striking "the elderly or the handicapped" and inserting "elderly or disabled families".

SEC. 626. INAPPLICABILITY TO INDIAN PUBLIC HOUSING.

The amendments made by this subtitle shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

Subtitle C—Standards and Obligations of Residency in Federally Assisted Housing

SEC. 641. COMPLIANCE BY OWNERS AS CONDITION OF FEDERAL ASSISTANCE.

The Secretary of Housing and Urban Development shall require owners of federally assisted housing (as such term is defined in section 683(2)), as a condition of receiving housing assistance for such housing, to comply with the procedures and requirements established under this subtitle.

SEC. 642. COMPLIANCE WITH CRITERIA FOR OCCUPANCY AS REQUIREMENT FOR TENANCY.

In selecting tenants for occupancy of units in federally assisted housing, an owner of such housing shall utilize the criteria for occupancy in federally assisted housing established by the Secretary, by regulation, under section 643. If an owner determines that an applicant for occupancy in the housing does not meet such criteria, the owner may deny such applicant occupancy.

SEC. 643. ESTABLISHMENT OF CRITERIA FOR OCCUPANCY.

(a) TASK FORCE.—

(1) ESTABLISHMENT.—To assist the Secretary in establishing reasonable criteria for occupancy in federally assisted housing, the Secretary shall establish a task force to review all rules, policy statements, handbooks, technical assistance memoranda, and other relevant documents issued by the Department of Housing and Urban Development on the standards and obligations governing residency in federally assisted housing and make recommendations to the Secretary for the establishment of such criteria for occupancy.

(2) MEMBERS.—The Secretary shall appoint members to the task force, which shall include individuals representing the interests of owners, managers, and tenants of federally assisted housing, public housing agencies, owner and tenant advocacy organizations, persons with disabilities and disabled families, organizations assisting homeless individuals, and social service, mental health, and other nonprofit servicer providers who serve federally assisted housing.

(3) COMPENSATION.—Members of the task force shall not receive compensation for serving on the task force.

(4) DUTIES.—The task force shall—

(A) review all existing standards, regulations, and guidelines governing occupancy and tenant selection policies in federally assisted housing;

(B) review all existing standards, regulations, and guidelines governing lease provisions and other rules of occupancy for federally assisted housing;

(C) determine whether the standards, regulations, and guidelines reviewed under subparagraphs (A) and (B) provide sufficient guidance to owners and managers of federally assisted housing to—

(i) develop procedures for preselection inquiries sufficient to determine the capacity of applicants to comply with reasonable lease terms and conditions of occupancy;

(ii) utilize leases that prohibit behavior which endangers the health or safety of other tenants or violates the rights of other tenants to peaceful enjoyment of the premises;

(iii) assess the need to provide, and appropriate measures for providing, reasonable accommodations required under the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 for persons with various types of disabilities; and

(iv) comply with civil rights laws and regulations; and

(D) propose criteria for occupancy in federally assisted housing, standards for the reasonable performance and behavior of tenants of federally assisted housing, compliance standards consistent with the reasonable accommodation of the requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, standards for compliance with other civil rights laws, and procedures for the eviction of tenants not complying with such standards consistent with sections 6 and 8 of the United States Housing Act of 1937; and

(E) report to the Congress and the Secretary of Housing and Urban Development pursuant to paragraph (7).

(5) PROCEDURE.—In carrying out its duties, the task force shall hold public hearings and receive written comments for a period of not less than 60 days.

(6) SUPPORT.—The Secretary of Housing and Urban Development shall cooperate fully with the task force and shall provide support staff and office space to assist the task force in carrying out its duties.

(7) REPORTS.—Not later than 3 months after the date of enactment of this Act, the task force shall submit to the Secretary and the Congress a preliminary report describing its initial actions. Not later than 6 months after the date of enactment of this Act, the task force shall submit a report to the Secretary and the Congress, which shall include—

(A) a description of its findings; and

(B) recommendations to revise such standards, regulations, and guidelines to provide accurate and complete guidance to owners and managers of federally assisted housing as determined necessary under paragraph (4).

(b) RULEMAKING.—

(1) AUTHORITY.—The Secretary shall, by regulation, establish criteria for selection of tenants for occupancy in federally assisted housing and lease provisions for such housing.

(2) STANDARDS.—The criteria shall provide sufficient guidance to owners and managers of federally assisted housing to enable them to (A) select tenants capable of complying with reasonable lease terms, (B) utilize leases prohibiting behavior which endangers the health or safety of others or violates the right of other tenants to peaceful enjoyment of the premises, (C) comply with legal requirements to make reasonable accommodations for persons with disabilities, and (D) comply with civil rights laws. The criteria shall be consistent with the requirements under subsections (k) and (l) of section 6 and section 8(d)(1) of the United States Housing Act of 1937 and any similar contract and lease requirements for federally assisted housing. In establishing the criteria, the Secretary shall take into consideration the report of the task force under subsection (a)(7).

(3) PROCEDURE.—Not later than 90 days after the submission of the final report under subsection (a)(7), the Secretary shall issue a notice of proposed rulemaking of the regulations under this subsection providing for notice and opportunity for public comment regarding the regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall not be less than 60 days. The Secretary shall issue final

regulations under this subsection not later than the expiration of the 60-day period beginning upon the conclusion of the comment period, which shall take effect upon issuance.

SEC. 644. ASSISTED APPLICATIONS.

(a) AUTHORITY.—The Secretary shall provide that any individual or family applying for occupancy in federally assisted housing may include in the application for the housing the name, address, phone number, and other relevant information of a family member, friend, or social, health, advocacy, or other organization, and that the owner shall treat such information as confidential.

(b) MAINTENANCE OF INFORMATION.—The Secretary shall require the owner of any federally assisted housing receiving an application including such information to maintain such information for any applicants who become tenants of the housing, for the purposes of facilitating contact by the owner with such person or organization to assist in providing any services or special care for the tenant and assist in resolving any relevant tenancy issues arising during the tenancy of such tenant.

(c) LIMITATIONS.—An owner of federally assisted housing may not require any individual or family applying for occupancy in the housing to provide the information described in subsection (a).

Subtitle D—Authority to Provide Preferences for Elderly Residents and Units for Disabled Residents in Certain Section 8 Assisted Housing

SEC. 651. AUTHORITY.

Notwithstanding any other provision of law, an owner of a covered section 8 housing project (as such term is defined in section 659) designed primarily for occupancy by elderly families may, in selecting tenants for units in the project that become available for occupancy, give preference to elderly families who have applied for occupancy in the housing, subject to the requirements of this subtitle.

SEC. 652. RESERVATION OF UNITS FOR DISABLED FAMILIES.

(a) REQUIREMENT.—Notwithstanding any other provision of law, for any project for which an owner gives preference in occupancy to elderly families pursuant to section 651, such owner shall (subject to sections 653, 654, and 655) reserve units in the project for occupancy only by disabled families who are not elderly or near-elderly families (and who have applied for occupancy in the housing) in the number determined under subsection (b).

(b) NUMBER OF UNITS.—Each owner required to reserve units in a project for occupancy under subsection (a) shall reserve a number of units in the project that is not less than the lesser of—

(1) the number of units equivalent to the higher of—

(A) the percentage of units in the project that were occupied by such disabled families upon the date of the enactment of this Act; or

(B) the percentage of units in the project that were occupied by such families upon January 1, 1992; or

(2) 10 percent of the number of units in the project.

SEC. 653. SECONDARY PREFERENCES.

(a) INSUFFICIENT ELDERLY FAMILIES.—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families who have applied for occupancy in the housing to fill all the units in the project not reserved under section 652, the owner may give preference for occupancy of such units to disabled families who are near-elderly families and have applied for occupancy in the housing.

(b) INSUFFICIENT NON-ELDERLY DISABLED FAMILIES.—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of disabled families who are not elderly or near-elderly families and have applied for occupancy in the housing to fill all the units in the project reserved under section 652, the owner may give preference for occupancy of units so reserved to disabled families who are near-elderly families and have applied for occupancy in the housing.

SEC. 654. GENERAL AVAILABILITY OF UNITS.

If an owner of a covered section 8 housing project in which disabled families who are near-elderly families are given a preference for occupancy pursuant to subsection (a) or (b) of section 653 determines (in accordance with regulations established by the Secretary) that there are an insufficient number of such families to fill all the units in the project for which the preference is applicable, the owner shall make such units generally available for occupancy by families who have applied, and are eligible, for occupancy in the housing, without regard to the preferences established pursuant to this subtitle.

SEC. 655. PREFERENCE WITHIN GROUPS.

Among disabled families qualifying for occupancy in units reserved under section 652, and among elderly families and near-elderly families qualifying for preference for occupancy pursuant to section 651 or 653, preference for occupancy in units that are assisted under section 8 of the United States Housing Act of 1937 shall be given to disabled families according to the preferences for occupancy referred to in section 8(d)(1)(A)(i) of the United States Housing Act of 1937 and the first sentence of 8(o)(3)(B) of such Act, to elderly families according to such preferences, and to near-elderly families according to such preferences, respectively.

SEC. 656. PROHIBITION OF EVICTIONS.

Any tenant who, except for reservation of a percentage of the units of a project pursuant to section 652 or any preference for occupancy established pursuant to this subtitle, is lawfully residing in a dwelling unit in a covered section 8 housing project, may not be evicted or otherwise required to vacate such unit because of the reservation or preferences or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

SEC. 657. TREATMENT OF COVERED SECTION 8 HOUSING NOT SUBJECT TO ELDERLY PREFERENCE.

If an owner of any covered section 8 housing project designed primarily for occupancy by elderly families does not give preference in occupancy to elderly families as authorized in this subtitle, then elderly families (as such term was defined in section 3 of the United States Housing Act of 1937 before the date of the enactment of this Act) shall be eligible for occupancy in such housing to the same extent that such families were eligible before the date of the enactment of this Act.

SEC. 658. TREATMENT OF OTHER FEDERALLY ASSISTED HOUSING.

(a) RESTRICTED OCCUPANCY.—An owner of any federally assisted project (or portion of a project) as described in subparagraphs (D), (E), and (F) of section 683(2) that was designed for occupancy by elderly families may continue to restrict occupancy in such project (or portion) to elderly families in accordance with the rules, standards, and agreements governing occupancy in such housing in effect at the time of the development of the housing.

(b) PROHIBITION OF EVICTIONS.—Any tenant who is lawfully residing in a dwelling unit in a housing project described in subsection (a) may not be evicted or otherwise required to vacate such unit because of any reservation or preferences under this subtitle or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

SEC. 659. COVERED SECTION 8 HOUSING.

For purposes of this subtitle, the term "covered section 8 housing" means housing described in section 683(2)(G) that was originally designed for occupancy by elderly families.

SEC. 660. SECTION 8 PREFERENCE.

Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following new paragraph:

"(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.".

SEC. 661. STUDY.

The Secretary of Housing and Urban Development shall conduct a study to determine the extent to which Federal housing programs serve elderly families, disabled families, and families with children, in relation to the need of such families who are eligible for assistance under such programs. The Secretary shall submit a report to the Congress describing the study and the findings of the study not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

Subtitle E—Service Coordinators for Elderly and Disabled Residents of Federally Assisted Housing

SEC. 661. REQUIREMENT TO PROVIDE SERVICE COORDINATORS.

(a) IN GENERAL.—To the extent that amounts are made available to carry out this subtitle pursuant to the amendments made by this subtitle, the Secretary shall require owners of covered federally assisted housing projects (as such term is defined in subsection (d)) receiving such amounts to provide for employing or otherwise retaining the services of one or more individuals to coordinate the provision of supportive services for elderly and disabled families residing in the projects (in this section referred to as a "service coordinator"). No such elderly or disabled family may be required to accept services.

(b) RESPONSIBILITIES.—Each service coordinator of a covered federally assisted housing project provided pursuant to this subtitle or the amendments made by this subtitle—

(1) shall consult with the owner of the housing, tenants, any tenant organizations, any resident management organizations, service providers, and any other appropriate persons, to identify the particular needs and characteristics of elderly and disabled families who reside in the project and any supportive services related to such needs and characteristics;

(2) shall manage and coordinate the provision of such services for residents of the project;

(3) may provide training to tenants of the project in the obligations of tenancy or coordinate such training;

(4) shall meet the minimum qualifications and standards required under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act; and

(5) may carry out other appropriate activities for residents of the project.

(c) INCLUDED SERVICES.—Supportive services referred to under subsection (b)(1) may include health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emer-

gency response, and other appropriate services. The services may be provided through any agency of the Federal Government or any other public or private department, agency, or organization.

(d) COVERED FEDERALLY ASSISTED HOUSING.—For purposes of this subtitle, the term "covered federally assisted housing" means housing that is federally assisted housing (as such term is defined in section 683(2), except that such term does not include housing described in subparagraphs (C) and (D) of such section.

SEC. 662. REQUIRED TRAINING OF SERVICE COORDINATORS.

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended by inserting after the period at the end of the first sentence beginning after subparagraph (E) the following new sentence: "Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues.".

SEC. 663. COSTS OF PROVIDING SERVICE COORDINATORS IN PUBLIC HOUSING.

Section 9(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(1)(B)) is amended—

(1) in the first sentence, by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) in the second sentence—

(A) by striking "subparagraph" and inserting "clause";

(B) by inserting "or section 802 of the Cranston-Gonzalez National Affordable Housing Act" after "Congregate Housing Services Act of 1978"; and

(C) by inserting a period after "section 811 of the Cranston-Gonzalez National Affordable Housing Act";

(3) by inserting "(i)" after the subparagraph designation; and

(4) by adding at the end the following new clause:

"(ii) Annual contributions under this section to any public housing agency for any project may be used, with respect to such project, for (I) the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any supportive services within the project for residents of the project who are elderly families and disabled families, and (II) expenses for the provision of such services for such residents of the project. Not more than 15 percent of the cost of the provision of such services may be provided under this section. Services may not be provided under this clause for any person receiving assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act. The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $30,000,000 on or after October 1, 1992, and by $30,000,000 on or after October 1, 1993. Amounts made available under this clause shall be used to provide additional annual contributions to public housing agencies only for the purpose of providing service coordinators and services under this clause for public housing projects.".

SEC. 664. COSTS OF PROVIDING SERVICE COORDINATORS IN PROJECT-BASED SECTION 8 HOUSING.

Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

"(F)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

"(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.".

SEC. 665. COSTS OF PROVIDING SERVICE COORDINATORS FOR FAMILIES RECEIVING FEDERAL TENANT-BASED ASSISTANCE.

Section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Fees under this subsection may be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of supportive services for elderly families and disabled families on whose behalf tenant-based assistance is provided under this section or section 811(b)(1). Such service coordinators shall have the same responsibilities with respect to such families as service coordinators of covered federally assisted housing projects have under section 661 of such Act with respect to residents of such projects.

"(B) To the extent amounts are provided in appropriation Acts under subparagraph (C), the Secretary shall increase fees under this subsection to provide for the costs of such service coordinators for public housing agencies.

"(C) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $5,000,000 on or after October 1, 1992, and by $5,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for increased fees under this subsection, which shall be used only for the purpose of providing service coordinators for public housing agencies described in subparagraph (A).".

SEC. 666. GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS IN MULTIFAMILY HOUSING ASSISTED UNDER NATIONAL HOUSING ACT.

(a) AUTHORITY.—The Secretary may make grants under this section to owners of federally assisted housing projects described in subparagraphs (E) and (F) of section 683(2). Any grant amounts shall be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families (as such terms are defined in section 683 of this Act).

(b) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for grants under this section.

(d) ELIGIBLE PROJECT EXPENSE.—For any federally assisted housing project described in subparagraph (E) or (F) of section 683(2) that does not receive a grant under this section, the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 and not more than 15 percent of the cost of providing services to the residents of the project shall be considered an eligible project expense, but only to the extent that amounts are available from project rent and other income for such costs.

SEC. 667. EXPANDED RESPONSIBILITIES OF SERVICE COORDINATORS IN SECTION 202 HOUSING.

(a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(A) in paragraph (2), by striking the last sentence; and

(B) by adding at the end the following new paragraph:

"(3) SERVICE COORDINATORS.—Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.".

(b) OLD SECTION 202 PROJECTS.—

(1) AVAILABILITY OF SECTION 8 ASSISTANCE.—Subject to the availability of appropriations for contract amendments for the purpose of this paragraph, in determining the amount of assistance under section 8 of the United States Housing Act of 1937 to be provided for a project assisted under section 202 of the Housing Act of 1959, as in effect before the effectiveness of the amendments made by section 801 of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall consider (and annually adjust for) the costs of—

(A) employing or otherwise retaining the services of one or more service coordinators under section 661 of this Act to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families; and

(B) expenses for the provision of such services. Not more than 15 percent of the cost of the provision of services under subparagraph (B) may be considered under this paragraph for purposes of determining the amount of assistance provided.

(2) INAPPLICABILITY OF HUD REFORM ACT PROVISIONS.—Notwithstanding section 102 of the Department of Housing and Urban Development Reform Act of 1989, the provisions of paragraphs (1), (2), and (3) of subsection (a) of such section shall not apply to amendments to contracts under section 8 of the United States Housing Act of 1937 made to carry out the purposes of paragraph (1) of this subsection.

(3) LIMITATION.—If a project is receiving congregate housing services assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided pursuant to paragraph (1) for the project may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802 or eligible project residents under the Congregate Housing Services Act of 1978, as applicable.

Subtitle F—General Provisions

SEC. 681. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) in paragraph (1) by inserting "persons with disabilities," after "the elderly,"; and

(2) by adding after paragraph (16), as added by the preceding provisions of this Act, the following new paragraph:

"(17) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.".

SEC. 682. CONFORMING AMENDMENTS.

(a) PUBLIC HOUSING.—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle."; and

(b) PROJECT-BASED SECTION 8 HOUSING.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), as amended by section 664 of this Act, is further amended by adding at the end the following new paragraphs:

"(G) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with the subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

"(H) Notwithstanding subsection (d)(1)(A)(i), an owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.".

(c) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (i)(1), by inserting after the first sentence the following new sentence: "Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle."; and

(2) in subsection (j), by adding after paragraph (6) (as added by section 601(d) of this Act) the following new paragraph:

"(7) COMPLIANCE WITH HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.".

SEC. 683. DEFINITIONS.

For purposes of this title:

(1) ELDERLY, DISABLED, AND NEAR-ELDERLY FAMILIES.—The terms "elderly family", "disabled family", and "near-elderly family" have the meanings given the terms under section 3(b)(3) of the United States Housing Act of 1937.

(2) FEDERALLY ASSISTED HOUSING.—The terms "federally assisted housing" and "project" mean—

(A) a public housing project (as such term is defined in section 3(b) of the United States Housing Act of 1937);

(B) housing for which project-based assistance is provided under section 8 of the United States Housing Act of 1937;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act;

(E) housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(F) housing insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and

(G) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983, that is assisted under a contract for assistance under such section.

(3) HOUSING ASSISTANCE.—The term "housing assistance" means, with respect to federally assisted housing, the grant, contribution, capital advance, loan, mortgage insurance, or other assistance provided for the housing under the provisions of law referred to in paragraph (2). The term also includes any related assistance provided for the housing by the Secretary, including any rental assistance for low-income occupants.

(4) OWNER.—The term "owner" means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 685. APPLICABILITY.

Except as otherwise provided in subtitles B through F of this title and the amendments made by such subtitles, such subtitles and the amendments made by such subtitles shall apply upon the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 686. REGULATIONS.

The Secretary shall issue regulations necessary to carry out subtitles B through F of this title and the amendments made by such subtitles not later than the expiration of the 6-month period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE VII—RURAL HOUSING

SEC. 701. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a) IN GENERAL.—(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1993 and 1994, in aggregate amounts not to exceed $2,446,855,600 and $2,549,623,535 respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of low-income borrowers receiving assistance under section 521(a)(1), $1,676,484,000 for fiscal year 1993 and $1,746,896,328 for fiscal year 1994.

"(B) For guaranteed loans under section 502(h) on behalf of low and moderate income borrowers, such sums as may be appropriated for fiscal years 1993 and 1994.

"(C) For loans under section 504, $12,400,000 for fiscal year 1993 and $12,920,800 for fiscal year 1994.

"(D) For insured loans under section 514, $16,821,600 for fiscal year 1993 and $17,528,107 for fiscal year 1994.

"(E) For insured loans under section 515, $739,500,000 for fiscal year 1993 and $770,559,000 for fiscal year 1994.

"(F) For loans under section 523(b)(1)(B), $800,000 for fiscal year 1993 and $833,600 for fiscal year 1994.

"(G) For site loans under section 524, $850,000 for fiscal year 1993 and $885,700 for fiscal year 1994.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), $1,100,000 for fiscal year 1993 and $1,146,200 for fiscal year 1994.

"(2) For grants under section 504, $21,100,000 for fiscal year 1993 and $21,986,200 for fiscal year 1994.

"(3) For purposes of section 509(c), $600,000 for fiscal year 1993 and $625,200 for fiscal year 1994.

"(4) For project preparation grants under section 509(f)(6), $5,300,000 in fiscal year 1993 and $5,522,600 in fiscal year 1994.

"(5) In fiscal years 1993 and 1994, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(6) For grants for service coordinators under section 515(y), $1,000,000 in fiscal year 1993 and $1,042,000 in fiscal year 1994.

"(7) For financial assistance under section 516—

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $21,700,000 for fiscal year 1993 and $22,611,400 for fiscal year 1994; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,500,000 for fiscal year 1993 and $10,941,000 for fiscal year 1994.

"(8) For grants under section 523(f), $13,900,000 for fiscal year 1993 and $14,483,800 for fiscal year 1994.

"(9) For grants under section 533, $30,800,000 for fiscal year 1993 and $32,093,600 for fiscal year 1994.".

(c) Rental Assistance Payment Contracts.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c) Rental Assistance.—(1) The Secretary, to the extent approved in appropriations Act for fiscal years 1993 and 1994, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $414,100,000 for fiscal year 1993 and $431,492,200 for fiscal year 1994.".

(d) Supplemental Rental Assistance Payment Contracts.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) Supplemental Rental Assistance Contracts.—The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $12,178,000 for fiscal year 1993 and $12,689,476 for fiscal year 1994.".

(e) Rental Housing Loan Authority.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

(f) Rural Housing Voucher Program.—Section 513(e) of the Housing Act of 1949 (42 U.S.C. 1483(e)) is amended to read as follows:

"(e) Authorization of Appropriations.—There are authorized to be appropriated for rural housing vouchers under section 542, $130,000,000 for fiscal year 1993 and $140,000,000 for fiscal year 1994.".

(g) Deferred Mortgage Demonstration.—Section 502(g)(3) of the Housing Act of 1949 (42 U.S.C. 1472(g)(3)) is amended by striking "1991 and 1992" and inserting "1993 and 1994".

SEC. 702. ELIGIBILITY OF HOMES ON LEASED LAND OWNED BY COMMUNITY LAND TRUSTS FOR SECTION 502 LOANS.

(a) Eligibility.—Section 502(a) of the Housing Act of 1949 (42 U.S.C. 1472(a)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this title, a loan may be made under this section for the purchase of a dwelling located on land owned by a community land trust, if the borrower and the loan otherwise meet the requirements applicable to loans under this section.

"(B) For purposes of this paragraph, the term 'community land trust' means a community housing development organization as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (except that the requirements under section 104(6)(C) and section 104(6)(D) shall not apply for purposes of this paragraph)—

"(i) that is not sponsored by a for-profit organization;

"(ii) that is established to carry out the activities under clause (iii);

"(iii) that—

"(I) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(II) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(III) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity; and

"(iv) that has its corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization.".

(b) Recapture.—Section 521(a)(1)(D) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following new clause:

"(ii) In determining the amount recaptured under this subparagraph with respect to any loan made pursuant to section 502(a)(3) for the purchase of a dwelling located on land owned by a community land trust, the Secretary shall determine any appreciation of the dwelling based on any agreement between the borrower and the community land trust that limits the sale price or appreciation of the dwelling.".

SEC. 703. MAXIMUM INCOME OF BORROWERS UNDER GUARANTEED LOANS.

Section 502(h)(2) of the Housing Act of 1949 (42 U.S.C. 1472(h)(2)) is amended by inserting "115 percent of" after "exceed".

SEC. 704. REMOTE RURAL AREAS.

Section 502(f) of the Housing Act of 1949 (42 U.S.C. 1472(f)) is amended—

(1) in paragraph (1), by inserting "or on tribal allotted or Indian trust land" after "area"; and

(2) in paragraph (2), by inserting "or on tribal allotted or Indian trust land" before the period.

SEC. 705. DESIGNATION OF UNDERSERVED AREAS AND RESERVATION OF ASSISTANCE.

(a) Reauthorization of Designation.—Section 509(f) of the Housing Act of 1949 (42 U.S.C. 1479(f)) is amended—

(1) in paragraph (1), by striking "in each of fiscal years 1991 and 1992" and inserting "in each fiscal year";

(2) in paragraph (2), by inserting at the end the following new flush sentence:

"In designating underserved areas under paragraph (1), in each fiscal year the Secretary shall designate not less than 5 counties or communities that contain tribal allotted or Indian trust land."; and

(3) in paragraph (4), by striking "an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992" and inserting "an amount equal to 5.0 percent in fiscal years 1993 and 1994".

(b) Definition of Colonias.—Section 509(f)(8) of the Housing Act of 1949 (42 U.S.C. 1479(f)(8)) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

"(D) was in existence as a colonia before the date of the enactment of the Cranston- Gonzalez National Affordable Housing Act.".

(c) Colonias Refinements.—Section 509(f)(4)(B)(ii) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(B)(ii)) is amended by inserting before "a colonia", the following ", or in close proximity to, and serving the residents of,".

SEC. 706. RURAL HOUSING VOUCHER PROGRAM.

Title V of the Housing Act of 1949 (42 U.S.C. 501 et seq.) is amended—

(1) in the last sentence of section 533(a) (42 U.S.C. 1490m(a)), by inserting after "1937" the following: "or section 542 of this title"; and

(2) by adding at the end the following new section:

"SEC. 542. RURAL HOUSING VOUCHER PROGRAM.

"(a) In General.—To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a rural housing voucher program to assist very low-income families and persons to reside in rental housing in rural areas. For such purposes, the Secretary may provide assistance using a payment standard based on the fair market rental rate established by the Secretary for the area. The monthly assistance payment for any family shall be the amount by which the payment standard for the area exceeds 30 per centum of the family's monthly adjusted income, except that such monthly assistance payment shall not exceed the amount which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 per centum of the family's monthly gross income.

"(b) Coordination and Limitation.—In carrying out the rural housing voucher program under this section, the Secretary shall—

"(1) coordinate activities under this section with activities assisted under sections 515 and 533 of this title; and

"(2) enter into contracts for assistance for not more than 5000 units in any fiscal year.".

SEC. 707. RENTAL HOUSING LOANS.

(a) Development Costs.—Section 515(e)(4) of the Housing Act of 1949 (42 U.S.C. 1485(e)(4)) is amended—

(1) by striking "and" before "initial";

(2) by inserting before the first period the following: ", impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments"; and

(3) by inserting after the period at the end the following new sentence: "Notwithstanding the first sentence of this paragraph, the term 'development cost' shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986.".

(b) Coordination of Loans and Rental Assistance Payments.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(1) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

"(1) in the case of any applicant who applies for rental assistance payments under section 521 in connection with such project, the Secretary shall consider the availability of such rental assistance payments with respect to the project and shall require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and"; and

(2) in subsection (p)—

(A) in paragraph (4), by striking ", except" in the first sentence and all that follows through the end of the paragraph and inserting a period; and

(3) by inserting at the end the following new paragraph:

"(5) The Secretary shall coordinate the processing of any application for a loan under this section for a project and the processing of any application for assistance under section 521(a)(2) with respect to housing units in the same project in an economical and efficient manner. At the time the Secretary enters into a commitment to make or insure a loan under this section the Secretary shall obligate amounts for assistance payments under section 521(a)(2) for the project, to the extent that such amounts are available and the Secretary determines such assistance is necessary for the market feasibility of the project.".

(c) Equity Contribution.—Section 515(r)(2) of the Housing Act of 1949 (42 U.S.C. 1485(r)(2)) is amended by inserting before the period at the end the following: ", except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986".

(d) Uniform Project Costs and Coordination of Housing Resources and Tax Benefits.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(x) Uniform Project Costs; Coordination of Housing Resources and Tax Benefits.—The Secretary shall—

"(1) establish standard guidelines for State offices that describe allowable development costs which are required for development of all projects under this section, without regard to whether the project was allocated a low-income housing tax credit;

"(2) require each State to establish a process for coordinating the selection of projects under this section with the housing needs and priorities as established in a State comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act and a low-income housing tax credit allocation plan under section 42 of the Internal Revenue Code of 1986; and

"(3) develop, in consultation with housing credit agencies (as that term is defined under section 42 of the Internal Revenue Code of 1986), uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors, as appropriate, with the relevant housing credit agency for projects that are allocated a low-income housing tax credit pursuant to section 42(h) of the Internal Revenue Code of 1986 for the purpose of achieving compliance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)).".

(e) Grants for Costs of Providing Service Coordinators.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by this section, is further amended by adding at the end the following new subsection:

"(y) Service Coordinators.—

"(1) Grants.—The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a 'service coordinator'), who shall be responsible for—

"(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(C) mobilizing public and private resources to obtain funding for such services for such residents;

"(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(2) Qualifications.—Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(3) Application and selection.—The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

"(4) Definition of frail elderly.—For purposes of this subsection, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.".

(f) Prohibitions Regarding Considerations in Making Loans.—

(1) In general.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by this section, is further amended by adding at the end the following new subsection:

"(z) Prohibitions.—

"(1) Remote rural areas.—The Secretary may not refuse to make a loan that otherwise complies with the requirements under this section solely because the housing and related facilities involved are located in an area that is excessively rural in character or excessively remote.

"(2) Essential services.—In making loans under this section, the Secretary may not provide any preference for any project based on the availability of any particular essential service. For purposes of this paragraph, an essential service shall include post offices (and postal services), grocery stores, pharmacies, schools, and health service facilities (and health services).

"(3) Geographic location.—In making loans under this section, the Secretary may not grant or deny approval based on the geographic location of the proposed project if the project is located in a rural area, as such term is defined in section 520, except that the Secretary shall give preference to any application for a project that will serve the needs of a rural community located 20 or more miles from an urban area.".

(2) Regulations.—The Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by paragraph (1) not later than the expiration of the 45-day period beginning on the date of the enactment of this Act. Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary shall submit a copy of any regulations to be issued under this subsection to the Congress. The requirements of section 534(d) of the Housing Act of 1949 and subsections (b) and (c) of section 553 of title 5, United States Code, shall apply to any such regulations.

(g) Independent Cost Certifications.—Section 517(j)(3) of the Housing Act of 1949 (42 U.S.C. 1487(j)(3)) is amended by inserting after "industry," the following: "independent audits of project expenses,".

SEC. 708. NONPROFIT SET-ASIDE.

(a) In General.—Section 515(w) of the Housing Act of 1949 (42 U.S.C. 1485(w)) is amended—

(1) in paragraph (1), by striking "not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992" and inserting "not less than 9 percent of the amounts available in fiscal years 1993 and 1994";

(2) in paragraph (1), in the second sentence by striking "or under whole or partial control with a for-profit entity";

(3) in paragraph (1), by adding at the end the following new sentence: "A partnership, that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. For the purposes of this subsection, a nonprofit entity is an organization that—

"(A) will own an interest in a project to be financed under this section and will materially participate in the development and the operation of the project;

"(B) is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

"(C) has among its purposes the planning, development, or management of low-income housing or community development projects; and

"(D) is not affiliated with or controlled by a for-profit organization.";

(4) in paragraph (2), by adding at the end the following: "The Secretary may provide amounts available for reallocation under this subsection in excess of $750,000 in a given State, if such amounts are necessary to finance a project under this section."; and

(5) by striking paragraph (3) and inserting the following:

"(3) Unused amounts.—

"(A) Equitable distribution.—Any amounts set aside under this subsection from the allocation for any State that are not obligated by 9 months after the allocation, shall first be pooled and made available to any other eligible nonprofit entity in any State as defined in this subsection. The Secretary shall make reasonable efforts to ensure that pooled funds are distributed under this subparagraph in an equitable manner.

"(B) Return to the States.—After funds have been pooled and obligated for 30 days, the Secretary shall return any remaining funds to the States on a proportional basis for use by any other eligible entity as defined in this section.".

(b) Effective Date.—The amendment made by subsection (a)(5) shall take effect on October 1, 1993, and shall apply to fiscal year 1994 and each fiscal year thereafter.

SEC. 709. CONSIDERATION OF CERTAIN AREAS AS RURAL AREAS.

Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the city of Plainview, Texas, shall be considered a rural area for purposes of this title.".

SEC. 710. PERMANENT AUTHORITY FOR SECTION 523.

Section 523 of the Housing Act of 1949 (42 U.S.C. 1490c) is amended—

(1) in subsection (b)(1)(A), by inserting after "efforts" the following: ", including the repair of units financed under section 502 that are being held in inventory"; and

(2) by striking subsection (f).

SEC. 711. HOUSING PRESERVATION GRANTS FOR REPLACEMENT OF HOUSING.

Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended—

(1) in subsection (a)—

(A) by inserting "or replace" after "rehabilitate" each place it appears; and

(B) in the second sentence, by inserting "or replaced" after "rehabilitated";

(2) in subsection (b)—

(A) by striking "Rehabilitation programs" and inserting "Preservation programs";

(B) in paragraph (3), by inserting "or replacement" after "rehabilitation" each place it appears;

(C) in paragraph (4), by striking "repair and rehabilitation" and inserting "repair, rehabilitation, and replacement";

(D) by redesignating paragraphs (2) through (6) (as amended by this paragraph) as paragraphs (3) through (7), respectively; and

(E) by inserting after paragraph (1) the following new paragraph:

"(2) be used to provide loans or grants, not to exceed $15,000 per unit, to owners of single family housing to replace existing housing if repair or rehabilitation of the housing is determined by the Secretary not to be practicable and the owner of the housing is unable to afford a loan under section 502 for replacement housing;";

(3) in the first sentence of subsection (c)(1), by striking "rehabilitation grant funds" and inserting "grant funds under this section"; and

(4) in subsection (d)—

(A) in paragraph (1), by striking "rehabilitation program" and inserting "preservation program";

(B) in paragraphs (3)(A), (3)(B), and (3)(D), by striking "repair and rehabilitation" each place it appears and inserting "repair, rehabilitation, and replacement";

(C) in paragraph (4), by inserting ", or replacement," after "repair and rehabilitation"; and

(D) by adding at the end the following new paragraph:

"(5) A grantee may use housing preservation grant funds under this section for replacement housing only after providing documentation to the Secretary that—

"(A) the existing housing is in such poor condition that rehabilitation is not economically feasible;

"(B) the owner of the housing lacks the income or repayment ability necessary to qualify for a loan under section 502; and

"(C) the grantee will extend assistance to the owner of the housing under terms that the owner can afford.".

SEC. 712. PRESERVATION.

(a) APPLICABILITY.—Section 502(c) of the Housing Act of 1949 (42 U.S.C. 1472(c)) is amended—

(1) in subparagraph (2), by striking "before December 21, 1979," and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989";

(2) in subparagraph (4)(A), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989";

(3) in subparagraph (5)(F), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989"; and

(4) in subparagraph (5)(G), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989".

(b) INCENTIVES.—Section 502(c)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)) is amended by adding the following new clause:

"(vi) In the case of a project that has received rental assistance under section 8 of the United States Housing Act of 1937, permitting the owner to receive rent in excess of the amount determined necessary by the Secretary to defray the cost of long-term repair or maintenance of such a project.".

(c) OFFICE OF RURAL HOUSING PRESERVATION.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by inserting after section 536 the following:

"SEC. 537. OFFICE OF RURAL HOUSING PRESERVATION.

"(a) ESTABLISHMENT.—There is established within the Farmers Home Administration an Office of Rental Housing Preservation (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director designated by the Secretary of Agriculture.

"(b) PURPOSES.—The purposes of the Office are:

"(1) to review and process applications under section 502(c) and section 515(t) related to the preservation of rural rental housing;

"(2) to provide technical or financial assistance to any other projects needing such assistance;

"(3) to coordinate and direct all other activities related to the preservation of rural housing; and

"(4) to monitor compliance of projects prepaid or receiving incentives under the Housing Act of 1949.".

SEC. 713. DISASTER ASSISTANCE.

Section 541(a)(1) of the Housing Act of 1949 (42 U.S.C. 1490q(a)(1)) is amended in the first sentence by striking "amounts available under this title" and inserting "amounts made available to the Secretary by an appropriations Act for such purpose".

SEC. 714. PROHIBITION ON TRANSFER OF RURAL HOUSING PROGRAMS.

Section 501 of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following new subsection:

"(j) PROGRAM TRANSFERS.—Notwithstanding any other provision of law, the Secretary shall not transfer any program authorized by this title to the Rural Development Administration.".

SEC. 715. SITE ACQUISITION AND DEVELOPMENT.

Section 524(a) of the Housing Act of 1949 (42 U.S.C. 1490d(a)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Secretary" in the first sentence; and

(2) by adding at the end the following:

"(2) REVOLVING FUNDS.—The Secretary may make grants to nonprofit housing agencies to establish revolving loan funds for the acquisition and preparation of building sites for low-income housing. Any proceeds and repayments from such loans shall be returned to the revolving loan fund to be used for purposes related to this section. Loan funds and interest payments shall be used solely for the acquisition of land; the preparation of land for building sites; the payment of reimbursable legal and technical costs; and technical assistance and administrative costs, not to exceed 10 percent of the fund.".

SEC. 716. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

(a) EXTENSION OF AUTHORITY.—Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490o(b)) is amended by striking the last sentence and inserting the following new sentence: "This subsection shall not apply after June 15, 1993.".

(b) RETROACTIVITY.—Any administrative approval of any housing subdivision made after the expiration of the 18-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

(c) APPROVAL BY LOCAL, COUNTY, OR STATE AGENCIES.—Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended by adding at the end the following new subsection:

"(d) For loans made under this title, the Secretary may accept subdivisions that have been approved by local, county, or State agencies.".

TITLE VIII—COMMUNITY DEVELOPMENT

Subtitle A—Community Development Block Grants

SEC. 801. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second and third sentences and inserting the following: "For purposes of assistance under section 106, there are authorized to be appropriated $4,000,000,000 for fiscal year 1993 and $4,168,000,000 for fiscal year 1994.

(b) LIMITATION ON LOAN GUARANTEES.—The fifth sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $2,000,000,000 for fiscal year 1993 and $2,000,000,000 for fiscal year 1994.".

(c) SPECIAL PURPOSE GRANTS.—

(1) SET-ASIDE.—Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended by striking "SEC. 107. (a)" and all that follows through the end of subsection (a) and inserting the following:

"SEC. 107. (a) SET-ASIDE.—

"(1) IN GENERAL.—For each fiscal year (except as otherwise provided in this paragraph), of the total amount provided in appropriation Acts under section 103 for the fiscal year, $60,000,000 shall be set aside for grants under subsection (b) for such year for the following purposes:

"(A) $7,000,000 shall be available for grants under subsection (b)(1);

"(B) $6,500,000 shall be available for grants under subsection (b)(3);

"(C) $6,000,000 shall be available for grants under subsection (b)(5);

"(D) $6,000,000 shall be available in fiscal year 1993 for grants under subsection (b)(7);

"(E) $3,000,000 shall be available for grants under subsection (c);

"(F) such sums as may be necessary shall be available for grants under paragraphs (2), (4), and (6) of subsection (b);

"(G) $2,000,000 shall be available in fiscal year 1993 for a grant to the City of Bridgeport, Connecticut, subject to the approval of sufficient amounts in an appropriation Act and to binding commitments made by the City of Bridgeport and the State of Connecticut that the city and State, respectively, will supplement such amount with $2,000,000 of additional funds;

"(H) $15,000,000 shall be available for grants under the Removal of Regulatory Barriers to Affordable Housing Act of 1992; and

"(I) $7,500,000 shall be available to carry out the Community Outreach Partnership Act of 1992.

"(2) TREATMENT OF GRANTS.—Any grants made under this section shall be in addition to any other grants that may be made under this title to the same entities for the same purposes.".

(2) OTHER PURPOSES.—Section 107(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(b)) is amended—

(A) in paragraph (3), by striking "and" at the end;

(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(5) to States and units of general local government and institutions of higher education having a demonstrated capacity to carry out eligible activities under this title, except that the Secretary may make a grant under this paragraph only to a State or unit of general local government that jointly, with an institution of higher education, has prepared and submitted to the Secretary an application for such grant, as the Secretary shall by regulation require;

"(6) to units of general local government in nonentitlement areas for planning community adjustments and economic diversification activities, which may include any eligible activities under section 105, required—

"(A) by the proposed or actual establishment, realignment, or closure of a military installation,

"(B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

"(C) by a publicly announced planned major reduction in Department of Defense spending that would directly and adversely affect a unit of general local government and will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a 5-year period in the unit of general local government and the surrounding area, or

if the Secretary (in consultation with the Secretary of Defense) determines that an action de-

scribed in subparagraph (A), (B), or (C) is likely to have a direct and significant adverse consequence on the unit of general local government; and

"(7) for the purposes of rebuilding and revitalizing distressed areas of the Los Angeles metropolitan area.".

(3) REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue proposed regulations to carry out section 107(b)(6) of the Housing and Community Development Act of 1974, as added by subsection (c)(2) of this section. The Secretary shall issue final regulations to carry out section 107(b)(6) not later than the expiration of the 120-day period beginning on the date of the enactment of this Act and after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). Such final regulations shall take effect 30 days after issuance.

(4) CONFORMING AMENDMENT.—Section 107(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(c)) is amended by striking "to the extent" and all that follows up to "grants to institutions" and inserting "make".

(d) GRANT ACTIVITIES.—The special purpose grant of the City of Dubuque, Iowa, under Public Law 102-139 may be used for land acquisition, new construction, relocation assistance payments, and rehabilitation for housing of low- and moderate-income families.

SEC. 802. UNITS OF GENERAL LOCAL GOVERNMENT.

(a) DEFINITION.—Section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)) is amended by striking "recognized by the Secretary" and inserting the following: "that, except as provided in section 106(d)(4), is recognized by the Secretary".

(b) GRANTS TO NONENTITLEMENT AREAS.—Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) Any combination of units of general local governments may not be required to obtain recognition by the Secretary pursuant to section 102(a)(1) to be treated as a single unit of general local government for purposes of this subsection.".

SEC. 803. URBAN COUNTIES.

Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v)(I) has a population of 175,000 or more (including the population of metropolitan cities therein), (II) before January 1, 1975, was designated by the Secretary of Defense pursuant to section 608 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1763), as a Trident Defense Impact Area, and (III) has located therein not less than 1 unit of general local government that was classified as a metropolitan city and (a) for which county each such unit of general local government therein has relinquished its classification as a metropolitan city under the 6th sentence of paragraph (4), or (b) that has entered into cooperative agreements with each metropolitan city therein to undertake or to assist in the undertaking of essential community development and housing assistance activities.".

SEC. 804. RETENTION OF PROGRAM INCOME.

The first sentence of section 104(j) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(j)) is amended—

(1) by striking "while the unit of general local government is participating in a community development program under this title"; and

(2) by inserting before the period at the end the following: "; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government".

SEC. 805. ECONOMIC DEVELOPMENT.

(b) Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following new subsection:

"(d) TRAINING PROGRAM.—The Secretary shall implement, using funds recaptured pursuant to section 119(o), an on-going education and training program for officers and employees of the Department, especially officers and employees of area and other field offices of the Department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (a) for the purpose of ensuring that (A) such personnel possess a thorough understanding of such activities; and (B) regulations and guidelines are implemented in a consistent fashion.".

SEC. 806. EVALUATION, SELECTION, AND REVIEW OF ECONOMIC DEVELOPMENT PROJECTS.

(a) GUIDELINES.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by section 805, is amended by adding at the end the following new subsection:

"(e) GUIDELINES FOR EVALUATING AND SELECTING ECONOMIC DEVELOPMENT PROJECTS.—

"(1) ESTABLISHMENT.—The Secretary shall establish, by regulation, guidelines to assist grant recipients under this title to evaluate and select activities described in section 105(a)(14), (15), and (17) for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this title for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines' objectives as stated in paragraph (2).

"(2) PROJECT COSTS AND FINANCIAL REQUIREMENTS.—The guidelines established under this subsection shall include the following objectives:

"(A) The project costs of such activities are reasonable.

"(B) To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to disbursement of Federal funds.

"(C) To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.

"(D) Such activities are financially feasible.

"(E) To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.

"(F) To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

"(3) PUBLIC BENEFIT.—The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this title.".

(b) ASSISTANCE TO FOR-PROFIT ENTITIES.—Section 105 of Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by subsection (a), is amended by inserting at the end the following new subsection:

"(f) ASSISTANCE TO FOR-PROFIT ENTITIES.—In any case in which an activity described in paragraph (17) of subsection (a) is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.".

(c) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the use of grant amounts under title I of the Housing and Community Development Act of 1974 for activities described in paragraphs (14), (15), and (17) of section 105(a) of such Act. The study shall evaluate whether the activities for which such amounts are being used under such paragraphs further the goals and objectives of such program, as established in section 101 of such Act. The Comptroller General shall submit a report to the Congress regarding the findings of the study not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. The report shall include recommendations of—

(1) any administrative or legislative actions that may be taken to ensure that such grant amounts are properly and efficiently used for economic development activities; and

(2) criteria by which to evaluate the effectiveness of activities assisted under paragraphs (14), (15), and (17) of such section 105(a).

(d) ENHANCING JOB QUALITY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the types and quality of jobs created or retained through assistance provided pursuant to title I of the Housing and Community Development Act of 1974 and the extent to which projects and activities assisted under that title enhance the upward mobility and future earning capacity of low- and moderate-income persons who are benefited by such projects and activities.

(e) REBUILDING DISTRESSED NEIGHBORHOODS.—Section 105(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(c)) is amended by adding at the end the following new paragraph:

"(4) For the purposes of subsection (c)(1)(C)—

"(A) if an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

"(B) if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low or moderate income.".

SEC. 807. ELIGIBLE ACTIVITIES.

(a) ADDITIONAL ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (8), by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) in each of fiscal years 1993 through 1997 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph";

(2) in paragraph (19), by striking "and" at the end;

(3) by redesignating paragraph (20) as paragraph (25); and

(4) by inserting after paragraph (19) the following new paragraphs:

"(20) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

"(21) housing services, such as housing counseling, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities authorized under this section, or under title II of the Cranston-Gonzalez National Affordable Housing Act, except that activities under this paragraph shall be subject to any limitation on administrative expenses imposed by any law;

"(22) provision of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

"(23) provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

"(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

"(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and

"(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

"(24) activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low and moderate income neighborhoods; and".

(b) DIRECT HOMEOWNERSHIP ASSISTANCE.—Section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5305 note) is amended—

(1) by striking "October 1, 1992" and inserting "October 1, 1994";

(2) by striking "October 1, 1993" and inserting "October 1, 1995"; and

(3) by striking "(18)", "(19)", and "(20)" and inserting "(23)", "(24)", and "(25)", respectively.

(c) MICROENTERPRISE AND SMALL BUSINESS DEVELOPMENT INITIATIVE.—

(1) IN GENERAL.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by section 806, is further amended by adding at the end the following new subsection:

"(g) MICROENTERPRISE AND SMALL BUSINESS PROGRAM REQUIREMENTS.—In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (a) to a microenterprise or small business, the Secretary shall—

"(1) take into account the special needs and limitations arising from the size of the entity; and

"(2) not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to section 105(a)(12) or an administrative cost pursuant to section 105(a)(13).".

(2) DEFINITIONS.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraphs:

"(22) The term 'microenterprise' means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.

"(23) The term 'small business' means a business that meets the criteria set forth in section 3(a) of the Small Business Act.".

(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each grantee under title I of the Housing and Community Development Act of 1974 should reserve 1 percent of any grant amounts the grantee receives in each fiscal year for the purpose of providing assistance under section 105(a)(23) of such Act to facilitate economic development through commercial microenterprises.

(4) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the effectiveness of assistance provided through title I of the Housing and Community Development Act of 1974 in promoting development of microenterprises, including a review of any statutory or regulatory provision that impedes the development of microenterprises.

(d) LOANS OF CDBG FUNDS.—Section 105(a)(14) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(14)) is amended by inserting before "activities" the following: "provision of assistance including loans (both interim and long-term) and grants for".

(e) CDBG CODE ENFORCEMENT.—Section 105(a)(3) of the Housing and Community Development Act of 1974 is amended by striking "improvements and" and inserting "or private improvements or".

(f) NEIGHBORHOOD-BASED NONPROFIT ORGANIZATIONS.—Section 105(a)(15) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(15)) is amended by inserting after "corporations," the following: "nonprofit organizations serving the development needs of the communities in nonentitlement areas,".

SEC. 808. REFERENCE TO FAIR HOUSING ACT.

Sections 104(b)(2), 106(d)(5)(B), and 107(e)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(2), 5306(d)(5)(B), and 5307(e)(1)) are each amended by striking "Public Law 88–352 and Public Law 90–284" and inserting "the Civil Rights Act of 1964 and the Fair Housing Act".

SEC. 809. ELIGIBILITY OF ENTERPRISE ZONES.

Section 105(a)(13) of the Housing and Community Development Act of 1974 is amended by inserting immediately after "(13)" the following: "payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and".

SEC. 810. ASSISTANCE FOR COLONIAS.

(a) ELIGIBLE ACTIVITIES.—Section 916 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(3) OTHER IMPROVEMENTS.—Other activities eligible under section 105 of the Housing and Community Development Act of 1974 designed to meet the needs of residents of colonias."; and

(2) in subsection (f), by striking "and 1993" and inserting "1993, and 1994".

(b) DEFINITION OF COLONIA.—Section 916(e)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 811. STATE SET-ASIDE FOR TECHNICAL ASSISTANCE.

Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (4), as added by section 802, the following:

"(5) From the amounts received under paragraph (1) for distribution in nonentitlement areas, the State may deduct an amount, not to exceed 1 percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients.".

SEC. 812. COMMUNITY DEVELOPMENT PLANS AND REPORTS.

(a) IN GENERAL.—Subsection (l) of section 104 of the Housing and Community Development Act of 1974, as added by section 922 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5304(l)), is amended to read as follows:

"(m) COMMUNITY DEVELOPMENT PLANS.—

"(1) IN GENERAL.—Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its priority nonhousing community development needs eligible for assistance under this title.

"(2) LOCAL GOVERNMENTS.—In the case of a recipient that is a unit of general local government—

"(A) prior to the submission required by paragraph (1), the recipient shall, to the extent practicable, notify adjacent units of general local government and solicit the views of citizens on priority nonhousing community development needs; and

"(B) the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

"(3) STATES.—In the case of a recipient that is a State, the description required by paragraph (1)—

"(A) shall include only the needs within the State that affect more than one unit of general local government and involve activities typically funded by such States under this title; and

"(B) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

"(4) EFFECT OF SUBMISSION.—A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.".

(b) CONFORMING AMENDMENTS.—Section 104(b)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(4)) is amended—

(1) by inserting "pursuant to subsection (m)" before the first comma; and

(2) by striking "and housing".

SEC. 813. DELAY USE OF 1990 CENSUS HOUSING DATA TO EXAMINE EFFECT ON TARGETING FOR CDBG FORMULA.

Notwithstanding any other provision of law, for fiscal year 1993, no data derived from the 1990 Decennial Census, except those relating to population and poverty, shall be taken into account for purposes of the allocation of amounts under section 106 of the Housing and Community Development Act of 1974.

Subtitle B—Other Community Development Programs

SEC. 831. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 608(a)(1) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows: "There are authorized to be appropriated to the corporation to carry out this title $29,476,000 for fiscal year 1993 and $30,713,992 for fiscal year 1994.".

(b) Expanded Programs.—The matter preceding subparagraph (A) of section 608(a)(2) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)(2)) is amended by striking "each of the fiscal years 1991 and 1992" and inserting "any fiscal year".

SEC. 832. NEIGHBORHOOD DEVELOPMENT PROGRAM.

(a) Authorization.—Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

"(g) Authorization.—Of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $1,000,000 for fiscal year 1993 (in addition to other amounts provided for such fiscal year) and $3,000,000 for fiscal year 1994 shall be available to carry out this section.".

(b) Permanent Program.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking the section heading and inserting the following new heading:

"JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM";

(2) by striking "demonstration program" each place it appears and inserting "program";

(3) in subsection (b)(1), by striking "determine the feasibility of supporting" and inserting "support";

(4) in subsection (e)(3), by inserting after "year" the following: ", except that, if appropriations for this section exceed $3,000,000, the Secretary may pay not more than $75,000 to any participating neighborhood development organization";

(5) in subsection (e)(6)—

(A) in subparagraph (C), by inserting "and" after the semicolon at the end;

(B) by striking subparagraph (D);

(C) by redesignating subparagraph (E) as subparagraph (D); and

(D) in subparagraph (D), as so redesignated, by striking "demonstration" and inserting "program";

(6) by striking subsection (f) and inserting the following new subsection:

"(f) The Secretary shall submit a report to the Congress, not later than 3 months after the end of each fiscal year in which payments are made under this section, regarding the program under this section. The report shall contain a summary of the activities carried out under this section during such fiscal year and any findings, conclusions, and recommendations for legislation regarding the program."; and

(7) by adding at the end the following new subsection:

"(h) Short Title.—This section may be cited as the 'John Heinz Neighborhood Development Act'.".

(c) Compliance With CHAS and Community Development Plans.—Section 123(e)(5)(A) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended by striking "housing and community development plans of such unit" and inserting "comprehensive housing affordability strategy of such unit approved under section 105 of the Cranston-Gonzalez National Affordable Housing Act or the statement of community development activities and community development plans of the unit submitted under section 104(m) of the Housing and Community Development Act of 1974".

(d) Eligible Neighborhood Development Organization.—Section 123(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subparagraph (A), by inserting "(i)" after "(A)";

(2) in subparagraph (E), by striking the period at the end and inserting "; or";

(3) by redesignating subparagraphs (B) through (E) as clauses (ii) through (v), respectively; and

(4) by adding at the end the following new subparagraph:

"(B) any facility that provides small entrepreneurial business with affordable shared support services and business development services and meets the requirements of subparagraph (A).".

(e) Definitions.—Section 123(a) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking subparagraph (2)(A)(iv) (as so redesignated by subsection (d) of this section) and inserting the following new clause:

"(iv) an organization that operates within an area that—

"(I) meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974;

"(II) is designated as an enterprise zone under Federal law;

"(III) is designated as an enterprise zone under State law and recognized by the Secretary for purposes of this section as a State enterprise zone; or

"(IV) is a qualified distressed community within the meaning of section 233(b)(1) of the Bank Enterprise Act of 1991; and";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting before paragraph (4) (as so redesignated) the following new paragraph:

"(3) The term 'neighborhood development funding organization' means—

"(A) a depository institution the accounts of which are insured pursuant to the Federal Deposit Insurance Act or the Federal Credit Union Act, and any subsidiary (as such term is defined in section 3(w) of the Federal Deposit Insurance Act) thereof;

"(B) a depository institution holding company and any subsidiary thereof (as such term is defined in section 3(w) of the Federal Deposit Insurance Act); or

"(C) a company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies.".

(f) Coordination With Community Development Funding Organizations.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subsection (b)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhoods";

(2) in subsection (b)(3)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting the following: ", especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—

"(i) is located in an area described in subsection (a)(2)(A)(iv) that does not contain a neighborhood development funding organization; or

"(ii) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the cooperation of any neighborhood development funding organization in such area despite having made a good faith effort to obtain such cooperation; and"; and

(C) by adding at the end the following new subparagraph:

"(D) specify a strategy for increasing the capacity of the organization.";

(3) in subsection (c)(3), by inserting before the semicolon the following: "and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—

"(A) is located in an neighborhood that does not contain a branch or office of a neighborhood development funding organization; or

"(B) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the participation of any neighborhood development funding organization that has a branch or office in the neighborhood despite having made a good faith effort to obtain such participation"; and

(4) in subsection (e)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhood".

(g) Administrative Changes.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) in subsection (a)(2)(A)(iii), as so redesignated by subsection (d) of this section, by striking "three years" and inserting "one year"; and

(2) in subsection (b)(2), by striking "Not more than 30 per centum" and inserting "For fiscal year 1993 and thereafter, not more than 50 percent".

SEC. 833. STUDY REGARDING HOUSING TECHNOLOGY RESEARCH.

(a) Study.—The Secretary of Housing and Urban Development, through the Assistant Secretary for Policy Development and Research, shall conduct a study of—

(1) the extent of Federal, other public, and private basic research in the United States in housing technology, including design and construction techniques and methodology, smart building technology, area and neighborhood planning, and other areas relating to the preservation and production of affordable housing and livable communities;

(2) the extent of competitiveness of the United States in the field of basic housing technology research in comparison with other countries that are substantially involved in trade with the United States, taking into consideration the balance of trade, the degree of government support of private research activities, and the degree of fragmentation of research; and

(3) the types of research projects regarding basic housing technology conducted by such other countries, the results of such research, and the extent of success in applying and marketing such results.

(b) Report.—The Secretary of Housing and Urban Development shall submit a report to the Congress describing the results of the study conducted under this section not later than September 30, 1993.

SEC. 834. DESIGNATION OF ENTERPRISE ZONES.

(a) In General.—Section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501) is amended—

(1) in subsection (a)(4)(B), by striking "the effective date of the regulations described in subparagraph (A) occurs" and inserting "the date of the enactment of the Housing and Community Development Act of 1992 occurs"; and

(2) in subsection (c)(3)(B), by striking "this Act" and inserting "the Housing and Community Development Act of 1992".

(b) Report.—Section 702 of the Housing and Community Development Act of 1987 (42 U.S.C. 11502) is amended by inserting "pursuant to the amendments made by section 834 of the Housing and Community Development Act of 1992" before the first comma.

Subtitle C—Miscellaneous Programs

SEC. 851. COMMUNITY OUTREACH ACT.

(a) SHORT TITLE.—This section may be cited as the "Community Outreach Partnership Act of 1992".

(b) PURPOSE.—The Secretary shall carry out, in accordance with this section, a 5-year demonstration program to determine the feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach, and the exchange of information.

(c) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out research and outreach activities addressing the problems of urban areas.

(2) USE OF GRANTS.—Grants under this Act shall be used to establish and operate Community Outreach Partnership Centers (hereafter in this section referred to as "Centers") which shall—

(A) conduct competent and qualified research and investigations on theoretical or practical problems in large and small cities; and

(B) facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems.

(3) SPECIFIC PROBLEMS.—Research and outreach activities assisted under this Act shall focus on problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary.

(d) APPLICATION.—Any public or private nonprofit institution of higher education may submit an application for a grant under this section in such form and containing such information as the Secretary may require by regulation.

(e) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(A) The demonstrated research and outreach resources available to the applicant for carrying out the purposes of this section.

(B) The capability of the applicant to provide leadership in solving community problems and in making national contributions to solving long-term and immediate urban problems.

(C) The demonstrated commitment of the applicant to supporting urban research and outreach programs by providing matching contributions for any Federal assistance received.

(D) The demonstrated ability of the applicant to disseminate results of research and successful strategies developed through outreach activities to other Centers and communities served through the demonstration program.

(E) The projects and activities that the applicant proposes to carry out under the grant.

(F) The effectiveness of the applicant's strategy to provide outreach activities to communities.

(G) The extent of need in the communities to be served by the Centers.

(H) Other criteria deemed appropriate by the Secretary.

(2) PREFERENCE.—The Secretary shall give preference to institutions of higher education that undertake research and outreach activities by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban problems.

(f) FEDERAL SHARES.—The Federal share of a grant under this section shall not be more than—

(1) 50 percent of the cost of establishing and operating a Center's research activities; and

(2) 75 percent of the cost of establishing and operating a Center's outreach activities.

(g) NON-FEDERAL SHARES.—The non-Federal share of a grant may include cash, or the value of non-cash contributions, equipment, or other in-kind contributions deemed appropriate by the Secretary.

(h) RESPONSIBILITIES.—A Center established under this section shall—

(1) employ the research and outreach resources of its sponsoring institution of higher education to solve specific urban problems identified by communities served by the Center;

(2) establish outreach activities in areas identified in the grant application as the communities to be served;

(3) establish a community advisory committee comprised of representatives of local institutions and residents of the communities to be served to assist in identifying local needs and advise on the development and implementation of strategies to address those issues;

(4) coordinate outreach activities in communities to be served by the Center;

(5) facilitate public service projects in the communities served by the Center;

(6) act as a clearinghouse for the dissemination of information;

(7) develop instructional programs, convene conferences, and provide training for local community leaders, when appropriate; and

(8) exchange information with other Centers.

(i) NATIONAL ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary shall establish a national advisory council (hereafter in this section referred to as the "council") to—

(A) disseminate the results of research and outreach activities carried out under this section;

(B) act as a clearinghouse between grant recipients and other institutions of higher education; and

(C) review and evaluate programs carried out by grant recipients.

(2) MEMBERS.—The council shall be composed of 12 members to be appointed by the Secretary as follows—

(A) 3 representatives of State and local governments;

(B) 3 representatives of institutions of higher education that receive grants under this section;

(C) 3 individuals or representatives of organizations that possess significant expertise in urban issues; and

(D) 3 representatives from community advisory committees created pursuant to this section.

(3) VACANCIES.—A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

(4) COMPENSATION.—Members of the council shall serve without pay.

(5) CHAIRMAN.—The council shall elect a member to serve as chairperson of the council.

(6) MEETINGS.—The council shall meet at least biannually and at such other times as the chairman may designate.

(j) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse to disseminate information resulting from the research and successful outreach activities developed through the Centers to grant recipients and other interested institutions of higher education.

(k) AUTHORIZATIONS.—The sums set aside by section 107 of the Housing and Community Development Act of 1974 for the purpose of this section shall be available—

(1) to enable Centers to carry out research and outreach activities;

(2) to establish and operate the national clearinghouse to be established under subsection (j).

(l) REPORTING.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) CONTENTS.—The report under paragraph (1) shall contain a summary of the activities carried out under this section during the preceding fiscal year, and findings and conclusions drawn from such activities.

SEC. 852. COMPUTERIZED DATABASE OF COMMUNITY DEVELOPMENT NEEDS.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—Not later than the expiration of the 1-year period beginning on the date appropriations for the purposes of this section are made available, the Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish and implement a demonstration program to determine the feasibility of assisting States and units of general local government to develop methods, utilizing contemporary computer technology, to—

(1) monitor, inventory, and maintain current listings of the community development needs of the States and units of general local government; and

(2) coordinate strategies within States (especially among various units of general local government) for meeting such needs.

(b) INTEGRATED DATABASE SYSTEM AND COMPUTER MAPPING TOOL.—

(1) DEVELOPMENT AND PURPOSES.—In carrying out the program under this section, the Secretary shall provide for the development of an integrated database system and computer mapping tool designed to efficiently (A) collect, store, process, and retrieve information relating to priority nonhousing community development needs within States, and (B) coordinate strategies for meeting such needs. The integrated database system and computer mapping tool shall be designed in a manner to coordinate and facilitate the preparation of community development plans under section 104(m)(1) of the Housing and Community Development Act of 1974 and to process any information necessary for such plans.

(2) AVAILABILITY TO STATES.—The Secretary shall make the integrated database system and computer mapping tool developed pursuant to this subsection available to States without charge.

(3) COORDINATION WITH EXISTING TECHNOLOGY.—The Secretary shall, to the extent practicable, utilize existing technologies and coordinate such activities with existing data systems to prevent duplication.

(c) TECHNICAL ASSISTANCE.—Under the program under this section, the Secretary shall provide consultation and advice to States and units of general local government regarding the capabilities and advantages of the integrated database system and computer mapping tool developed pursuant to subsection (b) and assistance in installing and using the database system and mapping tool.

(d) GRANTS.—

(1) AUTHORITY AND PURPOSE.—The Secretary shall, to the extent amounts are made available under appropriation Acts pursuant to subsection (g), make grants to States for capital costs relating to installation and use of the integrated database system and computer mapping tool developed pursuant to subsection (b).

(2) LIMITATIONS.—The Secretary may not make more than one grant under this subsection to any single State. The Secretary may not make a grant under this subsection to any single State in an amount exceeding $1,000,000.

(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection. The Secretary shall establish criteria for the selection of States which have submitted applica-

tions to receive grants under this section and shall select recipients according to such criteria, which shall give priority to States having, on a long-term basis (as determined by the Secretary), levels of unemployment above the national average level.

(e) State Coordination of Local Needs.—Each State that receives a grant under subsection (d) shall annually submit to the Secretary a report containing a summary of the priority nonhousing community development needs within the State.

(f) Reports by Secretary.—The Secretary shall annually submit to the Committees on Banking, Finance and Urban Affairs of the House of Representatives and Banking, Housing, and Urban Affairs of the Senate, a report containing a summary of the information submitted for the year by States pursuant to subsection (e), which shall describe the priority nonhousing community development needs within such States.

(g) Authorization of Appropriations.—There are authorized to be appropriated for each of the fiscal years 1993 and 1994, $10,000,000 to carry out the program established under this section.

SEC. 853. COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.

(a) Short Title.—This section may be cited as the "Community Investment Corporation Demonstration Act".

(b) Community Investment Corporation Demonstration.—

(1) Findings.—The Congress finds that—

(A) the Nation's urban and rural communities face critical social and economic problems arising from lack of growth; growing numbers of low-income persons and persons living in poverty; lack of employment and other opportunities to improve the quality of life of these residents; and lack of capital for business located in, or seeking to locate in these communities;

(B) the future well-being of the United States and its residents depends on the restoration and maintenance of viable local economies, and will require increased public and private investment in low-income housing, business development, and economic and community development activities, and technical assistance to local organizations carrying out revitalization strategies;

(C) lack of expertise and technical capacity can significantly limit the ability of residents and local institutions to effectively carry out revitalization strategies;

(D) the Federal Government needs to develop new models for facilitating local revitalization activities;

(E) indigenous community-based financial institutions play a significant role in identifying and responding to community needs; and

(F) institutions, such as South Shore Bank (Chicago, Illinois), Southern Development Bancorporation (Arkadelphia, Arkansas), Center for Community Self Help (Durham, North Carolina), and Community Capital Bank (Brooklyn, New York), with a primary mission of promoting community development have proven their ability to promote revitalization and are appropriate models for restoring economic stability and growth in distressed communities and neighborhoods.

(2) Purposes.—The demonstration program carried out under this section shall—

(A) improve access to capital for initiatives which benefit residents and businesses in targeted geographic areas; and

(B) test new models for bringing credit and investment capital to targeted geographic areas and low-income persons in such areas through the provision of assistance for capital, development services, and technical assistance.

(3) Definitions.—As used in this section—

(A) the term "Federal financial supervisory agency" means—

(i) the Comptroller of the Currency with respect to national banks;

(ii) the Board of Governors of the Federal Reserve System with respect to State-chartered banks which are members of the Federal Reserve System and bank holding companies;

(iii) the Federal Deposit Insurance Corporation with respect to State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation;

(iv) the National Credit Union Administration Board with respect to insured credit union associations; and

(v) the Office of Thrift Supervision with respect to insured savings associations and savings and loan holding companies that are not bank holding companies;

(B) the term "community investment corporation" means an eligible organization selected by the Secretary to receive assistance pursuant to this section;

(C) the term "development services" means activities that are consistent with the purposes of this section and which support and strengthen the lending and investment activities undertaken by eligible organizations including—

(i) the development of real estate;

(ii) administrative activities associated with the extension of credit or necessary to make an investment;

(iii) marketing and management assistance;

(iv) business planning and counseling services; and

(v) other capacity building activities which enable borrowers, prospective borrowers, or entities in which eligible organizations have invested, or expect to invest, to improve the likelihood of success of their activities;

(D) the term "eligible organization" means an entity—

(i) that is organized as—

(I) a depository institution holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); or

(II) a nonprofit organization—

(aa) that is organized under State law;

(bb) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or other person;

(cc) complies with standards of financial accountability acceptable to the Secretary; and

(dd) is affiliated with a nondepository lending institution; or is affiliated with a regulated financial institution but is not a subsidiary thereof;

(ii) that has as its primary mission the revitalization of a targeted geographic area;

(iii) that maintains, through significant representation on its governing board and otherwise, accountability to community residents;

(iv) that has principals active in the implementation of its programs who possess significant experience in lending and the development of affordable housing, small business development, or community revitalization;

(v) that directly or through a subsidiary or affiliate carries out development services; and

(vi) that will match any assistance received dollar-for-dollar with non-Federal sources of funds;

(E) the term "equity investment" means a capital contribution through the purchase of nonvoting common stock or through equity grants or contributions to capital reserves or surplus, subject to terms and conditions satisfactory to the Secretary;

(F) the term "low-income person" means a person in a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(G) the term "regulated financial institution" means an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), or an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

(H) the term "Secretary" means the Secretary of Housing and Urban Development;

(I) the term "targeted geographic area" means a geographically contiguous area of chronic economic distress, as measured by unemployment, growth lag, poverty, lag in growth of per capita income, extent of blight and disinvestment, fiscal distress, or other indicators deemed appropriate by the Secretary, that has been identified by an eligible organization as the area to be served by it; and

(J) an entity is an "affiliate" of another entity if the first entity controls, is controlled by, or is under common control with the other entity.

(4) Selection criteria.—The Secretary shall select eligible organizations from among applications submitted to participate in the demonstration program, using selection criteria based on—

(A) the capacity of the eligible organizations to carry out the purposes of this section;

(B) the range and comprehensiveness of lending, investment strategies, and development services to be offered by the organizations directly or through subsidiaries and affiliates thereof;

(C) the types of activities to be pursued, including lending and development of small business, agriculture, industrial, commercial, or residential projects;

(D) the extent of need in the targeted geographic area to be served;

(E) the experience and background of the principals at each eligible organization responsible for carrying out the purposes of this section;

(F) the extent to which the eligible organizations directly or through subsidiaries and affiliates has successfully implemented other revitalization activities;

(G) an appropriate distribution of eligible organizations among regions of the United States; and

(H) other criteria determined to be appropriate by the Secretary and consistent with the purposes of this section.

(5) Program assistance.—The Secretary shall—

(A) carry out, in accordance with this section, a program to improve access to capital and demonstrate the feasibility of facilitating the revitalization of targeted geographic areas by providing assistance to eligible organizations;

(B) accept applications from eligible organizations; and

(C) select eligible organizations to receive assistance pursuant to this section.

(6) Activities required.—All eligible organizations receiving assistance pursuant to this section are required to engage in activities that provide access to capital for initiatives which benefit residents and businesses in targeted geographic areas.

(7) Capital assistance.—

(A) In general.—

(i) In general.—The Secretary shall make grants and loans to eligible organizations.

(ii) Loans.—Assistance provided to a depository institution holding company that is an eligible organization as defined in paragraph (3)(D)(i)(I) shall be in the form of a loan to be repaid to the Secretary. The terms and conditions of each loan shall be determined by the Secretary based on the ability of such entity to repay, except that interest shall accrue at the current Treasury rate for obligations of comparable maturity.

(iii) Grants or loans.—Assistance provided to an eligible organization that is a nonprofit organization, as defined in paragraph

(3)(D)(i)(II), may be in the form of a grant or a loan. If an eligible organization that is a nonprofit organization uses assistance that it received under this section to provide assistance to a for-profit entity, the assistance provided by the nonprofit organization must be in the form of a loan with interest to be repaid to the nonprofit organization and the nonprofit organization must use the proceeds of the loan for activities consistent with this section.

(B) ELIGIBLE ACTIVITIES.—Capital assistance may only be used to support the following activities that facilitate revitalization of targeted geographic areas or that provide economic opportunities for low-income persons—

(i) increasing the capital available for the purpose of making loans;

(ii) providing funds for equity investments in projects;

(iii) providing a portion of loan loss reserves of regulated financial institutions; and

(iv) providing credit enhancement.

(C) CAPITAL REQUIREMENTS.—Any investment derived from assistance provided by the Secretary and made by an eligible organization to a regulated financial institution shall not be included as an asset in calculating compliance with applicable capital standards. Such standards shall be satisfied from sources other than assistance provided under this section.

(D) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $25,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994 to be used to provide capital assistance to eligible organizations. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(8) DEVELOPMENT SERVICES AND TECHNICAL ASSISTANCE GRANTS.—

(A) IN GENERAL.—The Secretary shall—

(i) provide grants or loans to eligible organizations for the provision of development services that support and contribute to the success of the mission of such organizations; and

(ii) provide, or contract to provide, technical assistance to eligible organizations to assist in establishing program activities that are consistent with the purposes of this section.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph, $15,000,000 for fiscal year 1993 and $15,600,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(9) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish, or contract to establish, an ongoing training program to assist eligible organizations and their staffs in developing the capacity to carry out the purposes of this section.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $2,000,000 for fiscal year 1993 and $2,100,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(10) REPORTS.—The Secretary shall determine the appropriate reporting requirements with which eligible organizations receiving assistance under this section must comply.

(11) ADVISORY BOARD.—

(A) IN GENERAL.—In establishing requirements to carry out the provisions of this section, and in considering applications under this section, the Secretary shall consult with an advisory board comprised of the following members:

(i) the Administrator of the Small Business Administration;

(ii) two representatives from among the Federal financial supervisory agencies who possess expertise in matters related to extending credit to persons in low-income communities;

(iii) two representatives of organizations that possess expertise in development of low-income housing;

(iv) two representatives of organizations that possess expertise in economic development;

(v) two representatives of organizations that possess expertise in small business development;

(vi) two representatives from organizations that possess expertise in the needs of low-income communities; and

(vii) two representatives from community investment corporations receiving assistance under this section.

(B) CHAIRPERSON.—The Board shall elect from among its members a chairperson who shall serve for a term of 2 years.

(C) TERMS.—The members shall serve for terms of 3 years which shall expire on a staggered basis.

(D) REIMBURSEMENT.—The members shall serve without additional compensation but shall be reimbursed for travel, per diem, and other necessary expenses incurred in the performance of their duties as members of the advisory board, in accordance with sections 5702 and 5703 of title 5, United States Code.

(E) DESIGNATED REPRESENTATIVES.—A member who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving in the same agency or organization as the absent member.

(F) QUORUM.—The presence of a majority of members, or their representatives, shall constitute a quorum.

(12) EVALUATION AND REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an annual report containing a summary of the activities carried out under this section during the fiscal year and any preliminary findings or conclusions drawn from the demonstration program.

(13) NO BENEFIT RULE.—To the extent that assistance is provided to an eligible organization that is a depository institution holding company, the Secretary shall ensure, to the extent practicable, that such assistance does not inure to the benefit of directors, officers, employees and stockholders.

(14) REGULATIONS.—(A) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(B) The appropriate Federal financial supervisory agency, by regulation or order—

(i) may restrict any regulated financial institution's receipt of an extension of credit from, or investment by, an eligible organization;

(ii) may restrict the making, by a regulated financial institution or holding company, of an extension of credit to, or investment in, an eligible organization; and

(iii) shall prohibit any transaction that poses an undue risk to the affected deposit insurance fund.

(C) To the extent practicable, the Secretary and the Federal financial supervisory agencies shall coordinate the development of regulations and other program guidelines.

(15) SAFETY AND SOUNDNESS OF INSURED DEPOSITORIES.—Nothing in this section shall limit the applicability of other law relating to the safe and sound operation and management of a regulated financial institution (or a holding company) affiliated with an eligible organization or receiving assistance provided under this section.

(16) EFFECTIVE DATE.—This section shall become effective 6 months from the date of enactment of this Act.

SEC. 854. EMERGENCY ASSISTANCE FOR LOS ANGELES.

(a) IN GENERAL.—Of the funds made available under 107(b) of the Housing and Community Development Act of 1974 for purposes of this section, $3,000,000 shall be made available to each of the following:

(1) A nonprofit community-based public benefit corporation which was created in response to the civil disturbances of April 29, 1992, through May 6, 1992, in Los Angeles, California, with the support of the Speaker of the California State Assembly and community elected officials representing the affected areas.

(2) A nonprofit public benefit corporation established by the Mayor of Los Angeles and the Governor of California.

(b) USE OF FUNDS.—Such funds shall be used to carry out a community revitalization strategy in areas for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for the purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) STRATEGY.—Such strategy shall—

(1) include efforts to create jobs in distressed neighborhoods, spur community-based economic development, improve housing accessibility and affordability, and address other community development needs; and

(2) be developed in consultation with low-income residents and community leaders in the distressed areas.

(d) ELIGIBLE ACTIVITIES.—Funds made available under this subsection may be used for eligible activities pursuant to section 105 of the Housing and Community Development Act of 1974 or to provide seed capital to nonprofit community development corporations to carry out the strategy developed in subsection (c)(2).

(e) MATCH REQUIRED.—Funds provided under this section shall be matched with private or public non-Federal funds in an amount not less than 50 percent of the funds provided under this section.

TITLE IX—REGULATORY AND MISCELLANEOUS PROGRAMS

Subtitle A—Miscellaneous

SEC. 901. HUD RESEARCH AND DEVELOPMENT.

Section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1) is amended by striking the second sentence and all that follows and inserting the following new sentence: "There is authorized to be appropriated to carry out this title $35,000,000 for fiscal year 1993 and $36,470,000 for fiscal year 1994.".

SEC. 902. ADMINISTRATION OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) SPECIAL ASSISTANT FOR INDIAN AND ALASKA NATIVE PROGRAMS.—

(1) RESPONSIBILITIES.—Section 4(e)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) in the first sentence, by striking "responsible" and all that follows through "development" and inserting "located in the Office of the Assistant Secretary for Public and Indian Housing"; and

(C) by adding at the end the following new subparagraphs:

"(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

"(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

"(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

"(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

"(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

"(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

"(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.".

(2) TRANSFER OF FUNCTIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer to the Special Assistant for Indian and Alaska Native Programs any functions and duties described in section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection).

(3) STAFF.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer from offices within the Department of Housing and Urban Development to the office of the Special Assistant for Indian and Alaska Native Programs such staff, having experience and capacity to administer Indian housing and community development programs, as may be necessary and appropriate to assist the Special Assistant in carrying out the responsibilities under section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection).

(b) AVOIDANCE OF FORECLOSURE ON MORTGAGES HELD BY SECRETARY.—Section 7(i) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)) is amended—

(1) in paragraph (5), by inserting before the semicolon the following: "; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary"; and

(2) in paragraph (6), by inserting before the period the following: ", including any provisions relating to the authority or requirements under paragraph (5)".

(c) PROGRAM MONITORING AND EVALUATION.—The first sentence of section 7(r)(6) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)(6)) is amended to read as follows: "There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994.".

SEC. 903. PARTICIPANT'S CONSENT TO RELEASE OF INFORMATION.

(a) IN GENERAL.—Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended by adding at the end the following new subsection:

"(e) CONDITIONS OF RELEASE OF INFORMATION BY THIRD PARTIES.—An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

"(1) the request for consent is made, and the information secured is maintained, in accordance with this section, section 552a of title 5, United States Code; and

"(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.".

(b) FORMS.—

(1) NEW FORM.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall develop a release form that meets the requirements of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by this section. In developing the form, the Secretary shall consult with interested parties, which shall include not less than 2 representatives of public housing agencies, 1 representative of a national tenant organization, 1 representative of a State tenant organization, and 1 representative of a legal group representing tenants.

(2) EFFECT OF OLD FORM.—During the period beginning upon the date of the enactment of this Act and ending upon implementation of the use of the form developed under paragraph (1), the benefits provided to an applicant or participant under any program of the Department of Housing and Urban Development, or eligibility for such benefits, may not be terminated, denied, suspended, or reduced because of any failure to sign any form authorizing the release of information from any third party (including Form HUD–9886), if the applicant or participant otherwise discloses all financial information relating to the application or recertification.

SEC. 904. NATIONAL INSTITUTE OF BUILDING SCIENCES.

(a) TECHNICAL CORRECTION TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—Section 809 of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j–2) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the material inserted by the amendment made by section 952(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4418).

(b) TECHNICAL CORRECTION TO NATIONAL HOUSING ACT.—Section 809 of the National Housing Act is amended by striking subsection (h) (as added by section 952(b) of the Cranston-Gonzalez National Affordable Housing Act).

SEC. 905. FAIR HOUSING INITIATIVES PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) in the past half decade, there have been major legislative and administrative changes in Federal fair housing and fair lending laws and substantial improvements in the Nation's understanding of discrimination in the housing markets;

(2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988, to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under Federal fair housing laws;

(3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act to provide increased information on the mortgage lending patterns of financial institutions;

(4) in the Americans with Disabilities Act of 1990, the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets;

(6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African-American homeseekers experience some form of discrimination in at least half of their encounters with sales and rental agents;

(7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program's initial authorization in the Housing and Community Development Act of 1987;

(8) continuing educational efforts by the real estate industry are a useful way to increase understanding by the public of their fair housing rights and responsibilities; and

(9) the proven efficacy of private nonprofit fair housing enforcement organizations and community-based efforts makes support for these organizations a necessary component of the fair housing enforcement system.

(b) IN GENERAL.—Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended—

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by inserting after subsection (a) the following new subsections:

"(b) PRIVATE ENFORCEMENT INITIATIVES.—

"(1) IN GENERAL.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968, and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

"(2) ACTIVITIES.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

"(A) carry out testing and other investigative activities in accordance with subsection (b)(1), including building the capacity for housing investigative activities in unserved or underserved areas;

"(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial assistance sales and rentals of housing and housing advertising;

"(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968;

"(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

"(E) provide funds for the costs and expenses of litigation, including expert witness fees.

"(c) FUNDING OF FAIR HOUSING ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968, as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

"(2) CAPACITY ENHANCEMENT.—The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

"(d) EDUCATION AND OUTREACH.—

"(1) IN GENERAL.—The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

"(A) public service announcements, both audio and video;

"(B) television, radio and print advertisements;

"(C) posters; and

"(D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and outreach program. The Secretary shall also encourage the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.

"(2) REGIONAL AND LOCAL PROGRAMS.—The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

"(3) COMMUNITY-BASED PROGRAMS.—The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.";

(3) in subsection (g), as redesignated by paragraph (1) by striking all in the first sentence after "section," and inserting the following: "$21,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994, of which—

"(1) not less than $3,820,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b), divided equally between activities specified under subsection (b)(1) and those specified under subsection (b)(2);

"(2) not less than $2,230,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1);

"(3) not less than $2,010,000 for fiscal year 1993 and $4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2); and

"(4) not less than $2,540,000 for fiscal year 1993 and $5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d), to be divided equally between activities specified under subsection (d)(1) and those specified under subsections (d)(2) and (d)(3)."; and

(4) by striking subsection (h), as redesignated by paragraph (1), and inserting the following:

"(h) QUALIFIED FAIR HOUSING ENFORCEMENT ORGANIZATION.—(1) The term 'qualified fair housing enforcement organization' means any organization that—

"(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

"(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

"(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

"(2) The term 'fair housing enforcement organization' means any organization that—

"(A) meets the requirements specified in paragraph (1)(A);

"(B) is currently engaged in the activities specified in paragraph (1)(B);

"(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

"(D) for purposes of funding under subsection (b), has at least 1 year of experience in the activities specified in paragraph (1)(B).

"(i) PROHIBITION ON USE OF FUNDS.—None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

"(j) REPORTING REQUIREMENTS.—Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

"(1) a description of the progress made in accomplishing the objectives of this section;

"(2) a summary of all the private enforcement activities carried out under this section and the use of such funds during the preceding fiscal year;

"(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

"(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

"(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities.".

SEC. 906. NATIONAL COMMISSION ON MANUFACTURED HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 943(f) of the Cranston-Gonzalez National Affordable Housing Act is amended to read as follows:

"(f) AUTHORIZATION.—Of the amount appropriated pursuant to section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1), there shall be set aside to carry out this section $1,000,000 for fiscal year 1993. Any amounts provided pursuant to this section shall remain available until expended.".

(b) FUNCTIONS OF THE COMMISSION.—Section 943(d)(1) of the Cranston-Gonzalez National Affordable Housing Act is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) by adding after subparagraph (G) the following new subparagraphs:

"(H) evaluate the extent to which manufacturers in compliance with Federal standards do and should comply with State implied or expressed warranty requirements;

"(I) examine the feasibility of expanding and establishing standards governing manufactured home sales including transportation and on-site set up; and"; and

(3) by redesignating subparagraph (H) as subparagraph (J).

(c) EXTENSION OF TERMINATION DATE.—Section 943(g) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "upon the expiration of the 9 months following the appointment of all the members under subsection (c)" and inserting "on October 1, 1993".

(d) STAFF.—Section 943(e) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 44134) is amended by adding at the end the following new paragraph:

"(7) STAFF.—

"(A) EXECUTIVE DIRECTOR.—The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which may not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(B) PERSONNEL.—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as the Commission deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(C) LIMITATION.—This paragraph shall be effective only to the extent amounts are made available in appropriation Acts.".

SEC. 907. MANUFACTURED HOUSING.

Section 604 of the Housing and Community Development Act of 1974 (42 U.S.C. 5403) is amended by adding at the end the following new subsection:

"(j) The Secretary shall develop a new standard for hardboard panel siding on manufactured housing taking into account durability, longevity, consumer's costs for maintenance and any other relevant information pursuant to sub-

section (f). The Secretary shall consult with the National Manufactured Home Advisory Council and the National Commission on Manufactured Housing in establishing the new standard. The new performance standard developed shall ensure the durability of hardboard sidings for at least a normal life of a mortgage with minimum maintenance required. Not later than 180 days from the date of enactment of this subsection, the Secretary shall update the standards for hardboard siding.".

SEC. 908. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.

(a) APPLICABILITY TO MORTGAGE ORIGINATION.—Section 3(3) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(3)) is amended by inserting after "broker," the following: "the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans),".

(b) APPLICABILITY TO SECOND MORTGAGES AND REFINANCINGS.—Section 3(1)(A) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(1)(A)) is amended—

(1) by inserting "or subordinate" after "first"; and

(2) by inserting before the semicolon the following: ", including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations to implement the amendments made by this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and shall not apply retroactively.

SEC. 909. COMMUNITY REINVESTMENT ACT OF 1977.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended—

(1) in section 804—

(A) by inserting before the first sentence the following: "(a) IN GENERAL.—"; and

(B) by adding at the end the following new subsection:

"(b) MAJORITY-OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency may consider as a factor capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions provided that these activities help meet the credit needs of local communities in which such institutions and credit unions are chartered."; and

(2) in section 808(a), by striking "shall be treated as" and inserting "may be a factor in determining whether the depository institution is".

SEC. 910. REPORT ON COMMUNITY DEVELOPMENT LENDING.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Board of Governors of the Federal Reserve System, in consultation with the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the Chairman of the National Credit Union Administration, shall submit a report to the Congress comparing residential, small business, and commercial lending by insured depository institutions in low-income, minority, and distressed neighborhoods to such lending in other neighborhoods.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) compare the risks and returns of lending in low-income, minority, and distressed neighborhoods with the risks and returns of lending in other neighborhoods;

(2) analyze the reasons for any differences in risk and return between low-income, minority, and distressed neighborhoods and other neighborhoods; and

(3) if the risks of lending in low-income, minority, and distressed neighborhoods exceed the risks of lending in other neighborhoods, recommend ways of mitigating those risks.

SEC. 911. SUBSIDY LAYERING REVIEW.

(a) IN GENERAL.—The Secretary shall establish guidelines for housing credit agencies, as defined under section 42 of the Internal Revenue Code of 1986, to implement the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) for projects receiving assistance within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986.

(b) IN PARTICULAR.—The guidelines established pursuant to subsection (a) shall—

(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the housing credit agency.

(c) EFFECTIVE DATE.—As of January 1, 1993, a housing credit agency shall carry out the responsibilities of section 102(d) of the Housing and Urban Development Reform Act for projects allocated a low income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 if such agency certifies to the Secretary that it is properly implementing the guidelines established under subsection (a). The Secretary may revoke the responsibility delegated in the preceding sentence if the Secretary determines that a housing credit agency has failed to properly implement such guidelines.

(d) APPLICABILITY.—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Housing and Urban Development Reform Act.

SEC. 912. SOLAR ASSISTANCE FINANCING ENTITY.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish within the Department of Housing and Urban Development the Solar Assistance Financing Entity (in this section referred to as the "Entity").

(b) PURPOSE.—The purpose of the Entity shall be to assist in financing solar and renewable energy capital investments and projects for eligible buildings under subsection (c).

(c) ELIGIBLE BUILDINGS.—The Entity may provide assistance under this section only for the following buildings:

(1) SINGLE FAMILY HOUSING.—Any building consisting of 1 to 4 dwelling units that has a system for heating or cooling, or both.

(2) MULTIFAMILY HOUSING.—Any building consisting of more than 4 dwelling units that has a system for heating or cooling, or both.

(3) COMMERCIAL BUILDINGS.—Any building used primarily to carry on a business (including any nonprofit business) that is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities.

(4) SCHOOLS, HOSPITALS, AND AGRICULTURAL BUILDINGS.—Any school, any hospital, and any building used exclusively in connection with the harvesting, storage, or drying of agricultural commodities.

(5) OTHER BUILDINGS.—Any other building of a type that the Entity considers appropriate.

(d) FINANCING OPTIONS.—Assistance provided under this section by the Entity may be provided only for programs for financing solar and renewable energy capital investments and projects, which may include programs for making loans, making grants, reducing the principal obligations of loans, prepayment of interest on loans, purchase and sale of loans and advances of credit, providing loan guarantees, providing loan downpayment assistance, and providing rebates and other incentives for the purchase and installation of solar and renewable energy measures.

(e) AUTHORITY TO LEVERAGE OTHER FUNDS.—The Entity may encourage or require programs receiving assistance under this section to supplement the assistance received under this section with amounts from other public and private sources, and, in making assistance under this section available, may give preference to programs that leverage amounts from such other sources.

(f) PROVISION OF ASSISTANCE.—The Entity shall provide assistance under this section through State agencies responsible for developing State energy conservation plans pursuant to section 362 of the Energy Policy and Conservation Act, or any other entity or agency authorized to specifically carry out the purposes of this section.

(g) REGULATIONS.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall issue any regulations necessary to carry out this section, which shall ensure maximum flexibility in utilizing amounts made available under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and $10,420,000 for fiscal year 1994. Such sums are to be available until expended.

(i) REPEALS.—

(1) SOLAR ENERGY AND ENERGY CONSERVATION BANK ACT.—Subtitle A of title V of the Energy Security Act (12 U.S.C. 3601 et seq.) is repealed.

(2) FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.—Sections 315 and 316 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723g, 1723h) are repealed.

SEC. 913. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO LABOR WAGE RATES UNDER HOUSING PROGRAMS.

(a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(j)(5) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(5)), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended to read as follows:

"(5) LABOR.—

"(A) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act).

"(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

(b) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(j)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(j)(6)) is amended—

(1) by striking "(6) LABOR STANDARDS.—The Secretary" and inserting the following:

"(6) LABOR STANDARDS.—

"(A) IN GENERAL.—The Secretary";

(2) by striking "assisted under this section and designed for dwelling use by 12 or more persons with disabilities" and inserting "with 12 or more units assisted under this section";

(3) by inserting "commonly known as" before "the Davis-Bacon Act";

(4) by striking "; but the Secretary" and all that follows through "undertaking the construction"; and

(5) by adding at the end the following new subparagraph:

"(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

SEC. 914. ENERGY EFFICIENT MORTGAGES.

(a) DEFINITION OF ENERGY EFFICIENT MORTGAGE.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), as amended by section 210(a)(1) of this Act, is further amended by adding at the end the following new paragraph:

"(25) The term 'energy efficient mortgage' means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.".

(b) UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.—Section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is amended—

(1) in subsection (a), by striking "mortgage financing incentives for energy efficiency" and inserting "energy efficient mortgages (as such term is defined in section 104 of this Act)"; and

(2) in subsection (b)—

(A) in the second sentence, by inserting ", but not be limited to," after "include"; and

(B) by inserting after the period at the end of the following new sentence: "The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.".

SEC. 915. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended to read as follows:

"SEC. 3. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

"(a) FINDINGS.—The Congress finds that—

"(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

"(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

"(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

"(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

"(b) POLICY.—It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

"(c) EMPLOYMENT.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To residents of the housing developments for which the assistance is expended.

"(ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.

"(iii) To participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

"(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(d) CONTRACTING.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act, to business concerns that provide economic opportunities for low- and very low-income persons.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

"(ii) To business concerns that provide economic opportunities for residents of other housing developments operated by the public and Indian housing agency that is providing the assistance.

"(iii) To Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(e) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

"(1) LOW- AND VERY LOW-INCOME PERSONS.—The terms 'low-income persons' and 'very low-income persons' have the same meanings given the terms 'low-income families' and 'very low-income families', respectively, in section 3(b)(2) of the United States Housing Act of 1937.

"(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term 'a business concern that provides economic opportunities' means a business concern that—

"(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

"(B) employs a substantial number of such persons; or

"(C) meets such other criteria as the Secretary may establish.

"(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

"(g) REGULATIONS.—Not later than 180 days after the date of enactment of the National Affordable Housing Act Amendments of 1992, the

Secretary shall promulgate regulations to implement this section.''.

SEC. 916. STUDY OF THE EFFECTIVENESS OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, a report describing—

(1) the Secretary's efforts to enforce section 3 of the Housing and Urban Development Act of 1968;

(2) the barriers to full implementation of section 3 of the Housing and Urban Development Act of 1968;

(3) the anticipated costs and benefits of full implementation of section 3 of the Housing and Urban Development Act of 1968; and

(4) recommendations for legislative changes to enhance the effectiveness of section 3 of the Housing and Urban Development Act of 1968.

(b) CONTENTS.—

(1) ENFORCEMENT.—The description under subsection (a)(1) of the Secretary's enforcement efforts shall include, at a minimum—

(A) a discussion of how responsibility for implementing section 3 of the Housing and Urban Development Act of 1968 is allocated within the Department of Housing and Urban Development;

(B) a discussion of the status of existing regulations implementing such section 3;

(C) a discussion of ongoing efforts to enforce current regulations;

(D) a list of the programs under the responsibility of the Secretary with respect to which the Secretary is enforcing section 3; and

(E) a separate description of the activities carried out under section 3 with respect to each of these programs.

(2) IMPEDIMENTS.—The discussion under subsection (a)(2) of the external impediments to effective enforcement of section 3 of the Housing and Urban Development Act of 1968 shall include, at a minimum, a discussion of—

(A) any lack of necessary training for targeted employees and technical assistance to targeted businesses;

(B) any barriers created by Federal, State, or local procurement regulations or other laws;

(C) any difficulties in coordination with labor unions;

(D) any difficulties in coordination with other implicated Federal agencies; and

(E) any lack of resources on the part of recipients of assistance who are responsible for carrying out section 3 of the Housing and Urban Development Act of 1968.

(c) CONSULTATION.—In preparing the report under this subsection, the Secretary shall consult with the Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Services, the Administrator of the Small Business Administration, other appropriate Federal officials, and recipients of Federal housing and community development assistance who are responsible for executing section 3 of the Housing and Urban Development Act of 1968.

SEC. 917. INDIAN HOUSING AUTHORITIES.

There is authorized to be appropriated $500,000 for fiscal year 1993 and $521,000 for fiscal year 1994 to a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 that has been in existence since 1975 and that provides training, technical assistance, and information to Indian housing authorities, Indian tribal governments, and other groups. These sums shall be used by such nonprofit organization to—

(1) provide technical assistance and training to Indian housing authorities;

(2) improve the administrative capacities of Indian housing authorities; and

(3) provide for other activities designed to improve Indian housing conditions.

SEC. 918. STUDY REGARDING FORECLOSURE ALTERNATIVES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study to review and analyze alternatives to foreclosure for homeowners whose principal residences are subject to federally-related mortgages (in connection with federally related mortgage loans, as such term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974) under which the homeowner is in default. In conducting the study, the Secretary—

(1) may consult with any appropriate Federal agencies that make, insure, or guarantee mortgage loans relating to 1- to 4-family dwellings and with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, and the Federal Agricultural Mortgage Corporation; and

(2) shall review and assess the adequacy, with respect to providing alternatives to foreclosure, of—

(A) the temporary mortgage assistance payments program authorized under section 230 of the National Housing Act;

(B) the authority of the Secretary to modify interest rates and other terms of mortgages transferred to the Secretary under section 7(i) of the Department of Housing and Urban Development Act; and

(C) any authority pursuant to Debt Collection Act of 1982 to reduce interest rates on outstanding debt to the borrowing rate for the Treasury of the United States.

The Secretary shall evaluate alternatives to foreclosure based on fairness of the procedures to the homeowner and reducing adverse effects on the mortgage lending system.

(b) REPORT.—Not later than March 1, 1993, the Secretary shall submit a report to the Congress regarding the results of the study conducted under subsection (a). The report shall contain a detailed description and assessment of each alternative to foreclosure analyzed under the study and a statement by the Secretary regarding the intent of the Secretary to use any authority available under the provisions referred to in subsection (a)(2) to avoid foreclosure under mortgages (and any reasons for not using such authority). The report may also contain any recommendations of the Secretary for administrative or legislative action to assist homeowners to avoid foreclosure and any loss of equity in their mortgaged homes that may result from foreclosure.

SEC. 919. REGULATIONS CLARIFYING THE TERM "HOUSING FOR OLDER PERSONS".

The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act, make rules defining what are "significant facilities and services especially designed to meet the physical or social needs of older persons" required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term "housing for older persons" in such section.

SEC. 920. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(b) REPORT.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 921. IMPROVED COORDINATION OF URBAN POLICY.

Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501 et seq.) is amended—

(1) in section 702(d), by striking paragraph (8) and inserting the following:

"(8) increase coordination among Federal programs that seek to promote job opportunities and skills, decent and affordable housing, public safety, access to health care, educational opportunities, and fiscal soundness for urban communities and their residents.";

(2) in section 703(a)—

(A) by striking "during February 1978, and during February of every even-numbered year thereafter," and inserting ", not later than June 1, 1993, and not later than the first day of June of every odd-numbered year thereafter,"; and

(B) in paragraph (8), by striking "such" and all that follows through the end of the sentence and inserting "legislative or administrative proposals—

"(A) to promote coordination among Federal programs to assist urban areas;

"(B) to enhance the fiscal capacity of fiscally distressed urban areas;

"(C) to promote job opportunities in economically distressed urban areas and to enhance the job skills of residents of such areas;

"(D) to generate decent and affordable housing;

"(E) to reduce racial tensions and to combat racial and ethnic violence in urban areas;

"(F) to combat urban drug abuse and drug-related crime and violence;

"(G) to promote the delivery of health care to low-income communities in urban areas;

"(H) to expand educational opportunities in urban areas; and

"(I) to achieve the goals of the national urban policy."; and

(3) by adding at the end of section 703 the following new subsection:

"(d) REFERRAL.—The National Urban Policy Report shall, when transmitted to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs.".

SEC. 922. PROHIBITION OF LUMP-SUM PAYMENTS.

The Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.) is amended by adding at the end the following new section:

"PROHIBITION OF LUMP-SUM PAYMENTS

"SEC. 14. In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

"(1) moving expenses;

"(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

"(3) any incidental expenses related to paragraph (1) or (2)."

SEC. 923. ECONOMIC INDEPENDENCE.

The Secretary of Housing and Urban Development should immediately implement section 957 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12714). Other Federal agencies authorized to assist low-income families should take similar steps to encourage economic independence and the accumulation of assets.

SEC. 924. ADMINISTRATIVE PROVISION.

Subject to the availability of appropriations for this purpose, the Secretary of Housing and

Urban Development shall cancel the indebtedness of the town of McLain, Mississippi, relating to the public facilities loan (Project No. MS 94–PFL39456). The town of McLain, Mississippi, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

SEC. 925. PERFORMANCE GOALS.

(a) PERFORMANCE GOALS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") may establish performance goals for the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objectives of national housing policy.

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) REPORT.—The Secretary shall include in the Secretary's annual report to the Congress a description of the progress made in attaining the performance goals for each program, citing the results achieved in each program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the description under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

(b) PERFORMANCE GOALS FOR THE FARMERS HOME ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture may establish performance goals for the major housing programs of the Farmers Home Administration in order to measure progress towards meeting the objectives of national housing policy.

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) REPORT.—The Secretary of Agriculture shall prepare a report to the Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in such program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the report under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

SEC. 926. REGULATION OF CONSULTANTS.

Section 13(f)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3537b(f)(1)) is amended by striking "authority", "State", and "local government", and by adding immediately before the period at the end the following: ", but does not include a State or local government, or the officer or employee of a State or local government or housing finance agency thereof who is engaged in the official business of the State or local government".

SEC. 927. CLARIFICATION ON UTILITY ALLOWANCES.

(a) ELIGIBILITY.—Tenants who—

(1) are responsible for making out-of-pocket payments for utility bills; and

(2) receive energy assistance through utility allowances that include energy costs under programs identified in subsection (c);

shall not have their eligibility or benefits under other programs designed to assist low-income people with increases in energy costs since 1978 (including but not limited to the Low-Income Home Energy Assistance Program) reduced or eliminated.

(b) EQUAL TREATMENT IN BENEFIT PROGRAMS.—Tenants described in subsection (a) shall be treated identically with other households eligible for such assistance, including in the determination of the home energy costs for which they are individually responsible and in the determination of their incomes.

(c) APPLICABILITY.—This section applies to programs under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, section 202 of the Housing Act of 1959, and title V of the Housing Act of 1949.

SEC. 928. FLOOD CONTROL RESTORATION ZONE.

Section 1307 of the National Flood Insurance Act of 1968 is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Director of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the disaccreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Director for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the disaccreditation of the flood protection system. A community will be considered to be in the process of restoration if—

"(1) the flood protection system has been deemed restorable by a Federal agency in consultation with the local project sponsor;

"(2) a minimum level of flood protection is still provided to the community by the disaccredited system; and

"(3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

Communities that the Director of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction, provided the base flood elevation based on the disaccredited flood control system does not exceed five feet above existing grade, or the remaining new construction in such communities is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas.

The Director of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after the date of enactment of this subsection.".

SEC. 929. SALARIES AND EXPENSES.

Section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535) is amended by inserting at the end the following new subsection:

"(s)(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section $988,000,000 for fiscal year 1993 and $1,029,496,000 for fiscal year 1994.

"(2) Of the amounts authorized to be appropriated by this section, $96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act for housing consisting of 5 or more dwelling units.

"(3) Of the amounts authorized to be appropriated to carry out this section, not less than $5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.".

SEC. 930. THE NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM.

(a) PURPOSE.—The purposes of this section are—

(1) to empower the local community by investing in its human capital through a private-public partnership to rebuild urban and rural communities through schools and other community organizations, including public housing communities; and

(2) to ensure that by December 1997, the Cities in Schools Program, through the National Center for Partnership Development, will have developed the capacity to reach 500,000 at-risk youth and their families through communitywide programs that channel existing community resources to provide personal, coordinated and accountable support.

(b) GRANTS TO STRENGTHEN THE NATIONAL CITIES IN SCHOOLS PROGRAM.—The Secretary of Housing and Urban Development shall make grants to expand the National Cities in Schools Program and operations of the National Center for Partnership Development to—

(1) develop, establish, and support projects to strengthen local community dropout prevention programs in elementary and secondary schools;

(2) train community leaders responsible for the implementation of local community Cities in Schools dropout prevention programs; and

(3) disseminate to, and support replication by, States and communities of effective dropout prevention strategies.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and $10,420,000 for fiscal year 1994.

SEC. 931. BANK ENTERPRISE ACT OF 1991 AND RELATED PROVISIONS.

(a) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Section 7(b)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(10)) (as added by section 232(b)(2) of the Bank Enterprise Act of 1991) is amended by striking "at the assessment rate of ½ the maximum rate." and inserting "at an assessment rate to be determined by the Corporation by regulation. Such assessment rate may not be less than ½ the maximum assessment rate."

(b) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1917(b)(2)(A)(iii)(I)) (as added by section 232(b)(3)(C) of the Bank Enterprise Act of 1991) is amended to read as follows:

"(I) the assessment rate determined by the Corporation pursuant to paragraph (10) with respect to such semiannual period; and".

(c) QUALIFYING ACTIVITIES FOR ASSESSMENT CREDITS.—Section 233(a)(2) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(2)) is amended to read as follows:

"(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

"(A) the amount, during such period, of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

"(B) the amount, during such period, of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and new originations of any loans and other financial assistance made within that community, except that in no case shall the credit for deposits at any institution or branch exceed the credit for loans and other financial assistance by the bank or branch in the distressed community.".

(d) AMOUNT OF ASSESSMENT CREDIT.—Section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(3)) is amended to read as follows:

"(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) of the Federal Deposit Insurance Act for any insured depository institution, or a qualified portion thereof, shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 234, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements (or any percentage designated under paragraph (5)) of—

"(A) for the first full semiannual period in which community enterprise assessment credits are available, the sum of—

"(i) the amounts of assets described in paragraph (2)(A); and

"(ii) the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B); and

"(B) for any subsequent semiannual period, the sum of—

"(i) any increase during such period in the amount of assets described in paragraph (2)(A) that has been deemed eligible for credit by the Board; and

"(ii) any increase during such period in the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B) that has been deemed eligible for credit by the Board.".

(e) ELIGIBILITY REQUIREMENTS FOR QUALIFIED DISTRESSED COMMUNITIES.—Section 233(b)(4) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(b)(4)) is amended to read as follows:

"(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if the following criteria are met:

"(A) At least 30 percent of the residents residing in the area have incomes which are less than the national poverty level.

"(B) The unemployment rate for the area is 1½ times greater than the national average (as determined by the Bureau of Labor Statistics' most recent figures).

"(C) Such additional eligibility requirements as the Board may, in its discretion, deem necessary to carry out the provisions of this subtitle.".

SEC. 932. DISCLOSURES UNDER THE HOME MORTGAGE DISCLOSURE ACT OF 1975.

(a) IN GENERAL.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following new subsections:

"(j) LOAN APPLICATION REGISTER INFORMATION.—

"(1) IN GENERAL.—In addition to the information required to be disclosed under subsections (a) and (b), any depository institution which is required to make disclosures under this section shall make available to the public, upon request, loan application register information (as defined by the Board by regulation) in the form required under regulations prescribed by the Board.

"(2) FORMAT OF DISCLOSURE.—

"(A) UNEDITED FORMAT.—Subject to subparagraph (B), the loan application register information described in paragraph (1) may be disclosed by a depository institution without editing or compilation and in the format in which such information is maintained by the institution.

"(B) PROTECTION OF APPLICANT'S PRIVACY INTEREST.—The Board shall require, by regulation, such deletions as the Board may determine to be appropriate to protect—

"(i) any privacy interest of any applicant, including the deletion of the applicant's name and identification number, the date of the application, and the date of any determination by the institution with respect to such application; and

"(ii) a depository institution from liability under any Federal or State privacy law.

"(C) CENSUS TRACT FORMAT ENCOURAGED.—It is the sense of the Congress that a depository institution should provide loan register information under this section in a format based on the census tract in which the property is located.

"(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in the form in which the institution maintains such information.

"(4) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides information under this subsection may impose a reasonable fee for any cost incurred in reproducing such information.

"(5) TIME OF DISCLOSURE.—The disclosure of the loan application register information described in paragraph (1) for any year pursuant to a request under paragraph (1) shall be made—

"(A) in the case of a request made on or before March 1 of the succeeding year, before April 1 of the succeeding year; and

"(B) in the case of a request made after March 1 of the succeeding year, before the end of the 30-day period beginning on the date the request is made.

"(6) RETENTION OF INFORMATION.—Notwithstanding subsection (c), the loan application register information described in paragraph (1) for any year shall be maintained and made available, upon request, for 3 years after the close of the 1st year during which such information is required to be maintained and made available.

"(7) MINIMIZING COMPLIANCE COSTS.—In prescribing regulations under this subsection, the Board shall make every effort to minimize the costs incurred by a depository institution in complying with this subsection and such regulations.

"(k) DISCLOSURE OF STATEMENTS BY DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In accordance with procedures established by the Board pursuant to this section, any depository institution required to make disclosures under this section—

"(A) shall make a disclosure statement available, upon request, to the public no later than 3 business days after the institution receives the statement from the Federal Financial Institutions Examination Council; and

"(B) may make such statement available on a floppy disc which may be used with a personal computer or in any other media which is not prohibited under regulations prescribed by the Board.

"(2) NOTICE THAT DATA IS SUBJECT TO CORRECTION AFTER FINAL REVIEW.—Any disclosure statement provided pursuant to paragraph (1) shall be accompanied by a clear and conspicuous notice that the statement is subject to final review and revision, if necessary.

"(3) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides a disclosure statement pursuant to paragraph (1) may impose a reasonable fee for any cost incurred in providing or reproducing such statement.

"(l) PROMPT DISCLOSURES.—

"(1) IN GENERAL.—Any disclosure of information pursuant to this section or section 310 shall be made as promptly as possible.

"(2) MAXIMUM DISCLOSURE PERIOD.—

"(A) 6- AND 9-MONTH MAXIMUM PERIODS.—Except as provided in subsections (j)(5) and (k)(1) and regulations prescribed by the Board and subject to subparagraph (B), any information required to be disclosed for any year beginning after December 31, 1992, under—

"(i) this section shall be made available to the public before September 1 of the succeeding year; and

"(ii) section 310 shall be made available to the public before December 1 of the succeeding year.

"(B) SHORTER PERIODS ENCOURAGED AFTER 1994.—With respect to disclosures of information under this section or section 310 for any year beginning after December 31, 1993, every effort shall be made—

"(i) to make information disclosed under this section available to the public before July 1 of the succeeding year; and

"(ii) to make information required to be disclosed under section 310 available to the public before September 1 of the succeeding year.

"(3) IMPROVED PROCEDURE.—The Federal Financial Institutions Examination Council shall make such changes in the system established pursuant to subsection (f) as may be necessary to carry out the requirements of this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 304(c) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(c)) is amended by inserting ", other than loan application register information under subsection (j)," after "under this section".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to information disclosed under section 304 of the Home Mortgage Disclosure Act of 1975 for any year which ends after the date of the enactment of this Act.

SEC. 933. PROHIBITION ON USE OF "RULE OF 78's" IN CONNECTION WITH MORTGAGE REFINANCINGS AND OTHER CONSUMER LOANS.

(a) PROMPT REFUND OF UNEARNED INTEREST REQUIRED.—

(1) IN GENERAL.—If a consumer prepays in full the financed amount under any consumer credit transaction, the creditor shall promptly refund any unearned portion of the interest charge to the consumer.

(2) EXCEPTION FOR REFUND OF DE MINIMUS AMOUNT.—No refund shall be required under paragraph (1) with respect to the prepayment of any consumer credit transaction if the total amount of the refund would be less than $1.

(3) APPLICABILITY TO REFINANCED TRANSACTIONS AND ACCELERATION BY THE CREDITOR.—This subsection shall apply with respect to any prepayment of a consumer credit transaction described in paragraph (1) without regard to the manner or the reason for the prepayment, including—

(A) any prepayment made in connection with the refinancing, consolidation, or restructuring of the transaction; and

(B) any prepayment made as a result of the acceleration of the obligation to repay the amount due with respect to the transaction.

(b) Use of "Rule of 78's" Prohibited.—For the purpose of calculating any refund of interest required under subsection (a) for any precomputed consumer credit transaction of a term exceeding 61 months which is consummated after September 30, 1993, the creditor shall compute the refund based on a method which is at least as favorable to the consumer as the actuarial method.

(c) Statement of Prepayment Amount.—

(1) In general.—Before the end of the 5-day period beginning on the date an oral or written request is received by a creditor from a consumer for the disclosure of the amount due on any precomputed consumer credit account, the creditor or assignee shall provide the consumer with a statement of—

(A) the amount necessary to prepay the account in full; and

(B) if the amount disclosed pursuant to subparagraph (A) includes an amount which is required to be refunded under this section with respect to such prepayment, the amount of such refund.

(2) Written statement required if request is in writing.—If the customer's request is in writing, the statement under paragraph (1) shall be in writing.

(3) 1 free annual statement.—A consumer shall be entitled to obtain 1 statement under paragraph (1) each year without charge.

(4) Additional statements subject to reasonable fees.—Any creditor may impose a reasonable fee to cover the cost of providing any statement under paragraph (1) to any consumer in addition to the 1 free annual statement required under paragraph (3) if the amount of the charge for such additional statement is disclosed to the consumer before furnishing such statement.

(d) Definitions.—For the purpose of this section—

(1) Actuarial method.—The term "actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(2) Consumer, credit.—The terms "consumer" and "creditor" have the meanings given to such terms in section 103 of the Consumer Credit Protection Act.

(3) Creditor.—The term "creditor"—

(A) has the meaning given to such term in section 103 of the Consumer Credit Protection Act; and

(B) includes any assignee of any creditor with respect to credit extended in connection with any consumer credit transaction and any subsequent assignee with respect to such credit.

Subtitle B—Bank Regulatory Clarification Provisions

SEC. 951. AMENDMENT RELATING TO ESTIMATES OF REAL ESTATE SETTLEMENT COSTS.

Section 5(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(d)) is amended by striking the last sentence and inserting "Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3-day period.".

SEC. 952. ADJUSTABLE RATE MORTGAGE CAPS.

Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(d)(2)) is amended by striking "any loan" and inserting "any consumer loan".

SEC. 953. MODIFYING SEPARATE CAPITALIZATION RULE FOR SAVINGS ASSOCIATIONS' SUBSIDIARIES ENGAGED IN ACTIVITIES NOT PERMISSIBLE FOR NATIONAL BANKS.

(a) In General.—Section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by redesignating clause (iii) as clause (ix) and by inserting after clause (ii) the following new clauses:

"(iii) Agency discretion to prescribe greater percentage.—Subject to clauses (iv), (v), and (vi), the Director may prescribe by order, with respect to a particular qualified savings association, an applicable percentage greater than that provided in clause (ii) if the Director determines, in the Director's sole discretion, that the use of the greater percentage, under the circumstances—

"(I) would not constitute an unsafe or unsound practice;

"(II) would not increase the risk to the affected deposit insurance fund; and

"(III) would not be likely to result in the association's being in an unsafe or unsound condition.

"(iv) Substantial compliance with approved capital plan.—In the case of a savings association which is subject to a plan submitted under paragraph (7)(D) of this subsection or an order issued under this subsection, a directive issued or plan approved under subsection (s), or a capital restoration plan approved or order issued under section 38 or 39 of the Federal Deposit Insurance Act, an order issued under clause (iii) with respect to the association shall be effective only so long as the association is in substantial compliance with such plan, directive, or order.

"(v) Limitation on investments taken into account.—In prescribing the amount by which an applicable percentage under clause (iii) may exceed the applicable percentage under clause (ii) with respect to a particular qualified savings association, the Director may take into account only the sum of—

"(I) the association's investments in, and extensions of credit to, the subsidiary that were made on or before April 12, 1989; and

"(II) the association's investments in, and extensions of credit to, the subsidiary that were made after April 12, 1989, and were necessary to complete projects initiated before April 12, 1989.

"(vi) Limit.—The applicable percentage limit allowed by the Director in an order under clause (iii) shall not exceed the following limits:

"For the following period:	**The limit is:**
Prior to July 1, 1994	75 percent
July 1, 1994 through June 30, 1995	60 percent
July 1, 1995 through June 30, 1996	40 percent
After June 30, 1996	0 percent

"(vii) Critically undercapitalized institution.—In the case of a savings association that becomes critically undercapitalized (as defined in section 38 of the Federal Deposit Insurance Act) as determined under this subparagraph without applying clause (iii), clauses (iii) through (v) shall be applied by substituting 'Corporation' for 'Director' each place such term appears.

"(viii) Qualified savings association defined.—For purposes of clause (iii), the term 'qualified savings association' means an eligible savings association (as defined in paragraph (3)(B)) which is subject to this paragraph solely because of the real estate investments or other real estate activities of the association's subsidiary, and—

"(I) is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act); or

"(II) is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act, and is not critically undercapitalized (as defined in such section).".

(b) Technical and Conforming Amendment.—Clause (ix) of section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) (as so redesignated by subsection (a) of this section) is amended by inserting "or prescribed under clause (iii)" after "clause (ii)".

SEC. 954. REAL ESTATE APPRAISAL AMENDMENT.

Section 1112 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341) is amended—

(1) by striking "Each Federal financial institutions" and inserting "(a) In General.—Each Federal financial institutions"; and

(2) by adding at the end the following new subsections:

"(b) Threshold Level.—Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions.

"(c) GAO Study of Appraisals in Connection With Real Estate Related Financial Transactions Below the Threshold Level.—

"(1) Study required.—At the end of the 18-month period, and the end of the 36-month period, beginning on the date of the enactment of this subsection, the Comptroller General of the United States shall conduct a study on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b), taking into account—

"(A) the cost to any financial institution involved in any such transaction;

"(B) the possibility of losses to the Bank Insurance Fund, the Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund;

"(C) the cost to any customer involved in any such transaction; and

"(D) the effect on low-income housing.

"(2) Reports to Congress and the appropriate Federal financial institutions regulatory agencies.—Upon completing each of the studies required under paragraph (1), the Comptroller General shall submit a report on the Comptroller General's findings and conclusions with respect to such study to the Federal financial institutions regulatory agencies, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.".

SEC. 955. INSIDER LENDING.

(a) Authority to Make Exceptions to Definition of Extension of Credit.—Section 22(h)(9)(D) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(D)) is amended—

(1) by striking "(D) Extension of credit.—A member bank" and inserting the following:

"(D) Extension of credit.—

"(i) In general.—A member bank"; and

(2) by adding at the end the following new clause:

"(ii) Exceptions.—The Board may, by regulation, make exceptions to clause (i) for transactions that the Board determines pose minimal risk.".

(b) Principal Shareholder Defined.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(F)) is amended—

(1) by striking "shareholder' means any person" and inserting "shareholder'—

"(i) means any person";

(2) by striking the period at the end of clause (i) (as so redesignated by paragraph (1) of this subsection) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ii) does not include a company of which a member bank is a subsidiary.".

SEC. 956. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (as added by section 132(a) of Federal Deposit Insurance Corporation Improvement Act of 1991) (12 U.S.C. 1831s) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—

"(1) IN GENERAL.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation. Such regulations may not prescribe standards that set a specific level or range of compensation for directors, officers, or employees of insured depository institutions.

"(2) APPLICABILITY OF OTHER LAWS.—Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict the level of compensation, including golden parachute payments (as defined in section 18(k)(4)), paid to any director, officer, or employee of an insured depository institution under any other provision of law.

"(3) SENIOR EXECUTIVE OFFICERS AT UNDERCAPITALIZED INSTITUTIONS.—Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict compensation paid to any senior executive officer of an undercapitalized insured depository institution pursuant to section 38.

"(4) SAFETY AND SOUNDNESS OR ENFORCEMENT ACTIONS.—Paragraph (1) shall not be construed as affecting the authority of any appropriate Federal banking agency under any provision of this Act other than this section, or under any other provision of law, to prescribe a specific level or range of compensation for any director, officer, or employee of an insured depository institution—

"(A) to preserve the safety and soundness of the institution; or

"(B) in connection with any action under section 8 or any order issued by the agency, any agreement between the agency and the institution, or any condition imposed by the agency in connection with the agency's approval of an application or other request by the institution, which is enforceable under section 8."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

SEC. 957. TRUTH IN SAVINGS ACT AMENDMENTS.

(a) ON-PREMISES DISPLAYS.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) DISCLOSURE REQUIRED FOR ON-PREMISES DISPLAYS.—

"(1) IN GENERAL.—The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest which is displayed on the premises of the depository institution if such sign contains—

"(A) the accompanying annual percentage yield; and

"(B) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

"(2) DEFINITION.—For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution.".

(b) EFFECTIVE DATE OF REGULATIONS.—Section 269(a)(2) of the Truth in Savings Act (12 U.S.C. 4308(a)(2)) is amended by striking "6 months" and inserting "9 months".

TITLE X—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

SEC. 1001. SHORT TITLE.

This title may be cited as the "Residential Lead-Based Paint Hazard Reduction Act of 1992".

SEC. 1002. FINDINGS.

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre-1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

SEC. 1003. PURPOSES.

The purposes of this Act are—

(1) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible;

(2) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the Nation's housing stock;

(3) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction and by ending the current confusion over reasonable standards of care;

(4) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(5) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards;

(6) to reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government; and

(7) to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

SEC. 1004. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) ABATEMENT.—The term "abatement" means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate Federal agencies. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(2) ACCESSIBLE SURFACE.—The term "accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) CERTIFIED CONTRACTOR.—The term "certified contractor" means—

(A) a contractor, inspector, or supervisor who has completed a training program certified by the appropriate Federal agency and has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the Federal certification program; and

(B) workers or designers who have fully met training requirements established by the appropriate Federal agency.

(4) CONTRACT FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY.—The term "contract for the purchase and sale of residential real property" means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(5) DETERIORATED PAINT.—The term "deteriorated paint" means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

(6) EVALUATION.—The term "evaluation" means risk assessment, inspection, or risk assessment and inspection.

(7) FEDERALLY ASSISTED HOUSING.—The term "federally assisted housing" means residential dwellings receiving project-based assistance under programs including—

(A) section 221(d)(3) or 236 of the National Housing Act;

(B) section 1 of the Housing and Urban Development Act of 1965;

(C) section 8 of the United States Housing Act of 1937; or

(D) sections 502(a), 504, 514, 515, 516 and 533 of the Housing Act of 1949.

(8) FEDERALLY OWNED HOUSING.—The term "federally owned housing" means residential dwellings owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator. For the purpose of this paragraph, the term "Federal agency" includes the Department of Housing and Urban Development, the Farmers Home Administration, the Resolution

Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Department of Transportation, and any other Federal agency.

(9) FEDERALLY SUPPORTED WORK.—The term "federally supported work" means any lead hazard evaluation or reduction activities conducted in federally owned or assisted housing or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) FRICTION SURFACE.—The term "friction surface" means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) IMPACT SURFACE.—The term "impact surface" means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) INSPECTION.—The term "inspection" means a surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act and the provision of a report explaining the results of the investigation.

(13) INTERIM CONTROLS.—The term "interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(14) LEAD-BASED PAINT.—The term "lead-based paint" means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Lead-Based Paint Poisoning Prevention Act.

(15) LEAD-BASED PAINT HAZARD.—The term "lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

(16) LEAD-CONTAMINATED DUST.—The term "lead-contaminated dust" means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate Federal agency to pose a threat of adverse health effects in pregnant women or young children.

(17) LEAD-CONTAMINATED SOIL.—The term "lead-contaminated soil" means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the appropriate Federal agency.

(18) MORTGAGE LOAN.—The term "mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(19) ORIGINATING MORTGAGE INSTITUTION.—The term "originating mortgage institution" means a lender that provides mortgage loans.

(20) PRIORITY HOUSING.—The term "priority housing" means target housing that qualifies as affordable housing under section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745), including housing that receives assistance under subsection (b) or (o) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f (b) or (o)).

(21) PUBLIC HOUSING.—The term "public housing" has the same meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(22) REDUCTION.—The term "reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(23) RESIDENTIAL DWELLING.—The term "residential dwelling" means—

(A) a single-family dwelling, including attached structures such as porches and stoops; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) RESIDENTIAL REAL PROPERTY.—The term "residential real property" means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) RISK ASSESSMENT.—The term "risk assessment" means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

(B) visual inspection;

(C) limited wipe sampling or other environmental sampling techniques;

(D) other activity as may be appropriate; and

(E) provision of a report explaining the results of the investigation.

(26) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(27) TARGET HOUSING.—The term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary, at the Secretary's discretion, may designate an earlier date.

Subtitle A—Lead-Based Paint Hazard Reduction

SEC. 1011. GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION IN TARGET HOUSING.

(a) GENERAL AUTHORITY.—The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in priority housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section.

(b) ELIGIBLE APPLICANTS.—A State or unit of local government that has an approved comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is eligible to apply for a grant under this section.

(c) FORM OF APPLICATIONS.—To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant's comprehensive housing affordability strategy required by section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.);

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of financial assistance to owners and occupants of priority housing that will be provided through grants under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6 who reside in priority housing;

(2) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(3) the ability of the applicant to leverage State, local, and private funds to supplement the grant under this section;

(4) the ability of the applicant to carry out the proposed activities; and

(5) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this Act.

(e) ELIGIBLE ACTIVITIES.—A grant under this section may be used to—

(1) perform risk assessments and inspections in priority housing;

(2) provide for the interim control of lead-based paint hazards in priority housing;

(3) provide for the abatement of lead-based paint hazards in priority housing;

(4) provide for the additional cost of reducing lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that risk assessments, inspections, and abatements are carried out by certified contractors in accordance with section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act;

(6) monitor the blood-lead levels of workers involved in lead hazard reduction activities funded under this section;

(7) assist in the temporary relocation of families forced to vacate priority housing while lead hazard reduction measures are being conducted;

(8) educate the public on the nature and causes of lead poisoning and measures to reduce exposure to lead, including exposure due to residential lead-based paint hazards;

(9) test soil, interior surface dust, and the blood-lead levels of children under the age of 6 residing in priority housing after lead-based paint hazard reduction activity has been conducted, to assure that such activity does not cause excessive exposures to lead; and

(10) carry out such other activities that the Secretary determines appropriate to promote the purposes of this Act.

(f) FORMS OF ASSISTANCE.—The applicant may provide the services described in this section through a variety of programs, including grants, loans, equity investments, revolving loan funds, loan funds, loan guarantees, interest write-downs, and other forms of assistance approved by the Secretary.

(g) TECHNICAL ASSISTANCE AND CAPACITY BUILDING.—

(1) IN GENERAL.—The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 105(b)(16) of the

Cranston-Gonzalez National Affordable Housing Act and to carry out activities under this section. In fiscal years 1993 and 1994, the Secretary may make grants of up to $200,000 for the purpose of establishing State training, certification or accreditation programs that meet the requirements of section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act.

(2) SET-ASIDE.—Of the total amount approved in appropriation Acts under subsection (o), there shall be set aside to carry out this subsection $3,000,000 for fiscal year 1993 and $3,000,000 for fiscal year 1994.

(h) MATCHING REQUIREMENT.—Each recipient of a grant under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the total grant amount under this section.

(i) PROHIBITION OF SUBSTITUTION OF FUNDS.—Grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(j) LIMITATION ON USE.—An applicant shall ensure that not more than 10 percent of the grant will be used for administrative expenses associated with the activities funded.

(k) FINANCIAL RECORDS.—An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(l) REPORT.—An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant expends grant funds under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of risk assessments and the number of inspections conducted in residential dwellings;

(3) states the number of residential dwellings in which lead-based paint hazards have been reduced through interim controls;

(4) states the number of residential dwellings in which lead-based paint hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(m) NOTICE OF FUNDING AVAILABILITY.—The Secretary shall publish a Notice of Funding Availability pursuant to this section not later than 120 days after funds are appropriated for this section.

(n) RELATIONSHIP TO OTHER LAW.—Effective 2 years after the date of promulgation of regulations under section 402 of the Toxic Substances Control Act, no grants for lead-based paint hazard evaluation or reduction may be awarded to a State under this section unless such State has an authorized program under section 404 of the Toxic Substances Control Act.

(o) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this Act, there are authorized to be appropriated $125,000,000 for fiscal year 1993 and $250,000,000 for fiscal year 1994.

SEC. 1012. EVALUATION AND REDUCTION OF LEAD-BASED PAINT HAZARDS IN FEDERALLY ASSISTED HOUSING.

(a) GENERAL REQUIREMENTS.—Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended—

(1) by striking the title of the section and inserting:

"REQUIREMENTS FOR HOUSING RECEIVING FEDERAL ASSISTANCE";

(2) in the first sentence of subsection (a)—

(A) by striking "The Secretary" and inserting the following:

"(1) ELIMINATION OF HAZARDS.—The Secretary"; and

(B) by inserting before the period "or otherwise receives more than $5,000 in project-based assistance under a Federal housing program";

(3) by striking the second sentence of subsection (a) and inserting: "Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—

"(A) the provision of lead hazard information pamphlets, developed pursuant to section 406 of the Toxic Substances Control Act, to purchasers and tenants;

"(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

"(i) not less than 25 percent shall be performed by January 1, 1998;

"(ii) not less than 50 percent shall be performed by January 1, 2000; and

"(iii) the remainder shall be performed by January 1, 2002;

"(C) inspection for the presence of lead-based paint prior to federally-funded renovation or rehabilitation that is likely to disturb painted surfaces;

"(D) reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than $25,000 per unit in Federal funds;

"(E) abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than $25,000 per unit in Federal funds;

"(F) where risk assessment, inspection, or reduction activities have been undertaken, the provision of notice to occupants describing the nature and scope of such activities and the actual risk assessment or inspection reports (including available information on the location of any remaining lead-based paint on a surface-by-surface basis); and

"(G) such other measures as the Secretary deems appropriate."; and

(4) in the third sentence, by striking "The Secretary may" and inserting the following:

"(2) ADDITIONAL MEASURES.—The Secretary may".

(b) MEASUREMENT CRITERIA.—Section 302(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(b)) is amended by striking "for the detection" and all that follows through the end of paragraph (2) and inserting "for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 1017 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(c) INSPECTION.—Section 302(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(c)) is amended—

(1) in the second sentence, by striking "qualified" and inserting "certified"; and

(2) in the third and fourth sentences, by inserting "or 0.5 percent by weight" after "squared".

(d) PUBLIC HOUSING.—Section 302(d)(1) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(1)) is amended—

(1) in the heading, by striking "CIAP" and inserting "MODERNIZATION"; and

(2) in the fourth sentence, by striking "to eliminate the lead-based paint poisoning hazards" and inserting "of lead-based paint and lead-based paint hazards".

(e) HOME INVESTMENT PARTNERSHIPS.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended by adding at the end the following new paragraph:

"(5) LEAD-BASED PAINT HAZARDS.—A participating jurisdiction may use funds provided under this subtitle for the evaluation and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(f) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(21) lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(g) SECTION 8 RENTAL ASSISTANCE.—Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end the following: "The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(h) HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 302(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

(2) in section 303(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by adding after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(i) HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 422(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

(2) in section 423(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(j) HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 442(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

(2) in section 443(b)—

(A) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and 333

(B) by inserting after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(k) FHA INSURANCE FOR SINGLE FAMILY HOMES.—

(1) HOME IMPROVEMENT LOANS.—Section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended in the fifth paragraph—

(A) by inserting after the first sentence the following: "Alterations, repairs, and improvements upon or in connection with existing structures may also include the evaluation and reduction of lead-based paint hazards."; and

(B) by adding at the end the following:

"(4) the terms 'evaluation', 'reduction', and 'lead-based paint hazard' have the same meanings given those terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(2) REHABILITATION LOANS.—Section 203(k)(2)(B) of the National Housing Act (12 U.S.C. 1709(k)(2)(B)) is amended by adding at the end the following: "The term 'rehabilitation' may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(l) FHA INSURANCE FOR MULTIFAMILY HOUSING.—Section 221(d)(4)(iv) of the National Housing Act (12 U.S.C. 1715l(d)(4)(iv)) is amended by inserting after "rehabilitation" the first time it appears the following: "(including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992)".

(m) RURAL HOUSING.—Section 501(a) of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following:

"(5) DEFINITIONS.—For purposes of this title, the terms 'repair', 'repairs', 'rehabilitate', and 'rehabilitation' include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

SEC. 1013. DISPOSITION OF FEDERALLY OWNED HOUSING.

Section 302(a) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(a)) (as amended by section 1012(a)) is amended by striking the fourth sentence and adding at the end the following:

"(3) DISPOSITION OF FEDERALLY OWNED HOUSING.—

"(A) PRE-1960 TARGET HOUSING.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require the inspection and abatement of lead-based paint hazards in all federally owned target housing constructed prior to 1960.

"(B) TARGET HOUSING CONSTRUCTED BETWEEN 1960 AND 1978.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require an inspection for lead-based paint and lead-based paint hazards in all federally owned target housing constructed between 1960 and 1978. The results of such inspections shall be made available to prospective purchasers, identifying the presence of lead-based paint and lead-based paint hazards on a surface-by-surface basis. The Secretary shall have the discretion to waive the requirement of this subparagraph for housing in which a federally funded risk assessment, performed by a certified contractor, has determined no lead-based paint hazards are present.

"(C) BUDGET AUTHORITY.—To the extent that subparagraphs (A) and (B) increase the cost to the Government of outstanding direct loan obligations or loan guarantee commitments, such activities shall be treated as modifications under section 504(e) of the Federal Credit Reform Act of 1990 and shall be subject to the availability of appropriations. To the extent that paragraphs (A) and (B) impose additional costs to the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, its requirements shall be carried out only if appropriations are provided in advance in an appropriations Act. In the absence of appropriations sufficient to cover the costs of subparagraphs (A) and (B), these requirements shall not apply to the affected agency or agencies.

"(D) DEFINITIONS.—For the purposes of this subsection, the terms 'inspection', 'abatement', 'lead-based paint hazard', 'federally owned housing', 'target housing', 'risk assessment', and 'certified contractor' have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'risk assessment', 'inspection', 'interim control', 'abatement', 'reduction', and 'lead-based paint hazard' have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

SEC. 1014. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY.

Section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is amended—

(1) in subsection (b)(14), by striking "and" at the end;

(2) in subsection (b)(15), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (15) of subsection (b) the following new paragraph:

"(16) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs."; and

(4) in subsection (e)—

(A) by striking "When preparing" and inserting the following:

"(1) IN GENERAL.—When preparing"; and

(B) by adding at the end the following new paragraph:

"(2) LEAD-BASED PAINT HAZARDS.—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.".

SEC. 1015. TASK FORCE ON LEAD-BASED PAINT HAZARD REDUCTION AND FINANCING.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish a task force to make recommendations on expanding resources and efforts to evaluate and reduce lead-based paint hazards in private housing.

(b) MEMBERSHIP.—The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Environmental Protection Agency, employee organizations in the building and construction trades industry, landlords, tenants, primary lending institutions, private mortgage insurers, single-family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, national, State and local lead-poisoning prevention advocates and experts, and community-based organizations located in areas with substantial rental housing.

(c) RESPONSIBILITIES.—The task force shall make recommendations to the Secretary and the Administrator of the Environmental Protection Agency concerning—

(1) incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) adjusting appraisal guidelines to address lead safety;

(4) incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) reducing the current uncertainties of liability related to lead-based paint in rental housing by clarifying standards of care for landlords and lenders, and by exploring the "safe harbor" concept;

(7) increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) evaluating the utility and appropriateness of requiring risk assessments or inspections and notification to prospective lessees of rental housing.

(d) COMPENSATION.—The members of the task force shall not receive Federal compensation for their participation.

SEC. 1016. NATIONAL CONSULTATION ON LEAD-BASED PAINT HAZARD REDUCTION.

In carrying out this Act, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, other Federal agencies concerned with lead poisoning prevention, and the task force established pursuant to section 1015.

SEC. 1017. GUIDELINES FOR LEAD-BASED PAINT HAZARD EVALUATION AND REDUCTION ACTIVITIES.

Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported work involving risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. Such guidelines shall be based upon criteria that measure the condition of the housing (and the presence of children under age 6 for the purposes of risk assessments) and shall *not be based upon criteria that measure the health of the residents of the housing.*

SEC. 1018. DISCLOSURE OF INFORMATION CONCERNING LEAD UPON TRANSFER OF RESIDENTIAL PROPERTY.

(a) LEAD DISCLOSURE IN PURCHASE AND SALE OR LEASE OF TARGET HOUSING.—

(1) LEAD-BASED PAINT HAZARDS.—Not later than 2 years after the date of enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall promulgate regulations under this section for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease. The regulations shall require that, before the purchaser or lessee is obligated under any contract to purchase or lease the housing, the seller or lessor shall—

(A) provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act;

(B) disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and

(C) permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(2) CONTRACT FOR PURCHASE AND SALE.—Regulations promulgated under this section shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents;

(B) received a lead hazard information pamphlet; and

(C) had a 10-day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the housing to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(3) CONTENTS OF LEAD WARNING STATEMENT.—The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.".

(4) COMPLIANCE ASSURANCE.—Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.

(5) PROMULGATION.—A suit may be brought against the Secretary of Housing and Urban Development and the Administrator of the Environmental Protection Agency under section 20 of the Toxic Substances Control Act to compel promulgation of the regulations required under this section and the Federal district court shall have jurisdiction to order such promulgation.

(b) PENALTIES FOR VIOLATIONS.—

(1) MONETARY PENALTY.—Any person who knowingly violates any provision of this section shall be subject to civil money penalties in accordance with the provisions of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

(2) ACTION BY SECRETARY.—The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(3) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(4) COSTS.—In any civil action brought for damages pursuant to paragraph (3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) PROHIBITED ACT.—It shall be a prohibited act under section 409 of the Toxic Substances Control Act for any person to fail or refuse to comply with a provision of this section or with any rule or order issued under this section. For purposes of enforcing this section under the Toxic Substances Control Act, the penalty for each violation applicable under section 16 of that Act shall not be more than $10,000.

(c) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(d) EFFECTIVE DATE.—The regulations under this section shall take effect 3 years after the date of the enactment of this title.

Subtitle B—Lead Exposure Reduction

SEC. 1021. CONTRACTOR TRAINING AND CERTIFICATION.

(a) AMENDMENT TO THE TOXIC SUBSTANCES CONTROL ACT.—The Toxic Substances Control Act (15 U.S.C. 2601 and following seq.) is amended by adding after title III the following new title:

"TITLE IV—LEAD EXPOSURE REDUCTION

"SEC. 401. DEFINITIONS.

"For the purposes of this title:

"(1) ABATEMENT.—The term 'abatement' means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Administrator under this title. Such term includes—

"(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

"(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

"(2) ACCESSIBLE SURFACE.—The term 'accessible surface' means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

"(3) DETERIORATED PAINT.—The term 'deteriorated paint' means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

"(4) EVALUATION.—The term 'evaluation' means risk assessment, inspection, or risk assessment and inspection.

"(5) FRICTION SURFACE.—The term 'friction surface' means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

"(6) IMPACT SURFACE.—The term 'impact surface' means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

"(7) INSPECTION.—The term 'inspection' means (A) a surface-by-surface investigation to determine the presence of lead-based paint, as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act, and (B) the provision of a report explaining the results of the investigation.

"(8) INTERIM CONTROLS.—The term 'interim controls' means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

"(9) LEAD-BASED PAINT.—The term 'lead-based paint' means paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or (A) in the case of paint or other surface coatings on target housing, such lower level as may be established by the Secretary of Housing and Urban Development, as defined in section 302(c) of the Lead-Based Paint Poisoning Prevention Act, or (B) in the case of any other paint or surface coatings, such other level as may be established by the Administrator.

"(10) LEAD-BASED PAINT HAZARD.—The term 'lead-based paint hazard' means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the Administrator under this title.

"(11) LEAD-CONTAMINATED DUST.—The term 'lead-contaminated dust' means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the Administrator under this title to pose a threat of adverse health effects in pregnant women or young children.

"(12) LEAD-CONTAMINATED SOIL.—The term 'lead contaminated soil' means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the Administrator under this title.

"(13) REDUCTION.—The term 'reduction' means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

"(14) RESIDENTIAL DWELLING.—The term 'residential dwelling' means—

"(A) a single-family dwelling, including attached structures such as porches and stoops; or

"(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

"(15) RESIDENTIAL REAL PROPERTY.—The term 'residential real property' means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

"(16) RISK ASSESSMENT.—The term 'risk assessment' means an on-site investigation to de-

termine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

"(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

"(B) visual inspection;

"(C) limited wipe sampling or other environmental sampling techniques;

"(D) other activity as may be appropriate; and

"(E) provision of a report explaining the results of the investigation.

"(17) TARGET HOUSING.—The term 'target housing' means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary of Housing and Urban Development, at the Secretary's discretion, may designate an earlier date.

"SEC. 402. LEAD-BASED PAINT ACTIVITIES TRAINING AND CERTIFICATION.

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with the Secretary of Labor, the Secretary of Housing and Urban Development and the Secretary of Health and Human Services (acting through the Director of the National Institute for Occupational Safety and Health), promulgate final regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified. Such regulations shall contain standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety. Such regulations shall require that all risk assessment, inspection, and abatement activities performed in target housing shall be performed by certified contractors, as such term is defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The provisions of this section shall supersede the provisions set forth under the heading 'Lead Abatement Training and Certification' and under the heading 'Training Grants' in title III of the Act entitled 'An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes', Public Law 102-139, and upon the enactment of this section the provisions set forth in such public law under such headings shall cease to have any force and effect.

"(2) ACCREDITATION OF TRAINING PROGRAMS.—Final regulations promulgated under paragraph (1) shall contain specific requirements for the accreditation of lead-based paint activities training programs for workers, supervisors, inspectors and planners, and other individuals involved in lead-based paint activities, including, but not limited, to each of the following:

"(A) Minimum requirements for the accreditation of training providers.

"(B) Minimum training curriculum requirements.

"(C) Minimum training hour requirements.

"(D) Minimum hands-on training requirements.

"(E) Minimum trainee competency and proficiency requirements.

"(F) Minimum requirements for training program quality control.

"(3) ACCREDITATION AND CERTIFICATION FEES.—The Administrator (or the State in the case of an authorized State program) shall impose a fee on—

"(A) persons operating training programs accredited under this title; and

"(B) lead-based paint activities contractors certified in accordance with paragraph (1).

The fees shall be established at such level as is necessary to cover the costs of administering and enforcing the standards and regulations under this section which are applicable to such programs and contractors. The fee shall not be imposed on any State, local government, or nonprofit training program. The Administrator (or the State in the case of an authorized State program) may waive the fee for lead-based paint activities contractors under subparagraph (A) for the purpose of training their own employees.

"(b) LEAD-BASED PAINT ACTIVITIES.—For purposes of this title, the term 'lead-based paint activities' means—

"(1) in the case of target housing, risk assessment, inspection, and abatement; and

"(2) in the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure, identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

For purposes of paragraph (2), the term 'deleading' means activities conducted by a person who offers to eliminate lead-based paint or lead-based paint hazards or to plan such activities.

"(c) RENOVATION AND REMODELING.—

"(1) GUIDELINES.—In order to reduce the risk of exposure to lead in connection with renovation and remodeling of target housing, public buildings constructed before 1978, and commercial buildings, the Administrator shall, within 18 months after the enactment of this section, promulgate guidelines for the conduct of such renovation and remodeling activities which may create a risk of exposure to dangerous levels of lead. The Administrator shall disseminate such guidelines to persons engaged in such renovation and remodeling through hardware and paint stores, employee organizations, trade groups, State and local agencies, and through other appropriate means.

"(2) STUDY OF CERTIFICATION.—The Administrator shall conduct a study of the extent to which persons engaged in various types of renovation and remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard on a regular or occasional basis. The Administrator shall complete such study and publish the results thereof within 30 months after the enactment of this section.

"(3) CERTIFICATION DETERMINATION.—Within 4 years after the enactment of this section, the Administrator shall revise the regulations under subsection (a) to apply the regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. In determining which contractors are engaged in such activities, the Administrator shall utilize the results of the study under paragraph (2) and consult with the representatives of labor organizations, lead-based paint activities contractors, persons engaged in remodeling and renovation, experts in lead health effects, and others. If the Administrator determines that any category of contractors engaged in renovation or remodeling does not require certification, the Administrator shall publish an explanation of the basis for that determination.

"SEC. 403. IDENTIFICATION OF DANGEROUS LEVELS OF LEAD.

"Within 18 months after the enactment of this title, the Administrator shall promulgate regulations which shall identify, for purposes of this title and the Residential Lead-Based Paint Hazard Reduction Act of 1992, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil.

"SEC. 404. AUTHORIZED STATE PROGRAMS.

"(a) APPROVAL.—Any State which seeks to administer and enforce the standards, regulations, or other requirements established under section 402 or 406, or both, may, after notice and opportunity for public hearing, develop and submit to the Administrator an application, in such form as the Administrator shall require, for authorization of such a State program. Any such State may also certify to the Administrator at the time of submitting such program that the State program meets the requirements of paragraphs (1) and (2) of subsection (b). Upon submission of such certification, the State program shall be deemed to be authorized under this section, and shall apply in such State in lieu of the corresponding Federal program under section 402 or 406, or both, as the case may be, until such time as the Administrator disapproves the program or withdraws the authorization.

"(b) APPROVAL OR DISAPPROVAL.—Within 180 days following submission of an application under subsection (a), the Administrator shall approve or disapprove the application. The Administrator may approve the application only if, after notice and after opportunity for public hearing, the Administrator finds that—

"(1) the State program is at least as protective of human health and the environment as the Federal program under section 402 or 406, or both, as the case may be, and

"(2) such State program provides adequate enforcement.

Upon authorization of a State program under this section, it shall be unlawful for any person to violate or fail or refuse to comply with any requirement of such program.

"(c) WITHDRAWAL OF AUTHORIZATION.—If a State is not administering and enforcing a program authorized under this section in compliance with standards, regulations, and other requirements of this title, the Administrator shall so notify the State and, if corrective action is not completed within a reasonable time, not to exceed 180 days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this title.

"(d) MODEL STATE PROGRAM.—Within 18 months after the enactment of this title, the Administrator shall promulgate a model State program which may be adopted by any State which seeks to administer and enforce a State program under this title. Such model program shall, to the extent practicable, encourage States to utilize existing State and local certification and accreditation programs and procedures. Such program shall encourage reciprocity among the States with respect to the certification under section 402.

"(e) OTHER STATE REQUIREMENTS.—Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements which are more stringent than those imposed by this title.

"(f) STATE AND LOCAL CERTIFICATION.—The regulations under this title shall, to the extent appropriate, encourage States to seek program authorization and to use existing State and local certification and accreditation procedures, except that a State or local government shall not require more than 1 certification under this section for any lead-based paint activities contractor to carry out lead-based paint activities in the State or political subdivision thereof.

"(g) GRANTS TO STATES.—The Administrator is authorized to make grants to States to develop and carry out authorized State programs under this section. The grants shall be subject to such terms and conditions as the Administrator may establish to further the purposes of this title.

"(h) ENFORCEMENT BY ADMINISTRATOR.—If a State does not have a State program authorized under this section and in effect by the date which is 2 years after promulgation of the regulations under section 402 or 406, the Administrator shall, by such date, establish a Federal program for section 402 or 406 (as the case may be) for such State and administer and enforce such program in such State.

"SEC. 405. LEAD ABATEMENT AND MEASUREMENT.

"(a) PROGRAM TO PROMOTE LEAD EXPOSURE ABATEMENT.—The Administrator, in cooperation with other appropriate Federal departments and agencies, shall conduct a comprehensive program to promote safe, effective, and affordable monitoring, detection and abatement of lead-based paint and other lead exposure hazards.

"(b) STANDARDS FOR ENVIRONMENTAL SAMPLING LABORATORIES.—(1) The Administrator shall establish protocols, criteria, and minimum performance standards for laboratory analysis of lead in paint films, soil, and dust. Within 2 years after the enactment of this title, the Administrator, in consultation with the Secretary of Health and Human Services, shall establish a program to certify laboratories as qualified to test substances for lead content unless the Administrator determines, by the date specified in this paragraph, that effective voluntary accreditation programs are in place and operating on a nationwide basis at the time of such determination. To be certified under such program, a laboratory shall, at a minimum, demonstrate an ability to test substances accurately for lead content.

"(2) Not later than 24 months after the date of the enactment of this section, and annually thereafter, the Administrator shall publish and make available to the public a list of certified or accredited environmental sampling laboratories.

"(3) If the Administrator determines under paragraph (1) that effective voluntary accreditation programs are in place for environmental sampling laboratories, the Administrator shall review the performance and effectiveness of such programs within 3 years after such determination. If, upon such review, the Administrator determines that the voluntary accreditation programs are not effective in assuring the quality and consistency of laboratory analyses, the Administrator shall, not more than 12 months thereafter, establish a certification program that meets the requirements of paragraph (1).

"(c) EXPOSURE STUDIES.—(1) The Secretary of Health and Human Services (hereafter in this subsection referred to as the 'Secretary'), acting through the Director of the Centers for Disease Control, (CDC), and the Director of the National Institute of Environmental Health Sciences, shall jointly conduct a study of the sources of lead exposure in children who have elevated blood lead levels (or other indicators of elevated lead body burden), as defined by the Director of the Centers for Disease Control.

"(2) The Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health, shall conduct a comprehensive study of means to reduce hazardous occupational lead abatement exposures. This study shall include, at a minimum, each of the following—

"(A) Surveillance and intervention capability in the States to identify and prevent hazardous exposures to lead abatement workers.

"(B) Demonstration of lead abatement control methods and devices and work practices to identify and prevent hazardous lead exposures in the workplace.

"(C) Evaluation, in consultation with the National Institute of Environmental Health Sciences, of health effects of low and high levels of occupational lead exposures on reproductive, neurological, renal, and cardiovascular health.

"(D) Identification of high risk occupational settings to which prevention activities and resources should be targeted.

"(E) A study assessing the potential exposures and risks from lead to janitorial and custodial workers.

"(3) The studies described in paragraphs (1) and (2) shall, as appropriate, examine the relative contributions to elevated lead body burden from each of the following:

"(A) Drinking water.

"(B) Food.

"(C) Lead-based paint and dust from lead-based paint.

"(D) Exterior sources such as ambient air and lead in soil.

"(E) Occupational exposures, and other exposures that the Secretary determines to be appropriate.

"(4) Not later than 30 months after the date of the enactment of this section, the Secretary shall submit a report to the Congress concerning the studies described in paragraphs (1) and (2).

"(d) PUBLIC EDUCATION.—(1) The Administrator, in conjunction with the Secretary of Health and Human Services, acting through the Director of the Agency for Toxic Substances and Disease Registry, and in conjunction with the Secretary of Housing and Urban Development, shall sponsor public education and outreach activities to increase public awareness of—

"(A) the scope and severity of lead poisoning from household sources;

"(B) potential exposure to sources of lead in schools and childhood day care centers;

"(C) the implications of exposures for men and women, particularly those of childbearing age;

"(D) the need for careful, quality, abatement and management actions;

"(E) the need for universal screening of children;

"(F) other components of a lead poisoning prevention program;

"(G) the health consequences of lead exposure resulting from lead-based paint hazards;

"(H) risk assessment and inspection methods for lead-based paint hazards; and

"(I) measures to reduce the risk of lead exposure from lead-based paint.

"(2) The activities described in paragraph (1) shall be designed to provide educational services and information to—

"(A) health professionals;

"(B) the general public, with emphasis on parents of young children;

"(C) homeowners, landlords, and tenants;

"(D) consumers of home improvement products;

"(E) the residential real estate industry; and

"(F) the home renovation industry.

"(3) In implementing the activities described in paragraph (1), the Administrator shall assure coordination with the President's Commission on Environmental Quality's education and awareness campaign on lead poisoning.

"(4) The Administrator, in consultation with the chairman of the Consumer Product Safety Commission, shall develop information to be distributed by retailers of home improvement products to provide consumers with practical information related to the hazards of renovation and remodeling where lead-based paint may be present.

"(e) TECHNICAL ASSISTANCE.—

"(1) CLEARINGHOUSE.—Not later than 6 months after the enactment of this subsection, the Administrator shall establish, in consultation with the Secretary of Housing and Urban Development and the Director of the Centers for Disease Control, a National Clearinghouse on Childhood Lead Poisoning (hereinafter in this section referred to as 'Clearinghouse'). The Clearinghouse shall—

"(A) collect, evaluate, and disseminate current information on the assessment and reduction of lead-based paint hazards, adverse health effects, sources of exposure, detection and risk assessment methods, environmental hazards abatement, and clean-up standards;

"(B) maintain a rapid-alert system to inform certified lead-based paint activities contractors of significant developments in research related to lead-based paint hazards; and

"(C) perform any other duty that the Administrator determines necessary to achieve the purposes of this Act.

"(2) HOTLINE.—Not later than 6 months after the enactment of this subsection, the Administrator, in cooperation with other Federal agencies and with State and local governments, shall establish a single lead-based paint hazard hotline to provide the public with answers to questions about lead poisoning prevention and referrals to the Clearinghouse for technical information.

"(f) PRODUCTS FOR LEAD-BASED PAINT ACTIVITIES.—Not later than 30 months after the date of enactment of this section, the President shall, after notice and opportunity for comment, establish by rule appropriate criteria, testing protocols, and performance characteristics as are necessary to ensure, to the greatest extent possible and consistent with the purposes and policy of this title, that lead-based paint hazard evaluation and reduction products introduced into commerce after a period specified in the rule are effective for the intended use described by the manufacturer. The rule shall identify the types or classes of products that are subject to such rule. The President, in implementation of the rule, shall, to the maximum extent possible, utilize independent testing laboratories, as appropriate, and consult with such entities and others in developing the rules. The President may delegate the authorities under this subsection to the Environmental Protection Agency or the Secretary of Commerce or such other appropriate agency.

"SEC. 406. LEAD HAZARD INFORMATION PAMPHLET.

"(a) LEAD HAZARD INFORMATION PAMPHLET.—Not later than 2 years after the enactment of this section, after notice and opportunity for comment, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development and with the Secretary of Health and Human Services, shall publish, and from time to time revise, a lead hazard information pamphlet to be used in connection with this title and section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The pamphlet shall—

"(1) contain information regarding the health risks associated with exposure to lead;

"(2) provide information on the presence of lead-based paint hazards in federally assisted, federally owned, and target housing;

"(3) describe the risks of lead exposure for children under 6 years of age, pregnant women, women of child-bearing age, persons involved in home renovation, and others residing in a dwelling with lead-based paint hazards;

"(4) describe the risks of renovation in a dwelling with lead-based paint hazards;

"(5) provide information on approved methods for evaluating and reducing lead-based paint hazards and their effectiveness in identifying, reducing, eliminating, or preventing exposure to lead-based paint hazards;

"(6) advise persons how to obtain a list of contractors certified pursuant to this title in lead-based paint hazard evaluation and reduction in the area in which the pamphlet is to be used;

"(7) state that a risk assessment or inspection for lead-based paint is recommended prior to the purchase, lease, or renovation of target housing;

"(8) state that certain State and local laws impose additional requirements related to lead-based paint in housing and provide a listing of Federal, State, and local agencies in each State, including address and telephone number, that can provide information about applicable laws and available governmental and private assistance and financing; and

"(9) provide such other information about environmental hazards associated with residential real property as the Administrator deems appropriate.

"(b) RENOVATION OF TARGET HOUSING.—Within 2 years after the enactment of this section, the Administrator shall promulgate regulations under this subsection to require each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

"SEC. 407. REGULATIONS.

"The regulations of the Administrator under this title shall include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of this title. The regulations may be amended from time to time as necessary.

"SEC. 408. CONTROL OF LEAD-BASED PAINT HAZARDS AT FEDERAL FACILITIES.

"Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, (including any requirement for certification, licensing, recordkeeping, or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief) respecting lead-based paint, lead-based paint activities, and lead-based paint hazards in the same manner, and to the same extent as any nongovernmental entity is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines regardless of whether such penalties or fines are punitive or coercive in nature, or whether imposed for isolated, intermittent or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this section include, but are not limited to, fees or charges assessed for certification and licensing, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local lead-based paint, lead-based paint activities, or lead-based paint hazard activities program. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law relating to lead-based paint, lead-based paint activities, or lead-based paint hazards with respect to any act or omission within the scope of his official duties.

"SEC. 409. PROHIBITED ACTS.

"It shall be unlawful for any person to fail or refuse to comply with a provision of this title or with any rule or order issued under this title.

"SEC. 410. RELATIONSHIP TO OTHER FEDERAL LAW.

"Nothing in this title shall affect the authority of other appropriate Federal agencies to establish or enforce any requirements which are at least as stringent as those established pursuant to this title.

"SEC. 411. GENERAL PROVISIONS RELATING TO ADMINISTRATIVE PROCEEDINGS.

"(a) APPLICABILITY.—This section applies to the promulgation or revision of any regulation issued under this title.

"(b) RULEMAKING DOCKET.—Not later than the date of proposal of any action to which this section applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a 'rule'). Whenever a rule applies only within a particular State, a second (identical) docket shall be established in the appropriate regional office of the Environmental Protection Agency.

"(c) INSPECTION AND COPYING.—(1) The rulemaking docket required under subsection (b) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays the expenses, including personnel costs to do the copying.

"(2)(A) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

"(B) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

"(d) EXPLANATION.—(1) The promulgated rule shall be accompanied by an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

"(2) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

"(3) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

"(e) JUDICIAL REVIEW.—The material referred to in subsection (c)(2)(B) shall not be included in the record for judicial review.

"(f) EFFECTIVE DATE.—The requirements of this section shall take effect with respect to any rule the proposal of which occurs after 90 days after the date of the enactment of this section.

"SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the purposes of this title such sums as may be necessary.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Toxic Substances Control Act (15 U.S.C. 2610) is amended as follows:

(1) In paragraph (1) of section 7(a), strike "or 6" and insert "6, or title IV" and after "5" insert "or title IV".

(2) In the first sentence of subsection (a) of section 11:

(A) Strike "or mixtures" before "are manufactured" and insert ", mixtures, or products subject to title IV".

(B) Insert "such products," before "or such articles".

(3) In paragraph (1) of subsection (b) of section 11, strike "or mixtures" and insert ", mixtures, or products subject to title IV".

(4) In paragraph (1) of section 13(a), strike "or 6" in each place it appears and insert ", 6, or title IV" and strike "or 7" and insert ", 7 or title IV".

(5) In section 16, insert "or 409" after "section 15" each place it appears.

(6) In section 17 amend subsection (a) to read as follows:

"(a) SPECIFIC ENFORCEMENT.—(1) The district courts of the United States shall have jurisdiction over civil actions to—

"(A) restrain any violation of section 15 or 409,

"(B) restrain any person from taking any action prohibited by section 5, 6, or title IV, or by a rule or order under section 5, 6, or title IV,

"(C) compel the taking of any action required by or under this Act, or

"(D) direct any manufacturer or processor of a chemical substance, mixture, or product subject to title IV manufactured or processed in violation of section 5, 6, or title IV, or a rule or order under section 5, 6, or title IV, and distributed in commerce, (i) to give notice of such fact to distributors in commerce of such substance, mixture, or product and, to the extent reasonably ascertainable, to other persons in possession of such substance, mixture, or product or exposed to such substance, mixture, or product, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance, mixture, or product, whichever the person to which the requirement is directed elects.".

(7) In the first sentence of subsection (b) of section 17—

(A) strike "or mixture" after "Any chemical substance" and inserting ", mixture, or product subject to title IV"; and

(B) insert "product," before "or article" in each place that it appears.

(8) In section 19—

(A) In the first sentence of subsection (a), after "title II" insert "or IV".

(B) Before the semicolon at the end of subsection (a)(3)(B) insert "and in the case of a rule under title IV, the finding required for the issuance of such a rule".

(9) In section 20(a)(1) after "title II" insert "or IV" in each place it appears.

(10) Add at the end of the table of contents in section 1 the following:

"TITLE IV—LEAD EXPOSURE REDUCTION

"Sec. 401. Definitions.
"Sec. 402. Lead-based paint activities training and certification.
"Sec. 403. Identification of dangerous levels of lead.
"Sec. 404. Authorized State programs.
"Sec. 405. Lead abatement and measurement.
"Sec. 406. Lead hazard information pamphlet.
"Sec. 407. Regulations.
"Sec. 408. Control of lead-based paint hazards at Federal facilities.

"Sec. 409. Prohibited acts.
"Sec. 410. Relationship to other Federal law.
"Sec. 411. General provisions relating to administrative proceedings.
"Sec. 412. Authorization of appropriations.".

(c) SHORT TITLE.—This subtitle may be cited as the "Lead-Based Paint Exposure Reduction Act".

Subtitle C—Worker Protection

SEC. 1031. WORKER PROTECTION.

Not later than 180 days after the enactment of this Act, the Secretary of Labor shall issue an interim final regulation regulating occupational exposure to lead in the construction industry. Such interim final regulation shall provide employment and places of employment to employees which are as safe and healthful as those which would prevail under the Department of Housing and Urban Development guidelines published at Federal Register 55, page 38973 (September 28, 1990) (Revised Chapter 8). Such interim final regulations shall take effect upon issuance (except that such regulations may include a reasonable delay in the effective date), shall have the legal effect of an Occupational Safety and Health Standard, and shall apply until a final standard becomes effective under section 6 of the Occupational Safety and Health Act of 1970.

SEC. 1032. COORDINATION BETWEEN ENVIRONMENTAL PROTECTION AGENCY AND DEPARTMENT OF LABOR.

The Secretary of Labor, in promulgating regulations under section 1031, shall consult and coordinate with the Administrator of the Environmental Protection Agency for the purpose of achieving the maximum enforcement of title IV of the Toxic Substances Control Act and the Occupational Safety and Health Act of 1970 while imposing the least burdens of duplicative requirements on those subject to such title and Act and for other purposes.

SEC. 1033. NIOSH RESPONSIBILITIES.

Section 22 of the Occupational Safety and Health Act of 1970 is amended by adding the following new subsection at the end thereof:

"(g) LEAD-BASED PAINT ACTIVITIES.—

"(1) TRAINING GRANT PROGRAM.—(A) The Institute, in conjunction with the Administrator of the Environmental Protection Agency, may make grants for the training and education of workers and supervisors who are or may be directly engaged in lead-based paint activities.

"(B) Grants referred to in subparagraph (A) shall be awarded to nonprofit organizations (including colleges and universities, joint labor-management trust funds, States, and nonprofit government employee organizations)—

"(i) which are engaged in the training and education of workers and supervisors who are or who may be directly engaged in lead-based paint activities (as defined in title IV of the Toxic Substances Control Act),

"(ii) which have demonstrated experience in implementing and operating health and safety training and education programs, and

"(iii) with a demonstrated ability to reach, and involve in lead-based paint training programs, target populations of individuals who are or will be engaged in lead-based paint activities.

Grants under this subsection shall be awarded only to those organizations that fund at least 30 percent of their lead-based paint activities training programs from non-Federal sources, excluding in-kind contributions. Grants may also be made to local governments to carry out such training and education for their employees.

"(C) There are authorized to be appropriated, at a minimum, $10,000,000 to the Institute for each of the fiscal years 1994 through 1997 to make grants under this paragraph.

"(2) EVALUATION OF PROGRAMS.—The Institute shall conduct periodic and comprehensive assessments of the efficacy of the worker and supervisor training programs developed and offered by those receiving grants under this section. The Director shall prepare reports on the results of these assessments addressed to the Administrator of the Environmental Protection Agency to include recommendations as may be appropriate for the revision of these programs. The sum of $500,000 is authorized to be appropriated to the Institute for each of the fiscal years 1994 through 1997 to carry out this paragraph.".

Subtitle D—Research and Development

PART 1—HUD RESEARCH

SEC. 1051. RESEARCH ON LEAD EXPOSURE FROM OTHER SOURCES.

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil and interior lead dust in carpets, furniture, and forced air ducts.

SEC. 1052. TESTING TECHNOLOGIES.

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

(1) develop improved methods for evaluating lead-based paint hazards in housing;

(2) develop improved methods for reducing lead-based paint hazards in housing;

(3) develop improved methods for measuring lead in paint films, dust, and soil samples;

(4) establish performance standards for various detection methods, including spot test kits;

(5) establish performance standards for lead-based paint hazard reduction methods, including the use of encapsulants;

(6) establish appropriate cleanup standards;

(7) evaluate the efficacy of interim controls in various hazard situations;

(8) evaluate the relative performance of various abatement techniques;

(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and

(10) assess the effectiveness of hazard evaluation and reduction activities funded by this Act.

SEC. 1053. AUTHORIZATION.

Of the total amount approved in appropriation Acts under section 1011(o), there shall be set aside to carry out this part $5,000,000 for fiscal year 1993, and $5,000,000 for fiscal year 1994.

PART 2—GAO REPORT

SEC. 1056. FEDERAL IMPLEMENTATION AND INSURANCE STUDY.

(a) FEDERAL IMPLEMENTATION STUDY.—The Comptroller General of the United States shall assess the effectiveness of Federal enforcement and compliance with lead safety laws and regulations, including any changes needed in annual inspection procedures to identify lead-based paint hazards in units receiving assistance under subsections (b) and (o) of section 8 of the United States Housing Act of 1937.

(b) INSURANCE STUDY.—The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard evaluation and reduction activities. In carrying out the assessment, the Comptroller General shall—

(1) analyze any precedents in the insurance industry for the containment and abatement of environmental hazards, such as asbestos, in federally assisted housing;

(2) provide an assessment of the recent insurance experience in the public housing lead hazard identification and reduction program; and

(3) recommend measures for increasing the availability of liability insurance to owners and contractors engaged in federally supported work.

Subtitle E—Reports

SEC. 1061. REPORTS OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

(a) ANNUAL REPORT.—The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this title;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between interim control and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard evaluation and reduction activities;

(4) describes the results of research carried out in accordance with subtitle D; and

(5) estimates the amount of Federal assistance annually expended on lead hazard evaluation and reduction activities.

(b) BIENNIAL REPORT.—

(1) IN GENERAL.—24 months after the date of enactment of this Act, and at the end of every 24-month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing expanded lead-based paint hazard evaluation and reduction activities.

(2) CONTENTS.—The report shall—

(A) assess the effectiveness of section 1018 in making the public aware of lead-based paint hazards;

(B) estimate the extent to which lead-based paint hazard evaluation and reduction activities are being conducted in the various categories of housing;

(C) monitor and report expenditures for lead-based paint hazard evaluation and reduction for programs within the jurisdiction of the Department of Housing and Urban Development;

(D) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, standards and regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(E) assess the extent to which the infrastructure described in subparagraph (D) exists, make recommendations to correct shortcomings, and provide estimates of the costs of measures needed to build an adequate infrastructure; and

(F) include any additional information that the Secretary deems appropriate.

TITLE XI—NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES

SEC. 1101. AUTHORITY.

To provide for the revitalization and renewal of inner city neighborhoods in the areas of Los Angeles, California, that were damaged by the civil disturbances during April and May of 1992, and to demonstrate the effectiveness of new town developments in revitalizing and restoring depressed and underprivileged inner city neighborhoods, the Secretary of Housing and Urban Development shall, to the extent or in such amounts as are provided in appropriation Acts, make any assistance authorized under this title available under this title to units of general local government, governing boards, and eligible mortgagors in accordance with the provisions of this title.

SEC. 1102. NEW TOWN PLAN.

(a) REQUIREMENT.—The Secretary may make assistance available under this title only in con-

nection with, and according to the provisions of a new town plan developed and established by a governing board under section 1107 and approved under subsection (d) of this section. In developing such plans, the governing board shall consult with representatives of the units of general local government within whose boundaries are located any portion of the new town demonstration area for the demonstration program to be carried out under such plan.

(b) ELIGIBLE NEW TOWN DEMONSTRATION AREAS.—A new town plan under this section shall provide for carrying out a new town development demonstration providing assistance available under this title within a new town demonstration area, which shall be a geographic area defined in the new town plan—

(1) that is one of pervasive poverty, unemployment, and general distress;

(2) that has an unemployment rate of not less than 1.5 times the national unemployment rate for the 2 years preceding approval of the new town plan;

(3) that has a poverty rate of not less than 20 percent such 2-year period;

(4) for which not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the unit of general local government in which they are located;

(5) that has a shortage of adequate jobs for residents; and

(6) that is located—

(A) in or near the City or County of Los Angeles, in the State of California; and

(B) within an area for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) CONTENTS.—Each new town plan shall include the following information:

(1) GOVERNING BOARD.—A description of the members and purposes of the governing board that developed the plan, the manner in which members of the governing board were selected, and the businesses, agencies, interests, and community ties of each member of the governing board.

(2) NEW TOWN DEMONSTRATION AREA.—A definition and description of the new town demonstration area for the new town development demonstration to be assisted under this title.

(3) TARGET COMMUNITY.—A description of the economic, social, racial, and ethnic characteristics of the population of the neighborhood or area in which the new town demonstration area is located.

(4) AGREEMENTS.—Agreements that the governing board will carry out the new town demonstration program in accordance with the requirements of this title.

(5) HOUSING UNITS.—A description of the number, size, location, cost, style, and characteristics of rental and homeownership housing units to be developed under the new town demonstration program, any financing for developing such housing, and the amount of assistance necessary under section 1105 for developing the housing under the program.

(6) JOBS.—A description of the number, types, and duration of any new jobs that will be created in the new town demonstration area and surrounding areas as a result of the demonstration program, and of any job training activities and apprenticeship programs to be made available in connection with the program.

(7) SOCIAL SERVICES.—A description of the social and supportive services to be made available under the demonstration program to residents of housing assisted under the demonstration program pursuant to section 1103(d) and to residents of the new town demonstration area.

(8) SUPPLEMENTAL RESOURCES.—A description of any funds, assistance, in-kind contributions, and other resources to be made available in connection with the demonstration program, including the sources and amounts of any private capital resources and non-Federal funds required under section 1103(h).

(9) CONTRACTORS AND DEVELOPERS.—A listing of the contractors and developers who potentially will carry out any construction and rehabilitation work for development of housing under the demonstration program and the expected costs involved in hiring such contractors and developers.

(10) FINANCING FOR HOMEBUYERS.—A description of any mortgage lenders who have indicated that they will make financing available to families purchasing housing developed under the demonstration program through mortgages eligible for insurance under section 1104 and proposed terms of such mortgages.

(11) COMMITMENTS.—Evidence of any commitments entered into for making any of the resources described in paragraphs (6) through (8) available in connection with the demonstration program.

(12) PRESALE REQUIREMENTS.—A description of commitments made to purchase not less than 50 percent of the housing to be developed under the demonstration program for purchase by the occupant and to rent not less than 50 percent of the rental dwelling units to be developed under the demonstration program.

(13) COMMUNITY DEVELOPMENT ACTIVITIES.—A description of the community development activities to be carried out with assistance under section 1106, the amount of assistance necessary under such section for such activities, and of the projected uses of such assistance.

(d) REVIEW AND APPROVAL.—

(1) SUBMISSION.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, a governing board shall submit a new town plan under this section to the chief executive officers of each unit of general local government within whose boundaries is located any portion of the new town demonstration area described under the plan of the board.

(2) APPROVAL.—For a plan to be eligible for assistance available under this title, the chief executive officer of all units of general local government to whom the new town plan is submitted shall approve the plan at a public meeting after the plan has been made publicly available for a period of not less than 30 days. A governing board may resubmit for approval any plan returned by any such chief executive officer to the governing board, and such chief executive officer may, upon returning the plan indicate any modifications necessary for approval. A new town plan may not be approved unless such chief executive officers determine that the membership of the governing board submitting the plan is constituted in accordance with section 1107 and the governing board is capable of carrying out the plan.

(3) AMENDMENT.—An approved new town plan for the demonstration program developed by the governing board may be amended by the board by obtaining approval of the amendment in the manner provided under this subsection for approval of plans. If the chief executive officer of the unit of general local government does not approve or return the amended plan within 30 days of submission, the amended plan shall be considered to be approved for purposes of this subsection.

SEC. 1103. NEW TOWN DEVELOPMENT DEMONSTRATION PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Each of the 2 new town development demonstration programs selected for assistance under this title under section 1102 shall be carried out, by the governing board submitting the new town plan for the demonstration program, in accordance with such plan (and any approved amendments of such plans) and shall be subject to the requirements under this section.

(b) LOCAL PARTICIPATION.—With respect to any activities carried out under the demonstration program, the program shall give preference in awarding contracts, purchasing materials, acquiring services, and obtaining assistance or training, to contractors, businesses, developers, professionals, and other establishments located or having offices within the new town demonstration area.

(c) HOUSING.—

(1) NUMBER OF UNITS.—The demonstration program shall construct or renovate not less than 1500 dwelling units in the new town demonstration area, of which not less than 60 percent shall be units available for purchase by the occupant.

(2) AFFORDABILITY.—Units of varying sizes and costs shall be designed and developed under the demonstration program so that the program provides housing affordable to families of varying incomes not exceeding 115 percent of the median income for the area in which the new town demonstration area is located, including very low- and low-income families (as such terms are defined in section 3(b) of the United States Housing Act of 1937).

(3) HOMEOWNERSHIP UNITS.—Dwelling units developed under the demonstration program for purchase by the occupant shall initially be sold at prices affordable to families eligible to purchase such units. Such units shall be available for purchase only by families having incomes not exceeding the amount specified in paragraph (2). The demonstration shall develop 2-, 3-, and 4-bedroom units for purchase.

(4) RENTAL UNITS.—Dwelling units developed under the demonstration program that are to be available for rental shall include family-type units and single bedroom and efficiency units designed for elderly occupants. Such units shall be available for occupancy only by families who (upon initial occupancy) have incomes of (A) less than 60 percent of the median income for the area, or (B) less than $20,000. Occupant families shall pay not more than 30 percent of the family income for rent.

(d) SOCIAL SERVICES.—The demonstration program shall provide for appropriate social and supportive services to be made available to residents of housing assisted under the demonstration program and to other residents of the new town demonstration area, which may include rental and homeownership counseling, child care, job placement, educational programs, recreational and health care facilities and programs, and other appropriate services.

(e) JOB CREATION AND TRAINING.—The demonstration program shall provide, to the extent practicable, that activities in connection with the demonstration program, including development of housing under subsection (c) and community development activities assisted under section 1106, shall employ and provide job training opportunities for residents of the housing assisted under the demonstration program and other residents of the new town demonstration area.

(f) FINANCING.—The demonstration program shall provide for coordination with banks, credit unions, and other mortgage lenders to make financing available to purchasers of units developed under the demonstration program through mortgages eligible for insurance under section 1104, and shall give preference to such mortgage lenders who have offices located within or near the new town demonstration area.

(g) SUPPORT FACILITIES.—The demonstration program shall encourage, facilitate, and provide

for development of appropriate support facilities to serve residents in the housing developed under the program, including infrastructure and commercial facilities.

(h) Non-Federal Funds.—The governing board carrying out the demonstration program shall ensure that not less than 25 percent of the total amounts used to carry out the demonstration program is provided from non-Federal sources, including State or local government funds, any salary paid to staff to carry out the demonstration program, the value of any time, services, and materials donated to carry out the program, the value of any donated building, and the value of any lease on a building.

SEC. 1104. FEDERAL MORTGAGE INSURANCE.

(a) In General.—Pursuant to title II and section 251 of the National Housing Act, the Secretary shall (to the extent authority is available pursuant to subsection (d)) insure mortgages under this section involving properties upon which are located dwelling units described in section 1103(c)(3) of this Act that are developed under the new town demonstration programs carried out pursuant to this title.

(b) Mortgage Terms.—Mortgages insured under this section shall—

(1) provide for periodic adjustments in the effective rate of interest charged, which—

(A) for the first 5 years of the mortgage, shall be an annual rate of not more than 7 percent; and

(B) after the expiration of such 5-year period, may increase on an annual basis, but—

(i) shall be limited, with respect to any single interest rate increase, to not more than a 10 percent increase in the annual percentage rate; and

(ii) may not be increased at any time to a rate greater than the rate necessary at such time to fully amortize the outstanding loan balance over the term of the mortgage; and

(2) have a maturity of 35 years from the date of the beginning of the amortization of the mortgage.

(c) Board Approval.—The Secretary may provide insurance under this section for a mortgage only if the governing board for the demonstration program for the new town demonstration area in which the property subject to the mortgage is located has indicated to the Secretary approval of the mortgage in connection with the demonstration program.

(d) Insurance Authority.—To the extent provided in appropriation Acts, the Secretary shall use any authority provided pursuant to section 531(b) of the National Housing Act to enter into commitments to insure loans and mortgages under this section in fiscal years 1993 and 1994 with an aggregate principal amount not exceeding such sums as may be necessary to carry out the demonstration under this title. Mortgages insured under this section shall not be considered for purposes of the aggregate limitation on the number of mortgages insured under section 251 of the National Housing Act specified in subsection (c) of such section.

SEC. 1105. SECONDARY SOFT MORTGAGE FINANCING FOR HOUSING.

(a) In General.—The Secretary shall, to the extent amounts are provided in appropriation Acts under subsection (e), provide assistance under this section through the governing boards carrying out the new town demonstration programs under this section to assist in the development of housing under the program.

(b) Use.—Any assistance provided under this section shall be used only for costs in planning, developing, constructing, and rehabilitating housing under the demonstration program available for rental or purchase by the occupant. The governing board shall determine, according to the new town plan for the demonstration program, the allocation of amounts of assistance provided under this section.

(c) Amount.—The Secretary may not provide assistance under this section for the development of housing under a demonstration program in an amount exceeding $50,000 per dwelling unit assisted.

(d) Second Mortgage.—

(1) In general.—Assistance under this section shall be repaid in accordance with this subsection. Repayment of the amount of any assistance provided with respect to—

(A) any building containing rental units, or

(B) any dwelling unit available for purchase by the occupant that is developed under a demonstration program,

shall be secured by a second mortgage held by the Secretary on the property involved.

(2) Terms.—During the period ending upon repayment of the assistance as provided in this subsection, any building containing rental units that is provided assistance under this section shall be used as rental housing subject to the requirements of section 1103(c)(4). During the period ending upon repayment of the assistance as provided in this subsection, any dwelling unit made available for purchase by the occupant that is provided assistance under this section may be sold only to a family having an income not exceeding the amount specified in section 1103(c)(2).

(3) Interest.—Any assistance provided under this section for a building or dwelling unit shall bear interest at a rate equivalent to the rate for the most recently marketable obligations issued by the United States Treasury have terms of 10 years. The interest on such assistance shall be required to be repaid only upon sale of the building.

(4) Discounted repayment.—The assistance provided under this section for any building containing rental units or any dwelling unit available for purchase by the occupant shall be considered to have been repaid for purposes of this subsection if the original purchaser of the building or the dwelling unit pays to the Secretary an amount equal to 50 percent of the amount of the assistance provided under this section.

(e) Authorization of Appropriations.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for providing assistance under this section.

SEC. 1106. COMMUNITY DEVELOPMENT ASSISTANCE.

(a) In General.—The Secretary shall provide assistance under this section, to the extent amounts are provided in appropriation Acts under subsection (h), to units of general local government to address vital unmet needs and to promote the creation of jobs and economic development in connection with the new town demonstration programs carried out under this title.

(b) Eligible Units of General Local Government.—Assistance may be provided under this section only to units of general local government—

(1) within whose boundaries are located any portion of the new town demonstration areas described under the new town demonstration plans for the demonstration programs carried out under this title;

(2) that make the certifications to the Secretary required under subsection (c); and

(3) that will comply with a residential antidisplacement and relocation assistance plan described in subsection (d).

(c) Required Certifications.—The certifications referred to in subsection (b)(2) shall be certifications that—

(1) the assistance will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Civil Rights Act of 1968, and the unit of general local government will affirmatively further fair housing;

(2) the projected use of funds has been developed in a manner that gives maximum feasible priority to activities which are designed to meet community development needs that have been delayed because of the lack of fiscal resources of the unit of general local government or which are designed to address conditions that pose a serious and immediate threat to the health or welfare of the community;

(3) any projected use of funds for public services will benefit primarily low- and moderate-income families;

(4) the unit of general local government will not attempt to recover any capital costs of public improvements assisted in whole or part under this section by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless—

(A) funds received under this section are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this section; or

(B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under this section to comply with the requirements of subparagraph (A); and

(5) the unit of general local government will comply with the other provisions of this title and with other applicable laws.

(d) Antidisplacement and Relocation Plan.—

(1) Contents.—The residential antidisplacement and relocation assistance plan referred to in subsection (b)(3) shall, in connection with activities assisted under this section—

(A) provide that, in the event of such displacement—

(i) governmental agencies or private developers shall provide, within the same community, comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low- and moderate-income dwelling units demolished or converted to a use other than for housing for low- and moderate-income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low- and moderate-income for 10 years from the time of initial occupancy;

(iii) relocation benefits shall be provided for all low- or moderate-income persons who occupied housing demolished or converted to a use other than for low- or moderate-income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low- and moderate-income, provide either—

(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association; and

(iv) persons displaced shall be relocated into comparable replacement housing that is—

(I) decent, safe, and sanitary;

(II) adequate in size to accommodate the occupants;

(III) functionally equivalent; and

(IV) in an area not subject to unreasonably adverse environmental conditions; and

(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if such persons determine that it is in their best interest to do so; and

(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by the unit of general local government, the claimant may appeal to the Secretary, and that the decision of the Secretary shall be final unless a court determines the decision was arbitrary and capricious.

(2) Exception.—Paragraphs (1)(A)(i) and (1)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low- and moderate-income persons. A determination under this paragraph shall be final and nonreviewable.

(e) Eligible Activities.—Activities assisted with amounts provided under this section may include only the following activities:

(1) Acquisition of real property.—The acquisition of real property (including air rights, water rights, and other interests therein) that is located within the new town demonstration area and is—

(A) blighted, deteriorated, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(B) appropriate for rehabilitation activities;

(C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this section;

(E) to be used as a facility for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act); or

(F) to be used for other public purposes.

(2) Construction of public works and facilities.—The acquisition, construction, rehabilitation, or installation of public works or public facilities within the new town demonstration area, including buildings for the general conduct of government and facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act).

(3) Clearance and rehabilitation of buildings.—The clearance, removal, and rehabilitation of buildings and improvements located within the new town demonstration area, including interim assistance, assistance for facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act), and assistance to privately owned buildings and improvements.

(4) Provision of public services and housing.—

(A) Public services.—The provision of public services within the new town demonstration area that are concerned with job training and retraining, health care and education, crime prevention, drug abuse treatment and rehabilitation, child care, education, and recreation, which may include the provision of public health and public safety vehicles.

(B) Housing activities.—The acquisition and rehabilitation of housing for low- and moderate-income families within the new town demonstration area, except that any grantee that uses amounts received under this section for housing activities under this subparagraph shall make not less than 15 percent of the amount used for such housing activities available only for community housing development organizations and nonprofit organizations (as such terms are defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act) for such activities;

(C) Limitation.—Not more than 25 percent of the amount of any assistance provided under this section (including program income) to any unit of general local government may be used for activities under this paragraph.

(5) Relocation assistance.—Relocation payments and assistance for individuals, families, business, and organizations that are displaced as a result of activities assisted under this title.

(6) Payment of administrative expenses.—Payment of reasonable administrative costs associated with activities assisted under this section and any expenses of developing the new town plan under section 1102.

(f) Allocation of Assistance.—The Secretary may not provide more than 50 percent of any amounts appropriated under this section in connection with any one of the 2 new town demonstration programs carried out under this title.

(g) Other Requirements.—The provisions of subsections (f), (g), and (h) of section 104, subsections (c) and (d) of section 105, section 107, 108, 109, and 110 of the bill, H.R. 4073, 102d Congress (as reported on March 14, 1992, by the Committee on Banking, Finance and Urban Affairs of the House of Representatives), shall apply to grantees receiving assistance under this section.

(h) Authorization of Appropriations.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for assistance under this section.

SEC. 1107. GOVERNING BOARDS.

(a) Purpose.—For purposes of this title, a governing board shall be a board organized for the purpose of developing a new town plan under this title and carrying out a new town development demonstration under this title.

(b) Membership.—Each governing board shall consist of not less than 10 members, who shall include—

(1) residents of the area in which the new town demonstration area under the plan developed by the board is located;

(2) owners of business in such area;

(3) leaders or participants in community groups in such area; and

(4) representatives of financial institutions located or having offices in such area.

(c) Organization.—A governing board may organize itself and conduct business in the manner that the board determines is appropriate to carry out the new town development demonstration under this title.

SEC. 1108. REPORTS.

Each governing board carrying out a new town development demonstration under this title shall submit to the Congress the following information:

(1) New town plan.—Upon approval of the new town plan of the governing board under section 1102(d), a copy of the approved plan.

(2) Annual reports.—For the 5-year period beginning upon the approval of the new town plan, annual reports for each 12-month period during such 5-year period, which shall be submitted within 3 months after the expiration of the 12-month period. Each report shall include a description of any activities during such period to carry out the demonstration program of the governing board, the use during such period of any assistance provided under this title, and any amendments under section 1102(d)(4) to the new town plan approved during such period.

SEC. 1109. DEFINITIONS.

For purposes of this title:

(1) Demonstration program.—The terms "demonstration program" and "program" mean a new town development demonstration program receiving assistance under this title, which is carried out within a new town demonstration area by a governing board.

(2) Governing board.—The term "governing board" means a board established under section 1107.

(3) New town demonstration area.—The term "new town demonstration area" means the area defined in a new town plan in which the new town development demonstration under the plan is to be carried out.

(4) New town plan.—The terms "new town plan" and "plan" mean a plan under section 1102 developed by a governing board.

(5) Unit of general local government.—The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of the State of California.

TITLE XII—REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

SEC. 1201. SHORT TITLE.

This title may be cited as the "Removal of Regulatory Barriers to Affordable Housing Act of 1992".

SEC. 1202. PURPOSES.

The purposes of this title are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

SEC. 1203. DEFINITION OF REGULATORY BARRIERS TO AFFORDABLE HOUSING.

For purposes of this title, the terms "regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

SEC. 1204. GRANTS FOR REGULATORY BARRIER REMOVAL STRATEGIES AND IMPLEMENTATION.

(a) In General.—The amounts set aside under section 107 of the Housing and Community Development Act of 1974 for the purpose of this subsection shall be available for grants under subsection (b) and (c).

(b) State Grants.—The Secretary may make grants to States for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring State and local regulatory barriers;

(2) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide a State program to reduce State and local regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model State standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;

(5) carrying out the simplification and consolidation of State administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits; and

(6) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

(c) LOCAL GRANTS.—The Secretary may make grants to units of general local government for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring local regulatory barriers;

(2) identifying local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide a local program to reduce local regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances; and

(5) carrying out the simplification and consolidation of local administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits.

(d) DEFINITION.—For purposes of this section, the terms "regulatory barriers to affordable housing" and "regulatory barriers" have the meaning given such terms in section 1203.

(e) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this subsection and for the selection of units of general local government to receive grants under subsection (f)(2).

(f) ALLOCATION OF AMOUNTS.—

(1) STATE GRANTS.—

(A) IN GENERAL.—Of the total amount appropriated for each fiscal year to carry out this subsection, the Secretary shall use two-thirds of such amount to provide grants under subsection (b) to each State submitting an application that is approved by the Secretary. Such amounts shall be allocated among the States based upon the measure of need (for the whole State) of each State, as determined under section 217(b)(1)(A) (excluding adjustments under section 217(b)(1)(D)) of the Cranston-Gonzalez National Affordable Housing Act, except that the minimum grant amount for each fiscal year grant shall be $100,000 (to the extent sufficient amounts are made available).

(B) PRO RATA DISTRIBUTION.—If insufficient amounts are made available for grants in the amount under subparagraph (A) to each State submitting an approved application, each such State shall receive a pro rata portion of such amount based on the ratio of the population of such State to the population of all States.

(2) LOCAL GRANTS.—Of the total amount appropriated for each fiscal year to carry out this section, the Secretary shall use one-third of such amount to provide grants on a competitive basis to units of general local government based on the proposed uses of such amounts, as provided in the application. Each grant made with such amounts shall be in an amount not less than $10,000.

(g) COORDINATION WITH CLEARINGHOUSE.—Each State and unit of general local government receiving a grant under this section, shall consult, coordinate, and exchange information with the clearinghouse established under section 1205.

(h) REPORTS TO SECRETARY.—Each State and unit of general local government receiving a grant under this section shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities carried out with the grant amounts. The report shall contain an assessment of the impact of any regulatory barriers identified by the grantee on the housing patterns of minorities.

(i) CONFORMING AMENDMENTS.—The first sentence of section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "for grants" and all that follows through "(2))" and inserting "that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a)".

SEC. 1205. REGULATORY BARRIERS CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a clearinghouse to receive, collect, process, and assemble information regarding—

(1) State and local laws, regulations, and policies affecting the development, maintenance, improvement, availability, or cost of affordable housing, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on investment in residential property;

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies; and

(3) State and local strategies, activities and plans that promote affordable housing and housing desegregation.

(b) FUNCTIONS.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a); and

(2) provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans.

SEC. 1206. SUBSTANTIALLY EQUIVALENT FEDERAL AND STATE BARRIER ASSESSMENT REMOVAL REQUIREMENTS.

Section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(4)) is amended by inserting before the semicolon at the end the following: ", except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph".

SEC. 1207. REPORTS BY SECRETARY.

Not later than 2 years after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress. The report shall—

(1) describe any successful State and local strategies for the removal of barriers to affordable housing;

(2) assess the impact of identified regulatory barriers on the housing patterns of minorities; and

(3) describe any strategies developed or implemented by the Department of Housing and Urban Development for reducing barriers to affordable housing imposed by the Federal Government.

TITLE XIII—GOVERNMENT SPONSORED ENTERPRISES

SEC. 1301. SHORT TITLE.

This title may be cited as the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

SEC. 1302. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (referred to in this section collectively as the "enterprises"), and the Federal Home Loan Banks (referred to in this section as the "Banks"), have important public missions that are reflected in the statutes and charter Acts establishing the Banks and the enterprises;

(2) because the continued ability of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to accomplish their public missions is important to providing housing in the United States and the health of the Nation's economy, more effective Federal regulation is needed to reduce the risk of failure of the enterprises;

(3) considering the current operating procedures of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, the enterprises and the Banks currently pose low financial risk of insolvency;

(4) neither the enterprises nor the Banks, nor any securities or obligations issued by the enterprises or the Banks, are backed by the full faith and credit of the United States;

(5) an entity regulating the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should have sufficient autonomy from the enterprises and special interest groups;

(6) an entity regulating such enterprises should have the authority to establish capital standards, require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary, and enforce compliance with the standards and rules that it establishes;

(7) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return; and

(8) the Federal Home Loan Bank Act should be amended to emphasize that providing for financial safety and soundness of the Federal Home Loan Banks is the primary mission of the Federal Housing Finance Board.

SEC. 1303. DEFINITIONS.

For purposes of this title:

(1) AFFILIATE.—Except as provided by the Director, the term "affiliate" means any entity that controls, is controlled by, or is under common control with, an enterprise.

(2) CAPITAL DISTRIBUTION.—

(A) IN GENERAL.—The term "capital distribution" means—

(i) any dividend or other distribution in cash or in kind made with respect to any shares of, or other ownership interest in, an enterprise, except a dividend consisting only of shares of the enterprise;

(ii) any payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition by the enterprise of such shares; and

(iii) any transaction that the Director determines by regulation to be, in substance, the distribution of capital.

(B) EXCEPTION.—Any payment made by an enterprise to repurchase its shares for the purpose of fulfilling an obligation of the enterprise under an employee stock ownership plan that is qualified under section 401 of the Internal Revenue Code of 1986 or any substantially equivalent plan, as determined by the Director, shall not be considered a capital distribution.

(3) COMPENSATION.—The term "compensation" means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(4) CORE CAPITAL.—The term "core capital" means, with respect to an enterprise, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par or stated value of outstanding common stock.

(B) The par or stated value of outstanding perpetual, noncumulative preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

The core capital of an enterprise shall not include any amounts that the enterprise could be required to pay, at the option of investors, to retire capital instruments.

(5) DIRECTOR.—The term "Director" means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(6) ENTERPRISE.—The term "enterprise" means—

(A) the Federal National Mortgage Association and any affiliate thereof; and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(7) EXECUTIVE OFFICER.—The term "executive officer" means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

(8) LOW-INCOME.—The term "low-income" means—

(A) in the case of owner-occupied units, income not in excess of 80 percent of area median income; and

(B) in the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(9) MEDIAN INCOME.—The term "median income" means, with respect to an area, the unadjusted median family income for the area, as determined and published annually by the Secretary.

(10) MODERATE-INCOME.—The term "moderate-income" means—

(A) in the case of owner-occupied units, income not in excess of area median income; and

(B) in the case of rental units, income not in excess of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(11) MORTGAGE PURCHASES.—The term "mortgage purchases" includes mortgages purchased for portfolio or securitization.

(12) MULTIFAMILY HOUSING.—The term "multifamily housing" means a residence consisting of more than 4 dwelling units.

(13) NEW PROGRAM.—The term "new program" means any program for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in, conventional mortgages that—

(A) is significantly different from programs that have been approved under this Act or that were approved or engaged in by an enterprise before the date of the enactment of this Act; or

(B) represents an expansion, in terms of the dollar volume or number of mortgages or securities involved, of programs above limits expressly contained in any prior approval.

(14) OFFICE.—The term "Office" means the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(15) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(16) SINGLE FAMILY HOUSING.—The term "single family housing" means a residence consisting of 1 to 4 dwelling units.

(17) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(18) TOTAL CAPITAL.—The term "total capital" means, with respect to an enterprise, the sum of the following:

(A) The core capital of the enterprise;

(B) A general allowance for foreclosure losses, which—

(i) shall include an allowance for portfolio mortgage losses, an allowance for nonreimbursable foreclosure costs on government claims, and an allowance for liabilities reflected on the balance sheet for the enterprise for estimated foreclosure losses on mortgage-backed securities; and

(ii) shall not include any reserves of the enterprise made or held against specific assets.

(C) Any other amounts from sources of funds available to absorb losses incurred by the enterprise, that the Director by regulation determines are appropriate to include in determining total capital.

(19) VERY LOW-INCOME.—The term "very low-income" means—

(A) in the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(B) in the case of rental units, income not in excess of 60 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

SEC. 1304. PROTECTION OF TAXPAYERS AGAINST LIABILITY.

This title and the amendments made by this title may not be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks. This title and the amendments made by this title may not be construed as implying that any such enterprise or Bank, or any obligations or securities of such an enterprise or Bank, are backed by the full faith and credit of the United States.

Subtitle A—Supervision and Regulation of Enterprises

PART 1—FINANCIAL SAFETY AND SOUNDNESS REGULATOR

SEC. 1311. ESTABLISHMENT OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Federal Housing Enterprise Oversight.

SEC. 1312. DIRECTOR.

(a) APPOINTMENT.—The Office shall be under the management of a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the nomination of such individual for appointment as Director.

(b) TERM.—The Director shall be appointed for a term of 5 years.

(c) VACANCY.—A vacancy in the position of Director shall be filled in the manner in which the original appointment was made under subsection (a).

(d) SERVICE AFTER END OF TERM.—A Director may serve after the expiration of the term for which the Director was appointed until a successor Director has been appointed.

(e) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the appointment of such individual as Deputy Director.

(2) FUNCTIONS.—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (c).

SEC. 1313. DUTY AND AUTHORITY OF DIRECTOR.

(a) DUTY.—The duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely, in accordance with this title.

(b) AUTHORITY EXCLUSIVE OF SECRETARY.—The Director is authorized, without the review or approval of the Secretary, to make such determinations, take such actions, and perform such functions as the Director determines necessary regarding—

(1) the issuance of regulations to carry out this part, subtitle B, and subtitle C (including the establishment of capital standards pursuant to subtitle B);

(2) examinations of the enterprises under section 1317;

(3) determining the capital levels of the enterprises and classification of the enterprises within capital classifications established under subtitle B;

(4) decisions to appoint conservators for the enterprises;

(5) administrative and enforcement actions under subtitle B, actions taken under subtitle C with respect to enforcement of subtitle B, and other matters relating to safety and soundness;

(6) approval of payments of capital distributions by the enterprises under section 303(c)(2) of the Federal National Mortgage Association Charter Act and section 303(b)(2) of the Federal Home Loan Mortgage Corporation Act;

(7) requiring the enterprises to submit reports under section 1314 of this title, section 309(k) of the Federal National Mortgage Association Charter Act, and section 307(c) of the Federal Home Loan Mortgage Corporation Act;

(8) prohibiting the payment of excessive compensation by the enterprises to any executive officer of the enterprises under section 1318;

(9) the management of the Office, including the establishment and implementation of annual

budgets, the hiring of, and compensation levels for, personnel of the Office, and annual assessments for the costs of the Office;

(10) conducting research and financial analysis; and

(11) the submission of reports required by the Director under this title.

(c) AUTHORITY SUBJECT TO APPROVAL OF SECRETARY.—Any determinations, actions, and functions of the Director not referred to in subsection (b) shall be subject to the review and approval of the Secretary.

(d) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(e) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—The Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

SEC. 1314. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.

(a) SPECIAL REPORTS AND REPORTS OF FINANCIAL CONDITION.—

(1) FINANCIAL CONDITION.—The Director may require an enterprise to submit reports of financial condition and operations (in addition to the annual and quarterly reports required under section 309(k) of the Federal National Mortgage Association Charter Act and section 307(c) of the Federal Home Loan Mortgage Corporation Act).

(2) SPECIAL REPORTS.—The Director may also require an enterprise to submit special reports whenever, in the judgment of the Director, such reports are necessary to carry out the purposes of this title.

(3) LIMITATION.—The Director may not require the inclusion, in any report pursuant to paragraph (1) or (2), of any information that is not reasonably obtainable by the enterprise.

(4) NOTICE AND DECLARATION.—The Director shall notify the enterprise, a reasonable period in advance of the date for submission of any report under this subsection, of any specific information to be contained in the report and the date for the submission of the report. Each report under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the enterprise to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(b) CAPITAL DISTRIBUTIONS.—The Director may require an enterprise to submit a report to the Director after the declaration of any capital distribution by the enterprise and before making the capital distribution. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.

SEC. 1315. PERSONNEL.

(a) OFFICE PERSONNEL.—The Director may appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(b) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision.

(c) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) REIMBURSEMENT OF HUD.—The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.

(e) OUTSIDE EXPERTS AND CONSULTANTS.—Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Office.

(f) EQUAL OPPORTUNITY REPORT.—Not later than the expiration of the 180-day period beginning upon the appointment of the Director under section 1312, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and

(2) such recommendations for administrative and legislative action as the Director determines appropriate to carry out such programs.

SEC. 1316. FUNDING.

(a) ANNUAL ASSESSMENTS.—The Director may, to the extent provided in appropriation Acts, establish and collect from the enterprises annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Office, including the expenses of any examinations under section 1317. The initial annual assessment shall include any startup costs of the Office and any anticipated costs and expenses of the Office for the following fiscal year.

(b) ALLOCATION OF ANNUAL ASSESSMENT TO ENTERPRISES.—

(1) AMOUNT OF PAYMENT.—Each enterprise shall pay to the Director a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the total assets of each enterprise bears to the total assets of both enterprises.

(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually on September 1 and March 1 of the year for which the assessment is made.

(3) DEFINITION.—For the purpose of this section, the term "total assets" means, with respect to an enterprise, the sum of—

(A) on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(B) the unpaid principal balance of outstanding mortgage-backed securities issued or guaranteed by the enterprise that are not included in subparagraph (A); and

(C) other off-balance-sheet obligations as determined by the Director.

(c) DEFICIENCIES DUE TO INCREASED COSTS OF REGULATION.—The semiannual payments made pursuant to subsection (b) by any enterprise that is not classified (for purposes of subtitle B) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the enterprise.

(d) SURPLUS.—If any amount from any annual assessment collected from an enterprise remains unobligated at the end of the year for which the assessment was collected, such amount shall be credited to the assessment to be collected from the enterprise for the following year.

(e) INITIAL SPECIAL ASSESSMENT.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the enterprises shall each pay into the Federal Housing Enterprises Oversight Fund established under subsection (f) an initial assessment of $1,500,000 to cover the startup costs of the Office, including space and modifications thereof, capital equipment, supplies, recruitment, and activities of the Office during the period preceding the first annual assessment under subsection (a). Any amounts collected from an enterprise under this subsection shall be credited against the first annual assessment collected pursuant to subsection (a), and are hereby appropriated, and shall be available and used, without fiscal year limitation, as provided in this section.

(f) FUND.—There is established in the Treasury of the United States a fund to be known as the Federal Housing Enterprises Oversight Fund. Any assessments collected pursuant to this section shall be deposited in the Fund. Amounts in the Fund shall be available, to the extent provided in appropriation Acts and subsection (e), for—

(1) carrying out the responsibilities of the Director relating to the enterprises; and

(2) necessary administrative and nonadministrative expenses of the Office to carry out the purposes of this title.

(g) BUDGET AND FINANCIAL REPORTS.—

(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Secretary and the Director of the Office of Management and Budget.

(2) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Director shall submit a copy of the report of the results of the operations of the Office during such period to the Secretary and the Director of the Office of Management and Budget.

(3) INCLUSION IN PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this subsection shall be included (A) in the Budget of the United States in the appropriate form, and (B) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

SEC. 1317. EXAMINATIONS.

(a) ANNUAL EXAMINATION.—The Director shall annually conduct an on-site examination under this section of each enterprise to determine the condition of the enterprise for the purpose of ensuring its financial safety and soundness.

(b) OTHER EXAMINATIONS.—In addition to annual examinations under subsection (a), the Director may conduct an examination under this section whenever the Director determines that an examination is necessary to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness.

(c) EXAMINERS.—The Director shall appoint examiners to conduct examinations under this section. The Director may contract with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision for the services of examiners. The Director shall reimburse such agencies for any costs of providing examiners from amounts available in the Federal Housing Enterprises Oversight Fund.

(d) LAW APPLICABLE TO EXAMINERS.—The Director and each examiner shall have the same authority and each examiner shall be subject to *the same disclosures, prohibitions, obligations, and penalties as are applicable to examiners employed by the Federal Reserve banks.*

(e) TECHNICAL EXPERTS.—The Director may obtain the services of any technical experts the Director considers appropriate to provide temporary technical assistance relating to examinations to the Director, officers, and employees of the Office. The Director shall describe, in the record of each examination, the nature and extent of any such temporary technical assistance.

(f) OATHS, EVIDENCE, AND SUBPOENA POWERS.—In connection with examinations under this section, the Director shall have the authority provided under section 1379B.

SEC. 1318. PROHIBITION OF EXCESSIVE COMPENSATION.

(a) IN GENERAL.—The Director shall prohibit the enterprises from providing compensation to any executive officer of the enterprise that is not reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities.

(b) PROHIBITION OF SETTING COMPENSATION.—In carrying out subsection (a), the Director may not prescribe or set a specific level or range of compensation.

SEC. 1319. AUTHORITY TO PROVIDE FOR REVIEW OF ENTERPRISES BY RATING ORGANIZATION.

The Director may, on such terms and conditions as the Director deems appropriate, contract with any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers, to conduct a review of the enterprises.

SEC. 1319A. EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS.

(a) IN GENERAL.—Each enterprise shall establish a minority outreach program to ensure the inclusion (to the maximum extent possible) in contracts entered into by the enterprises of minorities and women and businesses owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services.

(b) REPORT.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each enterprise shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the actions taken by the enterprise pursuant to subsection (a).

SEC. 1319B. ANNUAL REPORTS BY DIRECTOR.

(a) GENERAL REPORT.—The Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than June 15 of each year, a written report, which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this title;

(2) a description of the financial safety and soundness of each enterprise, including the results and conclusions of the annual examinations of the enterprises conducted under section 1317(a); and

(3) any recommendations for legislation to enhance the financial safety and soundness of the enterprises.

(b) REPORT ON ENFORCEMENT ACTIONS.—Not later than March 15 of each year, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report describing, for the preceding calendar year, the requests by the Director to the Attorney General for enforcement actions under subtitle C and describing the disposition of each request, which shall include statements of—

(1) the total number of requests made by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to requests that resulted in the commencement of litigation—

(A) the number of days between the date of the request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation; and

(5) the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was completed during the calendar year, and the number of requests pending at the end of the calendar year.

SEC. 1319C. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under subtitle C and that has become final; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings on the record with respect to any action of the Director or notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any hearing under subtitle C if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under subtitle C.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding of any information from, or to prohibit the disclosure of any information to, the Congress or any committee or subcommittee thereof.

SEC. 1319D. LIMITATION ON SUBSEQUENT EMPLOYMENT.

Neither the Director nor any former officer or employee of the Office who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS-15 of the General Schedule under section 5107 of title 5, United States Code, may accept compensation from an enterprise during the 2-year period beginning on the date of separation from employment by the Office.

SEC. 1319E. AUDITS BY GAO.

The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act and as appropriate thereafter.

SEC. 1319F. INFORMATION, RECORDS, AND MEETINGS.

For purposes of subchapter II of chapter 5 of title 5, United States Code—

(1) the Office, and

(2) the Department of Housing and Urban Development, with respect to activities under this title,

shall be considered agencies responsible for the regulation or supervision of financial institutions.

SEC. 1319G. REGULATIONS AND ORDERS.

(a) AUTHORITY.—The Director shall issue any regulations and orders necessary to carry out the duties of the Director and to carry out this title before the expiration of the 18-month period beginning on the appointment of the Director under section 1312. Such regulations and orders shall be subject to the approval of the Secretary only to the extent provided in subsections (b) and (c) of section 1313.

(b) NOTICE AND COMMENT.—Any regulations issued by the Director under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

(c) CONGRESSIONAL REVIEW.—The Director may not publish any regulation for comment under subsection (b) unless, not less than 15 days before it is published for comment, the Director has submitted a copy of the regulation, in the form it is intended to be proposed, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

PART 2—AUTHORITY OF SECRETARY

Subpart A—General Authority

SEC. 1321. REGULATORY AUTHORITY.

Except for the authority of the Director of the Office of Federal Housing Enterprise Oversight described in section 1313(b) and all other matters relating to the safety and soundness of the enterprises, the Secretary of Housing and Urban Development shall have general regulatory power over each enterprise and shall make such rules and regulations as shall be necessary and proper to ensure that this part and the purposes of the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act are accomplished.

SEC. 1322. PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS.

(a) AUTHORITY.—The Secretary shall require each enterprise to obtain the approval of the Secretary for any new program of the enterprise before implementing the program.

(b) STANDARD FOR APPROVAL.—

(1) PERMANENT STANDARD.—Except as provided in paragraph (2), the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) for a new program of the Federal National Mortgage Association, the Secretary determines that the program is not authorized under paragraph (2), (3), (4), or (5) of section 302(b) of the Federal National Mortgage Association Charter Act, or under section 304 of such Act;

(B) for a new program of the Federal Home Loan Mortgage Corporation, the Secretary determines that the program is not authorized under section 305(a) (1), (4), or (5) of the Federal Home Loan Mortgage Corporation Act; or

(C) the Secretary determines that the new program is not in the public interest.

(2) TRANSITION STANDARD.—Before the date occurring 12 months after the date of the effectiveness of the regulations under section 1361(e) establishing the risk-based capital test, the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) The Secretary makes a determination as described in paragraph (1) (A), (B), or (C); or

(B) the Director determines that the new program would risk significant deterioration of the financial condition of the enterprise.

(c) PROCEDURE FOR APPROVAL.—

(1) SUBMISSION OF REQUEST.—To obtain the approval of the Secretary for purposes of subsection (a), an enterprise shall submit to the Secretary a written request for approval of the new program that describes the program.

(2) RESPONSE.—The Secretary shall, not later than the expiration of the 45-day period beginning upon the submission of a request for approval, approve the request or submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report explaining the reasons for not approving the request. The Secretary may extend such period for a single additional 15-day period only if the Secretary requests additional information from the enterprise.

(3) FAILURE TO RESPOND.—If the Secretary fails to approve the request or fails to submit a report under paragraph (2) during the period under such paragraph, the request shall be considered to have been approved.

(4) REVIEW OF DISAPPROVAL.—

(A) UNAUTHORIZED NEW PROGRAMS.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subparagraph (A) or (B) of subsection (b)(1), the Secretary shall provide the enterprise submitting the request with a timely opportunity to review and supplement the administrative record.

(B) NEW PROGRAMS NOT IN PUBLIC INTEREST.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subsection (b)(1)(C) or (b)(2)(B), the Secretary shall provide the enterprise submitting the request notice of, and opportunity for, a hearing on the record regarding such disapproval.

SEC. 1323. PUBLIC ACCESS TO MORTGAGE INFORMATION.

(a) IN GENERAL.—The Secretary shall make available to the public, in forms useful to the public (including forms accessible by computers), the data submitted by the enterprises in the reports required under section 309(m) of the Federal National Mortgage Association Charter Act or section 307(e) of the Federal Home Loan Mortgage Corporation Act.

(b) ACCESS.—

(1) PROPRIETARY DATA.—Except as provided in paragraph (2), the Secretary may not make available to the public data that the Secretary determines pursuant to section 1326 are proprietary information.

(2) EXCEPTION.—The Secretary shall not restrict access to the data provided in accordance with section 309(m)(1)(A) of the Federal National Mortgage Association Charter Act or section 307(e)(1)(A) of the Federal Home Loan Mortgage Corporation Act.

(c) FEES.—The Secretary may charge reasonable fees to cover the cost of making data available under this section to the public.

SEC. 1324. ANNUAL HOUSING REPORT.

(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act and section 307(f) of the Federal Home Loan Mortgage Corporation Act, the Secretary shall submit a report, as part of the annual report under section 1328(a) of this title, on the extent to which each enterprise is achieving the annual housing goals established under subpart B of this part and the purposes of the enterprise established by law.

(b) CONTENTS.—The report shall—

(1) aggregate and analyze census tract data to assess the compliance of each enterprise with the central cities, rural areas, and other underserved areas housing goal and to determine levels of business in central cities, rural areas, underserved areas, low- and moderate-income census tracts, minority census tracts, and other geographical areas deemed appropriate by the Secretary;

(2) aggregate and analyze data on income to assess the compliance of each enterprise with the low- and moderate-income and special affordable housing goals;

(3) aggregate and analyze data on income, race, and gender by census tract and compare such data with larger demographic, housing, and economic trends;

(4) examine actions that each enterprise has undertaken or could undertake to promote and expand the annual goals established under sections 1332, 1333, and 1334, and the purposes of the enterprise established by law;

(5) examine the primary and secondary multifamily housing mortgage markets and describe—

(A) the availability and liquidity of mortgage credit;

(B) the status of efforts to provide standard credit terms and underwriting guidelines for multifamily housing and to securitize such mortgage products; and

(C) any factors inhibiting such standardization and securitization;

(6) examine actions each enterprise has undertaken and could undertake to promote and expand opportunities for first-time homebuyers; and

(7) describe any actions taken under section 1325(5) with respect to originators found to violate fair lending procedures.

SEC. 1325. FAIR HOUSING.

The Secretary shall—

(1) by regulation, prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) by regulation, require each enterprise to submit data to the Secretary to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act;

(3) by regulation, require each enterprise to submit data to the Secretary to assist in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Equal Credit Opportunity Act, and shall submit any such information received to the appropriate Federal agencies, as provided in section 704 of the Equal Credit Opportunity Act, for appropriate action;

(4) obtain information from other regulatory and enforcement agencies of the Federal Government and State and local governments regarding violations by lenders of the Fair Housing Act and the Equal Credit Opportunity Act and make such information available to the enterprises;

(5) direct the enterprises to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or the Equal Credit Opportunity Act, pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code; and

(6) periodically review and comment on the underwriting and appraisal guidelines of each enterprise to ensure that such guidelines are consistent with the Fair Housing Act and this section.

SEC. 1326. PROHIBITION OF PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION.

(a) IN GENERAL.—The Secretary may, by regulation or order, provide that certain information shall be treated as proprietary information and not subject to disclosure under section 1323 of this title, section 309(n)(3) of the Federal National Mortgage Association Charter Act, or section 307(f)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) PROTECTION OF INFORMATION ON HOUSING ACTIVITIES.—The Secretary shall not provide public access to, or disclose to the public, any information required to be submitted by an enterprise under section 309(n) of the Federal National Mortgage Association Charter Act or section 307(f) of the Federal Home Loan Mortgage Corporation Act that the Secretary determines is proprietary.

(c) NONDISCLOSURE PENDING CONSIDERATION.—This section may not be construed to authorize the disclosure of information to, or examination of data by, the public or a representative of any person or agency pending the issuance of a final decision under this section.

SEC. 1327. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.

The Secretary shall require each enterprise to submit reports on its activities to the Secretary as the Secretary considers appropriate.

SEC. 1328. REPORTS BY SECRETARY.

(a) ANNUAL REPORT.—The Secretary shall, not later than June 30 of each year, submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the activities of each enterprise.

(b) VIEWS ON BUDGET AND FINANCIAL PLANS OF ENTERPRISES.—On an annual basis, the Secretary shall provide the Committees referred to in subsection (a) with comments on the plans, forecasts, and reports required under section 1316(g).

Subpart B—Housing Goals

SEC. 1331. ESTABLISHMENT.

(a) IN GENERAL.—The Secretary shall establish, by regulation, housing goals under this subpart for each enterprise. The housing goals shall include a low- and moderate-income housing goal pursuant to section 1332, a special affordable housing goal pursuant to section 1333, and a central cities, rural areas, and other underserved areas housing goal pursuant to section 1334. The Secretary shall implement this subpart in a manner consistent with section 301(3) of the Federal National Mortgage Association Charter Act and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) CONSIDERATION OF UNITS IN MULTIFAMILY HOUSING.—In establishing any goal under this subpart, the Secretary may take into consider-

ation the number of housing units financed by any mortgage on multifamily housing purchased by an enterprise.

(c) ADJUSTMENT OF HOUSING GOALS.—Except as otherwise provided in this title, from year to year the Secretary may, by regulation, adjust any housing goal established under this subpart.

SEC. 1332. LOW- AND MODERATE-INCOME HOUSING GOAL.

(a) IN GENERAL.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing for low- and moderate-income families. The Secretary may establish separate specific subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 1336, any other provision of this title, or any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) FACTORS TO BE APPLIED.—In establishing the goal under this section, the Secretary shall consider—

(1) national housing needs;

(2) economic, housing, and demographic conditions;

(3) the performance and effort of the enterprises toward achieving the low- and moderate-income housing goal in previous years;

(4) the size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available for low- and moderate-income families; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low- and moderate-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) TRANSITION.—

(1) INTERIM TARGET.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the annual target under this section for low- and moderate-income mortgage purchases for each enterprise shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) INTERIM GOAL.—During such 2-year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2-year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

SEC. 1333. SPECIAL AFFORDABLE HOUSING GOAL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a special annual goal designed to adjust the purchase by each enterprise of mortgages on rental and owner-occupied housing to meet the then-existing unaddressed needs of, and affordable to, low-income families in low-income areas and very low-income families. The special affordable housing goal established under this section for an enterprise shall not be less than 1 percent of the dollar amount of the mortgage purchases by the enterprise for the previous year.

(2) STANDARDS.—In establishing the special affordable housing goal for an enterprise, the Secretary shall consider—

(A) data submitted to the Secretary in connection with the special affordable housing goal for previous years;

(B) the performance and efforts of the enterprise toward achieving the special affordable housing goal in previous years;

(C) national housing needs within the categories set forth in this section;

(D) the ability of the enterprise to lead the industry in making mortgage credit available for low-income and very low-income families; and

(E) the need to maintain the sound financial condition of the enterprise.

(b) FULL CREDIT ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall give full credit toward achievement of the special affordable housing goal under this section (for purposes of section 1336) to the following activities:

(A) FEDERALLY RELATED MORTGAGES.—The purchase or securitization of federally insured or guaranteed mortgages, if—

(i) such mortgages cannot be readily securitized through the Government National Mortgage Association or any other Federal agency;

(ii) participation of the enterprise substantially enhances the affordability of the housing subject to such mortgages; and

(iii) the mortgages involved are on housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(B) PORTFOLIOS.—The purchase or refinancing of existing, seasoned portfolios of loans, if—

(i) the seller is engaged in a specific program to use the proceeds of such sales to originate additional loans that meet such goal; and

(ii) such purchases or refinancings support additional lending for housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(C) RTC AND FDIC LOANS.—The purchase of direct loans made by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, if such loans—

(i) are not guaranteed by such agencies themselves or other Federal agencies;

(ii) are made with recourse provisions similar to those offered through private mortgage insurance or other conventional sellers; and

(iii) are made for the purchase of housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(2) EXCLUSION.—No credit toward the achievement of the special affordable housing goal may be given to the purchase or securitization of mortgages associated with the refinancing of the existing enterprise portfolios.

(c) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low-income and very low-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) TRANSITION.—

(1) FNMA MORTGAGE PURCHASES.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the special affordable housing goal for the Federal National Mortgage Association shall include mortgage purchases of not less than $2,000,000,000 (for such 2-year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(2) FHLMC MORTGAGE PURCHASES.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the special affordable housing goal for the Federal Home Loan Mortgage Corporation shall include mortgage purchases of not less than $1,500,000,000 (for such 2-year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(3) INCOME CHARACTERISTICS FOR MORTGAGE PURCHASES.—

(A) MULTIFAMILY MORTGAGES.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on multifamily housing that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages on multifamily housing affordable to low-income families; and

(ii) 55 percent shall be mortgages on multifamily housing in which—

(I) at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area; or

(II) at least 40 percent of the units are affordable to very low-income families.

(B) SINGLE FAMILY MORTGAGES.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on single family housing that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages of low-income families who live in census tracts in which the median income does not exceed 80 percent of the area median income; and

(ii) 55 percent shall be mortgages of very low-income families.

(C) COMPLIANCE WITH SPECIAL AFFORDABLE HOUSING GOALS.—Only the portion of mortgages on multifamily housing purchased by an enterprise that are attributable to units affordable to low-income families shall contribute to the achievement of the special affordable housing goals under subparagraph (A)(ii).

(4) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection

by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

SEC. 1334. CENTRAL CITIES, RURAL AREAS, AND OTHER UNDERSERVED AREAS HOUSING GOAL.

(a) IN GENERAL.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing located in central cities, rural areas, and other underserved areas. The Secretary may establish separate subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 1336, any other provision of this title, or any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) FACTORS TO BE APPLIED.—In establishing the housing goal under this section, the Secretary shall consider—

(1) urban and rural housing needs and the housing needs of underserved areas;

(2) economic, housing, and demographic conditions;

(3) the performance and efforts of the enterprises toward achieving the central cities, rural areas, and other underserved areas housing goal in previous years;

(4) the size of the conventional mortgage market for central cities, rural areas, and other underserved areas relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available throughout the United States, including central cities, rural areas, and other underserved areas; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) LOCATION OF PROPERTIES.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on the location of the properties subject to mortgages purchased by each enterprise.

(d) TRANSITION.—

(1) INTERIM TARGET.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the annual target under this section for purchases by each enterprise of mortgages on housing located in central cities shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) INTERIM GOAL.—During such 2-year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2-year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) DEFINITION OF CENTRAL CITY.—For purposes of this subsection, the term "central city" means any political subdivision designated as a central city by the Office of Management and Budget.

(4) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

SEC. 1335. OTHER REQUIREMENTS.

To meet the low- and moderate-income housing goal under section 1332, the special affordable housing goal under section 1333, and the central cities, rural areas, and other underserved areas housing goal under section 1334, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) assist primary lenders to make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions to meet their obligations under the Community Reinvestment Act of 1977,

which shall include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

SEC. 1336. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

(a) IN GENERAL.—

(1) AUTHORITY.—The Secretary shall monitor and enforce compliance with the housing goals established under sections 1332, 1333, and 1334, as provided in this section.

(2) GUIDELINES.—The Secretary shall establish guidelines to measure the extent of compliance with the housing goals, which may assign full credit, partial credit, or no credit toward achievement of the housing goals to different categories of mortgage purchase activities of the enterprises, based on such criteria as the Secretary deems appropriate.

(3) EXTENT OF COMPLIANCE.—In determining compliance with the housing goals established under this subpart, the Secretary—

(A) shall consider any single mortgage purchased by an enterprise as contributing to the achievement of each housing goal for which such mortgage purchase qualifies; and

(B) may take into consideration the number of housing units financed by any mortgage on housing purchased by an enterprise.

(b) NOTICE AND DETERMINATION OF FAILURE TO MEET GOALS.—

(1) NOTICE.—If the Secretary determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 1332, 1333, or 1334, the Secretary shall provide written notice to the enterprise of such a determination, the reasons for such determination, the requirement to submit a housing plan under subsection (c) of this section, and the information on which the Secretary based the determination or imposed such requirement.

(2) RESPONSE PERIOD.—

(A) IN GENERAL.—During the 30-day period beginning on the date that an enterprise is provided notice under paragraph (1), the enterprise may submit to the Secretary any written information that the enterprise considers appropriate for consideration by the Secretary in determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

(B) EXTENDED PERIOD.—The Secretary may extend the period under subparagraph (A) for good cause for not more than 30 additional days.

(C) SHORTENED PERIOD.—The Secretary may shorten the period under subparagraph (A) for good cause.

(D) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the 30-day period under this paragraph (as extended or shortened) shall waive any right of the enterprise to comment on the proposed determination or action of the Secretary.

(3) CONSIDERATION OF INFORMATION AND DETERMINATION.—

(A) IN GENERAL.—After the expiration of the response period under paragraph (2) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Secretary shall determine (i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal, and (ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

(B) CONSIDERATIONS.—In making such determinations, the Secretary shall take into consideration any relevant information submitted by the enterprise during the response period.

(C) NOTICE.—The Secretary shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, of—

(i) each determination that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

(ii) each determination that the achievement of a housing goal was or is feasible; and

(iii) the reasons for each such determination.

Such notice shall respond to any information submitted during the response period.

(c) HOUSING PLANS.—

(1) REQUIREMENT.—If the Secretary finds pursuant to subsection (b), that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 1332, 1333, or 1334, and that the achievement of the housing goal was or is feasible, the Secretary shall require the enterprise to submit a housing plan under this subsection for approval by the Secretary.

(2) CONTENTS.—Each housing plan shall be a feasible plan describing the specific actions the enterprise will take—

(A) to achieve the goal for the next calendar year; or

(B) if the Secretary determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements as are reasonable in the remainder of such year.

The plan shall be sufficiently specific to enable the Secretary to monitor compliance periodically.

(3) DEADLINE FOR SUBMISSION.—The Secretary shall, by regulation, establish a deadline for an enterprise to submit a housing plan to the Secretary, which may not be more than 45 days after the enterprise is provided notice under subsection (b)(3) that a housing plan is required. The regulations shall provide that the Secretary may extend the deadline to the extent that the Secretary determines necessary. Any extension of the deadline shall be in writing and for a time certain.

(4) APPROVAL.—The Secretary shall review each housing plan submitted under this subsection and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Secretary may extend the period for approval or disapproval for a single additional 30-day period if the Secretary determines it nec-

essary. The Secretary shall approve any plan that the Secretary determines is likely to succeed, and conforms with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act (as applicable), this title, and any other applicable laws and regulations.

(5) NOTICE OF APPROVAL AND DISAPPROVAL.—The Secretary shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(6) RESUBMISSION.—If the initial housing plan submitted by an enterprise is disapproved, the enterprise shall submit an amended plan acceptable to the Secretary within 30 days or such longer period that the Secretary determines is in the public interest.

SEC. 1337. REPORTS DURING TRANSITION.

Each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report for each transitional housing goal for the enterprise under section 1332(d), 1333(d), or 1334(d), describing the actions the enterprise plans to take to meet such goal. Each such report shall be submitted within 45 days after the establishment of the goal for which the report is submitted.

SEC. 1338. EFFECTIVE DATE OF TRANSITION GOALS.

The housing goals established under sections 1332(d), 1333(d), and 1334(d) shall not become effective until January 1, 1993.

Subpart C—Enforcement of Housing Goals

SEC. 1341. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE.—The Secretary may issue and serve a notice of charges under this section upon an enterprise if, in the determination of the Secretary—

(1) the enterprise has failed to submit a housing plan that substantially complies with section 1336(c) within the applicable period;

(2) the enterprise is engaging or has engaged, or the Secretary has reasonable cause to believe that the enterprise is about to engage, in any failure to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 1336(c); or

(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(b) PROCEDURE.—

(1) NOTICE OF CHARGES.—Each notice of charges shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

(2) ISSUANCE OF ORDER.—If the Secretary finds on the record made at such hearing that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 1342(a)(4)), the Secretary may issue and serve upon the enterprise an order requiring the enterprise to (A) submit a housing plan in compliance with section 1336(c), (B) comply with the housing plan, or (C) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(c) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Secretary or otherwise, as provided in this subpart.

(d) TRANSITION PERIOD LIMITATION.—The Secretary may not impose any cease-and-desist order under this section for any failure by an enterprise, during the 2-year period beginning on January 1, 1993, to comply with an approved housing plan, unless the Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with the approved plan.

SEC. 1342. HEARINGS.

(a) REQUIREMENTS.—

(1) VENUE AND RECORD.—Any hearing under section 1341 or 1345 shall be held on the record and in the District of Columbia.

(2) TIMING.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 1341(b)(1) or determination to impose a penalty under section 1345(c)(1), unless an earlier or a later date is set by the hearing officer at the request of the enterprise served.

(3) PROCEDURE.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) FAILURE TO APPEAR.—If the enterprise served fails to appear at the hearing through a duly authorized representative, such enterprise shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) ISSUANCE OF ORDER.—

(1) IN GENERAL.—After any such hearing, and within 90 days after the enterprise has been notified that the case has been submitted to the Secretary for final decision, the Secretary shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon the enterprise an order or orders consistent with the provisions of this subpart.

(2) MODIFICATION.—Judicial review of any such order shall be exclusively as provided in section 1343. Unless such a petition for review is timely filed as provided in section 1343, and thereafter until the record in the proceeding has been filed as so provided, the Secretary may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Secretary considers proper. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

SEC. 1343. JUDICIAL REVIEW.

(a) COMMENCEMENT.—An enterprise that is a party to a proceeding under section 1341 or 1345 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Secretary.

(b) FILING OF RECORD.—Upon receiving a copy of a petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) JURISDICTION.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Secretary shall (except as provided in the last sentence of section 1342(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary.

(d) REVIEW.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) ORDER TO PAY PENALTY.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Secretary under this subpart.

(f) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

SEC. 1344. ENFORCEMENT AND JURISDICTION.

(a) ENFORCEMENT.—The Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under section 1341 or 1345. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subpart, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 1341 or 1345, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 1345. CIVIL MONEY PENALTIES.

(a) AUTHORITY.—The Secretary may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed—

(1) to submit a housing plan that substantially complies with section 1336(c) within the applicable period;

(2) to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 1336(c); or

(3) to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(b) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed—

(1) for any failure described in subsection (a)(1), $25,000 for each day that the failure occurs; and

(2) for any failure described in subsection (a)(2) or (3), $10,000 for each day that the failure occurs.

(c) PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

(A) shall provide for the Secretary to notify the enterprise in writing of the Secretary's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 1342; and

(C) may provide for review by the Director for any determination or order, or interlocutory ruling, arising from a hearing.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Secretary shall give consideration to such factors as the gravity of the offense, any history of prior offenses, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine, by regulation, to be appropriate.

(d) ACTION TO COLLECT PENALTY.—If an enterprise fails to comply with an order by the Secretary imposing a civil money penalty under this section, after the order is no longer subject to review as provided by sections 1342 and 1343,

the Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) TRANSITION PERIOD LIMITATION.—The Secretary may not impose any civil money penalty under this section for any failure by an enterprise, during the 2-year period beginning on January 1, 1993, to comply with an approved housing plan, unless the Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with an approved plan.

(g) DEPOSIT OF PENALTIES.—The Secretary shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

SEC. 1346. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Secretary shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Secretary or any modification to or termination thereof, unless the Secretary, in the Secretary's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Secretary under this subpart and that has become final in accordance with sections 1342 and 1343; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings with respect to any notice of charges issued by the Secretary shall be open to the public, unless the Secretary, in the Secretary's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Secretary makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial soundness of the enterprise, the Secretary may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Secretary may file any document or part thereof under seal in any hearing under this subpart if the Secretary determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Secretary shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Secretary under this subpart.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

SEC. 1347. NOTICE OF SERVICE.

Any service required or authorized to be made by the Secretary under this subpart may be made by registered mail or in such other manner reasonably calculated to give actual notice, as the Secretary may by regulation or otherwise provide.

SEC. 1348. SUBPOENA AUTHORITY.

(a) IN GENERAL.—In the course of or in connection with any administrative proceeding under this subpart, the Secretary shall have the authority—

(1) to administer oaths and affirmations;

(2) to take and preserve testimony under oath;

(3) to issue subpoenas and subpoenas duces tecum; and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Secretary.

(b) WITNESSES AND DOCUMENTS.—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) ENFORCEMENT.—The Secretary may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

SEC. 1349. REGULATIONS.

The Secretary shall issue any final regulations necessary to implement the provisions of this part (not including the provisions of sections 1332(d), 1333(d), and 1334(d), relating to transition housing goals) not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

PART 3—MISCELLANEOUS PROVISIONS

SEC. 1351. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) DIRECTOR AT LEVEL II OF EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting at the end the following new item:

"Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development.".

(b) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting "the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development," after "Farm Credit Administration,".

SEC. 1352. PROHIBITION OF MERGER OF OFFICE.

Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office, with any function or program administered by the Secretary.".

SEC. 1353. PROTECTION OF CONFIDENTIAL INFORMATION.

Section 1905 of title 18, United States Code, is amended by inserting "any person acting on behalf of the Office of Federal Housing Enterprise Oversight," after "or agency thereof,".

SEC. 1354. REVIEW OF UNDERWRITING GUIDELINES.

(a) STUDY.—Each of the enterprises shall conduct a study to review the underwriting guidelines of the enterprise. The studies shall examine—

(1) the extent to which the underwriting guidelines prevent or inhibit the purchase or securitization of mortgages for housing located in mixed-use, urban center, and predominantly minority neighborhoods and for housing for low- and moderate-income families;

(2) the standards employed by private mortgage insurers and the extent to which such standards inhibit the purchase and securitization by the enterprises of mortgages described in paragraph (1); and

(3) the implications of implementing underwriting standards that—

(A) establish a downpayment requirement for mortgagors of 5 percent or less;

(B) allow the use of cash on hand as a source for downpayments; and

(C) approve borrowers who have a credit history of delinquencies if the borrower can demonstrate a satisfactory credit history for at least the 12-month period ending on the date of the application for the mortgage.

(b) REPORT.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate a report regarding the study conducted by the enterprise under subsection (a). Each report shall include any recommendations of the enterprise for better meeting the housing needs of low- and moderate-income families.

SEC. 1355. STUDIES OF EFFECTS OF PRIVATIZATION OF FNMA AND FHLMC.

(a) IN GENERAL.—The Comptroller General of the United States, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each conduct and submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, a study regarding the desirability and feasibility of repealing the Federal charters of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, eliminating any Federal sponsorship of the enterprises, and allowing the enterprises to continue to operate as fully private entities.

(b) REQUIREMENTS.—Each study shall particularly examine the effects of such privatization on—

(1) the requirements applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under Federal law and the costs to the enterprises;

(2) the cost of capital to the enterprises;

(3) housing affordability and availability and the cost of homeownership;

(4) the level of secondary mortgage market competition subsequently available in the private sector;

(5) whether increased amounts of capital would be necessary for the enterprises to continue operation;

(6) the secondary market for residential loans and the liquidity of such loans; and

(7) any other factors that the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, or the Director of the Congressional Budget Office deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the enterprises.

(c) INFORMATION.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall provide full and prompt access to the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office to any books, records, and other information requested for the purposes of conducting the studies under this section.

(d) VIEWS OF THE FNMA AND FHLMC.—

(1) CONSIDERATION IN STUDIES.—In conducting the studies under this section, the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) DIRECT REPORT.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may each report directly to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its own analysis of the desirability and feasibility of repealing the Federal charters of the enterprises, eliminating any Federal sponsorship, and allowing the enterprises to continue to operate as fully private entities.

SEC. 1356. TRANSITION.

Before the expiration of the period ending 18 months after the appointment of the Director under section 1312, any rules and regulations promulgated before the date of the enactment of this Act by the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act shall remain in effect unless modified, terminated, superseded, or revoked by operation of law or in accordance with law. Such rules and regulations shall terminate, effective upon the expiration of such period.

Subtitle B—Required Capital Levels for Enterprises and Special Enforcement Powers

SEC. 1361. RISK-BASED CAPITAL LEVELS.

(a) RISK-BASED CAPITAL TEST.—The Director shall, by regulation, establish a risk-based capital test under this section for the enterprises. When applied to an enterprise, the risk-based capital test shall determine the amount of total capital for the enterprise that is sufficient for the enterprise to maintain positive capital during a 10-year period in which the following circumstances occur (in this section referred to as the "stress period"):

(1) CREDIT RISK.—With respect to mortgages owned or guaranteed by the enterprise and other obligations of the enterprise, losses occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing practice for that industry in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years, experienced the highest rates of default and severity of mortgage losses, in comparison with such rates of default and severity of mortgage losses in other such areas for any period of such duration.

(2) INTEREST RATE RISK.—

(A) IN GENERAL.—Interest rates decrease as described in subparagraph (B) or increase as described in subparagraph (C), whichever would require more capital for the enterprise.

(B) DECREASES.—The 10-year constant maturity Treasury yield decreases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield decreases to the lesser of—

(i) 600 basis points below the average yield during the preceding 9 months, or

(ii) 60 percent of the average yield during the preceding 3 years,

but in no case to a yield less than 50 percent of the average yield during the preceding 9 months.

(C) INCREASES.—The 10-year constant maturity Treasury yield increases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

(i) 600 basis points above the average yield during the preceding 9 months, or

(ii) 160 percent of the average yield during the preceding 3 years,

but in no case to a yield greater than 175 percent of the average yield during the preceding 9 months.

(D) DIFFERENT TERMS TO MATURITY.—Yields of Treasury instruments with other terms to maturity will change relative to the 10-year constant maturity Treasury yield in patterns and for durations that are reasonably related to historical experience and are judged reasonable by the Director.

(E) LARGE INCREASES IN YIELDS.—If the 10-year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the preceding 9 months, the Director shall adjust the losses in paragraphs (1) and (3) to reflect a correspondingly higher rate of general price inflation.

(3) NEW BUSINESS.—

(A) IN GENERAL.—Any contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period. No other purchases of mortgages shall be assumed, except as provided in subparagraph (B).

(B) ADDITIONAL NEW BUSINESS.—The Director may, after consideration of each of the studies required by subparagraph (C), assume that the enterprise conducts additional new business during the stress period consistent with the following—

(i) AMOUNT AND PRODUCT TYPES.—The amount and types of mortgages purchased and their financing will be reasonably related to recent experience and the economic characteristics of the stress period.

(ii) LOSSES.—Default and loss severity characteristics of mortgages purchased will be reasonably related to historical experience.

(iii) PRICING.—Prices charged by the enterprise in purchasing new mortgages will be reasonably related to recent experience and the economic characteristics of the stress period. The Director may assume that a reasonable period of time would lapse before the enterprise would recognize and react to the characteristics of the stress period.

(iv) INTEREST RATE RISK.—Interest rate risk on new mortgages purchased will occur to an extent reasonably related to historical experience.

(v) RESERVES.—The enterprise must maintain reserves during and at the end of the stress period on new business conducted during the first 5 years of the stress period reasonably related to the expected future losses on such business, consistent with generally accepted accounting principles and industry accounting practice.

(C) STUDIES.—Within 1 year after regulations are first issued under subsection (e), the Director of the Congressional Budget Office, and the Comptroller General of the United States shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study of the advisability and appropriate form of any new business assumptions under subparagraph (B).

(D) EFFECTIVE DATE.—The provisions of subparagraph (B) shall become effective 4 years after regulations are first issued under subsection (e).

(4) OTHER ACTIVITIES.—Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, on the basis of available information, to be consistent with the stress period.

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate.

(2) CONSISTENCY.—Characteristics of the stress period other than those specifically set forth in subsection (a), such as prepayment experience and dividend policies, will be those determined by the Director, on the basis of available information, to be most consistent with the stress period.

(c) RISK-BASED CAPITAL LEVEL.—For purposes of this subtitle, the risk-based capital level for an enterprise shall be equal to the sum of the following amounts:

(1) CREDIT AND INTEREST RATE RISK.—The amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(2) MANAGEMENT AND OPERATIONS RISK.—To provide for management and operations risk, 30 percent of the amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(d) DEFINITIONS.—For purposes of this section:

(1) SEASONING.—The term "seasoning" means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured, determined on an annual basis by region, in accordance with the Constant Quality Home Price Index published by the Secretary of Commerce (or any index of similar quality, authority, and public availability that is regularly used by the Federal Government).

(2) TYPE OF MORTGAGE PRODUCT.—The term "type of mortgage product" means a classification of one or more mortgage products, as established by the Director, which have similar characteristics from each set of characteristics under the following subparagraphs:

(A) The property securing the mortgage is—

(i) a residential property consisting of 1 to 4 dwelling units; or

(ii) a residential property consisting of more than 4 dwelling units.

(B) The interest rate on the mortgage is—

(i) fixed; or

(ii) adjustable.

(C) The priority of the lien securing the mortgage is—

(i) first; or

(ii) second or other.

(D) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16 to 30 years; or

(iii) more than 30 years.

(E) The owner of the property is—

(i) an owner-occupant; or

(ii) an investor.

(F) The unpaid principal balance of the mortgage—

(i) will amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage;

(ii) will not amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage; or

(iii) may increase significantly at some time during the term of the mortgage.

(G) Any other characteristics of the mortgage, as the Director may determine.

(e) REGULATIONS.—

(1) ISSUANCE.—The Director shall issue final regulations establishing the risk-based capital test under this section not later than the expiration of the 18-month period beginning on the date of the appointment of the Director. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code, and shall take effect upon issuance.

(2) CONTENTS.—The regulations under this subsection shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, and prepayment rates). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(3) CONFIDENTIALITY OF INFORMATION.—Any person that receives any book, record, or information from the Director or an enterprise to enable the risk-based capital test to be applied shall—

(A) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the enterprise; and

(B) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

(f) AVAILABILITY OF MODEL.—The Director shall provide copies of the statistical model or models used to implement the risk-based capital test under this section to the Secretary, the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Comptroller General of the United States, and the Director of the Congressional Budget Office. The Director shall make copies of such model or models available for public acquisition and may charge a reasonable fee for such copies.

SEC. 1362. MINIMUM CAPITAL LEVELS.

(a) IN GENERAL.—For purposes of this subtitle, the minimum capital level for each enterprise shall be the sum of—

(1) 2.50 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.45 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

(b) TRANSITION.—Notwithstanding subsection (a), during the 18-month period beginning upon the date of the enactment of this Act, the minimum capital level for each enterprise shall be the sum of—

(1) 2.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.40 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.40 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

SEC. 1363. CRITICAL CAPITAL LEVELS.

For purposes of this subtitle, the critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.25 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

SEC. 1364. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—For purposes of this subtitle, the Director shall classify the enterprises according to the following capital classifications:

(1) ADEQUATELY CAPITALIZED.—An enterprise shall be classified as adequately capitalized if the enterprise—

(A) maintains an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise under section 1361; and

(B) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise under section 1362.

(2) UNDERCAPITALIZED.—An enterprise shall be classified as undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; or

(B) the enterprise is otherwise classified as undercapitalized under subsection (b)(1) of this section.

(3) SIGNIFICANTLY UNDERCAPITALIZED.—An enterprise shall be classified as significantly undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise;

(ii) does not maintain an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; and

(iii) maintains an amount of core capital that is equal to or exceeds the critical capital level established for the enterprise under section 1363; or

(B) the enterprise is otherwise classified as significantly undercapitalized under subsection (b)(2) of this section or section 1365(b).

(4) CRITICALLY UNDERCAPITALIZED.—An enterprise shall be classified as critically undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) does not maintain an amount of core capital that is equal to or exceeds the critical capital level for the enterprise; or

(B) is otherwise classified as critically undercapitalized under subsection (b)(3) of this section or section 1366(b)(5).

(b) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing that an enterprise is engaging in conduct not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly, the Director may classify the enterprise—

(1) as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(2) as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; and

(3) as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized.

(c) QUARTERLY DETERMINATION.—The Director shall determine the capital classification of the enterprises for purposes of this subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made during the 3-month period beginning on the appointment of the Director.

(d) IMPLEMENTATION.—Notwithstanding any other provision of this section, during the period beginning on the date of the enactment of this Act and ending upon the effective date of section 1365 (as provided in section 1365(c)), an enterprise shall be classified as adequately capitalized if the enterprise maintains an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise under section 1362.

SEC. 1365. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.

(a) MANDATORY ACTIONS.—

(1) CAPITAL RESTORATION PLAN.—An enterprise that is classified as undercapitalized shall, within the time period provided in section 1369C(b) and (d), submit to the Director a capital restoration plan that complies with section 1369C and carry out the plan after approval.

(2) RESTRICTION ON CAPITAL DISTRIBUTIONS.—An enterprise that is classified as undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as significantly undercapitalized or critically undercapitalized.

(b) DISCRETIONARY RECLASSIFICATION FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED.—The Director may reclassify as significantly undercapitalized an enterprise that is classified as undercapitalized (and the enterprise shall be subject to the provisions of section 1366) if—

(1) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 1369C within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(2) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 1-year period beginning on the date of the effectiveness of the

regulations issued under section 1361(e) establishing the risk-based capital test.

SEC. 1366. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.

(a) MANDATORY SUPERVISORY ACTIONS.—

(1) CAPITAL RESTORATION PLAN.—An enterprise that is classified as significantly undercapitalized shall, within the time period under section 1369C(b) and (d), submit to the Director a capital restoration plan that complies with section 1369C and carry out the plan after approval.

(2) RESTRICTIONS ON CAPITAL DISTRIBUTIONS.—

(A) PRIOR APPROVAL.—An enterprise that is classified as significantly undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as critically undercapitalized. An enterprise that is classified as significantly undercapitalized enterprise may not make any other capital distribution unless the Director approves the distribution.

(B) STANDARD FOR APPROVAL.—The Director may approve a capital distribution by an enterprise classified as significantly undercapitalized only if the Director determines that the distribution (i) will enhance the ability of the enterprise to meet the risk-based capital level and the minimum capital level for the enterprise promptly, (ii) will contribute to the long-term financial safety and soundness of the enterprise, or (iii) is otherwise in the public interest.

(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions with respect to an enterprise that is classified as significantly undercapitalized:

(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the enterprise, including off-balance sheet obligations.

(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the enterprise or require contraction of the assets of the enterprise.

(3) ACQUISITION OF NEW CAPITAL.—Require the enterprise to acquire new capital in a form and amount determined by the Director.

(4) RESTRICTION OF ACTIVITIES.—Require the enterprise to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the enterprise.

(5) RECLASSIFICATION FROM SIGNIFICANTLY TO CRITICALLY UNDERCAPITALIZED.—The Director may reclassify as critically undercapitalized an enterprise that is classified as significantly undercapitalized (and the enterprise shall be subject to the provisions of section 1367) if—

(A) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 1369C within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(B) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(6) CONSERVATORSHIP.—Appoint a conservator for the enterprise in accordance with the provisions of section 1369 (excluding subsection (a)(1) and (2)), but only if the Director determines—

(A) that the amount of core capital of the enterprise is less than the minimum capital level established for the enterprise under section 1362; and

(B) that alternative remedies available to the Director under this title are not satisfactory.

(c) EFFECTIVE DATE.—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 1364.

SEC. 1367. APPOINTMENT OF CONSERVATORS FOR CRITICALLY UNDERCAPITALIZED ENTERPRISES.

(a) APPOINTMENT.—

(1) IN GENERAL.—Upon a determination and notice under section 1368(d) that an enterprise is critically undercapitalized and not later than 30 days after providing notice under section 1369(a)(3), the Director shall appoint a conservator for the enterprise in accordance with the provisions of section 1369 (excluding subsections (a)(1) and (2)).

(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may determine not to appoint a conservator for an enterprise classified as critically undercapitalized, but only pursuant to a written finding by the Director, with the written concurrence of the Secretary of the Treasury, that—

(A) the appointment of a conservator would have serious adverse effects on economic conditions of national financial markets or on the financial stability of the housing finance market; and

(B) the public interest would be better served by taking some other enforcement action authorized under this title.

(b) AUTHORITY.—The Director shall have the authority to take any actions under sections 1365 and 1366 with respect to an enterprise under conservatorship.

(c) APPROVAL OF ACTIVITIES.—

(1) CONSERVATOR.—The conservator of any enterprise classified as critically undercapitalized may undertake an activity subject to the approval of the Secretary under section 1322 of this title only with the additional approval of the Director.

(2) NO CONSERVATOR.—If the Director determines under subsection (a)(2) not to appoint a conservator for an enterprise classified as critically undercapitalized, the provisions of section 1366 shall apply with respect to the enterprise.

(d) EFFECTIVE DATE.—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 1364.

SEC. 1368. NOTICE OF CLASSIFICATION AND ENFORCEMENT ACTION.

(a) NOTICE.—Before taking any action referred to in subsection (b), the Director shall provide to the enterprise written notice of the proposed action, which states the reasons for the proposed action and the information on which the proposed action is based.

(b) APPLICABILITY.—The requirements of subsection (a) shall apply to the following actions:

(1) Classification or reclassification of an enterprise within a particular capital classification under section 1364.

(2) Any discretionary supervisory action pursuant to section 1365.

(3) Any discretionary supervisory action pursuant to section 1366 except a decision to appoint a conservator under section 1366(b)(6).

Notice of classification under paragraph (1) and notice of supervisory actions under paragraph (2) or (3) may be provided together in a single notice under subsection (a).

(c) RESPONSE PERIOD.—

(1) IN GENERAL.—During the 30-day period beginning on the date that an enterprise is provided notice under subsection (a) of a proposed action, the enterprise may submit to the Director any information relevant to the action that the enterprise considers appropriate for consideration by the Director in determining whether to take such action. The Director may, at the discretion of the Director, hold an informal administrative hearing to receive and discuss such information and the proposed determination.

(2) EXTENDED PERIOD.—The Director may extend the period under paragraph (1) for good cause for not more than 30 additional days.

(3) SHORTENED PERIOD.—The Director may shorten the period under paragraph (1) if the Director determines that the condition of the enterprise so requires or the enterprise consents.

(4) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the response period under this subsection (as extended or shortened) shall waive any right of the enterprise to comment on the proposed action of the Director.

(d) CONSIDERATION OF INFORMATION AND DETERMINATION.—After the expiration of the response period under subsection (c) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall determine whether to take the action proposed, taking into consideration any relevant information submitted by the enterprise during the response period. The Director shall provide written notice of a determination to take action and the reasons for such determination to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such notice shall respond to any information submitted during the response period.

(e) EFFECTIVE DATE OF ACTIONS.—An action referred to in subsection (b) shall take effect upon receipt by the enterprise of notice of the determination of the Director under subsection (d), unless otherwise provided in such notice.

SEC. 1369. APPOINTMENT OF CONSERVATORS.

(a) APPOINTMENT.—

(1) DISCRETIONARY AUTHORITY.—The Director may, after providing notice under paragraph (3), appoint a conservator for an enterprise upon a determination in writing—

(A) that alternative remedies available to the Director under this title are not satisfactory; and

(B) that—

(i) the enterprise is not likely to pay its obligations in the normal course of business;

(ii) the enterprise has incurred or is reasonably likely to incur losses that would deplete substantially all of its core capital and it is unlikely that the enterprise will replenish its core capital within a reasonable period;

(iii) the enterprise has concealed or is concealing books, papers, records, or assets of the enterprise that are material to the discharge of the Director's responsibilities under this subtitle, or has refused or is refusing to submit such books, papers, records, or information regarding the affairs of the enterprise for inspection to the Director upon request; or

(iv) the enterprise has willfully violated, or is willfully violating, a final cease-and-desist order under section 1371.

(2) CONSENT OF ENTERPRISE.—Notwithstanding paragraph (1), the Director may appoint a conservator for an enterprise if the enterprise, by an affirmative vote of a majority of the members of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(3) NOTICE.—Upon making a determination under paragraph (1) of this subsection or under section 1366 or 1367 to appoint a conservator for an enterprise, or upon consent of the enterprise under paragraph (2) to such an appointment, the Director shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(A) that a conservator will be appointed for the enterprise;

(B) stating the reasons for the appointment of the conservator; and

(C) identifying the person or governmental agency that the Director intends to appoint as conservator.

(4) QUALIFICATIONS.—The conservator shall be—

(A) the Director or any other governmental agency; or

(B) any person that—

(i) has no claim against, or financial interest in, the enterprise or other basis for a conflict of interest; and

(ii) has the financial and management expertise necessary to direct the operations and affairs of the enterprise.

(b) JUDICIAL REVIEW.—

(1) TIMING AND JURISDICTION.—Except as provided in paragraph (2), an enterprise for which a conservator is appointed (pursuant to this section or section 1366 or 1367) may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the appointment of the conservator. The court, upon the merits, shall dismiss such action or shall direct the Director to terminate the appointment of the conservator. Such an action may be commenced only during the 20-day period beginning upon the appointment of the conservator.

(2) CONSENSUAL APPOINTMENTS.—Appointment of a conservator pursuant to consent of the enterprise under subsection (a)(2) shall not be subject to judicial review under this subsection.

(3) STANDARD OF REVIEW.—A decision of the Director to appoint a conservator may be set aside under this subsection only if the court finds that the decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(4) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator or otherwise restrain or affect the exercise of powers or functions of a conservator.

(c) REPLACEMENT.—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the right of the enterprise under subsection (b) to obtain judicial review of the decision of the Director to appoint a conservator.

(d) EXAMINATIONS.—The Director may examine and supervise any enterprise in conservatorship during the period in which the enterprise continues to operate as a going concern.

(e) TERMINATION.—

(1) DISCRETIONARY.—At any time the Director determines that termination of a conservatorship pursuant to an appointment under subsection (a) is in the public interest and may safely be accomplished, the Director may terminate the conservatorship and permit the enterprise to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(2) MANDATORY.—The Director shall terminate a conservatorship initiated pursuant to section 1366 or 1367 upon a determination by the Director that the enterprise has maintained an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise established under section 1362, and may by written order prescribe such terms, conditions, and limitations on the enterprise as the Director considers appropriate.

(3) TERMS.—Any terms, conditions, and limitations imposed by the Director upon termination of a conservatorship shall be enforceable and reviewable under the provisions of sections 1374 and 1375, to the same extent as any cease-and-desist order issued pursuant to subtitle C.

SEC. 1369A. POWERS OF CONSERVATORS.

(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the enterprise under conservatorship and may operate the enterprise in the name of the enterprise, unless the Director provides otherwise.

(b) ADDITIONAL POWER.—A conservator may avoid any security interest taken by a creditor with the intent to hinder, delay, or defraud the enterprise or the creditors of the enterprise.

(c) LIMITATIONS BY DIRECTOR.—A conservator shall be subject to any rules, regulations, and orders issued from time to time by the Director and, except as otherwise specifically provided in such rules, regulations, or orders or in section 1369B, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations applicable to directors, officers, or employees of the enterprise.

(d) ENFORCEMENT OF CONTRACTS.—

(1) IN GENERAL.—A conservator may enforce any contract described in paragraph (2), notwithstanding any provision of the contract providing for the termination, default, acceleration, or other exercise of rights upon, or solely by reason of, the insolvency of the enterprise or the appointment of a conservator.

(2) ENFORCEABLE CONTRACTS.—Any contract that is within a class of contracts shall be enforceable under paragraph (1) if the Director—

(A) determines that the continued enforceability of such class of contracts is necessary to achieve the purpose of the conservatorship; and

(B) specifically provides for the enforceability of such class of contracts in a regulation or order, issued for the purpose of this subsection, which describes such class.

(3) APPLICABILITY.—This subsection and any regulation or order issued under this subsection shall apply only to contracts entered into, modified, extended, or renewed after the effective date of the regulation or order.

(e) STAYS.—

(1) IN GENERAL.—Not later than 45 days after appointment pursuant to section 1366, 1367, or 1369, or 45 days after receipt of actual notice of an action or proceeding that is pending at the time of appointment, a conservator may request that any judicial action or proceeding to which the conservator or the enterprise is or may become a party be stayed for a period not exceeding 45 days after the request. Upon petition, the court shall grant such stay as to all parties.

(2) FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator appointed for an enterprise is a Federal agency or an officer or employee of the Federal Government, the conservator may make a request for a stay under paragraph (1) only with the prior consent of the Attorney General and subject to the direction and control of the Attorney General.

(f) PAYMENT OF CREDITORS.—The Director may require a conservator to set aside and make available for payment to creditors any amounts that the Director determines may safely be used for such purpose. All creditors who are similarly situated shall be treated in a similar manner.

(g) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—A conservator and professional employees (other than Federal employees) appointed to represent or assist the conservator may be compensated for activities conducted as conservator. Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Director may provide for compensation at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(h) EXPENSES.—All expenses of a conservatorship pursuant to this section (including compensation pursuant to subsection (f)) shall be paid by the enterprise under conservatorship and shall be secured by a lien on the enterprise, which shall have priority over any other lien.

(i) CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE.—A conservator shall be subject to any laws and regulations relating to conflicts of interest and financial disclosure that apply to employees of the Office.

SEC. 1369B. LIABILITY PROTECTION FOR CONSERVATORS.

(a) FEDERAL AGENCIES AND EMPLOYEES.—In any case in which a conservator appointed under this subtitle is a Federal agency or an officer or employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the conservator for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be personally liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence or any form of intentional tortious conduct or criminal conduct.

(c) INDEMNIFICATION.—The Director, with the approval of the Attorney General, may indemnify the conservator on such terms as the Director considers appropriate.

SEC. 1369C. CAPITAL RESTORATION PLANS.

(a) CONTENTS.—Each capital restoration plan submitted under this subtitle shall set forth a feasible plan for restoring the core capital of the enterprise subject to the plan to an amount not less than the minimum capital level for the enterprise and for restoring the total capital of the enterprise to an amount not less than the risk-based capital level for the enterprise. Each capital restoration plan shall—

(1) specify the level of capital the enterprise will achieve and maintain;

(2) describe the actions that the enterprise will take to become classified as adequately capitalized;

(3) establish a schedule for completing the actions set forth in the plan;

(4) specify the types and levels of activities (including existing and new programs) in which the enterprise will engage during the term of the plan; and

(5) describe the actions that the enterprise will take to comply with any mandatory and discretionary requirements imposed under this subtitle.

(b) DEADLINES FOR SUBMISSION.—The Director shall, by regulation, establish a deadline for submission of a capital restoration plan, which may not be more than 45 days after the enterprise is notified in writing that a plan is required. The regulations shall provide that the Director may extend the deadline to the extent that the Director determines it necessary. Any extension of the deadline shall be in writing and for a time certain.

(c) APPROVAL.—The Director shall review each capital restoration plan submitted under this section and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Director may extend the period for approval or disapproval for any plan for a single additional 30-day period if the Director determines it necessary. The Director shall provide written notice to any enterprise submitting a plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(d) RESUBMISSION.—If the Director disapproves the initial capital restoration plan submitted by the enterprise, the enterprise shall submit an amended plan acceptable to the Director within 30 days or such longer period that the Director determines is in the public interest.

SEC. 1369D. JUDICIAL REVIEW OF DIRECTOR ACTION.

(a) JURISDICTION.—

(1) FILING OF PETITION.—An enterprise that is not classified as critically undercapitalized and is the subject of a classification under section 1364 or a discretionary supervisory action taken under this subtitle by the Director (other than action to appoint a conservator under section 1366 or 1367 or action under section 1369) may obtain review of the classification or action by filing, within 10 days after receiving written notice of the Director's action, a written petition requesting that the classification or action of the Director be modified, terminated, or set aside.

(2) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(b) SCOPE OF REVIEW.—The Court may modify, terminate, or set aside an action taken by the Director and reviewed by the Court pursuant to this section only if the court finds, on the record on which the Director acted, that the action of the Director was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(c) UNAVAILABILITY OF STAY.—The commencement of proceedings for judicial review pursuant to this section shall not operate as a stay of any action taken by the Director. Pending judicial review of the action, the court shall not have jurisdiction to stay, enjoin, or otherwise delay any supervisory action taken by the Director with respect to an enterprise that is classified as significantly or critically undercapitalized or any action of the Director that results in the classification of an enterprise as significantly or critically undercapitalized.

(d) LIMITATION ON JURISDICTION.—Except as provided in this section, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any classification or action of the Director under this subtitle (other than appointment of a conservator under section 1366 or 1367 or action under section 1369) or to review, modify, suspend, terminate, or set aside such classification or action.

Subtitle C—Enforcement Provisions

SEC. 1371. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE AGAINST ADEQUATELY CAPITALIZED ENTERPRISES.—The Director may issue and serve a notice of charges under this section upon an enterprise that is classified (for purposes of subtitle B) as adequately capitalized or upon any executive officer or director of such an enterprise, if in the determination of the Director, the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct that threatens to cause a significant depletion of the core capital of the enterprise;

(2) any conduct or violation that may result in the issuance of an order described in subsection (d)(1); or

(3) any conduct that violates—

(A) any provision of this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act; or

(B) any written agreement entered into by the enterprise with the Director.

(b) GROUNDS FOR ISSUANCE AGAINST UNDERCAPITALIZED, SIGNIFICANTLY UNDERCAPITALIZED, AND CRITICALLY UNDERCAPITALIZED ENTERPRISES.—The Director may issue and serve a notice of charges under this section upon an enterprise classified (for purposes of subtitle B) as undercapitalized, significantly undercapitalized, or critically undercapitalized, or any executive officer or director of any such enterprise, if in the determination of the Director the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct likely to result in a material depletion of the core capital of the enterprise, or

(2) any conduct or violation described in paragraph (2) or (3) of subsection (a),

except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act.

(c) PROCEDURE.—

(1) NOTICE OF CHARGES.—Each notice of charges under this section shall contain a statement of the facts constituting the alleged conduct or violation and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct or violation should issue.

(2) ISSUANCE OF ORDER.—If the Director finds on the record made at such hearing that any conduct or violation specified in the notice of charges has been established (or the enterprise consents pursuant to section 1373(a)(4)), the Director may issue and serve upon the enterprise, executive officer, or director an order requiring such party to cease and desist from any such conduct or violation and to take affirmative action to correct or remedy the conditions resulting from any such conduct or violation.

(d) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR ACTIVITIES.—The authority under this section and section 1372 to issue any order requiring an enterprise, executive officer, or director to take affirmative action to correct or remedy any condition resulting from any conduct or violation with respect to which such order is issued includes the authority—

(1) to require an executive officer or a director to make restitution to, or provide reimbursement, indemnification, or guarantee against loss to the enterprise to the extent that such person—

(A) was unjustly enriched in connection with such conduct or violation; or

(B) engaged in conduct or a violation that would subject such person to a civil penalty pursuant to section 1376(b)(3);

(2) to require an enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the enterprise;

(4) to require the enterprise to dispose of any asset involved;

(5) to require the enterprise to rescind agreements or contracts;

(6) to require the enterprise to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(7) to require the enterprise to take such other action as the Director determines appropriate.

(e) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this section or section 1372 includes the authority to place limitations on the activities or functions of the enterprise or any executive officer or director of the enterprise.

(f) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the enterprise, executive officer, or director concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subtitle.

SEC. 1372. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) GROUNDS FOR ISSUANCE AND SCOPE.—Whenever the Director determines that any conduct or violation, or threatened conduct or violation, specified in the notice of charges served upon the enterprise, executive officer, or director pursuant to section 1371(a) or (b), or the continuation thereof, is likely—

(1) to cause insolvency,

(2) to cause a significant depletion of the core capital of the enterprise, or

(3) otherwise to cause irreparable harm to the enterprise,

prior to the completion of the proceedings conducted pursuant to section 1371(c), the Director may issue a temporary order requiring the enterprise, executive officer, or director to cease and desist from any such conduct or violation and to take affirmative action to prevent or remedy such insolvency, depletion, or harm pending completion of such proceedings. Such order may include any requirement authorized under section 1371(d).

(b) EFFECTIVE DATE.—An order issued pursuant to subsection (a) shall become effective upon service upon the enterprise, executive officer, or director and, unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until the Director dismisses the charges specified in the notice or until superseded by a cease-and-desist order issued pursuant to section 1371.

(c) INCOMPLETE OR INACCURATE RECORDS.—

(1) TEMPORARY ORDER.—If a notice of charges served under section 1371(a) or (b) specifies on the basis of particular facts and circumstances that the books and records of the enterprise served are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of the enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore the books or records to a complete and accurate state.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 1371 in connection with the notice of charges; or

(ii) the date the Director determines, by examination or otherwise, that the books and records of the enterprise are accurate and reflect the financial condition of the enterprise.

(d) JUDICIAL REVIEW.—An enterprise, executive officer, or director that has been served with a temporary order pursuant to this section

may apply to the United States District Court for the District of Columbia within 10 days after such service for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the enterprise, executive officer, or director under section 1371(a) or (b). Such court shall have jurisdiction to issue such injunction.

(e) ENFORCEMENT BY ATTORNEY GENERAL.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for an injunction to enforce such order or may, under the direction and control of the Attorney General, bring such an action. If the court finds any such violation, threatened violation, or failure to obey, the court shall issue such injunction.

SEC. 1373. HEARINGS.

(a) REQUIREMENTS.—

(1) VENUE AND RECORD.—Any hearing under section 1371 or 1376(c) shall be held on the record and in the District of Columbia.

(2) TIMING.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 1371 or determination to impose a penalty under section 1376, unless an earlier or a later date is set by the hearing officer at the request of the party served.

(3) PROCEDURE.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) FAILURE TO APPEAR.—If the party served fails to appear at the hearing through a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) ISSUANCE OF ORDER.—

(1) IN GENERAL.—After any such hearing, and within 90 days after the parties have been notified that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this subtitle.

(2) MODIFICATION.—Judicial review of any such order shall be exclusively as provided in section 1374. Unless such a petition for review is timely filed as provided in section 1374, and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

SEC. 1374. JUDICIAL REVIEW.

(a) COMMENCEMENT.—Any party to a proceeding under section 1371 or 1376 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

(b) FILING OF RECORD.—Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) JURISDICTION.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of section 1373(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(d) REVIEW.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) ORDER TO PAY PENALTY.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Director under this subtitle.

(f) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

SEC. 1375. ENFORCEMENT AND JURISDICTION.

(a) ENFORCEMENT.—The Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under this subtitle or subtitle B or may, under the direction and control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subtitle and sections 1369 and 1369D, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 1371, 1372, or 1376, or subtitle B, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 1376. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—The Director may impose a civil money penalty in accordance with this section on any enterprise, or any executive officer or director of any enterprise, that—

(1) violates any provision of this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

(2) violates any final or temporary order issued pursuant to section 1365, 1366, 1371, or 1372;

(3) violates any written agreement between the enterprise and the Director; or

(4) engages in any conduct that causes or is likely to cause a loss to the enterprise.

(b) AMOUNT OF PENALTY.—

(1) FIRST TIER.—The Director may impose a penalty on an enterprise for any violation described in paragraphs (1) through (3) of subsection (a). The amount of a penalty under this paragraph shall not exceed $5,000 for each day that a violation continues.

(2) SECOND TIER.—The Director may impose a penalty on an executive officer or director in an amount not to exceed $10,000, or on an enterprise in an amount not to exceed $25,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct—

(A) is part of a pattern of misconduct; or

(B) involved recklessness and caused or would be likely to cause a material loss to the enterprise.

(3) THIRD TIER.—The Director may impose a penalty on an executive officer or director in an amount not to exceed $100,000, or on an enterprise in an amount not to exceed $1,000,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct was knowing and caused or would be likely to cause a substantial loss to the enterprise.

(c) PROCEDURES.—

(1) ESTABLISHMENT.—The Director shall establish standards and procedures governing the imposition of civil money penalties under subsections (a) and (b). Such standards and procedures—

(A) shall provide for the Director to notify the enterprise in writing of the Director's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise, executive officer, or director has been given an opportunity for a hearing on the record pursuant to section 1373; and

(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Director shall give consideration to such factors as the gravity of the violation, any history of prior violations, the effect of the penalty on the safety and soundness of the enterprise, any injury to the public, any benefits received, and deterrence of future violations, and any other factors the Director may determine by regulation to be appropriate.

(3) REVIEW OF IMPOSITION OF PENALTY.—The order of the Director imposing a penalty under this section shall not be subject to review, except as provided in section 1374.

(d) ACTION TO COLLECT PENALTY.—If an enterprise, executive officer, or director fails to comply with an order of the Director imposing a civil money penalty under this section, after the order is no longer subject to review as provided under subsection (c)(1) and section 1374, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, executive officer, or director and such other relief as may be available, or may, under the direction and control of the Attorney General, bring such an action. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order of the Director imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY DIRECTOR.—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) AVAILABILITY OF OTHER REMEDIES.—Any civil money penalty under this section shall be in addition to any other available civil remedy and may be imposed whether or not the Director imposes other administrative sanctions.

(g) PROHIBITION OF REIMBURSEMENT OR INDEMNIFICATION.—An enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(h) DEPOSIT OF PENALTIES.—The Director shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

(i) APPLICABILITY.—A penalty under this section may be imposed only for conduct or violations under subsection (a) occurring after the date of the enactment of this Act.

SEC. 1377. NOTICE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this subtitle against any such director or executive officer, if *such notice is served before the end of the 2-year period beginning on the date such director or executive officer ceases to be associated with the enterprise.*

SEC. 1378. PRIVATE RIGHTS OF ACTION.

This title and the amendments made by this title shall not create any private right of action on behalf of any person against an enterprise, or any director or executive officer of an enterprise, or impair any existing private right of action under other applicable law.

SEC. 1379. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this subtitle and that has become final in accordance with sections 1373 and 1374; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under this subtitle or any other law.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

SEC. 1379A. NOTICE OF SERVICE.

Any service required or authorized to be made by the Director under this subtitle may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

SEC. 1379B. SUBPOENA AUTHORITY.

(a) IN GENERAL.—In the course of or in connection with any administrative proceeding under this subtitle, the Director shall have the authority—

(1) to administer oaths and affirmations;

(2) to take and preserve testimony under oath;

(3) to issue subpoenas and subpoenas duces tecum; and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(b) WITNESSES AND DOCUMENTS.—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) ENFORCEMENT.—The Director may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section or may, under the direction and control of the Attorney General, bring such an action. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

Subtitle D—Amendments to Charter Acts of Enterprises

SEC. 1381. AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

(a) PURPOSES.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(1) by striking "home" each place it appears and inserting "residential";

(2) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: "(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)"; and

(B) by striking "and" at the end;

(3) by redesignating paragraph (4) as paragraph (5);

(4) by inserting after paragraph (3) the following new paragraph:

"(4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and".

(b) HIGH COST AREAS.—The last sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking "and Hawaii" and inserting "Hawaii, and the Virgin Islands".

(c) SECRETARY'S APPROVAL AUTHORITY.—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(1) in the first sentence of paragraph (2), by striking "and with the approval of the Secretary of Housing and Urban Development,";

(2) in the first sentence of paragraph (3), by striking ", with the approval of the Secretary of Housing and Urban Development,";

(3) in the first sentence of paragraph (4), by striking ", with the approval of the Secretary of Housing and Urban Development,"; and

(4) by adding at the end the following new paragraph:

"(6) The corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.".

(d) CAPITALIZATION.—Section 303 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718) is amended—

(1) in subsection (a), by inserting after the period at the end the following new sentence: "The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.";

(2) by striking subsections (b) and (c) and inserting the following new subsections:

"(b)(1) The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

"(2) All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.

"(c)(1) Except as provided in paragraph (2), the corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

"(2) The corporation may not make any capital distribution that would decrease the total capital of the corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the corporation established under section 1361 of such Act or that would decrease the core capital of the corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.";

(3) in subsection (f)—

(A) by striking "to make payments" and all that follows through "such capital contributions,"; and

(B) by striking "additional shares of such stock," and inserting "shares of common stock of the corporation"; and

(4) by redesignating subsection (f) (as so amended) as subsection (d).

(e) RATIO OF OBLIGATIONS.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended—

(1) in subsection (b), by striking the semicolon in the first sentence and all that follows through the end of the second sentence and inserting a period; and

(2) in subsection (e), by striking the fourth sentence.

(f) STATEMENT IN SECURITIES.—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by inserting after the period at the end the following new sentence: "The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation.".

(g) ASSESSMENTS FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.—The first sentence of section 304(f) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(f)) is amended by inserting before the first comma the following: "of this Act and assessments pursuant to section 1316 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

(h) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The second sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) by striking "and" after the second comma; and

(B) by inserting before the period at the end the following: ", and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households".

(2) IMPLEMENTATION.—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the board of directors of the Federal National Mortgage Association that occurs after the date of the enactment of this Act.

(i) REMOVAL AUTHORITY OF PRESIDENT.—The third sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by inserting "appointed" after "any such".

(j) COMPENSATION.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended—

(1) in the first sentence of paragraph (2) by striking "as it may determine" and inserting the following: "as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and (iii) the comparability of the corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(B) Notwithstanding the first sentence of paragraph (2), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(k) GENERAL REGULATORY AUTHORITY.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by striking subsections (h) and (i).

(l) GAO AUDITS.—Section 309(j) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(j)) is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

"(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the corporation or any auditor for an audit of the corporation under subsection (l), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.".

(m) FINANCIAL REPORTS TO DIRECTOR.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

"(k)(1) The corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

"(2) Each such annual report shall include—

"(A) financial statements prepared in accordance with generally accepted accounting principles;

"(B) any supplemental information or alternative presentation that the Director may require; and

"(C) an assessment (as of the end of the corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the corporation, of—

"(i) the effectiveness of the internal control structure and procedures of the corporation; and

"(ii) the compliance of the corporation with designated safety and soundness laws.

"(3) The corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.".

(n) AUDITS OF FINANCIAL STATEMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (k) (as added by subsection (m) of this section) the following new subsection:

"(l)(1) The corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (k)(2)(B).".

(o) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (l) (as added by subsection (n) of this section) the following new subsection:

"(m)(1) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the corporation.".

(p) REPORT ON HOUSING ACTIVITIES.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (m) (as added by subsection (o) of this section) the following new subsection:

"(n)(1) The corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (m)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

"(3)(A) The corporation shall make each report under this subsection available to the public at the principal and regional offices of the corporation.

"(B) Before making a report under this subsection available to the public, the corporation may exclude from the report information that the Secretary has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(q) HOUSING ADVISORY COUNCIL.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (n) (as added by subsection (p) of this section) the following new subsection:

"(o)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation shall appoint an Affordable Housing Advisory Council to advise the corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.".

(r) STOCK ISSUANCES.—The second sentence of section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking all that follows "Commission" and inserting a period.

(s) TECHNICAL AMENDMENTS.—

(1) Section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)) is amended—

(A) in paragraph (2)—

(i) in the first sentence following subparagraph (F), by striking "him" and inserting "the trustor"; and

(ii) in the last sentence, by striking "his" each place it appears and inserting "the trustor's"; and

(B) in paragraph (3), by striking "he" each place it appears and inserting "the trustor".

(2) Section 304(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(c)) is amended—

(A) by striking "his" each place it appears and inserting "the Secretary's"; and

(B) in the fourth sentence—

(i) by striking "he" and inserting "the Secretary"; and

(ii) by striking "him" and inserting "the Secretary".

(3) Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended—

(A) in subsection (d)(2)—

(i) in the third sentence, by striking "his employment" each place it appears and inserting "the employment of such officer or employee"; and

(ii) in the last sentence, by striking "his basic pay" and inserting "the basic pay of such person"; and

(B) in subsection (e), by striking "he or it" and inserting "the individual, association, partnership, or corporation".

SEC. 1382. AMENDMENTS TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

(a) PURPOSES.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(1) by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential";

(2) by striking "and" at the end of paragraph (2);

(3) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: "(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)"; and

(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.".

(b) DEFINITIONS.—The third sentence of section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by striking "made" and all that follows through "305(a)(1)" and inserting "purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The second sentence of section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended—

(A) by striking "and" after the second comma; and

(B) by inserting before the period at the end the following: ", and at least 1 person from an organization that has represented consumer or community interests for not less than 2 years or 1 person who has demonstrated a career commitment to the provision of housing for low-income households".

(2) IMPLEMENTATION.—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occurs after the date of the enactment of this Act.

(d) REMOVAL AUTHORITY OF PRESIDENT.—Section 303(a)(2)(B) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(B)) is amended by inserting before the period at the end the following: ", except that any appointed member may be removed from office by the President for good cause".

(e) GENERAL REGULATORY AUTHORITY.—Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the Corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the Board of Directors.

"(2) The Corporation may not make any capital distribution that would decrease the total capital of the Corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the Corporation established under section 1361 of such Act or that would decrease the core capital of the Corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the Corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.".

(f) COMPENSATION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) in clause (9) of the first sentence of subsection (c), by inserting after "agents" the following: "as the Board of Directors determines reasonable and comparable with compensation for employment in other similar businesses (in-

cluding publicly held financial institutions or other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (h)(3)) of the Corporation shall be based on the performance of the Corporation"; and

(2) by adding at the end the following new subsection:

"(h)(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses, (B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and (C) the comparability of the Corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(2) Notwithstanding the first sentence of subsection (c), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(3) For purposes of this subsection, the term 'executive officer' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(g) POWERS OF CORPORATION.—Section 303(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c)) is amended by striking the second sentence.

(h) REPEAL OF PROHIBITION ON PREJUDGMENT ATTACHMENT.—Section 303(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(f)) is amended by striking the last sentence.

(i) CAPITAL STOCK.—Section 304 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453) is amended—

(1) by striking subsections (b), (c), and (d);

(2) in subsection (a)(1), by striking "(1) The common stock" and all that follows and inserting the following: "The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation."; and

(3) in subsection (a)(2)—

(A) in the first sentence, by striking "nonvoting common stock and the";

(B) by striking the last sentence; and

(C) by striking the paragraph designation and inserting "(b)".

(j) MORTGAGE SELLERS.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended—

(1) in the first sentence, by striking "from any Federal home loan bank" and all that follows through the end of the sentence and inserting a period; and

(2) in the second sentence, by striking ", and the servicing" and all that follows through the end of the sentence and inserting a period.

(k) HIGH COST AREAS.—The last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking "and Hawaii" and inserting "Hawaii, and the Virgin Islands".

(l) REPEAL OF PROHIBITION ON MORTGAGE LIMITATIONS.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by striking subsection (c).

(m) PRIOR APPROVAL OF SECRETARY FOR NEW PROGRAMS.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by inserting after subsection (b) the following new subsection:

"(c) The Corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.".

(n) OBLIGATIONS AND SECURITIES AND ASSESSMENTS FOR OFFICE.—Section 306 of the Federal Home Loan Mortgage Corporation (12 U.S.C. 1455) is amended—

(1) in subsection (h)—

(A) by inserting "(1)" after "(h)"; and

(B) by adding at the end the following new paragraph:

"(2) The Corporation shall insert appropriate language in all of the obligations and securities of the Corporation issued under this section and section 305 clearly indicating that such obligations and securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Corporation."; and

(2) in the first sentence of subsection (i), by striking "section 303(c) or 306(c)" and inserting the following: "sections 303(c) and 1316(c) of this Act and assessments pursuant to section 106 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

(o) GAO AUDITS.—Section 307(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

"(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under subsection (d), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.".

(p) FINANCIAL REPORTS TO DIRECTOR.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding at the end the following new subsection:

"(c)(1) The Corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the Corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

"(2) Each such annual report shall include—

"(A) financial statements prepared in accordance with generally accepted accounting principles;

"(B) any supplemental information or alternative presentation that the Director may require; and

"(C) an assessment (as of the end of the Corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the Corporation, of—

"(i) the effectiveness of the internal control structure and procedures of the Corporation; and

"(ii) the compliance of the Corporation with designated safety and soundness laws.

"(3) The Corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.".

(q) AUDITS OF FINANCIAL STATEMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (c) (as added by subsection (p) of this section) the following new subsection:

"(d)(1) The Corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (c)(2)(B).".

(r) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (d) (as added by subsection (q) of this section) the following new subsection:

"(e)(1) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The Corporation shall collect, maintain, and provide to the Secretary, in a form deter-

mined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the Corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the Corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the Corporation.".

(s) REPORT ON HOUSING ACTIVITIES.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (e) (as added by subsection (r) of this section) the following new subsection:

"(f)(1) The Corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the Corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the Corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the Corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (e)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the Corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the Corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the Corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the Corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the Corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

"(3)(A) The Corporation shall make each report under this subsection available to the public at the principal and regional offices of the Corporation.

"(B) Before making a report under this subsection available to the public, the Corporation may exclude from the report information that the Secretary has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. ".

(t) HOUSING ADVISORY COUNCIL.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (f) (as added by subsection (s) of this section) the following new subsection:

"(g)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation shall appoint an Affordable Housing Advisory Council to advise the Corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.".

SEC. 1383. IMPLEMENTATION.

(a) IN GENERAL.—The Secretary of Housing and Urban Development and the Director, as appropriate, shall issue any final regulations necessary to implement the amendments made by this subtitle not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.

(b) NOTICE AND COMMENT.—The regulations under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

Subtitle E—Regulation of Federal Home Loan Bank System

SEC. 1391. PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR FEDERAL HOUSING FINANCE BOARD.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

"(i) to supervise the Federal Home Loan Banks;

"(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and

"(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.".

SEC. 1392. ADVANCES UNDER FEDERAL HOME LOAN BANK ACT.

(a) ADVANCES TO NONQUALIFIED THRIFT LENDER MEMBERS.—Section 10(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(2)) is amended by striking the second sentence and inserting the following new sentence: "The aggregate amount of the advances by the Federal Home Loan Bank System to members that are not qualified thrift lenders shall not exceed 30 percent of the total advances of the Federal Home Loan Bank System.".

(b) EXCEPTION TO REQUIREMENTS FOR ADVANCES.—Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in the first sentence, by inserting before "Each" the following new subsection designation and heading: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION.—An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

"(1) such advance otherwise meets the requirements of this subsection; and

"(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.".

SEC. 1393. STUDIES REGARDING FEDERAL HOME LOAN BANK SYSTEM.

(a) IN GENERAL.—The Federal Housing Finance Board, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each conduct a study analyzing and making appropriate recommendations with respect to the following topics:

(1) The appropriate capital standards for the Federal Home Loan Bank System.

(2) The relationship between the capital standards for the Federal Home Loan Bank System and the capital standards under this title for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) The relationship between the capital standards for federally insured depository institutions and the capital standards under this title for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(4) The advantages and disadvantages of expanding credit products and services for member institutions of the Federal Home Loan Bank System, including a determination of the feasibility of Federal Home Loan Banks (A) purchasing housing-related assets from member institutions, (B) providing credit enhancements and other products to members in addition to making advances, and (C) making direct loans for housing construction.

(5) The advantages and disadvantages of expanding eligible collateral for advances to member institutions of the Federal Home Loan Bank System by removing the limits on the amount of housing-related assets that member institutions can use to collateralize advances.

(6) The advantages and disadvantages of further measures to expand the role of the Federal Home Loan Bank System as a support mechanism for community-based lenders and to reinforce the overall role of the System in housing finance.

(7) The advantages and disadvantages of measures to increase membership in, and increase the profitability of, the System by modifying—

(A) restrictions on membership and stock purchases of nonqualified thrift lenders;

(B) the overall advance limit imposed on the Federal Home Loan Bank System to nonqualified thrift lenders; and

(C) the membership requirement for qualified thrift lenders.

(8) The competitive effect of the mortgage activities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation on the home mortgage activities of federally insured depository institutions and the cost of such activities to such institutions, the Savings Association Insurance Fund, and the Resolution Trust Corporation.

(9) The likelihood that the Federal Home Loan Banks will be able to continue to pay the amounts required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(10) The extent to which a reduction in the number of Federal Home Loan Banks would reduce noninterest costs of the System.

(11) The impact that a reduction in the number of Federal Home Loan Banks would have on the effectiveness of affordable housing programs and community support programs under the Federal Home Loan Bank System.

(12) The impact that a reduction in the number of Federal Home Loan Banks would have on the availability of affordable housing in rural areas and the ability of small rural financial institutions to provide housing financing.

(13) The current and prospective impact of the Federal Home Loan Bank System on—

(A) the availability and affordability of housing for low- and moderate-income households; and

(B) the relative availability of housing credit across geographic areas, with particular regard to differences depending on whether properties are inside or outside of central cities.

(14) The appropriateness of extending to the Federal Home Loan Bank System the public purposes and housing goals established for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under this title, the Federal National Mortgage Association Charter Act, and the Federal Home Loan Mortgage Corporation Act.

(b) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Federal Housing Finance Board, the Comptroller General, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the studies required under subsection (a) containing any recommendations for legislative action based on the results of the studies.

(c) COMMENTS.—The Secretary of the Treasury, the Director of the Office of Federal Housing Enterprise Oversight, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any recommendations and opinions regarding the studies under subsection (a), to the extent that the recommendations and views of such officers and entities differ from the recommendations and opinions of the Federal Housing Finance Board, the Comptroller General, the Director of Congressional Budget Office, and the Secretary of Housing and Urban Development.

(d) DEFINITION.—For purposes of this section, the term "housing-related assets" means residential mortgages, residential mortgage-related securities, loans or loan participations secured by residential real estate, housing production loans, and warehouse lines of credit for residential mortgage banking activities.

SEC. 1394. REPORT OF FEDERAL HOME LOAN BANK MEMBERS.

(a) IN GENERAL.—The Federal Home Loan Banks shall establish a committee to be known as the Study Committee. The Study Committee shall be comprised of 24 members, of whom 2 shall be elected by the Board of Directors of each Federal Home Loan Bank from among officers or directors of stockholder institutions of the Federal Home Loan Bank. Each Federal Home Loan Bank shall elect members to the Study Committee not later than 45 days after the date of the enactment of this Act.

(b) STUDY AND REPORT.—The Study Committee referred to in subsection (a) shall conduct a study on the topics referred to in section 1391(a) and on the costs and benefits of consolidation of the Federal Home Loan Bank System. Not later than 6 months after the date of the enactment of this Act, the Study Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Federal Housing Finance Board, and the presidents of the Federal Home Loan Banks on its findings, including any recommendations for legislative or administrative action, together with any minority views or recommendations.

SEC. 1395. REPORTS REGARDING CONSOLIDATION OF FEDERAL HOME LOAN BANK SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report of the directors' evaluation of the costs and benefits of consolidating the Federal Home Loan Bank System.

TITLE XIV—HOUSING PROGRAMS UNDER STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Subtitle A—Housing Assistance

SEC. 1401. SHORT TITLE.

This title may be cited as the "Stewart B. McKinney Homeless Housing Assistance Amendments Act of 1992".

SEC. 1402. EMERGENCY SHELTER GRANTS PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows:

"SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $138,000,000 for fiscal year 1993 and $143,796,000 for fiscal year 1994.".

(b) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) at the end of paragraph (1), by striking the period and inserting a semicolon;

(2) at the end of paragraph (3), by striking "and";

(3) in paragraph (4)—

(A) by inserting "it will" after "State,"; and

(B) by striking "and" at the end;

(4) in paragraph (5)—

(A) by inserting "it will" before "develop"; and

(B) by striking the period at the end and inserting a semicolon;

(5) in the paragraph that follows paragraph (5) (as added by section 832(h)(3) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 104 Stat. 4362))—

(A) by redesignating the paragraph as paragraph (6); and

(B) by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following new paragraph:

"(7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this subtitle, in providing services assisted under this subtitle, and in providing services for occupants of facilities assisted under this subtitle.".

(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding at the end the following new subsection:

"(d) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this subtitle. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.".

(d) TERMINATION OF ASSISTANCE.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding after subsection (d) (as added by subsection (c) of this section) the following new subsection:

"(e) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.".

(e) ELIGIBILITY OF STAFF COSTS.—Section 414(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(3)) is amended—

(1) by striking "(other than staff)"; and

(2) by inserting before the period at the end the following: ", except that not more than 10 percent of the amount of any grant received under this subtitle may be used for costs of staff".

SEC. 1403. SUPPORTIVE HOUSING PROGRAM.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking subtitles C and D and inserting the following new subtitle:

"Subtitle C—Supportive Housing Program

"SEC. 421. PURPOSE.

"The purpose of the program under this subtitle is to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to pro-

mote the provision of supportive housing to homeless persons to enable them to live as independently as possible.

"SEC. 422. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'applicant' means a State, Indian tribe, metropolitan city, urban county, governmental entity, private nonprofit organization, or community mental health association that is a public nonprofit organization, that is eligible to receive assistance under this subtitle and submits an application under section 426(a).

"(2) The term 'disability' means—

"(A) a disability as defined in section 223 of the Social Security Act,

"(B) to be determined to have, pursuant to regulations issued by the Secretary, a physical, mental, or emotional impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes an individual's ability to live independently, and (iii) of such a nature that such ability could be improved by more suitable housing conditions,

"(C) a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act, or

"(D) the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome.

Subparagraph (D) shall not be construed to limit eligibility under subparagraphs (A) through (C) or the provisions referred to in subparagraphs (A) through (C).

"(3) The term 'Indian tribe' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(4) The term 'metropolitan city' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'operating costs' means expenses incurred by a recipient operating supportive housing under this subtitle with respect to—

"(A) the administration, maintenance, repair, and security of such housing;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) the conducting of the assessment under section 426(c)(2).

"(6) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

"(7) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(8) The term 'project' means a structure or structures (or a portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this subtitle or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle, or supportive services.

"(9) The term 'recipient' means any governmental or nonprofit entity that receives assistance under this subtitle.

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) The term 'supportive housing' means a project that meets the requirements of section 424.

"(13) The term 'supportive services' means services under section 425.

"(14) The term 'urban county' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 423. ELIGIBLE ACTIVITIES.

"(a) IN GENERAL.—The Secretary may provide any project with one or more of the following types of assistance under this subtitle:

"(1) ACQUISITION AND REHABILITATION.—A grant, in an amount not to exceed $200,000, for the acquisition, rehabilitation, or acquisition and rehabilitation, of an existing structure (including a small commercial property or office space) to provide supportive housing other than emergency shelter or to provide supportive services; except that the Secretary may increase the dollar limitation under this sentence to not more than $400,000 for areas that the Secretary finds have high acquisition and rehabilitation costs. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as supportive housing, or to provide supportive services, before the receipt of assistance.

"(2) NEW CONSTRUCTION.—A grant, in an amount not to exceed $400,000, for new construction of a structure to provide supportive housing.

"(3) LEASING.—A grant for leasing of an existing structure or structures, or portions thereof, to provide supportive housing or supportive services during the period covered by the application. Grant recipients may reapply for such assistance as needed to continue the use of such structure for purposes of this subtitle.

"(4) OPERATING COSTS.—Annual payments for operating costs of housing assisted under this subtitle, not to exceed 75 percent of the annual operating costs of such housing. Grant recipients may reapply for such assistance as needed to continue the use of the housing for purposes of this subtitle.

"(5) SUPPORTIVE SERVICES.—A grant for costs of supportive services provided to homeless individuals. Any recipient, including program recipients under title IV of this Act before the date of the enactment of the Housing and Community Development Act of 1992, may reapply for such assistance or for the renewal of such assistance to continue services funded under prior grants or to provide other services.

"(6) TECHNICAL ASSISTANCE.—Technical assistance in carrying out the purposes of this subtitle.

"(b) USE RESTRICTIONS.—

"(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—Projects assisted under subsection (a)(1) or (2) shall be operated for not less than 20 years for the purpose specified in the application.

"(2) OTHER ASSISTANCE.—Projects assisted under subsection (a)(3), (4), (5), or (6) (but not under subsection (a)(1) or (2)) shall be operated for the purposes specified in the application for the duration of the period covered by the grant.

"(3) CONVERSION.—If the Secretary determines that a project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the recipient operating the project, the Secretary may authorize the recipient to convert the project to such use.

"(c) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

"(1) REPAYMENT.—The Secretary shall require recipients to repay 100 percent of any assistance received under subsection (a)(1) or (2) if the project ceases to be used as supportive housing within 10 years after the project is placed in service. If such project is used as supportive housing for more than 10 years, the Secretary shall reduce the percentage of the amount required to be repaid by 10 percentage points for each year in excess of 10 that the project is used as supportive housing.

"(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), upon any sale or other disposition of a project assisted under subsection (a)(1) or (2) occurring before the expiration of the 20-year period beginning on the date that the project is placed in service, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

"(3) EXCEPTION.—A recipient shall not be required to comply with the terms and conditions prescribed under paragraphs (1) and (2) if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all of the proceeds are used to provide supportive housing meeting the requirements of this subtitle.

"SEC. 424. SUPPORTIVE HOUSING.

"(a) IN GENERAL.—Housing providing supportive services for homeless individuals shall be considered supportive housing for purposes of this subtitle if—

"(1) the housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located; and

"(2) the housing—

"(A) is transitional housing;

"(B) is permanent housing for homeless persons with disabilities; or

"(C) is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

"(b) TRANSITIONAL HOUSING.—For purposes of this section, the term 'transitional housing' means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months or such longer period as the Secretary determines necessary. The Secretary may deny assistance for housing based on a violation of this subsection only if the Secretary determines that a substantial number of homeless individuals or families have remained in the housing longer than such period.

"(c) PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.—For purposes of this section, the term 'permanent housing for homeless persons with disabilities' means community-based housing for homeless persons with disabilities that provides long-term housing and supportive services for not more than—

"(1) 8 such persons in a single structure or contiguous structures;

"(2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

"(3) more than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

"(d) SINGLE ROOM OCCUPANCY DWELLINGS.—A project may provide supportive housing or supportive services in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in projects containing some or all such dwelling units.

"SEC. 425. SUPPORTIVE SERVICES.

"(a) IN GENERAL.—To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons *using the project, which may be designed by the recipient or participants.*

"(b) REQUIREMENTS.—Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

"(c) SERVICES.—Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

"(d) PROVISION OF SERVICES.—Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

"(e) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—

"(1) APPROVAL.—Promptly upon receipt of any application for assistance under this subtitle that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

"(2) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this subtitle for the final selection of applications for assistance.

"SEC. 426. PROGRAM REQUIREMENTS.

"(a) APPLICATIONS.—

"(1) FORM AND PROCEDURE.—Applications for assistance under this subtitle shall be submitted by applicants in the form and in accordance with the procedures established by the Secretary. The Secretary may not give preference or priority to any application on the basis that the application was submitted by any particular type of applicant entity.

"(2) CONTENTS.—The Secretary shall require that applications contain at a minimum—

"(A) a description of the proposed project, including the activities to be undertaken;

"(B) a description of the size and characteristics of the population that would occupy the supportive housing assisted under this subtitle;

"(C) a description of the public and private resources that are expected to be made available for the project;

"(D) in the case of projects assisted under section 423(a) (1) or (2), assurances satisfactory to the Secretary that the project will be operated for not less than 20 years for the purpose specified in the application;

"(E) in the case of projects assisted under this title that do not receive assistance under such sections, annual assurances during the period specified in the application that the project will be operated for the purpose specified in the application for such period;

"(F) a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government; and

"(G) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(3) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assisted under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient fails to obtain ownership or control of the site within 12 months year after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

"(b) SELECTION CRITERIA.—The Secretary shall select applicants approved by the Secretary as to financial responsibility to receive assistance under this subtitle by a national competition based on criteria established by the Secretary, which shall include—

"(1) the ability of the applicant to develop and operate a project;

"(2) the innovative quality of the proposal in providing a project;

"(3) the need for the type of project proposed by the applicant in the area to be served;

"(4) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources;

"(5) the cost-effectiveness of the proposed project;

"(6) the extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable; and

"(7) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

"(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for any project under this subtitle unless the applicant agrees—

"(1) to operate the proposed project in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the supportive services required by homeless individuals served by the project and the availability of such services to such individuals;

"(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents and users of the project;

"(4) to monitor and report to the Secretary on the progress of the project;

"(5) to develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through any project assisted under this subtitle, and (B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person or persons responsible for the operation of such project;

"(6) to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project assisted under this subtitle and in providing supportive services for the project; and

"(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.

"(d) OCCUPANCY CHARGE.—Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 3(a) of the United States Housing Act of 1937. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

"(e) MATCHING FUNDING.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from sources other than this subtitle.

"(f) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) LIMITATION ON USE OF FUNDS.—No assistance received under this subtitle (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons.

"(i) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of a grant received under this subtitle for administrative purposes.

"(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

"SEC. 427. REGULATIONS.

"Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall

take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

"SEC. 428. REPORTS TO CONGRESS.

"The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

"SEC. 429. AUTHORIZATION OF APPROPRIATIONS.

"(a) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subtitle $204,000,000 for fiscal year 1993 and $212,568,000 for fiscal year 1994.

"(b) Set-Asides.—Of any amounts appropriated to carry out this subtitle—

"(1) not less than 25 percent shall be allocated to projects designed primarily to serve homeless families with children;

"(2) not less than 25 percent shall be allocated to projects designed primarily to serve homeless persons with disabilities; and

"(3) not less than 10 percent shall be allocated for use only for providing supportive services under sections 423(a)(5) and 425, not provided in conjunction with supportive housing.

"(c) Reallocations.—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.".

(b) Transition.—Notwithstanding the amendment made by subsection (a), before the date of the effectiveness of the regulations issued under section 427 of the Stewart B. McKinney Homeless Assistance Act (as amended by subsection (a) of this section) the Secretary may make grants under the provisions of subtitles C and D of the Stewart B. McKinney Homeless Assistance Act, as in effect immediately before the enactment of this Act. Any grants made before such effective date shall be subject to the provisions of such subtitles.

SEC. 1404. SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after subtitle C (as added by section 1003(a) of this Act) the following new subtitle:

"Subtitle D—Safe Havens for Homeless Individuals Demonstration Program

"SEC. 431. ESTABLISHMENT OF DEMONSTRATION.

"(a) In General.—The Secretary may make grants to applicants to demonstrate the desirability and feasibility of providing very low-cost housing, to be known as safe havens, to homeless persons who, at the time, are unwilling or unable to participate in mental health treatment programs or to receive other supportive services.

"(b) Purposes.—The demonstration program carried out under this subtitle shall demonstrate—

"(1) whether and on what basis eligible persons choose to reside in safe havens;

"(2) the extent to which, after a period of residence in a safe haven, residents are willing to participate in mental health treatment programs, substance abuse treatment, or other treatment programs and to move toward a more traditional form of permanent housing and the availability in the community of such permanent housing and treatment programs;

"(3) whether safe havens are cost-effective in comparison with other alternatives for eligible persons; and

"(4) the various ways in which safe havens may be used to provide accommodations and low-demand services and referrals for eligible persons.

"SEC. 432. DEFINITIONS.

"For purposes of this subtitle:

"(1) Applicant.—The term 'applicant' means a nonprofit corporation, public nonprofit organization, State, or unit of general local government.

"(2) Eligible Person.—The term 'eligible person' means an individual who—

"(A) is seriously mentally ill and resides primarily in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, which may include occasional residence in an emergency shelter; and

"(B) is currently unwilling or unable to participate in mental health or substance abuse treatment programs or to receive other supportive services.

Such term does not include a person whose sole impairment is substance abuse.

"(3) Facility.—The term 'facility' means a structure or a clearly identifiable portion of a structure that is assisted under this subtitle.

"(4) Low-Demand Services and Referrals.—The term 'low-demand services and referrals' means the provision of health care, mental health, substance abuse, and other supportive services and referrals for services in a noncoercive manner, which may include medication management, education, counseling, job training, and assistance in obtaining entitlement benefits and in obtaining other supportive services including mental health treatment and substance abuse treatment.

"(5) Nonprofit Organization.—The term 'nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(6) Operating Costs.—The term 'operating costs' means expenses incurred by a recipient operating a safe haven under this subtitle with respect to—

"(A) the operation of the facility, including the cost of 24-hour management, and maintenance, repair, and security;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) other reasonable costs necessary to the operation of the facility, which may include appropriate outreach and drop-in services.

"(7) Recipient.—The term 'recipient' means an applicant that receives assistance under this subtitle.

"(8) Safe Haven.—The term 'safe haven' means a facility—

"(A) that provides 24-hour residence for eligible persons who may reside for an unspecified duration;

"(B) that provides private or semiprivate accommodations;

"(C) that may provide for the common use of kitchen facilities, dining rooms, and bathrooms;

"(D) that may provide supportive services to eligible persons who are not residents on a drop-in basis; and

"(E) in which overnight occupancy is limited to no more than 25 persons.

"(9) Secretary.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) Seriously Mentally Ill.—The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) State.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) Unit of General Local Government.—The term 'unit of general local government' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"SEC. 433. PROGRAM ASSISTANCE.

"(a) In General.—

"(1) Eligible Activities.—The Secretary may provide assistance with respect to a program under this subtitle for the following activities:

"(A) The construction of a structure for use in providing a safe haven or the acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in providing a safe haven.

"(B) The leasing of an existing structure for use in providing a safe haven.

"(C) To cover the operating costs of a safe haven.

"(D) To cover the costs of administering a safe haven program, not to exceed 10 percent of the amounts made available for activities under subparagraphs (A) through (C).

"(E) Outreach activities designed to inform eligible persons about and attract them to a safe haven program.

"(F) The provision of low-demand services and referrals for residents of a safe haven, except that grants under this subtitle may not be used to cover more than 50 percent of the cost of such services and referrals.

"(G) Other activities that further the purposes of this subtitle, including the modification of an existing facility to use a portion of the facility to provide with a safe haven.

"(2) Period of Assistance.—Assistance may be provided to any safe haven program for activities under subparagraphs (B) through (F) of paragraph (1) for a period of not more than 5 years, except that the Secretary may, upon application by the recipient, provide assistance for an additional period of time, not to exceed 5 years, subject to—

"(A) the determination of the Secretary that the performance of the recipient under this subtitle is satisfactory; and

"(B) the availability of appropriations for such purpose.

"(3) Limit on Amount.—The total amount of assistance provided to any recipient under this subsection may not exceed $400,000 in any 5-year period.

"(b) Matching Funding.—

"(1) In General.—Each recipient shall supplement a grant provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary that it has complied with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) Calculation of Amounts.—In calculating the amount of supplemental funds required under paragraph (1), a recipient may include any funds derived from another source, the value of any lease on a building, any salary

paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers, at a rate determined by the Secretary, to carry out the program of the recipient.

"SEC. 434. PROGRAM REQUIREMENTS.

"(a) APPLICATIONS.—Applications for assistance under this subtitle shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish, and such applications shall contain at a minimum—

"(1) a description of the proposed facility;

"(2) a description of the number and characteristics of the eligible persons expected to occupy the safe haven;

"(3) a plan for identifying and selecting eligible persons to participate;

"(4) a program plan, containing a description of the method—

"(A) of operation of the facility, including staffing plans and facility rules;

"(B) by which the applicant will secure supportive services for residents of the safe haven;

"(C) by which the applicant will monitor the willingness of residents to engage in treatment programs and other supportive services;

"(D) by which access to supportive services will be secured for residents willing to use them;

"(E) by which access to permanent housing with appropriate services, such as the Shelter Plus Care program under subtitle F, will be sought after residents are stabilized; and

"(F) by which the applicant will conduct outreach activities to facilitate the entrance of eligible persons into the safe haven;

"(5) a plan to ensure that adequate security precautions are taken to make the facility safe for the residents;

"(6) an estimate of program costs;

"(7) a description of the resources that are expected to be made available in accordance with section 433(b);

"(8) assurances satisfactory to the Secretary that the facility will have 24-hour, on-site management, if practicable;

"(9) assurances satisfactory to the Secretary that the facility will be operated for the purpose specified in the application for each year in which assistance is provided under this subtitle;

"(10) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the facility is located that the proposed activities are consistent with the approved housing strategy for such jurisdiction;

"(11) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

"(12) a plan for program evaluation based on information that is collected on a periodic basis regarding the characteristics of the residents, including their movement in and out of the safe haven, their willingness to use low-demand services and referrals, the availability and quality of services used, and the movement of residents toward a more traditional form of permanent housing after a period of residency in the safe haven; and

"(13) such other information as the Secretary may require.

"(b) SITE CONTROL.—The Secretary shall require that an applicant furnish reasonable assurances that the applicant will have control of a site for the proposed facility not later than 1 year after notification of an award of assistance under this subtitle. If an applicant fails to obtain control of the site within this period, the grant shall be recaptured by the Secretary and reallocated for use under this subtitle.

"(c) SELECTION CRITERIA.—The Secretary shall establish selection criteria for selecting applicants to receive assistance under this subtitle pursuant to a national competition, which shall include—

"(1) the extent to which the applicant demonstrates the ability to develop and operate a safe haven;

"(2) the extent to which there is a need for a safe haven in the jurisdiction in which the facility will be located;

"(3) the extent to which the program would link eligible persons to permanent housing and supportive services after stabilization in a safe haven;

"(4) the cost-effectiveness of the proposed program;

"(5) providing for geographical diversity among applicants selected to receive assistance;

"(6) the extent to which the safe haven would meet the need of the eligible persons proposed to be served by the safe haven; and

"(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

"(d) REQUIRED AGREEMENTS.—The Secretary may not provide assistance under this subtitle for any safe haven program unless the applicant agrees—

"(1) to develop and operate the proposed facility as a safe haven in accordance with the provisions of this subtitle;

"(2) to ensure that the facility meets any standards of habitability established by the Secretary;

"(3) to provide low-demand services and referrals for the residents of the safe haven;

"(4) to prohibit the use of illegal drugs and alcohol in the facility;

"(5) to ensure that adequate security precautions are taken to make the facility safe for the residents;

"(6) not to establish limitations on the duration of residency;

"(7) not to require participation in low-demand services and referrals as a condition of occupancy;

"(8) to monitor and report to the Secretary on progress in carrying out the safe haven program;

"(9) to the maximum extent practicable, to involve eligible persons, through employment, volunteer services, or otherwise, in renovating, maintaining, and operating facilities assisted under this subtitle and in providing services assisted under this subtitle;

"(10) to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such recipient (in accordance with regulations that the Secretary shall issue), to the extent that such entity considers and makes policies and decisions regarding any facility or services assisted under this subtitle, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions; and

"(11) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

The Secretary may waive the applicability of the requirement under paragraph (10) for an applicant that is unable to meet such requirement, if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"SEC. 435. OCCUPANCY CHARGE.

"Each eligible person who resides in a facility assisted under this subtitle shall pay an occupancy charge in an amount determined by the recipient, but not to exceed the amount determined under section 3(a) of the United States Housing Act of 1937. The occupancy charge may be phased in or reduced based on the type of living accommodations provided. The recipient may waive occupancy charges for limited periods of time for residents unwilling or unable to pay them. Occupancy charges paid may be reserved to assist residents in moving to a more traditional form of permanent housing.

"SEC. 436. TERMINATION OF ASSISTANCE.

"If an eligible person who resides in a safe haven or who receives low-demand services or referrals endangers the safety, welfare, or health of other residents, or repeatedly violates a condition of occupancy contained in the rules for the safe haven (as set forth in the application submitted under this subtitle), the recipient may terminate such residency or assistance in accordance with a formal process established by the rules for the safe haven, which may include a hearing.

"SEC. 437. EVALUATION AND REPORT.

"The Secretary shall conduct an evaluation of the safe haven demonstration program under this subtitle and shall submit a report to the Congress, not later than December 31, 1994, which shall set forth the findings of the Secretary as a result of the evaluation.

"SEC. 438. REGULATIONS.

"(a) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the amendments made by this subtitle.

"(b) CONSULTATION.—In establishing requirements to carry out the provisions of this subtitle, and in considering applications under this subtitle, the Secretary shall consult with officials of the appropriate agencies of the Department of Health and Human Services and with representative provider and public interest groups.

"(c) ELIGIBILITY FOR SSI AND MEDICAID.—

"(1) SUPPLEMENTAL SECURITY INCOME.—All provisions of the Supplemental Security Income program under title XVI of the Social Security Act and of State programs in supplementation thereof shall apply to participants in the safe havens demonstration program under this subtitle, except that no individual living in a safe haven shall—

"(A) be considered an inmate of a public institution (as provided in section 1611(e)(1)(A) of such Act); or

"(B) have benefits under such title XVI reduced or terminated because of the receipt of support and maintenance (as provided in section 1612(a)(2)(A) of such Act), to the extent such support and maintenance is received as a result of participation in the safe havens demonstration program.

"(2) MEDICAID.—A safe haven shall not be considered a hospital, nursing facility, institution for mental disease as defined under section 1905(i) of the Social Security Act, or any other inpatient facility, for purposes of the program under title XIX of such Act, and individuals shall not be denied eligibility for medicaid because of residency in such residence.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $62,000,000 for fiscal year 1993 and $64,604,000 for fiscal year 1994.".

SEC. 1405. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is author-

ized to be increased by $105,000,000 on or after October 1, 1992, and by $109,410,000 on or after October 1, 1993.".

(b) Eligibility of Nonprofit Organizations.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended—

(1) in subsection (b), by inserting before the period at the end the following: ", and except that the Secretary may provide amounts available under this section to private nonprofit organizations that submit applications for such assistance that are approved by the Secretary";

(2) in subsection (f), by striking "public housing agency" each place it appears and inserting "approved applicant"; and

(3) by adding at the end the following new subsection:

"(j) Definitions.—For purposes of this section—

"(1) the term 'applicant' means a public housing agency, Indian housing authority, or private nonprofit organization that applies for assistance under this section; and

"(2) the term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.".

(c) Employment of Homeless Individuals.—Section 441(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(c)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (4) the following new paragraph:

"(5) assurances satisfactory to the Secretary that the applicant, to the maximum extent practicable, will involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this section and in providing services for occupants of such facilities.".

(d) Participation of Homeless Individuals and Termination of Assistance.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding after subsection (g) following new subsections:

"(h) Participation of Homeless Individuals.—The Secretary shall, by regulation, require each approved applicant receiving assistance under this section that is not a public housing agency or Indian housing authority to provide for the participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that such entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this section. The Secretary may grant waivers to approved applicants unable to meet the requirements under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(i) Termination of Assistance.—If an individual or family who receives assistance under this section violates program requirements, the recipient of amounts made available under this section may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.".

(e) Report.—The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, describing the extent to which amounts appropriated to provide assistance under section 441 of the Stewart B. McKinney Homeless Assistance Act since the enactment of such section have been obligated and expended.

SEC. 1406. SHELTER PLUS CARE PROGRAM.

(a) Authorization of Appropriations.—Section 459 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403h) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) In General.—For purposes of the housing programs under this subtitle, there are authorized to be appropriated $266,550,000 for fiscal year 1993 and $277,745,100 for fiscal year 1994. Of any amount appropriated in any fiscal year to carry out this subtitle—

"(1) not less than 10 percent shall be available only for carrying out part II of this subtitle;

"(2) not less than 10 percent shall be available only for carrying out part III of this subtitle;

"(3) not less than 10 percent shall be available only for carrying out part IV of this subtitle; and

"(4) not less than 10 percent shall be available only for carrying out part V of this subtitle.";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) Participation of Homeless Individuals.—Section 455 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403d) is amended by adding at the end the following new subsection:

"(c) Participation of Homeless Individuals.—The Secretary shall, by regulation, require each recipient to provide for the consultation and participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing assisted under this subtitle or services for such housing. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(c) Employment of Homeless Individuals.—Section 456 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403e) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) to the maximum extent practicable, to involve homeless individuals and families, through employment volunteer services, or otherwise, in constructing or rehabilitating housing assisted under this subtitle and in providing services required under this subtitle.".

(d) Redesignation and Amendment of Part II Provisions.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) Part II heading.—By amending the heading for part II to read as follows:

"PART II—TENANT-BASED RENTAL ASSISTANCE"

(2) Parts II and IV.—By striking parts III and IV.

(3) Purpose.—By striking section 461 and inserting the following new section:

"SEC. 471. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide tenant-based rental housing assistance for eligible persons in accordance with this part.".

(4) Housing assistance.—By redesignating section 462 as section 472 and amending such section by striking "Where" and inserting the following: "An eligible person on behalf of whom assistance is provided under this part shall select the unit in which such person will live using rental assistance under this part; except that where".

(5) Amount of assistance.—By redesignating section 463 as section 473 and amending such section by striking the last sentence.

(e) Transfer, Redesignation, and Amendment of General Provisions.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) Termination of assistance.—By redesignating section 457 as section 461.

(2) Definitions.—By redesignating section 458 as section 462 and amending such section—

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) The term 'applicant' means a State, unit of general local government, Indian tribe, or public housing agency."; and

(B) in paragraph (5), by inserting before the period at the end ", and includes community mental health centers established as public nonprofit organizations".

(3) Authorization of appropriations.—By redesignating section 459 (as amended by subsection (a) of this section) as section 463.

(4) Housing standards and rent reasonableness.—By redesignating section 464 as section 457, transferring and inserting such section after section 456, and amending subsection (a)(1) of such section by striking "(or if no such agency exists in the applicable area, an entity selected by the Secretary)".

(5) Tenant rent and administrative fees.—By transferring and inserting sections 465 and 466 after section 457 (as so redesignated by paragraph (4) of this subsection) and redesignating such sections as sections 458 and 459, respectively.

(6) Occupancy.—By inserting after section 459 (as so redesignated by paragraph (5) of this subsection) the following new section:

"SEC. 460. OCCUPANCY.

"(a) Occupancy Agreement.—The occupancy agreement between a tenant and an owner of a dwelling unit assisted under this subtitle shall be for at least one month.

"(b) Vacancy Payments.—If an eligible person vacates a dwelling unit assisted under this subtitle before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month that follows the month during which the unit was vacated, unless it is occupied by another eligible person.".

(f) Project- and Sponsor-Based Rental Assistance and Single Room Occupancy Dwellings.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq), as amended by the preceding provisions of this section, is further amended by inserting at the end the following new parts:

"PART III—PROJECT-BASED RENTAL ASSISTANCE

"SEC. 476. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide project-based rental housing assistance for eligible persons in accordance with this part.

"SEC. 477. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and an owner of an existing structure. The contract shall provide that rental assistance payments shall be made to the owner and that the

units in the structure shall be occupied by eligible persons for not less than the term of the contract.

"SEC. 478. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) TERM OF CONTRACT.—Each contract with a recipient for assistance under this part shall be for a term of 5 years, and the owner shall have an option to renew the assistance for an additional 5-year term, subject to the availability of amounts provided in appropriation Acts; except that if an expenditure of at least $3,000 for each unit (including its prorated share of work on common areas or systems) is required to make the structure decent, safe, and sanitary, and the owner agrees to carry out the rehabilitation with resources other than assistance under this subtitle within 12 months of notification of grant approval, the contract shall be for a term of 10 years.

"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(c)(1) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

"PART IV—SPONSOR-BASED RENTAL ASSISTANCE

"SEC. 481. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide sponsor-based rental assistance for eligible persons in accordance with this part.

"SEC. 482. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and a private nonprofit sponsor that owns or leases dwelling units. The contract shall provide that rental assistance payments shall be made to the sponsor and that such assisted units shall be occupied by eligible persons.

"SEC. 483. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) TERM OF CONTRACT.—The contract with a recipient of assistance under this part shall be for a term of 5 years.

"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(c)(1) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

"PART V—SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS

"SEC. 486. AUTHORITY.

"The Secretary may use amounts made available under section 463 in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by eligible persons in accordance with this part. Amounts available under section 463 may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 487. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into under this part shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and any other fire safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 488. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 463 for use under this part shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part shall be given to homeless persons.".

(g) TECHNICAL AND CONFORMING AMENDMENTS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended—

(1) by striking the heading for part I and inserting the following new heading:

"PART I—GENERAL REQUIREMENTS";

(2) in section 452(a), by striking "and IV" and inserting "IV, and V"; and

(3) in section 454(b)—

(A) in paragraph (1), by striking "or IV" and inserting "IV, or V";

(B) in paragraph (8), by striking "or IV" and inserting "IV, or V";

(C) in paragraph (10)(A), by inserting ", or III" after "part II"; and

(D) in paragraph (11)—

(i) by striking "part III" and inserting "part V"; and

(ii) by striking "rehabilitation and".

SEC. 1407. FHA SINGLE FAMILY PROPERTY DISPOSITION.

(a) 30-DAY MARKETING PERIOD.—Except as provided in subsection (b), in carrying out the program for disposition of single family properties acquired by the Department of Housing and Urban Development for use by the homeless under subpart E of part 291 of title 24, Code of Federal Regulations, the Secretary of Housing and Urban Development may not make any eligible property available for lease under such program that has not been listed and made generally available for sale by the Secretary for a period of at least 30 days.

(b) EXCEPTION.—With respect to any area for which the Secretary determines that there will not be a sufficient quantity of decent, safe, and sanitary affordable housing available for use under the program referred to in subsection (a) if eligible properties located in the area are made generally available for the 30-day period under subsection (a), the Secretary shall reserve for disposition under such program not more than 10 percent of the total number of eligible properties located in the area and shall not market such properties as provided under subsection (a). The Secretary shall consult with the unit of general local government for an area in determining which properties should be reserved for disposition under this subsection.

(c) STATE AND LOCAL TAXES.—

(1) REQUIREMENT TO PROVIDE INFORMATION UPON REQUEST.—In carrying out the program referred to in subsection (a), the Secretary of Housing and Urban Development shall provide the information described in paragraph (2) to any lessee or applicant under the program who requests such information.

(2) CONTENT.—The information referred in paragraph (1) shall identify and describe any exemptions or reductions relating to payment of property taxes under State and local laws (for the jurisdictions for which the lessee or applicant requests such information) that may be applicable to lessees or applicants, or to properties leased, under such program.

(3) EXEMPTION FROM ESCROW REQUIREMENT.—To the extent any lessee of a property under the program referred to in subsection (a) is provided an exemption from any requirement to pay State or local taxes, or a reduction in the amount of any such taxes, the Secretary may not require the lessee to pay or deposit in any escrow account amounts for the payment of such taxes.

SEC. 1408. RURAL HOMELESSNESS GRANT PROGRAM.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle G—Rural Homeless Housing Assistance

"SEC. 491. RURAL HOMELESSNESS GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and carry out a rural homelessness grant program. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of—

"(1) assisting programs providing direct emergency assistance to homeless individuals and families;

"(2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and

"(3) assisting individuals and families in obtaining access to permanent housing and supportive services.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible organization may use a grant awarded under subsection (a) to provide, in rural areas—

"(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

"(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

"(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

"(D) transitional housing;

"(E) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

"(F) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—

"(i) outreach services to reach eligible recipients;

"(ii) case management;

"(iii) housing counseling;

"(iv) budgeting;

"(v) job training and placement;

"(vi) primary health care;

"(vii) mental health services;

"(viii) substance abuse treatment;

"(ix) child care;

"(x) transportation;

"(xi) emergency food and clothing;

"(xii) family violence services;

"(xiii) education services;

"(xiv) moving services;

"(xv) entitlement assistance; and

"(xvi) referrals to veterans services and legal services; and

"(G) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under title V of the Stewart B. McKinney Homeless Assistance Act and the Single Family Property Disposition Program established pursuant to section 204(g) of the National Housing Act.

"(2) CAPACITY BUILDING ACTIVITIES.—Not more than 20 percent of the funds appropriated under subsection (l)(1) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

"(c) AWARD OF GRANTS.—

"(1) COMMUNITIES WITH POPULATIONS OF LESS THAN 10,000.—

"(A) SET ASIDE.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under subsection (l)(1) for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

"(B) PRIORITY WITHIN SET ASIDE.—In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

"(2) COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.—In awarding grants under subsection (a), including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under this Act.

"(3) STATE LIMIT.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds appropriated under subsection (l)(1), for the fiscal year.

"(d) APPLICATION.—In order to be eligible to receive a grant under subsection (a), an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shcll include, at a minimum—

"(1) a description of the target population and geographic area to be served;

"(2) a description of the types of assistance to be provided;

"(3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;

"(4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

"(5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served; and

"(6) an agreement by the organization that, to the maximum extent practicable, the organization will involve homeless individuals and families through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section.

"(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant under subsection (a) shall include private nonprofit entities, Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974), and county and local governments.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the costs of providing assistance under this section shall be 75 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each eligible organization receiving a grant under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing, services, or other assistance of the eligible organization receiving the grant under this section. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct an evaluation of the program to—

"(A) determine the effectiveness of the program in providing housing and other assistance to homeless persons in the area served; and

"(B) determine the types of assistance needed to address homelessness in rural areas.

"(2) REPORT.—The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program conducted under paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

"(i) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

"(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the organization that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

"(k) DEFINITIONS.—

For purposes of this section:

"(1) PROGRAM.—The term "program" means the rural homelessness grant program established under this section.

"(2) RURAL AREA; RURAL COMMUNITY.—The terms "rural area" and "rural community" mean

"(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

"(B) any area or community, respectively, that is—

"(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

"(ii) located in a rural census tract.

"(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal year 1993 and $31,260,000 for fiscal year 1994.

"(2) AVAILABILITY.—Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.".

SEC. 1409. EVALUATION OF PROGRAMS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a comprehensive review and evaluation of the effectiveness of each program under title IV of the Stewart B. McKinney Homeless Assistance Act. In conducting the review, the Secretary shall examine procedures of the Department in carrying out such programs, the procedures of recipients of assistance under such programs in carrying out such programs, and the effects and benefits of such programs; shall survey homeless individuals and families assisted under each program in various jurisdictions receiving assistance under each program; shall determine whether such programs are fulfilling the purposes for which they were established; and shall evaluate the usefulness and effectiveness of such programs.

(b) REPORT.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress describing the results of the review and evaluation conducted under subsection (a).

SEC. 1410. EXTENSION OF ORIGINAL MCKINNEY ACT HOUSING PROGRAMS.

The Cranston-Gonzalez National Affordable Housing Act is amended by striking sections 821 and 823 (42 U.S.C. 11361 note). The amendment made by such section 821 of such Act shall not take effect.

SEC. 1411. CONSULTATION AND REPORT REGARDING USE OF NATIONAL GUARD FACILITIES AS OVERNIGHT SHELTERS FOR HOMELESS INDIVIDUALS.

(a) USE OF AVAILABLE SPACE AT NATIONAL GUARD FACILITIES.—The Secretary of Housing and Urban Development shall consult with the chief executive officers of the States and the Secretary of Defense to determine the availability of space at National Guard facilities for use by homeless organizations in providing overnight shelter for homeless persons and families. The Secretary of Housing and Urban Development shall determine the availability of only such space that can be used for shelter purposes during periods it is not actively being used for National Guard purposes. The Secretary of Housing and Urban Development shall also determine the availability of incidental services at such facilities, including utilities, bedding, security, transportation, renovation of facilities, minor repairs undertaken specifically to make available space in a facility suitable for use as an overnight shelter for homeless individuals, and property liability insurance.

(b) LIMITATIONS.—In consultations under this section, the Secretary of Housing and Urban Development shall determine—

(1) the number and capacity of such facilities that may be made available for shelters for homeless persons and families without adversely affecting the military or emergency service preparedness of the State or the United States; and

(2) whether any available space is suitable for use as an overnight shelter for homeless individuals or can, with minor repairs, be made suitable for that use.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the consultations and determinations made by the Secretary under this section. The report shall include any recommendations of the Secretary regarding the need for, and feasibility of, using National

Guard facilities for homeless shelters and any recommendations of the Secretary for administrative or legislative action to provide for such use.

SEC. 1412. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

Section 825(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11301 note) is amended in the first sentence—

(1) by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting "Housing and Community Development Act of 1992"; and

(2) by striking "July 1, 1992" and inserting "July 1, 1994".

SEC. 1413. AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by striking the item relating to section 401 and inserting the following new item:

"Sec. 401. Housing affordability strategy.";

(2) by striking the item relating to the heading for subtitle C of title IV and all that follows through the item relating to section 484 and inserting the following new items:

"Subtitle C—Supportive Housing Program

"Sec. 421. Purpose.
"Sec. 422. Definitions.
"Sec. 423. Eligible activities.
"Sec. 424. Supportive housing.
"Sec. 425. Supportive services.
"Sec. 426. Program requirements.
"Sec. 427. Regulations.
"Sec. 428. Reports to Congress.
"Sec. 429. Authorization of appropriations.

"Subtitle D—Safe Havens for Homeless Individuals Demonstration Program

"Sec. 431. Establishment of demonstration.
"Sec. 432. Definitions.
"Sec. 433. Program assistance.
"Sec. 434. Program requirements.
"Sec. 435. Occupancy charge.
"Sec. 436. Termination of assistance.
"Sec. 437. Evaluation and report.
"Sec. 438. Regulations.
"Sec. 439. Authorization of appropriations.

"Subtitle E—Miscellaneous Programs

"Sec. 441. Section 8 assistance for single room occupancy dwellings.
"Sec. 442. Community development block grant amendment.
"Sec. 443. Administrative provisions.

"Subtitle F—Shelter Plus Care Program

"PART I—GENERAL REQUIREMENTS

"Sec. 451. Purpose.
"Sec. 452. Rental housing assistance.
"Sec. 453. Supportive services requirements.
"Sec. 454. Applications.
"Sec. 455. Selection criteria.
"Sec. 456. Required agreements.
"Sec. 457. Housing standards and rent reasonableness.
"Sec. 458. Tenant rent.
"Sec. 459. Administrative fees.
"Sec. 460. Occupancy.
"Sec. 461. Termination of assistance.
"Sec. 462. Definitions.
"Sec. 463. Authorization of appropriations.

"PART II—TENANT-BASED RENTAL ASSISTANCE

"Sec. 471. Authority.
"Sec. 472. Housing assistance.
"Sec. 473. Amount of assistance.

"PART III—PROJECT-BASED RENTAL ASSISTANCE

"Sec. 476. Authority.
"Sec. 477. Housing assistance.
"Sec. 478. Term of contract and amount of assistance.

"PART IV—SPONSOR-BASED RENTAL ASSISTANCE

"Sec. 481. Authority.
"Sec. 482. Housing assistance.
"Sec. 483. Term of contract and amount of assistance.

"PART V—SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS

"Sec. 486. Authority.
"Sec. 487. Fire and safety improvements.
"Sec. 488. Contract requirements.

"Subtitle G—Rural Homeless Housing Assistance

"Sec. 491. Rural homelessness grant program.
"Sec. 492. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing.";

(3) by striking the item relating to section 501 and inserting the following new item:

"Sec. 501. Use of unutilized and underutilized public buildings and real property to assist the homeless.";

(4) by striking the items relating to sections 722 through 725 and inserting the following new items:

"Sec. 722. Grants for State and local activities for the education of homeless children and youth.
"Sec. 723. Local educational agency grants for the education of homeless children and youth.
"Sec. 724. National responsibilities.
"Sec. 725. Reports.
"Sec. 726. Definitions.";

(5) by inserting after the item relating to section 754 the following new items:

"Sec. 755. Evaluation.
"Sec. 756. Report by the Secretary.";

and

(6) by inserting after the item relating to section 762 the following new items:

"Subtitle F—Family Support Centers

"Sec. 771. Definitions.
"Sec. 772. General grants for the provision of services.
"Sec. 773. Training and retention.
"Sec. 774. Family case managers.
"Sec. 775. Gateway programs.
"Sec. 776. Evaluation.
"Sec. 777. Report.
"Sec. 778. Construction.
"Sec. 779. Authorization of appropriations.".

SEC. 1414. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

Subtitle G of the Title IV of the Stewart B. McKinney Homeless Assistance Act (as added by section 1408 of this Act) is amended by adding at the end the following new section:

"SEC. 592. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

"(a) IN GENERAL.—The Secretary of Agriculture (in this section referred to as the 'Secretary') shall, on a priority basis, lease or sell program and nonprogram inventory properties held by the Secretary under title V of the Housing Act of 1949—

"(1) to provide transitional housing; and

"(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

"(b) PRIORITY.—The priority uses of inventory property under this section shall not have a higher priority than—

"(1) the disposition of such property by sale to eligible families; or

"(2) the disposition of such property by transfer for use as rental housing by eligible families.

"(c) TRANSITIONAL HOUSING.—

"(1) LEASES AUTHORIZED.—The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

"(2) RENTAL TO ELIGIBLE FAMILIES.—A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a family for up to 10 years and may, during that period, assist the tenant in obtaining a loan and credit assistance under title V of the Housing Act of 1949 to purchase the housing from the Secretary.

"(d) LEASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a lease agreement with the organization or agency; and

"(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) LEASE TERMS.—A lease of inventory property under this section shall—

"(A) be for a period of not more than 10 years;

"(B) provide for the payment of $1 for the 10-year lease; and

"(C) provide the nonprofit organization or public agency—

"(i) the right to use the property for transitional housing; and

"(ii) the option to arrange for the sale of the property to an eligible purchaser.

"(e) PURCHASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a purchase agreement with the organization or agency; and

"(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) PURCHASE TERMS.—A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair market value of the property minus 10 percent.

"(f) EMPLOYMENT OF HOMELESS INDIVIDUALS.—A public agency or nonprofit organization may lease or purchase property under this section only if the agency or organization, to the maximum extent practicable, involves homeless individuals and families, through employment, volunteer services, or otherwise, in maintaining, operating, and renovating any properties leased or acquired under this section and in providing any services for occupants of properties assisted under this section.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall, by regulation, require each public agency and nonprofit organization leasing or purchasing prop-

erty under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such agency or organization, to the extent that such organization or applicant considers and makes policies and decisions regarding any property acquired under this section.

"(2) WAIVER.—The Secretary may grant a waiver to a public agency or nonprofit organization that is unable to meet the requirement of paragraph (1), if the agency or organization agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) BUDGET COMPLIANCE.—The authority provided to the Secretary under this section shall be effective only to the extent approved in advance in appropriations Acts.".

Subtitle B—Interagency Council on the Homeless

SEC. 1421. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,500,000 for fiscal year 1993 and $1,563,000 for fiscal year 1994.".

SEC. 1422. EXTENSION.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

Subtitle C—Federal Emergency Management Food and Shelter Program

SEC. 1431. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $180,000,000 for fiscal year 1933 and $187,560,000 for fiscal year 1994.".

SEC. 1432. EMPLOYMENT AND PARTICIPATION OF HOMELESS INDIVIDUALS IN LOCAL PROGRAMS.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle, to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in providing emergency food and shelter and in otherwise carrying out the local program; and

"(6) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the organization or governmental agency to the extent that such entity considers and makes policies and decisions regarding the local program of the organization or locality; except that such guidelines may grant waivers to applicants unable to meet such requirement if the organization or government agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.".

TITLE XV—ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT

SEC. 1500. SHORT TITLE.

This title may be cited as the "Annunzio-Wylie Anti-Money Laundering Act".

Subtitle A—Termination of Charters, Insurance, and Offices

SEC. 1501. AUTHORITY TO APPOINT CONSERVATOR FOR DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by adding at the end the following new subparagraph:

"(M) MONEY LAUNDERING OFFENSE.—The Attorney General notifies the appropriate Federal banking agency or the Corporation in writing that the insured depository institution has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(b) INSURED CREDIT UNIONS.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Attorney General notifies the Board in writing that an insured credit union has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code;".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 20, 1992.

SEC. 1502. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the national bank, Federal branch, or Federal agency knew of, or were involved in, the commission of the money laundering offense of which the national bank, Federal branch, or Federal agency was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank, Federal branch, or Federal agency which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the national bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(D) The extent to which the national bank, Federal Branch, or Federal agency has implemented additional internal controls (since the commission of the offense of which the bank, Federal branch, or Federal agency was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.".

"(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director shall issue to the savings association a notice of the Directors' intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited

under paragraph (1), the Director shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the savings association knew of, or were involved in, the commission of the money laundering offense of which the association was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

"(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interest of the violator, or the acquisition is made, in good faith and not purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) CONVICTION OF TTLE 18 OFFENSES.—

"(A) DUTY TO NOTIFY.—If a credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense, under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall take into account the following factors:

"(1) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(2) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(3) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(4) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(c) SUCCESSOR LIABILITY.—This section shall not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.".

SEC. 1503. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution is convicted of any criminal offense under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the depository institution knew of, or were involved in, the commission of the money laundering offense of which the institution was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the depository institution which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the depository institution has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the institution was found guilty.

"(D) The extent to which the depository institution has implemented additional internal controls (since the commission of the offense of which the depository institution was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with subsection (a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of this Act.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection of subsection (w)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION.—After written notification from the Attorney General to the Board of such a conviction, the Board shall issue to such insured credit union a notice of its

intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall take into account the following factors:

"(A) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(D) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.".

SEC. 1504. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the appropriate Federal banking agency determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, and such violation was not inadvertent or unintentional;

"(ii) an officer or director of an insured depository institution has knowledge that an institution-affiliated party of the insured depository institution has violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

(iii) an officer or director of an insured depository institution has committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of the agency's intention to remove such party from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) CERTAIN FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the depository institution.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the agency.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the appropriate Federal banking agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon the depository institution, whereupon the institution-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such depository institution.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the agency from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the Board determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(ii) an officer or director of an insured credit union has knowledge that an institution-affiliated party of the insured credit union has violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(iii) an officer or director of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of the Board's intention to remove such officer or director from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) CERTAIN FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION AUTHORIZED.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the credit union.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Board.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pre-trial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Board from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

(c) ATTORNEY GENERAL NOTICE REQUIREMENT.—Section 1956 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.".

(d) TECHNICAL CORRECTIONS TO PROVISIONS RELATING TO MONEY LAUNDERING ENFORCEMENT ACTIVITIES.—

(1) Section 5318(a)(1) of title 31, United States Code, is amended—

(A) by striking "or the Postal Inspection Service"; and

(B) by inserting "United States" before "Postal Service".

(2) Section 5322(a) of title 31, United States Code, is amended by striking "imprisonment" and inserting "imprisoned for".

SEC. 1505. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 1506. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

SEC. 1507. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by inserting after subsection (h) the following new subsection:

"(i) PROCEEDINGS RELATED TO CONVICTION FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO ISSUE ORDER.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary;

"(B) any State agency;

"(C) any State branch which is not an insured branch; or

"(D) any State commercial lending subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INSURED BRANCH.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) MONEY LAUNDERING OFFENSE DEFINED.—The term 'money laundering offense' means any criminal offense under section 1956 or 1957 of title 18, United States Code, or under section 5322 of title 31, United States Code.".

Subtitle B—Nonbank Financial Institutions and General Provisions

SEC. 1511. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following new section:

"§5327. Identification of financial institutions

"(a) REGULATIONS REQUIRED.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to identify any customer (of the depository institution) which—

"(1) is a financial institution described in—

"(A) any subparagraph of section 5312(a)(2) other than subparagraphs (A) through (G); or

"(B) any regulation under any such subparagraph; and

"(2) has any account with the depository institution.

"(b) REPORTS REQUIRED.—Each depository institution shall report the names of and other information about financial institution customers required to be identified under subsection (a) to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation.

"(c) REPORTING OFFENSES.—No person shall cause or attempt to cause any depository institution to fail to file a report required by this section or to file a report containing a material omission or misstatement of fact.

"(d) AVAILABILITY OF REPORTS.—The Secretary shall provide reports filed under subsection (b) to appropriate State financial institution supervisory agencies for supervisory purposes.

"(e) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution' means any financial institution described in subparagraph (A), (B), (C), (D), (E), or (F) of section 5312(a)(2).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(7) FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.—

"(A) PENALTY AUTHORIZED.—The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5326 the following new item:

"5327. Identification of financial institutions.".

(d) EFFECTIVE DATE OF REGULATIONS.—The initial final regulations prescribed pursuant to section 5327 of title 31, United States Code (as added by subsection (a) of this section) shall take effect before January 1, 1994.

SEC. 1512. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) IN GENERAL.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 95 of title 18, United States Code, is amended by adding at the end of the following item:

"1960. Prohibition of illegal money transmitting businesses.".

(c) CRIMINAL FORFEITURE.—Section 982(a)(1) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

SEC. 1513. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laudering" before the semicolon.

SEC. 1514. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary."

SEC. 1515. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN FUNDS TRANSFERS.

(a) RECORDKEEPING REGULATIONS REQUIRED.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b) RECORDKEEPING REGULATIONS.—

"(1) IN GENERAL.—Where"; and

(2) by adding at the end the following new paragraphs:

"(2) DOMESTIC FUNDS TRANSFERS.—Whenever the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') determine that the maintenance of records, by insured depository institutions, of payment orders which direct transfers of funds over wholesale funds transfer systems has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, the Secretary and the Board shall jointly prescribe regulations to carry out the purposes of this section with respect to the maintenance of such records.

"(3) INTERNATIONAL FUNDS TRANSFER.—

"(A) IN GENERAL.—The Secretary and the Board shall jointly prescribe, after consultation with State banking supervisors, final regulations requiring that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments,

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary or the Board upon request.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in subsection (c), by striking "Each insured" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), each insured";

(2) in subsection (e), by striking "Whenever any" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), whenever any"; and

(3) in subsection (f), by striking "In addition to" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b) and in addition to".

(c) EFFECTIVE DATE OF REGULATIONS.—The initial final regulations prescribed pursuant to section 21(b)(3) of the Federal Deposit Insurance Act (as added by subsection (a)(2) of this section) shall take effect before January 1, 1994.

SEC. 1516. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 1517. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or regulations prescribed under such section 5325" after "section 5313(a)" each place such term appears.

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction, that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI-MONEY LAUNDERING PROGRAMS.—

"(1) IN GENERAL.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum—

"(A) the development of internal policies, procedures, and controls,

"(B) the designation of a compliance officer,

"(C) an ongoing employee training program, and

"(D) an independent audit function to test programs.

"(2) REGULATIONS.—The Secretary may prescribe minimum standards for programs established under paragraph (1).".

SEC. 1518. ANTI-MONEY LAUNDERING TRAINING TEAM.

The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

SEC. 1519. INTERNATIONAL MONEY LAUNDERING REPORTS.

(a) UNITED STATES OBJECTIVES.—Section 481(a)(1) of the Foreign Assistance Act of 1961 (22 U.S. C 2291(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) the objective of the United States in dealing with the problem of international money laundering should be to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions; and"

(b) ANNUAL REPORTS.—Section 481(e) of that Act (22 U.S.C. 2291(e)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Each report pursuant to this subsection shall include a report on major money laundering countries. This report shall specify—

"(i) which countries are major money laundering countries.

"(ii) which countries identified pursuant to clause (i) have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(iii) which countries identified pursuant to clause (ii) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings;

"(iv) which countries identified pursuant to clause (iii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings; and

"(v) which countries identified pursuant to clause (i)—

"(I) have ratified the Untied Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations, and

"(II) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

"(B) In addition, for each major money laundering country, the report shall include findings on the country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of cus-

tomers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(vi) enacted laws for the sharing of seized narcotics assets with other governments;

"(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

"(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

"(C) The report shall also include information on multilateral and bilateral strategies pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering.

"(D) The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

"(E) As used in this paragraph, the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.".

(c) DEFINTION OF MAJOR DRUG-TRANSIT COUNTRY.—Section 481(i)(5) of that Act (22 U.S.C. 2291(i)(5)) is amended—

(1) by inserting "or" at the end of subparagraph (A);

(2) by striking out "or" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

Subtitle C—Money Laundering Enforcement Improvements

SEC. 1521. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.

"(d) Any court with jurisdiction over a forfeiture action pursuant to subsection (b) may issue and cause to be served in any other district such process as may be required to bring before the court the property that is the subject of the forfeiture action.".

SEC. 1522. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the Government in connection with any offense under section 1956, 1957, or 1960 of this title or section 5322 of title 31, United States Code.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instrument sin bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property—

"(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

"(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

"(d)(1) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds held by a financial institution in an interbank account, unless the financial institution holding the account knowingly engaged in the offense.

"(2) As used in this section, the term 'interbank account' means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 1523. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1956, 1957, or 1960 of this title, section 5322 of title 31, United States Code, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any part from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 1524. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 1525. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS.—" before "No person"; and

(2) by adding at the end the following:

"(b) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be

seized and forfeited to the United States Government.".

SEC. 1526. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) Section 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) Section 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 1527. DEFINITION OF FINANCIAL TRANSACTION.

(a) Section 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) Section 1957.—Section 1957(f)(1) of title 18, United States Code, in amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 1528. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 1529. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986" after "criminal drug laws of the United States".

SEC. 1530. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was object of the conspiracy.".

SEC. 1531. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) Transportation.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time each term appears and inserting "transportation, transmission, or transfer".

(b) Technical Correction.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 1532. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substance Import and Export Act, section 1956 and 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of the Internal Revenue Code of 1986".

SEC. 1533. ELIMINATION OF RESTRICTION ON DISPOSAL OF FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1534. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 1535. AMENDMENTS TO THE BANK SECRECY ACT.

(a) Title 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears; and

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) Federal Deposit Insurance Act.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) Recordkeeping.—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

SEC. 1536. EXPANSION OF MONEY LAUNDERING LAW TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) by striking "involving the manufacture" and inserting the following: "involving—

"(i) the manufacture"; and

(2) by adding at the end the following:

"(ii) kidnaping, robbery, or extortion; or

"(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978;".

Subtitle D—Reports and Miscellaneous

SEC. 1541. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) Study Required.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act of 1978 by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act. The study shall also include analysis of the effect of allowing nondepositor licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) Report.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

SEC. 1542. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(A) Reports to Appropriate Federal Banking Agencies.—

(1) In General.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall, unless otherwise prohibited by law, disclose to the appropriate Federal banking agency any information that the Attorney General, the Secretary of the Treasury, or such agency head believes raises significant concerns regarding the safety or soundness of any depository institution doing business in the United States.

(2) Exceptions.—

(A) Intelligence information.—

(i) In general.—The Director of Central Intelligence shall disclose to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury, shall disclose the intelligence information to the appropriate Federal banking agency.

(ii) Procedures for receipt of intelligence information.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for receipt of intelligence information that are adequate to protect the intelligence information.

(B) Criminal investigations, safety of government investigator, informants, and witnesses.—If the Attorney General, the Secretary of the Treasury or their respective designees determines that the disclosure of information pursuant to paragraph (1) may jeopardize a pending civil investigation or litigation, or a pending criminal investigation or prosecution, may result in serious bodily injury or death to Government employees, informants, witnesses or their respective families, or may disclose sensitive investigative techniques and methods, the Attorney General or the Secretary of the Treasury shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation, litigation, or prosecution, threatening serious bodily injury or death to Government employees, informants, or witnesses or their respective families, or disclosing sensitive investigation techniques and methods; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) Grand jury investigations; criminal procedure.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) Procedures for Receipts of Disclosure Reports.—

(1) In general.—Within 90 days after the date of enactment of this Act, each appropriate Federal banking agency shall establish procedures for receipt of a disclosure report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure ade-

quate protection of information disclosed, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH DISCLOSURE REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that made the disclosure regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information disclosed.

(c) EFFECT ON AGENCIES.—This section does not impose an affirmative duty on the Attorney General, the Secretary of the Treasury, or the head of any agency or instrumentality of the United States to collect new or to review existing information.

(d) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 8 of the Federal Deposit Insurance Act.

(e) REPORT.—The Attorney General and the Secretary of the Treasury shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the end of each calendar year on their utilization of the exceptions provided in subsection (a)(1)(B).

SEC. 1543. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1544. INTERAGENCY INFORMATION SHARING.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(t) AGENCIES MAY SHARE INFORMATION WITHOUT WAIVING PRIVILEGE.—

"(1) IN GENERAL.—A covered agency shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by—

"(A) any other covered agency, in any capacity; or

"(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED AGENCY.—The term 'covered agency' means any of the following:

"(i) Any appropriate Federal banking agency.

"(ii) The Resolution Trust Corporation.

"(iii) The Farm Credit Administration.

"(iv) The Farm Credit System Insurance Corporation.

"(v) The National Credit Union Administration.

"(B) PRIVILEGE.—The term 'privilege' includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information.".

Subtitle E—Counterfeit Deterrence

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "Counterfeit Deterrence Act of 1992".

SEC. 1552. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Is guilty of a class C felony."; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.".

SEC. 1553. DETERRENTS TO COUNTERFEITING.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities.".

SEC. 1554. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1)—

(A) by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums)."; and

(B) by adding at the end the following new sentence:

"The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.".

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

Subtitle F—Miscellaneous Provisions

SEC. 1561. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—Section 5321(a)(6) of title 31, United States Code, is amended to read as follows:

"(6) NEGLIGENCE.—

"(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

"(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than $50,000 on the financial institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to violations committed after the date of the enactment of this Act.

SEC. 1562. AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN COPIES OF CTRS FROM CUSTOMERS WHICH ARE UNREGULATED BUSINESSES.

Section 5326 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection:

"(b) AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN REPORTS FROM CUSTOMERS.—

"(1) IN GENERAL.—The Secretary of the Treasury may, by regulation or order, require any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) to request any financial institution (other than a depository institution) which engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution under this subtitle with respect to any prior transaction (between such financial institution and any other person) which involved any portion of the coins or currency (or monetary instruments) which are involved in the reportable transaction with the depository institution; and

"(B) if no copy of any report described in subparagraph (A) is received by the depository institution in connection with any reportable transaction to which such subparagraph applies, to submit (in addition to any report required under this subtitle with respect to the reportable transaction) a written notice to the Secretary that the financial institution failed to provide any copy of such report.

"(2) REPORTABLE TRANSACTION DEFINED.—For purposes of this subsection, the term 'reportable transaction' means any transaction involving coins or currency (or such other monetary instruments as the Secretary may describe in the *regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.".*

SEC. 1563. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF FINANCIAL INSTITUTIONS OTHER THAN DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5327 (as added by section 1511(a) of this title) the following new section:

"§5328. Whistleblower protections

"(a) PROHIBITION AGAINST DISCRIMINATION.—No financial institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or 1960 of title 18, or any regulation under any such provision, by the financial institution or any director, officer, or employee of the financial institution.

"(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the financial institution which committed the violation to—

"(1) reinstate the employee to the employee's former position;

"(2) pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

"(e) COORDINATION WITH OTHER PROVISIONS OF LAW.—This section shall not apply with respect to any financial institution which is subject to section 33 of the Federal Deposit Insurance Act, section 213 of the Federal Credit Union Act, or section 21A(q) of the Home Owners' Loan Act (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991).".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5327 (as added by section 1511(c) of this Act) the following new item:

"5328. Whistleblower protections.".

SEC. 1564. ADVISORY GROUP ON REPORTING REQUIREMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986.

(b) PURPOSE.—The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

(c) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).

SEC. 1565. GAO FEASIBILITY STUDY OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a feasibility study of the financial Crimes Enforcement Network (popularly referred to as "Fincen") established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

(b) SPECIFIC REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine and evaluate—

(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

(A) who is to be given access to the information in the system;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

(c) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

TITLE XVI—TECHNICAL CORRECTIONS OF BANKING LAWS

Subtitle A—Federal Deposit Insurance Corporation Improvement Act

SEC. 1601. TABLE OF CONTENTS.

Section 1 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

"(b) TABLE OF CONTENTS.—

"Sec. 1. Short title; table of contents

"TITLE I—SAFETY AND SOUNDNESS

"Subtitle A—Deposit Insurance Funds

"Sec. 101. Funding for the Federal deposit insurance funds.
"Sec. 102. Limitation on outstanding borrowing.
"Sec. 103. Repayment schedule.
"Sec. 104. Recapitalizing the Bank Insurance Fund.
"Sec. 105. Borrowing for BIF from BIF members.

"Subtitle B—Supervisory Reforms

"Sec. 111. Improved examinations.
"Sec. 112. Independent annual audits of insured depository institutions.
"Sec. 113. Assessments required to cover costs of examinations.
"Sec. 114. Examination and supervision fees for national banks and savings associations.
"Sec. 115. Application to FDIC required for insurance.

"Subtitle C—Accounting Reforms

"Sec. 121. Accounting objectives, standards, and requirements.
"Sec. 122. Small business and small farm loan information.
"Sec. 123. FDIC property disposition standards.

"Subtitle D—Prompt Corrective Action

"Sec. 131. Prompt corrective action.
"Sec. 132. Standards for safety and soundness.
"Sec. 133. Conservatorship and receivership amendments to facilitate prompt corrective action.

"Subtitle E—Least-Cost Resolution

"Sec. 141. Least-cost resolution.
"Sec. 142. Federal Reserve discount window advances.
"Sec. 143. Early resolution.

"Subtitle F—Depository Institutions Lacking Federal Deposit Insurance.

"Sec. 151. Depository institutions lacking Federal deposit insurance.

"Subtitle G—Technical Corrections

"Sec. 161. Technical corrections and clarifications.

"TITLE II—REGULATORY IMPROVEMENT

"Subtitle A—Regulation of Foreign Banks

"Sec. 201. Short title.
"Sec. 202. Regulation of foreign bank operations.
"Sec. 203. Conduct and coordination of examinations.
"Sec. 204. Supervision of the representative offices of foreign banks.
"Sec. 205. Reporting of stock loans.
"Sec. 206. Cooperation with foreign supervisors.
"Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
"Sec. 208. Penalties.
"Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
"Sec. 210. Clarification of managerial standards in Bank Holding Company Act of 1956.
"Sec. 211. Standards and factors in the Home Owners' Loan Act.
"Sec. 212. Authority of Federal banking agencies to enforce consumer statutes.
"Sec. 213. Criminal penalty for violating the International Banking Act of 1978.
"Sec. 214. Miscellaneous amendments to the International Banking Act of 1978.
"Sec. 215. Study and report on subsidiary requirements for foreign banks.

"Subtitle B—Customer and Consumer Provisions

"Sec. 221. Study on regulatory burden.

"Sec. 222. Discussion of lending data.
"Sec. 223. Enforcement of Equal Credit Opportunity Act.
"Sec. 224. Home Mortgage Disclosure Act.
"Sec. 225. Notice of safeguard exception.
"Sec. 226. Delegated processing.
"Sec. 227. Deposits at nonproprietary automated teller machines.
"Sec. 228. Notice of branch closure.

"Subtitle C—Bank Enterprise Act

"Sec. 231. Short title.
"Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
"Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
"Sec. 234. Community development organizations.

"Subtitle D—FDIC Property Disposition

"Sec. 241. FDIC affordable housing program.

"Subtitle E—Whistleblower Protections

"Sec. 251. Additional whistleblower protections.

"Subtitle F—Truth in Savings

"Sec. 261. Short title.
"Sec. 262. Findings and purpose.
"Sec. 263. Disclosure of interest rates and terms of accounts.
"Sec. 264. Account schedule.
"Sec. 265. Disclosure requirements for certain accounts.
"Sec. 266. Distribution of schedules.
"Sec. 267. Payment of interest.
"Sec. 268. Periodic statements.
"Sec. 269. Regulations.
"Sec. 270. Administrative enforcement.
"Sec. 271. Civil liability.
"Sec. 272. Credit unions.
"Sec. 273. Effect on State law.
"Sec. 274. Definitions.

"TITLE III—FEDERAL DEPOSIT INSURANCE REFORM

"Subtitle A—Activities

"Sec. 301. Limitations on brokered deposits and deposit solicitations.
"Sec. 302. Risk-based assessments.
"Sec. 303. Restrictions on insured State bank activities.
"Sec. 304. Restrictions on real estate lending.
"Sec. 305. Improving capital standards.
"Sec. 306. Safeguards against insider abuse.
"Sec. 307. FDIC back-up enforcement authority.
"Sec. 308. Interbank liabilities.

"Subtitle B—Coverage

"Sec. 311. Deposit and pass-through insurance.
"Sec. 312. Foreign deposits.
"Sec. 313. Penalty for false assessment reports.

"Subtitle C—Demonstration Project and Studies

"Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.
"Sec. 322. Private reinsurance study.

"TITLE IV—MISCELLANEOUS PROVISIONS

"Subtitle A—Payment System Risk Reduction

"Sec. 401. Findings and purpose.
"Sec. 402. Definitions.
"Sec. 403. Bilateral netting.
"Sec. 404. Clearing organization netting.
"Sec. 405. Preemption.
"Sec. 406. Relationship to other payments systems.
"Sec. 407. National emergencies.

"Subtitle B—Right to Financial Privacy Act of 1978

"Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.

"Subtitle C—Final Settlement Payment Procedure

"Sec. 416. Final settlement payment procedure.

"Subtitle D—Miscellaneous Committees, Studies, and Reports

"Sec. 421. Amendments relating to Federal Reserve Board reserve requirements.
"Sec. 422. Permanent authorization of Credit Standards Advisory Committee.

"Subtitle E—Utilization of Private Sector

"Sec. 426. Utilization of private sector.
"Sec. 427. Reporting.

"Subtitle F—Emergency Assistance for Rhode Island

"Sec. 431. Emergency loan guarantee.

"Subtitle G—Qualified Thrift Lender Test Improvements

"Sec. 436. Short title.
"Sec. 437. Adjustment of compliance periods for purposes of qualified thrift lender test.
"Sec. 438. Increase in amount of liquid assets excludable from portfolio assets.
"Sec. 439. Additional investments included in definition of qualified thrift assets.
"Sec. 440. Prudent diversification of assets.
"Sec. 441. Consumer lending by Federal savings associations.

"Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

"Sec. 446. Prohibition on entering into secrecy agreements and protective orders.

"Subtitle I—Bank and Thrift Employee Provisions

"Sec. 451. Continuation of health plan coverage in cases of failed financial institutions.

"Subtitle J—Sense of the Congress Regarding the Credit Crisis

"Sec. 456. Credit crunch.

"Subtitle K—Acquisition of Insolvent Savings Associations

"Sec. 461. Acquisition of insolvent savings associations.

"Subtitle L—Creditability of Service

"Sec. 466. Creditability of service.

"Subtitle M—Other Miscellaneous Provisions

"Sec. 471. Providing services to insured depository institutions.
"Sec. 472. Real estate appraisals.
"Sec. 473. Emergency liquidity.
"Sec. 474. Discrimination against reorganized debtors.
"Sec. 475. Purchased mortgage servicing rights.
"Sec. 476. Limitation on securities private rights of action.
"Sec. 477. Modified small business lending disclosure.
"Sec. 478. Special insured deposits.

"Subtitle N—Severability

"Sec. 481. Severability.

"TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

"Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.
"Sec. 502. Mergers, consolidations, and other acquisitions authorized.".

SEC. 1602. TRANSFER AND REDESIGNATION OF SECTIONS WITH DUPLICATE SECTION NUMBERS.

(a) DUPLICATE SECTION 39.—The section of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) which was added by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (relating to notice of branch closures and designated as section 39) is hereby—

(1) transferred and inserted after section 41 of the Federal Deposit Insurance Act (as added by section 312 of the Federal Deposit Insurance Corporation Improvement Act of 1991); and

(2) redesignated as section 42.

(b) DUPLICATE SECTION 40.—The section of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) which was added by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (relating to depository institutions lacking Federal deposit insurance and designated as section 40) is hereby—

(1) transferred and inserted after section 42 of the Federal Deposit Insurance Act (as transferred and redesignated by subsection (a) of this section); and

(2) redesignated as section 43.

SEC. 1603. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

(1) The 1st sentence of section 7(b)(1)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)(iii)) (as amended by section 104(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by inserting "rate" before the period.

(2) Section 14(d)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1824(d)(2)(D)) (as amended by section 105 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "Member" and inserting "member".

(3) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c) (as amended by such section 302(a)) is amended—

(A) by adding at the end, the paragraph added to such section 7(b) (as in effect on the day before the effective date of such amendment) by section 103(b)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by redesignating such paragraph as paragraph (6).

(b) AMENDMENTS RELATING TO SUBTITLE B.—

(1) Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) (as added by section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (5), by inserting "or the Resolution Trust Corporation" after "the Corporation" each place such term appears;

(B) in paragraph (5)(B), by inserting a comma after "bank"; and

(C) by striking paragraph (6).

(2) Section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1992 is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection:

"(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

"(r) STATE BANK SUPERVISOR.—

"(1) IN GENERAL.—The term 'State bank supervisor' means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

"(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.".

(3) Section 36 of the Federal Deposit Insurance Act (as added by section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subsection (b)(2)(A)(iii), by striking "Corporation or" and inserting "Corporation and";

(B) in subsection (g)(3)(A)(i), by striking "an appropriate" and inserting "any appropriate"; and

(C) in subsection (g)(5), by inserting "and each appropriate Federal banking agency" after "Corporation" each place such term appears.

(4) Section 113(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "111(a)(1)" and inserting "111(a)".

(5) The 1st sentence of the 4th undesignated paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) (as amended by section 114 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "duties" and inserting "office".

(6) Section 115(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "Section" before "4(b)".

(c) AMENDMENT RELATING TO SUBTITLE C.—Section 122 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by redesignating subsection (d) as subsection (c).

(d). AMENDMENTS RELATING TO SUBTITLE D.—

(1) Section 38 of the Federal Deposit Insurance Act (as added by section 131(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subsection (e)(2)(D)(i), by striking "and" where such term appears after the semicolon;

(B) in subsection (f)(6), by striking "functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956)" and insert "appropriate regulator";

(C) in subsection (g)(1)(B), by striking "capitalized," and inserting "capitalized (but not well capitalized),"; and

(D) in the heading of subsection (f)(6), by striking "FUNCTIONAL" and inserting "OTHER".

(2) Section 131(c)(2)(A) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "the 1st and 2d place such term appears" before the semicolon.

(3) Section 8(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(1)) (as amended by section 131(c)(2)(A) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) by inserting "or 39" after "38" each place such term appears; and

(B) by striking "order under this section, or to review" and inserting "order under any such section, or to review".

(4) Section 8(i)(2)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(A)(ii)) (as amended by section 131(c)(2)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "subsection (b)," and all that follows through the semicolon and inserting "subsection (b), (c), (e), (g), or (s) or any final order under section 38 or 39;".

(5) Section 131(c)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "adding at the end" and inserting "inserting after subsection (x)".

(6) Section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Section 1 of the Act of June 30, 1876" and inserting "The 1st section of the Act entitled 'An Act authorizing the appointment of receivers of national banking associations, and for other purposes.' and approved June 30, 1876".

(7) The Act entitled "An Act authorizing the appointment of receivers of national banking associations, and for other purposes." and approved June 30, 1876 (as amended by section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) by redesignating section 1 as section 2 and by inserting after the enacting clause the following new section:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Bank Receivership Act'."; and

(B) in section 2 (as amended by section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and redesignated by subparagraph (A) of this paragraph), by striking "appoint the Federal Deposit Insurance Corporation as receiver for any national banking association" and inserting "appoint a receiver for any national bank (and such receiver shall be the Federal Deposit Insurance Corporation if the national bank is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act))".

(8) Effective on the effective date of the amendment made by section 133(d)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A) (as amended by such section 133(d)(1)) is amended by inserting a period at the end.

(9) The paragraph designated as "(p)" of section 11 of the Federal Reserve Act (12 U.S.C. 248) (as added by section 133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1992) is hereby redesignated as paragraph (o).

(10) The heading of subtitle D of title I of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"Subtitle D—Prompt Corrective Action".

(11) The heading of section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"SEC. 131. PROMPT CORRECTIVE ACTION.".

*(12) The heading of section 133 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "**REGULATORY**" and inserting "**CORRECTIVE**".*

(e) AMENDMENTS RELATING TO SUBTITLE E.—

(1) Section 11(d)(5)(D)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)(iii)(I)) (as amended by section 141(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "institution described in paragraph (3)(A)" and inserting "insured depository institution".

(2) The amendment made by section 142(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (adding a paragraph at the end of section 11 of the Federal Reserve Act) shall be considered to have been executed before the amendment made by section 133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

(f) AMENDMENTS RELATING TO SUBTITLE F.—

(1) Section 151(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) in paragraph (1), by striking "section 40(a)(1)" and inserting "section 43(a)(1)"; and

(B) in paragraph (3)—

(i) by striking " 'deposit',";

(ii) by striking "and";

(iii) by inserting ", and 'private deposit insurer' " before "have the same meaning"; and

(iv) by striking "section 40(f)" and inserting "section 43(f)".

(2) The heading of subtitle F of title I of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"Subtitle F—Depository Institutions Lacking Federal Deposit Insurance".

SEC. 1604. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

(1) Section 7(e)(6) of the International Banking Act of 1978 (as added by section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (A), by striking "against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary" and inserting "against which—

"(i) the Board has issued an order under paragraph (1); or

"(ii) the Comptroller of the Currency has issued an order under section 4(i),

or a refusal by such office or subsidiary"; and

(B) in subparagraph (B), by striking "order issued under paragraph (1)" and inserting "order referred to in subparagraph (A)".

(2) Section 7(e)(7) of the International Banking Act of 1978 (as added by section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "publc" and inserting "public".

(3) Section 10(b)(6)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(6)(A)) (as amended by section 203(c)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "paragraph (2)" and all that follows through the semicolon and inserting "paragraph (2), (3), (4), or (5);".

(4) Section 10(b) of the International Banking Act of 1978 (12 U.S.C. 3107(b)) (as amended by section 204 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "paragraphs (1), (2), and (3) of section 7(d)" and inserting "section 7(e)".

(5) Section 108(a)(1)(C) of the Truth in Lending Act (15 U.S.C. 1607(a)(1)(C)) (as amended by section 212(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(6) Section 621(b)(1)(C) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(C)) (as amended by section 212(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(7) Section 704(a)(1)(C) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(b)(1)(C)) (as amended by section 212(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(8) Section 814(b)(1)(C) of the Fair Debt Collection Practices Act (15 U.S.C. 1691c(b)(1)(C)) (as amended by section 212(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(9) Section 18(f)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)(A)) (as amended by section 212(g)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "divisions" and inserting "division".

(10) Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104), as in effect on the day before the effective date of the amendment made by section 214(a)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991, is amended by striking subsection (c).

(11) Section 6(c) of the International Banking Act of 1978 (as added by section 214(a)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (1)—

(i) by inserting "domestic retail" before "deposit accounts"; and

(ii) by striking "$100,000," and inserting "$100,000 and requiring deposit insurance protection,"; and

(B) in paragraph (2)—

(i) by striking "Deposit" and inserting "Domestic retail deposit"; and

(ii) by inserting "that require deposit insurance protection" after "$100,000".

(12) Section 214(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is

amended by inserting closing quotation marks and a 2d period at the end.

(13) Section 7(j) of the International Banking Act of 1978 (as added by section 214(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "Supervisory committee" and inserting "Supervisory Committee".

(14) Section 215(a)(9) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "United States Banks" and inserting "banks chartered in the United States".

(15) Section 224 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "of 1975" after "Disclosure Act".

(b) AMENDMENTS RELATING TO SUBTITLE C.—

(1) Section 232(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) by striking "(9), and (10)" and inserting "and (8)"; and

(B) by striking "(10), and (11)" and inserting "and (9)".

(2) Section 233(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "section 235" where such term appears in paragraphs (3) and (5) and inserting "section 234".

(3) Section 7(d)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(4)) (as added by section 233(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 235" inserting "section 234".

(c) AMENDMENTS RELATING TO SUBTITLE D.—

(1) Section 241(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "section 42" and inserting "section 40".

(2) Subparagraphs (B) and (E) of section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) (as amended by section 241(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) are each amended by striking "section 42" and inserting "section 40".

(3) Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)) (as amended by section 241(c)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 42" and inserting "section 40".

(d) AMENDMENTS RELATING TO SUBTITLE E.—Section 213(a)(2) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) (as amended by section 251(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subparagraph (A), by inserting "or" after "credit union"; and

(2) in subparagraph (B), by striking "or employee" and all that follows through the semicolon and inserting "committee member, or employee of any credit union;".

(e) AMENDMENTS RELATING TO SUBTITLE F.—

(1) Section 266(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "on or with any regularly scheduled mailing posted or delivered within 180 days after publication" and inserting "on or with the first regularly scheduled mailing sent after the end of the 6-month period beginning on the date of publication".

(2) Subtitle F of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Act" and inserting "subtitle"—

(A) each place such term appears in section 265;

(B) in section 267(a);

(C) the 1st place such term appears in section 267(c);

(D) each place such term appears in section 269(a)(1);

(E) each place such term appears in section 269(a)(3);

(F) the 1st place such term appears in section 269(a)(4);

(G) in section 269(b)(1);

(H) each place such term appears in section 269(b)(2);

(I) the 1st place such term appears in section 270(a);

(J) in section 270(b)(2);

(K) each place such term appears in section 270(c);

(L) each place such term appears in section 271(a);

(M) in paragraphs (1) and (2) of section 271(c);

(N) in subsections (d), (g), (h) of section 271;

(O) in paragraphs (1) and (2) of section 271(i);

(P) the 1st place such term appears in section 272(a);

(Q) in section 272(b);

(R) in section 273; and

(S) in the provision of section 274 which precedes paragraph (1) of such section.

(3) Section 270(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "this Act" and inserting "this subtitle".

(4) The heading of paragraph (1) of section 270(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "ACT" and inserting "SUBTITLE".

SEC. 1605. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

(1) Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) (as amended by section 301(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subsection (a), by striking "A insured" and inserting "An insured"; and

(B) in subsection (c), by striking "capitalized," and inserting "capitalized (but not well capitalized),".

(2) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (D), by striking the comma after "members"; and

(B) by adding at the end the following new subparagraph:

"(H) BANK ENTERPRISE ACT REQUIREMENT.—The Corporation shall design the risk-based assessment system so that, insofar as the system bases assessments, directly or indirectly, on deposits, the portion of the deposits of any insured depository institution which are attributable to lifeline accounts established in accordance with the Bank Enterprise Act of 1991 shall be subject to assessment at a rate determined in accordance with such Act.".

(3) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)((1)) by striking "7(b)(10)" and inserting "7(b)(2)(H)".

(4) The subsection which was added to section 10 of the Federal Deposit Insurance Act by section 302(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and designated as subsection (f) is hereby redesignated as subsection (g).

(5) Section 302(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by striking paragraph (1) and inserting the following new paragraphs:

"(1) in section 5(d)(3)(B)(i)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Savings Association Insurance Fund.';

"(2) in section 5(d)(3)(B)(ii)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Bank Insurance Fund.'".

(6) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph ((5)(A) of this subsection), section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding after paragraph (6) (as transferred and so redesignated by section 1603(a)(3) of this title) the following new paragraph:

"(7) COMMUNITY ENTERPRISE CREDITS.—The Corporation shall allow a credit against any semiannual assessment to any insured depository institution which satisfies the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board by regulation.".

(7) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (5)(A) of this subsection), section 233 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834a) is amended—

(A) in subsection (a)(1)(A), by striking "7(d)(4)" and inserting "7(b)(7)";

(B) in subsection (a)(3), by striking "7(d)(4)" and inserting "7(b)(7)"; and

(C) in subsection (e)(2), by striking "made for purposes of the notification required under section 7(d)(1)(B)" and inserting "of the semiannual assessment to which such credit is applicable".

(8) Section 24(e)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831a) (as added by section 303(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to read as follows:

"(B) meets applicable consumer disclosure requirements with respect to such insurance.".

(9) The subsection of section 18 of the Federal Deposit Insurance Act which was added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and designated as subsection (o) (relating to periodic review of capital standards) is hereby redesignated as subsection (p).

(10) Section 22(h)(6)(B)(i) of the Federal Reserve Act (12 U.S.C. 375b) (as amended by section 306(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "and" after the semicolon and inserting "or".

(11) Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t) (as added by section 307 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (2)(B), by inserting "or institution-affiliated party" after "institution" each place such term appears;

(B) in paragraph (2)(C), by striking "institution's" the 1st place such term appears; and

(C) in paragraph (5), by inserting "or institution-affiliated party" after "depository institution".

(b) AMENDMENTS RELATING TO SUBTITLE B.—

(1) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking subparagraph (D), as added by section 311(a)(2)(C) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(2) Effective on the effective date of the amendment made by section 302(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c) (as amended by such section 302(b)) is amended—

(A) by adding at the end, the paragraph added to such section 7(c) (as in effect on the day before the effective date of such amendment) by section 313(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991;

(B) by redesignating such paragraph as paragraph (4); and

(C) in paragraph (4) (as so redesignated by subparagraph (B) of this paragraph), by striking "paragraph (1) or (2)" each place such term appears and inserting "paragraph (1)".

(3) Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) (as amended by section 313(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (C)—

(i) by striking "insured depository institution" and inserting "insured credit union";

(ii) by striking "or" after "subsection (b)(1)";

(iii) by striking "Corporation" and inserting "Board"; and

(iv) by striking "assets of the institution" and inserting "assets of the credit union";

(B) in subparagraph (D), by striking "Corporation" and inserting "Board"; and

(C) in subparagraph (E)—

(i) by striking "insured depository institution" and inserting "insured credit union"; and

(ii) by striking "if the institution" and inserting "if the credit union".

(c) AMENDMENT TO THE HEADING OF TITLE III.—The heading of title III of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"TITLE III—FEDERAL DEPOSIT INSURANCE REFORM".

SEC. 1606. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SUBTITLE A.—Section 402(14)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Federal commodities law" and inserting "Federal law".

(b) AMENDMENT RELATING TO SUBTITLE B.—Section 1112(f)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)(2)) (as amended by section 411(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) by inserting a comma before "for civil actions under section 951"; and

(2) by inserting a comma after "United States Code".

(c) AMENDMENT RELATING TO SUBTITLE C.—Section 11(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(4)(A)) (as amended by section 416 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "determinations" and inserting "determination".

(d) AMENDMENT RELATING TO SUBTITLE D.—The heading for section 422 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking ***"BOARD"*** *and inserting* ***"ADVISORY COMMITTEE"****.*

(e) AMENDMENT RELATING TO SUBTITLE F.—Section 431(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "(hereafter in this subsection referred to as the 'Secretary')" after "Secretary of the Treasury".

(f) AMENDMENTS RELATING TO SUBTITLE G.—

(1) Section 5(c)(2)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) is amended to read as follows:

"(iii) MONITORING.—If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations.".

(2) Section 5(c)(2)(C) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(C)) is amended by striking the comma after "including".

(3) The last sentence of section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) (as amended by section 441(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by inserting before the period the following: ", except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any 3d party".

(4) Section 437 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) by striking "Section 10(m)(1)(B)" and inserting "(a) IN GENERAL.—Section 10(m)(1)(B)"; and

(B) by adding at the end the following new subsection:

"(b) TECHNICAL AND CONFORMING AMENDMENTS.—

"(1) Section 10(m)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1467(m)(1)(A)) is amended by striking '70 percent' and inserting '65 percent'.

"(2) The 1st sentence of section 10(m)(3)(D) of the Home Owners' Loan Act (12 U.S.C. 1467(m)(3)(D)) is amended by striking 'for the preceding 2-year period' and inserting 'on a monthly average basis in 9 out of the preceding 12 months'.".

(g) AMENDMENTS RELATING TO SUBTITLE I.—

(1) Section 451(b)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "11(i)" and inserting "3(i)(2)".

(2) Section 3(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)(2)) is amended by striking "11(i)" and inserting "11(n)".

(h) AMENDMENTS RELATING TO SUBTITLE K.—

(1) Section 461 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "of 1956" after "Bank Holding Company Act".

(2) The heading of subtitle K of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"Subtitle K—Acquisition of Insolvent Savings Associations".

(i) AMENDMENTS RELATING TO SUBTITLE M.—

(1) Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating the paragraph (9) which was added to such section by section 474 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as paragraph (10).

(2) Section 475(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"(c) EFFECTIVE DATE.—This section shall apply after the end of the 60-day period beginning on the date of the enactment of this Act.".

(3) Section 477 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Federal Reserve Board" each place such term appears and inserting "Board of Governors of the Federal Reserve System".

SEC. 1607. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 501.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) (as amended by section 501(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding at the end the following new subparagraph:

"(K) BOARD DEFINED.—For purposes of this paragraph, the term 'Board' (other than when such term appears in connection with a reference to the Board of Directors) means the Board of Governors of the Federal Reserve System.".

(b) AMENDMENT RELATING TO SECTION 502.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by redesignating subsection (t) (as added by section 502(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as subsection (s).

SEC. 1608. FEDERAL HOUSING FINANCE BOARD PRACTICE REQUIRED TO CONFORM TO CONGRESSIONAL INTENT AND EXISTING LAW.

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) CLARIFICATION OF STATUS.—

"(i) IN GENERAL.—The directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis after December 31, 1993.

"(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as implying that any other position may be filled or held on a less than full-time basis.".

SEC. 1609. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) or any other provision of this subtitle, the amendments made by this subtitle to the Federal Deposit Insurance Corporation Improvement Act of 1991, the Federal Deposit Insurance Act, and any other law shall take effect as if such amendments had been included in the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

(b) EFFECTIVE DATE OF CERTAIN AMENDMENTS.—In the case of any amendment made by this subtitle to any provision of law added or amended by the Federal Deposit Insurance Corporation Improvement Act of 1991 effective after December 19, 1992, the amendment made by this subtitle shall take effect on the effective date of the amendment made by the Federal Deposit Insurance Corporation Improvement Act of 1991.

Subtitle B—Resolution Trust Corporation

SEC. 1611. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 101.—Section 21A(i)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(3)) is amended by inserting a comma after "necessary" and after "billion".

(b) AMENDMENTS RELATING TO SECTION 102.—

(1) Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) (as amended by section 102 of the Resolution Trust Corporation Refinancing, Restructuring, and

Improvement Act of 1991) is amended by striking "section 5(d)(2)(C)" and inserting "subparagraph (C) or (F) of section 5(d)(2)".

(2) Effective 1 year after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 11(c)(6)(B) of the Federal Deposit Insurance Act (as amended by paragraph (1) of this subsection) is amended by striking "subparagraph (C) or (F) of section 5(d)(2)" and inserting "subparagraph (A) or (C) of section 5(d)(2)".

(c) AMENDMENT RELATING TO SECTION 104.—Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) is amended by striking "Thrift Depositor Protection Refinance" and inserting "Refinancing, Restructuring, and Improvement".

(d) AMENDMENTS RELATING TO SECTION 106.—

(1) Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) (as amended by section 106(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "quarter ending on the last day of the month ending before the month in which such report is require to be submitted" and inserting "preceding calendar quarter".

(2) Section 21A(k)(10) of the Federal Home Loan Bank Board (12 U.S.C. 1441a(k)(10) (as added by section 106(c) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

(3) Section 21A(k)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(11)) (as amended by section 106(d) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by inserting "Thrift Depositor Protection" before "Oversight Board"; and

(B) in subparagraph (B)—

(i) by striking "an employee" and inserting "employees"; and

(ii) by striking "Government" and inserting "General".

(4) Section 106(e)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "annual reports" and inserting "supplemental unaudited financial statements".

SEC. 1612. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

Section 21A(b)(8)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)(i)) is amended by striking "Thrift Depositor Protection Refinance" each place such term appears and inserting "Refinancing, Restructuring, and Improvement".

SEC. 1613. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 302.—

(1) Section 302 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking subsection (c).

(2) Section 21A(k)(6)(A)(vii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(6)(A)(vii)) is amended by inserting "Thrift Depositor Protection" before "Oversight Board's".

(3) Section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by section 1614(a)(5)(E) of this subtitle) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

(4) The heading for section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(5) The heading for paragraph (8) of subsection (n) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as such subsection has been redesignated by section 314(3) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT" ".

(6) The heading for section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting **"THRIFT DEPOSITOR PROTECTION"** before **"OVERSIGHT BOARD"**.

(7) The headings for sections 21B(c)(8) and 21B(j)(2) of the Federal Home Loan Act (12 U.S.C. 1441b(c)(8) and 1441B(j)(2)) are each amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(8) The heading for section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by section 1614(a)(5)(E) of this subtitle) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(9) The heading for section 21B(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(k)(7)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(b) AMENDMENTS RELATING TO SECTION 303.—

(1) Section 303(2) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 is amended by striking the comma after "Corporation')".

(2) Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) (as amended by section 303(2) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 and the amendment made by paragraph (1) of this subsection) is amended by striking the 2d period after "Act".

(c) AMENDMENTS RELATING TO SECTION 305.—

(1) Section 21(A)(a)(6)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)(C)) is amended by striking "paragraph (8) of this subsection" and all that follows through the period at the end and inserting "paragraph (8)".

(2) Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by redesignating paragraph (15) as paragraph (16) and inserting after paragraph (14) the following new paragraph:

"(15) REPORTS ON ANY MODIFICATION TO ANY STRATEGY, POLICY, OR GOAL.—If, pursuant to paragraph (6)(A), the Thrift Depositor Protection Oversight Board requires the Corporation to modify any overall strategy, policy, or goal, such board shall submit, before the end of the 30-day period beginning on the date on which the board first notifies the Corporation of such requirement, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an explanation of the grounds which the board determined justified the review and the reasons why the modification is necessary to satisfy any such ground.".

(d) AMENDMENTS RELATING TO SECTION 307.—

(1) Section 21A(a)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(10)) is amended—

(A) by striking "4" and inserting "6";

(B) by adding at the end the following new sentence: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of the board's open meetings."; and

(C) in the heading, by striking "QUARTERLY" and inserting "OPEN".

(2) Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended by striking the last sentence (as added by section 307(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991).

(e) AMENDMENT RELATING TO SECTION 311.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) (as amended by section 311 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "IN GENERAL.—" and all that follows through the 1st comma and inserting "IN GENERAL.—Except for the chief executive officer of the Corporation,".

(f) AMENDMENTS RELATING TO SECTION 314.—

(1) Section 21A(a)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)) (as amended by section 314(1)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "AUTHORITY.—

"IN GENERAL.—The Corporation",

and inserting "AUTHORITY.—The Corporation".

(2) Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) (as amended by section 314(5) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "includes" and all that follows through "any officer or employee of the Federal Deposit" and inserting "includes any officer or employee of the Federal Deposit".

(g) AMENDMENT RELATING TO SECTION 316.—Section 21A(l)((3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)(B)) (as amended by section 316 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "for that party of the filing" and inserting "for that party or the filing".

(h) ADDITIONAL TECHNICAL CORRECTIONS.—

(1) Paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (G) (as so redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "(11)(A)(iv)" and inserting "(10)(A)(iv)"; and

(B) in subparagraph (I) (as so redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "through its Board of Directors".

(2) Paragraph (10) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by striking "(10)" and inserting "(9)"; and

(B) in subparagraph (A)(i), by striking "(12)" and inserting "(11)".

(3) Paragraph (11)(E)(i) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(E)(i)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "its" and inserting "the chief executive officer's".

(4) Section 21A(c)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c(7)) is amended by striking "(b)(11)(A)" and inserting "(b)(10)(A)".

(5) Section 21A(d)(1)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)(1)(B)(ii)) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(6) Section 21A(k)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(3)(B)) is amended by striking "subsection (b)(11)(B)" and inserting "subsection (b)(10)(B)".

SEC. 1614. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO INCORRECT DESIGNATIONS OF NEW SUBSECTIONS AND PARAGRAPHS.—

(1) Section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "after subsection (s) (as added by section 227 of this Act)" and inserting "after subsection (p) (as so redesignated by section 314(3) of this Act)".

(2) Section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "301" and inserting "401".

(3) Section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "section 302" and inserting "section 402".

(4) Section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "section 303" and inserting "section 403".

(5) Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(A) by redesignating subsection (t) (as added by section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (r);

(B) by redesignating subsection (u) (as added by section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (s);

(C) by redesignating subsection (v) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (t);

(D) by redesignating subsection (w) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (u); and

(E) effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, by transferring and inserting subsection (q) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) after subsection (p).

(6) For purposes of applying paragraph (13) of section 21A(b) of the Federal Home Loan Bank Act, the amendment made by section 405 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, shall be considered to have been executed before the redesignation of such paragraph by section 310 of such Act.

(7) Effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

(A) section 471 of such Act is amended by striking "Home Owners' Loan Act" and inserting "Federal Home Loan Bank Act"; and

(B) subsection (q) of section 21A of the Federal Home Loan Bank Act (as added by section 471 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended by subparagraph (A) of this paragraph) is hereby redesignated as subsection (v).

(b) OTHER TECHNICAL CORRECTIONS RELATING TO AMENDMENTS MADE BY TITLE IV.—

(1) Subsection (t)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) is amended by striking "minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)" and inserting "the minority capital assistance program established under subsection (u)(1)".

(2) Subsection (u)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) is amended by striking "established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)" and inserting "administered by the Corporation pursuant to the policy statement entitled the 'Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions' adopted by the Corporation on January 30, 1990".

(3) Subsections (t)(3)(B) and (u)(5)(B) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by sections 403 and 404, respectively, of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) are each amended by striking "section 13(c)(8)" and inserting "section 13(f)(8)(B)".

(4) Subsection (q) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by subsection (a)(5) of this section) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

SEC. 1615. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 501.—

(1) For purposes of applying paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act, the amendment made by section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall be considered to have been executed before the redesignation of subparagraph (K) of such paragraph by section 314((2)(B) of such Act and the redesignation of such paragraph by section 310 of such Act.

(2) Section 21A(c)(8)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)(ii)) (as added by section 501(a)(2)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "subchapter A" and inserting "subchapter B".

(b) AMENDMENT TO SECTION HEADING.—The heading for section 501 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended to read as follows:

"SEC. 501. CREDIT ENHANCEMENT.".

SEC. 1616. TECHNICAL CORRECTIONS RELATING TO TITLE VI OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 607.—Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) (as amended by section 607 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(1) in clause (i)(I), by striking "building property structure in which the units are located: Provided, That" and inserting "property in which the units are located; and";

(2) in clause (i)(II)—

(A) by striking "shall be made available for occupancy" the 1st time such term appears;

(B) by inserting "(including very low-income families taken into account for purposes of subclause (I))" after "very low-income families"; and

(C) by striking "building or structure" and inserting "property"; and

(3) in clause (ii)(II)—

(A) by striking "building property structure" each place such term appears and inserting "property"; and

(B) by inserting "(including very low-income families taken into account for purposes of subdivision (a) of this subclause)" after "very low-income families" where such term appears in subdivision (b) of such clause.

(b) REPEAL OF DUPLICATE PROVISION.—Title VI of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking section 611.

SEC. 1617. REPEAL OF TITLE CONSISTING OF AMENDMENTS DUPLICATED IN THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) IN GENERAL.—Title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is hereby repealed.

(b) EFFECT OF REPEAL.—No amendments made by title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall be deemed to have taken effect before the date of the enactment of this Act and the provisions of law amended by title VII shall continue in effect as if no such amendments had been made by such title.

SEC. 1618. EFFECTIVE DATE.

Except as otherwise provided by a specific provision of this subtitle, the amendments made by this subtitle to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and the Federal Home Loan Bank Act shall take effect as if such amendments had been included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 as of the date of the enactment of such Act.

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
CHALMERS WYLIE,
MARGE ROUKEMA
DOUG BEREUTER,

As additional conferees from the Committee on Education and Labor, for consideration of sections 165 and 912 of the House bill, and sections 946, 1011 (a) and (e), 1012(h)–(j), 1021, and 1023 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
JOSEPH M. GAYDOS,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1011(g), 1015, 1022, 1031, 1032, and 1056 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
HENRY A. WAXMAN,
DENNIS E. ECKART,
GERRY SIKORSKI,
NORMAN F. LENT,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1021 and 1023 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
NORMAL F. LENT,
Managers on the Part of the House.

DON RIEGLE,

ALAN CRANSTON,
PAUL SARBANES,
DANIEL PATRICK MOYNIHAN,
HARRY REID,
ALFONSE D'AMATO,
KIT BOND,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment.

The conferees met on September 30, 1992, and October 1, 1992, and reconciled the differences between the two bills.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
CHALMERS WYLIE,
MARGE ROUKEMA,
DOUG BEREUTER,

As additional conferees from the Committee on Education and Labor, for consideration of sections 165 and 912 of the House bill, and sections 946, 1011 (a) and (e), 1012(h)-(j), 1021, and 1023 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
JOSEPH M. GAYDOS,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1011(g), 1015, 1022, 1031, 1032, and 1056 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
HENRY A. WAXMAN,
DENNIS E. ECKART,
GERRY SIKORSKI,
NORMAN F. LENT,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1021 and 1023 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
NORMAN F. LENT,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
DANIEL PATRICK MOYNIHAN,
HARRY REID,
ALFONSE D'AMATO,
KIT BOND,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT

Mr. SHARP submitted the following conference report and statement on the bill (H.R. 776) to provide for improved energy efficiency:

CONFERENCE REPORT (H. REPT. 102-1018)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 776), to provide for improved energy efficiency, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Energy Policy Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—ENERGY EFFICIENCY

Subtitle A—Buildings

Sec. 101. Building energy efficiency standards.
Sec. 102. Residential energy efficiency ratings.
Sec. 103. Energy efficient lighting and building centers.
Sec. 104. Manufactured housing energy efficiency.
Sec. 105. Energy efficient mortgages.
Sec. 106. Energy efficient mortgages pilot program.

Subtitle B—Utilities

Sec. 111. Encouragement of investments in conservation and energy efficiency by electric utilities.
Sec. 112. Energy efficiency grants to State regulatory authorities.
Sec. 113. Tennessee Valley Authority least-cost planning program.
Sec. 114. Amendment of Hoover Power Plant Act.
Sec. 115. Encouragement of investments in conservation and energy efficiency by gas utilities.

Subtitle C—Appliance and Equipment Energy Efficiency Standards

Sec. 121. Energy efficiency labeling for windows and window systems.
Sec. 122. Energy conservation requirements for certain commercial and industrial equipment.
Sec. 123. Energy conservation requirements for certain lamps and plumbing products.
Sec. 124. High-intensity discharge lamps, distribution transformers, and small electric motors.
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SEC. 2. DEFINITION.

For purposes of this Act, the term "Secretary" means the Secretary of Energy.

TITLE I—ENERGY EFFICIENCY

Subtitle A—Buildings

SEC. 101. BUILDING ENERGY EFFICIENCY STANDARDS.

(a) IN GENERAL.—Title III of the Energy Conservation and Production Act (42 U.S.C. 6831 et seq.) is amended—

(1) in section 303—

(A) by striking paragraph (9);

(B) by redesignating paragraphs (10), (11), (12), and (13) as paragraphs (9), (10), (11), and (12), respectively; and

(C) by adding at the end the following new paragraphs—

"(13) The term 'Federal building energy standards' means energy consumption objectives to be met without specification of the methods, materials, or equipment to be employed in achieving those objectives, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term 'voluntary building energy code' means a building energy code developed and updated through a consensus process among interested persons, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or other appropriate organizations.

"(15) The term 'CABO' means the Council of American Building Officials.

"(16) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers."; and

(2) by striking sections 304, 306, 308, 309, 310, and 311 and inserting the following:

"SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

"(a) CONSIDERATION AND DETERMINATION RESPECTING RESIDENTIAL BUILDING ENERGY CODES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed CABO Model Energy Code, 1992.

"(2) The determination referred to in paragraph (1) shall be—

"(A) made after public notice and hearing;

"(B) in writing;

"(C) based upon findings included in such determination and upon the evidence presented at the hearing; and

"(D) available to the public.

"(3) Each State may, to the extent consistent with otherwise applicable State law, revise the provisions of its residential building code regarding energy efficiency to meet or exceed CABO Model Energy Code, 1992, or may decline to make such revisions.

"(4) If a State makes a determination under paragraph (1) that it is not appropriate for such State to revise its residential building code, such State shall submit to the Secretary, in writing, the reasons for such determination, and such statement shall be available to the public.

"(5)(A) Whenever CABO Model Energy Code, 1992, (or any successor of such code) is revised, the Secretary shall, not later than 12 months after such revision, determine whether such revision would improve energy efficiency in residential buildings. The Secretary shall publish notice of such determination in the Federal Register.

"(B) If the Secretary makes an affirmative determination under subparagraph (A), each State

shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised code for which the Secretary made such determination.

"(C) Paragraphs (2), (3), and (4) shall apply to any determination made under subparagraph (B).

"(b) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the requirements of ASHRAE Standard 90.1–1989.

"(2)(A) Whenever the provisions of ASHRAE Standard 90.1–1989 (or any successor standard) regarding energy efficiency in commercial buildings are revised, the Secretary shall, not later than 12 months after the date of such revision, determine whether such revision will improve energy efficiency in commercial buildings. The Secretary shall publish a notice of such determination in the Federal Register.

"(B)(i) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency in accordance with the revised standard for which such determination was made. Such certification shall include a demonstration that the provisions of such State's commercial building code regarding energy efficiency meet or exceed such revised standard.

"(ii) If the Secretary makes a determination under subparagraph (A) that such revised standard will not improve energy efficiency in commercial buildings, State commercial building code provisions regarding energy efficiency shall meet or exceed ASHRAE Standard 90.1–1989, or if such standard has been revised, the last revised standard for which the Secretary has made an affirmative determination under subparagraph (A).

"(c) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (a) and (b) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

"(e) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"SEC. 305. FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.

"(a)(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with appropriate Federal agencies, CABO, ASHRAE, the National Association of Home Builders, the Illuminating Engineering Society, the American Institute of Architects, the National Conference of the States on Building Codes and Standards, and other appropriate persons, shall establish, by rule, Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. Such standards shall become effective no later than 1 year after such rule is issued.

"(2) The standards established under paragraph (1) shall—

"(A) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1–1989 (in the case of commercial buildings);

"(B) to the extent practicable, use the same format as the appropriate voluntary building energy code; and

"(C) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures with regard to radon and other indoor air pollutants.

"(b) REPORT ON COMPARATIVE STANDARDS.—The Secretary shall identify and describe, in the report required under section 308, the basis for any substantive difference between the Federal building energy standards established under this section (including differences in treatment of energy efficiency and renewable energy) and the appropriate voluntary building energy code.

"(c) PERIODIC REVIEW.—The Secretary shall periodically, but not less than once every 5 years, review the Federal building energy standards established under this section and shall, if significant energy savings would result, upgrade such standards to include all new energy efficiency and renewable energy measures that are technologically feasible and economically justified.

"(d) INTERIM STANDARDS.—Interim energy performance standards for new Federal buildings issued by the Secretary under this title as it existed before the date of the enactment of the Energy Policy Act of 1992 shall remain in effect until the standards established under subsection (a) become effective.

"SEC. 306. FEDERAL COMPLIANCE.

"(a) PROCEDURES.—(1) The head of each Federal agency shall adopt procedures necessary to assure that new Federal buildings meet or exceed the Federal building energy standards established under section 305.

"(2) The Federal building energy standards established under section 305 shall apply to new buildings under the jurisdiction of the Architect of the Capitol. The Architect shall adopt procedures necessary to assure that such buildings meet or exceed such standards.

"(b) CONSTRUCTION OF NEW BUILDINGS.—The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the appropriate Federal building energy standards established under section 305.

"SEC. 307. SUPPORT FOR VOLUNTARY BUILDING ENERGY CODES.

"(a) IN GENERAL.—Not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, other appropriate Federal agencies, CABO, ASHRAE, the National Conference of States on Building Codes and Standards, and any other appropriate building codes and standards organization, shall support the upgrading of voluntary building energy codes for new residential and commercial buildings. Such support shall include—

"(1) a compilation of data and other information regarding building energy efficiency standards and codes in the possession of the Federal Government, State and local governments, and industry organizations;

"(2) assistance in improving the technical basis for such standards and codes;

"(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in such standards and codes; and

"(4) assistance in identifying appropriate measures with regard to radon and other indoor air pollutants.

"(b) REVIEW.—The Secretary shall periodically review the technical and economic basis of voluntary building energy codes and, based upon ongoing research activities—

"(1) recommend amendments to such codes including measures with regard to radon and other indoor air pollutants;

"(2) seek adoption of all technologically feasible and economically justified energy efficiency measures; and

"(3) otherwise participate in any industry process for review and modification of such codes.

"SEC. 308. REPORTS.

"The Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, and other appropriate Federal agencies, shall report annually to the Congress on activities conducted pursuant to this title. Such report shall include—

"(1) recommendations made under section 307(b) regarding the prevailing voluntary building energy codes;

"(2) a State-by-State summary of actions taken under this title; and

"(3) recommendations to the Congress with respect to opportunities to further promote building energy efficiency and otherwise carry out the purposes of this title.".

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by striking the items relating to sections 304, 306, 308, 309, 310 and 311, and inserting in lieu thereof the following—

"Sec. 304. Updating State building energy efficiency codes.
"Sec. 305. Federal building energy efficiency standards.
"Sec. 306. Federal compliance.
"Sec. 307. Support for voluntary building energy codes.
"Sec. 308. Reports.".

(c) FEDERAL MORTGAGE REQUIREMENTS.—

(1) AMENDMENT TO CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended to read as follows:

"SEC. 109. ENERGY EFFICIENCY STANDARDS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, jointly establish, by rule, energy efficiency standards for—

"(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act; and

"(B) new construction of single family housing (other than manufactured homes) subject to

mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949.

"(2) Contents.—Such standards shall meet or exceed the requirements of the Council of American Building Officials Model Energy Code, 1992 (hereafter in this section referred to as 'CABO Model Energy Code, 1992'), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–1989 (hereafter in this section referred to as 'ASHRAE Standard 90.1–1989'), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

"(b) Model Energy Code.—If the Secretaries have not, within 1 year after the date of the enactment of the Energy Policy Act of 1992, established energy efficiency standards under subsection (a), all new construction of housing specified in such subsection shall meet the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1–1989.

"(c) Revisions of Model Energy Code.—If the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, ASHRAE Standard 90.1–1989, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.".

(2) Amendment to Title 38, United States Code.—Section 3704 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) A loan for the purchase or construction of new residential property, the construction of which began after the energy efficiency standards under section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709), as amended by section 101(c) of the Energy Policy Act of 1992, take effect, may not be financed through the assistance of this chapter unless the new residential property is constructed in compliance with such standards.".

SEC. 102. RESIDENTIAL ENERGY EFFICIENCY RATINGS.

(a) Ratings.—Title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by adding at the end the following new part:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) In General.—Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, representatives of existing home energy rating programs, and other appropriate persons, shall, by rule, issue voluntary guidelines that may be used by State and local governments, utilities, builders, real estate agents, lenders, agencies in mortgage markets, and others, to enable and encourage the assignment of energy efficiency ratings to residential buildings.

"(b) Contents of Guidelines.—The voluntary guidelines issued under subsection (a) shall—

"(1) encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings;

"(2) establish protocols and procedures for—

"(A) certification of the technical accuracy of building energy analysis tools used to determine energy efficiency ratings;

"(B) training of personnel conducting energy efficiency ratings;

"(C) data collection and reporting;

"(D) quality control; and

"(E) monitoring and evaluation;

"(3) encourage consistency with, and support for, the uniform plan for Federal energy efficient mortgages, including that developed under section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) and pursuant to sections 105 and 106 of the Energy Policy Act of 1992;

"(4) provide that rating systems take into account local climate conditions and construction practices, solar energy collected on-site, and the benefits of peak load shifting construction practices, and not discriminate among fuel types; and

"(5) establish procedures to ensure that residential buildings can receive an energy efficiency rating at the time of sale and that such rating is communicated to potential buyers.

"SEC. 272. TECHNICAL ASSISTANCE.

"Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of and use of residential energy efficiency rating systems consistent with the voluntary guidelines issued under section 271.

"SEC. 273. REPORT.

"Not later than 3 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall transmit to the President and the Congress a final report containing—

"(1) a description of actions taken by the Secretary and other Federal agencies to implement this part;

"(2) a description of the action taken by States, local governments, and other organizations to implement the voluntary guidelines issued under section 271 and any problems encountered in implementing such guidelines; and

"(3) recommendations on the feasibility of requiring, as a prerequisite to receiving federally assisted, guaranteed, or insured mortgages, the achievement of a minimum energy efficiency rating.".

(b) Conforming Amendment.—The table of contents for such Act is amended by adding at the end of title II the following:

"Part 6—Residential Energy Efficiency Ratings

"Sec. 271. Voluntary rating guidelines.
"Sec. 272. Technical assistance.
"Sec. 273. Report.".

SEC. 103. ENERGY EFFICIENT LIGHTING AND BUILDING CENTERS.

(a) Purpose.—The purpose of this section is to encourage energy efficiency in buildings through the establishment of regional centers to promote energy efficient lighting, heating and cooling, and building design.

(b) Grants for Establishment.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall make grants to nonprofit institutions, or to consortiums that may include nonprofit institutions, State and local governments, universities, and utilities, to establish or enhance one regional building energy efficiency center (hereafter in this section referred to as a "regional center") in each of the 10 regions served by a Department of Energy regional support office.

(c) Permitted Activities.—Each regional center established under this section may—

(1) provide information, training, and technical assistance to building professionals such as architects, designers, engineers, contractors, and building code officials, on building energy efficiency methods and technologies, including lighting, heating and cooling, and passive solar;

(2) operate an outreach program to inform such building professionals of the benefits and opportunities of energy efficiency, and of the services of the center;

(3) provide displays demonstrating building energy efficiency methods and technologies, such as lighting, windows, and heating and cooling equipment;

(4) coordinate its activities and programs with other institutions within the region, such as State and local governments, utilities, and educational institutions, in order to support their efforts to promote building energy efficiency;

(5) serve as a clearinghouse to ensure that information about new building energy efficiency technologies, including case studies of successful applications, is disseminated to end-users in the region;

(6) study the building energy needs of the region and make available region-specific energy efficiency information to facilitate the adoption of cost-effective energy efficiency improvements;

(7) assist educational institutions in establishing building energy efficiency engineering and technical programs and curricula; and

(8) evaluate the performance of the center in promoting building energy efficiency.

(d) Application.—Any nonprofit institution or consortium interested in receiving a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. A lighting or building energy center in existence on the date of the enactment of this section which is owned and operated by a nonprofit institution or a consortium as described in subsection (b) shall be eligible for a grant under this section.

(e) Selection Criteria.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(1) The capability of the grant recipient to establish a board of directors for the regional center composed of representatives from utilities, State and local governments, building trade and professional organizations, manufacturers, and nonprofit energy and environmental organizations.

(2) The demonstrated or potential resources available to the grant recipient for carrying out this subsection.

(3) The demonstrated or potential ability of the grant recipient to promote building energy efficiency by carrying out the activities specified in subsection (c).

(4) The activities which the grant recipient proposes to carry out under the grant.

(f) Requirement of Matching Funds.—

(1) Federal Share.—The Federal share of a grant under this section shall be no more than 50 percent of the costs of establishing, and no more than 25 percent of the cost of operating the regional center.

(2) Non-Federal Contributions.—No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will provide the necessary non-Federal contributions. Such non-Federal contributions may be provided by utilities, State and local governments, nonprofit institutions, foundations, corporations, and other non-Federal entities.

(g) Task Force.—The Secretary shall establish a task force to—

(1) advise the Secretary on activities to be carried out by grant recipients;

(2) review and evaluate programs carried out by grant recipients; and

(3) make recommendations regarding the building energy efficiency center grant program.

(h) MEMBERSHIP TERMS AND ADMINISTRATION OF TASK FORCE.—

(1) IN GENERAL.—The task force shall be composed of approximately 20 members, appointed by the Secretary, with expertise in the area of building energy efficiency, including representatives from—

(A) State or local energy offices;

(B) utilities;

(C) building construction trade or professional associations;

(D) architecture, engineering or professional associations;

(E) building component or equipment manufacturers;

(F) from national laboratories;

(G) building code officials or professional associations; and

(H) nonprofit energy or environmental organizations.

(2) GEOGRAPHIC REPRESENTATION.—The Secretary shall ensure that there is broad geographical representation among task force members.

(3) TERMS.—Members shall be appointed for a term of 3 years. A vacancy in the task force shall be filled in the manner in which the original appointment was made.

(4) PAY.—Members shall serve without pay. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRPERSON.—The Chairperson and Vice Chairperson of the task force shall be elected by the members.

(6) MEETINGS.—The task force shall meet biannually and at the call of the Chairperson.

(7) INAPPLICABILITY OF TERMINATION DATE.—Section 14 of the Federal Advisory Committee Act shall not apply to the task force.

(i) REPORT.—The Secretary shall transmit annually to the Congress a report on the activities of regional centers established under this section, including the degree to which matching funds are being leveraged from private sources to establish and operate such centers.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1994, 1995, and 1996.

SEC. 104. MANUFACTURED HOUSING ENERGY EFFICIENCY.

(a) AMENDMENTS TO CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 943(d)(1) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 109 Stat. 4413) is amended—

(1) in subparagraph (D), by striking "thermal insulation, energy efficiency";

(2) by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (F), (G), (H), and (I), respectively; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy efficiency applicable to manufactured housing;".

(b) DUTIES OF THE SECRETARY.—The Secretary of Housing and Urban Development shall assess the energy performance of manufactured housing and make recommendations to the National Commission on Manufactured Housing established under section 943 of the Cranston-Gonzalez National Affordable Housing Act regarding any thermal insulation and energy efficiency improvements applicable to manufactured housing which are technologically feasible and economically justified. The Secretary shall also test the performance and determine the cost effectiveness of manufactured housing constructed in compliance with the standards established under such section.

(c) EXCEPTION TO FEDERAL PREEMPTION.—If the Secretary of Housing and Urban Development has not issued, within 1 year after the date of the enactment of this Act, final regulations pursuant to section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) that establish thermal insulation and energy efficiency standards for manufactured housing that take effect before January 1, 1995, then States may establish thermal insulation and energy efficiency standards for manufactured housing if such standards are at least as stringent as thermal performance standards for manufactured housing contained in the Second Public Review Draft of BSR/ASHRAE 90.2P entitled "Energy Efficient Design of Low-Rise Residential Buildings" and all public reviews of Independent Substantive Changes to such document that have been approved on or before the date of the enactment of this Act.

SEC. 105. ENERGY EFFICIENT MORTGAGES.

(a) DEFINITION OF ENERGY EFFICIENT MORTGAGE.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended by adding at the end the following new paragraph:

"(24) The term 'energy efficient mortgage' means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.".

(b) UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.—Section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is amended—

(1) in subsection (a), by striking "mortgage financing incentives for energy efficiency" and inserting "energy efficient mortgages (as such term is defined in section 104 of this Act)"; and

(2) in subsection (b)—

(A) in the second sentence, by inserting ", but not be limited to," after "include"; and

(B) by inserting after the period at the end of the following new sentence: "The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.".

SEC. 106. ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) ORIGINATION.—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COST OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

(i) 5 percent of the property value (not to exceed $8,000); or

(ii) $4,000.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

(b) EXPANSION OF PROGRAM.—Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable, in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a res-

idential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(d) RULE OF CONSTRUCTION.—This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Utilities

SEC. 111. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY BY ELECTRIC UTILITIES.

(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (P.L. 95-617; 92 Stat. 3117; 16 U.S.C. 2601 and following) is amended by adding the following at the end of section 111(d):

"(7) INTEGRATED RESOURCE PLANNING.—Each electric utility shall employ integrated resource planning. All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

"(8) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

"(9) ENERGY EFFICIENCY INVESTMENTS IN POWER GENERATION AND SUPPLY.— The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission and distribution. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall consider the disincentives caused by existing ratemaking policies, and practices, and consider incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution equipment.".

(b) PROTECTION FOR SMALL BUSINESS.—The Public Utility Regulatory Policies Act of 1978 (P.L. 95-617; 92 Stat. 3117; 16 U.S.C. 2601 and following) is amended by inserting the following new paragraph at the end of subsection 111(c):

"(3) If a State regulatory authority implements a standard established by subsection (d)(7) or (8), such authority shall—

"(A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and

"(B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) EFFECTIVE DATE.—Section 112(b) of such Act is amended by inserting "(or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (7), (8), and (9) of section 111(d)" after "Act" in both places such word appears in paragraphs (1) and (2).

(d) DEFINITIONS.—Section 3 of such Act is amended by adding the following new paragraphs at the end thereof:

"(19) The term 'integrated resource planning' means, in the case of an electric utility, a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(20) The term 'system cost' means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, distribution, transportation, utilization, waste management, and environmental compliance.

"(21) The term 'demand side management' includes load management techniques.".

(e) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (7), (8), and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978;

(2) an evaluation by the Secretary of whether and to what extent, integrated resource planning is likely to result in—

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) a survey of practices and policies under which electric cooperatives prepare integrated resource plans, submit such plans to the Rural Electrification Administration and the extent to which such integrated resource planning is reflected in rates charged to customers.

The report shall include an analysis prepared in conjunction with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts exist, or are likely to exist, from implementation of such programs.

SEC. 112. ENERGY EFFICIENCY GRANTS TO STATE REGULATORY AUTHORITIES.

(a) ENERGY EFFICIENCY GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $250,000 per authority, for purposes of encouraging demand-side management including energy conservation, energy efficiency and load management techniques and for meeting the requirements of paragraphs (7), (8), and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 and as a means of meeting gas supply needs and to meet the requirements of paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978. Such grants may be utilized by a State regulatory authority to provide financial assistance to nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in order to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine energy conservation, energy efficiency, or other demand-side management programs.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c) SECRETARIAL ACTION.—(1) In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority to achieve the purposes of this section and to consider implementation of the ratemaking standards established in—

(A) paragraphs (7), (8) and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978; or

(B) paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978.

(2) Such actions—

(A) shall include procedures to facilitate the participation of grantees and nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authorities examining demand-side management programs; and

(B) shall provide for coverage of the cost of such grantee and subgrantees' participation in such proceedings.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) DEFINITION.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as provided by section 3

of the Public Utility Regulatory Policies Act of 1978 in the case of electric utilities, and such term shall have the same meaning as provided by section 302 of the Public Utility Regulatory Policies Act of 1978 in the case of gas utilities, except that in the case of any State without a statewide ratemaking authority, such term shall mean the State energy office.

(g) AUTHORIZATION.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1994, 1995 and 1996 to carry out the purposes of this section.

SEC. 113. TENNESSEE VALLEY AUTHORITY LEAST-COST PLANNING PROGRAM.

(a) IN GENERAL.—The Tennessee Valley Authority shall conduct a least-cost planning program in accordance with this section.

(b) CONDUCT OF PROGRAM.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall employ and implement a planning and selection process for new energy resources which evaluates the full range of existing and incremental resources (including new power supplies, energy conservation and efficiency, and renewable energy resources) in order to provide adequate and reliable service to electric customers of the Tennessee Valley Authority at the lowest system cost.

(2) PLANNING AND SELECTION PROCESS.—The planning and selection process referred to in paragraph (1) shall—

(A) take into account necessary features for system operation, including diversity, reliability, dispatchability, and other factors of risk;

(B) take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and

(C) treat demand and supply resources on a consistent and integrated basis.

(3) SYSTEM COST DEFINED.—As used in paragraph (1), the term "system cost" means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) PARTICIPATION BY DISTRIBUTORS.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall—

(A) provide an opportunity for distributors of the Tennessee Valley Authority to recommend cost-effective energy efficiency opportunities, rate structure incentives, and renewable energy proposals for inclusion in such program; and

(B) encourage and assist such distributors in the planning and implementation of cost-effective energy efficiency options.

(2) ASSISTANCE.—The Tennessee Valley Authority shall provide appropriate assistance to distributors under paragraph (1)(B). Such assistance shall, where cost effective, be provided by the Tennessee Valley Authority acting through, or in cooperation with, an association of distributors. Such assistance may include publications, workshops, conferences, one-on-one assistance, financial assistance, equipment loans, technology assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers.

(d) PUBLIC REVIEW AND COMMENT.—Before the selection and addition of a major new energy resource on the Tennessee Valley Authority system, the Tennessee Valley Authority shall provide an opportunity for public review and comment and shall include a description of any such action in an annual report to the President and Congress.

(e) EXEMPTION FROM CERTAIN REQUIREMENTS.—The Tennessee Valley Authority shall not be subject to the least-cost planning requirements contained in section 111(d) of the Public Utility Regulatory Policies Act of 1978 or any similar requirement which might arise out of the Tennessee Valley Authority's electric power transactions with the Southeastern Power Administration.

SEC. 114. AMENDMENT OF HOOVER POWER PLANT ACT.

Title II of the Hoover Power Plant Act of 1984 (42 U.S.C. 7275–7276, Public Law 98–381) is amended to read as follows:

"TITLE II—INTEGRATED RESOURCE PLANNING

"Sec. 201. Definitions.
"Sec. 202. Regulations to require integrated resource planning.
"Sec. 203. Technical assistance.
"Sec. 204. Integrated resource plans.
"Sec. 205. Miscellaneous provisions.

"SEC. 201. DEFINITIONS.

"As used in this title:

"(1) The term 'Administrator' means the Administrator of the Western Area Power Administration.

"(2) The term 'integrated resource planning' means a planning process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(3) The term 'least cost option' means an option for providing reliable electric services to electric customers which will, to the extent practicable, minimize life-cycle system costs, including adverse environmental effects, of providing such service. To the extent practicable, energy efficiency and renewable resources may be given priority in any least-cost option.

"(4) The term 'long-term firm power service contract' means any contract for the sale by Western Area Power Administration of firm capacity, with or without energy, which is to be delivered over a period of more than one year.

"(5) The terms 'customer' or 'customers' means any entity or entities purchasing firm capacity with or without energy, from the Western Area Power Administration under a long-term firm power service contract. Such terms include parent-type entities and their distribution or user members.

"(6) For any customer, the term 'applicable integrated resource plan' means the integrated resource plan approved by the Administrator under this title for that customer.

"SEC. 202. REGULATIONS TO REQUIRE INTEGRATED RESOURCE PLANNING.

"(a) REGULATIONS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer purchasing electric energy under a long-term firm power service contract with the Western Area Power Administration to implement, within 3 years after the enactment of this section, integrated resource planning in accordance with the requirements of this title.

"(b) CERTAIN SMALL CUSTOMERS.—Notwithstanding subsection (a), for customers with total annual energy sales or usage of 25 Gigawatt Hours or less which are not members of a joint action agency or a generation and transmission cooperative with power supply responsibility, the Administrator may establish different regulations and apply such regulations to customers that the Administrator finds have limited economic, managerial, and resource capability to conduct integrated resource planning. The regulations under this subsection shall require such customers to consider all reasonable opportunities to meet their future energy service requirements using demand-side techniques, new renewable resources and other programs that will provide retail customers with electricity at the lowest possible cost, and minimize, to the extent practicable, adverse environmental effects.

"SEC. 203. TECHNICAL ASSISTANCE.

"The Administrator may provide technical assistance to customers to, among other things, conduct integrated resource planning, implement applicable integrated resource plans, and otherwise comply with the requirements of this title. Technical assistance may include publications, workshops, conferences, one-to-one assistance, equipment loans, technology and resource assessment studies, marketing studies, and other mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers. The Administrator shall give priority to providing technical assistance to customers that have limited capability to conduct integrated resource planning.

"SEC. 204. INTEGRATED RESOURCE PLANS.

"(a) REVIEW BY WESTERN AREA POWER ADMINISTRATION.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to submit an integrated resource plan to the Administrator within 12 months after such regulations are amended. The regulation shall require a revision of such plan to be submitted every 5 years after the initial submission. The Administrator shall review the initial plan in accordance with a schedule established by the Administrator (which schedule will provide for the review of all initial plans within 24 months after such regulations are amended), and each revision thereof within 120 days after his receipt of the plan or revision and determine whether the customer has in the development of the plan or revision, complied with this title. Plan amendments may be submitted to the Administrator at any time and the Administrator shall review each such amendment within 120 days after receipt thereof to determine whether the customer in amending its plan has complied with this title. If the Administrator determines that the customer, in developing its plan, revision, or amendment, has not complied with the requirements of this title, the customer shall resubmit the plan at any time thereafter. Whenever a plan or revision or amendment is resubmitted the Administrator shall review the plan or revision or amendment within 120 days after his receipt thereof to determine whether the customer has complied with this title.

"(b) CRITERIA FOR APPROVAL OF INTEGRATED RESOURCE PLANS.—The Administrator shall approve an integrated resource plan submitted as required under subsection (a) if, in developing the plan, the customer has:

"(1) Identified and accurately compared all practicable energy efficiency and energy supply resource options available to the customer.

"(2) Included a 2-year action plan and a 5-year action plan which describe specific actions the customer will take to implement its integrated resource plan.

"(3) Designated 'least-cost options' to be utilized by the customer for the purpose of providing reliable electric service to its retail consumers and explained the reasons why such options were selected.

"(4) To the extent practicable, minimized adverse environmental effects of new resource acquisitions.

"(5) In preparation and development of the plan (and each revision or amendment of the plan) has provided for full public participation, including participation by governing boards.

"(6) Included load forecasting.

"(7) Provided methods of validating predicted performance in order to determine whether objectives in the plan are being met.

"(8) Met such other criteria as the Administrator shall require.

"(c) USE OF OTHER INTEGRATED RESOURCE PLANS.—Where a customer or group of customers are implementing integrated resource planning under a program responding to Federal, State, or other initiatives, including integrated resource planning considered and implemented pursuant to section 111(d) of the Public Utility Regulatory Policies Act of 1978, in evaluating that customer's integrated resource plan under this title, the Administrator shall accept such plan as fulfillment of the requirements of this title to the extent such plan substantially complies with the requirements of this title.

"(d) COMPLIANCE WITH INTEGRATED RESOURCE PLANS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to fully comply with the applicable integrated resource plan and submit an annual report to the Administrator (in such form and containing such information as the Administrator may require) describing the customer's progress to the goals established in such plan. After the initial review under subsection (a) the Administrator shall periodically conduct reviews of a representative sample of applicable integrated resource plans and the customer's implementation of the applicable integrated resource plan to determine if the customers are in compliance with their plans. If the Administrator finds a customer out-of-compliance, the Administrator shall impose a surcharge under this section on all electric energy purchased by the customer from the Western Area Power Administration or reduce such customer's power allocation by 10 percent, unless the Administrator finds that a good faith effort has been made to comply with the approved plan.

"(e) ENFORCEMENT.—

"(1) NO APPROVED PLAN.—If an integrated resource plan for any customer is not submitted before the date 12 months after the guidelines are amended as required under this section or if the plan is disapproved by the Administrator and a revised plan is not resubmitted by the date 9 months after the date of such disapproval, the Administrator shall impose a surcharge of 10 percent of the purchase price on all power obtained by that customer from the Western Area Power Administration after such date. The surcharge shall remain in effect until an integrated resource plan is approved for that customer. If the plan is not submitted for more than one year after the required date, the surcharge shall increase to 20 percent for the second year (or any portion thereof prior to approval of the plan) and to 30 percent thereafter until the plan is submitted or the contract for the purchase of power by such customer from the Western Area Power Administration terminates.

"(2) FAILURE TO COMPLY WITH APPROVED PLAN.—After approval by the Administrator of an applicable integrated resource plan for any customer, the Administrator shall impose a 10 percent surcharge on all power purchased by such customer from the Western Area Power Administration whenever the Administrator determines that such customer's activities are not consistent with the applicable integrated resource plan. The surcharge shall remain in effect until the Administrator determines that the customer's activities are consistent with the applicable integrated resource plan. The surcharge shall be increased to 20 percent if the customer's activities are out of compliance for more than one year and to 30 percent after more than 2 years, except that no surcharge shall be imposed if the customer demonstrates, to the satisfaction of the Administrator, that a good faith effort has been made to comply with the approved plan.

"(3) REDUCTION IN POWER ALLOCATION.—In the case of any customer subject to a surcharge under paragraph (1) or (2), in lieu of imposing such surcharge the Administrator may reduce such customer's power allocation from the Western Area Power Administration by 10 percent. The Administrator shall provide by regulation the terms and conditions under which a power allocation terminated under this subsection may be reinstated.

"(f) INTEGRATED RESOURCE PLANNING COOPERATIVES.—With the approval of the Administrator, customers within any State or region may form integrated resource planning cooperatives for the purposes of complying with this title, and such customers shall be allowed an additional 6 months to submit an initial integrated resource plan to the Administrator.

"(g) CUSTOMERS WITH MORE THAN 1 CONTRACT.—If more than one long-term firm power service contract exists between the Administrator and a customer, only one integrated resource plan shall be required for that customer under this title.

"(h) PROGRAM REVIEW.—Within 1 year after January 1, 1999, and at appropriate intervals thereafter, the Administrator shall initiate a public process to review the program established by this section. The Administrator is authorized at that time to revise the criteria set forth in section 204(b) to reflect changes, if any, in technology, needs, or other developments.

"SEC. 205. MISCELLANEOUS PROVISIONS.

"(a) ENVIRONMENTAL IMPACT STATEMENT.—The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Administrator implementing this title in the same manner and to the same extent as such provisions apply to other major Federal actions significantly affecting the quality of the human environment.

"(b) ANNUAL REPORTS.—The Administrator shall include in the annual report submitted by the Western Area Power Administration (1) a description of the activities undertaken by the Administrator and by customers under this title and (2) an estimate of the energy savings and renewable resource benefits achieved as a result of such activities.

"(c) STATE REGULATED INVESTOR-OWNED UTILITIES.—Any State regulated electric utility (as defined in section 3(18) of the Public Utility Regulatory Policies Act of 1978) shall be exempt from the provisions of this title.

"(d) RURAL ELECTRIFICATION ADMINISTRATION REQUIREMENTS.—Nothing in this title shall require a customer to take any action inconsistent with a requirement imposed by the Rural Electrification Administration".

SEC. 115. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY BY GAS UTILITIES.

(a) DEFINITIONS.—Section 302 of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3202) is amended by adding the following at the end thereof:

"(9) The term 'integrated resource planning' means, in the case of a gas utility, planning by the use of any standard, regulation, practice, or policy to undertake a systematic comparison between demand-side management measures and the supply of gas by a gas utility to minimize life-cycle costs of adequate and reliable utility services to gas consumers. Integrated resource planning shall take into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk and shall treat demand and supply to gas consumers on a consistent and integrated basis.

"(10) The term 'demand-side management' includes energy conservation, energy efficiency and load management techniques.".

(b) IN GENERAL.—Section 303(b) of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3202) is amended by inserting at the end the following new paragraphs:

"(3) INTEGRATED RESOURCE PLANNING.—Each gas utility shall employ a regulator, in order to provide adequate and reliable service to its gas customers at the lowest system cost. All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority. Subsection (c) shall not apply to this paragraph to the extent that it could be construed to require the State regulatory authority to extend the record of a State proceeding in submitting reports to the Federal Government.

"(4) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates charged by any State regulated gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other demand-side management measures which are consistent with the findings and purposes of the Energy Policy Act of 1992 are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities. This objective requires that (A) regulators link the utility's net revenues, at least in part, to the utility's performance in implementing cost-effective programs promoted by this section; and (B) regulators ensure that, for purposes of recovering fixed costs, including its authorized return, the utility's performance is not affected by reductions in its retail sales volumes.".

(c) IMPACT ON SMALL BUSINESS.—Section 303 of such Act is amended by inserting the following new subsection at the end thereof:

"(d) SMALL BUSINESS IMPACTS.—If a State regulatory authority implements a standard established by subsection (b) (3) or (4), such authority shall—

"(1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand-side management measures, and

"(2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(d) EFFECTIVE DATE.—Section 303(a) of such Act is amended by inserting "(or after the en-

actment of the Energy Policy Act of 1992 in the case of standards under paragraphs (3), and (4) of subsection (b))" after "Act" and by striking out "standard established by subsection (b)(2)" in paragraph (2) and inserting "standards established by paragraphs (2), (3) and (4) of subsection (b)".

(e) REPORT.—The report under section 111(e) of this Act transmitted by the Secretary of Energy to the President and to the Congress shall contain a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978. The report shall include an analysis, prepared in conjunction, with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by gas utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand-side management measures and whether any unfair, deceptive, or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

Subtitle C—Appliance and Equipment Energy Efficiency Standards

SEC. 121. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial assistance to support a voluntary national window rating program that will develop energy ratings and labels for windows and window systems.

(2) Such rating program shall include—

(A) specifications for testing procedures and labels that will enable window buyers to make more informed purchasing decisions about the energy efficiency of windows and window systems; and

(B) information (which may be disseminated through catalogs, trade publications, labels, or other mechanisms) that will allow window buyers to assess the energy consumption and potential cost savings of alternative window products.

(3) Such rating program shall be developed by the National Fenestration Rating Council according to commonly accepted procedures for the development of national testing procedures and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts of the National Fenestration Rating Council and, not later than one year after the date of the enactment of this Act, make a determination as to whether the program developed by the Council is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national window rating program consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for windows and window systems.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those windows and window systems for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of window or window system (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 122. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (G); and

(B) by inserting after subparagraph (A) the following:

"(B) Small commercial package air conditioning and heating equipment.

"(C) Large commercial package air conditioning and heating equipment.

"(D) Packaged terminal air-conditioners and packaged terminal heat pumps.

"(E) Warm air furnaces and packaged boilers.

"(F) Storage water heaters, instantaneous water heaters, and unfired hot water storage tanks."; and

(2) in paragraph (2)(B)—

(A) by striking out "pumps)" and inserting in lieu thereof "pumps, small and large commercial package air conditioning and heating equipment, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks)"; and

(B) by striking out clauses (v) and (xi) and redesignating clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) as clauses (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively; and

(3) by adding at the end the following:

"(8) The term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity).

"(9) The term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(10)(A) The term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability by builder's choice of hot water, steam, or electricity.

"(B) The term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heat source available to builders with the choice of hot water, steam, or electric resistant heat.

"(11)(A) The term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces.

"(B) The term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.

"(12)(A) The term 'storage water heater' means a water heater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. Such term does not include units with an input rating of 4000 Btu per hour or more per gallon of stored water.

"(B) The term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water.

"(C) The term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(13)(A) The term 'electric motor' means any motor which is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1–1987.

"(B) The term 'definite purpose motor' means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(C) The term 'special purpose motor' means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

"(D) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

"(E) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed airtight.

"(F) The term 'small electric motor' means a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1–1987.

"(G) The term 'efficiency' when used with respect to an electric motor means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(H) The term 'nominal full load efficiency' means the average efficiency of a population of motors of duplicate design as determined in accordance with NEMA Standards Publication MG1–1987.

"(14) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

"(15) The term 'IES' means the Illuminating Engineering Society of North America.

"(16) The term 'NEMA' means the National Electrical Manufacturers Association.

"(17) The term 'IEEE' means the Institute of Electrical and Electronics Engineers.

"(18) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—(1) Section 343(a) of such Act (42 U.S.C. 6314) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section."; and

(B) by adding at the end the following new paragraphs:

"(4)(A) With respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks to which standards are applicable under section 342, the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers, as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992.

"(B) If such an industry test procedure or rating procedure for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks is amended, the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

"(C) If the Secretary prescribes a rule containing such a determination, the rule may establish an amended test procedure for such product that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 323(e).

"(5)(A) With respect to electric motors to which standards are applicable under section 342, the test procedures shall be the test procedures specified in NEMA Standards Publication MG1–1987 and IEEE Standard 112 Test Method B for motor efficiency, as in effect on the date of the enactment of the Energy Policy Act of 1992.

"(B) If the test procedure requirements of NEMA Standards Publication MG–1987 and IEEE Standard 112 Test Method B for motor efficiency are amended, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such amended test procedure requirements unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

"(C) If the Secretary prescribes a rule containing such a determination, the rule may establish amended test procedures for such electric motors that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 323(e).".

(2) The second subsection designated as subsection (d) of section 343 of such Act (42 U.S.C. 6314(d)(1)) is amended in paragraph (1) in the material preceding subparagraph (A), by inserting after "180 days" the following: "(or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days)".

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended—

(1) in subsection (a), by striking out "may" and inserting in lieu thereof "shall";

(2) in subsection (c), by striking out "may" in the material preceding paragraph (1) and inserting in lieu thereof "shall";

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), (j), and (k), respectively; and

(4) by inserting after subsection (c), the following new subsections:

"(d) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for electric motors under section 343, the Secretary shall prescribe labeling rules under this section applicable to electric motors taking into consideration NEMA Standards Publication MG1–1987. Such rules shall provide that the labeling of any electric motor manufactured after the 12-month period beginning on the date the Secretary prescribes such labeling rules, shall—

"(1) indicate the energy efficiency of the motor on the permanent nameplate attached to such motor;

"(2) prominently display the energy efficiency of the motor in equipment catalogs and other material used to market the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for electric motors under section 342.

"(e) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks under section 343, the Secretary shall prescribe labeling rules under this section for such equipment. Such rules shall provide that the labeling of any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, and unfired hot water storage tank manufactured after the 12-month period beginning on the date the Secretary prescribes such rules shall—

"(1) indicate the energy efficiency of the equipment on the permanent nameplate attached to such equipment or other nearby permanent marking;

"(2) prominently display the energy efficiency of the equipment in new equipment catalogs used by the manufacturer to advertise the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for such equipment under section 342.".

(d) STANDARDS.—Section 342 of such Act is amended to read as follows:

"STANDARDS

"SEC. 342. (a) SMALL AND LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT, PACKAGED TERMINAL AIR CONDITIONERS AND HEAT PUMPS, WARM-AIR FURNACES, PACKAGED BOILERS, STORAGE WATER HEATERS, INSTANTANEOUS WATER HEATERS, AND UNFIRED HOT WATER STORAGE TANKS.—(1) Each small commercial package air conditioning and heating equipment manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0.

"(B) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7.

"(C) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees F db).

"(D) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8.

"(E) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6.

"(F) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db).

"(G) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

"(H) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water source and water-cooled equipment).

"(I) The minimum coefficient of performance in the heating mode of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water).

"(2) Each large commercial package air conditioning and heating equipment manufactured on or after January 1, 1995, shall meet the following standard levels:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db).

"(B) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9.

"(C) The minimum energy efficiency ratio of water- and evaporatively-cooled central air con-

ditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86).

"(3) Each packaged terminal air conditioner and packaged terminal heat pump manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum energy efficiency ratio (EER) of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0 — (0.16 x Capacity [in thousands of Btu per hour at a standard rating of 95 degrees F db, outdoor temperature]). If a unit has a capacity of less than 7,000 Btu per hour, then 7,000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(B) The minimum coefficient of performance (COP) of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 x the minimum cooling EER as specified in subparagraph (A)) (at a standard rating of 47 degrees F db).

"(4) Each warm air furnace and packaged boiler manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent.

"(B) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent.

"(C) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent.

"(D) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent.

"(5) Each storage water heater, instantaneous water heater, and unfired water storage tank manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]).

"(B) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(C) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(D) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent.

"(E) Except as provided in subparagraph (G), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

"(F) Except as provided in subparagraph (G), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area.

"(G) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (A) through (C) and subparagraphs (E) and (F) if the tank surface area is thermally insulated to R-12.5 and if a standing pilot light is not used.

"(6)(A) If ASHRAE/IES Standard 90.1, as in effect on the date of enactment of the Energy Policy Act of 1992, is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, the Secretary shall establish an amended uniform national standard for that product at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1, unless the Secretary determines, by rule published in the Federal Register and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than such amended ASHRAE/IES Standard 90.1 for such product would result in significant additional conservation of energy and is technologically feasible and economically justified.

"(B)(i) If the Secretary issues a rule containing such a determination, the rule shall establish such amended standard. In determining whether a standard is economically justified for the purposes of subparagraph (A), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products which are likely to result from the imposition of the standard;

"(III) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(VI) the need for national energy conservation; and

"(VII) other factors the Secretary considers relevant.

"(ii) The Secretary may not prescribe any amended standard under this paragraph which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types or classes.

"(C) A standard amended by the Secretary under this paragraph shall become effective for products manufactured—

"(i) with respect to small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, on or after a date which is two years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A); and

"(ii) with respect to large commercial package air conditioning and heating equipment, on or after a date which is three years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A);

except that an energy conservation standard amended by the Secretary pursuant to a rule under subparagraph (B) shall become effective for products manufactured on or after a date which is four years after the date such rule is published in the Federal Register.

"(b) ELECTRIC MOTORS.—(1) Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (2), each electric motor manufactured (alone or as a component of another piece of equipment) after the 60-month period beginning on the date of the enactment of this subsection, or in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after the 84-month period beginning on such date, shall have a nominal full load efficiency of not less than the following:

Number of poles	*Nominal Full-Load Efficiency*					
	Open Motors			*Closed Motors*		
	6	*4*	*2*	*6*	*4*	*2*
Motor Horsepower:						
1	*80.0*	*82.5*	*......*	*80.0*	*82.5*	*75.5*
1.5	*84.0*	*84.0*	*82.5*	*85.5*	*84.0*	*82.5*
2	*85.5*	*84.0*	*84.0*	*86.5*	*84.0*	*84.0*
3	*86.5*	*86.5*	*84.0*	*87.5*	*87.5*	*85.5*
5	*87.5*	*87.5*	*85.5*	*87.5*	*87.5*	*87.5*
7.5	*88.5*	*88.5*	*87.5*	*89.5*	*89.5*	*88.5*
10	*90.2*	*89.5*	*88.5*	*89.5*	*89.5*	*89.5*
15	*90.2*	*91.0*	*89.5*	*90.2*	*91.0*	*90.2*
20	*91.0*	*91.0*	*90.2*	*90.2*	*91.0*	*90.2*
25	*91.7*	*91.7*	*91.0*	*91.7*	*92.4*	*91.0*
30	*92.4*	*92.4*	*91.0*	*91.7*	*92.4*	*91.0*
40	*93.0*	*93.0*	*91.7*	*93.0*	*93.0*	*91.7*
50	*93.0*	*93.0*	*92.4*	*93.0*	*93.0*	*92.4*
60	*93.6*	*93.6*	*93.0*	*93.6*	*93.6*	*93.0*
75	*93.6*	*94.1*	*93.0*	*93.6*	*94.1*	*93.0*
100	*94.1*	*94.1*	*93.0*	*94.1*	*94.5*	*93.6*
125	*94.1*	*94.5*	*93.6*	*94.1*	*94.5*	*94.5*
150	*94.5*	*95.0*	*93.6*	*95.0*	*95.0*	*94.5*
200	*94.5*	*95.0*	*94.5*	*95.0*	*95.0*	*95.0*

"(2)(A) The Secretary may, by rule, provide that the standards specified in paragraph (1) shall not apply to certain types or classes of electric motors if—

"(i) compliance with such standards would not result in significant energy savings because such motors cannot be used in most general purpose applications or are very unlikely to be used in most general purpose applications; and

"(ii) standards for such motors would not be technologically feasible or economically justified.

"(B) Not later than one year after the date of the enactment of this subsection, a manufacturer seeking an exemption under this paragraph with respect to a type or class of electric motor developed on or before the date of the enactment of such subsection shall submit a petition to the Secretary requesting such exemption. Such petition shall include evidence that the type or class of motor meets the criteria for exemption specified in subparagraph (A).

"(C) Not later than two years after the date of the enactment of this subsection, the Secretary

shall rule on each petition for exemption submitted pursuant to subparagraph (B). In making such ruling, the Secretary shall afford an opportunity for public comment.

"(D) Manufacturers of types or classes of motors developed after the date of the enactment of this subsection to which standards under paragraph (1) would be applicable may petition the Secretary for exemptions from compliance with such standards based on the criteria specified in subparagraph (A).

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is five years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—(1) Section 345(a) of such Act (42 U.S.C. 6316(a)) is amended—

(A) in the material preceding paragraph (1)—

(i) by inserting after "to this part" the following: "(other than the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1))"; and

(ii) by striking out "and sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (s) of section 325, and sections 327";

(B) in paragraph (1)—

(i) by striking out "and 324" and inserting in lieu thereof ", 324, and 325"; and

(ii) by striking out "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(C) in paragraph (3), by striking out "and" at the end thereof;

(D) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(E) by adding after paragraph (4) the following new paragraphs:

"(5) section 327(a) shall be applied, in the case of electric motors, as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 1992;

"(6) section 327(b)(1) shall be applied as if electric motors were fluorescent lamp ballasts and as if the National Appliance Energy Conservation Amendments of 1988 were the Energy Policy Act of 1992;

"(7) section 327(b)(4) shall be applied as if electric motors were fluorescent lamp ballasts and as if paragraph (5) of section 325(g) were section 342; and

"(8) notwithstanding any other provision of law, a regulation or other requirement adopted by a State or subdivision of a State contained in a State or local building code for new construction concerning the energy efficiency or energy use of an electric motor covered under this part is not superseded by the standards for such electric motor established or prescribed under section 342(b) if such regulation or requirement is identical to the standards established or prescribed under such section.".

(2) Section 345 of such Act (42 U.S.C. 6316) is amended by adding at the end the following new subsections:

"(b)(1) The provisions of section 326(a), (b), and (d), section 327(a), and sections 328 through 336 shall apply with respect to the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1) to the same extent and in the same manner as they apply in part B. In applying such provisions for the purposes of such equipment, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

"(2)(A) A standard prescribed or established under section 342(a) shall, beginning on the effective date of such standard, supersede any State or local regulation concerning the energy efficiency or energy use of a product for which a standard is prescribed or established pursuant to such section.

"(B) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a standard for such a product contained in a State or local building code for new construction if—

"(i) the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1; and

"(ii) the standard in the building code does not take effect prior to the effective date of the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede the standards established by the State of California set forth in Table C-6, California Code of Regulations, Title 24, Part 2, Chapter 2-53, for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993.

"(D) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures, and other requirements specified in section 327(d) of this Act.

"(c) With respect to any electric motor to which standards are applicable under section 342(b), the Secretary shall require manufacturers to certify, through an independent testing or certification program nationally recognized in the United States, that such motor meets the applicable.".

(3) Section 345 of such Act (42 U.S.C. 6316) is amended by striking out the section heading and inserting in lieu thereof "ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION".

(f) TECHNICAL AMENDMENTS.—(1) Section 340(3) of such Act is amended by striking out "(3) the" and inserting in lieu thereof the following: "(3) The".

(2) Section 343 of such Act (42 U.S.C. 6314) is amended by redesignating the first subsection designated as subsection (d) as subsection (c).

(3) The table of contents of such Act is amended—

(A) by striking out the item relating to section 342 and inserting in lieu thereof the following new item:

"Sec. 342. Standards.";

and

(B) by striking the item for section 345 and inserting in lieu thereof the following new item:

"Sec. 345. Administration, penalties, enforcement, and preemption.".

SEC. 123. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN LAMPS AND PLUMBING PRODUCTS.

(a) STATEMENT OF PURPOSE.—Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in paragraph (6), by striking out "and" at the end;

(2) in paragraph (7), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to conserve water by improving the water efficiency of certain plumbing products and appliances.".

(b) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1) by striking out the subsection designation;

(2) in paragraph (1)—

(A) in subparagraph (A), by inserting before the semicolon the following: "or, with respect to showerheads, faucets, water closets, and urinals, water"; and

(B) in subparagraph (B), by striking out "ballasts" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals";

(3) in paragraph (6)—

(A) in subparagraph (A), by inserting ", or, in the case of showerheads, faucets, water closets, and urinals, water use," after "energy use"; and

(B) in subparagraph (B)—

(i) by striking out "and (14)" and inserting in lieu thereof "(15), (16), (17), and (19)"; and

(ii) by striking out "325(o)" and inserting in lieu thereof "325(r)";

(4) in paragraph (7), by inserting after "to be consumed annually" the following: ", and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost of water and wastewater treatment services likely to be incurred annually,"; and

(5) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1-1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3-1978 (R1984) and related supplement ANSI C78.3a-1985.

"(B) The term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but does not include any lamp designed and marketed for the following nongeneral lighting applications:

"(i) Fluorescent lamps designed to promote plant growth.

"(ii) Fluorescent lamps specifically designed for cold temperature installations.

"(iii) Colored fluorescent lamps.

"(iv) Impact-resistant fluorescent lamps.

"(v) Reflectorized or aperture lamps.

"(vi) Fluorescent lamps designed for use in reprographic equipment.

"(vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.

"(viii) Lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding ER or BR) with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceed 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts.

"(iii) Any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) The term 'general service incandescent lamp' means any incandescent lamp (other than a miniature or photographic lamp) that has an E26 medium screw base, a rated voltage range at least partially within 115 and 130 volts, and which can be used to satisfy the majority of lighting applications, but does not include any lamps specifically designed for—

"(i) traffic signal, or street lighting service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The terms 'fluorescent lamp' and 'incandescent lamp' do not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'incandescent reflector lamp' means a lamp described in subparagraph (C)(ii).

"(G) The term 'average lamp efficacy' means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

"(H) The term 'base' means the portion of the lamp which connects with the socket as described in ANSI C81.61–1990.

"(I) The term 'bulb shape' means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980 (R1984).

"(J) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(K) The term 'correlated color temperature' means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

"(L) The term 'IES' means the Illuminating Engineering Society of North America.

"(M) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(N) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(O) The term 'lamp wattage' means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(P) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures described in the IES Lighting Handbook-Reference Volume.

"(Q) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(R) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(S) The term 'medium base compact fluorescent lamp' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp.

"(31)(A) The term 'water use' means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 323.

"(B) The term 'ASME' means the American Society of Mechanical Engineers.

"(C) The term 'ANSI' means the American National Standards Institute.

"(D) The term 'showerhead' means any showerhead (including a handheld showerhead), except a safety shower showerhead.

"(E) The term 'faucet' means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

"(F) The term 'water closet' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(G) The term 'urinal' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(H) The terms 'blowout', 'flushometer tank', 'low consumption', and 'flushometer valve' have the meaning given such terms in ASME A112.19.2M–1990.".

(c) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (19); and

(2) by inserting after paragraph (13) the following new paragraphs:

"(14) General service fluorescent lamps and incandescent reflector lamps.

"(15) Showerheads, except safety shower showerheads.

'"(16) Faucets.

"(17) Water closets.

"(18) Urinals.".

(d) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by inserting after "energy use," the following "water use (in the case of showerheads, faucets, water closets and urinals),";

(B) in paragraph (4)—

(i) by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use" after "energy use";

(ii) by inserting after "such cycle" the following: ", or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle"; and

(iii) by inserting ", water, and wastewater treatment" before the period at the end of the second sentence; and

(C) by adding at the end the following new paragraphs:

"(6) With respect to fluorescent lamps and incandescent reflector lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be carried out by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

"(7)(A) Test procedures for showerheads and faucets to which standards are applicable under subsection (j) of section 325 shall be the test procedures specified in ASME A112.18.1M–1989 for such products.

"(B) If the test procedure requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

"(8)(A) Test procedures for water closets and urinals to which standards are applicable under subsection (k) of section 325 shall be the test procedures specified in ASME A112.19.6–1990 for such products.

"(B) If the test procedure requirements of ASME A112.19.6–1990 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).";

(2) in paragraphs (1) and (2) of subsection (c), by inserting "or, in the case of showerheads, faucets, water closets, and urinals, water use" after "efficiency" each place it appears;

(3) in subsection (c)(2), in the material preceding subparagraph (A), by inserting "or established" after "prescribed"; and

(4) in subsection (e)—

(A) in paragraph (1), by striking out "or measured energy use" and inserting in lieu thereof ", measured energy use, or measured water use";

(B) in paragraph (2), by striking out "energy efficiency or energy use" each place it appears and inserting in lieu thereof "energy efficiency, energy use, or water use"; and

(C) in paragraph (3), by striking out "energy efficiency or energy use" and inserting in lieu thereof "energy efficiency, energy use, or water use".

(e) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraphs:

"(C)(i) Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Except as provided in clause (ii), such rules shall provide that the labeling of any general service fluorescent lamp, medium base compact fluorescent lamp, and general service incandescent lamp manufactured after the 12-month period beginning on the date of the publication of such rule shall indicate conspicuously on the packaging of the lamp, in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements. Labeling information for incandescent lamps shall be based on performance when operated at 120 volts input, regardless of the rated lamp voltage.

"(ii) If the Secretary determines that compliance with the standards specified in section 325(j) for any lamp will result in the discontinuance of the manufacture of such lamp, the Commission may exempt such lamp from the labeling rules prescribed under clause (i).

"(D)(i) Not later than one year after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section for showerheads and faucets to which standards are applicable under subsection (j) of section 325. Such rules shall provide that the labeling of any showerhead or faucet manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.18.1M-1989, except that each showerhead and flow restricting or controlling spout-end device shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each showerhead and flow restricting or controlling spout-end device to bear a permanent legible marking indicating the flow rate of such product.

"(E)(i) Not later than one year after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section for water closets and urinals to which standards are applicable under subsection (k) of section 325. Such rules shall provide that the labeling of any water closet or urinal manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.19.2M–1990, except that each fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the water use, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.19.2M–1990 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each fixture and flushometer valve to bear a permanent legible marking indicating the water use of such fixture or flushometer valve.

"(iii) Any labeling rules prescribed under this subparagraph before January 1, 1997, shall provide that, with respect to any gravity tank-type white 2-piece toilet which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection with such product (including packaging and point of sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words 'For Commercial Use Only'.";

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(19)";

(3) in subsection (b)(1)(B), by striking out "(14)" and inserting in lieu thereof "(13), and paragraphs (15) through (19)";

(4) in paragraphs (3) and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(5) in subsection (c)—

(A) in paragraph (7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13), (14), (15), (16), (17), and (18) of section 322(a)"; and

(B) by adding at the end the following:

"(8) If a manufacturer of a covered product specified in paragraph (15) or (17) of section 322(a) elects to provide a label for such covered product conveying the estimated annual operating cost of such product or the range of estimated annual operating costs for the type or class of such product—

"(A) such estimated cost or range of costs shall be determined in accordance with test procedures prescribed under section 323;

"(B) the format of such label shall be in accordance with a format prescribed by the Commission; and

"(C) such label shall be displayed in a manner, prescribed by the Commission, to be likely to assist consumers in making purchasing decisions and appropriate to carry out the purposes of this Act.".

(f) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating subsections (i) through (q) as subsections (l) through (t);

(2) by inserting after subsection (h) the following:

"(i) GENERAL SERVICE FLUORESCENT LAMPS AND INCANDESCENT REFLECTOR LAMPS.—(1)(A) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

"FLUORESCENT LAMPS

"Lamp Type	*Nominal Lamp Wattage*	*Minimum CRI*	*Minimum Average Lamp Efficacy (LPW)*	*Effective Date (Months)*
4-foot medium bi-pin	*>35 W*	*69*	*75.0*	*36*
	≤35 W	*45*	*75.0*	*36*
2-foot U-shaped	*>35 W*	*69*	*68.0*	*36*
	≤35 W	*45*	*64.0*	*36*
8-foot slimline	*65 W*	*69*	*80.0*	*18*
	≤65 W	*45*	*80.0*	*18*
8-foot high output	*>100 W*	*69*	*80.0*	*18*
	≤100 W	*45*	*80.0*	*18*

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	*Minimum Average Lamp Efficacy (LPW)*	*Effective Date (Months)*
40–50	*10.5*	*36*
51–66	*11.0*	*36*
67–85	*12.5*	*36*
86–115	*14.0*	*36*
116–155	*14.5*	*36*
156–205	*15.0*	*36*

"(B) For the purposes of the tables set forth in subparagraph (A), the term 'effective date' means the last day of the month set forth in the table which follows the date of the enactment of the Energy Policy Act of 1992.

"(2) Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp which is in compliance with the law at the time such lamp was manufactured.

"(3) Not less than 36 months after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on the date of the enactment of this subsection to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Not less than eight years after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than nine years and six months after the date of the enactment of this subsection to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(5) Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall initiate a rulemaking procedure to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended so that they would be applicable to additional general service fluorescent and general service incandescent lamps and shall publish, not later than 18 months after initiating such rulemaking, a final rule including such amended standards, if any. Such rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date such rule is published.

"(6)(A) With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of such lamp of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"(B) Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if such action is warranted as a result of other Federal action (including restrictions on materials or processes) which would have the effect of either increasing the energy use or decreasing the energy efficiency of such product.

"(7) Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to such section, each manufacturer of a product to which such standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type. Such report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period. With respect to lamp types which are not manufactured during the 12-month period preceding the date such standards become effective, such report shall be filed with the Secretary not later than the date which is 12 months after the date manufacturing is commenced and shall include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during such 12-month period.

"(j) STANDARDS FOR SHOWERHEADS AND FAUCETS.—(1) The maximum water use allowed for any showerhead manufactured after January 1, 1994, is 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch. Any such showerhead shall also meet the requirements of ASME/ANSI A112.18.1M-1989, 7.4.3(a).

"(2) The maximum water use allowed for any of the following faucets manufactured after January 1, 1994, when measured at a flowing water pressure of 80 pounds per square inch, is as follows:

"Lavatory faucets	*2.5 gallons per minute*
"Lavatory replacement aerators.	*2.5 gallons per minute*
"Kitchen faucets	*2.5 gallons per minute*
"Kitchen replacement aerators.	*2.5 gallons per minute*
"Metering faucets	*0.25 gallons per cycle*

"(3)(A) If the maximum flow rate requirements or the design requirements of ASME/ANSI Standard A112.18.1M–1989 are amended to improve the efficiency of water use of any type or class of showerhead or faucet and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in the amended ASME/ANSI Standard A112.18.1M and providing that such standard shall apply to products manufactured after a date which is 12 months after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.18.1M—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of showerhead or faucet more stringent than such amended ASME/ANSI Standard A112.18.1M—

"(I) would result in additional conservation of energy or water;

"(II) would be technologically feasible and economically justified under subsection (o); and

"(III) would be consistent with the maintenance of public health and safety.

"(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(I) is more stringent than amended ASME/ANSI Standard A–112.18.1M for such type or class of showerhead or faucet and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and

"(II) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(C) If, after any period of five consecutive years, the maximum flow rate requirements of the ASME/ANSI standard for showerheads are not amended to improve the efficiency of water use of such products, or after any such period such requirements for faucets are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(i) is more stringent than the standards in effect for such type or class of showerhead or faucet; and

"(ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(k) STANDARDS FOR WATER CLOSETS AND URINALS.—(1)(A) Except as provided in subparagraph (B), the maximum water use allowed in gallons per flush for any of the following water closets manufactured after January 1, 1994, is the following:

"Gravity tank-type toilets	*1.6 gpf.*
"Flushometer tank toilets	*1.6 gpf.*
"Electromechanical hydraulic toilets	*1.6 gpf.*
"Blowout toilets	*3.5 gpf.*

"(B) The maximum water use allowed for any gravity tank-type white 2-piece toilet which bears an adhesive label conspicuous upon installation consisting of the words 'Commercial Use Only' manufactured after January 1, 1994, and before January 1, 1997, is 3.5 gallons per flush.

"(C) The maximum water use allowed for flushometer valve toilets, other than blowout toilets, manufactured after January 1, 1997, is 1.6 gallons per flush.

"(2) The maximum water use allowed for any urinal manufactured after January 1, 1994, is 1.0 gallons per flush.

"(3)(A) If the maximum flush volume requirements of ASME Standard A112.19.6–1990 are amended to improve the efficiency of water use of any low consumption water closet or low consumption urinal and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in amended ASME/ANSI Standard A112.19.6 and providing that such standard shall apply to products manufactured after a date which is one year after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.19.6—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of low consumption water closet or low consumption urinal more stringent than such amended ASME/ANSI Standard A112.19.6 for such product—

"(I) would result in additional conservation of energy or water;

"(II) would be technologically feasible and economically justified under subsection (o); and

"(III) would be consistent with the maintenance of public health and safety.

"(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of low consumption water closet or low consumption urinal if such State regulation—

"(I) is more stringent than amended ASME/ANSI Standard A–112.19.6 for such type or class of low consumption water closet or low consumption urinal and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and

"(II) is applicable to any sale or installation of all products in such type or class of low consumption water closet or low consumption urinal.

"(C) If, after any period of five consecutive years, the maximum flush volume requirements of the ASME/ANSI standard for low consumption water closets are not amended to improve the efficiency of water use of such products, or after any such period such requirements for low consumption urinals are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of water closet or urinal if such State regulation—

"(i) is more stringent than the standards in effect for such type or class of water closet or urinal; and

"(ii) is applicable to any sale or installation of all products in such type or class of water closet or urinal.";

(3) in subsection (l) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraphs (1) and (2), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(B) in paragraphs (1) and (3), by striking out "(l) and (m)" and inserting in lieu thereof "(o) and (p)";

(4) in subsection (m) (as redesignated by paragraph (1) of this subsection), by striking out "(h)" and inserting in lieu thereof "(i)";

(5) in subsection (n) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1)—

(i) by striking out "and in paragraph (13)" and inserting in lieu thereof ", and in paragraphs (13) and (14)"; and

(ii) by striking out "(h)" and inserting in lieu thereof "(i)";

(B) in paragraph (2)(C), by striking out "(l)(2)(B)(i)(II)" and inserting in lieu thereof "(o)(2)(B)(i)(II)"; and

(C) in paragraph (3)(B), by inserting "general service fluorescent lamps, incandescent reflector lamps," after "fluorescent lamp ballasts,";

(6) in subsection (o) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1), by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use," after "energy use,";

(B) in paragraph (2)(A), by inserting ", or, in the case of showerheads, faucets, water closets, or urinals, water efficiency," after "energy efficiency";

(C) in paragraph (2)(B)(i)(III), by inserting ", or as applicable, water," after "energy";

(D) in paragraph (2)(B)(i)(VI), by inserting "and water" after "energy";

(E) in paragraph (2)(B)(iii), by striking out "energy savings" and inserting "energy, and as applicable water, savings"; and

(F) in paragraph (3)(B), by inserting ", in the case of showerheads, faucets, water closets, or urinals, water, or" after "energy or"; and

(7) in subsection (p)(3)(A) (as redesignated by paragraph (1) of this subsection)—

(A) by striking out "(l)(2)" and inserting in lieu thereof "(o)(2)"; and

(B) by striking out "(l)(4)" and inserting in lieu thereof "(o)(4)".

(g) REQUIREMENTS OF MANUFACTURERS.—Section 326 of such Act (42 U.S.C. 6296) is amended—

(1) in subsection (b)(4), by inserting "or water use" after "consumption"; and

(2) in subsection (d)(1), by striking out "or energy use" and inserting in lieu thereof ", energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use".

(h) EFFECT ON OTHER LAW.—Section 327 of such Act (42 U.S.C. 6297) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the material preceding subparagraph (A), by inserting "or water use" after "energy consumption";

(B) in paragraph (1)(A), by inserting ", water use," after "energy consumption";

(C) in paragraph (1)(B), by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use"; and

(D) by amending paragraph (2) to read as follows:

"(2) For purposes of this section, the following definitions apply:

"(A) The term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions. With respect to showerheads, faucets, water closets, and urinals, such term shall also mean a law, regulation, or other requirement of a river basin commission that has jurisdiction within a State.

"(B) The term 'river basin commission' means—

"(i) a commission established by interstate compact to apportion, store, regulate, or otherwise manage or coordinate the management of the waters of a river basin; and

"(ii) a commission established under section 201(a) of the Water Resources Planning Act (42 U.S.C. 1962b(a)).";

(2) in subsection (b)—

(A) in the material preceding paragraph (1), by striking out "or energy use of the covered product" and inserting in lieu thereof ", energy use, or water use of the covered product";

(B) by inserting before the semicolon at the end of paragraph (1) the following: ", or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before the date of the enactment of the Energy Policy Act of 1992";

(C) in paragraph (4), by inserting before the semicolon at the end the following: ", or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 325(i) is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 325(j) is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 325(k) is applicable";

(D) in paragraph (5), by striking out "or";

(E) in paragraph (6), by striking out the period at the end and inserting "; or"; and

(F) by adding at the end the following new paragraph:

"(7) is a regulation (or portion thereof) concerning the water efficiency or water use of low consumption flushometer valve water closets.";

(3) in subsection (c)—

(A) in the material preceding paragraph (1)—

(i) by inserting ", subparagraphs (B) and (C) of section 325(j)(3), and subparagraphs (B) and (C) of section 325(k)(3)" after "section 325(b)(3)(A)(ii)"; and

(ii) by striking out "or energy use" and inserting in lieu thereof the following: ", energy use, or water use";

(B) in paragraph (1), by inserting before the semicolon at the end the following: ", except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 325(i) is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary and is applicable to such lamps";

(C) in paragraph (2), by striking out "or";

(D) in paragraph (3), by striking out the period at the end and inserting a semicolon; and

(E) by adding at the end the following new paragraphs:

"(4) is a regulation concerning the water use of lavatory faucets adopted by the State of New York or the State of Georgia before the date of the enactment of the Energy Policy Act of 1992;

"(5) is a regulation concerning the water use of lavatory or kitchen faucets adopted by the State of Rhode Island prior to the date of the enactment of the Energy Policy Act of 1992; or

"(6) is a regulation (or portion thereof) concerning the water efficiency or water use of gravity tank-type low consumption water closets for installation in public places, except that such a regulation shall be effective only until January 1, 1997.";

(4) in subsection (d)(1)—

(A) in subparagraph (A)—

(i) by inserting "or river basin commission" after "Any State"; and

(ii) by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use";

(B) in subparagraph (B)—

(i) by striking out "State has" and inserting "State or river basin commission has"; and

(ii) by inserting "or water" after "energy";

(C) in subparagraph (C)—

(i) in the material preceding clause (i) and in clause (ii), by inserting "or water" after "energy" each place it appears; and

(ii) by inserting before the period at the end the following: ", and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development"; and

(5) in subsection (d)(5)(B), by striking clause (i) and inserting the following:

"(i) there exists within the State an energy emergency condition or, if the State regulation provides for an energy conservation standard or other requirement with respect to the water use of a covered product for which there is a Federal energy conservation standard under subsection (j) or (k) of section 325, a water emergency condition, which—

"(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy or, in the case of a water emergency condition, water or wastewater treatment, to its residents at less than prohibitive costs; and

"(II) cannot be substantially alleviated by the importation of energy or, in the case of a water emergency condition, by the importation of water, or by the use of interconnection agreements; and".

(i) INCENTIVE PROGRAMS.—Section 337 of such Act (42 U.S.C. 6307) is amended—

(1) by striking out "337." and inserting "337. (a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) STATE AND LOCAL INCENTIVE PROGRAMS.—(1) The Secretary shall, not later than one year after the date of the enactment of this subsection, issue recommendations to the States for establishing State and local incentive programs designed to encourage the acceleration of voluntary replacement, by consumers, of existing showerheads, faucets, water closets, and urinals with those products that meet the standards established for such products pursuant to subsections (j) and (k) of section 325.

"(2) In developing such recommendations, the Secretary shall consult with the heads of other federal agencies, including the Administrator of the Environmental Protection Agency; State officials; manufacturers, suppliers, and installers of plumbing products; and other interested parties.".

SEC. 124. HIGH-INTENSITY DISCHARGE LAMPS, DISTRIBUTION TRANSFORMERS, AND SMALL ELECTRIC MOTORS.

(a) STANDARDS.—Section 346 of the Energy Policy and Conservation Act (42 U.S.C. 6317) is amended to read as follows:

"ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS, DISTRIBUTION TRANSFORMERS, AND SMALL ELECTRIC MOTORS

"SEC. 346. (a)(1) The Secretary shall, within 30 months after the date of the enactment of the Energy Policy Act of 1992, prescribe testing requirements for those high-intensity discharge lamps and distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

"(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those high-intensity discharge lamps and distribution transformers for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) with respect to high-intensity discharge lamps shall apply to such lamps manufactured 36 months after the date such rule is published.

"(b)(1) The Secretary shall, within 30 months after the date of the enactment of the Energy Policy Act of 1992, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy con-

servation standards would be technologically feasible and economically justified, and would result in significant energy savings.

"(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) shall apply to small electric motors manufactured 60 months after the date such rule is published or, in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory, 84 months after such date. Such standards shall not apply to any small electric motor which is a component of a covered product under section 322(a) or a covered equipment under section 340.

"(c) In establishing any standard under this section, the Secretary shall take into consideration the criteria contained in section 325(n).

"(d) The Secretary shall, within six months after the date on which energy conservation standards are prescribed by the Secretary for high-intensity discharge lamps and distribution transformers pursuant to subsection (a)(2) and small electric motors pursuant to subsection (b)(2), prescribe labeling requirements for such lamps, transformers, and small electric motors.

"(e) Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (d), each manufacturer of a product to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(f)(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a), a new covered product to which a rule under section 324 applies; and

"(B) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product for which an energy conservation standard is prescribed under subsection (a)(2) or (b)(2) which is not in conformity with the applicable energy conservation standard.

"(2) For purposes of section 333(a), paragraph (1) of this subsection shall be considered to be a part of section 332.".

(b) TECHNICAL AMENDMENT.—The table of contents of such Act is amended by striking out the item for section 346 and inserting in lieu thereof the following new item:

"Sec. 346. Energy conservation standards for high-intensity discharge lamps, distribution transformers, and small electric motors.".

(c) STUDY OF UTILITY DISTRIBUTION TRANSFORMERS.—The Secretary shall evaluate the practicability, cost-effectiveness, and potential energy savings of replacing, or upgrading components of, existing utility distribution transformers during routine maintenance and, not later than 18 months after the date of the enactment of this Act, report the findings of such evaluation to the Congress with recommendations on how such energy savings, if any, could be achieved.

SEC. 125. ENERGY EFFICIENCY INFORMATION FOR COMMERCIAL OFFICE EQUIPMENT.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the Computer and Business Equipment Manufacturers Association and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of commercial office equipment that are widely used and for which there is a potential for significant energy savings as a result of such program.

(2) Such program shall—

(A) consistent with the objectives of paragraph (1), determine the commercial office equipment to be covered under such program;

(B) include specifications for testing procedures that will enable purchasers of such commercial office equipment to make more informed decisions about the energy efficiency and costs of alternative products; and

(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedure and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act, shall make a determination as to whether such program is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for commercial office equipment consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such commercial office equipment.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for commercial office equipment for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of commercial office equipment (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 126. ENERGY EFFICIENCY INFORMATION FOR LUMINAIRES.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Electric Manufacturers Association, the American Lighting Association, and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of luminaires that are widely used and for which there is a potential for significant energy savings as a result of such program.

(2) Such program shall—

(A) consistent with the objectives of paragraph (1), determine the luminaires to be covered under such program;

(B) include specifications for testing procedures that will enable purchasers of such luminaires to make more informed decisions about the energy efficiency and costs of alternative products; and

(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedures and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act, shall make a determination as to whether the program developed is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for luminaires consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such luminaires.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those luminaires for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of luminaire (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 127. REPORT ON THE POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, prepare and submit to the Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

(b) IDENTIFICATION OF HIGH-EFFICIENCY APPLIANCES.—The report submitted under subsection (a) shall identify candidate high-efficiency appliances which meet the following criteria:

(1) The potential exists for substantial improvement in the appliance's energy efficiency, beyond the minimum established in Federal and State law.

(2) There is the potential for significant energy savings at the national or regional level.

(3) Such appliances are likely to be cost-effective for consumers.

(4) Electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances.

(5) Manufacturers are unlikely to undertake development and commercialization of such ap-

pliances on their own, or development and production would be substantially accelerated by support to manufacturers.

(c) RECOMMENDATIONS AND PROPOSALS.—The report submitted under subsection (a) shall also—

(1) describe the general actions the Secretary or the Administrator of the Environmental Protection Agency could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

(2) describe specific proposals for Department of Energy or Environmental Protection Agency assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

(3) identify methods by which Federal purchase of highly efficient appliances could assist in the development and commercialization of such appliances; and

(4) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.

SEC. 128. EVALUATION OF UTILITY EARLY REPLACEMENT PROGRAMS FOR APPLIANCES.

Within 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, shall evaluate and report to the Congress on the energy savings and environmental benefits of programs which are directed to the early replacement of older, less efficient appliances presently in use by consumers with existing products which are more efficient than required by Federal law. For the purposes of this section, the term "appliance" means those consumer products specified in section 322(a).

Subtitle D—Industrial

SEC. 131. ENERGY EFFICIENCY IN INDUSTRIAL FACILITIES.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall make grants to industry associations to support programs to improve energy efficiency in industry. In order to be eligible for a grant under this subsection, an industry association shall establish a voluntary energy efficiency improvement target program.

(2) AWARDING OF GRANTS.—The Secretary shall request project proposals and provide annual grants on a competitive basis. In evaluating grant proposals under this subsection, the Secretary shall consider—

(A) potential energy savings;

(B) potential environmental benefits;

(C) the degree of cost sharing;

(D) the degree to which new and innovative technologies will be encouraged;

(E) the level of industry involvement;

(F) estimated project cost-effectiveness; and

(G) the degree to which progress toward the energy improvement targets can be monitored.

(3) ELIGIBLE PROJECTS.—Projects eligible for grants under this subsection may include the following:

(A) Workshops.

(B) Training seminars.

(C) Handbooks.

(D) Newsletters.

(E) Data bases.

(F) Other activities approved by the Secretary.

(4) LIMITATION ON COST SHARING.—Grants provided under this subsection shall not exceed $250,000 and each grant shall not exceed 75 percent of the total cost of the project for which the grant is made.

(5) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(b) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize those industry associations or individual industrial companies that have significantly improved their energy efficiency.

(c) REPORT ON INDUSTRIAL REPORTING AND VOLUNTARY TARGETS.—Not later than one year after the date of the enactment of this Act, the Secretary shall, in consultation with affected industries, evaluate and report to the Congress regarding the establishment of Federally mandated energy efficiency reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries. Such report shall include an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and recommendations regarding the role of such activities in improving energy efficiency in energy intensive industries.

SEC. 132. PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing industries specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "process-oriented industrial assessment" means—

(A) the identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental impact; and

(iii) designing technological improvements to increase competitiveness and achieve cost-effective product quality enhancement;

(B) the identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and the associated building envelope; and

(C) the identification of cost-effective opportunities for using renewable energy technology in the production process and in the systems described in subparagraph (B); and

(3) the term "utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy to retail customers.

(b) GRANT PROGRAM.—

(1) USE OF FUNDS.—The Secretary shall, to the extent funds are made available for such purpose, make grants to States which, consistent with State law, shall be used for the following purposes:

(A) To promote, through appropriate institutions such as universities, nonprofit organizations, State and local government entities, technical centers, utilities, and trade organizations, the use of energy-efficient technologies in covered industries.

(B) To establish programs to train individuals (on an industry-by-industry basis) in conducting process-oriented industrial assessments and to encourage the use of such trained assessors.

(C) To assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers in covered industries.

(2) CONSULTATION.—States receiving grants under this subsection shall consult with utilities and representatives of affected industries, as appropriate, in determining the most effective use of such funds consistent with the requirements of paragraph (1).

(3) ELIGIBILITY CRITERIA.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants made pursuant to this subsection. Such criteria shall require a State applying for a grant to demonstrate that such State—

(A) pursuant to section 111(a) of the Public Utility and Regulatory Policies Act of 1978 (16 U.S.C. 2621(a)), has considered and made a determination regarding the implementation of the standards specified in paragraphs (7) and (8) of section 111(d) of such Act (with respect to integrated resources planning and investments in conservation and demand management); and

(B) by legislation or regulation—

(i) allows utilities to recover the costs prudently incurred in providing process-oriented industrial assessments; and

(ii) encourages utilities to provide to covered industries—

(I) process-oriented industrial assessments; and

(II) financial incentives for implementing energy efficiency improvements.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this subsection shall be allocated each fiscal year among States meeting the criteria specified in paragraph (3) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

(5) RENEWAL OF GRANTS.—A grant under this subsection may continue to be renewed after 2 consecutive fiscal years during which a State receives a grant under this subsection, subject to the availability of funds, if—

(A) the Secretary determines that the funds made available to the State during the previous 2 years were used in a manner required under paragraph (1); and

(B) such State demonstrates, in a manner prescribed by the Secretary, utility participation in programs established pursuant to this subsection.

(6) COORDINATION WITH OTHER FEDERAL PROGRAMS.—In carrying out the functions described in paragraph (1), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

(c) OTHER FEDERAL ASSISTANCE.—

(1) ASSESSMENT CRITERIA.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall, by contract with nonprofit organizations with expertise in process-oriented industrial energy efficiency technologies, establish and, as appropriate, update criteria for conducting process-oriented industrial assessments on an industry-by-industry basis. Such criteria shall be made available to State and local government, public utility commissions, utilities, representatives of affected process-oriented industries, and other interested parties.

(2) DIRECTORY.—The Secretary shall establish a nationwide directory of organizations offering industrial energy efficiency assessments, technologies, and services consistent with the purposes of this section. Such directory shall be made available to State governments, public utility commissions, utilities, industry representatives, and other interested parties.

(3) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize utilities operating outstanding or innovative industrial energy efficiency technology assistance programs.

(4) MEETINGS.—In order to further the purposes of this section, the Secretary shall convene annual meetings of parties interested in process-oriented industrial assessments, including representatives of State government, public utility commissions, utilities, and affected process-oriented industries.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(1) identifies barriers encountered in implementing this section;

(2) makes recommendations for overcoming such barriers;

(3) documents the results achieved by the programs established and grants awarded pursuant to this section;

(4) reviews any difficulties encountered by industry in securing and implementing energy efficiency technologies recommended in process-oriented industrial assessments or otherwise identified as a result of programs established pursuant to this section; and

(5) recommends methods for further promoting the distribution and implementation of energy efficiency technologies consistent with the purposes of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 133. INDUSTRIAL INSULATION AND AUDIT GUIDELINES.

(a) VOLUNTARY GUIDELINES FOR ENERGY EFFICIENCY AUDITING AND INSULATING.—Not later than 18 months after the date of the enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers, and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATIONAL AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of educational and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, and biennially thereafter, the Secretary shall report to the Congress on activities conducted pursuant to this section, including—

(1) a review of the status of industrial energy auditing procedures; and

(2) an evaluation of the effectiveness of the guidelines established under subsection (a) and the responsiveness of the industrial sector to such guidelines.

Subtitle E—State and Local Assistance

SEC. 141. AMENDMENTS TO STATE ENERGY CONSERVATION PROGRAM.

(a) STATE BUILDINGS ENERGY INCENTIVE FUND.—

(1) IN GENERAL.—Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding at the end the following new subsection:

"(f) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within such State, the Secretary may, beginning in fiscal year 1994, provide up to $1,000,000 to such State for deposit into a revolving fund established by such State for the purpose of financing energy efficiency improvements in State and local government buildings. In making such determination the Secretary shall consider whether—

"(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, has adopted codes for energy efficiency in new buildings that are at least as stringent as American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–1989 (with respect to commercial buildings) and Council of American Building Officials Model Energy Code, 1992 (with respect to residential buildings);

"(2) such State has established a program, including a revolving fund, to finance energy efficiency improvement projects in State and local government facilities and buildings; and

"(3) such State has obtained funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions (including rebates) equal to or greater than three times the amount provided by the Secretary under this subsection for deposit into such revolving fund.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of such Act (42 U.S.C. 6325(f)) is amended—

(A) by striking "(f) For the purpose" and inserting the following: "(f)(1) Except as provided in paragraph (2), for the purpose"; and

(B) by inserting at the end the following:

"(2) For the purposes of carrying out section 363(f), there is authorized to be appropriated for fiscal year 1994 and each fiscal year thereafter such sums as may be necessary, to remain available until expended.".

(b) TRAINING OF BUILDING DESIGNERS AND CONTRACTORS; BUILDING RETROFIT STANDARDS; FEASIBILITY; RURAL RENEWABLE ENERGY.—Subsection 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) in paragraph (12) by striking "and";

(2) by redesignating paragraph (13) as paragraph (17); and

(3) by inserting after paragraph (12) the following new paragraphs:

"(13) programs (enlisting appropriate trade and professional organizations in the development and financing of such programs) to provide training and education (including, if appropriate, training workshops, practice manuals, and testing for each area of energy efficiency technology) to building designers and contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency improvements;

"(14) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of a building;

"(15) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

"(16) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Federal agency programs, including the Rural Electrification Administration and the Farmers Home Administration; and"

(c) STATE ENERGY CONSERVATION PLAN REQUIREMENT.—

(1) IN GENERAL.—Section 362(c)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)(5)) is amended by striking "; and" and by inserting the following: "and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect January 1, 1995.

(d) STUDY REGARDING IMPACT OF PERMITTING RIGHT AND LEFT TURNS ON RED LIGHTS.—

(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration, in consultation with State agencies with jurisdiction over traffic safety issues, shall conduct a study on the safety impact of the requirement specified in section 362(c)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)(5)), particularly with respect to the impact on pedestrian safety.

(2) REPORT.—The Administrator shall report the findings of the study conducted under paragraph (1) to the Congress and the Secretary not later than 2 years after the date of the enactment of this Act.

SEC. 142. AMENDMENTS TO LOW-INCOME WEATHERIZATION PROGRAM.

(a) PRIVATE SECTOR INVESTMENTS IN LOW-INCOME WEATHERIZATION.—Part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) is amended by inserting after section 414 the following new sections:

"SEC. 414A. PRIVATE SECTOR INVESTMENTS.

"(a) IN GENERAL.—The Secretary shall, to the extent funds are made available for such purpose, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 for the development and initial implementation of partnerships, agreements, or other arrangements with utilities, private sector interests, or other institutions, under which non-Federal financial assistance would be made available to support programs which install energy efficiency improvements in low-income housing.

"(b) USE OF FUNDS.—Financial assistance provided under this section may be used for—

"(1) the negotiation of such partnerships, agreements and other arrangements;

"(2) the presentation of arguments before State or local agencies;

"(3) expert advice on the development of such partnerships, agreements, and other arrangements; or

"(4) other activities reasonably associated with the development and initial implementation of such arrangements.

"(c) CONDITIONS.—(1) Financial assistance provided under this section to entities other than States shall, to the extent practicable, coincide with the timing of financial assistance provided to such entities under section 413 or section 414.

"(2) Not less than 80 percent of amounts provided under this section shall be provided to entities other than States.

"(3) A recipient of financial assistance under this section shall have up to three years to complete projects undertaken with such assistance.

"SEC. 414B. TECHNICAL TRANSFER GRANTS.

"(a) IN GENERAL.—The Secretary may, to the extent funds are made available, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 for—

"(1) evaluating technical and management measures which increase program and/or private entity performance in weatherizing low-income housing;

"(2) producing technical information for use by persons involved in weatherizing low-income housing;

"(3) exchanging information; and

"(4) conducting training programs for persons involved in weatherizing low-income housing.

"(b) CONDITIONS.—(1) Not less than 50 percent of amounts provided under this section shall be awarded to entities other than States.

"(2) A recipient of financial assistance under this section may contract with nonprofit entities to carry out all or part of the activities for which such financial assistance is provided.".

(b) USE OF SOLAR THERMAL WATER HEATERS AND WOOD-BURNING HEATING APPLIANCES FOR LOW-INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) by moving subparagraph (G) 2-ems to the right and by striking "and";

(2) by redesignating subparagraph (H) as subparagraph (J); and

(3) by inserting after subparagraph (G), the following:

"(H) solar thermal water heaters;

"(I) wood-heating appliances; and".

(c) Clerical Amendment.—The table of contents for part A of title IV of the Energy Conservation and Production Act is amended by inserting after the item related to section 414 the following items:

"Sec. 414A. Private sector investments.
"Sec. 414B. Technical transfer grants.".

SEC. 143. ENERGY EXTENSION SERVICE PROGRAM.

(a) Repeal.—The National Energy Extension Service Act, title V of Public Law 95–39, is repealed.

(b) Conforming Amendment.—Section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5813(7)) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), (10), (11), and (12) as paragraphs (7), (8), (9), (10), and (11), respectively.

Subtitle F—Federal Agency Energy Management

SEC. 151. DEFINITIONS.

For purposes of this subtitle—

(1) the term "agency" means has the meaning given such term in section 551(1) of title 5, United States Code, except that such term does not include the United States Postal Service;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation, and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of fundamentals of building energy systems, building energy codes and applicable professional standards, energy accounting and analysis, life-cycle cost methodology, fuel supply and pricing, and instrumentation for energy surveys and audits;

(4) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257); and

(5) the term "energy conservation measures" has the meaning given such term in section 551(4) of the National Energy Conservation Policy Act.

SEC. 152. FEDERAL ENERGY MANAGEMENT AMENDMENTS.

(a) Purpose.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting after "use of energy" the following: "and water, and the use of renewable energy sources,".

(b) Requirements for Federal Agencies.—Section 543 of such Act (42 U.S.C. 8253(a)) is amended—

*(1) in the section heading by striking "**GOALS**" and inserting "**REQUIREMENTS**";*

(2) in subsection (a) by striking "Goal" and inserting "Requirement";

(3) in subsection (a)(1), by striking the period at the end and inserting the following: "and so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 2000 is at least 20 percent less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985."; and

(4) by redesignating subsection (b) as subsection (d) and inserting after subsection (a) the following:

"(b) Energy Management Requirement for Federal Agencies.—(1) Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544.

"(2) The Secretary may waive the requirements of this subsection for any agency for such periods as the Secretary may determine if the Secretary finds that the agency is taking all practicable steps to meet the requirements and that the requirements of this subsection will pose an unacceptable burden upon the agency. If the Secretary waives the requirements of this subsection, the Secretary shall notify the Congress promptly in writing with an explanation and a justification of the reasons for such waiver.

"(3) This subsection shall not apply to an agency's facilities that generate or transmit electric energy or to the uranium enrichment facilities operated by the Department of Energy.

"(4) An agency may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of receiving technical assistance in complying with the requirements of this section.

"(c) Exclusions.—(1) An agency may exclude, from the energy consumption requirements for the year 2000 established under subsection (a) and the requirements of subsection (b)(1), any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with such requirements would be impractical. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, and, in the cases of the Departments of Defense and Energy, the unique character of certain facilities operated by such Departments.

"(2) Each agency shall identify and list, in each report made under section 548(a), the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth in paragraph (1), and may within 90 days after receipt of the findings, reverse a finding of impracticability. In the case of any such reversal, the agency shall comply with the energy consumption requirements for the building concerned.".

(c) Implementation.—Section 543(d) of such Act (as redesignated by subsection (b)(4) of this section) is amended—

(1) in the material preceding paragraph (1), by striking out "To achieve the goal established in subsection (a)," and inserting in lieu thereof the following: "The Secretary shall consult with the Secretary of Defense and the Administrator of General Services in developing guidelines for the implementation of this part. To meet the requirements of this section,";

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) prepare and submit to the Secretary, not later than December 31, 1993, a plan describing how the agency intends to meet such requirements, including how it will—

"(A) designate personnel primarily responsible for achieving such requirements;

"(B) identify high priority projects through calculation of payback periods;

"(C) take maximum advantage of contracts authorized under title VIII of this Act, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs to the Government; and

"(D) otherwise implement this part;";

(3) in paragraph (2), by inserting before the semicolon at the end the following: "and update such surveys as needed, incorporating any relevant information obtained from the survey conducted pursuant to section 550";

(4) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) using such surveys, determine the cost and payback period of energy and water conservation measures likely to achieve the requirements of this section;

"(4) install energy and water conservation measures that will achieve the requirements of this section through the methods and procedures established pursuant to section 544; and"; and

(5) by redesignating paragraph (4) as paragraph (5).

(d) Life Cycle Cost Methods and Procedures.—Section 544 of such Act (42 U.S.C. 8254) is amended—

(1) in subsection (a), in the material preceding paragraph (1), by striking out "National Bureau of Standards," and inserting in lieu thereof "National Institute of Standards and Technology,"; and

(2) in subsection (b)(2), by striking "agency shall" and all that follows through the period at the end and inserting the following: "agency shall, after January 1, 1994, fully consider the efficiency of all potential building space at the time of renewing or entering into a new lease.".

(e) Identification of Funds.—Section 545 of such Act (42 U.S.C. 8255) is amended to read as follows:

"SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"The President shall transmit to the Congress, along with each budget that is submitted to the Congress under section 1105 of title 31, United States Code, a statement of the amount of appropriations requested in such budget, if any, on an individual agency basis, for—

"(1) electric and other energy costs to be incurred in operating and maintaining agency facilities; and

"(2) compliance with the provisions of this part, the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), and all applicable Executive orders, including Executive Order 12003 (42 U.S.C. 6201 note) and Executive Order 12759 (56 Fed. Reg. 16257).".

(f) Incentive Program.—Section 546 of such Act (42 U.S.C. 8256) is amended—

(1) by striking "(a) In General.—" and inserting in lieu thereof "(a) Contracts.—(1)";

(2) by redesignating subsection (b) as paragraph (2) and amending it to read as follows:

"(2) The Secretary shall, not later than 18 months after the date of the enactment of the Energy Policy Act of 1992 and after consultation with the Director of the Office of Management and Budget, the Secretary of Defense, and the Administrator of General Services, develop appropriate procedures and methods for use by agencies to implement the incentives referred to in paragraph (1).";

(3) by striking out subsection (c); and

(4) by adding at the end the following new subsections:

"(b) Federal Energy Efficiency Fund.—(1) The Secretary shall establish a Federal Energy Efficiency Fund to provide grants to agencies to assist them in meeting the requirements of section 543.

"(2) Not later than June 30, 1993, the Secretary shall issue guidelines to be followed by agencies submitting proposals for such grants. All agencies shall be eligible to submit proposals for grants under the Fund.

"(3) The Secretary shall award grants from the Fund after a competitive assessment of the technical and economic effectiveness of each agency proposal. The Secretary shall consider the following factors in determining whether to provide funding under this subsection:

"(A) The cost-effectiveness of the project.

"(B) The amount of energy and cost savings anticipated to the Federal Government.

"(C) The amount of funding committed to the project by the agency requesting financial assistance.

"(D) The extent that a proposal leverages financing from other non-Federal sources.

"(E) Any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(4) There are authorized to be appropriated, to remain available to be expended, to carry out this subsection not more than $10,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years thereafter.

"(c) UTILITY INCENTIVE PROGRAMS.—(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

"(2) Each agency may accept any financial incentive, goods, or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

"(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

"(4) If an agency satisfies the criteria which generally apply to other customers of a utility incentive program, such agency may not be denied collection of rebates or other incentives.

"(5)(A) An amount equal to fifty percent of the energy and water cost savings realized by an agency (other than the Department of Defense) with respect to funds appropriated for any fiscal year beginning after fiscal year 1992 (including financial benefits resulting from energy savings performance contracts under title VIII and utility energy efficiency rebates) shall, subject to appropriation, remain available for expenditure by such agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(B) Agencies shall establish a fund and maintain strict financial accounting and controls for savings realized and expenditures made under this subsection. Records maintained pursuant to this subparagraph shall be made available for public inspection upon request.

"(d) FINANCIAL INCENTIVE PROGRAM FOR FACILITY ENERGY MANAGERS.—(1) The Secretary shall, in consultation with the Task Force established pursuant to section 547, establish a financial bonus program to reward, with funds made available for such purpose, outstanding Federal facility energy managers in agencies and the United States Postal Service.

"(2) Not later than June 1, 1993, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors who have—

"(A) improved energy performance through increased energy efficiency;

"(B) implemented proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

"(C) developed and implemented training programs for facility energy managers, operators, and maintenance personnel;

"(D) developed and implemented employee awareness programs;

"(E) succeeded in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

"(F) made successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543; and

"(G) succeeded in the implementation of the guidelines established under section 159.

"(3) There is authorized to be appropriated to carry out this subsection not more than $250,000 for each of the fiscal years 1993, 1994, and 1995.

(g) REPORTS.—Section 548 of such Act (42 U.S.C. 8258) is amended—

(1) in subsection (b)(1), by striking "including" and all that follows through the semicolon and inserting the following: "including—

"(A) a copy of the list of the exclusions made under sections 543(a)(2) and 543(c)(3); and

"(B) a statement detailing the amount of funds awarded to each agency under section 546(b), the energy and water conservation measures installed with such funds, the projected energy and water savings to be realized from installed measures, and, for each installed measure for which the projected energy and water savings reported in the previous year were not realized, the percentage of such projected savings that was not realized, the reasons such savings were not realized, and proposals for, and projected costs of, achieving such projected savings in the future;"; and

(2) by adding at the end the following new subsection:

"(c) OTHER REPORT.—The Secretary, in consultation with the Administrator of General Services, shall—

"(1) conduct a study and evaluate legal, institutional, and other constraints to connecting buildings owned or leased by the Federal Government to district heating and district cooling systems; and

"(2) not later than 18 months after the date of the enactment of this subsection, transmit to the Congress a report containing the findings and conclusions of such study, including recommendations for the development of streamlined processes for the consideration of connecting buildings owned or leased by the Federal Government to district heating and cooling systems.".

(h) DEMONSTRATION OF NEW TECHNOLOGY; SURVEY OF ENERGY SAVING POTENTIAL.—Such Act is amended—

(1) by redesignating section 549 as section 551; and

(2) by inserting the following new sections after section 548:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1994, the Secretary, in cooperation with the Administrator of General Services, shall establish a demonstration program to install, in federally owned facilities or federally assisted housing, energy conservation measures for which the Secretary has determined that such installation would accelerate commercial viability. In those cases where technologies are determined to be equivalent, priority shall be given to those technologies that have received or are receiving Federal financial assistance.

"(b) SELECTION CRITERIA.—In addition to the determination under subsection (a), the Secretary shall select, in cooperation with the Administrator of General Services, proposals to be funded under this section on the basis of—

"(1) cost-effectiveness;

"(2) technical feasibility and system reliability in a working environment;

"(3) lack of market penetration in the Federal sector;

"(4) the potential needs of the proposing Federal agency for the technology, projected over 5 to 10 years;

"(5) the potential Federal sector market, projected over 5 to 10 years;

"(6) energy efficiency; and

"(7) other environmental benefits, including the projected reduction of greenhouse gas emissions and indoor air pollution.

"(c) PROPOSALS.—Federal agencies may submit to the Secretary, for each fiscal year, proposals for projects to be funded by the Secretary under this section. Each such proposal shall include—

"(1) a description of the proposed project emphasizing the innovative use of technology in the Federal sector;

"(2) a description of the technical reliability and cost-effectiveness data expected to be acquired;

"(3) an identification of the potential needs of the Federal agency for the technology;

"(4) a commitment to adopt the technology, if the project establishes its technical reliability and life cycle cost-effectiveness, to supply at least 10 percent of the Federal agency's potential needs identified under paragraph (3);

"(5) schedules and milestones for installing additional units; and

"(6) a technology transfer plan to publicize the results of the project.

"(d) PARTICIPATION BY GSA.—The Secretary may only select a project for funding under this section which is proposed to be carried out in a building under the jurisdiction of the General Services Administration if the project will be carried out by the Administrator of General Services. If such project involves a total expenditure in excess of $1,600,000, no appropriation shall be made for such project unless such project has been approved by a resolution adopted by the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

"(e) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency. The Secretary shall report to the Congress on the results of the study not later than two years after the date of the enactment of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for each of the fiscal years 1993, 1994, and 1995.

"SEC. 550. SURVEY OF ENERGY SAVING POTENTIAL.

"(a) IN GENERAL.—The Secretary shall, in consultation with the Interagency Energy Management Task Force established under section 547, carry out an energy survey for the purposes of—

"(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the Federal Government in different areas of the country;

"(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar Federal buildings; and

"(3) identifying barriers which may prevent an agency's ability to comply with section 543 and other energy management goals.

"(b) IMPLEMENTATION.—(1) The Secretary shall transmit to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, within 180 days after the date of the enactment of the Energy Policy Act of 1992, a plan for implementing this section.

"(2) The Secretary shall designate buildings to be surveyed in the project so as to obtain a sample of the buildings of the types and in the climates that is representative of buildings owned or leased by Federal agencies in the United States that consume the major portion of the energy consumed in Federal buildings. Such sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing.
"(B) Storage.
"(C) Office.
"(D) Services.
"(E) Schools.
"(F) Research and Development.
"(G) Industrial.
"(H) Prisons.
"(I) Hospitals.

"(3) For purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of a Federal building or the remaining term of a lease of a building leased by the Federal Government as determined by the life cycle costing methodology developed under section 544.

"(c) PERSONNEL.—(1) In carrying out this section, the Secretary shall utilize personnel who are—

"(A) employees of the Department of Energy; or

"(B) selected by the agencies utilizing the buildings which are being surveyed under this section.

"(2) Such personnel shall be detailed for the purpose of carrying out this section without any reduction of salary or benefits.

"(d) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Secretary shall transmit a report of the findings and conclusions of the project to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, and the agencies who own the buildings involved in such project. Such report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).".

(i) TECHNICAL AMENDMENTS.—(1) Section 548 of such Act (42 U.S.C. 8258) is amended—

(A) in subsection (a)(2), by striking "546(b)" and inserting in lieu thereof "546(a)(2)"; and

(B) in subsection (b), in the material preceding paragraph (1), by striking "annually," and insert the following: ", not later than April 2 of each year,".

(2) The table of contents of such Act is amended by striking the item for section 549 and inserting in lieu thereof the following new items:

"Sec. 549. Demonstration of new technology.
"Sec. 550. Survey of energy saving potential.
"Sec. 551. Definitions.".

(3) Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note) is hereby repealed.

SEC. 153. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.

Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D).

"(B) The Administrator may accept, from a utility, goods or services which enhance the energy efficiency of Federal facilities.

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property if the payback period for such improvement is at least 2 years less than the remainder of the term of the lease.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care.".

SEC. 154. REPORT BY GENERAL SERVICES ADMINISTRATION.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle.

SEC. 155. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) IN GENERAL.—Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended—

(1) by striking "The head" and inserting the following:

"(a) IN GENERAL.—(1) The head"; and

(2) by inserting at the end the following:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Any such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by an agency to both utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency would have paid for utilities without an energy savings performance contract (as estimated through the procedures developed pursuant to this section) during contract years. The contract shall provide for a guarantee of savings to the agency, and shall establish payment schedules reflecting such guarantee, taking into account any capital costs under the contract.

"(C) Federal agencies may incur obligations pursuant to such contracts to finance energy conservation measures provided guaranteed savings exceed the debt service requirements.

"(D) A federal agency may enter into a multiyear contract under this title for a period not to exceed 25 years, without funding of cancellation charges before cancellation, if—

"(i) such contract was awarded in a competitive manner pursuant to subsection (b)(2), using procedures and methods established under this title;

"(ii) funds are available and adequate for payment of the costs of such contract for the first fiscal year;

"(iii) 30 days before the award of any such contract that contains a clause setting forth a cancellation ceiling in excess of $750,000, the head of such agency gives written notification of such proposed contract and of the proposed cancellation ceiling for such contract to the appropriate authorizing and appropriating committees of the Congress; and

"(iv) such contract is governed by part 17.1 of the Federal Acquisition Regulation promulgated under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) or the applicable rules promulgated under this title.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, with the concurrence of the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act, not later than 180 days after the date of the enactment of the Energy Policy Act of 1992, shall, by rule, establish appropriate procedures and methods for use by Federal agencies to select, monitor, and terminate contracts with energy service contractors in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner. In developing such procedures and methods, the Secretary, with the concurrence of the Federal Acquisition Regulatory Council, shall determine which existing regulations are inconsistent with the intent of this section and shall formulate substitute regulations consistent with laws governing Federal procurement.

"(B) The procedures and methods established pursuant to subparagraph (A) shall be the procedures and contracting methods for selection, by an agency, of a contractor to provide energy savings performance services. Such procedures and methods shall provide for the calculation of energy savings based on sound engineering and financial practices.

"(2) The procedures and methods established pursuant to paragraph (1)(A) shall—

"(A) allow the Secretary to—

"(i) request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information, from firms engaged in providing energy savings services; and

"(ii) from the statements received, designate and prepare a list, with an update at least annually, of those firms that are qualified to provide energy savings services;

"(B) require each agency to use the list prepared by the Secretary pursuant to subparagraph (A)(ii) unless the agency elects to develop an agency list of firms qualified to provide energy savings performance services using the same selection procedures and methods as are required of the Secretary in preparing such lists; and

"(C) allow the head of each agency to—

"(i) select firms from the list prepared pursuant to subparagraph (A)(ii) or the list prepared

by the agency pursuant to subparagraph (B) to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project;

"(ii) select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information;

"(iii) permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that such agency has determined is qualified to provide such services under the procedures established pursuant to paragraph (1)(A), and require agency facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals; and

"(iv) enter into an energy savings performance contract with a firm qualified under clause (iii), consistent with the procedures and methods established pursuant to paragraph (1)(A).

"(3) A firm not designated as qualified to provide energy savings services under paragraph (2)(A)(i) or paragraph (2)(B) may request a review of such decision to be conducted in accordance with procedures to be developed by the board of contract appeals of the General Services Administration. Procedures developed by the board of contract appeals under this paragraph shall be substantially equivalent to procedures established under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).

"(c) Sunset and Reporting Requirements.—(1) The authority to enter into new contracts under this section shall cease to be effective five years after the date procedures and methods are established under subsection (b).

"(2) Beginning one year after the date procedures and methods are established under subsection (b), and annually thereafter, for a period of five years after such date, the Comptroller General of the United States shall report on the implementation of this section. Such reports shall include, but not be limited to, an assessment of the following issues:

"(A) The quality of the energy audits conducted for the agencies.

"(B) The government's ability to maximize energy savings.

"(C) The total energy cost savings accrued by the agencies that have entered into such contracts.

"(D) The total costs associated with entering into and performing such contracts.

"(E) A comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector.

"(F) The number of firms selected as qualified firms under this section and their respective shares of awarded contracts.

"(G) The number of firms engaged in similar activity in the private sector and their respective market shares.

"(H) The number of applicant firms not selected as qualified firms under this section and the reason for their nonselection.

"(I) The frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(J) With the respect to the final report submitted pursuant to this paragraph, an assessment of whether the contracting procedures developed pursuant to this section and utilized by agencies have been effective and whether continued use of such procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.".

(b) Definition.—Section 804 of such Act (42 U.S.C. 8287c) is amended—

(1) in the material preceding paragraph (1), by striking "title—" and inserting "title, the following definitions apply:";

(2) in paragraph (1), by striking "the" and inserting "The" and by striking ", and" and inserting a period;

(3) in paragraph (2), by striking "the term" and inserting "The term"; and

(4) by adding at the end the following:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations. Such contracts—

"(A) may provide for appropriate software licensing agreements; and

"(B) shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606).

"(4) The term "energy conservation measures" has the meaning given such term in section 551(4).".

(c) Technical and Conforming Amendments.—(1) The title heading for title VIII of such Act is amended to read as follows:

"TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(2) The table of contents of such Act is amended by striking the item relating to title VIII and inserting the following: "Energy Savings Performance Contracts".

SEC. 156. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

(a) Conference Workshops.—The Administrator of General Services, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The Administrator shall work and consult with the Department of Energy and other Federal agencies to plan for particular regional conferences. The Administrator shall invite Department of Energy, State, local, tribal, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such officials in the planning and organization of such workshops.

(b) Focus of Workshops.—Such workshops and conferences shall focus on the following (but may include other topics):

(1) Developing strategies among Federal, State, tribal, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region regarding the use of governmental facilities and buildings.

(2) The design, construction, maintenance, and retrofitting of governmental facilities to incorporate energy efficient techniques.

(3) Procurement and use of energy efficient products.

(4) Dissemination of energy information on innovative programs, technologies, and methods which have proven successful in government.

(5) Technical assistance to design and incorporate effective energy management strategies.

(c) Establishment of Workshop Timetable.—As a part of the first report to be submitted pursuant to section 154, the Administrator shall set forth the schedule for the regional energy management workshops to be conducted under this section. Not less than five such workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

SEC. 157. FEDERAL AGENCY ENERGY MANAGEMENT TRAINING.

(a) Energy Management Training.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers. Such programs shall be managed—

(A) by the department or agency representative on the Task Force; or

(B) if a department or agency is not represented on the Task Force, by the designee of the head of such department or agency.

(2) Departments and agencies described in paragraph (1) shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study in the areas described in section 151(3) including, but not limited to, courses offered by—

(A) private or public educational institutions;

(B) Federal agencies; or

(C) professional associations.

(b) Report to Task Force.—(1) Each department and agency described in subsection (a)(1) shall, not later than 60 days following the date of the enactment of this Act, report to the Task Force the following information:

(A) Those individuals employed by such department or agency on the date of the enactment of this Act who qualify as trained energy managers.

(B) The General Schedule (GS) or grade level at which each of the individuals described in subparagraph (A) is employed.

(C) The facility or facilities for which such individuals are responsible or otherwise stationed.

(2) The Secretary shall provide a summary of the reports described in paragraph (1) to the Congress as part of the first report submitted under section 548 of the National Energy Conservation Policy Act (42 U.S.C. 8258) after the date of the enactment of this Act.

(c) Requirements at Federal Facilities.—(1) Not later than one year after the date of the enactment of this Act, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by—

(A) designating facility energy supervisors;

(B) encouraging facility energy supervisors to become trained energy managers; and

(C) increasing the overall number of trained energy managers within such department or agency to a sufficient level to ensure effective implementation of this Act.

(2) Departments and agencies described in subsection (a)(1) may hire trained energy managers to be facility energy supervisors. Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities—

(A) department or agency facilities identified as most costly to operate or most energy inefficient; or

(B) other facilities identified by the department or agency head as having significant energy savings potential.

(d) Annual Report to Secretary and Congress.—Each department and agency listed in subsection (a)(1) shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each such report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 158. ENERGY AUDIT TEAMS.

(a) Establishment.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities.

(b) Monitoring Programs.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 159. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.

(a) Guidelines.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in cooperation with the Secretary, the Administrator of General Services, and the Secretary of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reports required under section 548 of the National Energy Conservation Policy Act (42 U.S.C. 8258). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, the Congress, and the general public.

(b) Contents of Guidelines.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) Federally Leased Space Energy Reporting Requirement.—The Administrator of General Services shall include, in each report submitted under section 154, the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

SEC. 160. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.

(a) Audit Survey.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.), and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100–504) shall—

(1) identify agency compliance activities to meet the requirements of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and any other matters relevant to implementing the goals of such Act; and

(2) determine if the agency has the internal accounting mechanisms necessary to assess the accuracy and reliability of energy consumption and energy cost figures required under such section.

(b) Presidents Council on Integrity and Efficiency Report to Congress.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, on the review conducted by the Inspector General of each agency under this section.

(c) Inspector General Review.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with part 3 of title V of the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

SEC. 161. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) Procurement.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, each shall undertake a program to include energy efficient products in carrying out their procurement and supply functions.

(b) Identification Program.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, in consultation with the Secretary of Energy, each shall implement, in conjunction with carrying out their procurement and supply functions, a program to identify and designate those energy efficient products that offer significant potential savings, using, to the extent practicable, the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254). The Secretary of Energy shall, to the extent necessary to carry out this section and after consultation with the aforementioned agency heads, provide estimates of the degree of relative energy efficiency of products.

(c) Guidelines.—The Administrator for Federal Procurement Policy, in consultation with the Administrator of General Services, the Secretary of Energy, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Secretary of Defense and the Director of the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) Report to Congress.—Not later than December 31 of 1993 and of each year thereafter, the Secretary of Energy, in consultation with the Administrator for Federal Procurement Policy, the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall report on the progress, status, activities, and results of the programs under subsections (a), (b), and (c). The report shall include—

(1) the types and functions of each product identified under subsection (b), and efforts undertaken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to encourage the acquisition and use of such products;

(2) the actions taken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(3) progress on the development and issuance of guidelines under subsection (c);

(4) an indication of whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j–2), have been used in the identification of products under subsection (b);

(5) an estimate of the potential cost savings to the Federal Government from acquiring products identified under subsection (b) with respect to which energy is a significant component of life cycle cost, based on the quantities of such products that could be utilized throughout the Government; and

(6) the actual quantities acquired of products described in paragraph (5).

SEC. 162. FEDERAL ENERGY EFFICIENCY FUNDING STUDY.

(a) Study.—The Secretary shall, in consultation with the Secretary of the Treasury, the Director of the Office of Management and Budget, the Administrator of General Services, and such other individuals and organizations as the Secretary deems appropriate, conduct a detailed study of options for the financing of energy and water conservation measures required under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) and all applicable Executive orders. Such study shall, taking into account the unique characteristics of Federal agencies, consider and analyze—

(1) the Federal financial investment necessary to comply with such requirements;

(2) the use of revolving funds and other funding mechanisms which offer stable, long-term financing of energy and water conservation measures; and

(3) the means for capitalizing such funds.

(b) Report to Congress.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing the results of the study required under subsection (a).

SEC. 163. UNITED STATES POSTAL SERVICE ENERGY REGULATIONS.

(a) In General.—The Postmaster General shall issue regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates, or manages. Such regulations shall—

(1) establish a monitoring system to determine which facilities are the most costly to operate on an energy consumption per square foot basis or other relevant analytical basis;

(2) identify unusual or abnormal changes in energy consumption; and

(3) check the accuracy of utility charges for electricity and gas consumption.

(b) Identification of Energy Efficiency Products.—The Postmaster General shall actively undertake a program to identify and procure energy efficiency products for use in its facilities. In carrying out this subsection, the Postmaster General shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by the General Services Administration and the Defense Logistics Agency.

SEC. 164. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.

(a) In General.—The Postmaster General shall conduct an energy survey, as defined in section 551(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the United States Postal Service in different areas of the country;

(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar United States Postal Service buildings; and

(3) identifying barriers which may prevent the United States Postal Service from complying

with energy management goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives, within 180 days after the date of the enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of United States Postal Service facilities of the types and in the climates that consume the major portion of the energy consumed by the United States Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the facility or the remaining term of a lease of a building leased by the United States Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the survey to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives.

SEC. 165. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.

Not later than one year after the date of the enactment of this Act, and not later than January 1 of each year thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives on the United States Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to—

(1) a description of actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) a statement of energy costs incurred in operating and maintaining all United States Postal Service facilities; and

(5) the status of the energy efficient procurement program established under section 163.

SEC. 166. ENERGY MANAGEMENT REQUIREMENTS FOR THE UNITED STATES POSTAL SERVICE.

(a) ENERGY MANAGEMENT REQUIREMENTS FOR POSTAL FACILITIES.—(1) The Postmaster General shall, to the maximum extent practicable, ensure that each United States Postal Service facility meets the energy management requirements for Federal buildings and agencies specified in section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(2) The Postmaster General may exclude from the requirements of such section any facility or collection of facilities, and the associated energy consumption and gross square footage if the Postmaster General finds that compliance with the requirements of such section would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The Postmaster General shall identify and list in the report required under section 165 the facilities designated by it for such exclusion.

(b) IMPLEMENTATION STEPS—In carrying subsection (a), the Postmaster General shall—

(1) not later than 1 year after the date of the enactment of this Act, prepare or update, as appropriate, a plan (which may be submitted as part of the first report submitted under section 165)—

(A) describing how this section will be implemented;

(B) designating personnel primarily responsible for achieving the requirements of this section; and

(C) identifying high priority projects;

(2) perform energy surveys of United States Postal Service facilities as necessary to achieve the requirements of this section;

(3) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254); and

(4) ensure that the operation and maintenance procedures applied under this section are continued.

SEC. 167. GOVERNMENT CONTRACT INCENTIVES.

(a) ESTABLISHMENT OF CRITERIA.—Each agency, in consultation with the Federal Acquisition Regulatory Council, shall establish criteria for the improvement of energy efficiency in Federal facilities operated by Federal Government contractors or subcontractors.

(b) PURPOSE OF CRITERIA.—The criteria established under subsection (a) shall be used to encourage Federal contractors, and their subcontractors, which manage and operate federally-owned facilities, to adopt and utilize energy conservation measures designed to reduce energy costs in Government-owned and contractor-operated facilities and which are ultimately borne by the Federal Government.

SEC. 168. ENERGY MANAGEMENT REQUIREMENTS FOR CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—The Architect of the Capitol (hereafter in this section referred to as the "Architect") shall undertake a program of analysis and, as necessary, retrofit of the Capitol Building, the Senate Office Buildings, the House Office Buildings, and the Capitol Grounds, in accordance with subsection (b).

(b) PROGRAM.—

(1) LIGHTING.—

(A) IMPLEMENTATION.—

(i) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act and subject to the availability of funds to carry out this section, the Architect shall begin implementing a program to replace in each building described in subsection (a) all inefficient office and general use area fluorescent lighting systems with systems that incorporate the best available design and technology and that have payback periods of 10 years or less, as determined by using methods and procedures established under section 544(a) of the National Energy and Conservation Policy Act (42 U.S.C. 8254(a)).

(ii) REPLACEMENT OF INCANDESCENT LIGHTING.—Whenever practicable in office and general use areas, the Architect shall replace incandescent lighting with efficient fluorescent lighting.

(B) COMPLETION.—Subject to the availability of funds to carry out this section, the program described in subparagraph (A) shall be completed not later than 5 years after the date of the enactment of this Act.

(2) EVALUATION AND REPORT.—

(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Architect shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report evaluating potential energy conservation measures for each building described in subsection (a) in the areas of heating, ventilation, air conditioning equipment, insulation, windows, domestic hot water, food service equipment, and automatic control equipment.

(B) COSTS.—The report submitted under subparagraph (A) shall detail the projected installation cost, energy and cost savings, and payback period of each energy conservation measure, as determined by using methods and procedures established under section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).

(3) REVIEW AND APPROVAL OF ENERGY CONSERVATION MEASURES.—The Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate shall review the energy conservation measures identified in accordance with paragraph (2) and shall approve any such measure before it may be implemented.

(4) UTILITY INCENTIVE PROGRAMS.—In carrying out this section, the Architect is authorized and encouraged to—

(A) accept any rebate or other financial incentive offered through a program for energy conservation or demand management of electricity, water, or gas that—

(i) is conducted by an electric, natural gas, or water utility;

(ii) is generally available to customers of the utility; and

(iii) provides for the adoption of energy efficiency technologies or practices that the Architect determines are cost-effective for the buildings described in subsection (a); and

(B) enter into negotiations with electric and natural gas utilities to design a special demand management and conservation incentive program to address the unique needs of the buildings described in subsection (a).

(5) USE OF SAVINGS.—The Architect shall use an amount equal to the rebate or other savings from the financial incentive programs under paragraph (4)(A), without additional authorization or appropriation, for the implementation of additional energy and water conservation measures in the buildings under the jurisdiction of the Architect.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle G—Miscellaneous

SEC. 171. ENERGY INFORMATION.

(a) ENERGY INFORMATION ADMINISTRATION.—Section 205(i)(1) of the Department of Energy Organization Act (42 U.S.C. 7135(i)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "on at least a triennial basis" and inserting in lieu thereof the following: "at least once every two years"; and

(2) by amending subparagraph (D) to read as follows:

"(D) use of nonpurchased sources of energy, such as solar, wind, biomass, geothermal, waste by-products, and cogeneration.".

(b) RENEWABLE ENERGY INFORMATION.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following new subsections:

"(j)(1) The Administrator shall annually collect and publish the results of a survey of electricity production from domestic renewable energy resources, including production in kilowatt hours, total installed capacity, capacity factor, and any other measure of production efficiency. Such results shall distinguish between various renewable energy resources.

"(2) In carrying out this subsection, the Administrator shall—

"(A) utilize, to the maximum extent practicable and consistent with the faithful execution of his responsibilities under this Act, reliable statistical sampling techniques; and

"(B) otherwise take into account the reporting burdens of energy information by small businesses.

"(3) As used in this subsection, the term 'renewable energy resources' includes energy derived from solar thermal, geothermal, biomass, wind, and photovoltaic resources.

"(k) Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a(a)), the Administrator shall—

"(1) conduct surveys of residential and commercial energy use at least once every 3 years, and make such information available to the public;

"(2) when surveying electric utilities, collect information on demand-side management programs conducted by such utilities, including information regarding the types of demand-side management programs being operated, the quantity of measures installed, expenditures on demand-side management programs, estimates of energy savings resulting from such programs, and whether the savings estimates were verified; and

"(3) in carrying out this subsection, take into account reporting burdens and the protection of proprietary information as required by law.

"(l) In order to improve the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs, the Administrator shall, in carrying out the data collection provisions of subsections (i) and (k), consider—

"(1) expanding the survey instruments to include questions regarding participation in government and utility conservation programs;

"(2) expanding fuel-use surveys in order to provide greater detail on energy use by user subgroups; and

"(3) expanding the scope of data collection on energy efficiency and load-management programs, including the effects of building construction practices such as those designed to obtain peak load shifting.".

SEC. 172. DISTRICT HEATING AND COOLING PROGRAMS.

(a) In General.—The Secretary, in consultation with appropriate industry organizations, shall conduct a study to—

(1) assess existing district heating and cooling technologies to determine cost-effectiveness, technical performance, energy efficiency, and environmental impacts as compared to alternative methods for heating and cooling buildings;

(2) estimate the economic value of benefits that may result from implementation of district heating and cooling systems but that are not currently recognized, such as reduced emissions of air pollutants, local economic development, and energy security;

(3) evaluate the cost-effectiveness, including the economic value referred to in paragraph (2), of cogenerated district heating and cooling technologies compared to other alternatives for generating or conserving electricity; and

(4) assess and make recommendations for reducing institutional and other constraints on the implementation of district heating and cooling systems.

(b) Report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report containing the findings, conclusions and recommendations, if any, of the Secretary for carrying out Federal, State, and local programs as a result of the study conducted under subsection (a).

SEC. 173. STUDY AND REPORT ON VIBRATION REDUCTION TECHNOLOGIES.

(a) In General.—The Secretary shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) Procedure.—In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand side management; and

(2) evaluate the cost-effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) Report.—The Secretary shall transmit to the Congress, not later than 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this section.

(d) Demonstration.—The Secretary may, based on the findings and conclusions of the study carried out under this section, conduct at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

TITLE II—NATURAL GAS

SEC. 201. FEWER RESTRICTIONS ON CERTAIN NATURAL GAS IMPORTS AND EXPORTS.

Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting "(a)" before "After six months"; and by adding at the end the following new subsections:

"(b) With respect to natural gas which is imported into the United States from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and with respect to liquefied natural gas—

"(1) the importation of such natural gas shall be treated as a 'first sale' within the meaning of section 2(21) of the Natural Gas Policy Act of 1978; and

"(2) the Commission shall not, on the basis of national origin, treat any such imported natural gas on an unjust, unreasonable, unduly discriminatory, or preferential basis.

"(c) For purposes of subsection (a), the importation of the natural gas referred to in subsection (b), or the exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.".

SEC. 202. SENSE OF CONGRESS.

It is the sense of the Congress that natural gas consumers and producers, and the national economy, are best served by a competitive natural gas wellhead market.

TITLE III—ALTERNATIVE FUELS—GENERAL

SEC. 301. DEFINITIONS.

For purposes of this title, title IV, and title V (unless otherwise specified)—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(3) the term "alternative fueled vehicle" means a dedicated vehicle or a dual fueled vehicle;

(4) the term "comparable conventionally fueled motor vehicle" means a motor vehicle which is, as determined by the Secretary—

(A) commercially available at the time the comparability of the vehicle is being assessed;

(B) powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source; and

(C) provides passenger capacity or payload capacity the same or similar to the alternative fueled vehicle to which it is being compared;

(5) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more; and

(B) at least 50 motor vehicles within the United States;

(6) the term "dedicated vehicle" means—

(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

(7) the term "domestic" means derived from resources within the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, America Samoa, the Commonwealth of the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States, including the outer Continental Shelf, as such term is defined in the Outer Continental Shelf Lands Act, or from resources within a Nation with which there is in effect a free trade agreement requiring national treatment for trade;

(8) the term "dual fueled vehicle" means—

(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel;

(9) the term "fleet" means a group of 20 or more light duty motor vehicles, used primarily in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a governmental entity or other person who owns, operates, leases, or otherwise controls 50 or more such vehicles, by any person who controls such person, by any person controlled by such person, and by any person under common control with such person, except that such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration motor vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement motor vehicles;

(E) emergency motor vehicles;

(F) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) nonroad vehicles, including farm and construction motor vehicles; or

(H) motor vehicles which under normal operations are garaged at personal residences at night;

(10) the term "fuel supplier" means—

(A) any person engaged in the importing, refining, or processing of crude oil to produce motor fuel;

(B) any person engaged in the importation, production, storage, transportation, distribution, or sale of motor fuel; and

(C) any person engaged in generating, transmitting, importing, or selling at wholesale or retail electricity;

(11) the term "light duty motor vehicle" means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. 7550(7)), of less than or equal to 8,500 pounds gross vehicle weight rating;

(12) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle;

(13) the term "motor vehicle" has the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2)); and

(14) the term "replacement fuel" means the portion of any motor fuel that is methanol, ethanol, or other alcohols, natural gas, liquefied petroleum gas, hydrogen, coal derived liquid fuels, fuels (other than alcohol) derived from biological materials, electricity (including electricity from solar energy), ethers, or any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

SEC. 302. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENTS.—Section 400AA of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amended—

(1) in subsection (a)(1)—

(A) by striking "passenger automobiles and light duty trucks" and inserting in lieu thereof "vehicles"; and

(B) by striking "alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles." and inserting in lieu thereof "alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under section 303 of the Energy Policy Act of 1992.";

(2) by amending subsection (a)(3) to read as follows:

"(3)(A) To the extent practicable, the Secretary shall acquire both dedicated and dual fueled vehicles, and shall ensure that each type of alternative fueled vehicle is used by the Federal Government.

"(B) Vehicles acquired under this section shall be acquired from original equipment manufacturers. If such vehicles are not available from original equipment manufacturers, vehicles converted to use alternative fuels may be acquired if, after conversion, the original equipment manufacturer's warranty continues to apply to such vehicles, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion. This subparagraph shall not apply to vehicles acquired by the United States Postal Service pursuant to a contract entered into by the United States Postal Service before the date of enactment of this subparagraph and which terminates on or before December 31, 1997.

"(C) Alternative fueled vehicles, other than those described in subparagraph (B), may be acquired solely for the purposes of studies under subsection (b), whether or not original equipment manufacturer warranties still apply.

"(D) In deciding which types of alternative fueled vehicles to acquire in implementing this part, the Secretary shall consider as a factor—

"(i) which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent; and

"(ii) the source of the fuel to supply the vehicles, giving preference to vehicles that operate on alternative fuels derived from domestic sources.

"(E) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that operation on such alternative fuels is not feasible.

"(F) At least 50 percent of the alternative fuels used in vehicles acquired pursuant to this section shall be derived from domestic feedstocks, except to the extent inconsistent with the General Agreement on Tariffs and Trade. The Secretary shall issue regulations to implement this requirement. For purposes of this subparagraph, the term 'domestic' has the meaning given such term in section 301(7) of the Energy Policy Act of 1992.

"(G) Except to the extent inconsistent with the General Agreement on Tariffs and Trade, vehicles acquired under this section shall be motor vehicles manufactured in the United States or Canada.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(4) Acquisitions of vehicles under this section shall, to the extent practicable, be coordinated with acquisitions of alternative fueled vehicles by State and local governments.";

(4) in subsection (b), by inserting after paragraph (2) the following new paragraphs:

"(3)(A) The Secretary, in cooperation with the Environmental Protection Agency and the Department of Transportation, shall collect data and conduct a study of heavy duty vehicles acquired under subsection (a), which shall at a minimum address—

"(i) the performance of such vehicles, including reliability, durability, and performance in cold weather and at high altitude;

"(ii) the fuel economy, safety, and emissions of such vehicles; and

"(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of conventionally fueled heavy duty vehicles.

"(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation, Governmental Affairs, and Energy and Natural Resources of the Senate, and the Committees on Energy and Commerce and Government Operations of the House of Representatives, within one year after the first such vehicles are acquired, and annually thereafter.

"(4)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of heavy duty vehicles acquired under subsection (a) and any problems with such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge.

"(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation, Governmental Affairs, and Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Government Operations of the House of Representatives, within one year after funds are appropriated for carrying out this paragraph.

"(5) Studies undertaken under this subsection shall be coordinated with relevant testing activities of the Environmental Protection Agency and the Department of Transportation.";

(5) in subsection (c)—

(A) by striking "alcohol or natural gas, alcohol or natural gas" and inserting in lieu thereof "alternative fuels, such fuels"; and

(B) by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel" in paragraph (1);

(6) in subsection (d)(2)(B), by striking "The Secretary" and inserting in lieu thereof "To the extent that appropriations are available for such purposes, the Secretary";

(7) in subsection (g), by striking paragraphs (2) through (6) and inserting in lieu thereof the following:

"(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(3) the term 'alternative fueled vehicle' means a dedicated vehicle or a dual fueled vehicle;

"(4) the term 'dedicated vehicle' means—

"(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

"(5) the term 'dual fueled vehicle' means—

"(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel; and

"(6) the term 'heavy duty vehicle' means a vehicle of greater than 8,500 pounds gross vehicle weight rating."; and

(8) by amending subsection (i)(1) to read as follows: "(1) For the purposes of this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.".

(b) REPEAL OF TERMINATION DATE.—Section 4(b) of the Alternative Motor Fuels Act of 1988 is repealed.

SEC. 303. MINIMUM FEDERAL FLEET REQUIREMENT.

(a) GENERAL REQUIREMENTS.—(1) The Federal Government shall acquire at least—

(A) 5,000 light duty alternative fueled vehicles in fiscal year 1993;

(B) 7,500 light duty alternative fueled vehicles in fiscal year 1994; and

(C) 10,000 light duty alternative fueled vehicles in fiscal year 1995.

(2) The Secretary shall allocate the acquisitions necessary to meet the requirements under paragraph (1).

(b) PERCENTAGE REQUIREMENTS.—(1) Of the total number of vehicles acquired by a Federal fleet, at least—

(A) 25 percent in fiscal year 1996;

(B) 33 percent in fiscal year 1997;

(C) 50 percent in fiscal year 1998; and

(D) 75 percent in fiscal year 1999 and thereafter,

shall be alternative fueled vehicles.

(2) The Secretary, in consultation with the Administrator of General Services where appropriate, may permit a Federal fleet to acquire a smaller percentage than is required in paragraph (1), so long as the aggregate percentage acquired by all Federal fleets is at least equal to the required percentage.

(3) For purposes of this subsection, the term "Federal fleet" means 20 or more light duty motor vehicles, located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by or assigned to any Federal executive department, military department, Government corporation, independent establishment, or executive agency, the United States Postal Service, the Congress, the courts of the United States, or the Executive Office of the President. Such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(C) law enforcement vehicles;

(D) emergency vehicles;

(E) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons; or

(F) nonroad vehicles, including farm and construction vehicles.

(c) ALLOCATION OF INCREMENTAL COSTS.—The General Services Administration and any other Federal agency that procures motor vehicles for distribution to other Federal agencies may allocate the incremental cost of alternative fueled vehicles over the cost of comparable gasoline vehicles across the entire fleet of motor vehicles distributed by such agency.

(d) APPLICATION OF REQUIREMENTS.—The provisions of section 400AA of the Energy Policy and Conservation Act relating to the Federal acquisition of alternative fueled vehicles shall apply to the acquisition of vehicles pursuant to this section.

(e) RESALE.—The Administrator of General Services shall take all feasible steps to ensure that all alternative fueled vehicles sold by the Federal Government shall remain alternative fueled vehicles at time of sale.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

SEC. 304. REFUELING.

(a) IN GENERAL.—Federal agencies shall, to the maximum extent practicable, arrange for the fueling of alternative fueled vehicles acquired under section 303 at commercial fueling facilities that offer alternative fuels for sale to the public. If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fueled vehicles purchased under section 303, Federal agencies are authorized to enter into commercial arrangements for the purposes of fueling Federal alternative fueled vehicles, including, as appropriate, purchase, lease, contract, construction, or other arrangements in which the Federal Government is a participant.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

SEC. 305. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.

(a) PROMOTION AND EDUCATION.—The Secretary, in cooperation with the Administrator of General Services, shall promote programs and educate officials and employees of Federal agencies on the merits of alternative fueled vehicles. The Secretary, in cooperation with the Administrator of General Services, shall provide and disseminate information to Federal agencies on—

(1) the location of refueling and maintenance facilities available to alternative fueled vehicles in the Federal fleet;

(2) the range and performance capabilities of alternative fueled vehicles;

(3) State and local government and commercial alternative fueled vehicle programs;

(4) Federal alternative fueled vehicle purchases and placements;

(5) the operation and maintenance of alternative fueled vehicles in accordance with the manufacturer's standards and recommendations; and

(6) incentive programs established pursuant to sections 306 and 307 of this Act.

(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Secretary, in cooperation with the Administrator of General Services, shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fueled vehicles purchased through the Administrator of General Services. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 303 of this Act.

SEC. 306. AGENCY INCENTIVES PROGRAM.

(a) REDUCTION IN RATES.—To encourage and promote use of alternative fueled vehicles in Federal agencies, the Administrator of General Services may offer a reduction in fees charged to agencies for the lease of alternative fueled vehicles below those fees charged for the lease of comparable conventionally fueled motor vehicles.

(b) SUNSET PROVISION.—This section shall cease to be effective 3 years after the date of the enactment of this Act.

SEC. 307. RECOGNITION AND INCENTIVE AWARDS PROGRAM.

(a) AWARDS PROGRAM.—The Administrator of General Services shall establish annual awards program to recognize those Federal employees who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

(b) CRITERIA.—The Administrator of General Services shall provide annual awards to Federal employees who best demonstrate a commitment—

(1) to the success of the Federal alternative fueled vehicle program through—

(A) exemplary promotion of alternative fueled vehicle use within Federal agencies;

(B) proper alternative fueled vehicle care and maintenance;

(C) coordination with Federal, State, and local efforts;

(D) innovative alternative fueled vehicle procurement, refueling, and maintenance arrangements with commercial entities;

(E) making regular requests for alternative fueled vehicles for agency use; and

(F) maintaining a high number of alternative fueled vehicles used relative to comparable conventionally fueled motor vehicles used; and

(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance, and other conservation and awareness measures.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out this section not more than $35,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 and 1996.

SEC. 308. MEASUREMENT OF ALTERNATIVE FUEL USE.

The Administrator of General Services shall use such means as may be necessary to measure the percentage of alternative fuel use in dual-fueled vehicles procured by the Administrator of General Services. Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of General Services, shall issue guidelines to Federal agencies for use in measuring the aggregate percentage of alternative fuel use in dual-fueled vehicles in their fleets.

SEC. 309. INFORMATION COLLECTION.

Section 400AA(b)(1)(A) of the Energy Policy and Conservation Act is amended by striking "the vehicles acquired under subsection (a)" and inserting in lieu thereof "a representative sample of alternative fueled vehicles in Federal fleets".

SEC. 310. GENERAL SERVICES ADMINISTRATION REPORT.

Not later than one year after the date of the enactment of this Act, and biennially thereafter, the Administrator of General Services shall report to the Congress on the General Services Administration's alternative fueled vehicle program under this Act. The report shall contain information on—

(1) the number and type of alternative fueled vehicles procured;

(2) the location of alternative fueled vehicles by standard Federal region;

(3) the total number of alternative fueled vehicles used by each Federal agency;

(4) arrangements with commercial entities for refueling and maintenance of alternative fueled vehicles;

(5) future alternative fueled vehicle procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance, and operation of alternative fueled vehicles and the purchase, maintenance, and operation of comparable conventionally fueled motor vehicles;

(7) coordination among Federal, State, and local governments for alternative fueled vehicle procurement and placement;

(8) the percentage of alternative fuel use in dual-fueled vehicles procured by the Administrator of General Services as measured under section 308;

(9) a description of the representative sample of alternative fueled vehicles as determined under section 400AA(b)(1)(A) of the Energy Policy and Conservation Act; and

(10) award recipients under this title.

SEC. 311. UNITED STATES POSTAL SERVICE.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, and biennially thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fueled vehicle program. The report shall contain information on—

(1) the total number and type of alternative fueled vehicles procured prior to the date of the enactment of this Act (first report only);

(2) the number and type of alternative fueled vehicles procured in the preceding year;

(3) the location of alternative fueled vehicles by region;

(4) arrangements with commercial entities for purposes of refueling and maintenance;

(5) future alternative fuel procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance, and operation of alternative fueled vehicles and the purchase, maintenance, and operation of comparable conventionally fueled motor vehicles;

(7) the percentage of alternative fuel use in dual-fueled vehicles procured by the Postmaster General;

(8) promotions and incentives to encourage the use of alternative fuels in dual-fueled vehicles; and

(9) an assessment of the program's relative success and policy recommendations for strengthening the program.

(b) COORDINATION.—To the maximum extent practicable, the Postmaster General shall coordinate the Postal Service's alternative fueled vehicle procurement, placement, refueling, and maintenance programs with those at the Federal, State, and local level. The Postmaster General shall communicate, share, and disseminate, on a regular basis, information on such pro-

grams with the Secretary, the Administrator of General Services, and heads of appropriate Federal agencies.

(c) PROGRAM CRITERIA.—The Postmaster General shall consider the following criteria in the procurement and placement of alternative fueled vehicles:

(1) The procurement plans of State and local governments and other public and private institutions.

(2) The current and future availability of refueling and repair facilities.

(3) The reduction in emissions of the Postal fleet.

(4) Whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act Amendments of 1990.

(5) The operational requirements of the Postal fleet.

(6) The contribution to the reduction in the consumption of oil in the transportation sector.

TITLE IV—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

SEC. 401. TRUCK COMMERCIAL APPLICATION PROGRAM.

(a) ALTERNATIVE FUELED TRUCKS.—Section 400BB(a) of the Energy Policy and Conservation Act (42 U.S.C. 6374a(a)) is amended by striking "alcohol and natural gas" and inserting in lieu thereof "alternative fuels".

(b) FUNDING.—Section 400BB(b)(1) of such Act (42 U.S.C. 6374a(b)(1)) is amended to read as follows: "(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1995, to remain available until expended.".

SEC. 402. CONFORMING AMENDMENTS.

Part J of title III of the Energy Policy and Conservation Act is amended—

(1) in section 400CC(a)—

(A) by striking "alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "alternative fuels"; and

(B) by striking "both buses capable of operating on alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "each of the various types of alternative fuel buses";

(2) in section 400DD(d), by striking "alcohols, natural gas, and other potential alternative motor" and inserting in lieu thereof "alternative"; and

(3) in section 400DD(d) and (e), by striking "motor" each place it appears.

SEC. 403. ALTERNATIVE MOTOR FUELS AMENDMENTS.

Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended—

(1) in section 501(1), by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel";

(2) in section 502(e)—

(A) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(B) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(3) in section 506(a)(4)—

(A) in subparagraph (A)—

(i) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels"; and

(B) in subparagraph (B)—

(i) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled"; and

(ii) by striking "energy automobile or natural gas dual energy automobile, as the case may be" and inserting in lieu thereof "fueled automobile"; and

(4) in section 506(b)(3)—

(A) in subparagraph (A)—

(i) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (i); and

(iii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (ii); and

(B) in subparagraph (B)—

(i) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(ii) by striking "alcohol" and inserting in lieu thereof "alternative fuels" in clauses (i) and (ii); and

(5) in section 513—

(A) in subsection (a)—

(i) by striking "ALCOHOL POWERED" and inserting in lieu thereof "DEDICATED";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (c) or in section 503(a)(3), if";

(iii) by striking "alcohol powered" and inserting in lieu thereof "dedicated";

(iv) by striking "content of the alcohol" and inserting in lieu thereof "content of the alternative fuel"; and

(v) by striking "gallon of alcohol" and inserting in lieu thereof "gallon of a liquid alternative fuel";

(B) in subsection (b)—

(i) by striking "ENERGY" and inserting in lieu thereof "FUELED";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (d) or in section 503(a)(3), if";

(iii) by striking "energy" and inserting in lieu thereof "fueled"; and

(iv) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in paragraph (2);

(C) in subsection (c)—

(i) by striking "NATURAL GAS POWERED" and inserting in lieu thereof "GASEOUS FUEL DEDICATED";

(ii) by striking "powered" and inserting in lieu thereof "dedicated";

(iii) by striking "natural gas" each place it appears in the first sentence and inserting in lieu thereof "gaseous fuel"; and

(iv) by adding at the end the following new sentence: "For purposes of this section, the Secretary shall determine the appropriate gallons equivalent measurement for gaseous fuels other than natural gas, and a gallon equivalent of such gaseous fuel shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.";

(D) in subsection (d)—

(i) by striking "NATURAL GAS DUAL ENERGY" and inserting in lieu thereof "GASEOUS FUEL DUAL FUELED";

(ii) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(iii) by striking "natural gas" each place it appears and inserting in lieu thereof "gaseous fuel";

(E) in subsection (e), by striking "alcohol powered automobile, dual energy automobile, natural gas powered automobile, or natural gas dual energy" and inserting in lieu thereof "dedicated automobile or dual fueled";

(F) in subsection (f)(2)(A)(i), by striking "alcohol powered automobiles, natural gas powered automobiles," and inserting in lieu thereof "alternative fueled automobiles";

(G) in subsection (g)—

(i) in paragraph (1)—

(I) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (A);

(II) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(III) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (B);

(IV) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(V) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (C); and

(VI) by striking "energy automobile or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (C); and

(ii) in paragraph (2)—

(I) by striking "energy passenger automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(II) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated" in subparagraph (B); and

(III) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(H) in subsection (h)(1)—

(i) by striking subparagraphs (D) and (E) and redesignating subparagraph (C) as subparagraph (D);

(ii) by striking subparagraphs (A) and (B) and inserting in lieu thereof the following new subparagraphs:

"(A) the term 'alternative fuel' means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(B) the term 'alternative fueled automobile' means an automobile that—

"(i) is a dedicated automobile; or

"(ii) is a dual fueled automobile;

"(C) the term 'dedicated automobile' means an automobile that operates solely on alternative fuels; and"; and

(iii) in subparagraph (D), as so redesignated by clause (i) of this subparagraph—

(I) by striking "dual energy" and inserting in lieu thereof "dual fueled";

(II) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in clauses (i), (ii), and (iii);

(III) by inserting "in the case of an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel," before "which, for model years" in clause (iii); and

(IV) by striking the semicolon at the end of clause (iv) and inserting in lieu thereof a period; and

(I) in subsection (h)(2)—

(i) by striking "paragraphs (1)(C) and (D)" and inserting in lieu thereof "paragraph (1)(D)" in subparagraph (A);

(ii) by striking "energy automobiles when operating on alcohol, and by natural gas dual energy automobiles when operating on natural gas" and inserting in lieu thereof "fueled automobiles when operating on alternative fuels" in subparagraph (A);

(iii) by striking "energy automobiles or natural gas dual energy" and inserting in lieu there-

of "fueled" both places it appears in subparagraph (A);

(iv) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(v) by striking "energy" and inserting in lieu thereof "fueled" each place it appears in subparagraphs (B) and (C); and

(vi) by inserting "other than electric automobiles" after "automobiles" each place it appears in subparagraphs (B) and (C).

SEC. 404. VEHICULAR NATURAL GAS JURISDICTION.

(a) NATURAL GAS ACT AMENDMENTS.—(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended by inserting after subsection (c) the following new subsection:

"(d) The provisions of this Act shall not apply to any person solely by reason of, or with respect to, any sale or transportation of vehicular natural gas if such person is—

"(1) not otherwise a natural-gas company; or

"(2) subject primarily to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of vehicular natural gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by inserting after paragraph (9) the following new paragraph:

"(10) 'Vehicular natural gas' means natural gas that is ultimately used as a fuel in a self-propelled vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation or sale of natural gas by any person who is not otherwise a public utility, within the meaning of State law—

(1) in closed containers; or

(2) otherwise to any person for use by such person as a fuel in a self-propelled vehicle,

shall not be considered to be a transportation or sale of natural gas within the meaning of any State law, regulation, or order in effect before January 1, 1989. This subsection shall not apply to any provision of any State law, regulation, or order to the extent that such provision has as its primary purpose the protection of public safety.

(c) NONAPPLICABILITY OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(4)) solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(b)(1)), a holding company registered under such Act solely by reason of the application of section 2(a)(7)(A) or (B) of such Act with respect to control of a gas utility company or subsidiary thereof, may acquire or retain, in any geographic area, any interest in a company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, transport, installation, servicing, or financing of equipment related to the sale for consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79c) such company is exempt from registration.

(4) For purposes of this subsection, terms that are defined under the Public Utility Holding Company Act of 1935 shall have the meaning given such terms in such Act.

(5) For purposes of this subsection, the term "vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a self-propelled vehicle.

SEC. 405. PUBLIC INFORMATION PROGRAM.

The Secretary, in consultation with appropriate Federal agencies and individuals and organizations with practical experience in the production and use of alternative fuels and alternative fueled vehicles, shall, for the purposes of promoting the use of alternative fuels and alternative fueled vehicles, establish a public information program on the benefits and costs of the use of alternative fuels in motor vehicles. Within 18 months after the date of enactment of this Act, the Secretary shall produce and make available an information package for consumers to assist them in choosing among alternative fuels and alternative fueled vehicles. Such information package shall provide relevant and objective information on motor vehicle characteristics and fuel characteristics as compared to gasoline, on a life cycle basis, including environmental performance, energy efficiency, domestic content, cost, maintenance requirements, reliability, and safety. Such information package shall also include information with respect to the conversion of conventional motor vehicles to alternative fueled vehicles. The Secretary shall include such other information as the Secretary determines is reasonable and necessary to help promote the use of alternative fuels in motor vehicles. Such information package shall be updated annually to reflect the most recent available information.

SEC. 406. LABELING REQUIREMENTS.

(a) ESTABLISHMENT OF REQUIREMENTS.—The Federal Trade Commission, in consultation with the Secretary, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, shall, within 18 months after the date of enactment of this Act, issue a notice of proposed rulemaking for a rule to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and alternative fueled vehicles, including requirements for appropriate information with respect to costs and benefits, so as to reasonably enable the consumer to make choices and comparisons. Required labeling under the rule shall be simple and, where appropriate, consolidated with other labels providing information to the consumer. In formulating the rule, the Federal Trade Commission shall give consideration to the problems associated with developing and publishing useful and timely cost and benefit information, taking into account lead time, costs, the frequency of changes in costs and benefits that may occur, and other relevant factors. The Commission shall obtain the views of affected industries, consumer organizations, Federal and State agencies, and others in formulating the rule. A final rule shall be issued within 1 year after the notice of proposed rulemaking is issued. Such rule shall be updated periodically to reflect the most recent available information.

(b) TECHNICAL ASSISTANCE AND COORDINATION.—The Secretary shall provide technical assistance to the Federal Trade Commission in developing labeling requirements under subsection (a). The Secretary shall coordinate activities under this section with activities under section 405.

SEC. 407. DATA ACQUISITION PROGRAM.

(a) Not later than one year after the date of enactment of this Act, the Secretary, through the Energy Information Administration, and in cooperation with appropriate State, regional, and local authorities, shall establish a data collection program to be conducted in at least 5 geographically and climatically diverse regions of the United States for the purpose of collecting data which would be useful to persons seeking to manufacture, convert, sell, own, or operate alternative fueled vehicles or alternative fueling facilities. Such data shall include—

(1) identification of the number and types of motor vehicle trips made daily and miles driven per trip, including commuting, business, and recreational trips;

(2) the projections of the Secretary as to the most likely combination of alternative fueled vehicle use and other forms of transit, including rail and other forms of mass transit;

(3) cost, performance, environmental, energy, and safety data on alternative fuels and alternative fueled vehicles; and

(4) other appropriate demographic information and consumer preferences.

(b) The Secretary shall consult with interested parties, including other appropriate Federal agencies, manufacturers, public utilities, owners and operators of fleets of light duty motor vehicles, and State or local governmental entities, to determine the types of data to be collected and analyzed under subsection (a).

SEC. 408. FEDERAL ENERGY REGULATORY COMMISSION AUTHORITY TO APPROVE RECOVERY OF CERTAIN EXPENSES IN ADVANCE.

(a) NATURAL GAS MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 4 of the Natural Gas Act, allow recovery of expenses in advance by natural-gas companies for research, development, and demonstration activities by the Gas Research Institute for projects on the use of natural gas, including fuels derived from natural gas, for transportation, and projects on the use of natural gas to control pollutants and to control emissions from the combustion of other fuels, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to such projects, the Commission shall ensure that the costs of such activities shall be provided in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(b) ELECTRIC MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 205 of the Federal Power Act, allow recovery of expenses in advance by electric utilities for research, development, and demonstration activities by the Electric Power Research Institute for projects on electric motor vehicles, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to each project, the costs of such activities shall be provided, in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(c) REPEAL.—The second paragraph of the matter under the heading "FEDERAL ENERGY REGULATORY COMMISSION, SALARIES AND EXPENSES" in title III of the Energy and Water Development Appropriations Act, 1992, is repealed.

SEC. 409. STATE AND LOCAL INCENTIVES PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary shall, within one year after the date of enactment of this Act, issue regulations establishing guidelines for comprehensive State alternative fuels and alternative fueled vehicle incentives and program plans designed to accelerate the introduction and use of such fuels and vehicles. Such guidelines shall address the development, modification, and implementation of such State plans and shall describe those program elements, as described in paragraph (3), to be addressed in such plans.

(2) The Secretary, after consultation with the Secretary of Transportation and the Adminis-

trator of the Environmental Protection Agency, shall invite the Governor of each State to submit to the Secretary a State plan within one year after the effective date of the regulations issued under paragraph (1). Such plan shall include—

(A) provisions designed to result in scheduled progress toward, and achievement of, the goal of introducing substantial numbers of alternative fueled vehicles in such State by the year 2000; and

(B) a detailed description of the requirements, including the estimated cost of implementation, of such plan.

(3) Each proposed State plan, in order to be eligible for Federal assistance under this section, shall describe the manner in which coordination shall be achieved with Federal and local governmental entities in implementing such plan, and shall include an examination of—

(A) exemption from State sales tax or other State or local taxes or surcharges (other than such taxes or surcharges which are dedicated for transportation purposes) with respect to alternative fueled vehicles, alternative fuels, or alternative fueling facilities;

(B) the introduction of alternative fueled vehicles into State-owned or operated motor vehicle fleets;

(C) special parking at public buildings and airport and transportation facilities;

(D) programs of public education to promote the use of alternative fueled vehicles;

(E) the treatment of sales of alternative fuels for use in alternative fueled vehicles;

(F) methods by which State and local governments might facilitate—

(i) the availability of alternative fuels; and

(ii) the ability to recharge electric motor vehicles at public locations;

(G) allowing public utilities to include in rates the incremental cost of—

(i) new alternative fueled vehicles;

(ii) converting conventional vehicles to operate on alternative fuels; and

(iii) installing alternative fuel fueling facilities,

but only to the extent that the inclusion of such costs in rates would not create competitive disadvantages for other market participants, and taking into consideration the effect inclusion of such costs would have on rates, service, and reliability to other utility customers;

(H) such other programs and incentives as the State may describe;

(I) whether accomplishing any of the goals in this subsection would require amendment to State law or regulation, including traffic safety prohibitions;

(J) services provided by municipal, county, and regional transit authorities; and

(K) effects of such plan on programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 and amendments made by that Act.

(b) FEDERAL ASSISTANCE TO STATES.—(1) Upon request of the Governor of any State with a plan approved under this section, the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to alternative fueled vehicles;

(B) grants of Federal financial assistance for the purpose of assisting such State in the implementation of such plan or any part thereof; and

(C) grants of Federal financial assistance for the acquisition of alternative fueled vehicles.

(2) In determining whether to approve a State plan submitted under subsection (a), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this subsection, the Secretary shall take into account—

(A) the energy-related and environmental-related impacts, on a life cycle basis, of the introduction and use of alternative fueled vehicles included in the plan compared to conventional motor vehicles;

(B) the number of alternative fueled vehicles likely to be introduced by the year 2000, as a result of successful implementation of the plan; and

(C) such other factors as the Secretary considers appropriate.

(3) The Secretary, in consultation with the Administrator of General Services, shall provide assistance to States in procuring alternative fueled vehicles, including coordination with Federal procurements of such vehicles.

(4) The Secretary may not approve a State plan submitted under subsection (a) unless the State agrees to provide at least 20 percent of the cost of activities for which assistance is provided under paragraph (1).

(c) GENERAL PROVISIONS.—(1) In carrying out this section, the Secretary shall consult with the Secretary of Transportation on matters relating to transportation and with other appropriate Federal and State departments and agencies.

(2) The Secretary shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this section. Such report shall include—

(A) an estimate of the number of alternative fueled vehicles in use in each State;

(B) the degree of each State's participation in the program;

(C) a description of Federal, State, and local programs undertaken in the various States, whether pursuant to a State plan under this section or not, to provide incentives for introduction of alternative fueled vehicles;

(D) an estimate of the energy and environmental benefits of the program; and

(E) the recommendations of the Secretary, if any, for additional action by the Federal Government.

(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) GOVERNOR.—The term "Governor" means the chief executive of a State.

(2) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, $10,000,000 for each of the 5 fiscal years beginning after the date of enactment of this Act.

SEC. 410. ALTERNATIVE FUEL BUS PROGRAM.

(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary of Transportation, in consultation with the Secretary, may enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility of commercial application, including safety of specific vehicle design, of using alternative fuels for urban buses and other motor vehicles used for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(3) Federal assistance provided under cooperative agreements and joint ventures entered into under paragraph (1) to demonstrate the feasibility of commercial application of using alternative fuels for urban buses shall be in addition to Federal assistance provided under any other law for such purpose.

(b) LIMITATIONS.—(1) The Secretary of Transportation may not enter into cooperative agreement or joint venture under subsection (a) with any municipal, county, or regional transit authority, unless such government body agrees to provide 20 percent of the costs of such demonstration.

(2) The Secretary of Transportation may grant such priority under this section to any entity that demonstrates that the use of alternative fuels for transportation would have a significant beneficial effect on the environment.

(c) SCHOOL BUSES.—The Secretary of Transportation may also provide, in accordance with such rules as he may prescribe, financial assistance to any agency, municipality, or political subdivision in an urban area referred to in subsection (a), of any State or the District of Columbia for the purpose of meeting the incremental costs of school buses that are dedicated vehicles and used regularly for such transportation during the school term. Such costs may include the purchase and installation of alternative fuel refueling facilities to be used for school bus refueling, and the conversion of school buses to dedicated vehicles. The Secretary of Transportation may provide such assistance directly to a person who is a contractor of such agency, municipality, or political subdivision, upon the request of the agency, municipality, or political subdivision, and who, under such contract, provides for such transportation. Any conversion under this subsection shall comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

(d) FUNDING AUTHORIZATION.—There are authorized to be appropriated not more than $30,000,000 for each of the fiscal years 1993, 1994, and 1995 for purposes of this section.

SEC. 411. CERTIFICATION OF TRAINING PROGRAMS.

The Secretary shall ensure that the Federal Government establishes and carries out a program for the certification of training programs for technicians who are responsible for motor vehicle installation of equipment that converts gasoline or diesel-fueled motor vehicles into dedicated vehicles or dual fueled vehicles, and for the maintenance of such converted motor vehicles. A training program shall not be certified under the program established under this section unless it provides technicians with instruction on the proper and safe installation procedures and techniques, adherence to specifications (including original equipment manufacturer specifications), motor vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these motor vehicle conversions. The Secretary shall ensure that, in the development of the program required under this section, original equipment manufacturers, fuel suppliers, companies that convert conventional vehicles to use alternative fuels, and other affected persons are consulted.

SEC. 412. ALTERNATIVE FUEL USE IN NONROAD VEHICLES AND ENGINES.

(a) NONROAD VEHICLES AND ENGINES.—(1) The Secretary shall conduct a study to determine whether the use of alternative fuels in nonroad vehicles and engines would contribute substantially to reduced reliance on imported energy sources. Such study shall be completed, and the results thereof reported to Congress, within 2 years after the date of enactment of this Act.

(2) The study shall assess the potential of nonroad vehicles and engines to run on alternative fuels. Taking into account the nonroad vehicles and engines for which running on alternative fuels is feasible, the study shall assess the potential reduction in reliance on foreign energy sources that could be achieved if such vehicles were to run on alternative fuels.

(3) The report required under paragraph (1) may include the Secretary's recommendations

for encouraging or requiring nonroad vehicles and engines which can feasibly be run on alternative fuels, to utilize such alternative fuels.

(b) DEFINITION OF NONROAD VEHICLES AND ENGINES.—Nonroad vehicles and engines, for purposes of this section, shall include nonroad vehicles and engines used for surface transportation or principally for industrial or commercial purposes, vehicles used for rail transportation, vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines at the discretion of the Secretary.

(c) DESIGNATION.—Upon completion of the study required pursuant to subsection (a) of this section, the Secretary may designate such vehicles and engines as qualifying for loans pursuant to section 414 of this title.

SEC. 413. REPORTS TO CONGRESS.

Within 6 months after the date of enactment of this Act, the Secretary shall—

(1) identify and report to Congress on purchasing policies of the Federal Government which inhibit or prevent the purchase by the Federal Government of alternative fueled vehicles; and

(2) report to Congress on Federal, State, and local traffic control measures and policies and how the use of alternative fueled vehicles could be promoted by granting such vehicles exemptions or preferential treatment under such measures.

SEC. 414. LOW INTEREST LOAN PROGRAM.

(a) ESTABLISHMENT.—Within 1 year after the date of enactment of this Act, the Secretary shall establish a program for making low interest loans, giving preference to small businesses that own or operate fleets, for—

(1) the conversion of motor vehicles to operation on alternative fuels;

(2) covering the incremental costs of the purchase of motor vehicles which operate on alternative fuels, when compared with purchase costs of comparable conventionally fueled motor vehicles; or

(3) covering the incremental costs of purchase of non-road vehicles and engines designated by the Secretary pursuant to section 412(c) of this title.

(b) LOAN TERMS.—The Secretary, to the extent practicable, shall establish reasonable terms for loans made under this subsection, with preference given to repayment schedules that enable such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the motor vehicle operates.

(c) CRITERIA.—In deciding to whom loans shall be made under this subsection, the Secretary shall consider—

(1) the financial need of the applicant;

(2) the goal of assisting the greatest number of applicants; and

(3) the ability of an applicant to repay the loan, taking into account the fuel cost savings likely to accrue to the applicant.

(d) PRIORITIES.—Priority shall be given under this section to fleets where the use of alternative fuels would have a significant beneficial effect on energy security and the environment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, $25,000,000 for each of the fiscal years 1993, 1994, and 1995.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

SEC. 501. MANDATE FOR ALTERNATIVE FUEL PROVIDERS.

(a) IN GENERAL.—(1) The Secretary shall, before January 1, 1994, issue regulations requiring that of the new light duty motor vehicles acquired by a covered person described in paragraph (2), the following percentages shall be alternative fueled vehicles for the following model years:

(A) 30 percent for model year 1996.

(B) 50 percent for model year 1997.

(C) 70 percent for model year 1998.

(D) 90 percent for model year 1999 and thereafter.

(2) For purposes of this section, a person referred to in paragraph (1) is—

(A) a covered person whose principal business is producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity;

(B) a non-Federal covered person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity; or

(C) a covered person—

(i) who produces, imports, or produces and imports in combination, an average of 50,000 barrels per day or more of petroleum; and

(ii) a substantial portion of whose business is producing alternative fuels.

(3)(A) In the case of a covered person described in paragraph (2) with more than one affiliate, division, or other business unit, only an affiliate, division, or business unit which is substantially engaged in the alternative fuels business (as determined by the Secretary by rule) shall be subject to this subsection.

(B) No covered person or affiliate, division, or other business unit of such person whose principal business is—

(i) transforming alternative fuels into a product that is not an alternative fuel; or

(ii) consuming alternative fuels as a feedstock or fuel in the manufacture of a product that is not an alternative fuel, shall be subject to this subsection.

(4) The vehicles purchased pursuant to this section shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(5) Regulations issued under paragraph (1) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, from the requirements of paragraph (1) of any covered person, in whole or in part, if such person demonstrates to the satisfaction of the Secretary that—

(A) alternative fueled vehicles that meet the normal requirements and practices of the principal business of that person are not reasonably available for acquisition; or

(B) alternative fuels that meet the normal requirements and practices of the principal business of that person are not available in the area in which the vehicles are to be operated.

(b) REVISIONS AND EXTENSIONS.—With respect to model years 1997 and thereafter, the Secretary may—

(1) revise the percentage requirements under subsection (a)(1) downward, except that under no circumstances shall the percentage requirement for a model year be less than 20 percent; and

(2) extend the time under subsection (a)(1) for up to 2 model years.

(c) OPTION FOR ELECTRIC UTILITIES.—The Secretary shall, within 1 year after the date of enactment of this Act, issue regulations requiring that, in the case of a covered person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity, the requirements of subsection (a)(1) shall not apply until after December 31, 1997, with respect to electric motor vehicles. Any covered person described in this subsection which plans to acquire electric motor vehicles to comply with the requirements of this section shall so notify the Secretary before January 1, 1996.

(d) REPORT TO CONGRESS.—The Secretary shall, before January 1, 1998, submit a report to the Congress providing detailed information on actions taken to carry out this section, and the progress made and problems encountered thereunder.

SEC. 502. REPLACEMENT FUEL SUPPLY AND DEMAND PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use in light duty motor vehicles of domestic replacement fuels. Such program shall promote the replacement of petroleum motor fuels with replacement fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels that will have the greatest impact in reducing oil imports, improving the health of our Nation's economy and reducing greenhouse gas emissions.

(b) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (a), the Secretary, before October 1, 1993, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—

(1) estimate the domestic and nondomestic production capacity for replacement fuels and alternative fueled vehicles needed to implement this section;

(2) determine the technical and economic feasibility of achieving the goals of producing sufficient replacement fuels to replace, on an energy equivalent basis—

(A) at least 10 percent by the year 2000; and

(B) at least 30 percent by the year 2010,

of the projected consumption of motor fuel in the United States for each such year, with at least one half of such replacement fuels being domestic fuels;

(3) determine the most suitable means and methods of developing and encouraging the production, distribution, and use of replacement fuels and alternative fueled vehicles in a manner that would meet the program goals described in subsection (a);

(4) identify ways to encourage the development of reliable replacement fuels and alternative fueled vehicle industries in the United States, and the technical, economic, and institutional barriers to such development; and

(5) determine the greenhouse gas emission implications of increasing the use of replacement fuels, including an estimate of the maximum feasible reduction in such emissions from the use of replacement fuels.

The Secretary shall publish in the Federal Register the results of actions taken under this subsection, and provide for an opportunity for public comment.

SEC. 503. REPLACEMENT FUEL DEMAND ESTIMATES AND SUPPLY INFORMATION.

(a) ESTIMATES.—Not later than October 1, 1993, and annually thereafter, the Secretary, in consultation with the Administrator, the Secretary of Transportation, and other appropriate State and Federal officials, shall estimate for the following calendar year—

(1) the number of each type of alternative fueled vehicle likely to be in use in the United States;

(2) the probable geographic distribution of such vehicles;

(3) the amount and distribution of each type of replacement fuel; and

(4) the greenhouse gas emissions likely to result from replacement fuel use.

(b) INFORMATION.—Beginning on October 1, 1994, the Secretary shall annually require—

(1) fuel suppliers to report to the Secretary on the amount of each type of replacement fuel that such supplier—

(A) has supplied in the previous calendar year; and

(B) plans to supply for the following calendar year;

(2) suppliers of alternative fueled vehicles to report to the Secretary on the number of each type of alternative fueled vehicle that such supplier—

(A) has made available in the previous calendar year; and

(B) plans to make available for the following calendar year; and

(3) such fuel suppliers to provide the Secretary information necessary to determine the greenhouse gas emissions from the replacement fuels used, taking into account the entire fuel cycle.

(c) PROTECTION OF INFORMATION.—Information provided to the Secretary under subsection (b) shall be subject to applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 504. MODIFICATION OF GOALS; ADDITIONAL RULEMAKING AUTHORITY.

(a) EXAMINATION OF GOALS.—Within 3 years after the date of enactment of this Act, and periodically thereafter, the Secretary shall examine the goals established under section 502(b)(2), in the context of the program goals stated under section 502(a), to determine if the goals under section 502(b)(2), including the applicable percentage requirements and dates, should be modified under this section. The Secretary shall publish in the Federal Register the results of each examination under this subsection and provide an opportunity for public comment.

(b) MODIFICATION OF GOALS.—If, after analysis of information obtained in connection with carrying out subsection (a) or section 502, or other information, and taking into account the determination of technical and economic feasibility made under section 502(b)(2), the Secretary determines that goals described in section 502(b)(2), including the percentage requirements or dates, are not achievable, the Secretary, in consultation with appropriate Federal agencies, shall, by rule, establish goals that are achievable, for purposes of this title. The modification of goals under this section may include changing the target dates specified in section 502(b)(2).

(c) ADDITIONAL RULEMAKING AUTHORITY.—If the Secretary determines that the achievement of goals described in section 502(b)(2) would result in a significant and correctable failure to meet the program goals described in section 502(a), the Secretary shall issue such additional regulations as are necessary to remedy such failure. The Secretary shall have no authority under this Act to mandate the production of alternative fueled vehicles or to specify, as applicable, the models, lines, or types of, or marketing or pricing practices, policies, or strategies for, vehicles subject to this Act. Nothing in this Act shall be construed to give the Secretary authority to mandate marketing or pricing practices, policies, or strategies for alternative fuels or to mandate the production or delivery of such fuels.

SEC. 505. VOLUNTARY SUPPLY COMMITMENTS.

The Secretary shall, by January 1, 1994, and thereafter, undertake to obtain voluntary commitments in geographically diverse regions of the United States—

(1) from fuel suppliers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) from owners of 10 or more motor vehicles to acquire and use alternative fueled vehicles and alternative fuels; and

(3) from suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services, in sufficient volume to achieve the goals described in section 502(b)(2) or as modified under section 504, and in order to meet any fleet requirement program established by rule under this title. The Secretary shall periodically report to the Congress on the results of efforts under this section. All voluntary commitments obtained pursuant to this section shall be available to the public, except to the extent provided in applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 506. TECHNICAL AND POLICY ANALYSIS.

(a) REQUIREMENT.—Not later than March 1, 1995, and March 1, 1997, the Secretary shall prepare and transmit to the President and the Congress a technical and policy analysis under this section. The Secretary shall utilize the analytical capability and authorities of the Energy Information Administration and such other offices of the Department of Energy as the Secretary considers appropriate.

(b) PURPOSES.—The technical and policy analysis prepared under this section shall be based on the best available data and information obtainable by the Secretary under section 503, or otherwise, and on experience under this title and other provisions of law in the development and use of replacement fuels and alternative fueled vehicles, and shall evaluate—

(1) progress made in achieving the goals described in section 502(b)(2), as modified under section 504;

(2) the actual and potential role of replacement fuels and alternative fueled vehicles in significantly reducing United States reliance on imported oil to the extent of the goals referred to in paragraph (1); and

(3) the actual and potential availability of various domestic replacement fuels and dedicated vehicles and dual fueled vehicles.

(c) PUBLICATION.—The Secretary shall publish a proposed version of each analysis under this section in the Federal Register for public comment before transmittal to the President and the Congress. Public comment received in response to such publication shall be preserved for use in rulemaking proceedings under section 507.

SEC. 507. FLEET REQUIREMENT PROGRAM.

(a) FLEET PROGRAM PURCHASE GOALS.—(1) Except as provided in paragraph (2), the following percentages of new light duty motor vehicles acquired in each model year for a fleet, other than a Federal fleet, State fleet, or fleet owned, operated, leased, or otherwise controlled by a covered person subject to section 501, shall be alternative fueled vehicles:

(A) 20 percent of the motor vehicles acquired in model years 1999, 2000, and 2001;

(B) 30 percent of the motor vehicles acquired in model year 2002;

(C) 40 percent of the motor vehicles acquired in model year 2003;

(D) 50 percent of the motor vehicles acquired in model year 2004;

(E) 60 percent of the motor vehicles acquired in model year 2005; and

(F) 70 percent of the motor vehicles acquired in model year 2006 and thereafter.

(2) The Secretary may not establish percentage requirements higher than those described in paragraph (1). The Secretary may, if appropriate, and pursuant to a rule under subsection (b), establish a lesser percentage requirement for any model year. The Secretary may, by rule, establish a date later than 1998 (or model year 1999) for initiating the fleet requirements under paragraph (1).

(3) The Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(A) evaluating the progress toward achieving the goals of replacement fuel use described in section 502(b)(2), as modified under section 504;

(B) identifying the problems associated with achieving those goals;

(C) assessing the adequacy and practicability of those goals; and

(D) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

(4) After the completion of such advance notice of proposed rulemaking, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (b), and shall provide for a public comment period, with hearings, of not less than 90 days.

(b) EARLY RULEMAKING.—(1) Not earlier than 1 year after the date of the enactment of this Act, and after carrying out the requirements of subsection (a), the Secretary shall initiate a rulemaking to determine whether a fleet requirement program to begin in calendar year 1998 (when model year 1999 begins), or such other later date as he may select pursuant to subsection (a), is necessary under this section. Such rule, consistent with subsection (a)(1), shall establish the annual applicable model year percentage. No rule under this subsection may be promulgated after December 15, 1996, and be enforceable. A fleet requirement program shall be considered necessary and a rule therefor shall be promulgated if the Secretary finds that—

(A) the goal of replacement fuel use described in section 502(b)(2)(B), as modified under section 504, is not expected to be actually achieved by 2010, or such other date as is established under section 504, by voluntary means or pursuant to this title or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 502(b)(2)(A), as modified under section 504;

(B) such goal is practicable and actually achievable within periods specified in section 502(b)(2), as modified under section 504, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals; and

(C) by 1998 (when model year 1999 begins) or the date specified by the Secretary in such rule for initiating a fleet requirement program—

(i) there exists sufficient evidence to ensure that the fuel and the needed infrastructure, including the supply and deliverability systems, will be installed and located at convenient places in the fleet areas subject to the rule and will be fully operational when the rule is effective to offer a reliable and timely supply of the applicable alternative fuel at reasonable costs (as compared to conventional fuels) to meet the fleet requirement program, as demonstrated through use of the provisions of section 505(1) of this title regarding voluntary commitments or other adequate, reliable, and convincing forms of agreements, arrangements, or representations that such fuels and infrastructure are in existence or will exist when the rule is effective and will be expanded as the percentages increase annually;

(ii) there will be a sufficient number of new alternative fueled vehicles from original equipment manufacturers that comply with all applicable requirements of the Clean Air Act and the National Traffic and Motor Vehicle Safety Act of 1966;

(iii) such new vehicles will meet the applicable non-Federal and non-State fleet performance requirements of such fleets (including range, passenger or cargo-carrying capacity, reliability,

refueling capability, vehicle mix, and economical operation and maintenance); and

(iv) establishment of a fleet requirement program by rule under this subsection will not result in unfair competitive advantages or disadvantages, or result in undue economic hardship, to the affected fleets.

(2) The Secretary shall not promulgate a rule under this subsection if he is unable to make affirmative findings in the case of each of the subparagraphs under paragraph (1), and each of the clauses under subparagraph (C) of paragraph (1).

(3) If the Secretary does not determine that such program is necessary under this subsection, the provisions of subsection (e) shall apply to the consideration in the future of any fleet requirement program. The record of this rulemaking, including the Secretary's findings, shall be incorporated into a rulemaking under that subsection. If the Secretary determines under this subsection that such program is necessary, the Secretary shall not initiate the later rulemaking under subsection (e).

(c) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than April 1, 1998, the Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(1) evaluating the progress toward achieving the goals of replacement fuel use described in section 502(b)(2), as modified under section 504;

(2) identifying the problems associated with achieving those goals;

(3) assessing the adequacy and practicability of those goals; and

(4) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

(d) PROPOSED RULE.—Before May 1, 1999, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (g), and shall provide for a public comment period, with hearings, of not less than 90 days.

(e) DETERMINATION.—(1) Not later than January 1, 2000, the Secretary shall, through the rule required under subsection (g), determine whether a fleet requirement program is necessary under this section. Such a program shall be considered necessary and a rule therefor shall be promulgated if the Secretary finds that—

(A) the goal of replacement fuel use described in section 502(b)(2)(B), as modified under section 504, is not expected to be actually achieved by 2010, or such other date as is established under section 504, by voluntary means or pursuant to this title or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 502(b)(2)(A), as modified under section 504; and

(B) such goal is practicable and actually achievable within periods specified in section 502(b)(2), as modified under section 504, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals.

(2) The rule under subsection (b) or (g) shall also modify the goal described in section 502(b)(2)(B) and establish a revised goal pursuant to section 504 if the Secretary determines, based on the proceeding required under subsection (a) or (c), that the goal in effect at the time of that proceeding is inadequate or impracticable, and not expected to be achievable. Such goal as modified and established shall be applicable in making the findings described in paragraph (1). If the Secretary modifies the goal under this paragraph, he may also modify the percentages stated in subsection (a)(1) or (g)(1) and the minimum percentage stated in subsection (a)(2) or (g)(2) shall be not less than 10 percent.

(f) EXPLANATION OF DETERMINATION THAT FLEET REQUIREMENT PROGRAM IS NOT NECESSARY.—If the Secretary determines, based on findings under subsection (b) or (e), that a fleet requirement program under this section is not necessary, the Secretary shall—

(1) by December 15, 1996, with respect to a rulemaking under subsection (b); and

(2) by January 1, 2000, with respect to a rulemaking under subsection (e),

publish such determination in the Federal Register as a final agency action, including an explanation of the findings on which such determination is made and the basis for the determination.

(g) FLEET REQUIREMENT PROGRAM.—(1) If the Secretary determines under subsection (e) that a fleet requirement program is necessary, the Secretary shall, by January 1, 2000, by rule require that, except as provided in paragraph (2), of the total number of new light duty motor vehicles acquired for a fleet, other than a Federal fleet, State fleet, or fleet owned, operated, leased, or otherwise controlled by a covered person under section 501—

(A) 20 percent of the motor vehicles acquired in model year 2002;

(B) 40 percent of the motor vehicles acquired in model year 2003;

(C) 60 percent of the motor vehicles acquired in model year 2004; and

(D) 70 percent of the motor vehicles acquired in model year 2005 and thereafter,

shall be alternative fueled vehicles.

(2) The Secretary may not establish percentage requirements higher than those described in paragraph (1). The Secretary may, if appropriate, and pursuant to a rule under subsection (g), establish a lesser percentage requirement for any model year. The Secretary may, by rule, establish a date later than 2002 (when model year 2003 begins) for initiating the fleet requirements under paragraph (1).

(3) Nothing in this title shall be construed as requiring any fleet to acquire alternative fueled vehicles or alternative fuels that do not meet the normal business requirements and practices and needs of that fleet.

(4) A vehicle operating only on gasoline that complies with applicable requirements of the Clean Air Act shall not be considered an alternative fueled vehicle under subsection (b) or this subsection, except that the Secretary, as part of the rule under subsection (b) or this subsection, may determine that such vehicle should be treated as an alternative fueled vehicle for purposes of this section, for fleets subject to part C of title II of the Clean Air Act, taking into consideration the impact on energy security and the goals stated in section 502(a).

(h) EXTENSION OF DEADLINES.—The Secretary may, by notice published in the Federal Register, extend the deadlines established under subsections (e), (f)(2), and (g) for an additional 90 days if the Secretary is unable to meet such deadlines. Such extension shall not be reviewable.

(i) EXEMPTIONS.—(1) A rule issued under subsection (b), (g), or (o) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, of any fleet from the requirements of subsection (b), (g), or (o), in whole or in part, if it is demonstrated to the satisfaction of the Secretary that—

(A) alternative fueled vehicles that meet the normal requirements and practices of the principal business of the fleet owner are not reasonably available for acquisition;

(B) alternative fuels that meet the normal requirements and practices of the principal business of the fleet owner are not available in the area in which the vehicles are to be operated; or

(C) in the case of State and local government entities, the application of such requirements would pose an unreasonable financial hardship.

(2) In the case of private fleets, if the motor vehicles, when under normal operations, are garaged at personal residences at night, such motor vehicles shall be exempt from the requirements of subsections (b) and (g).

(j) CONVERSIONS.—Nothing in this title or the amendments made by this title shall require a fleet owner to acquire conversion vehicles.

(k) INCLUSION OF LAW ENFORCEMENT VEHICLES AND URBAN BUSES.—(1) If the Secretary determines, by rule, that the inclusion of fleets of law enforcement motor vehicles in the fleet requirement program established under subsection (g) would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, and the Secretary finds that such inclusion would not hinder the use of the motor vehicles for law enforcement purposes, the Secretary may include such fleets in such program. The Secretary may only initiate one rulemaking under this paragraph.

(2) If the Secretary determines, by rule, that the inclusion of new urban buses, as defined by the Administrator under title II of the Clean Air Act, in a fleet requirement program established under subsection (g) would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, the Secretary may include such urban buses in such program, if the Secretary finds that such application will be consistent with energy security goals and the needs and objectives of encouraging and facilitating the greater use of such urban buses by the public, taking into consideration the impact of such application on public transit entities. The Secretary may only initiate one rulemaking under this paragraph.

(3) Rulemakings under paragraph (1) or (2) shall be separate from a rulemaking under subsection (g), but may not occur unless a rulemaking is carried out under subsection (g).

(l) CONSIDERATION OF FACTORS.—In carrying out this section, the Secretary shall take into consideration energy security, costs, safety, lead time requirements, vehicle miles traveled annually, effect on greenhouse gases, technological feasibility, energy requirements, economic impacts, including impacts on workers and the impact on consumers (including users of the alternative fuel for purposes such as for residences, agriculture, process use, and non-fuel purposes) and fleets, the availability of alternative fuels and alternative fueled vehicles, and other relevant factors.

(m) CONSULTATION AND PARTICIPATION OF OTHER FEDERAL AGENCIES.—In carrying out this section and section 506, the Secretary shall consult with the Secretary of Transportation, the Administrator, and other appropriate Federal agencies. The Secretary shall provide for the participation of the Secretary of Transportation and the Administrator in the development and issuance of the rule under this section, including the public process concerning such rule.

(n) PETITIONS.—As part of the rule promulgated either pursuant to subsection (b) or (g) of this section, the Secretary shall establish procedures for any fleet owner or operator or motor vehicle manufacturer to request that the Secretary modify or suspend a fleet requirement program established under either subsection nationally, by region, or in an applicable fleet area because, as demonstrated by the petitioner, the infrastructure or fuel supply or distribution system for an applicable alternative fuel is inadequate to meet the needs of a fleet. In the event that the Secretary determines that a modifica-

tion or suspension of the fleet requirement program on a regional basis would detract from the nationwide character of any fleet requirement program established by rule or would sufficiently diminish the economies of scale for the production of alternative fueled vehicles or alternative fuels and thereafter the practicability and effectiveness of such program, the Secretary may only modify or suspend the program nationally. The procedures shall include provisions for notice and public hearings. The Secretary shall deny or grant the petition within 180 days after filing.

(o) Mandatory State Fleet Programs.—(1) Pursuant to a rule promulgated by the Secretary, beginning in calendar year 1995 (when model year 1996 begins), the following percentages of new light duty motor vehicles acquired annually for State government fleets, including agencies thereof, but not municipal fleets, shall be alternative fueled vehicles:

(A) 10 percent of the motor vehicles acquired in model year 1996;

(B) 15 percent of the motor vehicles acquired in model year 1997;

(C) 25 percent of the motor vehicles acquired in model year 1998;

(D) 50 percent of the motor vehicles acquired in model year 1999;

(E) 75 percent of the motor vehicles acquired in model year 2000 and thereafter.

(2)(A) The Secretary shall within 18 months after the date of the enactment of this Act promulgate a rule providing that a State may submit a plan within 12 months after such promulgation containing a light duty alternative fueled vehicle plan for State fleets to meet the annual percentages established under paragraph (1) for the acquisition of light duty motor vehicles. The plan shall provide for the voluntary conversion or acquisition or combination thereof, beyond any acquisition required by this title, of such motor vehicles by State, local, or private fleets, in numbers greater than or equal to the number of State alternative fueled vehicles required pursuant to paragraph (1).

(B) The plan, if approved by the Secretary, would be in lieu of the State meeting such annual percentages solely through purchases of new State-owned vehicles. All conversions or acquisitions or combinations thereof of any alternative fueled vehicles under the plan must be voluntary and must conform with the requirements of section 247 of the Clean Air Act and must comply with applicable safety requirements. The Secretary of Transportation shall within 3 years after enactment promulgate rules setting forth safety standards in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 applicable to all conversions.

SEC. 508. CREDITS.

(a) In General.—The Secretary shall allocate a credit to a fleet or covered person that is required to acquire an alternative fueled vehicle under this title, if that fleet or person acquires an alternative fueled vehicle in excess of the number that fleet or person is required to acquire under this title or acquires an alternative fueled vehicle before the date that fleet or person is required to acquire an alternative fueled vehicle under such title.

(b) Allocation.—In allocating credits under subsection (a), the Secretary shall allocate one credit for each alternative fueled vehicle the fleet or covered person acquires that exceeds the number of alternative fueled vehicles that fleet or person is required to acquire under this title or that is acquired before the date that fleet or person is required to acquire an alternative fueled vehicle under such title. In the event that a vehicle is acquired before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is acquired before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier acquired vehicle.

(c) Use of Credits.—At the request of a fleet or covered person allocated a credit under this section, the Secretary shall treat the credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by that fleet or person when determining whether that fleet or person has complied with this title in the year designated. A credit may be counted toward compliance for only one year.

(d) Transferability.—A fleet or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another fleet or person who is required to comply with this title. At the request of the fleet or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by the fleet or person to whom the credit is transferred when determining whether that fleet or person has complied with this title in the year designated. A transferred credit may be counted toward compliance for only one year. In the case of the alternative fuel provider program under section 501, a transferred credit may be counted toward compliance only if the requirement of section 501(a)(4) is met.

SEC. 509. SECRETARY'S RECOMMENDATIONS TO CONGRESS.

(a) Recommendations To Require Availability or Acquisition.—If the Secretary determines, under section 507(f), that a fleet requirement program under section 507 is not necessary, the Secretary shall so notify the Congress. If the Secretary so notifies the Congress, the Secretary shall, within 2 years after such notification and by rule, prepare and submit to the Congress recommendations for requirements or incentives for—

(1) fuel suppliers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services; and

(3) motor vehicle drivers to use replacement fuels,

to the extent necessary to achieve such goals of replacement fuel use and to ensure that the availability of alternative fuels and of alternative fueled vehicles are consistent with each other.

(b) Fair and Equitable Application.—In carrying out this section, the Secretary shall recommend the imposition of requirements proportionately on all appropriate fuel suppliers and purchasers of motor fuels and suppliers and purchasers of motor vehicles in a fair and equitable manner.

SEC. 510. EFFECT ON OTHER LAWS.

(a) In General.—Nothing in this Act or the amendments made by this Act shall be construed to alter, affect, or modify the provisions of the Clean Air Act, or regulations issued thereunder.

(b) Compliance by Alternative Fueled Vehicles.—Alternative fueled vehicles, whether dedicated vehicles or dual fueled vehicles, and the alternative fuels for operating such vehicles, shall comply with requirements of the Clean Air Act applicable to such vehicles and fuels.

SEC. 511. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of section 501, 503(b), or 507, or any regulation issued under such sections.

SEC. 512. ENFORCEMENT.

(a) Whoever violates section 511 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 511 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 511 after having been subjected to a civil penalty for a prior violation of section 511 shall be fined not more than $50,000.

SEC. 513. POWERS OF THE SECRETARY.

For the purpose of carrying out title III, title IV, this title, and title VI, the Secretary, or the duly designated agent of the Secretary, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary of Transportation is authorized to do under section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(b)(1)).

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this title $10,000,000 for each of the fiscal years 1993 through 1997, and such sums as may be necessary for fiscal years 1998 through 2000.

TITLE VI—ELECTRIC MOTOR VEHICLES

SEC. 601. DEFINITIONS.

For the purposes of this title—

(1) the term "antitrust laws" means the Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12);

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electric energy used to power an electric motor vehicle and, in the case of electric-hybrid vehicles, such term includes nonpetroleum-related equipment necessary for, and solely related to, the demonstration of such vehicles;

(3) the term "discount payment" means the amount determined pursuant to section 613 of this title;

(4) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or other sources of electric current and may include an electric-hybrid vehicle;

(5) the term "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electric source of power;

(6) the term "eligible metropolitan area" means any Metropolitan Area (as such term is defined by the Office of Management and Budget pursuant to section 3504 of title 44, United States Code) with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this title, except that the Secretary may designate an area with a 1990 population of 50,000 or more as an eligible metropolitan area;

(7) the term "infrastructure and support systems" includes support and maintenance services and facilities, electricity delivery mechanisms and methods, regulatory treatment of investment in electric motor vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling, and disposal, that may be required to enable electric utilities, manufacturers, and others to support the operation and maintenance of electric motor vehicles and associated equipment;

(8) the term "motor vehicle" has the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(9) the term "non-Federal person" means an entity not part of the Federal Government that is either—

(A) organized under the laws of the United States or the laws of a State of the United States; or

(B) a unit of State or local government;

(10) the term "proposer" means a non-Federal person that submits a proposal to conduct a demonstration project under this title;

(11) the term "price differential" means—

(A) in the case of a purchased electric motor vehicle, the difference between the manufacturer's suggested retail price of such electric motor vehicle and the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle; and

(B) in the case of a leased electric motor vehicle, the difference between the monthly lease payment of such electric motor vehicle over the life of the lease and the monthly lease payment of a comparable conventionally fueled motor vehicle over the life of the lease; and

(12) the term "user" means a person or entity that purchases or leases an electric motor vehicle.

Subtitle A—Electric Motor Vehicle Commercial Demonstration Program

SEC. 611. PROGRAM AND SOLICITATION.

(a) PROGRAM.—The Secretary shall conduct a program to demonstrate electric motor vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, manufacturers, the electric utility industry, and such other persons as the Secretary considers appropriate. Such program shall be—

(1) designed to accelerate the development and use of electric motor vehicles; and

(2) structured to evaluate the performance of such electric motor vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure.

(b) SOLICITATION.—(1) Not later than 18 months after the date of enactment of this Act, the Secretary shall solicit proposals to demonstrate electric motor vehicles and associated equipment in one or more eligible metropolitan areas. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this subtitle.

(2)(A) Solicitations for proposals under this subsection shall require the proposer to include a description, including the manufacturer or manufacturers of the electric motor vehicles; the proposed users of the electric motor vehicles; the eligible metropolitan area or areas involved; the number of electric motor vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; the domestic content of the electric motor vehicles and associated equipment; and any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric motor vehicles or associated equipment.

(3) The solicitation for proposals under this subsection shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

SEC. 612. SELECTION OF PROPOSALS.

(a) SELECTION.—(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall, not later than 120 days after the closing date, as established by the Secretary, for receipt of proposals under section 611, select at least one, but not more than 10, proposals to receive financial assistance under section 613.

(2) The Secretary may select more than 10 proposals under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

(3) Any proposal selected under paragraph (1) must satisfy the limitations set forth in section 613(c).

(4) No one project selected under this section shall receive more than 25 percent of the funds authorized under section 616.

(5) A demonstration project may not include electric motor vehicles in more than one eligible metropolitan area, unless the total number of electric motor vehicles in that project is equal to, or greater than, 100.

(b) CRITERIA.—In selecting a proposal and in negotiating financial assistance under this section, the Secretary shall consider—

(1) the ability of the manufacturer, directly, indirectly, or in combination with the proposer, to develop, assist in the demonstration of, manufacture, distribute, sell, provide warranties for, service, and ensure the continued availability of parts for, electric motor vehicles in the demonstration project;

(2) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project is to be undertaken, when considered in combination with other proposals and other selected demonstration projects;

(3) the long-term technical and competitive viability of the electric motor vehicles;

(4) the suitability of the electric motor vehicles for their intended uses;

(5) the environmental effects of the use of the proposed electric motor vehicles;

(6) the price differential and the proposed discount payment;

(7) the extent of involvement of State or local government and other persons in the demonstration project, and whether such involvement will—

(A) permit a reduction of the Federal cost share per vehicle; or

(B) otherwise be used to allow the Federal contribution to be provided for a greater number of electric motor vehicles;

(8) the proportion of domestic content of the electric motor vehicles and associated equipment;

(9) the safety of the electric motor vehicles; and

(10) such other criteria as the Secretary considers appropriate.

(c) CONDITIONS.—The Secretary shall require that—

(1) as a part of a demonstration project, the user or users of the electric motor vehicles will provide to the proposer and the manufacturer information regarding the operation, maintenance, performance, and use of the electric motor vehicles for 5 years after the beginning of the demonstration project;

(2) the proposer shall provide to the Secretary such information regarding the operation, maintenance, performance, and use of the electric motor vehicles as the Secretary may request during the period of the demonstration project;

(3) in the case of a demonstration project including automobiles or light duty trucks, the number of electric motor vehicles to be included in the demonstration project shall be no less than 50, except that the Secretary may select a demonstration project with fewer than 50 electric motor vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity among the proposals selected and that an adequate demonstration to accelerate the development and use of electric motor vehicles can be undertaken with fewer than 50 electric motor vehicles; and

(4) the procurement practices of the manufacturer do not discriminate against United States producers of vehicle parts.

SEC. 613. DISCOUNT PAYMENTS.

(a) CERTIFICATION.—The Secretary shall provide a discount payment to a proposer of a proposal selected under this subtitle for purposes of reimbursing the proposer for a discount provided to the users if the proposer certifies to the Secretary that—

(1) the electric motor vehicles have been purchased or leased by a user or users in accordance with the requirements of this subtitle; and

(2) the proposer has provided to the user or users a discount payment in accordance with the requirements of this subtitle.

(b) PAYMENT.—Not later than 30 days after receipt from the proposer of certification that the Secretary determines satisfies the requirements of subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment, to the extent provided in advance in appropriations Acts.

(c) CALCULATIONS OF DISCOUNT PAYMENTS.—(1) The discount payment shall be no greater than—

(A) the price differential; or

(B) the price of the comparable conventionally fueled motor vehicle.

(2) The purchase price of the electric motor vehicle, less the discount payment and less any additional reduction in the purchase price of the electric motor vehicle that may result from contributions provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle.

(3) The maximum discount payment shall be no greater than $10,000 per electric motor vehicle.

SEC. 614. COST-SHARING.

(a) REQUIREMENT.—The Secretary shall require at least 50 percent of the costs directly and specifically related to any project under this subtitle to be from non-Federal sources. Such share may be in the form of cash, personnel, services, equipment, and other resources.

(b) REDUCTION.—The Secretary may reduce the amount of costs required to be provided by non-Federal sources under subsection (a) if the Secretary determines that the reduction is necessary and appropriate—

(1) considering the technological risks involved in the project; and

(2) in order to meet the objectives of this subtitle.

SEC. 615. REPORTS TO CONGRESS.

(a) PROGRESS REPORTS.—The Secretary shall report annually to Congress on the progress being made, through demonstration projects supported under this subtitle, to accelerate the development and use of electric motor vehicles.

(b) REPORT ON ENCOURAGING THE PURCHASE AND USE OF ELECTRIC MOTOR VEHICLES.—Within 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on methods for encouraging the purchase and use of electric motor vehicles. Such report shall—

(1) address the potential cost of purchasing and maintaining electric motor vehicles, including the initial cost of the batteries and the cost of replacement batteries;

(2) identify methods for reducing, subsidizing, or sharing such costs; and

(3) include recommendations for legislative and administrative measures to encourage the purchase and use of electric motor vehicles.

SEC. 616. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for purposes of this subtitle $50,000,000 for the 10-year period beginning with the first full fiscal year after the date of enactment of this Act, to remain available until expended.

Subtitle B—Electric Motor Vehicle Infrastructure and Support Systems Development Program

SEC. 621. GENERAL AUTHORITY.

(a) PROGRAM.—The Secretary shall undertake a program with one or more non-Federal persons, including fleet operators, for cost-shared research, development, demonstration, or commercial application of an infrastructure and support systems program.

(b) ELIGIBILITY.—A non-Federal person shall be eligible to receive financial assistance under this subtitle only if such person demonstrates, to the satisfaction of the Secretary, that the person will conduct a substantial portion of activities under the project in the United States using domestic labor and materials.

(c) COORDINATION.—Activities under this subtitle shall be coordinated with activities under subtitle A.

SEC. 622. PROPOSALS.

(a) SOLICITATION.—Not later than one year after the date of enactment of this Act, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, for projects under this subtitle. Within 240 days after proposals have been solicited, the Secretary shall select proposals.

(b) CRITERIA.—(1) The Secretary shall provide financial assistance to no more than 10 projects under this subtitle, unless the Secretary determines that the total amount of available funds is not likely to be otherwise used.

(2) The proposals selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(3) The aggregate Federal financial assistance for each project under this subtitle may not exceed $4,000,000.

(c) PROJECTS.—The infrastructure and support systems programs for which projects are selected under this subtitle may address—

(1) the ability to service electric motor vehicles and to provide or service associated equipment;

(2) the installation of charging facilities;

(3) rates and cost recovery for electric utilities who invest in infrastructure capital-related expenditures;

(4) the development of safety and health procedures and guidelines related to battery charging, watering, and emissions;

(5) the conduct of information dissemination programs; and

(6) such other subjects as the Secretary considers necessary in order to address the infrastructure and support systems needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric motor vehicles.

SEC. 623. PROTECTION OF PROPRIETARY INFORMATION.

(a) IN GENERAL.—In the case of activities, including joint venture activities, under this title, and in the case of any existing or future activities, including joint venture activities, related primarily to battery technology for electric motor vehicles under other provisions of law, where the knowledge resulting from research and development activities conducted pursuant to such activities, including joint venture activities, is for the benefit of the participants (particularly domestic companies) that provide financial resources to a project under this title, the Secretary, for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under this title; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a participant,

shall, notwithstanding any other provision of law, provide appropriate protections against the dissemination of such information to the public, and the provisions of section 1905 of title 18, United States Code, shall apply to such information. Nothing in this subsection provides protections against the dissemination of such information to Congress.

(b) DEFINITION.—For purposes of subsection (a), the term "domestic companies" means entities which are substantially involved in the United States in the domestic production of motor vehicles for sale in the United States and have a substantial percentage of their production facilities in the United States.

SEC. 624. COMPLIANCE WITH EXISTING LAW.

Nothing in this title shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law.

SEC. 625. ELECTRIC UTILITY PARTICIPATION STUDY.

The Secretary, in consultation with appropriate Federal agencies, representatives of State regulatory commissions and electric utilities, and such other persons as the Secretary considers appropriate, shall undertake or cause to have undertaken a study to determine the means by which electric utilities may invest in, own, sell, lease, service, or recharge batteries used to power electric motor vehicles.

SEC. 626. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for purposes of this subtitle $40,000,000 for the 5-year period beginning with the first full fiscal year after the date of enactment of this Act, to remain available until expended.

TITLE VII—ELECTRICITY

Subtitle A—Exempt Wholesale Generators

SEC. 711. PUBLIC UTILITY HOLDING COMPANY ACT REFORM.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) is amended by redesignating sections 32 and 33 as sections 34 and 35 respectively and by adding the following new section after section 31:

"SEC. 32. EXEMPT WHOLESALE GENERATORS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) EXEMPT WHOLESALE GENERATOR.—The term 'exempt wholesale generator' means any person determined by the Federal Energy Regulatory Commission to be engaged directly, or indirectly through one or more affiliates as defined in section 2(a)(11)(B), and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale. No person shall be deemed to be an exempt wholesale generator under this section unless such person has applied to the Federal Energy Regulatory Commission for a determination under this paragraph. A person applying in good faith for such a determination shall be deemed an exempt wholesale generator under this section, with all of the exemptions provided by this section, until the Federal Energy Regulatory Commission makes such determination. The Federal Energy Regulatory Commission shall make such determination within 60 days of its receipt of such application and shall notify the Commission whenever a determination is made under this paragraph that any person is an exempt wholesale generator. Not later than 12 months after the date of enactment of this section, the Federal Energy Regulatory Commission shall promulgate rules implementing the provisions of this paragraph. Applications for determination filed after the effective date of such rules shall be subject thereto.

"(2) ELIGIBLE FACILITY.—The term 'eligible facility' means a facility, wherever located, which is either—

"(A) used for the generation of electric energy exclusively for sale at wholesale, or

"(B) used for the generation of electric energy and leased to one or more public utility companies; Provided, That any such lease shall be treated as a sale of electric energy at wholesale for purposes of sections 205 and 206 of the Federal Power Act.

Such term shall not include any facility for which consent is required under subsection (c) if such consent has not been obtained. Such term includes interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale. For purposes of this paragraph, the term 'facility' may include a portion of a facility subject to the limitations of subsection (d) and shall include a facility the construction of which has not been commenced or completed.

"(3) SALE OF ELECTRIC ENERGY AT WHOLESALE.—The term 'sale of electric energy at wholesale' shall have the same meaning as provided in section 201(d) of the Federal Power Act (16 U.S.C. 824(d)).

"(4) RETAIL RATES AND CHARGES.—The term 'retail rates and charges' means rates and charges for the sale of electric energy directly to consumers.

"(b) FOREIGN RETAIL SALES.—Notwithstanding paragraphs (1) and (2) of subsection (a), retail sales of electric energy produced by a facility located in a foreign country shall not prevent such facility from being an eligible facility, or prevent a person owning or operating, or both owning and operating, such facility from being an exempt wholesale generator if none of the electric energy generated by such facility is sold to consumers in the United States.

"(c) STATE CONSENT FOR EXISTING RATE-BASED FACILITIES.—If a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State as of the date of enactment of this section, in order for the facility to be considered an eligible facility, every State commission having jurisdiction over any such rate or charge must make a specific determination that allowing such facility to be an eligible facility (1) will benefit consumers, (2) is in the public interest, and (3) does not violate State law; Provided, That in the case of such a rate or charge which is a rate or charge of an affiliate of a registered holding company:

"(A) such determination with respect to the facility in question shall be required from every State commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company; and

"(B) the approval of the Commission under this Act shall not be required for the transfer of the facility to an exempt wholesale generator.

"(d) HYBRIDS.—(1) No exempt wholesale generator may own or operate a portion of any facility if any other portion of the facility is owned or operated by an electric utility company that is an affiliate or associate company of such exempt wholesale generator.

"(2) ELIGIBLE FACILITY.—Notwithstanding paragraph (1), an exempt wholesale generator may own or operate a portion of a facility identified in paragraph (1) if such portion has become an eligible facility as a result of the operation of subsection (c).

"(e) EXEMPTION OF EWGS.—An exempt wholesale generator shall not be considered an electric utility company under section 2(a)(3) of this Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, an exempt wholesale generator shall be exempt from all provisions of this Act.

"(f) OWNERSHIP OF EWGS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act, a holding company that is ex-

empt under section 3 of this Act shall be permitted, without condition or limitation under this Act, to acquire and maintain an interest in the business of one or more exempt wholesale generators.

"(g) Ownership of EWGS by Registered Holding Companies.—Notwithstanding any provision of this Act and the Commission's jurisdiction as provided under subsection (h) of this section, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under this Act) to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

"(h) Financing and Other Relationships Between EWGS and Registered Holding Companies.—The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (g) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act: Provided, That—

"(1) section 11 of this Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

"(2) the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system;

"(3) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or (B) the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding company system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, unless the Commission first finds that the issue or sale of such security, or the making of the guarantee, would have a substantial adverse impact on the financial integrity of the registered holding company system;

"(4) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator, or (B) other transactions by such registered holding company or by its subsidiaries other than with respect to exempt wholesale generators, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator upon the registered holding company system, unless the approval of the issue or sale or other transaction, together with the effect of such capitalization and earnings, would have a substantial adverse impact on the financial integrity of the registered holding company system;

"(5) the Commission shall make its decision under paragraph (3) to approve or disapprove the issue or sale of a security or the guarantee of a security within 120 days of the filing of a declaration concerning such issue, sale or guarantee; and

"(6) the Commission shall promulgate regulations with respect to the actions which would be considered, for purposes of this subsection, to have a substantial adverse impact on the financial integrity of the registered holding company system; such regulations shall ensure that the action has no adverse impact on any utility subsidiary or its customers, or on the ability of State commissions to protect such subsidiary or customers, and shall take into account the amount and type of capital invested in exempt wholesale generators, the ratio of such capital to the total capital invested in utility operations, the availability of books and records, and the financial and operating experience of the registered holding company and the exempt wholesale generator; the Commission shall promulgate such regulations within 6 months after the enactment of this section; after such 6-month period the Commission shall not approve any actions under paragraph (3), (4) or (5) except in accordance with such issued regulations.

"(i) Application of Act to Other Eligible Facilities.—In the case of any person engaged directly and exclusively in the business of owning or operating (or both owning and operating) all or part of one or more eligible facilities, an advisory letter issued by the Commission staff under this Act after the date of enactment of this section, or an order issued by the Commission under this Act after the date of enactment of this section, shall not be required for the purpose, or have the effect, of exempting such person from treatment as an electric utility company under section 2(a)(3) or exempting such person from any provision of this Act.

"(j) Ownership of Exempt Wholesale Generators and Qualifying Facilities.—The ownership by a person of one or more exempt wholesale generators shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and 3(18)(B)(ii) of the Federal Power Act (16 U.S.C. 796 (17)(C)(ii) and 796(18)(B)(ii)).

"(k) Protection Against Abusive Affiliate Transactions.—

"(1) Prohibition.—After the date of enactment of this section, an electric utility company may not enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator if the exempt wholesale generator is an affiliate or associate company of the electric utility company.

"(2) State Authority To Exempt From Prohibition.—Notwithstanding paragraph (1), an electric utility company may enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator that is an affiliate or associate company of the electric utility company—

"(A) if every State commission having jurisdiction over the retail rates of such electric utility company makes each of the following specific determinations in advance of the electric utility company entering into such contract:

"(i) A determination that such commission has sufficient regulatory authority, resources and access to books and records of the electric utility company and any relevant associate, affiliate or subsidiary company to exercise its duties under this subparagraph.

"(ii) A determination that the transaction—

"(I) will benefit consumers,

"(II) does not violate any State law (including where applicable, least cost planning),

"(III) would not provide the exempt wholesale generator any unfair competitive advantage by virtue of its affiliation or association with the electric utility company, and

"(IV) is in the public interest; or

"(B) if such electric utility company is not subject to State commission retail rate regulation and the purchased electric energy:

"(i) would not be resold to any affiliate or associate company, or

"(ii) the purchased electric energy would be resold to an affiliate or associate company and every State commission having jurisdiction over the retail rates of such affiliate or associate company makes each of the determinations provided under subparagraph (A), including the determination concerning a State commission's duties.

"(l) Reciprocal Arrangements Prohibited.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.".

SEC. 712. STATE CONSIDERATION OF THE EFFECTS OF POWER PURCHASES ON UTILITY COST OF CAPITAL; CONSIDERATION OF THE EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND CONSIDERATION OF ADEQUATE FUEL SUPPLIES.

Section 111 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by inserting the following new paragraph after paragraph (9):

"(10) Consideration of the Effects of Wholesale Power Purchases on Utility Cost of Capital; Effects of Leveraged Capital Structures on the Reliability of Wholesale Power Sellers; and Assurance of Adequate Fuel Supplies.—(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall perform a general evaluation of:

"(i) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities;

"(ii) whether the use by exempt wholesale generators (as defined in section 32 of the Public Utility Holding Company Act of 1935) of capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

"(iii) whether to implement procedures for the advance approval or disapproval of the purchase of a particular long-term wholesale power supply; and

"(iv) whether to require as a condition for the approval of the purchase of power that there be reasonable assurances of fuel supply adequacy.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

"(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State

regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.

"(E) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.".

SEC. 713. PUBLIC UTILITY HOLDING COMPANIES TO OWN INTERESTS IN COGENERATION FACILITIES.

Public Law 99–186 (99 Stat. 1180, as amended by Public Law 99–553, 100 Stat. 3087), is amended to read as follows:

"SECTION 1. Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act, or a subsidiary company of such registered company, may acquire or retain, in any geographic area, an interest in any qualifying cogeneration facilities and qualifying small power production facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act of 1935 prescribed pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978.

"SEC. 2. Nothing herein shall be construed to affect the applicability of section 3(17)(C) or section 3(18)(B) of the Federal Power Act or any provision of the Public Utility Holding Company Act of 1935, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.".

SEC. 714. BOOKS AND RECORDS.

Section 201 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) BOOKS AND RECORDS.—(1) Upon written order of a State commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

"(A) an electric utility company subject to its regulatory authority under State law,

"(B) any exempt wholesale generator selling energy at wholesale to such electric utility, and

"(C) any electric utility company, or holding company thereof, which is an associate company or affiliate of an exempt wholesale generator which sells electric energy to an electric utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric service.

"(2) Where a State commission issues an order pursuant to paragraph (1), the State commission shall not publicly disclose trade secrets or sensitive commercial information.

"(3) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to enforce compliance with this subsection.

"(4) Nothing in this section shall—

"(A) preempt applicable State law concerning the provision of records and other information; or

"(B) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

"(5) As used in this subsection the terms 'affiliate', 'associate company', 'electric utility company', 'holding company', 'subsidiary company', and 'exempt wholesale generator' shall have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

SEC. 715. INVESTMENT IN FOREIGN UTILITIES.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is amended by inserting after section 32 the following new section:

"SEC. 33. TREATMENT OF FOREIGN UTILITIES.

"(a) EXEMPTIONS FOR FOREIGN UTILITY COMPANIES.—

"(1) IN GENERAL.—A foreign utility company shall be exempt from all of the provisions of this Act, except as otherwise provided under this section, and shall not, for any purpose under this Act, be deemed to be a public utility company under section 2(a)(5), notwithstanding that the foreign utility company may be a subsidiary company, an affiliate, or an associate company of a holding company or of a public utility company.

"(2) STATE COMMISSION CERTIFICATION.—Section (a)(1) shall not apply or be effective unless every State commission having jurisdiction over the retail electric or gas rates of a public utility company that is an associate company or an affiliate of a company otherwise exempted under section (a)(1) (other than a public utility company that is an associate company or an affiliate of a registered holding company) has certified to the Commission that it has the authority and resources to protect ratepayers subject to its jurisdiction and that it intends to exercise its authority. Such certification, upon the filing of a notice by such State commission, may be revised or withdrawn by the State commission prospectively as to any future acquisition. The requirement of State certification shall be deemed satisfied if the relevant State commission had, prior to the date of enactment of this section, on the basis of prescribed conditions of general applicability, determined that ratepayers of a public utility company are adequately insulated from the effects of diversification and the diversification would not impair the ability of the State commission to regulate effectively the operations of such company.

"(3) DEFINITION.—For purposes of this section, the term 'foreign utility company' means any company that—

"(A) owns or operates facilities that are not located in any State and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, if such company—

"(i) derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, within the United States; and

"(ii) neither the company nor any of its subsidiary companies is a public utility company operating in the United States; and

"(B) provides notice to the Commission, in such form as the Commission may prescribe, that such company is a foreign utility company.

"(b) OWNERSHIP OF FOREIGN UTILITY COMPANIES BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act except as provided under this section, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under the Act to acquire and maintain an interest in the business of one or more foreign utility companies.

"(c) REGISTERED HOLDING COMPANIES.—

"(1) OWNERSHIP OF FOREIGN UTILITY COMPANIES BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of this Act except as otherwise provided under this section, a registered holding company shall be permitted as of the date of enactment of this section (without the need to apply for, or receive approval from the Commission) to acquire and hold the securities or an interest in the business, of one or more foreign utility companies. The Commission shall promulgate rules or regulations regarding registered holding companies' acquisition of interests in foreign utility companies which shall provide for the protection of the customers of a public utility company which is an associate company of a foreign utility company and the maintenance of the financial integrity of the registered holding company system.

"(2) ISSUANCE OF SECURITIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of a foreign utility company, the guarantee of securities of a foreign utility company by a registered holding company, the entering into service, sales, or construction contracts, and the creation or maintenance of any other relationship between a foreign utility company and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act (unless otherwise exempted under this Act, in the case of a transaction with an affiliate or associate company located outside of the United States). Any State commission with jurisdiction over the retail rates of a public utility company which is part of a registered holding company system may make such recommendations to the Commission regarding the registered holding company's relationship to a foreign utility company, and the Commision shall reasonably and fully consider such State recommendation.

"(3) CONSTRUCTION.—Any interest in the business of 1 or more foreign utility companies, or 1 or more companies organized exclusively to own, directly or indirectly, the securities or other interest in a foreign utility company, shall for all purposes of this Act, be considered to be—

"(A) consistent with the operation of a single integrated public utility system, within the meaning of section 11; and

"(B) reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system, within the meaning of section 11.

"(d) EFFECT ON EXISTING LAW; NO STATE PREEMPTION.—Nothing in this section shall—

"(1) preclude any person from qualifying for or maintaining any exemption otherwise provided for under this Act or the rules, regulations, or orders promulgated or issued under this Act; or

"(2) be deemed or construed to limit the authority of any State (including any State regulatory authority) with respect to—

"(A) any public utility company or holding company subject to such State's jurisdiction; or

"(B) any transaction between any foreign utility company (or any affiliate or associate company thereof) and any public utility company or holding company subject to such State's jurisdiction.

(e) REPORTING REQUIREMENTS.—

"(1) FILING OF REPORTS.—A public utility company that is an associate company of a foreign utility company shall file with the Commission such reports (with respect to such foreign utility company) as the Commission may by rules, regulations, or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

"(2) NOTICE OF ACQUISITIONS.—Not later than 30 days after the consummation of the acquisition of an interest in a foreign utility company by an associate company of a public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates or by such public utility company, such associate company or such public utility company, shall provide notice of such acquisition to every State commission having jurisdiction over the retail electric or gas rates of such public utility company, in such form as may be prescribed by the State commission.

"(f) PROHIBITION ON ASSUMPTION OF LIABILITIES.—

"(1) IN GENERAL.—No public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas

rates shall issue any security for the purpose of financing the acquisition, or for the purposes of financing the ownership or operation, of a foreign utility company, nor shall any such public utility company assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of a foreign utility company.

"(2) EXCEPTION FOR HOLDING COMPANIES WHICH ARE PREDOMINANTLY PUBLIC UTILITY COMPANIES.—Subsection (f)(1) shall not apply if:

"(A) the public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates is a holding company and is not an affiliate under section 2(a)(11)(B) of another holding company or is not subject to regulation as a holding company and has no affiliate as defined in section 2(a)(11)(A) that is a public utility company subject to the jurisdiction of a State commission with respect to its retail electric or gas rates; and

"(B) each State commission having jurisdiction with respect to the retail electric and gas rates of such public utility company expressly permits such public utility to engage in a transaction otherwise prohibited under section (f)(1); and

"(C) the transaction (aggregated with all other then-outstanding transactions exempted under this subsection) does not exceed 5 per centum of the then-outstanding total capitalization of the public utility.

"(g) PROHIBITION ON PLEDGING OR ENCUMBERING UTILITY ASSETS.—No public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall pledge or encumber any utility assets or utility assets of any subsidiary thereof for the benefit of an associate foreign utility company.".

Subtitle B—Federal Power Act; Interstate Commerce in Electricity

SEC. 721. AMENDMENTS TO SECTION 211 OF FEDERAL POWER ACT.

Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended as follows:

(1) The first sentence of subsection (a) is amended to read as follows: "Any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale, may apply to the Commission for an order under this subsection requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant.".

(2) In the second sentence of subsection (a), strike "the Commission may" and all that follows and insert "the Commission may issue such order if it finds that such order meets the requirements of section 212, and would otherwise be in the public interest. No order may be issued under this subsection unless the applicant has made a request for transmission services to the transmitting utility that would be the subject of such order at least 60 days prior to its filing of an application for such order.".

(3) Amend subsection (b) to read as follows:

"(b) RELIABILITY OF ELECTRIC SERVICE.—No order may be issued under this section or section 210 if, after giving consideration to consistently applied regional or national reliability standards, guidelines, or criteria, the Commission finds that such order would unreasonably impair the continued reliability of electric systems affected by the order.".

(4) In subsection (c)—

(A) Strike out paragraph (1).

(B) In paragraph (2) strike "which requires the electric" and insert "which requires the transmitting".

(C) Strike out paragraphs (3) and (4).

(5) In subsection (d)—

(A) In the first sentence of paragraph (1), strike "electric" and insert "transmitting" in each place it appears.

(B) In the second sentence of paragraph (1) before "and each affected electric utility," insert "each affected transmitting utility,".

(C) In paragraph (3), strike "electric" and insert "transmitting".

(D) Strike the period in subparagraph (B) of paragraph (1) and insert ", or" and after subparagraph (B) insert the following new subparagraph:

"(C) the ordered transmission services require enlargement of transmission capacity and the transmitting utility subject to the order has failed, after making a good faith effort, to obtain the necessary approvals or property rights under applicable Federal, State, and local laws.".

SEC. 722. TRANSMISSION SERVICES.

Section 212 of the Federal Power Act is amended as follows:

(1) Strike subsections (a) and (b) and insert the following:

"(a) RATES, CHARGES, TERMS, AND CONDITIONS FOR WHOLESALE TRANSMISSION SERVICES.—An order under section 211 shall require the transmitting utility subject to the order to provide wholesale transmission services at rates, charges, terms, and conditions which permit the recovery by such utility of all the costs incurred in connection with the transmission services and necessary associated services, including, but not limited to, an appropriate share, if any, of legitimate, verifiable and economic costs, including taking into account any benefits to the transmission system of providing the transmission service, and the costs of any enlargement of transmission facilities. Such rates, charges, terms, and conditions shall promote the economically efficient transmission and generation of electricity and shall be just and reasonable, and not unduly discriminatory or preferential. Rates, charges, terms, and conditions for transmission services provided pursuant to an order under section 211 shall ensure that, to the extent practicable, costs incurred in providing the wholesale transmission services, and properly allocable to the provision of such services, are recovered from the applicant for such order and not from a transmitting utility's existing wholesale, retail, and transmission customers.".

(2) Subsection (e) is amended to read as follows:

"(e) SAVINGS PROVISIONS.—(1) No provision of section 210, 211, 214, or this section shall be treated as requiring any person to utilize the authority of any such section in lieu of any other authority of law. Except as provided in section 210, 211, 214, or this section, such sections shall not be construed as limiting or impairing any authority of the Commission under any other provision of law.

"(2) Sections 210, 211, 213, 214, and this section, shall not be construed to modify, impair, or supersede the antitrust laws. For purposes of this section, the term 'antitrust laws' has the meaning given in subsection (a) of the first sentence of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section relates to unfair methods of competition.".

(3) Add the following new subsections at the end thereof:

"(g) PROHIBITION ON ORDERS INCONSISTENT WITH RETAIL MARKETING AREAS.—No order may be issued under this Act which is inconsistent with any State law which governs the retail marketing areas of electric utilities.

"(h) PROHIBITION ON MANDATORY RETAIL WHEELING AND SHAM WHOLESALE TRANSACTIONS.—No order issued under this Act shall be conditioned upon or require the transmission of electric energy:

"(1) directly to an ultimate consumer, or

"(2) to, or for the benefit of, an entity if such electric energy would be sold by such entity directly to an ultimate consumer, unless:

"(A) such entity is a Federal power marketing agency; the Tennessee Valley Authority; a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision); a corporation or association that has ever received a loan for the purposes of providing electric service from the Administrator of the Rural Electrification Administration under the Rural Electrification Act of 1936; a person having an obligation arising under State or local law (exclusive of an obligation arising solely from a contract entered into by such person) to provide electric service to the public; or any corporation or association which is wholly owned, directly or indirectly, by any one or more of the foregoing; and

"(B) such entity was providing electric service to such ultimate consumer on the date of enactment of this subsection or would utilize transmission or distribution facilities that it owns or controls to deliver all such electric energy to such electric consumer.

Nothing in this subsection shall affect any authority of any State or local government under State law concerning the transmission of electric energy directly to an ultimate consumer.".

"(i) LAWS APPLICABLE TO FEDERAL COLUMBIA RIVER TRANSMISSION SYSTEM.—(1) The Commission shall have authority pursuant to section 210, section 211, this section, and section 213 to (A) order the Administrator of the Bonneville Power Administration to provide transmission service and (B) establish the terms and conditions of such service. In applying such sections to the Federal Columbia River Transmission System, the Commission shall assure that—

"(i) the provisions of otherwise applicable Federal laws shall continue in full force and effect and shall continue to be applicable to the system; and

"(ii) the rates for the transmission of electric power on the system shall be governed only by such otherwise applicable provisions of law and not by any provision of section 210, section 211, this section, or section 213, except that no rate for the transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential, as determined by the Commission.

"(2) Notwithstanding any other provision of this Act with respect to the procedures for the determination of terms and conditions for transmission service—

"(A) when the Administrator of the Bonneville Power Administration either (i) in response to a written request for specific transmission service terms and conditions does not offer the requested terms and conditions, or (ii) proposes to establish terms and conditions of general applicability for transmission service on the Federal Columbia River Transmission System, then the Administrator may provide opportunity for a hearing and, in so doing, shall—

"(I) give notice in the Federal Register and state in such notice the written explanation of the reasons why the specific terms and conditions for transmission services are not being offered or are being proposed;

"(II) adhere to the procedural requirements of paragraphs (1) through (3) of section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839(i)(1) through (3)), except that the hearing officer shall, unless the hearing officer becomes unavailable to the agency, make a recommended decision to the Administrator that states the hearing officer's findings and conclusions, and the reasons or basis thereof, on all material issues of fact, law, or discretion presented on the record; and

"(III) make a determination, setting forth the reasons for reaching any findings and conclusions which may differ from those of the hearing officer, based on the hearing record, consideration of the hearing officer's recommended decision, section 211 and this section, as amended by the Energy Policy Act of 1992, and the provisions of law as preserved in this section; and

"(B) if application is made to the Commission under section 211 for transmission service under terms and conditions different than those offered by the Administrator, or following the denial of a request for transmission service by the Administrator, and such application is filed within 60 days of the Administrator's final determination and in accordance with Commission procedures, the Commission shall—

"(i) in the event the Administrator has conducted a hearing as herein provided for (I) accord parties to the Administrator's hearing the opportunity to offer for the Commission record materials excluded by the Administrator from the hearing record, (II) accord such parties the opportunity to submit for the Commission record comments on appropriate terms and conditions, (III) afford those parties the opportunity for a hearing if and to the extent that the Commission finds the Administrator's hearing record to be inadequate to support a decision by the Commission, and (IV) establish terms and conditions for or deny transmission service based on the Administrator's hearing record, the Commission record, section 211 and this section, as amended by the Energy Policy Act of 1992, and the provisions of law as preserved in this section, or

"(ii) in the event the Administrator has not conducted a hearing as herein provided for, determine whether to issue an order for transmission service in accordance with section 211 and this section, including providing the opportunity for a hearing.

"(3) Notwithstanding those provisions of section 313(b) of this Act (16 U.S.C. 825l) which designate the court in which review may be obtained, any party to a proceeding concerning transmission service sought to be furnished by the Administrator of the Bonneville Power Administration seeking review of an order issued by the Commission in such proceeding shall obtain a review of such order in the United States Court of Appeals for the Pacific Northwest, as that region is defined by section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)).

"(4) To the extent the Administrator of the Bonneville Power Administration cannot be required under section 211, as a result of the Administrator's other statutory mandates, either to (A) provide transmission service to an applicant which the Commission would otherwise order, or (B) provide such service under rates, terms, and conditions which the Commission would otherwise require, the applicant shall not be required to provide similar transmission services to the Administrator or to provide such services under similar rates, terms, and conditions.

"(5) The Commission shall not issue any order under section 210, section 211, this section, or section 213 requiring the Administrator of the Bonneville Power Administration to provide transmission service if such an order would impair the Administrator's ability to provide such transmission service to the Administrator's power and transmission customers in the Pacific Northwest, as that region is defined in section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)), as is needed to assure adequate and reliable service to loads in that region.

"(j) EQUITABILITY WITHIN TERRITORY RESTRICTED ELECTRIC SYSTEMS.—With respect to an electric utility which is prohibited by Federal law from being a source of power supply, either directly or through a distributor of its electric energy, outside an area set forth in such law, no order issued under section 211 may require such electric utility (or a distributor of such electric utility) to provide transmission services to another entity if the electric energy to be transmitted will be consumed within the area set forth in such Federal law, unless the order is in furtherance of a sale of electric energy to that electric utility: Provided, however, That the foregoing provision shall not apply to any area served at retail by an electric transmission system which was such a distributor on the date of enactment of this subsection and which before October 1, 1991, gave its notice of termination under its power supply contract with such electric utility.

"(k) ERCOT UTILITIES.—

"(1) RATES.—Any order under section 211 requiring provision of transmission services in whole or in part within ERCOT shall provide that any ERCOT utility which is not a public utility and the transmission facilities of which are actually used for such transmission service is entitled to receive compensation based, insofar as practicable and consistent with subsection (a), on the transmission ratemaking methodology used by the Public Utility Commission of Texas.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'ERCOT' means the Electric Reliability Council of Texas; and

"(B) the term 'ERCOT utility' means a transmitting utility which is a member of ERCOT.".

SEC. 723. INFORMATION REQUIREMENTS.

Part II of the Federal Power Act is amended by adding the following new section after section 212:

"SEC. 213. INFORMATION REQUIREMENTS.

"(a) REQUESTS FOR WHOLESALE TRANSMISSION SERVICES.—Whenever any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale makes a good faith request to a transmitting utility to provide wholesale transmission services and requests specific rates and charges, and other terms and conditions, unless the transmitting utility agrees to provide such services at rates, charges, terms and conditions acceptable to such person, the transmitting utility shall, within 60 days of its receipt of the request, or other mutually agreed upon period, provide such person with a detailed written explanation, with specific reference to the facts and circumstances of the request, stating (1) the transmitting utility's basis for the proposed rates, charges, terms, and conditions for such services, and (2) its analysis of any physical or other constraints affecting the provision of such services.

"(b) TRANSMISSION CAPACITY AND CONSTRAINTS.—Not later than 1 year after the enactment of this section, the Commission shall promulgate a rule requiring that information be submitted annually to the Commission by transmitting utilities which is adequate to inform potential transmission customers, State regulatory authorities, and the public of potentially available transmission capacity and known constraints.".

SEC. 724. SALES BY EXEMPT WHOLESALE GENERATORS.

Part II of the Federal Power Act is amended by adding the following new section after section 213:

"SEC. 214. SALES BY EXEMPT WHOLESALE GENERATORS.

"No rate or charge received by an exempt wholesale generator for the sale of electric energy shall be lawful under section 205 if, after notice and opportunity for hearing, the Commission finds that such rate or charge results from the receipt of any undue preference or advantage from an electric utility which is an associate company or an affiliate of the exempt wholesale generator. For purposes of this section, the terms 'associate company' and 'affiliate' shall have the same meaning as provided in section 2(a) of the Public Utility Holding Company Act of 1935.".

SEC. 725. PENALTIES.

(a) EXISTING PENALTIES NOT APPLICABLE TO TRANSMISSION PROVISIONS.—Sections 315 and 316 of the Federal Power Act are each amended by adding the following at the end thereof:

"(c) This subsection shall not apply in the case of any provision of section 211, 212, 213, or 214 or any rule or order issued under any such provision.".

(b) PENALTIES APPLICABLE TO TRANSMISSION PROVISIONS.—Title III of the Federal Power Act is amended by inserting the following new section after section 316:

"SEC. 316A. ENFORCEMENT OF CERTAIN PROVISIONS.

"(a) VIOLATIONS.—It shall be unlawful for any person to violate any provision of section 211, 212, 213, or 214 or any rule or order issued under any such provision.

"(b) CIVIL PENALTIES.—Any person who violates any provision of section 211, 212, 213, or 214 or any provision of any rule or order thereunder shall be subject to a civil penalty of not more than $10,000 for each day that such violation continues. Such penalty shall be assessed by the Commission, after notice and opportunity for public hearing, in accordance with the same provisions as are applicable under section 31(d) in the case of civil penalties assessed under section 31. In determining the amount of a proposed penalty, the Commission shall take into consideration the seriousness of the violation and the efforts of such person to remedy the violation in a timely manner.".

SEC. 726. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act is amended by adding the following at the end thereof:

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any electric utility, qualifying cogeneration facility, qualifying small power production facility, or Federal power marketing agency which owns or operates electric power transmission facilities which are used for the sale of electric energy at wholesale.

"(24) WHOLESALE TRANSMISSION SERVICES.—The term 'wholesale transmission services' means the transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.

"(25) EXEMPT WHOLESALE GENERATOR.—The term 'exempt wholesale generator' shall have the meaning provided by section 32 of the Public Utility Holding Company Act of 1935.".

(b) CLARIFICATION OF TERMS.—Section 3(22) of the Federal Power Act is amended by inserting "(including any municipality)" after "State agency".

Subtitle C—State and Local Authorities

SEC. 731. STATE AUTHORITIES.

Nothing in this title or in any amendment made by this title shall be construed as affecting or intending to affect, or in any way to interfere with, the authority of any State or local government relating to environmental protection or the siting of facilities.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

SEC. 801. NUCLEAR WASTE DISPOSAL.

(a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—

(1) PROMULGATION.—Notwithstanding the provisions of section 121(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)), section 161 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(b)), and any other authority of the Administrator of the Environmental Protection Agency to set generally applicable standards for the Yucca Mountain site, the Administrator shall, based upon and consistent with the find-

ings and recommendations of the National Academy of Sciences, promulgate, by rule, public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site. Such standards shall prescribe the maximum annual effective dose equivalent to individual members of the public from releases to the accessible environment from radioactive materials stored or disposed of in the repository. The standards shall be promulgated not later than 1 year after the Administrator receives the findings and recommendations of the National Academy of Sciences under paragraph (2) and shall be the only such standards applicable to the Yucca Mountain site.

(2) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Within 90 days after the date of the enactment of this Act, the Administrator shall contract with the National Academy of Sciences to conduct a study to provide, by not later than December 31, 1993, findings and recommendations on reasonable standards for protection of the public health and safety, including—

(A) whether a health-based standard based upon doses to individual members of the public from releases to the accessible environment (as that term is defined in the regulations contained in subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on November 18, 1985) will provide a reasonable standard for protection of the health and safety of the general public;

(B) whether it is reasonable to assume that a system for post-closure oversight of the repository can be developed, based upon active institutional controls, that will prevent an unreasonable risk of breaching the repository's engineered or geologic barriers or increasing the exposure of individual members of the public to radiation beyond allowable limits; and

(C) whether it is possible to make scientifically supportable predictions of the probability that the repository's engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years.

(3) APPLICABILITY.—The provisions of this section shall apply to the Yucca Mountain site, rather than any other authority of the Administrator to set generally applicable standards for radiation protection.

(b) NUCLEAR REGULATORY COMMISSION REQUIREMENTS AND CRITERIA.—

(1) MODIFICATIONS.—Not later than 1 year after the Administrator promulgates standards under subsection (a), the Nuclear Regulatory Commission shall, by rule, modify its technical requirements and criteria under section 121(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(b)), as necessary, to be consistent with the Administrator's standards promulgated under subsection (a).

(2) REQUIRED ASSUMPTIONS.—The Commission's requirements and criteria shall assume, to the extent consistent with the findings and recommendations of the National Academy of Sciences, that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure oversight of the Yucca Mountain site, in accordance with subsection (c), shall be sufficient to—

(A) prevent any activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits.

(c) POST-CLOSURE OVERSIGHT.—Following repository closure, the Secretary of Energy shall continue to oversee the Yucca Mountain site to prevent any activity at the site that poses an unreasonable risk of—

(1) breaching the repository's engineered or geologic barriers; or

(2) increasing the exposure of individual members of the public to radiation beyond allowable limits.

SEC. 802. OFFICE OF THE NUCLEAR WASTE NEGOTIATOR.

(a) EXTENSION.—Section 410 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10250) is amended by striking "5 years" and inserting "7 years".

(b) DEFINITION OF STATE.—Section 401 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10241) is amended—

(1) by striking "States," the first place it appears and inserting "States and"; and

(2) by inserting a period after "District of Columbia" and striking the remainder of the sentence.

SEC. 803. NUCLEAR WASTE MANAGEMENT PLAN.

(a) PREPARATION AND SUBMISSION OF REPORT.—The Secretary of Energy, in consultation with the Nuclear Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to the Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of the enactment of this Act. The Secretary shall prepare the report for submission to the President and the Congress within 1 year after the date of the enactment of this Act. The report shall examine any new relevant issues related to management of spent nuclear fuel and high-level radioactive waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent nuclear fuel or high-level radioactive waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

(b) OPPORTUNITY FOR PUBLIC COMMENT.—In preparation of the report required under subsection (a), the Secretary of Energy shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE IX—UNITED STATES ENRICHMENT CORPORATION

SEC. 901. ESTABLISHMENT OF THE UNITED STATES ENRICHMENT CORPORATION.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding at the end the following new title:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"SEC. 1201. DEFINITIONS.

"For purposes of this title:

"(1) The term 'alternative technologies for uranium enrichment' means technologies to enrich uranium by methods other than the gaseous diffusion process.

"(2) The term 'AVLIS' means atomic vapor laser isotope separation technology.

"(3) The term 'Board' means the Board of Directors of the Corporation established under section 1304.

"(4) The term 'Corporation' means the United States Enrichment Corporation.

"(5) The term 'corrective actions' has the meaning given such term by the Administrator of the Environmental Protection Agency under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u)).

"(6) The term 'decontamination and decommissioning' means those activities, other than response actions or corrective actions, undertaken to decontaminate and decommission inactive uranium enrichment facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination, including depleted tailings.

"(7) The term 'Department' means the Department of Energy.

"(8) The term 'highly enriched uranium' means uranium enriched to 20 percent or more of the uranium-235 isotope.

"(9) The term 'low-enriched uranium' means uranium enriched to less than 20 percent of the uranium-235 isotope.

"(10) The term 'releases' has the meaning given the term 'release' in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

"(11) The term 'remedial action' has the meaning given such term in section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

"(12) The term 'response actions' has the meaning given the term 'response' in section 101(25) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

"(13) The term 'Secretary' means the Secretary of Energy.

"(14) The term 'uranium enrichment' means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

"SEC. 1202. PURPOSES.

"The Corporation is created for the following purposes:

"(1) To operate as a business enterprise on a profitable and efficient basis.

"(2) To maximize the long-term value of the Corporation to the Treasury of the United States.

"(3) To lease Department uranium enrichment facilities, as needed.

"(4) To acquire uranium for uranium enrichment, low-enriched uranium for resale, and highly enriched uranium for conversion into low-enriched uranium, as needed.

"(5) To market and sell its enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) domestic and foreign persons, as provided in section 1303(6).

"(6) To conduct research and development as required to meet business objectives for the purposes of identifying, evaluating, improving, and testing alternative technologies for uranium enrichment.

"(7) To conduct the business as a self-financing corporation and eliminate the need for Federal Government appropriations or sources of Federal financing other than those provided in this title.

"(8) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(9) To comply with laws, and regulations promulgated thereunder, to protect the public health, safety, and the environment.

"(10) To continue at all times to meet the objectives of ensuring the Nation's common defense and security, including abiding by United States laws and policies concerning special nuclear materials and nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy.

"(11) To take all other lawful actions in furtherance of these purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"SEC. 1301. ESTABLISHMENT OF THE CORPORATION.

"(a) IN GENERAL.—There is established a body corporate to be known as the United States Enrichment Corporation.

"(b) GOVERNMENT CORPORATION.—The Corporation shall be established as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this title.

"(c) FEDERAL AGENCY.—The Corporation shall be an agency and instrumentality of the United States.

"SEC. 1302. CORPORATE OFFICES.

"The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"SEC. 1303. POWERS OF THE CORPORATION.

"In order to accomplish its purposes, the Corporation—

"(1) shall, except as provided in this title or applicable Federal law, have all the powers of a private corporation incorporated under the District of Columbia Business Corporation Act;

"(2) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"(3) may obtain from the Administrator of General Services the services the Administrator is authorized to provide agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

"(4) shall enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium provided under section 1408);

"(5) may conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the Corporation considers necessary or advisable to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis;

"(6) may enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(A) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(B) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(C) persons otherwise authorized by law to enter into such transactions;

"(7) may enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the Corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(8) may enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(9) shall sell to the Department as provided in this title, without regard to section 57 e., the amounts of uranium enrichment and related services that the Department determines from time to time are required for it to—

"(A) carry out Presidential directions and authorizations under section 91; and

"(B) conduct other Department programs.

"SEC. 1304. BOARD OF DIRECTORS.

"(a) IN GENERAL.—The powers of the Corporation are vested in the Board of Directors.

"(b) APPOINTMENT.—The Board of Directors shall consist of 5 individuals, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among members of the Board.

"(c) QUALIFICATIONS.—Members of the Board shall be citizens of the United States. No member of the Board shall be an employee of the Corporation or have any direct financial relationship with the Corporation other than that of being a member of the Board.

"(d) TERMS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board shall serve 5-year terms or until the election of a new Board of Directors under section 1704, whichever comes first.

"(2) INITIAL MEMBERS.—Of the members first appointed to the Board—

"(A) 1 shall be appointed for a 1-year term;

"(B) 1 shall be appointed for a 2-year term;

"(C) 1 shall be appointed for a 3-year term; and

"(D) 1 shall be appointed for a 4-year term.

"(3) REAPPOINTMENT.—Members of the Board may be reappointed by the President, by and with the advice and consent of the Senate.

"(e) VACANCIES.—Upon the occurrence of a vacancy on the Board, the President by and with the advice and consent of the Senate shall appoint an individual to fill such vacancy for the remainder of the applicable term.

"(f) MEETINGS AND QUORUM.—The Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. 3 voting members of the Board shall constitute a quorum. A majority of the Board shall adopt and from time to time may amend bylaws for the operation of the Board.

"(g) POWERS.—The Board shall be responsible for general management of the Corporation and shall have the same authority, privileges, and responsibilities as the board of directors of a private corporation incorporated under the District of Columbia Business Corporation Act.

"(h) COMPENSATION.—Members of the Board shall serve on a part-time basis and shall receive per diem, when engaged in the actual performance of Corporation duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"(i) MEMBERSHIP OF SECRETARY OF TREASURY.—The President may appoint the Secretary of the Treasury or his designee to serve as a member of the Board or as a nonvoting, ex officio member of the Board.

"(j) CONFLICT OF INTEREST REQUIREMENTS.—No director, officer, or other management level employee of the Corporation may have a financial interest in any customer, contractor, or competitor of the Corporation or in any business that may be adversely affected by the success of the Corporation.

"SEC. 1305. EMPLOYEES OF THE CORPORATION.

"(a) APPOINTMENT.—The Board shall appoint such officers and employees as are necessary for the transaction of its business.

"(b) COMPENSATION, DUTIES, AND REMOVAL.—The Board shall, without regard to section 5301 of title 5, United States Code, fix the compensation of all officers and employees of the Corporation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any officer or employee of the Corporation may be removed in the discretion of the Board.

"(c) APPLICABLE CRITERIA.—The Board shall ensure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees shall be appointed, promoted, and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"(d) TREATMENT OF PERSONS EMPLOYED PRIOR TO TRANSITION DATE.—Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the transition date, whether provided by statute or by rules of the Department or the executive branch, shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Board.

"(e) PROTECTION OF EXISTING EMPLOYEES.—

"(1) IN GENERAL.—It is the purpose of this subsection to ensure that the establishment of the Corporation pursuant to this chapter shall not result in any adverse effects on the employment rights, wages, or benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—Any employer (including the Corporation) at a facility described in paragraph (1) shall abide by the terms of a collective bargaining agreement in effect on April 30, 1991, at each individual facility until—

"(A) the earlier of the date on which a new bargaining agreement is signed; or

"(B) the end of the 2-year period beginning on the date of the enactment of this title.

"(3) APPLICABILITY OF NLRA.—Except as specifically provided in this subsection, the Corporation is subject to the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

"(4) BENEFITS OF TRANSFEREES AND DETAILEES.—At the request of the Board and subject to the approval of the Secretary, an employee of the Department may be transferred or detailed as provided for in section 1315, to the Corporation without any loss in accrued benefits or standing within the Civil Service System. For those employees who accept transfer to the Corporation, it shall be their option as to whether to have any accrued retirement benefits transferred to a retirement system established by the Corporation or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system. For those employees electing to remain with one of the Federal retirement systems, the Corporation shall withhold pay and make such payments as are required under the Federal retirement system. For those Department employees detailed, the Department shall offer those employees a position of like grade, compensation, and proximity to their official duty station after their services are no longer required by the Corporation.

"SEC. 1306. AUDITS.

"(a) INDEPENDENT AUDITS.—

"(1) IN GENERAL.—The financial statements of the Corporation shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with auditing standards issued by the Comptroller General. Such auditing standards shall be consistent with the private sector's generally accepted auditing standards.

"(2) REVIEW BY GAO.—The Comptroller General may review any audit of the Corporation's financial statements conducted under para-

graph (1). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

"(b) GAO AUDITS.—

"(1) IN GENERAL.—The Comptroller General may audit the financial statements of the Corporation for any year in the manner provided in subsection (a)(1).

"(2) REIMBURSEMENT BY CORPORATION.—The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General.

"(c) AVAILABILITY OF BOOKS AND RECORDS.—All books, accounts, financial records, reports, files, papers, and other property belonging to or in use by the Corporation and its auditor that the Comptroller General considers necessary to the performance of any audit or review under this section shall be made available to the Comptroller General, subject to section 1314.

"(d) TREATMENT OF GAO AUDITS.—Activities the Comptroller General conducts under this section shall be in lieu of any other audit of the financial transactions of the Corporation the Comptroller General is required to make under chapter 91 of title 31, United States Code, or other law.

"SEC. 1307. ANNUAL REPORTS.

"(a) IN GENERAL.—The Corporation shall prepare and submit an annual report of its activities to the President and the Congress. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends;

"(3) copies of audit reports prepared under section 1305;

"(4) the information required under regulations issued under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

"(5) an identification and assessment of any impairment of capital or ability of the Corporation to comply with this title.

"(b) DEADLINE.—The report shall be completed not later than 150 days following the close of each of the Corporation's fiscal years and shall accurately reflect the financial position of the Corporation at fiscal year end.

"SEC. 1308. ACCOUNTS.

"(a) ESTABLISHMENT OF UNITED STATES ENRICHMENT CORPORATION FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the 'United States Enrichment Corporation Fund', which shall be available to the Corporation, without need for further appropriation and without fiscal year limitation, for carrying out its purposes, functions, and powers, and which shall not be subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

"(b) TRANSFER OF UNEXPENDED BALANCES.—On the transfer date, the Secretary shall, without need of further appropriation, transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"SEC. 1309. OBLIGATIONS.

"(a) ISSUANCE.—

"(1) IN GENERAL.—The Corporation may issue and sell bonds, notes, and other evidences of indebtedness (collectively referred to in this title as 'bonds'), except that the Corporation may not issue or sell bonds for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities. Borrowing under this paragraph during any fiscal year ending before October 1, 1996, shall be subject to approval in appropriation Acts.

"(2) USE OF REVENUES.—The Corporation may pledge and use its revenues for payment of the principal of and interest on its bonds, for their purchase or redemption, and for other purposes incidental to these functions, including creation of reserve funds and other funds that may be similarly pledged and used.

"(3) AGREEMENTS WITH HOLDERS AND TRUSTEES.—The Corporation may enter into binding covenants with the holders and trustees of its bonds with respect to—

"(A) the establishment of reserve and other funds;

"(B) stipulations concerning the subsequent issuance of bonds; and

"(C) other matters not inconsistent with this title;

that the Corporation determines necessary or desirable to enhance the marketability of the bonds.

"(b) NOT OBLIGATIONS OF UNITED STATES.—Bonds issued by the Corporation under this section shall not be obligations of, or guaranteed as to principal or interest by, the United States, and the bonds shall so plainly state.

"(c) TERMS AND CONDITIONS.—

"(1) NEGOTIABLE; MATURITY.—Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified in the bond and shall mature not more than 50 years after their date of issuance.

"(2) ROLE OF SECRETARY OF THE TREASURY.—

"(A) RIGHT OF DISAPPROVAL.—The Corporation may set the terms and conditions of bonds issued under this section, subject to disapproval of such terms and conditions by the Secretary of the Treasury within 5 days after the Secretary of the Treasury is notified of the following terms and conditions of the bonds:

"(i) Their forms and denominations.

"(ii) The times, amounts, and prices at which they are sold.

"(iii) Their rates of interest.

"(iv) The terms at which they may be redeemed by the Corporation before maturity.

"(v) The priority of their claims on the Corporation's net revenues with respect to principal and interest payments.

"(vi) Any other terms and conditions.

"(B) INAPPLICABILITY OF RIGHT TO PRESCRIBE TERMS.—Section 9108(a) of title 31, United States Code, shall not apply to the Corporation.

"(d) INAPPLICABILITY OF SECURITIES REQUIREMENTS.—The Corporation shall be considered an executive department of the United States for purposes of section 3(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(c)).

"(e) INAPPLICABILITY OF FFB.—The Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1310. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.

"(a) EXEMPTION FROM TAXATION.—In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation shall, beginning in fiscal year 1998, make payments to State and local governments as provided in this section. These payments shall be in lieu of any and all State and local taxes on the real and personal property of the Corporation. All property of the Corporation is expressly exempted from taxation in any manner or form by any State, county, or other local government entity including State, county, or other local government sales tax.

"(b) PAYMENTS IN LIEU OF TAXES.—Beginning in fiscal year 1998, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making these determinations, the Corporation shall be guided by the following criteria:

"(1) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(2) The payment made to any taxing authority for any period shall not be less than the payments that would have been made to the taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1404 and that would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the transition date.

"(c) TIME OF PAYMENTS.—Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable.

"(d) DETERMINATION OF AMOUNT DUE.—The determination by the Corporation of the amounts due under this section shall be final and conclusive.

"SEC. 1311. COOPERATION WITH OTHER AGENCIES.

"The Corporation may request to use on a reimbursable basis the available services, equipment, personnel, and facilities of agencies of the United States, and on a similar basis may cooperate with such agencies in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

"SEC. 1312. APPLICABILITY OF CERTAIN FEDERAL LAWS.

"(a) ANTITRUST LAWS.—The Corporation shall conduct its activities in a manner consistent with the policies expressed in the following antitrust laws:

"(1) The Sherman Act (15 U.S.C. 1–7).

"(2) The Clayton Act (15 U.S.C. 12–27).

"(3) Sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9).

"(b) ENVIRONMENTAL LAWS.—The Corporation shall be subject to, and comply with, all Federal and State, interstate, and local environmental laws and requirements, both substantive and procedural, in the same manner, and to the same extent, as any person who is subject to such laws and requirements. For purposes of enforcing any such law or substantive or procedural requirements (including any injunctive relief, administrative order, or civil or administrative penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation. For the purposes of this subsection, the term 'person' means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, or political subdivision of a State.

"(c) OSHA REQUIREMENTS.—Notwithstanding sections 3(5), 4(b)(1), and 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5), 653(b)(1), and 668)), the Corporation shall be subject to, and comply with, such Act and all regulations and standards promulgated thereunder in the same manner, and to the same extent, as an employer is subject to such Act. For the purposes of enforcing such Act (including any injunctive relief, administrative order, or civil, administrative, or criminal penalty or fine) *against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation.*

"(d) LABOR STANDARDS.—The Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.) and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall apply to the Corporation. All laborers and mechanics employed on the construction, alteration, or repair of projects funded, in whole or in part, by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with such Act of March 3, 1931. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

"(e) ENERGY REORGANIZATION ACT REQUIREMENTS.—The Corporation is subject to the provisions of section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5850) to the same extent as an employer subject to such section, and, with respect to the operation of the facilities leased by the Corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the Corporation.

"(f) EXEMPTION FROM FEDERAL PROPERTY REQUIREMENTS.—The Corporation shall not be subject to the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.).

"SEC. 1313. SECURITY.

"Any references to the term 'Commission' or to the Department in sections 161 k., 221 a., and 230 shall be considered to include the Corporation.

"SEC. 1314. CONTROL OF INFORMATION.

"(a) IN GENERAL.—Except as provided in subsection (b), the Corporation may protect trade secret and commercial or financial information to the same extent as a privately owned corporation.

"(b) OTHER APPLICABLE LAWS.—Section 552(d) of title 5, United States Code, shall apply to the Corporation, and such information shall be subject to the applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

"SEC. 1315. TRANSITION.

"(a) TRANSITION MANAGER.—Within 30 days after the date of the enactment of this title, the President shall appoint a Transition Manager, who shall serve at the pleasure of the President until a quorum of the Board has been appointed and confirmed in accordance with section 1304.

"(b) POWERS.—

"(1) IN GENERAL.—Until a quorum of the Board has qualified, the Transition Manager shall exercise the powers and duties of the Board and shall be responsible for taking all actions needed to effect the transfer of the uranium enrichment enterprise from the Secretary to the Corporation on the transition date.

"(2) CONTINUATION UNTIL BOARD HAS QUORUM.—In the event that a quorum of the Board have not qualified by the transition date, the Transition Manager shall continue to exercise the powers and duties of the Board until a quorum has qualified.

"(c) RATIFICATION OF TRANSITION MANAGER'S ACTIONS.—All actions taken by the Transition Manager before the qualification of a quorum of the Board shall be subject to ratification by the Board.

"(d) RESPONSIBILITIES OF SECRETARY.—Before the transition date, the Secretary shall—

"(1) continue to be responsible for the management and operation of the uranium enrichment plants;

"(2) provide funds, to the extent provided in appropriations Acts, to the Transition Manager to pay salaries and expenses;

"(3) delegate Department employees to assist the Transition Manager in meeting his responsibilities under this section; and

"(4) assist and cooperate with the Transition Manager in preparing for the transfer of the uranium enrichment enterprise to the Corporation on the transition date.

"(e) TRANSITION DATE.—The transition date shall be July 1, 1993.

"(f) DETAIL OF PERSONNEL.—For the purpose of continuity of operations, maintenance, and authority, the Department shall detail, for up to 18 months after the date of the enactment of this title, appropriate Department personnel as may be required in an acting capacity, until such time as a Board is confirmed and top officers of the Corporation are hired. The Corporation shall reimburse the Department and its contractors for the detail of such personnel.

"SEC. 1316. WORKING CAPITAL ACCOUNT.

"There shall be established within the Corporation a Working Capital Account in which the Corporation may retain all revenue necessary for legitimate business expenses, or investments, related to carrying out its purposes.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"SEC. 1401. MARKETING AND CONTRACTING AUTHORITY.

"(a) EXCLUSIVE MARKETING AGENT.—The Corporation shall act as the exclusive marketing agent on behalf of the United States Government for entering into contracts for providing enriched uranium (including low-enriched uranium derived from highly enriched uranium) and uranium enrichment and related services. The Department may not market enriched uranium (including low-enriched uranium derived from highly enriched uranium), or uranium enrichment and related services, after the transition date.

"(b) TRANSFER OF CONTRACTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), all contracts, agreements, and leases with the Department, including all uranium enrichment contracts and power purchase contracts, that have been executed by the Department before the transition date and that relate to uranium enrichment and related services shall transfer to the Corporation.

"(2) EXCEPTIONS.—

"(A) TVA SETTLEMENT.—The rights and responsibilities of the Department under the settlement agreement with the Tennessee Valley Authority, filed on December 18, 1987, with the United States Claims Court, shall not transfer to the Corporation.

"(B) NONTRANSFERABLE POWER CONTRACTS.—If the Secretary determines that a power purchase contract executed by the Department prior to the transition date cannot be transferred under its terms, the Secretary may continue to receive power under the contract and resell such power to the Corporation at cost.

"(C) NONPOWER APPLICATIONS.—Contracts for enriched uranium and uranium services in existence as of the date of the enactment of this title for research and development or other nonpower applications shall remain with the Department. At the request of the Department, the Corporation, in consultation with the Department, may enter into such contracts it determines to be appropriate.

"SEC. 1402. PRICING.

"(a) SERVICES PROVIDED TO COMMERCIAL CUSTOMERS.—The Corporation shall establish prices for its products, materials, and services provided to customers other than the Department on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

"(b) SERVICES PROVIDED TO DOE.—The Corporation shall charge prices to the Department for uranium enrichment services provided under section 1303(9) on a basis that will allow it to recover its costs, on a yearly basis, for providing products, materials, and services, and provide for a reasonable profit.

"SEC. 1403. LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.

"(a) IN GENERAL.—The Corporation shall lease the Paducah Gaseous Diffusion Plant in Paducah, Kentucky, the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio, and related property of the Department, for a period of 6 years from the transition date. Thereafter, the Corporation shall have the exclusive option to lease such facilities and related property for additional periods.

"(b) TERMS OF LEASE.—The Corporation and the Department shall set mutually agreeable terms for a lease under subsection (a), including specifying annual payments to the Department by the Corporation to be made. The amount of annual payments shall be equal to the cost incurred by the Department in administering the lease and providing services related to the lease to the Corporation (excluding depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants and costs under subsection (d)).

"(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—Subsection (a) shall not apply to Department facilities necessary for the production of highly enriched uranium. The Secretary may grant to the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

"(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before the transition date, in connection with property of the Department leased under subsection (a), shall remain the sole responsibility of the Department.

"(e) ENVIRONMENTAL AUDIT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a comprehensive environmental audit identifying environmental conditions that will remain the responsibility of the Department pursuant to subsection (d) after the transition date. Such audit shall be completed no later than the transition date.

"(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation under this section shall be deemed to be a contract for purposes of section 170 d.

"(g) WAIVER OF EIS REQUIREMENT.—The execution of the lease by the Corporation and the Department shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"SEC. 1404. CAPITAL STRUCTURE OF CORPORATION.

"(a) CAPITAL STOCK.—

"(1) ISSUANCE TO SECRETARY OF THE TREASURY.—The Corporation shall issue capital stock representing an equity investment equal to the greater of—

"(A) $3,000,000,000; or

"(B) the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1991, modified to reflect continued depreciation and other usual changes that occur up to the transfer date.

The Secretary of the Treasury shall hold such stock for the United States, except that all rights and duties pertaining to management of *the Corporation shall remain vested in the Board.*

"(2) RESTRICTION ON TRANSFERS OF STOCK BY UNITED STATES.—The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States, except to carry out the privatization of the Corporation under section 1502.

"(3) ANNUAL ASSESSMENT.—The Secretary of the Treasury shall annually assess the value of the stock held by the Secretary under paragraph (1) and submit to the Congress a report setting forth such value. The annual assessment of the Secretary shall be subject to review by an independent auditor.

"(b) PAYMENT OF DIVIDENDS.—The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as is provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. Until privatization occurs under section 1502, the Corporation shall pay as dividends to the Treasury of the United States all net revenues remaining at the end of each fiscal year not required for operating expenses or for deposit into the Working Capital Account established in section 1316.

"(c) PROHIBITION ON ADDITIONAL FEDERAL ASSISTANCE.—Except as otherwise specifically provided in this title, the Corporation shall receive no appropriations, loans, or other financial assistance from the Federal Government.

"(d) SOLE RECOVERY OF UNRECOVERED COSTS.—Receipt by the United States of the proceeds from the sale of stock issued by the Corporation under subsection (a)(1), and the dividends paid under subsection (b), shall constitute the sole recovery by the United States of previously unrecovered costs (including depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants) that have been incurred by the United States for uranium enrichment activities prior to the transition date.

"SEC. 1405. PATENTS AND INVENTIONS.

"The Corporation may at any time apply to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when the patent has not been declared to be affected with the public interest under section 153 a. and when use of the patent is within the Corporation's authority. An application shall constitute an application under section 153 c. subject to section 153 c., d., e., f., g., and h.

"SEC. 1406. LIABILITIES.

"(a) LIABILITIES BASED ON OPERATIONS BEFORE TRANSITION.—Except as otherwise provided in this title, all liabilities attributable to operation of the uranium enrichment enterprise before the transition date shall remain direct liabilities of the Department.

"(b) JUDGMENTS BASED ON OPERATIONS BEFORE TRANSITION.—Any judgment entered against the Corporation imposing liability arising out of the operation of the uranium enrichment enterprise before the transition date shall be considered a judgment against and shall be payable solely by the Department.

"(c) REPRESENTATION.—With regard to any claim seeking to impose liability under subsection (a) or (b), the United States shall be represented by the Department of Justice.

"(d) JUDGMENTS BASED ON OPERATIONS AFTER TRANSITION.—Any judgment entered against the Corporation arising from operations of the Corporation on or after the transition date shall be payable solely by the Corporation from its own funds. The Corporation shall not be considered a Federal agency for purposes of chapter 171 of title 28, United States Code.

"SEC. 1407. TRANSFER OF URANIUM INVENTORIES.

"The Secretary shall transfer to the Corporation without charge all raw and low-enriched uranium inventories of the Department necessary for the fulfillment of contracts transferred under section 1401(b).

"SEC. 1408. PURCHASE OF HIGHLY ENRICHED URANIUM FROM FORMER SOVIET UNION.

"(a) IN GENERAL.—The Corporation is authorized to negotiate the purchase of all highly enriched uranium made available by any State of the former Soviet Union under a government-to-government agreement or shall assume the obligations of the Department under any contractual agreement that has been reached with any such State or any private entity before the transition date. The Corporation may only purchase this material so long as the quality of the material can be made suitable for use in commercial reactors.

"(b) ASSESSMENT OF POTENTIAL USE.—The Corporation shall prepare an assessment of the potential use of highly enriched uranium in the business operations of the Corporation.

"(c) PLAN FOR BLENDING AND CONVERSION.—In the event that the agreement under subsection (a) provides for the Corporation to provide for the blending and conversion the assessment shall include a plan for such blending and conversion. The plan shall determine the least-cost approach to providing blending and conversion services, compatible with environmental, safety, security, and nonproliferation requirements. The plan shall include a competitive process that the Corporation shall use for selecting a provider of such services, including the public solicitation of proposals from the private sector to allow a determination of the least-cost approach.

"(d) MINIMIZATION OF IMPACT ON DOMESTIC INDUSTRIES.—The Corporation shall seek to minimize the impact on domestic industries (including uranium mining) of the sale of low-enriched uranium derived from highly enriched uranium.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"SEC. 1501. STRATEGIC PLAN FOR PRIVATIZATION.

"(a) IN GENERAL.—Within 2 years after the transition date, the Corporation shall prepare a strategic plan for transferring ownership of the Corporation to private investors. The Corporation shall revise the plan as needed.

"(b) CONSIDERATION OF ALTERNATIVE MEANS OF TRANSFERRING OWNERSHIP.—The plan shall include consideration of alternative means for transferring ownership of the Corporation to private investors, including public stock offering, private placement, or merger or acquisition. The plan may call for the phased transfer of ownership or for complete transfer at a single point of time. If the plan calls for phased transfer of ownership, then—

"(1) privatization shall be deemed to occur when 100 percent of ownership has been transferred to private investors;

"(2) prior to privatization, such stock shall be nonvoting stock; and

"(3) at the time of privatization, such stock shall convert to voting stock.

"(c) EVALUATION AND RECOMMENDATION.—The plan shall evaluate the relative merits of the alternatives considered and the estimated return on the Government's investment in the Corporation achievable through each alternative. The plan shall include the Corporation's recommendation on its preferred means of privatization.

"(d) TRANSMITTAL.—The Corporation shall transmit copies of the strategic plan for privatization to the President and Congress upon completion.

"SEC. 1502. PRIVATIZATION.

"(a) IMPLEMENTATION.—Subsequent to transmitting a plan for privatization pursuant to section 1501, and subject to subsections (b) and (c), the Corporation may implement the privatization plan if the Corporation determines, in consultation with appropriate agencies of the United States, that privatization will—

"(1) result in a return to the United States at least equal to the net present value of the Corporation;

"(2) not result in the Corporation being owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government;

"(3) not be inimical to the health and safety of the public or the common defense and security; and

"(4) provide reasonable assurance that adequate enrichment capacity will remain available to meet the domestic electric utility industry.

"(b) REQUIREMENT OF PRESIDENTIAL APPROVAL.—The Corporation may not implement the privatization plan without the approval of the President.

"(c) NOTIFICATION OF CONGRESS AND GAO EVALUATION.—The Corporation shall notify the Congress of its intent to implement the privatization plan. Within 30 days of notification, the Comptroller General shall submit a report to Congress evaluating the extent to which—

"(1) the privatization plan would result in any ongoing obligation or undue cost to the Federal Government; and

"(2) the revenues gained by the Federal Government under the privatization plan would represent at least the net present value of the Corporation.

"(d) PERIOD FOR CONGRESSIONAL REVIEW.—The Corporation may not implement the privatization plan less than 60 days after notification of the Congress.

"(e) DEPOSIT OF PROCEEDS.—Proceeds from the sale of capital stock of the Corporation under this section shall be deposited in the general fund of the Treasury.

"CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

"SEC. 1601. ASSESSMENT BY UNITED STATES ENRICHMENT CORPORATION.

"(a) IN GENERAL.—The Corporation shall prepare an assessment of the economic viability of proceeding with the commercialization of AVLIS and alternative technologies for uranium enrichment in accordance with this chapter. The assessment shall include—

"(1) an evaluation of market conditions together with a marketing strategy;

"(2) an analysis of the economic viability of competing enrichment technologies;

"(3) an identification of predeployment and capital requirements for the commercialization of AVLIS and alternative technologies for uranium enrichment;

"(4) an estimate of potential earnings from the licensing of AVLIS and alternative technologies for uranium enrichment to a private government sponsored corporation;

"(5) an analysis of outstanding and potential patent and related claims with respect to AVLIS and alternative technologies for uranium enrichment, and a plan for resolving such claims; and

"(6) a contingency plan for providing enriched uranium and related services in the event that deployment of AVLIS and alternative technologies for uranium enrichment is determined not to be economically viable.

"(b) DETERMINATION BY CORPORATION TO PROCEED WITH COMMERCIALIZATION OF AVLIS OR ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.—The succeeding sections of this chapter shall apply only to the extent the Corporation determines in its business judgment, on

the basis of the assessment prepared under subsection (a), to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment.

"SEC. 1602. TRANSFER OF RIGHTS AND PROPERTY TO UNITED STATES ENRICHMENT CORPORATION.

"(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Department.

"(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

"(1) IN GENERAL.—To the extent requested by the Corporation, the President shall transfer without charge to the Corporation all of the Department's right, title, or interest in and to property owned by the Department, or by the United States but under control or custody of the Department, that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

"(A) facilities, equipment, and materials for research, development, and demonstration activities; and

"(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

"(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Department shall not transfer under paragraph (1)(B).

"(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon privatization under section 1502.

"(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) shall provide for a reduction of royalty payments to the Department to offset any payments, awards, settlements, or judgments under this subsection.

"SEC. 1603. PREDEPLOYMENT ACTIVITIES BY UNITED STATES ENRICHMENT CORPORATION.

"The Corporation may begin activities necessary to prepare AVLIS or alternative technologies for uranium enrichment for commercialization including—

"(1) completion of preapplication activities with the Nuclear Regulatory Commission;

"(2) preparation of a transition plan to move AVLIS or alternative technologies for uranium enrichment from the laboratory to the marketplace;

"(3) confirmation of technical performance;

"(4) validation of economic projections;

"(5) completion of feasibility and risk studies;

"(6) initiation of preliminary plant design and engineering; and

"(7) site selection, site characterization, and environmental documentation activities on the basis of site evaluations and recommendations prepared for the Department by the Argonne National Laboratory.

"SEC. 1604. UNITED STATES ENRICHMENT CORPORATION SPONSORSHIP OF PRIVATE FOR-PROFIT CORPORATION TO CONSTRUCT AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—If the Corporation determines to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment under this chapter, the Corporation may provide for the establishment of a private for-profit corporation, which shall have as its initial purpose the construction of a uranium enrichment facility using AVLIS technology or alternative technologies for uranium enrichment.

"(2) PROCESS OF ORGANIZATION.—For purposes of the establishment of the private corporation under paragraph (1), the Corporation shall appoint not less than 3 persons to be incorporators. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial board of directors until the members of the 1st regular board of directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the private corporation, including the filing of articles of incorporation in such jurisdiction as the incorporators determine to be appropriate. The incorporators shall also develop a plan for the issuance by the private corporation of voting common stock to the public, which plan shall be subject to the approval of the Secretary of the Treasury.

"(b) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The private corporation established under subsection (a) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the private corporation established under subsection (a) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the private corporation established under subsection (a).

"(c) TRANSACTIONS BETWEEN UNITED STATES ENRICHMENT CORPORATION AND PRIVATE CORPORATION.—

"(1) GRANTS FROM USEC.—The Corporation may make grants to the private corporation established under subsection (a) from amounts available in the AVLIS Commercialization Fund. Such grants shall be used by the private corporation to carry out any remaining predeployment activity assigned to the private corporation by the Corporation. Such grants may not be used for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than such assigned predeployment activities). The aggregate amount of such grants shall not exceed $364,000,000.

"(2) LICENSING AGREEMENT.—The Corporation shall license to the private corporation established under subsection (a) the rights, titles, and interests provided to the Corporation under section 1602. The licensing agreement shall require the private corporation to make periodic payments to the Corporation in an amount that is not less than the aggregate amounts paid by the Corporation during the period involved under subsections (a) and (c) of section 1602.

"(3) PURCHASE AGREEMENT.—The Corporation may enter into a commitment to purchase all enriched uranium produced at an AVLIS, or alternative technologies for uranium enrichment, facility of the private corporation established under subsection (a) at a price negotiated by the 2 corporations that—

"(A) provides the private corporation with a reasonable return on its investment; and

"(B) is less costly than enriched uranium available from other sources.

"(4) ADDITIONAL ASSISTANCE.—The Corporation may provide to the private corporation established under subsection (a), on a reimbursable basis, such additional personnel, services, and equipment as the 2 corporations may determine to be appropriate.

"SEC. 1605. AVLIS COMMERCIALIZATION FUND WITHIN UNITED STATES ENRICHMENT CORPORATION.

"(a) ESTABLISHMENT.—The Corporation may establish within the Corporation an AVLIS Commercialization Fund, which shall consist of not more than $364,000,000 paid into the Fund by the Corporation from amounts provided in appropriation Acts for such purposes and from the retained earnings of the Corporation.

"(b) EXPENDITURES FROM FUND.—Amounts in the AVLIS Commercialization Fund shall be available for—

"(1) expenses of the Corporation in preparing the assessment under section 1601;

"(2) expenses of predeployment activities under section 1603; and

"(3) grants to the private corporation under section 1604.

"(c) LIMITATIONS.—

"(1) EXCLUSIVE SOURCE OF FUNDS.—The Corporation may not incur any obligation, or expend any amount, with respect to AVLIS or alternative technologies for uranium enrichment, except from amounts available in the AVLIS Commercialization Fund.

"(2) UNAVAILABLE FOR CONSTRUCTION COSTS.—No amount may be used from the AVLIS Commercialization Fund for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than activities specified in subsection (b)).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $364,000,000 from the Uranium Enrichment Special Fund for purposes of this section.

"(e) COST REPORT.—On the basis of the assessment under section 1601(a)(3), the Corporation shall submit to the Congress a report on the capital requirements for commercialization of AVLIS.

"SEC. 1606. DEPARTMENT RESEARCH AND DEVELOPMENT ASSISTANCE.

"If requested by the Corporation, the Secretary shall provide, on a reimbursable basis, research and development of AVLIS and alternative technologies for uranium enrichment.

"SEC. 1607. SITE SELECTION.

"This chapter shall not prejudice consideration of the site of an existing uranium enrichment facility as a candidate site for future expansion or replacement of uranium enrichment capacity through AVLIS or alternative technologies for uranium enrichment. Selection of a site for the AVLIS, or alternative technologies for uranium enrichment, facility shall be made on a competitive basis, taking into consideration economic performance, environmental compatibility, and use of any existing uranium enrichment facilities.

"SEC. 1608. EXCLUSION FROM PRICE-ANDERSON COVERAGE.

"Section 170 shall not apply to any license under section 53, 63, or 103 for a uranium enrichment facility constructed after the date of the enactment of this title.".

SEC. 902. CONFORMING AMENDMENTS AND REPEALERS.

(a) ATOMIC ENERGY ACT OF 1954.—

(1) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended—

(A) by inserting after "ATOMIC ENERGY ACT OF 1954" the 1st place it appears the following:

"TABLE OF CONTENTS

"TITLE I—ATOMIC ENERGY";

and

(B) by adding at the end of the table of contents the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"Sec. 1201. Definitions.
"Sec. 1202. Purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"Sec. 1301. Establishment of the Corporation.
"Sec. 1302. Corporate offices.
"Sec. 1303. Powers of the Corporation.
"Sec. 1304. Board of Directors.
"Sec. 1305. Employees of the Corporation.
"Sec. 1306. Audits.
"Sec. 1307. Annual reports.
"Sec. 1308. Accounts.
"Sec. 1309. Obligations.
"Sec. 1310. Exemption from taxation and payments in lieu of taxes.
"Sec. 1311. Cooperation with other agencies.
"Sec. 1312. Applicability of certain Federal laws.
"Sec. 1313. Security.
"Sec. 1314. Control of information.
"Sec. 1315. Transition.
"Sec. 1316. Working Capital Account.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"Sec. 1401. Marketing and contracting authority.
"Sec. 1402. Pricing.
"Sec. 1403. Leasing of gaseous diffusion facilities of department.
"Sec. 1404. Capital structure of Corporation.
"Sec. 1405. Patents and inventions.
"Sec. 1406. Liabilities.
"Sec. 1407. Transfer of uranium inventories.
"Sec. 1408. Purchase of highly enriched uranium from former Soviet Union.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"Sec. 1501. Strategic plan for privatization.
"Sec. 1502. Privatization.

"CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

"Sec. 1601. Assessment by United States Enrichment Corporation.
"Sec. 1602. Transfer of rights and property to United States Enrichment Corporation.
"Sec. 1603. Predeployment activities by United States Enrichment Corporation.
"Sec. 1604. United States Enrichment Corporation sponsorship of private for-profit corporation to construct AVLIS and alternative technologies for uranium enrichment.
"Sec. 1605. AVLIS Commercialization Fund within United States Enrichment Corporation.
"Sec. 1606. Department research and development assistance.
"Sec. 1607. Site selection.
"Sec. 1608. Exclusion from Price-Anderson coverage.".

(2) Section 41 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2061(a)) is amended—

(A) by striking "or";

(B) by striking "pursuant to under this Act" and inserting "under this title"; and

(C) by striking the period at the end and inserting "; or (3) are owned by the United States Enrichment Corporation.".

(3) Section 53 c. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2073(c)(1)) is amended—

(A) by striking "grant," and inserting "or grant"; and

(B) by striking "or through the provision of production or enrichment services" both places it appears.

(4) Section 161 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(v)) is amended to read as follows:

"v. provide services in support of the United States Enrichment Corporation, except that the Secretary of Energy shall annually collect payments and other charges from the Corporation sufficient to ensure recovery of the costs (excluding depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants and costs under section 1403(d)) incurred by the Department of Energy after the date of the enactment of the Energy Policy Act of 1992 in performing such services;".

(5) Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(A) by striking the comma after "104 b." and inserting the following: ", or which operates any facility regulated or certified under section 1701 or 1702,"; and

(B) by inserting "or certificates" after "holders of, such licenses".

(6) Section 274 c. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(c)(1)) is amended by inserting "or any uranium enrichment facility" before the semicolon at the end.

(7) Section 318(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2286g(1)) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; or", and by adding at the end the following new subparagraph:

"(D) any facility owned by the United States Enrichment Corporation.".

(8) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting before the chapter heading for chapter 1 the following new heading:

"TITLE I—ATOMIC ENERGY".

(b) GOVERNMENT CORPORATION CONTROL PROVISIONS.—Section 9101(3) of title 31, United States Code is amended by adding at the end the following:

"(N) the Uranium Enrichment Corporation.".

(c) ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988.—Section 306 of the Energy and Water Development Appropriation Act, 1988 (Pub. L. 100–202; 101 Stat. 1329–126) is repealed.

(d) EXEMPTION FROM DEFICIT CONTROL ACT.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the item relating to the Tennessee Valley Authority fund the following new item:

"United States Enrichment Corporation;".

SEC. 903. RESTRICTIONS ON NUCLEAR EXPORTS.

(a) FURTHER RESTRICTIONS.—

(1) IN GENERAL.—Chapter 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 134. FURTHER RESTRICTIONS ON EXPORTS.—

"a. The Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

"(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

"(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

"(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

"b. As used in this section—

"(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

"(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U–235; and

"(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

"(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

"(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.".

(2) CLERICAL AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 11 the following new item:

"Sec. 134. Further restrictions on exports.".

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

(A) their location;

(B) whether they are irradiated;

(C) whether they have been used for the purpose stated in their export license; and

(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

(A) exports of highly enriched uranium to EURATOM; and

(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.

SEC. 904. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

TITLE X—REMEDIAL ACTION AND URANIUM REVITALIZATION

Subtitle A—Remedial Action at Active Processing Sites

SEC. 1001. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary of Energy shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the costs described in such subsection as are—

(A) determined by the Secretary to be attributable to byproduct material generated as an incident of sales to the United States; and

(B) either—

(i) incurred by such licensee not later than December 31, 2002; or

(ii) placed in escrow not later than December 31, 2002, in accordance with a plan for subse-

quent decontamination, decommissioning, reclamation, and other remedial action approved by the Secretary.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 1002 and, for uranium mill tailings only, shall not exceed an amount equal to $5.50 multiplied by the dry short tons of byproduct material located on the date of the enactment of this Act at the site of the activities of such licensee described in subsection (a), and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $40,000,000, and may only be made for off-site disposal.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B), and (C) of this paragraph shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—

(i) DETERMINATION OF EXCESS.—The Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated pursuant to section 1003, when considered with the $5.50 per dry short ton limit on reimbursement, exceeds the amount reimbursable to the licensees under subsection (b)(2).

(ii) IN THE EVENT OF EXCESS.—If the Secretary determines under clause (i) that there is an excess, the Secretary may allow reimbursement in excess of $5.50 per dry short ton on a prorated basis at such sites where the costs reimbursable under subsection (b)(1) exceed the $5.50 per dry short ton limitation described in paragraph (2) of such subsection.

(3) BYPRODUCT LOCATION.—Notwithstanding the requirement of paragraph (2)(A) that byproduct material be located at the site on the date of the enactment of this Act, byproduct material moved from the site of the Edgemont Mill to a disposal site as the result of the decontamination, decommissioning, reclamation, and other remedial action of such mill shall be eligible for reimbursement to the extent eligible under paragraph (1).

SEC. 1002. REGULATIONS.

Within 180 days of the date of the enactment of this Act, the Secretary shall issue regulations governing reimbursement under section 1001. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a request for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such request for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 1001.

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated $310,000,000 to carry out this subtitle. The aggregate amount authorized in the preceding sentence shall be increased annually as provided in section 1001, based upon an inflation index to be determined by the Secretary.

(b) SOURCE.—Funds described in subsection (a) shall be provided from the Fund established under section 1801 of the Atomic Energy Act of 1954.

SEC. 1004. DEFINITIONS.

For purposes of this subtitle:

(1) The term "active uranium or thorium processing site" means—

(A) any uranium or thorium processing site, including the mill, containing byproduct material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Secretary or by a State as permitted under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) The term "byproduct material" has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954, (42 U.S.C. 2014(e)(2)); and

(3) The term "decontamination, decommissioning, reclamation, and other remedial action" means work performed prior to or subsequent to the date of the enactment of this Act which is necessary to comply with all applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.), or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

Subtitle B—Uranium Revitalization

SEC. 1011. OVERFEED PROGRAM.

(a) URANIUM PURCHASES.—To the maximum extent permitted by sound business practice, the Corporation shall purchase uranium in accordance with subsection (b) and overfeed it into the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by enrichment services customers, taking into account costs associated with depleted tailings.

(b) USE OF DOMESTIC URANIUM.—Uranium purchased by the Corporation for purposes of this section shall be of domestic origin and purchased from domestic uranium producers to the extent permitted under the General Agreement on Tariffs and Trade and the United States-Canada Free Trade Agreement.

SEC. 1012. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of natural uranium and uranium equivalents contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of the enactment of this Act and for 6 years thereafter, use of the Reserve shall be restricted to military purposes and government research. Use of the Department of Energy's stockpile of enrichment tails existing on the date of the enactment of this Act shall be restricted to military purposes for 6 years thereafter.

SEC. 1013. SALE OF REMAINING DOE INVENTORIES.

The Secretary, after making the transfer required under section 1407 of the Atomic Energy Act of 1954, may sell, from time to time, portions of the remaining inventories of raw or low-enriched uranium of the Department that are not necessary to national security needs, to the Corporation, at a fair market price. Sales under this section may be made only if such sales will not have a substantial adverse impact on the domestic uranium mining industry. Proceeds from sales under this subsection shall be deposited into the general fund of the United States Treasury.

SEC. 1014. RESPONSIBILITY FOR THE INDUSTRY.

(a) CONTINUING SECRETARIAL RESPONSIBILITY.—The Secretary shall have a continuing responsibility for the domestic uranium industry to encourage the use of domestic uranium. The Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within 180 days after the date of the enactment of this Act, the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 1015. ANNUAL URANIUM PURCHASE REPORTS.

(a) IN GENERAL.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator of the Energy Information Administration, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Congress by March 1 of each year.

SEC. 1016. URANIUM INVENTORY STUDY.

Within 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a study and report that includes—

(1) a comprehensive inventory of all Government owned uranium or uranium equivalents, including natural uranium, depleted tailings, low-enriched uranium, and highly enriched uranium available for conversion to commercial use;

(2) a plan for the conversion of inventories of foreign and domestic highly enriched uranium to low-enriched uranium for commercial use;

(3) an estimation of the potential need of the United States for inventories of highly enriched uranium;

(4) an analysis and summary of technological requirements and costs associated with converting highly enriched uranium to low-enriched uranium, including the construction of facilities if necessary;

(5) an estimation of potential net proceeds from the conversion and sale of highly enriched uranium;

(6) recommendations for implementing a plan to convert highly enriched uranium to low-enriched uranium; and

(7) recommendations for the future use and disposition of such inventories.

SEC. 1017. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) ENCOURAGEMENT.—The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost

of non-domestic uranium, enriched uranium or enrichment services.

(b) Report.—Within 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall report to the Congress on the progress of the Secretary in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this subtitle.

(c) Savings Provision.—This section may not be construed to authorize the Secretary to take any action in violation of the general Agreement on Tariffs and Trade or the United States-Canada Free Trade Agreement.

SEC. 1018. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Corporation" means the United States Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954, as added by this Act.

(2) The term "country of origin" means—

(A) with respect to uranium, that country where the uranium was mined;

(B) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(C) with respect to enrichment services, that country where the enrichment services were performed.

(3) The term "domestic origin" refers to any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States.

(4) The term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment.

(5) The term "non-affiliated" refers to a seller who does not control, and is not controlled by or under common control with, the buyer.

(6) The term "overfeed" means to use uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(7) The term "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer. For purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the respective meanings given such terms in section 3 of the Public Utility Regulatory Policies Act of 1978.

Subtitle C—Remedial Action at Inactive Processing Sites

SEC. 1031. URANIUM MILL TAILINGS RADIATION CONTROL ACT EXTENSION.

Section 112(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7922(a)) is amended by striking "1994" and inserting "1996".

TITLE XI—URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES

SEC. 1101. URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as amended by title IX of this Act, is further amended by adding at the end of title II the following:

"CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"SEC. 1701. GASEOUS DIFFUSION FACILITIES.

"(a) Issuance of Standards.—Within 2 years after the date of the enactment of this title, the Nuclear Regulatory Commission shall establish by regulation such standards as are necessary to govern the gaseous diffusion uranium enrichment facilities of the Department in order to protect the public health and safety from radiological hazard and provide for the common defense and security. Regulations promulgated pursuant to this subsection shall, among other things, require that adequate safeguards (within the meaning of section 147) are in place.

"(b) Annual Report.—

"(1) In general.—The Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall report at least annually to the Congress on the status of health, safety, and environmental conditions at the gaseous diffusion uranium enrichment facilities of the Department.

"(2) Required determination.—Such report shall include a determination regarding whether the gaseous diffusion uranium enrichment facilities of the Department are in compliance with the standards established under subsection (a) and all applicable laws.

"(c) Certification Process.—

"(1) Establishment.—The Nuclear Regulatory Commission shall establish a certification process to ensure that the Corporation complies with standards established under subsection (a).

"(2) Annual application for certificate of compliance.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1). The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

"(3) Treatment of certificate of compliance.—The requirement for a certificate of compliance under paragraph (1) shall be in lieu of any requirement for a license for any gaseous diffusion facility of the Department leased by the Corporation.

"(4) NRC review.—

"(A) In general.— The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review the operations of the Corporation with respect to any gaseous diffusion uranium enrichment facilities of the Department leased by the Corporation to ensure that public health and safety are adequately protected.

"(B) Access to facilities and information.—The Corporation and the Department shall cooperate fully with the Nuclear Regulatory Commission and the Environmental Protection Agency and shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with the ready access to the facilities, personnel, and information the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection. A contractor operating a Corporation facility for the Corporation shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with ready access to the facilities, personnel, and information of the contractor as the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection.

"(C) Limitation.—The Nuclear Regulatory Commission shall limit its finding under subsection (b)(2) to a determination of whether the facilities are in compliance with the standards established under subsection (a).

"(d) Requirement for Operation.—The gaseous diffusion uranium enrichment facilities of the Department may not be operated by the Corporation unless the Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, makes a determination of compliance under subsection (b) or approves a plan prepared by the Department for achieving compliance required under subsection (b).

"SEC. 1702. LICENSING OF OTHER TECHNOLOGIES.

"(a) In General.—Corporation facilities using alternative technologies for uranium enrichment, other than AVLIS, shall be licensed under sections 53 and 63.

"(b) Costs for Decontamination and Decommissioning.—The Corporation shall provide for the costs of decontamination and decommissioning of any Corporation facilities described in subsection (a) in accordance with the requirements of the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990.

"SEC. 1703. REGULATION OF RESTRICTED DATA.

"The Corporation shall be subject to this Act with respect to the use of, or access to, Restricted Data to the same extent as any private corporation.

"CHAPTER 28—DECONTAMINATION AND DECOMMISSIONING

"SEC. 1801. URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND.

"(a) Establishment.—There is established in the Treasury of the United States an account to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (referred to in this chapter as the 'Fund'). The Fund, and any amounts deposited in it, including any interest earned thereon, shall be available to the Secretary subject to appropriations for the exclusive purpose of carrying out this chapter.

"(b) Administration.—

"(1) In general.—The Secretary of the Treasury shall hold the Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) Investments.—The Secretary of the Treasury shall invest amounts contained within the Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate for what the Department determines to be the needs of the Fund; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to these obligations.

"SEC. 1802. DEPOSITS.

"(a) Amount.—The Fund shall consist of deposits in the amount of \$480,000,000 per fiscal year (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

"(b) Source.—Deposits described in subsection (a) shall be from the following sources:

"(1) Sums collected pursuant to subsection (c).

"(2) Appropriations made pursuant to subsection (d).

"(c) Special Assessment.—The Secretary shall collect a special assessment from domestic utilities. The total amount collected for a fiscal year shall not exceed \$150,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor). The amount collected from each utility pursuant to this subsection for a fiscal year shall be in the same ratio to the amount required under subsection

(a) to be deposited for such fiscal year as the total amount of separative work units such utility has purchased from the Department of Energy for the purpose of commercial electricity generation, before the date of the enactment of this title, bears to the total amount of separative work units purchased from the Department of Energy for all purposes (including units purchased or produced for defense purposes) before the date of the enactment of this title. For purposes of this subsection—

"(1) a utility shall be considered to have purchased a separative work unit from the Department if such separative work unit was produced by the Department, but purchased by the utility from another source; and

"(2) a utility shall not be considered to have purchased a separative work unit from the Department if such separative work unit was purchased by the utility, but sold to another source.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund, for the period encompassing 15 years after the date of the enactment of this title, such sums as are necessary to ensure that the amount required under subsection (a) is deposited for each fiscal year.

"(e) TERMINATION OF ASSESSMENTS.—The collection of amounts under subsection (c) shall cease after the earlier of—

"(1) 15 years after the date of the enactment of this title; or

"(2) the collection of $2,250,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) under such subsection.

"(f) CONTINUATION OF DEPOSITS.—Except as provided in subsection (e), deposits shall continue to be made into the Fund under subsection (d) for the period specified in such subsection.

"(g) TREATMENT OF ASSESSMENT.—Any special assessment levied under this section on domestic utilities for the decontamination and decommissioning of the Department's gaseous diffusion enrichment facilities shall be deemed a necessary and reasonable current cost of fuel and shall be fully recoverable in rates in all jurisdictions in the same manner as the utility's other fuel cost.

"SEC. 1803. DEPARTMENT FACILITIES.

"(a) STUDY BY NATIONAL ACADEMY OF SCIENCES.—The National Academy of Sciences shall conduct a study and provide recommendations for reducing costs associated with decontamination and decommissioning, and shall report its findings to the Congress within 3 years after the date of the enactment of this title. Such report shall include a determination of the decontamination and decommissioning required for each facility, shall identify alternative methods, using different technologies, shall include site-specific surveys of the actual contamination, and shall provide estimated costs of those activities.

"(b) PAYMENT OF DECONTAMINATION AND DECOMMISSIONING COSTS.—The costs of all decontamination and decommissioning activities of the Department shall be paid from the Fund until such time as the Secretary certifies and the Congress concurs, by law, that such activities are complete.

"(c) PAYMENT OF REMEDIAL ACTION COSTS.—The annual cost of remedial action at the Department's gaseous diffusion facilities shall be paid from the Fund to the extent the amount available in the Fund is sufficient. To the extent the amount in the Fund is insufficient, the Department shall be responsible for the cost of remedial action. No provision of this title may be construed to relieve in any way the responsibility or liability of the Department for remedial action under applicable Federal and State laws and regulations.

"SEC. 1804. EMPLOYEE PROVISIONS.

"All laborers and mechanics employed by contractors or subcontractors in the performance of decontamination or decommissioning of uranium enrichment facilities of the Department shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c). This section may not be construed to require the contracting out of activities associated with the decontamination or decommissioning of uranium enrichment facilities.

"SEC. 1805. REPORTS TO CONGRESS.

"Within 3 years after the date of the enactment of this title, and at least once every 3 years thereafter, the Secretary shall report to the Congress on progress under this chapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this title.".

SEC. 1102. LICENSING OF AVLIS.

The last sentence of section 11 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: "Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

SEC. 1103. TABLE OF CONTENTS.

The table of contents for title II of the Atomic Energy Act of 1954, as added by title IX of this Act, is amended by adding at the end the following:

"CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"Sec. 1701. Gaseous diffusion facilities.
"Sec. 1702. Licensing of other technologies.
"Sec. 1703. Regulation of restricted data.

"CHAPTER 28—DECONTAMINATION AND DECOMMISSIONING

"Sec. 1801. Uranium Enrichment Decontamination and Decommissioning Fund.
"Sec. 1802. Deposits.
"Sec. 1803. Department facilities.
"Sec. 1804. Employee provisions.
"Sec. 1805. Reports to Congress.".

TITLE XII—RENEWABLE ENERGY

SEC. 1201. PURPOSES.

The purposes of this title are to promote—

(1) increases in the production and utilization of energy from renewable energy resources;

(2) further advances of renewable energy technologies; and

(3) exports of United States renewable energy technologies and services.

SEC. 1202. DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGIES.

(a) DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005) is amended to read as follows:

"SEC. 6. DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.

"(a) PURPOSE.—The purpose of this section is to direct the Secretary to further the commercialization of renewable energy and energy efficiency technologies through a five-year program.

"(b) DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.—

"(1) ESTABLISHMENT.—(A) The Secretary shall solicit proposals for demonstration and commercial application projects for renewable energy and energy efficiency technologies pursuant to subsection (c). Such projects may include projects for—

"(i) the production and sale of electricity, thermal energy, or other forms of energy using a renewable energy technology;

"(ii) increasing the efficiency of energy use; and

"(iii) improvements in, or expansion of, facilities for the manufacture of renewable energy or energy efficiency technologies.

"(B) REQUIREMENTS.—Each project selected under this section shall include at least one for-profit business. Activities supported under this section shall be performed in the United States. Each project under this section shall require the manufacture and reproduction substantially within the United States for commercial sale of any invention or product that may result from the project.

"(2) FORMS OF FINANCIAL ASSISTANCE.—(A) In supporting projects selected under subsection (c), the Secretary may choose from among the forms of agreements described in section 3001 of the Energy Policy Act of 1992.

"(B) In supporting projects selected under subsection (c), the Secretary may also enter into agreements with private lenders to pay a portion of the interest on loans made for such projects.

"(3) COST SHARING.—Cost sharing for projects under this section shall be conducted according to the procedures described in section 3002(b) and (c) of the Energy Policy Act of 1992.

"(4) ADVISORY COMMITTEE.—(A) The Secretary shall establish an Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this Act referred to as the 'Advisory Committee') to advise the Secretary on the development of the solicitation and evaluation criteria for projects under this section, and on otherwise carrying out his responsibilities under this section. The Secretary shall appoint members to the Advisory Committee, including at least one member representing—

"(i) the Secretary of Commerce;

"(ii) the National Laboratories of the Department of Energy;

"(iii) the Solar Energy Research Institute;

"(iv) the Electric Power Research Institute;

"(v) the Gas Research Institute;

"(vi) the National Institute of Building Sciences;

"(vii) the National Institute of Standards and Technology;

"(viii) associations of firms in the major renewable energy manufacturing industries; and

"(ix) associations of firms in the major energy efficiency manufacturing industries.

Nothing in this subparagraph shall be construed to require the Secretary to reestablish the Advisory Committee in place under this subsection as of the date of enactment of the Energy Policy Act of 1992, or to perform again any duties performed by such advisory committee before such date of enactment.

"(B) Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the program under this section, including specific recommendations for improvements or changes to the program and solicitation process. The Secretary shall transmit such report and, if any, the Secretary's recommendations to the Congress.

"(c) Selection of Projects.—

"(1) Solicitation.—(A) Not later than 9 months after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall solicit proposals for projects under this section. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

"(B) A solicitation for proposals under this paragraph shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

"(C) Each solicitation under this paragraph shall include a description of the criteria, developed by the Secretary, according to which proposals will be evaluated. In developing such criteria, the Secretary shall consider—

"(i) the need for Federal involvement to commercialize the technology or speed commercialization of the technology;

"(ii) the potential for the technology to have significant market penetration;

"(iii) the potential energy efficiency gains or energy supply contributions of the technology;

"(iv) potential environmental improvements associated with the technology;

"(v) the export potential of the technology;

"(vi) the likelihood that the proposal is technically sufficient to achieve the objective of the solicitation;

"(vii) the degree to which non-Federal financial participation is involved in the proposal;

"(viii) the business and financial history of the proposer or proposers; and

"(ix) any other factor the Secretary considers appropriate.

"(2) Project technologies.—Projects under this section may include the following technologies:

"(A) Conversion of cellulosic biomass to liquid fuels.

"(B) Ethanol and ethanol byproduct processes.

"(C) Direct combustion or gasification of biomass.

"(D) Biofuels energy systems.

"(E) Photovoltaics, including utility scale and remote applications.

"(F) Solar thermal, including solar water heating.

"(G) Wind energy.

"(H) High temperature and low temperature geothermal energy.

"(I) Fuel cells, including transportation and stationary applications.

"(J) Nondefense high-temperature superconducting electricity technology.

"(K) Source reduction technology.

"(L) Factory-made housing.

"(M) Advanced district cooling.

"(3) Project selection.—The Secretary shall, within 120 days after the closing date established under paragraph (1)(B), select proposals to receive financial assistance under this section. In selecting proposals under this paragraph, the Secretary shall—

"(A) consider each proposal's ability to meet the criteria developed pursuant to paragraph (1)(C); and

"(B) attempt to achieve technological and geographic diversity.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for carrying out this section $50,000,000 for fiscal year 1994."

(b) National Goals and Multiyear Funding for Alcohol From Biomass.—Section 4(a) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12003(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting after paragraph (3) the following new paragraph:

"(4) Alcohol from biomass.—(A) In general, the goal of the Alcohol From Biomass Program shall be to advance research and development to a point where alcohol from biomass technology is cost-competitive with conventional hydrocarbon transportation fuels, and to promote the integration of this technology into the transportation fuel sector of the economy.

"(B)(i) Specific goals for producing ethanol from biomass shall be to—

"(I) reduce the cost of alcohol to 70 cents per gallon;

"(II) improve the overall biomass carbohydrate conversion efficiency to 91 percent;

"(III) reduce the capital cost component of the cost of alcohol to 23 cents per gallon; and

"(IV) reduce the operating and maintenance component of the cost of alcohol to 47 cents per gallon.

"(ii) Specific goals for producing methanol from biomass shall be to—

"(I) reduce the cost of alcohol to 47 cents per gallon; and

"(II) reduce the capital component of the cost of alcohol to 16 cents per gallon."; and

(3) in paragraph (5), as so redesignated by paragraph (1) of this subsection, by inserting "Biodiesel Energy Systems," after "Biofuels Energy Systems,".

(c) National Renewable Energy and Energy Efficiency Management Plan.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12008(b)) is amended—

(1) in paragraph (1) by inserting "three-year" before "management plan"; and

(2) by striking paragraph (5) and inserting in lieu thereof the following new paragraphs:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under section 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

(d) Conforming Amendments.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.) is further amended—

(1) in section 2(b)—

(A) by striking "authority contained in" and all that follows through "applicable to the Secretary" and inserting in lieu thereof "section 3001 of the Energy Policy Act of 1992"; and

(B) by striking "and demonstration" and inserting in lieu thereof "demonstration, and commercial application";

(2) in section 2(b)(4)—

(A) by striking "research and development"; and

(B) by striking "joint ventures" and inserting in lieu thereof "demonstration and commercial application projects";

(3) in section 2(c), by striking "the authority contained in" and all that follows and inserting in lieu thereof "section 3001 of the Energy Policy Act of 1992, is authorized and directed to—

"(1) pursue a program of research, development, demonstration, and commercial application with the private sector, to achieve the purpose of this Act, including the goals established under section 4; and

"(2) undertake demonstration and commercial application projects as provided in section 6.";

(4) in section 3—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively;

(C) in paragraph (4), as so redesignated by subparagraph (B) of this paragraph—

(i) by striking "joint venture" and inserting in lieu thereof "demonstration and commercial application project";

(ii) by striking "venture" and inserting in lieu thereof "demonstration and commercial application project"; and

(iii) by striking "and " at the end thereof; and

(D) by inserting after paragraph (4), as so redesignated by subparagraph (B) of this paragraph, the following new paragraph:

"(5) the term 'source reduction' means any practice which—

"(A) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

"(B) reduces the hazards to the public health and the environment associated with the release of such substances, pollutants, or contaminants, including equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, and inventory control, but not including any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service;"; and

(5) in section 9(a), by striking ", projects, and joint ventures" and inserting in lieu thereof "and projects".

SEC. 1203. RENEWABLE ENERGY EXPORT TECHNOLOGY TRAINING.

(a) Establishment of Program.—The Secretary, through the Agency for International Development, shall establish a program for the training of individuals from developing countries in the operation and maintenance of renewable energy and energy efficiency technologies in accordance with this section. The Secretary and the Administrator of the Agency for International Development shall, within one year after the date of enactment of this Act, enter into a written agreement to carry out this program.

(b) Purpose.—The purpose of the program established under this section shall be to train appropriate persons in the system design, operation, and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping, heating and purification, and the production of electric power in remote areas.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $6,000,000 for each of the fiscal years 1994, 1995, and 1996, to carry out this section.

SEC. 1204. RENEWABLE ENERGY ADVANCEMENT AWARDS.

(a) Authority.—The Secretary shall make Renewable Energy Advancement Awards in recognition of developments that advance the practical application of biomass, geothermal, hydroelectric, photovoltaic, solar thermal, ocean thermal, and wind technologies to consumer, utility, or industrial uses, in accordance with this section. Except as provided in subsection (f), Renewable Energy Advancement Awards shall include a cash award.

(b) SELECTION CRITERIA.—The Secretary, in consultation with the Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this section referred to as the "Advisory Committee"), under section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, shall develop criteria to be applied in the selection of award recipients under this section. Such criteria shall include the following:

(1) The degree to which the technological development increases the utilization of renewable energy.

(2) The degree to which the development will have a significant impact, by benefitting a large number of people, by reducing the costs of an important industrial process or commercial product or service, or otherwise.

(3) The ingenuity of the development.

(4) Whether the application has significant export potential.

(5) The environmental soundness of the development.

(c) SELECTION.—Beginning in fiscal year 1994, and annually thereafter for a period of 10 years, the Secretary, in consultation with the Advisory Committee, shall select developments described in subsection (a) that are worthy of receiving an award under this section, and shall make such awards.

(d) ELIGIBILITY.—Awards may be made under this section only to individuals who are United States nationals or permanent resident aliens, or to non-Federal organizations that are organized under the laws of the United States or the laws of a State of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $50,000 for each of the fiscal years 1994, 1995, and 1996 for carrying out this section.

(f) AWARDS MADE IN ABSENCE OF APPROPRIATIONS.—The Secretary shall make honorary awards under this section if sufficient funds are not available for financial awards in any fiscal year.

SEC. 1205. STUDY OF TAX AND RATE TREATMENT OF RENEWABLE ENERGY PROJECTS.

(a) The Secretary, in conjunction with State regulatory commissions, shall undertake a study to determine if conventional taxation and ratemaking procedures result in economic barriers to or incentives for renewable energy power plants compared to conventional power plants.

(b) Within 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study undertaken under subsection (a).

SEC. 1206. STUDY OF RICE MILLING ENERGY BY-PRODUCT MARKETING.

The Department of Energy shall conduct a study to facilitate the marketing of energy byproducts from rice milling.

SEC. 1207. DUTIES OF INTERAGENCY WORKING GROUP ON RENEWABLE ENERGY AND ENERGY EFFICIENCY EXPORTS.

(a) INTERAGENCY WORKING GROUP.—Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) is amended to read as follows:

"(d) INTERAGENCY WORKING GROUP.—

"(1) ESTABLISHMENT.—(A) There shall be established an interagency working group that, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal Government affecting exports of renewable energy and energy efficiency products and services. The interagency working group shall establish a program to inform foreign countries of the benefits of policies that would increase energy efficiency or would allow facilities that use renewable energy to compete effectively with producers of energy from nonrenewable sources.

"(B) There shall be established an Interagency Working Subgroup on Renewable Energy and an Interagency Working Subgroup on Energy Efficiency that shall, in consultation with representative industry groups, nonprofit organizations, and relevant Federal agencies, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and services, respectively.

"(C) The Secretary of Energy, or the Secretary's designee, shall chair the interagency working group and each subgroup established under this paragraph. The Administrator of the Agency for International Development and the Secretary of Commerce, or their designees, shall be members of both subgroups established under this paragraph. The Secretary shall provide staff for carrying out the functions of the interagency working group and each subgroup established under this paragraph. The heads of appropriate agencies may detail such personnel and may furnish such services to such group and subgroups, with or without reimbursement, as may be necessary to carry out their functions.

"(2) DUTIES OF THE INTERAGENCY WORKING SUBGROUPS.—(A) The interagency working subgroups established under paragraph (1)(B), through the member agencies of the interagency working group, shall promote the development and application in foreign countries of renewable energy and energy efficiency products and services, respectively, that—

"(i) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, wind, small-scale hydroelectric, solar, geothermal, and other renewable energy and energy efficiency products and services; and

"(ii) use hybrid fossil-renewable energy systems.

"(B) In addition, the interagency working subgroups shall explore mechanisms for assisting domestic firms, particularly small businesses, with the export of their renewable energy and energy efficiency products and services and with the identification of potential projects.

"(3) TRAINING AND ASSISTANCE.—The interagency working subgroups shall encourage the member agencies of the interagency working group to—

"(A) provide technical training and education for international development personnel and local users in their own country;

"(B) provide financial and technical assistance to nonprofit institutions that support the marketing and export efforts of domestic companies that provide renewable energy and energy efficiency products and services;

"(C) develop environmentally sustainable renewable energy and energy efficiency projects in foreign countries;

"(D) provide technical assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States and other appropriate personnel in order to provide information about renewable energy and energy efficiency products and services to foreign governments or other potential project sponsors;

"(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency products and services; and

"(F) augment budgets for trade and development programs in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy and energy efficiency products and services.".

(b) FUNCTIONS.—Section 256(f) of the Energy Policy and Conservation Act (42 U.S.C. 6276(f)) is amended by inserting "and energy efficiency" after "renewable energy" each place it appears.

(c) DEFINITIONS.—Section 256(g) of the Energy Policy and Conservation Act (42 U.S.C. 6276(g)) is repealed.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 256(h) of the Energy Policy and Conservation Act (42 U.S.C. 6276(h)) is amended to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out the programs under subsections (d) and (e) $10,000,000, to be divided equitably between the interagency working subgroups based on program requirements, for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995 to carry out the purposes of this subtitle.".

SEC. 1208. STUDY OF EXPORT PROMOTION PRACTICES.

Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) as amended by section 1208 of this Act, is further amended by adding at the end the following new paragraph:

"(4) The interagency working group shall conduct a study of subsidies, incentives, and policies that foreign countries use to promote exports of their own renewable energy and energy efficiency technologies and products. Such study shall also identify foreign trade barriers to the import of renewable energy and energy efficiency technologies and products produced in the United States. The interagency working group shall report to the appropriate committees of the House of Representatives and the Senate the results of such study within 18 months after the date of the enactment of the Energy Policy Act of 1992.".

SEC. 1209. DATA SYSTEM AND ENERGY TECHNOLOGY EVALUATION.

The Secretary of Commerce, in his or her role as a member of the interagency working group established under section 256 of the Energy Policy and Conservation Act (42 U.S.C. 6276), shall—

(1) develop a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, that will provide information on the specific energy technology needs of foreign countries, and the technical and economic competitiveness of various renewable energy and energy efficiency products and technologies;

(2) make such information available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary of Commerce considers necessary; and

(3) prepare and transmit to the Congress not later than June 1, 1993, and biennially thereafter, a comprehensive report evaluating the full range of energy and environmental technologies necessary to meet the energy needs of foreign countries, including—

(A) information on the specific energy needs of foreign countries;

(B) an inventory of United States technologies and services to meet those needs;

(C) an update on the status of ongoing bilateral and multilateral programs which promote United States exports of renewable energy and energy efficiency products and technologies; and

(D) an evaluation of current programs (and recommendations for future programs) that develop and promote energy efficiency and sus-

tainable use of indigenous renewable energy resources in foreign countries to reduce the generation of greenhouse gases.

SEC. 1210. OUTREACH.

(a) OUTREACH.—The interagency working group established under section 256(d)(1)(A) of the Energy Policy and Conservation Act and the Secretary of Commerce shall select one individual who is experienced in renewable energy and energy efficiency products and technologies to be assigned by the Secretary of Commerce to an office of the United States and Foreign Commercial Service in the Pacific Rim, and one such individual to be assigned by the Secretary of Commerce to an office of the United States and Foreign Commercial Service in the Caribbean Basin, for the sole purpose of providing information concerning domestic renewable energy and energy efficiency products, technologies, and industries to territories, foreign governments, industries, and other appropriate persons.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section $500,000 for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995.

SEC. 1211. INNOVATIVE RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the other members of the interagency working group established under section 256(d) of Energy Policy and Conservation Act (in this section referred to as the "interagency working group"), shall establish a renewable energy technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of the enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate Federal agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States renewable energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States renewable energy technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from renewable resources;

(4) develop markets for United States renewable energy technologies to be utilized in meeting the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(6) ensure the introduction of United States firms and expertise in foreign countries;

(7) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of renewable energy technology projects in foreign countries;

(8) assist foreign countries in meeting their energy needs through the use of renewable energy in an environmentally acceptible manner, consistent with sustainable development policies; and

(9) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the interagency working group, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries, and shall identify a list of such projects within 240 days after the date of the enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects utilizing United States renewable energy technologies, and services related thereto, in developing countries;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-United States funding that is available to the project; and

(B) utilized to assist United States firms in the development of innovative financing packages for renewable energy technology projects that utilize other financial assistance programs available through the Federal Government.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of the enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States renewable energy technology. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE-PS01-90FE62271 Clean Coal Technology IV, as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States renewable energy technology, including services related thereto, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the working group, shall—

(1) establish eligibility criteria for host countries;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the purposes stated in section 1201(b);

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet 1 or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will make greater use of indigenous renewable energy resources.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(i) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(j) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(k) REPORTS TO CONGRESS.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce renewable energy technologies into foreign countries.

(l) DEFINITIONS.—For purposes of this section—

(1) the term "host country" means a foreign country which is—

(A) the participant in or the site of the proposed renewable energy technology project; and

(B) either—

COM008 (i) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a developing country.

(2) the term "developing country" includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

(m) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1212. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified renewable energy facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e). Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—For purposes of this section, a qualified renewable energy facility is a facility which is owned by a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision), by any corporation or association which is wholly owned, directly or indirectly, by one or more of the foregoing, or by a nonprofit electrical cooperative and which generates electric energy for sale in, or affecting, interstate commerce using solar, wind, biomass, or geothermal energy, except that—

(1) the burning of municipal solid waste shall not be treated as using biomass energy; and

(2) geothermal energy shall not include energy produced from a dry steam geothermal reservoir which has—

(A) no mobile liquid in its natural state;

(B) steam quality of 95 percent water; and

(C) an enthalpy for the total produced fluid greater than or equal to 1200 Btu/lb (British thermal units per pound).

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electricity generated from a qualified renewable energy facility first used during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section.

(d) PAYMENT PERIOD.—A qualified renewable energy facility may receive payments under this section for a 10-fiscal year period. Such period shall begin with the fiscal year in which electricity generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Incentive payments made by the Secretary under this section to the owner or operator of any qualified renewable energy facility shall be based on the number of kilowatt hours of electricity generated by the facility through the use of solar, wind, biomass, or geothermal energy during the payment period referred to in subsection (d). For any facility, the amount of such payment shall be 1.5 cents per kilowatt hour, adjusted as provided in paragraph (2).

(2) ADJUSTMENTS.—The amount of the payment made to any person under this subsection as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 1993 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 1993 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any facility after the expiration of the 20-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 1993, 1994, and 1995 such sums as may be necessary to carry out the purposes of this section.

TITLE XIII—COAL

Subtitle A—Research, Development, Demonstration, and Commercial Application

SEC. 1301. COAL RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall, in accordance with section 3001 and 3002 of this Act, conduct programs for research, development, demonstration, and commercial application on coal-based technologies. Such research, development, demonstration, and commercial application programs shall include the programs established under this subtitle, and shall have the goals and objectives of—

(1) ensuring a reliable electricity supply;

(2) complying with applicable environmental requirements;

(3) achieving the control of sulfur oxides, oxides of nitrogen, air toxics, solid and liquid wastes, greenhouse gases, or other emissions resulting from coal use or conversion at levels of proficiency greater than or equal to applicable currently available commercial technology;

(4) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(5) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels;

(6) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost sharing participation;

(7) ensuring the timely commercial application of cost-effective technologies or energy production processes or systems utilizing coal which achieve—

(A) greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal; and

(B) the control of emissions from the utilization of coal; and

(8) ensuring the availability for commercial use of such technologies by the year 2010.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAMS.—(1) In selecting either a demonstration project or a commercial application project for financial assistance under this subtitle, the Secretary shall seek to ensure that, relative to otherwise comparable commercially available technologies or products, the selected project will meet one or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(2) In administering demonstration and commercial application programs authorized by this subtitle, the Secretary shall establish accounting and project management controls that will be adequate to control costs.

(3)(A) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures and criteria for the recoupment of the Federal share of each cost shared demonstration and commercial application project authorized pursuant to this subtitle. Such recoupment shall occur within a reasonable period of time following the date of completion of such project, but not later than 20 years following such date, taking into account the effect of recoupment on—

(i) the commercial competitiveness of the entity carrying out the project;

(ii) the profitability of the project; and

(iii) the commercial viability of the coal-based technology utilized.

(B) The Secretary may at any time waive or defer all or some portion of the recoupment requirement as necessary for the commercial viability of the project.

(4) Projects selected by the Secretary under this subtitle for demonstration or commercial application of a technology shall, in the judgment of the Secretary, be capable of enhancing the state of the art for such technology.

(c) REPORT.—Within 240 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Energy and Commerce

and the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report which shall include each of the following:

(1) A detailed description of ongoing research, development, demonstration, and commercial application activities regarding coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries.

(2) A listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the programs established under this subtitle.

(3) Recommendations regarding the manner in which any ongoing coal-based demonstration and commercial application program might be modified and extended in order to ensure the timely demonstrations of advanced coal-based technologies so as to ensure that the goals established under this section are achieved and that such demonstrated technologies are available for commercial use by the year 2010.

(4) Recommendations, if any, regarding the manner in which the cost sharing demonstrations conducted pursuant to the Clean Coal Program established by Public Law 98–473 might be modified and extended in order to ensure the timely demonstration of advanced coal-based technologies.

(5) A detailed plan for conducting the research, development, demonstration, and commercial application programs to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized;

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and

(C) the dates at which further deadlines for additional cost sharing demonstrations shall be established.

(d) STATUS REPORTS.—Within one year after transmittal of the report described in subsection (c), and every 2 years thereafter for a period of 6 years, the Secretary shall transmit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, demonstration, and commercial application activities undertaken to carry out the programs required by this subtitle.

(e) CONSULTATION.—In carrying out research, development, demonstration, and commercial application activities under this subtitle, the Secretary shall consult with the National Coal Council and other representatives of the public and private sectors as the Secretary considers appropriate.

SEC. 1302. COAL-FIRED DIESEL ENGINES.

The Secretary shall conduct a program of research, development, demonstration, and commercial application for utilizing coal-derived liquid or gaseous fuels, including ultra-clean coal-water slurries, in diesel engines. The program shall address—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) the testing of low-Btu highly reactive fuels;

(5) fuel delivery and storage systems requirements; and

(6) other infrastructure required to support commercial deployment.

SEC. 1303. CLEAN COAL, WASTE-TO-ENERGY.

The Secretary shall establish a program of research, development, demonstration, and commercial application with respect to the use of solid waste combined with coal as a fuel source for clean coal combustion technologies. The program shall address—

(1) the feasibility of cofiring coal and used vehicle tires in fluidized bed combustion units;

(2) the combined gasification of coal and municipal sludge using integrated gasification combined cycle technology;

(3) the creation of fuel pellets combining coal and material reclaimed from solid waste;

(4) the feasibility of cofiring, in fluidized bed combustion units, waste methane from coal mines, including ventilation air, together with coal or coal wastes; and

(5) other sources of waste and coal mixtures in other applications that the Secretary considers appropriate.

SEC. 1304. NONFUEL USE OF COAL.

(a) PROGRAM.—The Secretary shall prepare a plan for and carry out a program of research, development, demonstration, and commercial application with respect to technologies for the nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) PLAN CONTENTS.—The plan described in subsection (a) shall address and evaluate—

(1) the known and potential processes for using coal in the creation of products in the chemical, utility, fuel, and carbon-based materials industries;

(2) the costs, benefits, and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of coproduction of products from coal in conjunction with the production of electric power, thermal energy, and fuel;

(4) the economics of the refining of coal and coal byproducts to produce nonfuel products;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of technologies developed under the program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with nonfuel uses of coal.

SEC. 1305. COAL REFINERY PROGRAM.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for coal refining technologies.

(b) OBJECTIVES.—The program shall include technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals, and lignites to produce clean-burning transportation fuels, compliance boiler fuels, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, either alone or in conjunction with the generation of electricity or process heat, or the manufacture of a variety of products from coal. The objectives of such program shall be to achieve—

(1) the timely commercial application of technologies, including mild gasification, hydrocracking and other hydropyrolysis processes, and other energy production processes or systems to produce coal-derived fuels and coproducts, which achieve greater efficiency and economy in the conversion of coal to electrical energy and coproducts than currently available technology;

(2) the production of energy, fuels, and products which, on a complete energy system basis, will result in environmental emissions no greater than those produced by existing comparable energy systems utilized for the same purpose;

(3) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(4) reduction in the cost of producing such coal-derived fuels and coproducts;

(5) the control of emissions from the combustion of coal-derived fuels; and

(6) the availability for commercial use of such technologies by the year 2000.

SEC. 1306. COALBED METHANE RECOVERY.

(a) STUDY OF BARRIERS AND ENVIRONMENTAL AND SAFETY ASPECTS.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall conduct a study of—

(1) technical, economic, financial, legal, regulatory, institutional, or other barriers to coalbed methane recovery, and of policy options for eliminating such barriers; and

(2) the environmental and safety aspects of flaring coalbed methane liberated from coal mines.

Within two years after the date of enactment of this Act, the Secretary shall submit a report to the Congress detailing the results of such study.

(b) INFORMATION DISSEMINATION.—Beginning one year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall disseminate to the public information on state-of-the-art coalbed methane recovery techniques, including information on costs and benefits.

(c) DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAM.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall establish a coalbed methane recovery demonstration and commercial application program, which shall emphasize gas enrichment technology. Such program shall address—

(1) gas enrichment technologies for enriching medium-quality methane recovered from coal mines to pipeline quality;

(2) technologies to use mine ventilation air in nearby power generation facilities, including gas turbines, internal combustion engines, or other coal fired powerplants;

(3) technologies for cofiring methane recovered from mines, including methane from ventilation systems and degasification systems, together with coal in conventional or clean coal technology boilers; and

(4) other technologies for producing and using methane from coal mines that the Secretary considers appropriate.

SEC. 1307. METALLURGICAL COAL DEVELOPMENT.

(a) The Secretary shall establish a research, development, demonstration, and commercial application program on metallurgical coal utilization for the purpose of developing techniques that will lead to the greater and more efficient utilization of the Nation's metallurgical coal resources.

(b) The program referred to in subsection (a) shall include the use of metallurgical coal—

(1) as a boiler fuel for the purpose of generating steam to produce electricity, including blending metallurgical coal with other coals in order to enhance its efficient application as a boiler fuel;

(2) as an ingredient in the manufacturing of steel; and

(3) as a source of pipeline quality coalbed methane.

SEC. 1308. UTILIZATION OF COAL WASTES.

(a) COAL WASTE UTILIZATION PROGRAM.—The Secretary, in consultation with the Secretary of the Interior, shall establish a research, development, demonstration, and commercial application program on coal waste utilization for the purpose of developing techniques that will lead to the greater and more efficient utilization of coal wastes from mining and processing, other than coal ash.

(b) USE AS BOILER FUEL.—The program referred to in subsection (a) shall include projects to facilitate the use of coal wastes from mining and processing as a boiler fuel for the purpose of generating steam to produce electricity.

SEC. 1309. UNDERGROUND COAL GASIFICATION.

(a) PROGRAM.—The Secretary shall conduct a research, development, demonstration, and commercial application program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) DEMONSTRATION PROJECTS.—As part of the program authorized in subsection (a), the Secretary may solicit proposals for underground coal gasification technology projects to fulfill the goal and objective of subsection (a).

SEC. 1310. LOW-RANK COAL RESEARCH AND DEVELOPMENT.

The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties of lignites and sub-bituminous coals, including, but not limited to, the following areas—

(1) high value-added carbon products;

(2) fuel cell applications;

(3) emissions control and combustion efficiencies;

(4) coal water fuels and underground coal gasification;

(5) distillates; and

(6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

SEC. 1311. MAGNETOHYDRODYNAMICS.

(a) PROGRAM.—The Secretary shall carry out a research, development, demonstration, and commercial application program in magnetohydrodynamics. The purpose of this program shall be to determine the adequacy of the engineering and design information completed to date under Department of Energy contracts related to magnetohydrodynamics retrofit systems and to determine whether any further Federal investment in this technology is warranted.

(b) SOLICITATION OF PROPOSALS.—In order to carry out the program authorized in subsection (a), the Secretary may solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

SEC. 1312. OIL SUBSTITUTION THROUGH COAL LIQUEFACTION.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for the purpose of developing economically and environmentally acceptable advanced technologies for oil substitution through coal liquefaction.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) improved resource selection and product quality;

(2) the development of technologies to increase net yield of liquid fuel product per ton of coal;

(3) an increase in overall thermal efficiency; and

(4) a reduction in capital and operating costs through technology improvements.

(c) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 1313. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle $278,139,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 through 1997.

Subtitle B—Clean Coal Technology Program

SEC. 1321. ADDITIONAL CLEAN COAL TECHNOLOGY SOLICITATIONS.

(a) PROGRAM DESIGN.—Additional clean coal technology solicitations described in subsection (b) shall be designed to ensure the timely development of cost-effective technologies or energy production processes or systems utilizing coal that achieve greater efficiency in the conversion of coal to useful energy when compared to currently commercially available technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to ensure, to the greatest extent possible, the availability for commercial use of such technologies by the year 2010.

(b) ADDITIONAL SOLICITATIONS.—In conducting the Clean Coal Program established by Public Law 98–473, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to such program and, based on the results of that consideration, may carry out such additional solicitations, which shall be similar in scope and percentage of Federal cost sharing as that provided by Public Law 101–121.

Subtitle C—Other Coal Provisions

SEC. 1331. CLEAN COAL TECHNOLOGY EXPORT PROMOTION AND INTERAGENCY COORDINATION.

(a) ESTABLISHMENT.—There shall be established within the Trade Promotion Coordinating Committee (established by the President on May 23, 1990, a Clean Coal Technology Subgroup (in this subtitle referred to as the "CCT Subgroup") to focus interagency efforts on clean coal technologies. The CCT Subgroup shall seek to expand the export and use of clean coal technologies, particularly in those countries which can benefit from gains in the efficiency of, and the control of environmental emissions from, coal utilization.

(b) MEMBERSHIP.—The CCT Subgroup shall include 1 member from each agency represented on the Energy, Environment, and Infrastructure Working Group of the Trade Promotion Coordinating Committee as of the date of enactment of this Act. The Secretary shall serve as chair of the CCT Subgroup and shall be responsible for ensuring that the functions of the CCT Subgroup are carried out through its member agencies.

(c) CONSULTATION.—(1) In carrying out this section, the CCT Subgroup shall consult with representatives from the United States coal industry, representatives of railroads and other transportation industries, organizations representing workers, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies that are developed, manufactured, or controlled by United States firms, and other appropriate interested members of the public.

(2) The CCT Subgroup shall maintain ongoing liaison with other elements of the Trade Promotion Coordinating Committee relating to clean coal technologies or regions where these technologies could be important, including Eastern Europe, Asia, and the Pacific.

(d) DUTIES.—The Secretary, acting through the CCT Subgroup, shall—

(1) facilitate the establishment of technical training for the consideration, planning, construction, and operation of clean coal technologies by end users and international development personnel;

(2) facilitate the establishment of and, where practicable, cause to be established, consistent with the goals and objectives stated in section 1301(a), within existing departments and agencies—

(A) financial assistance programs (including grants, loan guarantees, and no interest and low interest loans) to support prefeasibility and feasibility studies for projects that will utilize clean coal technologies; and

(B) loan guarantee programs, grants, and no interest and low interest loans designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and ensure the execution of programs, including the establishment of financial incentives, to encourage and support private sector efforts in exports of clean coal technologies that are developed, manufactured, or controlled by United States firms;

(4) encourage the training in, and understanding of, clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops, and other educational programs sponsored by United States firms;

(5) educate loan officers and other officers of international lending institutions, commercial and energy attachés of the United States, and such other personnel as the CCT Subgroup considers appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technology projects;

(6) develop policies and practices to be conducted by commercial and energy attachés of the United States, and such other personnel as the CCT Subgroup considers appropriate, in order to promote the exports of clean coal technologies to those countries interested in or intending to utilize coal resources;

(7) augment budgets for trade and development programs supported by Federal agencies for the purpose of financially supporting prefeasibility or feasibility studies for projects in foreign countries that will utilize clean coal technologies;

(8) review ongoing clean coal technology projects and review and advise Federal agencies on the approval of planned clean coal technology projects which are sponsored abroad by any Federal agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(9) coordinate the activities of the appropriate Federal agencies in order to ensure that Federal clean coal technology export promotion policies are implemented in a timely fashion;

(10) work with CCT Subgroup member agencies to develop an overall strategy for promoting clean coal technology exports, including setting goals and allocating specific responsibilities among member agencies, consistent with applicable statutes; and

(11) coordinate with multilateral institutions to ensure that United States technologies are properly represented in their projects.

(e) DATA AND INFORMATION.—(1) The CCT Subgroup, consistent with other applicable provisions of law, shall ensure the development of a comprehensive data base and information dis-

semination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, relating to the availability of clean coal technologies and the potential need for such technologies, particularly in developing countries and countries making the transition from nonmarket to market economies.

(2) The Secretary, acting through the CCT Subgroup, shall assess and prioritize foreign markets that have the most potential for the export of clean coal technologies that are developed, manufactured, or controlled by United States firms. Such assessment shall include—

(A) an analysis of the financing requirements for clean coal technology projects in foreign countries and whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions;

(B) the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology projects;

(C) the priority of environmental considerations in the selection of such projects;

(D) the technical competence of those entities likely to be involved in the planning and operation of such projects;

(E) an objective comparison of the environmental, energy, and economic performance of each clean coal technology relative to conventional technologies;

(F) a list of United States vendors of clean coal technologies; and

(G) answers to commonly asked questions about clean coal technologies,

The Secretary, acting through the CCT Subgroup, shall make such information available to the House of Representatives and the Senate, and to the appropriate committees of each House of Congress, industry, Federal and international financing organizations, nongovernmental organizations, potential customers abroad, governments of countries where such clean coal technologies might be used, and such others as the CCT Subgroup considers appropriate.

(f) REPORT.—Within 180 days after the Secretary submits the report to the Congress as required by section 409 of Public Law 101–549, the Secretary, acting through the CCT Subgroup, shall provide to the appropriate committees of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101–549. As a part of the plan required by this subsection, the Secretary, acting through the CCT Subgroup, shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of prefeasibility and feasibility studies and projects that would use a clean coal technology in developing countries and countries making the transition from nonmarket to market economies.

SEC. 1332. INNOVATIVE CLEAN COAL TECHNOLOGY TRANSFER PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the other members of the CCT Subgroup, shall establish a clean coal technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate United States agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from coal resources;

(4) develop markets for United States technologies and, where appropriate, United States coal resources to be utilized in meeting the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(6) provide for the accelerated deployment of United States technologies that will serve to introduce into foreign countries United States technologies intended to use coal resources in a more efficient, cost-effective, and environmentally acceptable manner;

(7) serve to ensure the introduction of United States firms and expertise in foreign countries;

(8) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of clean coal technology projects in foreign countries;

(9) assist foreign countries in meeting their energy needs through the use of coal in an environmentally acceptable manner, consistent with sustainable development policies; and

(10) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the CCT Subgroup, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries, and shall identify a list of such projects within 240 days after the date of enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects utilizing United States clean coal technologies, and services related thereto, in developing countries and countries making the transition from nonmarket to market economies;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects, including—

(i) financing the incremental costs of a clean coal technology project attributable only to expenditures to prevent or abate emissions;

(ii) providing the difference between the costs of a conventional energy project in the host country and a comparable project that would utilize a clean coal technology capable of achieving greater efficiency of energy products and improved environmental emissions compared to such conventional project; and

(iii) such other forms of financial assistance as the Secretary, through the Agency for International Development, considers appropriate.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-United States funding that is available to the project; and

(B) utilized to assist United States firms to develop innovative financing packages for clean coal technology projects that seek to utilize other financial assistance programs available through other Federal agencies.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States technology. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE–PS01–90FE62271 Clean Coal Technology IV as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States clean coal technology, including services related thereto, and, where appropriate, United States coal resources, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the CCT Subgroup, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the CCT Subgroup, shall—

(1) establish eligibility criteria for countries that will host projects;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the goals and objectives stated in section 1301(a);

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet 1 or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(i) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(j) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(k) REPORTS TO CONGRESS.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce clean coal technologies into foreign countries.

(l) DEFINITION.—For purposes of this section, the term "host country" means a foreign country which is—

(1) the participant in or the site of the proposed clean coal technology project; and

(2) either—

(A) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(B) a developing country or country with an economy in transition from a nonmarket to a market economy.

(m) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1333. CONVENTIONAL COAL TECHNOLOGY TRANSFER.

If the Secretary determines that the utilization of a clean coal technology is not practicable for a proposed project and that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the technology being used in a developing country or country making the transition from nonmarket to market economies, with significant indigenous coal resources, such technology shall, for purposes of sections 1321 and 1322, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section. In carrying out this section, the Secretary shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

SEC. 1334. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.

(a) DEFINITION.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials.

(b) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal, and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, which may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for action to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in—

(A) bridge and highway construction;

(B) stabilizing wastes;

(C) procurement by departments and agencies of the Federal Government and State and local governments; and

(D) federally funded or federally subsidized procurement by the private sector.

SEC. 1335. CALCULATION OF AVOIDED COST.

Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) requires a State regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98–473 as an incremental cost of alternative electric energy.

SEC. 1336. COAL FUEL MIXTURES.

Within one year following the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 1337. NATIONAL CLEARINGHOUSE.

(a) FEASIBILITY.—(1) The Secretary shall assess the feasibility of establishing a national clearinghouse for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In assessing the feasibility, the Secretary shall consider whether such a clearinghouse would be appropriate for purposes of—

(A) collecting information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminating to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this section;

(C) maintaining a library of technology publications and treatises relating to technology information and data collected pursuant to this section;

(D) organizing and conducting seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gathering information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translating into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encouraging, during the testing of technologies, the use of coal from a variety of domestic sources, and collecting or developing, or both, complete listings of test results using coals from all sources;

(H) establishing and maintaining an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conducting economic modeling for feasibility of projects.

(b) Authority To Establish Clearinghouse.—Based upon the assessment under subsection (a), the Secretary may establish a clearinghouse.

SEC. 1338. COAL EXPORTS.

(a) Plan.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall submit to the appropriate committees of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a plan for expanding exports of coal mined in the United States.

(b) Plan Contents.—The plan submitted under subsection (a) shall include—

(1) a description of the location, size, and projected growth in potential export markets for coal mined in the United States;

(2) the identification by country of the foreign trade barriers to the export of coal mined in the United States, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and a plan for addressing any such trade barriers;

(4) an evaluation of existing infrastructure in the United States and any new infrastructure requirements in the United States to support an expansion of exports of coal mined in the United States, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) an assessment of environmental implications of coal exports and the identification of export opportunities for blending coal mined in the United States with coal indigenous to other countries to enhance energy efficiency and environmental performance.

SEC. 1339. OWNERSHIP OF COALBED METHANE.

(a) Federal Lands and Mineral Rights.—In the case of any deposit of coalbed methane where the United States is the owner of the surface estate or where the United States has transferred the surface estate but reserved the subsurface mineral estate, the Secretary of the Interior shall administer this section. This section and the definitions contained herein shall be applicable only on lands within Affected States.

(b) Affected States.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior, with the participation of the Secretary of Energy, shall publish in the Federal Register a list of Affected States which shall be comprised of States—

(1) in which the Secretary of the Interior, with the participation of the Secretary of Energy, determines that disputes, uncertainty, or litigation exist, regarding the ownership of coalbed methane gas;

(2) in which the Secretary of the Interior, with the participation of the Secretary of Energy, determines that development of significant deposits of coalbed methane gas is being impeded by such existing disputes, uncertainty, or litigation regarding ownership of such coalbed methane;

(3) which do not have in effect a statutory or regulatory procedure or existing case law permitting and encouraging the development of coalbed methane gas within that State; and

(4) which do not have extensive development of coalbed methane gas.

The Secretary of the Interior, with the participation of the Secretary of Energy, shall revise such list of Affected States from time to time. Any Affected State shall be deleted from the list of Affected States upon the receipt by the Secretary of the Interior of a Governor's petition requesting such deletion, a State law requesting such deletion, or a resolution requesting such deletion enacted by the legislative body of the State. A Governor intending to petition the Secretary of the Interior to delete a State from the list of Affected States shall provide the State's legislative body with 6 months notice of such petition during a legislative session. At the end of such 6-month period, the Governor may petition the Secretary of the Interior to delete a State from the list of Affected States, unless during such 6-month period, the State's legislative body has enacted a law or resolution disapproving the Governor's petition. Until the Secretary of the Interior, with the participation of the Secretary of Energy, publishes a different list, the States of West Virginia, Pennsylvania, Kentucky, Ohio, Tennessee, Indiana, and Illinois shall be the Affected States, effective on the date of the enactment of this Act. The States of Colorado, Montana, New Mexico, Wyoming, Utah, Virginia, Washington, Mississippi, Louisiana, and Alabama shall not be included on the Secretary of the Interior's list of Affected States or any extension or revision thereof.

(c) Failure to Adopt Statutory or Regulatory Procedure.—If an Affected State has not placed in effect, by statute or by regulation, a substantial program promoting the permitting, drilling and production of coalbed methane wells (including pooling arrangements) within that State within 3 years after becoming an Affected State, the Secretary of the Interior, with the participation of the Secretary of Energy, shall administer this section and shall promulgate such regulations as are necessary to carry out this section in that State.

(d) Implementation by the Secretary of the Interior.—In implementing this section, the Secretary of the Interior, with the participation of the Secretary of Energy, shall—

(A) consider existing and future coal mining plans,

(B) preserve the mineability of coal seams, and

(C) provide for the prevention of waste and maximization of recovery of coal and coalbed methane gas in a manner which will protect the rights of all entities owning an interest in such coalbed methane resource.

(e) Spacing.—Except where State law in an Affected State contains existing spacing requirements regarding the minimum distance between coalbed methane wells and the minimum distance of a coalbed methane well from a property line, the Secretary of the Interior shall establish such requirements within 90 days after the assertion of jurisdiction pursuant to subsection (c) of this section.

(f) Spacing Units.—Applications to establish spacing units for the drilling and operation of coalbed methane gas wells may be filed by any entity claiming a coalbed methane ownership interest within a proposed spacing unit. Upon receipt and approval of an application, the Secretary of the Interior shall issue an order establishing the boundaries of the coalbed methane spacing unit. Spacing units shall generally be uniform in size.

(g) Development Under Pooling Arrangement.—Following issuance of an order establishing a spacing unit under subsection (f), and pursuant to an application for pooling filed by the entity claiming a coalbed methane ownership interest and proposing to drill a coalbed methane gas well, the Secretary of the Interior shall hold a hearing to consider the application for pooling and shall, if the criteria of this section are met, issue an order allowing the proposed pooling of acreage within the designated spacing unit for purposes of drilling and production of coalbed methane from the spacing unit. The pooling order shall not be issued before notice or a reasonable and diligent effort to provide notice has been made to each entity which may claim an ownership interest in the coalbed methane gas within such spacing unit and each such entity has been offered an opportunity to appear before the Secretary of the Interior at the hearing. Upon issuance of a pooling order, each owner or claimant of an ownership interest shall be allowed to make one of the following elections:

(1) An election to sell or lease its coalbed methane ownership interest to the unit operator at a rate determined by the Secretary of the Interior as set forth in the pooling order.

(2) An election to become a participating working interest owner by bearing a share of the risks and costs of drilling, completing, equipping, gathering, operating (including all disposal costs), plugging and abandoning the well, and receiving a share of production from the well.

(3) An election to share in the operation of the well as a nonparticipating working interest owner by relinquishing its working interest to participating working interest owners until the proceeds allocable to its share equal 300 percent of the share of such costs allocable to its interest. Thereafter, the nonparticipating working interest owner shall become a participating working interest owner.

The pooling order shall designate a unit operator who shall be authorized to drill and operate the spacing unit. The pooling order shall provide that any entity claiming an ownership interest in the coalbed methane within such spacing unit which does not make an election under the pooling order shall be deemed to have leased its coalbed methane interest to the unit operator under such terms and conditions as the pooling order may provide. No pooling order may be issued under this paragraph for any spacing unit if all entities claiming an ownership interest in the coalbed methane in the spacing unit have entered into a voluntary agreement providing for the drilling and operation of the coalbed methane gas well for the spacing unit.

(h) Escrow Account.—(1) Each pooling order issued under subsection (g) shall provide for the establishment of an escrow account into which the payment of costs and proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants as follows:

(A) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account its proportionate share of the costs allocable to the ownership interest claimed by each such participating working interest owner as set forth in the pooling order issued by the Secretary of the Interior.

(B) The unit operator shall deposit in the escrow account all proceeds attributable to the conflicting interests of lessees, plus all proceeds in excess of ongoing operational expenses (including reasonable overhead costs) attributable to conflicting working interests.

(2) The Secretary of the Interior shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within 30 days of receipt by the Secretary of the Interior of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane gas. Upon such final determination—

(A) each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(B) each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working in-

terest owner (as determined by the election of the entity under the applicable pooling order);

(C) each entity leasing (or deemed to have leased) its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds (as set out in the applicable pooling order) attributable to the conflicting interests of lessees; and

(D) the unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner.

The Secretary of the Interior shall enact rules and regulations for the administration and protection of funds delivered to the escrow accounts.

(i) APPROVAL OF THE SECRETARY OF THE INTERIOR.—No entity may drill any well for the production of coalbed methane gas from a coal seam, subject to the provisions of subsection (g), in an Affected State unless the drilling of such well has been approved by the Secretary of the Interior.

(j) AUTHORIZATION TO STIMULATE A COAL SEAM.—(1) No operator of a coalbed methane well may stimulate a coal seam without the written consent of each entity which, at the time that the coalbed methane operator applies for a drilling permit, is operating a coal mine, or has by virtue of his property rights in the coal the ability to operate a coal mine, located within a horizontal or vertical distance from the point of stimulation as established by the Secretary of the Interior pursuant to paragraph (3) of this subsection. In seeking the coal operator's consent, a coalbed methane well operator shall provide the coal operator with necessary information about such stimulation, including relevant information to ensure compliance with coal mine safety laws and rules.

(2) In the absence of a written consent pursuant to pargraph (1) and at the request of a coalbed methane operator, the Secretary of the Interior shall make a determination regarding stimulation of a coal seam. Such request shall include an affidavit which shall—

(A) state that an entity from which consent is required pursuant to paragraph (1) has refused to provide written consent;

(B) set forth in detail the efforts undertaken by the applicant to obtain such written consent;

(C) state the known reasons for the consent not being provided;

(D) set forth the conditions and compensation, if any, offered by the applicant as part of the efforts to obtain consent; and

(E) provide prima facie evidence that the method of stimulation proposed by the coalbed methane operator will not (i) cause unreasonable loss or damage to the coal seam considering all factors, including the prospect, taking into consideration the economics of the coal industry, that coal seams for which no actual or proposed mining plans exist will be mined at some future date, or (ii) violate mine safety requirements. If a denial of consent by a coal operator is based on reasons related to safety, the Secretary of the Interior shall seek the views and recommendations of the appropriate State or Federal coal mine safety agency. Any determination by the Secretary of the Interior shall be in accordance with all applicable Federal and State coal mine safety laws and such views and recommendations. A determination by the Secretary of the Interior approving a method of stimulation may include reasonable conditions including, but not limited to, conditions to mitigate, to the extent practicable, economic damage to the coal seam. Any determination approving or denying a method of stimulation by the Secretary of the Interior shall be subject to appeal. Interested entities shall be allowed to participate in and comment on proceedings under this paragraph.

(3) The Secretary of the Interior shall by rule establish, for an Affected State, a region thereof, or a multi-State region comprised of Affected States, the boundaries within which a coalbed methane operator shall be required to obtain written consent from a coal operator pursuant to paragraph (1). Such boundaries shall be stated in terms of a horizontal and a vertical distance from the point of stimulation and shall be determined based on an evaluation of the maximum length, height and depth of fracture producible in a coal seam in such Affected State, region thereof, or multi-State region comprised of Affected States.

(4) The consent required under this subsection shall in no way be deemed to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease in existence as of the effective date of this section between the coalbed methane operator and the coal operator, and the existence of such lease or contractual agreement and any extensions or renewals of such lease shall be deemed to fully meet the requirements of this section.

(5) Nothing in this subsection precludes either a coal operator or a coalbed methane operator from seeking in the appropriate State forum compensation for the consequences of a determination by the Secretary of the Interior pursuant to paragraph (2).

(k) NOTICE AND OBJECTION.—(1) The Secretary of the Interior shall not approve the drilling of any coalbed methane well unless the unit operator has notified each entity which is operating, or has the ability, by virtue of his property rights in the coal, to operate, a coal mine in any portion of the coalbed that would be affected by such well within the distances established pursuant to the rules promulgated under subsection (j)(3). Any notified entity may object to the drilling of such well within 30 days after receipt of a notice. Upon receipt of a timely objection to the drilling of any coalbed methane gas well submitted by a notified entity, the Secretary of the Interior may refuse to approve the drilling of the well based on any of the following:

(A) The proposed activity, due to its proximity to any coal mine opening, shaft, underground workings, or to any proposed extension of the coal mine, would adversely affect any operating, inactive or abandoned coal mine, including any coal mine already surveyed and platted but not yet being operated.

(B) The proposed activity would not conform with a coal operator's development plan for an existing or proposed operation.

(C) There would be an unreasonable interference from the proposed activity with present or future coal mining operations, including the ability to comply with other applicable laws and regulations.

(D) The presence of evidence indicating that the proposed drilling activities would be unsafe, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal.

(E) The proposed activity would unreasonably interfere with the safe recovery of coal, oil and gas.

(2) In the event the Secretary of the Interior does not approve the drilling of a coalbed methane well pursuant to paragraph (1), the Secretary of the Interior shall consider whether such drilling could be approved if the unit operator modifies the proposed activities to take into account any of the following:

(A) The proposed activity could instead be reasonably done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration surface topography.

(B) The proposed activity could instead be moved to a mined-out area, below the coal outcrop or to some other feasible area.

(C) The unit operator agrees to a drilling moratorium of not more than two years in order to permit completion of coal mining operations.

(D) The practicality of locating the proposed spacing unit or well on a uniform pattern with other spacing units or wells.

(l) PLUGGING.—All coalbed methane wells drilled after enactment of this Act that penetrate coal seams with remaining reserves shall provide for subsequent safe mining through the well in accordance with standards prescribed by the Secretary of the Interior, in consultation with any Federal and State agencies having authority over coal mine safety. Well plugging costs should be allocated in accordance with State law or private contractual arrangement, as the case may be.

(m) NOTICE AND OBJECTION BY OTHER PARTIES.—The Secretary of the Interior shall not approve the drilling of any coalbed methane well unless such well complies with the spacing and other requirements established by the Secretary of the Interior and each of the following:

(1) The unit operator of such well has notified, or has made a reasonable and diligent effort to notify, all entities claiming ownership of coalbed methane to be drained by such well and provided an opportunity to object in accordance with requirements established by the Secretary of the Interior.

(2) Where conflicting interests exist, an order under subsection (g) establishing pooling requirements has been issued.

The notification requirements of this subsection shall be additional to the notification referred to in subsection (k). The Secretary of the Interior shall establish the conditions under which entities claiming ownership of coalbed methane may object to the drilling of a coalbed methane well.

(n) VENTING FOR SAFETY.—Nothing in this section shall be construed to prevent or inhibit the entity which has the right to develop and mine coal in any mine from venting coalbed methane gas to ensure safe mine operations.

(o) OTHER LAWS.—The Secretary of the Interior shall comply with all applicable Federal and State coal mine safety laws and regulations.

(p) DEFINITIONS.—As used in this section—

(1) The term "Affected State" means a State listed by the Secretary of the Interior, with the participation of the Secretary of Energy, under subsection (b).

(2) The term "coalbed methane gas" means occluded natural gas produced (or which may be produced) from coalbeds and rock strata associated therewith.

(3) The term "unit operator" means the entity designated in a pooling order to develop a spacing unit by the drilling of one or more wells on the unit.

(4) The term "nonparticipating working interest owner" means a gas or oil owner of a tract included in a spacing unit which elects to share in the operation of the well on a carried basis by agreeing to have its proportionate share of the costs allocable to its interest charged against its share of production of the well in accordance with subsection (f)(3).

(5) The term "participating working interest owner" means a gas or oil owner which elects to bear a share of the risks and costs of drilling, completing, equipping, gathering, operating (including any and all disposal costs) plugging, and abandoning a well on a spacing unit and to receive a share of production from the well equal to the proportion which the acreage in the spacing unit it owns or holds under lease bears to the total acreage of the spacing unit.

(6) The term "coal seam" means any stratum of coal 20 inches or more in thickness, unless a stratum of less thickness is being commercially worked, or can in the judgment of the Secretary of the Interior forseeably be commercially

worked and will require protection if wells are being drilled through it.

SEC. 1340. ESTABLISHMENT OF DATA BASE AND STUDY OF TRANSPORTATION RATES.

(a) DATA BASE.—The Secretary shall review the information currently collected by the Federal Government and shall determine whether information on transportation rates for rail and pipeline transport of domestic coal, oil, and gas during the period of January 1, 1988, through December 31, 1997, is reasonably available. If he determines that such information is not reasonably available, the Secretary shall establish a data base containing, to the maximum extent practicable, information on all such rates. The confidentiality of contract rates shall be preserved. To obtain data pertaining to rail contract rates, the Secretary shall acquire such data in aggregate form only from the Interstate Commerce Commission, under terms and conditions that maintain the confidentiality of such rates.

(b) STUDY.—The Energy Information Administration shall determine the extent to which any agency of the Federal Government is studying the rates and distribution patterns of domestic coal, oil, and gas to determine the impact of the Clean Air Act as amended by the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.", enacted November 15, 1990 (Public Law 101-549), and other Federal policies on such rates and distribution patterns. If the Energy Information Administration finds that no such study is underway, or that reports of the results of such study will not be available to the Congress providing the information specified in this subsection and subsection (a) by the dates established in subsection (c), the Energy Information Administration shall initiate such a study.

(c) REPORTS TO CONGRESS.—Within one year after the date of enactment of this Act, the Secretary shall report to the Congress on the determination the Energy Information Administration is required to make under subsection (b). Within three years after the date of enactment of this Act, the Secretary shall submit reports on any data base or study developed under this section. Any such reports shall be updated and resubmitted to the Congress within eight years after such date of enactment. If the Energy Information Administration has determined pursuant to subsection (b) that another study or studies will provide all or part of the information called for in this section, the Secretary shall transmit the results of that study by the dates established in this subsection, together with his comments.

(d) CONSULTATION WITH OTHER AGENCIES.—The Secretary and the Energy Information Administration shall consult with the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission in implementing this section.

SEC. 1341. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle, other than section 1322, such sums as may be necessary for fiscal years 1993 through 1998.

TITLE XIV—STRATEGIC PETROLEUM RESERVE

SEC. 1401. DRAWDOWN AND DISTRIBUTION OF THE RESERVE.

Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended—

(1) in subsection (d)—

(A) by striking "(d)" and inserting "(d)(1)"; and

(B) by adding at the end the following new paragraph:

"(2) For purposes of this section, in addition to the circumstances set forth in section 3(8), a severe energy supply interruption shall be deemed to exist if the President determines that—

"(A) an emergency situation exists and there is a significant reduction in supply which is of significant scope and duration;

"(B) a severe increase in the price of petroleum products has resulted from such emergency situation; and

"(C) such price increase is likely to cause a major adverse impact on the national economy."; and

(2) in subsection (h)(1)(A), by inserting "or international" after "domestic".

SEC. 1402. EXPANSION OF RESERVE.

Section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234) is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

(2) by adding at the end the following:

"(2) Beginning on the date of the enactment of the Energy Policy Act of 1992, the President shall take actions to enlarge the Strategic Petroleum Reserve to 1,000,000,000 barrels as rapidly as possible. Such actions may include—

"(A) petroleum acquisition, transportation, and injection activities at the highest practicable fill rate achievable, subject to the availability of appropriated funds;

"(B) contracting for petroleum product not owned by the United States as specified in part C;

"(C) contracting for petroleum product for storage in facilities not owned by the United States, except that no such product may be stored in such facilities unless petroleum product stored in facilities owned by the United States on the date such product is delivered for storage is at least 750,000,000 barrels;

"(D) carrying out the activities described in section 160(h);

"(E) the transferring of oil from the Naval Petroleum Reserve; and

"(F) other activities specified in this title.".

SEC. 1403. AVAILABILITY OF FUNDING FOR LEASING.

Section 171 of the Energy Policy and Conservation Act (42 U.S.C. 6249) is amended by adding at the end the following new subsection:

"(f) AVAILABILITY OF FUNDS.—The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out such activities, in advance of the receipt of petroleum products.".

SEC. 1404. PURCHASE FROM STRIPPER WELL PROPERTIES.

(a) IN GENERAL.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end the following new subsection:

"(h)(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve. Except as provided in paragraph (2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

"(2) Crude oil purchased by the Secretary pursuant to this subsection shall be by competitive bid. The price paid by the Secretary—

"(A) shall take into account the cost of production including costs of reservoir and well maintenance; and

"(B) shall not exceed the price that would have been paid if the Secretary had acquired petroleum products of a similar quality on the open market under competitive bid procedures without regard to the source of the petroleum products.".

(b) TECHNICAL CORRECTIONS.—Part B of title I of such Act is amended—

(1) in section 167(d), in the matter preceding paragraph (1), by striking "subsection (g)" and inserting "under subsection (g)"; and

(2) in section 160(d)(2)—

(A) by striking "(2)(A)" and inserting "(2)"; and

(B) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

SEC. 1405. REDESIGNATION OF ISLAND STATES.

Section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237(a)) is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of carrying out this section—

"(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations, as in effect on November 1, 1975;

"(B) determinations made with respect to Regions, other than States that are islands, shall be made as if the islands were not part of the Regions; and

"(C) with respect to determinations made for any State that is an island, the term 'refined petroleum product' shall have the same meaning given the term 'petroleum product' in section 3(3).".

SEC. 1406. INSULAR AREAS STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study of the implications of the unique vulnerabilities of the insular areas to an oil supply disruption. Such study shall outline how the insular areas shall gain access to vital oil supplies during times of national emergency. Such study shall be completed and submitted to the Congress not later than 9 months after the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "insular areas" means the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau.

TITLE XV—OCTANE DISPLAY AND DISCLOSURE

SEC. 1501. CERTIFICATION AND POSTING OF AUTOMOTIVE FUEL RATINGS.

(a) COVERAGE OF ALL LIQUID AUTOMOTIVE FUELS.—Section 201(6) of the Petroleum Marketing Practices Act (15 U.S.C. 2821(6)) is amended to read as follows:

"(6) The term 'automotive fuel' means liquid fuel of a type distributed for use as a fuel in any motor vehicle.".

(b) AUTOMOTIVE FUEL RATING.—Section 201 of such Act (15 U.S.C. 2821) is amended by adding at the end the following new paragraphs:

"(17) The term 'automotive fuel rating' means—

"(A) the octane rating of an automotive spark-ignition engine fuel; and

"(B) if provided for by the Federal Trade Commission by rule, the cetane rating of diesel fuel oils; or

"(C) another form of rating determined by the Federal Trade Commission, after consultation with the American Society for Testing and Materials, to be more appropriate to carry out the purposes of this title with respect to the automotive fuel concerned.

"(18)(A) The term 'cetane rating' means a measure, as indicated by a cetane index or cetane number, of the ignition quality of diesel fuel oil and of the influence of the diesel fuel oil on combustion roughness.

"(B) The term 'cetane index' and the term 'cetane number' have the meanings determined in accordance with the test methods set forth in the American Society for Testing and Materials standard test methods—

"(i) designated D976 or D4737 in the case of cetane index; and

"(ii) designated D613 in the case of cetane number,

(as in effect on the date of the enactment of this Act) and shall apply to any grade or type of diesel fuel oils defined in the specification of the American Society for Testing and Materials entitled 'Standard Specification for Diesel Fuel Oils' designated D975 (as in effect on such date).".

(c) CONFORMING AMENDMENTS.—(1) Section 201 of such Act (15 U.S.C. 2821) is amended—

(A) in paragraph (1), by striking out "gasoline" and inserting in lieu thereof "fuel";

(B) in paragraph (2)—

(i) by striking out "Standard Specifications for Automotive Gasoline" and inserting in lieu thereof "Standard Specification for Automotive Spark-Ignition Engine Fuel"; and

(ii) by striking out "D 439" and inserting in lieu thereof "D4814";

(C) in paragraph (4)—

(i) by striking out "gasoline" the first place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'refiner' means any person engaged in the production or importation of automotive fuel.";

(E) in paragraph (11)—

(i) by striking out "octane" each place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(F) in paragraph (16), by striking out "gasoline" each place it appears and inserting in lieu thereof "automotive fuel".

(2) Section 202 of such Act (15 U.S.C. 2822) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (a) and (b), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(C) in subsection (c)—

(i) by striking out "gasoline" each place it appears (other than the second place it appears) and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) in subsection (d), by striking out "octane" and inserting in lieu thereof "automotive fuel";

(E) in subsection (e)—

(i) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(ii) by striking out "gasoline's" and inserting in lieu thereof "fuel's";

(F) in subsections (f), (g), and (h), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(G) in subsection (h), by striking out "octane requirement" each place it appears and inserting in lieu thereof "automotive fuel requirement"; and

(H) in the section heading, by striking out "OCTANE" and inserting in lieu thereof "AUTOMOTIVE FUEL RATING".

(3) Section 203 of such Act (15 U.S.C. 2823) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (b) and (c), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(C) in subsection (c)(3), by striking out "201(1)" and inserting in lieu thereof "201".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective at the end of the one-year period beginning on the date of the enactment of this Act.

(2) The Federal Trade Commission shall, within 270 days after the date of the enactment of this Act, prescribe rules for the purpose of implementing the amendments made in this section.

SEC. 1502. INCREASED AUTHORITY FOR ENFORCEMENT.

(a) STATE LAW.—Section 204 of the Petroleum Marketing Practices Act (15 U.S.C. 2824) is amended to read as follows:

"RELATIONSHIP OF THIS TITLE TO STATE LAW

"SEC. 204. (a) To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

"(b) A State or political subdivision thereof may provide for any investigative or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigative or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).".

(b) FTC ENFORCEMENT.—Section 203(e) of such Act is amended by striking out "; except that" in the second sentence and all that follows through the period and inserting in lieu thereof a period.

(c) EPA ENFORCEMENT.—Section 203(b)(1) of such Act is amended—

(1) in the matter preceding subparagraph (A), by striking out "shall";

(2) in subparagraph (A), by striking out "conduct" and inserting in lieu thereof "may conduct";

(3) in subparagraph (B), by striking out "certify" and inserting in lieu thereof "shall certify";

(4) in subparagraph (C), by striking out "notify" and inserting in lieu thereof "shall notify"; and

(5) in subparagraph (C), by striking out "discovered" and all that follows through "testing".

SEC. 1503. STUDIES.

(a) IN GENERAL.—For the purpose of making the findings, conclusions, and recommendations referred to in subsection (c)—

(1) the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall carry out a study to determine whether, and if so, how, the anti-knock characteristics of nonliquid fuels usable as a fuel for a motor vehicle (as defined in section 201(7) of the Petroleum Marketing Practices Act) can be determined; and

(2) the Federal Trade Commission, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a study—

(A) to determine the need for, and the desirability of, having a uniform national label on devices used to dispense automotive fuel to consumers that would consolidate information required by Federal law to be posted on such devices; and

(B) to determine the nature of such label if it is determined under subparagraph (A) that such a need exists.

(b) IMPLEMENTATION.—(1) In carrying out studies under this section, each agency shall—

(A) publish general notice of each of the studies in the Federal Register; and

(B) give interested parties an opportunity to participate in such studies through submission of written data, views, or arguments.

(2) In carrying out the study to determine the nature of a uniform national label under subsection (a)(2)(B), the Federal Trade Commission shall—

(A) weigh the consumer, environmental, and energy saving benefits of any element of such label against the necessity for a concise, practical, and cost-efficient label; and

(B) consider as a possible element of such label a statement suggesting consumers check the vehicle's owner's manual regarding octane requirements.

(c) REPORTS.—The Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Chairman of the Federal Trade Commission shall transmit to the Congress, within one year after the date of the enactment of this Act, the findings, conclusions, and recommendations made as a result of the studies carried out by such officers under this section, together with a description of the administrative and legislative actions needed to implement such recommendations.

TITLE XVI—GLOBAL CLIMATE CHANGE

SEC. 1601. REPORT.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to the Congress that includes an assessment of—

(1) the feasibility and economic, energy, social, environmental, and competitive implications, including implications for jobs, of stabilizing the generation of greenhouse gases in the United States by the year 2005;

(2) the recommendations made in chapter 9 of the 1991 National Academy of Sciences report entitled "Policy Implications of Greenhouse Warming", including an analysis of the benefits and costs of each recommendation;

(3) the extent to which the United States is responding, compared with other countries, to the recommendations made in chapter 9 of the 1991 National Academy of Sciences report;

(4) the feasibility of reducing the generation of greenhouse gases;

(5) the feasibility and economic, energy, social, environmental, and competitive implications, including implications for jobs, of achieving a 20 percent reduction from 1988 levels in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(6) the potential economic, energy, social, environmental, and competitive implications, including implications for jobs, of implementing the policies necessary to enable the United States to comply with any obligations under the United Nations Framework Convention on Climate Change or subsequent international agreements.

SEC. 1602. LEAST-COST ENERGY STRATEGY.

(a) STRATEGY.—The first National Energy Policy Plan (in this title referred to as the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and required to be submitted by the President to Congress after February 1, 1993, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, environmental, and competitive costs and benefits, including costs and benefits for jobs, of his choices. Such strategy shall also take into account the report required under section 1601 and relevant Federal, State, and local requirements. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(1) the energy production, utilization, and energy conservation priorities of subsection (d);

(2) the stabilization and eventual reduction in the generation of greenhouse gases;

(3) an increase in the efficiency of the Nation's total energy use by 30 percent over 1988 levels by the year 2010;

(4) an increase in the percentage of energy derived from renewable resources by 75 percent over 1988 levels by the year 2005; and

(5) a reduction in the Nation's oil consumption from the 1990 level of approximately 40 percent of total energy use to 35 percent by the year 2005.

(b) ADDITIONAL CONTENTS.—The least-cost energy strategy shall also include—

(1) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, distribution, and utilization of such resources, including—

(A) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(B) energy efficiency, including existing technologies for increased efficiency in production, transportation, distribution, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(C) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, hydropower, and natural gas;

(2) a proposed two-year program for ensuring adequate supplies of the energy and energy efficiency resources and technologies described in paragraph (1), and an identification of administrative actions that can be undertaken within existing Federal authority to ensure their adequate supply;

(3) estimates of life-cycle costs for existing energy production facilities;

(4) basecase forecasts of short-term and long-term national energy needs under low and high case assumptions of economic growth; and

(5) an identification of all applicable Federal authorities needed to achieve the purposes of this section, and of any inadequacies in those authorities.

(c) SECRETARIAL CONSIDERATION.—In developing the least-cost energy strategy, the Secretary shall give full consideration to—

(1) the relative costs of each energy and energy efficiency resource based upon a comparison of all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, distribution, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply; and

(2) the economic, energy, social, environmental, and competitive consequences resulting from the establishment of any particular order of Federal priority as determined under subsection (d).

(d) PRIORITIES.—The least-cost energy strategy shall identify Federal priorities, including policies that—

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(e) ASSUMPTIONS.—The Secretary shall include in the least-cost energy strategy an identification of all of the assumptions used in developing the strategy and priorities thereunder, and the reasons for such assumptions.

(f) PREFERENCE.—When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever all direct and quantifiable net costs for the resource over its available life are equal to the estimated cost of the energy resource.

(g) PUBLIC REVIEW AND COMMENT.—The Secretary shall provide for a period of public review and comment of the least-cost energy strategy, for a period of at least 30 days, to be completed at least 60 days before the issuance of such strategy. The Secretary shall also provide for public review and comment before the issuance of any update to the least-cost energy strategy required under this section.

SEC. 1603. DIRECTOR OF CLIMATE PROTECTION.

Within 6 months after the date of the enactment of this Act, the Secretary shall establish, within the Department of Energy, a Director of Climate Protection (in this section referred to as the "Director"). The Director shall—

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change, including the activities of the Committee on Earth and Environmental Sciences as established by the Global Change Research Act of 1990 (Public Law 101-606) and the Policy Coordinating Committee Working Group on Climate Change;

(2) monitor, in cooperation with other Federal agencies, domestic and international policies for their effects on the generation of greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Department of Energy programs.

SEC. 1604. ASSESSMENT OF ALTERNATIVE POLICY MECHANISMS FOR ADDRESSING GREENHOUSE GAS EMISSIONS.

Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit a report to Congress containing a comparative assessment of alternative policy mechanisms for reducing the generation of greenhouse gases. Such assessment shall include a short-run and long-run analysis of the social, economic, energy, environmental, competitive, and agricultural costs and benefits, including costs and benefits for jobs and competition, and the practicality of each of the following policy mechanisms:

(1) Various systems for controlling the generation of greenhouse gases, including caps for the generation of greenhouse gases from major sources and emissions trading programs.

(2) Federal standards for energy efficiency for major sources of greenhouse gases, including efficiency standards for power plants, industrial processes, automobile fuel economy, appliances, and buildings, and for emissions of methane.

(3) Various Federal and voluntary incentives programs.

SEC. 1605. NATIONAL INVENTORY AND VOLUNTARY REPORTING OF GREENHOUSE GASES.

(a) NATIONAL INVENTORY.—Not later than one year after the date of the enactment of this Act, the Secretary, through the Energy Information Administration, shall develop, based on data available to, and obtained by, the Energy Information Administration, an inventory of the national aggregate emissions of each greenhouse gas for each calendar year of the baseline period of 1987 through 1990. The Administrator of the Energy Information Administration shall annually update and analyze such inventory using available data. This subsection does not provide any new data collection authority.

(b) VOLUNTARY REPORTING.—

(1) ISSUANCE OF GUIDELINES.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall, after opportunity for public comment, issue guidelines for the voluntary collection and reporting of information on sources of greenhouse gases. Such guidelines shall establish procedures for the accurate voluntary reporting of information on—

(A) greenhouse gas emissions—

(i) for the baseline period of 1987 through 1990; and

(ii) for subsequent calendar years on an annual basis;

(B) annual reductions of greenhouse gas emissions and carbon fixation achieved through any measures, including fuel switching, forest management practices, tree planting, use of renewable energy, manufacture or use of vehicles with reduced greenhouse gas emissions, appliance efficiency, energy efficiency, methane recovery, cogeneration, chlorofluorocarbon capture and replacement, and power plant heat rate improvement;

(C) reductions in greenhouse gas emissions achieved as a result of—

(i) voluntary reductions;

(ii) plant or facility closings; and

(iii) State or Federal requirements; and

(D) an aggregate calculation of greenhouse gas emissions by each reporting entity.

Such guidelines shall also establish procedures for taking into account the differential radiative activity and atmospheric lifetimes of each greenhouse gas.

(2) REPORTING PROCEDURES.—The Administrator of the Energy Information Administration shall develop forms for voluntary reporting under the guidelines established under paragraph (1), and shall make such forms available to entities wishing to report such information. Persons reporting under this subsection shall certify the accuracy of the information reported.

(3) CONFIDENTIALITY.—Trade secret and commercial or financial information that is privileged or confidential shall be protected as provided in section 552(b)(4) of title 5, United States Code.

(4) ESTABLISHMENT OF DATA BASE.—Not later than 18 months after the date of the enactment of this Act, the Secretary, through the Administrator of the Energy Information Administration, shall establish a data base comprised of information voluntarily reported under this subsection. Such information may be used by the reporting entity to demonstrate achieved reductions of greenhouse gases.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult, as appropriate, with the Administrator of the Environmental Protection Agency.

SEC. 1606. REPEAL.

Title III of the Energy Security Act (42 U.S.C. 7361 et seq.) is hereby repealed.

SEC. 1607. CONFORMING AMENDMENT.

The Secretary, through the Trade Promotion Coordinating Council, shall develop policies and programs to encourage the export and promotion of domestic energy resource technologies, including renewable energy, energy efficiency, and clean coal technologies, to developing countries.

SEC. 1608. INNOVATIVE ENVIRONMENTAL TECHNOLOGY TRANSFER PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the

interagency working group established under section 256(d) of the Energy Policy and Conservation Act (in this section referred to as the "interagency working group", shall establish a technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of the enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate Federal agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from technologies that substantially reduce environmental pollutants, including greenhouse gases;

(4) develop markets for United States technologies, including services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, that meet the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies;

(6) ensure the introduction of United States firms and expertise in foreign countries;

(7) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of technologies or services that substantially reduce environmental pollutants, including greenhouse gases; and

(8) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the interagency working group, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries that substantially reduce environmental pollutants, including greenhouse gases, and shall identify a list of such projects within 240 days after the date of the enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects, and services related thereto, that substantially reduce environmental pollutants, including greenhouse gases in foreign countries;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-Federal funding that may be available for the project; and

(B) utilized in conjunction with financial assistance programs available through other Federal agencies.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of the enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States technology or service. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE–PS01–90FE62271 Clean Coal Technology IV, as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States technology, including services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall—

(1) establish eligibility criteria for countries that will host projects;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) ELIGIBLE TECHNOLOGIES.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare a list of eligible technologies and services under this section. In preparing such a list, the Secretary shall consider fuel cell powerplants, aeroderivitive gas turbines and catalytic combustion technologies for aeroderivitive gas turbines, ocean thermal energy conversion technology, anaerobic digester and storage tanks, and other renewable energy and energy efficiency technologies.

(i) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the purposes of this section;

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology or service for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet the following criteria:

(A) It will reduce environmental emissions, including greenhouse gases, to an extent greater than required by applicable provisions of law.

(B) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

(C) It will increase the overall efficiency of energy use.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet these criteria.

(j) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(k) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project au-

thorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(l) Report to Congress.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce innovative energy technologies, and services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, into foreign countries.

(m) Definitions.—For purposes of this section—

(1) the term "host country" means a foreign country which is—

(A) the participant in or the site of the proposed innovative energy technology project; and

(B) either—

(i) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a developing country; and

(2) the term "developing country" includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

(n) Authorization for Program.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1609. GLOBAL CLIMATE CHANGE RESPONSE FUND.

(a) Establishment of the Fund.—The Secretary of the Treasury, in consultation with the Secretary of State, shall establish a Global Climate Change Response Fund to act as a mechanism for United States contributions to assist global efforts in mitigating and adapting to global climate change.

(b) Restrictions on Deposits.—No deposits shall be made to the Global Climate Change Response Fund until the United States has ratified the United Nations Framework Convention on Climate Change.

(c) Use of the Fund.—Moneys deposited into the Fund shall be used by the President, to the extent authorized and appropriated under section 302 of the Foreign Assistance Act of 1961, solely for contributions to a financial mechanism negotiated pursuant to the United Nations Framework Convention on Climate Change, including all protocols or agreements related thereto.

(d) Authorization of Appropriations.—There are authorized to be appropriated for deposit in the Fund to carry out the purposes of this section, $50,000,000 for fiscal year 1994 and such sums as may be necessary for fiscal years 1995 and 1996.

TITLE XVII—ADDITIONAL FEDERAL POWER ACT PROVISIONS

SEC. 1701. ADDITIONAL FEDERAL POWER ACT PROVISIONS.

(a) Annual Charges for Costs.—(1) Section 10(e)(1) of the Federal Power Act is amended by striking the semicolon after "Part" and inserting the following: ", including any reasonable and necessary costs incurred by Federal and State fish and wildlife agencies and other natural and cultural resource agencies in connection with studies or other reviews carried out by such agencies for purposes of administering their responsibilities under this part;".

(2) Section 10(e)(1) of such Act is further amended by inserting after "as conditions may require:" the following proviso: "Provided, That, subject to annual appropriations Acts, the portion of such annual charges imposed by the Commission under this subsection to cover the reasonable and necessary costs of such agencies shall be available to such agencies (in addition to other funds appropriated for such purposes) solely for carrying out such studies and reviews and shall remain available until expended:".

(b) Clarification of Authority Regarding Fishways.—The definition of the term "fishway" contained in 18 C.F.R. 4.30(b)(9)(iii), as in effect on the date of enactment of this Act, is vacated without prejudice to any definition or interpretation by rule of the term "fishway" by the Federal Energy Regulatory Commission for purposes of implementing section 18 of the Federal Power Act: Provided, That any future definition promulgated by regulatory rulemaking shall have no force or effect unless concurred in by the Secretary of the Interior and the Secretary of Commerce: Provided further, That the items which may constitute a "fishway" under section 18 for the safe and timely upstream and downstream passage of fish shall be limited to physical structures, facilities, or devices necessary to maintain all life stages of such fish, and project operations and measures related to such structures, facilities, or devices which are necessary to ensure the effectiveness of such structures, facilities, or devices for such fish.

(c) Extension of Deadlines.—(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 4031 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

(2) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 6221 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project until July 29, 1995.

(3) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 6641 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until June 29, 1996, the time required for the licensee to acquire the required real property and commence the construction of project numbered 6641, and until June 29, 2000, the time required for completion of construction of such project.

(4) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee of FERC project numbered 4656 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until March 26, 1999, the time required for the licensee to acquire the required real property and commence the construction of project numbered 4656.

(5) The authorization for issuing extensions under paragraphs (1) through (4) shall terminate 3 years after the date of enactment of this section. To facilitate requests under such subsections, the Commission may consolidate the requests. The Commission shall provide at the beginning of each Congress a report on the status of all extensions granted by Congress regarding the requirements of section 13 of the Federal Power Act, including information about any delays by the Commission on the licensee and the reasons for such delays.

(d) Eminent Domain.—Section 21 of the Federal Power Act is amended by striking the period at the end thereof and adding the following: "Provided, further, That no licensee may use the right of eminent domain under this section to acquire any lands or other property that, prior to the date of enactment of the Energy Policy Act of 1992, were owned by a State or political subdivision thereof and were part of or included within any public park, recreation area or wildlife refuge established under State or local law. In the case of lands or other property that are owned by a State or political subdivision and are part of or included within a public park, recreation area or wildlife refuge established under State or local law on or after the date of enactment of such Act, no licensee may use the right of eminent domain under this section to acquire such lands or property unless there has been a public hearing held in the affected community and a finding by the Commission, after due consideration of expressed public views and the recommendations of the State or political subdivision that owns the lands or property, that the license will not interfere or be inconsistent with the purposes for which such lands or property are owned.".

TITLE XVIII—OIL PIPELINE REGULATORY REFORM

SEC. 1801. OIL PIPELINE RATEMAKING METHODOLOGY.

(a) Establishment.—Not later than 1 year after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall issue a final rule which establishes a simplified and generally applicable ratemaking methodology for oil pipelines in accordance with section 1(5) of part I of the Interstate Commerce Act.

(b) Effective Date.—The final rule to be issued under subsection (a) may not take effect before the 365th day following the date of the issuance of the rule.

SEC. 1802. STREAMLINING OF COMMISSION PROCEDURES.

(a) Rulemaking.—Not later than 18 months after the date of the enactment of this Act, the Commission shall issue a final rule to streamline procedures of the Commission relating to oil pipeline rates in order to avoid unnecessary regulatory costs and delays.

(b) Scope of Rulemaking.—Issues to be considered in the rulemaking proceeding to be conducted under subsection (a) shall include the following:

(1) Identification of information to be filed with an oil pipeline tariff and the availability to the public of any analysis of such tariff filing performed by the Commission or its staff.

(2) Qualification for standing (including definitions of economic interest) of parties who protest oil pipeline tariff filings or file complaints thereto.

(3) The level of specificity required for a protest or complaint and guidelines for Commission action on the portion of the tariff or rate filing subject to protest or complaint.

(4) An opportunity for the oil pipeline to file a response for the record to an initial protest or complaint.

(5) Identification of specific circumstances under which Commission staff may initiate a protest.

(c) ADDITIONAL PROCEDURAL CHANGES.—In conducting the rulemaking proceeding to carry out subsection (a), the Commission shall identify and transmit to Congress any other procedural changes relating to oil pipeline rates which the Commission determines are necessary to avoid unnecessary regulatory costs and delays and for which additional legislative authority may be necessary.

(d) WITHDRAWAL OF TARIFFS AND COMPLAINTS.—

(1) WITHDRAWAL OF TARIFFS.—If an oil pipeline tariff which is filed under part I of the Interstate Commerce Act and which is subject to investigation is withdrawn—

(A) any proceeding with respect to such tariff shall be terminated;

(B) the previous tariff rate shall be reinstated; and

(C) any amounts collected under the withdrawn tariff rate which are in excess of the previous tariff rate shall be refunded.

(2) WITHDRAWAL OF COMPLAINTS.—If a complaint which is filed under section 13 of the Interstate Commerce Act with respect to an oil pipeline tariff is withdrawn, any proceeding with respect to such complaint shall be terminated.

(e) ALTERNATIVE DISPUTE RESOLUTION.—To the maximum extent practicable, the Commission shall establish appropriate alternative dispute resolution procedures, including required negotiations and voluntary arbitration, early in an oil pipeline rate proceeding as a method preferable to adjudication in resolving disputes relating to the rate. Any proposed rates derived from implementation of such procedures shall be considered by the Commission on an expedited basis for approval.

SEC. 1803. PROTECTION OF CERTAIN EXISTING RATES.

(a) RATES DEEMED JUST AND REASONABLE.—Except as provided in subsection (b)—

(1) any rate in effect for the 365-day period ending on the date of the enactment of this Act shall be deemed to be just and reasonable (within the meaning of section 1(5) of the Interstate Commerce Act); and

(2) any rate in effect on the 365th day preceding the date of such enactment shall be deemed to be just and reasonable (within the meaning of such section 1(5)) regardless of whether or not, with respect to such rate, a new rate has been filed with the Commission during such 365-day period;

if the rate in effect, as described in paragraph (1) or (2), has not been subject to protest, investigation, or complaint during such 365-day period.

(b) CHANGED CIRCUMSTANCES.—No person may file a complaint under section 13 of the Interstate Commerce Act against a rate deemed to be just and reasonable under subsection (a) unless—

(1) evidence is presented to the Commission which establishes that a substantial change has occurred after the date of the enactment of this Act—

(A) in the economic circumstances of the oil pipeline which were a basis for the rate; or

(B) in the nature of the services provided which were a basis for the rate; or

(2) the person filing the complaint was under a contractual prohibition against the filing of a complaint which was in effect on the date of enactment of this Act and had been in effect prior to January 1, 1991, provided that a complaint by a party bound by such prohibition is brought within 30 days after the expiration of such prohibition.

If the Commission determines pursuant to a proceeding instituted as a result of a complaint under section 13 of the Interstate Commerce Act that the rate is not just and reasonable, the rate shall not be deemed to be just and reasonable. Any tariff reduction or refunds that may result as an outcome of such a complaint shall be prospective from the date of the filing of the complaint.

(c) LIMITATION REGARDING UNDULY DISCRIMINATORY OR PREFERENTIAL TARIFFS.—Nothing in this section shall prohibit any aggrieved person from filing a complaint under section 13 or section 15(l) of the Interstate Commerce Act challenging any tariff provision as unduly discriminatory or unduly preferential.

SEC. 1804. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission and, unless the context requires otherwise, includes the Oil Pipeline Board and any other office or component of the Commission to which the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)) are delegated.

(2) OIL PIPELINE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "oil pipeline" means any common carrier (within the meaning of the Interstate Commerce Act) which transports oil by pipeline subject to the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(B) EXCEPTION.—The term "oil pipeline" does not include the Trans-Alaska Pipeline authorized by the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) or any pipeline delivering oil directly or indirectly to the Trans-Alaska Pipeline.

(3) OIL.—The term "oil" has the same meaning as is given such term for purposes of the transfer of functions from the Interstate Commerce Commission to the Federal Energy Regulatory Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(4) RATE.—The term "rate" means all charges that an oil pipeline requires shippers to pay for transportation services.

TITLE XIX—REVENUE PROVISIONS

SEC. 1901. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 1911. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $155 per month in the case of qualified parking.

"(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified transportation fringe' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

"(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.

"(7) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 1912. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—

"(A) IN GENERAL.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(B), only the applicable percentage of such subsidy shall be excluded from gross income under paragraph (1).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(i) 40 percent in the case of subsidies provided during 1995,

"(ii) 50 percent in the case of subsidies provided during 1996, and

"(iii) 65 percent in the case of subsidies provided after 1996.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—

"(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1995, with respect to property other than dwelling units.

The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).

"(2) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(i) a recuperator,

"(ii) a heat wheel,

"(iii) a regenerator,

"(iv) a heat exchanger,

"(v) a waste heat boiler,

"(vi) a heat pipe,

"(vii) an automatic energy control system,

"(viii) a turbulator,

"(ix) a preheater,

"(x) a combustible gas recovery system,

"(xi) an economizer,

"(xii) modifications to alumina electrolytic cells,

"(xiii) modifications to chlor-alkali electrolytic cells, or

"(xiv) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(B) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(C) PUBLIC UTILITY.—The term 'public utility' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

"(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by public utilities.
"Sec. 137. Cross reference to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 1913. TREATMENT OF CLEAN-FUEL VEHICLES.

(a) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of—

"(A) any qualified clean-fuel vehicle property, and

"(B) any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(2) INCREMENTAL COST FOR CERTAIN VEHICLES.—If a vehicle may be propelled by both a clean-burning fuel and any other fuel, only the incremental cost of permitting the use of the clean-burning fuel shall be taken into account.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

"(A) IN GENERAL.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver).

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(1)(B) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $100,000, over

"(ii) the aggregate amount taken into account under subsection (a)(1)(B) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a)(1)(B).

"(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel—

"(i) if the property is an engine (or modification thereof) which may use a clean-burning fuel, or

"(ii) to the extent the property is used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel, but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which may use such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(3) EXCEPTION FOR QUALIFIED ELECTRIC VEHICLES.—The term 'qualified clean-fuel vehicle property' does not include any qualified electric vehicle (as defined in section 30(c)).

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is—

"(A) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

"(B) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(3) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(b) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the cost of any qualified electric vehicle placed in service by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) LIMITATION PER VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed $4,000.

"(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2001, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by—

"(A) 25 percent in the case of property placed in service in calendar year 2002,

"(B) 50 percent in the case of property placed in service in calendar year 2003, and

"(C) 75 percent in the case of property placed in service in calendar year 2004.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over—

"(B) the tentative minimum tax for the taxable year.

"(c) QUALIFIED ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified electric vehicle' means any motor vehicle—

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current,

"(B) the original use of which commences with the taxpayer, and

"(C) which is acquired for use by the taxpayer and not for resale.

"(2) MOTOR VEHICLE.—For purposes of paragraph (1), the term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(d) SPECIAL RULES.—

"(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit.

"(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(e) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Credit for qualified electric vehicles."

(B) Section 1016(a), as amended by subsection (a)(3), is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 30(d)(1)."

(C) Section 53(d)(1)(B)(iii) is amended—

(i) by striking "section 29(b)(5)(B) or" and inserting "section 29(b)(6)(B),", and

(ii) by inserting ", or not allowed under section 30 solely by reason of the application of section 30(b)(3)(B)" before the period.

(D) Section 55(c)(2) is amended by striking "29(b)(5)," and inserting "29(b)(6), 30(b)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 1914. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was originally placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

"(iii) the aggregate amount of subsidized energy financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the project, and

"(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for such calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. For purposes of the preceding sentence, only contracts entered into after December 31, 1989, shall be taken into account.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective ownership interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993 (before January 1, 1994, to the extent such credit is attributable to wind as a qualified energy resource)."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

SEC. 1915. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) DEPLETION.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) DEPLETION.—

"(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) INTANGIBLE DRILLING COSTS.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—In the case of any oil or gas well—

"(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) LIMITATION ON BENEFIT.—The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.".

(c) CONFORMING AMENDMENTS.—

(1) Section 56 is amended by striking subsection (h).

(2) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

(3) Section 59(a)(2)(A)(ii) is amended by striking "and the alternative tax energy preference deduction under section 56(h)" and inserting "and section 57(a)(2)(E)".

(4) Section 59A(b)(1) is amended by striking "or the alternative tax energy preference deduction under section 56(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 1916. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" in subparagraph (A) and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

SEC. 1917. NUCLEAR DECOMMISSIONING FUNDS.

(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) REDUCTION IN RATE OF TAX.—Paragraph (2) of section 468A(e) is amended—

(1) by striking "at the rate equal to the highest rate of tax specified in section 11(b)" in subparagraph (A) and inserting "at the rate set forth in subparagraph (B)", and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) RATE OF TAX.—For purposes of subparagraph (A), the rate set forth in this subparagraph is—

"(i) 22 percent in the case of taxable years beginning in calendar year 1994 or 1995, and

"(ii) 20 percent in the case of taxable years beginning after December 31, 1995."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1993. Section 15 of

the Internal Revenue Code of 1986 shall not apply to any change in rate resulting from the amendment made by subsection (b).

SEC. 1918. EXTENSION OF SECTION 29 CREDIT FOR CERTAIN FACILITIES.

Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end thereof the following new subsection:

"(g) EXTENSION FOR CERTAIN FACILITIES.—

"(1) IN GENERAL.—In the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

"(A) for purposes of subsection (f)(1)(B), such facility shall be treated as being placed in service before January 1, 1993, if such facility is placed in service before January 1, 1997, pursuant to a binding written contract in effect before January 1, 1996, and

"(B) if such facility is originally placed in service after December 31, 1992, paragraph (2) of subsection (f) shall be applied with respect to such facility by substituting 'January 1, 2008' for 'January 1, 2003'.

"(2) SPECIAL RULE.—Paragraph (1) shall not apply to any facility which produces coke or coke gas unless the original use of the facility commences with the taxpayer."

SEC. 1919. TREATMENT UNDER LOCAL FURNISHING RULES OF CERTAIN ELECTRICITY TRANSMITTED OUTSIDE LOCAL AREA.

(a) IN GENERAL.—Subsection (f) of section 142 (relating to local furnishing of electric energy or gas) is amended to read as follows:

"(f) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—For purposes of subsection (a)(8)—

"(1) IN GENERAL.—The local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

"(A) a city and 1 contiguous county, or

"(B) 2 contiguous counties.

"(2) TREATMENT OF CERTAIN ELECTRIC ENERGY TRANSMITTED OUTSIDE LOCAL AREA.—

"(A) IN GENERAL.—A facility shall not be treated as failing to meet the local furnishing requirement of subsection (a)(8) by reason of electricity transmitted pursuant to an order of the Federal Energy Regulatory Commission under section 211 or 213 of the Federal Power Act (as in effect on the date of the enactment of this paragraph) if the portion of the cost of the facility financed with tax-exempt bonds is not greater than the portion of the cost of the facility which is allocable to the local furnishing of electric energy (determined without regard to this paragraph).

"(B) SPECIAL RULE FOR EXISTING FACILITIES.—In the case of a facility financed with bonds issued before the date of an order referred to in subparagraph (A) which would (but for this subparagraph) cease to be tax-exempt by reason of subparagraph (A), such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if, to the extent necessary to comply with subparagraph (A)—

"(i) an escrow to pay principal of, premium (if any), and interest on the bonds is established within a reasonable period after the date such order becomes final, and

"(ii) bonds are redeemed not later than the earliest date on which such bonds may be redeemed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued before, on, or after the date of the enactment of this Act.

SEC. 1920. ALCOHOL FUELS.

(a) REDUCED RATE OF TAX ON GASOLINE MIXED WITH ALCOHOL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by multiplying the otherwise applicable rate by a fraction the numerator of which is 10 and the denominator of which is—

"(A) 9 in the case of 10 percent gasohol,

"(B) 9.23 in the case of 7.7 percent gasohol, and

"(C) 9.43 in the case of 5.7 percent gasohol,

in the case of the removal or entry of any gasoline for use in producing gasohol at the time of such removal or entry. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or entry."

(b) CONFORMING AMENDMENTS.—Section 4081(c) is amended—

(1) by striking "6.1 cents a gallon" in paragraph (2) and inserting "an otherwise applicable rate", and

(2) by striking paragraph (4) and inserting the following new paragraph:

"(4) OTHERWISE APPLICABLE RATE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) or entered after December 31, 1992.

SEC. 1921. TAX-EXEMPT FINANCING FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(12) environmental enhancements of hydroelectric generating facilities."

(b) DEFINITION AND SPECIAL RULES FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Section 142 is amended by adding at the end the following new subsection:

"(j) ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'environmental enhancements of hydroelectric generating facilities' means property—

"(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

"(B) which—

"(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

"(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

"(2) USE OF PROCEEDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i)."

(2) FINANCED PROPERTY MUST BE GOVERNMENTALLY OWNED.—Subparagraph (A) of section 142(b)(1) (relating to certain facilities must be governmentally owned) is amended by striking "(2) or (3)" and inserting "(2), (3), or (12)".

(3) EXCLUSION FROM VOLUME CAP.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "or (2)" and inserting ", (2), or (12)", and

(B) by striking "and docks and wharves" and inserting ", docks and wharves, and environmental enhancements of hydroelectric generating facilities".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 1922. TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX CREDIT.

(a) IN GENERAL.—Section 4612 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INCOME TAX CREDIT FOR UNUSED PAYMENTS INTO TRANS-ALASKA PIPELINE LIABILITY FUND.—

"(1) IN GENERAL.—For purposes of section 38, the current year business credit shall include the credit determined under this subsection.

"(2) DETERMINATION OF CREDIT.—

"(A) IN GENERAL.—The credit determined under this subsection for any taxable year is an amount equal to the aggregate credit which would be allowed to the taxpayer under subsection (d) for amounts paid into the Trans-Alaska Pipeline Liability Fund had the Oil Spill Liability Trust Fund financing rate not ceased to apply.

"(B) LIMITATION.—

"(i) IN GENERAL.—The amount of the credit determined under this subsection for any taxable year with respect to any taxpayer shall not exceed the excess of—

"(I) the amount determined under clause (ii), over

"(II) the aggregate amount of the credit determined under this subsection for prior taxable years with respect to such taxpayer.

"(ii) OVERALL LIMITATION.—The amount determined under this clause with respect to any taxpayer is the excess of—

"(I) the aggregate amount of credit which would have been allowed under subsection (d) to the taxpayer for periods before the termination date specified in section 4611(f)(1), if amounts in the Trans-Alaska Pipeline Liability Fund which are actually transferred into the Oil Spill Liability Fund were tranferred on January 1, 1990, and the Oil Spill Liability Trust Fund financing rate did not terminate before such termination date, over

"(II) the aggregate amount of the credit allowed under subsection (d) to the taxpayer.

"(3) COST OF INCOME TAX CREDIT BORNE BY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall from time to time transfer from the Oil Spill Liability Trust Fund to the general fund of the Treasury amounts equal to the credits allowed by reason of this subsection.

"(B) TRUST FUND BALANCE MAY NOT BE REDUCED BELOW $1,000,000,000.—Transfers may be made under subparagraph (A) only to the extent that the unobligated balance of the Oil Spill Liability Trust Fund exceeds $1,000,000,000. If any transfer is not made by reason of the preceding sentence, such transfer shall be made as soon as permitted under such sentence.

"(4) NO CARRYBACK.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under this subsection may be carried to a taxable year beginning on or before the date of the enactment of this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle B—Revenue Increases, Etc.

SEC. 1931. INCREASED BASE TAX AMOUNT ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Subparagraph (B) of section 4681(b)(1) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

"Calendar year:	Base tax amount:
1993	3.35
1994	4.35
1995	5.35."

(b) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended by striking "10" and inserting "7.46".

(c) FLOOR STOCKS.—Subparagraph (C) of section 4682(h)(2) (relating to tax-increase dates) is amended by striking "of 1991, 1992, 1993, and 1994" and inserting "of any calendar year after 1991".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after January 1, 1993.

SEC. 1932. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) (relating to halons) is amended to read as follows:

"In the case of:	**The applicable percentage in the case of sales or use during 1993 is:**
Halon-1211	2.49
Halon-1301	0.75
Halon-2402	1.24."

(b) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS AND AS PROPELLANTS IN METERED-DOSE INHALERS.—Subsection (g) of section 4682 (relating to phase-in of tax on certain substances) is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS AND AS PROPELLANTS IN METERED-DOSE INHALERS.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use during the applicable period of any substance to sterilize medical instruments or as propellants in metered-dose inhalers, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be equal to $1.67 per pound.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical instruments or as propellants in metered-dose inhalers, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used during the applicable period by any person to sterilize medical instruments or as propellants in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.

"(C) APPLICABLE PERIOD.—For purposes of this paragraph, the term 'applicable period' means—

"(i) 1993 in the case of substances to sterilize medical instruments, and

"(ii) any period after 1992 in the case of propellants in metered-dose inhalers."

(c) TREATMENT OF METHYL CHLOROFORM.—Subsection (g) of section 4682, as amended by subsection (b), is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF METHYL CHLOROFORM.—The tax imposed by section 4681 during 1993 by reason of the treatment of methyl chloroform as an ozone-depleting chemical shall be 63.02 percent of the amount of such tax which would (but for this paragraph) be imposed."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after January 1, 1993.

SEC. 1933. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.".

(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(f) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1934. INCREASED WITHHOLDING ON GAMBLING WINNINGS.

(a) IN GENERAL.—Section 3402(q)(1) (relating to extension of withholding to certain gambling winnings) is amended by striking "20 percent" and inserting "28 percent".

(b) EFFECTIVE DATE.—The amendment made by this section applies to payments received after December 31, 1992.

SEC. 1935. INCREASE IN BACKUP WITHHOLDING RATE.

(a) IN GENERAL.—Section 3406(a)(1) is amended by striking "20 percent" and inserting "31 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after December 31, 1992.

SEC. 1936. CLASSIFICATION OF CERTAIN INTEREST AS STOCK OR INDEBTEDNESS.

(a) GENERAL RULE.—Section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by adding at the end thereof the following new subsection:

"(c) EFFECT OF CLASSIFICATION BY ISSUER.—

"(1) IN GENERAL.—The characterization (as of the time of issuance) by the issuer as to whether an interest in a corporation is stock or indebtedness shall be binding on such issuer and on all holders of such interest (but shall not be binding on the Secretary).

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—Except as provided in regulations, paragraph (1) shall not apply to any holder of an interest if such holder on his return discloses that he is treating such interest in a manner inconsistent with the characterization referred to in paragraph (1).

"(3) REGULATIONS.—The Secretary is authorized to require such information as the Secretary determines to be necessary to carry out the provisions of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

SEC. 1937. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution,

had been distributed by such partnership to another partner.

"(c) BASIS RULES.—

"(1) PARTNER'S INTEREST.—The adjusted basis of a partner's interest in a partnership shall be increased by the amount of any gain recognized by such partner under subsection (a). Except for purposes of determining the amount recognized under subsection (a), such increase shall be treated as occurring immediately before the distribution.

"(2) PARTNERSHIP'S BASIS IN CONTRIBUTED PROPERTY.—Appropriate adjustments shall be made to the adjusted basis of the partnership in the contributed property referred to in subsection (b) to reflect gain recognized under subsection (a).

"(d) EXCEPTIONS.—

"(1) DISTRIBUTIONS OF PREVIOUSLY CONTRIBUTED PROPERTY.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) COORDINATION WITH SECTION 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after June 25, 1992.

SEC. 1938. DEDUCTION FOR EXPENSES AWAY FROM HOME.

(a) IN GENERAL.—Section 162(a) is amended by adding at the end the following new sentence: "For purposes of paragraph (2), the taxpayer shall not be treated as being temporarily away from home during any period of employment if such period exceeds 1 year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to costs paid or incurred after December 31, 1992.

SEC. 1939. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

SEC. 1940. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph:

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to that pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses."

(b) EXCEPTION FROM TAX ON SELF-DEALING.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1941. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 1942. UNIFORM EXEMPTION AMOUNT FOR GAMBLING WINNINGS SUBJECT TO WITHHOLDING.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 3402(q)(3) are each amended by striking "$1,000" and inserting "$5,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments of winnings after December 31, 1992.

Subtitle C—Health Care of Coal Miners

SEC. 19141. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 19142. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the production, transportation, and use of coal substantially affects interstate and foreign commerce and the national public interest; and

(2) in order to secure the stability of interstate commerce, it is necessary to modify the current private health care benefit plan structure for retirees in the coal industry to identify persons most responsible for plan liabilities in order to stabilize plan funding and allow for the provision of health care benefits to such retirees.

(b) STATEMENT OF POLICY.—It is the policy of this subtitle—

(1) to remedy problems with the provision and funding of health care benefits with respect to the beneficiaries of multiemployer benefit plans that provide health care benefits to retirees in the coal industry;

(2) to allow for sufficient operating assets for such plans; and

(3) to provide for the continuation of a privately financed self-sufficient program for the delivery of health care benefits to the beneficiaries of such plans.

SEC. 19143. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. COAL INDUSTRY HEALTH BENEFITS.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A—Definitions of general applicability.

"SUBCHAPTER B—Combined benefit fund.

"SUBCHAPTER C—Health benefits of certain miners.

"SUBCHAPTER D—Other provisions.

"Subchapter A—Definitions of General Applicability

"Sec. 9701. Definitions of general applicability.

"SEC. 9701. DEFINITIONS OF GENERAL APPLICABILITY.

"(a) PLANS AND FUNDS.—For purposes of this chapter—

"(1) UMWA BENEFIT PLAN.—

"(A) IN GENERAL.—The term 'UMWA Benefit Plan' means a plan—

"(i) which is described in section 404(c), or a continuation thereof; and

"(ii) which provides health benefits to retirees and beneficiaries of the industry which maintained the 1950 UMWA Pension Plan.

"(B) 1950 UMWA BENEFIT PLAN.—The term '1950 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired before 1976.

"(C) 1974 UMWA BENEFIT PLAN.—The term '1974 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired on or after January 1, 1976.

"(2) 1950 UMWA PENSION PLAN.—The term '1950 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired before 1976.

"(3) 1974 UMWA PENSION PLAN.—The term '1974 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired in 1976 and thereafter.

"(4) 1992 UMWA BENEFIT PLAN.—The term '1992 UMWA Benefit Plan' means the plan referred to in section 9713A.

"(5) COMBINED FUND.—The term 'Combined Fund' means the United Mine Workers of America Combined Benefit Fund established under section 9702.

"(b) AGREEMENTS.—For purposes of this section—

"(1) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means—

"(A) the National Bituminous Coal Wage Agreement, or

"(B) any other agreement entered into between an employer in the coal industry and the United Mine Workers of America that required or requires one or both of the following:

"(i) the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors cnd described in section 404(c) or a continuation of such plan; or

"(ii) contributions to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or any predecessor thereof.

"(2) SETTLORS.—The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (referred to in this chapter as the 'BCOA').

"(3) NATIONAL BITUMINOUS COAL WAGE AGREEMENT.—The term 'National Bituminous Coal Wage Agreement' means a collective bargaining agreement negotiated by the BCOA and the United Mine Workers of America.

"(c) TERMS RELATING TO OPERATORS.—For purposes of this section—

"(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a person which is or was a signatory to a coal wage agreement.

"(2) RELATED PERSONS.—

"(A) IN GENERAL.—A person shall be considered to be a related person to a signatory operator if that person is—

"(i) a member of the controlled group of corporations (within the meaning of section 52(a)) which includes such signatory operator;

"(ii) a trade or business which is under common control (as determined under section 52(b)) with such signatory operator; or

"(iii) any other person who is identified as having a partnership interest or joint venture with a signatory operator in a business within the coal industry, but only if such business employed eligible beneficiaries, except that this clause shall not apply to a person whose only interest is as a limited partner.

A related person shall also include a successor in interest of any person described in clause (i), (ii), or (iii).

"(B) TIME FOR DETERMINATION.—The relationships described in clauses (i), (ii), and (iii) of subparagraph (A) shall be determined as of July 20, 1992, except that if, on July 20, 1992, a signatory operator is no longer in business, the relationships shall be determined as of the time immediately before such operator ceased to be in business.

"(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

"(A) a signatory operator which was a signatory to the 1988 National Bituminous Coal Wage Agreement,

"(B) an employer in the coal industry which was a signatory to an agreement containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 National Bituminous Coal Wage Agreement, or

"(C) an employer from whtch contributions were actually received after 1987 and before July 20, 1992, by the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan in connection with employment in the coal industry during the period covered by the 1988 National Bituminous Coal Wage Agreement.

"(4) LAST SIGNATORY OPERATOR.—The term 'last signatory operator' means, with respect to a coal industry retiree, a signatory operator which was the most recent coal industry employer of such retiree.

"(5) ASSIGNED OPERATOR.—The term 'assigned operator' means, with respect to an eligible beneficiary defined in section 9703(f), the signatory operator to which liability under subchapter B with respect to the beneficiary is assigned under section 9706.

"(6) OPERATORS OF DEPENDENT BENEFICIARIES.—For purposes of this chapter, the signatory operator, last signatory operator, or assigned operator of any eligible beneficiary under this chapter who is a coal industry retiree shall be considered to be the signatory operator, last signatory operator, or assigned operator with respect to any other individual who is an eligible beneficiary under this chapter by reason of a relationship to the retiree.

"(7) BUSINESS.—For purposes of this chapter, a person shall be considered to be in business if such person conducts or derives revenue from any business activity, whether or not in the coal industry.

"(d) ENACTMENT DATE.—For purposes of this chapter, the term 'enactment date' means the date of the enactment of this chapter.

"Subchapter B—Combined Benefit Fund

"Part I—ESTABLISHMENT AND BENEFITS

"Part II—FINANCING

"Part III—ENFORCEMENT

"Part IV—OTHER PROVISIONS

"PART I—ESTABLISHMENT AND BENEFITS

"Sec. 9702. Establishment of the United Mine Workers of America Combined Benefit Fund.

"Sec. 9703. Plan benefits.

"SEC. 9702. ESTABLISHMENT OF THE UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—As soon as practicable (but not later than 60 days) after the enactment date, the persons described in subsection (b) shall designate the individuals to serve as trustees. Such trustees shall create a new private plan to be known as the United Mine Workers of America Combined Benefit Fund.

"(2) MERGER OF RETIREE BENEFIT PLANS.—As of February 1, 1993, the settlors of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall cause such plans to be merged into the Combined Fund, and such merger shall not be treated as an employer withdrawal for purposes of any 1988 coal wage agreement.

"(3) TREATMENT OF PLAN.—The Combined Fund shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Re-

tirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(4) TAX TREATMENT.—For purposes of this title, the Combined Fund and any related trust shall be treated as an organization exempt from tax under section 501(a).

"(b) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

"(A) one individual who represents employers in the coal mining industry shall be designated by the BCOA;

"(B) one individual shall be designated by the three employers, other than 1988 agreement operators, who have been assigned the greatest number of eligible beneficiaries under section 9706;

"(C) two individuals designated by the United Mine Workers of America; and

"(D) three persons selected by the persons appointed under subparagraphs (A), (B), and (C).

"(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

"(3) SPECIAL RULES.—

"(A) BCOA.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.

"(B) FORMER SIGNATORIES.—The initial trustee under paragraph (1)(B) shall be designated by the 3 employers, other than 1988 agreement operators, which the records of the 1950 UMWA Benefit Plan and 1974 UMWA Benefit Plan indicate have the greatest number of eligible beneficiaries as of the enactment date, and such trustee and any successor shall serve until November 1, 1993.

"(c) PLAN YEAR.—The first plan year of the Combined Fund shall begin February 1, 1993, and end September 30, 1993. Each succeeding plan year shall begin on October 1 of each calendar year.

"SEC. 9703. PLAN BENEFITS.

"(a) IN GENERAL.—Each eligible beneficiary of the Combined Fund shall receive—

"(1) health benefits described in subsection (b), and

"(2) in the case of an eligible beneficiary described in subsection (f)(1), death benefits coverage described in subsection (c).

"(b) HEALTH BENEFITS.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide health care benefits to each eligible beneficiary by enrolling the beneficiary in a health care services plan which undertakes to provide such benefits on a prepaid risk basis. The trustees shall utilize all available plan resources to ensure that, consistent with paragraph (2), coverage under the managed care system shall to the maximum extent feasible be substantially the same as (and subject to the same limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) PLAN PAYMENT RATES.—

"(A) IN GENERAL.—The trustees of the Combined Fund shall negotiate payment rates with the health care services plans described in paragraph (1) for each plan year which are in amounts which—

"(i) vary as necessary to ensure that beneficiaries in different geographic areas have access to a uniform level of health benefits; and

"(ii) result in aggregate payments for such plan year from the Combined Fund which do not exceed the total premium payments required to be paid to the Combined Fund under section 9704(a) for the plan year, adjusted as provided in subparagraphs (B) and (C).

"(B) REDUCTIONS.—The amount determined under subparagraph (A)(ii) for any plan year shall be reduced—

"(i) by the aggregate death benefit premiums determined under section 9704(c) for the plan year, and

"(ii) by the amount reserved for plan administration under subsection (d).

"(C) INCREASES.—The amount determined under subparagraph (A)(ii) shall be increased—

"(i) by any reduction in the total premium payments required to be paid under section 9704(a) by reason of transfers described in section 9705,

"(ii) by any carryover to the plan year from any preceding plan year which—

"(I) is derived from amounts described in section 9704(e)(3)(B)(i), and

"(II) the trustees elect to use to pay benefits for the current plan year, and

"(iii) any interest earned by the Combined Fund which the trustees elect to use to pay benefits for the current plan year.

"(3) QUALIFIED PROVIDERS.—The trustees of the Combined Fund shall not enter into an agreement under paragraph (1) with any provider of services which is of a type which is required to be certified by the Secretary of Health and Human Services when providing services under title XVIII of the Social Security Act unless the provider is so certified.

"(4) EFFECTIVE DATE.—Benefits shall be provided under paragraph (1) on and after February 1, 1993.

"(c) DEATH BENEFITS COVERAGE.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide death benefits coverage to each eligible beneficiary described in subsection (f)(1) which is identical to the benefits provided under the 1950 UMWA Pension Plan or 1974 UMWA Pension Plan, whichever is applicable, on July 20, 1992. Such coverage shall be provided on and after February 1, 1993.

"(2) TERMINATION OF COVERAGE.—The 1950 UMWA Pension Plan and the 1974 UMWA Pension Plan shall each be amended to provide that death benefits coverage shall not be provided to eligible beneficiaries on and after February 1, 1993. This paragraph shall not prohibit such plans from subsequently providing death benefits not described in paragraph (1).

"(d) RESERVES FOR ADMINISTRATION.—The trustees of the Combined Fund may reserve for each plan year, for use in payment of the administrative costs of the Combined Fund, an amount not to exceed 5 percent of the premiums to be paid to the Combined Fund under section 9704(a) during the plan year.

"(e) LIMITATION ON ENROLLMENT.—The Combined Fund shall not enroll any individual who is not receiving benefits under the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of July 20, 1992.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this subchapter, the term 'eligible beneficiary' means an individual who—

"(1) is a coal industry retiree who, on July 20, 1992, was eligible to receive, and receiving, benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or

"(2) on such date was eligible to receive, and receiving, benefits in either such plan by reason of a relationship to such retiree.

"PART II—FINANCING

"Sec. 9704. Liability of assigned operators.

"Sec. 9705. Transfers.

"Sec. 9706. Assignment of eligible beneficiaries.

"SEC. 9704. LIABILITY OF ASSIGNED OPERATORS.

"(a) ANNUAL PREMIUMS.—Each assigned operator shall pay to the Combined Fund for each plan year beginning on or after February 1, 1993, an annual premium equal to the sum of the following three premiums—

"(1) the health benefit premium determined under subsection (b) for such plan year, plus

"(2) the death benefit premium determined under subsection (c) for such plan year, plus

"(3) the unassigned beneficiaries premium determined under subsection (d) for such plan year.

Any related person with respect to an assigned operator shall be jointly and severally liable for any premium required to be paid by such operator.

"(b) HEALTH BENEFIT PREMIUM.—For purposes of this chapter—

"(1) IN GENERAL.—The health benefit premium for any plan year for any assigned operator shall be an amount equal to the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries assigned to such operator under section 9706.

"(2) PER BENEFICIARY PREMIUM.—The Secretary of Health and Human Services shall calculate a per beneficiary premium for each plan year beginning on or after February 1, 1993, which is equal to the sum of—

"(A) the amount determined by dividing—

"(i) the aggregate amount of payments from the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for health benefits (less reimbursements but including administrative costs) for the plan year beginning July 1, 1991, for all individuals covered under such plans for such plan year, by

"(ii) the number of such individuals, plus

"(B) the amount determined under subparagraph (A) multiplied by the percentage (if any) by which the medical component of the Consumer Price Index for the calendar year in which the plan year begins exceeds such component for 1992.

"(3) ADJUSTMENTS FOR MEDICARE REDUCTIONS.—If, by reason of a reduction in benefits under title XVIII of the Social Security Act, the level of health benefits under the Combined Fund would be reduced, the trustees of the Combined Fund shall increase the per beneficiary premium for the plan year in which the reduction occurs and each subsequent plan year by the amount necessary to maintain the level of health benefits which would have been provided without such reduction.

"(c) DEATH BENEFIT PREMIUM.—The death benefit premium for any plan year for any assigned operator shall be equal to the applicable percentage of the amount, actuarially determined, which the Combined Fund will be required to pay during the plan year for death benefits coverage described in section 9703(c).

"(d) UNASSIGNED BENEFICIARIES PREMIUM.—The unassigned beneficiaries premium for any plan year for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

"(e) PREMIUM ACCOUNTS; ADJUSTMENTS.—

"(1) ACCOUNTS.—The trustees of the Combined Fund shall establish and maintain 3 separate accounts for each of the premiums described in subsections (b), (c), and (d). Such accounts shall be credited with the premiums received and debited with expenditures allocable to such premiums.

"(2) ALLOCATIONS.—

"(A) ADMINISTRATIVE EXPENSES.—Administrative costs for any plan year shall be allocated to premium accounts under paragraph (1) on the basis of expenditures (other than administrative costs) from such accounts during the preceding plan year.

"(B) INTEREST.—Interest shall be allocated to the account established for health benefit premiums.

"(3) SHORTFALLS AND SURPLUSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if, for any plan year, there is a shortfall or surplus in any premium account, the premium for the following plan year for each assigned operator shall be proportionately reduced or increased, whichever is applicable, by the amount of such shortfall or surplus.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any surplus in the health benefit premium account or the unassigned beneficiaries premium account which is attributable to—

"(i) the excess of the premiums credited to such account for a plan year over the benefits (and administrative costs) debited to such account for the plan year, but such excess shall only be available for purposes of the carryover described in section 9703(b)(2)(C)(ii) (relating to carryovers of premiums not used to provide benefits), or

"(ii) interest credited under paragraph (2)(B) for the plan year or any preceding plan year.

"(C) NO AUTHORITY FOR INCREASED PAYMENTS.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits for any plan year in excess of the limit under section 9703(b)(2).

"(f) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means, with respect to any assigned operator, the percentage determined by dividing the number of eligible beneficiaries assigned under section 9706 to such operator by the total number of eligible beneficiaries assigned under section 9706 to all such operators (determined on the basis of assignments as of October 1, 1993).

"(2) ANNUAL ADJUSTMENTS.—In the case of any plan year beginning on or after October 1, 1994, the applicable percentage for any assigned operator shall be redetermined under paragraph (1) by making the following changes to the assignments as of October 1, 1993:

"(A) Such assignments shall be modified to reflect any changes during the period beginning October 1, 1993, and ending on the last day of the preceding plan year pursuant to the appeals process under section 9706(f).

"(B) The total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries of assigned operators which (and all related persons with respect to which) had ceased business (within the meaning of section 9701(c)(6)) during the period described in subparagraph (A).

"(g) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—The annual premium under subsection (a) for any plan year shall be payable in 12 equal monthly installments, due on the twenty-fifth day of each calendar month in the plan year. In the case of the plan year beginning February 1, 1993, the annual premium under subsection (a) shall be added to such premium for the plan year beginning October 1, 1993.

"(2) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(h) INFORMATION.—The trustees of the Combined Fund shall, not later than 60 days after the enactment date, furnish to the Secretary of Health and Human Services information as to the benefits and covered beneficiaries under the fund, and such other information as the Secretary may require to compute any premium under this section.

"(i) TRANSITION RULES.—

"(1) 1988 AGREEMENT OPERATORS.—

"(A) 1ST YEAR COSTS.—During the plan year of the Combined Fund beginning February 1, 1993, the 1988 agreement operators shall make contributions to the Combined Fund in amounts necessary to pay benefits and administrative costs of the Combined Fund incurred during such year, reduced by the amount transferred to the Combined Fund under section 9705(a) on February 1, 1993.

"(B) DEFICITS FROM MERGED PLANS.—During the period beginning February 1, 1993, and ending September 30, 1994, the 1988 agreement operators shall make contributions to the Combined Fund as are necessary to pay off the expenses accrued (and remaining unpaid) by the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, reduced by the assets of such plans as of such date.

"(C) FAILURE.—If any 1988 agreement operator fails to meet any obligation under this paragraph, any contributions of such operator to the Combined Fund or any other plan described in section 404(c) shall not be deductible under this title until such time as the failure is corrected.

"(D) PREMIUM REDUCTIONS.—

"(i) 1ST YEAR PAYMENTS.—In the case of a 1988 agreement operator making contributions under subparagraph (A), the premium of such operator under subsection (a) shall be reduced by the amount paid under subparagraph (A) by such operator for the plan year beginning February 1, 1993.

"(ii) DEFICIT PAYMENTS.—In the case a 1988 agreement operator making contributions under subparagraph (B), the premium of such operator under subsection (a) shall be reduced by the amounts which are paid to the Combined Fund by reason of claims arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims based on the 'evergreen clause' found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan, and which are allocated to such operator under subparagraph (E).

"(iii) LIMITATION.—Clause (ii) shall not apply to the extent the amounts paid exceed the contributions.

"(iv) PLAN YEARS.—Premiums under subsection (a) shall be reduced for the first plan year for which amounts described in clause (i) or (ii) are available and for any succeeding plan year until such amounts are exhausted.

"(E) ALLOCATIONS OF CONTRIBUTIONS AND REFUNDS.—Contributions under subparagraphs (A) and (B), and premium reductions under subparagraph (D)(ii), shall be made ratably on the basis of aggregate contributions made by such operators under the applicable 1988 coal wage agreements as of January 31, 1993.

"(2) 1ST PLAN YEAR.—In the case of the plan year of the Combined Fund beginning February 1, 1993—

"(A) the premiums under subsections (a)(1) and (a)(3) shall be 67 percent of such premiums without regard to this paragraph, and

"(B) the premiums under subsection (a) shall be paid as provided in subsection (g).

"(3) STARTUP COSTS.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall pay the costs of the Combined Fund incurred before February 1, 1993. For purposes of this section, such costs shall be treated as administrative expenses incurred for the plan year beginning February 1, 1993.

"SEC. 9705. TRANSFERS.

"(a) TRANSFER OF ASSETS FROM 1950 UMWA PENSION PLAN.—

"(1) IN GENERAL.—From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pension Plan shall transfer to the Combined Fund—

"(A) $70,000,000 on February 1, 1993,

"(B) $70,000,000 on October 1, 1993, and

"(C) $70,000,000 on October 1, 1994.

"(2) RESERVATION.—Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate $210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

"(3) USE OF FUNDS.—Amounts transferred to the Combined Fund under paragraph (1) shall—

"(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

"(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available.

Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

"(4) TAX TREATMENT; VALIDITY OF TRANSFER.—

"(A) NO DEDUCTION.—No deduction shall be allowed under this title with respect to any transfer pursuant to paragraph (1), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMWA Pension Plan, the 1950 UMWA Benefit Plan, the 1974 UMWA Pension Plan, the 1974 UMWA Benefit Plan, the 1992 UMWA Benefit Plan, or the Combined Fund.

"(B) OTHER TAX PROVISIONS.—Any transfer pursuant to paragraph (1)—

"(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMWA Pension Plan.

"(5) TREATMENT OF TRANSFER.—Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

"(b) TRANSFERS FROM ABANDONED MINE RECLAMATION FUND.—

"(1) IN GENERAL.—The Combined Fund shall include any amount transferred to the Fund under section 402(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)).

"(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.

"SEC. 9706. ASSIGNMENT OF ELIGIBLE BENEFICIARIES.

"(a) IN GENERAL.—For purposes of this chapter, the Secretary of Health and Human Services shall, before October 1, 1993, assign each coal industry retiree who is an eligible beneficiary to a signatory operator which (or any related person with respect to which) remains in business in the following order:

"(1) First, to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry for at least 2 years.

"(2) Second, if the retiree is not assigned under paragraph (1), to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry.

"(3) Third, if the retiree is not assigned under paragraph (1) or (2), to the signatory operator which employed the coal industry retiree in the coal industry for a longer period of time than any other signatory operator prior to the effective date of the 1978 coal wage agreement.

"(b) Rules Relating to Employment and Reassignment Upon Purchase.—For purposes of subsection (a)—

"(1) Aggregation rules.—

"(A) Related person.—Any employment of a coal industry retiree in the coal industry by a signatory operator shall be treated as employment by any related persons to such operator.

"(B) Certain employment disregarded.—Employment with—

"(i) a person which is (and all related persons with respect to which are) no longer in business, or

"(ii) a person during a period during which such person was not a signatory to a coal wage agreement,

shall not be taken into account.

"(2) Reassignment upon purchase.—If a person becomes a successor of an assigned operator after the enactment date, the assigned operator may transfer the assignment of an eligible beneficiary under subsection (a) to such successor, and such successor shall be treated as the assigned operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the assigned operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. An assigned operator shall notify the trustees of the Combined Fund of any transfer described in this paragraph.

"(c) Identification of Eligible Beneficiaries.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall, by the later of October 1, 1992, or the twentieth day after the enactment date, provide to the Secretary of Health and Human Services a list of the names and social security account numbers of each eligible beneficiary, including each deceased eligible beneficiary if any other individual is an eligible beneficiary by reason of a relationship to such deceased eligible beneficiary. In addition, the plans shall provide, where ascertainable from plan records, the names of all persons described in subsection (a) with respect to any eligible beneficiary or deceased eligible beneficiary.

"(d) Cooperation by Other Agencies and Persons.—

"(1) Cooperation.—The head of any department, agency, or instrumentality of the United States shall cooperate fully and promptly with the Secretary of Health and Human Services in providing information which will enable the Secretary to carry out his responsibilities under this section.

"(2) Providing of information.—

"(A) In general.—Notwithstanding any other provision of law, including section 6103, the head of any other agency, department, or instrumentality shall, upon receiving a written request from the Secretary of Health and Human Services in connection with this section, cause a search to be made of the files and records maintained by such agency, department, or instrumentality with a view to determining whether the information requested is contained in such files or records. The Secretary shall be advised whether the search disclosed the information requested, and, if so, such information shall be promptly transmitted to the Secretary, except that if the disclosure of any requested information would contravene national policy or security interests of the United States, or the confidentiality of census data, the information shall not be transmitted and the Secretary shall be so advised.

"(B) Limitation.—Any information provided under subparagraph (A) shall be limited to information necessary for the Secretary to carry out his duties under this section.

"(3) Trustees.—The trustees of the Combined Fund, the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, the 1950 UMWA Pension Plan, and the 1974 UMWA Pension Plan shall fully and promptly cooperate with the Secretary in furnishing, or assisting the Secretary to obtain, any information the Secretary needs to carry out the Secretary's responsibilities under this section.

"(e) Notice by Secretary.—

"(1) Notice to fund.—The Secretary of Health and Human Services shall advise the trustees of the Combined Fund of the name of each person identified under this section as an assigned operator, and the names and social security account numbers of eligible beneficiaries with respect to whom he is identified.

"(2) Other notice.—The Secretary of Health and Human Services shall notify each assigned operator of the names and social security account numbers of eligible beneficiaries who have been assigned to such person under this section and a brief summary of the facts related to the basis for such assignments.

"(f) Reconsideration by Secretary.—

"(1) In general.—Any assigned operator receiving a notice under subsection (e)(2) with respect to an eligible beneficiary may, within 30 days of receipt of such notice, request from the Secretary of Health and Human Services detailed information as to the work history of the beneficiary and the basis of the assignment.

"(2) Review.—An assigned operator may, within 30 days of receipt of the information under paragraph (1), request review of the assignment. The Secretary of Health and Human Services shall conduct such review if the Secretary finds the operator provided evidence with the request constituting a prima facie case of error.

"(3) Results of review.—

"(A) Error.—If the Secretary of Health and Human Services determines under a review under paragraph (2) that an assignment was in error—

"(i) the Secretary shall notify the assigned operator and the trustees of the Combined Fund and the trustees shall reduce the premiums of the operator under section 9704 by (or if there are no such premiums, repay) all premiums paid under section 9704 with respect to the eligible beneficiary, and

"(ii) the Secretary shall review the beneficiary's record for reassignment under subsection (a).

"(B) No error.—If the Secretary of Health and Human Services determines under a review conducted under paragraph (2) that no error occurred, the Secretary shall notify the assigned operator.

"(4) Determinations.—Any determination by the Secretary of Health and Human Services under paragraph (2) or (3) shall be final.

"(5) Payment pending review.—An assigned operator shall pay the premiums under section 9704 pending review by the Secretary of Health and Human Services or by a court under this subsection.

"(6) Private actions.—Nothing in this section shall preclude the right of any person to bring a separate civil action against another person for responsibility for assigned premiums, notwithstanding any prior decision by the Secretary.

"(g) Confidentiality of Information.—Any person to which information is provided by the Secretary of Health and Human Services under this section shall not disclose such information except in any proceedings related to this section. Any civil or criminal penalty which is applicable to an unauthorized disclosure under section 6103 shall apply to any unauthorized disclosure under this section.

"PART III—ENFORCEMENT

"Sec. 9707. Failure to pay premium.

"SEC. 9707. FAILURE TO PAY PREMIUM.

"(a) General Rule.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

"(b) Amount of Penalty.—The amount of the penalty imposed by subsection (a) on any failure with respect to any eligible beneficiary shall be $100 per day in the noncompliance period with respect to any such failure.

"(c) Noncompliance Period.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure to pay any premium or installment thereof, the period—

"(1) beginning on the due date for such premium or installment, and

"(2) ending on the date of payment of such premium or installment.

"(d) Limitations on Amount of Penalty.—

"(1) In general.—No penalty shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew, or exercising reasonable diligence, would have known, that such failure existed.

"(2) Corrections.—No penalty shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) Waiver.—In the case of a failure that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed by subsection (a) for failures to the extent that the Secretary determines, in his sole discretion, that the payment of such penalty would be excessive relative to the failure involved.

"(e) Liability for Penalty.—The person failing to meet the requirements of section 9704 shall be liable for the penalty imposed by subsection (a).

"(f) Treatment.—For purposes of this title, the penalty imposed by this section shall be treated in the same manner as the tax imposed by section 4980B.

"PART IV—OTHER PROVISIONS

"Sec. 9708. Effect on pending claims or obligations.

"SEC. 9708. EFFECT ON PENDING CLAIMS OR OBLIGATIONS.

"All liability for contributions to the Combined Fund that arises on and after February 1, 1993, shall be determined exclusively under this chapter, including all liability for contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for coal production on and after February 1, 1993. However, nothing in this chapter is intended to have any effect on any claims or obligations arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims or obligations based on the 'evergreen' clause found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan. This chapter shall not be construed to affect any rights of subrogation of any 1988 agreement operator with respect to contributions due to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of February 1, 1993.

"Subchapter C—Health Benefits of Certain Miners

"Part I—Individual employer plans

"Part II—1992 UMWA benefit plan

"PART I—INDIVIDUAL EMPLOYER PLANS

"Sec. 9711. Continued obligations of individual employer plans.

"SEC. 9711. CONTINUED OBLIGATIONS OF INDIVIDUAL EMPLOYER PLANS.

"(a) COVERAGE OF CURRENT RECIPIENTS.—The last signatory operator of any individual who, as of February 1, 1993, is receiving retiree health benefits from an individual employer plan maintained pursuant to a 1978 or subsequent coal wage agreement shall continue to provide health benefits coverage to such individual and the individual's eligible beneficiaries which is substantially the same as (and subject to all the limitations of) the coverage provided by such plan as of January 1, 1992. Such coverage shall continue to be provided for as long as the last signatory operator (and any related person) remains in business.

"(b) COVERAGE OF ELIGIBLE RECIPIENTS.—

"(1) IN GENERAL.—The last signatory operator of any individual who, as of February 1, 1993, is not receiving retiree health benefits under the individual employer plan maintained by the last signatory operator pursuant to a 1978 or subsequent coal wage agreement, but has met the age and service requirements for eligibility to receive benefits under such plan as of such date, shall, at such time as such individual becomes eligible to receive benefits under such plan, provide health benefits coverage to such individual and the individual's eligible beneficiaries which is described in paragraph (2). This paragraph shall not apply to any individual who retired from the coal industry after September 30, 1994, or any eligible beneficiary of such individual.

"(2) COVERAGE.—Subject to the provisions of subsection (d), health benefits coverage is described in this paragraph if it is substantially the same as (and subject to all the limitations of) the coverage provided by the individual employer plan as of January 1, 1992. Such coverage shall continue for as long as the last signatory operator (and any related person) remains in business.

"(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—Each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

"(d) MANAGED CARE AND COST CONTAINMENT.—The last signatory operator shall not be treated as failing to meet the requirements of subsection (a) or (b) if benefits are provided to eligible beneficiaries under managed care and cost containment rules and procedures described in section 9712(c) or agreed to by the last signatory operator and the United Mine Workers of America.

"(e) TREATMENT OF NONCOVERED EMPLOYEES.—The existence, level, and duration of benefits provided to former employees of a last signatory operator (and their eligible beneficiaries) who are not otherwise covered by this chapter and who are (or were) covered by a coal wage agreement shall only be determined by, and shall be subject to, collective bargaining, lawful unilateral action, or other applicable law.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means any individual who is eligible for health benefits under a plan described in subsection (a) or (b) by reason of the individual's relationship with the retiree described in such subsection (or to an individual who, based on service and employment history at the time of death, would have been so described but for such death).

"(g) RULES APPLICABLE TO THIS PART AND PART II.—For purposes of this part and part II—

"(1) SUCCESSOR.—The term 'last signatory operator' shall include a successor in interest of such operator.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of a last signatory operator after the enactment date, the last signatory operator may transfer any liability of such operator under this chapter with respect to an eligible beneficiary to such successor, and such successor shall be treated as the last signatory operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the last signatory operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. A last signatory operator shall notify the trustees of the 1992 UMWA Benefit Plan of any transfer described in this paragraph.

"PART II—1992 UMWA BENEFIT PLAN

"Sec. 9712. Establishment and coverage of 1992 UMWA Benefit Plan.

"SEC. 9712. ESTABLISHMENT AND COVERAGE OF 1992 UMWA BENEFIT PLAN.

"(a) CREATION OF PLAN.—

"(1) IN GENERAL.—As soon as practicable after the enactment date, the settlors shall create a separate private plan which shall be known as the United Mine Workers of America 1992 Benefit Plan. For purposes of this title, the 1992 UMWA Benefit Plan shall be treated as an organization exempt from taxation under section 501(a). The settlors shall be responsible for designing the structure, administration and terms of the 1992 UMWA Benefit Plan, and for appointment and removal of the members of the board of trustees. The board of trustees shall initially consist of five members and shall thereafter be the number set by the settlors.

"(2) TREATMENT OF PLAN.—The 1992 UMWA Benefit Plan shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(b) COVERAGE REQUIREMENT.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall only provide health benefits coverage to any eligible beneficiary who is not eligible for benefits under the Combined Fund and shall not provide such coverage to any other individual.

"(2) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means an individual who—

"(A) but for the enactment of this chapter, would be eligible to receive benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, based upon age and service earned as of February 1, 1993; or

"(B) with respect to whom coverage is required to be provided under section 9711, but who does not receive such coverage from the applicable last signatory operator or any related person,

and any individual who is eligible for benefits by reason of a relationship to an individual described in subparagraph (A) or (B). In no event shall the 1992 UMWA Benefit Plan provide health benefits coverage to any eligible beneficiary who is a coal industry retiree who retired from the coal industry after September 30, 1994, or any beneficiary of such individual.

"(c) HEALTH BENEFITS.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall provide health care benefits coverage to each eligible beneficiary which is substantially the same as (and subject to all the limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) MANAGED CARE.—The 1992 UMWA Benefit Plan shall develop managed care and cost containment rules which shall be applicable to the payment of benefits under this subsection. Application of such rules shall not cause the plan to be treated as failing to meet the requirements of this subsection. Such rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules may include, but are not limited to, elements described in paragraph (3).

"(3) MAJOR ELEMENTS OF RULES.—Elements described in this paragraph are—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use,

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status with the amount of the potential discount varying by geographic region,

"(C) limiting benefit payments to physicians to the allowable charge under title XVIII of the Social Security Act, while protecting beneficiaries from balance billing by providers,

"(D) utilizing, in the claims payment function 'appropriateness of service' protocols under title XVIII of the Social Security Act if more stringent,

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries,

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network, and

"(G) utilizing a managed care network provider system, as practiced in the health care industry, at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this subsection.

"(4) LAST SIGNATORY OPERATORS.—The board of trustees of the 1992 UMWA Benefit Plan shall permit any last signatory operator required to maintain an individual employer plan under section 9711 to utilize the managed care and cost containment rules and programs developed under this subsection if the operator elects to do so.

"(5) STANDARDS OF QUALITY.—Any managed care system or cost containment adopted by the board of trustees of the 1992 UMWA Benefit Plan or by a last signatory operator may not be implemented unless it is approved by, and meets the standards of quality adopted by, a medical peer review panel, which has been established—

"(A) by the settlors, or

"(B) by the United Mine Workers of America and a last signatory operator or group of operators.

Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending on the nature of the medical need.

"(d) GUARANTEE OF BENEFITS.—

"(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c), in accordance with contribution requirements established in the 1992 UMWA Benefit Plan. Such contribution requirements, which shall be applied uniformly to each 1988 last signatory operator, on the basis of the number of eligible and potentially eligible beneficiaries attributable to each operator, shall include:

"(A) the payment of an annual prefunding premium for all eligible and potentially eligible

beneficiaries attributable to a 1988 last signatory operator,

"(B) the payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA Benefit Plan, and

"(C) the provision of security (in the form of a bond, letter of credit or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator. If a 1988 last signatory operator is unable to provide the security required, the 1992 UMWA Benefit Plan shall require the operator to pay an annual prefunding premium that is greater than the premium otherwise applicable.

"(2) ADJUSTMENTS.—The 1992 UMWA Benefit Plan shall provide for—

. "(A) annual adjustments of the per beneficiary premium to cover changes in the cost of providing benefits to eligible beneficiaries, and

"(B) adjustments as necessary to the annual prefunding premium to reflect changes in the cost of providing benefits to eligible beneficiaries for whom per beneficiary premiums are not paid.

"(3) ADDITIONAL LIABILITY.—Any last signatory operator who is not a 1988 last signatory operator shall pay the monthly per beneficiary premium under paragraph (1)(B) for each eligible beneficiary described in such paragraph attributable to that operator.

"(4) JOINT AND SEVERAL LIABILITY.—A 1988 last signatory operator or last signatory operator described in paragraph (3), and any related person to any such operator, shall be jointly and severally liable with such operator for any amount required to be paid by such operator under this section.

"(5) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(6) 1988 LAST SIGNATORY OPERATOR.—For purposes of this section, the term '1988 last signatory operator' means a last signatory operator which is a 1988 agreement operator.

"Subchapter D—Other Provisions

"Sec. 9721. Civil enforcement.

"Sec. 9722. Sham transactions.

"SEC. 9721. CIVIL ENFORCEMENT.

"The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.

"SEC. 9722. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction."

(b) AMENDMENTS TO SURFACE MINING ACT.—

(1) EXTENSION OF FEE PROGRAM.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 1995" and inserting "September 30, 2004".

(2) TRANSFER TO FUND.—Section 402 of such Act (30 U.S.C. 1232) is amended by adding at the end the following new subsection:

"(h) TRANSFER OF FUNDS TO COMBINED FUND.—(1) In the case of any fiscal year beginning on or after October 1, 1995, with respect to which fees are required to be paid under this section, the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in paragraph (2).

"(2) The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of—

"(A) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

"(B) the amount by which the amount described in subparagraph (A) is less than $70,000,000.

"(3)(A) The aggregate amount which may be transferred under paragraph (2) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

"(B) The aggregate amount which may be transferred under paragraph (2)(B) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

"(4) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

(3) CONFORMING AMENDMENTS.—(A) Section 401(c) of such Act (30 U.S.C. 1231(c)) is amended by striking "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by adding after paragraph (11) the following new paragraph:

"(12) for the purpose described in section 402(h); and".

(B) Section 402(g)(1) of such Act (30 U.S.C. 1232(g)) is amended by striking "Moneys" and inserting "Except as provided in subsection (h), moneys".

TITLE XX—GENERAL PROVISIONS; REDUCTION OF OIL VULNERABILITY

SEC. 2001. GOALS.

It is the goal of the United States in carrying out energy supply and energy conservation research and development—

(1) to strengthen national energy security by reducing dependence on imported oil;

(2) to increase the efficiency of the economy by meeting future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving comparable consideration to technologies that enhance energy supply and technologies that improve the efficiency of energy end uses;

(3) to reduce the air, water, and other environmental impacts (including emissions of greenhouse gases) of energy production, distribution, transportation, and utilization, through the development of an environmentally sustainable energy system;

(4) to maintain the technological competitiveness of the United States and stimulate economic growth through the development of advanced materials and technologies;

(5) to foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development;

(6) to consider the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(7) to consider the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies; and

(8) to consider the contribution of a given activity to fundamental scientific knowledge.

Subtitle A—Oil and Gas Supply Enhancement

SEC. 2011. ENHANCED OIL RECOVERY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on technologies to increase the recoverability of domestic oil resources to—

(1) improve reservoir characterization;

(2) improve analysis and field verification;

(3) field test and demonstrate enhanced oil recovery processes, including advanced processes, in reservoirs the Secretary considers to be of high priority, ranked primarily on the basis of oil recovery potential and risk of abandonment;

(4) transfer proven recovery technologies to producers and operators of wells, including stripper wells, that would otherwise be likely to be abandoned in the near term due to declining production;

(5) improve enhanced oil recovery process technology for more economic and efficient oil production;

(6) identify and develop new recovery technologies;

(7) study reservoir properties and how they affect oil recovery from porous media;

(8) improve techniques for meeting environmental requirements;

(9) improve data bases of reservoir and environmental conditions; and

(10) lower lifting costs on stripper wells by utilizing advanced renewable energy technologies such as small wind turbines and others.

(b) PROGRAM GOALS.—

(1) NEAR-TERM PRIORITIES.—The near-term priorities of the program include preserving access to high potential reservoirs, identifying available technologies that can extend the lifetime of wells and of stripper well property, and developing environmental field operations for waste disposal and injection practices.

(2) MID-TERM PRIORITIES.—The mid-term priorities of the program include developing and testing identified but unproven technologies, and transferring those technologies for widespread use.

(3) LONG-TERM PRIORITIES.—The long-term priorities of the program include developing advanced techniques to recover oil not recoverable by other techniques.

(c) ACCELERATED PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a plan for carrying out under this section the accelerated field testing of technologies to achieve the priorities stated in subsection (b). In preparing the plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, and with the Advisory Board established under section 2302.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) CONSULTATION.—In carrying out the provisions of this section, the Secretary shall consult representatives of the oil and gas industry with respect to innovative research and development proposals to improve oil and gas recovery and shall consider relevant technical data from industry and other research and information centers and institutes.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including advanced extraction and process technology,

$57,250,000 for fiscal year 1993 and $70,000,000 for fiscal year 1994.

SEC. 2012. OIL SHALE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on oil shale extraction and conversion, including research and development on both eastern and western shales, as provided in this section.

(b) PROGRAM GOALS.—The goals of the program established under this section include—

(1) supporting the development of economically competitive and environmentally acceptable technologies to produce domestic supplies of liquid fuels from oil shale;

(2) increasing knowledge of environmentally acceptable oil shale waste disposal technologies and practices;

(3) increasing knowledge of the chemistry and kinetics of oil shale retorting;

(4) increasing understanding of engineering issues concerning the design and scale-up of oil shale extraction and conversion technologies;

(5) improving techniques for oil shale mining systems; and

(6) providing for cooperation with universities and other private sector entities.

(c) EASTERN OIL SHALE PROGRAM.—(1) As part of the program authorized by this section, the Secretary shall carry out a program on oil shale that includes applied research, in cooperation with universities and the private sector, on eastern oil shale that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized by this subsection, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are, as of the date of enactment of this Act, engaged in research on eastern oil shale retorting and associated processes.

(3) The program carried out under this subsection shall be cost-shared with universities and the private sector to the maximum extent possible.

(d) WESTERN OIL SHALE PROGRAM.—As part of the program authorized by this section, the Secretary shall carry out a program on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities. Sixty days prior to establishing any such field testing center, the Secretary shall submit a report to Congress on the center to be established.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,250,000 for fiscal year 1993 and $6,000,000 for fiscal year 1994.

SEC. 2013. NATURAL GAS SUPPLY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with section 3001 and 3002 of this Act, to increase the recoverable natural gas resource base including, but not limited to—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) the extraction of natural gas from tight gas sands and devonian shales or other unconventional sources;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(c) COFIRING OF NATURAL GAS AND COAL.—

(1) PROGRAM.—The Secretary shall establish and carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cofiring natural gas with coal in utility and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(2) FINANCIAL ASSISTANCE.—The Secretary shall enter into agreements with, and provide financial assistance to, appropriate parties for application of cofiring technologies to boilers to demonstrate this technology.

(3) REPORT TO CONGRESS.—The Secretary shall, before December 31, 1995, submit to the Congress a report on the progress made in carrying out this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section and sections 2014 and 2015, $29,745,000 for fiscal year 1993 and $45,000,000 for fiscal year 1994.

SEC. 2014. NATURAL GAS END-USE TECHNOLOGIES.

The Secretary shall carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on new and advanced natural gas utilization technologies including, but not limited to—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, cogeneration, and waste fuels; and

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers, and on-site storage at major energy consuming facilities.

SEC. 2015. MIDCONTINENT ENERGY RESEARCH CENTER.

(a) FINDING.—Congress finds that petroleum resources in the midcontinent region of the United States are very large but are being prematurely abandoned.

(b) PURPOSES.—The purposes of this section are to—

(1) improve the efficiency of petroleum recovery;

(2) increase ultimate petroleum recovery; and

(3) delay the abandonment of resources.

(c) ESTABLISHMENT.—The Secretary may establish the Midcontinent Energy Research Center (referred to in this section as the "Center") to—

(1) conduct research in petroleum geology and engineering focused on improving the recovery of petroleum from existing fields and established plays in the upper midcontinent region of the United States; and

(2) ensure that the results of the research described in paragraph (1) are transferred to users.

(d) RESEARCH.—

(1) IN GENERAL.—In conducting research under this section, the Center shall, to the extent practicable, cooperate with agencies of the Federal Government, the States in the midcontinent region of the United States, and the affected industry.

(2) PROGRAMS.—Research programs conducted by the Center may include—

(A) data base development and transfer of technology;

(B) reservoir management;

(C) reservoir characterization;

(D) advanced recovery methods; and

(E) development of new technology.

Subtitle B—Oil and Gas Demand Reduction and Substitution

SEC. 2021. GENERAL TRANSPORTATION.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cost effective technologies to reduce the demand for oil in the transportation sector for all motor vehicles, including existing vehicles, through increased energy efficiency and the use of alternative fuels. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goals stated in section 2001. Such program shall include the activities required under sections 2022 through 2027, and ongoing activities of a similar nature at the Department of Energy.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(d) DEFINITION.—For purposes of this subtitle, the term "alternative fuels" includes natural gas, liquefied petroleum gas, hydrogen, fuels other than alcohol that are derived from biological materials, and any fuel the content of which is at least 85 percent by volume methanol, ethanol, or other alcohol.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary for carrying out this subtitle, including all transportation sector energy conservation research and development (other than activities under section 2025) and all transportation sector biofuels energy systems under solar energy, $119,144,000 for fiscal year 1993 and $160,000,000 for fiscal year 1994.

(2) There are authorized to be appropriated to the Secretary for carrying out section 2025—

(A) $60,300,000 for fiscal year 1993;

(B) $75,000,000 for fiscal year 1994;

(C) $80,000,000 for fiscal year 1995;

(D) $80,000,000 for fiscal year 1996;

(E) $90,000,000 for fiscal year 1997; and

(F) $100,000,000 for fiscal year 1998.

SEC. 2022. ADVANCED AUTOMOTIVE FUEL ECONOMY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program, in accordance with sections 3001 and 3002 of this Act, to supplement ongoing research activities of a similar nature at the Department of Energy, to accelerate the near-term and mid-term development of advanced technologies to improve the fuel economy of light-duty passenger vehicles powered by a piston engine, and hybrid vehicles powered by a combination of piston engine and electric motor.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to stimulate the development of emerging technologies with the potential to achieve significant improvements in fuel economy while reducing emissions of air pollutants.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section, making a special effort to involve small businesses in the program.

SEC. 2023. ALTERNATIVE FUEL VEHICLE PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall carry out a program, in accordance with sections 3001 and 3002 of this Act, on techniques related to improving natural gas and other alternative fuel vehicle technology, including—

(1) fuel injection;

(2) carburetion;

(3) manifolding;

(4) combustion;

(5) power optimization;

(6) efficiency;

(7) lubricants and detergents;

(8) engine durability;

(9) ignition, including fuel additives to assist ignition;

(10) multifuel engines;

(11) emissions control, including catalysts;

(12) novel gas compression concepts;

(13) advanced storage systems;

(14) advanced gaseous fueling technologies; and

(15) the incorporation of advanced materials in these areas.

(b) COOPERATIVE AGREEMENTS AND ASSISTANCE.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, public or private entities willing to provide 50 percent of the costs of a program to perform activities under subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "alternative fuel vehicle" means a motor vehicle that operates on alternative fuels; and

(2) the term "motor vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

SEC. 2024. BIOFUELS USER FACILITY.

(a) The Secretary shall establish a biofuels user facility to expedite industry adoption of biofuels technologies, including production of alcohol fuels from biomass.

(b) The Secretary, through such universities and colleges as the Secretary determines are qualified, shall establish a program, in accordance with sections 3001 and 3002 of this Act, with respect to the production and use of diesel fuels from vegetable oils or animal fats. The program shall investigate—

(1) the economic feasibility of production of oilseed crops for biofuels purposes; and

(2) the establishment of a mobile small-scale oilseed pressing and esterification unit and a stationary small-scale commercial oilseed pressing and esterification unit.

SEC. 2025. ELECTRIC MOTOR VEHICLES AND ASSOCIATED EQUIPMENT RESEARCH AND DEVELOPMENT.

(a) GENERAL.—The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920), a research and development program on electric motor vehicles and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, and automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) COMPREHENSIVE PLAN.—(1) The Secretary shall prepare a comprehensive 5-year program plan for carrying out the purposes of this section. Such comprehensive plan shall be updated annually for a period of not less than 10 years after the date of enactment of this Act.

(2) The comprehensive plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric motor vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary considers appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric motor vehicles, including advanced battery technology;

(B) the program elements, management structure, and activities, including program responsibilities, of Federal agencies;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the comprehensive plan for each of the participating Federal agencies;

(E) a description of the methods of technology transfer;

(F) a proposal for participation by non-Federal entities in the implementation of the comprehensive plan; and

(G) such other information as the Secretary considers appropriate.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit the comprehensive plan to the Congress. Annual updates shall be submitted to the Congress.

(c) COOPERATIVE AGREEMENTS.—The Secretary, consistent with the comprehensive plan under subsection (b), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric motor vehicle range improvement;

(2) light-weight structures for electric motor vehicle weight reduction;

(3) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight, for electric motor vehicle application;

(4) hybrid power trains incorporating an electric motor and recyclable battery charged by an onboard liquid fuel engine, designed to significantly improve fuel economies while maintaining acceleration characteristics comparable to a conventionally fueled vehicle;

(5) batteries and fuel cells for electric-hybrid vehicle application;

(6) fuel cells and fuel cell systems for primary electric motor vehicle power sources; and

(7) photovoltaics for use with electric motor vehicles.

(d) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (c).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (c) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric motor vehicles and associated equipment.

(e) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this section, other than a cooperative agreement under subsection (j), to be from non-Federal sources. Such share may be in the form of cash, personnel, services, equipment, and other resources.

(2) The Secretary may reduce the amount of costs required to be provided by non-Federal sources under paragraph (1), if the Secretary determines that the reduction is necessary and appropriate—

(A) considering the technological risks involved in the project; and

(B) in order to meet the objectives of this section.

(f) DEPLOYMENT.—(1) The Secretary shall conduct a program designed to accelerate deployment of advanced battery technologies for use with electric motor vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced battery technologies and electric motor vehicle technologies and the commercial capability of such technologies; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies, which may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

(g) DOMESTIC PARTS MANUFACTURERS.—In carrying out this section, the Secretary, in consultation with the Secretary of Commerce, shall issue regulations to ensure that the procurement practices of participating electric motor vehicle and associated equipment manufacturers do not discriminate against the United States manufacturers of vehicle parts.

(h) HOLD HARMLESS.—Nothing in this section shall be construed to alter, affect, modify, or change any activities or agreements initiated prior to the date of enactment of this Act with domestic motor vehicle manufacturers through joint venture or consortium agreements regarding batteries for electric motor vehicles.

(i) CONSULTATION.—The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation in carrying out this section.

(j) FUEL CELLS FOR TRANSPORTATION.—(1) The Secretary shall develop and implement a comprehensive program of research, development, and demonstration of fuel cells and related systems for transportation applications through the establishment of one or more cooperative programs among industry, government, and research institutions to develop and demonstrate the use of fuel cells as the primary power source for private and mass transit vehicles and other mobile applications.

(2) Research, development, and demonstration activities under this subsection shall be designed to incorporate one or more of the following priorities:

(A) The potential for near-term to mid-term commercialization.

(B) The ability of the systems to use a variety of renewable and nonfossil fuels.

(C) Emission reduction and energy conservation potential.

(D) The potential to utilize fuel cells and fuel cell systems developed under Department of Defense and National Aeronautics and Space Administration programs.

(E) The potential to take maximum practical advantage of advances made in electric motor vehicle research, stationary source fuel cell research, and other research activities authorized by this title.

(3)(A) Research, development, and demonstration projects selected by the Secretary under this subsection shall apply to—

(i) passenger vehicles;

(ii) vans and utility vehicles;

(iii) light rail systems and locomotives;

(iv) trucks, including long-haul trucks, dump trucks, and garbage trucks;

(v) passenger buses;

(vi) non-chlorofluorocarbon mobile refrigeration systems;

(vii) marine vessels, including recreational marine engines; or

(viii) mobile engines and power generation, including recreational generators, and industrial and construction equipment.

(B) The Secretary shall establish programs to undertake research, development, and demonstration activities for the applications listed in clauses (i) through (viii) of subparagraph (A) in each of fiscal years 1993, 1994, 1995, and 1996, based on the priorities established in paragraph (2), so that by the end of the period, research, development, and demonstration activities are under way for the applications under each such clause. The initiatives authorized and implemented pursuant to this subsection shall be in addition to any other fuel cell programs authorized in existing law.

(k) DEFINITIONS.—For purposes of this section—

(1) the term "advanced battery technology" means electrochemical storage devices and systems, including fuel cells, and associated technology necessary to charge, discharge, recharge, or regenerate such devices, for use as a source of power for an electric motor vehicle and any other associated equipment;

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electric energy used to power an electric motor vehicle and, in the case of electric-hybrid vehicles, such term includes nonpetroleum-related equipment necessary for, and solely related to, the demonstration of such vehicles;

(3) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or other sources of electric current and may include an electric-hybrid vehicle; and

(4) the term "electric-hybrid vehicle" means vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current and also relies on a nonelectric source of power that also operates on or is capable of operating on a nonelectrical source of power.

SEC. 2026. RENEWABLE HYDROGEN ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on renewable hydrogen energy systems. Such program shall be conducted in accordance with the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (Public Law 101–566), to supplement ongoing activities of a similar nature at the Department of Energy, including—

(1) at least one program to generate hydrogen from renewable energy sources;

(2) at least one program to assess the feasibility of existing natural gas pipelines carrying hydrogen gas, including experimentation if needed, with a goal of determining those components of the natural gas distribution system that would have to be modified to carry—

(A) more than 20 percent hydrogen mixed with natural gas; and

(B) pure hydrogen gas;

(3) at least one program to develop a hydrogen storage system suitable for electric motor vehicles powered by fuel cells, with emphasis on—

(A) improved metal hydride hydrogen storage;

(B) activated carbon-based hydrogen storage;

(C) high pressure compressed hydrogen; or

(D) other novel hydrogen storage techniques;

(4) at least one program to develop a fuel cell suitable to power an electric motor vehicle; and

(5) such other programs as the Secretary considers necessary to carry out this section.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 2027. ADVANCED DIESEL EMISSIONS PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a 5-year program, in accordance with sections 3001 and 3002 of this Act, on diesel engine combustion and engine systems, related advanced materials, and fuels and lubricants to reduce emissions oxides of nitrogen and particulates. Activities conducted under this program shall supplement activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goal stated in subsection (b).

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate the ability of United States diesel manufacturers to meet current and future oxides of nitrogen and particulate emissions requirements.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. Such plan shall be included as part of the plan required by section 2021(b).

(d) SOLICITATION OF PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan.

SEC. 2028. TELECOMMUTING STUDY.

(a) STUDY.—The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) This study shall be completed no more than one hundred and eighty days after the date of enactment of this Act. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than sixty days after completion of this study.

TITLE XXI—ENERGY AND ENVIRONMENT

Subtitle A—Improved Energy Efficiency

SEC. 2101. GENERAL IMPROVED ENERGY EFFICIENCY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cost effective technologies to improve energy efficiency and increase the use of renewable energy in the buildings, industrial, and utility sectors. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number to prove technical and economic viability to meet the goals stated in section 2001. Such program shall include the activities required under sections 2102, 2103, 2104, 2105, 2106, 2107, and 2108 and ongoing activities of a similar nature at the Department of Energy. Such program shall also include the activities conducted pursuant to the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100–680) and the Department of Energy Metal Casting Competitiveness Research Act of 1990 (Public Law 101–425).

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) in the buildings sector—

(A) to accelerate the development of technologies that will increase energy efficiency;

(B) to increase the use of renewable energy; and

(C) to reduce environmental impacts;

(2) in the industrial sector—

(A) to accelerate the development of technologies that will increase energy efficiency in order to improve productivity;

(B) to increase the use of renewable energy; and

(C) to reduce environmental impacts; and

(3) in the utility sector—

(A) to accelerate the development of technologies that will increase energy efficiency; and

(B) to increase the use of integrated resource planning.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this subtitle, including all building, industry, and utility sectors energy conservation research and development, and inventions and innovation under energy conservation technical and financial assistance, $178,250,000 for fiscal year 1993 and $275,000,000 for fiscal year 1994.

SEC. 2102. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.

(a) PROGRAM DIRECTION.—(1) The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on energy efficient natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall include activities on—

(A) thermally activated heat pumps, including absorption heat pumps and engine-driven heat pumps; and

(B) other advanced natural gas technologies, including fuel cells for residential and commercial applications.

(3) The electric heating and cooling program shall focus on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electric HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 2103. PULP AND PAPER.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on advanced pulp and paper technologies. Such program shall include activities on energy generation technologies, boilers, combustion processes, pulping processes (excluding de-inking), chemical recovery, causticizing, source reduction processes, and other related technologies that can improve the energy efficiency of, and reduce the adverse environmental impacts of, pulp and papermaking operations. This section does not authorize projects involving the combustion of waste paper, other than gasification.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 2104. ADVANCED BUILDINGS FOR 2005.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a 5-year program, in accordance with sections 3001 and 3002 of this Act, to increase building energy efficiency, while maintaining affordability, by the year 2005. Such program shall include activities on—

(1) building design, design methods, and construction techniques;

(2) building materials, including recycled materials, and components;

(3) on-site energy supply conversion systems such as photovoltaics;

(4) automated energy management systems;

(5) methods of evaluating performance; and

(6) insulation products manufactured with nonozone depleting materials.

(b) Proposals.—

(1) Solicitation.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(2) Contents of proposals.—Proposals submitted under this subsection shall include and be judged upon—

(A) evidence of knowledge of current building practices in the United States and in other countries;

(B) an explanation of how the proposal will encourage the commercialization of the technologies resulting from activities in subsection (a);

(C) evidence of consideration of collaboration with Department of Energy national laboratories;

(D) evidence of collaboration with relevant industry or other groups or organizations; and

(E) a demonstration of the ability of the proposers to undertake and complete the project proposed.

SEC. 2105. ELECTRIC DRIVES.

(a) Program.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, to increase the efficiency of electric drive technologies, including adjustable speed drives, high speed motors, and high efficiency motors.

(b) Proposals.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for projects under this section.

SEC. 2106. STEEL, ALUMINUM, AND METAL RESEARCH.

(a) Steel Amendments.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is amended—

(1) in section 4(b)(5), by striking "Industrial Programs" and inserting in lieu thereof "Industrial Technologies";

(2) in section 8, by inserting at the end the following new sentence: "The reports submitted at the close of fiscal years 1993, 1995, and 1997 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this Act.";

(3) in section 9(a)(1), by striking "and $25,000,000 for fiscal year 1991" and inserting in lieu thereof "$25,000,000 for fiscal year 1991, $17,968,000 for fiscal year 1992, and $18,091,000 for each of the fiscal years 1993 through 1997, to be derived from sums authorized under section 2101(e) of the Energy Policy Act of 1992";

(4) in section 9(b), by striking "and 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, 1996, and 1997, to be derived from sums otherwise authorized to be appropriated to the Institute"; and

(5) in section 11(a), by striking "or fiscal year 1991" both places it appears and inserting in lieu thereof "fiscal year 1991, fiscal year 1992, fiscal year 1993, fiscal year 1994, fiscal year 1995, fiscal year 1996, and fiscal year 1997".

(b) Metal Casting Amendment.—Section 8 of the Department of Energy Metal Casting Competitiveness Research Act of 1990 (Public Law 101–425) is amended by striking "and 1993" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997, to be derived from such sums as are otherwise authorized under section 2101(e) of the Energy Policy Act of 1992".

SEC. 2107. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.

(a) Secretarial Action.—The Secretary, in accordance with sections 3001 and 3002 of this Act, shall—

(1) pursue a research, development, demonstration and commercial application program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) Joint Ventures.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

SEC. 2108. ENERGY EFFICIENT ENVIRONMENTAL PROGRAM.

(a) Program Direction.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, is authorized to continue to carry out a 5-year program to improve the energy efficiency and cost effectiveness of pollution prevention technologies and processes, including source reduction and waste minimization technologies and processes. The purposes of this section shall be to—

(1) apply a systems approach to minimizing adverse environmental effects of industrial production in the most cost effective and energy efficient manner; and

(2) incorporate consideration of the entire materials and energy cycle with the goal of minimizing adverse environmental impacts.

(b) Identification of Opportunities.—Within 9 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall identify opportunities for the demonstration of energy efficient pollution prevention technologies and processes.

(c) Report.—Within 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress evaluating the opportunities identified under subsection (b). Such report shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected schedules of their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or State regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

In preparing the report required by this subsection, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary considers necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

(d) Proposals.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall solicit proposals for activities under this section. Proposals selected under this subsection shall demonstrate—

(1) technical viability and cost effectiveness; and

(2) procedures for technology transfer and information outreach during and after completion of the project.

Subtitle B—Electricity Generation and Use

SEC. 2111. RENEWABLE ENERGY.

(a) Program Direction.—The Secretary shall conduct a comprehensive 5-year program, in accordance with sections 3001 and 3002 of this Act, to provide cost-effective options for the generation of electricity from renewable energy sources for grid and nongrid application, including field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility for providing cost effective generation and for meeting the goal stated in section 2001(3) and section 1602(a)(4).

(b) Program Plan.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for carrying out this section, including all solar energy programs (other than activities under section 2021), geothermal systems, electric energy systems, and energy storage systems, $208,975,000 for fiscal year 1993 and $275,000,000 for fiscal year 1994.

SEC. 2112. HIGH EFFICIENCY HEAT ENGINES.

(a) Program Direction.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, to improve the efficiency of heat engines. Such program shall—

(1) include field demonstrations of sufficient scale and number so as to demonstrate technical and economic feasibility;

(2) incorporate materials that increase engine efficiency; and

(3) cover advanced engine designs for electric and industrial power generation for a range of small-, mid-, and large-scale applications, including—

(A) mechanically recuperated gas turbines;

(B) intercooled gas turbines with steam injection or recuperation;

(C) gas turbines utilizing reformed fuels or hydrogen; and

(D) high efficiency, simple cycle gas turbines.

(b) Program Goal.—The goal of the program established under subsection (a) shall be to develop heat engines that can achieve over 50 percent efficiency in the mid-term.

(c) Program Plan.—Within 180 days after the date of enactment of this Act, the Secretary

shall prepare and submit to the Congress a 5-year program plan, to be included in the plan required under section 2101(c), to guide the activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including the Environmental Protection Agency and national laboratories, and professional and technical societies.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary to be derived from sums authorized under section 2101(e).

SEC. 2113. CIVILIAN NUCLEAR WASTE.

(a) STUDY.—The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of the viability of existing technologies and an assessment of the extent of research and development required for new technologies.

(b) PROGRAM.—Based on the results of the study required under subsection (a), the Secretary shall prepare and submit to Congress a 5-year program plan for carrying out a program of research and development on new technologies for minimizing the volume and toxic lifetime of, and thereby mitigating hazards associated with, nuclear waste.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $4,700,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.

SEC. 2114. FUSION ENERGY.

(a) PROGRAM.—The Secretary shall conduct a fusion energy 5-year program, in accordance with sections 3001 and 3002 of this Act, that by the year 2010 will result in a technology demonstration which verifies the practicability of commercial electric power production.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) a broad based fusion energy program;

(2) United States participation in the Engineering Design Activity of the International Thermonuclear Experimental Reactor (ITER) program and in the related research and technology development efforts;

(3) the development of technology for fusion power and industrial participation in the development of such technology;

(4) the design and construction of a major new machine for fusion research and technology development consistent with paragraphs (2) and (3); and

(5) research and development for Inertial Confinement Fusion Energy and development of a Heavy Ion Inertial Confinement Fusion experiment.

(c) MANAGEMENT PLAN.—(1) Within 180 days after the date of enactment of this Act, the Secretary shall prepare a comprehensive management plan for the fusion energy program. The plan shall include specific program objectives, milestones and schedules for technology development, and cost estimates and program management resource requirements.

(2) The plan shall also include a description of—

(A) United States participation in the Engineering Design Activity of ITER, including industrial participation;

(B) potential United States participation in the construction and operation of an ITER facility; and

(C) the requirements needed to build and test an inertial fusion energy reactor for the purpose of power production.

(3) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should initiate efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(4) The plan shall also evaluate the extent to which university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(5) Within 1 year after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall issue a report describing the progress made in meeting the program objectives, milestones, and schedules established in the management plan. Each such report shall also describe the organization of the program, the personnel assigned and funds committed to the program, and exependitures made in carrying out the program objectives. The report shall be submitted with the plan required under section 2304.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $339,710,000 for fiscal year 1993 and $380,000,000 for fiscal year 1994.

SEC. 2115. FUEL CELLS.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on efficient and environmentally benign power generation using fuel cells. The program may include activities on molten carbonate, solid oxide, including tubular, monolithic, and planar technologies, and advanced concepts.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) is the development of cost-effective, efficient, and environmentally benign fuel cell systems which will operate on fossil fuels in multiple end use sectors.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $51,555,000 for fiscal year 1993 and $56,000,000 for fiscal year 1994.

SEC. 2116. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1993 $70,000,000 for the Fast Flux Test Facility to maintain the operational status of the reactor, such sums to be derived from amounts appropriated to the Secretary for the environmental restoration and waste management program.

(b) LONG-TERM MISSIONS.—The Secretary shall aggressively pursue the development and implementation of long-term missions for the Fast Flux Test Facility. Within 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the progress made in carrying out this subsection.

SEC. 2117. HIGH-TEMPERATURE SUPER-CONDUCTIVITY PROGRAM.

(a) PROGRAM.—The Secretary shall carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on high-temperature superconducting electric power equipment technologies. Elements of the program shall include, but are not limited to—

(1) activities that address the development of high-temperature superconducting materials that have increased electrical current capacity, which shall be the emphasis of the program for the near-term;

(2) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(3) activities that will improve the efficiency of materials performance of higher temperatures and at all magnetic field orientations;

(4) development of prototypes based on high-temperature superconducting wire, that operate at the highest temperature possible, and refrigeration systems using cryogenics such as nitrogen;

(5) activities that will assist the private sector with designs for more efficient electric power generation and delivery systems which are cost competitive with conventional energy systems; and

(6) development of prototypes that have application in both the commercial and defense sectors.

The Secretary is also encouraged to expedite government, laboratory, industry, and university collaborative agreements under existing mechanisms at the Department of Energy in coordination with other Federal agencies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $21,900,000 for fiscal year 1993 and such sums as may be necessary for subsequent fiscal years, to be derived from sums authorized under section 2111(c).

SEC. 2118. ELECTRIC AND MAGNETIC FIELDS RESEARCH AND PUBLIC INFORMATION DISSEMINATION PROGRAM.

(a) PROGRAM.—The Secretary shall, in accordance with this section (including the agenda developed under subsection (d)(1)(A)) and within 2 months after the date of the enactment of this Act, establish a comprehensive program to—

(1) determine whether or not exposure to electric and magnetic fields produced by the generation, transmission, and use of electric energy affects human health;

(2) carry out research, development, and demonstration with respect to technologies to mitigate any adverse human health effects; and

(3) provide for dissemination of information described in subsection (b)(1) to the public.

(b) CONTENTS.—The program shall provide for—

(1) collection, compilation, publication, and dissemination of scientifically valid information on—

(A) possible human health effects of electric and magnetic fields;

(B) the types and extent of human exposure to electric and magnetic fields in various occupational and residential settings;

(C) technologies to measure and characterize electric and magnetic fields; and

(D) methods to assess and manage exposure to electric and magnetic fields;

(2)(A) research on mechanisms by which electric and magnetic fields interact with biological systems; and

(B) epidemiological research on the possible human health effects of electric and magnetic fields; and

(3) research, development, and demonstration with respect to—

(A) technologies to improve the measurement and characterization of electric and magnetic fields; and

(B) techniques to assess and manage exposure to electric and magnetic fields.

(c) ROLE OF THE DIRECTOR.—

(1) ROLE OF THE DIRECTOR.—The Secretary of Health and Human Services, acting through the Director, shall have sole responsibility under the program for research on possible human health effects of electric and magnetic fields. The Director may delegate this responsibility to the extent the Director determines appropriate.

(2) AGREEMENT.—Within 6 months after the date of the enactment of this Act, the Secretary shall enter into an agreement with the Secretary of Health and Human Services to carry out,

through the Director, the information activities under subsection (b)(1)(A) and the research under subsection (b)(2).

(3) ACTIONS OF THE DIRECTOR.—The actions of the Director in carrying out research and information responsibilities under this section shall not be subject to approval by the Secretary.

(4) TRANSFER OF FUNDS.—The Secretary is authorized, subject to appropriations Acts, to transfer funds to the Director to carry out the Director's responsibilities under paragraph (2).

(5) REPORT.—The Director shall report, by June 1, 1995, and by March 31, 1997, and as appropriate, to the Interagency Committee established under subsection (d) and to Congress the findings and conclusions of the Director on the extent to which exposure to electric and magnetic fields produced by the generation, transmission, or use of electric energy affects human health.

(d) INTERAGENCY COMMITTEE.—

(1) The President shall, within 2 months after the date of the enactment of this Act, establish the Electric and Magnetic Fields Interagency Committee to—

(A) develop within 8 months after the date of the enactment of this Act a comprehensive agenda for conducting research, development, and demonstration under the program, with particular emphasis on electric and magnetic fields of the 60 hertz frequency;

(B) develop recommendations, within 8 months after the date of the enactment of this Act, for guidelines for the coordination of activities of Federal agencies engaged in research on human health effects of electric and magnetic fields that ensure that such research advances the agenda under subparagraph (A) and is not unnecessarily duplicative of other research activities;

(C) develop recommendations, within 8 months after the date of the enactment of this Act, for mechanisms for communication of the results of the program to the public, including recommendations on the scope and nature of the information to be disseminated; and

(D) monitor, review and periodically evaluate the program.

(2)(A) The Interagency Committee shall be composed of 9 members with 1 member to be appointed from each of the following:

(i) The Department of Energy.

(ii) The National Institute of Environmental Health Sciences.

(iii) The Environmental Protection Agency.

(iv) The Department of Defense.

(v) The Occupational Safety and Health Administration.

(vi) The National Institute of Standards and Technology.

(vii) The Department of Transportation.

(viii) The Rural Electrification Administration.

(ix) The Federal Energy Regulatory Commission.

(B) The Interagency Committee shall elect a chairperson from among its members who shall be responsible for ensuring that the duties of the Interagency Committee are carried out.

(C) Agencies that have members on the Interagency Committee shall provide appropriate staff to carry out the duties of the Interagency Committee.

(e) ADVISORY COMMITTEE.—

(1) Not later than 2 months after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary shall establish the National Electric and Magnetic Fields Advisory Committee in accordance with the Federal Advisory Committee Act and this section.

(2) The Advisory Committee shall make recommendations to the Interagency Committee with respect to the duties of the Interagency Committee under subsection (d)(1) and advise the Secretary and the Director with respect to the design and implementation of the program, including preparation of solicitations for proposals to conduct research under the program.

(3) The Advisory Committee shall be composed of 10 members, chosen from among experts in possible human health effects of electric and magnetic fields, experts in the measurement and characterization of electric and magnetic fields, experts in the assessment and management of electric and magnetic fields, State regulatory agencies, State health agencies, electric utilities, electric equipment manufacturers, labor unions and the public. Five members shall be chosen by the Secretary of Health and Human Services in consultation with the Director, and 5 members shall be chosen by the Secretary.

(4) The Advisory Committee shall elect a chairperson from among its members who shall be responsible for ensuring that the duties of the Advisory Committee are carried out.

(5) The Advisory Committee shall terminate not later than December 31, 1997.

(f) FINANCIAL ASSISTANCE.—

(1) The Secretary and the Director may provide financial assistance and enter into contracts to conduct activities under the program.

(2) The Secretary shall solicit contributions from non-Federal sources to offset at least 50 percent of the total funding for all activities under the program. The Secretary shall adopt procedures, including a mechanism for collecting contributions, that ensures that no contributor of non-Federal funds may influence the program.

(3) The Secretary may not obligate funds under this section in any fiscal year unless funds received from non-Federal sources under paragraph (2) are available to offset at least 50 percent of the appropriations made under subsection (j) for such fiscal year.

(4) SOLICITATION AND SELECTION OF PROPOSALS.—

(A) IN GENERAL.—Within 15 months after the date of the enactment of this Act, and as often thereafter as appropriate, the Secretary and the Director shall, in consultation with the Interagency Committee, solicit and select proposals to conduct activities under the program.

(B) CONSULTATION WITH ADVISORY COMMITTEE.—In preparing solicitations for proposals to conduct activities, the Secretary and the Director shall consult with the Advisory Committee.

(C) PEER REVIEW PANELS.—Before a proposal to conduct activities under the program may be selected by the Secretary or the Director, such proposal must be submitted to, and evaluated by, at least one scientific and technical peer review panel.

(g) REPORTS.—

(1) REPORT UPON COMPLETION OF ACTIVITY.—Any person who conducts activities under the program shall, upon completion of the activity, submit to the National Academy of Sciences, the Interagency Committee, and the Advisory Committee a report summarizing the activities and results thereof.

(2) REPORT TO INTERAGENCY COMMITTEE AND ADVISORY COMMITTEE.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences under which the Academy shall periodically submit to the Interagency Committee and the Advisory Committee a report that evaluates the research activities under the program. The report shall include recommendations to promote the effective transfer of information derived from such research projects, including the transfer to representatives of State regulatory agencies, State health agencies, electric utilities, electrical equipment manufacturers, labor unions, and the public. The Secretary shall be responsible for expenses incurred by the Academy in connection with the preparation of such reports.

(3) REPORT TO CONGRESS.—The Interagency Committee, in consultation with the Advisory Committee, shall submit to the Secretary and the Congress—

(A) not later than December 31, 1995, a report summarizing the progress of the research program established under this subsection; and

(B) not later than September 30, 1997, a final report stating the Committee's findings and conclusions on the effects, if any, of electric and magnetic fields on human health and remedial actions, if any, that may be needed to minimize any such health effects.

(h) CONFLICTS OF INTEREST.—The Secretary and the Director shall include conflict of interest provisions in any grant or other funding provided, or contract entered into, under the research program established under this section including provisions—

(1) that require any person conducting a project under such program to disclose any other source of funding received by the person to conduct other related projects, including funding received from consulting on issues relating to electric and magnetic fields; and

(2) that prohibit a person who has been awarded a grant or contract under this program from receiving compensation beyond expenses for testifying in a court of law as an expert on the specific research the person is conducting under such grant or contract.

(i) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Committee" means the National Electric and Magnetic Fields Advisory Committee established under subsection (e).

(2) The term "Interagency Committee" means the Electric and Magnetic Fields Interagency Committee established under subsection (d).

(3) The term "Director" means the Director of the National Institute of Environmental Health Sciences.

(4) The term "program" means the electric and magnetic fields research and public information dissemination program established in subsection (a).

(5) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Secretary a total of $65,000,000 for the period encompassing fiscal years 1993 through 1997 to carry out the provisions of this section, except that not more than $1,000,000 may be expended in any such fiscal year for activities under subsection (b)(1). Any amounts appropriated pursuant to this paragraph shall remain available until expended.

(2) RESTRICTIONS ON USE OF FUNDS.—

(A) ADMINISTRATIVE EXPENSES OF CERTAIN FUNDING RECIPIENTS.—Of the total funds provided to any institution under this section, the amount of such funds that may be used for the administrative indirect costs of the institution may not exceed 26 percent of the modified direct costs of the project.

(B) ADMINISTRATIVE EXPENSES OF THE SECRETARY AND THE DIRECTOR.—Of the total amount of funds made available under this section for any fiscal year, not more than 10 percent of such funds may be used for authorized administrative expenses of the Secretary and the Director in carrying out this section.

(C) CONSTRUCTION AND REHABILITATION OF FACILITIES AND EQUIPMENT.—Funds made available under this section may not be used for the construction or rehabilitation of facilities or fixed equipment.

(k) Sense of Congress.—It is the sense of the Congress that remedial action taken by the Government on electric and magnetic fields, if and as necessary, should be based on, and consistent with, scientifically valid research such as the results and findings of the research authorized by this Act.

(l) Sunset Provision.—All authority under this section shall expire on December 31, 1997.

SEC. 2119. SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER.

(a) Findings.—The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a longstanding champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transportation fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) Purpose.—It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) Establishment.—The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (in this section referred to as the "Center").

(d) Administration.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary may authorize a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) Activities.—The Center may carry out research, development, educational, and technology transfer activities on—

(1) renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean research concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) Matching Funds.—To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) Authorization.—There is authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived from sums authorized under section 2111(c).

Subtitle C—Advanced Nuclear Reactors

SEC. 2121. PURPOSES AND DEFINITIONS.

(a) Purposes.—The purposes of this subtitle are—

(1) to require the Secretary to carry out civilian nuclear programs in a way that will lead toward the commercial availability of advanced nuclear reactor technologies; and

(2) to authorize such activities to further the timely availability of advanced nuclear reactor technologies, including technologies that utilize standardized designs or exhibit passive safety features.

(b) Definitions.—For purposes of this subtitle—

(1) the term "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized reactors with passive safety features for the generation of commercial electric power from nuclear fission; and

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission;

(2) the term "Commission" means the Nuclear Regulatory Commission;

(3) the term "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(4) the term "certification" means approval by the Commission of a standardized design.

SEC. 2122. PROGRAM, GOALS, AND PLAN.

(a) Program Direction.—The Secretary shall conduct a program to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, taking into consideration life cycle environmental costs;

(2) facilitate the design, licensing, construction, and operation of a nuclear powerplant using a standardized design;

(3) exhibit enhanced safety features; and

(4) incorporate features that advance the objectives of the Nuclear Non-Proliferation Act of 1978.

(b) Program Goals.—The goals of the program established under subsection (a) shall include—

(1) for the near-term—

(A) to facilitate the completion, by September 30, 1996, for certification by the Commission, of standardized advanced light water reactor technology designs that the Secretary determines have the characteristics described in subsection (a)(1) through (4);

(B) to facilitate the completion of submissions, by September 30, 1996, for preliminary design approvals by the Commission of standardized designs for the modular high-temperature gas-cooled reactor technology and the liquid metal reactor technology; and

(C) to evaluate by September 30, 1996, actinide burn technology to determine if it can reduce the volume of long-lived fission byproducts;

(2) for the mid-term—

(A) to facilitate increased efficiency of enhanced safety, advanced light water reactors to produce electric power at the lowest cost to the customer;

(B) to develop advanced reactor concepts that are passively safe and environmentally acceptable; and

(C) to complete necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology to support the selection, by September 30, 1998, of one or both of those technologies as appropriate for prototype demonstration; and

(3) for the long-term, to complete research and development and demonstration to support the design of advanced reactor technologies capable of providing electric power to a utility grid as soon as practicable but no later than the year 2010.

(c) Program Plan.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. The program plan shall include schedule milestones, Federal funding requirements, and non-Federal cost sharing requirements. In preparing the program plan, the Secretary shall take into consideration—

(1) the need for, and the potential for future adoption by electric utilities or other entities of, advanced nuclear reactor technologies that are available, under development, or have the potential for being developed, for the generation of energy from nuclear fission;

(2) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of such technologies when they are needed;

(3) how the Federal Government can most effectively cooperate with the private sector in the accomplishment of the goals set forth in subsection (b); and

(4) potential alternative funding sources for carrying out this section.

In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall update the program plan annually and submit such update to Congress. Each such update shall describe any activities that are behind schedule, any funding shortfalls, and any other circumstances that might affect the ability of the Secretary to meet the goals set forth in subsection (b).

SEC. 2123. COMMERCIALIZATION OF ADVANCED LIGHT WATER REACTOR TECHNOLOGY.

(a) Certification of Designs.—In order to achieve the goal of certification of completed standardized designs by the Commission by 1996 as set forth in section 2122(b), the Secretary shall conduct a 5-year program of technical and financial assistance to encourage the development and submission for certification of advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of fiscal year 1996.

(b) First-of-a-Kind Engineering.—

(1) Establishment of Program.—The Secretary shall conduct a program of Federal financial and technical assistance for the first-of-a-kind engineering design of standardized commercial nuclear powerplants which are included, as of the date of enactment of this Act, in the Department of Energy's program for certification of advanced light water reactor designs.

(2) Selection Criteria.—In order to be eligible for assistance under this subsection, an entity shall certify to the satisfaction of the Secretary that—

(A) the entity, or its members, are bona fide entities engaged in the design, engineering, manufacture, construction, or operation of nuclear reactors;

(B) the entity, or its members, have the financial resources necessary for, and fully intend to pursue the design, engineering, manufacture, construction, and operation in the United States of nuclear power plants through completion of construction and into operation;

(C) the design proposed is scheduled for certification by the Commission under the Department of Energy's program for certification of light water reactor designs; and

(D) at least 50 percent of the funding for the project shall be obtained from non-Federal

sources, and a substantial portion of that non-Federal funding shall be obtained from utilities or entities whose primary purpose is the production of electrical power for public consumption.

(3) PROGRAM DOCUMENTS.—The Secretary shall prepare and submit to the Congress a program document for each design selected under this subsection, specifying goals and objectives, major milestones for achieving those goals and objectives, and the work products to be provided to the Secretary or made available for inspection.

(4) FUNDING LIMITATIONS.—(A) Before entering into an agreement with an entity under this subsection, the Secretary shall establish a cost ceiling for the contribution of the Federal Government for the project, and shall report such cost ceiling to the Congress.

(B) No entity shall receive assistance under this subsection for a period greater than 4 years.

(C) The aggregate funding provided by the Secretary for projects under this subsection shall not exceed $100,000,000 for the period encompassing fiscal years 1993 through 1997.

(5) STATUS REPORT.—The Secretary shall annually submit to the Congress a status report on each project receiving assistance under this subsection.

SEC. 2124. PROTOTYPE DEMONSTRATION OF ADVANCED NUCLEAR REACTOR TECHNOLOGY.

(a) SOLICITATION OF PROPOSALS.—Within 3 years after the date of enactment of this Act, the Secretary shall solicit proposals for carrying out the preliminary engineering design of not more than 2 prototype advanced nuclear reactor technologies developed by the Department of Energy, other than advanced light water reactor technologies, necessary to support a decision on whether to recommend construction of a prototype demonstration reactor with the characteristics described in section 2123(a). Proposals submitted under this subsection shall be for modular design concepts of sufficient size to address requirements related to the certification of a standardized design.

(b) RECOMMENDATION TO CONGRESS.—(1) Not later than September 30, 1998, the Secretary shall submit to Congress recommendations on whether to build one or more prototype demonstration reactors under this section. Such recommendations shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on milestones for construction and operation;

(C) include an estimate of the funding requirements; and

(D) specify the extent and type of non-Federal financial support anticipated.

In developing the recommendations under this paragraph, the Secretary shall provide for public notice and an opportunity for comment, and shall solicit the views of the Commission and other parties with technical expertise the Secretary considers useful in the development of such recommendations.

(2) The prototype demonstration program under this section shall be carried out to the maximum extent practicable with private sector funding. At least 50 percent of the funding for such program shall be non-Federal funding. The extent of non-Federal cost sharing proposed for any demonstration project shall be a criterion for the selection of the project.

(c) SELECTION OF TECHNOLOGY.—Any technology selected by the Secretary for recommendation for prototype demonstration under this section shall to the maximum extent possible exhibit the characteristics set forth in section 2123(a).

SEC. 2125. REPEALS.

The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 is amended—

(1) in section 4(c)(1)(C), by inserting "and" after "Program;";

(2) in section 4(c)(2)(C), by striking "Program; and" and inserting in lieu thereof "Program.";

(3) by striking section 4(c)(3);

(4) in section 5(1)(B), by inserting "and" after "program;";

(5) in section 5(2)(B), by striking "program; and" and inserting in lieu thereof "program."; and

(6) by striking section 5(3).

SEC. 2126. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle $212,804,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994. Amounts authorized or otherwise made available for program direction, space reactor power systems, advanced radioisotope power systems, and the space exploration initiative under nuclear energy research and development shall be in addition to the amounts authorized in the preceding sentence.

TITLE XXII—ENERGY AND ECONOMIC GROWTH

SEC. 2201. NATIONAL ADVANCED MATERIALS INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a 5-year National Advanced Materials Program, in accordance with sections 3001 and 3002 of this Act. Such program shall foster the commercialization of techniques for processing, synthesizing, fabricating, and manufacturing advanced materials and associated components. At a minimum, the Program shall expedite the private sector deployment of advanced materials for use in high performance energy efficient and renewable energy technologies in the industrial, transportation, and buildings sectors that can foster economic growth and competitiveness. The Program shall include field demonstrations of sufficient scale and number to prove technical and economic feasibility.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide activities under this section. The Secretary shall biennially update and resubmit the program plan to Congress.

(c) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan. Such proposals may be submitted by one or more parties.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of advanced materials in energy efficiency or renewable energy in the near-term to mid-term;

(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrants collaboration with such laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) evidence of the ability of the proposers to undertake and complete the proposed project.

(d) GENERAL SERVICES ADMINISTRATION DEMONSTRATION PROGRAM.—The Secretary, in consultation with the Administrator of General Services, shall establish a program to expedite the use, in goods and services acquired by the General Services Administration, of advanced materials technologies. Such program shall include a demonstration of the use of advanced materials technologies as may be necessary to establish technical and economic feasibility. The Secretary shall transfer funds to the General Services Administration for carrying out this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived for energy efficient applications from section 2101(e) and for renewable applications from section 2111(c), including Department of Energy national laboratory participation in proposals submitted under subsection (c), and including transferring funds to the General Services Administration.

SEC. 2202. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a 5-year National Advanced Manufacturing Technologies Program, in accordance with sections 3001 and 3002 of this Act. Such program shall foster the commercialization of advanced manufacturing technologies to improve energy efficiency and productivity in manufacturing. At a minimum, the Program shall expedite the private sector deployment of advanced manufacturing technologies to improve productivity, quality, and control in manufacturing processes that can foster economic growth, energy efficiency, and competitiveness. The program shall include field demonstrations of sufficient scale and number to prove technical and economic feasibility.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide activities under this section. The Secretary shall biennially update and resubmit the program plan to Congress.

(c) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan. Such proposals may be submitted by one or more parties.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of advanced manufacturing technologies to improve energy efficiency in the building, industry, and transportation sectors;

(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrants collaboration with such laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) evidence of the ability of the proposers to undertake and complete the proposed project.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived from sums authorized under section 2101(e), including Department of Energy national laboratory participation in proposals submitted under subsection (c).

SEC. 2203. SUPPORTING RESEARCH AND TECHNICAL ANALYSIS.

(a) BASIC ENERGY SCIENCES.—

(1) PROGRAM DIRECTION.—The Secretary shall continue to support a vigorous program of basic energy sciences to provide basic research support for the development of energy technologies. Such program shall focus on the efficient pro-

duction and use of energy, and the expansion of our knowledge of materials, chemistry, geology, and other related areas of advancing technology development.

(2) USER FACILITIES.—(A) As part of the program referred to in paragraph (1), the Secretary shall carry out planning, construction, and operation of user facilities to provide special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of our Nation's universities, industry, private laboratories, Federal laboratories, and others. Research institutions or individuals from other nations shall be accommodated at such user facilities in cases where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest.

(B) The construction of the Advanced Photon Source at the Argonne National Laboratory is hereby authorized.

(C) The Secretary shall not change the user fee practice in effect as of October 1, 1991, with respect to user facilities unless the Secretary notifies Congress 90 days before the effective date of any change.

(D) The Secretary shall expedite the design for construction of the Advanced Neutron Source at the Oak Ridge National Laboratory, in order to provide critical research capabilities in support of our national research initiatives for advanced materials and biotechnology, as well as a broad range of research. Such action shall be consistent with the Basic Energy Sciences Advisory Committee's Technical Evaluation of accelerator and reactor neutron source technologies. Within 90 days after the date of enactment of this Act, the Secretary shall submit to the Congress a plan for such design, including a schedule for construction.

(3) COST SHARING.—The Secretary shall not require cost sharing for research and development pursuant to this subsection, except—

(A) as otherwise provided for in cooperative research and development agreements or other agreements entered into under existing law;

(B) for fees for user facilities, as determined by the Secretary; or

(C) in the case of specific projects, where the Secretary determines that the benefits of such research and development accrue to a specific industry or group of industries, in which case cost sharing under section 3002 of this Act shall apply.

(b) UNIVERSITY AND SCIENCE EDUCATION.—(1) The Secretary shall support programs for improvements and upgrading of university research reactors and associated instrumentation and equipment. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the condition and status of university research reactors, which includes a 5-year plan for upgrading and improving such facilities, instrumentation capabilities, and related equipment.

(2) The Secretary shall develop a method to evaluate the effectiveness of science and mathematics education programs provided by the Department of Energy and its laboratories, including specific evaluation criteria.

(3)(A)(i) The Director of the Office of Energy Research shall operate an Experimental Program to Stimulate Competitive Research (in this paragraph referred to as "EPSCoR") as part of the Department of Energy's University and Science Education Programs.

(ii) The objectives of EPSCoR shall be—

(I) to enhance the competitiveness of the peer-review process within academic institutions in eligible States; and

(II) to increase the probability of long-term growth of competitive funding to investigators at institutions from eligible States.

(iii) In order to carry out the objectives stated in clause (ii), EPSCoR shall provide for activities which may include (but not be limited to) competitive research awards and graduate traineeships.

(iv) EPSCoR shall assist those States that—

(I) historically have received relatively little Federal research and development funding; and

(II) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(B) For purposes of this paragraph, the term "eligible States" means States that received a Department-EPSCoR planning or traineeship grant in fiscal year 1991 or fiscal year 1992.

(C) No more than $5,000,000 of the funds appropriated to EPSCoR in any fiscal year, through fiscal year 1997, are authorized to be appropriated for graduate traineeships.

(c) TECHNOLOGY TRANSFER.—The Secretary shall support technology transfer activities conducted by the National Laboratories. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the adequacy of funding for such activities, along with a proposal recommending ways to reduce the length of time required to consummate cooperative research and development agreements.

(d) FACILITIES SUPPORT FOR MULTIPROGRAM ENERGY LABORATORIES.—

(1) FACILITY POLICY.—The Secretary shall develop and implement a least cost strategy for correcting facility problems, closing unneeded facilities, making facility modifications, and building new facilities at multiprogram energy laboratories.

(2) FACILITY PLAN.—Within 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at multiprogram energy laboratories. Such plan shall provide for facilities work in accordance with the following priorities, listed in descending order of priority:

(A) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(B) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration.

(C) Providing engineering design and construction services for those facilities which require modification or additions in order to meet the needs of new or expanded programs.

Such plan shall include plans for new facilities and facility modifications which will be required to meet the Department of Energy's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations. Such plan shall address the coordination of modernization and consolidation of facilities in order to meet changing mission requirements, and shall provide for annual reports to Congress on accomplishments, conformance to schedules, commitments, and expenditures.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for Supporting Research and Technical Analysis, including Basic Energy Sciences, Energy Research Analysis, University and Science Education, Technology Transfer, Advisory and Oversight Program Direction, and Facilities Support for Multiprogram Energy Laboratories, $966,804,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.

SEC. 2204. MATH AND SCIENCE EDUCATION PROGRAM.

(a) PROGRAM.—The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 417A through 417F of Public Law 89-329, as amended (20 U.S.C. 1070d through 1070d-1d).

(b) PURPOSE.—(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 417A of Public Law 89-329, as amended (20 U.S.C. 1070d-d), in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) SUPPORT.—(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activities under this section with the Secretary of Education and the Secretary.

(d) COOPERATION WITH QUALIFIED ENTITIES.—The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) REPORT.—Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) EFFECT ON EXISTING PROGRAMS.—The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) DEFINITION.—For purposes of this section, the term "qualified entity" means a nonprofit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, to be derived from section 2203(e) and the Environmental Restoration and Waste Management program, to carry out the purposes of this section.

SEC. 2205. INTEGRATION OF RESEARCH AND DEVELOPMENT.

Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to Congress a 5-year program plan for improving the integration of basic energy research programs with other energy programs within the Department of Energy. Such program plan shall include—

(1) an evaluation of current procedures and mechanisms used to achieve such integration;

(2) an assessment of the role that the Department of Energy national laboratories play in such integration;

(3) an identification and evaluation of models that could enhance such integration;

(4) an identification and evaluation of new programs, mechanisms, and related policy options that could improve the integrating process, including—

(A) set aside funding for matching or leveraging basic and applied programs;

(B) more formal linkages; and

(C) program coordination;

(5) recommendations for expanded research and development and new technology areas; and

(6) budget estimates for activities under this section.

SEC. 2206. DEFINITIONS.

For purposes of this title—

(1) the term "advanced manufacturing technology" means processes, equipment, techniques, practices, and capabilities that are applied for the purpose of—

(A) improving the productivity, quality, or energy efficiency of the design, development, testing, or manufacture of a product; or

(B) expanding the technical capability to design, develop, test, or manufacture a product that is fundamentally different in character from existing products and that will result in improved energy efficiency;

(2) the term "advanced materials" means materials that are processed, synthesized, fabricated, and manufactured to develop high performance properties that exceed the corresponding properties of conventional materials for structural, electronic, magnetic, or photonic applications, or for joining, welding, bonding, or packaging components into complex assemblies, including—

(A) advanced monolithic materials such as metals, ceramics, and polymers;

(B) advanced composite materials such as metal matrix (including intermetallics), polymer matrix, ceramic matrix, continuous fiber ceramic composite, and carbon matrix composites; and

(C) advanced electronic, magnetic, and photonic materials, including superconducting, semiconductor, electrooptic, magnetooptic, thin-film, and special purpose coating materials used in technologies for energy efficiency, renewable energy, or electric power applications; and

(3) the term "United States" means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE XXIII—POLICY AND ADMINISTRATIVE PROVISIONS

SEC. 2301. POLICY ON MAJOR CONSTRUCTION PROJECTS.

(a) REPORT AND MANAGEMENT PLAN.—The Secretary shall submit to the Congress a report and management plan for any major construction project involving $100,000,000 or more, prior to the expenditure of those funds.

(b) CONGRESSIONAL REVIEW.—Expenditure of funds for a project described in subsection (a) may be made after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days prior to a day certain) has passed after receipt of the report and management plan by Congress.

SEC. 2302. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Research, Development, Demonstration, and Commercial Application Advisory Board (hereafter in this section referred to as the "Advisory Board").

(b) RESPONSIBILITIES.—The Advisory Board shall provide impartial technical advice to the Secretary to assist in the development of energy research, development, demonstration, and commercial application plans and reports under sections 6 and 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905 and 5914), under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), and as otherwise provided in titles XX through XXIII of this Act. The Advisory Board shall also periodically review such plans and reports and their implementation in relation to the goals stated in section 2001 of this Act, and report the results of such review to the Secretary and the Congress. Such report shall be included as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914).

(c) USE OF EXISTING ADVISORY BOARD.—The Secretary may use an existing advisory board to carry out the responsibilities described in subsection (b).

SEC. 2303. AMENDMENTS TO EXISTING LAW.

(a) FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974 AMENDMENTS.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) by striking "the Administrator" and inserting "the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), and titles XX through XXIII of the Energy Policy Act of 1992, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,";

(B) by striking "(to the early 1980's)" in paragraph (1) and inserting "(the period up to 5 years after submission of the plan or its annual revision)";

(C) by striking "(the early 1980's to 2000)" in paragraph (2) and inserting "(the period from 5 years to 10 years after submission of the plan or its annual revision)"; and

(D) by striking "(beyond 2000)" in paragraph (3) and inserting "(the period beyond 10 years after submission of the plan or its annual revision)";

(2) in subsection (b)—

(A) by striking "Administrator" in paragraphs (1) and (2) and inserting "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,";

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." at the end of paragraph (1);

(C) by striking "(to the early 1980's), middle-term (the early 1980's to 2000), and long-term (beyond 2000) time intervals" in paragraph (2) and inserting ", middle-term, and long-term time intervals described in subsection (a)(1) through (3)";

(D) by striking "and" at the end of paragraph (3)(P);

(E) by striking the period at the end of paragraph (3)(Q) and inserting a semicolon; and

(F) by adding at the end of paragraph (3) the following new subparagraphs:

"(R) to implement the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.); and

"(S) to implement titles XX through XXIII of the Energy Policy Act of 1992."; and

(3) in subsection (c)—

(A) by striking "Administrator" and inserting "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,"; and

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." after "and demonstration plans.".

(b) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY COMPETITIVENESS ACT OF 1989 AMENDMENT.—Section 9(b)(4) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12006(b)(4)) is amended by inserting "and the plan developed under section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905)" after "(42 U.S.C. 7321)".

SEC. 2304. MANAGEMENT PLAN.

(a) PLAN PREPARATION.—The Secretary, in consultation with the Advisory Board established under section 2302, shall prepare a management plan for the conduct of research, development, demonstration, and commercial application of energy technologies that is consistent with the goals stated in section 2001.

(b) CONTENTS OF PLAN.—The management plan under subsection (a) shall provide for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness.

(c) ENERGY TECHNOLOGY INVENTORY AND STATUS REPORT.—As part of the management plan, the Secretary, with the advice of the Advisory Board established under section 2302 of this Act, shall develop an inventory and status report of technologies to enhance energy supply and to improve the efficiency of energy end uses. The inventory and status report shall include fossil, renewable, nuclear, and energy conservation technologies which have not yet achieved the status of fully reliable and cost-competitive commercial availability, but which the Secretary projects may become available with additional research, development, and demonstration. The inventory and status report shall provide, for each technology—

(1) an assessment of its—

(A) degree of technological maturity; and

(B) principal research, development, and demonstration issues, including—

(i) the barriers posed by capital, operating, and maintenance costs;

(ii) technical performance; and

(iii) potential environmental impacts;

(2) the projected time frame for commercial availability, specifying at a minimum whether the technology will be commercially available in the near-term, mid-term, or long-term, whether there are too many uncertainties to project

availability, or whether it is unlikely that the technology will ever be commercial; and

(3) a projection of the future cost-competitiveness of the technology in comparison with alternative technologies to provide the same energy service.

(d) Public Comment.—The Secretary shall publish the proposed management plan for a written public comment period of at least 90 days. The Secretary shall consider such comments and include a summary thereof in the management plan.

(e) Plan Submission.—Within one year after the date of enactment of this Act, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially, at the time of submittal of the President's annual budget submission to the Congress.

SEC. 2305. COSTS RELATED TO DECOMMISSIONING AND THE STORAGE AND DISPOSAL OF NUCLEAR WASTE.

(a) Award of Contracts.—

(1) Prime contractors.—In awarding contracts to perform nuclear hot cell services, the Secretary, in evaluating bids for such contracts, shall exclude from consideration costs related to the decommissioning of nuclear facilities or the storage and disposal of nuclear waste, if—

(A) one or more of the parties bidding to perform such services is a United States company that is subject to such costs; and

(B) one or more of the parties bidding to perform such services is a foreign company that is not subject to comparable costs.

(2) Subcontractors.—Any person awarded a contract subject to the restrictions described in paragraph (1) who subcontracts with a person to perform the services described in such paragraph shall be subject to the same restrictions in evaluating bids among potential subcontractors, as the Secretary was subject to in evaluating bids among prime contractors.

(b) Issuance of Regulations.—The Secretary shall issue regulations not later than 90 days after the date of the enactment of this Act to carry out the requirements of subsection (a).

(c) Definitions.—As used in this section—

(1) the term "costs related to decommissioning of nuclear facilities" means any cost associated with the compliance with regulatory requirements governing the decommissioning of nuclear facilities licensed by the Nuclear Regulatory Commission;

(2) the term "costs related to storage and disposal of nuclear waste" means any costs, whether required by regulation or incurred as a matter of prudent business practice, associated with the storage or disposal of nuclear waste;

(3) the term "nuclear hot cell services" means services related to the examination of, or performance of various operations on, nuclear fuel rods, control assemblies, or other components that are emitting large quantities of ionizing radiation; and

(4) the term "nuclear waste" means any radioactive waste material subject to regulation by the Nuclear Regulatory Commission or the Department of Energy.

SEC. 2306. LIMITS ON PARTICIPATION BY COMPANIES.

A company shall be eligible to receive financial assistance under titles XX through XXIII of this Act only if—

(1) the Secretary finds that the company's participation in any program under such titles would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; an agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(A) the company is a United States-owned company; or

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

SEC. 2307. UNCOSTED OBLIGATIONS.

(a) Report.—Along with the submission of each of the President's annual budget requests to Congress, the Secretary shall submit to Congress a report which—

(1) identifies the amount of Department of Energy funds that were, as of the end of the previous fiscal year—

(A) committed uncosted obligations; and

(B) uncommitted uncosted obligations;

(2) specifically describes the purposes for which all such funds are intended; and

(3) explains the effect that information contained in the report has had on the annual budget request for the Department of Energy being simultaneously submitted.

(b) Definitions.—Within 90 days after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing definitions of the terms "uncosted obligation", "committed uncosted obligation", and "uncommitted uncosted obligation" for purposes of reports to be submitted under subsection (a).

TITLE XXIV—NON-FEDERAL POWER ACT HYDROPOWER PROVISIONS

SEC. 2401. RIGHTS-OF-WAY ON CERTAIN FEDERAL LANDS.

Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended—

(1) by inserting in subsection (a) after "public lands" the following: "(including public lands, as defined in section 103(e) of this Act, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818))";

(2) in paragraph (4) of subsection (a), by striking "Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791) and inserting in lieu thereof "Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a-825r)."; and

(3) by adding the following new subsection at the end thereof:

"(d) With respect to any project or portion thereof that was licensed pursuant to, or granted an exemption from, part I of the Federal Power Act which is located on lands subject to a reservation under section 24 of the Federal Power Act and which did not receive a permit, right-of-way or other approval under this section prior to enactment of this subsection, no such permit, right-of-way, or other approval shall be required for continued operation, including continued operation pursuant to section 15 of the Federal Power Act, of such project unless the Commission determines that such project involves the use of any additional public lands or National Forest lands not subject to such reservation.".

SEC. 2402. DAMS IN NATIONAL PARK SYSTEM UNITS.

After the date of enactment of this Act, the Federal Energy Regulatory Commission may not issue an original license under Part I of the Federal Power Act (nor an exemption from such Part) for any new hydroelectric power project located within the boundaries of any unit of the National Park System that would have a direct adverse effect on Federal lands within any such unit. Nothing in this section shall be construed as repealing any existing provision of law (or affecting any treaty) explicitly authorizing a hydroelectric power project.

SEC. 2403. THIRD PARTY CONTRACTING BY FERC.

(a) Environmental Impact Statements.—Where the Federal Energy Regulatory Commission is required to prepare a draft or final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following) in connection with an application for a license under part I of the Federal Power Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work, to prepare such statement for the Commission. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(b) Environmental Assessments.—Where an environmental assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following) in connection with an application for a license under part I of the Federal Power Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(c) Effective Date.—This section shall take effect with respect to license applications filed after the enactment of this Act.

SEC. 2404. IMPROVEMENT AT EXISTING FEDERAL FACILITIES.

(a) Studies of Opportunities for Increased Hydroelectric Generation.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform reconnaissance level studies of cost effective opportunities to increase hydropower production at existing federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within 2 years after the date of enactment of this Act and transmitted to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and to the Committee on Energy and Commerce, the Committee on Interior and Insular Affairs, and the Committee on Public Works and Transportation of the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall iden-

tify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural, or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs and the economic and environmental consequences of such measures.

(b) EXCEPTION FOR PREVIOUS STUDIES.—In those cases where studies of the type required by this section have been prepared by any agency of the United States and published within the ten years prior to the date of enactment of this Act, the Secretary may choose not to perform new studies but incorporate the information developed by such studies into the study reports required by this section.

(c) AUTHORIZATION.—There is authorized to be appropriated in each of the fiscal years 1993, 1994, and 1995 such sums as may be necessary to carry out the purposes of this section.

SEC. 2405. WATER CONSERVATION AND ENERGY PRODUCTION.

(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

(1) an analysis of the technical, environmental, and economic feasibility of reducing the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

(c) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

SEC. 2406. FEDERAL PROJECTS IN THE PACIFIC NORTHWEST.

Without further appropriation and without fiscal year limitation, the Secretaries of the Interior and Army are authorized to plan, design, construct, operate and maintain generation additions, improvements and replacements, at their respective Federal projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)), and to operate and maintain the respective Secretary's power facilities in the Region, that the respective Secretary determines necessary or appropriate and that the Bonneville Power Administrator subsequently determines necessary or appropriate, with any funds that the Administrator determines to make available to the respective Secretary for such purposes. Each Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: Provided, That, such funds shall continue to be exempt from sequestration pursuant to section 255(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

SEC. 2407. CERTAIN PROJECTS IN ALASKA.

(a) AUTHORITY TO ISSUE EXEMPTIONS.—Except as provided in subsection (b) or (c), upon receipt of an application under this section, the Federal Energy Regulatory Commission (hereinafter in this section referred to as the "Commission") may grant, notwithstanding the provisions of section 2402, an exemption in whole or in part from the requirements of part I of the Federal Power Act, including any license requirements contained in Part I of the Federal Power Act, to the following facilities located in the State of Alaska:

(1) a project located at Sitka, Alaska, with application numbered UL89-08-000;

(2) a project located at Juneau, Alaska, with preliminary permit numbered 10681-000; and

(3) a project located near Nondalton, Alaska, with application numbered EL88-25-001.

(b) CAPACITY LIMITATIONS.—No exemption under subsection (a) shall be applicable to any facility the installed capacity of which exceeds 5 megawatts.

(c) MANDATORY TERMS AND CONDITIONS.—In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the State agency exercising administration over the fish and wildlife resources of the State of Alaska, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

(1) such terms and conditions as the Fish and Wildlife Service, National Marine Fisheries Service, and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

(2) such terms and conditions as the Commission deems appropriate to ensure that such facility continues to comply with the provisions of this section and terms and conditions included in any such exemption.

(d) ENFORCEMENT.—Any violation of a term or condition of any exemption granted under subsection (a) shall be treated as a violation of a rule or order of the Commission under the Federal Power Act.

(e) FEES.—The Commission may establish fees which shall be paid by an applicant for a license or exemption for a project that is required to meet terms and conditions set by fish and wildlife agencies under subsection (c). Such fees shall be adequate to reimburse the fish and wildlife agencies referred to in subsection (c) for any reasonable costs incurred in connection with any studies or other reviews carried out by such agencies for purposes of compliance with this section. The fees shall, subject to annual appropriations Acts, be transferred to such agencies by the Commission for use solely for purposes of carrying out such studies and shall remain available until expended.

(f) EXPEDITED PROCESSING.—A completed application for an exemption under this section shall be acted on by the Commission in an expedited manner, in accordance with this section, within 6 months after the date on which the application for such exemption is applied for, or as promptly as practicable thereafter.

SEC. 2408. PROJECTS ON FRESH WATERS IN STATE OF HAWAII.

The Federal Energy Regulatory Commission, in consultation with the State of Hawaii, shall carry out a study of hydroelectric licensing in the State of Hawaii. For purposes of considering whether such licensing should be transferred to the State, within 18 months after the enactment of this Act, the Commission shall complete the study and submit a report containing the results of the study to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate. The study shall examine, and the report shall at a minimum contain an analysis of, each of the following:

(1) The State regulatory programs applicable to hydroelectric power production and the extent to which such programs are suitable as a substitute for regulation of such projects under the Federal Power Act, taking into considertaion all aspects of such regulation, including energy, environmental, and safety considerations.

(2) Any unique geographical, hydrological, or other characteristics of waterways in Hawaii or any other aspects of hydroelectric power development and natural resource protection in Hawaii that would justify or not justify the permanent transfer of Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects to that State.

(3) The adequacy of mechanisms and procedures for consideration of fish and wildlife and other environmental values applicable in connection with hydroelectric power development in Hawaii under the State programs referred to in paragraph (1).

(4) Any national policy considerations that would justify or not justify the removal of Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects in Hawaii.

(5) The precedent-setting effect, if any, of provisions of law adopted by the Congress removing Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects in Hawaii.

SEC. 2409. EVALUATION OF DEVELOPMENT POTENTIAL.

The Act of August 30, 1935 (Public Law No. 409 of the 74th Congress), is amended by inserting "The Secretary shall undertake a demonstration project to evaluate the potential for hydropower development, utilizing tidal cur-

rents;" after "Document Numbered 15, Seventy-fourth Congress;".

TITLE XXV—COAL, OIL, AND GAS

SEC. 2501. HOT DRY ROCK GEOTHERMAL ENERGY.

(a) USGS Program.—The Secretary of the Interior, acting through the United States Geological Survey, and in consultation with the Secretary of Energy, shall establish a cooperative Government-private sector program with respect to hot dry rock geothermal energy resources on public lands (as such term is defined in section 103(e) of the Federal Land Policy and Management Act of 1976) and lands managed by the Department of Agriculture, other than any such public or other lands that are withdrawn from geothermal leasing. Such program shall include, but shall not be limited to, activities to identify, select, and classify those areas throughout the United States that have a high potential for hot dry rock geothermal energy production and activities to develop and disseminate information regarding the utilization of such areas for hot dry rock energy production. Such information may include information regarding field test processes and techniques for assuring that hot dry rock geothermal energy development projects are developed in an economically feasible manner without adverse environmental consequences. Utilizing the information developed by the Secretary, together with information developed in connection with other related programs carried out by other Federal agencies, the Secretary, acting through the United States Geological Survey, may also enter into contracts and cooperative agreements with any public or private entity to provide assistance to any such entity to enable such entity to carry out additional projects with respect to the utilization of hot dry rock geothermal energy resources which will further the purposes of this section.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necesary to carry out this section.

SEC. 2502. HOT DRY ROCK GEOTHERMAL ENERGY IN EASTERN UNITED STATES.

The United States Geological Survey, in collaboration with the Secretary of Energy, shall convene a workshop of interested governmental and private parties to discuss the regional potential for hot dry rock geothermal energy in the Eastern United States. The purpose of the workshop shall be to review the status of recoverability of hot dry rock energy in the Eastern United States and to determine what geologic, technological, and economic obstacles need to be overcome to make the utilization of hot dry rock energy feasible. The workshop shall be convened within 6 months after enactment of this Act and the United States Geological Survey shall submit a report to Congress within 6 months after the workshop containing a summary of the findings and conclusions of the workshop.

SEC. 2503. COAL REMINING.

(a) Modification of Prohibition.—Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) Modification of Prohibition.—After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(b)(20)(B) shall terminate on September 30, 2004.".

(b) Period of Responsibility.—Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will be extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.".

(c) Definitions.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).".

(d) Eligibility.—Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.".

(e) Abandoned Coal Refuse Sites.—(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary of the Interior may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

SEC. 2504. SURFACE MINING ACT IMPLEMENTATION.

(a) Subsidence.—(1) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

"SEC. 720. SUBSIDENCE.

"(a) Requirements.—Underground coal mining operations conducted after the date of enactment of this section shall comply with each of the following requirements:

"(1) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

"(b) Regulations.—Within one year after the date of enactment of this section, the Secretary shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a).".

(2)(A) The Secretary of the Interior shall review existing requirements related to underground coal mine subsidence and natural gas and petroleum pipeline safety. Such review shall consider the following with respect to subsidence: notification; mitigation; coordination; requirements of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act; and the status of Federal, State and local laws, as well as common law, with respect to prevention or mitigation of damage from subsidence.

(B) The review shall also include a survey of the status of Federal, State, and local laws, as well as common law, with respect to the responsibilities of the relevant parties for costs resulting from damage due to subsidence or from mitigation efforts undertaken to prevent damage from subsidence.

(C) In conducting the review, the Secretary of the Interior shall consult with the Secretary of

Transportation, the Attorney General of the United States, appropriate officials of relevant States, and owners and representatives of natural gas and petroleum pipeline companies and coal companies.

(D) The Secretary of the Interior shall submit a report detailing the results of the review to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within 18 months of enactment of this Act. Where appropriate, the Secretary of the Interior shall commence a rulemaking to address any deficiencies in existing law determined in the review under subparagraph (A) regarding notification, coordination and mitigation.

(b) Valid Existing Rights.—During the 1-year period following the enactment of this Act, in administering the provisions of the Surface Mining Control and Reclamation Act of 1977 regarding valid existing rights, the Secretary of the Interior shall continue in force and effect the policies of the Office of Surface Mining as set forth in the November 10, 1986 Statement of Policy published in 51 Federal Register 41952.

(c) Research.—(1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumber the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. RESEARCH.

"The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).".

(d) Coal Formations.—(1) In furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551–558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall, upon application by a State, enter into a cooperative agreement with any such State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State. Any such cooperative agreement shall not be subject to review or approval by the Appalachian Regional Development Commission.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed $500,000 annually,".

(e) Technical Amendment.—Section 403(b)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(b)(2)) is amended by inserting ", or as the case may be, the dates (and under the criteria) set forth under section 402(g)(4)(B)" after "1977" in each instance such date appears.

SEC. 2505. FEDERAL LIGNITE COAL ROYALTIES.

(a) Coal in Fort Union Region.—Notwithstanding any other provision of law, or any regulation or guideline issued thereunder, the Secretary of the Interior may determine, with respect to lignite coal in the Fort Union region, a lesser royalty than the royalty specified under section 7 of the Mineral Leasing Act (30 U.S.C. 207). Any lesser royalty granted under this section, or under section 39 of the Mineral Leasing Act (30 U.S.C. 209) after March 29, 1990, for lignite coal in the Fort Union region shall continue for a term of at least 10 years from the effective date of such reduction.

(b) Review and Extension.—Within 10 years after the date of enactment of this Act, the Secretary of the Interior shall review the effect of any royalty reduction pursuant to subsection (a) on the production of coal. If the Secretary determines that such royalty reduction has had no significant adverse impact on coal production, upon a request by a lignite coal operator in the Fort Union region, the Secretary may grant an additional royalty reduction for a period of 10 years, provided that the total term of the reduced royalty granted pursuant to subsection (a) and this subsection for a tract or lease does not exceed a period of 20 years.

SEC. 2506. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT.

(a) Mineral Receipts Under Acquired Lands Act.—Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any payment to a State under this section shall be made by the Secretary of the Interior and shall be made not later than the last business day of the month following the month in which such moneys or associated reports are received by the Secretary of the Interior, whichever is later. The Secretary shall pay interest to a State on any amount not paid to the State within that time at the rate prescribed under section 111 of the Federal Oil and Gas Royalty Management Act of 1982 from the date payment was required to be made under this subsection until the date payment is made.".

(b) Authority To Manage Certain Mineral Leases.—The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) is amended by adding the following new section at the end thereof:

"SEC. 11. AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.

"Each department, agency and instrumentality of the United States which administers lands acquired by the United States with one or more existing mineral lease shall transfer to the Secretary of the Interior the authority to administer such lease and to collect all receipts due and payable to the United States under the lease. In the case of lands acquired on or before the date of the enactment of this section, the authority to administer the leases and collect receipts shall be transferred to the Secretary of the Interior as expeditiously as practicable after the date of enactment of this section. In the case of lands acquired after the date of enactment of this section, such authority shall be vested with the Secretary at the time of acquisition. The provisions of section 6 of this Act shall apply to all receipts derived from such leases where such receipts are due and payable to the United States under the lease in the same manner as such provisions apply to receipts derived from leases issued under the authority of this Act. For purposes of this section, the term 'existing mineral lease' means any lease in existence at the time land is acquired by the United States. Nothing in this section shall be construed to affect the existing surface management authority of any Federal agency.".

(c) Clarification.—Section 7 of the Act of August 18, 1941, ch. 377 (33 U.S.C. 701c-3) is amended by adding the following sentence at the end thereof: "For the purposes of this section, the term 'money' includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.".

SEC. 2507. RESERVED OIL AND GAS.

(a) In General.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended as follows—

(1) In paragraph (1)(A), strike out "under paragraph (2)" and insert in lieu thereof "under paragraphs (2) and (3)".

(2) Adding at the end thereof the following new paragraph:

"(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

"(B) An election under this paragraph is effective—

"(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

"(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

"(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

"(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

"(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

"(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).".

(b) Effective Date.—The amendments made by subsection (a) apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.

SEC. 2508. CERTAIN OUTSTANDING OIL AND GAS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (n):

"(o) CERTAIN OUTSTANDING OIL AND GAS.—(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to terms and conditions as provided under paragraph (2).

"(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

"(3) Advance notice under paragraph (2) shall include each of the following items of information:

"(A) A designated field representative.

"(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

"(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

"(D) A plan of erosion and sedimentation control.

"(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

"(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either—

"(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

"(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

"(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

"(B) This subsection shall only apply in the Allegheny National Forest.".

(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a).

SEC. 2509. FEDERAL ONSHORE OIL AND GAS LEASING.

The first sentence of section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) is amended by striking the phrase starting with "Competitive leases" and ending with "ten years: Provided, however," and inserting in lieu thereof the following: "Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: Provided, however,".

SEC. 2510. OIL PLACER CLAIMS.

Notwithstanding any other provision of law, in furtherance of the purposes of the Act of February 11, 1897, commonly referred to as the Oil Placer Act, and section 37 of the Mineral Leasing Act, the Secretary of the Interior is authorized and directed to, within 90 days after the enactment of this Act, (1) convey by quit-claim deed to the owner or owners, or (2) separately and as an alternative, disclaim and relinquish by a document in any form suitable for recordation in the county within which the lands are situated, all right, title and interest or claim of interest of the United States to those lands in the counties of Hot Springs, Park and Washakie in the State of Wyoming, held pursuant to the Act of February 11, 1897, and which are currently producing covered substances under a cooperative or unit plan of development.

SEC. 2511. OIL SHALE CLAIMS.

(a) NOTICE.—Notwithstanding any other provision of law, within 60 days from the date of enactment of this Act, the Secretary of the Interior shall provide notice to each holder of an unpatented oil shale mining claim of the requirements of this Act. Such notice shall be made by registered mail and by publication in a newspaper of general circulation in the areas in which such claims are located.

(b) FULL PATENT.—The holder of a valid oil shale mining claim who has filed a patent application and received first half final certificate for patent by date of enactment of this Act, may obtain a patent pursuant to the general mining laws of the United States.

(c) PATENT.—(1) Notwithstanding any other provision of law, the holder of a valid oil shale mining claim who has filed a patent application which has been accepted for processing by the Department of the Interior by the date of enactment of this Act but has not received first half final certificate for patent by the date of enactment of this Act may receive only a patent limited to the oil shale and associated minerals, upon payment of $2.50 per acre. Title to the surface and to all other minerals, including, but not limited to, oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to enactment of this Act with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Maintenance of claims referred to in this subsection prior to patent issuance shall be in accordance with the requirements of applicable law prior to enactment of this Act.

(3) Any holder of a valid oil shale mining claim referred to in this subsection may maintain such claim in accordance with the requirements set forth in subsection (e)(2) in lieu of receiving a patent under this section.

(4) Notwithstanding any other provision of law, any person referred to in paragraph (1) who obtains compensation from the United States as a result of the application of this section being declared to be a taking of property within the meaning of the Fifth Amendment to the United States Constitution, may obtain a full patent upon tender to the Secretary of the amount of such compensation, not including interest, and upon the receipt of such amount, the Secretary shall convey to such person a patent in the form and manner provided under the general mining laws of the United States. Such tender may only be made within 3 years of obtaining such compensation.

(d) ELECTION.—(1) Notwithstanding any other provision of law, within 180 days from the date of which the Secretary provided notice under subsection (a), a holder of a valid oil shale mining claim for which a patent application was not filed and accepted for processing by the Department of the Interior prior to the date of enactment of this Act shall file with the Secretary a notice of election to—

(A) proceed to limited patent as provided in subsection (e)(1); or

(B) maintain the unpatented claim as provided for in subsection (e)(2).

(2) Failure to file the notice of election as required by paragraph (1) shall be deemed conclusively to constitute an abandonment of the claim by operation of law.

(3) Any claim holder who elects to proceed under paragraph (1)(A) must apply for a patent within 2 years from the date of election or notify the Secretary in writing prior to expiration of the 2-year period of a decision to maintain such claim as provided in paragraph (1)(B) or such claim shall be deemed conclusively to have been abandoned by operation of law.

(4) The provisions of this subsection shall be in addition to the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744).

(e) EFFECT OF ELECTION.—(1) Notwithstanding any other provisions of law, a claim holder subject to the election requirements of subsection (d) who elects to receive a limited patent shall receive title only to the oil shale associated minerals, upon payment of fair market value for the oil shale and associated minerals. Title to the surface and to all other minerals, including, but not limited to oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to the enactment of this Act with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Notwithstanding any other provision of law, a claim holder referred to in subsection (c) or a claim holder subject to the election requirements of subsection (d) who maintains or elects to maintain an upatented claim shall maintain such claim by complying with the general mining laws of the United States, and with the provisions of this section, except that the claim holder shall no longer be required to perform annual labor, and instead shall pay to the Secretary $550 per claim per year for deposit as miscellaneous receipts in the general fund of the Treasury, commencing with calendar year 1993. Such fee shall accompany the filing made by the claim holder with the Bureau of Land Management pursuant to section 314(a)(2) of the Federal Land Policy and Management Act (43 U.S.C. 1744(a)(2)).

(f) RECLAMATION.—In addition to other applicable requirements, any person who holds a limited patent or maintains a claim pursuant to this section shall be required to carry out reclamation as prescribed by the Secretary and to furnish a bond or other appropriate financial guarantee in an amount sufficient to ensure adequate reclamation of the lands to be disturbed by any aspect of the proposed mining activities.

(g) REAFFIRMATION OF REQUIREMENTS.—Without comment on the adequacy of current or former standards for determining validity of oil shale claims, Congress reaffirms the requirements of law that a patent may issue only to persons who hold valid claims and the need for careful review of any applications.

(h) ISSUANCE OF PATENTS.—Notwithstanding any other provision of law, with respect to any oil shale mining claim located under the general mining laws of the United States, no patent for such claim shall be issued except as provided by this section.

SEC. 2512. HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PROGRAM.

(a) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PLAN.—(1) Every 5 years, the Secretary of the Interior, acting through the Director of the Bureau of Mines (hereinafter in this section referred to as the "Director"), shall develop a Plan for Health, Safety, and Mining Technology Research (hereinafter in this subsection referred to as the "Plan").

(2) The Plan shall identify the goals and objectives of the Health, Safety, and Mining Technology program of the Bureau of Mines, and shall guide research and technology development under such program, over each 5-year period.

(3) In preparing the proposed Plan referred to in paragraph (1), the Director shall solicit suggestions, comments and proposals for research and technology development projects from the mining industry, labor, academia and other concerned groups and individuals.

(b) TECHNICAL AMENDMENT.—For the purposes of section 501(b) of Public Law 91-173, as amended, activities in the field of coal or other mine health under such section shall also be carried out by the Secretary of the Interior acting through the Director of the Bureau of Mines. Nothing in this subsection is intended to preclude or duplicate the ongoing research activities of the Bureau of Mines on health hazards safety technology or research conducted by the National Institute of Occupational Safety and Health on coal mine safety and health effects.

SEC. 2513. ASSISTANCE TO SMALL COAL OPERATORS.

(a) ASSISTANCE.—Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c) ASSISTANCE TO SMALL COAL OPERATORS.—(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory or such other public or private qualified entity designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) REIMBURSEMENT OF COSTS.—Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) REIMBURSEMENT OF COSTS.—A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

SEC. 2514. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) GRANTS.—The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall—

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources.".

SEC. 2515. AMENDMENT TO SURFACE MINING ACT.

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "1995" and inserting in lieu thereof "2004, after which time the fee shall be established at a rate to continue to provide for the deposit referred to in subsection (h)".

TITLE XXVI—INDIAN ENERGY RESOURCES

SEC. 2601. DEFINITIONS.

For purposes of this title—

(1) the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(2) the term "Indian reservation" includes Indian reservations; public domain Indian allotments; former Indian reservations in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

SEC. 2602. TRIBAL CONSULTATION.

In implementing the provisions of this Act, the Secretary of Energy shall involve and consult with Indian tribes to the maximum extent possible and where appropriate and shall do so in a manner that is consistent with the Federal trust and the Government-to-Government relationships between Indian tribes and the Federal Government.

SEC. 2603. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.

(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in consultation with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry on Indian reservations, in order to increase development of the substantial energy resources located on such Indian reservations. Such program shall include, but not be limited to, the following components:

(1) The Secretary shall provide development grants to Indian tribes or to joint ventures which are 51 percent or more controlled by an Indian tribe to assist Indian tribes in obtaining the managerial and technical capability needed to develop the energy resources on Indian reservations. Such grants shall include provisions for management training for tribal or village members, improving the technical capacity of the Indian tribe, and the reduction of tribal unemployment. Each grant shall be for a period of 3 years.

(2) The Secretary shall provide grants, not to exceed 50 percent of the project costs, for vertical integration projects. For purposes of this paragraph, the term "vertical integration project" means a project that promotes the vertical integration of the energy resources on an Indian reservation, so that the energy resources are used or processed on such Indian reservation. Such term includes, but is not limited to, projects involving solar and wind energy, oil refineries, the generation and transmission of electricity, hydroelectricity, cogeneration, natural gas distribution, and clean, innovative uses of coal.

(3) The Secretary shall provide technical assistance (and such other assistance as is appropriate) to Indian tribes for energy resource development and to promote the vertical integration of energy resources on Indian reservations.

(b) LOW INTEREST LOANS.—

(1) IN GENERAL.—The Secretary shall establish a program for making low interest loans to Indian tribes. Such loans shall be used exclusively by Indian tribes in the promotion of energy resource development and vertical integration on Indian reservations.

(2) TERMS.—The Secretary shall establish reasonable terms for loans made under this section which are to be used to carry out the purposes of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (a)(1);

(2) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (a)(2); and

(3) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (b).

SEC. 2604. INDIAN ENERGY RESOURCE REGULATION.

(a) GRANTS.—The Secretary of the Interior is authorized to make annual grants to Indian tribes for the purpose of assisting Indian tribes in the development, administration, implementation, and enforcement of tribal laws and regulations governing the development of energy resources on Indian reservations.

(b) PURPOSE.—The purposes for which funds provided under a grant awarded under subsection (a) may be used include, but are not limited to—

(1) the training and education of employees responsible for enforcing or monitoring compliance with Federal and tribal laws and regulations;

(2) the development of tribal inventories of energy resources;

(3) the development of tribal laws and regulations;

(4) the development of tribal legal and governmental infrastructure to regulate environmental quality pursuant to Federal and tribal laws; and

(5) the enforcement and monitoring of Federal and tribal laws and regulations.

(c) Other Assistance.—The Secretary of the Interior and the Secretary of Energy shall cooperate with and provide assistance to Indian tribes for the purpose of assisting Indian tribes in the development, administration, and enforcement of tribal programs. Such cooperation and assistance shall include the following:

(1) Technical assistance and training, including the provision of necessary circulars and training materials.

(2) Assistance in the preparation and maintenance of a continuing inventory of information on tribal energy resources and tribal operations. In providing assistance under this paragraph, Federal departments and agencies shall make available to Indian tribes all relevant data concerning tribal energy resource development consistent with applicable laws regarding disclosure of proprietary and confidential information.

(d) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of this section.

SEC. 2605. INDIAN ENERGY RESOURCE COMMISSION.

(a) Establishment.—There is hereby established the Indian Energy Resource Commission (hereafter in this section referred to as the "Commission").

(b) Membership.—The Commission shall consist of—

(1) 8 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribes with developable energy resources, at least 4 of whom shall be elected tribal leaders;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States that have Indian reservations with developable energy resources;

(3) 2 members appointed by the Secretary of the Interior from among individuals in the private sector with expertise in tribal and State taxation of energy resources;

(4) 2 members appointed by the Secretary of the Interior from individuals with expertise in oil and gas royalty management administration, including auditing and accounting;

(5) 2 members appointed by the Secretary of the Interior from individuals in the private sector with expertise in energy development;

(6) 1 member appointed by the Secretary of the Interior from recommendations submitted by National environmental organizations;

(7) the Secretary of the Interior, or his designee; and

(8) the Secretary of Energy, or his designee.

(c) Appointments.—Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this title.

(d) Vacancies.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) Chairperson.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(f) Quorum.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) Organization Meeting.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after the members are first appointed to the Commission.

(h) Compensation.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission, not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(i) Travel.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees under sections 5702 and 5703 of title 5, United States Code.

(j) Commission Staff.—

(1) Executive director.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Additional personnel.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate of basic pay payable for level 15 of the General Schedule.

(3) Experts and consultants.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as it authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(4) Personnel detail authorized.—Upon the request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

(k) Duties of the Commission.—The Commission shall—

(1) develop proposals to address the dual taxation by Indian tribes and States of the extraction of mineral resources on Indian reservations;

(2) make recommendations to improve the management, administration, accounting and auditing of royalties associated with the production of oil and gas on Indian reservations;

(3) develop alternatives for the collection and distribution of royalties associated with production of oil and gas on Indian reservations;

(4) develop proposals on incentives to foster the development of energy resources on Indian reservations;

(5) identify barriers or obstacles to the development of energy resources on Indian reservations, and make recommendations designed to foster the development of energy resources on Indian reservations and promote economic development;

(6) develop proposals for the promotion of vertical integration of the development of energy resources on Indian reservations; and

(7) develop proposals on taxation incentives to foster the development of energy resources on Indian reservations including, but not limited to, investment tax credits and enterprise zone credits.

(l) Powers of the Commission.—The powers of the Commission shall include the following:

(1) For the purpose of carrying out its duties under this section, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out its duties under this section.

(m) Commission Report.—

(1) In general.—The Commission shall, within 12 months after funds are made available to carry out this section, prepare and transmit to the President, the Committee on Interior and Insular Affairs of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate, a report containing the recommendations and proposals specified in subsection (k).

(2) Review and comment.—Prior to submission of the report required under this section, the Chairman shall circulate a draft of the report to Indian tribes and States that have Indian reservations with developable energy resources and other interested tribes and States for review and comment.

(n) Authorization of Appropriations.—There are authorized to be appropriated to the Commission $1,000,000 to carry out this section. Such sum shall remain available, without fiscal year limitation, until expended.

(o) Termination.—The Commission shall terminate 30 days after submitting the final report required by subsection (m).

SEC. 2606. TRIBAL GOVERNMENT ENERGY ASSISTANCE PROGRAM.

(a) Financial Assistance.—The Secretary may grant financial assistance to Indian tribal governments, or private sector persons working in cooperation with Indian tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects on Indian reservations. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial, or management issues identified by the applicants for such grants.

(b) Conditions.—Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

(c) Considerations.—In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to the development, or the quality of the environment, of the affected Indian reservations; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

(d) Cost-Share.—With the exception of grants awarded for the purpose of feasibility studies, the Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary for the development and implementation of the program established by this section.

TITLE XXVII—INSULAR AREAS ENERGY SECURITY

SEC. 2701. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96–597, as amended by Public Law 98–213 (48 U.S.C. 1492), is amended by adding at the end the following new subsection:

"(g) FINANCIAL ASSISTANCE.—(1) The Secretary of Energy may grant financial assistance, not to exceed $2,000,000 annually, to insular area governments or private sector persons working in cooperation with insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the insular areas on imported fuels, improve the quality of the environment, and promote development in the insular areas.

"(2) Any applicant for financial assistance under this subsection must evidence coordination and cooperation with, and support from, the affected local energy institutions.

"(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

"(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

"(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

"(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or that are identified by the Secretary as consistent with the purposes of this subsection;

"(D) whether the measure will contribute significantly to development and the quality of the environment in the insular area; and

"(E) any other factors which the Secretary may determine to be relevant to a particular project.

"(4) Notwithstanding the requirements of section 501(d) of Public Law 95–134 (48 U.S.C. 1469a(d)), the Secretary shall require at least 20 percent of the costs of any project under this subsection to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

"(5) For the purposes of this subsection—

"(A) the term 'insular area' means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands; and

"(B) the term '1982 Territorial Energy Assessment' means the comprehensive energy plan prepared by the Secretary of Energy pursuant to subsection (c).".

SEC. 2702. DEFINITION.

For amendment of the definition of the term "State" for purposes of the nuclear waste negotiation provisions of title IV of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10241 et seq.), see section 802(b).

SEC. 2703. ELECTRICITY REQUIREMENTS IN TRUST TERRITORY OF THE PACIFIC ISLANDS.

Not later than 3 months after the completion of the Palau National Master Development Plan developed pursuant to the Department of the Interior Secretary's Order No. 3142, the Secretary of the Interior shall, in consultation with the Government of Palau, submit a plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives to provide electric service in Palau that is consistent with determinations made in developing the Palau National Master Development Plan, with regard to the need for and financing and scheduling of the availability of such service.

SEC. 2704. PCB CLEANUP IN MARSHALL ISLANDS AND FEDERATED STATES OF MICRONESIA.

Section 105(h) of Public Law 99–239 is amended by adding at the end the following new paragraph:

"(5) The programs and services of the Environmental Protection Agency regarding PCB's shall, to the extent applicable, as appropriate, and in accordance with applicable law, be construed to be made available to such islands.".

TITLE XXVIII—NUCLEAR PLANT LICENSING

SEC. 2801. COMBINED LICENSES.

Section 185 of Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended—

(1) in the heading for such section by adding "and Operating Licenses" after "Permits";

(2) by adding a subsection designator "a." before "All applicants for licenses"; and

(3) by adding at the end the following new subsection:

"b. After holding a public hearing under section 189 a. (1)(A), the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189a.(1)(B).".

SEC. 2802. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.

Section 189a.(1) of Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended—

(1) by adding a subparagraph designator "(A)" before "In any proceeding under this Act,"; and

(2) by adding after subparagraph (A) the following new subparagraph:

"(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under clause (i) shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under clause (i), the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under clause (i), and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 2803. RULEMAKING.

The Nuclear Regulatory Commission shall modify part 52 of title 10, Code of Federal Regulations, to conform with sections 185b. and 189a.(1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, not later than 1 year after the date of the enactment of this Act.

SEC. 2804. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.

Section 189a.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(2)) is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 2805. JUDICIAL REVIEW.

Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 2806. EFFECT ON PENDING PROCEEDINGS.

Sections 185b. and 189a.(1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, shall apply to all proceedings involving a combined license for which an application was filed after May 8, 1991, under such sections.

SEC. 2807. CONFORMING AMENDMENT.

The table of contents of the Atomic Energy Act of 1954 is amended by amending the item related to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

TITLE XXIX—ADDITIONAL NUCLEAR ENERGY PROVISIONS

SEC. 2901. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF NRC REGULATORY CONCERN.

(a) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting after section 275 the following new section:

"SEC. 276. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF REGULATORY CONCERN OF NUCLEAR REGULATORY COMMISSION.

"(a) IN GENERAL.—No provision of this Act, or of the Low-Level Radioactive Waste Policy Act, may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the disposal or off-site incineration of low-level radioactive waste, if the Nuclear Regulatory Commission, after the date of the enactment of the Energy Policy Act of 1992 exempts such waste from regulation.

"(b) RELATION TO OTHER STATE AUTHORITY.—This section may not be construed to imply preemption of existing State authority. Except as expressly provided in subsection (a), this section may not be construed to confer on any State any additional authority to regulate activities licensed by the Nuclear Regulatory Commission.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'low-level radioactive waste' means radioactive material classified by the Nuclear Regulatory Commission as low-level radioactive waste on the date of the enactment of the Energy Policy Act of 1992.

"(2) The term 'off-site incineration' means any incineration of radioactive materials at a facility that is located off the site where such materials were generated.

"(3) The term 'State' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) REVOCATION OF RELATED NRC POLICY STATEMENTS.—The policy statements of the Nuclear Regulatory Commission published in the Federal Register on July 3, 1990 (55 Fed. Reg. 27522) and August 29, 1986 (51 Fed. Reg. 30839), relating to radioactive waste below regulatory concern, shall have no effect after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. 2011 prec.) is amended by inserting after the item relating to section 275 the following new item:

"Sec. 276. State authority to regulate radiation below level of regulatory concern of Nuclear Regulatory Commission.".

SEC. 2902. EMPLOYEE PROTECTION FOR NUCLEAR WHISTLEBLOWERS.

(a) INTERNAL WHISTLEBLOWERS; EMPLOYERS.—Section 210(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)) is amended—

(1) by inserting "(1)" after "SEC. 210.(a)";

(2) by striking ", including" and all that follows through "licensee or applicant,";

(3) by inserting after the dash the following new subparagraphs:

"(A) notified his employer of an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(B) refused to engage in any practice made unlawful by this Act or the Atomic Energy Act of 1954, if the employee has identified the alleged illegality to the employer;

"(C) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this Act or the Atomic Energy Act of 1954;";

(4) by redesignating paragraphs (1) through (3) as subparagraphs (D) through (F), respectively; and

(5) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term 'employer' includes—

"(A) a licensee of the Commission or of an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021);

"(B) an applicant for a license from the Commission or such an agreement State;

"(C) a contractor or subcontractor of such a licensee or applicant; and

"(D) a contractor or subcontractor of the Department of Energy that is indemnified by the Department under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), but such term shall not include any contractor or subcontractor covered by Executive Order No. 12344.".

(b) TIME PERIOD FOR FILING COMPLAINT.—Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended by striking "thirty days" and inserting "180 days".

(c) INTERIM RELIEF.—Section 210(b)(2)(A) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(2)(A)) is amended by inserting before the last sentence the following: "Upon the conclusion of such hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B), but may not order compensatory damages pending a final order.".

(d) AVOIDANCE OF FRIVOLOUS COMPLAINTS.—Section 210(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1), and shall not conduct the investigation required under paragraph (2), unless the complainant has made a prima facie showing that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A), no investigation required under paragraph (2) shall be conducted if the employer demonstrates, by clear and convincing evidence, that it would have taken the same unfavorable personnel action in the absence of such behavior.

"(C) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant has demonstrated that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(D) Relief may not be ordered under paragraph (2) if the employer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.".

(e) NONPREEMPTION.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is amended by adding at the end the following new subsection:

"(h) This section may not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by the employer against the employee.".

(f) POSTING REQUIREMENT.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(i) The provisions of this section shall be prominently posted in any place of employment to which this section applies.".

(g) DUTY OF NRC TO INVESTIGATE SUBSTANTIVE ALLEGATIONS.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(j)(1) The Commission or the Department of Energy shall not delay taking appropriate action with respect to an allegation of a substantial safety hazard on the basis of—

"(A) the filing of a complaint under subsection (b)(1) arising from such allegation; or

"(B) any investigation by the Secretary, or other action, under this section in response to such complaint.

"(2) A determination by the Secretary under this section that a violation of subsection (a) has not occurred shall not be considered by the Commission or the Department of Energy in its determination of whether a substantial safety hazard exists.".

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The title heading of title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended to read as follows:

"TITLE II—NUCLEAR REGULATORY COMMISSION; NUCLEAR WHISTLEBLOWER PROTECTION".

(2) Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended—

(A) by striking "(hereinafter in this subsection referred to as the 'Secretary')" and inserting "(in this section referred to as the 'Secretary')"; and

(B) by striking "and the Commission" and inserting ", the Commission, and the Department of Energy".

(3) The second of the two sections of the Energy Reorganization Act of 1974 that is numbered 210 (42 U.S.C. 5851) is redesignated as section 211.

(i) APPLICABILITY.—The amendments made by this section shall apply to claims filed under section 211(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act.

SEC. 2903. EXEMPTION OF CERTAIN RESEARCH AND EDUCATIONAL LICENSEES FROM ANNUAL CHARGES.

(a) IN GENERAL.—Section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)) is amended—

(1) in paragraph (1), by striking "Any licensee" and inserting "Except as provided in paragraph (4), any licensee"; and

(2) by adding at the end the following new paragraph:

"(4) EXEMPTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

"(B) RESEARCH REACTOR.—For purposes of subparagraph (A), the term 'research reactor' means a nuclear reactor that—

"(i) is licensed by the Nuclear Regulatory Commission under section 104 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a thermal power level of 10 megawatts or less; and

"(ii) if so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

"(I) a circulating loop through the core in which the licensee conducts fuel experiments;

"(II) a liquid fuel loading; or

"(III) an experimental facility in the core in excess of 16 square inches in cross-section.".

(b) APPLICABILITY.—The amendments made subsection (a) shall apply to annual charges assessed under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 for fiscal year 1992 or any succeeding fiscal year.

(c) POLICY REVIEW.—The Nuclear Regulatory Commission shall review its policy for assessment of annual charges under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990, solicit public comment on the need for changes to such policy, and recommend to the Congress such changes in existing law as the Commission finds are needed to prevent the placement of an unfair burden on certain licensees of the Commission, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes.

SEC. 2904. STUDY AND IMPLEMENTATION PLAN ON SAFETY OF SHIPMENTS OF PLUTONIUM BY SEA.

(a) STUDY.—The President, in consultation with the Nuclear Regulatory Commission, shall conduct a study on the safety of shipments of plutonium by sea. The study shall consider the following:

(1) The safety of the casks containing the plutonium.

(2) The safety risks to the States of such shipments.

(3) Upon the request of any State, the adequacy of that State's emergency plans with respect to such shipments.

(4) The Federal resources needed to assist the States on account of such shipments.

(b) REPORT.—The President shall, not later than 60 days after the date of the enactment of this Act, transmit to the Congress a report on the study conducted under subsection (a), together with his recommendations based on the study.

(c) IMPLEMENTATION PLAN.—The President, in consultation with the Nuclear Regulatory Commission, shall establish a plan to implement the recommendations contained in the study conducted under subsection (a) and shall, not later than 90 days after transmitting the report to the Congress under subsection (b), transmit to the Congress that implementation plan.

(d) DEFINITION.—As used in this section, the term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

TITLE XXX—MISCELLANEOUS

Subtitle A—General Provisions

SEC. 3001. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION ACTIVITIES.

(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—(1) Except as otherwise provided in this Act, research, development, and demonstration activities under this Act may be carried out under the procedures of the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901–5920), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other Act under which the Secretary is authorized to carry out such activities, but only to the extent the Secretary is authorized to carry out such activities under each such Act. An objective of any demonstration program under this Act shall be to determine the technical and commercial feasibility of energy technologies.

(2) Except as otherwise provided in this Act, in carrying out research, development, and demonstration programs and activities under this Act, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980, grants, joint ventures, and any other form of agreement available to the Secretary.

(b) COMMERCIAL APPLICATION.—Except as otherwise provided in this Act, in carrying out commercial application programs and commercial application activities under this Act, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980, grants, joint ventures, and any other form of agreement available to the Secretary. An objective of any commercial application program under this Act shall be to accelerate the transition of technologies from the research and development stage.

(c) DEFINITION.—For purposes of this section, the term "joint venture" has the meaning given the term "joint research and development venture" under section 2 (a)(6) and (b) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 (a)(6) and (b)), except that such term may apply under this section to research, development, demonstration, and commercial application joint ventures.

(d) PROTECTION OF INFORMATION.—Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980, relating to the protection of information, shall apply to research, development, demonstration, and commercial application programs and activities under this Act.

(e) GUIDELINES AND PROCEDURES.—The Secretary shall provide guidelines and procedures for the transition, where appropriate, of energy technologies from research through development and demonstration under subsection (a) to commercial application under subsection (b). Nothing in this section shall preclude the Secretary from—

(1) entering into a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary under this section that relates to research, development, demonstration, and commercial application; or

(2) extending a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that relates to research, development, and demonstration to cover commercial application.

(f) APPLICATION OF SECTION.—This section shall not apply to any contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that is in effect as of the date of the enactment of this Act.

SEC. 3002. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this Act, for research and development programs carried out under this Act, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this Act, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this Act to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(d) TENNESSEE VALLEY AUTHORITY.—Funds derived by the Tennessee Valley Authority from its power program may be used for all or part of any cost sharing requirements under this section, except to the extent that such funds are provided by annual appropriation Acts.

Subtitle B—Other Miscellaneous Provisions

SEC. 3011. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978 REPEAL.

Section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373(c)) is repealed.

SEC. 3012. ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976 REPEAL.

(a) REPEAL.—Section 7(a)(5) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e(a)(5)) is repealed.

(b) ABOLITION OF OFFICE OF FEDERAL INSPECTOR OF CONSTRUCTION.—The Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System, created pursuant to the paragraph repealed by subsection (a) of this section, is abolished. All functions and authority vested in the Inspector are hereby transferred to the Secretary of Energy.

(c) REVOCATION OF CERTAIN OFI REGULATIONS.—Regulations applicable to the Office of Federal Inspector of the Alaska Natural Gas Transportation System, as set forth in chapter 15 of title 10, Code of Federal Regulations, are hereby revoked.

SEC. 3013. GEOTHERMAL HEAT PUMPS.

The Secretary shall—

(1) encourage States, municipalities, counties, and townships to consider allowing the installation of geothermal heat pumps, and, where applicable, and consistent with public health and safety, to permit public and private water recipients to utilize the flow of water from, and back into, public and private water mains for the purpose of providing sufficient water supply for the operation of residential and commercial geothermal heat pumps; and

(2) not discourage any local authority which allows the use of geothermal heat pumps from—

(A) inspecting, at any reasonable time, geothermal heat pump connections to the water system to ensure the exclusive use of the public or private water supply to the geothermal heat pump system; and

(B) requiring that geothermal heat pump systems be designed and installed in a manner that eliminates any risk of contamination to the public water supply.

SEC. 3014. USE OF ENERGY FUTURES FOR FUEL PURCHASES.

(a) FUEL STUDY.—The Secretary shall conduct a study—

(1) to ascertain if the use of energy futures and options contracts could provide cost-effective protection for Government entities (including Government purchases for military purposes and for the Strategic Petroleum Reserve) and consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk) from unanticipated surges in the price of fuel; and

(2) to ascertain how such Government entities or consumer cooperatives may be educated in the prudent use of energy futures and options contracts to maximize their purchasing effectiveness, protect themselves against unanticipated surges in the price of fuel, and minimize fuel costs.

(b) REPORT.—The Secretary, no later than 12 months after the date of the enactment of this Act, shall transmit the study required in this section to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) PILOT PROGRAM.—The Secretary shall conduct a pilot program, commencing not later than 30 days after the transmission of the study required in subsection (b), to educate such governmental entities, consumer cooperatives, or other organizations on the prudent and cost-effective use of energy futures and options contracts to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 3015. ENERGY SUBSIDY STUDY.

(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of the enactment of this Act; or

(2) have been in effect prior to the date of the enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and

other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of the enactment of this Act; or

(ii) reasonably foreseeable on the date of the enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1993 and 1994.

SEC. 3016. TAR SANDS.

(a) POLICY.—It is the policy of the United States to promote the development and production, by all means consistent with sound engineering, economic, and environmental practices, of deposits of tar sands.

(b) DEFINITION.—(1) For purposes of this section, the term "tar sands" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either—

(A) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or

(B) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(2) Nothing in this section is intended or shall be construed to affect in any way the definition of the term tar sands under any other provision of Federal law.

(c) STUDY.—The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the House of Representatives and the Committee on Energy and Natural Resources of the Senate within one year after the date of enactment of this Act. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sand sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 and 1994 to carry out this section.

SEC. 3017. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (21) the following:

"(21A) 'farmout agreement' means a written agreement in which—

"(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

"(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property;".

(b) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end,

(2) in paragraph (3) by striking the period at the end and inserting "or", and

(3) by adding at the end the following:

"(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

"(A) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

"(B) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a)(3) of this title.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 3018. RADIATION EXPOSURE COMPENSATION.

Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by adding at the end the following new subsection:

"(l) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 3019. STRATEGIC DIVERSIFICATION.

The Office of Barter within the United States Department of Commerce and the Interagency Group on Countertrade shall within six months from the date of enactment report to the President and the Congress on the feasibility of using barter, countertrade and other self-liquidating finance methods to facilitate the strategic diversification of United States oil imports through cooperation with the former Soviet Union in the development of its energy resources. The report shall consider among other relevant topics the feasibility of trading American grown food for Soviet produced oil, minerals or energy.

SEC. 3020. CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT.

(a) FINDINGS.—The Congress finds that—

(1) there is growing mutual economic interdependence among the countries of the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must consider existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would severely constrain future opportunities for sustainable economic development and growth in each of these member countries; and

(7) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

(b) DEFINITION.—For purposes of this section, the term "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment.

(c) NEGOTIATIONS.—The President is authorized to direct the United States representative to the Organization of American States to initiate negotiations with the Organization of American States for the establishment of a Consultative Commission on Western Hemisphere Energy and Environment under the auspices of the Organization of American States.

(d) THE COMMISSION.—In the course of the negotiations, the following shall be pursued:

(1) OBJECTIVES.—The objectives of the Commission shall be—

(A) to evaluate from the viewpoint of the Western Hemisphere as a whole the energy and environmental situations, trends, and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies, and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world.

(2) COMPOSITION OF THE COMMISSION.—The Commission shall include representatives of—

(A) the respective foreign energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters; and

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise.

(3) SECRETARIAT.—A small secretariat shall be chosen by the participating governments for their expertise in the areas of energy and the environment.

(4) SUNSET PROVISION.—The Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(e) REPORT.—The President shall, within one year after the date of enactment of this Act, report to the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate, on the progress toward the establishment of the Commission and achievement of the purposes of this section.

SEC. 3021. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—To the extent practicable, the head of each agency shall provide that the obligation of not less than 10 percent of the total combined amounts obligated for contracts and subcontracts by each agency under this Act and amendments made by this Act pur-

suant to competitive procedures within the meaning of either the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), or chapter 137 of title 10, United States Code, shall be expended either with—

(1) small business concerns controlled by socially and economically disadvantaged individuals or women;

(2) historically Black colleges and universities; or

(3) colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632). However, for purposes of contracts and subcontracts requiring engineering services the applicable size standard shall be that established for military and aerospace equipment and military weapons.

(2) The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

And the Senate agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill (except title XIX), and the Senate amendment (except title XX), and modifications committed to conference:

John D. Dingell,
Philip R. Sharp,
Edward J. Markey,
Billy Tauzin,
Edolphus Towns,
Al Swift,
Mike Synar,
Norman F. Lent,
Carlos J. Moorhead,

Provided, that Mr. Bliley is appointed only for consideration of titles I, VII, XII, XVII, and XXXI of the House bill, and titles V, VI, and XV of the Senate amendment:

Tom Bliley,

Mr. Fields is appointed only for consideration of titles III, IV, V, XIV, XVIII, and XX of the House bill, and titles IV and XVI of the Senate amendment:

Jack Fields,

Mr. Oxley is appointed only for consideration of titles II, VI, VIII, IX, X, XI, XIII, XV, XVI, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, and XXX of the House bill, and titles I, II, VIII, IX, X, XI, XII, XIII, XIV, XVII, XVIII, XIX, and XXI of the Senate amendment; and in lieu of Mr. Lent for title VII of the House bill and title XV of the Senate amendment:

Michael G. Oxley,

From the Committee on Ways and Means, for consideration of title XIX of the House bill, and section 19108 and title XX of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J.J. Pickle,
Charles B. Rangel,
Pete Stark,

As additional conferees from the Committee on Ways and Means, for that portion of section 1101 of the House bill which adds new sections 1701 and 1702 to the Atomic Energy Act of 1974, and that portion of section 10103 of the Senate amendment which adds new sections 1701 and 1702 to the Atomic Energy Act of 1954, and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J.J. Pickle,
Charles B. Rangel,
Pete Stark,

As additional conferees from the Committee on Education and Labor, for consideration of sections 20141, 20142, 20143 (except those portions which add new sections 9702(a)(4), 9704, 9705(a)(4), 9706, and 9712(d)(5) to the Internal Revenue Code of 1986) of the Senate amendment, and modifications committed to conference:

William D. Ford,
William Clay,
George Miller,
Dale E. Kildee,

As additional conferees from the Committee on Education and Labor, for consideration of those portions of section 901 which add new sections 1305 and 1312 to the Atomic Energy Act of 1954, that portion of section 1101 which adds a new section 1704 to the Atomic Energy Act of 1954, and section 3004 of the House bill and sections 4402, 6601–04, 10104, 13119, and 19113 of the Senate amendment, and modifications committed to conference:

William D. Ford,
Pat Williams,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1205, 1208, 1213–14, 1302–05, 1606, and 903 of the House bill, and sections 5101–04, that portion of section 5201 which adds a new section 6 to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, 14108–09, and 14301–02, of the Senate amendment, and modifications committed to conference:

Dante B. Fascell,
Sam Gejdenson,
Howard Wolpe,
Mel Levine,
Edward Feighan,
Harry Johnston,
Eliot L. Engel,
William Broomfield,
Toby Roth,
John Miller,
Amo Houghton,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1211, 1607, 2481, and 2704 of the House bill, and sections 1201, 6701–02, 10223(b), 13102, 17101–02, 19101, and 19109 of the Senate amendment, and modifications committed to conference:

Dante B. Fascell,
Sam Gejdenson,
William Broomfield,

As additional conferees from the Committee on Government Operations, for consideration of sections 121 (e) and (f), 122, 127, and 128 of the House bill, and sections 6207, 6216, 6218, and 6220–6221 of the Senate amendment, and modifications committed to conference:

John Conyers, Jr.,
Albert G. Bustamante,
Bill Clinger,

As additional conferees from the Committee on Government Operations, for consideration of sections 302 and 304–306 of the House bill, and sections 4102, 4105–4106, 4112–4113, 4116, and 4119 of the Senate amendment, and modifications committed to conference:

John Conyers, Jr.,
Bob Wise,
Al McCandless,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of sections 133, 1314, 1607, 3002, 3004, 3009, 3101, 3102, and 3104 and titles VIII–XI and XXIV–XXIX of the House bill, and sections 5302–5304, 5308, 6303, 6501, 6506, 13115, 13118, 13120–13121, 14114, 19110, 19112 and titles IX, X, XII, XVIII of the Senate amendment, and modifications committed to conference:

George Miller,
Nick Rahall,
Bruce F. Vento,
Ron de Lugo,
Sam Gejdenson,
Barbara F. Vucanovich
(I concur in the Conference Report and the Statement of Managers except for section 801),
John J. Rhodes,

Provided, Mr. Murphy is appointed in lieu of Mr. DeFazio for consideration of title XXV of the House bill and section 14114 of the Senate amendment only and Mr. Abercrombie is appointed in lieu of Mr. DeFazio for consideration of section 2481 of the House bill only:

Austin J. Murphy,
Neil Abercrombie,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of that portion of section 723(h) which adds a new section 212(h) to the Federal Power Act, 1312–1313, 1403, 2012, 2113(g), 2307, and 3008 of the House bill, and sections 19104, and 20143(b) and titles VIII and XXI of the Senate amendment, and modifications committed to conference:

George Miller,
Nick Rahall,

As additional conferees from the Committee on the Judiciary, for consideration of section 3010 of the House bill, and section 19102 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Don Edwards,
Dan Glickman,
Edward Feighan,
Harley O. Staggers, Jr.,
Howard L. Berman,
Craig Washington,
Hamilton Fish, Jr.,
Henry J. Hyde,
Tom Campbell,
Lamar Smith,

As additional conferees from the Committee on the Judiciary, for consideration of section 11107 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Don Edwards,

As additional conferees from the Committee on the Judiciary, for consideration of section 19106 of the Senate (amendment), and modifications committed to conference:

Jack Brooks,
Barney Frank,
George W. Gekas,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of section 1607, and title XXIV of the House bill, and title XII of the Senate amendment, and modifications committed to conference:

Gerry Studds,
Dennis M. Hertel,
Bob Davis,
Jack Fields,
James M. Inhofe,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 205, 1602, 1701(b) of the House bill, and sections 5204, 5302, 5304, and 11103 and title XXI of the Senate amendment, and modifications committed to conference:

Gerry Studds,
Bob Davis,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 121–128, 132, 411, 2453, 2461–2464, 2705, 3102, and 3104 and title XVIII of the House bill, and sections 4120, 4401, 5303, 5308, 6101, 6201–6224, 6304, and 10224 of the Senate amendment, and modifications committed to conference:

Robert A. Roe,
Norman Y. Mineta,
Henry J. Nowak,
Douglas Applegate,
Ron de Lugo,
Gus Savage,
Robert A. Borski,
John Paul Hammerschmidt,
Bud Shuster,
Thomas E. Petri,
James M. Inhofe,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 164(h), that portion of section 723 which adds a new section 212(i) to the Federal Power Act, 410, and 1316 of the House bill, and sections 12103, 12204, and 14113 of the Senate amendment, and modifications committed to conference:

Robert A. Roe,
Norman Y. Mineta,
John Paul Hammerschmidt,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 901–02, 1203, 1207, 1301, 1306–09, 1318–19, 1315, 2471, 2502–03, 2513, 3005, 3007, 3009 and titles VI and XX–XXIII of the House bill, and sections 4201–18, 4305, 4401, 5201–02, 5204–06, 6104, 6501, 6506, 19103, and titles II, VIII, subtitle A of title X, except those portions adding new sections 1511, 1601, 1606, 1607, 1701–1703 to the Atomic Energy Act of 1954, XIII, and XIV of the Senate amendment, and modifications committed to conference:

George E. Brown, Jr.,
Marilyn Lloyd,
James H. Scheuer,
Howard Wolpe,
Richard H. Stallings,
Timothy Roemer,
Dick Swett,
Robert S. Walker,
Don Ritter,
Sid Morrison,
Harris W. Fawell,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 5207, 6101–6103 of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Mary Rose Oakar,
Marge Roukema,

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 1934 of the House bill, and modifications committed to conference:

G.V. Montgomery,
Don Edwards,
Douglas Applegate,
Harley O. Staggers, Jr.,
Bob Stump,
John Paul Hammerschmidt,

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 6101 and 6102 of the Senate amendment, and modifications committed to conference:

G.V. Montgomery,
Harley O. Staggers, Jr.,
Bob Stump,

Managers on the Part of the House.

From the Committee on Energy and Natural Resources, for all titles except title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions):

J. Bennett Johnston,
Dale Bumpers,
Wendell H. Ford,
Jeff Bingaman,
Tim Wirth,
Kent Conrad,
Richard Shelby,
Malcolm Wallop,
Mark O. Hatfield,
Pete V. Domenici,
Don Nickles,
Conrad Burns,

From the Committee on Governmental Affairs, conferees for subtitle B of title VI of the Senate amendment (Federal energy management):

John Glenn,
Ted Stevens,

From the Committee on Commerce, Science, and Transportation, conferees for subtitles A, B, and C of title XII of the Senate amendment (Outer Continental Shelf revenue sharing), pipeline safety issues (as contained in Senate amendment No. 2785):

Ernest F. Hollings,

From the Committee on Banking, Housing, and Urban Affairs, conferees for title XV of the Senate amendment (Public Utility Holding Company Act reform):

Don Riegle,
Jake Garn,

From the Committee on Veterans' Affairs, conferees on sections 6101 and 6102 of title VI of the Senate amendment (building energy efficiency):

Alan Cranston,
Arlen Specter,

From the Committee on Finance, conferees on title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions):

Lloyd Bentsen,
Daniel Patrick Moynihan,
Max Baucus,
David L. Boren,
Tom Daschle,
John Breaux,
Bob Packwood,
Bob Dole,
John C. Danforth,
John H. Chafee,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 776) to provide for improved energy efficiency submit the following joint statement to the House and the Senate in explanation of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—ENERGY EFFICIENCY

SUBTITLE A—BUILDINGS

Sec. 101. Building Energy Efficiency Standards

Section 101(c) would amend the Cranston-Gonzalez National Affordable Housing Act (P.L. 101–625) to ensure that the Secretary of Housing and Urban Development develops energy efficiency standards for new homes financed through Federal mortgage programs as required by that Act. The subsection also expands the coverage of the standards from HUD insured mortgages only, to the mortgage insurance and guarantee programs of the Departments of Agriculture and Veterans Affairs. Such standards shall meet or exceed the requirements of the Council of American Building Officials Model Energy Code 1992 (CABO–MEC 1992) or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers standards (ASHRAE 90.1–1989), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. The Conferees believe that these consensus standards are cost-effective with respect to construction and operating costs on a life-cycle cost basis. If, in carrying out their responsibilities under this subsection, the Secretaries wish to conduct life-cycle cost analyses, they should use a 25 or 30 year term to reflect the facts that houses have long useful lives and are commonly financed through 30 year mortgages.

SUBTITLE B—UTILITIES

Sec. 111. Encouragement of Investments in Conservation and Energy Efficiency by Electric Utilities

This section would amend the Public Utility Regulatory Policies Act of 1978 to require utilities and public utility commissions to consider requiring three new Federal standards:

1. integrated resource planning which compares supply and demand-side options on a systematic and comparable basis;
2. cost recovery for energy efficiency programs and measures that makes them at least as profitable as supply side measures; and
3. rate changes that encourage investments in efficiency measures in generation, transmission and distribution of power.

Whether or not utilities and public utility commissions choose to implement these policies, they must hold a public hearing and state why they will not implement them. The Conferees recognize that a number of States have already implemented some or all of the standards encouraged under this section. The Conferees do not intend that such States go through additional rulemaking proceedings simply to satisfy the procedural requirement above, nor do they intend that States repeat such proceedings in the future. These States are encouraged to demonstrate that they have implemented the standards by referencing actions they have already taken. States have substantial discretion in how they implement the standards encouraged under this section.

It is the intent of this subtitle to promote energy efficiency, in particular by encouraging utilities, which have a unique relationship with their customers, to expand demand-side management (DSM) programs. It is also intended that utility commissions must consider the impact which these expanded DSM programs may have on small businesses already engaged in similar activities, and shall implement these standards so as to assure that utility actions will not provide utilities with unfair competitive advantages over such small businesses. It is further intended that whenever practicable and consistent with energy efficiency goals, utility commissions will encourage approaches to the implementation of DSM activities that would be mutually beneficial to utilities and small businesses, such as through joint utility-small business arrangements using rebates or vouchers.

The subsection dealing with small business protection neither precludes, nor mandates, the adoption of competitive bidding for demand-side management services. By adding this provision, the Conferees do not intend that utilities be precluded from engaging in energy conservation, energy efficiency or other demand-side measures.

Whether utilities engage in such activities should continue to be determined by state laws and state regulatory commissions, keeping in mind the requirements of this subsection. The Conferees intend that nothing in this subsection in any way interfere with the ability of utilities to assure safe and reliable service. State regulatory commissions are encouraged to utilize their existing authority in implementing this subsection; the implementation of this subsection is not intended to require the creation of new administrative or regulatory procedures.

Sec. 114. Amendment of Hoover Power Plant Act

Section 114 would amend the Hoover Power Plant Act of 1984 to require the Western Area Power Administration (WAPA) to issue rules requiring all but its smallest customers to engage in integrated resource planning (IRP). The Conferees recognize the efforts that many customers have already undertaken with respect to IRP. The Conferees further recognize that these customers vary in size and capability to plan, and therefore intend that regulations be flexible enough to allow for reasonable variations in compliance requirements.

In section 204(b) of such Act, as amended by this section, the customer is required, in preparation and development of the IRP, to provide for full public participation, including participation of governing boards. This language reflects the sound policy that better decisions result when the affected customers are involved in the resource planning process. Preference entities serve the public and are accountable to their consumers. By allowing the consumer to participate in the IRP preparation and development process, recognition of the public interest is assured.

Section 204(c), as amended, would direct the Administrator to accept integrated resource plans that are currently being implemented by customers under other programs as fulfilling the requirements of this provision "to the extent such plan substantially complies with requirements of this title." The Conferees intend for the Administrator to be flexible in determining what satisfies the "substantial compliance" standard. IRP plans to take significant resources to plan and implement.

Finally, it is not the Conferees' intent that WAPA force changes in customers' approved IRP plans. WAPA should accept good faith efforts to comply with approved plans as generally satisfying compliance standards.

Sec. 115. Encouragement of Investments in Conservation and Energy Efficiency by Gas Utilities

This section would amend the natural gas provisions of the Public Utility Regulatory Policies Act of 1978 to require utilities and State regulatory commissions to consider requiring two new Federal standards:

1. implement integrated resource planning for State regulated gas utilities; and
2. allow State regulated gas utilities to earn a profit on investments in energy efficiency.

States may choose not to implement these requirements, but they must hold a hearing and state why they are not implementing them.

The Conferees recognize that a number of States have already implemented some or both of the standards encouraged under this section. The Conferees do not intend that such States go through additional rulemaking proceedings simply to satisfy the procedural requirements above. These States are encouraged to demonstrate that they have implemented the standards by referencing actions they have already taken. The Conferees believe that States should have substantial discretion in how they implement the standards encouraged under this section.

It is intended that Integrated Resource Planning (IRP) be considered only for local gas distribution companies who directly serve ultimate users of gas. In examining natural gas supply options under IRP, it is not intended that the sources, conditions, or other characteristics of the upstream supply of gas be analyzed. Rather, the IRP is intended to examine and compare demand-side options with the general option of additional supplies to end use customers by the local gas distribution company.

The subsection in this section regarding the competitive impact of the implementation of these standards on small businesses has the same intent as that described under section 111.

SUBTITLE C—STANDARDS

In general

The provisions of this subtitle would significantly expand the coverage of the appliance energy efficiency standards program and the energy labeling program under the Energy Policy and Conservation Act (EPCA). It is the intent of the Conferees that the Secretary shall seek to harmonize these standards internationally, particularly with standards established or under development in Canada and Mexico, nations with which the United States conducts substantial trade. Such harmonization will simplify enforcement, reduce impediments to trade, and will reduce burdens on manufacturers.

In addition, the Conferees have concerns regarding the adequacy of the current enforcement penalties under EPCA. These penalties were established many years ago. Accordingly, the conferees expect the Secretary to review the adequacy of the enforcement provisions of these programs and to recommend changes to the Congress, if appropriate.

Sec. 121. Energy Efficiency Labeling for Windows and Window Systems

The National Fenestration Rating Council (NFRC) is initially directed to develop this voluntary rating program according to commonly accepted procedures for the development of national testing procedure and labeling programs. Such commonly accepted procedures are those recognized by the Federal Trade Commission (FTC), or that are consistent with FTC policy.

In addition, it is intended that, should NFRC develop this program, its implementation and administration also will be in accordance with commonly accepted procedures. Such procedures must assure, at a minimum, that NFRC has sufficient oversight and authority to assure that accreditation and certification procedures result in compliance with its program.

Sec. 125. Energy Efficiency Labeling for Commercial Office Equipment

This section would require the Secretary to provide financial assistance to support the development of a voluntary national testing and information program for commercial office equipment in accordance with commonly accepted procedure for the development of such testing and information programs. Such commonly accepted procedures are those recognized by the Federal Trade Commission or consistent with FTC policy.

If such voluntary program is not established within 3 years, then the Secretary and the Federal Trade Commission are directed to develop test procedures and labeling rules for commercial office equipment.

Sec. 126. Energy Efficiency Labeling for Luminaries

This section would require the Secretary to provide financial assistance to support the development of a voluntary national testing and information program for luminaries in accordance with commonly accepted procedures for the development of such testing and information programs. Such commonly accepted procedures are those recognized by the Federal Trade Commission or that are consistent with FTC policy.

Sec. 127. Report on the Potential of Cooperative Advanced Appliance Development

This section would require the Secretary, in consultation with the Administrator of EPA, to prepare and submit a report to Congress on the potential for the development and commercialization of appliances which are substantially more efficient that those required by Federal or State law. Any recommendations related to the commercialization of such advanced appliances should take into account any issues regarding the marketing of such appliances.

The Conferees are aware that the Environmental Protection Agency is already engaged in supporting industry efforts to develop high efficiency refrigerators and other products and do not intend this study to delay those ongoing efforts. The study should particularly focus on those appliances and products that EPA is not currently working on. In addition, it is intended that the two agencies will coordinate their efforts in this area and avoid duplication of effort.

SUBTITLE F—FEDERAL AGENCY ENERGY MANAGEMENT

Sec. 155. Energy Savings Performance Contracts

This section would amend title VIII of the National Energy Conservation Policy Act to further promote the use of energy performance contracts.

It is estimated that the Federal government could reduce its energy costs by approximately $1 billion annually through the installation of energy efficiency measures in its buildings. However, the budget deficit has prevented the necessary investments from being made by the government.

Energy savings performance contracts are a mechanism through which private sector funds can finance Federal energy efficiency improvements. The Conferees recognize that these contracts differ significantly from traditional Federal procurement contracts. Under these contracts, the contractor is expected to bear the risk of performance, make a significant initial capital investment, guarantee significant energy savings to the government agency, and from these savings the agency, in effect, makes payment to the contractor.

Because these contracts differ significantly from traditional Federal contracts, existing contracting regulations may be inconsistent. Current regulations were not formulated for application to energy performance contracts. Accordingly, this provision authorizes and directs the Secretary, with the concurrence of the Federal Acquisition Regulation (FAR) Council, to develop procedures and methods for the implementation of such contracts. To maximize the benefits to the government of such contracts, the Secretary, with the concurrence of the FAR Council, is given wide latitude to develop substitute regulations where existing procurement regulations are inconsistent with the goal of promoting energy performance contracts. These substitute regulations must, however, be consistent with Federal procurement laws.

The section requires new procurement regulations be issued within 180 days, and the Conferees expect prompt action to carry out this requirement consistent with public participation.

It is also the expectation of the Conferees that uniform regulations will be developed both to relieve Federal agencies of the need to individually develop performance contract procedures and methods and to encourage energy service companies to contract with Federal agencies on a uniform basis.

Finally, subsection (a)(2)(D)(ii) authorizes multiyear contracts for up to 25 years, provided funds are available for payments to the contractor in the first year. The section creates special protections for the taxpayer in view of the risk inherent in committing the Federal government to such multi-year contracts. For example, the government may be liable for payment of a substantial cancellation fee. Accordingly, subsection (a)(2)(D)(iii) requires that a Federal agency must notify the appropriate authorizing and appropriating committees of the Congress before signing such a contract if it contains a clause permitting a cancellation charge in excess of $750,000. Subsection (a)(2)(D)(i) also provides that such contracts be awarded in a competitive manner, and the Conferees intend that Federal agencies endeavor to secure the broadest participation by qualified firms.

TITLE II—NATURAL GAS

The Conferees agreed not to include most of the text of title II of H.R. 776, regarding natural gas pipelines, in the conference report. The one exception is that the conference report includes an amended section 201 regarding fewer restrictions on certain natural gas imports and exports.

The decision not to include most of title II includes section 214 of the House bill regarding State regulation of the production of natural gas, *i.e.*, prorationing. However, the Conferees included a new section 202, stating the sense of the Congress that natural gas consumers and producers, and the national economy, are best served by a competitive natural gas wellhead market. One of the reasons that Conferees decided not to include section 214 is the recognition that, under existing law, a state cannot use its proration authority for the purpose of restricting supplies and raising the price of natural gas. *E.g., Northwest Central Pipeline Corp.* v. *State Corporation Commission of Kansas*, 489 U.S. 493 (1989); *Transcontinental Gas Pipe Line Corp.* v. *State Oil and Gas Board of Miss.*, 474 U.S. 409 (1986). The Conferees recognize that both the Congress and the U.S. Supreme Court have long recognized the necessity of state-administered systems for defining and enforcing property rights in natural gas reservoirs. Still, states may not regulate natural gas production without regard to the effect that such regulation may have on interstate commerce. Under existing law, a method of regulating production must: (1) achieve or advance the legitimate state interests in conserving natural resources, preventing waste, and protecting correlative rights; and (2) not be preempted by, or overly disruptive of, Federal law. Should a state use its proration authority for the purpose of restricting supplies and raising the price of natural gas, the Conferees do not believe that such regulation would satisfy the standard under existing law. The Conferees believe that the new section 202, stating the sense of the Congress, is consistent with existing law.

TITLE IV—ALTERNATIVE FUELS AND NON-FEDERAL PROGRAMS

Section 408 authorizes the Federal Energy Regulatory Commission (FERC), under the Natural Gas or Federal Power Acts, to consider the environmental and other benefits of research and development efforts on Alternative Fuel Vehicles (AFV) by the Gas Research Institute (GRI) or the Electric Power Research Institute.

If the benefits exceed the direct costs of the research and development, the FERC may allow natural gas pipelines and electric utilities to recover the costs in their "just and reasonable" rate filings under the Natural Gas and the Federal Power Acts.

Cost sharing is required to the maximum practicable extent. This section recognizes that cost sharing may not be practicable for all natural gas transportation, pollution control, and emissions reduction projects.

The cofunding provisions are intended to become effective for new projects initiated after the date of enactment of this legislation and would not require GRI to cancel existing contracts to comply with the cofunding provision.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

The intent of section 501(a)(1) is *not* to cover all affiliates or divisions of the many large energy companies which have some, but not all, of their corporate units engaged in alternative fuels operations.

For example, the oil and gas production affiliate or division of a major energy company described in 501(a)(1)(C) would be covered; so might a propane pipeline unit or a natural gas processing division, if the "substantially engaged" test is met.

But an oil tanker division, a gasoline marketing affiliate, or a petrochemical unit whose major operations are the production of plastics, for example, would not be covered.

The Secretary has broad discretion to define the coverage of this provision. For example, he may in his discretion exempt some crude oil-related operations of an oil and gas production affiliate (but not the gas-related operations), or the petrochemical operations of a covered methanol unit (but not the methanol-related business).

TITLE VII—ELECTRICITY

Under current law, the Securities and Exchange Commission has authority to permit, on a case-by-case basis, certain utility functions outside the United States. Further, new section 32 of PUHCA allows exempt wholesale generators located outside the United States to engage in both wholesale and retail generation. The provisions of new section 33 supplement these foreign options for utility operations and do not in any way limit any person's ability to pursue SEC approval under current law or the EWG course.

The definition of an EWG has been drafted to permit an EWG to sell wholesale power that it has not generated itself. Buyers of wholesale power may desire to purchase capacity in increments that exceed what the most economical unit would produce. Consequently, the legislation would permit an EWG, for example, to generate 350 Megawatts and purchase an additional 50 Megawatts in order to met a purchaser's 400 MW capacity need.

The definition of an exempt wholesale generator contained in section 32(a)(1) permits an exempt wholesale generator to own facilities and goods, such as fuel and related transportation, storage and handling facilities, reasonably necessary for the operation of its business.

Rates, charges, terms, and conditions for wholesale transmission services ordered under section 211 in all cases shall be just and reasonable, and not unduly discriminatory or preferential. The Conferees intend the term "associated services" to mean the cost of ancillary services such as back-up power, interconnection costs, and radial lines.

New section 212(h) of the Federal Power Act contains a savings clause for State laws dealing with retail wheeling. Thus, State laws that either prohibit or permit retail wheeling are unaffecting by this subsection. And, if otherwise valid, remain in full force and effect.

The Conferees do not intend to limit or modify the authority of State commissions to review the prudence or imprudence of wholesale purchases by retail utilities under their jurisdiction.

The Bonneville Power Administration (BPA) has set policies from time to time for furnishing transmission service on the Federal Columbia River Transmission System. BPA has done so under the laws which define its authority and obligations concerning transmission, which laws remain fully effective and applicable. It is expected that, when the FERC exercises its authority under section 211 to require BPA to provide transmission service, it will do so consistent with the laws governing BPA. Transmission contracts entered into in accordance with BPA's policies which are in existence on the date of enactment of this Act are unaffected by the FERC's new authority to order access to transmission controlled by BPA. Similarly, BPA's short-term transmission service allocation methodology for economy energy trades is also unaffected by the FERC's new authority to order access to transmission controlled by BPA. However, the FERC is not bound by the transmission policy choices BPA has made or may make in the future as to new firm transmission service requests.

A primary BPA obligation under the laws that define BPA's authority and obligations is to provide transmission service over available capacity for its customers within the Pacific Northwest as that region is defined in 16 U.S.C. section 839a(14). Historically, Bonneville Power Administration has built most of the intraregional bulk transmission facilities in the Pacific Northwest. This was done on the basis of a regional consensus and the understanding that BPA would make these transmission facilities available for transmission of power for BPA's power and transmission customers located in the Pacific Northwest. The utilities of the Pacific Northwest have relied and continue to rely on that transmission. BPA's use of its transmission system for firm transmission service contracts for generating resources serving BPA customer loads within the Pacific Northwest is not affected by any new authority under this Act to provide access for interregional arrangements.

The FERC shall not issue any order for transmission services under section 211 which is likely to cause the uncompensated spill of water from Federal or non-Federal reservoirs which otherwise could be used to generate electric energy, because of its displacement from a transmission system by energy transmitted under such an order. Such spill shall be deemed contrary to the public interest unless full compensation is provided to those entities suffering such spill. Nothing in the preceding sentences should be understood to limit such ability as the FERC may otherwise have under this Act to prevent or compensate other adverse impacts that may result from an order issued under section 211 or this section.

Rates for transmission services provided by BPA under an order issued under section 211 are to be established by BPA and reviewed by the FERC through the same process and using the same statutory requirements as are applicable to all other transmission rates established by BPA, with the additional requirement that such rates for transmission services must also be just and reasonable and not unduly discriminatory or preferential as determined by the FERC, taking into account BPA's other statutory authorities and responsibilities. Nothing in the Federal Power Act or BPA's organic legislation should be construed to prohibit the FERC from approving rates, terms and conditions for transmission services pursuant to section 211 which provide for the recovery of any increased costs or lost revenues due to foregone sales or purchases or other operating impacts resulting from such services, provided that similar approvals are in general accorded to utilities subject to sections 205 and 206.

BPA may establish rates of general applicability for FERC-ordered transmission service which, once approved by the FERC, will not be subject to review in individual cases but will be periodically reviewed and, as appropriate, revised along with BPA's general wholesale power and transmission rates. BPA may also establish, and the FERC may approve, terms and conditions of general applicability and sufficient specificity for FERC-ordered transmission services.

BPA's rates, terms and conditions for transmission services ordered by the FERC may differ from those required by the FERC of other entities subject to this Act. However, the effect of any transmission services ordered by the FERC under section 211 cannot be materially more or less favorable for BPA than for other entities subject to the FERC's transmission service orders pursuant to this Act with respect to: (1) overall cost recovery by the transmitting utility, and (2) economic impact on the transmitting utility.

The FERC has the responsibility to implement this Act, including section 212(i), and to consider and apply BPA's other federal statutes.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

Section 801 addresses the Environmental Protection Agency's (EPA) generally applicable standards for protection of members of the public from release of radioactive materials into the accessible environment as a result of the disposal of spent nuclear fuel or high-level or transuranic radioactive waste. The Administrator's authority to establish these standards is embodied in section 161b. of the Atomic Energy Act of 1954, Reorganization Plan No. 3 of 1970, and section 121(a) of the Nuclear Waste Policy Act of 1982.

Section 801 builds upon this existing authority of the Administrator to set generally applicable standards and directs the Administrator to establish health-based standards for protection of the public from release or radioactive materials that may be stored or disposed of in a repository at the Yucca Mountain site. The provisions of section 801 make clear that the standards established by the authority in this section would be the only such standards for protection of the public from releases of radioactive materials as a result of the disposal of spent nuclear fuel or high-level radioactive waste in a repository at the Yucca Mountain site. Any other generally applicable standards established pursuant to the Administrator's authority under section 161b. of the Atomic Energy Act of 1954, Reorganization Plan No. 3 of 1970, and section 121(a) of the Nuclear Waste Policy Act of 1982 would not apply to the Yucca Mountain site.

The provisions adopted by the Conferees in section 801 require the Administrator to promulgate health-based standards for protection of the public from releases of radioactive materials from a repository at Yucca Mountain, based upon and consistent with the findings and recommendations of the National Academy of Sciences. These standards shall prescribe the maximum annual dose equivalent to individual members of the public from releases to the accessible environment from radioactive materials stored or disposed of in the repository. The provisions of section 801 do not mandate specific standards but rather direct the Administrator to set the standards based upon and consistent with the findings and recommendations of the National Academy of Sciences.

The Administrator is directed to contract with the National Academy of Sciences to conduct a study to provide findings and recommendations on reasonable standards for protection of the public health and safety by not later than December 31, 1993. In carrying out the study, the National Academy of Sciences is asked to address three questions: whether a health-based standard based upon doses to individual members of the public from releases to the accessible environment will provide a reasonable standard for protection of the health and safety of the general public; whether it is reasonable to assume that a system for post-closure oversight of the repository can be developed, based upon active institutional controls, that will prevent an unreasonable risk to breaching the repository barriers or increasing the exposure of individual members of the public to radiation beyond allowable limits; and whether it is possible to make scientifically supportable predictions of the probability that the repository's engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years. In looking at the question of human intrusion, the Conferees believe that it is also appropriate to look at issues related to predications of the probability of natural events.

In carrying out the study, the National Academy of Sciences would not be precluded from addressing additional questions or issues related to the appropriate standards for radiation protection at Yucca Mountain beyond those that are specified. For example, the study could include an estimate of the collective dose of the general population that could result from the adoption of a health-based standard based upon doses to individual members of the public. The purpose of the listing of specific issues is not to limit the issues considered by the National Academy of Sciences but rather to attempt to focus the study on concerns that have been raised by the scientific community.

Under the provisions of section 801, the Administrator is directed to promulgate standards within one year of receipt of the findings and recommendations of the National Academy of Sciences, based upon and consistent with those recommendations. The Conferees do not intend for the National Academy of Sciences, in making its recommendations, to establish specific standards for protection of the public but rather to provide expert scientific guidance on the issues involved in establishing those standards. Under the provisions of section 801, the authority and responsibility to establish the standards, pursuant to a rulemaking, would remain with the Administrator, as is the case under existing law. The provisions of section 801 are not intended to limit the Administrator's discretion in the exercise of his authority related to public health and safety issues.

The provisions to modify its technical requirements and criteria for licensing of a repository to be consistent with the standards promulgated by the Administrator within one year of the promulgation of those standards. In modifying its technical requirements and criteria, the Nuclear Regulatory Commission (NRC) is directed to assume, to the extent consistent with the findings and recommendations of the National Academy of Sciences, that civilization will continue to exist and that post-closure oversight of the repository will continue, and to include in its technical requirements and criteria, engineered barriers to prevent human intrusion. As with the Administrator, the provisions of section 801 are not intended to limit the Commission's discretion in the exercise of its authority related to public health and safety.

The provisions of section 801 address only the standards of the Environmental Protection Agency, and comparable regulations of the Nuclear Regulatory Commission, related to protection of the public from releases of radioactive materials stored or disposed of at the Yucca Mountain site pursuant to authority under the Atomic Energy Act, Reorganization Plan No. 3 of 1970, the Nuclear Waste Policy Act of 1982, and this Act. The provisions of section 801 are not intended to affect in any way the application of any other existing laws to activities at the Yucca Mountain site.

TITLE X—REMEDIAL ACTION AND URANIUM REVITALIZATION

SUBTITLE A–REMEDIAL ACTION AT ACTIVE PROCESSING SITES

Funds made available under this program are intended to be provided for all costs that result from the disposition of byproduct material at active processing sites (subject to the limitations of Sec. 1001(b)), including groundwater remediation, treatment of contaminated soil, disposal of process wastes, removal actions, air pollution studies, mill and equipment decommissioning, site monitoring, administrative expenses, and additional expenditures required by related standards and regulations. An example of remediation costs would be cleaning up windblown by-product material in the vicinity of the commingled site. The availability of such funds under this program shall be considered by the Nuclear Regulatory Commission in determining the sufficiency of the financial surety arrangements that must be established by mill operators for reclamation, decontamination, and decommissioning pursuant to 10 C.F.R. Pt. 40, Appendix A (criteria 10 and 11).

TITLE XII—RENEWABLE ENERGY

Section 1202 amends P.L. 101-218, the Renewable Energy and Energy Efficiency Technology Competitiveness Act, by restructuring the former joint venture program, the management plan, and the R&D goals. The program retains as its basic goal the acceleration of the commercialization of renewable energy and energy efficiency technologies through collaboration between industry and government on a cost-shared basis.

There are two major changes. First, the technologies will be chosen for Federal support on a competitive basis, as opposed to the original statute, which mandated joint ventures in specific technology areas. Second, the Secretary has been given wider latitude to choose financial mechanisms, including interest rate buydowns, to use in implementing the demonstration and commercial application program. The Secretary may utilize a financial intermediary for advice or assistance in the implementation of the program.

Elements of the revised program are modeled on the Clean Coal Technology program. The Secretary is directed to issue a solicitation and evaluate and select projects for financial assistance on the basis of DOE-developed criteria.

Section 1210. It is the understanding of the conference committee that the authorities established under Section 1210(a) will be implemented only when the monies authorized under Section 1210(b) are appropriated.

TITLE XVI—GLOBAL CLIMATE CHANGE

Sec. 1605. National Inventory and Voluntary Reporting of Greenhouse Gases

The guidelines for the voluntary reporting of greenhouse gases and the national inventory shall address coalbed methane emissions, inventories and reductions. Persons who wish to establish baselines shall be provided an opportunity to do so.

TITLE XVII—ADDITIONAL FEDERAL POWER ACT PROVISIONS

Section 1701(b) vacates the Federal Energy Regulatory Commission's (FERC) current regulatory definition of the term "fishway" without prejudice to any definition or interpretation of the term by rule and requires the Commission to obtain the concurrence of the Secretaries of Commerce and the Interior in issuing any new regulatory remaking definition. It also indicates what may constitute a "fishway" under section 18 when a new rule is developed and promulgated. However, the section does not affect the authority of the Commission to continue to issue license orders that could include fishway prescriptions under section 18.

In essence, the provision returns the Commission and the Secretaries to the position they were in under section 18 of the Federal Power Act prior to the FERC adopting by regulation the fishway definition. The role of the Secretaries under the Act and this section would continue to be as it was prior to the definition and the role of the Commission in issuing licenses with conditions would also be as it was before the rule. Nothing in this amendment is intended to limit the roles or authorities of either the Secretaries or the Commission.

TITLE XVIII—OIL PIPELINE REGULATORY REFORM

Sec. 1803. Protection of Certain Existing Rates

Subsection (a) of section 1803 identifies oil pipeline rates that will be deemed just and reasonable by operation of law. Paragraph (1) of subsection (a) provides that rates in effect for a 365-day period before enactment of this legislation are deemed to be just and reasonable for purposes of the Interstate Commerce Act (ICA) if the rates were not subject to protest, investigation or complaint within that 365-day period. Paragraph (2) of subsection (a) provides that rates that were in effect on the 365th day preceding the date of the enactment of this legislation are deemed to be just and reasonable for purposes of the ICA even if the rates were not in effect throughout the 365-day period preceding enactment, because an intervening rate filing was made during the 365-day period, so long as the rates in effect 365 days before enactment were not subject to protest, investigation or complaint during the noted period. Consistent with the foregoing, the Conferees intend that a person may file a complaint up to, and including, the day preceding enactment and that such a complaint need only comply with the FERC's existing regulations in order to satisfy the statutory requirement. So long as a complaint filed during the period described above meets this standard, it will be sufficient to preclude a rate from being deemed just and reasonable under section 1803(a). In view of the fact that, but for the exceptions provided in subsections (b) and (c) of section 1803, this will be complainants' last chance to challenge such rates as well as the FERC's last change to review such rates before they are deemed just and reasonable, the conferees expect that the FERC will review such complaints carefully.

TITLE XIX—ENERGY REVENUE PROVISIONS

A. ENERGY CONSERVATION AND PRODUCTION INCENTIVES

1. EMPLOYER-PROVIDED TRANSPORTATION BENEFITS

Present Law

Under Treasury regulations, transit passes, tokens, fare cards, vouchers, and cash reimbursements provided by an employer to defray an employee's commuting costs are excludable from the employee's income (for both income and payroll tax purposes) as a de minimis fringe benefit if the total value of the benefit does not exceed $21 per month. If the total value of the benefit exceeds $21 per month, the full value of the benefit is includible in income.

Parking at or near the employer's business premises that is paid for by the employer is excludable from the income of the employee (for both income and payroll tax purposes) as a working condition fringe benefit, regardless of the value of the parking. This exclusion does not apply to any parking facility or space located on property owned or leased by the employee for residential purposes.

House Bill

Under the House bill, gross income and wages (for both income and payroll tax purposes) does not include qualified transportation fringe benefits. In general, a qualified transportation fringe is (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment, (2) a transit pass, or (3) qualified parking. Cash reimbursements made by the employer for such expenses under a bona fide reimbursement arrangement also qualify for the exclusion.

The maximum amount of qualified parking that is excludable from an employee's gross income is $160 per month (regardless of the total value of the parking). Other qualified transportation fringes are excludable from gross income to the extent that the aggregate value of the benefits does not exceed $60 per month (regardless of the total value of the benefits). The $60 and $160 limits are indexed for inflation, rounded down to the next whole dollar.

A commuter highway vehicle is a highway vehicle with the capacity to seat at least 6 adults (not including the driver) and at least 80 percent of the mileage use of which is for transporting employees between their residences and their place of employment using at least one-half of the adult seating capacity of the vehicle (not including the driver). Transportation furnished in a commuter highway vehicle operated by or for the employer is considered provided by the employer.

A transit pass includes any pass, token, farecard, voucher, or similar item entitling a person to transportation on mass transit facilities (whether publicly or privately owned). Types of transit facilities that may qualify for the exclusion include, for example, rail, bus, and ferry.

Qualified parking is parking provided to an employee on or near the business premises of the employer, or on or near a location from which the employee commutes to work by mass transit, in a commuter highway vehicle, or by carpool. As under present law, the exclusion does not apply to any parking facility or space located on property owned or leased by the employee for residential purposes.

Effective date.—The provision applies to benefits provided by the employer on or after January 1, 1993.

Senate Amendment

The Senate amendment is generally the same as the House bill, except that the parking cap is $145 per month, rather than $160 per month. In addition, the $60 and $145 limits are indexed for inflation in $5 increments.

Under the Senate amendment, cash reimbursements for transit passes do not qualify for the transit exclusion if vouchers that are exchangeable only for transit passes are readily available to the employer.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment, except that the parking cap is $155 per month.

2. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES

Present Law

Section 8217(i) of the National Energy Conservation Policy Act provided that the value of any subsidy provided by a utility to a residential customer for the purchase or installation of a residential energy conservation measure was excluded from gross income. That exclusion expired on June 30, 1989.

House Bill

For taxable years beginning after 1992, the bill provides an exclusion from the gross income of a residential customer of a public utility for the value of any subsidy provided by the utility for the purchase or installation of energy conservation measure.

For this purpose, an energy conservation measure is (1) any residential energy conservation measure with respect to a dwelling unit or (2) any commercial energy conservation measure with respect to dwelling units in a building or structure that contains five or more dwelling units. The term "residential energy conservation measure" has the meaning given to such term by section 210(11) of the National Energy Conservation Policy Act (as in effect on the date of the enactment of this provision). The term "commercial energy conservation measure" means an installation or modification of an installation which is primarily designed to reduce the consumption of petroleum, natural gas, or electric power, including the items listed in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986).

For taxable years beginning after 1993, the bill provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 65 percent of the value of any subside provided by the utility for the purchase or installation of an energy conservation measure. For this purpose, an energy conservation measure is (1) any commercial energy conservation measure (as defined above) with respect to property that is not a dwelling unit or (2) any specially defined energy property. The term "specially defined energy property" has the meaning given to such term by section 48(1)(5) of the Code (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

The bill does not apply to payments made to or from a qualified cogeneration facility or a qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

The bill denies a deduction or credit to a taxpayer (or in appropriate cases requires a reduction in the adjusted basis of property of a taxpayer) for any expenditure to the extent that a subsidy related to the expenditure was excluded from the gross income of the taxpayer.

Effective date.—The bill is effective for amounts received after December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill, with the following exceptions.

For taxable years beginning after 1993, the amendment provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 80 percent (rather than 65 percent as under the House bill) of the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to the property that is not a dwelling unit.

Under the Senate amendment, the term "energy conservation measure" means an installation or modification of an installation which is primarily designed to reduce consumption of electricity or natural gas or improve the management of energy demand.

Under the Senate amendment, the term "public utility" includes regulated public utilities, rural electric cooperatives, and utilities that are owned and operated by the Federal Government or a State or local government or any instrumentality or political subdivision thereof.

The amendment applies to the value of any subsidy provided by a public utility to a third party for the purchase or installation of an energy conservation measure with respect to a customer of the utility in the same manner as if the subsidy had been provided directly to the customer.

The amendment applies to payments by a public utility to a taxpayer for the acquisition of State tax benefits granted to the taxpayer by the State pursuant to a State-sponsored energy conservation program.

Effective date.—The amendment is effective for amounts received after December 31, 1992.

Conference Agreement

The conference agreement generally follows the Senate amendment with the following modifications.

For subsidies received in 1995, the conference agreement provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 40 percent (rather than 80 percent as under the Senate amendment) of the value of any subsidy provided by the utility of the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit. For subsidies received in 1996, the 40 percent exclusion becomes a 50 percent exclusion. For subsidies received after 1996, the 50 percent exclusion becomes a 65 percent exclusion.

In addition, the conference agreement deletes the provision applicable to the value of any subsidy provided by a public utility to a third party for the purchase or installation of an energy conservation measure. In deleting the provision, the conferees believe that third party contractors should not be at a competitive advantage or disadvantage with respect to the tax benefits provided by the exclusion. In addition, the conferees believe that when a utility provides a payment to a third party contractor, the utility is indirectly providing the subsidy to the person for whom the contractor is providing the energy conservation measure and the exclusion should apply to such person. Thus, the conference agreement provides that the exclusion applies to any subsidy provided directly or indirectly to a utility customer, if such subsidy otherwise would be included in income. For example, if a public utility provides a subsidy to a customer to partially offset the cost of the installation of an energy conservation measure on the customer's premises, the provision applies to exclude all or a portion of the value of such subsidy. Likewise, if the public utility provides a payment to an independent contractor so that the contractor can provide for the installation of an energy conservation measure on the utility customer's premises at a reduced price, the exclusion applies to the customer for the indirect subsidy supplied to the customer.

Finally, the conference agreement deletes the provision that applies to payments by a public utility to a taxpayer for the acquisition of State tax benefits granted to the taxpayer by the State pursuant to a State-sponsored energy conservation program.

3. TREATMENT OF CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY

Present Law

Present law does not provide a special deduction or other income tax benefit for investing in a motor vehicle that may be propelled by a clean-burning fuel or for investing in property that is used to refuel a motor vehicle that may be propelled by a clean-burning fuel.

House Bill

In general

The House bill provides a deduction for a portion of the cost of certain motor vehicles that may be propelled by a clean-burning fuel. In addition, the House bill provides a deduction of up to $100,000 per location for the cost of certain property that is used in the storage of clean-burning fuel or the delivery of clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel.

Deduction for qualified clean-fuel vehicle property

The House bill allows a deduction for the cost of qualified clean-fuel vehicle property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle property is defined as a motor vehicle that is produced by an original equipment manufacturer and that is designed so that the vehicle may be propelled by a clean-burning fuel (an "original equipment manufacturer's vehicle"), but only to the extent of the portion of the basis of the vehicle that is attributable to: (1) an engine which may use the clean-burning fuel; or (2) any property which may be used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel.

In addition, qualified clean-fuel vehicle property is defined as any property that is installed on a motor vehicle which is propelled by a fuel that is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel (a "retrofitted vehicle"), but only if the property is an engine (or modification thereof) which may use the clean-burning fuel or only to the extent that the property may be used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel. For this purpose, the cost of the original installation of the engine or any other such property is to be treated as part of the cost of the engine or such property.

In order for property to qualify as qualified clean-fuel vehicle property, the property must be acquired for use by the taxpayer (and not for resale) and the original use of the property must commence with the taxpayer. In addition, the motor vehicle of which the property is a part must satisfy any applicable Federal or State emissions standards with respect to each fuel by which the vehicle is designed to be propelled or, in the case of property installed on a retrofilled vehicle, the property must satisfy any applicable Federal or State emissions-related certification, testing, and warranty requirements.[1]

In the case of any motor vehicle that may be propelled by both a clean-burning fuel and any other fuel, the cost of any qualified clean-fuel vehicle property that may be used by both the clean-burning fuel and the other fuel is to be taken into account in determining the amount of the deduction only to the extent that the cost of such property exceeds the cost of the property which would have been used had the vehicle been propelled solely by the fuel that is not a clean-burning fuel.

The cost that may be taken into account in determining the amount of the deduction with respect to any motor vehicle is limited based on the type of the motor vehicle. In the case of a truck[2] or van with a gross vehicle weight rating that is greater than 26,000 pounds or a bus which has a seating capacity of at least 20 adults (not including the driver), the limitation is $50,000. In the case of a truck or van with a gross vehicle weight rating that is greater than 10,000 but not greater than 26,000 pounds, the limitation is $5,000. In the case of any other motor vehicle, the limitation is $2,000.

The cost limitations are reduced for qualified clean-fuel vehicle property that is placed in service after December 31, 2001. The otherwise applicable limitations are reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No deduction is allowed with respect to qualified clean-fuel vehicle property that is placed in service after December 31, 2004.

Deduction for qualified clean-fuel vehicle refueling property

The House bill also allows a deduction for the cost of qualified clean-fuel vehicle refueling property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle refueling property is defined to include any property (other than a building or its structural components) that is used for the storage or dispensing of a clean-burning fuel (other than electricity) into the fuel tank of a motor vehicle propelled by the fuel, but only if the storage or dispensing (as the case may be) of the fuel is at the point where the fuel is delivered into the fuel tank of the motor vehicle.[3]

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[1] In the event that there are no Federal or State emissions-related standards or requirements that apply to a motor vehicle (or to property installed on a motor vehicle) at the time of the purchase of the motor vehicle (or property), this requirement is not to be construed to deny a deduction for property that would otherwise constitute qualified clean-fuel vehicle property.

[2] For purposes of the bill, a truck is to include a tractor that is used on public streets or highways to tow a vehicle such as a trailer or semi-trailer.

In order for property to qualify as qualified clean-fuel vehicle refueling property, the original use of the property must commence with the taxpayer and the property must be of a character that is subject to the allowance for depreciation (i.e., unlike qualified clean-fuel vehicle property, qualified clean-fuel vehicle refueling property is required to be used in a trade or business of the taxpayer).

The aggregate cost that may be taken into account in determining the amount of the deduction with respect to qualified clean-fuel vehicle refueling property that is placed in service at any location is not to exceed the excess (if any) of (1) $100,000, over (2) the aggregate amount taken into account under the provision by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years. For this purpose, a person is treated as related to another person if the person bears a relationship to the other person that is specified in section 267(b) or section 707(b)(1).

Definition of clean-burning fuel and motor vehicle

Clean-burning fuel is defined as natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel if at least 85 percent of the fuel is methanol, ethanol, any other alcohol, ether, or any combination of the foregoing. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

Other rules

The basis of any property with respect to which a deduction is allowed under this provision is reduced by the portion of the cost of the property that is taken into account in determining the amount of the deduction that is allowed with respect to the property. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the benefit of the deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property if the property ceases to be property eligible for the deduction.

The deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property is not allowed with respect to property that is used predominantly outside the United States or property that is owned or leased by governmental units or certain tax-exempt organizations. In addition, the deduction for such property is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.

The deduction for qualified clean-fuel vehicle property is not subject to the luxury automobile depreciation limitations of section 280F (unlike the deduction allowed under section 179).[4] In addition, the deduction for qualified clean-fuel vehicle property is allowed as an adjustment to gross income rather than as an itemized deduction. Consequently, the deduction is not subject to the 2-percent adjusted gross income floor that otherwise applies to miscellaneous itemized deductions or to the limitation on itemized deductions that applies to taxpayers with adjusted gross income in excess of a specified amount ($105,250 for taxable years beginning in 1992).

Effective date.—The provision applies to property that is placed in service after June 30, 1993, and before January 1, 2005.

Senate Amendment

The Senate amendment is the same as the House bill, except as provided below.

Deduction for qualified clean-fuel vehicle property

The Senate amendment does not contain the provision of the House bill which provides that in the case of a motor vehicle that may be propelled by both a clean-burning fuel and any other fuel, only the incremental cost of permitting the use of the clean-burning fuel is to be taken into account. Instead, the Senate amendment provides that in the case of an original equipment manufacturer's vehicle,[5] the amount of the deduction is determined based on whether the motor vehicle may be propelled by (1) only a clean-burning fuel (a "dedicated clean-fuel vehicle"), or (2) both a clean-burning fuel and any other fuel (a "fuel-flexible vehicle" or "dual-fuel vehicle").

In the case of an original equipment manufacturer's vehicle that is a dedicated clean-fuel vehicle, the amount of the deduction equals the cost of the motor vehicle, but no more than the cost limitation applicable to the vehicle as provided in the House bill. In the case of an original equipment manufacturer's vehicle that is a fuel-flexible or dual-fuel vehicle, the amount of the deduction equals $1,200, or, if greater, the incremental cost of permitting the use of the clean-burning fuel,[6] but no more than the cost limitation applicable to the vehicle as provided in the House bill.

The Senate amendment also provides that qualified clean-fuel vehicle property does not include an electric vehicle that qualifies for the 15-percent credit described below.

Deduction for qualified clean-fuel vehicle refueling property

The Senate amendment provides a $75,000 per location limitation on the amount of the deduction for qualified clean-fuel vehicle refueling property. In addition, the Senate amendment provides that qualified clean-fuel vehicle refueling property is to include any property (other than a building or its structural components) that is dedicated to the recharging of motor vehicles propelled by electricity but only if the property is located at the point where the motor vehicles are recharged. For this purpose, qualified clean-fuel vehicle refueling property generally includes any equipment that is used to provide electricity to the battery of a motor vehicle that is propelled by electricity (e.g., low-voltage recharging equipment, quick (high-voltage) charging equipment, or ancillary connection equipment such as inductive charging equipment) but does not include any property that is used to generate electricity (e.g., solar panels or windmills) and does not include the battery used in a motor vehicle propelled by electricity.

Income tax credit for qualified electric vehicles

The Senate amendment also provides an income tax credit equal to 15 percent of the cost of a qualified electric vehicle for the taxable year that the vehicle is placed in service.[7] A qualified electric vehicle is defined as a motor vehicle (1) that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current; (2) the original use of which commences with the taxpayer; and (3) that is acquired for use by the taxpayer and not for resale. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

The credit for qualified electric vehicles for any taxable year is not to exceed the excess (if any) of (1) the regular tax for the taxable year reduced by the credits allowable under Subpart A and sections 27, 28 and 29 of the Code, over (2) the tentative minimum tax for the taxable year.

The basis of a qualified electric vehicle is reduced by the amount of the credit that is allowable with respect to the vehicle. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the credit if the vehicle ceases to be a qualified electric vehicle.

The credit for a qualified electric vehicle is not allowed with respect to property that is used predominantly outside the United States or property that is owned or leased by governmental units or certain tax-exempt organizations. In addition, the credit is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.[8]

Conference Agreement

The conference agreement follows the House bill with the following modifications.

Deduction for qualified clean-fuel vehicle property

The conference agreement provides that qualified clean-fuel vehicle property does not include an electric vehicle that qualifies for the 10-percent credit described below.

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[3] For this purpose, qualified clean-fuel vehicle property includes any property that is used to compress natural gas into a usable fuel for motor vehicles provided that the property is located on the site that the fuel is delivered into motor vehicles.

[4] The depreciation deductions allowed with respect to any such property, however, continue to be subject to the limitations of section 280F.

[5] An original equipment manufacturer's vehicle is to include any motor vehicle that is capable of being propelled by a clean-burning fuel prior to the original use of the vehicle. Any motor vehicle that is not capable of being propelled by a clean-burning fuel prior to the original use of the vehicle but is later modified so that it may be propelled by a clean-burning fuel is to be treated as a retrofitted vehicle.

[6] The incremental cost of permitting the use of a clean-burning fuel is the excess of the cost of the vehicle over what the cost of the vehicle would have been had the vehicle been propelled solely by the fuel that is not a clean-burning fuel. It is anticipated that the incremental cost will be determined under regulations or other guidance to be published by the Internal Revenue Service and that such regulations or other guidance will require the seller or other appropriate person to certify the amount of the incremental cost to the person that qualifies for the deduction.

[7] The credit is phased out for qualified electric vehicles placed in service after December 31, 2001. The otherwise allowable credit is reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No credit is allowed with respect to a qualified electric vehicle that is placed in service after December 31, 2004.

[8] The credit is to equal 15 percent of the excess of (1) the cost of the motor vehicle, over (2) the cost of such motor vehicle that is taken into account under section 179.

Deduction for qualified clean-fuel vehicle refueling property

The conference agreement provides that in addition to the property described in the House bill, qualified clean-fuel vehicle refueling property is to include any property (other than a building or its structural components) that is dedicated to the recharging or motor vehicles propelled by electricity but only if the property is located at the point where the motor vehicles are recharged. For this purpose, qualified clean-fuel vehicle refueling property generally includes any equipment that is used to provide electricity to the battery of a motor vehicle that is propelled by electricity (e.g., low-voltage recharging equipment, quick (high-voltage) charging equipment, or ancillary connection equipment such as inductive charging equipment) but does not include any property that is used to generate electricity (e.g., solar panels or windmills) and does not include the battery used in a motor vehicle propelled by electricity.

Income tax credit for qualified electric vehicles

The conference agreement also provides an income tax credit equal to 10 percent of the cost of a qualified electric vehicle for the taxable year that the vehicle is placed in service. The maximum amount of credit allowed with respect to any qualified electric vehicle is not to exceed $4,000. The credit is phased out for qualified electric vehicles placed in service after December 31, 2001. The otherwise allowable credit (as determined after the application of the $4,000 per vehicle limitation) is reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No credit is allowed with respect to a qualified electric vehicle that is placed in service after December 31, 2004.

A qualified electric vehicle is defined as a motor vehicle (1) that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current; (2) the original use of which commences with the taxpayer; and (3) that is acquired for use by the taxpayer and not for resale. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

The credit for qualified electric vehicles for any taxable year is not to exceed the excess (if any) of (1) the regular tax for the taxable year reduced by the credits allowable under Subpart A and sections 27, 28, and 29 of the Code, over (2) the tentative minimum tax for the taxable year.

The basis of a qualified electric vehicle is reduced by the amount of the credit that is allowable with respect to the vehicle. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the credit if the vehicle ceases to be a qualified electric vehicle.

The credit for a qualified electric vehicle is not allowed with respect to property that is used predominantly outside the United States or property that is owned or leased by governmental units or certain tax-exempt organizations. In addition, the credit is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.[9]

Recapture of deduction or credit

The conferees intend that the benefit of the deduction for qualified clean-fuel vehicle property will be recaptured (i.e., included in gross income) under the provision only if at any time within three years after the date that the property is placed in service, the motor vehicle of which the property is a part is modified so that it may no longer be propelled by a clean-burning fuel.[10] The amount of the benefit to be recaptured is to be determined as follows: (1) if the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel within one year after it is placed in service, then 100 percent of the deduction is to be recaptured; (2) if the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel within one year after the close of the period described in (1), then 67 percent of the deduction is to be recaptured; and (3) if the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel within one year after the close of the period described in (2), then 33 percent of the deduction is to be recaptured.

The adjusted basis of the property is to be increased by the amount of the benefit that is recaptured under the provision. If the property to which the recapture rules apply is of a character that is subject to an allowance for depreciation, then the additional basis is to be recovered over the remaining recovery period for the property beginning with the taxable year of recapture.

Similar recapture rules are to apply to the credit for qualified electric vehicles (except that the amount of the benefit that is recaptured is to increase the amount of tax due) and to the deduction for qualified clean-fuel vehicle refueling property. In the case qualified clean-fuel vehicle refueling property, however, recapture under the provision is to occur only if at any time before the end of the recovery period for the property, the property is no longer used predominantly in a trade or business of the taxpayer of dispensing clean-burning fuel into the fuel tank of a motor vehicle propelled by the fuel (or, in the case of property used in the recharging of electric vehicles, the property is no longer used predominantly in a trade or business of the taxpayer of recharging motor vehicle propelled by electricity). As described above for clean-fuel vehicle property, the amount of the deduction for clean-fuel vehicle refueling property is to vest ratably over the recovery period for the property

4. Income tax credit for electricity generated using certain renewable resources

Present Law

An investment-type tax credit is allowed against income tax liability for investments in property producing energy from certain specified renewable sources. The nonrefundable credit, which is referred to as the business energy credit, equals 10 percent of the cost of qualified solar or geothermal energy property. Solar energy property that qualifies for this tax credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but in the case of electricity generated geothermal power, only property used up to (but nor including) the transmission stage.

The business energy credit is a component of the general business credit. The general business credit may not exceed for any taxable year the excess of the taxpayers's net income tax over the greater of: (1) 25 percent of net regular tax liability above $25,000; or (2) the tentative minimum tax. Any unused general business credit generally may be carried back to the three previous taxable years and carried forward to the subsequent 15 taxable years.

A production-type tax credit is allowed against income tax liability for the production of certain nonconventional fuels. For 1991, the credit amount is equal to $5.35 per barrel of oil or BTU oil equivalent. (This credit amount is adjusted for inflation.) Qualified fuels must be produced from a well drilled, or facility placed in service, before January 1, 1993, and must be sold before January 1, 2003. Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressurized brine, Devonian shale, coal seams, a tight formation, or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

House Bill

The House bill provides for a production-type credit against income tax liability for electricity produced from either qualified wind energy or qualified "closed-loop biomass" facilities. The credit equals 1.5 cents (adjusted for inflation) per kilowatt hour of electricity produced from these qualified sources during the 10-year period after the facility is placed in service. This production credit is part of the general business credit, subject to the carryforward, carryback, and the limitation rules of the general business credit (except that the production credit from closed-loop biomass facilities may not be carried back to a taxable year ending before January 1, 1993, and the production credit from qualified wind energy facilities may not be carried back to a taxable year ending before January 1, 1994).

Closed-loop biomass is defined as the use of plant matter on a renewable basis as an energy source to generate electricity, where the plants are grown for the sole purpose of being used to generate electricity. Accordingly, the credit is not available for the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste) to generate electricity. Moreover, the credit is not available to a taxpayer who uses standing timber to produce electricity.

The credit is proportionately phased out over a three-cent per kilowatt hour range if the national average price of electricity from the renewable source exceeds a threshold price of 8 cents per kilowatt hour. (This threshold is adjusted for inflation.) Thus, the credit will not be available if the national average price of electricity from the renewable source is greater than three cents per kilowatt hour above the threshold price.

A facility which has received the business energy credit or the investment credit is not eligible for the production credit. In addition, the credit is reduced proportionately for any governmental grants or subsidized financing received (including the use of tax-exempt bonds).

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[9] The credit is to equal 10 percent of the excess of (1) the cost of the motor vehicle, over (2) the cost of such motor vehicle that is taken into account under section 179.

[10] The conferees intend that no recapture is to occur under the provision upon the sale or other disposition (including a disposition by reason of an accident or other casualty) of the motor vehicle. If, however, the motor vehicle is (or has been) property of a character that is subject to an allowance for depreciation, then the rules of section 1245 are to apply upon the sale or other disposition of the vehicle. In applying section 1245, the deduction allowed under the provision is to be treated as a deduction allowed for depreciation.

Effective date.—The credit applies to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before July 1, 1999, and to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before July 1, 1999.

Senate Amendment

The Senate amendment is the same as the House bill, except that: (1) the beginning threshold for the phaseout range for the credit is the national average price of electricity from the renewable source that is attributable to contracts entered into after December 31, 1989; and (2) the inflation adjustment is based on the Gross Domestic Product implicit price deflator.

Conference Agreement

The conference agreement follows the Senate amendment. In addition, the conference agreement makes two clarifications. First, in order to claim the credit, a taxpayer must own the facility and sell the electricity produced by that facility to an unrelated party. Accordingly, a public utility which owns and operates a qualified facility would be able to claim the credit to the extent that the utility ultimately sells the electricity generated to unrelated parties. Second, the proportional reduction in credit that results when a taxpayer receives subsidized financing through a governmental program applies whether the subsidized financing is directly or indirectly provided. In particular, governmental programs to compensate financial intermediaries for extending low-interest loans to taxpayers who purchase or construct qualifying facilities are an example of subsidized financing.

5. REPEAL OF CERTAIN MINIMUM TAX PREFERENCES RELATING TO OIL AND GAS PRODUCTION

Present Law

Taxpayers who pay or incur intangible drilling or development costs ("IDCs") in the development of domestic oil or gas properties may elect either to expense or capitalize these amounts. If an election to expense IDCs is made, the taxpayer deducts the amount of the IDCs as an expense in the taxable year the cost is paid or incurred. Generally, if IDCs are not expensed, but are capitalized, they can be recovered through depletion or depreciation, as appropriate; or at the election of the taxpayer, they may be amortized over a 60-month period.

The difference between the amount of a taxpayer's IDC deductions and the amount which would have been currently deductible had IDCs been capitalized and recovered over a 10-year period is an item of tax preference for the alternative minimum tax ("AMT") to the extent that this amount exceeds 65 percent of the taxpayer's net income from oil and gas properties for the taxable year (the "excess IDC preference"). In addition, for purposes of computing the adjusted current earnings ("ACE") adjustment of the corporate AMT, IDCs are capitalized and amortized over the 60-month period beginning with the month in which they are paid or incurred.

Independent producers and royalty owners generally are allowed a deduction for percentage depletion in computing their taxable income. A taxpayer's overall deduction for percentage depletion is limited to an amount that is equal to 65 percent of the taxpayer's pre-depletion taxable income for the taxable year. The amount by which the depletion deduction exceeds the adjusted basis of the property is an AMT preference (the "excess percentage depletion preference"). Corporations must use cost depletion in computing their ACE adjustment.

A taxpayer other than an integrated oil company is entitled to an "energy deduction" for certain IDC and depletion items. The energy deduction is the sum of 75 percent of the portion of the IDC preference[11] attributable to qualified exploratory costs and 15 percent of the remaining IDC preference plus 50 percent of the marginal production depletion preference.[12] The energy deduction may not reduce the taxpayer's alternative minimum taxable income by more than 40 percent.

House Bill

For taxpayers other than integrated oil companies, the House bill repeals (1) the excess IDC preference and (2) the excess percentage depletion preference for oil and gas. The repeal of the excess IDC preference, however, may not result in more than a 40 percent reduction (30 percent for taxable years beginning in 1993) in the amount of the taxpayer's alternative minimum taxable income computed as if the present-law excess IDC preference not been repealed.

In addition, for corporations other than integrated oil companies, the House bill repeals the ACE adjustments[13] for (1) IDCs paid or insured in taxable years beginning after December 31, 1992, and before January 1, 1998, and (2) percentage depletion for oil and gas.

The House bill also suspends the minimum tax energy deduction for taxable years beginning after December 31, 1992, and before January 1, 1998.

Effection date.—Except as provided above regarding the repeal of the ACE treatment of IDCs, the House bill applies to taxable years beginning after December 31, 1992, and before January 1, 1998.

Senate Amendment

The Senate amendment is the same as the House bill, except for the effective date.

Effective date.—Except as provided below, the Senate amendment applies to taxable years beginning after December 31, 1992. In the case of the ACE treatment of IDCs, the Senate amendment applies to IDCs paid or incurred in taxable years beginning after December 31, 1992.

Conference Amendment

The Conference agreement follows the Senate Amendment.

6. DETERMINATION OF INDEPENDENT OIL AND GAS PRODUCER STATUS

Present Law

Under present law, persons owning economic interests in oil and gas producing properties may deduct an allowance for depletion in computing taxable income. Independent producers and royalty owners are permitted to claim the greater of cost or percentage depletion on the production of up to 1,000 barrels per day of crude oil and natural gas produced from domestic sources. The percentage depletion allowance for oil and gas is computed as a fixed percentage (i.e., 15 percent) of the taxpayer's gross income from the oil or gas property, subject to net income and taxable income limitations.

Also under present law, taxpayers are permitted the option to elect to deduct intangible drilling and development costs (IDCs) in the case of domestically located oil and gas wells (sec. 263(c)). For taxpayers other than independent oil and gas producers (i.e., integrated producers), however, 30 percent of the otherwise deductible amount of IDCs must be capitalized and recovered over a 60-month period.

Present law also provides a deduction from alternative minimum taxable income for a portion of a taxpayer's AMT preferences and adjustments related to IDCs and percentage depletion from marginal properties. This AMT energy deduction is available to independent producers, but not to integrated companies.

A producer of oil or natural gas is considered an independent producers unless that person (or a related person) also is engaged in a significant amount of either retailing or refining activity. A taxpayer meets the retailing exception (sec. 613A(d)(2)), and is thus not considered an independent producer, if the taxpayer directly, or through a related person, sells oil or natural gas (excluding bulk sales of such items to commercial or industrial users) or any product derived from oil or natural gas (excluding bulk sales of aviation fuels to the Department of Defense) through a retail outlet operated by the taxpayer (or a related person).[14] The retailer exception does not apply to a taxpayer with combined gross receipts from retail sales of oil, natural gas, or petroleum products for a taxable year of not more than $5 million.

A taxpayer is treated as a refiner, and thus is excluded from independent producer status, if the taxpayer or a related person engages in the refining of crude oil and on any day during the taxable year the refinery runs of the taxpayer (and related persons) exceed 50,000 barrels.

For purposes of the retailer and refiner exceptions, a person is a related person with respect to the taxpayer if a significant ownership interest (i.e., 5 percent or more) in either the taxpayer or such person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person.

House Bill

No provision.

Senate Amendment

The Senate amendment amends the operation of both the retailer and refiner exceptions in determining whether a taxpayer is an independent oil and gas producer. With respect to the retailer exception, the Senate amendment permits gross receipts from retail sales of natural gas and products derived therefrom by a regulated public utility to be disregarded in determining whether a taxpayer is a retailer. For this purpose, a regulated public utility is as defined in section 7701(a)(33) of the Code, except that the company must generate at least one-half of its gross income for the taxable year from sources described in subparagraphs (A), (B), and (C) of that section.

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[11] The IDC preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess IDC preference and the ACE IDC adjustment.

[12] The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess depletion preference and the ACE depletion adjustment related to marginal property.

[13] Under the provision, the adjustment described in sec. 56(g)(4)(C)(i) (with respect to the disallowance of deductions for items not deductible for earnings and profits purposes) will not apply to percentage depletion for oil and gas.

[14] In addition, sales by the taxpayer to any person (1) obligated under an agreement or contract with the taxpayer to use a trademark, trade name, or service mark or name of the taxpayer in marketing the oil, natural gas, or product derived therefrom, or (2) given authority, pursuant to an agreement or contract with the taxpayer (or related person) to occupy any retail outlet owned, leased, or controlled by the taxpayer, are treated as retail sales made by the taxpayer for this purpose.

Also under the Senate amendment, for purposes of determining significant refining activity under the refining exception, the requirement that a refinery run in excess of 50,000 barrels occur on any day during the taxable year is eliminated. Instead, the bill requires that the taxpayer's average daily refinery runs for the taxable year exceed 50,000 barrels in order not to treat the taxpayer as an independent producer under the refiner exception.

Effective date.—Taxable years beginning after December 31, 1992.

Conference Agreement

The conference agreement does not include the Senate amendment.

7. BUSINESS ENERGY TAX CREDITS FOR SOLAR AND GEOTHERMAL PROPERTY

Present Law

Nonrefundable business energy tax credits are allowed for 10 percent of the cost of qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission state.[15]

The business energy tax credits expired with respect to property placed in service after June 30, 1992.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

House Bill

The House bill permanently extends the credits for qualified investments in solar and geothermal property.

Effective date.—July 1, 1992.

Senate Amendment

The Senate amendment is the same as the House bill, except that it adds a credit equal to 10 percent of the cost of qualified ocean thermal property placed in service by a taxpayer after June 30, 1992. For this purpose, qualified ocean thermal property is equipment which converts ocean thermal energy to usable energy. Qualified ocean thermal property is property located at either of two locations designated by the Secretary of Treasury after consultation with the Secretary of Energy.

Conference Agreement

The conference agreement follows the House bill.

8. TREATMENT OF NUCLEAR DECOMMISSIONING FUNDS

Present Law

A taxpayer that is required to decommission a nuclear power plant may elect to deduct certain contributions that are made to a nuclear decommissioning fund. A nuclear decommissioning fund is a segregated fund the assets of which are to be used exclusively to pay nuclear decommissioning costs, taxes on fund income, and certain administrative costs. The assets of a nuclear decommissioning fund that are not currently required for these purposes must be invested in (1) public debt securities of the United States, (2) obligations of a State or local government that are not in default as to principal or interest, or (3) time or demand deposits in a bank or an insured credit union located in the United States. These investment restrictions are the same restrictions which apply to Black Lung trusts that are established under section 501(c)(21) of the Code.

The income of a nuclear decommissioning fund is subject to tax at the highest rate of tax that applies to corporations (34 percent under present law).

House Bill

The House bill repeals the present-law investment restrictions that apply nuclear decommissioning funds. In addition, the House bill reduces the rate of tax imposed on the income of nuclear decommissioning funds to 22 percent for taxable years beginning in 1994 and 1995 and to 20 percent for taxable years beginning after 1995.

Effective date.—The provision of the House bill that repeals the investment restrictions of present law is effective for taxable years beginning after December 31, 1992. The tax rate of 22 percent is effective for taxable years beginning in 1994 and 1995 and the tax rate of 20 percent is effective for taxable years beginning after 1995.

Senate Amendment

The Senate amendment is the same as the House bill, except that the Senate amendment does not reduce the rate of tax imposed on the income of nuclear decommissioning funds.

Conference Agreement

The conference agreement follows the House bill.

9. BINDING CONTRACT RULE FOR NONCONVENTIONAL FUELS PRODUCTION CREDIT

Present Law

Nonconventional fuels are eligible for a production credit equal to $3 per barrel or Btu oil barrel equivalent.[16] (The credit amount generally is adjusted for inflation, except for gas produced from a tight formation.) Qualified fuels must be produced domestically from a well drilled, or a facility placed in service, before January 1, 1993. The production credit is available for qualified fuels sold to unrelated persons before January 1, 2003.

Qualified fuels include (1) oil produced from shale and tar sands, (2) gas produced from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass (i.e., any organic material other than oil, natural gas, or coal (or any product thereof), and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

House Bill

Under the House bill, a facility that produces gas from biomass or produces liquid, gaseous, or solid synthetic fuels from coal (including lignite) will qualify for the credit if it is placed in service before January 1, 1996, pursuant to a written binding contract in effect on December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows a modified version of the House bill. Under the conference agreement, a facility that produces gas from biomass or produces liquid, gaseous, or solid synthetic fuels from coal (including lignite) generally will be treated as being placed in service before January 1, 1993, if it is placed in service by the taxpayer before January 1, 1997, pursuant to a written binding contract in effect before January 1, 1996. In the case of a facility that produces coke or coke gas, however, this provision of the conference agreement applies only if the original use of the facility commences with the taxpayer.

If a facility that qualifies for the above-stated binding contract rule is originally placed in service after December 31, 1992, production from the facility may qualify for the credit if sold before January 1, 2008.

10. TAX-EXEMPT BONDS FOR FACILITIES FOR THE LOCAL FURNISHING OF ELECTRICITY

Present Law

Interest on certain private activity bonds is exempt from Federal regular individual and corporate income tax. However, issuance of most such bonds is subject to annual State private activity bond volume limitations. One type of tax-exempt private activity bond is an exempt-facility bond to finance facilities for the local furnishing of electricity.

The use of exempt-facility bonds for this purpose is limited to financing of facilities for electric systems the service area of which does not exceed either (1) two contiguous counties or (2) a city and a contiguous county. The local furnishing exception does not apply to bonds for facilities that are part of an integrated system to supply electricity to a region.

House Bill

The House bill authorizes the Federal Energy Regulatory Commission ("FERC") to order electric utilities (including those qualifying under the local furnishing exception) to provide transmission ("wheeling") services to other parties that generate electricity. These FERC orders also may require the utilities to enlarge their transmission systems.

The House bill further provides that the local furnishing exception is not violated by wheeling activities conducted pursuant to such FERC orders if no tax-exempt bond financing is provided for the non-local furnishing activities.

Effective dates.—Date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with technical clarifications. First, the conferees wish to clarify that the determination of whether a facility which is subject to a FERC wheeling order is used in local furnishing activities is to be made on the basis of the facts and circumstances of each case, as under present law.

Second, the escrow requirement for defeasance of outstanding bonds in the event of non-local-furnishing uses of bond-financed facilities pursuant to the FERC orders is modified to clarify its application to partial uses. Finally, the conferees wish to clarify their intent that this escrow requirement is to apply only to circumstances involving disqualification of outstanding bonds as a result of the FERC orders authorized under the conference agreement; no inference is intended as to the appropriate treatment of bonds the interest on which becomes taxable in other circumstances.

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[15] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

[16] A barrel-of-oil equivalent generally means that amount of the qualifying fuel which has a Btu content of 5.8 million.

11. EXPAND EXCEPTION TO PRO RATA DISALLOWANCE OF BANK INTEREST EXPENSE RELATED TO INVESTMENT IN TAX-EXEMPT BONDS

Present Law

Banks and other financial institutions generally are denied a deduction for the portion of their interest expense (e.g., interest paid to depositors) that is attributable to investments in tax-exempt bonds acquired after August 7, 1986. This disallowance is computed using a pro rata formula that compares the institution's average adjusted basis in tax-exempt bonds acquired after that date with the average adjusted basis of all assets of the institution.

An exception to this pro rata disallowance rule is permitted for governmental bonds and qualified 501(c)(3) bonds issued by or on behalf of governmental units that issue no more than $10 million of such bonds during a calendar year.

House Bill

The House bill increases from $10 million to $20 million the amount of bonds that an issuer may issue in a year without becoming ineligible for this exception to the interest expense deduction pro rata disallowance rule.

Effective date.—Bonds issued after December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provision.

12. TAX-EXEMPT BOND FINANCING OF CERTAIN HYDRO-ELECTRIC GENERATION FACILITIES

Present Law

Interest on certain private activity bonds is exempt from Federal regular individual and corporate income taxes. However, issuance of the bonds is subject to annual State private activity bond volume limitations. One type of tax-exempt private activity bond is an exempt-facility bond. Exempt-facility bonds are bonds the proceeds of which are used to finance the following: airports; docks and wharves; mass commuting facilities or high-speed intercity rail facilities; water, sewage, solid waste, or hazardous waste disposal facilities; facilities for the local furnishing of electricity or gas; local district heating or cooling facilities; and certain low-income rental housing projects.

House Bill

No provision.

Senate Amendment

The Senate amendment authorizes a new type of exempt-facility bond for environmental enhancement of hydroelectric generation facilities. At least 80 percent of the net proceeds of each bond issue must be used to finance property for the promotion of fisheries or other wildlife resources. Qualifying expenditures must be related to a governmentally owned and operated hydroelectric facility and may not include amounts which increase or allow an increase in the capacity of the existing generation equipment. Issuance of these bonds is not subject to the annual State private activity bond volume limitations.

Effective date.—Bonds issued after date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

13. BONDS FOR HIGH-SPEED INTERCITY RAIL FACILITIES

Present Law

High-speed intercity rail facilities qualify for tax-exempt bond financing if trains operating on the facility carry passengers and their baggage at average speeds in excess of 150 miles per hour between stations. Such facilities need not be governmentally-owned, but the owner must irrevocably elect not to claim depreciation or any tax-credit with respect to bond-financed property.

Twenty-five percent of each bond issue for high-speed intercity rail facilities must receive an allocation from a State private activity bond volume limitation. If facilities are located in two or more States, this requirement must be met on a State-by-State basis for the financing of facilities located in each State.

House Bill

No provision.

Senate Amendment

The Senate amendment repeals the requirement that 25 percent of each high-speed intercity rail facility bond issue receive an allocation of a State private activity bond volume limitation if the bond-financed property is governmentally owned.

Effective date.—Bonds issued after December 31, 1993.

Conference Agreement

The conference agreement does not include the Senate amendment.

14. PARTIAL EXCISE TAX EXEMPTION FOR CERTAIN GASOLINE MIXTURES WITH ETHANOL OR OTHER ALCOHOL

Present Law

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation and by motorboats (14.1 cents per gallon). A Federal excise tax also is imposed on diesel fuel used in highway transportation (20.1 cents per gallon).

A 5.4-cents-per-gallon excise tax exemption is allowed from the excise taxes on gasoline, diesel fuel, and special motor fuels for mixtures of any of these fuels with at least 10-percent ethanol. A 6-cents-per-gallon excise tax exemption is allowed for mixtures with at least 10-percent alcohol that is other than ethanol. Because blended fuels are generally 10 percent alcohol, a reduction of 5.4 or 6 cents per gallon of gasohol or other blend is equivalent to a subsidy of 54 or 60 cents per gallon of qualifying alcohol.

For purposes of the partial excise tax exemption, the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 190.

The partial excise tax exemption is scheduled to expire after September 30, 2000.

House Bill

No provision.

Senate Amendment

The Senate amendment modifies the partial excise tax exemption for gasoline that is mixed with ethanol or other alcohol to extend its application to 5.7- or 7.7-percent alcohol blends. The current 5.4- and 6-cents-per-gallon exemptions for alcohol mixtures are pro-rated to maintain the subsidy level of 54 or 60 cents per gallon, respectively, for ethanol or other alcohol that is mixed with gasoline.

Effective date.—Gasoline removed or entered after September 30, 1992.

Conference Agreement

The conference agreement follows the Senate amendment. The conferees wish to reiterate that the purpose of this provision, as stated in the legislative history of the Senate amendment, is to provide taxpayers with greater flexibility to mix alcohol with gasoline to meet the mandated targets of the Clean Air Act.

15. APPLICATION OF ALCOHOL FUELS TAX CREDIT AGAINST ALTERNATIVE MINIMUM TAX

Present Law

An income tax credit is provided for alcohol used in certain mixtures of alcohol and gasoline (e.g., gasohol), diesel fuel, or any other liquid fuel which is suitable for use in an internal combustion engine if the mixture is sold by the producer in a trade or business for use as a fuel or is so used by the producer (sec. 40). The credit also is permitted for alcohol (e.g., qualified methanol fuel) which is not in a mixture with gasoline, diesel, or other liquid fuel which is suitable for use in an internal combustion engine, provided that the alcohol is used by the taxpayer as a fuel in a trade or business or is sold by the taxpayer at retail to a person and placed in the fuel tank of the purchaser's vehicle. The credit generally is equal to 60 cents for each gallon of alcohol (at least 190 proof) used by the taxpayer in the production of a qualified mixture or as a fuel; the credit generally is 45 cents per gallon of 150 to 190 proof alcohol fuel.[17] The credit is scheduled to expire with respect to sales or uses after December 31, 2000.

In addition, a 10-cents-per-gallon income tax credit is allowed to eligible small ethanol producers. For this purpose, a small ethanol producer is any fuel ethanol producer with a productive capacity to produce less than 30 million gallons of alcohol per year. This credit is limited to the first 15 million gallons of ethanol for use as a fuel produced per year by such a small producer.

The amount of any taxpayer's alcohol fuels tax credit is reduced to take into account any benefit received with respect to the alcohol under the special reduced excise tax rates for alcohol fuel mixtures of alcohol fuels. For purposes of the credit (other than with respect to the determination of the productive capacity of an ethanol producer), the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 150.

The alcohol fuels tax credit is a component of the general business credit (sec. 38(b)(1)). The alcohol fuels tax credit, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that taxpayers claiming the alcohol fuels tax credit may utilize that credit to offset a portion of their alternative minimum tax liability. Specifically, the bill allows the alcohol fuels credit to offset up to 50 percent of a taxpayer's pre-credit alternative minimum tax.[18] As under present law, any unused credit would be available for a 3-year carryback and a 15-year carryover.

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[17] In the case of any credit with respect to any alcohol which is ethanol, a rate of 54 cents per gallon applies instead of the 60-cent-per-gallon rate, and a rate of 40 cents per gallon applies instead of the 45-cent-per-gallon rate (sec. 40(h)).

Effective date.—Taxable years beginning after September 30, 1992. However, the Senate amendment is limited to alcohol fuels credits actually generated in those years. That is, the Senate amendment does not allow an alcohol fuels credit generated in a taxable year beginning on or before September 30, 1992 and carried forward to a taxable year beginning after September 30, 1992 to offset alternative minimum tax in that later year. Similarly, it does not allow an alcohol fuels tax credit generated in a taxable year beginning after September 30, 1992 to be carried back and used to reduce alternative minimum tax in a taxable year beginning on or before September 30, 1992.

Conference Agreement

The Conference agreement does not include the Senate amendment.

16. ALLOWANCE OF CREDIT FOR AMOUNTS TRANSFERRED FROM THE TRANS-ALASKA PIPELINE LIABILITY FUND INTO THE OIL SPILL LIABILITY TRUST FUND

Present Law

The Trans-Alaska Pipeline Liability Trust Fund ("TAPS Fund") was established by the Trans-Alaska Pipeline System Authorization Act. The TAPS Fund was financed by a fee of five cents per barrel on oil that was loaded on a vessel from the pipeline. Amounts in the TAPS Fund are to be transferred to the Oil Spill Liability Trust Fund ("Oil Spill Fund") after all outstanding claims against the TAPS Fund have been resolved. At the time of the transfer, contributors to the TAPS Fund are to be provided a credit for amounts paid to the TAPS Fund, and interest accrued on these amounts, prior to January 1, 1987. Each contributor's credit cannot exceed its pro rata share of such amounts (i.e., the contributions and interest prior to January 1, 1987) transferred from the TAPS Fund into the Oil Spill Fund.

The TAPS Fund credit is available only against the excise tax on petroleuum products that is used to finance the Oil Spill Fund. Under present law, that excise tax is not applicable after December 31, 1994, or if the unobligated balance in the Oil Spill Fund exceeds $1 billion.

House Bill

No provision.

Senate Amendment

The Senate amendment permits taxpayers to use TAPS credits against regular corporate income taxes to the extent that the credits may not be used against the oil spill excise tax by reason of the lapse of that tax. The TAPS credits used against corporate income taxes cannot be carried back to taxable years before the lapse occurs.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement, follows the Senate amendment with two modifications. First, the agreement limits the aggregate income tax credits and petroleum excise tax credits for any taxpayer to an amount not exceeding the petroleum excise tax credits that could have been claimed between December 31, 1989, and the date that the petroleum excise tax expires by lapse of time (currently scheduled for December 31, 1994). The limit is calculated assuming that (i) the balance of the Oil Spill Fund did not exceed $1 billion during that period, and (ii) the amounts in the TAPS Fund actually transferred to the Oil Spill Fund were instead transferred on January 1, 1990. This limitation is in addition to the present-law limitations on a contributor's credit. Second, the agreement provides for transfers of funds from the Oil Spill Fund to the general fund equal to the amount of the TAPS credits claimed as income tax credits; however, these transfers are not to be made to the extent they would reduce the balance of the Oil Spill Fund below $1 billion.

B. REVENUE-OFFSET PROVISIONS

1. INCREASE BASE TAX RATE ON OZONE-DEPLETING CHEMICALS

Present Law

An excise tax is imposed on certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax rate applicable for calendar year by ozone-depleting factor assigned to the chemical. Certain chemicals are subject to reduced rate of tax for years prior to 1994.

Between 1992 and 1995 there are two base tax rates applicable, depending upon whether the chemicals were initially listed in the Omnibus Budget Reconciliation Act of 1989 or whether they were newly listed in the Omnibus Budget Reconciliation Act of 1990. The base tax rate applicable to initially listed chemicals is $1.67 per pound for 1992, $2.65 per pound for 1993 and 1994, and an additional 45 cents per pound per year for each year thereafter. The base tax rate applicable to newly listed chemicals is $1.37 per pound for 1992, $1.67 per pound for 1993, $3.00 per pound for 1994, $3.10 per pound for 1995, and an additional 45 cents per pound per year for each year thereafter.

House Bill

Base tax amount.—The House increases and applies the same base tax amount to both initially listed chemicals and newly listed chemicals. The new base tax amount would be $1.85 per pound in 1992, $2.75 per pound in 1993, $3.65 per pound in 1984, $4.55 per pound in 1995. For years after 1995, the base tax amount would increase by 45 cents per pound per year.

Rigid foam insulation and halons.—The House bill reduces the applicable percentage for certain ozone-depleting chemicals used in rigid foam insulation, and certain halons. In the case of rigid foam insulation the applicable percentage is reduced from 15 percent to 13.5 percent for 1992 and from 10 percent to 9.6 percent in 1993. For Halon-1211 the applicable percentage would be 4.5 percent for 1992 and 3.0 percent for 1993. For Halon-1301 the applicable percentage would be 1.4 percent for 1992 and 0.9 percent for 1993. For Halon-2402 the applicable percentages would be 2.3 percent for 1992 and 1.5 percent for 1993.

Medical sterilants.—The House bill provides for a reduced rate of tax for certain ozone-depleting chemical used as medical sterilants for 1992 and 1993. The applicable percent for such chemicals for 1992 is 90.3 percent and is 60.7 percent for 1993.

Effective date.—The provision is effective for taxable chemicals sold or used on or after July 1, 1992. Floor stocks taxes are imposed on taxed chemicals held on the effective dates of changes in the tax rate.

Senate Amendment

The Senate amendment is the same as the House bill except for the effective date. The Senate amendment is effective for taxable chemicals sold or used on or after October 1, 1992. Floor stocks taxes are imposed on taxed chemicals held on the effective dates of changes in the base tax rate.

Conference Agreement

The conference agreement follows the House bill and Senate amendment with several modifications.

Base tax amount.—The conference agreement increases and applies the same base tax amount to both initially listed chemicals and newly listed chemicals. The new base tax amount will be $3.35 per pound in 1993, $4.35 per pound in 1994, and $5.35 per pound in 1995. For years after 1995, the base tax amount will increase by 45 cents per pound per year as under present law.

Rigid foam insulation and halons.—The House bill reduces the applicable percentage for certain ozone-depleting chemicals used in rigid foam insulation, and certain halons. In the case of rigid foam insulation the applicable percentage is reduced from 10 percent to 7.46 percent in 1993. For Halon-1211, the new applicable percentage is 2.49 percent for 1993. For Halon-1301, the new applicable percentage is 0.75 percent for 1993. For Halon-2402, the new applicable percentage is 1.24 percent for 1993.

Medical sterilants and propellants for metered dose inhalers.—The conference agreement provides for a reduced rate of tax for certain ozone-depleting chemicals used as medical sterilants for 1993 and for ozone-depleting chemicals used as propellants for metered dose inhalers for years after 1992. The reduced rate of tax is $1.67 per pound for qualifying chemicals.

Metered dose inhalers are aerosol devices that deliver precisely-measured doses of therapeutic drugs directly to the lungs. Such devices are used primarily for the treatment of asthma and chronic obstructive pulmonary diseases, including chronic bronchitis and emphysema.

Methyl chloroform.—The conference agreement provides for a separate rate of tax for methyl chloroform for sales and uses in 1993. The rate of tax applicable for 1993 is determined by multiplying the base tax amount applicable for the calendar year by the ozone-depleting factor assigned to methyl chloroform, and multiplyng this result by 63.02 percent. Thus, the rate of tax applicable for methyl chloroform for 1993 is the base tax amount of $3.35 per pound, multiplied by the ozone-depleting factor for methyl chloroform of 0.1, multiplied by 0.6302 for a total of $0.211 per pound.

Effective date.—The provision is effective for taxable chemicals sold or used on or after January 1, 1993. Floor stocks taxes are imposed on taxed chemicals held on the effective dates of changes in the base tax amount.

2. DENY DEDUCTION FOR CLUB DUES

Present Law

No deduction is permitted for club dues unless the taxpayer establishes that his or hers use of the club was primarily for the furtherance of the taxpayer's trade or business and the specific expense was directly related to the active conduct of that trade or business. No deduction is permitted for an initiation or similar fee that is payable only upon joining a club if the useful life of the fee extends over more than one year. Such initiation fees are nondeductible capital expenditures.[19]

House Bill

No provision.

Senate Amendment

Under the Senate amendment, no deduction is permitted for club dues. This rule applies to all types of clubs: business, social, athletic, luncheon, or sporting clubs. Specific business expenses (e.g., meals) incurred at a club would be deductible only to the extent they otherwise satisfy present-law standards for deductibility.

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[18] Other components of the general business credit would not be permitted to offset the alternative minimum tax under the bill.

[19] *Kenneth D. Smith*, 24 TCM 899 (1965).

Effective date.—The provision is effective for club dues paid after the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment. (However, the conference agreement on H.R. 11 includes the Senate amendment.)

3. REQUIRE REPORTING OF TAXPAYER IDENTIFICATION NUMBERS OF PARTIES IN SELLER-FINANCED MORTGAGE TRANSACTIONS

Present Law

Taxpayers are generally allowed an itemized deduction from adjusted gross income for the amount of qualified residence interest paid. If qualified residence interest is paid to an individual, the name and address (but not the taxpayer identification number)[20] of the interest recipient must be reported on Schedule A of the payor's tax return.

Individuals receiving taxable interest in excess of $400 are required to report the amounts received and the names (but not the taxpayer identification number) of the payors on Schedule B of the payee's tax return.

House Bill

The House bill provides that if any taxpayer claims a deduction for qualified residence interest on any seller-provided financing, such taxpayer (the buyer) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the seller) to whom the interest is paid or accrued. In general, this information must be furnished on Schedule A of the buyer's tax return for every year in which the buyer deducts this interest.

The House bill further provides that if any person receives or accrues interest from seller-provided financing, such person (the seller) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the buyer) from whom the interest is received or accrued. In general, this information must be furnished on Schedule B of the seller's tax return for every year in which the seller is required to include this interest in income.

If any person involved in seller-provided financing is required to include on his or her tax return the taxpayer identification number of another person, such other person is required to furnish his or her taxpayer identification number to such person. Information would not be required to be reported under this provision to the extent it would be duplicative of existing information reporting requirements±.

Failure to meet the requirements for information reporting described above are subject to information reporting penalties under section 6723. In general, these penalties are $50 for each failure.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill. The conferees anticipate that all parties to real estate closings will make every effort to inform both buyers and sellers of the requirements of this provision, and will also facilitate (to the maximum extent possible) the exchange of taxpayer identification numbers between buyers and sellers.

4. EXPANSION OF 45-DAY INTEREST-FREE PERIOD FOR CERTAIN REFUNDS

Present Law

No interest is paid by the Government on a refund arising from an income tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed (sec. 6611(e)).

There is no parallel rule for refunds of taxes other than income taxes (i.e., employment, excise, and estate and gift taxes), for refunds of any type of tax arising from amended returns, or for claims for refunds of any type of tax.

If a taxpayer files a timely original return with respect to any type of tax and later files an amended return claiming a refund, and if the IRS determines that the taxpayer is due a refund on the basis of the amended return, the IRS will pay the refund with interest computed from the due date of the original return.

House Bill

No interest is to be paid by the Government on a refund arising from any type of original tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed.

A parallel rule applies to amended returns and claims for refunds: if the refund is issued by the 45th day after the date the amended return or claim for refund is filed, no interest is to be paid by the Government for that period of up to 45 days (interest would continue to be paid for the period from the due date of the return to the date the amended return or claim for refund is filed). If the IRS does not issue the refund by the 45th day after the date the amended return or claim for refund is filed, interest would be paid (as under present law) for the period from the due date of the original return to the date the IRS pays the refund.

A parallel rule also applies to IRS-initiated adjustments (whether due to computational adjustments or audit adjustments). With respect to these adjustments, the IRS is to pay interest for 45 fewer days than it otherwise would.

Effective date.—The extension of the 45-day processing rule is effective for returns required to be filed (without regard to extensions) on or after July 1, 1992. The amended return rule is effective for amended returns and claims for refunds filed on or after July 1, 1992 (regardless of the taxable period to which they relate). The rule relating to IRS-initiated adjustments is applicable to refunds paid on or after July 1, 1992 (regardless of the taxable period to which they relate).

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provision. (However, the conference agreement on H.R. 11 includes the House bill provision (with a different effective date).)

5. ACCESS TO TAX INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS

Present Law

The Internal Revenue Code prohibits disclosure of tax returns and return information of taxpayers, with exceptions for authorized disclosure to certain Governmental entities in certain enumerated instances (Code sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).

Among the disclosures permitted under the Code is disclosure to the Department of Veterans Affairs (DVA) of self-employment tax information and certain tax information supplied to the IRS and SSA by third-parties. Disclosure is permitted to assist DVA in determining eligibility for, and establishing correct benefit amounts under, certain of its needs-based pension and other programs (sec. 6103(l)(7)(viii)). The income tax returns filed by the veterans themselves are not disclosed to DVA.

The DVA disclosure provision expired after September 30, 1992.

House Bill

The House bill extends the authority to disclose tax information to the DVA for five years.

Effective date.—The DVA disclosure provision is effective October 1, 1992, and expires after September 30, 1997.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provision.

6. DEDUCTION FOR MOVING EXPENSES

Present Law

An employee or self-employed individual may deduct from gross income certain expenses incurred as a result of moving to a new residence in connection with beginning work at a new location. For a taxpayer to claim a moving expense deduction, the new principal place of work has to be at least 35 miles farther from his or her former residence than was the former principal place of work (or his or her former residence, if he or she has no former place of work).

House Bill

No provision.

Senate Amendment

The Senate amendment increases the mileage threshold for the moving expense deduction to 55 miles.

Effective date.—Taxable years beginning after December 31, 1992.

Conference Agreement

The conference agreement does not include the Senate amendment.

7. PERCENTAGE DEPLETION DEDUCTION FOR MERCURY, ASBESTOS, URANIUM, AND LEAD

Present Law

Taxpayers are allowed to deduct a reasonable allowance for depletion relating to the acquisition and certain related costs of mines or other hard mineral deposits. The depletion deduction for any taxable year is calculated under either the cost depletion method or the percentage depletion method, whichever results in the greater allowance for depletion for the year.

Under the cost depletion method, the taxpayer deducts that portion of the adjusted basis of the property which is equal to the ratio of the units sold from that property during the taxable year, to the estimated total units remaining at the beginning of that year.

Under the percentage depletion method, a deduction is allowed in each taxable year for a statutory percentage of the taxpayer's gross income from the property. The statutory percentage for mercury, asbestos, uranium, and lead is 22 percent, except that in the case of mercury and lead mined outside the United States the rate is 14 percent, and in the case of asbestos mined outside the United States the rate is 10 percent. The percentage depletion deduction for these minerals may not exceed 50 percent of the net income from the property for the taxable year (computed without allowance for deletion). Percentage depletion is not limited to the taxpayer's basis in the property; thus, the aggregate amount of percentage depletion deductions claimed may exceed the amount expended by the taxpayer to acquire and develop the property.

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[20] An individual's taxpayer identification number is generally that individual's Social Security number.

House Bill

The House bill repeals the percentage depletion deduction for mercury, asbestos, uranium, and lead. Thus, the depletion deduction for these minerals would be determined under the cost depletion method.

Effective date.—Taxable years beginning after December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not contain the House bill provision.

8. TELEPHONE EXCISE TAX EXEMPTION FOR NEWS SERVICES

Present Law

A three-percent excise tax is imposed on amounts paid for local and toll (long-distance) telephone service and teletypewriter exchange service. Certain exemptions are provided, including an exemption for certain communications services furnished to news services for the use in collection or dissemination of news (except local telephone service to news services).

House Bill

The House bill repeals the exemption from the telephone excise tax for communications services furnished to news services for use in collection or dissemination of news.

Effective date.—The provision is effective for service after December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision.

9. EXCISE TAX ON CERTAIN INSURANCE PREMIUMS PAID TO CERTAIN FOREIGN PERSONS

Present Law

An excise tax generally is imposed by Code section 4371 on any insurance policy covering U.S. risks that is issued by a foreign insurer not engaged in business in the United States. The tax is imposed at the following rates: (1) 4 percent of the premium paid on a casualty insurance policy or indemnity bond; (2) 1 percent of the premium paid on a policy of life, sickness, or accident insurance, or annuity contracts on the lives or hazards to the person of a U.S. citizen or resident; and (3) 1 percent of the premium paid on a policy of reinsurance covering any of the contracts taxable under (1) or (2).

House Bill

No provision.

Senate Amendment

The Senate amendment revises the excise tax imposed on insurance premiums paid to foreign insurance companies by raising to 4 percent the excise tax on certain premiums paid to foreign persons for reinsurance covering casualty insurance and indemnity bonds. The Senate amendment subjects premiums to the increased excise tax unless (1) the premiums are paid to a foreign insurer or reinsurer that is a resident of a foreign country, (2) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed under the Code on similar premiums received by U.S. reinsurers, and (3) the insured risk is not reinsured (whether directly or through a series of transactions or business relationships or practices having the same effect) by a resident of another foreign country who is not subject to a substantial tax (as defined in condition (2)) on the income. In cases where all three conditions are satisfied, the excise tax is imposed at the present-law rate of 1 percent.

The Senate amendment authorizes such collection and enforcement mechanisms (e.g., closing agreements) as the Secretary may specify in order to ensure that any excise tax due on any reinsurance of the U.S. risk is collected.

Effective date.—The provision applies to premiums paid after the date of the bill's enactment, but only to the extent that they are allocable to reinsurance coverage for periods after December 31, 1992.

Conference Agreement

The conference agreement does not include the Senate amendment.

10. CHANGES IN WITHHOLDING ON GAMBLING WINNINGS

Present Law

In general, proceeds from a wagering transaction are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000 and if the amount of such proceeds is at least 300 times as large as the amount wagered. The proceeds from a wagering transaction are determined by subtracting from the amount received the amount wagered. Any non-monetary proceeds that are received are taken into account at fair market value.

In the case of State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $5,000, regardless of the odds of the wager. This rule applies only if the wager is placed with the State agency conducting the lottery or with its authorized agents or employees.

In the case of sweepstakes, wagering pools, or lotteries other than State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000, regardless of the odds of the wager.

No withholding tax is imposed on winnings from a slot machine, bingo, or keno.

House Bill

No provision in H.R. 776. (However, H.R. 5660 as passed by the House contains a provision for an increase in the rate of withholding similar to that included in the conference agreement below.)

Senate Amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement below.)

Conference Agreement

The conference agreement increases the rate of withholding on gambling winnings from 20 percent to 28 percent. The conference agreement also increases the threshold for withholding on proceeds from a wagering transaction from $1,000 to $5,000. The additional requirement for withholding that the proceeds of the wager be at lease 300 times the amount of the wager applies to the same extent as under present law.

Effective date.—The provision is effective for payments made after December 31, 1992.

11. INCREASE BACKUP WITHHOLDING RATE

Present Law

Under section 3406, a payor is required to withhold on "reportable payments", such as interest and dividends, at a rate of 20 percent if: (1) the payee fails to furnish his taxpayer identification number (TIN) to the payor; (2) the IRS notifies the payor that the payee's TIN is incorrect; (3) a notified payee underreporting has occurred (as described in sec. 3406(c)); or (4) a payee certification failure with respect to reportable payments has occurred (as described in sec. 3406(d)).

House Bill

No provision.

Senate Amendment

No provision. (However, H.R. 11, as amended by the Senate, contains the same provision that is included in the conference agreement below.)

Conference Agreement

The conference agreement increases the rate of withholding with respect to backup withholding from 20 percent to 31 percent.

Effective date.—The conference agreement is effective for amounts paid after December 31, 1992.

12. CLASSIFICATION OF CERTAIN INTERESTS IN CORPORATIONS AS STOCK OR INDEBTEDNESS

Present Law

There presently is no definition in the Internal Revenue Code or the income tax regulations which can be used to determine whether an interest in a corporation constitutes debt or equity for Federal income tax purposes. The characterization of an investment in a corporation as debt or equity for Federal income tax purposes generally is determined under principles developed in case law by reference to numerous factors intended to identify the economic substance of the investor's interest in the corporation.

House Bill

No provision in H.R. 776. (However, section 3 of H.R. 5641 as passed by the House contains a similar provision as included in the conference agreement below.)

Senate Amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement below.)

Conference Agreement

The conference agreement provides that the characterization (as of the time of issuance) of a corporate instrument as stock or debt by the corporate issuer is binding on the issuer and on all holders. This characterization, however, is not binding on the Secretary of the Treasury. Neither a holder nor an issuer is excused from any interest or penalties that might result under present law from an improper characterization.

Except as provided in regulations, a holder who treats such instrument in a manner inconsistent with such characterization must disclose the inconsistent treatment on such holder's tax return.

The Secretary of the Treasury is authorized to require such information as is deemed necessary to implement the provision.

Effective date.—Instruments issued after the date of enactment.

13. TREATMENT OF PRE-CONTRIBUTION GAIN IN CERTAIN PARTNERSHIP REDEMPTIONS

Present Law

If property contributed to a partnership by a partner is subsequently distributed to another partner within 5 years of the contribution, the contributing partner generally recognizes gain as if the property had been sold for its fair market value at the time of the distribution. Present law generally does not require a partner who contributes appreciated property to a partnership to recognize pre-contribution gain upon a subsequent distribution of other property to that partner even if the value of that other property exceeds the partner's basis in his partnership interest.

House Bill

No provision in H.R. 776. (However, H.R. 11 as passed by the House contains the same provision as included in the conference agreement below.)

Senate Amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement below.)

Conference Agreement

The conference agreement requires a partner who contributes appreciated property to a partnership to include pre-contribution gain in income to the extent that the value of other property distributed by the partnership to that partner exceeds his adjusted basis in his partnership interest. The provision applies whether or not the contributing partner's interest in the partnership is reduced in connection with the distribution. In accordance with the 5-year limitation of present law, the provision applies only if the distribution is made within 5 years after the contribution of the appreciated property. The conference agreement provides rules for taking into consideration multiple contributions by the same partner within the five-year period and generally permits the netting of pre-contribution losses against pre-contribution gains. Generally, the character of the gain is determined by reference to the character of the net pre-contribution gain.

For example, assume A and B form a partnership. A contributes appreciated property X and B contributes property Y, which has a basis equal to its value at the time of contribution. Y is distributed to A within 5 years, at a time when there have been no intervening distributions or dispositions of property by the partnership. Under the provision, A includes in income his pre-contribution gain with respect to X to the extent the value of Y exceeds A's basis in his partnership interest.

Appropriate basis adjustments are to be made in the basis of the distributee partner's interest in the partnership and the partnership's basis in the contributed property to take account of gain recognized by the distributee partner.

Gain recognition generally is not required to the extent the partnership distributes property which had been contributed by the distributee partner. Rules are provided, however, to prevent avoidance of pre-contribution gain (under this provision and under the recognition provisions of present law) through the use of entities.

Under these rules, if the property distributed consists of an interest in an entity, gain recognition is required to the extent that the value of the interest in the entity is attributable to property contributed to the entity after the interest in it was contributed to the partnership. Similarly, the conference agreement provides that if contributed property is distributed indirectly to a partner other than its contributor, the contributing partner is subject to tax on the pre-contribution gain as if the property had been distributed directly rather than indirectly.

For example, assume that A and B form a partnership. A contributes appreciated property X and B contributes property Y, which is also appreciated. A also contributes the stock of C, a corporation with no substantial assets. Instead of distributing Y to A, the partnership contributes Y to C, then distributes the stock of C back to A. Under the provision, A must include in income pre-contribution gain with respect to X to the extent the value of the C stock (taking into account the volume of Y) exceeds his basis in his partnership interest. In addition, B must include in income pre-contribution gain with respect to Y.

The conferees intend that the provision be coordinated with the rules governing partnership terminations (sec. 708).[21] Pre-contribution gain otherwise required to be recognized under the provision is not triggered by a constructive termination under section 708(b)(1)(B). A constructive termination does not change the application of the sharing requirements of 704(c) of present law to pre-contribution gain with respect to property contributed to the partnership before the termination. Partners will recognize gain in connection with any distribution of partnership property within 5 years following the constructive termination, to the extent of their respective shares of the pre-termination appreciation in the value of the partnership property that is not already required to allocated to the original contributor (if any) of the property.

Effective date.—The provision applies to partnership distributions on or after June 25, 1992.

14. DENY DEDUCTION FOR TRAVEL EXPENSES PAID OR INCURRED IN CONNECTION WITH EMPLOYMENT LASTING ONE YEAR OR MORE

Present Law

Unreimbursed ordinary and necessary travel expenses paid or incurred by an individual in connection with temporary employment away from home (e.g., transportation costs, and the cost of meals and lodging) are generally deductible, subject to the two-percent floor on miscellaneous itemized deductions. Travel expenses paid or incurred in connection with indefinite employment away from home, however, are not deductible.[22]

The position of the Internal Revenue Service as to whether employment is temporary or indefinite is as follows:

(1) If a taxpayer anticipates employment to last for less than one year, whether such employment is temporary or indefinite will be determined on the basis of the facts and circumstances.

(2) If a taxpayer anticipates employment to last for one year or more and that employment does, in fact, last for one year or more, there is a presumption that the employment is not temporary but rather is indefinite, and that the taxpayer is not away from home during the indefinite period of employment. However, under certain circumstances, this one-year presumption of indefiniteness may be rebutted where the employment is expected to, and does, last for one year or more, but less than two years.

(3) An expected or actual stay of two years or longer will be considered an indefinite stay, regardless of any other facts and circumstances.[23]

House Bill

No provision.

Senate Amendment

No provision. (However, H.R. 11 as amended by the Senate contains the same provision that is included in the conference report below.)

Conference Agreement

The conference agreement treats a taxpayer's employment away from home in a single location as indefinite rather than temporary if it lasts for one year or more. Thus, no deduction would be permitted for travel expenses paid or incurred in connection with such employment. As under present law, if a taxpayer's employment away from home in a single location lasts for less than one year, whether such employment is temporary or indefinite would be determined on the basis of the facts and circumstances. This change is not intended to alter present law with respect to volunteer individuals providing voluntary services to charities described in section 501(c)(3).

Effective date. The provision is effective for costs paid or incurred after December 31, 1992.

15. REPORTING OF AMOUNTS OF PROPERTY TAX REIMBURSEMENTS PAID TO SELLERS OF RESIDENCES

Present Law

Individual taxpayers who itemize deductions may deduct State and local real property taxes. Under Code section 164(d)(1), if real property is sold during any real property tax year, the part of the real property tax that is properly allocable to that part of the year that ends on the day before the date of sale is treated as imposed on the seller. The part of the real property tax that is properly allocable to that part of the year that begins on the date of sale is treated as imposed on the buyer.

Under present law, real estate transactions are required to be reported on a return to the IRS and on statements to the customers. In general, the primary responsibility for reporting is on the "real estate reporting person," that is, the person responsible for closing the transactions, including any title company or attorney who closes the transaction. If there is no person responsible for closing the transaction, the real estate reporting person is the first person who exists in the following order: the mortgage lender, the seller's broker, the buyer's broker, or such other person designated in regulations prescribed by the Secretary.

House Bill

No provision in H.R. 776. (However, H.R. 5638 as passed by the House contains the same provision as included in the conference agreement below.)

Senate Amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement below.)

Conference Agreement

The conference agreement provides that in the case of a real estate transaction involving a residence, the real estate reporting person is required to include on an information return and on the customer statements the portion of any real property tax that is treated as a tax imposed on the purchaser. The conferees expect that the Treasury will promptly provide guidance with respect to the reporting requirement imposed by the bill. In connection therewith, the conferees anticipate that such guidance will permit the real estate reporting person to report such portion by reference to specified line items on the HUD-1 form or any comparable form provided at the closing of the transaction.

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[21] This coordination is intended to be consistent with the coordination provided with respect to the present-law pre-contribution gain rules in the case of a partnership termination. See Report of the Committee on the Budget, House of Representatives, Omnibus Budget Reconciliation Act of 1989 (Sept. 20, 1989) at 1357; and Senate Finance Committee, Committee Print, Revenue Reconciliation Act of 1989 (Oct. 12, 1989) at 197–198).

[22] *Peurifoy* v. *Commissioner*, 358 U.S. 59 (1958), *aff'g*, 254 F.2d 483 (4th Cir. 1957), *rev'g*, 27 T.C. 149 (1957).

[23] Rev. Rul. 83-82, 1983-1 C.B. 45.

Effective date.—The provision is effective for transactions after December 31, 1992.

16. USE OF 501(C)(21) BLACK LUNG TRUST ASSETS TO FUND RETIREE HEALTH BENEFITS

Present Law

A qualified black lung benefit trust described in section 501(c)(21) of the Internal Revenue Code is exempt from Federal income taxation, In addition, a deduction is allowed for contributions to a qualified black lung benefit trust to the extent such contributions are necessary to fund the trust.

Under present law, no assets of a qualified black lung benefit trust may be used for, or diverted to, any purpose other than (1) to satisfy liabilities, or pay insurance premiums to cover liabilities, arising under the Black Lung Acts, (2) to pay administrative costs of operating the trust, or (3) investment in U.S., State, or local securities and obligations, or in time demand deposits in a bank or insured credit union.

Under present law, excess trust assets may be paid into the national Black Lung Disability Trust Fund, or into the general fund of the U.S. Treasury.

House Bill

No provision in H.R. 776. (However, H.R. 11 as passed by the House included the provision described in the conference agreement below.)

Senate Amendment

No provision in H.R. 776. (However, H.R. 11 as passed by the Senate included the provision described in the conference agreement below.)

Conference Agreement

The conference agreement allows excess assets in qualified black lung benefit trusts to be used to pay accident and health benefits or premiums for insurance for such benefits (including administrative and other incidental expenses relating to such benefits) for retired coal miners and their spouses and dependents. The amount of assets available for such purpose is subject to a yearly limit as well as an aggregate limit. The yearly limit is to be the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the preceding taxable year of the trust. The aggregate limit is the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the taxable year of the trust ending prior to the effective date, plus earnings thereon. Each of these determinations is required to be made by an independent actuary.

The amounts used to pay retiree accident or health benefits are not includible in the income of the company, nor is a deduction allowed for such amounts.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

17. INCLUSION OF PROPERTY QUALIFYING FOR THE MARITAL DEDUCTION IN THE GROSS ESTATE

Present Law

A marital deduction against the estate and gift tax generally is permitted for the value of property passing between spouses. No marital deduction is permitted, however, if, upon termination of the spouse's interest, possession or enjoyment of the property passes to another person (the "terminable interest rule"). Certain exceptions to this rule may apply if the spouse receives a general power of appointment over, or an income interest in, a "specific portion" of property (sec. 2056(b)(5), (6), (7)). The spouse is subject to transfer tax on property over which he or she holds a general power of appointment.

A Treasury regulation defines a "specific portion" to be a fractional or percentage share of a property interest (Treas. Reg. sec. 20.2056(b)-5(c)). Finding this regulation invalid, courts have held that the term "specific portion" includes a fixed dollar amount. See *Northeastern Pennsylvania National Bank & Trust Co.* v. *United States*, 387 U.S. 213 (1967); *Estate of Alexander* v. *Commissioner*, 82 T.C. 34 (1984), *aff'd*, No. 8401600 (4th Cir. April 3, 1985). Under the court holdings, appreciation in certain marital deduction property may be includible in neither spouse's estate.

House Bill

No provision in H.R. 776. (However, H.R. 11 as passed by the House contains the same provision as included in the conference agreement described below).

Senate Amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provisions as included in the conference agreement described below).

Conference Agreement

The conference agreement provides that, for purposes of marital deduction, a "specific portion" only includes a portion determined on a fractional or percentage basis. Thus, a trust does not qualify under the exceptions to the terminable interest rule unless the required income interest and general power of appointment are expressed as a fraction or a percentage of the property.

It is intended that no inference be drawn from the provision with respect to the definition of "specific portion" under present law. The conference agreement does not generally affect the marital deduction allowed for a pecuniary formula marital deduction bequest. See, e.g., Rev. Proc. 64-19, 1964-1 C.B. 682.

Effective date.—The provision generally applies to gifts made, and decedents dying, after date of enactment, after date of enactment. The provision does not apply to a transfer under a will or revocable trust executed before the date of enactment if either (1) on that date the decedent was under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of death, or (2) the decedent dies within three years after the date of enactment, The provision applies years after the date of enactment. The provision applies, however, if the will or trust is amended after the date of enactment in any respect that increases the amount of the transfer qualifying for the marital deduction or alters the terms by which the interest passes.

C. HEALTH BENEFITS FOR RETIRED COAL MINERS

Present Law

The United Mine Workers of America (UMWA) health and retirement funds were established in 1974 pursuant to an agreement between the UMWA and the Bituminous Coal Operator's Association (BCOA) to provide pension and health benefits to retired coal miners and their dependents. The funds have been maintained for this purpose through a series of collective bargaining agreements. The funds created in 1974 were a restructuring of the original benefit fund, which was established in 1946.

The funds consist of four different plans, each of which is funded through a separate trust. The 1950 Pension Plan provides retirement benefits to miners who retired on or before December 31, 1975, and their beneficiaries. The 1950 Benefit Plan provides health benefits for retired mine workers who receive pensions from the 1950 Pension Plan and their dependents. The 1974 Pension Plan provides retirement benefits to miners who retire after December 31, 1975, and their beneficiaries. The 1974 Benefit Plan provides health benefits to miners who retire after December 31, 1975. It also provides health benefits to miners whose last employers are no longer in business or, in some cases, no longer signatory to the applicable bargaining agreement. These miners are generally referred to as "orphan" retirees.

The Surface Mining Control and Reclamation Act of 1977, as amended, imposes a reclamation fee on coal mining operators, payable quarterly to the Secretary of the Interior for deposit in the Abandoned Mine Reclamation Fund (the AML Fund). The fee generally is the lesser of (1) 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mine or (2) 10 percent of the value of the coal at the mine. The fee for lignite is the lesser of 2 percent of the value of the coal at the mine or 10 cents per ton. The reclamation fee is scheduled to expire after September 30, 1995.

House Bill

The House bill extends the abandoned mine reclamation fee through September 30, 2010.

Effective date.—Date of enactment.

Senate Amendment

The Senate amendment provides that the 1950 Benefit Plan and the 1974 Benefit Plan are to be merged into a new UNWA Combined Benefit Fund ("Combined Fund") to provide health and death benefits for eligible retirees and their dependents. The Combined Fund is to be finances primarily by health benefit premiums, death benefit premiums, and unassigned beneficiaries premiums imposed on assigned operators. The Combined Fund will receive additional funding from transfers from the 1950 Pension Plan and the AML Fund. The amendment also creates a 1992 Benefit Fund to provide benefits for persons not eligible under the Combined Fund.

The Senate amendment extends the abandoned mine reclamation fund fee through September 30, 2004.

Conference Agreement

The Conference agreement follows the Senate amendment.

D. TRADE PROVISION: ANTICIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Present Law

The Omnibus Trade and Competitiveness Act of 1988 expanded antidumping and countervailing duty law to authorize the Department of Commerce to take action to address attempts to circumvent outstanding orders through U.S. or third country assembly operations using parts imported from the country subject to the original order.

House Bill

No provision.

Senate Amendment

Authorizes Commerce Department to expand order to include imported parts from any country, not just the country subject to the order.

Conference Agreement

The conference agreement does not include the Senate amendment.

TITLE XXI—ENERGY AND THE ENVIRONMENT

Sec. 2118. Electric and Magnetic Fields Research and Public Information Dissemination Program

It is the intent of the Conferees to provide for the establishment of a national EMF program through the broad based representation of all of the affected interest groups on the Advisory Board for the program. To insure the participation of state regulators critical to the success of the comprehensive national program, the Conferees urge the Secretary of Energy and the Secretary of Health and Human Services to provide for the appropriate representation of state regulatory and health officials on the Advisory Board for the program.

It is the intent of the Congress that the Program provide for the dissemination to the public of information on electric and magnetic fields. Such information dissemination shall reflect the latest information, including relative risk assessments, on electric and magnetic fields, and shall be updated periodically as appropriate. It shall be in a form that is appropriate and useful to people who are not experts. It may include, for example, the development and dissemination of a pamphlet.

TITLE XXIV—NON-FEDERAL POWER ACT HYDROPOWER PROVISIONS

Sec. 2407.

The Conferees adopted a provision with respect to three hydroelectric projects located in the State of Alaska. It is intended and expected that the FERC will undertake, on a highly expedited basis, action on the applications made pursuant to this section.

TITLE XXX—MISCELLANEOUS

Sec. 3016. Tar Sands

It is the Conferees' intent that no inference, either positive or negative, should be drawn regarding the use of the definition of tar sands for purposes other than the study provided for in this section.

Sec. 3017. Farmouts

The House and Senate bills contain similar language excluding oil and gas interests transferred in a farmout agreement from property for bankruptcy purposes. The Senate recedes to the House language with a technical amendment.

Sec. 3018. Radiation Exposure Compensation

The Senate amendment contained a provision (section 19106) that would amend the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) to provide that an individual whose claim for compensation is denied may seek judicial review solely in a district court of the United States.

The House bill contained no similar provision.

The Senate provision was included to clarify the Radiation Exposure Compensation Act, which does not specify the appropriate forum for judicial review of denied claims. The ambiguity could generate needless litigation and consume claimant awards. The Senate provision resolves this ambiguity by designating U.S. District Court as the forum for judicial review.

TITLE XXIV—SECTION 2405

While the Conferees are not adopting section 5304(f) of the Senate amendments, this should not be interpreted as discouraging water conservation activities. Water conservation in the Columbia River Basin has tremendous potential for providing benefits for fish mitigation and enhancement, electric power production and other river uses. The Conferees encourage water conservation activities in the Pacific Northwest within existing Federal statutes.

TITLE XXIV—SECTION 2406

Congress recognizes that the Army Corps of Engineers and the Confederated Tribes of the Colville Reservation, as the private sponsor, are cooperating on a project to raise the height of Chief Joseph Dam, in Washington State, to increase hydroelectric production; and that the Bonneville Power Administration is actively involved with the Colville Tribes and Corps of Engineers in current discussions on the various methods of funding the project, if the project proves to be cost-effective, and on how BPA will market the increased power to be generated. This cooperative effort is appropriate because the Chief Joseph Project (dam and reservoir) is located at or on the Colville Reservation. Funding alternatives for the project would include either Bonneville direct funding with the Colville Tribes being compensated for their contributions to the project or indirect Bonneville funding through the Tribes as the project sponsor. Nothing in Title XXIV is intended to interfere with or limit the ability of the Army Corps of Engineers and the Confederated Tribes of the Colville Reservation to continue their cooperative efforts to develop the pool raise at the Chief Joseph Project, or interfere with the continued cooperative discussions with the Bonneville Power Administration.

This provision would clarify that the Secretaries of the Departments of the Army and the Interior can accept and use funds provided directly by the Bonneville Power Administration to construct and operate hydropower improvements, and operate and maintain Federal power facilities, at Federal projects in the Pacific Northwest. Direct funding will increase coordination, efficiency and power output at Federal projects in a fiscally responsible manner. No taxpayer subsidy of ratepayers is involved. The provision will also provide a means of replacing a portion of the electric energy which will be lost because of changes being made to the operation of the Pacific Northwest hydroelectric system to achieve recovery of the Columbia River basin salmon runs in a cost effective manner to the Bonneville ratepayer. This provision would allow the use of existing Bonneville financial flexibility to implement hydropower improvements, including any fish and wildlife mitigation and enhancement facilities affected by the improvements. This provision would not modify or affect the applicability of any provisions of the Northwest Power Act or 33 U.S.C. section 2286 (P.L. 99-662, section 1146) which authorizes the Secretary of the Army to accept funds from others to mitigate for fish and wildlife in connection with projects constructed or operated by the Secretary.

From the Committee on Energy and Commerce, for consideration of the House bill (except title XIX), and the Senate amendment (except title XX), and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
EDWARD J. MARKEY,
BILLY TAUZIN,
EDOLPHUS TOWNS,
AL SWIFT,
MIKE SYNAR,
NORMAN F. LENT,
CARLOS J. MOORHEAD,

Provided, that Mr. Bliley is appointed only for consideration of titles I, VII, XII, XVII, and XXXI of the House bill, and titles V, VI, and XV of the Senate amendment:

TOM BLILEY,

Mr. Fields is appointed only for consideration of titles III, IV, V, XIV, XVIII, and XX of the House bill, and titles IV and XVI of the Senate amendment:

JACK FIELDS,

Mr. Oxley is appointed only for consideration of titles II, VI, VIII, IX, X, XI, XIII, XV, XVI, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, and XXX of the House bill, and titles I, II, VIII, IX, X, XI, XII, XIII, XIV, XVII, XVIII, XIX, and XXI of the Senate amendment; and in lieu of Mr. Lent for title VII of the House bill and title XV of the Senate amendment:

MICHAEL G. OXLEY,

From the Committee on Ways and Means, for consideration of title XIX of the House bill, and section 19108 and title XX of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,

As additional conferees from the Committee on Ways and Means, for that portion of section 1101 of the House bill which adds new sections 1701 and 1702 to the Atomic Energy Act of 1974, and that portion of section 10103 of the Senate amendment which adds new sections 1701 and 1702 to the Atomic Energy Act of 1954, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,

As additional conferees from the Committee on Education and Labor, for consideration of section 20141, 20142, 20143 (except those portions which add new sections 9702(a)(4), 9704, 9705(a)(4), 9706, and 9712(d)(5) to the Internal Revenue Code of 1986) of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM CLAY,
GEORGE MILLER,
DALE E. KILDEE,

As additional conferees from the Committee on Education and Labor, for consideration of those portions of section 901 which add new sections 1305 and 1312 to the Atomic Energy Act of 1954, that portion of section 1101 which adds a new section 1704 to the Atomic Energy Act of 1954, and section 3004 of the House bill and sections 4402, 6601–04, 10104, 13119, and 19113 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT WILLIAMS,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1205, 1208, 1213–14, 1302–05, 1606, and 903 of the House bill, and sections 5101–04, that portion of section 5201 which adds a new section 6 to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, 14108–09, and 14301–02, of the Senate amendment, and modifications committed to conference:

Dante B. Fascell,
Sam Gejdenson,
Howard Wolpe,
Mel Levine,
Edward Feighan,
Harry Johnston,
Eliot L. Engel,
William Broomfield,
Toby Roth,
John Miller,
Amo Houghton,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1211, 1607, 2481, and 2704 of the House bill, and sections 1201, 6701–02, 10223(b), 13102, 17101–02, 19101, and 19109 of the Senate amendment, and modifications committed to conference:

Dante B. Fascell,
Sam Gejdenson,
William Broomfield,

As additional conferees from the Committee on Government Operations, for considerations 121(e) and (f), 122, 127, and 128 of the House bill, and sections 6207, 6216, 6218, and 6220–6221 of the Senate amendment, and modifications committed to conference:

John Conyers, Jr.,
Albert G. Bustamante,
Bill Clinger,

As additional conferees from the Committee on Government Operations, for consideration of sections 302 and 304–306 of the House bill, and sections 4102, 4105–4106, 4112–4113, 4116, and 4119 of the Senate amendment, and modifications committed to conference:

John Conyers, Jr.,
Bob Wise,
Al McCandless,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of sections 133, 1314, 1607, 3002, 3004, 3009, 3101, 3102, and 3104 and titles VIII–XI and XXIV–XXIX of the House bill, and sections 5302–5304, 5308, 6303, 6501, 6506, 13115, 13118, 13120–13121, 14114, 19110, 19112 and titles IX, X, XII, XVIII of the Senate amendment, and modifications committed to conference:

George Miller,
Nick Rahall,
Bruce F. Vento,
Ron de Lugo,
Sam Gejdenson,
Barbara F. Vucanovich
(I concur in the Conference Report and the Statement of Managers except for section 801),
John J. Rhodes,

Provided, Mr. Murphy is appointed in lieu of Mr. DeFazio for consideration of title XXV of the House bill and section 14114 of the Senate amendment only and Mr. Abercrombie is appointed in lieu of Mr. DeFazio for consideration of section 2481 of the House bill only:

Austin J. Murphy,
Neil Abercrombie,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of that portion of section 723(h) which adds a new section 212(h) to the Federal Power Act, 1312–1313, 1403, 2012, 2113(g), 2307, and 3008 of the House bill, and sections 19104, and 20143(b) and titles VIII and XXI of the Senate amendment, and modifications committed to conference:

George Miller,
Nick Rahall,

As additional conferees from the Committee on the Judiciary, for consideration of section 3010 of the House bill, and section 19102 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Don Edwards,
Dan Glickman,
Edward Feighan,
Harley O. Staggers, Jr.,
Howard L. Berman,
Craig Washington,
Hamilton Fish, Jr.,
Henry J. Hyde,
Tom Campbell,
Lamar Smith,

As additional conferees from the Committee on the Judiciary, for consideration of section 11107 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Don Edwards,

As additional conferees from the Committee on the Judiciary, for consideration of section 19106 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Barney Frank,
George W. Gekas,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of section 1607, and title XXIV of the House bill, and title XII of the Senate amendment, and modifications committed to conference:

Gerry Studds,
Dennis M. Hertel,
Bob Davis,
Jack Fields,
James M. Inhofe,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 205, 1602, 1701(b) of the House bill, and sections 5204, 5302, 5304, and 11103 and title XXI of the Senate amendment, and modifications committed to conference:

Gerry Studds,
Bob Davis,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 121–128, 132, 411, 2453, 2461–2464, 2705, 3102, and 3104 and title XVIII of the House bill, and sections 4120, 4401, 5303, 5308, 6101, 6201–6224, 6304, and 10224 of the Senate amendment, and modifications committed to conference:

Robert A. Roe,
Norman Y. Mineta,
Henry J. Nowak,
Douglas Applegate,
Ron de Lugo,
Gus Savage,
Robert A. Borski,
John Paul Hammerschmidt,
Bud Shuster,
Thomas E. Petri,
James M. Inhofe,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 164(h), that portion of section 723 which adds a new section 212(i) to the Federal Power Act, 410, and 1316 of the House bill, and sections 12103, 12204, and 14113 of the Senate amendment, and modifications committed to conference:

Robert A. Roe,
Norman Y. Mineta,
John Paul Hammerschmidt,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 901–02, 1203, 1207, 1301, 1306–09, 1318–19, 1315, 2471, 2502–03, 2513, 3005, 3007, 3009 and titles VI and XX–XXIII of the House bill, and sections 4201–18, 4305, 4401, 5201–02, 5204–06, 6104, 6501, 6506, 19103, and titles II, VIII, subtitle A of title X, except those portions adding new sections 1511, 1601, 1606, 1607, 1701–1703 to the Atomic Energy Act of 1954, XIII, and XIV of the Senate amendment, and modifications committed to conference:

George E. Brown, Jr.,
Marilyn Lloyd,
James H. Scheuer,
Howard Wolpe,
Richard H. Stallings,
Timothy Roemer,
Dick Swett,
Robert S. Walker,
Don Ritter,
Sid Morrison,
Harris W. Fawell,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 5207, 6101–6103 of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Mary Rose Oakar,
Marge Roukema,

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 1934 of the House bill, and modifications committed to conference:

G.V. Montgomery,
Don Edwards,
Douglas Applegate,
Harley O. Staggers, Jr.,
Bob Stump,
John Paul Hammerschmidt,

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 6101 and 6102 of the Senate amendment, and modifications committed to conference:

G.V. Montgomery,
Harley O. Staggers, Jr.,
Bob Stump,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources, for all titles except title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions):

J. Bennett Johnson,
Dale Bumpers,
Wendell H. Ford,
Jeff Bingaman,
Tim Wirth,
Kent Conrad,
Richard Shelby,
Malcolm Wallop,
Mark O. Hatfield,
Pete V. Domenici,
Don Nickels,
Conrad Burns,

From the Committee on Governmental Affairs, conferees for subtitle B of title VI of the Senate amendment (Federal energy management):

John Glenn,
Ted Stevens,

From the Committee on Commerce, Science, and Transportation, conferees for subtitles A, B, and C of title XII of the Senate amendment (Outer Continental Shelf revenue sharing), pipeline safety issues (as contained in Senate amendment No. 2785):

Ernest F. Hollings,

From the Committee on Banking, Housing, and Urban Affairs, conferees for title XV of the Senate amendment (Public Utility Holding Company Act reform):

Don Riegle,
Jake Garn,

From the Committee on Veterans' Affairs, conferees on sections 6101 and 6102 of title VI of the Senate amendment (building energy efficiency):

ALAN CRANSTON,
ARLEN SPECTOR,

From the Committee on Finance, conferees on title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions):

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
DAVID L. BOREN,
TOM DASCHLE,
JOHN BREAUX,
BOB PACKWOOD,
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

Mr. BEREUTER. Mr. Speaker, I would like to clarify section 902(a) of H.R. 5334, the Housing and Community Development Act of 1992, which would establish a new position of Special Assistant for Indian and Alaska Native Programs to be located in the Office of the Assistant Secretary for Public and Indian Housing. The purpose of this subsection is to consolidate all Indian housing and community development activities of the Department of Housing and Urban Development in one office to ensure the efficient and productive coordination of these activities. I would like to emphasize that this position is intended to be a competitive, career appointment. It is also fully intended to be a position in the Senior Executive Service consistent with the heavy responsibilities of an individual who will be held accountable for the effective administration of the Department's Indian housing and community development activities. Also, while we have given this position the title of special assistant it would not be inappropriate for the Department to assign this individual a different job title, such as director, where such title is consistent with the titles of other individuals under the authority of the Assistant Secretary for Public and Indian Housing with similar responsibilities.

CONFERENCE REPORT ON H.R. 3635, PREVENTIVE HEALTH AMENDMENTS OF 1991

Mr. WAXMAN submitted the following conference report and statement on the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-1019)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purpose, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Preventive Health Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

Sec. 101. Authorization of appropriations.
Sec. 102. Use of allotments.
Sec. 103. Application for payments.
Sec. 104. Reports, data, and audits.

TITLE II—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION

Sec. 201. Establishment of Foundation.

TITLE III—CERTAIN PROGRAMS

Sec. 301. Injury control.
Sec. 302. Establishment of Office of Adolescent Health.
Sec. 303. Lead poisoning prevention.
Sec. 304. Preventable cases of infertility arising as result of sexually transmitted diseases.
Sec. 305. Bulk purchases of vaccines for certain programs.
Sec. 306. State programs regarding data on birth defects.
Sec. 307. Screenings for breast and cervical cancer.
Sec. 308. Screenings for prostate cancer.
Sec. 309. Certain programs.
Sec. 310. International cooperation.
Sec. 311. Miscellaneous provisions.
Sec. 312. Change in name of Centers for Disease Control.
Sec. 313. Technical corrections.
Sec. 314. Authorization of appropriations regarding vaccine compensation.

TITLE I—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "For the purpose" and all that follows and inserting the following: "For the purpose of allotments under section 1902, there are authorized to be appropriated $205,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

(b) ALLOCATION FOR SERVICES FOR RAPE VICTIMS AND FOR RAPE PREVENTION.—Section 1901(b) of the Public Health Service Act (42 U.S.C. 300w(b)) is amended by striking "$3,500,000" and inserting "$7,000,000".

SEC. 102. USE OF ALLOTMENTS.

(a) IN GENERAL.—Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)) is amended to read as follows: "(1) Except as provided in subsections (b) and (c), payments made to a State under section 1903 may be used for the following:

"(A) Activities consistent with making progress toward achieving the objectives established by the Secretary for the health status of the population of the United States for the year 2000 (in this part referred to as 'year 2000 health objectives').

"(B) Preventive health service programs for the control of rodents and for community and school-based fluoridation programs.

"(C) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems. Amounts for such systems may not be used for the costs of the operation of the systems or the purchase of equipment for the systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems. Amounts may be expended for feasibility studies or planning for the trauma-care components of such systems only if the studies or planning, respectively, is consistent with the requirements of section 1213(a).

"(D) Providing services to victims of sex offenses and for prevention of sex offenses.

"(E) With respect to activities described in any of subparagraphs (A) through (D), related planning, administration, and educational activities.

"(F) Monitoring and evaluation of activities carried out under any of subparagraphs (A) through (E)".

(b) TRANSFERS FROM CERTAIN ALLOTMENT.—Section 1904(c) of the Public Health Service Act (42 U.S.C. 300w-3(c)) is amended by striking "parts B and C" and inserting "part B".

SEC. 103. APPLICATION FOR PAYMENTS.

(a) IN GENERAL.—Section 1905 of the Public Health Service Act (42 U.S.C. 300w-4) is amended to read as follows:

"APPLICATION FOR PAYMENTS; STATE PLAN

"SEC. 1905. (a) IN GENERAL.—The Secretary may make payments under section 1903 to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application for the payments;

"(2) the application contains a State plan in accordance with subsection (b);

"(3) the application contains the certification described in subsection (c);

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this part (including assurances regarding compliance with the agreements described in subsection (c)); and

"(5) the application is in such form and is submitted by such date as the Secretary may require.

"(b) STATE PLAN.—A State plan required in subsection (a)(2) for a fiscal year is in accordance with this subsection if the plan meets the following conditions:

"(1) The plan is developed by the State agency with principal responsibility for public health programs, in consultation with the advisory committee established pursuant to subsection (c)(2).

"(2) The plan specifies the activities authorized in section 1904 that are to be carried out with payments made to the State under section 1903, including a specification of the year 2000 health objectives for which the State will expend the payments.

"(3) The plan specifies the populations in the State for which such activities are to be carried out.

"(4) The plan specifies any populations in the State that have a disparate need for such activities.

"(5) With respect to each population specified under paragraph (3), the plan contains a strategy for expending such payments to carry out such activities to make progress toward improving the health status of the population, which strategy includes—

"(A) a description of the programs and projects to be carried out;

"(B) an estimate of the number of individuals to be served by the programs and projects; and

"(C) an estimate of the number of public health personnel needed to carry out the strategy.

"(6) The plan specifies the amount of such payments to be expended for each of such activities and, with respect to the activity involved—

"(A) the amount to be expended for each population specified under paragraph (3); and

"(B) the amount to be expended for each population specified under paragraph (4).

"(c) STATE CERTIFICATION.—The certification referred to in subsection (a)(3) for a fiscal year is a certification to the Secretary by the chief executive officer of the State involved as follows:

"(1)(A) In the development of the State plan required in subsection (a)(2)—

"(i) the chief health officer of the State held public hearings on the plan; and

"(ii) proposals for the plan were made public in a manner that facilitated comments from public and private entities (including Federal and other public agencies).

"(B) The State agrees that, if any revisions are made in such plan during the fiscal year, the State will, with respect to the revisions, hold hearings and make proposals public in accordance with subparagraph (A), and will submit to the Secretary a description of the revisions.

"(2) The State has established an advisory committee in accordance with subsection (d).

"(3) The State agrees to expend payments under section 1903 only for the activities authorized in section 1904.

"(4) The State agrees to expend such payments in accordance with the State plan submitted under subsection (a)(2) (with any revisions submitted to the Secretary under paragraph (1)(B)), including making expenditures to carry out the strategy contained in the plan pursuant to subsection (b)(5).

"(5)(A) The State agrees that, in the case of each population for which such strategy is carried out, the State will measure the extent of progress being made toward improving the health status of the population.

"(B) The State agrees that—

"(i) the State will collect and report data in accordance with section 1906(a); and

"(ii) for purposes of subparagraph (A), progress will be measured through use of each of the applicable uniform data items developed by the Secretary under paragraph (2) of such section, or if no such items are applicable, through use of the uniform criteria developed by the Secretary under paragraph (3) of such section.

"(6) With respect to the activities authorized in section 1904, the State agrees to maintain State expenditures for such activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1903.

"(7) The State agrees to establish reasonable criteria to evaluate the effective performance of entities that receive funds from such payments and procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

"(8) The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1907.

"(9) The State has in effect a system to protect from inappropriate disclosure patient and sex offense victim records maintained by the State in connection with an activity funded under this part or by any entity which is receiving payments from the allotment of the State under this part.

"(10) The State agrees to provide the officer of the State government responsible for the administration of the State highway safety program with an opportunity to—

"(A) participate in the development of any plan by the State relating to emergency medical services, as such plan relates to highway safety; and

"(B) review and comment on any proposal by any State agency to use any Federal grant or Federal payment received by the State for the provision of emergency medical services as such proposal relates to highway safety.

"(d) STATE ADVISORY COMMITTEE.—

"(1) IN GENERAL.—For purposes of subsection (c)(2), an advisory committee is in accordance with this subsection if such committee is known as the State Preventive Health Advisory Committee (in this subsection referred to as the 'Committee') and the Committee meets the conditions described in the subsequent paragraphs of this subsection.

"(2) DUTIES.—A condition under paragraph (1) for a State is that the duties of the Committee are—

"(A) to hold public hearings on the State plan required in subsection (a)(2); and

"(B) to make recommendations pursuant to subsection (b)(1) regarding the development and implementation of such plan, including recommendations on—

"(i) the conduct of assessments of the public health;

"(ii) which of the activities authorized in section 1904 should be carried out in the State;

"(iii) the allocation of payments made to the State under section 1903;

"(iv) the coordination of activities carried out under such plan with relevant programs of other entities; and

"(v) the collection and reporting of data in accordance with section 1906(a).

"(3) COMPOSITION.—

"(A) A condition under paragraph (1) for a State is that the Committee is composed of such members of the general public, and such officials of the health departments of political subdivisions of the State, as may be necessary to provide adequate representation of the general public and of such health departments.

"(B) With respect to compliance with subparagraph (A), the membership of advisory committees established pursuant to subsection (c)(2) may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized in section 1904.

"(4) CHAIR; MEETINGS.—A condition under paragraph (1) for a State is that the State public health officer serves as the chair of the Committee, and that the Committee meets not less than twice each fiscal year.".

(b) DELAYED APPLICABILITY OF REQUIREMENT REGARDING ADVISORY COMMITTEES.—With respect to compliance with the requirement established in subsection (c)(2) of section 1905 of the Public Health Service Act (as amended by subsection (a) of this section), a State is deemed, notwithstanding such section, to be in compliance with such requirement if the State establishes an advisory committee in accordance with subsection (d) of such section not later than 180 days after the date of the enactment of this Act.

SEC. 104. REPORTS, DATA, AND AUDITS.

(a) IN GENERAL.—Section 1906(a) of the Public Health Service Act (42 U.S.C. 300w-5(a)) is amended to read as follows:

"(a)(1) For purposes of section 1905(c)(5)(B)(i), a State is collecting and reporting data for a fiscal year in accordance with this subsection if the State submits to the Secretary, not later than February 1 of the succeeding fiscal year, a report that—

"(A) describes the purposes for which the State expended payments made to the State under section 1903;

"(B) pursuant to section 1905(c)(5)(A), describes the extent of progress made by the State for purposes of such section;

"(C) meets the conditions described in the subsequent paragraphs of this subsection; and

"(D) contains such additional information regarding activities authorized in section 1904, and is submitted in such form, as the Secretary may require.

"(2)(A) The Secretary, in consultation with the States, shall develop sets of data for uniformly defining health status for purposes of the year 2000 health objectives (which sets are in this subsection referred to as 'uniform data sets'). Each of such sets shall consist of one or more categories of information (in this subsection individually referred to as a 'uniform data item'). The Secretary shall develop formats for the uniform collecting and reporting of information on such items.

"(B) A condition under paragraph (1)(C) for a fiscal year is that the State involved will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for one uniform data item from each of the uniform data sets, which items are selected for the State by the Secretary.

"(C) In the case of fiscal year 1995 and each subsequent fiscal year, a condition under paragraph (1) for a State is that the State will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for each of the uniform data sets appropriate to the year 2000 health objectives that the State has, in the State plan submitted under section 1905 for the fiscal year, specified as a purpose for which payments under section 1903 are to be expended.

"(3) The Secretary, in consultation with the States, shall establish criteria for the uniform collection and reporting of data on activities authorized in section 1904 with respect to which no uniform data items exist.

"(4) A condition under paragraph (1) for a fiscal year is that the State involved will make copies of the report submitted under such paragraph for the fiscal year available for public inspection, and will upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.".

(b) CONFORMING AMENDMENTS.—Section 1906 of the Public Health Service Act (42 U.S.C. 300w-5) is amended—

(1) in the heading for the section, by inserting ", DATA," after "REPORTS"; and

(2) by striking subsection (d).

SEC. 105. REPEAL OF YEAR 2000 HEALTH OBJECTIVES PLANNING ACT.

The Year 2000 Health Objectives Planning Act (Public Law 101–582; 42 U.S.C. 246 note) is repealed.

TITLE II—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION

SEC. 201. ESTABLISHMENT OF FOUNDATION.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 401 of Public Law 102–321 (106 Stat. 419), is amended by adding at the end the following new part:

"PART N—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION

"SEC. 399F. ESTABLISHMENT AND DUTIES OF FOUNDATION.

"(a) IN GENERAL.—There shall be established in accordance with this section a nonprofit private corporation to be known as the National Foundation for the Centers for Disease Control and Prevention (in this part referred to as the 'Foundation'). The Foundation shall not be an agency or instrumentality of the Federal Government, and officers, employees, and members of the board of the Foundation shall not be officers or employees of the Federal Government.

"(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation shall be to support and carry out activities for the prevention and control of diseases, disorders, injuries, and disabilities, and for promotion of public health.

"(c) ENDOWMENT FUND.—

"(1) IN GENERAL.—In carrying out subsection (b), the Foundation shall establish a fund for providing endowments for positions that are associated with the Centers for Disease Control and Prevention and dedicated to the purpose described in such subsection. Subject to subsection (f)(1)(B), the fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Founda-

tion and the fund) as the Foundation may elect to transfer to the fund.

"(2) AUTHORIZED EXPENDITURES OF FUND.—The provision of endowments under paragraph (1) shall be the exclusive function of the fund established under such paragraph. Such endowments may be expended only for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions, and for recruiting individuals to hold the positions endowed by the fund.

"(d) CERTAIN ACTIVITIES OF FOUNDATION.—In carrying out subsection (b), the Foundation may provide for the following with respect to the purpose described in such subsection:

"(1) Programs of fellowships for State and local public health officials to work and study in association with the Centers for Disease Control and Prevention.

"(2) Programs of international arrangements to provide opportunities for public health officials of other countries to serve in public health capacities in the United States in association with the Centers for Disease Control and Prevention or elsewhere, or opportunities for employees of such Centers (or other public health officials in the United States) to serve in such capacities in other countries, or both.

"(3) Studies, projects, and research (which may include applied research on the effectiveness of prevention activities, demonstration projects, and programs and projects involving international, Federal, State, and local governments).

"(4) Forums for government officials and appropriate private entities to exchange information. Participants in such forums may include institutions of higher education and appropriate international organizations.

"(5) Meetings, conferences, courses, and training workshops.

"(6) Programs to improve the collection and analysis of data on the health status of various populations.

"(7) Programs for writing, editing, printing, and publishing of books and other materials.

"(8) Other activities to carry out the purpose described in subsection (b).

"(e) GENERAL STRUCTURE OF FOUNDATION; NONPROFIT STATUS.—

"(1) BOARD OF DIRECTORS.—The Foundation shall have a board of directors (in this part referred to as the 'Board'), which shall be established and conducted in accordance with subsection (f). The Board shall establish the general policies of the Foundation for carrying out subsection (b), including the establishment of the bylaws of the Foundation.

"(2) EXECUTIVE DIRECTOR.—The Foundation shall have an executive director (in this part referred to as the 'Director'), who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation in carrying out subsection (b).

"(3) NONPROFIT STATUS.—In carrying out subsection (b), the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

"(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986; and

"(B) is, under subsection (a) of such section, exempt from taxation.

"(f) BOARD OF DIRECTORS.—

"(1) CERTAIN BYLAWS.—

"(A) In establishing bylaws under subsection (e)(1), the Board shall ensure that the bylaws of the Foundation include bylaws for the following:

"(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

"(ii) Policies, including ethical standards, for the acceptance and disposition of donations to the Foundation and for the disposition of the assets of the Foundation.

"(iii) Policies for the conduct of the general operations of the Foundation.

"(iv) Policies for writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation.

"(B) In establishing bylaws under subsection (e)(1), the Board shall ensure that the bylaws of the Foundation (and activities carried out under the bylaws) do not—

"(i) reflect unfavorably upon the ability of the Foundation, or the Centers for Disease Control and Prevention, to carry out its responsibilities or official duties in a fair and objective manner; or

"(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such program.

"(2) COMPOSITION.—

"(A) Subject to subparagraph (B), the Board shall be composed of 7 individuals, appointed in accordance with paragraph (4), who collectively possess education or experience appropriate for representing the general field of public health, the general field of international health, and the general public. Each such individual shall be a voting member of the Board.

"(B) The Board may, through amendments to the bylaws of the Foundation, provide that the number of members of the Board shall be a greater number than the number specified in subparagraph (A).

"(3) CHAIR.—The Board shall, from among the members of the Board, designate an individual to serve as the chair of the Board (in this subsection referred to as the 'Chair').

"(4) APPOINTMENTS, VACANCIES, AND TERMS.—Subject to subsection (j) (regarding the initial membership of the Board), the following shall apply to the Board:

"(A) Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chair and the Director regarding the appointments. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

"(B) The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years. A member of the Board may continue to serve after the expiration of the term of the member until the expiration of the 180-day period beginning on the date on which the term of the member expires.

"(C) A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(5) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

"(g) CERTAIN RESPONSIBILITIES OF EXECUTIVE DIRECTOR.—In carrying out subsection (e)(2), the Director shall carry out the following functions:

"(1) Hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of the officers and employees.

"(2) Accept and administer donations to the Foundation, and administer the assets of the Foundation.

"(3) Establish a process for the selection of candidates for holding endowed positions under subsection (c).

"(4) Enter into such financial agreements as are appropriate in carrying out the activities of the Foundation.

"(5) Take such action as may be necessary to acquire patents and licenses for devices and procedures developed by the Foundation and the employees of the Foundation.

"(6) Adopt, alter, and use a corporate seal, which shall be judicially noticed.

"(7) Commence and respond to judicial proceedings in the name of the Foundation.

"(8) Other functions that are appropriate in the determination of the Director.

"(h) GENERAL PROVISIONS.—

"(1) AUTHORITY FOR ACCEPTING FUNDS.—The Director of the Centers for Disease Control and Prevention may accept and utilize, on behalf of the Federal Government, any gift, donation, bequest, or devise of real or personal property from the Foundation for the purpose of aiding or facilitating the work of such Centers. Funds may be accepted and utilized by such Director under the preceding sentence without regard to whether the funds are designated as general-purpose funds or special-purpose funds.

"(2) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES.—

"(A) The Director of the Centers for Disease Control and Prevention may accept, on behalf of the Federal Government, any voluntary services provided to such Centers by the Foundation for the purpose of aiding or facilitating the work of such Centers. In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual for not more than 2 years.

"(B) The limitation established in subparagraph (A) regarding the period of time in which services may be accepted applies to each individual who is not an employee of the Federal Government and who serves in association with the Centers for Disease Control and Prevention pursuant to financial support from the Foundation.

"(3) ADMINISTRATIVE CONTROL.—No officer, employee, or member of the Board of the Foundation may exercise any administrative or managerial control over any Federal employee.

"(4) APPLICABILITY OF CERTAIN STANDARDS TO NON-FEDERAL EMPLOYEES.—In the case of any individual who is not an employee of the Federal Government and who serves in association with the Centers for Disease Control and Prevention pursuant to financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Director of the Centers for Disease Control and Prevention specifying that the individual—

"(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by the Centers for Disease Control and Prevention, including standards under this Act, the Ethics in Government Act, and the Technology Transfer Act; and

"(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18, United States Code (relating to conflicts of interest), as the Director of such Centers determines is appropriate, except such memorandum may not provide that the individual shall be subject to the standards of section 209 of such chapter.

"(5) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board of the Foundation may not di-

rectly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

"(A) any direct or indirect financial interest of the individual; or

"(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

"(6) AUDITS; AVAILABILITY OF RECORDS.—The Foundation shall—

"(A) provide for biennial audits of the financial condition of the Foundation; and

"(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

"(7) REPORTS.—

"(A) Not later than February 1 of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

"(B) With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all gifts to the Foundation of real or personal property, and the source and amount of all gifts to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts to the Foundation may be used.

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

"(8) LIAISON FROM CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Director of the Centers for Disease Control and Prevention shall serve as the liaison representative of such Centers to the Board and the Foundation.

"(i) FEDERAL FUNDING.—

"(1) AUTHORITY FOR ANNUAL GRANTS.—

"(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall—

"(i) for fiscal year 1993, make a grant to an entity described in subsection (j)(9) (relating to the establishment of a committee to establish the Foundation);

"(ii) for fiscal year 1994, make a grant to the committee established under such subsection, or if the Foundation has been established, to the Foundation; and

"(iii) for fiscal year 1995 and each subsequent fiscal year, make a grant to the Foundation.

"(B) A grant under subparagraph (A) may be expended—

"(i) in the case of an entity receiving the grant under subparagraph (A)(i), only for the purpose of carrying out the duties established in subsection (j)(9) for the entity;

"(ii) in the case of the committee established under such subsection, only for the purpose of carrying out the duties established in subsection (j) for the committee; and

"(iii) in the case of the Foundation, only for the purpose of the administrative expenses of the Foundation.

"(C) A grant under subparagraph (A) may not be expended to provide amounts for the fund established under subsection (c).

"(D) For the purposes described in subparagraph (B)—

"(i) any portion of the grant made under subparagraph (A)(i) for fiscal year 1993 that remains unobligated after the entity receiving the grant completes the duties established in subsection (j)(9) for the entity shall be available to the committee established under such subsection; and

"(ii) any portion of a grant under subparagraph (A) made for fiscal year 1993 or 1994 that remains unobligated after such committee completes the duties established in such subsection for the committee shall be available to the Foundation.

"(2) FUNDING FOR GRANTS.—

"(A) For the purpose of grants under paragraph (1), there is authorized to be appropriated $500,000 for each fiscal year.

"(B) For the purpose of grants under paragraph (1), the Secretary may for each fiscal year make available not more than $500,000 from the amounts appropriated for the fiscal year for the programs of the Department of Health and Human Services. Such amounts may be made available without regard to whether amounts have been appropriated under subparagraph (A).

"(3) CERTAIN RESTRICTION.—If the Foundation receives Federal funds for the purpose of serving as a fiscal intermediary between Federal agencies, the Foundation may not receive such funds for the indirect costs of carrying out such purpose in an amount exceeding 10 percent of the direct costs of carrying out such purpose. The preceding sentence may not be construed as authorizing the expenditure of any grant under paragraph (1) for such purpose.

"(j) COMMITTEE FOR ESTABLISHMENT OF FOUNDATION.—

"(1) IN GENERAL.—There shall be established in accordance with this subsection a committee to carry out the functions described in paragraph (2) (which committee is referred to in this subsection as the 'Committee').

"(2) FUNCTIONS.—The functions referred to in paragraph (1) for the Committee are as follows:

"(A) To carry out such activities as may be necessary to incorporate the Foundation under the laws of the State involved, including serving as incorporators for the Foundation. Such activities shall include ensuring that the articles of incorporation for the Foundation require that the Foundation be established and operated in accordance with the applicable provisions of this part (or any successor to this part), including such provisions as may be in effect pursuant to amendments enacted after the date of the enactment of the Preventive Health Amendments of 1992.

"(B) To ensure that the Foundation qualifies for and maintains the status described in subsection (e)(3) (regarding taxation).

"(C) To establish the general policies and initial bylaws of the Foundation, which bylaws shall include the bylaws described in subsections (e)(3) and (f)(1).

"(D) To provide for the initial operation of the Foundation, including providing for quarters, equipment, and staff.

"(E) To appoint the initial members of the Board in accordance with the requirements established in subsection (f)(2)(A) for the composition of the Board, and in accordance with such other qualifications as the Committee may determine to be appropriate regarding such composition. Of the members so appointed—

"(i) 2 shall be appointed to serve for a term of 3 years;

"(ii) 2 shall be appointed to serve for a term of 4 years; and

"(iii) 3 shall be appointed to serve for a term of 5 years.

"(3) COMPLETION OF FUNCTIONS OF COMMITTEE; INITIAL MEETING OF BOARD.—

"(A) The Committee shall complete the functions required in paragraph (1) not later than September 30, 1994. The Committee shall terminate upon the expiration of the 30-day period beginning on the date on which the Secretary determines that the functions have been completed.

"(B) The initial meeting of the Board shall be held not later than November 1, 1994.

"(4) COMPOSITION.—The Committee shall be composed of 5 members, each of whom shall be a voting member. Of the members of the Committee—

"(A) no fewer than 2 shall have broad, general experience in public health; and

"(B) no fewer than 2 shall have broad, general experience in nonprofit private organizations (without regard to whether the individuals have experience in public health).

"(5) CHAIR.—The Committee shall, from among the members of the Committee, designate an individual to serve as the chair of the Committee.

"(6) TERMS; VACANCIES.—The term of members of the Committee shall be for the duration of the Committee. A vacancy in the membership of the Committee shall not affect the power of the Committee to carry out the duties of the Committee. If a member of the Committee does not serve the full term, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(7) COMPENSATION.—Members of the Committee may not receive compensation for service on the Committee. Members of the Committee may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Committee.

"(8) COMMITTEE SUPPORT.—The Director of the Centers for Disease Control and Prevention may, from amounts available to the Director for the general administration of such Centers, provide staff and financial support to assist the Committee with carrying out the functions described in paragraph (2). In providing such staff and support, the Director may both detail employees and contract for assistance.".

"(9) GRANT FOR ESTABLISHMENT OF COMMITTEE.—

"(A) With respect to a grant under paragraph (1)(A)(i) of subsection (i) for fiscal year 1993, an entity described in this paragraph is a private nonprofit entity with significant experience in domestic and international issues of public health. Not later than 180 days after the date of the enactment of the Preventive Health Amendments of 1992, the Secretary shall make the grant to such an entity (subject to the availability of funds under paragraph (2) of such subsection).

"(B) The grant referred to in subparagraph (A) may be made to an entity only if the entity agrees that—

"(i) the entity will establish a committee that is composed in accordance with paragraph (4); and

"(ii) the entity will not select an individual for membership on the Committee unless the individual agrees that the Committee will operate in accordance with each of the provisions of this subsection that relate to the operation of the Committee.

"(C) The Secretary may make a grant referred to in subparagraph (A) only if the applicant for the grant makes an agreement that the grant will not be expended for any purpose other than carrying out subparagraph (B). Such a grant may be made only if an application for the grant is submitted to the Secretary containing such agreement, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Secretary determines to be necessary to carry out this paragraph.".

TITLE III—CERTAIN PROGRAMS

SEC. 301. INJURY CONTROL.

Section 392(b) of the Public Health Service Act (42 U.S.C. 280b-1(b)) is amended—

(1) in paragraph (1), by striking ''and'' after the semicolon at the end;

(2) in paragraph (2)—

(A) by adding at the end the following sentence: ''In carrying out the preceding sentence, the Secretary shall disseminate such information to the public, including through elementary and secondary schools.''; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following paragraph:

''(3) make grants to States and, after consultation with State health agencies, to other public or nonprofit private entities for the purpose of carrying out demonstration projects for the prevention and control of injuries at sites that are not subject to the Occupational Safety and Health Act of 1970, including homes, elementary and secondary schools, and public buildings.''.

SEC. 302. ESTABLISHMENT OF OFFICE OF ADOLESCENT HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following section:

''OFFICE OF ADOLESCENT HEALTH

''SEC. 1708. (a) IN GENERAL.—There is established an Office of Adolescent Health within the Office of the Assistant Secretary for Health, which office shall be headed by a director appointed by the Secretary. The Secretary shall carry out this section acting through the Director of such Office.

''(b) DUTIES.—With respect to adolescent health, the Secretary shall—

''(1) coordinate all activities within the Department of Health and Human Services that relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care, including coordinating—

''(A) the design of programs, support for programs, and the evaluation of programs;

''(B) the monitoring of trends;

''(C) projects of research (including multidisciplinary projects) on adolescent health; and

''(D) the training of health providers who work with adolescents, particularly nurse practitioners, physician assistants, and social workers;

''(2) coordinate the activities described in paragraph (1) with similar activities in the private sector; and

''(3) support projects, conduct research, and disseminate information relating to preventive medicine, health promotion, and physical fitness and sports medicine.

''(c) CERTAIN DEMONSTRATION PROJECTS.—

''(1) IN GENERAL.—In carrying out subsection (b)(3), the Secretary may make grants to carry out demonstration projects for the purpose of improving adolescent health, including projects to train health care providers in providing services to adolescents and projects to reduce the incidence of violence among adolescents, particularly among minority males.

''(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

''(d) INFORMATION CLEARINGHOUSE.—In carrying out subsection (b), the Secretary shall establish and maintain a National Information Clearinghouse on Adolescent Health to collect and disseminate to health professionals and the general public information on adolescent health.

''(e) NATIONAL PLAN.—In carrying out subsection (b), the Secretary shall develop a national plan for improving adolescent health. The plan shall be consistent with the applicable objectives established by the Secretary for the health status of the people of the United States for the year 2000, and shall be periodically reviewed, and as appropriate, revised. The plan, and any revisions in the plan, shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

''(f) ADOLESCENT HEALTH.—For purposes of this section, the term 'adolescent health', with respect to adolescents of all ethnic and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

''(1) unique to adolescents, or more serious or more prevalent in adolescents;

''(2) for which the factors of medical risk or types of medical intervention are different for adolescents, or for which it is unknown whether such factors or types are different for adolescents; or

''(3) with respect to which there has been insufficient clinical research involving adolescents as subjects or insufficient clinical data on adolescents.''.

SEC. 303. LEAD POISONING PREVENTION.

(a) IN GENERAL.—Section 317A of the Public Health Service Act (42 U.S.C. 247b-1) is amended to read as follows:

''SCREENINGS, REFERRALS, AND EDUCATION REGARDING LEAD POISONING

''SEC. 317A. (a) AUTHORITY FOR GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States and political subdivisions of States for the initiation and expansion of community programs designed—

''(A) to provide, for infants and children—

''(i) screening for elevated blood lead levels;

''(ii) referral for treatment of such levels; and

''(iii) referral for environmental intervention associated with such levels; and

''(B) to provide education about childhood lead poisoning.

''(2) AUTHORITY REGARDING CERTAIN ENTITIES.—With respect to a geographic area with a need for activities authorized in paragraph (1), in any case in which neither the State nor the political subdivision in which such area is located has applied for a grant under paragraph (1), the Secretary may make a grant under such paragraph to any grantee under section 329, 330, 340, or 340A for carrying out such activities in the area.

''(3) PROVISION OF ALL SERVICES AND ACTIVITIES THROUGH EACH GRANTEE.—In making grants under paragraph (1), the Secretary shall ensure that each of the activities described in such paragraph is provided through each grantee under such paragraph. The Secretary may authorize such a grantee to provide the services and activities directly, or through arrangements with other providers.

''(b) STATUS AS MEDICAID PROVIDER.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under subsection (a) unless, in the case of any service described in such subsection that is made available pursuant to the State plan approved under title XIX of the Social Security Act for the State involved—

''(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

''(B) the applicant will enter into an agreement with a provider under which the provider will provide the service, and the provider has entered into such a participation agreement and is qualified to receive such payments.

''(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

''(A) In the case of a provider making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the provider does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

''(B) A determination by the Secretary of whether a provider referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the provider accepts voluntary donations regarding the provision of services to the public.

''(c) PRIORITY IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give priority to applications for programs that will serve areas with a high incidence of elevated blood lead levels in infants and children.

''(d) GRANT APPLICATION.—No grant may be made under subsection (a), unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall prescribe and shall include each of the following:

''(1) A complete description of the program which is to be provided by or through the applicant.

''(2) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to—

''(A) communicate to parents, educators, and local health officials the significance and prevalence of lead poisoning in infants and children (including the sources of lead exposure, the importance of screening young children for lead, and the preventive steps that parents can take in reducing the risk of lead poisoning) which the program is designed to detect and prevent; and

''(B) communicate to health professionals and paraprofessionals updated knowledge concerning lead poisoning and research (including the health consequences, if any, of low-level lead burden; the prevalence of lead poisoning among all socioeconomic groupings; the benefits of expanded lead screening; and the therapeutic and other interventions available to prevent and combat lead poisoning in affected children and families).

''(3) Assurances satisfactory to the Secretary that the applicant will report on a quarterly basis the number of infants and children screened for elevated blood lead levels, the number of infants and children who were found to have elevated blood lead levels, the number and type of medical referrals made for such infants and children, the outcome of such referrals, and other information to measure program effectiveness.

''(4) Assurances satisfactory to the Secretary that the applicant will make such reports respecting the program involved as the Secretary may require.

''(5) Assurances satisfactory to the Secretary that the applicant will coordinate the activities carried out pursuant to subsection (a) with related activities and services carried out in the State by grantees under title V or XIX of the Social Security Act.

''(6) Assurances satisfactory to the Secretary that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no

event supplant such State, local, and other non-Federal funds.

"(7) Such other information as the Secretary may prescribe.

"(e) RELATIONSHIP TO SERVICES AND ACTIVITIES UNDER OTHER PROGRAMS.—

"(1) IN GENERAL.—A recipient of a grant under subsection (a) may not make payments from the grant for any service or activity to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service or activity—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—Paragraph (1) shall not apply in the case of a provider through which a grantee under subsection (a) provides services under such subsection if the Secretary has provided a waiver under subsection (b)(2) regarding the provider.

"(f) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Not more than 10 percent of any grant may be obligated for administrative costs.

"(g) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(h) RECORDS.—Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(i) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under subsection (a), that are pertinent to such grant.

"(j) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall submit to the Congress a report on the effectiveness during the preceding fiscal year of programs carried out with grants under subsection (a) and of any programs that are carried out by the Secretary pursuant to subsection (l)(2).

"(2) CERTAIN REQUIREMENTS.—Each report under paragraph (1) shall include, in addition to any other information that the Secretary may require, the following information:

"(A) The number of infants and children screened.

"(B) Demographic information on the population of infants and children screened, including the age and racial or ethnic status of such population.

"(C) The number of screening sites.

"(D) A description of the severity of the extent of the blood lead levels of the infants and children screened, expressed in categories of severity.

"(E) The sources of payment for the screenings.

"(F) A comparison of the data provided pursuant to subparagraphs (A) through (E) with the equivalent data, if any, provided in the report under paragraph (1) preceding the report involved.

"(k) INDIAN TRIBES.—For purposes of this section, the term 'political subdivision' includes Indian tribes.

"(l) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(2) ALLOCATION FOR OTHER PROGRAMS.—Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary may reserve not more than 20 percent for carrying out programs regarding the activities described in subsection (a) in addition to the program of grants established in such subsection.".

(b) OTHER PROGRAMS.—Part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 317A the following section:

"EDUCATION, TECHNOLOGY ASSESSMENT, AND EPIDEMIOLOGY REGARDING LEAD POISONING

"SEC. 317B. (a) PREVENTION.—

"(1) PUBLIC EDUCATION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out a program to educate health professionals and paraprofessionals and the general public on the prevention of lead poisoning in infants and children. In carrying out the program, the Secretary shall make available information concerning the health effects of low-level lead toxicity, the causes of lead poisoning, and the primary and secondary preventive measures that may be taken to prevent such poisoning.

"(2) INTERAGENCY TASK FORCE.—

"(A) Not later than 6 months after the date of the enactment of the Preventive Health Amendments of 1992, the Secretary shall establish a council to be known as the Interagency Task Force on the Prevention of Lead Poisoning (in this paragraph referred to as the 'Task Force'). The Task Force shall coordinate the efforts of Federal agencies to prevent lead poisoning.

"(B) The Task Force shall be composed of—

"(i) the Secretary, who shall serve as the chair of the Task Force;

"(ii) the Secretary of Housing and Urban Development;

"(iii) the Administrator of the Environmental Protection Agency; and

"(iv) senior staff of each of the officials specified in clauses (i) through (iii), as selected by the officials respectively.

"(C) The Task Force shall—

"(i) review, evaluate, and coordinate current strategies and plans formulated by the officials serving as members of the Task Force, including—

"(I) the plan of the Secretary of Health and Human Services entitled "Strategic Plan for the Elimination of Lead Poisoning", dated February 21, 1991;

"(II) the plan of the Secretary of Housing and Urban Development entitled "Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing", dated December 7, 1990; and

"(III) the strategy of the Administrator of the Environmental Protection Agency entitled "Strategy for Reducing Lead Exposures", dated February 21, 1991;

"(ii) develop a unified implementation plan for programs that receive Federal financial assistance for activities related to the prevention of lead poisoning;

"(iii) establish a mechanism for sharing and disseminating information among the agencies represented on the Task Force;

"(iv) identify the most promising areas of research and education concerning lead poisoning;

"(v) identify the practical and technological constraints to expanding lead poisoning prevention;

"(vi) annually carry out a comprehensive review of Federal programs providing assistance to prevent lead poisoning, and not later than May 1 of each year, submit to the Committee on Labor and Human Resources of the Senate and the Committee on the Environment and Public Works of the Senate, and to the Committee on Energy and Commerce of the House of Representatives, a report that summarizes the findings made as a result of such review and that contains the recommendations of the Task Force on the programs and policies with respect to which the Task Force is established, including related budgetary recommendations; and

"(vii) annually review and coordinate departmental and agency budgetary requests with respect to all lead poisoning prevention activities of the Federal Government.

"(b) TECHNOLOGY ASSESSMENT AND EPIDEMIOLOGY.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, directly or through grants or contracts—

"(1) provide for the development of improved, more cost-effective testing measures for detecting lead toxicity in children;

"(2) provide for the development of improved methods of assessing the prevalence of lead poisoning, including such methods as may be necessary to conduct individual assessments for each State;

"(3) provide for the collection of data on the incidence and prevalence of lead poisoning of infants and children, on the demographic characteristics of infants and children with such poisoning (including racial and ethnic status), and on the source of payment for treatment for such poisoning (including the extent to which insurance has paid for such treatment); and

"(4) provide for any applied research necessary to improve the effectiveness of programs for the prevention of lead poisoning in infants and children.".

SEC. 304. PREVENTABLE CASES OF INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.

Part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 318 the following section:

"INFERTILITY AND SEXUALLY TRANSMITTED DISEASES

"SEC. 318A. (a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States, political subdivisions of States, and other public or nonprofit private entities for

the purpose of carrying out the activities described in subsection (c) regarding any treatable sexually transmitted disease that can cause infertility in women if treatment is not received for the disease.

"(b) AUTHORITY REGARDING INDIVIDUAL DISEASES.—With respect to diseases described in subsection (a), the Secretary shall, in making a grant under such subsection, specify the particular disease or diseases with respect to which the grant is to be made. The Secretary may not make the grant unless the applicant involved agrees to carry out this section only with respect to the disease or diseases so specified.

"(c) AUTHORIZED ACTIVITIES.—With respect to any sexually transmitted disease described in subsection (a), the activities referred to in such subsection are—

"(1) screening women for the disease and for secondary conditions resulting from the disease, subject to compliance with criteria issued under subsection (f);

"(2) providing treatment to women for the disease;

"(3) providing counseling to women on the prevention and control of the disease (including, in the case of a woman with the disease, counseling on the benefits of locating and providing such counseling to any individual from whom the woman may have contracted the disease and any individual whom the woman may have exposed to the disease);

"(4) providing follow-up services;

"(5) referrals for necessary medical services for women screened pursuant to paragraph (1), including referrals for evaluation and treatment with respect to acquired immune deficiency syndrome and other sexually transmitted diseases;

"(6) in the case of any woman receiving services pursuant to any of paragraphs (1) through (5), providing to the partner of the woman the services described in such paragraphs, as appropriate;

"(7) providing outreach services to inform women of the availability of the services described in paragraphs (1) through (6);

"(8) providing to the public information and education on the prevention and control of the disease, including disseminating such information; and

"(9) providing training to health care providers in carrying out the screenings and counseling described in paragraphs (1) and (3).

"(d) REQUIREMENT OF AVAILABILITY OF ALL SERVICES THROUGH EACH GRANTEE.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that each activity authorized in subsection (c) will be available through the applicant. With respect to compliance with such agreement, the applicant may expend the grant to carry out any of the activities directly, and may expend the grant to enter into agreements with other public or nonprofit private entities under which the entities carry out the activities.

"(e) REQUIRED PROVIDERS REGARDING CERTAIN SERVICES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in expending the grant to carry out activities authorized in subsection (c), the services described in paragraphs (1) through (7) of such subsection will be provided only through entities that are State or local health departments, grantees under section 329, 330, 340, 340A, or 1001, or are other public or nonprofit private entities that provide health services to a significant number of low-income women.

"(f) QUALITY ASSURANCE REGARDING SCREENING FOR DISEASES.—For purposes of this section, the Secretary shall establish criteria for ensuring the quality of screening procedures for diseases described in subsection (a).

"(g) CONFIDENTIALITY.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees, subject to applicable law, to maintain the confidentiality of information on individuals with respect to activities carried out under subsection (c).

"(h) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the individual involved; and

"(3) will not be imposed on any individual with an income of less than 150 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(i) LIMITATIONS ON CERTAIN EXPENDITURES.—The Secretary may make a grant under subsection (a) only if the applicant involved grant agrees that not less than 80 percent of the grant will be expended for the purpose of carrying out paragraphs (1) through (7) of subsection (c).

"(j) REPORTS TO SECRETARY.—

"(1) COLLECTION OF DATA.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees, with respect to any disease selected under subsection (b) for the applicant, to submit to the Secretary, for each fiscal year for which the applicant receives such a grant, a report providing—

"(A) the incidence of the disease among the population of individuals served by the applicant;

"(B) the number and demographic characteristics of individuals in such population;

"(C) the types of interventions and treatments provided by the applicant, and the health conditions with respect to which referrals have been made pursuant to subsection (c)(5);

"(D) an assessment of the extent to which the activities carried pursuant to subsection (a) have reduced the incidence of infertility in the geographic area involved; and

"(E) such other information as the Secretary may require with respect to the project carried out with the grant.

"(2) UTILITY AND COMPARABILITY OF DATA.—The Secretary shall carry out activities for the purpose of ensuring the utility and comparability of data collected pursuant to paragraph (1).

"(k) MAINTENANCE OF EFFORT.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may make such a grant only if the applicant involved agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the average level of such expenditures maintained by the applicant for the 2-year period preceding the fiscal year for which the applicant is applying to receive such a grant.

"(l) REQUIREMENT OF APPLICATION.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary, the application contains the plan required in paragraph (2), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(2) SUBMISSION OF PLAN FOR PROGRAM OF GRANTEE.—

"(A) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the applicant involved submits to the Secretary a plan describing the manner in which the applicant will comply with the agreements required as a condition of receiving such a grant, including a specification of the entities through which activities authorized in subsection (c) will be provided.

"(B) PARTICIPATION OF CERTAIN ENTITIES.—The Secretary may make a grant under subsection (a) only if the applicant provides assurances satisfactory to the Secretary that the plan submitted under subparagraph (A) has been prepared in consultation with an appropriate number and variety of—

"(i) representatives of entities in the geographic area involved that provide services for the prevention and control of sexually transmitted diseases, including programs to provide to the public information and education regarding such diseases; and

"(ii) representatives of entities in such area that provide family planning services.

"(m) DURATION OF GRANT.—The period during which payments are made to an entity from a grant under subsection (a) may not exceed 3 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments in such year. The preceding sentence may not be construed to establish a limitation on the number of grants under such subsection that may be made to an entity.

"(n) TECHNICAL ASSISTANCE, AND SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance to grantees under subsection (a) with respect to the planning, development, and operation of any program or service carried out under such subsection. The Secretary may provide such technical assistance directly or through grants or contracts.

"(2) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(A) the fair market value of any supplies or equipment furnished the grant recipient; and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(o) EVALUATIONS AND REPORTS BY SECRETARY.—

"(1) EVALUATIONS.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to subsection (a) in order to determine the quality and effectiveness of the programs.

"(2) REPORT TO CONGRESS.—Not later than 1 year after the date on which amounts are first appropriated pursuant to subsection (s), and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report—

"(A) summarizing the information provided to the Secretary in reports made pursuant to subsection (j)(1), including information on the inci-

dence of sexually transmitted diseases described in subsection (a); and

"(B) summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year.

"(p) COORDINATION OF FEDERAL PROGRAMS.—The Secretary shall coordinate the program carried out under this section with any similar programs administered by the Secretary (including coordination between the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health).

"(q) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, other than subsections (o) and (r), there are authorized to be appropriated $25,000,000 for fiscal years 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

"(r) SEPARATE GRANTS FOR RESEARCH ON DELIVERY OF SERVICES.—

"(1) IN GENERAL.—The Secretary may make grants for the purpose of conducting research on the manner in which the delivery of services under subsection (a) may be improved. The Secretary may make such grants only to grantees under such subsection and to public and nonprofit private entities that are carrying out programs substantially similar to programs carried out under such subsection.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 305. BULK PURCHASES OF VACCINES FOR CERTAIN PROGRAMS.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following subpart:

"Subpart VIII—Bulk Purchase of Vaccines for Certain Programs

"BULK PURCHASES OF VACCINES FOR CERTAIN PROGRAMS

"SEC. 340B. (a) AGREEMENTS FOR PURCHASES.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Preventive Health Amendments of 1992, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator of the Health Resources and Services Administration, shall enter into negotiations with manufacturers of vaccines for the purpose of establishing and maintaining agreements under which entities described in paragraph (2) may purchase vaccines from the manufacturers at the prices specified in the agreements.

"(2) RELEVANT ENTITIES.—The entities referred to in paragraph (1) are entities that provide immunizations against vaccine-preventable diseases under the programs established in sections 329, 330, 340, and 340A.

"(b) NEGOTIATION OF PRICES.—In carrying out subsection (a), the Secretary shall, to the extent practicable, ensure that the prices provided for in agreements under such subsection are comparable to the prices provided for in agreements negotiated by the Secretary on behalf of grantees under section 317(j)(1).

"(c) AUTHORITY OF SECRETARY.—In carrying out subsection (a), the Secretary, in the discretion of the Secretary, may enter into the agreements described in such subsection (and may decline to enter into such agreements), may modify such agreements, may extend such agreements, and may terminate such agreements.

"(d) RULE OF CONSTRUCTION.—This section may not be construed as requiring any State to reduce or terminate the supply of vaccines provided by the State to any of the entities described in subsection (a)(2).".

SEC. 306. STATE PROGRAMS REGARDING DATA ON BIRTH DEFECTS.

(a) IN GENERAL.—Part A of title III of the Public Health Service Act, as amended by section 303(b) of this Act, is amended by inserting after section 317B the following section:

"COLLECTION OF DATA ON BIRTH DEFECTS

"SEC. 317C. (a) STATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall encourage States to establish or improve programs for the collection and analysis of epidemiological data on birth defects.

"(2) PROVISION OF ASSISTANCE.—The Secretary may, directly or through grants, cooperative agreements, or contracts, provide assistance to States regarding the purpose specified in subsection (a).

"(b) NATIONAL CLEARINGHOUSE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and maintain a National Information Clearinghouse on Birth Defects to collect and disseminate to health professionals and the general public information on birth defects, including the prevention of such defects.

"(c) REPORT.—Not later than July 1, 1993, and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report describing activities carried out under this section and containing any recommendations of the Secretary regarding this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.".

SEC. 307. SCREENINGS FOR BREAST AND CERVICAL CANCER.

Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended by inserting after section 1502 the following section:

"SEC. 1502A. REQUIREMENT REGARDING MEDICAID.

"The Secretary may not make a grant under section 1501 for a program in a State unless the State plan under title XIX of the Social Security Act for the State includes the screening procedures specified in subparagraphs (A) and (B) of section 1503(a)(2) as medical assistance provided under the plan.".

SEC. 308. SCREENINGS FOR PROSTATE CANCER.

Part A of title III of the Public Health Service Act, as amended by section 306 of this Act, is amended by inserting after section 317C the following section:

"PREVENTIVE HEALTH MEASURES WITH RESPECT TO PROSTATE CANCER

"SEC. 317D. (a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States and local health departments for the purpose of enabling such States and departments to carry out programs—

"(1) to screen men for prostate cancer as a preventive health measure;

"(2) to provide appropriate referrals for medical treatment of men screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services;

"(3) to develop and disseminate public information and education programs for the detection and control of prostate cancer;

"(4) to improve the education, training, and skills of health professionals (including appropriate allied health professionals) in the detection and control of prostate cancer;

"(5) to establish mechanisms through which the States and such departments can monitor the quality of screening procedures for prostate cancer, including the interpretation of such procedures; and

"(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program monitoring activities.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees, with respect to the costs to be incurred by the appliant in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under paragraph (2)) toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) In making a determination of the amount of non-Federal contributions for purposes of paragraph (1), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the applicant involved toward the purpose described in subsection (a) for the 2-year period preceding the fiscal year for which the applicant involved is applying to receive a grant under such subsection.

"(C) In making a determination of the amount of non-Federal contributions for purposes of paragraph (1), the Secretary shall, subject to subparagraphs (A) and (B) of this paragraph, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act by the applicant involved toward the purpose described in paragraphs (1) and (2) of subsection (a).

"(c) EDUCATION ON SIGNIFICANCE OF EARLY DETECTION.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, in carrying out subsection (a)(3), the applicant will carry out education programs to communicate to men, and to local health officials, the significance of the early detection of prostate cancer.

"(d) REQUIREMENT OF PROVISION OF ALL SERVICES BY DATE CERTAIN.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees—

"(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of of such subsection;

"(2) to ensure that, by the end of any second fiscal year of payments pursuant to the grant, each of the services or activities described in such subsection is provided; and

"(4) to ensure that not more than 40 percent of the grant is expended to provide the services or activities described in paragraphs (3) through (6) of such section.

"(e) ADDITIONAL REQUIRED AGREEMENTS.—

"(1) PRIORITY FOR LOW-INCOME MEN.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that low-income men, and men at risk of prostate cancer, will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of such subsection.

"(2) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may not make a grant

under subsection (a) unless the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(A) will be made according to a schedule of charges that is made available to the public;

"(B) will be adjusted to reflect the income of the man involved; and

"(C) will not be imposed on any man with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(3) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(4) COORDINATION WITH OTHER PROSTATE CANCER PROGRAMS.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that the services and activities funded through the grant will be coordinated with other Federal, State, and local prostate cancer programs.

"(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(6) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

"(7) RECORDS AND AUDITS.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that—

"(A) the applicant will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the applicant under such section; and

"(B) upon request, the applicant will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the applicant of the grant.

"(f) REPORTS TO SECRETARY.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

"(g) DESCRIPTION OF INTENDED USES OF GRANT.—The Secretary may not make a grant under subsection (a) unless—

"(1) the applicant involved submits to the Secretary a description of the purposes for which the applicant intends to expend the grant;

"(2) the description identifies the populations, areas, and localities in the applicant with a need for the services or activities described in subsection (a);

"(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprivate entities; and

"(4) the description provides assurances that the grant funds will be used in the most cost-effective manner.

"(h) REQUIREMENT OF SUBMISSION OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in subsection (g), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(i) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of the underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(j) TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to subsection (a). The Secretary may provide such technical assistance directly or through grants to, or contracts with, public and private entities.

"(2) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(A) Upon the request of a applicant receiving a grant under subsection (a), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the applicant in carrying out such section and, for such purpose, may detail to the applicant any officer or employee of the Department of Health and Human Services.

"(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under the grant under subsection (a) to the applicant involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(k) DEFINITION.—For purposes of this section, the term 'units of local government' includes Indian tribes.

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(2) ALLOCATION FOR TECHNICAL ASSISTANCE.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out subsection (j)(1).".

SEC. 309. CERTAIN PROGRAMS.-

(a) MIGRANT HEALTH CENTERS.—

(1) INFANT MORTALITY AND MORBIDITY.—Section 329(h)(2) of the Public Health Service Act (42 U.S.C. 254b(h)(2)) is amended—

(A) by amending subparagraph (B) to read as follows:

"(B) The Secretary may make grants to migrant health centers for the purpose of assisting such centers in—

"(i) providing comprehensive health care and support services for the reduction of (I) the incidence of infant mortality, and (II) morbidity among children who are less than 3 years of age; and

"(ii) developing and coordinating service and referral arrangements between migrant health centers and other entities for the health management of pregnant women and children described in clause (i)."; and

(B) by adding at the end the following subparagraphs:

"(D) The Secretary may make a grant under subparagraph (B) only if the migrant health center involved agrees to expend the grant for the following activities with respect to the purpose described in such subparagraph:

"(i) Primary health services, including prenatal care.

"(ii) Community education, outreach, and case finding.

"(iii) Case management services.

"(iv) Client education, including parenting and child development education.

"(E) The purposes for which a migrant health center may expend a grant under subparagraph (B) include, with respect to the purpose described in such subparagraph, substance abuse screening, counseling and referral services, and other necessary nonmedical support services, including child care, translation services, and housing assistance.

"(F) The Secretary may make a grant under subparagraph (B) only if the migrant health center involved agrees that—

"(i) the center will coordinate the provision of services under the grant to each of the recipients of the services;

"(ii) such services will be continuous for each such recipient;

"(iii) the center will provide follow-up services for individuals who are referred by the center for services described subparagraph (E); and

"(iv) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in such subparagraph.".

(2) CERTAIN SERVICES.—Section 329(a)(6)(C) of the Public Health Service Act (42 U.S.C. 254b(a)(6)(C)) is amended by inserting after "well child services," the following: "immunizations against vaccine-preventable diseases, screenings for elevated blood lead levels,".

(3) CERTAIN EXPENDITURES.—Section 329(d)(4) of the Public Health Service Act (42 U.S.C. 254b(d)(4)) is amended by adding at the end the following subparagraph:

"(C) With respect to amounts described in clauses (i) and (ii) of subparagraph (A), the Secretary may not restrict expenditures of such amounts by any grantee under paragraph (1)(A) for—

"(i) repair or minor renovation of the physical plant;

"(ii) establishment of a financial reserve as required for the furnishing of services on a prepaid basis or as needed to cover unanticipated expenses;

"(iii) interest payments on short-term loans to cover cash shortfalls; or

"(iv) necessary salary requirements to remain competitive in hiring health care practitioners.".

(b) COMMUNITY HEALTH CENTERS.—

(1) INFANT MORTALITY AND MORBIDITY.—Section 330(g)(2) of the Public Health Service Act (42 U.S.C. 254c(g)(2)) is amended—

(A) by amending subparagraph (B) to read as follows:

"(B) The Secretary may make grants to community health centers for the purpose of assisting such centers in—

"(i) providing comprehensive health care and support services for the reduction of (I) the incidence of infant mortality, and (II) morbidity among children who are less than 3 years of age; and

"(ii) developing and coordinating service and referral arrangements between community health centers and other entities for the health management of pregnant women and children described in clause (i)."; and

(B) by adding at the end the following subparagraphs:

"(D) The Secretary may make a grant under subparagraph (B) only if the community health center involved agrees to expend the grant for the following activities with respect to the purpose described in such subparagraph:

"(i) Primary health services, including prenatal care.

"(ii) Community education, outreach, and case finding.

"(iii) Case management services.

"(iv) Client education, including parenting and child development education.

"(E) The purposes for which a community health center may expend a grant under subparagraph (B) include, with respect to the purpose described in such subparagraph, substance abuse screening, counseling and referral services, and other necessary nonmedical support services, including child care, translation services, and housing assistance.

"(F) The Secretary may make a grant under subparagraph (B) only if the community health center involved agrees that—

"(i) the center will coordinate the provision of services under the grant to each of the recipients of the services;

"(ii) such services will be continuous for each such recipient;

"(iii) the center will provide follow-up services for individuals who are referred by the center for services described subparagraph (E); and

"(iv) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in such subparagraph.".

(2) CERTAIN SERVICES.—Section 330(b)(1)(C) of the Public Health Service Act (42 U.S.C. 254c(b)(1)(C)) is amended by inserting after "well child services," the following: "immunizations against vaccine-preventable diseases, screenings for elevated blood lead levels,".

(3) CERTAIN EXPENDITURES.—Section 330(d)(4) of the Public Health Service Act (42 U.S.C. 254c(d)(4)) is amended by adding at the end the following subparagraph:

"(C) With respect to amounts described in clauses (i) and (ii) of subparagraph (A), the Secretary may not restrict expenditures of such amounts by any grantee under paragraph (1) for—

"(i) repair or minor renovation of the physical plant;

"(ii) establishment of a financial reserve as required for the furnishing of services on a prepaid basis or as needed to cover unanticipated expenses;

"(iii) interest payments on short-term loans to cover cash shortfalls; or

"(iv) necessary salary requirements to remain competitive in hiring health care practitioners.".

(c) HEALTH CARE FOR THE HOMELESS.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended by adding at the end the following subsection:

"(t) INFANT MORTALITY AND MORBIDITY.—

"(1) IN GENERAL.—The Secretary may make grants to grantees under subsection (a) for the purpose of assisting such grantees in—

"(A) providing comprehensive health care and support services for the reduction of (i) the incidence of infant mortality, and (ii) morbidity among children who are less than 3 years of age; and

"(B) developing and coordinating service and referral arrangements between such grantees and other entities for the health management of pregnant women and children described in subparagraph (A).

"(2) REQUIRED ACTIVITIES.—The Secretary may make a grant under paragraph (1) only if the applicant involved agrees to expend the grant for the following activities with respect to the purpose described in such paragraph:

"(A) Primary health services, including prenatal care.

"(B) Community education, outreach, and case finding.

"(C) Case management services.

"(D) Client education, including parenting and child development education.

"(3) CERTAIN AUTHORIZED ACTIVITIES.—The purposes for which a grant under paragraph (1) may be expended include, with respect to the purpose described in such paragraph, substance abuse screening, counseling and referral services, and other necessary nonmedical support services, including child care, translation services, and housing assistance.

"(4) CERTAIN REQUIREMENTS REGARDING PROVISION OF SERVICES.—The Secretary may make a grant under paragraph (1) only if the applicant involved agrees that—

"(A) the applicant will coordinate the provision of services under the grant to each of the recipients of the services;

"(B) such services will be continuous for each such recipient;

"(C) the applicant will provide follow-up services for individuals who are referred by the applicant for services described paragraph (3); and

"(D) the grant will be expended to supplement, and not supplant, the expenditures of the applicant for primary health services (including prenatal care) with respect to the purpose described in paragraph (1).

"(5) APPLICATION FOR GRANT.—The Secretary may make a grant under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 and 1994.".

(d) HEALTH CARE FOR RESIDENTS OF PUBLIC HOUSING.—Section 340A of the Public Health Service Act (42 U.S.C. 256a) is amended by adding at the end the following subsection:

"(q) INFANT MORTALITY AND MORBIDITY.—

"(1) IN GENERAL.—The Secretary may make grants to grantees under subsection (a) for the purpose of assisting such grantees in—

"(A) providing comprehensive health care and support services for the reduction of (i) the incidence of infant mortality, and (ii) morbidity among children who are less than 3 years of age; and

"(B) developing and coordinating service and referral arrangements between such grantees and other entities for the health management of pregnant women and children described in subparagraph (A).

"(2) REQUIRED ACTIVITIES.—The Secretary may make a grant under paragraph (1) only if the applicant involved agrees to expend the grant for the following activities with respect to the purpose described in such paragraph:

"(A) Primary health services, including prenatal care.

"(B) Community education, outreach, and case finding.

"(C) Case management services.

"(D) Client education, including parenting and child development education.

"(3) CERTAIN AUTHORIZED ACTIVITIES.—The purposes for which a grant under paragraph (1) may be expended include, with respect to the purpose described in such paragraph, substance abuse screening, counseling and referral services, and other necessary nonmedical support services, including child care, translation services, and housing assistance.

"(4) CERTAIN REQUIREMENTS REGARDING PROVISION OF SERVICES.—The Secretary may make a grant under paragraph (1) only if the applicant involved agrees that—

"(A) the applicant will coordinate the provision of services under the grant to each of the recipients of the services;

"(B) such services will be continuous for each such recipient;

"(C) the applicant will provide follow-up services for individuals who are referred by the applicant for services described paragraph (3); and

"(D) the grant will be expended to supplement, and not supplant, the expenditures of the applicant for primary health services (including prenatal care) with respect to the purpose described in paragraph (1).

"(5) APPLICATION FOR GRANT.—The Secretary may make a grant under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 310. INTERNATIONAL COOPERATION.

Section 307(b) of the Public Health Service Act (42 U.S.C. 242l(b)) is amended—

(1) in paragraph (6), by striking "and" after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(8) enter into contracts with individuals for the provision of services (as defined in section 104 of part 37 of title 48, Code of Federal Regulations (48 CFR 37.104)) in participating foreign countries, which individuals may not be deemed employees of the United States for any purpose.".

SEC. 311. MISCELLANEOUS PROVISIONS.

(a) CERTAIN STUDY.—Section 813 of the Health Maintenance Organization Amendments of 1986 (42 U.S.C. 300e note) is repealed. The amendment made by the preceding sentence shall take effect as if enacted on November 14, 1986.

(b) HEALTH INFORMATION.—

(1) GENERAL AUTHORITY.—Section 1701(a)(11)(C) of the Public Health Service Act (42 U.S.C. 300u(a)(11)(C)) is amended by striking "preventive health services," and inserting the following: "preventive health services (which may include information concerning models and standards for insurance coverage of such services),".

(2) RESEARCH PROGRAMS.—Section 1702(a)(6) of the Public Health Service Act (42 U.S.C. 300u-2(a)(6)) is amended by inserting before the period the following: "(which measures and services may include blood pressure screening, cholesterol screening and control, smoking cessation programs, substance abuse programs, cancer screening, dietary and nutritional counseling, diabetes screening and education, intraocular pressure screening, and stress management)".

SEC. 312. CHANGE IN NAME OF CENTERS FOR DISEASE CONTROL.

(a) COMPREHENSIVE SMOKING EDUCATION ACT.—Section 3(b)(1)(A) of the Comprehensive Smoking Education Act (15 U.S.C. 1341(b)(1)(A)) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(b) EDUCATION AMENDMENTS OF 1978.—Section 1121(b)(2) of the Education Amendments of 1978 is amended by striking out "Federal Center for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(c) VETERANS' BENEFITS AND SERVICES ACT OF 1988.—Section 123(b)(1) of the Veterans' Benefits

and Services Act of 1988 (38 U.S.C. 210 note) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(d) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 227 (42 U.S.C. 236) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(2) in section 319(a) (42 U.S.C. 247d(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(3) in section 391 (42 U.S.C. 280b) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(4) in section 392 (42 U.S.C. 280b–1) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(5) in section 393 (42 U.S.C. 280b–2) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(6) in section 430(b)(2)(A)(i) (42 U.S.C. 285c–4(b)(2)(A)(i)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(7) in section 442(b)(2)(A) (42 U.S.C. 285d–7(b)(2)(A)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(8) in section 464D(b)(2)(A) (42 U.S.C. 285m–4(b)(2)(A)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(9) in section 494(a) (42 U.S.C. 289c(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(10) in section 508(b)(6) (42 U.S.C. 290aa–6(b)(6)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(11) in section 509B(a) (42 U.S.C. 290aa–9(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(12) in section 1706(c)(2)(B) (42 U.S.C. 300u–5(c)(2)(B)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(13) in section 2102 (42 U.S.C. 300aa–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(14) in section 2119(a)(2) (42 U.S.C. 300aa–19(a)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(15) in section 2126(b)(2) (42 U.S.C. 300aa–26(b)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(16) in section 2301(b)(4) (42 U.S.C. 300cc(b)(4)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(17) in section 2303 (42 U.S.C. 300cc–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(18) in section 2315(b) (42 U.S.C. 300cc–15(b)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(19) in section 2317 (42 U.S.C. 300cc–17) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(20) in section 2320 (42 U.S.C. 300cc–20) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(21) in section 2341(a) (42 U.S.C. 300cc–31(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(22) in section 2521 (42 U.S.C. 300ee–31) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(23) in section 2522(a) (42 U.S.C. 300ee–32(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(24) in section 2524(b)(2) (42 U.S.C. 300ee–34(b)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(25) in section 2601 by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(26) in section 2602(a)(1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(27) in section 2603(a)(3)(B)(i) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(28) in section 2607(2) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(29) in section 2617(d)(3)(A) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(30) in section 2618(c)(1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(31) in section 2641(a) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(32) in section 2643(c)(1)(A) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(33) in section 2649 by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention"; and

(34) in section 2675(a) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(e) HEALTH OMNIBUS PROGRAMS EXTENSION OF 1988.—The Health Omnibus Programs Extension of 1988 is amended—

(1) in section 161 (42 U.S.C. 241 note) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(2) in section 252 (42 U.S.C. 300ee–1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention"; and

(3) in section 253 (42 U.S.C. 300ee–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(f) HEALTH RESEARCH EXTENSION ACT OF 1985.—Section 5(b)(1)(G) of the Health Research Extension Act of 1985 (42 U.S.C. 281 note) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(g) PAINT POISONING PREVENTION.—Section 501(3)(B)(i) of Public Law 91–695 (42 U.S.C. 4841(3)(B)(i)) is amended by striking out "Center for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(h) COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980.—Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9604) is amended by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(i) RULE OF CONSTRUCTION.—The amendments made by this section may not be construed as prohibiting the Director of the Centers for Disease Control and Prevention from utilizing for official purposes the term "CDC" as an acronym for such Centers.

SEC. 313. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—The Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992 (the enactment of the bill, H.R. 3508, of the One Hundred Second Congress), is amended—

(1) in section 735(b), by striking "smaller: the amount requested in its application; or an amount which" and inserting "smaller: (A) the amount requested in its application; or (B) an amount which";

(2) in section 746—

(A) in subsection (a)(2)(A)—

(i) in clause (i), by striking "Health Professionals" and inserting "Health Professions"; and

(ii) in the matter after and below clause (ii), by moving the matter two ems to the right; and

(B) in subsection (i)(1)—

(i) by moving subparagraph (A) two ems to the right; and

(ii) by moving subparagraphs (B) and (C) four ems to the right;

(3) in section 748(a), in the matter preceding paragraph (1), by striking "hospital" and inserting "hospitals";

(4) in section 776(a)(3), by striking "no grant" and inserting "No grant";

(5) in section 791(b), in the matter preceding paragraph (1)—

(A) by striking "763" and inserting "763, 766, or 767"; and

(B) by striking "752(a)" and inserting "798(f)(2)";

(6) in section 793(c)(2), by striking "subparts I and II of part D," and inserting "this title,";

(7) in section 795(a)(3), by striking "in the case" and inserting "In the case";

(8) in section 798(d), by inserting "of the United States" after "Statutes";

(9) in section 820(d)(5)(A), by striking "nursing respect to" and inserting "nursing with respect to";

(10) in section 860(d), by inserting "827," after "822,"; and

(11) in part B of title VIII, by striking subpart III and redesignating subpart IV as subpart III.

(b) RELATED TECHNICAL CORRECTION.—The Health Professions Education Extension Amendments of 1992 (the enactment of the bill, H.R. 3508, of the One Hundred Second Congress) is amended in section 301(a)(2) by striking "voluntary" and inserting "voluntarily".

(c) EFFECTIVE DATE.—The amendments described in this section are made, and take effect, immediately after the enactment of the bill, H.R. 3508, of the One Hundred Second Congress.

SEC. 314. AUTHORIZATION OF APPROPRIATIONS REGARDING VACCINE COMPENSATION.

Section 2115(j) of the Public Health Service Act (42 U.S.C. 300aa–15(j)) is amended by striking "$80,000,000 for fiscal year 1993," and inserting "$110,000,000 for fiscal year 1993,".

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,
NORMAN F. LENT,
TOM BLILEY,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
TOM HARKIN,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purpose, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

THE PREVENTIVE HEALTH AMENDMENTS OF 1992

The Conference Report revises and extends a number of authorities related to public health. These programs provide Federal funding for efforts to prevent disease, illness, and disability, and to promote health through risk reduction and other preventive health measures, as well as for screening and early intervention for infectious and chronic diseases.

THE PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

The conference report revises and extends the Preventive Health and Health Services Block Grant. The authorization of the program is increased to $205 million. Allocations from these funds for services for rape victims and for rape prevention are doubled from $3.5 million to $7 million.

The allowable uses of these block grant funds are expanded to include activities that are intended to make progress toward the goals identified in the Department of Health and Human Services report, "Health People 2000: National Health Promotion and Disease Prevention Objectives." The Conferees stress that they intend for States to use their block grant funds both to improve the health status of the general populations within the States as well as to work toward eliminating disparities between the general health status and that of identifiable subpopulations, including geographical, racial, ethnic, gender, or other groups. In establishing the use of funds by the States under the block grant, the Conferees emphasize that the State advisory committees are to consult with local health agencies, community-based organizations (including minority community-based organizations), and other providers of services that affect public health.

States may use block grant funds for the improvement of minority health (including the establishment of State minority health offices) and the health of women. These funds may also be used for the training of State public health personnel in short-term, in-service training programs. States are also allowed to use funds for continuing medical education for the prevention of transmission of bloodborne disease.

The conferees have continued the law's requirement that States use block grant funds to supplement, not supplant, State funds for preventive health activities. The conference report requires that States maintain State expenditures at a level not less than the average level of the 2-year period preceding the grant. The conferees intend that this requirement apply to the total ongoing State preventive health activities that might be supplemented under this block grant. The conferees do not intend to require that a State maintain its funding levels for individual activities from year to year, so long as its aggregate efforts are not supplanted by this grant.

TRAUMA CARE SYSTEM ACTIVITY

The conference report does not include the House-passed provisions regarding the transfer of trauma care system activity. The conferees have deferred until FY 1994 a final decision over the transfer of administration for the Trauma Care Systems Planning and Development Act (P.L. 101-590) from the Health Resources and Services Administration to the Centers for Disease Control and Prevention.

The conferees note that the authorization of appropriations for this important activity expires at the end of FY 1993 and that legislation extending the program will be considered during the First Session of the 103rd Congress. Although there continues to be strong support for consolidating trauma care activities with related programs administered by the CDC's National Center for Injury Prevention and Control, a recent plan approved by HHS establishing a Division of Trauma and Emergency Medical Systems within the Bureau of Health Services Development and the allocation of twelve professional and six support staff to the Division reflects the beginning of an institutional commitment to administer fully this activity. Although a permanent director for the new Division has yet to be selected, and only a small percentage of authorized staffing levels have been attained, the conferees have concluded that a final decision on the disposition of this program can be deferred pending consideration of reauthorization legislation next year.

THE CDC FOUNDATION

The conference report provides for the establishment of a non-profit foundation to carry out activities for the prevention and control of diseases, disorders, injuries, and disabilities, and for the promotion of public health. The Conferees adopt the report of the Committee on Energy and Commerce of the House regarding these provisions.

In addition, the conferees intend that the Secretary report, within one year of enactment of this conference report, on the proper role of Federal agencies (operating under the Public Health Service Act) as they relate to federally chartered foundations, the standards and procedures derived from such findings, the status of the relevant implementation, and identification of any related matters requiring clarification through further legislation regarding, but not limited to, cooperative research and development agreements under the Technology Transfer Act and adequate compensation to Federal agencies for the utilization of Federal resources, including, but not limited to, employees, facilities, property, and buildings.

INJURY CONTROL

The conference report amends the program for injury control to allow for the conduct of demonstration projects for the prevention of injuries at additional sites. In addition, the conference report provides for the distribution of injury control materials in the Nation's schools.

ADOLESCENT HEALTH

In response to the report of the Office of Technology Assessment entitled "Adolescent Health," the conference report provides for the establishment of an Office of Adolescent Health within the Office of the Assistant Secretary for Health. This office is authorized to make demonstration grants for the improvement of adolescent health, including provisions authorizing an effort recently begun by the Secretary of HHS regarding the promotion of health among minority males.

LEAD POISONING PREVENTION

The conference report revises and extends programs for screening infants and children for lead poisoning. In addition, the conference report creates a program to educate health professionals and paraprofessionals, as well as the public, about the prevention of lead poisoning in infants and children. The conference report also provides for the establishment of an interagency task force to coordinate the efforts of Federal agencies to prevent lead poisoning. Finally, the conference report requires that the CDC provide for the development of improved and more cost-effective testing measures for detecting lead toxicity in children and improved methods of assessing the prevalence of lead poisoning, for applied research, and for the collection of data.

INFERTILITY

The conference report provides for the establishment of a program of screening and treatment for preventable cases of infertility arising from sexually transmitted diseases (STD's). The conferees have adopted this in response to growing concerns about the nationwide epidemic of chlamydia and with the hope that new methods for the diagnosis and treatment of this disease will allow progress to be made in controlling this epidemic.

The conferees have established this program for infertility as an initiative distinct from the ongoing program of STD control. To the extent that activities of this program may overlap with or duplicate activities in existing programs, the conferees intend that there will be coordination of these efforts and that duplication among them will be avoided. The conferees note that as part of the reauthorization of the STD program in future years, the Congress will review the question of the consolidation of this initiative with the SDT program.

BULK PURCHASE OF VACCINES

The conference report requires that the Secretary enter into negotiations with manufacturers of vaccines to attempt to establish a consolidated purchase price that may be used by poverty health clinics funded under Sections 329, 330, 340, or 349A of the Public Health Service Act. This system is intended to be parallel to the system that has long been used by the CDC on behalf of State grantees under the childhood immunization program funded under Section 317(j)(1) of the Public Health Service Act. The conferees intend that, to the extent practicable, the Secretary establish prices for these health grantees that are as advantageous as those offered to the States under their CDC immunization grants or under their Medicaid programs.

The conferees are aware that many States already provide vaccine to community and migrant health centers from the States' CDC grants under 317(j)(1) of the Public Health Service Act. The conferees expect that these States shall continue to distribute vaccines to these centers in the same manner, and that the conference report is intended only to secure the most favorable price for those centers whose vaccines supplies are inadequate and which must pay market prices in order to secure vaccine.

COLLECTION OF DATA ON BIRTH DEFECTS

The conference report provides for the establishment of a program to improve State collection and analysis of data on birth defects. The conferees recommend that States undertake these activities cooperatively and pool birth defects statistics on a regional basis to gain greater statistical power and to identify regional trends. This provision codifies ongoing efforts at the CDC. In addition, the Secretary is required to submit the first report on this program in July 1993 and to establish a clearinghouse on birth defects information and research projects.

PREVENTION OF BREAST AND CERVICAL CANCER

The conference report makes clear that the CDC grants program for breast and cervical cancer screening is the payor of last resort for these services. Grants under the program are to be limited to those States that provide for these services under their Medicaid programs, thus ensuring that a wide range of poor, low-income, and uninsured women have access to these services.

INTERNATIONAL COOPERATION

The conference report authorizes the Public Health Service to enter into programs of international cooperation to further its public health activities.

PROSTATE CANCER

The conference report creates a new program of grants to State and local health departments for screening, referral, information, and education regarding prostate cancer. The conferees emphasize the need for coordination of this program with ongoing research efforts at the National Institutes of Health.

CHANGE IN NAME OF CENTERS FOR DISEASE CONTROL

The Conference Report changes the name of the Centers for Disease Control to the Centers for Disease Control and Prevention. In so doing, the conferees have recognized the leadership role of the CDC in addressing illness and disability before they occur. It is the intent of the conferees, however, that the agency continue to use and be recognized by the initial "CDC."

COMPREHENSIVE PERINATAL CARE ENHANCEMENT GRANTS

The conferees support the expansion of the current Comprehensive Perinatal Care Program within the Office of Special Populations as a vital element in an overall strategy to reduce infant mortality among at risk populations. The conferees recognize that national efforts towards this objective must include broad support for perinatal services provided in a range of primary care settings, including those operated by state and local health departments, and rural hospitals and clinics. The conferees intend additional community health centers to receive these enhancement grants, and for all grantees to expand these comprehensive services to children up to 3 years of age. These early childhood years are critical to ensure immunizations are received, and early screening for health and developmental problems are important to avoid chronic illness and disability later in life.

The conferees intend that these grants support comprehensive, continuous prenatal health care beginning as early as possible in pregnancy, and primary health care for children under age 3. Community education and outreach efforts are critical to informing women of the importance and availability of these services. Case management for pregnant women should include risk assessment and health education regarding the risks of smoking, alcohol use, substance abuse and inadequate nutrition during pregnancy. Outpatient substance abuse counselling services, and referral to treatment as necessary are critical for women with substance abuse problems.

Primary health care for children shall include preventive health care services, including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning, the timely provision of immunizations, and referral for services under part H of the Individuals with Disabilities Education Act as necessary. Parenting skill training and child development education, stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations, should be available to those caring for young children.

The conferees intend that centers receiving grants will provide the necessary support services, either directly or indirectly, to enable women to utilize services provided under the grant. Such support services may include child care, transportation, translation services, assistance in locating housing, and benefit eligibility determination. the conferees intend centers to coordinate with other local health and social service providers, local health departments, WIC programs, and recipients of grants under title V of the Social Security Act to simplify the local service delivery network for pregnant women and young children. To the maximum extent practicable, the comprehensive services provided for under grants should be delivered on site at health centers or health center satellite locations.

TOTAL BUDGET PROVISIONS

The conferees are aware that health centers face diverse financial demands in maintaining services within a changing health care financing environment. The advent of managed care in several States has placed health center fiscal viability at risk due to short-term budget shortfalls. Health centers also face difficulty in recruiting and retaining health care providers when they cannot offer competitive salaries. To address these needs, and others (such as repairs of a physical plant), the conferees intend that health centers be able to direct that portion of their income which is non-grant toward these activities. Nothing in this legislation should be construed to change in any way the Secretary's authority to audit these expenditures or to take them into account in determining appropriate grant amounts to health centers.

VACCINE INJURY COMPENSATION

The conference report includes an increase in the authorization of appropriations for compensation for the payment of claims of persons injured by vaccines before October 1, 1988. The conferees understand that these funds are dealt with as mandatory spending for purposes of appropriations and the budget. The conferees recognize that even this expansion will not be adequate to provide for full compensation in a timely manner, but they have included these provisions to allow adequate time in the 103rd Congress to address this problem comprehensively, including a review of the applicability to these cases of the recent proposals by HHS to amend the Table of Injuries and Aids to Interpretation.

The conferees also note that the vaccine information materials developed under Section 2126 of the Public Health Service Act have proven controversial and that many public health and medical professionals have called for these materials to be simplified and abbreviated. The conferees intend that the Public Health Service make recommendations to the Congress no later than January 15, 1993, on the requirements of Section 2126 and possible legislative change to the provision.

MISCELLANEOUS

The conference report also makes several amendments to Public Health Service Act authorities that are clarifying or technical in nature.

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,
NORMAN F. LENT,
TOM BLILEY,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
TOM HARKIN,
ORRIN HATCH,
NANCY LANDON
KASSEBAUM,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 3489, OMNIBUS EXPORT AMENDMENTS ACT OF 1992

Mr. GEJDENSON submitted the following conference report and statement on the bill (H.R. 3489) to reauthorize the Export Administration Act of 1979, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–1025)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3489), to reauthorize the Export Administration Act of 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Export Amendments Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—EXPORT ADMINISTRATION ACT AMENDMENTS

Sec. 101. Short title; reference.
Sec. 102. Types of licenses; control list.
Sec. 103. Exports to COCOM.

Sec. 104. Reexports and supercomputer exports.
Sec. 105. Statement of policy toward countries representing a lesser strategic threat.
Sec. 106. East-West decontrol.
Sec. 107. Commodity jurisdiction.
Sec. 108. Controls on telecommunications.
Sec. 109. Exports subject to national discretion and favorable consideration.
Sec. 110. Statement of policy for general exception cases.
Sec. 111. Control list review.
Sec. 112. Unilateral controls.
Sec. 113. Trade shows.
Sec. 114. Exports of related technical data.
Sec. 115. Indexing procedures.
Sec. 116. Negotiations with other countries; Department of Commerce representative.
Sec. 117. Removal of section 5(k) designation.
Sec. 118. Notification of COCOM actions.
Sec. 119. Terrorist countries.
Sec. 120. Criminal and civil penalties.
Sec. 121. Policy toward countries receiving licensing benefits.
Sec. 122. Enforcement authority.
Sec. 123. Judicial and administrative review.
Sec. 124. Policy toward the People's Republic of China.
Sec. 125. Export of satellites for launch by People's Republic of China.
Sec. 126. Exports to the former Soviet Union.
Sec. 127. Authorization of appropriations.
Sec. 128. Extension of the Act.
Sec. 129. Technical amendments.
Sec. 130. Reporting requirements.
Sec. 131. Exports of unprocessed timber from State lands.

TITLE II—EXPORT PROMOTION

Sec. 201. Trade Promotion Coordinating Committee.
Sec. 202. One-stop shops.
Sec. 203. Commercial Service cooperation in Federal financing and insurance programs.
Sec. 204. Environmental trade promotion.
Sec. 205. Rank of Commercial Service Officers.
Sec. 206. Report on export policy.
Sec. 207. Export promotion authorization.

TITLE III—NUCLEAR PROLIFERATION PREVENTION ACT OF 1992

Sec. 301. Short title.

Subtitle A—Reporting on Nuclear Exports

Sec. 311. Reports to Congress.

Subtitle B—Sanctions for Nuclear Proliferation

Sec. 321. Imposition of sanctions.
Sec. 322. Eligibility for assistance.
Sec. 323. Role of international financial institutions.
Sec. 324. Amendments to the Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 325. Export-Import Bank.
Sec. 326. Additional amendments to the Foreign Assistance Act of 1961.
Sec. 327. Reward.
Sec. 328. Reports.
Sec. 329. Technical correction.
Sec. 330. Definitions.
Sec. 331. Effective date.

Subtitle C—International Atomic Energy Agency

Sec. 341. Bilateral and multilateral initiatives.
Sec. 342. IAEA internal reforms.
Sec. 343. Reporting requirement.
Sec. 344. Definitions.

TITLE IV—ECONOMIC COOPERATION PROJECTS IN CHINA AND TIBET

Sec. 401. Statement of principles.
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TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Military assistance to Cuba.
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TITLE I—EXPORT ADMINISTRATION ACT AMENDMENTS

SEC. 101. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Export Administration Act Amendments of 1992".

(b) REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.—Except as otherwise specifically provided, whenever in this title a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following).

SEC. 102. TYPES OF LICENSES; CONTROL LIST.

(a) TYPES OF LICENSES.—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence by striking "in countries" and all that follows through "China"; and

(B) in the second sentence by striking "controlled countries" and inserting "an unauthorized use or consignee"; and

(2) in subparagraph (B) in the first sentence by striking "are located in countries other than controlled countries (except the People's Republic of China),".

(b) CONTROL LIST.—Section 4(b) (50 U.S.C. App. 2403(b)) is amended by adding at the end the following: "Not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1992, the Secretary shall modify each item on the control list as necessary to specify with particularity the performance and other identifying characteristics of any technical data that is subject to export controls under section 5, export controls under section 6, or export controls pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.".

SEC. 103. EXPORTS TO COCOM.

Section 5(a)(4) (50 U.S.C. App. 2404(a)(4)) is amended—

(1) in subparagraph (A) by striking "No" and inserting "Subject to subparagraphs (B), (C), and (D), no"; and

(2) by adding at the end the following:

"(C) Effective not later than 90 days after the date of the enactment of the Export Administration Act Amendments of 1992, no authority or permission may be required under this section for the export or reexport of goods or technology to or from a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the Coordinating Committee or pursuant to an agreement described in subsection (k)(1).

"(D)(i) Notwithstanding subparagraph (C), the Secretary, in consultation with the Secretary of Defense, the Secretary of State, and the Secretary of Energy, may require authority or permission to export or reexport goods or technology, which are otherwise eligible for export or reexport under subparagraph (C), in the case of—

"(I) exports to such unreliable end users as the Secretary may specify by regulation; or

"(II) any reexport to a country other than a country described in subparagraph (A) of goods or technology identified under subparagraph (B).

"(ii) Notwithstanding subparagraph (C), the Secretary may require authority or permission to export or reexport goods or technology pursuant to special multilateral control arrangements agreed to unanimously by the Coordinating Committee, if all countries in which the goods or technology are produced agree to equivalent measurement parameters, performance capabilities, and licensing and other requirements. The Secretary shall notify the Congress at least 30 days before the United States proposes such control arrangements to the Coordinating Committee, and not more than 30 days after such control arrangements are agreed to by the Coordinating Committee.

"(iii) If the Secretary, in consultation with the Secretary of State, determines that a country referred to in subparagraph (A) is engaging in a pattern and practice of noncompliance with the agreement of the Coordinating Committee or other applicable agreement, the Secretary shall, during the period in which that determination is in effect, and to the extent determined by the Secretary, require authority or permission to export or reexport goods or technology to that country, and to reexport goods or technology from that country. Any such determination shall not take effect until 30 days after the Secretary of State notifies the Coordinating Committee of the determination and requests the cooperation of the Coordinating Committee in imposing comparable export controls. The Secretary shall review each determination made under this clause at least once in each 1-year period for the purpose of determining whether the country involved continues to engage in a pattern and practice of noncompliance with the applicable agreement. In making a determination under this clause, the Secretary shall consider whether the country involved has adopted—

"(I) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

"(II) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

"(III) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

"(IV) a system of export control documentation to verify the movement of goods and technology; and

"(V) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

"(iv) The provisions of section 10(o) apply to exports for which licenses are required under this subparagraph.".

SEC. 104. REEXPORTS AND SUPERCOMPUTER EXPORTS.

(a) REEXPORTS OF TECHNOLOGY.—Section 5(a)(5) is amended—

(1) in subparagraph (A) by striking "(B)" and inserting "(C)";

(2) in subparagraph (B)—

(A) by redesignating such subparagraph as subparagraph (C); and

(B) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(3) by inserting after subparagraph (A) the following:

"(B) Except as provided in subparagraph (C), no authority or permission may be required under this section to reexport technology subject to the jurisdiction of the United States from any country when the technology to be reexported is incorporated in other technology and—

"(i) the value of the technology subject to the jurisdiction of the United States that is incorporated in that other technology and would, at the time of the reexport, if exported from the United States, require a validated license, is 25 percent or less of the total value of that other technology; or

"(ii) the export to a controlled country of the technology subject to the jurisdiction of the

United States would require only notification of the participating governments of the Coordinating Committee.".

(b) SUPERCOMPUTER EXPORTS AND REEXPORTS.—Section 5(a) (50 U.S.C. 2404(a)) is amended by adding at the end the following:

"(7)(A) With respect to the definition of 'supercomputer' under paragraph (6)(A), the Secretary shall, not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1992, publish in the Federal Register a performance-based indexing system in order to ensure that such definition and all controls and security safeguard procedures on supercomputer exports and reexports are commensurate with technological advances in the supercomputer industry. Such indexing system shall be based upon a provision that for destinations in any country (other than a controlled country) that is a party to and, as determined by the President, is adhering to, the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (done at Mexico on February 14, 1967), no security safeguard procedures may be required in connection with any export or reexport of a supercomputer with a theoretical peak performance at or below approximately 25 percent of the theoretical peak performance of the average of the 2 most powerful supercomputers currently available commercially in the United States or elsewhere.

"(B) Before publishing the performance-based indexing system under subparagraph (A), the Secretary shall seek the views of the appropriate technical advisory committees appointed under subsection (h) and other interested parties. Not later than 2 weeks after publication of such system in the Federal Register, the Secretary shall submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, that includes—

"(i) the text of the Federal Register notice,

"(ii) a summary of the views expressed by the technical advisory committees and other interested parties with respect to the performance-based indexing system, and

"(iii) a description of how the performance-based indexing system addresses the views of the technical advisory committees and other interested parties.

"(C) For purposes of this paragraph, the term 'security safeguard procedures' means procedures that are required by the Department of Commerce, as a condition of an authorization to export or reexport a supercomputer, primarily to restrict access to and resale of such supercomputer.".

SEC. 105. STATEMENT OF POLICY TOWARD COUNTRIES REPRESENTING A LESSER STRATEGIC THREAT.

(a) IN GENERAL.—Section 5(b)(2) (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

"(2)(A) It is the policy of the United States that licensing treatment of a country on the list of controlled countries maintained by the President pursuant to paragraph (1) should be revised in any case in which that country—

"(i) represents a lesser strategic threat; and

"(ii) accomplishes the following:

"(I) Implements an effective export control system, including enactment of legislation controlling shipment of goods and technology subject to controls under agreement of the group known as the Coordinating Committee to such countries and imposing effective penalties to deter violation of its export controls.

"(II) Adopts technology security arrangements, including end-use assurances and on-site inspection and verification.

"(III) Terminates governmental policies and intelligence cooperation with other controlled countries relating to illegal acquisition and diversion of controlled technology.

"(B) The Secretary, in consultation with the Secretary of State and the Secretary of Defense, shall periodically review progress made by countries on the list of controlled countries toward the policy goals set forth in subparagraph (A). If, based on such review, it is determined that substantial progress has been made by any such country, the Secretary of State shall propose to the Coordinating Committee reduction of licensing requirements for exports to such country or removal of such country from the list of controlled countries.

"(C) The Secretary should provide the greatest possible technical assistance to countries undertaking the measures described in subparagraph (A).

"(D)(i) The President shall, not later than 120 days after the date of the enactment of this subparagraph, determine whether Latvia, Lithuania, Estonia, Poland, and Czechoslovakia, or any successor state, should be removed from the list of controlled countries, based on the progress each such country has made in cooperating with the Coordinating Committee on export controls. At the time of making this determination, the President shall issue a report to the Congress providing a complete rationale for the determination, including a description of the progress that each such country has made in cooperating with the Coordinating Committee, and identifying what conditions, if any, should be met before any such country should be removed from the list of controlled countries.

"(ii) Should the President determine that any country listed in clause (i) should be removed from the list of controlled countries, the Secretary of State shall propose to the Coordinating Committee, not later than 30 days after the President's determination, that such country immediately be removed from the list of controlled countries.

"(E)(i) Not later than 9 months after the date of the enactment of this subparagraph, the President shall determine whether any of the independent states of the former Soviet Union should be removed from the list of controlled countries. At the time of making this determination, the President shall issue a report to the Congress providing a complete rationale for the determination.

"(ii) Should the President determine that any of the independent states of the former Soviet Union should be removed from the list of controlled countries, the Secretary of State shall propose to the Coordinating Committee, not later than 30 days after the President's determination, that such state immediately be removed from the list of controlled countries.".

(b) EXPORTS FOR CIVIL END USE.—Section 5(b) is amended by adding at the end the following:

"(4)(A) All license applications under this section for the export of goods or technology shall be given a presumption of approval if such exports are intended for a civil end use.

"(B) A determination under subparagraph (A) of whether goods or technology are intended for a civil end use shall be based on the following criteria:

"(i) Whether the stated end use is civil.

"(ii) Whether the civil application of the goods or technology is well established in countries other than controlled countries.

"(iii) Whether the goods or technology proposed for export are reasonable in quantity and quality for the proposed end use.

"(iv) Whether civil and noncivil uses of the goods or technology are reasonably distinguishable or there is a significant risk of diversion of the goods or technology to an unauthorized use or consignee.

"(v) Whether the government of the country in which the end use will occur has provided to the United States Government assurances that the proposed export will be used only for the stated end use.

"(C) The presumption created by subparagraph (A) may be overcome by overriding national security concerns.

"(D) Requirements for the redesign, reengineering, or substantial modification of standard product models or configurations, and similar requirements shall not be imposed under this Act before any license application is approved for the export of goods or technology subject to control by the Coordinating Committee that is intended for civil end uses, unless the Coordinating Committee agrees to such requirements.".

SEC. 106. EAST-WEST DECONTROL.

Section 5(c)(5) (50 U.S.C. App. 2404(c)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "Not later than 6 months after the date of the enactment of this paragraph" and inserting "Not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1992"; and

(B) in clause (i) by striking all that follows "technology" the first place it appears and inserting "the licensing of which under this section has been eliminated by regulations promulgated to implement the agreements reached in the Coordinating Committee High Level Meetings of June 6 and 7, 1990, and May 23, 1991."; and

(2) by striking subparagraph (B) and inserting the following:

"(B) The Secretary shall issue regulations implementing fully the agreements reached in the Coordinating Committee High Level Meetings of June 6 and 7, 1990, and May 23, 1991, relating to removal of controls, national discretion, and favorable consideration of export licenses, and shall provide the licensing treatment prescribed in those agreements for goods and technology in accordance with the levels of technology specified in those agreements.

"(C) In the case of goods and technology from which export controls have been removed under subparagraph (A), export controls under this section may thereafter be imposed on such goods or technology only if such controls are agreed to by the participating governments of the Coordinating Committee.".

SEC. 107. COMMODITY JURISDICTION.

(a) IN GENERAL.—Section 17 (50 U.S.C. App. 2416) is amended by adding at the end the following new subsection:

"(g) COMMODITY JURISDICTION.—(1) Notwithstanding any other provision of law, no item may be included on both the control list and the United States Munitions List, after the publication of the lists required under paragraph (6) and the resolution of any dispute with respect to such lists under paragraph (7).

"(2) Notwithstanding any other provision of law—

"(A) an item agreed for control on the International Munitions List of the group known as the Coordinating Committee shall be subject to control under the Arms Export Control Act and not under this Act; and

"(B) except as provided in paragraphs (3) and (4), an item not agreed for control on the International Munitions List of the Coordinating Committee shall be subject to control under this Act and not under the Arms Export Control Act.

"(3) An item described in paragraph (5) that is not on the International Munitions List may be subject to control under the Arms Export Control Act—

"(A)(i) for a period of 9 months after the date on which the United States proposes to the Coordinating Committee that the item be added to the International Munitions List, and

"(ii) for an additional 9-month period, but only if negotiations in the Coordinating Com-

mittee to add the item to the International Munitions List are continuing; or

"(B) if the Secretary of State, in consultation with the Secretary, so determines, except that if the Secretary disagrees with the Secretary of State with respect to such item, the item may be subject to control under the Arms Export Control Act only if the disagreement is resolved by the 2 Secretaries or by the President pursuant to the procedures set forth in subparagraphs (B) and (C) of paragraph (7).

"(4) An item that is not on the International Munitions List may be subject to control under the Arms Export Control Act if the President—

"(A) determines that extraordinary circumstances exist affecting the national security of the United States, which require that the item be controlled under the Arms Export Control Act;

"(B) proposes to the Coordinating Committee that the item be added to the International Munitions List; and

"(C) not later than 10 days after making the determination under subparagraph (A), submits a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, describing in detail the reasons for the determination, in appropriate classified form, as necessary.

"(5) An item referred to in paragraph (3) is an item that—

"(A) is specially designed, developed, configured, adapted, or modified for military or intelligence application;

"(B) does not have significant civil applications; and

"(C) is not a component the performance capacity and function of which are essentially equivalent to those used for civil applications.

"(6)(A)(i) Not later than 3 months after the date of the enactment of this subsection, the Secretary shall publish the control list and the Secretary of State shall publish the United States Munitions List, with all revisions that have been made in accordance with this subsection.

"(ii) Not later than 3 months after the date of the enactment of this subsection, the Secretary of State shall publish in a separate list those items remaining subject to control under the Arms Export Control Act under paragraph (3).

"(B) If either the Secretary or the Secretary of State fails to publish a revised list in accordance with subparagraph (A)(i), there shall be excluded from the list of the Secretary that did not so publish a revised list, any item included on the list of the Secretary that did so publish a revised list.

"(7)(A) Whenever—

"(i) the Secretary or the Secretary of State receives a request to determine whether an item is subject to control under this Act or the Arms Export Control Act,

"(ii) either Secretary finds that an item is included on both the control list and the United States Munitions List,

"(iii) an item appearing on the list of one Secretary under paragraph (6)(A)(i) is considered by the other Secretary to be under the jurisdiction of that other Secretary, or

"(iv) the Secretary disagrees with the inclusion of an item on the list published under paragraph (6)(A)(ii),

the Secretary or the Secretary of State (as the case may be) shall refer the matter and any relevant information to the other Secretary.

"(B) The 2 Secretaries shall have a period of 15 days following the referral of a matter under subparagraph (A) to resolve any differences with respect to the matter involved.

"(C) If the 2 Secretaries fail to resolve such differences within that 15-day period, either Secretary may refer the matter to the President who, not later than 15 days after receiving the referral, shall notify the 2 Secretaries of his determination on the matter in dispute.

"(D) In the event that either the Secretary or the Secretary of State does not respond to a referral under subparagraph (A) by the other Secretary, the Secretary that did not so respond shall be deemed to concur with the other Secretary on the matter involved.

"(8)(A) The Comptroller General shall conduct a study assessing the implications of control under the Arms Export Control Act of any mass market computer software, including software with encryption capabilities, that is on the United States Munitions List. In conducting the study, the Comptroller General shall ensure the participation of the intelligence community and the broadest possible participation from the computer and software industry in compiling information for the study. The Secretary of Defense with respect to the National Security Agency, the Director of Central Intelligence, and the heads of other entities of the intelligence community shall cooperate with the Comptroller General in providing the information necessary for the study.

"(B) The study shall consider—

"(i) the importance of control of mass market computer software under the Arms Export Control Act to United States national security interests;

"(ii) the feasibility of effective export controls on mass market computer software, including, but not limited to, consideration of the treatment of mass market computer software by other governments participating in the Coordinating Committee, as well as overall foreign availability;

"(iii) the export market for United States mass market computer software controlled under the Arms Export Control Act;

"(iv) the competitive effect on United States computer and software companies of control of mass market computer software under the Arms Export Control Act rather than under this Act; and

"(v) the feasibility and propriety of transferring some or all authority to control exports of such software to this Act and the methods of making any such transfer so as to avoid, to the extent possible, providing a commercial advantage to one company or segment of the computer and software industries over any other.

"(C) Not later than 1 year after the date of the enactment of this subsection, the Comptroller General shall complete the study and shall submit the results of the study to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, in classified form as appropriate.".

(b) TREATMENT OF MUNITIONS LIST FOR PURPOSES OF CERTAIN STATUTES.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), references in the following provisions of law to the United States Munitions List or items on the United States Munitions List, or to the Arms Export Control Act shall, after the enactment of this Act, be deemed to refer to the United States Munitions List, or the Arms Export Control Act, as in effect on May 1, 1992:

(A) Section 40 of the Arms Export Control Act (22 U.S.C. 2780).

(B) Section 902(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.

(C) Section 317 of the Comprehensive Anti-Apartheid Act of 1986.

(2) SUNSET PROVISION.—The provisions of this subsection shall terminate on September 30, 1994.

SEC. 108. CONTROLS ON TELECOMMUNICATIONS.

(a) IN GENERAL.—Section 5(c) (50 App. 2404(c)) is amended by adding at the end the following:

"(8)(A) The Secretary shall, not later than 30 days after the date of the enactment of this paragraph, publish regulations fully implementing the agreement on telecommunications equipment for civil end uses reached at the Coordinating Committee High Level Meeting of June 1 and 2, 1992.

"(B) In each instance in which an export license application is submitted to the Secretary for the export of telecommunications equipment or technology pursuant to the agreement referred to in subparagraph (A) that is subject to special national discretion procedures requiring 30 days advance notice to the Coordinating Committee, the procedures set forth in section 10(q) shall apply.

"(C) In the event that the Secretary denies or fails to act on an export license application described in subparagraph (B), the Secretary shall, not later than 30 days after such denial or not later than 30 days after expiration of the 45-day period provided in section 10(q), submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report, specifying the reasons for the denial of or failure to take action on such application, in classified form, as appropriate.".

SEC. 109. EXPORTS SUBJECT TO NATIONAL DISCRETION AND FAVORABLE CONSIDERATION.

(a) LICENSING.—Section 5(e) (50 U.S.C. App. 2404(e)) is amended by adding at the end the following:

"(7) In implementing the national discretion and favorable consideration procedures agreed to by the group known as the Coordinating Committee, the Secretary shall consider the actions of other participating governments in the Coordinating Committee in approving or denying export licenses that are subject to such procedures and shall seek to ensure that United States exports are not placed at a competitive disadvantage.".

(b) IN GENERAL.—Section 10 (50 U.S.C. App. 2409) is amended by adding at the end the following:

"(p) EXPORTS SUBJECT TO NATIONAL DISCRETION.—In each instance in which an export license application is submitted to the Secretary for the export of goods or technology subject to the national discretion procedures of the Coordinating Committee, the Secretary shall formally issue or deny a license not later than 15 days after a properly completed application has been submitted under this section.

"(q) EXPORTS SUBJECT TO FAVORABLE CONSIDERATION.—In each instance in which an export license application is submitted to the Secretary for the export of goods or technology subject to the favorable consideration procedures of the Coordinating Committee or subject to special national discretion procedures requiring 30 days advance notification to the Coordinating Committee, the Secretary shall formally deny the license or it shall be forwarded for review to the Coordinating Committee not later than 15 days after a properly completed application has been submitted under this section, unless the Secretary notifies the applicant that additional time will be required to conduct a prelicense investigation. In any case the Secretary shall deny the license or forward the application to the Coordinating Committee not later than 45 days after a properly completed application has been submitted.".

(c) CONFORMING AMENDMENT.—Section 10(e)(2)(A) (50 U.S.C. App. 2409(e)(2)(A)) is amended by striking "Except" and inserting the following: "For general exception cases controlled under section 5 of this Act and except".

SEC. 110. STATEMENT OF POLICY FOR GENERAL EXCEPTION CASES.

Section 3 (50 U.S.C. App. 2402) is amended by striking paragraph (15) and inserting the following:

"(15) It is the policy of the United States—

"(A) in considering the submission of cases to the group known as the Coordinating Committee on behalf of United States exporters, including general exception cases, to ensure consistency in the treatment of exporters from the United States and from other countries participating in the Coordinating Committee, and to support democracy, free enterprise, and economic development in Eastern Europe and the independent states of the former Soviet Union; and

"(B)(i) to provide specific guidelines to United States exporters, through the publication of regulations, public notices, and advisory opinions, with respect to goods, sectors, and end users eligible for general exceptions referred to in subparagraph (A); and

"(ii) to fully and promptly notify United States exporters of all agreements and decisions adopted by the Coordinating Committee with respect to such exceptions.".

SEC. 111. CONTROL LIST REVIEW.

(a) In General.—Section 5(c) (50 U.S.C. App. 2404(c)) is amended—

(1) in paragraph (1), by inserting before the period at the end of the second sentence the following: "and shall reflect multilateral control agreements reached by the group known as the Coordinating Committee"; and

(2) by striking paragraph (3) and inserting the following:

"(3) The Secretary shall review all goods and technology on the control list at least once each year in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section. This review shall consider proposals for removing controls on exports and other changes in policy arising from applying the indexing procedures set forth in subsection (g), and shall serve as a basis for United States proposals for revision of the International Industrial List maintained by the Coordinating Committee. To this end, the United States shall seek to ensure that the Coordinating Committee reviews each item on its list at least once every 2 years. In any case in which the Coordinating Committee has failed to review an entry on the International Industrial List within 2 years, the Secretary of State shall, based upon United States review of its comparable entry, propose a review by the Coordinating Committee of that entry. Before beginning each periodic review, which may not exceed 180 days in length, the Secretary shall publish notice of that review in the Federal Register. The Secretary shall provide a 30-day period during each review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected parties. The Secretary shall further assess, as part of each review, the availability from sources outside the United States, of goods and technology comparable to those subject to export controls imposed under this section. After consultation with appropriate Government agencies, the Secretary shall make a determination of any revisions in the list not later than 30 days after the end of the review period. The concurrence or approval of any other department or agency is not required before any such revision is made. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. In the case of national security controls implemented in cooperation with the Coordinating Committee, such revisions in the list shall be made consistent with the scope of controls agreed to in the Coordinating Committee and shall be made effective no later than the effective date agreed to by the Coordinating Committee. The provisions of this paragraph apply to revisions in the list which consist of removing items from the list or making changes in categories of, or other specifications in, items on the list.".

(b) Sunset of Control List.—Section 5(c) (50 U.S.C. App. 2404(c)) is amended by adding at the end the following new paragraph:

"(9)(A) Notwithstanding any other provision of this section—

"(i) as of September 30, 1993, and as of the end of each 2-year period occurring thereafter, all controls on the export of goods and technology to any country other than a controlled country shall terminate, after consultation with the Coordinating Committee, as appropriate, and

"(ii) there shall be included in a United States proposal to the Coordinating Committee the termination of all controls on the export of goods and technology to any controlled country, in accordance with subparagraph (D),

unless a determination is made with respect to such controls under subparagraph (B).

"(B) Clause (i) or (ii) of subparagraph (A) shall not apply to a good or technology only if the Secretary determines that the good or technology shall be subject to export controls under this section on the basis of the policy set forth in section 3(2)(A).

"(C) The form of a determination by the Secretary under subparagraph (B) with respect to goods or technology may be either—

"(i) a separate determination with respect to a particular good or technology, or

"(ii) a determination with respect to the technological parameters descriptive of categories of goods or technology.

The Secretary shall publish each such determination in the Federal Register.

"(D) Not later than November 1, 1993, and not later than the end of each 2-year period occurring thereafter, the Secretary of State shall submit a proposal to the Coordinating Committee to terminate controls applicable to the export of all goods or technology to which subparagraph (A)(ii) applies.

"(E) Not later than 30 days after the date on which the Coordinating Committee makes a decision concerning a proposal made by the United States under subparagraph (D), the Secretary shall publish in the Federal Register those changes in export controls resulting from such decision.

"(F) Before the effective date established by the Coordinating Committee for implementing a decision described in subparagraph (E), the Secretary shall publish those changes in the regulations issued under this Act that are necessary to implement such decision.

"(G) Not later than the effective date established by the Coordinating Committee for implementing a decision described in subparagraph (E), the Secretary shall cease to require authority or permission to export any goods or technology for which the Coordinating Committee has ceased to require authority or permission to export under such decision, and shall implement any other changes in export controls that are necessary to carry out such decision.".

SEC. 112. UNILATERAL CONTROLS.

Section 5(c)(6) (50 U.S.C. App. 2404(e)(6)) is amended by adding at the end the following:

"(C) For purposes of this paragraph, an export control shall be considered to be unilaterally maintained by the United States if it is a restriction, condition, or interpretation imposed by the Secretary upon any goods or technology, or upon any license application for the export of any goods or technology, that is not imposed or implemented in similar circumstances by other participating governments of the Coordinating Committee, or that is not otherwise specifically permitted by this Act.

"(D) The Secretary shall seek to ensure that no new unilateral controls are created.".

SEC. 113. TRADE SHOWS.

Section 5(e)(6) (50 U.S.C. App. 2404(e)) is amended to read as follows:

"(6) Consistent with multilateral control arrangements, an application for a license for the export to a controlled country of any good on which export controls are in effect under this section, without regard to the technical specifications of the good, for the purpose of demonstration or exhibition at a trade show, shall carry a presumption of approval if—

"(A) the United States exporter retains title to the good, and complies with any safeguard requirement imposed by the Secretary, during the entire period in which the good is in the controlled country; and

"(B) the exporter removes the good from the controlled country within a reasonable period of time after the conclusion of the demonstration or exhibition, as defined in regulations issued by the Secretary.".

SEC. 114. EXPORTS OF RELATED TECHNICAL DATA.

Section 5(e) (50 U.S.C. App. 2404(e)) is amended by adding at the end the following new paragraph:

"(8) Any general or validated license authorizing the export of any goods or technology shall also authorize the export of operation technical data related to such goods or technology, whether or not such data is specifically referenced in the license or license application, if the technical level of the data does not exceed the minimum level necessary for the installation, operation, maintenance (checking), and repair of those goods or technology.".

SEC. 115. INDEXING PROCEDURES.

Section 5(g) (50 U.S.C. App. 2404(g)) is amended to read as follows:

"(g) Indexing.—(1) In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, the Secretary shall, not later than 6 months after the date of the enactment of the Export Administration Act Amendments of 1992, establish, in response to recommendations of technical advisory committees under paragraph (2), indexing procedures which provide for increases in the performance levels of goods or technology described in paragraph (2)(A) that are subject to any such licensing requirements. Such indexing procedures shall emphasize the technical specifications of goods or technology below which no authority or permission to export is required as compared to the most technologically advanced commercially available version of the same or equivalent goods or technology. With respect to goods or technology referred to in the preceding sentence which no longer meet the performance levels increased pursuant to such procedures—

"(A) the removal of controls on exports of such goods or technology to controlled countries shall be incorporated into United States proposals to the Coordinating Committee, and

"(B) controls under this section on exports of such goods or technology to countries other than controlled countries shall be removed, after consultations with the Coordinating Committee, as appropriate,

unless—

"(i) the Secretary, after consultation with the Secretary of Defense and the heads of other appropriate executive departments (as defined in section 101 of title 5, United States Code), issues a determination that removal of controls on the goods or technology will permit exports that will be detrimental to the national security of the United States, and

"(ii) the Secretary reports that determination in writing, together with a description of the specific anticipated impact on the national security of the United States, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

The Secretary shall also consider, where appropriate, eliminating site visitation requirements for goods and technology from which export controls have been removed under this subsection.

"(2)(A) In carrying out this subsection, the Secretary shall direct the technical advisory committees appointed under subsection (h) to recommend indexing procedures for goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) which are eligible for favorable consideration under the rules of the Coordinating Committee,

"(iii) below which exports require only notification of the governments participating in the Coordinating Committee, and

"(iv) below which no authority or permission to export may be required under this section.

The technical advisory committees shall submit their recommendations for indexing procedures, as they are made, to the Secretary, who shall determine, not later than 30 days after each submission, or not later than 45 days after a submission in the event of an objection by the head of any other executive department, whether to accept the procedures or to refer the procedures back to the appropriate technical advisory committee for further consideration.

"(B) The proposals referred to in paragraph (1)(A) shall be made at the next meeting of the Coordinating Committee, at which list review is conducted, that is held after the procedures under this subsection are applied to the goods or technology involved.".

SEC. 116. NEGOTIATIONS WITH OTHER COUNTRIES; DEPARTMENT OF COMMERCE REPRESENTATIVE.

Section 5(k) (50 U.S.C. App. 2404(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) in the last sentence by striking "(b)(2)" and inserting "(a)(4)"; and

(3) by adding at the end the following:

"(2) The Secretary shall undertake a review of, and report to the Congress not later than 6 months after the date of the enactment of this paragraph on, the goods and technology available from newly industrialized countries to determine if such goods and technology are of such sophistication that they warrant multilateral export controls. If the Secretary determines that such multilateral controls are warranted, the Secretary of State shall propose to the Coordinating Committee to initiate negotiations with such newly industrialized countries to reach agreements with them under paragraph (1) or to obtain their participation in the Coordinating Committee.

"(3) Whenever—

"(A) the Secretary is authorized to make a decision or determination under this Act that affects exports from the United States to controlled countries,

"(B) the Secretary makes such a determination, and

"(C) such determination is final except that the approval of the Coordinating Committee is required,

the Secretary of State shall, not later than 7 days after receiving that determination from the Secretary, submit to the Coordinating Committee a United States proposal that would have the effect of applying that determination to exports to controlled countries.

"(4) The Secretary, or an officer or employee of the Department of Commerce designated by the Secretary, shall be a member of the permanent United States delegation to the Coordinating Committee.".

SEC. 117. REMOVAL OF SECTION 5(k) DESIGNATION.

Section 5(k)(1) (as redesignated by section 116 of this Act) is amended by adding at the end the following: "If any country accorded the treatment authorized by the preceding sentence fails to maintain export restrictions comparable in practice to those maintained by the Coordinating Committee, as determined by the Secretary, in consultation with the Secretary of State and the Secretary of Defense, the Secretary shall restrict or terminate such treatment of that country.".

SEC. 118. NOTIFICATION OF COCOM ACTIONS.

Section 5 (50 U.S.C. App. 2404) is amended by adding at the end the following new subsection:

"(r) PUBLICATION OF COCOM ACTIONS.—(1) Not later than 120 days after the date of the enactment of this subsection, the President shall publish, to the extent not published under section 17(g), the text of the 3 International Lists of the group known as the Coordinating Committee, together with all notes and understandings concerning such lists that are agreed to by the Coordinating Committee. The Secretary shall update the publication under the preceding sentence at least once in each 1-year period occurring thereafter.

"(2) The Secretary shall—

"(A) publish the full text of any agreements of the Coordinating Committee affecting the International Lists, together with all notes, understandings, and other aspects of such agreements, and all revisions to such texts,

"(B) make available to the public the proposals of the United States to revise the International Lists that are submitted to the Coordinating Committee before negotiations on these proposals begin (except for classified information contained in the justification for such proposals), and publish notice of such availability,

"(C) subject to the limitations set forth in section 12(c), make available to the public decisions on requests for general exceptions to the Industrial List of the Coordinating Committee, and publish notice of such availability, and

"(D) publish other decisions made by the Coordinating Committee, to the maximum extent possible.

"(3) The publications required by subparagraphs (A), (B), (C), and (D) of paragraph (2), and the availability of proposals and decisions required by subparagraphs (B) and (C) of paragraph (2), shall be made not later than 30 days after the agreements are reached, negotiations on the proposals begin, or the decisions are made, as the case may be. The publication or availability to the public of a particular matter need not be made under subparagraph (A), (B), (C), or (D) of paragraph (2) to the extent that the Secretary makes a written finding to the Congress that to publish that matter would be contrary to national or international security, would abridge the confidentiality of the decision-making processes of the Coordinating Committee, or would otherwise be inconsistent with the obligations of the United States to the Coordinating Committee.".

SEC. 119. TERRORIST COUNTRIES.

Section 6(j) (50 U.S.C. App. 2405(j)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) No export of goods or technology described in subparagraph (B) may be made to any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism.

"(B) The goods or technology referred to in subparagraph (A) are—

"(i) any goods or technology the export of which is controlled under this Act pursuant to the Missile Technology Control Regime, or controlled under this Act pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and

"(ii) any goods or technology that, as determined and maintained on a list established by the Secretary for purposes of this Act, would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability,

other than goods or technology that the President determines will be used only for humanitarian purposes. A validated license shall be required for the export under this paragraph of any such goods or technology that will be used only for humanitarian purposes.

"(C)(i) No export of goods or technology the export of which is controlled under section 5 may be made to any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism, unless the Secretary of State determines that such export would not make a significant contribution to the military potential of such country, including its military logistics capability, or enhance the ability of such country to support acts of international terrorism.

"(ii) Every 30 days after the date of the enactment of this subparagraph, the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, of all determinations made under clause (i), during the preceding 30-day period, regarding contributions to the military potential of a country or enhancement of the ability of a country to support acts of international terrorism.

"(D) The prohibitions contained in subparagraphs (A) and (C) do not apply with respect to any transaction subject to the reporting requirements under title V of the National Security Act of 1947, relating to congressional oversight of intelligence activities."; and

(2) by adding at the end the following:

"(5) The President may waive the prohibitions contained in paragraph (1)(A) with respect to a specific transaction if—

"(A) the President determines that the transaction is essential to the national security interests of the United States; and

"(B) not less than 15 days prior to the proposed transaction, the President—

"(i) consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the proposed transaction; and

"(ii) submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

"(I) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

"(II) a description of the items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction;

"(III) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

"(IV) the date on which the proposed transaction is expected to occur; and

"(V) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in clause (ii) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

"(6) The Secretary of State shall propose to the group known as the Coordinating Committee, to the Australia Group, to the countries participating in the Missile Technology Control Regime, and to the Nuclear Suppliers Group, that each such group adopt those controls that are imposed by this subsection on exports of goods or technology subject to control by such group. The Secretary of State shall continue to make such proposals until such export controls are so adopted.

"(7) The provisions of this subsection do not affect any other provision of law to the extent such other provision imposes greater restrictions on exports to which this subsection applies than are imposed under this subsection.".

SEC. 120. CRIMINAL AND CIVIL PENALTIES.

(a) CRIMINAL PENALTIES.—Section 11(b) (50 U.S.C. App. 2410(b)) is amended—

(1) in paragraphs (1) and (2)—

(A) by striking "five times" each place it appears and inserting "10 times";

(B) by striking "$1,000,000" each place it appears and inserting "$2,000,000"; and

(C) by striking "$250,000" each place it appears and inserting "$500,000"; and

(2) in paragraph (2)(B) by striking "5 years" and inserting "10 years".

(b) CIVIL PENALTIES.—Section 11(c)(1) (50 U.S.C. App. 2410(c)(1)) is amended—

(1) by inserting ", foreign policy controls under section 6 of this Act," after "section 5 of this Act"; and

(2) by striking "$100,000" and inserting "$250,000, and the civil penalty for each violation of any regulation under section 8(a) may not exceed $50,000".

(c) REFERRAL OF ANTIBOYCOTT VIOLATIONS.—Section 11 (50 U.S.C. App. 2410) is amended by adding at the end the following:

"(j) REFERRAL TO ATTORNEY GENERAL OF POSSIBLE ANTIBOYCOTT VIOLATION.—The Secretary shall promptly inform the Attorney General of any information within the possession of the Department of Commerce relating to a possible violation under subsection (a) or (b) of the regulations issued under section 8 of this Act.".

SEC. 121. POLICY TOWARD COUNTRIES RECEIVING LICENSING BENEFITS.

Section 11A (50 U.S.C. App. 2410a) is amended—

(1) in subsection (a)(1), by inserting after "Committee," the following: "pursuant to an agreement to restrict exports negotiated in accordance with section 5(k)(1), or pursuant to an export control system maintained by a controlled country that is receiving expanded licensing benefits from the Coordinating Committee because of its recognition as a lesser strategic threat as described in section 5(b)(2),"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "and" after the comma at the end;

(B) in paragraph (2), by striking the period and inserting ", and"; and

(C) by adding after paragraph (2) the following new paragraph:

"(3) the revocation by the Secretary of any validated export license previously issued for export by or to that foreign person, notwithstanding any other provision of law, and entry by the Secretary of an order denying all export privileges to that foreign person.

The Secretary shall publish in the Federal Register any order under paragraph (3).".

SEC. 122. ENFORCEMENT AUTHORITY.

(a) FORFEITURE OF SEIZED ITEMS.—Section 12(a)(3) (50 U.S.C. App. 2411(a)(3)) is amended by adding at the end the following:

"(C) All goods or tangible items lawfully seized under this paragraph by authorized officers or employees of the Department of Commerce shall be forfeited to the United States. Those provisions of law relating to—

"(i) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws,

"(ii) the disposition of such property or the proceeds from the sale thereof,

"(iii) the remission or mitigation of such forfeitures, and

"(iv) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subparagraph, insofar as applicable and not inconsistent with this Act; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subparagraph by the Secretary or such officers and employees of the Department of Commerce as may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.".

(b) INVESTIGATIVE OPERATIONS.—Section 12(a) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8)(A) With respect to any undercover investigative operation conducted by the Office of Export Enforcement of the Department of Commerce (hereinafter in this paragraph referred to as 'OEE') necessary for the detection and prosecution of violations of this Act—

"(i) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading 'MISCELLANEOUS' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and subsections (a) and (c) of section 304, and section 305, of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c) and 255);

"(ii) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an OEE undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31, United States Code;

"(iii) funds made available for export enforcement under this Act and the proceeds from OEE undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

"(iv) the proceeds from OEE undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code;

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that any action authorized by clause (i), (ii), (iii), or (iv) is necessary for the conduct of the undercover operation.

"(B) If a corporation or business entity established or acquired as part of an OEE undercover operation with a net value of more than $50,000 is to be liquidated, sold, or otherwise disposed of, OEE shall report the circumstances to the Secretary and the Comptroller General, as much in advance of such disposition as the Director of OEE or his or her designee determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(C) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under this paragraph are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(D)(i) The Director of OEE shall conduct a detailed financial audit of each undercover investigative operation which is closed and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an OEE undercover operation is closed, the Director of OEE shall submit to the Congress a report on the results of the audit.

"(ii) The Director of OEE shall also submit as part of the annual report submitted by the Secretary under section 14 a report to the Congress specifying—

"(I) the number of OEE undercover investigative operations pending as of the end of the period for which such report is submitted;

"(II) the number of OEE undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

"(III) the number of OEE undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

"(E) For purposes of subparagraph (D)—

"(i) the term 'closed' refers to the earliest point in time at which all criminal proceedings (other than appeals) are concluded, or covert activities are concluded, whichever occurs later;

"(ii) the terms 'undercover investigative operation' and 'undercover operation' mean any undercover investigative operation conducted by OEE—

"(I) in which the gross receipts (excluding interest earned) exceed $50,000, or expenditures (other than expenditures for salaries of employees) exceed $150,000, and

"(II) which is exempt from section 3302 or 9102 of title 31, United States Code,

except that subclauses (I) and (II) shall not apply with respect to the report to the Congress required by clause (ii) of subparagraph (D); and

"(iii) the term 'employees' means employees, as defined in section 2105 of title 5, United States Code, of the Department of Commerce.".

SEC. 123. JUDICIAL REVIEW.

Section 13(a) (50 U.S.C. App. 2412(a)) is amended to read as follows:

"SEC. 13. (a) APPLICABILITY.—

"(1) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as expressly provided in this Act, sections 551, 553 through 559, and 701 through 706 of title 5, United States Code, do not apply to the functions exercised under this Act.

"(2) JUDICIAL REVIEW.—A final agency action under this Act may be reviewed by appeal to the United States Court of Appeals for the District of Columbia Circuit, to the extent provided in this paragraph. The court's review in any such appeal shall be limited to determining whether—

"(A) a regulation—

"(i) fails to take an action compelled by this Act,

"(ii) takes an action prohibited by this Act, or

"(iii) otherwise violates the express terms of this Act;

"(B) an agency action violates the express terms of this Act;

"(C) an agency action violates the express terms of an agency regulation establishing time

requirements or other procedural requirements of a non-discretionary nature;

"(D) the issuance of regulations compelled by this Act complies with time restrictions imposed by this Act;

"(E) license decisions are made and appeals thereof are concluded in compliance with time restrictions imposed by this Act;

"(F) classifications and advisory opinions are issued in compliance with time restrictions imposed by this Act;

"(G) foreign availability determinations are in compliance with time restrictions imposed by this Act; or

"(H) the United States has complied with the requirements of section 5(f) after a foreign availability determination has been rendered.".

SEC. 124. POLICY TOWARD THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS AND POLICY.—

(1) FINDINGS.—The Congress finds that—

(A) the United States and the group known as the Coordinating Committee have granted special licensing preferences in favor of exports to the People's Republic of China compared to other controlled countries under the Export Administration Act of 1979, based upon a consensus that the People's Republic of China posed a reduced national security threat;

(B) the United States policy of differentiating the People's Republic of China from other controlled countries was also intended to encourage emerging democratization and economic reform in that country; and

(C) the assumptions underlying past policy must be reevaluated in light of massive abuses of human rights by the Government of the People's Republic of China and evidence that the Chinese Government has assisted in the proliferation of missiles and nuclear technology to politically volatile areas of the world.

(2) POLICY.—It is therefore the policy of the United States that export licensing preferences for the People's Republic of China should be eliminated, applications for distribution licenses and comprehensive operations licenses under section 4(a)(2) of the Export Administration Act of 1979 should be denied, and access to dual-use goods and technology representing proliferation concerns should be restricted.

(b) ACTION TO LIBERALIZE TREATMENT.—Section 5(b) (50 U.S.C. App. 2404(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following:

"(5) If the President determines that licensing treatment for the People's Republic of China should be liberalized compared to other controlled countries, no action to so liberalize such treatment should be taken until 30 days after the President reports such determination to the Congress stating the justification for the change in policy.".

(c) PROLIFERATION CONCERNS REGARDING THE PEOPLE'S REPUBLIC OF CHINA.—Section 6 (50 U.S.C. App. 2405), is amended by adding at the end the following:

"(t) PROLIFERATION CONCERNS REGARDING THE PEOPLE'S REPUBLIC OF CHINA.—(1) Requests for authority or permission to export goods or technology to the People's Republic of China which are controlled under this section, pursuant to multilateral arrangements to control proliferation of chemical weapons and missile technology, should be denied in the absence of adequate assurances regarding appropriate end use and nontransfer of goods or technology to a country or project of concern.

"(2) In order to discourage proliferation, by the People's Republic of China, that is described in paragraph (1), the Secretary of State should seek the cooperation of other governments involved in multilateral control arrangements to restrict exports of goods and technology described in paragraph (1), in harmonizing treatment of exports to the People's Republic of China with control efforts of the United States.

"(3) The policy set forth in paragraph (1) shall remain in effect unless the President determines and reports to the Congress that the People's Republic of China has ceased to act in a manner inconsistent with multilateral efforts to control proliferation of chemical weapons and missile technology.".

SEC. 125. EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

(a) PROHIBITION.—Notwithstanding any other provision of law, no satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China may be licensed for export from the United States.

(b) APPLICABILITY.—The prohibition contained in subsection (a) does not apply to projects referenced in House Document Number 102–385 that were certified by the President before the date of the enactment of this section. Such prohibition may be waived in any other case by the President upon certification by the United States Trade Representative that the People's Republic of China is, with regard to the respective satellite, components, or technology related thereto for which the export license request is pending, in full compliance with the Memorandum of Agreement Between the Government of the United States of America and the Government of the People's Republic of China Regarding International Trade in Commercial Launch Services.

SEC. 126. EXPORTS TO THE FORMER SOVIET UNION.

It is the sense of the Congress that no exports to any independent state of the former Soviet Union that would otherwise be permitted by virtue of the amendments made by this title should be made—

(1) if such state takes action to restrict the emigration of Jews from such state; or

(2) if such state does not agree to expeditiously withdraw its troops from Latvia, Lithuania, and Estonia.

SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

Section 18(b) (50 U.S.C. App. 2417(b)) is amended to read as follows:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out this Act—

"(1) $42,813,000 for the fiscal year 1993;

"(2) such sums as may be necessary for the fiscal year 1994; and

"(3) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 128. EXTENSION OF THE ACT.

Section 20 (50 U.S.C. App. 2419) is amended by striking "September 30, 1990" and inserting "September 30, 1994".

SEC. 129. TECHNICAL AMENDMENTS.

(a) SECTION 5.—Section 5(f) (50 U.S.C. App. 2404(f)) is amended—

(1) in the second sentence of paragraph (2)(A) by striking "(k)" and inserting "(k)(1)"; and

(2) in paragraph (10) by striking "subsections (f) and" and inserting "subsection".

(b) SECTION 6.—Section 6 (50 U.S.C. App. 2405) is amended as follows:

(1) Subsection (h)(3) is amended in the last sentence by striking "(l)" and inserting "(o)".

(2) Subsection (k) is amended in paragraphs (1), (2), and (3) by striking "section 5(b)(2)(C)" and inserting "subclauses (I) through (V) of section 5(a)(4)(D)(iii)".

(3) Subsection (l)(3)(B) is amended by striking "the government of which" and all that follows through "terrorism" and inserting "whose government is determined for purposes of subsection (j) to be a government that has repeatedly provided support for acts of international terrorism".

(4) Subsection (n)(1)(A) is amended by striking "(l)" and inserting "(o)".

(5) Subsection (r) is amended—

(A) in the first sentence of paragraph (1) by striking "(m)" and inserting "(p)"; and

(B) in paragraph (2) by striking "6(o)(1)" and inserting "6(r)(1)".

(c) SECTION 11A.—Section 11A(k)(3) (50 U.S.C. App. 2410A(k)(3)) is amended—

(1) by striking "(3)" and inserting "(2)"; and

(2) by striking "paragraph (2)" and inserting "paragraph (1)".

(d) SECTION 16.—Section 16 (50 U.S.C. App. 2415) is amended by striking "As used" and inserting "Except as otherwise provided, as used".

SEC. 130. REPORTING REQUIREMENTS.

(a) FOREIGN AVAILABILITY.—(1) Section 5(f)(6) (50 U.S.C. App. 2404(f)(6)) is amended by striking "The Secretary shall make available" and all that follows through the end of the paragraph.

(2) Section 14(a)(7) (50 U.S.C. App. 2413(a)(7)) is amended—

(A) by striking "the criteria used to make" and inserting "an explanation of"; and

(B) by striking "and any evidence" and all that follows through "availability" and inserting "and information on the operation of the Office of Foreign Availability, including staffing and training".

(b) OVERDUE LICENSES.—Section 10(n) (50 U.S.C. App. 2409(n)) is amended—

(1) in paragraph (1)—

(A) by striking "Not later than 180 days" and all that follows through "Senate" and inserting "The Secretary shall include in each annual report under section 14"; and

(B) in subparagraph (A) by striking "3-month period" and inserting "fiscal year"; and

(2) in paragraph (2)(G) by striking "3-month" and inserting "annual".

(c) SHORT SUPPLY CONTROLS.—Section 14(a)(13) (50 U.S.C. App. 2413(a)(13)) is amended to read as follows:

"(13) a summary of the information contained in the reports required by section 7(b)(2);".

SEC. 131. EXPORTS OF UNPROCESSED TIMBER FROM STATE LANDS.

(a) PROHIBITION ON EXPORTS.—Section 491(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c(b)) is amended—

(1) in subparagraph (B) by adding at the end the following: "The order under this subparagraph shall terminate when the order under subparagraph (C) is issued."; and

(2) by striking subparagraphs (C) and (D) and inserting the following:

"(C) The Secretary of Commerce shall issue an order not later than 21 days after the date of the enactment of the Omnibus Export Amendments Act of 1992. Such order shall prohibit, for all periods on or after the date on which the order is issued, the export of unprocessed timber originating from public lands in such State.".

(b) BASIS FOR INCREASED EXPORT RESTRICTIONS.—Subsection (c) of section 491 of the Forest Resources Conservation and Shortage Relief Act of 1990 is repealed.

(c) STATE ENFORCEMENT.—Section 491(d) of the Forest Resources Conservation and Shortage Relief Act of 1990 Act is amended by adding at the end the following:

"(6) STATE ENFORCEMENT.—Each State shall have the authority to promulgate regulations or enact other requirements to establish monitoring and reporting requirements to carry out orders of the Secretary of Commerce issued under this section, and to provide for penalties and administrative remedies, for violations of orders of the

Secretary of Commerce issued under this section or regulations or other requirements adopted pursuant to this section, that are no more extensive than those provided in section 492 of this Act.".

(d) SOURCING AREA APPROVAL AND REVIEW.—Section 490(c) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620b(c)) is amended—

(1) in paragraph (1) by striking the last sentence; and

(2) by adding at the end the following:

"(6) WAIVER OF 24-MONTH REQUIREMENT.—The Secretary concerned may waive the 24-month requirement set forth in paragraph (1)(A) for any person who—

"(A) within 3 months after the date of the enactment of this Act, certifies that, within 6 months after such date, such person will, for a period of not less than 3 years, cease exporting unprocessed timber originating from private lands within the sourcing area; or

"(B) upon review of a sourcing area for an expanded sourcing area, ceases exporting within the expanded sourcing area.".

TITLE II—EXPORT PROMOTION

SEC. 201. TRADE PROMOTION COORDINATING COMMITTEE.

Subtitle C of the Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2312. TRADE PROMOTION COORDINATING COMMITTEE.

"(a) ESTABLISHMENT AND PURPOSE.—The President shall establish the Trade Promotion Coordinating Committee (hereafter in this section referred to as the 'TPCC'). The purpose of the TPCC shall be—

"(1) to provide a unifying framework to coordinate the export promotion and export financing activities of the United States Government; and

"(2) to develop a governmentwide strategic plan for carrying out Federal export promotion and export financing programs.

"(b) DUTIES.—The TPCC shall—

"(1) coordinate the development of the trade promotion policies and programs of the United States Government;

"(2) provide a central source of information for the business community on Federal export promotion and export financing programs;

"(3) coordinate official trade promotion efforts to ensure better delivery of services to United States businesses, including—

"(A) information and counseling on United States export promotion and export financing programs and opportunities in foreign markets;

"(B) representation of United States business interests abroad; and

"(C) assistance with foreign business contacts and projects;

"(4) prevent unnecessary duplication in Federal export promotion and export financing activities;

"(5) assess the appropriate levels and allocation of resources among agencies in support of export promotion and export financing and provide recommendations to the President based on its assessment; and

"(6) carry out such other duties as are deemed to be appropriate, consistent with the purpose of the TPCC.

"(c) STRATEGIC PLAN.—To carry out subsection (b), the TPCC shall develop and implement a governmentwide strategic plan for Federal trade promotion efforts. Such plan shall—

"(1) establish a set of priorities for Federal activities in support of United States exports and explain the rationale for the priorities;

"(2) review current Federal programs designed to promote the sale of United States exports in light of the priorities established under paragraph (1) and develop a plan to bring such activities into line with the priorities and to improve coordination of such activities;

"(3) identify areas of overlap and duplication among Federal export promotion activities and propose means of eliminating them;

"(4) propose to the President an annual unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (2) and eliminates funding for the areas of overlap and duplication identified under paragraph (3); and

"(5) review efforts by the States (as defined in section 2301(i)) to promote United States exports and propose means of developing cooperation between State and Federal efforts, including colocation, cost-sharing between Federal and State export promotion programs, and sharing of market research data.

"(d) MEMBERSHIP.—

"(1) IN GENERAL.—Members of the TPCC shall include representatives from—

"(A) the Department of Commerce;

"(B) the Department of State;

"(C) the Department of the Treasury;

"(D) the Department of Agriculture;

"(E) the Department of Energy;

"(F) the Department of Transportation;

"(G) the Office of the United States Trade Representative;

"(H) the Small Business Administration;

"(I) the Agency for International Development;

"(J) the Trade and Development Program;

"(K) the Overseas Private Investment Corporation;

"(L) the Export-Import Bank of the United States; and

"(M) at the discretion of the President, such other departments or agencies as may be necessary.

"(2) CHAIRPERSON.—The Secretary of Commerce shall serve as the chairperson of the TPCC.

"(e) MEMBER QUALIFICATIONS.—Members of the TPCC shall be appointed by the heads of their respective departments or agencies. Such members, as well as alternates designated by any members unable to attend a meeting of the TPCC, shall be individuals who exercise significant decisionmaking authority in their respective departments or agencies.

"(f) REPORT TO THE CONGRESS.—The chairperson of the TPCC shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Foreign Affairs of the House of Representatives, not later than September 30, 1993, and annually thereafter, a report describing the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan, and any revisions thereto.".

SEC. 202. ONE-STOP SHOPS.

Section 2301(b) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(b)) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(8) utilizing district and foreign offices as one-stop shops for United States exporters by providing exporters with information on all export promotion and export finance activities of the Federal Government, assisting exporters in identifying which Federal programs may be of greatest assistance, and assisting exporters in making contact with the Federal programs identified; and".

SEC. 203. COMMERCIAL SERVICE COOPERATION IN FEDERAL FINANCING AND INSURANCE PROGRAMS.

(a) IN GENERAL.—Section 2301(b) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(b)) is amended by adding at the end the following new paragraph:

"(9) providing United States exporters and export finance institutions with information on all financing and insurance programs of the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration, including providing assistance in completing applications for such programs and working with exporters and export finance institutions to address any deficiencies in such applications that have been submitted.".

(b) TRAINING AND INFORMATION ASSISTANCE.—Section 2301 of the Export Enhancement Act of 1988 (15 U.S.C. 4721) is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) COOPERATION IN FEDERAL FINANCING AND INSURANCE PROGRAMS.—To assist the Commercial Service in carrying out subsection (b)(9), and consistent with the provisions of section 13 of the Export-Import Bank Act of 1945, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration shall each—

"(1) provide to the Commercial Service complete and current information on all of its programs and financing practices; and

"(2) undertake a training program regarding such programs and practices for Commercial Service Officers who are designated by the Assistant Secretary of Commerce and Director General of the Commercial Service.".

SEC. 204. ENVIRONMENTAL TRADE PROMOTION.

(a) TPCC ACTIVITIES.—Subtitle C of the Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2313. ENVIRONMENTAL TRADE PROMOTION.

"(a) STATEMENT OF POLICY.—It is the policy of the United States to foster the export of United States environmental technologies, goods, and services. In exercising their powers and functions, all appropriate departments and agencies of the United States Government shall encourage and support sales of such technologies, goods, and services.

"(b) ENVIRONMENTAL TRADE WORKING GROUP OF THE TRADE PROMOTION COORDINATION COMMITTEE.—

"(1) ESTABLISHMENT AND PURPOSE.—The President shall establish the Environmental Trade Promotion Working Group (hereafter in this section referred to as the 'Working Group') as a subcommittee of the Trade Promotion Coordination Committee (hereafter in this section referred to as the 'TPCC'), established under section 2312. The purpose of the Working Group shall be—

"(A) to address all issues with respect to the export promotion and export financing of United States environmental technologies, goods, and services; and

"(B) to develop a strategy for expanding United States exports of environmental technologies, goods, and services.

"(2) MEMBERSHIP.—The members of the Working Group shall be—

"(A) representatives of the departments and agencies that are represented on the TPCC, who are designated by the head of their respective departments or agencies to advise the head of such department or agency on ways of promoting the export of United States environmental technologies, goods, and services; and

"(B) a representative of the Environmental Protection Agency.

"(3) CHAIRPERSON.—The Secretary of Commerce (hereafter in this section referred to as the

'Secretary') shall designate the chairperson of the Working Group from among senior employees of the Department of Commerce. The chairperson shall—

"(A) assess the effectiveness of United States Government programs for the promotion of exports of environmental technologies, goods, and services;

"(B) recommend improvements to such programs, including regulatory changes or additional authority that may be necessary to improve the promotion of exports of environmental technologies, goods, and services;

"(C) ensure that the members of the Working Group coordinate their environmental trade promotion programs, including feasibility studies, technical assistance, training programs, business information services, and export financing; and

"(D) assess, jointly with the Working Group representative of the Environmental Protection Agency, the extent to which the environmental trade promotion programs of the Working Group advance the environmental goals established in 'Agenda 21' by the United Nations Conference on Environment and Development held at Rio de Janeiro, and in other international environmental agreements.

"(4) REPORT TO CONGRESS.—The chairperson of the TPCC shall include a report on the activities of the Working Group as a part of the annual report submitted to the Congress by the TPCC.

"(c) TRADE INFORMATION.—In support of the work of the Working Group, the Secretary shall, as part of the regular market survey and information services activities of the Department of Commerce, make available—

"(1) information on existing and emerging markets and market trends for environmental technologies, goods, and services; and

"(2) a description of the export promotion programs for environmental technologies, goods, and services of the agencies that are represented on the Working Group.

"(d) OVERSEAS SERVICES FOR EXPORTERS.—

"(1) AUTHORIZATION.—The Secretary is authorized to designate a Foreign Commercial Service officer to serve as the Environmental Export Assistance Officer in any country—

"(A) whose companies are important competitors for United States exports of environmental technologies, goods, and services; or

"(B) that offers promising markets for such exports.

"(2) DUTIES.—The officer designated under paragraph (1) shall provide export promotion assistance to United States companies, including—

"(A) assessments of government assistance provided to producers of environmental technologies, goods, and services in such countries, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(B) assistance in identifying potential customers and market opportunities in such countries;

"(C) assistance in obtaining necessary business services in such countries;

"(D) information on environmental standards and regulations in such countries; and

"(E) information on all United States Government programs that could assist the promotion, financing, and sale of exports of United States environmental technologies, goods, and services in such countries.".

(b) REPORT ON INSURANCE FEASIBILITY.—Not later than 1 year after the date of the enactment of this Act, the chairperson of the Trade Promotion Coordinating Committee, after consultation with the appropriate departments and agencies of the United States Government, shall submit a report to the Congress that analyzes—

(1) the extent to which Federal investment insurance and export financing programs sufficiently protect against business failures or default on obligations arising from changes by a foreign government in its environmental laws or regulations; and

(2) the advisability and feasibility of expanding the coverage of such programs, or creating new programs, to address such risks.

SEC. 205. RANK OF COMMERCIAL SERVICE OFFICERS.

Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "16".

SEC. 206. REPORT ON EXPORT POLICY.

The Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2314. REPORT ON EXPORT POLICY.

"(a) IN GENERAL.—Not later than May 31 of each year, the Secretary of Commerce shall submit to the Congress a report on the international economic position of the United States and, not later than June 30 of each year, shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives to testify on issues addressed in that report.

"(b) CONTENTS.—

"(1) IN GENERAL.—Each report required under subsection (a) shall address—

"(A) the state of United States international economic competitiveness, focusing, in particular, on the efforts of the Department of Commerce—

"(i) to encourage research and development of technologies and products deemed critical for industrial leadership;

"(ii) to promote investment in and improved manufacturing processes for such technologies and products; and

"(iii) to increase United States industrial exports of products using the technologies described in clause (i) to those markets where the United States Government has sought to reduce barriers to exports;

"(B) the report on the Trade Promotion Coordinating Committee strategic plan submitted to the Congress in accordance with section 2312(f);

"(C) other specific recommendations of the Department of Commerce to improve the United States balance of trade;

"(D) the effects on the international economic competitiveness of the United States of—

"(i) formal and informal trade barriers; and

"(ii) subsidies by foreign countries to their domestic industries;

"(E) the efforts of the Department of Commerce to reduce trade barriers; and

"(F) the adequacy of export financing programs of the United States Government and recommendations for improving such programs.

"(2) POLICY BASIS FOR REPORTS.—Portions of each report under this section may incorporate or be based upon relevant reports and testimony produced by the Department of Commerce or other agencies, but the policy views shall be those of the Secretary of Commerce.".

SEC. 207. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Commerce—

"(1) to carry out export promotion programs—

"(A) $190,000,000 for fiscal year 1993; and

"(B) $200,000,000 for fiscal year 1994; and

"(2) to carry out section 2303 of the Export Enhancement Act of 1988, $5,500,000 for each of fiscal years 1993 and 1994.".

TITLE III—NUCLEAR PROLIFERATION PREVENTION ACT OF 1992

SEC. 301. SHORT TITLE.

This title may be cited as the "Nuclear Proliferation Prevention Act of 1992".

Subtitle A—Reporting on Nuclear Exports

SEC. 311. REPORTS TO CONGRESS.

Section 601(a) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281(a)) is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) in paragraph (5), by striking the period and inserting a semicolon; and

(3) by adding after paragraph (5) the following:

"(6) a description of the implementation of nuclear and nuclear-related dual-use export controls in the preceding calendar year, including a summary by type of commodity and destination of—

"(A) all transactions for which—

"(i) an export license was issued for any good controlled under section 309(c) of the Nuclear Non-Proliferation Act of 1978;

"(ii) an export license was issued under section 109 b. of the 1954 Act;

"(iii) approvals were issued under the Export Administration Act of 1979, or section 109 b.(3) of the 1954 Act, for the retransfer of any item, technical data, component, or substance; or

"(iv) authorizations were made as required by section 57 b.(2) of the 1954 Act to engage, directly or indirectly, in the production of special nuclear material;

"(B) each instance in which—

"(i) a sanction has been imposed under section 321(a) of the Nuclear Proliferation Prevention Act of 1992, section 670(b)(1) of the Foreign Assistance Act of 1961, or section 601 or 602 of the Federal Deposit Insurance Corporation Improvement Act of 1991;

"(ii) sales or leases have been denied under section 3(f) of the Arms Export Control Act or transactions prohibited by reason of acts relating to proliferation of nuclear explosive devices as described in section 40(d) of that Act;

"(iii) a sanction has not been imposed by reason of section 321(c)(2) of the Nuclear Proliferation Prevention Act of 1992 or the imposition of a sanction has been delayed under section 670(b)(4) of the Foreign Assistance Act of 1961; or

"(iv) a waiver of a sanction has been made under—

"(I) section 321(f) of the Nuclear Proliferation Prevention Act of 1992,

"(II) section 620E(d), or paragraph (5) or (6)(B) of section 670(b), of the Foreign Assistance Act of 1961,

"(III) section 605 of the Federal Deposit Insurance Corporation Improvement Act of 1991;

"(IV) section 40(g) of the Arms Export Control Act with respect to the last sentence of section 40(d) of that Act, or

"(V) section 614 of the Foreign Assistance Act of 1961 with respect to section 620E or 670(b)(1) of that Act or section 3(f), or the last sentence of section 40(d), of the Arms Export Control Act; and

"(C) the progress of those independent states of the former Soviet Union that are non-nuclear-weapon states and of the Baltic states towards achieving the objective of applying full scope safeguards to all their peaceful nuclear activities.

Portions of the information required by paragraph (6) may be submitted in classified form, as necessary. Any such information that may not be published or disclosed under section 12(c)(1) of the Export Administration Act of 1979 shall be submitted as confidential.".

Subtitle B—Sanctions for Nuclear Proliferation

SEC. 321. IMPOSITION OF SANCTIONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) In General.—Except as provided in subsection (b)(2), the President shall impose the applicable sanctions described in subsection (c) if the President determines that a foreign person or a United States person, on or after the effective date of this subtitle, has materially and with requisite knowledge contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States, or

(B) through the export from any other country of any goods or technology that would be, if they were exported from the United States, subject to the jurisdiction of the United States,

to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) Persons Against Which Sanctions Are To Be Imposed.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(3) Other Sanctions Available.—The sanctions which are required to be imposed for activities described in this subsection are in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) Definition.—For purposes of this subsection, the term "requisite knowledge" means situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

(b) Consultation With and Actions by Foreign Government of Jurisdiction.—

(1) Consultations.—If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) Actions by Government of Jurisdiction.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) Report to Congress.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) Sanctions.—

(1) Description of Sanctions.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) Exceptions.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) Advisory Opinions.—Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(e) Termination of Sanctions.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) Waiver.—

(1) Criterion for Waiver.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) Notification of and Report to Congress.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(g) Definitions.—For purposes of this section—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and

(2) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is not a foreign person.

SEC. 322. ELIGIBILITY FOR ASSISTANCE.

(a) Amendments to the Arms Export Control Act.—(1) Section 3 of the Arms Export Control Act (22 U.S.C. 2753) is amended by adding at the end the following new subsection:

"(f) No sales or leases shall be made to any country that the President has determined is in material breach of its commitments to the United States under international treaties or agreements concerning the nonproliferation of nuclear explosive devices (as defined in section 330(3) of the Nuclear Proliferation Prevention Act of 1992) and unsafeguarded special nuclear material (as defined in section 330(6) of that Act).".

(2) Section 40 of such Act (22 U.S.C. 2780) is amended—

(A) in subsection (d), by adding at the end the following new sentence: "For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material."; and

(B) in subsection (l)—

(i) in paragraph (2), by striking "and" after the semicolon;

(ii) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(4) the term 'nuclear explosive device' has the meaning given that term in section 330(3) of the Nuclear Proliferation Prevention Act of 1992; and

"(5) the term 'unsafeguarded special nuclear material' has the meaning given that term in section 330(6) of the Nuclear Proliferation Prevention Act of 1992.".

(b) Amendments to the Foreign Assistance Act of 1961.—

(1) Section 670(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(a)(2)) is amended in the first sentence—

(A) by inserting "in any fiscal year" after "President"; and

(B) by inserting "during that fiscal year" after "certifies in writing".

(2) Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982, made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 670(a)(1) of such Act arising on or after the effective date of this subtitle.

(3) Section 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)) is amended to read as follows:

"(d) The President may waive the prohibitions of section 669 of this Act with respect to any grounds for the prohibition of assistance under that section arising before the effective date of subtitle B of the Nuclear Proliferation Prevention Act of 1992 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.".

SEC. 323. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b) DUTIES OF UNITED STATES EXECUTIVE DIRECTORS.—Section 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)) is amended to read as follows:

"(3) whether the recipient country—

"(A) is seeking to acquire unsafeguarded special nuclear material (as defined in section 330(6) of the Nuclear Proliferation Prevention Act of 1992) or a nuclear explosive device (as defined in section 330(3) of that Act);

"(B) is not a State Party to the Treaty on Non-Proliferation of Nuclear Weapons; or

"(C) has detonated a nuclear explosive device; and".

SEC. 324. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

The Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by adding at the end the following new title:

"TITLE VI—SANCTIONS ON FINANCIAL INSTITUTIONS

"SEC. 601. PRESIDENTIAL DETERMINATION.

"(a) IN GENERAL.—The prohibitions in section 603 shall be imposed on a financial institution if the President determines that such financial institution, on or after the date which is 60 days after the date of enactment of this section, has materially and with requisite knowledge contributed, through provision of financing or other services, to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device, as these standards and terms would be applied under section 321(a) of the Nuclear Proliferation Prevention Act of 1992.

"(b) PRESIDENTIAL ORDER.—Whenever the President makes a determination under subsection (a) with respect to a financial institution, the President shall issue an order specifying a date within 180 days after such determination on which the prohibitions in section 603 shall begin to apply to such institution.

"SEC. 602. ADDITIONAL ENTITIES AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.

"The prohibitions described in section 603 shall also be imposed, pursuant to section 601, on—

"(1) any successor entity to the financial institution with respect to which the President makes a determination under section 601(a);

"(2) any foreign person or United States person that is a parent or subsidiary of that financial institution if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

"(3) any foreign person or United States person that is an affiliate of that financial institution if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of such determination and if that affiliate is controlled in fact by that financial institution.

"SEC. 603. PROHIBITIONS.

"The following prohibitions shall apply to a financial institution with respect to which a determination is made under section 601(a) and to the entities described in section 602:

"(1) BAN ON DEALINGS IN GOVERNMENT FINANCE.—

"(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution or any such entity as a primary dealer in United States Government debt instruments.

"(B) GOVERNMENT FUNDS.—Such financial institution or any such entity shall not serve as agent of the United States Government or serve as repository for United States Government funds.

"(2) RESTRICTIONS ON OPERATIONS.—Such financial institution or any such entity shall not, directly or indirectly—

"(A) commence any line of business in the United States in which it was not engaged as of the date of the determination; or

"(B) conduct business from any location in the United States at which it did not conduct business as of the date of the determination.

"SEC. 604. CONDITIONS AND TERMINATION OF SANCTIONS.

"The same requirements for consultation with the foreign government of jurisdiction, where appropriate, and for termination of sanctions shall apply under this title as are provided in subsections (b) and (e), respectively, of section 321 of the Nuclear Proliferation Prevention Act of 1992.

"SEC. 605. WAIVER.

"The President may waive the imposition of any prohibition imposed on any financial institution or other entity pursuant to section 601 or 602 if the President determines and certifies to the Congress that the imposition of such prohibition would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

"SEC. 606. DEFINITIONS.

"As used in this title—

"(1) the term 'financial institution' includes—

"(A) a depository institution, including a branch or agency of a foreign bank;

"(B) a securities firm, including a broker or dealer;

"(C) an insurance company, including an agency or underwriter;

"(D) any other company that provides financial services; or

"(E) any subsidiary of any entity described in subparagraph (A), (B), (C), or (D);

"(2) the term 'requisite knowledge' means situations in which a person 'knows', as 'knowing' is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2); and

"(3) the terms 'foreign person' and 'United States person' have the meanings given those terms in section 321(g) of the Nuclear Proliferation Prevention Act of 1992.".

SEC. 325. EXPORT-IMPORT BANK.

Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended in the first sentence by inserting after "device" the following: "(as defined in section 330(3) of the Nuclear Proliferation Prevention Act of 1992), or that any country has willfully aided or abetted any non-nuclear-weapon state (as defined in section 330(4) of that Act) to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 330(6) of that Act).".

SEC. 326. ADDITIONAL AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) ADDITIONAL SANCTIONS.—Section 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(b)) is amended—

(1) in subsection (b), by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively; and

(2) by amending subsection (b)(1) to read as follows:

"(b)(1) Except as provided in paragraphs (4), (5), and (6), in the event that the President determines that any country, after the effective date of subtitle B of the Nuclear Proliferation Prevention Act of 1992—

"(A) transfers to a non-nuclear-weapon state a nuclear explosive device,

"(B) is a non-nuclear-weapon state and either—

"(i) receives a nuclear explosive device, or

"(ii) detonates a nuclear explosive device,

"(C) transfers to a non-nuclear-weapon state any design information or component which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

"(D) is a non-nuclear-weapon state and has sought and received any design information or component which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

then the President shall forthwith report in writing his determination to the Congress and shall forthwith impose the sanctions described in paragraph (2) against that country.

"(2) The sanctions referred to in paragraph (1) are as follows:

"(A) The United States Government shall terminate assistance to that country under this Act, except for humanitarian assistance or food or other agricultural commodities.

"(B) The United States Government shall terminate—

"(i) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

"(ii) licenses for the export to that country of any item on the United States Munitions List.

"(C) The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

"(D) The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, except that the sanction of this subparagraph shall not apply—

"(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities), or

"(ii) to humanitarian assistance.

"(E) The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by any international financial institution.

"(F) The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

"(G) The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of specific goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

"(3) As used in this subsection—

"(A) the term 'design information' means information that relates to the design of a nuclear explosive device and that is not available to the public; and

"(B) the term 'component' means a component of a nuclear explosive device.".

(c) DEFINITION OF NUCLEAR EXPLOSIVE DEVICE.—Section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403) is amended by adding at the end the following:

"(q) 'Nuclear explosive device' has the meaning given that term in section 330(3) of the Nuclear Proliferation Prevention Act of 1992.".

(d) CONFORMING AMENDMENTS.—Section 670(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(b)) is further amended—

(1) in paragraph (4) (as redesignated by subsection (a)(1) of this section)—

(A) in subparagraph (A)—

(i) by striking "furnish assistance which would otherwise be prohibited under paragraph (1)" and inserting "delay the imposition of sanctions which would otherwise be required under paragraph (1)(A) or (1)(B)";

(ii) by striking ", before furnishing such assistance, the President" and inserting "the President first"; and

(iii) by striking "termination of assistance to" and inserting "imposition of sanctions on";

(B) in subparagraph (B) by striking "(3)" and inserting "(5)"; and

(C) in subparagraph (E)—

(i) by striking "(b)(2)" and inserting "(b)(4)"; and

(ii) by striking "(b)(3)" and inserting "(b)(5)";

(2) in paragraph (5) (as so redesignated)—

(A) by striking "(2)" and inserting "(4)";

(B) by striking "furnish assistance which would otherwise be prohibited under paragraph (1)" and inserting "waive any sanction which would otherwise be required under paragraph (1)(A) or (1)(B)"; and

(C) by striking "termination of such assistance" and inserting "imposition of such sanction";

(3) by redesignating paragraph (6) (as so redesignated) as paragraph (7); and

(4) by inserting after paragraph (5) (as so redesignated) the following:

"(6)(A) In the event the President is required to impose sanctions against a country under paragraph (1)(C) or (1)(D), the President shall do so beginning 30 days after submitting to the Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of such sanctions.

"(B) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.".

SEC. 327. REWARD.

Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2) For purposes of this subsection, the term 'act of international terrorism' includes any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in section 330(6) of the Nuclear Proliferation Prevention Act of 1992) or any nuclear explosive device (as defined in section 330(3) of that Act) by an individual, group, or non-nuclear-weapon state, as defined in section 330(4) of that Act.".

SEC. 328. REPORTS.

(a) CONTENT OF ACDA ANNUAL REPORT.—Section 52 of the Arms Control and Disarmament Act (22 U.S.C. 2592) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Congress";

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting "; and";

(4) by adding after paragraph (5) the following new paragraph:

"(6) a section of the report shall deal with any material noncompliance by foreign governments with their commitments to the United States with respect to the prevention of the spread of nuclear explosive devices (as defined in section 330(3) of the Nuclear Proliferation Prevention Act of 1992) by non-nuclear-weapon states (as defined in section 330(4) of that Act) or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 330(6) of that Act), including—

"(A) a net assessment of the aggregate military significance of all such violations;

"(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

"(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with its commitments."; and

(5) by adding at the end the following new subsection:

"(b) REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to the Congress under this section reports that any designated nation is not in full compliance with its nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.".

(b) REPORTING ON DEMARCHES.—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

SEC. 329. TECHNICAL CORRECTION.

Section 133 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2160c) is amended by striking "20 kilograms" and inserting "5 kilograms".

SEC. 330. DEFINITIONS.

For purposes of this subtitle—

(1) the term "goods or technology" means nuclear materials and equipment and sensitive nuclear technology (as such terms are defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and all technical assistance requiring authorization under section 57 b. of the Atomic Energy Act of 1954;

(2) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(3) the term "nuclear explosive device" means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(4) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(5) the term "special nuclear material" has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa); and

(6) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

SEC. 331. EFFECTIVE DATE.

The provisions of this subtitle, and the amendments made by this subtitle, shall take effect 60 days after the date of the enactment of this Act.

Subtitle C—International Atomic Energy Agency

SEC. 341. BILATERAL AND MULTILATERAL INITIATIVES.

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

(2) encourage each nuclear-weapon state within the meaning of the Treaty to undertake a comprehensive review of its own procedures for declassifying information relating to the design or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale

commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

(6) pursue a prohibition on international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

SEC. 342. IAEA INTERNAL REFORMS.

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a 'hot line' for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures, and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material, and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection; and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

SEC. 343. REPORTING REQUIREMENT.

(a) REPORT REQUIRED.—The President shall, in the report required by section 601(a) of the Nuclear Non-Proliferation Act of 1978, describe—

(1) the steps he has taken to implement sections 341 and 342, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 341 and 342.

(b) CONTENTS OF REPORT.—Each report under paragraph (1) shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since the enactment of this Act in pursuit of each of the objectives set forth in sections 341 and 342;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 341 and 342;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 341 and 342.

SEC. 344. DEFINITIONS.

As used in this subtitle—

(1) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U-235;

(2) the term "IAEA" means the International Atomic Energy Agency;

(3) the term "near real time material accountancy" means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term "special fissionable material" has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms "IAEA safeguards", "non-nuclear-weapon state", "nuclear explosive device", and "special nuclear material" have the meanings given those terms in section 330 of this Act.

TITLE IV—ECONOMIC COOPERATION PROJECTS IN CHINA AND TIBET

SEC. 401. STATEMENT OF PRINCIPLES.

(a) PURPOSE.—It is the purpose of this title to create principles governing the conduct of United States economic cooperation projects in the People's Republic of China and Tibet.

(b) PRINCIPLES.—It is the sense of the Congress that any United States economic cooperation project in the People's Republic of China or Tibet should adhere to the following principles:

(1) Seek to ensure that decisions made by the United States parent company of the United States economic cooperation project that concern employment in such United States economic cooperation project, do not entail discrimination based on sex, religion, ethnic or national background, political belief, nonviolent political activity, or political party membership.

(2) Ensure, through consultation with relevant government authorities where appropriate, that methods of production used in the United States economic cooperation project do not pose an unnecessary physical danger to workers, to neighboring populations and property, and to the surrounding environment.

(3) Ensure that no convict or forced labor under penal sanctions is knowingly used in the United States economic cooperation project.

(4) Ensure that no goods that are mined, produced, or manufactured, in whole or in part, by convict or forced labor under penal sanctions are knowingly used in the United States economic cooperation project.

(5) Undertake to encourage freedom of assembly and association among the employees of the United States economic cooperation project, and to foster positive and constructive consultation between employees and management of the United States economic cooperation project.

(6) Promote the training of employees of the United States economic cooperation project, in particular the training of Chinese and Tibetan employees in managerial positions in the principles of market-oriented business management.

(7) Take no action to restrict freedom of expression for the employees of the United States economic cooperation project, including the freedom to seek, receive, and impart information and ideas of all kinds.

(8) Discourage compulsory political indoctrination on the premises of the operations of the United States economic cooperation project.

(9) When the opportunity arises, attempt to raise with the relevant agencies of the Chinese Government those individuals detained, arrested, or convicted since March 1989 solely for nonviolent expression of their political views, and to urge the officials concerned to release publicly a list of the names of those individuals.

(c) PROMOTION OF PRINCIPLES TO OTHER NATIONS.—The Secretary of State shall forward a copy of the principles set forth in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

SEC. 402. REPORTS.

(a) REPORTS FROM UNITED STATES PARENT COMPANIES.—The Secretary of State should attempt to obtain from United States parent companies of United States economic cooperation projects reports on the adherence to the principles by such United States economic cooperation projects, and on actions taken by the Chi-

nese Government to impede adherence to the principles.

(b) ANNUAL REPORT.—Based on reports obtained under subsection (a), and other available information, the Secretary of State shall submit to the Congress a report describing the level of adherence to the principles by United States economic cooperation projects and the practices and policies of the People's Republic of China that interfere with adherence to the principles. Such report shall be submitted not later than 1 year after the date of the enactment of this Act and not later than the end of each 1-year period occurring thereafter.

(c) ASSISTANCE FROM PRIVATE PARTIES.—The Secretary of State may use funds otherwise available to the Secretary for such purposes to enter into contracts with one or more private organizations or individuals to assist the Secretary in carrying out this section.

SEC. 403. DEFINITIONS.

For purposes of this title—

(1) the terms "adhere to the principles", "adhering to the principles" and "adherence to the principles" mean—

(A) agreeing to implement the principles set forth in section 401(b); and

(B) implementing those principles by taking good faith measures with respect to each such principle;

(2) the term "United States economic cooperation project" means—

(A) an enterprise legally incorporated in the People's Republic of China or Tibet—

(i) which is either—

(I) a wholly owned subsidiary of a corporation, partnership, or other business association organized under the laws of the United States; or

(II) a joint venture undertaken by 2 or more persons, at least 1 of which is a wholly owned subsidiary of a corporation, partnership, or other business association organized under the laws of the United States; and

(ii) which employs more than 50 individuals in the People's Republic of China or Tibet; or

(B) a branch office or representative office of a corporation, partnership, or other business association organized under the laws of the United States, which employs more than 25 employees in the People's Republic of China or Tibet;

(3) a "United States parent company" of a United States economic cooperation project is a corporation, partnership, or other business association organized under the laws of the United States, of which—

(A) the United States economic cooperation project, or (in the case of a United States economic cooperation project that is a joint venture) 1 of the persons undertaking such project, is a wholly owned subsidiary; or

(B) the United States economic cooperation project is a branch office or representative office; and

(4) the term "organized under the laws of the United States" means organized under the laws of the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

SEC. 404. ENFORCEMENT OF CURRENT LAW.

Beginning 3 months after the date of the enactment of this Act, and every 12 months thereafter, the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing—

(1) enforcement procedures with respect to the implementation of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307);

(2) steps taken to investigate which goods, wares, articles, or merchandise are mined, produced, or manufactured, in whole or in part, by convict labor or forced labor in the People's Republic of China or Tibet; and

(3) the results of such investigations.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. MILITARY ASSISTANCE TO CUBA.

It is the sense of the Congress that—

(1) continuing military assistance provided to Cuba by the independent states of the former Soviet Union remains a serious problem in United States relations with such states; and

(2) each of the independent states of the former Soviet Union should, in reexamining its relationship with Cuba, cease military assistance to the Castro regime and take all other possible steps to further the policies of Glasnost and Perestroika by adopting policies supporting the political, economic, and human rights of the Cuban people.

SEC. 502. ATTACKS AGAINST ISRAELIS AND ILLEGAL ACTIVITIES IN THE UNITED STATES.

(a) REPORT ON IMPACT OF ATTACKS AGAINST ISRAELIS ON PEACE EFFORTS.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Congress an analysis of the impact on efforts to achieve peace in the Middle East of the following recent attacks against Israelis:

(1) On May 28, 1989, an attack by the Popular Front for the Liberation of Palestine and the Palestine Liberation Front, both PLO-affiliated organizations, in which a 1-year-old Israeli was injured by a Katyusha rocket.

(2) On August 7, 1989, a rocket attack on the settlement of Maoz Haim by members of the PLO-affiliated Popular Front for the Liberation of Palestine.

(3) On September 6, 1989, a rocket attack by the PLO-affiliated Popular Front for the Liberation of Palestine aimed at Kibbutz Tel-Katzir that fell on Kibbutz Sha'ar Hagolan.

(4) On October 7, 1989, an attempted raid on Kibbutz Misgav-Am by a squad of terrorists armed with machine guns and anti-tank missiles from the PLO-aligned Palestine Liberation Front.

(5) On January 26, 1990, an attack on an Israeli Army patrol by at least 3 terrorists of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for Kibbutz Misgav-Am.

(6) On February 4, 1990, an unprovoked ambush by the Popular Front for the Liberation of Palestine-General Command on an Israeli tour bus in Egypt that killed 9 and wounded 15 Israelis.

(7) On April 13, 1990, an attempted infiltration into northern Israel by boat by 4 terrorists of Yasser Arafat's Al-Fatah, equipped with machine guns and grenades.

(b) REPORT ON ILLEGAL ACTIVITIES IN THE UNITED STATES.—Not later than 60 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report, based on information available to the Director—

(1) outlining illegal activities being undertaken in the United States by the Palestine Liberation Organization or on behalf of the Palestine Liberation Organization, including such activities as illegal drug trafficking, money laundering, weapons purchases, and arms shipments;

(2) estimating the amount of funds associated with such activities; and

(3) describing the extent to which members of the Executive Committee of the Palestine Liberation Organization, the Central Council of the Palestine Liberation Organization, and the Palestine National Council are aware of or are involved in such illegal activities.

Information contained in the report required by this subsection, including information based on reports of foreign law enforcement agencies, shall protect intelligence sources and methods and may be classified to the extent necessary, consistent with existing law, to prevent the public disclosure of such information.

SEC. 503. PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES SUBSIDIARIES AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

And the Senate agree to the same.

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
HOWARD WOLPE,
HARRY JOHNSTON,
ELIOT L. ENGEL,
AUSTIN J. MURPHY,
WILLIAM H. ORTON,
WM. S. BROOMFIELD,
TOBY ROTH,
DOUG BEREUTER,
JOHN MILLER,

As additional conferees from the Committee on Armed Services, for consideration of sections 120 and 303 of the Senate amendment, and modifications committed to conference:

NICHOLAS MAVROULES,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 201(c), 205, and 207–210 of the Senate amendment, and modifications committed to conference:

MARY ROSE OAKAR,
STEVE NEAL,
JOHN J. LAFALCE,
JIM LEACH,
AL MCCANDLESS,

As additional conferees from the Committee on the Judiciary, for consideration of sections 120, 123, and 502 of the House bill and sections 121, 124, 302, 305 and 306 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
CHARLES SCHUMER,
WILLIAM J. HUGHES,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
JAKE GARN,
CONNIE MACK,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (H.R. 3489) to reauthorize the Export Administration Act of 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—EXPORT ADMINISTRATION ACT AMENDMENTS

EXPORTS TO COCOM

The House bill (sec. 103) removes controls on all exports and reexports to and from COCOM and 5(k) countries by December 31, 1991, subject to control arrangements agreed to unanimously at COCOM so long as all producer countries agree to equivalent measurements, parameters, performance capabilities, and licensing and other requirements, and subject to conditions on pattern and practice of noncompliance and on unreliable end users.

The Senate amendment (sec. 103) is virtually identical to the House.

The conference substitute (sec. 103) is similar to the Senate amendment, but takes effect 90 days after enactment of this act.

STATEMENT OF POLICY TOWARD COUNTRIES REPRESENTING A LESSER STRATEGIC THREAT

The House bill (sec. 105) establishes a policy for relaxing licensing treatment for controlled countries that assume a less threatening strategic posture and adopt enhanced export control policies and procedures. As countries meet the specified criteria, the Secretary of State should proposed relaxed controls to COCOM and annually review such countries' compliance with those criteria. The Secretary of Commerce is encouraged to provide technical assistance to countries undertaking such steps. Section 105(a) directs the Secretary of State to propose to COCOM the removal of Poland, Hungary and Czechoslovakia from the list of controlled countries; to seek improved treatment of the Baltic republics; and to determine if improved licensing treatment is warranted for the independent states of the former Soviet Union. Section 105(b) directs that licenses for the export of items for civilian end use shall be given a presumption of approval and precludes the application of any requirement for the redesign, reengineering, or substantial modification of standard product models or designs as a condition for the approval of any license application subject to COCOM control.

The Senate amendment (sec. 106) is identical with respect to the basic policy but does not include the provisions relating to licensing policy for specific countries in Eastern Europe or the former Soviet Union nor does it include the material in House section 105(b).

The conference substitute (sec. 105) is similar to the House provision, with two minor modifications. First, the procedures for reviewing the performance of controlled countries against the specified criteria and for proposing relaxation of controls to COCOM are simplified. Second, only a single review is specified within 120 days for all former Warsaw Pact countries, other than the independent states of the former Soviet Union for which a determination shall be made in nine months, that remain on the list of controlled countries to determine if relaxed export controls are warranted.

EAST-WEST DECONTROL

The House bill (sec. 106) codifies the Core List agreements reached at COCOM in 1990 and 1991 and requires the executive branch to report to the Congress on the implementation of the Core List.

The Senate amendment (sec. 107) is similar to the House provision but does not reflect the 1991 COCOM agreements which occurred after its adoption and requires the relevant under secretaries of Commerce, State and Defense to testify on the implementation of the Core List.

The conference substitute (sec. 106) is the House provision with an amendment deleting the reporting requirement.

COMMODITY JURISDICTION

The House bill (sec. 107) establishes a procedure for clearly distinguishing between what is considered a dual use item under the Export Administration Act (EAA) and what is a munition under the Arms Export Control Act (AECA). The general rule is for items not on the International Munitions List to be subject to control under the EAA. If an item is not on the International Munitions List and the President determines that its removal from the U.S. Munitions List would have a detrimental effect on the national security of the United States, the item would be controlled under the AECA. The House bill also requires that all mass market computer software, including software with encryption capabilities, be subject to control under the EAA and not the AECA.

The Senate amendment (sec. 108) applies the same general commodity jurisdiction rule as the House bill and includes a process for the United States to appeal to COCOM for an item to be included on the International Munitions List to allow it to be subject to control under the AECA. The Senate amendment also defines munitions items and allows the President to control under the AECA items not on the International Munitions List if the President finds that extraordinary circumstances exist affecting the national security of the United States.

The conference substitute (sec. 107) is the same as the Senate amendment with respect to commodity jurisdiction and requires a report by the Comptroller General assessing the implications of control under the AECA of any mass market computer software, including software with encryption capabilities.

CONTROLS ON TELECOMMUNICATIONS

The House bill (sec. 108) requires the Secretary of State to propose to COCOM that exports of telecommunications equipment and technology for civil end use to the independent states of the former Soviet Union be treated the same as such exports to the People's Republic of China.

The Senate amendment (sec. 109) requires the Secretary of State to proposes to COCOM that a country identified by COCOM as a lesser strategic threat should be accorded, in the case of telecommunications equipment and associated operations technical data, COCOM's least restrictive control procedures.

The conference substitute (sec. 108) requires the Secretary of Commerce to publish regulations implementing the agreement on telecommunications equipment for civil end uses reached at COCOM on June 1 and 2, 1992. It also provides for the treatment of license applications for the export of equipment and technology subject to that agreement.

The committee on conference notes that, as democratic reforms proceed in the independent states of the former Soviet Union, the rationale for controlling telecommunications equipment is diminishing. The committee of conference expects the United States to pursue further liberalizations of controls to keep pace with political and economic changes. The committee of conference also urges that the United States follow the same policy of phased decontrol that has been used to ease restrictions on telecommunications exports to Poland, Hungary, and Czechoslovakia.

CONTROL LIST REVIEW

The House bill (sec. 111) requires periodic review of the Commodity Control List, the results of which are to be used as the basis for proposals to COCOM for revisions of the International Industrial List. The House bill also provides for the periodic termination of controls on all items on the Commodity Control List unless it is determined that such controls should be maintained on the basis of the policy set forth in section 3(2)(A) of the Export Administration Act.

The Senate amendment (sec. 112) is similar to the House bill, but provides that in determining whether a good or technology would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States, the Secretary of Commerce must consult with the Secretary of Defense.

The conference substitute (sec. 111) is the same as the House bill.

EXPORTS OF RELATED TECHNICAL DATA

The House bill (sec. 114) allows for the export of operation technical data related to a good or technology for which an export license has been obtained.

The Senate amendment (sec. 115) is identical to the House provision.

The conference substitute (sec. 114) is similar to the House bill with a technical amendment to reflect wording of the exact policy adopted by COCOM on this matter.

NOTIFICATION OF COCOM ACTIONS

The House bill (sec. 118) requires the Secretary of Commerce to publish the full text of the 3 International Lists of COCOM, as well as the full text of any COCOM agreements affecting these lists, proposals of the United States to COCOM, decision on requests for general exceptions, and other decisions made by COCOM, with provisions for protection of national security, confidentiality, and consistency with COCOM policy.

The Senate amendment (sec. 119) is essentially the same.

The conference substitute (sec. 118) is similar to the House bill with an amendment to require publication of the 3 COCOM lists within 120 days, if such action is not accomplished pursuant to section 17(g) of the Act, as amended, and to permit the Secretary of Commerce to make U.S. negotiating proposals for COCOM available to the public but without requiring their actual publication in advance of COCOM negotiations.

TERRORIST COUNTRIES

The House bill (sec. 119) restricts the sale of dual use equipment and technology to terrorist countries. No export of dual use items controlled for nuclear, missile technology, or chemical and biological purposes is permitted to terrorist countries unless the President determines that the transaction is essential to the national security interests of the United States and reports to Congress at least 15 days prior to the proposed transaction. The export of any other dual use items on the Commodity Control List is also prohibited unless the Secretary of State determines that such export would not make a significant contribution to the military potential of such country or enhance the ability of such country to support acts of international terrorism.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 119) is identical to the House bill. As a general policy, it is the intention of the committee of conference to ensure that terrorist countries are unable to duplicate Iraq's success in acquiring sensitive dual-use technology. This provision also toughens the standards applied to exports to Syria. Since September 1, 1991, applications to export some items on the Commodity Control List to Syria have been subject to case-by-case review rather than a presumption of denial. This provision severely limits discretion and creates a strong presumption of denial.

CRIMINAL CIVIL PENALTIES

The House bill (sec. 120) increases the penalties for willful violations of export controls under sections 5 and 6 of the Act. This section also requires referral of antiboycott violations to the Attorney General for prosecution.

The Senate amendment (sec. 121) increases criminal penalties but is silent on civil penalties and antiboycott violations.

The conference substitute (sec. 120) is the same as the House bill.

JUDICIAL AND ADMINISTRATIVE REVIEW

The Senate amendment (sec. 124) allows for judicial review of certain actions taken under the Export Administration Act.

The House bill (sec. 123) is similar to the Senate amendment, but includes a provision which allows any person aggrieved by an administrative action to appeal such action to an administrative law judge.

The conference substitute (sec. 123) is same as the Senate amendment.

POLICY TOWARD THE PEOPLE'S REPUBLIC OF CHINA

The House bill (sec. 124) establishes as U.S. policy the elimination of export license preferences for the People's Republic of China (PRC), the denial of applications for bulk license to the PRC, and the restriction of access to dual use goods and technology representing proliferation concerns. The House bill also precludes the President from liberalizing export controls to the PRC until 30 days after reporting to Congress.

The Senate amendment (sec. 125) is virtually identical to the House bill. It differs in further stipulating that the U.S. representative to COCOM should oppose license preferences for China in implementing the core list review begun in 1990. It also differs in the nonproliferation standard to be met by the PRC in order for the President to change the export licensing policy after advance notice to Congress.

The conference substitute (sec. 124) is the same as the House bill.

EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA

The Senate amendment (sec. 126) prohibits the export of U.S. origin satellites for launch from a vehicle owned by the PRC and provides that the President may waive the prohibition on a case-by-case basis upon the certification by the U.S. Trade Representative that the PRC is in full compliance with the U.S.-China agreement regarding international trade in commercial launch services.

The House bill (sec. 125) prohibits such exports without a waiver provision.

The conference substitute (sec. 125) is similar to the Senate amendment, but states that the prohibition is prospective, and does not apply to six projects certified by the President prior to the enactment of this section in this notice to Congress of September 11, 1992.

EXPORTS TO THE FORMER SOVIET UNION

The House bill (sec. 126) expresses the sense of Congress that no exports to the independent states of the former Soviet Union permitted by this title should be made if the independent states restrict the emigration of Jews, if the government has not been chosen democratically or is not moving toward a free society and a market economy, if more than 15 percent of its annual budget is spend on military activities, or until it agrees to withdraw its troops from the Baltic nations.

The Senate amendment (sec. 127) expresses the sense of Congress that no exports permitted by this title should be licensed until the President certifies to Congress that the independent states of the former Soviet Union have entered into negotiations for self-determination in Lithuania, nor be licensed if an independent state restricts the emigration of Jews.

The conference substitute (sec. 126) expresses the sense of Congress that no exports permitted under this title should be made to any independent state of the former Soviet Union if such state restricts emigration of Jews or does not agree to expeditiously withdraw its troops from Latvia, Lithuania, and Estonia.

AUTHORIZATION OF APPROPRIATIONS

The House bill (sec. 127) authorizes $41.5 million for fiscal year 1992 to the Department of Commerce to carry out the purposes of this Act. Of that amount, $150,000 shall be available only for the representation of the Secretary or the Secretary's designee at the Coordinating Committee. The House bill also authorizes such additional amounts for fiscal year 1992 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law and other nondiscretionary costs.

The Senate amendment (sec. 129) authorizes $46.707 million for fiscal year 1991.

The conference substitute (sec. 1290 authorizes $42.813 million for fiscal year 1993 and such sums as may be necessary for fiscal year 1994 to carry out this act. The conference substitute also authorizes such additional amounts as may be necessary in each fiscal year for increases in salary, pay, retirement, other employee benefits authorized by law and other nondiscretionary costs.

EXTENSION OF THE ACT

The House bill (sec. 128) extends the Export Administration Act through March 1, 1993.

The Senate amendment (sec. 130) extends the Export Administration Act through June 30, 1992.

The conference substitute (sec. 128) extends the Export Administration Act through September 30, 1994.

TECHNICAL AMENDMENTS

The House bill (sec. 129) makes various technical amendments to the Export Administration Act.

The Senate amendment (sec. 131) is virtually identical to the House bill.

The conference substitute (sec. 129) combines the House and Senate provisions.

REPORTING REQUIREMENTS

The House bill (sec. 130) directs the Secretary of Commerce to evaluate and report on the potential role of private sector firms in supplementing the information available to the Government for purposes of licensing and monitoring exports of sensitive technology.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 130) replaces the current semiannual reporting requirement regarding the operations of the Office of Foreign Availability with a provision requiring such information in the annual report of the Bureau of Export Administration, deletes the current reporting requirements on overdue licenses and provides for a summary of this information in the annual report, and provides for a similar annual summary of the weekly reports on short supply controls.

SHORT SUPPLY CONTROLS

The House bill (sec. 128) would extend controls on short supply along with the rest of the Export Administration Act.

The Senate amendment (sec. 130) is essentially identical to the House bill.

The conference substitute (sec. 131) would prohibit the export of unprocessed timber from State lands. At present, 75% of the unprocessed timber from State lands may not be exported. The conference substitute places current short supply policy in statute. Nothing in the amendment to the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620) shall apply to any contract for the purchase of unprocessed timber from public lands entered into before the effective date of the Secretary's order issued pursuant to new section 491(b)(2)(C).

REVIEW OF LICENSES

The Senate amendment (sec. 120) establishes a requirement that the Secretary of Defense and the Secretary of State be consulted for a period of 20 days regarding any license application under section 6 of the EAA involving an export to a terrorist country or involving an export of goods or technology controlled for nonproliferation purposes. A disagreement by one of the Secretaries with the judgment of the Secretary of Commerce may be referred to the President for resolution of the dispute within 20 days.

The House bill contains no comparable provision.

The conference substitute is the same as the House position. The committee of conference believes that any problems that may have existed in consideration of licenses related to proliferation are now being adequately addressed using existing authorities in sections 6 and 10(g) of the Export Administration Act and new procedures established for interagency review of licenses pursuant to the President's Enhanced Proliferation Control Initiative announced last year. The Departments of Defense, State, and Commerce have advised the committee of conference that these procedures may have existed with respect to terrorist countries are being addressed by the effective embargo on licensed trade with terrorist countries imposed pursuant to section 119 of the conference substitute.

STANDARD OF MEASUREMENT FOR COMPUTERS

The Senate amendment (sec. 105) requires the Secretary of Commerce to evaluate the appropriateness of replacing Processing Data Rate as the standard of measurement for control of computers.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

TITLE II—EXPORT PROMOTION

TRADE PROMOTION COORDINATING COMMITTEE

The House bill (sec. 205) codifies the Trade Promotion Coordinating Committee (TPCC), including its duties, membership, and annual report to Congress.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 201) is similar to the House provision, with the addition of a requirement that the TPCC develop a governmentwide strategic plan for carrying out federal export promotion and export financing programs. The plan is required to establish a set of priorities for federal activities in support of U.S. exports and explain the rationale for the priorities; review current federal programs in light of the priorities and develop a plan to bring such activities in line with the priorities and improve coordination of such activities; identify areas of overlap and duplication among federal activities and propose means of eliminating them; propose to the President annually a unified federal trade promotion budget that supports the plan for priority activities and improved coordination and eliminates funding for the areas of overlap and duplication; and review state efforts to promote U.S. exports and propose means of developing cooperation between state and federal efforts. The Chair of the TPCC is required to submit an annual report to the Congress describing the strategic plan developed by the TPCC, the implementation of the plan, and any revisions thereto.

ONE-STOP SHOPS

The House bill (sec. 201) requires a report by the Secretary of Commerce on the adequacy of training of United States and Foreign Commercial Service (FSC) officers and calls for an increase in the number of commercial service in Taiwan, Japan, and Canada.

The Senate amendment (sec. 201) is similar to the House bill, but expands the list of the multilateral development institutions to which commercial service officers should be assigned.

The conference substitute (sec. 202) amends the Export Enhancement Act of 1988 to require the FCS to utilize its domestic and foreign officers as "one-stop shops" for U.S. exporters by providing information on all federal export promotion activities, assisting in identifying federal programs of greatest assistance, and assisting in making contact with such programs.

COMMERCIAL SERVICE COOPERATION IN FEDERAL FINANCING AND INSURANCE PROGRAMS

The House bill (sec. 202) adds "methods of distribution of goods and services" to the programs of the Market Development Cooperator Program and requires a report every six months on the implementation of the Market Development Cooperator Program.

The Senate amendment (sec. 202) is similar but does not require a report.

The conference substitute (sec. 203) amends the Export Enhancement Act of 1988 to require: (1) the Export-Import Bank of the United States (Ex-Im Bank), the Overseas Private Investment Corporation (OPIC), the Trade and Development Program (TDP), and the Small Business Administration (SBA) to provide information on their programs and financing practices to the FCS and undertake a training program for FCS officers; and (2) the FCS to provide U.S. exporters and export finance institutions with information about the programs of the Ex-Im Bank, OPIC, TDP, and SBA, assistance in completing applications for assistance from these agencies, and assistance in addressing any deficiencies in such applications. It is the intent of the committee of conference that FCS officers be knowledgeable about agency programs when they assist exporters and export finance institutions in addressing any deficiencies in applications submitted to the four agencies listed above, and if they are not already knowledgeable, they should become so as soon as possible.

ENVIRONMENTAL TRADE PROMOTION

The conference substitute (sec. 204) amends the Trade Enhancement Act of 1988 to establish an Environmental Trade Promotion Working Group within the TPCC to develop a strategy for expanding U.S. exports of environmental technologies, goods, and services. The Chair of the Working Group is directed to assess the effectiveness of U.S. programs for the promotion of exports of environmental technologies, goods, and services; recommend improvements to such programs; and ensure that the members of the working group coordinate their environmental trade promotion programs. A report on the activities of the Working Group is to be included in the annual TPCC report to the Congress. This section, which was not included in either the House bill or the Senate amendment, is designed to address the relatively new issue of environmental trade promotion and to be consistent with the export promotion provisions contained in the conference report to accompany the Export Enhancement Act of 1992.

RANK OF COMMERCIAL SERVICE OFFICERS

The House bill (sec. 201(a)) amends the Export Enhancement Act of 1988 to increase from eight to twenty the number of FCS officers with the rank of Minister-Counselor.

The Senate amendment (sec. 201(a)) increases the number of FCS officers with the rank of Minister-Counselor to twelve.

The conference substitute (sec. 205) increases the number of FCS officers with the rank of Minister-Counselor to sixteen.

REPORT ON EXPORT POLICY

The House bill (sec. 204) requires the Secretary of Commerce to submit an annual report on the international economic position of the United States and to appear before the Committee on Banking, Housing, and Urban Affairs of the Senate of the Committee on Foreign Affairs of the House of Representatives to testify on issues addressed in such report. The House bill (sec. 206) also requires the General Accounting Office (GAO) to report annually on coordination of federal export promotion efforts.

The Senate amendment (secs. 204 and 205) contains nearly identical provisions.

The conference substitute (sec. 206) amends the Export Enhancement Act of 1988 to require the Secretary of Commerce to submit to the Congress no later than May 31 of each year a report on the international economic position of the United States and, no later than June 30 of each year, to testify on the issues addressed in that report before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives. The report would address: (a) the state of U.S. international economic competitiveness, focusing on the efforts of the Commerce Department to promote research and development of an investment in technologies and products deemed critical for industrial leadership and increase exports thereof; (b) the implementation of the governmentwide strategic plan developed by the TPCC; (c) recommendations of the Commerce Department to improve the U.S. balance of trade; (d) the effects of trade barriers and foreign subsidies on the international economic competitiveness of the United States; (e) the efforts of the Commerce Department to reduce trade barriers and foreign subsidies on the international economic competitiveness of the United States; (f) the efforts of the Commerce Department to reduce trade barriers; and (g) the adequacy of U.S. Government export financing programs and recommendations for improvement.

EXPORT PROMOTION AUTHORIZATION

The House bill (sec. 207) authorizes $166 million for export promotion programs and $5 million for the Market Cooperator Development Program for fiscal year 1992.

The Senate amendment (sec. 206) authorizes $167.6 million for export promotion and $6 million for the Market Cooperator Development Program for fiscal year 1992.

The conference substitute (sec. 207) authorizes $190 million for fiscal year 1993 and $200 million for fiscal year 1994 for export promotion programs and $5.5 million for each of the fiscal years 1993 and 1994 for the Market Cooperator Development Program.

INTEREST SUBSIDY PROGRAM

The Senate amendment (sec. 207) extends the Ex-Im Bank interest subsidy program to fiscal year 1992 and places a limitation of $435 million on the authorization of appropriations for that program.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

HUMAN RIGHTS IN YUGOSLAVIA

The Senate amendment (sec. 208) expresses the sense of Congress with respect to the abuse of human rights in Yugoslavia and requires a report by the President on why the Ex-Im Bank should not restrict its activities with respect to Yugoslavia.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

INCREASE OF MEMBERSHIP OF ADVISORY COMMITTEE

The Senate amendment (sec. 209) increases the number of positions on the advisory committee established by section 3(d) of the Export-Import Bank Act of 1945.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

TECHNICAL CORRECTIONS RELATING TO THE INTERNATIONAL DEVELOPMENT AND FINANCE ACT OF 1989

The Senate amendment (sec. 210) repeals certain provisions of the International Development and Finance Act of 1989.

The House bill contains no comparable provisions.

The conference substitute is the same as the House position.

TITLE III—NUCLEAR PROLIFERATION PREVENTION ACT OF 1992

The House bill (title III) applies a dual requirement for full-scope International Atomic Energy Agency (IAEA) safeguards and a nuclear cooperation agreement with the United States as conditions for the licensing for export of nuclear components, technology, and dual-use items on the nuclear referral list. The House bill also provides for negotiations aimed at improving multilateral controls on nuclear-related exports through the Nuclear Suppliers Group (NSG), and for sanctions against foreign persons or countries which engage in nuclear commerce in contravention of measures agreed to by the NSG. Finally, the House bill requires the President to submit to Congress, as part of its annual report on the U.S. Government's efforts to prevent nuclear proliferation, additional information and analysis regarding the effectiveness of IAEA safeguards and inspections and the implementation of nuclear and nuclear-related dual use export controls.

The Senate amendment contains no comparable provision.

The conference substitute (title III) requires reporting by the President on the implementation of U.S. export controls on nuclear and nuclear-related exports. The conference agreement also includes extensive sanctions on the export by individuals or countries of nuclear components or technology that contribute to the recipient's ability to develop or manufacture a nuclear explosive device. The conference substitute also expresses the sense of the Congress that the United States should enter into negotiations to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons.

TITLE IV—ECONOMIC COOPERATION PROJECTS IN CHINA AND TIBET

The House bill (title IV) establishes principles to govern the conduct of U.S. companies which participate in economic cooperation projects in the People's Republic of China and Tibet. The principles, which parallel the Sullivan Principles for conducting business in South Africa, relate to the protection of worker rights, the non-use of forced labor, the protection of basic human freedoms, and the promotion of market economics. The House bill requires U.S. parent companies participating in such projects to register with the Secretary of State, to indicate whether the company will adhere to such principles, and to report annually to the Secretary regarding their adherence to such principles. The House bill further requires the Secretary to encourage member nations of the Organization for Economic Cooperation and Development (OECD) to promote adherence to the principles and requires the Secretary, after two years, to report annually to both the OECD and the Congress on adherence to the principles. Finally, the House bill requires the Secretary to report to Congress annually on enforcement of section 307 of the Tariff Act of 1930 regarding the use of forced labor in China and Tibet.

The Senate amendment contains no similar provision.

The conference substitute (title IV) is similar to the House bill with the following changes: minor wording changes in the principles; deletion of the registration requirement for U.S. companies, broadening of the scope of the Secretary's annual report to Congress to include "other available information"; and deletion of the requirement that the Secretary report to the OECD. Also, rather than requiring U.S. companies to report on their adherence to the principles, the conference substitute encourages the Secretary to seek such reports from U.S. companies.

The committee of conference hopes and expects that U.S. companies will cooperate in implementing this provision. To the extent that this cooperation is not forthcoming, the committees of jurisdiction will revisit this issue in two years when the Export Administration Act is next reauthorized.

TITLE V—MISCELLANEOUS PROVISIONS

MILITARY ASSISTANCE TO CUBA

The House bill (sec. 501) expresses the sense of the Congress that continuing Soviet military assistance to Cuba remains a serious problem in U.S.-Soviet relations and that the Soviet Union or any successor entity should cease military assistance to the Castro regime and should adopt policies supporting the political, economic, and human rights of the Cuban people.

The Senate amendment (sec. 301) contains a nearly identical provision.

The conference substitute (sec. 501) is identical to the House bill, except that references to the Soviet Union have been changed to the "independent states of the former Soviet Union".

ATTACKS AGAINST ISRAELIS AND ILLEGAL ACTIVITIES IN THE UNITED STATES

The House bill (sec. 501) directs the President to submit an analysis of the impact on efforts to achieve peace in the Middle East to various recent attacks against Israelis and requires a report by the FBI on illegal activities in the United States by the Palestine Liberation Organization.

The Senate amendment (sec. 302) is similar to the House provision, except that the second report is to be made by the Secretary of the Treasury rather than by the FBI.

The conference substitute (sec. 502) is identical to the House bill.

FAMILY NEEDS OF MEMBERS OF THE ARMED FORCES

The Senate amendment (sec. 303) expresses the sense of the Senate on procedures affecting the assignment by the U.S. Armed Forces of single and both parents of children.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

SANCTIONS AGAINST FOREIGN VIOLATORS

The Senate amendment (sec. 304) declares that no foreign person may violate an executive order implementing the United Nations embargo of Iraq and authorizes the President to bar investment in the United States by any such person.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

TERRORIST DEATH PENALTY ACT OF 1991

The Senate amendment (sec. 305) imposes a mandatory death penalty for a terrorist who commits murder in the United States.

The House bill contains no comparable provision.

The conference substitute is the House position.

PENALTIES FOR CBW VIOLATIONS THAT HARM U.S. NATIONALS ABROAD

The Senate amendment (sec. 306) authorizes the imposition of civil and criminal penalties on a foreign company selling chemicals that are used to harm or kill Americans abroad.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
HOWARD WOLPE,
HARRY JOHNSTON,
ELIOT L. ENGEL,
AUSTIN, J. MURPHY,
WILLIAM H. ORTON,
WM. S. BROOMFIELD,
TOBY ROTH,
DOUG BEREUTER,
JOHN MILLER,

As additional conferees from the Committee on Armed Services, for consideration of sections 120 and 303 of the Senate amendment, and modifications committed to conference:

NICHOLAS MAVROULES,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 201(c), 205, and 207-210 of the Senate amendment, and modifications committed to conference:

MARY ROSE OAKAR,
STEVE NEAL,
JOHN J. LAFALCE,
JIM LEACH,
AL MCCANDLESS,

As additional conferees from the Committee on the Judiciary, for consideration of sections 120, 123, and 502 of the House bill and sections 121, 124, 302, 305 and 306 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
CHARLES SCHUMER,
WILLIAM J. HUGHES,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
JAKE GARN,
CONNIE MACK,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 4996, JOBS THROUGH EXPORTS ACT OF 1992

Mr. GEJDENSON submitted the following conference report and statement on the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation and for other purposes:

CONFERENCE REPORT (H. REPT. 102-1026)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4996), to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jobs Through Exports Act of 1992".

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. CREATION, PURPOSE AND POLICY.

Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended in the first sentence by striking "friendly countries and areas," and inserting "countries and areas, and countries in transition from nonmarket to market economies,".

SEC. 102. WORKER RIGHTS.

(a) LIMITATION.—Section 231A(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended by adding at the end the following: "The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:

"'The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not re-

sponsible under this paragraph for the actions of a foreign government.' ".

SEC. 103. EQUITY INVESTMENT FUND.

Section 234(g)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2194(g)(5)) is amended to read as follows:

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of $10,000,000 (less amounts transferred to the fund before the date of the enactment of the Jobs Through Exports Act of 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under this subsection, and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Act or are transferred to the Corporation pursuant to section 632(a) of this Act.".

SEC. 104. ISSUING AUTHORITY, DIRECT INVESTMENTS, AND ADMINISTRATIVE EXPENSES.

(a) ISSUING AUTHORITY AND DIRECT INVESTMENT AUTHORITY.—Section 235 of the Foreign Assistance Act of 1961 (22 U.S.C. 2195) is amended—

(1) in the section caption by striking "FUND" and inserting "AUTHORITY";

(2) by amending subsection (a) to read as follows:

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed in the aggregate $9,000,000,000.

"(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 234(b) shall not exceed in the aggregate $2,500,000,000.

"(B) Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

"(i) to transfer $9,800,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 234 of $650,000,000 for fiscal year 1993; and

"(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan and loan guarantee program under subsections (b) and (c) of section 234 of $850,000,000 for fiscal year 1994.

"(3) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 234 shall continue until September 30, 1994."; and

(3) by repealing subsection (b).

(b) ADMINISTRATIVE EXPENSES.—Section 235 of such Act is amended by adding at the end the following:

"(g) ADMINISTRATIVE EXPENSES.—Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

"(1) $8,128,000 for fiscal year 1993; and

"(2) $11,000,000 for fiscal year 1994.".

SEC. 105. GENERAL PROVISIONS.

(a) FEES.—Section 237(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(d)) is amended to read as follows:

"(d) FEES.—

"(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

"(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.".

(b) PENALTIES FOR FRAUD.—Section 237 of such Act is amended by adding at the end the following:

"(n) PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 234 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.".

(c) USE OF LOCAL CURRENCIES.—Section 237 of such Act is amended by adding at the end the following:

"(o) USE OF LOCAL CURRENCIES.—Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations made with funds described in this subsection.".

SEC. 106. DEFINITIONS.

Section 238 of the Foreign Assistance Act of 1961 (22 U.S.C. 2198) is amended—

(1) in subsection (c) by striking "and" after the semicolon at the end;

(2) by redesignating subsection (d) as subsection (f); and

(3) by inserting after subsection (c) the following:

"(d) the term 'noncredit account revolving fund' means the account in which funds under section 236 and all funds from noncredit activities are held; and

"(e) the term 'noncredit activities' means all activities of the Corporation other than its loan guarantee program under section 234(b) and its direct loan program under section 234(c);".

SEC. 107. CONTRACTING AUTHORITY.

Section 239(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(d)) is amended by inserting after "legal and arbitral proceedings;" the following: "to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 234;".

SEC. 108. REPORTS TO CONGRESS.

Section 240A(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a(b)) is amended by striking paragraph (2) and inserting the following:

"(2) The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1).

"(3) In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

"(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

"(B) any jobs created by the project; and

"(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph.".

SEC. 109. AWARDING OF CONTRACTS.

Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 240A the following new section:

"SEC. 240B. PROHIBITION ON NONCOMPETITIVE AWARDING OF INSURANCE CONTRACTS ON OPIC SUPPORTED EXPORTS.

"(a) REQUIREMENT FOR CERTIFICATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the investor on whose behalf insurance, reinsurance, guaranties, or other financing is provided under this title with respect to a project shall be required to certify to the Corporation that any contract for the export of goods as part of that project will include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

"(2) WHEN CERTIFICATION MUST BE MADE.—The investor shall be required, in every practicable case, to so certify before the insurance, reinsurance, guarantee, or other financing is provided. In any case in which such a certification is not made in advance, the investor shall include in the certification the reasons for the failure to make a certification in advance.

"(3) EXCEPTION.—Paragraph (1) does not apply with respect to an investor who does not, because of the nature of the investment, have a controlling interest in fact in the project in question.

"(b) REPORTS BY THE UNITED STATES TRADE REPRESENTATIVE.—The United States Trade Representative shall review the actions of the Corporation under subsection (a) and, after consultation with representatives of United States insurance companies, shall report to the Congress in the report required by section 181(b) of the Trade Act of 1974 with respect to such actions.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'United States insurance company' includes—

"(A) an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(B) foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

"(2) United States insurance companies shall be considered to have had a 'fair and open competitive opportunity to provide insurance' if they—

"(A) have received notice of the opportunity to provide insurance; and

"(B) have been evaluated on a nondiscriminatory basis; and

"(3) the term 'State' includes the District of Columbia and any commonwealth, territory, or possession of the United States.".

TITLE II—TRADE AND DEVELOPMENT AGENCY

SEC. 201. TRADE AND DEVELOPMENT AGENCY.

Section 661 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 661. TRADE AND DEVELOPMENT AGENCY.

"(a) PURPOSE.—The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under part I, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

"(2) USE OF FUNDS.—Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

"(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

"(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

"(3) INFORMATION DISSEMINATION.—(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

"(4) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this section may be used notwithstanding any other provision of law.

"(c) DIRECTOR AND PERSONNEL.—

"(1) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) OFFICERS AND EMPLOYEES.—(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

"(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

"(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"(d) ANNUAL REPORT.—The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"(e) AUDITS.—

"(1) IN GENERAL.—The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, United States Code, except as otherwise provided in this section.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, United States Code, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(f) FUNDING.—

"(1) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section, in addition to funds otherwise available for such purposes, $55,000,000 for fiscal year 1993 and $65,000,000 for fiscal year 1994.

"(2) FUNDING FOR TECHNICAL ASSISTANCE GRANTS BY MULTILATERAL DEVELOPMENT BANKS.—(A) The Trade and Development Agency should, in fiscal years 1993 and 1994, substantially increase the amount of funds it provides to multilateral development banks for technical assistance grants.

"(B) As used in subparagraph (A)—

"(i) the term 'technical assistance grants' means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

"(ii) the term 'multilateral development bank' has the meaning given that term in section 1701(c) of the International Financial Institutions Act.".

SEC. 202. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this section, be known as the Trade and Development Agency.

(b) APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED.—The enactment of this title shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date of this section.

(c) TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—(1) Sections 644, 645, and 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q, 635r, and 635s) are each amended by striking "Trade and Development Program" each place it appears and inserting "Trade and Development Agency".

(2) The section heading for section 645 of such Act is amended by striking "TRADE AND DEVELOPMENT PROGRAM" and inserting "TRADE AND DEVELOPMENT AGENCY".

(d) TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking

"Director, Trade and Development Program." and inserting

"Director, Trade and Development Agency.".

(e) REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

TITLE III—AID, TRADE, AND COMPETITIVENESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Aid, Trade, and Competitiveness Act of 1992".

SEC. 302. CAPITAL PROJECTS OFFICE WITHIN THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) ESTABLISHMENT OF OFFICE.—The Administrator of AID shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) PURPOSES OF OFFICE.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) ACTIVITIES OF AID.—The Administrator of AID (acting through the capital projects office), in coordination with the appropriate members of the Trade Promotion Coordination Committee—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall ensure that each capital project for which AID provides funding is developmentally sound, as determined under the criteria devel-

oped by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid purposes; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infrastructure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after the date of the enactment of this Act.

SEC. 303. CAPITAL PROJECTS FOR POVERTY ALLEVIATION AND ENVIRONMENTAL SAFETY AND SUSTAINABILITY.

(a) PURPOSES.—The Administrator of AID shall develop a program, in accordance with subsection (b), that focuses on developmentally sound capital projects for basic infrastructure that will measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level, taking into consideration development needs of the host country and export opportunities for services and goods from the United States.

(b) ACTIVITIES OF AID.—In order to carry out subsection (a), the Administrator of AID shall, working with AID technical support staff, regional bureau staff, and country missions, identify and provide funding for capital projects to alleviate the worst manifestations of poverty or to promote environmental safety and sustainability at the community level in countries receiving assistance under part I of the Foreign Assistance Act of 1961. Such projects may include basic sanitation systems, basic water supply and treatment, pollution control, and rural infrastructure benefiting poor communities or establishing environmentally sustainable patterns of rural development. Such projects should have measurable positive effects on indicators of human and environmental health.

SEC. 304. COORDINATION.

The President shall use the Trade Promotion Coordination Committee to coordinate activities under this title with other relevant activities of the United States Government.

SEC. 305. REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Congress a report describing—

(1) the extent to which United States Government resources have been expended specifically to support the projects described in this title in developing countries and countries making the transition from nonmarket to market economies;

(2) the extent to which the activities of the United States Government have been coordinated pursuant to section 304; and

(3) the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

SEC. 306. FUNDING FOR CAPITAL PROJECTS.

(a) FUNDING LEVEL.—The Congress strongly urges the President to use at least $650,000,000 for fiscal year 1993 and at least $700,000,000 for fiscal year 1994 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), assistance under the Support for East European Democracy (SEED) Act of 1989, assistance under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, and assistance under the Multilateral Assistance Initiative for the Philippines, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities.

(b) DEVELOPMENT ASSISTANCE CAPITAL PROJECTS.—Funds appropriated to carry out chapter 1 or chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to development assistance and the Development Fund for Africa) may not be used for capital projects that do not meet the criteria contained in section 303 of this Act. This subsection does not apply with respect to capital projects for which funds have been obligated or expended before the date of the enactment of this Act.

SEC. 307. REPORT ON THE FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report on the feasibility of allowing AID to offer credit guarantees for the financing of capital projects.

SEC. 308. DEFINITIONS.

For purposes of this title—

(1) the term "AID" means the Agency for International Development; and

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services.

TITLE IV—UNITED STATES COMMERCIAL CENTERS

SEC. 401. UNITED STATES COMMERCIAL CENTERS.

(a) ESTABLISHMENT.—The Secretary of Commerce, in his or her role as chairperson of the Trade Promotion Coordinating Committee, is authorized and encouraged to establish United States Commercial Centers (hereinafter in this section referred to as "Centers") in Asia, in Latin America, and in Africa.

(b) PURPOSE OF THE CENTERS.—The purpose of the Centers shall be to provide additional resources for the promotion of exports of United States goods and services to the host countries, by familiarizing United States exporters with the industries, markets, and customs of the host countries, thus facilitating commercial ties and trade.

(c) FUNCTIONS OF THE CENTERS.—Each Center shall—

(1) collect and publish economic and market data with respect to the host country;

(2) provide, on a user-fee basis, preliminary technical and clerical assistance, language translation, and administrative assistance, and information regarding the legal systems, laws, regulations, and procedures of the host country, to United States exporters seeking to do business in the host country; and

(3) in other ways promote exports of United States goods and services to the host country.

(d) SPECIFIC SERVICES TO BE PROVIDED.—To carry out its objectives, each Center shall make available the following (on a user-fee basis):

(1) BUSINESS FACILITIES.—Business facilities, including exhibition space, conference rooms, office space (including telephones and other basic office equipment), and, where warranted by impeding deficiencies in the public system, high quality international telecommunications facilities.

(2) BUSINESS SERVICES.—Business support services, including language translation services, clerical services, and a commercial library containing a comprehensive collection of reference materials covering United States and host country industries and markets.

(3) COMMERCIAL LAW INFORMATION SERVICES.—Commercial law information services, including—

(A) a clearinghouse for information regarding the relevant commercial laws, practices, and regulations of the host country;

(B) publications to assist United States businesses;

(C) legal referral services; and

(D) lists of local agents and distributors.

(e) OTHER TRADE PROMOTION ACTIVITIES.—Each Center shall also promote United States export trade by—

(1) facilitating contacts between buyers, sellers, bankers, traders, distributors, agents, and necessary government officials from the United States and the host country;

(2) coordinating trade missions; and

(3) assisting with applications, contracts, and clearances for imports into the host country and exports from the United States.

(f) STAFFING OF CENTERS.—Each Center shall be staffed by members of the United States and Foreign Commercial Service, participants in the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723), other employees of the Department of Commerce, and employees of appropriate executive branch departments and agencies which are members of the Trade Promotion Coordinating Committee.

(g) CENTER FACILITIES AND THEIR RELATIONSHIP TO UNITED STATES DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—

(1) PHYSICAL ACCOMMODATIONS FOR THE CENTERS.—The Secretary of Commerce shall locate each Center in the primary commercial city of the host country. The Secretary shall acquire office space, exhibition space, and other facilities and equipment that are necessary for each Center to perform its functions. To the extent feasible, each Center shall be located in the central commercial district of the host city.

(2) CONSOLIDATION OF DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—For the purpose of obtaining maximum effectiveness and efficiency and to the extent consistent with the purposes of the Centers, the Secretary of Commerce is encouraged to place all personnel of the Department of Commerce who are assigned to the city in which a Center is located in the same facilities as those in which the Center conducts its activities.

(h) USE OF MARKET DEVELOPMENT COOPERATOR PROGRAM.—The Secretary of Commerce shall, to the greatest extent feasible, use the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723) to assist in carrying out the purposes of the Centers established under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $8,000,000 for fiscal year 1993, and $5,500,000 for fiscal year 1994. Funds made available under this subsection may be used for the acquisition of real property.

(j) Reports to Congress.—The Secretary of Commerce shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 1 year after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, a report on the status, activities, and effectiveness of the Centers. Each such report shall include any recommendations with respect to the program established under this section.

(k) Definitions.—For purposes of this section—

(1) the term "United States exporter" means—

(A) a United States citizen,

(B) a corporation, partnership, or other association created under the laws of the United States or of any State, or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(2) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(3) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

SEC. 501. ADDITIONAL PROCUREMENT OFFICERS.

(a) Appointment.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint one or more full-time additional procurement officers, for each multilateral development bank, to promote exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(b) Definition.—As used in this section, the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce $1,000,000 for each of the fiscal years 1993 and 1994 to carry out this section. Amounts appropriated pursuant to this subsection shall be available only for the purpose of making the appointment of additional procurement officers required by subsection (a).

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 601. SHORT TITLE.

This title may be cited as the "Enterprise for the Americas Act of 1992".

SEC. 602. FOREIGN ASSISTANCE ACT DEBT REDUCTION.

(a) Authorization.—The Foreign Assistance Act of 1961 is amended by adding at the end the following new part:

"PART IV—ENTERPRISE FOR THE AMERICAS INITIATIVE

"SEC. 701. PURPOSE.

"The purpose of this part is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this part for those countries with democratically elected governments that meet investment reforms and other policy conditions.

"SEC. 702. DEFINITIONS.

"For purposes of this part—

"(1) the term 'administering body' means the entity provided for in section 708(c);

"(2) the term 'Americas Framework Agreement' means an Americas Framework Agreement provided for in section 708;

"(3) the term 'Americas Fund' means an Enterprise for the Americas Fund provided for in section 707(a);

"(4) the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

"(5) the term 'beneficiary country' means an eligible country with respect to which the authority of section 704(a)(1) is exercised;

"(6) the term 'eligible country' means a country designated by the President in accordance with section 703;

"(7) the term 'Enterprise for the Americas Board' or 'Board' means the board established by section 610 of Agricultural Trade Development and Assistance Act of 1954; and

"(8) the term 'Facility' means the Enterprise for the Americas Facility established in the Department of the Treasury by section 601 of that Act.

"SEC. 703. ELIGIBILITY FOR BENEFITS.

"(a) Requirements.—To be eligible for benefits from the Facility under this part, a country must be a Latin American or Caribbean country—

"(1) whose government is democratically elected;

"(2) whose government has not repeatedly provided support for acts of international terrorism;

"(3) whose government is not failing to cooperate on international narcotics control matters;

"(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

"(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

"(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

"(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

"(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

"(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

"(b) Eligibility Determinations.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

"SEC. 704. REDUCTION OF CERTAIN DEBT.

"(a) Authority To Reduce Debt.—

"(1) Authority.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1992, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

"(2) Appropriations Requirement.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

"(3) Certain Prohibitions Inapplicable.—(A) A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(B) The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

"(b) Implementation of Debt Reduction.—

"(1) In general.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of the date specified in subsection (a)(1).

"(2) Exchange of obligations.—The Facility shall notify the agency primarily responsible for administering part I of this Act of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection. At the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

"SEC. 705. REPAYMENT OF PRINCIPAL.

"(a) Currency of Payment.—The principal amount of each new obligation issued pursuant to section 704(b) shall be repaid in United States dollars.

"(b) Deposit of Payments.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

"SEC. 706. INTEREST ON NEW OBLIGATIONS.

"(a) RATE OF INTEREST.—New obligations issued by a beneficiary country pursuant to section 704(b) shall bear interest at a concessional rate.

"(b) CURRENCY OF PAYMENT; DEPOSITS.—

"(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Americas Framework Agreement, interest shall be paid in the local currency of the beneficiary country and deposited in an Americas Fund. Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 707(d). Such local currencies shall be used for the purposes specified in the Americas Framework Agreement.

"(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Americas Framework Agreement, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

"(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Americas Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Americas Fund established for that country.

"SEC. 707. ENTERPRISE FOR THE AMERICAS FUNDS.

"(a) ESTABLISHMENT.—Each beneficiary country that enters into an Americas Framework Agreement shall be required to establish an Enterprise for the Americas Fund to receive payments in local currency pursuant to section 706(b)(1).

"(b) DEPOSITS.—Local currencies deposited in an Americas Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(c) INVESTMENT.—Deposits made in an Americas Fund shall be invested until disbursed. Any return on such investment may be retained by the Americas Fund, without deposit in the Treasury of the United States and without further appropriation by the Congress.

"(d) DISBURSEMENTS.—Funds in an Americas Fund shall be disbursed only pursuant to an Americas Framework Agreement.

"SEC. 708. AMERICAS FRAMEWORK AGREEMENTS.

"(a) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an Americas Framework Agreement with any eligible country concerning the operation and use of the Americas Fund for that country. In the negotiation of such Agreements, the Secretary shall consult with the Enterprise for the Americas Board in accordance with section 709.

"(b) CONTENTS OF AGREEMENTS.—An Americas Framework Agreement with an eligible country shall—

"(1) require that country to establish an Americas Fund;

"(2) require that country to make interest payments under section 706(b)(1) into an Americas Fund;

"(3) require that country to make prompt disbursements from the Americas Fund to the administering body described in subsection (c);

"(4) when appropriate, seek to maintain the value of the local currency resources of the Americas Fund in terms of United States dollars;

"(5) specify, in accordance with subsection (d), the purposes for which amounts in an Americas Fund may be used; and

"(6) contain reasonable provisions for the enforcement of the terms of the agreement.

"(c) ADMINISTERING BODY.—

"(1) IN GENERAL.—Funds disbursed from the Americas Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

"(2) COMPOSITION.—The administering body shall consist of—

"(A) one or more individuals appointed by the United States Government,

"(B) one or more individuals appointed by the government of the beneficiary country, and

"(C) individuals who represent a broad range of—

"(i) environmental nongovernmental organizations of the beneficiary country,

"(ii) child survival and child development nongovernmental organizations of the beneficiary country,

"(iii) local community development nongovernmental organizations of the beneficiary country, and

"(iv) scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

"(3) RESPONSIBILITIES.—The administering body—

"(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Americas Framework Agreement, consistent with subsection (d);

"(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Americas Fund;

"(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

"(D) shall be required to grant to representatives of the United States General Accounting Office such access to books and records associated with operations of the Americas Fund as the Comptroller General of the United States may request;

"(E) shall present an annual program for review each year by the Enterprise for the Americas Board; and

"(F) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Enterprise for the Americas Board and to the government of the beneficiary country.

"(d) ELIGIBLE ACTIVITIES.—Grants from an Americas Fund shall be used for—

"(1) activities that link the conservation and sustainable use of natural resources with local community development; and

"(2) child survival and other child development activities.

"(e) GRANT RECIPIENTS.—Grants made from an Americas Fund shall be made to—

"(1) nongovernmental environmental, conservation, child survival and child development, development, and indigenous peoples organizations of the beneficiary country;

"(2) other appropriate local or regional entities; and

"(3) in exceptional circumstances, the government of the beneficiary country.

"(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from an Americas Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

"(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 703(a), as determined by the President pursuant to section 703(b), then grants from the Americas Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 703(a).

"SEC. 709. ENTERPRISE FOR THE AMERICAS BOARD.

"For purposes of this part, the Enterprise for the Americas Board shall—

"(1) advise the Secretary of State on the negotiations of Americas Framework Agreements;

"(2) ensure, in consultation with—

"(A) the government of the beneficiary country,

"(B) nongovernmental organizations of the beneficiary country,

"(C) nongovernmental organizations of the region (if appropriate),

"(D) environmental, scientific, child survival and child development, and academic leaders of the beneficiary country, and

"(E) environmental, scientific, child survival and child development, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Americas Fund; and

"(3) review the programs, operations, and fiscal audits of each administering body.

"SEC. 710. ANNUAL REPORTS TO THE CONGRESS.

"The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a description of each Americas Framework Agreement and a description of any grants that have been extended by administering bodies pursuant to an Americas Framework Agreement.".

(b) CONFORMING AMENDMENT TO AVOID DUPLICATIVE AUTHORIZATIONS.—Chapter 12 of part I of the Foreign Assistance Act of 1961 (as enacted by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993), relating to the Enterprise for the Americas Initiative, is repealed. Any exercise of the authorities provided in that chapter prior to its repeal by this subsection shall be deemed to be an exercise of the authorities of part IV of the Foreign Assistance Act of 1961 (as enacted by subsection (a) of this section) and shall be carried out, after the enactment of this section, in accordance with that part.

SEC. 603. ENTERPRISE FOR THE AMERICAS BOARD.

Section 610 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i) is amended—

(1) in the section heading, by striking out "ENVIRONMENT" and inserting in lieu thereof "ENTERPRISE";

(2) in subsection (a), by striking out "Environment" and inserting in lieu thereof "Enterprise"; and

(3) in subsection (b)(1)(B)—

(A) by inserting "child survival and child development," after "environmental,"; and

(B) by inserting ", at least one of whom shall be a representative from a child survival and child development organization" after "Caribbean".

SEC. 604. INTERNATIONAL UNIVERSITY FOR THE AMERICAS.

(a) PURPOSE.—The purpose of this section is to promote economic integration and the consolidation and strengthening of democratic institutions in the Western Hemisphere, and to commemorate the 500th anniversary of the discovery of the Americas by Christopher Columbus through the establishment of an institution of higher education, which shall be known as the "International University for the Americas".

(b) ESTABLISHMENT.—The Secretary of State, in consultation with other governments in the Western Hemisphere, shall determine the most appropriate location for the International University for the Americas. In making that determination, the Secretary shall ensure that—

(1) the location chosen is in the Americas and is easily accessible to all peoples in the region; and

(2) the relevant government—

(A) has demonstrated a commitment to economic integration and democratic values though its policies and programs; and

(B) has expressed an interest in that location being chosen as a site and has agreed to contribute some amount of assistance, either in cash or kind, toward the costs of developing the institution.

(c) FACULTY, STUDENTS, AND CURRICULUM.—In developing the bylaws of the International University for the Americas, the Secretary of State shall ensure that they contain provisions to ensure that faculty and students are drawn from all the nations in the Western Hemisphere, and that the curriculum is designed to develop expertise in fields that will promote the economic integration of the Americas and the consolidation of democracy throughout the Hemisphere.

(d) ANNUAL REPORT.—The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a progress report on the selection of a site and design for the establishment of the International University for the Americas.

(e) FUNDING.—Of the funds that are allocated for assistance for Latin America and the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and chapter 4 of part II of that Act (relating to the economic support fund), $500,000 may be made available to carry out the site location and design phase of the International University for the Americas.

TITLE VII—TRADE PROMOTION EXPANSION

SEC. 701. INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1993 and 1994 for use by the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service in accordance with subsection (b).

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for placing and maintaining 20 additional Commercial Service Officers abroad. The Secretary of Commerce, acting through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, may place such additional Commercial Service Officers—

(1) in countries with which the United States has the largest trade deficit, and

(2) in newly emerging market economy countries, with democratically elected governments, in Central and Eastern Europe and elsewhere.

(c) REPORT TO CONGRESS.—The Secretary of Commerce, acting through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, shall, not later than December 31, 1994, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of subsection (b). Each report shall specify—

(1) in what countries the additional Commercial Service Officers were placed, and the number of such officers placed in each such country; and

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to the countries in which such officers were placed.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. IMPACT ON EMPLOYMENT IN THE UNITED STATES.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States, if such incentive or inducement is likely to reduce the number of employees in the United States because United States production is being replaced by such enterprise outside the United States.

SEC. 802. INTERNATIONALLY RECOGNIZED WORKER RIGHTS.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone in that country.

And the Senate agree to the same.

For consideration of the House bill and the Senate amendment and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
EDWARD F. FEIGHAN,
HARRY JOHNSTON,
BILL BROOMFIELD,
TOBY ROTH,
Managers on the Part of the House.

As additional conferees from the Committee on Banking, Finance and Urban Affairs for consideration of section 501 of the House bill, and modifications committed to conference:

MARY ROSE OAKAR,
STEVE NEAL,
JIM LEACH,
Managers on the Part of the House.

CLAIBORNE PELL,
JOE BIDEN,
PAUL S. SARBANES,
JESSE HELMS,
MITCH MCCONNELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—THE OVERSEAS PRIVATE INVESTMENT CORPORATION

The House bill (title I) reauthorizes the Overseas Private Investment Corporation, rewriting section 231-240A of the Foreign Assistance Act. Substantively, the House bill makes the following changes in the existing OPIC authority: (1) extends OPIC's authority for three years; (2) amends the eligibility criteria for participating countries to include countries that are making the transition from nonmarket to market economies; (3) instructs OPIC to include additional text in all contracts protecting the free association of labor, the enforcement of child labor laws, and protections against forced labor; (4) amends OPIC's reporting requirements to include any loss of U.S. jobs created by a project, whether or not the project itself would create other U.S. jobs; (5) contains a series of amendments to conform existing law to the provisions of the Federal Credit Reform Act of 1990 and authorizes OPIC to draw from its noncredit account revolving fund to cover the cost of its activities; (6) raises the maximum contingent liability for insurance from $7.5 billion in current law to $10 billion, and for guarantees from $2.5 billion in current law to $3 billion; (7) raises the ceiling on OPIC's investment guaranty authority from $1.5 billion to $3.5 billion; (8) establishes a program level for the loan guarantee program of $500 million for fiscal year 1993, $800 million for fiscal year 1994 and $900 million for fiscal year 1995; (9) establishes a program level for the direct loan program of $50 million for fiscal year 1993, $75 million for fiscal year 1994 and $100 million for fiscal year 1995; (10) authorizes OPIC to draw up to $11 million for fiscal year 1993, $13 million for fiscal year 1994, and $15 million for fiscal year 1995 from its non-credit account revolving fund to cover its administrative costs; (11) sets fines for an investor who knowingly commits fraud in activities with the Corporation; and (12) clarifies the relationship to credit reform of OPIC's authority to protect the value of local currency received as salvage on insurance claims by reinvesting this local currency in the local economy.

The Senate amendment (title I) extends the authority of OPIC for one year, and raises the maximum contingent liability for guarantees from $1.5 billion to $2 billion.

The conference substitute (title I) does not rewrite OPIC's authority, but includes most of the substantive provisions in the House bill, authorizing the program for fiscal years 1993 and 1994. The conference substitute authorizes the Corporation to draw from its noncredit account revolving fund $8.128 million for fiscal year 1993 and $11 million for fiscal year 1994 to cover its administrative expenses; raises the ceiling on OPIC's investment guaranty authority from $1.5 billion to $2.5 billion; raises the maximum contingent liability for insurance from $7.5 billion to $9 billion; sets a program ceiling of $650 million for fiscal year 1993 and $850 million for fiscal year 1994 for its guarantee and direct loan program. In addition, the conference substitute includes a provision which requires an investor obtaining insurance, reinsurance, guarantees or other financing from OPIC to certify to the Corporation that any contract for the export of goods contain a clause requiring U.S. insurance companies to have a fair and open competitive opportunity to provide insurance against the risk of loss on such exports, except that the certification requirement does not apply to investors who do not have controlling interest in fact in the project in question.

TITLE II—THE TRADE AND DEVELOPMENT AGENCY

The House bill (title II) rewrites section 661 of the Foreign Assistance Act of 1961 which provides the authorities of the Trade and Development Program, doubles the authorization of appropriations for the Trade and Development Program, and renames it the Trade and Development Agency (TDA). The House bill further authorizes the Director of the TDA to provide funds for feasibility studies and other activities related to development projects which use U.S. exports and expands the mandate of the Agency to include architectural and engineering design, which can create an advantage for U.S. exports by setting the standard in overseas projects. Title II also permits the Agency to provide technical assistance for project related activities. Title II further provides an authorization of $55 million for fiscal year 1992 and $70 million for fiscal year 1993 for the programs of the TDA. Title III provides an additional authorization of $20 million for fiscal year 1993 for the Trade and Development Agency.

The Senate amendment contains no comparable provision.

The conference substitute (title II) is virtually identical to the House bill, but authorizes $55 million for fiscal year 1993 and $65 million for fiscal year 1994.

TITLE III—AID, TRADE, AND COMPETITIVENESS

The House bill (title III) establishes statutorily and provides guidelines to the existing Office of Capital Projects within the Agency for International Development (AID). In coordination with the appropriate agencies of the Trade Policy Coordinating Committee (TPCC), AID is directed to review periodically the infrastructure needs of developing countries and of countries making the transition from nonmarket to market economies. The Capital Projects office is authorized to directly support developmentally sound capital projects that utilize U.S. exports and services. The House bill is consistent with the Organization for Economic Cooperation and Development (OECD) guidelines for overseas capital projects. The House bill also urges the President to use $650 million for fiscal year 1992 and $700 million for fiscal year 1993 for capital projects. All funding is to be drawn from economic support fund assistance, assistance under the Multilateral Assistance Initiative for the Philippines, and assistance under the Support for Eastern European Democracy (SEED) Act. There is a prohibition on funds being drawn from amounts made available for development assistance. In addition, the House bill (title VIII) requires the Administrator of AID to identify and provide funding for capital projects to alleviate the worst manifestations of poverty or to promote environmental safety and sustainability at the community level.

The Senate amendment contains no comparable provision.

The conference substitute (title III) combines the authorities contained in titles III and VIII of the House bill. The conference substitute clarifies that funds under chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 may be used only for capital projects for basic infrastructure (those projects authorized under title VIII of the House bill).

TITLE IV—UNITED STATES COMMERCIAL CENTERS

The House bill (title IV) establishes, as a five year pilot program within the Department of Commerce, Commercial Centers in either one of the independent states of the former Soviet Union or one of the Baltic states, and in one country in Asia, Latin America, and Africa. The purpose of these Centers is to provide additional resources for the promotion of U.S. exports and to familiarize U.S. exporters with the industries, markets, and customs of the host countries. Twenty two million dollars is provided for these Centers for fiscal years 1993 through 1997. Each Center must collect and publish data regarding the host country's market, and provide technical, clerical, administrative, and legal assistance to exporters on a user fee basis. The amendment instructs the Department of Commerce to staff each Center with members of the U.S. and Foreign Commercial Service (FCS), participants in the Market Development Cooperator Programs, Foreign Trade Fellows, and other employees of other trade promotion agencies within the U.S. Government. In addition, the Secretary of Commerce must locate each Center in the primary commercial city of the host country and acquire office and exhibition space to enable the Centers to perform their mandated functions.

The Senate amendment contains no comparable provision.

The conference substitute (title IV) is essentially the same as the House bill except that the Secretary of Commerce is authorized and encouraged, rather than mandated, to establish these Centers and the reference to pilot programs is deleted. The conference substitute also removes the authorization to place a Center in the Soviet Union as an American Business Center has already been authorized in the independent states of the former Soviet Union through the FREEDOM Support Act. The conference substitute also deletes the language regarding foreign trade fellows.

The committee of conference notes that the FCS already emphasizes international business experience in its regular recruitment of officers and uses the market Development Cooperator Program and limited appointments to supplement corps skills. The committee of conference recognizes the value of this expertise and encourages the FCS to use it as appropriate.

It is the intent of the committee of conference that these Centers be established by and collocated with the FCS, and that all information generated by the Centers be entered into and disseminated through existing FCS information systems.

In implementing the provisions of this title, the committee of conference urges that particular attention be given to assisting American firms in the export of technologies, manufacturing processes, products, and services that will help protect the environment and natural resources around the globe. U.S. companies are the undisputed world leaders in the development and production of technologies, manufacturing process, products, and services to control or reduce pollution and to clean up existing pollution problems. U.S. companies can be in the forefront of the global market for environmental products, but will have aggressive competition from firms in other countries. U.S. Commercial Centers can and should provide the export promotion assistance to ensure that U.S. producers of environmental goods and services remain at the forefront of this global market.

The committee of conference finds that the activities and programs of the Center for Global Competitiveness and Entrepreneurship at Babson College in Wellesley, Massachusetts, play a critical role in enhancing opportunities for exporters and that its expertise in training business leaders for the global market will be invaluable to the export promotion objectives contained in this title. The committee of conference supports and encourages the expansion of the Center at Babson College.

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

The House bill (title V) directs the Secretary of Commerce to provide at least one additional full-time procurement officer at each of the multilateral development banks in order for that officer to act as a liaison between the business community and the bank. The Secretary of Commerce must ensure that the procurement officer has access to, and disseminates to U.S. businesses, information relating to projects being proposed by the multilateral bank to which the officer is assigned. The procurement officer is to ensure that U.S. businesses, especially small- and medium-sized businesses, are aware of bidding opportunities and encourage U.S. business to fairly compete for projects in the economic fields in which they are the most competitive.

The Senate amendment contains no comparable provision.

The conference substitute (title V) is essentially identical to the House bill, but includes an authorization of $1 million for each of fiscal years 1993 and 1994. Funding authorized under this title can be used only for the placement of additional procurement officers at the multilateral development banks.

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

The House bill (title VI) authorizes the Enterprise for the Americas Initiative, which establishes basis criteria which Latin American or Caribbean countries must meet in order to qualify for debt reduction benefits and leaves discretion to the President to make the eligibility determination. Countries must have in effect, or be making progress toward: (1) an IMF standby agreement or related equivalent agreement; (2) an IDA or World Bank structural adjustment loan; major investment reforms; and (3) an agreement with commercial bank lenders on a financing program including debt or debt service reduction. The House bill also requires that an eligible country have a democratically elected government, must not harbor or sponsor international terrorists, must be cooperating on antinarcotics activities, and must respect human rights.

The House bill also authorizes debt restructuring for bilateral foreign assistance debt owed to the U.S. Government as of January 1, 1992 and further provides that the restructured debt will bear a concessional interest rate and requires that an Environmental Framework Agreement between the United States and the beneficiary country be negotiated before interest payments may be made in local currencies. The local currencies are the property of the beneficiary country until they are disbursed to local administering bodies established pursuant to an Environmental Framework Agreement. In the absence of a Framework Agreement, interest must be repaid in dollars to the U.S. Treasury and may not be retroactively applied to the Environmental Fund.

The House bill requires each beneficiary country that enters into an Environmental Framework Agreement to establish an Environmental Fund to receive payments in local currencies. A country may still be eligible for benefits under the Facility even if it does not sign an Environmental Framework Agreement. Local currency payments are not to be considered assistance for the purpose of laws which limit assistance to a country. The administering body may make grants from either the principal deposited in the Fund or from accrued interest only in accordance with an Environmental Framework Agreement between the United States and an eligible country.

The House bill authorizes the Secretary of State to negotiate an Environmental Framework Agreement with eligible countries, in consultation with the Enterprise for the Americas Board. Eligible activities are described by the House bill as being those that link the conservation and sustainable use of natural resources with local community development. Grants may only be made to: beneficiary country NGOs; local or regional entities; and, in rare cases, to the beneficiary countries. Finally, the House bill requires the President to transmit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report on the implementation of this title.

The Senate bill contains no comparable provision.

The conference substitute (title IV) is essentially the same as the House bill, but includes an authorization for the establishment of the International University of the Americas. The conference substitute directs the Secretary of State to determine the location of such a University in the Americas based upon the host country's accessibility, commitment to economic integration and democratic values, and willingness to provide some assistance for its construction. The conference substitute authorizes $500,000 under chapter I of part I and chapter 4 of part II of the Foreign Assistance Act to carry out the site location and design phase for the University.

TITLE VII—TRADE PROMOTION EXPANSION

The House bill (title VII) provides additional funding to the Secretary of Commerce for the purpose of placing additional FCS officers in countries with which the United States has the largest trade deficit and in newly democratic countries of Central and Eastern Europe. The House bill also requires the Secretary of Commerce to report to the Congress on the placement of officers and their effectiveness in their new posts.

The Senate amendment contains no comparable provision.

The conference substitute (title VII) is identical to the House bill.

TITLE VIII—GENERAL PROVISIONS

The conference substitute (title VIII) includes language which prohibits funds authorized under this Act to be expended for any financial incentive to a business enterprise currently located in the United States for the purpose of including an enterprise to relocate overseas if such a relocation is likely to displace U.S. workers. The title further prohibits any funding for projects or activities that violate internationally recognized worker rights.

The committee of conference included this title to reflect its concern regarding the recent reports that foreign assistance funds may have been used to entice U.S. companies to relocate overseas thereby displacing American workers. The committee of conference further expresses its concern regarding additional reports that foreign assistance funds may have been used for projects which violated internationally recognized workers rights. This language was not originally included in either the House bill or the Senate amendment as these reports had not yet surfaced at the time of their drafting.

For consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
EDWARD F. FEIGHAN,
HARRY JOHNSTON,
BILL BROOMFIELD,
TOBY ROTH,

As additional conferees from the Committee on Banking, Finance and Urban Affairs for consideration of section 501 of the House bill, and modifications committed to conference:

MARY ROSE OAKAR,
STEVE NEAL,
JIM LEACH,
Managers on the Part of the House.

CLAIBORNE PELL,
JOE BIDEN,
PAUL S. SARBANES,
JESSE HELMS,
MITCH MCCONNELL,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 347, DEFENSE PRODUCTION ACT AMENDMENTS OF 1991

Mr. CARPER submitted the following conference report and statement on the Senate bill (S. 347) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-1028)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 347), To amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Defense Production Act Amendments of 1992".

(b) TABLE OF CONTENTS.—

Section 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

Sec. 101. Declaration of policy.

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

Sec. 111. Strengthening of domestic capability and assistance for small businesses.
Sec. 112. Limitation on actions without congressional authorization.

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

Sec. 121. Expanding the reach of existing authorities under title III.
Sec. 122. Defense Production Act Fund.
Sec. 123. Declaration of offset policy.
Sec. 124. Annual report on impact of offsets.
Sec. 125. Civil-military integration.
Sec. 126. Testing, qualification, and use of industrial resources developed under title III projects.

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

Sec. 131. Small business.
Sec. 132. Definitions.
Sec. 133. Appointment of personnel.
Sec. 134. Regulations and orders.
Sec. 135. Information on the defense industrial base.
Sec. 136. Public participation in rulemaking.

PART E—TECHNICAL AMENDMENTS

Sec. 141. Technical correction.
Sec. 142. Investigations; records; reports; subpoenas.
Sec. 143. Employment of personnel.
Sec. 144. Technical correction.

PART F—REPEALERS AND CONFORMING AMENDMENTS

Sec. 151. Synthetic fuel action.
Sec. 152. Repeal of interest payment provisions.
Sec. 153. Joint committee on defense production.
Sec. 154. Persons disqualified for employment.
Sec. 155. Feasibility study on uniform cost accounting standards; report submitted.
Sec. 156. National commission on supplies and shortages.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

Sec. 161. Authorization of appropriations.
Sec. 162. Extension of program.
Sec. 163. Presidential study.

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

Sec. 201. Discouraging unfair trade practices.
Sec. 202. Fraudulent use of "Made in America" labels.
Sec. 203. Evaluation of domestic defense industrial base policy.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Energy security.
Sec. 302. Domestic retail deposit-taking by foreign banks.
Sec. 303. Deposit insurance assessment rates for lifeline account deposits.
Sec. 304. Effective date.
Sec. 305. Provisional repeal of duplicative provisions.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) the vitality of the industrial and technology base of the United States is a foundation of national security that provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency;

"(2) in peacetime, the health of the industrial and technological base contributes to the technological superiority of United States defense equipment, which is a cornerstone of the national security strategy, and the efficiency with which defense equipment is developed and produced;

"(3) in times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency;

"(4) in view of continuing international problems, the Nation's demonstrated reliance on imports of materials and components, and the need for measures to reduce defense production lead times and bottlenecks, and in order to provide for the national defense and national security, the United States defense mobilization preparedness effort continues to require the development of—

"(A) preparedness programs;

"(B) domestic defense industrial base improvement measures;

"(C) provisions for a graduated response to any threatening international or military situation;

"(D) the expansion of domestic productive capacity beyond the levels needed to meet the civilian demand; and

"(E) some diversion of certain materials and facilities from civilian use to military and related purposes.

"(5) to meet the requirements referred to in this subsection, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technological base;

"(6) the activities referred to in this subsection are needed in order to—

"(A) improve domestic defense industrial base efficiency and responsiveness;

"(B) reduce the time required for industrial mobilization in the event of an attack on the United States; or

"(C) to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which could adversely affect the national defense preparedness of the United States;

"(7) in order to ensure national defense preparedness, which is essential to national security, it is necessary and appropriate to assure the availability of domestic energy supplies for national defense needs;

"(8) to further assure the adequate maintenance of the defense industrial base, to the maximum extent possible, such supplies should be augmented through reliance on renewable fuels, including solar, geothermal, and wind energy and ethanol and its derivatives, and on energy conservation measures;

"(9) the domestic defense industrial base is a component part of the core industrial capacity of the Nation;

"(10) much of the industrial capacity which is relied upon by the Federal Government for military production and other defense-related purposes is deeply and directly influenced by—

"(A) the overall competitiveness of the United States industrial economy; and

"(B) the ability of United States industry, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve that competitive edge in the future, with respect to military and civilian production;

"(11) the domestic defense industrial base is developing a growing dependency on foreign sources for critical components and materials used in manufacturing and assembling major weapons systems for the national defense;

"(12) such dependence is threatening the capability of many critical industries to respond rapidly to defense production needs in the event of war or other hostilities or diplomatic confrontation; and

"(13) the inability of United States industry, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair our ability to sustain United States Armed Forces in combat for longer than a short period.

"(b) Statement of Policy.—It is the policy of the United States that—

"(1) in order to ensure productive capacity in the event of an attack on the United States, the United States should encourage the geographic dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographic areas which are vulnerable to attack by an enemy of the United States;

"(2) to ensure that essential mobilization requirements are met, consideration should also be given to stockpiling strategic materials to the extent that such stockpiling is economical and feasible;

"(3) in the construction of any Government-owned industrial facility, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this or any other Act, each department and agency of the executive branch should apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographic dispersal of such facilities in the interest of national defense, except that nothing in this paragraph shall preclude the use of existing industrial facilities;

"(4) to ensure the adequacy of productive capacity and supply, executive agencies and departments responsible for defense acquisition should continuously assess the capability of the domestic defense industrial base to satisfy peacetime requirements as well as increased mobilization production requirements, specifically evaluating the availability of adequate production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

"(5) every effort should be made to foster cooperation between the defense and commercial sectors for research and development and for acquisition of materials, components, and equipment; and

"(6) plans and programs to carry out this section shall be undertaken with due consideration for promoting efficiency and competition.".

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SEC. 111. STRENGTHENING OF DOMESTIC CAPABILITY AND ASSISTANCE FOR SMALL BUSINESSES.

Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071, et seq.) is amended by adding at the end the following new sections:

"SEC. 107. STRENGTHENING DOMESTIC CAPABILITY.

"(a) In General.—Utilizing the authority of title III of this Act or any other provision of law, the President may provide appropriate incentives to develop, maintain, modernize, and expand the productive capacities of domestic sources for critical components, critical technology items, and industrial resources essential for the execution of the national security strategy of the United States.

"(b) Critical Components and Critical Technology Items.—

"(1) Identification.—

"(A) In general.—The President, acting through the Secretary of Defense, shall identify critical components and critical technology items for each item on the Critical Items List of the Commanders-in-Chief of the Unified and Specified Commands and other items within the inventory of weapon systems and defense equipment.

"(B) Definition.—Any component identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code, or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 shall be designated as a critical component for purposes of this Act, unless the President determines that the designation is unwarranted.

"(2) Maintenance of reliable sources of supply.—The President shall take appropriate actions to assure that critical components or critical technology items are available from reliable sources when needed to meet defense requirements during peacetime, graduated mobilization, and national emergency.

"(3) Appropriate action.—For purposes of this subsection, appropriate action may include—

"(A) restricting contract solicitations to reliable sources;

"(B) restricting contract solicitations to domestic sources pursuant to—

"(i) section 2304(b)(1)(B) or section 2304(c)(3) of title 10, United States Code;

"(ii) section 303(b)(1)(B) or section 303(c)(3) of the Federal Property and Administrative Services Act of 1949; or

"(iii) other statutory authority;

"(C) stockpiling critical components; and

"(D) developing substitutes for a critical component or a critical technology item.

"SEC. 108. MODERNIZATION OF SMALL BUSINESS SUPPLIERS.

"(a) In General.—In providing any assistance under this Act, the President shall accord a strong preference for small business concerns which are subcontractors or suppliers, and, to the maximum extent practicable, to such small business concerns located in areas of high unemployment or areas that have demonstrated a continuing pattern of economic decline, as identified by the Secretary of Labor.

"(b) Modernization of Equipment.—

"(1) In general.—Funds authorized under title III may be used to guarantee the purchase or lease of advance manufacturing equipment, and any related services with respect to any such equipment for purposes of this Act.

"(2) Small business suppliers.—In considering proposals for title III projects under paragraph (1), the President shall provide a strong preference for proposals submitted by a small business supplier or subcontractor whose proposal—

"(A) has the support of the department or agency which will provide the guarantee;

"(B) reflects that the small business concern has made arrangements to obtain qualified outside assistance to support the effective utilization of the advanced manufacturing equipment being proposed for installation; and

"(C) meets the requirements of section 301, 302, or 303.".

SEC. 112. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

"SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

"(a) Wage or Price Controls.—No provision of this Act shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.

"(b) Chemical or Biological Weapons.—No provision of title I of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities, unless authorized by the President (or the President's designee who is serving in a position at level I of the Executive Schedule in accordance with section 5312 of title 5, United States Code) without further redelegation.".

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.

(a) Guarantee Authority.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking "to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense" and inserting "to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential to the national defense";

(2) by amending subsection (a)(3)(A) to read as follows:

"(A) the guaranteed contract or activity is for industrial resources or a critical technology item which is essential to the national defense;";

(3) in subsection (a)(3)(B)—

(A) by striking "Without" and inserting "without"; and

(B) by striking "the capability for the needed material or service" and inserting "the needed industrial resources or critical technology item";

(4) by amending subsection (a)(3)(D) to read as follows:

"(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the guarantee.";

(5) in subsection (e)(1)(A), by striking "Except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in subparagraph (D)";

(6) in subsection (e)(1)(C), by striking "$25,000,000" and inserting "$50,000,000"; and

(7) subsection (e)(1), by adding at the end the following new subparagraph:

"(D) The requirements of subparagraphs (A), (B), and (C) may be waived—

"(i) during periods of national emergency declared by the Congress or the President; or

"(ii) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(b) LOANS TO PRIVATE BUSINESS ENTERPRISES.—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking "for the procurement of materials or the performance of services for the national defense" and inserting "for the procurement of industrial resources or a critical technology item for the national defense";

(2) by amending subsection (b)(2)(D) to read as follows:

"(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the loan.";

(3) in subsection (c)(1), by striking "No such loan may be made under this section, except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in paragraph (4), no loans may be made under this section";

(4) in subsection (c)(3), by striking "$25,000,000" and inserting "$50,000,000"; or

(5) in subsection (c), by adding at the end the following new paragraph:

"(4) The requirements of paragraphs (1), (2), and (3) may be waived—

"(A) during periods of national emergency declared by the Congress or the President; and

"(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(c) PURCHASES AND PURCHASE COMMITMENTS.—

(1) IN GENERAL.—Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

"(a) PRESIDENTIAL PROVISIONS.—

"(1) IN GENERAL.—To assist in carrying out the objectives of this Act, the President may make provision—

"(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

"(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

"(2) TREATMENT OF CERTAIN AGRICULTURAL COMMODITIES.—Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced, except to the extent that such domestically produced supply may be purchased for resale for industrial use or stockpiling.

"(3) TERMS OF SALES.—No commodity purchased under this subsection shall be sold at less than—

"(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower; or

"(B) if no ceiling price has been established, the higher of—

"(i) the current domestic market price for such commodity; or

"(ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation, as provided in section 407 of the Agricultural Act of 1949.

"(4) DELIVERY DATES.—No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than 1 year after the expiration of this section.

"(5) PRESIDENTIAL DETERMINATIONS.—Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

"(A) the industrial resource or critical technology item is essential to the national defense;

"(B) without Presidential action under the authority provided for in this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

"(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

"(D) the combination of the United States national defense demand and foreseeable nondefense demand for the industrial resource or critical technology item is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the purchase, purchase commitment, or other action.

"(6) IDENTIFICATION OF SHORTFALL.—

"(A) IN GENERAL.—Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of paragraph (5).

"(B) TIMING OF ACTION.— Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to subparagraph (A).

"(C) LIMITATION.—If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

"(7) WAIVER.—The requirements of paragraphs (1) through (6) may be waived—

"(A) during periods of national emergency declared by the Congress or the President; or

"(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(2) PURCHASE PERIODS.—Section 303(b) of the Defense Production Act of 1950 (50 U.S.C. 2093(b)) is amended by striking "September 30, 1995" and inserting "a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made".

(d) DEVELOPING SUBSTITUTES.—Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended by inserting before the period the following: ", critical components, critical technology items, and other industrial resources".

SEC. 122. DEFENSE PRODUCTION ACT FUND.

Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

"SEC. 304. DEFENSE PRODUCTION ACT FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereafter in this section referred to as 'the Fund').

"(b) MONEYS IN FUND.—There shall be credited to the Fund—

"(1) all moneys appropriated for the Fund, as authorized by section 711(c); and

"(2) all moneys received by the Fund on transactions entered into pursuant to section 303.

"(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

"(d) DURATION OF FUND.—Moneys in the Fund shall remain available until expended.

"(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $400,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If, at the close of any fiscal year, the Fund balance exceeds $400,000,000, the amount in excess of $400,000,000 shall be paid into the general fund of the Treasury.

"(f) FUND MANAGER.—The President shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) determining the liability of the Fund in accordance with subsection (g);

"(2) ensuring the visibility and accountability of transactions engaged in through the Fund; and

"(3) reporting to the Congress each year regarding activities of the Fund during the previous fiscal year.

"(g) LIABILITIES AGAINST FUND.—When any agreement entered into pursuant to this title after December 31, 1991, imposes any contingent liability upon the United States, such liability shall be considered an obligation against the Fund.".

SEC. 123. DECLARATION OF OFFSET POLICY.

(a) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States firms to compete for military export sales is not undermined, it is the policy of the Congress that—

(1) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

(2) United States Government funds shall not be used to finance offsets in security assistance transactions, except in accordance with policies and procedures that were in existence on March 1, 1992;

(3) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into before March 1, 1992; and

(4) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, reside with the companies involved.

(b) PRESIDENTIAL APPROVAL OF EXCEPTIONS.—It is the policy of the Congress that the President may approve an exception to the policy stated in subsection (a) after receiving the recommendation of the National Security Council.

(c) CONSULTATION.—It is the policy of the Congress that the President shall designate the Secretary of Defense to lead, in coordination with the Secretary of State, an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The President shall transmit an annual report on the results of these consultations to the Congress as part of the report required under section 309(a) of the Defense Production Act of 1950.

SEC. 124. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) in subsection (a)—

(A) by striking "(a) REPORT REQUIRED.—Not later" and inserting: "(a) ANNUAL REPORT ON IMPACT OF OFFSETS.—

"(1) REPORT REQUIRED.—Not later";

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

"(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce (hereafter in this subsection referred to as 'the Secretary') shall—

"(A) prepare the report required by paragraph (1);

"(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in connection with the preparation of such report; and

"(C) function as the President's Executive Agent for carrying out this section.";

(2) by amending subsection (b) to read as follows:

"(b) INTERAGENCY STUDIES AND RELATED DATA.—

"(1) PURPOSE OF REPORT.—Each report required under subsection (a) shall identify the cumulative effects of offset agreements on—

"(A) the full range of domestic defense productive capability (with special attention paid to the firms serving as lower-tier subcontractors or suppliers); and

"(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

"(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary to facilitate the execution of the Secretary's responsibilities with respect to trade offset and countertrade policy development."; and

(3) by adding at the end the following new subsections:

"(c) NOTICE OF OFFSET AGREEMENTS.—

"(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

"(2) REGULATIONS.—The information to be furnished under paragraph (1) shall be prescribed in regulations promulgated by the Secretary. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information.

"(d) CONTENTS OF REPORT.—

"(1) IN GENERAL.—Each report under subsection (a) shall include—

"(A) a net assessment of the elements of the industrial base and technology base covered by the report;

"(B) recommendations for appropriate remedial action under the authority of this Act, or other law or regulations;

"(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (b);

"(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (c); and

"(E) a summary and analysis of any bilateral and multilateral negotiations relating to the use of offsets completed during the reporting period.

"(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report required under this section shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary.

"(e) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (a), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.".

SEC. 125. CIVIL-MILITARY INTEGRATION.

Title III of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 310. CIVIL-MILITARY INTEGRATION.

"An important purpose of this title is the creation of production capacity that will remain economically viable after guarantees and other assistance provided under this title have expired.".

SEC. 126. TESTING, QUALIFICATION, AND USE OF INDUSTRIAL RESOURCES DEVELOPED UNDER TITLE III PROJECTS.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the single governmentwide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall be amended to provide for testing and qualification (pursuant to subsection (b)) and use (pursuant to subsection (c)) of the industrial resources manufactured or developed with assistance provided under section 301, 302, or 303 of the Defense Production Act of 1950.

(b) TESTING AND QUALIFICATION.—Any testing and qualification required for the use or incorporation of the industrial resource developed or manufactured with such assistance shall be undertaken upon the request of the title III project contractor and the costs of such testing and qualification shall be borne by the department or agency imposing the testing and qualification requirement.

(c) USE.—Upon qualification, the industrial resource shall be eligible for use with respect to the development and manufacture of a major system or an item of supply being undertaken by an executive agency.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "industrial resources" has the same meaning as in section 702(11) of the Defense Production Act of 1950;

(2) the term "item of supply" has the same meaning as in section 4(10) of the Office of Federal Procurement Policy Act;

(3) the term "major system" has the same meaning as in section 4(9) of the Office of Federal Procurement Policy Act; and

(4) the term "title III project contractor" means a contractor who has received assistance for the development or manufacture of an industrial resource under section 301, 302, or 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2091–2093).

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SEC. 131. SMALL BUSINESS.

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

"SEC. 701. SMALL BUSINESS.

"(a) PARTICIPATION.—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act.

"(b) ADMINISTRATION OF ACT.—In administering the programs, implementing regulations, policies, and procedures under this Act, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

"(c) ADVISORY COMMITTEE PARTICIPATION.—Representatives of small business concerns shall be afforded the maximum opportunity to participate in such advisory committees as may be established pursuant to this Act.

"(d) INFORMATION.—Information about this Act and activities undertaken in accordance with this Act shall be made available to small business concerns.

"(e) ALLOCATIONS UNDER SECTION 101.—Whenever the President makes a determination to exercise any authority to allocate any material pursuant to section 101, small business concerns shall be accorded, to the extent practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to emerging small business concerns.".

SEC. 132. DEFINITIONS.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

"SEC. 702. DEFINITIONS.

"For purposes of this Act, the following definitions shall apply:

"(1) CRITICAL COMPONENT.—The term 'critical component' includes such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States. Components identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code, or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 shall be designated as critical components for purposes of this Act, unless the President determines that the designation is unwarranted.

"(2) CRITICAL INDUSTRY FOR NATIONAL SECURITY.—The term 'critical industry for national security' means any industry (or industry sector) identified pursuant to section 2503(6) of title 10, United States Code, and such other industries or industry sectors as may be designated by the President as essential to provide industrial resources required for the execution of the national security strategy of the United States.

"(3) CRITICAL TECHNOLOGY.—The term 'critical technology' includes any technology that is included in 1 or more of the plans submitted pursuant to section 6681 of title 42, United States Code, or section 2508 of title 10, United States Code (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.

"(4) CRITICAL TECHNOLOGY ITEM.—The term 'critical technology item' means materials directly employing, derived from, or utilizing a critical technology.

"(5) DEFENSE CONTRACTOR.—The term 'defense contractor' means any person who enters into a contract with the United States—

"(A) to furnish materials, industrial resources, or a critical technology for the national defense; or

"(B) to perform services for the national defense.

"(6) DOMESTIC DEFENSE INDUSTRIAL BASE.—The term 'domestic defense industrial base' means domestic sources which are providing, or which would be reasonably expected to provide, materials or services to meet national defense requirements during peacetime, graduated mobilization, national emergency, or war.

"(7) DOMESTIC SOURCE.—The term 'domestic source' means a business concern—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such business concern under a contract with the United States relating to a critical component or a critical technology item; and

"(B) that procures from business concerns described in subparagraph (A) substantially all of any components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

"(8) ESSENTIAL WEAPON SYSTEM.—The term 'essential weapon system' means a major weapon system and other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(9) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

"(10) FOREIGN SOURCE.—The term 'foreign source' means a business entity other than a 'domestic source'.

"(11) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(12) MATERIALS.—The term 'materials' includes—

"(A) any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

"(B) any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

"(13) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and any directly related activity.

"(14) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(15) SERVICES.—The term 'services' includes any effort that is needed for or incidental to—

"(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item; or

"(B) the construction of facilities.

"(16) SMALL BUSINESS CONCERN.—The term 'small business concern' means a business concern that meets the requirements of section 3(a) of the Small Business Act and the regulations promulgated pursuant to that section, and includes such business concerns owned and controlled by socially and economically disadvantaged individuals or by women.

"(17) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term 'small business concern owned and controlled by socially and economically disadvantaged individuals' has the same meaning as in section 8(d)(3)(C) of the Small Business Act.".

SEC. 133. APPOINTMENT OF PERSONNEL.

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

"SEC. 703. CIVILIAN PERSONNEL.

"Any officer or agency head may—

"(1) appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

"(2) fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates,

except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule, as the President deems appropriate to carry out this Act.".

SEC. 134. REGULATIONS AND ORDERS.

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

"SEC. 704. REGULATIONS AND ORDERS.

"(a) IN GENERAL.—Subject to section 709 and subsection (b), the President may prescribe such regulations and issue such orders as the President may determine to be appropriate to carry out this Act.

"(b) PROCUREMENT REGULATIONS.—Any procurement regulation, procedure, or form issued pursuant to subsection (a) shall be issued pursuant to section 25 of the Office of Federal Procurement Policy Act, and shall conform to any governmentwide procurement policy or regulation issued pursuant to section 6 or 25 of that Act.".

SEC. 135. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 722. DEFENSE INDUSTRIAL BASE INFORMATION SYSTEM.

"(a) ESTABLISHMENT REQUIRED.—

"(1) IN GENERAL.—The President, acting through the Secretary of Defense and the heads of such other Federal agencies as the President may determine to be appropriate, shall provide for the establishment of an information system on the domestic defense industrial base which—

"(A) meets the requirements of this section; and

"(B) includes a systematic continuous procedure, to collect and analyze information necessary to evaluate—

"(i) the adequacy of domestic industrial capacity to furnish critical components and critical technology items essential to the national security of the United States;

"(ii) dependence on foreign sources for critical components and critical technology items essential to defense production; and

"(iii) the reliability of foreign sources for critical components and critical technology items.

"(2) INCORPORATION OF DINET.—The Defense Information Network (or DINET), as established and maintained by the Secretary of Defense on the date of enactment of the Defense Production Act Amendments of 1992, shall be incorporated into the system established pursuant to paragraph (1).

"(3) USE OF INFORMATION.—Information collected and analyzed under the procedure established pursuant to paragraph (1) shall constitute a basis for making any determination to exercise any authority under this Act and a procedure for using such information shall be integrated into the decisionmaking process with regard to the exercise of any such authority.

"(b) SOURCES OF INFORMATION.—

"(1) FOREIGN DEPENDENCE.—

"(A) SCOPE OF INFORMATION REVIEW.—The procedure established to meet the requirement of subsection (a)(1)(B)(ii) shall address defense production with respect to the operations of prime contractors and at least the first 2 tiers of subcontractors, or at lower tiers if a critical component is identified at such lower tier.

"(B) USE OF EXISTING DATA COLLECTION AND REVIEW CAPABILITIES.—To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries.

"(C) INITIAL EMPHASIS ON PRIORITY LISTS.—In establishing the procedure referred to in subparagraph (A), the Secretary may place initial emphasis on the production of critical components and critical technology items.

"(2) PRODUCTION BASE ANALYSIS.—

"(A) COMPREHENSIVE REVIEW.—The analysis of the production base for any major system acquisition included in the information system maintained pursuant to subsection (a) shall, in addition to any information and analyses the President may require—

"(i) include a review of all subcontractors and suppliers, beginning with any raw material, special alloy, or composite material involved in the production of a completed system;

"(ii) identify each contractor and subcontractor (or supplier) at each level of production for such major system acquisition which represents a potential for delaying or preventing the system's production and acquisition, including the identity of each contractor or subcontractor whose contract qualifies as a foreign source or sole source contract and any supplier which is a foreign source or sole source for any item required in the production, including critical components; and

"(iii) include information to permit appropriate management of accelerated or surge production.

"(B) INITIAL REQUIREMENT FOR STUDY OF PRODUCTION BASES FOR NOT MORE THAN 6 MAJOR WEAPON SYSTEMS.—In establishing the information system under subsection (a), the President, acting through the Secretary of Defense, shall require an analysis of the production base for not more than 2 weapons of each military department which are major systems (as defined in section 2302(5) of title 10, United States Code). Each such analysis shall identify the critical components of each system.

"(3) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary of Commerce, acting through the Bureau of the Census, shall consult with the Secretary of Defense and the Director of the Federal Emergency Management Agency to improve the usefulness of information derived from the Census of Manufacturers in carrying out this section.

"(B) ISSUES TO BE ADDRESSED.—The consultation required under subparagraph (A) shall address improvements in the level of detail, timeliness, and availability of input and output analyses derived from the Census of Manufacturers necessary to carry out this section.

"(c) STRATEGIC PLAN FOR DEVELOPING COMPREHENSIVE SYSTEM.—

"(1) PLAN REQUIRED.—Not later than December 31, 1993, the President shall provide for the establishment of and report to the Congress on a strategic plan for developing a cost-effective, comprehensive information system capable of identifying on a timely, ongoing basis vulner-

ability in critical components and critical technology items.

"(2) ASSESSMENT OF CERTAIN PROCEDURES.—In establishing the plan pursuant to paragraph (1), the President shall assess the performance and cost-effectiveness of procedures implemented under subsection (b), and shall seek to build upon such procedures, as appropriate.

"(d) CAPABILITIES OF SYSTEM.—

"(1) IN GENERAL.—In connection with the establishment of the information system under subsection (a), the President shall direct the Secretary of Defense, the Secretary of Commerce, and the heads of such other Federal agencies as the President may determine to be appropriate—

"(A) to consult with each other and provide such information, assistance, and cooperation as may be necessary to establish and maintain the information system required by this section in a manner which allows the coordinated and efficient entry of information on the domestic defense industrial base into, and the withdrawal, subject to the protection of proprietary data, of information on the domestic defense industrial base from the system on an on-line interactive basis by the Department of Defense;

"(B) to assure access to the information on the system, as appropriate, for all participating Federal agencies, including each military department;

"(C) to coordinate standards, definitions, and specifications for information on defense production, which is collected by the Department of Defense and the military departments so that such information can be used by any Federal agency or department, as the President determines to be appropriate; and

"(D) to assure that the information in the system is updated, as appropriate, with the active assistance of the private sector.

"(2) TASK FORCE ON MILITARY-CIVILIAN PARTICIPATION.—Upon the establishment of the information system under subsection (a), the President shall convene a task force consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of each military department, and the heads of such other Federal agencies and departments as the President may determine to be appropriate to establish guidelines and procedures to ensure that all Federal agencies and departments which acquire information with respect to the domestic defense industrial base are fully participating in the system, unless the President determines that all appropriate Federal agencies and departments, including each military department, are voluntarily providing information which is necessary for the system to carry out the purposes of this Act and chapter 148 of title 10, United States Code.

"(e) REPORT ON SUBCONTRACTOR AND SUPPLIER BASE.—

"(1) REPORT REQUIRED.—The President shall issue a report (in accordance with paragraph (4) which includes—

"(A) a list of critical components, technologies, and technology items for which there is found to be inadequate domestic industrial capacity or capability; and

"(B) an assessment of those subsectors of the economy of the United States which—

"(i) support production of any component, technology, or technology item listed pursuant to subparagraph (A); or

"(ii) have been identified as being critical to the development and production of components required for the production of weapons, weapon systems, and other military equipment essential to the national defense.

"(2) MATTERS TO BE CONSIDERED.—The assessment made under paragraph (1)(B) shall include consideration of—

"(A) the capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

"(B) any trend relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

"(C) the extent to which the production or acquisition of various items of military material is dependent on foreign sources; and

"(D) any reason for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including—

"(i) stability of defense requirements;

"(ii) acquisition policies;

"(iii) vertical integration of various segments of the industrial base;

"(iv) superiority of foreign technology and production efficiencies;

"(v) foreign government support of nondomestic sources; and

"(vi) offset arrangements.

"(3) POLICY RECOMMENDATIONS.—The report required by paragraph (1) may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

"(4) TIME FOR ISSUANCE.—The report required by paragraph (1) shall be issued not later than July 1 of each even-numbered year which begins after 1992.

"(5) RELEASE OF UNCLASSIFIED REPORT.—The report required by this subsection may be classified. An unclassified version of the report shall be made available to the public.".

SEC. 136. PUBLIC PARTICIPATION IN RULEMAKING.

(a) IN GENERAL.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. 2159) is amended to read as follows:

"SEC. 709. PUBLIC PARTICIPATION IN RULEMAKING.

"(a) EXEMPTION FROM THE ADMINISTRATIVE PROCEDURE ACT.—Any regulation issued under this Act shall not be subject to sections 551 through 559 of title 5, United States Code.

"(b) OPPORTUNITY FOR NOTICE AND COMMENT.—

"(1) IN GENERAL.—Except as provided in subsection (c), any regulation issued under this Act shall be published in the Federal Register and opportunity for public comment shall be provided for not less than 30 days, consistent with the requirements of section 553(b) of title 5, United States Code.

"(2) WAIVER FOR TEMPORARY PROVISIONS.—The requirements of paragraph (1) may be waived, if—

"(A) the officer authorized to issue the regulation finds that urgent and compelling circumstances make compliance with such requirements impracticable;

"(B) the regulation is issued on a temporary basis; and

"(C) the publication of such temporary regulation is accompanied by the finding made under subparagraph (A) (and a brief statement of the reasons for such finding) and an opportunity for public comment is provided for not less than 30 days before any regulation becomes final.

"(3) CONSIDERATION OF PUBLIC COMMENTS.—All comments received during the public comment period specified pursuant to paragraph (1) or (2) shall be considered and the publication of the final regulation shall contain written responses to such comments.

"(c) PUBLIC COMMENT ON PROCUREMENT REGULATIONS.—Any procurement policy, regulation, procedure, or form (including any amendment or modification of any such policy, regulation, procedure, or form) issued under this Act shall be subject to section 22 of the Office of Federal Procurement Policy Act.".

(b) SCOPE OF APPLICATION.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159), as amended by subsection (a) of this section, shall not apply to any regulation issued in proposed or final form on or before the date of enactment of this Act.

PART E—TECHNICAL AMENDMENTS

SEC. 141. TECHNICAL CORRECTION.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

SEC. 142. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) by striking "subpena" each place such term appears and inserting "subpoena";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "$1,000" and inserting "$10,000";

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence; and

(5) in subsection (e) (as redesignated by paragraph (2)), by striking "subpenaed" and inserting "subpoenaed".

SEC. 143. EMPLOYMENT OF PERSONNEL.

(a) NOTICE OF APPOINTMENT AND FINANCIAL DISCLOSURE FOR EMPLOYEES SERVING WITHOUT COMPENSATION.—Section 710(b)(6) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)(6)) is amended to read as follows:

"(6) NOTICE AND FINANCIAL DISCLOSURE REQUIREMENTS.—

"(A) PUBLIC NOTICE OF APPOINTMENT.—The head of any department or agency who appoints any individual under this subsection shall publish a notice of such appointment in the Federal Register, including the name of the appointee, the employing department or agency, the title of the appointee's position, and the name of the appointee's private employer.

"(B) FINANCIAL DISCLOSURE.—Any individual appointed under this subsection who is not required to file a financial disclosure report pursuant to section 101 of the Ethics in Government Act of 1978, shall file a confidential financial disclosure report pursuant to section 107 of that Act with the appointing department or agency.".

(b) TECHNICAL AMENDMENTS.—Section 710(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)) is amended—

(1) in paragraph (7)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management";

(B) by striking "his findings" and inserting "his or her findings";

(C) by striking "and the Joint Committee on Defense Production"; and

(D) by striking "he may" and inserting "he or she may"; and

(2) in paragraph (8), by striking "transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

SEC. 144. TECHNICAL CORRECTION.

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(1)) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

PART F—REPEALERS AND CONFORMING AMENDMENTS

SEC. 151. SYNTHETIC FUEL ACTION.

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is amended—

(1) in subsection (b), by striking the second sentence; and

(2) by striking subsection (c) and all that follows through the end of the section.

SEC. 152. REPEAL OF INTEREST PAYMENT PROVISIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) by striking "(a)(1) Except as provided in paragraph (2) and paragraph (4)" and inserting the following:

"(a) AUTHORIZATION.—

"(1) IN GENERAL.— Except as provided in subsection (c),";

(B) in paragraph (1), in the parenthetical, by striking "and for payment of interest under subsection (b) of this section";

(C) by striking paragraph (2);

(D) in paragraph (3), by striking "(3) There are" and inserting the following:

"(b) SECTION 305 AUTHORIZATION.—"; and

(E) in paragraph (4)—

(i) by striking "(4)(A) There are" and inserting the following:

"(c) SECTION 303 AUTHORIZATION.—There are"; and

(ii) by striking subparagraph (B).

SEC. 153. JOINT COMMITTEE ON DEFENSE PRODUCTION.

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

SEC. 154. PERSONS DISQUALIFIED FOR EMPLOYMENT.

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

SEC. 155. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

SEC. 156. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) (as amended by section 152 of this Act) is amended by adding at the end the following new subsection:

"(d) TITLE III AUTHORIZATION.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995 not more than $200,000,000 to carry out the provisions of title III of this Act.".

SEC. 162. EXTENSION OF PROGRAM.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "March 1, 1992" and inserting "September 30, 1995".

SEC. 163. PRESIDENTIAL STUDY.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following new subsection:

"(k) QUADRENNIAL REPORT.—

"(1) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall complete and furnish to the Congress, not later than 1 year after the date of enactment of this section and upon the expiration of every 4 years thereafter, a report which—

"(A) evaluates whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

"(B) evaluates whether there are industrial espionage activities directed by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies.

"(2) DEFINITION.—For the purposes of this subsection, the term 'critical technologies' means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical technology, critical components, or critical technology items essential to national defense identified pursuant to this section.

"(3) RELEASE OF UNCLASSIFIED STUDY.—The report required by this subsection may be classified. An unclassified version of the report shall be made available to the public.".

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

SEC. 201. DISCOURAGING UNFAIR TRADE PRACTICES.

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—Not later than 270 days after the date of enactment of this Act, subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty to such a degree as to seriously and directly affect the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

(b) DEFINITION OF "UNFAIR TRADE PRACTICE".—For purposes of this section, the term "unfair trade practice" means the commission of any of the following acts by a contractor:

(1) UNFAIR TRADE PRACTICES.—An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) VIOLATION OF AGREEMENTS OF COCOM.—A violation, as determined by the Secretary of Commerce, of any agreement of the group known as the "Coordinating Committee" for purposes of the Export Administration Act of 1979 or any similar bilateral or multilateral export control agreement.

(3) FALSE STATEMENTS.—A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

SEC. 202. FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

Not later than 270 days after the date of enactment of this Act, subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify that any person having been determined to have intentionally affixed a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States may, when such product was not made in the United States, be found to presently lack business integrity or business honesty to such a degree as to seriously and directly affect the responsibility of such person to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

SEC. 203. EVALUATION OF DOMESTIC DEFENSE INDUSTRIAL BASE POLICY.

(a) CONGRESSIONAL COMMISSION ON THE EVALUATION OF DEFENSE INDUSTRIAL BASE POLICY ESTABLISHED.—There is established the Congressional Commission on the Evaluation of the Defense Industrial Base Policy (hereafter in this section referred to as the "Commission").

(b) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall develop criteria for maintaining the strength of the domestic defense industrial base for purposes of supporting the national security strategy of the United States.

(2) CONSIDERATION OF AGENCY PROCEDURES AND ACTIVITIES.—In developing criteria under paragraph (1), the Commission shall consider, with respect to each Federal agency and department which has any responsibility for maintaining the strength of the domestic defense industrial base—

(A) the extent to which the statutory authority, policies, regulations, organizational arrangements, plans, programs, and budgets of such agency or department are adequate for the purpose of maintaining the strength of the domestic defense industrial base; and

(B) the degree to which such authority, policies, regulations, arrangements, plans, programs, and budgets are being effectively implemented and sufficiently coordinated (within the agency or department and with other Federal agencies and departments).

(3) EVALUATION OF CIVIL-MILITARY INTEGRATION.—The Commission, in developing criteria under paragraph (1) and considering agency procedures and activities under paragraph (2), shall evaluate the feasibility of integrating defense research, development, production, acquisition, and other relevant contracting activities with similar activities in the commercial sector, and the degree to which such integration is being implemented by the agency or department.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members, including—

(A) 3 members appointed by the Speaker of the House of Representatives (2 of whom shall be appointed upon the recommendation of the majority leader of the House of Representatives and 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience;

(B) 3 members appointed by the President pro tempore of the Senate (2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience; and

(C) 3 members appointed by a majority of the members appointed under subparagraphs (A) and (B) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience.

(2) TERMS.—

(A) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(B) VACANCY.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(3) PROHIBITION ON COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Commission shall serve without pay.

(B) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission from among the individuals appointed under paragraph (1)(C).

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(d) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—

(A) IN GENERAL.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(B) ADMINISTRATION OF OATHS.—The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take.

(3) OBTAINING OFFICIAL DATA.—

(A) AUTHORITY TO OBTAIN.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this Act.

(B) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of a department or agency referred to in subparagraph (A) shall furnish the information requested to the Commission.

(C) USE OF INFORMATION.—The Commission shall be subject to the same limitations with respect to the use or disclosure of any confidential or privileged information, trade secrets, or other proprietary or business-sensitive information which is obtained from any department or agency under this subsection as are applicable to the use or disclosure of such information or secrets by such department or agency.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such regulations as the Commission may prescribe, and with the approval of the Commission, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such regulations as the Commission may prescribe, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS–18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(f) DOMESTIC DEFENSE INDUSTRIAL BASE DEFINED.—For the purposes of this section, the term "domestic defense industrial base" means—

(1) the industries in the United States and Canada which at any time are providing national defense materials and services; and

(2) the industries in the United States and Canada which reasonably would be expected to provide national defense materials and services in a time of emergency or war.

(g) REPORTS.—The Commission shall submit to the Congress and the President—

(1) an interim report at the end of the 1-year period beginning on the date the Commission first meets with a majority of members present; and

(2) a final report not later than March 1, 1995, on the findings of the Commission under this section with respect to the domestic defense industrial base, together with such recommendations for legislative, administrative, or policy action as the Commission may determine to be appropriate.

(h) TERMINATION.—The Commission shall cease to exist 60 days after the date on which the final report is submitted pursuant to subsection (g)(2).

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated an amount equal to not more than $500,000 to carry out this section, such sums to remain available until the termination of the Commission.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. ENERGY SECURITY.

Section 203 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1143) is amended by striking "1990" and inserting "1993".

SEC. 302. DOMESTIC RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.

(a) IN GENERAL.—Section 6(c) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

(b) EFFECTIVE DATE.—This section, and the amendments made by this section, shall have the same effective date as the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 303. DEPOSIT INSURANCE ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.

(a) IN GENERAL.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subparagraph (D), by striking the comma after "members"; and

(2) by adding at the end the following new subparagraph:

"(H) BANK ENTERPRISE ACT REQUIREMENT.—The Corporation shall design the risk-based assessment system so that, insofar as the system bases assessments, directly or indirectly, on deposits, the portion of the deposits of any insured depository institution which are attributable to lifeline accounts established in accordance with the Bank Enterprise Act of 1991 shall be subject to assessment at a rate determined in accordance with such Act.".

(b) CONFORMING AMENDMENTS.—

(1) Section 232(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242) is amended—

(A) by striking "(8), (9), and (10)" and inserting "and (8)"; and

(B) by striking "(9), (10), and (11)" and inserting "and (9)".

(2) Section 233(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "section 235" where such term appears in paragraphs (3) and (5) and inserting "section 234".

(3) Section 7(d)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(4)) (as added by section 233(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 235" inserting "section 234".

(4) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)((1)) is amended by striking "7(b)(10)" and inserting "7(b)(2)(H)".

(5) Section 10(f) of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) (as added by section 302(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is hereby redesignated as subsection (g).

(6) Section 302(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2349) is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by striking paragraph (1) and inserting the following new paragraphs:

"(1) in section 5(d)(3)(B)(i)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Savings Association Insurance Fund.';

"(2) in section 5(d)(3)(B)(ii)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Bank Insurance Fund.'".

(7) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c) (as amended by such section 302(a)) is amended—

(A) by adding at the end, the paragraph added to such section 7(b) (as in effect on the day before the effective date of such amendment) by section 103(b)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by redesignating such paragraph as paragraph (6).

(8) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph ((6)(A) of this subsection), section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding after paragraph (6) (as transferred and so redesignated by paragraph (6) of this subsection) the following new paragraph:

"(7) COMMUNITY ENTERPRISE CREDITS.—The Corporation shall allow a credit against any semiannual assessment to any insured depository institution which satisfies the requirements of the Community Enterprise Assessment Credit

Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board by regulation.".

(9) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (3)(A) of this subsection), section 233 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834a) is amended—

(A) in subsection (a)(1)(A), by striking "7(d)(4)" and inserting "7(b)(7)";

(B) in subsection (a)(3), by striking "7(d)(4)" and inserting "7(b)(7)"; and

(C) in subsection (e)(2), by striking "made for purposes of the notification required under section 7(d)(1)(B)" and inserting "of the semiannual assessment to which such credit is applicable".

SEC. 304. EFFECTIVE DATE.

This Act and the amendments made by this Act shall be deemed to have become effective on March 1, 1992, except as otherwise specifically provided in this Act.

SEC. 305. PROVISIONAL REPEAL OF DUPLICATIVE PROVISIONS.

In the event of the enactment of H.R. 5334, (An Act to amend and extend certain laws relating to housing and community development, and for other purposes), the following provisions of that Act, and the amendments made by such provisions, are repealed, effective on the date of enactment of this Act:

(1) Section 1603(a)(3) of such Act.

(2) Section 1604(a)(11) of such Act.

(3) Paragraphs (1), (2), and (3) of section 1604(b) of such Act.

(3) Paragraphs (2) through (7) of section 1605(a) of such Act.

And the House agree to the same.

That the House recede from its amendment to the title of the bill, and agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

TOM CARPER,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
BRUCE F. VENTO,
PAUL E. KANJORSKI,
TOM RIDGE,
BILL PAXON,
MEL HANCOCK,

From the Committee on Banking, Finance and Urban Affairs, Mr. Schumer is appointed in lieu of Mr. Vento for consideration of title IV of the Senate bill.

CHARLES E. SCHUMER,

As additional conferees from the Committee on Armed Services, for consideration of secs. 111, 123–24, 136, and 201–03 of the Senate bill, and secs. 111, 123, 134, and 202 of the House amendment, and modifications committed to conference:

LES ASPIN,
NICHOLAS MAVROULES,
NORMAN SISISKY,
BILL DICKINSON,
HERBERT H. BATEMAN,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 163, 301, and 403–06 of the Senate bill, and sec. 163 of the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
CARDISS COLLINS,
NORMAN F. LENT,
MATT RINALDO,

As additional conferees from the Committee on Government Operations for consideration of secs. 111, 137, and titles II and V of the Senate bill, and secs. 111, 135, 201, and 202 of the House amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,

As additional conferees from the Committee on Ways and Means, for consideration of secs. 402–04 of the Senate bill, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
BILL ARCHER,
PHIL CRANE,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
ALAN J. DIXON,
JAKE GARN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 347), to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

Part A—Declaration of policy

SECTION 101: DECLARATION OF POLICY

Senate bill (Sec. 101)

Section 101 amends section 2 of the Defense Production Act (DPA) to emphasize that the overall health of the industrial and technology base affects the Nation's capacity to meet not only the demands of war or national emergency but also to more effectively meet peacetime defense requirements. Efforts to ensure adequate productive capacity to meet the broad range of national defense requirements should include: provision for a graduated response to threatening situations; a coordinated, on-going assessment by federal agencies and departments of the ability of the domestic industrial and technology base to meet civilian and military needs; encouragement of the ability of U.S. industry to produce internationally competitive products; efforts to reduce the growing dependence of domestic industry on foreign sources for critical components and materials; and the geographic dispersal of industrial facilities.

House amendments (Sec. 101)

Section 101 amends section 2 of the Defense Production Act to emphasize that the overall health of the industrial and technology base affects the Nation's capacity to meet not only the demands of war or national emergency but also to more effectively meet peacetime defense requirements. Efforts to ensure productive capacity to meet the broad range of national defense requirements should include: provision for a graduated response to threatening situations; a coordinated, on-going assessment by federal agencies and departments of the ability of the domestic industrial and technology base to meet civilian and military needs; encouragement of the ability of U.S. industry to produce internationally competitive products; efforts to reduce the growing dependence of domestic industry on foreign sources of critical components and materials. Efforts to ensure productive capacity must also include the geographic dispersal of industrial facilities. This policy declaration furthermore urges that domestic energy supplies reserved for defense needs include renewable energy sources as well as energy conservation measures.

Conference agreement

Senate recedes to the House with an amendment that clarifies the House language and deletes provisions conflicting with existing law or regulation and provisions superseded by recently enacted law.

Part B—Amendments to title I of the Defense Production Act

SECTION 111: STRENGTHENING OF DOMESTIC CAPABILITY AND ASSISTANCE FOR SMALL BUSINESSES

Senate bill (Sec. 111)

Section 111 adds a new section 107 to Title I of the Defense Production Act. The new section establishes a policy for ensuring availability of critical components and critical technology items essential for execution of the national security strategy. Section 107(a) requires the President, acting through the Secretary of Defense and utilizing the Defense Industrial Base Information System established under section 722 of the DPA, to identify critical components and critical technology items and to annually publish an unclassified version of the list. The President is granted the authority to limit production of critical components or technology items to domestic sources within five years. The President is also authorized to use programs available under Title III of the DPA to assist in the maintenance, establishment, expansion or modernization of domestic production of a critical component or technology item. In addition, this section authorizes the President to stockpile critical components and technology items that cannot be acquired from domestic sources.

Section 111 also adds a new section 107(d)(2) to the Defense Production Act, which states that in providing assistance under Title III, the President shall accord a strong preference to small businesses operating in an industry critical to national security.

House amendment (Sec. 111)

Section 111 adds two new sections to Title I of the Defense Production Act. New section 107 requires the Secretary of Defense to identify critical components essential to national security in peacetime and during graduated mobilization, and to take appropriate actions to protect against unreliable sources for those components. Among the appropriate actions are sourcing from domestic and reliable foreign sources, stockpiling critical components, developing substitutes, or other measures. At a minimum, section 107 requires that critical components shall be identified for all items on the CINC's (Commanders'-in-Chief) Critical Items List, and requires the Department of Defense to take into account components identified as critical by a National Security Assessment or by a Presidential determination under section 232 of the Trade Expansion Act of 1962.

New section 108 requires the President to provide a strong preference to small businesses, especially small businesses in areas of high unemployment or economic decline (as defined by the Secretary of Labor), when providing assistance under the Act. This section also authorizes Title III funds to be set-aside to guarantee the purchase or lease of advanced manufacturing equipment, according a strong preference to applications from smaller subcontractors. These smaller subcontractors must have obtained the recommendation of an agency of the Department of Defense or the Department of Commerce or the Small Business Administration, and must have arranged to obtain management assistance services in connection with the installation of the advanced manufacturing equipment.

Conference agreement

Senate recedes to the House with an amendment that clarifies statutory language.

SECTION 112: LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION

Senate bill (Sec. 112)

Section 112 amends section 104(a) of the Defense Production Act to prohibit the imposition of wage and price controls without prior Congressional authorization.

Section 112 also amends section 104(b) of the Defense Production Act to provide that such Act may not be used to assist in the production of chemical or biological weapons, except in times of war or national emergency as declared by Congress or upon nondelegable written authorization by the President.

House amendment (Sec. 112)

The amendments made to section 104(a) of the DPA is identical to the Senate provision. The amendment made to section 104(b) of the DPA is essentially identical to the Senate provision, except that it permits unlimited redelegation of the authority conferred upon the President.

Conference agreement

Senate recedes to the House with an amendment permitting Presidential delegation only to an official holding a position at Level I of the Executive Schedule, i.e., Departmental Secretary or equivalent.

Part C—Amendments to title III of the Defense Production Act

SECTION 121: EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III

Senate bill (Sec. 121)

Subsection 121(a) broadens the Defense Production Act's current loan guarantee authority provided under section 301 to be used with respect to "critical technology items", "industrial resources" and "services". The subsection also increases from $25 to $50 million the threshold at which an otherwise eligible project must obtain specific Congressional authorization prior to being eligible for funding under the Act. The provision also broadens the existing waiver authority.

Subsection 121(b) broadens the Act's loan authority under section 302 of the DPA in the same manner subsection(a) expands section 301 of the act.

Section 121(c) extends the Act's purchase guarantee authority under section 303 of the DPA in the same manner as subsections(a) and (b) expand the effectiveness of section 301 and section 302. This subsection also substitutes a ten-year limit on loan authority for the current fixed expiration date (September 30, 1995).

House amendment (Sec. 121)

Subsection 121(a) of the House Amendment adopts the text of the Senate bill broadening the Act's current loan guarantee authority provided under section 301, with additions. Most notably, section 301 of the DPA would allow the President, in times when there is no national emergency, to permit a guarantee if the President determines that there is not enough domestic industrial capacity currently to satisfy both defense and expected nondefense demands.

Subsection 121(b) broadens the Act's loan authority under section 302 of the DPA in the same manner subsection (a) expands section 301 of the Act. Specifically, it allows the President, in times when there is no national emergency, to permit a loan if the President determines that there is not enough domestic industrial capacity currently to satisfy both defense and expected non-defense demands.

Subsection 121(c) broadens the Act's purchase guarantee authority under section 303 of the DPA in the same manner subsections (a) and (b) expand section 301 and section 302. Again, the amendment would specifically authorize the President, in times when there is no national emergency, to permit a purchase guarantee if the President determines that there is not enough domestic industrial capacity currently to satisfy both defense and expected non-defense demands.

Subsection 121(d) amends current law to allow the President, if he determines it will aid the national defense, to provide for the production readiness of critical technology products and processes.

Conference agreement

Senate recedes to the House with a technical amendment substituting defined terms for undefined terms in the House amendment. The conferees intend that the authorities under those provisions be utilized to ensure the availability from domestic sources of critical technologies essential to the national defense. Among such technologies are gallium arsenide, single crystal silicone, active matrix liquid crystal displays, and machine tool controllers.

SECTION 122: DEFENSE PRODUCTION ACT FUND

Senate bill (Sec. 122)

Section 122 establishes the Defense Production Act Fund as a separate fund within the Treasury. The manager of the Fund would be designated by the Secretary of the Treasury. The provision would cap the Fund balance at $250 million excluding any monies appropriated to the Fund during the current fiscal year. This section provides the formula for determining the total amount of the Fund's contingent liabilities.

House amendment (Sec. 122)

Section 122 establishes the Defense Production Act Fund as a separate fund within the Treasury. The manager of the Fund would be designated by the Secretary of Defense. The provision would cap the Fund balance at $400 million excluding any monies appropriated to the Fund during the current fiscal year. In addition, the manager of the fund would have to give full financial income disclosure, subject to Federal financial disclosure laws. The manager must also give a statement every year that there is no conflict of interest between the position of Fund manager and the private sector.

Conference agreement

Senate recedes to the House with an amendment. Under the conference agreement the manager of the Fund is to be designated by the President. The conference agreement also eliminates the disclosure requirement in the House amendment affecting employees of the Fund and other "involved persons" because it duplicates generally applicable disclosure requirements for federal employees.

SECTION 123: DECLARATION OF OFFSET POLICY

Senate bill (Sec. 123)

Section 123 amends section 309 of the DPA to codify the President's Policy on Offsets in Military Exports, issued on April 16, 1990. This offset policy was issued pursuant to section 825 of the "National Defense Authorization Act, Fiscal Year 1989", Public Law 100–456. Additional discussion of this provision can be found in the report of the Committee on Banking, Housing and Urban Affairs, United States Senate accompanying S. 1379, the "Defense Production Amendments of 1990" (S. Rept. 101–368).

The section states that it is the policy of the U.S. Government that offsets for military exports are inefficient and market distorting, and therefore no agency of the U.S. Government shall encourage, finance, enter directly into, or commit U.S. firms to any offset arrangement. Offset obligations incurred through international agreements entered into before October 20, 1990 are exempted.

House amendment (Sec. 123)

The House amendment also enacts the President's offset policy in statute, but as an uncodified declaration of Congressional policy.

Conference agreement

Senate recedes to the House.

SECTION 124: ANNUAL REPORT ON IMPACT OF OFFSETS

Senate bill (Sec. 124)

Section 124 amends section 309 of the Defense Production Act, which requires the President to annually prepare and submit a report on the impact of offsets on defense preparedness, industrial competitiveness, employment, and trade to the Senate and House Banking committees. The section specifies the Secretary of Commerce as the President's "Executive Agent" for carrying out the duties of section 309. It restructures the existing requirements of section 390(b), while adding specific reference to the Secretary of Commerce as the Executive Branch official exercising leadership and direction in the process of developing the required report.

The section adds a new subsection (d) to section 309, which requires that a notice be furnished regarding any offset agreement exceeding $5 million. The notice requirement is an "after the fact" notice, not a prior approval requirement. The provision does not designate the specific Government official to receive the notice, such designation is left to the implementing regulations. The information submitted pursuant to this provision is accorded protection from public disclosure, unless authorized by the firm providing the information.

The section adds a new subsection (e) (Contents of the Report) modifying existing procedures relating to the report's preparation. This subsection makes clear that any alternative findings or recommendations submitted by an agency participating in the interagency task force shall be included in the report.

Subsection (f) (Utilization of Annual Report in Negotiations) continues the existing requirements of Section 309 of the Act relating to the report's subsequent use in bilateral and multilateral negotiations to minimize the adverse effects of offsets.

Additional discussion of this provision can be found in the report of the Committee on Banking, Housing and Urban Affairs, United

States Senate accompanying S. 1379, the "Defense Production Amendments of 1990" (S. Rpt. 101–368).

House amendment (Sec. 124)

Section 124 of the House amendment is substantially identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 125: CIVIL-MILITARY INTEGRATION

Senate bill

No provision.

House amendment (Sec. 125)

Section 125 adds a new section 310 to Title III of the Defense Production Act. The new section states that an important factor in the management of Title III programs is to ensure that production capacity will be economically viable after guarantees and other authorized assistance have expired.

Conference agreement

Senate recedes to the House.

SECTION 126: TESTING, QUALIFICATION, AND USE OF INDUSTRIAL RESOURCES DEVELOPED UNDER TITLE III PROJECTS

Senate bill

No provision.

House amendment (Sec. 126)

Section 126 adds a new section 311 to Title III of the Defense Production Act. This new section requires the President, within one year after enactment, to test for qualification for defense-related use all materials being manufactured under the purchase and loan guarantee provisions of 301, 302, or 303. The section also required the President to provide that these materials are used in current and future weapon systems and development programs.

Conference agreement

Senate recedes to the House with an amendment. The conference amendment requires the establishment of procedures for the testing and qualification of all industrial resources being manufactured under the purchase and loan guarantee provisions of sections 301, 302, and 303. Upon qualification, the industrial resource would be eligible for use in the development and manufacture of a major system or other items of supply being undertaken by a federal agency. The conference agreement requires testing and qualification only upon the request of the contractor. To prevent the costs of testing and qualification from being an obstacle in requires that the costs be borne by the federal agency. Implementation shall be on a Government-wide basis though the Federal Acquisition Regulation.

Part D—Amendments to title VII of the Defense Production Act

SECTION 131: SMALL BUSINESS

Senate bill (Sec. 131)

Section 131 modernizes the language of section 701 of the Defense Production Act relating to the treatment of small business concerns. It directs that small business concerns be given the maximum practicable opportunity to participate in all programs undertaken pursuant to this Act. Applications, requests, or appeals from small business concerns are to be expeditiously handled, and information about DPA programs and activities are to be made available to small firms. Finally, small business concerns must be given a fair share of any allocations of materials authorized under DPA section 101, to the extent practicable.

House amendment (Sec. 131)

Section 131 of the House amendment adopts the Senate provision, but makes explicit that small business concerns include small business owned by women and minorities.

Conference agreement

Senate recedes to the House with an amendment adding in section 132 a definition of "small business concern" which includes disadvantaged small business concerns and women-owned small business concerns.

SECTION 132: DEFINITIONS

Senate bill (Sec. 132)

Section 132 of the Senate bill amended section 702 of the Defense Production Act relating to definitions. Section 132 provides definitions of: "critical component", "critical industry for national security", "critical technology", "critical technology item", "defense contractor", "domestic defense industrial base", "domestic source", "facilities", "foreign source", "industrial resources", "materials", "national defense", "person", and "services".

House amendment (Sec. 132)

The House amendment adopts the definitions of the Senate bill with a modification to the term "critical component".

Conference agreement

Senate recedes to the House with an amendment to further clarify statutory language.

SECTION 133: APPOINTMENT OF PERSONNEL

Senate bill (Sec. 133)

Section 133 of the Senate bill is a modernized version of the Defense Production Act's current section 703, relating to the President's authority under the Act to delegate authority, create agencies, and appoint and fix the compensation of civilian personnel free of the constraints of the Civil Service System. Section 703 is also amended regarding delegation of those authorities. The authorities conferred upon the President by the Act may be delegated only to a Government civilian officer appointed with the advice and consent of the Senate. Except for the authorities conferred by Title I of the Act, further delegation of those authorities by such Senatorially-confirmed officer is limited to civil servants who are members of the Senior Executive Service or to military officers of general or flag officer rank. No redelegation of the policy making authorities related to Title I is authorized by any Senatorially-confirmed officer. The limitation on the delegation of Title I authority applies to the making of the policies relating to the exercise of such authorities and not to execution of those policies relating to individual contract action.

House amendment

No provision.

Conference agreement

The House recedes to the Senate with an amendment which deletes the Senate provision relating to the delegation of Presidential authorities under the Defense Production Act.

SECTION 134: REGULATIONS AND ORDERS

Senate bill (Sec. 134)

Section 134 offers a simplified version of the Defense Production Act's current section 704, relating to regulatory implementation of the Act's authorities.

House amendment (Sec. 133)

Section 133 limits the President's authority to issue any regulation that is inconsistent with the Government-wide procurement regulation, the Federal Acquisition Regulation (FAR).

Conference agreement

Senate recedes to the House with an amendment to require that any regulation, procedure or form issued by the President to carry out the Act shall conform with any Government-wide procurement policy or regulation issued pursuant to sections 6 or 25 of the Office of Federal Procurement Policy Act.

SECTION 135: INFORMATION ON THE DEFENSE INDUSTRIAL BASE

Senate bill (Sec. 136)

Section 136 requires the President to establish a modern information system for purposes of making possible effective management of defense production during peacetime and wartime situations. It requires the President to establish a systematic and a continuously updating information system on the defense industrial base and to draw upon such information in exercising Title I and Title III authorities to maintain domestic capabilities in critical components and critical technology items. Specifically, it establishes three data collection procedures which: (a) identify foreign dependencies and other potential production stopping problems; (b) provide defense production base analyses of the entire production chain of six weapons systems (two for each Military Service); and (c) improve the level of detail, timeliness and availability of input/output analyses to the Department of Defense derived from the Census of Manufacturers.

This section requires the President to use data collection procedures to establish by December 31, 1993 a strategic plan for developing a comprehensive information system in the most cost-effective manner possible. Such a plan must be submitted to Congress.

A biennial report to Congress on the subcontractor and supplier base must include: (a) a list of critical components, critical technologies and critical technology items in which there is inadequate industrial capacity or capability for purposes of defense preparedness; and (b) an assessment of the subcontractor and supplier base supporting production of any critical component, technology or technology item for which there is inadequate industry capacity.

An authorization of $10 million is provided over three years for implementation of this section, to remain available until expended. The funds authorized by this section shall be in addition to any other funds authorized for information on the defense industrial base, including DINET, and the six production base analyses authorized in this section shall be paid for solely by these funds.

House amendment (Sec. 134)

Section 134 of the House amendment is substantially identical to the Senate provision.

Conference agreement

Senate recedes to the House with an amendment that clarifies the House amendment, and adjusts the dates for submission of the strategic plan for the comprehensive information system and report on the subcontractor and supplier base. The conference agreement deletes any separate authorization of appropriations for the conduct of the activities specified. The activities are to be conducted with resources authorized and appropriated for the management of the agencies involved.

SECTION 136: PUBLIC PARTICIPATION IN RULEMAKING

Senate bill (Sec. 137)

The Senate bill amends section 709 of the Defense Production Act, which exempts regulations implementing the Act from the notice and comment provisions of the Administrative Procedure Act, but requires publication of an agency statement that interested parties were consulted in the formulation of the regulation. The Senate provision would similarly exempt the Act's implementing regulations from the notice and comment provisions of the Administrative Procedure Act. It would, however, make any regulation subject to the publication and comment procedures, as required by section 22 of the Office of Federal Procurement Policy Act, to assure adequate public review and participation in rulemaking. These procedures may be waived for temporary orders and regulations if a finding is published stating that urgent and compelling circumstances make compliance impracticable. Judicial review under the Administrative Procedure Act is not applicable. This section shall have no retroactive application.

House amendment (Sec. 135)

Section 135 of the House amendment is identical to the Senate provision.

Conference agreement

The conference agreement incorporates a modification deleting any reference to "orders" to make explicit that any "orders" issued pursuant to other provisions of the Act or "Executive Orders" issued by the President are not covered by this requirement for public participation.

Part E—Technical amendments

SECTION 141: TECHNICAL CORRECTION

Senate bill (Sec. 142)

Section 142 makes technical changes to section 301(e) of the Defense Production Act by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives."

House amendment (Sec. 141)

Section 141 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 142: INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS

Senate bill (Sec. 143)

This section of the Senate bill corrects clerical errors in section 705 of the DPA, increases the fine specified in subsection (d) of section 705 (from $1,000 to $10,000) to parallel other fines specified in the Act, and deletes an outdated provision regarding confidentiality of previously obtained data.

House amendment (Sec. 142)

Section 142 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 143: EMPLOYMENT OF PERSONNEL

Senate bill (Sec. 144)

Section 144 authorizes reimbursement for necessary expenses incurred because of employment under this section. The amendment clarify and simplify current reporting requirements relating to the financial interests of individuals who are otherwise not required to file financial disclosure reports under section 101 of the Ethics in Government Act. The goal is to identify situations that could create a conflict of interest relating to the exercise of advisory responsibilities to the Government.

House amendment (Sec. 143)

Section 143 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 144: TECHNICAL CORRECTION

Senate bill (Sec. 145)

Section 145 changes reference to "Bureau of the Budget" to the "Office of Management and Budget".

House amendment (Sec. 144)

Section 14 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

Part F—Repealers and conforming amendments

SECTION 151: SYNTHETIC FUEL ACTION

Senate bill (Sec. 151)

This section of the Senate bill repeals section 307 of the Defense Production Act. This provision specifies the procedures under which the Senate and House of Representatives will consider a resolution disapproving Presidential action regarding certain matters defined as "synthetic fuel actions". The veto of an action by the Executive through the disapproval of a single house of the Congress was declared unconstitutional in *Immigration and Naturalization Service* v. *Chadha*, 103 U.S. 2764 (1983).

House amendment (Sec. 151)

Section 151 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 152: REPEAL OF INTEREST PAYMENT PROVISIONS

Senate bill (Sec. 153)

Section 153 modernizes section 711 of the current Defense Production Act by eliminating payment of interest from one governmental entity to another.

House amendment (Sec. 152)

Section 152 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 153: JOINT COMMITTEE ON DEFENSE PRODUCTION

Senate bill (Sec. 154)

This section repeals section 712 of the Defense Production Act. This section establishes and specifies the jurisdiction and rules of the Joint Committee on Defense Production. Such a joint committee is no longer provided for by the Standing Rules of the Senate or of the House of Representatives.

House amendment (Sec. 153)

Section 153 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 154: PERSONS DISQUALIFIED FOR EMPLOYMENT

Senate bill (Sec. 155)

The section of the Senate bill repeals section 716 of the Defense Production Act since this provision is duplicative of other generally applicable provisions of Title 18, United States Code.

House amendment (Sec. 154)

Section 154 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 155: FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED

Senate bill (Sec. 156)

Section 156 repeals section 718 of the Defense Production Act authorizing a study which was completed and submitted to Congress in 1968.

House amendment (Sec. 155)

Section 155 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 156: NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

Senate bill (Sec. 157)

This section repeals section 720 of the Defense Production Act. The Commission established by this section completed its work in 1976, and was terminated on March 31, 1979.

House amendment (Sec. 156)

Section 156 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

Part G—Reauthorization of selected provisions

SECTION 161: AUTHORIZATION OF APPROPRIATIONS

Senate bill (Sec. 161)

Section 161 authorizes appropriations for each fiscal year 1991, 1992, and 1993 of not more than $130 million.

House amendment (Sec. 161)

Section 161 authorizes appropriations for each fiscal year 1992, 1993, and 1994 of not more than $200 million.

Conference agreement

Senate recedes to the House with an amendment authorizing the appropriation of $200 million for each of the fiscal years 1993, 1994, and 1995.

SECTION 162: EXTENSION OF PROGRAM

Senate bill (Sec. 162)

Section 162 amends section 717(a) of the Defense Production Act to terminate all operative authorities of the Act on September 30, 1993.

House amendment (Sec. 162)

Section 162 amends section 717(a) to terminate all operative authorities of the Act on September 30, 1994.

Conference agreement

Senate recedes to the House with an amendment to terminate all operative authorities of the Act, except those of section 21, on September 30, 1995.

SECTION 163: PRESIDENTIAL STUDY

Senate bill

No provision.

House amendment (Sec. 163)

Section 163 requires the Secretary of the Treasury to produce quadrennially a review of: (1) foreign investment patterns to determine the existence of any coordinated strategy by foreign governments or foreign firms concerning the acquisition of U.S. companies involved in critical technologies; and (2) any industrial espionage activities related to critical technologies directed at U.S. firms by foreign governments.

Conference agreement

Senate recedes to the House with an amendment requiring the President to conduct the study. It is expected that in conducting this study the President will rely on those federal agencies that have statutory authority and expertise that will contribute to achieving the purposes of this section.

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

SECTION 201: DISCOURAGING UNFAIR TRADE PRACTICES

Senate bill (Sec. 211)

Section 211 provides that if a contractor is found to have engaged in specified unfair trade practices, such contractor may be subject to a debarment proceeding which could make a firm ineligible for the award of any Federal contract or subcontract. This section requires that the Government-wide Federal Acquisition Regulation (FAR) be amended to specify the circumstances under which a contractor or subcontractor may be suspended or debarred from contracting with the Government for having committed an unfair trade practice. It defines an unfair trade practice to include a finding by the ITC or the Secretary of Commerce or "a knowingly false statement regarding a material element of certification concerning foreign content" of a supply item.

House amendment (Sec. 201)

Section 201 of the House amendment is identical to the Senate provision.

Conference agreement

Senate recedes to the House.

SECTION 202: FRAUDULENT USE OF "MADE IN AMERICA" LABELS

Senate bill

No provision.

House amendment (Sec. 501)

Section 501(b) of the House amendment mandates that no contracts or subcontracts may be authorized under the Defense Production Act for anyone a court or a Federal agency has determined fraudulently used "Made in America" labels.

Conference agreement

Senate recedes to the House with an amendment making fraudulent use of a "Made in America" label a grounds for suspension or debarment from award of any Federal contract or subcontract.

SECTION 203: EVALUATION OF DOMESTIC DEFENSE INDUSTRIAL BASE POLICY

Senate bill

No provision.

House amendment (Sec. 202)

Section 202 of the House amendment creates the Congressional Commission on the Evaluation of the Defense Industrial Base Policy to evaluate federal policy on maintenance of the domestic defense industrial base.

One year after its first meeting, the Commission must submit an interim report to the Congress and the President. No later than September 1, 1993, the Commission must submit its final report, including any recommendations for legislative, administrative or policy action.

Conference agreement

Senate recedes to the House with an amendment. The final report of the Commission is required to be submitted by March 1, 1995.

TITLE III—MISCELLANEOUS

SECTION 301: ENERGY SECURITY

Senate bill (Sec. 301)

The Senate bill calls for a biennial report from the President on projected capacity and future prospects for renewable and alternative fuel sources for supporting the defense industrial base.

Section 301 of the Senate bill also extends for two additional years a provision of the Energy Security Act Amendments of 1980 that authorizes interest subsidies for geothermal energy projects.

House amendment (Sec. 301)

The House amendment only extends for two additional years a provision of the Energy Security Act Amendments of 1980 that authorizes interest subsidies for geothermal energy projects.

Conference agreement

Senate recedes to the House.

SECTION 302: DOMESTIC RETAIL DEPOSIT-TAKING BY FOREIGN BANKS

Senate bill (Title IV)

Title IV, designated the "Fair Trade in Financial Services Act of 1990", adds a new section 18 to the International Banking Act of 1978, a new section 36 to the Securities and Exchange Act of 1934, and a new section 223 to the Investment Advisers Act of 1940. This title establishes a framework of negotiations, reports, and discretionary sanctions designed to help end discrimination against U.S. banks and bank holding companies, U.S. securities brokers and dealers, and U.S. investment advisers that operate or seek to operate abroad.

House amendment

No provision.

Conference agreement

The House recedes to the Senate with an amendment deleting Title IV, the Fair Trade in Financial Services Act, but providing for a technical correction to the provision in the International Banking Act of 1978 dealing with domestic retail deposit-taking by foreign banks. The effective date of this section is the same as the Federal Deposit Insurance Corporation Improvement Act of 1991.

SECTION 303: CONFORMING AMENDMENT RELATING TO THE BANK ENTERPRISE ACT

Conference agreement

Section 303 amends existing law so that the Bank Enterprise Act will not lapse when the risk-based deposit insurance premiums take effect.

SECTION 304: EFFECTIVE DATE

Senate bill (Sec. 501)

The Senate bill provides that the provisions of the Defense Production Act amendments of 1991 take effect on October 20, 1990. Any acquisition policies required by the Act shall be incorporated in the Federal Acquisition Regulation within 270 days after enactment. Such policies shall apply to solicitations issued 60 days after such regulations are issued.

House amendment (Sec. 401)

Section 401 provides that the amendments made by the bill shall take effect on September 30, 1991.

Conference agreement

Senate recedes to the House with an amendment making March 1, 1992 the effective date of the Defense Production Act Amendments of 1992, except for section 302.

SECTION 305: REPEAL OF DUPLICATIVE PROVISIONS

Conference agreement

The conference agreement provides if sections 302 and 303 are enacted in this bill their enactment in other legislation is repealed.

PROVISIONS NOT ENACTED

REPORT ON THE DOMESTIC DEFENSE INDUSTRIAL BASE

Section 111 of Senate bill

Section 111 of the Senate bill creates section 107(f) which requires the President to submit a report to Congress every odd-numbered year, on actions taken to preserve and revitalize the defense industrial base.

MEMORANDA OF UNDERSTANDING

Section 111 (2) of Senate bill

Section 111 adds a new section 107(g) to the Defense Production Act qualifying actions to limit procurement to domestic sources for any exclusion permitted by an existing memorandum of understanding.

WAIVERS OF CERTAIN EMPLOYMENT RESTRICTIONS

Section 138 of Senate bill

Section 138 authorizes the President to grant waivers of conflict of interest restrictions to a limited number of special Government employees if the President determines the waiver is in the public interest and the services of the individual are critically needed.

PROCUREMENT OF CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS

Section 201 of Senate bill

Section 201 requires the issuance of a Government-wide procurement policy and procedure to ensure some participants by domestic suppliers in contracts for the procurement of designated critical components essential to the production, repair, maintenance, or operator of essential weapons systems and other items of military equipment, and of designated critical technology items.

RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION

Section 202 of Senate bill

Section 202 provides for amendment of the Federal Acquisition Regulation to encourage contractor investment in modern industrial facilities and production systems (including hardware and software).

SUSTAINING INVESTMENT

Section 203 of Senate bill

Section 203 expresses the sense of the Congress that contractor investment in advanced manufacturing technologies, advanced production equipment, and advanced manufacturing processes should be encouraged to strengthen the Nation's industrial base supporting national defense.

COMPLIANCE WITH BUY AMERICAN ACT

Section 501(a) of House amendment

Section 501(a) requires that all procurements made under the Defense Production Act conform with the Buy American Act of 1933, as amended.

PROVISIONS OF THE SENATE BILL ENACTED AS P.L. 102-99, "THE DEFENSE PRODUCTION ACT EXTENSION AND AMENDMENTS OF 1991"

Section 135: Technical amendments restoring antitrust immunity for emergency actions initiated by the president.

Section 141: Priorities in contracts and orders.

Section 152: Voluntary agreements.

Section 163: Exemption from termination.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

TOM CARPER,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
BRUCE F. VENTO,
PAUL E. KANJORSKI,
TOM RIDGE,
BILL PAXON,
MEL HANCOCK,

From the Committee on Banking, Finance and Urban Affairs, Mr. SCHUMER is appointed in lieu of Mr. VENTO for consideration of title IV of the Senate bill.

CHARLES E. SCHUMER,

As additional conferees from the Committee on Armed Services, for consideration of secs. 111, 123–24, 136, and 201–03 of the Senate bill, and secs. 111, 123, 134, and 202 of the House amendment, and modifications committed to conference:

LES ASPIN,
NICHOLAS MAVROULES,
NORMAN SISISKY,
BILL DICKINSON,
HERBERT H. BATEMAN,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 163, 301, and 403–06 of the Senate bill, and sec. 163 of the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
CARDISS COLLINS,
NORMAN F. LENT,
MATT RINALDO,

As additional conferees from the Committee on Government Operations for consideration of secs. 111, 137, and titles II and V of the Senate bill, and secs. 111, 135, 201, and 202 of the House amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,

As additional conferees from the Committee on Ways and Means, for consideration of secs. 402–04 of the Senate bill, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
BILL ARCHER,
PHIL CRANE,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
ALAN J. DIXON,
JAKE GARN,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1671, WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

Mr. MILLER of California submitted the following conference report and statement on the Senate bill (S. 1671), to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, NM, and for other purposes:

CONFERENCE REPORT (H.) REPT.) 102–1037)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1671) to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, New Mexico, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

WIPP CONFERENCE REPORT

OCTOBER 6, 1992

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Waste Isolation Pilot Plant Land Withdrawal Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Land withdrawal and reservation for WIPP.
Sec. 4. Establishment of management responsibilities.
Sec. 5. Test phase and retrieval plans.
Sec. 6. Test phase activities.
Sec. 7. Disposal operations.
Sec. 8. Environmental Protection Agency disposal regulations.
Sec. 9. Compliance with environmental laws and regulations.
Sec. 10. Retrievability.
Sec. 11. Mine safety.
Sec. 12. Ban on high-level radioactive waste and spent nuclear fuel.
Sec. 13. Decommissioning of WIPP.
Sec. 14. Savings provisions.
Sec. 15. Economic assistance and miscellaneous payments.
Sec. 16. Transportation.
Sec. 17. Access to information.
Sec. 18. Judicial review of EPA actions.
Sec. 19. Technology study.
Sec. 20. Statement for purposes of Public Law 96-164.
Sec. 21. Consultation and cooperation agreement.
Sec. 22. Buy American requirements.
Sec. 23. Authorizations of appropriations.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGREEMENT.—The term "Agreement" means the July 1, 1981, Agreement for Consultation and Cooperation, as amended by the November 30, 1984 "First Modification", the August 4, 1987 "Second Modification", and the March 18, 1988 "Third Modification", or as it may be amended after the date of enactment of this Act, between the State and the United States Department of Energy as authorized by section 213(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96-164; 93 Stat. 1259, 1265).

(3) CONTACT-HANDLED TRANSURANIC WASTE.—The term "contact-handled transuranic waste" means transuranic waste with a surface dose rate not greater than 200 millirem per hour.

(4) DECOMMISSIONING PHASE.—The term "decommissioning phase" means the period of time beginning with the end of the disposal phase and ending when all shafts at the WIPP repository have been back-filled and sealed.

(5) DISPOSAL.—The term "disposal" means permanent isolation of transuranic waste from the accessible environment with no intent of recovery, whether or not such isolation permits the recovery of such waste.

(6) DISPOSAL PHASE.—The term "disposal phase" means the period of time, during which transuranic waste is disposed of at WIPP, beginning with the initial emplacement of transuranic waste underground for disposal and ending when the last container of transuranic waste, as determined by the Secretary, is emplaced underground for disposal.

(7) DISPOSAL REGULATIONS.—The term "disposal regulations" means the environmental regulations for the disposal of spent nuclear fuel, high-level radioactive waste, and transuranic waste under section 8.

(8) EEG.—The term "EEG" means the Environmental Evaluation Group for the Waste Isolation Pilot Plant referred to in section 1433 of the National Defense Authorization Act, Fiscal Year 1989 (Pub. L. 100-456; 102 Stat. 1918, 2073).

(9) ENGINEERED BARRIERS.—The term "engineered barriers" means backfill, room seals, panel seals, and any other manmade barrier components of the disposal system.

(10) HIGH-LEVEL RADIOACTIVE WASTE.—The term "high-level radioactive waste" has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

(11) NO-MIGRATION DETERMINATION.—The term "No-Migration Determination" means the Final Conditional No-Migration Determination for the Department of Energy Waste Isolation Pilot Plant published by the Environmental Protection Agency on November 14, 1990 (55 Fed. Reg. 47700), and any amendments thereto, pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(12) REMOTE-HANDLED TRANSURANIC WASTE.—The term "remote-handled transuranic waste" means transuranic waste with a surface dose rate of 200 millirem per hour or greater.

(13) RETRIEVAL.—The term "retrieval" means the removal of transuranic waste and the container in which it has been retained and any material contaminated by such waste from the underground repository at WIPP.

(14) SECRETARY.—The term "the Secretary" means the Secretary of Energy.

(15) SPENT NUCLEAR FUEL.—The term "spent nuclear fuel" has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

(16) STATE.—The term "the State" means the State of New Mexico.

(17) SUPPLEMENTAL STIPULATED AGREEMENT.—The term "Supplemental Stipulated Agreement" means the Supplemental Stipulated Agreement Resolving Certain State Off-Site Concerns Over WIPP, dated December 27, 1982, to the Stipulated Agreement Between DOE and the State in State of New Mexico ex rel. Bingaman v. DOE, Case No. CA 81-0363 JB (D. N. Mex.), dated July 1, 1981.

(18) TEST PHASE.—The term "test phase" means the period of time, during which test phase activities are conducted, beginning with the initial receipt of transuranic waste at WIPP and ending when the earliest of the following events occurs:

(A) The requirements described in section 7(b) are met.

(B) The Administrator determines under section 8(d)(1)(B) that the WIPP facility will not comply with the disposal regulations.

(C) The time period described in paragraphs (2) and (3) of section 8(d) expires.

(D) The Secretary is required by section 9(b)(2) to implement the retrieval plan.

(19) TEST PHASE ACTIVITIES.—The term "test phase activities" means the testing and experimentation activities to determine the suitability of WIPP as a repository for the permanent isolation of transuranic waste.

(20) TRANSURANIC WASTE.—The term "transuranic waste" means waste containing more than 100 nanocuries of alpha-emitting transuranic isotopes per gram of waste, with half-lives greater than 20 years, except for—

(A) high-level radioactive waste;

(B) waste that the Secretary has determined, with the concurrence of the Administrator, does not need the degree of isolation required by the disposal regulations; or

(C) waste that the Nuclear Regulatory Commission has approved for disposal on a case-by-case basis in accordance with part 61 of title 10, Code of Federal Regulations.

(21) WIPP.—The term "WIPP" means the Waste Isolation Pilot Plant project authorized

under section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96-164; 93 Stat. 1259, 1265) to demonstrate the safe disposal of radioactive waste materials generated by atomic energy defense activities.

(22) WITHDRAWAL.—The term "Withdrawal" means the geographical area consisting of the lands described in section 3(c).

SEC. 3. LAND WITHDRAWAL AND RESERVATION FOR WIPP.

(a) LAND WITHDRAWAL, JURISDICTION, AND RESERVATION.—

(1) LAND WITHDRAWAL.—Subject to valid existing rights, and except as otherwise provided in this Act, the lands described in subsection (c) are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including without limitation the mineral leasing laws, the geothermal leasing laws, the material sale laws (except as provided in section 4(b)(4) of this Act), and the mining laws.

(2) JURISDICTION.—Except as otherwise provided in this Act, jurisdiction over the Withdrawal is transferred from the Secretary of the Interior to the Secretary.

(3) RESERVATION.—Such lands are reserved for the use of the Secretary for the construction, experimentation, operation, repair and maintenance, disposal, shutdown, monitoring, decommissioning, and other authorized activities associated with the purposes of WIPP as set forth in section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96-164; 93 Stat. 1259, 1265), and this Act.

(b) REVOCATION OF PUBLIC LAND ORDERS.—Public Land Order 6403 of June 29, 1983, as modified by Public Land Order 6826 of January 28, 1991, and any memoranda of understanding accompanying such land orders, are revoked.

(c) LAND DESCRIPTION.—

(1) BOUNDARIES.—The boundaries depicted on the map issued by the Bureau of Land Management of the Department of the Interior, entitled "WIPP Withdrawal Site Map," dated October 9, 1990, and on file with the Bureau of Land Management, New Mexico State Office, are established as the boundaries of the Withdrawal.

(2) LEGAL DESCRIPTION AND MAP.—Within 30 days after the date of the enactment of this Act, the Secretary of the Interior shall—

(A) publish in the Federal Register a notice containing a legal description of the Withdrawal; and

(B) file copies of the map described in paragraph (1) and the legal description of the Withdrawal with the Congress, the Secretary, the Governor of the State, and the Archivist of the United States.

(d) TECHNICAL CORRECTIONS.—The map and legal description referred to in subsection (c) shall have the same force and effect as if they were included in this Act. The Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(e) WATER RIGHTS.—This Act does not establish, nor may any provision be construed to establish, a reservation to the United States with respect to any water or water rights. Nothing in this Act shall affect any water rights acquired by the United States prior to the date of enactment of this Act. The United States may apply for and obtain water rights for purposes associated with this Act only in accordance with the substantive and procedural requirements of the laws of the State.

SEC. 4. ESTABLISHMENT OF MANAGEMENT RESPONSIBILITIES.

(a) GENERAL AUTHORITY.—The Secretary shall be responsible for the management of the Withdrawal, consistent with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this Act, and other applicable law, and shall consult with the Secretary of the Interior and the State in discharging such responsibility.

(b) MANAGEMENT PLAN.—

(1) DEVELOPMENT.—Within 1 year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of the Interior and the State, shall develop a management plan for the use of the Withdrawal until the end of the decommissioning phase.

(2) PRIORITY OF WIPP-RELATED USES.—Any use of the Withdrawal for activities not associated with WIPP shall be subject to such conditions and restrictions as may be necessary to permit the conduct of WIPP-related activities.

(3) NON-WIPP RELATED USES.—The management plan developed under paragraph (1) shall provide for the maintenance of wildlife habitat and shall provide that the Secretary may permit such non-WIPP related uses of the Withdrawal as the Secretary determines to be appropriate, including domestic livestock grazing and hunting and trapping in accordance with the following requirements:

(A) GRAZING.—The Secretary may permit grazing to continue where established before the date of the enactment of this Act, subject to such regulations, policies, and practices as the Secretary, in consultation with the Secretary of the Interior, determines to be necessary or appropriate. The management of grazing shall be conducted in accord with applicable grazing laws and policies, including—

(i) the Act entitled "An Act to stop injury to public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," approved June 28, 1934 (43 U.S.C. 315 et seq., commonly referred to as the "Taylor Grazing Act");

(ii) title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.); and

(iii) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

(B) HUNTING AND TRAPPING.—The Secretary may permit hunting and trapping within the Withdrawal in accordance with applicable laws and regulations of the United States and the State, except that the Secretary, after consultation with the Secretary of the Interior and the State, may issue regulations designating zones where, and establishing periods when, no hunting or trapping is permitted for reasons of public safety, administration, or public use and enjoyment.

(4) DISPOSAL OF SALT TAILINGS.—The Secretary shall dispose of salt tailings extracted from the Withdrawal that the Secretary determines are not needed for backfill at WIPP. Disposition of such tailings shall be made under sections 2 and 3 of the Act of July 31, 1947, (30 U.S.C. 602, 603; commonly referred to as the "Materials Act of 1947").

(5) MINING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no surface or subsurface mining or oil or gas production, including slant drilling from outside the boundaries of the Withdrawal, shall be permitted at any time (including after decommissioning) on lands on or under the Withdrawal.

(B) EXCEPTION.—Existing rights under Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C shall not be affected unless the Administrator determines, after consultation with the Secretary and the Secretary of the Interior, that the acquisition of such leases by the Secretary is required to comply with the final disposal regulations or with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(c) CLOSURE TO PUBLIC.—If during the land withdrawal made by section 3(a) the Secretary determines, in consultation with the Secretary of the Interior, that the health and safety of the public or the common defense and security require the closure to the public use of any road, trail, or other portion of the Withdrawal, the Secretary may take whatever action the Secretary determines to be necessary to effect and maintain the closure and shall provide notice to the public of such closure.

(d) MEMORANDUM OF UNDERSTANDING.—The Secretary and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan developed under subsection (b). Such memorandum shall remain in effect until the end of the decommissioning phase.

(e) SUBMISSION OF PLAN.—Within 1 year after the date of the enactment of this Act, the Secretary shall submit the management plan developed under subsection (b) to the Congress and the State. Any amendments to the plan shall be submitted promptly to the Congress and the State.

SEC. 5. TEST PHASE AND RETRIEVAL PLANS.

(a) IN GENERAL.—Not later than 7 months after the date of the enactment of this Act, the Secretary shall prepare, and submit to the Administrator for review, a test phase plan and a retrieval plan in accordance with this section. The Secretary shall give notice in the Federal Register of submission of such plans and provide an opportunity for public access to such plans.

(b) TEST PHASE PLAN.—The test phase plan and any modification of the plan, as appropriate, shall—

(1) set forth the test phase activities to be conducted at WIPP;

(2) specify the quantities and types of transuranic waste required for such activities;

(3) provide a detailed description of how the test phase activities will provide information directly relevant to a certification of compliance with the final disposal regulations or to compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); and

(4) include justification for all such activities.

(c) RETRIEVAL PLAN.—The retrieval plan and any modification of the plan, as appropriate, shall set forth a detailed plan for the removal of transuranic waste emplaced at WIPP during the test phase, if such removal is required under any provision of this Act.

(d) APPROVAL BY ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator shall determine, in a single rulemaking procedure, whether to approve, in whole or in part, or disapprove the test phase plan and whether to approve or disapprove the retrieval plan. The Administrator shall, in accordance with paragraph (3), publish in the Federal Register a final rule setting forth the approval or disapproval in accordance with this subsection not later than 10 months after the date of the enactment of this Act.

(2) STANDARDS FOR APPROVAL.—

(A) TEST PHASE PLAN.—The Administrator shall approve the test phase plan, or any modification to the plan, in whole or in part, if the Administrator determines that the experiments will provide data that are directly relevant to a certification of compliance with the final disposal regulations or to compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(B) RETRIEVAL PLAN.—The Administrator shall approve the retrieval plan, or any modification to the plan, if the Administrator determines that it will provide for satisfactory retrieval of all transuranic waste emplaced during the test phase from WIPP should retrieval of such waste be required.

(3) RULEMAKING PROCEDURE.—The Administrator shall conduct the rulemaking required in paragraph (1) under section 553 of title 5, United States Code, except that sections 556 and 557 of such title shall not apply.

(4) CONSEQUENCES OF APPROVAL.—If the Administrator approves the test phase plan, in whole or in part, and the retrieval plan under this subsection, the Secretary may immediately proceed with test phase activities to the extent they have been approved in the rule described in paragraph (3) and to the extent the requirements of section 6(b) have been met.

(e) RECONSIDERATION OF DISAPPROVED PLANS.—If any plan, or portion of a plan, is not approved under subsection (d), the Secretary may submit a revised plan, or portion, to the Administrator. Such revised plan, or portion, shall be considered in accordance with the procedures applicable under such subsection, except that final action shall be completed within 3 months of submission to the Administrator.

(f) MODIFICATIONS TO TEST PHASE PLAN OR RETRIEVAL PLAN.—The Secretary may submit modifications to the test phase plan or retrieval plan. Such modifications shall be considered in accordance with the procedures applicable under subsection (d), except that final action shall be completed within 3 months of submission to the Administrator.

SEC. 6. TEST PHASE ACTIVITIES.

(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to subsections (b) and (c), to conduct test phase activities in accordance with the test phase plan.

(b) REQUIREMENTS FOR COMMENCEMENT OF TEST PHASE ACTIVITIES.—The Secretary may not transport any transuranic waste to WIPP to conduct test phase activities under subsection (a) unless the following requirements are met:

(1) FINAL DISPOSAL REGULATIONS ISSUED.—The final disposal regulations are issued and published in the Federal Register under section 8(b).

(2) TERMS OF NO-MIGRATION DETERMINATION COMPLIED WITH.—The Administrator has determined that the Secretary has complied with the terms and conditions of the No-Migration Determination. The determination of the Administrator under this paragraph shall not be subject to rulemaking or judicial review.

(3) TEST PHASE AND RETRIEVAL PLANS APPROVED.—The Secretary has issued, and the Administrator has approved, the test phase plan and the retrieval plan under section 5.

(4) EMERGENCY RESPONSE TRAINING.—

(A) REVIEW.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, has reviewed the emergency response training programs of the Department of Energy that apply to WIPP.

(B) CERTIFICATION.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, has certified that the Department of Labor has reviewed emergency response training programs of the Department of Energy that apply to WIPP and has concurred that such programs are in compliance with part 1910.120 of title 29, Code of Federal Regulations. Such certification shall not be subject to rulemaking or judicial review.

(5) CERTIFICATION OF SAFETY.—The Secretary has certified, through the issuance of safety analysis documents, that the safety of test phase activities to be completed at WIPP can be ensured through procedures that would not compromise the type, quantity, or quality of data collected from such test phase activities. Such certification shall not be subject to rulemaking or judicial review.

(6) STABILITY OF ROOMS USED FOR TESTING.—The Secretary of Energy shall issue a plan to ensure that the mined rooms in the underground repository at WIPP in which transuranic waste may be emplaced will remain sufficiently stable and safe to permit uninterrupted testing for the duration of such activities. The Secretary of Labor, acting through the Mine Safety and Health Administration, shall review such plan and concur that the plan ensures that the mined rooms in the underground repository at WIPP in which transuranic waste may be emplaced will remain sufficiently stable and safe to permit uninterrupted testing for the duration of such activities. Such issuance and concurrence shall not be subject to rulemaking or judicial review.

(c) LIMITATIONS.—Test phase activities conducted under subsection (a) shall be subject to the following limitations:

(1) QUANTITY OF WASTE THAT MAY BE TRANSPORTED.—During the test phase, the Secretary may transport to WIPP—

(A) only such quantities of transuranic waste as the Administrator has approved for test phase activities under section 5; and

(B) in no event more than ½ of 1 percent of the total capacity of WIPP as described in section 7(a)(3).

(2) REMOTE-HANDLED WASTE.—

(A) TRANSPORTATION AND EMPLACEMENT.—The Secretary may not transport to or emplace remote-handled transuranic waste at WIPP during the test phase.

(B) STUDY.—

(i) IN GENERAL.—Within 3 years after the date of the enactment of this Act, the Secretary shall complete a study on remote-handled transuranic waste in consultation with affected States, the Administrator, and after the solicitation of views of other interested parties.

(ii) REQUIREMENTS OF STUDY.—Such study shall include an analysis of the impact of remote-handled transuranic waste on the performance assessment of WIPP and a comparison of remote-handled transuranic waste with contact-handled transuranic waste on such issues as gas generation, flammability, explosiveness, solubility, and brine and geochemical interactions.

(iii) PUBLICATION.—The Secretary shall publish the findings of such study in the Federal Register.

(d) PERFORMANCE ASSESSMENT REPORT.—

(1) IN GENERAL.—The Secretary shall publish, during the test phase, a biennial performance assessment report, consisting of a documented analysis of the long-term performance of WIPP. Each such report shall be provided to the State, the Administrator, the National Academy of Sciences, and the EEG for their review and comment.

(2) RESPONSES BY SECRETARY TO COMMENTS.—If, within 120 days of the publication of a performance assessment report under paragraph (1), the State, the Administrator, the National Academy of Sciences, or the EEG provide written comments on the report, the Secretary shall submit written responses to the comments to the State, the Administrator, the National Academy of Sciences, and the EEG, and to other appropriate entities or persons after consultation with the State, within 120 days of receipt of the comments.

SEC. 7. DISPOSAL OPERATIONS.

(a) TRANSURANIC WASTE LIMITATIONS.—

(1) REM LIMITS FOR REMOTE-HANDLED TRANSURANIC WASTE.—

(A) 1,000 REMS PER HOUR.—No transuranic waste received at WIPP may have a surface dose rate in excess of 1,000 rems per hour.

(B) 100 REMS PER HOUR.—No more than 5 percent by volume of the remote-handled transuranic waste received at WIPP may have a surface dose rate in excess of 100 rems per hour.

(2) CURIE LIMITS FOR REMOTE-HANDLED TRANSURANIC WASTE.—

(A) CURIES PER LITER.—Remote-handled transuranic waste received at WIPP shall not exceed 23 curies per liter maximum activity level (averaged over the volume of the canister).

(B) TOTAL CURIES.—The total curies of the remote-handled transuranic waste received at WIPP shall not exceed 5,100,000 curies.

(3) CAPACITY OF WIPP.—The total capacity of WIPP by volume is 6.2 million cubic feet of transuranic waste.

(b) REQUIREMENTS FOR COMMENCEMENT OF DISPOSAL OPERATIONS.—The Secretary may commence emplacement of transuranic waste underground for disposal at WIPP only upon completion of—

(1) the Administrator's certification under section 8(d)(1) that the WIPP facility will comply with the disposal regulations;

(2) the submission to the Congress by the Secretary of plans for decommissioning WIPP and post-decommissioning management of the Withdrawal under section 13;

(3) the expiration of the 180-day period beginning on the date on which the Secretary notifies the Congress that the requirements of section 9(a)(1) have been met;

(4) the acquisition by the Secretary (whether by purchase, condemnation, or otherwise) of Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C, unless the Administrator determines, under section 4(b)(5), that such acquisition is not required;

(5) the submittal to the Congress by the Secretary of comprehensive recommendations for the disposal of all transuranic waste under the control of the Secretary, including a timetable for the disposal of such waste; and

(6) the completion by the Secretary, with notice and an opportunity for public comment, of a survey identifying all transuranic waste types at all sites from which wastes are to be shipped to WIPP, and—

(A) the results of such survey shall be made available to the public and be provided to the Administrator; and

(B) such survey shall not be subject to rulemaking or judicial review.

SEC. 8. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) REINSTATEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the disposal regulations issued by the Administrator on September 19, 1985, and contained in subpart B of part 191 of title 40, Code of Federal Regulations, shall be in effect.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the 3 aspects of sections 191.15 and 191.16 of such regulations that were the subject of the remand ordered in Natural Resources Defense Council, Inc. v. United States Environmental Protection Agency, 824 F.2d 1258 (1st Cir. 1987); and

(B) the characterization, licensing, construction, operation, or closure of any site required to be characterized under section 113(a) of Public Law 97-425.

(b) ISSUANCE OF REGULATIONS .—

(1) IN GENERAL.—Subject to the limitation in paragraph (2), the Administrator shall issue, not later than 6 months after the date of the enactment of this Act, final disposal regulations. Such regulations shall be issued in a rulemaking proceeding conducted under section 553 of title 5, United States Code, except that sections 556 and 557 of such title shall not apply.

(2) LIMITATION.—The regulations required by this subsection shall not be applicable to the characterization, licensing, construction, operation, or closure of any site required to be characterized under section 113(a) of Public Law 97-425.

(c) ISSUANCE OF CRITERIA FOR CERTIFICATION OF COMPLIANCE WITH DISPOSAL REGULATIONS.—

(1) PROPOSED CRITERIA.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall, by rule pursuant to section 553 of title 5, United States Code, propose criteria for the Administrator's certification of compliance with the final disposal regulations, and sections 556 and 557 of such title shall not apply.

(2) FINAL CRITERIA.—Not later than 2 years after the date of the enactment of this Act, the

Administrator shall, by rule pursuant to section 553 of title 5, United States Code, issue final criteria for the Administrator's certification of compliance with the final disposal regulations, and sections 556 and 557 of such title shall not apply.

(d) DISPOSAL REGULATIONS.—

(1) COMPLIANCE WITH DISPOSAL REGULATIONS.—

(A) IN GENERAL.—The Secretary shall comply at WIPP with the final disposal regulations. Within 7 years of the date of the first receipt of transuranic waste at WIPP, the Secretary shall submit to the Administrator an application for certification of compliance with such regulations.

(B) CERTIFICATION BY ADMINISTRATOR.—Within 1 year of receipt of the application under subparagraph (A), the Administrator shall certify, by rule pursuant to section 553 of title 5, United States Code, whether the WIPP facility will comply with the final disposal regulations, and sections 556 and 557 of such title shall not apply.

(C) JUDICIAL REVIEW.—Judicial review of the certification of the Administrator under subparagraph (B) shall not be restricted by the provisions of section 221 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)).

(D) LIMITATION.—Any certification of the Administrator under subparagraph (B) may only be made after the application is submitted to the Administrator under subparagraph (A).

(2) FAILURE TO CERTIFY.—Except as provided in paragraph (3), if, upon the expiration of the 10-year period beginning on the date of the first receipt of transuranic waste at WIPP, the Administrator has not certified that the WIPP facility will comply with the final disposal regulations—

(A) the Secretary shall implement the retrieval plan under section 10 and the decommissioning and post-decommissioning plans under section 13;

(B) following implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management; and

(C)(i) no permit or variance issued with respect to test phase activities or disposal operations pursuant to section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924), or other applicable hazardous waste laws, with respect to WIPP, shall remain in effect later than 1 year after implementation of the retrieval plan; and

(ii) all transuranic waste shall be removed from the State unless, prior to the expiration of such 1-year period, a new permit or variance is issued pursuant to section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924), or other applicable hazardous waste laws.

(3) EXTENSION OF DEADLINE.—The 10-year period in paragraph (2) may be extended once by the Administrator for not more than 2 years, if the Administrator determines that additional time is necessary for the Administrator to complete the rulemaking under paragraph (1)(B) or for the Administrator's certification to become effective under this subsection.

(e) CONFLICT RESOLUTION.—If the State disagrees with the Secretary's application under subsection (d)(1)(A), the State may invoke the conflict resolution provisions of the Agreement.

(f) PERIODIC RECERTIFICATION.—

(1) BY SECRETARY.—Not later than 5 years after the initial receipt of transuranic waste for disposal at WIPP, and every 5 years thereafter until the end of the decommissioning phase, the Secretary shall submit to the Administrator and the State documentation of continued compliance with the final disposal regulations.

(2) CONCURRENCE BY ADMINISTRATOR.—The Administrator shall, not later than 6 months after receiving a submission under paragraph (1), determine whether or not the WIPP facility continues to be in compliance with the final disposal regulations. A determination under this paragraph shall not be subject to rulemaking or judicial review.

(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary shall use both engineered and natural barriers, and waste form modifications, at WIPP to isolate transuranic waste after disposal to the extent necessary to comply with the final disposal regulations.

SEC. 9. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.

(a) IN GENERAL.—

(1) APPLICABILITY.—Beginning on the date of the enactment of this Act, the Secretary shall comply with respect to WIPP, with—

(A) the regulations issued by the Administrator establishing the generally applicable environmental standards for the management and storage of spent nuclear fuel, high-level radioactive waste, and transuranic radioactive waste and contained in subpart A of part 191 of title 40, Code of Federal Regulations;

(B) the Clean Air Act (40 U.S.C. 7401 et seq.);

(C) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(D) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.; commonly referred to as the "Safe Drinking Water Act");

(E) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(F) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(G) all other applicable Federal laws pertaining to public health and safety or the environment; and

(H) all regulations promulgated, and all permit requirements, under the laws described in subparagraphs (B) through (G).

(2) PERIODIC OVERSIGHT BY ADMINISTRATOR AND STATE.—The Secretary shall, not later than 2 years after the date of the enactment of this Act, and biennially thereafter, submit documentation of continued compliance with the laws, regulations, and permit requirements described in paragraph (1) to the Administrator, and, with the law described in paragraph (1)(C), to the State.

(3) DETERMINATION BY ADMINISTRATOR OR STATE.—The Administrator or the State, as appropriate, shall determine not later than 6 months after receiving a submission under paragraph (2) whether the Secretary is in compliance with the laws, regulations, and permit requirements described in paragraph (1) with respect to WIPP.

(b) DETERMINATION OF NONCOMPLIANCE DURING TEST PHASE.—

(1) DETERMINATION BY ADMINISTRATOR.—If the Administrator determines at any time during the test phase that the WIPP facility does not comply with any law, regulation, or permit requirement described in subsection (a)(1), the Administrator shall request a remedial plan from the Secretary describing actions the Secretary will take to comply with such law, regulation, or permit requirement.

(2) CONSEQUENCES OF NONCOMPLIANCE.—If—

(A) a remedial plan is not received from the Secretary within 6 months of a determination of noncompliance under paragraph (1); or

(B) the Administrator determines, by rule pursuant to section 553 of title 5, United States Code, that a remedial plan requested under paragraph (1) is inadequate to bring the WIPP facility into compliance;

then the Secretary shall implement the retrieval plan under section 10 and the decommissioning and post-decommissioning plans under section 13, and, following implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management.

(c) DETERMINATION OF NONCOMPLIANCE DURING DISPOSAL PHASE AND DECOMMISSIONING PHASE.—

(1) DETERMINATION BY THE ADMINISTRATOR.—If the Administrator determines at any time during the disposal phase or decommissioning phase that the WIPP facility does not comply with any law, regulation, or permit requirement described in subsection (a)(1), the Administrator shall request a remedial plan from the Secretary describing actions the Secretary will take to comply with such law, regulation, or permit requirement.

(2) CONSEQUENCES OF NONCOMPLIANCE.—If—

(A) a remedial plan is not received from the Secretary within 6 months of a determination of noncompliance under paragraph (1); or

(B) the Administrator determines, by rule pursuant to section 553 of title 5, United States Code, that a remedial plan requested under paragraph (1) is inadequate to bring the WIPP facility into compliance;

then the Secretary shall retrieve, to the extent practicable, any transuranic waste and any material contaminated by such waste from underground at WIPP, and implement the decommissioning and post-decommissioning plans under section 13. Following completion of such retrieval and implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management.

(d) SAVINGS PROVISION.—The authorities provided to the Administrator and to the State pursuant to this section are in addition to the enforcement authorities available to the State pursuant to State law and to the Administrator, the State, and any other person, pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Clean Air Act (40 U.S.C. 7401 et seq.).

SEC. 10. RETRIEVABILITY.

(a) REQUIREMENT OF RETRIEVABILITY.—

(1) IN GENERAL.—Transuranic waste emplaced in WIPP for purposes of the test phase shall be retrievable during the test phase, and for such period of time subsequent to the test phase as may be needed to provide for its retrieval in the event that—

(A) the Secretary or the Administrator determines that WIPP does not comply with the final disposal regulations;

(B) the transuranic waste needs to be retrieved for engineering modification or for repackaging for permanent disposal; or

(C) such retrieval is necessary to protect the public health and safety and the environment.

(2) ANNUAL DETERMINATION OF RETRIEVABILITY.—Beginning 1 year after the initial emplacement of transuranic waste underground at WIPP, and continuing annually throughout the test phase, the Secretary, after consultation with the Administrator, shall publish in the Federal Register the Secretary's determination of whether all such waste emplaced underground at WIPP remains, and will remain, fully retrievable during the test phase.

(3) ANNUAL DEMONSTRATION OF RETRIEVABILITY.—The Secretary shall demonstrate, on an annual basis, in conjunction with the determination required in paragraph (2), that a sample of transuranic waste is retrievable. In making such demonstration, the Secretary shall not take any action to affect the test phase.

(4) FAILURE TO MAINTAIN RETRIEVABILITY.—Upon a determination by the Secretary under paragraph (2) that transuranic waste cannot remain retrievable, and that corrective action is not possible, the Administrator and the State may, pursuant to the authorities provided in the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)

or any other applicable hazardous waste law, take action to ensure the retrieval or removal of all transuranic waste in WIPP.

(b) IMPLEMENTATION OF RETRIEVAL PLAN.—The Secretary shall implement the retrieval plan or take corrective action to ensure the retrievability of transuranic waste in the event that a determination is made under subsection (a)(2) that the waste is not or will not otherwise remain retrievable.

(c) CONFLICT RESOLUTION.—The State may invoke the conflict resolution provisions of the Agreement if it determines that there is an insufficient basis for the Secretary's annual determination of retrievability or that the demonstration of retrievability does not ensure that transuranic waste will be retrievable.

SEC. 11. MINE SAFETY.

(a) MINE SAFETY AND HEALTH ADMINISTRATION.—The Mine Safety and Health Administration of the Department of Labor shall inspect WIPP not less than 4 times each year and in the same manner as it evaluates mine sites under the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), and shall provide the results of its inspections to the Secretary. The Secretary shall make the results of such inspections publicly available and shall take necessary actions to ensure the prompt and effective correction of any deficiency, including suspending specific activities as necessary to address identified health and safety deficiencies.

(b) BUREAU OF MINES.—The Bureau of Mines of the Department of the Interior shall prepare an annual evaluation of the safety of WIPP.

SEC. 12. BAN ON HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL.

The Secretary shall not transport high-level radioactive waste or spent nuclear fuel to WIPP or emplace or dispose of such waste or fuel at WIPP.

SEC. 13. DECOMMISSIONING OF WIPP.

(a) PLAN FOR WIPP DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the Secretary shall submit to the Congress, the State, the Secretary of the Interior, and the Administrator, a plan for the decommissioning of WIPP. In addition to activities required under the Agreement, the plan shall conform to the disposal regulations that apply to WIPP at the time the plan is prepared. The Secretary shall consult with the Secretary of the Interior and the State in the preparation of such plan.

(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the Secretary shall develop a plan for the management and use of the Withdrawal following the decommissioning of WIPP or the termination of the land withdrawal. The Secretary shall consult with the Secretary of the Interior and the State in the preparation of such plan and shall submit such plan to the Congress.

SEC. 14. SAVINGS PROVISIONS.

(a) CAA AND SWDA.—No provision of this Act may be construed to supersede or modify the provisions of the Clean Air Act (42 U.S.C. 7401 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(b) EXISTING AUTHORITY OF EPA AND STATE.—No provision of this Act may be construed to limit, or in any manner affect, the Administrator's or the State's authority to enforce, or the Secretary's obligation to comply with—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), including all terms and conditions of the No-Migration Determination; or

(3) any other applicable clean air or hazardous waste law.

SEC. 15. ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

(a) 15-YEAR AUTHORIZATION.—There are authorized to be appropriated to the Secretary for payments to the State $20,000,000 for each of the 15 fiscal years beginning with the fiscal year in which the transport of transuranic waste to WIPP is initiated.

(b) SUBSEQUENT AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary, for payments to the State for any fiscal year after the last fiscal year to which subsection (a) applies, such sums as the Congress may, by law, authorize to be appropriated.

(c) INFLATION ADJUSTMENT.—

(1) IN GENERAL.—In the case of any fiscal year after the first fiscal year to which subsection (a) applies, the dollar amount specified in such subsection shall be increased or decreased, as the case may be, by an amount equal to—

(A) such dollar amount; multiplied by

(B) the inflation increase or decrease determined under paragraph (2).

(2) CALCULATION OF INFLATION INCREASE OR DECREASE.—For purposes of paragraph (1), the inflation increase or decrease for any fiscal year is the percentage (if any) by which the inflation index for the preceding fiscal year is greater than or less than, as the case may be, the inflation index for the fiscal year prior to the first fiscal year to which subsection (a) applies.

(3) INFLATION INDEX.—For purposes of paragraph (2), the inflation index for any fiscal year is the average of the Consumer Price Index (as published by the Department of Labor) for the 12 months in such fiscal year.

(d) ELIGIBLE ASSISTANCE.—A portion of the payments under this section—

(1) shall be made available to units of local government in Lea and Eddy counties in the State; and

(2) may also be provided for independent environmental assessment and economic studies associated with WIPP.

SEC. 16. TRANSPORTATION.

(a) SHIPPING CONTAINERS.—No transuranic waste may be transported by or for the Secretary to or from WIPP, except in packages—

(1) the design of which has been certified by the Nuclear Regulatory Commission; and

(2) that have been determined by the Nuclear Regulatory Commission to satisfy its quality assurance requirements.

The determination under paragraph (2) shall not be subject to rulemaking or judicial review.

(b) NOTIFICATION.—In addition to activities required pursuant to the Supplemental Stipulated Agreement, prior to any transportation of transuranic waste by or for the Secretary to or from WIPP, the Secretary shall provide advance notification to States and Indian tribes through whose jurisdiction the Secretary plans to transport transuranic waste to or from WIPP.

(c) ACCIDENT PREVENTION AND EMERGENCY PREPAREDNESS.—

(1) TRAINING.—

(A) IN GENERAL.—In addition to activities required pursuant to the Supplemental Stipulated Agreement, the Secretary shall, to the extent provided in appropriation Acts, provide technical assistance and funds for the purpose of training public safety officials, and other emergency responders as described in part 1910.120 of title 29, Code of Federal Regulations, in any State or Indian tribe through whose jurisdiction the Secretary plans to transport transuranic waste to or from WIPP. Within 30 days of the date of the enactment of this Act, the Secretary shall submit a report to the Congress and to the States and Indian tribes through whose jurisdiction the Secretary plans to transport transuranic waste on the training provided through fiscal year 1992.

(B) ONGOING TRAINING.—If determined by the Secretary, in consultation with affected States and Indian tribes, to be necessary and appropriate, training described in subparagraph (A) shall continue after the date of the enactment of this Act until the transuranic waste shipments to or from WIPP have been terminated.

(C) REVIEW OF TRAINING.—The Secretary shall periodically review the training provided pursuant to subparagraph (A) in consultation with affected States and Indian tribes. The training shall also be reviewed by the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health, for compliance with part 1910.120 of title 29, Code of Federal Regulations.

(D) COMPONENTS OF TRAINING.—The training shall cover procedures required for the safe routine transportation of transuranic waste, as well as procedures for dealing with emergency response situations, including—

(i) instruction of government officials and public safety officers in procedures for the command and control of the response to any incident involving the waste;

(ii) instruction of emergency response personnel in procedures for the initial response to an incident involving transuranic waste being transported to or from WIPP;

(iii) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving transuranic waste being transported to or from WIPP; and

(iv) a program to provide information to the public about the transportation of transuranic waste to or from WIPP.

(2) EQUIPMENT.—The Secretary shall enter into agreements to assist States through monetary grants or contributions in-kind, to the extent provided in appropriation Acts, in acquiring equipment for response to an incident involving transuranic waste transported to or from WIPP.

(d) TRANSPORTATION SAFETY PROGRAMS.—The Secretary shall, to the extent provided in appropriation Acts, provide in-kind, financial, technical, and other appropriate assistance to any State or Indian tribe through whose jurisdiction the Secretary plans to transport transuranic waste to or from WIPP, for the purpose of WIPP-specific transportation safety programs not otherwise addressed in this section. These programs shall be developed with, and monitored by, the Secretary.

(e) SANTA FE BYPASS.—No transuranic waste may be transported from the Los Alamos National Laboratory to WIPP until—

(1) an amount of funds sufficient to construct the Santa Fe bypass has been made available to the State;

(2) the Santa Fe bypass has been completed; or

(3) the Administrator has made the certification required under section 8(d)(1)(B).

(f) STUDY OF TRANSPORTATION ALTERNATIVES.—

(1) IN GENERAL.—The Secretary shall conduct a study comparing the shipment of transuranic waste to the WIPP facility by truck and by rail, including the use of dedicated trains, and shall submit a report on the study in accordance with paragraph (2). Such report shall include—

(A) a consideration of occupational and public risks and exposures, and other environmental impacts;

(B) a consideration of emergency response capabilities; and

(C) an estimation of comparative costs.

(2) REPORT.—The report required in paragraph (1) shall be submitted to the Congress not later than 1 year after the date of the enactment of this Act.

(g) EMERGENCY RESPONSE MEDICAL TRAINING.—

(1) DETERMINATION OF SECRETARY.—If the Secretary determines that emergency response medical training for incidents involving transuranic waste being transported to or from WIPP is inadequate, the Secretary shall take imme-

diate action to correct the inadequacies and, if necessary, suspend transportation of such transuranic waste. If the State disagrees with the Secretary's determination under this paragraph, the State may invoke the conflict resolution provisions of the Agreement.

(2) State Advisory Group.—The Secretary shall encourage the Governor of the State to appoint, within 30 days after the date of the enactment of this Act, an advisory group of health professionals and other experts in the field to review emergency response medical training programs for incidents involving transuranic waste being transported to or from WIPP. If such advisory group is established—

(A) its purpose shall be to review, within 60 days after its establishment and annually thereafter, the Department of Energy's emergency response medical training programs for incidents involving transuranic waste being transported to or from WIPP, and to report its findings to the State, the Secretary of Labor, acting through the Occupational Safety and Health Administration, and the Secretary; and

(B) the Secretary shall review the findings of the advisory group in consultation with the Secretary of Labor, acting through the Occupational Safety and Health Administration.

SEC. 17. ACCESS TO INFORMATION.

(a) In General.—The Secretary shall—

(1) provide the State, the National Academy of Sciences, and the EEG with free and timely access to data relating to health, safety, or environmental issues at WIPP;

(2) provide the State and the EEG with preliminary reports relating to health, safety, or environmental issues at WIPP; and

(3) to the extent practicable, permit the State and the EEG to attend meetings relating to health, safety, or environmental issues at WIPP with expert panels and peer review groups.

(b) Evaluation and Publication.—The State, the National Academy of Sciences, and the EEG may evaluate and publish analyses of the Secretary's plans for test phase activities, monitoring, transportation, operations, decontamination, retrieval, performance assessment, compliance with Environmental Protection Agency regulations, decommissioning, safety analyses, and other activities relating to WIPP.

(c) Consultation and Cooperation.—The Secretary shall consult and cooperate with the EEG under the terms of Contract No. DE–AC04–89AL58309 in the performance of its responsibility to conduct an independent technical review and evaluation of WIPP under section 1433 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2073).

SEC. 18. JUDICIAL REVIEW OF EPA ACTIONS.

A civil action for judicial review of any final action of the Administrator under this Act may be brought only in the United States Court of Appeals for the Tenth Circuit or for the District of Columbia, and shall be brought not later than the 60th day after the date of such final action.

SEC. 19. TECHNOLOGY STUDY.

Within 3 years after the date of the enactment of this Act, the Secretary shall submit to the Congress a study reviewing the technologies that are available and that are being developed for the processing or reduction of volumes of radioactive wastes. The study shall include an identification of technologies involving the use of chemical, physical, and thermal (including plasma) processing techniques.

SEC. 20. STATEMENT FOR PURPOSES OF PUBLIC LAW 96–164.

For purposes of subsection (c) of section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96–164; 93 Stat. 1265), this Act shall be considered to amend such section.

SEC. 21. CONSULTATION AND COOPERATION AGREEMENT.

Nothing in this Act shall affect the Agreement or the Supplemental Stipulated Agreement between the State and the United States Department of Energy except as explicitly stated herein.

SEC. 22. BUY AMERICAN REQUIREMENTS.

(a) Compliance With Buy American Act.—No funds appropriated or transferred pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

(b) Purchase of American-Made Equipment and Products.—

(1) In general.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) Notice to recipients of assistance.—In providing financial assistance under this Act, the Secretary shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

SEC. 23. AUTHORIZATIONS OF APPROPRIATIONS.

(a) For Administrator.—

(1) In general.—There are authorized to be appropriated to the Administrator for the purpose of fulfilling the responsibilities of the Administrator under this Act, $10,000,000 for fiscal year 1992, $12,000,000 for fiscal year 1993, $14,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995 through 2001.

(2) Report.—The Administrator shall, not later than September 30, 1993, and annually thereafter, issue a report to the Congress on the status of and resources required for the fulfillment of the Administrator's responsibilities under this Act.

(b) Transfers From Secretary to Administrator and Secretary of Labor.—The Secretary is authorized to transfer from amounts appropriated for environmental restoration and waste management for fiscal years 1992 and 1993, and (to the extent approved in appropriation Acts) for fiscal years 1994 through 2001, such sums as may be necessary to fulfill the responsibilities of the Administrator under this Act and the Secretary of Labor under paragraphs (4) and (6) of section 6(b).

(c) Acquisition of Leasehold.—There are authorized to be appropriated to the Secretary such sums as may be necessary to acquire the Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

From the Committee on Interior and Insular Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Geo. Miller,
Bruce F. Vento,
Peter H. Kostmayer,
Bill Richardson,
Larry LaRocco,
Don Young,
Joel Hefley,

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

John D. Dingell,
Phil Sharp,
Mike Synar,
Al Swift,
Terry L. Bruce,

Except that, solely for consideration of section 9(a) and (c) of the Senate bill, and section 14(a) and (b) of the House amendment, Mr. Schaefer is appointed in lieu of Mr. Dannemeyer:

Dan Schaefer,

From the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Les Aspin,
John M. Spratt,
Norman Sisisky,
Pat Schroeder,
Marilyn Lloyd,
Wm. L. Dickinson,
Floyd Spence,
Managers on the Part of the House.

J. Bennett Johnston,
Wendell Ford,
Jeff Bingaman,
Kent Conrad,
Malcolm Wallop,
Pete Domenici,
Larry Craig,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1671) to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, New Mexico, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment.

From the Committee on Interior and Insular Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Geo. Miller,
Bruce F. Vento,
Peter H. Kostmayer,
Bill Richardson,
Larry LaRocco,
Don Young,
Joel Hefley,

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

John D. Dingell,
Phil Sharp,
Mike Synar,
Al Swift,
Terry L. Bruce,

Except that, solely for consideration of section 9(a) and (c) of the Senate bill, and section 14(a) and (b) of the House amendment, Mr. Schaefer is appointed in lieu of Mr. Dannemeyer:

Dan Schaefer,

From the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Les Aspin,
John M. Spratt,
Norman Sisisky,

PAT SCHROEDER,
MARILYN LLOYD,
WM. L. DICKINSON,
FLOYD SPENCE,
Managers on the Part of the House.
J. BENNETT JOHNSTON,
WENDELL FORD,
JEFF BINGAMAN,
KENT CONRAD,
MALCOLM WALLOP,
PETE DOMENICI,
LARRY CRAIG,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 11, REVENUE ACT OF 1992

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–1034)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11), to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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SEC. 1301. REFERENCES.

Except as otherwise provided in this subtitle, wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

PART I—CHILD WELFARE; FOSTER CARE; SUBSTANCE ABUSE TREATMENT AND SERVICES

SEC. 1311. CHILD WELFARE SERVICES DESIGNED TO STRENGTHEN AND PRESERVE FAMILIES, AND SUBSTANCE ABUSE PREVENTION AND TREATMENT.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628) is amended—

(1) by striking the heading and inserting the following:

"PART B—CHILD WELFARE SERVICES

"Subpart 1—Child Welfare Services";

(2) in section 423(a), by striking "this part" and inserting "this subpart";

(3) in section 428(b), by inserting "or 432, as appropriate" after "421"; and

(4) by adding at the end the following:

"Subpart 2—Innovative Family Services

"SEC. 430. ENTITLEMENT.

"(a) IN GENERAL.—For payments to which States are entitled under this subpart, there shall be available to the Secretary an amount equal to the sum of—

"(1) the innovative services amount for the fiscal year;

"(2) the substance abuse amount for the fiscal year; and

"(3) the respite care amount for the fiscal year.

"(b) DEFINITIONS.—As used in subsection (a):

"(1) INNOVATIVE SERVICES AMOUNT.—The term 'innovative services amount' means—

"(A) for fiscal year 1993, $95,000,000;

"(B) for fiscal year 1994, $220,000,000;

"(C) for fiscal year 1995, $300,000,000;

"(D) for fiscal year 1996, $320,000,000;

"(E) for fiscal year 1997, $365,000,000; and

"(F) for fiscal year 1998 and each succeeding fiscal year, $365,000,000, increased by the percentage (if any) by which—

"(i) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on June 30 of the immediately preceding fiscal year; exceeds

"(ii) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30, 1996.

"(2) SUBSTANCE ABUSE AMOUNT.—The term 'substance abuse amount' means—

"(A) for fiscal year 1993, $40,000,000;

"(B) for fiscal year 1994, $90,000,000;

"(C) for fiscal year 1995, $110,000,000;

"(D) for fiscal year 1996, $115,000,000;

"(E) for fiscal year 1997, $125,000,000; and

"(F) for fiscal year 1998 and each succeeding fiscal year, $125,000,000, increased by the percentage (if any) by which—

"(i) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on June 30 of the immediately preceding fiscal year; exceeds

"(ii) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30, 1996.

"(3) RESPITE CARE AMOUNT.—The term 'respite care amount' means—

"(A) for fiscal year 1994, $30,000,000;

"(B) for fiscal year 1995, $55,000,000;

"(C) for fiscal year 1996, $65,000,000;

"(D) for fiscal year 1997, $85,000,000; and

"(E) for fiscal year 1998 and each succeeding fiscal year, $85,000,000, increased by the percentage (if any) by which—

"(i) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on June 30 of the immediately preceding fiscal year; exceeds

"(ii) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30, 1996.

"SEC. 431. ELIGIBILITY FOR FUNDS.

"(a) INNOVATIVE SERVICES AMOUNT.—

"(1) SUBMISSION OF STATE PLAN AMENDMENTS.—To be eligible to receive funds from its allotment of the innovative services amount for any fiscal year, a State shall submit to the Secretary for approval, as an amendment to the State plan under this part, a detailed description of the services that the State intends to provide through the use of such funds during the fiscal year that includes—

"(A) a strategy for the fiscal year to improve the coordination of services to families in the State any child of which has been or is at risk of being placed outside the home, with other State programs and services;

"(B) an assurance that the State will not use any of such funds to supplant Federal, State, or local funds used for similar purposes;

"(C) an explanation of how such funds will be used, during the fiscal year, to expand services available to such families, including—

"(i) a description of the service programs to be provided through the use of such funds;

"(ii) the goals of the programs; and

"(iii) a description of the populations to which the programs will be targeted, with an assurance that the populations will consist of—

"(I)(aa) families any child of which is in foster care;

"(bb) families any child of which has been in foster care; or

"(cc) families any child of which is at risk of being placed in foster care; and

"(II) such other kinds of families as the State may select; and

"(D) such other information as the Secretary may require by regulation.

"(2) DEADLINE FOR SUBMISSION.—To be eligible to receive funds from its allotment of the innovative services amount for a fiscal year, a State shall comply with paragraph (1)—

"(A) for fiscal year 1993, not later than such date as the Secretary may require; and

"(B) for any succeeding fiscal year, not later than the July 1 of the immediately preceding fiscal year.

"(3) REPORT ON GOALS.—Not later than such date as the Secretary may require, each State which receives funds under this subpart shall submit to the Secretary a report containing a statement of goals that the State expects to achieve during the 5-year period beginning with fiscal year 1993 through the use of such funds.

"(b) SUBSTANCE ABUSE AMOUNT.—To be eligible to receive funds from the allotment to a State of the substance abuse amount for any fiscal year, the Governor of the State shall provide to the Secretary (in such form as the Secretary may prescribe) written assurances that—

"(1) the total amount of funds expended by the State (and any political subdivision thereof) from non-Federal sources to provide nonmedical substance abuse treatment support services for the fiscal year will not be less than the total amount so expended for the immediately preceding fiscal year; and

"(2) an individual who is referred by a State agency described in section 422(b)(1) to a program provided with funds from the allotment shall be given priority in admission to the program.

"SEC. 432. ALLOTMENTS TO STATES.

"The Secretary shall allot separately the innovative services amount, the substance abuse amount, and the respite care amount for any fiscal year, as follows:

"(1) ALLOTMENTS TO TERRITORIES.—The allotment for any fiscal year to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa shall be determined in the same manner in which the allotment to the jurisdiction is determined under section 421.

"(2) OTHER ALLOTMENTS.—

"(A) IN GENERAL.—The allotment for any fiscal year to each other State shall—

"(i) in the case of the innovative services amount, equal—

"(I) the innovative services amount for the fiscal year that remains unallotted after the application of paragraph (1) of this section; multiplied by

"(II) the food stamp percentage of the State for the fiscal year;

"(ii) in the case of the substance abuse amount, equal—

"(I) the substance abuse amount for the fiscal year that remains unallotted after the application of paragraph (1) of this section; multiplied by

"(II) the food stamp percentage of the State for the fiscal year; and

"(iii) in the case of the respite care amount, equal—

"(I) the respite care amount for the fiscal year that remains unallotted after the application of paragraph (1) of this section; multiplied by

"(II) a ratio equal to—

"(aa) the average number of children in the State who received foster care maintenance payments under section 472 for the most recent 3-year period for which such information is available; divided by

"(bb) the average number of children in the United States who received foster care maintenance payments under section 472 for such 3-year period.

"(B) FOOD STAMP PERCENTAGE DEFINED.—As used in subparagraph (A), the term 'food stamp percentage' means, with respect to a State and a fiscal year, the average number of children receiving food stamp benefits in the State for the 4th, 3rd, and 2nd preceding fiscal years, as determined from sample surveys made under section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average number of children receiving food stamp benefits in all of the States (to which this paragraph applies) for such preceding fiscal years, as so determined.

"SEC. 433. REALLOTMENTS.

"(a) IN GENERAL.—The amount of any allotment to a State under section 432 for any fiscal year which the State has not expended by the end of the immediately succeeding fiscal year shall be available for reallotment, from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines—

"(1) in the case of the innovative services amount and the substance abuse amount, have complied with section 431 for the 2nd succeeding fiscal year;

"(2) need sums exceeding the sums allotted to such States under sections 421 and 432 for the 2nd succeeding fiscal year, to carry out their State plans under this part for the 2nd succeeding fiscal year; and

"(3) will be able to use such excess sums during the 2nd or 3rd succeeding fiscal year.

"(b) DISTRIBUTION FORMULA.—Any amount available for reallotment shall be reallotted among the other States referred to in subsection (a) on the same basis as allotments are made under section 432.

"(c) TREATMENT OF REALLOTMENTS.—Any amount reallotted to a State under this section is deemed to be part of the allotment of the State under section 432.

"SEC. 434. PAYMENTS TO STATES.

"(a) IN GENERAL.—

"(1) INNOVATIVE SERVICES AMOUNT.—From the sums made available pursuant to section 430(a) for any fiscal year, each State which has complied with section 431 for the fiscal year shall be entitled to receive from the Secretary from the allotment to the State under section 433 of the innovative services amount, and the Secretary

shall from time to time pay to the State, an amount equal to 75 percent of the total amount expended by the State during the fiscal year under the plan (including administrative costs) in accordance with section 435.

"(2) SUBSTANCE ABUSE AMOUNT.—From the sums made available pursuant to section 430(a) for any fiscal year, the Governor of each State which has a plan developed in accordance with section 422 and has complied with section 431 for the fiscal year shall be entitled to receive from the Secretary from the allotment to the State under section 433 of the substance abuse amount, and the Secretary shall from time to time pay to the Governor of the State, an amount equal to 75 percent of the total amount expended by the State in accordance with section 436 during the fiscal year.

"(3) RESPITE CARE AMOUNT.—From the sums made available pursuant to section 430(a) for any fiscal year, each State which has a plan developed in accordance with section 422 and has complied with section 431 for the fiscal year shall be entitled to receive from the Secretary from the allotment to the State under section 433 of the respite care amount, and the Secretary shall from time to time pay to the State, an amount equal to 75 percent of the total amount expended by the State in accordance with section 437 during the fiscal year.

"(b) ADMINISTRATIVE PROVISIONS.—

"(1) ESTIMATES.—Before each calendar quarter, the Secretary shall estimate the amount to be paid with respect to each State under this section for the quarter.

"(2) PAYMENTS.—From that portion of each allotment of each State, the Secretary shall pay the amount estimated under paragraph (1), reduced or increased, as the case may be, by any sum (not previously adjusted under this subsection) by which the Secretary finds that any such estimate for a prior quarter was greater or less than the amount which should have been paid with respect to the State under this subsection for such prior quarter.

"(c) AVAILABILITY OF FUNDS.—The amount to which a State is entitled under this part for a fiscal year shall remain available to the State for the fiscal year and the immediately succeeding fiscal year.

"SEC. 435. INNOVATIVE SERVICES.

"(a) IN GENERAL.—Each State which receives funds paid to the State under section 434(a)(1) shall use the funds to plan, develop, expand, operate, or evaluate—

"(1) service programs designed to help children—

"(A) where appropriate, return to families (including adoptive families) from which they have been removed; or

"(B) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

"(2) preplacement preventive services programs, such as intensive family preservation programs, that are designed to help children at risk of foster care placement remain with their families (including adoptive families);

"(3) service programs designed to provide follow-up care to families (including adoptive families) to whom a child has been returned after a foster care placement; or

"(4) family support services to strengthen the functioning of a family (including an adoptive or foster care family), such as—

"(A) services designed to improve parenting skills;

"(B) respite care; and

"(C) adult mentoring services by adult volunteers to low-income or at-risk children or young adults who are in need of additional, on-going contact with adult role models.

"(b) MAINTENANCE OF EFFORT.—Notwithstanding section 434, the amount that would otherwise be paid to a State under section 434(a)(1) shall be reduced by the sum of—

"(1) any amount paid to the State under section 434 which is used to supplant any Federal, State, or local funds used for purposes similar to those for which the innovative services amount is made available; and

"(2) the amount (if any) by which the total amount expended by the State and the political subdivisions thereof from State and local sources for the provision of child welfare services (excluding foster care maintenance payments and adoption assistance payments) during any fiscal year is less than the total amount so expended during fiscal year 1991.

"SEC. 436. COMPREHENSIVE SUBSTANCE ABUSE TREATMFNT PROGRAMS FOR PREGNANT WOMEN AND CARETAKER PARENTS.

"(a) IN GENERAL.—Each State which receives funds paid to the State under section 434(a)(2) shall use the funds to plan, develop, expand, operate, or evaluate a qualified comprehensive substance abuse treatment program, and to provide nonmedical substance abuse treatment support services for qualified individuals under the program.

"(b) REPORTS.—The Secretary shall require each State with respect to which payments under section 434(a)(2) are received to report (in such manner and form and at such time as the Secretary determines to be appropriate) such information as may be necessary to permit the Secretary and the Congress to evaluate the operation and effectiveness of the program and services provided purusant to this section, including—

"(1) the number of individuals participating in the program in the State;

"(2) any limits imposed by the State on the number of individuals who may enroll in the program; and

"(3) the number of individuals on any waiting list maintained by the State for participation in the program.

"(c) DEFINITIONS.—As used in this section:

"(1) NONMEDICAL SUBSTANCE ABUSE TREATMENT SUPPORT SERVICES.—The term 'nonmedical substance abuse treatment support services' means—

"(A) home visitation services, nutrition services, child care, and parenting education;

"(B) substance abuse prevention, treatment, and follow-up services (to the extent such services are not furnished under a State plan approved under title XIX); and

"(C) any other services (such as room and board at a residential substance abuse treatment facility for a qualified individual and, where appropriate, the individual's child) that are determined by the State (in accordance with regulations promulgated by the Secretary) to be necessary and appropriate to support the participation of a qualified individual in a qualified comprehensive substance abuse treatment program.

"(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who is—

"(A) a pregnant woman or caretaker parent who is eligible for medical assistance under a State plan approved under title XIX;

"(B) at the option of the State, any other pregnant woman or caretaker parent whose income does not exceed an amount specified by the State; and

"(C) where appropriate, any child of an individual specified in subparagraph (A) or (B).

"(3) QUALIFIED COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAM.—The term 'qualified comprehensive substance abuse treatment program' means a program, established by a State, that—

"(A) makes available to qualified individuals (either directly or through arrangements with others) at least the following services:

"(i) substance abuse prevention, treatment, and follow up services (on an outpatient basis and, at the option of the State, in a residential facility);

"(ii) prenatal, gynecological, and pediatric medical services;

"(iii) transportation; and

"(iv) nonmedical substance abuse treatment support services;

"(B) provides for appropriate coordination of substance abuse treatment-related medical services furnished to individuals under the program (under title V or XIX) and nonmedical substance abuse support services for which payment may be made under section 434(a)(2); and

"(C) is administered by an agency (or agencies) designated by the Governor of the State.

"(4) CARETAKER PARENT.—The term 'caretaker parent' means a parent who personally provides (or expects to provide) care for a child.

"SEC. 437. RESPITE CARE.

"(a) IN GENERAL.—Each State which receives funds paid to the State under section 434(a)(3) shall use the funds to provide respite care to any family which operates a foster family home for 1 or more foster children who the State determines have special needs, in accordance with all applicable State and local standards and guidelines and in the least restrictive setting consistent with the special needs of such child or children.

"(b) RESPITE CARE DEFINED.—As used in subsection (a), the term 'respite care' means, with respect to the family of a foster child, care authorized by a State, or provided by a public or private agency designated by a State, to provide temporary relief for the foster parent caregiver or caregivers of the child.

"SEC. 438. EVALUATIONS; REPORT.

"(a) EVALUATIONS.—(1)(A) The Secretary shall, directly or under contract with 1 or more independent research organizations, conduct evaluations of programs carried out pursuant to section 435 in accordance with criteria that the Secretary shall establish, and in accordance with requirements that the Secretary shall prescribe by regulation.

"(B) In developing the criteria referred to in paragraph (1), the Secretary shall consult with—

"(i) individuals who administer programs under this part and part E;

"(ii) private, nonprofit organizations with an interest in child welfare; and

"(iii) other individuals and organizations with recognized expertise in the evaluation of child welfare services programs or other related programs.

"(2) Program evaluations conducted pursuant to paragraph (1) shall—

"(A) use methodologies to measure outcomes with respect to children and families who participate in the programs referred to in paragraph (1) that enable comparison with similar outcome measurements of children and families who have not received the services offered by such programs; and

"(B) include an assessment of family functioning.

"(3) In carrying out the program evaluations described in paragraph (1), the Secretary shall ensure that, where appropriate and feasible, an appropriate portion of such evaluations shall use experimental and control groups (of a sample size determined in accordance with appropriate statistical practices).

"(4)(A) The Secretary shall develop procedures to facilitate the coordination of evaluations conducted by the Secretary and by the States.

"(B) Upon request by a State, the Secretary shall provide technical assistance to facilitate the planning and design of program evaluations under this subsection.

"(b) REPORT.—For fiscal year 1995, and annually thereafter until the programs authorized under this section are completed, the Secretary shall issue a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes—

"(1) information concerning the status of evaluations conducted by the Secretary under subsection (a);

"(2) findings from the evaluations;

"(3) information concerning the status of the evaluations conducted by States under this section; and

"(4) a summary of the findings from the State evaluations referred to in paragraph (3).".

(b) REPORT.—The Secretary of Health and Human Services shall, upon completion of a review of the evaluations conducted under section 438(a) of the Social Security Act by the Secretary and by States (but not later than December 1, 1996), submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes recommendations for legislation to—

(1) improve child and family services provided under title IV of such Act to strengthen families;

(2) reduce the number of cases in which it is necessary to remove a child from home and place the child in foster care;

(3) promote the reunification of families of children who have been placed in foster care; and

(4) promote planned, permanent living arrangements for children, including adoption, where appropriate.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part B of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

SEC. 1312. GRANT PROGRAM FOR STATE COURT SYSTEMS TO ASSESS AND IMPROVE PROCEDURES IN CHILD WELFARE CASES.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall make grants in accordance with this section to the highest State courts to conduct assessments of the procedures and functions of the State courts in carrying out parts B and E of title IV of the Social Security Act, and to implement recommendations for improvements in such procedures and functions based on the assessments.

(b) ASSESSMENTS.—The assessment described in this subsection is designed to assess how the State courts are performing the activities required of them by or under State laws enacted pursuant to parts B and E of title IV of the Social Security Act, and to make recommendations on how to improve the implementation of such parts, which shall include the following:

(1) A list of the requirements imposed on the State courts by or under State laws enacted pursuant to such parts, and a list of the State laws, regulations, and policies that govern the implementation of such requirements.

(2) A description of the extent to which State law requires procedural safeguards for children and their parents with respect to each type of proceeding held by State courts pursuant to the State laws referred to in paragraph (1).

(3) A quantitative and qualitative evaluation of how each requirement of such parts is being carried out in the State, including the following:

(A) The circumstances under which, and the frequency with which, the procedural safeguards described pursuant to paragraph (2) are provided.

(B) Whether, during court proceedings, evidence is presented and arguments are made that address the findings and determinations required by the State laws referred to in paragraph (1), and, if so, the amount and sufficiency of time devoted to the presentation of such evidence and the making of such arguments.

(C) The extent to which the procedures and practices of the State courts are reasonably in accord with recommended standards of national organizations concerned with permanent placement for foster children.

(4) The effect of judicial caseloads and case assignments on the quality of court proceedings.

(5) Recommendations on how to better meet the requirements of such parts, and to improve the implementation by the State courts of the State laws enacted pursuant to such parts, including any changes in law, regulation, procedure, judicial manpower, judicial case assignments, judicial caseloads, judicial data collection, judicial education, and requirements for court-appointed legal representatives for parents and children.

(c) APPLICATIONS.—

(1) FISCAL YEAR 1994.—In order for a highest State court to become eligible for a grant under this section for fiscal year 1994, the court shall submit to the Secretary an application which, at a minimum, contains the following:

(A) A timetable for conducting and completing the assessment described in subsection (b) during fiscal year 1994.

(B) A budget for the assessment described in subsection (b), the method which is to be used to conduct the assessment, and a statement of how courts are to be selected for inclusion in the assessment.

(C) A certification that the head of the State agency responsible for children in State-supervised foster care, and, if applicable, the State foster care citizen review board or the State organization of citizen review boards, has had an opportunity to review and comment on a draft of the application before its submission. Such certification must include a copy of such comments.

(D) A description of how the court is to consult and cooperate with the head of the State agency responsible for children in State-supervised foster care, and, if applicable, the State foster care citizen review board or the State organization of citizen review boards, in developing and conducting the assessment described in subsection (b).

(E) Such other information as the Secretary may require by regulation.

(2) FISCAL YEAR 1995.—In order for a highest State court to become eligible for a grant under this section for fiscal year 1995, the court shall submit to the Secretary an application which contains the following:

(A) A copy of the assessment described in subsection (b) that was conducted and completed with funds provided under this section.

(B) A description of the steps that were taken during the conduct of the assessment described in subsection (b), and that will be taken in the fiscal year for which the application is submitted, to consult and cooperate with the State agency responsible for children in State-supervised foster care and, if applicable, the State foster care citizen review board or the State organization of citizen review boards.

(C) A specification of the steps that will be taken to implement the recommendations described in subsection (b)(5) made in the assessment described in subsection (b), and to make other improvements in the judicial handling of child welfare and foster care cases.

(D) Assurances that the applicant will—

(i) coordinate with the head of the State agency responsible for children in State-supervised foster care, and provide the agency with a report on the actions to be taken by the applicant to implement the recommendations of the assessment;

(ii) after completion of the assessment described in subsection (b), use funds received under this section to—

(I) implement the recommendations of the assessment; and

(II) establish new activities or programs, or strengthen existing activities or programs, to carry out such recommendations; and

(iii) not use funds received under this section to supplant State or local funds used for similar purposes.

(E) Such other information as the Secretary may require by regulation.

(3) FISCAL YEARS 1996 AND 1997.—In order for a highest State court to become eligible for a grant under this section for fiscal year 1996 or thereafter, the court shall submit to the Secretary an application which contains the following:

(A) A description and evaluation of the activities of the State courts under the grant made with respect to an application submitted under paragraph (2) in improving their implementation of parts B and E of title IV of the Social Security Act.

(B) A description of the steps that were taken during the previous fiscal year, and that will be taken in the year for which the application is submitted, to consult and cooperate with the head of the State agency responsible for children in State-supervised foster care and, if applicable, the State foster care citizen review board or the State organization of citizen review boards, in implementing the recommendations made in the assessment described in subsection (b).

(C) A specification of the remaining steps that will be taken to implement the recommendations described in subsection (b)(5) made in the assessment described in subsection (b), and to make other related improvements in the judicial handling of child welfare and foster care cases.

(D) A reaffirmation of the assurances made pursuant to paragraph (2)(D).

(E) Such other information as the Secretary may require by regulation.

(d) GRANT AMOUNTS.—

(1) FISCAL YEAR 1994.—Of the amounts made available to carry out this section for fiscal year 1994, each highest State court that submits an application which meets the requirements of subsection (c)(1) shall be entitled to, and the Secretary shall pay such court, a grant in an amount equal to—

(A) $150,000; plus

(B) the amount which bears the same ratio to the remainder of such available amounts as the number of individuals in the State who have not attained the age of 21 years bears to the number of individuals who have not attained such age in the States the highest State courts of which have so submitted such applications.

(2) FISCAL YEARS 1995, 1996, AND 1997.—Of the amounts made available to carry out this section for each of fiscal years 1995, 1996, and 1997, each highest State court that submits an application which meets the requirements of paragraph (2) or (3) of subsection (c) shall be entitled to, and the Secretary shall pay such court, a grant in an amount equal to—

(A) $170,000; plus

(B) the amount which bears the same ratio to the remainder of the amounts available for the fiscal year as the number of individuals in the State who have not attained the age of 21 years bears to the number of individuals who have not attained such age in the States the highest State courts of which have so submitted such applications.

(3) NO STATE MATCH REQUIRED FOR FISCAL YEAR 1994; REDISTRIBUTION OF UNUSED FUNDS.—Grant amounts under this section shall be paid to, and redistributed among, highest State courts in the same manner in which funds made available pursuant to section 420(b) of the Social

Security Act are paid to, and reallotted among, the States pursuant to sections 423 and 424 of such Act, except that—

(A) for fiscal year 1994, section 423(a) of such Act shall be applied by substituting "100 percentum" for "75 percentum"; and

(B) amounts shall be redistributed on the same basis as amounts are distributed under paragraph (1)(B) or (2)(B), and amounts so redistributed shall be treated as part of the amounts distributed under paragraph (1)(B) or (2)(B), whichever is applicable.

(e) USE OF GRANTS.—

(1) FISCAL YEAR 1994.—

(A) CONDUCT ASSESSMENT.—Except as provided in subparagraph (B), each highest State court which receives a grant applied for under subsection (c)(1) shall use such grant to conduct the assessment described in subsection (b).

(B) AUTHORITY TO USE EXCESS GRANT FUNDS TO IMPLEMENT RECOMMENDATIONS.—Any highest State court which has grant funds remaining after completing the assessment may use the remainder of the grant to implement the recommendations made as part of the assessment, in fiscal year 1994 or fiscal year 1995.

(2) FISCAL YEARS 1995, 1996, AND 1997.—Each highest State court which receives a grant applied for under paragraph (2) or (3) of subsection (c) for a fiscal year shall—

(A) use the grant to implement the recommendations made as part of the assessment described in subsection (b); and

(B) expend such grant in the fiscal year or in the immediately succeeding fiscal year.

(f) ADMINISTRATIVE PROVISIONS.—

(1) GUIDELINES FOR GRANT APPLICATIONS.—Within 180 days after the effective date of this section, the Secretary shall issue guidelines for grant applications under subsection (c)(1) and transmit such guidelines to each highest State court.

(2) PROMPT ACTION ON APPLICATIONS.—The Secretary shall take prompt action on each application for a grant under this section.

(g) DEFINITIONS.—As used in this section:

(1) HIGHEST STATE COURT.—The term "highest State court" means, with respect to a State, the State court with final appellate jurisdiction over civil matters in which State courts perform a function assigned by or under State laws enacted pursuant to part B or E of the Social Security Act.

(2) STATE.—The term "State" shall have the same meaning such term has for purposes of parts B and E of title IV of the Social Security Act.

(h) REPORTS TO THE CONGRESS.—The Secretary shall submit to the Congress a report not later than September 30, 1998, on—

(1) the information obtained from the assessments conducted with grants made under this section; and

(2) the impact of the grant program under this section on the procedures and functions of the State courts in carrying out parts B and E of title IV of the Social Security Act.

(i) GRANTS FUNDED THROUGH INNOVATIVE SERVICES ENTITLEMENT FUNDS FOR CERTAIN FISCAL YEARS.—

(1) FISCAL YEAR 1994.—Of the sums made available pursuant to section 430 of the Social Security Act for fiscal year 1994, $15,000,000 of the innovative services amount (as defined in section 430(b)(1) of such Act) shall be used solely to make grants to highest State courts under this section, before applying section 432 of such Act.

(2) FISCAL YEARS 1995, 1996, AND 1997.—Of the sums made available pursuant to section 430 of the Social Security Act for each of fiscal years 1995, 1996, and 1997, $20,000,000 of the innovative services amount (as defined in section 430(b)(1) of such Act) shall be used solely to make grants to highest State courts under this section, before applying section 432 of such Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 1313. STATE DIRECTORY OF SERVICES.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) require the agency administering or supervising the administration of the plan, not less frequently than every 2 years, to—

"(A) compile a detailed directory of those service programs made available by the agency or by local child welfare agencies to families served by such agencies that are—

"(i) preplacement preventive services programs that are designed to help children at risk of foster care placement remain with their families;

"(ii) service programs designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or in some other planned, permanent living arrangement; or

"(iii) service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;

"(B) identify in such directory which of the programs referred to in subparagraph (A) provides specialized child welfare services to families in crisis due to substance abuse;

"(C) include in such directory such information as the Secretary may require by rule;

"(D) include in such directory, for each of such programs—

"(i) the name and address of the program and the agency or organization that administers the program;

"(ii) a description of the services offered by the program;

"(iii) the number of individuals the program is capable of serving at one time; and

"(iv) a description of the criteria for eligibility for services under the program, including any priorities with respect to who will receive such services;

"(E) arrange the information in the directory geographically; and

"(F) provide a copy of such directory to the Secretary and to all judges and other judicial administrators, and all State agencies, that are involved in child protection, foster care, and adoption cases.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part B of title IV of the Social Security Act for fiscal year 1994 and to such payments for any succeeding fiscal year.

SEC. 1314. REQUIRED PROTECTIONS FOR FOSTER CHILDREN.

(a) ELIMINATION OF INCENTIVE FUNDING MECHANISMS.—

(1) IN GENERAL.—

(A) REPEAL.—Section 427 (42 U.S.C. 627) is hereby repealed.

(B) CONFORMING AMENDMENT.—Section 423(a) (42 U.S.C. 623(a)) is amended by striking "and in section 427".

(2) STATE PLAN REQUIRED TO PROVIDE FOR FOSTER CARE PROTECTIONS OF REPEALED SECTION 427.—Section 422(b) (42 U.S.C. 622(b)), as amended by sections 1313(a) and 1315(a) of this Act, is amended—

(A) by striking "and" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; and"; and

(C) by adding at the end the following:

"(11) provide that the State must—

"(A) conduct or have conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, and determine or have determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child can or should be returned to the parents of the child or should be freed for adoption; and

"(iii) the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship;

"(B) implement and operate, to the satisfaction of the Secretary—

"(i) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child who is in foster care, or who has been in such care within the preceding 12 months, can be readily determined;

"(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

"(C)(i) review or have reviewed State laws, State administrative and judicial procedures, and agency legal representation in effect for children abandoned at or shortly after birth; and

"(ii) develop and implement such laws and procedures as the State determines are necessary to enable lasting permanent decisions to be made expeditiously with respect to the placement of such children;".

(3) CONFORMING AMENDMENTS.—

(A) Section 472(d) (42 U.S.C. 672(d)) is amended by striking "427(b)" and inserting "422(b)(11)".

(B) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is amended by inserting "to comply with section 422(b)(11) or" before "to comply".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1994, and shall apply to payments under parts B and E of title IV of the Social Security Act for fiscal year 1995 and to such payments for any succeeding fiscal year.

(d) CONSTRUCTION OF SECTION.—This section and the amendments made by this section shall not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 of the Social Security Act, as in effect before fiscal year 1995.

SEC. 1315. STATES REQUIRED TO REPORT ON MEASURES TAKEN TO COMPLY WITH THE INDIAN CHILD WELFARE ACT.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by section 1313(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following:

"(10) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part B of title IV of the Social Security Act for fiscal year 1994 and to such payments for any succeeding fiscal year.

SEC. 1316. REPOkTS ON CHILD WELFARE SERVICES AND EXPENDITURES.

(a) POST-EXPENDITURE REPORTS.—

(1) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628), as amended by section 1331(a) of this Act, is amended by adding at the end the following:

"SEC. 429A. REPORT ON EXPENDITURES.

"(a) PREPARATION.—Each State shall prepare annual reports on the services provided with funds paid under this part (other than under section 434(a)(2)) during the most recently completed fiscal year, which shall be in such form and contain such information as the State finds necessary to—

"(1) provide an accurate description of such services;

"(2) secure a complete record of the purposes for which the funds were spent; and

"(3) enable a determination of the extent to which the funds were spent in a manner consistent with the information provided by the State purusant to section 422(b)(5).

"(b) DISSEMINATION.—Not later than the date prescribed by the Secretary as the due date for each report required by subsection (a), each State shall—

"(1) transmit to the Secretary a copy of each such report;

"(2) make copies of each such report available for public inspection in the State; and

"(3) provide copies of each such report, upon request, to any interested public agency, which may provide to the Congress the views of such agency on any such report.

"(c) ESTABLISHMENT OF UNIFORM DEFINITIONS.—The Secretary shall, to the extent feasible, establish uniform definitions of services for use by the States in preparing the reports required by subsection (a) of this section, taking into consideration the uniform definitions established for the reports required by section 2006, and shall take such other steps as may be necessary or appropriate to ensure that compliance with this section will not be unduly burdensome on the States.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1993, and shall apply to expenditures under State plans under part B of title IV of the Social Security Act in or after fiscal year 1994.

(b) COMPARATIVE FINANCIAL CONTRIBUTION REPORTS.—

(1) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)), as amended by sections 1313(a), 1315(a), and 1314(a) of this Act, is amended—

(A) by striking "and" at the end of paragraph (10);

(B) by striking the period at the end of paragraph (11) and inserting "; and"; and

(C) by adding at the end the following:

"(12) include information for the fiscal year second preceding the fiscal year covered by the plan, in such form as the Secretary may prescribe by regulation, on—

"(A) the aggregate amount expended by the State and the political subdivisions thereof for the provision of child welfare services (other than foster care maintenance payments and adoption assistance payments), broken down in a manner that shows the extent to which such amount was expended from funds provided by each of Federal, State, or local sources; and

"(B) the aggregate amount expended by the State and the political subdivisions thereof for foster care maintenance payments and adoption assistance payments, broken down in a manner that shows the extent to which such amount was expended from funds provided by each of Federal, State, or local sources.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to State plans under part B of title IV of the Social Security Act for fiscal year 1994 and to such plans for any succeeding fiscal year.

(3) REPORTS TO THE CONGRESS.—Section 422 (42 U.S.C. 622) is amended by adding at the end the following:

"(c) The Secretary shall annually transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a summary of the information received from States pursuant to subsection (b)(12), and shall make available to the public copies of the summary at a charge equal to the cost of printing.".

SEC. 1317. INVOLVEMENT OF PRIVATE PARTIES IN THE DEVELOPMENT OF STATE PLANS.

(a) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)), as amended by sections 1313(a), 1315(a), 1314(a), and 1316(b)(1) of this Act, is amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; and"; and

(3) by adding at the end the following:

"(13) provide for the involvement and use of the expertise of nonprofit organizations, and relevant experts, involved in the delivery of services to children and families, and consumers, in the development of the plan.".

SEC. 1318. COMPREHENSIVE SERVICE PROJECTS.

(a) COMPREHENSIVE SERVICE PROJECTS.—

(1) IN GENERAL.—Title IV (42 U.S.C. 601–687) is amended by inserting after part B the following:

"PART C—COMPREHENSIVE SERVICE PROJECTS

"SEC. 441. COMPREHENSIVE SERVICE PROJECTS.

"(a) IN GENERAL.—

"(1) PURPOSE.—The purpose of this section is to grant not more than 3 States the flexibility and resources necessary to develop comprehensive and coordinated services designed—

"(A) to preserve and strengthen families with children at risk of placement outside their home;

"(B) to reunite children with their families expeditiously if an out-of-home placement is found to be necessary; and

"(C) to place children in adoptive homes or other permanent arrangements in a timely fashion if reunification with their families is not appropriate.

"(2) METHOD.—The method of this section is to permit any State to apply to the Secretary for permission—

"(A) to conduct a comprehensive service project in accordance with this section in such area or areas of the State as the State may select; and

"(B) to suspend certain requirements of parts B and E with respect to the activities of the State in such area or areas during the project.

"(3) ENTITLEMENT.—For payments to which States authorized to conduct projects under this section are entitled under this part, there shall be available to the Secretary for each fiscal year an amount equal to 10 percent of the aggregate of the amounts that would have been paid to such States under section 423 for the fiscal year, and the amounts that would have been paid to such States under section 434 for the fiscal year, if the Secretary had approved the State plans of such States under part B for the fiscal year and had not authorized such States to conduct projects under this section for the fiscal year.

"(b) APPLICATIONS.—Not later than 3 months before the fiscal year in which a State desires to commence a comprehensive services project under this section, the State may submit to the Secretary an application to conduct the project which shall contain the following:

"(1) A plan and a timetable for assessing by the end of the fiscal year—

"(A) whether procedures and policies of the child welfare agency of the State, or of the area or areas of the State in which the project is to be conducted, provide for the coordinated delivery of services to children and their families, and the specific barriers that must be overcome to ensure such coordination;

"(B) the service needs of families in the area or areas of the State in which the project is to be conducted whose child or children are at imminent risk of placement outside their home or are in an out-of-home placement in the child welfare, juvenile justice, or mental health system;

"(C) specific service programs available in the area or areas of the State in which the project is to be conducted that address the service needs of such families; and

"(D) the extent to which common practices, policies, and procedures among the child welfare, juvenile justice, and mental health systems in the area or areas of the State in which the project is to be conducted govern the assessment of children and their families, the provision of case plans, the delivery of services to children and their families, and the periodic reviews of the services provided, particularly with regard to families whose child or children are at imminent risk of placement outside their home or are in an out-of-home placement;

"(2) a plan and a timetable for implementing, to the extent appropriate—

"(A) procedures and policies of the child welfare agency of the State, or of the area or areas of the State in which the project is to be conducted, that will result in the coordinated and efficient delivery of the range of child welfare services to families in the child welfare system;

"(B) a comprehensive services program designed to—

"(i) preserve and strengthen families with children at imminent risk of placement outside their home;

"(ii) reunite children with their families expeditiously if an out-of-home placement is found to be necessary;

"(iii) place children in adoptive homes or other permanent arrangements in a timely fashion if reunification with their families is not appropriate;

"(iv) meet the primary service needs of targeted families in the area or areas of the State in which the project is to be conducted who are in the child welfare, juvenile justice, or mental health system and whose child or children are at imminent risk of placement outside their home or are in an out-of-home placement; and

"(v) include, at a minimum, access to substance abuse treatment, parenting education, health, mental health, crisis managment, and counseling services;

"(C) a common assessment tool for targeting which children and families who come to the attention of the child welfare, juvenile justice, and mental health systems will participate in the program described in subparagraph (B);

"(D) joint training of staff from the child welfare, mental health, and juvenile justice systems who will be involved in the program described in subparagraph (B);

"(E) a system for delivering services under the program described in subparagraph (B) to families targeted for the program which ensures a single point of entry and uses a unified case management approach, and thereby minimizes unnecessary and duplicative assessments and services;

"(F) an information system to track children and families across systems who participate in the program described in subparagraph (B), which provides data, not less frequently than annually, on the number of children and families served from each system and the nature of the services provided; and

"(G) a mechanism by which to ensure that relevant information on the service and treatment needs and outcomes of children and their families which is developed through their participa-

tion in the program described in subparagraph (B) is made available, as appropriate, to case managers and service providers in the relevant agencies who are charged with making service, placement, and other decisions with respect to the children and their families;

"(3) a statement of the specific outcomes the State expects by conducting the project, which shall include outcomes in at least the following areas—

"(A) an increase in the well-being of children;

"(B) a reduction in placements and expenditures for out-of-home care relative to what would have occurred otherwise;

"(C) an increase in the level and mix of preventive services available to families in the child welfare, juvenile justice, and mental health systems; and

"(D) an increase in coordination and cooperation among the child welfare, juvenile justice, and mental health agencies;

"(4) a specification of the area or areas of the State in which the project is to be conducted, in which must reside not fewer than 300,000 individuals in the aggregate at the time the application is submitted;

"(5) a certification that all cost savings resulting from the project will be used to provide child welfare services to families;

"(6) a certification that the State will provide the Secretary with such information about the project and the State programs carried out pursuant to parts B and E as the Secretary may request;

"(9) a certification that—

"(A) the State will not use any funds provided under this section to supplant any Federal, State, or local funds used for similar purposes;

"(B) the aggregate amount expended from State and local sources by the State and the political subdivisions thereof for the provision of child welfare services (excluding foster care maintenance payments and adoption assistance payments) during any fiscal± year will be not less than the aggregate amount so expended during fiscal year 1992; and

"(C) the aggregate amount expended from State and local sources by the State and the political subdivisions thereof for the provision of child welfare services during any fiscal year will be not less than the aggregate amount so expended during fiscal year 1992;

"(10) a certification that the individual or agency referred to in section 422(b)(1)(A) shall have lead responsibility for the operation and administration of the project under this section;

"(11) a certification by the Governor of the State that project activities will be coordinated among the State child welfare, juvenile justice, and mental health agencies, and other appropriate State agencies; and

"(12) a list of those requirements of parts B and E which are to apply to the project, in addition to the requirements imposed by the provisions specified in subsection (c)(6)(A) of this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) NOTIFICATION TO STATES OF APPLICATION REQUIREMENTS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prepare and transmit to each State a detailed explanation of the requirements for conducting a project under this section.

"(2) CONSIDERATION OF APPLICATIONS.—The Secretary shall consider all applications (and amendments thereto) received from States desiring to conduct a project under this section.

"(3) AMENDMENT OF APPLICATIONS.—A State may, at any time and for any fiscal year, submit to the Secretary 1 or more amendments to any application submitted to the Secretary under this section.

"(4) APPROVAL OF APPLICATIONS.—

"(A) IN GENERAL.—The Secretary shall not approve any application of a State to conduct a project under this section, or any amendment thereto, that does not meet the requirements of this section to the satisfaction of the Secretary.

"(B) FREEDOM OF STATES TO SELECT AREAS IN WHICH TO CONDUCT THE PROJECT.—The Secretary may not, as a condition of approval of a State application to conduct a project under this section or of any amendment thereto, require the State to select any particular area or areas of the State in which to conduct the project.

"(C) FREEDOM OF STATES TO SELECT PROVISIONS OF PARTS B AND E TO APPLY TO THE PROJECT.—The Secretary may not, as a condition of approval of a State application to conduct a project under this section or of any amendment thereto, require the project to comply with any provision of part B or E not specified in paragraph (6)(A) of this subsection.

"(6) AUTHORITY TO CONDUCT PROJECT; GRANT AUTHORITY.—If the Secretary approves the application of a State to conduct a project under this section, then—

"(A) the Secretary shall authorize the State to conduct the project in accordance with the approved application therefor and any approved amendments thereto, and the requirements of section 427, the provision of section 471(a)(1) requiring the State plan to provide for adoption assistance in accordance with section 473, paragraphs (8), (9), (10), (12), (13), (15), and (16) of section 471(a), and sections 472(h), 473, and 479 shall apply to the project; and

"(B) in lieu of receiving the funds that would otherwise be provided to the State for any fiscal year pursuant to sections 423, 434, and 474 (other than with respect to adoption assistance) with respect to the activities of the State in the area or areas of the State in which the project is to be conducted, the State shall be entitled to receive a grant, in accordance with subsection (d) of this section, for each fiscal year, from the amount allotted to the State for the fiscal year under section 421, the total amount allotted to the State for the fiscal year under section 432, the amount to which the State is entitled for the fiscal year under part E, and the amount made available pursuant to subsection (a)(3) of this section.

"(d) ANNUAL GRANTS.—

"(1) AMOUNT OF GRANT.—

"(A) IN GENERAL.—The amount of the grant to be paid under this subsection to a State for a fiscal year shall be the amount determined by the Secretary to be—

"(i) the sum of—

"(I) 110 percent of the aggregate of the amount that would have been paid to the State under section 423 for the fiscal year, and the total amount that would have been paid to such States under section 434 for the fiscal year, if the Secretary had approved the State plan under part B for the fiscal year and had not authorized the State to conduct a project under this section for the fiscal year; and

"(II) the aggregate of the expenses for which the State would properly have submitted a claim for reimbursement under section 474 (other than with respect to adoption assistance) for the fiscal year if the Secretary had approved the State plan under part E for the fiscal year and had not authorized the State to conduct a project under this section for the fiscal year;

multiplied by

"(ii) the quotient equal to—

"(I) the number of children in the area or areas in which the project is to be conducted under this section with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State plan under part E for the fiscal year and had not authorized the State to conduct the project; divided by

"(II) the total number of children in the State with respect to whom the State would have so made such payments for the fiscal year.

"(B) CALCULATION OF GRANT AMOUNT.—The Secretary shall calculate the expenses for which a State would properly have submitted a claim for reimbursement under section 474 (other than with respect to adoption assistance) for a fiscal year by—

"(i) determining the amount paid to the State with respect to such expenses for the fiscal year immediately preceding the fiscal year in which the State commenced (or is to commence) the project under this section;

"(ii) adjusting such amount annually for inflation based on changes in the Consumer Price Index for all urban consumers for the most recent 12-month period for which data are available; and

"(iii) increasing such amount, to the extent the Secretary deems appropriate, by taking into account—

"(I) any estimate made by the State of the expenses for which the State would properly have submitted such a claim for reimbursement for the fiscal year;

"(II) the rate at which the number of children on whose behalf the Federal Government has reimbursed foster care maintenance payments made by States not participating in the project has recently increased (emphasizing those nonparticipating States which have similar child welfare programs and similar foster care caseload characteristics), as determined by the Secretary;

"(III) changes in State laws or procedures that have the effect of changing the rate at which children are placed in foster care or changing the costs of maintaining children in foster care;

"(IV) the amount (if any) by which—

"(aa) the national average number of children per State who, as of the end of the fiscal year immediately preceding the commencement of the project, have not attained the age of 18 years and were eligible for benefits under the respective State plan under part E (expressed as a percentage of the total population of children in the respective State who have not so attained such age); exceeds

"(bb) the number of such children in the State (expressed as a similar percentage); and

"(V) other factors deemed appropriate by the Secretary.

"(2) NOTIFICATION TO STATES OF AMOUNT OF GRANTS.—The Secretary shall notify each State of the amount of the grant to be made to the State for a fiscal year under this subsection, not later than—

"(A) in the case of the first grant with respect to an approved application, the later of—

"(i) 45 days after the Secretary receives the application therefor; or

"(ii) August 1 of the fiscal year immediately preceding the fiscal year for which the grant is to be made; and

"(B) in any other case, August 1 of such immediately preceding fiscal year.

"(3) GRANTS TO BE PAID IN EQUAL QUARTERLY INSTALLMENTS.—The Secretary shall pay each grant under this subsection in equal quarterly installments.

"(e) PRESERVATION OF CERTAIN BENEFITS.—During the period in which a State is conducting a project under this section—

"(1) the State may not carry out the project in a manner which impairs the entitlement of any child to—

"(A) the foster care benefits the child would have received under a State plan approved under part E if the Secretary had approved the State plan under part E for the fiscal year and had not authorized the State to conduct a project under this section for the fiscal year; or

"(B) any other benefit to which the child is entitled by law; and

"(2) the State shall, for purposes of section 402(a)(20), be deemed to have in effect a State plan approved under part E.

"(f) REPORT ON EXPENDITURES.—

"(1) IN GENERAL.—Not later than April 1 of the fiscal year immediately following each fiscal year for which a State conducts a project under this section, the State shall prepare and submit to the Secretary a report on the funds expended under the project.

"(2) FORM AND CONTENT.—

"(A) IN GENERAL.—The report required by paragraph (1) shall be in such form and contain such information as the State finds necessary to—

"(i) accurately describe how the grant made under this section for the fiscal year was used;

"(ii) provide a complete record of how the grant funds were expended; and

"(iii) enable a determination of the extent to which the funds were spent in a manner consistent with the application therefor.

"(B) INCLUSION OF INFORMATION ON COMPARATIVE FINANCIAL CONTRIBUTIONS.—The report required by paragraph (1) for any fiscal year after fiscal year 1993 shall include the information described in section 422(b)(12) for the 2nd preceding fiscal year.

"(g) ADMINISTRATIVE REMEDIES FOR UNSUCCESSFUL PROJECTS.—If the Secretary has determined that the State is not conducting the project in accordance with this section or is not making satisfactory progress toward the achievement of the plans of the State, the Secretary may—

"(1) provide technical assistance to the project;

"(2) require the State to take corrective action with respect to the project; or

"(3) after notice and opportunity for hearing, reduce the payments that would otherwise be due the State under this section by an amount which the Secretary determines is appropriate.

"(h) TERMINATION OF PROJECTS.—

"(1) IN GENERAL.—Any State authorized to conduct a project under this section shall discontinue the project at the end of a fiscal year—

"(A) if the State has notified the Secretary that the State intends to discontinue the project at the end of the fiscal year; or

"(B) if the Secretary has determined that the State is not conducting the project in accordance with this section or is not making satisfactory progress toward the achievement of the plans of the State, and the Secretary does not plan to take action under subsection (g) during the fiscal year with respect to the project.

"(2) EFFECT OF PROJECT TERMINATION.—On the discontinuance of a project of a State under this section, parts B and E shall apply with respect to the population of, and the activities of the State in, the area or areas of the State in which the project was conducted.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1992.

(b) DEMONSTRATION PROJECTS TO IMPROVE COORDINATION OF SERVICES.

(1) IN GENERAL.—Part E of title IV (42 U.S.C. 670–679) is amended by inserting after section 474 the following:

"SEC. 474A. DEMONSTRATION PROJECTS FOR THE COORDINATION OF CHILD AND FAMILY SERVICES.

"(a) In order to improve the coordination of child and family services, the Secretary shall authorize not more than 3 States to conduct demonstration projects, to be carried out in accordance with this section.

"(b) An application to conduct a demonstration project under this section submitted by the Governor of a State shall include a description of the measures to be employed to improve the coordination of the services and benefits provided by child and family services programs carried out under the State plan under this part with programs which provide services to families and children including some or all of the following programs and services:

"(1) The program of aid and services for needy families with children carried out under the State plan pursuant to part A.

"(2) The child support and spousal support enforcement program carried out under the State plan pursuant to part D.

"(3) The job opportunities and basic skills training program carried out under section 402(a)(19) and part F.

"(4) The special supplemental food program for woman, infants, and children (the WIC program) authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(5) The maternal and child health block grant program under title V.

"(6) Medical assistance furnished under the State plan approved under title XIX.

"(7) Drug treatment programs and other substance abuse programs.

"(8) Mental health services programs.

"(9) Juvenile justice programs.

"(10) Programs for developmentally disabled individuals.

"(11) Any additional services for children and families that the State determines necessary to meet the needs of all family members in order to carry out the purposes of this section that are approved by the Secretary.

"(c) A demonstration project conducted under this section may be conducted for a period of not more than 3 years.

"(d)(1) Each State that conducts a demonstration project authorized by the Secretary under this section shall, as a part of such demonstration project, conduct an evaluation of the effectiveness of the demonstration project in improving the coordination and the funding of child and family services.

"(2) Amounts expended by the State for the purposes of conducting an evaluation under this subsection shall be considered to be amounts expended for the proper and efficient administration of the State plan under this part.

"(e) Upon completion of a demonstration project under this section, each State shall submit a report to the Secretary concerning the results of the evaluation described in subsection (d).

"(f) Each State shall submit to the Secretary at such time as the Secretary may prescribe by regulation—

"(1) a description of administrative policies and laws of the Federal Government and the State or a political subdivision of the State, identified by the State as impediments to the coordination of the delivery of the child and family services described in subsection (b); and

"(2) a description of the measures that the State has taken or intends to take to eliminate or reduce impediments described in paragraph (1) that are attributable to administrative policies and laws of the State or a political subdivision of the State.

"(g) This section shall not be construed to authorize the Secretary or appropriate agency head to waive or modify any requirement of the programs described in subsection (b).".

(2) PAYMENTS TO STATES FOR DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Section 474(a) (42 U.S.C. 674(a)) is amended—

(i) by striking the period at the end of paragraph (4)(B)(ii) and inserting "; plus"; and

(ii) by adding at the end the following:

"(5) if such State is authorized to conduct a demonstration project pursuant to section 474A, 50 percent of so much of such expenditures (not to exceed $750,000 for each quarter during the period of such demonstration project) to carry out the demonstration project.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to expenditures made after September 30, 1992.

(c) REVIEW OF ADMINISTRATIVE POLICIES AND REGULATIONS.—(1) The Secretary of Health and Human Services, the Secretary of Agriculture, the Secretary of Education, and the Attorney General of the United States shall review the administrative policies and regulations relating to the funding and delivery of services for families and children (as described in section 474A(b) of the Social Security Act, as added by subsection (a) of this section) of the Department of Health and Human Services, the Department of Agriculture, the Department of Education, and the Department of Justice, respectively, to determine whether changes in such administrative policies and regulations may be made without statutory changes to improve the funding and delivery of such services.

(2) In conducting a review pursuant to paragraph (1), the heads of departments described in paragraph (1) shall consult with appropriate representatives of the governments of States and political subdivisions of States.

(3) Not later than July 1, 1993, the heads of the departments described in paragraph (1) shall collectively (or separately after consultation with the others) issue a report to the Congress that includes—

(A) recommendations for statutory changes, as well as changes in regulations and administrative policies, to improve the coordination of the funding and delivery of child and family services;

(B) a description of the technical assistance that the heads of the departments will make available to the States to improve the coordination of the funding and delivery of child and family services; and

(C) an analysis of the impediments identified pursuant to section 474A(f)(1) of the Social Security Act, as added by subsection (a) of this section, as such impediments relate to Federal policies and laws.

SEC. 1319. DISSOLVED ADOPTIONS.

(a) ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS.—Section 472 (42 U.S.C. 672) is amended—

(1) in subsection (b), by inserting "or (i)" after "subsection (a)"; and

(2) by adding at the end the following:

"(i) Any State with a plan approved under this part may make foster care maintenance payments under this part on behalf of a child—

"(1) with respect to whom such payments were previously made;

"(2) whose adoption has been set aside by a court;

"(3) who meets the requirements of paragraphs (1), (2), and (3) of subsection (a); and

"(4) who fails to meet the requirements of subsection (a)(4) but would meet such requirements if—

"(A) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for such payments; and

"(B) the adoption were treated as having never occurred.".

(b) ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENTS.—Section 473(a) (42 U.S.C. 673(a)) is amended by adding at the end the following:

"(7) Any State with a plan approved under this part may enter into an adoption assistance agreement with the adoptive parents of any child with respect to whom the State may make foster care maintenance payments under section 472(i).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act in or after fiscal year 1993.

SEC. 1320. EXTENSION OF DEFINITION OF CHILDREN WITH SPECIAL NEEDS.

(a) IN GENERAL.—Section 473(c) (42 U.S.C. 673(c)) is amended to read as follows:

"(c)(1) For purposes of this section, a child shall not be considered a child with special needs unless—

"(A) the State determines that—

"(i) the child cannot or should not be returned to the home or the legal custody of the parents of the child;

"(ii) there exists a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps), or information available and known about the child indicating a high risk of medical conditions or physical, mental, or emotional handicaps, which makes it reasonable to conclude that the child cannot be placed for adoption without providing adoption assistance under this section or medical assistance under title XIX; and

"(iii) except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in their care as a foster child or a relative, a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without providing adoption assistance or medical assistance under title XIX; or

"(B) the State determines that the child—

"(i) has been adopted;

"(ii) immediately before the adoption was under the care and responsibility of the State agency administering or supervising the administration of the State programs under this part or of a private nonprofit organization; and

"(iii) has a mental, physical, or emotional handicap that—

"(I) existed before the adoption but was not diagnosed until after the adoption; or

"(II) first manifests itself after the adoption but is congenital or was caused before the adoption.

"(2) Each State shall submit to the Secretary the factors and conditions used by the State to identify children with special needs for purposes of this section, and any modifications to such factors and conditions.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and shall apply with respect to children who are adopted after September 30, 1993, and who become eligible for adoption assistance payments under section 473 of the Social Security Act in or after fiscal year 1994.

SEC. 1321. STUDY OF REASONABLE EFFORTS REQUIREMENT BY ADVISORY COMMITTEE.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish an Advisory Committee on Foster Care Placement (in this section referred to as the "Advisory Committee") to study and make recommendations concerning the implementation of the requirements imposed under section 471(a)(15) of the Social Security Act.

(b) MEMBERSHIP.—The Advisory Committee shall consist of not fewer than 9 members. In appointing persons to the Advisory Committee, the Secretary shall include representatives of the following types of organizations and agencies:

(1) Private, nonprofit organizations with an interest in child welfare (including such organizations that provide child protective services, foster care services, adoption services, or family support services).

(2) Agencies of States and political subdivisions thereof responsible for child protective services, foster care services, or adoption services.

(3) Judicial bodies of States and political subdivisions thereof responsible for adjudicating issues of family law (as defined and determined by the Secretary).

(c) TRAVEL EXPENSES.—While away from their homes or regular places of business and on the business of the Advisory Committee, the members of the Advisory Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(d) HIRING AUTHORITY.—The Advisory Committee may employ and fix the level of compensation for 1 individual.

(e) REPORT.—Not later than April 1, 1994, the Advisory Committee shall submit a report to the Secretary and to the Congress that includes legislative or other recommendations concerning the implementation of the requirements imposed under section 471(a)(15) of the Social Security Act.

SEC. 1322. ADOPTION EXPENSE DEDUCTION.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 221 as section 222 and by inserting after section 221 the following new section:

"SEC. 221. SPECIAL NEEDS ADOPTION EXPENSES DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the individual for such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $3,000.

"(2) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) REIMBURSEMENTS.—If a taxpayer is reimbursed for any qualified adoption expenses for which a deduction was allowed under subsection (a), the amount of such reimbursement shall be includable in the gross income of the taxpayer in the taxable year in which such reimbursement was received.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses which—

"(A) are directly related to the legal adoption of a child with special needs by the taxpayer,

"(B) are not incurred in violation of State or Federal law, and

"(C) are of a type eligible for reimbursement under the adoption assistance program under part E of title IV of the Social Security Act.

"(2) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child determined by the State to be a child described in subparagraph (A) or (B) of section 473(c)(1) of the Social Security Act.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 221 (relating to deduction for expenses of adopting a child with special needs).".

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 221 and by inserting the following new items:

"Sec. 221. Special needs adoption expenses deduction.

"Sec. 222. Cross reference.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to adoptions occurring in taxable years beginning after December 31, 1992.

SEC. 1323. PERIODIC REEVALUATION OF FOSTER CARE MAINTENANCE PAYMENTS.

(a) IN GENERAL.—Section 471(a)(11) (42 U.S.C. 671(a)(11)) is amended to read as follows:

"(11)(A) provides for periodic review of the standards referred to in paragraph (10) to assure their continuing appropriateness; and

"(B) provides for the review, not less frequently than once every 3 years, of the amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness, and a report to the Secretary and the public on the results of such review at such time and in such form and manner as the Secretary may by regulation require, which contains, at a minimum—

"(i) a statement of the manner in which the foster care maintenance payment level is determined, including information on the cost of foster care with respect to which such payments are made;

"(ii) information with respect to the basic foster care maintenance payment level, whether such payment level includes an amount to cover the cost of clothing, and whether such payment level varies by the type of care or the special needs or age of the child, and if so, the payment levels for each special needs, care, or age category;

"(iii) if such payments are not made at a different rate for children with special needs who test positive for human immunodeficiency virus, have acquired immune deficiency syndrome, are addicted to drugs, or suffer from complications due to exposure to drugs or alcohol, the reasons therefor; and

"(iv) information on any limitations imposed by the State on adoption assistance payments levels;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

SEC. 1324. CASE REVIEW SYSTEM REQUIREMENTS.

(a) ACCELERATED DISPOSITIONAL HEARING.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking "eighteen months" and inserting "15 months".

(b) PERIODIC REVIEW OF CHILDREN FREE FOR ADOPTION.—Section 475(5)(B) (42 U.S.C. 675(5)(B)), as amended by section 1326(b) of this Act, is amended by inserting after "legal guardianship," the following: "and if the entity conducting the review finds that the child should be placed for adoption, the entity shall determine and document the measures needed to enhance the likelihood of making the child legally eligible for adoption and of finding an adoptive home for the child, and if the child is legally eligible for adoption, determine and document (I) the specific measures which have been taken, and the specific measures which need to be taken, to make an adoptive placement, or (II) a finding that placement of the child in an adoptive family would be inappropriate,".

(c) MOST APPROPRIATE SETTING.—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by inserting "and most appropriate" after "(most family like)".

(d) CITIZEN VOLUNTEER INPUT.—Section 475(5) (42 U.S.C. 675(5)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(E) to the extent determined appropriate by the State, citizen volunteers may participate in making recommendations at either the court or administrative reviews described in subparagraph (B) or at the dispositional hearings described in subparagraph (C).".

(e) EFFECTIVE DATES.—

(1) ACCELERATED DISPOSITIONAL HEARING; PERIODIC REVIEW OF CHILDREN FREE FOR ADOPTION.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1994, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1995 and to such payments for any succeeding fiscal year.

(2) MOST APPROPRIATE SETTING.—The amendment made by subsection (c) shall take effect with respect to case reviews conducted on or after July 1, 1993.

(3) CITIZEN VOLUNTEER INPUT.—The amendments made by subsection (d) shall take effect on the date of the enactment of this Act.

SEC. 1325. HEALTH CARE PLANS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 475(1)(C) (42 U.S.C. 675(1)(C)) is amended—

(1) in clause (i), by striking "and addresses" and inserting ", addresses, and telephone numbers",

(2) in clause (vii), by striking "and"; and

(3) by redesignating clause (viii) as clause (ix) and inserting after clause (vii) the following:

"(viii) a record indicating that the child's foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic, and treatment services under title XIX; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to case plans established or reviewed on or after January 1, 1993.

SEC. 1326. PLACEMENT ACCOUNTABILITY.

(a) CASE PLAN PROVISIONS REQUIRED FOR CHILDREN IN OUT-OF-STATE FOSTER CARE PLACEMENTS.—Section 475(1) (42 U.S.C. 675(1)) is amended by inserting after subparagraph (C) the following:

"(D) In the case of a child receiving foster care maintenance payments under section 472 who is placed in a facility outside the State, a finding that—

"(i) efforts have been made to place the child in a facility in the State;

"(ii) the child needs services not available in the State;

"(iii) the placement is in the least restrictive (most family like) and most appropriate setting available, consistent with the best interests and the special needs of the child; and

"(iv) the placement has been approved by—

"(I) a court; or

"(II) a committee (such as a foster care review board), established by the State, that reviews placements outside the State and that, in addition to the appropriate State personnel, includes child advocates, parents, and other individuals the State deems appropriate.".

(b) STATUS OF CHILDREN IN OUT-OF-STATE FOSTER CARE PLACEMENTS TO BE JUDICIALLY REVIEWED ANNUALLY WITH THE CHILD PRESENT.—Section 475(5)(B) (42 U.S.C. 675(5)(B)) is amended—

(1) by striking "and" the 2nd place such term appears; and

(2) by adding at the end the following: "and in the case of a child who is placed by a State in a foster care facility outside the State, the status of the child shall be reviewed by a court, not less frequently than annually, with the child present, unless the court determines that due to the age or condition of the child, or for some other good cause, the presence of the child would be detrimental to the child or would not accomplish a useful purpose,".

(c) STATE PLAN REQUIREMENT.—Section 471(a) (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; and"; and

(3) by adding at the end the following:

"(18) provides that the State agency must ensure that any facility outside the State in which a child eligible for foster care maintenance payments under section 472 is placed has certified to the originating State that the facility meets the standards of the originating State which apply to child care facilities, or the standards recommended by national organizations concerned with standards for such facilities, including standards of the types described in paragraph (10).".

(d) COLLECTION OF DATA ON NUMBERS OF CHILDREN IN OUT-OF-STATE FOSTER CARE PLACEMENTS.—Section 479(c)(3)(C) (42 U.S.C. 679(c)(3)(C)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following:

"(iii) children placed in foster care outside the State, and".

(e) EFFECTIVE DATES.—

(1) CASE PLAN, CASE REVIEW SYSTEM, AND STATE PLAN CHANGES.—The amendments made by subsections (a), (b), and (c) shall take effect on October 1, 1993 and shall apply to payments under part E of title IV of the Social Security Act for expenditures made in fiscal years 1994, 1995, and 1996.

(2) DATA COLLECTION.—The amendments made by subsection (d) shall take effect on October 1, 1994 and shall apply to payments under part E of title IV of the Social Security Act for expenditures made in or after fiscal year 1995.

(f) STUDY OF REASONS FOR MAKING OUT-OF-STATE FOSTER CARE PLACEMENTS.—In order for a State to receive payments under section 474 of the Social Security Act for amounts expended after fiscal year 1994 for foster care maintenance payments under section 472 of such Act made with respect to children placed by the State in foster care outside the State, the State shall, by the end of such fiscal year, conduct and submit to the Secretary a study designed to identify—

(1) the number of such children and the characteristics (if any) common to such children; and

(2) the reasons why such children were not placed in foster care in the State.

SEC. 1327. INDEPENDENT LIVING.

(a) ACCUMULATION OF ASSETS.—Section 477 (42 U.S.C. 677) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) inserting after subsection (h) the following new subsection:

"(i) Notwithstanding any other provision of this title or of title XIX, with respect to a child who is included in a program established under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for the purposes of determination of eligibility for programs under this title or title XIX may be disregarded for the purpose of allowing such child to establish a household. Such amount may not exceed an amount determined by the State agency responsible for the administration of the program as reasonable for the purpose of establishing a household.".

(b) PERMANENT EXTENSION.—Section 477 (42 U.S.C. 677) is amended—

(1) in subsection (a)(1), by striking the 3rd sentence;

(2) in subsection (c), by striking "of the fiscal years 1988 through 1992" and inserting "succeeding fiscal year";

(3) in subsection (e)(1)(A), by striking "each of the fiscal years 1987 through 1992" and inserting "any fiscal year".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and payments made under such part for any succeeding fiscal year.

SEC. 1328. ELIMINATION OF FOSTER CARE CEILINGS AND OF AUTHORITY TO TRANSFER UNUSED FOSTER CARE FUNDS TO CHILD WELFARE SERVICES PROGRAMS.

(a) REPEAL.—Subsections (b) and (c) of section 474 (42 U.S.C. 674 (b) and (c)) are hereby repealed.

(b) CONFORMING AMENDMENTS.—Section 474 (42 U.S.C. 674) is amended—

(1) in subsection (d)—

(A) by striking "subsections (a), (b), and (c)" and inserting "subsection (a)"; and

(B) by striking "the provisions of such subsections" and inserting "subsection (a)"; and

(2) by redesignating subsection (d) as subsection (b).

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall take effect on October 1, 1992, and shall apply to payments under part E of title IV of the Social Security Act for fiscal year 1993 and to such payments for any succeeding fiscal year.

SEC. 1329. REGULATIONS FOR TRAINING OF AGENCY STAFF AND OF FOSTER AND ADOPTIVE PARENTS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish an advisory committee which shall include representatives of—

(1) nonprofit organizations with an interest in child welfare (including organizations that train professional social workers in the field of child welfare services); and

(2) organizations representing State and local governmental agencies with responsibility for foster care and adoption services.

(b) FINAL REGULATIONS.—Not later than 15 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall, after consultation with the advisory committee established under subsection (a), issue final regulations setting forth detailed guidelines to assist States in using Federal matching funds authorized to be provided under section 474(a)(3) of the Social Security Act for the purpose of training for—

(1) individuals who are employed, or preparing for employment, by the agencies with responsibility for administering the foster care and adoption assistance programs of the States under part E of title IV of such Act; and

(2) foster and adoptive parents.

(c) TRAINING FOR EMPLOYMENT IN CHILD WELFARE AGENCIES.—In order to improve the capacity of State and local child welfare agencies to administer the programs authorized under parts B and E of title IV of the Social Security Act and to provide services to families and children, the Secretary of Health and Human Services shall, not later than October 1, 1993, develop and publish a model staff recruitment, training, and staff retention program for use by such agencies.

SEC. 1330. FOSTER AND ADOPTIVE PARENT TRAINING.

Section 8006(b) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 674 note; 103 Stat. 2462) is amended by striking ", and before October 1, 1992".

SEC. 1331. CHILD WELFARE TRAINEESHIPS.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628) is amended by inserting after section 428 the following:

"SEC. 429. CHILD WELFARE TRAINEESHIPS.

"(a) The Secretary shall approve an application for a grant to a public or nonprofit institution of higher learning to provide traineeships with stipends under section 426(a)(1)(C), only if the application—

"(1) provides assurances that each individual who receives a stipend with such traineeship (in this section referred to as a 'recipient') shall enter into an agreement with the institution of higher learning under which the recipient shall agree—

"(A) to participate in onsite training at a public or private child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

"(B) to be employed for a period of years equivalent to the period of the traineeship in a public or private nonprofit child welfare agency in any State after completing the postsecondary education for which the traineeship was awarded (within such period of time as is determined by the Secretary by regulation);

"(C) to provide the institution of higher learning and the Secretary with evidence of compliance with subparagraphs (A) and (B); and

"(D) in the event that the conditions of subparagraph (A) or (B) are not complied with (except as provided in the exceptions to repayment provisions described in subsection (b)), to repay to the Secretary all or part of the amount of the stipend, plus interest, and if applicable, reasonable collection fees (in compliance with regulations that the Secretary shall promulgate);

"(2) provides that an agreement entered into with a recipient shall fully disclose the terms and conditions under which the traineeship with stipend is granted; and

"(3) provides assurances that the institution of higher learning shall—

"(A) provide appropriate support and supervision of recipients;

"(B) enter into agreements with child welfare agencies for the onsite training of recipients;

"(C) develop and implement a curriculum in the field of child welfare services that—

"(i) incorporates the most recent information concerning best practices for the delivery of child welfare services; and

"(ii) incorporates information relating to clause (i) supplied to the institution through consultation with child welfare agencies;

"(D) permit a student who is employed in the field of child welfare services (at the time such student applies for a traineeship) to apply for a traineeship with a stipend if such traineeship furthers the student's progress towards the completion of degree requirements; and

"(E) develop and implement a system that tracks for a period of 3 years, beginning on the date of completion of any student of a child welfare services program of study, the employment record of such student in the field of child welfare services (for the purpose of determining the percentage of students who secure employment in the field of child welfare services and remain employed in such field).

"(b) A recipient shall not be considered in violation of the agreement entered into pursuant to subsection (a)(1) during any period in which the recipient satisfies repayment exceptions that may be prescribed by the Secretary by regulation.".

(b) CONFORMING AMENDMENT.—Section 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by inserting "described in section 429" after "including traineeships".

(c) APPLICABILITY.—The amendments made by this section shall apply to grants awarded on or after April 1, 1993.

SEC. 1332. PUBLICATION OF PROGRAM DATA.

(a) IN GENERAL.—Section 479 (42 U.S.C. 679), as amended by section 1334(b)(2) of this Act, is amended by adding at the end the following:

"(e) Not later than January 31 of each year, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and shall make available to the public at a charge equal to the cost of printing, a report containing the following information, at least for the most recent fiscal year for which such information is available:

"(1) A detailed summary, and a breakdown by State, of—

"(A) the expenditures of each State for the program during the fiscal year for each of the programs funded under part B, part C, or this part, broken down in a manner that shows the extent to which such expenditures were made from funds provided by each of Federal or State sources; and

"(B) to the extent available, the number of children or families participating in each of such programs.

"(2) Information detailing the schedule and result of the reviews conducted under the regulatory review system established in accordance with section 491, including information on payments withheld, reduced, or sought, or intended by the Secretary to be withheld, reduced, or sought, from each State as a result of such reviews.

"(3) The information described in clauses (ii) and (iii) of section 471(a)(11)(B).

"(4) An analysis of the services provided with funds made available under part B.

"(5) A listing and summary of ongoing research, training, and demonstration projects funded under section 426 or 438 of this Act or under sections 1335 through 1338 of the Revenue Act of 1992, and the expected date for the publication of any evaluations of, conclusions based on, or analyses of such projects.

"(6) Any other information the Secretary deems useful to monitor the operations of the program.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 1333. REVIEW OF CHILD WELFARE ACTIVITIES.

(a) NEW SYSTEM FOR REVIEWING CHILD WELFARE ACTIVITIES.—

(1) IN GENERAL.—Title IV (42 U.S.C. 601–687) is amended by adding at the end the following:

"PART G—CHILD WELFARE REVIEW SYSTEM

"SEC. 491. CHILD WELFARE REVIEW SYSTEM.

"(a) ESTABLISHMENT BY REGULATION.—

"(1) IN GENERAL.—The Secretary shall establish, by regulation, a system for—

"(A) the review of each child welfare program of each State for the purposes of—

"(i) assessing whether the program is being carried out as required by part B or E, whichever is applicable;

"(ii) identifying any area in which the program is not being carried out as so required, and the degree to which the program is not being so carried out; and

"(iii) identifying the circumstances under which financial penalties shall be imposed in cases of failure to comply with part B or E, whichever is applicable, and imposing financial penalties proportional to the degree of such failure to comply, unless action is taken to correct such failure; and

"(B) the provision of technical assistance to any such program.

"(2) STATE CHILD WELFARE PROGRAMS DEFINED.—As used in this section, the term 'child welfare programs' means, with respect to a State—

"(A) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan for child welfare services under part B; and

"(B) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan approved by the Secretary under part E.

"(b) CONTENT OF REGULATIONS.—The regulations required by subsection (a) shall—

"(1) require each State child welfare program to be reviewed on a fiscal year basis to determine—

"(A) whether and, where appropriate, the degree to which, the program complies with the requirements of the applicable State plan referred to in subsection (a)(2); and

"(B) the extent to which the amounts claimed to have been expended by the State for foster care maintenance payments under section 472 and for adoption assistance payments under section 473 are eligible for reimbursement under part E;

"(2) specify the criteria that are to be used to assess, with respect to each subparagraph of paragraph (1)—

"(A) whether each program has complied with the requirements that apply to the matters described in such subparagraph; and

"(B) the degree of such compliance;

"(3) require that the procedures used to determine whether, and, where appropriate, the degree to which a State child welfare program is carried out in compliance with the applicable requirements—

"(A) enable a timely review of all matters referred to in paragraph (1);

"(B) include the sampling of foster care maintenance payments made under section 472, adoption assistance payments made under section 473, and payments for such other activities under the State plan approved under part E as the Secretary deems appropriate;

"(C) be applied uniformly to each State child welfare program; and

"(D) be periodically reviewed and, if necessary, revised to take into account information from completed reviews under such regulations;

"(6) provide that a deficiency or error in a State child welfare program is not to be taken into account if the deficiency or error is—

"(A) due to the State's failure to properly implement changes in Federal statute within the 6-month period beginning with the date the statute takes effect or, if later, within the 6-month period beginning with the date the regulation is issued if the regulation is reasonably necessary to construe or apply the statute;

"(B) due to the State's reliance upon and correct use of erroneous information provided by the Secretary about matters or fact;

"(C) due to the State's reliance upon and correct use of written statements of Federal policy provided to the State by the Secretary; or

"(D) of a technical nature and does not materially affect the performance of the program or the protection of children who are in, or at risk of being placed in, foster care;

"(7) establish the method by which a financial penalty is to be calculated, with respect to each subparagraph of subsection (b)(1), if there is a failure by a State child welfare program to comply with the requirements that apply to the matters described in such subparagraph;

"(8) provide that the financial penalty to be imposed for a failure described in paragraph (7)—

"(A) reflect the degree of the failure; and

"(B) to the extent appropriate, be based on the formula used to determine the amount of a disallowance under section 408(f); and

"(9) be developed in consultation with representatives of State agencies administering the programs under parts B and E.

"(c) FREQUENCY OF REVIEWS.—Not less frequently than once every 3 years, the Secretary shall complete a review of each State child welfare program for the most recently completed fis-

cal year under the regulatory review system established in accordance with this section.

"(d) EFFECTS OF DETERMINATIONS OF NONCOMPLIANCE.—

"(1) NOTIFICATION.—The Secretary shall provide timely notification to any State of any determination under this section that a State child welfare program has failed, with respect to any subparagraph of subsection (b)(1), to comply with the requirements that apply to the matters described in such subparagraph, and shall include with such notice—

"(A) the basis for the determination; and

"(B) the amount of the financial penalty (if any) imposed on the State under the regulations issued under this section.

"(2) DETERMINATION OF PENALTIES.—The regulations setting forth the conditions under which penalties are to be imposed, and the amount of such penalties shall specify, where appropriate—

"(A) thresholds beyond which a State child welfare program will be determined to have failed to comply with Federal requirements, and thresholds beyond which a failure of such a program to comply with such requirements will be determined to be substantial; and

"(B) the circumstances under which a program under part B shall not be subject to penalty (or such penalty shall be withheld or reduced) if the State has developed and followed an approved corrective action plan.

"(g) ADMINISTRATIVE REVIEW.—

"(1) IN GENERAL.—Within a reasonable time after a State is notified of a determination under this section that there is a failure of a State child welfare program to comply with applicable requirements, and of the amount of the financial penalty imposed on the State under this section with respect to such failure, the State may appeal the determination and the imposition of the penalty (in whole or in part) to the Departmental Appeals Board established in the Department of Health and Human Services, by filing an appeal with the Board.

"(2) AUTHORITY OF BOARD TO ADJUST PENALTY.—The Board may adjust the amount of the financial penalty to be imposed under this section, taking into account—

"(A) the amount of the financial penalty imposed by the Secretary;

"(B) the proportionality of the penalty to the degree of the failure; and

"(C) where appropriate, whether the failure materially affected the protection of children who are in, or at risk of being placed in, foster care.

"(h) JUDICIAL REVIEW.—

"(1) IN GENERAL.—Within a reasonable time after a decision by the Departmental Appeals Board with respect to the imposition of a penalty under the regulatory review system established in accordance with this section, the State may obtain judicial review of the decision by filing an action in—

"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the agency responsible for administering the State child welfare program which is the subject of the decision is located; or

"(B) the United States District Court for the District of Columbia.

"(2) PROCEDURAL RULES.—The district court shall review the decision of the Board on the record established in the proceedings before the Board, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) FINAL REGULATIONS.—

(1) DEADLINE FOR ISSUANCE.—Not later than January 1, 1994, the Secretary of Health and Human Services shall issue, in final form, the regulations required by section 491 of the Social Security Act.

(2) APPLICABILITY.—Such regulations shall apply to conduct occurring on or after October 1, 1994.

(c) CONFORMING AMENDMENT.—

(1) IN GENERAL.—Section 471(b) (42 U.S.C. 671(b)) is amended by striking all that follows the first sentence.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1994.

(d) ALL STATE CHILD WELFARE PROGRAMS TO BE REVIEWED BY THE END OF FISCAL YEAR 1998.—Not later than September 30, 1998, the Secretary of Health and Human Services shall complete at least one review of each State child welfare program (as defined in section 491(a)(2) of the Social Security Act) under the regulatory review system established in accordance with such section.

(e) MORATORIUM ON COLLECTING DISALLOWANCES UNDER PART E.—The Secretary of Health and Human Services shall not, before October 1, 1993, reduce any payment to, withhold any payment from, or seek any repayment from, any State under part E of title IV of the Social Security Act by reason of a determination made in connection with any on-site Federal financial review, or any audit conducted by the Inspector General using similar methodologies.

(f) MORATORIUM ON COLLECTING DISALLOWANCES UNDER PART B.—Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note; 103 Stat. 2490) is amended—

(1) by striking "1991" and inserting "1993";

(2) by striking "triennial";

(3) by striking "1992" and inserting "1994"; and

(4) in the section heading—

*(A) by striking "**TRIENNIAL**"; and*

*(B) by striking "**1991**" and inserting "**1993**".*

(g) PAYMENT OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.—

(1) IN GENERAL.—Section 474 (42 U.S.C. 674), as amended by section 1328 of this Act, is amended by adding at the end the following:

"(c) The Secretary shall pay any State claim for reimbursement for expenditures pursuant to subsection (a) within 90 days after the receipt of the claim unless the Secretary issues a deferral or a disallowance of the claim before the end of such 90-day period.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act, and shall apply to actions taken before, on, or after such date.

SEC. 1334. AUTOMATED SYSTEMS.

(a) ENHANCED MATCH.—

(1) PAYMENTS TO STATES.—

(A) IN GENERAL.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(i) by striking "and" at the end of subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (E); and

(iii) by inserting after subparagraph (B) the following:

"(C) 90 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 90 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

"(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

"(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

"(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating the verification of the eligibility of foster children); and

"(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under the State plan approved under part B or the State plan approved under this part; and

"(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and".

(B) TREATMENT OF STATE EXPENDITURES FOR DATA COLLECTION AND INFORMATION RETRIEVAL SYSTEMS.—Section 474 (42 U.S.C. 674), as amended by sections 1328 and 1333(g)(1) of this Act, is amended by adding at the end the following:

"(d) The Secretary shall treat as necessary for the proper and efficient administration of the State plan approved under this part all expenditures of a State that are necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.".

(C) CONFORMING AMENDMENT.—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)), as amended by section 9102(b) of this Act, is amended by striking "474(a)(3)(C)" and inserting "474(a)(3)(E)".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments under part E of title IV of the Social Security Act for expenditures made during the 3-year period that begins 6 months after the date of the enactment of this Act.

(2) TERMINATION OF ENHANCED MATCH.—

(A) IN GENERAL.—Section 474(a)(3)(C) (42 U.S.C. 674(a)(3)(C)), as amended by paragraph (1)(A)(iii) of this subsection, is amended by striking "90" each place such term appears and inserting "50".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on September 30, 1995.

(C) CONSTRUCTION.—The amendment made by subparagraph (A) of this paragraph shall not be construed to affect any right, entitlement, or duty granted or imposed by, or arising by reason of, the amendments made by paragraph (1).

(b) ESTABLISHMENT OF GROUP TO ADVISE THE SECRETARY ON THE PLANNING AND IMPLEMENTATION OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 479 (42 U.S.C. 679) is amended by adding at the end the following:

"(d) The Secretary shall establish a work group to advise the Secretary on the planning and implementation of the system to be used for the collection of data relating to adoption and foster care in the United States. Such group shall include representatives of—

"(1) organizations described in subsection (a)(4)(B)(ii); and

"(2) other appropriate groups.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 1335. RESEARCH AND EVALUATIONS.

(a) FOSTER CARE EVALUATIONS; LONGITUDINAL CHILD WELFARE DATA BASES; STUDIES OF CHILD WELFARE POPULATION DYNAMICS.—Section 426(b) (42 U.S.C. 626(b)) is amended to read as follows:

"(b) RESEARCH AND EVALUATION PROJECTS.—

"(1) FOSTER CARE EVALUATIONS.—In order to promote more appropriate and effective foster care for children in need of long-term foster

care, the Secretary shall, directly or under contract with 1 or more independent research organizations, and in accordance with such criteria as the Secretary deems appropriate, evaluate the effects of alternative foster care arrangements and services on the well-being of children who—

"(A) have little prospect of being reunited with their families, or of being adopted; and

"(B) represent a challenging group of foster children who are in need of specialized services or care.

"(2) LONGITUDINAL CHILD WELFARE DATA BASES; STUDIES OF CHILD WELFARE POPULATION DYNAMICS.—

"(A) CONTRACT AUTHORITY.—In order to develop more appropriate and effective intervention strategies with respect to children and their families who are referred or reported to the child welfare system, the Secretary shall, directly or under contract with 1 or more independent research organizations—

"(i) plan, design, develop, and implement not more than 4 child welfare data bases that provide detailed longitudinal information on children and their families to whom the local public child welfare system provides services, from the time such children are first referred or reported to such system; and

"(ii) using data from such data bases, conduct such studies on children and their families served by public child welfare systems, as the Secretary deems appropriate, including a study of the extent to which a lack of affordable housing is a factor in the placement of children in foster care, and (at the option of the Secretary) studies of—

"(I) the movements of subgroups of children and their families into, through, and out of the various parts of the child welfare system;

"(II) the characteristics of those children or families who stay in the system or various parts of the system for short time periods versus those who stay for long time periods;

"(III) the type and intensity of, and effectiveness of, services that families receive in the system;

"(IV) the frequency of contact between and among foster children, their parents, and caseworkers;

"(V) the factors associated with repeat occurrences of child abuse and neglect, and other outcomes; and

"(VI) the condition of children in the system in areas that may include educational performance, health, and personal and social adjustment.

"(B) AGREEMENTS WITH STATES.—

"(i) IN GENERAL.—Not later than October 1, 1993, the Secretary shall enter into agreements with not more than 4 States or localities to—

"(I) participate in the planning, design, development, and operation of a longitudinal child welfare data base described in subparagraph (A) in the participating State or locality involved; and

"(II) reimburse such States or localities for expenditures incurred with respect to such activities.

"(ii) PAYMENTS TO STATES.—Under each such agreement, the Secretary shall be obligated to pay the State or locality participating in the establishment of the data base—

"(I) from amounts available for payments under section 474(a)(3)(C), 70 percent of such expenditures as are incurred during the 3-year period beginning on October 1, 1993, for the planning, design, development, installation, or operation of the data base; and

"(II) from amounts available for payments under section 474(a)(3)(D), 50 percent of such expenditures as are incurred after the end of such 3-year period for the operation of the data base.

"(C) DATA BASE REQUIREMENTS.—The Secretary shall ensure that each longitudinal data base established under this paragraph—

"(i) includes information on the receipt, by children and their families in the data base, of particular child welfare services, including—

"(I) child protective services;

"(II) services designed to strengthen and preserve families;

"(III) foster care and adoption services; and

"(IV) other services made available by the child welfare system;

"(ii) to the extent feasible, includes information on the receipt of services, or the placement of children, through the public mental health or juvenile justice agencies;

"(iii) includes only data that are reliable and developed using uniform definitions and methodologies that are consistent over time and, to the extent feasible, among jurisdictions; and

"(iv) to the extent appropriate, is implemented with the State data collection and information retrieval systems described in section 474(a)(3)(C).".

(b) OTHER RESEARCH AND EVALUATIONS.—

(1) STUDY OF RISKS TO FOSTER CARE WORKERS; NATIONAL WORKLOAD STUDY; EVALUATION OF FOSTER PARENT RECRUITMENT, TRAINING, AND EDUCATION.—The Secretary may—

(A) conduct a study to assess the prevalence and nature of risks to the safety of employees of child welfare systems, under which empirical information shall be obtained on—

(i) the incidence of violence toward, or harassment of, such employees;

(ii) the types of such employees exposed to the greatest risk;

(iii) the types of harm threatened or inflicted;

(iv) the characteristics of perpetrators of such violence or threats;

(v) the most dangerous child welfare settings; and

(vi) the differences (if any) between urban and rural areas in the above respects;

(B)(i) enter into a contract with an organization or organizations with demonstrated experience in the field of workload measurement for human service agencies—

(I) under which the organization is to conduct a 3-year study to examine methodologies for measuring the workloads of providers of child welfare services and providers of community mental health services; and

(II) which, at a minimum, requires the organization to—

(aa) examine and document which methodologies are used to measure caseworker and supervisor workloads;

(bb) develop general standards for measurement and size of workloads;

(cc) apply and validate standards for measurement and size of workloads; and

(dd) develop software that enables agencies to use appropriate methodologies to measure workloads; and

(ii) consult with an advisory body selected by the Secretary, in planning and carrying out the study described in clause (i); and

(C) under contract with an independent research organization, conduct a study that—

(i) is designed to evaluate strategies for the recruitment and retention of foster parents, and the effects of foster parent training programs on the retention of foster parents; and

(ii) shall identify successful recruitment techniques and recommend steps which could be taken at the Federal, State, or local level to improve the recruitment, retention, and training of foster parents.

(2) CHILD SEPARATION GUIDELINES STUDY.—The Secretary shall conduct a study designed to answer the following questions:

(A) How do the criteria for removal of children from the home, and the tools for assessing the risk to the child if not removed from the home, vary from State to State? In considering this question, the Secretary should examine—

(i) the decisionmaking process at the caseworker level in at least 3 States, at least 1 of which has a significantly higher than average rate of removing children from the home, at least 1 of which has an approximately average rate of removing children from the home, and at least 1 of which has a significantly lower than average rate of removing children from the home; and

(ii) other factors that may affect placement rates such as State laws and policies, interpretations by the State child welfare agency of the reasonable efforts requirement of section 471(a)(15) of the Social Security Act, and the tendency to place or not place children as a result of economic incentives provided by various State and Federal funding sources.

(B) What guidelines should be used to assess such risk and determine the need for removal of children from the home, and what kind of training would ensure the consistent application of such guidelines? The Secretary should review and compile all current research relevant to this question.

(c) AVAILABILITY OF STUDY RESULTS.—The Secretary shall make the results and recommendations of each study described in subsection (b) available for dissemination.

(d) EFFECTIVE DATE.—This section and the amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1336. CHILD WELFARE DEMONSTRATION PROJECTS.

(a) GENERAL PROVISIONS.—

(1) MINIMUM NUMBER OF PROJECTS OF EACH TYPE.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall authorize at least 1 demonstration project to be conducted under each paragraph of subsection (b), and at least 1 demonstration project to be conducted under each clause of subsection (b)(2)(A), during the 4-year period beginning with fiscal year 1994.

(2) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For demonstration projects approved by the Secretary under paragraph (1), there are authorized to be appropriated to the Secretary not to exceed $15,000,000 for each of fiscal years 1994, 1995, 1996, and 1997.

(b) SPECIFIC TYPES OF PROJECTS.—

(1) EXPEDITIOUS PERMANENT PLACEMENT OF CHILDREN.—

(A) IN GENERAL.—The Secretary may make no more than 3 grants to States or localities to conduct demonstration projects, throughout the State or in areas selected by the State as having the greatest need, designed to—

(i) review statutes, administrative and judicial procedures, and agency legal representation, in effect in the State or locality, that govern determinations of abandonment of children, termination of parental rights, and permanent placement of children, particularly with respect to children abandoned at or shortly after birth;

(ii) assess which of such procedures or laws cause delays in the permanent placement of such children or the consideration of termination of parental rights;

(iii) assess the extent, or lack, of training of judges and child protection service workers on the timelines for determinations involving termination of parental rights or permanent placement of such children;

(iv) assess the provision of (and the impact of providing) coordinated comprehensive social services, particularly in relation to reunification or maintenance of families;

(v) assess the impact of the designation of entities or individuals that have or could be granted standing to initiate placement or termination of parental rights proceedings with respect to children who have been placed under protective care or public supervision;

(vi) assess the extent of the current presence of individuals either employed by a social serv-

ice agency or a private entity, who are specifically responsible for expediting consideration of the termination of parental rights and permanent placement, particularly with respect to children abandoned at or shortly after birth, and the impact of such individuals on the timelines for such considerations;

(vii) assess the success of programs which concurrently provide planning for, and services to, preadoptive and natural parents; and

(viii) implement new procedures or make other improvements (as determined by the assessments conducted pursuant to this paragraph) that ensure more timely hearing of, and final decisions on, cases involving termination of parental rights and the permanent placement of children, with the goal of substantially reducing the amount of time that elapses from the time the child is removed from a home setting and is permanently placed in a stable adoption placement, including, at the option of the State or locality, improvements that include activities that—

(I) provide additional personnel identified as necessary under any provision of this paragraph to pursue or process cases involving termination of parental rights or expeditious permanent placements;

(II) expand the standing of foster parents and others to bring actions involving the termination of parental rights and permanent placements; and

(III) require certain children to be placed in foster care in homes that are likely to become permanent adoptive homes of such children.

(B) APPLICATION.—Each State or locality desiring to conduct a demonstration project under this paragraph shall submit to the Secretary an application containing—

(i) an assurance that the State or locality will develop and carry out the project jointly with appropriate judicial administrators, and with appropriate agencies of the State or locality that provide services to children abandoned at or shortly after birth; and

(ii) such other information as the Secretary may require by regulation.

(C) APPROVAL OF CERTAIN APPLICATIONS.—

(i) IN GENERAL.—The Secretary shall approve not more than 3 applications to conduct projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph, particularly as they relate to changes in the legislative, judicial, and administrative practices with respect to permanent placement and termination of parental rights.

(ii) DISTRIBUTION CRITERION.—In determining whether to approve applications under this paragraph, the Secretary shall ensure that grants under this paragraph are made to applicants whose positions on consideration of parental rights and the termination of such rights reflect the range of statutory and judicial positions taken by States on such matters.

(iii) GRANT PERIOD.—Subject to the availability of appropriations therefor, the Secretary shall make grants under this paragraph for a period of 4 years.

(D) EVALUATIONS; REPORT.—Each State and locality that conducts a demonstration project under this paragraph shall develop and carry out a plan for evaluating the effects of the project, and shall submit to the Secretary a report on such evaluation.

(E) DISSEMINATION OF REPORTS.—The Secretary shall make available to the Congress and the public the reports submitted pursuant to subparagraph (D).

(F) REVIEW AND EVALUATION BY THE SECRETARY.—The Secretary shall periodically review and evaluate the conduct of each demonstration project conducted under this paragraph.

(G) AUTHORITY TO SUSPEND OR TERMINATE PROJECTS.—Notwithstanding subparagraph (C)(iii), the Secretary may suspend for any period or terminate the authority to conduct a demonstration project under this paragraph, and may discontinue the provision of grants under this paragraph for the project, if the Secretary determines that the project has not been conducted in a satisfactory manner.

(2) CULTURALLY SENSITIVE AND SPECIAL NEEDS CHILD WELFARE WORKER TRAINING DEMONSTRATION.—

(A) IN GENERAL.—

(i) TRAINING TO DELIVER CHILD WELFARE SERVICES IN BORDER REGIONS.—The Secretary shall authorize not more than 3 eligible institutions to conduct demonstration projects to train eligible individuals to deliver culturally sensitive and bilingual child welfare services in areas of the United States that border on Mexico.

(ii) TRAINING TO DELIVER CHILD WELFARE SERVICES TO HISTORICALLY UNSERVED OR UNDERSERVED POPULATIONS IN CERTAIN URBAN CENTERS.—In addition, the Secretary may make no more than 3 grants to eligible institutions to conduct projects to train eligible individuals to deliver culturally sensitive and bilingual welfare services in urban centers which have a high proportion of historically unserved or underserved populations.

(B) APPLICATIONS.—

(i) APPLICATIONS UNDER SUBPARAGRAPH (A)(i).—The Secretary shall approve an application of an eligible institution to conduct a demonstration project under subparagraph (A)(i) for a fiscal year if the Secretary has approved not more than 4 other such applications for the fiscal year and the application meets the following requirements:

(I) HISTORY OF, OR PLAN FOR, TRAINING STUDENTS TO DELIVER CHILD WELFARE SERVICES IN BORDER AREAS.—The application demonstrates that the applicant has a history of, or a plan for, training students to deliver child welfare services in an area of the United States that borders on Mexico.

(II) TRAINING CURRICULUM REQUIREMENTS.—The application describes the curriculum of the training program. Such curriculum must be sensitive to the culture of the area that borders on Mexico and the State in which the applicant is located, and must include training for the identification of health problems of children and their families and of child abuse and neglect.

(III) SCOPE AND LENGTH OF TRAINING.—The application includes an assurance that the training program meets all requirements established under subparagraph (C) governing the scope and length of the training to be provided.

(IV) PLAN FOR PLACING INDIVIDUALS COMPLETING THE TRAINING IN BORDER AREA FAMILY ASSISTANCE AGENCIES.—The application contains a plan for placing each eligible individual who completes the training under the project in a family assistance agency that provides services directly to residents of the border county in which the agency is located.

(V) COMMITMENT TO CONSULT WITH STATE CHILD WELFARE AGENCY.—The application contains a commitment by the applicant to consult with the child welfare agency of the State in which the applicant is located to ensure that the project is designed to provide individuals with child welfare skills that are needed for work with disadvantaged individuals in the area of the State that borders on Mexico.

(ii) APPLICATIONS UNDER SUBPARAGRAPH (A)(ii).—The Secretary shall approve an application of an eligible institution to conduct a demonstration project under subparagraph (A)(ii) for a period of 4 fiscal years (subject to the availability of funds and satisfactory performance) if the Secretary has not approved more than 4 other applications for such projects and the application meets the following requirements:

(I) The applicant demonstrates that it has a history of, expertise in, and commitment to, providing training for individuals to deliver child welfare services to historically unserved or underserved populations in urban centers.

(II) The applicant describes how the application was developed in consultation with State and local child welfare agencies, community-based organizations serving the area to be affected, and the residents of the area, including public notice and opportunity to comment on the training program to be offered, and a plan for a continuing consultation process with these entities.

(III) The curriculum to be offered includes the broad range of Federal, State, and local programs available to provide services to historically unserved or underserved populations in urban centers, and the identification of health problems in children and their families which may lead to child abuse or neglect and the presence of such conditions.

(IV) The application includes an assurance that the training program meets all the requirements of subparagraph (C) governing the scope and length of the training to be provided.

(V) The application includes a plan for placing each eligible individual who completes the training under the project in a public or private nonprofit family assistance agency that provides services directly to unserved or underserved populations in urban centers with high concentrations of such populations.

(iii) GRANTS SUBJECT TO APPROPRIATIONS.—The Secretary shall make grants for projects authorized under subparagraph (A)(ii) subject to the availability of appropriations therefor.

(iv) REVIEW AND EVALUATION BY THE SECRETARY.—The Secretary shall periodically review and evaluate the conduct of each demonstration project authorized to be conducted under subparagraph (A)(ii).

(v) AUTHORITY TO SUSPEND OR TERMINATE PROJECTS.—The Secretary may suspend for any period or terminate the authority to conduct a demonstration project under subparagraph (A)(ii), and may discontinue the provision of grants under subparagraph (A)(ii) for the project, if the Secretary determines that the project has not been conducted in a satisfactory manner.

(C) TRAINING REQUIREMENTS.—The Secretary, in consultation with the State child welfare agencies of the eligible States, shall develop criteria regarding the scope and length of the training program to be provided under any demonstration project conducted under this paragraph to ensure that training under the program adequately prepares trainees for the work they will perform after completion of the training program. The Secretary shall treat participation in a program leading to a bachelor's or a master's degree in social work as providing such adequate preparation.

(D) GRANTS.—

(i) ALLOCATION AMONG STATES WITH APPROVED PROJECTS.—Each eligible State in which is located an eligible institution whose application to conduct a demonstration project under subparagraph (A)(i) for a fiscal year has been approved by the Secretary shall be allocated for the fiscal year that portion of the funds available to carry out subparagraph (A)(i) for the fiscal year that is represented by—

(I) the number of disadvantaged individuals who, as of the close of the second preceding fiscal year, resided in the border counties of the State; divided by

(II) the total number of disadvantaged individuals who, as of the close of the second preceding fiscal year, resided in the border counties of all such eligible States.

(ii) GRANT AUTHORITY.—The Secretary shall make a grant to each eligible institution that

the Secretary authorizes to conduct a demonstration project under subparagraph (A)(i) for a fiscal year in an amount equal to—

(I) the amount allocated for the fiscal year under clause (i) to the State in which the institution is located; divided by

(II) the number of eligible institutions in the State that are so authorized.

(E) USE OF GRANTS.—Each eligible institution that receives a grant under this paragraph—

(i) shall use the grant to equip eligible individuals with the knowledge and skills necessary to perform the range of child welfare work, from case management to supervisory skills; and

(ii) may use the grant to pay the tuition, room and board, travel, and other living expenses of eligible individuals.

(F) DEFINITIONS.—As used in this paragraph:

(i) BORDER COUNTY.—The term "border county" means—

(I) in the State of Texas, the counties of Cameron, Brooks, Hidalgo, Kenedy, Willacy, Jim Hogg, Starr, Webb, Zapata, Duval, LaSalle, Maverick, Dimmit, Zavala, Uvalde, Kinney, Val Verde, Edwards, Crockett, Terrell, Pecos, Brewster, Presidio, Jeff Davis, Reeves, Culberson, Hudspeth, Bexar, and El Paso;

(II) in the State of New Mexico, the counties of Otero, Sierra, Dona Ana, Luna, Hidalgo, Grant, Lea, Roosevelt, Chaves, Eddy, and Lincoln;

(III) in the State of Arizona, the counties of Cochise, Graham, Greenlee, Maricopa, Pinal, Pima, Yuma, La Paz, and Santa Cruz; and

(IV) in the State of California, the counties of Imperial, San Diego, Riverside, and Orange.

(ii) CHILD WELFARE AGENCY.—The term "child welfare agency" means, with respect to a State, the individual or agency that administers or supervises the administration of the State plan for child welfare services under part B of title IV of the Social Security Act.

(iii) DISADVANTAGED INDIVIDUAL.—The term "disadvantaged individual" means an individual whose income does not exceed 130 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size of the individual's family.

(iv) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means any individual who—

(I) is, or intends to become, an employee of a family assistance agency in an eligible State; and

(II) enters into an agreement with an eligible institution in the State under which—

(aa) the institution agrees to train the individual to deliver culturally sensitive and bilingual child welfare services in the area of the United States that borders on Mexico; and

(bb) the individual agrees to so deliver such services at or from a site approved by the child welfare agency of the State for at least 1 year beginning within a reasonable time after the individual completes the training under a project conducted under subparagraph (A)(i), or for a period of 1 year for each year of assistance or training received beginning upon completion of the training under a project conducted under subparagraph (A)(ii).

(v) ELIGIBLE INSTITUTION.—The term "eligible institution" means any institution of higher education that is located in an eligible State.

(vi) ELIGIBLE STATE.—The term "eligible State" means Texas, New Mexico, Arizona, and California.

(vii) FAMILY ASSISTANCE AGENCY.—The term "family assistance agency" means a child welfare agency, family planning agency, hospital, clinic, community mental health facility, or drug and alcohol treatment program.

(viii) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means—

(I) an institution of higher education (as defined in section 1201(a) or 481(a) of the Higher Education Act of 1965); and

(II) an area vocational education school (as defined in subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act).

(ix) The term "urban centers" means an area in a metropolitan statistical area, as designated by the Director of the Office of Management and Budget, which has a high incidence of individuals in historically unserved or underserved populations who are in need of social services, as determined by the Secretary using the most recent and best available information. A list of such urban centers shall be published by the Secretary in the Federal Register no more than 180 days after the date of the enactment of this Act.

(x) The term "historically unserved or underserved populations" includes—

(I) minority populations;

(II) persons with limited English proficiency;

(III) populations residing in urban areas and exhibiting a high incidence of child abuse, neglect, or abandonment, as determined by the Secretary;

(IV) homeless persons (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act);

(V) persons who are, or are in danger of becoming, infected with the human immunodeficiency virus; and

(VI) persons who abuse alcohol or drugs.

(G) RECOVERY OF ASSISTANCE IN CERTAIN CASES.—Any individual participating in a project conducted under subparagraph (A) who breaches the agreement referred to in subparagraph (F)(iv)(II) shall repay to the Secretary an amount equal to the amount or value of assistance received by the individual under the project, ratably reduced, if applicable, by a proportion representing that portion of the year during which the individual complied with the agreement. The Secretary shall establish guidelines and repayment schedules to carry out this subparagraph.

(3) JOINT TRAINING DEMONSTRATION.—

(A) IN GENERAL.—The Secretary may make grants under this paragraph, on a competitive basis, to not more than 3 State or local government agencies to conduct demonstration projects designed to test the effect of joint training programs for the staff of child welfare, mental health, and juvenile justice agencies, and for judicial personnel and judges.

(B) ELIGIBILITY.—To be eligible for a grant under this paragraph, a State or local government agency shall designate a public agency which provides services to children in the State and demonstrate that at least 2 such agencies will participate in the project by contributing financial resources, staff resources, and trainees.

(C) APPROVAL OF CERTAIN APPLICATIONS.—The Secretary shall approve not more than 3 applications to conduct projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph.

(D) USE OF GRANT.—Each State or local government agency that receives a grant under this paragraph shall use the grant to train staff (including supervisors) of public and private agencies who provide services to children or adolescents at risk of requiring foster care or to the families of such children or adolescents. Such training shall be designed to—

(i) educate staff about the special needs of, and service programs for, certain populations of children or adolescents, such as those who have been sexually abused, suffer from serious emotional disturbances, are substance abusers, have acquired immune deficiency syndrome, or are infected with a human immunodeficiency virus;

(ii) coordinate the interagency delivery of services (including family preservation services, family reunification services, independent living services, and supportive services) to children at risk of being placed in foster care; and

(iii) provide training for judges or other administrative personnel, who are authorized to make final determinations as to termination of parental rights or placement of children in either temporary or permanent situations, to determine and incorporate into their decisions factors relating to the physical, mental, and social interests of the child.

(E) EVALUATIONS; REPORT.—Each State or local government agency that conducts a demonstration project under this paragraph shall develop and carry out a plan for evaluating the effects of the training provided under the project, and shall submit to the Secretary a report on such evaluation.

(F) DISSEMINATION OF REPORTS.—The Secretary shall make available to the Congress and the public the reports submitted pursuant to subparagraph (E).

(c) FOSTER CARE AND ADOPTION ASSISTANCE DEMONSTRATION.—

(1) IN GENERAL.—The Secretary may authorize not more than 5 States to conduct demonstration projects designed to test, for not more than 6 years, the feasibility of eliminating the requirements in sections 472 and 473 of the Social Security Act that relate to the income and resources of the child or of the family from which a child originated, and allowing States to receive reimbursement for foster care maintenance payments and for adoption assistance payments made with respect to children without regard to such income and resources.

(2) APPLICATION.—Each State desiring to conduct a demonstration project under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require by regulation.

(3) AGREEMENT ON FEDERAL MATCHING PAYMENTS AND STRATEGY FOR EVALUATION.—

(A) IN GENERAL.—As a condition precedent to approving any application to conduct a demonstration project under this subsection, the Secretary and the State shall reach agreement on—

(i) the rates at which the various types of expenditures under the project shall be reimbursed, in lieu of the rates at which such expenditures would otherwise be reimbursed under section 474 of the Social Security Act; and

(ii) a strategy for evaluating the effects of the project.

(B) LIMITATION.—The Secretary may not agree to any set of reimbursement rates under subparagraph (A)(i) of this paragraph, unless the Secretary determines that the set of rates is likely to result in an amount of Federal payments to the State under section 474 of the Social Security Act that does not exceed the amount that would have been so paid to the State if the State were not conducting the demonstration project.

(4) APPROVAL OF CERTAIN APPLICATIONS.—

(A) IN GENERAL.—The Secretary shall approve not more than 5 applications to conduct projects which appear likely to contribute significantly to the achievement of the purpose of this subsection.

(B) PROJECT LIFETIME.—

(i) 3 YEARS.—Each agreement under paragraph (3) shall be for a term of 3 years.

(ii) AUTHORITY TO RENEW PROJECT FOR 3 YEARS.—Upon the request of the State, the Secretary shall extend for 3 additional years the term of any agreement under paragraph (3).

(5) EVALUATIONS; REPORT.—Each State that conducts a demonstration project under this subsection shall develop and carry out a plan for evaluating the effects of the project, and shall submit to the Secretary a report on such evaluation.

(6) DISSEMINATION OF REPORTS.—The Secretary shall make available to the Congress and the public the reports submitted pursuant to paragraph (5).

SEC. 1337. DEMONSTRATION OF INDEPENDENT LIVING SERVICES FOR YOUNG ADULTS.

(a) IN GENERAL.—The Secretary of Health and Human Services may authorize 1 State to conduct a demonstration project for 3 years under which—

(1) community-based services are provided to former foster children who have attained the age of 21 years but have not attained the age of 25 years; and

(2) the State must arrange for an evaluation of the impact of the demonstration project on the well-being of the individuals who participate in the project.

(b) SERVICES.—The services referred to in subsection (a) may include self-help groups, counseling, treatment for survivors of abuse, mentoring, alumni groups, and coordination of, and referral to, community services by independent living agency staff.

SEC. 1338. HOME REBUILDERS DEMONSTRATION PROJECT.

(a) IN GENERAL.—Upon written application of the State of New York (in this section referred to as the "State"), and after the Secretary of Health and Human Services approves the application as meeting the requirements set forth in subsection (b), the State may conduct a demonstration project for the purpose of testing how to enhance the practices and procedures that will expedite the discharge of children from foster care, including the appropriate reunification of children with their families, or the adoption of children by suitable adoptive parents.

(b) PROJECT REQUIREMENTS.—In an application submitted under subsection (a), the State shall provide that the following terms and conditions shall be in effect under the demonstration project:

(1) Services and assistance for reunification of children with their families or adoption may be provided to not more than 2,000 eligible children (exclusive of siblings).

(2) Services and assistance shall be provided to explore and test innovative means to facilitate expedited and appropriate discharge of children from foster care. Such services and assistance may include social services and other forms of assistance designed to ameliorate or remedy personal problems, behaviors, or home conditions.

(3) For the purpose of testing an alternative to the per diem method of provider reimbursement, payments to participating agencies for total costs associated with providing foster care maintenance, services, and assistance on behalf of children will be disbursed pursuant to an approved per capita reimbursement methodology. The per capita payment will be based on the total number of care days the eligible population of children can reasonably be expected to use during the demonstration period.

(4) Eligibility for the demonstration project shall be based on the age of the child, the length of time in foster care, the type of placement, and the permanency planning goal.

(5) If an eligible child has siblings in foster care, siblings may be regarded as eligible project participants for the purpose of estimating total reimbursements in a manner approved by the Secretary of Health and Human Services.

(6) The Federal Government shall pay to the State with respect to children eligible for the demonstration project who are receiving maintenance payments, services, and assistance under the demonstration project the same amounts as would have been payable with respect to such children under parts B and E of title IV of the Social Security Act as if the families were receiving benefits under the State plan in effect during the period of the demonstration and such amounts shall be in lieu of amounts otherwise payable under such parts. The State and the Secretary of Health and Human Services shall agree to a methodology for determining such amounts prior to the beginning of the demonstration project.

(c) WAIVERS.—The Secretary of Health and Human Services may waive compliance with requirements in part E of title IV of the Social Security Act (other than paragraphs (8), (12), (13), (15), and (16) of section 471(a)) which (if applied) would prevent the State from carrying out the demonstration project under this section or prevent the State from effectively achieving the purpose of such a project.

(d) DATE OF COMMENCEMENT.—The demonstration project under this section shall commence not later than December 31, 1993.

(e) DURATION OF DEMONSTRATION.—The demonstration project under this section shall be conducted for a period not to exceed 3 years after the date such project begins.

(f) EVALUATION OF REPORTS.—The State shall collect data and conduct an appropriate evaluation of the demonstration project so as to demonstrate the effectiveness of the project. The evaluation design shall be approved by the Secretary of Health and Human Services. The State shall provide an interim and final evaluation report to the Secretary of Health and Human Services at such times and in such manner as such Secretary determines appropriate.

(g) PROHIBITION AGAINST IMPAIRMENT OF ENTITLEMENT TO FOSTER CARE BENEFITS.—The State may not carry out the demonstration project under this section in a manner which impairs the entitlement of any qualified child to foster care benefits under a State plan approved under part E of title IV of the Social Security Act.

SEC. 1339. COMMISSION ON CHILDHOOD DISABILITY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall appoint a Commission on the Evaluation of Disability in Children (in this section referred to as the "Commission").

(b) APPOINTMENT OF MEMBERS.—(1) The Secretary shall appoint 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children,

(ii) the study of congenital, genetic, or perinatal disorders in children, or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology,

(ii) education and rehabilitation,

(iii) law, or

(iv) the administration of disability programs, and

(v) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed within 90 days after the date of the enactment of this Act, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chairman of the Commission for a term equivalent to the duration of the Commission.

(c) ADMINISTRATIVE PROVISIONS.—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of any provision of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for Level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(d) ASSISTANCE TO COMMISSION.—The Commission may engage such technical assistance from individuals skilled in medical and other aspects of childhood disability as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(e) STUDY BY THE COMMISSION.—(1) The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the effects of the definition of "disability" under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) in effect on the date of enactment of this Act, as such definition applies to determining whether a child under the age of 18 is eligible to receive benefits under such title, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 is eligible to receive benefits under such title.

(2) The study described in paragraph (1) shall include issues of—

(A) recommendations for revision of the Childhood Listing of Impairments under regulations promulgated under Part B of Appendix 1 to Subpart P, section 404 of title 20, Code of Federal Regulations;

(B) the validity of a presumption of disability for children under age 4 with a genetic, congenital, or perinatal disorder;

(C) whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI of the Social Security Act, might appropriately be met through expansion of Federal health assistance programs (including the program of medical assistance under title XIX of such Act); and

(D) such other issues that the Secretary determines to be appropriate.

(f) REPORT.—Not later than September 1, 1994, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance in the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on September 30, 1994.

PART II—OTHER INCOME SECURITY AND HUMAN RESOURCES PROVISIONS

Subpart A—Aid to Families With Dependent Children

SEC. 1341. DISREGARD OF INCOME AND RESOURCES DESIGNATED FOR EDUCATION, TRAINING, AND EMPLOYABILITY.

(a) DISREGARD AS RESOURCE.—Section 402(a)(7)(B) (42 U.S.C. 602(a)(7)(B)) is amended—

(1) by striking "or" before "(iv)"; and

(2) by inserting ", or (v) at the option of the State, in the case of a family receiving aid under the State plan (and a family not receiving such aid but which received such aid in at least 1 of the preceding 4 months or became ineligible for such aid during the preceding 12 months because of excessive earnings), any amount not to exceed $8,000 in a qualified asset account (as defined in section 406(i)) of such family" before "; and".

(b) DISREGARD AS INCOME.—

(1) IN GENERAL.—Section 402(a)(8)(A) (42 U.S.C. 602(a)(8)(A)) is amended—

(A) by striking "and" at the end of clause (vii); and

(B) by inserting after clause (viii) the following new clause:

"(ix) shall disregard any interest or income earned on a qualified asset account (as defined in section 406(i)); and".

(2) NONRECURRING LUMP SUM EXEMPT FROM LUMP SUM RULE.—Section 402(a)(17) (42 U.S.C. 602(a)(17)) is amended by adding at the end the following: "; and that this paragraph shall not apply to earned or unearned income received in a month on a nonrecurring basis to the extent that such income is placed in a qualified asset account (as defined in section 406(i)) the total amounts in which, after such placement, does not exceed $8,000;".

(3) TREATMENT AS INCOME.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the semicolon at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) shall treat as income any distributions from a qualified asset account (as defined in section 406(i)(1)) which do not meet the definition of a qualified distribution under section 406(i)(2);".

(c) QUALIFIED ASSET ACCOUNTS.—Section 406 (42 U.S.C. 606) is amended by adding at the end the following:

"(i)(1) The term 'qualified asset account' means a mechanism approved by the State (such as individual retirement accounts, escrow accounts, or savings bonds) that allows savings of a family receiving aid to families with dependent children to be used for qualified distributions.

"(2) The term 'qualified distributions' means distributions for expenses directly related to one or more of the following purposes:

"(A) The attendance of a member of the family at any education or training program.

"(B) The improvement of the employability (including self-employment) of a member of the family (such as through the purchase of an automobile).

"(C) The purchase of a home for the family.

"(D) A change of the family residence.".

(d) STUDY OF USE OF QUALIFIED ASSET ACCOUNTS; REPORT.—The Secretary of Health and Human Services shall conduct a study of the use of qualified asset accounts established pursuant to the amendments made by this section, and shall report on such study and any recommendations for modifications of such amendments to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 1996.

(e) REPORT ON AFDC ASSET LIMIT ON AUTOMOBILES.—Within 3 months after the date of the enactment of this section, the Secretary of Health and Human Services shall submit to the Congress a report on—

(1) the need to revise the limitation, established in regulations pursuant to section 402(a)(7)(B)(i) of the Social Security Act, on the value of a family automobile required to be disregarded by a State in determining the eligibility of the family for aid to families with dependent children under the State plan approved under part A of title IV of such Act; and

(2) the extent to which such a revision would increase the employability of recipients of such aid.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993, with respect to accounts approved on or after such date and before October 1, 1996.

SEC. 1342. DISREGARD OF INCOME AND RESOURCES RELATED TO SELF-EMPLOYMENT.

(a) STATE PLAN REQUIREMENTS.—Section 402(a) (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (44);

(2) by striking the period at the end of paragraph (45) and inserting "; and"; and

(3) by inserting after paragraph (45) the following:

"(46) at the option of the State, provide that the State agency—

"(A)(i) shall not include as a resource of the family of which a child referred to in paragraph (7)(A) is a member, for purposes of paragraph (7)(B), the first $10,000 of the net worth (assets reduced by liabilities with respect thereto) of all microenterprises (as defined in section 406(j)(1)) owned, in whole or in part, by the child or by a relative or other individual referred to in paragraph (7)(A), for a period not to exceed 2 years; and

"(ii) shall take into consideration as earned income of the family of which the child is a member, only the net profits (as defined in section 406(j)(2)) of such microenterprises, for a period not to exceed 2 years; and

"(B) shall ensure that caseworkers are able to properly advise recipients of aid under the State plan of the option of microenterprise as a legitimate route towards self-sufficiency, and that caseworkers encourage recipients of such aid who are interested in starting a microenterprise to participate in a program designed to assist them in such effort.".

(b) DEFINITIONS.—Section 406 (42 U.S.C. 606), as amended by section 1341(c) of this Act, is amended by adding at the end the following:

"(j)(1) The term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

"(2) The term 'net profits' means, with respect to a microenterprise, the gross receipts of the business, minus—

"(A) payments of principal or interest on a loan to the microenterprise;

"(B) transportation expenses;

"(C) inventory costs;

"(D) expenditures to purchase capital equipment;

"(E) cash retained by the microenterprise for future use by the business;

"(F) taxes paid by reason of the business;

"(G) if the business is covered under a policy of insurance against loss—

"(i) the premiums paid for such insurance; and

"(ii) the losses incurred by the business that are not reimbursed by the insurer solely by reason of the existence of a deductible with respect to the insurance policy;

"(H) the reasonable costs of obtaining 1 motor vehicle necessary for the conduct of the business; and

"(I) the other expenses of the business.".

(c) INCLUSION OF MICROENTERPRISE TRAINING AND ACTIVITIES IN THE JOBS PROGRAM.—

(1) IN GENERAL.—Section 482(d)(1) (42 U.S.C. 682(d)(1)) is amended adding at the end the following:

"(C) The services and activities referred to in subparagraph (A)—

"(i) in the case that at least 3 percent of the adult recipients of aid under the State plan approved under part A (as of the close of the immediately preceding fiscal year) elect to participate in microenterprise activities, shall include programs described in paragraph (4); or

"(ii) in the case that not more than 3 percent of the adult recipients of such aid elect to participate in microenterprise activities, may include programs described in paragraph (4).".

(2) MICROENTERPRISE PROGRAMS.—Section 482(d) (42 U.S.C. 682(d)) is amended by adding at the end the following:

"(4) The programs described in this paragraph are programs of public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

"(A) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to business planning, financing, marketing, and other microenterprise development activities) to owners of microenterprises and persons developing microenterprises; and

"(B) providing general support (such as peer support and self-esteem programs) to owners of microenterprises and persons developing microenterprises.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under part A of title IV of the Social Security Act for calendar quarters beginning on or after October 1, 1993.

SEC. 1343. TREATMENT OF STUDENT EARNINGS.

(a) DISREGARD OF EARNINGS OF STUDENTS AND INCOME OF DEPENDENT CHILD FROM A JTPA PROGRAM.—Section 402(a)(8)(A) (42 U.S.C. 602(a)(8)(A)) is amended—

(1) in clause (i)—

(A) by inserting "applying for or" before "receiving"; and

(B) by inserting ", and of each individual who is a parent and would be a dependent child if the individual were living with a caretaker relative," before "who is"; and

(2) in clause (v)—

(A) by striking "may" and inserting "shall";

(B) by inserting ", and of each individual who is a parent and would be a dependent child if the individual were living with a caretaker relative," before "which"; and

(C) by striking "time (not to exceed six months with respect to earned income)" and inserting "time,".

(b) EXEMPTION FROM RESOURCES OF EXEMPT EARNINGS OF A CHILD.—Section 402(a)(7)(B) (42 U.S.C. 602(a)(7)(B)), as amended by section 1341(a) of this Act, is amended—

(1) by striking "or" at the end of clause (iv); and

(2) by inserting ", or (vi) the earned income of any child described in clause (i) or (v) of paragraph (8)(A), in such amounts and under such conditions as are specified in the plan" before the semicolon.

(c) EXEMPT EARNINGS OF A CHILD TO BE DISREGARDED IN DETERMINING WHETHER FAMILY INCOME EXCEEDS NEED STANDARD.—Section 402(a)(18) (42 U.S.C. 602(a)(18)) is amended by striking "paragraph (8)(A)(v) or 8(A)(viii)" and inserting "clause (i), (v), or (viii) of paragraph (8)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

(e) AUTHORITY OF STATES TO WAIVE RECOVERY OF CERTAIN OVERPAYMENTS AND COLLECTION OF RELATED PENALTIES.—Effective upon the date of the enactment of this Act, notwithstanding any other provision of law, the amount that would otherwise be paid to a State under section 403 of the Social Security Act shall not be reduced, and action under section 404 of such Act shall not be taken, by reason of that State's decision to waive, before April 1, 1993, the recovery of overpayments, or the collection of any related penalty, arising from the accrual of savings (but not in excess of $6,000) by a child receiving aid to families with dependent children under the State plan approved under part A of title IV of such Act, but only if the State agency became aware of the excess savings before the date of the enactment of this Act, and thereafter found that—

(1) the savings were the result of the earnings of such child;

(2) the child was a full-time student throughout the time that such savings (together with those of all other members of the child's family) exceeded $1,000;

(3) the earnings were saved for the purpose of furthering the child's education; and

(4) there was no evidence of fraud or of intent to conceal the savings, on the part of the caretaker relative of the child.

SEC. 1344. ENCOURAGING USE OF TRANSITIONAL CHILD CARE PROGRAM.

(a) DEVELOPMENT OF METHODOLOGY; REPORT TO THE CONGRESS.—The Comptroller General of the United States shall develop an appropriate methodology for determining the proportion of eligible children which are receiving child care provided under section 402(g)(1)(A)(ii) of the Social Security Act, and shall submit to the Congress, within 6 months after the date of the enactment of this section, a report on the findings of the Comptroller General.

(b) STATE PLAN REQUIREMENTS.—Section 402(a) (42 U.S.C. 602(a)) is amended by inserting after paragraph (28) the following:

"(29) provide that the State agency—

"(A) establish procedures by which caseworkers will be informed of the child care program of the State under subsection (g)(1)(A)(ii); and

"(B) make a good faith effort to develop information materials, that are written in a clear and simple manner, describing the program referred to in subparagraph (A);".

(c) AUTHORITY TO WAIVE FAMILY CONTRIBUTION IN CERTAIN CASES.—Section 402(g)(1)(A)(vii) (42 U.S.C. 602(g)(1)(A)(vii)) is amended—

(1) by striking "A family" and inserting "(I) Except as provided in subclause (II), a family"; and

(2) by adding at the end the following:

"(II) The State agency may waive the requirement of subclause (I) in the case of any family whose income is at or below the poverty level for a family of the same size.".

(d) PROVISION OF BENEFITS.—Section 402(g)(1)(A) (42 U.S.C. 602(g)(1)(A)) is amended by adding at the end the following:

"(ix)(I) A family shall not be eligible for child care provided under this subparagraph unless the family meets appropriate application requirements established by the State.

"(II) The State agency may provide child care under this subparagraph to any family which has not requested such care if the family is eligible for such care and agrees to receive such care.".

(e) EFFECTIVE DATES.—

(1) DEVELOPMENT OF METHODOLOGY; AUTHORITY TO WAIVE FAMILY CONTRIBUTION.—Subsection (a) and the amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(2) STATE PLAN REQUIREMENTS.—The amendment made by subsection (b) shall take effect on October 1, 1993, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1994 and payments made under such part for any succeeding fiscal year.

(3) PROVISION OF BENEFITS.—The amendment made by subsection (d) shall take effect at the end of the 6-month period that begins with the date of the enactment of this Act.

SEC. 1345. INCREASE IN STEPPARENT INCOME DISREGARD.

(a) IN GENERAL.—Section 402(a)(31) (42 U.S.C. 602(a)(31)) is amended by striking "$75" and inserting "$90".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1993 and such payments for succeeding fiscal years.

SEC. 1346. STATE OPTION TO USE RETROSPECTIVE BUDGETING WITHOUT MONTHLY REPORTING.

(a) IN GENERAL.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended—

(1) by striking all that precedes subparagraph (A) and inserting the following:

"(13) provide, at the option of the State and with respect to such category or categories as the State may select and identify in the State plan, that—"; and

(2) in each of subparagraphs (A) and (B), by striking ", in the case of families who are required to report monthly to the State agency pursuant to paragraph (14)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1993 and such payments for succeeding fiscal years.

SEC. 1347. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC-UP PROGRAM.

Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking "October 1, 1992" and inserting "the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act".

Subpart B—JOBS Program

SEC. 1351. FUNDING FOR THE JOBS PROGRAM.

(a) ENHANCED MATCH FOR FISCAL YEARS 1993, 1994, AND 1995.—Section 403(l) (42 U.S.C. 603(l)) is amended by adding at the end the following:

"(5)(A) Subclause (I) of paragraph (1)(A)(ii) shall be applied by substituting—

"(i) '65 percent' for '50 percent', in fiscal year 1993;

"(ii) '62 percent' for '50 percent', in fiscal year 1994; and

"(iii) '54 percent' for '50 percent', in fiscal year 1995.

"(B) Subclause (II) of paragraph (1)(A)(ii) shall be applied by substituting—

"(i) 'the sum of 15 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1993;

"(ii) 'the sum of 12 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1994; and

"(iii) 'the sum of 4 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1995.

"(C) This paragraph shall not apply with respect to any State in any fiscal year in which State or local funds expended for the costs of operating a program established under part F in such fiscal year (determined without regard to this paragraph) are not at least at the level expended for the prior fiscal year.".

(b) INCREASE IN FUNDING CAP FOR FISCAL YEARS 1993 AND 1994.—Section 403(k)(3) (42 U.S.C. 603(k)(3)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by striking subparagraphs (C) and (D) and inserting the following:

"(C) $1,000,000,000 in the case of each of the fiscal years 1991 and 1992,

"(D) $1,100,000,000 in the case of fiscal year 1993,

"(E) $1,200,000,000 in the case of fiscal year 1994,".

SEC. 1352. MODIFICATION OF THE 20-HOUR RULE.

(a) IN GENERAL.—Section 403(l)(3)(D) (42 U.S.C. 603(l)(3)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following:

"(ii) For purposes of this paragraph, each hour of classroom instruction of an individual who is enrolled in a degree program offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or in such other education or training programs that require substantial outside classroom preparation (which programs shall be designated by the Secretary in regulations), shall be considered 2 hours of participation in the program under part F.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1353. ASSIGNMENT OF INDIVIDUALS TO WORK SUPPLEMENTATION PROGRAM.

(a) IN GENERAL.—Section 484(c) (42 U.S.C. 684(c)) is amended by striking "section 482(e) or (f)" and inserting "section 482(f)".

(b) ASSIGNMENT IN PRIVATE SECTOR.—Section 482(e) (42 U.S.C. 682(e)) is amended—

(1) by striking subparagraph (C) of paragraph (3) and inserting the following new subparagraph:

"(C) For purposes of this section, a supplemented job is a job provided to an eligible individual by any nonpublic employer for which all or part of the wages are paid by the State or local agency administering the State plan under part A. A State may subsidize under the program any job which such State determines to be appropriate."; and

(2) by striking subparagraph (A) of paragraph (5) and inserting the following new subparagraph:

"(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide that an eligible individual filling a job position provided by a nonpublic employer shall be given employee status by such employer during the first 13 weeks such individual fills such position.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to assignments made on or after October 1, 1992.

SEC. 1354. EXPANSION OF COVERAGE FOR INDIAN TRIBES.

(a) IN GENERAL.—Section 482(i)(2)(A) (42 U.S.C. 682(i)(2)(A)) is amended by striking "members of such Indian tribe receiving aid to families with dependent children" and inserting "Indians receiving aid to families with dependent children who reside on the reservation or within the designated service area".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 1355. MODIFICATION OF JOBS PERFORMANCE STANDARDS REQUIREMENT.

(a) In General.—Section 487(a)(2) (42 U.S.C. 687(a)(2)) is amended by striking "for" and inserting "with respect to".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subpart C—Child Support Enforcement

SEC. 1361. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.

(a) In General.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "upon the request of such agency" and inserting ", and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting ", and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1993.

(2) Exception.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social Security Act, or October 1, 1995, whichever occurs earlier.

SEC. 1362. AGREEMENT TO ASSIST IN LOCATING MISSING CHILDREN UNDER THE PARENT LOCATOR SERVICE.

(a) In General.—Section 463 (42 U.S.C. 663) is amended by adding at the end the following new subsection:

"(f) The Secretary shall enter into an agreement with the Attorney General of the United States, under which the services of the Parent Locator Service established under section 453 shall be made available to the Office of Juvenile Justice and Delinquency Prevention upon its request for the purpose of locating any parent or child on behalf of the Office of Juvenile Justice and Delinquency Prevention for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

(b) Conforming Amendment.—Section 463(c) (42 U.S.C. 663(c)) is amended by striking "(a), (b), or (e)" and inserting "(a), (b), (e), or (f)".

(c) Effective Date.—The amendments made by this section shall become effective on October 1, 1992.

Subpart D—Community Works Progress Demonstrations

SEC. 1371. COMMUNITY WORKS PROGRESS DEMONSTRATION PROJECTS.

Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320–13) is amended by adding at the end the following new section:

"SEC. 1144. COMMUNITY WORKS PROGRESS DEMONSTRATION PROJECTS

"(a) Authorization.—

"(1) In general.—The Secretary of Labor shall, in consultation with the Secretary of Health and Human Services, award grants to States and units of general local government located in urban areas for the purpose of carrying out community works progress projects under which employment and employment-related services are provided to—

"(A) noncustodial parents who are not employed and who are at least 2 months in arrears in the payment of court-ordered child support; and

"(B) recipients of aid under a State plan approved under part A of title IV, individuals eligible to receive such aid, or individuals at risk of becoming eligible to receive such aid.

"(2) Time limit and approval.—A grant under this subsection may extend over a period of not more than 36 months. The provision of payments under such grant shall be subject to annual approval by the Secretary of Labor. If the Secretary suspends or terminates payments under a grant to a State or unit of general local government, the Secretary may make a grant to another State or unit of general local government, as the case may be, that meets the requirements of this section.

"(b) Application Notice.—Not later than January 1, 1993, the Secretary of Labor shall publish a notice in the Federal Register regarding the application requirements for grants under subsection (a).

"(c) Selection Requirements.—

"(1) In general.—The Secretary of Labor shall select 6 applicants in accordance with the following requirements:

"(A) The Secretary shall select 2 States and 4 units of general local government located in urban areas.

"(B) At least 1 State and at least 2 units of general local government referred to in subparagraph (A) shall provide assurances in the application submitted under subsection (d) that the State or unit (or any entity to which the State or unit will provide amounts from a grant received under subsection (a)), as the case may be, will provide compensation under the projects to—

"(i) each noncustodial parent who is not employed and who is at least 2 months in arrears in the payment of court-ordered child support in accordance with subsection (e)(5)(A)(ii); and

"(ii) each recipient of aid under a State plan approved under part A of title IV, an individual eligible to receive such aid, or an individual at risk of becoming eligible to receive such aid, in accordance with paragraphs (3)(D)(ii) and (5)(D)(ii) of subsection (e).

"(2) Consideration.—In selecting States and units of general local government under paragraph (1), the Secretary of Labor shall consider—

"(A) the unemployment rate for the area in such State or unit in which projects will be conducted;

"(B) the proportion of the population receiving public assistance in such area;

"(C) the per capita income for such area;

"(D) the degree of involvement and commitment demonstrated by public officials in such area;

"(E) the contribution that the project is likely to make toward improving the quality of life of residents in such area;

"(F) in the case of States, the distribution of projects among urban and rural areas in such States;

"(G) the extent to which the projects will emphasize the development of projects encouraging team approaches to work on identifiable projects;

"(H) the extent to which private and community agencies will be involved;

"(I) the sufficiency of the size and scope of the projects; and

"(J) such other criteria as the Secretary of Labor deems appropriate.

"(d) Application Requirements.—The Secretary of Labor shall provide a grant under subsection (a) to a State or unit of general local government located in an urban area only if such State or unit, as the case may be, submits an application at such time and in such manner as the Secretary requires. Such application shall include—

"(1) assurances that the State or unit of general local government will conduct a program under which—

"(A) the State or unit will carry out projects to provide employment and employment-related services to noncustodial parents who are not employed and who are at least 2 months in arrears in the payment of court-ordered child support and recipients of aid under a State plan approved under part A of title IV, individuals eligible to receive such aid, or individuals at risk of becoming eligible to receive such aid;

"(B) the State or unit will provide grants to other units of general local government located in urban areas, public and private nonprofit organizations, or a consortium consisting of such units and organizations, to carry out projects for the purpose of providing such employment and employment-related services; or

"(C) the State or unit will carry out projects under subparagraph (A) in addition to providing grants under subparagraph (B) to the entities referred to in such subparagraph;

"(2) a description of the type of projects to be carried out, including a description of the types and duration of training and work experience to be provided to participants under such projects;

"(3) a comprehensive description of the objectives and performance goals for such projects;

"(4) assurances that the State or local administering agency described in part D of title IV located within the State or unit of general local government, as the case may be, will seek court-ordered enrollment in such projects of a noncustodial parent who is not employed and who is at least 2 months in arrears in the payment of court-ordered child support;

"(5) assurances that the a State or unit of general local government has arranged for the referral of recipients of aid under a State plan approved under part A of title IV to such projects;

"(6) a description of a plan for managing and funding such projects;

"(7) in the case of a State, unit of general local government, public or private nonprofit organization, or a consortium consisting of such units and organizations, that will provide compensation under the program to—

"(A) each noncustodial parent under such projects in accordance with subsection (e)(5)(A)(i); or

"(B) each recipient of aid under a State plan approved under part A of title IV, an individual eligible to receive such aid, or an individual at risk of becoming eligible to receive such aid, in accordance with paragraphs (3)(D)(i) and (5)(D)(i) of subsection (e),

the written concurrence of any local labor organization representing employees in the area who are engaged in work of the same or similar character and nature as that proposed to be carried out by the projects;

"(8) a description of any formal job training or job search arrangements to be made available to the participants under such projects, in cooperation with State agencies;

"(9) assurances that such projects will be coordinated with other Federally assisted education programs, training programs, social service programs, and other appropriate programs;

"(10) assurances that the State or unit of general local government will participate in cooperative efforts among community-based agencies, *local educational agencies, and local government agencies (as defined in paragraphs (3), (11), and (12), respectively, of section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12411)), businesses, and State agencies, to develop and provide supportive services to participants under such projects;*

"(11) assurances from the State in which projects are to be carried out that such State will maintain its aggregate expenditures relating to the job opportunities and basic skills training program under part F of title IV;

"(12) a description of fiscal control, accounting, audit, and debt collection procedures to assure the proper disbursal of, and accounting for, funds received from a grant under subsection (a); and

"(13) a projection of the amount the State or unit of general local government intends to spend in each fiscal year for such projects.

"(e) PROJECT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) DEFINITION.—For purposes of this section, the terms 'community works progress project' and 'project' mean an activity that results in a specific identifiable service or product that otherwise would not be carried out with existing funds and that supplements but does not supplant existing services.

"(B) PURPOSE.—A community works progress project shall serve a significant public purpose in such fields as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public safety, and child care.

"(2) COMPLETION.—A State, unit of general local government located in an urban area, public or private nonprofit organization, or a consortium consisting of such units and organizations, carrying out projects under this section shall complete each project not later than 18 months after the date on which the 1st individual is enrolled in each such project.

"(3) PARTICIPATION REQUIREMENTS.—

"(A) PRIORITY.—A State, unit of general local government located in an urban area, public or private nonprofit organization, or a consortium consisting of such units and organizations, that is carrying out a project under this section shall select participants for such project in accordance with the following requirements:

"(i) A State, unit, organization, or consortium, as the case may be, shall first accept individuals described in subparagraphs (A) and (B) of subsection (a)(1) who volunteer for such project.

"(ii) If an insufficient number of individuals described in clause (i) volunteer under such clause, the State, unit, organization, or consortium, as the case may be, shall, in accordance with subsection (d)(4), seek court-ordered enrollment of noncustodial parents who are not employed and who are at least 2 months in arrears in the payment of court-ordered child support.

"(iii) If an insufficient number of individuals described in clause (i) volunteer under such clause, and an insufficient number of noncustodial parents are enrolled pursuant to clause (ii), the State, unit, organization, or consortium, as the case may be, shall, in accordance with subsection (d)(5), enroll individuals according to the following priority:

"(I) Recipients of aid under the State plan in accordance with section 407 (relating to unemployed parents).

"(II) Recipients of such aid who are not unemployed parents.

"(B) RESTRICTION ON WORK HOURS PER WEEK.—In order to assure that each participant will have time to seek alternative employment or to participate in an alternative employability enhancement activity, no individual may work as a participant in a project under this section for more than 32 hours per week.

"(C) ADDITIONAL SERVICES.—A State or unit of general local government located in an urban area, as the case may be, shall, through a service delivery area (designated under section 101 of the Job Training Partnership Act (29 U.S.C. 1511)), the job opportunities and basic skills training program under section 402(a)(19) and part F of title IV, the United States Employment Service, State public employment services, or other appropriate programs, provide education, job training, or job search services to participants under a community works progress projects.

"(D) INDIVIDUALS RECEIVING AFDC.—In addition to the limitation set forth in subparagraph (A), recipients of aid under a State plan approved under part A of title IV, individuals eligible to receive such aid, or individuals at risk of becoming eligible to receive such aid may not be required to work as participants under a project on a monthly basis more than the number of hours determined in accordance with a calculation under 1 of the following clauses:

"(i) APPLICABLE MINIMUM WAGE CALCULATION.—The number of hours determined in accordance with the calculation under this clause is determined by dividing—

"(I) the amount of monthly assistance the family of such recipient is eligible to receive under such part; by

"(II) the amount equal to 125 percent of the applicable Federal or State minimum wage, whichever is greater.

"(ii) PREVAILING RATE OF PAY CALCULATION.—The number of hours determined in accordance with the calculation under this clause is determined by dividing—

"(I) the amount of monthly assistance the family of such recipient is eligible to receive under such part; by

"(II) the greater of the amount equal to 125 percent of the applicable Federal or State minimum wage (whichever is greater) or the amount equal to the prevailing rates of pay for individuals employed in similar occupations by the same employer.

"(E) TESTING AND EDUCATION REQUIREMENTS.—

"(i) TESTING.—Except as provided in clause (iii), each participant in a project shall be tested for basic reading and writing competence prior to employment under such project.

"(ii) EDUCATION REQUIREMENTS.—

"(I) FAILURE TO SATISFACTORILY COMPLETE TEST.—A participant who fails to satisfactorily complete the basic competency test required in clause (i) shall be furnished counseling and instruction in basic reading and writing competence.

"(II) LIMITED-ENGLISH.—A participant with limited-English speaking ability may be furnished instruction to improve such speaking ability as the State, unit of general local government located in an urban area, public or private nonprofit organization, or a consortium consisting of such units and organizations, as the case may be,conducting the project deems appropriate.

"(III) COUNSELING SERVICES REGARDING ALCOHOL AND DRUG ABUSE.—A State or unit shall refer participants who are in need of counseling services regarding alcohol and drug abuse to providers of such services.

"(iii) EXCEPTION.—Any individual who, within 1 year of enrollment in a project, has been tested by an employment, education, or training program for basic reading and writing competence shall not be required to be tested under clause (i).

"(F) PARTICIPANTS IN JOBS PROGRAM.—If an individual is receiving aid to families with dependent children under part A of title IV and participating in the job opportunities and basic skills training program under part F of such title, such individual may be assigned by the State agency to participate in a community works progress project if—

"(i) such participation does not conflict with the requirements of such part F; and

"(ii) such individual is referred to participate in such project in accordance with the procedures established under such part F.

"(4) USE OF GRANT.—

"(A) COMPENSATION AND BENEFITS.—Not less than 70 percent of the amount of a grant under subsection (a) shall be used by a State, unit of general local government located in an urban area, public or private nonprofit organization, or a consortium consisting of such units and organizations, as the case may be, to provide compensation and supportive services to participants under a project.

"(B) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount of a grant under subsection (a) may be used by a State or unit of general local government located in an urban area for administrative costs of the program carried out by such State or unit, as the case may be.

"(5) COMPENSATION FOR PARTICIPANTS.—

"(A) NONCUSTODIAL PARENTS WHO ARE NOT EMPLOYED AND IN ARREARS IN THE PAYMENT OF COURT-ORDERED CHILD SUPPORT.—Each participant who is a noncustodial parent who is not employed and who is at least 2 months in arrears in the payment of court-ordered child support shall, notwithstanding any other provision of law, be compensated for participation under a project carried out under this section in an amount equal to—

"(i) an amount not less than 125 percent of the applicable Federal or State minimum wage, whichever is greater, for each hour the participant works on such project and for each hour the participant receives education, job training, or job search services on such project (not to exceed 8 hours per week for such education, job training, or job search services); or

"(ii) the greater of—

"(I) 125 percent of the applicable Federal or State minimum wage, whichever is greater; or

"(II) the prevailing rates of pay for individuals employed in similar occupations by the same employer,

for each hour the participant works under such project and for each hour the participant receives education, job training, or job search services on such project, (not to exceed 8 hours per week for such education, job training, or job search services).

"(B) INDIVIDUALS RECEIVING AFDC.—

"(i) IN GENERAL.—Each participant who is a recipient of aid under a State plan approved under part A of title IV shall, notwithstanding any other provision of law, be compensated for participation under a project on a monthly basis.

"(ii) AMOUNT.—The amount of the compensation described in clause (i) shall be equal to 25 percent of the average (as estimated by the State or local agency administering or supervising the administration of the State plan) amount of aid to families with dependent children under such part A paid to recipients of such aid in the area served by such project on a monthly basis. Such amount shall be paid from grant funds awarded under subsection (a) and shall be in addition to the aid received by such participant.

"(C) PAYMENTS OF AFDC.—A State agency responsible for making a payment of benefits under the State plan approved under part A to a participant in a project may transfer such payment to the entity conducting such project and such payment shall be made by such entity to such participant in conjunction with any payment made under subparagraph (B).

"(D) ADDITIONAL WORK HOURS FOR INDIVIDUALS RECEIVING AFDC.—If a recipient of aid

under a State plan approved under part A of title IV accepts an offer to work hours in addition to the number of hours determined under paragraph (3)(D), such individual shall be paid for each such additional hour an amount equal to—

"(i) 125 percent of the applicable Federal or State minimum wage, whichever is greater; or

"(ii) the greater of—

"(I) 125 percent of the applicable Federal or State minimum wage, whichever is greater; or

"(II) the prevailing rates of pay for individuals employed in similar occupations by the same employer.

"(E) ALTERNATIVE COMPENSATION METHODS.—The Secretary of Labor may approve any application submitted under subsection (d) which provides for an alternative to the method of compensation for participants in a project described in this section if such alternative method—

"(i) does not reduce the amount received by any participant on an hourly basis below—

"(I) 125 percent of the applicable Federal or State minimum wage, whichever is greater; or

"(II) the prevailing rates of pay for individuals employed in similar occupations by the same employer,

as the case may be; and

"(ii) results in a monthly payment which would be greater than the monthly amount the family of the participant would otherwise receive under this section.

"(F) TREATMENT OF COMPENSATION OR BENEFITS UNDER OTHER PROGRAMS.—

"(i) HIGHER EDUCATION ACT OF 1965.—In determining any grant, loan, or other form of assistance for an individual under any program under the Higher Education Act of 1965, the Secretary of Education shall not take into consideration the compensation and benefits received by such individual under this subsection for participation in a community works progress project.

"(ii) RELATIONSHIP TO OTHER FEDERAL BENEFITS.—Notwithstanding any other provision of law, any compensation or benefits received by an individual in accordance with this paragraph for participation in a community works progress project shall be excluded from determination of income for the purposes of determining eligibility for benefits under sections 402, the supplemental security program under title XVI, title XIX, or any other Federal or federally assisted program based on need.

"(G) SUPPORTIVE SERVICES.—Each participant in a community works progress project shall receive, out of grant funds awarded under subsection (a), assistance to meet necessary costs of transportation, child care, and uniforms and other work materials.

"(6) NONDUPLICATION AND NONDISPLACEMENT.—

"(A) NONDUPLICATION.—

"(i) IN GENERAL.—Amounts from a grant provided under subsection (a) shall be used only for a project that does not duplicate, and is in addition to, an activity otherwise available in the State or unit of general local government in which the project is carried out.

"(ii) PRIVATE NONPROFIT ENTITY.—Amounts from a grant provided under subsection (a) shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency in which such entity resides, unless the requirements of subparagraph (B) are met.

"(B) NONDISPLACEMENT.—

"(i) IN GENERAL.—A State, unit of general local government located in an urban area, public or private nonprofit organization, or a consortium consisting of such units and organizations, shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such State, unit, organization, or consortium, as the case may be, of a participant in a project funded by a grant under subsection (a).

"(ii) LIMITATION ON SERVICES.—

"(I) DUPLICATION OF SERVICES.—A participant in a project funded by a grant under subsection (a) shall not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.

"(II) SUPPLANTATION OF HIRING.—A participant in a project funded by a grant under subsection (a) shall not perform any services or duties or engage in activities that will supplant the hiring of other workers.

"(III) DUTIES FORMERLY PERFORMED BY ANOTHER EMPLOYEE.—A participant in a project funded by a grant under subsection (a) shall not perform services or duties that have been performed by or were assigned to any presently employed worker, employee who recently resigned or was discharged, employee who is subject to a reduction in force, employee who is on leave (terminal, temporary, vacation, emergency, or sick), or employee who is on strike or who is being locked out.

"(7) LABOR STANDARDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State, unit of general local government located in an urban area, public or private nonprofit organization, or a consortium consisting of such units and organizations, that receives amounts from a grant under subsection (a) shall comply with the labor standards described in section 142(a)(3)(C) and section 143 of the Job Training Partnership Act (29 U.S.C. 1552(a)(3)(C) and 1553) in carrying out a community works progress project.

"(B) EXCEPTIONS.—

"(i) HEALTH AND MEDICAL BENEFITS FOR CERTAIN INDIVIDUALS.—An entity described in subparagraph (A) shall not be required to provide health and medical benefits to participants under a project who are individuals enrolled under a State plan for medical assistance under title XIX.

"(ii) CERTAIN WAGE RATES.—The requirements of section 142(a)(3)(C) and section 143(d) of the Job Training Partnership Act (29 U.S.C.1552(a)(3)(C) and 1553(d)) (relating to prevailing wage rates) shall not apply with respect to an entity described in subparagraph (A) that is making compensation payments to 1 or more—

"(I) noncustodial parents in accordance with paragraph (5)(A)(i); or

"(II) recipients of aid under a State plan approved under part A of title IV, individuals eligible to receive such aid, or individuals at risk of becoming eligible to receive such aid, in accordance with paragraphs (3)(D)(i) and (5)(D)(i).

"(8) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each a State, unit of general local government located in an urban area, public or private nonprofit organization, and consortium consisting of such units and organizations, conducting a community works progress project under this section shall establish and maintain a procedure for the filing and adjudication of grievances from participants in such project, labor organizations, and other interested individuals concerning such project, including grievances regarding proposed placements of such participants in such project.

"(B) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance under this paragraph shall be filed not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

"(C) DEADLINE FOR HEARING AND DECISION.—

"(i) HEARING.—A hearing conducted under this paragraph on any grievance shall be conducted not later than 30 days after the filing of such grievance.

"(ii) DECISION.—A decision on any grievance shall be made not later than 60 days after the filing of such grievance.

"(D) ARBITRATION.—

"(i) IN GENERAL.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties. If the parties cannot agree, the Secretary of Labor shall appoint an arbitrator from a list of qualified arbitrators within 15 days after receiving a request for such appointment from one of the parties to the grievance.

"(ii) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding, or, if the arbitrator is appointed by the Secretary in accordance with the 2nd sentence of clause (i), not later than 30 days after the appointment of such arbitrator.

"(iii) DEADLINE FOR DECISION.—A decision concerning a grievance subject to an arbitration proceeding shall be made not later than 30 days after the date such arbitration proceeding begins.

"(iv) COST.—

"(I) IN GENERAL.—Except as provided in subclause (II), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

"(II) EXCEPTION.—If a participant, labor organization, or other interested individual described in subparagraph (A) prevails under a binding arbitration proceeding, the State, unit of general local government located in an urban area, public or private nonprofit organization, or a consortium consisting of such units and organizations, which is party to such grievance shall pay the total cost of such proceeding and the attorneys' fees of such participant, labor organization, or individual, as the case may be.

"(E) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a community works progress project conducted under this section, such placement shall not be made unless it is consistent with the resolution of the grievance pursuant to this paragraph.

"(F) REMEDIES.—Remedies for a grievance filed under this paragraph include—

"(i) prohibition of the placement described in subparagraph (E);

"(ii) reinstatement of the participant to the position held by such participant prior to displacement;

"(iii) payment of lost wages and benefits of the participant;

"(iv) reestablishment of other relevant terms, conditions, and privileges of employment of the participant; and

"(v) such equitable relief as is necessary to correct any violation of this section or to make the participant whole.

"(G) ENFORCEMENT.—Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction of the parties without regard to the amount in controversy and without regard to the citizenship of the parties.

"(f) FAILURE TO MEET REQUIREMENTS.—The Secretary of Labor may suspend or terminate payments under this section for a community works progress project if the Secretary determines that a State, unit of general local government located in an urban area, public or private nonprofit organization, or a consortium consist-

ing of such units and organizations conducting such project has materially failed to comply with the requirements of this section (including the assurances contained in the application submitted under subsection (d)), or any other terms and conditions of a grant under subsection (a) agreed to by such State, unit, organization, or consortium, as the case may be, and the Secretary.

"(g) EVALUATION.—

"(1) IN GENERAL.—The Secretary of Labor shall carry out an evaluation of the activities of not more than 4 projects. If available, the Secretary shall—

"(A) compare the projects of—

"(i) 1 State in which participants are compensated at the prevailing rate of pay for individuals employed in similar occupations by the same employer; with

"(ii) 1 State in which participants are not compensated at such prevailing rate of pay; and

"(B) compare the projects of—

"(i) 1 unit of general local government located in an urban area in which participants are compensated at the prevailing rate of pay for individuals employed in similar occupations by the same employer; with

"(ii) 1 unit of general local government located in an urban area in which participants are not compensated at such prevailing rate of pay.

"(2) CONDUCT OF EVALUATION.—The evaluation carried out under paragraph (1) shall be based on an experimental design with random assignment between a treatment group and a control group. The Secretary of Labor shall use the data provided from each such evaluation to analyze the benefits and costs of the project, including the value of the goods and services provided under such project.

"(h) REPORTS.—

"(1) INTERIM REPORT.—Not later than 2 years after the date on which the Secretary of Labor approves the 1st application of a State or unit of general local government located in an urban area under subsection (d), the Secretary shall submit an interim report to the Congress containing—

"(A) the results of the analysis conducted under subsection (g)(3) with respect to each project completed as of such date; and

"(B) a determination by the Secretary of the effectiveness of each such project.

"(2) FINAL REPORT.—Not later than March 31, 1996, the Secretary of Labor shall submit a report to the Congress containing—

"(A) the results each analysis conducted under subsection (g)(2); and

"(B) a determination by the Secretary of the effectiveness of all projects.

"(i) ADMINISTRATIVE COSTS.—The Secretary of Labor may retain up to 3 percent of amounts authorized to be appropriated under subsection (k) in a fiscal year for administrative costs, including the costs of the evaluation carried out under subsection (g).

"(j) PAYMENTS TO ORGANIZATIONS CONDUCTING PROJECTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for each of fiscal years 1993 through 1995, the Secretary of Labor shall pay as an entitlement to each a State or unit of general local government located in an urban area conducting a project under this section an amount equal to the expenditures to carry out such project for such fiscal year.

"(2) LIMITATION ON PAYMENTS.—For any fiscal year, the amount any State or unit of general local government located in an urban area is entitled to receive under paragraph (1) shall be limited to an amount equal to the product of—

"(A) the total amount of funds appropriated under subsection (k) for such fiscal year; and

"(B) the amount determined by dividing—

"(i) the amount projected to be spent for projects during the fiscal year as set forth in the application under subsection (d), by

"(ii) the total amount projected to be spent during such fiscal year for projects under this section as set forth in the applications submitted under subsection (d).

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor $60,000,000 for fiscal year 1993, and $70,000,000 for each of the fiscal years 1994 and 1995, to carry out subsection (a). Any amount made available to a project for a fiscal year is authorized to remain available to be expended until March 31, 1997.

"(l) TREATMENT OF OUTLAYS.—Notwithstanding section 257(b)(2)(A) of the Emergency Deficit Control Act of 1985, the program under this section and the entitlement authority of this program shall be assumed to expire after fiscal year 1995.

"(m) INTERDEPARTMENTAL TASK FORCE.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this section, the Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall establish a task force to identify any Federal funds (in addition to the funds authorized to be appropriated under subsection (k)) that may be directed for use in the community works progress projects under this section and to identify any modifications to existing policies or procedures that would facilitate the implementation of such projects.

"(2) MEMBERSHIP.—The Task Force shall consist of at least 3 members and shall include 1 representative from each of the following:

"(A) The Department of Labor.

"(B) The Department of Health and Human Services.

"(3) REPORT.—Not later than January 1, 1993, the task force shall submit a report to the Secretary of Labor, the Secretary of Health and Human Services, and the Congress that includes any findings and recommendations of the task force with respect to the identification of Federal funds under paragraph (1).

"(4) ACTION ON RECOMMENDATIONS.—The Secretary of Labor and the Secretary of Health and Human Services shall take such actions as may be necessary to carry out the recommendations of the task force contained in the report submitted under paragraph (3).".

Subpart E—Research and Demonstration Provisions

SEC. 1381. MEASUREMENT AND REPORTING OF WELFARE DEPENDENCY.

(a) FINDINGS.—The Congress finds:

(1) In the period since 1960 the average annual caseload of the aid to families with dependent children (AFDC) program under title IV of the Social Security Act has quintupled.

(2) In 1990 there were on average almost twice as many households receiving aid to families with dependent children payments as the number of households and individuals receiving unemployment compensation benefits.

(3) Nearly one-quarter of children born in the period 1967 through 1969 were on welfare (AFDC) before reaching age 18. For minority children this ratio approached three-quarters.

(4) At any given time one-quarter of school children are from single parent families, or households with neither parent. The National Assessment of Educational Progress has documented the educational losses associated with single parent or no parent households.

(5) Only one-quarter of father-absent families receive full child support and over one-half receive none.

(6) The average aid to families with dependent children benefit has declined by more than one-third since 1960.

(7) The burden of welfare dependency is an issue of necessary concern to women, who in overwhelming proportion are the heads of single parent families.

(8) The rate of welfare dependency may be rising. However, the statistical basis on which to assess this national issue is wholly inadequate, much as the statistical basis for addressing issues of unemployment was inadequate prior to the Employment Act of 1946, which required the creation of the annual economic report of the President and the development of unemployment rates.

(b) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce welfare dependency to the lowest possible level, and to assist families toward self-sufficiency, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and to underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare dependency to improve their education and job skills, to obtain access to necessary support services, and to take such other steps as may assist them to meet their responsibilities to become financially independent; and

(4) it is the purpose of this section to aid in lowering welfare dependency by providing the public with generally accepted measures of welfare dependency so that it can track dependency over time and determine whether progress is being made in reducing welfare dependency and enabling families to be self-sufficient.

(c) DEVELOPMENT OF WELFARE DEPENDENCY INDICATORS, RATES, AND PREDICTORS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") in consultation with the Secretary of Agriculture shall develop indicators, rates, and predictors of welfare dependency.

(2) DEVELOPMENT.—The Secretary shall—

(A) develop—

(i) indicators and rates related to the level of welfare dependency in the United States; and

(ii) predictors that are correlated with welfare dependency;

(B) assess the data needed to report annually on the indicators, rates, and predictors, including the ability of existing data collection efforts to provide such data and any additional data collection needs; and

(C) not later than 2 years after the date of the enactment of this section, provide an interim report containing conclusions resulting from the development and assessment described in subparagraphs (A) and (B), to—

(i) the Committee on Ways and Means of the House of Representatives;

(ii) the Committee on Education and Labor of the House of Representatives;

(iii) the Committee on Agriculture of the House of Representatives;

(iv) the Committee on Energy and Commerce of the House of Representatives;

(v) the Committee on Finance of the Senate;

(vi) the Committee on Labor and Human Resources of the Senate; and

(vii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(3) CONSIDERATIONS.—In developing the indicators, rates, and predictors, the Secretary shall consider the complexity of patterns of welfare dependency and self-sufficiency attainment, and the external factors, including the economy, that affect welfare dependency.

(d) ADVISORY BOARD ON WELFARE DEPENDENCY.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Dependency (in this section referred to as the "Board").

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of indicators, rates, and predictors of welfare dependency, and the identification of data collection needs and existing data collection efforts, described in subsection (c)(2)(B); and

(B) providing advice on the development and presentation of the annual report on welfare dependency indicators, rates, and predictors required under subsection (e).

(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in subsection (d)(4) have been completed, but in any case prior to the submission of the first report required under subsection (e).

(e) ANNUAL WELFARE DEPENDENCY REPORT.—

(1) PREPARATION.—The Secretary shall prepare an annual report on welfare dependency in the United States. The report shall attempt to identify indicators, rates, and predictors of welfare dependency and trends in dependency, and provide information and analysis on the causes of dependency.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the Supplemental Security Income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each report shall set forth—

(A) for each of the means-tested benefit programs described in paragraph (2)—

(i) current trends in the number and rates of recipients and the characteristics, including age, sex, marital status, presence of children, labor force participation, and disability, of the recipients; and

(ii) total expenditures;

(B) the proportion of the total population receiving each of the programs and patterns of multiple program participation and recipiency duration;

(C)(i) characteristics of each such program, including total expenditures broken down by Federal and State shares, gross income limit, need standards, and maximum potential benefit by State; and

(ii) a description of the interactions among the programs;

(D) in the case of the second, or a subsequent, report, changes in the information described in subparagraphs (A) through (C) from the previous year, and trends in program participation;

(E) annual numerical goals for recipients, and expenditures, within each program and within significant subgroups within the population, for the calendar year in which the report is transmitted and for each of the following 4 calendar years, which goals shall, consistent with other essential national goals, reflect the objectives of—

(i) reducing welfare dependency to the lowest possible level; and

(ii) increasing family self-sufficiency at or above the Federal poverty level to the greatest extent possible;

(F)(i) the programs and policies as the Secretary, in consultation with the Board, determines are necessary to meet the goals for each of the 5 years; and

(ii) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce welfare dependency; and

(G) interim goals for reducing the proportion of children, and families with children, who are recipients of aid to families with dependent children to 10 percent of families with children, adjusted for economic conditions.

(4) SUBMISSION.—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section, and annually thereafter, to the committees specified in subsection (c)(2)(C). The report shall be transmitted during the first 60 days of each regular session of Congress.

SEC. 1382. EXTENSION OF DEMONSTRATION TO EXPAND JOB OPPORTUNITIES.

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2404) is amended—

(1) in subsection (e), by striking "3-year period" and inserting "5-year period",

(2) in subsection (f)(2), by striking "January 1, 1993" and inserting "January 1, 1994", and

(3) in subsection (g), by striking "1991, and 1992" and inserting "1991, 1992, 1993, and 1994".

SEC. 1383. EARLY CHILDHOOD DEVELOPMENT PROJECTS.

Section 502(c) of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2402) is amended by inserting ", and not to exceed $3,000,000 for each of the fiscal years 1993 through 1997" before the period.

SEC. 1384. EXTENSION OF NATIONAL COMMISSION ON CHILDREN.

(a) IN GENERAL.—Section 1139(e)(1)(A) (42 U.S.C. 1320b-9(e)(1)(A)) is amended by striking "March 31, 1991" and inserting "December 31, 1992".

(b) AUTHORITY.—Notwithstanding any other provision of law, the National Commission on Children shall terminate on December 31, 1992. The Commission shall retain the authority provided to such Commission on the date of the enactment of section 1139 of the Social Security Act (42 U.S.C. 1320b-9) until December 31, 1992. The Executive Director and staff of such Commission shall have a reasonable period of time, not to extend beyond March 31, 1993, to conduct those activities that have been determined by the Chairman of the Commission to be required to close down the operations of the Commission.

SEC. 1385. SECRETARIAL REPORT ON THE DIFFERENCES IN PROGRAM RULES UNDER THE FOOD STAMP PROGRAM, AID TO FAMILIES WITH DEPENDENT CHILDREN, AND MEDICAID PROGRAMS.

(a) IN GENERAL.—No later than 6 months after the date of the enactment of this section, the Secretary of Health and Human Services and the Secretary of Agriculture shall jointly submit to the President and the Congress a report which includes—

(1) the rules which govern the food stamp program operated under the Food Stamp Act of 1977, the program of aid to families with dependent children under part A of title IV of the Social Security Act, and the program of medical assistance under title XIX of the Social Security Act;

(2) how the rules differ across such programs;

(3) which of the rules under such programs require statutory action in order to achieve complete uniformity with respect to such programs (including specific statutory citations); and

(4) which of the rules could be made uniform without statutory action.

(b) RULES TO BE EVALUATED.—

(1) IN GENERAL.—The rules to be evaluated in the report required by subsection (a) shall include all rules related to administrative procedures (described in paragraph (2) of this subsection), definitions of countable income, definitions of income disregards and exemptions, quality control sanctions and incentives, financial and other incentives to combat fraud, work and training requirements and programs, and the program under part D of title IV of the Social Security Act. Income eligibility levels shall be excluded from such report.

(2) ADMINISTRATIVE PROCEDURES DEFINED.—The administrative procedures to be evaluated in the report required by subsection (a) include procedures governing—

(A) quality control error measurements;

(B) the effective dates by which State and local agencies must implement rule changes;

(C) verification of applicant or recipient circumstances;

(D) establishment of claims for overpayment;

(E) recipient reporting requirements;

(F) income budgeting methods for applicants and recipients;

(G) eligibility redeterminations;

(H) hearings for those aggrieved by a State or local agency decision on eligibility or benefits;

(I) determinations of citizen or alien status;

(J) time limits for processing applications; and

(K) response time and other requirements with respect to notices to recipients affecting their eligibility or benefits.

(c) COORDINATION WITH REPORT OF THE ADVISORY COMMITTEE ON WELFARE SIMPLIFICATION AND COORDINATION.—The Advisory Committee on Welfare Simplification and Coordination, established by section 1778 of the Food, Agriculture, Conservation, and Trade Act of 1990, shall consider the content of the report required under this section in the preparation of the Committee's report. This section shall not be construed to extend the deadline for submission of the Committee's report specified in section 1778(e) of such Act.

SEC. 1386. NEW HOPE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) PAYMENTS.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount equal to the aggregate amount that would oth-

erwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance. In calculating the amount of such payment, the expenses of the program incurred in evaluating the effects of the program may be treated as amounts necessary for the proper and efficient administration of the program, for purposes of part A of title IV, and title XIX, of such Act.

(c) DEMONSTRATION PROJECT DESCRIBED.—For purposes of this section, the term "qualified program" means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (in this section referred to as the "operator"), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) CONTENTS OF APPLICATION.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) EFFECTIVE DATE.—This section shall take effect on the first day of the first calendar quarter that begins after the date of enactment of this Act.

Subpart F—Supplemental Security Income

SEC. 1391. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY FOR, AND AMOUNT OF, SSI BENEFITS WHEN SPOUSE OR PARENT OF BENEFICIARY IS ABSENT FROM THE HOUSEHOLD DUE TO ACTIVE MILITARY SERVICE.

(a) ABSENT PERSON GENERALLY DEEMED TO BE LIVING IN THE HOUSEHOLD.—Section 1614(f) (42 U.S.C. 1382c(f)) is amended by adding at the end the following:

"(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.".

(b) EXCLUSION FROM SSI INCOME OF HAZARDOUS DUTY PAY RECEIVED WHILE IN ACTIVE MILITARY SERVICE.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (18), by striking "and" the 2nd place such term appears;

(2) in paragraph (19), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(20) special pay received pursuant to section 310 of title 37, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 2d month that begins after the date of the enactment of this Act.

SEC. 1392. ELIGIBILITY FOR CHILDREN OF ARMED FORCES PERSONNEL RESIDING OUTSIDE THE UNITED STATES OTHER THAN IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking "the District of Columbia" and all that follows to the period and inserting "and who, for the month before the parent reported for such assignment, received a benefit under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 1393. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended by striking "a child" and inserting "an individual".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 1394. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE WHEN THERE IS A COST OF LIVING ADJUSTMENT IN SSI BENEFITS.

(a) IN GENERAL.—Section 1611(c) (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by striking "and (5)" and inserting "(5), and (6)"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this title by reason of section 1617 shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this title to an individual (and the eligible spouse, if any, of the individual) for the 1st 2 months for which the increase in benefits applies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits paid after the calendar year 1993.

Subpart G—Other Income Security Provisions

SEC. 1401. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1122 the following:

"SEC. 1123. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

SEC. 1402. ADULT IN FAMILY OR HOUSEHOLD ALLOWED TO ATTEST TO CITIZENSHIP STATUS OF FAMILY OR HOUSEHOLD MEMBERS UNDER AFDC AND MEDICAID.

(a) IN GENERAL.—Section 1137(d)(1)(A) (42 U.S.C. 1320b–7(d)(1)(A)) is amended to read as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing, under penalty of perjury—

"(i) in the case of an individual who is an adult member of a family or household applying for or receiving such benefits, by such individual or another adult member of such family or household on such individual's behalf, or

"(ii) in the case of an individual who is a child, by an adult on the individual's behalf, or

"(iii) in the case of an individual born into a family or household receiving such benefits, by an adult member of such individual's family or household on the individual's behalf no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to benefits provided on or after October 1, 1992.

SEC. 1403. EXCLUSION FROM INCOME OF $4,000 OF INCOME RECEIVED IN ANY YEAR BY INDIANS FROM INTERESTS INDIVIDUALLY HELD IN TRUST OR RESTRICTED LANDS.

(a) IN GENERAL.—Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended—

(1) by striking "lands" and inserting "lands, and income, including interest up to $4,000 per annum derived from such income,"; and

(2) by striking "resource" and inserting "resource or income".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on Janauary 1, 1993.

SEC. 1404. DISCLOSURE OF INFORMATION TO RAILROAD RETIREMENT BOARD.

Section 6103(l)(1)(C) of the Internal Revenue Code of 1986 is amended to read as follows:

"(C) taxes imposed by chapters 22 and 23A, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement and Railroad Unemployment Insurance Acts.".

TITLE I—PROVISIONS RELATING TO DISTRESSED URBAN AND RURAL AREAS

Subtitle A—Urban Tax Enterprise Zones and Rural Development Investment Zones

SEC. 1101. STATEMENT OF PURPOSE.

It is the purpose of this subtitle to establish a demonstration program of providing incentives for the creation of tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses,

(2) to promote meaningful employment for tax enterprise zone residents, and

(3) to encourage individuals to reside in the tax enterprise zones in which they are employed.

PART I—DESIGNATION AND TAX INCENTIVES

SEC. 1102. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Tax Enterprise Zones

"Part I. Designation of tax enterprise zones.

"Part II. Incentives for tax enterprise zones.

"PART I—DESIGNATION OF TAX ENTERPRISE ZONES

"Sec. 1391. Designation procedure.

"Sec. 1392. Eligibility and selection criteria.

"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—For purposes of this title, the term 'tax enterprise zone' means any area which is, under this part—

"(1) nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone, and

"(2) designated by—

"(A) the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone, or

"(B) the Secretary of Agriculture, in consultation with the Secretary of Commerce, in the case of a rural development investment zone.

"(b) NUMBER OF DESIGNATIONS.—

"(1) AGGREGATE LIMIT.—The appropriate Secretaries may designate in the aggregate 50 nominated areas as tax enterprise zones under this section, subject to the availability of eligible nominated areas. Not more than 25 urban tax enterprise zones may be designated and not more than 25 rural development investment zones may be designated. Such designations may be made only during calendar years after 1991 and before 1997.

"(2) ANNUAL LIMITS.—

"(A) URBAN TAX ENTERPRISE ZONES.—The number of urban tax enterprise zones designated under paragraph (1)—

"(i) before 1994 shall not exceed 8,

"(ii) before 1995 shall not exceed 15, and

"(iii) before 1996 shall not exceed 21.

"(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

"(i) before 1994 shall not exceed 8,

"(ii) before 1995 shall not exceed 15, and

"(iii) before 1996 shall not exceed 21.

"(3) ADVANCE DESIGNATIONS PERMITTED.—For purposes of this subchapter, a designation during any calendar year shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

"(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

"(1) the local governments and the State in which the nominated area is located have the authority—

"(A) to nominate the area for designation as a tax enterprise zone, and

"(B) to provide assurances satisfactory to the appropriate Secretary that the commitments under section 1392(c) will be fulfilled,

"(2) a nomination of the area is submitted within a reasonable time before the calendar year for which designation as a tax enterprise zone is sought (or, if later, a reasonable time after the date of the enactment of this subchapter),

"(3) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(4) the State and local governments certify that no portion of the area nominated is already included in a tax enterprise zone or in an area otherwise nominated to be a tax enterprise zone.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a tax enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary shall revoke the designation of an area as a tax enterprise zone if such Secretary determines that the local government or the State in which it is located—

"(i) has modified the boundaries of the area, or

"(ii) is not complying substantially with the State and local commitments pursuant to section 1392(c).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.

"SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.

"(a) IN GENERAL.—The appropriate Secretary may make a designation of any nominated area under section 1391 only on the basis of the eligibility and selection criteria set forth in this section.

"(b) ELIGIBILITY CRITERIA.—

"(1) URBAN TAX ENTERPRISE ZONES.—A nominated area which is not a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 4,000.

"(B) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 20 square miles,

"(ii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels within the same metropolitan area,

"(iii) is located entirely within 1 State, and

"(iv) does not include any portion of a central business district (as such term is used for purposes of the most recent Census of Retail Trade).

"(D) UNEMPLOYMENT RATE.—The unemployment rate (as determined by the appropriate available data) is not less than 1.5 times the national unemployment rate.

"(E) POVERTY RATE.—The poverty rate (as determined by the most recent census data available) for not less than 90 percent of the population census tracts (or where not tracted, the equivalent county divisions as defined by the Bureau of the Census for the purposes of defining poverty areas) within the nominated area is not less than 20 percent.

"(F) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(2) RURAL DEVELOPMENT INVESTMENT ZONES.—A nominated area which is a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 1,000.

"(B) DISTRESS.—The nominated area is one of general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 10,000 square miles,

"(ii) consists of areas within not more than 4 contiguous counties,

"(iii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

"(iv) is located entirely within 1 State.

"(D) ADDITIONAL CRITERIA.—Not less than 2 of the following criteria:

"(i) UNEMPLOYMENT RATE.—The criterion set forth in paragraph (1)(D).

"(ii) POVERTY RATE.—The criterion set forth in paragraph (1)(E).

"(iii) JOB LOSS.—The amount of wages attributable to employment in the area, and subject to tax under section 3301 during the preceding calendar year, is not more than 95 percent of such wages during the 5th preceding calendar year.

"(iv) OUT-MIGRATION.—The population of the area decreased (as determined by the most recent census data available) by 10 percent or more between 1980 and 1990.

"(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(3) AREAS WITHIN INDIAN RESERVATIONS INELIGIBLE.—A nominated area shall not be eligible for designation under section 1391 if any portion of such area is within an Indian reservation.

"(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

"(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a tax enterprise zone, the governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in the area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both governments and private nongovernmental entities, may not be funded from proceeds of any Federal program (other than discretionary proceeds), and may include—

"(A) a certification by the State insurance commissioner (or similar State official) that basic commercial property insurance of a type comparable to that insurance generally in force in urban or rural areas, whichever is applicable, throughout the State is available to businesses within the tax enterprise zone,

"(B) a reduction of tax rates or fees applying within the tax enterprise zone,

"(C) an increase in the level, or efficiency of delivery, of local public services within the tax enterprise zone,

"(D) actions to reduce, remove, simplify, or streamline government paperwork requirements applicable within the tax enterprise zone,

"(E) the involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(F) the giving of special preference to contractors owned and operated by members of any socially and economically disadvantaged group (within the meaning of section 8(a) of the Small Business Act (15 U.S.C. 637(a)),

"(G) the gift (or sale at below fair market value) of surplus land in the tax enterprise zone to neighborhood organizations agreeing to operate a business on the land,

"(H) the establishment of a program under which employers within the tax enterprise zone may purchase health insurance for their employees on a pooled basis,

"(I) the establishment of a program to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to enterprise zone businesses, with emphasis on startup and other small-business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)),

"(J) the giving of special preference to qualified low-income housing projects located in tax enterprise zones, in the allocation of the State housing credit ceiling applicable under section 42, and

"(K) the giving of special preference to facilities located in tax enterprise zones, in the allocation of the State ceiling on private activity bonds applicable under section 146.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

"(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist any establishment in relocating from 1 area to another area.

"(B) EXCEPTION.—The limitation established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if—

"(i) the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

"(d) SELECTION CRITERIA.—From among the nominated areas eligible for designation under subsection (b) by the appropriate Secretary, such appropriate Secretary shall make designations of tax enterprise zones on the basis of the following factors (each of which is to be given equal weight):

"(1) STATE AND LOCAL COMMITMENTS.—The strength and quality of the commitments which have been promised as part of the course of action relative to the fiscal ability of the nominating State and local governments.

"(2) IMPLEMENTATION OF COURSE OF ACTION.—The effectiveness and enforceability of the guarantees that the course of action will actually be carried out, including the specificity with which the commitments under paragraph (1) are described in order that the applicable Secretary will be better able to determine annually under section 1391(d)(2)(A)(ii) whether the commitments are being carried out.

"(3) PRIVATE COMMITMENTS.—The level of commitments by private entities of additional resources and contributions to the economy of the nominated area, including the creation of new or expanded business activities.

"(4) AVERAGE RANKINGS.—The average ranking with respect to—

"(A) the criteria set forth in subparagraphs (D) and (E) of subsection (b)(1), in the case of an area which is not a rural area, or

"(B) the 2 criteria set forth in subsection (b)(2)(D) that give the area a higher average ranking, in the case of a rural area.

"(5) REVITALIZATION POTENTIAL.—The potential for the revitalization of the nominated area as a result of zone designation, taking into account particularly the number of jobs to be created and retained.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

For purposes of this subchapter—

"(1) URBAN TAX ENTERPRISE ZONE.—The term 'urban tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(1).

"(2) RURAL DEVELOPMENT INVESTMENT ZONE.—The term 'rural development investment zone' means a tax enterprise zone which meets the requirements of section 1392(b)(2).

"(3) GOVERNMENTS.—If more than 1 local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(4) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(5) NOMINATED AREA.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone under this subchapter.

"(6) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(7) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of urban tax enterprise zones, and

"(B) the Secretary of Agriculture in the case of rural development investment zones.

"(8) STATE-CHARTERED DEVELOPMENT CORPORATIONS.—An area shall be treated as nominated by a State and a local government if it is nominated by an economic development corporation chartered by the State.

"PART II—INCENTIVES FOR TAX ENTERPRISE ZONES

"SUBPART A. Enterprise zone employment credit.

"SUBPART B. Investment incentives.

"SUBPART C. Regulations.

"Subpart A—Enterprise Zone Employment Credit

"Sec. 1394. Enterprise zone employment credit.

"Sec. 1395. Other definitions and special rules.

"SEC. 1394. ENTERPRISE ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the enterprise zone employment credit determined under this section with respect to any employer for any taxable year is 15 percent of the qualified zone wages paid or incurred during such taxable year.

"(b) QUALIFIED ZONE WAGES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee.

"(2) ONLY FIRST $20,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—With respect to each qualified zone employee, the amount of qualified zone wages which may be taken into account for the taxable year shall not exceed $20,000.

"(3) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified zone wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages is taken into account in determining the credit under section 51.

"(c) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a tax enterprise zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such tax enterprise zone.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual employed by the employer at any facility described in section 144(c)(6)(B), and

"(D) any individual employed by the employer in a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the employer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the employer which are used in such a trade or business (as determined under regulations prescribed by the Secretary),

exceeds $500,000.

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"SEC. 1395. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart, the term 'wages' has the same meaning as when used in section 51.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1394 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(d) NOTICE OF AVAILABILITY OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.—Each employer shall take reasonable steps to notify all qualified zone employees of the availability to eligible individuals of receiving advanced payments of the credit under section 32 (relating to the earned income credit).

"Subpart B—Investment Incentives

"Sec. 1396. Deduction for purchase of enterprise zone stock.
"Sec. 1397. 50 percent exclusion for gain from new zone investments.
"Sec. 1397A. Nonrecognition of gain from new zone investments.
"Sec. 1397B. Other incentives.
"Sec. 1397C. Enterprise zone business defined.

"SEC. 1396. DEDUCTION FOR PURCHASE OF ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to 50 percent of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of enterprise zone stock.

"(b) LIMITATION.—

"(1) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer for the taxable year shall not exceed the lesser of—

"(A) $25,000, or

"(B) the excess of $250,000 over the amount allowed as a deduction under this section to the taxpayer for all prior taxable years.

"(2) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under paragraph (1)(A)—

"(A) the amount of such excess shall be treated as an amount paid to which subsection (a) applies during the next taxable year, and

"(B) the deduction allowed for any taxable year shall be allocated proportionately among the enterprise zone stock purchased by such person on the basis of the respective purchase prices per share.

"(3) AGGREGATION WITH FAMILY MEMBERS.—The taxpayer and members of the taxpayer's family shall be treated as one person for purposes of paragraph (1), and the limitations contained in such paragraph shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock. For purposes of this paragraph, an individual's family includes only such individual's spouse and minor children.

"(c) ENTERPRISE ZONE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock is acquired on original issue from the corporation, and

"(B) such corporation is, at the time of issue, a qualified enterprise zone issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—Such term shall include such stock only to the extent that the proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to purchase (as defined in section 179(d)(2)) qualified enterprise zone property.

"(B) QUALIFIED ENTERPRISE ZONE PROPERTY.—For purposes of this section, the term 'qualified enterprise zone property' means property to which section 168 applies—

"(i) the original use of which in a tax enterprise zone commences with the issuer, and

"(ii) substantially all of the use of which is in a tax enterprise zone.

"(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic C corporation if—

"(1) such corporation is an enterprise zone business or, in the case of a new corporation, such corporation is being organized for purposes of being an enterprise zone business,

"(2) such corporation does not have more than one class of stock,

"(3) the sum of—

"(A) the money,

"(B) the aggregate unadjusted bases of property owned by such corporation, and

"(C) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $5,000,000, and

"(4) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned directly by individuals or estates or indirectly by individuals through partnerships or trusts.

The determination under paragraph (3) shall be made as of the time of issuance of the stock in question but shall include amounts received for such stock.

"(e) DISPOSITIONS OF STOCK.—

"(1) BASIS REDUCTION.—For purposes of this title, the basis of any enterprise zone stock shall be reduced by the amount of the deduction allowed under this section with respect to such stock.

"(2) DEDUCTION RECAPTURED AS ORDINARY INCOME.—For purposes of section 1245—

"(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

"(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If—

"(i) a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

"(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of such disposition by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(f) DISQUALIFICATION.—

"(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(g) OTHER SPECIAL RULES.—

"(1) APPLICATION OF LIMITS TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (b) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

"(2) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section.

"SEC. 1397. 50 PERCENT EXCLUSION FOR GAIN FROM NEW ZONE INVESTMENTS.

"(a) GENERAL RULE.—In the case of an individual, gross income shall not include 50 percent

of any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

"(b) QUALIFIED ZONE ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone asset' means—

"(A) any qualified zone stock,

"(B) any qualified zone business property, and

"(C) any qualified zone partnership interest.

"(2) QUALIFIED ZONE STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

"(B) EXCLUSION OF STOCK FOR WHICH DEDUCTION UNDER SECTION 1396 ALLOWED.—The term 'qualified zone stock' shall not include any stock the basis of which is reduced under section 1396(e)(1).

"(C) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(3) QUALIFIED ZONE BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term 'qualified zone business property' means tangible property if—

"(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the tax enterprise zone took effect,

"(ii) the original use of such property in a tax enterprise zone commences with the taxpayer, and

"(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a tax enterprise zone and in an enterprise zone business of the taxpayer.

"(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

"(i) property which is substantially improved by the taxpayer, and

"(ii) any land on which such property is located.

For purposes of the preceding sentence, property shall be treated as substantially improved by the taxpayer if, during any 24-month period beginning after the date on which the designation of the tax enterprise zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

"(C) LIMITATION ON LAND.—The term 'qualified zone business property' shall not include land which is not an integral part of a qualified business (as defined in section 1397C(c)).

"(4) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(C) shall apply for purposes of this paragraph.

"(5) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified zone asset' includes any property which would be a qualified zone asset but for paragraph (2)(A)(i), (3)(A)(ii), or (4)(A) in the hands of the taxpayer if such property was a qualified zone asset in the hands of any prior holder.

"(6) 10-YEAR SAFE HARBOR.—If any property ceases to be a qualified zone asset by reason of paragraph (2)(A)(iii), (3)(A)(iii), or (4)(C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

"(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as a tax enterprise zone shall be disregarded for purposes of determining whether any property is a qualified zone asset.

"(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain.

"(2) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

"(3) GAIN ATTRIBUTABLE TO PERIODS AFTER TERMINATION OF ZONE DESIGNATION NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods after the termination of any designation of an area as a tax enterprise zone.

"(d) TREATMENT OF PASS-THRU ENTITIES.—

"(1) SALES AND EXCHANGES.—Gain on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 5 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (2)(C) shall apply for purposes of the preceding sentence.

"(2) INCOME INCLUSIONS.—

"(A) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held the interest to which such inclusion relates) shall be treated as gain described in subsection (a) if such amount meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—An amount meets the requirements of this subparagraph if—

"(i) such amount is attributable to qualified capital gain recognized on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

"(ii) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

"(C) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified zone asset was acquired.

"(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(e) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE QUALIFIED ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was an enterprise zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

"(1) any intangible, and any land, which is not an integral part of any qualified business (as defined in section 1397C(b)), and

"(2) gain attributable to periods before the designation of an area as a tax enterprize zone.

"(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such asset in the same manner as the transferor, and

"(B) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(g) CERTAIN BUSINESSES TREATED AS NOT QUALIFIED BUSINESSES.—For purposes of this section and section 1397A, the term 'enterprise zone business' has the meaning given such term by section 1397C except that, in applying section 1397C for such purposes, the term 'qualified business' shall not include any trade or business of producing property of a character subject to the allowance for depletion under section 611.

"SEC. 1397A. NONRECOGNITION OF GAIN FROM NEW ZONE INVESTMENTS.

"(a) GENERAL RULE.—At the election of an individual, qualified capital gain (within the meaning of section 1397) from the sale or exchange of a qualified zone asset shall be recognized only to the extent that—

"(1) the amount realized from such sale or exchange, exceeds

"(2) the cost (not heretofore taken into account under this subsection) of any qualified zone asset purchased directly by the taxpayer during the reinvestment period.

"(b) QUALIFIED ZONE ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone asset' has the meaning given such term by section 1397.

"(2) TIME FOR TESTING.—

"(A) SALES.—In the case of a sale or exchange of property, the determination of whether such property is a qualified zone asset shall be made as of the time of the sale or exchange.

"(B) PURCHASES.—In the case of a purchase of property, the determination of whether such property is a qualified zone asset shall be made as of the time of such purchase.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) REINVESTMENT PERIOD.—The term 'reinvestment period' means, with respect to any sale or exchange, the 6-month period beginning on the date of such sale or exchange.

"(2) PURCHASE.—The term 'purchase' has the meaning given to such term by section 179(d)(2).

"(d) BUSINESS OR PROPERTY CEASES TO QUALIFY.—

"(1) IN GENERAL.—If, during the 10-year period beginning on the date any qualified zone replacement asset was purchased by the taxpayer, such asset ceases to be a qualified zone asset, notwithstanding any provision of this subtitle other than paragraph (3), the taxpayer shall be treated as disposing of such asset during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

"(2) LIMITATION ON GAIN RECOGNIZED.—The amount of gain recognized pursuant to paragraph (1) with respect to any asset shall not exceed the lesser of—

"(A) the amount of gain which was not recognized under subsection (a) by the reason of the purchase of such asset, or

"(B) the excess of the fair market value referred to in paragraph (1) over the adjusted basis of such asset.

"(3) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—An asset shall not fail to be treated as a qualified zone asset for purposes of paragraph (1) solely by reason of the termination of a tax enterprise zone designation.

"(4) QUALIFIED ZONE REPLACEMENT ASSET.—For purposes of paragraph (1), the term 'qualified zone replacement asset' means any qualified zone asset the purchase of which resulted in the nonrecognition of gain under subsection (a) with respect to any other property.

"(e) BASIS OF QUALIFIED ZONE REPLACEMENT ASSET.—If gain from the sale or exchange of any property is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis of any qualified zone replacement asset (as defined in subsection (d)(4)) purchased during the reinvestment period.

"(f) COORDINATION WITH INSTALLMENT METHOD REPORTING.—This section shall not apply to any gain from any installment sale (as defined in section 453(b)) if section 453(a) applies to such sale.

"(g) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on any sale or exchange to which an election under this section applies, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any qualified zone replacement asset,

"(B) the taxpayer's intention not to purchase qualified zone replacement asset within the reinvestment period, or

"(C) a failure to make such purchase within the reinvestment period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

"SEC. 1397B. ADDITIONAL INCENTIVES.

"(a) INCREASE IN EXPENSING UNDER SECTION 179.—In the case of an enterprise zone business, section 179(b)(1) shall be applied by substituting '$20,000' for '$10,000'.

"(b) ORDINARY LOSS TREATMENT FOR CERTAIN PROPERTY.—

"(1) IN GENERAL.—Loss on any qualified zone asset (as defined in section 1397(b)) held for more than 2 years (5 years in the case of real property) shall be treated as an ordinary loss.

"(2) REAL PROPERTY.—For purposes of paragraph (1), the term 'real property' means any property which is section 1250 property (as defined in section 1250(c)).

"(3) SPECIAL RULES.—

"(A) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the following rules shall apply:

"(i) Paragraphs (1), (2), and (3) of section 1244(d).

"(ii) Subsections (b)(6), (c)(3), (d), (e), and (f) of section 1397.

"(B) COORDINATION WITH SECTION 1231.—Losses treated as ordinary losses by reason of this subsection shall not be taken into account in applying section 1231.

"SEC. 1397C. ENTERPRISE ZONE BUSINESS DEFINED.

"(a) IN GENERAL.—For purposes of this subpart, the term 'enterprise zone business' means—

"(1) any qualified business entity, and

"(2) any qualified proprietorship.

"(b) QUALIFIED BUSINESS ENTITY.—For purposes of this section, the term 'qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year—

"(1)(A) every trade or business of such entity is the active conduct of a qualified business within a tax enterprise zone, and

"(B) at least 80 percent of the total gross income of such entity is derived from the active conduct of such business,

"(2) substantially all of the use of the tangible property of such entity (whether owned or leased) is within a tax enterprise zone,

"(3) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,

"(4) substantially all of the services performed for such entity by its employees are performed in a tax enterprise zone,

"(5) at least ⅓ of its employees are residents of a tax enterprise zone,

"(6) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property.

"(c) QUALIFIED PROPRIETORSHIP.—For purposes of this section, the term 'qualified proprietorship' means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

"(1) at least 80 percent of the total gross income of such individual from such business is derived from the active conduct of such business in a tax enterprise zone,

"(2) substantially all of the use of the tangible property of such individual in such business (whether owned or leased) is within a tax enterprise zone,

"(3) substantially all of the intangible property of such business is used in, and exclusively related to, the active conduct of such business,

"(4) substantially all of the services performed for such individual in such business by employees of such business are performed in a tax enterprise zone,

"(5) at least ⅓ of such employees are residents of a tax enterprise zone,

"(6) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to nonqualified financial property.

For purposes of this subsection, the term 'employee' includes the proprietor.

"(d) QUALIFIED BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified business' means any trade or business.

"(2) RENTAL OF REAL PROPERTY.—The rental to others of real property located in a tax enterprise zone shall be treated as a qualified business if and only if—

"(A) in the case of real property which is not residential rental property (as defined in section 168(e)(2)), the lessee is an enterprise zone business, or

"(B) in the case of residential rental property (as so defined)—

"(i) such property was originally placed in service after the date the tax enterprise zone was designated, or

"(ii) such property is rehabilitated after such date in a rehabilitation which meets requirements based on the principles of section 42(e)(3).

"(3) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental to others of tangible personal property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

"(4) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term 'qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

"(5) CERTAIN BUSINESSES EXCLUDED.—The term 'qualified business' shall not include—

"(A) any trade or business consisting of the operation of any facility described in section 144(c)(6)(B), and

"(B) any trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the taxpayer which are used in such a trade or business,

exceeds $500,000.

For purposes of subparagraph (B), rules similar to the rules of section 1395(b) shall apply.

"(e) NONQUALIFIED FINANCIAL PROPERTY.—For purposes of this section, the term 'nonqualified financial property' means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

"(1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

"(2) debt instruments described in section 1221(4).

"Subpart C—Regulations

"Sec. 1397C. Regulations.

"SEC. 1397C. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including—

"(1) regulations limiting the benefit of this part in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government,

"(2) regulations preventing abuse of the provisions of this part, and

"(3) regulations dealing with inadvertent failures of entities to be qualified zone businesses."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of tax enterprise zones."

SEC. 1103. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ENTERPRISE ZONE EMPLOYMENT CREDIT PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) the enterprise zone employment credit determined under section 1394(a)."

(2) Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF SECTION 1394 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the enterprise zone employment credit determined under section 1394 may be carried to a taxable year ending before the date of the enactment of section 1394."

(b) NONITEMIZERS ALLOWED DEDUCTION FOR ENTERPRISE ZONE STOCK.—Subsection (a) of section 62 is amended by adding at the end thereof the following new paragraph:

"(14) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1396."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1394(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the enterprise zone employment credit determined under section 1394(a)."

(d) OTHER AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1397 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

(3) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1397(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1397. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(4) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1397 shall not be taken into account."

(5) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1397, and 1211".

(6) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1397 and" after "except that".

(7) Paragraph (1) of section 1371(d) (relating to coordination with investment credit recapture) is amended by inserting before the period at the end the following "and for purposes of sections 1394(d)(3)".

(8) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting a semicolon, and by adding at the end thereof the following new paragraphs:

"(25) in the case of stock with respect to which a deduction was allowed under section 1396(a), to the extent provided in section 1396(e); and

"(26) in the case of property the acquisition of which resulted under section 1397A in the nonrecognition of any part of the gain realized on the sale or exchange of other property, to the extent provided in section 1397A(e)."

(9) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (15) as paragraph (16) and by inserting after paragraph (14) the following new paragraph:

"(15) In determining the period for which the taxpayer has held property the acquisition of which resulted under section 1397A in the nonrecognition of any part of the gain realized on the sale or exchange of any qualified zone asset (as defined in section 1397A(b)), there shall be included the period for which such asset had been held as of the date of such sale or exchange."

SEC. 1104. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this part shall take effect on the date of the enactment of this Act.

(b) REQUIREMENT FOR RULES.—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue rules—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this part),

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by part IV, and

(4) providing that State and local governments shall have at least 30 days after such rules are published to file applications for nominated areas before such applications are evaluated and compared and any area designated as a tax enterprise zone.

PART II—REDEVELOPMENT BONDS FOR TAX ENTERPRISE ZONES

SEC. 1111. SPECIAL RULES FOR REDEVELOPMENT BONDS PROVIDING FINANCING FOR TAX ENTERPRISE ZONES.

(a) IN GENERAL.—Subsection (c) of section 144 (relating to qualified redevelopment bonds) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR TAX ENTERPRISE ZONES.—For purposes of this subsection, in the case of bonds issued during the 60-month period beginning on the date a tax enterprise zone is designated—

"(A) TREATMENT AS DESIGNATED BLIGHTED AREA.—Such tax enterprise zone shall be treated as a designated blighted area during such 60-month period (or, if shorter, the period such designation is in effect). Any area designated by reason of the preceding sentence shall not be taken into account in applyng paragraph (4)(C).

"(B) SECURITY FOR BONDS.—The requirements of paragraph (2)(B) shall be treated as met with respect to a financed area that is within a tax enterprise zone if the general purpose governmental unit guarantees the payment of principal and interest on the issue either directly or through insurance, a letter of credit, or a similar agreement but only if the cost thereof is financed other than with proceeds of any tax-exempt private activity bond or earnings on such proceeds.

"(C) EXPANSION OF REDEVELOPMENT PURPOSES.—

"(i) IN GENERAL.—The term 'redevelopment purposes' includes the making of loans to any enterprise zone business (as defined in section 1397B) for—

"(I) the acquisition of land within the tax enterprise zone for use in such business, or

"(II) the acquisition, construction, reconstruction, or improvement by such business of land, or property of a character subject to the allowance for depreciation, for use in such business.

"(ii) $2,500,000 LIMITATION.—Clause (i) shall apply to loans made to any enterprise zone business only if the aggregate principal amount of such loans (whether or not financed by the same issue) does not exceed $2,500,000. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person.

"(iii) LOANS MUST BE MADE WITHIN 18 MONTHS AFTER BONDS ISSUED; REPAYMENTS MUST BE USED FOR REDEMPTIONS.—Clause (i) shall apply only to loans—

"(I) made during the 18-month period beginning on the date of issuance of the issue financing such loan,

"(II) repayments of principal on which are used not later than the close of the 1st semiannual period beginning after the date the repayment is received to redeem bonds which are part of such issue, and

"(III) the effective rate of interest on which does not exceed the yield on the issue by more than 0.125 percentage points.

In determining the effective rate of interest for purposes of subclause (III), there shall be taken into account all fees, charges, and other amounts (other than amounts for any credit report) borne by the borrower which are attributable to the loan or the bond issue.

"(iv) HOUSING LOANS EXCLUDED.—Clause (i) shall not apply to any loan to be used directly or indirectly to provide residential real property.

"(v) COORDINATION WITH RESTRICTIONS ON USE OF PROCEEDS.—Paragraphs (6) and (8) shall apply notwithstanding clause (i); except that in applying paragraph (6), subsection (a)(8) shall be treated as not including a reference to a facility the primary purpose of which is retail food services.

"(D) ISSUER TO DESIGNATE AMOUNT OF ISSUE TO BE USED FOR LOANS.—Subparagraph (C) shall not apply with respect to any issue unless the issuer designates before the date of issuance the amount of the proceeds of such issue which is to be used for loans to which subparagraph (C)(i) applies. If such amount exceeds the principal amount of loans to which subparagraph (C)(i) applies, an amount of proceeds equal to such excess shall be used not later than the close of the 1st semiannual period beginning after the close of the 18-month period referred to in subparagraph (C)(iii) to redeem bonds which are part of such issue.

"(E) DE MINIMIS REDEMPTIONS NOT REQUIRED.—Subparagraphs (C)(iii) and (D) shall not be construed to require amounts of less than $250,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence.

"(F) PENALTY.—

"(i) IN GENERAL.—In the case of property with respect to which financing was provided under this paragraph, if at any time during the 10-period beginning on the date such financing was provided—

"(I) such property ceases to be in use in an enterprise zone business (as defined in section 1397B), or

"(I) substantially all of the use of such property ceases to be in a tax enterprise zone,

there is hereby imposed on the trade or business to which such financing was provided a penalty equal to 1.25 percent of so much of the face amount of all financing provided (whether or not from the same issue and whether or not such issue is outstanding) before such cessation to the trade or business using such property.

"(ii) NO PENALTY BY REASON OF ZONE TERMINATION.—No penalty shall be imposed under clause (i) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(iii) EXCEPTION FOR BANKRUPTCY.—Clause (i) shall not apply to any cessation resulting from bankruptcy."

(b) VOLUME CAP ONLY CHARGED WITH 50 PERCENT OF TAX ENTERPRISE ZONE REDEVELOPMENT BONDS.—Subsection (g) of section 146 is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(5) 50 percent of any qualified redevelopment bond issued—

"(A) as part of an issue 95 percent or more of the net proceeds of which are to be used for 1 or more redevelopment purposes (as defined in section 144(c)) in a tax enterprise zone, and

"(B) during the 60-month period beginning on the date of the designation of such zone."

(c) PENALTIES FOR LOANS MADE TO BUSINESSES THAT CEASE TO BE ENTERPRISE ZONE BUSINESSES, ETC.—Subsection (b) of section 150 is amended by adding at the end thereof the following new paragraph:

"(6) ENTERPRISE ZONE REDEVELOPMENT BONDS.—In the case of any financing provided by an issue the interest on which is exempt from tax by reason of section 144(c)(9)—

"(A) IN GENERAL.—No deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the first day of the calendar year which includes the date on which—

"(i) the trade or business to which the financing was provided ceases to be an enterprise zone business (as defined in section 1397B), or

"(ii) substantially all of the use of the property (determined in accordance with subchapter U) with respect to which the financing was provided ceases to be in a tax enterprise zone.

The preceding sentence shall not apply solely by reason of the termination or revocation of a tax enterprise zone designation.

"(B) EXCEPTION FOR BANKRUPTCY.—This paragraph shall not apply to any cessation resulting from bankruptcy."

PART III—CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 1121. CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, the current year business credit shall include the credit determined under this section.

(b) DETERMINATION OF CREDIT.—The credit determined under this section for each taxable year in the credit period with respect to any qualified CDC contribution made by the taxpayer is an amount equal to 5 percent of such contribution.

(c) CREDIT PERIOD.—For purposes of this section, the credit period with respect to any qualified CDC contribution is the period of 10 taxable years beginning with the taxable year during which such contribution was made.

(d) QUALIFIED CDC CONTRIBUTION.—For purposes of this section—

(1) IN GENERAL.—The term "qualified CDC contribution" means any transfer of cash—

(A) which is made to a selected community development corporation during the 5-year period beginning on the date such corporation was selected for purposes of this section,

(B) the amount of which is available for use by such corporation for at least 10 years,

(C) which is to be used by such corporation for qualified low-income assistance within its operational area, and

(D) which is designated by such corporation for purposes of this section.

(2) LIMITATIONS ON AMOUNT DESIGNATED.—The aggregate amount of contributions to a selected community development corporation which may be designated by such corporation shall not exceed $2,000,000.

(e) SELECTED COMMUNITY DEVELOPMENT CORPORATIONS.—

(1) IN GENERAL.—For purposes of this section, the term "selected community development corporation" means any corporation—

(A) which is described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(B) the principal purposes of which include promoting employment of, and business opportunities for, low-income individuals who are residents of the operational area, and

(C) which is selected by the Secretary of Housing and Urban Development for purposes of this section.

(2) ONLY 10 CORPORATIONS MAY BE SELECTED.—

(A) IN GENERAL.—The Secretary of Housing and Urban Development may select 10 corporations for purposes of this section, subject to the availability of eligible corporations. Such selections may be made only before January 1, 1994. At least 4 of the operational areas of the corporations selected must be rural areas (as defined by 1393(6) of such Code).

(B) PRIORITY OF DESIGNATIONS.—In selecting corporations for purposes of this section, such Secretary shall give priority to corporations with a demonstrated record of performance in administering community development programs which target at least 75 percent of the jobs emanating from their investment funds to low income or unemployed individuals.

(3) OPERATIONAL AREAS MUST HAVE CERTAIN CHARACTERISTICS.—A corporation may be selected for purposes of this section only if its operational area meets the following criteria:

(A) The area meets the size requirements under paragraph (1)(C) or (2)(C) of section 1391(b) which would apply if such area were to be designated as a tax enterprise zone.

(B) The unemployment rate (as determined by the appropriate available data) is not less than the national unemployment rate.

(C) The median family income of residents of such area does not exceed 80 percent of the median gross income of residents of the jurisdiction of the local government which includes such area.

(f) QUALIFIED LOW-INCOME ASSISTANCE.—For purposes of this section, the term "qualified low-income assistance" means assistance—

(1) which is designed to provide employment of, and business opportunities for, low-income individuals who are residents of the operational area of the community development corporation, and

(2) which is approved by the Secretary of Housing and Urban Development.

PART IV—INDIAN EMPLOYMENT AND INVESTMENT

SEC. 1131. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	The Indian reservation percentage is:
Reservation personal property	10
New reservation construction property	15
Reservation infrastructure investment	15.

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703).

"(B) QUALIFIED INVESTMENT.—The term 'qualified investment' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on a regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

For purposes of this subparagraph, the terms 'nonresidential real property', 'residential rental property', and 'class life' have the respective meanings given such terms by section 168.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property for which depreciation is allowable under section 168 and which is described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property used or located outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(H) COORDINATION WITH OTHER CREDITS.—The term 'qualified Indian reservation property' shall not include any property with respect to which the energy credit or the rehabilitation credit is allowed.

"(3) REAL ESTATE RENTALS.—For purposes of this section, the rental to others of real property located within an Indian reservation shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior.

"(6) COORDINATION WITH NONREVENUE LAWS.—Any reference in this subsection to a provision not contained in this title shall be treated for purposes of this subsection as a reference to such provision as in effect on the date of the enactment of this paragraph."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the qualified investment taken into account with respect to the property been limited to an amount which bears the same ratio to the qualified investment with respect to such property as the period such property was held by the taxpayer bears to the applicable recovery period under section 168(g).

"(C) COORDINATION WITH OTHER RECAPTURE PROVISIONS.—In the case of property to which this paragraph applies, paragraph (1) shall not apply and the rules of paragraphs (3), (4), and (5) shall apply."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) APPLICATION OF AT-RISK RULES.—Subparagraph (C) of section 49(a)(1) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the qualified investment in qualified Indian reservation property."

(g) CLERICAL AMENDMENTS.—

*(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "**; INDIAN RESERVATION CREDIT.**"*

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy credit; reforestation credit; Indian reservation credit."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1992.

SEC. 1132. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits), as amended by section 1103, is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding after paragraph (8) the following new paragraph:

"(9) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees throughout the taxable year) of the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year. In no event shall the amount of the Indian employment credit for any taxable year exceed the credit limitation amount determined under subsection (e) for such taxable year.

"(2) INDIAN EMPLOYEE.—For purposes of paragraph (1), the term 'Indian employee' means an

employee who is an enrolled member of an Indian tribe or the spouse of such a member.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(B) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages is taken into account in determining the credit under section 51.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after January 1, 1993.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1992 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid or incurred by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT.—The credit limitation amount for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer (or any predecessor) during calendar year 1992 with respect to employees whose wages (paid or incurred by the employer or any predecessor) during 1992 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(4) COORDINATION WITH NONREVENUE LAWS.—Any reference in this section to a provision not contained in this title shall be treated for purposes of this section as a reference to such provision as in effect on the date of the enactment of this paragraph."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO INDIAN EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended by striking "51(a)" and inserting "45(a), 51(a), and".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", and", and by adding at the end the following new paragraph:

"(7) the Indian employment credit determined under section 45(a).".

(d) DENIAL OF CARRYBACKS TO PREENACTMENT YEARS.—Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the Indian employment credit determined under section 45 may be carried to a taxable year ending before the date of the enactment of section 45.".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 1992.

PART V—STUDY

SEC. 1141. STUDY OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the appropriate Secretary (as defined in section 1393(7) of the Internal Revenue Code of 1986, as added by this subtitle), shall contract within 3 months of the date of the enactment of this Act, with the National Academy of Sciences (hereafter in this section referred to as the 'Academy') to conduct a study of the relative effectiveness of the incentives provided by this subtitle and the assistance provided by subtitle B of title XI in achieving the purposes of such subtitles in tax enterprise zones.

(b) CONDUCT OF STUDY.—If the Academy contracts for the conduct of the study described in subsection (a), the Academy shall develop a study methodology and shall oversee and manage the conduct of such study.

(c) REPORTS.—The Academy shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1997, an interim report setting forth the findings as a result of such study, and

(2) not later than July 1, 2002, a final report setting forth the findings as a result of such study.

Subtitle B—Permanent Extension of Certain Expiring Tax Provisions Primarily Affecting Urban Areas

SEC. 1201. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to periods after June 30, 1992.

(b) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180-day period beginning on the date of the enactment of this Act, and, once made, shall be irrevocable.

SEC. 1202. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(b) RESTORATION OF CREDIT FOR ECONOMICALLY DISADVANTAGED YOUTH WHO HAVE NOT ATTAINED AGE 25.—Subparagraph (B) of section 51(d)(3) is amended by striking "age 23" and inserting "age 25".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

SEC. 1203. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(c) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—Subsection (k) of section 143 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—

"(A) IN GENERAL.—In the case of a residence which is located in a high housing cost area (as defined in section 143(f)(5)), the interest of a governmental unit in such residence by reason of financing provided under any qualified program shall not be taken into account under this section (other than subsection (m)), and the acquisition cost of the residence which is taken into account under subsection (e) shall be such cost reduced by the amount of such financing.

"(B) QUALIFIED PROGRAM.—For purposes of subparagraph (A), the term 'qualified program' means any governmental program providing mortgage loans (other than 1st mortgage loans)—

"(i) which restricts (throughout the 9-year period beginning on the date the financing is provided) the resale of the residence to a purchaser qualifying under this section and to a price determined by an index that reflects less than the full amount of any appreciation in the residence's value, or

"(ii) which provides for deferred or reduced interest payments on such financing and grants the governmental unit a share in the appreciation of the residence,

but only if such financing is not provided directly or indirectly through the use of any tax-exempt private activity bond."

(d) FINANCING ALLOWED FOR CONTRACT FOR DEED AGREEMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by adding "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (i)(1)(C) and the construction of any residence thereon."

(2) EXCEPTION TO NEW MORTGAGE REQUIREMENT.—Paragraph (1) of section 143(i) (relating to mortgages must be new mortgages) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN CONTRACT FOR DEED AGREEMENTS.—

"(i) IN GENERAL.—In the case of land possessed under a contract for deed by a mortgagor with family income (as defined in subsection (f)(2)) of less than $15,000 in the year in which owner-financing is provided, the contract for deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) CONTRACT FOR DEED DEFINED.—For purposes of this subparagraph, the term 'contract for deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

"(iii) ADJUSTMENT TO INCOME LEVEL.—In the case of any calendar year after 1992, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.".

(3) ACQUISITION COST INCLUDES COST OF LAND.—Clause (iii) of section 143(k)(3)(B) is amended by inserting "(other than land described in subsection (i)(1)(C)(i))" after "cost of land".

(e) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) PROGRAMS.—The amendment made by subsection (c) shall apply to qualified mortgage bonds issued and mortgage credit certificates provided on or after the date of the enactment of this Act.

(4) CONTRACT FOR DEED AGREEMENTS.—The amendments made by subsection (d) shall apply to loans originated after the date of the enactment of this Act.

TITLE II—GROWTH INCENTIVES

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

Subpart A—IRA Deduction

SEC. 2001. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$100,000", and

(2) by striking "$25,000" in clause (ii) and inserting "$75,000".

(b) COST-OF-LIVING ADJUSTMENT.—Section 219(g)(3) is amended by adding at the end the following new subparagraph:

"(C) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after 1994, the applicable dollar amounts under subparagraph (B) shall be adjusted in the same manner as under subsection (h), except that such subsection shall be applied—

"(i) by substituting '$20,000' for '$500' each place it appears in paragraph (1), and

"(ii) by substituting the appropriate dollar amounts for the amounts contained in paragraph (2)."

(c) IRA ALLOWED FOR SPOUSES WHO ARE NOT ACTIVE PLAN PARTICIPANTS.—Section 219(g)(1) is amended by striking "or the individual's spouse".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

(2) SPECIAL ACCOUNTS.—For purposes of applying section 408A of the Internal Revenue Code of 1986 (as added by section 2011), the amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2002. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) In general.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1992.

"(B) CPI for any calendar year.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) Applicable dollar amount.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) Conforming Amendments.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) In General.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) Coordination with elective deferral limit.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) Conforming Amendment.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) Cross reference.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Nondeductible Tax-Free IRAs

SEC. 2011. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) General Rule.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) Special Individual Retirement Account.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) Treatment of Contributions.—

"(1) No deduction allowed.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) Contribution limit.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) Special rules for qualified transfers.—

"(A) In general.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) Limit not to apply.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) Tax Treatment of Distributions.—

"(1) In general.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) Exception for earnings on contributions held less than 5 years.—

"(A) In general.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) Ordering rule.—

"(i) First-in, first-out rule.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) Allocations between contributions and earnings.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) Allocation of earnings.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) Contributions in same year.—Except as provided in regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) Cross reference.—

"For additional tax for early withdrawal, see section 72(t).

"(3) Qualified transfer.—

"(A) In general.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) Contribution period.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) Special rules relating to certain transfers.—

"(A) In general.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) Time for inclusion.—In the case of any qualified transfer which occurs before January 1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) Qualified Transfer.—For purposes of this section—

"(1) In general.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) Limitation.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the sum of the applicable dollar amount plus $10,000. This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account.

"(3) Definitions.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

(b) Early Withdrawal Penalty.—Section 72(t), as amended by section 2021(c), is amended by adding at the end thereof the following new paragraph:

"(8) Rules relating to special individual retirement accounts.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) Excess Contributions.—Section 4973(b) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) Conforming Amendment.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1993.

(2) Qualified transfers in 1993.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1993.

PART II—PENALTY-FREE DISTRIBUTIONS

SEC. 2021. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES, OR BY THE LONG-TERM UNEMPLOYED.

(a) In General.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year.

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C) or (D)".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child, or grandchild of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan (other than a plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

(e) SPECIAL RULE FOR CERTAIN DISASTER VICTIMS.—For purposes of section 72(t)(6) of the Internal Revenue Code of 1986, an individual whose principal residence was destroyed or substantially damaged by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar shall be treated as a first-time homebuyer with respect to such residence if the individual rebuilds it or with respect to any other principal residence acquired to replace such residence.

(f) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7))."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1992.

SEC. 2022. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by section 2011(b), is amended by adding at the end thereof the following new paragraph:

"(9) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

"(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

"(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(C) SPECIAL RULE FOR ROLLOVERS.—

"(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c), 403(a)(4), or 403(b)(8) applied.

"(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.

"(D) SPECIAL ACCOUNTS.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (8)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1993.

Subtitle B—Economic Development Provisions

PART I—INVESTMENT IN REAL ESTATE

Subpart A—Modification of Passive Loss Rules

SEC. 2101. APPLICATION OF PASSIVE LOSS RULES TO RENTAL REAL ESTATE ACTIVITIES.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Subsection (c) of section 469 (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity. Nothing in the preceding provisions of this subparagraph shall be construed as affecting the determination of whether the taxpayer materially participates with respect to any interest in a limited partnership as a limited partner.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(D) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 469(c) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(2) Clause (iv) of section 469(i)(3)(E) is amended by inserting "or any loss allowable by reason of subsection (c)(7)" after "loss".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

Subpart B—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 2111. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution where—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 30 percent of the value of the property (determined as of such time).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after October 1, 1992.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after October 1, 1992.

SEC. 2112. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 2211) is amended by adding at the end thereof the following new subparagraph:

"(J) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II). For purposes of subclause (II), interests owned by individual retirement plans (as defined in section 7701(a)(37)) shall not be taken into account.

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership years ending after October 1, 1992.

SEC. 2113. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2114. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were not) in excess of 20 percent of the net selling price of the property with respect to such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after October 1, 1992.

SEC. 2115. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended by inserting "or real property" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after October 1, 1992.

SEC. 2116. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income (less direct expenses related thereto) of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income (less direct expenses related thereto) of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) PENSION-HELD REIT.—The purposes of subparagraph (C)—

"(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

Subpart C—Discharge of Indebtedness

SEC. 2121. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) in the case of an individual, the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATIONS.—

"(A) INDEBTEDNESS IN EXCESS OF VALUE.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

"(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(ii) the fair market value of the real property described in paragraph (3)(A) (as of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

"(B) OVERALL LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—The term 'qualified real property business indebtedness' means indebtedness which—

"(A) was incurred or assumed by an individual in connection with real property used in a trade or business and is secured by such real property,

"(B) was incurred or assumed before July 30, 1992, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

"(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

"(4) QUALIFIED ACQUISITION INDEBTEDNESS.—For purposes of paragraph (3)(B), the term 'qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

"(5) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 is amended by striking "Subsections (a), (b), and (g)" each place it appears in the heading thereof and in the text and headings of paragraphs (6) and (7)(A) and inserting "Subsections (a), (b), (c), and (g)".

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) is amended by inserting "or under paragraph (3)(B) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) is amended by inserting "or (c)(1)" after "subsection (b)(5)".

(8) Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULES FOR QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

"(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

"(ii) subparagraph (E) shall not apply, and

"(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1991, in taxable years ending after such date.

PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 2131. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" and inserting "June 30, 1993", and

(2) by striking "July 1, 1992" and inserting "July 1, 1993".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2132. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is amended by striking "1992" each place it appears and inserting "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2133. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2134. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 2135. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amending by striking "1992" each place it appears and inserting "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2136. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2137. QUALIFIED SMALL ISSUE BONDS.

Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

PART III—OTHER INCENTIVES

SEC. 2151. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service in taxable years beginning after the date of the enactment of the Revenue Act of 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

Subtitle C—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used in Noncommercial Boats

SEC. 2201. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest

price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) TECHNICAL AMENDMENTS.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect before the date described in subsection (d)(1), is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on January 1, 1992.

(2) INDEXING FOR INFLATION.—Subsection (e) of section 4001 of the Internal Revenue Code of 1986 (relating to inflation adjustment), as added by this section, shall apply with respect to passenger vehicles (as defined in such section 4001) purchased on or after October 1, 1992.

(3) DEMONSTRATOR VEHICLES.—Subsection (b)(3) of section 4002 of the Internal Revenue Code of 1986 (relating to exemption for demonstration use), as added by this section, shall apply with respect to passenger vehicles (as defined in such section 4001) the use of which begins on or after July 1, 1992.

(4) CERTAIN EQUIPMENT FOR USE BY DISABLED INDIVIDUALS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 2202. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered boat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN BOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) in the case of diesel fuel, a boat employed in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation."

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following flush sentence:

"For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used on or after January 1, 1993, and before October 1, 1997.

Subtitle D—Credit for Portion of Employer Social Security Taxes Paid With Respect to Employee Cash Tips

SEC. 2301. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

"(a) GENERAL RULE.—For purposes of section 38, the employer social security credit determined under this section for the taxable year is an amount equal to the excess employer social security tax paid or incurred by the taxpayer during the taxable year.

"(b) EXCESS EMPLOYER SOCIAL SECURITY TAX.—For purposes of this section, the term 'excess employer social security tax' means any tax paid by an employer under section 3111 with respect to tips received by an employee during any month, to the extent such tips—

"(1) are deemed to have been paid by the employer to the employee pursuant to section 3121(q), and

"(2) exceed the amount by which the wages (excluding tips) paid by the employer to the employee during such month are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act).

"(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding at the end the following new paragraph:

"(9) the employer social security credit determined under section 45(a)."

(2) LIMITATION ON CARRYBACKS.—Subsection (d) of section 39 (relating to transitional rules) is amended by adding at the end the following new paragraph:

"(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the employer social security credit determined under section 45 may be carried back to a taxable year ending before the date of the enactment of section 45."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45. employer social security credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes paid after December 31, 1992.

TITLE III—OFFSETTING REVENUE INCREASES

Subtitle A—General Provisions

SEC. 3001. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B)(i) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and (ii) any obligation to acquire a security described in clause (i) if such obligation is entered into in the ordinary course of such trade or business and is not held for sale, and

"(C) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(C) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in connection with its activities as a dealer in securities, or

"(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by, or provision of, this section. All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

SEC. 3002. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by the treatment of FSLIC assistance credited before such date in a manner other than the manner described in subsection (a). All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

SEC. 3003. SPECIAL RULES FOR RENTAL USE OF DWELLING FOR LESS THAN 15 DAYS PER YEAR.

(a) IN GENERAL.—Section 280A is amended by striking subsection (g) and inserting:

"(g) SPECIAL RULE FOR CERTAIN RENTAL USE.—Notwithstanding any other provision of this section or section 183, if the principal residence of the taxpayer is actually rented for less than 15 days during the taxable year for the purpose of providing accommodations to visitors to an event for which commercial rental accommodations in the community holding the event are not sufficient to reasonably provide more than one-half of the accommodations necessary (and the rental income received by the taxpayer for any visitor is not greater than a reasonable rental rate charged per individual guest by commercial rental accommodations), then—

"(1) no deduction otherwise allowable under this chapter because of the rental use of such dwelling unit shall be allowed, and

"(2) the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under section 61.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations providing such de minimis rules as the Secretary may deem appropriate."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3004. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

"Nonresidential real property ....40 years."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after July 28, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before July 28, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before July 28, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 3005. MODIFICATIONS TO DEDUCTIONS FOR CERTAIN MOVING EXPENSES.

(a) REPEAL OF DEDUCTION FOR QUALIFIED RESIDENCE SALE, ETC., EXPENSES.—

(1) IN GENERAL.—Paragraph (1) of section 217(b) (defining moving expenses) is amended by inserting "or" at the end of subparagraph (C), by striking ", or" at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 217 is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(B) Section 217 is amended by striking subsection (e).

(b) DEDUCTION DISALLOWED FOR MEAL EXPENSES.—Paragraph (1) of section 217(b) is amended—

(1) by striking "meals and lodging" in subparagraphs (B), (C) and (D) and inserting "lodging", and

(2) by adding at the end thereof the following new sentence:

"Such term shall not include any expenses for meals.".

(c) OVERALL LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 217(b)(2) (as redesignated by subsection (a)) is amended to read as follows:

"(A) DOLLAR LIMITS.—The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work shall not exceed $10,000. The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work which is attributable to expenses described in subparagraphs (C) or (D) of paragraph (1) shall not exceed $1,500."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 217(b)(2) (as so redesignated) is amended by striking the second sentence and inserting the following: "In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$750' for '$1,500', and by substituting '$5,000' for '$10,000'."

(B) Paragraph (1) of section 217(h) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) subsection (b)(2)(A) shall be applied by substituting '$4,500' for '$1,500', and

"(C) appropriate adjustments to the application of the last sentence of subsection (b)(2)(B) shall be made to take into account the provisions of subparagraph (B) of this paragraph."

(d) INCREASE IN MILEAGE REQUIREMENTS.—Paragraph (1) of section 217(c) is amended by striking "35 miles" each place it appears and inserting "60 miles".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 3006. EXTENSION OF TOP ESTATE AND GIFT TAX RATES.

(a) GENERAL RULE.—

(1) Subparagraph (A) of section 2001(c)(2) (relating to rate schedule) is amended by striking "1993" and inserting "1998".

(2) Subparagraph (D) of section 2001(c)(2) is amended by striking "1993" each place it appears (including in the subparagraph heading) and inserting "1998".

(3) Paragraph (3) of section 2001(c) is amended by striking "1992" and inserting "1997".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 3007. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or

an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1992.

SEC. 3008. TREATMENT OF CERTAIN HIGH YIELD DISCOUNT OBLIGATIONS.

(a) In General.—Paragraphs (1)(A) and (2)(A) of section 163(i) (relating to applicable high yield discount obligations) are each amended by striking "5 years" and inserting "4 years".

(b) Effective Date.—The amendments made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

SEC. 3009. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) In General.—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

"(3) Denial of deduction for club dues.—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1992.

SEC. 3010. INCREASE IN CASUALTY LOSS DEDUCTIBLE.

(a) In General.—Paragraph (1) of section 165(h) (relating to treatment of casualty gains and losses) is amended—

(1) by striking "$100 limitation" in the heading and inserting "Limitation", and

(2) by striking "$100" in the text and inserting "$500".

(b) Loss Deductible Indexed for Inflation.—Subsection (h) of section 165 is amended by adding at the end thereof the following new paragraph:

"(5) Inflation adjustment of per casualty limitation.—In the case of any taxable year beginning after 1993, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 3011. ADDITIONAL SUBSTANTIATION REQUIREMENTS FOR CERTAIN MEALS AND ENTERTAINMENT EXPENSES.

(a) General Rule.—Subsection (d) of section 274 (relating to substantiation requirements) is amended by adding at the end thereof the following new sentence: "In the case of an expense for any meal referred to in paragraph (1) or an item referred to in paragraph (2), the taxpayer shall not be treated as meeting the substantiation requirements of this subsection with respect to the amount of such expense or item unless such amount is shown on a receipt which is prepared by the provider of the meal, entertainment, amusement, or recreation (as the case may be) and which is provided at the time of (or within a reasonable period of time after) the furnishing of the meal, entertainment, amusement, or recreation (as the case may be)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses paid or incurred after December 31, 1992.

SEC. 3012. PASSIVE ACTIVITY LOSSES AND CREDITS REDUCED UNDER SECTION 108.

(a) In General.—Section 108(b)(2) is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Passive activity loss and credit carryovers.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge."

(b) Conforming Amendment.—Subparagraph (B) of section 108(b)(3) is amended by adding at the end the following new sentence: "The reduction described in subparagraph (F) in any passive activity credit carryover shall be 33 ⅓ cents for each dollar excluded by subsection (a)."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 3013. REPEAL OF STOCK FOR DEBT EXCEPTION IN DETERMINING INCOME FROM DISCHARGE OF INDEBTEDNESS.

(a) In General.—Subsection (e) of section 108 of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraph (10) and redesignating paragraph (11) as paragraph (10), and

(2) by amending paragraph (8) to read as follows.

"(8) Indebtedness satisfied by corporation's stock.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock."

(b) Conforming Amendment.—Paragraph (5) of section 382(l) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock transferred after July 9, 1992, in satisfaction of any indebtedness.

(2) Exception.—The amendments made by this section shall not apply to stock transferred in satisfaction of any indebtedness if such transfer is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before July 9, 1992.

(3) Exception.—The amendments made by this section shall not apply to any stock transferred in satisfaction of any indebtedness if such transfer occurs on or before December 31, 1993, and—

(A) the taxpayer had filed with the Securities and Exchange Commission on or before July 9, 1992, a registration statement which proposed a stock-for-debt exchange with respect to such indebtedness, and which discussed the possible application of the stock-for-debt exception to such exchange, or

(B) the transfer is pursuant to a binding contract in effect on July 9, 1992.

Subtitle B—Estimated Tax Provisions

SEC. 3101. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) General Rule.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(ii) and inserting "120 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) Conforming Amendments.—

(1) Subparagraph (C) of section 6654(i)(1) is amended by striking "and without regard to subparagraph (C) of subsection (d)(1)".

(2) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply".

(3) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) Effective Date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

SEC. 3102. CORPORATE ESTIMATED TAX PROVISIONS.

(a) Increase in Estimated Tax.—

(1) In general.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(A) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "100 percent",

(B) by striking "91 percent" in the heading of paragraph (2) and inserting "100 percent", and

(C) by striking paragraph (3).

(2) Conforming amendments.—

(A) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	*The applicable percentage is:*
1st	*25*
2nd	*50*
3rd	*75*
4th	*100."*

(B) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) Modification of Periods for Applying Annualization.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) Election for different annualization periods.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(3) The last sentence of section 6655(f)(3)(A) is amended by striking "and subsection

(e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

Subtitle C—Administrative Provisions

SEC. 3201. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) General Rule.—Subsection (e) of section 6611 is amended to read as follows:

"(e) Disallowance of Interest on Certain Overpayments.—

"(1) Refunds within 45 days after return is filed.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) Refunds after claim for credit or refund.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed, no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS initiated adjustments.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) Effective Dates.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1993.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1994, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1994, regardless of the taxable period to which such refund relates.

SEC. 3202. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402(g)-1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent. The preceding sentence shall apply to payments made after December 31, 1992.

Subtitle D—Alternative Taxable Years

SEC. 3301. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) Limitations on Taxable Years Which May Be Elected.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) Taxable Year Must Be Same as Reporting Period.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) Period of Election.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) Period of election.—

"(A) In general.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) Change not treated as termination.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) Exception for Trusts.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) Exception for certain structures that include trusts.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) Regulations.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

SEC. 3302. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) Additional Required Payment.—

(1) In general.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) Required Payment.—For purposes of this section—

"(1) In general.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) Additional payment for new applicable election years.—

"(A) In general.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) New applicable election year.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) Additional amount.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) Required payment.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) Due date.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

"(2) Due date.—

"(A) In general.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

"(B) Special rule where new applicable election year adopted.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins."

(3) Penalties.—

(A) In general.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

"(D) Failure to pay additional amount.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

"(i) subparagraph (A) shall not apply, but

"(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year."

(B) Conforming amendment.—Section 7519(f)(4)(A) is amended by striking "In" and inserting "Except as provided in subparagraph (D), in".

(4) Refunds.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

"(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or".

(5) Conforming amendments.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking "subsection (b)(2)" and inserting "subsection (b)(1)(B)", and

(ii) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(A)".

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) OTHER DEFINITIONS AND SPECIAL RULES.—

(1) REFUND.—Paragraph (3) of section 7519(c) (relating to date on which refund is payable) is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(2) DEFERRAL RATIO.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: "Except as provided in regulations, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year."

(3) NET INCOME.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

"(D) EXCESS APPLICABLE PAYMENTS FOR BASE YEAR.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

"(i) the applicable payments taken into account in determining net income for the base year, over

"(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year."

(4) DEFERRAL PERIOD.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

"(1) DEFERRAL PERIOD.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year."

(5) BASE YEAR.—

(A) IN GENERAL.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation preceding such applicable election year."

(B) CONFORMING AMENDMENT.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

"(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i)."

(c) INTEREST.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund."

SEC. 3303. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year."

(c) DISALLOWANCE OF NOL CARRYBACKS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) CONFORMING AMENDMENT.—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(e)(1)".

SEC. 3304. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1992.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

PART I—PROVISIONS RELATING TO EARNED INCOME CREDIT

SEC. 4101. REPEAL OF CERTAIN INTERACTION RULES.

(a) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(b) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(c) REPEAL OF INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) (relating to supplemental young child credit) is amended by striking the second sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4102. MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES NO LONGER EXCLUDED FROM EARNED INCOME CREDIT, ETC.

(a) IN GENERAL.—Subparagraph (E) of section 32(c)(3) (defining qualified child) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply during any period during which the taxpayer is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with the Armed Forces of the United States."

(b) REPORTING OF MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and by inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit)."

(c) ADVANCE PAYMENT OF EARNED INCOME CREDIT BASED ON MILITARY EARNED INCOME.—Paragraph (1) of section 3507(c) (defining earned income advance amount) is amended by adding at the end thereof the following new sentence:

"In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount shall be determined by taking into account such employee's earned income as determined for purposes of section 32."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to remuneration paid after December 31, 1992.

PART II—PROVISIONS RELATING TO ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE

SEC. 4111. MULTIPLE SALES WITHIN ROLLOVER PERIOD.

(a) GENERAL RULE.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 4112. SPECIAL RULES IN CASE OF DIVORCE.

(a) IN GENERAL.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 4113. EXTENSION OF ROLLOVER PERIOD WHERE TAXPAYER HAS SUBSTANTIAL FROZEN DEPOSITS.

(a) GENERAL RULE.—Section 1034 (relating to rollover of gain on sale of principal residence) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) EXTENSION WHERE TAXPAYER HAS SUBSTANTIAL FROZEN DEPOSITS.—

"(1) IN GENERAL.—The running of any period of time specified in subsection (a) or (c) (other

than the 2 years referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer has substantial frozen deposits after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence.

"(2) SUBSTANTIAL FROZEN DEPOSITS.—For purposes of this subsection—

"(A) IN GENERAL.—A taxpayer shall be treated as having substantial frozen deposits for any period during which the aggregate frozen deposits of the taxpayer exceed 50 percent of the net amount realized from the sale of the old residence.

"(B) FROZEN DEPOSIT.—The term 'frozen deposit' means deposit in a financial institution if such deposit may not be withdrawn (during a period of at least 5 days) because of—

"(i) the bankruptcy or insolvency of a financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

"(C) NET AMOUNT REALIZED.—The net amount realized from the sale of the old residence is the amount realized from the sale of the old residence reduced—

"(i) as provided in subsection (b)(1), and

"(ii) by the amount of any indebtedness of the taxpayer which was secured by the old residence.

"(3) TREATMENT OF MARRIED INDIVIDUALS.—If the old residence and the new residence are each used by the taxpayer and the spouse of the taxpayer as their principal residence, such individuals shall be treated as one taxpayer for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) any residence sold or exchanged after December 31, 1990, and

(2) any residence sold or exchanged on or before such date if the period specified in section 1034(a) of the Internal Revenue Code of 1986 (without regard to the amendment made by subsection (a)) has not expired before January 1, 1991.

PART III—OTHER PROVISIONS

SEC. 4121. DE MINIMIS EXCEPTION TO PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended—

(1) by striking subsection (m),

(2) by redesignating subsection (l) as subsection (m), and

(3) by inserting after subsection (k) the following new subsection:

"(l) DE MINIMIS EXCEPTION.—

"(1) IN GENERAL.—In the case of a natural person, subsection (a) shall not apply to the passive activity loss for any taxable year if the amount of such loss does not exceed $200.

"(2) EXCEPTION FOR ITEMS ATTRIBUTABLE TO PUBLICLY TRADED PARTNERSHIPS.—This subsection shall not apply to items treated separately under subsection (k) (and such items shall not be taken into account in determining whether paragraph (1) applies to the taxpayer for the taxable year with respect to other items).

"(3) ESTATES ELIGIBLE.—For purposes of this subsection, an estate shall be treated as a natural person with respect to any taxable year ending less than 2 years after the death of the decedent.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—

"(A) IN GENERAL.—This subsection shall not apply to a taxpayer who—

"(i) is a married individual filing a separate return for the taxable year, and

"(ii) does not live apart from his spouse at all times during such taxable year.

"(B) LIMITATION.—Paragraph (1) shall be applied by substituting '$100' for '$200' in the case of a married individual who files a separate return for the taxable year and to whom this subsection applies after the application of subparagraph (A)."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 56(b)(1) is amended by striking clause (ii) and redesignating the following clauses accordingly.

(2) Subsection (b) of section 58 is amended by inserting "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(3) Paragraph (4) of section 163(d) is amended by striking subparagraph (E).

(4) Subsection (d) of section 163 is amended by striking paragraph (6).

(5) Subsection (h) of section 163 is amended by striking paragraph (5).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4122. PAYMENT OF TAX BY CREDIT CARD.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards or debit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card or debit card, so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card or debit card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

"(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth-in-Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

"(C) a payment of internal revenue taxes (or a payment for internal

"(D) the term 'creditor' under section 103(f) of the Truth-in-Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

"(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth-in-Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

"(e) CONFIDENTIALITY OF INFORMATION.—

"(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

"(2) EXCEPTIONS.—

"(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

"(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

"(i) statistical risk and profitability assessment;

"(ii) transferring receivables, accounts, or interest therein;

"(iii) auditing the account information;

"(iv) complying with Federal, State, or local law; and

"(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

"(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

"(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1), see section 7431."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means."

(c) AMENDMENTS TO SECTIONS 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 and (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary."

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e)."

(3) Section 6103(p)(3)(A) is amended by striking "or (6)" and inserting in lieu thereof "(6), or (8),".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day 9 months after the date of the enactment of this Act.

SEC. 4123. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4124. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200 ($400 in the case of a joint return), and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4125. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4126. TAX TREATMENT OF CERTAIN COMBAT PAY.

(a) MONTHLY EXCLUSION OF COMMISSIONED OFFICERS.—

(1) IN GENERAL.—Section 112(b) is amended by striking "$500" and inserting "the applicable amount".

(2) APPLICABLE AMOUNT.—Section 112(c) is amended by adding at the end the following new paragraph:

"(5) APPLICABLE AMOUNT.—

"(A) IN GENERAL.—The term 'applicable amount' means $2,000.

"(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 1994, the $2,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(i) $2,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied for purposes of this clause by substituting 'calendar year 1993' for 'calendar year 1989'."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to service in a combat zone after December 31, 1993.

(b) EXTENSION OF SPECIAL TAX TREATMENT FOR PRISONERS OF WAR AND MISSING IN ACTION OF PERSIAN GULF CONFLICT.—

(1) IN GENERAL.—Paragraph (1) of section 112(d), as amended by subsection (c)(2)(B), is amended by inserting "or the Persian Gulf conflict" after "Vietnam conflict".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 112(d) is amended by adding at the end the following new sentence: "For purposes of this subsection, an individual is in missing status as a result of the Persian Gulf conflict if, immediately before such status began, the individual was performing service in the combat zone designated by Executive Order 12744 during the period of combatant activities, or the individual was performing service in Southwest Asia and was entitled to special pay for hostile fire or imminent danger under section 310 of title 37, of the United States Code by reason of being in direct support of military operations in such combat zone during such period."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

(c) CLASSIFICATION OF VIETNAM SERVICE.—

(1) IN GENERAL.—Section 112(c)(3) is amended by inserting ", and May 7, 1975 shall be considered the date of termination of combatant activities in the combat zone designated in Executive Order 11216" after "Executive Order 10195".

(2) CONFORMING AMENDMENTS.—

(A) The first sentence of section 112(d)(3) is amended by striking ", and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam".

(B) Paragraphs (1) and (2) of section 112(d) are each amended by striking "during the Vietnam conflict as a result of such conflict" and inserting "as a result of the Vietnam conflict".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act, except that in the case of the Persian Gulf conflict, the amendment made by paragraph (2)(B) shall apply on and after January 1, 1991.

(d) EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1992.

SEC. 4127. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and to otherwise simplify the individual income tax returns, including—

(1) (if appropriate) allowing taxpayers who itemize deductions to file their return on Form 1040A, and

(2) removing or raising the taxable income limitations on taxpayers who may file Form 1040A. .

(b) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4128. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a)."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee."

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section

1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(e)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) (as in effect after the amendments made by the Unemployment Compensation Amendments of 1992 and before the amendments made by this Act) shall apply.

SEC. 4202. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 4203. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	*The number of anticipated payments is:*
Not more than 55	*300*
More than 55 but not more than 60	*260*
More than 60 but not more than 65	*240*
More than 65 but not more than 70	*170*
More than 70	*120*

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1992.

SEC. 4204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½,

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408(a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1993.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) REPEAL OF PARTICIPATION REQUIREMENT.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(c) CONFORMING AMENDMENTS.—Clause (ii) of section 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F) are each amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 4212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning on or after December 31, 1992, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 4213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—NONDISCRIMINATION PROVISIONS

SEC. 4221. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) had compensation for the preceding year from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d)."

(b) SPECIAL RULE WHERE NO EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—If no employee is treated as a highly compensated employee under paragraph (1), the highest paid officer for the year shall be treated as a highly compensated employee.

(c) TREATMENT OF FAMILY MEMBERS.—Paragraph (6) of section 414(q) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(5) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Revenue Act of 1992."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 4222. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATES.—The amendment made by this section shall apply to years beginning after December 31, 1991.

SEC. 4223. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

PART IV—MISCELLANEOUS SIMPLIFICATION

SEC. 4231. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under significant direction or control by the recipient."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 4232. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)(A)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period is the calendar quarter beginning October 1, 1986.

"(C) BASE PERIOD FOR SEPARATIONS.—For purposes of paragraph (1)(B), the base period is the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1) and 408(k)(2)(C) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4233. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4234. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1994, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1996.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 4235. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4236. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to an election if—

"(I) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar.

"(II) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(ii) TRANSITION PERIOD.—In the case of any election period beginning on or after January 1, 1993, and before January 1, 1994, the requirements of clause (i) shall not apply and the requirements of this subparagraph are met with respect to such election period if—

"(I) FILING DATE.—Notice of election is filed with the Secretary by April 1, 1993.

"(II) INFORMATION.—The notice sets forth the name and tax identification number of the plan

sponsor, the names and tax identification numbers of the plans to which the election applies, the limitation under paragraph (7) (determined with and without regard to this paragraph), and a signed certification by an officer of the employer stating that the requirements of this paragraph have been met.

"(iii) REVENUE OFFSET PROCEDURES.—The Secretary shall, by July 1, 1993, notify defined benefit plans that have not made an election under this paragraph for the transition period described in clause (ii) of the adjustment required by subparagraph (H). The revenue offset for the transition period shall apply to plan years beginning on or after January 1, 1993, and before January 1, 1994.

"(iv) EXCESS CONTRIBUTIONS MADE BY NON-ELECTING PLANS.—To the extent a defined benefit plan sponsor makes a contribution to a defined benefit plan with respect to the transition period described in clause (ii) which exceeds the limitation of paragraph (7), as adjusted by the Secretary for the transition period, the sponsor shall offset the excess contribution against allowable contributions to the plan in subsequent quarters in the taxable year of the sponsor. If no subsequent contributions may be made for the taxable year, the trustee of the defined benefit plan shall return the excess contribution to the sponsor in that taxable year or the following taxable year. Notwithstanding any other provision of this title, no deduction shall be allowed for any contribution made in excess of the limitation of paragraph (7), as adjusted by the Secretary for the transition period, and no penalty shall apply with respect to contributions made in excess of such limitation to the extent such excess contributions are either used to offset subsequent contributions, or returned to the plan sponsor, as provided in this clause.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 percent of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 4237. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 4238. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end thereof the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting the words ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate

of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "An election made pursuant to the preceding sentence to have the provisions of this paragraph applied to the plan may be revoked not later than the last day of the 3rd plan year beginning after the date of enactment with respect to all plan years as to which such election has been applicable and all subsequent plan years; provided that any amount paid by the plan in a taxable year ending after revocation of such election in respect of benefits attributable to a taxable year during which such election was in effect shall be includible in income by the recipient in accordance with the rules of this chapter in the taxable year in which such amount is received (except that such amount shall be treated as received for purposes of the limitations imposed by this section in the earlier taxable year or years to which such amount is attributable)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4239. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end thereof the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4240. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting a comma, and by inserting after subparagraph (S) the following new subparagraphs:

"(T) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(U) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more."

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking "the $10" and inserting "$100", and

(2) by striking "$5,000" and inserting "$50,000".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1992.

SEC. 4241. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end thereof the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4242. AFFILIATED EMPLOYERS.

(a) IN GENERAL.—For purposes of Treasury Regulations section 1.501(c)(9)-2(a)(1), a group of employers shall be deemed to be affiliated if they are substantially all section 501(c)(12) organizations which perform services (or with respect to which their members perform services) which are the same or are directly related to each other.

(b) SECTION 501(c)(12) ORGANIZATION.—For purposes of this section, the term "section 501(c)(12) organization" means—

(1) any organization described in section 501(c)(12) of the Internal Revenue Code of 1986,

(2) any organization providing a service which is the same as a service which is (or could be) provided by an organization described in paragraph (1),

(3) any organization described in paragraph (4) or (6) of section 501(c) of such Code, but only if at least 80 percent of the members of the organization are organizations described in paragraph (1) or (2), and

(4) any organization which is a national association of organizations described in paragraph (1), (2), or (3).

An organization described in paragraph (2) (but not in paragraph (1)) shall not be treated as a section 501(c)(12) organization with respect to a voluntary employees' beneficiary association unless a substantial number of employers maintaining such association are described in paragraph (1).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4243. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4244. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) The Commission shall consist of—

(A) 6 members to be appointed by the President;

(B) 6 members to be appointed by the Speaker of the House of Representatives; and

(C) 6 members to be appointed by the President pro tempore of the Senate.

(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant private pension programs.

(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

(1)(A) It shall be the duty and function of the Commission to conduct a full and complete review and study of retirement income policy, including—

(i) trends in retirement savings in the United States;

(ii) existing Federal incentives and programs that are established to encourage and protect such savings; and

(iii) new Federal incentives and programs that are needed to encourage and protect such savings.

(B) In fulfilling its duties under paragraph (1), the Commission shall address—

(i) the amount and sources of Federal and private funds, including tax expenditures (as defined in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622)), needed to finance the

incentives and programs referred to in subparagraph (A)(ii) and any new Federal incentive or program that the Commission recommends be established;

(ii) the most efficient and effective manner, considering the needs of retirement plan sponsors for simplicity, reasonable cost, and appropriate incentives, of ensuring that individuals in the United States will have adequate retirement savings;

(iii) the work force and demographic trends that affect the pensions of future retirees, including specific problems of the contingent work force;

(iv) the role of retirement savings in the economy of the United States;

"(v) sources of retirement income other than private pensions that are available to individuals in the United States;

(vi) the shift away from insured and qualified pension benefits in the United States; and

(vii) the adequacy of procedures to resolve disputes involving such benefits.

(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1994, setting forth the results of the study under subsection (d)(1). The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings. The recommendations shall include measures that address the needs of future retirees for—

(1) appropriate pension plan coverage and other mechanisms for saving for retirement;

(2) an adequate retirement income;

(3) preservation and portability of benefits accumulated by participating in private pension plans; and

(4) information concerning pension plan benefits.

A recommendation of the Commission for a new Federal incentive or program that would result in an increase in the Federal budget deficit shall not appear in the report unless it is accompanied by a recommendation for offsetting the increase.

(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

(1)(A) Members of the Commission shall be appointed during the period beginning February 1, 1993, and ending March 1, 1993, for terms ending on September 1, 1994.

(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(4) The Commission shall meet at the call of the Chairman.

(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places,. and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993 and 1994, such sums as may be necessary to carry out this section.

(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 44, United States Code.

SEC. 4245. CHURCH PLANS.

(a) VESTING REQUIREMENTS.—

(1) IN GENERAL.—Section 411(e) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CHURCH PLANS.—A plan described in paragraph (1)(B) shall be treated as meeting the requirements of this section for purposes of section 401(a) if the plan satisfies the requirements of subparagraph (A) and either of the requirements of subparagraph (B) or (C):

"(A) EMPLOYEE CONTRIBUTIONS ARE NONFORFEITABLE.—An employee's rights in the employee's accrued benefit derived from the employee's own contributions are nonforfeitable.

"(B) 10-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(C) 5- TO 15-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

"Years of Service	Nonforfeitable percentage
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100.

"(D) YEARS OF SERVICE.—For purposes of this paragraph, an employee's years of service shall be determined in accordance with any reasonable method selected by the plan."

(2) CONFORMING AMENDMENTS.—

(A) The last sentence of section 401(a) is amended by striking "subsection (e)(2)" and inserting "subsection (e) (2) or (3)".

(B) Section 411(e) is amended—

(i) by inserting "or (3)" after "(2)" in paragraph (1), and

(ii) by inserting "(other than paragraph (1)(B))" after "paragraph (1)" in paragraph (2).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1993.

(b) RULES GENERALLY APPLICABLE TO CHURCH PLANS.—

(1) IN GENERAL.—Section 414(e) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES APPLICABLE TO CHURCH PLANS.—For purposes of sections 401 and 403, the following rules shall apply:

"(A) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—If one or more organizations maintaining a church plan fail to satisfy the requirements of section 401 (or in the case of a contract described in section 403), such plan shall not be treated as failing to satisfy the requirements of section 401 or 403, whichever is applicable, with respect to other organizations maintaining such plan.

"(B) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—No employee shall be considered an officer, person whose principal duties consist in supervising the work of other employees, or highly compensated employee with respect to a church plan if—

"(i) such employee during the year or the preceding year received compensation from the employer of less than $50,000, or

"(ii) such employee is an employee described in section 410(b)(3)(A).

The Secretary shall adjust the $50,000 amount under this paragraph at the same time and in the same manner as under section 415(d).

(2) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning before, on, or after December 31, 1991.

(c) PARTICIPATION BY MINISTERS.—

(1) ANNUITY CONTRACTS.—Section 403(b) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATION BY MINISTERS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or any duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is employed by an organization other than an organization described in section 501(c)(3).

"(B) TREATMENT OF EMPLOYEE.—For purposes of this subsection, an individual treated as an employee under subparagraph (A) shall be treated as an employee of an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

"(C) COMPENSATION AND YEARS OF SERVICE.—

"(i) COMPENSATION.—In determining the compensation of a minister to whom subparagraph (A) applies who is a self-employed minister, such minister's earned income (within the meaning of section 401(c)(2)) shall be substituted for compensation received from an employer under paragraph (3).

"(ii) YEARS OF SERVICE.—In determining the years of service of a minister to whom subparagraph (A) applies who is a self-employed minister, the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) shall be included for purposes of paragraph (4)."

(2) MINISTERS EXCLUDED FOR CERTAIN PURPOSES.—Section 414(e) is amended by adding at the end the following new paragraph:

"(6) EXCLUSION OF MINISTERS.—Notwithstanding any other provision of this title, if a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry participates in a church plan (within the meaning of section 414(e)), then such minister shall be excluded from consideration for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as such sections in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410, to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)) described in this part. For purposes of this part, the church plan in which such minister participates shall be treated as a plan or contract meeting the requirements of section 401(a), or 403(b) (including section 403(b)(9)) with respect to such minister's participation."

(3) DEDUCTIBILITY.—Section 404(a) is amended by adding at the end the following new paragraph:

"(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—If contributions are made by a minister described in section 403(b)(13)(A) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions shall be treated as made to a trust which is exempt from tax under section 501(a) which is a part of a plan which is described in section 401(a) and shall be deductible under this subsection to the extent such contributions do not exceed the exclusion allowance of such minister determined under section 403(b)(2).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for years beginning before, on, or after December 31, 1991, except that the amendment made by paragraph (3) shall be effective for years beginning after December 31, 1991.

(d) DISTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Subparagraph (A) of section 403(b)(11) is amended by inserting "or, in the case of a retirement income account described in paragraph (9), within the meaning of section 401(k)(2)" after "section 72(m)(7)".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1988.

(e) BEGINNING DATE FOR DISTRIBUTIONS.—

(1) IN GENERAL.—Clause (iv) of section 401(a)(9)(C), as amended by section 4204, is amended by striking the last sentence and inserting the following new sentence: "For purposes of this clause, the term 'church plan' has the meaning given such term by section 414(e)."

(2) EFFECTIVE DATE.—In the case of years beginning before January 1, 1994, to which the amendments made by section 1121(b) of the Tax Reform Act of 1986 apply, the required beginning date under section 401(a)(9)(C) of the Internal Revenue Code of 1986 for any employee of a church plan (as defined in section 414(e) of such Code) shall not begin before April 1 of the calendar year following the calendar year in which the employee retires (or, if later, the date determined without regard to this paragraph).

(f) CHURCH PLAN MODIFICATION TO SEPARATE ACCOUNT REQUIREMENT OF SECTION 401(h).—

(1) EXCEPTION TO SEPARATE ACCOUNT REQUIREMENT.—Section 401(h) is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, in the case of a pension or annuity plan that is a church plan (within the meaning of section 414(e)) which is maintained by more than one employer, paragraph (6) shall not apply to an employee who is a key employee for purposes of section 416 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)).".

(2) APPLICATION OF SECTION 415(l).—Section 415(l)(1) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, the following shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c):

"(A) contributions allocated to any individual medical account which is part of a pension or annuity plan; and

"(B) the actuarially determined amount of prefunding for the insurance value of benefits which are—

"(i) described in section 401(h);

"(ii) paid under a pension or annuity plan that is a church plan (within the meaning of section 414(e));

"(iii) paid under a plan maintained by more than one employer; and

"(iv) payable solely to an employee who is a key employee for purposes of section 415 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)), his spouse, or his dependents.

Subparagraph (B) of section (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.".

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after March 31, 1984.

(g) REPEAL OF ELECTIVE DEFERRAL CATCH-UP LIMITATION FOR RETIREMENT INCOME ACCOUNTS—

(1) IN GENERAL.—Clause (iii) of section 402(g)(8)(A) is amended to read as follows:

"(iii) except in the case of elective deferrals under a retirement income account described in section 403(b)(9), the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3) made by the organization on behalf of such employee for prior taxable years (determined in the manner prescribed by the Secretary).".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective as if included in the provision of the Tax Reform Act of 1986 to which such amendment relates.

(h) CHURCH PLANS MAY INCREASE BENEFIT PAYMENTS.—

(1) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, or a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) of such Code, shall not fail to be described in such sections merely because it provides additional benefit payments to participants (and their beneficiaries)—

(A) on an annual basis, to take into account the investment performance of the underlying assets or favorable interest or mortality experience in a year, or

(B) in an amount not in excess of 5 percent per year.

(2) EFFECTIVE DATE.—This subsection shall be effective for years beginning before, on, or after December 31, 1991.

SEC. 4246. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election."

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(14) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base year in applying such section for purposes of this paragraph shall be 1992."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4247. TREATMENT OF EMPLOYER REVERSIONS REQUIRED BY CONTRACT TO BE PAID TO THE UNITED STATES.

(a) IN GENERAL.—Subparagraph (B) of section 4980(c)(2) (defining employer reversion) is amended by striking "or" at the end of clause

(i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) any distribution to the employer to the extent that the distribution is paid within a reasonable period to the United States in satisfaction of a Federal claim for an equitable share of the plan's surplus assets, as determined pursuant to Federal contracting regulations."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to reversions on or after the date of the enactment of this Act.

SEC. 4248. CONTINUATION HEALTH COVERAGE FOR EMPLOYEES OF FAILED FINANCIAL INSTITUTIONS.

(a) ENFORCEMENT OF CONTINUATION OF HEALTH PLAN REQUIREMENTS OF ACQUIRERS OF FAILED DEPOSITORY INSTITUTIONS.—Subsection (f) of section 4980B (relating to continuation of coverage requirements of group health plans) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR ACQUIRERS OF FAILED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any acquirer of a failed depository institution—

"(i) shall have the same obligation to provide a group health plan meeting the requirements of this subsection with respect to qualified individuals of such institution as the failed depository institution would have had but for its failure, and

"(ii) shall be treated as the employer of such qualified individuals for purposes of this section.

"(B) TAX NOT TO APPLY IF FDIC OR RTC PROVIDE CONTINUATION COVERAGE.—No person shall be subject to any liability under this section by reason of being an acquirer of a failed depository institution if the Federal Deposit Insurance Corporation or the Resolution Trust Corporation elects to relieve such acquirer from its obligations under subparagraph (A). In any such case, the requirements of subparagraph (A) shall apply to the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be.

"(C) ACQUIRER.—For purposes of this paragraph, an entity is an acquirer of a failed depository institution during any period if—

"(i) such entity holds substantially all of the assets or liabilities of such institution, and

"(ii)(I) such entity is a bridge bank, or

"(II) such entity acquired such assets or liabilities from the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or a bridge bank.

"(D) FAILED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'failed depository institution' means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver or conservator has been appointed.

"(E) QUALIFIED INDIVIDUAL.—For purposes of this section, the term 'qualified individual' means—

"(i) any individual who was, on the day before the date of the appointment of the receiver or conservator, provided coverage under a group health plan of the failed depository institution by reason of the performance of services for such institution, and

"(ii) any individual who was, on such day, a beneficiary under such plan as the spouse or dependent child of the individual described in clause (i)."

(b) TREATMENT OF DEPOSITORY INSTITUTION FAILURES AS QUALIFYING EVENTS FOR RETIREES OF SUCH INSTITUTIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 4980B(f)(3) is amended—

(A) by striking "The termination" and inserting "(i) The termination",

(B) by striking the period at the end and inserting ", or", and

(C) by inserting after clause (i) the following new clause:

"(ii) the appointment of a receiver or conservator for a failed depository institution from whose employment the covered employee retired at any time."

(2) CONFORMING AMENDMENT.—Subclause (I) of section 4980B(f)(2)(B)(i) is amended by striking "AND REDUCED HOURS" and inserting ", REDUCED HOURS, AND FAILURES OF DEPOSITORY INSTITUTIONS".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply as if included in section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

(2) LIABILITY OF FDIC.—In the case of the Federal Deposit Insurance Corporation or any acquirer from such Corporation, the amendments made by this section shall apply only to failed depository institutions for which the receiver or conservator is appointed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR COVERAGE UNDER FDIC PLAN.—Effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, coverage under the health care continuation plan maintained by the Federal Deposit Insurance Corporation on June 25, 1992, and any other substantially similar plan maintained by such Corporation, shall be deemed to satisfy the obligations of the Federal Deposit Insurance Corporation (and any acquirer from such Corporation) under section 4980B(f) of the Internal Revenue Code of 1986 and section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 with respect to qualified individuals of failed depository institutions.

SEC. 4249. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1995, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.
"Sec. 775. Large partnership defined.
"Sec. 776. Special rules for partnerships holding oil and gas properties.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in para-

graph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469. The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution,

"(B) section 704(c) shall not apply to such property, and

"(C) section 737 shall not apply.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph. If the property distributed consists of an interest in an entity, this subclause shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this

paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution),

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

"(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

"(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

"(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

"(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

"(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

"(I) the rules of subclause (I) of clause (i) shall apply, and

"(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year ending on or after December 31, 1993, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment, or

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.
"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.
"Sec. 6246. Restrictions on partnership adjustments.
"Sec. 6247. Judicial review of partnership adjustment.
"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall

not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS.

Subsection (b) of section 6012 is amended by adding at the end thereof the following new paragraph:

"(6) IRA SHARE OF PARTNERSHIP INCOME.—In the case of a trust which is exempt from taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership."

SEC. 4306. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1993.

(b) SPECIAL RULE FOR SECTION 4304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 4304 shall only apply to partnership taxable years ending on or after December 31, 1998.

(c) SPECIAL RULE FOR SECTION 4305.—The amendment made by section 4305 shall apply to taxable years ending on or after October 1, 1992.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with

respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have juris-

diction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 4317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 4317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 4317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.
Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjust-

ment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) Effective Date.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 4323. SPECIAL RULES FOR ADMINISTRATIVE ADJUSTMENT REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.

(a) General Rule.—Section 6227 (relating to administrative adjustment requests) is amended by adding at the end thereof the following new subsection:

"(d) Requests With Respect to Bad Debts or Worthless Securities.—In the case of that portion of any request for an administrative adjustment which relates to the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions)."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

(2) Transition rule.—In the case of that portion of any request (filed before the date of the enactment of this Act) for an administrative adjustment which relates to the deductibility of a debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before June 1, 1993, and

(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) Exemption of Foreign Corporations From Accumulated Earnings Tax and Personal Holding Company Rules.—

(1) Accumulated earnings tax.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) Personal holding company rules.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) Treatment of Certain Service Contracts Under Subpart F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) Personal service contracts.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.
"Subpart B. Interest on holdings to which subpart A does not apply.
"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.
"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) General Rule.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) Basis Adjustments.—

"(1) In general.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) Special rule for stock constructively owned.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) Character and Source Rules.—

"(1) Ordinary treatment.—

"(A) Gain.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) Loss.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) Source.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) Unreversed Inclusions.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) Coordination With Section 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) Treatment of Controlled Foreign Corporations Which Are Shareholders in Passive Foreign Corporations.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) TRANSITION RULES.—

"(1) INDIVIDUALS BECOMING SUBJECT TO U.S. TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) MARKETABLE STOCK HELD BEFORE EFFECTIVE DATE.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual

and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"SUBPART B—INTEREST ON HOLDINGS TO WHICH SUBPART A DOES NOT APPLY

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includible in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than any taxable year referred to in subsection (a)(1)(B)) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B)(i) with respect to each of such corporation's taxable years for which such corporation was a passive foreign corporation and which began after December 31, 1992, and included any portion of the taxpayer's holding period in such stock—

"(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

"(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

"(ii) with respect to each of such corporation's taxable years for which such corporation was a passive foreign corporation and which begin after December 31, 1986, and before January 1, 1993, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, and if the requirements of paragraph (1)(B) are not satisfied, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such corporation is a controlled foreign corporation without regard to this part,

the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) EXCEPTIONS.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY IN CERTAIN CASES.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the

application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"*(f) OTHER SPECIAL RULES.—For purposes of this subpart—*

"*(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).*

"*(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—Under regulations—*

"*(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—*

"*(i) any transaction which results in the United States person being treated as no longer owning such stock,*

"*(ii) any disposition of such stock by the person owning such stock, and*

"*(iii) any distribution of property in respect of such stock to the person holding such stock,*

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"*(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).*

"*(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.*

"*(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.*

"*SUBPART C—GENERAL PROVISIONS*

"*Sec. 1296. Passive foreign corporation.*

"*Sec. 1297. Special rules.*

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"*(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—*

"*(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,*

"*(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or*

"*(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), either as a management company or as a unit investment trust.*

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"*(b) PASSIVE INCOME.—For purposes of this section—*

"*(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.*

"*(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—*

"*(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),*

"*(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,*

"*(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or*

"*(D) any foreign trade income of a FSC.*

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"*(3) TREATMENT OF INCOME FROM CERTAIN ASSETS.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.*

"*(4) TREATMENT OF CERTAIN MATCHED REPURCHASE TRANSACTIONS.—*

"*(A) IN GENERAL.—In the case of any foreign corporation engaged in the active conduct of a trade or business as a dealer in securities—*

"*(i) an amount properly treated as interest income by reason of a qualified matched transaction shall be netted with the amount properly treated as interest expense by reason of such transaction, and any net income resulting from such netting shall be treated as an item of gross interest income, and*

"*(ii) the offsetting positions which are part of such transaction shall be netted and the net position shall be treated as a single asset.*

"*(B) QUALIFIED MATCHED TRANSACTION.—For purposes of subparagraph (A) the term 'qualified matched transaction' means a sale and repurchase agreement with respect to a security and an offsetting reverse agreement with respect to the same security, entered into by the foreign corporation in the active conduct of its trade or business of being a dealer in securities, and properly treated as offsetting agreements in a matched book.*

"*(C) SECURITY.—For purposes of this paragraph, the term 'security' has the meaning given such term by section 1236(c).*

"*(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—*

"*(1) held its proportionate share of the assets of such other corporation, and*

"*(2) received directly its proportionate share of the income of such other corporation.*

"SEC. 1297. SPECIAL RULES.

"*(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).*

"*(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).*

"*(c) MARKETABLE STOCK.—For purposes of this part—*

"*(1) IN GENERAL.—The term 'marketable stock' means—*

"*(A) any stock which is regularly traded on—*

"*(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or*

"*(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and*

"*(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.*

"*(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.*

"*(d) OTHER SPECIAL RULES.—For purposes of this part—*

"*(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—*

"*(A) no predecessor of such corporation was a passive foreign corporation,*

"*(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and*

"*(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.*

"*(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—*

"*(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,*

"*(B) it is established to the satisfaction of the Secretary that—*

"*(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and*

"*(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and*

"*(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.*

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"*(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—*

"*(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.*

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if and only if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corporation during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year."

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of such year,".

(d) TREATMENT OF CERTAIN PREVIOUSLY TAXED AMOUNTS.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).", and

(2) by striking "AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248" in the subsection heading and inserting "CERTAIN PREVIOUSLY TAXED AMOUNTS".

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(11) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Clause (ii) of section 864(b)(2)(A) is amended by striking "(other than" and all that follows down through "holding company)" and inserting "(other than a corporation which would be a personal holding company but for section 542(c)(5) and which is not United States controlled (as defined in section 1292(a)(2))".

(14) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(15)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(16) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(17) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(18) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(19) Paragraph (5) of section 1014(b) is hereby repealed.

(20) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(21) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation."

(22) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(23) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(24)(A) Subsection (a) of section 6035 is amended by striking "foreign personal holding company (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

*(B) The section heading for section 6035 is amended by striking "**FOREIGN PERSONAL HOLDING COMPANIES**" and inserting "**CLOSELY HELD PASSIVE FOREIGN CORPORATIONS**",.*

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking "foreign personal holding companies" in the item relating to section 6035 and inserting ‘closely-held passive foreign corporations".

(25) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(26) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(27) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 4404. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) BASIS RULE.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

(d) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of the tax treatment for purposes of the rules applicable to passive foreign corporations (as amended by this part) of securities sale and repurchase transactions and securities lending and borrowing transactions.

(2) REPORT.—Not later than the day 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) GENERAL RULE.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of *this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."*

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 4414. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain,

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation."

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

SEC. 4415. STUDY ON INVESTMENTS BY CONTROLLED FOREIGN CORPORATION IN UNITED STATES PROPERTY.

(a) GENERAL RULE.—The Secretary of the Treasury shall conduct a study on tax treatment of investments by controlled foreign corporations in obligations of United States persons other than corporations. Such study shall include the Secretary's views as to whether the treatment of such investments should be changed, along with a discussion of the merits and consequences of any such change.

(b) REPORT.—Not later than December 31, 1992, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in

section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.

"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Treatment of Intangibles

SEC. 4501. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or *otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.*

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any—

"(i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(B) COMPUTER SOFTWARE DEFINED.—For purposes of subparagraph (A), the term 'computer software' means any program designed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade business or substantial portion thereof:

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

"(i) has a fixed duration of less than 14 years, or

"(ii) is fixed as to amount and, without regard to this section, would be recoverable under a method similar to the unit-of-production method.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) CERTAIN TRANSACTION COSTS.—Any fees for professional services, and any transaction costs, incurred by parties to a transaction with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary. For purposes of this subparagraph, deductions allowable under section 1253(d) shall be treated as deductions allowable for amortization.

"(B) EXCEPTION WHERE GAIN RECOGNIZED.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

"(I) to recognize gain on the disposition of the intangible, and

"(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

"(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(D) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(E) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to pre-

vent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCE.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

(h) ANNUAL REPORTS.—The Secretary of the Treasury shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation and effects of the amendments made by this section, including the effects of such amendments on merger and acquisition activities. The first such annual report shall be submitted on or before December 31, 1994.

(i) ANNUAL REPORTS ON OUTSTANDING CASES.—The Secretary of the Treasury shall submit annual reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the volume of cases still outstanding that involve disputes regarding the amortization of intangibles, progress made in resolving such cases, efforts made to coordinate settlement proceedings, and factors inhibiting the resolution of such cases. The report shall also address the impact of the amendments made by this section on the volume of disputes regarding the amortization of intangibles. The first such annual report shall be submitted on or before December 31, 1993.

SEC. 4502. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying on or after June 25, 1992.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring on or after June 25, 1992, if a written contract to purchase such partner's interest in the partnership was binding on June 24, 1992, and at all times thereafter before such purchase.

Subtitle F—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4601. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(1) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4602. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OF TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph.

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 4603. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4604. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph:

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking **"SUBCHAPTER C"** *and inserting* **"ACCUMULATED"**.

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

PART II—ACCOUNTING PROVISIONS

SEC. 4611. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the con-

tract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 4612. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4613. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OPERATORS OF LICENSED COTTON WAREHOUSES.

(a) GENERAL RULE.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR OPERATORS OF LICENSED COTTON WAREHOUSES.—

"(1) IN GENERAL.—In the case of any taxpayer which is the operator of a licensed cotton warehouse and the taxable income of which is computed under an accrual method of accounting, such taxpayer shall be required to accrue any amounts to be received for processing and storing cotton at such warehouse until such amounts are actually received.

"(2) INTEREST ON DEFERRED TAX LIABILITY—

"(A) In General—If any deferred amount is received during any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of the interest determined under subparagraph (B) with respect to such deferred amount.

"(B) AMOUNT OF INTEREST.—The amount of interest determined under this subparagraph with respect to any deferred amount shall be determined—

"(i) on the amount of the tax for such taxable year which is attributable to such deferred amount;

"(ii) for the period beginning on the due date for the taxable year of the deferral and ending on the due date for the taxable year in which such deferred amount is received; and

"(iii) by using the Federal short-term rate in effect under section 1274 as of the due date for the taxable year in which such deferred amount is received, compounded semiannually.

"(3) TREATMENT AS INTEREST.—Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during the taxable year.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) LICENSED COTTON WAREHOUSE.—The term 'licensed cotton warehouse' means any warehouse for the storage of cotton which is licensed under the United States Warehouse Act (7 U.S.C. 241, et seq.) or under any similar State law.

"(B) DEFERRED AMOUNT.—The term 'deferred amount' means any amount which is includable in gross income for the taxable year but which would have been includable in gross income for a prior taxable year but for this subsection.

"(C) TAXABLE YEAR OF DEFERRAL.—The taxable year of the deferral is the taxable year for which the deferred amount would have been includible in gross income but for this subsection.

"(D) DUE DATE.—The term 'due date' means the date prescribed for filing the return of tax imposed by this chapter, determined without regard to any extension.

"(5) ELECTION.—This subsection shall apply to a taxpayer only if such taxpayer makes an election under this paragraph. Such an election shall apply to the taxable year for which made and for all subsequent taxable years unless revoked with the consent of the Secretary."

(b) CONFORMING AMENDMENT.—Subparagraph (N) of section 26(B)(2) is amended by striking "sections 453(l)(3)" and inserting "sections 451(h)(2), 453(l)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts accrued in taxable years beginning after December 31, 1991.

PART III—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

SEC. 4621. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851 (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the " and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4622. BASIS RULES FOR SHARES IN OPEN-END REGULATED INVESTMENT COMPANIES.

(a) ADDITIONAL REPORTING REQUIREMENT.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL INFORMATION REQUIRED WITH RESPECT TO OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If any person is required under subsection (a) to make a return regarding the gross proceeds from any disposition of stock in an open-end regulated investment company, such return shall include for each such disposition—

"(A) the basis of the stock disposed of (determined by reference to the average basis of all of the stock in the account from which the disposition was made immediately before the disposition), and

"(B) the portion of such gross proceeds attributable to stock held for more than 1 year and the portion not so attributable.

Determinations under subparagraph (B) shall be made on a first-in, first-out, basis and determinations of basis and holding period shall be made in such manner as the Secretary may prescribe.

"(2) OPEN-END REGULATED INVESTMENT COMPANY.—For purposes of this subsection, the term 'open-end regulated investment company' means any regulated investment company which is offering for sale or has outstanding any redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940) of which it is the issuer.

"(3) INFORMATION TRANSFERS.—To the extent provided in regulations, there shall be such exchanges of information between brokers as such regulations may require for purposes of enabling brokers to meet the requirements of this subsection.

"(4) APPLICATION OF SUBSECTION.—This subsection shall not apply with respect to stock in any account—

"(A) which was established before January 1, 1995, or

"(B) which includes any stock not acquired by purchase."

(b) BASIS FOR INCOME TAX PURPOSES.—Section 1012 of such Code is amended—

(1) by striking "The basis" and inserting "(a) GENERAL RULE.—The basis", and

(2) by adding at the end thereof the following new subsection:

"(b) SPECIAL RULES FOR STOCK IN OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—In the case of any disposition of stock from a covered account—

"(A) the basis of such stock shall be determined by reference to the average basis of all of the stock in such account immediately before such disposition, and

"(B) the determination of which stock in such account is so disposed of shall be made on a first-in, first-out, basis.

"(2) COVERED ACCOUNT.For purposes of this subsection—

"(A) IN GENERAL.—The term 'covered account' means any account of stock in an open-end regulated investment company if section 6045(f) applies to such account.

"(B) ELECTION OUT.—The term 'covered account' shall not include any account if, on the taxpayer's return for his first taxable year in which a disposition from such account occurs, the taxpayer elects to have this subsection not apply to such account."

(c) TECHNICAL AMENDMENT.—Section 6724 of such Code is amended by badding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN REPORTS WITH RESPECT TO STOCK IN OPEN END REGULATED INVESTMENT COMPANIES.—For purposes of sections 6721(e)(2)(B) and 6722(c)(1)(B), the amount required to be reported under section 6045 shall be determined without regard to subsection (f) thereof."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to returns and statements required for calendar year 1995 and subsequent calendar years.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to dispositions after December 31, 1994.

SEC. 4623. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Sectionn 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) a common trust fund transfers substantially all of its assets to a regulated investment company in exchange solely for stock in such company, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of any stock in a regulated investment company which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged.

"(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

"(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in the regulated investment company, the assumption by such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

"(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

"(i) IN GENERAL.—If in any transfer referred to in paragraph (1)(A) the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company—

"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

"(II) the basis of the assets received by the regulated investment company in such transfer shall be increased by the amount so recognized, and

"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the common trust fund assumed by the regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

SEC. 4624. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY REGULATED INVESTMENT COMPANIES TO COMMON TRUST FUNDS.

(a) IN GENERAL.—If—

(1) a regulated investment company transfers substantially all of its assets to a common trust fund (as defined in section 584) in exchange solely for participating interests in such common trust fund,

(2) such participating interests are distributed by such regulated investment company to the shareholders of such regulated investment company in exchange for their shares in the regulated investment company, and

(3) as of October 1, 1992, a majority of the outstanding shares of such regulated investment company are owned beneficially by accounts for which a single bank (or 2 or more banks which are members of the same affiliated group, within the meaning of section 1504(a) of the Internal Revenue Code of 1986) is a trustee, executor, administrator, or guardian and with respect to which accounts such bank (or banks) has sole or shared investment discertion.

for purposes of such Code, no gain or loss shall be recognized by such regulated investment company by reason of such transfer or distribution, and no gain or loss shall be recognized by any shareholder of such regulated investment company by reason of such exchange.

(b) BASIS RULES.—

(1) COMMON TRUST FUND.—The basis of any asset received by a common trust fund in a transfer referred to in subsection (a)(1) shall be the same as it would be in the hands of the regulated investment company.

(2) SHAREHOLDERS.—The basis of any participating interest in a common trust fund which is received in an exchange referred to in subsection (a)(2) shall be the same as that of the shares exchanged.

(c) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

(1) IN GENERAL.—In determining whether the transfer referred to in subsection (a)(1) is in exchange solely for interests in the common trust fund, the assumption by such common trust fund of a liability of the regulated investment company, and the fact that any property transferred by the regulated investment company is subject to a liability, shall be disregarded.

(2) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

(A) IN GENERAL.—If in any transfer referred to in subsection (a)(1) the assumed liabilities exceed the aggregate adjusted basis (in the hands of the regulated investment company) of the assets transferred to the common trust fund—

(i) notwithstanding subsection (a), gain shall be recognized to the regulated investment company on such transfer in an amount equal to such excess, and

(ii) the basis of the assets received by the common trust fund in such transfer shall be increased by the amount so recognized.

(B) ASSUMED LIABILITIES.—For purposes of subparagraph (A), the term "assumed liabilities" means the aggregate of—

(i) any liability of the regulated investment company assumed by the common trust fund in connection with the transfer referred to in subsection (a)(1), and

(ii) any liability to which property so transferred is subject.

(d) REGULATED INVESTMENT COMPANY MUST MEET DIVERSIFICATION RULES.—This section shall not apply to any regulated investment company which does not meet the requirements of section 368(a)(2)(F)(ii) of such Code. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent tests and shall not be excluded for purposes of determining total assets under clause (iv) of such section 368(a)(2)(F).

(e) LIMITATION ON SUBSEQUENT TRANSFER.—This section shall not apply to a regulated investment company that received assets from a common trust fund in a transfer to which section 584(h)(1) of such Code applied.

(f) EFFECTIVE DATE.—The provisions of this section shall apply to transfers occurring after the date of the enactment of this Act and on or before September 30, 1993.

PART IV—TAX-EXEMPT BOND PROVISIONS

SEC. 4631. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

(a) IN GENERAL.—Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 4632. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

(a) IN GENERAL.—Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are ment with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

(b) Effective Date.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 4633. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

(a) In General.—Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) Tax or Revenue Anticipation Bonds Treated As Separate Issues.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

(b) Effective Date.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 4634. EXCEPTION FROM PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST FOR SMALL ISSUERS INCREASED TO $20,000,000.

(a) Exception From Pro Rata Allocation of Interest Expense of Financial Institutions to Tax-Exempt Interest for Small Issuers Increased to $20,000,000.—

(1) In general.—Subparagraphs (C) and (D) of section 265(b)(3) (relating to exception for certain tax-exempt obligations) are each amended by striking "$10,000,000" each place it appears and inserting "$20,000,000".

(2) Effective date.—The amendments made by paragraph (1) shall apply to obligations issued in calendar years beginning after the date of the enactment of this Act.

(b) Deductibility Available to Participants in Pooled Issues.—

(1) In general.—Subparagraph (A) of section 265(b)(3) is amended by inserting "and any qualified tax-exempt pooled obligation acquired after December 31, 1992," after "after August 7, 1986,".

(2) Qualified tax-exempt pooled obligation defined.—Section 265(b)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) Qualified tax-exempt pooled obligation.—For purposes of subparagraph (A), the term 'qualified tax-exempt pooled obligation' means a tax-exempt obligation—

"(i) which is issued after December 31, 1992,

"(ii) which is not a private activity bond (as defined in section 141),

"(iii) which is designated by the issuer for purposes of this paragraph, and

"(iv) the proceeds of which are used exclusively (other than to pay the issuance costs of such obligation) to acquire from the issuer obligations—

"(I) which satisfy the requirements of this paragraph but are not designated for purposes of this paragraph, and

"(II) the weighted average maturity of which equals or exceeds the weighted average maturity of such obligation."

SEC. 4635. EXPANDED EXCEPTION FROM REBATE FOR ISSUERS ISSUING $10,000,000 OR LESS OF BONDS.

(a) In General.—Subparagraph (D) of section 148(f) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by striking "$5,000,000" each place it appears (including the heading) and inserting "$10,000,000".

(b) Effective Date.—The amendment made by subsection (a) shall apply to bonds issued in calendar years beginning after the date of the enactment of this Act.

SEC. 4636. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

(a) In General.—Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

(b) Effective Date.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 4637. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

(c) The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 4638. CLARIFICATION OF INVESTMENT-TYPE PROPERTY.

(a) In General.—Subparagraph (D) of section 148(b)(2) is amended to read as follows:

"(D) any investment-type property, or".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1301 of the Tax Reform Act of 1986.

SEC. 4639. TAX-EXEMPT FINANCING FOR UNITED NATIONS OFFICE BUILDINGS.

(a) In General.—A bond described in subsection (b) shall be treated as described in section 141(e)(1) of the Internal Revenue Code of 1986, but section 147(d) of such Code shall not apply to such bond.

(b) Bond Described.—A bond is described in this subsection if such bond is issued after the date of the enactment of this Act as part of an issue 95 percent or more of the net proceeds of which are to be used to finance any office building (including land and space for supporting activities which are functionally related and subordinate thereto) for the United Nations or any agency or instrumentality thereof.

SEC. 4640. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) In General.—Subsection (a) of section 150 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Exempt person.—

"(A) In general.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) Governmental unit not to include Federal government.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) organization.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(b) Repeal of Qualified 501(c)(3) Bond Designation.—Section 145 (relating to qualified 501(c)(3) bonds) is repealed.

(c) Conforming Amendments.—

(1) Paragraph (3) of section 141(b) is amended—

(A) by striking "government use" in subparagraph (A)(ii)(I) and subparagraph (B)(ii) and inserting "exempt person use",

(B) by striking "a government use" in subparagraph (B) and inserting "an exempt person use",

(C) by striking "related business use" in subparagraph (A)(ii)(II) and subparagraph (B) and inserting "related private business use",

(D) by striking "RELATED BUSINESS USE" in the heading of subparagraph (B) and inserting "RELATED PRIVATE BUSINESS USE", and

(E) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(2) Subparagraph (A) of section 141(b)(6) is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Paragraph (7) of section 141(b) is amended—

(A) by striking "government use" and inserting "exempt person use", and

(B) by striking "Government use" in the heading thereof and inserting "Exempt person use".

(4) Section 141(b) is amended by striking paragraph (9).

(5) Paragraph (1) of section 141(c) is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Issues Used To Provide Residential Rental Housing for Family Units.—

"(1) In general.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units.

"(2) Exception for bonds used to provide qualified residential rental projects.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) Substantial rehabilitation.—

"(A) In general.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantial rehabilitated.

"(B) Exception.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) Certain property treated as new property.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) In general.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) Special rule where no operating State or local program for tax-exempt financing.—If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property,

the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing."

(7) Section 141(f), as redesignated by paragraph (6), is amended—

(A) by adding "or" at the end of subparagraph (E),

(B) by striking ", or" at the end of subparagraph (F), and inserting in lieu thereof a period, and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) is amended by striking "(determined" and all that follows to the period.

(9) Clause (ii) of section 144(c)(2)(C) is amended by striking "governmental unit" and inserting "exempt person".

(10) Section 146(g) is amended—

(A) by striking paragraph (2), and

(B) by redesignating the remaining paragraphs after paragraph (1) as paragraphs (2) and (3), respectively.

(11) The heading of section 146(k)(3) is amended by striking "GOVERNMENTAL and inserting "EXEMPT PERSON".

(12) The heading of section 146(mk) is amended by striking "GOVERNMENT" and inserting "EXEMPT PERSON".

(13) Subsection (h) of section 147 is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond."

(14) Section 147 is amended by striking paragraph (4) of subsection (b) and redesignating paragraph (5) of such subsection as paragraph (4).

(15) Subparagraph (F) of section 148(d)(3) is amended—

(A) by striking "or which is a qualified 501(c)(3) bond", and

(B) by striking "GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3)" in the heading thereof and inserting "EXEMPT PERSON".

(16) Subclause (II) of section 148(f)(4)(B)(ii) is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Clause (iv) of section 148(f)(4)(C) is amended—

(A) by striking "a governmental unit or a 501(c)(3) organization" each place it appears and inserting "an exempt person", and

(B) by striking "qualified 501(c)(3) bonds,".

(18) Subparagraph (A) of section 148(f)(7) is amended by striking "(other than a qualified 501(c)(3) bond)".

(19) Paragraph (2) of section 149(d) is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)", and

(B) by striking "CERTAIN PRIVATE" in the heading thereof and inserting in lieu thereof "PRIVATE".

(20) Section 149(e)(2) is amended—

(A) by striking "which is not a private activity bond" in the second sentence and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)", and

(B) by adding at the end thereof the following new sentence: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person."

(21) The heading of subsection (b) of section 150 is amended by striking "TAX-EXEMPT PRIVATE ACTIVITY BONDS" and inserting "CERTAIN TAX-EXEMPT BONDS".

(22) Paragraph (3) of section 150(b) is amended—

(A) by inserting "owned by a 501(c)(3) organization" after "any facility" in subparagraph (A),

(B) by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" in subparagraph (A) and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person", and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(23) Paragraph (5) of section 150(b) is amended—

(A) by striking "private activity" in subparagraph (A),

(B) by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond" in subparagraph (A),

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) such facility is required to be owned by an exempt person, and", and

(D) by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" in the heading thereof and inserting "EXEMPT PERSONS".

(24) Section 150, as amended by section 4525, is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN RULES TO APPLY TO BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued)."

(25) Section 1302 of the Tax Reform Act of 1986 is repealed.

(26) Subparagraph (C) of section 57(a)(5) is amended by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(27) Paragraph (3) of section 103(b) is amended by inserting "and section 150(f)" after "section 149".

(28) Paragraph (3) of section 265(b) is amended—

(A) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 (or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)))."; and

(B) by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)" in subparagraph (C)(ii)(I).

(f) EFFECTIVE DATE; SPECIAL RULE.—The amendments made by this section shall apply to bonds issued after December 31, 1992.

(2) SPECIAL RULE FOR CERTAIN BONDS ISSUED AFTER DATE OF ENACTMENT.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any bond which—

(i) is issued after the date of the enactment of this Act, and

(ii) is part of an issue which is subject to any transitional rule under subtitle B of title XIII of the Tax Reform Act of 1986.

(B) ELECTION OUT.—This paragraph shall not apply to any issue with respect to which the issuer elects not to have this paragraph apply.

PART V—INSURANCE PROVISIONS

SEC. 4641. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and inserting "or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".

(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4642. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

"(a) Computation of Reserves.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

"(b) Segregated Assets Under Modified Guaranteed Contracts Marked to Market.—

"(1) In general.—In the case of any life insurance company, for purposes of this subtitle—

"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

"(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) Segregated asset.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) Special Rule in Computing Life Insurance Reserves.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) Modified Guaranteed Contract Defined.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

"(3) for which reserves are valued at market for annual statement purposes, and

"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

"(e) Regulations.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d).

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

"(5) as may be necessary or appropriate to carry out the purposes of this section."

(b) Clerical Amendment.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) Treatment of net adjustments.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1991.

PART VI—COOPERATIVES

SEC. 4651. DISCHARGE OF INDEBTEDNESS INCOME FROM PREPAYMENT OF REA LOANS.

(a) In General.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking ", 306B," in clause (ii), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) from the prepayment of a loan under section 306B(b) of the Rural Electrification Act of 1936 (as in effect on January 1, 1991)."

(b) Conforming Amendment.—Subparagraph (B) of section 501(c)(12) is amended—

(1) by striking "or" in clause (iii),

(2) by striking "305B" in clause (iv),

(3) by striking the period at the end of clause (iv) and inserting ", or", and

(4) by adding at the end the following new clause:

"(v) from the prepayment of a loan under section 306B(b) of the Rural Electrification Act of 1936 (as in effect on January 1, 1991)."

(c) Effective Date.—The amendments made by this section shall apply to prepayments made after December 31, 1992.

SEC. 4652. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) Nonmember Income.—

(1) In general.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(2) Certain billing and collection service fees not taken into account.—Subparagraph (B) of section 501(c)(12) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end thereof the following new clause:

"(v) from billing and collection services performed for a nonmember telephone company.".

(3) Conforming amendment.—Clause (i) of section 501(c)(12)(B) is amended by inserting before the comma at the end thereof ", other than income described in subparagraph (E)".

(4) Effective date.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1992.

(5) No inference as to unrelated business income treatment of billing and collection service fees.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) Treatment of Certain Investment Income of Mutual or Cooperative Telephone Companies.—

(1) In general.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income. For the purposes of the preceding sentence, income referred to in subparagraph (B) shall not be taken into account."

(2) Portion of investment income subject to unrelated business income tax.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) Investment Income of Certain Mutual or Cooperative Telephone Companies.—

"(1) In general.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

"(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

"(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

For purposes of the preceding sentence, income referred to in section 501(c)(12)(B) shall not be taken into account.

"(2) Reserve income.—For purposes of paragraph (1), the term 'reserve income' means income—

"(A) which would (but for this subsection) be excluded under subsection (b), and

"(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company."

(3) Effective date.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1992.

SEC. 4653. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) Section 277 Not To Apply to Cooperative Housing Corporations.—Section 277(b) (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E))."

(b) Application of Rules Relating to Tax Treatment of Cooperatives.—

(1) Patronage earnings may be offset only by patronage losses.—Section 1388(a) is amended by adding at the end the following new sentence: "In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings."

(2) Patronage earnings and losses of cooperative housing corporations.—Section 1388

is amended by adding at the end the following new subsection:

"(k) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(2) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(A) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(B) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(C) In the case of a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year, rental income from other than tenant-stockholders to the extent attributable to any project operated by the corporation.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(B) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

(3) CONFORMING AMENDMENT.—Section 1388(j) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—In the case of any item (or period) to which the amendments made by this section do not apply—

(A) nothing in the provisions of this section shall be construed as a change in the treatment of income derived by any cooperative housing corporation, or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and

(B) the Internal Revenue Code of 1986 shall be applied to such item or for such period as if the amendments made by this secion had not been enacted.

PART VII—OTHER PROVISIONS

SEC. 4661. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1992.

SEC. 4662. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after December 31, 1991.

SEC. 4663. AUTHORIZATION FOR BUREAU OF LAND MANAGEMENT USE OF REFORESTATION TRUST FUND.

(A) IN GENERAL.—Section 303 of Public Law 96-451 (16 U.S.C. 1606a) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "$30,000,000" and inserting "$45,000,000"; and

(B) by adding at the end thereof the following new paragraphs:

"(4) Of the amounts transferred to the Trust Fund under paragraph (1) in any fiscal year—

"(A) $30,000,000 shall be allocated and made available to the Secretary of Agriculture; and

"(B) the remaining balance shall be allocated and made available to the Secretary of the Interior.

"(5)(A) If the remaining balance allocated and made available to the Secretary of the Interior under paragraph (4)(B) is less than $15,000,000 in any fiscal year, the Secretary of the Treasury shall transfer to the Trust Fund and make available to the Secretary of the Interior, in accordance with subparagraph (B), an amount equal to the difference between $15,000,000 and the remaining balance.

"(B) The amount transferred pursuant to subparagraph (A) shall be obtained as follows:

"(i) 93⅓ percent of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from the Coos Bay Wagon Road grant lands in Oregon; and

"(ii) the remainder of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from public domain lands in the States.";

(2) in the first sentence of subsection (c)(1) by inserting "and the Secretary of the Interior" after "Secretary of Agriculture";

(3) in subsection (d)—

(A) by striking "available" and inserting "available to the Secretary of Agriculture"; and

(B) by striking "amounts" and inserting "amounts that were available to the Secretary of Agriculture but"; and

(4) by adding at the end thereof the following new subsection:

"(e)(1) In accordance with paragraph (2), the Secretary of the Interior may obligate, in each fiscal year, such sums as are available to the Secretary of the Interior in the Trust Fund to supplement expenditures of the Bureau of Land Management for, in order of priority.

"(A) reforestation and forest development of public lands administered by the Secretary of the Interior acting through the Bureau of Land Management, including projects to improve the overall health and productivity of the forest ecosystem;

"(B) negotiation and implementation of cooperative relationships, including the acquisition of voluntary cooperative conservation easements, when such relationships promote or enhance successful reforestation or forest development or contribute to the long-term productivity of the forest ecosystem; and

"(C) properly allocable administrative costs of the Federal Government for the activities described in subparagraphs (A) and (B).

"(2) The Secretary of the Interior shall allocate the sums described in paragraph (1) as follows:

"(A) $14,000,000 for Oregon and California Railroad and Coos Bay Wagon Road grant lands in Oregon; and

"(B) $1,000,000 for public domain lands, to be allocated among the States in which the lands are located by taking into account, in order of priority—

"(i) the level of timber sales (measured in board feet) from the public domain lands within each State in the previous calendar year;

"(ii) the amount of reforestation backlog in the State;

"(iii) the need for planting as part of the reforestation program; and

"(iv) the need for forest development as part of the reforestation program."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1992.

SEC. 4664. PRIVATE FOUNDATIONS PERMITTED TO USE COMMON INVESTMENT FUNDS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is composed solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(c) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization, or, if later, beginning after the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is organized and controlled by its members but is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisors, following reasonable notice, if members holding a majority of interest in the account managed by such advisor vote to remove such advisor,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends (and such private foundation shall take into account its allocable share of the deductions referred to in section 4940(c)(3) of the organization).

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4945(d) is amended by adding at the end the following new flush sentence:

"Paragraph (4)(B) shall not apply to a grant to an organization described in section 501(n)."

(2) Section 4942(g)(1)(A) is amended by inserting "or an organization described in section 501(n)" after "subsection (j)(3))".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after December 31, 1992.

SEC. 4665. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subparagraph (A) of section 29(c)(2) (relating to gas from geopressured brine,

etc.) is amended by adding at the end the following new sentence: "If the Federal Energy Regulatory Commission ceases to make the determinations described in the preceding sentence, the Secretary shall make such determinations in accordance with section 503 of such Act."

(b) CONFORMING AMENDMENT.—Section 29(c)(2)(A) is amended by inserting "(as in effect before its repeal by the Natural Gas Wellhead Decontrol Act of 1989) after "Natural Gas Policy Act of 1978".

Subtitle G—Estate And Gift Tax Provisions

SEC. 4701. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4702. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4703. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4704. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4705. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4706. REPEAL OF CERTAIN THROWBACK RULES APPLICABLE TO DOMESTIC TRUSTS.

(a) ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Section 665 is amended by adding at the end the following new subsection:

"(f) ACCUMULATION DISTRIBUTIONS AFTER 1992.—For purposes of this subpart—

"(1) IN GENERAL.—In the case of a qualified trust, any distribution in any taxable year beginning after December 31, 1992, shall be computed without regard to any undistributed net income.

"(2) QUALIFIED TRUST.—For purposes of this subsection, the term 'qualified trust' means any trust other than—

"(A) a foreign trust, or

"(B) a trust created before March 1, 1984, unless it is established that the trust would not be aggregated with other trusts under section 643(f) if such section applied to such trust."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 665 is amended by inserting "except as provided in subsection (b)," after "subpart,"

(b) PROPERTY TRANSFERRED TO TRUSTS.—Subsection (e) of section 644 is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or ", and by adding at the end the following new paragraph:

"(5) in the case of a qualified trust (as defined in section 665(f)(2)), any sale or exchange of property after December 31, 1992."

(c) EFFECTIVE DATES.—

(1) ACCUMULATION DISTRIBUTION.—The amendments made by subsection (a) shall apply to distribution in taxable years beginning after December 31, 1992.

(2) TRANSFERRED PROPERTY.—The amendments made by subsection (b) shall apply to sales or exchanges after December 31, 1992.

SEC. 4707. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end thereof the following new paragraph:

"(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to with respect to rentals occurring after December 31, 1976.

Subtitle H—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

SEC. 4801. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.— .

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4802. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) REFUNDS TO CERTAIN SELLERS OF DIESEL FUEL AND AVIATION FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) LIMITATIONS ON AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is *used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.*

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered motorboat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

Paragraph (14) shall not apply with respect to any mixture sold or used after September 30, 2000.

"(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train unless such fuel was used by a State or any political subdivision thereof.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes, but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) for purposes of the tax imposed under section 4091, a motorboat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4803. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4804. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)".

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Use by Producer or Importer.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) Cross Reference.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) Certain Additional Taxes Not Transferred to Highway Trust Fund.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4805. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4811. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) In General.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4812. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) In General.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4813. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) In General.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4814. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4815. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4816. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4817. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4818. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4819. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4820. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4821. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4831. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4832. SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.

(a) IN GENERAL.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a manufacturer, producer, or importer who manufactures, produces, or imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUP.—Persons who are members of the same controlled group of corporations shall be treated as 1 manufacturer, producer, or importer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such section.".

(b) EFFECTIVE DATE; REFUNDS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1983.

(2) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendments made by this section shall not expire before the date which is 1 year after the date of the enactment of this Act, and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendments made by this section) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 4833. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

SEC. 4834. EXEMPTION FOR TRANSPORTATION ON CERTAIN FERRIES.

(a) GENERAL RULE.—Subparagraph (B) of section 4472(1) (relating to exception for certain voyages on passenger vessels) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN VOYAGES.—The term 'covered voyage' shall not include—

"(i) a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States, and

"(ii) a voyage of less than 12 hours on a ferry between a port in the United States and a port outside the United States.

For purposes of the preceding sentence, the term 'ferry' means any vessel if normally no more than 50 percent of the passengers on any voyage of such vessel return to the port where such voyage began on the 1st return of such vessel to such port."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to voyages beginning after December 31, 1989; except that—

(1) no refund of any tax paid before the date of the enactment of this Act shall be made by reason of such amendment, and

(2) any tax collected from the passenger before the date of the enactment of this Act shall be remitted to the United States.

SEC. 4835. APPLICATION OF CERTAIN TAXES TO CERTAIN BUSINESS AIRCRAFT.

(a) IN GENERAL.—Subsection (a) of section 4282 (relating to transportation by air for other members of affiliated group) is amended by adding at the end the following new sentence: "The determination under paragraph (2) shall be made on a per flight basis."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle I—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4901. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4902. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4903. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4904. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4905. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4906. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end thereof the following new clause:

"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1990.

PART II—TAX COURT PROCEDURES

SEC. 4911. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4912. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4913. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4914. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4921. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

PART IV—OTHER PROVISIONS

SEC. 4931. EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) 3-YEAR EXTENSION.—

(1) IN GENERAL.—Subsection (c) of section 7608 (relating to undercover operations) is amended by adding at the end thereof the following new paragraph:

"(6) TERMINATION.—The provisions of this subsection shall cease to apply on and after September 1, 1995; and all amounts expended pursuant to this subsection shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before such date."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1992.

(b) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and general use of the proceeds from the operation,

"(III) a description of the operation including the potential violation being investigated, and

"(IV) the results of the operation including the results of criminal proceedings."

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 4932. DISCLOSURE OF RETURNS ON CASH TRANSACTIONS.

(a) GENERAL RULE.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(13) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i) or (8)" and inserting "(i)(3)(B)(i)", and

(C) by striking "or (12)" and inserting "(12), or (13)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (13)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4933. ALTERNATIVE METHODS OF VERIFYING RETURNS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6066. AUTHORITY TO PRESCRIBE ALTERNATIVE METHODS OF VERIFYING RETURNS, ETC.

"(a) AUTHORITY.—The Secretary may, on a trial basis, provide for alternative methods for verifying, signing, and subscribing returns, declarations, statements, or other documents required to be made under the internal revenue laws and regulations. Such authority shall apply during calendar years 1993, 1994, and 1995.

"(b) TREATMENT OF ALTERNATIVE METHODS.—Any return, declaration, statement, or other document verified, signed or subscribed under any method adopted under subsection (a) shall be treated for all purposes (including penalties for perjury) in the same manner as verified by signature.

"(c) REPORT.—The Secretary shall, no later than December 31, 1994, report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of any trial conducted under subsection (a)."

(b) REPORTS.—The Comptroller General of the United States, and the Office of Technology Assessment, shall study each trial conducted under section 6066 of the Internal Revenue Code of 1986 (as added by subsection (a)) and report to the Congress the results of such study not later than December 31, 1994. Such report shall include recommendations as to whether, and in what form, the authority under such section should be continued.

(c) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6066. Authority to prescribe alternative methods of verifying returns, etc."

TITLE V—TAXPAYER BILL OF RIGHTS 2

SEC. 5000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 2".

Subtitle A—Taxpayer Advocate

SEC. 5001. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office, including all problem resolution officers, shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by the President by and with the advice and consent of the Senate, and who shall report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the Chief Counsel for the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than October 31 of each calendar year after 1992, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the following calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than June 30 of each calendar year after 1992, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue taxpayer assistance orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction, *"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),*

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers, and

"(IX) include such other information as the Taxpayer Advocate may deem advisable.

"(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees referred to in clauses (i) and (ii) without any prior review or comment from the Commissioner of the Internal Revenue Service, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate."

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to taxpayer assistance orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

(3) The table of sections for subchapter A of chapter 80 of subtitle F is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5002. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of taxpayer assistance orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by inserting "take any action as permitted by law," after "cease any action,".

(b) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded only by the Taxpayer Advocate, the Commissioner, or any superior of either."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Modifications to Installment Agreement Provisions

SEC. 5101. NOTIFICATION OF REASONS FOR TERMINATION OR DENIAL OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) DENIALS.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE REQUIREMENTS FOR DENIALS.—The Secretary may not deny any request for an installment agreement under this section unless—

"(1) a notice of the proposed denial is provided to the taxpayer not later than the day 30 days before the date of such denial, and

"(2) such notice includes an explanation why the Secretary intends to deny such request.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which a request for an agreement under this section relates is in jeopardy."

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5102. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR, OR TERMINATION OF, INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments), as amended by section 5101, is amended by adding at the end thereof the following new subsection:

"(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of denials of requests for, or terminations of, installment agreements under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1993.

Subtitle C—Interest

SEC. 5201. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and

(2) by striking "ministerial act" each place it appears and inserting "ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "Assessments" and inserting "Abatement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 5202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6651(a) (relating to addition to tax for failure to file tax return or pay tax) is amended by striking "10 days" and inserting "21 days (10 days if the amount for which such notice and demand is made equals or exceed $100,000)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after June 30, 1993.

Subtitle D—Joint Returns

SEC. 5301. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary may disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5302. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Collection Activities

SEC. 5401. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice thereof at the same office as the with-

drawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(c) MODIFICATIONS IN CERTAIN LEVY EXEMPTION AMOUNTS.—

(1) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(A) by striking "If the taxpayer is the head of a family, so" and inserting "So", and

(B) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$1,700".

(2) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession exempt from levy) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,200".

(3) INDEXED FOR INFLATION.—Section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(f) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1993, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXEMPT AMOUNTS.—The amendments made by subsection (c) shall take effect with respect to levies issued after December 31, 1992.

SEC. 5402. OFFERS-IN-COMPROMISE.

(a) GENERAL RULE.—Subsection (a) of section 7122 (relating to compromises) is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interests of the United States.".

(b) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5403. NOTIFICATION OF EXAMINATION.

(a) IN GENERAL.—Section 7605 (relating to restrictions on examination of taxpayer) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) NOTIFICATION REQUIREMENT.—No examination described in subsection (a) shall be made unless the Secretary notifies the taxpayer in writing by mail to an address determined under section 6212(b) that the taxpayer is under examination and provides the taxpayer with an explanation of the process as described in section 7521(b)(1). The preceding sentence shall not apply in the case of any examination if the Secretary determines that—

"(1) such examination is in connection with a criminal investigation or is with respect to a tax the collection of which is in jeopardy, or

"(2) the application of the preceding sentence would be inconsistent with national security needs or would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 7521(b) (relating to safeguards) is amended by striking "or at".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5404. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 5405. SAFEGUARDS RELATING TO DESIGNATED SUMMONS.

(a) STANDARD OF REVIEW.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) NOTICE REQUIREMENTS FOR ISSUANCE.—Section 6503(k) is amended by adding at the end thereof the following new paragraph:

"(4) NOTICE REQUIREMENTS.—With respect to any summons referred to in paragraph (1)(A) issued to any person other than the corporation, the Secretary shall promptly notify the corporation, in writing, that such summons has been issued with respect to such corporation's return of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summons issued after the date of the enactment of this Act.

Subtitle F—Information Returns

SEC. 5501. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1993 (determined without regard to any extension).

SEC. 5502. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

"(1) 4 years after the date of the filing of the false or fraudulent information return, or

"(2) 1 year after the date such false or fraudulent information return would have been discovered by exercise of reasonable care.

"(d) COPY OF COMPLAINT FILED WITH IRS.—Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

"(e) FINDING OF COURT TO INCLUDE CORRECT AMOUNT OF PAYMENT.—The judgment of the court in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

"(f) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.
"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to false or fraudulent

information returns filed after the date of the enactment of this Act.

SEC. 5503. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall present reasonable and probative information concerning such deficiency in addition to such information return."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle G—Modifications to Penalty for Failure to Collect and Pay Over Tax

SEC. 5601. PRELIMINARY NOTICE REQUIREMENT.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PRELIMINARY NOTICE REQUIREMENT.—

"(1) IN GENERAL.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the date 90 days after the date on which such notice was mailed.

"(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to assessments made after June 30, 1993.

SEC. 5602. NO PENALTY IF PROMPT NOTIFICATION OF THE SECRETARY.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end thereof the following new subsection:

"(d) PENALTY NOT APPLICABLE WHERE PROMPT NOTIFICATION OF FAILURE.—

"(1) IN GENERAL.—A person shall not be liable for any penalty under subsection (a) by reason of any failure referred to in subsection (a) if—

"(A) such person is not a significant owner, or highly compensated employee, of the trade or business with respect to which such failure occurred,

"(B) such person notifies the Secretary (in such manner as he may prescribe) that such failure has occurred within 10 days after the date of such failure,

"(C) such notification was before any notice by the Secretary to any person with respect to such failure, and

"(D) such failure is not a part of a plan to defraud the Federal Government.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) SIGNIFICANT OWNER.—The term 'significant owner' means—

"(i) any person holding an interest as a proprietor in a trade or business carried on as a proprietorship, and

"(ii) in the case of a trade or business conducted by a corporation or partnership, any person who is a 5-percent owner (as defined in section 416(i)(1)) in such corporation or partnership, as the case may be.

"(B) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' means any employee who receives compensation from the employer at an annual rate in excess of $75,000.

"(3) SPECIAL RULES.—

"(A) ONE-TIME RELIEF.—This subsection shall apply only once with respect to—

"(i) any person, and

"(ii) any trade or business with respect to which the failure described in subsection (a) occurred.

"(B) APPLICATION OF SUBSECTION.—This subsection shall not apply if it results in no person being held liable for the penalty described in subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5603. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 5301, is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5604. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—

(A) IN GENERAL.—The penalty under section 6672 of the Internal Revenue Code of 1986 shall not be imposed on unpaid, volunteer members of any board of trustees or directors of an organization referred to in section 501 of such Code to the extent such members are solely serving in an honorary capacity, do not participate in the day-to-day or financial operations of the organization, and do not have actual knowledge of the failure on which such penalty is imposed.

(B) APPLICATION OF PARAGRAPH.—This paragraph shall not apply if it results in no person being held liable for the penalty described in section 6672(a) of the Internal Revenue Code of 1986.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes described in section 6672 of the Internal Revenue Code of 1986 of such failure within 30 days after the return was filed reflecting such failure or after the date on which the Secretary is first aware of such failure. If the person failing to make the deposit is not an individual, the Secretary shall notify the entity subject to such deposit requirement and that entity shall notify, within 15 days of the notification by the Secretary, all officers, general partners, trustees, or other managers of the failure.

Subtitle H—Awarding of Costs and Certain Fees

SEC. 5701. MOTION FOR DISCLOSURE OF INFORMATION.

Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) MOTION FOR DISCLOSURE OF INFORMATION.—Once a taxpayer substantially prevails as described in subparagraph (A)(ii), the taxpayer may file a motion for an order requiring the disclosure (within a reasonable period of time specified by the court) of all information and copies of relevant records in the possession of the Internal Revenue Service with respect to such taxpayer's case and the substantial justification for the position taken by the Internal Revenue Service."

SEC. 5702. INCREASED LIMIT ON ATTORNEY FEES.

Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following: "In the case of any calendar year beginning after 1992, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

SEC. 5703. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

SEC. 5704. EFFECTIVE DATE.

The amendments made by this subtitle shall apply in the case of proceedings commenced after the date of the enactment of this Act.

Subtitle I—Other Provisions

SEC. 5801. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5802. TREATMENT OF SUBSTITUTE RETURNS UNDER SECTION 6651.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 5803. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

"(A) The date on which such regulation is filed with the Federal Register.

"(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

"(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

"(2) EXCEPTION FOR PROMPTLY ISSUED REGULATIONS.—Paragraph (1) shall not apply to regulations issued within 12 months of the date of the enactment of the statutory provision to which the regulation relates.

"(3) PREVENTION OF ABUSE.—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse of a statute to which the regulation relates.

"(4) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

"(5) INTERNAL REGULATIONS.—The limitations of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices or procedures.

"(6) CONGRESSIONAL AUTHORIZATION.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

"(7) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

"(8) APPLICATION TO RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall apply with respect to—

(A) any temporary or proposed regulation filed on or after July 28, 1992, and

(B) any temporary or proposed regulation filed before July 28, 1992, and filed as a final regulation after such date.

(2) SPECIAL RULE.—Section 7805(b)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply only to statutes enacted on or after the date of the enactment of this Act.

(3) REGULATIONS RELATING TO EXCHANGE RATES.—The amendment made by subsection (a) shall not apply to any regulation issued pursuant to paragraph (1)(C) or (4) of section 986(a) of the Internal Revenue Code of 1986, as added by section 4421.

SEC. 5804. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or the Secretary's delegate (hereafter in the section referred to as the "Secretary") from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 5805. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"(a) IN GENERAL.—If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

"(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

"(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

"(e) MANDATORY STAY.—Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending, shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

"(f) CRIME-FRAUD EXCEPTION.—Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and by adding at the end thereof the following new items:

"Sec. 7434. Civil damages for unauthorized enticement of information disclosure.
"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

Subtitle J—Form Modifications; Studies

SEC. 5900. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(3) TAX-WRITING COMMITTEES.—The term "tax-writing Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART I—FORM MODIFICATIONS

SEC. 5901. EXPLANATION OF CERTAIN PROVISIONS.

(a) GENERAL RULE.—The Secretary shall take such actions as may be appropriate to ensure that taxpayers are aware of the provisions of the 1986 Code permitting payment of tax in installments, extensions of time for payment of tax, and compromises of tax liability. Such actions shall include revising the instructions for filing income tax returns so that such instructions include an explanation of—

(1) the procedures for requesting the benefits of such provisions, and

(2) the terms and conditions under which the benefits of such provisions are available.

(b) COLLECTION NOTICES.—In any notice of an underpayment of tax or proposed underpayment of tax sent by the Secretary to any taxpayer, the Secretary shall include a notification of the availability of the provisions of sections 6159, 6161, and 7122 of the 1986 Code.

SEC. 5902. IMPROVED PROCEDURES FOR NOTIFYING SERVICE OF CHANGE OF ADDRESS OR NAME.

The Secretary shall provide improved procedures for taxpayers to notify the Secretary of changes in names and addresses. Not later than June 30, 1993, the Secretary shall institute procedures for timely updating all Internal Revenue Service records with change-of-address in-

formation provided to the Secretary by taxpayers.

SEC. 5903. RIGHTS AND RESPONSIBILITIES OF DIVORCED INDIVIDUALS.

The Secretary shall include in the Internal Revenue Service publication entitled "Your Rights As A Taxpayer" a section on the rights and responsibilities of divorced individuals.

PART II—STUDIES

SEC. 5911. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

(a) General Rule.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) Report.—Not later than June 30, 1993, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5912. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.

(a) General Rule.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) Report.—Not later than June 30, 1993, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5913. REPORTS ON TAXPAYER-RIGHTS EDUCATION PROGRAM.

Not later than April 1, 1993, the Secretary shall submit a report to the tax-writing Committees on the scope and content of the Internal Revenue Service's taxpayer-rights education program for its officers and employees. Not later than June 30, 1993, the Secretary shall submit a report to the tax-writing Committees on the effectiveness of the program referred to in the preceding sentence.

SEC. 5914. BIENNIAL REPORTS ON MISCONDUCT BY INTERNAL REVENUE SERVICE EMPLOYEES.

During June 30, 1993 and during June of each second calendar year thereafter, the Secretary shall report to the tax-writing Committees on all cases involving complaints about misconduct of Internal Revenue Service employees and the disposition of such complaints.

SEC. 5915. STUDY OF NOTICES OF DEFICIENCY.

(a) General Rule.—The Comptroller General shall conduct a study on—

(1) the effectiveness of current Internal Revenue Service efforts to notify taxpayers with regard to tax deficiencies under section 6212 of the 1986 Code,

(2) the number of registered or certified letters and other notices returned to the Internal Revenue Service as undeliverable,

(3) any follow-up action taken by the Internal Revenue Service to locate taxpayers who did not receive actual notice,

(4) the effect that failures to receive notice of such deficiencies have on taxpayers, and

(5) recommendations to improve Internal Revenue Service notification of taxpayers.

(b) Report.—Not later than June 30, 1993, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5916. NOTICE AND FORM ACCURACY STUDY.

(a) General Rule.—The Comptroller General shall conduct annual studies of the accuracy of 25 of the most commonly used Internal Revenue Service forms, notices, and publications. In conducting any such study, the Comptroller General shall examine the suitability and usefulness of Internal Revenue Service telephone numbers on Internal Revenue Service notices and shall solicit and consider the comments of organizations representing taxpayers, employers, and tax professionals.

(b) Reports.—The Comptroller General shall submit to the tax-writing Committees a report on each study conducted under subsection (a), together with such recommendations as he may deem advisable. The first such report shall be submitted not later than June 30, 1993.

SEC. 5917. INTERNAL REVENUE SERVICE EMPLOYEES' SUGGESTIONS STUDY.

(a) General Rule.—The Comptroller General shall conduct a study of the Internal Revenue Service employee-suggestion programs. Such study shall include a review of the suggestions which were accepted and rewarded by the Internal Revenue Service, an analysis as to how many of the suggestions were implemented, and an analysis of why other suggestions were not implemented.

(b) Report.—Not later than June 30, 1993, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

TITLE VI—TECHNICAL CORRECTIONS

SEC. 6100. COORDINATION WITH OTHER TITLES.

For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Revenue Provisions

SEC. 6101. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) Amendments Related to Subtitle A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "24".

(3) Clause (ii) of section 32(b)(1)(B) is amended by inserting a comma after "greater".

(4) Section 541 is amended by striking "28 percent" and inserting "31 percent".

(5) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(4) Treatment of deduction for medical insurance of self-employed.—In determining the amount of adjusted gross income for purposes of this section, the amount of the deduction under section 162(l) shall be determined without regard to section 162(l)(3)(B)."

(6) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(7) Subsection (b) of section 1 is amended by striking "$26,500" in the table contained therein and inserting "$26,050".

(b) Amendments Related to Subtitle B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

(2) Subsection (b) of section 4082 is amended to read as follows:

"(b) Tax on Certain Uses.—If any person uses gasoline (other than in the production of gasoline or special fuels referred to in section 4041), such use shall for purposes of this chapter be considered a removal."

(3)(A) Subparagraph (B) of section 4093(c)(2) is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l) is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(4) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(5) Paragraph (1) of section 9502(e) is amended to read as follows:

"(1) Increases in tax revenues before 1993 to remain in general fund.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990."

(6) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(7) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

"(6) Credit for transferee in bond.—If—

"(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

"(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

"(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

"(7) Regulations.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons during a calendar year, and

"(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year."

(8) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(f),".

(9) Section 5354 is amended by inserting "(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))" after "any one time".

(10) Effective on the date of the enactment of this Act, paragraph (7) of section 11202(i) of the Revenue Reconciliation Act of 1991 is amended by adding at the end thereof the following: "The Secretary may treat any person who bore the ultimate burden of the tax imposed by this subsection as the person to whom a credit or refund under such provisions may be allowed or made."

(c) Amendments Related to Subtitle C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraph (I) as subparagraph (H).

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause added by section 11212(e) of the Revenue

Reconciliation Act of 1990 and inserting ", or", and

(C) by redesignating the clause added by section 11323(c)(2) of such Act as clause (xiii).

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates."

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary."

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Paragraph (9) of section 132(h) is amended by striking "or the last sentence of subsection (c)(1) thereof".

(2) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(3) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1) Subsection (d) of section 39 is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), and

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2).

(2)(A) Subsection (h) of section 56 is amended—

(i) by striking "subsection (g)(4)(G)" in paragraph (5) and inserting "subsection (g)(4)(F)", and

(ii) by striking "section 613(e)(3)" in paragraph (7)(B) and inserting "section 613(e)(2)".

(B) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A)."

(C)(i) Subparagraph (B) of section 56(g)(1) is amended by striking "and the alternative tax net operating loss deduction" and inserting ", the alternative tax net operating loss deduction, and the deduction under subsection (h)".

(ii) Subparagraph (B) of section 56(g)(3) is amended by striking "and the alternative tax net operating loss deduction" and inserting ", the alternative tax net operating loss deduction, and the deduction under subsection (h)".

(3) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(4) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(5) Paragraph (2) of section 55(c) is amended by striking "29(b)(5)" and inserting "29(b)(6)".

(6) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

(7) Clauses (iii) and (iv) of section 53(d)(1)(B) are each amended by striking "section 29(b)(5)(B)" and inserting "section 29(b)(6)(B)".

(8) Subparagraph (B) of section 56(h)(4) is amended by striking "For purposes of subparagraph (A), the" and inserting "The".

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section."

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3) (B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse."

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes "shall be treated as holding" and inserting:

"(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual".

(C) Section 2704(c)(3) is amended by striking "section 2701(e)(3)(A)" and inserting "section 2701(e)(3)".

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

"(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,".

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

"(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments."

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: "A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election."

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for calendar year 1991.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest."

(10) Section 2701(e)(6) is amended by inserting "or to reflect the application of subsection (d)" before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking "to the extent" and inserting "if" in clause (i),

(ii) by striking "or" at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting ", or", and

(iv) by adding at the end thereof the following new clause:

"(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section."

(B)(i) Section 2702(a)(3) is amended by striking "incomplete transfer" each place it appears and inserting "incomplete gift".

(ii) The heading for section 2702(a)(3)(B) is amended by striking "INCOMPLETE TRANSFER" and inserting "INCOMPLETE GIFT".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking ", or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock" in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: "For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock."

(B) Paragraph (1) of section 1248(e) is amended by striking "or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock".

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking "or 361(c)(1)" and inserting "355(c)(1), or 361(c)(1)".

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section."

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking "section 408(b)" and inserting "section 408(b)(12)".

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting ", but only with respect to taxable years beginning after December 31, 1989" before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end thereof the following new subclause:

"(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)."

(B) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(b), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.".

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended—

(A) by striking "in a trade or business" and inserting "a trade or business", and

(B) by adding at the end thereof the following new sentence: "Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units and horses".

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subparagraph (E) of section 1367(a)(2) is amended by striking "section 613A(c)(13)(B)" and inserting "section 613A(c)(11)(B)".

(15) Subparagraph (B) of section 460(e)(6) is amended by striking "section 167(k)" and inserting "section 168(e)(2)(A)(ii)".

(16) Subparagraph (C) of section 172(h)(4) is amended by striking "subsection (b)(1)(M)" and inserting "subsection (b)(1)(E)".

(17) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(18) Paragraph (4) of section 1250(e) is hereby repealed.

(i) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 6102. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

"(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

"(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.".

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) IN GENERAL.—Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: "(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking "to the extent" and all that follows down through "subparagraph (A)" and inserting "to the extent that the allocable interest exceeds the interest described in subparagraph (A)".

(ii) The second sentence of section 884(f)(1) is amended by striking "reasonably expected" and all that follows down through the period at the end thereof and inserting "reasonably expected to be allocable interest.".

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

"(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States."

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if in-

cluded in the amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking "863(b)" and inserting "863".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking ", and" at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding "and" at the end of paragraph (2), by striking ", and" at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) TREATMENT OF ASSIGNMENT OF INTEREST IN CERTAIN BOND-FINANCED FACILITIES.—

(1) IN GENERAL.—Subparagraph (A) of section 1317(3) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: "A facility shall not fail to be treated as described in this subparagraph by reason of an assignment (or an agreement to an assignment) by the governmental unit on whose behalf the bonds are issued of any part of its interest in the property financed by such bonds to another governmental unit."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in such section 1317 on the date of the enactment of the Tax Reform Act of 1986.

(h) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

"(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause before the close of the 36-month period beginning on the date the covered employee became so entitled."

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

"(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

(i) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

(1) IN GENERAL.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(A) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this subsection,

"(B) the alternative minimum taxable income of any holder of a residual interest in a REMIC for any taxable year shall in no event be less than the excess inclusion for such taxable year, and

"(C) any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

The preceding sentence shall not apply to any organization to which section 593 applies, except to the extent provided in regulations prescribed by the Secretary under paragraph (2)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 671 of the Tax Reform Act of 1986 unless the taxpayer elects to apply such amendment only to taxable years beginning after the date of the enactment of this Act.

(j) AMENDMENTS TO SUBTITLE B OF TITLE V OF UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—

(1) AMENDMENTS TO SECTION 402.—

(A) Section 402(b)(4)(A) is amended by striking "paragraph (1) or (2)" and inserting "paragraph (1),".

(B) Section 402(c)(2) is amended by inserting "or subsection (e)(4)" after "paragraph (1)" the second place it appears.

(C) Section 402(c)(4) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting a comma and by adding at the end the following:

"(C) any distribution described in section 401(k)(2)(B)(i) (IV) or (V) or 403(b)(11) (B) or (C),

"(D) any distribution described in section 401(k)(8), 401(m)(6), or 402(g)(2), or any similar distribution specified by the Secretary in regulations,

"(E) any amount treated as a distribution by reason of a default on a loan described in section 72(p)(2), or any similar distribution specified by the Secretary in regulations, and

"(F) any distribution which is an applicable dividend (as defined in section 404(k)(2)).

For purposes of subparagraph (A), any social security supplemental payment described in the last sentence of section 411(a)(9) shall be disregarded in determining whether payments are substantially equal."

(D) Clause (iii) of section 402(d)(4)(A) is amended by striking "the" before "service".

(E) Section 402(e)(4)(A) is amended—

(i) by striking "the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any" and inserting "there shall be excluded from gross income the", and

(ii) by inserting "if any portion of the distribution is transferred in a transfer" after "distribution" in the last sentence thereof.

(F) The heading for section 402(e)(4)(B) is amended to read as follows: "(B) LUMP SUM DISTRIBUTION.—".

(G) Section 402(f)(1) is amended by adding at the end the following new sentence:

"In the case of a series of distributions, notice under this paragraph shall be required only before the first distribution in such series to which this subsection applies."

(2) AMENDMENTS RELATING TO DIRECT ROLLOVERS.—

(A) Section 401(a)(31)(A) is amended—

(i) by inserting "or portion thereof" after "such distribution" each place it appears,

(ii) by striking "trustee-to-trustee transfer" and inserting "rollover", and

(iii) by adding at the end the following new sentence:

"In the case of a series of distributions, an election under this subparagraph shall apply to all distributions which are part of the series after the election is made and before the election is revoked."

(B) Section 401(a)(31)(B) is amended—

(i) by striking "transferred" and inserting "directly rolled over", and

(ii) by inserting ", 402(e)(4)" after "402(c)".

(C) Section 401(a)(31)(C) is amended by inserting ", except that such term shall not include a distribution of less than $500, any distribution to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)), or any other distribution specified in regulations prescribed by the Secretary which is similar to distributions described in subparagraph (C), (D), or (E) of section 402(c)(4)" before the end period.

(D) Section 401(a)(31)(D) is amended—

(i) by striking "it is a defined contribution plan, the terms of which" and inserting "the terms of the trust", and

(ii) by adding at the end the following new sentence: "In the case of an annuity contract under section 403(b), the term 'eligible retirement plan' shall include only an individual retirement plan and an annuity contract described in section 403(b)(1).".

(E) Section 401(a)(31) is amended by adding at the end the following new subparagraph:

"(E) TREATMENT OF DIRECT ROLLOVER.—For purposes of this title, a direct rollover to which this paragraph applies shall be treated in the same manner as a distribution which the distributee transfers in a rollover to which section 402(c) applies (or in the case of an annuity contract under section 403 (a) or (b), in a rollover to which section 403 (a)(4) or (b)(8) applies).".

(F) The heading for section 401(a)(31) is amended by striking "TRANSFER" and inserting "ROLLOVER".

(G) Section 402(e) is amended by striking paragraph (6).

(H) Section 403(a) is amended by striking paragraph (5).

(I) Section 403(b)(10) is amended by striking the last sentence.

(J) Section 402(f)(2)(A) is amended—

(i) by striking "or" and inserting a comma, and

(ii) by inserting ", or paragraph (8) of section 403(b)" after "section 403(a)".

(3) AMENDMENTS RELATED TO WITHHOLDING.—

(A) Section 3405(c)(2) is amended by striking "if" and inserting "to the extent".

(B) Section 3405(c)(3) is amended by striking "402(f)(2)(A)" the first place it appears and inserting "401(a)(31)(C)".

(C) Section 3405(c)(3) is amended by striking "(or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))".

(D) Section 3405(c)(3) is amended by inserting ", except that such term shall not include a distribution of less than $500" before the end period.

(E) Section 3405(c) is amended by adding at the end the following new paragraph:

"(4) COORDINATION WITH SECTION 401(a)(9).—If a portion of a designated distribution—

"(A) is not an eligible rollover distribution by reason of being required under section 401(a)(9), and

"(B) is de minimis in relation to the total designated distribution,

such portion shall be treated as part of the eligible rollover distribution to which this subsection applies."

(4) OTHER AMENDMENTS.—

(A) Section 401(a)(20) is amended by striking "or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(B) Section 403(a)(4)(B) is amended by striking "(7)" and inserting "(9)".

(C) Section 403(b)(8)(B) is amended by striking "(7)" and inserting "(9)".

(D) Section 411(d)(3) is amended by striking "on the day" and inserting "no later than".

(E) Section 522(d)(2) of the Unemployment Compensation Amendments of 1992 is amended—

(i) by striking "a direct trustee-to-trustee transfer" and all that follows up to "the amendments" and inserting "a direct rollover from a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986)",

(ii) by striking "ANNUITY CONTRACTS" in the heading and inserting "GOVERNMENTAL PLANS", and

(iii) by inserting "(and section 402(f) of such Code, as amended by section 521)" after "section".

(F) Section 522(d) of the Unemployment Compensation Amendments of 1992 is amended—

(i) by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PAYMENTS.—The amendments made by this section (and section 402(f) of such Code, as amended by section 521) shall not apply to any distribution—

"(A) which is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before January 1, 1993, or

"(B) which is made—

"(i) before July 1, 1993, or

"(ii) on or after July 1, 1993, but only if such distribution is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before July 1, 1993, by reason of a death, disability, separation from service, or plan termination occurring before January 1, 1993.", and

(ii) by inserting "or (3)" after "(2)" in paragraph (1).

(G) Section 523 of the Unemployment Compensation Amendments of 1992 is amended—

(i) by inserting "the first day of" before "the first plan year", and

(ii) by striking "1994" and inserting "1995".

(H) Section 402(c)(9) is amended by striking "; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by the Unemployment Compensation Amendments of 1992.

(k) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO VETERANS' REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

"(u) SPECIAL RULES RELATING TO VETERANS' REEMPLOYMENT RIGHTS.—

"(1) TREATMENT OF CERTAIN REQUIRED CONTRIBUTIONS.—If any contribution is made by an employer under an individual account plan with respect to an employee and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service—

"(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 403(b), 404(a), 408, 415, or 457, and

"(B) such plan shall not be treated as failing to meet any requirement of this part or section 457 by reason of the making of such contribution and such contribution shall not be taken into account in applying the limitations referred to in subparagraph (A) to other contributions.

For purposes of the preceding sentence, any additional elective deferral made under paragraph (2) shall be treated as an employer contribution required by reason of the employee's rights under such chapter 43.

"(2) REEMPLOYMENT RIGHTS WITH RESPECT TO ELECTIVE DEFERRALS.—

"(A) IN GENERAL.—If an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, such employer shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals if such employer—

"(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B)) during the period (not longer than 5 years) which begins on the date of the reemployment and has the same length as the period of qualified military service which resulted in such rights, and

"(ii) makes a matching contribution in respect of any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

"(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph is the maximum amount of elective deferrals that the individual would have been permitted to make under the plan during his period of qualified military service if he had continued to be employed by the employer during such period and received compensation at the same rate as the individual received from the employer immediately before such qualified military service. Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

"(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term 'elective deferral' has the meaning given to such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

"(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—Nothing in chapter 43 of title 38, United States Code, shall be construed as requiring—

"(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

"(B) any allocation with respect to the period of qualified military service of any of the following amounts—

"(i) any forfeiture,

"(ii) any employer contribution which was voluntary, and

"(iii) any employer contribution the total amount of which was determined without reference to the number of, or compensation of, plan participants before being allocated to the accounts of participants.

"(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the repayment of any loan made to an individual for the period while such individual is performing qualified military service, such suspension shall not be taken into account for purposes of section 72(p).

"(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term 'qualified military service' means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter 43, with respect to such service.

"(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan and any eligible deferred compensation plan (as defined in section 457(b)).

"(7) REFERENCES.—Any reference in this subsection to chapter 43 of title 38 of the United States Code shall be treated as a reference to such chapter as in effect on January 1, 1993."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply in cases where the employee is reemployed on or after August 1, 1990, but only if there is enacted a law passed by the 102d Congress which amends chapter 43 of title 38 of the United States Code to expressly provide pension rights for reemployed veterans.

(l) COMPUTATION OF ADJUSTMENT OF HEATH INSURANCE TAX CONTRIBUTION BASE.—

(1) IN GENERAL.—Paragraph (2) of section 3121(x) (relating to hospital insurance contribution base) is amended to read as follows:

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), the applicable contribution base for any calendar year is the product of—

"(A) $130,200, and

"(B) the ratio of (i) the deemed average total wages (as defined in section 209(k)(1) of the Social Security Act) for the second preceding calendar year to (ii) the deemed average total wages (as so defined) for 1990.

If the amount determined under the preceding sentence is not a multiple of $300, such amount shall be rounded to the nearest multiple of $300. In no event shall the applicable contribution base for a calendar year determined under this paragraph be less than such applicable contribution base for the preceding calendar year."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to the determination of the applicable contribution base for years after 1992.

(m) EXEMPTION FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS.—

(1) IN GENERAL.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: ", or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986.

(n) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "adusted" and inserting "adjusted".

(4)(A) The heading for section 112 is amended by striking **"COMBAT PAY"** *and inserting* **"COMBAT ZONE COMPENSATION"**.

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1)(A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subparagraph (B) of section 4092(b)(1) is amended by striking "or" at the end of clause (i).

(9) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(10) Section 1463 is amended by striking "this subsection" and inserting "this section".

(11) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(12) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(13) Paragraph (2) of section 4978(b) is amended by striking the period at the end of subparagraph (A) and inserting a comma, and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(14) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(15) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(16) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(17) Subsection (k) of section 6166 is amended by striking paragraph (6).

(18) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(19) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(20) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(21) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(22)(A) Section 7232 is amended—

*(i) by striking "**LUBRICATING OIL**," in the heading, and*

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(23) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(24) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(25) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(26) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)".

(27) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(28) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(29) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

(30) Paragraph (1) of section 460(b) is amended by striking "the look-back method of paragraph (3)" and inserting "the look-back method of paragraph (2)".

(31) The heading for paragraph (2) of section 6427(b) is amended by striking "3-CENT" and inserting "3.1-CENT".

(32) Subparagraph (C) of section 50(a)(2) is amended by striking "subsection (c)(4)" and inserting "subsection (d)(5)".

(33) Subparagraph (B) of section 172(h)(4) is amended by striking the material following the heading and preceding clause (i) and inserting "For purposes of subsection (b)(2)—".

(34) Subparagraph (A) of section 355(d)(7) is amended by inserting "section" before "267(b)".

(35) Subparagraph (C) of section 420(e)(1) is amended by striking "mean" and inserting "means".

(36) Paragraph (4) of section 537(b) is amended by striking "section 172(i)" and inserting "section 172(f)".

(37) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(38) Paragraph (4) of section 856(a) is amended by striking "section 582(c)(5)" and inserting "section 582(c)(2)".

(39) Sections 904(f)(2)(B)(i) and 907(c)(4)(B)(iii) are each amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" after "section 172(h)".

(40) Subsection (b) of section 936 is amended by striking "subparagraphs (D)(ii)(I)" and inserting "subparagraphs (D)(ii)".

(41) Subsection (c) of section 2104 is amended by striking "subparagraph (A), (C), or (D) of section 861(a)(1)" and inserting "section 861(a)(1)(A)".

(42) Paragraph (1) of section 5002(b) is amended by striking "section 5041(c)" and inserting "section 5041(d)".

(43) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(44) Clause (iv) of section 6103(e)(1)(A) is amended by striking all that follows "provisions of" and inserting "section 1(g) or 59(j);".

(45) The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101-624 is redesignated as subsection (g).

(46) Subsection (b) of section 7454 is amended by striking "section 4955(e)(2)" and inserting "section 4955(f)(2)".

(47) Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if "comma" appeared instead of "period" and as if the paragraph (9) proposed to be added ended with a comma.

(48) Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "paragraph" appeared instead of "subparagraph" in the material proposed to be stricken.

(49) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting "(relating to definitions)" after "section 6038(e)".

(50) Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if "subsection" appeared instead of "section" in the material proposed to be stricken.

(51) Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 56(g)" appeared instead of "section 59(g)".

(52) Subparagraph (C) of section 11801(c)(8) of the Revenue Reconciliation Act of 1990 shall be applied as if "reorganizations" appeared instead of "reorganization" in the material proposed to be stricken.

(53) Subparagraph (H) of section 11801(c)(9) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 1042(c)(1)(B)" appeared instead of "section 1042(c)(2)(B)".

(54) Subparagraph (F) of section 11801(c)(12) of the Revenue Reconciliation Act of 1990 shall be applied as if "and (3)" appeared instead of "and (E)".

(55) Subparagraph (A) of section 11801(c)(22) of the Revenue Reconciliation Act of 1990 shall be applied as if "chapters 21" appeared instead of "chapter 21" in the material proposed to be stricken.

(56) Paragraph (3) of section 11812(b) of the Revenue Reconciliation Act of 1990 shall be applied by not executing the amendment therein to the heading of section 42(d)(5)(B).

(57) Clause (i) of section 11813(b)(9)(A) of the Revenue Reconciliation Act of 1990 shall be applied as if a comma appeared after "(3)(A)(ix)" in the material proposed to be stricken.

(58) Subparagraph (F) of section 11813(b)(13) of the Revenue Reconciliation Act of 1990 shall be applied as if "tax" appeared after "investment" in the material proposed to be stricken.

(59) Paragraph (19) of section 11813(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "Paragraph (20) of section 1016(a), as redesignated by section 11801," appeared instead of "Paragraph (21) of section 1016(a)".

(60) Paragraph (5) section 8002(a) of the Surface Transportation Revenue Act of 1991 shall be applied as if "4481(e)" appeared instead of "4481(c)".

Subtitle B—Tariff and Customs

SEC. 6201. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) IN GENERAL.—The Harmonized Tariff Schedule of the United States is amended as follows:

(1) REMOVAL OF GDR FROM COLUMN 2 RATE LIST.—General Note 3(b) is amended by striking "German Democratic Republic".

(2) TAPESTRY AND UPHOLSTERY FABRICS.—The article description for subheading 5112.19.20 is amended by striking "of a weight exceeding 300 g/m^{2}*".*

(3) GLOVES.—

(A) Chapter 61 is amended by redesignating subheading 6116.10.45 as subheading 6116.10.48.

(B) Chapter 62 is amended by striking the superior text "Other:" that appears between subheadings 6216.00.46 and 6216.00.52.

(4) AGGLOMERATE STONE FLOOR AND WALL TILES.—The article description for subheading 6810.19.12 is amended to read as follows: "Of stone agglomerated with binders other than cement".

(5) 2,4-DIAMINOBENZENESULFONIC ACID.—The article description for heading 9902.30.43 is amended by striking "2921.51.50" and inserting "2921.59.50".

(6) MACHINES USED IN THE MANUFACTURE OF BICYCLE PARTS.—The article description for heading 9902.84.79 is amended by striking "8479.89.90" and inserting "8462.49.00, 8479.89.90 or 9031.80.00".

(7) COPYING MACHINES AND PARTS.—The article description for heading 9902.90.90 is amended by inserting "or 8473.40.40" after "8472.90.80".

(b) STAGED RATE REDUCTIONS FOR GLOVES.—Any staged reduction of a special rate of duty set forth in subheading 6116.10.45 of such Schedule that takes effect on or after October 1, 1990, by reason of section 10011(a)(2) of Omnibus Budget Reconciliation Act of 1990 shall apply to the corresponding rate of duty in subheading 6116.10.48 (as redesignated by subsection (a)(3)(A)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon

proper request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry—

(i) that was made after the applicable date and before the 15th day after such date of enactment; and

(ii) with respect to which there would have been a lesser or no duty if any amendment made by subsection (a) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(B) For purposes of this subsection, the term "applicable date" means—

(i) if such amendment is made by subsection (a)(4) or (a)(7), December 31, 1988; and

(ii) if such amendment is made by subsection (a)(2), (a)(3), (a)(5), (a)(6), September 30, 1990.

SEC. 6202. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) by striking "and" at the end of clause (iv);

(2) by striking the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

(c) APPLICATION OF FEES TO CERTAIN AGRICULTURAL PRODUCTS.—The amendment made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 shall apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

SEC. 6203. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) IN GENERAL.—Paragraph (2) of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "the date of enactment of this Act" and inserting "January 1, 1989"; and

(B) by striking "such date of enactment" and inserting "January 1, 1989"; and

(2) in subparagraph (B), by striking "such date of enactment" and inserting "January 1, 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for;

be treated as the rate in effect on January 1, 1989.

SEC. 6204. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

SEC. 6205. TECHNICAL AMENDMENTS REGARDING CERTAIN BENEFICIARY COUNTRIES.

(a) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)) is amended by adding at the end thereof the following flush sentence:

"The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.".

(b) ANDEAN TRADE PREFERENCE ACT.—Section 204(c)(1) of the Andean Preference Act (19 U.S.C. 3203(c)(1)) is amended by adding at the end thereof the following flush sentence:

"The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to—

(1) articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act, and

(2) articles entered after December 31, 1991, and before such 15th day, which are not liquidated before such 15th day.

SEC. 6206. CLARIFICATION OF FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended—

(1) by striking "centralized hub facility or" in clause (i); and

(2) in clause (ii)—

(A) by striking "facility—" and inserting "facility or centralized hub facility—",

(B) by striking "customs inspectional" in subclause (I), and

(C) by striking "at the facility" in subclause (I) and inserting "for the facility".

(b) DEFINITIONS.—Section 13031(b)(9)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(i)) is amended—

(1) by striking ", as in effect on July 30, 1990", and

(2) by adding at the end thereof the following new sentence: "Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).".

(c) CITATION.—Section 13031(b)(9)(B)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(ii)) is amended by striking "section 236 of the Tariff and Trade Act of 1984" and inserting "section 236 of the Trade and Tariff Act of 1984".

TITLE VII—MISCELLANEOUS REVENUE PROVISIONS

Subtitle A—Provisions Primarily Affecting Individuals

SEC. 7101. INCOME EXCLUSION FOR EDUCATION BONDS EXPANDED.

(a) IDENTIFYING INFORMATION REQUIRED.—Section 135(b)(2) is amended to read as follows:

"(2) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO INDIVIDUAL FOR WHOM EXPENSES PAID.—No amount shall be allowed as an exclusion under subsection (a) unless the taxpayer includes the name, address, and taxpayer identification number of the person for whom qualified higher education expenses were paid on the return on which the exclusion is claimed."

(b) ELIMINATION OF AGE RESTRICTION.—Section 135(c)(1) (defining qualified United States savings bonds) is amended—

(1) by striking subparagraph (B),

(2) by inserting "and" at the end of subparagraph (A), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) EXCLUSION EXPANDED TO ALL INDIVIDUALS.—Subparagraph (A) of section 135(c)(2) (defining qualified higher education expenses) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for enrollment or attendance of any individual at an eligible educational institution."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1989, and redeemed after December 31, 1992.

SEC. 7102. LOSSES ALLOWED AGAINST GAIN RECOGNIZED ON SALE OF PRINCIPAL RESIDENCE.

Section 1001 (relating to determination of amount of and recognition of gain or loss) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) LOSSES ALLOWED AGAINST GAIN RECOGNIZED ON SALE OF PRINCIPAL RESIDENCE.—In the case of an individual, the amount of gain which would (but for this subsection) be recognized on the sale or exchange after December 31, 1993, of a principal residence of such individual shall be reduced (but not below zero) by the aggregate of the losses (if any) sustained by such individual on the sale or exchange after the date of the enactment of this subsection of prior principal residences of such individual which were not allowed as a deduction and which were not previously taken into account under this subsection. For purposes of the preceding sentence, the term 'principal residence' has the same meaning as when used in section 1034."

SEC. 7103. CLARIFICATION OF TREATMENT OF VETERANS' BENEFITS.

(a) IN GENERAL.—Section 134(b)(1) (relating to qualified military benefit) is amended by adding at the end thereof the following flush sentence:

"For purposes of this paragraph, and notwithstanding paragraph (3), the term 'qualified military benefit' includes any allowance or benefit administered by the Secretary of Veterans Affairs."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 7104. TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) IN GENERAL.—

(1) Paragraph (2) of section 108(f) (defining student loan) is amended by striking subparagraph (D) and inserting the following:

"(D) any educational organization so described if such loan is made—

"(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

"(ii) pursuant to a program of such educational organization designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs; except that this clause shall not apply in the case of any discharge if the discharge is on account of services performed for any employer and such employer directly or indirectly provides funds for such discharge.

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence."

(2) The amendment made by paragraph (1) shall apply to discharges of indebtedness after the date of the enactment of this Act.

(b) DISCHARGES OF INDEBTEDNESS UNDER CERTAIN STUDENT LOANS.—

(1) IN GENERAL.—Paragraph (1) of section 108(f) (relating to student loans) is amended—

(A) by inserting "(A)" after "discharged", and

(B) by inserting before the period at the end the following: ", or (B) in the case of a loan made by a State (or from funds provided by a State) which had no accredited professional schools for the study of law or medicine on the date the loan was made, if the individual resided for a certain period of time in the State after completion of the individual's attendance at the educational organization with respect to which the loan was made".

(2) EFFECTIVE DATE; WAIVER OF STATUTE OF LIMITATIONS.—

(A) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges of indebtedness made on or after January 1, 1987.

(B) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(i) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendment made by (paragraph (1) shall not expire before the date which is 1 year after the date of the enactment of this Act; and

(B) if, after the application of (clause (i), credit or refund of any overpayment of tax resulting from the application of the amendment made by (paragraph (1) is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendment made by paragraph (1)) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.

SEC. 7105. IRA ROLLOVERS OF MILITARY SEPARATION PAY.

(a) IN GENERAL.—Section 402(c) (relating to rules applicable to rollovers) is amended by adding at the end the following new paragraph:

"(11) MILITARY SEPARATION PAY.—If—

"(A) an individual receives separation pay under section 1174 or 1174a of title 10, United States Code, and

"(B) such individual transfers any portion of such pay within 60 days after the receipt of such pay to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B),

then the portion of the pay so transferred (to the extent it does not exceed $25,000) shall be treated as a transfer from a qualified trust which meets the requirements of this subsection and which is a transfer of a distribution of amounts other than employee contributions."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to pay received after December 5, 1991.

(2) TRANSITION RULE.—In the case of any payment received after December 5, 1991, and before the date of the enactment of this Act, the 60-day transfer requirement of section 402(c)(11)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall be treated as met if the taxpayer transfers the payment to an eligible retirement plan within 1 year after such date of enactment.

SEC. 7106. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.

(a) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR PRINCIPAL RESIDENCES DAMAGED BY PRESIDENTIALLY DECLARED DISASTERS.—

"(1) IN GENERAL.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) TREATMENT OF INSURANCE PROCEEDS.—

"(i) EXCLUSION FOR UNSCHEDULED PERSONAL PROPERTY.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) OTHER PROCEEDS TREATED AS COMMON FUND.—In the case of any insurance proceeds (not described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) EXTENSION OF REPLACEMENT PERIOD.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) PRESIDENTIALLY DECLARED DISASTER.—For purposes of this subsection, the term 'Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term 'principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.

SEC. 7107. CERTAIN FOSTER CARE PAYMENTS EXCLUDED FROM GROSS INCOME.

(a) TREATMENT OF PAYMENTS.—Subparagraph (A) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

"(A) which is—

"(i) paid by a State or political subdivision thereof or a placement agency which is described in section 501(c)(3) and exempt from tax under section 501(a), or

"(ii) paid by the Federal Government and taken into account by such State, political subdivision, or placement agency in determining the amount of a payment described in clause (i), and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments made on or after the date of the enactment of this Act.

SEC. 7108. PENALTY FREE WITHDRAWALS FROM ANNUITIES FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(q) (relating to 10-percent penalty for premature distributions from annuity contracts) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by inserting after subparagraph (J) the following new subparagraph:

"(K) which is a qualified higher education expense distribution (as defined in paragraph (4))."

(b) QUALIFIED HIGHER EDUCATION EXPENSE DISTRIBUTION.—Subsection (q) of section 72 is amended by adding at the end thereof the following new paragraph:

"(4) QUALIFIED HIGHER EDUCATION EXPENSE DISTRIBUTION.—

"(A) IN GENERAL.—For purposes of paragraph (2)(K), the term 'qualified higher education expense distribution' means any distribution from a designated higher education expense annuity to the taxpayer if such distribution is used within 90 days of the date of the distribution to pay qualified tuition and related expenses (as defined in section 117(b)) required for the enrollment or attendance of such taxpayer, the taxpayer's spouse, or a child (as defined in section 151(c)(3)) or grandchild of such taxpayer at an eligible educational institution (as defined in section 135(c)(3)); except that such expenses shall be reduced by any amount excluded from gross income under section 135 by reason of such expenses.

"(B) DESIGNATED HIGHER EDUCATION EXPENSE ANNUITY.—

"(i) IN GENERAL.—The term 'designated higher education expense annuity' means any annuity purchased after December 31, 1992, and designated for purposes of this paragraph by the purchaser at the time of purchase as an annuity to which this paragraph applies.

"(ii) CERTAIN ANNUITIES RECEIVED IN AN EXCHANGE NOT ELIGIBLE.—Such term shall not include any annuity acquired in an exchange to which section 1035 applies unless the annuity given up by the taxpayer in the exchange was a designated higher education expense annuity."

(c) GIFT TAX TREATMENT.—Subsection (e) of section 2503 is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF PREMIUMS PAID UNDER DESIGNATED HIGHER EDUCATION EXPENSE ANNUITIES.—

"(A) IN GENERAL.—Any premium paid for a designated higher education expense annuity shall not be treated as transfer of property by gift for purposes of this chapter.

"(B) RECAPTURE RULES.—If any premium paid by any person for a designated higher education expense annuity is not treated as a taxable gift solely by reason of subparagraph (A)—

"(i) LIFETIME DISTRIBUTIONS NOT USED FOR EDUCATIONAL PURPOSES.—Any disqualified lifetime distribution from the portion of any annuity attributable to such premium shall be treated as a transfer by gift by such person.

"(ii) INCLUSION IN GROSS ESTATE.—The gross estate of such person shall include the value (as of the date of the decedent's death or applicable valuation date set forth in section 2032) of the portion of any annuity attributable to such premium.

"(C) DISQUALIFIED LIFETIME DISTRIBUTION.—For purposes of subparagraph (B), the term 'disqualified lifetime distribution' means any distribution which is not a qualified higher education distribution and which is made during the life of the person referred to in subparagraph (B) to or for the benefit of another person.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph, the terms 'designated higher education expense annuity' and 'qualified higher education expense distribution' have the respective meanings given such terms by section 72(q)(4)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 7109. APPLICATION OF LOW-INCOME HOUSING CREDITS AND MORTGAGE REVENUE BONDS TO NATURAL DISASTER AREAS.

(a) LOW-INCOME HOUSING CREDITS.—

(1) WAIVER OF 24-MONTH COMPLETION REQUIREMENT.—In the case of any qualified building located in a qualified disaster area with respect to which a low-income housing allocation is made before the occurrence of the natural disaster, the Secretary may extend the period described in section 42(h)(1)(E)(i) of the Internal Revenue Code of 1986 to not later than the close of the fourth calendar year following the calendar year in which the allocation is made."

(2) WAIVER OF WRITTEN INCOME VERIFICATION REQUIREMENT.—

(A) IN GENERAL.—With respect any occupant of a low-income unit in any qualified low-income building located in a qualified disaster area or any such occupant in any other qualified low-income building who immediately prior to such occupation resided in a qualified disaster area, the Secretary may waive the requirements of paragraphs (1) and (2) of section 42(l) of such Code regarding occupant income information until such information is reasonably obtainable.

(B) DISCOVERY OF INELIGIBILITY.—If upon receipt of such information the income of any occupant of a low-income unit in the building is determined to exceed the income limitation under section 42(g) of such Code, such unit shall continue to be treated as a low-income unit if no subsequently available residential rental unit in the building is occupied by a new resident whose income exceeds such income limitation and such occupant vacates the unit upon the later of the lease termination or 30 days after receipt of such information by the Secretary.

(3) WAIVER OF TENANT INCOME LIMITATIONS.—With respect to any tenant occupying a unit in a qualified low-income housing project located in a qualified disaster area who relocates to any other unit of a qualified low-income housing project, the Secretary may waive the income limitation of subparagraph (A) or (B) of section 42(g)(1) of such Code if the income of such tenant does not exceed 140 percent of such income limitation.

(4) WAIVER OF 6-MONTH RESIDENCE REQUIREMENT.—With respect to any unit in a building located in a qualified disaster area or any unit occupied by individuals who immediately prior to such occupation resided in a qualified disaster area, the Secretary may waive the requirement of clause (i) of section 42(i)(3)(B) of such Code and allow the use of such unit on a transient basis.

(5) WAIVER ON 10-YEAR RULE FOR EXISTING BUILDINGS.—The Secretary may waive the requirement of subparagraph (B)(ii) of section 42(d)(2) of such Code with respect to any building located in a qualified disaster area.

(6) WAIVER OF THE NATIONAL POOL ALLOCATION.—The Secretary may modify the formula described in the penultimate sentence of section 42(h)(3)(D)(iii) of such Code for any calendar year with respect to the allocation to any qualified State in which is located a qualified disaster area to increase such allocation to take into account the effects of such disaster.

(7) EFFECTIVE DATE.—This subsection shall take effect on July 1, 1992.

(b) WAIVER OF DOLLAR LIMITATION FOR HOME IMPROVEMENT LOANS FOR RESIDENCES IN QUALIFIED DISASTER AREAS.—The $15,000 limitation specified in the last sentence of section 143(k)(4) of such Code shall not apply to any loan for residences located in a qualified disaster area if such loan is made on or after June 30, 1992, and before January 1, 1994.

(c) QUALIFIED DISASTER AREA.—For purposes of this section, the term "qualified disaster area" means an area designated by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Andrew, Hurricane Iniki, or Typhoon Omar.

Subtitle B—Charitable Contribution Provisions

SEC. 7201. ALTERNATIVE MINIMUM TAX TREATMENT.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 is amended by striking paragraph (6) (relating to the appreciated property charitable deduction under the alternative minimum tax) and by redesignating paragraph (7) as paragraph (6).

(b) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (6)" and inserting "and (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 1991, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

(d) REPORT ON ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied. Such report shall address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, recommendations for legislative action needed to implement the proposed procedure.

SEC. 7202. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

"(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $750 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph (B) if it provides information sufficient to substantiate the amount of the deductible contribution. If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1994.

SEC. 7203. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

"(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution, the organization shall, in connection with the solicitation or receipt of the contribution—

"(1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

"(2) provide the donor with a good faith estimate of the value of such goods or services.

"(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization."

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

"SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

"(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause."

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new item:

"Sec. 6115. Disclosure related to quid pro quo contributions.

"Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

"Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

(2) Regulations.—The Secretary of the Treasury or his delegate shall, not later than July 1, 1993, prescribe such regulations as are necessary to implement the amendments made by this section and section 7202.

SEC. 7204. CERTAIN ORGANIZATIONS REQUIRED TO DISCLOSE NONEXEMPT STATUS.

(a) General Rule.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. CERTAIN ORGANIZATIONS REQUIRED TO DISCLOSE NONEXEMPT STATUS.

"(a) In General.—If—

"(1) in an advertisement or solicitation by (or on behalf of) an organization, such organization is referred to as being nonprofit, and

"(2) such organization is not exempt from tax under subtitle A,

such advertisement or solicitation shall contain an express statement (in a conspicuous and easily recognizable format) that such organization is not exempt from Federal income taxes.

"(b) Cross Reference.—

"For penalties for violation of subsection (a), see section 6714."

(b) Penalty.—Part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"SEC. 6714. FAILURE TO DISCLOSE NONEXEMPT STATUS.

"(a) Imposition of Penalty.—If there is a failure to meet the requirements of section 6115 with respect to any advertisement or solicitation by (or on behalf of) an organization, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

"(b) Reasonable Cause Exemption.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

"(c) $10,000 Limitation Not To Apply Where Intentional Disregard.—If any failure to which subsection (a) applies is due to intentional disregard of the requirements of section 6115—

"(1) the penalty under subsection (a) for the day on which failure occurred shall be the greater of—

"(A) $1,000, or

"(B) 50 percent of the aggregate cost of the advertisements and solicitations which occurred on such day and with respect to which there was such failure,

"(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

"(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

"(d) Day on Which Failure Occurs.—For purposes of this section, rules similar to the rules of section 6710(d) shall apply in determining the day on which any failure occurs."

(c) Clerical Amendments.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following:

"Sec. 6115. Certain organizations required to disclose nonexempt status.

"Sec. 6116. Cross reference."

(2) The table of sections of part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6714. Failure to disclose nonexempt status."

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 7205. EXEMPT ORGANIZATIONS REQUIRED TO PROVIDE COPY OF RETURN.

(a) General Rule.—

(1) Subparagraph (A) of section 6104(e)(1) (relating to public inspection of annual returns) is amended to read as follows:

"(A) In general.—During the 3-year period beginning on the filing date—

"(i) a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

"(ii) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return shall be provided to such individual without charge other than a reasonable fee for the cost of reproduction.

If the request under clause (ii) is made in person, such copy shall be provided immediately and, if made other than in person, shall be provided within 30 days."

(2) Clause (ii) of section 6104(e)(2)(A) is amended by inserting before the period at the end thereof the following: "(and, upon request of an individual made at such principal office or such a regional or district office, a copy of the material required to be available for inspection under this subparagraph shall be provided (in accordance with the last sentence of paragraph (1)(A)) to such individual without charge other than a reasonable fee for the cost of reproduction)".

(b) Advertisements Etc., Required to Disclose Availability of Annual Return.—

(1) Paragraph (1) of section 6104(e) is amended by adding at the end thereof the following new subparagraph:

"(E) Advertisements etc., required to disclose availability of annual return.—In the case of an organization required by subparagraph (A) to provide a copy of its annual return under section 6033 upon request to individuals, each advertisement or solicitation by (or on behalf of) such organization shall contain an express statement (in a conspicuous and easily recognizable format) that such return shall be provided to individuals upon request without charge other than a reasonable fee for the cost of reproduction."

(2) Section 6714 is amended—

(A) by striking "section 6115" each place it appears and inserting "section 6115 or section 6104(e)(1)(E)",

(B) by striking "$1,000" in subsection (a) and inserting "$1,000 ($100 in the case of a failure to meet the requirements of 6104(e)(1)(E))", and

(C) by inserting before the period at the end of the section heading "**; FAILURE OF CERTAIN EXEMPT ORGANIZATIONS TO DISCLOSE AVAILABILITY OF ANNUAL RETURN**".

(3) Subparagraph (C) of section 6652(c)(1) is amended by striking "(e)(1)" and inserting "(e)(1) (other than subparagraph (E))", and by striking "$10" and inserting "$50".

(4) Subparagraph (D) of section 6652(c)(1) is amended by striking "$10" and inserting "$50".

(5) The item relating to section 6714 in the table of sections for part I of subchapter B of chapter 68 is amended by inserting before the period "; failure of certain exempt organizations to disclose availability of annual return".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1993.

Subtitle C—Other Provisions Relating to Tax-Exempt Organizations

SEC. 7301. REQUIRED NOTICES TO CHARITABLE BENEFICIARIES OF CHARITABLE REMAINDER TRUSTS.

(a) General Rule.—

(1) Section 6036 is amended—

(A) by striking "Every receiver" and inserting "(a) General Rule.—Every receiver", and

(B) by adding at the end thereof the following new subsection:

"(b) Special Rule for Transfers of Remainder Interests Described in Section 2055(e)(2)(A).—In the case of an estate claiming a charitable contribution deduction for the value of a transfer of a remainder interest in property described in section 2055(e)(2)(A), the executor or other fiduciary shall provide written notices to each organization described in section 2055(a) which has such an interest in the time and manner set forth in the following paragraphs:

"(1) Qualification notice.—Within 60 days of the date of the executor's qualification, the charitable beneficiary shall be notified of such qualification and such notice shall include—

"(A) the name, address, and date of death of the decedent;

"(B) the name, address, and identification number of each fiduciary of the estate;

"(C) the name and address of each charitable beneficiary;

"(D) a copy of the governing instrument relating to the transfer in trust; and

"(E) a description of the interest to which such charitable organization may be entitled, and any preliminary statements (if required by law) on the financial condition of the estate.

"(2) Tax return filing notice.—On or before the due date for the filing of a Federal estate tax return on which a charitable deduction is claimed, the charitable beneficiary shall be notified of such filing and such notice shall include—

"(A) a copy of the pertinent parts of the Federal estate tax return, and

"(B) such other information as may be required by form or regulation.

If any notice is provided to a charitable beneficiary under paragraph (1), no notice shall be required to be provided to such beneficiary under paragraph (2) unless such beneficiary agrees to reimburse the executor or other fiduciary for the reasonable costs of providing such notice."

(2) Section 6034A is amended by adding at the end thereof the following new subsection:

"(c) Annual Notice to Charitable Remainder Beneficiary.—

"(1) In general.—The fiduciary of any charitable remainder trust required to file any return under chapter 61 for any taxable year shall, on or before the date on which such return is required to be filed, furnish each charitable beneficiary—

"(A) a copy of such return (including all schedules), and

"(B) such other information (or deletions) for purposes of carrying out the internal revenue laws as the Secretary may require.

If a fiduciary furnishes the information required under the preceding sentence to any charitable beneficiary with respect to any trust taxable year, such fiduciary shall not be required to furnish information under the preceding sentence to such beneficiary with respect to any subsequent trust taxable year unless such beneficiary agrees to reimburse such fiduciary for the reasonable costs of furnishing such information.

"(2) Penalties.—

"For provisions relating to the failure to furnish on a timely or complete basis the information required under paragraph (1), see section 6652(c)."

(b) PENALTIES.—

(1) Paragraph (2) of section 6652(c) is amended to read as follows:

"(2) RETURNS UNDER SECTION 6034 OR 6043(b) AND NOTICES UNDER SECTION 6034A(C) OR 6036(b).—

"(A) PENALTY ON ORGANIZATION, TRUST, OR FIDUCIARY.—In the case of—

"(i) a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations),

"(ii) a failure to furnish any notice required under section 6034A(c) (relating to annual notice to charitable remainder beneficiary), or

"(iii) a failure to furnish any notice required under section 6036(b) (relating to a qualification notice or tax return filing notice),

on the date and in the manner prescribed therefore (determined with regard to any extension of time for filing), there shall be paid by the organization, trust, or fiduciary failing to file such return (or furnish such notice) $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization, trust, or fiduciary for failure to file any 1 return (or furnish any 1 notice) shall not exceed $5,000.

"(B) MANAGERS.—The Secretary may make written demand on an organization, trust, or fiduciary failing to file any return (or furnish any notice) under subparagraph (A) specifying therein a reasonable future date by which such filing (or furnishing) shall be made for purposes of this subparagraph. If such filing (or furnishing) is not made on or before such date, there shall be paid by the person responsible for failing to so file (or furnish) $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return (or furnish any 1 notice) shall not exceed $5,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7302. APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT CIVIC LEAGUES.

(a) IN GENERAL.—Paragraph (4) of section 501(c) (relating to list of exempt organizations) is amended to read as follows:

"(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(B) Local associations of employees—

"(i) the membership of which is limited to the employees of a designated person or persons in a particular municipality,

"(ii) which is operated exclusively for charitable, educational, or recreational purposes, and

"(iii) no part of the net earnings of which inures to the benefit of any private shareholder or individual."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 7303. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection, the term 'qualified sponsorship payment' means any payment by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than—

"(A) the use of the name or logo of such person's trade or business in connection with any qualified public event under arrangements (including advertising) in connection with such event which acknowledge such person's sponsorship or promote such person's products or services, or

"(B) the furnishing of facilities, services, or other privileges in connection with such event to individuals designated by such person.

"(3) QUALIFIED PUBLIC EVENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified public event' means any event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c) or by an organization described in section 511(a)(2)(B) if such event is—

"(i) a public event the conduct of which is substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization conducting such event, or

"(ii) any public event not described in clause (i) but only if such event is the only event of that type conducted by such organization during a calendar year and such event does not exceed 30 consecutive days.

An event shall be treated as a qualified public event with respect to all organizations referred to in the preceding sentence which receive sponsorship payments with respect to such event if such event is a qualified public event with respect to 1 of such organizations; except that a payment shall be treated as not being from an unrelated trade or business by reason of this sentence only to the extent that such payment is used to meet the expenses of such event or for the benefit of the organization with respect to which such event is a qualified public event (determined without regard to this sentence).

"(B) EXEMPT PURPOSE.—For purposes of subparagraph (A), the term 'exempt purpose' means any purpose or function constituting the basis for the organization's exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), the exercise or performance of any purpose or function described in section 501(c)(3)).

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the purposes of this subsection through the use of entities under common control."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to events conducted after the date of the enactment of this Act.

SEC. 7304. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OLYMPIC ORGANIZATIONS.

In the case of a qualified amateur sports organization described in section 501(j)(2) or an organization which would be so described but for the cultural events it organizes in connection with national or international amateur sports competitions—

(1) for purposes of section 512(b) of such Code, the term "royalty" includes any income received (directly or indirectly) by such organization if a substantial part of the consideration for such income is the right to use trademarks, designations, or similar properties indicating a connection with the Olympic Games to be conducted in 1996 or related events or the participation of the United States Olympic Team at such Games or events, and

(2) nothing in section 514 or 512(b) of such Code shall be construed as treating any amount treated as royalty under paragraph (1) as an item of income from an unrelated trade or business.

SEC. 7306. CHANGES IN APPLICATION OF WAGERING TAXES TO CHARITABLE ORGANIZATIONS.

(a) EXEMPTION FROM OCCUPATIONAL TAX FOR CHARITABLE ORGANIZATIONS.—Section 4411 (relating to occupational tax on wagering) is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION FOR CHARITABLE ORGANIZATIONS, ETC.—No tax shall be imposed by subsection (a) on—

"(1) any organization exempt from tax under section 501 or 521, and

"(2) any person who is engaged in receiving wagers only for or on behalf of such an organization,

if the only wagers accepted by such organization (and such person) are authorized under the law of the State in which accepted."

(b) EXCEPTION FROM WAGERING TAX FOR CHARITABLE ORGANIZATIONS.—Section 4402 (relating to exemptions from tax on wagers) is amended by inserting "(a) IN GENERAL.—" before "No tax" and by adding at the end thereof the following new subsection:

"(b) CHARITABLE ORGANIZATIONS, ETC.—

"(1) EXEMPTION WHERE CHARITABLE EXPENDITURES EXCEED WINNINGS.—If the amount of charitable expenditures of any organization described in section 4411(c) for any calendar quarter equals or exceeds the amount of wagering winnings of such organization for such quarter, no tax shall be imposed by this subchapter on wagers placed during such calendar quarter with such organization or with any person described in section 4411(c)(2) with respect to such organization.

"(2) REDUCTION OF TAX WHERE WINNINGS EXCEED CHARITABLE EXPENDITURES.—

"(A) IN GENERAL.—If paragraph (1) does not apply to an organization or person described in section 4411(c) for any calendar quarter, the tax imposed by this subchapter on wagers placed with such organization or person during such quarter shall be the applicable percentage of the tax which would (but for this paragraph) be imposed on such wagers during such quarter.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage for any calendar quarter is the excess of 100 percent over the percentage which the charitable expenditures of such organization for such quarter is of the wagering winnings of such organization for such quarter.

"(3) DEFINITIONS AND SPECIAL RULE.—For purposes of this subsection—

"(A) CHARITABLE EXPENDITURES.—The term 'charitable expenditures' means, for any calendar quarter, the sum of—

"(i) the amount paid by such organization during such quarter to accomplish 1 or more of the purposes described in section 170(c)(2)(B) or to acquire an asset used (or held for use) directly in carrying out 1 or more of such purposes, and

"(ii) the amount permanently set-aside by such organization during such quarter for 1 or more of such purposes.

"(B) WAGERING WINNINGS.—The term 'wagering winnings' means, with respect to any calendar quarter, the excess of the wagers which would (but for this subsection) be subject to tax under this subchapter and which are placed with the organization during such calendar quarter over the winnings paid on such wagers.

"(C) SPECIAL RULE.—Wagers received by any person for or on behalf of an organization shall be treated as received by such organization."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxes imposed for

periods beginning after the date of the enactment of this Act.

(2) Subsection (b).—The amendment made by subsection (b) shall apply to wagers placed in calendar quarters beginning after the date of the enactment of this Act.

SEC. 7307. CONDUCTING OF CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

(a) In General.—Paragraph (1) of section 513(f) (relating to certain bingo games) is amended by inserting before the period "or other qualified games of chance".

(b) Other Qualified Games of Chance.—Subsection (f) of section 513 is amended by adding at the end thereof the following new paragraph:

"(3) Other qualified games of chance.—For purposes of paragraph (1), the term 'other qualified game of chance' means any game of chance (other than bingo) if—

"(A) the conducting of such game by the organization does not violate State or local law,

"(B) the conducting of such game by organizations which are not nonprofit organizations would violate such law, and

"(C) no substantial part of the work in conducting such game is performed by individuals principally engaged in performing gaming services for hire."

(c) Clerical Amendment.—The subsection heading of section 513(f) is amended by striking "Bingo Games" and inserting "Games of Chance".

(d) Effective Date.—The amendments made by this section shall apply to games conducted after the date of the enactment of this Act.

SEC. 7308. TREATMENT OF CERTAIN NONPROFIT ORGANIZATIONS PROVIDING HEALTH BENEFITS.

(a) General Rule.—Paragraph (2) of section 833(c) (defining existing Blue Cross or Blue Shield organization) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, an organization which is not a Blue Cross or Blue Shield organization shall be treated as subject to this paragraph if such organization is not a health maintenance organization and is organized under and governed by State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 7309. TREATMENT OF INDIAN TRIBAL GOVERNMENTS UNDER SECTION 403(b).

In the case of any contract purchased in a plan year beginning before January 1, 1993, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

SEC. 7310. CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTION.

(a) In General.—In the case of any taxable year beginning after the date of the enactment of this Act, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1986 shall be reduced (but not below zero) by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) Limitations.—Subsection (a) shall only apply to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation but only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facility by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to a nonconsensual judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) Hazardous Substance.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

SEC. 7311. UNRELATED BUSINESS INCOME TAX TREATMENT OF MAILING LISTS.

(a) In General.—Section 513 (defining unrelated trade or business) is amended by adding at the end the following new subsection:

"(i) Exchanges and Rentals of Member Lists.—

"(1) In general.—In the case of an organization to which this subsection applies for any taxable year, the term 'unrelated trade or business' does not include any trade or business which consists of—

"(A) exchanging names and addresses of donors to (or members of) such organization with any other such organization, or

"(B) renting such names and addresses to any other such organization, but only if the aggregate income from such rental activity for the taxable year does not exceed 10 percent of the organization's gross revenue for the taxable year.

"(2) Organizations to which subsection applies.—This subsection shall apply to—

"(A) any organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), and

"(B) any organization described in section 501(c)(4)."

(b) Technical Amendments.—

(1) Paragraph (1) of section 513(h) is amended by striking "include—" and all that follows and inserting "include activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions."

(2) The subsection heading for section 513(h) is amended by striking "and Exchanges and Rentals of Member Lists".

(c) Effective Date.—The amendments made by this section shall apply to exchanges and rentals of member lists before, on, or after the date of the enactment of this Act; except that the amendment made by subsection (b)(1) shall take effect on the date of the enactment of this Act.

Subtitle D—Employee Benefit Provisions

SEC. 7401. TREATMENT OF CERTAIN REIMBURSED FLIGHT TRAINING EXPENSES.

(a) In General.—In the case of a taxable year beginning before January 1, 1980, the determination of whether a deduction is allowable under section 162(a) of the Internal Revenue Code of 1954 for flight training expenses shall be made without regard to whether the taxpayer was reimbursed for any portion of such expenses under section 1677(b) of title 38, United States Code (as in effect before its repeal by Public Law 97-35).

(b) Statute of Limitations.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 7402. TREATMENT OF CERTAIN SECURITIES TRANSFERRED TO ESOP FROM TERMINATED PENSION PLAN.

Subsection (b) of section 7302 of the Revenue Reconciliation Act of 1989 is amended by adding at the end thereof the following new paragraph:

"(3) Securities acquired pursuant to section 4980(c)(3).—The amendment made by this section shall not apply to employer securities acquired before October 1, 1989, pursuant to section 4980(c)(3) of the Internal Revenue Code of 1986 with assets transferred from a defined benefit pension plan the termination of which was the subject of a determination letter issued by the Internal Revenue Service which was in effect on August 4, 1989, and at all times thereafter before such securities were acquired."

SEC. 7403. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) General Rule.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) Amounts To Which Section Applies.—This section shall apply to any amount—

(1) which is payable to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term "State" includes the District of Columbia.

SEC. 7404. FRINGE BENEFITS OF AIRLINE AFFILIATE EMPLOYEES.

(a) Qualified Affiliate.—Section 132(h)(6)(A) is amended—

(1) by inserting "or is an entity at least 80 percent of which is owned directly or indirectly by one or more corporations which operate an airline," after "airline," in clause (i), and

(2) by inserting "or by a direct or indirect owner of such entity" after "member" in clause (ii).

(b) Conforming Amendment.—Section 132(h)(6)(B) is amended by inserting "or other entity" after "corporation".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

Subtitle E—Tax-Exempt Bond Provisions

SEC. 7501. INCREASE IN SIZE OF LOANS PERMITTED UNDER CERTAIN BOND-FINANCED PROGRAMS.

(a) In General.—Paragraph (2) of section 1316(a) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence:

"A loan shall not be treated as failing to meet the requirements of subparagraph (B) by reason

of exceeding the maximum amount permitted under such subparagraph if the maximum amount of such loan does not exceed $40,000.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 7502. TREATMENT OF CERTAIN PORT AUTHORITY BONDS.

(a) IN GENERAL.—In the case of bonds described in subsection (b)—

(1) the simultaneous reduction of interest rates on such bonds shall not affect the tax-exempt status of the interest on such bonds, and

(2) such bonds shall not be treated as arbitrage bonds under section 148 of the Internal Revenue Code of 1986 by reason of the failure to reduce interest rates on loans made with the proceeds of such bonds before the date of such simultaneous reduction.

(b) BONDS DESCRIBED.—The bonds described in this subsection are bonds issued—

(1) by or on behalf of a port authority created on August 17, 1932,

(2) pursuant to a resolution adopted on February 14, 1974, that established a common bond security fund program, and

(3) after September 3, 1980, and before May 30, 1991.

SEC. 7503. MODIFICATION OF LIMITATION ON CAPITAL EXPENDITURES FOR SMALL ISSUE BONDS.

(a) MODIFICATION TO $10,000,000 LIMITATION.—Subparagraph (C) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by inserting after clause (iv) the following new clause:

''(v) not to exceed $10,000,000 (determined without regard to the preceding clauses of this subparagraph) during the 3-year period ending after the date of such issue, but only to the extent such expenditures are not financed with any tax-exempt bond.''

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to expenditures made after the date of the enactment of this Act.

SEC. 7504. APPLICATION OF 1988 TECHNICAL CORRECTION.

At the election of an issuer made in writing to the Secretary of the Treasury, the amendment made by section 1009(b)(1)(B) of the Technical and Miscellaneous Revenue Act of 1988 shall not apply to bonds issued as bank eligible pursuant to section 902(f)(3)(L) of the Tax Reform Act of 1986 before March 31, 1988.

Subtitle F—Other Income Tax Provisions

SEC. 7601. PROVISIONS RELATED TO S CORPORATIONS.

(a) S CORPORATIONS PERMITTED TO HAVE 50 SHAREHOLDERS.—Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking ''35 shareholders'' and inserting ''50 shareholders''.

(b) S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking ''other than a corporation'' in the material preceding paragraph (1) and inserting ''other than a C corporation''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting ''an S corporation which included the taxpayer as a shareholder,'' after ''controlled by the taxpayer,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7602. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking ''drought conditions, and that these drought conditions'' in paragraph (1) and inserting ''drought or other weather-related conditions, and that such conditions'', and

(2) by inserting ''OR OTHER WEATHER-RELATED CONDITIONS'' after ''DROUGHT'' in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 (relating to livestock sold on account of drought) is amended—

(1) by inserting ''or other weather-related conditions'' before the period at the end thereof, and

(2) by inserting ''OR OTHER WEATHER-RELATED CONDITIONS'' after ''DROUGHT'' in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1992.

SEC. 7603. DEPRECIATION PERIOD FOR TUXEDOS HELD FOR RENTAL.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end thereof the following new clause:

''(iii) any tuxedo held for rental.''

(b) 2-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting above the item relating to subparagraph (B)(ii) the following new item:

''(A)(iii) .... 2''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1992.

SEC. 7604. DEDUCTION BY PERSONAL SERVICE CORPORATION OF CERTAIN ACCRUED YEAR-END COMPENSATION PAYABLE TO EMPLOYEE-OWNERS.

(a) IN GENERAL.—Section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new subsection:

''(h) YEAR-END REGULAR COMPENSATION PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATION.—

''(1) IN GENERAL.—In the case of a designated personal service corporation, the last sentence of subsection (a)(2) shall not apply to qualified compensation to be paid by such corporation to any employee who is not a key employee (as defined in section 416(i)).

''(2) QUALIFIED COMPENSATION.—For purposes of paragraph (1), the term 'qualified compensation' means compensation payable to an employee for the payroll period ending at the close of such corporation's taxable year if—

''(A) such payroll period is a semi-monthly or shorter period,

''(B) such employee is regularly paid on the basis of semi-monthly or shorter payroll periods, and

''(C) such compensation is solely for hours of service performed or is such payroll period's ratable share of such employee's annual basic rate of compensation.

''(3) DESIGNATED PERSONAL SERVICE CORPORATION.—For purposes of paragraph (1), the term 'designated personal service corporation' means any personal service corporation (within the meaning of section 441(i)(2)) using an accrual method of accounting for its last taxable year ending before the date of the enactment of this subsection.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts incurred in taxable years beginning after December 31, 1992.

SEC. 7605. TREATMENT OF PARTNERSHIP INVESTMENT EXPENSES UNDER MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 56(b)(1) (relating to limitation on deductions) is amended to read as follows:

''(A) DISALLOWANCE OF CERTAIN DEDUCTIONS.—

''(i) IN GENERAL.—No deduction shall be allowed—

''(I) for any miscellaneous itemized deduction (as defined in section 67(b)), or

''(II) for any taxes described in paragraph (1), (2), or (3) of section 164(a).

''(ii) TREATMENT OF PARTNERSHIP INVESTMENT EXPENSES.—Subclause (I) of clause (i) shall not apply to the taxpayer's distributive share of the expenses described in section 212 of any partnership; except that the aggregate amount allowed as a deduction by reason of this sentence shall not exceed the lesser of (I) the aggregate adjusted investment income of the taxpayer from partnerships, or (II) the excess of the aggregate of the taxpayer's distributive shares of such expenses over 2 percent of adjusted gross income. For purposes of the preceding sentence, the term 'adjusted investment income' means investment income (as defined in section 163(d)(4)(B)) reduced by investment interest (as defined in section 163(d)(3)).

''(iii) TREATMENT OF CERTAIN TAXES.—Subclause (II) of clause (i) shall not apply to any amount allowable in computing adjusted gross income.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 7606. CLARIFICATION OF TREATMENT OF CERTAIN BUILDINGS UNDER REHABILITATION CREDIT.

A building shall not be treated as being ineligible for the rehabilitation credit by reason of being relocated if the rehabilitation of such building at the relocated site began before the date of the publication of proposed Treasury Regulation 1.48–12(b)(5).

SEC. 7607. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) ADJUSTED CURRENT EARNINGS PREFERENCE.—

(1) IN GENERAL.—Clause (i) of section 56(g)(4)(B) (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end thereof the following new sentence: ''In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1989.

(b) ADJUSTMENTS FOR BOOK INCOME.—In applying section 56(f) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) to any insurance company taxable under section 831(b) of such Code, only net investment income as reported in the company's applicable financial statement shall be taken into account in determining the adjusted net book income of such insurance company. The preceding sentence shall apply to taxable years beginning after December 31, 1986, and before January 1, 1990.

SEC. 7608. TAX TREATMENT OF ASSOCIATIONS RESULTING FROM MERGERS OF CERTAIN FARM CREDIT ASSOCIATIONS.

(a) IN GENERAL.—Part IV of subchapter F of chapter 1 (relating to farmers' cooperatives) is amended by adding after section 521 the following new section:

''SEC. 522. CERTAIN MERGED FARM CREDIT ASSOCIATIONS.

''(a) IN GENERAL.—For purposes of this title, except as otherwise provided in this section, an

applicable merged association shall be treated in the same manner as a production credit association is treated under section 2.6 of the Farm Credit Act of 1971 (12 U.S.C. 2077).

"(b) TREATMENT OF EXEMPT ITEMS.—

"(1) IN GENERAL.—For purposes of this title, an exempt item shall not be taken into account in computing the tax liability of any applicable merged association.

"(2) EXEMPT ITEM.—For purposes of this subsection, the term 'exempt item' means any item of income, gain, loss, or deduction which is properly allocable to loans described in section 1.7 of the Farm Credit Act of 1971 (12 U.S.C. 2015) which have an initial term of at least 10 years.

"(c) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE MERGED ASSOCIATION.—The term 'applicable merged association' means any association resulting from a merger under section 7.8 of the Farm Credit Act of 1971 or section 410(e) or 411 of the Agricultural Credit Act of 1987 of 1 or more production credit associations and 1 or more Federal land bank associations. Such term includes any corporation resulting from a subsequent merger of an association referred to in the preceding sentence with another corporation.

"(2) REFERENCES TO FARM CREDIT ACT OF 1971.—Any reference in this section to the Farm Credit Act of 1971 shall be a reference to such section as in effect on December 31, 1992."

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for part IV of subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 522. Certain merged farm credit associations."

*(2)(A) The part heading for such part IV is amended by adding at the end thereof the following: "; **CERTAIN FARM CREDIT ASSOCIATIONS**".*

(B) The item relating to part IV in the table of parts for subchapter F of chapter 1 is amended by inserting "; certain farm credit associations" after "cooperatives".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 7609. RESTORATION OF PRIOR LAW TREATMENT OF CORPORATE REORGANIZATIONS THROUGH EXCHANGE OF DEBT INSTRUMENTS.

(a) IN GENERAL.—Subsection (a) of section 1275 (relating to original issue discount special rules) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR DETERMINATION OF ISSUE PRICE IN CASE OF EXCHANGE OF DEBT INSTRUMENTS IN REORGANIZATIONS.—

"(A) IN GENERAL.—If—

"(i) any debt instrument is issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) for another debt instrument (hereinafter in this paragraph referred to as the 'old debt instrument'), and

"(ii) the amount which (but for this paragraph) would be the issue price of the debt instrument so issued is less than the adjusted issue price of the old debt instrument,

then the issue price of the debt instrument so issued shall be treated as equal to the lesser of the stated principal amount of the debt instrument so issued or the adjusted issue price of the old debt instrument.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT INSTRUMENT.—The term 'debt instrument' includes an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—

"(I) IN GENERAL.—The adjusted issue price of the old debt instrument is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(7) or (b)(4) of section 1272 (or corresponding provisions of prior law).

"(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old debt instrument is its issue price, increased by any original issue discount previously allowed as a deduction."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 108(e)(11) (relating to issue price) is amended by striking "1273 and 1274" and inserting "1273, 1274, and 1275".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act, in satisfaction of any indebtedness.

SEC. 7610. TREATMENT OF DEPOSITS UNDER CERTAIN PERPETUAL INSURANCE POLICIES.

(a) GENERAL RULE.—Section 7872 (relating to treatment of loans with below-market interest rates) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF DEPOSITS UNDER CERTAIN PERPETUAL INSURANCE POLICIES.—

"(1) IN GENERAL.—This section shall not apply to any deposit made by a policyholder under a qualified perpetual policy.

"(2) QUALIFIED PERPETUAL POLICY.—For purposes of paragraph (1), the term 'qualified perpetual policy' means any insurance policy—

"(A) which provides insurance for property damage or casualty with respect to qualified residential property (or the contents thereof), and

"(B) which is funded only by the policyholder placing with the insurance company a cash deposit (and does not provide for any periodic premiums) and such deposit is fully refundable (except for a penalty for early withdrawal) upon cancellation of the policy.

For purposes of the preceding sentence, the term 'qualified residential property' means any personal residence and any building used for residential purposes with 10 or fewer dwelling units."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 7872(c) is amended by striking "subsection (g)" and inserting "subsections (g) and (h)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 7611. TAX TREATMENT OF CERTAIN DISTRIBUTIONS MADE BY ALASKA NATIVE CORPORATIONS.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1986, any qualified distribution made by a Native Corporation shall be treated as a distribution not made out of earnings and profits.

(b) QUALIFIED DISTRIBUTION.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified distribution' means any distribution to a Native (as defined in section 3 of the Alaska Native Claims Settlement Act) or descendant of a Native (as so defined)—

(A) which is made after the date of the enactment of the Alaska Native Claims Settlement Act, and

(B) which but for this section would have been treated as a dividend under chapter 1 of such Code.

(2) LIMITATION.—The aggregate amount of distributions made by any Native Corporation which may be treated as qualified distributions shall not exceed the lesser of—

(A) the aggregate amount received in cash by such Corporation on or before July 9, 1992, from the sale of any depletable property received by such Corporation pursuant to the Alaska Native Claims Settlement Act, or

(B) the aggregate bases (as determined pursuant to section 21(c) of such Act) of depletable property received by such Corporation pursuant to such Act and sold on or before July 9, 1992, reduced by the aggregate bases of any depletable property sold in a sale referred to in subsection (c)(2)(B).

(c) ADJUSTMENTS TO AMOUNT REALIZED.—For purposes of subsection (b)(2)(A)—

(1) there shall be taken into account any amount of cash received by the Corporation indirectly through another corporation all the stock of which is owned directly by such Corporation, but

(2) the following amounts shall be disregarded:

(A) Any amount realized directly or indirectly by the Corporation for the use of losses or credits of such Corporation or of a corporation all of the stock of which is owned directly by such Corporation where such use would not have been allowable without regard to section 60(b)(5) of the Tax Reform Act of 1984 (as amended by section 1804(e)(4) of the Tax Reform Act of 1986, and repealed by section 5021 of the Technical and Miscellaneous Revenue Act of 1988).

(B) Any amount realized directly or indirectly by the Corporation from a special purpose sale of any depletable property where the loss incurred on such sale was used in a manner which would not have been allowable, but for such section 60(b)(5) and such Corporation realized directly or indirectly any consideration for such use.

(d) SPECIAL PURPOSE SALE.—For purposes of subsection (c), the term "special purpose sale" means a sale in which a loss was recognized, and which was made under an agreement which was entered into either (1) after October 22, 1986, and on or before April 26, 1988, or (2) after April 26, 1988, if the loss incurred thereon was used in a contract referred to in section 5021(b) of the Technical and Miscellaneous Revenue Act of 1988.

(e) NATIVE CORPORATION.—For purposes of this section, the term "Native Corporation" has the meaning given such term by section 3 of the Alaska Native Claims Settlement Act.

(f) DEPLETABLE PROPERTY.—For purposes of this section, the term "depletable property" means any property of a character subject to the allowance for depletion under section 611 of the Internal Revenue Code of 1986.

SEC. 7612. DEDUCTION FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 832(c) is amended by striking "and" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(14) the small insurance company deduction allowed under subsection (h)."

(b) SMALL INSURANCE COMPANY DEDUCTION DEFINED.—Section 832 is amended by adding at the end thereof the following new subsections:

"(h) SMALL INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—The small insurance company deduction allowed under this subsection for any taxable year is the applicable deduction percentage of so much of the tentative taxable income for such taxable year as does not exceed $3,000,000.

"(2) PHASEOUT BETWEEN $3,000,000 AND $15,000,000.—The amount of the small insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by the applicable phaseout percentage of so much of the tentative taxable income for such taxable year as exceeds $3,000,000.

"(3) PERCENTAGES.—For purposes of this subsection—

In the case of taxable years beginning in calendar year:	*The applicable deduction percentage is:*	*The applicable phaseout percentage is:*
1992	*0*	*0*
1993	*0*	*0*
1994	*3*	*0.75*
1995	*7*	*1.75*
1996	*9*	*2.25*
1997 and thereafter.	*15*	*3.75*

"(4) SMALL INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF $500,000,000 OR MORE.—

"(A) IN GENERAL.—The small insurance company deduction shall not be allowed for any taxable year to any insurance company which, at the close of such taxable year, has assets equal to or greater than $500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company.

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(i) TENTATIVE TAXABLE INCOME.—For purposes of subsection (h)—

"(1) IN GENERAL.—The term 'tentative taxable income' means taxable income determined without regard to the small insurance company deduction.

"(2) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative taxable income for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(3) NONINSURANCE BUSINESSES.—

"(A) IN GENERAL.—The term 'noninsurance business' means any activity which is not an insurance business.

"(B) CERTAIN ACTIVITIES TREATED AS INSURANCE BUSINESSES.—For purposes of subparagraph (A), any activity which is not an insurance business shall be treated as an insurance business if—

"(i) it is of a type traditionally carried on by insurance companies for investment purposes, but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

"(ii) it involves the performance of administrative services in connection with plans providing property or casualty insurance benefits.

"(j) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(1) SMALL INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of subsections (h) and (i)—

"(A) all insurance companies which are members of the same controlled group shall be treated as 1 insurance company, and

"(B) any small insurance company deduction determined with respect to such group shall be allocated among the insurance companies which are members of such group in proportion to their respective tentative taxable incomes.

"(2) NONINSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of subsection (h)(4), all members of the same controlled group (whether or not insurance companies) shall be treated as 1 company.

"(3) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)).

"(4) ADJUSTMENTS TO PREVENT EXCESS DETRIMENT OR BENEFIT.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this subsection."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 7613. TREATMENT OF NOT-FOR-PROFIT RESIDUAL MARKET INSURANCE COMPANIES.

(a) IN GENERAL.—Subsection (d) of section 56 (relating to alternative tax net operating loss deduction) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR NOT-FOR-PROFIT RESIDUAL MARKET INSURANCE COMPANIES.—Subparagraph (A)(i) of paragraph (1) shall be applied by substituting '100 percent' for '90 percent' with respect to any insurance company which is created by a State or an instrumentality thereof and which is operated on a not-for-profit basis for the primary purpose of providing coverage to individuals or businesses for high-risk needs where coverage is not otherwise available or affordable."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 7614. GAINS AND LOSSES FROM CERTAIN DISPOSITIONS BY FARMERS COOPERATIVES.

(a) IN GENERAL.—Section 1388 is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF GAINS OR LOSSES ON THE DISPOSITION OF CERTAIN ASSETS.—For purposes of this title, in the case of any farmer cooperative—

"(1) IN GENERAL.—A farmer cooperative may elect to include gain or loss from the sale or other disposition of any asset (including stock or any other ownership or financial interest in another entity) in net earnings of the organization from business done with or for patrons, if such asset was used by the organization to facilitate the conduct of business done with or for patrons.

"(2) ALLOCATION.—An election under paragraph (1) shall not apply to gain or loss on the sale or other disposition of any asset to the extent that such asset was used for purposes other than to facilitate the conduct of business done with or for patrons. For purposes of this paragraph, the extent of such use may be determined on the basis of any reasonable method for making allocations of income or expense between patronage and nonpatronage operations.

"(3) PERIOD OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the organization. Any such revocation shall be effective for taxable years beginning after the date on which notice of the revocation is filed with the Secretary.

"(4) ELECTION AFTER REVOCATION.—If an organization has made an election under paragraph (1) and such election has been revoked under paragraph (3), such organization shall not be eligible to make an election under paragraph (1) for any taxable year before its 3rd taxable year which begins after the 1st taxable year for which such revocation is effective, unless the Secretary consents to such election.

"(5) COORDINATION WITH SECTION 1231.—If an organization has made an election under paragraph (1), section 1231 shall be applied separately with respect to both patronage-sourced gains and losses and nonpatronage-sourced gains and losses.

"(6) FARMER COOPERATIVE.—For purposes of this subsection, the term 'farmer cooperative' means any farmers', fruit growers', or like association to which subpart I of this subchapter applies.

"(7) NO INFERENCE.—Nothing in this subsection shall be construed to infer that a change in the law is intended for farmer cooperatives not having in effect an election under paragraph (1) or other organizations. Any gain or loss from the sale or other disposition of any asset by such organization shall be treated as if this subsection had not been enacted."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or other dispositions in taxable years beginning after date of enactment.

SEC. 7615. SPECIAL RULE FOR INCLUSION OF CROP PROCEEDS OF CERTAIN DISASTER VICTIMS.

(a) IN GENERAL.—If, for the taxpayer's taxable year which includes the designation date described in subsection (b), the taxpayer has income derived from the sale or exchange of crops grown in a qualified disaster area, the taxpayer may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs.

(b) QUALIFIED DISASTER AREA.—For purposes of subsection (a), the term "qualified disaster area" means an area designated by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Andrew, Hurricane Iniki, or Typhoon Omar.

(c) LIMITATION.—Subsection (a) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3)) of the Internal Revenue Code of 1986.

(d) SPECIAL RULES FOR SELF-EMPLOYMENT TAX.—If, for any taxable year, a taxpayer includes in gross income any amounts which, but for subsection (a), would have been included in gross income for the preceding taxable year, then the applicable contribution base for purposes of section 1402(b) of such Code for the taxable year of inclusion shall be increased by the lesser of—

(1) the applicable contribution base for the preceding taxable year, reduced by the self-employment income of the taxpayer for the preceding taxable year, or

(2) the amounts so included in gross income for the taxable year of inclusion.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1991.

SEC. 7616. REPORTING OF REAL ESTATE TRANSACTIONS.

(a) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to real estate transactions closing after the date of enactment of this Act.

SEC. 7617. STANDING FOR CERTAIN TAXPAYERS WITH REGARD TO SALE OF NET OPERATING LOSSES.

(a) Subsection (c) of section 5021 of the Technical and Miscellaneous Revenue Act of 1988

(Public Law 100-647) is amended to read as follows:

"(c) SPECIAL ADMINISTRATIVE RULES.—

"(1) INCOME INCLUDED IN NATIVE CORPORATION RETURN.—At the joint election of a Native Corporation and a corporation (referred to in this subsection (c) as the 'buyer corporation') with which the Native Corporation entered into a transaction permitted under section 60(b)(5) of the Tax Reform Act of 1984 and section 1804(e)(4) of the Tax Reform Act of 1986 (referred to in this subsection (c) as a 'Native Corporation transaction'), income assigned, transferred or otherwise made available by the buyer corporation through the use of a corporation (referred to in this subsection (c) as the 'profit subsidiary') by reason of such transaction for a period in which the profit subsidiary qualified as a member of the affiliated group of which the Native Corporation was the common parent shall be included in the taxable income of the Native Corporation affiliated group solely for purposes of section 6212 of the Internal Revenue Code—

"(A) ELECTION.—The election under this subsection (c) for the taxable year to which the election relates shall be made no later than 120 days after the date of enactment of this amendment. The election shall be irrevocable and shall be made by filing with the district director for the Anchorage district office of the Internal Revenue Service a written statement signed by responsible officers of the Native Corporation and the electing buyer corporation that—

"(i) identifies the Native Corporation, the profit subsidiary, and the buyer corporation (and their taxpayer identification numbers) and states their agreement to make the election provided in this subsection (c);

"(ii) states the amount of income assigned, transferred or otherwise made available to the profit subsidiary for the taxable year by reason of the Native Corporation transaction;

"(iii) if profit subsidiaries related to a buyer corporation other than the electing buyer corporation were members of the affiliated group of which the Native Corporation was the common parent, describes the order and the amount of the losses and credits of the Native Corporation affiliated group that were used to offset the income of each profit subsidiary;

"(iv) states the agreement of the buyer corporation to consent under section 6501(c)(4) of the Internal Revenue Code to extend the periods of limitations for assessment and collection solely with respect to the income of the profit subsidiary for the affected taxable period(s) to a date not less than 180 days after the date the tax liability for the taxable year in which the Native Corporation transaction occurred is finally determined; and

"(v) the Native Corporation and the buyer corporation agree that the Service is authorized to make any refund of any overpayment that is determined to be due, jointly to the Native Corporation and the electing buyer corporation.

If a Native Corporation has engaged in multiple Native Corporation transactions, such election shall be independently made by each buyer corporation on separate written statements. A buyer corporation that elects under this provision must so elect for all Native Corporation transactions with the particular Native Corporation with whom the election is made for which the statute of limitations for assessment is open.

"(B) TAXABLE RATE.—Notwithstanding section 11 of the International Revenue Code, any income of the profit subsidiary that is subject to the election provided in this subsection (c) shall be taxed at the rate that such income would have been taxed if it had been included in the return of the buyer corporation for the taxable year from which such income was assigned, transferred or otherwise made available. Solely for purposes of issuing a notice under section 6212 of the Internal Revenue Code to a Native Corporation for a Native Corporation transaction for which an election has been made under this subsection (c), the tax may be computed by applying the maximum corporate rate under section 11 of the Internal Revenue Code.

"(2) TREATMENT OF NATIVE CORPORATION AS COMMON PARENT AS SOLE AGENT.—The common parent of an affiliated group which includes a Native Corporation that elects under subsection (c)(1) shall be the sole agent for the profit subsidiary for purposes of the Native Corporation transaction for the period of affiliation.

"(3) COLLECTION OF TAX FROM BUYER CORPORATION.—For purposes of this subsection, the amount of any tax, interest, addition to tax, penalty or other amount attributable to the income of the profit subsidiary shall be paid by and be collectible from the profit subsidiary and the buyer corporation for the taxable year for which income was assigned, transferred or otherwise made available by the buyer corporation in connection with the Native Corporation transaction.

"(4) PAYMENT OF TAX BY NATIVE CORPORATION.—If, after the election provided in subsection (c)(1) is made, the Native Corporation pays all or any part of the tax, interest, addition to tax, penalty or other amount attributable to the income of the profit subsidiary, such payment shall be deemed to be a payment by the buyer corporation for the taxable year for which such income would otherwise have been included in the buyer corporation's return if the election provided in subsection (c)(1) was not made—

"(A) FILING OF REFUND CLAIM.—A Native Corporation that elects under subsection (c)(1) shall be treated as the taxpayer for purposes of sections 6402 and 6511 of the Internal Revenue Code with respect to all payments of tax, interest, additions to tax, penalties, or other amounts attributable to the income of the profit subsidiary and shall be entitled to file a claim for refund as the taxpayer with respect to any taxes, interest, additions to tax, penalties or other amounts attributable to the income of the profit subsidiary.

"(B) FILING OF REFUND SUIT.—A Native Corporation that elects under subsection (c)(1) shall be treated as the taxpayer for purposes of section 7422 of the Internal Revenue Code with respect to all payments of tax, interest, additions to tax, penalties, or other amounts attributable to the income of the profit subsidiary, and as the plaintiff for purposes of section 1402 of title 28, United States Code, and shall be entitled to file and maintain a proceeding in court as the taxpayer for the recovery of such amounts.

"(C) REFUND OF OVERPAYMENT.—In the event that an overpayment is determined to be due, whether by final administrative or judicial decision, with respect to a Native Corporation transaction for which an election is made under subsection (c)(1), the Native Corporation shall be treated as the person who made the overpayment within the meaning of section 6402(a) of the Internal Revenue Code. Notwithstanding any law or rule of law, including the preceding sentence, any refund of such overpayment may be made jointly to the Native Corporation and to the electing buyer corporation, as agreed to under paragraph (A)(v) of subsection (c)(1).

"(5) PARTICIPATORY RIGHTS OF ELECTING BUYER CORPORATION.—Any buyer corporation that makes an election under subsection (c)(1) shall have the right to—

"(A) submit a written statement and participate with the Native Corporation in any administrative proceeding relating to any proposed adjustment regarding a Native Corporation transaction for which an election has been made; and

"(B) file an amicus brief in any proceeding in a Federal court or the United States Tax Court that has been filed by the Native Corporation involving a proposed adjustment regarding such a Native Corporation transaction.

All written notices or other reports issued by the Secretary or his delegate with respect to such a Native Corporation transaction shall be issued to the Native Corporation, and it shall be the obligation of the Native Corporation to provide copies thereof to the electing buyer corporation. Rules similar to the rules of subparagraphs (B) and (C) of paragraph (7) shall apply for purposes of this paragraph.

"(6) FINAL DETERMINATION OF ISSUES.—

"(A) All issues with respect to the Native Corporation transaction with respect to which an election is made under subsection (c)(1), including the applicability of any interest, addition to tax, penalty or other amount, shall be determined by administrative or judicial decision with respect to the consolidated return of the Native Corporation affiliated group.

"(B) Upon such determination, any income of the profit subsidiary that is not offset in the Native Corporation transaction shall be reported on the buyer corporation's return as if it were originally reported thereon and subject to all adjustments, including net operating loss or other carrybacks, to which such income would otherwise be subject.

"(7) NO EFFECT ON NONELECTING CORPORATIONS.—The absence of an election by a Native Corporation and a buyer corporation with respect to a Native Corporation transaction shall not restrict the authority of the Secretary of the Treasury or his delegate to settle or litigate with any nonelecting buyer corporation with respect to any issue relating to such a transaction—

"(A) RIGHTS OF NATIVE CORPORATION.—For any such Native Corporation transaction for which no election is made under subsection (c)(1), the Native Corporation shall have the right to submit a written statement and participate with the buyer corporation in any administrative proceeding relating to any proposed adjustment regarding such Native Corporation transaction; and to file an amicus brief in any proceeding in a Federal court or the United States Tax Court that has been filed by the nonelecting buyer corporation involving a proposed adjustment regarding such Native Corporation transaction.

"(B) EXTENSION OF STATUTE OF LIMITATIONS.—Subparagraph (A) shall not apply if the Secretary of the Treasury or his delegate determines that an extension of the statute of limitations is necessary to permit the participation described in subparagraph (A) and the taxpayer and the Secretary or his delegate have not agreed to such extension.

"(C) FAILURES.—For purposes of the 1986 Code, any failure by the Secretary of the Treasury or his delegate to comply with the provisions of this subsection shall not affect the validity of the determination of the Internal Revenue Service of any adjustment of tax liability of any non-electing buyer corporation.

"(8) EFFECTIVE DATE.—This provision shall be effective for all taxable years for which the statute of limitations for assessment with respect to an electing Native Corporation has not expired prior to the date of enactment of this Act—

"(A) EXTENSION OF STATUTE OF LIMITATIONS.—Any Native Corporation for which the statute of limitations for assessment will expire within 120 days after the date of enactment of this section shall have the right upon request to extend such statute of limitations pursuant to section 6501(c)(4) of the Internal Revenue Code to a date not less than 120 days after the date of enactment of this section.

"(B) PERIOD FOR ASSESSMENTS.—If the statute of limitations for assessments with respect to an

electing Native Corporation has not expired prior to the date of the enactment of this Act, such period shall not expire before the date 120 days after the date on which the Native Corporations makes the election under this subsection."

(b) Section 5021 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647) is amended by adding, after subsection (e), new subsection (f) to read as follows:

"(f) Increase in Underpayment Rate.—For purposes of determining the amount of interest payable under section 6601 of the Internal Revenue Code on a tax underpayment attributable to a Native Corporation transaction for which an election has been made under subsection (c) hereof, the underpayment rate otherwise applicable under section 6621(a)(2) or (c) of the Internal Revenue Code of 1986 shall be increased by 0.5 percentage points.".

SEC. 7618. RESEARCH CREDIT BASE AMOUNT FOR START-UP COMPANIES.

(a) In General.—Clause (i) of section 41(c)(3)(B) (relating to the research credit definition of start-up companies) is amended to read as follows:

"(i) Taxpayers to which subparagraph applies.—The fixed-base percentage shall be determined under this subparagraph if the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after September 30, 1992.

SEC. 7619. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) In general.—Treasury regulations sections 1.469-5T(b)(2) (ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(b) Definitions.—For purposes of subsection (a)—

(1) Closely held activity.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(A) by 5 or fewer individuals, or

(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this section.

(2) Timber activity.—The term "timber activity" means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

Subtitle G—Provisions Relating to Taxes Other Than Income Taxes

SEC. 7701. TAX-FREE SALES OF TRUCKS ASSEMBLED BY EDUCATIONAL ORGANIZATIONS.

(a) In General.—Section 4053 (relating to exemptions) is amended by adding at the end thereof the following new paragraph:

"(8) Trucks assembled by nonprofit educational organizations.—Any article described in section 4051(a) which is, or is part of, an automobile truck, truck trailer, or semitrailer which is assembled by students, and sold, as part of a program included in the regular curriculum of a nonprofit educational organization, but only if the proceeds from such sale are to be used solely for the purpose of defraying costs incurred in connection with such program."

(b) Allowance of Credit or Refund.—Section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended by inserting after paragraph (6) the following new paragraph:

"(7) Truck chassis, bodies, and semitrailers sold by certain nonprofit educational organizations.—If—

"(A) a nonprofit educational organization has sold an automobile truck, truck trailer, or semitrailer assembled by students as part of a program included in the regular curriculum of such organization and the proceeds from such sale are to be used solely for the purpose of defraying costs incurred in connection with such program, and

"(B) the tax imposed by section 4051 has been paid with respect to such sale,

such tax shall be deemed to be an overpayment by such organization."

(c) Effective Date.—The amendments made by this section shall apply to sales after December 31, 1992.

SEC. 7702. CLARIFICATION OF EXEMPTION FROM FIREARMS TAX FOR RELOADING OF SHELLS AND CARTRIDGES SUPPLIED BY CUSTOMER.

(a) In General.—Section 4182 (relating to exemptions from firearms tax) is amended by adding at the end thereof the following new subsection:

"(d) Reloading of Customer-Supplied Shells and Cartridges.—No tax shall be imposed by section 4181 on the reloading of previously used shells and cartridges supplied by a customer if the reloaded shells and cartridges returned to the customer—

"(1) are previously used shells and cartridges supplied by such customer or any other customer, and

"(2) are identical in type and quantity to the shells and cartridges supplied by such customer."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 7703. EXPLOSIVES HANDLING EQUIPMENT EXEMPT FROM HEAVY TRUCK TAX.

(a) In General.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) Explosives handling equipment.—Any article primarily designed—

"(A) to be placed or mounted on an automobile truck chassis, truck trailer, or semi-trailer chassis, and

"(B) to be used to process, prepare, or load explosive products or the components thereof."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 512(b) of the Surface Transportation Assistance Act of 1982.

SEC. 7704. TERMINATION OF CERTAIN SPECIAL ESTATE TAX VALUATION RECAPTURE PROVISIONS.

Effective on and after January 1, 1993, the amendments made by subsection (c) of section 421 of the Economic Recovery Tax Act of 1981 shall also apply with respect to the estates of decedents dying before January 1, 1982.

SEC. 7705. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) Amendments of Internal Revenue Code of 1986.—

(1) Determination of size of crew.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) Certain cash remuneration permitted.—Subparagraph (A) of section 3121(b)(20) is amended to read as follows:

"(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(3) Conforming amendment.—Section 6050A(a) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(5) any cash remuneration described in section 3121(b)(20)(A)."

(b) Amendment of Social Security Act.—

(1) Determination of size of crew.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) Certain cash remuneration permitted.—Subparagraph (A) of section 210(a)(20) of such Act is amended to read as follows:

"(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to remuneration paid after December 31, 1992.

(2) Special rule.—The amendments made by this section (other than subsection (a)(3)) shall also apply to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

SEC. 7706. SERVICES PERFORMED BY FULL-TIME STUDENTS FOR SEASONAL CHILDREN'S CAMPS EXEMPT FROM SOCIAL SECURITY TAXES.

(a) In General.—Subsection (b) of section 3121 (defining employment) is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(21) service performed by a full time student (as defined in section 3306(q)) in the employ of an organized children's camp—

"(A) if such camp—

"(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

"(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than 33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year, and

"(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year."

(b) Conforming Amendment.—Subsection (a) of section 210 of the Social Security Act is amended by striking "or" at the end of para-

graph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(21) Service performed by a full time student (as defined in section 3306(q) of the Internal Revenue Code of 1986) in the employ of an organized children's camp—

"(A) if such camp—

"(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

"(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than 33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year, and

"(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid on or after October 1, 1993.

Subtitle H—Tax Treatment of Certain Cargo Containers

SEC. 7801. TREATMENT OF CERTAIN CARGO CONTAINERS.

(a) GENERAL RULE.—A qualified intermodal cargo container shall be treated as property described in section 48(a)(2)(B)(v) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

(b) QUALIFIED INTERMODAL CARGO CONTAINER.—

(1) GENERAL RULE.—For purposes of this section, the term "qualified intermodal cargo container" means any intermodal cargo container of a United States person which, after being placed in service, at all times during the taxable year either—

(A) is subject to a qualifying lease, or

(B) is being—

(i) held for lease,

(ii) moved for purposes of leasing or being available for lease, or

(iii) maintained or repaired for subsequent lease,

by the taxpayer, a lessee or agent of the taxpayer or any other person.

(2) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFYING LEASE.—The term "qualifying lease" means—

(i) any lease to a container user that has one or more trade routes that contact the United States, or

(ii) any short-term lease to a container user.

(B) CONTAINER USER.—The term "container user" means—

(i) a person that is in the business of using intermodal cargo containers to ship or transport cargo for other persons, or

(ii) with respect to an intermodal cargo container, a person that uses the container to ship or transport its own cargo.

(C) U.S. TRADE ROUTES.—A container user shall be deemed to have one or more trade routes that contact the United States if at any time during the taxable year such person—

(i) owns, operates, or charters any vessel that receives or delivers any intermodal cargo container in the United States, or

(ii) uses any intermodal cargo container to ship cargo to or from the United States.

(D) SHORT-TERM LEASE.—The term "short-term lease" means—

(i) any lease the stated term of which is not more than 50 percent of the class life (within the meaning of section 168(i)(l) of the Internal Revenue Code of 1986) of the container, and

(ii) any lease under a lease agreement under which the lessee is not required to use or hold the container for a specified term.

(E) LEASE.—The term "lease" means lease or sublease.

SEC. 7802. NO INFERENCE.

No inference shall be drawn from this subtitle as to the application of section 48(a)(2)(B)(v) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) or section 168(g)(4)(E) of the Internal Revenue Code of 1986 to containers that are not qualified intermodal cargo containers or to containers placed in service after December 31, 1989.

SEC. 7803. REVOCATION OF PRIOR ELECTION.

(a) GENERAL RULE.—Any election made under Internal Revenue Service Revenue Procedure 90-10 prior to the date of enactment of this Act may be revoked without the consent of the Secretary of the Treasury or his delegate. An election revoked under this section shall be treated as never having been made.

(b) TIME AND MANNER OF REVOCATION.—Any revocation under subsection (a) shall be made within 180 days after the date of enactment of this Act by filing with the Secretary of the Treasury or his delegate—

(1) a statement describing the election being revoked and indicating that the election is revoked, and

(2) an amended return consistent with such revocation.

(c) WAIVER OF STATUTE OF LIMITATIONS.—Sections 6511 and 6514 of the Internal Revenue Code of 1986 shall not bar a refund or credit attributable to a revocation made in accordance with subsection (b).

SEC. 7804. EFFECTIVE DATE.

(a) GENERAL RULE.—Section 7801 shall apply to all intermodal cargo containers placed in service before January 1, 1990.

(b) REVOCATION OF ELECTION.—Section 7803 shall take effect on the date of the enactment of this Act.

Subtitle I—PBGC Report on Employers With Underfunded Plans

SEC. 7901. REPORT ON EMPLOYERS WITH UNDERFUNDED PLANS.

(a) GENERAL RULE.—The Pension Benefit Guaranty Corporation shall, on January 31 of each calendar year after 1991, submit a report to the Congress setting forth—

(1) the name of each contributing sponsor of 1 or more applicable plans having unfunded liabilities aggregating $25,000,000 or more, and

(2) the name of each contributing sponsor with an applicable plan which has an unfunded liability in excess of $5,000,000 and with respect to which a minimum funding waiver in excess of $1,000,000 has been granted.

Information may be included in such report only if such information may be publicly disclosed by the Pension Benefit Guaranty Corporation.

(b) DETERMINATIONS OF UNFUNDED LIABILITY.—For purposes of subsection (a), determinations of the unfunded liability of any plan shall be made by the Pension Benefit Guaranty Corporation on the basis of the most recent information available to it.

(c) APPLICABLE PLAN.—For purposes of subsection (a), the term "applicable plan" means any employee pension benefit plan (as defined in paragraph (2) of section 3 of the Employee Retirement Income Security Act of 1974) covered under subtitle B of title IV of such Act; except that such term shall not include a multiemployer plan (as defined in section 4001(a)(3) of such Act).

(d) CONTRIBUTING SPONSOR.—For purposes of this section, the term "contributing sponsor" has the meaning given to such term by section 4001(a)(13) of such Act.

Subtitle J—Studies and Reports

PART I—STUDIES

SEC. 7911. STUDY OF SEMI-CONDUCTOR MANUFACTURING EQUIPMENT.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of semi-conductor manufacturing equipment to determine the appropriate recovery period and class life under section 168 of the Internal Revenue Code of 1986 for such equipment.

(b) REPORT.—The report of such study shall be submitted before April 1, 1993, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 7912. MUNICIPAL BOND FUND STUDY.

The Congressional Budget Office shall conduct a study of municipal bond funds currently operating in the United States and shall report its findings to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Budget Committees of the Senate and House of Representatives no later than December 31, 1992. The study shall (1) indicate the types of local capital projects supported by municipal bond funds, (2) the Federal, State, and local budgetary impacts of municipal bond funds, and (3) the need, if any, of additional bonding authority for municipal bond funds under the 1986 Tax Act.

SEC. 7913. STUDY OF TRAVEL EXPENSES OF LOGGERS.

(a) STUDY.—The Secretary of the Treasury shall conduct a study with respect to the deductibility of the travel expenses of an individual who is in the trade or business of cutting and skidding timber. Such study shall include an analysis of the facts and circumstances under which such individual may deduct for Federal income tax purposes expenses incurred when traveling between the individual's home and the job site.

(b) REPORT.—The Secretary of the Treasury shall, not later than July 1, 1993, report the results of the study conducted under subsection (a), including a recommendation as to whether or not travel expenses described in subsection (a) should be allowed as a deduction for Federal income tax purposes.

PART II—AMERICAN CITIZENS ANNUAL REPORT

SEC. 7918. AMERICAN CITIZENS ANNUAL REPORT ACT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Publicly owned corporations provide shareholders with an annual report on the financial status of the corporation.

(B) Americans are entitled to an annual report on the financial status of the Federal Government, as all citizens share an interest in the financial well-being of our Federal Government. Accurate, consistent, and broadly distributed reporting on the Nation's finances are central to the conduct of democracy.

(C) Recent Federal budget deficits have resulted in more than a tripling of the Federal debt. With prospects for enormous Federal budget deficits for the next several years, the debt is a burden that affects the present and future generations of Americans.

(D) The actual financial performance of the Federal Government often differs from the budget by tens, even hundreds, of billions of dollars. For example, the fiscal year 1991 budget was to result in a deficit of $63,000,000,000. Instead, the actual deficit for the year was $268,700,000,000.

(E) The Chief Financial Officers Act is leading agencies to develop reliable and relevant financial information that is to be useful to the public, including audited financial statements.

(F) The Federal Government continues to lose billions of dollars each year through fraud, *waste, abuse, and mismanagement. Standardized reporting to the public is essential to the improvement of accountability of public programs.*

(G) The growing Federal debt is hindering economic growth and competitiveness, and ultimately, reduces the standard of living of all Americans.

(2) PURPOSES.—The purposes of this section are to—

(A) provide the American taxpayer with an annual report on the financial status of the Federal Government;

(B) increase the participation and awareness of the public in finding solutions to the Federal Government's budget problems;

(C) require the President, Congressional leaders, and the chief financial officers of the Government to report to the public on the well-being of the Federal Government's finances as a part of their fiduciary responsibilities; and

(D) bring a public focus to efforts already underway that seek to develop and improve financial standards, annual reporting, and systems in the agencies of the Federal Government.

(b) ANNUAL REPORT.—Section 3513 of title 31, United States Code, is amended by adding at the end thereof the following:

"(d)(1) The Secretary of the Treasury shall prepare an annual report (referred to in this subsection as the 'annual report') containing—

"(A) the most recent 5-year actual trends in Federal receipts, expenditures, fund balances, assets and liabilities, and debts by major category or source, along with a brief description of those trends for the most recent year;

"(B) a comparison of the actual Federal spending and revenues by major category or source for the most recent fiscal year—

"(i) to the budget request estimates as submitted by the President for that year; and

"(ii) to the enacted budget,

along with notes explaining differences;

"(C) statements from the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives regarding significant aspects of the Government's financial performance; and

"(D) any other relevant information on the Government's performance and contributions to economic growth, productivity, and investment in infrastructure recommended for inclusion by the advisory committee and deemed appropriate by the Director of the Office of Management and Budget.

"(2)(A) Preparation and content of the annual report shall be supervised and directed by the Director of the Office of Management and Budget.

"(B) There is established an advisory committee to provide the Director of the Office of Management and Budget with comments and suggestions on the design and content of the annual report. The advisory committee shall consist of 9 members as follows:

"(i) 3 members to be appointed by the President.

"(ii) 2 members to be appointed by the Majority Leader of the Senate.

"(iii) 1 member to be appointed by the Minority Leader of the Senate.

"(iv) 2 members to be appointed by the Speaker of the House of Representatives.

"(v) 1 member to be appointed by the Minority Leader of the House of Representatives.

"(3) The annual report shall contain a statement of assurance by the Director of the Office of Management and Budget and an audit opinion the Comptroller General attesting to the reliability and relevancy accuracy of the information contained in the annual report.

"(4) The annual report shall be prepared annually in a timely fashion after the close of each fiscal year. If the final annual report for a fiscal year is not available within 3 calendar months after the close of that fiscal year, a preliminary annual report shall be prepared and published within that period containing substantially all the material described in subparagraphs (A) and (B) of paragraph (1) and the final annual report shall be prepared and published as soon as possible thereafter.

"(5)(A) In the case of any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by the Secretary for filing individual income tax returns for taxable years beginning in any calendar year, the Secretary shall include on the front inside cover of such booklet of instructions (in addition to the information required in subsection (a) of section 7523 of the Internal Revenue Code of 1986)—

"(i) a summary of the annual report prepared by the Director, and

"(ii) the procedures for obtaining a copy of such annual report.

"(B) The summary referred to in subparagraph (A) shall—

"(i) include the cumulative Federal debt at the end of each of the 10 preceding fiscal years expressed in total dollars and in dollars per capita; and

"(ii) be presented in a manner that is easily comprehensible to a taxpayer.

"(6) Notwithstanding any other provision of law, the Secretary of the Treasury may impose a processing fee or may accept contributions from corporations, foundations, and other private entities for distribution or preparation of the report, or both.".

(c) AUTHORIZATION.—For the purpose of carrying out the provisions of the amendment made by this Act, there are authorized to be appropriated to the Secretary of the Treasury and the Director of the Office of Management and Budget $10,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal years 1994, 1995, 1996 and 1997. These amounts shall include any funds raised through the authority established in section 3513(d)(7) of title 31, United States Code, as added by this Act.

Subtitle K—Mount Rushmore Commemorative Coin Act Amendments

SEC. 7921. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1993 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

Subtitle L—Annuity Benefits for Certain Ex-Spouses of Central Intelligence Agency Employees

SEC. 7931. SURVIVOR ANNUITY FOR CERTAIN EX-SPOUSES OF CIA EMPLOYEES.

(a) SURVIVOR ANNUITY.—

(1) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—Any person who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System (CIARDS) and who was married to such participant for not less than 10 years during such participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Central Intelligence Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), shall be entitled, except to the extent such person is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(A) the unreduced amount of the participant's annuity, as computed under section 221(a) of such Act; or

(B) the unreduced amount of what such annuity as so computed would be if the participant had not elected payment of the lump-sum credit under section 294 of such Act.

(2) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 226 of such Act.

(b) LIMITATIONS.—A former wife or husband is not entitled to a survivor annuity under this section if—

(1) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(2) the former wife or husband is less than 50 years of age; or

(3) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of such Act before December 4, 1991.

(c) COMMENCEMENT AND TERMINATION OF ANNUITY.—

(1) COMMENCEMENT OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this section shall commence—

(A) in the case of a former wife or husband of a participant or retired participant who is deceased as of October 1, 1993, beginning on the later of—

(i) the 60th day after such date; or

(ii) the date on which the former wife or husband reaches age 50; and

(B) in the case of any other former wife or husband, beginning on the latest of—

(i) the date on which the participant or retired participant to whom the former wife or husband was married dies;

(ii) the 60th day after October 1, 1993; or

(iii) the date on which the former wife or husband attains age 50.

(2) TERMINATION OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this section terminates on the last day of the month before the former wife's or husband's death or remarriage before attaining age 55. The entitlement of a former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

(d) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this section to a survivor annuity or to the restoration of the survivor annuity unless the former wife or husband elects to receive it instead of any other survivor annuity to which the former wife or husband may be entitled under CIARDS or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(e) APPLICATION.—

(1) TIME LIMIT; WAIVER.—A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than October 1, 1994. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(2) RETROACTIVE BENEFITS.—Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1993.

(f) RESTORATION OF ANNUITY.—Notwithstanding subsection (e)(1), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored after October 1, 1993, under subsection (b)(1) or (c)(2).

(g) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—

(1) ENTITLEMENT.—Except as provided in paragraph (2), this section shall apply to a former wife or husband of a CIARDS participant who has elected to become subject to chapter 84 of title 5, United States Code.

(2) AMOUNT OF ANNUITY.—The survivor annuity of a person covered by paragraph (1) shall be equal to 50 percent of the unreduced amount of the participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 and shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 8445 of title 5, United States Code.

SEC. 7932. RETIREMENT ANNUITY FOR CERTAIN EX-SPOUSES OF CIA EMPLOYEES.

(a) RETIREMENT ANNUITY.—

(1) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—A person described in section 7931(a)(1) shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to an annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former wife's or husband's pro rata share of 50 percent of such annuity (determined in accordance with section 222(a)(1)(B) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees).

(2) REDUCTION IN RETIREMENT ANNUITIES.—

(A) AMOUNT OF REDUCTION.—An annuity payable under this section shall be reduced by an amount equal to any apportionment payments payable to the former wife or husband pursuant to the terms of a court order incident to the dissolution of the marriage of such former spouse and the participant, former participant, or retired participant.

(B) DEFINITION OF TERMS.—For purposes of subparagraph (A):

(i) APPORTIONMENT.—The term "apportionment" means a portion of a retired participant's annuity payable to a former wife or husband either by the retired participant or the Government in accordance with the terms of a court order.

(ii) COURT ORDER.—The term "court order" means any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

(b) LIMITATIONS.—A former wife or husband is not entitled to an annuity under this section if—

(1) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(2) the former wife or husband is less than 50 years of age; or

(3) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of such Act before December 4, 1991.

(c) COMMENCEMENT AND TERMINATION.—

(1) RETIREMENT ANNUITIES.—The entitlement of a former wife or husband to an annuity under this section—

(A) shall commence on the later of—

(i) October 1, 1993;

(ii) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under such Act; or

(iii) such former wife's or husband's 50th birthday; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former wife or husband dies or remarries before 55 years of age, except that the entitlement of the former wife or husband to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(ii) the date on which the annuity of the participant terminates.

(2) DISABILITY ANNUITIES.—Notwithstanding paragraph (1)(A)(ii), in the case of a former wife or husband of a disability annuitant—

(A) the annuity of the former wife or husband shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (other than a disability annuity) or the date the disability annuity begins, whichever is later; and

(B) the amount of the annuity of the former wife or husband shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(3) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity unless the former wife or husband elects to receive it instead of any other annuity to which the former wife or husband may be entitled under CIARDS or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(4) APPLICATION.—

(A) TIME LIMIT; WAIVER.—An annuity under this section shall not be payable unless appropriate written application is provided to the Director of Central Intelligence, complete with any supporting documentation which the Director may by regulation require, not later than October 1, 1994. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(B) RETROACTIVE BENEFITS.—Upon approval of an application under subparagraph (A), the appropriate annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to an annuity under this section, but in no event shall an annuity be payable under this section with respect to any period before October 1, 1993.

(d) RESTORATION OF ANNUITIES.—Notwithstanding subsection (c)(4)(A), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored after October 1, 1993, under subsection (b)(1) or (c)(1)(B).

(e) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—The provisions of this section shall apply to a former wife or husband of a CIARDS participant who has elected to become subject to chapter 84 of title 5, United States Code. For purposes of this subsection, any reference in this section to a participant's CIARDS annuity shall be deemed to refer to the transferred participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986.

(f) SAVINGS PROVISION.—Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under title II or III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

SEC. 7933. HEALTH BENEFITS.

(a) IN GENERAL.—Section 16 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403p) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ELIGIBILITY OF FORMER WIVES OR HUSBANDS.—(1) Notwithstanding subsections (a) and (b) and except as provided in subsection (d), an individual—

"(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

"(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); and

"(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant;

is eligible for coverage under a health benefits plan.

"(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1), except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.".

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)".

SEC. 7934. SOURCE OF PAYMENT FOR ANNUITIES.

Annuities provided under sections 7931 and 7932 shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note).

SEC. 7935. EFFECTIVE DATE.

Sections 7931 through 7933 shall take effect as of October 1, 1993. No benefits provided pursuant to this subtitle shall be payable with respect to any period before that date.

Subtitle M—Repeal of Coast Guard Recreational Boat User Fee

SEC. 7941. RECREATIONAL BOAT TAX REPEAL.

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

SEC. 7942. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—All tariffs and essential terms of service contracts shall be filed electronically not later than January 1, 1993.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, during the period beginning January 1, 1993, and ending on September 30, 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

TITLE VIII—CUSTOMS AND TRADE PROVISIONS

Subtitle A—Trade Promotion

SEC. 8101. TREATMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS UNDER THE GENERALIZED SYSTEM OF PREFERENCES.

The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking "Union of Soviet Socialist Republics".

SEC. 8102. CENTER FOR THE STUDY OF TRADE IN THE WESTERN HEMISPHERE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) the United States, Mexico, and Canada have recently negotiated a North American Free Trade Agreement;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressionally appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992, demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is a primary bridge through which Latin America does business with the United States.

(2) PURPOSES.—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and from the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.—The

Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with the Texas Higher Education Coordinating Board (hereafter in this section referred to as the 'Coordinating Board'), is authorized and directed to make grants to an institution of higher education (or a consortium of such institutions) to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the 'Center'). The Commissioner of Customs shall make the first grant not later than December 1, 1993, and the Center shall be established not later than February 1, 1994.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs shall consult with the Coordinating Board and other appropriate public and private sector authorities with respect to selecting, planning, and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(6) Implement academic exchange programs and other cooperative research and instructional agreements with the complementary North/South Center at the University of Miami at Coral Gables.

"(e) DEFINITIONS.—For purposes of this section—

"(1) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965.

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.

"(g) DURATION OF GRANT.—The Commissioner of Customs is directed to make grants to any institution or institutions selected as the Center for fiscal years 1994, 1995, 1996, and 1997.

"(h) REPORT.—The Commissioner of Customs shall, no later than February 1, 1994, and annually thereafter for years for which grants are made, submit a written report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The first report shall include—

"(1) a statement identifying the institution or institutions selected as the Center,

"(2) the reasons for selecting the institution or institutions as the Center, and

"(3) the plan of such institution or institutions for operating the Center.

Each subsequent report shall include information with respect to the operations of the Center, the Center's collaboration with, and dissemination of information to, Government policymakers and the business community with respect to the Center's study of Western Hemispheric trade, and the plan and efforts of the Center to continue operations after grants under this section have expired.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1994, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

Subtitle B—Customs and Trade Agency Authorizations and Reports; Competitiveness Policy Council

PART I—AUTHORIZATIONS AND REPORTS

SEC. 8201. CUSTOMS AND TRADE AGENCY AUTHORIZATIONS.

(a) UNITED STATES INTERNATIONAL TRADE COMMISSION.—Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

"(i) $45,152,000 for fiscal year 1993.

"(ii) $48,042,000 for fiscal year 1994.

"(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.".

(b) UNITED STATES CUSTOMS SERVICE.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

"(A) $536,582,000 for fiscal year 1993.

"(B) $558,045,000 for fiscal year 1994.

"(2) FOR COMMERCIAL OPERATIONS.—(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

"(i) $795,000,000 for fiscal year 1993.

"(ii) $826,800,000 for fiscal year 1994.

"(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

"(3) FOR AIR AND MARINE INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air and marine interdiction programs of the Customs Service not to exceed the following:

"(A) $138,983,000 for fiscal year 1993.

"(B) $144,000,000 for fiscal year 1994.".

(c) OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:

"(i) $21,697,000 for fiscal year 1993.

"(ii) $22,435,000 for fiscal year 1994.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

"(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $2,500,000 shall remain available until expended.".

SEC. 8202. CUSTOMS FORFEITURE FUND.

Section 613A(f)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(2)(B)) is amended to read as follows:

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $15,000,000 for fiscal year 1993.

"(ii) $15,450,000 for fiscal year 1994.".

SEC. 8203. REPEAL OF EAST-WEST TRADE STATISTICS MONITORING SYSTEM.

(a) REPEAL.—Section 410 of the Trade Act of 1974 (19 U.S.C. 2440) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for such Act of 1974 is amended by striking out the following:

> "Sec. 410. East-West Trade Statistics Monitoring System.".

SEC. 8204. CUSTOMS PERSONNEL AIRPORT WORK SHIFT REGULATION.

Section 13031(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(g)) is amended—

(1) by striking out "In addition to the regulations required under paragraph (2), the" and inserting "The";

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 8205. REPORTS ON CUSTOMS ISSUES.

(a) ATTRITION.—Not later than February 1, 1993, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter in this section referred to as the "Committees") on the causes for the high attrition rates experienced by the United States Customs Service in its Southwest region, with particular focus on border ports of entry. The report shall include recommendations to the Committees for reducing the high attrition rate.

(b) STAFFING.—Not later than February 1, 1993, the Secretary of the Treasury shall submit a report to the Committees describing the Secretary's plans for staffing at full capacity on a port-by-port basis each of the facilities that has been or will be expanded, built, modernized, or otherwise improved under the Southwest Border Capital Improvements Program.

(c) LOCATION OF OFFICES AND AGENTS.—Not later than the date which is 3 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committees—

(1) a report analyzing the feasibility of moving the respective Customs Service offices—

(A) from downtown Portland, Oregon to the vicinity of the airport in Portland, Oregon, and

(B) from downtown Chicago, Illinois, to O'Hare International Airport; and

(2) a report analyzing the feasibility of placing drug enforcement agents in the Medford/Grants Pass area in Oregon.

PART II—COMPETITIVENESS POLICY COUNCIL

SEC. 8211. COMPETITIVENESS POLICY COUNCIL ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 5209 of the Competitiveness Policy Council Act (15 U.S.C. 4808) is amended—

(1) by striking "1991 and 1992" and inserting "1993 and 1994"; and

(2) by striking "$5,000,000" and inserting "$2,500,000".

(b) RENAMING OF COUNCIL.—The Competitiveness Policy Council Act (15 U.S.C. 4801 et seq.) is amended—

(1) in the subtitle heading—

(A) by inserting "**National**" before "**Competitiveness**"; and

(B) by striking "**Council**" and inserting "**Commission**";

(2) in section 5201—

(A) by inserting "National" before "Competitiveness"; and

(B) by striking "Council" and inserting "Commission";

(3) in section 5202(b)(2)—

(A) by inserting "National" before "Competitiveness"; and

(B) by striking "Council" and inserting "Commission";

(4) in section 5203—

(A) in the section caption, by striking "**council**" and inserting "**commission**";

(B) by inserting "National" before "Competitiveness"; and

(C) by striking "Council" each place it appears and inserting "Commission";

(5) in section 5204—

(A) in the section caption, by striking "**council**" and inserting "**commission**";

(B) by striking "Council" and inserting "Commission";

(6) in sections 5205 through 5208, by striking "Council" each place such term appears and inserting "Commission";

(7) in section 5207, in the section caption, by striking "**council**" and inserting "**commission**"; and

(8) in section 5210—

(A) in paragraph (1)—

(i) by inserting "National" before "Competitiveness"; and

(ii) by striking "Council" each place it appears and inserting "Commission"; and

(B) in paragraph (2)—

(i) by inserting "National" before "Competitiveness"; and

(ii) by striking "Council" and inserting "Commission".

(c) DUTIES OF THE COMMISSION.—Section 5204 of the National Competitiveness Policy Commission Act (15 U.S.C. 4803) is amended by striking paragraphs (11) and (12) and inserting the following:

"(11) prepare, publish, and distribute reports that—

"(A) contain the analysis and recommendations of the Commission; and

"(B) comment on the overall competitiveness of the American economy, including the report described in section 5208; and

"(12) submit an annual report to the President and to the Congress on the activities of the Commission.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 5206 of the National Competitiveness Policy Commission Act (15 U.S.C. 4805) is amended—

(1) in subsection (a)(1), by striking "GS–18 of the General Schedule" and inserting "the highest level allowed under section 5376 of title 5, United States Code";

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting before paragraph (4), as redesignated, the following:

"(1) FULL-TIME STAFF.—The Executive Director may appoint such officers and employees as may be necessary to carry out the functions of the Commission in accordance with the Federal civil service and classification laws, and fix compensation in accordance with the provisions of title 5, United States Code.

"(2) SENIOR EXECUTIVE SERVICE.—The Commission may establish positions in the Senior Executive Service in accordance with the provisions of subchapter II of chapter 31 of title 5, United States Code.

"(3) TEMPORARY STAFF.—The Executive Director may appoint such employees as may be necessary to carry out the functions of the Commission for a period of not more than 1 year, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, at rates not to exceed the maximum rate payable under section 5376 of title 5, United States Code."; and

(3) in subsection (c), by striking "GS–16 of the General Schedule" and insert "the maximum rate payable under section 5376 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 5207 of the National Competitiveness Policy Commission Act (15 U.S.C. 4806) is amended—

(1) by inserting before the period at the end of subsection (b)(1)(B) ", except that such information may be provided to members and staff of the Council subject to existing national security laws and regulations";

(2) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(3) by inserting after subsection (f) the following:

"(g) CONTRACTING AUTHORITY.—Within the limitation of appropriations to the Commission, the Commission may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of carrying out its duties under this subtitle.".

(f) REPORTING REQUIREMENTS.—Section 5208 of the National Competitiveness Policy Commission Act (15 U.S.C. 4807) is amended—

(1) by striking the caption and inserting the following:

"SEC. 5208. ANNUAL PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.";

(2) in subsection (a)—

(A) by striking the subsection heading and inserting "(a) PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.—"; and

(B) by striking "on" and inserting "not later than"; and

(3) by adding at the end the following:

"(d) PERIODIC REPORTS.—The Commission may submit to the President and the Congress such other reports containing analysis and recommendations as the Commission deems necessary.".

Subtitle C—Customs Modernization

SEC. 8301. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the "Customs Modernization and Informed Compliance Act".

(b) REFERENCE.—Whenever in part I, II, or III of this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a part, section, subsection, or other provision, the reference shall be considered to be made a part, section, subsection, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

PART I—IMPROVEMENTS IN CUSTOMS ENFORCEMENT

SEC. 8311. PENALTIES FOR VIOLATIONS OF ARRIVAL, REPORTING, ENTRY, AND CLEARANCE REQUIREMENTS.

Section 436 (19 U.S.C. 1436) is amended—

(1) by amending subsection (a)—

(A) by striking out "433" in paragraph (1) and inserting "431, 433, or 434 of this Act or section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)",

(B) by amending paragraph (2) to read as follows:

"(2) to present or transmit, electronically or otherwise, any forged, altered, or false document, paper information, data or manifest to the Customs Service under section 431(e), 433(d), or 434 of this Act or section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91) without revealing the facts; or", and

(C) by amending paragraph (3) to read as follows:

"(3) to fail to make entry or to obtain clearance as required by section 434 or 644 of this Act, section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91), or section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1509); or"; and

(2) by striking out "**AND ENTRY**" in the section heading and inserting "**ENTRY, AND CLEARANCE**".

SEC. 8312. FAILURE TO DECLARE.

Section 497(a) (19 U.S.C. 1497(a)) is amended—

(1) by inserting "or transmitted" after "made" in paragraph (1)(A); and

(2) by amending paragraph (2)(A) to read as follows:

"(A) if the article is a controlled substance, either $500 or an amount equal to 1,000 percent of the value of the article, whichever amount is greater; and".

SEC. 8313. CUSTOMS TESTING LABORATORIES; DETENTION OF MERCHANDISE.

(a) AMENDMENT.—Section 499 (19 U.S.C. 1499) is amended to read as follows:

"SEC. 499. EXAMINATION OF MERCHANDISE.

"(a) ENTRY EXAMINATION.—

"(1) IN GENERAL.—Imported merchandise that is required by law or regulation to be inspected, examined, or appraised shall not be delivered from customs custody (except under such bond or other security as may be prescribed by the Secretary to assure compliance with all applicable laws, regulations, and instructions which the Secretary or the Customs Service is authorized to enforce) until the merchandise has been inspected, appraised, or examined and is reported by the Customs Service to have been truly and correctly invoiced and found to com-

ply with the requirements of the laws of the United States.

"(2) EXAMINATION.—The Customs Service—

"(A) shall designate the packages or quantities of merchandise covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise;

"(B) shall order such packages or quantities to be sent to such place as is designated by the Secretary by regulation for such purpose;

"(C) may require such additional packages or quantities as the Secretary considers necessary for such purpose; and

"(D) shall inspect a sufficient number of shipments, and shall examine a sufficient number of entries, to ensure compliance with the laws enforced by the Customs Service.

"(3) UNSPECIFIED ARTICLES.—If any package contains any article not specified in the invoice or entry and, in the opinion of the Customs Service, the article was omitted from the invoice or entry—

"(A) with fraudulent intent on the part of the seller, shipper, owner, agent, importer of record, or entry filer, the contents of the entire package in which such article is found shall be subject to seizure; or

"(B) without fraudulent intent, the value of the article shall be added to the entry and the duties, fees, and taxes thereon paid accordingly.

"(4) DEFICIENCY.—If a deficiency is found in quantity, weight, or measure in the examination of any package, the person finding the deficiency shall make a report thereof to the Customs Service. The Customs Service shall make allowance for the deficiency in the liquidation of duties.

"(5) INFORMATION REQUIRED FOR RELEASE.—If an examination is conducted, any information required for release shall be provided, either electronically or in paper form, to the Customs Service at the port of examination. The absence of such information does not limit the authority of the Customs Service to conduct an examination.

"(b) TESTING LABORATORIES.—

"(1) ACCREDITATION OF PRIVATE TESTING LABORATORIES.—The Customs Service shall establish and implement a procedure, under regulations promulgated by the Secretary, for accrediting private laboratories within the United States which may be used to perform tests (that would otherwise be performed by Customs Service laboratories) to establish the characteristics, quantities, or composition of imported merchandise. Such regulations—

"(A) shall establish the conditions required for the laboratories to receive and maintain accreditation for purposes of this subsection;

"(B) shall establish the conditions regarding the suspension and revocation of accreditation, which may include the imposition of a monetary penalty not to exceed $100,000 and such penalty is in addition to the recovery, from a gauger or laboratory accredited under paragraph (1), of any loss of revenue that may have occurred, but the Customs Service—

"(i) may seek to recover lost revenue only in cases where the gauger or laboratory intentionally falsified the analysis or gauging report in collusion with the importer; and

"(ii) shall neither assess penalties nor seek to recover lost revenue because of a good faith difference of professional opinion; and

"(C) may provide for the imposition of a reasonable charge for accreditation and periodic reaccreditation.

The collection of any charge for accreditation and reaccreditation under this section is not prohibited by section 13031(e)(6) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(6)).

"(2) APPEAL OF ADVERSE ACCREDITATION DECISIONS.—A laboratory applying for accreditation, or that is accredited, under this section may contest any decision or order of the Customs Service denying, suspending, or revoking accreditation, or imposing a monetary penalty, by commencing an action in accordance with chapter 169 of title 28, United States Code, in the Court of International Trade within 60 days after issuance of the decision or order.

"(3) TESTING BY ACCREDITED LABORATORIES.—When requested by an importer of record of merchandise, the Customs Service shall authorize the release to the importer of a representative sample of the merchandise for testing, at the expense of the importer, by a laboratory accredited under paragraph (1). The testing results from a laboratory accredited under paragraph (1) that are submitted by an importer of record with respect to merchandise in an entry shall, in the absence of testing results obtained from a Customs Service laboratory, be accepted by the Customs Service if the importer of record certifies that the sample tested was taken from the merchandise in the entry. Nothing in this subsection shall be construed to limit in any way or preclude the authority of the Customs Service to test or analyze any sample or merchandise independently.

"(4) AVAILABILITY OF TESTING PROCEDURE, METHODOLOGIES, AND INFORMATION.—Testing procedures and methodologies used by the Customs Service, and information resulting from any testing conducted by the Customs Service, shall be made available as follows:

"(A) Testing procedures and methodologies shall be made available upon request to any person unless the procedures or methodologies are—

"(i) proprietary to the holder of a copyright or patent related to such procedures or methodologies, or

"(ii) developed by the Customs Service for enforcement purposes.

"(B) Information resulting from testing shall be made available upon request to the importer of record and any agent thereof unless the information—

"(i) is proprietary to the holder of a copyright or patent related to the procedures or methodologies; or

"(ii) reveals information developed by the Customs Service for enforcement purposes.

"(5) MISCELLANEOUS PROVISIONS.—For purposes of this subsection—

"(A) any reference to a private laboratory includes a reference to a private gauger; and

"(B) accreditation of private laboratories extends only to the performance of functions by such laboratories that are within the scope of those responsibilities for determinations of the elements relating to admissibility, quantity, composition, or characteristics of imported merchandise that are vested in, or delegated to, the Customs Service.

"(c) DETENTIONS.—Except in the case of merchandise with respect to which the determination of admissibility is vested in an agency other than the Customs Service, the following apply:

"(1) IN GENERAL.—Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented for customs examination, the Customs Service shall decide whether to release or detain the merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise.

"(2) NOTICE OF DETENTION.—The Customs Service shall issue a notice to the importer or other party having an interest in detained merchandise no later than 5 days, excluding weekends and holidays, after the decision to detain the merchandise is made. The notice shall advise the importer or other interested party of—

"(A) the initiation of the detention;

"(B) the specific reason for the detention;

"(C) the anticipated length of the detention;

"(D) the nature of the tests or inquiries to be conducted; and

"(E) the nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention.

"(3) TESTING RESULTS.—Upon request by the importer or other party having an interest in detained merchandise, the Customs Service shall provide the party with copies of the results of any testing conducted by the Customs Service on the merchandise and a description of the testing procedures and methodologies (unless such procedures or methodologies are proprietary to the holder of a copyright or patent or were developed by the Customs Service for enforcement purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

"(4) SEIZURE AND FORFEITURE.—If otherwise provided by law, detained merchandise may be seized and forfeited.

"(5) EFFECT OF FAILURE TO MAKE DETERMINATION.—

"(A) The failure by the Customs Service to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for customs examination, or such longer period if specifically authorized by law, shall be treated as a decision of the Customs Service to exclude the merchandise for purposes of section 514(a)(4).

"(B) For purposes of section 1581 of title 28, United States Code, a protest against the decision to exclude the merchandise which has not been allowed or denied in whole or in part before the 30th day after the day on which the protest was filed shall be treated as having been denied on such 30th day.

"(C) Notwithstanding section 2639 of title 28, United States Code, once an action respecting a detention is commenced, unless the Customs Service establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.".

(b) EXISTING LABORATORIES.—Accreditation under section 499(b) of the Tariff Act of 1930 (as added by subsection (a)) is not required for any private laboratory (including any gauger) that was accredited or approved by the Customs Service as of the day before the date of the enactment of this Act; but any such laboratory is subject to reaccreditation under the provisions of such section and the regulations promulgated thereunder.

SEC. 8314. RECORDKEEPING.

Section 508 (19 U.S.C. 1508) is amended—

(1) by amending subsection (a) to read as follows:

"(a) REQUIREMENTS.—Any—

"(1) owner, importer, consignee, importer of record, entry filer, or other party who—

"(A) imports, files a drawback claim, or transports or stores merchandise carried or held under bond, or

"(B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

"(2) agent of any party described in paragraph (1); or

"(3) person whose activities require the filing of a declaration or entry, or both;

shall make, keep, and render for examination and inspection such records (including, but not limited to, statements, declarations, documents and electronically generated or machine readable data) which—

"(A) pertain to any such activity, or to the information contained in the documents, records

or electronically generated or machine readable data required by this Act in connection with such activity; and

"(B) are normally kept in the ordinary course of business."; and

(2) by amending subsection (c) to read as follows:

"(c) PERIOD OF TIME.—The records required by subsections (a) and (b) shall be kept for such period of time, not to exceed 5 years from the date of entry or exportation, as appropriate, as the Secretary shall prescribe; except that records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.".

SEC. 8315. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 (19 U.S.C. 1509) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "and taxes" wherever it appears and inserting ", fees and taxes";

(B) by inserting "or electronically generated or machine readable data," after "other document," in paragraph (1);

(C) by striking out the semicolon at the end of paragraph (1) and inserting ", except that—

"(A) if such record, statement, declaration, document, or electronically stored or transmitted information or data is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry) it shall be provided to the Customs Service within a reasonable time after demand for its production is made, taking into consideration the number, type, and age of the item demanded; and

"(B) if a person of whom demand is made under subparagraph (A) fails to comply with the demand, the person may be subject to penalty under subsection (g);";

(D) by amending that part of paragraph (2) that precedes subparagraph (D) to read as follows:

"(2) summon, upon reasonable notice—

"(A) the person who—

"(i) imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

"(ii) exported merchandise, or knowingly caused merchandise to be exported, to Canada,

"(iii) transported or stored merchandise that was or is carried or held under customs bond, or knowingly caused such transportation or storage, or

"(iv) filed a declaration, entry, or drawback claim with the Customs Service;

"(B) any officer, employee, or agent of any person described in subparagraph (A);

"(C) any person having possession, custody or care of records (including electronically generated or machine readable data) relating to the importation or other activity described in subparagraph (A); or"; and

(E) by striking out the comma at the end of subparagraph (D) and inserting a semicolon.

(2) Subsections (b) and (c) are redesignated as subsections (c) and (d), respectively.

(3) The following new subsection is inserted after subsection (a):

"(b) REGULATORY AUDIT PROCEDURES.—

"(1) In conducting a regulatory audit under this section (which does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone), the Customs Service auditor shall provide the person being audited, in advance of the audit, with a reasonable estimate of the time to be required for the audit. If in the course of an audit it becomes apparent that additional time will be required, the Customs Service auditor shall immediately provide a further estimate of such additional time.

"(2) Before commencing an audit, the Customs Service auditor shall inform the party to be audited of his right to an entry conference at which time the purpose will be explained and an estimated termination date set. Upon completion of on-site audit activities, the Customs Service auditor shall schedule a closing conference to explain the preliminary results of the audit.

"(3) Except as provided in paragraph (5), if the estimated or actual termination date for an audit passes without the Customs Service auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the appropriate regional commissioner, who, upon receipt of such a request, shall provide for such a conference to be held within 15 days after the date of receipt.

"(4) Except as provided in paragraph (5), the Customs Service auditor shall complete the formal written audit report within 90 days following the closing conference unless the appropriate regional commissioner provides written notice to the person being audited of the reason for any delay and the anticipated completion date. After application of any exemption contained in section 552 of title 5, United States Code, a copy of the formal written audit report shall be sent to the person audited no later than 30 days following completion of the report.

"(5) Paragraphs (3) and (4) shall not apply after the Customs Service commences a formal investigation with respect to the issue involved.".

(4) Subsection (d) (as redesignated by paragraph (2)) is amended—

(A) by striking out "or documents" in paragraph (1)(A) and inserting "documents, or electronically generated or machine readable data";

(B) by inserting ", unless such customhouse broker is the importer of record on an entry" after "broker" in paragraph (1)(C)(i);

(C) by striking out "import" in each of paragraphs (2)(B) and (4)(B);

(D) by inserting "described in section 508" after "transactions" in each of paragraphs (2)(B) and (4)(B); and

(E) by inserting ", fees," after "duties" in paragraph (4)(A).

(5) The following new subsections are added at the end thereof:

"(e) LIST OF RECORDS AND INFORMATION.—The Customs Service shall identify and publish a list of the records or entry information that is required to be maintained and produced under subsection (a)(1)(A).

"(f) RECORDKEEPING COMPLIANCE PROGRAM.—

"(1) IN GENERAL.—After consultation with the importing community, the Customs Service shall by regulation establish a recordkeeping compliance program which the parties listed in section 508(a) may participate in after being certified by the Customs Service under paragraph (2). Participation in the recordkeeping compliance program by recordkeepers is voluntary.

"(2) CERTIFICATION.—A recordkeeper may be certified as a participant in the recordkeeping compliance program after meeting the general recordkeeping requirements established under the program or after negotiating an alternative program suited to the needs of the recordkeeper and the Customs Service. Certification requirements shall take into account the size and nature of the importing business and the volume of imports. In order to be certified, the recordkeeper must be able to demonstrate that it—

"(A) understands the legal requirements for recordkeeping, including the nature of the records required to be maintained and produced and the time periods involved;

"(B) has in place procedures to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance, and production of required records;

"(C) has in place procedures regarding the preparation and maintenance of required records, and the production of such records to the Customs Service;

"(D) has designated a dependable individual or individuals to be responsible for recordkeeping compliance under the program and whose duties include maintaining familiarity with the recordkeeping requirements of the Customs Service;

"(E) has a record maintenance procedure approved by the Customs Service for original records, or, if approved by the Customs Service, for alternative records or recordkeeping formats other than the original records; and

"(F) has procedures for notifying the Customs Service of occurrences of variances to, and violations of, the requirements of the recordkeeping compliance program or the negotiated alternative programs, and for taking corrective action when notified by the Customs Service of violations or problems regarding such program.

"(g) PENALTIES.—

"(1) DEFINITION.—For purposes of this subsection, the term 'information' means any record, statement, declaration, document, or electronically stored or transmitted information or data referred to in subsection (a)(1)(A).

"(2) EFFECTS OF FAILURE TO COMPLY WITH DEMAND.—Except as provided in paragraph (4), if a person fails to comply with a lawful demand for information under subsection (a)(1)(A) the following provisions apply:

"(A) If the failure to comply is a result of the willful failure of the person to maintain, store, or retrieve the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $100,000, or an amount equal to 75 percent of the appraised value of the merchandise, whichever amount is less.

"(B) If the failure to comply is a result of the negligence of the person in maintaining, storing, or retrieving the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $10,000, or an amount equal to 40 percent of the appraised value of the merchandise, whichever amount is less.

"(C) In addition to any penalty imposed under subparagraph (A) or (B) regarding demanded information, if such information related to the eligibility of merchandise for a column 1 special rate of duty under title I, the entry of such merchandise—

"(i) if unliquidated, shall be liquidated at the applicable column 1 general rate of duty; or

"(ii) if liquidated within the 2-year period preceding the date of the demand, shall be reliquidated, notwithstanding the time limitation in section 514 or 520, at the applicable column 1 general rate of duty;

except that any liquidation or reliquidation under clause (i) or (ii) shall be at the applicable column 2 rate of duty if the Customs Service demonstrates that the merchandise should be dutiable at such rate.

"(3) AVOIDANCE OF PENALTY.—No penalty may be assessed under this subsection if the person can show—

"(A) that the loss of the demanded information was the result of an act of God or other natural casualty or disaster beyond the fault of such person or an agent of the person;

"(B) on the basis of other evidence satisfactory to the Customs Service, that the demand was substantially complied with; or

"(C) the information demanded was presented to and retained by the Customs Service at the time of entry or submitted in response to an earlier demand.

"(4) PENALTIES NOT EXCLUSIVE.—Any penalty imposed under this subsection shall be in addition to any other penalty provided by law except for—

"(A) a penalty imposed under section 592 for a material omission of the demanded information, or

"(B) disciplinary action taken under section 641.

"(5) REMISSION OR MITIGATION.—A penalty imposed under this section may be remitted or mitigated under section 618.

"(6) CUSTOMS SUMMONS.—Nothing in this subsection shall limit or preclude the Customs Service from issuing, or seeking the enforcement of, a customs summons.

"(7) ALTERNATIVES TO PENALTIES.—

"(A) IN GENERAL.—When a recordkeeper who—

"(i) has been certified as a participant in the recordkeeping compliance program under subsection (f); and

"(ii) is generally in compliance with the appropriate procedures and requirements of the program;

does not produce a demanded record or information for a specific release or provide the information by acceptable alternative means, the Customs Service, in the absence of willfulness or repeated violations, shall issue a written notice of the violation to the recordkeeper in lieu of a monetary penalty. Repeated violations by the recordkeeper may result in the issuance of penalties and removal of certification under the program until corrective action, satisfactory to the Customs Service, is taken.

"(B) CONTENTS OF NOTICE.—A notice of violation issued under subparagraph (A) shall—

"(i) state that the recordkeeper has violated the recordkeeping requirements;

"(ii) indicate the record or information which was demanded; and

"(iii) warn the recordkeeper that future failures to produce demanded records or information may result in the imposition of monetary penalties.

"(C) RESPONSE TO NOTICE.—Within a reasonable time after receiving written notice under subparagraph (A), the recordkeeper shall notify the Customs Service of the steps it has taken to prevent a recurrence of the violation.

"(D) REGULATIONS.—The Secretary shall promulgate regulations to implement this paragraph. Such regulations may specify the time periods for compliance with a demand for information and provide guidelines which define repeated violations for purposes of this paragraph. Any penalty issued for a recordkeeping violation shall take into account the degree of compliance compared to the total number of importations, the nature of the demanded records and the recordkeeper's cooperation.".

SEC. 8316. JUDICIAL ENFORCEMENT.

The second sentence of section 510(a) (19 U.S.C. 1510(a)) is amended by inserting "and such court may assess a monetary penalty" after "as a contempt thereof".

SEC. 8317. REVIEW OF PROTESTS.

Section 515 (19 U.S.C. 1515) is amended by inserting at the end the following new subsections:

"(c) If a protesting party believes that an application for further review was erroneously or improperly denied or was denied without authority for such action, it may file with the Commissioner of Customs a written request that the denial of the application for further review be set aside. Such request must be filed within 90 days after the date of the notice of the denial. The Commissioner of Customs may review such request and, based solely on the information before the Customs Service at the time the application for further review was denied, may set aside the denial of the application for further review and void the denial of protest, if appropriate. If the Commissioner of Customs fails to act within 30 days after the date of the request, the request shall be considered denied. All denials of protests are effective from the date of original denial for purposes of section 2636 of title 28, United States Code. If an action is commenced in the Court of International Trade that arises out of a protest or an application for further review, all administrative action pertaining to such protest or application shall terminate and any administrative action taken subsequent to the commencement of the action is null and void.

"(d) If a protest is timely and properly filed, but is denied contrary to proper instructions, the Customs Service may on its own initiative, or pursuant to a written request by the protesting party filed with the appropriate district director within 90 days after the date of the protest denial, void the denial of the protest.".

SEC. 8318. REPEAL OF PROVISION RELATING TO RELIQUIDATION ON ACCOUNT OF FRAUD.

Section 521 (19 U.S.C. 1521) is repealed.

SEC. 8319. PENALTIES RELATING TO MANIFESTS.

Section 584 (19 U.S.C. 1584) is amended—

(1) by amending subsection (a)—

(A) by striking out "appropriate customs officer" wherever it appears and inserting "Customs Service",

(B) by striking out "officer demanding the same" in paragraph (1) and inserting "officer (whether of the Customs Service or the Coast Guard) demanding the same", and

(C) by inserting "(electronically or otherwise)" after "submission" in the last sentence of paragraph (1); and

(2) by amending subsection (b)—

(A) by striking out "the appropriate customs officer", "he" (except in paragraph (1)(F)), and "such officer" wherever they appear and inserting "the Customs Service";

(B) by striking out "written" wherever it appears (other than paragraph (1)(F)),

(C) by inserting "or electronically transmit" after "issue" wherever it appears, and

(D) by striking out "his intention" in the first sentence of paragraph (1) and inserting "intent".

SEC. 8320. UNLAWFUL UNLADING OR TRANSSHIPMENT.

Section 586 (19 U.S.C. 1586) is amended—

(1) by inserting ", or of a hovering vessel which has received or delivered merchandise while outside the territorial sea," after "from a foreign port or place" wherever it appears; and

(2) by amending subsection (f)—

(A) by striking out "the appropriate customs officer of the" and "the appropriate customs officer within the" and inserting "the Customs Service at the"; and

(B) by striking out "the appropriate customs officer is" and inserting "the Customs Service is".

SEC. 8321. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE; PRIOR DISCLOSURE.

Section 592 (19 U.S.C. 1592) is amended—

(1) by inserting "or electronically transmitted data or information" after "document" in subsection (a)(1)(A)(i);

(2) by inserting "The mere nonintentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct." at the end of subsection (a)(2);

(3) by amending subsection (b)—

(A) by amending the first sentence of paragraph (1)(A)—

(i) by striking out "the appropriate customs officer" and inserting "the Customs Service",

(ii) by striking out "he" and inserting "it", and

(iii) by striking out "his" and inserting "its", and

(B) by amending paragraph (2)—

(i) by striking out "the appropriate customs officer" wherever it appears and inserting "the Customs Service",

(ii) by striking out "such officer" wherever it appears and inserting "the Customs Service", and

(iii) by striking out "he" wherever it appears and inserting "it";

(4) by amending subsection (c)(4)—

(A) by striking "time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his" in subparagraphs (A)(i) and (B), and inserting "time of disclosure, or within 30 days (or such longer period as the Customs Service may provide) after notice by the Customs Service of its"; and

(B) by inserting after the last sentence the following: "For purposes of this section, a formal investigation of a violation is considered to be commenced with regard to the disclosing party and the disclosed information on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of a violation of subsection (a) existed."; and

(5) by amending subsection (d)—

(A) by striking out "the appropriate customs officer" and inserting "the Customs Service",

(B) by striking out "duties" wherever it appears and inserting "duties, taxes, or fees"; and

(C) by inserting ", TAXES OR FEES" after "DUTIES" in the sideheading.

SEC. 8322. PENALTIES FOR FALSE DRAWBACK CLAIMS.

(a) AMENDMENT.—Part V of title IV is amended by inserting after section 593 the following new section:

"SEC. 593A. PENALTIES FOR FALSE DRAWBACK CLAIMS.

"(a) PROHIBITION.—

"(1) GENERAL RULE.—No person, by fraud, or negligence—

"(A) may seek, induce or affect, or attempt to seek, induce, or affect, the payment or credit to that person or others of any drawback claim by means of—

"(i) any document, written or oral statement, or electronically transmitted data or information, or act which is material and false, or

"(ii) any omission which is material; or

"(B) may aid or abet any other person to violate subparagraph (A).

"(2) EXCEPTION.—Clerical errors or mistakes of fact are not violations of paragraph (1) unless they are part of a pattern of negligent conduct. The mere nonintentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct.

"(b) PROCEDURES.—

"(1) PREPENALTY NOTICE.—

"(A) IN GENERAL.—If the Customs Service has reasonable cause to believe that there has been a violation of subsection (a) and determines that further proceedings are warranted, the Customs Service shall issue to the person concerned a written notice of intent to issue a claim for a monetary penalty. Such notice shall—

"(i) identify the drawback claim;

"(ii) set forth the details relating to the seeking, inducing, or affecting, or the attempted seeking, inducing, or affecting, or the aiding or procuring of, the drawback claim;

"(iii) specify all laws and regulations allegedly violated;

"(iv) disclose all the material facts which establish the alleged violation;

"(v) state whether the alleged violation occurred as a result of fraud or negligence;

"(vi) state the estimated actual or potential loss of revenue due to the drawback claim, and, taking into account all circumstances, the amount of the proposed monetary penalty; and

"(vii) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

"(B) EXCEPTIONS.—The Customs Service may not issue a prepenalty notice if the amount of the penalty in the penalty claim issued under paragraph (2) is $1,000 or less. In such cases, the Customs Service may proceed directly with a penalty claim.

"(C) PRIOR APPROVAL.—No prepenalty notice in which the alleged violation occurred as a result of fraud shall be issued without the prior approval of Customs Headquarters.

"(2) PENALTY CLAIM.—After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the Customs Service shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If the Customs Service determines that there was no violation, the Customs Service shall promptly issue a written statement of the determination to the person to whom the notice was sent. If the Customs Service determines that there was a violation, Customs shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under clauses (i) through (vii) of paragraph (1)(A). Such person shall have a reasonable opportunity under section 618 to make representations, both oral and written, seeking remission or mitigation of the monetary penalty. At the conclusion of any proceeding under section 618, the Customs Service shall provide to the person concerned a written statement which sets forth the final determination, and the findings of fact and conclusions of law on which such determination is based.

"(c) MAXIMUM PENALTIES.—

"(1) FRAUD.—A fraudulent violation of subsection (a) of this section is punishable by a civil penalty in an amount not to exceed 3 times the actual or potential loss of revenue.

"(2) NEGLIGENCE.—

"(A) IN GENERAL.—A negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed 20 percent of the actual or potential loss of revenue for the 1st violation.

"(B) REPETITIVE VIOLATIONS.—If the Customs Service determines that a repeat negligent violation occurs relating to the same issue, the penalty amount for the 2d violation shall be in an amount not to exceed 50 percent of the total actual or potential loss of revenue. The penalty amount for each succeeding repetitive negligent violation shall be in an amount not to exceed the actual or potential loss of revenue. If the same party commits a nonrepetitive violation, that violation shall be subject to a penalty not to exceed 20 percent of the actual or potential loss of revenue.

"(3) PRIOR DISCLOSURE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if the person concerned discloses the circumstances of a violation of subsection (a) before, or without knowledge of the commencement of, a formal investigation of such violation, the monetary penalty assessed under this subsection may not exceed—

"(i) if the violation resulted from fraud, an amount equal to the actual or potential revenue of which the United States is or may be deprived as a result of overpayment of the claim; or

"(ii) if the violation resulted from negligence, an amount equal to the interest computed on the basis of the prevailing rate of interest applied under section 6621 of the Internal Revenue Code of 1986 on the amount of actual revenue of which the United States is or may be deprived during the period that—

"(I) begins on the date of the overpayment of the claim; and

"(II) ends on the date on which the person concerned tenders the amount of the overpayment.

"(B) CONDITION AFFECTING PENALTY LIMITATIONS.—The limitations in subparagraph (A) on the amount of the monetary penalty to be assessed under subsection (c) apply only if the person concerned tenders the amount of the overpayment made on the claim at the time of disclosure, or within 30 days (or such longer period as the Customs Service may provide), after notice by the Customs Service of its calculation of the amount of the overpayment.

"(C) BURDEN OF PROOF.—The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge.

"(4) COMMENCEMENT OF INVESTIGATION.—For purposes of this section, a formal investigation of a violation is considered to be commenced with regard to the disclosing party and the disclosed information on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of a violation of subsection (a) existed.

"(5) EXCLUSIVITY.—Penalty claims under this section shall be the exclusive civil remedy for any drawback related violation of subsection (a).

"(d) DEPRIVATION OF LAWFUL REVENUE.—Notwithstanding section 514, if the United States has been deprived of lawful duties and taxes resulting from a violation of subsection (a), the Customs Service shall require that such drawback claim be restored whether or not a monetary penalty is assessed.

"(e) DRAWBACK COMPLIANCE PROGRAM.—

"(1) IN GENERAL.—After consultation with the drawback trade community, the Customs Service shall establish a drawback compliance program in which claimants and other parties in interest may participate after being certified by the Customs Service under paragraph (2). Participation in the drawback compliance program is voluntary.

"(2) CERTIFICATION.—A party may be certified as a participant in the drawback compliance program after meeting the general requirements established under the program or after negotiating an alternative program suited to the needs of the party and the Customs Service. Certification requirements shall take into account the size and nature of the party's drawback program and the volume of claims. In order to be certified, the participant must be able to demonstrate that it—

"(A) understands the legal requirements for filing claims, including the nature of the records required to be maintained and produced and the time periods involved;

"(B) has in place procedures to explain the Customs Service requirements to those employees that are involved in the preparation of claims, and the maintenance and production of required records;

"(C) has in place procedures regarding the preparation of claims and maintenance of required records, and the production of such records to the Customs Service;

"(D) has designated a dependable individual or individuals to be responsible for compliance under the program and whose duties include maintaining familiarity with the drawback requirements of the Customs Service;

"(E) has a record maintenance procedure approved by the Customs Service for original records, or, if approved by the Customs Service, for alternate records or recordkeeping formats other than the original records; and

"(F) has procedures for notifying the Customs Service of variances to, and violations of, the requirements of the drawback compliance program or any negotiated alternative programs, and for taking corrective action when notified by the Customs Service for violations or problems regarding such program.

"(f) ALTERNATIVES TO PENALTIES.—

"(1) IN GENERAL.—When a party that—

"(A) has been certified as a participant in the drawback compliance program under subsection (e); and

"(B) is generally in compliance with the appropriate procedures and requirements of the program;

commits a violation of subsection (a), the Customs Service, shall, in the absence of fraud or repeated violations, and in lieu of a monetary penalty, issue a written notice of the violation to the party. Repeated violations by a party may result in the issuance of penalties and removal of certification under the program until corrective action, satisfactory to the Customs Service, is taken.

"(2) CONTENTS OF NOTICE.—A notice of violation issued under paragraph (1) shall—

"(A) state that the party has violated subsection (a);

"(B) explain the nature of the violation; and

"(C) warn the party that future violations of subsection (a) may result in the imposition of monetary penalties.

"(3) RESPONSE TO NOTICE.—Within a reasonable time after receiving written notice under paragraph (1), the party shall notify the Customs Service of the steps it has taken to prevent a recurrence of the violation.

"(g) REPETITIVE VIOLATIONS.—

"(1) A party who has been issued a written notice under subsection (f)(1) and subsequently commits a repeat negligent violation involving the same issue is subject to the following monetary penalties:

"(A) 2D VIOLATION.—An amount not to exceed 20 percent of the loss of revenue.

"(B) 3RD VIOLATION.—An amount not to exceed 50 percent of the loss of revenue.

"(C) 4TH AND SUBSEQUENT VIOLATIONS.—An amount not to exceed 100 percent of the loss of revenue.

"(2) If a party that has been certified as a participant in the drawback compliance program under subsection (e) commits an alleged violation which was not repetitive, the party shall be issued a 'warning letter', and, for any subsequent violation, shall be subject to the same maximum penalty amounts stated in paragraph (1).

"(h) REGULATION.—The Secretary shall promulgate regulations and guidelines to implement this section. Such regulations shall specify that for purposes of subsection (g), a repeat negligent violation involving the same issue shall be treated as a repetitive violation for a maximum period of 3 years.

"(i) COURT OF INTERNATIONAL TRADE PROCEEDINGS.—Notwithstanding any other provision of law, in any proceeding commenced by the United States in the Court of International Trade for the recovery of any monetary penalty claimed under this section—

"(1) all issues, including the amount of the penalty, shall be tried de novo;

"(2) if the monetary penalty is based on fraud, the United States shall have the burden of proof to establish the alleged violation by clear and convincing evidence; and

"(3) if the monetary penalty is based on negligence, the United States shall have the burden of proof to establish the act or omission constituting the violation, and the alleged violator shall have the burden of providing evidence that the act or omission did not occur as a result of negligence.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to drawback claims filed on and after the nationwide operational implementation of an automated drawback selectivity program by the Customs Service. The Customs Service shall publish notice of this date in the Customs Bulletin.

SEC. 8323. INTERPRETIVE RULINGS AND DECISIONS; PUBLIC INFORMATION.

Section 625 (19 U.S.C. 1625) is amended to read as follows:

"SEC. 625. INTERPRETIVE RULINGS AND DECISIONS; PUBLIC INFORMATION.

"(a) PUBLICATION.—Within 90 days after the date of issuance of any interpretive ruling (including any ruling letter, or internal advice memorandum) or protest review decision under this chapter with respect to any customs transaction, the Secretary shall have such ruling or decision published in the Customs Bulletin or shall otherwise make such ruling or decision available for public inspection.

"(b) APPEALS.—A person may appeal an adverse interpretive ruling and any interpretation of any regulation prescribed to implement such ruling to a higher level of authority within the Customs Service for de novo review. Upon a reasonable showing of business necessity, any such appeal shall be considered and decided no later than 60 days following the date on which the appeal is filed. The Secretary shall issue regulations to implement this subsection.

"(c) MODIFICATION AND REVOCATION.—A proposed interpretive ruling or decision which would—

"(1) modify (other than to correct a clerical error) or revoke a prior interpretive ruling or decision which has been in effect for at least 60 days; or

"(2) have the effect of modifying the treatment previously accorded by the Customs Service to substantially identical transactions;

shall be published in the Customs Bulletin. The Secretary shall give interested parties an opportunity to submit, during not less than the 30-day period after the date of such publication, comments on the correctness of the proposed ruling or decision. After consideration of any comments received, the Secretary shall publish a final ruling or decision in the Customs Bulletin within 30 days after the closing of the comment period. The final ruling or decision shall become effective 60 days after the date of its publication.

"(d) PUBLICATION OF CUSTOMS DECISIONS THAT LIMIT COURT DECISIONS.—A decision that proposes to limit the application of a court decision shall be published in the Customs Bulletin together with notice of opportunity for public comment thereon prior to a final decision.

"(e) PUBLIC INFORMATION.—The Secretary may make available in writing or through electronic media, in an efficient, comprehensive and timely manner, all information, including directives, memoranda, electronic messages and telexes which contain instructions, requirements, methods or advice necessary for importers and exporters to comply with the Customs laws and regulations. All information which may be made available pursuant to this subsection shall be subject to any exemption from disclosure provided by section 552 of title 5, United States Code.".

SEC. 8324. SEIZURE AUTHORITY.

Section 596(c) (19 U.S.C. 1595a(c)) is amended to read as follows:

"(c) Merchandise which is introduced or attempted to be introduced into the United States contrary to law shall be treated as follows:

"(1) The merchandise shall be seized and forfeited if it—

"(A) is stolen, smuggled, or clandestinely imported or introduced;

"(B) is a controlled substance, as defined in the Controlled Substances Act (21 U.S.C. 801 et seq.), and is not imported in accordance with applicable law; or

"(C) is a contraband article, as defined in section 1 of the Act of August 9, 1939 (49 U.S.C. App. 781).

"(2) The merchandise may be seized and forfeited if—

"(A) its importation or entry is subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and the merchandise is not in compliance with the applicable rule, regulation, or statute;

"(B) its importation or entry requires a license, permit or other authorization of an agency of the United States Government and the merchandise is not accompanied by such license, permit, or authorization;

"(C) it is merchandise or packaging in which copyright, trademark, or trade name protection violations are involved (including, but not limited to, violations of section 42, 43, or 45 of the Act of July 5, 1946 (Public Law 95–410; 15 U.S.C. 1124, 1125, or 1127), section 506 or 509 of title 17, United States Code, or section 2318 or 2320 of title 18, United States Code);

"(D) it is trade dress merchandise involved in the violation of a court order citing section 43 of such Act of July 5, 1946 (15 U.S.C. 1125);

"(E) it is merchandise which is marked intentionally in violation of section 304; or

"(F) it is merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been marked in violation of section 304.

"(3) If the importation or entry of the merchandise is subject to quantitative restrictions requiring a visa, permit, license or other similar document, or stamp from the United States Government or from a foreign government or issuing authority pursuant to a bilateral or multilateral agreement, the merchandise shall be subject to detention in accordance with section 499 unless the appropriate visa, license, permit, or similar document or stamp is presented to the Customs Service; but if the visa, permit, license or similar document or stamp which is presented in connection with the importation or entry of the merchandise is counterfeit, the merchandise may be seized and forfeited.

"(4) If the merchandise is imported or introduced contrary to a provision of law which governs the classification or value of merchandise and there are no issues as to the admissibility of the merchandise into the United States, it shall not be seized except in accordance with section 592.

"(5) In any case where the seizure and forfeiture of merchandise are required or authorized by this section, the Secretary may—

"(A) remit the forfeiture under section 618, or

"(B) permit the exportation of the merchandise, unless its release would adversely affect health, safety, or conservation or be in contravention of a bilateral or multilateral agreement or treaty.".

PART II—NATIONAL CUSTOMS AUTOMATION PROGRAM

SEC. 8331. NATIONAL CUSTOMS AUTOMATION PROGRAM.

Part I of title IV is amended—

(1) by striking out

"PART I—DEFINITIONS

and inserting

"PART I—DEFINITIONS AND NATIONAL CUSTOMS AUTOMATION PROGRAM

"Subpart A—Definitions"; *and*

(2) by inserting after section 402 the following:

"Subpart B—National Customs Automation Program

"SEC. 411. NATIONAL CUSTOMS AUTOMATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish the National Customs Automation Program (hereinafter in this subpart referred to as the 'Program') which shall be an automated and electronic system for processing commercial importations and shall include the following existing and planned components:

"(1) Existing components:

"(A) The electronic entry of merchandise.

"(B) The electronic entry summary of required information.

"(C) The electronic transmission of invoice information.

"(D) The electronic transmission of manifest information.

"(E) Electronic payments of duties, fees, and taxes.

"(F) The electronic status of liquidation and reliquidation.

"(G) The electronic selection of high risk entries for examination (cargo selectivity and entry summary selectivity).

"(2) Planned components:

"(A) The electronic filing and status of protests.

"(B) The electronic filing (including remote filing under section 414) of entry information with the Customs Service at any location.

"(C) The electronic filing of import activity summary statements and reconciliation.

"(D) The electronic filing of bonds.

"(E) The electronic penalty process.

"(F) The electronic filing of drawback claims, records, or entries.

"(G) Any other component initiated by the Customs Service to carry out the goals of this subpart.

"(b) PARTICIPATION IN PROGRAM.—The Secretary shall by regulation prescribe the eligibility criteria for participation in the Program. Participation in the Program is voluntary.

"SEC. 412. PROGRAM GOALS.

"The goals of the Program are to ensure that all regulations and rulings that are administered or enforced by the Customs Service are administered and enforced in a manner that—

"(1) is uniform and consistent;

"(2) is as minimally intrusive upon the normal flow of business activity as practicable; and

"(3) improves compliance.

"SEC. 413. IMPLEMENTATION AND EVALUATION OF PROGRAM.

"(a) OVERALL PROGRAM PLAN.—

"(1) IN GENERAL.—Before the 180th day after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committees an overall plan for the Program. The overall Program plan shall set forth—

"(A) a general description of the ultimate configuration of the Program;

"(B) a description of each of the existing components of the Program listed in section 411(a)(1); and

"(C) estimates regarding the stages on which planned components of the Program listed in section 411(a)(2) will be brought on-line.

"(2) ADDITIONAL INFORMATION.—In addition to the information required under paragraph (1), the overall Program plan shall include a statement regarding—

"(A) the extent to which the existing components of the Program currently meet, and the planned components will meet, the Program goals set forth in section 412; and

"(B) the effects that the existing components are currently having, and the effects that the planned components will likely have, on—

"(i) importers, brokers, and other users of the Program, and

"(ii) Customs Service occupations, operations, processes, and systems.

"(b) IMPLEMENTATION PLAN, TESTING, AND EVALUATION.—

"(1) IMPLEMENTATION PLAN.—For each of the planned components of the Program listed in section 411(a)(2), the Secretary shall—

"(A) develop an implementation plan;

"(B) test the component in order to assess its viability;

"(C) evaluate the component in order to assess its contribution toward achieving the program goals; and

“(D) transmit to the Committees the implementation plan, the testing results, and an evaluation report.

In developing an implementation plan under subparagraph (A) and evaluating components under subparagraph (C), the Secretary shall publish a request for comments in the Customs Bulletin and shall consult with the trade community, including importers, brokers, shippers, and other affected parties.

“(2) IMPLEMENTATION.—

“(A) The Secretary may implement on a permanent basis any Program component referred to in paragraph (1) on or after the date which is 30 days after paragraph (1)(D) is complied with.

“(B) For purposes of subparagraph (A), the 30 days shall be computed by excluding—

“(i) the days either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

“(ii) any Saturday and Sunday, not excluded under clause (i), when either House is not in session.

“(3) EVALUATION AND REPORT.—The Secretary shall—

“(A) develop a user satisfaction survey of parties participating in the Program;

“(B) evaluate the results of the user satisfaction survey on a biennial basis (fiscal years) and transmit a report to the Committees on the evaluation by no later than the 90th day after the close of each 2d fiscal year;

“(C) with respect to the existing Program component listed in section 411(a)(1)(G) transmit to the Committees—

“(i) a written evaluation of such component before the 180th day after the date of the enactment of this section and before the implementation of the planned Program components listed in section 411(a)(2) (B) and (C), and

“(ii) a report on such component for each of the 3 full fiscal years occurring after the date of the enactment of this section, which report shall be transmitted not later than the 90th day after the close of each such year; and

“(D) not later than the 90th day after the close of fiscal year 1993, and annually thereafter through fiscal year 1999, transmit to the Committees a written evaluation with respect to the implementation and effect on users of each of the planned Program components listed in section 411(a)(2).

In carrying out the provisions of this paragraph, the Secretary shall publish requests for comments in the Customs Bulletin and shall consult with the trade community, including importers, brokers, shippers, and other affected parties.

“(c) COMMITTEES.—For purposes of this section, the term ‘Committees’ means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

“SEC. 414. REMOTE LOCATION FILING.

“(a) CORE ENTRY INFORMATION.—

“(1) IN GENERAL.—A Program participant may file an entry of merchandise with the Customs Service from a location other than the district designated in the entry for examination (hereafter in this section referred to as a ‘remote location’) if—

“(A) the Customs Service is satisfied that the participant has the capabilities referred to in paragraph (2) regarding such method of filing; and

“(B) the participant elects to file from the remote location.

“(2) REQUIREMENTS.—In order to qualify for filing from a remote location, a Program participant must have the capability to provide, on an entry-by-entry basis, for the following:

“(A) The electronic entry of merchandise.

“(B) The electronic entry summary of required information.

“(C) The electronic transmission of invoice information (when required by the Customs Service).

“(D) The electronic payment of duties, fees, and taxes.

“(E) Such other electronic capabilities within the existing or planned components of the Program as the Secretary shall by regulation require.

“(3) ALTERNATIVE FILING.—Any Program participant that is eligible under paragraph (1) to file entry information electronically from a remote location but chooses not to do so in the case of any entry must file any paper documentation for the entry at the designated location referred to in subsection (d).

“(b) ADDITIONAL ENTRY INFORMATION.—

“(1) IN GENERAL.—A Program participant that is eligible under subsection (a) to file entry information from a remote location may, if the Customs Service is satisfied that the participant meets the requirements under paragraph (2), also electronically file from the remote location additional information that is required by the Customs Service to be presented before the acceptance of entry summary information and at the time of acceptance of entry summary information.

“(2) REQUIREMENTS.—The Secretary shall publish, and periodically update, a list of those capabilities within the existing and planned components of the Program that a Program participant must have for purposes of this subsection.

“(3) FILING OF ADDITIONAL INFORMATION.—

“(A) IF INFORMATION ELECTRONICALLY ACCEPTABLE.—A Program participant that is eligible under paragraph (1) to file additional information from a remote location shall electronically file all such information that the Customs Service can accept electronically.

“(B) ALTERNATIVE FILING.—If the Customs Service cannot accept additional information electronically, the Program participant shall file the paper documentation with respect to the information at the appropriate filing location.

“(C) APPROPRIATE LOCATION.—For purposes of subparagraph (B), the ‘appropriate location’ is—

“(i) before January 1, 1999, a designated location; and

“(ii) after December 31, 1998—

“(I) if the paper documentation is required for release, a designated location; or

“(II) if the paper documentation is not required for release, a remote location designated by the Customs Service or a designated location.

“(D) OTHER.—A Program participant that is eligible under paragraph (1) to file additional information electronically from a remote location but chooses not to do so must file the paper documentation with respect to the information at a designated location.

“(c) POST-ENTRY SUMMARY INFORMATION.—A Program participant that is eligible to file electronically entry information under subsection (a) and additional information under subsection (b) from a remote location may file at any remote location designated by the Customs Service any information required by the Customs Service after entry summary.

“(d) DEFINITION OF DESIGNATED LOCATION.—For purposes of this section, the term ‘designated location’ means a customs office located in the customs district designated by the entry filer for purposes of customs examination of the merchandise.”.

SEC. 8332. DRAWBACK AND REFUNDS.

(a) AMENDMENTS.—Section 313 (19 U.S.C. 1313) is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting “or destruction under customs supervision” after “Upon the exportation”;

(B) by inserting “provided that those articles have not been used prior to such exportation or destruction,” after “manufactured or produced in the United States with the use of imported merchandise,”;

(C) by inserting “or destruction” after “refunded upon the exportation”; and

(D) by striking out “wheat imported after ninety days after the date of the enactment of this Act” and inserting “imported wheat”.

(2) Subsection (b) is amended—

(A) by striking out “duty-free or domestic merchandise” and inserting “any other merchandise (whether imported or domestic)”;

(B) by inserting “, or destruction under customs supervision,” after “there shall be allowed upon the exportation”;

(C) by inserting “or destroyed” after “notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported”;

(D) by inserting “, but only if those articles have not been used prior to such exportation or destruction” after “an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported”; and

(E) by inserting “or destruction under customs supervision” after “but the total amount of drawback allowed upon the exportation”.

(3) Subsection (c) is amended to read as follows:

“(c) MERCHANDISE NOT CONFORMING TO SAMPLE OR SPECIFICATIONS.—Upon the exportation, or destruction under the supervision of the Customs Service, of merchandise—

“(1) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation;

“(2) upon which the duties have been paid;

“(3) which has been entered or withdrawn for consumption; and

“(4) which, within 3 years after release from the custody of the Customs Service, has been returned to the custody of the Customs Service for exportation or destruction under the supervision of the Customs Service;

the full amount of the duties paid upon such merchandise, less 1 percent, shall be refunded as drawback.”.

(4) Subsection (j) is amended to read as follows:

“(j) UNUSED MERCHANDISE DRAWBACK.—

“(1) If imported merchandise, on which was paid any duty, tax, or fee imposed under Federal law because of its importation—

“(A) is, before the close of the 3-year period beginning on the date of importation—

“(i) exported, or

“(ii) destroyed under customs supervision; and

“(B) is not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 percent of the amount of each duty, tax, or fee so paid shall be refunded as drawback.

“(2) If there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law because of its importation, any other merchandise (whether imported or domestic), that—

“(A) is commercially interchangeable with such imported merchandise;

“(B) is, before the close of the 3-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under customs supervision; and

“(C) before such exportation or destruction—

“(i) is not used within the United States, and

“(ii) is in the possession of, including ownership while in bailment, in leased facilities, in transit to, or in any other manner under the operational control of, the party claiming draw-

back under this paragraph (if that party paid the duty, tax, or fee on the imported merchandise (established by means of either an entry summary or a certificate of delivery));

then upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee.

"(3) The performing of any operation or combination of operations (including, but not limited to, testing, cleaning, repacking, inspecting, sorting, refurbishing, freezing, blending, repairing, reworking, cutting, slitting, adjusting, replacing components, relabeling, disassembling, and unpacking), not amounting to manufacture or production for drawback purposes under the preceding provisions of this section on—

"(A) the imported merchandise itself in cases to which paragraph (1) applies, or

"(B) the commercially interchangeable merchandise in cases to which paragraph (2) applies,

shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(C).".

(5) Subsection (l) is amended by striking out "the fixing of a time limit within which drawback entries or entries for refund under any of the provisions of this section or section 309(b) shall be filed and completed," and inserting "the authority for the electronic submission of drawback entries".

(6) The following new subsections are inserted after subsection (p):

"(q) PACKAGING MATERIAL.—Packaging material, when used on or for articles or merchandise exported or destroyed under subsection (a), (b), (c), or (j), shall be eligible under such subsection for refund, as drawback, of 99 percent of any duty, tax, or fee imposed under Federal law on the importation of such material.

"(r) FILING DRAWBACK CLAIMS.—

"(1) A drawback entry and all documents necessary to complete a drawback claim, including those issued by one customs officer to another, shall be filed or applied for, as applicable, within 3 years after the date of exportation or destruction of the articles on which drawback is claimed, except that any landing certificate required by regulation shall be filed within the time limit prescribed in such regulation. Claims not completed within the 3-year period shall be considered abandoned. No extension will be granted unless it is established that a customs officer was responsible for the untimely filing.

"(2) A drawback entry for refund filed pursuant to any subsection of this section shall be deemed filed pursuant to any other subsection of this section should it be determined that drawback is not allowable under the entry as originally filed but is allowable under such other subsection.

"(s) DESIGNATION OF MERCHANDISE BY SUCCESSOR.—

"(1) For purposes of subsection (b), a drawback successor may designate imported merchandise used by the predecessor before the date of succession as the basis for drawback on articles manufactured by the drawback successor after the date of succession.

"(2) For purposes of subsection (j)(2), a drawback successor may designate imported merchandise upon which the predecessor, before the date of succession, paid the duty, tax, or fee related to the importation of the merchandise as the basis for drawback on merchandise possessed by the drawback successor after the date of succession.

"(3) For purposes of this subsection, the term 'drawback successor' means an entity to which another entity (in this subsection referred to as the 'predecessor') has transferred by written agreement, merger, or corporate resolution all or substantially all of the rights, privileges, immunities, powers, duties, and liabilities of the predecessor, or all or substantially all of the assets and other business interests of a division, plant, or other business unit of such predecessor, but only if in such transfer the value of the transferred realty and personalty exceeds the value of all transferred intangibles.

"(4) No drawback shall be paid under this subsection until either the predecessor or the drawback successor (who shall also certify that it has the predecessor's records) certifies that—

"(A) the transferred merchandise was not and will not be claimed by the predecessor, and

"(B) the predecessor did not and will not issue any certificate to any other person that would enable that person to claim drawback.

"(t) DRAWBACK CERTIFICATES.—Any person who issues a certificate which would enable another person to claim drawback shall be subject to the recordkeeping provisions of this chapter, with the retention period beginning on the date that such certificate is issued.

"(u) ELIGIBILITY OF ENTERED OR WITHDRAWN MERCHANDISE.—Imported merchandise that has not been regularly entered or withdrawn for consumption shall not satisfy any requirement for use, exportation, or destruction under this section.

"(v) MULTIPLE DRAWBACK CLAIMS.—Merchandise that is exported or destroyed to satisfy any claim for drawback shall not be the basis of any other claim for drawback; except that appropriate credit and deductions for claims covering components or ingredients of such merchandise shall be made in computing drawback payments.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any drawback entry made after September 30, 1993; and

(2) any drawback entry made before October 1, 1993, if the liquidation of the entry is not final as of that date.

SEC. 8333. EFFECTIVE DATE OF RATES OF DUTY.

Section 315 (19 U.S.C. 1315) is amended—

(1) by striking out "appropriate customs officer in the form and manner prescribed by regulations of the Secretary of the Treasury," in the first sentence of subsection (a) and inserting "Customs Service by written, electronic or such other means as the Secretary by regulation shall prescribe,";

(2) by striking out "customs custody" in the first sentence of subsection (b) and inserting "custody of the Customs Service"; and

(3) by striking out "section 1001, paragraph 813" in subsection (c) and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States".

SEC. 8334. DEFINITIONS.

Section 401 (19 U.S.C. 1401) is amended—

(1) by amending subsection (k) to read as follows:

"(k) The term 'hovering vessel' means—

"(1) any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws of the United States; and

"(2) any vessel which has visited a vessel described in paragraph (1)."; and

(2) by inserting at the end thereof the following new subsections:

"(n) The term 'electronic transmission' means the transfer of data or information through an authorized electronic data interchange system consisting of, but not limited to, computer modems and computer networks.

"(o) The term 'electronic entry' means the electronic transmission to the Customs Service of—

"(1) entry information required for the entry of merchandise, and

"(2) entry summary information required for the classification and appraisement of the merchandise, the verification of statistical information, and the determination of compliance with applicable law.

"(p) The term 'electronic data interchange system' means any established mechanism approved by the Commissioner of Customs through which information can be transferred electronically.

"(q) The term 'National Customs Automation Program' means the program established under section 411.

"(r) The term 'import activity summary statement' refers to data or information transmitted electronically to the Customs Service, in accordance with such regulations as the Secretary prescribes, at the end of a specified period of time which enables the Customs Service to assess properly the duties, taxes and fees on merchandise imported during that period, collect accurate statistics and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(s) The term 'reconciliation' means an electronic process, initiated at the request of an importer, under which the elements of an entry, other than those elements related to the admissibility of the merchandise, that are undetermined at the time of entry summary are provided to the Customs Service at a later time. A reconciliation is treated as an entry for purposes of liquidation, reliquidation, and protest.".

SEC. 8335. MANIFESTS.

Section 431 (19 U.S.C. 1431) is amended—

(1) by amending subsections (a) and (b) to read as follows:

"(a) IN GENERAL.—Every vessel required to make entry under section 434 or obtain clearance under section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91) shall have a manifest that complies with the requirements prescribed under subsection (d).

"(b) PRODUCTION OF MANIFEST.—Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle, or by any other authorized agent of the owner or operator of the vessel, aircraft, or vehicle in accordance with the requirements prescribed under subsection (d). A manifest may be supplemented by bill of lading data supplied by the issuer of such bill. If any irregularity of omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle, or any party responsible for such irregularity, shall be liable for any fine or penalty prescribed by law with respect to such irregularity. The Customs Service may take appropriate action against any of the parties."; and

(2) by inserting after subsection (c) the following new subsection:

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall by regulation—

"(A) specify the form for, and the information and data that must be contained in, the manifest required by subsection (a);

"(B) allow, at the option of the individual producing the manifest and subject to paragraph (2), letters and documents shipments to be accounted for by summary manifesting procedures;

"(C) prescribe the manner of production for, and the delivery for electronic transmittal of, the manifest required by subsection (a); and

"(D) prescribe the manner for supplementing manifests with bill of lading data under subsection (b).

"(2) LETTERS AND DOCUMENTS SHIPMENTS.—For purposes of paragraph (1)(B)—

"(A) the Customs Service may require with respect to letters and documents shipments—

"(i) that they be segregated by country of origin, and

"(ii) additional examination procedures that are not necessary for individually manifested shipments;

"(B) standard letter envelopes and standard document packs shall be segregated from larger document shipments for purposes of customs inspections; and

"(C) the term 'letters and documents' means—

"(i) data described in General Headnote 4(c) of the Harmonized Tariff Schedule of the United States,

"(ii) securities and similar evidences of value described in heading 4907 of such Schedule, but not monetary instruments defined pursuant to chapter 53 of title 31, United States Code, and

"(iii) personal correspondence, whether on paper, cards, photographs, tapes, or other media.".

SEC. 8336. INVOICE CONTENTS.

Section 481 (19 U.S.C. 1481) is amended—

(1) by amending subsection (a)—

(A) by amending the matter preceding paragraph (1) to read as follows: "IN GENERAL.—All invoices of merchandise to be imported into the United States and any electronic equivalent thereof considered acceptable by the Secretary in regulations prescribed under this section shall set forth, in written, electronic, or such other form as the Secretary shall prescribe, the following:",

(B) by amending paragraph (3) to read as follows:

"(3) A detailed description of the merchandise, including the commercial name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;", and

(C) by amending paragraph (10) to read as follows:

"(10) Any other fact that the Secretary may by regulation require as being necessary to a proper appraisement, examination and classification of the merchandise.";

(2) by amending subsection (c) to read as follows:

"(c) IMPORTER PROVISION OF INFORMATION.—Any information required to be set forth on an invoice may alternatively be provided by any of the parties qualifying as an 'importer of record' under section 484(a)(2)(B) by such means, in such form or manner, and within such time as the Secretary shall by regulation prescribe."; and

(3) by inserting before the period at the end of subsection (d) the following: "and may allow for the submission or electronic transmission of partial invoices, electronic equivalents of invoices, bills, or other documents or parts thereof, required under this section".

SEC. 8337. ENTRY OF MERCHANDISE.

Section 484 (19 U.S.C. 1484) is amended to read as follows:

"SEC. 484. ENTRY OF MERCHANDISE.

"(a) REQUIREMENT AND TIME.—

"(1) Except as provided in sections 490, 498, 552, 553, and 336(j), one of the parties qualifying as 'importer of record' under paragraph (2)(B), either in person or by an agent authorized by the party in writing, shall, using reasonable care—

"(A) make entry therefor by filing with the Customs Service—

"(i) such documentation or, pursuant to an electronic data interchange system, such information as is necessary to enable the Customs Service to determine whether the merchandise may be released from customs custody, and

"(ii) notification whether an import activity summary statement will be filed; and

"(B) complete the entry by filing with the Customs Service the declared value, classification and rate of duty applicable to the merchandise, and such other documentation or, pursuant to an electronic data interchange system, such other information as is necessary to enable the Customs Service to—

"(i) properly assess duties on the merchandise,

"(ii) collect accurate statistics with respect to the merchandise, and

"(iii) determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(2)(A) The documentation or information required under paragraph (1) with respect to any imported merchandise shall be filed or transmitted in such manner and within such time periods as the Secretary shall by regulation prescribe. Such regulations shall provide for the filing of import activity summary statements, covering entries made during a calendar month, within such time period as is prescribed in regulations but not to exceed the 20th day following such calendar month.

"(B) When an entry of merchandise is made under this section, the required documentation or information shall be filed or electronically transmitted either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 641. When a consignee declares on entry that he is the owner or purchaser of merchandise the Customs Service may, without liability, accept the declaration. For the purposes of this Act, the importer of record must be one of the parties who is eligible to file the documentation or information required by this section.

"(C) The Secretary, in prescribing regulations to carry out this subsection, shall establish procedures which insure the accuracy and timeliness of import statistics, particularly statistics relevant to the classification and valuation of imports. Corrections of errors in such statistical data shall be transmitted immediately to the Director of the Bureau of the Census, who shall make corrections in the statistics maintained by the Bureau. The Secretary shall also provide, to the maximum extent practicable, for the protection of the revenue, the enforcement of laws governing the importation and exportation of merchandise, the facilitation of the commerce of the United States, and the equal treatment of all importers of record of imported merchandise.

"(b) RECONCILIATION.—A party that electronically transmits an entry summary or import activity summary statement may at the time of filing such summary or statement notify the Customs Service of his intention to file a reconciliation pursuant to such regulations as the Secretary may prescribe. Such reconciliation must be filed by the importer of record within such time period as is prescribed by regulation but no later than 15 months following the filing of the entry summary or import activity summary statement. Before filing a reconciliation, an importer of record shall post bond or other security pursuant to such regulations as the Secretary may prescribe.

"(c) RELEASE OF MERCHANDISE.—The Customs Service may permit the entry and release of merchandise from customs custody in accordance with such regulations as the Secretary may prescribe. No officer of the Customs Service shall be liable to any person with respect to the delivery of merchandise released from customs custody in accordance with such regulations.

"(d) SIGNING AND CONTENTS.—Entries shall be signed by the importer of record, or his agent, unless filed pursuant to an electronic data interchange system. If electronically filed, each transmission of data shall be certified by an importer of record or his agent, one of whom shall be resident in the United States for purposes of receiving service of process, as being true and correct to the best of his knowledge and belief, and such transmission shall be binding in the same manner and to the same extent as a signed document. The entry shall set forth such facts in regard to the importation as the Secretary may require and shall be accompanied by such invoices, bills of lading, certificates, and documents, or their electronically submitted equivalents, as are required by regulation.

"(e) PRODUCTION OF INVOICE.—The Secretary may provide by regulation for the production of an invoice, parts thereof, or the electronic equivalents thereof, in such manner and form, and under such terms and conditions, as the Secretary considers necessary.

"(f) STATISTICAL ENUMERATION.—The Secretary, the Secretary of Commerce, and the United States International Trade Commission shall establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production and programs for achieving international harmonization of trade statistics, to establish the comparability thereof with such enumeration of articles. All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article.

"(g) STATEMENT OF COST OF PRODUCTION.—Under such regulations as the Secretary may prescribe, the Customs Service may require a verified statement from the manufacturer or producer showing the cost of producing the imported merchandise, if the Customs Service considers such verification necessary for the appraisement of such merchandise.

"(h) ADMISSIBILITY OF DATA ELECTRONICALLY TRANSMITTED.—Any entry or other information transmitted by means of an authorized electronic data interchange system shall be admissible in any and all administrative and judicial proceedings as evidence of such entry or information.".

SEC. 8338. APPRAISEMENT AND OTHER PROCEDURES.

Section 500 (19 U.S.C. 1500) is amended—

(1) by striking out "The appropriate customs officer" and inserting "The Customs Service";

(2) by striking out "appraise" in subsection (a) and inserting "fix the final appraisement of";

(3) by striking out "ascertain the" in subsection (b) and inserting "fix the final";

(4) by amending subsection (c)—

(A) by inserting "final" after "fix the", and

(B) by inserting ", taxes, and fees" after "duties" wherever it appears; and

(5) by amending subsections (d) and (e) to read as follows:

"(d) liquidate the entry and reconciliation, if any, of such merchandise; and

"(e) give or transmit, pursuant to an electronic data interchange system, notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall by regulation prescribe.".

SEC. 8339. VOLUNTARY RELIQUIDATIONS.

Section 501 (19 U.S.C. 1501) is amended—

(1) by striking out "the appropriate customs officer on his own initiative" and inserting "the Customs Service";

(2) by inserting "or transmitted" after "given" wherever it appears; and

(3) by amending the section heading to read as follows:

"SEC. 501. VOLUNTARY RELIQUIDATIONS BY THE CUSTOMS SERVICE.".

SEC. 8340. APPRAISEMENT REGULATIONS.

Section 502 (19 U.S.C. 1502) is amended—

(1) by amending subsection (a)—

(A) by inserting "(including regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned)" after "law",

(B) by striking out "ports of entry, and" inserting "ports of entry. The Secretary",

(C) by inserting "or classifying" after "appraising" wherever it appears, and

(D) by striking out "such port" and inserting "any port, and may direct any customs officer at any port to review entries of merchandise filed at any other port"; and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 8341. LIMITATION ON LIQUIDATION.

(a) AMENDMENTS.—Section 504 (19 U.S.C. 1504) is amended—

(1) by amending subsection (a)—

(A) by striking out "Except as provided in subsection (b)," and inserting "Unless an entry is extended under subsection (b) or suspended as required by statute or court order,",

(B) by striking out "or" at the end of paragraph (2),

(C) by inserting "or" after the semicolon at the end of paragraph (3), and

(D) by inserting the following new paragraph after paragraph (3):

"(4) if a reconciliation is filed, or should have been filed, the date of the filing under section 484 or the date the reconciliation should have been filed;"; and

(2) by amending subsections (b), (c), and (d) to read as follows:

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry if—

"(1) the information needed for the proper appraisement or classification of the merchandise, or for insuring compliance with applicable law, is not available to the Customs Service; or

"(2) the importer of record requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record and the surety of such importer of record. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record at the expiration of 4 years from the applicable date specified in subsection (a).

"(c) NOTICE OF SUSPENSION.—If the liquidation of any entry is suspended, the Secretary shall by regulation require that notice of the suspension be provided, in such manner as the Secretary considers appropriate, to the importer of record and to any authorized agent and surety of such importer of record.

"(d) REMOVAL OF SUSPENSION.—When a suspension required by statute or court order is removed, the Customs Service shall liquidate the entry within 6 months after receiving notice of the removal from the Department of Commerce, other agency, or a court with jurisdiction over the entry. Any entry not liquidated by the Customs Service within 6 months after receiving such notice shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record.".

SEC. 8342. PAYMENT OF DUTIES AND FEES.

(a) AMENDMENT TO SECTION 505.—Section 505 (U.S.C. 1505) is amended to read as follows:

"SEC. 505. PAYMENT OF DUTIES AND FEES.

"(a) DEPOSIT OF ESTIMATED DUTIES, FEES, AND INTEREST.—Unless merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of making entry, or at such later time as the Secretary may prescribe by regulation, the amount of duties and fees estimated to be payable thereon. Such regulations may provide that estimated duties and fees shall be deposited before or at the time an import activity summary statement is filed. If an import activity summary statement is filed, the estimated duties and fees shall be deposited together with interest, at a rate determined by the Secretary, accruing from the first date of the month the statement is required to be filed until the date such statement is actually filed.

"(b) COLLECTION OR REFUND OF DUTIES, FEES, AND INTEREST DUE UPON LIQUIDATION OR RELIQUIDATION.—The Customs Service shall collect any increased or additional duties and fees due, together with interest thereon, or refund any excess moneys deposited, together with interest thereon, as determined on a liquidation or reliquidation. Duties, fees, and interest determined to be due upon liquidation or reliquidation are due 30 days after issuance of the bill for such payment. Refunds of excess moneys deposited, together with interest thereon, shall be paid within 30 days of liquidation or reliquidation.

"(c) INTEREST.—Interest assessed due to an underpayment of duties, fees, or interest shall accrue, at a rate determined by the Secretary, from the date the importer of record is required to deposit estimated duties, fees, and interest to the date of liquidation or reliquidation of the applicable entry or reconciliation. Interest on excess moneys deposited shall accrue, at a rate determined by the Secretary, from the date the importer of record deposits estimated duties, fees, and interest to the date of liquidation or reliquidation of the applicable entry or reconciliation.

"(d) DELINQUENCY.—If duties, fees, and interest determined to be due or refunded are not paid in full within the 30-day period specified in subsection (b), any unpaid balance shall be considered delinquent and bear interest by 30-day periods, at a rate determined by the Secretary, from the date of liquidation or reliquidation until the full balance is paid. No interest shall accrue during the 30-day period in which payment is actually made.".

(b) CONFORMING AMENDMENT.—Subsection (d) of section 520 (19 U.S.C. 1520(d)) is repealed.

SEC. 8343. ABANDONMENT AND DAMAGE.

Section 506 (19 U.S.C. 1506) is amended—

(1) by striking out "the appropriate customs officer" and "such customs officer" wherever they appear and inserting "the Customs Service";

(2) by amending paragraph (1)—

(A) by striking out "not sent to the appraiser's stores for" and inserting "released without an",

(B) by striking out "of the examination packages or quantities of merchandise",

(C) by striking out "the appraiser's stores" and inserting "the Customs Service", and

(D) by inserting "or entry" after "invoice"; and

(3) by amending paragraph (2)—

(A) by inserting ", electronically or otherwise," after "files", and

(B) by striking out "written".

SEC. 8344. CUSTOMS OFFICER'S IMMUNITY.

Section 513 (19 U.S.C. 1513) is amended to read as follows:

"SEC. 513. CUSTOMS OFFICER'S IMMUNITY.

"No customs officer shall be liable in any way to any person for or on account of—

"(1) any ruling or decision regarding the appraisement or the classification of any imported merchandise or regarding the duties, fees, and taxes charged thereon;

"(2) the collection of any dues, charges, duties, fees, and taxes on or on account of any imported merchandise, or

"(3) any other matter or thing as to which any person might under this Act be entitled to protest or appeal from the decision of such officer.".

SEC. 8345. PROTESTS.

Section 514 (19 U.S.C. 1514) is amended—

(1) by amending subsection (a)—

(A) by striking out "appropriate customs officer" in the text preceding paragraph (1) and inserting "Customs Service",

(B) by inserting "or reconciliation as to the issues contained therein," after "entry," in paragraph (5),

(C) by striking out "and" and inserting "or" at the end of paragraph (6),

(D) by striking out the comma at the end of paragraph (7) and inserting a semicolon; and

(E) by striking out "appropriate customs officer, who" in the text following paragraph (7) and inserting "Customs Service, which";

(2) by amending subsection (b) by striking out "appropriate customs officer" and inserting "Customs Service";

(3) by amending the first sentence of subsection (c)(1) to read as follows: "A protest of a decision made under subsection (a) shall be filed in writing, or transmitted electronically pursuant to an electronic data interchange system, in accordance with regulations prescribed by the Secretary. A protest must set forth distinctly and specifically—

"(A) each decision described in subsection (a) as to which protest is made;

"(B) each category of merchandise affected by each decision set forth under paragraph (1);

"(C) the nature of each objection and the reasons therefor; and

"(D) any other matter required by the Secretary by regulation.";

(4) by redesignating paragraph (2) of subsection (c) as paragraph (3) and by striking out "such customs officer" in such redesignated paragraph and inserting "the Customs Service";

(5) by designating the last sentence of paragraph (1) of subsection (c) as paragraph (2);

(6) by striking out "customs officer" in subsection (d) and inserting "Customs Service"; and

(7) by amending the section heading to read as follows:

"SEC. 514. PROTEST AGAINST DECISIONS OF THE CUSTOMS SERVICE.".

SEC. 8346. REFUNDS AND ERRORS.

Section 520 (19 U.S.C. 1520) is amended—

(1) by inserting "or reconciliation" after "entry" in paragraphs (1) and (4) of subsection (a); and

(2) by amending subsection (c)—

(A) by striking out "appropriate customs officer" wherever it appears and inserting "Customs Service",

(B) by inserting "or reconciliation" after "reliquidate an entry", and

(C) by inserting ", whether or not resulting from or contained in electronic transmission," after "inadvertence" the first place it appears in paragraph (1).

SEC. 8347. BONDS AND OTHER SECURITY.

Section 623 (19 U.S.C. 1623) is amended—

(1) by inserting "and the manner in which the bond may be filed with or, pursuant to an authorized electronic data interchange system, transmitted to the Customs Service" after "form of such bond" in subsection (b)(1); and

(2) by inserting at the end of subsection (d) the following new sentence: "Any bond transmitted to the Customs Service pursuant to an authorized electronic data interchange system shall have the same force and effect and be binding upon the parties thereto as if such bond were manually executed, signed, and filed.".

SEC. 8348. CUSTOMHOUSE BROKERS.

Section 641 (19 U.S.C. 1641) is amended—

(1) by adding at the end of subsection (a)(2) the following new sentence: "It also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with the Customs Service in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to Customs.";

(2) by amending subsection (c)(1) to read as follows:

"(1) IN GENERAL.—Each person granted a customs broker's license under subsection (b) shall be issued, in accordance with such regulations as the Secretary shall prescribe, either or both of the following:

"(A) A national permit for the conduct of such customs business as the Secretary prescribes by regulation.

"(B) A permit for each customs district in which that person conducts customs business and, except as provided in paragraph (2), regularly employs at least 1 individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.";

(3) by inserting at the end of subsection (c) the following new paragraph:

"(4) APPOINTMENT OF SUBAGENTS.—Notwithstanding subsection (c)(1), upon the implementation by the Secretary under section 413(b)(2) of the component of the National Customs Automation Program referred to in section 411(a)(2)(B), a licensed broker may appoint another licensed broker holding a permit in a customs district to act on its behalf as its subagent in that district if such activity relates to the filing of information that is permitted by law or regulation to be filed electronically. A licensed broker appointing a subagent pursuant to this paragraph shall remain liable for any and all obligations arising under bond and any and all duties, taxes, and fees, as well as any other liabilities imposed by law, and shall be precluded from delegating to a subagent such liability.";

(4) by amending subsection (d)(2)(B)—

(A) by striking out "appropriate customs officer" and inserting "Customs Service" in the first and third sentences,

(B) by striking out "he" and inserting "it" in the third sentence,

(C) by striking out "15 days" and inserting "30 days" in the third sentence,

(D) by striking out "the appropriate customs officer and the customs broker; they" and inserting "the Customs Service and the customs broker; which" in the sixth sentence,

(E) by striking out "his" and inserting "the" in the seventh sentence, and

(F) by striking out "for his decision" and inserting "for the decision" in the eighth sentence"; and

(5) by amending subsection (f) by striking out "United States Customs Service." and inserting "Customs Service. The Secretary may not prohibit customs brokers from limiting their liability to other persons in the conduct of customs business. For purposes of this subsection or any other provision of this Act pertaining to recordkeeping, all data required to be retained by a customs broker may be kept on microfilm, optical disc, magnetic tapes, disks or drums, video files or any other electrically generated medium. Pursuant to such regulations as the Secretary shall prescribe, the conversion of data to such storage medium may be accomplished at any time subsequent to the relevant customs transaction and the data may be retained in a centralized basis according to such broker's business system.".

SEC. 8349. CONFORMING AMENDMENTS.

(a) PLACE OF ENTRY AND UNLADING.—Section 447 (19 U.S.C. 1447) is amended by striking out "the appropriate customs officer shall consider" and inserting "the Customs Service considers".

(b) UNLADING.—Section 449 (19 U.S.C. 1449) is amended by striking out "appropriate customs officer of such port issues a permit for the unlading of such merchandise or baggage," and inserting "Customs Service issues a permit for the unlading of such merchandise or baggage at such port,".

PART III—MISCELLANEOUS AMENDMENTS TO THE TARIFF ACT OF 1930

SEC. 8351. REPORT OF ARRIVAL.

Section 433 (19 U.S.C. 1433) is amended—

(1) by amending subsection (a)(1)—

(A) by striking out "or" at the end of subparagraph (B),

(B) by inserting "or" after the semicolon at the end of subparagraph (C), and

(C) by adding after subparagraph (C) the following:

"(D) any vessel which has visited a hovering vessel or received merchandise while outside the territorial sea;";

(2) by striking out "present to customs officers such" in subsection (d) and inserting "present, or transmit pursuant to an electronic data interchange system, to the Customs Service such information, data,"; and

(3) by amending subsection (e) to read as follows:

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, a vessel, aircraft or vehicle after arriving in the United States or Virgin Islands may, but only in accordance with regulations prescribed by the Secretary—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage).".

SEC. 8352. ENTRY OF VESSELS.

Section 434 (19 U.S.C. 1434) amended to read as follows:

"SEC. 434. ENTRY; VESSELS.

"(a) FORMAL ENTRY.—Within 24 hours (or such other period of time as may be provided under subsection (c)(2)) after the arrival at any port or place in the United States of—

"(1) any vessel from a foreign port or place;

"(2) any foreign vessel from a domestic port;

"(3) any vessel of the United States having on board bonded merchandise or foreign merchandise for which entry has not been made; or

"(4) any vessel which has visited a hovering vessel or has delivered or received merchandise while outside the territorial sea;

the master of the vessel shall, unless otherwise provided by law, make formal entry at the nearest customs facility or such other place as the Secretary may prescribe by regulation.

"(b) PRELIMINARY ENTRY.—The Secretary may by regulation permit the master to make preliminary entry of the vessel with the Customs Service in lieu of formal entry or before formal entry is made. In permitting preliminary entry, the Customs Service shall board a sufficient number of vessels to ensure compliance with the laws it enforces.

"(c) REGULATIONS.—The Secretary may by regulation—

"(1) prescribe the manner and format in which entry under subsection (a) or subsection (b), or both, must be made, and such regulations may provide that any such entry may be made electronically pursuant to an electronic data interchange system;

"(2) provide that—

"(A) formal entry must be made within a greater or lesser time than 24 hours after arrival, but in no case more than 48 hours after arrival, and

"(B) formal entry may be made before arrival; and

"(3) authorize the Customs Service to permit entry or preliminary entry of any vessel to be made at a place other than a designated port of entry, under such conditions as may be prescribed.".

SEC. 8353. UNLAWFUL RETURN OF FOREIGN VESSEL PAPERS.

Section 438 (19 U.S.C. 1438) is amended—

(1) by striking out "section 435" and inserting "section 434";

(2) by inserting ", or regulations issued thereunder," after "of this Act"; and

(3) by striking out "the appropriate customs officer of the port where such vessel has been entered." and inserting "the Customs Service in the port in which such vessel has entered.".

SEC. 8354. VESSELS NOT REQUIRED TO ENTER.

Section 441 (19 U.S.C. 1441) is amended—

(1) by amending the text preceding paragraph (1) to read as follows: "The following vessels shall not be required to make entry under section 434 or to obtain clearance under section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91):";

(2) by amending paragraph (3) to read as follows:

"(3) Any vessel carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, if—

"(A) the vessel does not in any way violate the customs or navigation laws of the United States;

"(B) the vessel has not visited any hovering vessel; and

"(C) the master of the vessel, if there is on board any article required by law to be entered, reports the article to the Customs Service immediately upon arrival.";

(3) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and inserting after paragraph (3) the following:

"(4) Any United States documented vessel with recreational endorsement or any undocumented United States pleasure vessel not engaged in trade, if—

"(A) the vessel complies with the reporting requirements of section 433, and with the customs and navigation laws of the United States;

"(B) the vessel has not visited any hovering vessel; and

"(C) the master of, and any other person on board, the vessel, if the master or such person has on board any article required by law to be entered or declared, reports such article to the Customs Service immediately upon arrival;"; and

(4) by amending the section heading to read as follows:

"SEC. 441. EXCEPTIONS TO VESSEL ENTRY AND CLEARANCE REQUIREMENTS.".

SEC. 8355. UNLADING.

Section 448(a) (19 U.S.C. 1448(a)) is amended—

(1) by amending the first sentence—

(A) by striking out "enter)" and inserting "enter or clear)",

(B) by striking out "or vehicle arriving from a foreign port or place" and inserting "required to make entry under section 434, or vehicle required to report arrival under section 433,",

(C) by inserting "or transmitted pursuant to an electronic data interchange system" after "issued", and

(D) by striking out the colon after "officer" and the proviso and inserting a period;

(2) by amending the second sentence—

(A) by striking out ", preliminary or otherwise,", and

(B) by inserting ", electronically pursuant to an authorized electronic data interchange system or otherwise," after "may issue a permit";

(3) by striking out the last sentence and inserting the following: "The owner or master of any vessel or vehicle, or agent thereof, shall notify the Customs Service of any merchandise or baggage so unladen for which entry is not made within the time prescribed by law or regulation. The Secretary shall by regulation prescribe administrative penalties not to exceed $1,000 for each bill of lading for which notice is not given. Any such administrative penalty shall be subject to mitigation and remittance under section 618. Such unentered merchandise or baggage shall be the responsibility of the master or person in charge of the importing vessel or vehicle, or agent thereof, until it is removed from the carrier's control in accordance with section 490."; and

(4) by striking out "the appropriate customs officer" and "such customs officer" wherever they appear and inserting "the Customs Service".

SEC. 8356. DECLARATIONS.

Section 485 (19 U.S.C. 1485) is amended—

(1) by amending subsection (a)—

(A) by inserting "or transmit electronically" after "file", and

(B) by inserting "and manner" after "form";

(2) by amending subsection (d)—

(A) by striking out "A importer" and inserting "An importer", and

(B) by striking out "a importer" and inserting "an importer"; and

(3) by inserting after subsection (f) the following new subsection:

"(g) Exported Merchandise Returned as Undeliverable.—With respect to any importation of merchandise to which General Headnote 4(e) of the Harmonized Tariff Schedule of the United States applies, any person who gained any benefit from, or met any obligation to, the United States as a result of the prior exportation of such merchandise shall, in accordance with regulations prescribed by the Secretary, within a reasonable time inform the Customs Service of the return of the merchandise.".

SEC. 8357. GENERAL ORDERS.

Section 490 (19 U.S.C. 1490) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Incomplete Entry.—

"(1) Whenever—

"(A) the entry of any imported merchandise is not made within the time provided by law or by regulation prescribed by the Secretary;

"(B) the entry of imported merchandise is incomplete because of failure to pay the estimated duties, fees, or interest;

"(C) in the opinion of the Customs Service, the entry of imported merchandise cannot be made for want of proper documents or other cause; or

"(D) the Customs Service believes that any merchandise is not correctly and legally invoiced;

the carrier (unless subject to subsection (c)) shall notify the bonded warehouse of such unentered merchandise.

"(2) After notification under paragraph (1), the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until—

"(A) entry is made or completed and the proper documents are produced;

"(B) the information and data necessary for entry are transmitted to the Customs Service pursuant to an authorized electronic data interchange system; or

"(C) a bond is given for the production of documents or the transmittal of data.";

(2) by amending subsection (b)—

(A) by amending the heading for subsection (b) to read as follows: "(b) Request for Possession by Customs.—", and

(B) by striking out "appropriate customs officer" and inserting "Customs Service"; and

(3) by adding at the end the following new subsection:

"(c) Government Merchandise.—Any imported merchandise that—

"(1) is described in any of paragraphs (1) through (4) of subsection (a); and

"(2) is consigned to, or owned by, the United States Government;

shall be stored and disposed of in accordance with such rules and procedures as the Secretary shall by regulation prescribe.".

SEC. 8358. UNCLAIMED MERCHANDISE.

Section 491 (19 U.S.C. 1491) is amended—

(1) by amending subsection (a)—

(A) by striking out "customs custody for one year" in the first sentence and inserting "in a bonded warehouse pursuant to section 490 for 6 months",

(B) by striking out "public store or bonded warehouse for a period of one year" in the second sentence and inserting "pursuant to section 490 in a bonded warehouse for 6 months",

(C) by striking out "estimated duties and storage" in the first sentence and inserting "estimated duties, taxes, fees, interest, storage,",

(D) by inserting "taxes, fees, interest," after "duties," wherever it appears, and

(E) by striking out "duties" in the last sentence and inserting "duties, taxes, interest, and fees"; and

(2) by redesignating subsection (b) as subsection (e) and inserting after subsection (a) the following new subsections:

"(b) Notice of Title Vesting in the United States.—At the end of the 6-month period referred to in subsection (a), the Customs Service may, in lieu of sale of the merchandise, provide notice to all known interested parties that the title to such merchandise shall be considered to vest in the United States free and clear of any liens or encumbrances, on the 30th day after the date of the notice unless, before such 30th day—

"(1) the subject merchandise is entered or withdrawn for consumption; and

"(2) payment is made of all duties, taxes, fees, transfer and storage charges, and other expenses that may have accrued thereon.

"(c) Retention, Transfer, Destruction, or Other Disposition.—If title to any merchandise vests in the United States by operation of subsection (b), such merchandise may be retained by the Customs Service for official use, transferred to any other Federal agency or to any State or local agency, destroyed, or otherwise disposed of in accordance with such regulations as the Secretary shall prescribe. All transfer and storage charges or expenses accruing on transferred merchandise shall be paid by the receiving agency, otherwise the charges and expenses on such merchandise shall be paid out of the Customs Forfeiture Fund.

"(d) Petition.—Whenever any party, having lost a substantial interest in merchandise by virtue of title vesting in the United States under subsection (b), can establish such title or interest to the satisfaction of the Secretary within 30 days after the day on which title vests in the United States under subsection (b), or can establish to the satisfaction of the Secretary that the party did not receive notice under subsection (b), the Secretary may, upon receipt of a timely and proper petition and upon finding that the facts and circumstances warrant, pay such party out of the Customs Forfeiture Fund the amount the Secretary believes the party would have received under section 493 had the merchandise been sold and a proper claim filed. The decision of the Secretary with respect to any such petition is final and conclusive on all parties."; and

(3) by amending subsection (e) (as so redesignated) by striking out "appropriate customs officer" in paragraph (3) and inserting "Customs Service".

SEC. 8359. DESTRUCTION OF MERCHANDISE.

Section 492 (19 U.S.C. 1492) is amended—

(1) by inserting ", retained for official use, or otherwise disposed of" after "destroyed"; and

(2) by striking out "appropriate customs officer" and inserting "Customs Service".

SEC. 8360. PROCEEDS OF SALE.

Section 493 (19 U.S.C. 1493) is amended—

(1) by inserting "taxes, and fees," after "duties,";

(2) by striking out "by the appropriate customs officer in the Treasury of the United States" and inserting "in the Customs Forfeiture Fund"; and

(3) by striking out "such customs officer" and inserting "the Customs Service".

SEC. 8361. ENTRY UNDER REGULATIONS.

Section 498(a) (19 U.S.C. 1498(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Merchandise, when—

"(A) the aggregate value of the shipment does not exceed an amount specified by the Secretary by regulation, but not more than $2,500; or

"(B) different commercial facilitation and risk considerations that may vary for different classes or kinds of merchandise or different classes of transactions may dictate;"; and

(2) by striking out "$10,000" in paragraph (2) and inserting "such amounts as the Secretary may prescribe".

SEC. 8362. AMERICAN TRADEMARKS.

Section 526(e)(3) (19 U.S.C. 1526(e)(3)) is amended—

(1) by striking out "1 year" and inserting "90 days"; and

(2) by striking out "appropriate customs officers" and inserting "the Customs Service".

SEC. 8363. SEIZURE.

Section 612 (19 U.S.C. 1612) is amended—

(1) by amending subsection (a)—

(A) by striking out "the appropriate customs officer", "such officer" and "the customs officer" wherever they appear and inserting "the Customs Service", and

(B) by striking out "the appraiser's return and his" and inserting "its"; and

(2) by amending subsection (b) to read as follows:

"(b) If the Customs Service determines that the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, the Customs Service may promptly order the destruction or other appropriate disposition of such property under regulations prescribed by the Secretary. No customs officer shall be liable for the destruction or other disposition of property made pursuant to this section.".

SEC. 8364. CUSTOMS FORFEITURE FUND.

(a) Amendment.—Section 613A (19 U.S.C. 1613b) is amended—

(1) by redesignating subparagraphs (E) and (F) of subsection (a)(3) as subparagraphs (G) and (H), respectively;

(2) by inserting after subparagraph (D) of subsection (a)(3) the following new subparagraphs:

"(E) the payment of transfer and storage charges and expenses under section 491(c);

"(F) the payment of claims against employees of the Customs Service settled by the Secretary under section 630;"; and

(3) by striking out "shall" in subsection (d) and inserting "may".

(b) REFERENCE.—After the effective date of section 9703 of title 31, United States Code, any reference in the Tariff Act of 1930 to the Customs Forfeiture Fund shall be treated as being a reference to the Department of the Treasury Forfeiture Fund established by such section 9703.

SEC. 8365. LIMITATION ON ACTIONS.

Section 621 (19 U.S.C. 1621) is amended—

(1) by inserting "any duty under section 592(d), 593A(d), or" before "any pecuniary penalty"; and

(2) by striking out "discovered:" and all that follows thereafter and inserting the following: "discovered; except that—

"(1) in the case of an alleged violation of section 592 or 593A, no suit or action (including a suit or action for restoration of lawful duties under subsection (d) of such sections) may be instituted unless commenced within 5 years after the date of the alleged violation or, if such violation arises out of fraud, within 5 years after the date of discovery of fraud, and

"(2) the time of the absence from the United States of the person subject to the penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within the 5-year period of limitation.".

SEC. 8366. COLLECTION OF FEES ON BEHALF OF OTHER AGENCIES.

The Tariff Act of 1930 is amended by inserting after section 528 the following new section:

"SEC. 529. COLLECTION OF FEES ON BEHALF OF OTHER AGENCIES.

"The Customs Service shall be reimbursed from the fees collected for the cost and expense, administrative and otherwise, incurred in collecting any fees on behalf of any government agency for any reason.".

SEC. 8367. AUTHORITY TO SETTLE CLAIMS.

The Tariff Act of 1930 is amended by inserting after section 629 the following new section:

"SEC. 630. AUTHORITY TO SETTLE CLAIMS.

"(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary may settle, for not more than $50,000 in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Customs Service and acting within the scope of his or her employment.

"(b) LIMITATIONS.—The Secretary may not pay a claim under subsection (a) that—

"(1) concerns commercial property;

"(2) is presented to the Secretary more than 1 year after it occurs; or

"(3) is presented by an officer or employee of the United States Government and arose within the scope of employment.

"(c) FINAL SETTLEMENT.—A claim may be paid under this section only if the claimant accepts the amount of settlement in complete satisfaction of the claim.".

SEC. 8368. USE OF PRIVATE COLLECTION AGENCIES.

The Tariff Act of 1930 is amended by inserting after section 630 the following new section:

"SEC. 631. USE OF PRIVATE COLLECTION AGENCIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, under such terms and conditions as the Secretary considers appropriate, shall enter into contracts and incur obligations with one or more persons for collection services to recover indebtedness arising under the customs laws and owed the United States Government, but only after the Customs Service has exhausted all administrative efforts, including all claims against applicable surety bonds, to collect the indebtedness.

"(b) CONTRACT REQUIREMENTS.—Any contract entered into under subsection (a) shall provide that—

"(1) the Secretary retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

"(2) the person is subject to—

"(A) section 552a of title 5, United States Code, to the extent provided in subsection (m) of such section; and

"(B) laws and regulations of the United States Government and State governments related to debt collection practices.".

PART IV—MISCELLANEOUS PROVISIONS AND CONSEQUENTIAL AND CONFORMING AMENDMENTS TO OTHER LAWS

SEC. 8371. AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE.

(a) RETURN SHIPMENTS.—General Note 4 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking out "and" at the end of subdivision (c);

(2) by inserting "and" after "1930," in subdivision (d);

(3) by inserting after subdivision (d) the following:

"(e) articles exported from the United States which are returned within 45 days after such exportation from the United States as undeliverable and which have not left the custody of the carrier or foreign customs service,"; and

(4) by adding at the end the following new sentence: "No exportation referred to in subdivision (e) may be treated as satisfying any requirement for exportation in order to receive a benefit from, or meet an obligation to, the United States as a result of such exportation.".

(b) ENTRY NOT REQUIRED FOR LOCOMOTIVES AND RAILWAY FREIGHT CARS.—

(1) The Notes to chapter 86 of such Schedule are amended by inserting after note 3 the following new note:

"4. Railway locomotives (provided for in headings 8601 and 8602) and railway freight cars (provided for in heading 8606) on which no duty is owed are not subject to the entry or release requirements for imported merchandise set forth in sections 448 and 484 of the Tariff Act of 1930. The Secretary of the Treasury may by regulation establish appropriate reporting requirements, including the requirement that a bond be posted to ensure compliance.".

(2) The U.S. Notes to subchapter V of chapter 99 of such Schedule are amended by inserting after note 8 the following new note:

"9. Railway freight cars provided for in subheadings 9905.86.05 and 9905.86.10 are not subject to the entry or release requirements for imported merchandise set forth in sections 448 and 484 of the Tariff Act of 1930. The Secretary of the Treasury may by regulation establish appropriate reporting requirements, including the requirement that a bond be posted to ensure compliance.".

(c) INSTRUMENTS OF INTERNATIONAL TRAFFIC.—The U.S. Notes to subchapter III of chapter 98 of such Schedule is amended by inserting after note 3 the following new note:

"4. Instruments of international traffic, such as containers, life vans, rail cars and locomotives, truck cabs and trailers, etc. are exempt from formal entry procedures but are required to be accounted for when imported and exported into and out of the United States, respectively, through the manifesting procedures required for all international carriers by the United States Customs Service. Fees associated with the importation of such instruments of international traffic shall be reported and paid on a periodic basis as required by regulations issued by the Secretary of the Treasury and in accordance with 1956 Customs Convention on Containers (20 UST 30; TIAS 6634).".

SEC. 8372. AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.

Section 9505(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(c) EXPENDITURES FROM THE HARBOR MAINTENANCE TRUST FUND.—

"(1) Amounts in the Harbor Maintenance Trust Fund shall be available, as provided by appropriations Acts, for making expenditures—

"(A) to carry out section 210(a) of the Water Resources Development Act of 1986 (as amended by the Water Resources Development Act of 1990),

"(B) for payments of rebates of tolls or charges pursuant to section 13(b) of the Act of May 13, 1954 (as in effect on April 1, 1987), and

"(C) for the payments of all administrative expenses incurred by the Department of the Army, the Department of the Treasury and the Department of Commerce in administering the tax imposed by section 4461.

"(2) There are authorized to be appropriated to the Department of the Army, out of the Harbor Maintenance Trust Fund established by subsection (a), for each fiscal year not to exceed $5,000,000 to be used by the Department of the Army to provide payment of all administrative expenses incurred by the Department of the Army, the Department of the Treasury, and the Department of Commerce in administering the tax imposed by section 4461.".

SEC. 8373. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) AMENDMENTS RELATING TO ACCREDITATION OF PRIVATE LABORATORIES.—Title 28 of the United States Code is amended as follows:

(1) Section 1581(g) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following:

"(3) any decision or order of the Customs Service to deny, suspend, or revoke accreditation of a private laboratory under section 499(b) of the Tariff Act of 1930.".

(2) Section 2631(g) is amended by inserting at the end the following new paragraph:

"(3) A civil action to review any decision or order of the Customs Service to deny, suspend, or revoke accreditation of a private laboratory under section 499(b) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose accreditation was denied, suspended, or revoked.".

(3) Section 2636 is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following new subsection:

"(h) A civil action contesting the denial, suspension, or revocation by the Customs Service of a private laboratory's accreditation under section 499(b) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within 60 days after the date of the decision or order of the Customs Service.".

(4) Section 2640 is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d) In any civil action commenced to review any order or decision of the Customs Service under section 499(b) of the Tariff Act of 1930, the court shall review the action on the basis of the record before the Customs Service at the time of issuing such decision or order.".

(5) Section 2642 is amended by inserting before the period the following: "or laboratories accredited by the Customs Service under section 499(b) of the Tariff Act of 1930".

(b) APPLICATION OF SUBSECTION (a) AMENDMENTS.—For purposes of applying the amend-

ments made by subsection (a), any decision or order of the Customs Service denying, suspending, or revoking the accreditation of a private laboratory on or after the date of the enactment of this Act and before regulations to implement section 499(b) of the Tariff Act of 1930 are issued shall be treated as having been denied, suspended, or revoked under such section 499(b).

(c) JURISDICTION OF COURT.—Section 1582(1) of title 28, United States Code, is amended by inserting "593A," after "592,".

(d) FILING OF OFFICIAL DOCUMENTS.—Section 2635(a) of title 28, United States Code, is amended to read as follows:

"(a) In any action commenced in the Court of International Trade contesting the denial of a protest under section 515 of the Tariff Act of 1930 or the denial of a petition under section 516 of such Act, the Customs Service, as prescribed by the rules of the court, shall file with the clerk of the court, as part of the official record, any document, paper, information or data relating to the entry of merchandise and the administrative determination that is the subject of the protest or petition.".

SEC. 8374. AMENDMENTS TO THE REVISED STATUTES OF THE UNITED STATES.

(a) ENROLLED OR LICENSED VESSELS.—Section 2793 of the Revised Statutes of the United States (19 U.S.C. 288; 46 U.S.C. App. 111, 123) is amended by striking out the first semicolon and all the text that follows thereafter and inserting a period.

(b) REGISTERED VESSELS AT FOREIGN PORTS.—Section 3126 of such Revised Statutes (19 U.S.C. 293) is amended—

(1) by striking out "Any vessel, on being duly registered in pursuance of the laws of the United States," and inserting "Any United States documented vessel with a registry and coastwise endorsements"; and

(2) by striking out all the text occurring after the first sentence.

(c) CLEARANCE REQUIREMENTS.—Section 4197 of such Revised Statutes (46 U.S.C. App. 91) is amended to read as follows:

"SEC. 4197. CLEARANCE; VESSELS.

"(a) WHEN REQUIRED; VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, any vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States if the vessel has on board bonded merchandise or foreign merchandise for which entry has not been made; or

"(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

"(b) WHEN REQUIRED; OTHER VESSELS.—Except as otherwise provided by law, any vessel that is not a vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States; or

"(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

"(c) REGULATIONS.—The Secretary of the Treasury may by regulation—

"(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance;

"(2) permit the Customs Service to grant clearance for a vessel under this section before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary of the Treasury conditioned upon the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary of the Treasury; and

"(3) authorize the Customs Service to permit clearance of any vessel to be obtained at a place other than a designated port of entry, under such conditions as he may prescribe.".

SEC. 8375. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 965(a) of title 18, United States Code, is amended—

(1) by striking out "sections 91, 92, and 94 of Title 46" and inserting "section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) and section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91),";

(2) by striking out "the collector of customs for the district wherein such vessel is then located" and inserting "the Customs Service"; and

(3) by striking out "the collector like" and inserting in lieu thereof "the Customs Service like".

SEC. 8376. AMENDMENT TO THE ACT TO PREVENT POLLUTION FROM SHIPS.

Section 9(e) of the Act to Prevent Pollution from Ships (94 Stat. 2301, 33 U.S.C. 1908(e)) is amended by striking out "shall refuse or revoke" and all of the text following thereafter and inserting "shall refuse or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91). Clearance may be granted upon the filing of a bond or other surety satisfactory to the Secretary.".

SEC. 8377. AMENDMENTS TO THE ACT OF NOVEMBER 6, 1966.

Sections 2(e) and 3(e) of the Act of November 6, 1966 (46 U.S.C. App. 817d(e) and 817e(e)) are each amended—

(1) by striking out "The collector of customs at" and inserting "At"; and

(2) by inserting ", the Customs Service" after "subsection (a) of this section".

SEC. 8378. REPEAL OF OBSOLETE PROVISIONS OF LAW.

(a) REVISED STATUTES.—The following provisions of the Revised Statutes of the United States are repealed:

(1) So much of section 2792 as is codified at 19 U.S.C. 289 and 46 U.S.C. App. 110 and 112 (as in effect on the date of the enactment of this Act).

(2) Section 3111 (19 U.S.C. 282).

(3) Section 3118 (19 U.S.C. 286).

(4) Section 3119 (19 U.S.C. 287).

(5) Section 3122 (19 U.S.C. 290).

(6) Section 3124 (19 U.S.C. 291).

(7) Section 3125 (19 U.S.C. 292).

(8) Section 4198 (46 U.S.C. App. 94).

(9) Section 4199 (46 U.S.C. App. 93).

(10) Section 4201 (46 U.S.C. App. 96).

(11) Section 4207.

(12) Section 4208 (46 U.S.C. App. 102).

(13) Section 4213 (46 U.S.C. App. 101).

(14) So much of section 4221 as is codified at 46 U.S.C. App. 113 (as in effect on the date of the enactment of this Act).

(15) Section 4222 (46 U.S.C. App. 126).

(16) Section 4332 (46 U.S.C. App. 274).

(17) Section 4348 (46 U.S.C. App. 293).

(18) Section 4358 (46 U.S.C. App. 306).

(19) Section 4361 (46 U.S.C. App. 307).

(20) Sections 4362 through 4369 (46 U.S.C. App. 308 through 315).

(21) Sections 4573 through 4576 (46 U.S.C. App. 674 through 677).

(b) TARIFF ACT OF 1930.—The following sections of the Tariff Act of 1930 are repealed:

(1) Section 432 (19 U.S.C. 1432).

(2) Section 435 (19 U.S.C. 1435).

(3) Section 437 (19 U.S.C. 1437).

(4) Section 439 (19 U.S.C. 1439).

(5) Section 440 (19 U.S.C. 1440).

(6) Sections 443, 444, and 445 (19 U.S.C. 1443, 1444, and 1445).

(7) Section 465 (19 U.S.C. 1465).

(8) Section 482 (19 U.S.C. 1482).

(9) Section 583 (19 U.S.C. 1583).

(10) Section 585 (19 U.S.C. 1585).

(c) MISCELLANEOUS PROVISIONS.—The following provisions are repealed:

(1) The last undesignated paragraph of section 201 of the Act of August 5, 1935 (19 U.S.C. 1432a), is repealed.

(2) The Act of June 16, 1937 (19 U.S.C. 1435b).

(3) Section 1 of the Act of July 3, 1926 (46 U.S.C. App. 293a).

(4) The Act of May 4, 1934 (46 U.S.C. App. 91a).

(5) Section 1403(b) of the Water Resources Development Act of 1986 (Public Law 99-662; 26 U.S.C. 4461 note).

SEC. 8379. REPORTS TO CONGRESS.

(a) ANTIDUMPING AND COUNTERVAILING DUTY COLLECTIONS.—The Commissioner of Customs shall before the 60th day of each fiscal year after fiscal year 1992 submit to Congress a report regarding the collection during the preceding fiscal year of duties imposed under the antidumping and countervailing duty laws.

(b) CES FEE REPORT.—

(1) AMENDMENT.—Section 9501(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 3 note) is amended by adding at the end the following new paragraph:

"(3) The Commissioner of Customs is authorized to obtain from the operators of centralized cargo examination stations information regarding the fees paid to them for the provision of services at these stations.".

(2) REPORT.—Within 9 months after the date of the enactment of this subsection, the Commissioner of Customs shall submit to the Committees referred to in section 9501(c) of the Omnibus Budget Reconciliation Act of 1987, a report setting forth—

(A) an estimate of the aggregate amount of fees paid to operators of centralized cargo examination stations during fiscal year 1992; and

(B) the variations, if any, among customs districts with respect to the amounts of the fees charged for centralized cargo examination station services.

(c) COMPLIANCE WITH CUSTOMS LAWS.—Section 123 of the Customs and Trade Act of 1990 (19 U.S.C. 2083) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following:

"(d) COMPLIANCE PROGRAM.—The Commissioner of Customs shall—

"(1) devise and implement a methodology for estimating the level of compliance with the laws administered by the Customs Service; and

"(2) include as an additional part of the report required to be submitted under subsection (a) for each of fiscal years 1993, 1994, and 1995, an evaluation of the extent to which such compliance was obtained during the 12-month period preceding the 60th day before each such fiscal year.".

(d) COURIER SERVICES COMPLIANCE REPORT.—The Commissioner of Customs shall initiate a compliance review of certain courier services which may not be eligible for benefits under the regulations of the Customs Service prescribed in part 128 of title 19 of the Code of Federal Regulations and shall submit a report to Congress on the results of such review within 1 year after the date of the enactment of this Act.

SEC. 8380. APPLICABILITY OF AMENDMENTS TO ENTRY OR WITHDRAWAL OF GOODS.

Any amendment made by this subtitle that is applicable to the entry, or withdrawal from warehouse for consumption, of goods applies to any such entry or withdrawal that is made on or after the 15th day after the date of the enactment of this Act.

Subtitle D—Customs Officer Pay Reform

SEC. 8401. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:

"SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

"(a) OVERTIME PAY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

"(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—

"(A) MINIMUM DURATION.—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment and ends at least 1 hour before the beginning of the following regularly scheduled work assignment.

"(B) COMPENSATION FOR COMMUTING TIME.—

"(i) IN GENERAL.—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

"(ii) EXCEPTION.—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1)—

"(I) does not commence within 16 hours of the customs officer's last regularly scheduled work assignment, or

"(II) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

"(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

"(1) NIGHT WORK DIFFERENTIAL.—

"(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(C) 7:30 P.M. TO 3:30 A.M. SHIFTWORK.—If the regularly scheduled work assignment of a customs officer is 7:30 p.m. to 3:30 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate for the period from 7:30 p.m. to 11:30 p.m. and at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate for the period from 11:30 p.m. to 3:30 a.m.

"(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.

"(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

"(c) LIMITATIONS.—

"(1) FISCAL YEAR CAP.—The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) and premium pay under subsection (b) that a customs officer may be paid in any fiscal year may not exceed $25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

"(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

"(d) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as are necessary or appropriate to carry out this section, including regulations—

"(1) to ensure that callback work assignments are commensurate with the overtime pay authorized for such work; and

"(2) to prevent the disproportionate assignment of overtime work to customs officers who are near to retirement.

"(e) DEFINITIONS.—As used in this section:

"(1) The term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

"(2) The term 'holiday' means any day designated as a holiday under a Federal statute or Executive order.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out "at night" in the section heading and inserting "**DURING OVERTIME HOURS**";

(B) by striking out "at night" and inserting "during overtime hours"; and

(C) by inserting "aircraft," immediately before "vessel".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after October 1, 1992.

SEC. 8402. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR CUSTOMS OFFICERS.

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

SEC. 8403. APPROPRIATIONS REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows:

"(i) in—

"(I) paying overtime compensation and premium pay under section 5(a) and (b) of the Act of February 13, 1911,

"(II) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I), and

"(III) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and"; and

(2) by striking out "except for costs described in subparagraph (A)(i)(I) and (II)," in subparagraph (B)(i).

SEC. 8404. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFICERS FOR RETIREMENT PURPOSES.

(a) IN GENERAL.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting "; and";

(3) by adding after subparagraph (D) the following:

"(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;"; and

(4) by striking out "subparagraphs (B), (C), and (D) of this paragraph," and inserting "subparagraphs (B), (C), (D), and (E) of this paragraph".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act and apply only with respect to service performed on or after such date.

SEC. 8405. REPORTS.

(a) CUSTOMS USER FEE ACCOUNT REPORTS.—Subparagraph (D) of section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(D)) is amended to read as follows:

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives—

"(i) containing a detailed accounting of all expenditures from the Customs User Fee Account during such year, including a summary of the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii);

"(ii) containing a listing of all callback assignments of customs officers for which overtime compensation was paid under section 5(a) of the Act of February 13, 1911, and that were less than 1 hour in duration; and

"(iii) containing a listing of all customs officers who were paid $25,000 or more under subsections 5(a) and 5(b) of the Act of February 13, 1911, including a listing of the total compensation paid to each of those customs officers under all other statutory authority.".

(b) OTHER REPORTS.—

(1) GAO REPORT.—The Comptroller General of the United States shall undertake—

(A) an evaluation of the appropriateness and efficiency of the customs user fee laws for financing the provision of customs inspectional services; and

(B) a study to determine whether cost savings in the provision of overtime inspectional services could be realized by the United States Customs Service through the use of additional inspectors as opposed to continuing the current practice of relying on overtime pay.

The Comptroller General shall submit a report on the evaluation and study required under this subsection to the Committees by no later than the 1st anniversary of the date of the enactment of this Act.

(2) TREASURY RECOMMENDATION.—On the day that the President submits the budget for the United States Government for fiscal year 1994 to the Congress under section 1105(a) of title 31, United States Code, the Secretary of the Treasury shall submit to the Committees recommended legislative proposals for improving the operation of customs user fee laws in financing the provision of customs inspectional services.

(3) DEFINITION OF COMMITTEES.—For purposes of this subsection, the term "Committees" means the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

Subtitle E—Miscellaneous Trade Provisions

SEC. 8501. REVIEW OF THE COMPLIANCE BY FOREIGN COUNTRIES WITH BILATERAL TRADE AGREEMENTS.

(a) AMENDMENT TO TITLE III.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended by inserting after section 306 the following new section:

"SEC. 306A. REQUESTS FOR REVIEW OF FOREIGN COMPLIANCE.

"(a) DEFINITIONS.—For purposes of this section—

"(1) The term 'interested person' means any person that has a significant and direct economic interest that is being, or has been, adversely affected by the failure of a foreign country to comply materially with the terms of a trade agreement.

"(2) The term 'trade agreement' means any bilateral trade agreement to which the United States is a party; except—

"(A) the United States-Canada Free-Trade Agreement entered into on January 2, 1988, and

"(B) the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel entered into on April 22, 1985.

"(b) REQUEST FOR REVIEW.—

"(1) An interested person may request the Trade Representative to undertake a review under this section to determine whether a foreign country is in material compliance with the terms of a trade agreement.

"(2) A request for the review of a trade agreement under this section may be made only during—

"(A) the 30-day period beginning on each anniversary of the effective date of the trade agreement; and

"(B) the 30-day period ending on the 90th day before the termination date of the trade agreement, if the first day of such 30-day period occurs not less than 180 days after the last occurring 30-day period referred to in subparagraph (A).

"(3) The Trade Representative shall commence a review under this section if the request—

"(A) is in writing;

"(B) includes information reasonably available to the petitioner regarding the failure of the foreign country to comply with the trade agreement;

"(C) identifies the economic interest of the petitioner that is being adversely affected by the failure referred to in subparagraph (B); and

"(D) describes the extent of the adverse effect.

"(4) If 2 or more requests are filed during any period described in paragraph (2) regarding the same trade agreement, all of such requests shall be joined in a single review of the trade agreement.

"(c) REVIEW.—

"(1) If 1 or more requests regarding any trade agreement are received during any period described in subsection (b)(2), then within 90 days after the last day of such period the Trade Representative shall determine whether the foreign country is in material compliance with the terms of the trade agreement.

"(2) In making a determination under paragraph (1), the Trade Representative shall take into account—

"(A) the extent to which the foreign country has adhered to the commitments it made to the United States;

"(B) the extent to which that degree of adherence has achieved the objectives of the agreement; and

"(C) any act, policy, or practice of the foreign country, or other relevant factor, that may have contributed directly or indirectly to material noncompliance with the terms of the agreement. The acts, policies, or practices referred to in subparagraph (C) may include structural policies, tariff or nontariff barriers, or other actions which affect compliance with the terms of the agreement.

"(3) In conducting any review under paragraph (1), the Trade Representative may, if the Trade Representative considers such action necessary or appropriate—

"(A) consult with the Secretary of Commerce and the Secretary of Agriculture;

"(B) seek the advice of the United States International Trade Commission; and

"(C) provide opportunity for the presentation of views by the public.

"(d) ACTION AFTER AFFIRMATIVE DETERMINATION.—

"(1) If, on the basis of the review carried out under subsection (c), the Trade Representative determines that a foreign country is not in material compliance with the terms of a trade agreement, the Trade Representative shall determine what action to take under section 301(a).

"(2) For purposes of section 301, any determination made under subsection (c) shall be treated as a determination made under section 304.

"(3) In determining what action to take under section 301(a), the Trade Representative shall seek to minimize the adverse impact on existing business relations or economic interests of United States persons, including products for which a significant volume of trade does not currently exist.

"(e) INTERNATIONAL OBLIGATIONS.—Nothing in this section may be construed as requiring actions that are inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.".

(b) CONFORMING AMENDMENTS.—

(1) CONGRESSIONAL NOTIFICATION.—Section 309(3)(A) of the Trade Act of 1974 (19 U.S.C. 2419(3)(A)) is amended by striking out "section 302," and inserting "sections 302 and 306A(c),".

(2) TABLE OF CONTENTS.—The table of contents of the Trade Act of 1974 relating to chapter 1 of title III is amended by inserting after the item relating to section 306 the following:

"Sec. 306A. Requests for review of foreign compliance.".

SEC. 8502. TREATMENT OF FOOTWEAR.

U.S. Note 2 to subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting "footwear not accorded duty-free treatment under paragraph (c)," after "apparel article,"; and

(2) by striking out the last sentence and inserting the following:

"(c)(i) No article of footwear may be treated as a foreign article, or as subject to duty, if—

"(A) the requirements of paragraph (b)(i) and (ii) are complied with with respect to the article;

"(B) the article is produced by an existing footwear manufacturer; and

"(C) the article is entered on or after January 1 of any calendar year after 1992 and before the aggregate quantity of footwear produced by that manufacturer and entered during that year equals the annual duty-free footwear amount for that manufacturer.

"(ii) For purposes of this paragraph—

"(A) the term 'annual duty-free footwear amount' for an existing footwear manufacturer means—

"(I) for articles of footwear (other than footwear described in (II)) provided for under any subheading classification, an amount equal to the average monthly quantity of footwear provided for under such classification that was produced during the period January 1, 1992, through October 1, 1992, by all existing manufacturing facilities of such manufacturer for export to the United States, multiplied by 12; and

"(II) for articles of footwear classified under subheadings 6404.11.50, 6404.11.60, 6404.19.40, and 6404.19.60 and articles of leather footwear (for women) with synthetic soles classified under the appropriate subheadings of heading 6403, an amount equal to the annual production capacity, as of October 1, 1992, of all existing manufacturing facilities of the manufacturer for such classifications of footwear, plus any increase in the production capacity for such classifications of footwear that will result from any new footwear manufacturing facility construction by the manufacturer in one or more beneficiary countries if such construction was in progress on October 1, 1992.

"(B) the term 'existing footwear manufacturer' means a person that established at least 1 existing manufacturing facility; and

"(C) the term 'existing manufacturing facility' means a footwear manufacturing facility that was operating in a beneficiary country on October 1, 1992.

"(iii) The United States International Trade Commission shall—

"(A) identify each existing footwear manufacturer,

"(B) identify, if applicable, any new construction described in (ii)(A)(II) by such manufacturer, and

"(C) determine the annual duty-free footwear amount for each applicable footwear subheading classification for each such manufacturer,

and provide such identification and determination to the Secretary of the Treasury.

"(iv) The Secretary of the Treasury shall by regulation specify such relevant entry information as may be required for purposes of implementing this paragraph.

"(d) For purposes of paragraphs (b) and (c), the term 'beneficiary country' means a country listed in general note 3(c)(v)(A).".

TITLE IX—INCOME SECURITY AND HUMAN RESOURCE AMENDMENTS

Subtitle A—Amendments Relating to Old-Age, Survivors, and Disability Insurance Program

SEC. 9001. IMPROVEMENT AND CLARIFICATION OF PROVISIONS PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY PROGRAMS AND AGENCIES.

(a) PROHIBITION OF UNAUTHORIZED REPRODUCTION, REPRINTING, OR DISTRIBUTION FOR FEE OF CERTAIN OFFICIAL PUBLICATIONS.—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b–10(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.".

(b) Addition to Prohibited Words, Letters, Symbols, and Emblems.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended—

(1) in subparagraph (A) (as redesignated), by striking "Administration', the letters 'SSA' or 'HCFA'," and inserting "Administration', 'Department of Health and Human Services', 'Health and Human Services', 'Supplemental Security Income Program', or 'Medicaid', the letters 'SSA', 'HCFA', 'DHHS', 'HHS', or 'SSI',"; and

(2) in subparagraph (B) (as redesignated), by striking "Social Security Administration" each place it appears and inserting "Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services", and by striking "or of the Health Care Financing Administration".

(c) Exemption for Use of Words, Letters, Symbols, and Emblems of State and Local Government Agencies by Such Agencies.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended by adding at the end the following new sentence: "The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.".

(d) Inclusion of Reasonableness Standard.—Section 1140(a)(1) of such Act (as amended by the preceding provisions of this section) is further amended, in the matter following subparagraph (B) (as redesignated), by striking "convey" and inserting "convey, or in a manner which reasonably could be interpreted or construed as conveying,".

(e) Ineffectiveness of Disclaimers.—Subsection (a) of section 1140 of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new paragraph:

"(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, reprinted, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.".

(f) Violations With Respect to Individual Items.—Section 1140(b)(1) of such Act (42 U.S.C. 1320b–10(b)(1)) is amended by adding at the end the following new sentence: "In the case of any items referred to in subsection (a)(1) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation. In the case of any item referred to in subsection (a)(2), the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.".

(g) Elimination of Cap on Aggregate Liability Amount.—

(1) Repeal.—Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b–10(b)(2)) is repealed.

(2) Conforming Amendments.—Section 1140(b) of such Act is further amended—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking "subparagraph (B)" and inserting "paragraph (2)".

(h) Removal of Formal Declination Requirement.—Section 1140(c)(1) of such Act (42 U.S.C. 1320b–10(c)(1)) is amended by inserting "and the first sentence of subsection (c)" after "and (i)".

(i) Penalties Relating to Social Security Administration Deposited in OASI Trust Fund.—Section 1140(c)(2) of such Act (42 U.S.C. 1320b–10(c)(2)) is amended in the second sentence by striking "United States." and inserting "United States, except that, to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Adminstration, such amounts shall be deposited into the Federal Old-Age and Survivor's Insurance Trust Fund.".

(j) Annual Reports.—Section 1140 of such Act (42 U.S.C. 1320b–10) is amended by adding at the end the following new subsection:

"(d) The Secretary shall include in the annual report submitted pursuant to section 704 a report on the operation of this section during the year covered by such annual report. Such report shall specify—

"(1) the number of complaints of violations of this section received by the Social Security Administration during the year,

"(2) the number of cases in which a notice of violation of this section was sent by the Social Security Administration during the year requesting that an individual cease activities in violation of this section,

"(3) the number of complaints of violations of this section referred by the Social Security Administration to the Inspector General in the Department of Health and Human Services during the year,

"(4) the number of investigations of violations of this section undertaken by the Inspector General during the year,

"(5) the number of cases in which a demand letter was sent during the year assessing a civil money penalty under this section,

"(6) the total amount of civil money penalties assessed under this section during the year,

"(7) the number of requests for hearings filed during the year pursuant to sections 1140(c)(1) and 1128A(c)(2),

"(8) the disposition during such year of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2), and

"(9) the total amount of civil money penalties under this section deposited into the Federal Old-Age and Survivors Insurance Trust Fund during the year.".

(k) Effective Date.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.

SEC. 9002. EXPLICIT REQUIREMENTS FOR MAINTENANCE OF TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) Maintenance of Service to Local Offices.—

(1) In general.—Section 5110(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388-272) is amended by adding at the end the following new sentences: "In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service at least the same number of telephone lines to each such local office as was in place as of such date, including telephone sets for connections to such lines.".

(2) Effective date.—The Secretary of Health and Human Services shall ensure that the requirements of the amendment made by paragraph (1) are carried out no later than March 1, 1993.

(b) Maintenance of Toll-Free Telephone Number Service.—The Secretary of Health and Human Services shall ensure that toll-free telephone service provided by the Social Security Administration is maintained at a level which is at least equal to that in effect on the date of the enactment of this Act.

SEC. 9003. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS FOR JURY SELECTION PURPOSES.

(a) In General.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking "(E)" in the matter preceding subclause (I) and inserting "(F)";

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) It is the policy of the United States that any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law.

"(ii) The additional purposes described in this clause are the following:

"(I) identifying duplicate names of individuals on master lists used for jury selection purposes, and

"(II) identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

"(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

"(iv) For purposes of this subparagraph, the term 'State' has the meaning such term has in subparagraph (D).".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 9004. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICEMEN AND FIREMEN UNDER EXISTING COVERAGE AGREEMENTS.

(a) In General.—Section 218(l) of the Social Security Act (42 U.S.C. 418(l)) is amended—

(1) in paragraph (1), by striking "(1)" after "(l)", and by striking "the State of" and all that follows through "date of the enactment of this subsection" and inserting "a State entered into pursuant to this section"; and

(2) by striking paragraph (2).

(b) Conforming Amendment.—Section 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is amended by striking "agreements with States named in" and inserting "State agreements modified as provided in".

(c) Effective Date.—The amendments made by this section shall apply with respect to modifications filed by States after the date of the enactment of this Act.

SEC. 9005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.

(a) In General.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act, and, if such individual's primary insurance amount has been determined under section 215 of such Act, notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection.

SEC. 9006. ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE CONTRIBUTION AND BENEFIT BASE AND THE EARNINGS TEST EXEMPT AMOUNTS.

(a) ADJUSTMENT OF OASDI CONTRIBUTION AND BENEFIT BASE.—

(1) IN GENERAL.—Section 230(b) of the Social Security Act (42 U.S.C. 430(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) $55,500, and

"(2) the ratio of (A) the deemed average total wages (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subsection (a) is made to (B) the deemed average total wages (as so defined) for 1990,".

(2) CONFORMING AMENDMENT RELATING TO APPLICABLE PRIOR LAW.—Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking "(except that" and all that follows through the end and inserting "(except that, for purposes of subsection (b) of such section 230 as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to $41,400, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the deemed average total wages (as defined in section 209(k)(1)), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 230 is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1990).".

(3) ADJUSTMENT OF CONTRIBUTION AND BENEFIT BASE APPLICABLE IN DETERMINING YEARS OF COVERAGE FOR PURPOSES OF SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.—Section 215(a)(1)(C)(ii) of such Act is amended by striking "(except that" and all that follows through the end and inserting "(except that, for purposes of subsection (b) of such section 230 as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to $41,400, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the deemed average total wages (as defined in section 209(k)(1)), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 230 is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1990).".

(b) ADJUSTMENT OF EARNINGS TEST EXEMPT AMOUNT.—Section 203(f)(8)(B)(ii) of the Social Security Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended to read as follows:

"(ii) the product of the corresponding exempt amount which is in effect with respect to months in the taxable year ending after 1991 and before 1993, and the ratio of—

"(I) the deemed average total wages (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subparagraph (A) is made, to

"(II) the deemed average total wages (as so defined) for 1990,

with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall be effective with respect to the determination of the contribution and benefit base for years after 1992.

(2) The amendment made by subsection (b) shall be effective with respect to the determination of the exempt amounts applicable to any taxable year ending after 1992.

SEC. 9007. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.—Section 203(i) of the Social Security Act (42 U.S.C. 403(i)) is repealed.

(b) COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.—Section 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended by striking "section 222(b). Whenever" and inserting the following: "section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for any month on the basis of the same wages and self-employment income as another person—

"(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

"(B) who does not live in the same household as such individual, and

"(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3). Whenever".

(c) CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.—The third sentence of section 203(h)(1)(A) of such Act (42 U.S.C. 403(h)(1)(A)) is amended by striking "Such report need not be made" and all that follows through "The Secretary may grant" and inserting the following: "Such report need not be made for any taxable year—

"(i) beginning with or after the month in which such individual attained age 70, or

"(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

"(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

"(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

"(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant".

(d) CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF REPEAL.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1993.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1993, in taxable years ending after such date.

SEC. 9008. AUTHORIZATION FOR DISCLOSURE BY THE SECRETARY OF HEALTH AND HUMAN SERVICES OF INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH.

(a) IN GENERAL.—Section 1106 of the Social Security Act (42 U.S.C. 1306) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (f) (as so redesignated), by striking "subsection (d)" and inserting "subsection (e)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of this section, in any case in which—

"(1) information regarding whether an individual is shown on the records of the Secretary as being alive or deceased is requested from the Secretary for purposes of epidemiological or similar research which the Secretary finds may reasonably be expected to contribute to a national health interest, and

"(2) the requester agrees to reimburse the Secretary for providing such information and to comply with limitations on safeguarding and rerelease or redisclosure of such information as may be specified by the Secretary,

the Secretary shall comply with such request, except to the extent that compliance with such request would constitute a violation of the terms of any contract entered into under section 205(r).".

(b) AVAILABILITY OF INFORMATION RETURNS REGARDING WAGES PAID EMPLOYEES.—Section 6103(l)(5) of the Internal Revenue Code of 1986 (relating to disclosure of returns and return in-

formation to the Department of Health and Human Services for purposes other than tax administration) is amended—

(1) by striking "for the purpose of" and inserting "for the purpose of—";

(2) by striking "carrying out, in accordance with an agreement" and inserting the following:

"(A) carrying out, in accordance with an agreement";

(3) by striking "program." and inserting "program; or"; and

(4) by adding at the end the following new subparagraph:

"(B) providing information regarding the mortality status of individuals for epidemiological and similar research in accordance with section 1106(d) of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to requests for information made after the date of the enactment of this Act.

SEC. 9009. COMPARABLE SEVERITY DISABILITY FOR CHILDREN UNDER DISABILITY INSURANCE PROGRAM.

(a) IN GENERAL.—Section 223(d)(1)(A) of the Social Security Act (42 U.S.C. 423(d)(1)(A)) is amended by inserting before the semicolon the following: "(or, in the case of a child under the age of 18, if such child suffers from any medically determinable physical or mental impairment of comparable severity)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made on or after the date of the enactment of this Act.

SEC. 9010. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) IN GENERAL.—

(1) UNAUTHORIZED DISCLOSURE.—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(A) by striking "misdemeanor" and inserting "felony";

(B) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(C) by striking "one year" and inserting "5 years".

(2) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(A) by inserting "social security account number," after "information as to the";

(B) by striking "misdemeanor" and inserting "felony";

(C) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(D) by striking "one year" and inserting "5 years".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 9011. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

(a) IN GENERAL.—Section 203(h)(1)(A) of the Social Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1992.

SEC. 9012. AMENDMENTS RELATED TO REPRESENTATIVE PAYEES.

(a) DISQUALIFICATION OF CERTAIN CONVICTED FELONS AS REPRESENTATIVE PAYEES.—

(1) IN GENERAL.—Section 1631(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1383(a)(2)(B)(iii)) is amended—

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting "; or"; and

(C) by adding at the end the following new subclause:

"(IV) such person is applying on behalf of a drug addict or alcoholic (within the meaning of section 1611(e)(3)(A)) and has been convicted of—

"(aa) a drug-related offense, as defined in regulations of the Secretary;

"(bb) a crime classified as a felony under State or Federal law; or

"(cc) in the case of a State which does not classify any crime as a felony, a crime which is punishable by imprisonment for more than 1 year or death.".

(2) AUTHORITY OF SECRETARY TO GRANT EXEMPTIONS.—Section 1631(a)(2)(B)(iv) of such Act (42 U.S.C. 1383(a)(2)(B)(iv)) is amended by striking "clause (iii)(II)" and inserting "subclause (II) or (IV) of clause (iii)".

(c) EXCEPTION FOR CREDITORS WHO PROVIDE TREATMENT FOR SUBSTANCE ABUSE.—

(1) AMENDMENTS RELATING TO OASDI PROGRAM.—Section 205(j)(2)(C) of such Act (42 U.S.C. 405(j)(2)(C)) is amended—

(A) in clause (iii)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new subclause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or a political subdivision of a State, or"; and

(B) in clause (iv), by striking "clause (iii)(V)" and inserting "clause (iii)(VI)".

(2) AMENDMENTS TO SSI PROGRAM.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) in clause (v)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new subclause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or a political subdivision of a State; or"; and

(B) in clause (vi), by striking "clause (iii)(V)" and inserting "clause (iii)(VI)".

(d) REGULATIONS.—The Secretary of Health and Human Services shall issue regulations necessary to carry out the amendments made by this section not later than 180 days after the date of the enactment of this Act.

SEC. 9013. TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(1) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(2) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or".

(b) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(2) by redesignating the paragraph (5) as amended thereby as paragraph (6).

(c) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5106 RELATING TO COORDINATION OF RULES UNDER TITLES II AND XVI GOVERNING FEES FOR REPRESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS UNDER BOTH TITLES.—

(1) CALCULATION OF FEE OF CLAIMANT'S REPRESENTATIVE BASED ON AMOUNT OF PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER APPLICATION OF WINDFALL OFFSET PROVISION.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

"(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase '(as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a))' for the parenthetical phrase contained therein; and".

(2) CALCULATION OF PAST-DUE BENEFITS FOR PURPOSES OF DETERMINING ATTORNEY FEES IN JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(i) by inserting "(A)" after "(b)(1)"; and

(ii) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph—

"(i) the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

"(ii) amounts of past-due benefits shall be taken into account to the extent provided under the rules applicable in cases before the Secretary.".

(B) PROTECTION FROM OFFSETTING SSI BENEFITS.—The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a–6(a)) is amended by striking "section 206(a)(4)" and inserting "subsection (a)(4) or (b) of section 206".

(3) APPLICATION OF SINGLE DOLLAR AMOUNT CEILING TO CONCURRENT CLAIMS UNDER TITLES II AND XVI.—

(A) IN GENERAL.—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

"(C) In any case involving—

"(i) an agreement described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

"(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement only if the total fee or fees specified in such agreement does not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).".

(B) CONFORMING AMENDMENT.—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(d) AMENDMENT RELATED TO PROVISIONS IN SECTION 5115 RELATING TO ADVANCE TAX TRANSFERS.—Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended in the last sentence by striking "and" the second place it appears.

(e) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates.

SEC. 9014. AVAILABILITY AND USE OF DEATH INFORMATION UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

(a) IMPROVEMENTS IN PROGRAM FOR USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION.—

(1) ELIMINATION OF STATE RESTRICTIONS ON USE OF INFORMATION.—Section 205(r)(1) of the Social Security Act (42 U.S.C. 405(r)(1)) is amended by adding at the end, after and below subparagraph (B), the following new sentence:

"Any contract entered into pursuant to subparagraph (A) shall not include any restriction on the use of information obtained by the Secretary pursuant to such contract, except to the extent that such use may be restricted under paragraph (6).".

(2) INFORMATION PROVIDED TO STATE AGENCIES FREE OF CHARGE.—

(A) IN GENERAL.—Section 205(r)(4) of such Act (42 U.S.C. 405(r)(4)) is amended to read as follows:

"(4)(A) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a State agency other than under this Act, the Secretary shall to the extent feasible provide such information free of charge through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals, if such arrangement does not conflict with the duties of the Secretary under paragraph (1).

"(B) The Secretary may enter into similar agreements with States to provide information free of charge for their use in programs wholly funded by the States if such arrangement does not conflict with the duties of the Secretary under paragraph (1).".

(B) CONFORMING AMENDMENT.—Section 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is amended by striking "or State".

(3) USE BY STATES OF SOCIAL SECURITY ACCOUNT NUMBERS CONTINGENT UPON PARTICIPATION IN PROGRAM.—Section 205(r)(2) of such Act (42 U.S.C. 405(r)(2)) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following new subparagraph:

"(B) Notwithstanding section 7(a)(2)(B) of the Privacy Act of 1974 and clauses (i) and (v) of subsection (c)(2)(C) of this section, any State which is not a party to a contract with the Secretary meeting the requirements of paragraph (1) (and any political subdivision thereof) may not utilize an individual's social security account number in the administration of any driver's license or motor vehicle registration law.".

(b) STUDY REGARDING IMPROVEMENTS IN GATHERING AND REPORTING OF DEATH INFORMATION.

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of possible improvements in the current methods of gathering and reporting death information by the Federal, State, and local governments which would result in more efficient and expeditious handling of such information.

(2) SPECIFIC MATTERS TO BE STUDIED.—In carrying out the study required under this subsection, the Secretary shall—

(A) ascertain the delays in the receipt of death information which are currently encountered by the Social Security Administration and other agencies in need of such information on a regular basis,

(B) analyze the causes of such delays,

(C) develop alternative options for improving Federal, State, and local agency cooperation in reducing such delays, and

(D) evaluate the costs and benefits associated with the options referred to in subparagraph (C).

(3) REPORT.—Not later than June 1, 1993, the Secretary shall submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted pursuant to this subsection, together with such administrative and legislative recommendations as the Secretary may consider appropriate.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) PROMOTION OF ENTRY INTO NEW CONTRACTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall take such actions as are necessary and appropriate to promote entry into contracts under section 205(r) of the Social Security Act which are in compliance with the requirements of the amendments made by subsection (a).

SEC. 9015. PROHIBITION OF MISUSE OF DEPARTMENT OF TREASURY NAMES, SYMBOLS, ETC.

(a) GENERAL RULE.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§333. Prohibition of misuse of Department of Treasury names, symbols, etc.

"(a) GENERAL RULE.—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—

"(1) the words 'Department of the Treasury', or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

"(2) the titles 'Secretary of the Treasury' or 'Treasurer of the United States' or the title of any other officer or employee of the Department of the Treasury,

"(3) the abbreviations or initials of any entity referred to in paragraph (1),

"(4) the words 'United States Savings Bond' or the name of any other obligation issued by the Department of the Treasury,

"(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

"(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems,

in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.

"(b) TREATMENT OF WAIVERS.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

"(2) AMOUNT OF PENALTY.—The amount of the civil penalty imposed by paragraph (1) shall not exceed $5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$25,000' for '$5,000'.

"(3) TIME LIMITATIONS.—

"(A) ASSESSMENTS.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

"(B) CIVIL ACTION.—The Secretary of the Treasury may commence a civil action to recover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed."

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 31, United States Code, is amended by adding after the item relating to section 332 the following new item;

"333. Prohibition of misuse of Department of Treasury names, symbols, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) REPORT.—Not later than May 1, 1994, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)), the number and amount of civil penalties assessed under such section, and the total amount of such penalties collected.

Subtitle B—Human Resources Provisions

SEC. 9101. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking "a semicolon" and inserting " '; and' ".

(b) REPEAL OF PROVISION INADVERTENTLY INCLUDED.—Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

(c) AMENDMENT RELATED TO SECTION 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–266) is amended to read as follows:

"(B) TITLE XVI.—Section 1631(a)(2)(F) (42 U.S.C. 1383(a)(2)(F)), as so redesignated by subsection (c)(2) of this section, is amended to read as follows:

" '(F) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

" '(i) the number of cases in which the representative payee was changed;

" '(ii) the number of cases discovered where there has been a misuse of funds;

" '(iii) how any such cases were dealt with by the Secretary;

" '(iv) the final disposition of such cases (including any criminal penalties imposed); and

" '(v) such other information as the Secretary determines to be appropriate.'.".

(d) AMENDMENT RELATED TO SECTION 5105(a)(1)(B).—The second paragraph of section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(e) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(f) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) of the Social Security Act (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(g) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(h) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(i) AMENDMENT RELATED TO SECTION 13101(d)(2).—Section 256(k)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "—" the second place it appears and all that follows through "(I)"; and

(2) by striking "; or" and all that follows through "(II)" and inserting ", except that a State may not be allotted an amount under this subparagraph that exceeds".

(j) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 9102. TECHNICAL CORRECTIONS RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF OMNIBUS BUDGET RECONCILIATION ACT OF 1989.

(a) AMENDMENT RELATING TO SECTION 8004(a).—Section 408(m)(2)(A) of the Social Security Act (42 U.S.C. 608(m)(2)(A)) is amended by striking "a fiscal" and inserting "the fiscal".

(b) AMENDMENT RELATING TO SECTION 8006(a).—Section 473(a)(6)(B) of the Social Security Act (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(c) AMENDMENT RELATING TO SECTION 8007(b)(3).—Subparagraph (D) of section 475(5) of the Social Security Act (42 U.S.C. 675(5)(D)) is amended by moving such subparagraph 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C) of such section.

(d) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if the amendment had been included in the provision of the Omnibus Budget Reconciliation Act of 1989 to which the amendment relates, at the time the provision became law.

SEC. 9103. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) TREATMENT OF EITC AS EARNED INCOME.—Section 1612(a)(1) of the Social Security Act (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) ADJUSTMENT OF BENEFITS DUE TO TREATMENT OF EITC AS EARNED INCOME.—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 9104. REDESIGNATION OF CERTAIN PROVISIONS.

Section 1631(e)(6) of the Social Security Act (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

TITLE X—MEDICARE PROVISIONS

SEC. 10000. REFERENCES IN TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title, an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", and "OBRA–1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

TITLE X—MEDICARE PROVISIONS

Sec. 10000. References in title.
Subtitle A—Provisions Relating to Part A
Sec. 10001. Transition for hospital outlier thresholds.
Sec, 10002. Essential access community hospital (EACH) amendments.
Sec. 10003. Wage index provisions.
Sec. 10004. Reauthorization of rural transition grant program.
Sec. 10005. Regional referral centers.
Sec. 10006. Medicare-dependent, small rural hospitals.
Sec. 10007. Hemophilia pass-through.
Sec. 10008. State hospital payment programs.
Sec. 10009. Psychology services in hospitals.
Sec. 10010. Graduate medical education provided in a hospital-owned community health center.
Sec. 10011. Uniformed services treatment facilities.
Sec. 10012. Requiring hospitals and nursing facilities to notify residents of availability of hospice benefit.
Sec. 10013. Skilled nursing facility wage index.
Sec. 10014. DRG payment window technical clarification and nursing home reform clerical error; miscellaneous and technical corrections.
Sec. 10015. Extension of rural hospital demonstration.
Subtitle B—Provisions Relating to Part B
PART 1—PHYSICIANS' SERVICES
Sec. 10101. Separate payment for interpretation of electrocardiograms.
Sec. 10102. Payments for new physicians and practitioners.
Sec. 10103. Basing payments for anesthesia services on actual time.
Sec. 10104. Geographic adjustment factors for medicare physicians' services.
Sec. 10105. Extra-billing limits.
Sec. 10106. Relative values for pediatric services.
Sec. 10107. Antigens under physician fee schedule.
Sec. 10108. Administration of claims relating to physicians' services.
Sec. 10109. Miscellaneous and technical corrections.
PART 2—AMBULATORY SURGICAL SERVICES
Sec. 10111. Eye or eye and ear hospitals.
Sec. 10112. Extension of cap on payments for intraocular lenses.
Sec. 10113. Miscellaneous and technical corrections.
PART 3—DURABLE MEDICAL EQUIPMENT
Sec. 10121. Certification of suppliers.
Sec. 10122. Prohibition against carrier forum shopping.
Sec. 10123. Restrictions on certain marketing and sales activities.
Sec. 10124. Kickback clarification.
Sec. 10125. Beneficiary liability for noncovered services.
Sec. 10126. Adjustments for inherent reasonableness.
Sec. 10127. Payment for parenteral and enteral nutrients, supplies, and equipment during 1993.
Sec. 10128. Treatment of nebulizers and aspirators.
Sec. 10129. Payment for ostomy supplies, tracheostomy supplies, urologicals, and surgical dressings.
Sec. 10130. Payments for TENS devices.
Sec. 10131. Miscellaneous and technical corrections.
PART 4—OTHER PROVISIONS
Sec. 10141. Payment for medically directed certified registered nurse anesthetist services.
Sec. 10142. Extension of Alzheimer's disease demonstration.
Sec. 10143. Part B late enrollment penalty.
Sec. 10144. Oral cancer drugs.
Sec. 10145. Speech-language pathologists and audiologists.
Sec. 10146. Extension of municipal health service demonstration projects.
Sec. 10147. Treatment of certain Indian health programs and facilities as Federally-qualified health centers.
Sec. 10148. Extension of influenza vaccination demonstration.
Sec. 10149. Miscellaneous and technical corrections.
Subtitle C—Provisions Relating to Parts A and B
Sec. 10201. Provisions relating to physician ownership and referral.
Sec. 10202. Direct graduate medical education.
Sec. 10203. End stage renal disease.
Sec. 10204. Medicare secondary payer.
Sec. 10205. Improved outreach for qualified medicare beneficiaries.
Sec. 10206. Social health maintenance organizations.
Sec. 10207. Peer review organizations.
Sec. 10208. Hospice information to home health beneficiaries.
Sec. 10209. Interest payments.
Sec. 10210. Clarification of judicial review rights.
Sec. 10211. Adjustments to discretionary spending limits.
Sec. 10212. Health maintenance organizations.
Sec. 10213. Treatment of certain State health care programs.
Sec. 10214. Miscellaneous and technical corrections.
Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies
Sec. 10301. Standards for medicare supplemental insurance policies.

Subtitle A—Provisions Relating to Part A

SEC. 10001. TRANSITION FOR HOSPITAL OUTLIER THRESHOLDS.

The Secretary of Health and Human Services, under section 1886 of the Social Security Act, shall use the day outlier methodology in effect for fiscal year 1992 for payment for discharges occurring on or after January 1, 1993, and before July 1, 1993. For payment for discharges occurring on or after July 1, 1993, and before September 30, 1994, the Secretary shall use the day outlier methodology that (but for the previous sentence) would be in effect for fiscal year 1993.

SEC. 10002. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) AMENDMENTS.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1)) is amended by striking "7" and inserting "9".

(b) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended to read as follows:

"(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

"(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.".

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking "such services" and all that follows and inserting "the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.".

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking "is located" and inserting "except in the case of a hospital located in an urban area, is located',

(II) by striking ", (ii)" and inserting "or (ii)",

(III) by striking "or (iii)" and all that follows through "section,", and

(IV) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting "located in a rural area and" after "that is", and

(ii) in clause (v), by inserting "located in a rural area and" after "in the case of a hospital".

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(A) Section 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i-4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking "subparagraph (B)" and inserting "subparagraph (B) or subsection (k)".

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-4(f)(3)) is amended by striking "because the facility" and all that follows and inserting the following: "because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.".

(e) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following:

"The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(f) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(g) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraphs (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(k) (42 U.S.C. 1395i-4(k)) is amended by striking "1990, 1991, and 1992" and inserting "1990 through 1995".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10003. WAGE INDEX PROVISIONS.

(a) WAGE INDEX HOLD HARMLESS PROTECTION.—

(1) IN GENERAL.—Section 1886(d)(8)(C)(iii) (42 U.S.C. 1395ww(d)(8)(C)(iii)) is amended by adding at the end the following new sentence: "In the case of an urban area in a State that—

"(I) has a wage index below the wage index for rural areas in such State, or

"(II) is composed of a single urban area,

such an application or decision may not result in a reduction of that urban area's wage index.".

(2) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the fiscal year 1993 standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of the Social Security Act to account for the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after the date which is 30 days after the date of the enactment of this Act.

(b) UPDATING STANDARDS FOR TREATING RURAL COUNTIES AS URBAN COUNTIES BASED ON RATES OF COMMUTATION.—

(1) IN GENERAL.—Section 1886(d)(8)(B) (42 U.S.C. 1395ww(d)(8)(B)) is amended—

(A) by striking "(B)" and inserting "(B)(i)",

(B) by striking "standards" and inserting "standards most recently used" each place it appears, and

(C) by striking "published in the Federal Register on January 3, 1980".

(2) HOLD HARMLESS FOR COUNTIES CURRENTLY TREATED AS URBAN.—Any hospital located in a rural county that is treated as being located in an urban metropolitan statistical area pursuant to section 1886(d)(8)(B) of the Social Security Act as of the date of the enactment of this Act shall continue to be so treated notwithstanding the amendments made by paragraph (1).

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective on October 1, 1993.

(c) USE OF OCCUPATIONAL MIX IN GUIDELINES.—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting "(to the extent the Secretary determines appropriate)" after "taking into account".

SEC. 10004. REAUTHORIZATION OF RURAL TRANSITION GRANT PROGRAM.

Section 4005(e)(9) of OBRA–1987 is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of fiscal years 1993 through 1997".

SEC. 10005. REGIONAL REFERRAL CENTERS.

(a) EXTENSION THROUGH FISCAL YEAR 1994.—Section 6003(d) of OBRA–1989 (42 U.S.C. 1395ww note) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for fiscal year 1993 as if the decision by the Review Board had not occurred.

SEC. 10006. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) by amending clause (i) to read as follows:

"(i) In the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) for discharges occurring before October 1, 1994, shall be equal to the sum of the amount determined under clause (ii) and the amount determined under paragraph (1)(A)(iii).";

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and

(3) by inserting after clause (i) the following new clause:

"(ii) The amount determined under this clause is

"(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii); and

"(II) for discharges occurring during any subsequent cost reporting period (or portion thereof), 50 percent of the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii).".

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for fiscal year 1993 as if the decision by the Review Board had not occurred.

SEC. 10007. HEMOPHILIA PASS-THROUGH.

(a) IN GENERAL.—Section 6011(d) of OBRA–1989 is amended by striking "2 years after the date of enactment of this Act" and inserting "September 30, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of OBRA–1989.

SEC. 10008. STATE HOSPITAL PAYMENT PROGRAMS.

(a) RECOUPMENT FROM NEW JERSEY HOSPITALS.—

(1) MORATORIUM ON RECOUPMENT.—Prior to April 1, 1993, the Secretary of Health and Human Services (in this section referred to as the "Secretary") may not recoup from or otherwise reduce payments to hospitals in the State of New Jersey because of alleged overpayments to such hospitals under title XVIII of the Social Security Act which occurred during the period of the statewide hospital reimbursement demonstration project conducted in that State between January 1, 1985, and December 31, 1988, under a waiver granted under section 1886(c) of the Social Security Act.

(2) PROVISION OF PAYMENT DATA.—The Secretary may not recoup from or otherwise reduce payments to hospitals in the State of New Jersey because of alleged overpayments described in paragraph (1) until the Secretary provides the State and hospitals located in the State with all relevant data used by the Secretary to determine the amount of such alleged overpayments, including (but not limited to) the cost reports submitted by the hospitals to the Secretary during the period of the statewide hospital reimbursement demonstration project described in such paragraph and the methodology used by the Secretary to determine payments to such hospitals under title XVIII of the Social Security Act during such period.

(b) CLARIFICATION OF PAYMENTS UNDER A MEDICARE-APPROVED STATE HOSPITAL REIMBURSEMENT SYSTEM.—In the case of a State hospital reimbursement system that meets the requirements of section 1814(b)(3) of the Social Security Act, no other provision in title XVIII of such Act, no provision of title XIX of such Act, no provision of the Employee Retirement Income Security Act of 1974, and no provision of chapter 81 or 89 of title 5, United States Code, shall be construed as preventing the system from providing that payment for services covered under the system be made on the basis of rates provided for under the system.

SEC. 10009. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 10010. GRADUATE MEDICAL EDUCATION PROVIDED IN A HOSPITAL-OWNED COMMUNITY HEALTH CENTER.

Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by inserting after "the hospital" the following: "or providing services at any entity receiving a grant under section 330 of the Public Health Service Act that is under the ownership or control of the hospital (if the hospital incurs all, or substantially all, of the costs of the services furnished to the hospital by such interns and residents)".

SEC. 10011. UNIFORMED SERVICES TREATMENT FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Health and Human Services may not take any action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (3) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for services provided during the period beginning October 1, 1986, and ending December 31, 1989.

(2) EXCEPTION.—The Secretary may take a recoupment action for the sole purpose of securing obligation of the funds provided to the Uniformed Services Treatment Facilities program pursuant to the Department of Defense Appropriations Act, 1993 to fulfill such an action.

(3) FACILITIES DESCRIBED.—The facilities referred to in paragraph (1) are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(b) STUDY OF JOINT MEDICAL FACILITIES.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall conduct a study of the feasibility and desirability of establishing joint medical facilities among the Department of Defense, the Department of Veterans' Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facilities.

(2) REPORT.—Not later than June 1, 1993, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under paragraph (1).

SEC. 10012. REQUIRING HOSPITALS AND NURSING FACILITIES TO NOTIFY RESIDENTS OF AVAILABILITY OF HOSPICE BENEFIT.

(a) HOSPITALS.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(b) NURSING FACILITIES.—Section 1819(c)(1)(B) (42 U.S.C. 1395i+3(c)(1)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by inserting after clause (iii) the following new clause:

"(iv) inform each resident who is entitled to benefits under this title, orally and in writing at the time of admission to the facility, of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geo-

graphic area of the facility and it is not the common practice of the facility to refer patients to hospice programs located outside such geographic area).".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 10013. SKILLED NURSING FACILITY WAGE INDEX.

(a) IN GENERAL.—Within 2 years of the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) PROPAC REPORT.—The Prospective Payment Assessment Commission shall, by March 1, 1993, study and report to the Congress on the impact of applying routine cost limits for skilled nursing facilities on a regional basis.

SEC. 10014. DRG PAYMENT WINDOW TECHNICAL CLARIFICATION AND NURSING HOME REFORM CLERICAL ERROR; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is further amended by striking "and includes" and inserting "and (in the case of a subsection (d) hospital) includes".

(b) TECHNICAL CORRECTION RELATING TO RESIDENT ASSESSMENT IN NURSING HOMES.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "not later than" before "14 days".

(c) CLERICAL CORRECTIONS.—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking "1990,," and inserting "1990,".

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking "such agency" and inserting "such agency's".

(3) Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking ", the sum of" and inserting "is equal to the sum of".

SEC. 10015. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of OBRA-1990 is amended by adding at the end the following new sentence: "The Secretary shall continue any such demonstration project until at least December 31, 1995.".

Subtitle B—Provisions Relating to Part B

PART 1—PHYSICIANS' SERVICES

SEC. 10101. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w-4(b)) is amended to read as follows:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

"(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

"(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.".

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

"(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 10101(a) of the Revenue Act of 1992 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

"(ii) shall reduce the amounts determined under subsection (a)(2)(B)(i)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 10101(a) of the Revenue Act of 1992 would not result in expenditures under this section in 1993 that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting "and as adjusted under subsection (c)(2)(E)(ii)" after "for 1993";

(2) in subsection (c)(2)(A)(i), by adding at the end the following: "Such relative values are subject to adjustment under subparagraph (E)(i)."; and

(3) in subsection (i)(1)(B), by adding at the end "including adjustments under subsection (c)(2)(E),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1993.

SEC. 10102. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w+4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1993 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1993 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(i)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4), as amended by section 10101(c) of this subtitle, is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting "and section 10102(b) of the Revenue Act of 1992" after "(c)(2)(E)(ii)" after "for 1993";

(2) in subsection (c)(2)(A)(i), by inserting "and section 10102(b) of the Revenue Act of 1992" after "under subparagraph (E)(i)"; and

(3) in subsection (i)(1)(B), by inserting "and section 10102(b) of the Revenue Act of 1992" after "under subsection (c)(2)(E)".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1993.

SEC. 10103. BASING PAYMENTS FOR ANESTHESIA SERVICES ON ACTUAL TIME.

(a) PHYSICIANS' SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at the end the following: "For anesthesia services furnished on or after January 1, 1993, the Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.".

(b) SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C. 1395l(l)(1)(B)) is amended by adding at the end the following: "For anesthesia services furnished on or after January 1, 1993, the Secretary may not modify the methodology in effect as of January 1, 1992, for determining the amount of time that may be billed for such services under this section.".

SEC. 10104. GEOGRAPHIC ADJUSTMENT FACTORS FOR MEDICARE PHYSICIANS' SERVICES.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w+4(e)(1)(C)) is amended by striking "shall review" and inserting "shall, in consultation with appropriate representatives of physicians, review".

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.".

(c) DEADLINE FOR INITIAL REVIEW AND REVISION.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995.

(d) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

SEC. 10105. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT AND UNIFORM APPLICATION.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis,

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).".

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w–4(g)(2)(C)) is amended by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians".

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking ", and the term" and inserting "; the term", and

(ii) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))".

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(A) in subsection (a)(3), by inserting "AND SUPPLIERS" after "PHYSICIANS", and by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician" and by adding at the end the following: "In the case of physicians' services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.";

(B) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting "(including services which the Secretary excludes pursuant to subsection (j)(3))" after "a physician's service";

(C) in subsection (g)(2)(D), by inserting "(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)" after "subsection (a)";

(D) in subsection (g)(3)(B)—

(i) by inserting after the first sentence the following: " No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.", and

(ii) in the last sentence, by striking "previous sentence" and inserting "first sentence";

(E) in subsection (h)—

(i) by inserting "or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))" after "physician" the first place it appears,

(ii) by inserting ", supplier, or other person" after "physician" the second place it appears, and

(iii) by inserting ", suppliers, and other persons" after "physicians" the second place it appears; and

(F) in subsection (j)(3), by inserting ", except for purposes of subsections (a)(3), (g), and (h)" after "tests and".

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(19)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

"(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of section 1842(j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

"(C) A practitioner described in this subparagraph is any of the following:

"(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

"(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

"(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

"(iv) A clinical social worker (as defined in section 1861(hh)(1)).

"(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

"(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) of subsection (l)(5) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) in subparagraph (C), by striking "shall include" and by striking the period at the end and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(D)).".

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;".

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w–4(g)(6)(B)) is amended by inserting "the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and" after "report to the Congress".

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1), as amended by section 10149(e)(2) of this subtitle—

(A) by striking "and" before "(O)", and

(B) by inserting before the semicolon at the end the following: ", and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)"; and

(2) in subsection (h)(5)(D)—

(A) by striking "paragraphs (2) and (3)" and by inserting "paragraph (2)", and

(B) by adding at the end the following: "Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.".

(f) EFFECTIVE DATES.—

(1) ENFORCEMENT AND UNIFORM APPLICATION; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after

the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1993.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1993.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1993, except that the requirement for including information concerning the right to a refund shall apply to explanations of benefits provided on or after July 1, 1993.

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1993.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning with 1993.

SEC. 10106. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than December 31, 1993, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians.

(2) REPORT.—Not later than January 1, 1994, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 10107. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(2)(G)," after "(2)(D),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 10108. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of claims related to physicians' services,

"(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining) a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.".

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 10109. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA–1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA–1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA–1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA–1990).—(1) Section 4103(a) of OBRA–1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA–1990).—(1) Section 4107(c) of OBRA–1990 is amended by inserting "(a)(1)" after "subsection".

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA–1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(h) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)) is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

(i) EFFECTIVE DATE.—The amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

PART 2—AMBULATORY SURGICAL SERVICES

SEC. 10111. EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—

(1) in subparagraph (B)(ii)—

(A) by striking "the last sentence of this clause" and inserting "paragraph (4)", and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In the case of a hospital that—

"(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

"(ii) receives more than 30 percent of its total revenues from outpatient services, and

"(iii) on October 1, 1987—

"(I) was an eye specialty hospital or an eye and ear specialty hospital, or

"(II) was operated as an eye or eye and ear unit (as defined in subparagraph (B)) of a general acute care hospital which, on the date of the application described in clause (i), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital's other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of paragraph (2)(B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

"(B) For purposes of this subparagraph (A)(iii)(II), the term 'eye or eye and ear unit' means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1993.

SEC. 10112. EXTENSION OF CAP ON PAYMENTS FOR INTRAOCULAR LENSES.

(a) IN GENERAL.—Section 4151(c)(3) of OBRA–1990 is amended by striking "December 31, 1992" and inserting "December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of OBRA–1990.

SEC. 10113. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than July 1, 1993, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(ii) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1994), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.".

(C) The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA–1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

(c) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

PART 3—DURABLE MEDICAL EQUIPMENT

SEC. 10121. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

"(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after July 1, 1993, for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

"(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—A supplier may not obtain a supplier number unless—

"(i) for medical equipment and supplies furnished on or after July 1, 1993, and on or before December 31, 1994, the supplier meets standards prescribed by the Secretary; and

"(ii) for medical equipment and supplies furnished on or after January 1, 1995, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers) that shall include requirements that the supplier—

"(I) comply with all applicable State and Federal licensure and regulatory requirements;

"(II) maintain a physical facility on an appropriate site;

"(III) have proof of appropriate liability insurance; and

"(IV) meet such other requirements as the Secretary may specify.

"(C) EXCEPTION FOR ITEMS FURNISHED AS INCIDENT TO A PHYSICIAN'S SERVICE.—Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished as an incident to a physician's service.

"(D) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control

"(E) PROHIBITION AGAINST DELEGATION OF SUPPLIER DETERMINATIONS.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

"(2) CERTIFICATES OF MEDICAL NECESSITY.—

"(A) STANDARDIZED CERTIFICATES.—Not later than July 1, 1993, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in subparagraph (C)) for medical equipment and supplies for which the Secretary determines that such a certificate is necessary.

"(B) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF CERTIFICATES OF MEDICAL NECESSITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), a supplier of medical equipment and supplies may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity.

"(ii) EXCEPTION FOR CERTAIN BILLING INFORMATION.—Clause (i) shall not apply with respect to a certificate of medical necessity for any item that is not contained on the list of potentially overused items developed by the Secretary under subsection (a)(15)(A) to the extent that such certificate contains only information completed by the supplier of medical equipment and supplies identifying such supplier and the beneficiary to whom such medical equipment and supplies are furnished, a description of such medical equipment and supplies, any product code identifying such medical equipment and supplies, and any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary. In the event a supplier provides a certificate of medical necessity containing information permitted under this clause, such certificate shall also contain the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"(C) DEFINITION.—For purposes of this paragraph, the term 'certificate of medical necessity' means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(3) COVERAGE AND REVIEW CRITERIA.—

"(A) DEVELOPMENT AND ESTABLISHMENT.—Not later than July 1, 1993, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies, individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies selected in accordance with the standards described in subparagraph (B). The Secretary shall publish the criteria as part of the instructions provided to fiscal intermediaries and carriers under this part and no further publication, including publication in the Federal Register, shall be required.

"(B) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under subparagraph (A) if the Secretary finds that—

"(i) the item is frequently purchased or rented by beneficiaries;

"(ii) the item is frequently subject to a determination that such item is not medically necessary; or

"(iii) the coverage or utilization criteria applied to the item (as of the date of the enactment of this subsection) is not consistent among carriers.

"(C) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under subparagraph (A) should be made subject to uniform national coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

"(4) DEFINITION.—The term 'medical equipment and supplies" means—

"(A) durable medical equipment (as defined in section 1861(n));

"(B) prosthetic devices (as described in section 1861(s)(8));

"(C) orthotics and prosthetics (as described in section 1861(s)(9));

"(D) surgical dressings (as described in section 1861(s)(5));

"(E) such other items as the Secretary may determine; and

"(F) for purposes of paragraphs (1) and (3)—

"(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)), and

"(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)).".

(2) CONFORMING AMENDMENT.—Paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) REPORT ON EFFECT OF UNIFORM CRITERIA ON UTILIZATION OF ITEMS.—Not later than January 1, 1994, the Secretary shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate analyzing the impact of the uniform criteria established under section 1834(i)(3)(A) of the Social Security Act (as added by subsection (a)) on the utilization of items of medical equipment and supplies by individuals enrolled under part B of the medicare program.

(c) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than January 1, 1994, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(d) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than July 1, 1993, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items furnished (or certificates of medical necessity submitted) on or after January 1, 1993.

SEC. 10122. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) USE OF CARRIERS TO PROCESS CLAIMS.—

"(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

"(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate carrier.

"(ii) For purposes of clause (i), the term 'appropriate carrier' means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after July 1, 1993.

(c) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

SEC. 10123. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual (other than a covered item the supplier has already furnished to the individual) unless—

"(i) the individual gives permission to the supplier to make contact by telephone for such purpose; or

"(ii) the supplier has furnished a covered item under this subsection to the individual during the 15-month period preceding the date on which the supplier contacts the individual for such purpose.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.".

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

"(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have *been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or*

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

SEC. 10124. KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting before the semicolon "(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services furnished on or after January 1, 1993.

SEC. 10125. BENEFICIARY LIABILITY FOR NON-COVERED SERVICES.

(a) IN GENERAL.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1834(i)(4))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(i)(1);

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15); or

"(3) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier on an unassigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items or services furnished on or after July 1, 1993.

SEC. 10126. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: "In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.".

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 10127. PAYMENT FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1993.

In determining the amount of payment under part B of title XVIII of the Social Security Act during 1993, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1992.

SEC. 10128. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by section 10121(a)(2) of this subtitle, is amended by inserting after paragraph (15) the following new paragraph:

"(16) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—In the case of accessories to be used in conjunction with a nebulizer or aspirator for which payment is made under this subsection, payment shall be made in accordance with paragraph (2) of this subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1993.

SEC. 10129. PAYMENT FOR OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, UROLOGICALS, AND SURGICAL DRESSINGS.

(a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, AND UROLOGICALS.—

(1) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).".

(2) CONFORMING AMENDMENT.—Section 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is amended by striking "subparagraph (C)," and inserting "subparagraphs (C) and (E),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1993.

(b) SURGICAL DRESSINGS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 10121(a) of this part, is amended by adding at the end the following new subsection:

"(j) PAYMENT FOR SURGICAL DRESSINGS.—

"(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

"(A) the actual charge for the item; or

"(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the six-month period ending June 30, 1992, increased by the covered item update described in such subsection for 1993)

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

"(A) furnished as an incident to a physician's professional service; or

"(B) furnished by a home health agency.".

(2) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 10149(e)(2) and 10105(e)(1), is amended—

(A) by striking "and" before "(P)", and

(B) by inserting before the semicolon at the end the following: ", and (Q) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j);".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after July 1, 1993.

SEC. 10120. PAYMENTS FOR TENS DEVICES.

(a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking "15 percent" the second place it appears and inserting "45 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1993.

SEC. 10121. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

"(15) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, decubitus care mattresses, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1993, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 10108(a) of this subtitle, is amended by adding at the end the following new paragraph:

"(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administration of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1994—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA-1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

PART 4—OTHER PROVISIONS

SEC. 10141. PAYMENT FOR MEDICALLY DIRECTED CERTIFIED REGISTERED NURSE ANESTHETIST SERVICES.

(a) IN GENERAL.—Section 1833(l)(4)(B) (1395l(l)(4)(B)) is amended to read as follows:

"(B) Except as provided in subparagraph (D), the conversion factor used to determine the amount paid under the fee schedule under this subsection for services furnished by a certified registered nurse anesthetist who is medically directed—

"(i) in a year after 1992 and before 1997, shall be $10.75, or

"(ii) in a subsequent calendar year, shall be the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1993.

SEC. 10142. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION.

Section 9342 of OBRA-1986, as amended by section 4164(a)(2) of OBRA-1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years"; and

(2) in subsection (f), —

(A) by striking "$55,000,000" and inserting "$58,000,000", and

(B) by striking "$3,000,000" and inserting "$5,000,000".

SEC. 10143. PART B LATE ENROLLMENT PENALTY.

(a) LIMITATION ON MEDICARE PART B LATE ENROLLMENT PENALTY.—

(1) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) The percent increase in premiums under subsection (b) due to late enrollment under this part shall not exceed 25 percent in the case of an individual who is annuitant described in subparagraph (A) or (B) of section 8901(3) of title 5, United States Code, for a month if—

"(1) during the individual's initial enrollment period under section 1837(d)—

"(A) the individual was enrolled in a group health plan (as defined in section 1862(b)(1)(A)(v)) that provided coverage of items and services for which payment may be made under this part, and

"(B) the individual elected not to enroll (or to be deemed enrolled) under this section, and

"(2) due to a change of coverage under such plan, there is no coverage during the month under such plan with respect to items and services for which payment may be made under this part unless the individual is enrolled under this part.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 1992.

(b) PAYMENT OF PART B PREMIUM LATE ENROLLMENT PENALTIES BY STATES..—Section 1839 (42 U.S.C. 1395r), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(h)(1) Upon the request of a State, the Secretary may enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)).

"(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

"(3) In this subsection:

"(A) The term 'eligible individual' means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

"(B) The term 'part B late enrollment premium increase' means any increase in a premium as a result of the application of subsection (b).".

SEC. 10144. ORAL CANCER DRUGS.

(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)), as amended by section 10149(f)(8)(B) of this subtitle, is amended—

(1) by striking "and" at the end of subparagraph (N);

(2) by adding "and" at the end of subparagraph (O); and

(3) by adding at the end the following new subparagraph:

"(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1993.

SEC. 10145. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 10149(f)(8)(E) of this subtitle, is amended by inserting after subsection (kk) the following new subsection:

"Speech-Language Pathology Services;
Audiology Services

"(ll)(1) The term 'speech-language pathology services' means such speech, language, and re-

lated function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

"(2) The term 'audiology services' means such hearing and balance assessment services furnished by a qualified audiologist as the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law).

"(3) In this subsection:

"(A) The term 'qualified speech-language pathologist' means an individual with a master's or doctoral degree in speech-language pathology who has performed not less than 9 months of supervised full-time speech-language pathology services after obtaining such degree and who—

"(i) is licensed (or is otherwise certified) as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of speech-language pathologists, has successfully completed a national clinical competency examination in speech-language pathology approved by the Secretary.

"(B) The term 'qualified audiologist' means an individual with a master's or doctoral degree in audiology who has performed not less than 9 months of supervised full-time audiology services after obtaining such degree and who—

"(i) is licensed (or is otherwise certified) as an audiologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not provide for the licensing (or other form of certification) of audiologists, has successfully completed a national clinical competency examination in audiology approved by the Secretary.".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) EXTENDED CARE SERVICES.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(2) HOME HEALTH SERVICES.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(3) OUTPATIENT PHYSICAL THERAPY SERVICES.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(4) COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(5) HOSPICE CARE.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking "therapy or speech-language pathology" and inserting "therapy, or speech-language pathology services".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1993.

SEC. 10146. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989, is amended—

(1) by striking "December 31, 1993" and inserting "December 31, 1997", and

(2) in the second sentence, by inserting after "beneficiary costs," the following: "costs to the medicaid program and other payors, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,".

SEC. 10147. TREATMENT OF CERTAIN INDIAN HEALTH PROGRAMS AND FACILITIES AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C. 1395x(aa)(4)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 4161(a)(2)(C) of OBRA–1990.

SEC. 10148. EXTENSION OF INFLUENZA VACCINATION DEMONSTRATION.

(a) IN GENERAL.—Section 4071(b)(1) of OBRA–1987 is amended by striking the period at the end and inserting the following: ", except that the reference in clause (ii) of paragraph (2)(B) of such subsection to '24 months' shall be deemed to be a reference to '30 months'.".

(b) LIMITATION ON USE OF AMOUNTS.—The second sentence of section 4071(b)(2) of OBRA–1987 is amended by striking "and evaluate" and inserting "and (during fiscal years other than fiscal year 1993) evaluate".

SEC. 10149. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "1989" and inserting "1989 and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking "this Act" and inserting "this title".

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA–1990).—Section 1833(l)(4)(B)(ii)(VII) (42 U.S.C. 1395l(l)(4)(B)(ii)(VII)) is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

Subtitle C—Provisions Relating to Parts A and B

SEC. 10201. PROVISIONS RELATING TO PHYSICIAN OWNERSHIP AND REFERRAL.

(a) MULTIPLE LOCATIONS FOR GROUP PRACTICES.—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C. 1395nn(b)(2)(A)(ii)(II)) is amended by striking "centralized provision" and inserting "provision of some or all".

(b) TREATMENT OF COMPENSATION ARRANGEMENTS.—

(1) RENTAL OF OFFICE SPACE AND EQUIPMENT.—Paragraph (1) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

"(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

"(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

"(ii) the aggregate space rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental,

"(iii) the lease provides for a term of rental or lease for at least one year,

"(iv) in the case of a lease that is intended to provide the lessee with access to the premises for periodic intervals of time, rather than on a full-time basis, the lease specifies exactly the schedule of such intervals, their length, and the rent for such intervals,

"(v) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(vi) the lease would be commercially reasonable even if no referrals were made between the parties, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

"(ii) the equipment rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental,

"(iii) the lease provides for a term of rental or lease of at least one year,

"(iv) in the case of a lease that is intended to provide the lessee with use of the equipment for periodic intervals of time, rather than on a full-time basis, the lease specifies exactly the schedule of such intervals, their length, and the rent for such intervals,

"(v) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(vi) the lease would be commercially reasonable even if no referrals were made between the parties, and

"(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(2) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Paragraph (2) of such section is amended—

(A) by striking "WITH HOSPITALS",

(B) by striking "An arrangement" and all that follows through "if" and inserting "Any amount paid by an employer to an employee who has a bona fide employment relationship with the employer for employment, or paid by a hospital pursuant to an arrangement with a physician (or immediate family member) for the provision of administrative services, if",

(C) in subparagraphs (A), (B), and (D), by striking "arrangement" and inserting "employment relationship or arrangement", and

(D) in subparagraph (C), by striking "to the hospital".

(3) ADDITIONAL EXCEPTIONS.—Such subsection is further amended by adding at the end the following new paragraphs:

"(7) PAYMENTS TO A PHYSICIAN FOR OTHER ITEMS OR SERVICES.—

"(A) IN GENERAL.—Payments made by an entity to a physician (or family member) who is not employed by the entity as compensation for services specified in subparagraph (B), if—

"(i) the compensation agreement is set out in writing, specifies the services to be provided by the parties, the compensation for each unit of service provided under the agreement, and the schedule for the provision of such services,

"(ii) the compensation paid over the term of the agreement is consistent with fair market value and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(iii) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity, and

"(iv) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) SPECIFIED SERVICES.—For purposes of subparagraph (A), the services specified in this subparagraph are any of the following:

"(i) Consultative services that—

"(I) relate to test results that have been obtained that are outside established parameters, or are specifically requested by the referring physician on a specified patient,

"(II) are furnished by a physician other than the referring physician (or by another physician who is a member of the same group practice), and

"(III) for which the physician furnishes a written report for that patient.

"(ii) Interpretation of tissue pathology or Pap smear slides or the provision of other cytology services.

"(iii) Phlebotomy services for paternity or toxicology testing where the services are fur-

nished by a physician other than the physician referring the individual for such testing (or by another physician who is a member of the same group practice).

"(iv) Employment-related health care services, including a payment by a self-insured employer for services rendered to employee applicants, employees, or their families under the terms of a health benefit plan.

"(v) Services as a clinical consultant to the entity as required for certification of the provider under section 353 of the Public Health Service Act.

"(vi) Services required by local, State, or Federal licensure, accreditation, or other health and safety provisions.

"(vii) Services billed in the name of a group practice provided by a physician under contract to the group practice for services not otherwise available directly through a physician who is a member of the group.

"(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

"(A) to a laboratory in exchange for the provision of clinical laboratory services, or

"(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value and are generally available to referrors and non-referrors alike on similar terms and conditions.

"(9) PAYMENTS FOR PATHOLOGY SERVICES OF A GROUP PRACTICE.—Payments made to a group practice for pathology services under an agreement if—

"(A) the agreement is set out in writing, specifies the services to be provided by the parties, and the compensation for services provided under the agreement;

"(B) the compensation paid over the term of the agreement is consistent with fair market value and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(C) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(D) the compensation arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(c) TREATMENT OF GROUP PRACTICE LABORATORIES.—

(1) USE OF BILLING NUMBERS, ETC..—Section 1877 is amended—

(A) in subsection (b)(2)(B), by inserting "under a billing number assigned to the group practice" after "member",

(B) in subsection (h)(4)(B), by inserting "and under a billing number assigned to the group" after "in the name of the group", and

(C) in subsection (h)(4)(C), by striking "by members of the group".

(2) TREATMENT OF SERVICES UNDER ARRANGEMENTS BETWEEN HOSPITALS AND GROUP PRACTICES.—

(A) IN GENERAL.—Section 1877(h)(4) is amended—

(i) in subparagraph (B) (as amended by paragraph (1)(B)), by inserting "(or are billed in the name of a hospital for which the group provides clinical laboratory services pursuant to an arrangement that meets the requirements of subparagraph (B))" after "assigned to the group";

(ii) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(iii) by inserting "(A)" after ".—"; and

(iv) by adding at the end the following new subparagraph:

"(B) The requirements of this subparagraph, with respect to an arrangement for clinical laboratory services provided by the laboratory of a group and billed in the name of a hospital, are that—

"(i) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3);

"(ii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

"(iii) the laboratory provides substantially all of the clinical laboratory services to the hospital's patients;

"(iv) the arrangement is pursuant to an agreement that is set out in writing, specifies the services to be provided by the parties, and the compensation for services provided under the agreement;

"(v) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(vi) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

"(vii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(B) CONFORMING AMENDMENT.—Section 1877(b)(2)(B) is amended by inserting "(or by a hospital for which such a group practice provides clinical laboratory services pursuant to an arrangement that meets the requirements of subsection (h)(4)(B))" after "by a group practice of which such physician is a member".

(3) TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.—The last sentence of section 1877(h)(4)(A), as redesignated by paragraph (1)(A), is amended by inserting ", institution of higher education, or medical school" after "hospital".

(d) EXPANDING RURAL PROVIDER EXCEPTION TO COVER COMPENSATION ARRANGEMENTS.—

(1) IN GENERAL.—Section 1877(b) is further amended—

(A) by redesignating paragraph (5) as paragraph (7), and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) RURAL PROVIDERS.—In the case of clinical laboratory services if—

"(A) the laboratory furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)), and

"(B) substantially all of the services furnished by the laboratory to individuals entitled to benefits under this title are furnished to such individuals who reside in such a rural area.".

(2) CONFORMING AMENDMENTS.—Section 1877(d) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

(e) EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877 is amended—

(A) in subsection (b), as amended by subsection (d)(1), by inserting after paragraph (5) the following new paragraph:

"(6) SHARED FACILITY SERVICES.—

"(A) IN GENERAL.—In the case of shared facility services of a shared facility—

"(i) that are furnished—

"(I) personally by the referring physician who is a shared facility physician or personally by an individual supervised by such a physician or by another shared facility physician and employed under the shared facility arrangement,

"(II) by a shared facility in a building in which the referring physician furnishes physician's services unrelated to the furnishing of shared facility services, and

"(III) to a patient of a shared facility physician; and

"(ii) that are billed by the referring physician or by an entity that is wholly owned by such physician.

"(B) LIMITATION.—The exception under this paragraph shall only apply to a shared facility only if the facility and the shared facility arrangement were established as of June 26, 1992."; and

(B) in subsection (h), by adding at the end the following new paragraph:

"(8) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY SERVICES.—The term 'shared facility services' means, with respect to a shared facility, clinical laboratory services furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician who has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(2) GAO STUDY OF SHARED FACILITY ARRANGEMENTS.—

(A) IN GENERAL.—The Comptroller General shall analyze the effect on the utilization of health services of shared facility arrangements for which an exception is provided under the amendments made by paragraph (1). The analysis shall include a review of the effect of the limitation, described in section 1877(b)(6)(B) of the Social Security Act (as added by paragraph (1)), with respect to such exception and on the availability of services (including hematology services).

(B) REPORT.—Not later than January 1, 1994, the Comptroller General shall submit a report to Congress on the analysis conducted under subparagraph (A). The report shall include recommendations with respect to changing the limitation.

(f) EXEMPTION OF COMPENSATION ARRANGEMENTS INVOLVING CERTAIN TYPES OF REMUNERATION.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) by striking subparagraph (B);

(2) in subparagraph (A), by inserting before the period the following: "(other than an arrangement involving only remuneration described in subparagraph (B))"; and

(3) by adding at the end the following new subparagraph:

"(B) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

"(i) The forgiveness of amounts owed for inaccurate tests, mistakenly performed tests, or the correction of minor billing errors.

"(ii) The provision of items, devices, or supplies of minor value that are used to—

"(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

"(II) communicate the results of tests for such entity.

"(iii) The furnishing by an entity of laboratory services to a group practice affiliated with the entity, if the entity provides all or substantially all of the clinical laboratory services of the group practice.".

(g) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in the fourth sentence of subsection (f)—

(A) by striking "provided" and inserting "furnished", and

(B) by striking "provides" and inserting "furnish";

(2) in the fifth sentence of subsection (f)—

(A) by striking "providing" each place it appears and inserting "furnishing",

(B) by striking "with respect to the providers" and inserting "with respect to the entities", and

(C) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial tomography scans, and ultrasound services"; and

(3) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to referrals made on or after January 1, 1992.

SEC. 10202. DIRECT GRADUATE MEDICAL EDUCATION.

(a) ADJUSTMENT IN GME BASE-YEAR COSTS OF FEDERAL INSURANCE CONTRIBUTIONS ACT.—

(1) IN GENERAL.—In determining the amount of payment to be made under section 1886(h) of the Social Security Act in the case of a hospital described in subsection (b) for cost reporting periods beginning on or after October 1, 1992, the Secretary of Health and Human Services shall redetermine the approved FTE resident amount to reflect the amount that would have been paid the hospital if, during the hospital's base cost reporting period, the hospital had been liable for FICA taxes or for contributions to the retirement system of a State, a political subdivision of a State, or an instrumentality of such a State or political subdivision with respect to interns and residents in its medical residency training program.

(2) HOSPITALS AFFECTED.—A hospital described in this subsection is a hospital that did not pay FICA taxes with respect to interns and residents in its medical residency training program during the hospital's base cost reporting period, but is required to pay FICA taxes or make contributions to a retirement system described in paragraph (1) with respect to such interns and residents because of the amendments made by section 11332(b) of OBRA–1990.

(3) DEFINITIONS.—In this subsection:

(A) the "base cost reporting period" for a hospital is the hospital's cost reporting period that began during fiscal year 1984.

(B) The term "FICA taxes" means, with respect to a hospital, the taxes under section 3111 of the Internal Revenue Code of 1986.

(b) PUBLICLY-FUNDED FAMILY PRACTICE RESIDENCY PROGRAMS.—

(1) IN GENERAL.—Section 1886(h)(5) (42 U.S.C. 1395ww(h)(5)) is amended by adding at the end the following new subparagraph:

"(H) ADJUSTMENTS FOR CERTAIN FAMILY PRACTICE RESIDENCY PROGRAMS.—

"(i) IN GENERAL.—In the case of an approved medical residency training program (meeting the requirements of clause (ii)) of a hospital which received payments from the United States, a State, or a political subdivision of a State or an instrumentality of such a State or political subdivision (other than payments under this title or a State plan under title XIX) for the program during the cost reporting period that began during fiscal year 1984, the Secretary shall—

"(I) provide for an average amount under paragraph (2)(A) that takes into account the Secretary's estimate of the amount that would have been recognized as reasonable under this title if the hospital had not received such payments, and

"(II) reduce the payment amount otherwise provided under this subsection in an amount equal to the proportion of such program payments during the cost reporting period involved that is allocable to this title.

"(ii) ADDITIONAL REQUIREMENTS.—A hospital's approved medical residency program meets the requirements of this clause if—

"(I) the program is limited to training for family and community medicine;

"(II) the program is the only approved medical residency program of the hospital; and

"(III) the average amount determined under paragraph (2)(A) for the hospital (as determined without regard to the increase in such amount described in clause (i)(I)) does not exceed $10,000.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments under section 1886(h) of the Social Security Act for cost reporting periods beginning on or after October 1, 1990.

(c) PREVENTIVE CARE SERVICES AS PART OF INITIAL RESIDENCY PERIOD.—

(1) ELIGIBILITY OF PREVENTIVE CARE RESIDENCY PROGRAMS FOR EXPANDED INITIAL RESIDENCY PERIODS.—Section 1886(h)(5)(F)(ii) (42 U.S.C. 1395ww(h)(5)(F)(ii)) is amended by inserting after "fellowship program" the following: "or a preventive care residency or fellowship program".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1992.

SEC. 10203. END STAGE RENAL DISEASE.

(a) COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

(1) IN GENERAL.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "title, within" and all that follows and inserting the following: "title, but only in the case of drugs furnished—

"(i) before 1993, within 12 months after the date of the transplant procedure,

"(ii) during 1993, within 18 months after the date of the transplant procedure,

"(iii) during 1994, within 24 months after the date of the transplant procedure,

"(iv) during 1995, within 30 months after the date of the transplant procedure, and

"(v) during any year after 1995, within 36 months after the date of the transplant procedure;".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this section.

(b) PAYMENT FOR ERYTHROPOIETIN.—

(1) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(A) by striking "1991" and inserting "1993"; and

(B) by striking "$11" and inserting "$10".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to erythropoietin furnished on or after January 1, 1993.

(c) HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTION.—

(1) IN GENERAL.—Section 4202 of OBRA–1990 is amended—

(A) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(B) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels);

(C) in subsection (c)(1)(A), by striking "skilled"; and

(D) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

SEC. 10204. MEDICARE SECONDARY PAYER.

(a) SECONDARY PAYER EXEMPTION FOR MEMBERS OF RELIGIOUS ORDERS.—

Effective as if included in the enactment of OBRA–1989, section 6202(e)(2) of such Act is amended by adding at the end the following: "Such amendment also shall apply to items and services furnished before such date with respect to secondary payer cases which the Secretary of Health and Human Services had not identified as of such date.".

(b) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.".

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)) not later than January 1, 1993.

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.".

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to items and services furnished on or after January 1, 1993.

(c) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1396h) is amended by adding at the end the following new subsection:

"(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(i) by striking "and" at the end of subparagraphs (G) and (H); and

(ii) by inserting after subparagraph (H) the following new subparagraph:

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking "processing" and inserting "processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)))".

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the Secretary shall establish standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).".

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: "REPAYMENT REQUIRED.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services furnished on or after January 1, 1993.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1993.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA–1990 is amended—

(A) by striking "on or before January 1, 1996," and inserting "before January 1, 1996"; and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(4) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(5) Except as provided in paragraph (2), the amendments made by this subsection shall be effective as if included in the enactment of OBRA–1990.

SEC. 10205. IMPROVED OUTREACH FOR QUALIFIED MEDICARE BENEFICIARIES.

The Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 10206. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.

(a) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of OBRA–1987, as amended by OBRA–1990, is amended—

(1) in paragraph (1) by striking "December 31, 1995" and inserting "December 31, 1997"; and

(2) in paragraph (4) by striking "March 31, 1996" and inserting "March 31, 1998".

(b) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(1) in the last sentence of subsection (a) by striking "12 months" and inserting "36 months"; and

(2) in subsection (b)(1)(B)—

(A) by striking "or" at the end of clause (iii); and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or".

(c) EXPANSION OF NUMBER OF MEMBERS PER SITE.—The Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) The section following section 4206 of OBRA–1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subtitle is referred to as section 4207 of OBRA–1990.

(2) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(3) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(4) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(5) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(6) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(7) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(8) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–90.

SEC. 10207. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c–13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c–3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking clause (G);

(iii) in subsection (a)(2)(A), by striking "to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "basis," and inserting "basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(vi) in the first sentence of subsection (b)—

(I) by striking "(3)" and inserting "and (3)", and

(II) by striking ", and (4)" and all that follows up to the period at the end.

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding "or" at the end of paragraph (14),

(ii) by striking "; or" at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after January 1, 1993.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) (42 U.S.C. 1320c–3(a)(9)(B)) is amended by striking "this subsection" and inserting "section 1156(a)".

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c–9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

(B) The amendment made by paragraph (2) (relating to the requirement on reporting of information to State licensing boards) shall take effect on the date of the enactment of this Act.

SEC. 10208. HOSPICE INFORMATION TO HOME HEALTH BENEFICIARIES.

(a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C. 1395bbb(a)(1)) is amended by adding at the end the following new subparagraph:

"(H) The right, in the case of a resident who is entitled to benefits under this title, to be fully informed orally and in writing (at the time of coming under the care of the agency) of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing hospice care for which payment may be made under this title within the geographic area of the facility and it is not the common practice of the agency to refer patients to hospice programs located outside such geographic area).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 10209. INTEREST PAYMENTS.

(a) IN GENERAL.—Sections 1816(c)(2)(B)(ii)(IV) and 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall be applied with respect to claims received in the 12-month period beginning October 1, 1992, by substituting "30 calendar days" for "24 calendar days" and "17 calendar days".

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1993.

SEC. 10210. CLARIFICATION OF JUDICIAL REVIEW RIGHTS.

(a) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)) is amended by adding at the end the following new paragraph:

"(6) Nothing in this subsection (including paragraph (5)) shall be construed as requiring a person to file a claim with, or obtain findings or a decision of, the Secretary prior to seeking judicial review of an issue under this subsection, if the issue involves no material issues of fact in dispute and involves a challenge to the validity of a regulation or instruction which relates to a method for determining the amount of payment under part B.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the enactment of section 9313 of OBRA–1986.

SEC. 10211. ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

(a) ADJUSTMENTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) MEDICARE ADMINISTRATIVE COSTS.—To the extent that appropriations are enacted that provide additional new budget authority (as compared with a base level of $1,526,000,000 for new budget authority) for the administration of the Medicare program by fiscal intermediaries and carriers pursuant to sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed—

"(i) for fiscal year 1993, $177,000,000 in new budget authority and $177,000,000 in outlays;

"(ii) for fiscal year 1994, $198,000,000 in new budget authority and $198,000,000 in outlays; and

"(iii) for fiscal year 1995, $220,000,000 in new budget authority and $220,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph.".

(b) CONFORMING AMENDMENTS.—

(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)".

(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)"; and

(B) in paragraph (2), by inserting "251(b)(2)(E)," after "251(b)(2)(D),".

SEC. 10212. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN APPLICATION OF SECONDARY PAYOR PROVISIONS.—

(1) IN GENERAL.—Section 1876(a)(4) (42 U.S.C. 1395mm(a)(4)) is amended by adding at the end the following new sentence: "In establishing the adjusted average per capita cost for a geographic area, the Secretary shall take into account the differences between the proportion of individuals in the area with respect to whom there is a group health plan that is a primary payor (within the meaning of section 1862(b)(2)(A)) compared to the proportion of all such individuals with respect to whom there is such a group health plan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into for years beginning with 1994.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS .—Section 4204(b) of OBRA–1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than January 1, 1993, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1994 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than May 1, 1993, the Comptroller General shall review the proposal made pursuant to paragraph (1), and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 10213. TREATMENT OF CERTAIN STATE HEALTH CARE PROGRAMS.

Section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A) Except as provided in subparagraphs (B) and (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393–1 through 393–51).

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefits plans.

"(C) If the Secretary of Labor notifies the Governor of the State of Hawaii that as the result of an amendment to the Hawaii Prepaid Health Care Act enacted after October 5, 1992—

"(i) the proportion of the population with health care coverage under such Act is less than such proportion on such date, or *"(ii) the level of benefit coverage provided under such Act is less than the actuarial equivalent of such level of coverage on such date,*

subparagraph (A) shall not apply with respect to the application of such amendment to such Act after the date of such notification.".

SEC. 10214. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (O), as redesignated by section 10149(f)(8)(B)(iii)(II) of this title, two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)) is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(P)".

(5) Section 4201(d)(2) of OBRA–1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(6)(A) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

(B) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(C) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

SEC. 10301. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA–1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the second sentence as clause (ii) and, in such clause, by striking "the previous sentence" and inserting "clause (i)";

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "and the statement" and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking "65 years of age or older",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the full amount of medicare cost-sharing as described in subparagraphs (B), (C), and (D) of section 1905(p)(3) for such individual.".

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable

statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

"(D)(i) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.".

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date of the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5)(A) are amended by striking "of the Social Security Act".

(5) The second subsection (b) of section 4354 of OBRA–1990 (relating to effective date) is amended by redesignating such subsection as subsection (c).

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 10301(m)(4) of the Revenue Act of 1992.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) by adding at the end of paragraph (2)(A), the following new sentence: "In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 10301(m)(4) of the Revenue Act of 1992.";

(J) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(K) in paragraph (4), by striking "February", "disallowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "October", "disallowance", "loss ratios", and "loss ratio", respectively;

(L) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(M) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of such Act.".

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1993, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or",

(2) in paragraph (2)(A), by striking "in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B" and inserting "as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B", and

(3) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c–3(a)(4)(B)) is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide", and

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

(2) by adding at the end the following new subparagraph:

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1993, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1993, and who were not covered under such section before January 1, 1993, the 6-month period specified in that section shall begin January 1, 1993).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with "unless", such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such modifications shall be considered to be part of that Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1994 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE XI—AUTHORIZATION FOR ADDITIONAL ASSISTANCE TO DISTRESSED COMMUNITIES

Subtitle A—National Public-Private Partnership Programs

SEC. 11001. NATIONAL PUBLIC-PRIVATE PARTNERSHIP PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that public-private partnerships between government and community-based organizations offer an opportunity to empower residents of low-income distressed communities and to forge innovative solutions to the challenges confronting these communities, and that increased resources should be invested in such partnerships.

(b) AUTHORIZATION OF APPROPRIATIONS.—To promote national public-private partnerships, there are authorized to be appropriated—

(1) with respect to the Head Start program under the Head Start Act (42 U.S.C. 9831 et seq.)—

(A) $40,000,000 for fiscal year 1993;
(B) $42,000,000 for fiscal year 1994;
(C) $44,000,000 for fiscal year 1995;
(D) $46,000,000 for fiscal year 1996;
(E) $49,000,000 for fiscal year 1997;
(F) $51,000,000 for fiscal year 1998;
(G) $54,000,000 for fiscal year 1999;
(H) $56,000,000 for fiscal year 2000;
(I) $59,000,000 for fiscal year 2001; and
(J) $62,000,000 for fiscal year 2002;

(2) with respect to the community health centers program under sections 329, 330, 340 and 340A of the Public Health Service Act (42 U.S.C. 254c)—

(A) $20,000,000 for fiscal year 1993;
(B) $21,000,000 for fiscal year 1994;
(C) $22,000,000 for fiscal year 1995;
(D) $23,000,000 for fiscal year 1996;
(E) $24,000,000 for fiscal year 1997;
(F) $26,000,000 for fiscal year 1998;
(G) $27,000,000 for fiscal year 1999;
(H) $28,000,000 for fiscal year 2000;
(I) $30,000,000 for fiscal year 2001; and
(J) $31,000,000 for fiscal year 2002;

(3) with respect to the National Community Economic Partnership program established under chapter 3 of subtitle C—

(A) $40,000,000 for fiscal year 1993;
(B) $42,000,000 for fiscal year 1994;
(C) $44,000,000 for fiscal year 1995;
(D) $46,000,000 for fiscal year 1996;
(E) $49,000,000 for fiscal year 1997;
(F) $51,000,000 for fiscal year 1998;
(G) $54,000,000 for fiscal year 1999;
(H) $56,000,000 for fiscal year 2000;
(I) $59,000,000 for fiscal year 2001; and
(J) $62,000,000 for fiscal year 2002;

(4) with respect to the Job Corps program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1692 et seq.)—

(A) $40,000,000 for fiscal year 1993;
(B) $42,000,000 for fiscal year 1994;
(C) $44,000,000 for fiscal year 1995;
(D) $46,000,000 for fiscal year 1996;
(E) $49,000,000 for fiscal year 1997;
(F) $51,000,000 for fiscal year 1998;
(G) $54,000,000 for fiscal year 1999;
(H) $56,000,000 for fiscal year 2000;
(I) $59,000,000 for fiscal year 2001; and
(J) $62,000,000 for fiscal year 2002;

(5) with respect to the Enterprise Capital Access Fund Demonstration Program established under section 11261—

(A) $20,000,000 for fiscal year 1993;
(B) $21,000,000 for fiscal year 1994;
(C) $22,000,000 for fiscal year 1995;
(D) $23,000,000 for fiscal year 1996;
(E) $24,000,000 for fiscal year 1997;
(F) $26,000,000 for fiscal year 1998;
(G) $27,000,000 for fiscal year 1999;
(H) $28,000,000 for fiscal year 2000;
(I) $30,000,000 for fiscal year 2001; and
(J) $31,000,000 for fiscal year 2002;

(6) with respect to the Youthbuild program under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act—

(A) $10,000,000 for fiscal year 1993;
(B) $11,000,000 for fiscal year 1994;
(C) $11,000,000 for fiscal year 1995;
(D) $12,000,000 for fiscal year 1996;
(E) $12,000,000 for fiscal year 1997;
(F) $13,000,000 for fiscal year 1998;
(G) $13,000,000 for fiscal year 1999;
(H) $14,000,000 for fiscal year 2000;
(I) $15,000,000 for fiscal year 2001; and
(J) $16,000,000 for fiscal year 2002; and

(7) with respect to the Neighborhood Reinvestment Corporation established under title VI of the Housing and Community Development Act of 1978—

(A) $10,000,000 for fiscal year 1993;
(B) $11,000,000 for fiscal year 1994;
(C) $11,000,000 for fiscal year 1995;
(D) $12,000,000 for fiscal year 1996;
(E) $12,000,000 for fiscal year 1997;
(F) $13,000,000 for fiscal year 1998;
(G) $13,000,000 for fiscal year 1999;
(H) $14,000,000 for fiscal year 2000;
(I) $15,000,000 for fiscal year 2001; and
(J) $16,000,000 for fiscal year 2002.

(c) AVAILABILITY OF AMOUNTS.—The amounts appropriated for programs pursuant to paragraphs (1), (2), (4), (6), and (7) of subsection (b) shall be available only for projects or activities that directly and principally benefit the residents of tax enterprise zones designated pursuant to section 1391 of the Internal Revenue Code of 1986. Of the amounts appropriated for programs pursuant to paragraphs (3) and (5) of subsection (b), 50 percent shall be available only for projects or activities that directly and principally benefit the residents of such zones.

Subtitle B—Block Grant Funding for Eligible Programs

SEC. 11101. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for assistance under section 11102, $320,000,000 for fiscal year 1993, $325,000,000 for fiscal year 1994, $332,000,000 for fiscal year 1995, $337,000,000 for fiscal year 1996, $341,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002, except that amounts authorized under this subsection for each of the fiscal years 1998 through 2002 shall not be less than the amount of the revenue loss estimates to result as a result of enterprise zone tax preferences under section 1391 of the Internal Revenue code of 1986 less the amounts authorized by section 11101(b).

SEC. 11102. ALLOCATION OF AMOUNTS AMONG TAX ENTERPRISE ZONES.

(a) IN GENERAL.—Except as provided in subsection (d), the interagency council established under section 11106 of this Act shall make any amounts appropriated pursuant to section

11101(a) available under this subtitle to provide assistance on behalf of each tax enterprise zone designated under section 1391 of the Internal Revenue Code of 1986 for which an application under section 11105 of this Act has been approved by the interagency council.

(b) ALLOCATION BETWEEN URBAN AND RURAL ZONES.—Of the amounts available each fiscal year under this title for tax enterprise zones, 70 percent shall be available for urban tax enterprise zones and 30 percent shall be available for rural development investment zones.

(c) DIVISION AMONG URBAN AND RURAL ZONES.—

(1) URBAN ZONES.—The amounts available each fiscal year under this title for urban tax enterprise zones shall be allocated so as to reserve an equal amount for each urban zone that may be designated prior to the end of the calendar year beginning during the fiscal year for which such amounts were made available, pursuant to the annual limits on zones specified in section 1391 of the Internal Revenue Code of 1986.

(2) RURAL ZONES.—The amounts available each fiscal year under this title for rural development investment zones shall be allocated so as to reserve an equal amount for each rural development investment zone that may be designated prior to the end of the calendar year beginning during the fiscal year for which such amounts were made available, pursuant to the annual limits on zones specified in section 1391 of the Internal Revenue Code of 1986.

(d) SET-ASIDE.—Of the amounts appropriated pursuant to section 11101 for fiscal year 1993, not less than $5,000,000 shall be made available by the Interagency Council for the Access to Jobs/Reverse Community Demonstration Program authorized under section 11207.

(e) AVAILABILITY.—Notwithstanding any other provision of law, amounts appropriated pursuant to authorizations under this title shall remain available until the end of the fiscal year following the year for which such amounts are appropriated.

SEC. 11103. USE OF AMOUNTS.

(a) IN GENERAL.—The assistance allocated under section 11102 on behalf of each tax enterprise zone (as defined in section 1391 of the Internal Revenue Code of 1986) shall be available only for carrying out selected programs within the tax enterprise zone, in accordance with the application of the tax enterprise zone approved under section 11105 and subject to the provisions of this section.

(b) ALLOCATION AMONG PROGRAM CATEGORIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), of the total amount of assistance provided under this subtitle on behalf of a tax enterprise zone for any fiscal year, the sum of the amounts used to carry out selected programs referred to under any one of paragraphs (1) through (5) of section 11104 may not exceed 20 percent of such total amount.

(2) WAIVER OF CAPS.—Pursuant to a request contained in an application under section 11105, the interagency council may provide that the requirement under paragraph (1) shall not apply with respect to amounts used to carry out selected programs under the application, except that of the total amount of assistance provided under this subtitle on behalf of such tax enterprise zone for any fiscal year, the sum of the amounts used to carry out selected programs referred to under any single paragraph under section 11104 may not exceed 30 percent of such total amount and may not be less than 5 percent of such total amount.

(c) ALLOCATION AMONG JOB TRAINING PROGRAMS.—In any fiscal year, of the sum of the amounts of assistance provided under this subtitle on behalf of a tax enterprise zone that are used to carry out any of the job training programs under section 11104(2), not less than 25 percent shall be used for assistance under the Young Adult Employment Demonstration program referred to in section 11104(2)(A) of this Act.

(d) PROVISION OF ASSISTANCE.—Upon the approval of an application under section 11105 for a tax enterprise zone, the appropriate Federal agency head for each selected program under the approved application shall make available on behalf of the enterprise zone (under such program and through the appropriate eligible entity), from amounts available on behalf of such zone pursuant to section 11102, the amount of assistance determined in accordance with the approved application.

(e) SUPPLEMENTATION REQUIREMENT.—Any amounts provided under this subtitle shall be in supplement to, and shall not supplant, any Federal, State, local, or private funds from other sources already used, or committed for use, for programs, projects, activities, and services assisted under this subtitle or comparable to such programs, projects, activities, and services. Federal agency heads shall not reduce the usual allocations with respect to any jurisdiction under any of the eligible programs described in section 11104 because such jurisdiction allocates funds under this title to any of such programs.

SEC. 11104. ELIGIBLE PROGRAMS.

Assistance may be provided under this subtitle for carrying out the following activities, projects, and programs:

(1) CRIME AND CRIMINAL JUSTICE.—

(A) Community policing projects and activities under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program under part E of title I of the Omnibus Crime Control and Safe streets Act of 1968 (42 U.S.C. 3751 et seq.), but only if the Community Policing; Cop on the Beat Act of 1991 is not enacted by November 1, 1992. If the Community Policing; Cop on the Beat Act of 1991 is enacted prior to November 1, 1992, funds under this subtitle shall be available through the Community Policing; Cop on the Beat Act of 1991.

(B) Chapter B of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(C) Projects and activities under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801 et seq.) but only if the Juvenile Justice and Delinquency Act of 1974 is not amended to provide for Juvenile Drug Trafficking Grants and Gang Prevention Grants prior to November 1, 1992. If the Juvenile Justice and Delinquency Act of 1974 is so amended prior to such date, funds under this subtitle shall be made available through the Juvenile Drug Trafficking Grants and Gang Prevention Grants.

(2) JOB TRAINING.—

(A) The Young Adult Employment Demonstration program under part K of title IV of the Job Training Partnership Act (as added by section 11211 of this Act).

(B) The Job Corps program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.).

(C) Title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

(D) The American Conservation and Youth Corps program under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12541 et seq.).

(E) The Access to Jobs/Reverse Commuting Demonstration Program established under section 11263.

(3) EDUCATION.—

(A) The programs under the Carl D. Perkins Vocational Educational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(B) Projects under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.).

(C) Activities under the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.).

(D) The programs under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(E) The TRIO programs under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1C70 et seq.).

(F) The programs under the Adult Education Act (20 U.S.C. 1201 et seq.).

(G) Literacy activities authorized under the National Literacy Act of 1991.

(4) HEALTH, NUTRITION AND FAMILY ASSISTANCE.—

(A) The special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966.

(B) The following programs under the Public Health Service Act (42 U.S.C. 201 et seq.):

(i) Capacity expansion of substance abuse treatment facilities.

(ii) Substance abuse treatment for individuals under criminal justice supervision.

(iii) Substance abuse treatment for pregnant and postpartum women.

(iv) Community prevention grants regarding substance abuse.

(v) Substance abuse treatment improvement grants.

(C) The programs under title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.)

(D) The family support programs under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1148 et seq.).

(E) Projects for high risk youth under section 517 of the Public Health Service Act (42 U.S.C. 290bb-23).

(F) Emergency child protective service grants under section 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a).

(G) Family support centers and family resource and support programs under sections 933 and 934(d) of the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Public Law 101-501).

(5) HOUSING AND COMMUNITY DEVELOPMENT.—

(A) The community development block grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(B) The public and Indian housing modernization program under section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371).

(C) The public and assisted housing drug elimination program under chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.).

(D) Contracts for rental assistance attached to structures pursuant to paragraph (2) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(E) The HOME investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.).

(F) The self-help housing technical assistance grant program under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c).

(G) Rural housing preservation grants under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m).

(H) Rural rental housing loans under section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

(I) Rural rental housing assistance payments under section 521(a)(2) of the Housing Act of 1949 (42 U.S.C. 1490a).

(J) Rural water and waste disposal grants pursuant to paragraphs (2) and (6) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) and water and waste facility loans and grants under section 306C of such Act.

(K) Private business enterprise grants under section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926).

(L) Loan guarantees under section 108 of the Housing and Community Development Act (as amended by section 11202 of this Act).

(M) Outreach and assistance for socially disadvantaged farmers and ranchers under section 2501 of the Food, Agriculture, and Trade Act of 1990.

(N) Public Housing Family Investment Centers under section 22 of the United States Housing Act of 1937 (42 U.S.C. 1437t).

SEC. 11105. APPLICATION FOR FUNDING.

(a) Establishment of Application Process.—The interagency council shall establish, by regulation, a procedure for a single comprehensive application to be submitted to the council for each tax enterprise zone designated under section 1391 of the Internal Revenue Code of 1986 for the purpose of making amounts available under this subtitle on behalf of such tax enterprise zones. The interagency council shall provide for the form and manner of such applications, and shall require the applications to be made by the State, unit of local government, or economic development agency chartered by the State that submitted the nomination for designation of the area designated as a tax enterprise zone and submitted promptly after such designation.

(b) Local Coordination.—

(1) Purposes.—The interagency council shall provide that each application under this section shall be developed in coordination and consultation with a local coordinating board under paragraph (2), which shall ensure that the programs, projects, activities, and services under section 11104(1) carried out with amounts provided under this subtitle are sufficiently coordinated with the other programs, projects, activities, and services assisted under this subtitle, and that all such programs, projects, activities, and services are coordinated with law enforcement efforts within the area nominated for designation as a tax enterprise zone.

(2) Membership.—The local coordinating board referred to in paragraph (1) shall include representatives of units of local government within such area, representatives of law enforcement agencies having jurisdiction within such area, residents of the area, community leaders, including local business persons, bankers, architects and planners, representatives of school boards, and representatives of nonprofit community-based organizations such as community development corporations and community action agencies.

(c) Contents.—Each application under the procedure established under this section shall contain the following information:

(1) A list of the programs referred to under section 11104 for which funding is requested and a general description of the types of activities to be carried out with such assistance.

(2) A statement documenting the percentage of the total amount of any funding received under this subtitle that will be used for each selected program.

(3) A statement documenting the entities that will receive any assistance provided for the selected programs on behalf of the tax enterprise zone and the entities' eligibility for such assistance.

(4) A statement documenting the membership of the local coordinating board organized pursuant to the requirement under subsection (b) and describing the coordination between the programs, projects, activities, and services assisted under this title and local law enforcement efforts in the tax enterprise zone.

(5) A request for any waiver of the requirement under section 11103(b)(1) and a statement documenting the rationale for such waiver.

(6) A statement documenting any other Federal, State, and local resources for the community in which the tax enterprise zone is located that will be dedicated to the types of programs, projects, activities, and services to be assisted under this subtitle.

(7) A statement documenting a strong commitment by community-based organizations in the tax enterprise zone for carrying out the selected programs and similar programs, projects, activities, and services.

(8) A statement documenting any private sector resources, including corporate contributions and individual commitments, to supplement assistance provided under this subtitle.

(9) A statement documenting the efforts made by the local jurisdiction containing the tax enterprise zone to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to enterprise zone businesses with emphasis on startup and other small business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the commitments made by local financial institutions in response to these efforts.

(10) A statement demonstrating a balanced, comprehensive plan for the tax enterprise zone, that addresses removing violent offenders from the neighborhood streets, supports drug and crime prevention, improves health, education and other social services, and promotes neighborhood revitalization through strategies to create jobs and other economic opportunities which assist families to become self sufficient. Such strategies shall include improvements in infrastructure, public facilities, and affordable housing opportunities embodying good urban design and neighborhood planning principles that contribute to the creation of wholesome and attractive social, economic, and physical environments.

(11) A statement demonstrating that any amounts requested for selected programs are part of an integrated and comprehensive plan for the use of Federal, State, local, and private resources to accomplish specific goals and measurable outcomes for neighborhood revitalization.

(d) Review.—In reviewing each application submitted under this section, each member of the council shall review the portion of the application concerning any request or eligibility for assistance under any selected program under the jurisdiction of such member to determine whether providing assistance under this subtitle pursuant to such application will comply with the laws and regulations applicable to such program.

(e) Approval and Disapproval.—

(1) Timing.—The council shall review each application promptly upon receipt and shall approve or disapprove the application not later than the expiration of the 30-day period beginning upon such receipt.

(2) Standards for Approval.—The council shall approve an application if the council determines that the assistance requested for the selected programs under the application will assist in the economic development of the tax enterprise zone, that the eligible entities identified in the application are capable and qualified to receive and administer the assistance pursuant to the application, and that the information, documentation, or evidence required under subsection (c) is sufficient in the determination of the council.

(3) Disapproval and Resubmission.—If, pursuant to review under this section, the council determines that the application of a tax enterprise zone is incomplete or unsatisfactory, the council shall, before the expiration of the period referred to in paragraph (1)—

(A) notify the entity submitting the application of the reasons for the failure to approve the application;

(B) notify the entity submitting the application that the application may be resubmitted during the period referred to in subparagraph (C); and

(C) permit such entity to resubmit a corrected or amended application during the 30-day period beginning on notification under this paragraph.

(4) Review of Resubmitted Application.—The council shall review and approve or disapprove any application resubmitted under paragraph (3) before the expiration of the 15-day period beginning upon such resubmission. Any application resubmitted under paragraph (3) that is disapproved may be resubmitted before the expiration of the 15-day period beginning upon such disapproval and shall be subject to review under the provisions of this paragraph.

(f) Public Comment.—An applicant under this section, in conjunction with the relevant local coordinating board, shall ensure that there are adequate opportunities for public comment concerning the application submitted under this section, including—

(1) furnishing citizens with information concerning the amount of funds available pursuant to this subtitle and the range of activities that may be undertaken with such funds;

(2) holding one or more public hearings to obtain the views of citizens on community needs; and

(3) providing citizens with reasonable access to any application filed pursuant to this section and to records regarding the use of funds received pursuant to this subtitle.

SEC. 11106. INTERAGENCY COUNCIL.

(a) Establishment.—There is hereby established an interagency council to provide assistance under this subtitle.

(b) Membership.—The members of the council shall be the Secretary of Agriculture, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Labor, the Director of the Office of National Drug Control Policy, the Attorney General of the United States and the Chairperson of the Commission on National and Community Service.

(c) Duties.—The council shall—

(1) review and approve applications submitted under section 11105;

(2) direct the appropriate Federal agency head to provide assistance under the selected programs under approved applications using amounts available pursuant to this subtitle; and

(3) carry out any other responsibilities of the council as provided under this subtitle.

SEC. 11107. DEFINITIONS.

For purposes of this subtitle:

(1) The term "appropriate Federal agency head" means, with respect to each program referred to in section 11104, the head of the Federal agency or other Federal official responsible for administering such program.

(2) The term "approved application" means an application under section 11105 for assistance provided under this subtitle that is approved by the interagency council and which meets the public comment requirements under section 11105(f).

(3) The term "eligible entity" means, with respect to a selected program under an application under section 11105, an entity in the tax enterprise zone that is eligible to receive and administer amounts under the program and is designated under the application to receive and administer amounts provided for the program pursuant to this subtitle.

(4) The terms "interagency council" and "council" mean the interagency council established under section 11106.

(5) The term "selected program" means, with respect to a tax enterprise zone, any of the programs identified in an application under section

11105 for which funding under this subtitle is requested.

(6) The term "tax enterprise zone" means an urban tax enterprise zone, a rural development investment zone designated under section 1391 of the Internal Revenue Code of 1986.

SEC. 11108. STUDY AND REPORT.

(a) GENERAL STUDY.—The council shall conduct a study to identify—

(1) any alternative methods or systems for allocation of amounts made available pursuant to this subtitle among tax enterprise zones; and

(2) any problems experienced in the implementation and administration of the provisions of this subtitle, including identification of any provisions of law or regulations relating to the programs referred to in section 11104 for which a waiver would facilitate carrying out the purposes of this subtitle.

(b) REPORT.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the council shall submit to the Congress a report regarding the study conducted under subsection (a), which shall include any recommendations for improving the program for assistance under this subtitle.

SEC. 11109. REGULATIONS.

The council shall issue any regulations necessary to carry out this subtitle not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

Subtitle C—Other Programs

CHAPTER 1—COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SEC. 11201. WAIVER OF PUBLIC SERVICES CAP UNDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) by inserting "(A)" before "unless such unit"; and

(2) by inserting before the semicolon at the end the following: ", or (B) unless unit of general local government is located within or contains a tax enterprise zone (as designated under section 1391 of the Internal Revenue Code of 1986), in which case such unit of general local government may use, in addition to such 15 percent of the amount of any assistance provided to the unit (or in the case of nonentitled communities, 15 percent statewide) under this title, including program income, an additional 15 percent of such amount of assistance for activities under this paragraph within such enterprise zone".

SEC. 11202. EMERGENCY COMMUNITY DEVELOPMENT LOAN GUARANTEE AUTHORITY.

Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(q) In addition to amounts provided under subsection (a), the Secretary may enter into commitments during each of the fiscal years 1993 through 1997 to guarantee notes and obligations with an aggregate principal amount in each fiscal year of $2,000,000,000. The guarantee authority under this subsection shall be effective only to the extent approved or provided for in appropriations Acts, subject only to the absence of qualified applicants or proposed activities and the provisions of this Act, except that the provisions of subsection (k) shall not apply with respect to any guarantees and commitments to guarantee pursuant to authority provided under this subsection.".

CHAPTER 2—YOUNG ADULT EMPLOYMENT DEMONSTRATION PROGRAM

SEC. 11211. ESTABLISHMENT OF YOUNG ADULT EMPLOYMENT DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Title IV of the Job Training Partnership Act (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new part:

"PART K—YOUNG ADULT EMPLOYMENT DEMONSTRATION PROGRAM

"SEC. 499I. STATEMENT OF PURPOSE.

"It is the purpose of the Young Adult Employment Demonstration program under this part to—

"(1) ensure access to education and job training assistance for youth and young adults residing in tax enterprise zones;

"(2) make provisions for a comprehensive range of education, training, and employment services to disadvantaged youth and young adults in tax enterprise zones who are not currently served or are underserved by Federal education and job training programs;

"(3) enable communities located in or containing tax enterprise zones to establish and meet goals for improving the opportunities available to youth and young adults within the tax enterprise zone; and

"(4) facilitate the coordination of comprehensive services to serve such youth and young adults.

"SEC. 499J. PROGRAM AUTHORIZED.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to establish a program of Young Adult Employment Demonstration grants to provide comprehensive services to youth and young adults living in tax enterprise zones.

"(b) ELIGIBILITY FOR GRANTS.—

"(1) RECIPIENTS.—The Secretary may only award grants under this part to—

"(A) the participating community for a target area that is located with in a service delivery area; or

"(B) grantees designated under sections 401 and 402, or a consortium of such grantees and the State, when the target area is located in an Indian reservation, Alaskan Native village, or migrant or seasonal farmworker community.

"(2) NUMBER OF GRANTS.—The Secretary may award not more than 25 grants during the first fiscal year the program is authorized.

"(c) RENEWABILITY OF GRANTS.—Grants awarded under this part shall be for a 1-year period and shall be renewable for each of the 2 succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(d) FACTORS FOR AWARDS.—In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, the extent of community support and other Federal and non-Federal funds available for similar purposes, and the new State, local, or private resources.

"(e) SELECTION REQUIREMENTS.—In awarding grants under subsection (b), the Secretary shall not approve an application unless the application contains assurances that the applicant will use funds from a grant to provide job training, education, services, stipends (only to individuals age 17 to 30), and needs-related payments in accordance with sections 499K and 499L.

"SEC. 499K. APPLICATION.

"(a) ELIGIBILITY TO APPLY.—Participating communities shall be eligible to apply for a Young Adult Employment Demonstration grant under this part.

"(b) CONTENTS OF APPLICATION.—Each participating community desiring a grant under this part shall, through the individuals described in subsection (c), submit an application to the Secretary at such time in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) include a comprehensive plan for the Young Adult Employment Demonstration initiative designed to achieve identifiable goals for youth and young adults in the target area;

"(2) set forth measurable program goals and outcomes, which may include increasing the proportion of—

"(A) youth completing high school or its equivalent,

"(B) youth and young adults entering into postsecondary institutions, apprenticeships, or other advanced training programs;

"(C) youth and young adults placed in jobs; or

"(D) eligible youth and young adults participating in education, training, and employment services;

"(3) include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests;

"(4) provide assurances that the conditions set forth in section 499L will be met;

"(5) demonstrate how the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(6) attempt to ensure that all youth and young adults in the target areas have access to a coordinated and comprehensive range of education and training opportunities which serve the broadest range of interests and needs of youth and young adults and simultaneously mobilize the diverse range of education and training providers in the participating community;

"(7) include support services necessary for successful participation by eligible youth and young adults, including child care, transportation, and assistance in resolving personal or family crises such as those related to substance abuse, homelessness, migration, and family violence;

"(8) include a system of common intake, individualized assessment, and case management;

"(9) include an estimate of the expected number of youth and young adults in the target area to be served;

"(10) include a description of the resources available in the participating community from private, local government, State and Federal sources which will be used to achieve the goals of the program;

"(11) provide evidence of support for accomplishing the stated goals of the participating community from—

"(A) local elected officials,

"(B) the local school system,

"(C) postsecondary education and training institutions,

"(D) the applicable private industry council,

"(E) local community leaders,

"(F) business,

"(G) labor organizations, and

"(H) other appropriate organizations; and

"(12) provide assurances that the target area includes, to the maximum extent possible, the poorest neighborhoods in the community, such as those with substantial numbers of public housing facilities.

"(c) SUBMISSION OF APPLICATION.—The application for funds for a participating community may only be submitted to the Secretary by—

"(1) the mayor of a city or the chief elected official in a metropolitan statistical area, after the Governor of the State has had an opportunity to comment on the application;

"(2) the chief elected official of a nonmetropolitan county or the designated chief elected official of contiguous nonmetropolitan counties, after the Governor of the State has had an opportunity to comment on the application; or

"(3) the grantee designated under sections 401 or 402, or jointly by the grantee and the Governor or the State in which such grantee is located, in applications for Native American or migrant or seasonal worker communities.

"SEC. 499L. GRANT AGREEMENT.

"Each grant recipient under this part shall enter into an agreement with the Secretary. Each such agreement shall describe how—

"(1) the recipient will designate a target area that will be the focus of the demonstration project and which shall have a population of not more than 25,000 (or upon approval of the Secretary, a population of not more than 75,000), except that in the event that the population of an area from which a high school draws a substantial portion of its enrollment exceeds this limit, the target area may encompass such boundary;

"(2) funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined summer remediation, work experience and work readiness training, and school-to-work/apprenticeship/post-secondary education program;

"(D) teen parent programs;

"(E) special programs administered by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increased rural student enrollment in post-secondary institutions;

"(H) public-private collaborations to ensure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities;

"(3) funds received under this section will be used for services to youth and young adults age 14 to 30 at the time of enrollment;

"(4) the local educational agency and any other educational agency which operates secondary schools in the target area provide activities and resources to promote the educational goals specified in the application;

"(5) the participating community will provide activities and local resources to promote the goals specified in the application;

"(6) the participating community shall undertake outreach and recruitment efforts in the target area to encourage, to the maximum extent possible, participation by those disadvantaged youth and young adults who are currently unserved or underserved by education and training programs, including targeted measures specifically designed to enlist the participation of minority youth and young adults, particularly those under the jurisdiction of the child welfare, juvenile justice, and criminal justice systems;

"(7) the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(8) funds provided under this part shall be used to pay stipends for participant support in paid work experience and classroom training programs when such programs are combined with other education and training activities.

"SEC. 499M. JOB GUARANTEES.

"(a) PROGRAM AUTHORITY.—The Secretary shall permit a number of the grant recipients under this part to enter into an agreement to provide, in accordance with this section, a job guarantee program to youth meeting prior school attendance and performance standards.

"(b) GUARANTEE AGREEMENTS.—A grant recipient providing a job guarantee program shall enter into an agreement with the Secretary. Such agreement shall—

"(1) provide that the program be available to youth aged 16 to 19 who undertake a commitment to continue and complete their high school education;

"(2) require the grant recipient to guarantee employment to each youth undertaking that commitment if such youth meets school attendance and performance standards for the previous school semester, as established by the Secretary in consultation with the Secretary of Education;

"(3) provide that the grant recipient will make additional services available to support the undertaking of any such youth, which shall include counseling, job development and placement, and support services (including child care and transportation);

"(4) specify the conditions under which funds provided under this part may be used to provide wage subsidies of up to 50 percent through employers, which shall—

"(A) encourage subsidies to employers who provide advanced or specialized training, or who provide a structured and integrated learning experience involving the school and employer; and

"(B) limit the duration of such subsidies to not more than 1 year;

"(5) require that the employment provided to any such youth shall not exceed 15 hours per week during the school year;

"(6) permit employment to continue through the summer following high school graduation, or until the youth reaches age 19, whichever is later; and

"(7) contain such other terms and conditions as the Secretary requires by regulation.

"(c) SELECTION OF GRANT RECIPIENTS.—In determining which grant recipients to permit to enter into an agreement under this section, the Secretary shall seek to target funds to high poverty areas.

"(d) YOUTH ELIGIBILITY.—All youth age 16 to 19, regardless of income, residing in the eligible high poverty area shall be eligible to participate in the job guarantee.

"(e) PRIVATE FUNDS.—Nothing in this section shall be construed to prohibit the grant recipient from raising funds to augment such grant if such funds are utilized under the conditions of this grant, except that such funds shall not be used for administration purposes.

"SEC. 499N. PAYMENTS AND MATCHING REQUIREMENT.

"(a) PAYMENTS.—In any fiscal year, the grant awarded under this part to a grant recipient shall be determined according to the amount to be provided for the program pursuant to designation of the program as a selected program under an application made on behalf of a tax enterprise zone under section 105 of the Revenue Act of 1992, and shall be of sufficient size and scope to carry out an effective program.

"(b) MATCHING REQUIREMENT.—A grant recipient shall provide non-Federal funds in an amount equal to 10 percent of the funds from such grant, an in-kind contribution equivalent to such percent (as determined by the Secretary), or a combination thereof.

"SEC. 499O. REPORTING.

"The Secretary is authorized to establish such reporting procedures as necessary to carry out the purposes of this part.

"SEC. 499P. FEDERAL RESPONSIBILITIES.

"(a) ASSISTANCE IN IMPLEMENTATION.—The Secretary shall provide technical assistance in the implementation of this project in participating communities.

"(b) INDEPENDENT EVALUATION.—The Secretary shall provide for a thorough, independent evaluation of the activities assisted under this part. Such evaluation shall include an assessment of—

"(1) the impact on youth and young adults residing in target areas, including their rates of school completion, enrollment in advanced education or training, and employment;

"(2) the extent to which participating communities fulfilled the goal of guaranteeing access to appropriate education, training, and supportive services to all eligible youth and young adults residing in target areas who seek to participate;

"(3) the effectiveness of guaranteed access to comprehensive services combined with outreach and recruitment efforts in enlisting the participation of previously unserved or underserved youth and young adults residing in target areas; and

"(4) the effectiveness of efforts to integrate service delivery in target areas, including systems of common intake, assessment, and case management.

"(c) REPORT.—The Secretary shall prepare a report describing the results of the independent evaluation conducted pursuant to subsection (b).

"(d) RESERVATION OF FUNDS.—The Secretary may reserve not more than 5 percent of the amounts to be used for assistance under this part in each fiscal year to carry out the provisions of this section.

"SEC. 499Q. DEFINITIONS.

"For the purposes of this part—

"(1) The term 'participating community' means—

"(A) a city, when referring to an urban area that is located within or contains a tax enterprise zone;

"(B) a nonmetropolitan county or contiguous nonmetropolitan counties, that is located within or contains a tax enterprise zone; and

"(C) a section 401 or 402 grantee, or consortia of the State and section 401 or 402 grantee, when referring to Indian reservation, Alaska Native village, and migrant or seasonal farmworker community, that are located within or contain a tax enterprise zone.

"(2) The term 'high poverty area' means (A) an urban census tract, a nonmetropolitan county, an Indian reservation, or an Alaskan Native village, with a poverty rate of 30 percent or more as determined by the Secretary based on the latest Bureau of the Census estimates, or (B) a migrant or seasonal farmworker community.

"(3) The term 'target area' means a high poverty area (or portion thereof) or set of contiguous high poverty areas, that is located within a tax enterprise zone and will be the focus of the program under this part in a participating community.

"(4) The term 'tax enterprise zone' has the meaning given the term in section 107 of the Revenue Act of 1992.".

(b) TECHNICAL AMENDMENTS.—The Job Training Reform Amendments of 1992 (Public Law 102–367) is amended—

(1) in section 406, by striking "adding at the end" and inserting "inserting after part G";

(2) in section 407, by striking "adding at the end" and inserting "inserting after part H"; and

(3) in section 408, by striking "adding at the end" and inserting "inserting after part I".

CHAPTER 3—NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

SEC. 11221. SHORT TITLE; FINDINGS AND PURPOSE.

(a) SHORT TITLE.—This chapter may be cited as the "National Community Economic Partnership Act of 1992".

(b) FINDINGS.—Congress finds that

(1) the cities, towns, small communities and rural areas throughout the United States face critical social and economic problems arising in part from a lack of economic growth in community based economies;

(2) the crisis facing local economies has resulted in—

(A) a growing percentage of the workforce earning poverty level wages, even though they work full time and year round;

(B) the percentage of the labor force living below the poverty line increasing from 25.7 percent in 1979 to 31.5 percent in 1987;

(C) population losses, rising unemployment and a decline of the farm sector and of many other rural industries (such as timber, oil, gas, and mining) contribute to the decline of rural economies;

(D) with respect to rural areas, 31.9 percent of the workforce falling below the poverty line in 1979, with that percentage rising to 42.1 percent in 1987;

(E) with respect to urban areas, 23.4 percent of the workforce falling below the poverty line in 1979, with that percentage rising to 28.9 percent in 1987; and

(F) the average wage and salary income of the 90 percent of the population with the lowest incomes, between 1977 and 1988, falling 3.5 percent in contrast to the richest 1 percent of the population whose incomes more than doubled in that time period.

(3) the future well being of the United States and the well-being of its citizens depends on the establishment and maintenance of viable community development enterprises;

(4) meeting the goal of establishing and maintaining viable community development enterprises requires—

(A) increased public and private investment in business development activities, especially in the small business sector which generates the majority of new jobs as evidenced by the fact that between 1980 and 1986, enterprises with less than 100 employees accounted for more than 50 percent of the jobs created in the U.S.;

(B) increased investment and technical assistance to existing community based enterprises as evidenced by the fact that during the first half of the 1980's, more than 75 percent of the total net new jobs in the United States came from the expansion of existing businesses;

(C) a substantial expansion and greater continuity in the scope of Federal programs that support community based economic development strategies;

(D) the continuing efforts at Federal, State and local levels to coordinate the planning, implementation and evaluation of community economic development efforts; and

(E) the formation of a national commission, as an independent agency, to administer the various community development programs and serve as a focal point for Federal efforts to promote community based economic development; and

(5) community development corporations, due to their proven capacity and achievements in both the field of community based housing and economic development, are appropriate vehicles through which to advance a national community economic development program because—

(A) there are currently over 2000 community development corporations throughout the United States, operating projects that promote community based housing and economic development;

(B) community development corporations operate in every State and in virtually every major city in the United States, and account for many of the existing efforts undertaken to meet the needs of low income persons in both urban and rural communities;

(C) community development corporations have developed some 225,000 units of housing, with over 90 percent of these units for use by low income occupants;

(D) community development corporations have developed over 17,400,000 square feet of retail space, offices, industrial parks and other industrial developments in economically distressed communities;

(E) community development corporations have made loans to over 3000 enterprises, equity investments in 242 ventures and own and operate 427 businesses; and

(F) community development corporations commercial, industrial and business enterprise development activities have accounted for the creation and retention of nearly 90,000 jobs in the last five years.

(c) PURPOSE.—It is the purpose of this chapter to stimulate enterprise development in economically distressed urban and rural areas through public and private partnerships facilitated by community development corporations.

PART I—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

SEC. 11225. PURPOSE.

It is the purpose of this part to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

SEC. 11226. PROVISION OF ASSISTANCE.

(a) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this chapter as the "Secretary") is authorized, in accordance with this part, to provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

(b) REVOLVING LOAN FUNDS.—

(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this part an applicant shall—

(A) be a community development corporation;

(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 11230.

SEC. 11227. APPROVAL OF APPLICATIONS.

(a) IN GENERAL.—In evaluating applications submitted under section 11226(b)(2)(B), the Secretary shall ensure that—

(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

(B) local and regional job training programs;

(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this part so that 75 percent of the jobs retained or created under such investments are provided to—

(A) individuals with—

(i) incomes that do not exceed the Federal poverty line; or

(ii) incomes that do not exceed 80 percent of the median income of the area;

(B) individuals who are unemployed or underemployed;

(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100–485);

(D) individuals whose jobs may be retained as a result of the provision of financing available under this part; or

(E) individuals who have historically been underrepresented in the local economy; and

(5) a representative cross section of applicants are approved including, large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

(b) PRIORITY.—In determining which application to approve under this part the Secretary shall give priority to those applicants proposing to serve a target area—

(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

SEC. 11228. AVAILABILITY OF LINES OF CREDIT AND USE.

(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section 11227 with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this part to a single applicant.

(2) PERIOD OF AVAILABILITY.—A line of credit provided under this part shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this part has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section 11226(b)(2), the amount of such line of credit may be increased by not more that $1,500,000.

(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this part shall be used solely for the purposes described in section 11225 and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit

provided under this part may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 11227(a)(4).

SEC. 11229. LIMITATIONS ON USE OF FUNDS.

(a) Matching Requirement.—Not to exceed 50 percent of the total amount to be invested by an entity under this part may be derived from funds made available from a line of credit under this part.

(b) Technical Assistance and Administration.—Not to exceed 10 percent of the amounts available from a line of credit under this part shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

(c) Local and Private Sector Contributions.—To receive funds available under a line of credit provided under this part, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with section 11226(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

(d) Use of Proceeds From Investments.—Proceeds derived from investments made using funds made available under this part may be used only for the purposes described in section 11225 and shall be reinvested in the community in which they were generated.

SEC. 11230. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

(a) In General.—The Secretary shall give priority in providing lines of credit under this part to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, refugees or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

(b) Reservation of Funds.—Not less than 5 percent of the amounts made available under section 11247(a)(2)(A) may be reserved to carry out the activities described in subsection (a).

PART II—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 11235. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

(a) Purpose.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

(b) Skill Enhancement Grants.—

(1) In general.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

(2) Use of funds.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

(B) to acquire such assistance from other highly successful community development corporations.

(c) Operating Grants.—

(1) In general.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

(2) Use of funds.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under part I;

(B) to develop a business plan related to such a potential project; or

(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

(d) Applications.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) Amount Available for a Community Development Corporation.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

SEC. 11236. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

(a) Authority.—The Secretary is authorized to award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

(b) Eligibility.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a community development corporation;

(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

(c) Use of the Revolving Loan Fund.—

(1) In general.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

(2) Technical assistance.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

(3) Limitation.—Not to exceed 10 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

(d) Use of Proceeds From Investments.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subchapter and shall be reinvested in the community in which they were generated.

(e) Amounts Available.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

PART III—RESEARCH AND DEMONSTRATION

SEC. 11241. RESEARCH AND DEMONSTRATION.

(a) Grants.—The Secretary shall award grants to organizations to enable such organizations to undertake programs involving research, testing, studies or demonstrations related to community economic development.

(b) Eligible Organizations.—To be eligible to receive a grant under this section, an entity shall—

(1) be a community development current corporation, university, fiscal intermediary or a nonprofit organization involved in community-based economic development activities; and

(2) prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary determines appropriate.

(c) Use of Funds.—Amounts received under a grant awarded under this section shall be made available for studies, reports, tests or demonstration projects that—

(1) identify current problems facing both urban and rural low-income communities or specific population groups within low-income communities and population-losing communities;

(2) identify solutions to the problems facing both urban and rural low-income communities or specific population groups within low-income communities;

(3) examine or critique current strategies being implemented to address economic issues facing low-income communities; and

(4) relate to any other matters determined appropriate by the Secretary.

(d) Maximum Amount of Grant.—A grant awarded under this section shall not exceed $50,000.

PART IV—MISCELLANEOUS PROVISIONS

SEC. 11245. JOINT PROGRAMS.

The Secretary shall develop and promulgate, in consultation with the heads of other Federal agencies, regulations designed to permit, where appropriate, the operation of joint programs under which activities supported with assistance provided under this chapter are coordi-

nated with community development activities supported with assistance provided under other programs administered by the Secretary and those administered by the heads of such agencies.

SEC. 11246. REPORTS.

(a) COMMUNITY DEVELOPMENT CORPORATIONS.—Not later than 2 years after the date on which assistance is provided to a community development corporation under part I or II, every 2 years thereafter, the community development corporation shall prepare and submit to the Secretary a report under this section. Such report shall include—

(1) the amount of funds received by the community development corporation;

(2) a summary of the uses of such funds;

(3) the number of jobs created or retained by the corporation;

(4) the number and type of new businesses started, including micro-businesses;

(5) the number of jobs created or retained for individuals identified in section 11227(a)(4);

(6) in the case of funds made available under part I, the source and amount of matching funds;

(7) in the case of revolving loan funds made available under part II, the amount of funds leveraged; and

(8) related human services and facilities provided as result of assistance provided under this chapter.

(b) SECRETARY.—Not later than 3 years after the date on which assistance is first provided under part I or II, and annually thereafter, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report containing a summary of the reports received by the Secretary under subsection (a) for the period in which the report of the Secretary is submitted.

SEC. 11247. DEFINITIONS.

As used in this chapter:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term "local and private sector contribution" means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this chapter.

(3) POPULATION-LOSING COMMUNITY.—The term "population-losing community" means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

(4) PRIVATE BUSINESS ENTERPRISE.—The term "private business enterprise" means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this chapter to certain individuals.

(5) TARGET AREA.—The term "target area" means any area defined in an application for assistance under this chapter that has a population whose income does not exceed the median for the area within which the target area is located.

(6) VERY LOW-INCOME COMMUNITY.—The term "very low-income community" means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

SEC. 11248. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS AND EMERGING COMMUNITY DEVELOPMENT CORPORATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out parts I and II, $40,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, and $125,000,000 for fiscal year 1995.

(2) EARMARKS.—Of the aggregate amount appropriated under paragraph (1) for each fiscal year—

(A) 60 percent shall be available to carry out part I; and

(B) 40 percent shall be available to carry out part II.

(3) AMOUNTS.—Amounts appropriated under paragraph (1) shall remain available for expenditure without fiscal year limitation.

(b) RESEARCH AND DEMONSTRATION.—There are authorized to be appropriated to carry out part III such sums as may be necessary for each of the fiscal years 1993 through 1995.

SEC. 11249. PROHIBITION.

None of the funds authorized under this chapter shall be used to finance the construction of housing.

SEC. 11250. EFFECTIVE DATE.

This chapter shall take effect as if included in the Omnibus Budget Reconciliation Act of 1990.

CHAPTER 4—MISCELLANEOUS PROGRAMS

SEC. 11261. ESTABLISHMENT OF ENTERPRISE CAPITAL ACCESS FUND.

(a) SHORT TITLE.—This section may be cited as the "Enterprise Capital Access Fund Demonstration Program".

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Nation's urban and rural communities face critical social and economic problems stemming from lack of economic opportunity among low-income persons and persons living in poverty;

(B) the numbers of low-income persons and persons living in poverty has grown significantly over the last decade;

(C) lack of access to credit and other forms of capital is a significant factor in the disinvestment and decline of low-income and minority neighborhoods;

(D) changes in the banking system and financial markets have made access to credit in low-income and distressed communities increasingly more difficult to obtain as decisionmaking on credit has been removed from local communities;

(E) the restoration and maintenance of viable local economies will require improved access to credit, as well as public and private investment in economic and community development activities, business development, and low-income housing;

(F) indigenous community-based financial institutions can play a significant role in identifying and responding to community needs;

(G) the Federal Government needs to develop new models and institutions for facilitating local revitalization efforts and improving access to credit; and

(H) nonprofit financial intermediaries have proven effective in meeting the credit and other capital needs in low-income and distressed communities.

(2) PURPOSE.—The purpose of this section is to establish a demonstration program to promote reinvestment in low-income and chronically distressed neighborhoods through community-based nonprofit financial institutions that work cooperatively with residents and State and local government.

(c) DEFINITIONS.—For the purpose of this section, the following definitions shall apply:

(1) ELIGIBLE INTERMEDIARY.—The term "eligible intermediary" means a nonprofit organization that—

(A) is organized under Federal, State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or other person;

(C) complies with standards of financial accountability acceptable to the Secretary;

(D) controls, operates or is affiliated with an entity that provides credit or investment capital in a targeted geographic area;

(E) has as its primary mission the revitalization of low-income and chronically distressed neighborhoods or communities; and

(F) maintains, through significant representation on its governing board and otherwise, accountability to community residents.

(2) LOW-INCOME PERSONS.—The term "low-income persons" means persons whose incomes do not exceed 80 percent of the median for the area.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) TARGETED GEOGRAPHIC AREA.—The term "targeted geographic area" means a geographically contiguous area of chronic economic distress as measured by unemployment, growth lag, the extent of poverty, per capita income, extent of blight and disinvestment, fiscal distress, or other indicators deemed appropriate by the Secretary, that has been identified by an eligible intermediary as an area to be served by it.

(d) AUTHORITY.—The Secretary shall carry out, in accordance with this section, a demonstration program to provide assistance in the form of capital and technical assistance grants to nonprofit financial intermediaries for the establishment, maintenance, and expansion of such institutions, to be utilized to finance business and employment opportunities, housing opportunities affordable to low-income persons, and neighborhood revitalization projects.

(e) APPLICATIONS.—The Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible intermediaries.

(f) SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Secretary shall select eligible intermediaries to participate in the demonstration program, based on—

(A) the capacity of the eligible intermediary to carry out the purposes of this title;

(B) the financial capacity of the eligible intermediary based on evaluations provided by a certified public accountant and criteria to be determined by the Secretary;

(C) the extent of need in the targeted geographic area identified by the eligible intermediary as the area it serves;

(D) the extent to which the lending services of the eligible intermediary are coordinated with other revitalization activities in the targeted geographic area;

(E) the previous experience and achievements of the eligible intermediary in the financing or development of low-income housing, in development of businesses and other employment opportunities, or in neighborhood revitalization activities;

(F) the extent to which the eligible intermediary has firm commitments from local sources to provide matching funds in an amount that is at least equal to the amount requested in the application;

(G) an appropriate geographic distribution of intermediaries among regions in the United States;

(H) the extent to which the eligible intermediary demonstrates a commitment to serve minority individuals and communities; and

(K) other criteria deemed appropriate by the Secretary.

(g) Capital Grants.—

(1) In general.—The Secretary shall make capital grants to eligible intermediaries.

(2) Use of grants.—Capital grants may be used by eligible intermediaries to increase the capital available for loans, loan guarantees, interest rate reduction activities, and other activities deemed appropriate by the Secretary that promote housing affordable to low-income persons and economic and community development activities that benefit low-income persons.

(3) Amount.—The maximum amount of Federal assistance an eligible intermediary can receive per fiscal year under this section is $1,000,000.

(h) Technical Assistance.—The Secretary is authorized to make grants to eligible intermediaries to provide technical assistance to borrowers.

(i) Training Program.—The Secretary shall establish, or contract to establish, an ongoing training program to assist eligible intermediaries and their staffs in developing the capacity to carry out the purposes of this title.

(j) Report.—The Secretary shall annually prepare and submit to Congress a report containing a summary of the activities carried out under this section and the findings and conclusions drawn from such activities.

(k) Duties of Eligible Intermediaries.—An eligible intermediary receiving assistance pursuant to this section shall—

(1) match any assistance awarded by the Secretary dollar-for-dollar with non-Federal sources of funds;

(2) ensure that not less than 70 percent of loans to individual borrowers are to persons whose incomes are at or below 80 percent of the area median income and are residents of the targeted geographic area served; and

(3) ensure that all loans made to nonprofit or for-profit organizations provide a direct benefit to persons who are residents of the targeted geographic area served.

(l) Office of Community Banking.—There is established within the Department of Housing and Urban Development an Office of Community Banking which is responsible for the implementation of this section.

(m) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 1993 and $200,000,000 for fiscal year 1994. Any amounts appropriated pursuant to this paragraph shall remain available until expended.

SEC. 11262. HOPE FOR YOUTH: YOUTHBUILD.

(a) In General.—Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa note et seq.) is amended by adding at the end the following new subtitle:

"Subtitle D—Establishment of Youthbuild

"SEC. 451. STATEMENT OF PURPOSE.

"It is the purpose of this subtitle—

"(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by harnessing the energies and talents of economically disadvantaged young adults;

"(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

"(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

"(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

"SEC. 452. PROGRAM AUTHORITY.

"(a) In General.—The Secretary is authorized to make—

"(1) planning grants to enable applicants to develop Youthbuild programs; and

"(2) implementation grants to enable applicants to carry out Youthbuild programs.

"(b) Authorization of Appropriations.—There are authorized to be appropriated for grants under this subtitle, $40,000,000 for fiscal year 1993 and $80,000,000 for fiscal year 1994. Any amount appropriated pursuant to this subsection shall remain available until expended.

"SEC. 453. PLANNING GRANTS.

"(a) Grants.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild programs under this subtitle. The amount of a planning grant under this section may not exceed $150,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) Eligible Activities.—Planning grants may be used for activities to develop Youthbuild programs including—

"(1) studies of the feasibility of a Youthbuild program;

"(2) establishment of consortia between youth training and education programs and housing owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;

"(3) identification and selection of a site for the Youthbuild program;

"(4) preliminary architectural and engineering work for the Youthbuild program;

"(5) identification and training of staff for the Youthbuild program;

"(6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;

"(7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and

"(8) preparation of an application for an implementation grant under this subtitle.

"(c) Application.—

"(1) Form and procedures.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) Minimum requirements.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities including activities conducted by Indian tribes;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) Selection Criteria.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the potential of the applicant for developing a successful Youthbuild program;

"(3) the need for the prospective program, as determined by the degree of economic distress—

"(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

"(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

"(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"SEC. 454. IMPLEMENTATION GRANTS.

"(a) Grants.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

"(b) Eligible Activities.—Implementation grants may be used to carry out Youthbuild programs, including—

"(1) architectural and engineering work;

"(2) acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title; residential housing for homeless individuals, and low- and very low-income families; or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs;

"(3) administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary determines is necessary to support capacity development by a private nonprofit organization;

"(4) education and job training services and activities including—

"(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

"(B) services and activities designed to meet the educational needs of participants, including—

"(i) basic skills instruction and remedial education;

"(ii) bilingual education for individuals with limited-English proficiency;

"(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

"(iv) counseling and assistance in attaining post-secondary education and required financial aid;

"(C) counseling services and related activities;

"(D) activities designed to develop employment and leadership skills, including support for youth councils; and

"(E) support services and need-based stipends necessary to enable individuals to participate in

the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment;

"(5) wage stipends and benefits provided to participants;

"(6) funding of operating expenses and replacement reserves of the property covered by the Youthbuild program;

"(7) legal fees; and

"(8) defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) a description of the proposed site for the program;

"(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

"(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, including agencies of Indian tribes, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(H) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, including vocational, adult and bilingual education programs, job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988, and housing and community development programs, including programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

"(I) assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or its equivalent;

"(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

"(K) a description of activities that will be undertaken to develop the leadership skills of participants;

"(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

"(M) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988;

"(N) identification and description of the financing proposed for any—

"(i) rehabilitation;

"(ii) acquisition of the property; or

"(iii) construction;

"(O) identification and description of the entity that will operate and manage the property;

"(P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the feasibility of the Youthbuild program;

"(3) the potential for developing a successful Youthbuild program;

"(4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, poverty);

"(5) the apparent commitment of the applicant to leadership development, education, and training of participants;

"(6) the inclusion of previously homeless tenants in the housing provided;

"(7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988; and

"(8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(e) PRIORITY FOR APPLICANTS WHO OBTAIN HOUSING MONEY FROM OTHER SOURCES.—The Secretary shall give priority in the award of grants under this section to applicants to the extent that they propose to finance activities described in paragraphs (1), (2), and (6) of subsection (b) from funds provided from Federal, State, local, or private sources other than assistance under this subtitle.

"(f) APPROVAL.—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

"(g) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION PROCEDURE.—The Secretary shall develop a procedure whereby an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

"SEC. 455. YOUTHBUILD PROGRAM REQUIREMENTS.

"(a) RESIDENTIAL RENTAL HOUSING.—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

"(1) OCCUPANCY BY LOW- AND VERY LOW-INCOME FAMILIES.—In the project—

"(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and

"(B) the remaining units shall be occupied, or available for occupancy, by low-income families;

"(2) TENANT PROTECTIONS.—

"(A) LEASE.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(B) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

"(C) MAINTENANCE AND REPLACEMENT.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

"(D) TENANT SELECTION.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

"(i) are consistent with the purpose of providing housing for very low-income and low-income families and individuals;

"(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

"(iii) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)); and

"(iv) provide for—

"(I) the selection of tenants from a waiting list in the chronological order of their application, to the extent practicable; and

"(II) the prompt notification in writing of any rejected applicant of the grounds for any rejection.

"(3) LIMITATION ON RENTAL PAYMENTS.—Tenants in each project shall not be required to pay rent in excess of that in accordance with section 3(a) of the Housing Act of 1937.

"(4) TENANT PARTICIPATION PLAN.—For each project owned by a nonprofit organization, the

organization shall provide a plan for and follow a program of tenant participation in management decisions.

"(5) PROHIBITION AGAINST DISCRIMINATION.—A unit in a project assisted under this subtitle may not be refused for leasing to a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such assistance.

"(b) TRANSITIONAL HOUSING.—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent limitations imposed on comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

"(c) LIMITATIONS ON PROFITS FOR RENTAL AND TRANSITIONAL HOUSING.—

"(1) MONTHLY RENTAL LIMITATION.—Aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on the equity investment, if any, of the project owner.

"(2) PROFIT LIMITATIONS ON PARTNERS.—A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

"(A) not more than a 6 percent return on their equity investment from project operations; and

"(B) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

"(d) HOMEOWNERSHIP.—Each homeownership project that receives assistance under this subtitle shall comply with the requirements of either subtitle B or subtitle C of this title.

"(e) RESTRICTIONS ON CONVEYANCE.—The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

"(f) CONVERSION OF TRANSITIONAL HOUSING.—The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

"(g) PERIOD OF RESTRICTIONS.—A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

"SEC. 456. ADDITIONAL PROGRAM REQUIREMENTS.

"(a) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual shall be eligible to participate in a Youthbuild program receiving assistance under this subtitle if such individual is—

"(A) 16 to 24 years of age, inclusive;

"(B) a very low-income individual or a member of a very low-income family; and

"(C) an individual who has dropped out of high school.

"(2) EXCEPTIONS.—Not more than 25 percent of the participants in a Youthbuild program receiving assistance under this subtitle may be individuals who do not meet the requirement of paragraph (1)(B) or (1)(C), but have educational needs despite the attainment of a high school diploma or its equivalent.

"(3) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

"(b) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.—A Youthbuild program receiving assistance under this subtitle must be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in section 454(b)(4)(B) through (F) of this subtitle.

"(c) AUTHORITY RESTRICTION.—No provision of this subtitle may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

"(d) STATE AND LOCAL STANDARDS.—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

"(e) WAGES, LABOR STANDARDS, AND NONDISCRIMINATION.—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act, relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act. Nothing in this section shall be construed to prevent recipients from using funds from other sources to pay reasonable wages and benefits at a higher level if appropriate.

"SEC. 457. DEFINITIONS.

"As used in this subtitle:

"(1) ADJUSTED INCOME.—The term 'adjusted income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(2) APPLICANT.—The term 'applicant' means a public or private nonprofit agency, including—

"(A) a community-based organization;

"(B) an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

"(C) a community action agency;

"(D) a State and local housing development agency;

"(E) a community development corporation;

"(F) a State and local youth service and conservation corps; and

"(G) any other entity eligible to provide education and employment training under other Federal employment training programs.

"(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization that—

"(A) maintains, through significant representation on the organization's governing board or otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

"(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

"(4) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the same meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(5) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

"(6) INCOME.—The term 'income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).

"(8) INDIVIDUAL WHO HAS DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965.

"(10) LIMITED-ENGLISH PROFICIENCY.—The term 'limited-English proficiency' has the meaning given the term in section 7003 of the Bilingual Education Act.

"(11) LOW-INCOME FAMILY.—The term 'low-income family' has the meaning given the term 'lower income families' in section 3(b) of the United States Housing Act of 1937.

"(12) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(13) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

"(14) RELATED FACILITIES.—The term 'related facilities' includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities;

"(15) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(16) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

"(17) TRANSITIONAL HOUSING.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

"(18) VERY LOW-INCOME FAMILY.—The term 'very low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(19) YOUTHBUILD PROGRAM.—The term 'Youthbuild program' means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

"SEC. 458. MANAGEMENT AND TECHNICAL ASSISTANCE.

"(a) SECRETARY ASSISTANCE.—The Secretary may enter into contracts with a qualified public

or private nonprofit agency to provide assistance to the Secretary in the management, supervision, and coordination of Youthbuild programs receiving assistance under this subtitle.

"(b) Sponsor Assistance.—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle.

"(c) Application Preparation.—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

"(d) Reservation of Funds.—The Secretary shall reserve 5 percent of the amounts available for this subtitle in each fiscal year to carry out subsections (b) and (c) of this section.

"SEC. 459. CONTRACTS.

"Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies, including agencies of Indian tribes, and private organizations.

"SEC. 460. REGULATIONS.

"The Secretary shall issue any regulations necessary to carry out this subtitle.".

(b) Effective Date.—The amendment made by subsection (a) shall only take effect if the Housing and Community Development Act of 1992 is not enacted by December 1, 1992.

SEC. 11263. ACCESS TO JOBS/REVERSE COMMUTING DEMONSTRATION PROGRAM.

(a) Purpose.—It is the purpose of this section to—

(1) improve employment rates and earnings in inner-city areas by improving access to job sites for inner-city residents;

(2) improve the viability of businesses in enterprise zones as a result of the increased incomes and purchasing power of zone residents; and

(3) test differing approaches to achieving these goals and determine their effects.

(b) Establishment of Program.—

(1) In General.—The Secretary of Labor, in consultation with the Secretary of Transportation, shall establish a Reverse Commuting Demonstration Program to test the effects of assisting residents of poor inner-city areas to commute to job sites in other areas of the city or surrounding suburbs.

(2) Use of Non Set-Aside Funds.—Any applicant eligible for block grant funding under section 11105 of this Act that submits an application that meets the criteria in subsection (c) shall be approved by the Secretary of Labor, in consultation with the Secretary of Transportation, to utilize funds it receives under this title to carry out a program established under this section.

(3) Use of Set-Aside Funds.—The funds set-aside under section 11102(d) for the program under this section shall be used by the Secretary of Labor, in consultation with the Secretary of Transportation, to fund not more than six demonstration projects utilizing the program models described in subsection (d). Projects shall be selected on a competitive basis from applications that meet the requirements of subsection (c) that are submitted by applicants eligible for block grant funding under section 11105 of this Act.

(c) Application and Approval Criteria.—An application under this section shall provide information specified by the Secretary of Labor, in consultation with the Secretary of Transportation, that is sufficient to satisfy the Secretary that—

(1) the geographic area whose residents would be served by the program established by the applicant under this section is a low-income area that consists in whole or substantial part of an urban enterprise zone;

(2) one of the three program models described in subsection (d) will be used by the applicant;

(3) the data collection procedures that will be established by the applicant will be sufficient to enable the Secretary of Labor, in consultation with the Secretary of Transportation, to conduct an evaluation in accordance with subsection (e); and

(4) the applicant has the capability to perform adequately with respect to the program established and to meet such other criteria as the Secretary of Labor may prescribe.

(d) Program Models.—Applications approved under this section shall utilize one of the following program models:

(1) Adding Transportation Services to Existing Job Training and Placement Programs.—Under this model an applicant shall supplement existing training and placement programs through the establishment of new transportation services that are designed to—

(A) transport inner-city residents to job locations (such as van service between the zones and business parks or major employers, with the service being provided by a public agency, a private vendor, or a neighborhood organization);

(B) provide transportation counseling and assistance (such as the creation of car pools and provision of education on public transit routes); or

(C) provide a direct subsidy of public transit fares or private automobile expenses.

(2) Improving Public Transit Systems to Facilitate Access to Jobs/Reverse Commuting.—Under this model an applicant may—

(A) work with the relevant transit operator or agency to modify public transit routes and schedules to increase the accessibility of residents of inner-city areas to job locations (such as through the provision of express bus service to business parks at times coinciding with labor shifts or the provision of new connecting services to fill gaps that impede commuting from inner-city areas to jobs sites); or

(B) reimburse public transit operators for the costs of providing reduced fare programs to increase the access of inner city residents to employment opportunities.

An applicant under subparagraph (A) may request suburban employers to contribute to the costs of implementing such transit services.

(3) Establishing Regional Coalitions to Improve Inner-City Access to Jobs.—Under this model an applicant shall establish a regional coalition, which may include neighborhood organizations, employers and employers associations, transportation providers, and similar entities, to implement comprehensive strategies to improve the access of residents of inner-cities to jobs through modifications in job training and placement services, support services such as child care, and transportation services. An applicant under this model shall attempt to link job training program participants with job opportunities throughout as much of the metropolitan area as practicable, and transportation barriers between inner-city areas and job locations shall be identified and transportation services implemented to address these problems.

(e) Evaluation.—The Secretary of Labor, in consultation with the Secretary of Transportation, shall conduct a thorough evaluation of the program established under this section. Such evaluation shall include an assessment of—

(1) with respect to applicants adding transportation services to job training programs, the effect of the addition of such transportation services on employment rates, job retention, and earnings among residents of the demonstration project areas;

(2) with respect to applicants improving public transit systems, the effect of the improvements, on employment rates, job retention, and earnings;

(3) with respect to applicants establishing regional coalitions and implementing comprehensive strategies, the effects of such strategies on employment rates, job retention, and earnings; and

(4) the manner in which the adoption of such comprehensive strategies affect employment and earnings in urban enterprise zones, compared to other urban enterprise zones not initiating programs to improve inner-city access to suburban job locations.

(f) Other Funding Sources.—Nothing in this section shall be construed to prevent an approved applicant from raising funds for any program established under the application from other sources to augment the funds available under this Act.

(g) Definition.—As used in this section, the term "urban enterprise zone" means an area designated under section 1391 of the Internal Revenue Code of 1986.

SEC. 11264. STUDY OF INSURANCE AVAILABILITY IN CENTRAL CITIES AND DISTRESSED URBAN AREAS.

(a) In General.—Not later than 24 months after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress a report assessing the market availability of insurance (including insurance against crime, civil disorders and related perils) for businesses and residences located in central cities and distressed urban areas and the impact of the availability of such insurance on the economic development or redevelopment of such areas.

(b) Detail of Contents.—The report required under subsection (c) shall consider—

(1) whether insurance (including insurance against crime, civil disorders, and related perils) is available at affordable rates in central cities and distressed urban areas either through the private insurance market or through a suitable program adopted under Federal or State law;

(2) whether reinsurance (including reinsurance against crime, civil disorders, and related perils) is available at affordable rates in central cities and other distressed urban areas either through the private reinsurance market or through a suitable program adopted under State law;

(3) the factors most likely to explain any deficiencies in the availability of such insurance or reinsurance;

(4) whether any deficiencies in the availability of such insurance or reinsurance act as a deterrent or barrier to the economic development or redevelopment of central cities and distressed urban areas;

(5) whether the Federal Crime Insurance Program operated pursuant to part C of title XII of the National Housing Act (12 U.S.C. 1749bbb et seq.) adequately promotes the availability of insurance in central cities and distressed urban areas and whether the program should be modified to more effectively advance that goal;

(6) whether those State Fair Access to Insurance (FAIR) Plans that were established pursuant to section 1211 of title XII of the National Housing Act or other programs adopted by State governments effectively promote the availability of insurance in central cities and distressed urban areas;

(7) whether reenactment of a Federal Riot Reinsurance Program to promote the availability of insurance (including insurance against crime, civil disorders, and related perils) would effec-

tively promote the availability of insurance in central cities and distressed urban areas;

(8) whether other action by the Federal Government would be advisable to promote the availability of insurance (including insurance against crime, civil disorders, and related perils) in central cities and distressed urban areas in order to enhance the prospects for the economic development or redevelopment of such areas; and

(9) such other issues related to the availability of insurance in central cities and other distressed urban areas and the relationship of the availability of such insurance to the economic development or redevelopment of such areas as the Comptroller General considers appropriate.

(c) DEFINITIONS.—As used in this section,

(1) The term "affordable rates" shall have the meaning determined by the Comptroller General taking into consideration factors such as the nature and degree of risks involved, the protective devices employed, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas, the economic importance of the various individual coverages, the type of property involved, and the relative abilities of the particular classes and types of insureds to pay the costs of coverages.

(2) The term "central city" means any political subdivision designated as a central city from time to time by the Office of Management and Budget.

(3) The term "distressed urban area" means an urban enterprise zone designated pursuant to section 1391 of the Internal Revenue Code of 1986 or any other urban area that has a high level of poverty, unemployment, or minority population share, as determined by the Comptroller General.

(d) REFERRAL.—The report required under subsection (a) shall, upon transmission to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and the Committee on Finance, and in the House of Representatives to the Committee on Banking, Finance, and Urban Affairs.

TITLE XII—HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT

SEC. 12001. SHORT TITLE.

This title may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 12002. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44–225, 45–197, and most recently 46–215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46–215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46–215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46–215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

Subtitle A—High Seas Large-Scale Driftnet Fishing

SEC. 12021. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted

by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) Certification.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) Effect of Certification.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 12022. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 12021 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 12023. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 12024. DEFINITIONS

In this subtitle, the following definitions apply:

(1) Fish and Fish Products.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) Large-Scale Driftnet Fishing.—

(A) In General.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) Exception.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) Large-Scale Driftnet Fishing Vessel.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

Subtitle B—Fisheries Conservation Programs

SEC. 12031. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) Products Subject to Restriction.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) Definitions.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 12032. ENFORCEMENT.

(a) In General.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) Terms.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 12033. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

Subtitle C—Fisheries Enforcement in Central Bering Sea

SEC. 12051. SHORT TITLE.

This subtitle may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 12052. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) Prohibition.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) Civil Penalties and Permit Sanctions.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 12053. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) Denial of Port Privileges.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) Publication of List.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central

Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 12054. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 12053 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 12053(b).

SEC. 12055. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 12053(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 12053(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 12053(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 12053(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 12053(b).

SEC. 12056. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 12057. TERMINATION.

This subtitle shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 12052 occurring prior to such termination date shall be conducted as if that section were still in effect.

Subtitle D—Miscellaneous Provisions

SEC. 12071. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 12072. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 12073. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 12074. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE XIII—FEDERAL DEBT MANAGEMENT RESPONSIBILITY

SEC. 13001. RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS.

(a) IN GENERAL.—Chapter 31 of title 31, United States Code (relating to the public debt), is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

"§3141. Limitation on use of proceeds of Treasury obligations to lend amounts to certain newly established Government-related corporations

"(a) IN GENERAL.—None of the proceeds of any obligation issued under subchapter I may be used to lend any amount to a newly established Government-related corporation under any authority of such corporation to borrow from the Treasury, unless—

"(1) such corporation is a qualified corporation, or

"(2) such borrowing is approved in advance in an appropriations Act.

"(b) NEWLY ESTABLISHED GOVERNMENT-RELATED CORPORATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'newly established Government-related corporation' means any Government-related corporation which is established pursuant to any law enacted after December 31, 1992. The Congress may at any time alter, amend, or repeal any law establishing or governing the activities of such a corporation.

"(2) GOVERNMENT-RELATED CORPORATION.—The term 'Government-related corporation' means—

"(A) any corporation owned in whole or part by the Federal Government, and

"(B) any privately owned Government-sponsored enterprise.

"(c) QUALIFIED CORPORATION.—For purposes of this section, the term 'qualified corporation' means any newly established Government-related corporation which is hereafter designated in this subsection as a qualified corporation.

"(d) Required Provisions.—To be a qualified corporation under this section, the law establishing any privately-owned government-sponsored enterprise shall address issues of safety and soundness by including provisions for—

"(1) effective Federal supervision of safety and soundness and a significant cushion of capital; and

"(2) a requirement that such corporation achieve and maintain a high investment grade rating, as prescribed in subsection (e) below, throughout its corporate existence.

"(e) Rating.—

"(1) In general.—Not later than 1 year after the effective date of the law creating each new corporation subject to this Act, the Secretary of the Treasury shall, for each such corporation, contract with 2 nationally recognized statistical rating organizations—

"(A) to assess the likelihood that the corporation will not be able to meet its obligations from its own resources with an assumption that there is no recourse to any implicit Government guarantee and to express that likelihood as a traditional credit rating; and

"(B) to review the rating of the corporation as frequently as the Secretary determines is appropriate, but not less than annually.

"(2) Comments.—The Secretary of the Treasury shall submit comments to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Ways and Means of the House of Representatives on any difference between the evaluation of the rating organizations and that of the Secretary, with special attention to capital adequacy and shall report on any actions the Secretary deems appropriate to assure that each corporation continuously maintains a high investment grade rating.

"(3) Requirement.—Each such corporation shall achieve and maintain throughout its corporate existence 1 of the 2 highest investment grade ratings awarded by each statistical rating organization described in paragraph (4). The Secretary of the Treasury may waive the requirements of this paragraph by published order on such terms and conditions and for such periods of times as the Secretary deems appropriate.

"(4) Definition.—For the purposes of this section, the term 'nationally recognized statistical rating organization' means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers.

"(f) Reports.—The Comptroller General of the United States and the Office of Management and Budget each shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Ways and Means of the House of Representatives upon the adequacy of provisions for effective Federal supervision of safety and soundness, including the adequacy of capital standards, contained in any bill to create a privately owned government-sponsored enterprise. Each report shall also recommend provisions to be included in such bill to assure compliance with subsection (e) of this Act.

"§3142. Annual report on impact of borrowing by Government-related corporations on public debt

"(a) General Requirement.—The Secretary of the Treasury shall annually prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Ways and Means of the House of Representatives a report setting forth the impact of the issuance or guarantee of securities by Government-related corporations (as defined in section 3141(b)(2)) on—

"(1) the rate of interest and amount of discount offered on obligations issued by the Secretary under subchapter I, and

"(2) the marketability of such obligations.

"(b) Deadline.—The report required by subsection (a) shall be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Ways and Means of the House of Representatives by October 1 of the 1st calendar year beginning after the date of the enactment of this section, and by each October 1 thereafter.".

(b) Clerical Amendment.—The table of sections for chapter 31 of title 31, United States Code, is amended by adding at the end the following new items:

"SUBCHAPTER III—RESTRICTION AND EVALUATION OF BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

"3141. Limitation on use of proceeds of Treasury obligations to lend amounts to certain newly established Government-related corporations.

"3142. Annual report on impact of borrowing by Government-related corporations on public debt.".

From the Committee on Ways and Means, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J.J. Pickle,
Charles B. Rangel,
Pete Stark,
Guy Vander Jagt,

Provided, that solely for consideration of sections 6211–6214 and 7101–7162 of the House bill, and sections 6211–6214, 7107–7177, and 7180–7181 of the Senate amendment, Mr. Downey is appointed in lieu of Mr. Stark and Mr.. Shaw is appointed in lieu of Mr. Crane.

Thomas J. Downey,

Provided, that solely for consideration of sections 6201 and 7001–7014 of the House bill and sections 6201, 7001–7006, 7178 and 7179 of the Senate amendment, Mr. Jacobs is appointed in lieu of Mr. Stark and Mr. Bunning is appointed in lieu of Mr. Crane.

Andrew Jacobs, Jr.,
Jim Bunning,

Provided, that solely for consideration of sections 2171–2185, 6220–6251, and title XIV–XVI of the Senate amendment, Mr. Gradison is appointed in lieu of Mr. Crane.

Willis D. Gradison, Jr.,

Provided, that solely for consideration of title V of the House bill, and title V of the Senate amendment, Mr. Schulze is appointed in lieu of Mr. Crane.

Richard T. Schulze,

Pursuant to the authority granted on September 30, the Chair announces the following modifications in the appointment of conferees on H.R. 11, Revenue Act of 1992:

As additional conferees from the Committee on Agriculture, for consideration of sections 7123, 7126 and title VIII of the House bill, and sections 7171 and 7173 and title VIII of the Senate amendment, and modifications committed to conference:

E de la Garza,
Robin Tallon,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Mary Rose Oakar,
Chalmers P. Wylie,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9212 of the Senate amendment, and modifications committed to conference:

Esteban E. Torres,
Carroll Hubbard,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9232 of the Senate amendment, and modifications committed to conference:

Frank Annunzio,
Carroll Hubbard,

As additional conferees from the Committee on Education and Labor, for consideration of sections 7123 and 7125 of the House bill, and sections 2173, 4246, 7102, 7134(c), 7142–7143, 7151, 7171, 7172, and 7176 of the Senate amendment, and modifications committed to conference:

William D. Ford,
Pat Williams,
M.G. Martinez,
Carl C. Perkins,

As additional conferees from the Committee on Education and Labor, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

William D. Ford,
Joseph M. Gaydos,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 7104, 7123, 7125, and 7126 of the House bill, and sections 2171–2173, 2175, 2177–2185, 6220, 6231–6251, 7109, 7121, 7136, 7171–7174, 10011(b), 10201, 14111–14140, titles XI, XV, and XVI of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Cardiss Collins,
Henry A. Waxman,
Gerry Sikorski,
Terry L. Bruce,

Provided, that solely for consideration of sections 10011(b) and 10201 and title XI of the Senate amendment, Mr. Markey, Mr. Synar, and Mr. Boucher are appointed in lieu of Mr. Waxman, Mr. Sikorski, and Mr. Bruce:

Ed Markey,
Mike Synar,
Rick Boucher,

As additional conferees from the Committee on Energy and Commerce, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Henry A. Waxman,

As additional conferees from the Committee on the Judiciary, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Charles Schumer,

As additional conferees from the Committee on the Judiciary, for consideration of section 9204 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Don Edwards,
Mike Synar,
John Bryant,
Harley O. Staggers,

As additional conferees from the Committee on the Judiciary, for consideration of title X of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Charles Schumer,
William J. Hughes,
John Bryant,
George E. Sangmeister,
F. James Sensenbrenner, Jr.,
Steven Schiff,
Jim Ramstad,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles XII and XIII of the Senate amendment, and modifications committed to conference:

GERRY E. STUDDS,
CARROLL HUBBARD,
WILLIAM J. HUGHES,
BILLY TAUZIN,
JOLENE UNSOELD,
BOB DAVIS,
DON YOUNG,

As additional conferees from the Committee on Ways and Means, for consideration of sections 7123, 7125, 7126, and title VII of the House bill, and sections 2173, 7171, 7173, titles VIII and X of the Senate amendment, and modifications committed to conference:

ANDREW JACOBS, JR.,
HAROLD E. FORD,
ED JENKINS,
TOM DOWNEY,
FRANK GUARINI,
MARTY RUSSO,
DON PEASE,
Managers on the Part of the House.

LLOYD BENTSEN,
MAX BAUCUS,
DAVID BOREN,
GEORGE MITCHELL,
DAVID PRYOR,
BOB PACKWOOD,
WILLIAM V. ROTH, JR.,
JOHN C. DANFORTH,
JOHN H. CHAFEE,

From the Committees on Banking, Housing, and Urban Affairs; the Judiciary; and Labor, and Human Resources, for the consideration of title 8 of the Senate amendment only:

EDWARD M. KENNEDY,
DON RIEGLE,
JOE BIDEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

And the Senate agrees to the same.

I. ECONOMIC DEVELOPMENT IN DISTRESSED AREAS—ENTERPRISE ZONES

Present Law

The Internal Revenue Code does not contain general rules that target specific geographic areas for special Federal income tax treatment. Within certain Code sections, however, there are definitions of targeted areas for limited purposes (e.g., low-income housing credit and qualified mortgage bond provisions target certain economically distressed areas). In addition, present law provides favorable Federal income tax treatment for certain U.S. corporations that operate in Puerto Rico, the U.S. Virgin Islands, or a possession of the United States to encourage the conduct of trades or businesses within these areas.

House Bill

Designation of tax enterprise zones

In general

A total of 50 tax enterprise zones may be designated before the end of 1996. Tax enterprise zones are either urban tax enterprise zones or rural development investment zones, and are to be designated from areas nominated by State and local governments,[1] a State-chartered economic development corporation, or a governing body of an Indian reservation.

The Secretary of Housing and Urban Development (HUD) may designate 25 urban tax enterprise zones (up to 8 zones selected in 1992 through 1993, 7 zones in 1994, 6 zones in 1995, and 4 zones in 1996). Any shortfall in designations of zones may be carried forward to the next year, but not beyond 1996.

The Secretary of Agriculture (in consultation with the Secretary of Commerce) may designate 25 rural development investment zones (at least one of which must be located on an Indian reservation). The maximum number of rural development investment zones designated each year is the same as with urban tax enterprise zones.

Zone designations generally will remain in effect for 15 years.[2]

Eligibility criteria for urban tax enterprise zones

To be eligible for designation as an urban tax enterprise zone, a nominated area is required to have all of the following characteristics: (1) a population of at least 4,000; (2) a condition of pervasive poverty, unemployment, and general economic distress (which may include distress from a high incidence of crime and narcotics use); (3) with respect to size, (a) does not exceed 20 square miles, (b) consists of not more than three noncontiguous parcels within the same metropolitan area, and (c) is located entirely within one State; (4) an unemployment rate of at least 1.5 times the national unemployment rate; (5) poverty rates of at least 20 percent in each of 90 percent of the area's census tracts; (6) does not include any portion of a central business district (as such term is used for purposes of the most recent Census of Retail Trade); and (7) a satisfactory course of action (described below) adopted by the State and local governments designed to promote economic development in the nominated area.

Eligibility criteria for rural development investment zones

To be nominated as a rural development investment zone, an area is required to be either outside a standard metropolitan statistical area (within the meaning of section 143(k)(2)(B)) or determined by the Secretary of Agriculture (after consultation with the Secretary of Commerce) to be a rural area. To be eligible for designation, a rural development investment zone is required to possess the following four characteristics: (1) a population of at least 1,000; (2) a condition of general economic distress; (3) with respect to size, (a) does not exceed 10,000 square miles, (b) is located within not more than four contiguous counties, (c) consists of not more than three noncontiguous parcels, and (d) is located entirely within one State (unless located on one or more Indian reservations); and (4) a satisfactory course of action (described below) adopted by the State and local governments for the nominated area. In addition, a rural area is required to meet at least two of the following requirements: (1) an unemployment rate of at least 1.5 times the national unemployment rate; (2) poverty rates of at least 20 percent in each of 90 percent of the area's census tracts (or equivalent areas for nonmetropolitan areas); (3) a decline in employment (as measured by total wages) of more than five percent over the five-year period prior to the zone's designation; and (4) a decline in population of 10 percent or more over the period from 1980 to 1990.

Course of action

In order for a nominated area to be eligible for designation as a tax enterprise zone, the local government and State in which the area is located are required to agree in writing that they will adopt (or continue to follow) a specified course of action designed to reduce burdens borne by employers or employees in the area. A specified course of action may include one or more of the following actions with respect to a nominated area: (1) direct provision by the State or local government of property insurance to businesses that are unable to purchase comparable insurance coverage, or that are able to purchase such coverage only at a cost which is significantly higher than the statewide average cost of such coverage; (2) reduced tax rates or fees; (3) increased delivery of local public services; (4) actions to reduce government paperwork requirements; (5) involvement in the program by public or private entities (e.g., community groups), including a written commitment to provide jobs and job training, and technical, financial, or other assistance to employers, employees, and residents of the area; (6) special preferences given to minority contractors; (7) donations of surplus land to neighborhood organizations agreeing to operate businesses on the land; (8) programs to encourage employers to purchase health insurance for employees on a pooled basis; (9) programs to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to area businesses (with emphasis on start-up firms and certain other small businesses); and (10) special preferences for projects within the area in allocations of the State's low-income housing credit ceiling and private activity bonds ceiling.

Programs that serve as part of the required course of action undertaken by the State and local government may not be funded with proceeds from any Federal program (other than discretionary proceeds).[3] In evaluating courses of action agreed to by State and local governments, the Secretary of HUD (or, in the case of a rural development investment zone, the Secretary of Agriculture) is to take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the nominated area.[4]

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[1] For purposes of the House bill, the term "local government" means any county, city, town, township, parish, village, or other general purpose political subdivision of a State (and certain combinations of such political subdivisions).

[2] The designation of an area as a tax enterprise zone may be revoked if the Secretary of HUD (or, in the case of a rural development investment zone, the Secretary of Agriculture) determines after a hearing on the record involving officials of the State or local government involved that (1) the boundaries of the area have been modified, or (2) the State or local government is not complying substantially with the commitments made as part of the required course of action (described below).

[3] For this purpose, "discretionary proceeds" are funds such as community development block grants, the use of which is not restricted to a tax enterprise zone.

Selection process and criteria

All designated tax enterprise zones are to be selected from nominated areas on the basis of the following criteria (each of which will be given equal weight): (1) the strength and quality of promised contributions by State and local governments in their course of action relative to their fiscal ability; (2) the effectiveness and enforceability of the guarantees that the promised course of action actually will be implemented; (3) the level of commitments (including expected future commitments) by private entities of additional resources to the economy of the nominated area, including the creation of new or expanded business activities; (4) the average ranking (relative to other nominated areas) with respect to (a) in the case of a nominated urban tax enterprise zone, the degree of poverty and unemployment, or (b) in the case of a nominated rural development investment zone, two of the following criteria that give the area a higher average ranking—poverty, unemployment, job loss, or population loss; and (5) the potential for revitalization of the nominated area (including the potential reduction in the incidence of crime and narcotics use and traffic), taking into account particularly the number of jobs to be created or retained.

Rules

Within four months after the date of enactment, the Secretary of HUD and the Secretary of Agriculture are required to promulgate rules (by notice or regulation) regarding: (1) procedures for nominating tax enterprise zones; (2) the method for comparing the enumerated selection criteria; and (3) recordkeeping requirements to assist in the preparation of studies to be submitted to Congress (described below).

Tax incentives

Employer wage credit

A 15-percent credit against income tax liability is available to all employers for the first $20,000 of wages paid or incurred by an employer for services performed by an employee while that employee both (1) resides in a tax enterprise zone (i.e., his or her principal place of abode is within a tax enterprise zone), and (2) performs substantially all employment services for the employer within the tax enterprise zone in a trade or business of the employer.

The wage credit is available with respect to a qualified employee who meets the two criteria above, regardless of the number of other employees who work for the employer or whether the employer meets the definition of an "enterprise zone business" (which applies for the other tax incentives described below).

Qualified wages include the first $20,000 of wages (generally defined as for FUTA purposes). Thus, the maximum credit per employee is $3,000 per year. Wages paid to a qualified employee continue to be eligible for the credit if the employee earns more than $20,000, although only the first $20,000 of wages are eligible for the credit.[5]

The credit is allowed with respect to full-time and part-time employees. However, if an employee is terminated less than one year after initial employment, the amount of credits previously claimed by the employer with respect to that employee generally is recaptured (unless the employee voluntarily leaves, becomes disabled, or is fired due to misconduct). In addition, wages are not eligible for the credit if attributable to services rendered by an employee during the first year he or she begins work for the employer if any portion of such wages is taken into account in determining the targeted jobs tax credit (TJTC) under present-law section 51.

Wages are not eligible for the credit if paid to certain relatives or dependents of the employer (described under present-law section 51(i)(1)) or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, wages are not eligible for the credit if paid to a person who owns more than five percent of the stock of the employer (or if the employer is not a corporation, more than five percent of the capital or profits interests in the employer).

The wage credit provided for by the House bill is not refundable, and an employer's deduction otherwise allowed for wages paid is reduced by the amount of the credit claimed for the taxable year. The credit is subject to the general business credit limitations of section 38 and, therefore, may not be used to reduce tentative minimum tax.[6]

The House bill further provides that each employer shall take reasonable steps to notify all employees whose wages qualify for the employer wage credit of their eligibility to receive advance refundability of the earned income tax credit (EITC).

Investment incentives

Definition of "enterprise zone business."—The House bill provides five investment incentives and special rules for redevelopment bonds that apply only with respect to trades or businesses that satisfy the definition of an "enterprise zone business." An enterprise zone business is defined as either a "qualified business entity" or a "qualified proprietorship."

A qualified business entity is defined as any corporation or partnership if for the taxable year: (1) every trade or business of the entity is the active conduct of a qualified business within a tax enterprise zone; (2) at least 80 percent of the total gross income of the entity is derived from the active conduct of such business; (3) substantially all of the use of the tangible property of the entity (whether owned or leased) occurs within a tax enterprise zone; (4) substantially all of the services performed for the entity by its employees are performed in a tax enterprise zone; (5) at least one-third of the employees of the entity are residents of a tax enterprise zone; (6) less than five percent of the average of the aggregate unadjusted bases of the property of the entity is attributable to nonqualified financial property;[7] and (7) less than five percent of the average of the aggregate unadjusted bases of the property of the entity is attributable to collectibles not held primarily for sale to customers in the ordinary course of such business.

A qualified proprietorship is defined as any qualified business that is carried on by an individual as a proprietorship if for the taxable year: (1) at least 80 percent of the total gross income of the individual from such business is derived from the active conduct of such business within a tax enterprise zone; (2) substantially all of the use of the tangible property in such business (whether owned or leased) occurs within a tax enterprise zone; (3) substantially all of the services performed for such business by the employees of the business are performed in a tax enterprise zone; (4) at least one-third of such employees are residents of a tax enterprise zone; and (5) less than five percent of the average of the aggregate unadjusted bases of the property that is used in the business is attributable to (a) nonqualified financial property (as defined above), or (b) collectibles not held primarily for sale to customers in the ordinary course of such business.

A qualified business is defined as any trade or business other than a trade or business that consists predominantly of the development or holding of intangibles for license or sale. The rental of real property located in a tax enterprise zone to others is treated as a qualified business if and only if: (1) in the case of residential rental property (as defined in section 168(e)(2)), either (a) the property was originally placed in service after the designation of the area as a tax enterprise zone, or (b) the property is rehabilitated (as determined under the principles of section 42(e)(3)) after the designation of the area as a tax enterprise zone; or (2) in the case of real property that is not residential rental property, the lessee of the property is an enterprise zone business.

In addition, the rental of tangible personal property to others is treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

Increased section 179 expensing.—The $10,000 expensing allowance under section 179 for certain depreciable business property is increased to $20,000 for an enterprise zone business. As under present law, the section 179 expensing allowance is phased out for taxpayers with qualifying investment in excess of $200,000 during any taxable year (i.e., the $20,000 amount is phased out for an enterprise zone business with investment during any taxable year between $200,000 and $220,000).

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[4] The House bill provides that the required course of action may not include any action to assist any establishment in relocating from one area to another. However, this limitation is not to be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if (1) the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations, and (2) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

[5] To prevent avoidance of the $20,000 limit, all employees of a controlled group of corporations (or partnerships or proprietorships under common control) are treated as employed by a single employer. In addition, special rules are provided to deal with changes of business ownership (or the form of business) of the employer.

[6] No portion of the unused business credit for any taxable year that is attributable to the employer wage credit may be carried back to a taxable year ending before the date of enactment of the bill.

[7] Nonqualified financial property is defined as debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property that is specified as nonqualified financial property in regulations to be issued by the Treasury Department. Nonqualified financial property, however, does not include (1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less; or (2) accounts or notes receivable that are acquired in the ordinary course of the qualified business for services rendered or from the sale of property held primarily for sale to customers of the qualified business.

In the case of an enterprise zone business that is a component member of a controlled group of corporations, the $20,000 amount is to apply only if all components members of the group are enterprise zone businesses. In addition, if for any taxable year an individual elects the $10,000 section 179 expensing allowance with respect to property of a business that is not an enterprise zone business, then the $20,000 amount allowed such individual under section 179 with respect to property of an enterprise zone business is to be reduced by the amount taken into account under section 179 with respect to property of the business that is not an enterprise zone business. As under present law, the $20,000 expensing limitation is to apply at both the partnership and partner level.

The increased expensing allowance applies for purposes of the alternative minimum tax (i.e., it is not treated as an adjustment for purposes of the alternative minimum tax).

Capital gain exclusion.—In the case of an individual, an exclusion from gross income is provided for 50 percent of any long-term capital gain recognized on the sale or exchange of a "qualified zone asset" held for more than five years.[8] The term "qualified zone asset" means the following property: (1) "qualified zone business property," meaning tangible property acquired by the taxpayer[9] after the date of zone designation, provided that the original use of such property in the tax enterprise zone commences with the taxpayer[10] and substantially all of the use of such property during substantially all of the taxpayer's holding period was in a tax enterprise zone and in an enterprise zone business of the taxpayer; (2) "qualified zone stock," meaning stock in a domestic corporation that, at the time of issuance[11] and during substantially all of the taxpayer's holding period, was an enterprise zone business, provided that such stock was acquired by the taxpayer on original issue from the corporation solely in exchange for cash[12]; and (3) "qualified zone partnership interests," meaning partnership interests acquired solely in exchange for cash in a partnership which, at the time such interest was acquired[13] and during substantially all of the taxpayer's holding period, was an enterprise zone business.

A special rule provides that, in the case of property that is "substantially renovated," such property need not be acquired by the taxpayer after the date of zone designation, nor need the original use of such property in the zone commence with the taxpayer. For purposes of this special rule, property is treated as "substantially renovated" if, during any 24-month period beginning after the date of zone designation, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (1) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (2) $5,000. Thus, substantially renovated real estate located in a tax enterprise zone may constitute qualified zone business property. The House bill specifically provides, however, that "qualified zone business property" shall not include land which is not an integral part of an enterprise zone business.

In addition, the House bill treats as a qualified zone asset property which was a qualified zone asset in the hands of a prior owner, provided that at the time of acquisition, and during substantially all of the subsequent purchaser's holding period, the property is used (or is an ownership interest) in an enterprise zone business.[14]

The House bill includes a 10-year safe-harbor, pursuant to which property that ceases to be a qualified zone asset because the property is no longer used in (or no longer represents an ownership interest in) an enterprise zone business after the 10-year period beginning on the date that the taxpayer acquired such property will continue to be treated as a qualified zone asset. Under this rule, the amount of gain eligible for the 50-percent exclusion is not to exceed the amount which would be qualified capital gain had the property been sold on the date of such cessation.

The House bill contains several special rules that apply to pass-thru entities, which are defined as partnerships, S corporations, regulated investment companies, and common trust funds. In the case of a sale or exchange of an interest in a pass-thru entity that was not an enterprise zone business during substantially all of the period that the taxpayer held the interest, the 50-percent capital gain exclusion is to apply to the extent that the gain is attributable to amounts that would have been long-term capital gain on qualified zone assets had the assets been sold for their fair market value on the date of the sale or exchange of the interest in the pass-thru entity. This rule is to apply only if the interest in the pass-thru entity was held by the taxpayer for more than five years. In addition, this rule is to apply only to qualified zone assets that were held by the pass-thru entity for more than five years and throughout the period that the taxpayer held the interest in the pass-thru entity.[15]

In addition, the 50-percent capital gain exclusion is to apply to any amount that is included in gross income by reason of holding an interest in a pass-thru entity that was not an enterprise zone business during substantially all of the period that the taxpayer held the interest if the amount is attributable to long-term capital gain recognized on the sale or exchange of a qualified zone asset held by the pass-thru entity for more than five years. This rule is to apply only to qualified zone assets that were acquired and disposed of by the pass-thru entity while the taxpayer held an interest in the pass-thru entity.[16]

The House bill also limits the amount of gain that qualifies for the 50-percent exclusion in the case of a sale or exchange of an interest in a partnership or stock in an S corporation that was an enterprise zone business during substantially all of the period that the taxpayer held such interest or stock. The gain that qualifies for the 50-percent exclusion is to be determined without regard to any land or intangible asset if such land or intangible asset was not used as an integral part of an enterprise zone business organized as a partnership or S corporation.

The House bill provides that in the case of a transfer of a qualified zone asset by gift, at death, or from a partnership to a partner that held an interest in the partnership at the time that the qualified zone asset was acquired, the transferee is to be treated (1) as having acquired the asset in the same manner as the transferor and (2) as having held the asset during any continuous period immediately preceding the transfer during which the asset was held (or treated under this provision as held) by the transferor.

Capital gain deferral.—At the election of an individual, long-term capital gain that is derived from the sale or exchange of any "qualified zone asset" (as defined above for purposes of the 50-percent capital gain exclusion provision) may be deferred if the proceeds of the sale or exchange are reinvested in another qualified zone asset. Gain is to be recognized only to the extent that (1) the amount realized from the sale or exchange, exceeds (2) the cost of any qualified zone asset that is purchased[17] directly by the individual during the six-month period beginning on the date of the sale or exchange (and that has not been previously taken into account under the provision). A qualified zone asset is not to include any timber, coal, or iron ore.

Capital gain that is eligible for the nonrecognition treatment includes long-term capital gain that is derived from the sale or exchange of a qualified zone asset to the extent attributable to: (1) in the case of stock or a partnership interest, the period during which the corporation or partnership was an enterprise zone business; or (2) in the case of any other qualified zone asset, the period during which substantially all of the use of the property was in an enterprise zone business. Eligible enterprise zone capital gain does not include any gain from any installment sale if such gain is taken into account under the installment method.

The basis of any qualified zone asset the purchase of which results in the nonrecognition of gain under this provision (defined as "qualified zone replacement asset") is reduced by the amount of gain that is not recognized by reason of the provision. In addition, if, at any time during the 10-year period beginning on the date that the qualified zone replacement asset was purchased by the taxpayer, the asset ceases to be a qualified zone asset, then the taxpayer is treated as disposing of such asset. The amount of gain taken into account with respect to such a deemed disposition is not to exceed the lesser of: (1) the amount of gain not recognized under the provision by reason of the purchase of such qualified zone replacement asset; or (2) the excess of the fair market value of the asset as of the first day of the taxable year in which the deemed disposition occurs over the adjusted basis of such asset as of such day.

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[8] The 50-percent capital gains exclusion provision (and deferral provision discussed below) do not apply to any gain which would be treated as ordinary income under section 1250 if that section applied to all depreciation rather than the additional depreciation.

[9] The property must be acquired by the taxpayer by "purchase" within the meaning of present-law section 179(d)(2).

[10] Thus, used property may constitute "qualified zone business property" if the property has not been used in a tax enterprise zone prior to the taxpayer's use of the property within the zone.

[11] In the case of a new corporation, it is sufficient if the corporation is being organized for purposes of being an enterprise zone business.

[12] Qualified zone stock does not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of the provisions. A similar rule also applies with respect to qualified zone partnership interests.

In addition, qualified zone stock for purposes of the capital gains exclusion and deferral provisions does not include any stock with respect to which the taxpayer elected to claim a deduction upon purchase (as described below).

[13] In the case of a new partnership, it is sufficient if the partnership is being organized for purposes of being an enterprise zone business.

[14] The termination or revocation of a tax enterprise zone designation will not, by itself, result in property failing to be treated as a qualified zone investment. However, capital gain eligible for the 50-percent exclusion does not include any gain attributable to periods after the termination or revocation of a tax enterprise zone designation.

[15] The amount of gain to which this rule applies is also limited based on the interest of the taxpayer in the pass-thru entity on the date that the qualified zone asset was acquired.

[16] The amount of gain to which this rule applies is also limited based on the interest of the taxpayer in the pass-thru entity on the date that the qualified zone asset was acquired.

[17] The term "purchase" has the meaning given that term by section 179(d)(2).

The statute of limitations on the assessment of tax that is attributable to any gain to which an election under this provision applies is not to expire until three years after the date that the Internal Revenue Service is notified by the electing individual of either: (1) the individual's cost of purchasing any qualified zone replacement asset; (2) the individual's intention of not purchasing any qualified zone replacement asset; or (3) the individual's failure to purchase any qualified zone replacement asset within the six-month period following the sale or exchange to which the gain relates.

The elective deferral of capital gain applies to an individual's distributive share of eligible enterprise zone capital gain recognized by a partnership. In addition, the capital gain deferral applies for purposes of the alternative minimum tax.

Ordinary loss treatment for certain property.—Loss on any property that is a qualified zone asset (as defined above) at the time that the loss is sustained is treated as an ordinary loss to the extent that the loss is attributable to the period that the property was held by the taxpayer as a qualified zone asset.

The ordinary loss treatment applies only to qualified zone assets that satisfy a holding-period requirement. In the case of a qualified zone asset that is stock or a partnership interest, the taxpayer must have held the stock or partnership interest throughout the two-year period ending on the date that the loss is sustained. In case of a qualified zone asset that is tangible property, the property must have been held and used by the taxpayer in an enterprise zone business throughout the two-year period (or, in the case of real property,[18] five-year period) ending on the date that the loss is sustained.

Any loss that is treated as an ordinary loss under this provision is not to be taken into account in applying section 1231. In addition, any loss that is treated as an ordinary loss under this provision is to be treated as attributable to a trade or business of the taxpayer for purposes of the net operating loss deduction of section 172. Finally, the ordinary loss treatment is to apply for purposes of the alternative minimum tax.

Deduction for purchase of enterprise zone stock.—An individual is allowed an above-the-line deduction for the amount paid in cash during any taxable year to purchase "enterprise zone stock." The amount allowed as a deduction for any taxable year is limited to $25,000. If the amount paid during any taxable year for enterprise zone stock exceeds the $25,000 limitation, then the excess amount may be carried over and deducted in succeeding taxable years. The aggregate amount of the deductions allowed under the provision with respect to any individual may not exceed $250,000.[19]

"Enterprise zone stock" is defined as stock of a corporation if: (1) the stock is acquired on original issue from the corporation; (2) at the time of issue, the corporation is a qualified enterprise zone issuer; and (3) the amount of issue of which the stock is a part does not exceed the amount of the enterprise zone limit allocated to the issue (as described below). Stock of a corporation is to qualify as enterprise zone stock, however, only to the extent that the proceeds of such issuance are used by the issuer during the 12-month period following the issuance to purchase property (1) that is depreciable under section 168, (2) the original use of which within a tax enterprise zone commences with the issuer,[20] and (3) substantially all of the use of which is in a tax enterprise zone.

A qualified enterprise zone issuer is defined as any domestic C corporation if: (1) the corporation is an enterprise zone business, or, in the case of a newly formed corporation, the corporation is being organized for the purpose of being an enterprise zone business; (2) the corporation does not have more than one class of stock; (3) the sum of (a) the money, (b) the aggregate unadjusted bases of the property owned by the corporation, and (c) the value (as determined under Treasury regulations) of the assets leased to the corporation, does not exceed $5 million;[21] and (4) more than 20 percent of the total value and total voting power of the stock of the corporation is owned by individuals (directly or through partnerships or trusts) or by estates.

The amount of stock issued during any calendar year that may qualify as enterprise zone stock is limited to $30 million for each tax enterprise zone. As part of the tax enterprise zone nomination process, the State and local governments in which the tax enterprise zone is located are required to designate a local governmental official who is responsible for allocating the $30 million limit to stock issued during the calendar year by qualified enterprise zone issuers of the particular tax enterprise zone.

The basis of any enterprise zone stock is reduced by the amount of the deduction allowed with respect to the stock. Special recapture rules also apply to enterprise zone stock with respect to which a deduction was allowed. First, such stock (and any other property the basis of which is determined by reference to the adjusted basis of such stock) is treated as section 1245 property and the deduction allowed under this provision is treated as a depreciation deduction for purposes of applying section 1245. Consequently, the gain recognized upon the disposition of such stock generally is treated as ordinary income to the extent of the deduction allowed under this provision.

Second, if enterprise zone stock with respect to which a deduction was allowed under this provision (or any other property the basis of which is determined by reference to the adjusted basis of such stock) is disposed of within 5 years after the date that the stock was purchased by the taxpayer and section 1245 applies to such a disposition by reason of the first recapture rule, then the taxpayer is required to pay interest on the amount of tax that would have otherwise been due if a deduction had not been allowed for the purchase of the enterprise zone stock.

The recapture rules also apply if, during the 10-year period beginning on the date that the enterprise zone stock was purchased by the taxpayer, the issuer of the stock ceases to be a qualified enterprise zone issuer.[22] In such a case, the taxpayer is treated as disposing of the stock during the taxable year in which the cessation occurs at a price equal to the fair market value of the stock as of the first day of such taxable year.

The deduction for the purchase of enterprise zone stock is allowed to individuals who purchase such stock through a partnership or an S corporation. In such a case, the $25,000 annual limitation and the $250,000 lifetime limitation apply only at the partner or shareholder level. The deduction for the purchase of enterprise zone stock is not allowed to estates or trusts. Finally, the deduction for the purchase of enterprise zone stock is allowed for purposes of the alternative minimum tax.

Regulatory authority.—The Treasury Department is authorized to issue such regulations as may be necessary or appropriate to carry out the purposes of the enterprise zone tax incentives, including: (1) regulations that limit the tax benefits where the tax benefits in combination with benefits provided under other Federal programs would result in an activity being 100 percent or more subsidized by the Federal government; (2) regulations that prevent the abuse of the enterprise zone tax incentives; and (3) regulations that provide relief for inadvertent failures to qualify as an enterprise zone business.

Expansion of qualified redevelopment bond rules

Automatic qualification of tax enterprise zones

Qualified redevelopment bonds are tax-exempt private activity bonds, 95 percent or more of the net proceeds of which are used to finance redevelopment purposes in "designated blighted areas." Under present law, designated blighted areas are geographic areas designated by local governments pursuant to State authorizing legislation. The designation of these areas must be based on the substantial presence in the areas of factors such as excessive vacant land on which structures were previously located; abandoned or vacant buildings; substandard structures; vacancies; and delinquencies in the payment of real property taxes. Present law also restricts the maximum percentage of a jurisdiction that may be designated as blighted and includes both minimum and maximum sizes for each area, including special rules designed to facilitate use of these bonds in rural areas.

The House bill provides that a tax enterprise zone will qualify automatically as a designated blighted area eligible for qualified redevelopment bond financing during the first 60 months following the month of the designation of the zone. Thus, qualified redevelopment bonds may be issued to finance both present-law and newly expanded redevelopment purposes within these zones during this 60-month period, without the present-law necessity of a local designation as a blighted area pursuant to a State statute authorizing such designation.

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[18] For this purpose, the term "real property" means any property which is section 1250 property (as defined in section 1250(c)).

[19] For purposes of the $25,000 annual limitation and the $250,000 lifetime limitation, an individual and all members of his or her family (as defined in section 267(c)(4)) are treated as a single individual.

[20] Thus, a corporation may use the proceeds of the stock issuance to purchase or construct new property or to purchase property previously used outside the tax enterprise zone.

[21] This determination is to be made as of the date that the stock is issued and is to include any amount received by the corporation in exchange for the stock.

[22] The determination of whether an issuer of stock ceases to be a qualified enterprise zone issuer is to be made without regard to the requirement that the sum of (a) the money, (b) the aggregate unadjusted bases of the property owned by the corporation, and (c) the value (as determined under Treasury regulations) of the assets leased to the corporation does not exceed $5 million. In addition, a corporation is not treated as ceasing to satisfy the definition of a qualified enterprise zone issuer solely by reason of the termination or revocation of the tax enterprise zone designation.

Expansion of eligible redevelopment purposes

In general.—Redevelopment purposes eligible for bond-financing under present law are: (1) acquisition by a governmental unit of real property located in a designated blighted area, provided that the acquiring governmental unit has the power to exercise eminent domain with respect to the property; (2) clearing and preparation of the acquired real property for redevelopment; (3) rehabilitation of real property within a designated blighted area; and (4) relocation of occupants of structures on the real property acquired with bond proceeds.

In addition to the purposes eligible for qualified redevelopment bond financing under present law, the bill allows all or any portion of the proceeds of qualified redevelopment bonds issued for use in a tax enterprise zone during the 60-month period following its designation to be used to finance certain loans to enterprise zone businesses (as defined above) for property used in the business. The aggregate amount of loans (from all bond issues) may not exceed $2.5 million per business.[23]

Redevelopment purposes eligible for financing with these bond-financed loans to enterprise zone businesses are limited to: acquisition of land and other real property located in the tax enterprise zone; rehabilitation of existing land or other real property in the zone; construction of new depreciable real property in the zone; and, acquisition or construction of certain depreciable tangible personal property. All bond-financed property must be used in an enterprise zone business and substantially all of the use of the property must be in the tax enterprise zone for which the bonds are issued.

Qualified redevelopment bonds issued under this provision may not be used to make loans or otherwise finance property eligible under present law for financing with other categories of tax-exempt private activity bonds. For example, proceeds of these bonds may not be used to finance housing (rental or owner-occupied) or farmland because that property may be financed with the proceeds of exempt-facility bonds for qualified residential rental property, qualified mortgage and qualified veterans' mortgage bonds, or qualified small-issue bonds for first-time farmers, each of which presently targets the Congressionally intended beneficiaries of tax-exempt bonds for those purposes. However, for qualified redevelopment bonds issued under this provision, the bill waives the present-law restriction on financing retail food facilities (i.e., restaurants).

Additional qualifications

Loan origination.—The amount of bond proceeds to be used to make loans to enterprise zone businesses must be irrevocably designated by the issuer when the bonds are issued, and any designated proceeds that are not used to make qualified loans to enterprise zone businesses within 18 months after the bonds are issued must be used to redeem bonds (in the same manner as described below on the rules restricting recycling of loan repayments). For purposes of this requirement, a loan is deemed made when funds are disbursed to the borrowing enterprise zone business that is to be the ultimate user of the proceeds.

Additional restriction on purpose arbitrage.—Notwithstanding their use to make loans to multiple parties, qualified redevelopment bonds issued under these rules will not be treated as "program" bonds under any Treasury Department arbitrage rules. Thus, permitted purpose arbitrage earnings on any issue of these bonds may not exceed 0.125 percentage points plus administrative costs allowable under Treasury regulations.

Further, to ensure the maximum interest rate subsidy to enterprise zone businesses receiving loans financed with these bonds, the bill provides that the effective rate of interest on bond-financed loans to the businesses may not exceed the yield on the issue by more than 0.125 percentage points. In determining the effective rate of interest on these loans, all points, fees, charges, and other amounts borne by the enterprise zone business are taken into account.[24]

Recycling not permitted.—All repayments of principal on loans financed with these bonds must be used to redeem bonds that are part of the issue no later than the close of the first semiannual period beginning after the date the repayment is received. The redemption requirement does not apply to require amounts of less than $250,000 to be used to redeem bonds, but those amounts (of unoriginated loan proceeds or repayments) are aggregated with future repayments in applying the requirement in subsequent semiannual periods.

Liberalization of bond security requirements

Notwithstanding any private payments made with respect to use of qualified redevelopment bond proceeds, present law requires the primary security for the bonds to be (a) taxes of general applicability imposed by a general purpose governmental unit, or (b) incremental property tax revenues which are reserved exclusively for debt service on the bonds.

The House bill expands the present-law rules requiring local governments to pledge tax revenues as primary security for repayment of qualified redevelopment bonds to allow two additional sources of local government security to be provided for bonds issued during the first 60 months after a zone's designation. First, general purpose governmental units in which tax enterprise zones are located may directly guarantee repayment of the bonds (e.g., by a pledge of their full faith and credit or through other loan guarantee programs funded and operated by them). Second, the governmental units may purchase a letter of credit or bond insurance as security for repayment of the bonds. To ensure that such a credit enhancement device provided under the second rule is a local government contribution to the tax enterprise zone, the bill provides that any public law or Treasury Department regulation otherwise allowing recovery of credit enhancement costs through arbitrage earnings will not apply to the cost of these credit enhancement devices.

Penalty for failure to continue as zone business or to use bond-financed property in the zone business

Under present law, interest on loans financed with tax-exempt private activity bonds, including qualified redevelopment bonds, becomes nondeductible if certain changes in the use of bond-financed property occur (the "change-in-use rules"). If an enterprise zone business receiving a loan financed with qualified redevelopment bond proceeds ceases to qualify as such during any period when the financing is outstanding, or if less than substantially all[25] of the use of bond-financed property continues to be by the business in the tax enterprise zone, a prohibited change in use occurs under the tax-exempt bond rules.[26] Accordingly, interest on all loans to the nonqualifying business, or on loans to finance property that ceases to be used by the business in the tax enterprise zone, becomes nondeductible, effective from the first day of the taxable year in which the disqualification or cessation of use occurs.

Further, if less than substantially all of the use of bond-financed property continues to be in the tax enterprise zone or the borrower ceases to be an enterprise zone business at any time within 10 years after the financing is provided, a penalty of 1.25 percent of the face amount of *all* qualified redevelopment bond financing provided to the business removing the property is imposed. This penalty is in addition to the loss of interest deductions, described above.

The House bill provides that the change-in-use and 1.25-percent penalties are waived in the case of borrowers that cease to qualify as enterprise zone businesses or that cease to use bond-financed property in the zone in that business as a result of bankruptcy. It is intended that the Treasury Department may waive these penalties in the case of violations caused by circumstances beyond the control of the borrower if the violations are corrected within a reasonable period after the business has reason to know of them.

It is further intended that tax-exemption of the interest on qualified redevelopment bonds used to finance loans to enterprise zone businesses not be affected by events giving rise to loss of interest deductions or the 1.25 percent penalty, provided that the issuer of the bonds reasonably expects when loans are originated that (1) all property to be financed will continue to be used in the zone throughout its useful life (or the zone designation period, if shorter) and (2) each business to which loans are made will continue to qualify as a tax enterprise zone business throughout the designation period.

Partial exemption from State volume limitations

Under present law, issuance of qualified redevelopment bonds, like most other tax-exempt private activity bonds, are subject to annual State private activity bond volume limitations. Qualified redevelopment bonds issued during the first 60 months after a tax enterprise zone's designation to finance zone redevelopment purposes are allowed a 50 percent exclusion from the otherwise applicable State private activity bond volume limitations.

Credit for contributions to certain community development corporations

The House bill also provides a credit for qualified cash contributions made to certain community development corporations (CDCs). If a taxpayer makes a qualified contribution, the credit may be claimed by the taxpayer for each taxable year during a 10-year period beginning with the taxable year during which the contribution was made. The credit that may be claimed for each year is equal to five percent of the amount of the contribution to the CDC. Thus, during the 10-year credit period, the taxpayer may claim aggregate credit amounts totalling 50 percent of the contribution.

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[23] All persons or entities that are related parties under section 52 are treated as a single enterprise zone business in applying the $2.5 million limit.

[24] The House bill provides that credit report fees which do not exceed the fees charged generally for similar loans not financed with tax-exempt bonds may be excluded from this calculation.

[25] The term "substantially all" is defined as under the other tax enterprise zone rules, which may not coincide with the pre-1986 or any current tax-exempt bond meaning for that term.

[26] Expiration of a zone designation period due solely to passage of time does not result in imposition of this change-in-use penalty.

For purposes of this provision, a qualified contribution is defined as any transfer of cash that meets the following requirements: (1) it is made to one of up to 10 CDCs selected by the Secretary of HUD, provided that the contribution is made during the five-year period after the CDC is so selected by the Secretary of HUD; (2) the amount is available for use by the CDC for at least 10 years;[27] (3) the contribution is to be used by the CDC to provide qualified low-income assistance[28] within its operational area; and (4) the CDC designates the contribution as eligible for the credit. The aggregate amount of contributions which may be designated by a selected CDC as eligible for the credit may not exceed $2 million.

Prior to January 1, 1994, the Secretary of HUD may select up to 10 CDCs as eligible to participate in the program (subject to the availability of eligible CDCs).[29] To be selected, a CDC must have the following characteristics: (1) it must be a tax-exempt charity described in section 501(c)(3) of the Code; (2) its principal purposes must include promoting employment and business opportunities for individuals who are residents of its operational area; and (3) its operational area must (a) meet the geographic limitations that would apply if the area were designated as a tax enterprise zone, (b) have an unemployment rate that is not less than the national average, and (c) have a median family income which does not exceed 80 percent of the median family income of residents within the jurisdiction of the local government.[30]

The credit is subject to the general business credit limitations of section 38 and, therefore, may not be used to reduce tentative minimum tax.

Studies

The Secretary of the Treasury and the Comptroller General each are directed to submit an interim report by July 1, 1997, and a final report by July 1, 2002, to Congress analyzing the effectiveness of the tax enterprise zones.

Effective date

Under the House bill, tax enterprise zone designations may be made only during calendar years 1992 through 1996. The tax incentives provided for tax enterprise zones generally are available during the period that the designation remains in effect, which generally covers the 15-year period after the designation first becomes effective. The provisions that expand tax-exempt financing rules apply to bonds issued after the date of the bill's enactment and within 60 months after the designation of the tax enterprise zone in which the bond proceeds are to be used. For purposes of the qualified CDC contribution credit, the Secretary of HUD may select during calendar years 1992 and 1993 a total of 10 CDCs eligible to receive qualified contributions.

SENATE AMENDMENT

Designation of tax enterprise zones

In general

The Senate amendment provides that a total of 115 tax enterprise zones may be designated (subject to availability of eligible zones) during 1993 through 1996. Tax enterprise zones are urban tax enterprise zones or rural development investment zones, and are to be designated from areas nominated by State and local governments.

The Secretary of Housing and Urban Development (HUD) may designate 75 urban tax enterprise zones (up to 11 zones designated in 1993, 14 zones in 1994, 25 zones in 1995, and 25 zones in 1996).[31] Any shortfall in designations of zones may be carried forward to the following year, but not beyond 1996.

The Secretary of Agriculture (in consultation with the Secretary of the Interior) will designate 40 rural development investment zones (up to 8 zones designated in 1993, 8 zones in 1994, 12 zones in 1995, and 12 zones in 1996).[32] Any shortfall in designations of zones may be carried forward to the following year, but not beyond 1996.

Zone designations generally will remain in effect for 10 years. An area's zone designation may be revoked if the local government or State significantly modifies the boundaries or does not comply with its agreed-upon course of action for the zone (described below).

Eligibility criteria for zones

The eligibility criteria for urban tax enterprise zones and rural development investment zones generally are the same as the House bill (except as noted below). To be eligible for designation as a tax enterprise zone, a nominated area is required to have all of the following characteristics: (1) a population of at least 20,000 (10,000 in the case of an urban zone in a city with a population of less than 500,000, and 5,000 in the case of a rural zone); (2) a condition of unemployment and general distress (indicated by factors such as high crime rates, or designation of the area as a disaster area or high-intensity drug trafficking area ("HIDTA") under the Anti-Drug Abuse Act of 1988); (3) is one contiguous area; (4) is located within not more than two States; (5) poverty rates of at least 25 percent in each of the area's census tracts; (6) poverty rates of at least 35 percent in each of at least 80 percent of the area's census tracts; and (7) a satisfactory course of action (described below) adopted by the State and local governments designed to promote economic development in the nominated area.

Course of action

In order for a nominated area to be eligible for designation as a tax enterprise zone, the local government and State in which the area is located are required to agree in writing that they will adopt (or continue to follow) a specified course of action designed to reduce burdens borne by employers or employees in the area.

A course of action must include the following actions with respect to a nominated area: (1) certification by the State insurance commissioner (or similar official) that basic commercial property insurance of a type comparable to that insurance generally in force in urban or rural areas (whichever is applicable) throughout the State is available to businesses within the nominated area; (2) a program to ensure the necessary rehabilitation of publicly owned property; (3) a commitment to increase the level, or efficiency of delivery, of local public services (such as public safety protection); (4) involvement in the program by public or private entities (e.g., community groups), including a commitment to provide jobs and job training, and technical, financial, or other assistance to employers, employees, and residents of the area; (5) special preferences granted to contractors owned and operated by socially and economically disadvantaged groups, in connection with activity in the zone; (6) certain programs to encourage local financial institutions to make loans to area businesses, with emphasis on small and locally owned businesses; and (7) special preferences for projects within the area in allocations of the State's low-income housing credit ceiling and private activity bonds ceiling.

In addition, the required course of action may include the following: (1) a reduction of tax rates or fees applying within the zone; (2) donations of surplus land to community organizations agreeing to operate businesses on the land; and (3) programs to encourage employers to purchase health insurance for employees on a pooled basis.

Programs which serve as part of the required course of action may be implemented by both government and nongovernmental entities, but may not be funded with proceeds from any Federal program (other than discretionary proceeds, such as community development block grants, the use of which is not restricted to a zone). In evaluating courses of action agreed to by the State or local government, past efforts of those governments with respect to the nominated area are to be taken into account.

Selection process and criteria

All designated tax enterprise zones are to be selected from nominated areas on the basis of the following factors: (1) the strength and quality of promised contributions by State and local governments relative to their fiscal ability; (2) the effectiveness and enforceability of the guarantees that the promised course of action will be implemented, including the specificity with which the commitments enumerated in the course of action are described in order that it could be determined annually by the applicable Secretary whether such commitments actually are being carried out; (3) the level of commitments by private entities of additional resources to the economy of the nominated area, including the creation of new or expanded business activities; and (4) the relative levels (compared to other nominated areas) of unemployment, general distress, and poverty in the nominated area.

Tax incentives

Employer wage credit

A 30-percent credit against income tax liability is available to all employers for the first $15,000 of wages paid to each employee who (1) is a zone resident (i.e., his or her principal place of abode is within the zone), and (2) performs substantially all employment services within the zone in a trade or business of the employer.[33]

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[27] The contribution to the CDC must be available for use by the CDC for up to a 10-year period, but need not meet the requirements of a "contribution or gift" for purposes of section 170. In other words, a contribution eligible for the credit under the bill may be made in the form of a 10-year loan (or other long-term investment), the principal of which is to be returned to the taxpayer after the 10-year period. However, in the case of a donation of cash made by a taxpayer to an eligible CDC, the taxpayer would be allowed to claim a charitable contribution deduction (subject to the present-law rules under section 170) and, in addition, could claim the credit under the bill's provisions.

[28] The House bill defines "qualified low-income assistance" as assistance (1) which is designed to provide employment and business opportunities to individuals who are residents of the operational area of the CDC, and (2) which is approved by the Secretary of HUD.

[29] At least four of the selected CDCs must operate in rural areas.

[30] In selecting CDCs, the Secretary of HUD must give priority to corporations with a demonstrated record of performance in administering community development programs that target at least 75 percent of the jobs emanating from their investment funds to low income or unemployed individuals.

[31] At least 40 of the urban tax enterprise zones are to be located in cities with a population of less than 500,000.

[32] The Senate amendment also provides that no area within any Indian reservation may be designated as a tax enterprise zone. (Under the Senate amendment, certain tax incentives may apply to businesses located within Indian reservations. See infra.)

The maximum credit per qualified employee is $4,500 per year. Wages paid to a qualified employee continue to be eligible for the credit if the employee earns more than $15,000, although only the first $15,000 of wages are eligible for the credit. The wage credit is available with respect to a qualified employee, regardless of the number of other employees who work for the employer or whether the employer meets the definition of an "enterprise zone business" (which applies for the investment tax incentives described below).

Qualified wages include the first $15,000 of "wages," defined as (1) salary and wages as generally defined for FUTA purposes, and (2) certain training and educational expenses paid on behalf of a qualified employee, provided that (a) the expenses are paid to an unrelated third party and are excludable from gross income of the employee under present-law section 127, or (b) in the case of an employee under age 19, the expenses are incurred by the employer in operating a youth training program in conjunction with local education officials.

The credit is allowed with respect to both full-time and part-time employees. However, the employee must be employed by the employer for a minimum period of at least 90 days or 120 hours of service. Wages are not eligible for the credit if paid to certain relatives of the employer or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, wages are not eligible for the credit if paid to a person who owns more than five percent of the stock (or capital or profits interests) of the employer.

To be eligible for the wage credit, an employer is required to notify all employees eligible to receive advance refundability of the earned income tax credit (EITC) of the availability of such advance refundability.

For certain small employers, the credit is refundable (and may be used to reduce tentative minimum tax). For this purpose, the term "small employers" is defined as employers with gross receipts not greater than $2 million during the preceding taxable year, although refundability is phased out for employers with gross receipts between $1 million and $2 million. For employers that are not "small employers," the credit is not refundable. For such employers, the credit is subject to the general business credit limitations (sec. 38) and, therefore, may not be used to reduce tentative minimum tax.

An employer's deduction otherwise allowed for wages is reduced by the amount of credit claimed for that taxable year.

Expansion of targeted jobs tax credit

The present-law targeted jobs tax credit (TJTC) is expanded so that a person who resides in a tax enterprise zone is treated as a member of a targeted group for purposes of that credit. However, the TJTC credit rate for tax enterprise zone residents is 30 percent (rather than the regular TJTC credit rate of 40 percent). Thus, employers located outside tax enterprise zones are entitled to claim the 30-percent TJTC credit on up to $6,000 of qualified first-year wages paid to employees who reside within a tax enterprise zone.[34]

As under present-law, an employer's deduction otherwise allowed for wages is reduced by the amount of TJTC claimed for that taxable year.

Definition of "enterprise zone business"

The investment tax incentives described below (but not the labor incentives described above) are available only with respect to trade or business activities that satisfy the criteria for an "enterprise zone business." An "enterprise zone business" is defined as a corporation or partnership (or proprietorship) if for the taxable year: (1) every trade or business of the corporation or partnership is the active conduct of a qualified business within a tax enterprise zone[35]; (2) at least 80 percent of the total gross income is derived from the active conduct of a qualified business within a zone; (3) substantially all of the use of its tangible property occurs within a zone; (4) substantially all of its intangible property is used in, and exclusively related to, the active conduct of such business; (5) substantially all of the services performed by employees are performed within a zone; (6) at least one-third of the employees are residents of the zone; (7) less than five percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to certain financial property; and (8) less than five percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles not held primarily for sale to customers in the ordinary course of an active trade or business.

A "qualified business" is defined as any trade or business other than a trade or business that consists predominantly of the development or holding of intangibles for sale or license, a business consisting of the operation of a facility described in present-law section 144(c)(6)(B), and certain large farming operations if the aggregate unadjusted bases of the assets of the farm exceed $500,000. In addition, the leasing to others of any structure or building located within a tax enterprise zone is treated as a qualified business only if at least 50 percent of the gross rental income from the building or structure is derived from enterprise zone businesses. The rental of tangible personal property to others is not a qualified business unless substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

Increased section 179 expensing

Certain enterprise zone businesses are allowed to expense 100 percent of the first $10,000 of investment in "qualified zone property." In addition, 50 percent of the next $40,000 of such investment also may be expensed.

"Qualified zone property" is defined as depreciable tangible property (including buildings), provided that: (1) such property was acquired by the taxpayer (but not from a related party) after the zone designation took effect; (2) the original use of the property in the zone commences with the taxpayer; and (3) substantially all of the use of the property is in the zone in the active conduct of a trade or business by the taxpayer in the zone. In the case of property which is substantially renovated by the taxpayer, however, such property need not be acquired by the taxpayer after zone designation nor originally used by the taxpayer within the zone if during any 24-month period after zone designation the additions to the taxpayer's basis in such property exceed 100 percent of the taxpayer's basis in such property at the beginning of the period or $5,000 (whichever is greater).

The expensing allowance is phased out for taxpayers with investment in depreciable business property during the taxable year totalling $200,000 to $250,000. As under present-law section 179, all component members of a controlled group are treated as one taxpayer for purposes of the expensing allowance and application of the phaseout (sec. 179(d)(6)). The increased expensing allowance is allowed for purposes of the alternative minimum tax (i.e., it is not treated as an adjustment for purposes of the alternative minimum tax). The expensing allowance is recaptured if the property is not used predominantly in an enterprise zone business (under rules similar to present-law section 179(d)(10)).

Accelerated depreciation

An enterprise zone business is to determine depreciation deductions with respect to "qualified zone property"[36] (defined above) by using the following recovery periods:

3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20 year property	12 years
Nonresidential real property	20 years

The shorter recovery periods allowed for qualified zone property of enterprise zone businesses are not allowed for alternative minimum tax purposes.

Ordinary loss treatment

Loss incurred by an individual or corporate taxpayer on disposition of certain property used in an enterprise zone business is treated as ordinary loss. The provision applies to tangible property used in an enterprise zone business for at least two years (five years in the case of real property). Loss on disposition of a stock or partnership interest in an enterprise zone business held by an individual for at least two years also is treated as ordinary loss. Ordinary loss treatment is not available under the provision for intangible property, other than stock or partnership interests in enterprise zone businesses.

Stock interests eligible for the ordinary loss treatment must be acquired by the individual taxpayer on original issue from the corporation solely in exchange for cash at a time when the corporation was an enterprise zone business (or was being organized for the purpose of being an enterprise zone business) and, during substantially all of the taxpayer's holding period, the corporation qualified as an enterprise zone business.[37]

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[33] The credit is not available, however, with respect to any individual employed at any facility described in present-law section 144(c)(6)(B) (i.e., a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises). In addition, the credit is not available with respect to any individual employed by a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of the aggregate unadjusted bases of assets of the farm exceed $500,000.

[34] Employers located within a tax-enterprise zone are not allowed to claim the TJTC with respect to an employee if any of such employee's wages were taken into account in determining the employer's enterprise zone wage credit for that taxable year.

[35] This requirement does not apply to a business carried on by an individual as a proprietorship.

[36] Accelerated depreciation is available with respect to property that is not expensed under section 179.

[37] Under the Senate amendment, stock is not eligible for the ordinary loss treatment if the basis of such stock had been reduced under the stock

Similar rules would apply to an interest in a partnership that was an enterprise zone business. Property used in an enterprise zone business is eligible for the ordinary loss treatment if the property (1) meets the definition of "qualified zone property" (defined above), or (2) is land which is an integral part of an enterprise zone business.

The ordinary loss treatment applies only to losses that are attributable to the period that the property is used in an enterprise zone business. The ordinary loss treatment is to apply for purposes of computing alternative minimum tax.

Stock expensing

An individual is allowed a 50-percent deduction for the amount paid in cash during the taxable year to purchase certain stock in an enterprise zone business. The amount of the deduction is limited to $20,000 per year (with a $200,000 lifetime cap).[38] The deduction is allowed to an individual as an above-the-line deduction (regardless of whether the individual claims the standard deduction).

Stock qualifies for the expensing deduction only if it was acquired on original issue[39] from a domestic C corporation that: (1) meets the definition of an enterprise zone business; (2) does not have more than one class of stock outstanding; (3) the sum of (a) the unadjusted bases of the assets owned by the corporation and (b) the value of leased assets does not exceed $2 million; (4) more than 20 percent of the total value and total voting power of the stock of the corporation is owned by individuals (directly or through partnerships or trusts) or by estates; and (5) the cash paid for the stock is used by the issuing corporation within 12 months to acquire qualified zone property (as defined above).

For purposes of the $20,000 annual limitation and the $200,000 lifetime cap, an individual and members of his or her family are treated as a single individual.

The basis of stock for which a deduction is claimed under the provision is reduced by the amount of the deduction. In addition, gain on disposition of the stock is treated as ordinary income to the extent of the amount allowed as a deduction, and interest is payable on certain premature dispositions. The deduction is allowed for purposes of the alternative minimum tax.

Low-income housing credit expansion

For purposes of the low-income housing credit (LIHC), tax enterprise zones automatically qualify as "difficult to develop" areas, within which the eligible basis of buildings for purposes of computing the credit is 130 percent of the cost basis.

Qualified enterprise zone facility bonds

In general

The Senate amendment authorizes a new category of exempt-facility private activity bonds, qualified enterprise zone facility bonds, for use in areas certified as eligible to be enterprise zones. Qualified enterprise zone facility bonds are bonds 95 percent or more of the net proceeds of which are used to finance qualified zone property (as generally defined under the amendment) for a qualified enterprise zone business[40] and land located in the zone the use of which is an integral part of such a business.

Unlike the other tax incentives provided for designated tax enterprise zones, these bonds may be issued for use in all areas that are *eligible* for designation as one of the 115 tax designated tax enterprise zones, regardless of whether the appropriate Secretary designates the area such. However, an area is eligible for use of these new exempt-facility bonds only if an application is made to the appropriate Secretary for such a designation and that Secretary certifies that the application demonstrates that the area meets the eligibility criteria enumerated above for designation (including the required course of action by the State and local governments).

Qualified enterprise zone facility bonds may be issued for use in an area only during the 60-month period following the earlier of (a) the date the zone is certified by the appropriate Secretary as an eligible area, or (b) the date on which the zone is designated a tax enterprise zone.

Prompt expenditure required

The proceeds of qualified enterprise zone facility bonds must be spent no later than 18 months after the date on which the bonds are issued. Tax-exemption on the bond interest will not be affected if this expenditure requirement is not satisfied, however, if (a) all unspent proceeds as of the end of the 18-month period are used to redeem bonds that are a part of the issue during the succeeding six months, and (b) the issuer pays a penalty equal to three percent per year of the unspent proceeds for the period beginning on the date the bonds are issued and ending on the date the unspent proceeds are used to redeem bonds.

Special rules on issue size and use to finance certain facilities

The aggregate face amount of a qualified enterprise zone bond issue may not exceed the excess of $1 million over all outstanding prior issues of such bonds with respect to any qualified enterprise zone business which is a principal user of the bond proceeds. For purposes of this determination, all businesses that are related parties, within the meaning of section 52(a) or (b) are treated as a single business.

The Senate amendment exempts qualified enterprise zone facility bonds from the general restrictions on financing the acquisition of existing property (sec. 147(d)). Additionally, these bonds may not be used to finance the acquisition of farmland, including such land for use by certain first-time farmers (sec. 147(c)(2)).

Penalty for failure to continue as zone business or to use bond-financed property in the zone business

The Senate amendment extends change-in-use rules to qualified enterprise zone facility bonds. Accordingly, interest on all bond-financed loans to a business that no longer qualifies as an enterprise zone business, or on loans to finance property that ceases to be used by the business in the enterprise zone, becomes nondeductible, effective from the first day of the taxable year in which the disqualification or cessation of use occurs.

Further, if less than substantially all of the use of bond-financed property continues to be in the enterprise zone or the borrower ceases to be an enterprise zone business at any time within 10 years after the financing is provided, a penalty of 1.25 percent of the face amount of all qualified enterprise zone facility bond financing provided to the borrower is imposed. This penalty is in addition to the loss of interest deductions, described above.

The Senate amendment provides that the change-in-use and 1.25-percent penalties are waived in the case of borrowers that cease to qualify as enterprise zone businesses or that cease to use bond-financed property in the zone in that business as a result of bankruptcy, or solely as a result of a zone's ceasing to be eligible as such (e.g., as a result of the passage of time). Further, it is intended that the Treasury Department may waive these penalties in the case of violations caused by circumstances beyond the control of the borrower if the violations are corrected within a reasonable period after the business has reason to know of them.

Partial exemption from State volume limitations

Qualified enterprise zone facility bonds are allowed a 50-percent exclusion from the otherwise applicable State private activity bond volume limitations.

Exception from bank pro rata interest deduction disallowance

The Senate amendment provides that the general rule requiring banks to forego a portion of their otherwise allowable interest expense deduction if they invest in tax-exempt bonds does not apply to investments in qualified enterprise zone facility bonds, if the issuer elects.

Rules

Within four months after the date of enactment, the Secretaries of HUD, Agriculture, and Interior are required to promulgate rules (by notice or regulation) regarding: (1) procedures for nominating areas for designation as tax enterprise zones; (2) the method for comparing the enumerated selection criteria; and (3) recordkeeping requirements to assist in the preparation of studies to be submitted to Congress (described below). Such rules must provide that State and local governments shall have no less than five months after issuance to submit their applications for zone designation before such applications are evaluated and compared and any area is designated as a tax enterprise zone.

Study

The Senate amendment provides for a study to be conducted under the auspices of the National Academy of Sciences, analyzing the effectiveness of the tax incentives in the tax enterprise zones. An interim report of this study is required to be submitted to Congress by July 1, 1997, and a final report by July 1, 2000. The Secretary of the Treasury (in consultation with the Secretaries of Housing and Urban Development, Agriculture, and Interior) is directed to contract with the National Academy of Sciences within three months after the date of enactment to conduct this study.

Indian employment and investment incentives

In general

Under the Senate amendment, businesses located on Indian reservations generally are

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expensing provision described below. In addition, stock is not eligible for the ordinary loss treatment if such stock was acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of the provision.

[38] Thus, in order for an individual to claim the maximum $20,000 per-year deduction, the individual must purchase $40,000 of qualified stock during the taxable year.

Individuals are permitted to carry excess amounts (above the $20,000 per year limit) to the next taxable year (subject to the $200,000 lifetime cap).

[39] Stock is not eligible for the expensing deduction if such stock was acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of the provision.

[40] For purposes of the tax-exempt bond provisions, the term qualified enterprise zone business includes a business located in a certified enterprise zone area (see below) that satisfies with respect to the certified area in which it is located all of the criteria applicable to such businesses that are located in designated tax enterprise zones.

allowed a credit against income tax liability for certain investments (the "Indian reservation credit") and a credit against income tax liability for certain wages and health insurance costs (the "Indian employment credit").

Indian reservation credit

A credit against income tax liability is allowed for investments in certain property that is located or used within an Indian reservation which has a level of unemployment that is significantly greater than the national average. In general, the amount of the credit allowed a taxpayer for any taxable year equals the sum of: (1) 10 percent of the qualified investment in "reservation personal property" placed in service by the taxpayer during the taxable year; and (2) 15 percent of the qualified investment in "new reservation construction property" and "reservation infrastructure investment" placed in service by the taxpayer during the taxable year.

The full amount of the credit is allowed only if the Indian unemployment rate[41] on the applicable Indian reservation exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during either of the immediately preceding two calendar years.[42] If the Indian unemployment rate on the applicable Indian reservation exceeds 150 percent but does not exceed 300 percent of the national average unemployment rate at any time during the relevant calendar years, then only 50 percent of the otherwise allowable credit is allowed. If the Indian unemployment rate on the applicable Indian reservation does not exceed 150 percent of the national average unemployment rate at any time during the relevant calendar years, then no credit is allowed.

For purposes of the credit, "reservation personal property" is defined as property: (1) for which a depreciation deduction is allowable under section 168 of the Code; (2) which is not nonresidential real property, residential rental property, or any other real property with a class life of more than 12.5 years; (3) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation; and (4) which is not used or located outside the Indian reservation on any regular basis.

In addition, "new reservation construction property" is defined as property: (1) which is nonresidential real property, residential rental property, or any other real property with a class life of more than 12.5 years; (2) which is located in an Indian reservation; (3) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation; and (4) which is originally placed in service by the taxpayer.

Further, "reservation infrastructure investment" is defined as property: (1) for which a depreciation deduction is allowable under section 168 of the Code (whether real or personal property); (2) which benefits the tribal infrastructure; (3) which is available to the general public; and (4) which is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation. The term "reservation infrastructure investment" is to include otherwise qualifying property that is used or located outside an Indian reservation only if the purpose of the property is to connect to existing tribal infrastructure in the reservation (including, but not limited to, roads, power lines, water systems, railroad spurs, and communications facilities).

Notwithstanding the above definitions, property is not to qualify for the Indian reservation credit if the property is acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C) of the Code). In addition, property is not to qualify for the credit if the property (or any portion thereof) is placed in service for purposes of conducting or housing certain gaming activities.

In the case of reservation personal property and new reservation construction property, the qualified investment for purposes of determining the amount of the credit is the taxpayer's basis in the property. In the case of reservation infrastructure investment, the qualified investment for purposes of determining the amount of the credit is the amount expended by the taxpayer for the acquisition or construction of the property.

The basis of new reservation construction property is reduced by the full amount of the credit allowed with respect to the property. The basis of reservation personal property and reservation infrastructure investment is reduced by only 50 percent of the credit allowed with respect to the property. The Indian reservation credit is recaptured (i.e., the amount of tax due is increased) if the property with respect to which the taxpayer claimed the credit is disposed of by the taxpayer, or, in the case of reservation personal property, is removed from the Indian reservation, converted, or otherwise ceases to be reservation personal property with respect to the taxpayer.

Indian employment credit

A credit against income tax liability is also allowed to employers for certain wages and health insurance costs paid or incurred by the employer with respect to certain employees. In general, the amount of the credit allowed an employer for any taxable year equals 10 percent[43] of the sum of (1) the wages paid or incurred by the employer for services performed by an employee while the employee is a qualified employee ("qualified wages"); and (2) the amount paid or incurred by the employer for health insurance (other than health insurance provided pursuant to a salary reduction arrangement) to the extent that such amount is attributable to coverage provided to an employee while the employee is a qualified employee ("qualified employee health insurance costs").

The amount of the credit allowed an employer for any taxable year, however, is limited to an amount equal to the credit rate multiplied by the excess (if any) of (1) the sum of the qualified wages and qualified health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (which are paid or incurred by the employer) for such taxable year do not exceed the amount determined at an annual rate of $30,000 (as adjusted for inflation for years beginning after 1991), over (2) the sum of the qualified wages and qualified health insurance costs paid or incurred by the employer (or any predecessor) during the 1991 calendar year with respect to employees whose wages (which are paid or incurred by the employer or any predecessor) for such taxable year do not exceed the amount determined at an annual rate of $30,000.[44] For purposes of this limitation, all employees of a controlled group of corporations (or partnerships or proprietorships under common control) are treated as employed by a single employer.

In general, an individual is a qualified employee of an employer for any period only if: (1) the individual is an enrolled member of an Indian tribe or the spouse of an enrolled member of an Indian tribe;[45] (2) substantially all of the services performed during such period by the employee for such employer are performed within an Indian reservation; (3) the principal place of abode of the employee while performing such services is on or near the Indian reservation within which the services are performed; and (4) the employee began work for such employer on or after July 1, 1992.

An employee is not to be treated as a qualified employee for any period after the date that is 7 years after the day on which the employee first began work for the employer. In addition, an employee is not to be treated as a qualified employee for any taxable year of the employer if the total amount of wages paid or incurred by the employer with respect to such employee during such taxable year (whether or not for services rendered within the Indian reservation) exceeds an amount determined at an annual rate of $30,000 (as adjusted for inflation for years beginning after 1991). Further, an employee is to be treated as a qualified employee for a taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer.

A qualified employee is not to include certain relatives or dependents of the employer (described under present-law section 51(i)(1)) or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, a qualified employee is not to include any person who owns more than five percent of the stock of the employer (or if the employer is not a corporation, more than five percent of the capital or profits interests in the employer). Finally, a qualified employee is not to include any individual if the services performed by the individual for the employer involve certain gaming activities or are performed in a building housing such gaming activities.

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[41] The Indian unemployment rate is to be based on the number of Indians unemployed and able to work and is to be certified by the Secretary of the Interior.

[42] A special rule applies to qualifying property that has (or is a component of a project that has) an estimated construction period of more than two years or a cost of more than $1 million. With respect to such property, the relevant unemployment rate is the rate during the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment (or, if earlier, the first calendar year in which the taxpayer has expended at least 10 percent of the qualified investment) or during the immediately preceding calendar year.

[43] If at least 85 percent of the employees of the employer are Indian employees, then the amount of the credit for such taxable year is to be determined by using a 30-percent rate rather than the 10-percent rate.

[44] In the case of a short taxable year, the qualified wages and the qualified health insurance costs paid or incurred by the employer are to be annualized and the limitation for such taxable year is to equal the otherwise applicable limitation determined using such annualized amounts multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

[45] For this purpose, an Indian tribe is defined as any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et. seq.), as in effect on the date of enactment of the provision, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

The Indian employment credit is allowed with respect to full-time and part-time employees. However, if an employee is terminated less than one year after the date of initial employment, the amount of credits previously claimed by the employer with respect to that employee generally is recaptured (unless the employee voluntarily leaves, becomes disabled, or is fired due to misconduct).

The employment credit is not refundable and is subject to the general business credit limitations of section 38. Consequently, the credit may not be used to reduce tentative minimum tax.

Effective date

Under the Senate amendment, tax enterprise zone designations will be made only during calendar years 1993 through 1996. The tax incentives are available during the period that the designation remains in effect, which generally will be for 10 years after the designation first becomes effective.

The Indian reservation credit applies to property placed in service after December 31, 1992, and the Indian employment credit applies to wages paid or incurred after December 31, 1992.

CONFERENCE AGREEMENT

Tax enterprise zones

The conference agreement generally follows the House bill, with the following modifications.

The required course of action (which must be agreed to by the State and local governments nominating an area for designation as a tax enterprise zone) is modified to include as one of the possible components of such course of action that the State insurance commissioner (or similar State official) certifies that basic commercial property insurance of a type comparable to that insurance generally in force in urban or rural areas, whichever is applicable, throughout the State is available to businesses within the tax enterprise zone. In addition, the conference agreement clarifies that the course of action may include the giving of special preference to contractors owned and operated by members of any socially and economically disadvantaged group (within the meaning of section 8(a) of the Small Business Act (15 U.S.C. 637(a)), in connection with an activity any part of which occurs within the tax enterprise zone.

The conference agreement also clarifies that the "general distress" which is required for an area to be eligible for zone designation may be indicated by factors such as high crime rates, high vacancy rates, or designation of an area as a disaster area or high-intensity drug trafficking area ("HIDTA") under the Anti-Drug Abuse Act of 1988.

The selection criteria to be employed by the Secretary of HUD and the Secretary of Agriculture in designating tax enterprise zones from among nominated areas are clarified to include consideration of the specificity with which the commitments made by the State and local governments as part of the course of action are described, in order that the applicable Secretary will be better able to determine annually whether such commitments are, in fact, being carried out.

No enterprise zone may contain any part of an Indian reservation.[46] The conference agreement provides separate tax incentives for businesses operating in Indian reservations (as described below).

The tax incentives generally available under the conference agreement in tax enterprise zones (i.e., the wage credit and various capital incentives) are not available with respect to (1) any facility described in present-law section 144(c)(6)(B),[47] or (2) a trade or business the principal activity of which is farming,[48] but only if, as of the close of the taxable year, the sum of (a) the aggregate unadjusted bases (or, if greater, the fair market value) of assets owned by the taxpayer which are used in the farming business, and (b) the aggregate value of assets leased by the taxpayer for use in such business, exceeds $500,000.[49]

For purposes of the employer wage credit, the conferees intend that employers will undertake reasonable measures to verify an employee's residence within the tax enterprise zone, so that the employer will be able to substantiate any wage credit claimed under the bill. It is further intended that the Treasury Department will issue regulations prescribing procedures to be followed for verification of an employee's residence.

The definition of an "enterprise zone business" is modified to include the requirement that substantially all of the intangible property of the entity (or the intangible property of the business in the case of an individual proprietorship) be used in, and exclusively related to, the active conduct of such business.[50] In addition, the conference agreement clarifies that, for purposes of determining whether a business carried on by an individual as a proprietorship qualifies as an enterprise zone business, the term "employee" includes the proprietor.

For purposes of the $20,000 section 179 expensing allowance for certain enterprise zone businesses, the requirement is deleted that all component members of a controlled group of corporations be enterprise zone businesses. Thus, although all component members of a controlled group need not be enterprise zone businesses, under present-law section 179(d)(6), component members of a controlled group are treated as one taxpayer for purposes of the $20,000 limitation and application of the $200,000 to $220,000 phase-out range.

An individual is allowed a 50-percent deduction for the amount paid in cash for the purchase of certain enterprise zone stock (as defined in the House bill). The deduction is limited to $25,000 per year, with a $250,000 lifetime cap. Thus, in order for an individual to claim the maximum $25,000 per-year deduction, the individual must purchase $50,000 of qualified enterprise zone stock during the taxable year. In addition, the conference agreement eliminates the $30 million limit contained in the House bill on the total amount of stock that, for each calendar year, is eligible for the deduction. The conference agreement also eliminates the requirement that a local government official be designated for each zone with responsibility for allocating the $30 million limit to particular stock issuances. Therefore, all stock which meets the definition of "enterprise zone stock" is eligible for the 50-percent deduction (if the individual purchaser so elects) during the life of a zone, subject to the purchaser's $25,000 annual deduction limit and $250,000 lifetime cap.[51]

The conference agreement clarifies that, for purposes of the 50-percent capital gains exclusion and capital gains deferral provisions, the term "enterprise zone business" does not include any trade or business of producing property of a character subject to the allowance for depletion under present-law section 611. The conference agreement also clarifies that the special rule contained in the House bill which defines "qualified zone business property" as including certain substantially renovated property applies to property which is substantially improved by the taxpayer and any land on which such property is located. Property shall be treated as "substantially improved" if, during any 24-month period beginning on the date on which the designation of the tax enterprise zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

The conference agreement adopts the requirement from the House bill that the Secretaries of HUD and Agriculture must, within four months after enactment, issue rules establishing procedures for nominating areas for designation as tax enterprise zones, a method for comparing the enumerated selection criteria, and certain recordkeeping requirements. Such rules must also provide that States and local governments have at least 30 days after such rules are published to file applications for nominated areas before such applications are evaluated and compared with one another and any area is designated as a tax enterprise zone.

The conference agreement deletes the requirement that the Secretary of the Treasury and General Accounting Office (GAO) conduct a study of the tax enterprise zones, and, instead, provides for a study to be conducted under the auspices of the National Academy of Sciences, analyzing the effectiveness of the incentives provided for tax enterprise zones (and the other assistance provided by the bill for tax enterprise zones) in achieving the purposes of the legislation. An interim report of this study is required to be submitted to Congress by July 1, 1997, and a final report by July 1, 2002. The Secretary of the Treasury (in consultation with the Secretaries of HUD and Agriculture) is directed to contract with the National Academy of Sciences within three months after the date of enactment to conduct this study.

Indian employment and investment incentives

In general

The conference agreement generally follows the Senate amendment with respect to the tax benefits provided to businesses located on Indian reservations. Under the conference agreement, businesses located on Indian reservations[52] generally are allowed a credit against income tax liability for certain investments (the "Indian reservation credit") and a credit against income tax liability for certain wages and health insurance costs (the "Indian employment credit").

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[46] The conference agreement deletes the requirement of the House bill that at least one rural development investment zone be located on an Indian reservation.

[47] Facilities described in section 144(c)(6)(B) include a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

[48] For this purpose, the term "farming" is defined under subparagraphs (A) or (B) of present-law section 2032A(e)(5).

[49] The conference agreement contains anti-abuse rules to prevent avoidance of the $500,000 limitation through the use of related entities.

[50] This provision was included in the Senate amendment and parallels the rule governing tangible property contained in the House bill.

[51] The conference agreement provides that an individual, and such individual's spouse and minor children, are treated as one person for purposes of the $25,000 annual deduction limit and $250,000 lifetime cap.

The purchase of stock does not qualify for the 50-percent deduction if such stock was acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of the provision.

Indian reservation credit

A credit against income tax liability is allowed for investments in certain property that is located or used within an Indian reservation which has a level of unemployment that greatly exceeds the national average. In general, the amount of the credit allowed a taxpayer for any taxable year equals the sum of: (1) 10 percent of the qualified investment in "reservation personal property" placed in service by the taxpayer during the taxable year; and (2) 15 percent of the qualified investment in "new reservation construction property" and "reservation infrastructure investment" placed in service by the taxpayer during the taxable year.

The full amount of the credit is allowed only if the Indian unemployment rate[53] on the applicable Indian reservation exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during either of the immediately preceding two calendar years.[54] If the Indian unemployment rate on the applicable Indian reservation exceeds 150 percent but does not exceed 300 percent of the national average unemployment rate at any time during the relevant calendar years, then only half of the otherwise allowable credit may be claimed (i.e., the credit rates are 7.5 percent and 5 percent). If the Indian unemployment rate on the applicable Indian reservation does not exceed 150 percent of the national average unemployment rate at any time during the relevant calendar years, then no credit is allowed.

For purposes of the credit, "reservation personal property" is defined as property: (1) for which a depreciation deduction is allowable under section 168 of the Code; (2) which is not nonresidential real property, residential rental property, or any other real property with a class life of more than 12.5 years; (3) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation; and (4) which is not used or located outside the Indian reservation on any regular basis.

In addition, "new reservation construction property" is defined as property: (1) which is nonresidential real property, residential rental property, or any other real property with a class life of more than 12.5 years for which a depreciation deduction is allowable under section 168 of the Code; (2) which is located in an Indian reservation; (3) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation;[55] and (4) which is originally placed in service by the taxpayer.

Further, "reservation infrastructure investment" is defined as property: (1) for which a depreciation deduction is allowable under section 168 of the Code (whether real or personal property); (2) which benefits the tribal infrastructure; (3) which is available to the general public; and (4) which is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation. The term "reservation infrastructure investment" is to include otherwise qualifying property that is used or located outside an Indian reservation only if the purpose of the property is to connect to existing tribal infrastructure in the reservation (including, but not limited to, roads, power lines, water systems, railroad spurs, and communications facilities).

Notwithstanding the above definitions, property is not to qualify for the Indian reservation credit if the property is acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C) of the Code). In addition, property is not to qualify for the credit if the property (or any portion thereof) is placed in service for purposes of conducting or housing certain gaming activities.[56] Finally, property is not to qualify for the Indian reservation credit if the energy credit or the rehabilitation credit is allowed with respect to the property.

In the case of reservation personal property and new reservation construction property, the qualified investment for purposes of determining the amount of the credit is the taxpayer's basis in the property. In the case of reservation infrastructure investment, the qualified investment for purposes of determining the amount of the credit is the amount expended by the taxpayer for the acquisition or construction of the property. The at-risk rules of section 49 of the Code are also to apply in determining the amount of the qualified investment for purposes of the Indian reservation credit.

The basis of new reservation construction property is reduced by the full amount of the credit allowed with respect to the property. The basis of reservation personal property and reservation infrastructure investment is reduced by only 50 percent of the credit allowed with respect to the property. The Indian reservation credit is recaptured (i.e., the amount of tax due is increased) if, before the end of the applicable recovery period with respect to the property, the property is disposed of by the taxpayer, or, in the case of reservation personal property, is removed from the Indian reservation, converted, or otherwise ceases to be reservation personal property with respect to the taxpayer.

Indian employment credit

A credit against income tax liability is also allowed to employers for certain wages and health insurance costs paid or incurred by the employer with respect to certain employees. In general, the amount of the credit allowed an employer for any taxable year equals 10 percent[57] of the sum of (1) the wages paid or incurred by the employer for services performed by an employee while the employee is a qualified employee ("qualified wages");[58] and (2) the amount paid or incurred by the employer for health insurance (other than health insurance provided pursuant to a salary reduction arrangement) to the extent that such amount is attributable to coverage provided to an employee while the employee is a qualified employee ("qualified employee health insurance costs").

The amount of the credit allowed an employer for any taxable year, however, is limited to an amount equal to the credit rate multiplied by the excess (if any) of (1) the sum of the qualified wages and qualified health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (which are paid or incurred by the employer) for such taxable year do not exceed the amount determined at an annual rate of $30,000 (as adjusted for inflation for years beginning after 1992), over (2) the sum of the qualified wages and qualified health insurance costs paid or incurred by the employer (or any predecessor) during the 1992 calendar year with respect to employees whose wages (which are paid or incurred by the employer or any predecessor) for such taxable year do not exceed the amount determined at an annual rate of $30,000.[59] For purposes of this limitation, all employees of a controlled group of corporations (or partnerships or proprietorships under common control) are treated as employed by a single employer.

In general, an individual is a qualified employee of an employer for any period only if: (1) the individual is an enrolled member of an Indian tribe or the spouse of an enrolled member of an Indian tribe;[60] (2) substantially all of the services performed during such period by the employee for such employer are performed within an Indian reservation; (3) the principal place of abode of the employee while performing such services is on or near the Indian reservation within which the services are performed; and (4) the employee began work for such employer on or after January 1, 1993.

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[52] For purposes of the Indian employment and investment incentives, the term "Indian reservation" means a reservation as defined in (1) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), as in effect on the date of enactment of the provision, or (2) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), as in effect on the date of enactment of the provision.

[53] The Indian unemployment rate is to be based on the number of Indians unemployed and able to work and is to be certified by the Secretary of the Interior.

[54] A special rule applies to qualifying property that has (or is a component of a project that has) an estimated construction period of more than two years or a cost of more than $1 million. With respect to such property, the relevant unemployment rate is the rate during the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment (or, if earlier, the first calendar year in which the taxpayer has expended at least 10 percent of the qualified investment) or during the immediately preceding calendar year.

[55] The active conduct of a trade or business for purposes of the Indian reservation credit is to include the rental to others of real property located in an Indian reservation. In addition, the credit for new reservation construction property is allowed with respect to otherwise qualifying property that is used to furnish lodging.

[56] The limitation applies to class I, II, or III gaming as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703), as in effect on the date of enactment of the provision.

[57] If, for the entire taxable year of the employer, at least 85 percent of the employees of the employer are enrolled members of an Indian tribe or spouses of enrolled members of an Indian tribe, then the amount of the credit for such taxable year is to be determined by using a 30-percent rate rather than the 10-percent rate.

[58] Wages are not eligible for the credit if attributable to services rendered by an employee during the first year he or she begins work for the employer if any portion of such wages is taken into account in determining the targeted jobs tax credit (TJTC) under present-law section 51.

[59] In the case of a short taxable year, the qualified wages and the qualified health insurance costs paid or incurred by the employer are to be annualized and the limitation for such taxable year is to equal the otherwise applicable limitation determined using such annualized amounts multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

[60] For this purpose, an Indian tribe is defined as any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et. seq.), as in effect on the date of enactment of the provision, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

An employee is not to be treated as a qualified employee for any period after the date that is 7 years after the day on which the employee first began work for the employer. In addition, an employee is not to be treated as a qualified employee for any taxable year of the employer if the total amount of wages paid or incurred by the employer with respect to such employee during such taxable year (whether or not for services rendered within the Indian reservation) exceeds an amount determined at an annual rate of $30,000 (as adjusted for inflation for years beginning after 1992). Further, an employee is to be treated as a qualified employee for a taxable year of the employer only if more than 50 percent of the wages paid or incurred by the employer to such employee during such taxable year are for services performed in a trade or business of the employer.

A qualified employee is not to include certain relatives or dependents of the employer (described under present-law section 51(i)(1)) or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, a qualified employee is not to include any person who owns more than five percent of the stock of the employer (or if the employer is not a corporation, more than five percent of the capital or profits interests in the employer). Finally, a qualified employee is not to include any individual if the services performed by the individual for the employer involve certain gaming activities or are performed in a building housing such gaming activities.[61]

The Indian employment credit is allowed with respect to full-time and part-time employees. However, if an employee is terminated less than one year after the date of initial employment, the amount of credits previously claimed by the employer with respect to that employee generally is recaptured (unless the employee voluntarily leaves, becomes disabled, or is fired due to misconduct).

An employer's deduction otherwise allowed for wages is reduced by the amount of the credit claimed for the taxable year. The conference agreement also provides that the employment credit is not refundable. Finally, the Indian employment credit is subject to the general business credit limitations of section 38,[62] and, therefore, the credit may not be used to reduce tentative minimum tax.

Effective date

The Indian reservation credit applies to property placed in service after December 31, 1992, and the Indian employment credit applies to wages paid or incurred after December 31, 1992.

II. ECONOMIC GROWTH INCENTIVES

A. INDIVIDUAL RETIREMENT ARRANGEMENTS (IRAS)

1. Modify IRA deduction

PRESENT LAW

Under present law, an individual that is not an active participant in an employer-sponsored retirement plan (and whose spouse also is not an active participant in such a plan) may make deductible contributions to an individual retirement arrangement (IRA) up to the lesser of $2,000 or 100 percent of compensation. The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

If the individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan, the $2,000 deduction limit is phased out over certain adjusted gross income (AGI) levels. The limit is phased out between $40,000 and $50,000 for married taxpayers, and between $25,000 and $35,000 for single taxpayers. An individual may make nondeductible IRA contributions (up to the contribution limit) to the extent the individual is not permitted to make deductible IRA contributions.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the income limits on IRA eligibility for active participants in employer-sponsored plans from $40,000 to $120,000 for married taxpayers and from $25,000 to $80,000 for single taxpayers. As under present law, the limits are phased out over $10,000 (so that, initially, active participants in employer-sponsored plans with AGI of $130,000 (married) and $90,000 (single) are ineligible). In addition, the active participant rule is modified so that a person is not considered to be an active participant because his or her spouse is an active participant in an employer-sponsored retirement plan. The income limits are indexed for inflation.

The IRA contribution limit is indexed in increments of $500. In addition, the limit on contributions (deductible and nondeductible) to IRAs is coordinated with the limit on elective deferrals to a qualified cash or deferred arrangement (sec. 401(k) plan), tax-sheltered annuity (sec. 403(b) annuity), simplified employee pension (SEP), or a section 501(c)(18) plan. Under the coordinated limit, IRA contributions cannot exceed the difference (if any) between the limit on elective deferrals and the amount in fact deferred. For purposes of the coordinated limit for IRA deductions and elective deferrals, the limit on elective deferrals to a section 403(b) tax-sheltered annuity is the limit described in section 402(g)(1), as modified under 402(g)(4) ($9,500 in 1992). For example, if the limit were in effect in 1992, a taxpayer who elected to defer $8,000 under a 401(k) plan could contribute only $728 to an IRA, since the limit on elective deferrals to a 401(k) plan is $8,728 in 1992. (A taxpayer who elected to defer $5,000 under a 401(k) plan could still only contribute $2,000 (indexed) to an IRA.)

Effective date.—The provision applies to taxable years beginning after December 31, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the following modifications.

The conference agreement increases the income limits on IRA eligibility for participants in employer-sponsored plans from $40,000 to $100,000 for married taxpayers and from $25,000 to $75,000 for single taxpayers. As under present law, the limits are phased out over $10,000 (so that, initially, participants in employer-sponsored plans with AGI of $110,000 (married) and $85,000 (single) are ineligible). The income limits are indexed for inflation in $20,000 increments.

Effective date.—The provision applies to taxable years beginning after December 31, 1994.

2. Special IRAs

PRESENT LAW

Under present law, certain individuals may make deductible contributions to an IRA up to the lesser of $2,000 or 100 percent of compensation. The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

Withdrawals from an IRA (other than withdrawals of nondeductible contributions) are includible in gross income. In addition, amounts withdrawn prior to age 59½, death, or disability are subject to an additional 10-percent income tax, unless the withdrawals are in the form of substantially equal periodic payments over the life (or life expectancy) of the IRA owner or over the joint lives (or life expectancies) of the IRA owner and his or her beneficiary.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment permits individuals to establish and maintain new "special IRAs" to which they can make nondeductible contributions. The same eligibility income limits that apply to deductible IRAs also apply to special IRAs. Withdrawals from a special IRA are not includible in income if attributable to contributions that have been held in the special IRA for at least 5 years. The limits on contributions to deductible IRAs and special IRAs are coordinated.

The Senate amendment also permits an individual whose AGI for the taxable year does not exceed the lower end of the income eligibility limits (initially, $80,000 for singles and $120,000 for marrieds) to make transfers from deductible IRAs to special IRAs without imposition of the 10-percent tax on early withdrawals. These limits apply whether or not the individual or his or her spouse are active participants in an employer-sponsored retirement plan. The amount transferred to a special IRA generally is includible in income in the year withdrawn from the deductible IRA. However, in the case of a transfer before January 1, 1994, the transferred amount is includible in income ratably over the 4-taxable year period beginning in the taxable year in which the distribution was made.

Effective date.—The provision generally applies to taxable years beginning after December 31, 1993. However, the provision permitting transfers from deductible IRAs to special IRAs is effective for taxable years beginning after December 31, 1992. Thus, special IRAs can be established and maintained in taxable years beginning before January 1, 1994, only with funds transferred from a deductible IRA.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the following modifications.

The conference agreement provides that the same eligibility income limits that apply to deductible IRAs also apply to special IRAs. Thus, initially, the income limits on special IRA eligibility for participants in employer-sponsored plans are $100,000 for married taxpayers and $75,000 for single taxpayers (phased out over $10,000 dollars).

The conference agreement permits individuals whose AGI for the taxable year does not exceed the upper end of the new income eligibility limits (initially, $85,000 for single taxpayers and $110,000 for married taxpayers) to make transfers from deductible IRAs to special IRAs without imposition of the 10-percent tax on early withdrawals. These limits apply whether or not the individual or his or her spouse are active participants in an employer-sponsored retirement plan. The AGI limits do not apply to transfers from one special IRA to another special IRA.

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[61] The limitation applies to class I, II, or III gaming as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703), as in effect on the date of enactment of the provision.

[62] No portion of the unused business credit for any taxable year that is attributable to the Indian employment credit may be carried back to a taxable year ending before the date of enactment of the provision.

The conference agreement also clarifies that a direct trustee-to-trustee transfer from one special IRA to another will not be treated as a distribution, consistent with the treatment of a direct trustee-to-trustee transfer from one deductible IRA to another (see Rev. Rul. 78-406).

Effective date.—Same as the Senate amendment. The new eligibility income limits, and the coordinated limit on IRA contributions and elective deferrals, apply to special IRAs beginning in 1994. Transfers from deductible IRAs to special IRAs are subject to the income limits applicable to such transfers beginning in 1993.

3. Penalty-free distributions

PRESENT LAW

Under present law, withdrawals from an IRA (other than withdrawals of nondeductible contributions) are includible in gross income. In addition, amounts withdrawn prior to age 59-½, death, or disability are subject to an additional 10-percent income tax, unless the withdrawals are in the form of substantially equal periodic payments over the life (or life expectancy) of the IRA owner or over the joint lives (or life expectancies) of the IRA owner and his or her beneficiary. The 10-percent additional tax also applies to early withdrawals from tax-qualified retirement plans and tax-sheltered annuities.

There is an exception to the additional 10-percent income tax on early withdrawals for distributions from a tax-qualified retirement plan or tax-sheltered annuity that do not exceed the amount allowable as a deduction for medical care for the year. This exception does not apply to IRAs.

HOUSE BILL

No provision.

SENATE AMENDMENT

First-time home purchasers

The Senate amendment allows withdrawals from an IRA and from amounts attributable to elective deferrals under (1) a cash or deferred arrangement (sec. 401(k) plan), (2) a tax-sheltered annuity (sec. 403(b) annuity), or (3) a section 501(c)(18) plan without imposition of the 10-percent additional income tax on early withdrawals (and without disqualification of the 401(k) plan or 403(b) annuity) to the extent the amount withdrawn is used to pay qualified acquisition, construction, or reconstruction costs with respect to a principal residence of a first-time homebuyer who is the taxpayer, the taxpayer's spouse, or the taxpayer's child or grandchild.

A first-time homebuyer is any individual (and if married, such individual's spouse) who (1) did not own an interest in a principal residence during the 3 years prior to the purchase of a home and (2) is not in an extended period for rolling over gain from the sale of a principal residence. In the case of certain homebuyers described in Code sec. 143(i)(1)(C) whose family incomes do not exceed $15,000, ownership of land subject to certain contracts for deed described in such section does not disqualify the homebuyer from being considered a first-time homebuyer. In addition, an individual whose principal residence was destroyed or substantially damaged by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar is treated as a first-time homebuyer if the individual rebuilds it or acquires another home to replace it.

Education expenses

The Senate amendment allows withdrawals from an IRA and from amounts attributable to elective deferrals under (1) a cash or deferred arrangement (sec. 401(k) plan), (2) a tax-sheltered annuity (sec. 403(b) annuity), or (3) a section 501(c)(18) plan without imposition of the 10-percent additional income tax on early withdrawals to the extent the amount withdrawn is used to pay qualified higher education expenses of the taxpayer, or the taxpayer's spouse, children or grandchildren.

Medical expenses

The Senate amendment extends to IRAs the present-law exception to the early withdrawal tax for distributions from tax-qualified plans and tax-sheltered annuities for certain medical expenses and expands the exception (as applied both to IRAs and other plans) to apply to medical expenses of the taxpayer's child, grandchild, or ancestor whether or not such person otherwise qualifies as the taxpayer's dependent.

Long-term unemployment

The Senate amendment provides that the 10-percent early withdrawal tax does not apply to withdrawals from IRAs made by an individual after separation from employment if (1) the individual has received unemployment compensation for 12 consecutive weeks and (2) the withdrawal is made during the taxable year during which the unemployment compensation is received or the succeeding taxable year.

American-made automobiles

The Senate amendment exempts withdrawals during 1992 and 1993 from an IRA and from amounts attributable to elective deferrals under (1) a cash or deferred arrangement (sec. 401(k) plan), (2) a tax-sheltered annuity (sec. 403(b) annuity), or (3) a section 501(c)(18) plan from the 10-percent additional income tax on early withdrawals to the extent the amount withdrawn is used to purchase a new American-made automobile.

5-year holding period

The Senate amendment provides that the present-law rule permitting penalty-free IRA withdrawals after an individual reaches 59-½ does not apply in the case of amounts attributable to contributions made during the previous 5 years. The provision does not apply to amounts rolled over from tax-qualified plans or tax-sheltered annuities. For purposes of applying the rule, distributions are treated as having been made first from the earliest contributions (and earnings) remaining in the account, and then from other contributions in the order in which made.

Effective dates

The provisions generally are effective for withdrawals after December 31, 1992. The provision requiring a 5-year holding period to avoid withdrawal penalties for distributions from IRAs after age 59-½ applies to contributions (and earnings allocable thereto) made after December 31, 1993.

CONFERENCE AGREEMENT

First-time home purchasers

The conference agreement follows the Senate amendment.

Education expenses

The conference agreement follows the Senate amendment.

Medical expenses

The conference agreement follows the Senate amendment.

Long-term unemployment

The conference agreement follows the Senate amendment.

American-made automobiles

The conference agreement does not include the provision in the Senate amendment.

5-year holding period

The conference agreement follows the Senate amendment.

Effective dates

The conference agreement follows the Senate amendment.

B. EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

1. Extension of exclusion for employer-provided educational assistance

PRIOR LAW

An employee's gross income and wages for income and employment tax purposes did not include amounts paid or incurred by the employer for education assistance provided to the employee if such amounts are paid or incurred pursuant to an educational assistance program that meets certain requirements. This exclusion, which expired with respect to amounts paid after June 30, 1992, was limited to $5,250 of educational assistance with respect to an individual during a calendar year.

In the absence of this exclusion, an employee generally would be required to include in income and wages, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless the cost of such assistance qualified as a deductible job-related expense of the employee.

HOUSE BILL

The exclusion for employer-provided educational assistance is extended from July 1, 1992, through December 31, 1993.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

SENATE AMENDMENT

The exclusion for employer-provided educational assistance is extended from July 1, 1992, through September 30, 1993. The exclusion is available with respect to amounts paid by the employer before October 1, 1993.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

CONFERENCE AGREEMENT

The conference agreement extends the exclusion for employer-provided education assistance for one year, through June 30, 1993. For years beginning in 1993, only payments by the employer before July 1, 1993, are taken into account.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

2. Exclusion for employer-provided group legal services and tax exemption for group legal services organizations

PRIOR LAW

Certain amounts contributed by an employer to and benefits provided under a qualified group legal services plan were excluded from an employee's gross income for income and employment tax purposes. The exclusion was limited to an annual premium value of $70. The exclusion expired June 30, 1992.

Prior law provided tax-exempt status for an organization the exclusive function of which is to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan. The tax exemption for such an organization expired June 30, 1992.

HOUSE BILL

The House bill extends the exclusion from income for employer-provided group legal services and the tax exemption for group legal services organizations through December 31, 1993.

Effective date.—Taxable years beginning after June 30, 1992.

SENATE AMENDMENT

The Senate amendment extends the exclusion from income for employer-provided group legal services and the tax exemption for group legal services organizations through September 30, 1993.

In the case of a taxable year beginning in 1993, only amounts paid before October 1, 1993, for coverage for periods before October 1, 1993, shall be taken into account in determining the amount excluded.

Effective date.—Taxable years beginning after June 30, 1992.

CONFERENCE AGREEMENT

The conference agreement does not extend the exclusion for employer-provided group legal services or the exemption for group legal services organizations.

3. Extend health insurance deduction for self-employed individuals

PRIOR LAW

Prior law provided a deduction for 25 percent of the amount paid for health insurance for a self-employed individual (e.g., a partner in a partnership or a sole proprietor) and the individual's spouse and dependents. The 25-percent deduction was also available to more than 2-percent shareholders of S corporations. The amount of expenses in excess of the deductible amount could be taken into account in determining whether the individual is entitled to a medical expense deduction (sec. 213).

The 25-percent deduction expired for taxable years beginning after June 30, 1992. In the case of years beginning in 1992, only amounts paid before July 1, 1992, for coverage before July 1, 1992, may be taken into account in determining the amount of the deduction.

HOUSE BILL

The House bill extends the 25-percent deduction from July 1, 1992, through December 31, 1992.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

SENATE AMENDMENT

The Senate amendment extends the 25-percent deduction from July 1, 1992, through December 31, 1993. After that, the Senate amendment increases the deduction to 100 percent, and extends it through May 15, 1994. The deduction expires after May 15, 1994.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

CONFERENCE AGREEMENT

The conference agreement extends the 25-percent deduction for 12 months, through June 30, 1993. In the case of years beginning in 1993, only amounts paid before July 1, 1993, for coverage before July 1, 1993, may be taken into account in determining the amount of the deduction.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

4. Qualified mortgage bonds and mortgage credit certificates

PRESENT LAW

Qualified mortgage bonds

Qualified mortgage bonds ("QMBs") are bonds the proceeds of which are used to finance the purchase, or qualifying rehabilitation or improvement, of single-family, owner-occupied residences located within the jurisdiction of the issuer of the bonds. Persons receiving QMB loans must satisfy principal residence, purchase price, borrower income, first-time homebuyer, and other requirements. An exception is provided for qualified home improvement loans (not in excess of $15,000) from the first-time homebuyer requirement. Part or all of the interest subsidy provided by QMBs is recaptured if the borrower experiences substantial increases in income and disposes of the subsidized residence within nine years after it was purchased.

The volume of QMBs that a State may issue is limited by an annual State private activity bond volume limit.

Mortgage credit certificates

Qualified governmental units may elect to exchange private activity bond volume authority for authority to issue mortgage credit certificates ("MCCs"). MCCs entitle home buyers to nonrefundable income tax credits for a specified percentage of the interest paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the loan remains outstanding and the residence being financed continues to be the MCC-recipient's principal residence. MCCs are subject to the same targeting requirements as QMBs. MCCs also are subject to the same recapture rules as QMBs.

Expiration

Authority to issue QMBs and to elect to trade in private activity bond volume authority to issue MCCs expired after June 30, 1992.

HOUSE BILL

Extension

The House bill permanently extends the authority to issue QMBs and to elect to trade in bond volume authority to issue MCCs.

Effective date.—The extension of the QMB and MCC programs is effective for bonds issued after June 30, 1992.

Housing affordability programs

The House bill also clarifies the treatment of certain housing affordability programs. Specifically, it provides that, in high housing cost areas, the fact that an issuer of QMBs or MCCs also provides certain second mortgage loans to homebuyers in conjunction with QMB or MCC financing will not preclude availability of the QMB- or MCC-assistance on the purchase of a residence.

Effective date.—The provision relating to the treatment of certain housing affordability programs applies to QMB and MCC financing provided after the date of enactment.

Contracts for deed

The House bill also provides that, in the case of certain homebuyers whose family incomes do not exceed fifty percent of applicable median family income, ownership of land subject to certain contracts for deed does not violate the requirement that QMB- and MCC-financed homebuyers be first-time homebuyers and that the financing provided be for new mortgages. Thus, QMB-financed loans may be made (and MCCs to be granted) to individuals who own and maintain their principal residence on land subject to these contracts for deed provided that the homebuyers satisfy (1) all requirements of the QMB and MCC programs but for the otherwise applicable contract for deed and (2) the special income limit. These loans may be used to repay the contract for deed and to finance a new residence on the land.

Effective date.—The provision relating to certain contracts for deed applies to QMB and MCC financing provided after the date of enactment.

Natural disaster areas

No provision.

SENATE AMENDMENT

Extension

The Senate amendment extends the authority to issue QMBs and to elect to trade in bond volume authority to issue MCCs for 15 months (through September 30, 1993).

Effective date.—Same as the House bill.

Housing affordability programs

No provision.

Contracts for deed

The Senate amendment is the same as the House bill except that: (1) the holders are not required to live on the land currently, and (2) the income limit is $15,000 indexed for inflation after 1992.

Effective date.—Same as the House bill.

Natural disaster areas

For damaged residences affected by Hurricane Andrew, Hurricane Iniki and Typhoon Omar, the $15,000 limitation for qualified home improvement loans is waived.

Effective date.—Same as the House bill.

CONFERENCE AGREEMENT

Extension

The conference agreement follows the House bill.

Housing affordability programs

The conference agreement follows the House bill.

Contracts for deed

The conference agreement follows the Senate amendment.

Natural disaster areas

The conference agreement follows the Senate amendment.

5. Qualified small-issue bonds

PRESENT LAW

Interest on small issues of private activity bonds issued by States or local governments ("qualified small-issue bonds") is excluded from gross income if certain conditions are met. First, at least 95 percent of the bond proceeds must be used to finance manufacturing facilities or certain agricultural land or equipment. Second, the bond issue must have an aggregate face amount of $1 million or less, or alternatively the aggregate face amount of the issues, together with the aggregate amount of certain related capital expenditures during the six-year period beginning three years before the date of the issue and ending three years after that date, must not exceed $10 million.

Issuance of qualified small-issue bonds, like most other private activity bonds, is subject to annual State volume limitations and to other rules.

Authority to issue qualified small-issue bonds expired after June 30, 1992.

HOUSE BILL

Extension

The House bill permanently extends the authority to issue qualified small-issue bonds.

Effective date.—The provision is effective for bonds issued after June 30, 1992.

Capitalization

No provision.

SENATE AMENDMENT

Extension

The Senate amendment extends the authority to issue qualified small-issue bonds for 15 months (through September 30, 1993).

Effective date.—The extension is effective for bonds issued after June 30, 1992.

Capitalization

The Senate amendment increases allowable aggregate capitalization from $10 million to $20 million; however, all capital expenditures in excess of the present-law $10 million maximum may not be financed directly or indirectly with the proceeds of tax-exempt bonds.

Effective date.—The provision relating to aggregate capitalization is effective for capital expenditures after the date of enactment.

CONFERENCE AGREEMENT

Extension

The conference agreement follows the Senate amendment (i.e., extends authority to issue these bonds for 15 months, from June 30, 1992 until September 30, 1993).

Capitalization

The conference agreement follows the Senate amendment.

6. Research and Experimentation Tax Credit

PRESENT LAW

The research tax credit provides a 20-percent credit to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit expired after June 30, 1992.

The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (such as "start-up" firms) are assigned a fixed-base percentage of .03.

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Qualified research expenditures eligible for the credit consist of: (1) "in-house" expenses of the taxpayer for research wages and supplies used in research; (2) certain time-sharing costs for computer use in research; and (3) 65 percent of amounts paid by the taxpayer for contract research conducted on the taxpayer's behalf. Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

In addition, the 20-percent tax credit also applies to the *excess* of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for university basic research *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.

Deductions for qualified research expenditures allowed to a taxpayer under section 174 are reduced by an amount equal to 100 percent of the taxpayer's research credit determined for that year.

HOUSE BILL

The House bill extends the research tax credit for 18 months (i.e., for qualified research expenditures and university basic research expenditures incurred through December 31, 1993).

In extending the research tax credit, the committee report to the House bill states that it wishes to reaffirm Congressional intent that neither the enactment of the credit in 1981 nor the "targeting" modifications to the credit in 1986 affect the definition of "research or experimental expenditures" for purposes of section 174. Thus, the various new credit limitations enacted in the Tax Reform Act of 1986 (such as the "process of experimentation" requirement) apply in determining eligibility for the credit (in taxable years beginning after December 31, 1985), and do not determine eligibility of product development costs under section 174.

Effective date.—The provision applies to qualified expenditures incurred during the period July 1, 1992, through December 31, 1993.

SENATE AMENDMENT

The Senate amendment extends the research tax credit for 15 months (i.e., for qualified research expenditures and university basic research expenditures incurred through September 30, 1993).

The Senate amendment also provides that, if the first taxable year for a taxpayer in which it had both gross receipts and qualified research expenditures began after 1983, then the taxpayer will be treated as a start-up firm with a fixed based percentage of .03.

Effective date.—The provision applies to qualified expenditures incurred during the period July 1, 1992, through September 30, 1993. The amendment to the start-up firm rules is effective for taxable years beginning after September 30, 1992.

CONFERENCE AGREEMENT

The conference agreement extends the research credit for 12 months (i.e., for qualified research expenditures and university basic research expenditures incurred during the period July 1, 1992, through June 30, 1993).

The conference agreement includes the modification to the start-up firm rules contained in the Senate Amendment. In addition, the conferees adopt the language from the House bill committee report regarding the effect on section 174 of the enactment of the research credit in 1981 and the targeting modifications to the credit in 1986.

Effective date.—The provision applies to qualified expenditures incurred during the period July 1, 1992, through June 30, 1993. The amendment to the start-up firm rules is effective for taxable years beginning after September 30, 1992.

7. Extension of the low-income housing tax credit

a. Extension of credit

PRESENT LAW

A tax credit is allowed in annual installments over ten years for qualifying newly constructed or substantially rehabilitated low-income rental housing. The credit expired after June 30, 1992.

HOUSE BILL

The House bill permanently extends the low-income housing credit.

SENATE AMENDMENT

The Senate amendment extends the credit for 15 months (through September 30, 1993).

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

b. Maximum rent

PRESENT LAW

The maximum rent that may be charged a family in a low-income housing credit unit depends on the number of bedrooms in that unit. Prior to 1990, maximum allowable rent was determined on the basis of the actual family size of the occupants.

HOUSE BILL

The House bill allows an irrevocable election by the owner of a building placed-in-service before 1990 to use either apartment size or family size in determining maximum allowable rent. This election must be made within 180 days after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill except that availability of the election is limited to taxpayers who enter into a compliance monitoring agreement with the housing credit agency.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

c. Community service areas

PRESENT LAW

Generally, the basis on which the low-income housing credit is computed is determined as a percentage of the eligible basis of a qualified low-income building that is attributable to low-income rental units.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that community service buildings in projects in qualified census tracts are included in eligible basis as functionally related and subordinate facilities if (a) the size of the facilities is commensurate with tenant needs, (b) the use of the facilities is predominantly (although not exclusively) by tenants and employees of the project owner, and (c) no more than 20 percent of the housing project's eligible basis is attributable to such facilities.

CONFERENCE AGREEMENT

The conference agreement does not follow the Senate amendment.

d. Limit on eligible basis

PRESENT LAW

There is no explicit requirement that allocating agencies consider the reasonableness of development and operating costs in allocating credits.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment requires that the allocating agency take the reasonableness of the developmental and operational costs of a project into account in determining its credit allocation.

CONFERENCE AGREEMENT

The conference agreement does not follow the Senate amendment.

e. Ten-year anti-churning rule

PRESENT LAW

The low-income housing credit is not allowed with respect to buildings that have been previously placed in service within ten years of placement in service for credit purposes. Waivers from the ten-year rule may be granted by the Treasury Department under certain circumstances (e.g., certain buildings which are substantially assisted, financed, or operated under section 221(d)(3) of the National Housing Act).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment authorizes the Treasury Department to grant waivers from the credit's ten-year anti-churning rule for certain projects substantially assisted, financed, or operated under section 221(d)(4) of the National Housing Act.

CONFERENCE AGREEMENT

The conference agreement does not follow the Senate amendment.

f. Minimum set-aside rule: De minimis errors

PRESENT LAW

Under the general low-income tenant occupancy requirement, a residential rental project qualifies for the tax credit only if at least: (1) 20 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 50 percent or less of area median income or (2) 40 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 60 percent or less of area median income.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment authorizes the Treasury Department to provide a waiver of penalties for de minimis errors in the application of the low-income tenant occupancy requirement.

CONFERENCE AGREEMENT

The conference agreement does not follow the Senate amendment.

g. Minimum set-aside rule: annual recertification

PRESENT LAW

Generally, tenant incomes must be annually recertified to meet the low-income tenant occupancy requirements regardless of whether the building is entirely devoted to low-income tenants.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment authorizes the Treasury Department to grant a waiver from the annual recertification of tenant income for tenants in buildings, if the buildings are occupied entirely by low-income tenants.

CONFERENCE AGREEMENT

The conference agreement does not follow the Senate amendment.

h. Student housing

PRESENT LAW

A housing unit generally is not eligible for the low-income housing tax credit if the tenants are full-time students who are not married individuals filing joint returns. Exceptions to this rule allow the credit to be claimed on housing units occupied by persons who are enrolled in certain job training programs or by students who are receiving Aid to Families with Dependent Children (AFDC) payments.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that a housing unit occupied entirely by full-time students may qualify for the credit if the full-time students are a single parent and his or her minor children and none of the tenants is a dependent of a third party. The amendment also codifies the present-law exception regarding married students filing joint returns (which continues to apply to all buildings placed in service since original enactment of the low-income housing credit by the Tax Reform Act of 1986).

CONFERENCE AGREEMENT

The conference agreement does not follow the Senate amendment.

i. State credit authority limitation

PRESENT LAW

Each State receives an annual low-income housing credit volume ceiling of $1.25 per resident. To qualify for the credit, a building owner generally must receive a credit allocation from the appropriate State credit authority. An exception is provided for property which is substantially financed with the proceeds of tax-exempt bonds subject to the State's private-activity bond volume limitation.

That portion of a State's credit authority which is unallocated in the year in which it originally arises may be carried forward and added to the State's credit authority for the subsequent calendar year. If allocations in the subsequent year exceed that year's annual credit authority, but do not exhaust the sum of that year's annual credit authority plus any credit authority carried forward from the preceding year, any remaining carried-forward credit authority is allocated in the next subsequent year to the national pool.

HOUSE BILL

No provision.

SENATE AMENDMENT

For purposes of the carryforward rule, the Senate amendment treats credits carried forward from previous years as used before current year credits.

CONFERENCE AGREEMENT

The conference agreement does not follow the Senate amendment.

j. Waivers in the event of a natural disaster

PRESENT LAW

Under present law the Secretary of the Treasury has no explicit authority to waive credit requirements in the event of a natural disaster.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate bill the Secretary of the Treasury may waive certain credit requirements in cases related to Hurricane Andrew, Hurricane Iniki and Typhoon Omar.

(1) The Secretary may waive for two years the requirement that a building which qualifies under the 10-percent test of sec. 42(h)(1)(E) must be placed in service by the end of the second calendar year after the calendar year in which the allocation is made.

(2) The Secretary may waive until income information is reasonably obtainable the requirement that a prospective tenant provide written verification of the prospective tenant's income for purposes of determining eligibility under the credit rules.

(3) The Secretary may waive the (general) area median gross income requirements (Sec. 42(g)(1)) for tenants if that tenant's income is initially 140 percent or less of that requirement.

(4) The Secretary may waive the prohibition against short-term leases (six months or less) of credit units.

(5) The Secretary may waive the prohibition that credit properties may not have been previously placed-in-service for 10 years before the placement-in-service for the credit.

(6) The Secretary may increase an otherwise qualifying States share of the National pool if a natural disaster occurred in that State.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

k. Effective dates

PRESENT LAW

The credit expired after June 30, 1992.

HOUSE BILL

The provision relating to the extension of the credit is effective after June 30, 1992. The provision relating to maximum rent is effective on the date of enactment.

SENATE AMENDMENT

The provision relating to the extension of the credit is effective after June 30, 1992. The provisions relating to modification of the credit are also effective after June 30, 1992 except in three cases. The three provisions relating to the Treasury Department's authority to grant waivers are effective on date of enactment. The provision relating to the credit carryforward rules is effective on or after January 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the House bill with regard to the extension and maximum rent provisions and follows the Senate amendment with regard to the provision allowing waivers in the event of natural disasters.

8. Extension of targeted jobs tax credit

PRESENT LAW

Tax credit

The targeted jobs tax credit is available on an elective basis for hiring individuals from several targeted groups. No wages are taken into account for purposes of the credit unless the eligible employee is employed by the employer for the lesser of 90 days or 120 hours. The credit expired for individuals who began work for an employer after June 30, 1992.

Authorization of appropriations

Appropriations were authorized for administration and publicity expenses relating to the credit through June 30, 1992. These monies are to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

HOUSE BILL

Extension

The House bill permanently extends the targeted jobs tax credit and the authorization for appropriations.

Economically disadvantaged youth

The House bill expands the definition of economically disadvantaged youth to include 23- and 24-year olds.

Long-term unemployed

No provision.

Residents of enterprise zones

No provision.

Minimum employment requirement

No provision.

Effective date.—The provision is effective for individuals who begin work for an employer after June 30, 1992.

SENATE AMENDMENT

Extension

The Senate amendment extends the targeted jobs tax credit and the authorization for appropriations for 15 months (through September 30, 1993).

Economically disadvantaged youth

No provision.

Long-term unemployed

The Senate amendment adds a new category of long-term unemployed individuals.

Residents of enterprise zones

The Senate amendment adds a new category of residents of Federally designated enterprise zones.

Minimum employment requirement

Under the Senate amendment, the 120-hour component of the minimum employment requirement is repealed.

Effective date.—The provision is effective for individuals who begin work for an employer after June 30, 1992.

Conference Agreement

Extension

The conference agreement follows the House bill.

Economically disadvantaged youth

The conference agreement follows the House bill.

Long-term unemployed

The conference agreement does not follow the Senate amendment.

Residents of enterprise zones

The conference agreement does not follow the Senate amendment.

Minimum employment requirement

The conference agreement does not follow the Senate amendment.

Effective date.—The conference agreement follows the House bill and the Senate amendment.

9. Tax credit for orphan drug clinical testing expenses

Present Law

The orphan drug tax credit provides a 50-percent nonrefundable tax credit for a taxpayer's qualified clinical testing expenses paid or incurred in the testing of certain drugs for rare diseases, generally referred to as "orphan drugs." Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. Present law defines a rare disease or condition as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but there is no reasonable expectation that businesses could recoup the costs of developing a drug for it from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

The orphan drug tax credit expired after June 30, 1992.

House Bill

No provision.

Senate Amendment

The Senate amendment extends the orphan drug tax credit for 15 months (i.e., for qualified clinical testing expenses incurred through September 30, 1993).

Effective date.—The provision is effective for expenses incurred during the period July 1, 1992, through September 30, 1993.

Conference Agreement

The conference agreement follows the Senate amendment, except that the orphan drug tax credit is extended for 12 months (i.e., for qualified clinical testing expenses incurred during July 1, 1992, through June 30, 1993).

10. Excise Tax on Certain Vaccines for the Vaccine Injury Compensation Trust Fund

Present Law

The Vaccine Injury Compensation Trust Fund ("Vaccine Trust Fund") provides a source of revenue to compensate individuals who are injured (or die) as a result of the administration of certain vaccines: diphtheria, pertussis, and tetanus ("DPT"); diphtheria and tetanus ("DT"); measles, mumps, and rubella ("MMR"); and polio. The Vaccine Trust Fund provides the funding source for the National Vaccine Injury Compensation Program ("Program"), which provides a substitute, Federal "no-fault" insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers.

Under the Program, all persons who were immunized with a covered vaccine after the effective date of the Program, October 1, 1988, are prohibited from commencing a civil action in State court for vaccine-related damages unless they first file a petition with the United States Claims Court, where such petitions are assigned to a special master and governed by streamlined procedural rules designed to expedite the proceedings.[1] In these cases, the Federal Government is the respondent party in the proceedings, and the claimant generally must show only that certain medical conditions (or death) followed the administration of a covered vaccine and that the first onset of symptoms occurred within a prescribed time period.[2] Compensation under the Program generally is limited to actual and projected unreimbursed medical, rehabilitative, and custodial expenses, lost earnings, pain and suffering (or, in the event of death, a recovery for the estate) up to $250,000, and reasonable attorney's fees.[3] Only if the final settlement under the Program is rejected may the claimant proceed with a civil tort action in the appropriate State court, where recovery generally will be governed by State tort law principles,[4] subject to certain limitations and specifications imposed by the National Childhood Vaccine Injury Act of 1986.[5]

The Vaccine Trust Fund is funded by a manufacturer's excise tax on DPT, DT, MMR, and polio vaccines (and any other vaccines used to prevent these diseases). The excise tax per dose is $4.56 for DPT, $0.06 for DT, $4.44 for MMR, and $0.29 for polio vaccines.

The vaccine excise tax will expire after the later of: (1) December 31, 1992; or (2) the date on which the Vaccine Trust Fund revenues exceed the projected liabilities with respect to compensable injuries from vaccines administered before October 1, 1992. Amounts in the Vaccine Trust Fund are available for the payment of compensation under the Program with respect to vaccines administered after September 30, 1988, and before October 1, 1992.

House Bill

Extension of excise tax and Program funding

The present-law excise taxes imposed on certain vaccines are extended for two years (i.e., through December 31, 1994). Authorization for compensation to be paid from the Vaccine Trust Fund for certain damages resulting from vaccines administered after September 30, 1988, and before October 1, 1992, also is extended for two years (i.e., for vaccines administered after September 30, 1988, and before October 1, 1994).[6]

Study

In addition, the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, is directed to conduct a study of: (1) the estimated amount that will be paid from the Vaccine Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994; (2) the rates of vaccine-related injury or death with respect to various types of vaccines; (3) new vaccines and immunization practices being developed or used for which amounts may be paid from the Vaccine Trust Fund; (4) whether additional vaccines should be included in the Program; and (5) the appropriate treatment of vaccines produced by State governmental entities. The Secretary of the Treasury must submit a report detailing his findings not later than January 1, 1994, to the House Committee on Ways and Means and the Senate Committee on Finance.

Effective Date

The provisions are effective on the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

11. Permanent extension of general fund transfer to Railroad Retirement Tier 2 Fund

Present Law

The proceeds from the income taxation of railroad retirement Tier 2 benefits are transferred from the general fund of the Treasury to the Railroad Retirement Account. This transfer applies only to proceeds from the taxation of benefits which have been received prior to October 1, 1992. Proceeds from the taxation of benefits received after this date remain in the general fund.

House Bill

The transfer of proceeds from the income taxation of railroad retirement Tier 2 benefits from the general fund of the Treasury to the Railroad Retirement Account is made permanent.

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[1] Persons who received vaccines before the Program's effective date of October 1, 1988 ("retrospective cases") also may be eligible for compensation under the Program if they had not yet received compensation and elected to file a petition with the United States Claims Court on or before January 31, 1991. Under the Program, awards in retrospective cases are somewhat limited compared to "prospective cases" (i.e., those where the vaccine was administered on or after October 1, 1988). Awards in retrospective cases are not paid out of the Vaccine Trust Fund but are paid out of funds specially authorized by Congress. See 42 U.S.C. sec. 300aa–15(i), (j) (appropriating $80 million for fiscal year 1989 and for each subsequent year).

[2] Compensation may not be awarded, however, if there is a preponderance of the evidence that the claimant's condition or death resulted from factors unrelated to the vaccine in question.

[3] 42 U.S.C. sec. 300aa–15.

The conferees wish to clarify their understanding that amounts received by a claimant from the Vaccine Trust Fund constitute damages received on account of personal injuries or sickness for purposes of the exclusion from gross income provided by the general rules of section 104(a)(2).

[4] In most State proceedings, significant issues arise whether injuries suffered by a child after immunization were, in fact, caused by the vaccine administered and whether the manufacturer was at fault in either the manufacture or marketing of the vaccine.

[5] Title III, P.L. 99-660. This Act preempts State tort law to a limited extent by imposing limits on recovery from vaccine manufacturers. Among the limitations are a prohibition on compensation if the injury or death resulted from side effects that were unavoidable; a presumption that manufacturers are not negligent in manufacturing or marketing vaccines if they complied, in all material respects, with Federal Food and Drug Administration requirements; and limits on punitive damage awards.

[6] The committee report to the House bill states that it is intended that the Secretary of the Treasury expeditiously (within 60 days of enactment) adopt rules for purposes of section 4221 for determining when exported vaccines which will be administered to individuals not eligible for compensation under the program are not subject to tax.

Effective date.—The provision is effective beginning September 30, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

12. Extension and modification of credit for producing fuel from nonconventional sources

PRESENT LAW

The production of fuels from certain nonconventional sources is eligible for a production credit equal to $3 per barrel or Btu oil barrel equivalent.[1] The credit amount generally is adjusted for inflation, except for gas produced from a tight formation. To qualify for the credit, specified fuels must be produced domestically from a well drilled, or a facility placed in service, before January 1, 1993, and sold before January 1, 2003.

Qualified fuels include (1) oil produced from shale and tar sands, (2) gas produced from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass (i.e., any organic material other than oil, natural gas, or coal (or any product thereof)), and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks. The amount of the credit is determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before 1980.

For purposes of the credit, oil produced from shale is considered a qualifying fuel only if it is liquid oil obtained from shale rock after the retorting (heating) process but before hydrogenation, refining, or any other process subsequent to retorting.[2] Shale oil produced by other means does not qualify.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the section 29 credit placed in service date for wells and facilities for eight months. Thus, production from wells drilled and facilities placed in service after December 31, 1979 and before September 1, 1993 qualifies for the credit if sold before January 1, 2003. In addition, the Senate amendment generally treats facilities that produce either (1) gas from biomass or (2) liquid, gaseous, or solid synthetic fuels from coal as being placed in service before September 1, 1993 if the facility is actually placed in service before January 1, 1997 pursuant to a binding written contract in effect before January 1, 1996 and at all times thereafter until the facility is placed in service. Production from such facilities qualifies for the credit if sold before January 1, 2008. Production from facilities that produce coke or coke gas, however, qualifies for the credit only if (1) the original use of the facility commences with the taxpayer, or (2) the taxpayer owns the facility on December 31, 1992 and at all times thereafter.

The Senate amendment also modifies the operation of the credit in several respects. First, the Senate amendment generally allows the credit, at the present-law rate (adjusted for inflation as provided under present law), only for the first 42 million cubic feet of gas produced from any well during a taxable year. Except for production of certain coal seams gas and gas from tight formations (as discussed below), no credit is allowed for production in excess of this level. For purposes of applying the per-well production limitation in the case of gas produced from Devonian shale where wells are operated under a unitization agreement and production from the unit's wells is not separately metered, total production from the unit is apportioned ratably to all the producing wells in the unit.

In the case of either gas produced from a tight formation or coal seams gas if captured from the de-stressed zone associated with any full-seam extraction of coal which extends above and below mined-out coal seams (so-called "gob gas"), the Senate amendment allows a lesser credit, equal to $2.25 per barrel of oil equivalent (not indexed for inflation), for annual production between 42 million and 550 million cubic feet from a well.

Second, the Senate amendment provides that the first 7,125 barrels of annual oil production from a well in the Bakken shale formation qualifies for the credit. In this case, the credit applies regardless of the production method employed to extract the oil from this formation.

Effective date.—Production from wells drilled, and facilities placed in service, after December 31, 1992. Thus, for example, the limitation on the credit based on production from a well applies only to production from wells drilled after that date. Production from wells drilled prior to 1993 continues to qualify for the credit as under present law.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

13. Allocation and Apportionment of Research Expenses (secs. 861-864 of the Code)

PRESENT LAW

U.S. persons are taxable on their worldwide income, including their foreign income. Foreign source taxable income equals foreign source gross income less the expenses, losses and other deductions properly apportioned or allocated to that income. The Internal Revenue Code generally articulates only the broad principles of how expenses reduce U.S. and foreign source gross income, leaving the Treasury Department to provide detailed rules for the task of allocating and apportioning expenses.

Treasury regulations issued in 1977 described methods for allocating expenses between U.S. and foreign source income, including rules for the allocation of research and development (R&D) expenses. Upon issuance of these regulations, a significant dispute regarding the appropriate allocation of R&D expenses developed between taxpayers and the Treasury Department. This unresolved dispute between taxpayers and the Treasury Department precipitated Congressional involvement on this issue, and since 1981, the R&D allocation regulations have been subject to a series of eight statutory suspensions and temporary modifications. The current temporary statutory provision is applicable generally for the first six months of the first taxable year beginning after August 1, 1991, and among other rules, automatically allocates 64 percent of U.S. performed R&D to U.S. source income, and generally permits a greater amount of taxable income to be classified as foreign source than under the 1977 regulations. This will increase the benefits of the foreign tax credit to many taxpayers.

On June 24, 1992, it was announced that the Treasury Department and the IRS have undertaken a review of the R&D allocation regulations, and that in light of this review, the IRS temporarily will not require that taxpayers apply those regulations (Rev. Proc. 92-56, 1992-28 I.R.B. 7). According to this Revenue Procedure, taxpayers would not be required to apply the R&D allocation regulations with respect to R&D expenses incurred during what would ordinarily be an 18-month transition period—that is, the last six months of the taxpayer's first taxable year beginning after August 1, 1991 and the immediately succeeding taxable year—provided that such deductions are allocated and apportioned in accordance with a method based on the temporary statutory provision, described above, applicable generally for the first six months of the first taxable year beginning after August 1, 1991. The Revenue Procedure states that this transition method is not intended to suggest any views about the proper allocation and apportionment of R&D expenses, and that it is intended solely to provide taxpayers with transition relief and to minimize audit controversy and facilitate business planning during the conduct of the regulatory review.

HOUSE BILL

The House bill contains no provision on the allocation and apportionment of R&D expenses. However, the Report of the Committee on Ways and Means to accompany H.R. 11 states that the committee believes that the Treasury Department has broad authority under current law to revise the current R&D allocation regulations. The report states that according to the Treasury Department's *General Explanations of the President's Budget Proposals Affecting Receipts* (January 1992), the Administration believes in providing tax incentives to increase the performance of U.S.-based research activities. The report further states that since the Administration has indicated its support of an allocation system that provides incentives to increase the performance of U.S.-based research activities, the committee expects, and in the strongest terms, urges the Treasury Department to revise its permanent regulations in a manner consistent with the Administration's stated objectives and proposals, as set forth in the Treasury explanation. The report states that the committee believes that such a revision would be consistent both with current law regulatory authority and with the stated goals of the Administration.

The report states that the committee further urges the Treasury Department, when revising its regulations, to take into consideration that taxpayers, in appropriate circumstances, are required for business purposes to conduct significant amounts of R&D at foreign sites and should not be penalized by the allocation rules.

The report states that the committee expects and requests the Treasury Department to issue regulations immediately, to be effective for all periods after the termination of the current temporary rules.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and Senate amendment. The conferees adopt the views expressed in the House report.

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[1] A barrel-of-oil equivalent generally means that amount of the qualifying fuel which has a Btu content of 5.8 million.

[2] Senate Report No. 96-394, 96th Cong., 1st Sess., at 87.

C. INVESTMENT IN REAL ESTATE

1. Modification of the passive loss rules for certain real estate persons

PRESENT LAW

The passive loss rules limit deductions and credits from passive trade or business activities. Deductions attributable to passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not derived from a passive activity. A similar rule applies with respect to credits from passive activities. Deductions and credits suspended under these rules are carried forward to the next taxable year, and are allowed in full when the taxpayer disposes of his entire interest in the passive activity to an unrelated person.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. Rental activities (including rental real estate activities) are also treated as passive activities, regardless of the level of the taxpayer's participation.

HOUSE BILL

The House bill treats a taxpayer's rental real estate activities in which he materially participates as not subject to limitation under the passive loss rules if the taxpayer meets eligibility requirements relating to real property trades or businesses in which the taxpayer performs services.

Real property trade or business means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

An individual meets the eligibility requirements if more than half of the personal services the taxpayer performs in a trade or business are in real property trades or businesses in which he materially participates. Personal services performed as an employee are not treated as performed in a real estate trade or business unless the person performing the services has more than a 5 percent ownership interest in the employer.

A closely held C corporation meets the eligibility requirements if more than 50 percent of its gross receipts for the taxable year are derived from real property trades or businesses in which the corporation materially participates.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that under the amendment, if the taxpayer meets eligibility requirements with respect to real property trades or businesses in which he performs services, then the taxpayer's net loss from rental real estate activities in which the taxpayer materially participates generally is allowed to offset income from real property trade or business activities. The portion of the taxpayer's passive activity loss allowed under the Senate amendment may not exceed the lesser of (1) the taxpayer's net income from real property trade or business activities which are not passive activities, or (2) the taxpayer's taxable income (determined without regard to this provision). A similar rule applies with respect to passive activity credits. The Senate amendment does not apply to closely held C corporations.

Effective date.—Same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with a modification to the effective date. The provision is effective with respect to taxable years beginning after December 31, 1992.

2. Changes relating to real estate investments by pension funds and others

a. Modification of the rules related to debt-finance income (sec. 2111 of the bill and sec. 514 of the Code)

PRESENT LAW

In general, a qualified pension trust or an organization that is otherwise exempt from Federal income tax is taxed on any income from a trade or business that is unrelated to the organization's exempt purposes (Unrelated Business Taxable Income or "UBTI") (sec. 511). Certain types of income, including rents, royalties, dividends, and interest are excluded from UBTI, except when such income is derived from "debt-financed property." Income from debt-financed property generally is treated as UBTI in proportion to the amount of debt financing (sec. 514(a)).

An exception to the rule treating income from debt-financed property as UBTI is available to pension trusts, educational institutions, and certain other exempt organizations (collectively referred to as "qualified organizations") that make debt-financed investments in real property (sec. 514(c)(9)(A)). Under this exception, income from investments in real property is not treated as income from debt-financed property. Mortgages are not considered real property for purposes of the exception.

The real property exception to the debt-financed property rules is available for investments in debt-financed property, only if the following six restrictions are satisfied: (1) the purchase price of the real property is a fixed amount determined as of the date of the acquisition (the "fixed price restriction"); (2) the amount of the indebtedness or any amount payable with respect to the indebtedness, or the time for making any payment of any such amount, is not dependent (in whole or in part) upon revenues, income, or profits derived from the property (the "participating loan restriction"); (3) the property is not leased by the qualified organization to the seller or to a person related to the seller (the "leaseback restriction"); (4) in the case of a pension trust, the seller or lessee of the property is not a disqualified person (the "disqualified person restriction"); (5) the seller or a person related to the seller (or a person related to the plan with respect to which a pension trust was formed) is not providing financing in connection with the acquisition of the property (the "seller-financing restriction"); and (6) if the investment in the property is held through a partnership, certain additional requirements are satisfied by the partnership (the "partnership restrictions") (sec. 514(c)(9)(B)(i) through (vi)).

HOUSE BILL

Relaxation of the leaseback and disqualified person restrictions

The bill relaxes the leaseback and disqualified person restrictions to permit a limited leaseback of debt-financed real property to the seller (or a person related to the seller) or to a disqualified person.[1] The exception applies only where (1) no more than 25 percent of the leasable floor space in a building is leased back to the seller (or related party) or to the disqualified person, and (2) the lease is on commercially reasonable terms.

Relaxation of the seller-financing restriction

The bill relaxes the seller-financing restriction to permit seller financing on terms that are commercially reasonable. The bill grants authority to the Treasury Department to issue regulations for the purpose of determining commercially reasonable financing terms.

The bill does not modify the present-law fixed price and participating loan restrictions. Thus, for example, income from real property acquired with financing where the timing or amount of payment is based on revenue, income, or profits from the property generally will continue to be treated as income from debt-financed property, unless some other exception applies.

Relaxation of the fixed price and participating loan restriction for property foreclosed on by financial institutions

The bill relaxes the fixed price and participating loan restrictions for certain sales of real property foreclosed upon by financial institutions.[2] The relaxation of these rules is limited to cases where: (1) a qualified organization acquires the property from a financial institution that acquired the real property by foreclosure (or after an actual or imminent default), or was held by the financial institution at the time that it entered into conservatorship or receivership; (2) the property is not a capital asset of the financial institution; (3) the stated principal amount of the seller financing does not exceed the financial institution's outstanding indebtedness (including accrued but unpaid interest) with respect to the property at the time of foreclosure; and (4) the value of any participation feature at the time of sale does not exceed 30 percent of the value of the property.

The bill grants authority to the Treasury Department to issue regulations for the purpose of clarifying these limitations. In particular, these regulations are expected to establish standards for determining what constitutes a participation feature and how to determine whether the value of a participation feature at the time of sale exceeds 25 percent of the value of the property. For example, a participation feature that provides the seller with less than a 25 percent interest in net proceeds, net income, or gain on sale of the property is expected to be valued at less than 25 percent of the value of the property.

Effective date

The provision is effective for acquisitions on or after June 25, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that financial institutions are defined to include government corporations that succeed to the rights and interests of a receiver or conservator.

The Senate amendment is effective for acquisitions on or after July 28, 1992. The provision also is effective for leases entered into on or after July 28, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except that the provision is effective for acquisitions on or after October 1, 1992.

b. Special rules for investments in partnerships

PRESENT LAW

In general, the character of a partner's distributive share of partnership income is the same as if the income had been directly realized by the partner. Thus, whether a tax-exempt organization's share of income from a partnership (other than from a publicly-traded partnership) is treated as unrelated business income depends on the underlying character of the income (sec. 512(c)(1)). In addition, as noted above, the real property exception for investments in debt-financed property depends on whether the sec. 514(c)(9)(B)(i) through (vi) restrictions are satisfied.

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[1] As under present law, a leaseback to a disqualified person remains subject to the prohibited transaction rules set forth in section 4975.

[2] For this purpose, financial institutions include financial institutions in conservatorship or receivership and certain affiliates of financial institutions.

Furthermore, a tax-exempt organization's distributive share of gross income from a publicly-traded partnership (that is not otherwise treated as a corporation) automatically is treated as UBTI (sec. 512(c)(2)(A)). The organization's share of the partnership deductions is allowed in computing the organization's taxable unrelated business income (sec. 512(c)(2)(B)).

HOUSE BILL

Elimination of the section 514(c)(9)(B) restrictions for investments through certain large partnerships

The bill eliminates the six section 514(c)(9)(B) restrictions for qualified organizations that invest in real property through certain "large" partnerships.

A "large" partnership is a partnership having at least 250 partners that satisfies the following three tests: (1) interests in the partnership are registered with the Securities and Exchange Commission; (2) a significant percentage (at least 50 percent) of each class of interests is owned by taxable individuals; and (3) a principal purpose of the partnership allocations is not tax avoidance. Partnership interests that are subject to the same terms are considered to be in the same class, regardless of whether the interests are subject to different ownership restrictions (a partnership can therefore monitor the 50-percent ownership restriction by requiring that designated interests be held only by taxable persons).

Repeal of the automatic UBTI rule for publicly-traded partnerships

The bill repeals the rule that automatically treats income from publicly-traded partnerships as UBTI. Thus, under the provision, investments in publicly-traded partnerships are treated the same as investments in other partnerships for purposes of the UBTI rules.

Effective date

The provision is effective for partnership interests acquired on or after June 25, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, with the modifications that (1) individual retirement accounts are excluded from the calculation of the requirement of 50 percent taxable partners. In addition, the provision is effective for partnership years ending after July 28, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except that the provision is effective for partnership years ending on or after October 1, 1992.

c. Permit title-holding companies to receive small amounts of UBTI (sec. 2113 of the bill and secs. 501(c)(2) and (c)(25) of the Code)

PRESENT LAW

Section 501(c)(2) provides tax-exempt status to certain corporations organized for the exclusive purpose of holding title to property and turning over any income from the property to one or more related tax-exempt organizations. Section 501(c)(25) provides tax-exempt status to certain corporations and trusts that are organized for the exclusive purposes of acquiring and holding title to real property, collecting income from such property, and remitting the income therefrom to no more than 35 shareholders or beneficiaries that are: (1) qualified pension, profit-sharing, or stock bonus plans (sec. 401(a)); (2) governmental pension plans (sec. 414(d)); (3) the United States, a State or political subdivision, or governmental agencies or instrumentalities; or (4) tax-exempt charitable, educational, religious, or other organizations described in section 501(c)(3). However, the IRS has taken the position that a title-holding company described in section 501(c)(2) or 501(c)(25) will lose its tax-exempt status if it generates any amount of certain types of UBTI.[3]

HOUSE BILL

The bill permits a title-holding company that is exempt from tax under sections 501(c)(2) or 501(c)(25) to receive UBTI up to 10 percent of its gross income for the taxable year, provided that the UBTI is incidentally derived from the holding of real property. For example, income generated from parking or operating vending machines located on real property owned by a title-holding company generally would qualify for the 10-percent de minimis rule, while income derived from an activity that is not incidental to the holding of real property (e.g., manufacturing) would not qualify. In cases where unrelated income is incidentally derived from the holding of real property, receipt by a title-holding company of such income (up to the 10-percent limit) will not jeopardize the title-holding company's tax-exempt status, but nonetheless, will be subject to tax as UBTI.

In addition, the bill provides that a section 501(c)(2) or 501(c)(25) title-holding company will not lose its tax-exempt status if UBTI that is incidentally derived from the holding of real property exceeds the 10-percent limitation, provided that the title-holding company establishes to the satisfaction of the Secretary of the Treasury that the receipt of UBTI in excess of the 10-percent limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such excess UBTI.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with a clarification that the 10 percent limitation applies only to income that would have resulted in disqualification without regard to this new provision.

d. Exclusion from UBTI of any gains from the disposition of property acquired from financial institutions in conservatorships or receiverships (sec. 2114 of the bill and sec. 512(b) of the Code)

PRESENT LAW

In general, gains or losses from the sale, exchange or other disposition of property are excluded from UBTI (sec. 512(b)(5)). However, gains or losses from the sale, exchange or other disposition of property held primarily for sale to customers in the ordinary course of a trade or business are not excluded from UBTI (the "dealer UBTI rule") (sec. 512(b)(5)(B)).

HOUSE BILL

The bill provides an exception to the dealer UBTI rule by excluding gains from the sale, exchange or other disposition of certain real property and mortgages acquired from financial institutions that are in conservatorship or receivership. Only real property and mortgages owned by a financial institution (or that was security for a loan extended by the financial institution) at the time that the institution entered conservatorship or receivership are eligible for the exception.

The exclusion is limited to properties designated as disposal property within six months of acquisition, and disposed of within two-and-a-half years of acquisition. The two-and-a-half year disposition period may be extended by the Secretary if an extension is necessary for the orderly liquidation of the property. No more than one-third by value of properties acquired in a single transaction may be designated as disposal property.

The exclusion is not available for properties that are developed in any significant manner (thus, for example, property that is developed by the securing of zoning permits is not eligible for the exception).

Effective date.—The provision is effective for property acquired on or after June 25, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill with the modification that the amendment permits: (1) designations of disposal property within nine months of acquisition (rather than six months), (2) one-half by value (rather than one-third by value) of properties to be designated as disposal property, and (3) improvement and development of disposal property to the extent that the aggregate expenditures on development do not exceed 20 percent of the net selling price of the property (rather than prohibit significant development activity).

The provision is effective for property acquired on or after July 28, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except that the provision is effective for acquisitions on or after October 1, 1992.

e. Exclusion of loan commitment fees and certain option premiums from UBTI (sec. 2115 of the bill and sec. 512(b) of the Code)

PRESENT LAW

Income from a trade or business that is unrelated to an exempt organization's purpose generally is UBTI. Passive income such as dividends, interest, royalties, and gains or losses from the sale, exchange or other disposition of property generally is excluded from UBTI (sec. 512(b)). In addition, gains on the lapse or termination of options on securities are explicitly exempted from UBTI (sec. 512(b)(5)).

Present law is unclear on whether loan commitment fees and premiums from unexercised options on real estate are UBTI.

HOUSE BILL

The bill provides that loan commitment fees and premiums from unexercised options on real estate are excluded from UBTI. For purposes of this provision, loan commitment fees are non-refundable charges made by a lender to reserve a sum of money with fixed terms for a specified period of time. These charges are to compensate the lender for the risk inherent in committing to make the loan (e.g., for the lender's exposure to interest rate changes and for potential lost opportunities).

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[3] IRS Notice 88-121, 1988-2 C.B. 457. See also Treas. Reg. sec. 1.501(c)(2)-1(a).

Effective date.—The provision is effective for premiums or loan commitment fees that are received on or after June 25, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill except that the provision is effective for premiums or loan commitment fees that are received on or after July 28, 1992.

CONFERENCE REPORT

The conference agreement follows the Senate amendment except that the provision is effective for premiums or loan commitment fees that are received on or after October 1, 1992.

f. Relaxation of limitations on investments in real estate investment trusts by pension funds (sec. 2116 of the bill and sec. 856(h) of the Code)

PRESENT LAW

A real estate investment trust ("REIT") is not taxed on income distributed to shareholders. A corporation does not qualify as a REIT if at any time during the last half of its taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by five or fewer individuals ("the five or fewer rule"). A domestic pension trust is treated as a single individual for purposes of this rule.

Dividends paid by a REIT are not UBTI,[4] unless the stock in the REIT is debt-financed. Depending on its character, income earned by a partnership may be UBTI (sec. 512(c)). Special rules treat debt-financed income earned by a partnership as UBTI (sec. 514(c)(9)(B)(vi)).

HOUSE BILL

Qualification as a REIT

The bill provides that a pension trust generally is not treated as a single individual for purposes of the five-or-fewer rule. Rather, the bill treats beneficiaries of the pension trust as holding stock in the REIT in proportion to their actuarial interests in the trust. This rule does not apply if disqualified persons, within the meaning of section 4975(e)(2) (other than by reason of subparagraphs (B) and (I)), together own five percent or more of the value of the REIT stock and the REIT has earnings and profits attributable to a period during which it did not qualify as a REIT.[5]

In addition, the bill provides that a REIT cannot be a personal holding company and, therefore, is not subject to the personal holding company tax on its undistributed income.

Unrelated business taxable income

Under the bill, certain pension trusts owning more than 10 percent of a REIT must treat a percentage of dividends from the REIT as UBTI. This percentage is the gross income derived from an unrelated trade or business (determined as if the REIT were a pension trust) divided by the gross income of the REIT for the year in which the dividends are paid. Dividends are not treated as UBTI, however, unless this percentage is at least five percent.

The UBTI rule applies only if the REIT qualifies as a REIT by reason of the above modification of the five or fewer rule. Moreover, the UBTI rule applies only if (1) one pension trust owns more than 25 percent of the value of the REIT, or (2) a group of pension trusts individually holding more than 10 percent of the value of the REIT collectively own more than 50 percent of the value of the REIT.

Effective date

The provision applies to taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate Amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment except for a change in the formula for determining the percentage of dividends from the REIT that must be treated as UBTI. Under the conference agreement, the percentage is the modified gross income derived from an unrelated trade or business (determined as if the REIT were a pension trust) divided by the modified gross income of the REIT for the year in which the dividends are paid. Modified gross income is defined as gross income less deductions directly connected with such income. These deductions include depreciation, interest (if paid on debt that was incurred in order to acquire or carry the property), real estate taxes, and direct operating expenses such as utilities, management fees, repairs, maintenance and lease commissions.

3. Tax credit for first-time homebuyers

PRESENT LAW

There is no tax credit for the purchase of a principal residence under present law.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, individuals who purchase a principal residence are eligible to receive a tax credit equal to 10 percent of the purchase price of the residence, up to a maximum credit of $2,500. The credit applies to a principal residence if (1) the taxpayer acquires such residence on or after July 28, 1992, and before January 1, 1993, or (2) the taxpayer enters into a binding contract to acquire such residence on or after July 28, 1992, and before January 1, 1993, and the taxpayer purchases and occupies such residence before April 1, 1993. One-half of the credit is allowed in the taxable year in which the purchase occurs and the other half is allowed in the following taxable year. Only one tax credit may be claimed per residence. Manufactured homes can qualify as a principal residence under the same rules as under present law, regardless of whether they are treated as real or personal property under State law.

First-time homebuyers are defined as individuals who did not have a present interest in a residence in the 3 years preceding the purchase of a home. If an individual is deferring tax on gain from the sale of a previous principal residence and is permitted an extended rollover period (Code sec. 1034), he or she is not considered a first-time homebuyer until after the end of the extended rollover period.

In the case of certain homebuyers described in Code sec. 143(i)(1)(C) whose family incomes do not exceed $15,000, ownership of land subject to certain contracts for deed described in such section does not disqualify the homebuyer as being considered a first-time homebuyer.

The first-time homebuyer credit is nonrefundable, and thus is available only to the extent the taxpayer has income tax liability to offset. However, any unused portion of the credit may be carried forward (but not beyond the fifth taxable year after the taxable year of purchase) and applied against future income tax liability.

The credit is recaptured if the residence on which the credit was claimed is sold or otherwise disposed of within 3 years of the date the residence was purchased. The recapture rule does not apply, however, to dispositions by reason of the taxpayer's death or divorce. If the taxpayer sells the residence within 3 years but purchases a new home within the rollover period, the credit is recaptured to the extent the taxpayer would have claimed a smaller credit on the new residence had it been purchased during the period when the credit was available.

Effective date.—The provision is effective for purchases on or after July 28, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

4. Treatment of certain real property business indebtedness of individuals

PRESENT LAW

The discharge of indebtedness generally gives rise to gross income to the debtor taxpayer. Present law provides exceptions to this general rule. Among the exceptions are rules providing that income from the discharge of indebtedness of the taxpayer is excluded from income if the discharge occurs in a title 11 case, the discharge occurs when the taxpayer is insolvent, or in the case of certain farm indebtedness. The amount excluded from income under these exceptions is applied to reduce tax attributes of the taxpayer. Prior law also provided an elective exception for the discharge of certain qualified business indebtedness; this exception was repealed by the 1986 Act.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an election to individual taxpayers to exclude from gross income certain income from discharge of qualified real property business indebtedness. The amount so excluded cannot exceed the basis of certain depreciable real property of the taxpayer and is treated as a reduction in the basis of that property.

Qualified real property business indebtedness is indebtedness that (1) is incurred or assumed in connection with real property used in a trade or business (2) is secured by that real property, and (3) with respect to which the taxpayer has made an election under this provision. Indebtedness incurred or assumed on or after July 30, 1992 is not qualified real property business indebtedness unless it is either (1) debt incurred to refinance qualified real property business incurred or assumed before that date (but only to the extent the amount of such debt does not exceed the amount of debt being refinanced), or (2) qualified acquisition indebtedness. Qualified real property business indebtedness does not include qualified farm indebtedness.

Qualified acquisition indebtedness is debt incurred to acquire, construct or substantially improve real property that is secured by such debt, and debt resulting from the refinancing of qualified acquisition debt, to the extent the amount of such debt does not exceed the amount of debt being refinanced.

The amount excluded under the provision with respect to the discharge of any qualified real property business indebtedness may not exceed the excess of (1) the outstanding principal amount of such debt (immediately before the discharge), over (2) the fair market value (immediately before the discharge) of the business real property which is security for the debt. For this purpose, the fair market value of the property is reduced by the outstanding principal amount of any other qualified real property indebtedness secured by the property immediately before the discharge.

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[4] See Rev. Rul. 66-151, 1966-1 C.B. 151.

[5] Moreover, as under present law, any investment by a pension trust must be in accordance with the fiduciary rules of the Employee Retirement Income Security Act ("ERISA") and the prohibited transaction rules of the Code and ERISA.

For example, assume that on July 30, 1992, Individual J owns a building worth $150,000, used in his trade or business, that is subject to a first mortgage securing a debt of J's of $110,000 and a second mortgage securing a second debt of J's of $90,000. J is neither a bankrupt nor insolvent and neither debt is qualified farm indebtedness. J agrees with his second mortgagee to reduce the second mortgage debt to $30,000, resulting in discharge of indebtedness income in the amount of $60,000. Under the provision, assuming that J has sufficient basis in business real property to absorb the reduction (see below), J can elect to exclude $50,000 of that discharge from gross income. This is because the principal amount of the discharged debt immediately before the discharge (i.e., $90,000) exceeds the fair market value of the property securing it (i.e., $150,000 of free and clear value less $110,000 of other qualified business real property indebtedness or $40,000) by $50,000. The remaining $10,000 of discharge is included in gross income.

The amount excluded under the provision may not exceed the aggregate adjusted bases (determined as of the first day of the next taxable year or, if earlier, the date of disposition) of depreciable real property held by the taxpayer immediately before the discharge, determined after any reductions under subsections (b) and (g) of section 108. Depreciable real property acquired in contemplation of the discharge is treated as not held by the taxpayer immediately before the discharge.

The amount of debt discharge excluded under the provision is applied, using the rules of section 1017 (as modified by the Senate amendment), to reduce the basis of business real property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs. The election under 1017(b)(3) to treat inventory as qualified property does not apply. If the taxpayer disposes of real property (in the transaction that gave rise to the discharge or otherwise) prior to the first day of the next taxable year, then the reduction in basis of such property is made as of the time immediately before the disposition.

In the case of discharge of indebtedness of a partnership, the determination of whether indebtedness is qualified real property indebtedness is made at the partnership level. For example, if partnership debt is discharged, the determination of whether the debt was incurred or assumed in connection with real property used in a trade or business is made by reference to the trade or business of the partnership and real property owned by the partnership. The election to apply the provision is made at the partner level, however, on a partner by partner basis. An interest of a partner in a partnership that owns depreciable real property is treated as depreciable real property to the extent of the partner's proportionate interest in the depreciable real property held by the partnership. The partnership's basis in depreciable real property with respect to such partner is correspondingly reduced.

If depreciable real property, the basis of which was reduced under this provision, is disposed of, then for purposes of determining the amount of recapture under section 1250: (1) any such basis reduction is treated as a deduction allowed for depreciation, and (2) the determination of what would have been the depreciation adjustment under the straight line method is made as if there had been no such reduction. Thus, the amount of the basis reduction that is recaptured as ordinary income is reduced over the time the taxpayer continues to hold the property, as the taxpayer foregoes depreciation deductions due to the basis reduction.

Effective date.—The provision is effective with respect to discharges after December 31, 1991 in taxable years ending after that date.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. The conference agreement clarifies the application of the provision to S corporations. Because the taxable income of an S corporation is computed in the same manner as an individual (sec. 1363(b)), this provision applies to income from the discharge of indebtedness of an S corporation. The exclusion and basis reduction are both made at the S corporation level (sec. 108(d)(7)). If an amount is excluded from the income of an S corporation under this provision, the income flowing through to the shareholders will be reduced and the shareholders' basis in their stock will likewise be reduced in relation to the income and basis the shareholders would have if present law continued to apply. Where the reduced basis in the corporation's depreciable property later results in additional income (or a smaller loss) to the corporation because of reduced depreciation or additional gain (or smaller loss) on the disposition of the property, the additional income (or smaller loss) will flow through to the shareholders at that time and will then result in a larger increase (or smaller reduction) in the shareholders' basis than if present law continued to apply. Thus, the provision simply defers income to the shareholders.

The conference agreement also clarifies the treatment of the deemed distribution (under Code section 752) arising from the reduction in a partner's share of partnership liabilities attributable to the discharge of partnership debt. The allocation of an amount of debt discharge income to a partner results in that partner's basis in the partnership being increased by such amount (sec. 705). The reduction in the partner's share of partnership liabilities caused by the debt discharge also results in a deemed distribution (under sec. 752) which in turn results in a reduction (under sec. 733) of the partners's basis in his partnership interest. This section 733 basis reduction is separate from any reduction in basis of the partner's interest that occurs as a result of treating the partnership interest as depreciable real property to the extent of the partner's proportionate interest in the depreciable real property held by the partnership (as provided under the Senate amendment).

D. LUXURY EXCISE TAX; DIESEL FUEL EXCISE TAX ON MOTORBOATS

1. Repeal of luxury excise tax on boats, aircraft, jewelry, and furs; Indexing of luxury excise tax on automobiles

PRESENT LAW

Present law imposes a ten-percent excise tax on the portion of the retail price of the following items that exceeds the thresholds specified: automobiles above $30,000; boats above $100,000; aircraft above $250,000; jewelry above $10,000; and furs above $10,000.

The tax applies to sales before January 1, 2000.

HOUSE BILL

Repeal of tax on boats, aircraft, jewelry, and fur

The House bill repeals the luxury excise tax imposed on boats, airplanes, jewelry, and furs.

Indexing of tax on automobiles

The House bill modifies the luxury excise tax on automobiles to provide that the $30,000 threshold is indexed annually for inflation occurring after 1990. Consequently, the applicable threshold for 1992 will be $30,000 increased by the 1991 inflation rate.

Equipment installed for use by disabled individuals

The House bill provides that the luxury excise tax does not apply to the cost of a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, in order to compensate for the effect of the disability. This exception does not apply to accessories commonly available from the manufacturer or dealer, such as power steering, power door locks, power seats, or power windows.

Effective date

The repeal of the luxury excise taxes on boats, aircraft, jewelry, and furs is effective for sales on or after January 1, 1992. The indexation of the threshold applicable to automobiles is effective for sales on or after July 1, 1992. The provision relating to the purchase of accessories or modifications by disabled persons is effective for purchases after December 31, 1990.

Persons entitled to a refund may request it from the seller from whom they purchased the taxed item, who then obtains the refund as provided under present-law Code section 6416.

SENATE AMENDMENT

Repeal of tax on boats, aircraft, jewelry, and fur

The Senate amendment is the same as the House bill.

Indexing of tax on automobiles

The Senate amendment is the same as the House bill.

Equipment installed for use by disabled individuals

The Senate amendment is the same as the House bill.

Treatment of demonstrator vehicles

The Senate amendment exempts automobile dealers from paying the luxury tax on demonstrator vehicles used for purposes other than test drives. Under the provision, the tax, if any, is to be assessed and paid on the sales price of the car when the car is sold.

Effective date

The effective date of the Senate amendment is identical to the House bill with respect to boats, airplanes, jewelry, furs, automobiles, and equipment installed for use by disabled individuals. The provision relating to the use before sale of demonstrator vehicles is effective for vehicle use beginning after June 30, 1992.

Persons entitled to a refund may request it from the seller from whom they purchased the taxed item, who then obtains the refund as provided under present-law Code section 6416.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment with respect to the repeal of the tax on boats, aircraft, jewelry, and furs, the indexing of the tax on automobiles, and the treatment of equipment installed for use by disabled individuals. The conference agreement follows the Senate amendment with respect to the treatment of demonstrator vehicles. In addition, the conference agreement modifies the effective date with respect to the indexation of the threshold applicable to automobiles to be effective for sales on or after October 1, 1992.

2. Impose excise tax on diesel fuel used in noncommercial boats

PRESENT LAW

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation and by boats (14 cents per gallon). A Federal excise tax also is imposed on diesel fuel (20 cents per gallon) used in highway transportation. Diesel fuel used in trains generally is taxed at 2.5 cents per gallon.

The revenues from these taxes, minus 2.5 cents per gallon, are deposited in the Highway Trust Fund ("HTF") through September 30, 1995; all the revenues from these taxes are deposited in the HTF from October 1, 1995 through September 30, 1999. The revenues attributable to the taxes on boat and small engine gasoline fuels deposited in the HTF are transferred to the Aquatic Resources Trust Fund. Revenues from the remaining 2.5 cents per gallon are retained in the General Fund through September 30, 1995, after which time the 2.5 cents-per-gallon portion of the taxes (including the tax on diesel fuel used in trains) is scheduled to expire.

An additional 0.1-cent-per-gallon tax applies to these fuels to finance the Leaking Underground Storage Trust Fund ("LUST Fund"), generally through December 31, 1995.

Diesel fuel used in boats is not taxed.

HOUSE BILL

The House bill extends the diesel fuel excise taxes to diesel fuel used by boats. Fuel used by boats for commercial fishing, transportation for compensation or hire, or for business use other than predominantly for entertainment, amusement, or recreation, remains exempt.

As under the President's budget proposal, the tax is collected at the same point in the distribution chain as the highway diesel fuel tax (i.e., on sale to a retailer). However, to prevent unnecessary tax-paid sales followed by refunds, retailers that sell diesel fuel exclusively to boats that are exempt from the tax are permitted to buy and sell the fuel tax-free.

The revenues from the taxes on diesel fuel used by boats will be retained in the General Fund.

The tax will expire after September 30, 1997.

Effective date.—The provision is effective after September 30, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment with the modification that the provision is effective after December 31, 1992.

E. OTHER INCENTIVES

1. Corporate alternative minimum tax: elimination of ACE depreciation adjustment

PRESENT LAW

Under present law, a corporation is subject to an alternative minimum tax ("AMT") which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. Alternative minimum taxable income ("AMTI") is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items. For a corporation, the amount of AMT paid in a year may be carried forward as a credit and used to reduce the corporation's regular tax liability (but not below the corporation's tentative minimum tax for the year).

One of the adjustments that is made to taxable income to arrive at AMTI relates to depreciation. Depreciation on most personal property to which the modified ACRS system adopted in 1986 applies is calculated using the 150-percent declining balance method (switching to straight line in the year necessary to maximize the deduction) over the life described in Code section 168(g) (generally the ADR class life of the property).

For taxable years beginning after 1989, AMTI is increased by an amount equal to 75 percent of the amount by which adjusted current earnings ("ACE") exceeds AMTI (as determined before this adjustment). The ACE adjustment replaced the book-income adjustment applicable to tax years 1987 through 1989. In general, ACE equals AMTI with additional adjustments that generally follow the rules presently applicable to corporations in computing their earnings and profits. For purposes of ACE, depreciation is computed using the straight-line method over the class life of the property. Thus, a corporation generally must make two depreciation calculations for purposes of the AMT—once using the 150-percent declining balance method and again using the straight-line method.

HOUSE BILL

Effective for property placed in service in taxable years beginning after the date of enactment, the House bill would eliminate the depreciation component of ACE for corporate AMT purposes. Thus, in computing ACE, a corporation would use the same depreciation methods and lives that it uses in computing AMTI (generally, the 150-percent declining balance method for tangible personal property).

Effective date.—The provision is effective for property placed in service in taxable years beginning after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Exclusion for seed capital gain of individuals from certain small business stock

PRESENT LAW

Ordinary income of an individual is taxed at a maximum marginal rate of 31 percent. Net capital gain of an individual is taxed at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent.

The Tax Reform Act of 1986 repealed a provision allowing a noncorporate taxpayer a deduction for 60 percent of its net capital gain for the taxable year.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that taxpayers (other than C corporations) are allowed a capital gains exclusion for gain realized on the sale or exchange of certain small business stock held for more than five years. The exclusion is 50% for stock held for more than five years, 60% for more than six years, 70% for more than seven years, 80% for more than eight years, 90% for more than nine years, and 100% for more than ten years.

In order to qualify for the exclusion, the stock must be that of a domestic corporation (other than a corporation engaged in certain disqualified activities), the corporation must satisfy an active business test, the basis of the corporation's assets must not exceed $5 million, and the stock must be originally issued to the taxpayer.

The exclusion is not a preference for purposes of the alternative minimum tax.

Effective date.—Stock issued six months after the date of enactment. In addition, taxpayers can elect to mark to market appreciated small business stock issued before the effective date in order to qualify future gain from the sale of such stock for the exclusion.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

3. Employer tax credit for FICA paid on tip income

PRESENT LAW

Under present law, all employee tip income is treated as employer-provided wages for purposes of the Federal Unemployment Tax Act (FUTA) and the Federal Insurance Contributions Act (FICA). For purposes of the minimum wage provisions of the Fair Labor Standards Act (FLSA), reported tips are treated as employer-provided wages to the extent they do not exceed one-half of such minimum wage.

HOUSE BILL

The House bill provides a business tax credit (sec. 38) in an amount equal to the employer's FICA tax obligation (7.65 percent) attributable to reported tips in excess of those treated as wages for purposes of satisfying the minimum wage provisions of the FLSA. To prevent double dipping, no deduction is allowed for any amount taken into account in determining the credit. The bill prohibits carryback of unused FICA credits (sec. 39) to a taxable year ending before the date of enactment.

Effective date.—Tips received and wages paid after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the senate amendment.

Effective date.—Taxes paid after December 31, 1992.

III. OFFSETTING REVENUE INCREASES

A. GENERAL PROVISIONS

1. Mark to market accounting method for dealers in securities

PRESENT LAW

A taxpayer that is a dealer in securities is required for Federal income tax purposes to maintain an inventory of securities held for sale to customers. A dealer in securities is allowed for Federal income tax purposes to determine (or value) the inventory of securities held for sale based on: (1) the cost of the securities; (2) the lower of the cost or market value of the securities; or (3) the market value of the securities.

If the inventory of securities is determined based on cost, unrealized gains and losses with respect to the securities are not taken into account for Federal income tax purposes. If the inventory of securities is determined based on the lower of cost or market value, unrealized losses (but not unrealized gains) with respect to the securities are taken into account for Federal income tax purposes. If the inventory of securities is determined based on market value, both unrealized gains and losses with respect to the securities are taken into account for Federal income tax purposes.

For financial accounting purposes, the inventory of securities generally is determined based on market value.

HOUSE BILL

In general

The House bill provides two general rules (the "mark-to-market rules") that apply to certain securities that are held by a dealer in securities. First, any such security that is inventory in the hands of the dealer is required to be included in inventory at its fair market value. Second, any such security that is not inventory in the hands of the dealer and that is held as of the close of any taxable year is treated as sold by the dealer for its fair market value on the last business day of the taxable year and any gain or loss is required to be taken into account by the dealer in determining gross income for that taxable year.[1]

If gain or loss is taken into account with respect to a security by reason of the second mark-to-market rule, then the amount of gain or loss subsequently realized as a result of a sale, exchange, or other disposition of the security, or as a result of the application of the mark-to-market rules, is to be appropriately adjusted to reflect such gain or loss. In addition, the bill authorizes the Treasury Department to promulgate regulations that provide for the application of the second mark-to-market rule at times other than the close of a taxable year or the last business day of a taxable year.

The mark-to-market rules described above apply only for purposes of determining the amount of gain or loss that is taken into account by a dealer in securities for any taxable year. Thus, for example, the mark-to-market rules do not apply in determining the character of any gain or loss and do not begin a new holding period for any security.[2] As a further example, the mark-to-market rules do not apply in determining whether gain or loss is recognized by any other taxpayer that may be a party to a contract with a dealer in securities.

Definitions

A dealer in securities is defined as any taxpayer that either (1) regularly purchases securities from, or sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

A security is defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness; (4) any interest rate, currency, or equity notional principal contract (but not any other notional principal contract such as a notional principal contract that is based on the price of oil, wheat, or other commodity); and (5) any evidence of an interest in, or any derivative financial instrument in, a security described in (1) through (4) above or any currency, including any option, forward contract, short position, or any similar financial instrument in such a security or currency.

In addition, a security is defined to include any position if: (1) the position is not a security described in the preceding paragraph; (2) the position is a hedge with respect to a security described in the preceding paragraph; and (3) before the close of the day on which the position was acquired or entered into (or such other time as the Treasury Department may specify in regulations), the position is clearly identified in the dealer's records as a hedge with respect to a security described in the preceding paragraph. A security, however, is not to include a contract to which section 1256(a) of the Code applies.

A hedge is defined as any position that reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position that is reasonably expected to become a hedge within 60 days after the acquisition of the position.

Exceptions to the mark-to-market rules

Notwithstanding the definition of security, the mark-to-market rules generally do not apply to: (1) any security that is held for investment;[3] (2) any evidence of indebtedness that is acquired (including originated) by a dealer in the ordinary course of a trade or business of the dealer but only if the evidence of indebtedness is not held for sale; (3) any security which is a hedge with respect to a security that is not subject to the mark-to-market rules (*i.e.*, any security that is a hedge with respect to a security held for investment or that is a hedge with respect to an evidence of indebtedness described in (2)); and (4) any security which is a hedge with respect to a position, right to income, or a liability that is not a security in the hands of the taxpayer.[4]

The exceptions to the mark-to-market rules for certain hedges do not apply to any security that is held by a taxpayer in its capacity as a dealer in securities, except as otherwise provided in regulations to be promulgated by the Treasury Department. Thus, except as otherwise provided in regulations to be promulgated by the Treasury Department, the exceptions to the mark-to-market rules for certain hedges do not apply to (1) any security that is held for sale in the ordinary course of a trade or business, or (2) any security that is entered into with customers in the ordinary course of a trade or business.

In addition, the exceptions to the mark-to-market rules do not apply unless, before the close of the day on which the security (including any evidence of indebtedness) is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations),[5] the security is clearly identified in the dealer's records as being described in one of the exceptions listed above.[6]

It is anticipated that the identification rules with respect to hedges will be applied in such a manner as to minimize the imposition of additional accounting burdens on dealers in securities. For example, it is understood that certain dealers in securities use accounting systems which treat certain transactions entered into between separate business units as if such transactions were entered into with unrelated third parties. It is anticipated that for purposes of the mark-to-market rules, such an accounting system generally will provide an adequate identification of hedges with third parties.

In addition to clearly identifying a security as qualifying for one of the exceptions to the mark-to-market rules listed above, a dealer must continue to hold the security in a capacity that qualifies the security for one of the exceptions listed above. If at any time after the close of the day on which the security was acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is not held in a capacity that qualifies the security for one of the exceptions listed above, then the mark-to-market rules are to apply to any changes in value of such security that occur after the security no longer qualifies for an exception.[7]

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[1] For purposes of this provision, a security is treated as sold to a person that is not related to the dealer even if the security is a contract between the dealer and a related person. Thus, for example, sections 267 and 707(b) of the Code are not to apply to any loss that is required to be taken into account under this provision.

[2] For purposes of determining whether capital gain or loss that is recognized by reason of the mark-to-market rules is short-term or long-term, the holding period is treated as ending on the date that the security is treated as sold under the mark-to-market rules. Thus, for example, if, on August 1, 1992, a calendar year securities dealer acquires a security which is a capital asset subject to the mark-to-market rules, the amount of any gain or loss recognized on December 31, 1992, by reason of the mark-to-market rules would be short-term gain or loss. If such security continues to be held on December 31, 1993, the amount of gain or loss recognized by reason of the mark-to-market rules would be long-term gain or loss.

[3] To the extent provided in regulations to be promulgated by the Treasury Department, the exception to the mark-to-market rules for a security that is held for investment is not to apply to any notional principal contract or any derivative financial instrument that is held by a dealer in such securities.

[4] For purposes of the mark-to-market rules, debt issued by a taxpayer is not a security in the hands of such taxpayer.

[5] It is anticipated that the Treasury regulations will permit a floor specialist to identify a security as held for investment before the close of the seventh business day following the day that the security is acquired (see sec. 1236(d)). In addition, it is anticipated that the Treasury regulations will permit a dealer that originates evidences of indebtedness in the ordinary course of a trade or business to identify such evidences of indebtedness as not held for sale based on the accounting practices of the dealer but in no event later than the date that is 30 days after the date that any such evidence of indebtedness is originated. Further, it is anticipated that the Treasury regulations will permit a dealer that enters into commitments to acquire mortgages to identify such commitments as being held for investment if the dealer acquires the mortgages and holds the mortgages as investments. It is anticipated that this identification of commitments to acquire mortgages will occur within a reasonable period after the acquisition of the mortgages but in no event later than the date that is 30 days after the date that the mortgages are acquired.

[6] A security is to be treated as clearly identified in a dealer's records as being described in one of the exceptions listed above if all of securities of the taxpayer that are not so described are clearly identified in the dealer's records as not being described in such exception.

For example, assume that, in the ordinary course of its trade or business, a bank originates loans that are sold if the loans satisfy certain conditions. In addition, assume that (1) the bank determines whether a loan satisfies the conditions within 30 days after the loan is made, and (2) if a loan satisfies the conditions for sale, the bank records the loan in a separate account on the date that the determination is made. For purposes of the bill, the bank is a dealer in securities with respect to the loans that it holds for sale. In addition, by identifying these loans as held for sale, the bank is considered to have identified all other loans as not held for sale. Consequently, the loans that are not held for sale are not subject to the mark-to-market rules.

[7] Any gain or loss that is attributable to the period that the security was not subject to the mark-to-market rules generally is to be taken into account

Improper identification

The bill provides that if (1) a dealer identifies a security as qualifying for an exception to the mark-to-market rules but the security does not qualify for that exception, or (2) a dealer fails to identify a position that is not a security as a hedge of a security but the position is a hedge of a security, then the mark-to-market rules are to apply to any such security or position, except that loss is to be recognized under the mark-to-market rules prior to the disposition of the security or position only to the extent of gain previously recognized under the mark-to-market rules (and not previously taken into account under this provision) with respect to the security or position.

Other rules

The bill provides that the uniform cost capitalization rules of section 263A of the Code and the rules of section 263(g) of the Code that require the capitalization of certain interest and carrying charges in the case of straddles do not apply to any security to which the mark-to-market rules apply because the fair market value of a security should include the costs that the dealer would otherwise capitalize.

In addition, the bill provides that (1) the mark-to-market rules do not apply to any section 988 transaction (generally, a foreign currency transaction) that is part of a section 988 hedging transaction, and (2) the determination of whether a transaction is a section 988 transaction is to be made without regard to whether the transaction would otherwise be mark-to-market under the bill.

The bill also authorizes the Treasury Department to promulgate regulations which provide for the treatment of a hedge that reduce a dealer's risk of interest rate or price changes or currency fluctuations with respect to securities that are subject to the mark-to-market rules as well as with respect to securities, positions, rights to income, or liabilities that are not subject to the mark-to-market rules. It is anticipated that the Treasury regulations may allow taxpayers to treat any such hedge as not subject to the mark-to-market rules provided that such treatment is consistently followed from year to year.

Finally, the bill authorizes the Treasury Department to promulgate such regulations as may be necessary or appropriate to carry out the provisions of the bill, including rules to prevent the use of year-end transfers, related persons, or other arrangements to avoid the provisions of the bill.

Effective Date

The provision applies to taxable years ending on or after December 31, 1992. A taxpayer that is required to change its method of accounting to comply with the requirements of the provision is treated as having initiated the change in method of accounting and as having received the consent of the Treasury Department to make such change.

The net amount of the section 481(a) adjustment is to be taken into account over a 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992, to the extent that such amount does not exceed the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992. The net amount of such section 481(a) adjustment is to be taken into account as follows: (1) 17 percent for the first taxable year ending on or after December 31, 1992; (2) 10 percent for each of the seven succeeding taxable years; and (3) 6.5 percent for the final two taxable years in the 10-taxable year period.

The excess (if any) of (1) the net amount of the section 481(a) adjustment for the first taxable year ending on or after December 31, 1992, over (2) the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992, is to be taken into account ratably over a 4-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

The principles of section 8.03(1) and (2) of Rev. Proc. 92-20, 1992-12 I.R.B. 10, are to apply to the section 481(a) adjustment. It is anticipated that section 8.03(1) of Rev. Proc. 92-20 will be applied by taking into account all securities of a dealer that are subject to the mark-to-market rules (including those securities that are not inventory in the hands of the dealer). In addition, it is anticipated that net operating losses will be allowed to offset the section 481(a) adjustment, tax credit carryforwards will be allowed to offset any tax attributable to the section 481(a) adjustment, and, for purposes of determining liability for estimated taxes, the section 481(a) adjustment will be taken into account ratably throughout the taxable year in question.

In determining the amount of the section 481(a) adjustment for taxable years beginning before the date of enactment of the mark-to-market rules, the identification requirements are to be applied in a reasonable manner. It is anticipated that any security that was identified as being held for investment under section 1236(a) of the Code as of the last day of the taxable year preceding the taxable year of change is to be treated as held for investment for purposes of the mark-to-market rules. It is also anticipated that any other security that was held as of the last day of the taxable year preceding the taxable year of change is to be treated as properly identified if the dealer's records as of such date support such identification.[8]

Finally, no addition to tax is to be made under section 6654 or 6665 of the Code for any underpayment of estimated tax that is due before the date of enactment of the mark-to-market rules to the extent that the underpayment is attributable to the enactment of the mark-to-market rules. The amount of the first required payment of estimated tax that is due on or after the date of enactment of the mark-to-market rules is to be increased by the amount of estimated tax that was not previously paid by reason of the preceding sentence.

SENATE AMENDMENT

In general

The Senate amendment provides two general rules (the "mark-to-market rules") that apply to certain securities that are held by a dealer in securities. First, any such security that is inventory in the hands of the dealer is required to be included in inventory at its fair market value. Second, any such security that is not inventory in the hands of the dealer and that is held as of the close of any taxable year is treated as sold by the dealer for its fair market value on the last business day of the taxable year and any gain or loss is required to be taken into account by the dealer in determining gross income for that taxable year.[9]

If gain or loss is taken into account with respect to a security by reason of the second mark-to-market rule, then the amount of gain or loss subsequently realized as a result of a sale, exchange, or other disposition of the security, or as a result of the application of the mark-to-market rules, is to be appropriately adjusted to reflect such gain or loss. In addition, the Senate amendment authorizes the Treasury Department to promulgate regulations that provide for the application of the second mark-to-market rule at times other than the close of a taxable year or the last business day of a taxable year.

The mark-to-market rules do not apply for purposes of determining the holding period of any security. In addition, the mark-to-market rules do not apply in determining whether gain or loss is recognized by any other taxpayer that may be a party to a contract with a dealer in securities.

Character of gain or loss

Any gain or loss taken into account under the provision (or any gain or loss recognized with respect to a security that would be subject to the provision if held at the end of the year) generally is treated as ordinary gain or loss. This character rule does not apply to any gain or loss allocable to any period during which the security (1) is a hedge of a position, right to income, or a liability that is not subject to a mark-to-market rule under the provision, or (2) is held by the taxpayer other than in its capacity as a dealer in securities. In addition, the character rule does not apply to any security that is improper identified (as described in detail below) by the taxpayer.

No inference is intended as to the character of any gain or loss recognized in taxable years prior to the enactment of this provision or any gain or loss recognized with respect to any property to which this character rule does not apply.

Definitions

A dealer in securities is defined as any taxpayer that either (1) regularly purchases securities from, or sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

A security is defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely-held or publicly-traded partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness; (4) any interest rate, currency, or equity notional principal contract (but not any other notional principal contract such as a notional principal contract that is based on the price of oil, wheat, or other commodity); and (5) any evidence of an interest in, or any derivative financial instrument in any currency or in a security described in (1) through (4) above, including any option, forward contract, short position, or any similar financial instrument in such a security or currency.

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at the time that the security is actually sold (rather than treated as sold by reason of the mark-to-market rules).

[8] In addition, it is anticipated that in order for any security that is held on the date of enactment of the mark-to-market rules to qualify for one of the exceptions to the mark-to-market rules, the security must be identified as being described in one of the exceptions within a reasonable period after the date of enactment but in no event later than the date that is 30 days after the date of enactment.

[9] For purposes of this provision, a security is treated as sold to a person that is not related to the dealer even if the security is itself a contract between the dealer and a related person. Thus, for example, sections 267 and 707(b) of the Code are not to apply to any loss that is required to be taken into account under this provision.

In addition, a security is defined to include any position if: (1) the position is not a security described in the preceding paragraph; (2) the position is a hedge with respect to a security described in the preceding paragraph; and (3) before the close of the day on which the position was acquired or entered into (or such other time as the Treasury Department may specify in regulations), the position is clearly identified in the dealer's records as a hedge with respect to a security described in the preceding paragraph.

A security, however, is not to include a contract to which section 1256(a) of the Code applies, unless such contract is a hedge of a security to which the provision applies. The special character rule of the Senate amendment (rather than the special character rule of section 1256(a)) will apply to any such contract that is a hedge of a security to which the provision applies.

A hedge is defined as any position that reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position that is reasonably expected to become a hedge within 60 days after the acquisition of the position.

Exceptions to the mark-to-market rules

Notwithstanding the definition of security, the mark-to-market rules generally do not apply to: (1) any security that is held for investment;[10] (2) any evidence of indebtedness that is acquired (including originated) by a dealer in the ordinary course of its trade or business but only if the evidence of indebtedness is not held for sale; (3) any security that is acquired by a floor specialist of a national securities exchange or a market maker of the National Association of Security Dealers Automated Quotation System, in connection with the specialist's or market maker's duties as a specialist or market maker;[11] (4) any security which is a hedge with respect to a security that is not subject to the mark-to-market rules (i.e., any security that is a hedge with respect to (a) a security held for investment, (b) an evidence of indebtedness described in (2) or (c) a security of a floor specialist or a market maker described in (3)); and (5) any security which is a hedge with respect to a position, right to income, or a liability that is not a security in the hands of the taxpayer.[12]

To extent provided in regulations to be promulgated by the Treasury Department, the exceptions to the mark-to-market rules for certain hedges do not apply to any security that is held by a taxpayer in its capacity as a dealer in securities. Thus, regulations may provide that the exceptions to the mark-to-market rules for certain hedges do not apply to securities that are entered into with customers in the ordinary course of a trade or business. A hedge that is identified as not subject to the mark-to-market rules will not be considered to be held for sale in the ordinary course of a trade or business.

In addition, the exceptions to the mark-to-market rules do not apply unless, before the close of the day on which the security (including any evidence of indebtedness) is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations),[13] the security is clearly identified in the dealer's records as being described in one of the exceptions listed above.[14]

It is anticipated that the identification rules with respect to hedges will be applied in such a manner as to minimize the imposition of additional accounting burdens on dealers in securities. For example, it is understood that certain dealers in securities use accounting systems which treat certain transactions entered into between separate business units as if such transactions were entered into with unrelated third parties. It is anticipated that for purposes of the mark-to-market rules, such an accounting system generally will provide an adequate identification of hedges with third parties.

In addition to clearly identifying a security as qualifying for one of the exceptions to the mark-to-market rules listed above, a dealer must continue to hold the security in a capacity that qualifies the security for one of the exceptions listed above. If at any time after the close of the day on which the security was acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is not held in a capacity that qualifies the security for one of the exceptions listed above, then the mark-to-market rules are to apply to any changes in value of such security that occur after the security no longer qualifies for an exception.[15]

Improper identification

The Senate amendment provides that if (1) a dealer identifies a security as qualifying for an exception to the mark-to-market rules but the security does not qualify for that exception, or (2) a dealer fails to identify a position that is not a security as a hedge of a security but the position is a hedge of a security, then the mark-to-market rules are to apply to any such security or position, except that loss is to be recognized under the mark-to-market rules prior to the disposition of the security or position only to the extent of gain previously recognized under the mark-to-market rules (and not previously taken into account under this provision) with respect to the security or position.

Other rules

The Senate amendment provides that the uniform cost capitalization rules of section 263A of the Code and the rules of section 263(g) of the Code that require the capitalization of certain interest and carrying charges in the case of straddles do not apply to any security to which the mark-to-market rules apply because the fair market value of a security should include the costs that the dealer would otherwise capitalize.

In addition, a security subject to the provision is not to be treated as sold and reacquired for purposes of section 1091 of the Code. Section 1092 of the Code will apply to any loss recognized under the mark-to-market rules (but will have no effect if all the offsetting positions that make up the straddle are subject to the mark-to-market rules).

Furthermore, the Senate amendment provides that (1) the mark-to-market rules do not apply to any section 988 transaction (generally, a foreign currency transaction) that is part of a section 988 hedging transaction, and (2) the determination of whether a transaction is a section 988 transaction is to be made without regard to whether the transaction would otherwise be marked-to-market under the Senate amendment.

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[10] To the extent provided in regulations to be promulgated by the Treasury Department, the exception to the mark-to-market rules for a security that is held for investment is not to apply to any notional principal contract or any derivative financial instrument that is held by a dealer in such securities.

[11] A floor specialist is defined as a person who (1) is a member of a national securities exchange, (2) is registered as a specialist with the exchange, and (3) meets the requirements for specialists established by the Securities and Exchange Commission.

A market maker is defined as a person who (1) is registered as a market maker with the National Association of Security Dealers, with respect to a security that is included in National Association of Security Dealers Automated Quotation System (NASDAQ), and (2) as of the last day of the taxable year, has been actively and regularly engaged as a market maker in the security for the lesser of (a) two years or (b) the period beginning 61 days after the security was first included on the NASDAQ and ending on such last day.

[12] For purposes of the mark-to-market rules, debt issued by a taxpayer is not a security in the hands of such taxpayer.

[13] It is anticipated that the Treasury regulations will permit a dealer that originates evidences of indebtedness in the ordinary course of a trade or business to identify such evidences of indebtedness as not held for sale based on the accounting practices of the dealer but in no event later than the date that is 30 days after the date that any such evidence of indebtedness is originated. Further, it is anticipated that the Treasury regulations will permit a dealer that enters into commitments to acquire mortgages to identify such commitments as being held for investment if the dealer acquires the mortgages and holds the mortgages as investments. It is anticipated that this identification of commitments to acquire mortgages will occur within a reasonable period after the acquisition of the mortgages but in no event later than the date that is 30 days after the date that the mortgages are acquired.

[14] A security is to be treated as clearly identified in a dealer's records as being described in one of the exceptions listed above if all of securities of the taxpayer that are not so described are clearly identified in the dealer's records as not being described in such exception.

For example, assume that, in the ordinary course of its trade or business, a bank originates loans that are sold if the loans satisfy certain conditions. In addition, assume that (1) the bank determines whether a loan satisfies the conditions within 30 days after the loan is made, and (2) if a loan satisfies the conditions for sale, the bank records the loan in a separate account on the date that the determination is made. For purposes of the Senate amendment, the bank is a dealer in securities with respect to the loans that it holds for sale. In addition, by identifying these loans as held for sale, the bank is considered to have identified all other loans as not held for sale. Consequently, the loans that are not held for sale are not subject to the mark-to-market rules.

[15] Any gain or loss that is attributable to the period that the security was not subject to the mark-to-market rules generally is to be taken into account at the time that the security is actually sold (rather than treated as sold by reason of the mark-to-market rules).

Conversely, different rules apply to a security that originally is held by the taxpayer in a capacity that subjects the security to the mark-to-market rules, but later becomes otherwise eligible for an exception from the mark-to-market rules. For example, assume that a security to which the mark-to-market rules apply is hedged (and thus the hedge is subject to the mark-to-market rules) and the security (but not the hedge) is sold before year end. In such case, the "naked" hedge generally will be subject to the mark-to-market rules at the year end.

However, the Treasury Department has authority to issue regulations that would allow the taxpayer to identify, on the date the security is sold, the "naked" hedge as a security to which one of the exceptions to the mark-to-market rules (assuming the "naked" hedge otherwise qualifies for the exception). In making this identification, it is anticipated that the taxpayer would be required to apply the mark-to-market rules to the "naked" hedge as of the date of the sale of the security, take any resulting gain or loss into account for the taxable year of sale, and treat the "naked" hedge as a security to which the exceptions to the mark-to-market rules apply.

Whether or not the taxpayer is allowed under regulations to make the identification described above (and whether or not the taxpayer makes the identification), any gain or loss attributable to the period after the date of sale of the security will not be subject to the special character rule of the Senate amendment if the hedge is not held by the taxpayer in its capacity as a dealer during such period. Thus, if the "naked" hedge is a capital asset in the hands of the taxpayer, any gain or loss recognized with respect to the "naked" hedge that is attributable to the period after the date of sale of the security will be capital gain or loss.

The Senate amendment also authorizes the Treasury Department to promulgate regulations which provide for the treatment of a hedge that reduce a dealer's risk of interest rate or price changes or currency fluctuations with respect to securities that are subject to the mark-to-market rules as well as with respect to securities, positions, rights to income, or liabilities that are not subject to the mark-to-market rules. It is anticipated that the Treasury regulations may allow taxpayers to treat any such hedge as not subject to the mark-to-market rules provided that such treatment is consistently followed from year to year.

Finally, the Senate amendment authorizes the Treasury Department to promulgate such regulations as may be necessary or appropriate to carry out the provisions of the amendment, including rules to prevent the use of year-end transfers, related persons, or other arrangements to avoid the provisions of the amendment. Such authority includes coordinating the mark-to-market rules with the original issue discount rules.

Effective Date

The provision applies to taxable years ending on or after December 31, 1992. A taxpayer that is required to change its method of accounting to comply with the requirements of the provision is treated as having initiated the change in method of accounting and as having received the consent of the Treasury Department to make such change.

The net amount of the section 481(a) adjustment is to be taken into account ratably over a 7-taxable year period beginning with the first taxable year ending on or after December 31, 1992, to the extent that such amount does not exceed the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992.

The excess (if any) of (1) the net amount of the section 481(a) adjustment for the first taxable year ending on or after December 31, 1992, over (2) the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992, is to be taken into account ratably over a 4-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

The principles of section 8.03(1) and (2) of Rev. Proc. 92-20, 1992-12 I.R.B. 10, are to apply to the section 481(a) adjustment. It is anticipated that section 8.03(1) of Rev. Proc. 92-20 will be applied by taking into account all securities of a dealer that are subject to the mark-to-market rules (including those securities that are not inventory in the hands of the dealer). In addition, it is anticipated that net operating losses will be allowed to offset the section 481(a) adjustment, tax credit carryforwards will be allowed to offset any tax attributable to the section 481(a) adjustment, and, for purposes of determining liability for estimated taxes, the section 481(a) adjustment will be taken into account ratably throughout the taxable year in question.

In determining the amount of the section 481(a) adjustment for taxable years beginning before the date of enactment of the mark-to-market rules, the identification requirements are to be applied in a reasonable manner. It is anticipated that any security that was identified as being held for investment under section 1236(a) of the Code as of the last day of the taxable year preceding the taxable year of change is to be treated as held for investment for purposes of the mark-to-market rules. It is also anticipated that any other security that was held as of the last day of the taxable year preceding the taxable year of change is to be treated as properly identified if the dealer's records as of such date support such identification.[16]

Finally, no addition to tax is to be made under section 6654 or 6665 of the Code for any underpayment of estimated tax that is due before the date of enactment of the mark-to-market rules to the extent that the underpayment is attributable to the enactment of the mark-to-market rules. The amount of the first required payment of estimated tax that is due on or after the date of enactment of the mark-to-market rules is to be increased by the amount of estimated tax that was not previously paid by reason of the preceding sentence.

CONFERENCE REPORT

The conference agreement generally follows the Senate amendment with the following modifications.

The conference agreement deletes the exception for any security that is acquired by a floor specialist of a national securities exchange or a market maker of the National Association of Security Dealers Automated Quotation System, in connection with the specialist's or market maker's duties as a specialist or market maker.

The Senate amendment provides an exception to the mark-to-market rules for any evidence of indebtedness that is acquired (including originated) by a dealer in the ordinary course of its trade or business but only if the evidence of indebtedness is not held for sale. The conference agreement provides that the exception also will apply to any obligation to acquire any evidence of indebtedness described in the preceding sentence if such obligation is entered into in the ordinary course of the taxpayer's trade or business and is not held for sale.

In addition, under the conference agreement, the special character rule does not apply to any gain or loss with respect to any security allocable to any period during which the security is held by the taxpayer other than in connection with its activities as a dealer in securities. Thus, the special character rule generally applies to an instrument or position that is held as a hedge of a security to which the special character rule applies (so long as the hedge also meets the other requirements of the special character rule.)

The conferees understand that hedging transactions are also important to the management of risks by businesses that are not subject to these mark-to-market rules. The conferees also understand that there has been increased uncertainty concerning the tax treatment of such hedging transactions following a decision by the Supreme Court in 1988, *Arkansas Best Corp. v. Commissioner*, 485 U.S. 212 (1988). That decision held that a taxpayer could not claim an ordinary loss from the sale of subsidiary stock that purportedly had been acquired for the purpose of preserving the business reputation of the taxpayer. The decision's scope, and its effect on hedging transactions, is unclear.

The level of uncertainty regarding the tax treatment of hedging transactions is a matter of concern to the conferees. Such uncertainty may have a dampening effect on taxpayers entering into a variety of desirable business hedging transactions. The conferees believe this is a significant issue and hope that appropriate steps can be taken to address this matter.

Finally, the conference agreement provides that the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Code is to be taken into account ratably over a 4-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

2. Tax treatment of certain FSLIC financial assistance

PRESENT LAW AND BACKGROUND

A taxpayer may claim a deduction for a loss on the sale or other disposition of property only to the extent that the taxpayer's adjusted basis for the property exceeds the amount realized on the disposition and the loss is not compensated for by insurance or otherwise (sec. 165 of the Code). In the case of a taxpayer on the specific charge-off method of accounting for bad debts, a deduction is allowable for the debt only to the extent that the debt becomes worthless and the taxpayer does not have a reasonable prospect of being reimbursed for the loss. If the taxpayer accounts for bad debts on the reserve method, the worthless portion of a debt is charged against the taxpayer's reserve for bad debts, potentially increasing the taxpayer's deduction for an addition to this reserve.

A special statutory tax rule, enacted in 1981, excluded from a thrift institution's income financial assistance received from the Federal Savings and Loan Insurance Corporation (FSLIC), and prohibited a reduction in the tax basis of the thrift institution's assets on account of the receipt of the assistance. Under the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), taxpayers generally were required to reduce certain tax attributes by one-half the amount of financial assistance received from the FSLIC pursuant to certain acquisitions of financially troubled thrift institutions occurring after December 31, 1988. These special rules were repealed by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), but still apply to transactions that occurred before May 10, 1989.

In September 1990, the Resolution Trust Corporation (RTC), in accordance with the requirements of FIRREA, issued a report to Congress and the Oversight Board of the RTC on certain FSLIC-assisted transactions (the "1988/89 FSLIC transactions"). The report recommended further study of the covered loss and other tax issues relating to these transactions. A March 4, 1991 Treasury Department report on tax issues relating to the 1988/89 FSLIC transactions concluded that deductions should not be allowed for losses that are reimbursed with exempt FSLIC assistance.

HOUSE BILL

Any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of an asset shall be taken into account as compensation for such loss for purposes of section 165 of the Code. Any FSLIC assistance with respect to any debt shall be taken into account for purposes of determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts. For this purpose, FSLIC assistance means any assistance or right to assistance with respect to a domestic building and loan association

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[16] In addition, it is anticipated that in order for any security that is held on the date of enactment of the mark-to-market rules to qualify for one of the exceptions to the mark-to-market rules, the security must be identified as being described in one of the exceptions within a reasonable period after the date of enactment but in no event later than the date that is 30 days after the date of enactment.

(as defined in section 7701(a)(19) of the Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

The provision does not apply to any financial assistance to which the amendments made by section 1401(a)(3) of FIRREA apply.

No inference is intended as to prior law or as to the treatment of any item to which this provision does not apply.

Effective date.—The provision applies to financial assistance credited on or after March 4, 1991, with respect to (1) assets disposed of and charge-offs made in taxable years ending on or after March 4, 1991; and (2) assets disposed of and charge-offs made in taxable years ending before March 4, 1991, but only for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the Senate amendment provides that no addition to tax is to be made under section 6654 or 6665 of the Code for any underpayment of estimated tax that is due before the date of enactment of the provision to the extent that the underpayment is attributable to the treatment of any FSLIC assistance credited before such date in manner other than that provided by this provision. The amount of the first required payment of estimated tax that is due on or after the date of enactment of the provision is to be increased by the amount of estimated tax that was not previously paid by reason of the preceding sentence. However, in providing this relief, no inference is intended as to prior law, the effect of the provision on prior law, or the treatment of any item to which this provision does not apply.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Require taxpayers to include rental value of residence in income without regard to period of rental.

PRESENT LAW

Gross income for purposes of the Internal Revenue Code generally includes all income from whatever source derived, including rents. The Code (sec. 280A(g)) provides a *de minimis* exception to this rule where a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year. In this case, the income from such rental is not included in gross income and no deductions arising from such rental use are allowed as a deduction.

HOUSE BILL

No provision (However H.R. 2735 as passed by the House includes a provision similar to the Senate amendment.).

SENATE AMENDMENT

Generally, the Senate amendment repeals the 15-day rule of 280A(g) except that if the taxpayer rents (at a rate not greater than the reasonable commercial rate) his or her principal residence for less than 15 days for the purpose of providing accommodations to visitors to an event for which commercial accommodations can provide no more than one-half of the needed accommodations, then the current-law exclusion (and denial of deductions) applies.

Effective date.—The provision applies to taxable years beginning after date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

4. Increase recovery period for depreciation of nonresidential real property

PRESENT LAW

A taxpayer is allowed to recover, through annual depreciation allowances, the cost or other basis of nonresidential real property (other than land) that is used in a trade or business or that is held for the production of rental income. For regular tax purposes, the amount of the depreciation deduction allowed with respect to nonresidential real property for any taxable year generally is determined by using the straight-line method and a recovery period of 31.5 years. For alternative minimum tax purposes, the amount of the depreciation deduction allowed with respect to nonresidential real property for any taxable year is determined by using the straight-line method and a recovery period of 40 years.

HOUSE BILL

The House bill requires the depreciation deduction allowed with respect to nonresidential real property for regular tax purposes to be determined by using a recovery period of 40 years. The House bill does not change the determination of the depreciation deduction allowed with respect to nonresidential real property for alternative minimum tax purposes.

Effective date.—The provision of the House bill relating to real property depreciation generally applies to property placed in service on or after June 25, 1992. The provision does not apply to property that is placed in service by a taxpayer before January 1, 1995, if (1) the taxpayer or a qualified person entered into a binding written contract to purchase or construct the property before June 25, 1992, or (2) construction of the property was commenced by or for the taxpayer or a qualified person before June 25, 1992. For this purpose, a qualified person is defined as any person who transfers his or her rights in such a contract or in the property to the taxpayer, but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the Senate amendment generally applies to property placed in service on or after July 28, 1992. The provision of the Senate amendment does not apply to property that is placed in service by a taxpayer before January 1, 1995, if (1) the taxpayer or a qualified person entered into a binding written contract to purchase or construct the property before July 28, 1992, or (2) construction of the property was commenced by or for the taxpayer or a qualified person before July 28, 1992. For this purpose, a qualified person is defined as any person who transfers his or her rights in such a contract or in the property to the taxpayer, but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

The conferees intend that a contract is to be considered binding for purposes of the effective date if subject to a condition, as long as the condition is not within the control of either party to the agreement or a predecessor of either party to the agreement. Similarly, a commitment letter will not fail to constitute a binding contract merely because it is subject to the customary closing conditions, such as acceptable final documentation and opinions of counsel.

5. Deduction for moving expenses

PRESENT LAW

An employee or self-employed individual may claim a deduction from gross income for certain expenses incurred as a result of moving to a new residence in connection with beginning work at a new location (sec. 217). The deduction is not subject to the floor which generally limits a taxpayer's allowable miscellaneous itemized deductions only to those amounts which exceed 2 percent of his or her adjusted gross income. Any amount received directly or indirectly by such individual as a reimbursement of moving expenses must be included in the taxpayer's gross income as compensation (sec. 82). The taxpayer may offset this income by deducting the moving expenses that would otherwise qualify as deductible items under sec. 217.

Deductible moving expenses are the expenses of transporting the taxpayer and members of his household, as well as his household goods and personal effects, from the old to the new residence; the cost of meals and lodging en route; the expenses for pre-move househunting trips; temporary living expenses for up to 30 days in the general location of the new job; and certain expenses related to either the sale or settlement of a lease on the old residence or the purchase of a new residence in the general location of the new job.

The moving expense deduction is subject to a number of limitations. A maximum of $1,500 can be deducted for pre-move househunting and temporary living expenses in the general location of the new job. A maximum of $3,000 (reduced by any deduction claimed for househunting or temporary living expenses) can be deducted for certain qualified expenses for the sale and purchase of a residence or settlement of a lease. If both a husband and wife begin new jobs in the same general location, the move is treated as a single commencement of work. If a husband and wife file separate returns, the maximum deductible amounts available to each is one-half the amounts otherwise allowed.

Also, in order for a taxpayer to claim a moving expense deduction, his new principal place of work has to be at least 35 miles farther from his former residence than was his former principal place of work (or his former residence, if he has no former place of work).

HOUSE BILL

Pre-move househunting and temporary living expenses

The $1,500 limit ($4,500 limit for foreign moves) on pre-move househunting and temporary living expenses in the general location of the new job is repealed. The $3,000 limit on the sum of pre-move househunting expenses, temporary living expenses, and qualified expenses for the sale and purchase of a residence or settlement of a lease is retained. For foreign moves, this latter limit is reduced to $5,000.

Overall cap on deductible expenses

An overall $5,000 cap is imposed on allowable moving expenses (including expenses subject to the limit for househunting, temporary living, and qualified settlement expenses) for each qualified move (including foreign moves).

Treatment of reimbursed expenses

To the extent that moving expenses are reimbursed and included in the gross income of the taxpayer under section 82, the taxpayer is allowed an above-the-line deduction in computing adjusted gross income under section 62.

Treatment of unreimbursed expenses

To the extent that moving expenses are unreimbursed, the deduction is made subject to the 2-percent floor on miscellaneous itemized deductions.

Deduction for expenses for the sale or purchase of a residence or settlement of a lease

No provision.

Deduction for certain meals and entertainment expenses

No provision.

Effective date.—The House bill is effective for taxable years beginning after December 31, 1992.

SENATE AMENDMENT

Pre-move househunting and temporary living expenses

No provision.

Overall cap on deductible expenses

The Senate amendment imposes an overall cap of $19,000 as imposed on otherwise allowable moving expenses.

Treatment of reimbursed expenses

No provision.

Treatment of unreimbursed expenses

No provision.

Deduction for expenses for the sale or purchase of a residence or the settlement of a lease

The Senate amendment denies the deduction for the expenses for the sale or purchase of a residence or the settlement of a lease.

Deduction for certain meals and entertainment expenses

The Senate amendment denies the deduction for the otherwise allowable expenses for meals and entertainment expenses.

Effective date.—Same as the House bill.

CONFERENCE AGREEMENT

Pre-move househunting and temporary living expenses

The conference agreement does not follow the House bill.

Overall cap on deductible expenses

The conference agreement provides for an overall cap of $10,000 on moving expenses and increases the mileage limit from 35 to 60 miles.

Treatment of reimbursed expenses

The conference agreement does not follow the House bill.

Treatment of unreimbursed expenses

The conference agreement does not follow the House bill.

Deduction for expenses for the sale or purchase of a residence or the settlement of a lease

The conference agreement follows the Senate amendment.

Deduction for certain meals and entertainment expenses

The conference agreement follows the Senate amendment.

Effective date.—The provisions are effective for taxable years beginning after December 31, 1992.

6. Classification of certain interests in corporations as stock or indebtedness

PRESENT LAW

There presently is no definition in the Internal Revenue Code or the income tax regulations which can be used to determine whether an interest in a corporation constitutes debt or equity for Federal income tax purposes. The characterization of an investment in a corporation as debt or equity for Federal income tax purposes generally is determined under principles developed in case law by reference to numerous factors intended to identify the economic substance of the investor's interest in the corporation.

HOUSE BILL

No provision in H.R. 11. However, section 3 of H.R. 5641 as passed by the House contains a provision similar to the Senate amendment.

SENATE AMENDMENT

The Senate amendment provides that the characterization (as of the time of issuance) of a corporate instrument as stock or debt by the corporate issuer is binding on the issuer and on all holders. This characterization, however, is not binding on the Secretary of the Treasury. Neither a holder nor an issuer is excused from any interest or penalties that might result under present law from an improper characterization.

Except as provided in regulations, a holder who treats such instrument in a manner inconsistent with such characterization must disclose the inconsistent treatment on such holder's tax return.

The Secretary of the Treasury is authorized to require such information as is deemed necessary to implement the provision.

Effective date.—Instruments issued after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the H.R. 5641 provision or the Senate amendment. However, the conference agreement on H.R. 776 includes the Senate amendment.

7. Treatment of pre-contribution gain in certain partnership redemptions

PRESENT LAW

If property contributed to a partnership by a partner is subsequently distributed to another partner within 5 years of the contribution, the contributing partner generally recognizes gain as if the property had been sold for its fair market value at the time of the distribution. Present law generally does not require a partner who contributes appreciated property to a partnership to recognize pre-contribution gain upon a subsequent distribution of other property to that partner even if the value of that other property exceeds the partner's basis in his partnership interest.

HOUSE BILL

The House bill requires a partner who contributes appreciated property to a partnership to include pre-contribution gain in income to the extent that the value of other property distributed by the partnership to that partner exceeds his adjusted basis in his partnership interest. Generally, the character of the gain is determined by reference to the character of the net pre-contribution gain. Appropriate basis adjustments are to be made in the basis of the distributee partner's interest in the partnership and the partnership's basis in the contributed property to take account of gain recognized by the distributee partner.

Effective date.—The provision applies to partnership distributions on or after June 25, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill or the Senate amendment. (However, the conference agreement on H.R. 776 includes the House bill and the Senate amendment.)

8. Deny deduction relating to travel expenses paid or incurred in connection with travel of taxpayer's spouse or dependents

PRESENT LAW

In general, a taxpayer is permitted a deduction for all ordinary and necessary expenses paid or incurred during the taxable year (1) in carrying on any trade or business and (2) in the case of an individual, for the production of income. Such deductible expenses may include reasonable travel expenses paid or incurred while away from home, such as transportation costs and the cost of meals and lodging.

In the case of ordinary and necessary business expenses, if a taxpayer travels to a destination and while at that destination engages in both business and personal activities, travel expenses to and from such destination are deductible only if the trip is related primarily to the taxpayer's trade or business. If the trip is primarily personal in nature, expenses while at the destination that are properly allocable to the taxpayer's trade or business are deductible even though the traveling expenses to and from the destination are not deductible (Treas. reg. sec. 1.162-2(b)(1)).

Under Treasury regulations, if the taxpayer's spouse accompanies the taxpayer on a business trip, expenses attributable to the spouse's travel are not deductible unless it is adequately shown that the spouse's presence on the trip has a bona fide business purpose (Treas. reg. sec. 1.162-2(c)). The performance of some incidental service by the spouse does not cause the expenses to qualify as deductible business expenses. Under the regulations, the same rules apply to any other members of the taxpayer's family who accompany the taxpayer on such a trip.

In general, business expenses other than unreimbursed employee business expenses are deductible above-the-line and are not subject to the 2-percent floor on miscellaneous itemized deductions. Expenses for the production of income other than rental or royalty income are generally deductible below-the-line (if the activity does not constitute a trade or business) and are subject to the 2-percent floor on miscellaneous itemized deductions.

Gross income does not include the value of a working condition fringe (sec. 132(d)). A "working condition fringe" is any property or service provided to an employee of an employer to the extent that if an employee paid for the property or service, the amount paid would be deductible as an ordinary and necessary business expense (sec. 162) or a depreciation expense (sec. 167).

HOUSE BILL

No provision.

SENATE AMENDMENT

The amendment denies a deduction for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying a person on business travel, unless (a) the spouse, dependent, or other individual accompanying the person is a bona fide employee of the person paying or reimbursing the expenses, (b) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and (c) the expenses of the spouse, dependent, or other individual would otherwise be deductible. No inference is intended as to the deductibility of these expenses under present law.

Effective date.—The provision is effective for amounts paid or incurred after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

9. Deny deduction for travel expenses paid or incurred in connection with employment lasting one year or more

PRESENT LAW

Unreimbursed ordinary and necessary travel expenses paid or incurred by an individual in connection with temporary employment away from home (e.g., transportation costs, and the cost of meals and lodging) are generally deductible, subject to the two-percent floor on miscellaneous itemized deductions. Travel expenses paid or incurred in connection with indefinite employment away from home, however, are not deductible.[1]

The position of the Internal Revenue Service as to whether employment is temporary or indefinite is as follows:

1. If a taxpayer anticipates employment to last for less than one year, whether such employment is temporary or indefinite will be determined on the basis of the facts and circumstances.

2. If a taxpayer anticipates employment to last for one year or more and that employment does, in fact, last for one year or more, there is a presumption that the employment is not temporary but rather is indefinite, and that the taxpayer is not away from home during the indefinite period of employment. However, under certain circumstances, this one-year presumption of indefiniteness may be rebutted where the employment is expected to, and does, last for one year or more, but less than two years.

3. An expected or actual stay of two years or longer will be considered an indefinite stay, regardless of any other facts and circumstances.[2]

HOUSE BILL

No provision.

SENATE AMENDMENT

The amendment treats a taxpayer's employment away from home in a single location as indefinite rather than temporary if it lasts for one year or more. Thus, no deduction would be permitted for travel expenses paid or incurred in connection with such employment. As under present law, if a taxpayer's employment away from home in a single location lasts for less than one year, whether such employment is temporary or indefinite would be determined on the basis of the facts and circumstances.

Effective date.—The amendment is effective for costs paid or incurred after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment. (However, the conference agreement on H.R. 776 includes the Senate amendment.)

10. Modify definition of applicable high yield discount obligations

PRESENT LAW

A taxpayer generally may deduct the amount of interest paid or accrued within the taxable year on indebtedness issued by the taxpayer. Original issue discount (OID) is the excess of the stated redemption price at maturity over the issue price of a debt instrument. The issuer of a debt instrument with OID generally accrues and deducts, as interest, the discount over the life of the obligation, even though the amount of the interest may not be paid until the maturity of the instrument.

Special rules apply to applicable high yield discount obligations. A certain portion of the yield on an applicable high yield discount obligation is treated as a dividend and is not deductible and another portion is not deductible until paid. An applicable high yield discount obligation is one that: (1) has a maturity date more than 5 years from the date of issue; (2) has a yield to maturity at least equal to the applicable Federal rate plus 5 percentage points; and (3) has significant OID. An instrument has significant OID if, for any accrual period ending after the date 5 years after the date of issue, the aggregate amount of interest taken into account as income under the instrument exceeds the sum of the aggregate amount of interest paid plus the product of the issue price of the instrument and its yield to maturity.

HOUSE BILL

No provision in H.R. 11. However, H.R. 5650 as passed by the House, contains a provision identical to the provision of the Senate amendment.

SENATE AMENDMENT

The Senate amendment provides that an applicable high yield discount obligation is one that: (1) has a maturity date more than 4 years (rather than 5 years) from the date of issuance; (2) has a yield to maturity at least equal to the applicable Federal rate plus 5 percentage points; and (3) has significant OID. An instrument has significant OID if, for any accrual period ending after the date 4 years (rather than 5 years) after the date of issue, the aggregate amount of interest taken into account as income under the instrument exceeds the sum of the aggregate amount of interest paid plus the product of the issue price of the instrument and its yield to maturity.

Effective date.—The provision is effective for obligations issued after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the provision in H.R. 5650 and the Senate amendment.

11. Deny Deduction for Club Dues

PRESENT LAW

No deduction is permitted for club dues unless the taxpayer establishes that his or her use of the club was primarily for the furtherance of the taxpayer's trade or business and the specific expense was directly related to the active conduct of that trade or business. No deduction is permitted for an initiation or similar fee that is payable only upon joining a club if the useful life of the fee extends over more than one year. Such initiation fees are nondeductible capital expenditures.[1]

HOUSE BILL

Under the bill, no deduction is permitted for club dues. This rule applies to all types of clubs: business, social, athletic, luncheon, or sporting clubs. Specific business expenses (e.g., meals) incurred at a club would be deductible only to the extent they otherwise satisfy present-law standards for deductibility.

Effective date.—The provision is effective for club dues paid after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the provision is effective for club dues paid after December 31, 1992.

12. Increase casualty loss deductible from $100 to $500

PRESENT LAW

Individuals may deduct losses of property not connected with a trade or business or a transaction entered into for profit if the loss arises from theft or from fire, storm, shipwreck, or other casualty. Only the amount of the loss in excess of $100 per casualty loss can be deducted. In addition, the casualty losses of a taxpayer for a taxable year may be deducted only to the extent that the sum of such losses (determined after application of the $100 threshold to each loss) exceeds 10 percent of the taxpayer's adjusted gross income (AGI).

HOUSE BILL

No provision in H.R. 11. (However, H.R. 2735 as passed by the House contains the same provision as included in the conference agreement below.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement increases to $500 the threshold for deducting casualty losses. The $500 threshold is indexed for inflation (with rounding to the nearest $10) for taxable years beginning after 1993. As under present law, the amount of casualty losses above the threshold are allowed as a deduction only to the extent that their sum exceeds 10 percent of the individual's AGI.

Effective date.—The provision is effective for taxable years beginning after December 31, 1992.

13. Substantiation of business meal and entertainment expenses

PRESENT LAW

No deduction is allowed with respect to business meal and entertainment expenses (as well as other specified items) unless the taxpayer substantiates by adequate records or by sufficient evidence corroborating the taxpayer's own statement (1) the amount of the expense, (2) the time and place of the expense, (3) the business purpose of the expense, and (4) the business relationship to the taxpayer of the persons entertained.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides that a taxpayer shall not be treated as meeting the substantiation requirements imposed on business meal and entertainment expenses unless the amount of the expense is shown on a receipt which is prepared by the provider of such services and which is provided at the time of the expense (or within a reasonable period thereafter). For example, under the conference agreement a taxpayer would not be treated as meeting these substantiation requirements if the taxpayer obtained a blank receipt from a restaurant and the taxpayer filled in the amount of the expense.

The conference agreement does not alter the present-law rules that permit the Secretary to issue regulations providing that some or all of the substantiation requirements shall not apply in the case of an expense which does not exceed an amount prescribed pursuant to those regulations; the conference agreement provides that a taxpayer shall not be treated as meeting the substantiation requirements under certain

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[1] *Peurifoy v. Commissioner*, 358 U.S. 59 (1958), *aff'g*, 254 F.2d 483 (4th Cir. 1957), *rev'g*, 27 T.C. 149 (1957).

[2] Rev. Rul. 83-82, 1983-1 C.B. 45.

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[1] *Kenneth D. Smith*, 24 TCM 899 (1965).

circumstances, while the regulations provide that the substantiation requirements shall not apply in certain circumstances.

Effective date.—The provision is effective on the date of enactment.

14. Treatment of passive activity losses and credits in certain discharges of indebtedness

PRESENT LAW

The discharge of indebtedness generally gives rise to gross income to the debtor taxpayer. Present law provides exceptions to this general rule. Among the exceptions are rules providing that income from the discharge of indebtedness of the taxpayer is excluded from income if the discharge occurs in a title 11 case, the discharge occurs when the taxpayer is insolvent, or in the case of certain farm indebtedness (Code sec. 108(a)(1)). The amount excluded from income under these exceptions is applied to reduce tax attributes of the taxpayer. The tax attributes reduced (in order) are net operating losses and carryovers, carryovers to or from the year of discharge in determining the general business credit, net capital losses for the year of discharge and capital loss carryovers to the year of discharge, and the basis of certain property of the taxpayer. The amount of the reduction is generally a dollar for each dollar excluded, except that for credit carryovers, the reduction is 33⅓ cents for each dollar excluded.

Under present law, the passive loss rules limit deductions and credits from passive trade or business activities. Deductions attributable to passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not derived from a passive activity. A similar rule applies with respect to credits from passive activities. Deductions and credits suspended under these rules are carried forward to the next taxable year, and are allowed in full when the taxpayer disposes of his entire interest in the passive activity to an unrelated person. Passive losses and credits are not tax attributes reduced under the rule relating to exclusion of discharge of indebtedness income.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment adds passive activity loss and credit carryovers from the taxable year of the discharge to the list of tax attributes that are reduced in the case of a discharge of indebtedness of the taxpayer that is excludable from income under Code section 108(a)(1). The amount of the reduction is generally one dollar for each dollar excluded, except that the reduction in the case of passive activity credits is 33⅓ cents for each dollar excluded.

Effective date.—The provision applies with respect to taxable years beginning after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

15. Repeal the stock-for-debt exception to cancellation of indebtedness income

PRESENT LAW

Gross income generally includes cancellation of indebtedness (COD) income. Taxpayers in title 11 cases and insolvent taxpayers, however, generally exclude COD income from gross income but reduce tax attributes by the amount of COD income. The amount of COD income that an insolvent taxpayer excludes cannot exceed the amount by which the taxpayer is insolvent.

The amount of COD income generally is the difference between the adjusted issue price of the debt being cancelled and the amount of cash and the value of any property used to satisfy the debt. Thus, for purposes of determining the amount of COD income of a debtor corporation that transfers stock to a creditor in satisfaction of its indebtedness, the corporation generally is treated as realizing COD income equal to the excess of the adjusted issue price of the debt over the fair market value of the stock. However, if the debtor corporation is in a title 11 case or is insolvent, the excess of the debt discharged over the fair market value of the transferred stock generally does not constitute COD income (the stock-for-debt exception).[1] Thus, a corporate debtor that qualifies for the stock-for-debt exception is not required to reduce its tax attributes as a result of the debt discharge. The stock-for-debt exception does not apply to the issuance of certain preferred stock, nominal or token shares of stock, or stock to unsecured creditors on a relatively disproportionate basis. In the case of an insolvent debtor not in a title 11 case, the exception applies only to the extent the debtor is insolvent.

HOUSE BILL

No provision in H.R. 11. However, section 203 of H.R. 5674 as passed by the House repeals the stock-for-debt exception. Thus, regardless of whether a debtor corporation is insolvent or in bankruptcy, the transfer of its stock in satisfaction of its indebtedness will be treated as if the corporation satisfied the indebtedness with an amount of money equal to the fair market value of the stock that had been transferred.

Effective date.—Stock transferred after July 9, 1992, other than a transfer in a title 11 or similar case filed on or before July 9, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows H.R. 5674, except that the effective date is modified to provide as follows: The provision applies to stock transferred in satisfaction of any indebtedness after July 9, 1992, unless (1) the transfer is in a title 11 or similar case filed on or before July 9, 1992, (2) the transfer occurs on or before December 31, 1993, and the transfer is pursuant to a binding contract in effect on July 9, 1992, or (3) the transfer occurs on or before December 31, 1993, and the taxpayer had filed with the SEC on or before July 9, 1992, a registration statement which proposed a stock for debt exchange with respect to such indebtedness, and which discussed the possible application of the stock-for-debt exception to such exchange.

16. Increase base tax rate on ozone-depleting chemicals

PRESENT LAW

An excise tax is imposed on certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax rate applicable for the calendar year by an ozone-depleting factor assigned to the chemical. Certain chemicals are subject to a reduced rate of tax for years prior to 1994.

Between 1992 and 1995 there are two base tax rates applicable, depending upon whether the chemicals were initially listed in the Omnibus Budget Reconciliation Act of 1989 or whether they were newly listed in the Omnibus Budget Reconciliation Act of 1990. The base tax rate applicable to initially listed chemicals is $1.67 per pound for 1992, $2.65 per pound for 1993 and 1994, and an additional 45 cents per pound per year for each year thereafter. The base tax rate applicable to newly listed chemicals is $1.37 per pound for 1992, $1.67 per pound for 1993, $3.00 per pound for 1994, $3.10 per pound for 1995, and an additional 45 cents per pound per year for each year thereafter.

HOUSE BILL

No provision.

SENATE AMENDMENT

Base tax amount.—The Senate amendment increases the base tax amount of both initially listed chemicals and newly listed chemicals by $0.15 per pound for 1992, by $0.25 per pound for 1993, by $0.35 per pound for 1994, and by $0.45 per pound for 1995. For each year after 1995, the increase in the base tax amount is $0.45 per pound.

Rigid foam insulation and halons.—The Senate amendment reduces the applicable percentage used in the computation of the tax applied to chemicals used in rigid foam insulation and for certain halons in 1992 and 1993. For chemicals used in rigid foam insulation, the provision reduces the applicable percentage from 15 percent to 13.76 percent for 1992, and reduces the applicable percentage from 10 percent to 8.33 percent for 1993. For Halon-1211 the new applicable percentages are 4.58 percent for 1992 and 2.78 percent for 1993. For Halon-1301 the new applicable percentages are 1.38 percent for 1992 and 0.83 percent for 1993. For Halon-2402 the new applicable percentages are 2.29 percent for 1992 and 1.39 percent for 1993. The effect of this provision is to continue present-law rates on these chemicals for 1992 and 1993.

Medical sterilants.—The Senate amendment provides for a reduced rate of tax for certain ozone-depleting chemicals used as medical sterilants for 1992 and 1993. The applicable percentage for such chemicals for 1992 is 91.76 percent and is 55.67 percent for 1993.

Effective date.—The provision is effective for taxable chemicals sold or used on or after October 1, 1992. Floor stocks taxes are imposed on taxed chemicals held on the effective dates of changes in the base tax rate.

CONFERENCE AGREEMENT

The conference agreement does not contain the provision. (However, the conference agreement on H.R. 776 includes increases in the tax on ozone-depleting chemicals.)

17. Modify depreciation of water utility property

PRESENT LAW

In general, property that is used in the gathering, treatment, and commercial distribution of water is assigned a class-life of 50 years. Consequently, the depreciation deductions for such property for regular tax purposes generally are determined by using a 20-year recovery period and the 150-percent declining balance method switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

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[1] In addition, if the debtor corporation issues both stock and other consideration to a creditor in satisfaction of indebtedness, the non-stock consideration is generally treated as satisfying an amount of debt equal to the value of such consideration, with the stock being considered as satisfying the remainder. Thus, if such transaction qualifies for the stock-for-debt exception, the entire amount of COD income realized by the debtor corporation in the transaction generally is excluded from gross income.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment requires the depreciation deductions allowed for regular tax purposes with respect to water utility property to be determined by using a recovery period of 25 years and the straight-line method. For this purpose, water utility property is defined as property that is an integral part of the gathering, treatment, and commercial distribution of water and that (without regard to the provision) would be 20-year property.

Effective date.—The provision generally applies to property placed in service after December 31, 1992. The provision, however, does not apply to property that is acquired or constructed pursuant to a binding contract in effect on December 31, 1992, and at all times thereafter until the property is placed in service.

CONFERENCE AGREEMENT

The conference agreement does not contain the provision of the Senate amendment.

B. EXTENSION OF EXISTING PROVISIONS

1. Five-year extension of top estate and gift tax rates

PRESENT LAW

The Federal estate and gift taxes are unified so that a single progressive rate schedule is applied to an individual's cumulative gifts and bequests. The generation-skipping transfer tax is computed by reference to the maximum Federal estate tax rate.

For 1992, the Federal estate and gift tax rates begin at 18 percent on the first $10,000 of taxable transfers and reach 55 percent on taxable transfers in excess of $3 million. For transfers occurring after 1992, the maximum Federal estate and gift tax rates are scheduled to decline to 50 percent on taxable transfers over $2.5 million.

In addition, the benefit of the graduated rates and the unified credit is phased-out at a 5-percent rate for taxable transfers that exceed $10,000,000 and do not exceed $21,040,000 ($18,340,000 in the case of decedents dying, and gifts made, after 1992).

HOUSE BILL

The House bill would defer for five years the estate and gift tax rate reductions that were scheduled to take effect after 1992 until after 1997. Also, the rate of tax on generation skipping transfers would remain at 55 percent until after 1997.

Effective date.—The provision is effective for decedents dying, gifts made, and generation skipping transfers occurring after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Extension of personal exemption phaseout

PRESENT LAW

Present law permits a personal exemption deduction from gross income for an individual, the individual's spouse, and each dependent. For 1992, the amount of this deduction is $2,300 for each exemption claimed. This exemption amount is adjusted for inflation. The deduction for personal exemptions is phased out for taxpayers with adjusted gross income (AGI) above a threshold amount (indexed for inflation) which is based on filing status. For 1992, the threshold amounts are $157,900 for married taxpayers filing joint returns, $78,950 for married taxpayers filing separate returns, $131,550 for unmarried taxpayers filing as head of household, and $105,250 for unmarried taxpayers filing as single.

The total amount of exemptions which may be claimed by a taxpayer is reduced by 2 percent for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold (the phaseout rate is 4 percent for married taxpayers filing separate returns). Thus, the personal exemptions claimed are phased out over a $122,500 range, beginning at the applicable threshold.

This provision does not apply to taxable years beginning after December 31, 1996.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends permanently the present-law personal exemption phaseout applicable to higher-income individuals.

Effective date.—The provision is effective for taxable years beginning in 1997 and thereafter.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

3. Extension of itemized deduction limitation

PRESENT LAW

Under present law, individuals who do not elect the standard deduction may claim itemized deductions (subject to certain limitations) for certain nonbusiness expenses incurred during the taxable year. Among these deductible expenses are unreimbursed medical expenses, casualty and theft losses, charitable contributions, qualified residence interest, State and local income and property taxes, unreimbursed employee business expenses, and certain other miscellaneous expenses.

Certain itemized deductions are allowed only to the extent that the amount exceeds a specified percentage of the taxpayer's adjusted gross income (AGI). Unreimbursed medical expenses for care of the taxpayer and the taxpayer's spouse and dependents are deductible only to the extent that the total of these expenses exceeds 7.5 percent of the taxpayer's AGI. Nonbusiness casualty or theft losses are deductible only to the extent that the amount of loss arising from each casualty or theft exceeds $100 and only to the extent that the net amount of casualty and theft losses exceeds 10 percent of the taxpayer's AGI. Unreimbursed employee business expenses and certain other miscellaneous expenses are deductible only to the extent that the total of these expenses exceeds 2 percent of the taxpayer's AGI.

The total amount of otherwise allowable itemized deductions (other than medical expenses, casualty and theft losses, and investment interest) is reduced by 3 percent of the amount of the taxpayer's AGI in excess of a specified threshold. This threshold is $105,250 in 1992 (indexed for inflation). Under this provision, otherwise allowable itemized deductions may not be reduced by more than 80 percent. In computing the reduction of total itemized deductions, all present-law limitations applicable to such deductions are first applied and then the otherwise allowable total amount of deductions is reduced in accordance with this provision.

The reduction of otherwise allowable itemized deductions does not apply to taxable years beginning after December 31, 1995.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends permanently the present-law itemized deduction limitation applicable to higher-income individuals.

Effective date.—The provision is effective for taxable years beginning in 1996 and thereafter.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

C. ESTIMATED TAX PROVISIONS

1. Modify individual estimated tax requirements

PRESENT LAW

Under present law, an individual taxpayer generally is subject to an addition to tax for any underpayment of estimated tax. An individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 100 percent of the tax liability of the prior year (the "100 percent of last year's liability safe harbor") or (2) 90 percent of the tax liability of the current year. Income tax withholding from wages is considered to be a payment of estimated taxes.

In addition, under a special rule, for taxable years beginning after 1991 and before 1997, a taxpayer that has an adjusted gross income (AGI) in the current year that exceeds the taxpayer's AGI in the prior year by more than $40,000 ($20,000 in the case of a separate return by a married individual) and (2) the taxpayer has an AGI in excess of $75,000 in the current year ($37,500 in the case of a separate return by a married individual) generally may not use the 100 percent of last year's liability safe harbor.

HOUSE BILL

The special rule that denies the use of the 100 percent of last year's liability safe harbor is repealed. In addition, the 100 percent of last year's liability safe harbor is modified to be 115 percent of last year's liability safe harbor.

Thus, under the House bill, an individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 115 percent of the tax liability of the prior year or (2) 90 percent of the tax liability of the current year.

Effective date.—The provision is effective for estimated tax payments applicable to taxable years beginning after December 31, 1992. An individual may elect to use 115 percent of last year's liability safe harbor for the individual's taxable year beginning in 1992.

SENATE AMENDMENT

Same as the House bill, except that the Senate amendment provides a 120 percent of last year's liability safe harbor (rather than the 115 percent of last year's liability safe harbor provided in the House bill).

Effective date.—The provision is effective for estimated tax payments applicable to taxable years beginning after December 31, 1992. The Senate amendment does not contain the election to use the safe harbor for 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Modify estimated tax payment rules for large corporations

PRESENT LAW

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning after June 30, 1992 and before 1997, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 97 percent of the tax liability shown on the return for the current taxable year. A corporation may estimate its current year tax liability based upon a method that annualizes its income through the period ending with either the month or the quarter ending prior to the estimated tax payment date.

For taxable years beginning after 1996, the 97-percent requirement becomes a 91-percent requirement. The present-law 97-percent and 91-percent requirements were added by the Unemployment Compensation Amendments of 1992.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

HOUSE BILL

For taxable years beginning after 1996, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments is required to base its estimated tax payments on 95 percent (rather than 91 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis.

The House bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

In addition, the House bill modifies the rules relating to income annualization for corporate estimated tax purposes. Under the bill, annualized income is to be determined based on the corporation's activity for the first 3 months of the taxable year (in the case of the first and second estimated tax installments); the first 6 months of the taxable year (in the case of the third estimated tax installment); and the first 9 months of the taxable year (in the case of the fourth estimated tax installment). Alternatively, a corporation may elect to determine its annualized income based on the corporation's activity for either: (1) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 4 months of the taxable year (in the case of the second estimated tax installment); the first 7 months of the taxable year (in the case of the third estimated tax installment); and the first 10 months of the taxable year (in the case of the fourth estimated tax installment); or (2) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 5 months of the taxable year (in the case of the second estimated tax installment); the first 8 months of the taxable year (in the case of the third estimated tax installment); and the first 11 months of the taxable year (in the case of the fourth estimated tax installment). An election to use either of the annualized income patterns described in (1) or (2) above must be made on or before the due date of the second estimated tax installment for the taxable year for which the election is to apply, in a manner prescribed by the Secretary of the Treasury.

Effective date.—The provision is effective for estimated tax payments with respect to taxable years beginning after December 31, 1992.

SENATE AMENDMENT

For taxable years beginning after 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments is required to base its estimated tax payments on 100 percent (rather than 97 percent or 91 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis.

The Senate amendment does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

The Senate amendment also modifies the rules relating to income annualization for corporate estimated tax purposes in the same manner as the House bill.

Effective date—The provision is effective for estimated tax payments with respect to taxable years beginning after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

D. ADMINISTRATIVE PROVISIONS

1. Expansion of 45-day interest-free period for certain refunds

PRESENT LAW

No interest is paid by the Government on a refund arising from an income tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed (sec. 6611(e)).

There is no parallel rule for refunds of taxes other than income taxes (i.e., employment, excise, and estate and gift taxes), for refunds of any type of tax arising from amended returns, or for claims for refunds of any type of tax.

If a taxpayer files a timely original return with respect to any type of tax and later files an amended return claiming a refund, and if the IRS determines that the taxpayer is due a refund on the basis of the amended return, the IRS will pay the refund with interest computed from the due date of the original return.

HOUSE BILL

No provision.

SENATE AMENDMENT

No interest is to be paid by the Government on a refund arising from any type of original tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed.

A parallel rule applies to amended returns and claims for refunds: if the refund is issued by the 45th day after the date the amended return or claim for refund is filed, no interest is to be paid by the Government for that period of up to 45 days (interest would continue to be paid for the period from the due date of the return to the date the amended return or claim for refund is filed). If the IRS does not issue the refund by the 45th day after the date the amended return or claim for refund is filed, interest would be paid (as under present law) for the period from the due date of the original return to the date the IRS pays the refund.

A parallel rule also applies to IRS-initiated adjustments (whether due to computational adjustments or audit adjustments). With respect to these adjustments, the IRS is to pay interest for 45 fewer days than it otherwise would.

Effective date.—The extension of the 45-day processing rule is effective for returns required to be filed (without regard to extensions) on or after October 1, 1992. The amended return rule is effective for amended returns and claims for refunds filed on or after October 1, 1992 (regardless of the taxable period to which they relate). The rule relating to IRS-initiated adjustments is applicable to refunds paid on or after October 1, 1992 (regardless of the taxable period to which they relate).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except as to the effective date.

Effective date.—The extension of the 45-day processing rule is effective for returns required to be filed (without regard to extensions) on or after January 1, 1993. The amended return rule is effective for amended returns and claims for refunds filed on or after January 1, 1994 (regardless of the taxable period to which they relate). The rule relating to IRS-initiated adjustments is applicable to refunds paid on or after January 1, 1994 (regardless of the taxable period to which they relate).

2. Reporting of amounts of property tax reimbursements paid to sellers of residences

PRESENT LAW

Individual taxpayers who itemize deductions may deduct State and local real property taxes. Under Code section 164(d)(1), if real property is sold during any real property tax year, the part of the real property tax that is properly allocable to that part of the year that ends on the day before the date of sale is treated as imposed on the seller. The part of the real property tax that is properly allocable to that part of the year that begins on the date of sale is treated as imposed on the buyer.

Under present law, real estate transactions are required to be reported on a return to the IRS and on statements to the customers. In general, the primary responsibility for reporting is on the "real estate reporting person," that is, the person responsible for closing the transactions, including any title company or attorney who closes the transaction. If there is no person responsible for closing the transaction, the real estate reporting person is the first person who exists in the following order: the mortgage lender, the seller's broker, the buyer's broker, or such other person designated in regulations prescribed by the Secretary.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5638 as passed by the House contains a provision identical to that in the Senate amendment below.)

SENATE AMENDMENT

The Senate amendment provides that in the case of a real estate transaction involving a residence, the real estate reporting person is required to include on an information return and on the customer statements the portion of any real property tax that is treated as a tax imposed on the purchaser.

Effective date.—The provision is effective for transactions after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment. (However, the conference agreement on H.R. 776 includes the Senate amendment.)

3. Require reporting of taxpayer identification numbers of parties in seller-financed mortgage transactions

PRESENT LAW

Taxpayers are generally allowed an itemized deduction from adjusted gross income for the amount of qualified residence interest paid. If qualified residence interest is paid to an individual, the name and address (but not the taxpayer identification number)[1] of the interest recipient must be reported on Schedule A of the payor's tax return.

Individuals receiving taxable interest in excess of $400 are required to report the amounts received and the names (but not the addresses or taxpayer identification numbers) of the payors on Schedule B of the payee's tax return.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that if any taxpayer claims a deduction for qualified residence interest on any seller-provided financing, such taxpayer (the buyer) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the seller) to whom the interest is paid or accrued. In general, this information must be furnished on Schedule A of the buyer's tax return for every year in which the buyer deducts this interest.

If any person receives or accrues interest from seller-provided financing, such person (the seller) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the buyer) from whom the interest is received or accrued. In general, this information must be furnished on Schedule B of the seller's tax return for every year in which the seller is required to include this interest in income.

If any person involved in seller-provided financing is required to include on his or her tax return the taxpayer identification number of another person, such other person is required to furnish his or her taxpayer identification number to such person. Information would not be required to be reported under this provision to the extent it would be duplicative of existing information reporting requirements.

Failure to meet the requirements for information reporting described above are subject to information reporting penalties under section 6723. In general, these penalties are $50 for each failure.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment. (However, the conference agreement on H.R. 776 includes the Senate amendment.)

E. TAXABLE YEAR ELECTION FOR PARTNERSHIPS, S CORPORATIONS, AND PERSONAL SERVICE CORPORATIONS

PRESENT LAW

In general

A partnership is generally required for Federal income tax purposes to use the taxable year that is used by a majority of its partners. An S corporation is generally required for Federal income tax purposes to use the calendar year as its taxable year. A personal service corporation also is generally required for Federal income tax purposes to use the calendar year as its taxable year.[1]

A partnership, S corporation, or personal service corporation, however, may elect to use a taxable year other than the required taxable year. In the case of a partnership, S corporation, or personal service corporation that is adopting a taxable year or changing a taxable year, the taxable year that may be elected generally may not result in a deferral period of more than three months. For this purpose, the deferral period generally is the number of months between (1) the beginning of the taxable year of the partnership, S corporation, or personal service corporation, and (2) the close of the first required taxable year that ends within such year.

A partnership, S corporation, or personal service corporation is required to obtain the approval of the Internal Revenue Service in order to change to a taxable year other than the required taxable year. A partnership, S corporation, or personal service corporation that terminates an election to use a taxable year other than the required taxable year may not make an election for any subsequent taxable year.

An election may not be made by a partnership, S corporation, or personal service corporation that is part of a tiered structure other than a tiered structure that is comprised of one or more partnerships or S corporations, all of which have the same taxable year. An electing partnership, S corporation, or personal service corporation that becomes part of a proscribed tiered structure is considered to have terminated its election.

Required payment for electing partnerships and S corporations

A partnership or S corporation that elects a taxable year other than the required taxable year is required to make a payment to the Internal Revenue Service (a "required payment") that is designed to compensate the Federal government for the deferral of tax that results from the use of a taxable year other than the required taxable year. The amount of the required payment for any taxable year for which an election is in effect (an "applicable election year") equals the excess (if any) of (1) the highest rate of tax in effect under section 1 of the Code plus 1 percentage point multiplied by the net base year income of the partnership or S corporation, over (2) the net required payment balance. The net required payment balance is the aggregate amount of required payments less refunds of required payments for all preceding taxable years for which an election was in effect.

The required payment is due on May 15 of the calendar year that follows the calendar year in which the applicable election year began. The required payment is required to be refunded by the Internal Revenue Service if certain conditions are satisfied. No interest is required to be paid by the Internal Revenue Service with respect to a refund of a required payment.

Minimum distribution requirement for electing personal service corporations

A personal service corporation that elects a taxable year other than the required taxable year is required to satisfy a minimum distribution requirement that applies to applicable amounts paid by the personal service corporation.[2] If the minimum distribution requirement is not satisfied for any taxable year for which a taxable year election is in effect, the deduction otherwise allowed for applicable amounts paid or incurred during such taxable year is limited to the applicable amounts paid during the deferral period of the taxable year multiplied by a ratio, the numerator of which is the number of months in the taxable year and the denominator of which is the number of months in the deferral period of the taxable year.

The minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid or incurred during the deferral period of the taxable year equal or exceed the lesser of (1) the applicable amounts paid during the preceding taxable year multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is the number of months in the taxable year, or (2) the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

A net operating loss carryback is not allowed to or from a taxable year of a personal service corporation for which a taxable year election is in effect.

HOUSE BILL

In general

The House bill allows a partnership, S corporation, or personal service corporation to elect any taxable year without regard to the length of the deferral period of the taxable year elected. If a partnership, S corporation, or personal service corporation, however, has annual reports or statements that (1) ascertain the income, profit, or loss of the entity, and (2) are used for credit purposes or are provided to the partners, shareholders, or other proprietors of the entity, then the entity may only elect a taxable year that covers the same period as such annual reports or statements.

The House bill also repeals the provision of present law that prohibits a partnership, S corporation, or personal service corporation from electing a taxable year other than the required taxable year if an earlier taxable year election has been terminated. The House bill requires a partnership, S corporation, or personal service corporation to obtain the approval of the Internal Revenue Service in order to change a taxable year (including, unlike present law, a change to the required taxable year).

It is anticipated that the Internal Revenue Service will provide a procedure by which a partnership, S corporation, or personal service corporation may expeditiously obtain the approval of the Internal Revenue Service in order to change a taxable year (for example, by timely filing a form with the Internal Revenue Service). It is anticipated that this "automatic consent" procedure will only apply to a partnership, S corporation, or personal service corporation that has not changed its taxable year within the past 6 calendar years, except that the 6-year limitation will not apply to any partnership, S corporation, or personal service corporation that has changed its taxable year in order to comply with the taxable year requirements contained in the Tax Reform Act of 1986.

It is also anticipated that the "automatic consent" procedure will require any net operating loss of a personal service corporation that arises in a short period required to effect a change in taxable year to be deducted ratably over a 6-year period beginning with the first taxable year after the short period. In addition, it is anticipated that the "automatic consent" procedure will require any excess of deductions over income of a partnership or S corporation that arises in a short period required to effect a change in taxable year to be taken into account by the partners or shareholders over a 6-year period beginning with the taxable year of the partners or shareholders that includes the last day of the first taxable year of the partnership or S corporation that occurs after the short period.

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[1] An individual's taxpayer identification number is generally that individual's Social Security number.

[1] For this purpose, a personal service corporation is defined as a C corporation the principal activity of which is the performance of services if (1) the services are substantially performed by employee-owners, and (2) more than 10 percent of the stock of the corporation is owned by employee-owners.

[2] The term "applicable amount" generally is defined as any amount paid to an employee-owner that is includible in the gross income of the employee-owner other than any dividend paid by the personal service corporation or any gain from the sale or exchange of property by the employee-owner to the personal service corporation.

The House bill also provides that a taxable year election is to remain in effect until the partnership, S corporation, or personal service corporation terminates its election and changes to the required taxable year.[3] A change from a taxable year that is not a required taxable year to another taxable year that is not a required taxable year is not treated as a termination of the taxable year election unless the taxable year is allowable by reason of a business purpose.

The House bill provides that a partnership, S corporation, or personal service corporation is not to be considered part of a tiered structure solely because a trust the beneficiaries of which use the calendar year owns an interest in the partnership, S corporation, or personal service corporation. Consequently, an election of a taxable year other than the required taxable year may be made by a partnership, S corporation, or personal service corporation with respect to which a trust owns an interest if all of the beneficiaries of the trust use the calendar year and the partnership, S corporation, or personal service corporation is not otherwise considered to be part of a proscribed tiered structure.

Required payment for electing partnerships and S corporations

The House bill increases the amount of the required payment that must be made by a partnership or S corporation that elects a taxable year other than the required taxable year (including any partnership or S corporation that has an election in effect on the date of enactment of the bill). Under the House bill, the amount of the required payment for any applicable election year equals the excess (if any) of (1) the highest rate of tax in effect under section 1 of the Code as of the close of the first required taxable year ending within the applicable election year plus 2 percentage points, multiplied by the net base year income of the partnership or S corporation, over (2) the net required payment balance.

In addition, the House bill requires an additional required payment for any new applicable election year of a partnership or S corporation. For this purpose, a new applicable election year is defined as any applicable election year that either (1) immediately follows a taxable year for which a taxable year election was not in effect, or (2) covers a different period than the preceding taxable year by reason of a change in the taxable year elected. If, however, the applicable election year described in the preceding sentence is a short taxable year that does not include the last day of a required taxable year, then the new applicable election year is the taxable year immediately following the short taxable year.

In the case of a new applicable election year that does not result from a change in the taxable year elected, the amount of the additional required payment equals 75 percent of the amount of the required payment for such applicable election year (determined without regard to the additional required payment). In the case of a new applicable election year that results from a change in the taxable year elected, the amount of the additional required payment equals 75 percent of the excess (if any) of (1) the amount of the required payment for such applicable election year (determined without regard to the additional required payment), over (2) the amount of the required payment for such applicable election year (determined without regard to the additional required payment) determined by using the deferral ratio and the deferral period that applied to the taxable year that was used prior to the change.[4]

The additional required payment is required to be made on or before September 15 of the calendar year in which the new applicable election year begins. A partnership or S corporation that fails to make the additional required payment by the due date of such payment is treated as having terminated the taxable year election and changed to the required taxable year.

In determining the net base year income of a partnership or S corporation for purposes of the required payment (including the additional required payment), the base year is defined as the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation that precedes the applicable election year.[5] In addition, in the case of a new applicable election year, the net income for the base year is to be increased by the excess (if any) of (1) the applicable payments taken into account in determining net income for the base year, over (2) 120 percent of the average amount of applicable payments made during the 3 taxable years immediately preceding the base year.[6]

The House bill also requires interest to be paid by the Internal Revenue Service with respect to a refund of a required payment but only for the period that begins on the date that the refund is payable and that ends on the date of the payment of the refund.

Minimum distribution requirement for electing personal service corporations

The House bill modifies the minimum distribution requirement that must be satisfied by a personal service corporation that elects a taxable year other than the required taxable year (including a personal service corporation that has an election in effect on the date of enactment of the bill). The minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of (1) 110 percent of the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks)[7] multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is 12, or (2) 110 percent of the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

The House bill also permits a personal service corporation to carry back a net operating loss from a taxable year for which a taxable year election was not in effect to a taxable year for which a taxable year election was in effect.

Effective date

The provision of the House bill relating to the taxable year election applies to taxable years beginning after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

F. WITHHOLDING PROVISIONS

1. Withholding on supplemental wage payments

PRESENT LAW

Under Treasury regulations (Treas. Reg. sec. 31.3402(g)-1), withholding on supplemental wage payments (such as bonuses, commissions, and overtime pay) that are not paid concurrently with wages (or that are paid concurrently with wages, but are separately stated) for a payroll period may be done at a rate of 20 percent (at the employer's election).

HOUSE BILL

No provision.

SENATE AMENDMENT

The elective withholding rate on supplemental wage payments is increased from 20 percent to 28 percent.

Effective date.—The provision is effective for payments of supplemental wages made after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Withholding on certain gambling winnings

PRESENT LAW

In general, proceeds from a wagering transaction are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000 and if the amount of such proceeds is at least 300 times as large as the amount wagered. The proceeds from a wagering transaction are determined by subtracting from the amount received the amount wagered. Any non-monetary proceeds that are received are taken into account at fair market value.

In the case of State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $5,000, regardless of the odds of the wager. This rule applies only if the wager is placed with the State agency conducting the lottery or with its authorized agents or employees.

In the case of sweepstakes, wagering pools, or lotteries other than State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000, regardless of the odds of the wager.

No withholding tax is imposed on winnings from a slot machine, bingo, or keno.

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[3] As under present law, a taxable year election is also terminated if: (1) the entity becomes part of a proscribed tiered structure; or (2) a partnership or S corporation willfully fails to comply with the required payment rules described below. In addition, the House bill authorizes the Treasury Department to issue regulations which provide for the termination of a taxable year election if the entity does not comply with the annual financial statement requirement described above.

[4] In the case of a new applicable election year that results from a change in the taxable year elected, an additional required payment is required only if the deferral period of the new applicable election year exceeds the deferral period of the former applicable election year.

[5] The Treasury Department is authorized to promulgate regulations that provide for the application of the required payment rules if there is no taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation that precedes the applicable election year. It is anticipated that these regulations will annualize the results of any short taxable year that is used as the base year.

[6] In the event that there are not 3 taxable years immediately preceding the base year, the provision is to apply based on the number of taxable years immediately preceding the base year.

[7] The Treasury Department is authorized to promulgate regulations that provide for the application of the minimum distribution requirement if there is no preceding taxable year of 12 months (or 52–53 weeks) of the personal service corporation. It is anticipated that these regulations will annualize the results of any short year that is taken into account for purposes of these rules.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5660 as passed by the House contains the same provision as included in the Senate amendment.)

SENATE AMENDMENT

The Senate amendment increases the rate of withholding on gambling winnings from 20 percent to 28 percent.

Effective date.—The provision is effective for payments made after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment. (However, the conference agreement on H.R. 776 includes the Senate amendment.)

3. Increase backup withholding rate

PRESENT LAW

Under section 3406, a payor is required to withhold on "reportable payments", such as interest and dividends, at a rate of 20 percent if: (i) the payee fails to furnish his TIN to the payor; (ii) the IRS notifies the payor that the payee's TIN is incorrect; (iii) a notified payee underreporting has occurred (as described in section 3406(c)); or (iv) a payee certification failure with respect to reportable payments has occurred (as described in section 3406(d)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The amendment increases the rate of withholding with respect to backup withholding from 20 percent to 31 percent.

Effective date.—The amendment is effective for amounts paid after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment. (However, the conference agreement on H.R. 776 includes the Senate amendment.)

IV. SIMPLIFICATION PROVISIONS

A. PROVISIONS RELATING TO INDIVIDUALS

1. Rollover of gain on sale of a principal residence

PRESENT LAW

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

In general, nonrecognition treatment is available only once during any two-year period. In addition, if the taxpayer purchases more than one residence during the replacement period and such residences are each used as the taxpayer's principal residence within two years after the date of sale of the old residence, only the last residence so used is treated as the replacement residence.

Special rules apply, however, if residences are sold in order to relocate for employment reasons. First, the number of times nonrecognition treatment is available during a two-year period is not limited. Second, if a residence is sold within two years after the sale of the old residence, the residence sold is treated as the last residence used by the taxpayer and thus as the only replacement residence.

The determination whether property is used by a taxpayer as a principal residence depends upon all the facts and circumstances in each case, including the good faith of the taxpayer. No safe harbor is provided for sales of principal residences incident to divorce or marital separation.

HOUSE BILL

Multiple rollovers

Under the House bill, gain is rolled over from one residence to another residence in the order the residences are purchased and used, regardless of the taxpayer's reasons for the sale of the old residence. In addition, gain may be rolled over more than once within a two-year period. Thus, the rules that formerly applied only if a taxpayer sold his residence in order to relocate for employment purposes will apply in all cases. As under present law, the basis of each succeeding residence is reduced by the amount of gain not recognized on the sale of the prior residence.

Effective date.—The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

Rollovers in the case of divorce or separation

The House bill provides a safe harbor in the determination of principal residence in certain cases incident to divorce or marital separation. Specifically, the bill provides that a residence is treated as the taxpayer's principal residence at the time of sale if (1) the residence is sold pursuant to a divorce or marital separation and (2) the taxpayer used such residence as his or her principal residence at any time during the two-year period ending on the date of sale.

Effective date.—The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

Rollovers in the case of frozen assets

No provision. (However, H.R. 5639 as passed by the House contains a provision similar to the Senate amendment.)

SENATE AMENDMENT

Multiple rollovers

No provision.

Rollovers in the case of divorce or separation

The Senate amendment is the same as the House bill.

Rollovers in the case of frozen assets

The Senate amendment suspends the running of the two-year period after the date of sale of the old residence (referred to in sec. 1034 (a) and (c) other than (c)(4)) during any time that the taxpayer has frozen deposits during the two-year period beginning on the date of sale of the old residence. The period as suspended may not extend beyond the date that is four years after the date of sale of the old residence. A taxpayer is treated as having frozen deposits if the taxpayer's deposit in a financial institution may not be withdrawn due to: (1) the bankruptcy or insolvency of the financial institution or, (2) any requirement imposed by the State in which the financial institution is located by reason of the bankruptcy or insolvency (or threat thereof) of one or more financial institutions located in the State.

For purposes of this provision, the taxpayer and the taxpayer's spouse are treated as one taxpayer if the old residence and the new residence are each used by the taxpayer and the taxpayer's spouse as their principal residence.

Effective date.—The provision relating to frozen assets applies to any residence sold or exchanged after December 31, 1990, and any residence sold or exchanged before that date if the two-year rollover period had not expired before January 1, 1991.

CONFERENCE AGREEMENT

Multiple rollovers

The conference agreement follows the House bill.

Rollovers in the case of divorce and separation

The conference agreement follows the House bill and the Senate amendment.

Rollovers in the case of frozen assets

The conference agreement generally follows the Senate amendment, with the following modifications. The suspension of the running of the two-year period is triggered if the taxpayer has substantial frozen deposits during the two-year period beginning on the date of sale of the old residence. A taxpayer is treated as having substantial frozen deposits if the taxpayer's deposit in a financial institution may not be withdrawn for a period of at least five days due to: (1) the bankruptcy or insolvency of the financial institution or, (2) any requirement imposed by the State in which the financial institution is located by reason of the bankruptcy or insolvency (or threat thereof) of one or more financial institutions located in the State.

The aggregate amount of frozen deposits must exceed 50 percent of the adjusted sales price (under Code sec. 1034(b)) of the old residence less the amount of any indebtedness of the taxpayer which was secured by the old residence.

2. De minimis exception to passive loss rules

PRESENT LAW

The passive loss rules limit deductions and credits from passive trade or business activities. Deductions from passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not from a passive activity. Deductions that are suspended under this rule are carried forward and treated as deductions from passive activities in the next year. The suspended losses from a passive activity are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. Material participation requires a taxpayer to be involved in the operations of the activity on a regular, continuous and substantial basis.

Rental activities are also included in the definition of passive activities. A special rule permits the deduction of up to $25,000 of losses from certain rental real estate activities in which the taxpayer actively participates (even though the activities are considered passive) for taxpayers with adjusted gross incomes of $100,000 or less. This deduction is phased out for taxpayers with adjusted gross incomes between $100,000 and $150,000. A rental activity is defined as any activity where payments are principally for the use of tangible property.

HOUSE BILL

The House bill creates a $200 de minimis exception to the rule disallowing net passive activity losses. Under the exception, a taxpayer who is an individual and whose total net passive activity losses for the year do not exceed $200 for the taxable year generally may deduct such losses for the year. The exception also applies to estates for the first two taxable years following the decedent's death. Similarly to the present-law rules applicable to the $25,000 exception, the amount under the exception provided in the bill is $100 in the case of a married taxpayer filing a separate return, and the exception is not available in the case of a married taxpayer filing a separate return who does not live apart from his spouse at all times during the taxable year.

The $200 exception is available only for taxpayers with net passive activity losses totalling $200 or less; a taxpayer with $300 of passive losses for the year, for example, is not eligible for the $200 exception. The $200 exception is applied after determining the taxpayer's net passive activity loss for the year (which includes taking into account suspended losses from prior years), but before taking the $25,000 allowance for rental real estate. Thus, for example, if a taxpayer has $500 of losses from rental real estate, he is not eligible for the $200 exception but may be eligible for the $25,000 exception (assuming he otherwise meets the requirements of the $25,000 exception). In all other respects, the $200 exception is applied after all other applicable rules under the passive loss rule.

The $200 exception does not apply with respect to passive activity credits.

The $200 exception does not apply with respect to items from publicly traded partnerships, to which the passive loss rule has separate application under present law.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

3. Permit payment of taxes by credit card

PRESENT LAW

Payment of taxes may be made by checks or money orders, to the extent and under the conditions provided by regulations.

HOUSE BILL

The House bill permits payment of taxes by credit card, to the extent and under the conditions provided by regulations.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement generally follows the House bill, with a number of modifications.

In general

The Internal Revenue Service is engaged in a long-term modernization of its information systems, the Tax Systems Modernization (TSM) Program. This modernization is intended to address deficiencies in the current IRS information systems and to plan effectively for future information system needs and requirements. The systems changes are designed to reduce the burden on taxpayers, generate additional revenue through improved voluntary compliance, and achieve productivity gains throughout the IRS. One key element of this program is electronic filing of tax returns.

At the present time, increasing reliance is being placed upon electronic funds transfers for payment of obligations. In light of this, the Internal Revenue Service seeks to integrate these payment methods in its TSM program, including electronic filing of returns, as well as into its traditional collection functions. The conference agreement allows the IRS to accept electronic funds transfers, including those arising from credit cards and debit cards, for the payment of taxes. The IRS contemplates that it will proceed to negotiate contracts for these purposes with one or more private sector card systems.

Billing error resolution

In the course of processing these transactions, it will be necessary to resolve billing errors and other disputes. The Internal Revenue Code contains mechanisms for the determination of tax liability, defenses and other taxpayer protections, and the resolution of disputes with respect to those liabilities. The Truth-in-Lending Act contains provisions for determination of credit card liabilities, defenses and other consumer protections, and the resolution of disputes with respect to these liabilities.

The conference agreement excludes credit card issuers and processing mechanisms from the resolution of tax liability, but makes IRS subject to the Truth-in-Lending provisions insofar as those provisions impose obligations and responsibilities with regard to the "billing error" resolution process. It is not intended that consumers obtain additional ways to dispute their tax liabilities under the Truth-in-Lending provisions.

The conference agreement also specifically includes the use of debit cards in this provision and provides that the corresponding defenses and "billing error" provisions of the Electronic Fund Transfer Act will apply in a similar manner.

The conference agreement adds new section 6311(d)(3) to the Code. This section describes the circumstances under which section 161 of the Truth-in-Lending Act ("TILA") and section 908 of the Electronic Fund Transfer Act ("EFTA") apply to disputes that may arise in connection with payments of internal revenue taxes made by credit card or debit card. Subsections (A) through (C) recognize that "billing errors" relating to the credit card account, such as an error arising from a credit card transaction posted to a cardholder's account without the cardholder's authorization, an amount posted to the wrong cardholder's account, or an incorrect amount posted to a cardholder's account as a result of a computational error or numerical transposition, are governed by the billing error provisions of section 161 of TILA. Similarly, subsections 6311(d)(3) (A)–(C) provide that errors such as those described above which arise in connection with payments of internal revenue taxes made by debit card, are governed by section 908 of EFTA.

The Internal Revenue Code provides that refunds are only authorized to be paid to the person who made the overpayment (generally the taxpayer). Subsection 6311(d)(3)(E), however, provides that where a taxpayer is entitled to receive funds as a result of the correction of a billing error made under section 161 of TILA in connection with a credit card transaction, or under section 908 of EFTA in connection with a debit card transaction, the Internal Revenue Service is authorized to utilize the appropriate credit card or debit card system to initiate a credit to the taxpayer's credit card or debit card account. The Internal Revenue Service may, therefore, provide such funds through the taxpayer's credit card or debit card account rather than directly to the taxpayer.

On the other hand, subsections 6311(d)(3) (A)–(C) provide that any alleged error or dispute asserted by a taxpayer concerning the merits of the taxpayer's underlying tax liability or tax return is governed solely by existing tax laws, and is not subject to section 161 or section 170 of TILA, section 908 of EFTA, or any similar provisions of State law. Absent the exclusion from section 170 of TILA, in a collection action brought against the cardholder by the card issuer the cardholder might otherwise assert as a defense that the Internal Revenue Service had incorrectly computed his tax liability. A collection action initiated by a credit card issuer against the taxpayer/cardholder would be an inappropriate vehicle for the determination of a taxpayer's tax liability, especially since the United States would not be a party to such an action.

Similarly, without the exclusion from section 161 of TILA and section 908 of EFTA, a taxpayer could contest the merits of his tax liability by putting the charge which appears on the credit card bill in dispute. Pursuant to TILA or EFTA, the taxpayer's card issuer would have to investigate the dispute, thereby finding itself in the middle of a dispute between the Internal Revenue Service and the taxpayer. The conferees believe that it is improper to attempt to resolve tax disputes through the billing process. The conferees note that the taxpayer retains the traditional, existing remedies for resolving tax disputes, such as resolving the dispute administratively with the Internal Revenue Service, filing a petition with the Tax Court after receiving a statutory notice of deficiency, or paying the disputed tax and filing a claim for refund (and subsequently filing a refund suit if the claim is denied or not acted upon).

Creditor status

The Truth-in-Lending Act imposes various responsibilities and obligations on creditors. Although the definition of the term "creditor" set forth in 15 U.S.C. sec. 1602 is limited, and would generally not include the Internal Revenue Service, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card are, pursuant to 15 U.S.C. sec. 1602(f), creditors.

In addition, 12 CFR sec. 226.12(e) provides that the creditor must transmit a credit statement to the card issuer within 7 business days from accepting the return or forgiving the debt. The conferees are concerned that the response deadlines otherwise imposed by 12 CFR sec. 226.12(e), if applicable, would be difficult for the Internal Revenue Service to comply with (given the volume of payments the Service is likely to receive in peak periods). This could subject the Service to unwarranted damage actions.

Consequently, the conferees have generally provided an exception to creditor status for the Internal Revenue Service.

Privacy protections

The conference agreement also addresses privacy questions that arise from the IRS' participation in credit card processing systems. The conferees believe that taxpayers expect that the maximum possible protection of privacy will be accorded any transactions they have with the IRS. Accordingly, the conference agreement provides the greatest possible protection of taxpayers' privacy that is consistent with developing and operating an efficient tax administration system. The conferees expect that principle will be fully observed in the implementation of this provision.

A key privacy issue is the use and redisclosure of tax information by financial institutions for purposes unrelated to the processing of credit card charges, i.e., marketing and related uses. To accept credit card charges by taxpayers, the IRS will have to disclose tax information to financial institutions to obtain payment and to resolve billing disputes. To obtain payment, the IRS will have to disclose, at a minimum, information on the "credit slip," i.e., the dollar amount of the payment and the taxpayer's credit card number.

The resolution of billing disputes may require the disclosure of additional tax information to financial institutions. In most cases, providing a copy of the credit slip and verifying the transaction amount will be sufficient. Conceivably, financial institutions could require some information regarding the underlying liability even where the dispute concerns a "billing dispute" matter. This additional information would not necessarily be shared as widely as the initial payment data. In lieu of disclosing further information, the IRS may elect to allow disputed amounts to be charged back to the IRS and to reinstate the corresponding tax liability.

Credit card transaction information, including the identification of individual purchases, is routinely used by financial institutions for evaluating the creditworthiness of customers, determining the profitability of accounts, and targeting customers for offers of additional credit, banking services or other products. Additionally, some financial institutions may share such information with private credit bureaus who, in turn, may sell such information to direct mail marketers and others. The computerization of these records makes it very easy to extract subcategories of customers according to whatever particular profile is desired (*e.g.*, customers within a single zip code who make a specified dollar amount of purchases at certain stores).

Despite the language in most cardholder agreements that permits redisclosure of credit card transaction information, the public may be largely unaware of how widely that information is shared. Without use and redisclosure restrictions, taxpayers may discover that some traditionally confidential tax information might be widely disseminated to direct mail marketers and others.

The conferees intend that credit or debit card transaction information will generally be restricted to those uses necessary to process payments and resolve billing errors, as well as other purposes that are specified in the statute. The conference agreement directs the Secretary to issue published procedures on what constitutes authorized uses and disclosures. The conferees anticipate that the Secretary's published procedures will prohibit the use of transaction information for marketing tax-related services by the issuer or any marketing that targets only those who use their credit card to pay their taxes. The conferees also anticipate that the published procedures will prohibit the sale of transaction information to a third party.

Effective date

The provision is effective nine months after the date of enactment. The IRS may, in this interim period, conduct internal tests and negotiate with card issuers, but may not accept credit or debit cards for payment of tax liability.

4. Election by parent to claim unearned income of certain children on parent's return

PRESENT LAW

The net unearned income of a child under 14 years of age is taxed to the child at the parents' statutory rate. Net unearned income means unearned income less the sum of $600 and the greater of: (1) $600 or, (2) if the child itemizes deductions, the amount of allowable deductions directly connected with the production of the unearned income. The dollar amounts are adjusted for inflation.

In certain circumstances, a parent may elect to include a child's unearned income on the parent's income tax return if the child's income is less than $5,000. A parent making this election must include the gross income of the child in excess of $1,000 in income for the taxable year. In addition, the parent must report an additional tax liability equal to the lesser of (1) $75 or (2) 15 percent of the excess of the child's income over $500. The dollar amounts for the election are not adjusted for inflation.

A person claimed as a dependent cannot claim a standard deduction exceeding the greater of $600 or such person's earned income. For alternative minimum tax purposes, the exemption of a child under 14 years of age generally cannot exceed the sum of such child's earned income plus $1,000. The $600 amount is adjusted for inflation but the $1,000 amount is not.

HOUSE BILL

The House bill adjusts for inflation the dollar amounts involved in the election to claim unearned income on the parent's return. It likewise indexes the $1,000 amount used in computing the child's alternative minimum tax.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

5. Simplified foreign tax credit limitation for individuals

PRESENT LAW

In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income and foreign taxes paid in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to perform the necessary calculations.

In many cases, individual taxpayers who are eligible to credit foreign taxes may have only a modest amount of foreign source gross income, all of which is income from investments (e.g., dividends from a foreign corporation subject to foreign withholding taxes or dividends from a domestic mutual fund that can pass through its foreign taxes to the shareholder (see sec. 853)). Taxable income of this type ordinarily is subject to the single foreign tax credit limitation category known as passive income. However, under certain circumstances, the Code treats investment-type income (e.g., dividends and interest) as income in several other separate limitation categories (e.g., high withholding tax interest income, general limitation income) designed to accomplish certain policy objectives or forestall certain abuses. For this reason, any taxpayer with foreign source gross income is required to provide sufficient detail on Form 1116 to ensure that foreign source taxable income from investments, as well as all other foreign source taxable income, is allocated to the correct limitation category.

HOUSE BILL

The House bill allows individuals with no more than $200 of creditable foreign taxes, and no foreign source income other than income that is in the passive basket, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. (It is intended that an individual electing this simplified limitation calculation not be required to file Form 1116 in order to obtain the benefit of the credit.) A person who elects the simplified foreign tax credit limitation is not allowed a credit for any foreign tax not shown on a payee statement (as that term is defined in sec. 6724(d)(2)) furnished to him or her. Nor is the person entitled to treat any excess credits for a taxable year to which the election applied as a carryover to another taxable year. Because the limitation for a taxable year to which the election applies can be no more than the creditable foreign taxes actually paid for the taxable year, it is also the case under the House bill that no excess credits from another year can be carried over to the taxable year to which the election applies.

For purposes of the simplified limitation, passive income generally is defined to include all types of income that would be foreign personal holding company income under the subpart F rules, plus income inclusions from passive foreign corporations (as defined by the House bill), so long as the income is shown on a payee statement furnished to the individual. Thus, for purposes of the simplified limitation, passive income includes all dividends, interest (and income equivalent to interest), royalties, rents, and annuities; net gains from dispositions of property giving rise to such income; net gains from certain commodities transactions; and net gains from foreign currency transactions that give rise to foreign currency gains and losses as defined in section 988. The statutory exceptions to treating these types of income as passive for foreign tax credit limitation purposes, such as the exceptions for high-taxed income and high-withholding-tax interest, are not applicable in determining eligibility to use the simplified limitation.

Although an estate or trust generally computes taxable income and credits in the same manner as in the case of an individual (Code sec. 641(b); Treas. Reg. sec. 1.641(b)(1)), the simplified limitation does not apply to an estate or trust.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, with one modification.

Under the Senate amendment, the simplified foreign tax credit limitation is available to married individuals filing joint tax returns with up to $400 of creditable foreign taxes, and no foreign source income other than income that is in the passive basket.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

6. Personal transactions by individuals in foreign currency

PRESENT LAW

When a U.S. taxpayer with a U.S. dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the time that the payment is made. Gain or loss results because foreign currency, unlike the U.S. dollar, is treated as property for Federal income tax purposes.

Exchange gain or loss can arise in the course of a trade or business or in connection with an investment transaction. Exchange gain or loss can also arise where foreign currency was acquired for personal use. For example, the IRS has ruled that a taxpayer who converts U.S. dollars to a foreign currency for personal use—while traveling abroad—realizes exchange gain or loss on reconversion of appreciated or depreciated foreign currency (Rev. Rul. 74-7, 1974-1 C.B. 198).

Prior to the Tax Reform Act of 1986 (the "1986 Act"), most of the rules for determining the Federal income tax consequences of foreign currency transactions were embodied in a series of court cases and revenue rulings issued by the Internal Revenue Service ("IRS"). Additional rules of limited application were provided by Treasury regulations and, in a few instances, statutory bills. Pre-1986 law was believed to be unclear regarding the character, the timing of recognition, and the source of gain or loss due to fluctuations in the exchange rate of foreign currency. The result of prior law was uncertainty of tax treatment for many legitimate transactions, as well as opportunities for tax-motivated transactions. Therefore, in 1986 Congress determined that a comprehensive set of rules should be provided for the U.S. tax treatment of transactions involving "nonfunctional currencies;" that is, currencies other than the taxpayer's "functional currency."

However, the 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions would be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.[1]

HOUSE BILL

In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the House bill provides for nonrecognition of an individual's resulting exchange gain not exceeding $200. The House bill does not change the treatment of resulting exchange losses. It is understood that under other Code provisions, such losses typically are not deductible by individuals (e.g., sec. 165(c)).

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

7. Tax treatment of certain combat pay

PRESENT LAW

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (Code sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income. In addition, if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone, military pay for that month is also excluded from gross income; this exclusion is limited, however, to hospitalization during any month beginning not more than two years after the end of combat in the zone. In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

With respect to service in the combat zone designated for purposes of the Vietnam conflict, the exclusion from income for compensation while hospitalized does not apply to any month after January 1978.

Income tax withholding

There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.

Combat zone designation for Persian Gulf

On January 21, 1991, President Bush signed Executive Order 12744, designating the Persian Gulf Area as a combat zone. The designation was retroactive to January 17, 1991, and continues in effect until termination by another Executive Order.

POWs/MIAs

Treasury regulations provide that a member of the Armed Forces in active service in a combat zone who becomes a prisoner of war or missing in action is deemed to continue in active service for the period for which the member is entitled to prisoner-of-war or missing-in-action status for military pay purposes (Treas. Reg. sec. 1.112-1(i)).

In the case of the Vietnam conflict only, members of the Armed Forces and civilian employees of the Federal Government may claim an exclusion from income for all their active service compensation for any month during any part of which they are in "missing status." In order to be classified in "missing status," a person must be in active service and officially determined to be (1) missing, (2) missing in action, (3) interned in a foreign country, (4) captured, beleaguered, or besieged by a hostile force or (5) detained in a foreign country against his or her will. A person absent from his or her post of duty without authorization is not eligible for the "missing status" exclusion.

HOUSE BILL

Increase combat pay exclusion for commissioned officers

No provision.

Exclude military pay of Persian Gulf POWs/MIAs from gross income

No provision.

Clarify tax treatment for service in Vietnam

No provision.

Make income tax withholding rules parallel to rules for exclusion from income for combat pay

The House bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Effective date.—The provision is effective as of January 1, 1993.

SENATE AMENDMENT

Increase combat pay exclusion for commissioned officers

The Senate amendment increases the exclusion from income in the case of commissioned officers to $2,000 per month of military pay. For taxable years beginning after December 31, 1994, the $2,000 amount will be indexed for inflation (with rounding to the nearest $50).

Effective date.—The provision is effective for service in a combat zone after December 31, 1993.

Exclude military pay of Persian Gulf POWs/MIAs from gross income

The Senate amendment extends the exclusion from income for those in "missing status" to members of the Armed Forces and civilian employees of the Federal Government in "missing status" as a result of the Persian Gulf conflict.

Effective date.—The provision applies to compensation for services performed on or after January 1, 1991.

Clarify tax treatment for service in Vietnam

For purposes of the exclusion from income for combat pay, the Senate amendment treats May 7, 1975, as the date of termination of combatant activities in the combat zone designated for purposes of the Vietnam conflict.

No change is made to the exclusion from income for active service compensation for members of the Armed Forces and civilian employees of the Federal Government for any month during any part of which they are in "missing status" as a result of the Vietnam conflict.

Effective date.—The provision is effective as of the date of enactment.

Make income tax withholding rules parallel to rules for exclusion from income for combat pay

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

Increase combat pay exclusion for commissioned officers

The conference agreement follows the Senate amendment.

Exclude military pay of Persian Gulf POWs/MIAs from gross income

The conference agreement follows the Senate amendment.

Clarify tax treatment for service in Vietnam

The conference agreement follows the Senate amendment.

Make income tax withholding rules parallel to rules for exclusion from income for combat pay

The conference agreement follows the House bill and the Senate amendment.

8. Expanded access to simplified income tax returns

PRESENT LAW

There are three principal tax forms that are utilized by individual taxpayers: Form 1040EZ, Form 1040A, and Form 1040.

HOUSE BILL

The House bill provides that the Secretary of the Treasury (or his delegate) shall take such actions as may be appropriate to expand access to simplified individual income tax forms and otherwise to simplify the individual income tax returns.

The bill also requires that the Secretary submit a report to the Congress on the actions undertaken pursuant to this bill, together with any recommendations he may deem advisable.

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[1] See, e.g., Rev. Rul. 90-79, 1990-2 C.B. 187 (where the taxpayer purchased a house in a foreign country, financed by a foreign currency loan, and the currency appreciates before the house is sold and the loan is repaid, the taxpayer's exchange loss on repayment of the loan is not deductible under sec. 165 and does not offset taxable gain on the sale of the house).

Effective date.—The report is due no later than one year after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill. In addition, the Senate amendment specifies that the Secretary study expanding access to Form 1040A.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

9. Simplification of tax treatment of rural letter carriers' vehicle expenses

PRESENT LAW

A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). If the taxpayer is an employee and these expenses are not reimbursed, the deduction is subject to the two-percent floor. Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses.

An employee of the U.S. Postal Service may compute his or her deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.

HOUSE BILL

The House bill repeals the special rate of 150 percent of the standard mileage rate. In its place, the bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that is considered to be equivalent to their expenses is the rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate agreement.

10. Simplification of earned income tax credit

PRESENT LAW

Eligible low-income workers are able to claim a refundable earned income tax credit (EITC) of up to 17.6 percent of the first $7,520 of earned income for 1992 (18.4 percent for taxpayers with more than one qualifying child). The maximum amount of credit for 1992 is $1,324 ($1,384 for taxpayers with more than one qualifying child). This maximum credit is reduced by 12.57 percent of earned income (or adjusted gross income, if greater) in excess of $11,840 (13.14 percent for taxpayers with more than one qualifying child). The EITC is totally phased out for workers with earned income (or adjusted gross income, if greater) over $22,370. The maximum amount of earned income on which the EITC may be claimed and the income threshold for the phaseout of the EITC are indexed for inflation. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

The credit rates for the EITC change over time under present law, as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phase-out rate	Credit rate	Phase-out rate
1992	17.6	12.57	18.4	13.14
1993	18.5	13.21	19.5	13.93
1994 and after	23.0	16.43	25.0	17.86

A supplemental young child credit is available to taxpayers with qualifying children under the age of one year. This young child credit rate is 5 percent and the phase-out rate is 3.57 percent. It is computed on the same income base as the ordinary EITC. The maximum supplemental young child credit for 1992 is $376. If a taxpayer claims the supplemental young child credit, the child that qualifies the taxpayer for such credit is not a qualifying individual for purposes of the dependent care tax credit (sec. 21).

A supplemental health insurance credit is available to taxpayers who provide health insurance coverage for their qualifying children. This health insurance credit rate is 6 percent and the phase-out rate is 4.285 percent. It is computed on the same income base as the ordinary EITC, but the credit claimed cannot exceed the out-of-pocket cost of the health insurance coverage. In addition, the taxpayer is denied an itemized deduction for medical expenses of qualifying insurance coverage up to the amount of credit claimed. The maximum supplemental health insurance credit for 1992 is $451.

HOUSE BILL

The House bill repeals the supplemental young child credit and the supplemental health insurance credit and increases the basic EITC rate for taxpayers with two or more qualifying children as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phase-out rate	Credit rate	Phase-out rate
1992	17.6	12.57	22.2	15.84
1993	18.5	13.21	23.3	16.64
1994 and after	23.0	16.43	28.8	20.58

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment permits taxpayers to include all health insurance expenses as medical expenses, subject to the 7.5 percent of adjusted gross income floor on deductible medical expenses, regardless of whether these expenses had been used to claim the health insurance component of the EITC. The amendment also permits a self-employed taxpayer to claim the allowable deduction for health insurance costs and to use the full amount of these expenses that are related to coverage of dependent children to claim the health insurance component of the EITC.

The Senate amendment also permits taxpayers with a qualifying child under the age of 1 year to claim both the young child supplemental EITC and the dependent care tax credit for expenses related to care of the qualifying child.

Effective date.—Same as the House bill.

CONFERENCE AGREEMENT

The conference agreement generally follows the Senate amendment with the provision effective for taxable years beginning after December 31, 1992.

11. Extension of the earned income tax credit to military personnel stationed overseas

PRESENT LAW

Eligible low-income workers are able to claim a refundable earned income tax credit (EITC) of up to 17.6 percent of the first $7,520 of earned income for 1992 (18.4 percent for taxpayers with more than one qualifying child). The maximum amount of credit for 1992 is $1,324 ($1,384 for taxpayers with more than one qualifying child). This maximum credit is reduced by 12.57 percent of earned income (or adjusted gross income, if greater) in excess of $11,840 (13.14 percent for taxpayers with more than one qualifying child). The EITC is totally phased out for workers with earned income (or adjusted gross income, if greater) over $22,370. The maximum amount of earned income on which the EITC may be claimed and the income threshold for the phaseout of the EITC are indexed for inflation. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

The credit rates for the EITC change over time under present law, as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phase-out rate	Credit rate	Phase-out rate
1992	17.6	12.57	18.4	13.14
1993	18.5	13.21	19.5	13.93
1994 and after	23.0	16.43	25.0	17.86

In order to claim the EITC, a taxpayer must have at least one qualifying child. A qualifying child must meet a relationship test, an age test, and a residence test. Part of the residence test requires that a qualifying child must have the same principal place of abode as the taxpayer, and that this principal place of abode must be located in the United States.

A supplemental young child credit is available to taxpayers with qualifying children under the age of one year. This young child credit rate is 5 percent and the phase-out rate is 3.57 percent. It is computed on the same income base as the ordinary EITC.

A supplemental health insurance credit is available to taxpayers who provide health insurance coverage for their qualifying children. This health insurance credit rate is 6 percent and the phase-out rate is 4.285 percent. It is computed on the same income base as the ordinary EITC, but the credit claimed cannot exceed the out-of-pocket cost of the health insurance coverage.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the EITC to United States military personnel stationed overseas. For purposes of determining whether a qualifying child meets the residence test, a member of the military stationed outside the United States on extended active duty would be considered as maintaining a place of abode in the United States.

The Senate amendment also requires that military personnel receive annual reports of earned income (which includes amounts received as basic allowances for housing and subsistence). This increased information reporting is intended to allow military personnel claiming the EITC to more accurately determine the actual amount of EITC to which they are entitled.

Effective date.—Extension of the EITC to military personnel stationed overseas is effective for taxable years beginning after December 31, 1992. The increased information reporting is effective for remuneration paid after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

B. PENSION SIMPLIFICATION

1. Simplified distribution rules

PRESENT LAW

In general

Under present law, as amended by the Unemployment Compensation Amendments of 1992 (P.L. 102-318) (the Unemployment Act) for years after 1992, a distribution of benefits from a tax-favored retirement arrangement generally is includible in gross income in the year it is paid or distributed under the rules relating to the taxation of annuities. A tax-favored retirement arrangement includes (1) a qualified pension plan (sec. 401(a)), (2) a qualified annuity plan (sec. 403(a)), and (3) a tax-sheltered annuity (sec. 403(b)). Special rules apply in the case of lump-sum distributions from a qualified plan, distributions that are rolled over to an individual retirement arrangement (IRA), and employer-provided death benefits.

The Unemployment Act provides that any portion of a distribution from a qualified pension or annuity plan or a tax-sheltered annuity (other than a minimum required distribution) can be rolled over tax free to an individual retirement arrangement (IRA) or another qualified plan or annuity, unless the distribution is one of a series of substantially equal payments made (1) over the life or life expectancy of the participant (or the joint lives or life expectancies of the participant and his or her beneficiary), or (2) over a specified period of 10 years or more.

A plan must provide the participant the option of having an eligible rollover distribution transferred directly from the plan to an IRA or another plan. If the participant does not elect the direct transfer option, then withholding is required at a rate of 20 percent.

Special rules for lump-sum distributions

Lump-sum distributions from qualified plans and annuities are eligible for special 5-year forward income averaging. A taxpayer is permitted to make an election with respect to a lump-sum distribution received on or after the employee attains age 59½ to use 5-year forward income averaging under the tax rates in effect for the taxable year in which the distribution is made. Only one such election on or after age 59½ may be made with respect to any employee.

Special transition rules in the Tax Reform Act of 1986 are available with respect to an employee who attained age 50 before January 1, 1986. Under these rules, an individual, trust, or estate may elect to use 5-year forward income averaging (using present-law rates) or 10-year forward income averaging (using prior-law rates) with respect to a single lump-sum distribution, without regard to whether the employee has attained age 59½. In addition, an individual, trust, or estate receiving a lump-sum distribution with respect to such an employee may elect to retain the capital gains character of the pre-1974 portion of the lump-sum distribution (using a tax rate of 20 percent).

Under present law, a 15 percent excise tax is imposed on excess distributions from qualified plans (sec. 4980A). Excess distributions are aggregate distributions from qualified retirement plans made with respect to an individual during any calendar year to the extent the distributions exceed the greater of (1) $150,000, or (2) $112,500 (indexed). A special higher ceiling applies for purposes of determining excess distributions for any calendar year in which an individual receives a lump-sum distribution to which special 5- or 10-year forward income averaging applies. The higher ceiling is 5 times the otherwise applicable ceiling for the calendar year ($750,000 in 1992).

Employer-provided death benefits

Under present law, the beneficiary or estate of a deceased employee generally can exclude up to $5,000 in benefits paid by or on behalf of an employer by reason of the employee's death (sec. 101(b)).

Recovery of basis

Qualified plan distributions other than lump-sum distributions generally are includible in gross income in the year they are paid or distributed under the rules relating to taxation of annuities (sec. 402). Amounts received as an annuity generally are includible in income in the year received, except to the extent they represent the return of the recipient's investment in the contract (i.e., basis) (sec. 72). Under present law, a pro-rata basis recovery rule generally applies, so that the portion of any annuity payment that represents nontaxable return of basis is determined by applying an exclusion ratio equal to the employee's total investment in the contract divided by the total expected payments over the term of the annuity.

The total expected payments depend on the form of the payment, e.g., a single-life annuity, an annuity with payments guaranteed for a specified number of years, or a joint and survivor annuity. For example, if benefits are paid in the form of an annuity during the life of the employee, the expected payments are calculated by multiplying the annual payment amount by the employee's life expectancy on the annuity starting date. If benefits are paid in the form of a joint and survivor annuity, then the total expected return depends on the life expectancies of both the primary annuitant and the person who is to receive the survivor annuity. The IRS has issued tables of life expectancies that are used to calculate expected returns.

Under a simplified alternative method provided by the Internal Revenue Service (IRS) (Notice 88-118) for payments from or under qualified retirement arrangements, the taxable portion of qualifying annuity payments is determined under a simplified exclusion ratio method. Under the simplified method, the portion of each annuity payment that represents nontaxable return of basis is equal to the employee's total investment in the contract (including the $5,000 death benefit exclusion under section 101(b), to the extent applicable), divided by the number of anticipated payments listed in a table published by the IRS. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. The simplified method is available if (1) the annuity payments depend on the life expectancy of the recipient (or the joint lives of the recipient and his or her beneficiary), and (2) the recipient is less than age 75 on the annuity starting date or there are fewer than 5 years of guaranteed payments under the annuity.

Under both the pro rata and simplified alternative methods, in no event can the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Required distributions

Present law provides uniform minimum distribution rules generally applicable to all types of tax-favored retirement vehicles, including qualified plans and annuities, IRAs, and tax-sheltered annuities.

Under present law, a qualified plan is required to provide that the entire interest of each participant will be distributed beginning no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date is generally April 1 of the calendar year following the calendar year in which the plan participant or IRA owner attains age 70½.

HOUSE BILL

Eligible rollover distributions and trustee-to-trustee transfers

The House bill contains provisions relating to rollover and trustee-to-trustee transfers that are substantially the same as the provisions enacted in the Unemployment Act (other than the 20 percent withholding provision).

Special rules for lump-sum distributions

The bill repeals the special 5-year forward income averaging rule. The bill preserves the transition rules adopted in the Tax Reform Act of 1986.

Employer-provided death benefits

The bill repeals the exclusion from gross income of up to $5,000 in employer-provided death benefits.

Recovery of basis

Under the bill, the portion of an annuity distribution from a qualified retirement plan, qualified annuity, or tax-sheltered annuity that represents nontaxable return of basis generally is determined under a method similar to the present-law simplified alternative method provided by the Internal Revenue Service. Under the simplified method provided in the bill, the portion of each annuity payment that represents nontaxable return of basis generally is equal to the employee's total investment in the contract as of the annuity starting date, divided by the number of anticipated payments determined by reference to the age of the participant listed in the table set forth in the bill. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. If the number of payments is fixed under the terms of the annuity, that number is to be used instead of the number of anticipated payments listed in the table.

The simplified method does not apply if the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity. If in connection with commencement of annuity payments, the recipient receives a lump-sum payment that is not part of the annuity stream, such payment is taxable under the rules relating to annuities (sec. 72) as if received before the annuity starting date, and the investment in the contract used to calculate the simplified exclusion ratio for the annuity payments is reduced by the amount of the payment. As under present law, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Minimum required distributions

No provision.

Effective dates

The provisions are generally effective for years beginning after December 31, 1992.

SENATE AMENDMENT

Eligible rollover distributions and trustee-to-trustee transfers

No provision.

Special rules for lump-sum distributions

The Senate amendment is the same as the House bill with respect to averaging. The Senate amendment modifies the operation of the tax on excess distributions.

Under the Senate amendment, the special higher ceiling (5 times the otherwise applicable ceiling) for purposes of determining the excise tax on excess distributions from qualified plans applies for any calendar year in which an individual receives a lump-sum distribution from a qualified plan, without regard to whether special 5- or 10-year forward income averaging applies. An individual can make such an election only once. The election is not available if the special higher ceiling applied to an individual in a taxable year prior to the effective date of the provision.

Employer-provided death benefits

The Senate amendment is the same as the House bill.

Recovery of basis

The Senate amendment is the same as the House bill.

Minimum required distributions

The Senate amendment modifies the rule that requires all participants in qualified plans to commence distributions by age 70½ without regard to whether the participant is still employed by the employer and generally replaces it with the rule in effect prior to the Tax Reform Act. Under the amendment, distributions generally are required to begin by April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½ or (2) the calendar year in which the employee retires. However, in the case of a 5-percent owner of the employer, distributions are required to begin no later than the April 1 of the calendar year following the year in which the 5-percent owner attains age 70½. Distributions from an IRA are required to begin no later than April 1 of the calendar year following the year in which the IRA owner attains age 70½.

In addition, in the case of an employee (other than a 5-percent owner) who retires in a calendar year after attaining age 70½, the Senate amendment generally requires the employee's accrued benefit to be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan. Thus, under the amendment, the employee's accrued benefit is required to reflect the value of benefits that the employee would have received if the employee had retired at age 70½ and had begun receiving benefits at that time.

Effective date

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

Eligible rollover distributions and trustee-to-trustee transfers

The conference agreement does not contain the provisions in the House bill.

Special rules for lump-sum distributions

The conference agreement follows the House bill and the Senate amendment with respect to averaging, and the Senate amendment with respect to the modification of the excess distribution tax.

Employer-provided death benefits

The conference agreement follows the House bill and the Senate amendment.

Recovery of basis

The conference agreement follows the House bill and the Senate amendment.

Minimum required distributions

The conference agreement follows the Senate amendment.

Effective dates

The conference agreement follows the House bill and the Senate amendment.

2. Increased access to pension plans

a. Plans of small employers

PRESENT LAW

Under present law, certain employers (other than tax-exempt and governmental employers) can establish a simplified employee pension (SEP) for the benefit of their employees under which the employees can elect to have contributions made to the SEP or to receive the contributions in cash (sec. 408(k)(6)). If an employee elects to have contributions made on the employee's behalf to the SEP, the contribution is not treated as having been distributed or made available to the employee. In addition, the contribution is not treated as an employee contribution merely because the SEP provides the employee with such an election. Therefore, an employee is not required to include in income currently the amounts the employee elects to have contributed to the SEP. Elective deferrals under a SEP are to be treated in the same manner as elective deferrals under a qualified cash or deferred arrangement and, thus, are subject to the $8,728 (for 1992) cap on elective deferrals.

The election to have amounts contributed to a SEP or received in cash is available only if at least 50 percent of the employees of the employer elect to have amounts contributed to the SEP. In addition, such election is available for a taxable year only if the employer maintaining the SEP had 25 or fewer eligible employees at all times during the prior taxable year.

Under present law, elective deferrals under SEPs are subject to nondiscrimination standards. The amount eligible to be deferred as a percentage of each highly compensated employee's compensation (i.e., the deferral percentage) is limited by the average deferral percentage (based solely on elective deferrals) for all nonhighly compensated employees who are eligible to participate. The deferral percentage for each highly compensated employee (taking into account only the first $222,220 (indexed) of compensation) cannot exceed 125 percent of the average deferral percentage for all other eligible employees. Nonelective SEP contributions may not be combined with the elective SEP deferrals for purposes of this test. An employer may not make any other SEP contributions conditioned on elective SEP deferrals. If the 125-percent test is not satisfied, rules similar to the rules applicable to excess contributions to a cash or deferred arrangement are applied.

If any employee is eligible to make elective SEP deferrals, all employees satisfying the participation requirements must be eligible to make elective SEP deferrals. An employee satisfies the participation requirements if the employee (1) has attained age 21, (2) has performed services for the employer during at least 3 of the immediately preceding 5 years, and (3) received at least $363 (indexed) in compensation from the employer for the year. An employee can participate even though he or she is also a participant in one or more other qualified retirement plans sponsored by the employer. However, SEP contributions are added to the employer's contribution to the other plans on the participant's behalf in applying the limits on contributions and benefits (sec. 415).

HOUSE BILL

No provision.

SENATE AMENDMENT

Simplified employee pensions (SEPs)

The Senate amendment conforms the eligibility requirements for SEP participation to the rules applicable to pension plans generally by providing that contributions to a SEP must be made with respect to each employee who has at least one year of service with the employer.

The Senate amendment modifies the rules relating to salary reduction SEPs by providing that such SEPs may be established by employers with 100 or fewer employees. The Senate amendment also repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

The Senate amendment also provides that an employer is deemed to satisfy the nondiscrimination requirements applicable to salary reduction SEPs if the plan satisfies the safe harbor nondiscrimination rules applicable to qualified cash or deferred arrangements and employees are notified of the availability and features of the SEP.

PRIME ("private retirement incentives matched by employers") accounts

The Senate amendment creates another simplified retirement plan targeted to small businesses called the PRIME ("private retirement incentives matched by employers") account (new sec. 408(p)). A PRIME account is an individual retirement plan with respect to which employees can make salary reduction contributions of up to $3,000 per year, with a 100 percent employer match up to 3 percent of the employee's compensation contributed to the account. No nondiscrimination rules apply to PRIME accounts. Simplified reporting requirements apply. PRIME accounts are subject to the same spousal consent rules applicable to defined contribution plans.

Only employers who normally employ fewer than 100 employees and who do not maintain a qualified plan or a SEP may establish PRIME accounts for their employees. All employees of the employer who have at least one year of service and who are reasonably expected to work at least 1,200 hours during the year must be eligible to participate in the PRIME account. All contributions to an employee's PRIME account are fully vested. Additional early withdrawal penalties apply to preretirement withdrawals during the first 3 years of participation.

A common trust fund or common investment fund of PRIME account assets generally is treated as a common trust fund or common investment fund of assets of a trust exempt from taxation under section 501(a) which is described in section 401(a). Accordingly, PRIME accounts can be invested by financial organizations in collective investment funds to the same extent, and under the same conditions, as qualified retirement plans. Any load or other fees imposed by any financial organization maintaining a PRIME account must be reasonable.

Effective date

The provisions apply to years beginning after December 31, 1993.

CONFERENCE AGREEMENT

Simplified employee pensions

The conference agreement follows the Senate amendment, except that the conference agreement does not adopt the provision in the Senate amendment that modifies the 3-out-of-5 year SEP eligibility rules, and does not apply the section 401(k) safe harbor rule to salary reduction SEPs.

PRIME accounts

The conference agreement does not follow the Senate amendment.

b. Repeal of limitation on ability of nongovernmental tax-exempt employers to maintain cash or deferred arrangements

PRESENT LAW

Under present law, if a tax-qualified profit-sharing or stock bonus plan meets certain requirements, then an employee is not required to include in income any employer contributions to the plan merely because the employee could have elected to receive the amount contributed in cash (sec. 401(k)). Plans containing this feature are referred to as cash or deferred arrangements. Tax-exempt organizations are generally prohibited from establishing qualified cash or deferred arrangements. Because of this limitation, many of such employers are precluded from maintaining broad-based, funded, elective deferral arrangements for their employees.

HOUSE BILL

The House bill allows nongovernmental tax-exempt organizations to maintain cash or deferred arrangements. As under present law, the limitation on the amount that may be deferred by an individual participating in both a cash or deferred arrangement and another elective deferral arrangement applies.

Effective date.—The provision applies to nongovernmental tax-exempt organizations with respect to years beginning after December 31, 1992. The provision does not affect the ability of certain State and local government employers to maintain qualified cash or deferred arrangements that were adopted before May 6, 1986.

SENATE AMENDMENT

The Senate amendment is the same as the House bill. In addition, the Senate amendment clarifies that any organization, including an Indian tribe, previously denied eligibility on the ground that they are a tax-exempt organization (and not because they are a State or local government or agency or instrumentality thereof) is eligible to maintain a cash or deferred arrangement for its employees under the bill. As under present law, the limitation on the amount that may be deferred by an individual participating in both a cash or deferred arrangement and another elective deferral arrangement applies.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

c. Duties of master and prototype plan sponsors

PRESENT LAW

The Internal Revenue Service (IRS) master and prototype program is an administrative program under which trade and professional associations, banks, insurance companies, brokerage houses, and other financial institutions can obtain IRS approval of model retirement plan language and then make these preapproved plans available for adoption by their customers, investors, or association members. Rules regarding who can sponsor master and prototype programs, the prescribed format of the model plans, and other matters relating to the program are contained in revenue procedures and other administrative pronouncements of the IRS.

The IRS also maintains related administrative programs that authorize advance approval of model plans prepared by law firms and others, i.e., the regional prototype plan program and volume submitter program.

HOUSE BILL

The House bill authorizes the IRS to define the duties of organizations that sponsor master and prototype, regional prototype, and other preapproved plans, including mass submitters. These duties would become a condition of sponsoring preapproved plans. The bill is not intended to be interpreted as diminishing the IRS's administrative authority with respect to the master and prototype, regional prototype, or similar programs, including the authority to define who is eligible to sponsor prototype plans, or to create other rules relating to these programs. Rather, it is intended to create a system of sponsor accountability, subject to IRS monitoring, that will give adopters of master and prototype and other preapproved plans a level of protection, comparable to that in the regional prototype plan program, against failure of master and prototype and other plan sponsors to fulfill certain obligations.

The bill thus authorizes the IRS to prescribe duties of sponsors of prototype and other preapproved plans that include, but are not limited to, maintaining annually current lists of adopting employers and providing certain annual notices to adopting employers and to the IRS. While reflecting the IRS's own requirements in its regional prototype plan procedure, the bill does not require the IRS to mandate a master and prototype accountability system that is identical to the regional prototype plan procedure. The bill also authorizes the IRS to prescribe such other reasonable duties as are consistent with the objective of protecting adopting employers from a sponsor's failure to amend a plan in a timely manner or to communicate amendments or other notices required by the IRS's procedures.

The bill authorizes the IRS to define the duties of preapproved plan sponsors that relate to providing administrative services to the plans of adopting employers. This authorization is not intended to obligate sponsors to undertake the complete day-to-day administration of the plans they sponsor (although it does not preclude the IRS from mandating the performance of specific functions), but rather to protect employers against loss of qualification merely because they are unaware of the need to arrange for such services, or the unavailability of professional assistance from parties familiar with the sponsor's plan.

It is thus intended that, at a minimum, sponsors should (1) advise adopting employers that failure to arrange for administrative services to the plan may significantly increase the risk of disqualification and resulting sanctions, and (2) furnish employers with the name of firms that are familiar with the plan and can provide professional administrative service. This is not intended to preclude the sponsor from providing that service itself.

The bill should not be construed as creating fiduciary relationships or responsibilities under Title I of ERISA that would not exist in the absence of the provision.

To the extent deemed reasonably necessary to carry out the purposes of this provision of the bill, the Secretary is authorized to issue regulations that permit the relaxation of the anti-cutback rules contained in ERISA (sec. 204(g)) and the Code (sec. 411(d)(6)) when employers replace an individually designed plan with an IRS model plan, provided that the rights of participants to accrued benefits under the individually designed plan are not significantly impaired. This discretion will facilitate the shift by employers from individually designed plans to IRS model plans.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Nondiscrimination provisions

a. Simplification of nondiscrimination tests applicable under sections 401 (k) and (m)

PRESENT LAW

A profit-sharing or stock bonus plan, a pre-ERISA money purchase pension plan, or a rural cooperative plan may include a qualified cash or deferred arrangement (sec. 401(k)). Under such an arrangement, an employee may elect to have the employer make payments as contributions to a plan on behalf of the employee, or to the employee directly in cash. Contributions made at the election of the employee are called elective deferrals. The maximum annual amount of elective deferrals that can be made by an individual is $8,728 for 1992. This dollar limit is indexed annually for inflation. A special nondiscrimination test applies to cash or deferred arrangements.

The special nondiscrimination test applicable to elective deferrals under qualified cash or deferred arrangements is satisfied if the actual deferral percentage (ADP) for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement, or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points. The ADP for a group of employees is the average of the ratios (calculated separately for each employee in the group) of the contributions paid to the plan on behalf of the employee to the employee's compensation.

Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements.

The special nondiscrimination test for employer matching contributions and after-tax employee contributions is satisfied for a plan year if the actual contribution percentage (ACP) for eligible highly compensated employees does not exceed the greater of (1) 125 percent of the ACP for all other eligible employees, or (2) the lesser of 200 percent of the contribution percentage for all other eligible employees, or such percentage plus 2 percentage points. The ACP for a group of employees for a plan year is the average of the ratios (calculated separately for each employee in the group) of the sum of matching and employee contributions on behalf of each such employee to the employee's compensation for the year.

To determine the amount of excess contributions and the employees to whom they are allocated, the elective deferrals of highly compensated employees are reduced in the order of their actual deferral percentage beginning with those highly compensated employees with the highest actual deferral percentages.

HOUSE BILL

Look-back rule

The House bill modifies the present-law nondiscrimination test applicable to elective deferrals and employer matching and after-tax employee contributions to require the use of the average deferral percentage for nonhighly compensated employees for the preceding plan year to be used in determining the permitted average deferral percentage for highly compensated employees for the current year. In the case of the first plan year of a qualified cash or deferred arrangement, the average deferral percentage for nonhighly compensated employees for the previous year is deemed to be 3 percent or, at the election of the employer, the average deferral percentage for the first plan year.

Safe harbor for cash or deferred arrangements

In general.—The bill adds alternative methods of satisfying the special nondiscrimination requirements applicable to elective deferrals and employer matching contributions. Under these safe harbor rules, a cash or deferred arrangement is treated as satisfying the actual deferral percentage test if the plan of which the arrangement is a part (or any other plan of the employer maintained with respect to the employees eligible to participate in the cash or deferred arrangement) meets (1) one of two contribution requirements and (2) a notice requirement. A plan satisfies the safe harbor with respect to matching contributions if (1) the plan meets the contribution and notice requirements under the safe harbor for cash or deferred arrangements and (2) the plan satisfies a special limitation on matching contributions. These safe harbors permit a plan to satisfy the special nondiscrimination tests through plan design, rather than through the testing of actual contributions.

Contribution requirements.—A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if (1) the plan satisfies a matching contribution requirement or (2) the employer makes a nonelective contribution to a defined contribution plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes elective contributions under the arrangement.

A plan satisfies the matching contribution requirement if, under the arrangement: (1) the employer makes a matching contribution on behalf of each nonhighly compensated employee that is not less than (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and (2) the level of match for highly compensated employees is not greater than the match rate for nonhighly compensated employees at any level of compensation.

Alternatively, if the matching contribution requirement is not satisfied at some level of employee compensation, the requirement is deemed to be satisfied if (1) the level of employer matching contributions does not increase as employee elective contributions increase and (2) the aggregate amount of matching contributions with respect to elective contributions up to that level of compensation at least equals the amount of matching contributions that would be made if matching contributions satisfied the percentage requirements. For example, the alternative test is satisfied if an employer matches 125 percent of an employee's elective contributions up to the first 3 percent of compensation, 25 percent of elective deferrals from 3 to 4 percent of compensation, and provides no match thereafter. This is because the employer match does not increase with the employee's contributions and the aggregate amount of matching contributions is at least equal to the matching contributions required under the general safe harbor rule.

Under the safe harbor, an employee's rights to employer matching contributions or nonelective contributions used to meet the contribution requirements are required to be 100-percent vested.

An arrangement does not satisfy the contribution requirements unless the requirements are met without regard to the permitted disparity rules (sec. 401(l)) and contributions used to satisfy the contribution requirements are not taken into account for purposes of determining whether an employer's plan satisfies the permitted disparity rules.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are nonforfeitable and subject to the restrictions on withdrawals that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2) (B) and (C)).

The matching or nonelective contribution safe harbor requirements are deemed satisfied if the employer maintains another qualified plan that meets such requirements.

Notice requirement.—The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice within a reasonable period before any year of the employee's rights and obligations under the arrangement. This notice must be sufficiently accurate and comprehensive to apprise the employee of his or her rights and obligations and must be written in a manner calculated to be understood by the average employee eligible to participate.

Alternative method of satisfying special nondiscrimination test for matching contributions

The bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions. Under this safe harbor, a plan is treated as meeting the special nondiscrimination test if (1) the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and (2) the plan satisfies a special limitation on matching contributions.

The limitation on matching contributions is satisfied if (1) the matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation and (2) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase.

Effective date

The provision is effective for plan years beginning after December 31, 1992.

SENATE AMENDMENT

Look-back rule

The Senate amendment is the same as the House bill.

Safe harbor for cash or deferred arrangements

The Senate amendment is the same as the House bill.

Alternative method of satisfying special nondiscrimination test for matching contributions

The Senate amendment is the same as the House bill.

Distribution of excess contributions

Under the Senate amendment, the total amount of excess contributions is determined in the same manner as under present law, but the distribution of excess contributions is required to be made on the basis of the amount of contribution by, or on behalf of, each highly compensated employee. Thus, under the Senate amendment, excess contributions are deemed attributable first to those highly compensated employees who have made the greatest dollar amount of elective deferrals under the plan.

For example, assume that an employer maintains a qualified cash or deferred arrangement under section 401(k). Assume further that the actual deferral percentage ("ADP") for the eligible nonhighly compensated employees is 2 percent. In addition, assume the following facts with respect to the eligible highly compensated employees:

Employee	Compensation	Deferral	Deferral (percent)
A	$200,000	$7,000	3.5
B	200,000	7,000	3.5
C	70,000	7,000	10.0
D	70,000	5,250	7.5
E	70,000	2,100	3.0
F	70,000	1,750	2.5

Under these facts, the highly compensated employees' (A and B) ADP is 5 percent, which fails to satisfy the special nondiscrimination requirements.

Under present law, the highly compensated employees with the highest deferral percentages would have their deferrals reduced until the ADP of the highly compensated employees is 4 percent. Accordingly, C and D would have their deferrals reduced to $4,025 (i.e., a deferral percentage of 5.75 percent). Thus, the reduction under present law would be $2,975 for C and $1,225 for D, for a total reduction of $4,200.

Under the Senate amendment, the amount of the total reduction is calculated in the same manner as under present law so that the total reduction remains $4,200. However, this total reduction of $4,200 is allocated to highly compensated employees based on the employees with the largest contributions. Thus, A, B, and C would each be reduced by $1,400 from $7,000 to $5,600. The ADP test would not be performed again.

Effective date

The provision is effective for plan years beginning after December 31, 1993.

CONFERENCE AGREEMENT

Look-back rule

The conference agreement follows the House bill and the Senate amendment.

Safe harbor for cash or deferred arrangements

The conference agreement follows the House bill and the Senate amendment.

Alternative method of satisfying special nondiscrimination test for matching contributions

The conference agreement follows the House bill and the Senate amendment.

Distribution of excess contributions

The conference agreement follows the Senate amendment, but clarifies that it is intended that the modified distribution method also applies to excess contributions that are treated as distributed to an employee and then contributed by the employee to the plan (recharacterization). In addition, it is intended that the Secretary interpret and apply the section 401(k) and 401(m) nondiscrimination tests in a manner consistent with the modified distribution rule. For example, a plan will not fail to be a qualified cash or deferred arrangement merely because the plan fails to satisfy the section 401(k) nondiscrimination test after excess contributions are distributed or recharacterized under the modified distribution rule.

Effective date

The conference agreement follows the Senate amendment.

b. Definition of highly compensated employee and family aggregation rules

PRESENT LAW

In general

For purposes of the rules applying to qualified retirement plans under the Code, an employee, including a self-employed individual, is treated as highly compensated with respect to a year if, at any time during the year or the preceding year, the employee: (1) was a 5-percent owner of the employer; (2) received more than $93,518 in annual compensation from the employer; (3) received more than $62,345 in annual compensation from the employer and was one of the top-paid 20 percent of employees during the same year; or (4) was an officer of the employer who received compensation greater than $56,111. These dollar amounts are adjusted annually for inflation at the same time and in the same manner as the adjustments to the dollar limit on benefits under a defined benefit pension plan (sec. 415(d)). If, for any year, no officer has compensation in excess of $56,111 (indexed), then the highest paid officer of the employer for such year is treated as a highly compensated employee.

An employee is not treated as in the top-paid 20 percent, as an officer, or as receiving $93,518 or $62,345 solely because of the employee's status during the current year, unless such employee also is among the 100 employees who have received the highest compensation during the year.

Election to use simplified method

Employers are permitted to elect to determine their highly compensated employees under a simplified method. Under this method, an electing employer may treat employees who received more than $62,345 in annual compensation from the employer as highly compensated employees in lieu of applying the $93,518 threshold and without regard to whether such employees are in the top-paid group of the employer. This election is available only if at all times during the year the employer maintained business activities and employees in at least 2 geographically separate areas.

Family aggregation rules

A special rule applies with respect to the treatment of family members of certain highly compensated employees. Under the special rule, if an employee is a family member of either a 5-percent owner or 1 of the top 10 highly compensated employees by compensation, then any compensation paid to such family member and any contribution or benefit under the plan on behalf of such family member is aggregated with the compensation paid and contributions or benefits on behalf of the 5-percent owner or the highly compensated employee in the top 10 employees by compensation. Therefore, such family member and employee are treated as a single highly compensated employee. An individual is considered a family member if, with respect to an employee, the individual is a spouse, lineal ascendant or descendant, or spouse of a lineal ascendant or descendant of the employee.

Similar family aggregation rules apply with respect to the $228,860 limit on compensation that may be taken into account under a qualified plan (sec. 401(a)(17)) and for deduction purposes (sec. 404(l)). However, under such provisions, only the spouse of the employee and lineal descendants of the employee who have not attained age 19 are taken into account.

HOUSE BILL

The House bill replaces the present-law test for determining who is a highly compensated employee with a simplified test. The bill provides that an employee is highly compensated for a year if, at any time during the year or the preceding year, the employee (1) was a 5-percent owner of the employer, or (2) received compensation in excess of $62,345. This dollar amount is adjusted annually for inflation at the same time and in the same manner as the adjustments to the dollar limit on benefits under a defined benefit pension plan (sec. 415(d)). An employee is not treated as receiving $62,345 solely because of the employee's status during the current year, unless such employee also is among the 100 employees who have received the highest compensation during the year.

Under the bill, if no employee is treated as being highly compensated under the rules described above, then the employee with the highest compensation for the year is generally treated as a highly compensated employee. However, this rule does not apply in the case of a plan maintained by tax-exempt organization if the plan (1) provides a nonforfeitable right to 100 percent of an employee's accrued benefit, (2) covers a fair section of employees, determined on the basis of their compensation, and (3) was in effect on February 1, 1992, and at all times thereafter.

The bill repeals the family aggregation rules.

Effective date.—The provision is effective for years beginning after December 31, 1992.

SENATE AMENDMENT

The Senate amendment provides that an employee is highly compensated with respect to a year if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, or (2) had compensation for the preceding year in excess of the dollar limit for the preceding year. The dollar limit is $50,000 (indexed). The $50,000 threshold is adjusted for cost-of-living increases in the same manner as the limitations on contributions and benefits (sec. 415(d)). Under the Senate amendment, as under present law, the dollar limit in effect (i.e., the indexed value of $50,000) for 1992 is $62,345. For example, in determining whether an employee is highly compensated in 1993, the employee's compensation for 1992 would be compared to the 1992 dollar limit, i.e., $62,345.

Under the Senate amendment, if no employee is a 5-percent owner or has compensation in excess of $50,000 (indexed), then the highest paid officer for the year is treated as a highly compensated employee. This special rule does not apply for purposes of the nondiscrimination rules applicable to elective deferrals, matching contributions, and employee contributions (secs. 401(k) and (m)), and does not apply with respect to employees of tax-exempt organizations and State and local governments (sec. 457(e)(1)).

The Senate amendment repeals the family aggregation rules.

Effective date.—The provision is effective for years beginning after December 31, 1993, except that an employer may elect not to have the provision apply to years beginning in 1994.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that there are no exceptions from the special rule that provides that if no employee is a 5-percent owner or has compensation in excess of $50,000 (indexed), then the highest paid officer for the year is treated as a highly compensated employee.

Effective date.—The provision is effective for years beginning after December 31, 1993.

c. Election to treat base pay as compensation

PRESENT LAW

Present law provides a definition of compensation that is to be used for nondiscrimination testing purposes (sec. 414 (s)). Under this definition, compensation generally is defined as compensation used for purposes of the limits on contributions and benefits (sec. 415). Pursuant to statutory authority, final regulations provide alternative permissible definitions of compensation. The regulations permit certain items, such as bonuses and similar payments, to be excluded from the definition of compensation.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment permits an employer to elect to use base pay as a permissible definition of compensation for purposes of all provisions which specifically refer to section 414(s) of the Code. It is intended that base pay is defined generally as under Treasury regulations. Thus, subject to the applicable facts and circumstances, the employer could exclude from the definition of compensation, on a consistent basis, certain types of compensation, including (but not limited to) one or more of the following: any type of additional compensation for employees working outside their regularly scheduled duties (such as overtime pay, premiums for shift differential, and call-in premiums); bonuses; or reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation, and welfare benefits. It is intended that the resulting definition may not discriminate in favor of highly compensated employees. The election applies for purposes of all applicable provisions and to all employees, and may be revoked only with the consent of the Secretary.

Effective date.—The provision is effective for years beginning after December 31, 1993.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

d. Modification of additional participation requirements

PRESENT LAW

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (a) 50 employees of the employer or (b) 40 percent of all employees of the employer (sec. 401(a)(26)). This requirements may not be satisfied by aggregating comparable plans, but may be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that the minimum participation rule (sec. 401(a)(26)) applies only to defined benefit pension plans (not defined contribution plans). Under the Senate amendment, a defined benefit pension plan is not a qualified plan unless it benefits no fewer than the lesser of 25 employees or 40 percent of all employees of the employer. However, a plan maintained by an employer with only 2 employees must cover both. The excludable employee rule applies as under present law. As an illustration of the operation of the modification of the minimum participation rule, assume that an employer has 150 nonexcludable employees. Under present law, any plan of the employer is required to cover a minimum of 50 employees. Under the Senate amendment, any defined benefit plan of the employer is required to cover a minimum of 25 employees.

In the case of an employer with only 2 employees, the minimum participation rule under the Senate amendment is satisfied only if the plan covers both employees.

The Senate amendment provides that the requirement that a line of business has at least 50 employees does not apply in determining whether a plan satisfied the minimum participation rule on a separate line of business basis.

Effective date.—The provision is generally effective for years beginning after December 31, 1991. An employer may elect to have the provision apply as if it were included in section 1112(b) of the Tax Reform Act of 1986.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the conference agreement does not reduce the number of employees that must be covered under a plan in order to satisfy the minimum participation rule. Thus, under the conference agreement, in general, a defined benefit plan must benefit no fewer than the lesser of 50 employees or 40 percent of all employees of the employer.

Effective date.—The provision is effective for years beginning after December 31, 1991.

4. Miscellaneous pension simplification

a. Definition of leased employee

PRESENT LAW

An individual (a leased employee) who performs services for another person (the recipient) may be required to be treated as the recipient's employee for various employee benefit provisions, even if the individual is not a common law employee. This leased employee relationship may exist if the services are performed pursuant to an agreement between the recipient and a third person (the leasing organization) who is otherwise treated as the individual's employer (sec. 414(n)). The individual is to be treated as the recipient's employee only if the individual has performed services for the recipient on a substantially full-time basis for a year, and the services are of a type historically performed by employees in the recipient's business field.

An individual who otherwise would be treated as a recipient's leased employee will not be treated as such an employee if the individual participates in a safe harbor plan maintained by the leasing organization meeting certain requirements. This exception does not apply if more than 20 percent of an employer's nonhighly compensated workforce is leased.

HOUSE BILL

Under the House bill, the present-law "historically performed" test is replaced with a new rule defining who must be considered a leased employee. Under the bill, an individual is not considered a leased employee unless the services are performed under any significant direction or control by the service recipient. As under present law, the determination of whether someone is a leased employee is made after determining whether the individual is a common-law employee of the service recipient. Thus, an individual who is not a common-law employee of the service recipient may nevertheless be a leased employee of the service recipient. Similarly, the fact that a person is or is not found to perform services under the significant direction or control of the recipient for purposes of the employee leasing rules is not relevant in determining whether the person is or is not a common-law employee of the recipient for other tax purposes.

Whether services are performed by an individual under any significant direction or control by the service recipient depends on the facts and circumstances.

Effective date.—The provision is effective for years beginning after December 31, 1992, except that the changes do not apply to relationships that have been previously determined by an IRS ruling not to involve leased employees. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse.

SENATE AMENDMENT

Under the Senate amendment, the present-law historically performed test is repealed and replaced with a new rule defining who must be considered a leased employee. This change is made because the proposed regulations under the leased employee rules (sec. 414(n)) are overly broad in defining who may be a leased employee. Under the provision, the proposed regulations are no longer valid. One of the principal purposes for adopting the new control test is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. It is intended that the Secretary interpret and apply the control test in a manner that is targeted to prevent clear abuses.

Under the provision, an individual is not considered a leased employee unless the individual is under the control of the recipient organization. The determination of whether an individual is controlled by the employer is based on all the facts and circumstances. Among the factors that are relevant in this determination are whether the recipient organization: (1) prescribes the individual's work methods; (2) supervises the individual; (3) sets the individual's working hours; and (4) sets the individual's level of compensation. Other factors that may be considered include those that are relevant for determining whether the employer is responsible for employment taxes on the compensation paid to the individual. The Secretary may designate other relevant factors. It is not necessary that all these factors indicate that the individual is under the control of the employer in order to find that such individual is a leased employee. Nor is it necessary that the recipient organization be responsible for employment taxes in order to find that the individual is a leased employee because, if the recipient organization is liable for employment taxes, the individual is an employee of the organization who generally must be taken into account. The provision does not alter the definition of a common-law employee, nor the rules that such employees are to be taken into account unless specifically excluded.

The changes made by this provision are not intended to broaden the scope of the leased employee rules. Thus, to the extent an individual is not a leased employee under present law, such employee generally will not be a leased employee under the provision. For example, in those specific situations where the Internal Revenue Service has ruled that service relationships do not involve "leased employees" under the test of present law requiring the services to be of a type historically performed, in the business field of the recipient, by employees, the recipients of those rulings may continue to rely on them.

Effective date.—The provision is effective for years beginning after December 31, 1983.

CONFERENCE AGREEMENT

The conference agreement generally follows the House bill. Under the conference agreement, as under the House bill, the present-law "historically performed" test is replaced with a new rule defining who must be considered a leased employee. Under the conference agreement, an individual is not considered a leased employee unless such services are performed under significant direction or control by the service recipient. As under present law, the determination of whether someone is a leased employee is made after determining whether the individual is a common-law employee of the service recipient. Thus, an individual who is not a common-law employee of the service recipient may nevertheless be a leased employee of the service recipient. Similarly, the fact that a person is or is not found to perform services under significant direction or control of the recipient for purposes of the employee leasing rules is not determinative of whether the person is or is not a common-law employee of the recipient.

Whether services are performed by an individual under significant direction or control by the service recipient depends on the facts and circumstances. Factors that are relevant in determining whether significant direction or control exists include whether the individual is required to comply with instructions of the service recipient about when, where, and how he or she is to perform the services, whether the services must be performed by a particular person, whether the individual is subject to the supervision of the service recipient, and whether the individual must perform services in the order or sequence set by the service recipient. Factors that would generally not be relevant in determining whether such direction or control exists include whether the service recipient has the right to hire or fire the individual and whether the individual works for others.

For example, an individual who works under the direct supervision of the service recipient would be considered to be subject to significant direction or control of the service recipient even if another company hired and trained the individual, had the ultimate (but unexercised) legal right to control the individual, paid his wages, withheld his employment and income taxes, and had the exclusive right to fire him. Thus, for example, temporary secretaries, receptionists, word processing personnel and similar office personnel who are subject to the day-to-day control of the employer in essentially the same manner as a common law employee are treated as leased employees if the period of service threshold is reached.

On the other hand, an individual who is a common-law employee of Company A who performs services for Company B on the business premises of the Company B under the supervision of Company A would generally not be considered to be under significant direction or control of Company B. The supervision by Company A must be more than nominal, however, and not merely a mechanism to avoid the literal language of the direction or control test.

An example of the situation in the preceding paragraph might be a work crew that comes into a factory to install, repair, maintain, or modify equipment or machinery at the factory, and that includes a supervisor who is an employee of the equipment (or equipment repair) company and who has the authority to direct and control the crew, and who actually does exercise such direction and control. In this situation, the supervisor and his or her crew are not the leased employees of the manufacturer, even if the supervisor is in frequent communication with the employees of the manufacturer and even if the supervisor and his or her crew are required to comply with the safety and environmental precautions of the manufacturer.

Under the direction or control test, clerical and similar support staff (e.g., secretaries and nurses in a doctor's office) generally would be considered to be subject to significant direction or control of the service recipient and would be leased employees provided the other requirements of section 414(n) are met. On the other hand, outside professionals who maintain their own businesses (e.g., lawyers and accountants) generally would not be considered to be subject to such primary control. However, the Secretary is encouraged to continue efforts to prevent abuses in the leased manager area.

In many cases, the "historically performed" test is overly broad, and results in the unintended treatment of individuals as leased employees. One of the principal purposes for changing the leased employee rules is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. However, it is not intended that the direction or control test enable employers to engage in abusive practices. Thus, it is intended that the Secretary interpret and apply the leased employee rules in a manner so as to prevent abuses. This ability to prevent abuses under the leasing rules is in addition to the present-law authority of the Secretary under section 414(o). For example, one potentially abusive situation exists where the benefit arrangements of the service recipient overwhelmingly favor its highly compensated employees, the employer has no or very few nonhighly compensated common-law employees, yet the employer makes substantial use of the services of nonhighly compensated individuals who are not its common-law employees.

Effective date.—The provision is effective for years beginning after December 31, 1992, except that the changes do not apply to relationships that have been previously determined by an IRS ruling not to involve leased employees. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse. Relationships that would not be treated as involving leased employees under the standard adopted in the conference agreement are conclusively presumed to be nonabusive.

b. Cost-of-living adjustments

PRESENT LAW

The rules relating to qualified plans contain a number of dollar limits that are indexed annually for cost-of-living adjustments (e.g., the dollar limit on benefits under a defined benefit plan (sec. 415(b)), the limit on elective deferrals under a qualified cash or deferred arrangement (sec. 402(g)), and the dollar amounts used in determining highly compensated employees (sec. 414(q)). The Secretary publishes annually a list of the amounts applicable under each provision for the year.

HOUSE BILL

The House bill provides that the cost-of-living adjustment with respect to any calendar year is based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year. Thus, adjusted dollar limits will be published before the beginning of the calendar year to which they apply.

In addition, the bill provides that the dollar limits determined after application of the cost-of-living adjustments are generally rounded to the nearest $1,000. Dollar limits relating to elective deferrals and elective contributions to simplified employee pensions (SEPs) are rounded to the nearest $100.

Effective date.—The provision is effective for years beginning after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

c. Plans covering self-employed individuals

PRESENT LAW

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) different rules applied to retirement plans maintained by incorporated employers and unincorporated employers (such as partnerships and sole proprietors). In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. Most, but not all, of this disparity was eliminated by TEFRA. Under present law, certain special aggregation rules apply to plans maintained by owner-employees that do not apply to other qualified plans (sec. 401(d)(1) and (2)).

HOUSE BILL

The House bill eliminates the special aggregation rules that apply to plans maintained by self-employed individuals that do not apply to other qualified plans.

Effective date.—The provision is effective for years beginning after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

d. Alternative full funding limitation

PRESENT LAW

Under present law, subject to certain limitations, an employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the actuarial value of the plan's assets (sec. 412(c)(7)).

The Secretary may, under regulations, adjust the 150-percent figure contained in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighted by the value of their benefits under the plan). In addition, the Secretary is authorized to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that in the aggregate, the effect on Federal budget receipts is substantially identical to the effect of the 150-percent full funding limitation.

HOUSE BILL

In general

The bill provides that an employer may elect to disregard the 150-percent limitation if each plan in the employer's control group is not top-heavy and the average accrued liability of active participants under the plan for the immediately preceding 5 plan years is at least 80 percent of the plan's total accrued liability (the "alternative full funding limitation"). The Secretary is required to adjust the 150-percent full funding limitation (in the manner specified under the bill) for employers that do not use the alternative full funding limit to ensure that the election by employers to disregard the 150-percent limit does not result in a substantial reduction in Federal revenues for any fiscal year.

Notice requirement

Under the bill, employers electing to apply the alternative limitation generally must notify the Secretary by January 1 of the calendar year preceding the calendar year in which the election period begins. Under a special transition rule, in the case of any election period beginning on or after July 1, 1992, and before January 1, 1994, the notice requirement is deemed satisfied if the Secretary is notified of the election by October 1, 1992. In addition, the Secretary is required, by January 1, 1993, to notify defined benefit plans that have not made an election to apply the alternative limitation of any adjustment to the 150-percent full funding limitation required under the provision.

To the extent a defined benefit plan sponsor makes a contribution to a defined benefit plan with respect to the transition period that exceeds the full-funding limitation, as adjusted by the Secretary for the transition period, the sponsor is required to offset the excess contribution against allowable contributions to the plan in subsequent quarters in the taxable year of the sponsor. If no subsequent contributions may be made for the taxable year, the trustee of the defined benefit plan must return the excess contribution to the sponsor in that taxable year or the subsequent taxable year.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

In general

The conference agreement follows the House bill and the Senate amendment.

Notice requirement

The conference agreement follows the House bill and the Senate amendment, except that relevant dates under the special transition rule are changed. Under the conference agreement, in the case of any election period beginning on or after January 1, 1993, and before January 1, 1994, the notice requirement is deemed satisfied if the Secretary is notified of the election by April 1, 1993. In addition, the Secretary is required, by July 1, 1993, to notify defined benefit plans that have not made an election to apply the alternative limitation of any adjustment to the 150-percent full funding limitation required under the provision.

Effective date.—The provision is effective on January 1, 1993.

e. In-service distributions from rural cooperative plans

PRESENT LAW

Under present law, a qualified cash or deferred arrangement can permit withdrawals by participants only after the earlier of (1) the participant's separation from service, death, or disability, (2) termination of the arrangement, (3) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½, or (4) in the case of a profit-sharing or stock bonus plan to which section 402(a)(8) applies, upon hardship of the participant (sec. 401(k)(2)(B)). In the case of a rural cooperative qualified cash or deferred arrangement, which is part of a money purchase pension plan, withdrawals by participants cannot occur upon attainment of age 59½ or upon hardship.

HOUSE BILL

The House bill provides that a rural cooperative plan that includes a qualified cash or deferred arrangement will not be treated as violating the qualification requirements merely because the plan permits distributions to plan participants after the attainment of age 59½.

Effective date.—The provision is effective for distributions after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill (age 59½ is changed to 59 under another provision of the Senate amendment).

Effective date.—The provision is effective as if included in section 1011(k)(5) of the Technical and Miscellaneous Revenue act of 1988.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

f. Special rule for plans covering pilots

PRESENT LAW

Under present law, for purposes of determining whether a qualified pension plan satisfies the minimum coverage requirements, in the case of trust established pursuant to a collective bargaining agreement between airline pilots and one or more employers, all employees not covered by the collective bargaining agreement are disregarded (sec. 410(b)(3)(B)). This provision applies only in the case of a plan that provides contributions or benefits for employees whose principal duties are customarily performed aboard aircraft in flight. Thus, a collectively bargained plan covering only airline pilots is tested separately for purposes of the minimum coverage requirements.

HOUSE BILL

The House bill provides that, in the case of a plan established by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States government, all employees who are not air pilots are excluded from consideration in testing whether the plan satisfies the minimum coverage requirements. In addition, the bill provides that this exception does not apply in the case of a plan that provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight.

Effective date.—The provision is effective for years beginning after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

g. Elimination of special vesting rule for multiemployer plans

PRESENT LAW

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-provided benefit vests at least as rapidly as under 1 of 2 alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the participant's completion of 5 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent at the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100 percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

HOUSE BILL

The House bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

Effective date.—The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1993, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1995, with respect to participants with an hour of service after the effective date.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the effective date is delayed one year.

h. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations

PRESENT LAW

Constructive receipt

Under a general principle of the Federal income tax system, individuals are taxed currently not only on compensation actually received, but also on compensation constructively received during the taxable year. An individual is treated as having constructively received compensation during the current taxable year if the compensation would have been payable during the current taxable year but for the individual's election to defer receipt of the compensation to a later taxable year.

An exception to this rule applies to compensation deferred under an eligible unfunded deferred compensation plan (a sec. 457 plan) of a tax-exempt or State or local governmental employer.

Under a section 457 plan, an employee who elects to defer the receipt of current compensation will be taxed on the amounts deferred when such amounts are paid or made available. In general, amounts deferred under a section 457 plan may not be made available to an employee before the earlier of (1) the calendar year in which the participant attains age 70-1/2, (2) when the participant is separated from service with the employer, or (3) when the participant is faced with an unforeseeable emergency. Amounts that are made available to an employee upon separation from service are includible in gross income in the taxable year in which they are made available.

Under present law, benefits under a section 457 plan are not treated as made available if the participant may elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception to the general rules is available only if the total amount payable to the participant under the plan does not exceed $3,500 and no additional amounts may be deferred under the plan with respect to the participant.

Coordinated contribution limit

Under present law, the limit on elective deferrals to a qualified cash-or-deferred arrangement (sec. 401(k) plan), simplified employee pension (SEP), or section 501(c)(18) plan is $8,728 (indexed) (sec. 402(g)(1)). The limit on elective deferrals to a tax-sheltered annuity (sec. 403(b) annuity) is the greater of $9,500 or the limit under section 402(g)(1). The limit on contributions to a nonqualified deferred compensation plan of State and local governments and tax-exempt organizations (sec. 457 plan) generally is $7,500.

In addition, section 457 provides a coordinated contribution limit under which qualified elective deferrals are treated as contributions to a section 457 plan for purposes of the section 457 contribution limit, so that the sum of contributions to all such plans is limited to $7,500. Thus, an individual that participates, for example, in both a section 457 plan and a section 401(k) plan may contribute no more than a total of $7,500 to both plans. However, an individual who participates only in a 401(k) plan may contribute up to $8,728 (indexed) to such plan.

HOUSE BILL

The House bill makes three changes to the rules governing unfunded deferred compensation plans (sec. 457 plans) of tax-exempt and governmental employers.

First, the bill permits in-service distributions of accounts that do not exceed $3,500 if no amount has been deferred under the section 457 plan with respect to the account for 2 years and there has been no prior distribution under this cash-out rule.

Second, the bill increases the number of elections that can be made with respect to the time distributions must begin under a section 457 plan. The bill provides that the amount payable to a participant under a section 457 plan is not to be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if (1) the election is made after amounts may be distributed under the plan but before the actual commencement of benefits, and (2) the participant makes only 1 such additional election. This additional election is permitted without the need for financial hardship, and the election can only be to a date that is after the date originally selected by the participant.

Finally, the bill provides for indexing of the dollar limit on deferrals.

Effective date.—The provisions are effective for taxable years beginning after the date of enactment.

Senate Amendment

The Senate amendment provides that an individual who participates in both a section 457 plan and a section 401(k) plan, SEP, or section 501(c)(18) plan may contribute no more than a total of $8,728 (indexed) to both plans. An individual who participates in both a section 457 plan and a section 403(b) annuity may contribute no more than a total of $9,500 (or, if greater, the limit under section 402(g)(1)) to both plans. However, contributions to the section 457 plan still cannot exceed $7,500, as under present law.

Effective date.—The provision applies to years beginning after December 31, 1992.

Conference Agreement

The conference agreement follows the House bill.

i. Limits on contributions and benefits under governmental plans

Present Law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan (sec. 415). The limits apply to plans maintained by private and public employers. Certain special rules apply to governmental plans.

In the case of a defined contribution plan, the annual additions to the plan with respect to each plan participant are limited to the lesser of (1) 25 percent of compensation, or (2) $30,000. The limit on the annual benefits payable by a defined benefit pension plan is generally the lesser of (1) 100 percent of compensation, or (2) $112,221 for 1992. The dollar limit is increased annually for inflation. The dollar limit is reduced actuarially if payment of benefits is to begin before the social security retirement age, and increased if benefits are to begin after that age.

Under special rules for plans maintained by State or local governments, such plans may provide benefits greater than those permitted by the limits on benefits applicable to plans maintained by private employers.

House Bill

The House bill makes the following modifications to the limits on contributions and benefits as applied to governmental plans: (1) compensation includes employer contributions to certain employee plans under a salary reduction arrangement; (2) the 100 percent of compensation limitation does not apply; and (3) the defined benefit pension plan limitation does not apply to certain disability and survivor benefits. The provision also permits State and local government employers to maintain excess benefit plans (i.e., plans that provide benefits that cannot be provided under a qualified plan due to the limits on contributions and benefits) without regard to the limits on unfunded deferred compensation arrangements of State and local government employers (sec. 457). Benefits provided by such plans are subject to the same tax rules applicable to excess plans maintained by private employers (e.g., sec. 83).

Effective date.—The provision is effective for years beginning after the date of enactment. Governmental plans are treated as if in compliance with the requirements of section 415 for years beginning on or before the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

j. Use of 501(c)(21) black lung trust assets to fund retiree health benefits

Present Law

A qualified black lung benefit trust described in section 501(c)(21) of the Internal Revenue Code is exempt from federal income taxation. In addition, a deduction is allowed for contributions to a qualified black lung benefit trust to the extent such contributions are necessary to fund the trust.

Under present law, no assets of a qualified black lung benefit trust may be used for, or diverted to, any purpose other than (i) to satisfy labilities, or pay insurance premiums to cover liabilities, arising under the Black Lung Acts, (ii) to pay administrative costs of operating the trust, or (iii) investment in U.S., State, or local securities and obligations, or in time demand deposits in a bank or insured credit union.

Under present law, excess trust assets may be paid into the national Black Lung Disability Trust Fund, or into the general fund of the U.S. Treasury.

House Bill

The House bill allows excess assets in qualified black lung benefit trusts to be used to pay accident and health benefits or premiums for insurance for such benefits (including administrative and other incidental expenses relating to such benefits) for retired coal miners and their spouses and dependents. The amount of assets available for such purpose is subject to a yearly limit as well as an aggregate limit. The yearly limit is be the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the preceding taxable year of the trust. The aggregate limit is the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the taxable year of the trust ending prior to the effective date, plus earnings thereon. Each of these determinations is required to be made by an independent actuary.

The amounts used to pay retiree accident or health benefits are not includible in the income of the company, nor is a deduction allowed for such amounts.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement does not include the House bill provision or the Senate amendment. (However, the conference agreement on H.R. 776 includes the provision).

k. Definition of employer reversion

Present Law

Under present law, employer reversions from qualified pension plans are generally subject to an excise tax. In some cases, Federal regulations require that a portion of any reversion from a plan maintained by a government contractor be paid to the United States. Such amounts are subject to the excise tax on reversions.

House Bill

The House bill provides that, for purposes of the excise tax, an employer reversion does not include certain amounts paid to the Federal government by reason of certain government contracting regulations.

Effective date.—The provision is effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

l. Clarification of application of health care continuation rules to savings and loan associations

Present Law

Under the health care continuation (COBRA) rules, persons who are covered under a group health plan are required to be offered the opportunity to continue to participate for a specified period of time in a group health plan of the employer (or a plan of successor employer) despite the occurrence of a qualifying event that otherwise would terminate such participation. Qualified beneficiaries are employees covered by the plan and the spouse and dependent children of a covered employee.

Qualifying events include termination of employment of a covered employee, the divorce or death of a covered employee, the covered employee becoming entitled to Medicare, and, in the case of a retired employee, the commencement of a bankruptcy proceeding under title 11 of the United States Code.

The period for which coverage is required to be continued depends on the qualifying event, and is generally either 18 months or 36 months. Persons electing continuation coverage can be required to pay for the coverage.

The health care continuation provisions are enforced under the Code by means of an excise tax (sec. 4980B).

The Federal Deposit Insurance Corporation Improvement Act of 1991 contained a provision clarifying the application of the health care continuation rules in the case of failed depository institutions. In general, the provision provides that the Federal Deposit Insurance Corporation (FDIC), a bridge bank, or any successor of a failed depository institution is required to provide continuation health care coverage to former employees of the failed institution. This provision is effective for plan years beginning on or after the date of enactment of the Act, regardless of whether the qualifying event occurred before, on, or after such date.

House Bill

Under the House bill, the obligations of bridge banks and successors to failed institutions are incorporated into the health care continuation provisions of the Code. The provision also provides that retired employees of a failed depository institution are entitled to the same continuation coverage rights as retirees of a company in bankruptcy.

Effective date.—The provision is effective as if included in section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

Senate Amendment

No provision.

Conference Agreement

The conference agreement generally follows the House bill, except that the conference agreement provides that former employees of a failed depository institution are entitled to the same continuation coverage rights as employees who are terminated. In addition, the conference agreement clarifies that successors to failed institutions are not required to provide continuation health care coverage to former employees of the failed institution if the FDIC or the Resolution Trust Corporation (RTC) elects to relieve the acquirer from such obligation.

Effective date.—Same as the House bill, except that, in addition, the conference agreement clarifies that in the case of the FDIC or any acquirer from the FDIC, the amendments made by this provision apply only to failed depository institutions for which a receiver or conservator is appointed after the date of enactment. Also, the conference agreement clarifies that coverage under the continuation plan maintained by the FDIC on June 25, 1992, and any other substantially similar plan maintained by the FDIC, is deemed to satisfy the obligations of the FDIC (and any acquirer) under the health care continuation provisions of the Code as well as section 451 of the FDIC Improvement Act of 1991 with respect to qualified individuals of failed depository institutions.

m. Elimination of half-year requirements

Present Law

Under present law, a number of employee plan rules refer to the age of an individual at a certain time. For example, distributions under a qualified pension plan are generally required to begin no later than the April 1 following the year in which an individual attains age 70-1/2 (sec. 401(a)(9)). Similarly, an additional income tax on early withdrawals applies to certain distributions from qualified pension plans and IRAs prior to the time the participant or IRA owner attains age 59-1/2 (sec. 72(t)).

House Bill

No provision.

Senate Amendment

The Senate amendment changes the half-year requirements to birthdate requirements. Those rules under present law that refer to age 59-1/2 are changed to refer to age 59, and those that refer to age 70-1/2 are changed to refer to age 70.

Effective date.—The provision applies to years beginning after December 31, 1993.

Conference Agreement

The conference agreement does not include the Senate amendment.

n. Penalties for failure to provide reports relating to pension payments

Present Law

Any person who fails to file an information report with the Internal Revenue Service on or before the prescribed filing date is subject to penalties for each failure. The general penalty structure provides that the amount of the penalty is to vary with the length of time within which the taxpayer corrects the failure, and allows taxpayers to correct a de minimis number of errors and avoid penalties entirely (sec. 6721). A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments (sec. 6652(e)).

House Bill[1]

The House bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients. Thus, information reports with respect to pension payments would be treated in a similar fashion to other information reports.

Effective date.—The provision applies to returns and statements the due date for which is after December 31, 1992.

Senate Amendment

The Senate amendment is generally the same as the House bill, except that the class of reports to which the Senate amendment applies is slightly different, and no reporting is required with respect to designated distributions of less than $10.

Conference Agreement

The conference agreement follows the Senate amendment with modifications to conform it to the intent of the House bill. The conference agreement also modifies the penalty for failure to provide the notice required under section 402(f).

o. Contributions on behalf of disabled employees

Present Law

Under present law, an employer may elect to continue deductible contributions to a defined contribution plan on behalf of an employee who is permanently and totally disabled. For purposes of the limit on annual additions (sec. 415(c)), the compensation of a disabled employee is deemed to be equal to the annualized compensation of the employee prior to the employee's becoming disabled. Contributions are not permitted on behalf of disabled employees who were officers, owners, or highly compensated before they became disabled.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that the special rule for contributions on behalf of disabled employees is applicable without an employer election and to highly compensated employees if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

Effective date.—The provision applies to years beginning after December 31, 1992.

Conference Agreement

The conference agreement follows the Senate amendment.

p. Affiliation requirements for employers jointly maintaining a VEBA

Present Law

A voluntary employees' beneficiary association (VEBA) that satisfies certain requirements is entitled to tax-exempt status. The Code generally describes a VEBA as an association that provides for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual. The requirements a VEBA must comply with in order to be tax exempt are further specified in regulations.

Under Treasury regulations, membership in a VEBA is required to be limited to individuals whose eligibility is determined by reference to objective standards that constitute an employment-related common bond. Such a common bond exists if eligibility is determined by the following standards: (1) employment by a common employer (or affiliated employers); (2) coverage under one or more collective bargaining agreements; (3) membership in a labor union (or in one or more locals of a national or international labor union); or (4) employment by one or more employers in the same line of business in the same geographic locale.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that otherwise unrelated employers are treated as affiliated and, therefore, can maintain a tax-exempt VEBA if the employers (1) are in the same line of business, (2) act jointly to perform tasks which are integral to the activities of each of the employers, (3) act jointly to such an extent that the joint maintenance of a VEBA is not a major part of the joint activities, and (4) a substantial number of the employers are tax exempt.

Under the bill, employers are considered affiliated, for example, under the following circumstances. The employers participating in the VEBA are in the same line of business and belong to an association that provides to its members a significant amount of each of the following services: (1) research and development relating to the members' primary activity; (2) education and training of members' employees; and (3) public relations. In addition, the employers are sufficiently similar (e.g., subject to similar regulatory requirements) that the association's services provide material assistance to all of the employers. The employers also demonstrate the importance of their joint activities by having meetings at least annually attended by substantially all of the employers. Finally, the employers maintain a common retirement plan.

On the other hand, it is not intended that the mere existence of a trade association is a sufficient basis for the member-employers to be considered affiliated, even if they are in the same line of business. It is also not sufficient if the trade association publishes a newsletter and provides significant public relations services, but only provides nominal amounts, if any, of other services integral to the employers' primary activity.

A group of employers are also not considered affiliated under the bill by virtue of the membership of their employees in a professional association.

Effective date.—The provision applies to years beginning before, on, or after the date of enactment. The provision is intended as a clarification of present law. However, it is not intended to create any inference as to whether any part of the Treasury regulations affecting VEBAs, other than the affiliated employer rule, is or is not present law.

Conference Agreement

Under the conference agreement, employers are considered affiliated for purposes of the VEBA rules if substantially all such employers are section 501(c)(12) organizations of the same type.

For purposes of this provision, the term "section 501(c)(12) organization" means (1) any organization described in section 501(c)(12); (2) any organization providing a service that is the same type of service that is or could be provided by an organization described in clause (1); (3) any organization described in section 501(c)(4) or (6), provided that at least 80 percent of the members of the organization are section 501(c)(12) organizations described in clauses (1) or (2); and (4) any organization which is a national association of organizations described in clauses (1), (2), or (3).

An organization described in clause (2), but not in clause (1), will not be treated as a section 501(c)(12) organization with respect to a VEBA unless a substantial number of employers maintaining such VEBA are described in clause (1). Similarly, an organization described in clause (2) but not in clause (1) will not be considered to provide a service that is the same type of service as a service provided by an organization described in clause (1) unless that type of service is a primary function of the organization described in clause (1). Under clause (2), a service will not be considered one that could be provided unless there is a substantial likelihood that

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[1] The penalty provision was inadvertently omitted from the House bill.

that same type of service would or could be provided by a section 501(c)(12) organization. Services are considered to be of the same type if they are the same or directly related to each other. For example, the generation of electricity is directly related to the provision of electricity to consumers.

Effective date.—Years beginning after December 31, 1992. The provision is not intended to create any inference as to present law.

q. Disaggregation of union plans

PRESENT LAW

Under present law, employees covered by a collective bargaining agreement are excluded from consideration in testing whether a qualified plan satisfies the minimum coverage and nondiscrimination tests. In addition, such employees are not counted for purposes of determining whether a line of business has at least 50 employees, the threshold number for designating a unit as a separate line of business for purposes of applying the coverage and nondiscrimination tests.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that an employer can elect to include union employees who benefit under the plan on the same terms as other employees in testing whether a plan satisfies the minimum coverage and nondiscrimination tests, and in applying the 50-employee test under the line of business rules.

Effective date.—The provision applies to years beginning after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

r. Uniform retirement age

PRESENT LAW

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purpose of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (sec. 415), social security retirement age is generally used as retirement age. The social security retirement age as used for such purposes is presently age 65, but is scheduled to gradually increase.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that for purposes of the general nondiscrimination rule (sec. 401(a)(4)) the social security retirement age (as defined in sec. 415) is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities based on an employee's social security retirement age (as defined in sec. 415) are treated as being available to employees on the same terms.

Effective date.—The provision is effective for years beginning after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the clarification that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to employees on the same terms merely because they are based on an employee's social security retirement age.

s. National commission on private pension plans

PRESENT LAW

None.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision establishes a National commission on private pension plans to study national retirement income policy. The commission is directed to submit a report to the Congress by Labor Day 1994, the 20th anniversary of the enactment of the Employee Retirement Income Security Act of 1974, setting forth its findings and recommendations for increasing the level and security of private retirement savings.

The provision authorizes appropriations through fiscal year 1994 for such sums as may be necessary to carry out the provision.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

t. Full funding limitation of multiemployer plans

PRESENT LAW

Under the Internal Revenue Code, subject to certain limitations, an employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the actuarial value of the plan's assets (sec. 412(c)(7)).

Plans subject to the minimum funding rules are required to make an actuarial valuation of the plan not less frequently than annually.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that the 150 percent of current liability limitation does not apply to multiemployer plans. In addition, the bill repeals the Internal Revenue Code annual valuation requirement for multiemployer plans and applies the prior-law rule that valuations generally be performed at least every 3 years.

Effective date.—The provision applies to years beginning after December 31, 1991.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the effective date is delayed one year.

u. Church pension plans

PRESENT LAW

Plans maintained by churches and certain church-controlled organizations are exempt from certain of the qualification requirements applicable to pension plans under the Code pursuant to the Employee Retirement Income Security Act of 1974 (as amended) (ERISA). For example, such plans are not subject to ERISA's vesting, coverage, and funding requirements. Church plans may elect to waive the exemption from the qualification rules.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that church plans that are subject to pre-ERISA vesting rules under present law are subject to ERISA's vesting rules in effect immediately before the enactment of the Tax Reform Act of 1986. Thus, benefits under such plans are required to vest at least as rapidly as under a 10-year cliff vesting schedule, or under a schedule that provides ratable vesting between 5 and 15 years of service.

In the case of a church plan maintained by more than one employer, if one or more organizations maintaining a church plan fails to satisfy the qualification requirements, the plan is not disqualified with respect to the other organizations maintaining the plan that meet such requirements.

The Senate amendment modifies the definition of highly compensated employee applicable to church plans by providing that a person is not considered an officer, shareholder, or person whose principal duties consist of supervising the work of other employees if the employee receives less than $50,000 of compensation (indexed). In addition, certain employees covered by a collective bargaining agreement (sec. 410(b)(3)(A)) would be excluded.

Tax-sheltered annuity contracts (sec. 403(b)) are permitted to make distributions on account of hardship. The Senate amendment modifies the definition of hardship so that it is the same as that used for purposes of the rule relating to cash or deferred arrangements (sec. 401(k)(2)).

The Senate amendment permits self-employed ministers to participate in the denominational church plan. Such ministers are disregarded in applying applicable nondiscrimination rules.

The Senate amendment provides that church plans do not have to maintain separate accounts under a section 401(h) account for employees who are key employees merely because they are officers with annual compensation greater than a certain amount. Any benefits provided under the account, however, must be taken into account for purposes of the limits on contributions and benefits as under present law.

The Senate amendment modifies the elective catch-up provision relating to section 403(b) annuities and retirement income accounts maintained by churches by repealing the limitation on the amount of such catch-up contributions based on years of service (sec. 402(g)(8)(A)(iii)).

The Senate amendment modifies the minimum distribution rules (sec. 401(a)(9)) to permit church plans to pay a benefit at year-end (the so-called "13th check") or to provide an annuity which increases slightly each year.

The Senate amendment expands the present-law exception to the age 70½ rule for church plans so that it applies to church plans as defined in section 414(e).

Effective date.—The vesting amendment is effective for years beginning after December 31, 1993. The amendment relating to plans maintained by more than one employer, the definition of highly compensated employee, self-employed ministers, and the forms of benefits under the minimum distribution rules are effective for years beginning on, after, or before December 31, 1991. The amendment relating to the definition of disability is effective for years beginning after December 31, 1988. The amendment relating to section 401(h) accounts is effective for years beginning after March 31, 1984. The amendment relating to catch-up contributions and the age 70½ rule is effective as if included in the provision of the Tax Reform Act of 1986 to which such amendment relates.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

v. Date for adoption of plan amendments

PRESENT LAW

Under regulations, plan amendments to reflect changes generally must be made within the remedial amendment period. Such period generally ends at the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs. The plan must be operated in accordance with the law at all times, and any plan amendment must apply retroactively to the period following the effective date of the change which it reflects.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that any plan amendments required by the bill are not required to be made before the first day of the first plan year beginning on or after January 1, 1994, if the plan is operated in accordance with the applicable provision and the amendment is retroactive to the effective date of the applicable provision.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

C. PARTNERSHIP PROVISIONS

1. General partnership provisions

a. Simplified flow-through for large partnerships

PRESENT LAW

A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. The character of an item is the same as if it had been directly realized or incurred by the partner. Limitations affecting the computation of taxable income generally apply at the partner level.

HOUSE BILL

Under the House bill, the tax treatment of a large partnership (generally, a partnership with at least 250 partners, or an electing partnership with at least 100 partners) and its partners is modified. The bill provides that each partner takes into account separately the partner's distributive share of the following items, which are determined at the partnership level: (1) taxable income or loss from passive loss limitation activities; (2) taxable income or loss from other activities (e.g., portfolio income or loss); (3) net capital gain or loss to the extent allocable to passive loss limitation activities and other activities; (4) tax-exempt interest; (5) net alternative minimum tax adjustment separately computed for passive loss limitation activities and other activities; (6) general credits; (7) low-income housing credit; (8) rehabilitation credit; (9) credit for producing fuel from a nonconventional source; and (10) creditable foreign taxes and foreign source items.

All limitations and other provisions affecting the computation of taxable income or any credit generally are applied at the partnership (and not the partner) level. In addition, all elections affecting the computation of taxable income or any credit generally are made by the partnership.

The simplified reporting regime does not apply to service or commodity partnerships. In addition, special rules apply to large partnerships holding oil and gas properties.

For all partners contributing property to a large partnership, the bill replaces section 704(c) with a "deferred sale" approach. Under the bill, a large partnership takes a fair market value basis in the property, and the contributing partner's precontribution gain or loss is deferred until the occurrence of specified recognition events.

Effective date.—Partnership taxable years ending on or after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except for the following: (1) new section 737 of the Code, relating to the recognition of precontribution gain in the case of certain distributions to a contributing partner (sec. 3004 of the House bill and sec. 3013 of the Senate amendment) does not apply if the deferred sale rules apply; (2) under the deferred sale rules, if contributed property that is distributed to the contributing partner consists of an interest in an entity, such interest is taken into account (in determining whether precontribution gain or loss is triggered) to the extent that its value is attributable to property contributed to the entity after such interest was contributed to the partnership; and (3) the provisions generally apply to partnership taxable years ending on or after December 31, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

b. Simplified audit procedures for large partnerships

PRESENT LAW

In general

Prior to 1982, regardless of the size of a partnership, adjustments to a partnership's items of income, gain, loss, deduction, or credit had to be made in separate proceedings with respect to each partner individually. Because a large partnership sometimes had many partners located in different audit districts, adjustments to items of income, gains, losses, deductions, or credits of the partnership had to be made in numerous actions in several jurisdictions, sometimes with conflicting outcomes.

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small (10 or fewer partners) partnerships. These rules require the tax treatment of all "partnership items" to be determined at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, as provided by regulations.

Administrative proceedings

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

The IRS may challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.

Any partner of a partnership can request an administrative adjustment or a refund for his own separate tax liability. Any partner also has the right to participate in partnership-level administrative proceedings. A settlement agreement with respect to partnership items binds all parties to the settlement.

Tax Matters Partner

The TEFRA rules establish the "Tax Matters Partner" as the primary representative of a partnership in dealings with the IRS. The Tax Matters Partner is a general partner designated by the partnership or, in the absence of designation, the general partner with the largest profits interest at the close of the taxable year. If no Tax Matters Partner is designated, and it is impractical to apply the largest profits interest rule, the IRS may select any partner as the Tax Matters Partner.

Notice requirements

The IRS generally is required to give notice of the beginning of partnership-level administrative proceedings and any resulting administrative adjustment to all partners whose names and addresses are furnished to the IRS. For partnerships with more than 100 partners, however, the IRS generally is not required to give notice to any partner whose profits interest is less than one percent.

Adjudication of disputes concerning partnership items

After the IRS makes an administrative adjustment, the Tax Matters Partner (and, in limited circumstances, certain other partners) may file a petition for readjustment of partnership items in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court.

Statute of limitations

The IRS generally cannot adjust a partnership item for a partnership taxable year if more than 3 years have elapsed since the later of the filing of the partnership return or the last day for the filing of the partnership return.

HOUSE BILL

In general

The House bill creates a new audit system for large partnerships. The bill defines "large partnership" the same way for audit and reporting purposes (generally partnerships with at least 250 partners) except that certain oil and gas partnerships exempted from the large partnership reporting requirements are large partnerships for the audit rules.

As under present law, large partnerships and their partners are subject to unified audit rules. The tax treatment of "partnership items" are determined at the partnership, rather than the partner, level. The term "partnership items" is defined as under present law.

Unlike present law, however, partnership adjustments generally will flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners' share of current-year partnership items of income, gains, losses, deductions, or credits will be adjusted to reflect partnership adjustments that take effect in that year. The adjustments generally will not affect prior-year returns of any partners (except in the case of changes to any partner's distributive shares).

In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The imputed underpayment generally is calculated by netting the adjustments to the income and loss items of the partnership and multiplying that amount by the highest tax rate (whether individual or corporate). A partner may not file a claim for credit or refund of his allocable share of the payment.

Regardless of whether a partnership adjustment flows through to the partners, an adjustment must be offset if it requires another adjustment in a year after the adjusted year and before the year the offsetted adjustment takes effect. For example, if a partnership expensed a $1,000 item in year 1, and it was determined in year 4 that the item should have been capitalized and amortized ratably over 10 years, the adjustment in year 4 would be $700, apart from any interest or penalty. (The $900 adjustment for the improper deduction would be offset by $200 of adjustments for amortization deductions.) The year 4 partners would be required to include an additional $700 in income for that year. The partnership may ratably amortize the remaining $700 of expenses in years 4–10.

In addition, the partnership, rather than the partners individually, generally is liable for any interest and penalties that result from a partnership adjustment. Interest is computed for the period beginning on the return due date for the adjusted year and ending on the earlier of the return due date for the partnership taxable year in which the adjustment takes effect or the date the partnership pays the imputed underpayment. Thus, in the above example, the partnership would be liable for 4 years' worth of interest (on a declining principal amount).

Penalties (such as the accuracy and fraud penalties) are determined on a year-by-year basis (without offsets) based on an imputed underpayment. All accuracy penalty criteria and waiver criteria (such as reasonable cause, substantial authority, etc.) are determined as if the partnership were a taxable individual. Accuracy and fraud penalties are assessed and accrue interest in the same manner as if asserted against a taxable individual.

Any payment (for Federal income taxes, interest, or penalties) that a large partnership is required to make is non-deductible.

If a partnership ceases to exist before a partnership adjustment takes effect, the former partners are required to take the adjustment into account, as provided by regulations. Regulations are also authorized to prevent abuse and to enforce efficiently the audit rules in circumstances that present special enforcement considerations (such as partnership bankruptcy).

Administrative proceedings

Under the large partnership audit rules, a partner is not permitted to report any partnership items inconsistently with the partnership return, even if the partner notifies the IRS of the inconsistency. The IRS could treat a partnership item that was reported inconsistently by a partner as a mathematical or clerical error and immediately assess any additional tax against that partner.

As under present law, the IRS could challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. Unlike under present law, however, partners will have no right individually to participate in settlement conferences or to request a refund.

Partnership representative

The bill requires each large partnership to designate a partner or other person to act on its behalf. If a large partnership fails to designate such a person, the IRS is permitted to designate any one of the partners as the person authorized to act on the partnership's behalf. After the IRS's designation, a large partnership could still designate a replacement for the IRS-designated partner.

Notice requirements

Unlike under present law, the IRS is not required to give notice to individual partners of the commencement of an administrative proceeding or of a final adjustment. Instead, the IRS is authorized to send notice of a partnership adjustment to the partnership itself by certified or registered mail. The IRS could give proper notice by mailing the notice to the last known address of the partnership, even if the partnership had terminated its existence.

Adjudication of disputes concerning partnership items

As under present law, an administrative adjustment could be challenged in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court. However, only the partnership, and not partners individually, can petition for a readjustment of partnership items.

If a petition for readjustment of partnership items is filed by the partnership, the court with which the petition is filed will have jurisdiction to determine the tax treatment of all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates, and the proper allocation of such items among the partners. Thus, the court's jurisdiction is not limited to the items adjusted in the notice.

Statute of limitations

Absent an agreement to extend the statute of limitations, the IRS generally could not adjust a partnership item of a large partnership more than 3 years after the later of the filing of the partnership return or the last day for the filing of the partnership return. Special rules apply to false or fraudulent returns, a substantial omission of income, or the failure to file a return. The IRS would assess and collect any deficiency of a partner that arises from any adjustment to a partnership item subject to the limitations period on assessments and collection applicable to the year the adjustment takes effect (secs. 6248, 6501 and 6502).

Regulatory authority

The Secretary of the Treasury is granted authority to prescribe regulations as may be necessary to carry out the simplified audit procedure provisions, including regulations to prevent abuse of the provisions through manipulation. The regulations may include rules that address transfers of partnership interests, in anticipation of a partnership adjustment, to persons who are tax-favored (e.g., corporations with net operating losses, tax-exempt organizations, and foreign partners) or persons who are expected to be unable to pay tax (e.g., shell corporations). For example, if prior to the time a partnership adjustment takes effect, a taxable partner transfers a partnership interest to a nonresident alien to avoid the tax effect of the partnership adjustment, the rules may provide, among other things, that income related to the partnership adjustment is treated as effectively connected taxable income, that the partnership adjustment is treated as taking effect before the partnership interest was transferred, or that the former partner is treated as a current partner to whom the partnership adjustment is allocated.

Effective date

The provision applies to partnership taxable years ending on or after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the effective date is for partnership taxable years ending on or after December 31, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

c. Advance due date for furnishing information to partners of large partnerships

PRESENT LAW

A partnership required to file an income tax return with the IRS must also furnish an information return to each of its partners on or before the day on which the income tax return for the year is required to be filed, including extensions. Under regulations, a partnership must file its income tax return on or before the fifteenth day of the fourth month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners file their tax returns.

HOUSE BILL

The House bill provides that a large partnership must furnish information returns to partners by the first March 15 following the close of the partnership's taxable year.

The bill also provides that, if the partnership is required to provide copies of the information returns to the IRS on magnetic media, each schedule (such as each Schedule K–1) with respect to each partner is treated as a separate information return with respect to the corrective periods and penalties that are generally applicable to all information returns.

Effective date.—Partnership taxable years ending on or after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the provision is effective for partnership taxable years ending on or after December 31, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

d. Partnership returns on magnetic media

PRESENT LAW

Partnerships are permitted, but not required, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K–1), to the IRS on magnetic media.

HOUSE BILL

The House bill authorizes the IRS to require large partnerships and other partnerships with 250 or more partners to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K–1), to the IRS on magnetic media.

Effective date.—For partnerships that are large partnerships (as defined in the simplified reporting provision), the provision is effective for partnership taxable years ending on or after December 31, 1992. For partnerships that are not large partnerships (as defined) but that have 250 or more partners, the provision is effective for partnership taxable years ending on or after December 31, 1998.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the provision as applied to large partnerships (as defined) is effective for partnership taxable years ending on or after December 31, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. IRA filing requirements for income from certain unrelated trades and businesses

PRESENT LAW

Return filing requirements

An individual retirement account ("IRA") is a trust which generally is exempt from taxation except for the taxes imposed on income from an unrelated trade or business (sec. 408(e)(1)). Under regulations, a fiduciary of a trust that is exempt from taxation (but subject to the taxes imposed on income from an unrelated trade or business) generally is required to file a return on behalf of the trust for a taxable year if the trust has gross income of $1,000 or more included in computing unrelated business taxable income for that year (Treas. Reg. sec. 1.6012-3(a)(5)).

Unrelated business taxable income is the gross income (including gross income from a partnership) derived by an exempt organization from an unrelated trade or business, less certain deductions which are directly connected with the carrying on of such trade or business (sec. 512(a)(1)). In calculating unrelated business taxable income, exempt organizations (including IRAs) generally also are permitted a specific deduction of $1,000 (sec. 512(b)(12)).

For purposes of determining whether income is from an unrelated trade or business, the character of a partner's distributive share of partnership income generally is the same as if the income had been directly realized by the partner (sec. 512(c)).

Unified audits of partnerships

All but certain small partnerships are subject to unified audit rules established by the Tax Equity and Fiscal Responsibility Act of 1982. These rules require the tax treatment of all "partnership items" to be determined at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, including such items as gross income and deductions of the partnership.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement modifies the filing threshold for an IRA with an interest in a partnership that is subject to the partnership-level audit rules. A fiduciary of such an IRA may treat the trust's share of partnership taxable income as gross income, for purposes of determining whether the trust meets the $1,000 gross income filing threshold. Thus, under the provision, a fiduciary of an IRA that receives taxable income from a partnership that is subject to partnership-level audit rules and gross income from any other unrelated trade or business will be required to file an income tax return where the sum of such taxable and gross income is $1,000 or more. A fiduciary of an IRA that receives taxable income from a partnership that is subject to partnership-level audit rules of less than $1,000 (before the $1,000 specific deduction) will not be required to file an income tax return if the IRA does not have any other income from an unrelated trade or business.

Effective date.—Taxable years ending on or after October 1, 1992.

3. Partnership proceedings under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA)

a. Clarify the treatment of partnership items in deficiency proceedings

PRESENT LAW

TEFRA partnership proceedings must be kept separate from deficiency proceedings involving the partners in their individual capacities. Prior to the Tax Court's opinion in *Munro* v. *Commissioner*, 92 T.C. 71 (1989), the IRS computed deficiencies by assuming that all items that were subject to the TEFRA partnership procedures were correctly reported on the taxpayer's return. However, where the losses claimed from TEFRA partnerships were so large that they offset any proposed adjustments to nonpartnership items, no deficiency could arise from a non-TEFRA proceeding, and if the partnership losses were subsequently disallowed in a partnership proceeding, the non-TEFRA adjustments might be uncollectible because of the expiration of the statute of limitations with respect to nonpartnership items.

Faced with this situation in *Munro*, the IRS issued a notice of deficiency to the taxpayer that presumptively disallowed the taxpayer's TEFRA partnership losses for computational purposes only. Although the Tax Court ruled that a deficiency existed and that the court had jurisdiction to hear the case, the court disapproved of the methodology used by the IRS to compute the deficiency. Specifically, the court held that partnership items (whether income, loss, deduction, or credit) included on a taxpayer's return must be completely ignored in determining whether a deficiency exists that is attributable to nonpartnership items.

HOUSE BILL

The House bill overrules *Munro* and allows the IRS to return to its prior practice of computing deficiencies by assuming that all TEFRA items whose treatment has not been finally determined had been correctly reported on the taxpayer's return. This will eliminate the need to do special computations that involve the removal of TEFRA items from a taxpayer's return, and will restore to taxpayers a prepayment forum with respect to the TEFRA items. In addition, the bill provides a special rule to address the factual situation presented in *Munro*.

Specifically, the bill provides a declaratory judgment procedure in the Tax Court for adjustments to an oversheltered return. An oversheltered return is a return that shows no taxable income and a net loss from TEFRA partnerships. In such a case, the IRS is authorized to issue a notice of adjustment with respect to non-TEFRA items, notwithstanding that no deficiency would result from the adjustment. However, the IRS may only issue such a notice if a deficiency would have arisen in the absence of the net loss from TEFRA partnerships.

The Tax Court would be granted jurisdiction to determine the correctness of such an adjustment as well as to make a declaration with respect to any other item for the taxable year to which the notice of adjustment relates, except for partnership items and affected items which require partner-level determinations. No tax would be due upon such a determination, but a decision of the Tax Court would be treated as a final decision, permitting an appeal of the decision by either the taxpayer or the IRS. An adjustment determined to be correct would thus have the effect of increasing the taxable income that would be deemed to have been reported on the taxpayer's return. If the taxpayer's partnership items were then adjusted in a subsequent proceeding, the IRS would have preserved its ability to collect tax on any increased deficiency attributable to the nonpartnership items.

Alternatively, if the taxpayer chooses not to contest the notice of adjustment within the 90-day period, the bill provides that when the taxpayer's partnership items are finally determined, the taxpayer has the right to file a refund claim for tax attributable to the items adjusted by the earlier notice of adjustment for the taxable year. Although a refund claim is not generally permitted with respect to a deficiency arising from a TEFRA proceeding, such a rule is appropriate with respect to a defaulted notice of adjustment because taxpayers may not challenge such a notice when issued since it does not require the payment of additional tax.

In addition, the bill incorporates a number of provisions intended to clarify the coordination between TEFRA audit proceedings and individual deficiency proceedings. Under these provisions, any adjustment with respect to a non-partnership item that caused an increase in tax liability with respect to a partnership item would be treated as a computational adjustment and assessed after the conclusion of the TEFRA proceeding. Accordingly, deficiency procedures would not apply with respect to this increase in tax liability, and the statute of limitations applicable to TEFRA proceedings would be controlling.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

b. Permit the IRS to rely on partnership returns to determine the proper audit procedures

PRESENT LAW

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

HOUSE BILL

The House bill permits the IRS to apply the TEFRA audit procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply. Similarly, the bill permits the IRS to apply the normal deficiency procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

c. Statute of limitations suspensions

i. Suspend statute when an untimely petition is filed

PRESENT LAW

In a deficiency case, section 6503(a) provides that if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitations on assessment and collection is suspended until the decision of the Tax Court becomes final, and for 60 days thereafter. The counterpart to this provision with respect to TEFRA cases is contained in section 6229(d). That section provides that the period of limitations is suspended for the period during which an action may be brought under section 6226 and, if an action is brought during such period, until the decision of the court becomes final, and for 1 year thereafter. As a result of this difference in language, the running of the statute of limitations in a TEFRA case will only be tolled by the filing of a timely petition whereas in a deficiency case, the statute of limitations is tolled by the filing of any petition, regardless of whether the petition is timely.

House Bill

The House bill conforms the suspension rule for the filing of petitions in TEFRA cases with the rule under section 6503(a) pertaining to deficiency cases. Under the provision, the statute of limitations in TEFRA cases would be suspended by the filing of any petition under section 6226, regardless of whether the petition is timely or valid, and the suspension will remain in effect until the decision of the court becomes final, and for one year thereafter. Hence, if the statute of limitations is open at the time that an untimely petition is filed, the limitations period will no longer continue to run and possibly expire while the action is pending before the court.

Effective date.—The provision is effective with respect to all cases in which the period of limitations has not expired under present law as of the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

ii. Suspend statute of limitations during bankruptcy proceedings

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6503(h) provides for the suspension of the limitations period during the pendency of a bankruptcy proceeding. However, this provision only applies to the limitations periods provided in sections 6501 and 6502.

Under present law, because the suspension provision in section 6503(h) applies only to the limitations periods provided in section 6501 and 6502, some uncertainty exists as to whether section 6503(h) applies to suspend the limitations period pertaining to converted items provided in section 6229(f) when a petition naming a partner as a debtor in a bankruptcy proceeding is filed. As a result, the limitations period provided in section 6229(f) may continue to run during the pendency of the bankruptcy proceeding, notwithstanding that the IRS is prohibited from making an assessment against the debtor because of the automatic stay provisions of the Bankruptcy Code.

House Bill

The House bill clarifies that the statute of limitations is suspended for a partner who is named in a bankruptcy petition. The suspension period is for the entire period during which the IRS is prohibited by reason of the bankruptcy proceeding from making an assessment, and for 60 days thereafter. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—The provision is effective with respect to all cases in which the period of limitations has not expired under present law as of the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

iii. Extend statute of limitations for bankrupt TMPs

Present Law

Section 6229(b)(1)(B) provides that the statute of limitations is extended with respect to all partners in the partnership by an agreement entered into between the tax matters partner (TMP) and the IRS. However, Temp. Treas. Reg. secs. 301.6231(a)(7)–1T(l)(4) and 301.6231(c)–7T(a) provide that upon the filing of a petition naming a partner as a debtor in a bankruptcy proceeding, that partner's partnership items convert to nonpartnership items, and if the debtor was the tax matters partner, such status terminates. These rules are necessary because of the automatic stay provision contained in 11 U.S.C. sec. 362(a)(8). As a result, if a consent to extend the statute of limitations is signed by a person who would be the TMP but for the fact that at the time that the agreement is executed the person was a debtor in a bankruptcy proceeding, the consent would not be binding on the other partners because the person signing the agreement was no longer the TMP at the time that the agreement was executed.

House Bill

The House bill provides that unless the IRS is notified of a bankruptcy proceeding in accordance with regulations, the IRS can rely on a statute extension signed by a person who would be the tax matters partner but for the fact that said person was in bankruptcy at the time that the person signed the agreement. Statute extensions granted by a bankrupt TMP in these cases will be binding on all of the partners in the partnership. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—The provision is effective for extension agreements entered into after the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

d. Expand small partnership exception from TEFRA

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

House Bill

The House bill permits a small partnership to have a C corporation as a partner or to specially allocate items without jeopardizing its exception from the TEFRA rules. However, the bill retains the prohibition of present law against having a flow-through entity (other than an estate of a deceased partner) as a partner for purposes of qualifying for the small partnership exception.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

e. Exclude partial settlements from 1-year assessment rule

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6231(b)(1)(C) provides that the partnership items of a partner for a partnership taxable year become nonpartnership items as of the date the partner enters into a settlement agreement with the IRS with respect to such items.

House Bill

The House bill provides that if a partner and the IRS enter into a settlement agreement with respect to some but not all of the partnership items in dispute for a partnership taxable year and other partnership items remain in dispute, the period for assessing any tax attributable to the settled items would be determined as if such agreement had not been entered into. Consequently, the limitations period that is applicable to the last item to be resolved for the partnership taxable year shall be controlling with respect to all disputed partnership items for the partnership taxable year. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill, except that the effective date is for settlements entered into after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

f. Extend time for filing a request for administrative adjustment where an agreement to extend the statute of limitations is entered

Present Law

If an agreement extending the statute is entered into with respect to a non-TEFRA statute of limitations, that agreement also extends the statute of limitations for filing refund claims (sec. 6511(c)). There is no comparable provision for extending the time for filing refund claims with respect to partnership items subject to the TEFRA partnership rules.

House Bill

The House bill provides that if a TEFRA statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims attributable to partnership items or affected items until 6 months after the expiration of the limitations period for assessments.

Effective date.—The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

g. Provide innocent spouse relief for TEFRA proceedings

PRESENT LAW

In general, an innocent spouse may be relieved of liability for tax, penalties and interest if certain conditions are met (sec. 6013(e)). However, existing law does not provide the spouse of a partner in a TEFRA partnership with a judicial forum to raise the innocent spouse defense with respect to any tax or interest that relates to an investment in a TEFRA partnership.

HOUSE BILL

The House bill provides both a prepayment forum and a refund forum for raising the innocent spouse defense in TEFRA cases.

With respect to a prepayment forum, the bill provides that within 60 days of the date that a notice and demand for payment (or notice of computational adjustment) relating to partnership items is mailed to the spouse of a partner, the spouse may request that the assessment be abated. Upon receipt of such a request, the assessment will be abated and any reassessment will be subject to the deficiency procedures. If an abatement is requested, the statute of limitations will not expire before the date which is 60 days after the date of the abatement. If the spouse files a petition with the Tax Court, the Tax Court will only have jurisdiction to determine whether the requirements of section 6013(e) have been satisfied. In making this determination, the treatment of the partnership items that gave rise to the liability in question will be conclusive.

Alternatively, the bill provides that the spouse of a partner may file a claim for refund to raise the innocent spouse defense. The claim must be filed within 6 months from the date that the notice and demand (or notice of computational adjustment) is mailed to the spouse. If the claim is not allowed the spouse may file a refund action. For purposes of any claim or suit under this provision, the treatment of the partnership items that gave rise to the liability in question will be conclusive.

Effective date.—The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the time period for filing a request for abatement or a claim for refund is started after the mailing of the notice of computational adjustment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

h. Determine penalties at the partnership level

PRESENT LAW

Partnership items include only items that are required to be taken into account under the income tax subtitle. Penalties are not partnership items since they are contained in the procedure and administration subtitle. As a result, penalties may only be asserted against a partner through the application of the deficiency procedures following the completion of the partnership-level proceeding.

HOUSE BILL

The House bill provides that the partnership level proceeding is to include a determination of the applicability of penalties at the partnership level. However, the bill allows partners to raise any partner-level defenses in a refund forum.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

i. Clarify jurisdiction of the Tax Court

PRESENT LAW

Improper assessment and collection activities by the IRS during the 150-day period for filing a petition or during the pendency of any Tax Court proceeding, "may be enjoined in the proper court." Present law may be unclear as to whether this includes the Tax Court.

For a partner other than the Tax Matters Partner to be eligible to file a petition for redetermination of partnership items in any court or to participate in an existing case, the period for assessing any tax attributable to the partnership items of that partner must not have expired. Since such a partner would only be treated as a party to the action if the statute of limitations with respect to them was still open, the law is unclear whether the partner would have standing to assert that the statute of limitations had expired with respect to them.

HOUSE BILL

The House bill clarifies that an action to enjoin premature assessments of deficiencies attributable to partnership items may be brought in the Tax Court. The bill also permits a partner to participate in an action or file a petition for the sole purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired for that person. Additionally, the bill clarifies that the Tax Court has overpayment jurisdiction with respect to affected items.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

j. Treatment of premature petitions filed by certain partners

PRESENT LAW

The Tax Matters Partner is given the exclusive right to file a petition for a readjustment of partnership items within the 90-day period after the issuance of the notice of a final partnership administrative adjustment (FPAA). If the Tax Matters Partner does not file a petition within the 90-day period, certain other partners are permitted to file a petition within the 60-day period after the close of the 90-day period. There are ordering rules for determining which action goes forward and for dismissing other actions.

HOUSE BILL

The House bill treats premature petitions filed by certain partners within the 90-day period will be treated as being filed on the last day of the following 60-day period under specified circumstances, thus affording the partnership with an opportunity for judicial review that is not available under present law.

Effective date.—The provision is effective with respect to petitions filed after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

k. Clarify bond requirement for appeals from TEFRA proceedings

PRESENT LAW

A bond must be filed to stay the collection of deficiencies pending the appeal of the Tax Court's decision in a TEFRA proceeding. The amount of the bond must be based on the court's estimate of the aggregate deficiencies of the partners.

HOUSE BILL

The House bill clarifies that the amount of the bond should be based on the Tax Court's estimate of the aggregate liability of the parties to the action (and not all of the partners in the partnership). For purposes of this provision, the amount of the bond may be estimated by applying the highest individual rate to the total adjustments determined by the Tax Court and doubling that amount to take into account interest and penalties.

Effective date.—The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

l. Suspend interest where there is a delay in computational adjustment resulting from TEFRA settlements

PRESENT LAW

Interest on a deficiency generally is suspended when a taxpayer executes a settlement agreement with the IRS and waives the restrictions on assessments and collections, and the IRS does not issue a notice and demand for payment of such deficiency within 30 days. Interest on a deficiency that results from an adjustment of partnership items in TEFRA proceedings, however, is not suspended.

HOUSE BILL

The House bill suspends interest where there is a delay in making a computational adjustment relating to a TEFRA settlement.

Effective date.—The provision is effective with respect to settlements entered into after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

m. Extend time for filing a request for administrative adjustment relating to worthless securities and bad debts (sec. 4316(b) (of the Senate amendment)

PRESENT LAW

The non-TEFRA statute of limitations for filing a claim for credit or refund generally is the later of (1) three years from the date the return in question was filed or (2) two years from the date the claimed tax was paid, whichever is later (sec. 6511(b)). However, an extended period of time, seven years from the date the return was due, is provided for filing a claim for refund of an overpayment resulting from a deduction for a worthless security or bad debt (sec. 6511(d)).

Under the TEFRA partnership rules, a request for administrative adjustment ("RAA") must be filed within three years after the later of (1) the date the partnership return was filed or (2) the due date of the partnership return (determined without regard to extensions) (sec. 6227(a)(1)). In addition, the request must be filed before a final partnership administrative adjustment ("FPAA") is mailed for the taxable year (sec. 6227(a)(2)). There is no special provision for extending the time for filing an RAA that relates to a deduction for a worthless security or an entirely worthless bad debt.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides a special provision for extending the time for the filing of an RAA relating to the deduction by a partnership for a worthless security or bad debt. In these circumstances, in lieu of the three-year period provided in sec. 6227(a)(1), the period for filing an RAA will be seven years from the date the partnership return was due with respect to which the request is made (determined without regard to extensions). The RAA must still be filed before the FPAA is mailed for the taxable year.

Effective date.—The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1992. The conferees understand that, in the past, the IRS issued FPAAs that reflected no administrative adjustment whatsoever to a partnership's tax return. This action created wasteful paperwork, and may have, in some cases truncated the appeals rights of individual partners. The conferees have therefore provided a special rule to permit partners who may have been adversely impacted by this past practice of the IRS to avail themselves of the extended period irrespective of whether an FPAA has been issued.

D. FOREIGN PROVISIONS

1. Deferral of tax on income earned through foreign corporations and exceptions to deferral

PRESENT LAW

U.S. citizens and residents and U.S. corporations (collectively, "U.S. persons") generally are taxed currently by the United States on their worldwide income. Income earned by a foreign corporation, the stock of which is owned in whole or in part by U.S. persons, generally is not taxed by the United States until the foreign corporation repatriates those earnings by payment to its U.S. stockholders.

The Code sets forth several regimes providing exceptions to the general rule deferring U.S. tax on income earned indirectly through a foreign corporation: the controlled foreign corporation rules (secs. 951-964); the foreign personal holding company rules (secs. 551-558); passive foreign investment company (PFIC) rules (secs. 1291-1297); the personal holding company rules (secs. 541-547); the accumulated earnings tax (secs. 531-537); and rules for foreign investment companies (sec. 1246) and electing foreign investment companies (sec. 1247). These separate regimes have complex and overlapping application to foreign corporations with U.S. stockholders.

HOUSE BILL

The House bill replaces the separate anti-deferral regimes of present law with a unified set of rules. The House bill retains the controlled foreign corporation rules as the foundation of its unified anti-deferral regime. It includes a modified version of the PFIC rules while eliminating the other regimes as redundant to one or the other.

The House bill creates a single definition of a passive foreign corporation (PFC) that will unify and replace the foreign personal holding company and PFIC definitions. The rules applicable to PFCs represent a hybrid of characteristics of the foreign personal holding company rules, the PFIC rules, and the controlled foreign corporation rules (subpart F), plus a new mark-to-market regime, as well as a variety of simplifying or technical changes to or clarifications of rules under the existing systems.

One such clarification provides that any foreign trade income of a foreign sales corporation does not constitute passive income for purposes of the PFIC definition.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, with three modifications.

First, the Senate amendment does not include the clarification of present law with respect to the income of foreign sales corporations.

Second, the Senate amendment includes a netting rule for the application of the PFC income and asset tests to sale and repurchase transactions in securities,[1] entered into by a foreign corporation that is engaged in the active conduct of a trade or business as a dealer in securities, and properly treated as offsetting agreements in a "matched book." Such offsetting agreements are referred to as "qualified matched transactions." Under the Senate amendment, offsetting debt liabilities and assets resulting from qualified matched transactions are netted, and only the net asset position (if any) is treated as an asset held by a foreign corporation for purposes of applying the PFC definition. Similarly, the Senate amendment provides that the offsetting interest expense and income resulting from qualified matched transactions is netted and the net income, if positive, is treated as an item of gross income under the PFC definition. The reduction in gross income or assets that may result from application of this provision to a corporation does not apply for any purpose other than testing a foreign corporation for PFC status.

Third, the Technical Explanation of the Senate Finance Committee amendment to H.R. 11 states that the committee intends that a study be conducted by the Treasury Department as to the tax treatment for purposes of the PFC rules of securities sale and repurchase transactions and securities lending and borrowing transactions, and the consequences and merits of possible changes in such tax treatment. The Technical Explanation further states that the committee intends that the Treasury study be completed within one year after the date of enactment of the bill.

CONFERENCE AGREEMENT

The conference agreement includes all provisions of both the House bill and the Senate amendment, plus certain technical corrections described below.

Specifically, the conference agreement includes the House bill's clarification of present law with respect to the income of foreign sales corporations, the Senate amendment's netting rule for the application of the PFC income and asset tests to income and assets arising from qualified matched transactions, and the Treasury Department study described in the Technical Explanation of the Senate Finance Committee amendment to H.R. 11.

The conferees anticipate that Treasury regulations will provide guidance as to what constitutes a "matched book;" what sale and repurchase transactions are considered to offset each other in a "matched book;" what constitutes the entry into matched book transactions in the active conduct of a trade or business of being a dealer in securities; and how the netting procedure will be carried out to arrive at amounts of gross income and assets for PFC definitional purposes.[2]

The conferees intend that, in practice, the effect of this provision shall be only to mitigate the effect of the PFC rules on a company insofar as it is actively engaged in the business of providing the services of a financial intermediary to unrelated parties, rather than used as a vehicle for investment in stock, securities, or other financial products on behalf of its shareholders or other related parties. The conferees are aware of other instances in the Code and regulations where it is necessary to draw similar distinctions, and invite the Treasury to consider whether any tests employed in those provisions are suitable in light of the purposes of provision.

For example, rules under subpart F may require a determination whether a foreign corporation is a regular dealer within the meaning of section 954(c)(1)(B) in stocks, securities, or derivative financial products during its taxable year. As another example, under the PFIC rules of present law (as under the PFC rules in the bill) a foreign corporation, to the extent provided in regulations, may be exempted from passive characterization of its interest income from the active conduct of a banking business. Guidance has been issued under this provision analogous to the guidance that might be issued under the matched-book provision. As a third example, guidance has been issued under the foreign tax credit limitation regulations for identifying financial services entities.

As in the cases of the PFIC bank rules and the foreign tax credit limitation rules on financial services entities, the conferees believe that the Treasury could consider a variety of activities that may indicate the existence of an active securities business.[3]

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[1] The Technical Explanation of the Senate Finance Committee amendment to H.R. 11 sometimes refers to such sale and repurchase agreements by using two industry shorthand terms: "repo" and "reverse."

[2] The conferees are informed that shorthand terms other than "repo" and "reverse" may also be used to describe sale and repurchase transactions that, under the conference agreement, may be within the scope of the Treasury's authority to treat as parts of a qualified matched transaction. Although the conferees are aware that the terms "repo" and "reverse" were used to describe sale and repurchase transactions in the Technical Explanation of the Senate Finance Committee amendment to H.R. 11, the conferees do not intend that the application of the conference agreement be affected by the use of shorthand terms other than these to refer to transactions described in the conference agreement.

In addition, in appropriate circumstances, the Treasury might consider it relevant that a foreign corporation is or is not registered or authorized in the country in which it conducts its principal securities dealer operations to conduct the bona fide securities activities that it performs in that country, and is subject to the appropriate securities regulatory authorities of that jurisdiction.

The foregoing list of possible approaches and factors to take into account is not intended to be exclusive of other approaches or factors not mentioned. Nor is it intended to suggest that the presence of any of the factors mentioned above, or the passing or failing of any test existing under present law, must be used by Treasury to determine the outcome of the question whether a foreign corporation is engaged in the active conduct of a trade or business as a dealer in securities. The conferees do not intend to limit the Treasury's discretion to fashion rules suitable to the purposes of the provision.

The conference agreement also requires that the Secretary of the Treasury conduct a study as to the tax treatment for purposes of the PFC rules of securities sale and repurchase transactions and securities lending and borrowing transactions. The Secretary is required, not later than one year after the date of the enactment of the bill, to submit to the House Ways and Means Committee and the Senate Finance Committee a report on the required study, together with such recommendations as the Secretary may deem advisable.

In addition, the conference agreement includes technical corrections that ensure that two aspects of the bill will be understood and interpreted consistently with the intention expressed both in the Report of the House Ways and Means Committee to accompany H.R. 11 and in the Technical Explanation of the Senate Finance Committee amendment to H.R. 11. First, the conference agreement clarifies that the interest-charge regime does not apply so as to impose additional tax and interest on the portion of gain deemed attributable to years prior to the first year of the taxpayer's holding period for which the foreign corporation is a PFIC or PFC under the law then applicable. Second, the conference agreement clarifies that the interest-charge regime does not apply to a shareholder with respect to stock in a PFC that was subject to current inclusion of income (whether elective or mandatory) for all years for which the foreign corporation is a PFIC or PFC under the law then applicable.

2. Treatment of controlled foreign corporations

PRESENT LAW

Treatment of controlled foreign corporation earnings

In general

A U.S. shareholder generally treats dividends from a controlled foreign corporation as ordinary income from foreign sources that carries both direct and indirect foreign tax credits. Under look-through rules, the income and credits are subject to those foreign tax credit limitations which are consistent with the character of the income of the foreign corporation.

Several Code provisions result in similar tax treatment of a U.S. shareholder if it either disposes of the controlled foreign corporation stock, or the controlled foreign corporation realizes certain types of income (including income with respect to lower-tier controlled foreign corporations). First, under section 1248, gain resulting from the disposition by a U.S. person of stock in a foreign corporation that was a controlled foreign corporation with respect to which the U.S. person was a U.S. shareholder in the previous five years is treated as a dividend to the extent of allocable earnings.

Second, a controlled foreign corporation has subpart F income when it realizes gain on disposition of stock and, ordinarily, when it receives a dividend. Under sections 951 and 960, such subpart F income may result in taxation to the U.S. shareholder similar (but not identical) to that on a dividend from the controlled foreign corporation. In addition to provisions for characterizing income and credits in these situations, the Code also provides certain rules that adjust basis, or otherwise result in modifying the tax consequences of subsequent income, to account for these and other subpart F income inclusions.

Third, when in exchange for property any corporation (including a controlled foreign corporation) acquires stock in another corporation (including a controlled foreign corporation) controlled by the same persons that control the acquiring corporation, earnings of the acquiring corporation (and possibly the acquired corporation) may be treated under section 304 as having been distributed as a dividend to the seller.

For foreign tax credit separate limitation purposes, a controlled foreign corporation is not treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a controlled foreign corporation and except as provided in regulations, the recipient of the distribution was a U.S. shareholder in such corporation.[1] The consequence of not being treated as a section 902 corporation is application of the so-called "look-through" rule. That is, dividends paid by such controlled foreign corporation to its U.S. shareholder are characterized for separate limitation purposes by reference to the character of the underlying earnings of the controlled foreign corporation.

Lower-tier controlled foreign corporations

For purposes of applying the separate foreign tax credit limitations, receipt of a dividend from a lower-tier controlled foreign corporation by an upper-tier controlled foreign corporation may result in a subpart F income inclusion for the U.S. shareholder that is treated as income in the same limitation category as the income of the lower-tier controlled foreign corporation. The income inclusion of the U.S. shareholder may carry deemed-paid credits for foreign taxes paid by the lower-tier controlled foreign corporation, and the basis of the U.S. shareholder in the stock of the first-tier controlled foreign corporation is increased by the amount of the inclusion. If, on the other hand, the upper-tier controlled foreign corporation sells stock of a lower-tier controlled foreign corporation, then the gain generally is also included in the income of the U.S. shareholder as subpart F income and the U.S. shareholder's basis in the stock of the first-tier controlled foreign corporation is increased to account for the inclusion, but the inclusion is not treated for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier controlled foreign corporation. Instead it generally is treated as passive income.

If subpart F income of a lower-tier controlled foreign corporation is included in the gross income of a U.S. shareholder, no provision of present law allows adjustment of the basis of the upper-tier controlled foreign corporation's stock in the lower-tier controlled foreign corporation.

Subpart F inclusions in year of disposition

The subpart F income earned by a foreign corporation during its taxable year is taxed to the persons who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a controlled foreign corporation. In the case of a U.S. shareholder who acquired stock in a controlled foreign corporation during the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person other than the acquirer with respect to that stock. The reduction is the lesser of the amount of dividends with respect to such stock received by other persons during the year or the amount determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Distributions of previously taxed income

If in a year after the year of a subpart F income inclusion, a U.S. shareholder in the controlled foreign corporation receives a distribution from the corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation (sec. 960(a)(3)).

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[3] Such activities might include: (a) purchasing or selling stock, debt obligations, commodity futures or other securities or derivative financial products (including notional principal contracts) from or to unrelated persons, and holding stock, debt obligations and other securities as inventory for sale to customers; (b) arranging notional principal contracts and other hedging transactions for, or entering into such transactions or any other derivative financial products with, unrelated persons who are customers; (c) arranging foreign exchange transactions for, or engaging in foreign exchange transactions with, unrelated persons who are customers; (d) underwriting issues of stocks, debt obligations or other securities under best-efforts or firm-commitment agreements with unrelated persons; (e) purchasing, selling, discounting, or negotiating on a regular basis for unrelated persons notes, drafts, checks, bills of exchange, acceptances or other evidences of indebtedness; (f) lending stocks or securities to unrelated persons; (g) providing finance leasing (which would not qualify as active leasing income under sec. 954(c)(2)(A)) to unrelated persons; (h) engaging in hedging activities directly related to bona fide securities activities described in items (a) through (g) of this list; (i) servicing mortgages; (j) investment banking activities; (k) providing financial or investment advisory services, investment management services, fiduciary services, trust services, or custodial services to unrelated persons; (l) providing margin or other financing for customers secured by securities or money market instruments, including repurchase agreements, or financing in connection with any of the bona fide securities activities described in items (a) through (k) of this list; (m) disposing of any property (whether tangible or intangible, personal or real) that was used in the active conduct of the securities business, but only to the extent that the property was held in connection with a bona fide securities activity; and (n) any other activity that the Secretary may determine to be a bona fide securities activity that is commonly conducted by active foreign securities dealers in the ordinary course of their securities business.

[1] Under proposed regulations recently issued by the IRS, if a controlled foreign corporation distributes a dividend to an upper-tier controlled foreign corporation or to a United States shareholder that owns directly or indirectly more then 90 percent of the total combined voting power of the controlled foreign corporation at the time of the distribution, and the dividend is attributable to earnings and profits accumulated during a period in which the distributing corporation was a controlled foreign corporation but the 90 percent or more United States shareholder was not a United States shareholder of the corporation, the dividend generally would be treated as a dividend from a noncontrolled section 902 corporation. (Prop. Treas. Reg. sec. 1.904-4(g)(3)(ii).

In addition, the domestic corporation is permitted to increase its foreign tax credit limitation in the year of the distribution of previously taxed earnings and profits in an amount equal to the excess of the amount by which its foreign tax credit limitation for the year of the subpart F inclusion was increased as a result of that inclusion, over the amount of foreign taxes which were allowable as a credit in that year and which would not have been so allowable but for the subpart F inclusion (sec. 960(b)). The increase in the foreign tax credit limitation may not, however, exceed the amount of the foreign taxes taken into account under this provision with respect to the distribution of previously taxed earnings and profits. In order for this rule to apply, the domestic corporation either must have elected to credit foreign taxes in the year of the subpart F inclusion or must not have paid or accrued any foreign taxes in such year, and it must elect the foreign tax credit in the year of the distribution of previously taxed earnings and profits.

Treatment of United States source income earned by a controlled foreign corporation

As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the controlled foreign corporation. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax pursuant to a provision of a U.S. treaty.

Indirect foreign tax credits

A U.S. corporation owning at least 10 percent of the voting stock of a foreign corporation is treated as if it had paid a share of the foreign income taxes paid by the foreign corporation in the year in which the foreign corporation's earnings and profits become subject to U.S. tax as dividend income of the U.S. shareholder (sec. 902(a)).

A U.S. corporation may also be deemed to have paid taxes paid by a second- or third-tier foreign corporation. That is, where a first-tier foreign corporation pays a dividend to a 10-percent-or-more U.S. corporate shareholder, then for purposes of deeming the U.S. corporation to have paid foreign tax, the first-tier foreign corporation may be deemed to have paid a share of the foreign taxes paid by a second-tier foreign corporation of which the first-tier foreign corporation owns at least 10 percent of the voting stock, and from which the first-tier foreign corporation received dividends. The same principle applies to dividends from a second-tier or third-tier foreign corporation. No taxes paid by a second- or third-tier foreign corporation are deemed paid by the first- or second-tier foreign corporation, respectively, unless the product of the percentage ownership of voting stock at each level from the U.S. corporation down equals at least 5 percent (sec. 902(b)). Under present law, foreign taxes paid below the third tier of foreign corporations are not eligible for the indirect foreign tax credit.

An indirect foreign tax credit generally is also available to a U.S. corporate shareholder meeting the requisite ownership threshold with respect to inclusions of subpart F income from controlled foreign corporations (sec. 960(a)).[2] Moreover, an indirect foreign tax credit may also be available to U.S. corporate shareholders with respect to inclusions of income from passive foreign investment companies.

Investments in U.S. property by controlled foreign corporations

As described above in Item D.1., investments by controlled foreign corporations in U.S. property (e.g., certain debt obligations of U.S. persons) are sometimes treated similarly to repatriations (sec. 951(a)(1)(B)). A controlled foreign corporation is not treated as having repatriated foreign earnings if it invests in an obligation of an unrelated U.S. corporation, as defined specially for this purpose (sec. 956(b)(2)(F)).

HOUSE BILL

In general

The House bill makes a number of modifications in the treatment of income derived from the disposition of stock in a controlled foreign corporation. The House bill provides deemed dividend treatment for gains on dispositions of lower-tier controlled foreign corporations. Where the lower-tier controlled foreign corporation previously earned subpart F income, the House bill permits the amount of gain taxed to the U.S. shareholder to be adjusted for previous income inclusions. Where proceeds from the sale of stock to a controlled foreign corporation that previously has earned subpart F income would be treated as a dividend under the principles of section 304, the House bill expressly permits exclusion of the deemed section 304 dividend from taxation to the extent of the previously taxed earnings and profits of the controlled foreign corporation from which the property was deemed to be distributed. (Appropriate basis adjustments also are permitted to be made.) Where a controlled foreign corporation (whether or not it is a lower-tier controlled foreign corporation) earns subpart F income in a year in which a U.S. shareholder sells its stock, in a transaction that does not result in the foreign corporation ceasing to be a controlled foreign corporation, the House bill contains statutory language providing for a proportional reduction in the taxation of the subpart F income in that year to the acquiring U.S. shareholder.

The House bill contains four additional provisions related to controlled foreign corporations. First, the House bill repeals the limitation on look-through treatment (for foreign tax credit separate limitation purposes) of dividends from controlled foreign corporations to U.S. shareholders out of earnings from periods in which the payor was a controlled foreign corporation, but the dividend recipient was not a U.S. shareholder of the controlled foreign corporation. Second, the House bill provides regulatory authority to develop a simplified mechanism for computing indirect foreign tax credits and increases in foreign tax credit limitations resulting upon certain distributions by controlled foreign corporations of previously taxed earnings and profits. Third, the House bill clarifies the effect of a treaty exemption or reduction of the branch profits tax on the determination of subpart F income. Fourth, the House bill extends application of the indirect foreign tax credit to fourth-, fifth-, and sixth-tier controlled foreign corporations where the necessary ownership thresholds (as extended under the House bill to these tiers) are satisfied.

Lower-tier controlled foreign corporations

Characterization of gain on stock disposition

The House bill provides that if a controlled foreign corporation is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the controlled foreign corporation were a U.S. person. This provision, however, does not affect the determination of whether the corporation whose stock is sold or exchanged is a controlled foreign corporation.

Thus, for example, if a U.S. corporation owns 100 percent of the stock a foreign corporation, which owns 100 percent of the stock of a second foreign corporation, then under the House bill, any gain of the first corporation upon a sale or exchange of stock of the second corporation is treated as a dividend for purposes of subpart F income inclusions to the U.S. shareholder, to the extent of earnings and profits of the second corporation attributable to periods in which the first foreign corporation owned the stock of the second foreign corporation while the latter was a controlled foreign corporation with respect to the U.S. shareholder.

As another example, assume that the U.S. corporation has always owned 40 percent of the voting stock and 60 percent of the value of all of the stock of a foreign corporation, which has always owned 40 percent of the voting stock and 60 percent of the value of all of the stock of a second foreign corporation. All the other stock of the foreign corporations has always been owned by foreign individuals unrelated to the U.S. corporation. In this case, the second foreign corporation has never been a controlled foreign corporation. Therefore, none of the gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend.

Gain on disposition of stock in a related corporation created or organized under the laws of, and having substantial part of assets in a trade or business in, the same foreign country as the gain recipient, even if recharacterized as a dividend under the House bill, is not therefore excluded from foreign personal holding company income under the same-country exception that applies to actual dividends.

The House bill provides that for purposes of this provision, a controlled foreign corporation is treated as having sold or exchanged stock if, under any provision of subtitle A of the Code, the controlled foreign corporation is treated as having gain from the sale or exchange of such stock. Thus, for example, if a controlled foreign corporation distributes to its shareholder stock in a foreign corporation, and the distribution results in gain being recognized by the controlled foreign corporation under section 311(b) as if the stock were sold to the shareholder for fair market value, the House bill makes clear that for purposes of this provision, the controlled foreign corporation is treated as having sold or exchanged the stock.

The House bill also repeals a provision added to the Code by the Technical and Miscellaneous Revenue Act of 1988[3] (the "1988

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[2] Unlike the indirect foreign tax credit for actual dividend distributions, the indirect credit for subpart F inclusions can be available to individual shareholders in certain circumstances if an election is made (sec. 962).

[3] P.L. 100-647, sec. 1012(a)(10).

Act") which, except as provided by regulations, requires a recipient of a distribution from a controlled foreign corporation to have been a United States shareholder of that controlled foreign corporation for the period during which the earnings and profits which gave rise to the distribution were generated in order to avoid treating the distribution as one coming from a noncontrolled section 902 corporation. Thus, under the House bill, a controlled foreign corporation is not treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a controlled foreign corporation, whether or not the recipient of the distribution was a U.S. shareholder of the corporation when the earnings and profits giving rise to the distribution were generated.

Adjustments to basis of stock

The House bill also provides that when a lower-tier controlled foreign corporation earns subpart F income, and stock in that corporation is later disposed of by an upper-tier controlled foreign corporation, the resulting income inclusion of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments currently provided to the basis of stock in a first-tier controlled foreign corporation. Thus, just as the basis of a U.S. shareholder in a first-tier controlled foreign corporation rises when subpart F income is earned and falls when previously taxed income is distributed, so as to avoid double taxation of the income on a later disposition, it is intended that by regulation the subpart F income from gain on the disposition of a lower-tier controlled foreign corporation generally would be reduced by income inclusions of earnings that were not subsequently distributed by the lower-tier controlled foreign corporation. It is intended that the Secretary will have sufficient flexibility in promulgating regulations under this provision to permit adjustments only in those cases where, by virtue of the historical ownership structure of the corporations involved, the Secretary is satisfied that the inclusions for which adjustments can be made can be clearly identified.

For example, assume that a U.S person is the owner of all of the stock of a first-tier controlled foreign corporation which, in turn, is the sole shareholder of a second-tier controlled foreign corporation. In year 1, the second-tier controlled foreign corporation earns $100 of subpart F income which is included in the U.S. person's gross income for that year. In year 2, the first-tier controlled foreign corporation disposes of the second-tier controlled foreign corporation's stock and recognizes $300 of income with respect to the disposition. All of that income would constitute subpart F foreign personal holding company income. Under the House bill, the Secretary is granted regulatory authority to reduce the U.S. person's year 2 subpart F inclusion by $100—the amount of year 1 subpart F income of the second-tier controlled foreign corporation that was included, in that year, in the U.S. person's gross income. Such an adjustment would, in effect, allow for a step-up in the basis of the stock of the second-tier controlled foreign corporation to the extent of its subpart F income previously included in the U.S. person's gross income.

As another example, assume the same facts as in the preceding paragraph except that in year 2, the first-tier controlled foreign corporation distributes the stock of the second-tier controlled foreign corporation to the U.S. person. Assume that as a result of the distribution, the first-tier controlled foreign corporation recognizes taxable income of $300 under section 311(b). This income represents subpart F income, $100 of which is due to no adjustment having been made to the basis of the second-tier controlled foreign corporation's stock for its year 1 subpart F income. The House bill contemplates that in such a situation, the $300 of subpart F income would be reduced under regulations to $200 to account for the year 1 subpart F income inclusion.

Subpart F inclusions in year of disposition

If a U.S. shareholder acquires the stock of a controlled foreign corporation from another U.S. shareholder during a taxable year of the controlled foreign corporation in which it earns subpart F income, the House bill reduces the acquirer's subpart F inclusion for that year by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. The portion by which the inclusion is reduced (as is currently the case if a dividend was paid to the previous owner of the stock) would not exceed the lesser of the amount of dividends with respect to such stock deemed received (under sec. 1248) by other persons during the year or the amount determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Avoiding double inclusions in other cases

The House bill clarifies the appropriate scope of regulatory authority with respect to the treatment of cross-chain section 304 dividends out of the earnings of controlled foreign corporations that were previously included in the income of a U.S. shareholder under subpart F. The House bill contemplates that in such a case, the Secretary in his discretion may by regulation treat such dividends as distributions of previously taxed income, with appropriate basis adjustments. It is also anticipated that other occasions may arise where the exercise of similar regulatory authority may be appropriate to avoid double income inclusions, or an inclusion or exclusion of income without a corresponding basis adjustment. Therefore, the House bill states that, in addition to cases involving section 304, the Secretary may by regulation modify the application of subpart F in any other case where there would otherwise be a multiple inclusion of any item of income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of the structure of a U.S. shareholder's holdings in controlled foreign corporations or by reason of other circumstances. The House bill is not intended to create any inference as to the application of present law in these cases.

Foreign tax credit in year of receipt of previously taxed income

With respect to the present-law provisions which permit a foreign tax credit to be claimed in the case of a distribution of previously taxed income, the House bill provides authority for Treasury regulations to establish a simplified method for computing the increase in foreign tax credit limitation that results from the application of these provisions. It is understood that the Secretary has regulatory flexibility in the determination of the amount of creditable foreign taxes on or with respect to the accumulated earnings and profits of a foreign corporation from which a distribution of previously taxed income is made, which were not deemed paid by the domestic corporation in a prior taxable year.

The House bill makes clear that the regulations may require taxpayers to use any simplified methods so established, rather than making the use of such methods elective by taxpayers. The House bill does not mandate, however, that regulations provide such simplified methods, or in the case that such methods are provided, that they be made uniformly applicable to all taxpayers.

For example, in certain situations the Treasury Secretary might deem it appropriate not to require taxpayers to trace specific items of previously taxed income of specific controlled foreign corporations and to associate those items with specific amounts of excess foreign tax credit limitation. Rather, regulations might allow for some sort of simplified approach for accounting for excess limitation amounts (allocated to the various foreign tax credit separate limitation categories from which they originally arose) and for utilization of portions of these amounts upon distributions of previously taxed income from the same categories.

Treatment of United States income earned by a controlled foreign corporation

The House bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a controlled foreign corporation does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. For example, assume a controlled foreign corporation earns income of a type that generally would be subpart F income, and that income is earned from sources within the United States in connection with business operations therein. Further assume that repatriation of that income is exempted from the U.S. branch profits tax under a provision of an applicable U.S. income tax treaty. The House bill provides that, notwithstanding the treaty's effect on the branch tax, the income is not treated as subpart F income as long as it is not exempt from U.S. taxation (or subject to a reduced rate of tax) under any other treaty provision.

Indirect foreign tax credit

The House bill extends the application of the indirect foreign tax credit (secs. 902 and 960) to certain taxes paid or accrued by certain fourth-, fifth-, and sixth-tier foreign corporations. In general, three requirements must be satisfied by a foreign company at any of these tiers to qualify for the credit. First, the company must be a controlled foreign corporation. Second, the domestic corporation referred to in section 902(a) must be a U.S. shareholder (as defined in section 951(b)) with respect to the foreign company. Third, the product of the percentage ownership of voting stock at each level from the U.S. corporation down must equal at least 5 percent. The House bill limits the application of the indirect foreign tax credit below the third tier to taxes paid or incurred in taxable years during which the payor is a controlled foreign corporation. No inference is intended as to the availability of indirect foreign tax credits, under present law, for taxes paid by foreign corporations in the first three tiers, for periods prior to the time when the present-law ownership requirements were met as to those corporations. All foreign taxes paid below the sixth tier of foreign corporations remain ineligible for the indirect foreign tax credit.

Investments in U.S. property by controlled foreign corporations

The Ways and Means Committee report to accompany the House bill states the committee's understanding that a controlled foreign corporation is not treated as having repatriated foreign earnings if it invests in an obligation of an unrelated U.S. corporation. A similar rule, however, is not applicable to an investment in an obligation of an unrelated U.S. person other than a corporation. The report states that the committee requests that the Treasury Department study the tax treatment of investments by controlled foreign corporations in obligations of U.S. persons other than corporations, and produce a report of such study by December 31, 1992. The study is to include the Treasury's views as to whether those rules should be amended insofar as they relate to the treatment of investments by controlled foreign corporations in the obligations of U.S. persons other than corporations, along with a discussion of the merits and consequences of any such amendment.

Effective dates

Lower-tier controlled foreign corporations

The provision of the House bill treating gains on dispositions of stock in lower-tier controlled foreign corporations as dividends under section 1248 principles applies to gains recognized on transactions occurring after date of enactment of the House bill. The provision of the House bill that expands lookthrough treatment, for foreign tax credit limitation purposes, of dividends from controlled foreign corporations, is effective for distributions after the date of the House bill's enactment.

The House bill's provision providing for regulatory adjustments to U.S. shareholder inclusions, with respect to gains of controlled foreign corporations from dispositions of stock in lower-tier controlled foreign corporations that previously had subpart F income, is effective for determining inclusions for taxable years of U.S. shareholders beginning after December 31, 1992. Thus, the House bill permits regulatory adjustments to an inclusion occurring after the effective date to account for previous subpart F income inclusions occurring both prior to and subsequent to the effective date of the provision.

Subpart F inclusions in year of disposition

The provision of the House bill permitting dispositions of stock to be taken into consideration in determining a U.S. shareholder's subpart F inclusion for a taxable year is effective with respect to dispositions occurring after the date of enactment of the House bill.

Distributions of previously taxed income

The provision of the House bill allowing the Secretary to make regulatory adjustments to avoid double inclusions in cases such as those to which section 304 applies takes effect on the date the House bill is enacted.

Foreign tax credit in year of receipt of previously taxed income

The provision of the House bill granting regulatory authority to establish simplified methods for determining the amount of increase in foreign tax credit limitation resulting from a distribution of previously taxed income is effective as of the date of enactment of the House bill.

Treatment of United States source income earned by a controlled foreign corporation

The provision of the House bill concerning the effect of treaty exemptions from or reductions of the branch profits tax on the determination of subpart F income is effective for taxable years beginning after December 31, 1986.

Indirect foreign tax credit

The provision of the House bill which extends application of the indirect foreign tax credit to certain controlled foreign corporations below the third tier is effective for foreign taxes paid or incurred by controlled foreign corporations for taxable years of such corporations beginning after the date of enactment of the House bill.

In the case of any chain of foreign corporations the taxes of which would be eligible for the indirect foreign tax credit, under present law or under the House bill, but for the denial of indirect credits below the third or sixth tier, as the case may be, no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of enactment of the House bill shall have the effect of permitting taxes to be taken into account under the indirect foreign tax credit provisions of the Code which could not have been taken into account under those provisions but for such transaction. As one example, no such transaction shall have the effect of permitting credits for taxes which, but for such transaction, would have been noncreditable (given the effective date provisions of the House bill) because they are taxes of a fourth-, fifth-, or sixth-tier corporation for a year beginning *before* the date that the House bill is enacted. No inference is intended regarding the creditability or noncreditability of such taxes under present law.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that it does not include the provision of the House bill that extends the application of the indirect foreign tax credit to taxes paid by certain fourth-, fifth-, and sixth-tier controlled foreign corporations.

In addition, the explanation of the Senate amendment does not include a request of Treasury to perform a study on investments by controlled foreign corporations in obligations of U.S. persons other than corporations.

CONFERENCE AGREEMENT

The conference agreement follows the House bill with the following addition. Under the conference agreement, the Secretary is required to conduct a study of the tax treatment of investments by controlled foreign corporations in obligations of U.S. persons other than corporations. The study is to include the Treasury's views as to whether those rules should be amended insofar as they relate to the treatment of investments by controlled foreign corporations in the obligations of U.S. persons other than corporations, along with a discussion of the merits and consequences of any such amendment. A report detailing the results of the study, together with such recommendations as the Secretary may deem advisable, is to be submitted to the Committee on Ways and Means and the Committee on Finance not later than December 31, 1992.

3. Translation of foreign taxes into U.S. dollar amounts

PRESENT LAW

Translation of foreign taxes

Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the exchange rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rule applies equally to foreign taxes paid directly by U.S. taxpayers, which are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation, and hence creditable, in the year that the U.S. corporation receives a dividend or income inclusion.

Redetermination of foreign taxes

For taxpayers who utilize the accrual basis of accounting for determining creditable foreign taxes, accrued and unpaid foreign tax liabilities denominated in foreign currencies are translated into U.S. dollar amounts at the exchange rate as of the last day of the taxable year of accrual.[1] In certain cases where a difference exists between the dollar value of accrued foreign taxes and the dollar value of those taxes when paid, a redetermination (or adjustment) of foreign taxes is required.[2] Generally, such an adjustment may be attributable to one of three causes. One such cause would be a refund of foreign taxes. Second, a foreign tax redetermination may be required because the amount of foreign currency units actually paid differs from the amount of foreign currency units accrued. These first two cases generally give rise to a so-called "section 905(c) regular adjustment." Third, a redetermination may arise due to fluctuations in the value of the foreign currency relative to the dollar between the date of accrual and the date of payment giving rise to a so-called "section 905(c) translation adjustment."

As a general matter, a redetermination of foreign tax paid or accrued directly by a U.S. person requires notification of the Internal Revenue Service and a redetermination of U.S tax liability for the taxable year for which the foreign tax was claimed as a credit. Exceptions to this rule apply for de minimis amounts of foreign tax redeterminations.[3] In the case of redeterminations of foreign taxes that qualify for the deemed-paid foreign tax credit under sections 902 and 960, taxpayers generally are required to make appropriate adjustments to the pools of earnings and profits and foreign taxes.[4]

HOUSE BILL

In general

The House bill sets forth two sets of operating rules for the translation of foreign taxes. The first set establishes new rules for the translation of certain accrued foreign taxes. The other set modifies the rules of present law for translating all other foreign taxes.

Translation of foreign taxes

Translation of certain accrued foreign taxes

With respect to taxpayers who take foreign income taxes into account when accrued for purposes of determining the foreign tax credit, the House bill generally permits foreign taxes to be translated at the average exchange rate for the taxable year to which such taxes relate. If tax in excess of the accrued amount is actually paid, such excess amount would be translated using the exchange rate in effect as of the time of payment.

This set of rules does not apply (1) to taxpayers that are not on the accrual basis for determining creditable foreign taxes, (2) with respect to taxes of an accrual-basis taxpayer that are actually paid in a taxable year prior to the year to which they relate, or (3) to the extent provided in regulations, to tax payments denominated in a currency determined to be an inflationary currency in accordance with such regulations. It is intended that the Secretary will have discretion to define "inflationary" for this purpose so as to take into account the particular need under this provision to avoid distortions in the computation of the foreign tax credit. In addition, as discussed in detail below, this set of rules does not apply to, and thus a redetermination of foreign tax is required for, any foreign income tax paid after the date two years after the close of the taxable year to which such taxes relate.

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[1] Temp. Treas. Reg. sec. 1.905-3T(b)(1).

[2] Temp. Treas. Reg. sec. 1.905-3T(c).

[3] Temp. Treas. Reg. sec. 1.905-3T(d)(1).

[4] Temp. Treas. Reg. sec. 1.905-3T(d)(2); Notice 90-26, 1990-1 C.B. 336.

For example, assume that in year 1 a taxpayer accrues 1,000 units of foreign tax that relate to year 1. Further assume that as of the end of year 1 the tax is unpaid and the currency involved is not treated as inflationary by the Secretary for translation purposes. In this case, the House bill provides that the taxpayer would translate 1,000 units of accrued foreign tax into U.S. dollars at the average exchange rate for year 1.[5] If the 1,000 units of tax were paid by the taxpayer in either year 2 or year 3, no redetermination of foreign tax would be required. If, any portion of the tax so accrued remained unpaid as of the end of year 3, however, the taxpayer would be required to redetermine its foreign tax accrued in year 1 to account for the accrued but unpaid tax.

As another example, assume a taxpayer accrues 1,000 units of foreign tax in year 2, but pays the tax in year 1. Also assume that the tax relates to year 2. In this case, the taxpayer would translate the tax using the exchange rate as of the time the tax is paid (i.e., using the applicable year 1 exchange rate) since the tax is paid in a year prior to the year to which it relates.

As an illustration of what is meant by the taxable year to which taxes relate, assume that a foreign corporation is charged by a foreign government with an income tax of 100 units for 1993. Assume that the currency involved is not treated as inflationary by the Secretary for translation purposes under the House bill. Due to a contest between the foreign government and the corporation that ends in 1994, the 100 units of tax are not paid until 1994. Assume that under the U.S. rules governing accrual, the foreign tax accrues *for* 1993 but does not do so *until* 1994.[6] Under the House bill, the taxes will be translated at the rate in effect for 1993, because the taxes relate to 1993, even though they did not accrue until 1994. If instead the contest was over, and the taxes were accrued and paid, in 1998, the translation rate used would be that of 1998, rather than 1993, because 1998 is more than 2 years after the end of 1993. Now assume that the contest was over in 1998, but the taxes were deposited in 1994 and not accrued until 1998. These taxes are paid before the beginning of the year in which the taxes were accrued (1998), but after the year to which the taxes relate (1993). Thus, under the House bill, the taxes may be translated at the rate for the year (1993) to which the taxes relate. If the taxes are instead paid in 1996, under the House bill they will be translated at the relevant rate for 1996 because 1996 is more than 2 years after the end of 1993.

As an additional illustration of what is meant by the House bill as the taxable year to which taxes relate, assume that a foreign corporation accrues a foreign income tax of 100 units of noninflationary currency for 1993. Further assume that the actual amount of foreign tax liability of the foreign corporation for 1993 is 110 units, all of which is paid in 1994. Under the bill, the 110 units of foreign tax are translated at the rate in effect for 1993 because the taxes relate to 1993, even though the total tax liability for that year was not actually accrued by the taxpayer in 1993.

Finally, assume that under foreign law, a foreign income tax liability accrues in 1998 under a long-term contract method of accounting, but advance deposits of that liability are made in each of the years 1993 through 1997. Under the House bill, it is intended that if the payments in 1993 through 1997 are treated as relating to 1998, these payments are nevertheless to be translated at the relevant rates for 1993 through 1997. Although the bill provides a rule for the translation of the taxes in this case, no change is intended as to the application of present law accounting rules determining the year for which the taxes are eligible for credit or deduction for U.S. income tax purposes.

Translation of all other foreign taxes

Foreign taxes not eligible for application of the preceding rules generally are translated into U.S. dollars using the exchange rates as of the time such taxes are paid. The House bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. It is anticipated that the applicable average exchange rate would be the rate as published by a qualified source of exchange rate information for the period during which the tax payments were made.

Redetermination of foreign taxes

As revised by the House bill, section 905(c) requires foreign tax redeterminations to occur in three cases: (1) if accrued taxes when paid (in foreign currency) differ from the amounts claimed (in foreign currency) as credits by the taxpayer, (2) if accrued taxes are not paid before the date two years after the close of the taxable year to which such taxes relate, and (3) if any tax paid is refunded in whole or in part. Thus, for example, the House bill provides that if at the close of the second taxable year after the close of the accrual year any tax so accrued has not yet been paid, a foreign tax redetermination under section 905(c) is required for the amount of such unpaid tax. That is, the accrual of any tax that is unpaid as of that date would be retroactively denied. In cases where a redetermination is required, as under present law, the House bill specifies that the taxpayer must notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

The House bill provides that in the case of accrued taxes not paid within the date two years after the close of the taxable year to which such taxes relate, whether or not such taxes were previously accrued, any such taxes if subsequently paid are taken into account for the taxable year in which paid, and no redetermination with respect to the original year of accrual is required on account of such payment. In such a case, those taxes would be translated into U.S. dollar amounts using the exchange rates in effect for the period during which such taxes are paid. Nothing in the House bill is intended to change present law as to the length of time after the year to which the redetermination relates within which redeterminations may be made or required.[7]

Effective date.—Effective for taxes paid (in the case of taxpayers using the cash basis for determining the foreign tax credit) or accrued (in the case of taxpayers using the accrual basis for determining the foreign tax credit) in taxable years beginning after December 31, 1991.

With respect to taxes of an accrual-basis taxpayer that relate to a taxable year beginning before January 1, 1992, the return for which (if one were due) would not yet be due on date of enactment (taking into account extensions of time to file), the House bill contemplates that the Secretary would, in appropriate circumstances, provide taxpayers with a reasonable average-rate method for translating such taxes that are not paid until after the effective date of the Act.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except for the effective date.

Effective date.—Effective for taxes paid (in the case of taxpayers using the cash basis for determining the foreign tax credit) or accrued (in the case of taxpayers using the accrual basis for determining the foreign tax credit) in taxable years beginning after December 31, 1991.

The Senate amendment's changes to the foreign tax redetermination rules apply to taxes which relate to taxable years beginning after December 31, 1991. Thus, for example, the redetermination rules under the Senate amendment do not apply to a foreign tax that relates to a taxable year beginning in or before 1991, even though it does not properly accrue until a taxable year beginning after December 31, 1991.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

4. Foreign tax credit limitation under the alternative minimum tax

PRESENT LAW

Computing foreign tax credit limitations requires the allocation and apportionment of deductions between items of foreign source and U.S. source income. Foreign tax credit limitations must be computed both for regular tax purposes and for purposes of the alternative minimum tax (AMT). Consequently, after allocating and apportioning deductions for regular tax foreign tax credit limitation purposes, additional allocations and apportionments generally must be performed in order to compute the AMT foreign tax credit limitation.

HOUSE BILL

The House bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source *regular* taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source *alternative minimum* taxable income to entire alternative minimum taxable income. Foreign source regular taxable income may be used, however, only to the extent it does not exceed entire alternative minimum taxable income. In the event that foreign source regular taxable income does exceed entire alternative minimum taxable income, and the taxpayer has income in more than one foreign tax credit limitation category, the committee intends that the foreign source taxable income in each such category generally shall be reduced by a pro rata portion of that excess.

The election under the House bill is available only in the first taxable year beginning after December 31, 1992, for which the taxpayer claims an AMT foreign tax credit. A taxpayer will be treated, for this purpose, as claiming an AMT foreign tax credit for any taxable year for which the taxpayer chooses to have the benefits of the foreign tax credit, and in which the taxpayer is subject to the alternative minimum tax or would be subject to the alternative minimum tax but for the availability of the AMT foreign tax credit. The election applies to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury.

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[5] The same result would occur if the 1,000 units of tax were both accrued and paid in year 1.

[6] See, e.g., Rev. Rul. 84-125, 1984-2 C.B. 125.

[7] *See* sec. 6501(c)(5). *See also, e.g., Pacific Metals Corp. v. Commissioner*, 1 T.C. 1028 (1943); *Texas Co. (Caribbean) Ltd. v. Commissioner*, 12 T.C. 925 (1949).

Effective date.—The provision applies to taxable years beginning after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

5. Inbound and outbound transfers

PRESENT LAW

Outbound transfers

Corporate nonrecognition provisions

Certain types of exchanges relating to the organization, reorganization, and liquidation of a corporation can be made without recognition of gain to the corporation involved or to its shareholders. In 1932 Congress enacted an exception to the nonrecognition rules, which became section 367 of the 1954 Code, for the case where such an exchange involves a foreign corporation. The legislative history indicates that the exception was enacted in order to prevent tax avoidance that might have otherwise occurred upon the transfer of appreciated property outside U.S. tax jurisdiction.[1] Under that provision, in determining the extent to which gain (but not loss) was recognized in these exchanges, a foreign corporation was not considered a corporation unless it was established to the satisfaction of the IRS that the exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

The Code now provides that if a U.S. person transfers property to a foreign corporation in connection with certain corporate organizations, reorganizations, or liquidations, the foreign corporation will not, for purposes of determining the extent to which gain is recognized on such transfer, be considered to be a corporation (sec. 367(a)(1)). Various exceptions to the operation of this rule are provided, including a broad grant of authority to provide exceptions by regulation. The statutory language has changed substantially since 1932, but it has retained in large part its primary operative result—that of treating a foreign corporation as not a corporation. Since corporate status is essential to qualify for the tax-free organization, reorganization, and liquidation provisions, failure to satisfy the requirements of section 367 could result in the recognition of gain to the participant corporations and shareholders.

Excise tax on transfers to a foreign entity

At the same time that Congress enacted the original predecessor of current section 367, Congress also enacted an excise tax on outbound transfers that might not constitute income tax recognition events even after imposition of the anti-avoidance income tax rule adopted for corporate transactions. As in the case of the corporate nonrecognition override provision, the purpose of the excise tax was to check transfers of property in which there was a large appreciation in value to foreign entities for the purpose of avoidance of taxes on capital gains.[2] Therefore, as in the case of the corporate provision, the excise tax generally has been imposed only in certain cases where it has been believed necessary or appropriate to preserve U.S. tax on appreciated assets.

Under present law, the excise tax generally applies on transfers of property by a U.S. person to a foreign corporation—as paid-in surplus or as a contribution to capital—or to a foreign estate, trust, or partnership.[3] The tax is 35 percent of the amount of gain inherent in the property transferred, but not recognized for income tax purposes at the time of the transfer (sec. 1491). For income tax purposes, the basis of the property whose appreciation and transfer triggers the tax is not increased to account for imposition of the tax.

The excise tax does not apply in certain cases where the transferee is exempt from U.S. tax under Code sections 501-505 (sec. 1492(1)). In addition, the excise tax does not apply in some cases where income tax rules governing outbound transfers apply, either by their terms or by the election of the taxpayer. Thus, the excise tax does not apply to a transfer described in section 367, or to a transfer not described in section 367 but with respect to which the taxpayer elects (before the transfer) the application of principles similar to the principles of section 367 (sec. 1492(2)).

In addition, a taxpayer may elect (under regulations prescribed by the Secretary) to treat a transfer described in section 1491 as a sale or exchange of the property transferred and to recognize as gain (but not loss) in the year of the transfer the excess of the fair market value of the property transferred over the adjusted basis (for determining gain) of the property in the hands of the transferor (sec. 1057; Treas. Reg. sec. 7.0). To the extent that gain is recognized pursuant to the election in the year of the transfer, the transfer is not subject to the excise tax, and the basis of the property in the hands of the transferee will be increased by the amount of gain received (sec. 1492(3)). The legislative history of the elective income recognition provision indicates that the making of an election which has as one of its principle purposes the avoidance of Federal income taxes is not permitted.[4]

The excise tax is due at the time of the transfer (sec. 1494(a)). Under regulations, the excise tax may be abated, remitted, or refunded if the taxpayer, after the transfer, elects the application of principles similar to the principles of section 367 (sec. 1494(b)).

Inbound corporate transfers

Although the legislative history of the 1932 Act indicated a concern with outbound transfers, the statutory standard for determining that a transaction did not have as one of its principal purposes tax avoidance evolved through administrative interpretation into a requirement that, in the case of transfers into the United States by a foreign corporation, tax-free treatment generally would be permitted only if the U.S. tax on accumulated earnings and profits was paid. For example, in 1968, the IRS issued guidelines (Rev. Proc. 68-23, 1968-1 C.B. 821) as to when favorable rulings "ordinarily" would be issued. As a condition of obtaining a favorable ruling with respect to certain transactions, the section 367 guidelines required the taxpayer to agree to include certain items in income (the amount to be included was called the section 367 toll charge). For example, if the transaction involved the liquidation of a foreign corporation into a domestic parent corporation, a favorable ruling was issued if the domestic parent agreed to include in its income as a dividend for the taxable year in which the liquidation occurred the portion of the accumulated earnings and profits of the foreign corporation which were properly attributable to the domestic corporation's stock interest in the foreign corporation (Rev. Proc. 68-23, sec. 3.01(1); see also sec. 3.03(1)(b)).

Absence of a toll charge on accumulated earnings of a foreign corporation upon liquidation or asset reorganization into a U.S. corporation clearly would permit avoidance of tax. For example, if a U.S. corporation owns 100 percent of the stock of a U.S. subsidiary, no tax is imposed either on a dividend from the subsidiary to the parent (sec. 243) or the liquidation of the subsidiary into the parent (secs. 332 and 337). In each case, the earnings of the subsidiary already have been subject to U.S. tax jurisdiction, and the liquidation provisions allow nonrecognition of gain inherent in appreciated property of the subsidiary. On the other hand, if a U.S. corporation owns 100 percent of the stock of a foreign subsidiary, earnings of the subsidiary generally are not subject to current U.S. tax. Instead, tax generally is imposed on a dividend from the subsidiary to the parent, net of creditable foreign taxes. If a liquidation of the subsidiary could be accomplished tax-free under the Code, U.S. tax on its earnings would be avoided; more generally, the parent would be able to succeed to the basis and other tax attributes of the foreign corporation without having subjected to U.S. tax jurisdiction the earnings that gave rise to those tax attributes.

Outbound transfers since the Tax Reform Act of 1976

For purposes of the transactions described above, section 367 (and its predecessors) remained largely unchanged between 1932 and 1976. In 1976, however, a number of problems caused Congress to revise section 367. One result of the 1976 revision was to separate the provision into 2 sets of rules: one set dealing with outbound transfers, where the statutory aim is to prevent the removal of appreciated assets or inventory from U.S. tax jurisdiction prior to their sale (sec. 367(a)), and the other set dealing with both transfers into the United States and those which are exclusively foreign (sec. 367(b)).

Section 367(b) now provides, in part, that in the case of certain exchanges in connection with which there is no transfer of property described in section 367(a)(1), a foreign corporation will be considered to be a corporation except to the extent provided in regulations which are necessary or appropriate to prevent the avoidance of Federal income taxes.

Although it is clear that absence of a toll charge on accumulated earnings of a foreign corporation upon liquidation or reorganization into a U.S. corporation leads to avoidance of tax, and Congress in 1976 noted without disapproval the adoption of IRS positions that would prevent the avoidance of tax in these cases,[5] neither section 367(b) as revised in 1976, nor its predecessors, were drafted in such a way that directly causes tax to be imposed on foreign earnings.

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[1] H.R. Rep. No. 708, 72d Cong., 1st Sess. 20 (1932).

[2] *Id.* at 52.

[3] The Internal Revenue Service has in the past wavered on the question whether this tax applies to a transfer to a foreign trust with respect to which the transferor is treated as the owner under the grantor trust rules. Compare Rev. Rul. 69-450, 1969-2 C.B. 168 (holding that such a transfer is subject to tax under section 1491); with Rev. Rul. 87-61, 1987-2 C.B. 219 (revoking Rev. Rul. 69-450, and holding that such a transfer is *not* subject to tax under section 1491).

[4] Staff of the Joint Committee on Taxation, 94th Cong., 2d Sess., *General Explanation of the Tax Reform Act of 1976*, at 226 (1976).

For example, assume that a U.S. corporation owns 100 percent of the stock of a liquidating foreign corporation, and, pursuant to regulations under section 367(b), the foreign corporation is not treated as a corporation for purposes of section 332. In that case, the U.S. corporation would be required under the Code to recognize the difference between the basis and the value of its stock in the foreign corporation. That gain, however, may be more or less than the accumulated earnings of the foreign corporation attributable to the period when the U.S. corporation owned the stock of the foreign corporation.

Perhaps as a result, neither the present temporary regulations nor the recently proposed regulations under section 367(b) mandate a tax based on the accumulated earnings of a foreign corporation that liquidates or reorganizes into a U.S. corporation. The temporary regulations allow the taxpayer to elect treatment of the foreign corporation as a corporation if the tax on earnings is paid. If the taxpayer chooses not to make the election, the foreign corporation is not treated as a corporation under the relevant nonrecognition provision (e.g., secs. 332, 354), but *is* treated as a corporation for other purposes, such as for purposes of the basis rules (secs. 334, 358, 362), and carryover provisions (sec. 381) (Temp. Treas. Reg. secs. 7.367(b)-5(b) and 7.367(b)-7(c)(2)). The proposed regulations generally require that the foreign corporation be treated as a corporation, and permit the taxpayer to elect either to pay the tax on earnings, or to pay tax on the gain; but if the latter option is chosen, adjustments must be made to either net operating loss carryovers, capital loss carryovers, or asset bases (Proposed Treas. Reg. sec. 1.367(b)-3(b)(2)).

HOUSE BILL

Outbound transfers

The House bill repeals the excise tax on outbound transfers. In its place, the bill requires the full recognition of gain on a transfer of property by a U.S. person to a foreign corporation as paid-in surplus, or as a contribution to capital, or to a foreign estate, trust, or partnership. The Secretary may, however, in lieu of applying this full recognition rule, provide regulations under which principles similar to the principles of section 367 shall apply to any such transfer. Moreover, the Secretary may provide rules under which recognition of gain will not be triggered by section 1491 in cases where the Secretary is satisfied that application of other Code rules (such as those relating to partnerships or trusts) will prevent the avoidance of tax consistent with the purposes of the bill. Full recognition of gain can also be avoided in the case of a transfer described in section 367.

Inbound transfers

The House bill provides that in the case of certain corporate organizations, reorganizations, and liquidations described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a condition for nonrecognition by a party to the transaction, income shall be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This provision is limited in its application, under the bill, so as not to apply to a transaction in which the foreign corporation is not treated as a corporation under section 367(a)(1). Thus, the bill permits the IRS to provide by regulations for recognition of income, without regard to the amount of gain that would be recognized in the absence of the relevant nonrecognition provision listed above. As under current law, such regulations will be subject to normal court review as to whether they are necessary or appropriate for the prevention of avoidance of Federal income taxes.

In addition, the bill clarifies that rules for income recognition under section 367(b) may also be applied in a case involving a transfer literally described in section 367(a)(1), where necessary or appropriate to prevent the avoidance of Federal income taxes.[6]

Effective date

The provision that amends the outbound rules and repeals the excise tax applies to transfers after date of enactment. The provision that amends section 367(b) applies to transfers after December 31, 1993.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. With regard to the provision on outbound transfers, the conferees anticipate that prior to the promulgation of regulations, the Secretary generally will continue to permit taxpayers to elect the application of principles similar to the principles of section 367, provided the election is made by the time for filing the income tax return for the taxable year of the transfer. By converting the excise tax to a recognition rule for income tax purposes, the conferees do not intend to affect the outcome of the question, should the Internal Revenue Service choose to revisit it, of whether tax may be incurred upon a transfer of appreciated property to a foreign trust with respect to which the transferor is treated as the owner under the grantor trust rules.

E. TREATMENT OF INTANGIBLES

1. Amortization of Goodwill and Certain Other Intangibles

PRESENT LAW

In determining taxable income for Federal income tax purposes, a taxpayer is allowed depreciation or amortization deductions for the cost or other basis of intangible property that is used in a trade or business or held for the production of income if the property has a limited useful life that may be determined with reasonable accuracy. No depreciation or amortization deductions are allowed with respect to goodwill or going concern value.

HOUSE BILL

In general

The bill allows an amortization deduction with respect to the capitalized costs of certain intangible property (defined as a "section 197 intangible") that is acquired by a taxpayer and that is held by the taxpayer in connection with the conduct of a trade or business or an activity engaged in for the production of income. The amount of the deduction is determined by amortizing the adjusted basis (for purposes of determining gain) of the intangible ratably over a 14-year period that begins with the month that the intangible is acquired.[1] No other depreciation or amortization deduction is allowed with respect to a section 197 intangible that is acquired by a taxpayer.

In general, the bill applies to a section 197 intangible acquired by a taxpayer regardless of whether it is acquired as part of a trade or business. In addition, the bill generally applies to a section 197 intangible that is treated as acquired under section 338 of the Code. The bill generally does not apply to a section 197 intangible that is created by the taxpayer if the intangible is not created in connection with a transaction (or series of related transactions) that involves the acquisition of a trade or business or a substantial portion thereof.

Except in the case of amounts paid or incurred under certain covenants not to compete (or under certain other arrangements that have substantially the same effect as covenants not to compete) and certain amounts paid or incurred on account of the transfer of a franchise, trademark, or trade name, the bill generally does not apply to any amount that is otherwise currently deductible (i.e., not capitalized) under present law.

No inference is intended as to whether a depreciation or amortization deduction is allowed under present law with respect to any intangible property that is either included in, or excluded from, the definition of a section 197 intangible. In addition, no inference is intended as to whether an asset is to be considered tangible or intangible property for any other purpose of the Internal Revenue Code.

Definition of section 197 intangible

In general

The term "section 197 intangible" is defined as any property that is included in any one or more of the following categories: (1) goodwill and going concern value; (2) certain specified types of intangible property that generally relate to workforce, information base, know-how, customers, suppliers, or other similar items; (3) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof; (4) any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (5) any franchise, trademark, or trade name.

Certain types of property, however, are specifically excluded from the definition of the term "section 197 intangible." The term "section 197 intangible" does not include: (1) any interest in a corporation, partnership, trust, or estate; (2) any interest under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract; (3) any interest in land; (4) certain computer software; (5) certain interests in films, sound recordings, videotapes, books, or other similar property; (6) certain rights to receive tangible property or services; (7) certain interests in patents or copyrights; (8) any interest under an existing lease of tangible property; (9) any interest under an existing indebtedness (except for the deposit base and similar items of a financial institution); and (10) a franchise to engage in any professional sport, and any item acquired in connection with such a franchise.

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[5] E.g., Staff of the Joint Comm. on Taxation, 94th Cong., 2d Sess., *General Explanation of the Tax Reform Act of 1976*, at 264 (1976).

[6] See Temp. Treas. Reg. sec. 7.367(b)-4(b); Proposed Treas. Reg. sec. 1.367(a)-3(a).

[1] In the case of a short taxable year, the amortization deduction is to be based on the number of months in such taxable year.

In addition, the Treasury Department is authorized to issue regulations that exclude certain rights of fixed duration or amount from the definition of a section 197 intangible.

Goodwill and going concern value

For purposes of the bill, goodwill is the value of a trade or business that is attributable to the expectancy of continued customer patronage, whether due to the name of a trade or business, the reputation of a trade or business, or any other factor.

In addition, for purposes of the bill, going concern value is the additional element of value of a trade or business that attaches to property by reason of its existence as an integral part of a going concern. Going concern value includes the value that is attributable to the ability of a trade or business to continue to function and generate income without interruption notwithstanding a change in ownership. Going concern value also includes the value that is attributable to the use or availability of an acquired trade or business (for example, the net earnings that otherwise would not be received during any period were the acquired trade or business not available or operational).

Workforce, information base, know-how, customer-based intangibles, supplier-based intangibles and other similar items

Workforce.—The term "section 197 intangible" includes workforce in place (which is sometimes referred to as agency force or assembled workforce), the composition of a workforce (for example, the experience, education, or training of a workforce), the terms and conditions of employment whether contractual or otherwise, and any other value placed on employees or any of their attributes. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a highly-skilled workforce is to be amortized over the 14-year period specified in the bill. As a further example, the cost of acquiring an existing employment contract (or contracts) or a relationship with employees or consultants (including but not limited to any "key employee" contract or relationship) as part of the acquisition of a trade or business is to be amortized over the 14-year period specified in the bill.

Information base.—The term "section 197 intangible" includes business books and records, operating systems, and any other information base including lists or other information with respect to current or prospective customers (regardless of the method of recording such information). Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the intangible value of technical manuals, training manuals or programs, data files, and accounting or inventory control systems is to be amortized over the 14-year period specified in the bill. As a further example, the cost of acquiring customer lists, subscription lists, insurance expirations,[2] patient or client files, or lists of newspaper, magazine, radio or television advertisers is to be amortized over the 14-year period specified in the bill.

Know-how.—The term "section 197 intangible" includes any patent, copyright, formula, process, design, pattern, know-how, format, or other similar item. For this purpose, the term "section 197 intangible" is to include package designs, computer software, and any interest in a film, sound recording, video tape, book, or other similar property, except as specifically provided otherwise in the bill.[3]

Customer-based intangibles.—The term "section 197 intangible" includes any customer-based intangible, which is defined as the composition of market, market share, and any other value resulting from the future provision of goods or services pursuant to relationships with customers (contractual or otherwise) in the ordinary course of business. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of customer base, circulation base, undeveloped market or market growth, insurance in force, mortgage servicing contracts, investment management contracts, or other relationships with customers that involve the future provision of goods or services, is to be amortized over the 14-year period specified in the bill. On the other hand, the portion (if any) of the purchase price of an acquired trade or business that is attributable to accounts receivable or other similar rights to income for those goods or services that have been provided to customers prior to the acquisition of a trade or business is not to be taken into account under the bill.[4]

In addition, the bill specifically provides that the term "customer-based intangible" includes the deposit base and any similar asset of a financial institution. Thus, for example, the portion (if any) of the purchase price of an acquired financial institution that is attributable to the checking accounts, savings accounts, escrow accounts and other similar items of the financial institution is to be amortized over the 14-year period specified in the bill.

Supplier-based intangibles.—The term "section 197 intangible" includes any supplier-based intangible, which is defined as the value resulting from the future acquisition of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a favorable relationship with persons that provide distribution services (for example, favorable shelf or display space at a retail outlet), the existence of a favorable credit rating, or the existence of favorable supply contracts, is to be amortized over the 14-year period specified in the bill.[5]

Other similar items.—The term "section 197 intangible" also includes any other intangible property that is similar to workforce, information base, know-how, customer-based intangibles, or supplier-based intangibles.

Licenses, permits, and other rights granted by governmental units

The term "section 197 intangible" also includes any license, permit, or other right granted by a governmental unit or any agency or instrumentality thereof (even if the right is granted for an indefinite period or the right is reasonably expected to be renewed for an indefinite period).[6] Thus, for example, the capitalized cost of acquiring from any person a liquor license, a taxi-cab medallion (or license), an airport landing or takeoff right (which is sometimes referred to as a slot), a regulated airline route, or a television or radio broadcasting license is to be amortized over the 14-year period specified in the bill. For purposes of the bill, the issuance or renewal of a license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof is to be considered an acquisition of such license, permit, or other right.

Covenants not to compete and other similar arrangements

The term "section 197 intangible" also includes any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete; hereafter "other similar arrangement") entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof). For this purpose, an interest in a trade or business includes not only the assets of a trade or business, but also stock in a corporation that is engaged in a trade or business or an interest in a partnership that is engaged in a trade or business.

Any amount that is paid or incurred under a covenant not to compete (or other similar arrangement) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof) is chargeable to capital account and is to be amortized ratably over the 14-year period specified in the bill. In addition, any amount that is paid or incurred under a covenant not to compete (or other similar arrangement) after the taxable year in which the covenant (or other similar arrangement) was entered into is to be amortized ratably over the remaining months in the 14-year amortization period that applies to the covenant (or other similar arrangement) as of the beginning of the month that the amount is paid or incurred.

For purposes of this provision, an arrangement that requires the former owner of an interest in a trade or business to continue to perform services (or to provide property or the use of property) that benefit the trade or business is considered to have substantially the same effect as a covenant not to compete to the extent that the amount paid to the former owner under the arrangement exceeds the amount that represents reasonable compensation for the services actually rendered (or for the property or use of property actually provided) by the former owner. As under present law, to the extent that the amount paid or incurred under a covenant not to compete (or other similar arrangement) represents additional consideration for the acquisition of stock in a corporation, such amount is not to be taken into account under this provision but, instead, is to be included as part of the acquirer's basis in the stock.

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[2] Insurance expirations are records that are maintained by insurance agents with respect to insurance customers. These records generally include information relating to the type of insurance, the amount of insurance, and the expiration date of the insurance.

[3] See below for a description of the exceptions for certain patents, certain computer software, and certain interests in films, sound recordings, video tapes, books, or other similar property.

[4] As under present law, the portion of the purchase price of an acquired trade or business that is attributable to accounts receivable is to be allocated among such receivables and is to be taken into account as payment is received under each receivable or at the time that a receivable becomes worthless.

[5] See below, however, for a description of the exception for certain rights to receive tangible property or services from another person.

[6] A right granted by a governmental unit or an agency or instrumentality thereof that constitutes an interest in land or an interest under a lease of tangible property is excluded from the definition of a section 197 intangible. See below for a description of the exceptions for interests in land and for interests under leases of tangible property.

Franchises, trademarks, and trade names

The term "section 197 intangible" also includes any franchise, trademark, or trade name. For this purpose, the term "franchise" is defined, as under present law, to include any agreement that provides one of the parties to the agreement the right to distribute, sell, or provide goods, services, or facilities, within a specified area.[7] In addition, as provided under present law, the renewal of a franchise, trademark, or trade name is to be treated as an acquisition of such franchise, trademark, or trade name.[8]

The bill continues the present-law treatment of certain contingent amounts that are paid or incurred on account of the transfer of a franchise, trademark, or trade name. Under these rules, a deduction is allowed for amounts that are contingent on the productivity, use, or disposition of a franchise, trademark, or trade name only if (1) the contingent amounts are paid as part of a series of payments that are payable at least annually throughout the term of the transfer agreement, and (2) the payments are substantially equal in amount or payable under a fixed formula.[9] Any other amount, whether fixed or contingent, that is paid or incurred on account of the transfer of a franchise, trademark, or trade name is chargeable to capital account and is to be amortized ratably over the 14-year period specified in the bill.

Exceptions to the definition of a section 197 intangible

In general.—The bill contains several exceptions to the definition of the term "section 197 intangible." Several of the exceptions contained in the bill apply only if the intangible property is not acquired in a transaction (or series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business. It is anticipated that the Treasury Department will exercise its regulatory authority to require any intangible property that would otherwise be excluded from the definition of the term "section 197 intangible" to be taken into account under the bill under circumstances where the acquisition of the intangible property is, in and of itself, the acquisition of an asset which constitutes a trade or business or a substantial portion of a trade or business.

The determination of whether acquired assets constitute a substantial portion of a trade or business is to be based on all of the facts and circumstances, including the nature and the amount of the assets acquired as well as the nature and amount of the assets retained by the transferor. It is not intended, however, that the value of the assets acquired relative to the value of the assets retained by the transferor is determinative of whether the acquired assets constitute a substantial portion of a trade or business.

For purposes of the bill, a group of assets is to constitute a trade or business if the use of such assets would constitute a trade or business for purposes of section 1060 of the Code (i.e., if the assets are of such a character that goodwill or going concern value could under any circumstances attach to the assets). In addition, the acquisition of a franchise, trademark or trade name is to constitute the acquisition of a trade or business or a substantial portion of a trade or business.

In determining whether a taxpayer has acquired an intangible asset in a transaction (or series of related transactions) that involves the acquisition of assets that constitute a trade or business or a substantial portion of a trade or business, only those assets acquired in a transaction (or a series of related transactions) by a taxpayer (and persons related to the taxpayer) from the same person (and any related person) are to be taken into account. In addition, any employee relationships that continue (or covenants not to compete that are entered into) as part of the transfer of assets are to be taken into account in determining whether the transferred assets constitute a trade or business or a substantial portion of a trade or business.

Interests in a corporation, partnership, trust, or estate.—The term "section 197 intangible" does not include any interest in a corporation, partnership, trust, or estate. Thus, for example, the bill does not apply to the cost of acquiring stock, partnership interests, or interests in a trust or estate, whether or not such interests are regularly traded on an established market.[10]

Interests under certain financial contracts.—The term "section 197 intangible" does not include any interest under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract, whether or not such interest is regularly traded on an established market. Any interest under a mortgage servicing contract, credit card servicing contract or other contract to service indebtedness issued by another person, and any interest under an assumption reinsurance contract[11] is not excluded from the definition of the term "section 197 intangible" by reason of the exception for interests under certain financial contracts.

Interests in land.—The term "section 197 intangible" does not include any interest in land. Thus, the cost of acquiring an interest in land is to be taken into account under present law rather than under the bill. For this purpose, an interest in land includes a fee interest, life estate, remainder, easement, mineral rights, timber rights, grazing rights, riparian rights, air rights, zoning variances, and any other similar rights with respect to land. An interest in land is not to include an airport landing or takeoff right, a regulated airline route, or a franchise to provide cable television services.

Certain computer software.—The term "section 197 intangible" does not include computer software (whether acquired as part of a trade or business or otherwise) that (1) is readily available for purchase by the general public; (2) is subject to a non-exclusive license; and (3) has not been substantially modified. In addition, the term "section 197 intangible" does not include computer software which is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

For purposes of the bill, the term "computer software" is defined as any program (i.e., any sequence of machine-readable code) that is designed to cause a computer to perform a desired function. The term "computer software" includes any incidental and ancillary rights with respect to computer software that (1) are necessary to effect the legal acquisition of the title to, and the ownership of, the computer software, and (2) are used only in connection with the computer software. The term "computer software" does not include any data base or similar item (other than a data base or item that is in the public domain and that is incidental to the software)[12] regardless of the form in which it is maintained or stored.

If a depreciation deduction is allowed with respect to any computer software that is not a section 197 intangible, the amount of the deduction is to be determined by amortizing the adjusted basis of the computer software ratably over a 36-month period that begins with the month that the computer software is placed in service. For this purpose, the cost of any computer software that is taken into account as part of the cost of computer hardware or other tangible property under present law is to continue to be taken into account in such manner under the bill. In addition, the cost of any computer software that is currently deductible (*i.e.*, not capitalized) under present law is to continue to be taken into account in such manner under the bill.

Certain interests in films, sound recordings, video tapes, books, or other similar property.—The term "section 197 intangible" does not include any interest (including an interest as a licensee) in a film, sound recording, video tape, book, or other similar property (including the right to broadcast or transmit a live event) if the interest is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

Certain rights to receive tangible property or services.—The term "section 197 intangible" does not include any right to receive tangible property or services under a contract (or any right to receive tangible property or services granted by a governmental unit or an agency or instrumentality thereof) if the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

If a depreciation deduction is allowed with respect to a right to receive tangible property or services that is not a section 197 intangible, the amount of the deduction is to be determined in accordance with regulations to be promulgated by the Treasury Department. It is anticipated that the regulations may provide that in the case of an amortizable right to receive tangible property or services in substantially equal amounts over a fixed period that is not renewable, the cost of acquiring the right will be taken into account ratably over such fixed period. It is also anticipated that the regulations may provide that in the case of a right to receive a fixed amount of tangible property or services over an unspecified period, the cost of acquiring such right will be taken into account under a method that allows a deduction based on the amount of tangible property or services received during a taxable year compared to the total amount of tangible property or services to be received.

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[7] Section 1253(b)(1) of the Code.

[8] Only the costs incurred in connection with the renewal, however, are to be amortized over the 14-year period that begins with the month that the franchise, trademark, or trade name is renewed. Any costs incurred in connection with the issuance (or an earlier renewal) of a franchise, trademark, or trade name are to continue to be taken into account over the remaining portion of the amortization period that began at the time of such issuance (or earlier renewal).

[9] Section 1253(d)(1) of the Code.

[10] A temporal interest in property, outright or in trust, may not be used to convert a section 197 intangible into property that is amortizable more rapidly than ratably over the 14-year period specified in the bill.

[11] See below for a description of the treatment of assumption reinsurance contracts.

[12] For example, a data base would not include a dictionary feature used to spell-check a word processing program.

For example, assume that a taxpayer acquires from another person a favorable contract right of such person to receive a specified amount of raw materials each month for the next three years (which is the remaining life of the contract) and that the right to receive such raw materials is not acquired as part of the acquisition of assets that constitute a trade or business or a substantial portion thereof (i.e., such contract right is not a section 197 intangible). It is anticipated that the taxpayer may be required to amortize the cost of acquiring the contract right ratably over the three-year remaining life of the contract. Alternatively, if the favorable contract right is to receive a specified amount of raw materials during an unspecified period, it is anticipated that the taxpayer may be required to amortize the cost of acquiring the contract right by multiplying such cost by a fraction, the numerator of which is the amount of raw materials received under the contract during any taxable year and the denominator of which is the total amount of raw materials to be received under the contract.

It is also anticipated that the regulations may require a taxpayer under appropriate circumstances to amortize the cost of acquiring a renewable right to receive tangible property or services over a period that includes all renewal options exercisable by the taxpayer at less than fair market value.

Certain interests in patents or copyrights.—The term "section 197 intangible" does not include any interest in a patent or copyright which is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

If a depreciation deduction is allowed with respect to an interest in a patent or copyright and the interest is not a section 197 intangible, then the amount of the deduction is to be determined in accordance with regulations to be promulgated by the Treasury Department. It is expected that the regulations may provide that if the purchase price of a patent is payable on an annual basis as a fixed percentage of the revenue derived from the use of the patent, then the amount of the depreciation deduction allowed for any taxable year with respect to the patent equals the amount of the royalty paid or incurred during such year.[13]

Interests under leases of tangible property.—The term "section 197 intangible" does not include any interest as a lessor or lessee under an existing lease of tangible property (whether real or personal).[14] The cost of acquiring an interest as a lessor under a lease of tangible property where the interest as lessor is acquired in connection with the acquisition of the tangible property is to be taken into account as part of the cost of the tangible property. For example, if a taxpayer acquires a shopping center that is leased to tenants operating retail stores, the portion (if any) of the purchase price of the shopping center that is attributable to the favorable attributes of the leases is to be taken into account as a part of the basis of the shopping center and is to be taken into account in determining the depreciation deduction allowed with respect to the shopping center.

The cost of acquiring an interest as a lessee under an existing lease of tangible property is to be taken into account under present law (see section 178 of the Code and Treas. Reg. sec. 1.162–11(a)) rather than under the provisions of the bill.[15] In the case of any interest as a lessee under a lease of tangible property that is acquired with any other intangible property (either in the same transaction or series of related transactions), however, the portion of the total purchase price that is allocable to the interest as a lessee is not to exceed the excess of (1) the present value of the fair market value rent for the use of the tangible property for the term of the lease,[16] over (2) the present value of the rent reasonably expected to be paid for the use of the tangible property for the term of the lease.

Interests under indebtedness.—The term "section 197 intangible" does not include any interest (whether as a creditor or debtor) under any indebtedness that was in existence on the date that the interest was acquired.[17] Thus, for example, the value of assuming an existing indebtedness with a below-market interest rate is to be taken into account under present law rather than under the bill. In addition, the premium paid for acquiring the right to receive an above-market rate of interest under a debt instrument may be taken into account under section 171 of the Code, which generally allows the amount of the premium to be amortized on a yield-to-maturity basis over the remaining term of the debt instrument. This exception for interests under existing indebtedness does not apply to the deposit base and other similar items of a financial institution.

Professional sports franchises.—The term "section 197 intangible" does not include a franchise to engage in professional baseball, basketball, football, or other professional sport, and any item acquired in connection with such a franchise. Consequently, the cost of acquiring a professional sports franchise and related assets (including any goodwill, going concern value, or other section 197 intangibles) is to be allocated among the assets acquired as provided under present law (see, for example, section 1056 of the Code) and is to be taken into account under the provisions of present law.

Regulatory authority regarding rights of fixed term or duration.— The bill authorizes the Treasury Department to issue regulations that exclude a right received under a contract, or granted by a governmental unit or an agency or instrumentality thereof, from the definition of a section 197 intangible if (1) the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business (or a substantial portion thereof) and (2) the right either (A) has a fixed duration or (B) is fixed as to amount[18] and properly amortizable (without regard to this provision) under a method similar to the unit of production method. Generally, it is anticipated that the mere fact that a taxpayer will have the opportunity to renew a contract or other right on the same terms as are available to others, in a competitive auction or similar process that is designed to reflect fair market value and in which the taxpayer is not contractually advantaged, will not be taken into account in determining the duration of such right or whether it is for a fixed amount.

For example, Company A enters into a license with Company B to use certain know-how developed by B. The license is for five years and provides that it cannot be renewed by A except on terms that are fully available to A's competitors and will reflect an arm's length price determined at the time of renewal. The license does not constitute a substantial portion of a trade or business and is not entered into as part of a transaction (or series of related transactions) that constitute the acquisition of a trade or business or substantial portion thereof. It is anticipated that in these circumstances the regulations will provide that the license is not a section 197 intangible because it is of fixed duration.

The regulations may also prescribe rules governing the extent to which renewal options and similar items will be taken into account for the purpose of determining whether rights are fixed in duration or amount.

It is also anticipated that such regulations may prescribe the appropriate method of amortizing the capitalized costs of rights which are excluded by such regulations from the definition of a section 197 intangible.

Exception for certain self-created intangibles

The bill generally does not apply to any section 197 intangible that is created by the taxpayer if the section 197 intangible is not created in connection with a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion thereof.

For purposes of this exception, a section 197 intangible that is owned by a taxpayer is to be considered created by the taxpayer if the intangible is produced for the taxpayer by another person under a contract with the taxpayer that is entered into prior to the production of the intangible. For example, a technological process or other know-how that is developed specifically for a taxpayer under an arrangement with another person pursuant to which the taxpayer retains all rights to the process or know-how is to be considered created by the taxpayer.

The exception for "self-created" intangibles does not apply to the entering into (or renewal of) a contract for the use of a section 197 intangible. Thus, for example, the exception does not apply to the capitalized costs incurred by a licensee in connection with the entering into (or renewal of) a contract for the use of know-how or other section 197 intangible. These capitalized costs are to be amortized over the 14-year period specified in the bill.

In addition, the exception for "self-created" intangibles does not apply to: (1) any license, permit, or other right that is granted by a governmental unit or an agency or instrumentality thereof; (2) any covenant not to compete (or other similar arrangement) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (3) any franchise, trademark, or trade name. Thus, for example, the capitalized costs incurred in connection with the development or registration of a trademark or trade name are to be amortized over the 14-year period specified in the bill.

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[13] See *Associated Patentees, Inc.*, 4 T.C. 979 (1945); and Rev. Rul. 67–136, 1967–1 C.B. 58.

[14] The bill provides that a sublease is to be treated in the same manner as a lease of the underlying property. Thus, the term "section 197 intangible" does not include any interest as a sublessor or sublessee of tangible property.

[15] The lease of a gate at an airport for the purpose of loading and unloading passengers and cargo is a lease of tangible property for this purpose. It is anticipated that such treatment will serve as guidance to the Internal Revenue Service and taxpayers in resolving existing disputes.

[16] In no event is the present value of the fair market value rent for the use of the tangible property for the term of the lease to exceed the fair market value of the tangible property as of the date of acquisition. The present value of such rent is presumed to be less than the value of the tangible property if the duration of the lease is less than the economic useful life of the property.

[17] For purposes of this exception, the term "interest under any existing indebtedness" is to include mortgage servicing rights to the extent that the rights are stripped coupons under section 1286 of the Code. See Rev. Rul. 91–46, 1991–34 I.R.B. 5 (August 26, 1991).

[18] For example, an emission allowance granted a public utility under Title IV of the Clean Air Act Amendments of 1990 is a right that is limited in amount within the meaning of this provision, because each allowance grants a right to a fixed amount of emissions.

Special rules

Determination of adjusted basis

The adjusted basis of a section 197 intangible that is acquired from another person generally is to be determined under the principles of present law that apply to tangible property that is acquired from another person. Thus, for example, if a portion of the cost of acquiring an amortizable section 197 intangible is contingent, the adjusted basis of the section 197 intangible is to be increased as of the beginning of the month that the contingent amount is paid or incurred. This additional amount is to be amortized ratably over the remaining months in the 14-year amortization period that applies to the intangible as of the beginning of the month that the contingent amount is paid or incurred.

Treatment of certain dispositions of amortizable section 197 intangibles

Special rules apply if a taxpayer disposes of a section 197 intangible that was acquired in a transaction or series of related transactions and, after the disposition,[19] the taxpayer retains other section 197 intangibles that were acquired in such transaction or series or related transactions.[20] First, no loss is to be recognized by reason of such a disposition. Second, the adjusted bases of the retained section 197 intangibles that were acquired in connection with such transaction or series of related transactions are to be increased by the amount of any loss that is not recognized. The adjusted basis of any such retained section 197 intangible is increased by the product of (1) the amount of the loss that is not recognized solely by reason of this provision, and (2) a fraction, the numerator of which is the adjusted basis of the intangible as of the date of the disposition and the denominator of which is the total adjusted bases of all such retained section 197 intangibles as of the date of the disposition.

For purposes of these rules, all persons treated as a single taxpayer under section 41(f)(1) of the Code are treated as a single taxpayer. Thus, for example, a loss is not to be recognized by a corporation upon the disposition of a section 197 intangible if after the disposition a member of the same controlled group as the corporation retains other section 197 intangibles that were acquired in the same transaction (or a series of related transactions) as the section 197 intangible that was disposed of. It is anticipated that the Treasury Department will provide rules for taking into account the amount of any loss that is not recognized due to this rule (for example, by allowing the corporation that disposed of the section 197 intangible to amortize the loss over the remaining portion of the 14-year amortization period).

Treatment of certain nonrecognition transactions

If any section 197 intangible is acquired in a transaction to which section 332, 351, 361, 721, 731, 1031, or 1033 of the Code applies (or any transaction between members of the same affiliated group during any taxable year for which a consolidated return is filed),[21] the transferee is to be treated as the transferor for purposes of applying this provision with respect to the amount of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor.

For example, assume that an individual owns an amortizable section 197 intangible that has been amortized under section 197 for 4 full years and has a remaining unamortized basis of $300,000. In addition, assume that the individual exchanges the asset and $100,000 for a like-kind amortizable section 197 intangible in a transaction to which section 1031 applies. Under the bill, $300,000 of the basis of the acquired amortizable section 197 intangible is to be amortized over the 10 years remaining in the original 14-year amortization period for the transferred asset and the other $100,000 of basis is to be amortized over the 14-year period specified in the bill.[22]

Treatment of certain partnership transactions

Generally, consistent with the rules described above for certain nonrecognition transactions, a transaction in which a taxpayer acquires an interest in an intangible held through a partnership (either before or after the transaction) will be treated as an acquisition to which the bill applies only if, and to the extent that, the acquiring taxpayer obtains, as a result of the transaction, an increased basis for such intangible.[23]

For example, assume that A, B and C each contribute $700 for equal shares in partnership P, which on January 1, 1993, acquires as its sole asset an amortizable section 197 intangible for $2,100. Assume that on January 1, 1997, (1) the sole asset of P is the intangible acquired in 1993, (2) the intangible has an unamortized basis of $1,500 and A, B, and C each have a basis of $500 in their partnership interests, and (3) D (who is not related to A, B, or C) acquires A's interest in P for $800. Under the bill, if there is no section 754 election in effect for 1997, there will be no change in the basis or amortization of the intangible and D will merely step into the shoes of A with respect to the intangible. D's share of the basis in the intangible will be $500, which will be amortized over the 10 years remaining in the amortization period for the intangible.

On the other hand, if a section 754 election is in effect for 1997, then D will be treated as having an $800 basis for its share of P's intangible. Under section 197, D's share of income and loss will be determined as if P owns two intangible assets. D will be treated as having a basis of $500 in one asset, which will continue to be amortized over the 10 remaining years of the original 14-year life. With respect to the other asset, D will be treated as having a basis of $300 (the amount of step-up obtained by D under section 743 as a result of the section 754 election) which will be amortized over a 14-year period starting with January of 1997. B and C will each continue to share equally in a $1,000 basis in the intangible and amortize that amount over the remaining 10-year life.

As an additional example, assume the same facts as described above, except that D acquires both A's and B's interests in P for $1,600. Under section 708, the transaction is treated as if P is liquidated immediately after the transfer, with C and D each receiving their pro rata share of P's assets which they then immediately contribute to a new partnership. The distributions in liquidation are governed by section 731. Under the bill, C's interest in the intangible will be treated as having a $500 basis, with a remaining amortization period of 10 years. D will be treated as having an interest in two assets: one with a basis of $1,000 and a remaining amortization period of 10 years, and the other with a basis of $600 and a new amortization period of 14 years.

As discussed more fully below, the bill also changes the treatment of payments made in liquidation of the interest of a deceased or retired partner in exchange for goodwill. Except in the case of payments made on the retirement or death of a general partner of a partnership for which capital is not a material income-producing factor, such payments will not be treated as a distribution of partnership income. Under the bill, however, if the partnership makes an election under section 754, section 734 will generally provide the partnership the benefit of a stepped-up basis for the retiring or deceased partner's share of partnership goodwill and an amortization deduction for the increase in basis under section 197.

For example, using the facts from the preceding examples, assume that on January 1, 1997, A retires from the partnership in exchange for a payment from the partnership of $800, all of which is in exchange for A's interest in the intangible asset owned by P. Under the bill, if there is a section 754 election in effect for 1997, P will be treated as having two amortizable section 197 intangibles: one with a basis of $1,500 and a remaining life of 10 years, and the other with a basis of $300 and a new life of 14 years.

Treatment of certain reinsurance transactions

The bill applies to any insurance contract that is acquired from another person through an assumption reinsurance transaction (but not through an indemnity reinsurance transaction).[24] The amount taken into account as the adjusted basis of such a section 197 intangible, however, is to equal the excess of (1) the amount paid or incurred by the acquirer/reinsurer under the assumption reinsurance transaction,[25] over (2) the amount of the specified policy acquisition expenses (as determined under section 848 of the Code) that is attributable to premiums received under the assumption reinsurance transaction. The amount of the specified policy acquisition expenses of an insurance company that is attributable to premiums received under an assumption reinsurance transaction is to be amortized over the period specified in section 848 of the Code.

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[19] For this purpose, the abandonment of a section 197 intangible or any other event that renders a section 197 intangible worthless is to be considered a disposition of a section 197 intangible.

[20] These special rules do not apply to a section 197 intangible that is separately acquired (i.e., a section 197 intangible that is acquired other than in a transaction or a series of related transactions that involve the acquisition of other section 197 intangibles). Consequently, a loss may be recognized upon the disposition of a separately acquired section 197 intangible. In no event, however, is the termination or worthlessness of a portion of a section 197 intangible to be considered the disposition of a separately acquired section 197 intangible. For example, the termination of one or more customers from an acquired customer list or the worthlessness of some information from an acquired data base is not to be considered the disposition of a separately acquired section 197 intangible.

[21] The termination of a partnership under section 708(b)(1)(B) of the Code is a transaction to which this rule applies. In such a case, the bill applies only to the extent that the adjusted basis of the section 197 intangibles before the termination exceeds the adjusted basis of the section 197 intangibles after the termination. (See the example below in the discussion of "Treatment of Certain Partnership Transactions.")

[22] No inference is intended whether any asset treated as a section 197 intangible under the bill is eligible for like kind exchange treatment.

[23] This discussion is subject to the application of the anti-churning rules which are discussed below.

[24] An assumption reinsurance transaction is an arrangement whereby one insurance company (the reinsurer) becomes solely liable to policyholders on contracts transferred by another insurance company (the ceding company). In addition, for purposes of the bill, an assumption reinsurance transaction is to include any acquisition of an insurance contract that is treated as occurring by reason of an election under section 338 of the Code.

Treatment of amortizable section 197 intangible as depreciable property

For purposes of chapter 1 of the Internal Revenue Code, an amortizable section 197 intangible is to be treated as property of a character which is subject to the allowance for depreciation provided in section 167. Thus, for example, an amortizable section 197 intangible is not a capital asset for purposes of section 1221 of the Code, but an amortizable section 197 intangible held for more than one year generally qualifies as property used in a trade or business for purposes of section 1231 of the Code. As further examples, an amortizable section 197 intangible is to constitute section 1245 property, and section 1239 of the Code is to apply to any gain recognized upon the sale or exchange of an amortizable section 197 intangible, directly or indirectly, between related persons.

Treatment of certain amounts that are properly taken into account in determining the cost of property that is not a section 197 intangible

The bill does not apply to any amount that is properly taken into account under present law in determining the cost of property that is not a section 197 intangible. Thus, for example, no portion of the cost of acquiring real property that is held for the production of rental income (for example, an office building, apartment building or shopping center) is to be taken into account under the bill (i.e., no goodwill, going concern value or any other section 197 intangible is to arise in connection with the acquisition of such real property). Instead, the entire cost of acquiring such real property is to be included in the basis of the real property and is to be recovered under the principles of present law applicable to such property.

Modification of purchase price allocation and reporting rules for certain asset acquisitions

Sections 338(b)(5) and 1060 of the Code authorize the Treasury Department to promulgate regulations that provide for the allocation of purchase price among assets in the case of certain asset acquisitions. Under regulations that have been promulgated pursuant to this authority, the purchase price of an acquired trade or business must be allocated among the assets of the trade or business using the "residual method."

Under the residual method specified in the Treasury regulations, all assets of an acquired trade or business are divided into the following four classes: (1) Class I assets, which generally include cash and cash equivalents; (2) Class II assets, which generally include certificates of deposit, U.S. government securities, readily marketable stock or securities, and foreign currency; (3) Class III assets, which generally include all assets other than those included in Class I, II, or IV (generally all furniture, fixtures, land, buildings, equipment, other tangible property, accounts receivable, covenants not to compete, and other amortizable intangible assets); and (4) Class IV assets, which include intangible assets in the nature of goodwill or going concern value. The purchase price of an acquired trade or business (as first reduced by the amount of the assets included in Class I) is allocated to the assets included in Class II and Class III based on the value of the assets included in each class. To the extent that the purchase price (as reduced by the amount of the assets in Class I) exceeds the value of the assets included in Class II and Class III, the excess is allocable to assets included in Class IV.

It is expected that the present Treasury regulations which provide for the allocation of purchase price in the case of certain asset acquisitions will be amended to reflect the fact that the bill allows an amortization deduction with respect to intangible assets in the nature of goodwill and going concern value. It is anticipated that the residual method specified in the regulations will be modified to treat all amortizable section 197 intangibles as Class IV assets and that this modification will apply to any acquisition of property to which the bill applies.

Section 1060 also authorizes the Treasury Department to require the transferor and transferee in certain asset acquisitions to furnish information to the Treasury Department concerning the amount of any purchase price that is allocable to goodwill or going concern value. The bill provides that the information furnished to the Treasury Department with respect to certain asset acquisitions is to specify the amount of purchase price that is allocable to amortizable section 197 intangibles rather than the amount of purchase price that is allocable to goodwill or going concern value. In addition, it is anticipated that the Treasury Department will exercise its existing regulatory authority to require taxpayers to furnish such additional information as may be necessary or appropriate to carry out the provisions of the bill, including the amount of purchase price that is allocable to intangible assets that are not amortizable section 197 intangibles.

General regulatory authority

The Treasury Department is authorized to prescribe such regulations as may be appropriate to carry out the purposes of the bill including such regulations as may be appropriate to prevent avoidance of the purposes of the bill through related persons or otherwise. It is anticipated that the Treasury Department will exercise its regulatory authority where appropriate to clarify the types of intangible property that constitute section 197 intangibles.

Study

The Treasury Department is directed to conduct a continuing study of the implementation and effects of the bill, including effects on merger and acquisition activities (including hostile takeovers and leveraged buyouts). It is expected that the study will address effects of the legislation on the pricing of acquisitions and on the reported values of different types of intangibles (including goodwill). The Treasury Department is to report the initial results of such study as expeditiously as possible and no later than December 31, 1994. The Treasury Department is to provide additional reports annually thereafter.

Effective Date

In general

The provision generally applies to property acquired after the date of enactment of the bill. As more fully described below, however, a taxpayer may elect to apply the bill to all property acquired after July 25, 1991. In addition, a taxpayer that does not make this election may elect to apply present law (rather than the provisions of the bill) to property that is acquired after the date of enactment of the bill pursuant to a binding written contract in effect on the date of enactment of the bill and at all times thereafter until the property is acquired. Finally, special "anti-churning" rules may apply to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

Election to apply bill to property acquired after July 25, 1991

A taxpayer may elect to apply the bill to all property acquired by the taxpayer after July 25, 1991. If a taxpayer makes this election, the bill also applies to all property acquired after July 25, 1991, by any taxpayer that is under common control with the electing taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)) of the Code) at any time during the period that began on November 22, 1991, and that ends on the date that the election is made.[26]

The election is to be made at such time and in such manner as may be specified by the Treasury Department,[27] and the election may be revoked only with the consent of the Treasury Department.

Elective binding contract exception

A taxpayer may also elect to apply present law (rather than the provisions of the bill) to property that is acquired after the date of enactment of the bill if the property is acquired pursuant to a binding written contract that was in effect on the date of enactment of the bill and at all times thereafter until the property is acquired. This election may not be made by any taxpayer that is subject to either of the elections described above that apply the provisions of the bill to property acquired before the date of enactment of the bill.

The election is to be made at such time and in such manner as may be specified by the Treasury Department,[28] and the election may be revoked only with the consent of the Treasury Department.

Anti-churning rules

Special rules are provided by the bill to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

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[25] The amount paid or incurred by the acquirer/reinsurer under an assumption reinsurance transaction is to be determined under the principles of present law. (See Treas. Reg. sec. 1.817-4(d)(2).)

[26] However, with certain exceptions, an amortization deduction is not to be allowed under the bill for goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill if: (1) the section 197 intangible is acquired after July 25, 1991; and (2) either (a) the taxpayer or a related person held or used the intangible on July 25, 1991; (b) the taxpayer acquired the intangible from a person that held such intangible on July 25, 1991, and, as part of the transaction, the user of the intangible does not change; or (c) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible on July 25, 1991. See below for a more detailed description of these "anti-churning" rules.

[27] It is anticipated that the Treasury Department will require the election to be made on the timely filed Federal income tax return of the taxpayer for the taxable year that includes the date of enactment of the bill.

[28] It is anticipated that the Treasury Department will require the election to be made on the timely filed Federal income tax return of the taxpayer for the taxable year that includes the date of enactment of the bill.

Under these "anti-churning" rules, goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill may not be amortized as an amortizable section 197 intangible if: (1) the section 197 intangible is acquired by a taxpayer after the date of enactment of the bill; and (2) either (a) the taxpayer or a related person held or used the intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill; (b) the taxpayer acquired the intangible from a person that held such intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill and, as part of the transaction, the user of the intangible does not change; or (c) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill. The anti-churning rules, however, do not apply to the acquisition of any intangible by a taxpayer if the basis of the intangible in the hands of the taxpayer is determined under section 1014(a) (relating to property acquired from a decedent).

For purposes of the anti-churning rules, a person is related to another person if: (1) the person bears a relationship to that person which would be specified in section 267(b)(1) or 707(b)(1) of the Code if those sections were amended by substituting 20 percent for 50 percent; or (2) the persons are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Code). A person is treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

In addition, in determining whether the anti-churning rules apply with respect to any increase in the basis of partnership property under section 732, 734, or 743 of the Code, the determinations are to be made at the partner level and each partner is to be treated as having owned or used the partner's proportionate share of the partnership property. Thus, for example, the anti-churning rules do not apply to any increase in the basis of partnership property that occurs upon the acquisition of an interest in a partnership that has made a section 754 election if the person acquiring the partnership interest is not related to the person selling the partnership interest.[29]

These "anti-churning" rules are not to apply to any section 197 intangible that is acquired from a person with less than a 50-percent relationship to the acquirer to the extent that: (1) the seller recognizes gain on the transaction with respect to such intangible; and (2) the seller agrees, notwithstanding any other provision of the Code, to pay a tax on such gain which, when added to any other Federal income tax imposed on such gain, equals the product of such gain and the highest rate of tax imposed by section 1 or 11 of the Code, whichever is applicable. The seller is treated as satisfying the second requirement if the excess of (1) the total tax liability for the year of the transaction over (2) what its tax liability for such year would have been had the sale of the intangible (but not the remainder of the transaction) been excluded from the computation equals or exceeds the product of the gain on that asset times the relevant maximum rate.

The bill also contains a general anti-abuse rule that applies to any section 197 intangible that is acquired by a taxpayer from another person. Under this rule, a section 197 intangible may not be amortized under the provisions of the bill if the taxpayer acquired the intangible in a transaction one of the principal purposes of which is to (1) avoid the requirement that the intangible be acquired after the date of enactment of the bill or (2) avoid any of the anti-churning rules described above that are applicable to goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill.

Finally, the special rules described above that apply in the case of a transactions described in section 332, 351, 361, 721, 731, 1031, or 1033 of the Code also apply for purposes of the effective date. Consequently, if the transferor of any section 197 property is not allowed an amortization deduction with respect to such property under this provision, then the transferee is not allowed an amortization deduction under this provision to the extent of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor. In addition, this provision is to apply to any subsequent transfers of any such property in a transaction described in section 332, 351, 361, 721, 731, 1031, or 1033.

SENATE AMENDMENT

The Senate amendment is the same as the House bill with the following modifications:

The straight line amortization period for an amortizable section 197 intangible is 16 years rather than 14 years.

Purchased mortgage servicing rights (not acquired with a trade or business or substantial portion thereof) are excluded from the definition of a section 197 intangible.

At the election of the taxpayer, the acquisition of certain intangibles from a "qualified research entity" is subject to present law rather than the bill.

The Treasury Department authority to issue regulations that apply present law rather than the bill to certain rights of fixed duration under a contract (or any right granted by a governmental entity) applies only if the fixed duration of the right is less than 16 years.

Under the Senate amendment, the term section 197 intangible does not include the amount of any fees for professional services, and any transaction costs, incurred by parties to a reorganization with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

The Senate amendment permits taxpayers to elect to settle the treatment of amortizable section 197 intangibles for all open taxable years, generally by amortizing 50 percent of the adjusted basis of such intangibles (using the amortization method and period claimed by the taxpayer on specified returns).

The Senate amendment does not require annual reports from the Treasury Department on the implementation and effects of the intangibles legislation.

The technical explanation of the Senate Amendment also clarifies certain technical points.

CONFERENCE AGREEMENT

The conference agreement follows the House bill with the following modifications:

Treasury regulatory authority regarding rights of fixed duration or amount

The conference agreement adopts the Senate provision and technical explanation regarding the scope of Treasury regulatory authority to except from the definition of a section 197 intangible certain rights under a contract (or granted by a governmental entity). The agreement provides additional technical clarification regarding such rights.

Under the conference agreement, the Treasury Department is authorized to issue regulations that exclude a right received under a contract, or granted by a governmental unit or an agency or instrumentality thereof, from the definition of a section 197 intangible if (1) the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business (or a substantial portion thereof) and (2) the right either (A) has a fixed duration of less than 14 years or (B) is fixed as to amount[30] and the cost is properly recoverable (without regard to this provision) under a method similar to the unit of production method.

Generally, it is anticipated that the mere fact that a taxpayer will have the opportunity to renew a contract or other right on the same terms as are available to others, in a competitive auction or similar process that is designed to reflect fair market value and in which the taxpayer is not contractually advantaged, will not be taken into account in determining the duration of such right or whether it is for a fixed amount. However, the fact that competitive bidding occurs at the time of renewal and that there are or may be modifications in price (or in terms or requirements relating to the right that increase the cost to the bidder) shall not be within the scope of the preceding sentence unless the bidding also actually produces a fair market value price comparable to the price that would obtain if the rights were purchased immediately after renewal from a person (other than the person granting the renewal) in an arm's length transaction. Furthermore, it is expected that, as under present law, the Treasury Department will take into account all the facts and circumstances, including any facts indicating an actual practice of renewals or expectancy of renewals.

For example, assume that Company A enters into a license with Company B to use certain know-how developed by B. In addition, assume that the license is for five years, that the license cannot be renewed by A except on terms that are fully available to A's competitors and that the price paid by A will reflect the arm's length price that a third party would pay A for the license immediately after renewal. Finally, assume that the license does not constitute a substantial portion of a trade or business and is not entered into as part of a transaction (or series of related transactions) that constitute the acquisition of a trade or business or substantial portion thereof. It is anticipated that in these circumstances the regulations will provide that the license is not a section 197 intangible because it is of fixed duration of less than 14 years.

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[29] In addition to these rules, it is anticipated that rules similar to the anti-churning rules under section 168 of the Code will apply in determining whether persons are related. (See Prop. Treas. Reg. 1.168-4 (February 16, 1984).) For example, it is anticipated that a corporation, partnership, or trust that owned or used property at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill and that is no longer in existence will be considered to be in existence for purposes of determining whether the taxpayer that acquired the property is related to such corporation, partnership, or trust.

As a further example, it is anticipated that in the case of a transaction to which section 338 of the Code applies, the corporation that is treated as selling its assets will not to be considered related to the corporation that is treated as purchasing the assets if at least 80 percent of the stock of the corporation that is treated as selling its assets is acquired by purchase after July 25, 1991.

[30] For example, an emission allowance granted a public utility under Title IV of the Clean Air Act Amendments of 1990 is a right that is limited in amount within the meaning of this provision.

The regulations may also prescribe rules governing the extent to which renewal options and similar provisions will be taken into account for the purpose of determining whether rights are fixed in duration or amount. It is also anticipated that such regulations may prescribe the appropriate method of taking into account the capitalized costs of rights which are excluded by such regulations from the definition of a section 197 intangible.

Certain fees for professional services and transaction costs

The conference agreement adopts the Senate provision regarding fees for professional services and transaction costs, with a technical modification. The modification clarifies that the provision applies to any transaction with respect to which any portion of the gain or loss is not recognized under Part III of subchapter C of the Code, in addition to those transactions that are "reorganizations" as defined by section 368 of the Code.

The conferees have adopted this provision because of concern that some taxpayers might attempt to contend that the 14 year amortization provided by the provision applies to any such amounts that may be required to be capitalized under present law but that do not relate to any asset with a readily identifiable useful life.[31] The exception is provided solely to clarify that section 197 is not to be construed to provide 14-year amortization for any such amounts. No inference is intended that such amounts would (but for this provision) be properly characterized as amounts eligible for such 14-year amortization, nor is any inference intended that any amounts not specified in this provision should be so characterized. In addition, no inference is intended regarding the proper treatment of professional fees or transaction costs in other circumstances under present law.

Anti-churning rules

The agreement clarifies that amounts that are properly deductible pursuant to section 1253 under present law are to be treated for purposes of the anti-churning provision as amounts for which depreciation or amortization is allowable under present law.

Other technical clarifications

The conference agreement follows the technical explanation of the Senate amendment with respect to certain additional technical items.

Thus, with respect to the definition of "interests in land" that are excepted from the definition of a "section 197 intangible," the conferees intend to clarify that the costs of acquiring licenses, permits, and other rights relating to improvements to land, such as building construction or use permits, are to be taken into account in the same manner as the underlying improvement in accordance with present law.

In addition, with respect to the modifications made to section 1060 under the conference agreement, the conferees intend to clarify that there is no intention to codify any aspect of the existing regulations under section 1060 or other provisions. Furthermore, it is expected that the Treasury Department will review the operation of the regulations under sections 1060 and 338 in light of new section 197.

Report regarding backlog of pending cases

The purpose of the provision is to simplify the law regarding the amortization of intangibles. The severe backlog of cases in audit and litigation is a matter of great concern to the conferees; and any principles established in such cases will no longer have precedential value due to the provision contained in the conference agreement. Therefore, the conferees urge the Internal Revenue Service in the strongest possible terms to expedite the settlement of cases under present law. In considering settlements and establishing procedures for handling existing controversies in an expedient and balanced manner, the conferees strongly encourage the Internal Revenue Service to take into account the principles of the bill so as to produce consistent results for similarly situated taxpayers. However, no inference is intended that any deduction should be allowed in these cases for assets that are not amortizable under present law.

In addition, the conference agreement requires the Treasury Department to report annually to the House Ways and Means Committee and the Senate Finance Committee, regarding the volume of pending disputes in audit and litigation involving the amortization of intangibles and the progress made in resolving such disputes. It is expected that the report will also address the effects of the provision on the volume and nature of disputes regarding the amortization of intangibles. The first such report shall be made no later than December 31, 1993.

2. Modify special treatment of certain liquidation payments

PRESENT LAW

Payments for purchase of goodwill and accounts receivable

A current deduction generally is not allowed for a capital expenditure (*i.e.*, an expenditure that yields benefits beyond the current taxable year). The cost of goodwill acquired in connection with the assets of a going concern normally is a capital expenditure, as is the cost of acquiring accounts receivable. The cost of acquiring goodwill is recovered only when the goodwill is disposed of, while the cost of acquiring accounts receivable is taken into account only when the receivable is disposed of or becomes worthless.

Payments made in liquidation of partnership interest

The tax treatment of a payment made in liquidation of the interest of a retiring or deceased partner depends upon whether the payment is made in exchange for the partner's interest in partnership property. A liquidating payment made in exchange for such property is treated as a distribution by the partnership (sec. 736(b)). Such distribution generally results in gain to the retiring partner only to the extent that the cash distributed exceeds the partner's adjusted basis in his partnership interest.

A liquidating payment not made in exchange for the partner's interest in partnership property receives either of two possible treatments. If the amount of the payment is determined without reference to partnership income, it is treated as a guaranteed payment and is generally deductible (sec. 736(a)(2)). If the amount of payment is determined by reference to partnership income, the payment is treated as a distributive share of partnership income, thereby reducing the distributive shares of other partners (which is equivalent to a deduction) (sec. 736(a)(2)).

A special rule treats amounts paid for goodwill of the partnership (except to the extent provided in the partnership agreement) and unrealized receivables as not made in exchange for an interest in partnership property (sec. 736(b)(2)(B)). Thus, such amounts may be deductible. Unrealized receivables include unbilled amounts, accounts receivable, depreciation recapture, market discount, and certain other items (sec. 751(c)).

Sale or exchange of a partnership interest

The sale or exchange of a partnership interest results in capital gain or loss to the transferor partner, except to the extent that ordinary income or loss is recognized with respect to the partner's share of the partnership's unrealized receivables and substantially appreciated inventory items (sec. 741). It is often unclear whether a payment by a partnership to a retiring partner is made in sale or exchange of, or in liquidation of, a partnership interest.

HOUSE BILL

In general

The bill generally repeals the special treatment of liquidation payments made for goodwill and unrealized receivables. Thus, such payments would be treated as made in exchange for the partner's interest in partnership property, and not as a distributive share or guaranteed payment that could give rise to a deduction or its equivalent. The bill does not change present law with respect to payments made to a general partner in a partnership in which capital is not a material income-producing factor.[32] In addition, the bill does not affect the deductibility of compensation paid to a retiring partner for past services.

Unrealized receivables

The bill also repeals the special treatment of payments made for unrealized receivables (other than unbilled amounts and accounts receivable) for all partners. Such amounts would be treated as made in exchange for the partner's interest in partnership property. Thus, for example, a payment for depreciation recapture would be treated as made in exchange for an interest in partnership property, and not as a distributive share or guaranteed payment that could give rise to a deduction or its equivalent.

Effective date

The provision generally applies to partners retiring or dying on or after June 25, 1992. The provision does not apply to any partner who retires on or after June 25, 1992, if a written contract to purchase the partner's interest in the partnership was binding on June 24, 1992 and at all times thereafter until such purchase. For this purpose, a written contract is to be considered binding only if the contract specifies the amount to be paid for the partnership interest and the timing of any such payments.

SENATE AMENDMENT

The Senate amendment is the same as the House bill except for the effective date provision. The Senate amendment applies to partners retiring or dying on or after February 14, 1992 rather than on or after June 25, 1992.

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[31] *See, e.g., INDOPCO, Inc. v. Commissioner*, 112 S. Ct. 1039 (1992)

[32] The determination of whether capital is a material income-producing factor would be made under principles of present and prior law (*e.g.*, sections 401(c)(2) and 911(d) of the Code and old section 1348(b)(1)(A) of the Code).

The technical explanation of the Senate amendment also provides additional clarification regarding when capital is a material income producing factor.

CONFERENCE AGREEMENT

The conference agreement follows the House bill but includes the technical explanation from the Senate amendment regarding when capital is a material income producing factor.

Thus, under the conference agreement, for purposes of this provision, capital is not a material income producing factor where substantially all the gross income of the business consists of fees, commissions, or other compensation for personal services performed by an individual. The practice of his or her profession by a doctor, dentist, lawyer, architect, or accountant will not, as such, be treated as a trade or business in which capital is a material income producing factor even though the practitioner may have a substantial capital investment in professional equipment or in the physical plant constituting the office from which such individual conducts his or her practice so long as such capital investment is merely incidental to such professional practice.

F. PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

1. Determination of whether an S corporation has one class of stock

PRESENT LAW

Under present law, a small business corporation eligible to be an S corporation may not have more than one class of stock. Differences in voting rights are disregarded in determining whether a corporation has more than one class of stock. In addition, certain debt instruments may not be treated as a second class of stock for purposes of this rule.

On October 5, 1990, the Treasury Department issued proposed regulations[1] providing that a corporation has more than one class of stock if all of the outstanding shares of stock do not confer identical rights to distribution and liquidation proceeds, regardless of whether any differences in rights occur pursuant to the corporate charter, articles or bylaws, by operation of State law, by administrative action, or by agreement. The proposed regulations also provided that, notwithstanding that all outstanding shares of stock confer identical rights to distribution and liquidation proceeds, a corporation has more than one class of stock if the corporation makes non-conforming distributions (i.e., distributions that differ with respect to timing or amount with respect to each share of stock), with limited exceptions for certain redemptions and certain differences in the timing of distributions. The proposed regulations were to apply to taxable years beginning after December 31, 1982.

On August 8, 1991, the Treasury Department issued revised proposed regulations replacing the proposed regulations described above. The regulations were issued as final regulations on May 29, 1992 (Treasury Decision 8419). These regulations provide that a corporation is treated as having only one class of stock if all outstanding shares of stock confer identical rights to distribution and liquidation proceeds. Under the revised regulations, any distributions that differ in timing or amount are to be given appropriate tax effect in accordance with the facts and circumstances. These regulations generally apply to taxable years beginning after May 28, 1992.

HOUSE BILL

The House bill provides that a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds. Applicable State law, taking into account legally enforceable rights under the corporate charter, articles or bylaws, administrative action, and agreements relating to distributions or liquidation proceeds with respect to shares, determines whether the outstanding shares confer different rights to distributions or liquidation proceeds.

Where an S corporation in fact makes distributions which differ as to timing or amount, the bill in no way limits the Internal Revenue Service from properly characterizing the transaction for tax purposes. For example, if a distribution is properly characterized as compensation, the Service could require it to be so treated for tax purposes. Similarly, if a payment appearing as compensation should be properly characterized as a distribution, the Service could require it to be so treated for purposes of computing taxable income.

Effective date.—The provision applies to taxable years beginning after December 31, 1982.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Authority to validate certain invalid elections

PRESENT LAW

Under present law, if the Internal Revenue Service determines that a corporation's Subchapter S election is inadvertently terminated, the Service can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Present law does not grant the Internal Revenue Service the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The Internal Revenue Service may not validate a late election.

HOUSE BILL

Under the House bill, the authority of the Internal Revenue Service to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents (including elections regarding qualified subchapter S trusts), or both. It is intended that the Internal Revenue Service be reasonable in granting waivers of inadvertent invalid elections so that a corporation whose election was inadvertently invalid would be treated as an S corporation as if the election had been effective.[2]

The bill also allows the Internal Revenue Service to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely. It is intended that the Internal Revenue Service adopt a standard similar to the standard currently set forth in Treasury regulation sec. 1.9100-1 in applying this provision.

Effective date.—The provision applies to taxable years beginning after December 31, 1982.[3]

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Treatment of distributions by S corporations during loss year

PRESENT LAW

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corporation to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of the stock.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules appear to require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.[4]

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.[5]

In addition, if the S corporation has accumulated earnings and profits,[6] any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

HOUSE BILL

The House bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

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[1] Proposed Treasury Regulation sec. 1.1361–1(l)(2).

[2] Thus, for example, the Internal Revenue Service would have authority to waive the effect of an invalid election in a situation such as that set forth in PLR 8807070 (Nov. 25, 1987) where the election was not valid because the election was filed before the issuance of a certificate of incorporation by the State.

[3] This is the effective date of the present-law provision regarding inadvertent terminations.

[4] See section 1366(d)(1)(A); H. Rep. 97-826, p. 17; S. Rep. 97-640, p. 18; Prop. Treas. Reg. sec. 1.1367-1(e).

[5] Treas. Reg. sec. 1.704-1(d)(2); Rev. Rul. 66-94, 1966-1 C.B. 166.

[6] An S corporation may have earnings and profits from years prior to its subchapter S election or from pre-1983 subchapter S years.

The bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

The following examples illustrate the application of these provisions:

Example 1.—X is the sole shareholder of A, a calendar year S corporation with no accumulated earnings and profits. X's adjusted basis in the stock of A on January 1, 1992, is $1,000 and X holds no debt of A. During the taxable year, A makes a distribution to X of $600, recognizes a capital gain of $200 and sustains an operating loss of $900. Under the bill, X's adjusted basis in the A stock is increased to $1,200 ($1,000 plus $200 capital gain recognized) pursuant to section 1368(d) to determine the effect of the distribution. X's adjusted basis is then reduced by the amount of the distribution to $600 ($1,200 less $600) to determine the application of the loss limitation of section 1366(d)(1). X is allowed to take into account $600 of A's operating loss, which reduces X's adjusted basis to zero. The remaining $300 loss is carried forward pursuant to section 1366(d)(2).

Example 2.—The facts are the same as in Example 1, except that on January 1, 1992, A has accumulated earnings and profits of $500 and an accumulated adjustments account of $200. Under the bill, because there is a net negative adjustment for the year, no adjustment is made to the accumulated adjustments account before determining the effect of the distribution under section 1368(c).

As to A, $200 of the $600 distribution is a distribution of A's accumulated adjustments account, reducing the accumulated adjustments account to zero. The remaining $400 of the distribution is a distribution of accumulated earnings and profits ("E&P") and reduces A's E&P to $100. A's accumulated adjustments account is then increased by $200 to reflect the recognized capital gain and reduced by $900 to reflect the operating loss, leaving a negative balance in the accumulated adjustment account on January 1, 1993, of $700 (zero plus $200 less $900).

As to X, $200 of the distribution is applied against A's adjusted basis of $1,200 ($1,000 plus $200 capital gain recognized), reducing X's adjusted basis to $1,000. The remaining $400 of the distribution is taxable as a dividend and does not reduce X's adjusted basis. Because X's adjusted basis is $1,000, the loss limitation does not apply to X, who may deduct the entire $900 operating loss. X's adjusted basis is then decreased to reflect the $900 operating loss. Accordingly, X's adjusted basis on January 1, 1993, is $100 ($1,000 plus $200 less $200 less $900).

Effective date.—These provisions apply to distributions made in taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

4. Treatment of S corporations as shareholders in C corporations

PRESENT LAW

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)).

The Internal Revenue Service has taken the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[7] Thus, a C corporation may elect S corporation status tax-free or may merge into an S corporation tax-free, but may not liquidate into an S corporation tax-free.[8] Also, the Service's reasoning would also prevent an S corporation from making an election under section 338 where a C corporation was acquired by an S corporation.

HOUSE BILL

The House bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation will also be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

No inference is intended regarding the present-law treatment of these transactions.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

5. S corporations permitted to hold subsidiaries

PRESENT LAW

Under present law, an S corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). The legislative history indicates that this rule was adopted to prevent the filing of consolidated returns by a group which includes an S corporation.[9]

HOUSE BILL

The House bill repeals the rule that an S corporation may not be a member of an affiliated group of corporations. Thus, an S corporation will be allowed to own up to 100 percent of the stock of a C corporation. However, an S corporation cannot be included in a group filing a consolidated return.

Under the bill, if an S corporation holds 100 percent of the stock of a C corporation that, in turn, holds 100 percent of the stock of another C corporation, the two C corporations may elect to file a consolidated return (if otherwise eligible), but the S corporation may not join in the election.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

6. Elimination of pre-1983 earnings and profits of S corporations

PRESENT LAW

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits if its earnings and profits for the year exceeded both its taxable income for the year and its distributions out of that year's earnings and profits. As a result of this rule, a shareholder may later be required to include in his income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

HOUSE BILL

The House bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1991, the accumulated earnings and profits of the corporation as of the beginning of that year are reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits will be solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his share of the taxable income of the S corporation.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

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[7] See PLR 8818049, (Feb. 10, 1988).

[8] A tax is imposed with respect to LIFO inventory held by a C corporation becoming an S corporation.

[9] See S. Rpt. No. 1983 (85th Cong., 2d Sess., 1958), p. 88.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

7. Treatment of items of income in respect of a decedent held by an S corporation

PRESENT LAW

Income in respect of a decedent (IRD) generally consists of items of gross income that accrued during the decedent's lifetime but were not yet includible in the decedent's income before his death under his method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to the person who includes the item in gross income (sec. 691(c)).

The cost or basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis often is referred to as a "stepped-up basis". Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its value is attributable to items constituting IRD.[10] Although S corporation income is included in the income of the shareholders in a manner similar to the inclusion of partnership income in the income of the partners, no comparable regulation provides for a reduction in the basis of stock of an S corporation acquired from a decedent where the S corporation holds items of IRD on the date of death of a shareholder. Thus, under present law, the treatment of an item of IRD held by an S corporation is unclear.

HOUSE BILL

The House bill provides that a person acquiring stock in an S corporation from a decedent will treat as IRD his pro rata share of any item of income of the corporation which would have been IRD if that item had been acquired directly from the decedent. Where an item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock will be reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

No inference is intended regarding the present-law treatment of IRD in the case of S corporations.

Effective date.—The provision applies with respect to decedents dying after date of enactment of the bill.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

8. Certain trusts eligible to hold stock in S corporations

PRESENT LAW

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts (for a 60-day or two-year period) and "qualified subchapter S trusts" may not be shareholders in a S corporation. A "qualified subchapter S trust" is a trust which is required to have only one current income beneficiary (for life). All the income (as defined for local law purposes) must be currently distributed to that beneficiary. The beneficiary is treated as the owner of the portion of the trust consisting of the stock in the S corporation.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment allows stock in an S corporation to be held by certain trusts ("electing small business trust"). In order to qualify for this treatment, all beneficiaries of the trust must be individuals or estates (including the bankruptcy estate of an individual). No interest in the trust may be acquired by purchase. For this purpose, "purchase" means any acquisition of property with a cost basis (determined under section 1012). Thus, interests in the trust must be acquired by reason of gift, bequest, etc.

A trust must elect to be treated as an electing small business trust. An election applies to the taxable year for which made and can be revoked only with the consent of the Secretary of the Treasury or his delegate.

Each potential current beneficiary of the trust is counted as a shareholder for purposes of the 35-shareholder limitation (or if there were no potential current beneficiaries, the trust is treated as the shareholder). A potential current income beneficiary means any person, with respect to the applicable period, who is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. Where the trust disposes of all the stock in an S corporation, any person who first became so eligible during the 60 days before the disposition shall not be treated as a potential current beneficiary.

A qualified subchapter S trust with respect to which an election under section 1361(d)(2) is in effect, and an exempt employee's described in section 401(a) are not eligible to qualify as an electing small business trust.

Treatment of items relating to S corporation stock

The portion of the trust which consists of stock in one or more S corporations is treated as a separate trust for purposes of computing the income tax attributable to the S corporation stock held by the trust. The trust is taxed at the highest individual rate (currently 31 percent) on this portion of the trust's income. The taxable income attributable to this portion includes (i) the items of income, loss, or deduction allocated to it as an S corporation shareholder under the rules of subchapter S, (ii) gain or loss from the sale of the S corporation stock, and (iii) to the extent provided in regulations, any state or local income taxes and administrative expenses of the trust properly allocable to the S corporation stock. Otherwise allowable capital losses are allowed only to the extent of capital gains.

In computing the trust's income tax on this portion of the trust, no deduction is allowed for amounts distributed to beneficiaries, and no deduction or credit is allowed for any item other than the items described above. This income is not included in the distributable net income of the trust, and thus is not included in the beneficiaries' income. No item relating to the S corporation stock may be apportioned to any beneficiary.

On the termination of all or any portion of an electing small business trust the loss carryovers or excess deductions referred to in section 642(h) are to be taken into account by the entire trust, subject to the usual rules on termination of the entire trust.

Treatment of remainder of items held by trust

In determining the tax liability with regard to the remaining portion of the trust, the items taken into account by the subchapter S portion of the trust are disregarded. Although distributions from the trust are deductible in computing the taxable income on this portion of the trust, under the usual rules of subchapter J, the trust's distributable net income does not include any income attributable to the S corporation stock.

Effective date.—The provision applies to taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not contain the provision in the Senate amendment.

G. ACCOUNTING PROVISIONS

1. Modifications to the look-back method for long-term contracts

PRESENT LAW

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs.

Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The first step of the look-back method is to reapply the percentage of completion method using actual contract price and costs rather than estimated contract price and costs. The second step generally requires the taxpayer to recompute its tax liability for each year of the contract using gross income as reallocated under the look-back method. If there is any difference between the recomputed tax liability and the tax liability as previously determined for a year, such difference is treated as a hypothetical underpayment or overpayment of tax to which the taxpayer applies a rate of interest equal to the overpayment rate, compounded daily.[1] The taxpayer receives (or pays) interest if the net amount of interest applicable to hypothetical overpayments exceeds (or is less than) the amount of interest applicable to hypothetical underpayments.

The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.

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[10] Treas. Reg. sec. 1.742-1.

[1] The overpayment rate equals the applicable Federal short-term rate plus two percentage points. This rate is adjusted quarterly by the IRS. Thus, in applying the look-back method for a contract year, a taxpayer may be required to use five different interest rates.

The look-back method does not apply to any contract that is completed within two taxable years of the contract commencement date if the gross contract price does not exceed the lesser of (1) $1 million or (2) one percent of the average gross receipts of the taxpayer for the three preceding taxable years. In addition, a simplified look-back method is available to certain pass-through entities and, pursuant to Treasury regulations, to certain other taxpayers. Under the simplified look-back method, the hypothetical underpayment or overpayment of tax for a contract year generally is determined by applying the highest rate of tax applicable to such taxpayer to the change in gross income as recomputed under the look-back method.

HOUSE BILL

Election not to apply the look-back method for de minimis amounts

The House bill provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract year, the cumulative taxable income (or loss) under the contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) under the contract as determined using actual contract price and costs.

Thus, under the election, upon completion of a long-term contract, a taxpayer would be required to apply the first step of the look-back method (the reallocation of gross income using actual, rather than estimated, contract price and costs), but would not be required to apply the additional steps of the look-back method if the application of the first step resulted in de minimis changes to the amount of taxable income previously taken into account under the contract for each prior contract year.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 1.—A taxpayer enters into a three-year contract and upon completion of the contract, determines that annual taxable income under the contract using actual contract price and costs is $100,000, $150,000, and $250,000, respectively, for Years 1, 2, and 3 under the percentage of completion method. An electing taxpayer need not apply the look-back method to the contract if it had reported cumulative taxable income under the contract using estimated contract price and costs of between $90,000 and $110,000 as of the end of Year 1; and between $225,000 and $275,000 as of the end of Year 2.

Election not to reapply the look-back method

The bill provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described above). In applying this rule, amounts that are taken into account after completion of the contract are not discounted.

Thus, an electing taxpayer need not apply or reapply the look-back method if amounts that are taken into account after the completion of the contract are de minimis.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 2.—A taxpayer enters into a three-year contract and reports taxable income of $12,250, $15,000 and $12,750, respectively, for Years 1 through 3 with respect to the contract. Upon completion of the contract, cumulative look-back income with respect to the contract is $40,000, and 10 percent of such amount is $4,000. After the completion of the contract, the taxpayer incurs additional costs of $2,500 in each of the next three succeeding years (Years 4, 5, and 6) with respect to the contract. Under the bill, an electing taxpayer does not reapply the look-back method for Year 4 because the cumulative amount of contract taxable income ($37,500) is within 10 percent of cumulative look-back income as of the completion of the contract ($40,000). However, the look-back method must be applied for Year 5 because the cumulative amount of contract taxable income ($35,000) is not within 10 percent of cumulative look-back income as of the completion of the contract ($40,000). Finally, the taxpayer does not reapply the look-back method for Year 6 because the cumulative amount of contract taxable income ($32,500) is within 10 percent of contract look-back income as of the last application of the look-back method ($35,000).

Interest rates used for purposes of the look-back method

The bill provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period. An accrual period with respect to a taxable year begins on the day after the due date of the return (determined without regard to extensions) for the taxable year and ends on the due date of the return for the following taxable year. The applicable rate of interest is the overpayment rate in effect for the calendar quarter in which the accrual period begins.

Effective date

The provisions apply to contracts completed in taxable years ending after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Simplified method for applying uniform cost capitalization rules

PRESENT LAW

In general, the uniform cost capitalization rules require taxpayers that are engaged in the production of real or tangible personal property or in the purchase and holding of property for resale to capitalize or include in inventory the direct costs of the property and the indirect costs that are allocable to the property. In determining whether indirect costs are allocable to production or resale activities, taxpayers are allowed to use various methods so long as the method employed reasonably allocates indirect costs to production and resale activities.

HOUSE BILL

The House bill authorizes (but does not require) the Treasury Department to issue regulations that allow taxpayers in appropriate circumstances to determine the costs of any administrative, service, or support function or department that are allocable to production or resale activities by multiplying the total amount of costs of any such function or department by a fraction, the numerator of which is the amount of costs of the function or department that was allocable to production or resale activities for a base period and the denominator of which is the total amount of costs of the function or department for the base period. It is anticipated that the regulations will provide that the base period is to begin no earlier than 4 taxable years prior to the taxable year with respect to which this simplified method applies.

Effective date

The provision applies to taxable years beginning after the date of enactment of the bill. Thus, the regulations may permit the use of the simplified method for taxable years beginning after this date. The simplified method, however, may not be used for any taxable year that begins prior to the date that the Treasury Department publishes regulations that authorize the use of the simplified method and set forth the requirements that must be satisfied in order for the method to be used.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Treatment of certain amounts received by operators of licensed cotton warehouses

PRESENT LAW

A C corporation (other than a farm corporation) generally may not use the cash method of accounting if the corporation had average annual gross receipts for any prior 3-year period of more than $5 million. Corporations that are denied the use of the cash method of accounting generally must use an accrual method of accounting.

HOUSE BILL

No provision in H.R. 11. However, H.R. 5643 as passed by the House, contains a provision identical to the provision in the Senate amendment.

SENATE AMENDMENT

The Senate amendment allows the election of a special rule in the case of any taxpayer that is an operator of a licensed cotton warehouse and uses an accrual method of accounting to compute taxable income. Under the election, the taxpayer is not required to accrue amounts to be received for processing or storing cotton at the licensed cotton warehouse until such amounts are actually received. For this purpose, the term "licensed cotton warehouse" means any warehouse for the storage of cotton that is licensed under the United States Warehouse Act (7 U.S.C. 241, et seq.) or under any similar State law.

In addition, under the election, if any deferred amount is received during any taxable year, the tax liability of the taxpayer for the taxable year is increased by an interest charge with respect to the deferred amount. The interest charge with respect to any deferred amount is determined: (1) on the amount of the tax for such taxable year which is attributable to the deferred amount; (2) for the period beginning on the due date for the taxable year of the deferral and ending on the due date for the taxable year in which such deferred amount is received; and (3) by using the Federal short-term rate in effect under section 1274 as of the due date for the taxable year in which such deferred amount is received (compounded semiannually).

The term "deferred amount" means any amount that is includible in gross income for the taxable year but that would have been includible in gross income for a prior taxable year but for this provision. The "taxable year of deferral" is the taxable year for which the deferred amount would have been includible in gross income but for this provision. The term "due date" means the date prescribed for filing the return of tax (without regard to extensions) for the taxable year.

Under the provision, the interest charge payable is to be taken into account in computing the amount of any deduction allowable as interest paid or accrued during the taxable year that the interest charge is payable. In addition, the interest charge is not treated as a tax for purposes of determining the taxpayer's regular tax liability under section 26.

The provision applies to a taxpayer only if the taxpayer makes an election to apply the provision. The election shall be made in a time and manner as prescribed by the Secretary of the Treasury. If made, the election applies to the taxable year for which made and all subsequent years unless revoked with the consent of the Treasury Secretary.

Effective date.—The provision applies to amounts accrued in taxable years beginning after December 31, 1991.

CONFERENCE AGREEMENT

The conference agreement follows the provision contained in H.R. 5463 and the Senate amendment.

H. PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

1. Repeal the short-short test for regulated investment companies

PRESENT LAW

A regulated investment company ("RIC") generally is treated as a conduit for Federal income tax purposes. The Code provides conduit treatment by permitting a RIC to deduct dividends paid to its shareholders in computing its taxable income.

A RIC is a domestic corporation that, at all times during the taxable year, is registered under the Investment Company Act of 1940 as a management company or as a unit investment trust, or has elected to be treated as a business development company under that Act (sec. 851(a)).

In addition, to qualify as a RIC, a corporation must elect such status and must satisfy certain tests (sec. 851(b)). In particular, a corporation must derive less than 30 percent of its gross income from the sale or disposition of certain investments (including stock, securities, options, futures, and forward contracts) held less than three months (the "short-short test") (sec. 851(b)(3)).

HOUSE BILL

The House bill repeals the short-short test.

Effective date.—The provision is effective for taxable years ending after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

2. Require brokers and mutual funds to report basis to customers

PRESENT LAW

Information returns

Brokers[1] are required to report to the Internal Revenue Service the gross proceeds from sales and exchanges by customers (sec. 6045(a)). Brokers also must give each customer a written statement containing that information by January 31 of the year following the calendar year the transaction occurred (sec. 6045(b)).[2]

Gain or loss from the sale of mutual fund shares

A taxpayer who sells or exchanges mutual fund shares is required to report the gain or loss along with any other capital gains or losses. A taxable sale or exchange includes a direct redemption or sale, a check written on a fund, or exchanges from one fund into another fund.

The amount of gain or loss is the difference between the amount the taxpayer realized from the sale or exchange and the taxpayer's adjusted basis in the shares (sec. 1001). In general, the amount a taxpayer realizes from a sale or exchange of shares is the money and value of any property received for the shares minus expenses (such as sales commissions, sales charges, or exit fees). A taxpayer's adjusted basis generally is his original cost (including any sales charges or "load") or other basis adjusted for such things as wash sales and return of capital distributions.

A taxpayer who sells any of his shares may choose one of three methods to determine the adjusted basis of the shares that were sold (Treas. Reg. secs. 1.1012-1(c) and (e)):

(1) the first-in, first-out (FIFO) method which requires the taxpayer to assume that the first shares sold were the first ones purchased by the taxpayer;

(2) the specific identification method which permits the taxpayer to identify exactly which shares were sold—but the method is available only if, at the time of sale, the taxpayer specified to the broker the particular shares to be sold and the broker confirms such specification in a written document within a reasonable time after the sale; or

(3) the average cost method which permits the taxpayer to calculate his gain or loss based on the average price he paid for his shares. The average cost method may be determined either by the single category method (which uses the average cost of all of the taxpayer's shares and determines the holding period for the shares that are sold on a first-in first-out basis) or the double category method (which separates the taxpayer's shares into long-term and short-term holdings and provides a separate average cost for each category). A taxpayer may elect the average cost method by attaching a statement to his return. Once the taxpayer elects the average cost method, the taxpayer must use that method for all of his accounts in that fund.

HOUSE BILL

Information returns

In general.—The House bill requires brokers who are currently required to report gross proceeds on sales or exchanges of mutual fund shares to report basis and holding-period information on the same information return. Those brokers that are not currently required to report gross proceeds, such as money market mutual funds, are not required by the bill to report basis information.

Required basis information.—For each sale or exchange, a broker is required to report the basis of the shares that have been sold and the portion of the gross proceeds for the shares that have been held for more than one year. Basis is determined using the single-category average cost basis method (and not the double-category). The bill also provides the Secretary of the Treasury authority to determine the manner in which basis and holding period are to be reported. Such authority includes the authority to require brokers to take into account wash sales, return of capital distributions, and other events that might affect a basis calculation. Such authority also includes the authority to permit brokers to report the basis information for each sale or exchange in an aggregate form.

Multiple accounts.—The bill requires the basis calculation to be done on an account-by-account basis. If an individual holds shares in two separate accounts with a mutual fund, then a separate basis calculation must be done for each account. In addition, if a customer holds shares in two mutual funds through a securities broker (rather than directly through the mutual funds themselves), the shares for each mutual fund (i.e., for each position) must be considered separate accounts for purposes of these rules.

Due date of returns.—Under the bill, information returns are required to be sent to shareholders by January 31, which is, under present law, the same date by which the information returns for gross proceeds must be provided to taxpayers. The bill contemplates that amended basis information returns may be necessary in certain cases (such as certain wash sales).

The Treasury Department is authorized to promulgate regulations to require a transfer of information between brokers (including RICs) where the transfer is necessary to comply with the reporting requirements of this section. For example, if a broker holds shares in a mutual fund as a nominee for another person and the shares are transferred to another broker, the old broker would be required to furnish the new broker the information necessary for the new broker to meet the information-reporting requirements.

Gain or loss from the sale of mutual fund shares

The House bill generally requires a taxpayer to calculate basis and adjustments to basis as under present law. However, unless a taxpayer elects otherwise, a taxpayer must determine basis for mutual fund shares by using the single-category average basis of all of the shares of the account from which a sale or exchange was made (which generally is the amount required to be reported by the broker).

Under the bill, a taxpayer can elect a method other than the single-category average basis (i.e., FIFO or specific identification) if he made such an election on his return for the first taxable year in which a sale from the account occurs (and he satisfied present law requirements). In addition, under the bill, a taxpayer can elect different methods for different accounts in the same fund.

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[1] Under section 6045, "broker" is defined to include dealers, barter exchanges, and any other person who, for a consideration, regularly acts as a middleman with respect to property or services. Under the regulations, the term is defined to include mutual funds that deal directly with customers (i.e., mutual funds that stand ready to redeem their shares). The term "broker" has this meaning for purposes of this section.

[2] Brokers are required to use Form 1099-B, Statement for Recipients of Proceeds From Broker and Barter Exchange Transactions (or an IRS-authorized substitute) for these reporting purposes.

Effective date.—The provision is effective for mutual fund shares held in accounts opened on or after January 1, 1994. For example, if prior to the effective date a taxpayer holds shares in mutual fund B in an account maintained by a securities broker and holds shares in mutual fund F directly from the fund, additions to either of those positions after January 1, 1994, would not trigger the basis reporting requirement. If, however, after January 1, 1994, the taxpayer purchased shares in mutual fund F through the securities broker, or through a new account opened with mutual fund F, a new position would have been opened and basis reporting would be required on that new position.

The provision is not applicable, however, to shares in an account that includes shares not acquired by purchase. Thus, the provision does not apply to shares in an account opened after January 1, 1994, that includes shares that had been acquired by gift. The basis in such shares is determined as under present law.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill except that the effective date is changed to accounts opened on or after January 1, 1995.

3. Permit common trust funds to convert to regulated investment companies without taxation

PRESENT LAW

A common trust fund is a fund maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, guardian, or custodian of certain accounts and in conformity with rules and regulations of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks (sec. 584(a)).

The common trust fund of a bank is not subject to tax and is not treated as a corporation (sec. 584(b)). Each participant in a common trust fund includes his proportional share of common trust fund income, whether or not the income is distributed or distributable (sec. 584(c)).

No gain or loss is realized by the fund upon admission or withdrawal of a participant. Participants generally treat their admission to the fund as the purchase of such interest. Withdrawals from the fund generally are treated as the sale of such interest by the participant (sec. 584(e)).

A regulated investment company (RIC) also is treated as a conduit for Federal income tax purposes. Present law is unclear as to the tax consequences when a common trust fund transfers its assets, or converts its status, to a RIC.

HOUSE BILL

In general, the House bill permits a common trust fund to transfer substantially all of its assets to a RIC without gain or loss being recognized by the fund or its participants. The fund must transfer its assets to the RIC solely in exchange for shares of the RIC, and the fund must then distribute the RIC shares to the fund's participants in exchange for the participant's interests in the fund.

In determining whether a transfer is solely in exchange for shares of the RIC, the assumption of liabilities by the RIC is to be ignored. A special rule, however, requires gain to be recognized to the extent the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the RIC.

The basis of any asset that is received by the RIC will be the basis of the asset in the hands of the fund prior to transfer (increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities). In addition, the basis of any RIC shares that are received by a fund participant will be the participant's basis in the interests exchanged (increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities).

The tax-free transfer is not available to a common trust fund with assets that are not diversified (under the requirements of section 368(a)(2)(F)(ii).

Effective date.—The provision is effective for transfers after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill except with a modification to the diversification test so that the sec. 368(a)(2)(F)(ii) restriction would apply without regard to the exclusion requirements of sec. 368(a)(2)(F)(iv) and without including Government securities as securities of an issuer for purposes of the 25 and 50 percent tests. The tax-free transfer also is not available to any common trust fund that had previously received assets from a RIC in a tax-free transfer that is described below in the Senate amendment.

CONFERENCE AGREEMENT

The conference agreement follows the House bill except that the diversification test is modified so that Government securities are not to be included as securities of an issuer and are to be included in determining total assets for purposes of the 25 and 50 percent tests of sec. 368(a)(2)(F)(ii).

The conferees do not intend any inference as to the tax consequences under present law when a common trust fund transfers its assets, or converts its status, to a RIC.

4. Permit a regulated investment company to convert to a common trust fund without taxation

PRESENT LAW

A regulated investment company (RIC) is treated as a conduit for Federal income tax purposes. There is a tax when a RIC transfers its assets, or converts its status, to a common trust fund.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general, the Senate amendment permits a RIC to transfer substantially all of its assets to one common trust fund without gain or loss being recognized by the RIC or its shareholders. The RIC must transfer its assets to the common trust fund solely in exchange for interests in the common trust fund, and the RIC must then distribute the interests to the RIC's shareholders in exchange for the shareholder's shares in the RIC.

In determining whether a transfer is solely in exchange for interests in the common trust fund, the assumption of liabilities by the common trust fund is to be ignored. A special rule, however, requires gain to be recognized to the extent the assumed liabilities exceed the aggregate adjusted bases (in the hands of the RIC) of the assets transferred to the common trust fund.

The basis of any asset that is received by the common trust fund will generally be the basis of the asset in the hands of the RIC prior to transfer (increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities). In addition, the basis of any interests in a common trust fund that are received by a RIC shareholder will be the shareholder's basis in the shares exchanged (but not increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities).

The tax-free transfer is not available to a RIC with assets that are not diversified (under the requirements of section 368(a)(2)(F)(ii) without regard to the exclusion requirements of section 368(a)(2)(F)(iv) and without including Government securities as securities of an issuer for purposes of the 25 and 50 percent tests). The tax-free transfer also is not available to any RIC that had previously received assets from a common trust fund in a tax-free transfer that is described (above) in this new provision.

Effective Date.—The provision is effective for transfers after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except that the diversification test is modified so that Government securities are not to be included as securities of an issuer and are to be included in determining total assets for purposes of the 25 and 50 percent tests of sec. 368(a)(2)(F)(ii). In addition, the provision is available only to a RIC if, as of October 1, 1992, the majority of its shares are owned by fiduciary accounts that qualify for participation in common trust funds and the tax-free transfer may be made only through September 30, 1993.

The conferees do not intend any inference as to the tax consequences under present law when a RIC transfers its assets, or converts its status, to a common trust fund.

I. TAX-EXEMPT BOND PROVISIONS

Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of these governmental units (sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting as a conduit to provide financing for private parties in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds is not taxable if (a) the financed activity is specified in the Code and (b) at least 95 percent of the net proceeds of the bond issue is used to finance the specified activity.

Issuers of State and local government bonds must satisfy numerous other requirements, including arbitrage restrictions (for all such bonds) and annual State volume limitations (for most private activity bonds) for the interest on their bonds to be excluded from gross income.

1. Simplification of arbitrage rebate requirement for governmental bonds

PRESENT LAW

Subject to limited exceptions, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required if the gross proceeds of an issue are spent for the governmental purpose of the borrowing within six months after issuance.

This six-month exception is deemed to be satisfied by issuers of governmental bonds (other than tax and revenue anticipation notes) and qualified 501(c)(3) bonds if (1) all proceeds other than an amount not exceeding the lesser of five percent or $100,000 are so spent within six months and (2) the remaining proceeds are spent within one year after the bonds are issued.

House Bill

The $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds otherwise exempt from the rebate requirement is deleted. Thus, if at least 95 percent of the proceeds of these bonds is spent within six months after their issuance, and the remainder is spent within one year, the six-month exception is deemed to be satisfied.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

2. Simplification of compliance with 24-month arbitrage rebate exception for construction bonds

Present Law

In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the bonds are governmental bonds, qualified 501(c)(3) bonds, or exempt-facility private activity bonds for governmentally owned property.

This exception is satisfied only if the available construction proceeds of the issue are spent at least at specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested after the 24-month expenditure period as part of a reasonably required reserve or replacement fund, a bona fide debt service fund, or to certain other investments (e.g., sinking funds). Issuers of these construction bonds also may elect to comply with a penalty regime in lieu of rebating if they fail to satisfy the exception's spending requirements.

House Bill

The House bill exempts earnings on bond proceeds invested in bona fide debt service funds from the arbitrage rebate requirement and the penalty requirement of the 24-month exception if the spending requirements of that exception are otherwise satisfied.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

3. Simultaneous issuance of certain discrete issues not aggregated

Present Law

In certain cases, the Treasury Department treats multiple issues of tax-exempt bonds paid from substantially the same source of funds as a single issue in applying the Code's tax-exempt bond restrictions when the bonds are issued within a relatively short period of time.

House Bill

The House bill provides that discrete issues of governmental bonds issued simultaneously will not be treated as a single issue in cases where one of the issues is a TRAN reasonably expected to satisfy the arbitrage rebate safe harbor of Code section 148(f)(4)(B)(iii).

Effective date.—This provision applies to bonds issued after the date of enactment; no inference language is included with respect to bonds issued on or before that date.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

4. Repeal of unrelated and disproportionate use limit

Present Law

Bonds issued by States and local governments are private activity bonds if (1) more than ten percent of the proceeds of the issue of which they are part satisfies a private business use and payment test or (2) more than five percent ($5 million, if less) of the proceeds is used to finance loans to persons other than States or local governments. The ten-percent private business limits are reduced to five percent in the case of uses that are unrelated to a governmental use also being financed with the proceeds of the issue (the "unrelated and disproportionate use limit").

House Bill

The House bill repeals the five-percent unrelated and disproportionate use limit.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision of the House bill.

5. Simplification of arbitrage rebate requirement for smaller issuers of governmental bonds

Present Law

Subject to limited exceptions, arbitrage profits earned by investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. The rebate requirement does not apply to governmental bonds issued by issuers with general taxing powers if they issue $5 million or fewer of such bonds during the calendar year when the bonds are issued.

House Bill

The House bill increases the $5 million annual issuance limit for small issuers whose governmental bonds are not subject to rebate to $10 million.

Effective date.—This provision applies to bonds issued in calendar years beginning after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

6. Repeal of 150-percent of debt service limit

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage restrictions on investment of their bond proceeds. The first set requires that tax-exempt bond proceeds be invested at a yield that is not materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Except for temporary periods and amounts held pending use to pay current debt service, present law also limits the amount of the proceeds of private activity bonds (other than qualified 501(c)(3) bonds) that may be invested at materially higher yields at any time during a bond year to 150 percent of the debt service for that bond year. This restriction affects primarily investments in reasonably required reserve or replacement funds. Present law further restricts the amount of proceeds from the sale of bonds that may be invested in these reserve funds to ten percent of such proceeds.

The second set of arbitrage restrictions requires generally that all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing be rebated to the Federal Government. Arbitrage profits include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

House Bill

The House bill repeals the 150-percent of debt service yield restriction.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

7. Clarification of definition of "investment-type property"

Present Law

Interest on State and local government bonds is not tax-exempt if the bonds are arbitrage bonds. A bond generally is an arbitrage bond if the proceeds are invested in materially higher yielding "investment-type property," other than during prescribed temporary periods or as a part of a reasonably required reserve or replacement fund. Additionally, all profits earned on investment of bond proceeds other than for the governmental purpose of the borrowing generally must be rebated to the Federal Government.

If issuers of tax-exempt bonds prepay amounts for activities being financed with the bonds, arbitrage profits may be indirectly earned and retained by the issuers. Therefore, present law provides that property or services acquired pursuant to most transactions involving prepayments is investment-type property, and is subject to either yield restriction or arbitrage rebate requirements.

House Bill

The House bill deletes and reinserts the term "investment-type property" in the Code arbitrage restrictions. This amendment is intended to clarify Congress' original intent as to the meaning of that term. Absent restrictions, issuers might use bond proceeds to prepay items in such a manner that the tax-exempt bond arbitrage restrictions would be avoided and the issuers would retain the economic benefit of arbitrage profits. The expansion of property subject to the Code arbitrage restrictions to include all "investment-type property" was intended to preclude such arrangements.

As was stated in the legislative history accompanying the Tax Reform Act of 1986 (the "1986 Act"), however, in certain circumstances, advance payments for property or services may be made because of non-arbitrage-motivated business customs. For example, a governmental unit may decide to purchase property (e.g., a government office building or equipment) with an accompanying bond-financed up-front payment rather than lease the property without such an initial debt issuance. It is not intended that the fact that an issuer purchases, rather than leases, property should necessarily be construed as giving rise to investment-type property.

Similarly, certain services (e.g., bond insurance for the entire term of the bonds) may be available only in exchange for a lump-sum payment made in advance, or the credit standing of an issuer may be such that vendors will not supply property or services before receiving payment. As was indicated in 1986, the term investment-type property is not intended to include property or services acquired in exchange for debt-financed lump-sum payments, whether or not discounted, that are dictated by independent, non-arbitrage-motivated business customs governing availability of the property or services to all similarly-situated persons (whether or not State or local governmental units).

Further, the amendment is intended to clarify the application of this 1986 Act restriction to certain governmental and section 501(c)(3) organization procurement activities. When States and local governments and section 501(c)(3) organizations purchase property or services for use in carrying out their governmental or exempt activities, they may be offered discounts on the same terms as fully taxable purchasers for prompt or early payment or for volume purchases. Availability of these discounts presents an opportunity for economic arbitrage, and by taking advantage of the discounts, States and local governments and section 501(c)(3) organizations could be viewed as acquiring investment-type property. The committee intends, however, that acquisition at a discounted price of property or services to be used in carrying out a governmental or section 501(c)(3) organization exempt activity should not be treated as the acquisition of investment-type property if—

(a) the trade discount is available on the same terms to all purchasers of the property or services (both governmental, section 501(c)(3) organization, and fully taxable nongovernmental entities);[1] and

(b) the scheduled or actual timing of any early payment or the volume of any purchase by a governmental unit or section 501(c)(3) organization is not substantially different from the comparable timing of payments or volume of purchases by similarly situated fully taxable nongovernmental entities purchasing the same property or services.

Effective date.—This provision is effective as if included in Title XIII of the Tax Reform Act of 1986.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill. The conferees wish to clarify, however, that the explanation relating to certain trade discounts contained in the agreement is intended only to address the treatment of the trade discounts described therein. It is not intended to change or otherwise give rise to any inference as to the proper meaning of the term "investment-type property" in other circumstances.

8. Expand exception to pro rata disallowance of bank interest expense related to investment in tax-exempt bonds

Present Law

Banks and other financial institutions generally are denied a deduction for the portion of their interest expense (e.g., interest paid to depositors) that is attributable to investment in tax-exempt bonds acquired after August 7, 1986. This disallowance is computed use a pro-rata formula that compares the institution's average adjusted basis in tax-exempt bonds acquired after that date with the average adjusted basis of all assets of the institution.

An exception to the pro-rata disallowance rule is permitted for governmental bonds and qualified 501(c)(3) bonds issued by or on behalf of governmental units that issue no more than $10 million of such bonds during a calendar year (the "small-issuer exception").

House Bill

No provision.

Senate Amendment

The Senate amendment increases from $10 million to $25 million the amount of governmental and qualified 501(c)(3) bonds that an entity may issue annually while qualifying those bonds for the small-issuer exception to the general bank interest disallowance rule.

The amendment also provides that pooled financing tax-exempt bonds (other than private activity bonds) may qualify for the small-issuer exception if—

(a) all of the proceeds of the pooled financing bonds (net of issuance costs associated with the bonds) are used exclusively to acquire from the issuer thereof bonds ("acquired bonds") eligible for the small-issuer exception,

(b) the acquired bonds are not designated under section 265(b)(3)(B)(i)(III) as "bank qualified" for purposes of the small-issuer exception;[2]

(c) the weighted average maturity of the pooled financing bonds does not exceed the weighted average maturity of the acquired bonds; and

(d) the issuer of the pooled financing bonds designates those bonds as "bank qualified" under section 265(b)(3)(i)(B)(III).

Effective date.—The provision is effective for bonds issued and acquired in calendar years beginning after December 31, 1992.

Conference Agreement

The conference agreement follows the Senate amendment with a modification limiting the increase in the annual issuance limit for small issuers to $20 million (rather than $25 million).

9. Modification of rules governing qualified 501(c)(3) bonds

Present Law

Interest on State and local government bonds generally is excluded from income if the bonds are issued to finance direct activities of these governments (sec. 103). Interest on bonds issued by these governments to finance activities of other persons, e.g., private activity bonds, is taxable unless a specific exception is included in the Code. One such exception is for private activity bonds issued to finance activities of private, charitable organizations described in Code section 501(c)(3) ("section 501(c)(3) organizations") when the activities do not constitute an unrelated trade or business (sec. 141(e)(1)(G)).

Classification of section 501(c)(3) organization bonds as private activity bonds

Before enactment of the Tax Reform Act of 1986, States and local governments and section 501(c)(3) organizations both were defined as "exempt persons," under the Code bond provisions, and their bonds generally were subject to the same requirements. As exempt persons, section 501(c)(3) organizations were not treated as "private" persons, and their bonds were not "industrial development bonds" or "private loan bonds" (the predecessor categories to current private activity bonds).

Under present law, a bond is a private activity bond if its proceeds are used in a manner violating either (a) a private business test or (b) a private loan test. The private business test is a conjunctive two-pronged test. First, the test limits private business use of governmental bonds to no more than ten percent of the proceeds.[3] Second, no more than ten percent of the debt service on the bonds may be derived from private business users of the proceeds. The private loan test limits to the lesser of five percent or $5 million the amount of governmental bond proceeds that may be used to finance loans to persons other than governmental units.

Special restrictions on tax-exemption for section 501(c)(3) organization bonds

As stated above, present law treats section 501(c)(3) organizations as private persons; thus, bonds for their use may only be issued as private activity "qualified 501(1)(3) bonds," subject to the restrictions of Code section 145. The most significant of these restrictions limits the amount of outstanding bonds from which a section 501(c)(3) organization may benefit to $150 million. In applying this "$150 million limit," all section 501(c)(3) organizations under common management or control are treated as a single organization. The limit does not apply to bonds for hospital facilities, defined to include only acute care, primarily inpatient, organizations. A second restriction limits to no more than five percent the amount of the net proceeds of a bond issue that may be used to finance any activities (including all costs of issuing the bonds) other than the exempt purposes of the section 501(c)(3) organization.

Legislation enacted in 1988 imposed low-income tenant occupancy restrictions on existing residential rental property that is acquired by section 501(c)(3) organizations in tax-exempt-bond-financed transactions. These restrictions require that a minimum number of the housing units comprising the property be continuously occupied by tenants having family incomes of 50 percent (60 percent in certain cases) of area median income for periods of up to 15 years. These same low-income tenant occupancy requirements apply to for-profit developers receiving tax-exempt private activity bond financing.

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[1] Any trade discount which is structured differently for purchasers eligible to use taxable and tax-exempt debt or which is set at a level such that beneficiaries of tax-exempt bonds are more likely to take advantage of the discount than fully taxable purchasers (e.g., in a manner related to the tax-exempt borrowing costs of the purchaser) is not intended to qualify as a trade discount that is available on the same terms to all purchasers of the property or services.

The committee recognizes, however, that the implicit discount rate in any purchase arrangement is related to borrowing costs, and that therefore, beneficiaries of tax-exempt bonds may benefit economically more from any uniform discount rate than comparable taxable borrowers. This fact alone is not to be construed as violating the uniformity requirement, provided the discount rate is uniform for governmental, section 501(c)(3) organization, and fully taxable nongovernmental purchasers and is set at a sufficient level to be taken advantage of generally by purchasers using taxable financing as well as by governmental and section 501(c)(3) organizations benefiting from tax-exempt bonds.

[2] The acquired bonds are taken into account in determining how many bonds are reasonably expected to be issued by the borrowers from the pool in the calendar year in which they are issued.

[3] No more than five percent of bond proceeds may be used in a private business use that is unrelated to the governmental purpose of the bond issue. The ten percent debt service test, described below, likewise is reduced to five percent in the case of such "disproportionate" private business use.

Other restrictions

Several restrictions are imposed on private activity bonds generally that do not apply to bonds used to finance State and local government activities. Many of these restrictions also apply to qualified 501(c)(3) bonds.

No more than two percent of the net proceeds of a bond issue may be used to finance the costs of issuing the bonds, and these monies are not counted in determining whether the bonds satisfy the requirement that at least 95 percent of the net proceeds of each bond issue be used for the exempt activities qualifying the bonds for tax-exemption.

The weighted average maturity of a bond issue may not exceed 120 percent of the average economic life of the property financed with the proceeds.

A public hearing must be held and an elected public official must approve the bonds before they are issued (or the bonds must be approved by voter referendum).

If property financed with private activity bonds is converted to a use not qualifying for tax-exempt financing, certain loan interest penalties are imposed.

House Bill

No provision.

Senate Amendment

The Senate amendment changes the tax-exempt bond provisions of the Code to conform generally the treatment of bonds for section 501(c)(3) organizations to that provided for bonds issued to finance direct State or local government activities. Certain restrictions, described below, that have been imposed on qualified 501(c)(3) bonds (but not on governmental bonds) since 1986, and that address specialized policy concerns, are retained.

Repeal of private activity bond classification for bonds for section 501(c)(3) organizations

The concept of an "exempt person" that existed in the bond provisions before 1986, is reenacted. An exempt person is defined as (a) a State or local governmental unit or (b) a section 501(c)(3) organization, when carrying out its exempt activities under Code section 501(a). Thus, bonds for section 501(c)(3) organizations would no longer be classified as private activity bonds. However, financing for unrelated business activities of such organizations would continue to be treated as a private activity for which tax-exempt financing is not authorized.

As exempt persons, section 501(c)(3) organizations would be subject to the same limits as States and local governments on using their bond proceeds to finance private business activities or to make private loans. Thus, no more than ten percent of the bond proceeds[4] could be used in a business use of a person other than an exempt person if the Code security interest test is satisfied, and no more than five percent ($5 million if less) could be used to make loans to such "non-exempt" persons.

Repeal of most additional special restrictions on section 501(c)(3) organization bonds

Present Code section 145, which establishes additional restrictions on qualified 501(c)(3) bonds, is repealed, along with the restriction on bond-financed costs of issuance for section 501(c)(3) organization bonds (sec. 147(h)). This eliminates the $150-million-per-organization limit on nonhospital bonds for section 501(c)(3) organizations.

Retention of certain specialized requirements for section 501(c)(3) organization bonds

As stated above, the Senate amendment retains certain specialized restrictions on bonds for section 501(c)(3) organizations. First, the bill retains the requirement that existing residential rental property acquired by a section 501(c)(3) organization in a tax-exempt-bond-financed transaction satisfy the same low-income tenant requirements as similar housing financing for for-profit developers. Second, the amendment retains the present-law maturity limitations applicable to bonds for section 501(c)(3) organizations, and the public approval requirements applicable generally to private activity bonds. Third, the amendment continues to apply the penalties on changes in use of tax-exempt-bond-financed section 501(c)(3) organization property to a use not qualified for such financing.

Finally, the Senate amendment makes no amendments, other than technical conforming amendments, to the tax-exempt arbitrage restrictions, the alternative minimum tax tax-exempt bond preference, or the provisions generally disallowing interest paid by banks on monies used to acquire or carry tax-exempt bonds.

Effective date.—The Senate amendment applies to bonds issued after December 31, 1992.

Conference Agreement

The conference agreement follows the Senate amendment.

10. Authority for Treasury Department to exempt certain taxpayers from tax-exempt interest reporting requirement

Present Law

Present law requires all individuals to report on their income tax returns the amount of interest on State and local government bonds they receive.

House Bill

No provision.

Senate Amendment

The Senate amendment authorizes the Treasury Department to provide exceptions to the requirement that taxpayers report interest on State and local government bonds on their Federal income tax returns in cases where the Secretary determines that such information is not useful to the administration of the tax laws.

Effective date.—This provision is effective for taxable years beginning after the date of enactment.

Conference Agreement

The conference agreement does not include the provision of the Senate amendment.

11. Repeal of expired provisions

Present Law

Present law includes two special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. This exception applied only to bonds issued before January 1, 1989.

House Bill

These special exceptions are deleted as "deadwood."

Effective date.—This provision is effective on the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

12. Bonds for the United Nations

Present Law

Interest on State and local government bonds generally is excluded from income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of these governmental units. Present law also excludes the interest on State and local government bonds ("private activity bonds") when a governmental unit incurs debt as a conduit to provide financing for private parties, if the financed activities are specified in the Internal Revenue Code (the "Code"). Tax-exempt bonds may not be issued to finance private activities not specified in the Code.

Private activity bonds are bonds (1) more than 10 percent of the proceeds of which satisfy a private business use and payment test, or (2) more than five percent ($5 million, if less) of the proceeds are used to finance loans to persons other than State or local governmental units.

Under the tax-exempt bond rules, all persons and entities other than states and local governments are treated as private parties, eligible for financing only if specifically authorized. No such authorization exists for the United Nations or any other foreign government entity.

House Bill

No provision in H.R. 11 (However H.R. 5639 includes an identical provision to the Senate amendment).

Senate Amendment

The bill authorizes the issuance by a State or local government of tax-exempt private activity bonds when at least 95 percent of the net proceeds will be used to finance the construction or acquisition of real property used for offices (and functionally related and subordinate land and space for supporting activities) for use by the United Nations and its agencies and instrumentalities. These bonds will be subject to the State private activity bond volume limit of the State where the bonds are issued and to all other private activity bond rules (except the rehabilitation requirement on acquisition of existing property).

Effective Date

The provision applies to bonds issued after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

13. Treasury Department regulatory authority to integrate arbitrage rebate and yield restriction requirements

Present Law

In general

Interest on State and local government bonds generally is tax-exempt. Interest is not tax-exempt if the bonds are arbitrage bonds. Arbitrage bonds are bonds more than a minor portion of the proceeds of which is invested at a yield that is materially higher than the bond yield during periods other than prescribed "temporary periods." (Exceptions are provided for, *inter alia*, proceeds such as those invested in a reasonably required reserve or replacement fund.)

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[4] This limit is reduced to five percent in the case of disproportionate private use as under the present-law governmental bond disproportionate private use limit.

Rebate requirement

In general, arbitrage profits earned on investments unrelated to the governmental purpose for which tax-exempt bonds are issued must be rebated to the Federal Government. This requirement primarily affects earnings during such periods and earnings on such specially treated proceeds as those invested as part of a reasonably required reserve or replacement fund (which are not subject to yield restriction).

For certain governmental and qualified 501(c)(3) bonds issued for construction projects, a special penalty alternative may be elected in lieu of complying with the rebate requirement. Under this elective regime, penalties are imposed unless set expenditure targets are met at six-month intervals. These expenditure targets are:

(1) at least 10 percent of the available construction proceeds of the bond issue must be spent within six months after the bonds are issued;

(2) at least 45 percent of those proceeds must be spent within 12 months after the bonds are issued;

(3) at least 75 percent of those proceeds must be spent within 18 months after the bonds are issued; and

(4) 100 percent (less certain allowable retainage) of those proceeds must be spent within two years after the bonds are issued.

Temporary periods

Regulatory temporary periods

In general, Treasury Department regulations prescribe the applicable temporary periods for bond proceeds. For most bonds, the initial temporary period is three years from the date on which the bonds are issued. An issuer qualifies for this unrestricted investment period only if the issuer reasonably expects to satisfy three tests:

(1) *Expenditure test.*—At least 85 percent of the spendable proceeds of the issue must be expected to be spent within three years after the bonds are issued.

(2) *Time test.*—A substantial binding commitment to commence with the project to be financed must be entered into within six months after the bonds are issued.

(3) *Due diligence test.*—After the binding commitment is entered into, work to complete the project must proceed with due diligence.

Treasury Department regulations also establish shorter temporary periods for special types of proceeds (e.g., loan repayments) and types of bonds (e.g., tax and revenue anticipation notes).

Statutory temporary periods

The Internal Revenue Code (the Code) provides specific temporary periods in three cases. First, the initial temporary period on pooled financing bonds is limited to six months, and the temporary period on repayments of loans financed with such bonds is limited to three months.[5] Pooled financing bonds are bonds the proceeds of which are to be used to make loans to two or more persons.

Second, the Code provides that the initial temporary period for bonds that are advance refunded terminates no later than the date on which the refunding occurs. Third, the Code limits the initial temporary period on advance refunding bonds to 30 days.

Proposed and temporary Treasury Department regulations

On May 18, 1992, the Treasury Department issued proposed and temporary regulations which would allow most regulatory temporary periods to be extended indefinitely if (1) the bond proceeds were expended, determined after the fact, in a manner that actually qualified the bonds for the temporary period claimed by the issuer, and (2) all arbitrage profits on the bond issue were rebated to the Federal Government. For example, the three-year initial temporary period described above could be extended if the expenditure, time, and due diligence tests were actually complied with and arbitrage profits were rebated.

The proposed regulations do not apply to the three types of bonds for which statutory temporary periods are prescribed. Additionally, the proposed regulations do not apply to construction bond issues for which the penalty alternative to the rebate requirement is elected.

HOUSE BILL

No provision in H.R. 11 (However H.R. 5675 includes an identical provision as the Senate amendment.)

SENATE AMENDMENT

The bill provides the Treasury Department with express legislative authority to waive by regulation most statutory tax-exempt bond yield restriction requirements, provided that all arbitrage profits on the bond issue are rebated to the Federal Government. This authority does not extend to either (1) yield restriction of the proceeds of bonds involved in advance refunding transactions or (2) construction bond issues for which the special three-percent penalty-in-lieu-of-rebate penalty is elected.

The committee intends that the Treasury Department will give due consideration to regulatory action designed to preclude earlier or larger than necessary issuance of tax-exempt bonds or other abuse in this area. Specifically, the committee intends that the Treasury may impose "look-back" requirements, based on actual expenditures of bond proceeds, as a condition to waiving otherwise applicable yield restriction requirements. For example, the committee believes specifically that a look-back provision may be needed if the yield restriction requirement were waived for pooled financing bonds. If a look-back requirement were developed for these bonds, Treasury should look for guidance to the spend-down schedule set forth in the Code for certain construction bonds.

In taking this action, the committee intends no inference as to the Treasury Department's authority in actions previously taken in its proposed regulations, described above.

EFFECTIVE DATE

The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include this provision of the Senate amendment.

J. INSURANCE PROVISIONS

1. Treatment of certain insurance contracts on retired lives

PRESENT LAW

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. Special rules are provided in the case of a variable contract, providing that the reserve is adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying each contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in value of such assets.

A variable contract is defined as any annuity or life insurance contract (1) that provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset accounts of the company, and (2) under which, in the case of an annuity contract, the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account, or, in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account. A pension plan contract that is not a life, accident, or health, property, casualty, or liability insurance contract is treated as an annuity contract for purposes of this definition.

HOUSE BILL

The House bill provides that a variable contract is to include a contract that provides for the funding of group term life or group accident and health insurance on retired lives if: (1) the contract provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset account of the company; and (2) the amounts paid in, or the amounts paid out, under the contract reflect the investment return and the market value of the segregated asset account underlying the contract.

Effective date.—The provision applies to any contract issued after December 31, 1991. A taxpayer, however, may elect to apply the provision to all contracts issued before January 1, 1992 and during a taxable year for which the statute of limitations on the assessment of tax has not expired as of the date of enactment of the bill.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the Senate amendment is effective for taxable years beginning after December 31, 1991.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Treatment of modified guaranteed contracts

PRESENT LAW

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contact is the greater of the net surrender value of the contract or the reserve determined under Federally prescribed rules. The net surrender value of a contract is the cash surrender value reduced by any surrender penalty, except that any market value adjustment required on surrender is not taken into account. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

In general, assets held for investment are treated as capital assets. Any gain or loss from the sale or exchange of a capital asset is treated as a capital gain or loss and is taken into account for the taxable year in which the asset is sold or exchanged.

HOUSE BILL

The House bill generally applies a mark-to-market regime to assets held as part of a segregated account under a modified guaranteed contract issued by a life insurance company. Gain or loss with respect to such assets held as of the close of any taxable year is taken into account for that year (even though the assets have not been sold or exchanged), and is treated as ordinary. The reserve for a modified guaranteed contract is determined taking into account the market value adjustment required on surrender of the contract.

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[5] This six-month period is increased to two years in the case of construction bonds subject to the special expenditure targets, described above, regardless of whether the issuer elects the penalty alternative to the rebate requirement.

A modified guaranteed contract is defined as any life insurance contract, annuity contract or pension plan contract[1] that is not a variable contract (within the meaning of Code section 817), and that satisfies the following requirements. First, all or a part of the amounts received under the contract must be allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time by reference to market values. Second, the contract must provide for a market value adjustment upon surrender of the contract.

The Treasury Department is authorized to issue regulations that provide for the application of the mark-to-market requirement at times other than the close of a taxable year or the last business day of a taxable year. The Treasury Department is also authorized to issue such regulations as may be necessary or appropriate to carry out the purposes of the provision and to provide for the treatment of modified guaranteed contracts under sections 72, 7702 and 7702A.

Effective date.—The provision applies to taxable years beginning after December 31, 1991. A taxpayer that is required to (1) change its calculation of reserves to take into account market value adjustments and (2) mark to market its segregated assets in order to comply with the requirements of the provision is treated as having initiated changes in method of accounting and as having received the consent of the Treasury Department to make such changes. The section 481(a) adjustments required by reason of the changes in method of accounting are to be combined and taken into account as a single net adjustment for the taxpayer's first taxable year beginning after December 31, 1991.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except for the following modifications.

A modified guaranteed contract is not required to provide for a market value adjustment upon surrender of the contract. Instead, the reserves for the contract must be valued at market for annual statement purposes.

In addition to the regulatory authority provided in the House bill, the Senate amendment authorizes the Treasury Department:

(1) to determine the interest rates applicable under sections 807(c)(3) and 807(d)(2)(B) with respect to modified guaranteed contracts annually, calculating such rates as appropriate for modified guaranteed contracts and using a method that approximates the yield on the assets underlying the contract;

(2) to the extent appropriate for such a contract, to modify or waive section 811(d);

(3) to provide rules limiting the ordinary treatment provided under the provision to gain or loss on those assets properly taken into account in calculating the reserve for Federal tax purposes (and necessary to support such reserves) for modified guaranteed contracts, and to provide rules for limiting such treatment with respect to other assets (such as assets representing surplus of the company).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the following modifications.

A modified guaranteed contract is defined as under the Senate amendment, except that a modified guaranteed contract includes only a contract that provides either for a net surrender value or for a policyholder's fund (within the meaning of section 807(e)(1)).

The Treasury regulatory authority to determine the interest rates applicable under sections 807(c)(3) and 807(d)(2)(B) is clarified to apply also to the interest rate applicable under section 812, and to provide that such rates are to be calculated as appropriate for modified guaranteed contracts. For example, it may be appropriate to take into account the yield on the assets underlying the contract in determining such rates.

The conferees intend that the mark-to-market treatment apply to all assets held as part of a segregated account established under the provision, even though ordinary treatment may not apply (pursuant to the Treasury regulatory authority granted under the Senate amendment) to assets held as part of the segregated account that are not necessary to support the reserve for modified guaranteed contracts.

The conference agreement authorizes the Treasury Department to prescribe regulations that provide for the treatment of assets transferred to or from a segregated account.

The conferees are concerned that taxpayers may exercise selective ordinary loss (or income or gain) recognition by virtue of the ordinary treatment under the provision. One example of selective ordinary loss recognition could arise if assets are always marked to marked when transferred out of the segregated account. For example, if at the beginning of the taxable year an asset in the segregated account is worth $1,000, but declines to $900 in July, the taxpayer might choose to recognize $100 of ordinary loss while continuing to own the asset, simply by transferring it out of the segregated account in July and replacing $1,000 of cash (for example) in the segregated account.

The conferees intend that the regulations relating to asset transfers will forestall opportunities for selective recognition of ordinary items. Prior to the issuance of these regulations, the conferees intend that the following rules apply.

If an asset is transferred to a segregated account, gain or loss attributable to the period during which the asset was not in the segregated account is taken into account when the asset is sold, and retains the character (as ordinary or capital) properly attributable to that period. Appropriate adjustments are made to the basis of the asset to reflect gain or loss attributable to that period.

If an asset is transferred out of a segregated account, the transfer is deemed to occur on the last business day of the taxable year and gain or loss with respect to the transferred asset is taken into account as of that day. Loss with respect to such transferred asset is treated as ordinary to the extent of the lesser of (1) the loss (if any) that would have been recognized if the asset had been sold for its fair market value on the last business day of the taxable year (or the date the asset was actually sold by the taxpayer, if earlier) or (2) the loss (if any) that would have been recognized if the asset had been sold for its fair market value on the date of the transfer. A similar rule applies for gains. Proper adjustment is made in the amount of any gain or loss subsequently realized to reflect gain or loss under the provision.

For example, assume that a capital asset in the segregated account that is worth $1,000 at the beginning of the year is transferred out of the segregated account in July at a value of $900, is retained by the company and is worth $950 on the last business day of the taxable year. A $50 ordinary loss is taken into account with respect to the asset for the taxable year (the difference between $1,000 and $950). The asset is not marked to market in any subsequent year under the provision, provided it is not transferred back to the segregated account.

As an additional example, assume that a capital asset in the segregated account that is worth $1,000 at the beginning of the year is transferred out of the segregated account in July at a value of $900, is retained by the company and continues to decline in value to $850 on the last business day of the taxable year. A $100 ordinary loss ($1,000 less $900) and a $50 capital loss ($900 less $850) is taken into account with respect to the asset for the taxable year.

K. COOPERATIVE PROVISIONS

1. Discharge of indebtedness income from prepayment of REA loans

PRESENT LAW

Internal Revenue Code

Under section 501(c)(12) of the Code, a rural electric cooperative generally is exempt from Federal income tax if at least 85 percent of the cooperative's income is derived from members. Cancellation of indebtedness income generally must be taken into account in determining the percentage of a cooperative's income derived from members. Section 501(c)(12)(B)(iv) provides, however, that the 85-percent test is applied without regard to any cancellation of indebtedness income arising from the prepayment of a loan pursuant to sections 306A, 306B, or 311 of the Rural Electrification Act ("REA Act"), as in effect on January 1, 1987.

1990 Farm Act

Section 2387 of the Food, Agriculture, Conservation, and Trade Act of 1990 (the "1990 Farm Act") amended section 306B of the REA Act. Under such amendment, rural electric cooperatives that merge with another rural electric cooperative that previously prepaid REA loans under the 1988 or 1989 Budget Reconciliation Acts may prepay REA loans at a discount, provided the prepayment occurs within one year of such merger. Because this amendment occurred after January 1, 1987, the cancellation of indebtedness income arising from such prepayments would not be excluded in applying the 85-percent test under present law.

HOUSE BILL

No provision in H.R. 11. (However, section 109 of H.R. 2735 is substantially the same as the Senate amendment as described below, except that (1) it applies to the prepayment of REA loans under section 306B of the REA Act, as opposed to section 306B(b) of the REA Act, and (2) it does not contain certain conforming amendments made by the Senate amendment to section 501(c)(12)(B).)

SENATE AMENDMENT

The Senate amendment provides that the 85-percent test of section 501(c)(12) is applied without regard to cancellation of indebtedness income arising from the prepayment of

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[1] The provision applies only to a pension plan contract that is not a life, accident or health, property, casualty, or liability contract.

REA loans under section 306B(b) of the REA Act, as in effect on January 1, 1991. For purposes of determining whether section 306B(b) of the REA Act remains in effect as of January 1, 1991, the renumbering of such subsection, the addition of a caption to such subsection, or any amendments to subsection 306B(a) shall be disregarded.

Effective date.—The provision is effective with respect to prepayments of REA loans made after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Treatment of certain amounts received by telephone cooperatives

PRESENT LAW

Mutual or cooperative telephone companies ("telephone cooperatives") are exempt from Federal income tax if 85 percent or more of their income consists of amounts collected from members for the sole purpose of meeting losses and expenses (sec. 501(c)(12)(A)). In applying this 85-percent test, certain income received by a telephone cooperative is disregarded, including income received from a nonmember telephone company for the performance of communication services which involve members of the telephone cooperative, certain pole rental income, and income from the sale of display listings in a telephone directory furnished to members of the telephone cooperative (sec. 501(c)(12)(B)).

Tax-exempt organizations generally are subject to the unrelated business income tax (UBIT) on income from a trade or business that is not substantially related to the organization's tax-exempt purposes. Under special rules, certain investment income (e.g., interest, dividends, royalties, and certain rents) generally is exempt from the UBIT, although some tax-exempt organizations, such as social clubs described in section 501(c)(7) and certain mutual benefit organizations, are subject to the UBIT on their investment income.

HOUSE BILL

No provision in H.R. 11. (However, section 108 of H.R. 2735 is identical to the Senate amendment as described below.)

SENATE AMENDMENT

The Senate amendment amends section 501(c)(12) to provide that 50 percent of the income received by a telephone cooperative from a nonmember telephone company for performing communication services—e.g., fees received for originating (or terminating) a long-distance call placed by (or to) a member—are treated as collected from members of the telephone cooperative for the sole purpose of meeting the losses and expenses of the telephone cooperative.[1] The remaining 50 percent of income received by a telephone cooperative from a nonmember telephone company is, as under present law, excluded from the 85-percent test under section 501(c)(12)(B)(i).

The Senate amendment also excludes from the 85-percent test under section 501(c)(12) amounts received by a telephone cooperative from billing and collection services performed for another telephone company.[2]

In addition, the Senate amendment provides that telephone cooperatives will not lose their tax-exempt status under section 501(c)(12) if they earn certain investment "reserve income" in excess of 15 percent of their total income, but only if such reserve income (when added to other income not collected from members) does not exceed 35 percent of the cooperative's total income. For purposes of this provision, "reserve income" is defined as income that otherwise would be excluded from the UBIT under section 512(b) (e.g., interest and dividends) and that is set aside for the repair or replacement of telephone facilities of the cooperative. Under the provision, tax-exempt telephone cooperatives are subject to the UBIT on such reserve income between the 15-percent and 35-percent range.[3]

Effective date.—The provision is effective for amounts received or accrued after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Treatment of certain housing cooperatives

PRESENT LAW

Deductions by Membership Organizations

Under section 277(a), costs incurred by a "membership organization" attributable to furnishing services, insurance, goods or other items of value to its members are deductible in any taxable year only to the extent of any income the organization has derived from its members or transactions with members. Any excess deductions may be carried over and used to offset income from members in subsequent taxable years.

For purposes of section 277(a), the Tax Court has determined that interest earned by a housing cooperative on reserve accounts mandated by the Federal Housing Authority and the state development housing authority did not constitute "income derived * * * from members or transactions with members". (See *Concord Consumers Housing Cooperative v. Commissioner*, 89 T.C. 105 (1987)).[4]

The Internal Revenue Service has held that section 277 applies to housing cooperatives,[5] while certain courts have held that section 277 does not apply to cooperatives that are subject to tax under subchapter T of the Code.[6] It is not clear whether housing cooperatives are subject to subchapter T.

Tax Treatment of Cooperatives

A cooperative is an organization, usually a corporation, which benefits its members and patrons by selling goods to them, purchasing products from them, and returning any income in excess of costs to them. A cooperative that is subject to subchapter T may exclude any patronage dividends paid to its members and patrons from its taxable income (sec. 1382). For a cooperative other than an "exempt cooperative",[7] a patronage dividend must be determined solely by reference to the net earnings of the organization from business done with or for its patrons. The Eighth Circuit has held that a nonexempt cooperative may not use patronage losses to offset nonpatronage income. See *Farm Services Cooperative v. Commissioner*, 611 F.2d 1270 (8th Cir. 1980).

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5650 treats interest earned by any cooperative housing corporation (as defined in sec. 216(b)(1)) on its reasonable reserves (including reserves required by a government agency or lender) as income derived from transactions with members for purposes of section 277(a), provided that the cooperative housing corporation satisfies the requirements set forth in section 143(k)(9)(D)(i). The provision in H.R. 5650 applies to taxable years beginning after the date of enactment.

SENATE AMENDMENT

The Senate amendment clarifies that section 277 does not apply to a "cooperative housing corporation".[8] The Senate amendment, however, adopts a rule in subchapter T similar to section 277 that patronage losses of a cooperative housing corporation cannot offset earnings that are not patronage earnings.

For this purpose, the Senate amendment specifically treats the following items as "patronage earnings": (1) interest on reasonable reserves established in connection with the cooperative housing corporation, including reserves required by a government agency or lender, (2) rents from laundry and parking to the extent attributable to use of the facilities by tenant-stockholders (as defined in section 216(b)(2)) and their guests, and (3) in the case of certain "limited equity cooperative housing corporations",[9] rental income attributable to housing projects operated by such corporations.

Effective date.—The Senate amendment applies to taxable years beginning after the date of enactment.

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[1] Amounts received by a telephone cooperative from a nonmember telephone company (e.g., long-distance carrier) for performing communication services often are referred to as "access charges." Thus, under the Senate amendment, 50 percent of such access charges received by a telephone cooperative from another telecommunications company are treated as member-source income for purposes of the 85-percent test of section 501(c)(12).

[2] Telephone cooperatives (and other local telephone companies) often serve as billing and collection agents for other telecommunications companies. (That is, a telephone cooperative bills, and collects from, its members not only charges for local phone service provided by the cooperative but also charges for amounts owed to a long-distance carrier for the member's long-distance calls.) Telephone cooperatives are compensated for performing billing and collection services, generally by retaining a portion of the long-distance charges collected from members. Similar to the present-law treatment of certain pole rental income and directory listing (e.g., "yellow pages") revenue, the Senate amendment treats such billing and collection revenues as excluded from the 85-percent test under section 501(c)(12).

The Senate amendment provides that, for purposes of the UBIT, no inference is intended regarding the treatment of income from billing and collection services.

[3] Income that is not taken into account under section 501(c)(12)(B) likewise is disregarded for purposes of the 15-percent and 35-percent thresholds.

[4] The Tax Court did not address the interrelationship of sections 216, 277 and subchapter T because the record was insufficient to determine whether "petitioner [was] a 'cooperative housing corporation' within the meaning of section 216(b)(1) or that petitioner [was] 'operating on a cooperative basis'" within the meaning of section 1381(a)(2). *See* 89 T.C. at 106 n.3.

[5] See Rev. Rul. 90-36, 1990-1 C.B. 59.

[6] See *Landmark v. United States*, 92-1 Tax Cas. (CCH) para. 50,058 (Ct. Cl. 1992); *Farm Services Cooperative v. Commissioner*, 70 T.C. 145, 155-57, (1978), *rev'd on other grounds*, 611 F.2d 1270 (8th Cir. 1980).

[7] An "exempt cooperative" is a farmers' cooperative association described in section 521(b)(1). An exempt cooperative may allocate to its patrons and deduct, not only earnings from patronage activities, but also dividends on capital stock and earnings from nonpatronage sources (sec. 1382(c)).

[8] Under section 216(b)(1), a cooperative housing corporation generally is a corporation (i) that has one class of stock, (ii) each of the stockholders of which is entitled, solely by reason of ownership of stock, to occupy a dwelling owned or leased by the cooperative, (iii) no stockholder of which is entitled to receive any distribution not out of earnings and profits of the cooperative, and (iv) 80 percent or more of the gross income for the taxable year of which is derived from tenant-stockholders.

[9] Generally, a cooperative housing corporation is a "limited equity cooperative housing corporation" if the amount paid by a tenant stockholder for stock in the corporation cannot exceed the sum of (i) the consideration paid by the first tenant-stockholder, adjusted for cost of living, (ii) payments for improvements to the dwelling unit, and (iii) payments to amortize corporate indebtedness arising from the acquisition or development of real property (sec. 143(k)(9)(D)(i)).

Conference Agreement

The conference agreement follows the Senate amendment, except for a technical modification. No inference is intended regarding whether any corporation operating on a cooperative basis (other than a cooperative housing corporation) is subject to section 277.

4. Treatment of safe harbor leases of membership organizations

Present Law

Deductions of membership organizations

Under section 277, a membership organization operated primarily to furnish services or goods to its members may deduct costs attributable to such operations only to the extent of income derived from members. In essence, section 277 prohibits using losses incurred from transactions with members to offset income derived from transactions with nonmembers.

Safe harbor leases

The Economic Recovery Tax Act of 1981 ("ERTA") provided rules intended to permit full utilization of tax benefits. Under these rules (known as the "safe harbor lease rules"), the putative "lessor" in the transaction was treated as the property owner for Federal income tax purposes (regardless of the transaction's economic substance) and thereby was entitled to cost recovery deductions and investment tax credits. Thus, a person (i.e., lessee) who complied with these rules could, by entering into a nominal sale and safe-harbor leaseback, effectively sell some of the tax benefits associated with the property, while retaining the benefits and burdens of ownership. The safe harbor lease rules were repealed by the Tax Equity and Fiscal Responsibility Act of 1982.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that the interest income and rental expense from the sale and leaseback of property under a safe harbor lease are to be first netted and the difference allocated between members and nonmembers in proportion to the business done with each group.

Effective date.—The provision is effective for all taxable years beginning before, on, or after the date of enactment.

Conference Agreement

The conference agreement does not adopt the Senate amendment.

L. OTHER SIMPLIFICATION PROVISIONS

1. Close partnership taxable year with respect to deceased partner, etc.

Present Law

The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged or liquidated. Such year, however, generally does not close upon the death of a partner. Thus, a decedent's entire share of items of income, gain, loss, deduction and credit for the partnership year in which death occurs is taxed to the estate or successor in interest rather than to the decedent on his or her final income tax return. *See Estate of Hesse* v. *Commissioner*, 74 T.C. 1307, 1311 (1980).

House Bill

The House bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise. The House bill is not intended to change present law with respect to the effect upon the partnership taxable year of a transfer of a partnership interest by a debtor to the debtor's estate (under Chapters 7 or 11 of Title 11, relating to bankruptcy).

Effective date.—Partnership taxable years beginning after December 31, 1991.

Senate Amendment

The Senate amendment is the same as the House bill, except that the provision is effective for partnership taxable years beginning after December 31, 1992.

Conference Agreement

The conference agreement follows the Senate amendment.

2. Treatment of built-in losses for purposes of the corporate alternative minimum tax

Present Law

For purposes of the regular corporate tax, if at the time of an ownership change, a corporation has a net operating loss or a net unrealized built-in loss, the use of such losses in post-change periods is limited. A corporation has a net unrealized built-in loss if the aggregate adjusted bases of the assets of the corporation exceed the fair market value of the assets immediately before the change of ownership (sec. 382).

For purposes of the adjusted current earnings (ACE) component of the corporate alternative minimum tax (AMT), if a corporation with a net unrealized built-in loss undergoes an ownership change in a taxable year beginning after 1989, the adjusted basis of each asset of such corporation generally is adjusted to each asset's fair market value (sec. 56(g)(4)(G)). This rule essentially eliminates, rather than limits, the use of built-in losses for ACE purposes. The net operating loss of a corporation, on the other hand, is not eliminated for AMT purposes after a change of ownership.

House Bill

The House bill repeals the ACE rule relating to the treatment of built-in losses after a change of ownership. Thus, for ACE purposes, the treatment of built-in losses would be similar to the treatment of net operating loss carryovers (in the same way that the treatment of built-in losses is similar to the treatment of net operating losses for regular tax purposes).

Effective date.—The provision is effective for changes of ownership occurring after the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill, except that the Senate amendment is effective for changes of ownership occurring after December 31, 1991.

Conference Agreement

The conference agreement follows the Senate amendment.

3. Authorization for Bureau of Land Management to use proceeds of Reforestation Trust Fund

Present Law

The United States Treasury contains a Reforestation Trust Fund the proceeds of which are used by the Department of Agriculture for reforestation and timber stand improvement of lands in the national forest system and for related administrative costs. The amount transferred to the Reforestation Trust Fund for any fiscal year equals the amount collected during such year from custom tariffs on certain wood products, except that the maximum amount transferred for any fiscal year may not exceed $30 million.

House Bill

No provision.

Senate Amendment

The Senate amendment increases from $30 million to $45 million the maximum amount that may be transferred to the Reforestation Trust Fund for any fiscal year. The additional $15 million that is transferred to the Reforestation Trust Fund for any fiscal year is to be allocated and made available to the Department of the Interior for the reforestation, forest development, and forest conservation activities of the Bureau of Land Management and for related administrative costs.

Of the additional $15 million that is transferred to the Reforestation Trust Fund for any fiscal year, $14 million is to be allocated for Oregon and California Railroad and Coos Bay Wagon Road grant lands in Oregon. The remaining $1 million is to be allocated for public domain lands located in any State based on (in order of priority): (1) the level of timber sales (measured in board feet) during the previous calendar year from public domain lands located within the State; (2) the amount of reforestation backlog in the State; (3) the need for planting as part of the reforestation program; and (4) the need for forest development as part of the reforestation program.

The Senate amendment also provides that if the wood product tariffs are insufficient to provide an additional $15 million for any fiscal year, the Treasury Department is required to transfer to the Reforestation Trust Fund an amount equal to the shortfall in the wood product tariffs. In the case of any such shortfall in the wood product tariffs, 93-and-1/3 percent of the amount of the shortfall is to be taken from the Federal portion of the Bureau of Land Management timber receipt payments from the Coos Bay Wagon Road grant lands in Oregon and the remainder of the shortfall is to be taken from the Federal portion of the Bureau of Land Management timber receipt payments from public domain lands in the States.

Effective date.—The provision is effective on October 1, 1992.

Conference Agreement

The conference agreement adopts the Senate amendment.

4. Private foundation common investment fund (sec. 4564 of the bill and new sec. 501(n) of the Code)

Present Law

Code section 501(c)(3) requires that an organization be organized and operated exclusively for an exempt purpose in order to qualify for tax-exempt status under that section.

Section 501(f) provides that an organization is treated as organized and operated exclusively for charitable purposes if it is comprised solely of members that are educational institutions and is organized and operated solely to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) in stocks and securities, the moneys contributed thereto by the members, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members.

House Bill

No provision. (However, H.R. 2735 contains a provision that is substantially similar to the Senate amendment.)

Senate Amendment

The Senate amendment provides that a cooperative service organization comprised solely of members that are tax-exempt private foundations and community foundations[1] shall be treated as organized and operated exclusively for charitable purposes if: (1) it has at least 20 members; (2) no one member holds (after the organization's second taxable year) more than 10 percent (by value) of the interests in the organization; (3) it is organized[2] and controlled by its members, but no one member by itself controls the organization or any other member; (4) the members are permitted to dismiss any of the organization's investment advisors, if (following reasonable notice) members holding a majority of interest in the account managed by such advisor vote to remove such advisor; and (5) the organization is organized and operated solely to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) in stocks and securities, the monies contributed by the members, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members.[3]

A cooperative service organization meeting the criteria of the proposed modification would be subject to the present-law excise tax provisions applicable to private foundations (e.g., sec. 4941 rules governing self-dealing arrangements), other than sections 4940 and 4942.[4] In addition, each member's allocable share (whether or not distributed) of the capital gain net income and gross investment income of the organization for any taxable year of the organization is treated, for purposes of the excise tax imposed under present-law section 4940, as capital gain net income and gross investment income of the member for the taxable year of such member in which the taxable year of the organization ends.[5]

Effective date.—Taxable years ending on or after December 31, 1992.

Conference Agreement

The conference agreement follows the Senate amendment.

5. Determinations of gas produced from qualifying sources under the nonconventional fuels production credit

Present Law

Nonconventional fuels are eligible for a production credit ("the section 29 credit") equal to $3 per barrel or Btu oil barrel equivalent[1] (the credit amount generally is adjusted for inflation, except for gas produced from a tight formation). Qualified fuels must be produced domestically from a well drilled, or a facility placed in service, before January 1, 1993. The production credit is available for qualified fuels sold before January 1, 2003.

Qualified fuels include (1) oil produced from shale and tar sands, (2) gas produced from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass (i.e., any organic material other than oil, natural gas, or coal (or any product thereof), and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks. The amount of the credit is determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before 1980.

As a general rule, the determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a tight formation is made in accordance with section 503 of the Natural Gas Policy Act of 1978 (the "NGPA").[2] The term "gas from a tight formation" means only gas from a tight formation which either, as of April 20, 1977, was committed or dedicated to interstate commerce (as defined in section 2(18) of the NGPA, as in effect on the date of enactment of the Omnibus Budget Reconciliation Act of 1990, or is produced from a well drilled after November 5, 1990.

Under section 503 of the NGPA,[3] if any State or Federal agency[4] makes any final determination that a well produces certain "high-cost natural gas,"[5] that determination is applicable unless it is reversed by the Federal Energy Regulatory Commission (FERC) under special procedures established under the NGPA.[6]

Under the regulatory authority granted to it by the NGPA, FERC has established the following definitions of certain types of high-cost natural gas. Natural gas produced from geopressured brine is natural gas which is dissolved before initial production of the natural gas in subsurface brine aquifers with at least 10,000 parts of dissolved solids per million parts of water and with an initial reservoir geopressure gradient in excess of 0.465 pounds per square inch for each vertical foot of depth.[7]

Occluded natural gas produced from coal seams means naturally occurring natural gas from entrapment from the fractures, pores and bedding planes of coal seams.[8]

Natural gas produced from Devonian shale means natural gas produced from fractures, micropores and bedding planes of shales deposited during the paleozoic Devonian Period. Shales deposited during such period are defined as either (1) the gross Devonian age stratigraphic interval encountered by a well bore, at least 95 percent of which has a gamma ray index of 0.7 or greater; or (2) generally, one continuous interval within the gross Devonian age stratigraphic interval, encountered by a well bore, as long as at least 95 percent of the selected Devonian shale interval has a gamma ray index of 0.7 or greater.[9] When measuring the Devonian age stratigraphic interval, the gamma ray index at any point is calculated by dividing the gamma ray log value at that point by the gamma log value at the shale base line established over the entire Devonian age interval penetrated by the well bore.

In general, guidelines for making a determination that a formation is a tight formation are as follows: (1) The estimated average *in situ* gas permeability, throughout the pay section, is expected to be 0.1 millidarcy or less; (2) the stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed the production rate set forth by FERC in regulations;[10] and (3) no well drilled into the recommended tight formation is expected to produce, without stimulation, more than 5 barrels of crude oil per day.[11] The FERC regulations establishing a definition of tight formation also set forth determination and review requirements similar to those provided by the NGPA for high-cost natural gas.

Any Federal or State agency that makes a determination that a formation is a tight formation or that a well produces high-cost natural gas is required to provide timely notice in writing of such determination to FERC.[12] The notice must include such substantiation and be in such a manner as FERC may, by ruling, require.

The NGPA provides that FERC will reverse any final State or Federal agency determination that a formation is a tight formation or that a well produces high-cost natural gas if (1) FERC finds that such determination is not supported by substantial evidence in the record upon which such determination was made; and (2) the preliminary finding and required notice thereof is made within 45 days after the date on which FERC received notice of the determination by the State or Federal agency and the final finding is made within 120 days after the date of the preliminary finding.[13] If (1) FERC finds that a State or Federal agency determination is not consistent with information contained in FERC's public records, and which is not part of the record upon which the State or Federal agency's determination was made, and (2) the preliminary finding by FERC and re-

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[1] For purposes of the provision, "community foundations" are a form of charitable trust or fund (which generally are established to attract large contributions of a capital or endowment nature for the benefit of a particular community or area) as to which section 170(b)(1)(A)(vi) applies. See Treas. Reg. sec. 1.170A-9(e)(10).

It is intended that members will present the organization with verification of their status as tax-exempt private or community foundations at the time they become members (i.e., when they make an initial investment). The committee intends that a reasonable time period (such as 60 days) should be allowed for withdrawal by a member that subsequently ceases to qualify as a tax-exempt private or community foundation.

[2] It is intended that an organization in existence at the time of enactment will meet the requirement that it be "organized" by members if its initial board of directors or trustees are officers of private or community foundations that become members of the organization within a reasonable period after enactment of the bill.

[3] It is intended that an organization will be deemed to be organized and operated solely to collectively invest in stocks and securities if its income is derived solely from investing in stocks and securities, and ordinary and routine investments in connection with a stock and securities portfolio.

A cooperative service organization described in the provision qualifies for tax-exempt status under section 501(c)(3) only if the other applicable requirements of that section (e.g., prohibition of private inurement, political activities, and substantial lobbying) are satisfied.

[4] In addition, the Senate amendment provides that the present-law expenditure responsibility requirements of section 4945(d)(4)(B) will not apply to grants made by private foundations to the cooperative service organization and that such grants will be deemed to be qualifying distributions for purposes of 4942.

[5] Each member's allocable share of the organization's expenses are passed through to the member for purposes of determining the deductions allowed by section 4940(c)(3) in computing the member's net investment income.

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[1] A barrel-of-oil equivalent generally means that amount of the qualifying fuel which has a Btu content of 5.8 million.

[2] P.L. 95-621, Nov. 9, 1978.

[3] 15 U.S.C. sec. 3413 (1988).

[4] Under the NGPA, a State or Federal agency having regulatory jurisdiction with respect to the production of natural gas is authorized to make determinations for qualifying under certain categories of natural gas. Such an agency, however, may waive its authority to make such determinations by entering into an agreement with FERC allowing FERC to be the determination-making body. (15 U.S.C. sec. 3413(c) (1988).)

[5] Under the NGPA, high-cost natural gas includes gas produced from geopressured brine, coal seams, or Devonian shale. In addition, the NGPA grants FERC the authority to treat other types of natural gas as high-cost natural gas if the gas is produced under such other conditions that FERC determines to present extraordinary risks or costs. Under this authority, FERC treats gas produced from a tight formation as high-cost natural gas. (15 U.S.C. sec. 3317(c) (1988).)

[6] 15 U.S.C. sec. 3413(a)(1) (1988).

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[7] 18 C.F.R. sec. 272.103(c).

[8] 18 C.F.R. sec. 272.103(d).

[9] 18 C.F.R. sec. 272.103(e).

[10] *See* table in 18 C.F.R. sec. 271.703(c)(1)(B).

[11] 18 C.F.R. sec. 271.703(c).

[12] 15 U.S.C. sec. 3413(a)(2) (1988).

[13] 15 U.S.C. sec. 3413(b)(1) (1988).

quired notice thereof is made within 45 days after the date on which FERC received notice of the determination and the final finding is made within 120 days after the date of the preliminary finding, FERC may remand the matter to the State or Federal agency for consideration of such information.[14] If the agency, after consideration of the information transmitted to it by FERC, affirms its previous determination, such determination, as so affirmed, is subject to additional review by FERC. Such findings and remands by FERC may be subject to judicial review.[15]

In general, any final determination by a State or Federal agency (or by FERC) that a formation is a tight formation or that a well produces high-cost natural gas which is no longer subject to FERC or judicial review is thereafter binding with respect to such natural gas.[16]

In 1989, the Natural Gas Wellhead Decontrol Act[17] was enacted. That Act repealed Title I of the NGPA, effective on January 1, 1993. It also repealed FERC's determination review responsibility under section 503 of the NGPA. The legislative history to the 1989 legislation stated that the Senate Committee on Energy and Natural Resources did not intend, by repealing sections of the NGPA referenced in section 29 of the Internal Revenue Code, to reflect an adverse judgment as to the merits of the tax credits for any categories of natural gas production that might be affected by such action.[18] In view of this indication that Congress did not intend the 1989 legislation to limit the availability of the section 29 credit, FERC announced that it will continue to process well determinations until January 1, 1993, in order to allow producers to obtain tax credits that are dependent upon such determinations even if the gas has been otherwise decontrolled.[19] FERC has subsequently announced that it will continue to process well determinations received by June 30, 1993 if they are filed with jurisdictional agencies by December 31, 1992.[20]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that with respect to determinations required under the Internal Revenue Code of whether gas is produced from geopressured brine, Devonian shale, coal seams, or from a tight formation, in the event that such a determination is not made by the Federal Energy Regulatory Commission in accordance with section 503 of the Natural Gas Policy Act of 1978 due to the expiration of that statute, the Secretary of Treasury is required to make such determinations. For this purpose, the Senate amendment mandates that any such determination by the Treasury Department be based on the guidelines for making determinations set forth in the Natural Gas Policy Act of 1978 (and in regulations thereunder) prior to its repeal.

In addition, the Senate amendment clarifies that for purposes of the section 29 credit, the definitions of gas produced from geopressured brine, Devonian shale, coal seams, or from a tight formation are as established by the Federal Energy Regulatory Commission under the Natural Gas Policy Act of 1978 prior to repeal of provisions of that statute relating to such definitions.

Effective date.—Determinations not made by the Federal Energy Regulatory Commission as a result of the repeal of relevant provisions of the Natural Gas Policy Act of 1978.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

M. ESTATE AND GIFT TAX PROVISIONS

1. Waiver of right of recovery for certain marital deduction property

PRESENT LAW

For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to such inclusion from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). For this purpose, a will provision specifying that all taxes be paid by the estate is presently sufficient to waive the right of recovery.

The gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.

HOUSE BILL

The House bill provides that the right of recovery with respect to QTIP is waived to the extent that language in the decedent's will or revocable trust specifically so indicates. Thus, a general provision specifying that all taxes be paid by the estate is no longer sufficient to waive the right of recovery. The House bill also provides that the right of contribution for property over which the decedent retained enjoyment or the right to income is waived by a specific indication, but specific reference to section 2207B would no longer be required.

Effective date.—The provision applies to decedents dying after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Inclusion in gross estate of certain gifts made within three years of death

PRESENT LAW

The first $10,000 of gifts of present interests to each donee during any one calendar year are excluded from Federal gift tax.

The value of the gross estate includes the value of any previously transferred property if the decedent retained the power to revoke the transfer (sec. 2038). The gross estate also includes the value of any property with respect to which such power is relinquished during the three years before death (sec. 2035). This rule has been interpreted to include in the gross estate certain transfers made from a revocable trust within three years of death.[1] Such inclusion subjects gifts that would otherwise qualify under the annual $10,000 exclusion to estate tax.

HOUSE BILL

The House bill provides that a transfer from a trust over which the grantor held the power to revoke would be treated as if made directly by the grantor. Thus, an annual exclusion gift from such trust is not included in the gross estate.

The House bill also revises section 2035 to improve its clarity.

Effective date.—The provision applies to decedents dying after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. It is intended that no inference be drawn from the provision with respect to the treatment of transfers from revocable trusts under present law.

3. Definition of qualified terminable interest property

PRESENT LAW

A marital deduction is allowed for qualified terminable interest property (QTIP). Property is QTIP only if the surviving spouse has a qualifying income interest for life (e.g., the spouse is entitled to all of the income from the property, payable at least annually). QTIP generally is includible in the surviving spouse's gross estate.

The United States Tax Court has held that, in order to satisfy the QTIP requirements, the income accumulating between the last distribution date and the date of the surviving spouse's death (the "accumulated income") must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. See *Estate of Howard v. Commissioner*, 91 T.C. 329, 338 (1988), *rev'd*, 910 F.2d 633 (9th Cir. 1990). In contrast, proposed Treasury regulations presently provide that an income interest may constitute a qualifying income interest for life even if the accumulated income is not required to be distributed to the surviving spouse or the surviving spouse's estate. *See* Prop. Treas. Reg. secs. 20.2056(b)-7(c)(1), 25.2523(f)-1(b).

HOUSE BILL

Under the House bill, an income interest does not fail to be a qualified income interest for life solely because the accumulated income is not required to be distributed to the surviving spouse. Such income is includible in the surviving spouse's gross estate.

Effective date.—The provision applies to decedents dying, and gifts made, after date of enactment. However, the House bill does not include in the surviving spouse's gross estate property transferred before the date of enactment for which no marital deduction was allowed.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. It is intended that no inference be drawn from the provision with respect to the definition of a qualified income interest for life under present law.

4. Inclusion of property qualifying for the marital deduction in the gross estate

PRESENT LAW

A marital deduction against the estate and gift tax generally is permitted for the value of property passing between spouses. No marital deduction is permitted, however, if, upon termination of the spouse's interest, possession or enjoyment of the property passes to another person (the "terminable interest rule"). Certain exceptions to this rule may apply if the spouse receives a general power of appointment over, or an income interest in, a "specific portion" of property (sec. 2056(b)(5), (6), (7)). The spouse is subject to transfer tax on property over which he or she holds a general power of appointment.

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[14] 15 U.S.C. sec. 3413(b)(2) (1988).

[15] 15 U.S.C. sec. 3413(b)(4) (1988).

[16] 15 U.S.C. sec. 3413(d) (1988).

[17] P.L. 101-60, July 26, 1989.

[18] S. Rep. No. 101-39, 101st Cong., 1st Sess. 9 (1989).

[19] F.E.R.C. Order No. 523, 55 Fed. Reg. 17425, April 25, 1990.

[20] F.E.R.C. Order No. 539, 57 Fed. Reg. 13009, April 15, 1992.

[1] See, e.g., *Jalkut Estate* v. *Commissioner*, 96 T.C. 675 (1991) (transfers from revocable trust to permissible beneficiaries of the trust includible in the grantor's gross estate); LTR 9117003 (same).

A Treasury regulation defines a "specific portion" to be a fractional or percentage share of a property interest (Treas. Reg. sec. 20.2056(b)-5(c)). Finding this regulation invalid, courts have held that the term "specific portion" includes a fixed dollar amount. See *Northeastern Pennsylvania National Bank & Trust Co. v. United States*, 387 U.S. 213 (1967); *Estate of Alexander v. Commissioner*, 82 T.C. 34 (1984), *aff'd*, No. 8401600 (4th Cir. April 3, 1985). Under the court holdings, appreciation in certain marital deduction property may be includible in neither spouse's estate.

HOUSE BILL

The House bill provides that, for purposes of the marital deduction, a "specific portion" only includes a portion determined on a fractional or percentage basis. Thus, a trust does not qualify under the exceptions to the terminable interest rule unless the required income interest and general power of appointment are expressed as a fraction or a percentage of the property.

It is intended that no inference be drawn from the provision with respect to the definition of "specific portion" under present law. The House bill does not generally affect the marital deduction allowed for a pecuniary formula marital deduction bequest. See, e.g., Rev. Proc. 64-19, 1964-1 C.B. 682.

Effective date.—The provision generally applies to gifts made, and decedents dying, after date of enactment. The provision does not apply to a transfer under a will or revocable trust executed before the date of enactment if either (1) on that date the decedent was under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of death, or (2) the decedent dies within three years after the date of enactment. The provision applies, however, if the will or trust is amended after the date of enactment in any respect that increases the amount of the transfer qualifying for the marital deduction or alters the terms by which the interest passes.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement does not include either the House bill provision or the Senate amendment. (However, the conference agreement on H.R. 776 includes the same provision as contained in the House bill and the Senate amendment.)

5. Requirements for qualified domestic trust.

PRESENT LAW

A deduction generally is allowed for Federal estate tax purposes for the value of property passing to a spouse. The Technical and Miscellaneous Revenue Act of 1988 ("TAMRA") denied the marital deduction for property passing to a noncitizen spouse outside a qualified domestic trust ("QDT"). An estate tax is generally imposed on corpus distributions from a QDT.

TAMRA defined a QDT as a trust that, among other things, required all trustees be U.S. citizens or domestic corporations. This provision was modified in the Omnibus Budget Reconciliation Acts of 1989 and 1990 to require that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").

HOUSE BILL

A trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 is treated as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.

Effective date.—The provision applies as if included in the Omnibus Budget Reconciliation Act of 1990.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

6. Election of special use valuation of farm property for estate tax purposes

PRESENT LAW

For estate tax purposes, an executor may elect to value certain real property used in farming or other closely held business operations at its current use value rather than its highest and best use (sec. 2032A). A written agreement signed by each person with an interest in the property must be filed with the election.

Treasury regulations require that a notice of election and certain information be filed with the Federal estate tax return (Treas. Reg. sec. 20.2032A-8). The administrative policy of the Treasury Department is to disallow current use valuation elections unless the required information is supplied.

Under procedures prescribed by the Secretary of the Treasury, an executor who makes the election and provides substantially all of the information requested on the estate tax return but fails to provide all required information may supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Secretary of the Treasury.

HOUSE BILL

The House bill extends the procedures allowing subsequent submission of information to any executor who makes the election and submits the recapture agreement, without regard to compliance with the Treasury regulations. Thus, the House bill allows the current use valuation election if the executor supplies the required information within a reasonable period of time (not exceeding 90 days) after notification by the IRS. During that time period, the House bill also allows addition of signatures to a previously filed agreement.

Effective date.—The provision applies to decedents dying after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

7. Income taxation of accumulation trusts

PRESENT LAW

In general

A nongrantor trust is treated as a separate taxpayer for Federal income tax purposes. Such trust is generally treated as a conduit with respect to amounts distributed currently and taxed as an individual with respect to undistributed income. The conduit treatment is achieved by allowing the trust a deduction for amounts distributed or required to be distributed to beneficiaries during the taxable year to the extent of distributable net income and by including the distributions in the beneficiaries' income.

Distributions of accumulated income

A distribution of previously accumulated income is taxed under the "throwback rules", which provide that beneficiaries are taxed on distributions of previously accumulated income from trusts in substantially the same manner as if the income had been distributed when earned or accrued.

Distributions of appreciated property

If property is sold within two years of its contribution to a trust, the gain that would have been recognized had the contributor sold the property is generally taxed at the contributor's marginal tax rates (sec. 644). In effect, section 644 treats such gains as if the contributor had realized the gain and then transferred the net after-tax proceeds from the sale to the trust as corpus.

Treatment of multiple trusts

Under section 643(f), two or more trusts are treated as one trust if (1) the trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and (2) a principal purpose for the existence of the trusts is the avoidance of Federal income tax. For trusts that were irrevocable as of March 1, 1984, section 643(f) applies only to subsequent contributions to corpus.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment exempts amounts distributed by domestic trusts after December 31, 1992, from the "throwback rules." It also provides that precontribution gain on property sold by a domestic trust is no longer taxed at the contributor's marginal tax rates. The provision does not apply to a trust created before March 1, 1984, unless the taxpayer establishes that the trust would not have been aggregated under the standard contained in section 643(f).

Effective date.—The change in the throwback rules applies to taxable years beginning after December 31, 1992. The modification in section 644 applies to sales or exchanges after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

8. Estate tax recapture from cash leases of specially valued property

PRESENT LAW

A Federal estate tax is imposed on the value of property passing at death. Generally, the value of property is its fair market value, i.e., the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

Under section 2032A of the Code, the executor may elect to value certain "qualified real property" used in farming or another qualifying trade or business at its current use value rather than its highest and best use. If, after the special use valuation election is made, the heir who acquired the real property ceases to use it in its qualified use within 10 years (15 years for individuals dying before 1982) of the decedent's death, an additional estate tax is imposed in order to "recapture" the benefit of the special use valuation.

Some courts have held that cash rental of specially valued property after the death of the decedent is not a qualified use and, therefore, results in the imposition of the additional estate tax under section 2032A(c). *Martin v. Commissioner*, 783 F.2d 81 (7th Cir. 1986) (cash lease to unrelated party); *Williamson v. Commissioner*, 93 T.C. 242 (1989), *aff'd*, ——— F. 2d ——— (9th Cir.), 1992 U.S. App. Lexis 21175 (September 14, 1992) (cash lease to family member).

HOUSE BILL

No provision in H.R. 11. (However, section 123 of H.R. 2735 is substantially the same as the Senate amendment as described below, except that (i) permissible lessees are limited to any lineal descendant of a qualified heir (or to the spouse of such a lineal descendant), (ii) H.R. 2735 does not explicitly require that any permissible lessee continue to operate the farm or closely held business in its qualified use during the term of the lease, and (iii) the provision is effective for cash rentals occurring after the date of enactment.)

SENATE AMENDMENT

The Senate amendment provides that the cash lease of specially valued real property by a qualified heir to a "member of the family" (who continues to operate the farm or closely held business) does not cause the qualified use of such property to cease for purposes of imposing the additional estate tax under section 2032A(c).

Effective date.—The provision is effective for cash rentals after December 31, 1976.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

9. Interest rate on intra-familial loans made in connection with land sales

PRESENT LAW

Treatment of gift loans

In 1984, the U.S. Supreme Court held that interest-free demand loans made to a child by his parents constituted a transfer of property by gift and was subject to the gift tax. The amount of the gift was the reasonable value of the use of the money lent without charge, rather than the principal amount of the loan. See *Dickman v. Commissioner*, 465 U.S. 330 (1984).

Congress codified the *Dickman* holding in the Deficit Reduction Act of 1984 in section 7872, effective generally for term loans made after June 6, 1984, and demand loans outstanding after June 6, 1984. Under section 7872, a below-market interest rate loan (a "below-market loan") is recharacterized as an arm's length transaction in which the lender (i) made a loan to the borrower in exchange for a note requiring the payment of interest at the "applicable Federal rate" (as determined under section 1274(d)), and (ii) made a payment to the borrower equal to the amount of the interest "foregone" by the lender.

A demand loan is treated as a below-market loan if interest is payable at a rate below the applicable Federal rate. A term loan is a below-market loan if the amount of the loan exceeds the present value of all payments due under the loan (determined as of the date of the loan by using a discount rate equal to the applicable Federal rate). For this purpose, a demand loan is any loan which is payable in full at any time upon the demand of the lender and a term loan is any loan which is not a demand loan. With respect to gift loans that are term loans, however, the loan will be treated as a demand loan for income tax purposes and as a term loan for gift tax purposes (sec. 7872(d)(2)).

Land Transfers Between Related Parties

Under section 483 of the Code, a deferred payment contract will generally have unstated interest unless the interest rate provided in the debt instrument is at least equal to the applicable Federal rate. In determining the amount of unstated interest under section 483, a special six percent rate may be substituted for the applicable Federal rate with respect to certain land sales between family members (i.e., "qualified sales") to the extent that the sales price for such sale does not exceed $500,000 (sec. 483(e)). This special safe harbor rate does not apply, however, where any party to the sale is a nonresident alien individual.

Two United States Court of Appeals have recently divided as to whether the special six percent "safe-harbor" rate under section 483(e) could be applied in valuing an installment sales contract for estate and gift tax purposes. Compare *Ballard v. Commissioner*, 854 F.2d 185 (7th Cir. 1988)(holding that six percent rate under section 483(e) could be used for gift tax purposes) with *Krabbenhoft v. Commissioner*, 939 F.2d 529 (8th Cir. 1991)(holding that section 483(e) did not apply for gift tax purposes). See also *Frazee v. Commissioner*, 98 T.C. No. 37 (1992)(which adopts the holding in *Krabbenhoft*).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment amends section 7872 to provide that the special six percent safe harbor rate under section 483(e) applies for transfer tax purposes to loans made in connection with qualified sales. Accordingly, to the extent that the sales price for a qualified sale to a U.S. citizen or resident does not exceed $500,000, the applicable Federal rate for determining the total foregone interest or whether a loan is a below market loan shall not exceed 6 percent, compounded semiannually. It is not intended that any inference be drawn from the Senate amendment with respect to the application of section 483(e) under present law.

Effective date.—The Senate amendment applies with respect to interest accruing after July 31, 1993.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

N. EXCISE TAX PROVISIONS

1. Fuels tax provisions

a. Consolidate provisions imposing diesel and aviation fuel excise taxes

PRESENT LAW

Code section 4091 imposes a tax on the sale of diesel and aviation fuel by a "producer." The term producer generally includes refiners, compounders, blenders, and wholesalers who are registered with the Internal Revenue Service. The term also includes persons to whom diesel or aviation fuel has been sold tax-free.

As a backup, section 4041 imposes a tax on certain sales or uses of diesel and aviation fuel if a taxable sale of such fuel does not occur under section 4091.

HOUSE BILL

The House bill combines the diesel and aviation fuel tax provisions currently divided between Code sections 4041 and 4091 into a revised section 4091. The use of diesel and aviation fuel in a taxable use by producers will be taxed under section 4091, and the definition of producer is clarified to include purchasers in tax-reduced sales.

The bill also simplifies the Code by eliminating two unnecessary provisions, sections 4041(b)(1)(B) and (j) of the Code. These provisions are redundant.

Effective date.—The provision is effective for sales or uses on or after January 1, 1993.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

b. Permit refund of tax to taxpayer for diesel and aviation fuel resold to certain exempt purchasers

PRESENT LAW

As a general matter, purchasers who use tax-paid fuels for an exempt use are entitled to a refund or credit. Purchasers of tax-paid fuels generally are not permitted a refund or credit if they resell the fuels to another person who subsequently uses them in an exempt use.

However, persons who buy and then resell (a) fuel subject to the special motor fuel or gasoline taxes or (b) certain other articles are permitted a refund or credit (in place of the ultimate users claiming the credit or refund) if they resell the fuel or article for use in the following exempt uses: (1) export, (2) supplies for aircraft or vessels, (3) use by a State or local government, or (4) use by a nonprofit educational organization for its exclusive use.

HOUSE BILL

The House bill allows a refund or credit to sellers of diesel and aviation fuel who purchase the fuels tax-paid and re-sell the fuels without payment of tax for any of the four exempt uses described above.

Effective date.—The provision is effective for sales on or after January 1, 1993.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

c. Consolidate tax credit and refund provisions for fuel excise taxes

PRESENT LAW

As a general matter, purchasers who use fuels for exempt uses are entitled to a refund if the fuels have been purchased tax-paid. The refund provisions for the fuels excise taxes are found in several sections of the Code.

In general, a purchaser entitled to a refund may file a quarterly refund claim for any of the first three quarters of the purchaser's tax year, if the claim exceeds a threshold dollar amount (with the lowest threshold being $750). The threshold amounts differ for different fuels and different exempt uses. A purchaser cannot file a quarterly claim for refund for its fourth quarter, but must file the claim as a credit on that year's income tax return.

There is an expedited procedure for gasohol blenders claiming a refund of part of the excise tax included in the price of the gasoline used for blending into gasohol.

Finally, only an income tax credit, and not a refund, may be claimed for excise taxes on gasoline and special motor fuel used on a farm for farming purposes.

HOUSE BILL

The House bill consolidates the user credit and refund provisions for the fuels excise taxes into one section of the Code. The bill also combines the three refund procedures for fuels taxes into a uniform refund procedure. The new uniform refund procedure permits an exempt user to aggregate its refund claims for all fuels taxes and file for a refund in any calendar quarter in which the amount of the aggregate claim exceeds $750. The uniform refund procedure also permits such a user to file for a refund for its fourth quarter rather than apply for a credit.

The special expedited procedure for gasohol blenders is unchanged.

Effective date.—The provision is effective for sales on or after January 1, 1993.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

d. Repeal waiver requirement for fuel tax refunds for cropdusters and other fertilizer applicators

PRESENT LAW

In general, farmers who use gasoline and aviation fuel on farms are entitled to refunds of the taxes that have been paid on that fuel. Cropdusters and other fertilizer applicators that use gasoline and aviation fuel on farms are entitled to refunds of the taxes paid on that fuel in lieu of the farmers, but only if the owners or operators of the farms waive their right to refunds for such fuel.

HOUSE BILL

The House bill eliminates the waiver requirement for fuels tax refunds for cropdusters and other fertilizer applicators.

Effective date.—The provision is effective for fuels purchased on or after January 1, 1993.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

e. Authorize exceptions from information reporting for certain sales of diesel and aviation fuel

PRESENT LAW

Certain producers and importers and purchasers are required to file information returns for reduced-tax sales of diesel and aviation fuel.

HOUSE BILL

The House bill permits the Internal Revenue Service by regulation to provide exceptions to the mandatory information return requirement for certain sales of diesel and aviation fuel.

Effective date.—The provision applies to sales on or after January 1, 1993.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Provisions relating to distilled spirits, wines, and beer

PRESENT LAW

Refund on return to bonded premises of imported bottled distilled spirits

Present law provides that when tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise taxes are refunded (sec. 5008(c)). This provision does not apply to imported bottled distilled spirits because they are withdrawn from customs custody and not from bonded premises.

Bond for exported distilled spirits

Bond generally must be furnished to the Treasury Department when distilled spirits are removed from bonded premises for exportation without payment of tax. These bonds are cancelled or credited when evidence is submitted to the Department of the Treasury that the distilled spirits have been exported (sec. 5175(c)).

Distilled spirits plant records

Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried on (sec. 5207(c)).

Transfers from breweries to distilled spirits plants

Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, but only if the brewery is contiguous to the distilled spirits plant (sec. 5222(b)).

Posting of sign by wholesale liquor dealers

Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone, who sell distilled spirits, wines, or beer to other persons who re-sell such products) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers (sec. 5115).

Refund of tax for wine returned to bond

Under present law, when unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered (sec. 5044). In contrast, when beer is returned to a brewery, tax that has been paid is returned or credited, regardless of whether the beer is unmerchantable (sec. 5056(a)).

Use of ameliorating material in certain wines

The Code contains rules governing the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine. In general, ameliorating material may not exceed 35 percent of the volume of juice and ameliorating material combined (sec. 5383(b)(1)). However, wines made exclusively from loganberries, currants, or gooseberries are permitted a volume of ameliorating material of up to 60 percent (sec. 5384(b)(2)(D)).

Domestically produced beer for use by foreign embassies, etc.

Under present law, domestically produced distilled spirits and wine may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations (secs. 5066 and 5362(e)). (A similar rule also applies to imported distilled spirits, wine, and beer.) No such provision exists under present law for domestically produced beer.

Withdrawal of beer for destruction

Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.

Records of exportation of beer

Present law provides that a brewer is allowed a refund of tax paid on exported beer upon submission to Treasury Department of certain records indicating that the beer has been exported (sec. 5055).

Transfer to brewery of beer imported in bulk

Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant without payment of tax (sec. 5232).

HOUSE BILL

Return of imported bottled distilled spirits

The procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises are conformed to the rules for domestically produced and imported bulk distilled spirits. Thus, refunds are available for all distilled spirits on their return to a bonded distilled spirits plant.

Bond for exported distilled spirits

For purposes of cancelling or crediting bonds furnished when distilled spirits are removed from bonded premises for exportation, the Treasury Department is authorized to permit records of exportation to be maintained by the exporter, rather than requiring submission of proof of exportation to Treasury in all cases.

Distilled spirits plant records

Distilled spirits plant proprietors are permitted to maintain records of their activities at locations other than the premises where the operations covered by the records are carried on (e.g., corporate headquarters), provided that the records are available for inspection by the Treasury Department during business hours.

Transfers from breweries to distilled spirits plants

The House bill allows beer to be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant. In the case of beer previously removed from a brewery, the House bill also provides that a transfer to a distilled spirits plant may occur without the beer being first retransferred to the brewery.

Posting of sign by wholesale liquor dealers

The requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers is repealed.

Refund of tax for wine returned to bond

The House bill deletes the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of ameliorating material in certain wines

The wine labelling restrictions are modified to allow any wine made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a volume of ameliorating material not in excess of 60 percent.

Domestically produced beer for use by foreign embassies, etc.

The House bill extends to domestically produced beer the present-law rule applicable to domestically produced distilled spirits and wine (and imported distilled spirits, wine, and beer) which permits these products to be withdrawn without payment of tax for the official or family use of representatives of foreign governments or public international organizations.

Withdrawal of beer for destruction

The House bill allows beer to be removed from a brewery without payment of tax for destruction, subject to Treasury Department regulations.

Records of exportation of beer

The House bill repeals the requirement that proof of exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax. This proof will continue to be required to be maintained at the exporter's place of business.

Transfer to brewery of beer imported in bulk

The House bill extends the present-law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers, so that imported beer may, subject to Treasury regulations, be withdrawn from customs custody for transfer to a brewery without payment of tax.

Effective date

These provisions of the bill generally are effective beginning 180 days after the date of enactment. The provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment

3. Other excise tax provisions

a. Authority for IRS to grant exemptions from registration requirements

PRESENT LAW

Under section 4222, certain sales of articles subject to Federal excise taxes may not be made without payment of tax unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under regulations prescribed by the Secretary.

HOUSE BILL

The House bill allows the IRS to provide exemption from generally applicable excise tax registration requirements for certain classes of taxpayers.

Effective date.—The provision applies to sales after the 180th day after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

b. Repeal temporary reduction in tax on piggyback trailers

PRESENT LAW

Piggyback trailers and semitrailers sold within the one-year period beginning on July 18, 1984 were permitted a temporary reduction in the retail excise tax on trailers.

HOUSE BILL

The House bill repeals the temporary reduction in tax on piggyback trailers as "deadwood."

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

c. Expiration of excise tax on deep seabed minerals

PRESENT LAW

The Deep Seabed Mineral Resources Act (the "Resources Act," P.L. 96-283), imposed an excise tax on certain hard minerals mined on the deep seabed. The tax revenues were intended to fund obligations of the United States under a contemplated Law of the Sea Convention.

The tax was scheduled to terminate on the earlier of the date on which a U.N. international deep seabed treaty took effect with respect to the United States, or June 28, 1990 (10 years after the date of enactment of the tax). Because the United States did not sign the treaty, the excise tax provisions expired on June 28, 1990.

HOUSE BILL

The House bill deletes the deep seabed hard minerals excise tax provisions as "deadwood."

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

d. Firearms excise tax exemption for small manufacturers

PRESENT LAW

Present law imposes an 11-percent excise tax on the manufacture or importation of rifles and shotguns and on ammunition (shells and cartridges). Present law also imposes a 10-percent excise tax on the manufacture or importation of pistols and revolvers (sec. 4181).

Revenues from these taxes are appropriated, in the fiscal year following receipt, to the Federal Aid to Wildlife Program for support of State wildlife programs.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment exempts small manufacturers and importers from the 11-percent excise tax on firearms (rifles and shotguns) and ammunition and the 10-percent excise tax on pistols and revolvers, if the manufacturer or importer manufactures or imports fewer than 50 such articles per year.

Effective date.—The provision is effective for articles sold after September 30, 1983. In the case of any taxable year ending before the date of enactment, the period for claiming a credit or refund of any overpayment of tax resulting from the proposed exemption from tax will not expire before one year after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

e. Expanded definition of "wine spirits"

PRESENT LAW

Wine spirits authorized to be used in wine production are defined as brandy or wine spirits produced in a distilled spirits plant exclusively from fruit or fruit residues, wine or wine residues, or subject to Treasury regulations, special natural wines.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment expands the definition of wine spirits to include alcohol produced from whey.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

f. Exemption for certain ferries from excise tax on ship passenger departures

PRESENT LAW

An excise tax of $3 per passenger is imposed on ship passenger departures on a "covered voyage." A covered voyage includes transportation on (1) a commercial passenger vessel which extends over one or more nights, or (2) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial waters of the United States (i.e., more than 3 miles from shore), during which passengers embark or disembark the vessel in the United States. The latter circumstances includes such vessels that leave a U.S. port and return the same day.

The tax does not apply to either (1) a voyage on any vessel owned or operated by the United States or a State or local government (e.g., State or local government ferry boats), or (2) a voyage of less than 12 hours between two U.S. ports. A passenger vessel is any vessel having a berth or stateroom accommodations for more than 16 passengers. The tax is imposed only once on a passenger's covered voyage—either upon embarking or disembarking.

The tax on ship passengers was enacted in the Omnibus Budget Reconciliation Act of 1989, effective on January 1, 1990. Revenues from this tax go to the General Fund of the Treasury.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5661 as passed by the House provides the same exemption for certain ferries as does the Senate amendment.)

SENATE AMENDMENT

The Senate amendment expands the current exemption from the ship passenger tax for voyages of less than 12 hours between two U.S. ports to also include ferry boat voyages of less than 12 hours between a port in the United States and a port outside the United States. For this purpose, the term "ferry boat" means any vessel if normally no more than 50 percent of the passengers on any voyage of such vessel return to the port where such voyage began on the first return of such voyage to such port.

Effective date.—The provision generally applies to voyages beginning after December 31, 1989. However, there will be no refunds of tax paid; and if tax has been collected from passengers, it will have to be remitted to the Government.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

g. Application of aircraft fuels excise tax or air passenger and air freight taxes to certain corporate aircraft

PRESENT LAW

Fuels taxes are imposed on fuels used by "noncommercial aviation" aircraft. For aviation gasoline, the tax is 15 cents per gallon, and for nongasoline (jet) fuels, the tax is 17.5 cents per gallon. "Noncommercial aviation" means the use of an aircraft other than in a business of transporting persons or property for compensation or hire. The term also includes the use of an aircraft which is "properly allocable" to any transportation exempt from the air passenger or air freight taxes under sections 4281 of 4282.

Section 4281 exempts small aircraft (maximum certificated takeoff weight of 6,000 pounds or less) from the air passenger and air freight taxes, unless operated on an established line. Under section 4282, the air passenger and air freight taxes do not apply to transportation by air for other members of an "affiliated group" (as defined in sec. 1504(a), without any exclusions under sec. 1504(b)). In such cases where the air passenger or air freight taxes do not apply, the aircraft is subject to the fuels tax applicable to noncommercial aviation.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment clarifies the application of the aviation excise taxes to business aircraft used by corporate affiliated groups to require the Internal Revenue Service to apply the applicable taxes on a flight-by-flight basis for an affiliated group as for a stand alone corporation.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

O. COMPLIANCE PROVISIONS

1. General administrative provisions

a. Simplify employment tax reporting for household employees

PRESENT LAW

An employer who pays a household employee wages of $50 or more in a calendar quarter for household work must withhold social security taxes (including medicare taxes) from wages paid to the employee during the quarter. The employer must also pay an amount of tax that matches the tax withheld from the employee's wages. The employer must file an Employer's Quarterly Tax Return (Form 942) each quarter and a Wage and Tax Statement (Form W-2) at the end of the year.

In addition, an employer must pay Federal unemployment taxes if he or she paid cash wages to household employees totalling $1,000 or more in a calendar quarter in the current or preceding year. The employer must file an Employer's Annual Federal Unemployment Tax Return (Form 940 or Form 940-EZ) at the end of the year.

HOUSE BILL

The House bill changes the threshold for withholding and paying social security taxes with respect to domestic service employment from $50 a quarter to $300 a year. The bill requires an individual who employs only household employees (regardless of the amount of the remuneration) to report any social security or Federal unemployment tax obligation for wages paid to such employees on his or her income tax return for the year. The bill includes a household employer's social security and unemployment taxes in the estimated tax provisions. The bill also authorizes the Secretary to enter into agreements with States to collect State unemployment taxes in the same manner.

Effective date.—The provision is effective for remuneration paid in calendar years beginning after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as House bill. In addition, the Senate amendment provides general regulatory authority to the Treasury Department.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

b. Clarify that reproductions from digital images are reproductions for recordkeeping purposes

PRESENT LAW

Reproductions of a return, document, and certain other matters have the same legal status as the original for purposes of judicial and administrative proceedings. It is unclear whether reproductions made from digital images are also accorded the same legal status as originals.

HOUSE BILL

The House bill provides that the term reproduction includes a reproduction from a digital image. The bill also requires the Comptroller General to conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

c. Repeal of authority to disclose whether a prospective juror has been audited

PRESENT LAW

In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).

HOUSE BILL

The House bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service.

Effective date.—The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

d. Repeal TEFRA audit rules for S corporations

PRESENT LAW

An S corporation generally is not subject to income tax on its taxable income. Instead, it files an information return and the shareholders report their pro rata share of the S corporation's income and deductions on their own tax returns.

The Subchapter S Revision Act of 1982 generally made the TEFRA partnership audit and litigation rules applicable to S corporations. These rules require the determination of all "Subchapter S items" at the corporate, rather than the shareholder, level. These rules also require a shareholder to report all Subchapter S items consistently with the corporation's information return or to notify the IRS of any inconsistency. Temporary regulations contain an exception from these rules for "small S corporations," i.e., those with five or fewer shareholders, each of whom is a natural person or an estate.

HOUSE BILL

The House bill repeals the unified audit procedures for S corporations. The bill retains, however, the requirement that shareholders report items in a manner consistent with the corporation's return.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

e. Clarify statute of limitations for items from passthrough entities

PRESENT LAW

Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any taxes due.

Some believe that present law may be unclear as to whether the statute of limitations for adjustments that arise from distributions from passthrough entities should be applied at the entity or individual level (i.e., whether the 3-year statute of limitations for assessments runs from the time that the entity files its information return or from the time that a shareholder timely files his or her income tax return). (Compare *Fehlhaber v. Comm.*, 94 TC 863 (1990) and *Alan F. Bartol, et ux. v. Commissioner*, T.C. Memo 1992-141, with *Kelly v. Comm.*, 877 F.2d 7567 (9th Cir. 1989)).

HOUSE BILL

The House bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

f. Simplify estimated tax payment rules for small corporations

PRESENT LAW

A corporation is subject to an addition to tax for any underpayment of estimated tax. A corporation does not have an underpayment of estimated tax if it makes four timely estimated tax payments each equal to at least 22.5 percent of its tax liability for the current taxable year. In addition, a corporation that is not a "large corporation" may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year, so long as the preceding year was not a short taxable year and corporation filed a return showing a tax liability for such year. A large corporation may use this second rule only with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

HOUSE BILL

The House bill provides that a small corporation (i.e., a corporation that is not a "large corporation" under present law) with no tax liability in the preceding taxable year may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the second preceding taxable year. This rule will apply so long as (1) neither the preceding taxable year nor the second preceding taxable year was a short tax year, and (2) the corporation filed tax returns for both years. If the corporation satisfies these two requirements and did not have a tax liability for either of the two preceding taxable years, the corporation will not be required to make estimated tax payments for the current taxable year.

A large corporation may use this expanded safe harbor with respect to its estimated tax payment for the first quarter of its taxable year, as under present law. In addition, as under present law, a small corporation may continue to use the current taxable year rule for estimated tax purposes.

Effective date.—The provision is effective for taxable years beginning after the date of enactment of this Act.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

g. Interest rate on large corporate underpayments

PRESENT LAW

The interest rate on a large corporate underpayment of tax is the Federal short-term rate plus five percentage points. A large corporate underpayment is any underpayment by a subchapter C corporation of any tax imposed for any taxable period, if the amount of such underpayment for such period exceeds $100,000. The large corporate underpayment rate generally applies to periods beginning 30 days after the earlier of the date on which the first letter of proposed deficiency, a statutory notice of deficiency, or a nondeficiency letter or notice of assessment or proposed assessment is sent. For this purpose, a letter or notice is disregarded if the taxpayer makes a payment equal to the amount shown on the letter or notice within that 30 day period.

HOUSE BILL

For purposes of determining the period to which the large corporate underpayment rate applies, any letter or notice will be disregarded if the amount of the deficiency, proposed deficiency, assessment, or proposed assessment set forth in the letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).

Effective date.—The provision is effective for purposes of determining interest for periods after December 31, 1990.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

2. Tax Court provisions

a. Clarify jurisdiction of Tax Court with respect to overpayment determinations

PRESENT LAW

The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.

In addition, it is unclear whether the Tax Court has jurisdiction over the validity or merits of certain credits or offsets (e.g., providing for collection of student loans, child support, etc.) made by the IRS that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

HOUSE BILL

The House bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. The bill also clarifies that the Tax Court does not have jurisdiction over the validity or merits of the credits or offsets that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

b. Clarify procedures for administrative cost awards

PRESENT LAW

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules for adjudicating a denial of administrative costs are unclear.

HOUSE BILL

The House bill provides that a taxpayer who seeks an award of administrative costs must apply for such costs within 90 days of the date on which the taxpayer was determined to be a prevailing party. The bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice.

The bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be reviewed in the same manner as other decisions of the Tax Court.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill (with a technical correction).

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment (including the Senate technical correction).

c. Clarify Tax Court jurisdiction over interest determinations

PRESENT LAW

A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.

HOUSE BILL

The House bill provides that a taxpayer must file a "motion" (rather than a "petition") to seek a redetermination of interest in the Tax Court.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

d. Clarify net worth requirements for awards of administrative or litigation costs

PRESENT LAW

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

A person who substantially prevails must meet certain net worth requirements to be eligible for an award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award. (The net worth determination with respect to a partnership or S corporation applies to all actions that are in substance partnership actions or S corporation actions, including unified entity-level proceedings under sections 6226 or 6228, that are nominally brought in the name of a partner or a shareholder.)

HOUSE BILL

The House bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. Consequently, the net worths of both spouses are aggregated for purposes of this computation. An exception to this rule is provided in the case of a spouse otherwise qualifying for innocent spouse relief.

Effective date.—The provision applies to proceedings commenced after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Permit IRS to enter into cooperative agreements with state tax authorities

PRESENT LAW

The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323,335 (1983)).

HOUSE BILL

The House bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes).

The bill provides that these agreements may require reimbursement for services provided by either party to the agreement. Any funds appropriated for tax administration may be used to carry out the responsibilities of the IRS under these agreements, and any reimbursement received under an agreement shall be credited to the amount appropriated.

No agreement may be entered into that does not provide for the protection of confidentiality of taxpayer information that is required by section 6103.

Effective date.—This provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

4. Other compliance provisions

a. Extension of authority for IRS undercover operations

PRESENT LAW

The Anti-Drug Abuse Act of 1988 exempted IRS undercover operations from certain statutory restrictions controlling the use of Government funds (which generally provide that all receipts be deposited in the general fund of the Treasury and all expenses be paid out of appropriated funds). In general, the exemption permits the IRS to "churn" the income earned by an undercover operation to pay additional expenses incurred in the undercover operation. The IRS is required to conduct a detailed financial audit of large undercover operations in which the IRS is churning funds and to provide an annual audit report to the Congress on all such large undercover operations. The exemption originally expired on December 31, 1989 and was extended by the Comprehensive Crime Control Act of 1990 to December 31, 1991.

HOUSE BILL

No provision.

SENATE AMENDMENT

The amendment extends the IRS's offset authority under section 7608(c) for three years, until September 1, 1995. The amendment also modifies the IRS's annual audit responsibility to cover any undercover operation (whether large or small) which involves offsetting under section 7608(c). Under the amendment, the requirements for the IRS annual audit report to Congress have been enhanced to also include the following data: (i) the date the operation was initiated, (ii) the total current expenditures and the amount and use of proceeds of the operation, (iii) a description of the undercover operation projected to generate proceeds, including the potential violation being investigated, and (iv) the results of the operation to date, including the results of criminal proceedings.

Effective date.—The provision is effective on January 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

b. Disclosure of returns on cash transactions

PRESENT LAW

Tax returns and return information are generally confidential, and may not be disclosed without statutory authorization (sec. 6103). Unauthorized disclosure is punishable by a fine, prison sentence or private lawsuit.

Under section 6050I, any person who receives more than $10,000 in cash in one transaction (or two or more related transactions) in the course of a trade or business generally must file an information return (Form 8300) with the IRS specifying the name, address, and taxpayer identification number of the person from whom the cash was received and the amount of cash received.

The Anti-Drug Abuse Act of 1988 provided a special rule permitting the IRS to disclose these information returns to other Federal agencies, for the purpose of administering Federal criminal statutes. The special rule originally was to expire after November 18, 1990 and was extended by the Comprehensive Crime Control Act of 1990 to November 18, 1992.

HOUSE BILL

No provision.

SENATE AMENDMENT

The amendment extends permanently the special rule for disclosing Form 8300 information. Moreover, the amendment permits disclosures not only to federal agencies but also to state, local and foreign agencies and for civil, criminal and regulatory purposes (i.e. generally in the same manner as CTRs filed by financial institutions under the Bank Secrecy Act.) Disclosure, however, may not be made to any such agency for purposes of tax administration. The amendment also (i) extends the dissemination policies and guidelines under section 6103 to people having access to Form 8300 information and (ii) applies section 6103 sanctions to persons having access to Form 8300 information that disclose this information without proper authorization.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

c. Authority to accept signature alternatives

PRESENT LAW

In general, any return, statement, or other document required to be made under any provision of the internal revenue laws shall be signed in the manner required by the Secretary.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment permits the Secretary, on a trial basis, to provide for alternative methods for verifying, signing, and subscribing returns, declarations, statements, or other documents. Any return, declaration, statement, or other document verified, signed, or subscribed under any alternative method adopted by the Secretary shall be treated for all purposes in the same manner as verified by a handwritten signature. The amendment also requires that both IRS and GAO report to the Congress on the results of any trials conducted under this provision by December 31, 1995.

Effective date.—The authority is effective for 1993 through 1997.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the authority to conduct these trials is effective for 1993 through 1995. An additional report on the results of any trials must also be supplied by the Office of Technology Assessment. All of the reports are due by December 31, 1994.

V. TAXPAYER BILL OF RIGHTS 2

A. TAXPAYER ADVOCATE

1. Establishment of Position of Taxpayer Advocate Within Internal Revenue Service

PRESENT LAW

The Office of the Taxpayer Ombudsman was created by the IRS in 1979. The Taxpayer Ombudsman's duties are to serve as the primary advocate, within the IRS, for taxpayers. As the taxpayers' advocate, the Taxpayer Ombudsman participates in an ongoing review of IRS policies and procedures to determine their impact on taxpayers, receives ideas from the public concerning tax administration, identifies areas of the tax law that confuse or create an inequity for taxpayers, and supervises cases handled under the Problem Resolution Program. Under current procedures, the Taxpayer Ombudsman is selected by the Commissioner of the IRS and serves at his discretion.

HOUSE BILL

The House bill establishes a new position, Taxpayer Advocate, within the IRS. This replaces the position of Taxpayer Ombudsman. The Taxpayer Advocate is to be nominated by the President, by and with the advice and consent of the Senate. The Taxpayer Advocate reports directly to the Commissioner. Compensation of the Taxpayer Advocate is at a level equal to that of the IRS Chief Counsel.

The House bill also establishes the Office of Taxpayer Advocate within the IRS. All problem resolution officers are part of that office, and are under the supervision and direction of the Taxpayer Advocate. The functions of the office are (1) to assist taxpayers in resolving problems with the IRS, (2) to identify areas in which taxpayers have problems in dealings with the IRS, (3) to propose changes (to the extent possible) in the administrative practices of the IRS that will mitigate those problems, and (4) to identify potential legislative changes that may mitigate those problems.

The Taxpayer Advocate is required to make two annual reports to the tax-writing committees. The first report is to contain the objectives of the Taxpayer Advocate for the next calendar year. This report is to contain full and substantive analysis, in addition to statistical information. This report is due not later than October 31 of each year.

The second report is on the activities of the Taxpayer Advocate during the previous fiscal year. The report must identify the initiatives the Taxpayer Advocate has taken to improve taxpayer services and IRS responsiveness, contain recommendations received from individuals who have the authority to issue a TAO, contain a summary of at least 20 of the most serious problems which taxpayers have in dealing with the IRS, describe in detail the progress made in implementing these recommendations, include recommendations for such administrative and legislative action as may be appropriate to resolve such problems, and to include other such information as the Taxpayer Advocate may deem advisable. The Commissioner is required to establish internal procedures that will ensure a formal IRS response to all recommendations submitted to the Commissioner by the Taxpayer Advocate.

Effective date.—The provision is effective on the date of enactment. The first annual reports of the Taxpayer Advocate are due in 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that: (1) the political appointment of the Taxpayer Advocate is eliminated, (2) the annual report regarding the Taxpayer Advocate's activities is due no later than June 30 of each year, and (3) the first annual reports are due in 1993, rather than 1992.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that (1) the annual report regarding the Taxpayer Advocate's activities is due no later than June 30 of each year, and (2) the first annual reports are due in 1993, rather than 1992. The reports of the Taxpayer Advocate shall be provided directly to the tax-writing committees without prior review or comment from the Commissioner of IRS, Department of the Treasury, or the Office of Management and Budget.

2. Expansion of Authority to Issue Taxpayer Assistance Orders

PRESENT LAW

Section 7811(a) authorizes the Taxpayer Ombudsman to issue a Taxpayer Assistance Order (TAO). TAOs may order the release of taxpayer property levied upon by the IRS and may require the IRS to cease any action, or refrain from taking any action if, in the determination of the Taxpayer Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered.

HOUSE BILL

The House bill provides the Taxpayer Advocate with broader authority to affirmatively take any action with respect to taxpayers who would otherwise suffer a significant hardship as a result of the manner in which the IRS is administering the tax laws. For example, the Taxpayer Advocate's scope of power will specifically include (i) the authority to abate assessments, (ii) grant or expedite refund requests, and (iii) stay collection activity. The House bill also provides that a TAO may specify a time period within which the TAO must be followed. Finally, the House bill provides that only the Taxpayer Advocate, the Commissioner of the IRS, or a superior of those two positions, as well as a delegate of the Taxpayer Advocate, may modify or rescind a TAO.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that it specifically limits the actions which may be taken by the Taxpayer Advocate to those "permitted by law."

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. The Taxpayer Advocate is not intended to have the power to make determinations concerning the substantive tax treatment of any item.

B. MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

1. Notification of Reasons for Termination or Denial of Installment Agreements

PRESENT LAW

Section 6159 authorizes the IRS to enter into written installment agreements with taxpayers to facilitate the collection of tax liabilities. In general, the IRS has the right to terminate (or in some instances, alter or modify) such agreements if the taxpayer provided inaccurate or incomplete information before the agreement was entered into, if the taxpayer fails to make a timely payment of an installment or another tax liability, if the taxpayer fails to provide the IRS with a requested update of financial condition, if the IRS determines that the financial condition of the taxpayer has changed significantly, or if the IRS believes collection of the tax liability is in jeopardy. If the IRS determines that the financial condition of a taxpayer that has entered into an installment agreement has changed significantly, the IRS must provide the taxpayer with a written notice that explains the IRS determination at least 30 days before altering, modifying or terminating the installment agreement. No notice is statutorily required if the installment agreement is altered, modified, or terminated for other reasons.

HOUSE BILL

The House bill requires the IRS to notify taxpayers 30 days before altering, modifying, or terminating any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy. The IRS must include in the notification an explanation of why the IRS intends to take this action. The House bill also requires that the IRS notify taxpayers 30 days before denying any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy.

Effective date.—The provision is effective six months after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. The conferees intend that notice of denial of an installment agreement be given to a taxpayer so that the taxpayer can discuss the denial with the IRS before it is formalized. Any insufficiency in the explanation of the denial has no effect on the availability of an installment agreement to the taxpayer.

2. Administrative Review of Denial of Requests for, or Termination of, Installment Agreements

PRESENT LAW

A taxpayer whose request for an installment agreement is denied can appeal to successively higher levels of Collection Division management, including the District Director. The IRS is currently testing an appeal process for various collection actions, including installment agreements, that will permit taxpayers to appeal these collection actions to Appeals Division personnel.

HOUSE BILL

The House bill requires the IRS to establish additional procedures for administrative review of denials of requests for installment agreements and terminations of installment agreements.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the effective date is January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Running of Failure to Pay Penalty Suspended During the Period an Installment Agreement is in Effect

PRESENT LAW

Section 6651 provides that a taxpayer is liable for a "failure to pay" penalty on late payments of tax. The penalty is imposed on the unpaid tax at the rate of one-half percent per month up to a maximum of 25 percent. The penalty applies to unpaid amounts without regard to whether the taxpayer is making payments pursuant to an installment agreement.

HOUSE BILL

The House bill suspends the application of the failure to pay penalty with respect to taxpayers who have installment agreements in effect and are meeting the conditions of the agreements.

Effective date.—The provision is effective for installment agreements entered into after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not adopt the House bill provision.

C. INTEREST

1. Expansion of Authority to Abate Interest

PRESENT LAW

Any assessment of interest on any deficiency attributable in whole or in part to any error or delay by an officer or employee of the IRS (acting in his official capacity) in performing a ministerial act may be abated.

HOUSE BILL

The House bill expands the authority of the IRS to abate interest with respect to managerial acts, as well as ministerial acts.

Effective date.—The provision applies to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of enactment.

SENATE AMENDMENT

The Senate amendment permits the Internal Revenue Service to abate interest with respect to any unreasonable error or delay by an officer or employee of the IRS. Only taxpayers who meet the net worth requirements referenced in section 7430(c)(4)(A)(iii) are eligible for interest abatement. The Senate amendment has the same effective date as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill with respect to the addition of managerial acts, and follows the Senate amendment with respect to requiring that the error or delay be unreasonable. For purposes of this provision, "unreasonable" managerial or ministerial acts would include extensive delays resulting from: the loss of records by the IRS, IRS personnel transfers, extended illnesses, extended personnel training, or extended leave.

2. Extension of Interest-Free Period for Payment of Tax After Notice and Demand

PRESENT LAW

In general, a taxpayer must pay interest on late payments of tax. An interest-free period of ten days is provided to taxpayers who pay the tax due within ten days of notice and demand.

HOUSE BILL

The House bill extends the interest-free period provided to taxpayers for the payment of the tax liability reflected in the notice from 10 days to 21 days, provided that the total tax liability shown on the notice of deficiency is less than $100,000.

Effective date.—The provision applies in the case of any notice and demand given after the date six months after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that a conforming amendment is made to section 6651(a)(3) to reflect the 21 day interest-free period.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except (1) for a technical modification to section 6651(a)(3) and (2) the provision applies to any notice and demand given after June 30, 1993.

D. JOINT RETURNS

1. Disclosure of Collection Activities With Respect to Joint Returns

PRESENT LAW

The IRS does not disclose collection information to spouses that have filed a joint return.

HOUSE BILL

If a tax deficiency with respect to a joint return is assessed, and the individuals filing the return are no longer married or no longer reside in the same household, the House bill permits the IRS to disclose in writing (in response to a written request by one of the individuals) to that individual whether the IRS has attempted to collect the deficiency from the other individual, the general nature of the collection activities, and the amount (if any) collected.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Joint Return May Be Made After Separate Returns Without Full Payment of Tax

PRESENT LAW

Taxpayers who file separate returns and subsequently determine that their tax liability would have been less if they had filed a joint return are precluded by statute from reducing their tax liability by filing jointly if they are unable to pay the entire amount of the joint return liability before the expiration of the three-year period for making the election to file jointly.

HOUSE BILL

The House bill repeals the requirement of full payment of tax liability as a precondition to switching from married filing separately status to married filing jointly status.

Effective date.—The provision applies to taxable years beginning after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

E. COLLECTION ACTIVITIES

1. Modifications to Lien and Levy Provisions

i. Withdrawal of public notice of lien

PRESENT LAW

The IRS must file a notice of lien in the public record, in order to protect the priority of a tax lien. A notice of tax lien provides public notice that a taxpayer owes the Government money. The IRS has discretion in filing such a notice, but may withdraw a filed notice only if the notice (and the underlying lien) was erroneously filed or if the underlying lien has been paid, bonded, or become unenforceable.

HOUSE BILL

The House bill allows the IRS to withdraw a public notice of tax lien prior to payment in full by the indebted taxpayer if the Secretary determines that (1) the filing of the notice was premature or otherwise not in accordance with the administration procedures of the IRS, (2) the taxpayer has entered into an installment agreement to satisfy the tax liability with respect to which the lien was filed, (3) the withdrawal of the lien will facilitate collection of the tax liability, or (4) the withdrawal of the lien would be in the best interests of the taxpayer and the United States (with the consent of the taxpayer or the Taxpayer Advocate). The House bill also requires that, at the written request of the taxpayer, the IRS make reasonable efforts to give notice of the withdrawal of a lien to credit reporting agencies or financial institutions specified by the taxpayer.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that (1) the best interests of the taxpayer would be determined by the Taxpayer Advocate, (2) a copy of the notice of withdrawal must be provided to the taxpayer, (3) creditors are also included as parties to whom notices must be sent (if specified by the taxpayer), and (4) notices are only required to be sent to financial institutions and creditors if their addresses have been supplied by the taxpayer to the IRS.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

ii. Return of levied property

PRESENT LAW

The IRS is authorized to return levied property to a taxpayer only when the taxpayer has overpaid its liability to tax, interest, and penalty.

HOUSE BILL

The House bill allows the IRS to return property (including money deposited in the Treasury) that has been levied upon if the Secretary determines that (1) the levy was premature or otherwise not in accordance with the administrative procedures of the IRS, (2) the taxpayer has entered into an installment agreement to satisfy the tax liability, (3) the return of the property will facilitate collection of the tax liability, or (4) the return of the property would be in the best interests of the taxpayer and the United States (with the consent of the taxpayer or the Taxpayer Advocate).

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the determination whether the return of property would be in the best interests of the taxpayer is determined by the Taxpayer Advocate.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

iii. Modifications in certain levy exemption amounts

PRESENT LAW

Property exempt from levy includes personal property with a value of up to $1,650, and books and tools necessary for the taxpayer's trade, business, or profession with a value of up to $1,100.

HOUSE BILL

The House bill increases the exemption amounts to $1,700 for personal property and $1,200 for books and tools. Both these amounts are indexed for inflation commencing with calendar year 1994.

Effective date.—The provision is effective with respect to levies issued after December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that indexing commences on January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

2. Offers-in-Compromise

PRESENT LAW

The IRS has the authority to settle a tax debt pursuant to an offer-in-compromise. IRS regulations provide that such offers can be accepted if the taxpayer is unable to pay the full amount of the tax liability and it is doubtful that the tax, interest, and penalties can be collected, or there is doubt as to the validity of the actual tax liability. Amounts over $500 can only be accepted if the reasons for the acceptance are documented in detail and supported by an opinion of the IRS Chief Counsel.

HOUSE BILL

The House bill allows acceptance of an offer-in-compromise where the compromise would be in the best interest of the Government. The House bill also increases from $500 to $50,000 the amount requiring a written opinion from the Office of Chief Counsel. Compromises below the $50,000 threshold must be subject to continuing quality review by the IRS.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Notification of Examination

PRESENT LAW

In general, the IRS notifies taxpayers in writing prior to commencing an examination and encloses a copy of Publication 1, "Your Rights as a Taxpayer," with the notice. Sometimes, however, the IRS uses the telephone to schedule an examination.

HOUSE BILL

The House bill requires the IRS to notify a taxpayer in writing prior to commencing an examination under all subtitles of the Code and to provide the taxpayer with an explanation of the examination process prior to commencing the examination. Such notice will include an explanation of the process as described in section 7521. The House bill exempts from this requirement any examination with respect to which the Secretary determines (1) that it is in connection with a criminal investigation, (2) that the collection of the tax is in jeopardy, (3) that the requirements are inconsistent with national security needs, or (4) that the requirements would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity.

Effective date.—The House bill is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. This provision does not preclude the IRS from using the telephone to attempt to schedule an examination, so long as the written notice required by this provision has previously been given.

4. Modification of Certain Limits on Recovery of Civil Damages for Unauthorized Collection Activities

PRESENT LAW

A taxpayer may sue the United States for up to $100,000 of damages caused by an officer or employee of the IRS who, with respect to the collection of any Federal tax with respect to the taxpayer, recklessly or intentionally disregards provisions of the Code or the Treasury regulations promulgated thereunder.

HOUSE BILL

The House bill increases the cap to $1 million with respect to reckless or intentional acts.

Effective date.—The provision applies to actions by IRS employees that occur after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that it permits a taxpayer to sue the United States for up to $100,000 of damages caused by an IRS employee who, with respect to the collection of any Federal tax with respect to the taxpayer, negligently disregards the provisions of the Code or the Treasury regulations promulgated thereunder.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

5. Designated Summons

PRESENT LAW

The period for assessment of additional tax with respect to most tax returns, corporate or otherwise, is three years. The IRS and the taxpayer can together agree to extend the period, either for a specified period of time or indefinitely. The taxpayer may terminate an indefinite agreement to extend the period by providing notice to the IRS.

During an audit, the IRS may informally request that the taxpayer provide additional information necessary to arrive at a fair and accurate audit adjustment, if any adjustment is warranted. Not all taxpayers cooperate by providing the requested information on a timely basis. In some cases the IRS seeks information by issuing an administrative summons. Such a summons will not be judicially enforced unless the Government (as a practical matter, the Department of Justice) seeks and obtains an order for enforcement in Federal court. In addition, a taxpayer may petition the court to quash an administrative summons where this is permitted by statute.[1]

In certain cases, the running of the assessment period is suspended during the period when the parties are in court to obtain or avoid judicial enforcement of an administrative summons. Such a suspension is provided in the case of litigation over a third-party summons (sec. 7609(e)) or litigation over a summons regarding the examination of a related party transaction. Such a suspension can also occur with respect to a corporate tax return if a summons is issued at least 60 days before the day on which the assessment period (as extended) is scheduled to expire. In this case, suspension is only permitted if the summons clearly states that it is a "designated summons" for this purpose. Only one summons may be treated as a designated summons for purposes of any one tax return. The limitations period is suspended during the judicial enforcement period of the designated summons and of any other summons relating to the same tax return that is issued within 30 days after the designated summons is issued.

Under current internal procedures of the IRS, no designated summons is issued unless first reviewed by the Office of Chief Counsel to the IRS, including review by an IRS Deputy Regional Counsel for the Region in which the examination of the corporation's return is being conducted.

HOUSE BILL

The House bill requires that issuance of any designated summons with respect to a corporation's tax return must be preceded by review of such issuance by the Regional Counsel, Office of Chief Counsel to the IRS, for the Region in which the examination of the corporation's return is being conducted.

In addition, the House bill requires that the corporation whose return is in issue be promptly notified in writing in any case where the Secretary issues a designated summons (or another summons, the litigation over which suspends the running of the assessment period under the designated summons procedure) to a third party.

Effective date.—The provision applies to summonses issued after date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. The conferees expect that the IRS generally will meet the notice requirement by issuing a notice to the corporation on the same day that it issues the summons, and by transmitting such notice to the corporation in a manner reasonably designed to bring it to the prompt attention of an agent of the corporation responsible for communicating with the IRS in connection with the examination. The conferees do not intend the notice requirement to imply that any summons issued to an unrelated third party, the purpose of which is to obtain information regarding comparable transactions involving unrelated parties, would require disclosure to the taxpayer of any information relating to the unrelated third party that would otherwise remain confidential under any other provision of the law.

F. INFORMATION RETURNS

1. Phone Numbers of Person Providing Payee Statement Required to be Shown on Such Statement

PRESENT LAW

Information returns must contain the name and address of the payor.

HOUSE BILL

The House bill requires that information returns contain the name, address, and phone number of the payor's information contact.

Effective date.—The provision applies to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment, except that the provision applies to statements required to be furnished after December 31, 1993 (determined without regard to any extension). A payor shall have the option of providing the payor's main office address, and the name and phone number of the department with the relevant information. The conferees intend that the telephone number provide direct access to individuals with immediate resources to resolve a taxpayer's questions in an expeditious manner.

2. Civil Damages for Fraudulent Filing of Information Returns

PRESENT LAW

Federal law provides no private cause of action to a taxpayer who is injured because a false or fraudulent information return has been filed with the IRS asserting that payments have been made to the taxpayer.

HOUSE BILL

The House bill provides that, if any person willfully files a false or fraudulent information return with respect to payments purported to have been made to another person, the other person may bring a civil action for damages against the person filing that return. Recoverable damages are limited to the greater of $5,000 or the amount of actual damages (including the costs of the action). An action seeking damages under this provision must be brought within six years after the filing of the false or fraudulent information return.

Effective date.—The provision applies to false or fraudulent information returns filed after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that (1) a copy of the complaint initiating the action must be provided to the IRS, (2) the court must specify in its judgment the correct amount (if any) that should have been reported on the information return, and (3) an action seeking damages under this provision must be brought within four years after the filing of the false or fraudulent information return, or one year after the false or fraudulent information would have been discovered by the exercise of reasonable care, whichever is later.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Requirement to Verify Accuracy of Information Returns

PRESENT LAW

Deficiencies determined by the IRS are generally afforded a presumption of correctness.

HOUSE BILL

The House bill provides that, in any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return (Form 1099) filed by a third party and the taxpayer has fully cooperated with the IRS, the Government must, in presenting evidence of the deficiency based on the information return, present reasonable evidence of the deficiency (in addition to the information return itself). One way in which the taxpayer must cooperate with the IRS is to bring the reasonable dispute over the item of income to the attention of the IRS at the earliest possible time.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that (1) the Secretary must present "reasonable and probative information" concerning the deficiency (rather than "reasonable evidence"), (2) full cooperation is defined to include providing timely access to and inspection of all witnesses, information, and documents within the control of the taxpayer which are reasonably requested by the IRS, and (3) the citation to information returns is made more specific.

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[1] Petitions to quash are permitted, for example, in connection with the examination of certain related party transactions under section 6038A(e)(4), and in the case of certain third-party summonses under section 7609(b)(2).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

G. MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

1. Preliminary Notice Requirements

PRESENT LAW

A "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected or paid to the government on a timely basis. An individual the IRS has identified as a responsible person is permitted an administrative appeal on the question of responsibility.

HOUSE BILL

The House bill requires the IRS to issue a notice to an individual the IRS had determined to be a responsible person with respect to unpaid trust fund taxes at least 60 days prior to issuing a notice and demand for the penalty. The statute of limitations shall not expire before the date 60 days after the date on which the notice was mailed. The provision does not apply if the Secretary finds that the collection of the penalty is in jeopardy.

Effective date.—The provision applies to failures occurring after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the statute of limitations shall not expire before the date 90 days after the date on which the notice was mailed.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the provision only applies to assessments made after June 30, 1993.

2. No Penalty if Prompt Notification of IRS

PRESENT LAW

A responsible person may be subject to a penalty equal to 100 percent of the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

HOUSE BILL

The House bill provides that a responsible person who notifies the IRS within 10 days of the failure to pay over trust fund taxes to the Government is not liable for this penalty, so long as the notification is made prior to the IRS's contacting the business about the failure to pay over the taxes, and provided that the person is not a significant owner (of a 5-percent or more interest) or a highly compensated employee (with compensation in excess of $75,000).

Effective date.—The provision applies in the case of failures to collect and pay over tax that occur after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that: (1) the period for taxpayer notification is extended to 21 days, (2) the Senate amendment does not exclude highly compensated employees from application of the provision, (3) the provision does not apply if the failure to pay is part of a plan to defraud the Government, (4) the provision applies only once to a taxpayer in that taxpayer's lifetime and once to a business in its existence, and (5) the provision shall not apply if the effect would be to leave no financially responsible person liable for the penalty.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that: (1) the provision does not apply if the failure to pay is part of a plan to defraud the Government, (2) the provision applies only once to a taxpayer in that taxpayer's lifetime and once to a business in its existence, and (3) the provision shall not apply if the effect would be to leave no financially responsible person liable for the penalty.

3. Disclosure of Certain Information Where More Than One Person Subject to Penalty

PRESENT LAW

The IRS may not disclose to a responsible person the IRS's efforts to collect unpaid trust fund taxes from other responsible persons, who may also be liable for the same tax liability.

HOUSE BILL

The House bill requires the IRS, if requested in writing by a person considered by the IRS to be a responsible person, to disclose in writing to that person the name of any other person the IRS has determined to be a responsible person with respect to the tax liability. The IRS is required to disclose in writing whether it has attempted to collect this penalty from other responsible persons, the general nature of those collection activities, and the amount (if any) collected.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. Failure by the IRS to follow this provision does not absolve any individual for any liability for this penalty.

4. Penalties Relating to Failure to Collect and Pay Over Tax

i. Public information requirements

PRESENT LAW

Under section 6672, a "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

HOUSE BILL

The House bill requires the IRS to print warnings on payroll tax deposit coupon books and appropriate tax returns indicating that certain employees may be liable for this penalty, and to develop a special information packet relating to this penalty.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

ii. Board members of tax-exempt organizations

PRESENT LAW

Under section 6672, "responsible persons" of tax-exempt organizations are subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

HOUSE BILL

The House bill clarifies that the section 6672 responsible person penalty is not to be imposed on volunteer, unpaid members of any board of trustees or directors of a tax-exempt organization to the extent such members are solely serving in an honorary capacity and do not participate in the day-to-day or financial activities of the organization. The House bill requires the IRS to develop materials to better inform board members of tax-exempt organizations (including voluntary or honorary members) that they may be treated as responsible persons. The IRS is required to make such materials routinely available to tax-exempt organizations. The House bill also requires the IRS to clarify its instructions to IRS employees on application of the responsible person penalty with regard to honorary or volunteer members of boards of trustees or directors of tax-exempt organizations.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that, to be exempt, an honorary board member cannot have actual knowledge of the failure to deposit taxes and the provision may not operate in such a way as to eliminate all responsible persons from responsibility.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

iii. Prompt notification

PRESENT LAW

The IRS is not required to notify promptly taxpayers who fall behind in depositing trust fund taxes.

HOUSE BILL

The House bill requires the IRS, to the maximum extent practicable, to notify all taxpayers with delinquent trust fund deposits within 30 days of the first indication that there has been a failure to make a timely and complete deposit.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that (1) the notice requirement is limited to delinquent taxes described under section 6672 of the Code, and (2) notification must be within 30 days after the return was filed reflecting the delinquency or within 30 days of the first indication that there has been a failure to make a timely and complete deposit, whichever is earlier. The provision also requires that a taxpaying entity notified by the Secretary of a failure to pay such taxes must notify, within 15 days of such notification by the Secretary, all of the entity's officers, general partners, trustees or other managers of the failure to make a timely and complete deposit.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. Failure by the IRS to provide notice under this provision does not absolve any individual from any liability for penalties.

H. AWARDING OF COSTS AND CERTAIN FEES

1. Motion for Disclosure of Information

PRESENT LAW

A taxpayer that successfully challenges a determination of deficiency by the IRS may recover attorneys' fees and other administrative and litigation costs if the taxpayer qualifies as a "prevailing party." A taxpayer qualifies as a prevailing party if it (1) establishes that the position of the United States was not substantially justified; (2) substantially prevails with respect to the amount in controversy or with respect to the most significant issue or set of issues presented; and (3) meets certain net worth and (if the taxpayer is a business) size requirements.

HOUSE BILL

The House bill provides that, once a taxpayer has substantially prevailed, the taxpayer may file a motion for an order requiring the disclosure (within a specified period) of all information and copies of relevant records in the possession of the IRS with respect to the taxpayer's case and the substantial justification for the position taken by the IRS.

Effective date.—The provision is effective for notices made and proceedings commenced after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the IRS is required to disclose such information "within a reasonable period of time."

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the information disclosure must be made by the IRS "within a reasonable period of time specified by the court." Disclosure under this provision is subject to the confidentiality restrictions of section 6103. The provision does not require the disclosure of privileged or otherwise nondisclosable information.

2. Increased Limit on Attorney Fees

PRESENT LAW

Attorneys' fees recoverable by prevailing parties as litigation or administrative costs are limited to a maximum of $75 per hour.

HOUSE BILL

The House bill raises the statutory rate to $110 per hour, indexed for inflation beginning after 1992.

Effective date.—The provision applies to notices made and proceedings commenced after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Failure to Agree to Extension Not Taken Into Account

PRESENT LAW

To qualify for an award of attorney's fees, the taxpayer must have exhausted the administrative remedies available within the IRS.

HOUSE BILL

The House bill provides that any failure to agree to an extension of the statute of limitations cannot be taken into account for purposes of determining whether a taxpayer has exhausted the administrative remedies for purposes of determining eligibility for an award of attorney's fees.

Effective Date.—The provision applies to proceedings commenced after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

4. IRS Employees Personally Liable in Certain Cases

PRESENT LAW

IRS employees are not personally liable for the payment of any litigation costs under section 7430.

HOUSE BILL

The House bill gives discretion to the court in tax cases to assess all or a portion of any award under section 7430 against an IRS employee, if the court determines that the proceeding resulted from any arbitrary, capricious, or malicious act of the employee.

The House bill also permits the Government to provide legal representation to an IRS employee accused of arbitrary, capricious, or malicious action. If the court ultimately determines that the IRS employee acted arbitrarily, capriciously, or maliciously, and the court assesses all or a portion of an award under section 7430 against the IRS employee, the IRS employee is required to reimburse the Government for the costs of the legal representation (in addition to paying the amount assessed by the court).

Effective date.—The provision applies to proceedings commenced after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not adopt the House bill provision.

I. OTHER PROVISIONS

1. Required Content of Certain Notices

PRESENT LAW

The Code requires the IRS to describe the basis for and identify the amounts of tax due, interest, penalties, and any other additional amounts owed in the notice of deficiency sent to taxpayers.

HOUSE BILL

The House bill requires that the IRS set forth the components of and explanation for each specific adjustment that is the basis for the total tax deficiency. An inadequate description does not invalidate the notice.

Effective date.—The provision applies to notices sent after the date six months after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Treatment of Substitute Returns for Purposes of the Penalty for Failure to Pay Taxes

PRESENT LAW

Section 6651(a)(2) provides that the IRS may assess a penalty for failure to pay tax from the due date of the return until the tax is paid. If no return is filed by the taxpayer and the IRS files a substitute return under section 6020, the tax on which the penalty is measured is considered a deficiency assessable under section 6212 or 6213, and the failure to pay penalty begins to accumulate ten days after the IRS sends the taxpayer a notice and demand for payment of the tax.

HOUSE BILL

The House bill applies the failure to file penalty to substitute returns in the same manner as the penalty applies to delinquent filers.

Effective date.—The provision applies in the case of any return the due date for which (determined without regard to extensions) is after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Relief From Retroactive Application of Treasury Department Regulations

PRESENT LAW

Treasury may prescribe the extent (if any) to which regulations shall be applied without retroactive effect.

HOUSE BILL

Temporary and proposed regulations are required to have an effective date no earlier than the date of publication in the Federal Register. This provision may be superseded by a legislative grant authorizing the Treasury to prescribe the effective date with respect to a statutory provision. The Treasury may issue retroactive temporary or proposed regulations to prevent abuse of the statute. The Treasury may also issue retroactive temporary, proposed, or final regulations to correct a procedural defect in the issuance of a regulation. The Treasury may provide that taxpayers may elect to apply a temporary or proposed regulation retroactively from the date of publication of the regulation. Final regulations may take effect from the date of publication of the temporary or proposed regulation to which they relate. The House bill does not apply to regulations prescribed under Code section 986(a)(1)(C) or 986(a)(4) (as amended by the House bill).

Effective date.—The provision applies with respect to any temporary or proposed regulation published on or after February 20, 1992, and any temporary or proposed regulation published before February 20, 1992, and published as a final regulation after that date.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that: (1) regulations may take effect from the date any notice which substantially describes the regulation is issued to the public, (2) the date of filing with the Federal Register, rather than the date of publication, is determinative, (3) the provision shall not apply to any regulation issued within twelve months of the enactment date of the relevant statute, (4) the provision shall not apply to regulations relating to internal Treasury Department policies, practices, or procedures, and (5) present law with respect to rulings is unchanged. The provision applies with respect to any temporary or proposed regulation published on or after July 28, 1992 and any temporary or proposed regulation filed with the Federal Register before July 28, 1992, with respect to which a final regulation has not been filed with the Federal Register before that date. The special rule for regulations issued within twelve months shall only apply with respect to statutes enacted on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. The conferees recognize that there may be additional instances in which retroactive application of Treasury regulations has created undue hardship. This provision does not preclude the Congress from both examining these cases and providing any appropriate relief in the future.

Congress occasionally makes retroactive changes in the tax law. When this occurs taxpayers affected by this change in law must resubmit their tax return and pay additional tax liability. It is not the intent of

Congress for the IRS to impose penalties on taxpayers who must pay additional taxes due tc retroactive changes in the tax law. The IRS uses penalties to discourage taxpayers from avoiding their tax liability or paying it late. If taxpayers come into timely compliance with any retroactive change in the tax law, Congress does not intend that the IRS should impose penalties due to the retroactive change in the tax law.

4. Required Notice to Taxpayers of Certain Payments

PRESENT LAW

If the IRS receives a payment without sufficient information to properly credit it to a taxpayer's account, the IRS may attempt to contact the taxpayer. If contact cannot be made, the IRS places the payment in an unidentified remittance file.

HOUSE BILL

The House bill requires the IRS to make reasonable efforts to notify, within 60 days, those taxpayers who have made payments which the IRS cannot associate with any outstanding tax liability.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

5. Unauthorized Enticement of Information Disclosure

PRESENT LAW

There is no statutory disincentive for enticing a tax professional to disclose information about clients in exchange for forgiving the taxes of the professional.

HOUSE BILL

The House bill provides that, if a Government employee willfully defers or offers to defer (or willfully forgives or offers to forgive) the determination or collection of any tax due from a tax professional in exchange for certain information concerning a taxpayer who is the professional's client, the information so obtained is not admissable in any manner in determining the tax liability of the taxpayer (the "Exclusionary Rule").

Effective date.—The provision applies to actions taken after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill with respect to the Exclusionary Rule, except that (1) the compromise must be intentional, not willful, (2) the information obtained may not be used in any judicial proceeding in which the taxpayer is a party, except to rebut a false representation made at trial by the taxpayer, and (3) the Senate amendment applies only to information conveyed by the taxpayer to the professional for purposes of obtaining advice regarding the taxpayer's tax liability. In addition, the taxpayer to whom such information pertains may bring a civil action for damages against the United States in a district court of the United States without regard to the amount in controversy. The taxpayer must bring such an action within two years after the date the right of action accrues.[2] Upon a finding of liability, damages shall equal the lesser of $500,000 or the sum of (i) actual economic damages sustained by the taxpayer as a proximate result of the information disclosure, and (ii) the costs of the action. The district court must stay any proceedings with respect to such an action pending completion of any ongoing investigation or prosecution of the taxpayer (which the Commissioner has certified is ongoing to the court).

The remedies provided by the Senate amendment shall not apply to information conveyed to an attorney, certified public accountant or enrolled agent for the purpose of perpetrating a fraud or crime.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that it deletes the Exclusionary Rule. This provision is intended to apply only where a direct nexus exists between the enticement of the information from the tax professional and the compromise of the professional's tax liability. It is not intended to apply to examination and collection activities of the IRS done in the ordinary course of its determination or collection of tax.

J. FORM MODIFICATIONS; STUDIES

1. Explanation of Certain Provisions

PRESENT LAW

Section 6159 authorizes the IRS to enter into written installment agreements with any taxpayer. Section 7122 authorizes the IRS to accept offers in compromise from taxpayers in certain situations. Section 6161 authorizes the IRS to extend the time for payment of tax.

HOUSE BILL

The House bill requires the IRS to take such actions as may be appropriate (including improved publicity) to ensure that taxpayers are aware of the availability of installment agreements, offers in compromise, and the extension of time to pay tax. The IRS must do so in both the income tax return instructions and collection notices.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Improved Procedures for Notifying IRS of Change of Address or Name

PRESENT LAW

Generally, the IRS posts the new address of a taxpayer only upon the filing of the subsequent tax return which contains a new address or if the taxpayer submits a Form 8822, *Change of Address*, to the IRS.

HOUSE BILL

The House bill requires the IRS to provide improved procedures for taxpayers to notify the IRS of changes in names or addresses. In addition, the House bill requires that the IRS institute procedures before 1993 for the timely updating of all IRS records with change of address information provided to the IRS by taxpayers.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that such updating procedures must be implemented by June 30, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Rights and Responsibilities of Divorced Individuals

PRESENT LAW

The IRS provides information on the rights and responsibilities of divorced individuals in Publication 504, *Tax Information for Divorced or Separated Individuals*. This publication is not as widely utilized as Publication 1, *Your Rights As a Taxpayer*.

HOUSE BILL

The House bill requires the IRS to include a section on the rights and responsibilities of divorced individuals in Publication 1, *Your Rights As a Taxpayer*.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

K. STUDIES

1. Pilot Programs for Appeal of Enforcement Actions

PRESENT LAW

A taxpayer who disagrees with an IRS collection action generally can only appeal to successively higher levels of management in the Collection Division. Certain cases involving the 6672 penalty, offers-in-compromise, and employment tax issues may, however, be appealed to the Appeals Division.

HOUSE BILL

The House bill requires the IRS to establish a one-year pilot program to evaluate the merits of allowing an independent appeal, by the taxpayer, to the Appeals Division of enforcement actions (including lien, levy, and seizure actions) where the deficiency was assessed without the actual knowledge of the taxpayer, where the deficiency was assessed without an opportunity for administrative appeal, and in other appropriate circumstances.

Effective date.—The IRS is required to report to the tax-writing committees by December 31, 1992, on the effectiveness of the pilot program.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the report on the effectiveness of the pilot program is due on June 30, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Study on Taxpayers With Special Needs

PRESENT LAW

The IRS is responsible for providing timely and accurate assistance to taxpayers who want to comply with Federal tax laws.

HOUSE BILL

The House bill requires the IRS to conduct a study of ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the tax laws.

Effective date.—The report (and any recommendations) must be submitted to the tax-writing committees by December 31, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the report is due on June 30, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

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[2] The general accrual rule applied under the Federal Tort Claims Act (28 U.S.C. sec. 2401(b)) is to be applied to actions under this provision; *i.e.*, the right of action does not accrue until a claimant has had a reasonable opportunity to discover all of the essential elements of a possible cause of action. See, e.g., *Rosales v. United States*, 824 F.2d 799 (9th Cir. 1987); *Zeidler v. United States*, 601 F.2d (10th Cir. 1979).

3. Reports on Taxpayer Rights Education Program

Present Law

The IRS is currently conducting a program to educate revenue officers concerning the rights of taxpayers.

House Bill

The House bill requires the IRS to report to the tax-writing Committees on its taxpayer rights education program for its officers and employees, including the scope and content of the program, and on the effectiveness of the program.

Effective date.—The report on the scope and content of the taxpayer-rights education program must be submitted to the tax-writing committees by August 1, 1992, and the report on the effectiveness of the program must be submitted by December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill, except that the report on the scope and content of the taxpayer-rights education program must be submitted to the tax-writing committees by April 1, 1993, and the report on the effectiveness of the program must be submitted by June 30, 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

4. Biennial Reports on Misconduct By IRS Employees

Present Law

As mandated by the Inspector General Act, every six months the Inspector General of the Department of the Treasury receives information from the IRS for the Secretary of the Treasury's semiannual report to Congress on employee misconduct. The Inspector General Act, in part, requires that these reports include summary information and descriptions of significant investigative activities and a summary of matters referred to prosecuting authorities and the prosecutions and convictions that have resulted.

House Bill

The House bill requires the IRS to report to the tax-writing committees every two years on all cases involving complaints about IRS employee misconduct and on the disposition of those complaints.

Effective date.—The first report must be submitted during December 1992.

Senate Amendment

The Senate amendment is the same as the House bill, except that the reports are due in June every two years, with the first report due in June 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

5. Study of Notices of Deficiency

Present Law

Under section 6212, the IRS is required to send a notice of tax deficiency to taxpayers by registered or certified mail.

House Bill

The House bill requires the GAO to study the effectiveness of current IRS efforts to notify taxpayers with regard to tax deficiencies under section 6212, the number of registered or certified letters and other notices returned to the IRS as undeliverable, any follow-up action taken by the IRS to locate the taxpayers, the effect that failures to receive actual notice have on taxpayers, and recommendations on how the IRS can better notify taxpayers of tax deficiencies.

Effective date.—The report and recommendations must be furnished by December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill, except that the report and recommendations are due by June 30, 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

6. Notice and Form Accuracy Study

Present Law

The IRS is responsible for providing accurate and instructive notices, forms, and instructions to taxpayers to assist them in complying with Federal tax laws.

House Bill

The House bill requires the GAO to study annually the accuracy of 25 of the most commonly used IRS forms, notices, and publications. In conducting its review, the GAO is to seek and consider the comments of organizations representing taxpayers, employers, and tax professionals.

Effective date.—The initial report (and any recommendations) must be submitted to the tax-writing committees by December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill, except that the initial report and recommendations are due by June 30, 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

7. IRS Employees' Suggestions Study

Present Law

The IRS maintains several programs to encourage and reward employees who make suggestions for improving the administration of the tax system.

House Bill

The House bill requires the GAO to conduct a review of the IRS employee suggestion programs. The study is to include a review of all suggestions that were accepted and rewarded by the IRS, an analysis as to how many of these suggestions were implemented, and why the remaining suggestions were not implemented.

Effective date.—The report (and any recommendations) must be submitted to the tax-writing committees by December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill, except that the report and recommendations are due by June 30, 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

VI. TECHNICAL CORRECTIONS

Subtitle A. Revenue Provisions

I. Technical Corrections to the Revenue Reconciliation Act of 1990

A. Individual Income Tax Provisions

1. Minimum tax rate on certain nonresident aliens (sec. 6101(a)(2) of the House bill, sec. 6101(a)(2) of the Senate amendment, sec. 11102 of the 1990 Act, and sec. 897 of the Code)

Present Law

The Revenue Reconciliation Act of 1990 (the "1990 Act") increased the alternative minimum tax rate on individuals from 21 percent to 24 percent.

House Bill

The House bill conforms the rate of the minimum tax on the U.S. real property gains of nonresident aliens to the 24 percent minimum tax rate enacted in the 1990 Act.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

2. Tax rate of personal holding companies (sec. 6101(a)(4) of the House bill, sec. 6101(a)(4) of the Senate amendment, sec. 11101 of the 1990 Act, and sec. 541 of the Code)

Present Law

A corporation that is treated as a personal holding company is subject, in addition to the regular corporate tax, to a 28-percent tax on its undistributed personal holding company income for the taxable year. The present-law rate of 28 percent was set by the Tax Reform Act of 1986.[1] This rate reflected the maximum rate of tax on individuals in that Act.

The 1990 Act increased the maximum rate of tax on individuals from 28 percent to 31 percent effective for taxable years beginning after December 31, 1990.

House Bill

The House bill provides that the increase in the individual maximum tax rate to 31 percent also applies to the personal holding company tax rate, effective for taxable years beginning after December 31, 1990.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

3. Definition of AGI for the earned income tax credit and the supplemental earned income tax credit for health insurance premiums (sec. 6101(a)(5) of the House bill, sec. 6101(a)(5) of the Senate amendment, sec. 11111 of the 1990 Act, and sec. 32 of the Code)

Present Law

Under present law, a supplemental earned income tax credit (EITC) is available to certain taxpayers for qualified health insurance expenses. Qualified health insurance expenses for which the credit is available are amounts paid during the taxable year for health insurance coverage that includes one or more qualifying children. These expenses include only those expenses relating to the cost of coverage (i.e., premium cost) paid with after-tax dollars. The maximum credit is $428 in 1991. The credit is phased out as adjusted gross income (AGI) (or earned income, if greater) exceeds $11,250 in 1991. Earned income amounts taken into account in computing the maximum credit and the beginning point of the phase-out range are indexed for inflation.

The calculation of this supplemental child health insurance credit is generally the same as the calculation of the basic EITC. Thus, the same eligibility criteria and income phase-in and phase-out requirements apply. There is no family size adjustment with respect to the health insurance credit.

Present law provides that the amount of expenses taken into account in determining the deduction for health insurance costs of self-employed individuals (sec. 162(l)) is reduced by the amount (if any) of the supplemental child health insurance credit allowable to the taxpayer (sec. 162(l)(3)(B)). This so-called "double-dip" provision creates a calculation problem because the amount of the EITC, the supplemental young child credit, and the child health insurance credit cannot be determined until AGI is determined; however, AGI is determined with reference to the deduction for health insurance costs of self-employed individuals. Thus, the operation of the double-dip provision creates a circularity that increases the complexity of the child health credit.

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[1] See P.L. 99-514, sec. 104 (b)(8).

HOUSE BILL

Under the House bill, for purposes of the EITC, the supplemental young child credit, and the supplemental child health insurance credit, AGI is calculated assuming that the taxpayer is entitled to the full deduction for health insurance costs under section 162(l). Then, after the maximum child health credit is determined, the double-dip rule (sec. 162(l)(3)(B)) operates as it does under present law.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

4. Deletion of deadwood (sec. 6101(a)(7) of the House bill and section 402(e)(1)(B) of the Code)

PRESENT LAW

A separate tax is imposed on lump sum distributions for a qualified pension plan or qualified annuity plan. Prior to the Revenue Reconciliation Act of 1990 (the "1990 Act"), the benefit of 15-percent rate and personal exemption was phased out for certain higher income individuals (prior law sec. 1(g)). The rules providing for the separate tax on lump sum distributions contained a special rule relating to the effect of the phaseout to the tax on lump sum distributions. The phaseout rules were repealed by the Revenue Reconciliation Act of 1990.

HOUSE BILL

The House bill deleted as deadwood the special rule relating to the effect of the phaseout on the tax on lump sum distributions.

SENATE AMENDMENT

The Senate amendment contained no provision since the deadwood provision had been previously deleted by section 521(a) of the Unemployment Compensation Amendments of 1992 (P.L. 102-318).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

5. Correction of head of household rate table for proper indexation (sec. 6101(a)(8) of the House bill and sec. 1(b) of the Code)

PRESENT LAW

A separate rate schedule is provided for individuals that are heads of households. The dollar amounts in the schedule are adjusted for inflation.

HOUSE BILL

The House bill modifies the rate schedule for individuals that are heads of households to correct a transposition error made in the 1990 Act.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

B. EXCISE TAX PROVISIONS

1. Application of the 2.5-cents-per-gallon tax on fuel used in rail transportation to States and local governments (sec. 6101(b)(3) of the House bill, sec. 6101(b)(3) of the Senate amendment, sec. 11211(b)(4) of the 1990 Act, and sec. 4093 of the Code)

PRESENT LAW

The 1990 Act increased the highway and motorboat fuels taxes by 5 cents per gallon, effective on December 1, 1990. The 1990 Act continued the exemption from these taxes for fuels used by States and local governments.

The 1990 Act also imposed a 2.5-cents-per-gallon tax on fuel used in rail transportation, also effective on December 1, 1990. Because of a drafting error in the 1990 Act, the 2.5-cents-per-gallon tax on fuel used in rail transportation incorrectly applies to States and local governments.

HOUSE BILL

The House bill clarifies that the 2.5-cents-per-gallon tax on fuel used in rail transportation does not apply to such uses by States and local governments.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Deposit of certain aviation tax revenues in Airport and Airway Trust Fund (sec. 6101(b)(5) of the House bill, sec. 6101(b)(5) of the Senate amendment, sec. 11213 of the 1990 Act, and sec. 9502(e)(1) of the Code)

PRESENT LAW

The 1990 Act increased the aviation excise tax rates (except for the international air departure tax rate) by 25 percent, and extended those taxes for five years, effective December 1, 1990, through December 31, 1995. From December 1, 1990 through 1992, the statement of managers on the 1990 Act indicated that the revenues attributable to the *increased* portion of the aviation taxes were to be retained in the General Fund; these revenues will be deposited in the Airport and Airway Trust Fund for 1993 through 1995. The statute as enacted in the 1990 Act omitted this agreement with respect to the taxes other than those imposed on aviation fuels (i.e., the revenues attributable to the *increase* in the air passenger ticket tax and the air cargo tax).

HOUSE BILL

The House bill clarifies that revenues from all aviation excise taxes attributable to the *increased* rates imposed by the 1990 Act on taxable events during periods before January 1, 1993, will be retained in the General Fund. The amendment does not affect revenues attributable to the tax rates imposed before enactment of the 1990 Act and extended by that Act. (This provision is also included in H.R. 4691 as passed by the House of Representatives on May 19, 1992.)

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Small winery production credit and bonding requirements (secs. 6101(b) (7), (8), and (9) of the House bill, sec. 11201 of the 1990 Act, and sec. 5041 of the Code)

PRESENT LAW

A 90-cents-per-gallon credit is allowed to wine producers who produce no more than 250,000 gallons of wine in a year. The credit may be claimed against the producers' excise or income taxes.

Wine producers must post a bond in amounts determined by reference to expected excise tax liability as a condition of legally operating.

HOUSE BILL

The House bill clarifies that wine produced by eligible small wineries may be transferred without payment of tax to bonded warehouses that become liable for payment of the wine excise tax without losing credit eligibility. In such cases, the bonded warehouse will be eligible for the credit to the same extent as the producer otherwise would have been.

The House bill further clarifies that the Treasury Department has broad regulatory authority to prevent the benefit of the credit from accruing (directly or indirectly) to wineries producing in excess of 250,000 gallons in a calendar year.

The House bill also clarifies that the Treasury Department may take the amount of credit expected to be claimed against a producer's wine excise tax liability into account in determining the amount of required bond.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill. The conferees specifically understands that the Treasury regulatory authority extends to all circumstances in which wine production is increased with a purpose of securing indirect credit eligibility for wine produced by such large producers.

4. Floor stocks refunds for certain cigarette taxes (sec. 6101(b)(10) of the House bill and sec. 11202 of the 1990 Act)

PRESENT LAW

A floor stocks tax, equal to the amount of the rate increase, is imposed when the rates of Federal excise taxes (other than retail taxes) are increased. The cigarette excise tax rates are scheduled to increase on January 1, 1993. Refunds of this tax, as with the underlying excise tax, are permitted in certain cases.

HOUSE BILL

The House bill clarifies that the Treasury Department may make refunds of the cigarette floor stocks tax to be imposed on January 1, 1993, to manufacturers rather than to the persons that actually pay the tax, if the manufacturers demonstrate that the benefit of the refund accrues to the person actually paying the tax.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

C. OTHER REVENUE-INCREASE PROVISIONS OF THE 1990 ACT

1. Deposits of Railroad Retirement Tax Act taxes (sec. 6101(c)(3) of the House bill, sec. 6101(c)(3) of the Senate amendment, sec. 11334 of the 1990 Act, and sec. 6302(g) of the Code)

PRESENT LAW

Employers must deposit income taxes withheld from employees' wages and FICA taxes that are equal to or greater than $100,000 by the close of the next banking day. Under the Railroad Retirement Solvency Act of 1983, the deposit rules for withheld income taxes and FICA taxes automatically apply to

Railroad Retirement Tax Act taxes (sec. 226 of P.L. 98-76).

House Bill

The House bill conforms the Internal Revenue Code to the Railroad Retirement Solvency Act of 1983 by stating in the Code that these deposit rules for withheld income taxes and FICA taxes apply to Railroad Retirement Tax Act taxes.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

2. Treatment of salvage and subrogation of property and casualty insurance companies (sec. 6101(c)(4) of the House bill, sec. 6101(c)(4) of the Senate amendment, and sec. 11305 of the 1990 Act)

Present Law

For taxable years beginning after December 31, 1989, property and casualty insurance companies are required to reduce the deduction allowed for losses incurred (both paid and unpaid) by estimated recoveries of salvage and subrogation attributable to such losses. In the case of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, 87 percent of the discounted amount of the estimated salvage and subrogation recoverable as of the close of the last taxable year beginning before January 1, 1990, is allowed as a deduction ratably over the first 4 taxable years beginning after December 31, 1989. This special deduction was enacted in order to provide such property and casualty insurance companies with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the Revenue Reconciliation Act of 1990 did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

House Bill

The House bill provides that the earnings and profits of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, is to be determined without regard to the special deduction that is allowed over the first 4 taxable years beginning after December 31, 1989. The special deduction is to be taken into account, however, in determining earnings and profits for purposes of applying sections 56, 902, 952(c)(1) and 960 of the Internal Revenue Code of 1986. This provision is considered necessary in order to provide those property and casualty insurance companies that took into account estimated salvage and subrogation recoverable in determining losses incurred with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the 1990 Act did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

3. Information with respect to certain foreign-owned or foreign corporations: Suspension of the statute of limitations during certain judicial proceedings (sec. 6101(c)(5) of the House bill, sec. 6101(c)(5) of the Senate amendment, secs. 11314 and 11315 of the 1990 Act, and secs. 6038A and 6038C of the Code)

Present Law

Any domestic corporation that is 25-percent owned by one foreign person is subject to certain information reporting and recordkeeping requirements with respect to transactions carried out directly or indirectly with certain foreign persons treated as related to the domestic corporation ("reportable transactions") (sec. 6038A(a)). In addition, the Code provides procedures whereby an IRS examination request or summons with respect to reportable transactions can be served on foreign related persons through the domestic corporation (sec. 6038A(e)). Similar provisions apply to any foreign corporation engaged in a trade or business within the United States, with respect to information, records, examination requests, and summonses pertaining to the computation of its liability for tax in the United States (sec. 6038C). Certain noncompliance rules may be applied by the Internal Revenue Service in the case of the failure by a domestic corporation to comply with a summons pertaining to a reportable transaction (a "6038A summons") (sec. 6038A(e)), or the failure by a foreign corporation engaged in a U.S. trade or business to comply with a summons issued for purposes of determining the foreign corporation's liability for tax in the United States (a "6038C summons") (sec. 6038C(d)).

Any corporation that is subject to the provisions of section 6038A or 6038C has the right to petition a Federal district court to quash a 6038A or 6038C summons, or to review a determination by the IRS that the corporation did not substantially comply in a timely manner with the 6038A or 6038C summons (sec. 6038A(e)(4) (A) and (B); sec. 6038C(d)(4)). During the period that either such judicial proceeding is pending (including appeals), and for up to 90 days thereafter, the statute of limitations is suspended with respect to any transaction (or item, in the case of a foreign corporation) to which the summons relates (secs. 6038A(e)(4)(D), 6038C(d)(4)).

The legislative history of the 1989 Act amendments to section 6038A states that the suspension of the statute of limitations applies to "the taxable year(s) at issue."[2] The legislative history of the 1990 Act, which added section 6038C to the Code, uses the same language.[3]

House Bill

The House bill modifies the provisions in sections 6038A and 6038C that suspend the statute of limitations to clarify that the suspension applies to any taxable year the determination of the amount of tax imposed for which is affected by the transaction or item to which the summons relates.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment. The conferees intend that, under the provision, a transaction or item would affect the determination of the amount of tax imposed for the taxable year directly at issue, as well as for any taxable year indirectly affected through, for example, net operating loss carrybacks or carryforwards. The conferees do not intend that, under the provision, a transaction or item would affect the determination of the amount of tax imposed for any taxable year other than the taxable year directly at issue solely by reason of any similarity of issues involved. Similarly, the conferees do not intend that, under the provision, a transaction or item would affect the determination of the amount of tax imposed on any taxpayer unrelated to the taxpayer to whom the summons is directed.

4. Rate of interest for large corporate underpayments (secs. 6101(c) (6) and (7) of the House bill, secs. 6101(c) (6) and (7) of the Senate amendment, sec. 11341 of the 1990 Act, and sec. 6621(c) of the Code)

Present Law

The rate of interest otherwise applicable to underpayments of tax is increased by two percent in the case of large corporate underpayments (generally defined to exceed $100,000), applicable to periods after the 30th day following the earlier of a notice of proposed deficiency, the furnishing of a statutory notice of deficiency, or an assessment notice issued in connection with a nondeficiency procedure.

House Bill

The House bill provides that an IRS notice that is later withdrawn because it was issued in error does not trigger the higher rate of interest. The House bill also corrects an incorrect reference to "this subtitle".

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

D. Expiring Tax Provisions

1. Exclusion for employer-provided educational assistance (sec. 6101(d)(1) of the House bill, sec. 6101(d)(1) of the Senate amendment, sec. 11403 of the 1990 Act, and secs. 127 and 132 of the Code)

Present Law

Employer-provided educational assistance is excludable from gross income if the value of the assistance does not exceed $5,250 and certain other requirements are satisfied (sec. 127). Prior to the 1990 Act, the exclusion did not apply to graduate level courses. The 1990 Act eliminated this restriction. The Omnibus Budget Reconciliation Act of 1989 provided that educational assistance that is not excludable under section 127 due to the dollar limitation on the exclusion and the restriction on graduate level courses is excludable from gross income if and only if it qualifies as a working condition fringe benefit (sec. 132(h)).

House Bill

The House bill amends the fringe benefit rules to reflect the fact that the graduate level course restriction has been repealed.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

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[2] H. Rep. No. 247, 101st Cong., 1st Sess. 1301 (1989); "Explanation of Provisions Approved by the Committee on October 3, 1989," Senate Finance Committee Print, 101st Cong., 1st Sess. 118 (October 12, 1989).

[3] "Legislative History of Ways and Means Democratic Alternative," House Ways and Means Committee Print (WMCP: 101-37), 101st Cong., 2nd Sess. 58 (October 15, 1990); Report language submitted by the Senate Finance Committee to the Senate Budget Committee on S. 3299, 136 *Cong. Rec.* S 15629, S 15700 (1990).

2. Research credit provision: Effective date for repeal of special proration rule (sec. 6101(d)(2) of the House bill, sec. 6101(d)(2) of the Senate amendment, and sec. 11402 of the 1990 Act)

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months by prorating certain qualified research expenses incurred before January 1, 1991. The special rule to prorate qualified research expenses applied in the case of any taxable year which began before October 1, 1990, and ended after September 30, 1990. Under this special proration rule, the amount of qualified research expenses incurred by a taxpayer prior to January 1, 1991, was multiplied by the ratio that the number of days in that taxable year before October 1, 1990, bears to the total number of days in such taxable year before January 1, 1991. The amendments made by the 1989 Act to the research credit (including the new method for calculating a taxpayer's base amount) generally were effective for taxable years beginning after December 31, 1989. However, this effective date did not apply to the special proration rule (which applied to any taxable year which began prior to October 1, 1990—including some years which began before December 31, 1989—if such taxable year ended after September 30, 1990).

Section 11402 of the Revenue Reconciliation Act of 1990 (the "1990 Act") extended the research credit through December 31, 1991, and repealed the special proration rule provided for by the 1989 Act. Section 11402 of the 1990 Act was effective for taxable years beginning after December 31, 1989. Thus, in the case of taxable years beginning before December 31, 1989, and ending after September 30, 1990 (e.g., a taxable year of November 1, 1989 through October 31, 1990), the special proration rule provided by the 1989 Act would continue to apply.

HOUSE BILL

The House bill repeals for all taxable years ending after December 31, 1989, the special proration rule provided for by the 1989 Act.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

E. ENERGY TAX PROVISION: ALTERNATIVE MINIMUM TAX ADJUSTMENT BASED ON ENERGY PREFERENCES (SECS. 6101(e)(2) AND (6) OF THE HOUSE BILL, SECS. 6101(e)(2) AND (6) OF THE SENATE AMENDMENT, SEC. 11531(a) OF THE 1990 ACT, AND SEC. 56(h) OF THE CODE)

PRESENT LAW

In computing alternative minimum taxable income (and the adjusted current earnings (ACE) adjustment of the alternative minimum tax), certain adjustments are made to the taxpayer's regular tax treatment for intangible drilling costs (IDCs) and depletion. A special energy deduction is also allowed. The special energy deduction is initially determined by determining the taxpayer's (1) intangible drilling cost preference and (2) the marginal production depletion preference. The intangible drilling cost preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the adjustments for IDCs. The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to depletion adjustments attributable to marginal production. The intangible drilling cost preference is then apportioned between (1) the portion of the preference related to qualified exploratory costs and (2) the remaining portion of the preference. The portion of the preference related to qualified exploratory costs is multiplied by 75 percent and the remaining portion is multiplied by 15 percent. The marginal production depletion preference is multiplied by 50 percent. The three products described above are added together to arrive at the taxpayer's special energy deduction (subject to certain limitations).

The special energy deduction is not allowed to the extent that it exceeds 40 percent of alternative minimum taxable income determined without regard to either this special energy deduction or the alternative tax net operating loss deduction. Any special energy deduction amount limited by the 40-percent threshold may not be carried to another taxable year. In addition, the combination of the special energy deduction, the alternative minimum tax net operating loss and the alternative minimum tax foreign tax credit cannot generally offset, in the aggregate, more than 90 percent of a taxpayer's alternative minimum tax determined without such attributes.

HOUSE BILL

Interaction of special energy deduction with net operating loss and investment tax credit

The House bill clarifies that the amount of alternative tax net operating loss that is utilized in any taxable year is to be appropriately adjusted to take into account the amount of special energy deduction claimed for that year. This operates to preserve a portion of the alternative tax net operating loss carryover by reducing the amount of net operating loss utilized to the extent of the special energy deduction claimed, which if unused, could not be carried forward.

In addition, the House bill contains a similar provision which clarifies that the limitation on the utilization of the investment tax credit for purposes of the alternative minimum tax is to be determined without regard to the special energy deduction.

Interaction of special energy deduction with adjustment based on adjusted current earnings

The House bill provides that the ACE adjustment is to be computed without regard to the special energy deduction. Thus, the bill specifies that the ACE adjustment is equal to 75 percent of the excess of a corporation's adjusted current earnings over its alternative minimum taxable income computed without regard to either the ACE adjustment, the alternative tax net operating loss deduction, or the special energy deduction.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

F. ESTATE TAX FREEZES (SEC. 6101(f) OF THE HOUSE BILL, SEC. 6101(f) OF THE SENATE AMENDMENT, SEC. 11602 OF THE 1990 ACT, AND SECS. 2701–04 OF THE CODE)

PRESENT LAW

Generally

The value of property transferred by gift or includible in the decedent's gross estate is its fair market value. Fair market value is generally the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts (Treas. Reg. sec. 20.2031). Chapter 14 contains rules that supersede the willing buyer, willing seller standard (Code secs. 2701-04).

Preferred interests in corporations and partnerships

Valuation of retained interests

Scope.—Section 2701 provides special rules for valuing certain rights retained in conjunction with the transfer to a family member of an interest in a corporation or partnership. These rules apply to any applicable retained interest held by the transferor or an applicable family member immediately after the transfer of an interest in such entity. An "applicable family member" is, with respect to any transferor, the transferor's spouse, ancestors of the transferor and the spouse, and spouses of such ancestors.

An applicable retained interest is an interest with respect to which there is one of two types of rights ("affected rights"). The first type of affected right is a liquidation, put, call, or conversion right, generally defined as any liquidation, put, call, or conversion right, or similar right, the exercise or nonexercise of which affects the value of the transferred interest. The second type of affected right is a distribution right[4] in an entity in which the transferor and applicable family members hold control immediately before the transfer. In determining control, an individual is treated as holding any interest held by the individual's brothers, sisters and lineal descendents. A distribution right does not include any right with respect to a junior equity interest.

Valuation.—Section 2701 contains two rules for valuing applicable retained interests. Under the first rule, an affected right other than a right to qualified payments is valued at zero. Under the second rule any retained interest that confers (1) a liquidation, put, call or conversion right and (2) a distribution right that consists of the right to receive a qualified payment is valued on the assumption that each right is exercised in a manner resulting in the lowest value for all such rights (the "lowest value rule"). There is no statutory rule governing the treatment of an applicable retained interest that confers a right to receive a qualified payment, but with respect to which there is no liquidation, put, call or conversion right.

A qualified payment is a dividend payable on a periodic basis and at a fixed rate under cumulative preferred stock (or a comparable payment under a partnership agreement). A transferor or applicable family member may elect not to treat such a dividend (or comparable payment) as a qualified payment. A transferor or applicable family member also may elect to treat any other distribution right as a qualified payment to be paid in the amounts and at the times specified in the election.

Inclusion in transfer tax base.—Failure to make a qualified payment valued under the lowest value rule within four years of its due date generally results in an inclusion in the transfer tax base equal to the difference between the compounded value of the scheduled payments over the compounded value of the payments actually made. The Treasury Department has regulatory authority to make subsequent transfer tax adjustments in the transfer of an applicable retained interest to reflect the increase in a prior taxable gift by reason of section 2701.

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[4] A distribution right generally is a right to a distribution from a corporation with respect to its stock, or from a partnership with respect to a partner's interest in the partnership.

Generally, this inclusion occurs if the holder transfers by sale or gift the applicable retained interest during life or at death. In addition, the taxpayer may, by election, treat the payment of the qualified payment as giving rise to an inclusion with respect to prior periods.

The inclusion continues to apply if the applicable retained interest is transferred to an applicable family member. There is no inclusion on a transfer of an applicable retained interest to a spouse for consideration or in a transaction qualifying for the marital deduction but subsequent transfers by the spouse are subject to the inclusion. Other transfers to applicable family members result in an immediate inclusion as well as subjecting the transferee to subsequent inclusions.

Minimum value of residual interest

Section 2701 also establishes a minimum value for a junior equity interest in a corporation or partnership. For partnerships, a junior equity interest is an interest under which the rights to income and capital are junior to the rights of all other classes of equity interests.

Trusts and term interests in property

The value of a transfer in trust is the value of the entire property less the value of rights in the property retained by the grantor. Section 2702 provides that in determining the extent to which a transfer of an interest in trust to a member of the transferor's family is a gift, the value of an interest retained by the transferor or an applicable family member is zero unless such interest takes certain prescribed forms.

For a transfer with respect to a specified portion of property, section 2702 applies only to such portion. The section does not apply to the extent that the transfer is incomplete.

Options and buy-sell agreements

A restriction upon the sale or transfer of property may reduce its fair market value. Treasury regulations provide that a restriction is to be disregarded unless the agreement represents a bona fide business arrangement and not a device to pass the decedent's shares to the natural objects of his bounty for less than full and adequate consideration (Treas. Reg. sec. 20.2031-2(h)).

Section 2703 provides that for transfer tax purposes the value of property is determined without regard to any option, agreement or other right to acquire or use the property at less than fair market value or any restriction on the right to sell or use such property. Certain options are excepted from this rule. To fall within the exception, the option, agreement, right or restriction must (1) be a bona fide business arrangement, (2) not be a device to transfer such property to members of the decedent's family for less than full and adequate consideration in money or money's worth, and (3) have terms comparable to similar arrangements entered into by persons in an arm's length transaction.

HOUSE BILL

Preferred interests in corporations and partnerships

Valuation

The House bill provides that an applicable retained interest conferring a distribution right to qualified payments with respect to which there is no liquidation, put, call, or conversion right is valued without regard to section 2701. The bill also provides that the retention of such right gives rise to potential inclusion in the transfer tax base. In making these changes, it is understood that Treasury regulations could provide, in appropriate circumstances, that a right to receive amounts on liquidation of the corporation or partnership constitutes a liquidation right within the meaning of section 2701 if the transferor, alone or with others, holds the right to cause liquidation.

The House bill modifies the definition of junior equity interest by granting regulatory authority to treat a partnership interest with rights that are junior with respect to either income or capital as a junior equity interest. The House bill also modifies the definition of distribution right by replacing the junior equity interest exception with an exception for a right under an interest that is junior to the rights of the transferred interest. As a result, section 2701 does not affect the valuation of a transferred interest that is senior to the retained interest, even if the retained interest is not a junior equity interest.

The House bill modifies the rules for electing into or out of qualified payment treatment. A dividend payable on a periodic basis and at a fixed rate under a cumulative preferred stock held by the transferor is treated as a qualified payment unless the transferor elects otherwise. If held by an applicable family member, such stock is not treated as a qualified payment unless the holder so elects.[5] In addition, a transferor or applicable family member holding any other distribution right may treat such right as a qualified payment to be paid in the amounts and at the times specified in the election.

Inclusion in transfer tax base

The House bill grants the Treasury Department regulatory authority to make subsequent transfer tax adjustments to reflect the inclusion of unpaid amounts with respect to a qualified payment. This authority, for example, would permit the Treasury Department to eliminate the double taxation that might occur if, with respect to a transfer, both the inclusion and the value of qualified payment arrearages were included in the transfer tax base. It would also permit elimination of the double taxation that might result from a transfer to a spouse, who, under the statute, is both an applicable family member and a member of the transferor's family.

The House bill treats a transfer to a spouse falling under the annual exclusion the same as a transfer qualifying for the marital deduction. Thus, no inclusion would occur upon the transfer of an applicable retained interest to a spouse, but subsequent transfers by the spouse would be subject to inclusion. The House bill also clarifies that the inclusion continues to apply if an applicable family member transfers a right to qualified payments to the transferor.

The provision clarifies the consequences of electing to treat a distribution as giving rise to an inclusion. Under the House bill, the election gives rise to an inclusion only with respect to the payment for which the election is made. The inclusion with respect to other payments is unaffected.

Trust and term interests in property

The House bill conforms section 2702 to existing regulatory terminology by substituting the term "incomplete gift" for "incomplete transfer." In addition, the House bill limits the exception for incomplete gifts to instances in which the entire gift is incomplete. The Treasury Department is granted regulatory authority, however, to create additional exceptions not inconsistent with the purposes of the section. This authority, for example, could be used to except a charitable trust that meets the requirements of section 664 and that does not otherwise create an opportunity for transferring property to a family member free of transfer tax.

Options and buy-sell agreements

The House bill modifies the exception to the rule disregarding an option for transfer tax valuation. The requirement that the option, agreement, right or restriction not be a device to transfer the property to members of the decedent's family is revised to require that the option not be a device to transfer the property to persons who are natural objects of the bounty of the transferor. This revision conforms section 2703 to the Treasury regulations and recognizes that the section applies with respect to all transfer taxes.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the Senate amendment does not include the amendment to the rules relating to buy-sell agreements which would provide that the rules would apply to devices to transfer property to persons who are natural object of the bounty of the transferor.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

G. MISCELLANEOUS PROVISIONS

1. Conforming amendments to the repeal of the General Utilities doctrine (secs. 6101(g) (1) and (2) of the House bill, secs. 6101(g) (1) and (2) of the Senate amendment, sec. 11702(e)(2) of the 1990 Act, and secs. 897(f) and 1248 of the Code)

PRESENT LAW

As a result of changes made by recent tax legislation, gain is generally recognized on the distribution of appreciated property by a corporation to its shareholders. The Technical Corrections subtitle of the 1990 Act and technical correction provisions in prior acts made various conforming amendments arising out of these changes. For example, the 1990 Act made a conforming change to section 355(c) to state the treatment of distributions in section 355 transactions in the affirmative rather than by reference to the provisions of section 311. In addition, the Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") made a conforming change to section 1248(f) to update the references to the nonrecognition provisions contained in that subsection. One of the changes was to change the reference to "section 311(a)" from "section 311".

HOUSE BILL

The House bill makes three conforming changes to the Code.

First, section 897(f), relating to the basis in a United States real property interest distributed to a foreign person, is repealed as deadwood. The basis of the distributed property is its fair market value in accordance with section 301(d).

Second, section 1248(f) is amended to add a reference to section 355(c)(1), which provides generally for the nonrecognition of gain or loss on the distribution of stock or securities in certain subsidiary corporations. This retains the substance of the law as it existed before the conforming change to section 355(c) made by the 1990 Act.

Third, section 1248 is amended to clarify that, notwithstanding the conforming changes made by the 1988 Act, with respect to any transaction in which a U.S. person is treated as realizing gain from the sale or exchange of stock of a controlled foreign corporation, the U.S. person shall be treated as having sold or exchanged the stock for purposes of applying section 1248. Thus, if a U.S. person distributes appreciated stock of a controlled foreign corporation to its shareholders in a transaction in which gain is recognized under section 311(b), section 1248 shall be applied as if the stock had been sold or exchanged at its fair market value. Under section 1248(a), part or all of the gain may be treated as a dividend. Under the House bill, the rule treating the distribution for purposes of section 1248 as a sale or exchange also applies where the U.S. person is deemed to distribute the stock under the provisions of section 1248(i). Under section 1248(i), gain will be recognized only to the extent of the amount treated as a dividend under section 1248.

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[5] With respect to gifts made in 1990, the House bill provides that this election may be made by the due date (including extensions) of the transferor's 1991 gift tax return.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. The conferees do not intend by these amendments to affect the authority of the Secretary of the Treasury to issue regulations under section 1248(f) providing exceptions to the rule recognizing gain in certain distributions (cf. Notice 87-64, 1987-2 C.B. 375).

2. Prohibited transaction rules (sec. 6101(g)(3) of the House bill, sec. 6101(g)(3) of the Senate amendment, sec. 11701(m) of the 1990 Act, and sec. 4975 of the Code)

PRESENT LAW

The Code and title I of the Employee Retirement Income Security Act of 1974 (ERISA) prohibit certain transactions between an employee benefit plan and certain persons related to such plan. An exemption to the prohibited transaction rules of title I of ERISA is provided in the case of sales of employer securities the plan is required to dispose of under the Pension Protection Act of 1987 (ERISA sec. 408(b)(12)). The 1990 Act amended the Code to provide that certain transactions that are exempt from the prohibited transaction rules of ERISA are automatically exempt from the prohibited transaction rules of the Code. The 1990 Act change was intended to be limited to transactions exempt under section 408(b)(12) of ERISA.

HOUSE BILL

The House bill conforms the statutory language to legislative intent by providing that transactions that are exempt from the prohibited transaction rules of ERISA by reason of ERISA section 408(b)(12) are also exempt from the prohibited transaction rules of the Code.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

3. Effective date of LIFO adjustment for purposes of computing adjusted current earnings (sec. 6101(g)(4) of the House bill, sec. 6101(g)(4) of the Senate amendment, sec. 11701 of the 1990 Act, sec. 7611(b) of the 1989 Act, and sec. 56(g) of the Code)

PRESENT LAW

For purposes of computing the adjusted current earnings (ACE) component of the corporate alternative minimum tax, taxpayers are required to make the LIFO inventory adjustments provided in section 312(n)(4) of the Code. Section 312(n)(4) generally is applicable for purposes of computing earnings and profits in taxable years beginning after September 30, 1984. The ACE adjustment generally is applicable to taxable years beginning after December 31, 1989.

HOUSE BILL

The House bill clarifies that the LIFO inventory adjustment required for ACE purposes shall be computed by applying the rules of section 312(n)(4) only with respect to taxable years beginning after December 31, 1989. The effective date applicable to the determination of earnings and profits (September 30, 1984) is inapplicable for purposes of the ACE LIFO inventory adjustment. Thus, the ACE LIFO adjustment shall be computed with reference to increases (and decreases, to the extent provided in regulations) in the ACE LIFO reserve in taxable years beginning after December 31, 1989.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

4. Low-income housing credit (sec. 6101(g)(5) of the House bill, sec. 6101(g)(5) of the Senate amendment, sec. 11701(a)(11) of the 1990 Act, and sec. 42 of the Code)

PRESENT LAW

The amendments to the low-income housing tax credit contained in the Omnibus Budget Reconciliation Act of 1989 generally were effective for a building placed in service after December 31, 1989, to the extent the building was financed by tax-exempt bonds ("a bond-financed building"). This rule applied regardless of when the bonds were issued.

A technical correction enacted in the Revenue Reconciliation Act of 1990 (the "1990 Act") limited this effective date to buildings financed with bonds issued after December 31, 1989. Thus, the technical correction applied pre-1989 Act law to a bond-financed building placed in service after December 31, 1989, if the bonds were issued before January 1, 1990.

HOUSE BILL

The House bill repeals the 1990 technical correction. The House bill provides, however, that pre-1989 Act law will apply to a bond-financed building if the owner of the building establishes to the satisfaction of the Secretary of the Treasury reasonable reliance upon the 1990 technical correction.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment. The conferees intend that, in the case of buildings placed in service before the date of the bill's enactment, reasonable reliance may be established by a showing of compliance with the law as in effect for those buildings before enactment of the amendments made by the bill.

H. EXPIRED OR OBSOLETE PROVISIONS ("DEADWOOD PROVISIONS") (SECS. 6101(H)(1)–(19) OF THE HOUSE BILL, SECS. 6101(H)(1)–(14) OF THE SENATE AMENDMENT, AND SECS. 11801–11816 OF THE 1990 ACT)

PRESENT LAW

The 1990 Act repealed and amended numerous sections of the Code by deleting obsolete provisions ("deadwood"). These amendments were not intended to make substantive changes to the tax law.

HOUSE BILL

The House bill makes several amendments to restore the substance of prior law which was inadvertently changed by the deadwood provisions of the 1990 Act. These amendments include (1) a provision restoring the prior-law depreciation treatment of certain energy property (sec. 168(e)(3)(B)(vi)); (2) a provision restoring the prior-law definition of property eligible for expensing (sec. 179(d)); (3) a provision restoring the prior-law rule providing that if any member of an affiliated group of corporations elects the credit under section 901 for foreign taxes paid or accrued, then all members of the group paying or accruing such taxes must elect the credit in order for any dividend paid by a member of the group to qualify for the 100-percent dividends received deduction (sec. 243(b)); and (4) the provisions relating to the collection of State individual income taxes (secs. 6361–6365).

The House bill also makes several nonsubstantive clerical amendments to conform the Code to the amendments made by the deadwood provisions. None of these amendments is intended to change the substance of pre-1990 law.

SENATE AMENDMENT

The Senate amendment is the same as the House bill except that the Senate amendment did not adopt the corrections provided in House bill sections 6101(h) (15)–(19).

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

II. OTHER TAX TECHNICAL CORRECTIONS

A. HEDGE BONDS (SEC. 6102(B) OF THE HOUSE BILL, SEC. 6102(B) OF THE SENATE AMENDMENT, SEC. 11701 OF THE 1990 ACT, AND SEC. 149(G) OF THE CODE)

PRESENT LAW

The 1989 Act provided generally that interest on hedge bonds is not tax-exempt unless prescribed minimum percentages of the proceeds are reasonably expected to be spent at set intervals during the five-year period after issuance of the bonds (sec. 149(g)). A hedge bond is defined generally as a bond (1) at least 85 percent of the proceeds of which are not reasonably expected to be spent within three years following issuance and (2) more than 50 percent of the proceeds of which are invested at substantially guaranteed yields for four years or more.

This restriction does not apply to hedge bonds, however, if at least 95 percent of the proceeds are invested in other tax-exempt bonds (not subject to the alternative minimum tax). The 95-percent investment requirement is not violated if investment earnings exceeding five percent of the proceeds are temporarily invested for up to 30 days *pending reinvestment* in taxable (including alternative minimum taxable) investments.

HOUSE BILL

The House bill clarifies that the 30-day exception for temporary investments of investment earnings applies to amounts (i.e., principal and earnings thereon) temporarily invested during the 30-day period immediately preceding redemption of the bonds as well as such periods preceding reinvestment of the proceeds.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

B. Withholding on Distributions From U.S. Real Property Holding Companies (Sec. 6102(c) of the House Bill, Sec. 6102(c) of the Senate Amendment, Sec. 129 of the Deficit Reduction Act of 1984, and Sec. 1445 of the Code)

Present Law

Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), a foreign investor that disposes of a U.S. real property interest generally is required to pay tax on any gain on the disposition. For this purpose a U.S. real property interest generally includes stock in a domestic corporation that is a U.S. real property holding corporation ("USRPHC"), or was a USRPHC at any time during the previous five years.

A sale or exchange of stock in a USRPHC is an example of a disposition of a U.S. real property interest. In addition, provisions of subchapter C of the Code treat amounts received in certain corporate distributions as amounts received in sales or exchanges, giving rise to tax liability under the FIRPTA rules when a foreign person receives such a distribution from a present or former USRPHC. Thus, amounts received by a foreign shareholder in a USRPHC in a distribution in complete liquidation of the USRPHC are treated as in full payment in exchange for the USRPHC stock, and are therefore subject to tax under FIRPTA (sec. 331; Treas. Reg. sec. 1.897-5T(a)(2)(iii)). Similarly, amounts received by a foreign shareholder in a USRPHC upon redemption of the USRPHC stock are treated as a distribution in part or full payment in exchange for the stock, and are therefore subject to tax under FIRPTA (sec. 302(a); Treas. Reg. sec. 1.897-5T(a)(2)(ii)). Third, amounts received by a foreign shareholder in a USRPHC, in a section 301 distribution from the USRPHC that exceeds the available earnings and profits of the USRPHC, are treated as gain from the sale or exchange of the shareholder's USRPHC stock to the extent that they exceed the shareholder's adjusted basis in the stock; such amounts are therefore also subject to tax under FIRPTA (sec. 301(c)(3); Treas. Reg. sec. 1.897-5T(a)(2)(i)).

FIRPTA withholding

The Tax Reform Act of 1984 established a withholding system to enforce the FIRPTA tax. Unless an exception applies, a transferee of a U.S. real property interest from a foreign person generally is required to withhold the lesser of ten percent of the amount realized (purchase price), or the maximum tax liability on disposition (as determined by the IRS) (sec. 1445).

Although the FIRPTA withholding requirement by its terms generally applies to all dispositions of U.S. real property interests, and subchapter C treats amounts received in certain distributions as amounts received in sales or exchanges, the FIRPTA withholding provisions also provide express rules for withholding on certain distributions treated as sales or exchanges. Generally, distributions in a transaction to which section 302 (redemptions) or part II of subchapter C (liquidations) applies are subject to 10 percent withholding.[6] Although a section 301 distribution in excess of earnings and profits is also treated as a disposition for purposes of computing the FIRPTA liability of a foreign recipient of the distribution, there is no corresponding withholding provision expressly addressed to the payor of such a distribution.

House Bill

The House bill clarifies that FIRPTA withholding requirements apply to any section 301 distribution to a foreign person by a domestic corporation that is or was a USRPHC, which distribution is not made out of the corporation's earnings and profits and is therefore treated as an amount received in a sale or exchange of a U.S. real property interest. (The House bill does not alter the withholding treatment of section 301 distributions by such a corporation that *are* out of earnings and profits.) Under the House bill, the FIRPTA withholding requirements that apply to a section 301 distribution not out of earnings and profits are similar to the requirements applicable to redemption or liquidation distributions to a foreign person by such a corporation. The provision is effective for distributions made after the date of enactment of the bill.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The Conference agreement follows the House bill and the Senate amendment. The conferees intend that no inference be drawn from the provision as to the FIRPTA withholding requirements applicable to such a distribution under present law.

C. Treatment of Credits Attributable to Working Interests in Oil and Gas Properties (Sec. 6102(d) of the House Bill, Sec. 6102(d) of the Senate Amendment, Sec. 501 of the Tax Reform Act of 1986, and Sec. 469 of the Code)

Present Law

Under present law, a working interest in an oil and gas property which does not limit the liability of the taxpayer is not a "passive activity" for purposes of the passive loss rules (sec. 469). However, if any loss from an activity is treated as not being a passive loss by reason of being from a working interest, any net income from the activity in subsequent years is not treated as income from a passive activity, notwithstanding that the activity may otherwise have become passive with respect to the taxpayer.

House Bill

The House bill provides that any credit attributable to a working interest in an oil and gas property, in a taxable year in which the activity is no longer treated as not being a passive activity, will not be treated as attributable to a passive activity to the extent of any tax allocable to the net income from the activity for the taxable year. Any credits from the activity in excess of this amount of tax will continue to be treated as arising from a passive activity and will be treated under the rules generally applicable to the passive activity credit.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

D. Clarification of Passive Loss Disposition Rule (Sec. 6102(e) of the House Bill, Sec. 6102(d) of the Senate Amendment, Sec. 501 of the Tax Reform Act of 1986, Sec. 1005(a)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988, and Sec. 469(g)(1)(A) of the Code)

Present Law

The Tax Reform Act of 1986 provided that if a passive activity is disposed of in a transaction in which all gain or loss is recognized, any overall loss from the activity in the year of disposition is recognized and allowed against income (whether active or passive income).[7] The language of the 1986 Act provided that any loss was allowable, first, against income or gain from the passive activity, second, against income or gain from all passive activities, and finally, against any other income or gain. This rule was rewritten by the technical corrections portion of the Technical and Miscellaneous Revenue Act of 1988. The statutory language (as amended by the 1988 Act) providing for the computation of the overall loss for the taxable year of disposition is not entirely clear where the activity is disposed of at a gain.

House Bill

The House bill clarifies the rule relating to the computation of the overall loss allowed upon the disposition of a passive activity. The House bill provides that, in a transaction in which all gain or loss is recognized on the disposition of a passive activity, any loss from the activity for the taxable year (taking into account all income, gain, and loss, including gain or loss recognized on the disposition) in excess of any net income or gain from other passive activities for the taxable year is treated as a loss which is not from a passive activity. The provision applies to taxable years beginning after December 31, 1986.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

E. Taxation of Excess Inclusions of a Residual Interest in a REMIC for Taxpayers Subject to Alternative Minimum Tax With Net Operating Losses (Sec. 6102(i) of the House Bill, Sec. 6102(e) of the Senate Amendment, and Sec. 860E(a)(6) of the Code)

Present Law

Residual Interests in a REMIC

A real estate mortgage investment conduit ("REMIC") is an entity that holds real estate mortgages. All interests in a REMIC must be "regular interests" or "residual interests." A regular interest is an interest the terms of which are fixed on the start-up day, which unconditionally entitles the holder to receive a specified principal amount, and which provides that interest amounts are payable based on a fixed rate (or a variable rate to the extent provided in the Treasury regulations). A residual interest is any interest that is so designated and that is not a regular interest in a REMIC.

Generally, the holder of a residual interest in a REMIC takes into account his daily portion of the taxable income or net loss of such REMIC for each day during which he held such interest. The taxable income of any holder of a residual interest in a REMIC for any taxable year cannot be less than the excess inclusion for the year (sec. 860E). Thus, in general, income from excess inclusions cannot be offset by a net operating loss (or net operating loss carryover) in computing the taxpayer's regular tax.

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[6] Under other rules, dividend distributions (i.e., distributions to which sec. 301(c)(1) applies) to foreign persons by U.S. corporations, including USRPHCs, are subject to 30-percent withholding under the Code. Under treaties, the withholding on a dividend may be reduced to as little as 5 or 15 percent.

[7] See S. Rept. 99-313, p. 725.

Alternative minimum tax

Taxpayers are subject to an alternative minimum tax which is payable, in addition to all other tax liabilities, to the extent it exceeds the taxpayer's regular tax. The tax is imposed at a rate of 24 percent (20 percent in the case of a corporation) on alternative minimum taxable income in excess of an exemption amount. Alternative minimum taxable income generally is the taxpayer's taxable income, as increased or decreased by certain adjustments and preferences. Under the alternative tax net operating loss deduction, a taxpayer may deduct ninety percent of its net operating loss carryovers against alternative minimum taxable income.

Because the determination of a taxpayer's alternative minimum taxable income begins with taxable income, a holder of a residual interest in a REMIC may have positive alternative minimum taxable income even where the taxpayer has a net operating loss for the year.

HOUSE BILL

The House bill provides that the present law rule, that the taxable income of a REMIC residual interest shall not be less than its excess inclusions, shall not apply for purposes of the alternative minium tax. Accordingly, the bill permits a net operating loss (and net operating loss carryovers) to offset income from excess inclusions in computing alternative minimum taxable income. Under the House bill, all taxpayers subject to the alternative minimum tax will pay a tax on excess inclusions at the alternative minimum tax rate, regardless of whether the taxpayer has a net operating loss. The provision is effective for taxable years beginning after December 31, 1986.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that the Senate amendment also provides that the alternative tax net operating loss deduction will be determined by disregarding any excess inclusions for the loss year and for each year to which the loss may be carried. Thus, under the Senate amendment, it is clear that the alternative tax net operating loss deduction cannot offset income from excess inclusions.

The provision of the Senate amendment disregarding the REMIC rule in computing alternative minimum taxable income applies to taxable years beginning after December 31, 1986. The provision of the Senate amendment disregarding excess inclusions in computing the alternative tax net operating loss deduction applies to excess inclusions in taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement generally follows the Senate amendment with clarifying technical modifications and a change in the effective date. The conference agreement provides three rules for determining the alternative minimum taxable income of a taxpayer that is not a thrift institution that holds residual interests in a REMIC

First, the alternative minimum taxable income of such a taxpayer is computed without regard to the REMIC rule that taxable income cannot be less than the amount of excess inclusions. This provision prevents a taxpayer from having to include in alternative minimum taxable income preference items for which it received no tax benefit.

Second, the alternative minimum taxable income of such a taxpayer for a taxable year cannot be less than the excess inclusions of the residual interests for that year. In effect, this provision prevents nonrefundable credits from reducing the taxpayer's income tax below an amount equal to what the tentative minimum tax would be if computed only on excess inclusions.

Finally, the amount of any alternative minimum tax net operating loss deduction of such a taxpayer is computed without regard to any excess inclusions. This provision insures that the net operating losses will not reduce any income attributable to any excess inclusions. Thus, all such taxpayers subject to the alternative minimum tax will pay a tax on excess inclusions at the alternative minimum tax rate, regardless of whether the taxpayer has a net operating loss.

The conference agreement is effective for all taxable years beginning after December 31, 1986, unless the taxpayer elects to apply the conference agreement rules only to taxable years beginning after the date of enactment.

F. CONFORMING AMENDMENTS RELATING TO PENSION REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES (SEC. 6102(j) OF THE HOUSE BILL, SEC. 6103(b) OF THE SENATE AMENDMENT, AND SEC. 414 OF THE CODE)

LEGISLATIVE BACKGROUND AND PRESENT LAW

Veterans' bill

H.R. 1578 ("Uniformed Services Employment and Reemployment Rights Act of 1991") was passed by the House of Representatives on May 14, 1991. The bill was referred to the Senate Committee on Veterans' Affairs on May 16, 1991. On November 7, 1991, S. 1095 ("Uniformed Services Employment and Reemployment Rights Act of 1991") was reported by the Senate Committee on Veterans' Affairs (S. Rept. 102-203), and is pending before the Senate.

H.R. 1578, as passed by the House, and S. 1095, as reported by the Senate Committee on Veterans' Affairs, each amend chapter 43 of title 38, United States Code, to provide for reemployment rights and benefits for individuals who serve in the uniformed services (i.e., the United States Armed Forces or the commissioned corps of the Public Health Service). Each of the bills provides, among other things, that service in the uniformed services is considered service with the employer for retirement plan benefit accrual purposes; the employer that reemploys the individual is liable for funding any resulting obligation; and the reemployed individual is entitled to any accrued benefits derived from employee contributions to the extent that the individual makes payments to the plan with respect to the contributions.

Internal Revenue Code

Under the Internal Revenue Code, overall limits are provided on contributions and benefits under certain retirement plans. Annual additions with respect to each participant under a qualified defined contribution plan generally are limited to the lesser of $30,000 or 25 percent of compensation. Annual deferrals with respect to each participant under an eligible deferred compensation plan (sec. 457) generally are limited to the lesser of $7,500 or 33⅓ of includible compensation. There is no provision under present law that permits contributions or deferrals to exceed these annual limits in the case of required contributions with respect to a reemployed member of the uniformed services.

Other requirements for which there is no special provision for required contributions with respect to a reemployed member of the uniformed services include the qualified plan nondiscrimination and coverage rules.

HOUSE BILL

The provision amends the Internal Revenue Code to provide special rules in the case of certain required contributions ("make-up contributions") with respect to a reemployed member of the uniformed services. The provision applies only with respect to contributions to a qualified defined contribution plan or eligible deferred compensation plan (sec. 457) that are required under chapter 43 of title 38, United States Code ("title 38") as in effect on December 31, 1992.

Under the provision, if any contribution is made by an employer under a qualified defined contribution plan or eligible deferred compensation plan ("individual account plan") with respect to an individual, and such contribution is required by reason of the individual's rights under title 38, then such contribution is not subject to the generally applicable plan contribution limits in the year in which made.[8] In addition, a plan under which such make-up contribution is made will not be treated as failing to meet any requirement applicable to individual account plans (e.g., nondiscrimination rules) by reason of the making of such contribution, nor will the make-up contribution be taken into account in applying the plan contribution limits to any other contribution made during the year.

A special rule applies in the case of make-up contributions of salary reduction and employer matching amounts. Under the provision, a plan that provides for elective deferrals will be treated as meeting the requirements of title 38 if the employer permits reemployed servicepersons to make additional elective deferrals under the plan during the period which begins on the date of reemployment and has the same length as the period of the individual's absence due to uniformed service. The amount of the additional deferrals may not exceed the amount of deferrals that the individual would have been permitted to make under the plan had the individual continued to be employed by the employer during the period of uniformed service and received compensation at the same rate as received from the employer immediately before such service.

The employer is required to match any additional elective deferrals at the same rate that would have been required had the deferrals actually been made during the period of uniformed service. Additional deferrals and employer matching contributions are treated as required employer contributions for purposes of the rule exempting such contributions from the plan qualification rules described above.

The provision clarifies that nothing in title 38 is to be construed as requiring any earnings to be credited to an employee with respect to any contribution before such contribution is actually made. In addition, nothing in title 38 requires any make-up allocation of any forfeiture, or of any employer contribution which was either (1) voluntary (such as a discretionary profit-sharing contribution) or (2) the total amount of which was determined without reference to the number of, or compensation of, plan participants before being allocated to the accounts of participants. For example, make-up contributions would not be required under a plan that provides for a contribution of a set dollar amount, or set percentage of profits, each year. However, make-up contributions would be required under a plan that provides for contributions based on a percentage of participants' compensation. Any election by an employer to provide credit for such amounts (to the extent permitted under title 38) is subject to applicable nondiscrimination and other plan qualification standards.

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[8] However, the amount of any make-up contribution cannot exceed the aggregate amount of employer contributions that would have been permitted under the plan contribution limits had the individual continued to be employed by the employer during the period of uniformed service.

The provision also provides that a plan may suspend repayment of a plan loan for the period of uniformed service without adverse consequences to the individual.

Effective date.—The provision is effective only if the amendments to chapter 43, title 38, United States Code, described above (or substantially similar amendments to such chapter) are enacted in the 102nd Congress. In such case, the provision applies in cases in which the employee is reemployed on or after August 1, 1990.

SENATE AMENDMENT

The Senate amendment is generally the same as the House bill.

In addition, the Senate amendment clarifies that a plan under which required make-up contributions are made would not be treated as failing to meet any requirement applicable to individual account plans (e.g., nondiscrimination rules, including the average deferral and contribution percentage tests under secs. 401(k) and (m)) solely by reason of the making of such contribution, nor would the make-up contribution be taken into account in applying the plan contribution limits to any other contribution made during the year. Under the Senate amendment, required contributions are deductible by the employer in the year made, notwithstanding the generally applicable deduction limit on plan contributions (sec. 404(a)), and such contributions would not be taken into account in determining the deductibility of other plan contributions made during the year.

The Senate amendment provides that, under the special rule that applies in the case of make-up contributions of salary reduction and employer matching amounts, the period during which an employer must permit make-up contributions of salary reduction amounts is limited to no more than 5 years.

The Senate amendment clarifies that nothing in title 38 can be construed as requiring any earnings (or make-up earnings) to be credited to an employee with respect to any contribution before such contribution is actually made.

The Senate amendment clarifies that, because make-up contributions would not be made retroactively, but only after a serviceperson's reemployment, amended tax and information returns generally would not be required.

Effective date.—Same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

G. EXCLUSION FROM INCOME FOR COMBAT ZONE COMPENSATION (SEC. 6102(l)(4) OF THE HOUSE BILL, SEC. 6102(f)(4) OF THE SENATE AMENDMENT, AND SEC. 112 OF THE CODE)

PRESENT LAW

The Code provides that gross income does not include compensation received by a taxpayer for active service in the Armed Forces of the United States for any month during any part of which the taxpayer served in a combat zone (or was hospitalized as a result of such service) (limited to $500 per month for officers). The heading refers to "combat pay," although that term is no longer used to refer to special pay provisions for members of the Armed Forces, nor is the exclusion limited to those special pay provisions (hazardous duty pay (37 U.S.C. sec. 301) and hostile fire or imminent danger pay (37 U.S.C. sec. 310)).

HOUSE BILL

The House bill modifies the heading of Code section 112 to refer to "combat zone compensation" instead of "combat pay". The House bill also makes conforming changes to cross-references elsewhere in the Code.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

H. ESTATE TAX UNIFIED CREDIT ALLOWED NONRESIDENT ALIENS UNDER TREATY (SEC. 6102(f)(1) OF THE HOUSE BILL, SEC. 5032(b)(2) OF THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988, AND SEC. 2102(c)(3)(A) OF THE CODE)

PRESENT LAW

Amount subject to tax

For U.S. citizens and residents, the amount subject to Federal estate and gift tax is determined by reference to all property, wherever situated. For nonresident aliens, the Code provides that the amount subject to Federal estate and gift tax is determined only by reference to property situated in the United States.

The United States has entered into bilateral treaties designed to avoid double transfer taxation. Early treaties typically did this by providing rules for determining situs and requiring that the State of domicile allow a credit for taxes paid to the situs country.[9] In contrast, treaties signed in the 1980s, and the U.S. and OECD model treaties, exempt most property, wherever situated, from taxation outside the State of domicile.[10]

Specific exemption and unified credit

Prior to the Tax Reform Act of 1976, the Code allowed a "specific exemption" against the estate tax. The estate of a U.S. citizen or resident was allowed an exemption of $60,000, while the estate of a nonresident alien was allowed a lesser amount. A number of U.S. estate tax treaties ratified in the 1950s allowed a nonresident alien a "specific exemption" equal to the exemption allowed a U.S. citizen or resident multiplied by the percentage of the gross estate subject to U.S. estate tax (the "pro rata exemption").[11]

The Tax Reform Act of 1976 replaced the specific exemption with a unified credit of $47,000 for the estate of U.S. citizen or resident and $3,600 for the estate of a nonresident alien. After 1976, two courts interpreted the pro rata exemption allowed in the 1950s treaties as applying to the unified credit, i.e., as allowing a unified credit no less than the unified credit allowed a U.S. citizen or resident multiplied by the percentage of the gross estate situated in the United States (and therefore subject to U.S. estate tax under those treaties).[12]

The Technical and Miscellaneous Revenue Act of 1988 ("TAMRA") increased the unified credit allowed an estate of a nonresident alien to $13,000. In so doing, TAMRA provided that, "to the extent required by any treaty," the estate of a nonresident alien is allowed a unified credit equal to the unified credit allowed a U.S. citizen or resident multiplied by the percentage of the gross estate situated in the United States (Code sec. 2102(c)(3)(A)). Thus, TAMRA did not override the "specific exemption" language of the 1950s treaties, as interpreted by the two courts, and could be interpreted as encouraging the negotiation of pro rata unified credits in future treaties.

HOUSE BILL

The House bill clarifies that in determining the pro rata unified credit required by treaty, property exempted by the treaty from U.S. estate tax is not treated as situated in the United States. Under this rule, a treaty granting a pro rata unified credit would allow a nonresident alien the unified credit allowed a U.S. citizen or resident multiplied by the percentage of the gross estate subject to U.S. estate tax, as modified by treaty.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill. The conferees do not intend to affect existing treaties containing pro rata exemptions, because in those treaties taxation follows situs. For future treaties, the conferees intend that any pro rata unified credit negotiated not exceed the proportion of the gross worldwide estate subject to U.S. estate and gift tax, as modified by treaty.

I. LIMITATION ON DEDUCTION FOR CERTAIN INTEREST PAID BY CORPORATION TO RELATED PERSON (SEC. 6102(F)(2) OF THE HOUSE BILL, SEC. 7210(A) OF THE 1989 ACT, AND SEC. 163(J) OF THE CODE)

PRESENT LAW

Subject to certain limitations, a taxpayer may deduct interest paid or accrued on indebtedness within a taxable year (sec. 163(a)). The 1989 Act added a so-called "earnings stripping" limitation on interest deductibility with respect to certain interest paid by corporations to related persons (sec. 163(j)). If the provision applies to a corporation for a taxable year, it disallows deductions for certain amounts of "disqualified interest" paid or accrued by the corporation during that year. If in a taxable year a deduction is disallowed, under the provision, for an amount of interest paid or accrued in that year, the disallowed amount is treated under the earnings stripping provision as disqualified interest paid or accrued in the succeeding taxable year.[13]

In order for the earnings stripping provision to apply to a corporation for a taxable year, two thresholds must be exceeded. To exceed the first threshold, the corporation must have "excess interest expense" as that term is defined in the Code for this purpose. To exceed the second threshold, the corporation must have a ratio of debt to equity as of the close of the taxable year in question (or on any other day prescribed by the Secretary in regulations) that exceeds 1.5 to 1. Excess interest expense is the excess (if any) of the corporation's net interest expense over the sum of 50 percent of the adjusted taxable income of the corporation plus any excess limitation carryforward from a prior year. Excess limitation is the excess (if any) of 50 percent of adjusted taxable income over net interest expense.

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[9] See Staff of the Joint Committee on Taxation, 98th Cong., 2d Sess., *Explanation of Proposed Estate and Gift Tax Treaty Between the United States and Sweden* 8 (1984).

[10] See, e.g., U.S. Treasury Model Estate and Gift Tax Treaty (1980), Article 7, paragraph 1: "Transfers and deemed transfers by an individual domiciled in a Contracting State of property other than property referred to in Article 5 (Real Property) and 6 (Business Property of a Permanent Establishment and Assets Pertaining to a Fixed Base Used for the Performance of Independent Personal Services) shall be taxable only in that State."

[11] See Rev. Rul. 81-303, 1981-2 C.B. 255.

[12] See *Mudry v. United States*, 11 Cl. Ct. 207 (1986) (Swiss treaty); *Burghardt v. Commissioner*, 80 T.C. 705 (1983), *aff'd*, 734 F.2d 3 (3d Cir. 1984) (Italian treaty).

[13] Disqualified interest is interest paid by a corporation to related persons that are not subject to U.S. tax on the interest received. (If, in accordance with a U.S. income tax treaty, interest income of a related person is subject to a reduced rate of U.S. tax, a portion of the interest paid to the related person is deemed to be interest on which no tax is imposed.)

HOUSE BILL

The House bill provides that the debt-equity threshold does not apply for purposes of applying the earnings stripping provision to a carryover of excess interest expense from a prior taxable year. Thus, the House bill clarifies that excess interest carried forward from a year in which the debt-equity ratio threshold is exceeded may be deducted in a subsequent year in which that threshold is not exceeded, but only to the extent that such interest would not otherwise be treated as excess interest expense in the carryforward year.

For example, assume that in year 1 $20 of a corporation's interest expense is nondeductible due to the operation of the earnings stripping provision. The corporation carries forward the $20 of interest deduction that it could not use in year 1. Assume that in year 2 the corporation has a debt-equity ratio of 1 to 1 and $50 of current net and gross interest expense, all of which is disqualified interest, and that it earns $400 of adjusted taxable income. The House bill is intended to clarify that the $20 of interest carried forward from year 1 is deductible in year 2. This is because $70, the sum of the current net interest expense for year 2 ($50) plus the interest expense carried over from year 1 ($20), does not exceed one-half of adjusted taxable income in year 2.

As another example, assume that in year 2 the corporation has a debt-equity ratio of 1 to 1 and $50 of current net and gross interest expense, all of which is disqualified interest, and that it earns $80 of adjusted taxable income. The House bill is intended to clarify that the $20 of interest carried forward from year 1 is not deductible in year 2. This is because the current net interest expense for year 2 ($50) exceeds by $10 one-half of adjusted taxable income in year 2 ($80 divided by 2, or $40). Therefore, treating the year 1 carryover as an interest expense in year 2 causes the corporation to have excess interest expense equal to $30. But for the debt-equity safe harbor, the corporation would have a $30 interest expense disallowance in year 2 if the carried over amount were treated as having been paid in year 2. Under the House bill, no actual year 2 interest can be disallowed. However, under these facts, none of the interest carried over from year 1 can be deducted in year 2. Instead, the interest carried over from year 1 is carried forward for potential deduction (subject to the same rules that applied to the carryforward in year 2) in a year subsequent to year 2.

As a third example, assume that in year 2 the corporation has a debt-equity ratio of 1 to 1 and $50 of current net and gross interest expense, all of which is disqualified interest, and that it earns $110 of adjusted taxable income. The House bill is intended to clarify that $5 of interest carried forward from year 1 is deductible in year 2, and the other $15 of interest carried forward from year 1 is not deductible in year 2. This is because the current net interest expense for year 2 ($50) is $5 less than one-half of adjusted taxable income in year 2 (one-half of $110, or $55). Therefore, even if the debt-equity safe harbor had not been met in year 2, the corporation would have had $5 of excess limitation in year 2 had there been no carryover amount from year 1. On the other hand, treating the year 1 carryover as an interest expense in year 2 causes the corporation to have excess interest expense equal to $15. This $15 may be carried forward to a subsequent year.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

J. BRANCH-LEVEL INTEREST TAX (SEC. 6102(F)(3) OF THE HOUSE BILL, SEC. 1241 OF THE 1986 ACT, AND SEC. 884 OF THE CODE)

PRESENT LAW

Interest paid (or treated as if paid) by a U.S. trade or business (i.e., a U.S. branch) of a foreign corporation is treated as if paid by a U.S. corporation and, hence, is U.S. source and subject to U.S. withholding tax of 30 percent, unless the tax is reduced or eliminated by a specific Code or treaty provision. The Treasury has regulatory authority to limit U.S. sourcing, and hence U.S. withholding, to the amount of interest reasonably expected to be deducted in arriving at the U.S. branch's effectively connected taxable income.

To the extent a U.S. branch of a foreign corporation has allocated to it under Treasury Regulation section 1.882-5 an interest deduction in excess of the interest actually paid by the branch (this generally occurs where the indebtedness of the U.S. branch is disproportionately small compared to the total indebtedness of the foreign corporation), the excess is treated as if it were interest paid on a notional loan to a U.S. subsidiary (the U.S. branch, in actuality) from its foreign corporate parent (the home office). This excess is subject to the 30-percent tax, absent a specific Code exemption or treaty reduction (sec. 884(f)(1)(B)).

These branch-level interest taxes, along with the branch profits tax, were intended to reflect the view that a foreign corporation doing business in the United States generally should be subject to the same substantive tax rules that apply to a foreign corporation operating in the United States through a U.S. subsidiary.[14] Where a U.S. corporation pays interest to its foreign corporate parent, that interest, like the interest deducted by a U.S. branch of a foreign corporation, is also generally subject to a 30-percent U.S. withholding tax unless the tax is reduced by treaty. In the case of a U.S. subsidiary of a foreign parent corporation, the withholding tax applies without regard to whether the interest payment is currently deductible by the U.S. subsidiary. For example, deductions for interest may be delayed or denied under section 163, 263, 263A, 266, 267, or 469, but it is still subject (or not subject) to withholding when paid without regard to the operation of those provisions.

HOUSE BILL

The House bill provides that the branch level interest tax on interest not actually paid by the branch applies to any interest which is allocable to income which is effectively connected with the conduct of a trade or business in the United States. Similarly, in the case of interest paid by the U.S. branch, the House bill provides regulatory authority to limit U.S. sourcing, and hence U.S. withholding, to the amount of interest reasonably expected to be allocable to income which is effectively connected with the conduct of a trade or business in the United States. Thus, where an interest expense of a foreign corporation is allocable to U.S. effectively connected income, but that interest expense would not have been fully deductible for tax purposes under another Code provision had it been paid by a U.S. corporation, the House bill clarifies that such interest is nonetheless treated for branch level interest tax purposes like a payment by a U.S. corporation to a foreign corporate parent. Similarly, with regard to the Treasury's regulatory authority to treat an interest payment by a foreign corporation's U.S. branch as though not paid by a U.S. person for source and withholding purposes, the House bill clarifies that the authority extends to interest payments in excess of those reasonably expected to be allocable to U.S. effectively connected income of the foreign corporation.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

K. DETERMINATION OF SOURCE IN CASE OF SALES OF INVENTORY PROPERTY (SEC. 6102(f)(4) of the House Bill, Sec. 211 OF THE 1986 ACT, AND SEC. 865(b) OF THE CODE)

PRESENT LAW

Prior to the 1986 Act, the source of income derived from the sale of personal property generally was determined by the place of sale (commonly referred to as the "title passage" rule) (see, e.g., Treas. Reg. sec. 1.861-7, T.D. 6258, 1957-2 C.B. 368). While the 1986 Act generally replaced the place-of-sale rule for sales of personal property with a residence-of-the-seller rule (sec. 865(a)), the Act did not change the place-of-sale rule for most sales of inventory property (sec. 865(b)).

Before and after the 1986 Act, statutory rules for sourcing income from inventory sales have included those covering income from (i) purchasing inventory property outside the United States (other than within a U.S. possession) and selling it in the United States (sec. 861(a)(6)); (ii) purchasing inventory property in the United States and selling it outside the United States (sec. 862(a)(6)); (iii) selling outside the United States inventory property which has been produced by the taxpayer in the United States (or selling in the United States inventory property which has been produced by the taxpayer outside the United States) (sec. 863(b)(2)); and (iv) purchasing inventory property in a U.S. possession and selling it in the United States (sec. 863(b)(3)). Prior to the 1986 Act, these provisions were not limited in application to income from sales of inventory property, but rather covered sales of personal property generally.

In addition to statutory rules for sourcing items of income from transactions involving inventory property specified in the Code, such as those listed above, the Code both before and after the 1986 Act has contained other sourcing rules that do not make specific reference to property sales, and includes general regulatory authority to allocate and apportion between U.S. and foreign sources items of gross income, expenses, losses, and deductions other than those specified in sections 861(a) and 862(a) (sec. 863(a)). In carving income from the sale inventory property out of the general residence-of-the-seller rule of section 865, section 865(b) makes reference to the above statutory rules making specific reference to inventory property, but not to the general grant of regulatory authority in section 863(a).

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[14] Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., *General Explanation of the Tax Reform Act of 1986*, at 1036 (1987).

House Bill

The House bill modifies the general provision relating to the sourcing of income from the sale of personal property (section 865) so that the cross-reference to sourcing rules applicable to inventory property includes a reference to all of section 863, rather than simply to section 863(b). The House bill thus clarifies that, to the extent that the Secretary of the Treasury had general regulatory authority to provide rules for the sourcing of income from the sales of personal property prior to the 1986 Act, the Secretary of the Treasury retains that authority under present law with respect to inventory property.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill. The conference agreement bill is not intended to increase the Treasury Secretary's regulatory authority under section 863(a) beyond the authority that he had under the law in effect prior to the enactment of the 1986 Act. The conferees do not intend that any inference be drawn from this provision either as to the correctness of, or as to the post-1986 Act implications of, any judicial decision interpreting the scope of that pre-1986 Act authority.

L. Repeal of Obsolete Provisions (Sec. 6102(f)(5) of the House Bill, Sec. 10202 of the 1987 Act, and Secs. 6038(a)(1)(F) and 6038A(b)(4) of the Code)

Present Law

A U.S person who controls a foreign corporation must report certain information related to that foreign corporation as may be required by the Treasury Secretary (Code sec. 6038). Information reporting is also required with respect to certain foreign-owned domestic corporations (Code sec. 6038A). Included under each of these information reporting provisions is a requirement to report such information as the Treasury Secretary may require for purposes of carrying out the provisions of section 453C. Section 453C, relating to certain indebtedness treated as payment on installment obligations (the so-called "proportional disallowance rule"), was repealed in the Revenue Act of 1987.

House Bill

The House bill repeals as obsolete the information reporting requirements of sections 6038 and 6038A relating to section 453C.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

M. Clarification of Certain Stadium Bond Transition Rule in Tax Reform Act of 1986 (sec. 6102(g) of the House Bill and Sec. 1317(3)(A) of the Tax Reform Act of 1986)

Present Law

The Tax Reform Act of 1986 included a transition rule authorizing tax-exempt bonds not exceeding $200 million to be issued by or on behalf of the City of Cleveland, Ohio, to finance a stadium. The bonds were required to be issued before January 1, 1991 (and were so issued). As enacted, the rule required Cleveland to retain a residual interest in the stadium following planned private business use.

House Bill

The House bill permits the residual interest in the stadium currently held by the City to Cleveland to be assigned to Cuyahoga County, Ohio, (the county in which both Cleveland and the stadium are located) because of a change in Ohio state law prior to issuance of the bonds. The House bill does not extend the time for issuing the bonds or otherwise affect the amount of bonds or the location or design of the stadium.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

N. Health Care Continuation Rules (sec. 6102(h) of the House bill, sec. 7862(c)(5) of the 1989 Act, sec. 4980B(f)(2)(B)(i) of the Code, sec. 602(2)(A) of ERISA, and sec. 2202(2)(A) of the Public Health Service Act)

Present Law

The Revenue Reconciliation Act of 1989 (the "1989 Act") amended the health care continuation rules to provide that if a covered employee is entitled to Medicare and within 18 months of such entitlement separates from service or has a reduction in hours, the duration of continuation coverage for the spouse and dependents is 36 months from the date the covered employee became entitled to Medicare. One possible interpretation of the statutory language, however, would permit continuation coverage for up to 54 months. This extension of the coverage period was not intended.

House Bill

The House bill amends the Code (sec. 4980B), title I of the Employee Retirement Income Security Act (sec. 602), and the Public Health Service Act (sec. 2202(2)(A)) to limit the continuation coverage in such cases to no more than 36 months. The provision is effective for plan years beginning after December 31, 1989.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

O. Additional Pension Tax Technical Corrections: Rollover and Withholding on Nonperiodic Pension Distributions

Present Law

Under present law, as amended by the Unemployment Compensation Amendments of 1992 (P.L. 102-318) (the Unemployment Act) for years beginning after December 31, 1992, any part of the taxable portion of a distribution from a qualified pension or annuity plan or a tax-sheltered annuity (other than a minimum required distribution) can be rolled over tax free to an individual retirement arrangement (IRA) or another qualified plan or annuity, unless the distribution is one of a series of substantially equal payments made (1) over the life or life expectancy of the participant (or the joint lives or life expectancies of the participant and his or her beneficiary), or (2) over a specified period of 10 years or more (sec. 402).

A qualified retirement or annuity plan must permit participants (and other distributees) to elect to have any distribution that is eligible for rollover treatment paid directly to an eligible retirement plan specified by the participant (sec. 401(a)(31)). An eligible rollover distribution from a tax-deferred annuity plan can be paid directly to another tax-deferred annuity plan. A distribution paid directly to an IRA is not taken into account for purposes of the rule limiting rollovers from one IRA to another to no more than one per year (sec. 408(d)(3)(B)) because it is not a rollover from one IRA to another IRA.

The plan administrator must notify participants of the direct rollover option within a reasonable period of time before a distribution is made. It is expected that the plan administrator will identify the portion of each distribution that is an eligible rollover distribution.

Withholding is imposed at a rate of 20 percent on any distribution that is eligible to be rolled over but that is not paid directly to an eligible retirement plan. Withholding is not required on employer securities. If a participant does not elect to have an eligible rollover distribution paid directly to an eligible retirement plan, the participant may roll over the distribution within 60 days as under prior law.

The following examples illustrate present law:

Example 1.—Suppose a participant receives a nonperiodic distribution of $10,000 from a tax-qualified plan. The distribution is an eligible rollover distribution. If the participant elects to have the distribution paid directly to an eligible retirement plan specified by the participant, the distribution will not be includible in income in the year of the distribution.

Example 2.—Same as example 1, except that if the participant does not elect to have the distribution paid directly to an eligible retirement plan, then the participant receives $8,000, and $2,000 is withheld by the plan administrator and deposited with the IRS. Because the distribution is an eligible rollover distribution, the participant may roll the distribution ($10,000) over to an IRA or other eligible retirement plan within 60 days. If the participant does so, the distribution will not be includible in income in the year of the distribution. The $2,000 withheld will offset the participant's Federal tax liability attributable to other income, or be refunded to the participant after he or she has filed an income tax return for the year.

Example 3.—Same as example 2, except that after electing to receive the distribution the participant decides to roll over only $8,000 ($10,000 less the amount withheld). In this case, the participant must include $2,000 in income for the year of the distribution.[15]

House Bill

No provision.

Senate Amendment

The Senate amendment clarifies that an eligible rollover distribution paid directly to an eligible retirement plan pursuant to section 401(a)(31) is considered to be a plan distribution followed by an immediate rollover (a "direct rollover"). Accordingly, because a direct rollover is considered a distribution, any applicable spousal consent rules must be satisfied just as if the distribution were paid directly to the participant. Alternative forms of distribution available under the transferor plan need not be preserved under the transferee plan.[16] In addition, because the direct rollover also is considered a rollover, the amount paid directly to an eligible retirement plan is not includible in income in the year of the distribution, and special NUA treatment no longer applies with respect to employer securities included in such transfer.

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[15] The participant may also have to pay a 10-percent additional early withdrawal tax on the $2,000 if he or she has not yet attained age 59½.

The Senate amendment clarifies that a distribution that is one of a series of periodic payments scheduled to be made over the life or life expectancy of the participant (or the joint lives or life expectancies of the participant and his or her beneficiary), or over a specified period of 10 years or more, is not an eligible rollover distribution, even if the form of the distribution may be modified by the participant. Whether distributions subsequent to any modification in the form of distribution (e.g., acceleration) are eligible rollover distributions is to be determined without regard to any distributions made before such modification.

The Senate amendment provides that a participant (or other distributee) is permitted to elect a direct rollover with respect to any portion of an eligible rollover distribution. Thus, for example, a plan may not provide that a participant can directly roll over only the total amount of the distribution or none of the distribution. Withholding at a rate of 20 percent applies to the portion of the distribution not directly rolled over.

The Senate amendment clarifies that rollovers from a tax-sheltered annuity (sec. 403(b)) can only be made to another tax-sheltered annuity, and that the notice requirement applies to tax-sheltered annuities.

The Senate amendment clarifies that the portion of any eligible rollover distribution that represents unrealized appreciation in employer securities generally is subject to the provision requiring the employer to offer the option of a direct rollover, notwithstanding the special rules pertaining to net unrealized appreciation (NUA) in employer securities. For example, suppose a plan participant receives a distribution of employer securities with a value of $15,000, $5,000 of which represents NUA. The total amount is subject to the direct rollover requirements and must be paid, if the participant elects, directly to an eligible retirement plan.

As under present law with respect to participant rollovers, to the extent that amounts attributable to appreciation in employer securities are paid directly to an eligible retirement plan, special NUA treatment no longer applies with respect to such securities. Furthermore, in the case of a distribution other than a lump-sum distribution, if any portion of a distribution that represents unrealized appreciation in employer securities is paid directly to an eligible retirement plan, special NUA treatment does not apply to the portion of the distribution that is paid to the participant. As under present law, withholding is not required with respect to employer securities distributed to the participant.

The Senate amendment provides that the following plan distributions are not eligible rollover distributions: (1) hardship distributions of amounts attributable to elective deferrals under qualified cash-or-deferred arrangements or tax-sheltered annuity plans; (2) withdrawals of elective deferrals that are qualified first-time homebuyer or educational distributions exempt from the additional tax on early withdrawals; (3) corrective distributions of excess deferrals and contributions under qualified cash-or-deferred arrangements; (4) deemed distributions of loans described in section 72(p)(2) that are in default,[17] and (5) certain dividends paid to a plan with respect to employer securities and distributed in cash to participants or their beneficiaries. In addition, so-called "P.S. 58" costs for group-term life insurance are not eligible rollover distributions. Because such distributions are not eligible rollover distributions, they cannot be rolled over, are not subject to the direct rollover requirement, and are not subject to 20-percent withholding.

The Senate amendment provides that other corrective or deemed distributions similar to those described in the preceding paragraph are not eligible rollover distributions to the extent they are specifically identified by the Secretary in regulations. It is intended that the Secretary interpret this grant of regulatory authority restrictively, consistent with Congress' intent in the Unemployment Act to expand the number of distributions eligible for rollover treatment. The Secretary may find it appropriate in certain cases to exempt distributions from the direct rollover and 20-percent withholding requirements but preserve the ability of participants to roll over the distributions themselves.

The Senate amendment provides a *de minimis* exception to the direct rollover requirement, so that a plan does not have to permit a direct rollover of, or withhold upon at a 20-percent rate, distributions of $500 or less. The Senate amendment also provides that a plan does not have to permit a direct rollover of, or withhold upon at a 20-percent rate, any distribution to an alternate payee pursuant to a qualified domestic relations order (QDRO) within the meaning of section 414(p)(1). As under present law, such distributions can be rolled over by the participant if the distribution otherwise qualifies as an eligible rollover distribution. It is intended that the Secretary will provide appropriate rules to prevent abuse of the *de minimis* exception.

The Senate amendment provides that if the portion of any eligible distribution that is a minimum required distribution (sec. 401(a)(9)) is *de minimis* in relation to the portion of such distribution that is not directly rolled over, withholding at a rate of 20 percent applies to the entire portion of the distribution received by the participant. As under present law, such *de minimis* portion may not, however, be rolled over directly or by the participant to an eligible retirement plan. An amount will be considered *de minimis* in relation to the portion of the distribution paid to the participant if it represents no more than 10 percent of such portion.

The Senate amendment provides that a qualified defined benefit plan is an eligible retirement plan to which direct rollovers may be made, provided the plan permits the acceptance of such rollovers.

The Senate amendment provides that social security supplements described in section 411(a)(9) will be disregarded for purposes of determining whether a distribution is one of a series of substantially equal periodic payments. For example, if a participant is entitled to annuity payments of $500 per month for life, supplemented by monthly payments of $200 per month until he or she attains social security age, each monthly payment of $700 received before the social security age and each monthly payment of $500 received after such age are considered to be one of a series of substantially equal periodic payments for life. As such, none of the distributions are eligible rollover distributions. Other temporary periodic payments (e.g., certain disability benefits) similar in nature to social security supplements will be disregarded to the extent they are specifically identified by the Secretary in regulations. It is intended that the exception for temporary periodic payments be interpreted narrowly, consistent with Congress' intent in the Unemployment Act to expand the number of distributions eligible for rollover treatment.

The Senate amendment clarifies that, in the case of a series of periodic payments, the requirement that a written explanation be provided to recipients of eligible rollover distributions (sec. 402(f)) is deemed satisfied if notice is provided within a reasonable period of time before the first payment of such series subject to the requirements of section 401(a)(31), as amended by the Unemployment Act. Similarly, an election by a distributee to have distributions paid directly to an eligible retirement plan applies to all distributions after the election is made and before the election is revoked.

The Senate amendment provides that plan amendments to comply with the pension provisions under the Unemployment Act generally are not required to be made before the first plan year beginning on or after January 1, 1995, if (1) the plan is operated in accordance with the applicable provisions of the Act, (2) the plan is amended to comply with the required changes no later than the first day of the first plan year beginning after December 31, 1994, and (3) the amendment is retroactive to the effective date of the applicable provisions.

The Senate amendment provides that the withholding, direct rollover, and notice requirements under the Act do not apply to any distribution which is one of a series of substantially equal periodic payments with respect to which the annuity starting date is before January 1, 1993. These requirements also do not apply to (1) any distribution that is made before July 1, 1993, on account of the death, disability, or separation from service of a participant before January 1, 1993, or (2) any distribution made on or after July 1, 1993, which is one of a series of substantially equal periodic payments with respect to which the annuity starting date is before July 1, 1993, and which is paid on account of the death, disability, or separation from service of a participant before January 1, 1993.

Finally, the Senate amendment provides that the delayed effective date for the direct rollover and withholding provisions applicable to certain tax-sheltered annuity plans of State or local governments is extended to apply to qualified retirement plans and tax-sheltered annuities of State and local governments. The amendment also clarifies that the delayed effective date also applies for purposes of the new notice requirements (sec. 402(f)).

Effective date.—The provisions are effective as if included in the Unemployment Compensation Amendments of 1992 (P.L. 102-318).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the following additional modifications and clarifications.

The conference agreement provides that the withholding, direct rollover, and notice requirements under the Unemployment Act do not apply to (1) any distribution that is made before July 1, 1993, on account of the termination of the distributing plan before January 1, 1993, or (2) any distribution made on or after July 1, 1993, which is one of a series of substantially equal periodic payments with respect to which the annuity starting date is before July 1, 1993, and which is paid on account of the termination of the distributing plan before January 1, 1993.

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[16] A direct rollover is to be distinguished from a trustee-to-trustee transfer under other provisions of the Code.

[17] This exception does not apply to loans that are treated as distributions when made under section 72(p)(1).

The conference agreement clarifies that because a direct rollover is a distribution, characteristics associated with the assets under the distributing plan (e.g., alternative forms of distribution) need not be preserved under the plan accepting the direct rollover. In this way, a direct rollover is to be distinguished from a trustee-to-trustee transfer, which generally is not considered a distribution (except to the extent provided under regulations). Such transfers, including transfers described in Rev. Rul. 67-213, elective transfers described in Treasury regulation section 1.411(d)-4, Q&A-3(b), and transfers from one tax-sheltered annuity to another described in Rev. Rul. 90-24, are still permitted to the extent they comply with applicable rules. Thus, for example, after-tax contributions may be transferred to another qualified plan in a trustee-to-trustee transfer to the extent permitted under applicable rules. However, the availability of a trustee-to-trustee transfer option does not satisfy the requirement that participants be permitted to roll over any portion of any eligible rollover distribution directly to an eligible retirement plan.

The conference agreement clarifies that a direct rollover is deemed to satisfy the requirement that a rollover be completed within 60 days of distribution, whether or not distributed assets are actually deposited in an eligible retirement plan within such period. Also, because a direct rollover is considered a rollover to which section 402(c) (or section 403(a)(4) or 403(b)(8)) applies, special averaging treatment is not available for subsequent distributions (whether or not on account of the same trigger event) from the same plan, or from a plan that would be aggregated with such plan for purposes of determining whether averaging is available (sec. 402(c)(10)).

The conference agreement clarifies that the plan administrator's obligation to identify the portion of each distribution that is an eligible rollover distribution applies at the time of the distribution rather than at the time of the direct rollover election. However, it is expected that the plan administrator will provide recipients with timely information about their accrued benefits under the plan sufficient to permit them to make an informed decision with regard to the direct rollover and other distribution options. Such information might include, for example, information regarding the recipient's account balance or accrued benefit as of the last valuation date.

The conference agreement clarifies that a deemed distribution of the cost (including P.S. 58 cost) of life insurance protection provided under a qualified plan or annuity is not an eligible rollover distribution.

The conference agreement clarifies that a distributing plan and its administrator will not be subject to penalties or liability because of reasonable reliance on information provided by a benefit recipient regarding the eligible retirement plan to which a direct rollover is to be made. Reliance on such information generally will be presumed to be reasonable to the extent the information is certified (in writing or in such other form as the Secretary shall provide) to be accurate by the recipient plan. Such certification is not required under the provision, but is intended solely as a safe harbor.

The conference agreement also clarifies that an eligible retirement plan accepting a direct rollover will not be disqualified, and the plan and its administrator will not be subject to penalties or liability, because of reasonable reliance on information provided by an individual, or by the administrator of a distributing plan, regarding the characterization of an amount as an eligible rollover distribution from a qualified plan or annuity. Reliance on such information generally will be presumed to be reasonable if the contribution is received directly from a plan that certifies (in writing or in such other form as the Secretary shall provide) that it is intended to be, and is administered as if it were, a qualified plan or annuity. Such certification is not required, but is intended solely as a safe harbor.

The conference agreement clarifies that, in the absence of Treasury regulations, taxpayers can rely on a reasonable, good faith interpretation of the statutory provisions of the Unemployment Act, as amended.

P. APPLICATION OF HARBOR MAINTENANCE TAX TO ALASKA AND HAWAII SHIP PASSENGERS

PRESENT LAW

A harbor maintenance excise tax ("harbor tax") of 0.125 percent of value applies generally to commercial cargo (including passenger fares) loaded or unloaded at U.S. ports (sec. 4461). The harbor tax does not apply to commercial cargo (other than crude oil with respect to Alaska) loaded or unloaded in Alaska, Hawaii, and U.S. possessions where such cargo is transported to or from the U.S. mainland (for domestic use) or where such cargo is loaded and unloaded in the same State (Alaska or Hawaii) or possession (sec. 4462(b)). Questions have arisen as to whether ship passenger fares in intra-Alaska, Hawaii or possession transportation is to be accorded the same exemption as for "cargo."

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment specifically exempts from the harbor tax passenger fares where transported on U.S. flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters (i.e., leaving and returning to a port in the same State without stopping elsewhere).

Effective date.—Applies as if included in the Harbor Maintenance Revenue Act of 1986 (April 1, 1987).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

B. TARIFFS AND CUSTOMS

1. Technical amendments to the Harmonized Tariff Schedule of the United States (HTSUS)

PRESENT LAW

The Customs and Trade Act of 1990 (hereinafter referred to as the "Trade Act of 1990") included numerous tariff and customs measures affecting the HTSUS.

HOUSE BILL

The House bill makes a number of technical corrections to the HTSUS, primarily arising out of the Trade Act of 1990.

SENATE AMENDMENT

The Senate amendment is identical to the House bill.

CONFERENCE AGREEMENT

The conference agreement retains the provisions in the House bill and Senate amendment.

2. Clarification regarding the application of customs user fees

PRESENT LAW

Section 111(b) of the Trade Act of 1990 provides that, in the case of agricultural products of the United States processed and packed in foreign trade zones, the *ad valorem* merchandise processing fee (MPF) shall be applied solely to the value of the foreign material used to make the container; it exempts the value of the domestic agricultural products from the MPF. The U.S. Customs Service has ruled that, for all products not covered by this provision and in the absence of an express provision to the contrary, the MPF would be assessed on both the domestic and foreign value of the merchandise entering from foreign trade zones.

HOUSE BILL

The House bill clarifies that the MPF is to be applied only to the foreign value of the merchandise entered from a foreign trade zone.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, but it also provides that the provision made by section 111(b)(2)(D)(iv) of the Trade Act of 1990 regarding the application of the MPF to processed agricultural products will also apply to all unliquidated entries from foreign trade zones beginning December 1, 1986.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with a technical modification.

3. Technical amendments to the Omnibus Trade and Competitiveness Act of 1988

PRESENT LAW

Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (hereinafter referred to as "the Trade Act of 1988"), provides the President the authority to proclaim certain tariff reductions pursuant to trade agreements with foreign countries. Paragraph (a)(2) provides the President the authority to reduce tariff rates in existence as of August 23, 1988, at which time the Tariff Schedules of the United States (TSUS) were in effect. Pursuant to Title I, Subtitle B of the Trade Act of 1988, the TSUS were replaced by the HTSUS effective January 1, 1989. Tariff negotiations in the Uruguay Round of Multilateral Trade Negotiations have been conducted on the basis of tariff rates under the HTSUS rather than the TSUS.

HOUSE BILL

The House bill amends the Trade Act of 1988 to reflect the fact that any tariff reductions that might be proclaimed by the President pursuant to section 1102(a) of the Trade Act of 1988 will be based upon the tariff rates under the HTSUS as of January 1, 1989.

SENATE AMENDMENT

The Senate amendment is identical to the House bill.

CONFERENCE AGREEMENT

The conference agreement retains the provisions in the House bill and Senate amendment.

4. Technical amendments to the Trade Act of 1990

PRESENT LAW

The Trade Act of 1990 provides for transportation in bond of Canadian lottery material.

HOUSE BILL

The House bill replaces the phrase "entered or withdrawn from warehouse for consumption" in the "Effective Date" section of the Trade Act of 1990 with "entered for transportation in bond."

SENATE AMENDMENT

The Senate amendment is identical to the House bill.

CONFERENCE AGREEMENT

The conference agreement retains the provisions in the House bill and Senate amendment.

5. Technical amendment regarding certain beneficiary countries

PRESENT LAW

Section 213(h) of the Caribbean Basin Economic Recovery Act provides duty reductions on certain handbags, luggage, flat goods, work gloves, and leather wearing apparel. An identical provision was included in the Andean Trade Preference Act.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment clarifies that such duty reductions do not apply to such articles made of textiles and subject to textile agreements.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

6. Clarification of fees for certain Customs services

19 U.S.C. 58(c) authorizes the Customs Service to provide reimbursable services to air couriers operating in express consignment carrier facilities and in centralized hub facilities. The Customs Service has interpreted the present statute to prevent Customs from providing reimbursable services during daytime hours to centralized hub facilities.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment clarifies that Customs may provide daytime reimbursable services to centralized hub facilities during daytime hours. The provision also clarifies that Customs may be reimbursed for all services related to the determination to release cargo, and not just "inspectional" services. These services are reimbursable regardless of whether they are performed on site or not.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with a technical modification.

VII. MISCELLANEOUS REVENUE PROVISIONS

A. INDIVIDUAL INCOME TAX PROVISIONS

1. Expansion of education savings bond provisions

PRESENT LAW

Code section 135 provides that interest income earned on a qualified U.S. Series EE savings bond issued after December 31, 1989, is excludible from gross income if the proceeds of the bond upon redemption do not exceed qualified higher education expenses paid by the taxpayer during the taxable year.[1] "Qualified higher education expenses" include tuition and required fees for the enrollment or attendance of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer at an eligible educational institution.[2] A taxpayer cannot qualify for the interest exclusion by paying for the education expenses of another person (such as a grandchild or other relative) who is not a dependent of the taxpayer.

The exclusion provided by section 135 is phased out for certain higher-income taxpayers. A taxpayer's AGI for the year the bond is redeemed (not the year the bond was issued) determines whether or not the phaseout applies. For taxpayers filing a joint return, the phaseout range is for AGI between $60,000 and $90,000 (adjusted for inflation). For single taxpayers and heads of households, the phaseout range is for AGI between $40,000 and $55,000 (adjusted for inflation).

To prevent taxpayers from effectively avoiding the income phaseout limitation (through the issuance of bonds directly in the child's name), section 135(c)(1)(B) provides that the interest exclusion is available only with respect to U.S. Series EE savings bonds issued to taxpayers who are at least 24 years old.

The interest rate on Series EE savings bonds varies, depending on how long the bonds are held. The interest rate on such bonds held for more than five years is based on the market rate for Treasury outstanding obligations with five years to maturity. Bonds held for less than five years earn interest on a fixed, graduated scale (generally below current rates on comparable Treasury instruments). Interest earned on Series EE bonds is paid when the bonds are redeemed.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment expands the definition of "qualified higher education expenses" under section 135 to include tuition and required fees paid by a taxpayer for the enrollment or attendance of *any* individual (not simply dependents) at an eligible educational institution.

The Senate amendment also repeals the present-law AGI phaseout limitation under section 135 (and the related rule requiring that bonds be issued to a person who is at least 24 years old). Thus, interest earned on a Series EE savings bond is not subject to tax regardless of the taxpayer's AGI during the year the bond is redeemed if, during that year, the taxpayer pays for qualified higher education expenses of any individual and such expenses exceed the proceeds (principal plus interest) received upon redemption.[3]

The Senate amendment also clarifies that the section 135 exclusion does not apply unless the taxpayer includes, on the return on which the exclusion is claimed, the name, address, and taxpayer identification number of the person for whom qualified education expenses were paid.

Effective date.—The provision applies to U.S. Series EE savings bonds issued after December 31, 1989, and redeemed after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Losses on prior sales of principal residences

PRESENT LAW

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

A loss on the sale of a personal residence is not deductible.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5638 as passed by the House provides that gains that would be recognized on the sale or exchange of a principal residence of a taxpayer are reduced (but not below zero) by the aggregate of the losses not previously taken into account that were sustained by the taxpayer on the sale or exchange of prior principal residences.)

Effective date (H.R. 5638).—Same as the Senate amendment.

SENATE AMENDMENT

The Senate amendment provides that if the taxpayer suffers a loss upon the sale of a principal residence and the taxpayer purchases a new principal residence within the replacement period specified in Code sec. 1034, then the basis of the replacement residence is increased by the amount of any loss not recognized on the sale of the old residence.

Effective date.—The provision is effective with respect to losses on sales or exchanges of old residences after the date of enactment, for determining recognized gain on principal residences sold or exchanged after December 31, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the provision in H.R. 5638.

3. Tax exemption of veterans' benefits

PRESENT LAW

Section 134 of the Code (as added by the Tax Reform Act of 1986) provides that qualified military benefits are excludable from gross income. In general, a qualified military benefit is an allowance or in-kind benefit received by a member or former member of the uniformed services of the United States (or their spouses or dependents) and which was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice.

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[1] If the aggregate redemption amount (i.e., principal plus interest) of all Series EE bonds redeemed by a taxpayer during the taxable year exceeds the qualified education expenses incurred, then the excludable portion of interest income is based on the ratio that the education expenses bears to the aggregate redemption amount (sec. 135(b)).

[2] Eligible educational institutions are defined in section 1201(a) and 481(a)(1)(C) and (D) of the Higher Education Act of 1965, as in effect on October 21, 1988, and in the Carl D. Perkins Vocational Education Act (subparagraph (C) or (D) of section 521(3)), as in effect on October 21, 1988. An eligible educational institution does not include proprietary institutions.

"Qualified higher education expenses" do not include expenses with respect to any course or other education involving sports, games, or hobbies other than as part of a degree program (sec. 135(c)(2)(B)).

[3] Present-law section 135(b) prorates the excludible interest when aggregate proceeds from bonds redeemed by a taxpayer during the taxable year exceed qualified education expenses paid by the taxpayer during that year. Consistent with this rule, it is intended that the Treasury Department will prescribe procedures for allocating the income exclusion provided for by section 135 in cases where, with respect to a particular taxable year, two (or more) taxpayers redeem savings bonds and claim to have paid qualified education expenses for the same student, but the aggregate redemption proceeds received by the taxpayers exceed the student's qualified education expenses.

The Treasury Department has recently stated that the following veterans' benefits are excludable from income: income arising from VA home mortgage debt waivers and similar debt waiver programs; disability-related payments, including all cost-of-living adjustments that have been made since 1986; and all in-kind benefits provided by the VA as of September 9, 1986, regardless of any subsequent modifications to those benefits.

HOUSE BILL

No provision.

SENATE AMENDMENT

Veterans' benefits administered by the Secretary of Veterans' Affairs are excludable from gross income.

The provision is effective for years beginning after December 31, 1984.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

4. Treatment of cancellation of certain student loans

PRESENT LAW

In the case of an individual, gross income subject to Federal income tax does not include amounts discharged from the cancellation or discharge of certain student loans, provided that the discharge was pursuant to a provision of the loan under which the indebtedness would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers (sec. 108(f)).

Student loans eligible for the exclusion from gross income under section 108(f) include any loan to an individual to assist the individual in attending an educational institution that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on, but only if the loan was made by (1) the United States (or an instrumentality or agency thereof), (2) a State (or any political subdivision thereof), (3) an educational organization which originally received the funds from which the loan was made from the United States or a State, or (4) certain tax-exempt public benefit corporations whose employees have been deemed to be public employees under State law (sec. 108(f)(2)).

Section 108(f) does not apply to student loans made by an educational organization from funds that were not originally provided to the organization by the United States or a State government.

HOUSE BILL

No provision. (However, H.R. 2735 contains a provision that is identical to that part of the Senate amendment which expands present-law section 108(f) to cancellation of student loans made by an educational organization from funds not originally provided by the United States or a State government.)

SENATE AMENDMENT

Section 108(f) is expanded so that an individual's gross income does not include discharge-of-indebtedness income from the cancellation of a loan made by an educational organization (which maintains a regular faculty and body of students at the place where educational activities are regularly carried on) to assist the individual in attending the educational organization, provided that the loan was made pursuant to a program of the educational organization designed to encourage its students to serve in occupations or geographic areas with unmet needs, and provided that funds for the discharge are not directly (or indirectly) provided by the student's employer. In addition, an exclusion from gross income is provided for discharges of loans made by any organization exempt from tax under section 501(a) to refinance student loans originally made by a governmental body or educational organization meeting the requirements of section 108(f).

As under present law, the section 108(f) exclusion applies if the discharge of indebtedness was pursuant to a provision of the loan under which all or part of the loan would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers. However, the Senate amendment also provides that the section 108(f) exclusion applies to discharges of student loans by a State (or from funds provided by a State) which had no accredited professional schools for the study of law or medicine on the date the loan was made, if the individual resided for a certain period of time in the State after completion of the individual's attendance at the educational organization with respect to which the loan was made.

Effective date.—The provision is effective for discharges of indebtedness after the date of enactment, except that the effective date is discharges made on or after January 1, 1987, for cases where the discharge is by a State without certain accredited professional schools, if the individual resided for a certain period of time in the State after completion of the individual's attendance at the educational organization with respect to which the loan was made.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

5. Rollover of military separation pay

PRESENT LAW

Under present law, any part of the taxable portion of a distribution from a qualified pension or annuity plan or a tax-sheltered annuity (other than a minimum required distribution) can be rolled over tax free to an individual retirement arrangement (IRA) or another qualified plan or annuity, unless the distribution is one of a series of substantially equal payments made (1) over the life or life expectancy of the participant (or the joint lives or life expectancies of the participant and his or her beneficiary), or (2) over a specified period of 10 years or more.

Distributions from a nonqualified plan, including distributions from a severance arrangement, are not eligible for such tax-free rollover treatment.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, up to $25,000 of military separation pay, as defined in section 1174 of title 10 of the United States Code, may be rolled over tax-free to an IRA.

Effective date.—The provision is generally effective for separation pay received after December 5, 1991.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

6. Change in the treatment of involuntary conversions for principal residences in Presidentially declared disaster areas

PRESENT LAW

Under present law, no gain is recognized by the taxpayer if property is involuntarily converted into property similar or related in service or use. If property is involuntarily converted into money or property not similar or related in service or use to the converted property, then gain generally must be recognized. If, however, during the applicable period the taxpayer replaces the converted property with property similar or related in service or use to the converted property, the taxpayer may elect to recognize gain only to the extent that the amount realized upon such conversion exceeds the cost of the replacement property. The applicable period begins with the date of the disposition of the converted property (or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is earlier) and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5640 as passed by the House is identical to the Senate amendment.)

SENATE AMENDMENT

The Senate amendment provides that for taxpayers whose principal residence[1] (or any of its contents) is involuntarily converted as a result of a Presidentially declared disaster (and such principal residence is located in an area subject to a disaster that resulted in a subsequent determination by the President that assistance by the Federal Government was warranted under the Disaster Relief and Emergency Assistance Act), no gain is recognized by reason of the receipt of insurance proceeds for unscheduled personal property that was part of the contents of such residence. Furthermore, in the case of any other insurance proceeds for such residence or its contents, the proceeds may be treated as a common pool of funds. If such pool of funds is used to purchase any property similar or related in service or use to the converted residence (or its contents), the taxpayer may elect to recognize gain only to the extent that the amount of the pool of funds exceeds the cost of the replacement property.

In addition, the Senate amendment extends the ending of the applicable period for the replacement of property involuntarily converted as a result of a Presidentially declared disaster to four years after the close of the first taxable year in which any part of the gain upon conversion is realized.

Effective date.—The provisions are effective for property involuntarily converted as a result of disasters for which a Presidential declaration is made on or after September 1, 1991, and to taxable years ending on or after such date.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

7. Modification of the exclusion from income for certain foster care payments

PRESENT LAW

Gross income does not include qualified foster care payments received by a foster care provider. A qualified foster care payment must be: (1) paid by a State or local political subdivision thereof or by a placement agency (which is described in section 501(c)(3) and exempt from tax under section 501(a)), and (2) paid to a foster care provider for care in the provider's home or a difficulty of care payment.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that payments by the Federal Government which are taken into account by the State, local political subdivision or placement agency in determining their payments to the provider for care in the provider's home also are not included in the provider's gross income. No inference is intended that other payments from the Federal Government are or are not included in an individual's gross income.

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[1] As defined under section 1034, except that no ownership requirement is imposed.

Effective date.—The provision applies to payments made on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

8. Penalty-free withdrawals from annuities for certain higher education expenses

PRESENT LAW

Under present law, a 10-percent excise tax is imposed on premature distributions from tax-deferred annuity contracts.

HOUSE BILL

No provision. (However, H.R. 5674 as passed by the House contains a provision that is substantially the same as the provision in the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides that no penalty is imposed on a distribution from a designated higher education expense annuity to an individual if such distribution is used within 90 days to pay qualified tuition and related expenses required by the enrollment or attendance of the individual, or the individual's spouse, child or grandchild at an eligible educational institution. The amount of such expenses is to be reduced by any amount excluded from gross income under section 135, relating to education bonds, by reason of such expenses.

A designated higher education expense annuity is an annuity that was purchased after December 31, 1992 and that is designated by the purchaser as such an annuity at the time of purchase. The provision does not apply to any annuity acquired in an exchange to which section 1035 applies unless the annuity given up by the taxpayer in the exchange was a designated higher education expense annuity.

Any premium paid for a designated higher education expense annuity is not treated as a transfer of property by gift for Federal gift tax purposes. However, if any premium (or any portion thereof) is not treated as a taxable gift solely by reason of this provision, (1) any disqualified lifetime distribution from the portion of the annuity attributable to such premium will be treated as a transfer by gift by the person who paid the premium, and (2) the gross estate of the person who paid the premium will include the value of the portion of the annuity attributable to such premium. A disqualified lifetime distribution is any distribution that is not a qualified higher education distribution and that is made during the life of the purchaser to or for the benefit of another person.

The portion of the annuity attributable to any premium that is not treated as a taxable gift solely by reason of this provision is the portion of the annuity that bears the same ratio to the total value of the annuity as the amount of the premium that is not treated as a taxable gift under present law (without the gift tax exclusion permitted by this provision) bears to the total premium. For example, if the premium payment was $30,000, and $10,000 of that premium was not a taxable gift because it qualified for the annual gift tax exclusion, $20,000 is not treated as a taxable gift solely by reason of this provision. If the total value of the annuity is $36,000 at the time of an event described in the preceding paragraph, the portion of the annuity that is treated as gift or included in the estate of the purchaser is $24,000 (2/3 of $36,000).

Effective date.—The provision is effective as of January 1, 1993.

9. Exclusion from gross income for amounts paid under a life insurance contract by reason of terminal illness

PRESENT LAW

Under present law, gross income does not include amounts received under a life insurance contract if the amounts are paid by reason of the death of the insured.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the present-law exclusion for life insurance proceeds to amounts paid or advanced to an individual under a life insurance contract if the insured under the contract is terminally ill. The provision also provides an exclusion in the case of amounts received from a qualified accelerated benefits corporation for the sale or assignment of a life insurance contract if the insured under the contract is terminally ill.

An insured is considered terminally ill for this purpose if the insured has been certified by a licensed physician as having an illness or physical condition that can reasonably be expected to result in death in 12 months or less.

The provision also clarifies that, for purposes of the provisions relating to the taxation of life insurance companies, a qualified terminal interest rider is treated as life insurance. A qualified terminal interest rider means any rider or addendum, or other provision of, a life insurance contract that provides for payments to an individual in the event of terminal illness.

The issuance of a qualified terminal illness rider with respect to any life insurance contract is not treated as a modification or material change under the contract for purposes of sections 7702 or 7702A of the Code. No inference is created as to the effect of the issuance of a terminal illness rider under present law for purposes of section 7702 or 7702A.

Under the provision, applicants for, or recipients of, benefits under certain public assistance programs are not required to take into account the right to receive accelerated death benefits in determining eligibility for such benefits.

Effective date.—The provision generally is effective for taxable years beginning after December 31, 1989. The provision treating qualified terminal illness riders as life insurance for insurance company tax purposes and the provision providing that the issuance of such a rider is not a modification or material change in a life insurance contract are effective for taxable years beginning before, on, or after December 31, 1989. The provision relating to the effect of the availability of life insurance benefits in the event of terminal illness on eligibility for public assistance benefits is effective on January 1, 1990.

CONFERENCE AGREEMENT

The conference agreement does not contain the provision in the Senate amendment.

10. State taxation of nonresident retirement benefits

PRESENT LAW

Currently, a number of States impose income tax on retirement income earned in the State but paid to individuals who are no longer residents of the State. These States impose income tax on such income because the States provide a deferral of tax on retirement income earned in the State, not an exclusion. This is consistent with the treatment of such income under the Internal Revenue Code.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment prohibits a State from imposing income tax on certain periodic payments made to any individual who is not a resident or domiciliary of the State.

Effective date.—Taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

11. Treatment of unpaid child support

PRESENT LAW

Individual taxpayers generally are allowed a deduction for a debt that becomes worthless, provided that the debt was created or acquired in connection with the taxpayer's trade or business. However, individuals may not claim a bad-debt deduction for a nonbusiness debt that becomes worthless (sec. 166(d)).

A taxpayer generally realizes income by the nongratuitous discharge of an indebtedness owed by the taxpayer (sec. 61(a)(12)).

The Internal Revenue Service (IRS) is required to withhold from a tax refund otherwise due an individual an amount equal to delinquent child support payments if it receives notice from a State child support agency that the individual owes past-due support (1) that has been assigned to the State as a condition of eligibility for Aid to Families with Dependent Children (AFDC), or (2) for certain non-AFDC families with minor children (sec. 6402(c)). Refunds so withheld generally are remitted to the State that has been assigned the right to collect the past-due support under the Social Security Act.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment allows certain taxpayers who are owed past-due child support payments of at least $500 to claim a bad-debt deduction.[1] Under the provision, the past-due payments generally must be delinquent for at least one year. The deduction claimed may not exceed $5,000 per child per year, and is not available to a taxpayer whose adjusted gross income (AGI) exceeds $50,000.[2]

The deduction applies with respect to child support payments[3] owed with respect to a qualifying child[4] of the taxpayer, if such payments are required to be paid to the taxpayer under a support instrument that is (1) a decree of divorce or separate maintenance or a written instrument incident to such a decree, (2) a written separation agreement, or (3) a decree of a court or administrative agency requiring a parent to make payments for the support or maintenance of one or more children of such parent. Under the provision, the deduction is allowed only if the taxpayer has not assigned the collection rights to the support payments to a State AFDC agency under section 402(a)(26) of the Social Security Act (42 U.S.C. 602(a)(26)).

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[1] Under the Senate amendment, the $500 threshold applies to the total of past-due payments owed with respect to all qualifying children of the taxpayer. If this threshold is exceeded, the total amount, including the first $500 (but not exceeding $5,000 per child) is deductible.

[2] The $500, $5,000, and $50,000 amounts are adjusted for inflation after 1992.

[3] The term "child support payment" is defined as a payment for support of a qualifying child, if such payment is either (1) any periodic payment of a fixed amount, or (2) any payment of a medical or educational expense, insurance premium, or similar item.

[4] For purposes of the provision, the term "qualifying child" means a child of with respect to whom a deduction is allowable to the taxpayer under section 151 for the taxable year (generally applying to any son, stepson, daughter, or stepdaughter of the tax-

The deduction provided for by the Senate amendment is allowed in determining AGI (above-the-line), regardless of whether the taxpayer itemizes deductions or claims the standard deduction. In addition, the provision requires the inclusion of the amount of unpaid child support payments in the gross income of the delinquent parent by reason of discharge of indebtedness.[5]

Under the provision, if the child support is collected after the deduction is taken, the taxpayer claiming such a deduction is required to include the payment in gross income for the taxable year in which the payment is received (and the taxpayer making the subsequent payment is entitled to a deduction for the taxable year in which such payment is made).

The Senate amendment specifically provides that it shall not be construed to affect the right of an individual or State to receive any child support payment, or the obligation of an individual to pay child support.

Effective date.—The provision is effective for taxable years beginning after December 31, 1992.

Conference Agreement

The conference agreement follows the House bill.

12. Expansion of qualified scholarships to cover room, board, and travel

Present Law

Section 117 provides that gross income does not include any amount received as a qualified scholarship by an individual who is a candidate for a degree at an educational organizational organization described in section 170(b)(1)(A)(ii). The term "qualified scholarship" means any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was used for qualified tuition and related expenses.[1]

For purposes of section 117, the term "qualified tuition and related expenses" means (1) tuition and fees required for the enrollment or attendance of a student at an educational organization described in section 170(b)(1)(A)(ii), and (2) fees, books, supplies, and equipment required for courses of instruction at such an educational organization. The term "qualified tuition and related expenses" generally does not cover regular living expenses, such as for meals and lodging.

House Bill

No provision.

Senate Amendment

The Senate amendment expands the definition of "qualified tuition and related expenses" under section 117 to include expenses for room, board, and travel required for attendance at an educational organization described in section 170(b)(1)(A)(ii).

As under present law, the tax-free treatment provided by section 117 does not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving a scholarship or tuition reduction.

Effective date.—Amounts received after December 31, 1992.

Conference Agreement

The conference agreement follows the House bill.

13. Increase the threshold for withholding on gambling winnings

Present Law

In general, proceeds from a wagering transaction are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000 and if the amount of such proceeds is at least 300 times as large as the amount wagered. The proceeds from a wagering transaction are determined by subtracting from the amount received the amount wagered. Any non-monetary proceeds that are received are taken into account at fair market value.

In the case of State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $5,000, regardless of the odds of the wager. This rule applies only if the wager is placed with the State agency conducting the lottery or with its authorized agents or employees.

In the case of sweepstakes, wagering pools, or lotteries other than State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000, regardless of the odds of the wager.

No withholding tax is imposed on winnings from a slot machine, bingo, or keno.

House Bill

No provision.

Senate Amendment

The Senate amendment increases the threshold for withholding on proceeds from a wagering transaction from $1,000 to $5,000. The additional requirement for withholding that the proceeds of the wager be at least 300 times the amount of the wager applies to the same extent as under present law.

Effective date.—The provision is effective for payments made after December 31, 1992.

Conference Agreement

The conference agreement does not include the Senate amendment. (However, the conference agreement on H.R. 776 includes the Senate amendment.)

B. Provisions Relating to Charitable Contributions and Tax-Exempt Organizations

1. AMT Relief for gifts of appreciated property

Present Law

Donations of appreciated property

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair-market value of property contributed to a charitable organization.[1] However, in the case of a charitable contribution of inventory or other ordinary-income property, short-term capital gain property, or certain gifts to private foundations, the amount of the deduction is limited to the taxpayer's basis in the property.[2] In the case of a charitable contribution of tangible personal property, a taxpayer's deduction is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the deduction for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair-market value of the property exceeds its adjusted basis (sec. 57(a)(6)). However, in the case of a contribution made in a taxable year beginning in 1991 or made before July 1, 1992, in a taxable year beginning in 1992, this rule does not apply to contributions of tangible personal property.

Valuation procedures

Present law and current IRS practice does not provide for a procedure by which taxpayers may seek determination of the IRS' position with respect to the value of property prior to the taxpayer donating the property to a charitable organization. However, if a taxpayer claims a charitable contribution deduction for a noncash gift in excess of $5,000 per item or group of similar items (other than certain publicly traded securities), the taxpayer must attach to his income tax return a separate form (Form 8283), which provides specific information on the donated property and which is signed by a qualified appraiser.[3]

House Bill

Extension of AMT relief for donated appreciated property

All charitable contributions of appreciated property (real, personal, and intangible) made during 1992 and 1993 will not be treated as a tax preference item for alternative minimum tax (AMT) purposes.

Thus, during 1992 and 1993, if a taxpayer makes a gift to charity of property (other than inventory or other ordinary income property, short-term capital gain property, or certain gifts to private foundations) that is real property, intangible property, or tangible personal property the use of which is

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payer over half of whose support for the year was received from the taxpayer and (1) whose gross income for the year is less than the personal exemption amount, or (2) is younger than 19 years old or is a student younger than 24 years old).

[5] On the taxpayer's return claiming the deduction provided for by the provision, the taxpayer is required to include the taxpayer identification number (TIN) of each child with respect to whom support payments are owed and the delinquent parent (unless the taxpayer certifies that the delinquent parent's TIN is not known). The provision also requires the taxpayer claiming the deduction to notify the delinquent parent of the amount of the deduction claimed and that the delinquent parent is required to include such amount in gross income for the taxable year beginning in the preceding calendar year. The IRS is required to provide this notice if the delinquent parent's address is not known to the taxpayer but is available to the IRS.

[1] The section 117 exclusion does not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving a scholarship or tuition reduction (sec. 117(c)).

[1] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)).

[2] Section 170(e)(3) provides an augmented deduction for certain corporate contributions of inventory property for the care of the ill, the needy, or infants.

[3] The Form 8283 must be attached to the income tax return (Form 1040) in all cases where total noncash contributions exceed $500, but the Form 8283 need not be signed by a qualified appraiser unless the $5,000 threshold per item or group of similar items is exceeded. In the case of donated art for which a deduction of $20,000 or more is claimed, a complete copy of the signed appraisal must be attached to the Form 8283.

related to the donee's tax-exempt purpose, the taxpayer is allowed to claim a deduction for both regular tax and AMT purposes in the amount of the property's fair-market value (subject to present-law percentage limitations).[4] Any carryover of an excess contribution deduction from a contribution made during the period January 1, 1992, through December 31, 1993, also will not be treated as a tax preference item for AMT purposes in any succeeding taxable year to which the excess may be carried forward in accordance with the rules of section 170.

Effective date.—Contributions made during 1992 and 1993.

Treasury report on advance valuation procedure

Not later than one year after the date of enactment of the bill, the Secretary of the Treasury is required to submit a report to the Senate Committee on Finance and the House Committee on Ways and Means, reporting on the development of a procedure under which taxpayers could elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization (provided that time limits for donation and any other conditions contained in the agreement are satisfied). The report should address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, and recommendations for legislative action needed to implement the procedure.

Effective date.—The Treasury Department must report to Congress not later than one year after enactment on the development of an advance valuation procedure.

SENATE AMENDMENT

Permanent AMT relief for donated appreciated property

The bill permanently repeals section 57(a)(6). Thus, the difference between the fair-market value of donated appreciated property (real, personal, or intangible property) and the adjusted basis of such property is not treated as a tax preference item for alternative minimum tax (AMT) purposes. If a taxpayer makes a gift to charity of property (other than inventory or other ordinary income property, short-term capital gain property, or certain gifts to private foundations) that is real property, intangible property, or tangible personal property the use of which is related to the donee's tax-exempt purpose, the taxpayer is allowed to claim a deduction for both regular tax and AMT purposes in the amount of the property's fair-market value (subject to present-law percentage limitations).[5]

Effective date.—Contributions of tangible personal property made after 1991, and contributions of other property made after 1992.

Treasury report on advance valuation procedure

Same as the House bill.

CONFERENCE AGREEMENT

Permanent AMT relief for donated appreciated property

The conference agreement follows the Senate amendment.

Treasury report on advance valuation procedure

The conference agreement follows the House bill and Senate amendment.

2. Allocation and apportionment of deductions for charitable contributions

PRESENT LAW

Taxpayers may elect to claim a credit against U.S. tax liability for certain foreign taxes which they incur. The foreign tax credit is limited to the amount of U.S. tax otherwise payable on foreign source taxable income. Thus, the foreign tax credit is not available against U.S. tax on U.S. source taxable income. A shift in the source of net income from foreign to U.S. may increase net U.S. tax for some taxpayers by reducing the foreign tax credit limitation and thus the amount of the foreign tax credit which may be claimed.

For purposes of the foreign tax credit limitation, foreign source taxable income is computed by (1) determining the items of gross income that are from foreign sources, and then (2) subtracting from those items the taxpayer's deductions that are allocated or apportioned to foreign source gross income. A shift in the allocation or apportionment of expenses from U.S. source to foreign source gross income decreases foreign source taxable income, and thus, may increase U.S. tax by reducing the foreign tax credit limitation.

In general, the primary statutory rule for allocating and apportioning deductions between foreign and domestic income is that there shall be deducted from foreign and domestic source gross income, respectively, the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot be definitely allocated to some item or class of gross income (secs. 861(b), 862(b), and 863(b)). In addition, for a taxpayer that is a member of an affiliated group of corporations, expenses that are not directly allocated or apportioned to any specific income producing activity generally must be allocated and apportioned under a so-called "one-taxpayer rule"—that is, as if all of the members of the affiliated group were a single corporation (sec. 864(e)(6)).

Charitable contribution deductions generally are treated as not definitely related to any gross income or income producing activity, and therefore are apportioned ratably and subject to the one-taxpayer rule.[1]

Regulations proposed in March 1991 would alter the general rule requiring ratable apportionment of charitable contributions in cases where the use of the contribution is restricted either to purely domestic or purely foreign uses.[2] Under the proposal, a charitable contribution deduction generally would be allocated solely to U.S. source gross income if the taxpayer both designates the contribution for use solely in the United States and reasonably believes that the contribution would be so used. Conversely, a charitable contribution deduction would be allocated solely to foreign source gross income if the taxpayer knows or has reason to know that the contribution would be used solely outside the United States or that the contribution may necessarily be used only outside the United States.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, for purposes of computing the source of taxable income for the foreign tax credit limitation, taxpayers are permitted to allocate 40 percent of their otherwise-allowable charitable contribution deductions to gross income from U.S. sources. The remaining 60 percent of charitable contribution deductions must be apportioned ratably between U.S. source gross income and foreign source gross income. As under present law, all corporations included in an affiliated group are treated as a single corporation for purposes of the ratable apportionment of the residual 60 percent of charitable contribution deductions.

For example, assume that a corporation (which is not a member of an affiliated group of corporations) earns $1,000,000 of gross income from foreign sources and $500,000 of gross income from domestic sources for a taxable year. Further assume that it makes charitable contributions that are deductible during the year in the amount of $100,000. Under the Senate amendment, $40,000 (40 percent of $100,000) of the charitable contributions are allocated to U.S. source gross income. The residual amount of charitable contributions, $60,000, is subject to ratable apportionment on the basis of gross income. Thus, of this residual amount, $40,000 is apportioned to foreign source gross income and $20,000 is apportioned to U.S. source gross income. Of the total amount of charitable contributions, $60,000 is allocated and apportioned to U.S. source gross income and $40,000 is allocated and apportioned to foreign source gross income.

Now assume that the corporation has a wholly owned subsidiary which earns $500,000 of gross income for the taxable year, all from sources outside the United States, and makes no deductible charitable contributions. In this case, the parent corporation's charitable contributions are allocated and apportioned as follows. As under the previous example, 40 percent are allocated directly to domestic source gross income. The residual amount, however, is allocated under the one-taxpayer rule. Thus, of the residual amount, $45,000 is apportioned to foreign source gross income and $15,000 is apportioned to U.S. source gross income. Of the total amount of charitable contributions, $55,000 is allocated apportioned to U.S. source gross income and $45,000 is allocated and apportioned to foreign source gross income.

Effective date.—Charitable contributions made on or after January 1, 1994.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

3. Substantiation and information disclosure requirements for certain contributions

PRESENT LAW

An individual taxpayer who itemizes deductions must separately state (on Schedule A to the Form 1040) the aggregate amount of charitable contributions made by cash or check and the aggregate amount made by donated property other than cash or check.

A taxpayer is not required to provide specific information on his or her return regarding a claimed charitable contribution made by cash or check; nor in such a case is a donee organization required to file an information return with the IRS, regardless of the amount of cash or check involved. However, taxpayers must provide certain information (on Form 8283) if the amount of the claimed contribution for all noncash contributions exceeds $500.[1]

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[4] Contributions of inventory or other ordinary income property, short-term capital gain property, and certain gifts to private foundations continue to be governed by present-law rules.

[5] Contributions of inventory or other ordinary income property, short-term capital gain property, and certain gifts to private foundations continue to be governed by present-law rules.

[1] Treas. Reg. sec. 1.861-8(e)(9)(iv); Notice 89-91, 1989-2 C.B. 408, 409.

[2] Proposed Treas. Reg. sec. 1.861-8(e)(12), INTL-116-90, 1991-14 I.R.B. 35.

[1] If the claimed deduction for a noncash gift exceeds $5,000 per item or group of similar items (other

A payment (regardless of whether it is termed a "contribution") in exchange for which the payor receives an economic benefit is not deductible under section 170, except to the extent that the taxpayer can demonstrate that the payment exceeded the fair-market value of the benefit received from the charity.[2]

The Internal Revenue Code does not require a tax-exempt organization that is eligible to receive tax-deductible contributions to state explicitly, in its solicitations for support from members or the general public, whether an amount paid to it is deductible as a charitable contribution or whether all or part of the payment constitutes consideration for goods or services furnished by the organization to the payor.[3] In contrast, tax-exempt organizations that are *not* eligible to receive tax-deductible contributions are required to state expressly in certain fundraising solicitations that contributions or gifts to the organization are not deductible as charitable contributions for Federal income tax purposes (sec. 6113).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision includes two parts:

(1) *Substantiation requirement.*—Section 170 is amended to provide that no deduction is allowed under that section for any contribution of $100 or more[4] unless the taxpayer has written substantiation from the donee organization of the contribution (including a good faith estimate of the value of any good or service that has been provided to the donor in exchange for making the gift to the donee).[5]

This provision does not impose an information reporting requirement upon charities; rather, it places the responsibility upon taxpayers who claim an itemized deduction for a contribution of $100 or more to request (and maintain in their records) substantiation from the charity of their contribution (and any good or service received in exchange).[6] Taxpayers may not simply rely on a cancelled check as substantiation for a donation in excess of $100.

Under the provision, the substantiation must be obtained by the taxpayer prior to filing his or her return for the taxable year in which the contribution was made (or if earlier, the due date, including extensions, for such return).[7] Substantiation is not required if the donee organization files a return with the IRS (in accordance with Treasury regulations) reporting information sufficient to substantiate the amount of the deductible contribution.

(2) *Information disclosure for quid pro quo contributions.*—Charitable organizations that receive *quid pro quo* contributions (meaning a payment made partly as a contribution and partly in consideration for goods or services furnished to the donor) will be required, in connection with the solicitation or receipt of the contribution, to (1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money (and the value of any property other than money) contributed by the donor over the value of the goods or services provided by the organization, and (2) provide the donor with a good faith estimate of the value of goods or services furnished to the donor by the organization.[8]

The disclosure requirement applies to all *quid pro quo* contributions regardless of the dollar amount of the contribution involved (i.e., even in cases with donations less than $100), and the disclosure must be made by the charity in connection with either the solicitation or receipt of the contribution. Thus, for example, if a charity receives a $75 contribution from a donor, in exchange for which the donor receives a dinner valued at $40, then the charity must inform the donor that only $35 is deductible as a charitable contribution. However, the provision will not apply if only *de minimis*, token goods or services are given to a donor (see Rev. Proc. 90-12, discussed above).[9] Also, the provision will not apply to transactions that have no donative element (e.g., sales of goods by a museum gift shop that are not, in part, donations).

The provision also provides that penalties ($10 per contribution, but capped at $5,000 per particular fundraising event or mailing) may be imposed upon charities that fail to make the required disclosure, unless the failure was due to reasonable cause. The penalties will apply if an organization either fails to make any disclosure in connection with a *quid pro quo* contribution or makes a disclosure that is incomplete or inaccurate (e.g., an estimate not determined in good faith of the value of goods or services furnished to the donor).

The Treasury Department is directed to prescribe regulations not later than July 1, 1993, to implement the substantiation and information disclosure provisions.

Effective date.—The substantiation and information disclosure provisions are effective for contributions made on or after January 1, 1994. Treasury Department regulations to implement the provisions must be prescribed not later than July 1, 1993.

CONFERENCE AGREEMENT

Substantiation requirement

The conference agreement follows the Senate amendment, except that the $100 threshold for the substantiation requirement is increased to $750.

Information disclosure with quid pro quo contributions

The conference agreement follows the Senate amendment.

4. Corporate sponsorship payments received by tax-exempt organizations in connection with public events

PRESENT LAW

Although generally exempt from Federal income tax, tax-exempt organizations are subject to the unrelated business income tax (UBIT) on income derived from a trade or business regularly carried on[1] that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511-514). Contributions or gifts received by tax-exempt organizations generally are not subject to the UBIT. However, present-law section 513(c) provides that an activity (such as advertising) does not lose its identity as a separate trade or business merely because it is carried on within a larger complex of other endeavors.[2] If a tax-exempt organization receives sponsorship payments in connection with conducting a public event,

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than certain publicly traded securities) a qualified appraiser must sign the Form 8283, and an authorized representative of the donee charity also must sign the Form 8283, acknowledging receipt of the gift and providing certain other information. In certain situations, information reporting by the donee charity is required if it subsequently disposes of donated property (sec. 6050L).

[2] See Rev. Rul. 67-246, 1967-2 C.B. 104.

Under current IRS practice, certain small items and token benefits (e.g., key chains and bumper stickers) that have insubstantial value are disregarded, such that the full amount of the contribution is deductible. Rev. Proc. 90-12, 1990-1 C.B. 471, provides that tokens or benefits given to the donor in connection with a contribution will be considered to have insubstantial value if (1) the payment occurs in the context of a fundraising campaign in which the charity informs patrons how much of their payment is a deductible contribution, *and* (2) *either* (a) the fair-market value of all the benefits received in connection with the payment is not more than two percent of the payment, or $50, *whichever is less, or* (b) the payment made by the patron is $25 or more (adjusted for inflation) and the only benefits received in connection with the payment are token items (e.g., key chains or mugs) which bear the organization's name or logo and which (in the aggregate) are within the limits for "low-cost items" under section 513(h)(2).

[3] However, Schedule A to the Form 1040 (and the accompanying instructions) inform taxpayers that if they made a contribution and received a benefit in return, the value of that benefit must be subtracted in calculating the charitable contribution deduction.

[4] Separate payments shall generally be treated as separate contributions and shall not be aggregated for the purposes of applying the $100 threshold. In cases of contributions paid by withholding from wages, the deductions from each paycheck shall be treated as separate payments.

[5] If the donee organization provided no goods or services to the taxpayer in consideration of the taxpayer's contribution, the written substantiation must include a statement to that effect.

[6] In the case where a taxpayer makes a noncash contribution, the taxpayer is required to obtain from the charity a receipt that describes the donated property (and indicates whether any good or service was given to the taxpayer in exchange), but the provision does not require the charity to value the property it receives from the donor.

[7] The provision requires that the written acknowledgment provide information sufficient to substantiate the amount of the deductible contribution, but the acknowledgment need not take any particular form. Thus, for example, acknowledgments may be made by letter, postcard, or computer-generated forms. Further, a donee organization may prepare separate acknowledgment for each contribution, or may provide donors with periodic (e.g., annual) acknowledgments that set forth the required information for each contribution of $100 or more made by the donor during the period.

It is intended that a charitable organization that knowingly provides a false written substantiation to a donor will be subject to the penalties provided for by section 6701 for aiding and abetting an understatement of tax liability.

[8] It is intended that the disclosure be made in connection with the solicitation or receipt of the contribution, such that the disclosure is reasonably likely to come to the attention of the donor. For example, a disclosure of the required information in small print set forth within a larger document might not meet the requirement.

[9] It is intended that, in the case of religious organizations, a *quid pro quo* contribution (for purposes of the substantiation and disclosure requirements) is limited to an exchange of goods or services that are generally available on a commercial basis, or advertised for an established price. This would include, for example, tuition, travel and entertainment, and consumer goods.

[1] In determining whether a trade or business is regularly carried on, regard must be had to the frequency and continuity with which the business activities are conducted and the manner in which such activities are pursued. Specific business activities of a tax-exempt organization will ordinarily be deemed to be regularly carried on if they manifest a frequency and continuity, and are pursued in a manner, generally similar to comparable commercial activities of taxable entities. However, certain intermittent income producing activities (e.g., an annual dance) occur so infrequently that neither their recurrence nor the manner of their conduct will cause them to be regarded as a trade or business regularly carried on. See Treas. Reg. sec. 1.513-1(c).

[2] See *United States v. American College of Physicians*, 475 U.S. 834 (1986) (holding that activity of selling advertising in medical journal was not substantially related to the organization's exempt purposes and, as a separate business under section 513(c), was subject to tax).

the solicitation and receipt of such sponsorship payments may be treated as a separate activity. The Internal Revenue Service (IRS) has taken the position that, under some circumstances, such sponsorship payments may be subject to the UBIT.[3]

HOUSE BILL

The House bill directs the Secretary of the Treasury to conduct a study on the tax treatment of sponsorship payments received by charitable and other tax-exempt organizations from corporations and other sponsors in connection with athletic and cultural events, and the ramifications of IRS proposed examination guidelines contained in Announcement 92-15, 1992-5 I.R.B. 51. Within one year after the date of enactment, the Secretary is required to report the results of this study to the Senate Committee on Finance and the House Committee on Ways and Means.

As part of this study, the Treasury Department should address the following issues: (1) whether application of the "substantial return benefit" standard is appropriate for determining the UBIT treatment of sponsorship payments; (2) whether the "substantial return benefit" standard should be applied to sponsorship payments received in connection with events conducted prior to the issuance of proposed or final IRS examination guidelines; (3) application of the "regularly carried on" requirement to annual events conducted by tax-exempt organizations; and (4) the relevance of ancillary services or benefits (e.g., receptions or hospitality suites) provided by a tax-exempt organization to a corporate sponsor to the tax treatment of sponsorship payments, broadcast revenues, or royalty income received by the organization.

The committee report to the House bill urges the Treasury Department, in connection with the study, to promulgate IRS examination guidelines that enunciate clear and administrable rules for determining the tax treatment of sponsorship payments received by tax-exempt organizations.

Effective date.—The Secretary of the Treasury is required to report to Congress not later than one year after enactment the results of a study of corporate sponsorship payments received by tax-exempt organizations.

(However, H.R. 5645 included a provision similar to the conference agreement, except that the safe-harbor rule provided for by H.R. 5645 distinguished sporting events from other public events.)

SENATE AMENDMENT

Under the Senate amendment, the term "unrelated trade or business" does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

"Qualified sponsorship payments" are defined as any payment by a person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use of the name or logo of such person's trade or business in connection with a qualified public event (and use by such person of the organization's name or logo). For purposes of the provision, use of a name or logo or a person's trade or business in connection with a public event does not include advertising or promotion of such person's particular products or services. For example, advertising or promotion of a sponsor's products or services not within the safe harbor provided for by the bill includes a call to action to purchase the sponsor's products, superlative description or qualitative claim about the company (or its products or services), direct comparison with other companies, price or value information, inducements to buy, or endorsements.[4]

The term "qualified public event" is defined as any public event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c),[5] if (1) substantially all the activities of the organization in conducting the event are not subject to the UBIT (e.g., the activities are substantially related to the exempt purposes of the organization, the activities are not regularly carried on, or the volunteer labor or some other present-law UBIT exception applies); and (2) the net proceeds from the event are used for a purpose described in section 170(c)(2)(B).[6]

Examples of public events governed by the provision include intercollegiate athletic events, concerts, museum exhibitions, State and agricultural fairs, fine-arts festivals, and charitable golf tournaments (provided that the other requirements of the provision are satisfied). Identifying a sponsor of a qualified public event (or incorporating the sponsor' name into the official name of the event) will fall within the safe harbor provided for by the provision, even if the amount of the sponsorship payment owed by the sponsor is contingent upon a factor such as attendance or broadcast ratings.

No inference is intended as to the tax treatment under present-law rules of sponsorship (or other) payments not governed by the provision, or sponsorship payments received in connection with events held prior to the date of enactment.[7]

Effective date.—The provision is effective for sponsorship payments received in connection with events conducted after the date of enactment.

CONFERENCE AGREEMENT

Under the conference agreement, qualified sponsorship payments received by certain tax-exempt organizations in connection with qualified public events are excluded from the UBIT.

The term "qualified public event" is defined as any event conducted by a tax-exempt organization described in paragraph (3), (4), (5), or (6) of section 501(c),[8] that is either:

(1) a public event that is substantially related to the exempt purposes of the organization conducting such event, or

(2) any other public event provided that such event is the only event of that type conducted (i.e., patronized by, or broadcast to, members of the public) by such organization during a calendar year and such event does not exceed 30 consecutive days.[9]

Public events that are substantially related to the exempt purposes of the organization conducting the event (e.g., symphony concerts, museum exhibits, intercollegiate athletic events, and county and agricultural fairs) are governed by the provision, even if held for more than a 30-day period. A public event conducted once a year for a period that does not exceed 30 days also would be governed by the provision, even if the event is not substantially related to the exempt purposes of the organization (e.g., an annual vaudeville show conducted by a hospital or an annual auction or other fundraising event).

For purposes of the provision, "qualified sponsorship payments" received by a tax-exempt organization that are excluded from UBIT are defined as any payment made by a person engaged in a trade or business with respect to which the person will receive no substantial return benefit other than:

(1) the use of the name or logo of the person's trade or business in connection with a qualified public event under arrangements (including advertising) in connection with such event which acknowledge such person's sponsorship or promote such person's products or services, or

(2) the furnishing of facilities, services, or other privileges in connection with such event to individuals designated by such person (e.g., tickets furnished to employees).[10]

To prevent avoidance of the 30-day rule governing unrelated events, the Secretary of the Treasury is granted authority to prescribe regulations to prevent avoidance of the purposes of the provision through the use of entities under common control.[11]

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[3] See Announcement 92-15, 1992-5 I.R.B. 51 (announcing proposed audit guidelines distinguishing sponsorship payments in return for which there is mere acknowledgment of sponsor—and thus no UBIT liability—in contrast to sponsorship payments in return for which substantial economic benefits are conferred upon the sponsor and UBIT liability may be asserted by the IRS).

[4] It is intended that corporate sponsorship announcements or representations that meet the Public Broadcasting System (PBS) National Program Funding Standards and Practices generally will be considered permissible identification of a sponsor by use of its name or logo (or that of a division or subsidiary) and not advertising or promotion of the sponsor's particular products or services for purposes of the safe-harbor rule provided for by the bill. See *PBS National Program Funding Standards and Practices* (February 1990).

[5] In addition, State colleges and universities described in section 511(d)(2)(B) would be eligible for the UBIT exception provided for by the proposal.

[6] The purposes enumerated in section 170(c)(2)(B) are "religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision or athletic facilities or equipment), or for the prevention of cruelty to children or animals."

[7] In addition, the technical explanation to the Senate amendment expressed concern about the tax treatment of royalties and other payments that may be received by the U.S. Olympic Committee and Atlanta Committee for the Olympic Games, Inc., in connection with the 1996 Games of the XXVI Olympiad. It is expected that, under general UBIT rules (see Rev. Rul. 81-178, 1981-2 C.B. 135), royalty income derived from licensing Olympic trademarks, emblems, and designations, as well as all income from broadcasting, filming, and videotaping the Olympics will be treated as exempt from the UBIT.

[8] In addition, events conducted by State colleges and universities described in section 511(d)(2)(B) are eligible for the UBIT exception provided for by the bill.

[9] The conference agreement provides that an event will be treated as a qualified public event with respect to all qualified tax-exempt organizations that receive sponsorship payments with respect to the event if such event is a qualified public event with respect to one of such organizations, but only to the extent that such payment is used to meet expenses of such event or for the benefit of the organization with respect to which the event is a qualified public event. Thus, if a national charitable organization receives sponsorship payments with respect to several local fundraising events conducted in conjunction with local affiliates (e.g., walk-a-thons at different sites around the country), the national organization will not be subject to UBIT with respect to sponsorship payments used to meet event expenses or distributed to local affiliates (assuming the events are qualified public events with respect to the local affiliates).

[10] The provision's "in connection with" requirement will be satisfied only if benefits provided to the sponsor (or individuals designated by the sponsor) are provided within a reasonable time period compared to when the qualified public event itself is patronized by (or broadcast to) the public and only if the benefits are provided in a manner reasonably related to the conduct of the public event activities (e.g., providing advertising in a program or brochure distributed to event patrons, or providing special seating at the event, or related pre- or post-event functions, to employees of the sponsor).

The exception provided for by the provision is in addition to other present-law exceptions from the UBIT (e.g., the exceptions for activities substantially all the work for which is performed by volunteers and for activities not regularly carried on). No inference is intended as to the tax treatment under present-law rules of sponsorship payments received in connection with events not governed by the provision (e.g., unrelated events held more than once per year or for more than 30 days) or events held by organizations that are not covered by the provision (e.g., 501(c)(10) fraternal organizations). Thus, income which is not subject to the UBIT because of one of the present-law exceptions, such as for activities that are not regularly carried on or are conducted substantially by volunteers, retain their exemption from the UBIT, even though not within the conference agreement safe-harbor rule. Further, no inference is intended as to events held prior to the date of enactment.

Olympics

The conference agreement also includes the following two rules with respect to the 1996 Games of the XXVI Olympiad:

(1) In the case of a qualified amateur sports organization described in present-law section 501(j)(2) or an organization that would be so described but for the cultural events it organizes in connection with national or international amateur sports competitions, "royalty" income excluded from the UBIT includes any income received directly or indirectly by such organization if a substantial part of the consideration therefor is the right to use trademarks, designations, or similar properties indicating a connection with the Olympic Games to be conducted in 1996 or related events or the participation of the United States Olympic Team at such Games or events.

(2) Nothing in section 514 or 512(b) shall be construed as treating any amount treated as a royalty under paragraph (1) as an item of income subject to the UBIT.

Effective date

The provision governing qualified sponsorship payments is effective for events conducted after the date of enactment. The rules governing the treatment of certain royalty income received in connection with 1996 Games of the XXVI Olympiad are effective upon the date of enactment.

5. Improved fundraising disclosure

PRESENT LAW

Disclosure of nonexempt status

There is no rule in present-law requiring a non-profit organization that does not have Federal tax-exempt status to disclose that it is not tax-exempt under the provisions of the Internal Revenue Code. In contrast, organizations that have tax-exempt status but are *not* eligible to receive tax-deductible charitable contributions are required to expressly state in certain fundraising solicitations that contributions or gifts to the organization are not deductible as charitable contributions for Federal income tax purposes (sec. 6113). Penalties may be imposed on such organizations for failure to comply with this requirement (sec. 6710).

Information reporting and public disclosure by tax-exempt organizations

Tax-exempt organizations generally are required to file an annual information return (Form 990) with the Internal Revenue Service (IRS). However, churches (and their affiliated organizations), as well as tax-exempt organizations (other than private foundations) that normally have gross receipts in each taxable year of not more than $25,000, are not required to file a Form 990.[1] If an organization that is eligible to receive tax-deductible contributions is required to file a Form 990, then it must report its gross income for the year, expenses attributable to such income, disbursements for tax-exempt purposes, names of certain substantial contributors, and the names and compensation (and other payments) paid to certain managers and highly compensated employees (sec. 6033(b)).

Section 6104 requires a tax-exempt organization (other than a private foundation) to make available for public inspection at the organization's principal office a copy of the organization's Form 990 (except for the names of contributors to the organization) for the three most recent taxable years, as well as the organization's application to the IRS for recognition of tax-exempt status.

HOUSE BILL

Disclosure of nonexempt status

The House bill requires organizations that do not have Federal tax-exempt status, but describe themselves in an advertisement or solicitation as "non-profit," to disclose in an express statement (in a conspicuous and easily recognizable format) that such organization is not exempt from Federal income taxes.[2] Failure to make such a required disclosure will subject the organization to a civil penalty of $1,000 per day, unless such failure was due to reasonable case, up to $10,000 per calendar year. Failure to make such required disclosure where there is intentional disregard for the requirement would be subject to a penalty of the greater of (1) $1,000 per day or (2) 50 percent of the aggregate cost of the advertisements and solicitations on such day and with respect to which there was a failure, without regard to the $10,000 annual limit.

Effective date.—January 1, 1993.

Information reporting and public disclosure by tax-exempt organizations

The House bill requires tax-exempt organizations to furnish (upon request made by an individual at the organization's principal office or certain regional offices) copies of the organization's Form 990 and application for tax-exempt status. Such copies are required to be provided without charge, other than a reasonable fee for the cost of reproduction. Documents subject to this provision are currently subject to public inspection under section 6104(e).

Effective date.—January 1, 1993.

SENATE AMENDMENT

Disclosure of nonexempt status

No provision.

Information reporting and public disclosure by tax-exempt organizations

Tax-exempt organizations described in section 501(c)(3) or 501(c)(4)[3] that, under present law must file annual information returns with the IRS (and make such returns available for public inspection), are required to advise each contributor of the availability of a disclosure statement and furnish (within 30 days of a written request) such statement to each contributor (or potential contributor) who requests such statement. The statement must disclose the gross income, expenses, and exempt-purpose disbursements of the organization for the most recent taxable year, as well as the names of the five highest compensated individuals and any other individual whose compensation during the year exceeds $100,000. The statement also must disclose the amount of compensation paid to such individuals.

The provision does not apply to religious organizations, educational organizations with regular campuses, medical organizations, and organizations the gross receipts of which in each taxable year are normally not more than $100,000.

An organization furnishing a disclosure statement under the provision may require that a self-addressed, stamped envelope and a reasonable fee not to exceed $2 to cover the actual costs of copying and mailing such statement be included in the written request for such statement. A penalty would be imposed for failure to comply with the provision of $50 for each day during which the failure continues, unless due to reasonable cause.

Effective date.—January 1, 1993.

CONFERENCE AGREEMENT

Disclosure of nonexempt status

The conference agreement follows the House bill.

Information reporting and public disclosure by tax-exempt organizations

The conference agreement follows the House bill. In addition, the conference agreement provides that organizations that are required to file a Form 990 are required to disclose in any advertisement or solicitation (made by the organization or on its behalf) that copies of the organization's Form 990s may be obtained directly from the organization. The disclosure must be made in an express statement, in a conspicuous and easily recognizable format, and must state that the material is available without charge other than a reasonable fee for the cost of reproduction. Failure to provide the disclosure would result in a penalty, unless such failure was due to reasonable cause, of $100 for each day such failure occurred, up to $10,000 per calendar year. If the failure is due to intentional disregard, a penalty would apply of the greater of (1) $100 or (2) 50 percent of the aggregate cost of the advertisements and solicitations which occurred on such day and with respect to which there was such a failure, without regard to the $10,000 annual limit.

If a request for an organization's Form 990 or application for recognition of tax-exempt status is made in person at the principal office of the organization (or certain regional offices), a copy of the material must be provided immediately. If the request is made other than in person at the organization's principal office, such as by telephone or by letter, then a copy of the material must be provided within 30 days. Failure to supply the requested documents would result in a penalty of $50 for each day during which the failure continues, unless reasonable cause is shown. The maximum penalty that may be imposed with respect to any one return may not exceed $5,000.

Effective date.—January 1, 1993.

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[11] For this purpose, it is intended that organizations that conduct public events will not be treated as under common control solely as a result of their common affiliation with a national sanctioning body.

[1] See section 6033 and Rev. Proc. 83-23, 1981 C.B. 687.

[2] The provision applies if an advertisement or solicitation was made by, or on behalf of, an organization that is referred to as being "nonprofit" but is not exempt from Federal income tax.

[3] The provision also applies to any separate segregated fund described in section 527(f)(3).

6. Required notices to charitable beneficiaries of charitable remainder trusts

PRESENT LAW

Subject to certain limitations, an estate generally is allowed a deduction for transfers of property to charitable organizations, the United States, or a State or local government (sec. 2055(a)). Where a remainder interest is transferred to the charity in trust, however, a deduction is only permitted if the interest passing to the charitable remainderman is in the form of a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund (sec. 2055(e)).

In order for the estate to take the deduction authorized by section 2055, the Treasury regulations require that the executor submit a copy of the transfer instrument with the estate tax return and stipulate that no actions have been filed or are (according to the executor's information and belief) contemplated to contest the decedent's will in a manner affecting the charitable deduction claimed. Treas. Reg. sec. 20.2055-1(c).

A qualifying charitable remainder trust is generally exempt from tax unless it has unrelated business taxable income. The fiduciary of a qualifying charitable remainder trust must presently file (1) an annual information return on Form 5227 and (2) Form 1041-A unless all net income is required to be distributed currently to the beneficiaries. A charitable remainderman generally may inspect any such returns upon written request to the Internal Revenue Service (sec. 6103). Presently, the executor and trust fiduciaries generally are not required under the Code to provide any information directly to the charitable remainderman.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5636, as passed by the House, contains the same provision as included in the conference agreement as described below, except for a change in the effective date.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires that, within 60 days of his qualification, an executor shall provide each charitable remainderman with the following information (the "Qualification Notice"): (1) the fact of the executor's qualification; (2) the name, address and date of death of the decedent; (3) the name and address of each charitable beneficiary; (4) a copy of the governing instrument relating to the transfer in trust; and (5) a description of the interest to which the charitable remainderman may be entitled, and any preliminary statements (if required by law) on the financial condition of the estate.

The conference agreement also requires that the charitable remainderman be notified of the filing of a Federal estate tax return and be provided with a copy of the pertinent parts thereof (together with such other information as may be required by form or Treasury regulation) on or before the due date for such return. If the executor has provided the Qualification Notice, this requirement is waived unless the remainderman has agreed to reimburse the fiduciary for the reasonable costs of furnishing such information.

Further, the conference agreement requires the fiduciary of each charitable remainder trust to furnish each charitable remainderman with a copy of any returns required to be filed pursuant to chapter 61 of the Code. If the fiduciary provides this information for any taxable year, this requirement is waived for each subsequent taxable year unless the remainderman has agreed to reimburse the fiduciary for the reasonable costs of furnishing such information.

The penalties under section 6652 are extended to any failure to furnish information required under the foregoing amendments. Accordingly, an executor or other fiduciary who fails to provide such information will be charged $10 for each day that the failure to furnish such information continues (but not in excess of $5000 for any single return).

Effective date.—The provision is effective on the date of enactment.

7. Application of private inurement rule to tax-exempt civic leagues

PRESENT LAW

A tax-exempt charitable organization described in section 501(c)(3) must be organized and operated exclusively for a charitable, religious, educational, scientific, or other exempt purpose specified in that section, and no part of the organization's net earnings may inure to the benefit of any private shareholder or individual.[1]

A tax-exempt social welfare organization described in section 501(c)(4) must be organized on a non-profit basis and must be operated exclusively for the promotion of social welfare.[2] In contrast to section 501(c)(3), however, there is no specific rule in section 501(c)(4) that prohibits the net earnings of a social welfare organization from inuring to the benefit of a shareholder or individual.

HOUSE BILL

No provision. (However, H.R. 2735 includes a provision identical to the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Section 501(c)(4) is amended to provide tax-exempt status to civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, provided that no part of the net earnings of such an organization inures to the benefit of any private shareholder or individual. In addition, section 501(c)(4) is amended to provide tax-exempt status to local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, provided that the association is operated exclusively for charitable, educational, or recreational purposes, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Effective date.—The provision is effective on the date of enactment.

8. Exemption from certain wagering taxes for charitable organizations

PRESENT LAW

An excise tax is imposed on the amount of certain wagers. The rate of tax is 0.25 percent for any wager authorized under the law of the State in which accepted and 2 percent for any other wager.

An occupational excise tax of $500 is imposed on each person liable for the wagering excise tax described in the previous paragraph or engaged in receiving wagers on behalf of any person so liable. The amount of the tax is reduced to $50 in the case of persons liable for the wagering excise tax with respect to State-authorized wagers.

Wagers subject to the excise tax are those placed in a for-profit lottery or those with respect to a sports event or contest that are placed: (1) with a person engaged in the business of accepting wagers or (2) in a for-profit wagering pool. The term "lottery" does not include games in which usually wagers are placed, winners are determined, and prizes are distributed in the presence of all persons placing wagers or drawings conducted by organizations exempt from tax under Code sections 501 or 521 if no part of the net proceeds of the games inures to the benefit of any private shareholder or individual.

No excise tax is imposed on wagers placed in a wagering pool conducted by a parimutuel wagering enterprise licensed under State law, in a coin-operated device, or in a State-conducted lottery (but only if the wager is placed with the State agency conducting the lottery).

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5648 as passed by the House contains the same provision as included in the conference agreement below.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides that any organization exempt from tax under Code sections 501 or 521 and any person engaged in receiving wagers only on behalf of such organization are exempt from the occupational excise tax if the only wagers accepted by such organization (and such person) are authorized under the law of the State in which accepted.

In addition, the calculation of the wagering excise tax is changed for such organizations or persons described above. If the amount of charitable expenditures for any calendar quarter equals or exceeds the amount of "wagering winnings"[1] of the organization for such quarter, then no wagering excise tax is imposed. If the amount of charitable expenditures for any calendar quarter is less than the amount of wagering winnings of the organization for such quarter, then the tax base for the wagering excise tax is reduced to x percent of the gross amount of wagers (where x is the percent of the organization's wagering winnings in excess of the charitable expenditures during that quarter).

For purposes of the above calculations, the charitable expenditures by an organization during any calendar quarter are the sum of (1) the amounts paid by the organization during the quarter to accomplish an exempt purpose described in Code section 170(c)(2)(B) or to acquire an asset used (or held for use) directly in accomplishing such exempt purpose and (2) the amounts permanently set aside by the organization during such quarter for such exempt purposes.

Effective date.—The provision exempting certain charitable organizations from the oc-

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[1] The private inurement restriction prohibits inurement of an organization's assets to "persons having a personal and private interest in the activities of the organization." Treas. Reg. sec. 1.501(a)-1(c). Even where no prohibited private inurement exists, however, more than incidental private benefits may be conferred upon disinterested persons such that the organization is not operated exclusively for an exempt purpose. See *American Campaign Academy* v. *Comm'r*, 92 T.C. 1053 (1989).

[2] Section 501(c)(4) also provides tax-exempt status to local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

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[1] "Wagering winnings" are defined as the net proceeds from gambling conducted by the organization (amounts wagered minus winnings paid out on such wagers).

cupational excise tax is effective for taxes imposed for periods beginning after the date of enactment. The provision affecting the calculation of the wagering excise tax is effective for wagers placed in calendar quarters beginning after the date of enactment.

9. Conducting of certain games of chance not treated as unrelated trade or business

PRESENT LAW

Although generally exempt from Federal income tax, tax-exempt organizations are subject to the unrelated business income tax (UBIT) on income derived from a trade or business regularly carried on that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511–514). Certain income, however, is exempted from the UBIT (such as interest, dividends, royalties, and certain rents), unless derived from debt-financed property (sec. 512(b)). Other exemptions from the UBIT are provided for activities in which substantially all the work is performed by volunteers and for income from the sale of donated goods (sec. 513(a)).

In addition, a specific exemption from the UBIT is provided for certain bingo games[1] conducted by tax-exempt organizations, provided that the conducting of the bingo games is not an activity ordinarily carried out on a commercial basis and the conducting of which does not violate any State or local law (sec. 513(f)).

HOUSE BILL

No provision. (However, H.R. 5660 includes a provision identical to the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement expands the present-law exemption from the UBIT for certain bingo games to also apply to certain "other qualified games of chance." For purposes of this provision, the term "other qualified games of chance" is defined as any game of chance (other than bingo) if (1) the conducting of such game by the organization does not violate State or local law, (2) the conducting of such game by for-profit organizations would violate State or local law, and (3) no substantial part of the work in conducting such game is performed by individuals principally engaged in performing gaming services for hire.[2]

No inference is intended regarding the treatment for purposes of the UBIT of games of chance conducted by tax-exempt organizations prior to the date of enactment.

Effective date.—The provision is effective for games of chance conducted after the date of enactment.

10. Treatment of nonprofit health insurance providers

PRESENT LAW

An organization described in sections 501(c)(3) and (4) of the Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance (sec. 501(m)). Special rules apply to certain health insurance providers subject to this provision. In particular, present law provides a special deduction and other special rules for Blue Cross or Blue Shield organizations existing on August 16, 1986, and for other organizations that meet certain requirements and substantially all of whose activities are providing health insurance.

The special deduction (sec. 833) is provided to such organizations with respect to their health business equal to 25 percent of the claims and expenses incurred during the taxable year less the adjusted surplus at the beginning of the year. This deduction is calculated by computing surplus, taxable income, claims incurred, expenses incurred, tax-exempt income, net operating loss carryovers, and other items attributable to health business. The deduction may not exceed taxable income attributable to health business for the year (calculated without regard to this deduction).

In addition, section 833 provides other special rules for such organizations. These special rules treat such organizations as stock insurance companies, and eliminate the otherwise applicable 20 percent reduction in unearned premium reserves.

HOUSE BILL

No provision in H.R. 11. However, H.R. 5641, as passed by the House, provides the special deduction and other special rules of section 833 to the same extent they are provided under present law to certain existing Blue Cross or Blue Shield organizations, in the case of an organization that is not a Blue Cross or Blue Shield organization existing on August 16, 1986, and otherwise meeting the requirements of section 833 (including sec. 833(c)(2)). Under the bill, a qualifying organization receives this treatment if it is not a health maintenance organization and it is organized under and governed by State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations.

Effective date.—This provision of H.R. 4651 is effective for taxable years beginning after December 31, 1991.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provision of H.R. 5641.

11. Tax-sheltered annuities for Indian tribes

PRESENT LAW

Under present law, organizations that are tax-exempt under section 501(c)(3) of the Code and certain State and local government educational organizations are permitted to maintain tax-sheltered annuity plans (sec. 403(b)). Indian tribal governments are treated as States for this purpose, so certain educational organizations associated with a tribal government are eligible to maintain tax-sheltered annuity plans. However, while tax-exempt, Indian tribes are not the type of tax-exempt organization permitted to maintain tax-sheltered annuity plans.

HOUSE BILL

No provision. (However, H.R. 5656 contains a provision that is the same as the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides that Indian tribal governments are treated the same as section 501(c)(3) organizations for purposes of the rules relating to tax-sheltered annuities.

Effective date.—Date of enactment.

12. Treatment of certain costs of private foundation in removing hazardous substances

PRESENT LAW

Tax-exempt private foundations generally are required to make annual "qualifying distributions" of a specified minimum amount called the "distributable amount" (sec. 4942). The "distributable amount" is an amount equal to 5 percent of the fair market value of the foundation's investment asset for the year, reduced by (1) any excise tax on the foundation's investment income (under sec. 4940), (2) any tax on unrelated business taxable income (under sec. 511), and (3) by carryovers of excess distributions from prior years. "Qualifying distributions" include direct expenditures to accomplish charitable purposes and grants to public charities or private operating foundations. In addition, if certain requirements are met, a qualifying distribution also may include amounts "set aside" to be paid within five years for a specific charitable project.

HOUSE BILL

No provision. (However, H.R. 5644 includes a provision identical to the Senate amendment.)

SENATE AMENDMENT

Under the Senate amendment, the distributable amount of a private foundation for purposes of section 4942 is reduced by any amounts paid or incurred (or permanently set aside) for (1) investigatory costs, (2) direct costs of removal, and (3) costs of remedial action with respect to a hazardous substance released at certain facilities which were owned or operated by the private foundation. The provision is limited to a facility that was transferred to the foundation before December 11, 1980, on which active operation by the foundation was terminated before December 12, 1980. In addition, the provision does not apply to costs that were incurred pursuant to a pending order issued to the foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Response, Compensation and Liability Act, or pursuant to a non-consensual judgement against the foundation in a governmental costs recovery action under section 107 of such Act. For purpose of this provision, "hazardous substance" has the meaning given to such term by section 9601(14) of the Comprehensive Environmental Compensation and Liability Act.

Effective date.—Taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

13. Unrelated business income tax treatment of mailing lists

PRESENT LAW

Tax-exempt organizations generally are subject to the unrelated business income tax (UBIT) on income derived from a trade or business regularly carried on that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511–514). However, certain types of income (e.g., interest, dividends, royalties, and certain rents) are specifically excluded from the

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[1] For purposes of this exemption, the term "bingo game" is defined as any game of bingo of a type in which usually (1) the wagers are placed, (2) the winners are determined, and (3) the distribution of prizes or other property is made in the presence of all persons placing wagers in such game (sec. 513(f)(2)).

[2] It is intended that volunteers who receive tips or payments to reimburse them for expenses incurred in connection with non-profit gaming operations not be considered to be individuals who principally engage in performing gaming services for hire. For example, individuals operating or employed by a business, such as a restaurant or bar, who also sell pull-tabs of a sponsoring tax-exempt organization as part of their regular services for such business, shall not be considered as principally engaged in performing gaming services for hire.

UBIT, except where derived from debt-financed property (sec. 512(b)).[1] In addition, exemptions from the UBIT are provided for income derived from activities substantially all the work for which is conducted by volunteers, which involves the selling of donated goods, and certain activities conducted by charities and educational organizations for the convenience of their members, students, patients, officers, or employees (sec. 513(a)).

Section 513(h) provides that, in the case of a tax-exempt charity (or war veterans organization) eligible to receive tax-deductible contributions, the UBIT does not apply to income from any trade or business which consists of exchanging with another such organization names and addresses of donors to (or members of) such organization, or renting such names and addresses to another such organization. Section 513(h) does not apply to sales or exchanges of donor or member lists to taxable organizations or among tax-exempt organizations other than tax-exempt charities (and certain war veterans groups) eligible to receive tax-deductible contributions.[2]

HOUSE BILL

No provision.

SENATE AMENDMENT

In the case of a tax-exempt organization eligible to receive deductible charitable contributions under section 170(c)(2) or (3), or any organization described in section 501(c)(4) ("social welfare organizations"), the UBIT does not apply to income from any trade or business which consists of (1) exchanging names and addresses of donors to (or members of) such organization with any other person, or (2) renting such names and addresses to any other person, but only if the aggregate income from such rental activity for the taxable year does not exceed 10 percent of the organization's gross revenue for that year. Thus, the provision excludes from the UBIT income from exchanges or rentals (subject to the 10-percent limitation) by a tax-exempt charity, war veterans group, or social welfare organization of mailing lists to *any* taxable or tax-exempt entity.

Effective date.—Exchanges and rentals of member (or contributor) lists before, on, or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the provision is limited to exchanges and rentals by tax-exempt charities, war veterans groups, and social welfare organizations to other tax-exempt charities, war veterans groups, or social welfare organizations. For example, the UBIT does not apply to income derived by a tax-exempt charity from exchanging its membership lists with another tax-exempt charity, war veterans group, or tax-exempt social welfare organizations described in section 501(c)(4). Similarly, if a tax-exempt social welfare organization described in section 501(c)(4) rents a list of its members either to another tax-exempt social welfare organization described in section 501(c)(4), or to a tax-exempt charity (or war veterans group) eligible to receive tax-deductible contributions, the UBIT does not apply to the income derived from that activity, provided that aggregate income from such rental activity for the taxable year does not exceed 10 percent of the organization's gross revenue for that year.[3] The provision does not apply to exchanges (or rentals) to taxable entities or any tax-exempt organization other than a tax-exempt charity, war veterans group, or social welfare organization.

No inference is intended as to whether or not revenues from mailing list activities other than those described in the provision are subject to the UBIT.

Effective date.—The provision is effective for exchanges and rentals of member lists before, on, or after the date of enactment.

C. FOREIGN PROVISIONS

1. Pass-through treatment for certain dividends paid by a regulated investment company to foreign persons

PRESENT LAW

Regulated investment companies

A regulated investment company ("RIC") is a domestic corporation that, at all times during the taxable year, is registered under the Investment Company Act of 1940 as a management company or as a unit investment trust, or has elected to be treated as a business development company under that Act (sec. 851(a)).

In addition, to qualify as a RIC, a corporation must elect such status and must satisfy certain tests (sec. 851(b)). These tests include a requirement that the corporation derive at least 90 percent of its gross income from dividends, interest, payments with respect to certain securities loans, and gains on the sale or other disposition of stock or securities or foreign currencies, or other income derived with respect to its business of investment in such stock, securities, or currencies.

A RIC generally is treated as a conduit for Federal income tax purposes. Conduit treatment is accomplished by permitting a RIC to deduct dividends paid to its shareholders in computing its taxable income. The amount of any distribution generally is not considered as a dividend for purposes of computing the dividends paid deduction unless the distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class (sec. 562(c)). For distributions by RICs to shareholders who made initial investments of at least $10,000,000, however, the distribution is not treated as non-pro rata or preferential solely by reason of an increase in the distribution due to reductions in administrative expenses of the company.

A RIC generally may pass through to its shareholders the character of its long-term capital gains. It does this by designating a dividend it pays as a capital gain dividend to the extent that the RIC has net capital gain (i.e., net long-term capital gain over net short-term capital loss). These capital gain dividends are treated as long-term capital gain by the shareholders. A RIC generally also can pass through to its shareholders the character of tax-exempt interest from State and municipal bonds, but only if, at the close of each quarter of its taxable year, at least 50 percent of the value of the total assets of the RIC consists of these obligations. In this case, the RIC generally may designate a dividend it pays as an exempt-interest dividend to the extent that the RIC has tax-exempt interest income. These exempt-interest dividends are treated as interest excludable from gross income by the shareholders.

The Internal Revenue Service has stated its position that if a RIC has two or more classes stock and it designates the dividends that it pays on one class as consisting of more than that class's proportionate share of a particular type of income, the designations are not effective for Federal tax purposes to the extent that they exceed the class's proportionate share of that type of income (Rev. Rul. 89-81, 1989-1 C.B. 226). Thus, in order to achieve all the tax effects provided under the Code for such RIC dividends, a capital gain dividend or an exempt-interest dividend must be pro rata within a class of RIC stock, and, with respect to any one class of RIC stock, generally cannot (under the Service's interpretation of present law) exceed that proportion of the relevant capital gain or exempt interest income of the RIC that the amount of dividends paid to shareholders of that class of stock bears to the total amount of dividends paid by the RIC.

U.S. source investment income of foreign persons

Under the Code, the United States generally imposes a flat 30-percent tax, collected by withholding, on the gross amount of U.S. source investment income payments, such as interest and dividends, to nonresident alien individuals and foreign corporations ("foreign persons") (secs. 871(a), 881, 1441, and 1442). Under treaties, the United States may reduce or eliminate such taxes. Even taking into account U.S. treaties, however, the tax on a dividend generally is not entirely eliminated. Instead, U.S. source portfolio investment dividends received by foreign persons generally are subject to U.S. withholding tax at a rate of at least 15 percent.

Interest

There is no 30-percent gross-basis U.S. tax with respect to U.S. source bank deposit interest that is not effectively connected with the conduct of a trade or business within the United States. Nor is there such a tax on the amount includible in gross income as original issue discount on an obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

Nor is there 30-percent gross-basis U.S. tax on so-called "portfolio interest." Portfolio interest includes interest (including original issue discount) which would be subject to the gross-basis U.S. tax but for the fact certain requirements are met with respect to the obligation on which the interest is paid, and with respect to the interest recipient (or the location of the interest recipient). Pursuant to these requirements, the obligation must be in registered form or be "foreign-targeted". The U.S. person who otherwise would be required to withhold tax must receive a statement that the beneficial owner of the obligation is not a United States person. If the obligation was issued by a corporation or a partnership, the recipient of the interest must not be a "10-percent shareholder" of the corporation or partnership. A corporate recipient of the interest must be neither a controlled foreign corporation receiving interest from a related person, nor (unless the obligor is the United States) a bank receiving the interest on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business. The payment of interest must not be to any person within a foreign country (and must not be a payment addressed to, or for the account of, persons within a foreign country) with respect to which the Treasury Secretary has determined that exchange of information is inadequate to prevent evasion of U.S. income tax by U.S. persons. This last requirement does not currently affect the exemption from tax on interest, as no such determinations have been made to date.

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[1] In addition, interest, royalties, and rents (but not interest) paid to a tax-exempt organization by certain controlled entities are subject to the UBIT in proportion to the income of the controlled entity that would have been subject to the UBIT if derived directly by the controlling tax-exempt organization (sec. 512(b)(13)).

[2] See *Disabled American Veterans v. Commissioner*, 942 F.2d 309 (6th Cir. 1991) (holding that amounts received by a charitable organization from use of names from its mailing lists were taxable as unrelated business income and not exempt as royalties).

[3] For purposes of applying the 10-percent limitation, income received during the taxable year by an organization from all exchanges and rentals to charities, war veterans groups, and social welfare organizations is aggregated.

Capital gains

Under the Code, foreign persons generally are not subject to U.S. tax on gain realized on the disposition of stock or securities issued by a U.S. person (other than a "U.S. real property holding corporation," as described below), unless the gain is effectively connected with the conduct of a trade or business in the United States. This exemption does not apply, however, to the extent that the foreign person is a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year. Foreign persons receiving capital gain dividends from U.S. RICs have been treated as receiving capital gains not subject to U.S. tax, rather than dividends subject to the ordinary U.S. withholding tax on dividends (see Rev. Rul. 69–244, 1969–1 C.B. 215).

Under the Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA"), as amended, gain or loss of a foreign person from the disposition of a U.S. real property interest is subject to net basis tax as if the taxpayer were engaged in a trade or business within the United States and the gain or loss were effectively connected with such trade or business. In addition to fee ownership of U.S. real property, U.S. real property interests include (among other things) any interest in a domestic corporation unless the taxpayer establishes that the corporation was not, during a 5-year period ending on the date of the disposition of the interest, a U.S. real property holding corporation (which is defined generally to mean a corporation the fair market value of whose U.S. real property interests equals or exceeds 50 percent of the sum of the fair market values of its real property interests and any other of its assets used or held for use in a trade or business).

Under FIRPTA, a distribution by a real estate investment trust ("REIT") to a foreign person is, to the extent attributable to gain from sales or exchanges by the REIT of U.S. real property interests, treated as gain recognized by the foreign person from the sale or exchange of a U.S. real property interest. Under Treasury regulations, a REIT is generally required to withhold tax upon such a distribution to a foreign person, at a rate of 34 percent times the maximum amount of that distribution that could be designated by the REIT as a capital gain dividend (Treas. Reg. sec. 1.1445–8 (a)(2), (b)(1), and (c)(2)).

In view of the nature of a REIT, an interest in a REIT may in some cases be considered to be a U.S. real property interest. However, an interest in a domestically-controlled REIT is not considered a U.S. real property interest. Also, the foreign ownership percentage of taxable appreciation in the value of a U.S. real property interest held by a domestically-controlled REIT is subject to tax in the hands of the REIT under special FIRPTA rules upon distribution of the U.S. real property interest by the REIT.

House Bill

No provision.

Senate Amendment

In general

Under the provision, a RIC that earns certain interest income which would not be subject to U.S. tax if earned by a foreign person generally may, to the extent of such income, designate a dividend it pays as deriving from such interest income. A foreign person who is a shareholder in the RIC generally would treat such a dividend as exempt from gross-basis U.S. tax, just as if the foreign person had earned the interest directly. Similarly, a RIC that earns an excess of net short-term capital gains over net long-term capital losses, which excess would not be subject to U.S. tax if earned by a foreign person, generally may, to the extent of such excess, designate a dividend it pays as deriving from such excess. A foreign person who is a shareholder in the RIC generally would treat such a dividend as exempt from gross-basis U.S. tax, just as if the foreign person had realized the excess directly.

Interest-related dividends

Under the Senate amendment, an RIC could, under certain circumstances, designate all or a portion of a dividend as an "interest-related dividend," by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. An interest-related dividend received by a foreign person generally would be exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442.

This exemption would not apply, however, to the extent that the foreign person is a 10-percent shareholder (as defined in the portfolio obligation rules) with respect to the RIC. The exemption would not apply to a dividend on shares of RIC stock unless the withholding agent has received a statement, as required under the portfolio interest rules, that the beneficial owner of the shares is not a U.S. person. The exemption would not apply to a dividend paid to any person within a foreign country (or dividends addressed to, or for the account of, persons within such foreign country) with respect to which the Treasury Secretary has determined, under the portfolio interest rules, that exchange of information is inadequate to prevent evasion of U.S. income tax by U.S. persons.

In addition, the exemption generally would not apply to dividends paid to a controlled foreign corporation to the extent such dividends are attributable to income received by the RIC on a debt obligation of a person with respect to which the recipient of the dividend is a related person. Nor would the exemption generally apply to dividends to the extent such dividend is attributable to income received by the RIC on indebtedness issued by any corporation or partnership with respect to which the recipient of the dividend is a 10-percent shareholder with respect to any entity the obligations of which are held by the RIC. In these two cases, however, the RIC remains exempt from its withholding obligation unless the RIC knows that the dividend recipient is such a controlled foreign corporation or 10-percent shareholder. To the extent that an interest-related dividend received by a controlled foreign corporation is attributable to interest income of the RIC that would be portfolio interest if received by a foreign corporation, the dividend would be treated as portfolio interest for purposes of the de minimis rules, the high-tax exception, and the same country rules of subpart F (see sec. 881(c)(4)).

The aggregate amount designated as interest-related dividends for the RIC's taxable year (including dividends so designated that are paid after the close of the taxable year but treated as paid during that year as described in section 855) generally is limited to the qualified net interest income of the RIC for the taxable year. The qualified net interest income of the RIC equals the excess of (a) the amount of qualified interest income of the RIC over (b) the amount of expenses of the RIC properly allocable to such interest income.

Qualified interest income of the RIC is the sum of bank deposit interest that currently is exempt from the gross-basis tax under section 871, short term original discount that is currently exempt from the gross-basis tax under section 871, and any interest (including original issue discount on an obligation) which is in registered form, unless it is earned on an obligation issued by a corporation or partnership in which the RIC is a 10-percent shareholder.

Where the amount designated as an interest-related dividend is greater than the qualified net interest income described above, then the portion of the distribution so designated which constitutes an interest-related dividend will be only that proportion of the amount so designated as the amount of the qualified net interest income bears to the amount so designated.

By reason of the pro rata distribution rule of current law, the designation of all or a portion of any distribution as a qualified interest dividend generally must be pro rata with respect to all shares of the company of the same class, and may not apply specially to any share of stock as compared with any other shares of stock of the company in that same class. If the RIC has more than one class, moreover, the committee similarly does not intend to permit a RIC to designate dividends as interest-related dividends disproportionately as between classes. The committee understands that this intent is consistent with present law as interpreted by the Internal Revenue Service in Rev. Rul. 89–81. Even if the Internal Revenue Service were to have erred in its interpretation of present law, however, the committee intends for the rule announced in Rev. Rul. 89–81 to apply in the case of dividends designated as interest-related dividends or short term capital gain dividends under the provisions of the Senate amendment.

For example, assume that a RIC with only one class of stock has $5000 of qualified net interest income for the taxable year, and $5000 of other income. Assume that the RIC properly pays as a dividend $10,000 pro rata to its 1000 equal shareholders, half of whom are foreign, resulting in a $10 dividend to each shareholder. Under the Senate amendment, the RIC could designate a maximum of $5 of the amount of the dividend to any foreign shareholder as an interest-related dividend.

As another example, assume that a RIC with the same income as above has two classes of stock—common and preferred—and properly pays a dividend of $8000 to the common stockholders, and $2000 to the preferred shareholders. Under the Senate amendment, the RIC can designate $1000 of the preferred stock dividend, on a pro rata basis, as an interest-related dividend, and $4000 of the common stock dividend, on a pro rata basis, as an interest-related dividend. However, if only $3000 of the common stock dividend is designated an interest-related dividend, the difference between $3000 and $4000 could not be used to increase the $1000 cap on the amount of the preferred stock dividend that may, for tax purposes, be so designated.

Short term capital gain dividends

Under the Senate amendment, an RIC could also, under certain circumstances, designate all or a portion of a dividend as a "short term capital gain dividend," by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. For purposes of the U.S. gross-basis tax, a short term capital gain dividend received by a foreign person generally would be exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442. This exemption would not apply to the extent that the foreign person is a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year. In this case, however, the RIC remains exempt from its withholding obligation unless the RIC knows that the dividend recipient has been present in the United States for such period.

The aggregate amount designated as short term capital gain dividends for the RIC's taxable year (including dividends so designated that are paid after the close of the taxable year but treated as paid during that year as described in section 855) is generally limited to the excess of (a) the RIC's net short-term capital gains over net long-term capital losses, less (b) the amount of expenses of the RIC allocable to such net gains. Where the amount so designated is greater, however, than this excess, then the portion of the distribution so designated which constitutes a short term capital gain dividend will be only that proportion of the amount so designated as the amount of the excess bears to the amount so designated. In addition, as in the case of interest-related dividends, the designation of all or a portion of any distribution as a short term capital gain dividend generally must be pro rata with respect to shares of the same class, and governed by a rule of proportionality as between different classes.

As is true under current law for distributions from REITs, the Senate amendment provides that any distribution by an RIC to a foreign person shall, to the extent attributable to gains from sales or exchanges by the RIC of an asset (for example, stock) that is considered a U.S. real property interest, be treated as gain recognized by the foreign person from the sale or exchange of a U.S. real property interest. As under current law in the case of an REIT, the committee intends that the RIC shall be required to deduct and withhold, under section 1445, a tax equal to 34 percent of the amount of the dividend so treated. The Senate amendment also extends the special rules for domestically-controlled REITs to domestically-controlled RICs.

Effective Date.—In general, the provision is effective with respect to taxable years of RICs beginning after date of enactment. However, the provision exempting an interest in a domestically-controlled RIC from treatment as a U.S. real property interest is effective on the date the provision is enacted.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

2. Election not to apply 90-percent limitation on alternative minimum tax foreign tax credit

PRESENT LAW

In general

Under present law, U.S. citizens, residents, and corporations are subject to U.S. taxation on their worldwide incomes. The U.S. tax on foreign income may be offset by a credit for foreign income taxes incurred. Foreign corporations, including foreign corporations controlled by U.S. taxpayers, generally are subject to U.S. taxation only on income earned in the United States.

"Deferral" refers to the practice of not taxing the income of a U.S.-controlled foreign corporation until that income is distributed to the controlling U.S. shareholders. The term "deferral" is employed because the net U.S. tax liability—equal to the difference between the U.S. tax and the credit for foreign taxes—is "deferred" until such income is distributed as a dividend.

The controlled foreign corporation (subpart F) rules of the Code provide for exceptions to the general rule of deferral (secs. 951-964). Certain U.S. shareholders of a controlled foreign corporation are subject to current U.S. taxation on their pro rata portions of the foreign corporation's "subpart F income." Subpart F income typically is income that is relatively movable from one taxing jurisdiction to another and that is subject to low effective rates of foreign tax.

Alternative minimum tax foreign tax credit

Under present law, taxpayers are subject to an alternative minimum tax ("AMT"), which is payable, in addition to all other tax liabilities, to the extent that it exceeds the taxpayer's regular income tax liability. The tax is imposed at a flat rate of 20 percent, in the case of corporate taxpayers, on alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount. The rate for noncorporate taxpayers is 24 percent. Alternative minimum taxable income is the taxpayer's taxable income increased for certain tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the exclusion or deferral of income resulting from the regular tax treatment of those items.

Taxpayers are permitted to reduce their AMT liability by an AMT foreign tax credit. The AMT foreign tax credit for a taxable year is determined under principles similar to those used in computing the regular tax foreign tax credit, except that (1) the numerator of the AMT foreign tax credit limitation fraction is foreign source AMTI[1] and (2) the denominator of that fraction is total AMTI.[2]

The AMT foreign tax credit for any taxable year generally may not offset a taxpayer's entire pre-credit AMT. Rather, the AMT foreign tax credit generally is limited to 90 percent of AMT computed without an AMT net operating loss deduction, an AMT energy preference deduction, or an AMT foreign tax credit.[3] For example, assume that a corporation has $10 million of AMTI, has no AMT net operating loss or energy preference deductions, and is subject to the AMT. In the absence of the AMT foreign tax credit, the corporation's tax liability would be $2 million. Accordingly, the AMT foreign tax credit cannot be applied to reduce the taxpayer's tax liability below $200,000. Any unused AMT foreign tax credit may be carried back 2 years and carried forward 5 years for use against AMT in those years under the principles of the foreign tax credit carryback and carryforward set forth in section 904(c).

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

Under the Senate amendment, a domestic corporation is permitted to elect to be exempt from the 90-percent limitation on the utilization of the AMT foreign tax credit. As explained more fully below, any corporation that does so elect, and any other domestic corporation that is related to the electing corporation, thereby foregoes the benefits of deferral with respect to the income of all controlled foreign corporations of which they are U.S. shareholders.

Domestic corporations affected by an election

The election may be made by any domestic corporation. If the election is made, the loss of deferral applies to all domestic corporations that are members of an expanded affiliated group of corporations, as defined for purposes of this election, that includes the electing corporation. On the other hand, only corporations that actually make the election are entitled to the exemption from the 90-percent limit on the use of the AMT foreign tax credit.

Under the Senate amendment, membership in an expanded affiliated group is determined by applying the affiliated group definitions of section 1504, substituting a greater-than-50-percent stock ownership threshold for the 80-percent ownership threshold. The Senate amendment treats foreign corporations as includible corporations solely for the purpose of determining whether any domestic corporation is a member of the group. Under the amendment, membership in the expanded affiliated group is determined by treating stock owned by attribution under the rules of section 1563 as owned directly. Under the amendment, a corporation is considered to be controlled if *either* the 50-percent vote *or* the 50-percent value test is met. Finally, under the Senate amendment stock is disregarded for purposes of determining expanded affiliated group membership if it is limited and preferred as to dividends and does not participate in corporate growth to any significant extent.

Loss of deferral

As described above, the benefits of deferral are foregone by any domestic corporation included in an expanded affiliated group that includes an electing corporation. Generally, all of the earnings and profits for the taxable year of a controlled foreign corporation with respect to which the domestic corporation is a U.S. shareholder are treated as subpart F income, for purposes of determining the amount of subpart F income to be included in the income of the domestic corporation pursuant to section 951. Under the amendment, as under present law, subpart F income does not include earnings and profits attributable to income from sources within the United States which is effectively connected with the conduct of a U.S. trade or business (except to the extent that the income is exempt from tax or subject to a reduced rate of taxation pursuant to a U.S. treaty obligation). Nor does subpart F income include any foreign trade income of a foreign sales corporation (FSC). Such income remains taxable to the FSC to the extent provided under current law. Also as under present law, subpart F income is not reduced on account of certain illegal payments.

Under the Senate amendment, as under present law, certain amounts of earnings and profits are not included in subpart F income if it is established to the satisfaction of the Treasury Secretary that those amounts of earnings could not have been distributed to the U.S. shareholders because of currency or other restrictions or limitations imposed under the laws of any foreign country. The committee intends that such legal restrictions or limitations be taken into account only if they are publicly promulgated, generally applicable to all similarly situated persons (whether controlled or uncontrolled), and not actually avoided by the foreign corporation or other persons, and if the process prescribed by local law for obtaining a waiver of such restrictions, if any, has been exhausted. No inference is intended regarding the meaning of the corresponding provision of current law.

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[1] This is modified on an elective basis by section 4422 of the bill.

[2] Similar to the regular tax foreign tax credit, the AMT foreign tax credit is subject to the separate limitation categories set forth in section 904(d). Under the AMT foreign tax credit, however, the determination of whether any income is high taxed for purposes of the high-tax-kick-out rules (sec. 904(d)(2)) is made on the basis of the applicable AMT rate rather than the highest applicable rate of regular tax.

[3] Certain domestic corporations operating solely in one foreign country with which the United States has an income tax treaty in effect are not subject to the 90-percent limitation on the use of the AMT foreign tax credit if certain other specified criteria are satisfied (sec. 59(a)(2)(C)).

Under the Senate amendment, as under the present-law rules of subpart F, earnings and profits are determined without regard to the adjustments for LIFO inventories, installment sales, and the completed contract method of accounting that generally apply to the determination of earnings and profits, except, under regulations, to the extent that the failure to make such adjustments would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

For the second taxable year subject to the provision, and any subsequent taxable year, amounts of subpart F income included in the gross income of the U.S. shareholder are reduced by the shareholder's pro rata share of any deficits in earnings and profits in post-effective-date taxable years which precede that year, and for which the foreign corporation was a controlled foreign corporation.

In addition, deficits in earnings and profits (taking into account the same adjustments to earnings and profits that apply for purposes of determining subpart F income under the election) for years beginning prior to the effective date of the amendment will reduce amounts of subpart F income included in the gross incomes of U.S. shareholders only to the extent that those deficits would have reduced subpart F inclusions under the qualified deficit rules of present law.

The election under the Senate amendment applies to the taxable year for which it is first effective and to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury. In the event that an expanded affiliated group is enlarged, whether by incorporation or acquisition, any prior election under the amendment by any member of the expanded affiliated group will have deferral consequences for the new member, and any prior election under the amendment by a new member will have deferral consequences for the entire expanded affiliated group.

Effective date

The Senate amendment is effective for taxable years of domestic corporations beginning after December 31, 1992, and taxable years of controlled foreign corporations ending with or within such taxable years of domestic corporations.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

3. Income from investments by domestic gas or electric utilities in foreign gas or electric utilities

PRESENT LAW

In general

As explained above, U.S. persons generally are subject to U.S. taxation on their worldwide incomes. The U.S. tax on foreign income may be offset by a credit for foreign income taxes incurred. Foreign corporations, including foreign corporations controlled by U.S. taxpayers, generally are subject to U.S. taxation only on income earned in the United States. In limited cases, income of a U.S.-controlled foreign corporation is included, under Code section 951, in the income of U.S. persons owning stock of the foreign corporation. Such inclusions are sometimes referred to as "subpart F" inclusions.

Where stock in a foreign corporation is owned by a U.S. shareholder, the shareholder's income subject to U.S. tax generally includes the foreign corporation's earnings only to the extent of dividends received from the foreign corporation by the U.S. shareholder. When a dividend is paid, a U.S. corporation owning at least 10 percent of the voting stock of the foreign corporation is treated as if it had paid a share of the foreign income taxes paid by the foreign corporation (sec. 902(a)). This is sometimes referred to as the "indirect" or "deemed-paid" foreign tax credit. The income of the dividend recipient is increased, or "grossed up," by the amount of the indirect credit (sec. 78). An indirect foreign tax credit generally is also available to a U.S. corporate shareholder meeting the requisite ownership threshold with respect to inclusions of subpart F income from controlled foreign corporations (sec. 960(a)).[1]

A U.S. corporation may also be deemed to have paid taxes paid by a second- or third-tier foreign corporation. That is, where a first-tier foreign corporation pays a dividend to a 10-percent-or-more U.S. corporate shareholder, then for purposes of deeming the U.S. corporation to have paid foreign tax, the first-tier foreign corporation may be deemed to have paid a share of the foreign taxes paid by a second-tier foreign corporation of which the first-tier foreign corporation owns at least 10 percent of the voting stock, and from which the first-tier foreign corporation received dividends. The same principle applies to dividends from a second-tier or third-tier foreign corporation. No taxes paid by a second- or third-tier foreign corporation are deemed paid by the first- or second-tier foreign corporation, respectively, unless the product of the percentage ownership of voting stock at each level from the U.S. corporation down equals at least 5 percent (sec. 902(b)). Under present law, foreign taxes paid below the third tier of foreign corporations are not eligible for the indirect foreign tax credit.

Foreign tax credit limitation

The foreign tax credit is limited by the amount of U.S. tax otherwise payable on foreign source taxable income. For purposes of the foreign tax credit limitation, foreign source taxable income is computed by (1) determining the items of gross income that are from foreign sources, and then (2) subtracting from those items the taxpayer's deductions that are allocated or apportioned to foreign source gross income. Generally it is left to the Treasury to provide detailed rules for the allocation and apportionment of expenses.

In the case of interest expense, the Code and the regulations generally are based on the approach that money is fungible and that interest expense is properly attributable to all business activities and property of a taxpayer, regardless of any specific purpose for incurring an obligation on which interest is paid. (Exceptions to the fungibility concept are recognized or required, however, in particular cases.) The Code provides that for interest allocation purposes all members of an affiliated group of corporations generally are to be treated as a single corporation (the so-called "one-taxpayer rule"), and that allocation must be made on the basis of assets rather than gross income.

The term "affiliated group" in this context is defined by reference to a modified version of the rules for determining whether corporations are eligible to file consolidated returns. An affiliated group generally excludes any corporation that is foreign, and any corporation less than 80 percent of the stock of which is owned by members of the affiliated group (see Treas. Reg. sec. 1.861-11T(d)(6)(i)).

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

The Senate amendment provides that certain U.S. affiliated groups predominantly engaged in regulated gas or electric utility operations may elect, for purposes of allocating interest to determine their foreign tax credit limitations, to treat their investments in the stock of certain foreign utility companies as if the U.S. affiliated group owned a proportionate share of the foreign utility's assets, and incurred a proportionate share of the foreign utility's interest expense. If the election is made, the U.S. affiliated group is taxable currently on its share of the earnings of certain foreign corporations in which it owns stock. Thus the Senate amendment permits the U.S. affiliated group to make an election whereby, in exchange for foregoing the benefits of deferral, it avoids double-counting the amount of interest expense treated as the cost of holding the assets of the foreign utility companies in whose stock the U.S. affiliated group has invested.

Qualified utility group

An election under the Senate amendment can only be made with respect to a qualified utility group. Once made, the election applies to the year for which made and all subsequent years unless revoked with the consent of the Secretary. The amendment defines such a group as any affiliated group (within the meaning of the one-taxpayer rule applicable for interest allocation purposes) with respect to which four criteria are met.

First, at least 80 percent of the group's gross income must be attributable to the production, transmission, or distribution of electricity, or the distribution of gas. Second, no more than 65 percent of the average daily total capital of the group for the taxable year can take the form of debt. Third, at least one member of the group must be regulated by one or more State regulatory commissions with respect to the distribution of gas or electricity. Fourth, if the affiliated group is a member of an "expanded affiliated group," as that term is described in Item 2, above ("Election not to apply 90-percent limitation on alternative minimum tax foreign tax credit"), then the affiliated group cannot be considered a qualified utility group if the first three criteria are not met with respect to the expanded affiliated group.

Foreign regulated gas or electric utilities

If the election is made, then the Senate amendment changes, among other things, the interest allocation treatment of certain investments by qualified utility group members in foreign corporations that are foreign regulated gas or electric utilities. In order to be an investment that gives rise to this interest allocation change, the investment must be in the form of direct ownership of voting stock in the foreign corporation, in a proportion sufficient to permit the group member to receive deemed-paid credits for taxes paid by the foreign corporation. Thus, the investment must include direct ownership by members of the qualified utility group of at least 10 percent of the voting stock of the foreign regulated gas or electric utility.

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[1] Unlike the indirect foreign tax credit for actual dividend distributions, the indirect credit for subpart F inclusions can be available to individual shareholders in certain circumstances if an election is made (sec. 962).

In order for the foreign corporation to be a foreign gas or electric utility, at least 80 percent of its gross income must be attributable to the production, transmission, or distribution of electricity, or the distribution of gas. No more than 65 percent of the average daily total capital of the corporation for the taxable year can take the form of debt. Finally, the activities of the foreign corporation described above must be regulated by one or more regulatory commissions established pursuant to foreign law.

Effect of the election

Making the election results in a number of consequences. These include the loss of deferral on the earnings of certain foreign corporations, and modification of the rules under which interest is allocated for purposes of computing the foreign tax credit limitation.

Loss of deferral

Any investment of a member of the qualified utility group, or of any member of the expanded affiliated group (as that term is described in Item 2, above ("Election not to apply 90-percent limitation on alternative minimum tax foreign tax credit") to which any member of the qualified utility group belongs, which investment may result in the member being entitled to credits for foreign income taxes paid by a foreign corporation, results in treatment of the foreign corporation as a controlled foreign corporation of which the group member is a U.S. shareholder. (Thus, second- and third-tier foreign corporations may be treated as controlled foreign corporations as a result of the election.) Second, all of the earnings of all foreign corporations that are (or are treated under the election) as controlled foreign corporations are treated as subpart F income, as described in Item 2, above ("Election not to apply 90-percent limitation on alternative minimum tax foreign tax credit").

Interest allocation

Under the Senate amendment, the interest expense of any qualified utility group which is subject to the election is allocated and apportioned based upon two hypothetical allocations and apportionments taking into account the assets and interest expense of any foreign regulated gas or electric utility that is a member of the so-called "expanded group." The "expanded group" for purposes of allocating interest is the qualified utility group, plus any foreign regulated gas or electric utility in which the qualified utility group members directly own voting stock in a proportion sufficient to permit the qualified utility group members to receive credits for foreign income taxes paid by the foreign corporation. (Thus, only the assets and expenses of first-tier foreign corporations are taken into account for this purpose.)

First, a hypothetical interest allocation is performed as if the qualified utility group members had directly owned their pro rata shares of the assets of, and had directly incurred their pro rata shares of the interest expenses of, the foreign corporations in the expanded group. The pro rata shares generally are determined, for this purpose, by reference to the same proportion that determines the pro rata share income inclusions under subpart F (as applied after taking into account the election). They are to be appropriately reduced, however, to take into account the extent (if any) to which subpart F inclusions are reduced because of the blocked income rule.

The amount of interest that would be allocated and apportioned to foreign source gross income on the basis of adding the pro rata share of any foreign regulated gas or electric utility's interest and assets to the interest and assets of the qualified utilities group, as described above, is then reduced to arrive at the amount of qualified utility group interest actually allocated and apportioned to foreign source income. The reduction equals the amount resulting from a second hypothetical allocation and apportionment, namely, the amount of interest that would be allocated and apportioned to foreign source gross income taking into account only the pro rata share of the assets of the foreign regulated gas or electric utility, and the pro rata share of the interest expense incurred by the foreign regulated gas or electric utility. If there is more than one such foreign corporation in the expanded group, they are treated as a single corporation for this purpose.

If the amount of interest that would be allocated and apportioned to foreign source gross income, taking into account only the interest and assets of the foreign regulated gas or electric utility (or utilities), is equal to or greater than the amount that would be so allocated and apportioned considering the expanded group as a whole, then the interest expense of the members of the qualified utility group generally will not be apportioned to gross income from foreign sources. On the other hand, if the latter amount is greater than the former, then the interest expense of the qualified utility group generally will be apportioned to gross income from foreign sources to the extent of the difference.[2]

Consistent with the rules governing interest allocation under current law, it is intended that borrowings between the qualified utility group and the affected foreign regulated gas or electric utilities, and stockholdings in the foreign regulated gas or electric utilities, will be eliminated for purposes of determining the total interest expense of the relevant corporations, computing the reduction in foreign-allocated interest expenses to account for foreign regulated gas or electric utilities, and computing appropriate asset ratios.

Examples

Assume that a member of a group of U.S. corporations, an affiliated group for purposes of the one-taxpayer interest allocation rules, owns 10 percent of the stock of a foreign corporation. Assume that each corporation owns operating assets valued at $10,000 for these purposes, each has debt to unrelated parties of $5000, and each has interest expense of $500 on that debt. Assume that none of this interest would be directly allocated to any particular stream of gross income under current law. All of the operating assets of the U.S. corporation produce U.S. source income, and all of the operating assets of the foreign corporation produce foreign source, general limitation income. A foreign country levies tax on the income of the foreign subsidiary at a 34-percent rate. The U.S. affiliated group is a qualified utility group, and the foreign corporation is a foreign regulated gas or electric utility. Together the qualified utility group and the foreign corporation form an "expanded group" as that term is used in the provision.

Assume that the affiliated group and the foreign corporation are calendar year taxpayers, and that the qualified utility group makes an election for its 1993 taxable year under the Senate amendment. Assume that the foreign corporation's pre-tax earnings and profits for 1993 equal $500. Assume that the foreign corporation has no earnings or foreign income taxes in any prior year, and that the foreign corporation bears $170 in foreign income taxes for 1993. Assume that the qualified utility group earns $1000, before taking into account interest deductions, in taxable income from its U.S. operations.

Under the Senate amendment, the qualified utility group includes an additional $50 in income under subpart F (taking into account $17 of the foreign corporation's foreign taxes deemed paid under Code section 960 and the resulting gross-up), its pro rata share of the $500 of pre-tax earnings and profits of the foreign corporation. Thus, pre-credit U.S. tax on the qualified utility group equals 34 percent of $550, or $187. Further under the Senate amendment, the qualified utility group is treated for interest allocation purposes as having $11,000 in assets, $1000 of which generate foreign source income, and having $550 in interest expense. One eleventh, or $50, of this interest expense is hypothetically apportioned to foreign source gross income. That expense is then reduced by the amount of the pro rata portion of the interest expense of the foreign corporation ($50) that would be apportioned to foreign source income taking into account only the pro rata portion of the assets of the foreign corporation ($1000). In the example, all of those assets produce foreign source income, so the reduction is the full amount of the $50 pro rata share of the foreign corporation's interest expense. Thus, none of the qualified utility group's interest expense is allocated or apportioned to foreign source gross income. For purposes of computing the foreign tax credit limitation, then, the qualified utility group's foreign source taxable income equals $50, the full amount of the subpart F inclusion under the Senate amendment. The foreign tax credit limitation equals one eleventh of $187, or $17, which is the full amount of foreign taxes deemed paid by the qualified utility group.

As another example, assume the same facts as above, except that the foreign corporation has only $400 of interest expense. Assume no changes in the assets, earnings and profits, or taxes of the foreign corporation. As a consequence, $9.09 of interest expense incurred by the qualified utility group is allocated and apportioned to foreign source gross income ($49.09, or one eleventh of $540, minus $40). Foreign source taxable income is thus $40.91, or $50 minus $9.09. The foreign tax credit limitation of the qualified utility group is $13.91, or $187 times $40.91 divided by $550.

Effective Date.—The provision applies to taxable years of domestic corporations beginning after December 31, 1992, and to taxable years of foreign corporations which end with or within such taxable years of domestic corporations.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

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[2] In either case, allocation and apportionment of interest expense of the qualified utility group to gross income from foreign sources may still occur pursuant to the Secretary's existing regulatory authority, including the authority to make direct allocations. The Senate amendment is not intended to change the scope of that authority, except insofar as other changes in the law brought about by the amendment (e.g., the loss of deferral) would necessitate adjustments in the interest allocation regulations.

4. Commodities income of a controlled foreign corporation

PRESENT LAW

As explained above, when a U.S.-controlled foreign corporation earns so-called "subpart F income," the United States generally taxes the corporation's 10-percent U.S. shareholders currently on their pro-rata share of that income.

One category of income that is considered subpart F income is "foreign personal holding company income." Foreign personal holding company income generally consists of passive types of income such as interest, dividends, annuities, and net gains from the disposition of certain types of property. Subject to a number of exceptions, foreign personal holding company income includes the excess of gains over losses from transactions (including futures, forward, and similar transactions) in any commodities. Under one such exception, gains and losses from commodities transactions are not taken into account for purposes of measuring foreign personal holding company income if they are "active" business gains or losses from the sale of commodities, but only if *substantially all* of the controlled foreign corporation's business is as an active producer, processor, merchant, or handler of commodities.[1]

Current temporary regulations interpret the statute by determining the amount of business that is "substantially all" of the CFC's business using a taxable income test.[2] Under the regulations, substantially all of a controlled foreign corporation's business is considered to be as an active producer, processor, merchant, or handler of commodities if its active commodities business operations give rise to at least 85 percent of its taxable income for the taxable year.

The legislative history to the Tax Reform Act of 1986 specified that the exception for active producers, processors, merchants, and handlers of commodities applies only to foreign corporations actively engaged in commodities business.[3] It does not apply to foreign corporations primarily engaged in such financial transactions as the trading of futures. In order to be engaged in the active conduct of a commodities business, a controlled foreign corporation generally must hold commodities as inventory or similar property and incur substantial expenses in the ordinary course of a commodities business.[4] Regularly taking delivery of physical commodities generally indicates the existence of an active commodities business, but it does not of itself determine the issue. Other characteristics of companies actively engaged in commodities business include: engaging in substantial processing activities and incurring substantial expenses with respect to commodities prior to their sale, including (but not limited to) concentrating, refining, mixing, crushing, aerating, and milling; engaging in significant activities and incurring substantial expenses relating to the physical movement, handling, and storage of commodities, including (but not limited to) preparation of contracts and invoices, arrangement of freight, insurance, or credit, arrangement for receipt, transfer, or negotiation of shipping documents, arrangement of storage or warehousing, and dealing with quality claims; owning and operating physical facilities used in the activities described above; owning or chartering vessels or vehicles for the transportation of commodities; and producing the commodities sold.[5]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment expands the exception from the definition of foreign personal holding company income for active business gains and losses from the sale of commodities. Under the Senate amendment, active business gains and losses from the sale of commodities by a controlled foreign corporation as an active producer, processor, merchant, or handler of commodities are not taken into account for purposes of determining the foreign corporation's foreign personal holding company income. Thus, the Senate amendment eliminates the "substantially all" requirement of present law. As under present law, the exception does not apply to any gains or losses of a foreign corporation derived from primarily financial transactions (e.g., the trading of commodities futures), even if the foreign corporation also is engaged in an active commodities business as a producer, processor, merchant, or handler.

The Senate amendment does not alter the present-law criteria for determining whether a foreign corporation is an active producer, processor, merchant, or handler of commodities. Thus, for example, in order to exclude commodity gains and losses under the active business exception, a controlled foreign corporation must hold the commodity giving rise to the gain or loss as inventory or similar property, and must regularly engage in the production, processing, or handling and storage of the commodity.

Effective date.—Taxable years of foreign corporations beginning after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

5. Treasury study on competitiveness

PRESENT LAW

The United States imposes taxes that may affect economic behavior, as do other countries.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the Secretary of the Treasury is to conduct a study of tax issues relating to the maintenance and enhancement of the competitiveness of the American economy in light of changing economic policies in Europe and the increasing globalization of the world economy. The Treasury is to report on the study to the Senate Committee on Finance and the House Committee on Ways and Means by January 1, 1994.

CONFERENCE AGREEMENT

The conference agreement does not include the provision.

6. Denial of deductions allocable to Cuban source income of a controlled foreign corporation

PRESENT LAW

In general

Under present law, U.S. citizens, residents, and corporations are subject to U.S. taxation on their worldwide incomes. The U.S. tax on foreign income may be offset by a credit for foreign income taxes incurred. Foreign corporations, including foreign corporations controlled by U.S. taxpayers, generally are subject to U.S. taxation only on income earned in the United States.

The income of a foreign corporation with U.S. shareholders generally is not subject to U.S. tax until that income is distributed to the U.S. shareholders. That is, the net U.S. tax liability on such income—equal to the difference between the U.S. tax and the credit for foreign taxes—is deferred until the income is distributed as a dividend.

The controlled foreign corporation (subpart F) rules of the Code provide for exceptions to the general rule of deferral (secs. 951-964). Certain U.S. shareholders of a controlled foreign corporation are subject to current U.S. taxation on their pro rata portions of the foreign corporation's "subpart F income." Subpart F income typically is income that is relatively movable from one taxing jurisdiction to another and that is subject to low effective rates of foreign tax.

Income from certain foreign countries

Subpart F income also includes certain income relating to international boycotts and other public policy or foreign policy considerations (defined in sec. 952(a)(3)-(5)). One category of such income is income derived from any foreign country during a period in which the taxes imposed by that country are denied eligibility for the foreign tax credit under section 901(j) pursuant to the implementation of U.S. foreign policy ("subpart F listed country income"). The rules of section 901(j), discussed below, apply to any foreign country (1) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act, (2) with respect to which the United States has severed diplomatic relations, (3) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or (4) which the Secretary of State has, pursuant to section 6(j) of the Export Administration Act of 1979, as amended, designated as a foreign country which repeatedly provides support for acts of international terrorism. Rev. Rul. 92-63, 1992-33 I.R.B. 7, lists the following countries as currently subject to the rules of Code section 901(j): Afghanistan, Angola, Cambodia, Cuba, Iran, Iraq, Libya, North Korea, Syria, and Vietnam.

In determining the amount of a controlled foreign corporation's subpart F income to be included in the gross income of a U.S. shareholder, the amount of subpart F listed country income is reduced (under Treasury regulations) so as to take into account deductions, including taxes, properly allocable to that income (sec. 952(a)).

Foreign tax credit

U.S. corporate shareholders of a controlled foreign corporation who include subpart F income in their own gross incomes are also treated as having paid the foreign taxes actually paid by the controlled foreign corporation on that income, to the same general extent as if they had received a dividend distribution of that income (sec. 960). Therefore, the U.S. corporate shareholders may claim foreign tax credits for those taxes to the same general extent as if they had received a dividend.

Pursuant to special rules applicable to taxes paid to certain foreign countries, however, no foreign tax credit is allowed for income, war profits, or excess profits taxes paid, accrued, or deemed paid to a country which satisfies specified criteria, to the extent that the taxes are with respect to income attributable to a period during which such criteria were satisfied (sec. 901(j)). Nor can such income be sheltered from U.S. tax by other creditable foreign taxes. Taxes treated as noncreditable under this provision are permitted to be deducted notwithstanding the fact that the taxpayer elects use of the foreign tax credit for the taxable year with respect to other taxes.

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[1] Other exceptions to the subpart F income classification of commodities gains and losses include an exception for bona fide hedging transactions and an exception for certain foreign currency gains and losses.

[2] Temp. Treas. Reg. sec. 1.954-2T(f)(3)(iv).

[3] S. Rep. No. 99-313, 99th Cong., 2d Sess. 367 (1986).

[4] Temp. Treas. Reg. sec. 1.954-2T(f)(3)(iii).

[5] S. Rep. No. 99-313, at 367-368.

SENATE AMENDMENT

The Senate amendment restricts the availability of certain deductions to reduce amounts of subpart F listed country income included in the gross incomes of U.S. shareholders. Specifically, the Senate amendment denies such reductions of subpart F listed country income on account of deductions for expenses allocable to Cuban source income (as defined by the amendment specifically for this purpose). Thus, amounts of subpart F listed country income are included in the incomes of the U.S. shareholders without reduction on account of any otherwise-deductible expenses to the extent such income meets the amendment's definition of Cuban source income. The amendment does not affect the gross amount of subpart F listed country income as determined with respect to Cuba.

The Senate amendment defines Cuban source income, for purposes of its deduction-disallowance rule, to include income treated as derived from sources in Cuba under the source rules generally applicable under the Code, as well as (1) any income from the sale of goods either if the goods sold are ultimately delivered for use in Cuba or if any portion of the value of the goods sold was added in Cuba, and (2) any income from the provision of services either if the services are performed in Cuba or if Cuban residents or citizens performed the services.

Effective date.—The Senate provision is effective for taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

7. Source of rental income from leases of certain aircraft

PRESENT LAW

The source of income or loss from the rental of personal property generally depends on whether the property is used inside or outside the United States. Rents or royalties from property (or interests in property) located in the United States, and rents or royalties for the use of or privilege of using intangible property in the United States are sourced domestically. Correspondingly, rents or royalties from property (or interests in property) located outside the United States, and rents or royalties for the use of or privilege of using intangible property outside the United States are sourced foreign.

Income derived by the lessor of a vessel or aircraft is sourced domestically to the extent that the vessel or aircraft is used for transportation that begins and ends in the United States. If the transportation begins in the United States and ends in a foreign country, or begins in a foreign country and ends in the United States, 50 percent of the lessor's income attributable to that transportation is sourced domestically, and 50 percent is sourced foreign. The same sourcing rules apply to any other income derived from, or in connection with, the use, or hiring or leasing for use, of a vessel or aircraft or the performance of services directly related to the use of such vessel or aircraft. All such income is referred to under the Code as "transportation income."

A principal deduction associated with the ownership of vessels or aircraft is depreciation. The cost of aircraft is recovered under the Accelerated Cost Recovery System (ACRS), which provides an accelerated depreciation method over a recovery period that is generally shorter than the economic life of the property. Under ACRS, the applicable recovery period for commercial aircraft is generally 7 years. As a general rule, the cost of property which is used predominantly outside the United States, or which is used by a government or international organization, is generally not eligible for these ACRS allowances, and instead is recovered under the less beneficial alternative depreciation system (ADR). Under the ADR, the recovery period for commercial aircraft is generally 12 years. However, aircraft which is registered by the Administrator of the Federal Aviation Agency and which is operated to and from the United States is not considered property which is used predominantly outside the United States, and therefore, is eligible for depreciation under ACRS.

Typically, under a lease financing of equipment (i.e., the equipment is purchased by a financial institution and leased to the user), the lease produces a tax loss during its early years to the lessor (primarily as a result of accelerated depreciation or amortization deductions). To the extent that the equipment is used in transportation ending or beginning in a foreign country, the loss arising on the lease is considered at least in part to be a foreign source loss under the generally applicable source rules described above. The characterization of the loss as foreign source operates to reduce the lessor's foreign source taxable income and thus its foreign tax credit limitation. Under certain circumstances, this might restrict the lessor's ability in a given year to use a foreign tax credit which would otherwise be available in that year, for foreign taxes paid with respect to its other foreign operations.

Prior law

Transportation income prior to the Tax Reform Act of 1986—in general

For income earned in transporting persons and cargo from the United States to a foreign country, or between two foreign countries, and income earned in leasing the vessels or aircraft used in such transportation, source determination under the law prior to the Tax Reform Act of 1986 was dependent on the type of income produced. If the income was from transportation services income (e.g., time or voyage charter hire) the income was sourced under Treasury regulations. These regulations provided that taxable income or loss generally was allocated between U.S. and foreign sources in proportion to the expenses incurred in providing the services. Expenses incurred outside the territorial waters of the United States were treated as foreign for purposes of this calculation. Therefore, under prior law, most of the income earned in transporting persons and cargo from the United States to a foreign country, or between two foreign countries, was foreign source regardless of whether it was rental or transportation services income.

Prior to 1971, if the income was rental income (e.g., bareboat charter hire), it was foreign source to the extent allocable to periods when the vessel (or aircraft) was outside the United States and its territorial waters (i.e., outside the three-mile limit). Correspondingly, tax losses generated by lessors in finance-leasing transactions prior to 1971 could operate to reduce lessors' foreign source taxable income and thus their foreign tax credit limitations. Under certain circumstances, this might restrict the lessor's ability in a given year to use a foreign tax credit which would otherwise be available in that year, for foreign taxes paid with respect to its other foreign operations.

Leasing income under the Revenue Act of 1971

In the case of ships and aircraft, which often are financed through long-term leases from financial institutions, lessors expressed concern about the loss of foreign tax credits prior to 1971. Under the Revenue Act of 1971, lessors of certain ships and aircraft were given an election to treat all income and loss from the rental of the ships or aircraft as income from sources within the United States. Under this election, income derived from the lease or disposition of vessels and aircraft that were section 38 property and were manufactured or constructed in the United States and leased to U.S. persons generally was treated as wholly U.S. source income (former Code sec. 861(e)). These rules applied regardless of where the vessel or aircraft was used. They did not apply, however, in a case where the taxpayer owning the vessel or aircraft was a member of the same controlled group of corporations as the lessee.

Regulations under the 1971 Act provided that a vessel or aircraft would be treated as manufactured or constructed in the United States if 50 percent or more of the basis of the craft on the date of the lease to a United States person is attributable to value added within the United States (former Treas. Reg. sec. 1.861-9(b)(2); see also sec. 1.861-9A(b)(5)).

Expenses, losses, and deductions incurred in leasing vessels and aircraft under the circumstances described above were allocated entirely against U.S. source income.

The legislative history of the Revenue Act of 1971 indicates that the purpose of the election enacted at that time was to facilitate the shifting of depreciation deductions and investment tax credits to those providing financing to the operators of vessels and aircraft and to reflect a view that the rentals paid to a financial institution under such a lease-financing transaction should be treated as interest for source of income purposes:

One of the principal means available to finance the purchase of ships or aircraft is a leasing arrangement under which a financial institution purchases the ship or aircraft and then leases it to the air carrier or ship operator under an arrangement which is essentially similar to a sale of the ship or aircraft and a loan for the purchase price. The financial institution, which is allowed depreciation with respect to the ship or aircraft under present law and will be allowed the investment credit under the bill, in effect, passes all or a portion of these tax benefits on to the lessee in the form of reduced rentals for the ship or aircraft. In many cases this type of lease-financing transaction is the only means by which an air carrier or ship operator may obtain the financing needed to acquire the new equipment.

A problem has been called to the attention of the committee with respect to the present treatment of these transactions which unless corrected, in effect, will make this type of financing unavailable with respect to ships or aircraft which are to be used in international commerce. Typically, under a leasing transaction of this type, the lease produces a tax loss during its early years to the lessor (primarily as a result of the depreciation deduction). Where the leased ship or aircraft is used in international commerce, the loss arising on the lease is considered to be a foreign source loss under the generally applicable source rules. The characterization of the loss as foreign source in combination with the limitation on the foreign tax credit can have the effect of causing the financial institution to lose a foreign tax credit to which it would otherwise be entitled for foreign taxes paid with respect to its foreign banking or other financial operations. This has the result of making this type of financing transaction substantially less attractive to the financial institution than a financing transaction involving equipment to be used in the United States. Moreover, if the "rentals" were considered to be interest, which in reality they are, the problems would not arise since under the generally applicable source rules interest paid by a U.S. person generally is considered to be from U.S. sources.

The committee believes that it is desirable for this type of financing to be available in the case of ships and aircraft which are to be used in international commerce. Unless this means of financing is made available, the investment credit which is provided by the committee's bill will not, in effect, be available with respect to ships or aircraft and thus will not have the stimulative effect in these sectors of the economy which the committee considers desirable and necessary. Moreover, the committee considers it more appropriate to view the "rentals" paid to a financial institution under a lease-financing transaction of this type as interest for source of income purposes.[1]

Leasing income under the Miscellaneous Revenue Act of 1980

Domestic sourcing of such income and loss was made mandatory in the Miscellaneous Revenue Act of 1980, and not repealed until the Tax Reform Act of 1986. In converting the election to a mandatory rule, the legislative history of the 1980 Act reflects a view that income unlikely to be subject to foreign income tax need not be sourced foreign:

Where the lease property is a vessel, aircraft, or spacecraft used in international traffic, the present rules governing the source of income derived from the lease of personal property appear to produce results which by that standard [viz., a standard that assigns a foreign source to that income which might reasonably be subject to foreign tax] are somewhat anomalous. The present source rules for rental income turn on the physical location of the property—the income is U.S. source if the property is physically located in the United States, foreign source if it is not. Where a U.S. taxpayer operates a ship, aircraft, or spacecraft in international traffic, the operating income occasionally is subject to tax by a country in which the operations are temporarily conducted; therefore, it is not unreasonable to treat operating income as foreign source where the craft is used outside the United States. However, where the craft is leased to the U.S. operator by another U.S. taxpayer, it evidently is very unlikely that any foreign government will attempt to tax the lease payments received by the U.S. lessor from the U.S. operator even if the craft is located outside the United States. (This is particularly true where the craft seldom, if ever, is located in a foreign country.)[2]

Leasing income under the Tax Reform Act of 1986

In connection with the revision of the transportation income source rules generally, the Tax Reform Act of 1986 also eliminated the distinction between the source of operating income, on the one hand, and leasing income, on the other. The legislative history indicated a belief that the prior law provisions that allowed lessors to treat losses (or income) from the lease of an aircraft as wholly U.S. source income did not reflect economic reality. It was believed that the income or loss should be sourced under the rules that apply to U.S. taxpayers generally.[3] Thus, just as the Code provides that the owner of equipment takes the same depreciation deductions whether that owner is the operator or simply the lessor of the equipment in a finance lease transaction, the 1986 Act provided that the amount of vessel or aircraft depreciation allocated and apportioned to foreign source income is the same whether the owner of the vessel or aircraft is the operator of the equipment or is the owner in a finance lease transaction. The 1986 Act provisions are generally effective for taxable years beginning after December 31, 1986. Leasing income continues to be sourced under prior law for income attributable to assets owned on January 1, 1986 (or January 1, 1987 for certain lessors), if the asset were first leased before such date.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides for domestic sourcing of transportation income attributable to the leasing of aircraft (excluding containers) manufactured in the United States directly or indirectly to, and for use by, a resident of the United States. Such income is sourced entirely domestically. Any associated loss is intended to be allocated solely to U.S. source gross income.[4] For purposes of the Senate amendment, the term "United States resident" is defined by reference to the definition under rules for sourcing gains from certain personal property sales, which definition includes any corporation, trust, or estate which is a U.S. person, and any individual who is a U.S. citizen, or who is a resident alien with either a tax home in the United States or without a tax home in a foreign country.

Effective date.—Income derived from lease agreements entered into after July 1, 1993, in taxable years ending after such date.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

D. EMPLOYEE BENEFIT PROVISIONS

1. Deductibility of certain flight-training expenses

PRESENT LAW

Under prior law, eligible veterans who attended flight-training courses could receive educational assistance allowances from the Veterans' Administration of up to 90 percent of the costs incurred by the veteran (38 U.S.C. sec. 1677). These reimbursements were excludable from the income of the veteran. The education assistance allowances were repealed in 1981 (Public Law 97-35, sec. 2003). Certain taxpayers both excluded the allowance from their income and deducted the full cost of attending the flight-training course based on their belief that the course either maintained or improved skills required for their trade or business. The Internal Revenue Service took the position that no deduction was allowed to the extent that the expenses had been reimbursed by the Veterans' Administration. See, Rev. Rul. 80-173, 1980-2 CB 60, distinguishing and clarifying Rev. Rul. 62-213, 1962-2 CB 59. The position of the IRS was upheld in *Manocchio v. Comm.*, 710 F.2d 1400 (9th Cir. 1983), *Olszenski v. Comm.*, 55 AFTR 2d 85-536 (1st Cir. 1985), and several Tax Court cases; the position of the IRS was determined to be arbitrary in *Baker v. United States*, 748 F.2d 1465 (11th Cir. 1984).

HOUSE BILL

No provision in H.R. 11. (However, H.R. 1168 as passed by the House contain the same provision as in the conference agreement below).

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

For all taxable years before 1980, the deductibility of flight-training expenses is to be determined without regard to whether such expenses were reimbursed through veterans educational assistance allowances. In addition, the provision allows a taxpayer to file a claim for a refund or credit of taxes that were overpaid as a result of the provision if the claim is filed prior to the close of the 1-year period beginning on the date the provision is enacted. This 1-year period for making the claim for refund applies without regard to whether the taxpayer is otherwise barred (for example, by the expiration of the statute of limitations or by *res judicata*) for receiving a refund or credit.

Effective date.—The provision is effective upon the date of enactment, and applies to all taxable years before 1980.

2. Deduction for dividends paid on employer securities held in an ESOP

PRESENT LAW

Under present and prior law, certain dividends paid with respect to employer securities held in an employee stock ownership plan (ESOP) are deductible by the corporation paying the dividends. Under the Omnibus Budget Reconciliation Act of 1989, in the case of dividends used to repay a loan used to acquire employer securities, the deduction is not available unless the dividends are paid with respect to securities acquired with that loan. The 1989 Act provision generally applies to dividends on securities acquired after August 4, 1989.

HOUSE BILL

No provision. (However, H.R. 5641 as passed by the House contains a provision that is the same as the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, the 1989 Act provision does not apply to employer securities acquired with assets transferred from a defined benefit plan in a transaction described in section 4890(c)(3). The provision is limited to securities acquired before October 1, 1989, and with respect to plan terminations which were the subject of a determination letter in effect on August 4, 1989, and at all times thereafter before the securities were acquired.

Effective date.—The provision is effective on the date of enactment.

3. Exemption for certain death and disability payments to public safety employees

PRESENT LAW

Under present law, amounts received under a workmen's compensation act as compensation for personal injuries or sickness incurred in the course of employment are excluded from gross income. Compensation received under a workmen's compensation act by the survivors of a deceased employee also are excluded from gross income. Non-occupational death and disability benefits are not excludable from income as workmen's compensation benefits.

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[1] Sen. Rep. No. 92-437, 92d Cong., 1st Sess. 78 (1971).

[2] H.R. Rep. No. 96-1278, 96th Cong., 2d Sess. 24 (1980); Sen. Rep. No. 96-1036, 96th Cong., 2d Sess. 16-17 (1980).

[3] H.R. Rep. No. 99-426, 99th Cong., 1st Sess. 370 (1985); Sen. Rep. No. 99-313, 99th Cong., 2d Sess. 339 (1986); Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., *General Explanation of the Tax Reform Act of 1986*, at 927 (1987);

[4] *See, e.g.*, 138 Cong. Rec. S15365 (daily ed., Sept. 26, 1992) (remarks of Sen. Sasser).

HOUSE BILL

No provision. (However, H.R. 5651 contains a provision that is the same as the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, amounts that were paid in 1989, 1990, and 1991 on behalf of police and firefighters who became disabled or died because of hypertension or heart disease are treated as compensation for work-related personal injuries or sickness for purposes of the exclusion from gross income for workmen's compensation benefits.

Effective date.—The provision is effective on the date of enactment.

4. Treatment of fringe benefits of airline affiliate employees

PRESENT LAW

Under present law, the gross income of an employee of an airline or a qualified affiliate of an airline does not include the value of air transportation provided as a no-additional-cost service under section 132.

In general, a qualified affiliate is a corporation at least 80 percent of which is owned by an airline and that is engaged in an airline related service (e.g., ticketing and reservations, baggage handling).

HOUSE BILL

No provision.

SENATE AMENDMENT

The definition of qualified affiliate is amended to include any entity that is at least 80 percent owned (directly or otherwise) by one or more companies that operate an airline. As under present law, to be qualified the affiliate must be predominantly engaged in airline-related services.

Effective date.—The provision is effective for years beginning after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

E. TAX-EXEMPT BOND PROVISION

1. Texas Veterans' Land Bond Program

PRESENT LAW

The Tax Reform Act of 1986 ("the 1986 Act") provided that bonds issued to finance the Texas Veterans' Land Bond Program as it was operated on March 15, 1984 could be issued as tax-exempt private activity bonds. One of the State-law restrictions on the program in 1984 was that the maximum loan amount could not exceed $20,000 per recipient. Along with most other private activity bonds, issuance of these bonds is subject to an annual state volume limitation. Subsequent to the enactment of the 1986 Act the Texas legislature amended the program to increase the maximum loan amount from $20,000 to $40,000.

HOUSE BILL

There is no provision in H.R. 11, however, H.R. 5637 conforms the maximum allowable loan amount under Federal tax rules to the State-law maximum of $40,000.

Effective date.—The provision applies to bonds issued after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provisions of H.R. 5637.

2. St. Paul Port Authority bonds

PRESENT LAW

Aggregation rules

In certain cases, the Treasury Department treats multiple issues of tax-exempt bonds that are to be paid from substantially the same source of funds and are issued pursuant to a common plan of financing as a single issue in applying the Code's tax-exempt bond restrictions if the bonds are issued within a relatively short period of time. Simultaneous issuance can therefor result in loss of tax-exemption in the case of qualified small-issue bonds with a common principal user because the aggregation could violate the present-law rule that limits to $10 million the maximum amount of certain capital expenditures within a six year period by a principal user of the bonds. Present law also precludes the combination into a single bond issue of certain bonds with multiple Code authorizations (e.g., the exempt facility, qualified 501(c)(3), and small-issue bonds).

Arbitrage rules

Subject to certain exceptions a State or local bond is taxable as an arbitrage bond if more than a minor portion of proceeds of the issue of which it is a part is reasonably expected to be used directly or indirectly to acquire higher-yielding investments or, replace funds which were used directly or indirectly to acquire higher yielding investments. Thus, the issuer cannot charge the ultimate borrowers who use private activity bond proceeds more than a set amount, generally one-eighth of one percent over the yield on issue plus certain costs (the "purpose arbitrage restrictions").

HOUSE BILL

No provision in H.R. 11, (However, H.R. 5659 contains a provision relating to St. Paul Port Authority bonds.). Under that provision, notwithstanding the rules on simultaneous issuances of bonds described above, the St. Paul Port Authority, created by enabling legislation enacted on August 17, 1932, is allowed simultaneously to reduce the interest rate on 876 bond issues (technically a "refunding") without loss of tax-exemption. The 876 bond issues were issued beginning on September 4, 1980, and ending on May 29, 1991 and were issued pursuant to a common bond security fund program that was created pursuant to Basic Resolution No. 876 adopted on February 14, 1974.

In addition, an exception from the Code's purpose arbitrage restrictions is created (i.e., the bonds will not be treated as arbitrage bonds) if the Port Authority fails to reduce correspondingly the interest rate charged to ultimate obligors of the refunded bonds. The committee understands that excess arbitrage earnings will be used to offset losses attributable to certain of the refunded bond issues that are in default.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provision of H.R. 5659.

3. Modification of restriction on rules governing investment in certain tax-exempt bonds by financial institutions

PRESENT LAW

Banks and other financial institutions generally are denied a deduction for the portion of their interest expense (e.g., interest paid to depositors) that is attributable to investments in tax-exempt bonds acquired after August 7, 1986. This disallowance is computed using a pro rata formula that compares the institution's average adjusted basis in tax-exempt bonds acquired after that date with the average adjusted basis of all assets of the institution.

The Tax Reform Act of 1986 included transitional exceptions to this provision for certain bond issues (i.e., sec. 902 of the Act), which were subsequently modified in 1988 by technical corrections to that act.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that bonds issued before introduction of the 1988 technical corrections which were originally sold as qualifying for the transitional exception will qualify notwithstanding the 1988 technical correction, if the issuers elect.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with a technical clarification that the provision applies to bonds issued in reliance on section 902(f)(3)(L) of the Tax Reform Act.

F. OTHER INCOME TAX PROVISIONS

1. Increase maximum number of shareholders of an S corporation

PRESENT LAW

A small business corporation may elect to be treated as an S corporation. Income and losses of an S corporation are generally passed through to its shareholders and taxed at the shareholder level rather than at the corporate level. A small business corporation may not have more than 35 shareholders. For this purpose, a husband and wife (and their estates) are counted as one shareholder.

HOUSE BILL

No provision in H.R. 11. (However, section 102(a) of H.R. 2735 as passed the House provides that the maximum number of shareholders permitted for a corporation to qualify for, and maintain, S corporation status is increased from 35 to 50.)

Effective date.—The provision in H.R. 2735 is effective on the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement contains the provision in H.R. 2735, increasing the maximum number of shareholders to 50.

2. S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers

PRESENT LAW

Under present law, any lot or parcel which is part of a tract of real property held by a noncorporate taxpayer is not deemed to be held primarily for sale to customers in the ordinary course of a trade or business solely because of the taxpayer having subdivided the tract for purposes of sale, provided certain requirements are met (sec. 1237). Individuals and partnerships are eligible for capital gain treatment under these rules, but S corporations are not.

Only noncorporate taxpayers may be shareholders of an S corporation. An S corporation computes its taxable income generally in the same manner as an individual (sec. 1363(b)).

HOUSE BILL

No provision in H.R. 11. (However, section 102(b) of H.R. 2735 as passed by the House provides that S corporations are eligible for capital gain treatment under the rules of section 1237 when subdividing real property for sale.)

Effective date.—Sales after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provision of H.R. 2735.

3. Treatment of livestock sold on account of weather-related conditions

PRESENT LAW

A cash method taxpayer whose principal trade or business is farming and who is forced to sell livestock due to drought conditions may elect to include income from the sale of the livestock in the taxable year following the taxable year of the sale. This elective deferral of income is available only if the taxpayer establishes that the sale would not have occurred but for drought conditions which resulted in the area being designated as eligible for Federal assistance.

In addition, the sale of livestock (other than poultry) that are held for draft, breeding, or dairy purposes in excess of the number of livestock that would have been sold but for drought conditions is treated as an involuntary conversion. Consequently, gain from the sale of such livestock may be deferred by reinvesting the proceeds of the sale in similar property within a two-year period.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 2735 provides that the special rules applicable to livestock sold on account of drought conditions are to apply in the case of any other weather-related condition, such as hurricane, tornado, or flooding.)

Effective date.—The provision applies to sales and exchanges occurring after December 31, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provision of H.R. 2735.

4. Depreciation of tuxedos held for rental

PRESENT LAW

Tuxedos held for rental are assigned a class life of 9 years under the accelerated cost recovery system as modified by the Tax Reform Act of 1986. Consequently, the depreciation deductions for rental tuxedos generally are determined by using a 5-year recovery period, the applicable convention, and the 200-percent declining balance method switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

HOUSE BILL

No provision in H.R. 11. However, H.R. 2735 provides that tuxedos held for rental are assigned a class life of 2 years. Consequently, the depreciation deductions for rental tuxedos are to be determined by using a 3-year recovery period, the applicable convention, and the 200-percent declining balance method switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized. Alternatively, a taxpayer may elect under the alternative depreciation system to determine the depreciation deductions for rental tuxedos by using a 2-year recovery period, the applicable convention, and the straight-line method.

Effective date.—The provision applies to rental tuxedos placed in service after December 31, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provision of H.R. 2735.

5. Treatment of certain compensation payable by certain personal service corporations using an accrual method of accounting

PRESENT LAW

Under the Tax Reform Act of 1986 (the "1986 Act"), a personal service corporation that uses an accrual method of accounting generally is not allowed a deduction for an amount payable to an employee-owner of the corporation prior to the time that the amount is includible in the gross income of the employee-owner. For this purpose, a personal service corporation is any corporation the principal activity of which is the performance of personal services if the services are substantially performed by employee-owners and more than 10 percent of the value of the outstanding stock of the corporation is owned by employee-owners. An employee-owner is any employee of the corporation who owns any of the outstanding stock of the corporation (generally determined by applying the attribution rules of sec. 318).

HOUSE BILL

No provision in H.R. 11. (However, H.R. 2735 as passed by the House, contains a provision identical to the conference agreement below.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, a designated personal service corporation is allowed a deduction for qualified compensation payable to an employee-owner of the corporation (other than a key employee as defined by sec. 416(i) of the Code) at the time that the compensation would otherwise have been deductible in the absence of the 1986 Act provision that postpones the deduction until the time that the compensation is includible in the gross income of the employee-owner.

A "designated personal service corporation" means any personal service corporation (within the meaning of sec. 441(i)(2)) using an accrual method of accounting for its last taxable year ending prior to the date of enactment of this provision. "Qualified compensation" means compensation payable to an employee for the payroll period ending at the close of the corporation's taxable year if: (1) such payroll period is semi-monthly or shorter; (2) such employee is regularly paid on the basis of semi-monthly or shorter payroll periods; and (3) such compensation is solely for hours of service performed or is such payroll period's ratable share of the employee's annual basic rate of compensation. Thus, qualified compensation does not include vacation pay or bonuses.

Effective date.—The provision is effective for amounts incurred in taxable years beginning after December 31, 1992.

6. Allow certain investment expenses to be deducted for AMT purposes

PRESENT LAW

Individuals are subject to an alternative minimum tax imposed at a 24-percent rate on the taxpayer's alternative minimum taxable income. In computing alternative minimum taxable income, no deduction is allowed for miscellaneous itemized deductions. Investment expenses deductible under section 212 are generally treated as a miscellaneous itemized deduction and thus are not deductible in computing the minimum tax. Under the regular tax, miscellaneous itemized deductions (including investment expenses) are deductible only to the extent they exceed two percent of the individual's adjusted gross income.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 2735, as passed by the House, contains a provision identical to the provision of the Senate amendment.)

SENATE AMENDMENT

The Senate amendment provides that a certain amount of the distributive share of section 212 expenses of a partner in a partnership is deductible by an individual for AMT purposes. The aggregate amount deductible for AMT purposes is limited to the lesser of (1) the aggregate of the individual's adjusted investment income from partnerships or (2) the excess of the aggregate of the taxpayer's distributive shares of section 212 expenses over two percent of the taxpayer's adjusted gross income. For purposes of the provision, "adjusted investment income" means investment income (as defined by sec. 163(d)(4)(B) so as not to be reduced by sec. 212 expenses) reduced by investment interest (as defined by section 163(d)(3) so as not to be reduced by the limitation applicable to investment interest).

For example, assume that for 1993, the only items of taxable income of an individual are from an interest in a partnership. For the year, the partnership reports $30,000 of investment income, $10,000 of section 212 expenses, and $25,000 of investment interest to the individual. Under the bill, the individual would be allowed to deduct $5,000 of section 212 expenses for AMT purposes ($30,000 investment income less $25,000 investment interest).

As a further example, assume that for 1993, the individual described in the example above also receives a salary of $270,000. Under the bill, the individual would be allowed to deduct $4,000 of section 212 expenses for AMT purposes ($10,000 less 2 percent of adjusted gross income of $300,000 ($6,000)).

Effective date.—The provision is effective for taxable years beginning after 1992.

CONFERENCE AGREEMENT

The conference agreement follows the provision in H.R. 2735 and the Senate amendment.

7. Clarification of the eligibility of relocated buildings for the rehabilitation tax credit

PRESENT AND PRIOR LAW

An income tax credit is provided for certain expenditures incurred in the rehabilitation of certified historic structures and certain nonresidential buildings placed in service before 1936. The amount of the credit is determined by multiplying the applicable rehabilitation percentage by the basis of the property that is attributable to qualified rehabilitation expenditures. The applicable rehabilitation percentage is 20 percent for certified historic structures and 10 percent for qualified rehabilitated nonresidential buildings (other than certified historic structures) that were originally placed in service before 1936.

The requirement that the building be placed in service before 1936 in order to be eligible for the credit was added by the Tax Reform Act of 1986 (the 1986 Act). Prior to the 1986 Act, the rehabilitation tax credit was a three-tier credit. The credit was 15 percent for nonresidential buildings at least 30 years old, 20 percent for nonresidential buildings at least 40 years old, and 25 percent for certified historic structures. The three-tier structure was added by the Economic Recovery Tax Act of 1981.

Treasury regulations provide that certain relocated buildings are not eligible for the rehabilitation credit (Treas. Reg. sec. 1.48-12(b)(5)). This rule was contained in proposed regulations published on June 28, 1985, interpreting the statute as amended by the Economic Recovery Tax Act of 1981. These regulations were finalized on October 7, 1988. In *Nalle*, 99 TC No. 9 (Aug. 5, 1992), the Tax Court ruled that the regulations were valid and could be applied retroactively to the effective date of the Economic Recovery Tax Act of 1981.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5637 as passed by the House, contains a provision identical to the provision described in the conference agreement below.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides that the rule of Treasury Regulation section 1.48-12(b)(5) that certain relocated buildings are not eligible for the rehabilitation credit is to be applied prospectively from the date that the regulation was published as a proposed regulation, i.e., June 28, 1985. Thus, 30-year and 40-year buildings (within the meaning of section 48(g) as enacted in the Economic Recovery Tax Act of 1981) will not be treated as being ineligible for the credit by reason of being relocated if the rehabilitation of the building at the relocated site began before June 28, 1985.

8. *Treatment of certain small property and casualty insurance companies under the alternative minimum tax*

PRESENT LAW

Present law provides that certain small property and casualty insurance companies may elect to be taxed only on taxable investment income for regular tax purposes (sec. 831(b)). Eligible property and casualty insurance companies are those whose net written premiums (or if greater, direct written premiums) for the taxable year exceed $350,000 but do not exceed $1,200,000.

Under present law, all corporations including insurance companies are subject to an alternative minimum tax. For taxable years beginning before 1990, alternative minimum taxable income is increased by one-half of the amount by which the corporation's pretax book income exceeds the corporation's alternative minimum taxable income (determined without regard to this adjustment and without regard to net operating losses). For taxable years beginning after 1989, alternative minimum taxable income is increased by 75 percent of the excess of adjusted current earnings over alternative minimum taxable income (determined without regard to this adjustment and without regard to net operating losses).

HOUSE BILL

No provision in H.R. 11. However, H.R.5642 provides that a small property and casualty insurance company that elects for regular tax purposes to be taxed only on taxable investment income determines its adjusted current earnings under the alternative minimum tax without regard to any amount not taken into account in determining its gross investment income under section 834(b). Thus, adjusted current earnings of an electing company is determined without regard to underwriting income (or underwriting expense, as provided in sec. 56(g)(4)(B)(i)(II)).

H.R. 5642 also provides that only net investment income as reported in the company's applicable financial statement is taken into account in determining adjusted net book income under the prior law provisions of the alternative minimum tax, in the case of a small property and casualty insurance company that elects for regular tax purposes to be taxed only on taxable investment income. Thus, adjusted net book income of an electing company is determined without regard to underwriting income and expense.

Effective date.—The adjusted current earnings provision is effective for taxable years beginning after December 31, 1989. The book income provision is effective for taxable years beginning after December 31, 1986 and before January 1, 1990.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the above provisions of H.R. 5642.

9. *Treatment of associations that result from the merger of certain farm credit associations*

PRESENT LAW

The Agricultural Credit Act of 1987 (Pub. L. No. 100-233) authorized the merger of certain production credit associations and certain Federal land bank associations. A production credit association is an association created under Federal law that generally provides short-term and intermediate-term loans to farmers, ranchers, and related businesses primarily to finance operating expenses, including the purchase of livestock, farm equipment and other similar items. A Federal land bank association is an association created under Federal law that generally provides long-term loans to farmers, ranchers, and farm-related businesses primarily to finance the purchase of land.

Under the Farm Credit Act of 1971, a Federal land bank association is exempt from Federal income tax. On the other hand, a production credit association is subject to Federal income tax.

HOUSE BILL

No provision. However, H.R. 5642 provides that any association that results from a merger under section 7.8 of the Farm Credit Act of 1971 or section 411 of the Agricultural Credit Act of 1987 of one or more Federal land bank associations and one or more production credit associations (a "merged association") generally is treated for Federal income tax purposes in the same manner as a production credit association. Consequently, the income of a merged association generally is subject to Federal income tax.

In determining the Federal income tax liability of a merged association (or any successor to such merged association), however, there is not to be taken into account any item of income, gain, loss, or deduction that is properly allocable to loans that are authorized to be made by Federal land bank associations and that have an initial term of at least 10 years.

Effective date.—The provision applies to taxable years ending after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provision of H.R. 5642, with the modification that a merged association for purposes of the provision is also to include any association that results from a merger under section 410(e) of the Agricultural Credit Act of 1987 of one or more Federal land bank associations and one or more production credit associations. In addition, the conference agreement provides that for purposes of the provision any reference to the Farm Credit Act of 1971 is to be construed as a reference to such Act as in effect on December 31, 1992.

10. *Tax treatment of debt-for-debt exchanges*

PRESENT LAW

Gross income generally includes cancellation of indebtedness income (COD). Taxpayers in title 11 cases and insolvent taxpayers, however, generally exclude COD from gross income but reduce tax attributes by the amount of COD created on the discharge of debt. The amount of COD excluded from income of an insolvent debtor not in a title 11 case cannot exceed the amount by which the debtor is insolvent. For all taxpayers, the amount of COD generally is the difference between the adjusted issue price of the debt being cancelled and the amount used to satisfy the debt.

For purposes of determining the amount of COD, if any, of a debtor that issues a new debt instrument in satisfaction of an old debt (or modifies an old debt instrument such that the modification is treated as an exchange), the debtor is treated as having satisfied the old debt with an amount of money equal to the issue price of the new debt. Thus, if the issue price of the new debt is less than the adjusted issue price of the old debt, COD generally is created. For this purpose, the issue price of the new debt is determined under the general rules applicable to debt instruments issued for property (i.e., secs. 1273 and 1274 of the Code relating to the original issue discount rules). Thus, if either the new or old obligation in a debt-for-debt exchange is publicly traded, the issue price of the new debt will be the fair market value of the publicly-traded obligation. If neither obligation is publicly-traded, the issue price of the new debt is its stated principal amount, unless the new obligation does not have adequate stated interest. In such case, the issue price generally is determined by using the applicable Federal rate to discount all payments due under the new obligation.

The rules that provided that the amount of COD created in a debt-for-debt exchange is to be determined pursuant to the rules applicable to debt instruments issued for property were added by a provision of the Omnibus Budget Reconciliation Act of 1990 (the 1990 Act). Prior to the 1990 Act, in a debt-for-debt exchange in a reorganization, the issue price of the new debt instrument was not less than the adjusted issue price of the old debt instrument. It was unclear whether and how this reorganization rule applied for purposes of determining COD.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5655 as passed by the House contains a provision identical to that described in the conference agreement below.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, if (1) any debt instrument (the new debt instrument) is issued pursuant to a plan of reorganization for another debt instrument (the old debt instrument) and (2) the amount which (but for this provision) would be the issue price of the new debt instrument is less than the adjusted issue price of the old debt instrument, then the issue price of the new debt instrument shall be treated as equal to the lesser of (1) the adjusted issue price of the old debt instrument or (2) the stated principal amount of the new debt instrument. This rule will apply for purposes of determining the amount (if any) of COD created with respect to the debt-for-debt exchange.

For this purpose, the term "debt instrument" includes an investment unit. In addition, the adjusted issue price of the old debt instrument is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to sections 1272 (a)(7) or (b)(4) or corresponding provisions of prior law). For purposes of section 163(e), the adjusted issue price of the old debt instrument is its issue price, increased by any original issue discount previously allowed as a deduction.

Example 1.—A corporation issued for $1,000 a bond that provided for annual coupon payments based on a market rate of interest. The bond is publicly traded. Some time later, when the old bond is worth $600, the corporation exchanges the old bond for a new bond that has a stated principal amount of $750. The exchange qualifies as a reorganization. Under the provision, the new bond will have an issue price of $750 (its stated principal amount) and the corporation will have COD of $250 ($1000 adjusted issue price of the old bond less $750 issue price of the new bond).

Example 2.—Assume that the debt-for-debt exchange described in Example 1 was restructured so as to not qualify as a reorganization and that the stated redemption price at maturity of the new bond was $750. In that case, the new bond will have an issue price of $600 (its fair market value) and original issue discount of $150 ($750 stated redemption price at maturity less $600 issue price). The corporation will have COD of $400 ($1000 adjusted issue price of the old bond less $600 issue price of the new bond).

Effective date.—The provision applies to debt instruments issued after the date of enactment, in satisfaction of any indebtedness.

11. Treatment of deposits under certain perpetual insurance policies

PRESENT LAW

Present law provides that in the case of a mutual fire insurance company exclusively issuing perpetual policies, the amount of single deposit premiums paid to such company are not included in gross income (sec. 832(b)(1)(C)). In addition, no deduction is allowed for policyholder dividends and similar distributions paid or declared by a mutual fire insurance company that exclusively issues perpetual policies (sec. 832(c)(11)).

Present law also provides rules for imputing interest income in the case of certain loans with below-market interest rates (sec. 7872). The Internal Revenue Service issued a technical advice memorandum in March of 1988 (TAM 8831004) which provides that the imputed interest provisions of section 7872 of the Code do not apply to payments made under a perpetual insurance policy. This technical advice memorandum was revoked by the Internal Revenue Service in December of 1989 (TAM 8952001).

HOUSE BILL

No provision in H.R. 11. However, H.R. 5657 provides that the provisions of present law which treat certain arrangements as below-market rate loans are not to apply to any deposit made by a policyholder under a qualified perpetual policy.[1] For this purpose, a qualified perpetual policy is any insurance policy that (1) provides insurance for property damage or casualty with respect to qualified residential property (or the contents thereof); and (2) is funded only by the policyholder placing with the insurance company a cash deposit (and does not provide for any periodic premiums) and such deposit is fully refundable (except for a penalty for early cancellation) upon cancellation of the policy. For this purpose, qualified residential property means any personal residence and any building used for residential purposes with 10 or fewer dwelling units. Damage or casualty with respect to the contents of qualified residential property is intended to mean such damage or casualty wherever it occurs (whether or not in the residential property), if such coverage is customarily provided under perpetual policies with respect to such property.

Effective date.—The provision applies to taxable years ending after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provision of H.R. 5657.

12. Deduction for small property and casualty insurance companies

PRESENT LAW

Treatment of small life insurance companies

A life insurance company with assets as of the end of any taxable year of less than $500 million (determined on a controlled group basis) is allowed a special deduction in determining taxable income for such year. The deduction equals 60 percent of the first $3 million of tentative taxable income, reduced by 15 percent of the tentative taxable income in excess of $3 million (the deduction is completely phased out when tentative taxable income equals $15 million). Tentative taxable income is defined as the taxable income of the company determined without regard to the small life insurance company deduction and any items attributable to noninsurance businesses.

Treatment of small property and casualty insurance companies

An insurance company other than a life insurance company (a "property and casualty insurance company") is exempt from Federal income tax for any taxable year that the net written premiums (or, if greater, the direct written premiums) of the company do not exceed $350,000. In addition, a property and casualty insurance company may elect to be taxed solely on taxable investment income for any taxable year that the net written premiums (or, if greater, the direct written premiums) of the company exceed $350,000 but do not exceed $1.2 million. For this purpose, the net written premiums or direct written premiums of a property and casualty insurance company that is a member of a controlled group of corporations include the net written premiums or direct written premiums of each insurance company that is a member of the controlled group.

HOUSE BILL

No provision in H.R. 11. However, H.R. 5674 provides that a property and casualty insurance company with assets as of the end of any taxable year of less than $500 million (determined on a controlled group basis) is allowed a special deduction in determining taxable income for such year. The deduction equals the applicable deduction percentage of the first $3 million of tentative taxable income, reduced by the applicable phase-out percentage of the tentative taxable income in excess of $3 million (the deduction is completely phased out when tentative taxable income equals $15 million).

The applicable deduction percentage equals: (1) 0 percent for taxable years beginning in 1992 and 1993; (2) 3 percent for taxable years beginning in 1994; (3) 7 percent for taxable years beginning in 1995; (4) 9 percent for taxable years beginning in 1996; and (5) 15 percent for taxable years beginning after 1996.

The applicable phase-out percentage equals: (1) 0 percent for taxable years beginning in 1992 and 1993; (2) 0.75 percent for taxable years beginning in 1994; (3) 1.75 percent for taxable years beginning in 1995; (4) 2.25 percent for taxable years beginning in 1996; and (5) 3.75 percent for taxable years beginning after 1996.

Tentative taxable income is defined as the taxable income of the company determined without regard to the special deduction and any items attributable to noninsurance businesses.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provision of H.R. 5674.

13. Certain distributions by Alaska Native Corporations

PRESENT LAW

Shareholders are generally taxed on dividends received from a corporation during the taxable year. In general, a corporate distribution to shareholders is treated as a dividend to the extent of the corporation's current or accumulated earnings and profits. A shareholder includes in gross income the amount of a dividend received and the corporation's earnings and profits are reduced by the amount of such distribution.

Distributions that are not out of a corporation's earnings and profits reduce a shareholder's basis in the distributing corporation's stock but are not included in gross income of the shareholder, to the extent of such basis. Distributions in excess of earnings and profits and of basis are generally treated by a shareholder as capital gain.

HOUSE BILL

No provision in H.R. 11. However, H.R. 5658 as passed by the House treats an amount of distributions by an Alaska Native Corporation (ANC) to its Native shareholders or their descendants (as defined in section 3 of ANSCA) as distributions that are not out of earnings and profits, in cases where such distributions would otherwise be treated as dividends. It is the intention of the committee that the amount of distributions granted this treatment be limited to an amount equal to the lesser of (1) the amount of cash received by the ANC (or its wholly owned subsidiary) on or before July 9, 1992 from the sale by the ANC (or by such subsidiary) of any natural deposits or timber received by the ANC pursuant to ANCSA,[1] or (2) the aggregate bases (as determined pursuant to section 21(c) of ANSCA) of such natural deposits or timber sold for cash received on or before July 9, 1992; in each case adjusted as described below.

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[1] The amount deposited under a perpetual insurance contract, however, is to be treated as a written premium for purposes of the small company provisions contained in sections 501(c)(15) and 831(b) of the Code.

[1] It is intended that cash received by the ANC or its wholly owned subsidiary from a sale of natural deposits or timber is within the scope of the provision only if such cash is received by the ANC or subsidiary on or before July 9, 1992 without any limita-

For purposes of these computations, basis and cash attributable to natural deposits or timber that were sold in a "special purpose sale" are excluded. Such a sale is one in which a loss was recognized and which was made under an agreement entered into either (1) after October 22, 1986 and on or before April 26, 1988, or (2) after April 26, 1988, if the loss incurred thereon was used in a contract referred to in section 5021(b) of the Technical and Miscellaneous Revenue Act of 1988. Also, any amount realized directly or indirectly for the use of losses or credits of the ANC (or a corporation all of whose stock is owned directly by such corporation) is excluded where such use would not have been allowable but for section 60(b)(5) of the Tax Reform Act of 1984 (as amended by section 1804(e)(4) of the Tax Reform Act of 1986 and repealed by section 5021 of the Technical and Miscellaneous Revenue Act of 1988).

The distribution of any amount that is treated under this provision as not out of earnings and profits shall reduce the basis of the shareholder's stock by such amount.

Effective date.—The provision applies to any distributions after the date of enactment of ANSCA. However, the provision does not include any special rules that would reopen any closed tax year or extend the statute of limitations for any taxpayer to permit claims for credit or refund. Nevertheless, all distributions made by an ANC after the date of enactment of ANCSA (whether in a closed year or an open year and however reported for tax purposes) and which, but for this provision, would have been taxable as dividends for Federal income tax purposes, are counted toward the maximum amount of distributions treated under this provision as not out of earnings and profits.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the provisions of H.R. 5658 with certain technical corrections and clarifications.

14. Alaska Native Corporations standing with respect to sale of losses

PRESENT LAW

Alaska Native Corporations established under the Alaska Native Claims Settlement Act (43 U.S.C. secs. 1601 et seq) and their consolidated return groups (Native Corporations) were permitted, from 1984 to 1988, to file consolidated returns with other corporations under rules more liberal than those generally applicable to other taxpayers. In particular, the provisions of the Tax Reform Act of 1984, which narrowed the definition of affiliated group, were explicitly made inapplicable to Native Corporations. In addition, the Tax Reform Act of 1986 clarified that no provision or principle of law may be applied to deny the benefit or use of losses or credits of a Native Corporation by its consolidated group. These provisions were repealed by the Technical and Miscellaneous Revenue Act of 1988 (TAMRA).

While these provisions were in effect, they permitted Native Corporations to sell their net operating losses and other tax benefits (NOLs) to unrelated corporations and their consolidated return groups ("Buyers"). Typically, the Buyer assigned (or otherwise made available) income of the Buyer to a "profit subsidiary" that was a member of the Native Corporation's consolidated return group under the applicable liberal affiliation rules. In some cases, a profitable operating corporation might itself become the "profit subsidiary" member of the Native Corporation group in order to utilize the Native Corporation's NOLs. The Buyer would compensate the Native Corporation for the use of such NOLs under the terms of a consolidated return tax sharing agreement and in accordance with the parties' agreements regarding payments for such losses.

The Internal Revenue Service (IRS) is now examining these loss sale transactions and has in some cases contested the amount of NOLs claimed as offsetting income of the profit subsidiary in the Native Corporation's return. The IRS has taken the position that any income assigned or otherwise transferred in excess of the amount of allowable NOLs sold "springs back" to the Buyer rather than being excess income of the Native Corporation. As a result, when the IRS asserts that the NOLs of a Native Corporation are not sufficient to offset the income of a profit subsidiary, the Native Corporation would not have any regular income tax liability and therefore may lack standing to litigate the validity of its NOLs.

Under provisions adopted in TAMRA, Native Corporations have certain specified procedural rights if the IRS proposes an adjustment to the tax liability of a Buyer based on the disallowance of Native Corporation NOLs. Thus, the IRS must notify a Native Corporation of the proposed adjustment to the tax liability of the Buyer. The Native Corporation also has certain specified rights to participate in administrative proceedings, and to file an amicus brief in any proceeding in a Federal court or in the United States Tax Court.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment permits an election that would provide Native Corporations standing to litigate the validity of their NOLs under certain circumstances. The provision is procedural in nature and is not intended to change the amount of tax, addition to tax, interest (except for the additional interest generated by the election process), penalty or similar amount that may otherwise be due with respect to excess income with respect to an NOL sale, including, but not limited to, any alternative minimum tax.

As a condition of the election, the underpayment rate under section 6621 for tax determined under the elective procedure is increased by one half of one percentage point.

CONFERENCE AGREEMENT

The conference agreement follows the Senate bill with several technical clarifications. The conference agreement provides as follows:

In general

The Senate amendment permits an irrevocable election that would provide Native Corporations standing to litigate the validity of their NOLs under certain circumstances. The provision is procedural in nature and is not intended to change the amount of tax, addition to tax, interest (except for the additional interest generated by the election process), penalty or similar amount that may otherwise be due with respect to excess income with respect to an NOL sale, including, but not limited to, any alternative minimum tax.

As a condition of the election, the underpayment rates under section 6621(a)(2)(B) and under 6621(c) for tax determined under the elective procedure are increased by one half of one percentage point.

Election

A Native Corporation and one or more of its Buyers may irrevocably elect to have the income of the profit subsidiary included on the consolidated tax return of the Native Corporation solely for purposes of the issuance of a statutory notice of deficiency. The election must be made jointly by the Native Corporation and each electing Buyer. Thus, the Native Corporation must obtain the written consent of a Buyer with respect to a particular NOL sale in order to receive standing with respect to such sale.

The election must be made within 120 days after the date of enactment of the provision. The election must be filed jointly by the Native Corporation and by the Buyer with the Anchorage IRS district director and must: (1) identify the parties with particularity; (2) state the amount of income assigned under the original agreement of the Native Corporation and the Buyer (i.e. the amount that is subject to the election); (3) if the Native Corporation dealt with multiple Buyers or profit subsidiaries in the taxable year, describe the order in which such Native Corporation transactions occurred (it is intended that the IRS, the Native Corporation, and each Buyer will respect the original agreements of the Native Corporation and Buyers, entered into at the time of the loss sale transactions, regarding the ordering of a Native Corporation's losses among several Buyer corporations in a single year); and (4) state the agreement of the Buyer to extend its statute of limitations for assessment (solely with respect to any tax attributable to the subject NOL sale) for at least 180 days after the date the decision in the Native Corporation proceeding becomes final. The Native Corporation must also agree to extend its statute of limitations for assessment, (solely with respect to any deficiency under the election attributable to the subject NOL sale), to at least 120 days after date the election is made. In addition, the Native Corporation and the electing Buyer agree that the IRS is authorized to make any refund of any overpayment of tax that is determined to be due jointly to the Native Corporation and the electing Buyer.

The election is available separately for each Buyer from each Native Corporation. Any Buyer that so elects must, however, elect for all Native Corporation transactions with the particular Native Corporation for all open taxable years. A Buyer is entitled to make an election under this provision, regardless of whether it is a member of a consolidated group.

General effect of the election

If the election is made, the Native Corporation is considered the taxpayer solely for purposes of issuing a deficiency notice or filing a claim for refund, and thus has standing to pursue the matter in Tax Court or to file a claim for refund and pursue that claim.

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tion or restriction. Amounts in escrow, for example, are not considered cash received on or before July 9, 1992 within the meaning of the provision.

It is not intended that amounts received by an ANC or its wholly owned subsidiary will be treated as cash received on or before July 9, 1992 if such amounts are directly or indirectly attributable to a sale by any entity in which the ANC or such subsidiary owns a proportionate interest but which is not a wholly owned subsidiary of a single ANC.

It is not intended that sales of any land or property, other than natural deposits or timber received by the ANC pursuant to ANSCA, be within the scope of the provision.

Thus, solely for this purpose, income assigned, transferred, or otherwise made available by the Buyer through the use of a profit subsidiary (including by an operating company itself becoming a profit subsidiary) shall be included in the taxable income of the Native Corporation.

It is intended that all Federal income tax issues concerning the amount and validity of tax benefits of a Native Corporation that were sold to an electing Buyer under a transaction permitted by the special provisions in effect from 1984 to 1988 will be resolved by the Native Corporation and the IRS under procedural rules applicable to taxpayers generally.

For example, the IRS will issue a deficiency notice to the Native Corporation, thereby giving the Native Corporation standing to resolve the issues by settlement or litigation and the ability to pay any deficiency and file a claim for refund and litigate in its name in the appropriate judicial forum. All IRS notices regarding Native Corporation transactions for which an election has been made will be issued only to the Native Corporation, which will provide copies of such notices to all Buyers involved.

The common parent of the consolidated group of an electing Native Corporation will similarly be treated under the consolidated return regulations as the sole agent of the profit subsidiary. However, for purposes of collection, the Buyer and the profit subsidiary are responsible for payment of any tax.

Nothing in the provision compels the IRS to litigate with respect to the NOLs sold to an electing Buyer. The provision merely allows electing corporations to proceed in the name of the Native Corporation if there is a tax controversy with respect to the taxability of the income assigned by the electing Buyers.

Tax liability

Any tax with respect to an NOL sale will be determined at the rate applicable to the Buyer for the taxable year of the Buyer for which the NOL sale occurred (as if the income assigned from the NOL sale had been reported by the Buyer), and the Buyer and profit subsidiary shall be responsible for the payment of such tax, together with any interest, addition to tax, penalty, or other amount attributable to the income of the profit subsidiary.

Solely for purposes of issuing a deficiency notice to a Native Corporation in a case where an election has been made, the tax may be computed by applying the maximum corporate rate under section 11 of the Code.

Any payment made to the IRS by a Native Corporation on behalf of a Buyer shall be deemed to be a payment of tax by the Buyer for the taxable year in question. However, the Native Corporation shall be treated as the taxpayer of such amounts (and of any amounts paid by the Buyer) for purposes of filing a claim for refund and a refund suit.

A refund of any overpayment that may be made with respect to a Native Corporation transaction for which an election has been made may be made jointly to the Native Corporation and the electing Buyer. The IRS shall have no further payment obligation for such overpayment. In addition, any failure by the IRS to make such refund jointly shall not result in any further obligation of the IRS, except for any administrative interest that may accrue due to delay of a replacement check. Nothing in this provision shall prohibit the IRS from using its authority under section 6402 of the Code to offset against other liabilities of the Native Corporation or the electing Buyer the amount of any overpayment that arises as a result of this provision.

Procedural rights

A Buyer that elects under the provision shall have participatory rights in any administrative consideration of the tax consequences of an NOL sale (including the right to submit a written statement to the IRS regarding the proposed adjustment and to meet with the IRS at the same time as the Native Corporation), and the right to file an amicus brief in any judicial proceeding commenced by the Native Corporation with respect to such tax consequences. Any meetings with the IRS will be subject to the reasonable discretion of the IRS as to time, place, and manner and will be subject to the general standards of the IRS that are applicable to the time and place for interviewing a taxpayer. The foregoing administrative right will not apply if the IRS determines that an extension of the statute of limitations is necessary to permit the exercise of such rights and the Buyer and the Native Corporation do not agree to such extension. The same procedural rights are preserved for a Native Corporation for those NOL sales for which no election is filed. Any failure by the IRS to grant the rights discussed above will not affect the validity of the determination by the IRS of any adjustment of tax liability.

Effect of determinations

Any final determination related to the Native Corporation's NOL sales, whether by administrative settlement or final judicial decision, including any amount of tax, addition to tax, interest, penalty, or similar amount, will be binding upon the Native Corporation, the Buyer, and the IRS. However, such determination shall not be binding on the IRS with respect to any non-electing Buyer.

The IRS may continue to deal with a non-electing Buyer as it would with any other taxpayer, including administrative settlement or litigation of any contested amounts.

Underpayment rate

For any underpayment resulting from a case in which an election has been made under this provision, the interest rate applicable pursuant to section 6621 of the Code shall be increased by one half of one percentage point. Thus, the rate under section 6621(a)(2)(B) shall be the Federal Short-term rate plus 3.5 percentage points; and the rate under section 6621(c) shall be the Federal Short-term rate plus 5.5 percentage points.

The application of the additional interest rate under this provision by reason of an election will not operate to suspend in any way the application of the special interest rate under section 6621(c).

The tax deficiency amount to which the additional interest under the election is applicable shall be the excess of the amount of the final tax deficiency for the taxable year of an electing Buyer (including any taxable income attributable to the Native Corporation transaction, as determined by a final administrative or judicial determination) over the amount of the tax deficiency computed for the same taxable period which excludes the taxable income attributable the Native Corporation transaction.

Effective date

The provision is effective for Native Corporations whose statute of limitations for the period of assessment related to sales under section 1804(e)(4) of the Tax Reform Act of 1986 has not expired. Those Native Corporations for which the statute of limitations expires within 120 days after the enactment of the provision will be given the right to extend such statute by agreement with the IRS to a date not less than 120 days after the date of enactment of the provision, in order to permit the making of an election. The election is effective for all years of an electing Buyer for which the statute of limitations for assessment with respect to the Native Corporation transaction has not closed.

15. Treatment of certain residual-market insurance companies under the alternative minimum tax

PRESENT LAW

Many States have established not-for-profit associations (commonly called residual-market insurance associations) to provide automotive or other types of property or casualty insurance to persons who otherwise could not obtain or afford such insurance. A residual-market insurance association that is subject to Federal income tax may be subject to the alternative minimum tax. The alternative minimum tax net operating loss deduction may offset only 90 percent of alternative minimum taxable income (determined without regard to the alternative tax net operating loss deduction).

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, any insurance company that is created by a State or an instrumentality thereof and that is operated on a not-for-profit basis for the primary purpose of providing coverage to persons for high-risk needs where coverage is not otherwise available or affordable may use its alternative tax net operating loss deduction to offset 100 percent (rather than 90 percent) of alternative minimum taxable income.

Effective date.—The provision is effective for taxable years ending after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

16. Treatment of certain gains and losses of farmer cooperatives

PRESENT LAW

In general

A cooperative association is a corporation operating on a cooperative basis and allocating amounts to patrons on the basis of the business done with or for such patrons (sec. 1381). Unlike other corporations, a cooperative association is allowed to exclude from its taxable income any patronage dividends paid to its members or patrons or amounts paid in redemption of a nonqualified written notice of allocation (sec. 1382). Additionally, cooperative associations may reduce their gross income by the amount of qualified per-unit retain certificates and the amounts paid for redemptions of nonqualified per-unit retain certificates. A per-unit retain certificate is, in general, a written notice which sets forth the "per-unit retain allocation", i.e., the allocation by the cooperative association to a patron with respect to goods marketed by the cooperative association for the patron.

Treatment of patronage dividends by members and patrons

Members of a cooperative association who receive patronage dividends must treat the dividends as income, reduction of basis, or some other treatment that is appropriately related to the type of transaction that gave rise to the dividend. For example, where the cooperative association markets a product for one of its members, patronage dividends attributable to the marketing are treated like additional proceeds from the sale of the product and are includible in the recipient's income. Where the cooperative association purchases equipment for its members, patronage dividends attributable to equipment purchases are treated as a reduction in the recipient's basis in the purchased equipment (provided the recipient still owns the equipment).

Definition of patronage dividend

In general, a patronage dividend means an amount paid to a patron (1) on the basis of the quantity or value of business done with or for such patron, (2) under an obligation of the cooperative association to pay such amount, which obligation existed before the association received the amount so paid, and (3) which is determined by reference to the net earnings of the organization from business done with or for its patrons. "Such term does not include any amount paid to a patron to the extent that such amount is out of earnings other than from business done with or for patrons, or such amount is out of earnings from business done with or for other patrons to whom no amounts are paid, or to whom smaller amounts are paid, with respect to substantially identical transactions." Sec. 1388(a)

Definition of income derived from sources other than patronage

The Treasury regulations provide that ". . . 'income derived from sources other than patronage' means incidental income derived from sources not directly related to the marketing, purchasing, or service activities of the cooperative association. For example, income derived from the lease of premises, from investment in securities, or from the sale or exchange of capital assets, constitutes income derived from sources other than patronage." Treas. Reg. sec. 1.1382-3(c)(2).

Notwithstanding the language of the Treasury regulations, both the Internal Revenue Service and the courts have held that other types of income may constitute income derived from patronage sources. See, for example, Rev. Rul. 69-576, 1969-2 C.B. 166 (patronage dividend from cooperative bank on loans used for patronage business considered patronage source income because it ". . . facilitates the accomplishment of the cooperative's marketing, purchasing, and service activities. . . ."); *Linnton Plywood v. United States*, 410 F. Supp. 1100 (D. Ore. 1976)(dividends received from a subsidiary corporation that made glue for the parent cooperative's plywood operation held to be patronage source income); *Astoria Plywood Corporation v. United States*, 79-1 U.S.T.C. par. 9197 (D. Ore. 1979)(payments for cancellation of a lease on a building used by cooperative for patronage-sourced activities were patronage source income); *Land O'Lakes, Inc. v. United States*, 675 F. 2d 988 (8th Cir. 1982)(dividends from stock in bank held to be patronage source income where the acquisition of the bank's stock was necessary to receive financing for patronage activities); *St. Louis Bank for Cooperatives v. United States*, 624 F. 2d 1041 (Ct. Cl. 1980)(interest earned on short-term investment of temporary excess cash of a cooperative bank held to be patronage source income).

The Internal Revenue Service has ruled that any gain treated as ordinary income under the depreciation recapture rules of section 1245 is treated as patronage source income in the same portion that the depreciation deductions were taken. Rev. Rul. 74-84, 1974-1 C.B. 244. The ruling further held that any additional gain which is treated as capital gain is not patronage-sourced income.

HOUSE BILL

No provision in H.R. 11. (However, section 1 of H.R. 5650 is substantially the same as the Senate amendment as described below, except that (1) H.R. 5650 applies to any cooperative association (to which part I of subchapter T applies), (2) an election under the House bill also would treat gains or losses on dispositions of "patronage assets" (as defined below) as ordinary income, (3) H.R. 5650 does not address the application of section 1231 to patronage gains and losses and nonpatronage gains and losses, and (4) H.R. 5650 is applicable to property dispositions occurring after the date of enactment.)

SENATE AMENDMENT

In general

Under the Senate amendment, a "farmer cooperative" may elect to include gain or loss on the sale or other disposition of certain assets in the determination of net earnings done with or for patrons. For this purpose, a "farmer cooperative" is any farmers', fruit growers', or like organization or association to which part I of subchapter T applies. This provision is not intended to imply that present law is, or should be, changed with respect to non-electing farmer cooperatives or other organizations.

Assets to which provision applies

The Senate amendment applies to any asset (including stock or any other ownership or financial interest in another entity), or portion thereof, which is used by the cooperative to facilitate the conduct of business done with, or for, its patrons (herein referred to as a "patronage asset"). Where an asset was not used exclusively to facilitate the conduct of business done with, or for, the farmer cooperative's patrons, the Senate amendment applies only to the extent that the asset was used to facilitate the conduct of business with, or for, its patrons. The method of allocating the usage of the asset between patronage and non-patronage operations may be determined by any reasonable method. The Senate amendment also provides that section 1231 shall be applied separately to patronage gains and losses and nonpatronage gains and losses.

Rules applicable to election

An election made under this provision of the Senate amendment applies to all sales (or other dispositions) of patronage assets during the taxable year for which the election is made and all subsequent taxable years, until revoked by the farmer cooperative. Following a revocation of its election and absent the consent of the Treasury Department, a farmer cooperative shall not be eligible to re-elect patronage treatment until the third taxable year following the taxable year for which the revocation is effective. A revocation is effective upon the filing of notice with the Treasury Department.

Effective Date

The provision is effective for sales or other dispositions of property occurring in taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. This legislation does not change present law regarding the ordinary or capital character of gain or loss from the sale of assets.

For a cooperative having an election in effect, any allocation of gain or loss from the sale of assets as part of its patronage dividends or per-unit retain allocations, or as part of a loss pass-through shall be subject to the general requirements of Subchapter T, including the requirement that, if patronage dividends are allocated, such allocation is made "on the basis of the quantity or value of business done with or for" patrons. However, any such income which is allocated to patrons must be allocated in a manner that does not distinguish among patrons based on the tax character of the income.

17. Elective deferral of income for crops grown in a qualified disaster area

PRESENT LAW

Gain derived from the sale or exchange of property generally is required to be included in gross income for the taxable year in which the sale or exchange occurs. A cash method taxpayer who receives insurance proceeds as a result of destruction of, or damage to, crops may elect to include the proceeds in income for the taxable year following the year in which the destruction or damage occurs if, under the taxpayer's practice, income from such crops would have been included for a year following the year in which the destruction of damage occurred.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment allows a taxpayer whose principal trade or business is farming and who has income derived from the sale or exchange of crops grown in a qualified disaster area to elect to include such income for the taxable year following the taxable year in which the sale or exchange occurs. A qualified disaster area is defined as an area designated by the President as warranting assistance by the Federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Andrew, Hurricane Iniki, or Typhoon Omar. The election applies only for the taxable year which includes the date that the President designates the area as warranting assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

If an election is made under this provision for any taxable year, then the applicable contribution base for purposes of section 1402(b) of the Code (relating to taxes imposed on self-employment income) for the taxable year for which the amount is included in income is to be increased by the lesser of: (1) the applicable contribution base for the taxable year of the sale or exchange, reduced by the self-employment income of the taxpayer for such taxable year; or (2) the amount included in gross income by reason of this provision for the taxable year for which the amount is included in income.

Effective date.—The provision applies to taxable years ending after December 31, 1991.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

18. Accounting for charges by real estate reporting persons for costs of complying with reporting requirements of Code section 6045

PRESENT LAW

It is unlawful for any real estate reporting person to charge separately any customer for complying with the information reporting requirements with respect to real estate transactions.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment clarifies that real estate reporting persons may take into account the cost of complying with the reporting requirements of Code sec. 6045 in establishing charges for their services, so long as a separately listed charge for such costs is not made.

Effective date.—The provision is effective for real estate transactions closing after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. The conferees intend that no inference by drawn from this provision as to the proper treatment of these charges under present law.

19. Application of passive loss limitations to timber activities

PRESENT LAW

The passive loss rules limit deductions and credits from passive trade or business activities. Deductions attributable to passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not derived from a passive activity. A similar rule applies with respect to credits from passive activities. Deductions and credits suspended under these rules are carried forward to the next taxable year, and are allowed in full when the taxpayer disposes of his entire interest in the passive activity to an unrelated person.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate, as well as rental activities. Treasury regulations set forth several tests for determining whether a taxpayer is materially participating in an activity. One of these tests bases the determination of material participation on all the facts and circumstances.

The regulations provide two limitations on the application of the facts and circumstances test. First, an individual taxpayer's management services are not taken into account under the facts and circumstances test unless (a) no on else who performs services in connection with the management of the activity receives earned income for such services and (b) no one else performs more services (by hours) in connection with the management of the activity than the taxpayer does. Second, an individual taxpayer cannot meet the facts and circumstances test with respect to an activity if he participates in it for 100 hours or less during the taxable year. (Treas. Reg. Sec. 1.469-5T(b)(2)(ii) and (iii)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that the two regulatory limitations applicable in determining whether an individual meets the facts and circumstances test for material participation in an activity do not apply to certain closely held timber activities. Such closely held timber activities are those whose nature is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

An activity is treated as closely held for purposes of the provision if at least 80 percent of the ownership interests in the activity is held either by 5 or fewer individuals, or by individuals who are members of the same family (within the meaning of Code section 2032A(e)(2)). An interest in a limited partnership is not treated as a closely held activity for purposes of the provision.

A timber activity means the planting, cultivating, caring, cutting or preparation (other than milling) for market, of trees.

Effective date.—The provision is effective for taxable years beginning after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

20. Treatment of contributions in aid of construction

PRESENT LAW

In general

The gross income of a corporation does not include contributions to its capital. A contribution to the capital of a taxpayer does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

Prior law

Prior to the enactment of the Tax Reform Act of 1986, a regulated public utility that provided electric energy, gas, water, or sewage disposal services was allowed to treat any amount of money or property received from any person as not includible in the gross income of the taxpayer so long as such amount: (1) was a contribution in aid of construction and (2) was not included in the taxpayer's rate base for rate-making purposes. A contribution in aid of construction did not include a connection fee. The adjusted basis of any property acquired with a contribution in aid of construction was zero.

If the contribution was in property other than an electric energy, gas, steam, water, or sewage disposal facility, such contribution was not includible in the gross income of the taxpayer so long as: (1) an amount at least equal to the amount of the contribution was expended for tangible property which was the purpose motivating the contribution and which was used predominantly in the trade or business of furnishing utility services; (2) the expenditure occurred before the end of the second taxable year after the year that the contribution was received; and (3) certain records were kept with respect to the contribution and the expenditure. In addition, the statute of limitations for the assessment of deficiencies was extended in the case of certain contributions of property other than an electric energy, gas, steam, water, or sewage disposal facility.

These rules were repealed by the Tax Reform Act of 1986.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment restores the contributions in aid of construction provisions that were repealed by the Tax Reform Act of 1986 for amounts relating to water or sewerage disposal services.

Effective date.—The provision is effective for amounts received after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the provision of the Senate amendment.

21. Prohibit transfers of tax benefits and liabilities between savings and loan holding companies and savings associations

PRESENT LAW AND BACKGROUND

For Federal income tax purposes, domestic corporations (including savings and loan associations) that meet certain affiliation tests (generally 80 percent stock ownership) generally may elect to join in the filing of a consolidated return. If the election is made, the Federal income tax liability of the affiliated group generally is determined as if the group is one corporation. One of the principal advantages of electing to file a consolidated return is that the tax losses of some members of the affiliated group may offset the taxable incomes of other members.

Corporations that elect to file consolidated returns often enter into a contractual agreement on how the Federal income tax liability of the group is to be allocated among the members of the group and when payments pursuant to the tax allocation agreement are to be made. These agreements may or may not provide that a member of the group that incurs a tax loss that is used in consolidation to reduce the Federal income tax liability of the affiliated group as a whole is to be reimbursed for the use of the loss.

Provisions governing the Federal regulation of banks contain explicit rules regarding payments for Federal income taxes and the reimbursement of tax benefits between nonregulated bank holding companies and banks that join in the filing of consolidated returns.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment amends the Homeowners Loan Act to provide rules regarding payments for Federal income taxes and the reimbursement of tax benefits between savings and loan holding companies and savings associations that join in the filing of consolidated returns. Under the Senate amendment, a savings association that incurs a taxable loss shall be reimbursed in cash by the holding company to the extent that there is a tax benefit arising from the loss in the consolidated return, as determined in a manner consistent with the allocation of taxes to profitable subsidiaries. The reimbursement shall be based on the amount the savings association would have received had it filed its income tax return on a separate return basis and shall be made no later than the approximate time that the savings association would have received a refund of tax if it had filed a separate return (or, if earlier, at the time the refund is received by the holding company).

A savings association having taxable income which files a consolidated tax return with a holding company shall not transfer to the holding company for payment of taxes an amount in excess of the amount of tax the savings association would have paid had its tax return been filed on a separate return basis. Any such payment shall not be made before the approximate time that such payment is required to be made to the Internal Revenue Service. In no event shall a savings association make any payment to a holding company for a deferred tax liability.

Any tax allocation agreement between a holding company and savings association shall be consistent with this provision.

Not later than 90 days after the date of the enactment of this provision, the Office of Thrift Supervision shall take such actions as are necessary to implement the provision.

Effective date.—The provision applies to payments and refunds of Federal taxes for taxable years ending after September 30, 1990.

The enactment of the provision shall not be construed as indicating that the Office of Thrift Supervision had no discretionary authority prior to such date to effect the same policy by rule, regulation, enforcement action, or otherwise.

The amendment made by the provision shall not apply to any tax benefit described above, if the allocation (and payment) of such tax benefit is made pursuant to, or is governed by, an arrangement that is part of a written contract with the savings association, or its holding company, that is expressly approved in writing by the applicable supervisory authority or deposit insurer, but only if: (1) the contract was entered into before October 1, 1990; (2) the contract remains in effect at the time of the allocation in question; and (3) a portion of such approved tax benefit is allocated for the benefit of the FSLIC Resolution Funds.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

22. Tax treatment of certain cargo containers

PRESENT AND PRIOR LAW

Prior to the enactment of the Tax Reform Act of 1986, an investment tax credit was allowed for certain tangible personal property. The credit was not allowed for property that was used predominantly outside the United States. For purposes of the credit, any container of a United States person that was used in the transportation of property to and from the United States was not property that was used predominantly outside the United States. The investment tax credit generally was repealed by the Tax Reform Act of 1986.

In addition, under both present and prior law, accelerated depreciation is not allowed for any tangible property used predominantly outside the United States. For depreciation purposes, any container of a United States person that is used in the transportation of property to and from the United States is not property that is used predominantly outside the United States.

In Rev. Rul. 90-9, 1990-1 C.B. 46, the Internal Revenue Service ruled that a taxpayer may not use accelerated depreciation with respect to intermodal cargo containers if the taxpayer cannot document that the containers were used substantially in the direct transportation of property to or from the United States during the taxable year. In Rev. Proc. 90-10, 1990-1 C.B. 467, the IRS provided an irrevocable election that allowed taxpayers to use certain specified percentages to determine the aggregate basis of intermodal cargo containers placed in service in 1974 and all subsequent years that would be deemed used in the direct transportation of property to or from the United States (and thus eligible for the investment tax credit and accelerated depreciation). The election was available regardless of whether or not the taxpayer maintained sufficient records to trace the usage of cargo containers.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5674 as passed by the House, contains a provision substantially identical to the provision described in the conference agreement below.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

In general

The conference agreement provides that a "qualified intermodal cargo container" shall be treated as property described in section 48(a)(2)(B)(v) (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) and thus eligible for the investment tax credit and accelerated depreciation.

Definitions

For this purpose, a "qualified intermodal cargo container" means any intermodal cargo container of a United States person which, after being placed in service, at all times during the taxable year either: (1) is subject to a qualifying lease; or (2) is being held for lease, moved for purposes of leasing or being available for lease, or maintained or repaired for subsequent lease, by the taxpayer, a lessee or agent of the taxpayer or any other person. The term "qualifying lease" means: (1) any lease to a container user that has one or more trade routes that contact the United States or (2) any short-term lease to a container user. A "container user" means: (1) a person that is in the business of using intermodal cargo containers to ship or transport cargo for other persons, or (2) with respect to an intermodal cargo container, a person that uses the container to ship or transport its own cargo. A container user will be deemed to have one or more trade routes that contact the United States if at any time during the taxable year such person: (1) owns, operates, or charters any vessel that receives or delivers any intermodal cargo container in the United States, or (2) uses any intermodal cargo container to ship cargo to or from the United States. Proof of trade routes may be established by published schedules, U.S. dock records, records of vessel owners, and other bona fide public documents or private records. The term "short-term lease" means: (1) any lease the stated term of which is not more than 50 percent of the class life (within the meaning of section 168(i)(1)) of the container and (2) any lease under a lease agreement under which the lessee is not required to use or hold the container for a specified term. The term "lease" means a lease or sublease.

Other rules

No inference is to be drawn from this provision as to the application of section 48(a)(2)(B)(v) (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) or section 168(g)(4)(e) to containers that are not qualified intermodal cargo containers or to containers placed in service after December 31, 1989.

Any election made under Rev. Proc. 90-10 prior to the date of enactment of this provision may be revoked without the consent of the Secretary of the Treasury or his delegate. A revoked election shall be treated as never having been made. Such revocation must be made within 180 days after the date of enactment by filing with the Secretary of the Treasury or his delegate (1) a statement describing the election being revoked and indicating that the election is being revoked and (2) an amended return consistent with such revocation. The statute of limitations shall not bar a claim for refund attributable to a revocation of a prior election under Rev. Proc. 90-10.

Effective date.—The provision generally will apply to all intermodal cargo carriers placed in service before January 1, 1990. The rules regarding the revocation of the election under Rev. Proc. 90-10 shall take effect on the date of enactment of the provision.

G. OTHER EXCISE, EMPLOYMENT, AND ESTATE AND GIFT TAX PROVISIONS

1. Exemption from truck excise tax for certain nonprofit educational organizations

PRESENT LAW

Present law imposes a 12-percent retail excise tax (sec. 4051) on the first sale of heavy highway trucks and truck trailers (including parts or accessories sold on or in connection with the truck or truck trailer). The tax does not apply to trucks weighing 33,000 pounds or less or to trailers weighing 26,000 pounds or less (gross vehicle weight). The tax is scheduled to expire after September 30, 1999. Revenues from the tax are transferred to the Highway Trust Fund.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an exemption from the truck excise tax for trucks or truck trailers assembled by students and sold as a part of a program included in the regular curriculum of a nonprofit education organization, if the proceeds from the sale are used solely for the purpose of defraying costs incurred in such program.

A credit or refund is allowed if such truck tax is actually paid by such an educational organization.

Effective date.—The provision is effective for sales after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Excise tax on certain reloaded ammunition

PRESENT LAW

An 11-percent excise tax is imposed on the first sale of certain firearms, shells, and cartridges. Certain taxable shells and cartridges ("shells") may be reloaded for reuse. If the owner of the shells returns them to a commercial reloader and receives back the very same shells after reloading, no tax is imposed. If shells of the identical type, but not the exact same shells, are reloaded and returned to the owner, tax is imposed.

HOUSE BILL

No provision in H.R. 11 (However, H.R. 2735 as passed by the House contains the same provision described under the conference agreement below.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement expands the exception from tax for reloaded shells to also apply to commercially reloaded shells when reloaded (used) shells of an identical type and number are returned to the owner but not necessarily the very same shells.

Effective date.—Date of enactment.

3. Exemption from retail excise tax for trucks used to mix explosive chemicals

PRESENT LAW

An excise tax is imposed on retail sales of truck chassis and bodies with a gross vehicle weight over 33,000 pounds. The excise tax equals 12 percent of the retail sale price of heavy trucks subject to the tax. This tax will not apply to sales made after September 30, 1999.

HOUSE BILL

No provision.

SENATE AMENDMENT

The amendment provides an exception from the 12-percent retail excise tax for truck equipment used to mix explosive chemicals. This exemption applies only to equipment (e.g., mixing units) used to process, prepare, or load explosive products. The gross vehicle weight of the truck is to be determined inclusive of the exempt explosives mixing device.

Effective date.—The exemption is effective for retail sales of explosive handling equipment made after March 31, 1983.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

4. Extension of period for credit or refund of certain overpayments of windfall profit tax on domestic crude oil

PRESENT LAW

Generally, a claim for credit or refund of an overpayment of any tax imposed by the Code in respect of which tax the taxpayer is required to file a return must be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever period expires later. If no return was filed by the taxpayer, the claim for credit or refund must be filed within 2 years from the time the tax was paid. No credit or refund is allowed unless the claim for credit or refund is filed within the prescribed time period.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends until one year after date of enactment the time for filing a claim for credit or refund of any overpayment of the windfall profit tax on domestic crude oil by the Wilkinson County School District, in the State of Mississippi, for any period ending before January 1, 1983.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

5. Application of harbor maintenance excise tax to ship passenger fares

PRESENT LAW

A harbor maintenance excise tax ("harbor tax") of 0.125 percent of value applies generally to commercial cargo, including passengers transported for compensation or hire (sec. 4462(a)(3)). In the case of transportation of passengers for hire, the term "value" means the actual charge paid for such service or the prevailing charge for comparable service if no actual charge is paid (sec. 4462(a)(5)). Questions have arisen as to whether certain amounts (such as pre- and post-cruise airfare and lodging included in the package price and certain other cruise-related passenger fees or charges) charged passengers for a ship cruise are included in the base for the harbor tax.

It is understood that the U.S. Customs Service (which collects and administers the harbor tax) has recently determined that pre- and post-cruise airfare and lodging are excluded from the tax base.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment makes two changes to the statutory definition of "value" for applying the harbor tax to ship passenger fares.

(1) The amendment clarifies that the tax base for cruise ship fares does not include any amounts actually paid for pre- and post-cruise air or land transportation and lodging, including any separately stated transportation or lodging taxes and the pro rata share of travel agent commissions properly allocable to such air or land transportation.

(2) The amendment specifically excludes from the harbor tax base the cost of separately stated per-passenger taxes, fees or charges imposed by domestic or foreign governmental units (e.g., the $3 Federal ship passenger departure tax, State or local port charges on passengers, passenger head taxes or fees at foreign ports, Customs and Immigration per-passenger fees, etc.). The amendment does not exclude any per-vessel taxes, fees or charges.

Effective date.—Transportation beginning on or after November 1, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

6. Employment tax status of certain fishermen

PRESENT LAW

Under present law, service as a crew member on a fishing vessel is generally excluded from the definition of employment for purposes of income tax withholding on wages and for purposes of the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA) taxes if the operating crew of the boat normally consists of fewer than 10 individuals, the individual receives a share of the catch based on the total catch, and the individual does not receive cash remuneration other than proceeds from the sale of the individual's share of the catch. Crew members to which the exemption applies are subject to self-employment taxes. Special reporting requirements apply to the operators of boats on which exempt crew members serve.

HOUSE BILL

No provision. (However, sec. 121 of H.R. 2735 as passed by the House contains a provision that is the same as the Senate amendment except that it does not modify the reporting requirements and it is effective for remuneration paid after the date of enactment.)

SENATE AMENDMENT

The operating crew of a boat is treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals. In addition, the exemption applies if the crew member receives, in addition to the cash remuneration permitted under present law, cash remuneration which does not exceed $100 per trip, is contingent on a minimum catch, and is paid solely for additional duties (e.g., mate, engineer, or cook) for which additional cash remuneration is traditional. The reporting requirements applicable to boat operators are modified to take into account the additional cash remuneration that may be paid under the provision.

Effective date.—The provision applies to remuneration paid after December 31, 1992. In addition, the provision applies to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration when paid as being subject to wage withholding and employment taxes.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

7. FICA exemption for full-time students employed by seasonal children's camps

PRESENT LAW

Under present law, wages are subject to taxation under the Federal Insurance Contributions Act (FICA) unless specifically exempted. Wages paid to full-time students employed by seasonal children's camps are not specifically exempted.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5656 as passed by the House contains a provision that is the same as the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, wages paid to a full-time student employed for less than 13 calendar weeks in a calendar year by a seasonal children's camp are exempt from FICA taxation in that year.

Effective date.—The provision is effective for wages paid on or after October 1, 1993.

8. Special estate tax valuation recapture

PRESENT LAW

A Federal estate tax is imposed on the value of property passing at death. Generally, the value of property is its fair market value at its highest and best use, i.e., the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

Under section 2032A of the Code, the executor may elect to value certain "qualified real property" used in farming or another qualifying trade or business at its current use value rather than its highest and best use value. If, within a specified period of time after the death of the decedent, the "qualified heir" who acquired the real property ceases to use such property in its qualified use, an additional estate tax is imposed in order to "recapture" the benefit of the special use valuation.

For this purpose, the specified period of time is presently 10 years with respect to qualified heirs of decedents who died on or after January 1, 1982 and 15 years with respect to qualified heirs of decedents who die before January 1, 1982. Until the specified period of time has lapsed with respect to a property, the Internal Revenue Service retains a lien on such property as security for the possible imposition of the additional estate tax.

HOUSE BILL

No provision in H.R. 11. (However, H.R. 5647, as passed by the House, contains the same provision as included in the conference agreement as described below.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides that the 10-year period set forth in section 2032A(c)(1) shall be extended to apply with respect to qualified heirs of decedents who died before January 1, 1982.

Effective date.—The provision is effective after December 31, 1992.

H. OTHER PROVISIONS

1. Definition of former spouse under CIA retirement and disability system

PRESENT LAW

Under the Central Intelligence Agency Retirement and Disability System (CIARDS), an individual who was divorced from a CIARDS participant before December 4, 1991, does not qualify as a former spouse if the individual did not live with his or her spouse for at least 10 years of which 5 years or more were while the spouse was performing services as a CIA employee outside the United States.

HOUSE BILL

No provision. (However, H.R. 5651 as passed by the House contains a provision that is substantially the same as the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, an individual who was divorced on or before December 4, 1991 from a participant or retired participant in CIARDS and who was married to such participant for not less than 10 years during the participant's creditable service, at least 5 years of which was spent by the participant as a CIA employee outside of the United States (or otherwise in a position that qualifies the individual as a participant), generally is entitled to a survivor annuity equal to 55 percent of the greater of the unreduced amount of the participant's annuity, or the unreduced amount of what such annuity would be if the participant had not elected a lump-sum distribution. In addition, such former spouse generally is entitled to a retirement annuity equal to 50 percent of the pro rata share of the participant's annuity, and to continuation health care coverage.

The retirement and survivor annuities provided under the bill are payable from the CIARDS Fund. The participant's benefits are not affected.

Effective date.—The provision is effective as of October 1, 1993. No benefits provided under the bill are payable with respect to any period before such date.

2. Mount Rushmore Commemorative Coin Act

Present Law

Under the Mount Rushmore Commemorative Coin Act (P.L. 101-332), the Secretary of the Treasury is to issue Mount Rushmore commemorative coins (five dollar gold coins, one dollar silver coins, and half dollar clad coins) for sale to the public. All sales require a surcharge per coin ($35 for the five dollar gold coins, $7 for the one dollar coins, and $1 for the half dollar coins).

Of the total revenues received from the surcharges, one half is to be paid promptly to the Mount Rushmore National Memorial Society of Black Hills ("the Society") to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial. The other half of the revenues from the surcharges is to be returned to the Federal Treasury for purposes of reducing the national debt.

House Bill

No provision.

Senate Amendment

The Senate amendment directs that the Society is to be paid during fiscal year 1993 an advance from the Treasury in the amount of $18,750,000. Any amount received from the surcharge revenues above the $18,750,000 is to be returned to the Federal Treasury for the purposes of reducing the national debt.

However, if prior to enactment of this Act, any amount of surcharges that have been received by the Treasury and paid into the Treasury for purposes of reducing the national debt shall be paid out of the Treasury during fiscal year 1993 to the net amount extent necessary to comply with the directive to pay the Society the $18,750,000 under this Act. Amounts paid pursuant to this procedure shall be out of funds not otherwise appropriated.

Effective date.—The provision is effective on the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

3. Misuse of symbols, emblems or names related to the Department of the Treasury

Present Law

There are currently no provisions in present law prohibiting the use of symbols, emblems and names of the Department of the Treasury (and its subsidiary agencies) in connection with mailings and other solicitations.

House Bill

The House bill would prohibit the use of Treasury-related words, letters, symbols, or emblems in a manner which could reasonably by interpreted or construed as conveying a false impression that such activity is connected with the Department of the Treasury or any of its subsidiary agencies. A civil penalty of up to $5,000 per violations of this section. Each individual piece of mail or separate solicitation would be considered a separate violation. Any determination of whether there is a violation of this section would be made without regard to use of a disclaimer of affiliation with the Federal Government. The Secretary of the Treasury, by May 1, 1994, would by required to provide to the House Ways and Means and Senate relating to the implementation of this section.

Effective date.—The provision is effective on enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill. The conferees agree to clarify that the reproduction of Treasury-related public documents or publications will not, in itself, be considered as conveying a false impression that such activity is connected with the Department of the Treasury.

I. Other Studies and Reports

1. Treasury study on Japanese capital and securities markets

Present Law

Present law requires no studies of Japanese capital and securities markets.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, the Secretary of the Treasury, in consultation with the Chairman of the Securities and Exchange Commission, the United States Trade Representative, and others, is to conduct a study of Japanese capital and securities markets. The study is to examine the structures, operations, practices, and regulation of Japan's capital and securities markets, and their implications for the United States. The Secretary is to report on the study to the Congress within one year of the date of enactment.

Conference Agreement

The conference agreement does not contain the Senate amendment provisions.

2. Treasury study of recovery period for the depreciation of semi-conductor manufacturing equipment

Present Law

Equipment that is used in the manufacture of semi-conductors is treated as 5-year property under the accelerated cost recovery system as modified by the Tax Reform Act of 1986. Consequently, the depreciation deductions for semi-conductor manufacturing equipment are determined by using a 5-year recovery period, the applicable convention, and the 200-percent declining balance method switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

The Department of Treasury is required to monitor and analyze the actual experience of taxpayers with respect to depreciable assets and to report the findings to Congress.

House Bill

No provision. H.R. 2735 contains a provision identical to the provision of the Senate amendment.

Senate Amendment

The Senate amendment requires the Department of Treasury to study the appropriate recovery period and class life under section 168 of the Code for semi-conductor manufacturing equipment. The results of the study are to be submitted to the House Committee on Ways and Means and the Senate Committee on Finance before April 1, 1993.

Effective date.—The provision is effective on the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

3. Treasury study of travel expenses of loggers

Present Law

Individuals who are in the trade or business of cutting and skidding timber often incur travel expenses in connection with their trade or business. Some believe that there may be unclarity in the treatment of those travel expenses for tax purposes.

House Bill

No provision.

Senate Amendment

The Secretary of the Treasury is required to conduct a study with respect to the deductibility of the travel expenses of an individual who is in the trade or business of cutting and skidding timer.

Effective date.—The report is due not later than July 1, 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

4. Congressional Budget Office study on municipal bonds

Present Law

Interest on bonds to finance governmental activities of State and local governments is generally tax-exempt (Code sec. 103). Interest on private activity bonds (i.e., bonds to finance activities of any person other than a State or local government) is taxable unless a specific exception is provided in the Code. Issuers generally are required to rebate arbitrage (earned by investing bond proceeds at a return greater than the bond yield) to the Federal government.

Section 1317(44) of the Tax Reform Act of 1986 exempts certain pool bonds from the arbitrage rebate requirement.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, the Congressional Budget Office is to conduct a study of tax-exempt municipal bond pools subject to special transition rules under the Tax Reform Act of 1986. In particular, the study is to compile statistics on the types of capital projects financed, the Federal, State, and local budgetary impacts, and the need, if any, to increase the permissible bonding authority allowed under the Tax Reform Act of 1986. The Congressional Budget Office is to report on the study to the Senate Committee on Finance and the Senate Budget Committee by December 31, 1992.

Conference Agreement

The conference agreement follows the Senate amendment, except it requires that the study be delivered to the House Committee on Ways and Means and the House Budget Committee in addition to the Senate Committee on Finance and the Senate Budget Committee.

5. Require annual report on Federal finances

Present Law

Present law requires that instructions for the individual income tax returns include pie charts to indicate the major Federal outlay and income categories. These pie charts are based on the most recent fiscal year data available when the instructions are compiled.

In addition, present law requires that prior to the first Monday in February of each year, the President submit to Congress the Budget of the United States for the following fiscal year. This budget is required to include information on the activities and function of the Federal government. In particular, information on receipts, appropriations, expenditures, Federal debt outstanding, tax expenditures, net domestic savings, merchandise trade and current accounts, and other items, is required. Moreover, the Federal budget has traditionally included a series of historical tables providing information on the Federal financial situation over a time period of several years. The Federal budget is available for sale to the public by the U.S. Government Printing Office.

House Bill

No provision.

Senate Amendment

The Senate amendment requires an annual financial report for the Federal government to be prepared by the Office of Management and Budget (OMB) and to be distributed to the public by the Secretary of Treasury. The report would include information on the most recent 5-year trends in receipts, expenditures, assets, liabilities, and public debt. A summary of the report would be placed on the inside front cover of the instruction booklet for the annual income tax forms distributed to individual taxpayers. The complete report would be available to any taxpayer who requested a copy. This request could be made by so designating in space provided on the annual tax return. The Secretary of Treasury would be permitted to impose fees to cover the costs of processing requests for this report. The Senate amendment also would authorize an additional $10 million for 1993 for Treasury and OMB, subject to future appropriations.

Effective date.—This requirement is effective for instructions prepared for taxable years beginning after date of enactment.

Conference Agreement

The conference agreement generally follows the Senate amendment. However, the annual report would be jointly prepared by the Secretary of the Treasury and the Director of OMB. The requirement that the annual tax return include a space for taxpayers to request a copy of the report is deleted. Instead, instructions for obtaining a copy of the report would be required to be included in the instructions to the annual income tax forms distributed to individual taxpayers.

6. PBGC report on employers with underfunded pension plans

Present Law

There is no requirement for the Pension Benefit Guaranty Corporation (PBGC) to report to the Congress on underfunded pension plans.

House Bill

No provision. (However, H.R. 3837 as passed by the House has a provision that is substantially the same as the conference agreement below.)

Senate Amendment

No provision.

Conference Agreement

The conference agreement requires the PBGC to submit a report to the Congress each year listing: the name of each contributing sponsor of 1 or more pension plans that have underfunded pension liabilities aggregating more than $25 million, and the name of each contributing sponsor with underfunded liabilities in excess of $5 million and with respect to which a minimum funding waiver has been granted in excess of $1 million. The report will be based upon information that can be publicly disclosed by PBGC. The report is due on January 31 of each calendar year after 1991.

Effective date.—Date of enactment.

J. User Fee Provisions

1. Repeal of recreational boat user fee

Present Law

Under the 1990 Budget Act, the Secretary of Transportation is directed to establish a "fee or charge" to be collected annually in fiscal years 1991-1995 from owners or operators of "recreational vessels" greater than 16 feet in length. The boat user fee is to be imposed as follows: (a) for vessels of grater than 16 feet but less than 20 feet, not more than $25; (b) for vessels of 20 feet but less than 27 feet, not more than $35; (c) for vessels of 27 feet but less than 40 feet, not more than $50; and (d) for vessels of 40 feet or more, not more than $100.

The Coast Guard issued rules implementing the boat user fee, at the maximum levels allowed under the 1990 Act, effective July 31, 1992. Subject to several exemptions provided by the 1990 Act and/or by the Coast Guard rules, the boat user fee applies to vessels operated on the navigable waters of the United States where the Coast Guard has a presence. Among the exempt vessels are: manually powered boats (e.g., canoes, kayaks, and rafts), sailboards, vessel tenders, unpowered houseboats, and vessels of nonprofit organizations.

Revenues from the boat user fee are deposited in the General Fund of the Treasury as offsetting receipts for Coast Guard activities.

House Bill

No provision in H.R. 11. (However, H.R. 2056 as passed by the House provides for a phased repeal of the boat user fee similar to the Senate amendment.)

Senate Amendment

The Senate amendment provides a phased repeal of the boat user fee, according to the following schedule:

(1) for fiscal year 1993—

(a) vessels of more than 21 feet but less than 27 feet, a fee of not more than $35;

(b) vessels of 27 feet but less than 40 feet, a fee of not more than $50;

(c) vessels of 40 feet or more, a fee of not more than $100;

(2) for fiscal year 1994—

(a) vessels of at least 37 feet but less than 40 feet, a fee of not more than $50; and

(b) vessels of 40 feet or more, a fee of not more than $100; and

(3) for fiscal year 1995—no fee.

Effective date.—October 1, 1992.

Conference Agreement

The conference agreement follows the Senate amendment.

2. Imposition of Automated Tariff Filing and Information System and fee

Present Law

Water common carriers in United States foreign and domestic offshore shipping are required to file tariffs with the Federal Maritime commission (FMC). These tariffs and service contracts have been filed on paper.

In recent years, the FMC has been designing a computer system to allow water common carriers to file the tariffs electronically. This computer system is known as the Automated Tariff Filing and Information System ("AFTI"). The information currently required to be filed under section 8(a)(1) of the Shipping Act of 1984 (46 App. U.S.C. 1707), and includes all rates, charges, classifications, rules and practices assessed by a carrier between all points or ports on a route and any through transportation rate a carrier has established.

House Bill

No provision in H.R. 11. (However, H.R. 2056 as passed by the House provides the same ATFI system and fee as in the Senate amendment except with an effective date of June 1, 1992, and with the repayable advance effective in fiscal year 1992.)

Senate Amendment

Imposition of fee

The Senate amendment requires that water common carrier tariffs be filed electronically not later than July 1, 1992, and imposes a fee of 46 cents for each minute of remote computer access to the information in the ATFI. Purchase of the entire database in the ATFI will be allowed. If the purchased information (or access thereto) is then used by the purchase, resold or otherwise disseminated ("secondary use"), the 46-cents-per-minute fee applies for each separate computer access to the information. There is no charge for filing of the tariffs with the FMC. Federal agencies using this information are exempt from the fee.

The FMC access fee will expire after September 30, 1995.

The revenues from the FMC access fee in excess of the amounts necessary for FMC administrative costs (and repayment of the Treasury advance) are to be retained in the General Fund, as offsetting budget receipts.

Repayable advances

The Secretary of the Treasury is to make available not more than $4 million to the FMC, as a repayable advance (to remain available until expended), for FMC use in completing and upgrading the capacity of the ATFI system. Such repayable advances are to be repaid (with interest) to the Treasury not later than September 30, 1995.

Effective date

The Senate amendment generally is effective on July 1, 1992. The repayable advance is effective on the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except that the effective date for the ATFI System and FMC access fee is January 1, 1993.

B. Tariffs and Customs

1. Technical amendments to the Harmonized Tariff Schedule of the United States (HTSUS)

Present Law

The Customs and Trade Act of 1990 (hereinafter referred to as the "Trade Act of 1990") included numerous tariff and customs measures affecting the HTSUS.

House Bill

The House bill makes a number of technical corrections to the HTSUS, primarily arising out of the Trade Act of 1990.

Senate Amendment

The Senate amendment is identical to the House bill.

Conference Agreement

The conference agreement retains the provisions in the House bill and Senate amendment.

2. Clarification regarding the application of customs user fees

PRESENT LAW

Section 111(b) of the Trade Act of 1990 provides that, in the case of agricultural products of the United States processed and packed in foreign trade zones, the *ad valorem* merchandise processing fee (MPF) shall be applied solely to the value of the foreign material used to make the container; it exempts the value of the domestic agricultural products from the MPF. The U.S. Customs Service has ruled that, for all products not covered by this provision and in the absence of an express provision to the contrary, the MPF would be assessed on both the domestic and foreign value of the merchandise entering from foreign trade zones.

HOUSE BILL

The House bill clarifies that the MPF is to be applied only to the foreign value of the merchandise entered from a foreign trade zone.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, but it also provides that the provision made by section 111(b)(2)(D)(iv) of the Trade Act of 1990 regarding the application of the MPF to processed agricultural products will also apply to all unliquidated entries from foreign trade zones beginning December 1, 1986.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with a technical modification.

3. Technical amendments to the Omnibus Trade and Competitiveness Act of 1988

PRESENT LAW

Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (hereinafter referred to as "the Trade Act of 1988"), provides the President the authority to proclaim certain tariff reductions pursuant to trade agreements with foreign countries. Paragraph (a)(2) provides the President the authority to reduce tariff rates in existence as of August 23, 1988, at which time the Tariff Schedules of the United States (TSUS) were in effect. Pursuant to Title I, Subtitle B of the Trade Act of 1988, the TSUS were replaced by the HTSUS effective January 1, 1989. Tariff negotiations in the Uruguay Round of Multilateral Trade Negotiations have been conducted on the basis of tariff rates under the HTSUS rather than the TSUS.

HOUSE BILL

The House bill amends the Trade Act of 1988 to reflect the fact that any tariff reductions that might be proclaimed by the President pursuant to section 1102(a) of the Trade Act of 1988 will be based upon the tariff rates under the HTSUS as of January 1, 1989.

SENATE AMENDMENT

The Senate amendment is identical to the House bill.

CONFERENCE AGREEMENT

The conference agreement retains the provisions in the House bill and Senate amendment.

4. Technical amendments to the Trade Act of 1990

PRESENT LAW

The Trade Act of 1990 provides for transportation in bond of Canadian lottery material.

HOUSE BILL

The House bill replaces the phrase "entered or withdrawn from warehouse for consumption" in the "Effective Date" section of the Trade Act of 1990 with "entered for transportation in bond."

SENATE AMENDMENT

The Senate amendment is identical to the House bill.

CONFERENCE AGREEMENT

The conference agreement retains the provisions in the House bill and Senate amendment.

5. Technical amendment regarding certain beneficiary countries

PRESENT LAW

Section 213(h) of the Caribbean Basin Economic Recovery Act provides duty reductions on certain handbags, luggage, flat goods, work gloves, and leather wearing apparel. An identical provision was included in the Andean Trade Preference Act.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment clarifies that such duty reductions do not apply to such articles made of textiles and subject to textile agreements.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

6. Clarification of fees for certain Customs services

PRESENT LAW

19 U.S.C. 58(c) authorizes the Customs Service to provide reimbursable services to air couriers operating in express consignment carrier facilities and in centralized hub facilities. The Customs Service has interpreted the present statute to prevent Customs from providing reimbursable services during daytime hours to centralized hub facilities.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment clarifies that Customs may provide daytime reimbursable services to centralized hub facilities during daytime hours. The provision also clarifies that Customs may be reimbursed for all services related to the determination to release cargo, and not just "inspectional" services. These services are reimbursable regardless of whether they are performed on site or not.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with a technical modification.

VIII. CUSTOMS AND TRADE PROVISIONS

A. TRADE PROMOTION

1. Generalized System of Preferences (GSP) Eligibility for Former Soviet Union (sec. 9301 of the Senate amendment).
2. Western Hemisphere Trade Center (sec. 9244 of the Senate amendment).

B. CUSTOMS AND TRADE AGENCY AUTHORIZATIONS AND REPORTS; COMPETITIVENESS POLICY COUNCIL

PART I—AUTHORIZATION AND REPORTS

1. Customs and Trade Agency Authorizations (sec. 301 of H.R. 5100; sec. 1 of S. 2880).
2. Customs Forfeiture Fund (sec. 302 of H.R. 5100; sec. 2 of S. 2880).
3. Repeal of East-West Trade Statistics Monitoring System (sec. 303 of H.R. 5100).
4. Customs Personnel Airport Work Shift Regulation (sec. 305 of H.R. 5100).
5. Reports on Customs Issues (sec. 3 of S. 2880).

PART II—COMPETITIVENESS POLICY COUNCIL

1. Competitiveness Policy Council Act Amendments (sec. 4 of S. 2880).

C. CUSTOMS MODERNIZATION

1. Customs Modernization and Informed Compliance Act (title II of H.R. 5100; H.R. 5643).

D. CUSTOMS OFFICER PAY REFORM

1. Overtime and Premium Pay for Customs Officers (sec. 201 of H.R. 3837).
2. Foreign Language Proficiency Awards for Customs Officers (sec. 202 of H.R. 3837).
3. Appropriations Reimbursements from the Customs User Fee Account (sec. 203 of H.R. 3837).
4. Treatment of Certain Pay of Customs Officers for Retirement Purposes (sec. 204 of H.R. 3837).
5. Reports (sec. 205 of H.R. 3837).

E. MISCELLANEOUS TRADE PROVISIONS

1. Review of the Compliance by Foreign Countries with Bilateral Trade Agreements (sec. 102 of H.R. 5100).
2. Caribbean Basin Initiative (CBI) Treatment of Footwear and Leather-Related Products (sec. 6307 of the Senate amendment).
3. Special Rule Regarding Circumvention of Certain Antidumping Orders (sec. 9241 of the Senate amendment).

VIII. TRADE

A. TRADE PROMOTION

1. Generalized System of Preferences (GSP) eligibility for former Soviet Union

PRESENT LAW

Section 502(b) of the Trade Act of 1974, as amended, provides that the Union of Soviet Socialist Republics, and thus its successor republics, is ineligible for designation under GSP.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment removes the Union of Soviet Socialist Republics from the list of countries ineligible for designation under the GSP.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Western Hemisphere Trade Center

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment authorizes the commissioner of Customs, after consultation with the International Trade Commission (ITC), to make a grant to an institution of higher education (or a consortium of such institutions) to assist in establishing and operating a Center for the Study of Western Hemispheric Trade. The amendment requires consultations with appropriate authorities in planning the Center, sets forth selection criteria and identifies the Center's activities. The amendment authorizes the appropriation of $10 million for fiscal year 1993 and such sums as may be necessary in the three succeeding fiscal years.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the following modifications: (a) technical amendments to the findings; (b) the Commissioner of Customs shall consult with the Texas Higher Education Coordinating Board rather than the ITC in selecting and establishing the site and making grants; (c) changing the date of establishment from June 30, 1993 to February 1, 1994, the initial authorization from FY 1993 to FY 1994, and the initial grant to December 1, 1993; (d) adding to Center activities to implement cooperative agreements and academic exchange programs with the complementary North/South Center at the University of Miami; and (e) requiring the Commissioner of Customs to report annually to the Senate Committee on Finance and the House Committee on Ways and Means on the operation of the Center.

The conference believe that the establishment of a Center for the Study of Western Hemispheric Trade in Texas will effectively complement the activities of the already established North/South Center in Florida and that both Centers are necessary given the importance of the region for economic, political, and cultural relations with the United States. The conferees also believe that the activities of these two Centers will be mutually enhanced through effective collaboration and intend that the newly-created Texas Center will implement cooperative agreements and academic exchanges with the North/South Center.

B. CUSTOMS AND TRADE AGENCY AUTHORIZATIONS AND REPORTS; COMPETITIVENESS POLICY COUNCIL

PART I—AUTHORIZATIONS AND REPORTS

1. Customs and Trade Agency Authorizations

PRESENT LAW

Section 101 of Public Law 101-382, the Trade Act of 1990, authorized appropriations of $41,170,000 for FY 1991 and $44,052,000 for FY 1992 ITC. An amount not to exceed $2,500 was authorized to be used for reception and entertainment expenses, subject to the approval of the Chairman of the Commission. Section 102 of the Trade Act of 1990 authorized appropriations for the Customs Service for FY 1991 and FY 1992. For salaries and expenses for noncommercial operations, section 102 of the Act authorized $516,217,000 for FY 1991 and $542,091,000 for FY 1992. For salaries and expenses for commercial operations, the Act authorized $672,021,000 for FY 1991 and $705,793,000 for FY 1992. Section 102 also authorized $143,047,000 for FY 1991 and $150,199.000 for FY 1992 for operation (including salaries and expenses) of the air and marine interdiction programs. Finally, section 103 of the Trade Act of 1990 authorized $23,250,000 for FY 1991 and $21,077,000 for FY 1992 for the Office of the United States Trade Representative (USTR). Section 103 also provided that, of the authorized amounts, not to exceed $98,000 may be used for entertainment and representation expenses of USTR.

HOUSE BILL

Section 301 of H.R 5100 as passed by the House authorizes appropriations for the ITC of $45,152,000 for FY 1993 and $48,042,000 for FY 1994, and provided that not more than $2,500 may be used for reception and entertainment expenses, subject to the approval of the Chairman of the Commission. For the Customs Service, section 301 provides the following authorizations: for noncommercial operations, $536,582,000 for FY 1993 and $552,680,000 for FY 1994; for commercial operations, $790,505,000 for FY 1993 and $814,221,000 for FY 1994. For operation and maintenance of the air and marine interdiction program, section 301 authorizes appropriations of $138,983,000 for FY 1993 and $143,152,000 for FY 1994. For USTR, section 301 authorizes appropriations of $21,697,000 for FY 1993 and $22,435,000 for FY 1994 and provides that, of the authorized amounts, not to exceed $98,000 may be used for entertainment and representation expenses.

SENATE AMENDMENT

Section 1 of S. 2880 as passed by the Senate authorizes the same amounts for the ITC and USTR as the House bill for both FY 1993 and FY 1994. The Senate bill also authorizes the same amount as the House bill for salaries and expenses for the Customs Service for noncommercial operations for FY 1993; for FY 1994, the Senate bill authorizes $558,045,000 for FY 1994. For commercial operations, the Senate bill authorizes $798,470,000 for salaries an expenses for FY 1993 and $830,408,000 for FY 1994. For operation and maintenance of the air and marine interdiction program, the Senate bill authorizes the same amount as the House bill for FY 1993. For FY 1994, the Senate bill authorizes $144,542,000.

CONFERENCE AGREEMENT

The conference agreement retains the amounts for the ITC and USTR that are in the House bill and Senate amendment. The conference agreement authorizes appropriations for the Customs Service of $536,582,000 for noncommercial operations for FY 1993 and $558,045,000 for FY 1994. For commercial operations, the conference agreement authorizes $795,000,000 for FY 1993 and $826,800,000 for FY 1994. For operation and maintenance of the air and marine interdiction program for FY 1994, the conference agreement authorizes appropriations of $144,000,000.

2. Customs Forfeiture Fund

PRESENT LAW

Section 613A of the Tariff Act of 1930 provides for a two-year authorization for discretionary uses of the Customs Forfeiture Fund.

HOUSE BILL

Section 302 of H.R. 5100 as passed by the House authorizes appropriations of $15,000,000 in FY 1993 and $15,450,000 in FY 1994 for discretionary uses of the Customs Forfeiture Fund.

SENATE AMENDMENT

Section 2 of S. 2880 as approved by the Senate authorizes the same amount as the House bill for FY 1993 appropriations for the Customs Forfeiture Fund. For FY 1994, the Senate bill authorizes appropriations of $15,600,000.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

3. Repeal of East-West Trade Statistics Monitoring Report

PRESENT LAW

Section 410 of the Trade Act of 1974 as amended (19 U.S.C. 2440) established the East-West Trade Statistics Monitoring System. It requires the ITC to monitor U.S. import from, and exports to, non-market economy countries. Such data must be published and transmitted to Congress each quarter.

HOUSE BILL

Section 303 of H.R. 5100 as passed by the House repeals section 410.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

4. Customs Personnel Airport Work Shift Regulation

PRESENT LAW

19 U.S.C. 58c requires the Customs Service to consult with the Treasury Department Advisory Committee on Commercial Operations (COAC) before implementing changes in work shifts for inspectors at airports.

HOUSE BILL

Section 305 of H.R 5100 as passed by the House repeals this requirement.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

5. Report on Customs Issues

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Section 3 of S. 2880 as passed by the Senate requires the Secretary of the Treasury to submit reports to the Congress on personnel issues, staffing, and operations at selected ports of entry.

CONFERENCE AGREEMENT

The conference agreement follows the Senate bill, what an amendment to require an additional report.

PART II—COMPETITIVENESS POLICY COUNCIL

1. Competitiveness Policy Council Act Amendments

PRESENT LAW

The Competitiveness Policy Council Act establish the Competitiveness Policy Council, identified the duties of the Council, provided for the appointment of an Executive Director and staff, provided for the preparation and submission to the President and the Congress of an annual report. The Act also authorized appropriations for FY 1991 and FY 1992 of not to exceed $5,000,000.

HOUSE BILL

No provision.

SENATE AMENDMENT

Section 4 of S. 2880 as passed by the Senate authorizes appropriations of not to exceed $2,500,000 for FY 1993 and FY 1994. The Senate bill also renames the Council the National Competitiveness Policy Commission. The bill revises the duties of the Commission to require the preparation, publication and distribution of reports that contain the analysis and recommendations of the Commission and comment on the overall competitiveness of the American economy and require the submission of an annual report to the President and the Congress. The Senate bill also amends the compensation provisions for the Executive Director and for full-time staff, provides for the establishment of Senior Executive Service positions and the appointment of temporary staff, and gives the Commission contracting authority.

CONFERENCE AGREEMENT

The conference agreement follows the Senate provision.

C. CUSTOMS MODERNIZATION AND INFORMED COMPLIANCE ACT

PRESENT LAW

The commercial operations of the U.S. Customs Service are governed chiefly by the Tariff Act of 1930, as amended. That Act includes provisions setting forth the requirements for entry, examination, and clearance of imported merchandise; penalties for violations of the customs laws; procedures for protesting Customs' decisions, as well as judicial enforcement of Customs' decisions; requirements for invoices, manifests, bonds and other entry documents; procedures for appraisement, liquidation and reliquidation; and requirements for the arrival, reporting and entry of vessels and other related matters.

HOUSE BILL

Title II of H.R. 5100 as passed by the House includes a number of provisions aimed at modernizing the operations of the Customs Service. The bill addresses four major issues: (1) the facilitation of Customs' processing of merchandise through automation, including the authorization of the National Customs Automation Program (NCAP); (2) improving compliance with U.S. customs laws by adopting or, where appropriate, increasing penalties for non-compliance; (3) providing the trade community with greater certainty concerning Customs' rules and regulations ("informed compliance"); and (4) streamlining Customs' operations through a number of administrative changes.

In order to facilitate entries, the bill provides the statutory authority to establish the NCAP and authorizes the remote filing of certain entry documents, which would permit an importer to file the necessary information from a single location regardless where the merchandise arrives in the United States or where it is released by the Customs Service. The bill also permits importers, in order to cut costs through the submission of information in batch form, to file electronically and periodically summaries of the information now contained in individual entry summaries. In addition, importers will be permitted to file "reconciliation" statements, permitting Customs to finalize the duty assessment process by liquidating the underlying entry as to all issues (*e.g.*, classification, appraisement) covered by the entry, except for the issues identified by the importer as requiring the submission of additional information not currently available to the importer. This additional information will be contained in a reconciliation statement, which will in turn be liquidated by Customs. The bill also permits importers to pay duties and fees periodically, with interest.

Other provisions aimed at facilitating the entry of merchandise include changes and clarifications to the laws regarding duty drawback, the elimination of requirements to provide unnecessary documents or information, and changes updating the laws regarding the entry and clearance of vessels.

The bill also contains a number of provisions aimed at improving compliance with the customs laws, in exchange for the steps that Customs will take to facilitate the entry of merchandise. These measures chiefly take the form of penalties for failure to provide accurate information or to keep the records that will be necessary for Customs to audit or review entries of merchandise after they have been cleared through Customs.

The bill makes clear that penalties that currently apply to false, forged or altered documents will also apply to information submitted electronically. In addition, importers will be required to exercise "reasonable care" in entering merchandise; failure to do so will subject importers to civil penalties. The bill also subjects additional parties to the recordkeeping requirements of the law and establishes a new administrative penalty if parties fail to produce the records required by Customs to audit or review entries of merchandise. Penalties are also established for the filing of false duty drawback claims. The bill also establishes two voluntary compliance programs, a "Recordkeeping Compliance Program" and a "Drawback Compliance Program," in which Customs will be required to inform participants of their rights and obligations concerning recordkeeping and the filing of drawback claims.

The concept of "informed compliance" is addressed in the bill in a number of provisions. "Informed compliance" is premised on the belief that importers have a right to be informed about Customs rules and regulations, as well as interpretive rulings and directives, and to expect certainty that Customs will not unilaterally change the rules without providing importers with proper notice and an opportunity to respond.

To expedite the entry of merchandise, the bill authorizes Customs to accredit private laboratories and commercial gaugers, and to accept quantity and analysis results from such accredited facilities, although Customs will always reserve the right to independently test, analyze or quantify merchandise. The bill also establishes specific procedures for the detention of merchandise by Customs and guarantees recourse to the Court of International Trade (CIT) in cases where Customs fails to make a timely decision concerning the admissibility of detained merchandise. The bill also clarifies the circumstances under which merchandise. The bill also clarifies the circumstances under which merchandise may be seized and forfeited; it is intended to codify existing practices. Additional provisions relate to Customs protest procedures, the publication of interpretive rulings and appeals of advertise interpretive rulings, and the conduct of regulatory audits.

The bill also includes a number of measures aimed at streamlining Customs' operations and improving the productivity of the Service. For example, Customs will be authorized to use private collection agencies to recover money owned to the U.S. Government under the Customs laws. In addition, other agencies on whose behalf Customs collects fees will be required to reimburse Customs for its services. The bill also increases the specific dollar limits that authorize eligibility for Customs to issue administrative exemptions from duty and taxes on articles such as gifts and personal and household goods and authorizes Customs to waive the collection of duty where the duty is so low that the expense and resources required to process the entry are disproportionate to the revenue that would be collected. The bill requires reports to Congress regarding the collection of duties imposed under the antidumping and countervailing duty laws, compliance with the laws enforced by Customs, a review of courier services and the distribution of costs of Customs cargo examination program. For a more detailed discussion of all of the changes made by the House bill, see the report of the Committee on Ways and Means accompanying H.R. 5100 (House Report No. 102-607).

SENATE AMENDMENT

The Senate version of the Customs Modernization and Informed Compliance Act is contained in H.R. 5643, as reported by the Committee on Finance. The bill is almost identical to the House bill, with two exceptions. The Senate bill modifies the National Customs Automation Program with respect to remote filing. Under the Senate bill, the circumstances under which documents may be remotely filed are limited. The Senate bill provides that, while core entry information may be filed remotely, any additional information that is required for the release of merchandise and that Customs cannot accept electronically may *not* be filed remotely. Additional information that is *not* necessary for the release of merchandise and that cannot be accepted electronically may be filed remotely, but only after December 31, 1998. The Senate bill also requires a number of comprehensive reports to the Congress before remote filing may be implemented on a permanent basis and requires a 30-session-day layover period before permanent implementation of remote filing. The Senate bill also requires that Customs must board a sufficient number of vessels to ensure compliance with the laws it enforces. For a more detailed discussion of the changes made by the Senate amendment, see the report of the Committee on Finance accompanying H.R. 5643 (Senate Report No. 102-430).

CONFERENCE AGREEMENT

The conference agreement follows the Senate, with technical and conforming amendments. However, due to revenue considerations, the conference agreement also deletes the provisions increasing administrative exemptions and delays the effective date of the drawback changes for one year. The conferees also agree to request a General Accounting Office report on remote filing as outlined in the report of the Senate Committee on Finance.

D. CUSTOMS OFFICER PAY REFORM

1. Overtime and Premium Pay for Customs Officers

PRESENT LAW

Customs inspectors are compensated with overtime pay for work performed outside the statutorily-defined work week (*i.e.*, Monday through Saturday, 8:00 a.m. through 5:00 p.m.). Overtime pay is paid at a rate of two times basic pay, with any amount of work conducted during a two-hour period treated as four hours pay (two hour minimum at a rate of two times basic pay).

Customs inspectors who are required to work after their normal duty (callback), between 5:00 p.m. and 9:00 p.m., are paid overtime beginning at 5:00 p.m. and for hours actually worked, at a rate of two times basic pay. Customs inspectors who are required to work after their normal duty (callback), between 9:00 p.m. and 6:00 a.m., are paid for eight hours (four minimum hours at a rate of two times basic pay), plus hours actually worked of at least four hours (two minimum hours at a rate of two times basic pay), for a total of 12 hours pay for any time worked.

There is no separate provision in present law to compensate Customs inspectors for a second commute due to callback.

Customs inspectors are compensated with overtime pay for work performed at night and on Sundays and holidays, plus certain minimum hour credits, at a rate of two times basic pay. At night (after 5:00 p.m. and before 8:00 a.m.), Customs inspectors are compensated with four hours pay (two hours minimum at a rate of two times basic pay) for any time worked. On Sundays, Customs inspectors are compensated with 16 hours pay (eight hours minimum at a rate of two times basic pay) for any time worked. On holidays, Customs inspectors are compensated with 16 hours pay (as on a Sunday) plus basic pay for any time worked.

Customs inspectors may receive up to $25,000 in overtime pay, annually.

Customs Canine Enforcement Officers are provided overtime compensation in the same manner as other Federal employees under the Federal Employee Pay Act (FEPA).

There is no separate provision in present law authorizing the Secretary of the Treasury to promulgate overtime regulations.

HOUSE BILL

Section 201 of H.R. 3837 as passed by the House provides that Customs officers would be compensated with overtime pay for work performed in excess of a 40-hour week or eight-hour day, at a rate of two times basic pay, for actual time worked.

Customs officers who must return to their place of work (callback) beyond their normal duty, where the work begins more than one hour after their duty ends or before their next duty begins, would be paid four hours pay (two minimum hours at a rate of two times basic pay), plus hours actually worked beyond two hours (at a rate of two times basic pay).

In addition to callback pay, Customs officers would be paid three hours (at the basic pay rate) as compensation for travel time.

Customs officers would be provided additional compensation (15 percent of basic pay) where a majority of the work is performed at night (between 3:00 p.m. and midnight) and additional compensation (20 percent of basic pay) where a majority of the work is performed at night (between 11:00 p.m. and 8:00 a.m.), where the night work is performed during their regular work week.

Customs officers would be provided additional compensation (at a rate of time and one-half basic pay) for work performed on Sunday, where the Sunday work was performed during their regular work week.

Customs officers would be provided additional compensation (at a rate of two times basic pay) for work on a holiday.

The newly created premium pay for work performed at night, Sundays, and holidays, and compensation received for any second commute would be subject to the annual overtime pay limitation.

Customs officers would be defined as any individual performing those functions specified by regulation by the Secretary of the Treasury for a Customs inspector or Canine Enforcement Officer.

The Secretary of the Treasury would be authorized to promulgate regulations to insure that callback assignments are commensurate with the overtime compensation authorized for such work and to prevent the disproportionate assignment of overtime work to Customs officers who are near retirement.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with three modifications. First, the conference agreement adds a provision prohibiting callback benefits from being paid for work done within the hour before a regular workshift begins. Second, the agreement adds a provision to ensure that commuting expenses would only be paid for second commutes within a 24-hour period. Finally, the agreement also adds a provision establishing a 7:30 p.m. to 3:30 a.m. workshift paying a 15 percent premium for the first four hours and a 20 percent premium for the second four hours.

2. Foreign Language Proficiency Awards for Customs Officers

Present Law

No provision.

House Bill

Section 202 of H.R. 3837 as passed by the House authorizes the Secretary of the Treasury to pay up to five percent of basic pay to any Customs officer who possesses and makes substantial use of one or more foreign languages in the performance of official duties.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

3. Appropriations Reimbursements from the Customs User Fee Account

Present Law

User fees (COBRA fees) are authorized to be collected on various conveyances and air passengers and are paid into a dedicated Customs User Fee Account. The fees are used to pay the costs of inspectional overtime, preclearance operations, additional officers, and equipment. The Customs COBRA user fee account is not subject to annual authorization and appropriation. Spending for inspectional overtime and preclearance operations is not subject to Office of Management and Budget apportionment authority.

House Bill

Section 203 of H.R. 3837 as passed by the House authorizes the Secretary of the Treasury to use the Customs COBRA User Fee Account, in addition to present law purposes, for Customs officer premium pay and agency retirement-fund contributions for Customs officer overtime pay. The Customs COBRA User Fee Account would continue to be available without the annual authorization and appropriation process. However, it would be subject to Office of Management and Budget apportionment.

Senate Bill

No provision.

Conference Agreement

The conference agreement follows the House bill.

4. Treatment of Certain Pay of Customs Officers for Retirement Purposes

Present Law

Customs inspector overtime pay is not treated as compensation for Federal retirement benefit purposes when calculating employee retirement annuities. the Customs inspector overtime pay cap is currently set at $25,000.

House Bill

Section 204 of H.R. 3837 as passed by the House provides that overtime pay would be included when calculating retirement annuities for Customs officers, up to an amount equal to 50 percent of the overtime pay cap. Fifty percent of the current overtime pay cap is currently $12,500.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

5. Reports

Present Law

The Secretary of the Treasury is required annually to report to the Congress on expenditures for additional officers and additional equipment from the Customs COBRA User Fee Account.

House Bill

Section 205 of H.R. 3837 as passed by the House requires the Secretary of the Treasury, at the end of each fiscal year, to report to the Congress on all Customs COBRA User Fee Account expenditures including overtime expenditures, *de minimis* callback assignments, and any proposals for improvements to the user fee laws used to finance inspectional services. The Comptroller General would be required, within one year after date of enactment, to review user fees used to finance inspectional services, and identify cost savings.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, but adds an additional reporting requirement. To monitor occasions when Customs inspectors are paid more than the current law annual pay cap, the Secretary of the Treasury will be required to list those inspectors who receive more than $25,000 in a year and the total compensation paid to each.

E. Miscellaneous Trade Provisions

1. Review of the Compliance by Foreign Countries with Bilateral Trade Agreements

Present Law

No provision.

House Bill

Section 102 of H.R. 5100 adds a new section to the Trade Act of 1974 to establish a procedure whereby an interested person may request the Office of the USTR to undertake a review to determine whether a foreign government is in "material compliance" with the terms of a bilateral trade agreement, except the U.S.-Canada and U.S.-Israel Free Trade Agreements. Requests for reviews may be made only during the 30-day period beginning on each anniversary of the effective date of the agreement and during the 30-day period ending 90 days before the agreement terminates if that period begins at least 180 days after the last annual 30-day request period.

A review is mandatory if the request meets certain requirements enumerated in the section. Within 90 days after the last day of the request period, USTR must determine whether the foreign country is in material compliance with the terms of the trade agreement. The section identifies certain factors that USTR must take into account in making its determination. If USTR determines that a foreign country is not in material compliance, USTR shall determine what action to take under section 301(a) of the Trade Act of 1974, as amended.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill. The conferees intend that the review procedures established in this section be available only to U.S. persons with significant economic interests that are or have been adversely affected by a foreign country's material non-compliance with a bilateral trade agreement.

2. Caribbean Basin Initiative (CBI) treatment of footwear and leather-related products

Present Law

U.S. Note 2 of Subchapter II of Chapter 98 of the HTSUS provides that articles imported from beneficiary countries under the Caribbean Basin Economic Recovery Act made wholly of U.S.-origin materials or components (except for textile and apparel articles, petroleum, and petroleum products) shall not be subject to duty.

House Bill

No provision.

Senate Amendment

The Senate amendment adds footwear and leather-related products to the list of products excluded from duty-free treatment under the Note. Effective date.—The provision is retroactive to October 1, 1990.

Conference Agreement

The House recedes with an amendment in the nature of a substitute that removes duty-free treatment under U.S. Note 2 to subchapter II of chapter 98 of the HTSUS for imports of footwear from Caribbean Basin beneficiary countries. After the date of enactment, duty-free treatment for such articles under such Note shall be provided annually for exports by facilities which have established production for exportation to the United States under such Note prior to October 1, 1992, up to the amount of existing production as of October 1, 1992, and on an annualized basis period. Such limitations shall be based on the HTSUS subheadings.

In the case of production of footwear classifiable under HTSUS subheadings 6404.1150, 6404.1160, 6404.1940, and 6404.1960 and leather footwear with synthetic soles for women classifiable under the appropriate subheadings of HTSUS heading 6403, duty-free treatment shall be provided based on established production capacity as of October 1, 1992, and production capacity for facilities under construction as of October 1, 1992.

The International Trade Commission shall make the necessary determinations described above to carry out this provision and provide such information to the U.S. Customs Service as the basis for determining imports of footwear that will qualify for duty-free treatment under this Note. The Customs Service shall prescribe regulations for the collection of whatever information is necessary to administer duty-free treatment under this provision.

In determining the established production capacity and the production capacity for facilities under construction, the International Trade Commission shall require the facilities to provide documentation to demonstrate the established production capacity and the production capacity for facilities under construction. The term "facility under construction" means that substantial work has been undertaken on the facility. The International Trade Commission shall use standards based on U.S. facilities in determining the amount of production capacity and the International Trade Commission's determination of productive capacity shall be reasonably based on the documentation provided and typical U.S. facilities.

3. Special rule regarding circumvention of certain antidumping orders

PRESENT LAW

The Trade Act of 1988 expanded antidumping and countervailing duty law to authorize the Department of Commerce to take action to address attempts to circumvent outstanding orders through U.S. or third country assembly operations using parts imported from the country subject to the original order.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides a special rule for considering whether antidumping duty orders issued against imports of portable electric typewriters and word processors from Japan are being circumvented. Under the special rule, the Commerce Department would be given the authority to expand the current orders to address the circumvention that has occurred with respect to these orders, if certain conditions are met.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision. The conferees regret that this issue could not be resolved in this conference. The possible evasion of antidumping and countervailing duty orders remains one of great importance to all of those who are concerned about the effective enforcement of our unfair trade laws. At the same time, this is a complex issue that potentially affects large amounts of trade, millions of dollars worth of investment and the jobs of thousands of U.S. workers. While the conferees believe that U.S. law could be improved to safeguard against the evasion of antidumping and countervailing duty orders, it is necessary to ensure that any legislation that is enacted is properly crafted to reflect the legitimate interests of all of those who could be affected by such legislation. Unfortunately, this has not been possible in this conference, but the conferees expect to take it up in the future. Given the importance of the issue, the conferees intend to continue careful monitoring of the Administration's efforts to secure effective international rules in the Uruguay Round on this matter. At this point, the conferees are not persuaded that the proposals in the draft Uruguay Round text accomplish this objective.

XII. HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT

PRESENT LAW

The Marine Mammal Protection Act of 1972 prohibits the importation of fish or fish products caught with large-scale driftnets in the South Pacific and tuna caught with driftnets anywhere on the high seas after July 1, 1991, and prohibits the importation of any fish or fish products caught with large-scale driftnets anywhere on the high seas after July 1, 1992.

HOUSE BILL

No provision.

SENATE AMENDMENT

Subtitle A of the Senate amendment expands existing sanctions. It requires the Secretary of Commerce, in consultation with the Secretary of State, to publish a list of nations engaging in large-scale driftnet fishing practices beyond the exclusive economic zone of any nation, and requires the Secretary of the Treasury to deny entry into the United States of any large-scale driftnet fishing vessel of a nation on that list. It further provides for consultations with nations whose vessels are engaged in such fishing practices. If such consultations do not result in an agreement to immediately terminate the practices, the President is required to direct the Secretary of the Treasury to prohibit the importation into the United States from such nations of fish and fish products and sport fishing equipment. It provides for additional economic sanctions at the President's discretion on a finding by the Secretary of Commerce that this prohibition was insufficient to cause the termination of the practices.

Subtitle B of the Senate amendment broadens the import restrictions available to the President under the Fisherman's Protective Act of 1967 in response to practices of a country that diminish the effectiveness of international fishery conservation or endangered species programs, and expresses the sense of Congress that in carrying out trade negotiations, the President should seek to address environmental issues related to those negotiations.

Subtitle C of the Senate amendment prohibits U.S. vessels and nationals from fishing operations in the Central Bering Sea unless those are in accordance with an international fishery agreement, and requires the Secretary of the Treasury to deny entry into the United States of any fishing vessel listed by the Secretary of Commerce as conducting such operations.

Subtitle D of the Senate amendment amends various provisions of the Marine Mammal Protection Act of 1972 and the Magnuson Fishery Conservation and Management Act.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

IX. INCOME SECURITY AND HUMAN RESOURCES PROVISIONS

FOSTER CARE AND INCOME SECURITY

(SUBTITLE C OF TITLE I)

PART I—CHILD WELFARE; FOSTER CARE; SUBSTANCE ABUSE TREATMENT AND SERVICES

A. CHILD WELFARE SERVICES*

1. Child welfare services designed to strengthen and preserve families and for substance abuse prevention and treatment

(Section 101 of House bill and sections 7101 and 7121 of Senate amendment)

a. In General

PRESENT LAW

The child welfare services program under title IV–B of the Social Security Act authorizes 75 percent Federal matching grants to States for child welfare services. The authorization level for the title IV–B program is $325 million per fiscal year. Funds are distributed to the States and outlying areas on the basis of their under-age-21 population and per capita income. For fiscal year 1992, appropriations total $274 million. States have discretion to determine the nature of the child welfare services they wish to provide, and the population to which they will be provided.

HOUSE BILL

Title IV–B is amended to provide entitlement matching funds to the States for family preservation services and services related to substance abuse, in addition to the existing authorization for child welfare services under title IV–B. States will be entitled to their share of $200 million in fiscal year 1993; $350 million in fiscal year 1994; $450 million in fiscal year 1995; $550 million in fiscal year 1996; and $600 million in fiscal year 1997. The funding level in subsequent fiscal years equals the fiscal year 1997 ceiling, adjusted annually for inflation based on changes in the consumer price index for all urban consumers for the most recent 12-month period for which data are available. The funding level is adjusted upward for each of fiscal years 1993 through 1999 by transferring 60 percent of the amount (if positive) by which Federal outlays for the fiscal year under title IV–E are less than the title IV–E projections in the CBO baseline as of March 1992, as amended by this Act. The title IV–E projections for 1998 and 1999 will be obtained by inflating the CBO projections for 1997 by increases (if any) in the GDP deflator. These additional amounts may be used for any purpose under title IV–B and will not be subject to a non-Federal match. They will be allocated to States according to the same formula used to allocate basic entitlement amounts, described below. Funding for respite care is available as an open-ended entitlement under title IV–E (see item e.).

Effective date.—October 1, 1992

SENATE AMENDMENT

Title IV–B is amended to provide entitlement matching funds to the States for child and family services, in addition to the existing authorization for child welfare services under title IV–B. States will be entitled to their share of $150 million in fiscal year 1993; $250 million in fiscal year 1994; $300 million in fiscal year 1995; $350 million in fiscal year 1996, and $400 million in fiscal year 1997 and years thereafter. Entitlement matching funds also are provided for services related to substance abuse ($75 million for each of fiscal years 1993 and 1994, $100 million for each of fiscal years 1995 and 1996, and $125 million for fiscal year 1997) (see item d.).

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*Unless otherwise noted, House bill refers to H.R. 3603, as passed by the House, and Senate amendment to H.R. 11.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The title IV–B child welfare services program is amended to provide entitlement matching funds to the States for innovative family preservation and family support services, substance abuse prevention and treatment, and respite care services. The overall entitlement ceiling will equal $135 million for fiscal year 1993, $355 million for fiscal year 1994, $485 million for fiscal year 1995, $520 million for fiscal year 1996, and $595 million for fiscal year 1997. The entitlement ceiling will be adjusted annually for inflation in subsequent fiscal years.

The amount available for family preservation and family support services will equal $95 million for fiscal year 1993; $235 million for fiscal year 1994; $320 million for fiscal year 1995; $340 million for fiscal year 1996; and $385 million for fiscal year 1997.

The amount available for substance abuse prevention and treatment will equal $40 million for fiscal year 1993; $90 million for fiscal year 1994; $110 million for fiscal year 1995; $115 million for fiscal year 1996; and $125 million for fiscal year 1997.

The amount available for respite care will equal $30 million for fiscal year 1994; $55 million for fiscal year 1995; $65 million for fiscal year 1996; and $85 million for fiscal year 1997. A State may transfer up to 50 percent of its share of the fiscal year 1994 entitlement funds for respite care services, and up to 25 percent of the fiscal year 1995 entitlement funds, to family preservation and family support services or substance abuse prevention and treatment.

Effective date.—October 1, 1992.

b. Allotments to States; Federal/State Matching Share

HOUSE BILL

The allotment of entitlement funds to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands and American Samoa is on the same basis as under the existing title IV–B child welfare services authorization. Remaining funds are distributed to States according to an allocation formula, based on the average number of children in the State receiving food stamp benefits for the fourth, third and second preceding fiscal years, as determined from sample surveys under the food stamp program quality control system. The Federal matching share will equal 75 percent.

Any portion of a State allotment which the State certifies will not be used will be available for reallotment to other States which can use the funds during the fiscal year. Any reallotted funds will be distributed to States according to the same entitlement formula described above.

Effective Date.—October 1, 1992.

SENATE AMENDMENT

The allotment of funds is on the same basis as under the current title IV–B program (which reflects the size of the State's population under age 21 and per capita.)

The Federal matching share will equal 75 percent.

Funds to which a State is entitled for a fiscal year will remain available for that fiscal year and the succeeding fiscal year.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the House bill with regard to the allotment formula for the entitlement funds for family preservation and family support services, and for substance abuse prevention and treatment. Entitlement funds for respite care services will be allotted to each State based on its relative share of children receiving Federally-supported foster care maintenance payments. The Federal matching share for all of the entitlement funds is 75 percent. Funds will remain available for a two-year period, and unused funds will be reallotted at the end of the two-year period.

Effective date.—October 1, 1992.

c. Innovative Family Preservation and Family Support Services

HOUSE BILL

States may use funds under the new title IV–B entitlement for developing and expanding the following services:

(1) specialized child welfare service programs for families in crisis due to substance abuse, that emphasize comprehensive services, are geared toward the whole family, and encourage or expand the availability of programs for pregnant women and programs which allow mothers to reside with their children (and other caretaker relatives to reside with the children in their care) while receiving services or treatment; and

(2)(i) service programs designed to help children, where appropriate, return to families (including adoptive families) from which they have been removed or be placed for adoption, with legal guardians, or, where appropriate with respect to a child, in some other planned, permanent living arrangement,

(ii) preplacement preventive services programs, such as intensive family preservation programs that are designed to help children at risk of foster care placement remain with their families (including adoptive families), or

(iii) service programs designed to provide follow-up care to families (including adoptive families) to whom a child has been returned following a foster care placement.

Allotments to a State will be reduced to the extent that: (1) such State used any entitlement funds to supplant other Federal, State or local funds used for similar purposes; (2) expenditures by such State and its political subdivisions from State and local sources for child welfare services (excluding foster care maintenance payments and adoption assistance payments) in any fiscal year are less than such expenditures for fiscal year 1992; and (3) expenditures by such State and its political subdivisions from State and local sources for child welfare services in any fiscal year are less than such expenditures for fiscal year 1992.

For a 5-year period beginning fiscal year 1994, a portion of the entitlement funds is earmarked for a program to make grants to the highest State courts to assess court foster care procedures and to implement improvements. (See item f. below.)

Effective date.—October 1, 1992.

SENATE AMENDMENT

States may use funds under the new title IV–B entitlement for the planning, development, expansion and operation of the following services:

(1) preplacement preventive services designed to help children at risk of foster care placement remain with their families (including adoptive families), where appropriate;

(2) reunification services designed to help children return to the families (including adoptive families) from which they have been removed, where appropriate;

(3) follow-up services designed to sustain and further strengthen families (including adoptive families) after a child has returned home from foster care placement;

(4) where appropriate, services designed to help children be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

(5) respite care to provide assistance for any foster care family, adoptive family or any other family that the State agency determines needs such care in order to preserve family stability, with priority to the family of a child with a physical, mental, or emotional condition that requires special assistance (as determined by the Secretary); and

(6) family support services to strengthen the functioning of a family (including an adoptive or foster care family), including services designed to improve parenting skills.

As a condition of receiving funds under this program, States must provide the Secretary with written assurance that State and local funds expended for the purpose of providing child welfare services (excluding foster care maintenance and adoption assistance payments) will be maintained at a level that equals or exceeds the level of funding for these services in fiscal year 1991.

In addition, a separate entitlement to States is created for services related to substance abuse. (See item d. below.)

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

Under the conference agreement, a portion of title IV–B entitlement funds may be used for the planning, development, expansion and operation of the following family preservation and family support services:

(1) service programs designed to help children, where appropriate, return to families (including adoptive families) from which they have been removed or be placed for adoption, with legal guardians, or, where appropriate with respect to a child, in some other planned, permanent living arrangement;

(2) preplacement preventive services programs (for example, intensive family preservation programs) that are designed to help children at risk of foster care placement remain with their families (including adoptive families);

(3) service programs designed to provide follow-up care to families (including adoptive families) to whom a child has been returned following a foster care placement; and

(4) family support services to strengthen the functioning of a family (including an adoptive or foster care family), including services designed to improve parenting skills, respite care, and adult mentoring.

For a four-year period, a portion of the entitlement for family preservation and family support services may be used for grants to the highest States courts (see item f.).

With regard to maintenance of effort for family preservation and family support services, the conference agreement follows the House bill, except that the third item, with respect to expenditures by State and political subdivisions for child welfare services, is deleted.

The conferees intend that each State have the discretion to determine the most appropriate allocation of its share of the entitlement funds among these categories of service programs.

The conference agreement also designated funds under title IV-B for: (1) substance abuse prevention and treatment (see item d.); and (2) respite care services for foster parents caring for children with special needs (see item e.).

Effective date.—October 1, 1992.

d. Substance abuse prevention and treatment

HOUSE BILL

Under the new services entitlement, States must use a portion of their allotments for specialized services for families in crisis due to substance abuse.

Effective date.—October 1, 1992.

SENATE AMENDMENT

Title IV-B is amended to authorize entitlement matching funds to the States to enable them to plan, develop, and operate a qualified comprehensive substance abuse treatment program, and to provide nonmedical substance abuse treatment support services for low-income pregnant women and caretaker parents with children under such program.

Amounts to which a State is entitled in any fiscal year will remain available for such fiscal year and the succeeding fiscal year.

Funds are allocated to States under the same formula that is used for other title IV-B services (which reflects per capita income and child population). Federal matching is at the Medicaid rate. The Governor may designate which agency or agencies in the State will administer a program.

Medicaid-eligible pregnant women and caretaker parents and, where appropriate, their children will be eligible for services. The State may also use these funds to pay for services to other low-income pregnant women and caretaker parents and their children, regardless of their eligibility for Medicaid. States are required to give priority for participation in these programs to individuals who are referred to them by the State child welfare agency.

States must coordinate services provided with these funds with services provided under the Medicaid and Maternal and Child Health programs, and must report on the programs funded under this legislation (at such time and in whatever form determined appropriate by the Secretary) information that the Secretary and Congress need in order to evaluate the operation and effectiveness of program services. The information must include the number of individuals participating in the program, limits on enrollment, and the number of individuals on a waiting list to participate.

As a condition of receiving payment, a State must provide assurances to the Secretary that the total amount of funds expended by the State (and any political subdivision) from non-Federal sources for the fiscal year for the purpose of providing nonmedical substance abuse treatment support services will not be less than the total amount expended for such services from such sources for the immediately preceding fiscal year.

The term "qualified comprehensive substance abuse treatment program" means a program that makes available (either directly or through arrangements with others) substance abuse prevention, treatment, and follow-up services; prenatal, gynecological, and pediatric medical services; transportation and nonmedical substance abuse treatment support services. The term "nonmedical substance abuse treatment support services" is defined to include home visitation services, nutrition services, child care, and parenting education; substance abuse prevention, treatment, and follow-up services (to the extent such services are not furnished under a State plan approved under title XIX); and any other services (such as room and board at a residential substance abuse treatment facility for a parent or a child) that are determined by the State (in accordance with regulations issued by the Secretary) to be necessary and appropriate. Services may be provided in either residential or non-residential facilities.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement generally follows the Senate amendment. The Federal matching rate is 75 percent. Funds will be allotted to each State based on the average number of children in the State receiving food stamp benefits.

Effective date.—October 1, 1992.

e. Respite care

(Section 480 of House bill and section 7101 of Senate amendment)

PRESENT LAW

Federal reimbursement for respite care to foster parents is not available under the title IV-E foster care maintenance payments program. There is no specific authorization under title IV-B for respite care services, although States have the discretion to use title IV-B funds for such services.

HOUSE BILL

States may provide respite care under title IV-E to provide temporary relief to the foster parents of foster children with special needs (whether or not such children are eligible for the title IV-E program).

To receive Federal reimbursement for the cost of respite care, the State plan must include provision for such care to any family which operates a foster family home for 1 or more foster children who the State determines have special needs. Respite care must meet all applicable State or local standards and guidelines, and must be provided in the least restrictive setting consistent with the child's special needs. The care must be authorized by a State or provided by a public or private agency designated by a State. Expenditures for title IV-E respite care will be reimbursable at the same matching rate as foster care maintenance payments. Federal reimbursement will be limited to no more than 14 days of respite care in a 12-month period per foster child. A "day" means 24-hours. Expenditures relating to administration will be reimbursed at the rate of 50 percent.

Effective date.—October 1, 1993.

SENATE AMENDMENT

Under the new innovative services entitlement described above, the following would be an allowable use of funds: respite care to provide assistance for any foster care family, adoptive family, or any other family that the State agency determines needs such care in order to preserve family stability, with priority to the family of a child with a physical, mental, or emotional condition that requires special assistance, as determined by the Secretary. (see item c.)

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

Under the conference agreement, a portion of title IV-B entitlement funds is designated for respite care to provide temporary relief to the foster parents of foster children with special needs. Respite care must meet all applicable State or local standards and guidelines, and must be provided in the least restrictive setting consistent with the child's special needs. Respite care funds will be allotted to each State based on its share of the number of children receiving title IV-E foster care maintenance payments (based on the latest available three-year average). The Federal matching rate for the funds is 75 percent.

Effective date.—October 1, 1993.

f. Enhancing court procedures

(Section 104 of House bill)

PRESENT LAW

No provision.

HOUSE BILL

For 5 fiscal years, a freestanding grant to the highest State courts is authorized to conduct an assessment of current court procedures and functions related to parts B and E of title IV and to implement recommendations for improvements based upon such an assessment. The grant will be funded through an earmark of title IV-B entitlement funds.

In fiscal year 1994, the earmark will total $15 million; for each of fiscal years 1995 through 1998, the earmark will equal $25 million. Funds under the earmark will be allotted to the States based on the proportion of their population under the age of 21, but a minimum of $150,000 will be made available to each State during the first year of the grant, and a minimum of $190,000 will be made available to each State during each of the subsequent 4 years.

No State match is required for the first and second year grant funds; and State match of 25 percent is required for fiscal year 1996 through 1998 grant funds.

The Secretary is required to make an interim and final report to Congress on the information obtained from the State assessments and on the impact of the grant program on the procedures and functions of the State courts in carrying out titles IV-B and IV-E. the reports are due at the end of fiscal years 1996 and 1999.

Effective date.—October 1, 1993.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, modified to: (1) authorize grants for four, instead of five, years; (2) require a State match in the second, as well as third and fourth, years of the grant; (3) earmark $15 million for fiscal year 1994, and $20 million for each of fiscal years 1995 through 1997 (the minimum State allotment for fiscal years 1995 through 1997 will equal $170,000); and (4) require only a final report from the Secretary.

Effective date.—Date of enactment.

g. State Plan Requirement

HOUSE BILL

To be eligible to receive its share of entitlement funds for a fiscal year, each State must annually submit to the Secretary, as an amendment to its title IV-B State plan and in such form as the Secretary may require by regulation, a comprehensive family services plan, which must contain:

(1) an assessment of the service needs of families in which any child is at risk of being, or has been, placed outside the home, and the need for substance abuse treatment services for such families:

(2) a description of the service programs available in the State that address the service needs of such families;

(3) the State's 5-year goals for increasing the number and capacity of such service programs;

(4) a strategy for the fiscal year to improve the coordination of services to such families with other State programs and services;

(5) a certification from the Governor that the State has provided for appropriate coordination of State substance abuse treatment programs and the service programs under title IV-B;

(6) an assurance that the State will not use funds under title IV-B to supplant Federal, State or local funds used for similar purposes;

(7) an explanation of how Federal assistance under the entitlement will expand services available to such families, including a description of service programs to be provided with funds under the entitlement, the goals of the programs, and the populations to which the programs will be targeted, with an assurance that such populations will consist of families with children who are in, have been in, or are at risk of being placed in, foster care, and, at the option of the State, the care of a mental health or juvenile justice agency; and

(8) such other information as the Secretary may require by regulation.

Effective date.—October 1, 1993.

Senate Amendment

In order to receive funding for services, each State must submit, on an annual basis, an amendment to its title IV-B plan. The amendment must be submitted by January 1, 1993 for fiscal year 1993, and by July 1 preceding each fiscal year thereafter. The plan amendment must be approved by the Secretary, and must include a detailed description of services the State intends to provide.

The State must also develop a statement of goals that it expects to achieve over the 5 year period 1993–1997, which must be submitted to the Secretary by January 1, 1993.

Effective date.—Date of enactment; applies beginning for fiscal year 1993.

Conference Agreement

Under the conference agreement, the requirement for an annual State plan amendment applies only to the entitlement funds for family preservation and family support services. The conference agreement generally follows the Senate amendment, but also provides that the annual plan amendment will include items d, f, g, and h from the House bill, with respect to a coordination strategy, supplantation of funds, an explanation of how additional funds will expand services, and such other information as the Secretary may require. Item g from the House bill is modified to clarify that States are not required to target services to each of the described populations. The amendment for fiscal year 1993 is due not later than such date as the Secretary may require. The conference agreement established no due date for the report on goals.

Effective date.—October 1, 1992.

2. State directory of services

(Section 105 of House bill)

Present Law

No provision.

House Bill

Title IV-B is amended to include a State plan requirement that the State child welfare agency compile, at least every two years, a directory of certain specified service programs that are made available by the State agency or local child welfare agencies. The service programs in the directory must include:

(a) preplacement preventive services programs that are designed to help children at risk of foster care placement remain with their families;

(b) service programs designed to help children, when appropriate, return to families from which they have been removed or be placed for adoption, with legal guardians, or in some other planned, permanent living arrangement; and

(c) service programs designed to provide follow-up care to families to whom a child has returned following a foster care placement.

The directory must specify which of the service programs provide specialized child welfare services to families in crisis due to substance abuse. The directory must also contain such information as the Secretary may require by rule.

At a minimum, the directory must include the following information: the name and address of the program and administering agency or organization; a description of program services: program capacity; and a description of the eligibility criteria for the program, including any priorities regarding who will receive program services.

The information in the report must be arranged geographically. The State must provide a copy of the directory to the Secretary and to all judges and other judicial administrators, and all State agencies, involved in child protection, foster care and adoption cases.

Effective date.—October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill. The conferees intend that the State may implement this provision by directing the local child welfare agencies to collect the information for their geographic area and submit it to the State child welfare agency for inclusion in the directory. The conferees encourage States to include in the directory services made available by private, nonprofit agencies and other organizations providing services to children and families.

Effective date.—October 1, 1993.

3. Required protections for foster children

(Section 102 of House bill)

Present Law

Under current law, in order to receive its full share of the title IV-B allocation, each State is required under section 427(a) to conduct an inventory of children in foster care; and to implement and operate, to the satisfaction of the Secretary, a tracking system for children in foster care, a case review system for children in foster care, and a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

Currently, all States have chosen to be reviewed for compliance with these requirements and are eligible to receive title IV-B incentive funds.

Further, under section 427(b), if the appropriations for the title IV-B program equal $325 million for two consecutive years, a State does not receive its full title IV-B allotment unless it has met all the section 427 requirements outlined above, and in addition, has implemented a preplacement preventive services program designed to help children remain with their families. This additional incentive mechanism has never been triggered.

States that have elected to provide Federally-supplemented foster care payments for voluntarily-placed foster children are required to implement all section 427 protections, including the preplacement preventive services program. In fiscal year 1989, 22 States claimed Federal matching for children in foster care under voluntary placement agreements, and 50 States reported they were eligible to claim such matching.

House Bill

Beginning for fiscal year 1993, section 427 is repealed. Instead, each State plan for the title IV-B program must provide for the foster care protections currently outlined in section 427(a), including: an inventory of children in foster care; a tracking system for children in foster care; a case review system for children in foster care; and a service program designed to help children in foster care return to their families.

Beginning for fiscal year 1995, States also must:

(a) implement a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

(b) review State laws, State administrative and judicial procedures, and agency legal representation in effect for children abandoned at or shortly after birth, and develop and implement such laws and procedures as the State determines are necessary to enable lasting permanent decisions to be made more expeditiously with respect to the placement of such children.

These amendments must not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 (as in effect before fiscal year 1993).

Effective date.—October 1, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, except that the entire provision will apply beginning for fiscal year 1995.

Effective date.—October 1, 1994.

4. State Plan Requirement Regarding the Indian Child Welfare Act

(Section 106 of House bill)

Present Law

The Indian Child Welfare Act (P.L. 95-608) includes a number of State requirements relating to the foster care or adoptive placement, or termination of parental rights, of Indian children. There is currently no statutory link between the Indian Child Welfare Act and the child welfare services programs under the Social Security Act.

House Bill

The State plan for title IV-B must contain a description, developed after consultation with Indian tribes or tribal organizations within the State, of the specific measures taken by the State to comply with the requirements of the Indian Child Welfare Act.

Effective date.—October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

Effective date.—October 1, 1993.

5. Reports on Child Welfare Services and Expenditures

(Section 103 of the House bill and section 7101 of Senate amendment)

Present Law

The State plan for the title IV-B program must contain a description of the services to be provided and specify the geographic areas where such services will be available.

House Bill

States wishing to participate in the new services entitlement must submit to the Secretary, as a title IV–B plan amendment, a comprehensive family services plan.

Beginning for fiscal year 1994, the State plan for the title IV–B program must include a pre-expenditure report on the intended use of payments, including information on the types of services to be provided and the geographic areas where the services will be available, which must be made public in a manner to facilitate public comment by any person during its development.

Beginning for fiscal year 1994, the bill requires that each State prepare an annual report on actual expenditures for services under title IV–B. The report must be in such form and contain such information as the State finds necessary to: provide an accurate description of services; secure a complete record of the purposes for which the funds were spent; and enable a determination of the extent to which funds were spent in a manner consistent with the pre-expenditure report. The report must be transmitted to the Secretary, available for public comment, and provided, upon request, to any interested public agency.

The Secretary must establish uniform definitions of services for use by the States in preparing the report, and must establish a date by which States must submit the report.

A State plan requirement is added to title IV–B that States provide information for the second preceding fiscal year on aggregate expenditures by the State and its political subdivisions for child welfare services, broken down to show the extent to which the expenditures were from funds provided by Federal, State or local sources. This amendment will apply to State plans beginning for fiscal year 1993. The Secretary must transmit a summary of this information to the House Committee on Ways and Means and the Senate Committee on Finance, and make the summary available to the public at a charge equal to the cost of printing.

Effective date.—October 1, 1993.

SENATE AMENDMENT

States wishing to participate in the new innovative services entitlement must submit to the Secretary a title IV–B plan amendment describing services the State intends to provide with its new entitlement allotment.

No later than January 1, 1994, and annually thereafter, each State must submit to the Secretary a report that summarizes activities actually carried out with new funds made available under this legislation. Such reports will cover the most recently completed fiscal year, and be in such form and contain such information as the Secretary requires by regulation.

In addition, as described in item A.1.d., each State must report information to the Secretary on comprehensive substance abuse treatment programs funded under title IV–B that is needed to evaluate the operation and effectiveness of program services.

Effective date.—January 1, 1994.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with modifications. The proposed requirement for a pre-expenditure report is deleted, and State title IV–B plans must continue to contain a description of services to be provided. The post-expenditure reports will apply to all expenditures under title IV–B but expenditures relating to substance abuse prevention and treatment. The requirement that the Secretary establish uniform definitions of services is amended to make such requirement to the extent feasible. The conference agreement further provides that the requirement that State plans include information on aggregate expenditures will apply beginning for fiscal year 1994, instead of fiscal year 1993.

Effective date.—Date of enactment with respect to expenditures under title IV–B in or after fiscal year 1994.

B. FOSTER CARE AND ADOPTION ASSISTANCE AND RELATED PROVISIONS

1. Comprehensive services/flexible spending

(Section 201 of House bill and sections 7102 and 7112 of Senate amendment)

PRESENT LAW

No provision.

HOUSE BILL

A new part C is added to title IV of the Social Security Act. Under title IV–C, States may participate in a comprehensive and coordinated services designed to: preserve and strengthen families children more expeditiously if an out-of-home placement is found to be necessary, or place children in adoptive homes or other permanent arrangements in a timely fashion if reunification is not appropriate.

Under the project, funds for the existing Federal child welfare and foster care programs may be combined and the States may be granted authority to modify certain requirements of title IV–B or IV–E.

The amount of a grant for a fiscal year to a State participating in a project will be equal to the sum of: 110 percent of the amount of the State title IV–B allotments (but not including additional allotments available to the State as a result of outlays being lower than the CBO baseline) for the fiscal year; and the amount the State would have properly claimed for reimbursement under the title IV–E foster care program for the fiscal year (including expenditures relating to maintenance payments, child placement services, administration, training, and the independent living program).

The Secretary will estimate the State's title IV–E foster care program claims for a fiscal year by: determining the amount paid the State for the fiscal year immediately preceding the fiscal year the State commenced the project; adjusting the amount at an annual rate which reflects the average annual rate of growth in expenditures by the State on behalf of foster children under title IV–E for the 3-year period prior to the commencement of the project; and increasing the amount, to the extent the Secretary deems appropriate, by taking into account the State's estimates of such claims, the projected rate of inflation for the fiscal year, the rate at which foster care expenses in other States have increased, changes in State laws or procedures that would change the rate at which children are placed into foster care, and the amount (if any) by which the national average foster care placement rate exceeds the State's foster care placement rate.

To the extent a State chooses not to operate the project statewide, the grant amount will be adjusted downward based on the relative number of children in foster care in the area of the State in which the project is to be conducted.

Effective date.—October 1, 1993.

SENATE AMENDMENT

(a) Demonstration to Improve Coordination of Services.—The Secretary will be required to permit up to 15 States to use Federal title IV–E foster care administrative (entitlement) matching funds (not to exceed $3 million per year for any one State) to conduct pilot projects to improve the coordination of services for families and children. Applications for approval of projects must be submitted by the Governor. Projects may last up to 3 years.

Applications must include a description of the measures to be employed to improve coordination of the child welfare, foster care, and adoption assistance programs with several or all of the following programs designed to assist families and children: programs under the Social Security Act (AFDC, child support enforcement, JOBS, medicaid and maternal and child health), WIC, education programs, mental health programs, juvenile justice programs, substance abuse programs, programs for the developmentally disabled, and other programs determined by the State and approved by the Secretary.

States receiving grants will be required to describe Federal, State, and local laws and administrative policies that impede coordination of the delivery of services to families and children. States also must describe the steps they have taken or intend to take to eliminate or reduce problems in coordination that result from State or local laws and policies. They must also provide the Secretary with information on barriers they have identified in Federal legislation and policy that limit States' ability to coordinate services for families and children.

The Secretaries of HHS, Agriculture, and Education, and the Attorney General, will be required to review Departmental policies to determine whether changes in regulations and policies can be made without legislative changes to improve the funding and delivery of services for children and families. In undertaking this review, they must consult with representatives of State and local governments.

A report including recommendations for making both legislative and non-legislative changes to improve coordination must be submitted to the Congress by July 1, 1993, and must include a description of any technical assistance that the Departments will provide to the States to assist them in program coordination and an analysis of impediments to coordination described by participating States, as such impediments relate to Federal policies and laws.

Any State approved by the Secretary to operate a demonstration project to improve coordination of services will be required to conduct an evaluation of the project's effectiveness in improving the coordination and the funding of child and family services, and report the results of the evaluation to the Secretary upon completion of the project. States may use regular title IV–E administrative matching funds for evaluation.

(b) Flexible Spending Demonstrations.—Title IV–E is amended to authorize up to 10 States to conduct demonstration projects, intended to provide States with the flexibility and resources necessary to develop innovative policies and appropriate service networks to preserve and strengthen families with children at risk of needing out-of-home placement; to reunite children with their families as promptly as possible if out-of-home placement is necessary; to place children in adoptive homes or other permanent arrangements, including guardianship and placement with relatives, if reunification is not possible or not in the child's best interest; and to provide for evaluation of innovative State programs and assessment of the im-

pact of such programs on children and families.

To the extent feasible in view of the number of approvable applications received, the Secretary shall approve at least 2 and not more than 4 applications from States with populations of less than 1.5 million; at least 3 and not more than 5 from States with populations between 1.5 and 7 million; and at least 2 and not more than 4 from States with populations over 7 million. No more than 4 applications shall be approved for any one geographical region of the country, as determined by the Secretary.

The amount of the grant payable to a State in a fiscal year will equal the "applicable percentage" of the sum of the following: the amounts paid to the State for fiscal year 1992 under sections 423 and 474 (except for adoption assistance payments and administrative costs associated with adoption assistance); the portion of the amount (if any) by which title IV-B appropriations for a fiscal year exceed such appropriations for fiscal year 1992, that would be payable to the State if the State were not conducting a demonstration; and 20 percent of the amount that would have been payable to the State for the immediately preceding fiscal year under section 423 if the State were not conducting a demonstration.

The term "applicable percentage" means the following quotient, as determined by the Secretary after taking into account estimates prepared by the evaluating entity: the number of children in the demonstration areas with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State IV-E plan and the State were not authorized to conduct a demonstration project, divided by the total number of such children in the State.

During the period that the State is conducting a demonstration, certain provisions of title IV-B and IV-E will not apply to the State.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement adopts the House bill provision for comprehensive service projects, but limits participation to 3 States, and modifies the calculation of the grant amount. The conferees encourage the Governor of a participating State to consider implementing joint funding and other mechanisms designed to ensure the commitment of each of the child welfare, juvenile justice and mental health systems to the project, and to convene an interagency task force including nonprofit provider agencies to jointly plan and implement the comprehensive service project in the State.

In addition, the conference agreement adopts the Senate provision authorizing funds to conduct demonstrations to improve coordination of services, and would allow up to 3 States to participate.

Effective date.—October 1, 1992.

2. Changes to eligibility requirements under title IV-E

PRESENT LAW

Under a State title IV-E plan, a State must make foster care maintenance payments with respect to a child who would be classified a dependent child under the AFDC program, but for the child's removal from the home of a relative, if (and subject to certain other conditions): the child received AFDC at the time removal was initiated; the child would have received AFDC at the time removal was initiated if application had been made; or the child had been living with a caretaker relative within 6 months prior to the time removal was initiated, and would have received AFDC at the time removal was initiated if the child had been living with such a relative and application had been made.

Also, under a State title IV-E plan, a State must enter into adoption assistance agreements with the adoptive parents of children with special needs. Under an adoption assistance agreement, a State may make adoption assistance payments with respect to a child with special needs if the child:

(a) at the time adoption proceedings were initiated, met the requirements necessary to be classified a dependent child under the AFDC program or would have met such requirements except for his removal from the home of a caretaker relative; or meets all the eligibility requirements for the SSI program;

(b) received AFDC at the time removal from the home of a relative was initiated, would have received AFDC if application had been made, or had been living with a caretaker relative within 6 months prior to the time removal was initiated and would have received AFDC at the time removal was initiated if the child had been living with such a relative and application had been made; or meets all the eligibility requirements of the SSI program.

a. Abandoned children

(Section 202 of House bill)

PRESENT LAW

States cannot generally claim title IV-E reimbursement for abandoned children, since the financial circumstances and living arrangements of the parent(s) cannot be determined to verify actual or potential AFDC eligibility.

HOUSE BILL

States may make foster care maintenance and adoption assistance payments under title IV-E to each child entering foster care on or after October 1, 1993 who has been determined by a court of competent jurisdiction to be an abandoned child, for whom the State agency cannot, despite diligent efforts, determine the financial circumstances and living arrangements of the parent(s), and who is under the responsibility of the State.

Effective date.—October 1, 1993.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

b. Clarification of "removal from home" requirement

(Section 203 of House bill)

PRESENT LAW

HHS policy, articulated in a "policy interpretation question" (PIQ) issued August 13, 1987, interprets title IV-E eligibility requirements relating to "removal from the home" to mean children must be *physically* removed from the home. Thus, for example, under this interpretation a child who goes to live with his grandmother before custody is transferred to the State and the child is formally placed into foster care with the grandmother, is not eligible for title IV-E because no *physical* removal has occurred.

HOUSE BILL

Federal reimbursement under the title IV-E foster care maintenance payments and adoption assistance programs may be made on behalf of children placed in foster care or for adoption who the State has not physically removed from the home of the caretaker, but of whom the State assumes legal custody, and who otherwise meets the eligibility requirements for the program.

Effective date.—October 1, 1992.

In addition, effective on the date of enactment, States may claim Federal reimbursement retroactively for foster care and adoption assistance expenditures made by the State from October 1, 1982 to October 1, 1992 with respect to such children. States may have one year from the date of enactment to submit old claims (i.e., claims that are submitted more than 2 years after expenditure).

Effective date.—Date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

c. Dissolved adoptions

(Section 204 of House bill and section 7103(b) of Senate amendment)

PRESENT LAW

A child on whose behalf title IV-E adoption assistance payments are made (and whose adoption has been legally finalized by a judicial decree of adoption), but whose adoption is subsequently set aside by the court and who returns to foster care, is often not eligible for title IV-E foster care maintenance and adoption assistance payments, because the income or resources of the adoptive family has made the child ineligible for the AFDC or SSI program.

HOUSE BILL

States may make foster care or adoption assistance payments under title IV-E on behalf of a child with respect to whom such payments were previously made, whose adoption has been set aside by a court, who otherwise meets eligibility requirements under title IV-E, and who fails to meet the AFDC eligibility requirements, but would meet them if the adoption were treated as never having occurred, and the child were treated as if in the same financial and other circumstances as when the child last received title IV-E payments.

Effective date.—October 1, 1992.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

Effective date.—October 1, 1992.

d. Extension of definition of special needs child

(Section 206 of House bill)

PRESENT LAW

To be eligible for adoption assistance a child must be determined to have "special needs." A child shall not be considered a child with special needs unless: (1) the State determines the child cannot or should not be returned to the home of his parents; and (2) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as ethnic background, age, membership in a minority or sibling group, a medical condition or physical, emotional or mental handicap) that make adoption unlikely without providing financial or medical assistance, and (B) a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without providing such assistance.

HOUSE BILL

A child shall not be considered a child with special needs unless the State determines: (1)

the child cannot or should not be returned to the home or legal custody of the parents; (2) there exists a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) or information available and known about the child's history indicating a high risk of medical conditions, or emotional, physical, or mental handicaps, which makes it reasonable to conclude that the child cannot be placed for adoption without an adoption assistance agreement; and (3) a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without providing financial or medical assistance.

A child also may qualify for title IV-E adoption assistance as a child with special needs if the State determines that the child has been adopted; immediately prior to adoption, was under the care and responsibility of the State agency administering the State plan; and has a mental, physical, or emotional handicap that existed before the adoption but was not diagnosed until after the adoption, or that first manifests itself after the adoption but is congenital or was caused before the adoption.

States will be required to submit a description of those factors and conditions which make a child a child with special needs to the Secretary, as well as any modifications that are made to the factors and conditions.

Effective date.—October 1, 1993, with respect to children who are adopted after September 30, 1993.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that with respect to children who qualify for title IV-E adoption assistance after they have been adopted, the provision is modified to include as eligible children who may have been under the care and responsibility of a private nonprofit agency immediately prior to their adoption, in addition to children who had been under the care and responsibility of the State agency.

The conferees do not intend this provision to restrict the ability of adoptive parents to obtain adoption assistance after a final decree of adoption as a result of a successful appeal through the State's fair hearing process or an equivalent administrative review procedure.

Effective date.—October 1, 1993, with respect to children who are adopted after September 30, 1993.

e. Time frame for judicial determinations on voluntary placements

(Section 212 of House bill)

PRESENT LAW

No payment may be made under title IV-E to reimburse a State for foster care maintenance payments in the case of any child who was removed from the home as a result of a voluntary placement agreement and has remained in the placement for more than 180 days, unless there has been a judicial determination within the first 180 days of the placement to the effect that the placement is in the best interests of the child.

HOUSE BILL

With respect to any child who remains in foster care under a voluntary placement agreement for more than 180 days without there having been a judicial determination within the first 180 days of the placement to the effect that the placement is in the best interests of the child, Federal reimbursement may be claimed for foster care maintenance payments beginning 180 days after the date that such judicial determination is finally made.

Effective date.—October 1, 1992, with respect to foster care placements made on or after October 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

3. Study of reasonable efforts requirement by advisory committee

(Section 207 of House bill and section 7105 of Senate amendment)

PRESENT LAW

In order for a State to be eligible for title IV-E funding, the State plan must specify that, in each case, reasonable efforts will be made prior to the placement of a child in foster care to prevent the need for foster care and make it possible for the child to return home (sec. 471(a)(15)). The statute also provides that for each child entering foster care after October 1, 1983, a judicial determination must be made that there were reasonable efforts to prevent placement in foster care. (sec. 472(a)(1)).

HOUSE BILL

Within 90 days of enactment, the Secretary must establish an advisory committee of at least 9 members to study and make recommendations concerning the implementation of the "reasonable efforts" requirement of section 471(a)(15). The advisory committee must include representatives of private, nonprofit organizations with an interest in child welfare; agencies of States and political subdivisions responsible for child protective services, foster care services or adoption services; judicial bodies of States and political subdivisions who adjudicate family law issues; and attorneys and others who represent children and parents.

No later than April 1, 1994, the advisory committee must submit a report to the Secretary and to Congress that includes legislative or other recommendations concerning the implementation of the "reasonable efforts" requirements.

Members of the advisory committee would receive compensation while engaging in the business of the advisory committee at a rate fixed by the Secretary, not to exceed GS-18 of the General Schedule established under sec. 5332 of Title V, U.S.C., and would be allowed travel expenses. Full-time officers or employees of the United States could not receive additional pay, allowances or benefits by serving on the committee. The committee could employ and fix the compensation of one individual.

Effective date.—Date of enactment.

SENATE AMENDMENT

Similar to House provision except advisory committee must include a representative of hospitals that treat a significant number of boarder babies. A representative of attorneys and others who represent children and families is not required. The advisory committee's report is due by January 1, 1994 and must include recommendations for making improvements in the implementation of the requirements under section 471(a)(15). There is no specific authorization for the committee to hire staff.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the House and Senate provisions with respect to an advisory committee on reasonable efforts, modified to delete the required representation on the committee of attorneys and others who represent children and families, and representatives of hospitals that treat a significant number of boarder babies.

Effective date.—Date of enactment.

4. Tax deduction for costs of adopting a child with special needs

(Section 7104 of Senate amendment)

PRESENT LAW

Taxpayers are not allowed to deduct expenses related to adopting a child in determining their Federal income tax liability.

HOUSE BILL

No provision.

SENATE AMENDMENT

Taxpayers may deduct certain allowable expenses (up to a maximum of $3,000) of adopting a special needs child. The deduction may be taken whether or not the taxpayer itemizes deductions. Allowable expenses include reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses directly related to the legal adoption of the child which are eligible for reimbursement under the title IV-E adoption assistance program. A special needs child is a child with respect to whom the State has determined that there exists a specific factor or condition (such as ethnic background, age or membership in a minority or sibling group, or medical condition or physical, mental or emotional handicap) that makes it difficult to find an adoptive home for the child.

Effective date.—The provision is effective for adoptions occurring after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—The provision is effective for adoptions occurring after December 31, 1992.

5. Periodic review of foster care maintenance payments

(Section 209 of House bill)

PRESENT LAW

Each State establishes its own foster care maintenance payment levels. Under current title IV-E law, as part of the State plan requirements, States must periodically review their foster care maintenance and adoption assistance payments.

HOUSE BILL

States are required to review their foster care maintenance payment and adoption assistance levels at least every three years to assure their continuing appropriateness, and report the results of the review to the Secretary and the public at such time and in such form and manner as the Secretary may by regulation require.

At a minimum, the report must include a statement of the manner in which the foster care maintenance payment level is determined, including information on the actual cost of foster care; information regarding the basic payment level and whether this level includes an amount to cover the cost of clothing; and information regarding whether the payment level varies by the type of care or the special needs or age of the child, and, if so, the payment levels for each special needs, care or age category.

States that do not pay a differential rate for children with special needs who are HIV-positive or have AIDS, or children who are drug-addicted or have complications due to drug or alcohol exposure, must provide the reasons. In addition, the report must include information on any limitations imposed by the State on adoption assistance payment levels.

Effective date.—October 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

Effective date.—October 1, 1992.

6. Amendments to case review system and case plan requirements

PRESENT LAW

To receive certain incentive funds under title IV-B, States are required to implement and operate, in addition to other activities, a case review system for each child receiving foster care under the supervision of the State. Section 475 of title IV-E defines "case review system" to mean a procedure for assuring that: each child has a case plan meeting specified requirements, the status of each child is reviewed at least once every six months by a court or by administrative review, and each child in foster care is assured a dispositional hearing in a court, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement in foster care (and periodically thereafter during a continuation of foster care).

The dispositional hearing determines: the future status of the child, including but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should be continued in foster care on a permanent or long-term basis; and for a child who is age 16 or older, the services needed to assist the child to make the transition to independent living.

a. Accelerated dispositional hearing

(Section 210 of House bill)

HOUSE BILL

The definition of "case review system" is amended to require that the dispositional hearing take place no later than 12 months after placement, rather than the current 18 months.

Effective date.—October 1, 1994.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House provision, modified to require the dispositional hearing to take place no later than 15 months after placement. The conferees note that States may, prior to fiscal year 1995, phase-in implementation of the requirement in order to secure a smooth transition to the 12-month dispositional hearing standard.

Effective date.—October 1, 1994.

b. Period review of children free for adoption

(Section 211 of House bill and Senate 7103(a) of Senate amendment)

HOUSE BILL

With respect to any child for whom a determination is made that such child should be placed for adoption, the court or administrative body that conducts a dispositional hearing must determine and document the measures needed to enhance the likelihood of making the child legally eligible for adoption and finding an adoptive family for the child.

With respect to any child who is legally eligible for adoption, the court or administrative body that conducts a dispositional hearing must determine and document the specific measures which have been and need to be taken to make an adoptive placement, or a finding that placement of the child in an adoptive family would be inappropriate.

Effective date.—October 1, 1994.

SENATE AMENDMENT

In the case of a child who is legally eligible for adoption, the court or administrative body conducting the case review must determine and document the specific measures taken by the State agency to make a placement of the child in an adoptive family, or a finding that adoptive placement would be inappropriate for the child.

Effective date.—October 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that requirements would apply to the court or administrative body conducting the case review, rather than the court dispositional hearing.

Effective date.—October 1, 1994.

c. "Most appropriate setting" requirement

(Section 7106(a) of Senate amendment)

PRESENT LAW

Current law requires each foster child to have a case plan designed to achieve placement in the "least restrictive (most family-like) setting available."

HOUSE BILL

No provision.

SENATE AMENDMENT

The current law requirement will be modified to require placement in "the least restrictive (most family-like) and most appropriate setting available."

Effective date.—This provision applies to case reviews conducted on or after July 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—This provision applies to case reviews conducted on or after October 1, 1992.

d. Citizen review volunteers

(Section 7106(b) of Senate amendment)

HOUSE BILL

No provision.

SENATE AMENDMENT

The current law definition of case review system will be amended to provide that, to the extent determined appropriate by the State, citizen volunteers may participate in making recommendations at either the periodic court of administrative reviews, or at dispositional hearings. This provision is effective upon enactment.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—Date of enactment.

e. Health care plans for foster children

(Section 7111 of Senate amendment)

HOUSE BILL

No provision.

SENATE AMENDMENT

Each child's case plan must include a record indicating that the child's foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic and treatment services under Medicaid.

Effective date.—The provision applies to case plans established or reviewed on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—The provision applies to case plans established or reviewed on or after January 1, 1993.

7. Placement accountability

(Section 213 of House bill)

PRESENT LAW

Title IV-E does not require the States to implement any specialized reviews or procedures in the case of children who are placed in foster care institutions outside the State.

HOUSE BILL

The case plan for a title IV-E foster child who is placed by the State in a foster care facility outside the State must include a finding that: efforts have been made to place the child in a facility in the State; the child needs services not available in the State; the placement is in the least restrictive (most family like) setting available, consistent with the best interest and special needs of the child; and the placement has been approved by a court or a review committee (such as a foster care review board) established by the State that reviews out-of-state placements.

The review committee must include appropriate State personnel, child advocates, parents, and other individuals the State deems appropriate. The placement must also be reviewed by a court not less frequently than annually, with the child present, unless the court determines that due to the age or condition of the child, or for some other good cause, the presence of the child would be detrimental to the child or would not accomplish a useful purpose.

The State agency must ensure that any out-of-state facility in which a title IV-E foster child is placed meets all of the originating State's applicable standards or is operated in accord with recommended standards of national organizations. In addition, the State must submit a report to the Secretary by the end of fiscal year 1994 on the number and characteristics of children placed in out-of-state care and the reasons why such children were not placed in foster care within the State.

Effective date.—October 1, 1993.

The data collection system established by the Secretary pursuant to section 479(b)(2) of title IV-E must provide State-specific information on the numbers and characteristics of foster children in out-of-state foster care placements.

Effective date.—October 1, 1994.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the provision (excluding the data collection requirement) expires at the end of fiscal year 1996. Further, the House provision requiring State agencies to ensure that out-of-State facilities in which title IV-E children are placed meet certain standards is modified to require that the State agency ensure that such facilities have certified that they meet such standards.

Effective date.—Same as House bill.

8. Independent Living amendments

a. Treatment of assets of youth participating in Independent Living program

(Section 214 of House bill and section 7109(a) of Senate amendment)

PRESENT LAW

The independent living program under title IV-E is a State entitlement program designed to help ease the transition of foster children age 16 and older to independent living. States may include children who are not receiving title IV-E foster care benefits in the program, and may also allow children who have left foster care, up to age 21, to participate.

Under current law, the AFDC resource test applies to a foster child on whose behalf the State is claiming reimbursement under title IV-E. Should such a child accumulate assets above those allowed under AFDC while on foster care: the child may become ineligible to participate in the independent living program, if the State allows only title IV-E eligible foster children to participate; and the child may lose Medicaid benefits, since foster children receiving State-only benefits are not categorically eligible for Medicaid and generally must meet a resource test.

Youth who leave foster care and apply for or receive AFDC benefits are subject to the same rules regarding income and resources as other AFDC applicants and recipients.

House Bill

With respect to a child who is receiving assistance under an independent living program, an amount of the assets of the child which would otherwise be regarded as resources for purposes of determining eligibility for AFDC may be disregarded for the purpose of allowing the child to establish a household. The amount may not exceed an amount determined by the State child welfare agency as reasonable for the purpose of establishing a household.

Effective date.—October 1, 1992.

Senate Amendment

Same as House provision, except that a certain amount of assets may be disregarded for purposes of determining eligibility for Medicaid, as well as AFDC.

Effective date.—October 1, 1992.

Conference Agreement

The conference agreement follows the Senate amendment.

Effective date.—October 1, 1992.

b. Extension of Independent Living program

(Section 7101 of H.R. 11 as passed by the House and section 7109(b) of Senate amendment)

Present Law

The independent living program is currently authorized through fiscal year 1992. The entitlement ceiling in fiscal year 1992 is $70 million.

House Bill

The independent living program will be permanently authorized, with the current law ceiling of $70 million indexed to inflation.

Effective date.—October 1, 1992.

Senate Amendment

The conference agreement provides that the independent living program will be permanently authorized, at $70 million per year.

Effective date.—October 1, 1992.

Conference Agreement

The conference agreement follows the Senate bill.

Effective date.—October 1, 1992.

c. Optional lowering of age of eligibility

(Section 7101 of H.R. 11 as passed by the House)

Present Law

The independent living program is available to foster children age 16 and older.

House Bill

At State option, the age of eligibility for independent living services could be lowered to 14 years old.

Effective date.—Date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provision.

d. Demonstration of Independent Living services for young adults

(Section 7127 of H.R. 11 as passed by the House)

House Bill

Would authorize such sums as necessary for the Secretary to conduct a three-year demonstration in one State that would provide community-based services for former foster children ages 21 to 25. Such services could include self-help groups, counseling, treatment for survivors of abuse, mentoring, alumni groups, and/or coordination of and referral to existing community services by independent living agency staff.

Effective date.—Date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, modified to require the State or locality conducting the demonstration to arrange for an evaluation of the impact of the demonstration on the well-being of the individuals who participate.

Effective date.—Date of enactment.

9. Elimination of foster care ceilings and transfer authority

(Section 215 of House bill)

Present Law

Mandatory State-by-State ceilings are placed on foster care funds if the Federal appropriation for child welfare services reaches a specified trigger level, currently $325 million. In the absence of a mandatory foster care ceiling, States may elect to operate under a voluntary ceiling. A State may use one of several methods to calculate the most favorable ceiling. The mandatory ceiling has not gone into effect since 1981. The majority of States are operating significantly above their respective ceiling levels.

Under a voluntary ceiling, a State may transfer a portion of its unused foster care funds to its child welfare services program. It is estimated that the amount transferred by States will total $1 million for fiscal year 1992.

The foster care ceilings and the authority to transfer foster care funds to child welfare services expire September 30, 1992.

House Bill

The provisions of current law establishing a mandatory and voluntary ceiling on foster care funds, and enabling States to transfer "unused" foster care funds to their child welfare services program, are eliminated.

Effective date.—October 1, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

Effective date.—October 1, 1992.

10. Training activities

a. Regulations for training of agency staff and foster and adoptive parents

(Section 216 of House bill and section 7110(b) of Senate amendment)

Present Law

Under current law, States are entitled under the title IV-E program to a payment equal to 75 percent of expenditures for the training of personnel employed or preparing for employment by the State or local child welfare agency, and for the training of foster and adoptive parents.

House Bill

Not later than 9 months after enactment and after consultation with an advisory body, the Secretary must publish final regulations establishing detailed guidelines to assist States in using Federal matching funds authorized under title IV-E for the purpose of providing training for individuals who are employed, or preparing for employment, by State and local child welfare agencies, and foster and adoptive parents. The advisory body must include representatives of nonprofit organizations with an interest in child welfare (including organizations that train professional social workers in the field of child welfare services) and organizations representing State and local child welfare agencies.

Effective date.—Date of enactment.

Senate Amendment

The Secretary is required, not later than April 1, 1993, to publish final regulations establishing detailed guidelines to assist States in using Federal matching funds that are authorized under current law for the purpose of providing training for individuals who are employed or preparing for employment by State and local child welfare agencies.

The Secretary also is required to develop and publish a model staff recruitment, training and staff retention program for use by State and local child welfare agencies, by April 1, 1993.

Effective date.—Date of enactment.

Conference Agreement

The conference agreement follows the House bill, but would require the establishment of an advisory committee within 180 days of enactment, and final regulations withn 15 months. The conference agreement also includes the Senate provision regarding a model staff recruitment, training and retention program, but would require that the model program be published by October 1, 1993.

Effective date.—Date of enactment.

b. Matching funds for foster and adoptive parent training

(Section 7102 of H.R. 11 as passed by the House and section 7110(c) of Senate amendment)

Present Law

The current provision allowing 75 percent Federal matching funds for certain training expenses expires on September 30, 1992.

House Bill

The present law authorization for Federal reimbursement at 75 percent under title IV-E for training of foster and adoptive parents and for training staff of approved child care institutions providing care to foster and adopted children is permanently extended.

Effective date.—October 1, 1992.

Senate Amendment

The present law authorization for Federal reimbursement at 75 percent under title IV-E for training of foster and adoptive parents and for training staff of approved child care institutions providing care to foster and adopted children is extended through fiscal year 1995.

Effective date.—October 1, 1992.

Conference Agreement

The conference agreement follows the House bill.

Effective date.—October 1, 1992.

c. Child welfare traineeships

(Section 7110(a) of Senate amendment)

PRESENT LAW

Title IV-B (section 426(a)(C) authorizes such sums as may be necessary to enable the Secretary to make grants to public or private nonprofit institutions of higher education for training personnel for work in the field of child welfare.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Secretary may not approve an application for a training grant unless the institution:

(1) provides assurances that students receiving stipends will enter into agreements with the institution to: participate in on-site training at a child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship; be employed for a period of years equal to the period of the traineeship in a child welfare agency in any State after completing the postsecondary education for which the traineeship was awarded; to provide the institution and the Secretary with evidence of compliance; and in the event of noncompliance, to repay to the Secretary all or a portion of the stipend, plus interest, and if applicable, reasonable collection fees;

(2) provides assurances that the institution will provide appropriate student supervision and support; enter into agreements with child welfare agencies for the on-site training of recipients; develop and implement a curriculum in the child welfare field that reflects current knowledge about best practices in delivering child welfare services, and consult with child welfare agencies in developing the curriculum; allow those already working in the child welfare services field to be eligible for stipends in order to complete degree requirements; and develop and implement a system to track (for a period of three years) students who complete a child welfare services program of study to determine the percentage of such students who secure and retain employment in the child welfare field.

A student will not be considered in violation of an agreement during any period in which the student satisfies repayment exceptions prescribed by the Secretary in regulations.

Effective date.—Effective for grants awarded on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—Effective for grants awarded on or after April 1, 1993.

11. Publication of program data

(Section 217 of House bill)

PRESENT LAW

Under current law, the Secretary is not required to submit to Congress general program data and information relating to the child welfare, foster care and adoption assistance programs under titles IV-B and IV-E of the Social Security Act.

HOUSE BILL

Beginning for fiscal year 1993, the Secretary is required to submit to the Ways and Means and Finance Committees and to make available to the public on an annual basis certain information relating to the titles IV-B and IV-E programs, including information on: Federal and State spending; program participation; reviews and audits; foster care maintenance payment rates; services funded under title IV-B; research, training and demonstration projects; and any other information the Secretary deems useful for monitoring the operations of the programs.

Effective date.—October 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the provision will apply beginning for fiscal year 1994, instead of 1993.

Effective date.—October 1, 1993.

12. Review of child welfare activities

a. New review system

(Section 218 of House bill and sections of 7115 and 7116 of Senate amendment)

PRESENT LAW

Title IV-B.—There are no formal review provisions for title IV-B in current law. However, section 427 of title IV-B contains certain protections for foster children which States must comply with to be eligible to receive incentive funds (see item I.C. above). HHS has developed a review system to determine State compliance with these protections.

Title IV-E.—Section 471(a)(13) of title IV-E requires, as a component of State plans under title IV-E, that States arrange for periodic and independent audits of their activities under title IV-B and IV-E, to be conducted at least once every three years. In addition, section 471(b) allows the Secretary of HHS to withhold or reduce payments to States upon finding that a State plan no longer complies with State plan requirements, or, in the State's administration of the plan, there is substantial failure to comply with its provisions. The Secretary must first provide reasonable notice and opportunity for a hearing.

In practice, the Secretary may disallow expenditures for Federal reimbursement under title IV-E as a result of several review procedures, including audits conducted pursuant to section 471(a)(13). Disallowances may result from audits conducted by the Inspector General, regional office reviews of quarterly expenditure reports submitted by States as part of the claims reimbursement process, or Federal financial reviews.

Title IV-E financial reviews are conducted retrospectively, after conclusion of the fiscal year. However, States are not generally reviewed annually, and States may be reviewed for more than one fiscal year at a time.

States may appeal disallowances to the Departmental Appeals Board.

HOUSE BILL

A new part G is added to title IV of the Social Security Act, which requires the Secretary to establish, by regulation, a new, integrated child welfare review system. Beginning with fiscal year 1994, the new review system will apply to all child welfare activities under approved State plans for child welfare services, including the new entitlement (title IV-B), and foster care and adoption assistance (title VI-E).

By April 1, 1993, the Secretary must issue final regulations that will establish a system to:

(1) assess State child welfare activities to identify areas where requirements are not being met and the degree to which they are not being met;

(2) impose graduated financial penalties on States in cases of substantial noncompliance, unless corrective action is taken; and

(3) provide States with technical assistance to bring about compliance.

The Secretary's child welfare review regulations must contain the following elements:

(1) a requirement that each State's child welfare programs be reviewed to determine whether and the degree to which they comply with State plan requirements for child welfare services and foster care and adoption assistance; and the extent to which claims for foster care maintenance payments and adoption assistance payments are proper and eligible for Federal reimbursement;

(2) the criteria to be used in judging compliance with State plan requirements and measuring the extent to which payments for foster care maintenance and adoption assistance under title IV-E are eligible for Federal reimbursement;

(3) thresholds, (which must be periodically reviewed, and, if necessary, revised) with respect to each major compliance category and any subcategories the Secretary may deem especially important, for determining whether State programs are out of compliance or substantially out of compliance;

(4) interim thresholds to be used in each State's first review under the new system;

(5) periodically revised uniform review procedures that enable a single, integrated, and timely review of each State's compliance, and include sampling of payments for foster care maintenance and adoption assistance, and other appropriate program activities;

(6) provisions that will exclude program deficiencies or errors from consideration in judging compliance if they are technical or due to a failure to implement changes in law in the 6 months following the law's effective date or issuance of regulations, or due to a State's reliance on and correct use of erroneous information or written Federal policy provided by the Secretary; and

(7) for cases of substantial non-compliance, a method of calculating financial penalties that will be proportional to the degree of non-compliance and, to the extent appropriate, based on the graduated penalty formula used in calculating disallowances under the AFDC quality control system.

Under the new review system, the Secretary must complete an integrated review of each State's child welfare programs at least once every 3 years for the most recently completed fiscal year, and must complete at least 1 review of each State's programs by the end of fiscal year 1997. On a determination of non-compliance in any matter, the Secretary must give the State timely notification of the determination, including the basis for the determination and the amount of any financial penalty.

If a review finds a State's child welfare programs out of compliance, and the failure is not substantial, the Secretary may require the State to submit a corrective action plan and timetable, may annually review the State's corrective action progress, and must offer the State technical assistance in areas the Secretary judges appropriate.

If a review finds a State's child welfare programs out of compliance, and the failure is substantial, the Secretary must impose a financial penalty on the State proportional to the degree of non-compliance (which may be suspended or rescinded under certain conditions), make available to the State technical assistance to accomplish compliance, and annually review the State's progress until substantial compliance is achieved.

Any financial penalty for substantial noncompliance will be suspended if the State submits, and the Secretary approves, a corrective action plan and timetable, for as long as the plan is being fully implemented in accordance with the timetable. Any financial penalty will be rescinded when the State has fully implemented its corrective action plan in accordance with its approved timetable and has achieved substantial compliance.

States may appeal determinations of substantial non-compliance and any financial penalties to the Departmental Appeals Board. In addition to its authority to overturn or affirm the determinations, the Board may adjust the amount of any financial penalty, taking into account the amount proposed by the Secretary, the proportionality of the penalty to the degree of failure, and, where appropriate, whether the failure materially affected the protection of children who are in, or at risk of being placed in, foster care. After a decision by the Board, States may appeal to Federal district court, where the case will be reviewed based on the record established in the proceedings before the Board.

The bill repeals the authority under section 471(b) which allows the Secretary to withhold or reduce payments to States upon finding that a State plan no longer complies with State plan requirements, or, in the State's administration of the plan, there is a substantial failure to comply with its provisions.

Effective on the date of enactment, the bill: permanently prohibits the Secretary from reducing any payment to, withholding any payments from, or seeking any payments from any State, under titles IV–B or IV–E, by reason of a determination made in connection with a review of State compliance with the title IV–B foster care protections, for any fiscal year before fiscal year 1995; and prohibits the Secretary, until October 1, 1994, from reducing any payments to, withholding any payments from, or seeking any payments from any State, under title IV–E, by reason of a determination made in connection with a Federal title IV–E financial review or an audit conducted by the Inspector General.

Effective upon enactment, within 10 months after deferral action (action to suspend payment) is taken on a claim for reimbursement under title IV–E, the Secretary must determine the allowability of the deferred claim, or if unable to reach such a determination within the period, pay the claim subject to a later determination of allowability. Any deferral action must be taken within 30 days after the receipt of a quarterly expenditures report.

Effective date.—Date of enactment.

SENATE AMENDMENT

By May 1, 1993, the Secretary is required to submit to the Committee on Finance and the Committee on Ways and Means recommendations for legislation to establish a system for the review of each State child welfare program, and the provision of technical assistance to State programs. The term "child welfare program" is defined to mean all activities engaged in by the State under parts IV–B and IV–E of the Social Security Act.

Reviews of each State program shall be for the purpose of assuring whether the program is being carried out as required by statute; identifying any area in which the program is not being carried out as required, and the degree to which it is not being carried out; and identifying the circumstances under which financial penalties shall be imposed unless corrective action is taken.

Recommendations must include provisions requiring each State child welfare program to be reviewed periodically to determine whether and, where appropriate, the degree to which the program complies with State plan requirements, and the extent to which the amounts claimed to have been expended by the State for foster care maintenance payments and adoption assistance are eligible for Federal reimbursement. In addition, recommendations must specify the criteria that are to be used to assess whether the State's program has complied with Federal requirements, and the degree of such compliance.

In developing the recommendations, the Secretary must consult with representatives of State agencies administering child welfare programs; representatives of private nonprofit organizations which have an interest in child welfare; and such other individuals as the Secretary may determine.

The Secretary is required to pay any State claim for reimbursement of expenditures under title IV–E within 90 days of its receipt, unless the Secretary issues a deferral or disallowance of such claim within the 90-day period.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement generally follows the House bill, with modifications designed to provide the Secretary greater flexibility in developing the regulations. The Secretary must issue final regulations by not later than January 1, 1994, to apply to conduct occurring on or after October 1, 1994. All programs must be reviewed by the end of fiscal year 1998. The regulations must be developed in consultation with State agencies. The conferees do not intend that the Secretary, in developing the regulations, be limited to the requirements outlined in the provision.

Effective on the date of enactment, the bill prohibits the Secretary, until October 1, 1993, from: reducing any payment to, withholding any payment from, or seeking any payments from any State, under titles IV–B or IV–E, by reason of a determination made in connection with a review of State compliance with the title IV–B foster care protections; and reducing any payments to, withholding any payments from, or seeking any payments from any State, under title IV–E, by reason of a determination made in connection with a Federal title IV–E financial review or an audit conducted by the Inspector General.

The Secretary is required to pay any State claim for reimbursement of expenditures under title IV–E within 90 days of its receipt, unless the Secretary issues a deferral or disallowance of such claim within the 90-day period.

Effective date.—Date of enactment.

b. Moratorium on collections

(Section 7103 of H.R. 11 as passed by the House and section 7114 of Senate amendment)

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1989 prohibited the Secretary from collecting any funds from States as a result of a disallowance in connection with a section 427 triennial review, until October 1, 1991.

HOUSE BILL

The OBRA moratorium on collection of penalties resulting from section 427 reviews is extended to October 1, 1993, for any Federal fiscal year preceding fiscal year 1994, and will apply to any review of State compliance with Section 427.

Effective date.—October 1, 1992.

SENATE AMENDMENT

Same as House bill.

Effective date.—October 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

Effective date.—October 1, 1992.

C. INFORMATION AND MANAGEMENT SYSTEMS

(Section 208 of House bill and section 7108 of Senate amendment)

PRESENT LAW

Section 479 of title IV–E requires that the Secretary promulgate final regulations by December 31, 1988 providing for the implementation of a foster care and adoption data collection system. The data collection system is required to provide national information with respect to foster and adoptive children, whether or not they are eligible for benefits under title IV–E. The final regulations must provide for the full implementation of the data collection system not later than October 1, 1991.

Under title IV–E, Congress established an Advisory Committee on Adoption and Foster Care Information, to report to the Secretary and Congress its evaluations and recommendations with respect to establishing, administering and financing the national foster care and adoption data collection system. In its report, the Advisory Committee included, among other recommendations, that: the Federal government should provide funding for 100 percent of the add-on developmental expenses incurred by States, plus Federal reimbursement at a rate of 50 percent for ongoing operational costs; and a work group be established by the Secretary so that the Federal government consults with State officials as well as representatives from appropriate groups on the planning and implementation of the new data collection system.

The Secretary proposed regulations for the data collection system on September 27, 1990. The proposed regulations would allow States to receive Federal reimbursement for the costs of the establishment and maintenance of the data collection system as an administrative cost under title IV–E at the matching rate of 50 percent. The proposed rules would require the States to allocate the costs of data collection, however, and would limit the amount a State may claim to a proportionate share of the children adopted and in foster care who are eligible under the title IV–E program.

HOUSE BILL

States may claim 90 percent Federal matching funds for expenditures for the planning, design, development or installation of statewide mechanized data collection and information retrieval systems (including 90 percent of the full cost of hardware components for such systems) but only to the extent that such systems meet the requirements imposed by regulations issued by the Secretary pursuant to section 479; are determined by the Secretary to be likely to provide more efficient, economical and effective administration of the programs under title IV–E or title IV–B; and, to the extent practicable, are capable of interfacing with the data collection system in the State that collects child abuse and neglect data. The enhanced match will be available for three years following the date of enactment.

In addition, Federal matching at the rate of 50 percent may be used for costs related to the ongoing operation of such data collection and information systems.

Federal matching is available to reimburse data system costs related to both title IV–E and non-title IV–E foster and adoptive children who are required to be included in the system (or are an optional group).

The date for implementation of the data collection system is postponed to one year following the date that final regulations for the system are promulgated by the Secretary. In addition, the Secretary must establish a work group to advise on the planning and implementation of the system, and the work group must include representatives of State agencies and other appropriate groups.

Effective date.—Date of enactment.

SENATE AMENDMENT

States may claim 90 percent Federal matching funds for expenditures for the planning, design, development, or installation of statewide data collection and information retrieval systems (including 90 percent of the full cost of the hardware components of such systems) if such systems meet the requirements imposed by regulations issued pursuant to section 479; are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the title IV-E and title IV-B programs; and are capable of interfacing with the State's AFDC system to verify AFDC eligibility of a foster care child. The enhanced match will be available until September 30, 1995.

Federal matching funds at the 50 percent rate may be claimed for expenditures for operating costs with respect to title IV-E eligible children. Title IV-B funds may also be used to pay for operating costs (although they may not be used to draw down title IV-E matching funds).

Effective date.—January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, modified to require State systems also to be capable of interfacing, to the extent practicable, with the State's system to verify AFDC eligibilty of a foster care child. Further, the provision is modified to allow States to claim 90 percent Federal matching beginning six months after the date of enactment. The enhanced match will be available until September 30, 1995. The date for implementation of the data collection system is not changed.

Effective date.—Date of enactment.

D. RESEARCH, DEMONSTRATION AND EVALUATION ACTIVITIES

PRESENT LAW

Section 426 of title IV-B authorizes funds for research, training and demonstration projects. Subsection (a) authorizes grants to: public and non-profit institutions of higher learning and child welfare agencies for research or demonstration projects in the field of child welfare that are of regional or national significance and for special projects to demonstrate new methods that will advance child welfare; State and local child welfare agencies for research to encourage experimental and special types of child welfare services; and institutions of higher learning to train personnel for work in the child welfare field.

1. Advisory Commission on Children and Families

(Section 401 of House bill)

PRESENT LAW

No provision.

HOUSE BILL

The Director of the Office of Technology Assessment (OTA) is directed to establish an Advisory Commission on Children and Families.

The Commission must, in order to identify cost-effective approaches to protect and enhance the physical, mental, emotional and financial well-being of children and their families, collect and assess information on: measures of the economic, social and physical well-being of children; the causes and effects of child maltreatment; the effectiveness of social services and income supports in strengthening the family unit; the effects of substitute care on the well-being of children; the adequacy of and effectiveness of cash assistance and tax policies in maintaining family incomes; the incentive effects of family policies; the effect of family breakup on family economics; ways to promote the parental support of children; participation in Federal programs supporting children and their families; program management and service delivery by public organizations working with families and children; and such other issues relating to children and their families as the Commission deems appropriate.

The Commission will have access to relevant information and data available from appropriate Federal agencies and must assure that its activities, especially the conduct of original research, is coordinated with the activities of Federal agencies.

Effective date.—Date of enactment.

See section 7123 of H.R. 11 as passed by the House (Measurement and Reporting of Welfare Dependency) for related provision.

SENATE AMENDMENT

No directly comparable provision.

See section 7171 of Senate amendment (Measurement and Reporting of Welfare Dependency) for related provision, same as House bill.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

2. Child welfare/foster care research and evaluations

(Section 401 of House bill and section 7101 of Senate amendment)

a. Evaluations of child welfare/foster care services

HOUSE BILL

The Commission, directly or under contract with one or more independent research organizations, will evaluate child welfare service programs receiving funds under Part B, including programs in each of the three areas funded under the new title IV-B entitlement (reunification programs, preventive placement programs, and after care programs), in accordance with criteria the Commission deems appropriate. To the maximum extent practicable, the evaluations must use treatment and control groups of statistically appropriate sample sizes to measure the effects of a program. The evaluations must consider short-term and long-term program effects. An appropriate proportion of the evaluations must be evaluations of intensive family preservation programs.

Effective date.—Date of enactment.

SENATE AMENDMENT

An authorization of $8 million per year for 5 years will be provided to enable the Secretary to evaluate State programs receiving funds under the new innovative services entitlement according to criteria the Secretary must establish. The Secretary may conduct these evaluations through contracts with independent research organizations.

States may also use funds available to them under the new innovative services entitlement to conduct their own evaluations of child and family services. The evaluations must be conducted according to requirements the Secretary prescribes by regulation.

The Secretary must develop procedures to facilitate the coordination of evaluation efforts undertaken by HHS and the States and must, upon request of a State, provide technical assistance to the States in planning and designing their evaluations.

In developing evaluation criteria, the Secretary must consult with child welfare program administrators; private, nonprofit organizations with an interest in child welfare; and with individuals and organizations with recognized expertise in evaluating child welfare services or other related programs.

Evaluations by the Secretary and by the States must use outcome measures of children and families that can be compared with similar outcome measures of children and families that did not receive these services, and must include an assessment of family functioning. The Secretary must assure that an appropriate portion of the evaluations conducted by HHS will use experimental and control groups (of a sample size determined in accordance with appropriate statistical practices).

Beginning in fiscal year 1995, the Secretary must issue an annual report to the Committee on Finance and the Committee on Ways and Means on the status and findings of all evaluations undertaken by the Department. The report shall also include a summary description of State evaluations paid for with these Federal funds.

By December 1, 1996, based on evaluations conducted by the Secretary and the States, the Secretary must submit a report to the Committee on Finance and the Committee on Ways and Means with recommendations for legislation to improve services provided to families and children under title IV-B so as to strengthen families, to reduce the number of cases in which it is necessary to remove a child from home and place the child in foster care, to promote the reunification of families of children who have been placed in foster care, and to promote planned, permanent living arrangements for children, including adoption, where appropriate.

Effective date.—Date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with respect to evaluation of family preservation and family support services, with modifications. The provision requiring the Secretary to assure that an appropriate portion of the evaluations use experimental and control groups is amended to require the Secretary, where appropriate and feasible, to use experimental and control groups. Further, the provision requiring the Secretary to submit an annual report to Congress is deleted.

Effective date.—October 1, 1992.

b. Evaluations of alternative foster care arrangements

HOUSE BILL

In order to promote more appropriate and effective foster care for children in need of long-term care, the Commission must, directly or under contract with one or more independent research organizations, and according to criteria the Commission deems appropriate, evaluate the impact of alternative foster care arrangements and services on the well-being of children who have little prospect of being reunited with their families or of being adopted, and who represent a challenging group of foster children who are in need of specialized services or care.

Effective date.—Date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, modified to require the Secretary to conduct the evaluation, rather than the Commission.

Effective date.—Date of enactment.

c. Longitudinal child welfare data bases; studies of the dynamics of the child welfare population

HOUSE BILL

In order to develop more appropriate and effective intervention strategies with respect to children and their families who are referred or reported to the child welfare system, the Commission must, directly or under contract with one or more independent research organizations, plan, design, develop, and implement up to 5 child welfare data bases that provide longitudinal information on children and their families who are served by the public child welfare system, from the point at which such children are first referred or reported to such system.

Using data from such longitudinal data bases, the Commission must conduct such studies on children and their families served by public child welfare systems, as the Commission deems appropriate, including a study on the extent to which a lack of affordable housing is a factor in the placement of children in foster care.

Not later than October 1, 1993, the Secretary must, taking into account recommendations made by the Commission, enter into agreements with up to 5 States or localities to participate in the planning, design, development and implementation of a longitudinal child welfare data base, and to reimburse the State or locality for associated expenditures as an expenditure for data collection and information retrieval under title IV-E.

The Secretary must assure that each longitudinal data base: (1) includes information on the receipt by children and their families of child protective services, services designed to strengthen and preserve families, foster care and adoption services, and other services made available by the agency; (2) to the extent feasible, includes information on the receipt of services, or placement of children, through the mental health or juvenile justice agencies; (3) includes only data that are reliable and developed using uniform definitions and methodologies; and (4) to the extent appropriate, is implemented with the State foster care and adoption data collection and information retrieval system.

Under the agreement, the Secretary is obligated to pay the State or locality, for a 3-year period, 90 percent of the costs of planning, designing, developing, implementing and operating the data base. The matching rate will convert to 50 percent after the 3-year period for these activities.

Effective date.—Date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that provisions applying to the Commission are amended to apply to the Secretary. Further, up to 4 States or localities may apply, and the three-year enhanced match will equal 70, rather than 90, percent.

Effective date.—Date of enactment.

d. Child separation guidelines study

HOUSE BILL

The Commission will conduct a study designed to answer the following:

(1) How do the criteria for removal of children from the home, and the tools for assessing the risk to the child if not removed from the home, vary from State to State? In considering this question, the Commission should examine the decision-making process at the caseworker level in at least 3 States, which represent high, low and average placement rates. The study should also examine other factors that can affect placement rates like State laws and policies, child welfare agency interpretations of reasonable efforts, and the tendency to place or not place children according to economic incentives from various State and Federal funding sources.

(2) What guidelines should be used to assess risk and to determine the need for removal and what kind of training would ensure consistent application of these guidelines? The study should include a review and compilation of all current research in this area.

Effective date.—Date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, modified to require the Secretary to conduct the study, rather than the Commission.

Effective date.—Date of enactment.

3. Other research and evaluations

(Section 403 of House bill)

a. Study of risks to foster care workers

HOUSE BILL

The Secretary may use funds authorized under section 426 to conduct a study, under contract with an independent research organization, to assess the prevalence and nature of safety risks to workers in the child welfare system. The study shall provide empirical information regarding the actual incidence of violence or harassment, types of child welfare workers most at risk, types of harm threatened or inflicted, characteristics of perpetrators, the most dangerous child welfare settings, and urban and rural differences.

Effective date.—Date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, modified to establish the provision as free-standing law, rather than a provision of the Social Security Act. The provision requiring the Secretary to conduct the study under contract with an independent research organization is deleted. Such sums as necessary are authorized.

Effective date.—Date of enactment.

b. National workload study

HOUSE BILL

The Secretary, under contract with an organization or organizations with demonstrated experience in the field of workload measurement for human services agencies, may use funds authorized under section 426 to conduct a three-year national workload study to examine methodologies for measuring the workloads of child welfare and community mental health providers.

The study must examine and document which methodologies are currently used to measure caseworker and supervisor workloads; develop general standards for workload measurement and workload size; apply and validate the standards for workload measurement and workload size; and develop a software program to permit individual agencies to use appropriate methodologies for measuring workload.

The Secretary must consult with an advisory body in planning and carrying out the study.

Effective date.—Date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, modified to establish the provision as free-standing law, rather than a provision of the Social Security Act. The language including community mental health workers in the study is deleted. Such sums as necessary are authorized.

Effective date.—Date of enactment.

c. Evaluation of foster parent recruitment, training and retention efforts

HOUSE BILL

The Secretary, under contract with an independent research organization, may use funds authorized under section 426 to evaluate foster parent recruitment and retention strategies and the effect of foster parent training programs on retention of foster parents. The study must identify successful recruitment techniques and recommend steps that could be taken at the Federal, State or local level to improve foster parent recruitment, training and retention.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, modified to establish the provision as free-standing law, rather than a provision of the Social Security Act.

Effective date.—Date of enactment.

4. Child welfare demonstrations

PRESENT LAW

No provision.

HOUSE BILL

(a) The Secretary is required to authorize demonstration projects in five areas to test the effect of innovative child welfare practices.

Demonstration funds are authorized for four years beginning in fiscal year 1994, at funding authorizations totaling $15 million in each fiscal year. The Secretary will determine how the funds are distributed between the four project areas with a requirement that at least one project in each is undertaken. At least two projects must be undertaken in the culturally sensitive and special needs demonstration described in item 2. The project areas are described below.

(1) *Expeditious permanent placement of children* (Section 404 of House bill).—The Secretary may make up to 3 grants to States or localities to conduct projects designed to:

review statutes, administrative and judicial procedures, and agency legal representation that govern determinations of abandonment of children, termination of parental rights, and permanent placement of children, particularly with respect to children abandoned at or shortly after birth;

assess which of such procedures or law causes delays in permanent placement of such children or consideration of termination of parental rights;

assess the level of training of judges and child protective service workers on the issue of timeliness in these procedures;

assess the provision and the impact of coordinated comprehensive social services, particularly in relation to reunification or maintenance of families;

assess the impact of designating entities or individuals as having standing to initiate permanent placement or termination of parental rights proceedings on behalf of children in protective case or public supervision;

assess the extent to which employees currently exist who are specifically responsible for expediting the consideration of termination of parental rights or permanent placement, and the impact of such individuals on the timeliness for such considerations;

assess the success of programs which concurrently provide planning for and services to preadoptive and natural parents; and

implement new procedures or improvements that ensure more timely hearing of, and decisions on, cases of permanency planning or termination of parental rights, including (at State or local option) activities that provide additional personnel to pursue or process cases, expand the standing of foster parents and others to initiate cases, and require certain children to be placed in foster homes that are likely to become permanent adoptive homes.

States or localities will be required to submit an application to the Secretary including such information as the Secretary may require by rule, and an assurance that the project will be developed and carried out jointly with appropriate judicial administrators, and with appropriate agencies that provide services to children abandoned at or shortly after birth. In approving applications, the Secretary will ensure that grants are made to applicants whose positions on consideration of parental rights and the termination of such rights reflect the range of statutory and judicial positions taken by the States.

States or localities participating in the demonstration must also develop and carry out a plan for evaluating the effect of the demonstration. The Secretary must disseminate the results of the evaluations.

The Secretary may suspend a project upon determining that it has not been conducted in a satisfactory manner.

(2) *Culturally sensitive and special needs child welfare worker training demonstration* (Section 404 of House bill).—The Secretary shall authorize: 1) up to five institutions in four States along the United States-Mexico border to conduct demonstration projects to train eligible individuals to deliver culturally sensitive bilingual child welfare services to residents of the border region; and 2) up to five institutions to conduct projects to train eligible individuals to deliver culturally sensitive and bilingual welfare services in urban centers with a high proportion of historically unserved or underserved populations.

Under the border region demonstration, the Secretary will distribute funds through the universities and colleges in border States. These schools must consult with the State child welfare agency in order to ensure that the funds will be used for training for skills that are needed for work with disadvantaged individuals in the area of the State that borders Mexico. The application must also include a plan for placing individuals who complete the training in a family assistance agency that provides services directly to residents of the border country in which the agency is located.

Under the urban centers demonstration, the Secretary will distribute funds through colleges and universities in urban areas with a high incidence of historically unserved or underserved populations, including minorities, persons with limited English-speaking ability, populations showing a high incidence of child abuse or neglect or abandonment as determined by the Secretary, homeless individuals, people infected with HIV or in danger of becoming infected, and persons who abuse alcohol or drugs.

The training funds will be used for the training of current workers and for preparing new workers for the range of child welfare work from case management to supervisory. The Secretary shall develop criteria regarding the scope and length of the training program to ensure that training under the program adequately prepares trainees for the work to be performed by the recipients of the traineeships upon completion of the training program. The training funds may be used for tuition, room and board, travel, and other living expenses.

All recipients of the traineeships for border areas will be required to agree to complete at least one year of service in the field of child welfare at approved sites. Recipients of traineeships for urban centers must agree to serve for one year for each year of assistance or training received.

For purposes of the urban center demonstration, the Secretary shall publish a list of such urban centers in the Federal Register no later than 180 days after enactment.

(3) *Staff recruitment and retention demonstration* (Section 404 of House bill).—The bill authorizes up to 10 multi-year demonstration grants to develop and implement innovative recruitment or retention strategies for trained staff in public and private nonprofit agencies working with children and adolescents at risk of placement in out-of-home care. At least one such demonstration will be designed to expand the capacity of minorities to provide services within their own community.

To be eligible, a State or local government agency must submit a 3-year plan for the recruitment and retention of trained direct services staff (for both public and private nonprofit agencies that contract for the care of children in the custody of public agencies). The plan must include such information as the Secretary may prescribe by rule, including a description of planned outreach activities and the steps that will be taken to encourage recruitment and retention of staff.

Agencies receiving consecutive awards must match the Federal grant by 20 percent in the second year and 25 percent in the third year. The Secretary must give priority to those projects that demonstrate inter-system cooperation among child welfare, juvenile justice, mental health or substance abuse agencies and those that test both urban and rural strategies in a variety of geographic areas.

Each State or locality conducting a project must develop and carry out a plan for evaluating the effect of the project. The Secretary will be required to disseminate the results of the evaluation.

(4) *Joint training demonstration* (Section 404 of House bill).—The bill authorizes up to 3 competitive grants to State or local government agencies to test the effect of joint training programs for child welfare, mental health, and juvenile justice staff, and for judicial personnel and judges. To receive funds a State must designate a public agency which provides services to children in the State and demonstrate that at least 2 such agencies will participate in the project by contributing financial resources, staff resources and trainees. Funds may be used only for the training of staff of public and private agencies, including supervisors, who are providing services to children or adolescents at risk of foster care or their families. The training must be designed to: (1) educate staff about the special needs of and service programs for certain populations of children or adolescents, such as those who are sexually abused, have serious emotional disturbances, are substance abusers or have AIDS or HIV-infection; (2) coordinate the interagency delivery of services to children at risk of being placed in foster care; and (3) provide training for judges or their administrative personnel, who are authorized to make final determinations as to termination of parental rights or placement of children in either temporary or permanent situations, to determine and incorporate into their decisions factors relating to the physical, mental, and social interests of the child.

States participating in the demonstration must also develop and carry out a plan for evaluating the effect of the training. The Secretary will be required to disseminate the results of the evaluations.

Effective date.—Date of enactment.

(b) *Foster care and adoption assistance demonstration* (Section 404).—The Secretary may authorize up to 5 States to test, for up to six years, the feasibility of eliminating the AFDC and SSI eligibility requirements under the title IV-E foster care and adoption assistance programs (thereby allowing a participating State to claim Federal reimbursement under title IV-E on behalf of foster and adoptive children without regard to the income and resources of the original family).

Under the demonstration, the Secretary will enter into a three-year agreement with each participating State, under which the Secretary and the State will agree on: a new set of Federal matching rates to the State for maintenance payments and adoption assistance, child placement services, and administration and training; and a strategy for evaluating the effect of the demonstration. At the State's request, the agreement will be renewed for an additional three years on the same terms.

With respect to a State, the Secretary must agree only to a set of matching rates that he determines is likely to result in no net additional Federal costs relative to current law matching rates. Any State wishing to conduct a demonstration project must submit an application to the Secretary in such form and containing such information as the Secretary may require.

Effective date.—Date of enactment.

SENATE AMENDMENT

(a) *Demonstration to facilitate reunification of a child eligible for AFDC with his or her own family* (Section 7107 of Senate amendment).—The Secretary shall enter into an agreement with up to 6 States to conduct demonstration projects to test whether family reunification can be facilitated by allowing a family to receive AFDC for the month prior to the month in which a child returns home from foster care (in an amount which the family would be eligible or receive if the child were living in the home). For that month, States may also provide for a payment to meet special needs. The Secretary must consider all applications and must approve only those which appear likely to contribute significantly to the achievement of family reunification. Demonstration projects must meet whatever conditions and requirements the Secretary prescribes by regulation and may last up to 3 years. No project may be conducted after January 1, 1997. States must submit a detailed evaluation to the Secretary after the project has been carried out for one year, and again when the project is completed.

(b) *Home Rebuilders demonstration* (Section 7113 of Senate amendment).—The State of New York will be allowed to conduct a 3-year deficit-neutral demonstration project aimed at facilitating the discharge of children from foster care, including the appropriate reunification of children with their families, or the adoption of children by suitable adoptive parents. In order for the demonstration to be approved, the State must agree to conduct an evaluation approved by the Secretary.

CONFERENCE AGREEMENT

The conference agreement includes the House bill provisions regarding the expeditious permanent placement of children (up to 3 grants), culturally-sensitive and special needs child welfare worker training (up to 10 grants), and the joint training of agency staff (up to 3 grants). Authorizations for these three demonstration areas will equal $15 million annually for the period.

Effective date.—October 1, 1993.

The conference agreement also includes the foster care and adoption assistance demonstration, and the Home Rebuilders demonstration project of the Senate amendment.

Effective date.—Date of enactment.

5. Technical assistance

(Section 405 of House bill)

PRESENT LAW

Section 476(a) of title IV–E permits the Secretary to provide technical assistance to the States to assist them in developing their programs funded under title IV–E.

HOUSE BILL

Beginning in fiscal year 1993, the Secretary is required to provide technical assistance to the States in the following areas:

interpretation and implementation of titles IV–B, IV–C, and IV–E of the Social Security Act;

dissemination of information regarding innovative child welfare practices;

helping States to correct problems identified through Federal audits and reviews and to carry out corrective action plans resulting from the Act;

helping States implement the foster care and adoption data collection system described in section 479; and

such other matters as the Secretary may identify.

Effective date.—October 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

E. SOCIAL SERVICES BLOCK GRANT

(Section 301 of House bill)

PRESENT LAW

Under title XX of the Social Security Act, States are entitled to receive social services block grant funds. Available data show that protective services for children, and substitute care (i.e., foster care and other out-of-home placements) and placement services for children, account for a significant portion of expenditures under the social services block grant.

Title XX is a capped entitlement; funds are currently limited to $2.8 billion annually. The share for each State is based on its relative share of the national population.

Under current law, there is no direct pass-through of funds from the Federal Government to Indian tribes or tribal organizations.

HOUSE BILL

The entitlement ceiling is increased to $2.9 billion in each of fiscal years 1993 and 1994. In fiscal year 1998 and subsequent years, the entitlement ceiling will equal the fiscal year 1997 ceiling, adjusted annually for inflation (based on changes in the consumer price index for all urban consumers for the most recent 12-month period for which data are available).

With respect to any State, if the Secretary: receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under title XX be made directly to the tribe or organization; and determines that the tribe or organization has submitted an application for the fiscal year which meets such criteria as the Secretary may prescribe by regulation, the Secretary must reserve from the amounts that would otherwise be allotted to the State, 100 percent of the amount which bears the same ratio to the State's allotment for the fiscal year (but for a direct allocation to any tribes) as the population of Indians residing within the State on the reservation(s) of the tribe or tribal organization or on trust lands adjacent to such reservation(s) bears to the population of the State.

These amendments must not be construed to preclude an Indian tribe from entering into a cooperative agreement with the State in which the tribe is located, in order for the tribe to provide services to its membership in accordance with title XX.'

SENTE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

F. COMMISSION ON CHILDHOOD DISABILITY

(Section 7117 of Senate amendment)

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Secretary is directed to appoint a Commission on the Evaluation of Disability in Children, consisting of 15 members including recognized experts in relevant fields of medicine; recognized experts in psychology, education and rehabilitation, law or administration of disability programs; and other experts determined appropriate by the Secretary.

The Commission will conduct a study, in consultation with the National Academy of Sciences, on the effect of the current Supplemental Security Income definition of disability, as it applies to children under the age of 18 and their receipt of services, including the effect of using an alternative definition. The Commission will summarize the results of this study in a report due to the Committees on Finance and Ways and Means, due to later than September 1, 1994. The Commission will terminate on September 30, 1994.

CONFERENCE AGREEMENT

The conference agreement follows the Senate bill.

PART II—OTHER INCOME SECURITY AND HUMAN RESOURCES PROVISIONS

(Subtitle C of Title I)

A. AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

1. State option to modify AFDC asset test

PRESENT LAW

Federal law directs the State welfare agency to determine ineligible for Aid to Families with Dependent Children (AFDC) any family whose counted resources exceed $1,000, or a lower amount set by the State. The following resources are exempt from the resource limit: a home in which the family lives, an automobile (so long as the individual's ownership interest does not exceed the amount specified in regulations, which is currently $1,500, or such lower amount as the State may determine), burial plots, funeral agreements, and real property (for a limited time period) of which the family is making a good faith efforts to dispose. The Secretary of HHS has given States authority to exclude from the resource limit farm machinery, livestock, and tools and equipment essential to employment, livelihood, or income. About half of the States exclude some or all of these items.

HOUSE BILL

The House bill permits States to exclude from the resource limit applicable to recipient families, assets whose combined value is not less than $1,000 and not more than $10,000 which have been retained for improving the education, training or employability (including self-employment) of a family member, or for the purchase or rental of a home, but excluding any resource (or interest therein) owned by a family member within the preceding 12 months if the resource was disposed of at less than fair market value for the purpose of establishing eligibility for AFDC.

Under the House bill, recipient status for this resource treatment would be deemed for families that received AFDC in at least one of the previous 4 months. In addition, recipient status for resource treatment would be deemed for 12 months for families that leave AFDC due to earnings.

The Secretary of Health and Human Services (HHS) would be required to report to the Congress on the need to revise the asset limit on automobiles and the extent to which a revision would increase the employability of AFDC recipients. The Secretary must, to the maximum extent possible, coordinate any revision of the asset limit on automobiles with other Federal means-tested programs.

Effective date.—October 1, 1992.

SENATE AMENDMENT

The Senate amendment permits States to exclude from the resource limit applicable to recipient families amounts (not to exceed $8,000) placed in a designated account approved by the State (such as an individual retirement account, escrow accounts, or savings bonds) for the purpose of enabling a member of the family to attend an eligible (as determined by the State under guidelines established by the Secretary) post-secondary education institution or training program, improving the employability (including self-employment) of a member of the family by other means (such as purchase of an automobile necessary for work), or to purchase a home.

Recipient status for this resource treatment will be deemed for families that received AFDC in at least one of the previous 4 months. In addition, recipient status for resource treatment would be deemed for 12 months for families that leave AFDC due to earnings.

Any interest or income earned on the account would not be counted as income. Amounts withdrawn from these accounts and used for a non-qualifying purpose would be counted as unearned income.

The Secretary of HHS would be required to conduct a study of the use made of the provision. The study and any recommendations of the Secretary for modifications of the provision must be submitted to the Committee on Finance and the Committee on Ways and Means by January 1, 1997.

Effective date.—October 1, 1993, with respect to accounts approved on or after such date and before October 1, 1997.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with modifications to permit inclusion in a designated account of resources intended for use by a family member: (1) to attend any education or training program (eliminating the requirement that the institution or program be determined to be an "eligible" institution or program, and that the institution or program be post-secondary); and (2) in order to change residences (in accordance with regulations issued by the Secretary). For purposes of the AFDC "lump sum" rule, any nonrecurring lump sum payment that is received by an AFDC family and placed in a designated account would be disregarded. The conference agreement also incorporates the provision in the House bill requiring the Secretary of HHS to report to the Congress concerning the AFDC asset limit on automobiles.

Effective date.—October 1, 1993, with respect to accounts approved on or after such date and before October 1, 1996.

2. Disregard of income and resources related to self-employment

PRESENT LAW

AFDC statutory provisions regarding the treatment of income and resources do not distinguish between self-employed persons and other persons. Income from self-employment must be taken into account in determining eligibility and the size of the benefit. Federal regulations for AFDC define "earned income" from self-employment as the total profit from a business enterprise, farming, etc. Under the rules, total profit is calculated by comparing gross receipts with business expenses directly related to producing goods or services and without which the goods or services could not be produced. As noted above, the Secretary of HHS allows States to exclude certain items essential to employment, livelihood or income from the resource limitation.

HOUSE BILL

The House bill requires States to exempt from the AFDC resource limitation the first $10,000 of net worth (assets reduced by liabilities) of microenterprises owned, in whole or in part, by an AFDC child or the child's caretaker relative and stipulates that only the net profit of these enterprises shall be treated as earned income of the AFDC family. It defines a microenterprise as a commercial enterprise that employs no more than five persons and is owned by one or more of its employees. Net profits of a microenterprise are defined as gross receipts minus amounts paid as principal or interest on a loan, transportation expenses, inventory costs, amounts used to buy capital equipment, cash retained by the microenterprise for future use by the business, taxes paid by reason of the business, insurance premiums for coverage of the business against loss, losses not reimbursed solely because of a deductible insurance requirement, reasonable costs of obtaining one automobile needed for the business, and "the other expenses of the business." The bill requires States in which 3 or more percent of adult AFDC recipients elect to participate in microenterprise activities to include a microenterprise program as part of the Job Opportunities and Basic Skills Training (JOBS) program; other States may include microenterprise programs in the JOBS program. It also requires States to ensure that caseworkers advise AFDC recipients of the option of microenterprise, and encourage interested recipients to participate in microenterprise programs.

The House bill amends the requirement for the Secretary to submit recommendations for JOBS performance standards by requiring that the recommendations be adjusted with respect to microenterprises. It requires the Secretary to conduct a study to identify administrative and bureaucratic barriers that impede the development of microenterprises and, not later than one year after enactment, to report the results of the study to the Committee on Ways and Means and the Committee on Finance.

Effective date.—October 1, 1992.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that it makes the provision a State option, specifies that the special rules for counting resources may not apply with respect to a family for a period longer than 2 years, and does not require a study by the Secretary of HHS.

Effective date.—October 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with an effective date of October 1, 1993.

3. Treatment of student earnings

PRESENT LAW

States are required by Federal law to disregard certain earned income when determining the amount of benefits to which a recipient family is entitled. States must disregard all of the earned income of a dependent child receiving AFDC who is a full-time student or a part-time student who is not a full-time employee and is attending a school, college, university, or vocational training course. States may disregard all or part of the earned income of a dependent child who is a full-time student and who is applying for AFDC, if the State elects to exclude the earnings of the child in determining whether the family's total monthly income is below the eligibility ceiling, 185 percent of the AFDC need standard. States also have the option of disregarding income derived from Job Training Partnership Act (JTPA) programs by a dependent child applying for or receiving ADFC (there is a 6-month limit on the disregard of earned income, and the Secretary has authority to limit the amount of earnings disregarded). Further, in determining whether the family meets the gross income test (185 percent of need), States may disregard earnings of a child who is a full-time student, but only for 6 months.

HOUSE BILL

The House bill exempts any earnings of a child who is a full-time student or a part-time student who is not a full-time employee, and the income derived by a child from a JTPA program, from the resource test and from consideration in the gross income test (185 percent of need). It also mandates that all States disregard income derived from a JTPA program by a child applying for or receiving AFDC in such amounts and for such period of time as the Secretary determines in regulations, and eliminates the 6-month limit on the disregard. It further provides that the earnings disregards apply also to teen parents under the age of 20, by specifying that in the provisions about treatment of student earnings the term "dependent child" includes "a child (whether or not married) who has not attained the age of 20 years."

Effective date.—October 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires the disregard from income of the earnings of any child either applying for or receiving AFDC who is a full-time student, or a part-time student not working full time, as well as the earnings of youths participating in a JTPA program. The earnings and JTPA income of all students (both full and part-time) would also be disregarded for purposes of the 185 percent income eligibility rule. The 6-month limit on the disregard of JTPA income would be repealed.

The AFDC resources rules would be amended to require the disregard of such earnings of full and part-time students and income of JTPA participants as are specified in the State plan. The State would have authority to specify both the amount of earnings to be disregarded and the conditions under which they are to be disregarded.

The above disregards would also apply to a teen parent who would be a dependent child but for the fact that the teen is not living with a caretaker relative. This would include a teen parent who meets the current law AFDC age limit for a dependent child, and who is a full or part-time student, or who is participating in a JTPA program.

In addition, the conference agreement provides that, notwithstanding any other provision of law, no reduction will be made in the amount that would otherwise be paid to a State for purposes of Federal matching, and no State shall be penalized under provisions of section 404 of the Social Security Act, by reason of the State's decision to waive, prior to April 1, 1993, the recovery of overpayments or the collection of any related penalty, arising from the accrual of savings (not in excess of $6,000) by an AFCD child. This provision only applies with respect to excess savings that the State agency learned about before the date of enactment and thereafter found that (1) the savings were the result of the earnings of the child; (2) the child was a full-time student throughout the time that the savings (together with those of all other family members) exceeded $1,000; (3) the earnings were saved for the purposes of furthering the child's education, and (4) there were no evidence of fraud or intent to conceal the savings on the part of the caretaker relative.

Effective date.—The provisions making changes in rules for student earnings are effective April 1, 1993. The provision relating to excess savings of a child that the State agency learned about prior to the date of enactment is effective upon enactment.

4. Encouraging use of transitional child care

PRESENT LAW

The Family Support Act of 1988 requires States to pay for child care for families who lose AFDC eligibility due to increased hours of, or increased income from, employment, if it is determined that care is necessary for an individual to accept or retain employment. The assistance is limited to a 1-year period after the last month in which a family becomes ineligible for AFDC. To be eligible for transitional child care (TCC), a family must have received AFDC in at least 3 of the 6 months immediately before the month in which they became ineligible for AFDC. Families must contribute to the cost of care according to a State-established sliding fee scale.

The statute requires States to inform families of their potential eligibility for TCC when they apply for AFDC and during the period that they receive AFDC. The regulations add that families must be informed of TCC eligibility at the time of redetermination and at the time they become ineligible for AFDC. Notification must be in writing, and orally as appropriate, and must include information on the steps families must take to be eligible for the program. The regulations require families to request TCC and provide relevant information to States for determining eligibility. States are granted discretion in establishing application requirements; written applications are not required. States employ a wide range of information dissemination and application procedures.

HOUSE BILL

The House bill directs the Secretary of HHS to develop an appropriate methodology for determining what proportion of eligible children are using TCC assistance and to report to Congress on his findings within 6 months after the date of enactment.

States are required to: (1) establish TCC information procedures for AFDC caseworkers; (2) develop information materials describing the program that are written in a clear and simple manner and that are recognizable as child care materials; and (3) include, in any notice of AFDC termination sent to a family, information notifying the family of its potential eligibility for TCC assistance, steps that it must take to be eligible for the program, and the family's rights and responsibilities under the program.

The House bill provides that families who lose AFDC eligibility due to loss or reduction of the child care disregard are also eligible for TCC.

Effective date.—October 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement modifies the House bill to require that the General Accounting Office (rather than the Secretary of HHS) develop methodology for determining TCC use, and to provide that States shall make a good faith effort to develop clear and simple child care information materials. The conference agreement does not include the House provision making families eligible for TCC if they lose AFDC eligibility because of loss or reduction of the child care disregard. It eliminates the requirements with respect to TCC notices to be sent upon AFDC termination (because this notice requirement is already in present law). The conference agreement also allows States to waive the requirement that a family contribute to the cost of transitional child care, if their family's income is at or below the poverty level. In addition, a State agency may provide transitional child care to a family that has not requested it if the family is eligible for such care and agrees to receive it.

Effective date.—January 1, 1993.

5. Increase in disregard of stepparent income

PRESENT LAW

Effective in July 1963, Federal law required the AFDC agency to disregard "reasonable" work expenses when counting the earned income of AFDC applicants and recipients. The 1981 Omnibus Budget Reconciliation Act (P.L. 97-35) replaced the reasonable work expense deduction with a standard work expense disregard of $75 monthly (for full-time employment). In 1981, Congress required that a portion of the income of the stepparent of an AFDC applicant or recipient, even in States that did not hold all stepparents to be financially responsible for stepchildren, must be deemed available to the stepchild; and it then extended the $75 disregard to stepparent earnings. In 1988, effective October 1, 1989, the standard work expense disregard was increased from $75 to $90 per month for AFDC applicants and recipients, but not for stepparents living with AFDC-eligible children.

HOUSE BILL

The House bill increases the earnings disregard for stepparents to $90 monthly. This amount of earnings would not be counted in determining the eligibility and benefit amounts of AFDC applicants and recipients.

Effective date.—October 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

6. State option to use retrospective budgeting without monthly reporting

PRESENT LAW

Under current law, States may choose whether or not to use retrospective budgeting for AFDC (i.e., determining AFDC benefits based on the family's income and circumstances in a prior month, rather than the current month.) However, States are allowed to use retrospective budgeting only in cases where the family is required to report monthly on income, resources, family composition, and other relevant information. States may require families to report monthly but choose not to apply retrospective budgeting procedures to those families.

HOUSE BILL

Under the House bill, State would decide, with respect to categories of families, whether or not to use monthly reporting, retrospective budgeting, or a combination of the two. Thus unlike present law, States could use retrospective budgeting for a category of families that is not required to report monthly.

Effective date.—October 1, 1992.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

7. Review of State investment in considering quality control disallowances

PRESENT LAW

Under the Food Stamp Act, the Secretary of Agriculture must review State plans for new investments in improved administration in deciding whether to reduce sanctions that would otherwise be imposed based on those plans.

The AFDC quality control program does not include comparable specific authority to adjust sanctions based on State investments in improved administration.

HOUSE BILL

In determining whether to settle, adjust, compromise, or waive an AFDC quality control disallowance against a State, the House bill requires the Secretary of HHS to (1) review the State's plans for new investments in activities to improve program administration to reduce payment errors, and (2) take the State's plans into account as the Secretary considers appropriate.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the provision in the House bill.

8. Delay in AFDC-UP mandate for outlaying jurisdictions

PRESENT LAW

The Family Support Act of 1988 included a requirement that any State AFDC plan make AFDC available to needy dependent children of unemployed parents (for at least 6 out of 12 months). The amendment was effective for the States on October 1, 1990, and takes effect for Puerto Rico, Guam, the Virgin Islands and American Samoa on October 1, 1992. (American Samoa, however, does not participate in the AFDC program). Unlike States, these outlying areas are subject to limitations on payments for AFDC and related programs.

HOUSE BILL

The House bill delays the effective date from the requirement under the Family Support Act that Puerto Rico, Guam, the Virgin Islands, and American Samoa implement an AFDC-unemployed parent program to October 1, 1994.

SENATE AMENDMENT

The Senate amendment delays the requirement for implementation of the Unemployed Parent program in Puerto Rico, Guam, the Virgin Islands, and American Samoa until such time as the limitations on Federal matching payments to these jurisdictions for purposes of making AFDC maintenance payments are repealed.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

B. JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM (JOBS)

1. Temporary increase in Federal JOBS matching funds

PRESENT LAW

The Family Support Act of 1988 provided for replacement of the Work Incentive (WIN) program with a new Job Opportunities and Basic Skills Training (JOBS) program. The legislation provides Federal matching funds to the States through a capped entitlement mechanism aimed at assuring each State its share of federal entitlement dollars. The amount of the entitlement is $600 million in fiscal year 1989, $800 million in 1990, $1 billion in 1991, 1992, and 1993, $1.1 billion in 1994, $1.3 billion in 1995, and $1 billion annually thereafter.

The Federal match is 90 percent for expenditures up to the amount allotted to the States for the WIN program in fiscal year 1987 ($126 million for all States). Of additional amounts, the Federal match for non-administrative costs and personnel costs for full-time JOBS staff varies by State, but is at least 60 percent and at most 79.99 percent (the Medicaid maximum matching rate) in fiscal year 1992; for other administrative costs the match is a flat 50 percent.

In fiscal year 1991, States obligated approximately $600 million of the $1 billion entitlement. For fiscal year 1992, CBO projects that States will obligate $660 million, two-thirds of the available Federal funds. OMB estimates that States will obligate $750 million in fiscal year 1992.

HOUSE BILL

The House bill contains the following provisions with respect to JOBS funding and matching.

Carryover of funds from fiscal year 1991: The House bill makes available for obligation by the States $100 million (approximately one-fourth) of the JOBS entitlement funds left unobligated for fiscal year 1991. States would have 1 year after the date of enactment to obligate these "carryover" funds, and would have to liquidate the obligations within 2 years after the date of enactment. No State match would apply to the carryover funds. The funds would be allocated to each State based on its relative share of JOBS expenditures for fiscal year 1991. States would be required to apply these 100 pecent Federal funds to the JOBS program.

Enhanced match for fiscal year 1993: the bill subjects each State to the current law matching rates under the JOBS progam for expenditures in fiscal year 1993 up to the State's fiscal year 1991 expenditure level (the latter number calculated not to include any fiscal year 1991 funds carried over into fiscal years 1992 and 1993). JOBS expenditures in fiscal year 1993 that are in excess of the State's 1991 expenditure level would be matched at a higher Federal rate (90 percent), up to the State's JOBS cap.

Carryover of funds from fiscal years 1992 and 1993: The House bill makes available for obligation by the States (for fiscal years 1993 and 1994, respectively) 50 percent of the entitlement funds left unobligated for fiscal year 1992, and 100 percent of the funds left unobligated for fiscal year 1993. These "carryover" funds, now projected at $170 million and $250 million, respectively, would be allocated among the States based on their relative shares of JOBS expenditures for fiscal year 1991. Carryover funds would be eligible for the enhanced 90 percent matching rate in fiscal year 1993, but the Federal match for carryover funds would revert to the variable rate of current law in fiscal year 1994.

The requirement that States target at least 55 percent of their JOBS expenditures on long-term AFDC recipients is eliminated for fiscal year 1993.

SUMMARY OF JOBS FUNDING PROPOSALS

Fiscal year	Allocation basis	Amount	Federal match
1992	State share of fiscal year 1991 expenditures.	$100 million	100 percent
1993	State share of fiscal year 1991 expenditures.	50 percent of unused fiscal year 1992 funds.	90 percent
1994	State share of fiscal year 1991 expenditures.	100 percent of unused fiscal year 1993 fund.	60–83 percent (CL rate)

SENATE AMENDMENT

The Senate amendment increases the Federal matching rates on Federal funding above the WIN allocation by 15 percentage points in fiscal year 1993, 10 percentage points in 1994, and 5 percentage points in 1995. In addition, it increases the cap on funding for fiscal years 1993 and 1994 by $100 million (to $1.1 billion in 1993 and $1.2 billion in 1994). A maintenance of effort provision would require that State and local funds expended for the costs of operating a JOBS program be maintained at their prior year levels.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment modified to provide for an increase in Federal matching of 15 percentage points in 1993, 12 percentage points in 1994, and 4 percentage points in 1995.

2. State non-cash contribution under JOBS

PRESENT LAW

Federal JOBS funds are allocated among the States in two parts: (1) each State receives an amount equal to its fiscal year 1987 WIN allotment; and (2) remaining JOBS funds are allocated on the basis of each State's relative share of adult Aid to Families with Dependent Children (AFDC) recipients. For the WIN-equivalent sum of each State's JOBS allocation, the Federal matching rate is 90 percent, and the law provides that States may pay their 10 percent share "in cash or in kind, fairly evaluated." For remaining JOBS funds, the Federal matching rate varies among States. The statute does not allow a State's match for the second component of its JOBS funds to be in kind.

HOUSE BILL

The House bill increases the share of JOBS matching funds that States could provide in kind. It raises the sum that could be matched with noncash contributions, fairly evaluated, from 100 percent of the WIN-equivalent allocation to 125 percent of that allocation.

Effective date.—The House provisions applies to expenditures on or after October 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the provision in the House bill.

3. Modification of the 20-hour rule for JOBS participants.

PRESENT LAW

In order to be eligible for an enhanced Federal matching rate of at least 60 percent. State JOBS programs must achieve stated participation rates. Regulations use a 20-hour weekly standard to measure participation, but provide that States may count as participants the largest number of persons who combined and averaged weekly hours equal or exceed 20. In this calculation, persons are counted if they attend at least 75 percent of the scheduled hours of activity in a month.

HOUSE BILL

For purposes of calculating JOBS participation rates, the House bill gives States the option, either on a case-by-case basis or in a uniform manner, of (1) considering each hour of classroom instruction of an individual satisfactorily participating in educational activities as two hours of JOBS participation, or (2) counting as JOBS participants full-time students who maintain a grade point average that is not below the minimum required by their educational institution. Under the second option, to be treated as a full-time enrollee a person would have to be enrolled for the number of credit hours that the institution regards as those of a full-time student.

SENATE AMENDMENT

For purposes of calculating JOBS participation rates, the Senate amendment provides that each hour of classroom instruction of an individual who is enrolled in a degree program offered by an institution of higher education is to be considered 2 hours of participation in the JOBS program.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, modified to direct the Secretary to issue regulations specifying any other education or training programs that may also qualify to be treated in this same manner. Only those programs that require substantial outside classroom preparation would be allowed to qualify.

4. Modification of work supplementation program

PRESENT LAW

Title IV-F of the Social Security Act provides for two kinds of work programs for AFDC recipients. Under the work supplementation program, a State may reserve the sums that would otherwise be payable to participants in AFDC and use those funds to provide and subsidize jobs as an alternative to the AFDC grant. Jobs may be provided to an AFDC recipient either by the AFDC agency or by any other employer. In practice, States have generally used the work supplementation program to subsidize wages of recipients who take jobs with private employers.

Under the Community Work Experience program (CWEP), a State may require an individual to work in a public job in exchange for the welfare grant. To calculate the maximum number of required hours of work, the family's AFDC benefit is divided by the greater of the Federal minimum wage or the applicable State minimum wage.

Under both programs, recipients may not be assigned to any established unfilled position vacancy.

HOUSE BILL

No provision.

SENATE AMENDMENT

For the work supplementation program, the Senate amendment repeals the prohibition against assigning an individual to an unfilled position vacancy. Assignments to work supplementation positions would have to be in the private sector.

Effective date.—The Senate amendment applies to assignments made on or after October 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

5. JOBS funding for Indian tribes

PRESENT LAW

The Family Support Act of 1988 provides Federal funding for JOBS programs administered by Indian tribes whose applications for funding have been approved by the Secretary of HHS. The formula for funding each program is based on the number of adult members of the Indian tribe that receive AFDC. This formula excludes those Indians who live on the Indian reservation but belong to another tribe.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that all Indians who live on the reservation, regardless of whether they are members of the tribe, are to be counted in determining the tribe's allocation of funds.

Effective date.—October 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

6. Access to funds

PRESENT LAW

There is no provision in the statute directing States as to the kinds of organizations that are to have access to JOBS funds.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that not later than April 1, 1993, each State is required to provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, post-secondary educational institutions, and institutions that serve disadvantaged adults will be provided access to Federal funds provided under this part, in accordance with regulations issued by the Secretary.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment. The JOBS statute currently provides that in selecting service providers, the State agency shall take into account appropriate factors which may include past performance in providing similar services, demonstrated effectiveness, fiscal accountability, ability to meet performance standards, and such other factors as the State may determine to be appropriate.

C. CHILD SUPPORT ENFORCEMENT

1. Reports to credit bureaus of persons delinquent in child support payments

PRESENT LAW

The Child Support Enforcement Amendments of 1984 required State child support enforcement agencies to provide information regarding the amount of overdue support owed by an obligor residing in the State to any consumer reporting agency, as defined under the Fair Credit Reporting Act, upon the request of that agency, if the arrearage exceeds $1,000. If the amount of overdue support is less than $1,000, the State may choose whether or not to report the delinquency.

The information may not be made available to the consumer reporting agency until notice of the proposed action has been sent to the obligor, the obligor has been given a reasonable opportunity to contest the accuracy of the information and all procedural due process requirements of the State have been fulfilled. Also, a fee, not to exceed the cost of furnishing the information, may be imposed on the requesting consumer agency by the State.

HOUSE BILL

The House bill requires State child support enforcement agencies to report monthly the names of obligors whose child support payments are 2 or more months in arrears and the amounts of the arrearage to consumer reporting agencies.

Such information could not be made available to a consumer reporting agency if: (1) the State determined that the agency lacked capacity to make systematic and timely use of the information; and (2) it did not furnish evidence satisfactory to the State that it conforms to the definition of a "consumer reporting agency" under Federal law.

Effective date.—October 1, 1993.

SENATE AMENDMENT

The Senate amendment requires State child support enforcement agencies to periodically report the names of obligors who are at least 2 months delinquent in the payment of support and the amount of the delinquency to consumer reporting agencies. The present law requirement that the amount of the delinquency must exceed $1,000, and the requirement for notice and due process are retained. The provision relating to payment of a fee by the credit reporting agencies would be repealed.

Information could not be made available to a consumer reporting agency if: (1) the State determined that the agency lacked capacity to make systematic and timely use of the information; and (2) it did not furnish evidence satisfactory to the State that it conforms to the definition of a "consumer reporting agency" under Federal law.

Effective date.—The Senate amendment is effective October 1, 1993. However, if the Secretary of HHS determines that a State is unable to comply with the amendment, the State would be exempt from compliance until the State establishes an approved automated data processing and information retrieval system, or until October 1, 1995, whichever is earlier.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Additional use of Parent Locator Service information

PRESENT LAW

The Department of Health and Human Services operates a Parent Locator Service to obtain and transmit information as to the whereabouts of any absent parent when such information is to be used to locate the parent for the purpose of enforcing support obligations owed by the parent.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment requires the Secretary of HHS to enter into an agreement with the Attorney General under which the services of the Parent Locator Service shall be made available to the Office of Juvenile Justice and Delinquency Prevention, upon its request, for the purpose of locating any parent or child in order to: (1) enforce any State or Federal law with respect to the unlawful taking or restraint of a child; or (2) make or enforce a child custody determination. The Parent Locator Service may charge no fee for these services.

Effective date.—October 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

D. COMMUNITY WORKS PROGRESS DEMONSTRATIONS

1. Community works progress demonstration projects

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment establishes a Community Works Progress demonstration program under Title XI of the Social Security Act. The Secretary of Health and Human Services (HHS), in consultation with the Secretary of Labor, would administer the program. The Secretary would have to award grants to three urban projects and two projects that are statewide. Demonstrations could last up to 4 years. Both public and private nonprofit organizations would be eligible to apply for grants.

The term "project" is defined to mean an activity that results in a specific, identifiable service or product that would not otherwise be done with existing funds.

Approvable projects include ones that the Secretary determines would serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and child care.

For each of fiscal years 1994, 1995, 1996, and 1997, each entity that has an application for a grant approved by the Secretary would be entitled to payments in an amount equal to its expenditures to carry out the demonstration. The amounts authorized are $100 million in each of fiscal years 1994, 1995, 1996, and 1997. No more than 25 percent of funds could be used for capital costs.

In awarding grants, the Secretary is directed to consider the following factors: unemployment rate; proportion of population receiving public assistance; per capita income; degree of involvement and commitment demonstrated by public officials; the likelihood that the project will be successful; the contribution that the project is likely to make toward improving the life of residents in the community; geographic distribution; the extent to which the project will emphasize the development of projects encouraging team approaches to work on real, identifiable projects; the extent to which private and community agencies will be involved; and such other criteria as the Secretary may establish.

Eligible participants include individuals who are receiving, eligible to receive, or at risk of becoming eligible to receive, Aid to Families with Dependent Children (AFDC); individuals receiving, eligible to receive, or (while participating in a project) who have exhausted, unemployment compensation; and noncustodial parents of children who are receiving AFDC.

State agencies administering a JOBS program may assign JOBS participants to participate in a project if such participation does not conflict with the requirements of the JOBS program, and the individual is referred in accordance with JOBS procedures.

Participants who are receiving benefits under the unemployment compensation and AFDC programs would receive, in addition to those benefits, compensation in an amount equal to 10 percent of the average (as estimated by the organization conducting the project) of the amount of AFDC and unemployment compensation paid to recipients of these benefits in the area served by the project. Agencies administering AFDC or unemployment compensation benefits are allowed to transfer funds to the project to enable participants to receive compensation in the form of a single check for wages rather than in the form of separate benefit checks. Individuals not receiving either unemployment compensation or AFDC would be compensated in an amount equal to the Federal minimum wage, or the applicable State minimum wage, whichever is greater.

Individuals receiving AFDC may not be required to work on a monthly basis more than the number of hours determined by dividing the family's monthly assistance amount by the greater of the Federal or applicable State minimum wage. If an individual chooses to work any additional hours, the individual must be paid for each additional hour an amount equal to the greater of the Federal or applicable State minimum wage.

Individuals receiving unemployment compensation who choose to participate in a project must agree to work on a weekly basis the number of hours determined by dividing the amount of the weekly unemployment compensation received by the individual by the greater of the Federal or State applicable minimum wage.

The Secretary could approve an application that provided for an alternative method of compensation so long as it did not reduce the amount received by a participant below the minimum wage and assured a bonus payment to AFDC and unemployment compensation beneficiaries who participate in the project.

In order to assure that each individual will have time to seek alternative employment or to participate in an alternative employability enhancement activity, no individual could participate for more than 32 hours a week.

Individuals participating in projects would be eligible for assistance to meet necessary costs of transportation and child care, as well as necessary costs of uniforms or other work materials.

Each participant must be tested for basic reading and writing competence and must be furnished counseling and instruction if they fail a basic competency test.

Approved demonstrations would be required to ensure that the project would not result in displacement of currently employed workers and will not impair any contracts for services or any collective bargaining agreements existing at the time the project commences. Also required would be assurances of consultation with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by the project. Organizations conducting a community works progress project would be required to establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals, including grievances regarding proposed placements of participants in the project. Grievances must be filed not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

A hearing on any grievance must be held no later than 30 days after the filing of the grievance, and a decision must be made not later than 60 days after the grievance is filed.

In the event that the decision on a grievance is adverse to the party who filed, or 60 days after the grievance is filed if no decision has been reached, the party who filed would be able to submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested party.

If a grievance is filed regarding a proposed placement of a participant, such placement shall not be made unless it is consistent with the resolution of the grievance.

Remedies for a grievance filed include suspension or termination of payments for a project and prohibition of the placement with respect to which a grievance has been filed.

In approving grants, the Secretary is required to assure that there would be an evaluation of the effectiveness of each project in meeting the project's goals and objectives. Up to 3 percent of the amount granted to each entity could be used for this purpose. Interim reports to the Finance and Ways and Means Committees would be due annually, with a final report due 4 years after the first grant is awarded.

The Secretary could suspend or terminate a project if the Secretary determines that an organization conducting a project has failed to comply with the law or terms and conditions agreed to by the organization and the Secretary.

The Secretary is required to publish the grant application notice no later than January 1, 1993.

Within 60 days after enactment, the Secretary of HHS, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, is required to establish a task force to identify any Federal funds (in addition to the funds authorized to operate the projects) that may be used in community works progress projects, and to identify any modifications to existing policies or procedures that would facilitate the implementation of the projects. The task force is to be composed of 1 representative each from the Departments of HHS, Labor and HUD. The task force is required to submit a report to the Secretaries of these departments and to the Congress with any findings and recommendations that it may have.

Effective date.—Upon enactment.

CONFERENCE AGREEMENT

The conference agreement modifies the Senate amendment. It establishes a Community Works Progress demonstration under Title XI of the Social Security Act. The Secretary of Labor, in consultation with the Secretary of Health and Human Services, would administer the program. The Secretary would have to award grants to four urban projects and two projects that are statewide. Demonstrations could last up to 3 years. States and governmental units in urban areas would be eligible to apply for grants. These entities may operate projects or allocate funds for project operations to other governmental units, or public or private nonprofit organizations.

The term "project" means an activity that results in specific identifiable services or products that otherwise would not be carried out with existing funds. A project may supplement, but not supplant, existing activities. Maintenance of fiscal effort in the JOBS program by the State would be required.

Projects included must serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development, welfare, recreation, public safety, and child care.

For each of fiscal years 1993, 1994, and 1995, each entity that has an application for a grant approved by the Secretary would be entitled to payments in an amount equal the lesser of actual or approved annual expenditures to carry out the demonstration. The amounts authorized are $60, $70, and $70 million in fiscal years 1993, 1994, and 1995, respectively. Funds not obligated by the Secretary in one year remain available for use in subsequent years. No more than 3 percent of these funds may be retained by the Secretary for administration.

In awarding grants, the Secretary is directed to consider the same factors listed in the Senate amendment, except the likelihood that the projects will be successful was deleted because it was too vague and geographic distribution was clarified.

Projects shall provide employment and employment-related services to noncustodial parents who are not employed and at least two months in arrears on their court-ordered child support payments, recipients or persons at risk of being recipients of the Aid to Families with Dependent Children-Unemployed Parent (AFDC-UP) program, and recipients or persons at risk of being recipients of Aid to Families with Dependent Children (AFDC). Enrollment priority goes first to volunteers from any of the three groups, then to the noncoustodial parents, then the AFDC-UP group, followed by the AFDC group. The conferees hope that most of the enrollees will be volunteers and noncustodial parents.

State agencies administering a JOBS program may assign JOBS participants to participate in a project if such participation does not conflict with the requirements of the JOBS program, and the individual is referred in accordance with JOBS procedures.

The labor standards described in section 142 and 143 of the Job Training Partnership Act apply except: (1) Participants who are eligible for Medicaid benefits would continue to receive them instead of employer-provided health benefits, where applicable. (2) Some projects may not be subject to the "prevailing wage" requirements in Sections 142(a)(3)(C) and 143(d) of the JTPA.

Nonduplication and nondisplacement requirements replicate the requirements contained in subsections (a) and (b) of section 177 of the National and Community Service Act of 1990. The Senate amendment applied these provisions by reference.

Not more than 10 percent of the grant may be used for administrative costs. Not less than 70 percent of the amount of a grant must be used to provide compensation and supportive services to participants in a project.

Depending on whether the projects can pay the "prevailing wage or only 125 percent of the minimum wage, noncustodial parents who are at least two months in arrears in their child support payments are eligible to be paid no less than either (1) the prevailing wage, or (2) the higher of 125 percent of the applicable Federal or State minimum wage, for each hour the participant works in the project and the participant receives education, job training, and job search services, not to exceed 8 hours. In no case, however, would the rate of pay be less than 125 percent of the Federal or applicable State minimum wage.

Depending on the type of projects in which they are enrolled, AFDC recipients may not be required to work on a monthly basis more than the number of hours determined by dividing the family's monthly assistance amount by (1) the prevailing wage, or (2) the greater of 125 percent of the Federal or applicable State minimum wage. In no case, however, would the rate of pay be less than 125 percent of the applicable minimum wage. If an individual chooses to work any additional hours, the individual must be paid for each additional hour an amount equal to either (1) the prevailing wage, or (2) the greater of 125 percent of the Federal or applicable State minimum wage.

AFDC recipients who work off their benefits will receive a bonus equal to 25 percent of the average amount of monthly AFDC benefits in their State.

The Secretary may approve an application that provides for an alternative method of compensation so long as it does not reduce the amount received by a participant below the amount payable under the basic compensation method described above.

All wages would be exempt from countable income for all Federally-assisted means-tested programs, including the Higher Education Act of 1965.

As in the Senate amendment, in order to assure that each individual will have time to seek alternative employment or to participate in an alternative employability enhancement activity, no individual may participate in work on a project for more than 32 hours per week.

Individuals participating in projects shall receive assistance to meet costs of transportation and child care, as well as necessary costs of uniforms or other work materials.

Each participant must be tested for basic reading and writing competence and must be furnished counseling and instruction if the participant fails a basic competency test. However, individuals who have been tested by an employment, education, or training program for basic reading and writing competence within one year of enrollment in a project, shall not be required to be tested.

As under the Senate amendment, the Secretary may suspend or terminate payments for a project if the Secretary determines that an organization has materially failed to comply with the requirements of this demonstration project.

As under the Senate amendment, organizations conducting a community works progress project would be required to establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals, including grievances regarding proposed placements of participants in the project. Grievances must be filed not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

Remedies for a grievance filed include: (1) prohibition of the placement; (2) reinstatement of the participant to the position; (3) payment of lost wages and benefits; (4) reestablishment of other relevant terms, conditions, and privileges of employment; and (5) equitable relief as is necessary to correct any violation or to make the participant whole.

An application for a grant to conduct a project must include: (1) a description of the type of project to be carried out; (2) a description of the objectives and performance goals of the project; (3) an agreement between the organization and the child support enforcement agency to seek court-ordered enrollment of a noncustodial parent who is not employed and is two months in arrears on his child support payments; (4) a description of a plan for managing and funding the project; (5) in the projects not required to pay the prevailing wage when that wage is applicable, written concurrence from any local labor organization representing employees in the area who are engaged in work of the same or similar character or nature as that proposed to be carried out by the project; (6) a description of formal job training and job search arrangements; (7) an assurance that the project will be coordinated with other Federally assisted education, training, and social service programs; (8) an assurance that the organization will participate in cooperative efforts among community-based agencies, local educational agencies, and local government agencies, businesses, and State agencies, to develop and provide supportive services; (9) a description of fiscal control, accounting, audit, and debt collection procedures to assure the proper disbursal of funds; and (10) a projection of the amount the organization intends to spend in each fiscal year.

The Secretary is required to publish the grant application notice no later than January 1, 1993.

The Secretary shall carry out up to four project evaluations costing no more than $6 million. It shall be based on an experimental design with random assignment between a treatment group and a control group. The Secretary shall use the data to analyze the benefits and costs of the project with particular attention to estimates of the value of the goods and services produced and differences between the payment of "prevailing wages" and 125 percent of the applicable minimum wage. A final report is due one year after the final project is completed.

As in the Senate amendment, within 60 days after enactment, the Secretary of Labor, in consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, is required to establish a task force to identify any Federal funds (in addition to funds authorized to operate the projects) that may be used in community works progress projects, and to identify any modifications to existing policies or procedures that would facilitate the implementation of the projects. The task force is to be composed of one representative each from the Departments of HHS, Labor, and HUD. The task force is required to submit a report to the Secretaries of these departments and to the Congress with any findings and recommendations that it may have.

E. RESEARCH AND DEMONSTRATION PROVISIONS

1. Measurement and reporting of welfare dependency

PRESENT LAW

National and State information on AFDC receipt and the characteristics and financial circumstances of AFDC recipients is compiled annually by the Department of Health and Human Services (DHHS), using data from the National Integrated Quality Control Review System (NIQCS).

HOUSE BILL

The House bill requires the Secretary of HHS and the Secretary of Agriculture jointly to develop indicators and rates related to the level of welfare dependency in the United States, and predictors that are correlated with welfare dependency. The Secretary is also required to assess the data needed to report annually on these indicators, rates, and predictors, including the ability of existing data collection efforts to provide the data, and any additional data collection needs.

Not later than 2 years after the date of enactment, the Secretaries of HHS and Agriculture are required to submit an interim report with conclusions resulting from the development and assessment described above to designated Committees of Congress (House: Ways and Means, Education and Labor, Agriculture, and Energy and Commerce; Senate: Finance, Labor and Human Resources, and Agriculture, Nutrition, and Forestry).

A temporary Advisory Board on Welfare Dependency is created, composed of 12 members with equal numbers appointed by the House of Representatives, the Senate, and the President. The Board would be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues. The Board will provide advice and recommendations to the Secretary on the development of indicators, rates, and predictors of welfare dependence, and the identification of data collection needs and existing data collection efforts. It will also provide advice on the development and presentation of the annual welfare dependency report.

The Secretary is required to prepare an annual report on welfare dependency that attempts to identify indicators, rates, and predictors of welfare dependency and trends in dependency, and provide information and analysis on the causes of dependency. Annual reports are required to include numerical goals for recipients and expenditures for Aid to Families with Dependent Children (AFDC), food stamps, and Supplemental Security Income (SSI). Annual reports would be submitted to the seven committees named above. The first report is due not later than 3 years after the date of enactment.

SENATE AMENDMENT

The Senate amendment differs from the House bill by making the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) responsible for development of welfare indicators, rates, and predictors, and for submitting an interim report and annual welfare dependency reports. In addition, under the Senate amendment the Advisory Board terminates as soon as it completes specific duties, but in any case prior to the submission of the first annual report by the Secretary of HHS.

CONFERENCE AGREEMENT

The Conference agreement follows the Senate amendment.

This amendment to the Social Security Act establishes an annual report on welfare dependency in the United States. It declares that "it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and to underscore the responsibility of parents to support their children." To this end "the Federal government should help welfare recipients as well as individuals at risk of welfare dependency to improve their education and job skills, to obtain access to necessary support services, and to take such other steps as may assist them to meet their responsibilities to become financially independent." The annual report is designed "to aid in lowering welfare dependency by providing the public with generally accepted measures of welfare dependency so that it can track dependency over time and determine whether progress is being made in reducing welfare dependency and enabling families to be self-sufficient." This section incorporates an Act introduced earlier based on the precedent of the Employment Act of 1946, which declared a national policy in that regard, and marked the acceptance of a previously disputed social responsibility.

2. Extension of demonstration to expand job opportunities

PRESENT LAW

The Family Support Act of 1988 established a demonstration project under which not fewer than 5 nor more than 10 nonprofit organizations were authorized to conduct demonstration projects to create employment opportunities for certain low-income individuals. The amount authorized for these grants is $6.5 million for each of fiscal years 1990, 1991, and 1992.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment continues the demonstration project for 2 additional years. Before January 1, 1994, the Secretary is required to issue a final report to the Congress, including an evaluation of the projects and any recommendation the Secretary determines to be appropriate.

CONFERENCE AGREEMENT

The conference amendment follows the Senate amendment.

3. Extension of authorization for early childhood development projects

PRESENT LAW

The Family Support Act of 1988 authorized up to 10 demonstration projects to test and evaluate the effect of early childhood development programs on families receiving AFDC and participating in Job Opportunity and Basic Skills Training (JOBS), and authorized $6 million for each of fiscal years 1990, 1991, and 1992 for these and two other categories of projects. No funds were appropriated for the early childhood development projects for fiscal years 1990 through 1992.

HOUSE BILL

The House bill extends the authorization for early childhood development projects through fiscal year 1997. It authorizes to be appropriated for these projects up to $3 million for each of fiscal years 1993 through 1997.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

4. Extension of demonstration to evaluate model procedures for reviewing child support awards

PRESENT LAW

The Family Support Act of 1988 required the Secretary of HHS to make agreements with each of four States that submitted applications to conduct demonstration projects to test and evaluate model procedures for reviewing child support award amounts. The demonstration projects were scheduled to run for a period of 2 years beginning September 30, 1989. The Secretary must pay a participating State an amount equal to 90 percent of the reasonable costs incurred by the State in conducting a demonstration project.

HOUSE BILL

The House bill extends the demonstration period for 1 year, to October 1, 1992.

Effective date: Upon enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House provision.

5. Extension of National Commission on Children

PRESENT LAW

The National Commission on Children was established in 1987 as a bipartisan commission to develop recommendations for public and private sector policies to improve opportunities for children and youths to become healthy, secure, educated, economically self-sufficient, and productive adults. Its final report, "Beyond Rhetoric: A New American Agenda for Children and Families," was issued on June 24, 1991. The Commission is still in the process of developing information to inform the public about the status of children and on proposals to address their needs through public and private sector programs.

HOUSE BILL

The House bill extends the terms of service of the members of the National Commission on Children to December 31, 1992.

SENATE AMENDMENT

The Senate amendment extends the terms of service of members of the National Commission on Children to December 31, 1992 and provides additional time, until March 31, 1993, for the Commission staff to close down the Commission's operations.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

6. Extension of Commission on Interstate Child Support

PRESENT LAW

The Commission on Interstate Child Support was authorized by the Family Support Act of 1988. Since 1990, members of the Commission have been developing recommendations to improve the enforcement of child support in cases where the custodial parent and the noncustodial parent reside in different States. The Commission issued its final report on August 1, 1992.

On July 3, 1992, the Unemployment Compensation Amendments of 1992 (P.L. 102-318) extended the due date for the Commission's report to August 1, 1992 and the life of the Commission to September 30, 1992.

HOUSE BILL

The House bill extends the authorization of the U.S. Commission on Interstate Child Support from July 1, 1992 to September 30, 1992 and extends the Commission's deadline for filing its report with Congress from May 1, 1992 to August 1, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House provision. This provision has already been enacted as part of P.L. 102-318.

7. Secretarial report on differences in program rules

PRESENT LAW

The AFDC, Medicaid, and Food Stamp programs serve many of the same persons, yet the eligibility policies and required procedures used by each program vary.

HOUSE BILL

The House bill requires that the Secretary of HHS and the Secretary of Agriculture jointly report to the President and Congress about differences in rules of the AFDC, Food Stamp, and Medicaid programs by no later than 6 months after the date of enactment of the legislation. The report is to include: what rules govern the programs, how these rules differ, which rules require statutory action to achieve uniformity, and which rules could be made more uniform without statutory amendment.

The program rules to be evaluated in the Secretaries' report include rules related to administrative procedures, definitions of countable income, definitions of income disregards and exemptions, quality control sanctions and incentives, incentives to combat fraud, work and training requirements and programs, and the child support enforcement program. The Advisory Committee on Welfare Simplification and Coordination is directed by the House bill to take account of the Secretaries' joint report on differences in program rules. Income eligibility levels would be excluded from the report.

SENATE AMENDMENT

The Senate amendment is the same as the House provision, except that it does not include reference to the child support enforcement program, and does not contain requirements that the Advisory Committee on Welfare Simplification and Coordination take account of the Secretarial report. It also includes a requirement (not in House bill) for evaluation of policies on strikers.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

8. Payments to certain private aid programs

PRESENT LAW

No provision.

HOUSE BILL

The House bill requires reimbursement of a qualified private demonstration program (defined as a program operated and evaluated in the same manner as The New Hope Project, Inc., a private, not-for-profit corporation in Milwaukee, Wisconsin) with some of the aggregate savings in AFDC and Medicaid payments that are estimated by the Secretary of HHS to result from operation of the program. The payment per participant would be the lesser of $20 per day or 95 percent of estimated daily average aggregate savings. In order for a program to qualify, it has to provide low-income residents with employment, wage supplements, child care, health care, and counseling and training for job retention or advancement. It also is required to submit an annual report to the Secretary of HHS.

Effective date: The House provision is effective on the first day of the first calendar quarter that begins after the date of the enactment.

SENATE AMENDMENT

The Senate amendment allows the Secretary to provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin. A qualified program is defined as a program operated by the New Hope Project, Inc., a private not-for-profit corporation in Milwaukee, which offers low-income residents employment, wage supplements, child care, heath care, and counseling and training for job retention or advancement.

The Secretary is required to make payments for no more than 20 quarters, in an amount no greater than the aggregate amount that would otherwise have been payable to the State with respect to participants in the program, in the absence of the program, for cash assistance and child care under title IV-A and Medicaid, and for administrative expenses for these programs.

The operator of the program must provide in the application that the following conditions will be met: (1) the operator will implement an evaluation plan designed to provide reliable information on the impact and implementation of the program, that will include adequately sized groups of participants and control groups assigned at random; (2) the operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting specified requirements; (3) the operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount; and (4) the operator will issue an interim and final report on the results of the evaluation of the program at such times as required by the Secretary.

Effective date.—The Senate amendment is effective on the first day of the first calendar quarter that begins after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, modified to make clear that reimbursement to the program shall be *equal* to the aggregate amount that would otherwise be payable to the State in the absence of the program, and to provide that expenses of the program relating to evaluation will qualify for 50 percent Federal matching.

F. SUPPLEMENTAL SECURITY INCOME (SSI)

1. Effect on SSI benefits when spouse or parent is absent due to military service

PRESENT LAW

If the parent or spouse of family members who receive Supplemental Security Income (SSI) payments resides in the household and then is required to be absent from the household because of an active military duty assignment, this absence can cause the family members to lose benefits or eligibility for SSI. This is because absence from the household causes more of the income of the absent member to be attributed to those receiving SSI in the household. Also, if the military duty assignment involves armed conflict, the service member may receive hazardous duty pay. This additional income, if sent back to the household, can also reduce the SSI payments or cause ineligibility of family members.

HOUSE BILL

The House bill (1) requires that a spouse or parent who is absent from an SSI household solely because of a military assignment is deemed to be still living in the household, and (2) excludes certain hazardous duty pay from countable income under the SSI program.

Effective date.—The House provision is effective on the first of the second month that begins after the date of enactment.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. SSI eligibility for children of armed forces personnel in Puerto Rico and U.S. territories

PRESENT LAW

SSI benefits are generally continued for children who are U.S. citizens and who accompany their parents on U.S. military assignments to foreign countries. Benefits do not continue if the parents are stationed in Puerto Rico or in the territories or possessions of the United States.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment continues SSI benefits to children who are U.S. citizens if they received SSI benefits in the United States and then accompany their parents on U.S. military assignment to Puerto Rico or territories or possessions of the United States.

Effective date.—October 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, effective upon enactment.

3. Definition of disability for children under age 18 applied to all individuals under age 18

PRESENT LAW

The SSI law provides a definition of disability applicable to children. The SSI program defines a child as someone who is under age 18, except for individuals under age 18 who are married or are heads of household.

HOUSE BILL

The House bill extends the SSI childhood definition of disability to any person under age 18.

Effective date.—October 1, 1992.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment, effective with respect to disability determinations made on or after enactment.

4. Valuation of in-kind support and maintenance when there is a COLA

PRESENT LAW

A person who lives in the household of another person and receives in-kind support and maintenance from the householder must have his or her Federal SSI benefit reduced by one-third of the Federal benefit. Regulations provide for a "presumed maximum value" for measuring in-kind support and maintenance for a person who lives in his or her own household and receives in-kind support and maintenance, or lives in another person's household and receives food or shelter, but not both. This "presumed maximum value" is one-third of the Federal SSI benefit plus $20 per month (the amount of the unearned income exclusion from countable income).

Under the 2-month retrospective accounting principle that generally governs SSI benefit calculations, SSI benefits are determined after looking at the income in the second preceding month. In this system, an individual's countable income in the second month before the current month is used to determine the SSI benefit for the current month.

As a result of this use of retrospective accounting, the presumed value of in-kind support is not increased at the time an annual cost-of-living adjustment (COLA) to SSI benefits takes effect. Each time SSI benefits are increased by a COLA, SSI benefits for January and February are calculated using the increased value, but the reduction in benefits for receipts of support and maintenance in-kind is made on the lower pre-COLA November and December Federal SSI benefit. A 2-month lag occurs between the receipt of the COLA and the adjustment for increased value of in-kind support. A beneficiary will receive a COLA in January and then in March, when the post-COLA Federal SSI benefit is used for valuing the reduction for in-kind support and maintenance, SSI benefits will drop.

HOUSE BILL

The House bill requires that the current month's Federal benefit amount be used in determining the value of in-kind support and maintenance in calculating the current month's Federal benefit to be paid. This would eliminate the unintended benefit increase for January and February following a COLA and the offsetting reduction for March.

Effective date.—The House provision is effective January 1, 1994 (i.e., it applies to benefits paid after calendar year 1993).

SENATE AMENDMENT

The Senate amendment is the same as the House Bill except for effective date.

Effective date.—The Senate amendment is effective January 1, 1993 (i.e., it applies to benefits paid after calendar year 1992).

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

The conferees are aware that, in the past, some States have cut their State SSI supplements at the same time that the Federal SSI COLA took effect in January. This has created confusion among SSI recipients, who thought their total SSI benefits would increase by the amount of the Federal COLA only to discover that their benefits did not increase by as much, or did not increase at all.

If this should happen in the future, the conferees want the Commissioner of Social Security to explain to affected beneficiaries that their SSI benefits are smaller than expected because of a State decision, not a Federal government decision. The conferees instruct the Commissioner to provide affected recipients with such a written explanation whenever SSI benefits in a State will not increase by the full percentage increase in the Federal COLA because the State has cut its Federally administered State supplement by an amount that offsets part or all of the Federal COLA.

5. Treatment of revocable burial insurance policies

PRESENT LAW

In determining program eligibility, the SSI program does not count as a resource the value of a burial space purchased and "held for" the purpose of providing a place of burial for an SSI recipient or his or her immediate family. Burial spaces that are owned outright, or are purchased with irrevocable life insurance policies or through irrevocable trusts are therefore excluded from resources. However, some States prohibit or place limits on the value of irrevocable life insurance policies that provide for the purchase of burial spaces and other burial items. The SSA General Counsel has ruled that the law does not permit exclusion from SSI resources of the value of a revocable life insurance policy for purchase of a burial space, on the grounds that the space is not "held for" an individual because the policy can be changed or canceled.

HOUSE BILL

The House bill requires that revocable burial insurance policies be treated in the same manner as irrevocable burial insurance policies for the purpose of determining SSI resources and eligibility.

Effective date.—The House provision would apply to calendar months beginning after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the provision in the House bill.

G. OTHER INCOME SECURITY PROVISIONS

1. Effect of failure to carry out State plan (Suter v. Artist M.)

PRESENT LAW

Many of the principal Federal social welfare programs are established under the "State plan" titles of the Social Security Act of 1935, as amended. These programs include Aid to Families with Dependent Children (AFDC) (Title IV–A), Child Welfare Services (Title IV–B), Child Support and Establishment of Paternity (Title IV–D), Foster Care and Adoption Assistance (Title IV–E), and Medicaid (Title XIX). Under these titles, as a precondition of funding, each participating State is required to develop a written "State plan" that meets certain statutory requirements in order to be approved by the Secretary of the Department of Health and Human Services (HHS).

The Adoption Assistance and Child Welfare Act of 1980 amended the Social Security Act to require States to provide in their title IV–E plans that, in the case of each child, reasonable efforts will be made (a) prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child from his home, and (b) to make it possible for the child to return to his home (Sec. 471(a)(15)).

On March 15, 1992, the U.S. Supreme Court held in *Suter* v. *Artist M.*, that the "reasonable efforts" clause does not confer a federally-enforceable right on its beneficiaries, nor does it create an implied cause of action on their behalf. In rendering its opinion, the Court also stated that although section 471(a) does place a requirement on the States, that requirement "only goes so far as to ensure that the States have a plan approved by the Secretary which contains the 16 listed features."

HOUSE BILL

The House bill amends Title XI of the Social Security Act to provide that "each individual shall have the right not to be denied any service or benefit under this Act as a result of the failure of any State to which Federal funds are paid under a title of this Act that includes plan requirements to have a plan that meets such requirements, or to administer such a plan in accordance with such requirements."

The House committee report states that the provision does the following: "(1) responds to the recent Supreme Court decision in *Suter* v. *Artist M.*, which dramatically limited the ability of program beneficiaries to enforce the State plan titles of the Social Security Act; (2) preserves private rights of action as they existed before the *Suter* v. *Artist M.* Supreme Court decision; and (3) reaffirms that the State plan titles of the Social

Security Act impose binding obligations on participating States to comply with the requirements of the Act."

The committee report further states: "The purpose of this provision is to assure that individuals who have been injured by a state's failure to comply with the state plan requirements are able to seek redress in the federal courts to the extent they were able to prior to the decision in *Suter* v. *Artist M.* The provision does not alter the rules of statutory construction that the courts used prior to *Suter* v. *Artist M.*. The provision does not alter the finding in *Suter* v. *Artist M.*, that the 'reasonable efforts' provision, without further direction, is too vague to be enforceable in such an action. It only alters that portion of *Suter* v. *Artist M* suggesting that failure of a state to comply with a state plan provision is not litigable as a violation of federal statutory rights."

Effective date:

This House provision applies to actions pending on the date of enactment and to actions brought on or after that date.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends title XI of the Social Security Act by adding a new section that reads as follows:

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter* v. *Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in *Suter* v. *Artist M.* that section 471(a)(15) of the Act is not enforceable in a private right of action."

While adopting a different formulation, the conference agreement follows the intent of the House bill provision, which is to assure that individuals who have been injured by a State's failure to comply with the Federal mandates of the State plan titles of the Social Security Act are able to seek redress in the federal courts to the extent they were able to prior to the decision in *Suter* v. *Artist M.*, while also making clear that there is no intent to overturn or reject the determination in *Suter* that the reasonable efforts clause of title IV-E does not provide a basis for a private right of action.

The conferees do not believe that *Suter* v. *Artist M.* would be applied to the unemployment compensation program.

2. Declaration of citizen and alien status

PRESENT LAW

Section 1137(d) of the Social Security Act specifies that States must require, as a condition of eligibility for the AFDC, Medicaid, unemployment compensation, and food stamp programs, a declaration in writing by each adult individual (or, in the case of a child, by another individual on the child's behalf), stating whether the individual is a citizen or national on the U.S., and if not, that the individual is in a satisfactory immigration status. Under AFDC policy, a newborn child may not be eligible until a declaration has been signed.

Legislation enacted in 1990 overrode the provision of sec. 1137 with respect to the food stamp program. Under that legislation, one adult member of the food stamp household is required to sign, under penalty of perjury, a written declaration as to the citizenship or satisfactory immigration status of all household members, and by regulation, a declaration for newborn children is allowed no later than the next redetermination of eligibility.

HOUSE BILL

With respect to the AFDC program, the House bill allows one adult member of an AFDC family to sign, under penalty of perjury, a declaration as to the citizenship or satisfactory immigration status of all family members.

Effective date.—October 1, 1992.

SENATE AMENDMENT

With respect to all programs included in the section 1137(d) requirement, the Senate amendment allows one adult member of a family or household to sign a declaration, under penalty of perjury, on behalf of other adults in the household. In addition, in the case of a newborn child, it permits an adult to sign a declaration on behalf of the child no later than the date of the next redetermination of the eligibility of the family or household.

Effective date.—October 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Exclusion of certain income received by Indians from interests held in trust

PRESENT LAW

Income received by Indians from tribally-owned trust lands is exempt from consideration under Federal welfare programs, such as AFDC and Supplemental Security Income (SSI). This income is distributed on a per capita basis to tribal members, but the land is owned by the tribe as a whole and managed for the tribe's benefit by the Bureau of Indian Affairs.

Individually-owned trust or restricted Indian lands are excluded from resources in applying the resource test under AFDC and SSI. However, income derived from leases on individually-owned trust or restricted Indian lands and paid to an individual is included in countable income when determining eligibility and benefit amounts for these cash welfare programs.

HOUSE BILL

The House bill exempts income up to $2,000 per year paid to an individual derived from leases on individually-owned trust or restricted Indian lands in determining eligibility and benefit levels under the AFDC and SSI programs.

Effective date.—Upon enactment.

SENATE AMENDMENT

The Senate amendment is similar to House bill, but provides for an annual exempt amount of $4,000 for purposes of all Social Security Act programs, or any other Federal or federally assisted program.

Effective date.—October 1, 1992.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the effective date is changed to January 1, 1993.

4. Disclosure of information to Railroad Retirement Board

PRESENT LAW

The Railroad Retirement Board (RRB) has access to returns and return information regarding taxes imposed under the Railroad Retirement Tax Act for purposes of the administration of the Railroad Retirement Act (RRA), but it is not authorized to receive returns and return information filed under the Railroad Unemployment Repayment Tax provisions. (The Railroad Unemployment Repayment Tax was imposed to repay loans from the Railroad Retirement Account obtained by the Railroad Unemployment Insurance Account.) In addition, there is no specific authority to disclose RRA information for purposes of the administration of the Railroad Unemployment Insurance Act (RUIA).

HOUSE BILL

The House bill amends the Internal Revenue Code to enable the RRB to obtain Railroad Unemployment Repayment Tax information.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

5. Self-employment program

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1987 required the Secretary of Labor to conduct self-employment demonstration projects for a period of three years in up to 3 States. States were required to pay any costs that exceeded the cost of unemployment insurance benefits which would have been paid in the absence of the experiments. The State of Washington and Massachusetts have been operating demonstrations.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the Secretary of Labor may authorize no more than 10 States to establish and operate self-employment programs if the Secretary determines that:

(1) the State program does not result in any cost to the Unemployment Trust Fund in excess of the cost that would be incurred if the State had not participated in a self-employment program;

(2) the State program provides unemployment benefits only to individuals who are entitled to compensation under State law (without regard to any disqualification resulting from self-employment and without regard to any State law relating to availability for work, active search for work, or refusal to accept work);

(3) the State program contains a process to target individuals who have been permanently separated from their jobs or do not expect to be recalled to their jobs;

(4) benefits are available only to individuals who are likely to receive compensation for the maximum number of weeks that such compensation is available under the State law during a benefit year;

(5) the aggregate amount of benefits payable to an individual with respect to any benefit year is limited to not more than 80 percent of the maximum amount of regular unemployment compensation payable to the individual for the benefit year; and

(6) the aggregate number of individuals receiving benefits under the State program does not at any time exceed 5 percent of the number of individuals receiving compensation under the State law at such time.

If the Secretary authorizes a self-employment program, the State may use the State unemployment fund to provide cash benefits, exclusive of the expenses of administration, to individuals participating in the program. The benefits must be used to assist participating individuals in becoming self-employed.

States must report annually to the Secretary on the number of individuals who participate in the program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, compliance with program requirements, and any other relevant aspects of program operations requested by the Secretary.

Not later than December 31, 1995, the Secretary must report to the Committee on Finance and the Committee on Ways and Means with respect to the operation of the State programs. The report shall contain the Secretary's recommendations regarding establishment of a permanent self-employment program as part of the regular unemployment compensation programs.

Effective date.—The Senate amendment is effective upon enactment. It expires September 30, 1996.

CONFERENCE AGREEMENT

This conference agreement does not include the Senate amendment.

AMENDMENTS RELATING TO OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS (OASDI) (Subtitle A of Title IX)

1. Misuse of symbols, emblems or names related to the Social Security Administration, Health Care Financing Administration and other programs and organizations

PRESENT LAW

In 1988, Congress enacted a provision prohibiting the use of words, letters, symbols and emblems of the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA) in a manner that the user knows or should know would convey the false impression that such an item was approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration or the Department of Health and Human Services, or that the user has some connection with, or authorization from, these agencies.

The law permits the Secretary of Health and Human Services (HHS) to impose civil monetary penalties not to exceed $5,000 per violation or, in the case of a broadcast or telecast, $25,000 per violation. The total amount of penalties which may be imposed is limited to $100,000 per year.

Amounts collected by the Secretary are deposited as miscellaneous receipts of the Treasury of the United States.

HOUSE BILL

The House bill changes the prohibition against unauthorized use of words, symbols and emblems in the following ways:

(a) eliminates the annual cap on penalties;

(b) includes the use of names, letters, symbols or emblems of the Department of Health and Human Services as protected items;

(c) defines a "violation," with regard to mailings, as each individual piece of mail in a mass mailing;

(d) adds a further prohibition against the use of the names or symbols in a manner that "reasonably could be interpreted or construed as conveying" a relationship to SSA, HCFA, or HHS;

(e) repeals the present law requirement that the Department of Health and Human Services obtain a formal declination from the Department of Justice before pursuing a civil monetary penalty case under this provision;

(f) provides that penalties collected by the Secretary for violations of this provision will be deposited in the Social Security Old-Age and Survivors Insurance Trust Fund;

(g) stipulates that no person may reproduce, reprint, or distribute for a fee any form, application, or other publication of the Social Security Administration unless such person has obtained specific written authorization for such activity in accordance with regulations prescribed by the Secretary;

(h) provides that any determination of whether there is a violation of this provision shall be made without regard to a disclaimer; and

(i) requires the Secretary of HHS to report annually to the Congress detailing the number of complaints of deceptive practices received by SSA, the number of cases in which SSA sent a notice of violation of this section to an individual requesting that the individual cease misleading activities, the number of cases referred by SSA to the HHS Inspector General (IG), the number of investigations undertaken by the HHS IG, the number of civil monetary penalties formally assessed by the HHS IG in a demand letter, the total amount of civil monetary penalties assessed during the year, the total amount of civil monetary penalties deposited in the OASI trust fund during the year, and the number of hearings requested pursuant to this provision and their disposition.

Effective date. The changes approved by the House apply with respect to violations occurring after the date of enactment.

SENATE AMENDMENT

The Senate amendment is similar to the House bill. It does not make the following changes included in the House bill:

(a) the prohibition against the use of the names, symbols, or emblems of the Department of Health and Human Services;

(b) the provision that penalties collected by the Secretary for violations of this provision would be deposited in the Old-Age and Survivors Insurance Trust Fund;

(c) the stipulation that no person may reproduce, reprint, or distribute for a fee any form, application, or other publication of the Social Security Administration unless it has obtained specific written authorization for such activity;

(d) the provision that a determination of whether an item is in violation of this provision shall be made without regard to the inclusion in the item of a disclaimer of affiliation with the U.S. Government or an agency thereof.

The Senate amendment also extends the applicability of the provision to the names, letters, and symbols of the Supplemental Security Income and Medicaid programs.

Effective date: The Senate amendment applies with respect to violations occurring after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that, as in the Senate amendment, the protections are extended to the names, letters, and symbols of the Supplemental Security Income and Medicaid programs. In addition, penalties deposited in the Old-Age and Survivors Insurance Trust Fund would be limited to penalties for misuse of the names, letters, and symbols of the Social Security Administration (SSA). It is the intention of the conference managers that the restriction on reproducing forms for a fee will not apply to individuals (e.g., certified public accountants) who may use these forms in the course of providing routine services to their clients.

2. Clarification of statutory requirement for public telephone access to local Social Security offices

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) requires the Social Security Administration (SSA) to: (a) maintain telephone access to local social security offices at the level generally available as of September 30, 1989, and (b) relist in local telephone directories the numbers of local offices that had been removed from the directories. P.L. 101-508 also required the General Accounting Office (GAO) to report to the Congress on the level of public telephone access to local offices following enactment of these requirements.

In September 1991, the GAO reported that SSA has generally complied with the requirement that it relist local office telephone numbers. It also reported that general inquiry lines to the offices targeted by P.L. 101-508 had decreased by 30 percent, or 766 lines, below the level that existed on September 30, 1989.

HOUSE BILL

The House bill adds the following sentence to the current statutory requirement that SSA maintain telephone access at the level generally available on September 30, 1989:

"In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service the same number of telephone lines to each such local office which were in place as of such date, including telephone sets for connections to such lines."

The House bill also requires that SSA maintain its toll-free service provided by the national 800 number at a level at least equal to that in effect on June 18, 1992.

Effective date.—The provision relating to local telephone access is effective as if included in section 5110(a) of P.L. 101-508. The provision relating to toll-free service is effective upon enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the benchmark date for maintenance of toll-free service will be the date of enactment rather than June 18, 1992. The conference agreement requires that the Social Security Administration reinstall the required number of telephone lines by no later than March 1, 1993. It is the intention of the conference managers that the General Accounting Office (GAO) make an independent determination of the number of telephone lines to each SSA local office as of March 1, 1993, and report its findings to the Committee on Ways and Means and the Committee on Finance no later than May 1, 1993.

3. Social Security exclusion for election workers

PRESENT LAW

Election workers who earn less than $100 per year are subject to three exclusions from coverage under social security: (a) at the option of a State, they may be excluded from the State's voluntary social security coverage agreement with the Secretary of HHS; (b) they are excluded from the requirement that State and local workers hired after March 31, 1986, pay the hospital insurance portion of the social security tax; and (c) they are excluded from the requirement in the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) that State and local workers who are covered neither by a State or local retirement system nor by a voluntary agreement must be covered by social security and pay social security taxes.

House Bill

Under the House bill, the three exclusions for election workers will be increased in 1993 to apply to election workers with annual earnings of up to $1,000. This amount will rise thereafter in proportion to increases in wages in the economy.

In addition, a transition rule excludes election worker earnings for the last quarter of calendar year 1992, if they do not exceed $500.

Effective date.—The increased exclusion applies to services performed by an election worker on or after January 1, 1993. The transition rule applies to services performed during the period October 1—December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

4. Social Security coverage of non-cash agricultural wages

Present Law

Non-cash remuneration paid to agricultural workers is excluded from covered wages under the Social Security Act. The legislative history of this exclusion, which was enacted in 1950, indicates that it was intended to apply to such items as:

* * * lodging, food, clothing, agricultural or horticultural commodities, or car tokens or weekly transportation passes.

In recent years, this exclusion has been applied to other remuneration arrangements. Examples are: (a) buy-back arrangements, in which farm employers pay employees with commodity storage receipts which they later redeem for cash, (b) prearranged sales, in which farm employers give workers temporary, paper possession of agricultural products such as live hogs, mink pelts, grain, or milk whose sale they have already arranged; and (c) hybrid "ownership" arrangements, in which an employer pays a worker with a portion of a commodity shipment to market and subsequently shares the proceeds from the sale.

House Bill

In general, the House bill expands the definition of wages covered by social security to include non-cash remuneration paid to agricultural workers. An exception is provided for meals and lodging furnished on the premises of the employer and, in the case of seasonal workers, temporary lodging furnished in reasonable proximity to the employer's premises. In addition, non-cash remuneration would not be covered if it is below the tax thresholds that now apply to agricultural cash wages—in general, the lesser of $150 per worker or $2,500 for the employer.

Effective date.—The House provision applies to remuneration paid after December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

5. Use of Social Security numbers for jury selection

Present Law

The Privacy Act of 1974 prohibits States from requiring that individuals provide social security numbers for identification purposes, unless the State was doing so before January 1, 1975, or the State is specifically permitted to do so under Federal law. The Social Security Act currently authorizes States to use the social security number in administration of any tax, general public assistance, and driver's license or motor vehicle registration law within its jurisdiction. Other Federal statutes authorize the State to use the social security number for certain other purposes.

Currently, State and local courts use jury source lists within their jurisdiction to select jurors. Source lists (most commonly made up of lists of licensed drivers and registered voters) are usually computer tapes merged by the courts to form one pool, or master list, from which jurors are selected.

States that are permitted under current law to collect social security numbers for purposes such as driver's licenses and voter registration are not allowed to use those social security numbers for other purposes such as refining jury selection master lists for the courts, unless the courts were using the social security number for that purpose before the Privacy Act took effect.

Current law likewise prevents States from using the social security number to compare the merged jury source lists with computerized lists of convicted felons in order to eliminate these individuals from jury pools.

House Bill

The House bill permits States that already collect and use social security numbers for purposes permitted under current law to use those numbers to eliminate duplicate names and names of convicted felons from jury source lists.

Effective date.—Upon enactment.

Senate Amendment

The Senate amendment is the same as the House bill, except that it specifies that the social security numbers to be used with respect to jury source lists must have already been collected for other authorized purposes.

Conference Agreement

The conference agreement follows the Senate amendment.

6. Authority for optional Social Security coverage of police officers and firefighters under a retirement system

Present Law

In general, employees of State and local governments who participate in a public retirement system can be brought under social security by means of voluntary agreements entered into by the States with the Secretary of HHS.

However, the State option to provide social security coverage for police officers and firefighters who are under a public retirement system applies only in 24 States that are named in the Social Security Act. (An additional option applies with respect to firefighters only: any State may obtain coverage for them if the governor certifies that it would improve the overall benefit protection of firefighters in the coverage group and a referendum is held among the group under authorization of the State.) The Act also provides that, in the 24 named States, social security coverage can be obtained only after a State-sponsored referendum.

House Bill

The House bill extends to all States the option to provide social security coverage, under their voluntary agreements with the Secretary of HHS, to police officers and firefighters who participate in a public retirement system. The existing requirement for a referendum held under the authority of the State would continue to apply.

Effective Date.—The House provision applies with respect to State requests filed after enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

7. Limited exemption from SECA taxes for American ministers who worked in Canada

Present Law

The Social Security Act authorizes the President to enter into bilateral "totalization agreements" with foreign countries that provide for coordination of the social security systems of the U.S. and the foreign country. These agreements provide for entitlement to retirement, survivors, and disability insurance based on the combination of covered work under the social security systems of both countries, and are meant to eliminate situations in which the same work is covered and subject to taxation by both countries.

The totalization agreement with Canada was entered into in 1984. Article V(7) of that agreement provides that individuals considered self-employed by the United States who are American citizens but are residents of Canada are covered only under the Canadian Pension Plan.

Under the Social Security Act, an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order is generally considered self-employed for social security payroll tax purposes and subject to SECA taxes.

The Canadian social insurance program treats ministers as employees of the church rather than as self-employed individuals.

Before the 1984 totalization agreement with Canada, duly ordained and licensed ministers who were American citizens but residents of Canada were required to pay SECA taxes to the United States and social security taxes to Canada. In some cases, ministers who were American citizens but residents of Canada failed to file U.S. tax returns of pay SECA tax believing that they were not required to do so because they were paying into the Canadian Pension Plan as residents of Canada. The Internal Revenue Service has assessed taxes and penalties against those ministers who failed to file a return and pay the required taxes prior to the 1984 agreement.

House Bill

The House bill exempts ministers who failed to pay SECA taxes in the U.S. on earnings from services performed in Canada before the totalization agreement went into effect, and who were required to pay social insurance taxes in Canada on such earnings, from the payment of such taxes or related penalties owed to the United States.

In addition, the bill provides that the ministers' social security earnings records will not be credited for years in which the SECA tax was not paid.

Effective date.—The House provision is effective for individuals who meet the requirements of the statute and who file a certificate with the Internal Revenue Service within six months after the IRS issues regulations implementing this provision. The certificate shall be effective for taxable years 1979 through 1984.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

8. Totalization benefits and the windfall elimination provision

Present Law

The President is authorized to enter into "totalization agreements" with foreign countries. If an individual has worked under social security systems in both the U.S. and a foreign country with which the U.S. has an agreement, but has not worked long enough to qualify for a benefit, a totalization agreement allows the individual's coverage under both systems to be combined, or "totalized," in order for one country (or both) to pay a benefit. Benefits paid under a totalization agreement are generally prorated to reflect that the person did not work his or her whole career under the system that is paying benefits.

The windfall elimination provision (WEP) is applied to the computation of social security benefits for workers who are eligible for both social security and a pension from work not covered by social security. Under the WEP, a different benefit formula yielding a lower amount is used to calculate the worker's social security benefit. (Due to the weighting of the social security benefit formula toward workers with lower lifetime wages, workers with many years of work not covered by social security would receive a windfall in their social security benefit in the absence of the WEP.)

The WEP applies: (1) in the computation of some U.S. totalization benefits, and (2) in the computation of regular U.S. social security benefits if the individual receives a foreign totalization benefit.

HOUSE BILL

The House bill provides for disregarding the Windfall Elimination Provision in computing any U.S. totalization benefit, and in computing the amount of the regular U.S. benefit of an individual who (1) receives a foreign totalization benefit based in part on U.S. employment and (2) does not receive any other pension which is based on noncovered employment.

Effective date.—The House provision is effective with respect to benefits payable for months after October, 1992

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the provision in the House bill.

9. Exclusion of military reservists from application of the government pension offset and the windfall elimination provision

PRESENT LAW

The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) are intended to reduce social security benefits payable to individuals who qualify for both a social security benefit and a pension based on employment not covered by social security.

The WEP reduces a worker's social security retirement or disability benefit in cases where the worker is receiving both a social security benefit and a pension based on employment not covered by social security. The WEP is designed to eliminate the potential windfall that could result from applying the weighted social security benefit formula in such cases. The weighted formula is intended to replace a higher proportion of wages for low-earning workers with long service under social security than for high-earning workers. The WEP prevents it from treating individuals who have limited years of coverage under social security as if they were lifetime low-earners.

Active military service became covered under social security in 1957. Inactive duty by reservists (such as weekend drills) became covered under social security in 1988. A pension based on either type of service (active or inactive), if performed before 1957, does not trigger the WEP. The only military pension which triggers the WEP is a pension based in whole or in part on inactive duty after 1956 and before 1988.

Under the GPO, spouse's and widow(er)'s benefits received by an individual based on his or her spouse's social security-covered work are reduced by two-thirds of the amount of any government pension to which the individual is entitled based on his or her own work in a government job not covered under social security.

In general, an individual is exempt from the GPO if the last day of his or her work in a government job was covered by social security. Thus, reservists who retired from military service before 1988 may be subject to the GPO depending on whether the last day of their duty status happened to be covered (active duty, such as two-week training duty) and therefore exempt from the GPO or not covered (inactive duty) and therefore subject to the GPO.

HOUSE BILL

The House bill provides that an individual's receipt of a pension based wholly on service performed as a member of a uniformed service, whether on active or inactive duty and whether performed prior to 1988 or not, will not trigger application of the GPO and WEP to the individual's social security benefits.

Effective date.—The House provision is effective with respect to benefits payable for months after October, 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the provision in the House bill.

10. Elimination of rounding distortion in the calculation of the contribution/benefit bases and earnings test exempt amounts

PRESENT LAW

The OASDI contribution and benefit base, the HI contribution base, and the social security earnings test exempt amounts are adjusted automatically each year based on a formula that reflects increases in average wages in the economy. The amounts that result from applying the formula are rounded to the nearest multiple of $300 in the case of the OASDI contribution and benefit base and the HI contribution base, and to the nearest multiple of $10 in the case of the monthly earnings test exempt amounts. Each annual increase is based on the rounded amount for the preceding year.

HOUSE BILL

The House bill designates 1992 (or any later year for which an increase other than an automatic increase is effective) as the base year to be used in calculations of the OASDI contribution and benefit base, HI contribution base, and the social security earnings test exempt amounts for all years following 1992. Rounding adjustments will be made each year to the unrounded products of the base year calculations.

Effective date.—The House provision applies to determinations of the OASDI contribution and benefit base and HI contribution base for years after 1992, and to determinations of the social security earnings test exempt amounts for taxable years ending after 1992.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill with minor, technical changes.

11. Repeal of facility-of-payment provision

PRESENT LAW

As a general rule, when an individual receiving benefits as the dependent of a worker has a deduction in his or her benefits (for example, due to the earnings test) and the Maximum Family Benefit rule applies, the withheld benefits are redistributed and paid to the other dependents. (The Maximum Family Benefit, or MFB, is a limit on the total amount of benefits which can be paid on a worker's record to the worker and his or her dependents.)

However, if all of the dependents are living in the same household, the affected individual's benefit check is not actually withheld; instead, the individual receives a notice from the Social Security Administration accompanying the benefit check. This notice explains that the beneficiary is subject to a benefit reduction and should not actually receive the amount provided in the benefit check. However, the excess benefit amount is being paid with the understanding that it is for the use and benefit of the other dependent beneficiaries. This procedure is known as the facility-of-payment provision.

In cases where all of the dependent beneficiaries are not residing in the same household, the facility-of-payment provision does not apply and the withheld benefits are redistributed and paid directly to the remaining dependents.

HOUSE BILL

The House bill repeals the facility-of-payment provision. As a result, a beneficiary who is subject to a reduction will have the appropriate amount withheld form his or her benefit, and the withheld amount will be redistributed and paid directly to the other dependents.

Effective date.—The House provision is effective for benefits for months after December, 1993.

SENATE AMENDMENT

Same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

12. Application of subsequent entitlement guarantee to maximum family benefits

PRESENT LAW

A guarantee is provided for workers who receive disability benefits, then stop receiving disability benefits, and subsequently become re-entitled to benefits due to death, retirement or disability. This "subsequent entitlement guarantee" provides that the basic benefit amount (the Primary Insurance Amount, or PIA) of a worker who becomes re-entitled to benefits or dies (thereby entitling his or her survivors) cannot be less than the PIA in effect in the last month of the workers' prior entitlement to disability benefits.

Due to a drafting error in the 1977 Social Security Amendments, when this guarantee was created, the guarantee does not extend to the Maximum Family Benefit (MFB) payable on the worker's record, which is determined based upon the PIA. (The MFB is a limit on the total amount of benefits which may be paid on a worker's record to the worker and his or her dependents.) As a result, the MFB which is payable when the worker becomes reentitled to benefits or dies may be less than the MFB payable in the last month of the worker's prior entitlement to disability benefits.

HOUSE BILL

The House bill makes a conforming change in the MFB, so that the guaranteed PIA will be the basis for calculating the guaranteed MFB.

Effective date.—The House provision is effective for the MFB of workers who become re-entitled to benefits or die (after previously having been entitled) after October, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

13. Disclosure of Social Security Administration information for epidemiological research

Present Law

Current law generally prohibits Federal agencies from releasing personal information contained in an individual's file without the written consent of the individual unless release is required under the Freedom of Information Act (FOIA) or other statutes.

Before the 1989 Supreme Court decision *United States Department of Justice* v. *Reporters Committee for Freedom of the Press (Reporters Committee)*, the Social Security Administration (SSA) provided personally identifiable information to epidemiological researchers under the belief that it was required to do so under the FOIA. Disclosure of personal information is required under FOIA when the public interest served by the disclosure outweighs the privacy interest served by withholding the information.

In the Reporters Committee decision, the Supreme Court restricted disclosures of personally identifiable information under FOIA, ruling that disclosure of personal information serves the public interest only when the requested information gives the public insight into the Federal government's performance of its statutory duties.

As a result of the Reporters Committee decision, SSA has discontinued the practice of disclosing information from its files to epidemiological researchers.

House Bill

The House bill requires the Social Security Administration, under certain circumstances, to disclose for epidemiological or similar research purposes personally identifiable information from SSA records specifying whether an individual is living or dead.

Under the provision, SSA is required to comply with requests for information showing whether an individual is alive or deceased if: (1) the Secretary finds that the research may reasonably be expected to contribute to a national health interest; and (2) the requestor agrees to reimburse the Secretary for providing such information and agrees to comply with limitations on safeguarding and rerelease or redisclosure of such information, on specified by the Secretary.

Effective date.—Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

14. Conform Social Security definition of disability for children to the SSI definition for children

Present Law

The basic definition of disability, inability to engage in any substantial gainful activity by reason of a physical or mental impairment, is the same under the Social Security Disability Insurance program and the Supplemental Security Income (SSI) program. In the SSI program, however, the law further provides that children under the age of 18 are considered disabled if they suffer from an impairment of "comparable severity" to one that would prevent an adult from working. The Disability Insurance program has no similar provision applicable to children, although under the program there are certain limited circumstances in which a child must establish disability prior to attaining age 19.

House Bill

No provision.

Senate Amendment

The Senate amendment establishes a "comparable severity" definition of disability for children under the Disability Insurance program that is identical to the definition in the SSI program.

Effective date.—Upon enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except that the provision would apply to determinations of disability made on or after the date of enactment.

15. Increased penalties for unauthorized disclosure of Social Security information

Present Law

The Social Security Act contains provisions prohibiting the unauthorized disclosure of personal and other information obtained in administering the Act. The Act provides that any person who violates these provisions and makes an unauthorized disclosure can be found guilty of a misdemeanor and, upon conviction, punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both. Under the Act, these penalty provisions are also applicable to anyone who fraudulently attempts to obtain information as to the date of birth, employment, wages, or benefits, of another individual.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act are made a felony. Each occurrence of a violation will be punishable by a fine not exceeding $10,000, imprisonment not exceeding five years, or both.

Effective date.—Upon enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except that the provision will apply to violations occurring on or after the date of enactment.

16. Increase in authorized period for extension of time to file annual earnings report

Present Law

In general, individuals under age 70 who receive Social Security retirement or survivors benefits must file an annual earnings report with the Social Security Administration for any taxable year in which their earnings or wages exceed the annual value of exempt earnings under the Social Security earnings test. These reports are due to be filed by the same date as income tax returns, the fifteenth day of the fourth month after the close of the taxable year (normally April 15). Individuals may be granted a reasonable extension of time for filing an earnings report if there is a valid reason for delay, but not more than 3 months. A time extension for filing an income tax return may be granted for up to 4 months.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, the time for which an extension may be granted for filing an earnings report is increased to 4 months.

Effective date.—Upon enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except that the provision is effective with respect to reports of earnings for taxable years ending on or after December 31, 1992.

17. Tightening rules applicable to Social Security and SSI representative payees

Present Law

In both the Social Security and Supplemental Income Security programs, the Social Security Administration appoints a representative payee to receive benefit payments on behalf of a beneficiary when SSA determines that the beneficiary's best interest would be served in this way. The law provides that an individual or organization cannot be a representative payee if they have been convicted of fraudulent offenses involving Social Security and SSI benefits, or have previously served as a representative payee and had their certification to receive benefits revoked because they have misused funds paid as benefits. With certain specified exceptions (e.g., a relative or a care institution), an individual or organization that is a creditor of a beneficiary cannot be that beneficiary's representative payee.

In the SSI program, an individual or an eligible spouse who has been medically determined to be a drug addict or alcoholic must be assigned and receive payment through a representative payee.

House Bill

No provision.

Senate Amendment

The Senate amendment provides that: (1) an individual who has been convicted of a drug-related offense, a felony under Federal or State law, or a crime punishable by death or imprisonment for more than one year, shall not be appointed as the representative payee of an SSI recipient who has been medically determined to be a drug addict or alcoholic; (2) any representative payee who has misused an individual's benefit payment may be subject to a fine or imprisonment under sections 208 and 1632 of the Social Security Act; and (3) a beneficiary's creditor that is a facility licensed for the treatment of drug or alcohol abuse may serve as that beneficiary's representative payee.

Effective date.—Regulations implementing the Senate provision must be issued within 180 days of enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except that the Secretary of Health and Human Services is authorized to make exceptions, on a case-by-case basis, to the prohibition against certain individuals serving as representative payees. Also, the conference agreement does not include the penalty in the Senate amendment applicable to misuse of benefit payments by a representative payee, because such a penalty is already included in present law.

18. Technical corrections relating to Social Security

Present Law

The Omnibus Budget Reconciliation Act of 1990 (OBRA 90) contained technical errors in provisions relating to disabled widows, representative payees, attorney fees, and advance tax transfers.

House Bill

The House bill makes technical corrections to these four provisions.

Effective date.—The House provision is effective as if it were included in OBRA 90.

SENATE AMENDMENT

Same as the House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

19. Improvements in the availability and use of death information

PRESENT LAW

Under section 205(r) of the Social Security Act, the Secretary of Health and Human Services is authorized to enter into voluntary contracts with the States for the purpose of obtaining death certificate and other related information to be used in administration of the Social Security Act. In addition, the Secretary is authorized to redisclose this information to other Federal, State, and local agencies for certain specified purposes, subject to such safeguards as the Secretary determines are necessary to prevent any unauthorized redisclosure. However, because these contracts with the States are entirely voluntary, the States are able, at their discretion, to include contract provisions preventing the Secretary from redisclosing this information to other agencies.

HOUSE BILL

No provision. (However, H.R. 3837, as passed by the House, contains a provision that is similar to the conference agreement.)

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement would prohibit a State from using an individual's Social Security account number in the administration of any drivers license or motor vehicle registration law if, within one year after the date of enactment, the State does not enter into a contract to provide death certificate and related information to the Secretary, or the State is party to a contract with the Secretary that places restrictions on the use of the death certificate and related information obtained by the Secretary from the State, except to the extent that such use is permitted to be restricted under section 205(r)(6) of the Social Security Act.

The conference agreement also requires the Secretary of Health and Human Services to conduct a study of possible improvements in the current methods of gathering and reporting death information by Federal, State, and local governments that would result in more efficient and expeditious handling of such information. By June 1, 1993, the Secretary is required to submit a written report to the Committee on Ways and Means and the Committee on Finance setting forth the results of this study, together with such administrative and legislative recommendations as the Secretary may consider appropriate.

20. Misuse of symbols, emblems, or names related to the Department of the Treasury

PRESENT LAW

There are currently no provisions in present law prohibiting the use of symbols, emblems, and names of the Department of the Treasury (and its subsidiary agencies) in connection with mailings and other solicitations.

HOUSE BILL

The House bill prohibits the use of Treasury-related words, letters, symbols, or emblems in a manner which could reasonably be interpreted or construed as conveying a false impression that such activity is connected with the Department of the Treasury or any of its subsidiary agencies. A civil penalty of up to $5,000 per violation, or in the case of a broadcast up to $25,000, would apply for violations. Each individual piece of mail or separate solicitation would be considered a separate violation. Any determination of whether there is a violation of this provision would be made without regard to the use of a disclaimer of affiliation with the Federal government. The Secretary of the Treasury, by May 1, 1994, is required to provide to the House Ways and Means and Senate Finance Committees a report on enforcement activities relating to the implementation of the provision.

Effective date.—Upon enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill. The conferees agree to clarify that the reproduction of Treasury-related public documents or publications will not, in itself, be considered as conveying a false impression that such activity is connected with the Department of the Treasury.

HUMAN RESOURCES PROVISIONS (SUBTITLE B OF TITLE IX)

1. Repeal of provision inadvertently in OBRA 1990

HOUSE BILL

The House bill eliminates conflicting provisions in OBRA 1990 concerning the reporting date for the report of the National Commission on Children.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

2. Corrections related to income security and human resources provisions of OBRA 1990

HOUSE BILL

The House bill corrects references and punctuation in various SSI and AFDC provisions.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except that it omits the AFDC technical corrections.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

3. Correction related to section 8006 of OBRA 1989

HOUSE BILL

The House bill corrects a reference concerning foster care and adoption assistance.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

4. Technical corrections related to human resource and income security provisions of OBRA 1989

HOUSE BILL

The House bill corrects a word and spacing in AFDC quality control and adoption assistance legislative language.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

5. Amendment related to section 13101(d)(2) of OBRA 1990

HOUSE BILL

The House bill corrects and simplifies language concerning special sequestration rules for JOBS funds.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

6. Elimination of obsolete provisions relating to treatment of the EITC

HOUSE BILL

The House bill eliminates provisions in SSI law about treatment of EITC made obsolete by OBRA 1990, which specifies that SSI (and AFDC, Medicaid, and food stamps) are to disregard EITC as income.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

7. Redesignation of certain provisions

HOUSE BILL

The House bill redesignates two subparagraphs of the Social Security Act concerning when face-to-face interviews at field offices must be granted.

SENATE AMENDMENT

Same as House bill.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

X. MEDICARE PROVISIONS

A. AMENDMENTS RELATING TO PART A OF THE MEDICARE PROGRAM

1. Hospital wage index provisions

PRESENT LAW

A change in classification of hospitals from one wage area to another may not result in the reduction in the wage index for a county to an amount below the level of the rural wage index for a State. No similar protection applies in the case of an urban area with a wage index already below the rural wage index for a State, or in the case of an urban area located in a State without any rural areas. Certain hospitals in rural counties adjacent to one or more urban areas are treated as part of an urban area if they otherwise meet certain requirements with respect to commuting standards used in designating Metropolitan Statistical Areas or New England County Metropolitan Areas as published in the Federal Register on January 1, 1980.

HOUSE BILL

No provision.

SENATE AMENDMENT

Provides that a change in classification of hospitals from one area to another may not result in a reduction in the wage index for an urban area if the area has a wage index below the rural wage index for the State, or if the urban area is located in a State without any rural areas. Replaces the January 1, 1980 requirements with respect to commuting standards with the most recently available standards, but provides that any hospital that qualified for treatment as an urban county under the 1980 standards but not meeting the most recent standards shall continue to qualify.

Effective date.—Applies to discharges occurring on or after the date that is 30 days after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment with modifications. The provision relating to holding harmless certain urban areas applies to urban areas with a wage index below that of rural areas in the State or to an urban area that is the only urban area in a State with no rural areas. The Secretary is not authorized to adjust the standardized amounts to reflect the effects of this provision. The agreement follows the Senate amendment with respect to updating commuting standards with an amendment to provide that the standards to be used shall be those used most recently in actual designations of Metropolitan Statistical Areas. Rural hospitals treated as urban as of the date of enactment would continue their current treatment. The agreement provides that the Secretary must consider occupational mix in the development of guidelines for reclassification only to the extent he determines appropriate. The conferees wish to reaffirm that the Secretary has the authority to review and modify as he finds necessary the guidelines to be used by the Medicare Geographic Classification Review Board in rendering decisions pursuant to section 1886(d)(10).

Effective date.—Enactment, except that the provision for updating standards is effective October 1, 1993.

2. Hospital outlier payments

Present Law

The Secretary is required to make additional payment for outlier cases, those involving long stays or extraordinary costs as compared to other cases in the same DRG. The payments are required to approximate the marginal costs of care beyond the outlier threshold. The Secretary, in a final rule promulgated September 1, 1992, has established a new method for computing payments for day outliers, those with long lengths of stay. The per diem payment would be determined by dividing the standard DRG payment for a given case by the arithmetic mean length of stay for the relevant DRG, and multiplying the result by .55.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement provides that, for discharges occurring on or after January 1, 1993, and before July 1, 1993, the Secretary shall use the day outlier methodology in effect for fiscal year 1992, rather than the new methodology promulgated in the final rule issued September 1, 1992. The new methodology would continue in effect for discharges occurring on or after July 1, 1993 and before October 1, 1994.

3. Essential Access Community Hospital amendments

Present Law

(a) The Omnibus Budget Reconciliation Act of 1989 established the Essential Access Community Hospital demonstration program. Under this program, up to 7 States may be designated by the Secretary to receive grants to develop rural health networks consisting of essential access community hospitals and rural primary care hospitals. Individual hospitals may be designated as essential access community hospitals and rural primary care hospitals. Authorization of appropriations for fiscal years 1990, 1991 and 1992 is $10 million a year for grants to States and $15 million a year for grants to hospitals. In order to receive designation by a State as a rural primary care hospital, a facility must meet certain criteria, including a requirement that inpatient stays not exceed 72 hours.

(b) The Secretary of Health and Human Services is required to make grants to up to seven States to participate in the Essential Access Community Hospital (EACH) program.

(c) The Secretary may designate an urban hospital as an essential access community hospital if it meets the criteria for designation as a rural referral center.

(d) The Secretary may designate a hospital as an essential access community hospital if it is located in a State receiving an EACH program grant.

(e) Rural primary care hospitals are required to have written policies governing the provision of services, and have a physician, physician assistant, or nurse practitioner responsible for the execution of those policies.

(f) Medicare inpatient hospital benefits are subject to the inpatient hospital deductible and to coinsurance after 60 days of hospitalization during a spell of illness.

House Bill

No provision.

Senate Amendment

(a) Continues authorization for appropriations at current levels ($10 million a year for grants to States and $15 million a year for grants to hospitals) for fiscal years 1993, 1994 and 1995. Modifies the length of stay requirement for State designation of rural primary care hospitals to require these facilities to maintain an average length of stay not to exceed 72 hours.

(b) Increases the number of States eligible for grants under the EACH program from seven to nine.

(c) Authorizes the Secretary to designate an urban hospital as an essential access community hospital if the hospital otherwise meets the criteria for designation.

(d) Authorizes a State receiving a grant under the EACH program to designate as an essential access community hospital or a rural primary care hospital a facility in an adjoining State if the facility is otherwise eligible for designation. Authorizes the Secretary to designate a facility as an essential access community hospital or a rural primary care hospital if the facility is not in a State receiving an EACH program grant if the facility is a member of a rural health network of a State receiving a grant.

(e) Amends the requirements for written policies and procedures and the supervision of those procedures in rural primary care hospitals to clarify that the requirements are similar to those for hospitals. Specifically, requires rural primary care hospitals to appoint a physician, as defined in section 1861(r)(1) of the Social Security Act, to supervise the implementation of the policies.

(f) Clarifies the applicability of the inpatient hospital deductible and coinsurance to stays in rural primary care hospitals. Corrects other minor drafting errors.

Effective date.—Enactment.

Conference Agreement

(a) The conference agreement follows the Senate amendment, except that the length of stay requirement is modified to provide that no patient may be admitted unless the attending physician certifies that the patient may reasonably be expected to be discharged or transferred within 72 hours, and that the facility may not provide surgery or other services requiring general anesthesia (other than procedures approved for performance on an ambulatory basis) unless the attending physician certifies that the risk of transfer to another facility for the services outweighs the benefits. The Secretary is authorized to terminate the designation of a rural primary care hospital whose average length of stay (not counting longer stays during periods of inclement weather or other emergencies) exceeds 72 hours. The agreement requires the General Accounting Office to report to the Congress, within 2 years after enactment, on the application and impact of the changes in length-of-stay requirements.

(b) The conference agreement follows the Senate amendment. The conferees anticipate that the Secretary will designate additional States on the basis of applications received in response to the initial solicitation and the evaluation performed by the Department in response to those applications.

(c) The conference agreement follows the Senate amendment, except that an urban hospital designated as an essential access community hospital is not to receive any change in Medicare payment methodology.

(d) The conference agreement follows the Senate amendment, except also authorizes the Secretary to make direct grants to facilities so designated.

(e) The conference agreement follows the Senate amendment.

(f) The conference agreement follows the Senate amendment. The agreement also authorizes a rural primary care hospital that had a swing-bed agreement at the time of designation to provide swing-bed services up to the hospital's licensed acute care bed capacity at the time of conversion, minus the number of inpatient beds retained by the rural primary care hospital. If the facility has a licensed distinct-part nursing facility at the time of conversion, it may continue to operate that facility at its licensed capacity. The agreement provides that payment for outpatient rural primary care hospital services shall be made without regard to lesser-of-cost-or-charges limits.

Effective date.—Enactment.

4. Rural health transition grant program extension

Present Law

The Omnibus Budget Reconciliation Act of 1987 instituted a program of grants to assist rural hospitals with fewer than 100 beds in developing and implementing projects to modify the type and extent of services they provide. Grants may be used to develop health systems with other providers, diversify services, recruit physicians, improve management systems, and instruction and consultation via telecommunications to physicians in manpower shortage areas. The program is authorized at $25 million per year for fiscal years 1990, 1991 and 1992. The fiscal year 1992 appropriation is $23 million.

House Bill

No provision.

Senate Amendment

Authorizes appropriations at $30 million a year for fiscal years 1993 through 1997.

Effective date.—Enactment.

Conference Agreement

The conference agreement follows the Senate amendment, except that appropriations are authorized only through fiscal year 1997.

Effective date.—Enactment.

5. Regional referral center extension

Present Law

Hospitals in rural areas meeting certain criteria may be classified as regional referral centers and receive payment based on the prospective payment system standardized amount for hospitals in "other urban" areas (those with less than 1 million people) rather than the standardized amount for rural areas. The Omnibus Budget Reconciliation Act of 1989 provided that hospitals classified as regional referral centers on September 30, 1989 would retain such status through cost reporting periods beginning before October 1, 1992. Beginning on October 1, 1994 payments to hospitals in rural areas will be based on the same standardized amount as payment to hospitals in "other urban" areas.

HOUSE BILL

No Provision.

SENATE AMENDMENT

Provides that all hospitals classified as regional referral centers on September 30, 1992 will retain such status through September 30, 1994. Gives hospitals to which this provision applies that lost regional referral center status as a result of a favorable reclassification decision by the Medicare Geographic Classification Review Board for fiscal year 1993 the opportunity to decline the reclassification and retain referral center status. Requires that the Secretary not revise standardized amounts to account for hospitals that decline reclassification.

Effective date.—The extension of regional referral center status is effective as if included in the enactment of OBRA 1989.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. The conferees do not intend that the Secretary shall be required to reprocess claims submitted on or after October 1, 1992, and before the date a facility declines reclassification.

Effective date.—Enactment.

6. Small, Medicare dependent, rural hospital extension

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1989 provides for special payment for rural hospitals qualifying as Medicare dependent hosptitals (MDHs). In order to qualify for MDH status, a hospital must be located in a rural area, have no more than 100 beds, and have had at least 60 percent of its inpatient days or discharges attributed to Medicare patients during the cost reporting period beginning during fiscal year 1987. MDHs are eligible for payment under the same rules as sole community hospitals for cost reporting periods beginning on or after April 1, 1990, and ending before April 1, 1993. Beginning on October 1, 1994, payments to all hospitals in rural areas will be based on the same standardized amount as payment to hospitals in "other urban" areas (those with less than 1 million people).

HOUSE BILL

No provision.

SENATE AMENDMENT

Continues special payments for small rural, Medicare dependent hospitals for discharges occurring through September 30, 1994 on a phase-down basis. For discharges occurring during cost reporting periods beginning on or after April 1, 1990 and before April 1, 1993, provides that currrent MDH payments apply. For discharges occurring during any cost reporting period beginning on or after April 1, 1993 through September 30, 1994, provides that an MDH will receive 50 percent of the difference between their payment under the current MDH rules and the payment regularly provided under the prospective payment system. Allows small rural Medicare dependent hospitals that lost MDH status as a result of a favorable reclassification decision by the Medicare Geographic Classification Review Board for fiscal year 1993 the opportunity to decline the reclassification and retain Medicare dependent hospital status. Requires that the Secretary not revise standardized amounts to account for hospitals that decline reclassification.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. The conferees do not intend that the Secretary shall be required to reprocess claims submitted on or after October 1, 1992, and before the date a facility declines reclassification.

Effective date.—Enactment.

7. Rural demonstration extension

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1990 gave the Secretary authority to waive such provisions of Title XVIII as necessary in order to conduct any demonstration project with respect to limited-service rural hospitals with respect to which the Secretary has entered into an agreement prior to enactment of the Omnibus Budget Reconciliation Act of 1989.

HOUSE BILL

No provision.

SENATE AMENDMENT

Continues any such demonstration projects at least through December 31, 1995.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—Enactment.

8. Hemophilia pass-through extension

PRESENT LAW

The costs of administering blood clotting factor to Medicare beneficiaries with hemophilia who are admitted for hospital stays are not reimbursed as part of the DRG payment, but are separately reimbursed. The additional payments apply only to clotting factor furnished between June 19, 1990 and December 19, 1991.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends additional payment for hemophilia clotting factor for clotting factor furnished through September 30, 1994.

Effective date.—Effective as if included in the enactment of OBRA 1989

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. Further, with respect to patients with intractable epilepsy, the conferees expect the Secretary to develop and apply, at the earliest possible time, procedure codes necessary to more accurately measure the relative resource requirements for such patients receiving intensive neurodiagnostic monitoring.

Effective date.—Effective as if included in the enactment of OBRA 1989.

9. State hospital payment programs

PRESENT LAW

Under Section 1886(c) and section 1814(b) of the Social Security Act, the Secretary may provide that Medicare payments to hospitals in a State be made in accordance with a state hospital reimbursement system meeting certain standards. The State must assure that over a 36-month period, payments to hospitals for services provided to Medicare beneficiaries will not exceed the amount that would have been paid for those services under Medicare payment rules. The Secretary may recoup excess payments to hospitals if he finds that this standard was not met.

HOUSE BILL

No provision.

SENATE AMENDMENT

Delays recoupment of any amount owed by hospitals due to alleged overpayments relating to the operation of a Section 1886(c) Medicare waiver until April 1, 1993. Does not change current law with respect to payment of interest on overpayments.

Requires the Secretary, prior to the beginning of recoupment, to provide to the State and the hospitals in the State all relevant data used by the Secretary to determine the amount of alleged overpayments, including but not limited to (1) the cost reports submitted by hospitals for the relevant cost reporting periods and (2) the methodology used by the Secretary to determine the payments which would otherwise have been made to the hospitals by Medicare during the period for which any overpayments are alleged to have been made.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. The agreement further provides that, in the case of a State with a Medicare-approved payment system under section 1814(b), nothing in Medicare or Medicaid law, the Employee Retirement Income Security Act (ERISA), or sections 81 and 89 of Title 5, United States Code, shall be construed as providing for payment of services at rates other than those provided for under the State's system. The state program would continue to be required to meet the standards for Medicare-approved payment systems under section 1814.

Effective date.—Enactment.

10. Psychology services in hospitals

PRESENT LAW

Clinical psychologists are authorized to provide qualified psychologist services to Medicare beneficiaries. In order to participate in Medicare, hospitals must require that all Medicare patients are under the care of a physician, defined to include doctors of medicine, osteopathy, dentists, podiatrists, chiropractors and optometrists practicing within the scope of State law. Certain States authorize psychologists to supervise the care of inpatients receiving psychologist services.

HOUSE BILL

No provision.

SENATE AMENDMENT

Provides that, in a State in which such supervision is authorized by state law, the care of hospital inpatients receiving qualified psychologist services may be supervised by a clinical psychologist with respect to such services to the extent permitted by state law.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The agreement follows the Senate amendment.

Effective date.—Enactment.

11. Graduate medical education payments in hospital-owned community health centers

PRESENT LAW

Additional payments to hospitals for the indirect costs of medical education are based on the ratio of interns and residents at the hospital to the number of beds in the hospital. Interns and residents training in a hospital outpatient department are included for purposes of determining the ratio.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides that services of an intern or resident in a community health center (as defined in the Public Health Service Act) that is wholly owned or controlled by a hospital shall be counted for purposes of determining the hospital's intern and resident to bed ratio, if the hospital incurs all or substantially all the cost of such services.

12. Treatment of certain military facilities

PRESENT LAW

Other than Indian Health Service hospitals, hospitals owned by, or under contract to, the Federal Government are not eligible for reimbursement under Medicare. Uniformed services treatment facilities are private hospitals under contract to the Federal Government. The Assistant Secretary of Defense for Health Affairs has been directed to prepare a report on joint military/civilian health centers.

HOUSE BILL

No provision.

SENATE AMENDMENT

Prohibits the Secretary of Health and Human Services from taking action to recover certain amounts paid by Medicare to uniformed services treatment facilities in Boston, Baltimore, and Seattle for services that were provided between October 1, 1986 and December 31, 1989, to members of the uniformed services or their dependents who were also eligible for Medicare. Requires the Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, to conduct a study of the feasibility and desirability of establishing a joint medical facility among the Department of Defense, Department of Veterans Affairs, and other public and private entities. Provides that the study shall include the need to make changes in the Medicare and Medicaid programs in order to facilitate the establishment of such joint medical facilities.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that it permits the Secretary to recoup from the facilities to the extent that any funds are provided for that purpose under the fiscal year 1993 Department of Defense Appropriations Act. The agreement requires the Secretary to report on the required study of joint medical facilities to the Congress by June 1, 1993.

Effective date.—Enactment.

13. Skilled nursing facility wage index

PRESENT LAW

Skilled nursing facilities are reimbursed on a reasonable cost basis, subject to per-diem limits. The limits are adjusted to reflect differences in area wages. In applying the wage index adjustment, the Secretary currently uses a wage index based on wage data collected from hospitals. In its March 1, 1992 Report and Recommendations, the Prospective Payment Assessment Commission recommended that the Secretary collect data on employee compensation and paid hours of employment for nursing facilities for the purpose of implementing a nursing facility wage index to adjust Medicare SNF payments.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to begin collecting the data necessary to compute a wage index based on wages specific to skilled nursing facilities within one year of enactment. The Prospective Payment Assessment Commission would be required to study and report by March 1, 1993 on the impact of applying routine per-diem cost limits on a regional basis.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. In addition, the conference agreement includes a correction for a clerical error in the nursing home reform provisions pertaining to the period of resident assessment.

Effective date.—Enactment.

14. Clarification of DRG payment window expansion

PRESENT LAW

Services provided by a hospital (or an entity wholly owned or operated by the hospital) to an inpatient of a hospital during the three days prior to admission are not separately reimbursed under part B of Medicare if they are diagnostic services or otherwise related to the admission.

HOUSE BILL

No provision.

SENATE AMENDMENT

Provides that this provision does not apply to hospitals that are not paid on the basis of diagnosis related groups (DRGs).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—Enactment.

B. AMENDMENTS RELATING TO PART B OF THE MEDICARE PROGRAM

1. Reinstating separate payment for interpretation of electrocardiograms (EKGs)

PRESENT LAW

OBRA 90 eliminated separate payments for interpretation of EKGs performed or ordered to be performed as part of, or in conjunction with, a medical visit or consultation, effective January 1, 1992.

HOUSE BILL

No provision.

SENATE AMENDMENT

Repeals the OBRA 90 prohibition on separate payments for interpretation of EKGs. Separate fee schedule payment amounts for interpreting EKG in all settings would be established. Provides for several adjustments to the fee schedule in order to comply with budget neutrality rules. First, HCFA would subtract the relative value units for EKG interpretation that were bundled into medical visit and consultation relative values for 1992.

Requires HCFA to make across-the-board adjustments to the relative values for all services to account for the shortfall of relative value units that were bundled into medical visits and consults in 1992. HCFA currently estimates this reduction at .37 percent; the reduction would apply only to service paid at the full fee schedule.

Requires HCFA to make an adjustment to the historical payment basis in the fee schedule to account for the fact that more EKG interpretations would be paid at the full fee schedule amount than medical visits and consultations during the transition. No reduction would be made for services already at the full fee schedule amount. For services in transition to the fee schedule, the estimated reduction is 1.07 percent in 1993, 0.84 percent in 1994, and 0.6 percent in 1995.

Effective date.—Applies to services furnished on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with a technical amendment clarifying the budget neutrality adjustment. Under the agreement, the Secretary is required to reduce the relative value for all services (except anesthesia services) by the percentage the Secretary determines necessary so that beginning in 1996 expenditures under the fee schedule would not exceed those which would have been made in the absence of this provision. For anesthesia services, the appropriate adjustment is made to the conversion factor. The agreement also requires the Secretary to make appropriate budget neutrality adjustments in the historical payment portion of the 1993 transition payment which applies in 1993, 1994, and 1995.

The conferees are concerned that the repeal of the prohibition on separate payments for EKGs on a deficit neutral basis, combined with the repeal of the new physician payment policy, would significantly reduce payments for primary care physicians. However, four major organizations representing primary care physicians have indicated their continuing support for these provisions as reflected in the following letters.

AMERICAN MEDICAL ASSOCIATION,
July 23, 1992.

Hon. FORTNEY (PETE) STARK,
House of Representatives, Cannon House Office Building, Washington DC.

DEAR REPRESENTATIVE STARK: I would like to reaffirm the resolve of the American Medical Association to work with you and other Congressional leaders to enact legislation this year to restore equity and fairness for EKG and "new" physician services. Eliminating payments for EKG interpretations and reducing payments to physician for the initial four years of Medicare billings are contrary to the basic concept of a resource based relative value system. EKGs are a proven value to patients. Further, the resource inputs of the service rather than the length of billing history of the physician should be the determinant of Medicare payments.

We believe that physicians should not be penalized to correct inappropriate policies. Physicians are understandably concerned that adjustment to fulfill budget requirements and make "technical corrections" could lead to a significant erosion of the original objectives of Medicare payment reform. However we recognize the limits mandated by the Budget Enforcement Act. The AMA will continue to explore alternative means of financing. Until such time as other acceptable budget neutral financing mechanisms are identified, the AMA continues to support the EKG and new physician provisions adopted by the Ways and Means Health Subcommittee on July 1.

Based on our review of publicly available data, we believe that some of the estimates outlined in your letter overstate the impact of the proposed EKG and new physician provisions. In assessing the impact of proposed EKG changes, it is important to recognize the following points:

The .37 conversion factor reduction is a technical correction to compensate for a

HCFA calculation error. HCFA intended to make this adjustment regardless of any legislation to restore payment for EKG interpretations.

The affected medical specialties have long recognized that visit code reductions would be necessary as part of the "EKG fix" given that relative value units were added to the visit codes to compensate for the EKG cut.

The projection of a 1.07% reduction for services still in transition appears to be almost twice as high as AMA estimates. It would be useful to have additional details on how this figure was derived.

Regarding the proposed new physician changes, it should be noted that:

Reduced payments to new physician cannot be justified as a form of apprenticeship. Physicians already complete an "apprenticeship" better known as residency or internship training before they bill Medicare.

It should be noted that rural localities that are exempt from the new physician reductions are limited to HHS designated manpower shortage areas. Many localities that are commonly accepted as rural areas have not been so designated by HHS.

The financial impact on selected groups of physicians is one of many considerations in weighing Medicare program changes. An overriding concern for Congress, the Administration, physician organizations and Medicare patients is whether certain policies undermine the integrity of the policy consistency of the new Medicare payment system while it is still in its infancy. The RBRVS was adopted to provide a more rational framework for Medicare payment policies. The EKG and new physician policies represent a continuation of the arbitrary and capricious nature of the usual, customary and reasonable (UCR) payment system that has been replaced by the RBRVS.

Your continued efforts to achieve an equitable solution to the EKG and new physician problems are appreciated. Clearly, we believe that the original decisions to end payments for EKGs and to phase in full payments for new physicians were misdirected and needed to be revised. While we object to the continued erosion of the conversion factor, we nevertheless support the Ways and Means Health Subcommittee's approach to fixing these problems. Please let us know if you have further questions regarding these two Medicare policies or any other issues to be considered during the upcoming mark up by the full Ways and Means Committee.

Sincerely,

JAMES S. TODD, MD.

AMERICAN ACADEMY OF
FAMILY PHYSICIANS,
July 22, 1992.

Hon. FORTNEY PETE STARK,
Chairman, Subcommittee on Health, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CONGRESSMAN STARK: Thank you for your letter of July 13, 1992, regarding the policies recently adopted by the Health Subcommittee to restore payment for the interpretation of electrocardiograms and eliminate fee reductions for new physicians. We appreciate the caution expressed in your letter regarding the deficit neutrality provisions in these policies. Allow me this opportunity to describe the Academy's perspective on these important issues and to express our continued support for the Health Subcommittee's actions.

Three adjustments are proposed to keep the restoration of electrocardiogram interpretation deficit-neutral: (1) a conversion factor reduction for the misestimation of the relative value units that were added to visit services to reflect the work of electrocardiogram interpretation, (2) the removal of the added relative units from visit codes, and (3) the reduction in the 1992 payment base to correct for asymmetry. The proposal to eliminate the fee reductions imposed on new physicians will require a reduction in the conversion factor estimated between 1.2 and 1.6 percent. The exact impact of these adjustments will vary among physicians in different specialties and in different locations. We have simulated the impact of each of these specific adjustments on family physicians. Our results are qualitatively similar to those suggested in your letter, although quantitatively less severe. Naturally, there will be an offsetting positive impact on family physicians from the restoration of payment for electrocardiogram interpretation.

As I previously communicated to you, the Academy's support for these measures is primarily based on our desire to preserve the integrity of the fee schedule. We strongly believe that the elimination of coverage of electrocardiogram interpretation and the reduction in new physician fees undermined the resource cost basis for setting physician fees. We believe this is true both in terms of individual clinical decisions and in regard to the long-run decisions regarding physicians' specialty and practice location choices. The long-term effect of eliminating coverage of electrocardiograms interpretation and reducing new physicians fees is to distort the entire fee schedule and compromise beneficiary access to appropriate and necessary services.

While the Subcommittee's actions were taken in the context of the Medicare physician fee schedule and the deficit-neutrality requirement of the current federal budget process, we have never considered the elimination of payment for the interpretation of electrocardiograms and the fee reductions imposed on new physicians to be part of the Medicare physician fee schedule. Indeed, these provisions were adopted a year after the fee schedule was established are entirely inconsistent with the goals of a resource-based fee schedule. Ergo, we do not regard the Subcommittee's actions as a refinement of the fee schedule, but, rather, a reversal of ill-considered measures that were from the beginning inconsistent with the concept of a resource-based fee schedule.

This letter also provides an appropriate opportunity to express our additional concerns regarding the Medicare physician fee schedule. It is becoming increasingly apparent that, as implemented, the resource-based fee schedule will not promote generalism to the extent that we had anticipated or to the extent so desperately needed in this country. No matter how one views health care reform, correcting the over-specialization of the American health care system is a necessary prerequisite. Our concerns about the maldistribution of physician specialists will be reflected in our advocacy of further reform of Medicare physician payment as well as reform of the health care system in general.

Thank you for this opportunity to express our continued support for the Health Subcommittee's policies to restore payment for electrocardiogram interpretation and eliminate the new-physician fee reductions. Please do not hesitate to contact me if you desire further information on these important matters.

Sincerely,

WILLIAM H. COLEMAN, M.D., PH.D.,
Chair, AAFP Board of Directors.

AMERICAN COLLEGE OF PHYSICIANS,
July 24, 1992.

Hon. PETE STARK,
Chairman, Ways and Means Subcommittee on Health, House of Representatives, Washington, DC.

DEAR MR. STARK: Thank you for the opportunity to comment on proposed changes in the physician fee schedule to accommodate restoration of payments for EKG interpretation and new physicians.

In considering issues of physician payment, primary care must be the first priority for Congress. Careful evaluation and management of the patient by a generalist physician is the core of medical care. The nation's ability to expand access to care will depend in part on our ability to supply primary care physicians to care for undeserved people. Not the least element of this is that primary care is cost-effective care, in terms of both the utilization of services and the prevention of illness. Accordingly, the proposed changes must be viewed in the context of trends affecting primary care.

Promoting primary care was one of the goals of physicians payment reform legislation passed in 1989. As we look at the issues facing us now, however, we find that formulas and technicalities are subverting that goal. The numbers are driving policy in ways that harm primary care. Consider these examples:

The Medicare Volume Performance Standard lumped evaluation and management (E/M) services, whose volume has not increased, with medical procedures, many of which are increasing at rates above 20% annually. The Secretary has now recommended an update of only .3% because the MVPS was exceeded—penalizing primary care physicians for sins they did not commit. (We have written you previously about this issue.)

Some procedures may have been undervalued in the 1992 fee schedule. If they are fixed, as you point out, another one percent will come out of E/M services.

HCFA underestimated the total relative value units when it incorporated work for EKGs into visit payments. We are now told that payments must be cut by a greater amount to make up for HCFA's mistake.

The formula specified in the 1989 legislation for calculating practice costs ties that calculation to historical charges, an anomaly in a resource-based system. The result is that about 50% of the fee calculation is skewed to increase hospital-based services, while practice costs for office-based evaluation and management services often are reimbursed well below actual costs.

Taken together, these reductions have a severe negative impact on primary care. If a central goal of Congress is to promote primary care, then Congress must realign the formulas and correct the technicalities to achieve that goal. We are ready to work with you to correct these problems in Medicare legislation this year.

The budget cut in payments for EKGs was particularly offensive because it conveyed the message that the physician's interpretation of an essential diagnostic tool was of no value. The budget cut in payments for new physicians was inconsistent with a payment system based on resources used in delivering services. In light of the hostility generated last year by HCFA's proposed "behavioral offset," and widespread disappointment with the fee schedule, our members have demanded that the EKG and new physician provisions be overturned. The College, therefore, supports the actions of the Subcommittee to restore their payments. The amendment must be written in a way that precludes any application of a behavioral offset related to restoration.

Mr. Chairman, primary care is in trouble. It cannot afford another backward step. We cannot emphasize too strongly the precarious position in which primary care physicians find themselves frequently unable to cover overhead costs with the Medicare payments they now receive. We hear a disturbing number of reports that physicians are already trying to limit the number of Medicare patients they treat. We look forward to working with you, starting immediately, to take actions that will correct the formulas and the technical restraints, and adopt a consistent policy that will recognize and promote the essential services of primary care physicians.

Thank you for the opportunity to express our support for the Subcommittee's actions. We hope that it will be the first step in a broad initiative to address the critical issues facing primary care.

Sincerely,

ROLF M. GUNNAR, M.D., FACP,
Chairman, Board of Regents.

AMERICAN SOCIETY
OF INTERNAL MEDICINE,
July 20, 1992.

Hon. PETE STARK,
Chairman, Subcommittee on Health, Committee on Ways and Means, Washington, DC.

DEAR MR. STARK: This is response to your letter requesting clarification of the views of the American Society of Internal medicine on pending legislation to restore payments for interpretation of EKGs and to repeal the payment limits on new physicians. I apologize in advance for the length of this response, but several issues raised in your letter require clarification.

ASIM strongly believes that Congress and HCFA must take steps to assure that the Medicare fee schedule meets the intent of improving payments for primary care and other undervalued evaluation and management services. We do, however, also fully support the EKG and new physician provisions that were approved by the subcommittee and repeal of the payment limits on new physicians. We specifically support the subcommittee's approach of maintaining budget neutrality and restoring payment for EKG interpretation by reducing the relative values that HCFA specifically added-on to visits and consultations for the purpose of including EKG interpretation in the payments for those services, and reducing payments for services in transition. We also support the subcommittee's action to repeal the payment limits on new physicians.

The reason for our support of both of these policies is not primarily financial. Although some of our members will gain a modest amount financially from these changes, others will not. What is more important to us is the principle behind each: that under a resource based system all covered services that require physician work should be compensated at the resource same for services that require equivalent work, regardless of how long they've been in practice.

In an ideal situation, we would have preferred that these changes not result in any reductions in payments for E/M services. However, budget neutrality requirements necessitated that we identify an approach that allows full restoration of payments for EKG interpretation. The approach to the EKG issue that was approved by the subcommittee is that only one that would assure that EKG payments are based on the actual resource costs of providing the service. Other options would have either set payments at less than resource costs—thus violating the basic principle of the RBRVS—or would have required much deeper, permanents, and disproportionate cuts in primary care and other E/M services. We also support as a matter of principle repeal of the new physician payment limits, even though this too will require reductions in what otherwise would have been paid for E/M and other services.

If it was possible, ASIM certainly would have preferred identifying alternative sources of funding for each of these changes that would have eliminated, or reduced, the adverse impact on other physician services, particularly E/M services. And if such alternative funding sources are identified, the ASIM of course would be supportive. But realistically, we recognized that the proposals would not be enacted unless we were willing to recommend funding options that would maintain budget neutrality. From a membership standpoint, the easy way out of this dilemma would have been for ASIM to tell our members that we support cuts in nonphysician services in order to pay for the new physician and EKG proposals, or that we just support the proposed policies but have decided not to offer any way to pay for them. But we also knew that this would not be viewed as a credible response by Congress, and calling for cuts in nonphysician services would have had the effect of attracting opposition from their lobbying organizations—with the likely effect that the EKG and new physician legislation would have died in Congress. If we were really serious about getting these proposals enacted—and we are—we recognize that we had to identify credible and fair ways of funding them out of payments for physician services. That is why we supported, and continue to support, the subcommittee's actions.

We think, however, that it is essential that the EKG and new physician legislation be drafted in a way that would preclude application of a volume baseline adjustment or behavioral offset in scoring the new physician amendment. ASIM has been told by HCFA policy staff that it does not intend to apply a volume baseline adjustment to the EKG legislation, but it is essential that the law be written so that there is no possibility of such an adjustment being applied. We were advised during last week's briefing by Ways and means subcommittee staff that the 1.2 percent reduction in payments for all physician services that would be required under the new physician legislation does not include a volume baseline adjustment. We understand, however, that it is critical that the law be drafted so as to preclude such an adjustment being applied by HCFA or the Congressional Budget Office. ASIM urges the committee to draft the legislation in such a way as to absolutely preclude the application of a behavioral offset to either the EKG or new physician proposals. ASIM commends you and the other members of the subcommittee for taking the lead last year to oppose behavioral offset adjustments in the fee schedule, by introducing and cosponsoring H.R. 3070. We appreciate your willingness to take a similar position on the new physician and EKG proposals, so that the offsetting reductions in other services, particularly primary care serviced, are minimized.

We recognize that as a consequence of the proposed legislation on EKSs and new physicians, payments for primary care and other services will be lower than they otherwise would have been. For the record, however, your July 13 letter overstates the adverse impact on primary care services. Based on the estimates provided by HCFA, and the transition formula mandated by OBRA 89, the reduction in payments for E/M serviced in transition that would be caused by the EKG legislation would be 2.0% in 1993, 2.2% in 1994, 2.4% in 1995, and 2.7% in 1996. The impact of the EKG legislation on E/M services paid at the full fee schedule amount would be 2.7% in 1993 and thereafter. Since it is our understanding that the new physician payments would be funded by an across the board averaged reduction of 1.2% in all services, the combined effect of the EKG and new physician proposals on payments for the 66% of all E/M services in transition would be 3.2. percent in 1993, 3.4 percent in 1994, 3.6% in 1995, and 3.9% in 1996. The combined effect of both legislative proposals in E/M services paid at the full fee schedule is 3.9 percent in 1993 and thereafter. An explanation of our calculations are attached. Since the calculations are based on estimates from and conversations with HCFA staff, we are confident that they more accurately represent the impact of the proposals than the "reductions of over four percent in payments for office visits and primary care services on January 1, 1993" alluded to in your letter. ASIM requests that the full committee be provided with these revised, corrected estimates. We will be glad to discuss our estimates with subcommittee, HCFA, and CBO staff if necessary.

Obviously, if the new physician and EKG provisions are scored to include a behavioral offset, the reduction in E/M services would be significantly (and unacceptably) increased.

In gauging the impact on primary care of the specific legislation to restore payments for EKG interpretation, and the overall policy of repealing the payment limits on new physicians, several other things should be kept in mind. First, the .37 percent reduction in relative values is due to correction of HCFA's error in calculating the add-ons; it is our understanding that this correction would be required even if there was no legislation enacted to restore payments for EKG interpretation. Second, most visits in transition would still be expected to experience modest gains in payment in 1993 and thereafter, since the reductions are taken from increasing RBRVS payment levels, instead of the absolute reductions implied by the letter. Third, the relative value units (RVUs) for visits that are to be stripped out under the subcommittee's amendment were added on the HCFA solely to pay for EKG interpretations provided in conjunction with the visit. There was no expectation that physicians would be able to keep the add-ons once separate payments were restored. Since the RVUs were added to all physician visits, regardless of whether or not the physician actually performs EKG interpretation, it is more fair to the many primary care physicians and others who perform EKG interpretation to have the add-ons stripped off, and separate EKG interpretation payments restored, than maintaining the add-ons. Fourth, the many primary care physicians who perform EKG interpretation in their offices will have a direct (although modest in most cases) financial benefit from full restoration of EKG payments. The benefits of paying EKG interpretation will, for many primary care physicians, offset all or part of the reductions in payments for E/M services. Finally, although primary care *services*—defined by law as office, nursing, and home visits—are currently exempt from the new physician payment limitations, all other services by primary care physicians are subject to those limits. Therefore, primary care services will gain under repeal of the new physician limits, although to a lesser degree than other specialties.

It should be noted that ASIM supports the new physician amendment as a matter of principle even though physicians in other nonprimary care specialties will benefit financially to a greater degree. Therefore, we expect that the committee will reject the complaints of surgical groups that are unwilling to contribute anything to the EKG correction on the basis that they will not gain as much financially from the measure. Fairness suggests that if the primary care specialties support an amendment that disproportionately benefits other physicians, at the cost of lower payments for their E/M services, the surgeons similarly should contribute to the EKG correction.

We support the EKG and new physician provisions, despite the adverse impact and other primary care services, because we believe that the principles that were at stake were so important that legislative correction is essential. And frankly, under current budget restraints, we were left with no other viable option than to reluctantly accept reductions in other services to pay for the required legislation.

But we must emphasize that notwithstanding our support for the EKG and new physicians amendments, we are extremely concerned about the overall erosion of the payment gains for primary care and other E/M services that are occurring as the fee schedule is implemented. HCFA's volume baseline and asymmetry adjustments from the outset significantly lowered the gains for primary care. Since the EKG and new physician legislation will further reduce those gains, it is absolutely essential that Congress take action to block policies that will further reduce payments for those services. We have previously urged the committee to block the higher 1993 update for surgery, require a single update in 1993, and to permanently change the law to prevent a higher surgical update from occurring in the future. ASIM urges you to reconsider your support for the higher surgical update, and to instead work for legislation that would require a single up date in 1993 and thereafter. We are also quite concerned about the projection that HCFA's rescaling of all relative values will reduce payments for office visits by as much as one percent. Our observations of the rescaling process have led us to conclude that many procedures may be granted higher relative values than are justified by the actual resource costs of providing those services. ASIM has strongly advised HCFA that such an outcome would be unacceptable, and we urge the committee to exercise oversight to assure that primary care services are not compromised during the rescaling process.

We will also be asking Congress to commit to a legislative agenda to create incentives for physicians to practice in general internal medicine and other primary care specialties. Otherwise, we believe that there will be too few primary care physicians to serve the needs of Medicare patients, particularly with the greying of the population. This will require a significantly greater investment of public funds in primary care. It has become apparent that the primary care and other E/M services will not gain enough under the new fee schedule to create sufficient incentives for primary care. That is why we will be urging Congress not only to oppose policies, such as the higher surgery update, that would further reduce the already-modest gains for primary care that will occur under the fee schedule, but to adopt an activist agenda to increase funding for primary care. In the near future, ASIM will be providing you with our specific recommendations on a legislative package to revitalize general internal medicine and other primary care specialties.

In conclusion, ASIM urges the Ways and Means Committee to:

1. Enact the EKG and new physician provisions approved by the subcommittee, but assure that the offsetting reductions in payments to other services that would result are not greater than required because of inappropriate application of a behavioral offset. We recognize that under current budget rules, enactment of these provisions will still result in offsetting reductions in payments in other services, including some primary care and other E/M services.
2. Block the higher 1993 update for surgery and require a single update in all future years.
3. Exercise oversight to assure that primary care and other E/M services are not lowered as a result of gaming of the RVU refinement process.
4. Work with us on developing an activist legislative agenda to significantly increase the public investment in primary care, including legislation to increase Medicare payments for primary care by an amount that is significantly greater than the modest improvements now expected from the fee schedule.

Sincerely,

ALAN R. NELSON, MD,
Executive Vice President.

2. Payments for new physicians and practitioners

PRESENT LAW

New physicians and practitioners receive reduced payments during their first four years of practice. These reductions were imposed on the first two years of practice by OBRA 87 and extended to the third and fourth years of practice in OBRA 90. Payments are 80 percent of the amount otherwise recognized during the first year of practice, 85 percent during the second year, 90 percent during the third year, and 95 percent during the fourth year. These reductions apply to payments under the fee schedule, prevailing charges, or other fee schedule payment amounts.

HOUSE BILL

No provision.

SENATE AMENDMENT

Repeals reductions in payments to new physicians and practitioners and requires that payments under Section 1848 be no greater or less than they would be in the absence of the repeal.

Effective date.—Applies with respect to physicians' services furnished on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with a technical clarification on the budget neutrality adjustment. The Secretary is required to reduce the following values and amounts for 1993 (to be applied for that year and subsequent years) by so that Part B expenditures would not exceed the amount of expenditures that would have been made in the absence of this provision. The specified values and amounts are: (i) the relative values for services (except for anesthesia services, where the reduction is to the conversion factor); (ii) the historical payment portion of the 1993 transition payment; and (iii) the prevailing charge or fee schedule amounts to be applied for services of a health care practitioner (as that term was defined before enactment of this Act).

3. Retaining payment for actual anesthesia time

PRESENT LAW

Anesthesia services are paid on the basis of a fee schedule. One component of the fee schedule is actual time spent administering anesthesia. In the proposed rule implementing the RBRVS physician fee schedule, HCFA announced its intention to eliminate the use of actual time and substitute average time. In the final rule, HCFA stated that it would continue to use actual time temporarily while it analyzed other methods of accounting for time in the payment of anesthesia services.

HOUSE BILL

No provision.

SENATE AMENDMENT

Prohibits HCFA from changing the methodology of calculating anesthesia time in the fee schedules for anesthesia services until January 1, 1997. The Comptroller General of the General Accounting Office is required to: (1) study the actual time reported for anesthesia services under Medicare; (2) compare the actual time reported for a procedure during 1991 with the time reported for the same procedure during each of the 4 succeeding years; (3) evaluate the extent to which the actual time reported for a procedure has increased or decreased during this period; and (4) determine (to the extent practicable): (a) whether increases or decreases are the result of changes in medical practice, physician responses to reductions in payments for anesthesia services, or other factors; and (b) the effect of such increases or decreases on Medicare expenditures for anesthesia services. An interim report to Congress is due by July 1, 1994 and a final report is due by July 1, 1996. The Comptroller General is required to consult with the Physician Payment Review Commission (PPRC) in designing the study. PPRC is required to comment on the interim and final reports.

Effective date—Enactment.

CONFERENCE AGREEMENT

The Conference agreement includes the Senate amendment with a modification. The agreement makes the payment provision permanent and does not include the requirement for a GAO study.

4. Geographic cost of practice index refinements

PRESENT LAW

One of the components of the Medicare fee schedule for physicians' services is a geographic cost of practice index (GPCI), which is designed to measure local variations in the costs of practicing medicine. HCFA has previously indicated that they intend to revise the GPCI by 1995. Some have raised concerns that the index uses outdated Bureau of Census data and may not accurately reflect true variations in practice expenses.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires HCFA to review and revise the geographic practice cost index by January 1, 1994 using the most recent data on practice expenses, malpractice expenses and physicians' work effort. The Secretary of HHS would be authorized to take unique local circumstances into account in revising the index. The Secretary is required to study and report to Congress on the construction of the index by April 1, 1993.

Requires the Secretary to study and report on: (1) the data necessary to review and revise the GPCI indices, including the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses) and malpractice expenses; the weights assigned to the input components of such shares; and the index values assigned to such components; (2) any limitations on the availability of data necessary to review and revise the indices at least every 3 years; (3) ways of addressing such limitations, with attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and (4) the costs of developing more accurate and timely data sources.

Requires the Physician Payment Review Commission to study and report to Congress by July 1, 1993 on the feasibility and desirability of providing for a special adjustment to the index value of the medical equipment and supplies input component of the index with respect to services: (1) furnished by a physician who practices in an isolated area; (2) requiring the present of expensive medical equipment and supplies in the physician's office; and (3) equipment whose operating costs per service are increased by low-volume use.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment. The Secretary is required to consult with representatives of physicians in reviewing geographic adjustment factors and indices. The deadline for the initial review and revision of the geographic adjustment factor is January 1, 1995. The requirement for consideration of unique local factors is not included. The Secretary is required to submit the report on the construction of the index by one year after enactment. The requirement for the PPRC report is not included.

In addition, the conference agreement requires the Secretary to fully develop and refine by December 31, 1993 the relative values for the full range of pediatric services. The Secretary is required to conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting the study, the Secretary is to consult with appropriate organizations representing pediatricians and other physicians and submit a report to Congress by January 1, 1994.

The conference agreement would also specify that payments for antigens and related services are to be paid under the physician fee schedule effective January 1, 1994.

5. Extra billing

PRESENT LAW

(a) Limitations on beneficiary liability.—OBRA '89 established limits on the amount above the Medicare approved payment amount nonparticipating physicians may charge Medicare beneficiaries. OBRA 89 permitted the Secretary to impose sanctions on physicians who knowingly and willfully bill above the limiting charge on a repeated basis. However, it did not specifically prohibit physicians from billing beneficiaries more than the limiting charge. OBRA 89 also did not require physicians to make refunds to beneficiaries when they billed above the limiting charge and did not absolve beneficiaries from liability for amounts they are billed above the medicare limiting charge.

(b) Pre-Payment Screening of Claims.—Carriers are not currently required by law to screen unassigned claims submitted by nonparticipating physicians prior to payment in order to determine whether the amount billed exceeds the limiting charge.

(c) Information Regarding Limiting Charges.—There is currently no requirement that beneficiaries be given information on the explanation of Medicare benefits (EOMB) form if physicians have charged beneficiaries in excess of the limiting charge.

(d) Medicare Beneficiary Advisory Council.—No provision.

(e) Applying the Limiting Charge to Nonphysician Services Provided Under the Physician Fee Schedule.—The five percent differential in payments to nonparticipating physicians and suppliers does not apply to nonphysician services furnished under the Medicare physician fee schedule. These services generally consist of the technical components of services, such as services rendered by free-standing radiology centers or independent physiological laboratories.

(f) Clarification of Mandatory Assignment Rules for Certain Practitioners—There is some ambiguity in current law regarding the application of mandatory assignment rules for certain nonphysician practitioners.

HOUSE BILL

No provision.

SENATE AMENDMENT

(a) Limitations on Beneficiary Liability.—Prohibits nonparticipating physicians from billing or collecting from any person an actual charge in excess of the Medicare limiting charge. The provision would specify that no person is liable for payment of any amount billed in excess of the limiting charge. It would also require physicians who bill or collect amounts exceeding the limiting charge by more than $1 to: (1) refund the full amount collected in excess of the limiting charge; (2) reduce the outstanding balance owed to the physician for other items and services furnished to the individual by the amount of the charge exceeding the limiting charge and refund any amount in excess of the outstanding balance; or (3) in the case of where the excess charges have not been collected by the physician, reduce the actual charge billed for the service to the amount approved by Medicare.

Requires carriers to notify a physician within 30 days if the physician has billed in excess of the limiting charge by at least $1. The physician would be required to refund or credit excess charges within 30 days unless the physician submits documentation supporting application of a different limiting charge to the carrier within 15 days of receipt of the notice of overcharge. In the case of a physician who submits documentation questioning the limiting charge, the carrier would be required to respond to the physician within 30 days with a determination of agreement or disagreement with the physician's documentation regarding the limiting charge.

Specifies that is a physician (1) knowingly and willfully bills in excess of the limiting charge; (2) collects charges exceeding the limiting charge on a repeated basis; or (3) fails to comply with the refund requirements the Secretary would be authorized to impose sanctions in accordance with Section 1842(j) of the Social Security Act.

(b) Pre-Payment Screening of Claims.—Requires carriers to screen 100 percent of unassigned claims submitted by nonparticipating physicians prior to making payment to determine whether the amount billed exceeds the limiting charge.

(c) Information Regarding Limiting Charges.—Requires carriers to provide limiting charge information on the explanation of Medicare benefits form after the submission of an unassigned claim which exceeds the limiting charge by at least $1.

Requires the Secretary to report to Congress annually on the extent to which annual charges exceeded limiting charges, the number and types of services involved, and the average amount of excess charges.

(d) Medicare Beneficiary Advisory Council.—Creates a Medicare Beneficiary Advisory Council composed of 15 Medicare beneficiaries. The Secretary is required to appoint members to the Council based on nominations submitted by organizations representing elderly and disabled populations. The Council is required to meet once each quarter to discuss proposed regulations, carrier manual instructions, and any other issues with a direct or indirect impact on delivery, cost, quality, or expansion of Medicare services. To the extent feasible and consistent with statutory deadlines, the consultation is to occur before the publication of proposed changes. Reimbursement to council members would be the same as for other members of advisory councils established by the Secretary.

(e) Applying the Limiting Charge to Nonphysician Services Provided Under the Physician Fee Schedule.—Applies the 5 percent differential between payments to participating and nonparticipating physicians and suppliers and limiting charge restrictions to the technical components of nonphysician services paid on the basis of the physician fee schedule.

(f) Clarification of Mandatory Assignment Rules for Certain Practitioners.—Specifies that physicians' assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, certified nurse-midwives, clinical social workers and clinical psychologists may only bill for services on an assignment-related basis and that no person is liable for amounts billed in violation of the assignment-related basis. The Secretary may impose sanctions under Section 1842(j) of the Social Security Act on a practitioner who knowingly and willfully bills in violation of this requirement.

Effective date.—Applies to services furnished on or after January 1, 1993, except for (d) which is effective on enactment.

CONFERENCE AGREEMENT

(a) Limitations on Beneficiary Liability.—The conference agreement includes the Senate amendment with an amendment. The agreement does not specify the $1 trigger for violation of the balance billing limits in the statutory language. However, the conferees understand that Medicare carriers currently ask for a refund where the actual charge exceeds the limiting charge by at least one dollar. Similarly, Medicare carriers include information on the Explanation of Medicare benefits form where the limiting charge exceeds the actual charge by at least one dollar. The conferees believe that the use of a one dollar nominal threshold before application of the refund provision (as well as for the reduction of an actual charge where the physician has not collected and for the EOMB) is an appropriate policy that would be consistent with the intention of this provision.

The agreement revises the provision relating to timeliness of refunds to specify that a refund is considered to be provided on a timely basis if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier of the violation. The provision clarifies that the refund requirement does not apply to other third party payers. The provision relating to the physician response to the carrier notice is revised. The agreement clarifies the sanctions provisions.

The agreement makes it clear that the limiting charge policy and enforcement thereof applies to the physician, supplier or supplier or other person performing the service as well to any person billing or receiving payment on behalf of such physician, supplier, or person.

The agreement requires that a refund be made to the individual charged if there is a charge in excess of the limiting charge.

(b) Prepayment screening of claims.—The conference agreement includes the Senate amendment.

(c) Information Regarding Limiting Charges.—The conference agreement includes the Senate agreement with an amendment making explicit the requirement that the EOMB include information on the beneficiary's right to a refund.

(d) Medicare Beneficiary Advisory Council.—The conference agreement does not include the Senate amendment.

(e) Applying the Limiting Charge to Nonphysician Services Furnished Under the Physician Fee Schedule.—The conference agreement includes the Senate amendment. The agreement extends the extra billing limits and participation differential so that they apply to any nonparticipating supplier or other person who furnishes a physician's service that is paid for under the physician fee schedule, or services that would be paid under the fee schedule but have been excluded from the fee schedule by the Secretary.

(f) Clarification of Mandatory Assignment Rules for Certain Practitioners.—The Conference agreement includes the Senate amendment with clarifying language.

In addition, the conference agreement includes provisions relating to administration of claims relating for physicians' services. The agreement prohibits the Secretary from imposing any fees related to the filing of claims for physicians' services, for claims errors or denials, for administrative appeals, for obtaining unique identifier numbers, or for responding to inquiries concerning the status of pending claims.

In addition, the agreement clarifies the conditions under which the Secretary can recognize substitute billing arrangements between two physicians. Such substitute billing arrangements must either be informal, reciprocal, coverage agreements or per diem or other fee-for-time agreements. The duration of such agreements is limited to 60 continuous days, and claims for services provided pursuant to such agreements must include the unique identifying number of both physicians. These requirements are effective for services provided under such arrangements in the first month beginning more than 60 days after the enactment of this Act.

6. Durable medical equipment

PRESENT LAW

(a) Standards for Obtaining Supplier Numbers.—There are no statutory standards that suppliers of durable medical equipment (DME), prosthetic devices, prosthetics and orthotics, surgical dressings, splints, casts, and other devices for fractures and dislocations, home dialysis supplies, and immunosuppressive drugs must meet in order to supply items to Medicare beneficiaries.

(b) Uniform National Coverage and Utilization Review Requirements for 200 Selected Items.—There are no uniform coverage or utilization review criteria in current DME law. HCFA is currently in the process of developing uniform coverage (b) Prepayment screening of claims and utilization review policies for 100 items of its own choosing.

(c) Standardized Certificates of Medical Necessity.—There are currently no standardized medical necessity certificates.

(d) Distribution of Certificates of Medical Necessity.—OBRA 90 prohibited suppliers of durable medical equipment from distributing, for commercial purposes, completed or partially complete certificates of medical necessity to physicians or Medicare beneficiaries.

(e) GAO Studies.

(i) Supplies and Services in Nursing Facilities.—No provision.

(ii) Variations in Quality of Equipment.—No provision.

(f) Modification of Anti-Kickback Law.—Current law exempts employees in bona-fide employment relationships from penalties assessed for knowingly and willfully soliciting or receiving remuneration (including kickbacks, bribes, or rebates) or offering or paying remuneration as an incentive for Medicare business.

(g) Limitations on Beneficiary Liability.—There are no limits on balance billing for medical equipment and supplies, and there are no circumstances specified in current law under which beneficiaries are not liable for charges for items furnished by suppliers on an unassigned basis.

(h) Prohibition Against Multiple Billing Numbers.—No provision.

(i) Treatment of Nebulizers and Aspirators.—There are five categories in the DME fee schedule. Aspirators and nebulizers are in a category entitled items requiring frequent and substantial servicing. These items may only be rented on the grounds that they require frequent servicing in order to avoid imminent danger to a beneficiary's health.

(j) Application of National Payment Limits to Some Items of Prosthetics and Orthotics.—Ostomy supplies, tracheotomy supplies, urologicals, surgical and other medical supplies are included in the prosthetics and orthotics fee schedule, which is subject to regional payment limits.

(k) Parenteral and Enteral Nutrients, Supplies and Equipment.—Payment for parenteral and enteral nutrients, supplies and equipment is made on the basis of reasonable charges, updated by the CPI-U.

HOUSE BILL

No provision.

SENATE AMENDMENT

(a) Standards for Obtaining Supplier Numbers.—Requires the Secretary to revise, by January 1, 1995, uniform national standards for suppliers of these items. The standards would require suppliers to (1) comply with all applicable State and Federal licensure and regulatory requirements; (2) maintain a physical facility and inventory on an appropriate site; (3) have proof of appropriate liability insurance; (4) meet other requirements established by the Secretary. In addition, beginning July 1, 1993, suppliers will not be reimbursed for these items unless they have a Medicare provider number.

(b) Uniform National Coverage and Utilization Review Requirements for 200 Selected Items.—Requires the Secretary, in consultation with representatives of DME suppliers, beneficiaries and medical specialty organizations, to develop and establish uniform national coverage and utilization review criteria for 200 items of DME, prosthetic devices, prosthetics and orthotics, and surgical dressings. The criteria are to be published as instructions to carriers and intermediaries, and no further publication, including Federal Register publication, would be required.

Specifies that the Secretary may select an item for coverage if: (1) the item is frequently rented or purchased by beneficiaries; (2) the item is frequently subject to a determination that it is not medically necessary; or (3) coverage or utilization review criteria applied to the item is not consistent among carriers. The Secretary would be required annually to review and determine whether items not on the list should be subject to uniform national coverage and utilization review criteria and to subject them to these criteria if necessary. The Secretary would also be required to submit a report to Congress by January 1, 1994 analyzing the impact of these uniform criteria on the utilization of items subject to the criteria by Medicare beneficiaries.

(c) Standardized Certificates of Medical Necessity.—Requires the Secretary to develop, by July 1, 1993, one or more standardized certificates of medical necessity for durable medical equipment, prosthetic devices, orthotics and prosthetics, and surgical dressings and other devices (to be completed by the prescribing physician) if a certificate of medically necessity is required by the Secretary.

(d) Distribution of Certificates of Medical Necessity.—Extends the OBRA 90 provision prohibiting DME suppliers from distributing medical necessity forms to suppliers of prosthetics and orthotics and prosthetic devices. Modifies the prohibition provision by permitting suppliers to complete information identifying beneficiaries and suppliers, a description of the item, a product code identifying the item, and any other information required by the Secretary. If a supplier provides any of the above information on a certificate of medical necessity, the supplier would be required to include the actual purchase or rental price paid by Medicare prior to distribution to the physician for completion.

(e) GAO Studies.

(i) Supplies and Services in Nursing Facilities.—Requires the Comptroller General to study and report to Congress by January 1, 1994 on the types, volume and utilization of services and supplies furnished under contract or under arrangement with suppliers to Medicare beneficiaries residing in skilled nursing facilities and nursing facilities.

(ii) Variations in Quality of Equipment.—Requires the Comptroller General to study and report to Congress by July 1, 1994 on whether changes made by the Department of Health and Human Services to the descriptions of HCPCS codes for DME, prosthetics and orthotics, prosthetic devices and surgical dressings covered by Medicare (1) accurately reflect the items being furnished under the codes; and (2) are sufficiently explicit to distinguish between items of varying quality and price. GAO's evaluation would not begin before July 1, 1993; its report to Congress would be due by July 1, 1994. The Comptroller General would also be required to make recommendations for additional changes to improve the descriptions of codes.

(f) Modification of Anti-Kickback Law.—Specifies that the exemption from anti-kickback penalties for employees in bona-fide employment relationships with providers of Medicare-covered services and supplies does not include the tasks of transmitting assignment rights of Medicare beneficiaries to suppliers of covered items, or performing warehousing or stock inventory functions.

(g) Limitations on Beneficiary Liability.—Stipulates circumstances under which Medi-

care beneficiaries are not financially liable for covered items furnished by a supplier on an unassigned basis. Unless suppliers inform beneficiaries in advance that an item is not covered by Medicare and beneficiaries choose to accept responsibility for paying for the item, beneficiaries are not obligated to pay for an item if: (1) the supplier is excluded from Medicare participation; (2) Medicare has denied payment for the item in advance; or (3) the supplier does not meet Medicare standards for suppliers of medical equipment and supplies.

(h) Prohibition Against Multiple Billing Numbers.—Prohibits the Secretary from issuing more than one billing number to any supplier, unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

(i) Treatment of Nebulizers and Aspirators.—Removes aspirators and nebulizers from the category of DME items requiring frequent and substantial servicing and includes disposable supplies used in conjunction with aspirators and nebulizers in the category of inexpensive and other routinely purchased equipment.

(j) Application of National Payment Limits to Some Items of Prosthetics and Orthotics.—Subjects ostomy supplies, tracheotomy supplies, urologicals, surgical dressings, splits, casts and other devices for reduction of fractures to national payment limits. For surgical dressings, splints, casts and other devices for reduction of fractures, average reasonable charges for the six-month period ending June 30, 1992, increased by the covered item update for 1993, will be used as the base period for calculating national payment limits.

(k) Parenteral and Enteral Nutrients, Supplies and Equipment.—Eliminates the 1993 payment update for parenteral and enteral nutrients, supplies and equipment.

Effective date.—(a) Effective beginning after December 31, 1994 for each supplier applying for or renewing a supplier number. (b) Enactment. (c) Applies to certificates of medical necessity on or after July 1, 1993. (d) Applies to certificates of medical necessity on or after January 1, 1993. (e) Enactment. (f), (j), (k) Effective for items and services furnished on or after January 1, 1993. (g), (h), (i) Effective for items and services furnished on or after July 1, 1993.

CONFERENCE AGREEMENT

(a) Standards for Obtaining Supplier Numbers.—The conference agreement follows the Senate amendment, with modifications (1) to clarify that the requirement for suppliers to obtain a supplier number does not apply to medical equipment and supplies furnished as an incident to a physician's service, and (2) to specify that the requirement for supplier numbers applies to durable medical equipment, prosthetic devices, orthotics and prosthetics, surgical dressings, such other items as the Secretary may determine, and home dialysis supplies and equipment and immunosuppressive drugs. The conferees understand that the revised supplier standards would apply to all new suppliers beginning January 1, 1995 and to current suppliers as they renew their supplier numbers. The renewal of supplier numbers for current suppliers will be phased in over a two-year period.

In addition, the conference agreement includes an amendment to prohibit suppliers from making unsolicited telphone contacts with Medicare beneficiaries, unless the individual gives permission to the supplier, or the supplier has furnished the individual with a covered item within the preceding 15 months. Medicare can not pay for items provided subsequent to a prohibited telephone contact. The Secretary is required to exclude from programs under the Social Security Act suppliers who knowingly make prohibited telephone contacts to such an extent that the supplier's conduct establishes a pattern of contacts in violation of the prohibition. Beneficiaries are not liable for the cost of items provided as a result of prohibited telephone contacts, and the supplier must refund any amounts collected on a timely basis or be subject to certain sanctions.

The conference agreement also authorizes the Secretary to designate by regulation one carrier for one or more entire regions to process all claims within the region for covered durable medical equipment, prosthethic devices, and orthotics and prosthetics. Suppliers are required to submit claims to the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.

(b) Uniform National Coverage and Utilization Review Requirements for 200 Selected Items.—The conference agreement includes the Senate amendment.

(c) Standardized Certificates of Medical Necessity.—The conference agreement follows the Senate amendment with an amendment to delete language requiring certificates to be completed by the prescribing physician and transmitted to the supplier and then to the carrier.

(d) Distribution of Certificates of Medical Necessity.—The conference agreement follows the Senate amendment. The prohibition on distributing certificates of medical necessity would continue to apply to overused items. An exception would be granted for nonabused items.

(e) GAO Studies.—

(i) Supplies and Services in Nursing Facilities.—The conference agreement does not include the Senate amendment.

(ii) Variation in Quality of Equipment.—The conference agreement does not include the Senate amendment.

The conference agreement requires the Sercretary (1) to conduct a study and report to Congress on the effects of the methodology for determining payments for durable medical equipment items and supplies on the ability of persons entitled to disability benefits to obtain equipment, including customized equipment; and (2) to submit to Congress a report describing items of durable medical equipment treated as prosthetic devices or othotics and prosthetics for purposes of determining the amount of payment for such items under Part B of Medicare that do not require individualized or custom fitting and adjustment.

(f) Modification of Anti-Kickback Law.—The conference agreement follows the Senate amendment with a modification to specify that the exemption from anti-kickback penalties for employees in bona-fide employment relationships with providers of Medicare covered services does not include the tasks of transmitting assignment rights of Medicare beneficiaries to suppliers of covered items, or performing warehousing or stock inventory functions in the case of a contract supply arrangement between any entity and a supplier of durable medical equipment and supplies.

(g) Limitations on Beneficiary Liability.—The conference agreement follows the Senate amendment with a modification to apply the refund policy related to prohibited phone contacts to limitations on beneficiary liability.

(h) Prohibition Against Multiple Billing Numbers.—The conference agreement follows the Senate amendment with an amendment to prohibit the Secretary from delegating the responsibility to issue supplier numbers to any non-governmental entity.

(i) Treatment of Nebulizers and Aspirators.—The conference agreement includes the Senate amendment with a technical clarification that specifies that separate payment will be made for accessories used in conjunction with nebulizers and aspirators. The conferees do not intend to interfere with the Secretary's existing authority for payment for accessories for other durable medical equipment items and suppliers by granting explicit statutory authority for payment of accessories used in conjunction with nebulizers and aspirators.

(j) Application of National Payment Limits to Some Items of Prosthetics and Orthotics.—The conference agreement follows the Senate amendment, with a modification that specifies that payment for surgical dressings shall be made in a lump sum in an amount equal to 80 percent of the lesser of the actual charge for the item or the national payment limit (computed based on local payment amounts using average reasonable charges for the 6-month period ending June 30, 1992, increased by the covered item update for 1993).

(k) Parenteral and Enteral Nutrients, Suppliers and Equipment.—The conference agreement includes the Senate amendment.

In addition, the conference agreement reduces the DME fee schedule amount for transcutaneous electrical nerve stimulation (TENS) devices by 30 percent.

The conference agreement also includes an amendment to clarify that the authority for adjustments for inherent reasonableness apply to durable medical equipment fee schedules and that such adjustments are to be based on the prices and costs applicable at the time the item is furnished. The Secretary is also required to determine whether the payment amounts for decubitus care mattresses, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary are inherently reasonable and to adjust payments for these items if the amounts are not inherently reasonable.

7. Designation of certain hospitals as eye and ear hospitals

PRESENT LAW

Hospitals designated as eye and ear hospitals receive a blended payment rate for ambulatory surgery for which 75 percent is based on the hospital's costs and 25 percent is based on the rate paid to freestanding Ambulatory Surgery Centers (ASCs). This special rule applies for cost reporting periods beginning on or after October 1, 1988 and before January 1, 1995. In general, the blended payment rate to hospitals for outpatient surgery is based 42 percent on costs and 58 percent on the ASC rate. To receive designation as an eye or ear hospitals, a facility must specialize in these services, receive more than 30 percent of its revenue from outpatient services, and must have been an eye or ear hospital on October 1, 1987.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends eligibility for designation to hospitals that otherwise meet the criteria but on October 1, 1987, operated as a physically separate or distinct eye and ear unit of a general acute care hospital which has since discontinued its other acute care operations.

Effective date.—Effective for services furnished on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

8. Extension of payment limit for intraocular lenses (IOLs)

PRESENT LAW

OBRA 90 established a payment limit of $200 for intraocular lenses inserted during 1991 and 1992.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends the $200 payment limit for 1993 and 1994.

Effective date.—Effective as if included in OBRA 90.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

9. Nurse-midwife services

PRESENT LAW

OBRA 87 provided for direct reimbursement of certified nurse midwives under both Medicare and Medicaid. The statutory definition of certified nurse midwives limits services to those regarding the care of mothers and babies during the maternity cycle, but the definition of covered services does not contain the restriction regarding the maternity cycle.

HOUSE BILL

No provision.

SENATE AMENDMENT

Modifies the definition of covered nurse midwife services, effective January 1, 1994, by eliminating the restriction that services include only those regarding the care of mothers and babies during the maternity cycle.

Effective date.—Effective for services furnished on or after January 1, 1994.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

10. Clarifying payments for medically-directed certified registered nurse anesthetists

PRESENT LAW

OBRA 90 set payment levels for both non-medically directed certified registered nurse anesthetists (CRNAs) and medically directed CRNAs. Payment levels for non-medically directed CRNAs were set at 100 percent of the amount paid to physicians for providing the same service and payments to medically directed CRNAs where set at 70 percent of the amount paid to physicians. These services are paid on the basis of a fee schedule which contains a dollar conversion factor. OBRA 90 specified the dollar conversion factors for these payments through 1997 based on the amount physicians would be paid for these services. Since that time, however, the actual amounts paid to physicians for these services have been lowered as a result of refinements to physician payments. As a result, the dollar conversion factors specified in the law are too high. However, since OBRA 90 also contains a provision which specifies that payments to CRNAs may not exceed the amount paid to physicians for the same service, only payments to medically directed CRNAs require a statutory correction.

HOUSE BILL

No provision.

SENATE AMENDMENT

Specifies that the conversion factor used to determine payments to medically-directed CRNAs would be frozen at $10.75, from 1993 through 1997. This is the same conversion factor used in 1992.

Effective date.—Effective for services furnished on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with an amendment that continues the update factor for physician anesthesia services for 1997 and subsequent years.

11. Extension of Alzheimer's demonstration projects

PRESENT LAW

ORBA 86 authorized $40 million to conduct up to 10 Alzheimer's disease demonstration projects to provide comprehensive services to Medicare beneficiaries with Alzheimer's disease. The demonstrations were originally authorized for three years, but were extended an additional year in OBRA 90.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends the Alzheimer's disease demonstration projects for an additional year.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

In addition, the conference agreement includes a provision to extend the Medicare Influenza Vaccination Demonstration for 6 months, until April 1, 1993.

12. Nurse practitioners and physicians' assistants

PRESENT LAW

Under current law, nurse practitioners and clinical nurse specialists working in collaboration with a physician and physicians' assistants working under the supervision of a physician may bill Medicare Part B if they are working in specified settings. Payment may not be made directly to physicians' assistants, but must be made to the person or entity employing the physicians' assistant. Payment for nurse practitioners, clinical nurse specialists, certified nurse-midwives and physicians' assistants must be made on an assignment-related basis and are subject to Part B coinsurance and deductible requirements.

Reimbursement varies with the setting in which services are performed. For services provided by physicians' assistants serving as an assistant-at-surgery, payment is limited to the lesser of the actual charge or 65 percent of the amount that would be paid to an physician serving as an assistant-at-surgery. For services rendered in hospitals, other than as an assistant-at-surgery, payment is limited to the lesser of the actual charge or 75 percent of the amount paid to physicians for performing that service. In all other settings, payment is limited to the lesser of the actual charge or 85 percent of the amount that would be paid to physicians for performing that service.

Employers of physicians' assistants may bill Medicare Part B directly for services performed in a rural health professional shortage area (HPSA). Nurse practitioners and clinical nurse specialists may bill Medicare Part B for services performed in a rural area, including hospitals. Physicians who employ physicians' assistants, nurse practitioners and clinical nurse specialists may bill Medicare for services provided by these practitioners as incident to physicians' services.

HOUSE BILL

No provision.

SENATE AMENDMENT

Expands the settings in which nurse practitioners, clinical nurse specialists and physicians' assistants may bill Medicare Part B for services performed to include all outpatient settings. Payment for services in settings not already authorized in law would be established at 80 percent of: (a) the lesser of the actual charge; or (b) 85 percent of the fee schedule amount that would be paid if the services were performed by a physician. Nurse practitioners and clinical nurse specialists would be permitted to bill Medicare independently, but only on an assignment-related basis. Services rendered by physicians' assistants must also be billed on an assignment-related basis by the person employing a physician's assistant, as in current law.

Effective date.—Effective for services furnished on or after January 1, 1994.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

13. Oral cancer drugs

PRESENT LAW

Under current law, Medicare coverage for outpatient prescription drugs (with some exceptions for immunosuppressive drugs and erythropoietin) is limited to drugs which can not be self-administered. Drugs which can be taken orally are not covered.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends Medicare coverage for oral cancer drugs if they are the same chemical entity as anticancer drugs covered by Medicare when administered intravenously. The proposal would also require uniform Medicare coverage for "off-label" cancer drugs if such drugs have been approved by the Food and Drug Administration (FDA), have appeared in specified peer-reviewed medical journals, or are included in one of the three specified major medical compendia.

Effective date.—Effective for items furnished on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with an amendment. The amendment excludes the provisions relating to coverage of "off-label" drugs.

14. Other provisions relating to Part B of the Medicare program

(a) Part B Premium Penalty for Late Enrollment.—The conference agreement caps the delayed enrollment penalty at 25 percent for Federal employees who meet the following conditions. First, at the time of the initial enrollment period, the individual delayed enrollment because he or she was enrolled in a group health plan that provided items or services covered under Part B. Second, the individual was enrolled in a group health plan that stopped providing coverage of such services subsequent to the individual's initial enrollment period.

The conference agreement includes provisions related to the Part B premium penalty for delayed enrollment. The agreement permits the Secretary, upon the request of a State to enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary an amount equal to the Part B delayed enrollment penalty with respect to individuals specified in the agreement with the State. Individuals covered under such an agreement would not be subject to a delayed enrollment penalty.

(b) Coverage of Speech-language Pathologists and Audiologists.—The conference agreement changes the term "speech pathologist" to "speech-language pathologist" where it appears, except that this amendment would not change the definition of services covered in any setting. A statutory definition of speech-language pathologists and audiologists would be established, consistent with current coverage guidelines.

(c) Municipal Health Service Demonstration Projects.—The conference agreement extends the waivers for the four municipal health service demonstration projects through December 31, 1997. In conducting the study mandated under OBRA 89, HCFA would include consideration of costs to Medicaid and other payers, access to care, outcomes, beneficiary satisfaction, and utilization differences among the different populations being served by the centers.

(d) Treatment of Certain Indian Health Programs and Facilities as Federally Qualified Health Centers.—The conference agreement revised the current definition of Federally Qualified Health Centers to include programs and facilities operated by Indian tribes under the Indian Self-Determination Act.

15. Other technical provisions pertaining to physician payments

PRESENT LAW

(a) Overvalued Procedures.—OBRA 90 subjected all unsurveyed overvalued services to a 6.5 percent reduction unless the law specifically exempted them from the reduction. Unsurveyed services are those not included in earlier surveys conducted to determine relative values of physicians' services; these unsurveyed services were considered to be overvalued. The list of services specifically exempted from the 6.5 percent reduction contained certain errors.

(b) Radiology Services.—OBRA 90 reduced the conversion factor for radiology services paid on the basis of a radiology fee schedule to a geographically adjusted amount, not to exceed 9.5 percent. However, as drafted, OBRA 90 contained an error that permits the conversion factors for services below the target to increase.

(c) Anesthesia Services.—OBRA 87 established a fee schedule for anesthesia services based on a relative value guide for anesthesia services and local conversion factor. OBRA 90 reduced local conversion factors to a geographical adjusted amount, not to exceed 9.5 percent. However, as drafted, OBRA 90 contained an error that permits the conversion factors for services below the target to increase.

(d) Assistants at Surgery.—OBRA 90 specified that payment to a physician serving as an assistant at surgery cannot exceed 16 percent of the payment made for the global surgical service.

(e) Technical Components of Diagnostic Services.—OBRA 90 capped the reasonable charge for technical components of specialized diagnostic services at the national median charge for the service in all localities.

(f) Statewide Fee Schedules.—OBRA 90 required the Secretary to treat the States of Nebraska and Oklahoma as statewide payment localities if they met certain requirements specified in the law. Each member of the Congressional delegation from those States and organizations representing urban and rural physicians would have to agree to the statewide locality provision. This requirement raised constitutional concerns relating to the separation of powers between the executive and legislative branches.

(g) Reciprocal Billing Arrangements.—OBRA 90 permitted physicians to submit a claim for a service provided by a second physician when the first physician was not available to provide the service. Such billing was permitted only in cases where the arrangement is temporary and reciprocal.

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—OBRA 90 required the Secretary to study the effects of aggregating physician claims and report to Congress by December 31, 1992.

HOUSE BILL

No provision.

SENATE AMENDMENT

(a) Overvalued Procedures.—Deletes some procedures from the list of exempted services and corrects errors in the names of other services. The procedures deleted from the list of exempted services are: lobectomy; anterectomy; colectomy; cholecystectomy; and sacral laminectomy.

(b) Radiology Services.—Specifies that conversion factors below the geographically adjusted amount could not be increased. The provision makes other technical changes to OBRA 90.

(c) Anesthesia Services.—Specifies that conversion factors below the geographically adjusted amount could not be increased. The provision makes other technical changes to OBRA 90.

(d) Assistants at Surgery.—Clarifies that balance-billing limits apply to physicians serving as assistants at surgery.

(e) Technical Components of Diagnostic Services.—Specifies that the limits on payment for the technical component of diagnostic services do not apply to services whose payments were reduced under the OBRA 89 overvalued procedure list.

(f) Statewide Fee Schedules.—Eliminates the OBRA 90 requirement for agreement from members of Congress and stipulates instead that Nebraska and Oklahoma were statewide localities in 1991.

(g) Reciprocal Billing Arrangements.—Amends OBRA 90 to clarify services that may be covered under reciprocal billing. All physician services, including services incident to physician services, would be covered. The provision would also permit reciprocal billing arrangements that are both informal or reciprocal (as in current law) or involve per diem or other fee-for-time compensation.

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—Changes the date that the study must be submitted to Congress from December 31, 1992 to December 31, 1993.

Corrects a number of technical and drafting errors contained in OBRA 90 through minor and conforming amendments.

CONFERENCE AGREEMENT

(a) Overvalued Procedures.—The conference agreement follows the Senate amendment.

(b) Radiology Services.—The conference agreement follows the Senate amendment.

(c) Anesthesia Services.—The conference agreement follows the Senate amendment.

(d) Assistants at Surgery.—The conference agreement follows the Senate amendment.

(e) Technical Components of Diagnostic Services.—The conference agreement follows the Senate amendment.

(f) Statewide Fee Schedules.—The conference agreement follows the Senate amendment.

(g) Reciprocal Billing Arrangements.—The conference agreement follows the Senate amendment.

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—The conference agreement follows the Senate amendment.

16. Other technical amendments relating to durable medical equipment

PRESENT LAW

(a) Updates to Payment Amounts.—OBRA 90 contains a drafting error that specified that the update to the durable medical equipment fee schedule for 1991 and 1992 was minus 1 percent.

(b) Potentially Overused Items and Advance Determinations of Coverage.—OBRA 90 included two provisions regarding special carrier review of potentially overutilized items and advance determinations of coverage for certain items. These two provisions were combined in drafting so that they do not properly reflect the conference agreement.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—OBRA 90 provided for a system of upper and lower limits on DME fees. The OBRA 90 conferees agreed to a study of regional variations in DME equipment supplier costs which was not included in the statutory language.

(d) Oxygen Retesting.—OBRA 90 included a provision requiring periodic retesting of beneficiaries receiving oxygen if their initial blood gas reading value was at or above a partial value of 55.

HOUSE BILL

No provision.

SENATE AMENDMENT

(a) Updates to Payment Amounts.—Corrects the OBRA 90 error by specifying that the 1991 and 1992 update is the CPI-U minus one percentage point.

(b) Potentially Overused Items and Advance Determinations of Coverage.—Modifies OBRA 90 with respect to treatment of potentially overused items. The Secretary may add items to the list of potentially overused items if they are marketed directly to beneficiaries, if offers to waive coinsurance are made, if items have been subject to consistent patterns of overutilization, or if a high proportion of claims for an item are denied based on absence of medical necessity. Payment for items on this list cannot be made unless the carrier has subjected the claim to special scrutiny or has determined in advance whether an item is medically necessary and covered by Medicare. Carriers would also be required to make advance coverage decisions for customized items and to meet criteria developed by the Secretary to assure that advance coverage decisions are made on a timely basis.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—Requires HCFA to collect data on supplier costs for DME and analyze them to determine costs attributable to service and product components and the extent to which they vary by type of equipment and geographic region. the HCFA administrator would be required to submit a report and recommendations for a geographic cost adjustment index for DME supplies and an analysis of the impact of such an index on Medicare payments.

(d) Oxygen Retesting.—Corrects the OBRA 90 language regarding the arterial blood gas values to require retesting when a beneficiary's initial value is at or above 56.

Also makes technical corrections to Sections 4152 and 4153 of OBRA 90.

CONFERENCE AGREEMENT

(a) Updates to Payment Amounts.—The conference agreement includes the Senate amendment.

(b) Potentially Overused Items and Advance Determinations of Coverage.—The conference agreement includes the Senate amendment.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—The conference agreement includes the Senate amendment.

(d) Oxygen Retesting.—The conference agreement includes the Senate amendment.

17. Technical amendments relating to ambulatory surgical centers

PRESENT LAW

(a) Payment Amounts.—Current law requires the Secretary to update ambulatory surgery center payment rates by July 1, 1987 and annually thereafter, as determined appropriate by the Secretary. The OBRA 90 conferees had intended to include a provision requiring an annual update to ASC rates, but it was omitted from the law.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—OBRA 90 included a provision capping payments for IOLs at $200 in 1991 and 1992. As drafted, the statutory language could be interpreted as limiting payments for cataract surgery to $200. The OBRA 90 conferees also agreed to a provision providing for a process by which the fee for new technology intraocular lenses (IOLs) could be adjusted. Statutory language reflecting this agreement was inadvertently omitted from OBRA 90.

HOUSE BILL

No provision.

SENATE AMENDMENT

(a) Payment Amounts.—Establishes the update for ambulatory surgery services, beginning with fiscal year 1994, at the CPI-U for the 12 month period ending with March of the preceding year. The Secretary would be required to conduct a survey, based on a representative sample of procedures and facilities, beginning by July 1, 1993 and updated every 5 years thereafter, of the actual audited costs of ambulatory surgery facilities. The survey results would be used in establishing payment rates. The Secretary would be required to consult with appropriate trade and professional organizations in updating the list of procedures that can be performed in ambulatory surgery centers.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—Requires the Secretary to develop and implement a process for reviewing reimbursement for new technology intraocular lenses (IOLs). In order to be considered a new technology IOL, the device would have to be approved by the FDA. The Secretary would also be required to consider specific circumstances in determining whether to adjust the payment amount for new technology IOLs. The provision also specifies administrative procedures for reviewing and approving new technology IOLs.

CONFERENCE AGREEMENT

(a) Payment Amounts.—The conference agreement follows the Senate amendment.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—The conference agreement follows the Senate amendment.

18. Other technical amendments relating to Part B of the Medicare program

PRESENT LAW

(a) Revision of Information on Part B claims.—Each Part B claim for which the entity submitting the claim knows or has reason to believe that there has been a referral by physician must include the name and provider number of the referring physician and must indicate whether the referring physician is an investor in the entity.

(b) Consultation for Social Workers—OBRA 90 provided for direct reimbursement for the services of clinical psychologists and clinical social workers. The Secretary was required to develop criteria for psychologists' services under which psychologists would be required to consult with a patient's attending physician.

(c) Reports on Hospital Outpatient Payment.—OBRA 87 required the Prospective Payment Assessment Commission (ProPAC) to conduct a study of Medicare payment for hospital outpatient services. Part of the study was to be submitted to Congress by July 1, 1990 and part by March 1, 1991. Section 1135(d)(6) of the Social Security Act also requires the Secretary to report to the Congress on the development of a prospective method for ambulatory surgery services.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—Payment for outpatient radiology and diagnostic services is limited to a blend of the hospital's costs and physician fee schedule that would apply if the procedure were performed in a physician's office.

(e) Payments to Nurse Practitioners in rural Areas.—OBRA 90 provided for direct reimbursement of nurse practitioners and clinical nurse specialists in rural areas. While current law excludes the services of physician assistants, nurse midwives, certified registered nurse anesthetists, and psychologists from the definition of inpatient hospital care, payments for nurse practitioners and clinical nurse specialists were not included in this provision.

(f) Other Technical and Conforming Amendments.—Elderly or disabled employees and their spouses who are covered by employer health plans are not required to enroll in the same enrollment period applicable to others. However, they cannot enroll while enrolled in an employer group health plan. Coverage for such individuals begins generally on he first day of the month in which the individual is no longer enrolled in an employer group health plan. The OBRA 90 conferees intended to modify this provision, but statutory language to that effect was omitted from the law.

HOUSE BILL

No provision.

SENATE AMENDMENT

(a) Revision of Information on Part B Claims.—Requires that the claim form include the unique physician identification number (UPIN) and repeals the requirement that claims indicate whether the referring physician is an investor in the entity.

(b) Consultation for Social Workers.—Requires that clinical social workers consult with a patient's attending physician in the same manner as clinical psychologists.

(c) Reports on Hospital Outpatient Payment.—Repeals Section 6137 of OBRA 89 and Section 1135(d)(6) of the Social Security Act.

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—Clarifies that outpatient payment limits apply to diagnostic services and that the physician component of the limit is based on the resource based relative value scale.

(e) Payments to Nurse Practitioners in Rural Areas.—Adds the services of nurse practitioners and clinical nurse specialists to the list of services excluded from the definition of inpatient hospital services.

(f) Other Technical and Conforming Amendments.—Modifies the special enrollment period to allow individuals who have employer group health coverage to enroll in Part B at any time they are enrolled in the group health plan, rather than after they leave the plan. If an individual enrolls in Part B while enrolled in the group health plan or in the first month after leaving the plan, Medicare coverage would begin on the first day of the month in which the individual enrolled (or, at the option of the individual) on the first day of any of the following three months).

Also makes various technical and conforming amendments to Sections 4154 through 4164 of OBRA 90.

CONFERENCE AGREEMENT

(a) Revision of Information on Part B Claims.—The conference agreement follows the Senate amendment.

(b) Consultation for Social Workers.—The conference agreement follows the Senate amendment.

(c) Report on Hospital Outpatient Payment.—The conference agreement follows the Senate amendment.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Department.—The conference agreement follows the Senate amendment.

(e) Payments to Nurse Practitioners in Rural Areas.—The conference agreement follows the Senate amendment.

(f) Other Technical and Conforming Amendments.—The conference agreement follows the Senate amendment.

C. AMENDMENTS RELATING TO PARTS A AND B OF THE MEDICARE PROGRAM AND OTHER HEALTH AMENDMENTS

1. Clarification of self-referral exceptions for physician ownership of clinical laboratories

PRESENT LAW

(a) Modification of General Exceptions.—Physicians with certain ownership and/or compensation arrangements with clinical laboratories are prohibited from referring patients to these clinical laboratories.

There are a series of general exceptions to both the ownership and compensation provisions, including: (1) physicians' services provided by (or under the personal supervision of) a physician or another physician in the same group practice; (2) in-office ancillary services; and (3) hospital financial relationships unrelated to the provision of clinical laboratory services. In-office ancillary services are defined as services furnished by the physician himself, another physician in the same group practice, or employees of the physician or the physician's group practice. To be exempted from the referral ban, the services must be provided in a building in which the physician or other member of the group practice provides services unrelated to laboratory services, or in a central building set up by the group to perform ancillary services for its members. The services must be billed by the physician performing or supervising the service or by that physician's group, or by an entity owned by the physician or group practice. In addition, the ownership or compensation interests in such in-office ancillary services must meet other requirements as the Secretary may impose by regulation as needed to protect against patient fraud and abuse.

A number of group practices own and operate satellite facilities in communities other than the community in which the main clinical facility is located.

(b) Rural providers.—In addition to the general exemptions, the law includes specific exemptions from just the ownership prohibitions and specific exemptions from just the compensation provisions. The law includes an exemption under the ownership prohibition for rural providers. Proposed implementing regulations contain provisions directed at preventing possible abuse of this exemption.

(c) Services Under Arrangements.—Some group practices operate full-service labora-

tories and contract with hospitals and other providers to furnish clinical laboratory services to hospital and other provider patients "under arrangements" with such entities. Medicare requires that the hospital or other provider bill for such services. These "under arrangements" services are therefore not protected under the general exemption for in-office ancillary services.

(d) Shared Laboratory Facilities.—Some group practices, and the hospitals with which they are affiliated, operate a laboratory facility which serves both the hospital inpatients and the group practice's office patients. Current law does not contain a general exemption for this type of arrangement.

(e) Leasing.—The law includes specific exemptions from just the compensation prohibitions.

(f) Definition of Group Practice.—The law contains a definition of group practice for purposes of the self-referral provision. Under this definition, a group practice is defined as a group of two or more physicians legally organized as partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan or similar association in which: (1) each physician group member furnishes substantially the full range of his or her services through the joint use of shared office space, facilities, equipment, and personnel; (2) substantially all of the services of the physician group members are furnished through the group and billed in the name of the group, with billing receipts treated as receipts of the group; (3) the practice cost expenses and income generated by group members are distributed in accordance with predetermined methodologies; and (4) any additional standards established by the Secretary are satisfied.

Faculty practice plans operated by a hospital fall under the definition of group practice only for those services provided within the faculty practice plan.

The definition of group practice does not specifically address the issue of part-time or independent contractor arrangements. Many group practices, particularly those in smaller communities, arrange for specialists, usually from other communities, to provide services for the group on a part-time basis, usually as independent contractors. Many of these specialists are either already members of another group practice, have their own practice, or have similar contractual arrangements with several smaller group practices.

(g) Reference Laboratories.—No provision.

House Bill

No provision.

Senate Amendment

(a) Modification of General Exceptions.—Exempts ancillary services provided by a group practice with multiple office locations from the prohibition on referrals.

Modifies the exemption for hospital financial relationships unrelated to the provision of clinical laboratory services to include tax-exempt health services entities wholly owned, operated or affiliated with one or more not-for-profit tax exempt hospitals if the financial relationship does not relate to the provision of laboratory services.

Clarifies the billing provision to specify that when services are billed by the group practice, the billing number assigned to the group is to be used.

(b) Rural Providers.—Provides a general exemption for rural laboratories furnishing services in a rural area, as defined for purposes of the hospital prospective payment system.

(c) Services Under Arrangements.—Provides a general exemption for clinical hospital laboratory services provided by a group practice laboratory under arrangements with hospitals or other Medicare providers. Remuneration under the arrangement must be consistent with fair market value of the services and considered commercially reasonable even if no referrals were made between the two parties.

(d) Shared Laboratory Facilities.—Adds an exemption for shared laboratory services in certain specified cases. Specifically, the services must be provided by a university, a medical school, a nonprofit organization or hospital with an approved medical training program. Further, the laboratory must be used in common under a written arrangement with a group practice whose physician members constitute all, or substantially all, of the medical teaching staff of the university, medical school, organization or hospital.

(e) Leasing.—Creates a new exemption for the rental of equipment by a group practice. In order to qualify for the exemption, payments for the rental or lease of the equipment must be provided pursuant to a written agreement signed by the parties. The agreement must: (1) specify the equipment covered by the agreement and dedicated for use of the lessee; (2) provide for a term of rental or lease of at least one year; (3) provide for payment on a periodic basis of an amount consistent with a fair market value; (4) provide for an amount of aggregate payments that does not vary (directly or indirectly) based on the volume or value of any referrals of business between the parties; and (5) be considered to be commercially reasonable even if no referrals were made between the parties.

(f) Definition of Group Practice.—Modifies the definition of group practice so that two or more physicians providing services in an entity who comply with the other requirements specified in current law would also meet the definition of a group practice. The provision would be further modified to expand the definition of faculty practice plans to include those associated with a university or a medical school in addition to those operated by a hospital.

Prohibits the Secretary from imposing any standard which would have the effect of prohibiting a group practice from contracting with physicians on a part-time or intermittent basis, provided such group practice qualifies to receive Medicare payment for the physicians' services.

Specifies that the practice and overhead expenses of not-for-profit entities should be determined in accordance with methods previously determined by the entity consistent with its articles of incorporation and bylaws.

Clarifies the billing provision to specify that when services are billed by the group practice, the billing number assigned to the group practice is to be used.

(g) Reference Laboratories.—Prohibits the Secretary from including requirements in regulations that would have the effect of prohibiting the acceptance of reference work by group practice laboratories.

Effective date—

Effective as if included in the enactment of Section 6204 of the Omnibus Budget Reconciliation Act of 1989.

Conference Agreement

(a) Modification of General Exceptions.—The conference agreement includes the Senate amendment with an amendment deleting the provision related to the modification deleting the provision related to the modification of the exemption for hospital financial relationships unrelated to the provision of clinical laboratory services.

(b) Rural providers.—The conference agreement includes the Senate amendment with an agreement to clarify that to qualify for the exemption, substantially all of the Medicare services furnished by the laboratory are furnished to individuals residing in the rural area.

(c) Services under arrangements.—The conference agreement includes the Senate amendment with a modification. Under the agreement, the definition of group practice is amended to include two or more physicians legally organized as a group who bill in the name of a hospital for which the group provides clinical laboratory services pursuant to an arrangement. The arrangement must meet the following specified requirements. The arrangement must be pursuant to the provision of inpatient hospital services in accordance with Section 1861(b)(3) of the Act. It must have begun before December 19, 1989 and continued in effect without interruption since that date. It must provide substantially all of the clinical laboratory services to the hospital's patients. The arrangement must be pursuant to a written agreement that specifies the services to be provided by the parties and the compensation for services provided under the agreement. The compensation paid over the term of the agreement must be consistent with fair market value; the amount per unit of service must be fixed in advance. The compensation may not be determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties. The compensation must be provided pursuant to an agreement which would be commercially reasonable, even if no referrals we made to the entity. Further, the arrangement must meet such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

(d) Shared Laboratory Facilities.—The conference agreement includes the Senate amendment with a modification. Under the agreement a general exemption is provided for shared facility services that are: (i) furnished personally by the referring physician who is a shared facility physician or by another individual personally supervised by such a physician or by another shared facility physician and employed under the shared facility arrangement; (ii) furnished by a shared facility arrangement; (ii) furnished by a shared facility in a building in which the referring physician furnishes physician services unrelated to the furnishing of shared facility services, (iii) furnished to a patient of a shared facility physician; and (iv) billed by the referring physician or by an entity that is wholly owned by such physician. The exemption only applies to a shared facility if the facility and the shared facility arrangement was in effect as of June 26, 1992.

The agreement defines a shared facility arrangement as a financial arrangement: (i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building; (ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among physicians in the arrangement, and (iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.

The agreement further requires the General Accounting Office to conduct a study of the effect of shared facility arrangements on the utilization of health services. The GAO is required to submit a report to Congress on the results of the study by January 1, 1994.

(e) Leasing.—The conference agreement includes the Senate amendment with an amendment. Under the agreement, the current law provisions relating to compensation exemptions are revised. The exemption for the rental of office space is clarified to apply for the use of premises if: (i) the lease is written, signed by the parties and specifies the premises covered by the lease; (ii) the aggregate space rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental; (iii) the term of the lease is at least one year; (iv) in the case of a lease that is intended to provide access at periodic intervals, such intervals are specified in the lease; (v) the rental charges are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the two parties; (vi) the lease would be commercially reasonable even if no referrals were made between the parties; and (vi) the compensation arrangement meets such other requirements as the Secretary may impose to protect against program or patient abuse.

The agreement adds an exemption for the leasing of equipment. The requirements for the lease of equipment are the same as those applicable to the lease of premises, except that (ii) relates to the equipment rented or leased (rather than the aggregate space).

The agreement adds an exemption for certain arrangements under which payments are made by an entity to a physician (or family member) who is not employed by the entity as compensation for specified services provided the following requirements are met: The agreement is written, and specifies the services to be provided, the compensation for each unit of service, and the schedule for the provision of such services. The compensation must be consistent with fair market value, and is not determined by the volume or value of referrals or other business generated between the two parties. The compensation must be provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity. Further, the compensation must meet other requirements imposed by the Secretary as needed to protect against program or patient abuse. The specified services for which such arrangements are permitted are: (i) consultative services that relate to test results that have been obtained that are outside established parameters, or are specifically requested by the referring physician on a specified patient; that are furnished by a physician other than the referring physician; and for which the physician furnishes a written request for that patient; (ii) interpretation of tissue pathology or Pap smear slides or the provision of other cytology services; (iii) phlebotomy services for paternity or toxicology services testing where the services are furnished by a physician other than the physician referring the individual for such testing; (iv) employment-related health care services; (v) services as a clinical consultant to the entity as required for certification under the Clinical Laboratory Improvement Act; (vi) services required by State, local, or Federal licensure, and (vi) services billed in the name of a group practice provided by a physician under contract to the group practice for services not otherwise available through a physician who is a member of a group.

The agreement expands the current exemption for compensation arrangements between physicians and hospitals for the provision of administrative services to exempt all bona fide employment arrangements between an employer and an employee, subject to the standards of current law.

The agreement adds an exemption for payments by physicians to (i) a laboratory in exchange for the provision of clinical laboratory services; or (ii) an entity as compensation for other items or services if such items or services are furnished at a price that is consistent with fair market value and are generally available to referrers and referrers alike on similar terms and conditions.

The agreement adds an exemption for payments made to a group practice for pathology services under an agreement if: (i) the agreement is written, specifies the services to be provided, and the compensation for services provided under the agreement; (ii) the compensation paid over the term of the agreement is consistent with fair market value and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the two parties; (iii) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and (iv) the compensation agreement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

(f) Definition of Group Practice.—The conference agreement includes the Senate amendment with an amendment. The agreement does not include the modification in the definition of group practice. The agreement also does not include the provision relating to the determination of practice and overhead. The conference agreement does not include the language relating to part-time or intermittent employment; the provisions of the agreement relating to compensation arrangement are discussed under (e) above.

(g) Reference Laboratories.—The conference agreement does not include the Senate amendment.

The conference agreement further amends the definition of compensation arrangements involving remuneration only Remuneration would be defined to not include: (i) the forgiveness of amounts owed for inaccurate tests, mistakenly performed tests, or the correction of minor billing errors; (ii) the provision of items, devices, or supplies of minor value that are used to collect, transport, process or store specimens or communicate the results to the entity; or (iii) the furnishing by an entity of laboratory services to a group practice affiliated with the entity, if the entity provides all or substantially all of the clinical laboratory services of the group practice.

2. Graduate medical education

PRESENT LAW

Payments for the direct costs of graduate medical education are based on Medicare's share of each hospital's direct costs per full-time equivalent (FTE) resident, in a base year, updated each year by the consumer price index. The base year is defined as a hospital's cost reporting period beginning during fiscal year 1984. The law provides for no adjustments to the base year amount. In the case of a hospital that did not have an approved medical residency training program or was not participating in the Medicare program during the base year, the Secretary shall provide for an FTE resident amount as the Secretary determines to be appropriate based on approved FTE resident amounts for comparable programs.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to provide an FTE resident amount that the Secretary deems appropriate in the case of hospitals which in 1984 operated a primary care residency training program as their only approved residency program and had a base year per resident amount of less than $10,000. In providing an FTE resident amount, requires the Secretary to take into account approved FTE resident amounts for hospitals with comparable residency programs.

Effective date.—Applies to cost reporting periods beginning on or after October 1, 1990, except provides that, for cost reporting periods beginning on or after September 30, 1992, required payments shall not be made prior to October 1, 1993.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the provision is restricted to a facility whose only medical residency program in the cost reporting period that began in fiscal year 1984 was in family and community medicine, received Federal, State or local funding, and had a base year per resident amount of $10,000 or less. The Secretary is required, in computing an FTE resident amount, to estimate the costs that would have been allowed as reasonable if the program had not received government assistance.

The agreement further provides that, in the case of a hospital that did not pay FICA taxes or make other specified retirement contributions for residents in the base year and that must now pay such taxes or contributions as a result of section 11332(b) of OBRA 1990, the Secretary shall redetermine the FTE resident amount to reflect the amount that would be allowed if the hospital had made such payments during the base year.

The agreement provides that, for the purpose of determining whether a resident is in an initial residency period for payment purposes, a resident in a preventive care residency or fellowship program would be treated in the same way as a geriatric resident or fellow; that is a period of up to two years of such training would be treated as part of the initial residency and would not count towards the limitation on such period.

Effective date.—The provision related to publicly-funded residency programs applies to cost reporting periods beginning on or after October 1, 1990. The provision related to FICA taxes applies to cost reporting periods beginning on or after October 1, 1992. The provision related to prevention care residencies is effective on enactment.

3. Immunosuppressive drug therapy

PRESENT LAW

Medicare currently pays for immunosuppressive drug therapy for Medicare beneficiaries who have received organ transplants for one year following the date of the transplant procedure.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends Medicare coverage of immunosuppressive drug therapy to two years following the date of the transplant procedure in calender year 1995; to 30 months following a transplant procedure in calendar year 1996; and to 36 months following a transplant procedure in calendar year 1997 and thereafter.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment, with an amendment to revise the phase-in schedule of extended coverage. Effective January 1, 1993, coverage would be extended to an 18-month period. Effective January 1, 1994, coverage would be extended to a 24-month period. Effective January 1, 1995, coverage would be extended to a 30-month period. Effective January 1, 1996, coverage would be extended to a 36-month period.

4. Reduction in payments for erythropoietin

PRESENT LAW

Medicare is the principal purchaser of erythropoietin (EPO), an anti-anemia drug given to end-stage renal disease (ESRD) beneficiaries with a specified level of anemia. Payment for the drug is made as an add-on to the composite rate paid to facilities for dialysis treatment. Payments to facilities are made in increments of 1,000 unit doses, rounded to the nearest 100 units, with a maximum payment of $11 per 1,000 units.

For ESRD beneficiaries who are not treated through dialysis facilities, payment is made to physicians for drug costs in a variety of ways.

HOUSE BILL

No provision.

SENATE AMENDMENT

Reduces Medicare payments for erythropoietin by $1.00 per 1,000 units. The proposal would not alter payments to physicians for EPO.

Effective date.—Effective for services furnished on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

5. Modifications to advance directives law enacted in OBRA 90

PRESENT LAW

OBRA 90 required hospitals, nursing homes, home health agencies, hospices and health maintenance organizations to provide written information to each individual concerning an individual's rights under State law to make decisions regarding their medical care, including the right to accept or refuse treatment and the right to formulate an advance directive; to document in the medical record whether an advance directive exists for each individual; to comply with the advance directive and to educate the staff about advance directives in general.

HOUSE BILL

No provision.

SENATE AMENDMENT

Adds renal dialysis facilities to the list of institutions required to furnish patients with advance directive information.

Effective date.—Effective for services furnished on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

6. Medicare secondary payer

PRESENT LAW

Under current law, Medicare is secondary payer under specified circumstances when Medicare beneficiaries are covered by other third party payers. Medicare is also secondary payer to certain employer group health plans for items and services provided to aged and disabled beneficiaries.

In addition, Medicare is secondary payer to other insurance plans for 18 months for beneficiaries who are eligible for Medicare solely because they have end stage renal disease. After January 1, 1996, Medicare is secondary to other payers for a 12-month period.

The Department of HHS identifies Medicare secondary payer cases in the following ways: beneficiary questionnaires; provider identification of third party coverage when services are provided; Medicare contractor screening and data collection and exchange; and data transfers with other Federal and State agencies including the Internal Revenue Service and the Social Security Administration.

The Secretary is authorized to develop standards, criteria, procedures and reporting requirements to evaluate the performance of organizations facilitating Medicare payments to providers of services. Primary payers are required to make payments for any item or service for which Medicare is secondary payer when they receive notice that payments are due. The Secretary is authorized to charge interest on late recoveries under the Medicare Secondary Payer program.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends the period for which Medicare is secondary to other payers to 24 months from January 1, 1993 to January 1, 1996 for beneficiaries who are eligible solely because of having ESRD. After January 1, 1996, until January 1, 1998, the period for which Medicare is secondary to other payers is eighteen months.

Effective Date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

In addition, the conference agreement includes the following provisions.

(a) Exemption for members of religious orders.—Clarifies that the Medicare secondary payer provisions do not apply to secondary payer situations identified after October 1, 1989 for services provided prior to such date to members of religious orders who are considered "deemed employees" because of an election of Social Security coverage.

(b) Survey of beneficiaries.—Requires the Administrator of HCFA to mail questionnaires to individuals, before such individuals become entitled to benefits under part A or enroll in part B, to determine whether the individual is covered under a primary plan. Prohibits denial of payment for covered services solely on the gerunds that a beneficiary's questionnaire fails to note the existence of other health plan coverage.

(c) Mandatory screening by providers and suppliers under part B.—Requires providers and suppliers to complete information on claim forms regarding potential coverage under other plans. Establishes civil monetary penalties for an entity that knowingly, willfully and repeatedly fails to complete a claim form with accurate information.

(c) Requirements for fiscal intermediaries and carriers.—Requires contractors to submit a report to the Secretary annually regarding steps taken to recover mistaken payments. Also requires the Secretary to evaluate the performance of contractors in identifying cases in which Medicare is secondary payer.

(e) Deadline for reimbursement by primary payers.—Clarifies the Secretary's authority to charge interest if payment is not received within 60 days after notice is given.

7. Qualified Medicare beneficiary outreach

PRESENT LAW

The Medicare Catastrophic Coverage Act of 1988 required States to pay Medicare premiums, deductibles and coinsurance for "Qualified Medicare Beneficiaries" (QMBs). QMBs are those Medicare beneficiaries whose family incomes are below 100 percent of the Federal poverty level and whose resources are no more than twice the amount allowed under SSI.

The Omnibus Budget Reconciliation Act of 1990 accelerated the phase-in schedule for QMB coverage, and required States to pay premiums for QMBs with incomes up to 110 percent of poverty by January 1, 1993, and to 120 percent of poverty by January 1, 1995.

Less than half of eligible beneficiaries are currently participating in the QMB program.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Requires the Secretary to establish and implement a method for obtaining information from individuals when they become entitled to benefits under part A or enroll in part B that may be used to determine eligiblity for benefits under the QMB program.

8. Extension of social health maintenance organization demonstrations (SHMOs)

PRESENT LAW

The Deficit Reduction Act of 1984 required the Secretary to grant three-year waivers for demonstrations of social health maintenance organizations (SHMOs). These demonstrations provide integrated health and long-term care services on a prepaid capitated basis. The Omnibus Budget Reconciliation Act of 1987 required the Secretary to extend the waivers for SHMOs through September 30, 1992. The Omnibus Budget Reconiliation Act of 1990 extended the waivers through December 31, 1995 and required the Secretary to add up to four additional sites. It also authorized $3.5 million for technical assistance and evaluation.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extends the SHMO demonstrations for an additional 3 years. Specifies that one of the SHMO demonstration sites may enroll Medicare end stage renal disease (ESRD) beneficiaries.

Effective date.—Effective as if included in OBRA 90.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that it extends the demonstrations for 2 years and increases the enrollment limit per site to 12,000.

9. Hospice notification

PRESENT LAW

Medicare beneficiaries who are certified as terminally ill by a physician may elect to receive hospice benefits in lieu of other Medicare covered services. Skilled nursing facilities (SNFs) are required to provide each resident at the time of admission with a written statement of rights. SNFs must also inform each resident of services available and related charges for services, including any charges not covered under Medicare or by the facility's basic per diem charge. Home health agencies and hospitals are required to meet Medicare conditions of participation in order to receive reimbursement for treatment of Medicare beneficiaries. Conditions of participation for discharge planning in hospitals require an evaluation of a patient's likely need for appropriate post-hospital services and the availability of those services.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires skilled nursing facilities and home health agencies to inform beneficiaries of the hospice benefit under Medicare, if a Medicare participating hospice is located in the geographic area or it is common medical practice to refer patients to hospices out of the area. SNFs would be required to provide the information to all beneficiaries at the time of admission as part of the oral and written statement of rights. As a condition of participation in Medicare, home health agencies would be required to provide the information in advance of the patient's coming under care of the agency. Hospital conditions of participation with respect to discharge planning would be modified to require an evaluation of a patient's likely need for appropriate post-hospital services, including hospice services, and the availability of those services.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

10. Interest payments

PRESENT LAW

The Social Security Act requires the payment of interest if payment is not made within 24 days of receipt of a clean claim for payment, and within 17 days in the case of a clean claim from a participating physician.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires that interest payments be made on clean claims if payment is not made within 30 days of receipt for fiscal year 1993.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment.

11. Peer review organizations

PRESENT LAW

(a) Peer Review Organizations.—OBRA 90 required Peer Review Organizations (PROs) to provide notice to State licensing entities when a physician is found to have furnished services in violation of Section 1154(a) of the Social Security Act. This subsection includes requirements that PROs review the quality of medical care and determine whether certain services are covered by Medicare. As drafted, OBRA 90 requires PROs to notify State boards in the case of a variety of administrative findings, as well as in the case of a problem regarding quality of care.

(b) Repeal of PRO precertification requirement.—Under current law, PROs are required to precertify selected surgical procedures.

HOUSE BILL

(a) Peer Review Organizations.—No provision.

(b) Repeal of PRO precertification requirement.—No provision.

SENATE AMENDMENT

(a) Peer Review Organizations.—Eliminates the requirement that PROs notify State boards regarding administrative matters, but PROs would continue to be required to notify them in cases of unnecessary or poor quality care. In addition, drafting errors in OBRA 90 would be corrected.

Effective date.—Enactment.

(b) Repeal of PRO precertification requirement.—No provision.

CONFERENCE AGREEMENT

(a) Peer Review Organizations.—The conference includes the Senate amendment.

(b) Repeal of PRO precertification requirement.—Repeals the requirement that PROs precertify selected surgical procedures.

12. Health maintenance organizations

PRESENT LAW

OBRA 90 required the Secretary to submit a proposal to Congress by January 1, 1992 providing for a more accurate method for HMOs paid on a risk basis. The Secretary was required to publish a proposed rule by March 1, 1992. The Comptroller General was required to review and report to Congress by May 1, 1992 on recommendations to modify the proposed methodology. OBRA 90 also contained a number of minor and technical drafting errors.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to revise the payment methodology for HMOs for contract years beginning with 1994. In making revisions, requires the Secretary to consider (1) the difference in costs associated with beneficiaries with different health status; (2) the effects of using alternative geographic classifications; and (3) the difference in costs associated with beneficiaries for whom Medicare is the secondary payer. Requires the Secretary to submit a proposal to Congress on the revised payment methodology by January 1, 1993, and to publish a proposed rule before March 1, 1993. Requires the Comptroller General to review and report to the Congress by May 1, 1993, on the appropriateness of the proposed rule. Requires the Secretary to publish, by August 31, 1993, a final rule for contract years beginning on or after January 1, 1994.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the Secretary is required, in setting the average adjusted per capita costs (AAPCC) for an area, to take into account the difference in the proportion of beneficiaries in the area for whom Medicare is secondary and the proportion of such beneficiaries nationally.

Effective date.—Enactment, except that the requirement for adjustment of the AAPCC to reflect beneficiaries for whom Medicare is secondary applies to contract years beginning with 1994.

13. Medicare appeals

PRESENT LAW

Section 1869 of the Social Security Act provides procedures for the administrative review of certain claims under Part B by individuals.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes a provision which is intended to assure continuation of the interpretation of the Medicare law which permitted judicial review of challenges to "methodology" for determining payment amounts under Part B of Medicare (as distinguished from challenges to the "amount of benefits" under part B) without requiring the filing of claims with, hearings before, or decisions by, the Secretary. The amendments made by section 9313 of the Omnibus Reconciliation Act of 1986 amendment section 1869 of the Social Security Act, which provided for hearings and review of individual claims and denials of such claims under part B, were intended to expand access to administrative and judicial review and were not intended to affect the judicial treatment of challenges to the validity of regulations or instructions or similar cases. In such a case a requirement for the filing of a claim, or a decision by the Secretary, would be inappropriate since the pursuit of administrative process would be necessarily futile. This clarification does not affect the prohibition of judicial review in certain cases described in section 1869(b)(4) of the Social Security Act.

14. Medicare administration budget process

PRESENT LAW

The Balanced Budget and Emergency Deficit Control Act of 1985 provides for certain adjustments to the discretionary spending limits provided in the Act. There are no adjustments relating to the discretionary spending under the Medicare program.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The Conference Agreement amends the Balanced Budget and Emergency Deficit Control Act of 1985 to provide that to the extent that appropriations are enacted that provide budget authority above a base level of spending in FY 1992 of $1.526 billion, the appropriate discretionary spending limits would be adjusted to accommodate additional budget authority in fiscal years 1993, 1994, and 1995. The adjustments would be cumulative and would equal $177 million in FY 1993, $198 million in FY 1994, and $220 million in FY 1995.

15. Other provisions relating to Parts A and B of the Medicare program

PRESENT LAW

(a) Survey and Certification Requirements.—The Secretary is prohibited from imposing user fees on facilities for determining compliance with any requirement of Medicare. Current law could be interpreted to mean that user fees imposed pursuant to the Clinical Laboratory Improvement Act (CLIA) are prohibited. In addition, there are minor drafting errors regarding the survey and certification process.

(b) Other Technical Amendments.—No provision.

HOUSE BILL

(a) Survey and Certification Requirements.—No provision.

(b) Other Technical Amendments.—No provision.

SENATE AMENDMENT

(a) Survey and Certification Requirements.—Amends the law prohibiting user fees to clarify that user fees imposed under the Clinical Laboratory Improvement Act are not subject to the general ban on user fees.

Corrects minor and technical errors relating to a home dialysis demonstration program authorized under OBRA 90 and Medicare secondary payer requirements in OBRA 90. In addition, the provision corrects minor and technical errors in Sections 4201 through 4207 of OBRA 90.

(b) Other Technical Amendments.—No provision.

CONFERENCE AGREEMENT

(a) Survey and Certification Requirements.—The conference includes the Senate amendment.

(b) Other Technical Amendments.—In addition, the conference agreement includes a number of minor technical amendments relating to Parts A and B of the Medicare program.

16. Medicare supplemental insurance policies

PRESENT LAW

Section 1882 of the Social Security Act, as most recently amended by the Omnibus Budget Reconciliation Act (OBRA) of 1990, provides for minimum standards for Medicare supplement insurance (Medigap) policies.

(a) Preventing duplication.—The OBRA 1990 amendments strengthen prohibitions against the sale of duplicative coverage to Medicare beneficiaries. The sale of a Medigap policy to an individual already covered under a Medigap policy is prohibited, as is, in general, the sale of a Medigap policy to a Medicaid beneficiary. Insurers are required to obtain written information from applicants regarding existing health insurance coverage.

The language also appears to prohibit the sale of any health benefits that duplicate any health coverage (including Medicare) to which a Medicare beneficiary is entitled.

(b) Loss ratios and refund of premiums.—The OBRA 1990 amendments increased the miminum loss ratio standard for individual Medigap insurance policies from 60 percent to 65 percent. The standard is 75 percent for group policies. Policy issuers are required to provide a refund or credit against future premiums if needed to meet the loss ratio requirements.

(c) Pre-existing condition limitations.—The OBRA 1990 amendments prohibit medical underwriting and certain other practices with respect to Medicare supplemental insurance policies for which an individual age 65 or older applies during the six month period beginning with the first month during which the individual is first enrolled for benefits under part B.

(d) Other miscellaneous technical corrections.—The conference report to accompany OBRA 1990 states the intent of the conferees that the National Association of Insurance Commissioners, in promulgating changes to the Model Medigap Regulations to conform with Federal requirements, would delete from section 12(C) all that follows "unless", which is an exception to limitations on certain sales commissions. The OBRA 1990 amendments also include a number of minor and technical drafting errors.

HOUSE BILL

No provision.

SENATE AMENDMENT

(a) Preventing duplication.—Clarifies the duplication provision by continuing to specifically prohibit the sale of a Medigap policy to an individual already covered under a Medigap policy and to prohibit, in general, the sale of a Medigap policy to a Medicaid beneficiary. Prior law would be restored with respect to the sale of other health insurance policies. That is, the sale of any health insurance policy, other than a Medigap policy, would not be considered duplicative if benefits are paid without regard to other health insurance coverage for which the individual is eligible. Other minor and technical drafting errors would be corrected.

(b) Loss ratios and refund of premiums.—Clarifies that the ORBA 1990 loss ratio standard would apply to policies sold or renewed after the effective date of the provision. With respect to a refund or credit for policies issued prior to the effective date of the provision, the calculation would be based on aggregate benefits provided and premiums collected for all policies issued by an insurer in a state and based only on aggregate benefits provided and premiums collected under the policies after the effective date. Other minor and technical drafting errors would be corrected.

(c) Pre-existing condition limitations.—Clarifies that the pre-existing condition limitations apply to any policy that becomes effective during the six month period beginning with the first month that an individual who is 65 years of age or older is first enrolled for benefits under part B, irrespective of when the policy is issued or whether the application is submitted prior to the beginning of the six month period.

(d) Other miscellaneous technical corrections.—Clarifies the statutory language to restate the intent of the conferees that certain language be deleted from section 12(C) of the NAIC Model Regulations pertaining to sales commissions. The effective dates for various provisions would be modified. Other minor and technical drafting errors would be corrected.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications.

(a) Preventing duplication.—This provision continues the current law prohibition on the sale of duplicative health insurance policies subject to the conditions described in the following paragraph. The provision clarifies that it is unlawful to sell or issue to an individual entitled to benefits under Part A or enrolled under Part B: (i) a health insurance policy with knowledge that such policy duplicates health benefits to which such an individual is otherwise entitled under Medicare or Medicaid; (ii) a Medigap policy with knowledge that the individual is entitled to benefits under another Medigap policy; and, (iii) a health insurance policy, other than a Medigap policy, with knowledge that such policy duplicates health benefits to which the individual is otherwise entitled.

Penalties would not apply, however, to the sale or issuance of a policy or plan that duplicates health benefits under Medicare or Medicaid or a policy or plan that duplicates health benefits to which the individual is otherwise entitled if, under the policy or plan, all benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual. In addition, for the penalty to be waived in the case of the sale or issuance of a policy or plan that duplicates benefits under Medicare or Medicaid, the application for the policy must include a statement, prominently displayed, disclosing the extent to which benefits payable under the policy or plan duplicate Medicare benefits.

Policies subject to the disclosure requirement include, but are not limited to: specific disease policies, hospital confinement indemnity policies, long term care policies, policies that provide fixed indemnity benefits for nursing home care, nursing services in the home or for home care, and policies that provide fixed indemnity benefits for any medical or surgical service or treatment.

The new provisions pertaining to non-duplication do not alter in any way the current law prohibition on the sale of a Medigap policy to a Medicaid beneficiary.

(b) Loss ratios and refund of premiums.—The Conference follows the Senate amendment, and includes minor and technical amendments.

(c) Pre-existing condition limitations.—The Conference agreement follows the Senate amendment with technical modifications. The provision clarifies the intent of OBRA '90 that, in the case of individuals enrolled in part B prior to age 65, Medigap insurers are required to offer coverage, regardless of medical history, for a six-month period when the individual reaches age 65. Insurers are prohibited from discriminating in the price of policies for such an individual, based upon the medical or health status of the policyholder.

(d) Other miscellaneous technical corrections.—The Conference follows the Senate amendment, and includes a number of minor and technical amendments.

17. Medicare select

PRESENT LAW

As amended by the Omnibus Budget Reconciliation Act of 1990, the standards relating to Medicare supplemental policies, known as Medigap policies, provide for the sale of certain policies under which benefits for items and services provided by a network of health care providers may differ from benefits for items and services provided outside the network. These policies, known as Medicare Select policies, must meet certain requirements, and can be offered only in fifteen states chosen by the Secretary for a period of three years. In addition, the OBRA '90 amendments require that all Medigap policies conform to one of ten standard benefit packages, including a core benefit package that must be made available by all Medigap insurers, and nine other packages that an insurer has the option of offering. In general, Medigap policies may not be canceled and must be guaranteed renewable as long as premiums are paid.

HOUSE BILL

No provision.

SENATE AMENDMENT

Provides that Medicare Select policies could be offered in all states and the three year limitation would be eliminated. A health maintenance organization could offer a Medicare supplemental policy that does not conform to one of the ten standard benefit packages if (1) the benefits include at least the core benefit package, although the plan could charge nominal copayments, and (2) the benefit package including any copayments, when combined with Medicare benefits, is substantially similar to benefits provided to non-Medicare enrollees of the health maintenance organization. A Medicare Select policy may be canceled or not renewed in the case of an individual who leaves the service area of the policy, except that if the individual moves to an area for which the issuer of the Medicare Select policy (or an affiliate) offers a Medigap policy, the alternative policy must be made available to the individual.

Effective date.—The earlier of the date the State adopts the 1993 NAIC Model Regulation of the 1993 Federal Regulation, or 1 year after the date the NAIC or the Secretary first adopts such regulations. For States requiring legislation to meet the regulations, but having a legislature which is not scheduled to meet in 1994, the effective date is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

18. Hawaii health plan exemption from ERISA

PRESENT LAW

Section 514(a) of the Employee Retirement Income Security Act of 1974 (ERISA) provides that the Act supersedes any and all State laws that "relate to any employee benefit plan." Section 514(b)(2)(A) exempts from preemption State laws regulating insurance, except that States may not deem employee benefit plans to be engaged in the business of insurance for purposes of State insurance law (section 514(b)(2)).

Section 514(b)(5) generally exempts from preemption most provisions of the Hawaii Prepaid Health Care Act as it existed on September 2, 1974. State tax laws relating to employee benefit plans and amendments to the Hawaii Act adopted after that date, however, are preempted. The Secretary of Labor is authorized to enter into cooperative arrangements with the officials of the State of Hawaii to assist them in effectuating the policies of the Hawaii Act which are preempted.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The Hawaii Prepaid Health Care Act is not preempted by ERISA, unless the Secretary of Labor notifies the Governor of Hawaii that, as a result of any amendment to the Hawaii Act, the proportion of the population covered is less than the current proportion or the level of coverage is less than the actuarial equivalent of the current level of coverage. State tax laws relating to employee benefit plans would continue to be preempted.

D. MEDICAID PROVISIONS

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment contains various technical provisions relating to Medicaid.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

XI. AUTHORIZATION FOR ADDITIONAL ASSISTANCE FOR DISTRESSED COMMUNITIES

PRESENT LAW

None.

SUBTITLE A—NATIONAL PUBLIC PRIVATE PARTNERSHIP PROGRAMS

Section 11001(b)(1). Head Start

HOUSE BILL

No provision.

SENATE AMENDMENT

Section 8001(b)(1) of the Senate Amendment authorizes additional funding for Head Start. Such authorization includes $40,000,000 for FY 1993; $42,000,000 for 1994; $44,000,000 for 1995; $46,000,000 for 1996; $49,000,000 for 1997; $51,000,000 for 1998; $54,000,000 for 1999; $56,000,000 for 2000; 59,000,000 for 2001; and $62,000,000 for 2002.

CONFERENCE AGREEMENT

The House recedes with an amendment requiring all funds to be expended on programs and activities that directly and principally benefit residents of the zones.

Section 11001(b)(2). Community Health Centers

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 8001(b)(2) of the Senate Amendment provides additional authorizations for Community Health Centers. Such authorizations include $20,000,000 in FY 1993; $21,000,000 in 1994; $22,000,000 in 1995; $23,000,000 in 1996; $24,000,000 in 1997; $26,000,000 in 1998; $27,000,000 in 1999; $28,000,000 in 2000; $30,000,000 in 2001; and $31,000,000 in 2002.

CONFERENCE AGREEMENT

The House recedes with an amendment requiring all funds to be expended on programs and activities that directly and principally benefit residents of the zones.

Section 11001(b)(3). National Community Economic Partnership Program

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 8001(b)(3) of the Senate Amendment authorizes funding for the National Community Economic Partnership. Such authorizations include $40,000,000 for FY 1993; $42,000,000 for 1994; $44,000,000 in 1995; $46,000,000 in 1996; $49,000,000 in 1997; $51,000,000 in 1998; $54,000,000 in 1999; $56,000,000 in 2000; $59,000,000 in 2001; and $62,000,000 in 2002.

CONFERENCE AGREEMENT

The House recedes with an amendment requiring 50 percent of such authorized amounts to be expended on programs and activities that directly and principally benefit residents of the zones.

Section 11001(b)(4). Job Corps

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 8001(b)(4) of the Senate Amendment authorizes funding for the Job Corps. Such authorizations include $40,000,000 in FY 1993; $42,000,000 in 1994; $44,000,000 in 1995; $46,000,000 in 1996; $49,000,000 in 1997; $51,000,000 in 1998; $54,000,000 in 1999; $56,000,000 in 2000; $59,000,000 in 2001; and $62,000,000 in 2002.

CONFERENCE AGREEMENT

The House recedes with an amendment requiring all funds to be expended on programs and activities that directly and principally benefit residents of the zones.

Section 11001(b)(5). Enterprise Capital Access Fund

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Senate 8001(b)(5) of the Senate Amendment authorizes funding for the Enterprise Capital Access Program. Such authorizations include $25,000,000 for FY 1993 and various sums for years thereafter.

CONFERENCE AGREEMENT

The House recedes with an amendment providing authorizations in the amounts of $20,000,000 for FY 1993; $21,000,000 for 1994; $22,000,000 in 1995; $23,000,000 in 1996; $24,000,000 in 1997; $26,000,000 in 1998; $27,000,000 in 1999; $28,000,000 in 2000; $30,000,000 in 2001; and $31,000,000 in 2002. The House amendment requires 50 percent of all funds provided in this title to be expended on programs and activities that directly and principally benefit residents of the zones.

Section 11001(b)(6). YouthBuild

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 8001(b)(6) of the Senate Amendment provides for authorization of $15,000,000 in FY 1993 for YouthBuild under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, and for various sums in subsequent years.

CONFERENCE AGREEMENT

The House recedes with an amendment providing $10,000,000 in FY 1993; $11,000,000 in 1994 and 1995; $12,000,000 in 1996 and 1997; $13,000,000 in 1998 and 1999; $14,000,000 in 2000; $15,000,000 in 2001; and $16,000,000 in 2002 and requiring all funds to be expended on programs and activities that directly and principally benefit residents of the zones.

Section 11001(b)(7). Neighborhood Reinvestment Corporation.

HOUSE BILL

The section amends the Housing and Community Development Act of 1978 and authorizes $53,000,000 over five years for projects in enterprise zones.

SENATE AMENDMENT

Section 8001(b)(7) of the Senate Amendment amends the Housing and Community Development Act of 1978 and authorizes the following amounts for the Neighborhood Reinvestment Corporation: $10,000,000 in FY 1993; $11,000,000 in 1994 and 1995; $12,000,000 in 1996 and 1997; $13,000,000 in 1998 and 1999; $14,000,000 in 2000, $15,000,000 in 2001; and $16,000,000 in 2002.

CONFERENCE AGREEMENT

The House recedes with an amendment requiring all funds to be expended on programs and activities that are to be expended on programs and activities that directly and principally benefit residents of the zones.

United States Attorneys

HOUSE BILL

Section 8031 of the House bill authorizes $47 million over five years in the United States Attorneys account for coordination of law enforcement activities in the zones.

SENATE AMENDMENT

No comparable provision.

CONFERENCE AGREEMENT

House recedes.

Minority Enterprise Business Investment Companies

HOUSE BILL

Section 8033 of the House Bill authorizes $10,000,000 for MESBICs over five years for activities in tax enterprise zones.

SENATE AMENDMENT

No comparable provision.

CONFERENCE AGREEMENT

House recedes.

High Risk Youth

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 811(b)(8) provides $15,000,000 in an additional authorizations for ASAMHA's High Risk Youth program and various amounts for subsequent years.

CONFERENCE AGREEMENT

Senate recedes.

SUBTITLE B—BLOCK GRANT FUNDING FOR ELIGIBLE PROGRAMS

Sec. 11101. Authorization of Appropriations

HOUSE BILL

Section 8001 of the House bill creates two new block grant programs—one for urban tax enterprise zones, and other for rural development investment zones. The block grant funding is available for the expansion for Federal social programs for which the zones. Administration of the programs is assigned to a special interagency Executive branch council.

Section 8001(a) authorizes $1,877,600,000 over five years for urban enterprise zones; $384,000,000 is authorized for FY 1993.

Section 8001(b) authorizes $469,700,000 over five years for rural enterprise zones (including Indian reservations); $96,200,000 is authorized for FY 1993.

Section 8001(c) provides that appropriations made available under this section are available through the end of Fiscal Year 1997.

SENATE AMENDMENT

Section 8101(a) authorizes $4,155,000,000 for five years, with such sums as may be necessary from 1998 to 2001 for urban, rural, and Indian reservation enterprise zones; $300,000,000 is authorized for FY 1993.

This section also states that authorized amounts must at least equal the lost revenue attributable to enterprise zone tax preference less amounts designated by this title for activities outside the tax enterprise zones. The Senate Amendment makes no statement on the availability of funds over five years.

CONFERENCE AGREEMENT

The Senate recedes to the House on authorization levels for 1993 through 1997 with an amendment to authorize $1,655,000,000 over five years; $320,000,000 is authorized for FY 1993. The House recedes to the Senate on authorization levels for FY 1998 through FY 2001. The Senate recedes to the House on the availability of funds with an amendment that funds appropriated for each fiscal year beginning in 1993 shall be available until the end of the fiscal year immediately following the year for which the funds are appropriated.

Section 11102. Allocation of Amounts among Tax Enterprise Zones

HOUSE BILL

Section 8002 of the House bill provides that funds for the block grants in 1993 shall be determined by equally dividing the amounts available by the number of zones that may be designated by the relevant Secretary in calendar year 1993.

The House bill further provides that funds appropriated in FY 1994 through 1997 shall be apportioned by the interagency council in such a manner as to assure a generally equivalent distribution of total funds to all zones for the entire period.

SENATE AMENDMENT

The Senate amendment contains a different formula which utilizes a weighted allocation based on the number of low-income person in each zone without regard to rural or urban designations.

CONFERENCE AGREEMENT

The Senate recedes to the House with an amendment which specifies the creation of a single block grant for both urban tax enterprise zones and rural investment development zones. Funding from the block grant shall be apportioned 70 percent to urban enterprise zones and 30 percent to rural investment development zones and then divided equally among zones within the two categories (Sec. 8102(b)).

Sec. 11103. Uses of Amounts

HOUSE BILL

The House bill provides for the creation of five program categories for which block grant funding is available. Twenty percent of the funding for the zones is allocated to each category with program choices to be made from the "menu" of programs provided. These caps may be waived by the interagency task force to a maximum of 30 percent and a minimum of five percent. The single exception is the Young Adult Employment Demonstration Program, for which 25 percent of the funding in the Job Training category is to be expended. This program, targeted to at-risk youth up to age 30.

SENATE AMENDMENT

The Senate amendment provides a similar structure of five categories with a waiver of up to 40 percent maximum and a five percent minimum.

CONFERENCE AGREEMENT

Senate recedes.

Section 11104. Eligible Programs

HOUSE BILL

The House bill lists the following categories and assigned programs eligible for funding:

CRIME AND COMMUNITY POLICING

DOJ: Community policing under the Byrne Program
DOJ: Alternative sanctions
HHS: Gang Intervention
HHS: Community Youth Activity Program
HHS: Comprehensive Child Development
HHS: Family Resources Centers

JOB TRAINING

Labor: Young Adult Employment Demonstration Program
Labor: Job Corps
Labor: JTPA (Title II)
Commission on National and Community Service: National Conservation and Youth Corps

EDUCATION

HHS: Head Start
HHS: Child Care
DEd: Chapter I
DEd: Vocational and Adult Education
DEd: TRIO (precollege outreach)

HEALTH AND NUTRITION

AG: WIC
HHS: Community Health Centers
HHS: Substance Abuse Treatment Improvement Grants
HHS: Substance Abuse Treatment Capacity Grant Expansion
HHS: Substance Abuse Treatment for Individuals Under Criminal Justice Supervision
HHS: Substance Abuse Treatment for Pregnant Women

HOUSING AND COMMUNITY DEVELOPMENT

HUD: CDBG
HUD: Public Housing Modernization
HUD: Public Housing Drug Elimination Grants
HUD: Family Investment Centers
HUD: Rental Housing Assistance
HUD: Section 108 Emergency Loans
AG: Minority/Disadvantaged Farmers program

SENATE AMENDMENT

The Senate Amendment lists the following categories and assigned programs eligible for funding:

CRIME AND COMMUNITY POLICING

DOJ: Community policing
DOJ: Alternative sanctions
DOJ: Gang Intervention

JOB TRAINING

Labor: Young Adult Employment Demonstration Program
Labor: JTPA (Title II)
Labor: Job Corps
Labor: Community Job Opportunity Demonstration Program
Commission on National and Community Service: Conservation and Youth Corps
HUD: YouthBuild
Labor: Reverse Commute Demonstration
HHS: Community Services Block Grant

CHILD CARE AND EDUCATION

HHS: Comprehensive Child Development/Family Resources Centers
HHS: Child Care Block Grant
HHS: Head Start
DEd: Chapter I—Elementary and Secondary Education
DEd: TRIO

HEALTH, NUTRITION, AND FAMILY ASSISTANCE

Ag: WIC
HHS: Substance Abuse Treatment Improvement Grants
HHS: Substance Abuse Treatment Capacity Grant Expansion
HHS: Substance Abuse Treatment for Individuals Under Criminal Justice Supervision
HHS: Substance Abuse Treatment for Pregnant Women
HHS: Community Health Centers
HHS: Ryan White AIDS Health Care Act
HHS: Homeless Family Support Program

HOUSING AND COMMUNITY DEVELOPMENT

HHS: Community Development Corporations
HUD: CDBG (Increases Public Service Cap to 30 Percent)
HUD: Public Housing Modernization
HUD: Public Housing Drug Elimination Grants
HUD: Rental Housing Assistance (waive 15% limit on project-based assistance)
HUD: HOME (reduced local match)
HUD: Capital Access Program
FmHA: 523 Self-Help TA
FmHA: 533 Rural Housing Preservation Grants
FmHA: 515 Rural Rental
FmHA: 521A Rural Rental Housing Assistance
FmHA: Water/Sewer Grants
FmHA: Private Business Enterprises Grants
Neighborhood Reinvestment Corporation

CONFERENCE AGREEMENT

The conference report lists the following programs available for funding under the block grant, and the categories under which they are to be considered.

CRIME AND COMMUNITY POLICING

DOJ: Community policing
DOJ: Alternative sanctions
DOJ: Gang Intervention

JOB TRAINING

Labor: Young Adult Employment Demonstration Program
Labor: JTPA (Title II)
Labor: Reverse Commute Demonstration
Commission on National and Community Service: Conservation and Youth Corps

CHILD CARE AND EDUCATION

HHS: Comprehensive Child Development/Family Resources Centers
HHS: Child Care Block Grant
DEd: Chapter I—Elementary and Secondary Education
DEd: TRIO
DEd: Literacy
DEd: Vocational and Adult Education

HEALTH, NUTRITION, AND FAMILY ASSISTANCE

Ag: WIC
HHS: Substance Abuse Treatment Improvement Grants
HHS: Substance Abuse Treatment Capacity Grant Expansion
HHS: Substance Abuse Treatment for Persons Under Criminal Justice Supervision
HHS: Substance Abuse Treatment for Pregnant Women
HHS: Ryan White AIDS Health Care Act
HHS: Family Support Programs
HHS: High-Risk Youth
HHS: Emergency Child Protective Services Grants

HOUSING AND COMMUNITY DEVELOPMENT

HUD: CDBG

HUD: Public Housing Modernization
HUD: Public Housing Drug Elimination Grants
HUD: Family Investment Centers
HUD: Rental Housing Assistance
HUD: HOME
FmHA: 523 Self-Help TA
FmHA: 533 Rural Housing Preservation Grants
FmHA: 515 Rural Rental
FmHA: 521A Rural Rental Housing Assistance
FmHA: Water/Sewer Grants
FmHA: Private Business Enterprises Grants
FmHA: Minority and Disadvantaged Farmers
HUD: Section 108 Loan Guarantees

Section 11105. Application for Funding

No significant disagreements.

Section 11106. Interagency Council

HOUSE BILL

The House bill establishes an interagency council of Cabinet officers and agency heads with jurisdiction over programs included in the block grants. Members include the Secretaries of Agriculture, Education, Health and Human Services, Housing and Urban Development, and Labor; the Director of the Office of National Drug Control Policy; and the Attorney General.

In Section 8006(d) the House designates the Attorney General and the Secretary of HUD as co-chairs of the council with respect to the block grant for urban enterprise zones; the Attorney General and the Secretary of Agriculture as co-chairs of the council with respect to the block grant on rural development investment zones.

SENATE AMENDMENT

The Senate Amendment adds the Secretary of the Interior and the Chair of the National Commission on National and Community Service to the council.

The Senate Amendment has no comparable provision with respect to the chairs of the council.

CONFERENCE AGREEMENT

The House recedes to the Senate with respect to the Chair of the National Commission, and recedes with respect to the council chairs. The Senate recedes to the House with respect to the Secretary of the Interior.

Section 11107. Definitions

Identical provisions.

Section 11108. Study

Both the House bill and the Senate Amendment require the Interagency Council to conduct a study of the implementation of assistance under this title. The House bill requires the study in one year. The Senate Amendment requires the study in two years. The Senate recedes.

Section 11109. Regulations

Identical Provisions.

SUBTITLE C—OTHER PROGRAMS

CHAPTER 1—COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Section 11201. Waiver of Public Services Cap Under Community Block Grant Program

Section 8051 of the House bill and Section 8201 of the Senate Amendment provide identical language that permits an additional 15 percent of CDBG funding to be used for public services within an enterprise zone.

Section 11202. Emergency Loan Guarantees for Development Activities

HOUSE BILL

The House bill provided additional authorization in Section 108 of the Housing and Community Development Act of 1974 for guarantees of principal up to $500,000,000 without fiscal year limitation to qualified public entities for the establishment, development, and redevelopment of businesses within tax enterprise zones.

SENATE AMENDMENT

No comparable provision.

CONFERENCE AGREEMENT

Senate recedes with an amendment providing $2,000,000,000 each year over five years in additional authorizations for distressed areas under Section 108 of the Housing and Community Development Act of 1974.

CHAPTER 2—YOUNG ADULT EMPLOYMENT DEMONSTRATION PROGRAM

Section 8053 of the House bill and Section 8203 of the Senate amendment create the Young Adult Employment Demonstration program for high-risk youth up to age 30. There were no significant disagreements.

CHAPTER 3—NATIONAL COMMUNITY ECONOMIC PARTNERSHIP ACT

Part I. National Community Economic Partnership Investment Funds.
Part II. Emerging Community Development Corporations.
Part III. Research and Demonstration.
Part IV. Miscellaneous Provisions.

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 8204 of the Senate Amendment authorizes various amounts to stimulate economic development in distressed areas through public and private partnership facilitated by Community Development Corporations.

CONFERENCE AGREEMENT

House recedes with an amendment limiting authorized amount in FY 1993 to $40 million.

CHAPTER 4—MISCELLANEOUS PROVISIONS

Section 11261. Enterprise Capital Access Fund

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 8205 of the Senate bill authorizes this demonstration program and authorizes various amounts for its program and activities.

CONFERENCE AGREEMENT

House recedes.

Section 11262. Hope for Youth: YouthBuild

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 8206 of the Senate Amendment establishes YouthBuild, an employment and educational program for economically disadvantaged youth under the HOPE program, and authorizes various amounts for its activities.

CONFERENCE AGREEMENT

House recedes with an amendment making the authorization contingent on the failure to enact the Housing and Community Development Act of 1992.

Section 11263. Access to Jobs/Reverse Commuting Demonstration Program

HOUSE BILL

No comparable provision.

SENATE AMENDMENT

Section 8208 of the Senate Amendment establishes a Reverse Commuting Demonstration program under DOT and DOL to improve employment opportunities, job availability, and earned income of residents of enterprise zones.

CONFERENCE AGREEMENT

House recedes with an amendment to require that in FY 1933 $5,000,000 of the block grant funding be set aside for this demonstration program.

Section 11264. Study of Insurance Availability in Central Cities and Distressed Areas

The Senate Amendment requires the Comptroller General to study the availability of insurance in central cities and distressed areas. The House bill contains on comparable provision. The House recedes.

APPROPRIATION OF ADDITIONAL ASSISTANCE FOR ENTERPRISE ZONES

PRESENT LAW

None.

HOUSE BILL

Title IX in the House appropriated for FY 1993, $384,800,000 for the Urban Enterprise Zone Block Grant; $96,200,000 for the Rural Enterprise Zone Block Grant; $4,000,000 for United States Attorneys; $5,000,000 for the Neighborhood Reinvestment Corporation; and $10,000,000 for MESBICs.

SENATE AMENDMENT

No comparable provision.

CONFERENCE AGREEMENT

House recedes because appropriations for this assistance have been provided by the Supplemental Appropriations, Transfers, and Recissions Act of 1992.

XII. HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT

PRESENT LAW

The Marine Mammal Protection Act of 1972 prohibits the importation of fish or fish products caught with large-scale driftnets in the South Pacific and tuna caught with driftnets anywhere on the high seas after July 1, 1991, and prohibits the importation of any fish or fish products caught with large-scale driftnets anywhere on the high seas after July 1, 1992.

HOUSE BILL

No provision.

SENATE AMENDMENT

Subtitle A of the Senate amendment expands existing sanctions. It requires the Secretary of Commerce, in consultation with the Secretary of State, to publish a list of nations engaging in large-scale driftnet practices beyond the exclusive economic zone of any nation, and requires the Secretary of the Treasury to deny entry into the United States of any large-scale driftnet fishing vessel of a nation on that list. It further provides for consultations with nations whose vessels are engaged in such fishing practices. If such consultations do not result in an agreement to immediately terminate the practices, the President is required to direct the Secretary of the Treasury to prohibit the importation into the United States from such nations of fish and fish products and sport fishing equipment. It provides for additional economic sanctions at the President's discretion on a finding by the Secretary of Commerce that this prohibition was insufficient to cause the termination of the practices.

Subtitle B of the Senate amendment broadens the import restrictions available to the President under the Fisherman's Protective Act of 1967 in response to practices of a country that diminish the effectiveness of international fishery conservation or endangered species programs, and expresses the sense of Congress that in carrying out trade negotiations, the President should seek to address environmental issues related to those negotiations.

Subtitle C of the Senate amendment prohibits U.S. vessels and nationals from fishing operations in the Central Bering Sea unless those are in accordance with an international fishery agreement, and requires the Secretary of the Treasury to deny entry into the United States of any fishing vessel listed by the Secretary of Commerce as conducting such operations.

Subtitle D of the Senate amendment amends various provisions of the Marine Mammal Protection Act of 1972 and the Magnuson Fishery Conservation and Management Act.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

XIII. GOVERNMENT RELATED CORPORATIONS

Prohibition on use of proceeds from issuance of U.S. Treasury securities unless entity is designated as qualified.

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

(1) *Prohibition on use of proceeds for certain purposes.*—Under the agreement Chapter 31 of Title 31 of the United States Code would be modified to prohibit the lending of proceeds from any issuance of U.S. Treasury securities to a Government-related corporation, unless that corporation is designated as a qualified entity and listed in Title 31, or unless the amounts lent are approved in advance in an appropriations Act. This provision would apply only to amounts lent to newly created Government-related corporations established by any law enacted after December 31, 1992, and would not affect the Treasury's current authority to lend to existing corporations. The provision specifically reserves to Congress the right to at any time, alter, amend, or repeal any law establishing or governing the activities of such corporation.

(2) *Requirements to become a qualified entity.*—In order to become qualified a qualified entity under Title 31, the enabling statute for a Government-related corporation would be required to address certain safety and soundness issues including effective federal supervision, minimum capital standards, and minimum rating standards by statistical rating organizations. Government-related corporations qualified under this provision are required to maintain one of the two highest investment grade ratings awarded by the statistical rating organizations unless the Secretary of the Treasury, in his sole discretion, waives this requirement.

(3) *Requirements for Federal oversight.*—

i. The Comptroller General of the United States and the Office of Management and Budget shall report to the Senate Committee on Banking and the House Committee on Ways and Means on the adequacy of provisions for effective federal supervision of safety and soundness contained in any bill to create a privately owned Government-sponsored enterprise.

ii. The Secretary of the Treasury is required, on at least an annual basis, to obtain reports by nationally recognized statistical rating organizations which assess the likelihood that the qualified corporation will be able to meet its obligations with its own resources, and shall report to the House Committee on Ways and Means and the Senate Committee on Banking on any matter contained in the rating agency reports with which the Secretary disagrees.

iii. The Secretary of the Treasury shall annually prepare and submit to the Senate Committee on Banking and the House Committee on Ways and Means a report on the impact of the issuance or guarantee of securities by all Government-related corporations on interest rates and the amount of discount on U.S. Treasury obligations, and on the marketability of Treasury obligations, that is, the effects of competition between Treasury obligations and those of Government-related corporations. The first annual report would be due on October 1 of the first calendar year that begins after enactment of this legislation.

Effective date.—On enactment.

XIV. SMALL GROUP HEALTH MARKET REFORM

A. IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

1. Grants to States for small employer health insurance purchasing programs

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to make grants to States to finance the administrative costs associated with developing and operating a group purchasing program for small employers, such as the costs associated with marketing and outreach efforts to inform small employers about the group purchasing program, negotiating with insurers to provide health insurance through such a program, or providing administrative functions such as eligibility screening, claims administration, and customer service.

Requires State grant applications to describe whether the program is to be operated by the State or through one or more State-sponsored private organizations and the details for such operation, any participation requirements for small employers, current and projected coverage rates of the eligible population, goals for reducing the costs of small employer insurance and expanding small employer coverage, approaches for enlisting insurers and small employers in the program, and the methods for evaluating the effectiveness of the program in increasing the number of uninsured and lowering the price of insurance.

Requires the Secretary in awarding the grants to consider the potential impact of a State's proposal on the cost of health insurance for small employers and on the number of uninsured, the need for regional variation in the awarding of grants, and funding programs employing a variety of approaches for establishing small employer health insurance. Prohibits grants from being awarded to States that do not meet the small group insurance standards required under the bill, or to States with group purchasing programs that do not meet those standards. Requires the States to annually report on their programs to the Secretary, and requires the Secretary to report to Congress by January 1, 1995 including information on the number and amount of grants awarded and an evaluation of the impact of the program.

Authorizes to be appropriated for fiscal years 1993, 1994, and 1995 such sums as may be necessary for the awarding of the grants.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate Amendment.

2. Study of use of Medicare rates by private health insurance plans

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to study and report to Congress by January 1, 1993 on the feasibility and desirability of the Secretary establishing payment rates, based upon Medicare payment rules, for optional use by private insurers. Provides that in developing the study, the Secretary take into account the findings and views of the Prospective Payment Assessment Commission and the Physician Payment Review Commission. Requires that the study and report evaluate: (1) the appropriateness of Medicare payment rules to determine payments for services furnished to non-Medicare populations (emphasizing services furnished to children); (2) the potential impact on private health insurance premiums, national health spending, and access to services (by Medicare beneficiaries and others) of requiring providers and practitioners to accept such rates as payment in full if the optional use of such rates is available to all private health insurance and employer health plans, or only to private health insurance sold to small employers or small employer health plans; and (3) the advantages and disadvantages of alternative mechanisms for enforcing such rates when private insurers opt to use them.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment

B. IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

1. Standards and requirements of small employer health insurance reform

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

(a) Application of Standards to Small Employer Health Plans.—Requires that insurers offering health plans to small employers (those with from 2 to 50 employees normally working 30 hours a week or more) meet requirements of a State regulatory system certified by the Secretary as meeting Federal standards or, in a State without such a system, be certified by the Secretary. Requires States to submit periodic reports on their regulatory programs. Permits a State to enact more stringent standards than the Federal minimum. Allows a waiver of standards relating to rating if a State has equally stringent but not identical standards in effect prior to January 1, 1992. Provides that standards are to be developed by the National Association of Insurance Commissioners (NAIC) by September 30, 1992, and approved by the Secretary. In the absence of approved NAIC action, the Secretary is to develop standards by December 31, 1992. Standards must include alternative standards for guaranteed availability and guidelines with respect to demographic rating fac-

tors. Requires the Secretary to review State regulatory systems periodically; if a State's program is decertified, the Secretary is to assume regulatory authority for insurance plans in the State. Requires the General Accounting Office (GAO) to review periodically a sample of State regulatory programs and report findings to the Secretary and Congress.

(b) Registration with Applicable Regulatory Authority.—Requires an insurer to register with the State insurance commissioner or other applicable authority in each State in which it issues or offers health insurance plans to small employers.

(c) Guaranteed Eligibility.—Provides that an insurer may not exclude or limit coverage for any eligible employee (one who normally works 30 hours per week or more), or any spouse or dependent child. Permits insurers to exclude coverage when an employer imposes a waiting period for coverage (unrelated to preexisting condition) for new employees, so long as the period applies to all new employees.

(d) Guaranteed Availability.—Requires States to adopt a mechanism for guaranteeing availability of coverage to all small employers. Federal standards must specify options for States, including: (a) guaranteed issue with an optional or mandatory reinsurance program; or (b) assignment of high-risk groups either among all small group insurers or only among those that do not agree to guaranteed issue. Permits a State to adopt another approach with the approval of the Secretary. Standards must also prohibit discriminatory marketing practices. Requires the Secretary of HHS, along with the Secretary of the Treasury, to develop a system to guarantee availability in States without approved regulatory systems.

Provides that an insurer may not refuse to renew or terminate a group except for cause (nonpayment of premiums, fraud or misrepresentation, failure to meet minimum participation requirements, or repeated misuse of a provider network provision). An insurer imposing minimum participation requirements (enrollment of a minimum percentage of eligible employees not otherwise insured) must impose them uniformly on all groups of comparable size.

(e) Guaranteed Renewability.—Provides that health plans must be renewable at the option of the employer unless the insurer terminates all its small group business with 180 days notice to the State/Secretary and to all covered groups. An insurer that does so may not issue small group coverage in the State for 5 years from the date of termination of the last nonrenewed plan.

(f) No Discrimination Based on Health Status for Certain Services.—Prohibits an insurer from denying, limiting, or conditioning coverage or benefits on the basis of an individual's health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability. Permits temporary exclusion of coverage for preexisting conditions. Defines a preexisting condition as one diagnosed or treated within 3 months before coverage under the employer plan begins (without regard to any general waiting period applicable to all new employees). Allows a maximum exclusion of 6 months from the date on which coverage begins. The exclusion cannot be applied to services to newborns. If, at the time of enrollment, an individual is in a period of continuous coverage with respect to the services otherwise excluded, the exclusion must be reduced by 1 month for each month the person has been in such a period. A period of continuous coverage begins when an individual is enrolled in any health insurance arrangement with substantially similar benefits and ends when the individual has not been so enrolled for 3 months.

(g) Restrictions on Rating Practices.—Provides that the base premium rate for any block of business may not exceed the base premium rate for any other block by more than 20 percent. The base rate is the lowest rate in the block for a group with comparable coverage and the same demographic (age/sex, family size, geography) characteristics. Blocks may be established on basis of: sales force, acquisition from other insurer, association of 25 or more small employers. Permits an insurer top establish no more than six blocks of small employers. The insurer may not transfer a group to a different block of business without consent, and must offer any transfer to all employers in the block, regardless of risk, age/sex, family size, geography, duration of coverage, or other factors.

Provides that the limit on the variation between blocks does not apply if: (a) the block is one for which the insurer does not reject (on the basis of claims experience, health status, industry, or occupation) and never has rejected, small employers or otherwise eligible employees and dependents who enroll on a timely basis, (b) the insurer does not involuntarily transfer, and has never involuntarily transferred, a health plan into or out of the block of business, and (c) that block of business was available for purchase at the time the exception is requested.

Provides that the premium rate for any group in a block of business may not (for reasons other than age, sex, family size and geography) be more than 1.5 times the "base rate" for the block in the first 3 years after the effective date, or more than 1.35 times the base rate in later years. Requires that age/sex, family size, and geographic adjustment factors be consistent for all small employers. Prohibits a geographic rating area smaller than a county or a 3-digit zip code area, whichever is smaller.

Provides that the renewal premium increase for any group may not be more than 5 percentage points higher than the increase in the base premium rate for the block of business.

Requires insurers to provide information on rating and renewal practices at the time a plan is offered, including rating factors used for a particular group, to provide notice of renewal terms at least 60 days before a contract expires, and to provide the State or the Secretary an opinion by a qualified actuary that the rates are in compliance and actuarially sound.

(h) Requirements to Offer Specified Benefits.—Requires that if an insurer offers any health insurance plan to small employers in a State, the insurer also offer a standard benefit package and a basic benefit package. Requires any insurer that offers any small employer insurance plan in a State, and that also offers a managed care plan to larger employers in a State or geographic area, to offer the managed care plan to smaller employers. The insurer may cease enrolling new small groups in all or part of its managed care plan service area only if it closes enrollment to all employer groups in the same area.

Defines the standard benefit package to include inpatient and outpatient hospital care (with not less than 45 days per year for treatment of mental disorders); inpatient and outpatient physicians' services (not less than 20 visits per year for psychotherapy or counseling); diagnostic tests; preventive services limited to prenatal and well-baby care provided to children age 1 or younger; well child care; Pap smears; mammograms; and colorectal screening services. Permits limits on preventive services if the limits are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

Provides that, notwithstanding any other provision of this bill, the standard health benefit package cover items and services for the treatment of severe mental illness, as defined by the Secretary, equally with items and services covered for the treatment of other illness without regard to any special limits placed on mental health benefits. Provides that if the Secretary finds that this requirement increases the cost of a standard benefit package, the Secretary must revise the provisions of the standard benefit package so that it is no more costly than it would have been without this requirement.

Prohibits insurers issuing a standard benefit package from requiring an employee to contribute more than 20 percent (for full-time employees) and 50 percent (for part-time employees) of the plan's monthly premium. Limits deductibles to $400 for a employee or single family member, and $700 per family for plan years beginning before January 1993. Indexes deductible amounts in subsequent years to the CPI–U (consumer price index for all urban consumers). Provides alternatively for the use of a wage-related deductible not to exceed 1 percent of an employee's wages for individual or family member coverage or 2 percent of wages per family.

Limits copayments or coinsurance to 20 percent; cost-sharing cannot exceed the out-of-pocket limit. Permits higher copayments or coinsurance to be charged by managed care plans for items and services provided by nonparticipating providers, and by a health insurance plan for failure to comply with utilization program requirements. Permits up to 50 percent coinsurance for mental health services.

Limits out-of-pocket expenses to $3,000 per year for individuals or families for plan years beginning before January 1, 1993. Indexes the out-of-pocket limit to the CPI–U. Provides alternatively for a wage-related, out-of-pocket limit not to exceed 10 percent of wages.

Defines the basic benefit package to include payment for inpatient and outpatient hospital care, including emergency services, inpatient and outpatient physician services, diagnostic tests, and preventive services. Permits a basic benefit package to include coverage for treatment of a mental disorder. Permits insurers to impose premiums, deductibles, copayments, or other cost-sharing on enrollees in small employer plans, but requires a limit on out-of-pocket expenses.

Preempts State laws or regulations that require health insurance plans offered to small employers to include items and services other than those specified under the standard and basic benefit packages offered to small employers except those laws or regulations requiring coverage of newborns, adopted children, or other specified categories of dependents.

Effective date—

Applies to health insurance plans offered, issued, or renewed for a small employer in a State on or after January 1, 1994. Permits a delay when State legislative action is required and the legislature does not meet in 1993. Limitations on premium variation related to risk factors and limits on premium differences among blocks of business do not apply to health insurance plans in effect on the effective date, or to renewals of such plans, until 2 years after the effective date.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

2. Excise tax on premiums received on health insurance policies which do not meet certain requirements

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Imposes a Federal excise tax on a person issuing health insurance plan to a small employer that fails to meet the specific standards of the bill. Requires the Secretary to determine whether any person meets those standards. Specifies the tax to be equal to 25 percent of the gross premiums received during the taxable year with respect to all health insurance plans issued to a small employer by the person on whom the tax is imposed. Defines all corporations which are members of the same controlled group of corporations to be one person. Defines partnerships, proprietorships, and other trades or business under common control to be one person.

Provides that the tax not apply in cases where: (1) the person did not know, and exercising reasonable diligence, would not have known that a failure existed, and (2) deficiencies are promptly corrected. Permits the Secretary, in the case of a failure due to reasonable cause and not to willful neglect, to waive the tax to the extent that its payment would be excessive relative to the failure. Provides for the nondeductibility of the tax.

Defines health insurance plan to mean any hospital or medical service policy or certificate, hospital or medical service plan contract, HMO group contract, or multiple employer welfare arrangement (MEWA), but does not include a self-insured group heath plan, a self-insured multiemployer group health plan, or specified other types of policies. Applies the provisions of the bill to the insurer of the arrangement in the case of a MEWA. Defines small employer to mean an employer normally employing in a year more than 1 but less than 51 eligible employees on a typical business day. Includes self-employed individuals as employees. Defines eligible employee to mean one who normally performs on a monthly basis at least 30 hours of service per week. Defines a person to mean any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a HMO, or a MEWA.

Effective date.—Enactment, except that the nondeductibility of the excise tax applies to taxable years beginning after December 31, 1991.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

3. General Accounting Office study and report on rating requirements and benefit packages for small group health insurance

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the General Accounting Office (GAO) to study and report to Congress by January 1, 1995, on the impact of standards for small group health insurance rating practices, the availability and price of small employer insurance, the differences in available benefit packages, the number of employers choosing standard or basic benefit packages, and the number of employers choosing to self-insure. It must also report on differences in State laws and regulations affecting the availability and price of health insurance sold to individuals and the impact of such laws and regulations, including the extension of small group requirements to individual health insurance and the establishment of State risk pools for individuals health insurance. In addition, the GAO would be required to make recommendations with respect to adjusting the rating standards to eliminate variation in small employer premiums resulting from adjustments for such factors as claims experience, health status, age, sex, and other demographic factors.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

C. IMPROVEMENTS IN PORTABILITY FOR PRIVATE HEALTH INSURANCE

1. Excise tax imposed on failure to provide for preexisting condition

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Imposes a Federal excise tax on a group health plan or any person failing to meet the preexisting condition, nondiscrimination, and disclosure requirements of this section with respect to any covered individual. Specifies the tax to equal $100 per day for each failure with respect to a covered individual for each day out of compliance. Provides that a failure shall be treated as corrected if the failure is retroactively undone to the extent possible, and the covered individual is placed in a financial position as good as such individual would have been in had the failure not occurred. Provides that the tax not be imposed: (1) for any period for which it is established by the Secretary that none of the persons knew, or exercising reasonable diligence would have known, that the failure existed; and (2) if the failure was due to reasonable cause and not to willful neglect, and such failure is corrected during a specified period. Permits the Secretary to waive part or all of the tax imposed to the extent that payment of the tax would be excessive relative to the failure.

Provides that the tax liability apply to the insuree, except that it apply to the employer in the case of a self-insured group health plan, and to the plan in the case of a multiemployer health plan. Provides also that the tax apply to each person legally responsible for administering or providing benefits under the group health plan, health insurance plan, or other health benefit arrangement (including a self-insured plan) and whose act or failure to act caused the noncompliance.

Prohibits a group health plan from denying, limiting or conditioning the coverage under (or benefits of) the plan based on health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual, except for limited preexisting condition exclusions. Limits preexisting condition exclusions to 6 months for conditions evident or treated within 3 months before the individual becomes covered. Provides that preexisting condition exclusions cannot be applied to services furnished to newborns. Provides that a preexisting condition exclusion be reduced 1 month for every month an individual has been in a period of continuous coverage. Defines a period of continuous service to mean, with respect to particular services, the period beginning when an individual is enrolled under a health insurance plan, Medicare, Medicaid, or other health benefit arrangement, and ends when the individual has not been enrolled for a continuous period of more than 3 months. Requires that any person who has provided coverage (other than Medicare or Medicaid) during a period of continuous coverage to disclose, upon the request of a group health plan the coverage provided the covered individual, the period of such coverage, and the benefits provided under such coverage.

Effective date.—Applies to plan years beginning on or after December 31, 1992.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

D. HEALTH CARE COST CONTAINMENT

1. Establishment of Health Care Cost Commission

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Establishes a Health Care Cost Commission to be composed of 11 members appointed by the President, by and with the advice and consent of the Senate. Members are to include experts on health insurance, health economics, provider reimbursement, and related fields, and must also include representatives of consumers, employers, State and local government, labor, providers, insurers, and experts on medical technology. Requires initial appointments within 6 months of enactment. Provides that the term of the Chairman will coincide with that of the President; terms of other members would be 3 years and would be staggered.

Requires the Commission to report to the President and Congress on national health care costs by March 30 of each year, including information on: (1) levels and trends in public and private health care spending by type of service, geographic region of the country, and public and private sources of payment; (2) levels and trends in the cost of private health insurance; (3) sources of high and rising health care costs; and (4) comparative trends in other countries and reasons for any differences from trends in the United States. The report would also discuss and assess the impact of public and private efforts to reduce growth in health care spending and include recommendations for cost containment efforts. Requires the Commission to make recommendations to the Secretary for development and ongoing review of managed care plans and utilization review programs.

Requires the Commission's first report to include recommendations for a national uniform claims form, national standards for reporting insurance coverage provisions, national standards for reporting by providers of diagnoses, services, and costs, and a strategy and schedule for implementing the recommendations by January 1, 1996. Requires that the Commission consider the potential use of electronic cards or other technology, confidentiality, and implementation issues for rural and inner-city areas. Provides that the Commission is to report annually on progress in implementing the standards and other approaches for reducing administrative costs.

Authorizes the Commission to employ staff, obtain assistance and information from other agencies, and enter into contracts. Specifies compensation for commissioners and bill authorizes to be appropriated for the Commission such sums as may be necessary.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

2. Federal certification of managed care plans and utilization review programs

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to develop a process for certification and periodic recertification of qualified managed care plans and qualified utilization review (UR) programs within 2 years after enactment. Defines a managed care plan as one operated by an insurer, HMO, employer or employee organization, or contractor that arranges for financing and delivery of services through arrangements with participating providers and that has explicit standards for provider selection, ongoing quality assurance and UR, and financial incentives for enrollees to use participating providers. Provides that a managed care plan shall be deemed certified if it meets the requirements for a risk-sharing contract under Medicare, or if it is certified by a State licensure program or national accreditation body whose standards, in the judgment of the Secretary, are at least equivalent to the Federal standards.

Provides that standards for managed care plans would relate to provider qualifications and staffing levels, quality assurance and emergency services. Standards for both managed care plans and UR programs would relate to qualifications of reviewers, review procedures, timeliness, appeals, confidentiality, and payment to providers for costs of responding to UR information requests.

Prohibits a State from limiting the ability of a qualified managed care plan to: use financial incentives to encourage enrollees to use plan providers; restrict coverage of out-of-plan services or services not authorized by a primary care provider; or negotiate rates (except in a State with an all-payer system) or contract with a limited number of providers. Prohibits a State from limiting the ability of a qualified managed care plan or qualified utilization review program to use UR procedures or criteria; requiring disclosure of review criteria; specifying the hours, qualifications, or residence of reviewers; requiring payment to providers of the costs of responding except as specified in Federal standards; limiting payment for UR; restricting access to needed information; or defining UR as the practice of medicine or another health profession. Permits a State to require that UR be conducted by licensed health professionals and that appeals be reviewed by physicians or by appropriate specialists. Permits a State Medicaid program to impose standards on managed care plans or UR programs as necessary to comply with Federal Medicaid requirements.

Effective date.—Enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

3. Additional funding for outcomes research

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1989 authorized funding in the Department of Health and Human Services through the Agency for Health Care Policy and Research, for research on the outcomes, effectiveness, and appropriateness of health care services and procedures. Authorization for appropriations for these activities are set at $110 million for fiscal year 1992, two-thirds of which is appropriated from Medicare trust funds; $148 million for fiscal year 1993; 70 percent of which is appropriated from the Medicare trust funds; and $185 million for fiscal year 1994, 70 percent of which is appropriated from the Medicare trust funds.

HOUSE BILL

No provision.

SENATE AMENDMENT

Authorizes appropriations of $175 million in fiscal year 1992, $225 million in fiscal year 1993, $275 million in fiscal year 1984, and $300 million in fiscal year 1995. Provides that the amount contributed from the Medicare trust funds in fiscal years 1993 and 1994 would be reduced to 50 percent of the total appropriation.

Effective date.—Enactment.

CONFERENCE REPORT

The conference report does not include the Senate amendment.

E. MEDICARE PREVENTION BENEFITS

1. Coverage of certain immunizations

PRESENT LAW

With certain exceptions, Medicare does not generally cover preventive health services. OBRA 1987 established a demonstration project to test the cost effectiveness of including coverage of influenza vaccine under the Medicare program. The legislation required that a report on the cost effectiveness of the benefit be submitted to Congress by October 1, 1990. If the results were inconclusive, the demonstration would be extended an additional two years with a final report submitted to Congress by April 1, 1993. The demonstration is slated to end September 1992. Medicare will not pay for influenza vaccines except at the designated test sites.

HOUSE BILL

No provision.

SENATE AMENDMENT

Authorizes Medicare Part B coverage for influenza vaccine and its administration and tetanus-diphtheria booster and its administration. Payment may not be made more frequently than once a year for the influenza vaccine and once every ten years for the tetanus diphtheria booster.

Effective date.—Applies to influenza vaccines administered on or after October 1, 1992 and tetanus diphtheria boosters administered on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

2. Coverage of well-child care

PRESENT LAW

Medicare coverage is provided for persons suffering from end-stage renal disease. Included in this group are approximately 300 children under the age of 7.

HOUSE BILL

No provision.

SENATE AMENDMENT

Authorizes Medicare Part B coverage for well-child services provided to an individual who is entitled to Medicare and is under 7 years old.

Defines "well-child services" as well child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care, which are provided in accordance with a periodicity schedule. The Secretary is required to establish this periodicity schedule in consultation with the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and other entities considered appropriate by the Secretary. The periodicity table is to reflect the appropriate frequency with which the covered services should be provided to healthy children. Medicare payment is precluded for services provided at more frequent intervals than specified in the periodicity table.

Effective date.—Applies to well-child services provided on or after January 1, 1993.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

3. Demonstration projects for coverage of other preventive services

PRESENT LAW

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), as amended by OBRA 1990, requires the Secretary to establish a 5 year demonstration program to measure the costs and benefits of providing preventive services to Medicare beneficiaries. The program must be conducted at no fewer than five demonstration sites. An interim report is due April 1993 and a final report (including a comprehensive evaluation of the long-term effects of the program) is due April 1995.

HOUSE BILL

No provision.

SENATE AMENDMENT

Requires the Secretary to establish and provide for a series of ongoing demonstration projects under which the Secretary is to provide coverage of specified preventive services under Medicare. The purpose of the projects is to test the feasibility and desirability of expanding Medicare's coverage of medical and other health services to include coverage of specified preventive services for all Part B beneficiaries. Further, the projects are to determine the appropriate methods for the delivery of the preventive services to Medicare beneficiaries.

Requires the Secretary to conduct the projects at the demonstration sites established under the COBRA provision as well as at such other sites the Secretary considers appropriate.

Requires the Secretary to cover the following services under the series of demonstration projects:

glaucoma screening;

cholesterol screening and cholesterol reducing drug therapies;

screening and treatment for osteoporosis, including tests for bone-mass measurement and hormone replacement therapy;

screening services for pregnant women, including ultrasound and clamydial testing and maternal serum alfa-protein;

one-time comprehensive assessment for individuals beginning at age 65 or 75;

prostate-specific antigen (PSA) testing; and

other services considered appropriate by the Secretary.

Not more than one specified service may be covered at each site.

Requires the Secretary to submit biennial reports, beginning October 1, 1994, to the

Senate Committee on Finance and the House Committees on Ways and Means and Energy and Commerce. The reports are to describe the findings made under the demonstration projects during the previous 2 years and the Secretary's plans for the projects during the succeeding 2 years.

Authorizes appropriations from the Federal Supplementary Medical Insurance trust fund of $4 million in FY 1993 and in FY 1994, $5 million in FY 1995 and in FY 1996, and $6 million in FY 1997.

Effective date.—Enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

4. OTA study of process for review of Medicare coverage of preventive services

Present Law

Medicare law generally excludes coverage of preventive services. The Department has an established process for making coverage decisions for medical procedures and technologies which, if approved, could be included under one of the covered service categories (such as physicians' services).

House Bill

No provision.

Senate Amendment

Requires the Director of the Office of Technology Assessment (OTA), subject to the approval of the Technology Assessment Board, to conduct a study to develop a regular review process for consideration of coverage of preventive services under Medicare. The study is to include a consideration of the different types of evaluations, the use of demonstration projects to obtain data and experience, and the types of measures, outcomes and criteria that should be used in making coverage decisions.

Requires the OTA Director to submit a report on the study, within 2 years of enactment, to the Senate Committee on Finance and the House Committees on Ways and Means and Energy and Commerce.

Effective date.—Enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

5. Financing of additional benefits

Present Law

Ordinarily, the basic Part B premium paid by enrollees is the lower of: (a) an amount sufficient to cover one-half of the program costs for the aged, or (b) the previous year's premium increased by the percentage increase in Social Security cash benefits payments.

This general requirement has been superseded since 1984. For the period 1984–1990, the Congress approved a series of amendments which set the Part B premium equal to 25 percent of the program costs for the aged. OBRA 1990 established specific dollar amounts for calendar years 1991–1995; these amounts were based on projections of 25 percent of program costs. The premiums established by OBRA 1990 are:

$29.90 in 1991
$31.80 in 1992
$36.60 in 1993
$41.10 in 1994
$46.10 in 1995

The calculation of the Part B premium will revert to the basic rules beginning in 1996.

House Bill

No provision.

Senate Amendment

Adds $0.10 per month to the Part B premiums for 1993–1996. (The amount is based on the Congressional Budget Office's estimate of 25 percent of the cost of the new benefits.) The premiums for these years are:

$36.70 in 1993
$41.20 in 1994
$46.20 in 1995

Specifies that (except as provided in provisions relating to delayed enrollment penalties and prohibiting reduction in social security checks) $0.10 is to be added to the monthly premiums otherwise determined for 1996 and 1997.

Effective date.—Enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

XV. CAR THEFT PREVENTION

Present Law

At present, Chapter 103 of Title 18, United States Code, does not define a Federal crime for armed carjacking. Similarly, United States Code does not provide for civil or criminal forfeiture of property that can be linked to various acts of auto theft or the commerce of stolen automobiles.

The FBI has recently instituted special task forces to assist State and local law enforcement officials in responding to the recent rash of armed carjackings.

House Bill

No provision.

Senate Amendment

The Senate amendment addresses car theft prevention with three measures:

(1) The amendment defines a new Federal offense for armed auto theft, as well as taking or attempting to take an auto by force and violence, or by intimidation. In addition, various acts of auto theft can result in civil or criminal forfeiture penalties.

(2) The amendment directs the Department of Justice to make grants to Anti Car Theft Committees to further assist them in deterring automobile theft.

(3) The amendment provides that the Secretary of Transportation and the Attorney General, acting jointly, may form a national task force composed of representatives from various government agencies, both Federal and State, and the private sector for the purpose of studying the problem of auto theft and recommending State or Federal remedies.

Conference Agreement

The conference agreement does not include the Senate amendment.

From the Committee on Ways and Means, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J.J. Pickle,
Charles B. Rangel,
Pete Stark,
Guy Vander Jagt,

Provided, that solely for consideration of sections 6211–6214 and 7101–7162 of the House bill, and sections 6211–6214, 7107–7177, and 7180–7181 of the Senate amendment, Mr. Downey is appointed in lieu of Mr. Stark and Mr. Shaw is appointed in lieu of Mr. Crane.

Thomas J. Downey,

Provided, that solely for consideration of sections 6201 and 7001–7014 of the House bill and sections 6201, 7001–7006, 7178 and 7179 of the Senate amendment, Mr. Jacobs is appointed in lieu of Mr. Stark and Mr. Bunning is appointed in lieu of Mr. Crane.

Andrew Jacobs, Jr.,
Jim Bunning,

Provided, that solely for consideration of sections 2171–2185, 6220–6251, and titles XIV–XVI of the Senate amendment, Mr. Gradison is appointed in lieu of Mr. Crane.

Willis D. Gradison, Jr.,

Provided, that solely for consideration of title V of the House bill, and title V of the Senate amendment, Mr. Schulze is appointed in lieu of Mr. Crane.

Richard T. Schulze,

Pursuant to the authority granted on September 30, the Chair announces the following modifications in the appointment of conferees on H.R. 11, Revenue Act of 1992:

As additional conferees from the Committee on Agriculture, for consideration of sections 7123, 7126 and title VIII of the House bill, and sections 7171 and 7173 and title VIII of the Senate amendment, and modifications committed to conference:

E de la Garza,
Robin Tallon,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Mary Rose Oakar,
Chalmers P. Wylie,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9212 of the Senate amendment, and modifications committed to conference:

Esteban E. Torres,
Carroll Hubbard, Jr.,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9232 of the Senate amendment, and modifications committed to conference:

Frank Annunzio,
Carroll Hubbard, Jr.,

As additional conferees from the Committee on Education and Labor, for consideration of sections 7123 and 7125 of the House bill, and sections 2173, 4246, 7102, 7134(c), 7142–7143, 7151, 7171, 7172, and 7176 of the Senate amendment, and modifications committed to conference:

William D. Ford,
Pat Williams,
M.G. Martinez,
Carl C. Perkins,

As additional conferees from the Committee on Education and Labor, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

William D. Ford,
Joseph M. Gaydos,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 7104, 7123, 7125, and 7126 of the House bill, and sections 2171–2173, 2175, 2177–2185, 6220, 6231–6251, 7109, 7121, 7136, 7171–7174, 10011(b), 10201, 14111–14140, titles XI, XV, and XVI of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Cardiss Collins,
Henry A. Waxman,
Gerry Sikorski,
Terry L. Bruce,

Provided, that solely for consideration of sections 10011(b) and 10201 and title XI of the Senate amendment, Mr. Markey, Mr. Synar, and Mr. Boucher are appointed in lieu of Mr. Waxman, Mr. Sikorski, and Mr. Bruce:

Ed Markey,
Mike Synar,
Rick Boucher,

As additional conferees from the Committee on Energy and Commerce, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Henry A. Waxman,

As additional conferees from the Committee on the Judiciary, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Charles Schumer,

As additional conferees from the Committee on the Judiciary, for consideration of section 9204 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Don Edwards,
Mike Synar,
John Bryant,
Harley O. Staggers, Jr.,

As additional conferees from the Committee on the Judiciary, for consideration of title X of the Senate amendment, and modifications committed to conference:

Jack Brooks,
Charles Schumer,
William J. Hughes,
John Bryant,
George E. Sangmeister,
F. James Sensenbrenner,
Steven Schiff,
Jim Ramstad,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of title XII and XIII of the Senate amendment, and modifications committed to conference:

Gerry E. Studds,
Carroll Hubbard, Jr.,
William J. Hughes,
Billy Tauzin,
Jolene Unsoeld,
Bob Davis,
Don Young,

As additional conferees from the Committee on Ways and Means, for consideration of sections 7123, 7125, 7126, and title VIII of the House bill, and sections 2173, 7171, 7173, titles VIII and X of the Senate amendment, and modifications committed to conference:

Andrew Jacobs, Jr.,
Harold E. Ford,
Ed Jenkins,
Tom Downey,
Frank Guarini,
Marty Russo,
Don Pease,
Managers on the Part of the House.

Lloyd Bentsen,
Max Baucus,
David Boren,
George Mitchell,
David Pryor,
Bob Packwood,
William V. Roth, Jr.,
John C. Danforth,
John H. Chafee,

From the Committee on Banking, Housing, and Urban Affairs; the Judiciary; and Labor, and Human Resources, for the consideration of title 8 of the Senate amendment only:

Edward M. Kennedy,
Don Riegle, Jr.,
Joe Biden, Jr.,
Managers on the Part of the Senate.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 3927. The Committee on Ways and Means discharged from further consideration of H.R. 3927; H.R. 3927 referred to the Committee of the Whole House on State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KOSTMAYER:

H.R. 6179. A bill to amend the Wild and Scenic River Act; to the Committee on Interior and Insular Affairs.

By Mr. MARKEY:

H.R. 6180. A bill to authorize appropriations for the National Telecommunications and Information Administration, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself and Mr. Waxman):

H.R. 6181. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize human drug application, prescription drug establishment, and prescription drug product fees and for other purposes; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself, Mr. Waxman, Mrs. Schroeder, Mrs. Lloyd, and Mr. Ford of Michigan):

H.R. 6182. A bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes; to the Committee on Energy and Commerce..

By Mr. WYDEN:

H.R. 6183. A bill to amend the Public Health Service Act to provide protection from legal liability for certain health care professionals providing services pursuant to such act; to the Committee on Energy and Commerce.

By Mrs. BYRON (for herself, Mr. Mfume, Mr. Guarini, Mr. Traficant, Mr. Payne of Virginia, Mr. Frost, Mr. Jontz, Mr. Mollohan, Mr. Ray, Mr. Lagomarsino, Mr. Cardin, and Mrs. Bentley):

H.R. 6184. A bill to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail; to the Committee on Interior and Insular Affairs.

By Mr. HUGHES (for himself and Mr. Moorhead):

H.R. 6185. A bill to implement the recommendations of the Federal Courts Study Committee, and for other purposes; to the Committee on the Judiciary.

By Mr. RICHARDSON:

H.R. 6186. A bill to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FASCELL (for himself, Mr. Broomfield, Mr. Feighan, Mr. Gilman, Mr. Ackerman, Mr. Johnston of Florida, Mr. Payne of New Jersey, Mr. Yatron, Mrs. Meyers of Kansas, and Mr. Goss):

H.R. 6187. A bill to amend the Foreign Assistance Act of 1961 with respect to international narcotic control programs and activities, and for other purposes; to the Committee on Foreign Affairs.

By Mr. ESPY (for himself and Mr. Emerson):

H.R. 6188. A bill to promote economic development in the Lower Mississippi Delta by establishing the Lower Mississippi Delta Development Financing Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ALEXANDER:

H.R. 6189. A bill to amend section 301 of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. LEHMAN of California (for himself and Mrs. Vucanovich):

H.R. 6190. A bill to amend the Stock Raising Homestead Act to provide certain procedures for entry into Stock Raising Homestead Act lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SWIFT (for himself and Mr. Markey):

H.R. 6191. A bill to protect the public interest and the future development of pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, and for other purposes; to the Committee on Energy and Commerce.

By Mr. COX of California (for himself, Mr. Packard, Mr. Dornan of California, Mr. Dannemeyer, and Mr. Rohrabacher):

H.R. 6192. A bill to designate the U.S. Federal building and U.S. courthouse to be located at Fifth and Ross Streets in Santa Ana, CA, as the "Ronald Reagan Federal Building and Courthouse"; to the Committee on Public Works and Transportation.

By Mr. COX of California:

H.R. 6193. A bill to designate the U.S. Federal building and U.S. courthouse to be located at Fifth and Ross Streets in Santa Ana, CA, as the "Ronald Reagan Building," and to designate the Gallipolis Locks and Dam, Ohio River and West Virginia, as the "Robert C. Byrd Locks and Dam"; to the Committee on Public Works and Transportation.

By Mr. ANDREWS of New Jersey (for himself and Mr. Gunderson):

H.R. 6194. A bill to amend the Occupational Safety and Health Act to provide for uniform warnings on personal protective equipment for occupational use; to the Committee on Education and Labor.

By Mr. CARR:

H.R. 6208. A bill to amend the Internal Revenue Code of 1986 to restore income averaging and thereby provide economic stimulus to the agriculture industry; to the Committee on Ways and Means.

By Mr. COX of California (for himself, Mr. Gingrich, Mr. Armey, Mr. Zeliff, Mr. Riggs, Mr. Hancock, Mr. Packard, Mr. Doolittle, Mr. Thomas of Wyoming, Mr. Taylor of North Carolina, Mr. DeLay, Mr. Duncan, Mr. Campbell of California, Mr. Paxon, Mr. Dreier of California, Mr. Burton of Indiana, Mr. Rohrabacher, Mr. Dannemeyer, Mr. Kyl, Mr. Moorhead, Mr. Lagomarsino, Mr. Goss, Mr. Ramstad, Mr. Weber, Mr. Condit, Mr. Bunning, Mr. Shaw, Mr. McGrath, Mr. Gallegly, Mr. Young of Alaska, Mr. Ridge, Mr. Hunter, Mr. Crane, Mr. Ballenger, Mr. Ravenel, Mr. Coble, Mr. Callahan, Mr. Broomfield, Mr. Vander Jagt, Mr. Herger, Mr.

James, Mr. Schiff, Mr. Solomon, Mr. Stump, Mr. Roth, Mr. Livingston, Mr. Pursell, Mr. Holloway, Mr. Baker, Mr. Nichols, and Mr. Ewing):

H.R. 6196. A bill to amend the Internal Revenue Code of 1986 to provide greater tax fairness and encourage economic growth; to the Committee on Ways and Means.

By Mr. GUNDERSON:

H.R. 6197. A bill entitled "Employment Dispute Resolution Act"; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. KENNEDY:

H.R. 6198. A bill to reduce the incidence of stalking and for other purposes; to the Committee on the Judiciary.

By Mr. LENT:

H.R. 6199. A bill to establish a voluntary environmental response program to encourage the expeditious remediation of contaminated sites; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, and Science, Space, and Technology.

By Mr. SCHUMER:

H.R. 6200. A bill entitled "National Child Protection Act of 1991"; to the Committee on the Judiciary.

H.R. 6201. A bill to control crime; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. SLATTERY:

H.R. 6202. A bill to amend title XIX of the Social Security Act and title 38, United States Code, to establish limits on the prices of prescription drugs procured by the Department of Veterans Affairs or purchased by certain clinics and hospitals, and for other purposes; jointly, to the Committees on Veterans' Affairs and Energy and Commerce.

H.R. 6203. A bill to extend supplemental security income benefits to all otherwise eligible children of military personnel stationed overseas; to the Committee on Ways and Means.

H.R. 6204. A bill to amend title XI of the Social Security Act to allow an adult from each family applying for aid to families with dependent children to attest to the citizenship status of the members of the family; to the Committee on Ways and Means.

By Mr. UPTON (for himself and Mr. Roemer):

H.R. 6205. A bill to restore Federal services to the Pokagon Band of Potawatoni Indians; to the Committee on Interior and Insular Affairs.

By Ms. WATERS:

H.R. 6206. A bill to amend the Community Reinvestment Act and the Home Mortgage Disclosure Act of 1975 to improve the availability of credit on a nondiscriminatory basis; to the Committee on Banking, Finance and Urban Affairs.

H.R. 6207. A bill to amend the Higher Education Act of 1965 to establish limitations on debt collection practices under that act; to the Committee on Education and Labor.

H.R. 6208. A bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a Women in Enterprise Development Program to support the economic empowerment of women in developing countries; to the Committee on Foreign Affairs.

H.R. 6209. A bill to amend part A of title IV of the Social Security Act to improve the program of aid to families with dependent children; to the Committee on Ways and Means.

H.R. 6210. A bill to establish a program to provide grants to improve the quality and availability of comprehensive education, health and social services for at-risk youth and their families, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. GEPHARDT:

H.J. Res. 563. Joint resolution providing for the convening of the 1st session of the 103d Congress; considered and agreed to.

By Mr. MILLER of California:

H. Con. Res. 382. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 429; considered and agreed to.

By Mr. MILLER of Washington (for himself, Mr. Wyden, Mr. McDermott, Mr. Morrison, Mr. Dicks, Mr. Swift, Mrs. Unsoeld, and Mr. Chandler):

H. Con. Res. 383. Concurrent resolution concerning United States participation in a Cascadia Corridor commission; to the Committee on Foreign Affairs.

By Mr. GEPHARDT:

H. Con. Res. 384. Concurrent resolution providing for the sine die adjournment of the 2d session of the 102d Congress; considered and agreed to.

By Mr. STUDDS:

H. Res. 610. Resolution to provide for the consideration of the Senate amendment to H.R. 2130; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 611. Resolution providing for the printing of a revised edition of the Rules and Manual of the House of Representatives for the 103d Congress; considered and agreed to.

H. Res. 612. Resolution relating to early organization of the House of Representatives for the 103d Congress; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. Flake, Mr. Cox of California, Mr. Hopkins, and Mr. Mavroules.

H.R. 281: Mr. Campbell of California.

H.R. 609: Mr. Campbell of California.

H.R. 643: Mr. Emerson.

H.R. 791: Mr. Swett.

H.R. 852: Mr. Espy.

H.R. 1124: Mr. Shaw and Mr. Ray.

H.R. 1126: Mr. Ackerman.

H.R. 1196: Mr. Campbell of California and Mr. Stearns.

H.R. 1217: Mr. Shays.

H.R. 1259: Ms. Molinari.

H.R. 1311: Mr. Schulze.

H.R. 1312: Mr. Schulze.

H.R. 1385: Mr. Horton, Mr. Santorum, Mr. Coble, Mr. Chapman, Mr. McMillan of North Carolina, and Mr. Valentine.

H.R. 1468: Mr. Hobson.

H.R. 1473: Mr. Ridge and Mr. Swett.

H.R. 1502: Mr. Glickman.

H.R. 2336: Mr. Campbell of California.

H.R. 2716: Mr. Campbell of California.

H.R. 2819: Mr. Sisisky.

H.R. 2916: Mr. Campbell of California and Mr. Allen.

H.R. 3137: Mr. Shays.

H.R. 3160: Mr. Blackwell.

H.R. 3277: Mrs. Morella, Mr. Swift, Mr. Spence, Mr. Sarpalius, Mr. Valentine, and Mr. Dorgan of North Dakota.

H.R. 3373: Mr. Bereuter and Mr. Mazzoli.

H.R. 3928: Mr. Gallegly.

H.R. 3956: Mr. McDermott.

H.R. 4061: Mr. Bruce.

H.R. 4066: Mrs. Mink, Mr. Ramstad, and Mr. Kolter.

H.R. 4204: Mr. Upton and Mr. Quillen.

H.R. 4280: Mr. Upton.

H.R. 4311: Ms. Oakar, Mr. Jones of Georgia, Mr. Evans, Mr. Campbell of Colorado, Mr. Bilirakis, and Mr. Bacchus.

H.R. 4725: Mr. Sabo.

H.R. 4750: Mr. Hayes of Illinois.

H.R. 4754: Mr. Ortiz.

H.R. 4764: Mr. Ritter.

H.R. 5020: Mr. Crane, Mr. Clement, Ms. Kaptur, and Mr. Hoagland.

H.R. 5070: Mr. Berman, Mr. Sanders, Mr. Dellums, Mr. Owens of New York, and Mr. Payne of New Jersey.

H.R. 5117: Mr. Hobson.

H.R. 5162: Mr. Morrison and Mr. Solarz.

H.R. 5176: Mr. Cox of California.

H.R. 5216: Mr. Cramer.

H.R. 5250: Mr. Taylor of North Carolina.

H.R. 5276: Mr. Rhodes.

H.R. 5297: Mr. Swett, Mr. Studds, Mr. Ritter, and Mr. Zimmer.

H.R. 5367: Mr. Kostmayer and Mr. Rose.

H.R. 5375: Mrs. Meyers of Kansas.

H.R. 5433: Mr. Porter.

H.R. 5449: Mr. Hoagland.

H.R. 5476: Mr. Panetta, Mr. Ray, and Mr. Vento.

H.R. 5478: Mr. Neal of North Carolina, Mr. Derrick, Mr. Bevill, Mr. Jefferson, Mr. de la Garza, Mr. Smith of Florida, Mr. Hall of Texas, and Mr. Lewis of Georgia.

H.R. 5507: Mr. Morrison.

H.R. 5512: Ms. Slaughter and Mr. Shays.

H.R. 5513: Mr. Cox of California.

H.R. 5531: Mr. Owens of Utah, Mrs. Collins of Michigan, Mr. Evans, and Mrs. Morella.

H.R. 5559: Mr. Myers of Indiana, Mr. Martinez, Mr. Baker, Mr. Ravenel, Mr. Owens of Utah, Mr. Ortiz, Mr. Schiff, Mr. Ray, Mr. McDermott, and Mr. Levine of California.

H.R. 5579: Mr. Lipinski.

H.R. 5591: Mr. Crane.

H.R. 5633: Mr. Green of New York and Mr. Gejdenson.

H.R. 5634: Mr. Green of New York, Mr. Gejdenson, Mr. Roe, and Mr. Blackwell.

H.R. 5676: Mr. Mineta.

H.R. 5703: Mr. Skeen and Mr. Schaefer.

H.R. 5738: Mr. Lewis of Georgia.

H.R. 5745: Mr. Clinger and Mr. Ballenger.

H.R. 5790: Mr. Weldon.

H.R. 5794: Ms. DeLauro.

H.R. 5807: Mr. Green of New York, Mr. Gejdenson, Mr. Levine of California, Mr. Lewis of Florida, and Mr. Hyde.

H.R. 5815: Ms. Kaptur.

H.R. 5828: Mr. Paxon, Mr. Coleman of Texas, Mr. Ramstad, Mr. Miller of Washington, and Mr. Wilson.

H.R. 5872: Mr. Saxton, Mr. Tallon, Mr. Moorhead, Mr. Miller of Washington, Mr. Yates, Mr. McCollum, Mr. Ray, Mr. Blaz, Mr. Gekas, Mr. Hutto, Mr. Skelton, Mr. Ford of Tennessee, Mr. Evans, Ms. Slaughter, Mr. Hansen, Mr. Cramer, Mr. Martinez, and Mr. Towns.

H.R. 5877: Mr. Lewis of Florida.

H.R. 5897: Mr. Bateman.

H.R. 5936: Mr. Spratt.

H.R. 5947: Mr. Jontz.

H.R. 5948: Mr. Jontz and Mr. Solomon.

H.R. 5957: Ms. DeLauro.

H.R. 5960: Mr. Crane, Mr. McCollum, Mr. Riggs, Mr. Hammerschmidt, Mr. Ireland, Mrs. Meyers of Kansas, Mr. Emerson, Mr. Young of Alaska, Mrs. Johnson of Connecticut, Mr. Walker, Mr. Gingrich, Mr. Michel, Mr. Houghton, and Mr. Shaw.

H.R. 5973: Mr. LaFalce.

H.R. 5977: Mr. Santorum.

H.R. 6003: Mr. Emerson, Mr. Hobson, and Mr. Spence.

H.R. 6023: Mr. Hayes of Illinois.

H.R. 6033: Mr. Hayes of Illinois and Mr. Mazzoli.

H.R. 6075: Mr. MOLLOHAN, Mr. CHAPMAN, Mr. McCANDLESS, Mr. VENTO, Mr. BRYANT, and Mr. LANCASTER.

H.R. 6107: Mr. GOODLING.

H.R. 6112: Mr. JONTZ.

H.R. 6131: Mr. EMERSON.

H.R. 6132: Mr. KOSTMAYER.

H.J. Res. 240: Mr. GEREN of Texas.

H.J. Res. 358: Mr. CONYERS.

H.J. Res. 450: Mr. PASTOR.

H.J. Res. 455: Mr. SKELTON, Mr. LaFALCE, and Mr. STENHOLM.

H.J. Res. 458: Mr. CAMPBELL of California.

H.J. Res. 463: Mr. COBLE, Mr. HENRY, Mr. FAZIO, Mr. DICKINSON, Mr. RIGGS, Mr. BRYANT, Mr. BLILEY, Mr. STARK, Mr. DURBIN, Mr. BILIRAKIS, Mr. CALLAHAN, Mr. KLUG, and Mr. SOLARZ.

H.J. Res. 468: Ms. OAKAR.

H.J. Res. 471: Mr. COBLE, Mr. FAWELL, Mr. RAMSTAD, Mr. RAVENEL, Mr. KOPETSKI, Mr. HATCHER, Mr. BOUCHER, Mr. GILCHREST, Mr. WYDEN, Mr. SABO, Mr. STUMP, Mr. ABERCROMBIE, Mr. HOAGLAND, Mr. VOLKMER, Mr. HUGHES, Mr. SARPALIUS, Mr. McCOLLUM, Mr. LEWIS of Georgia, Mr. COOPER, Ms. PELOSI, Mrs. BYRON, Mr. AuCOIN, Mr. DIXON, Mr. SAVAGE, Mr. SKEEN, Mr. GINGRICH, Mr. BRUCE, Mr. INHOFE , Mr. LEVINE of California, Mr. SCHIFF, Mr. BURTON of Indiana, Mr. HAMILTON, Mr. MAVROULES, Mrs. BOXER, Mr. HUTTO, Mr. HOCHBRUECKNER, Mr. JEFFERSON, Mr. DYMALLY, Mr. FROST, Mr. DORNAN of California, Mrs. BENTLEY, Mr. JONES of Georgia, Mr. TRAXLER, Mr. DOOLITTLE, Ms. WATERS, Mr. NICHOLS, Mrs. MORELLA, Ms. LONG, Mr. GEJDENSON, Mr. REED, Mr. WELDON, Mr. OBEY, Mr. TAUZIN, Mr. BOEHLERT, Mr. DE LA GARZA, Mr. TALLON, Mr. STUDDS, Mr. ANDERSON, Mr. KOSTMAYER, Mr. PAXON, Mr. COX of California, Mr. FRANKS of Connecticut, Mrs. UNSOELD, Mr. PALLONE, Mr. HERTEL, Mr. WILSON, Mr. HOBSON, Mr. LUKEN, Ms. MOLINARI, Mr. JONTZ, Mr. BUSTAMANTE, Mr. ENGEL, Ms. SNOWE, Mr. LIPINSKI, Mr. FORD of Tennessee, Mr. SHUSTER, Mr. SPENCE, Mr. SWETT, Mr. ASPIN, Mr. STOKES, Mr. DWYER of New Jersey, Mr. GEREN of Texas, Mr. DAVIS, Mr. ROWLAND, Mr. TORRICELLI, Mrs. LOWEY of New York, Mr. MATSUI, Mr. HOUGHTON, Mr. OBERSTAR, Mr. NOWAK, Mr. SYNAR, Mr. LEHMAN of California, Mr. RAHALL, Mr. BAKER, Mr. NEAL of Massachusetts, Mr. TRAFICANT, Mr. ROGERS, Mr. DUNCAN, Mr. HASTERT, Mr. PORTER, Mr. PURSELL, Mr. BROOMFIELD, Mr. STAGGERS, Mr. ALEXANDER, Mr. ANDREWS of Maine, Mr. CAMPBELL of Colorado, Mr. VENTO, Mr. VANDER JAGT, Mr. WEBER, Mr. SCHEUER, and Mr. DELLUMS.

H.J. Res. 474: Mr. RAVENEL.

H.J. Res. 479: Mr. PORTER and Mr. DANNEMEYER.

H.J. Res. 493: Mr. SANTORUM.

H.J. Res. 495: Mr. BRUCE.

H.J. Res. 498: Mr. DURBIN, Mr. SKELTON, Mr. STALLINGS, Mr. CONYERS, Mr. LEACH, Mrs. COLLINS of Illinois, Mr. BERMAN, and Mr. WHEAT.

H.J. Res. 524: Mr. SANDERS, Mr. ZELIFF, and Mr. JOHNSON of South Dakota.

H.J. Res. 530: Mr. PETERSON of Florida, Mr. SARPALIUS, Mr. KANJORSKI, Mr. JOHNSON of South Dakota, Mr. HANSEN, Mr. ARCHER, Mr. CLINGER, Mr. FAWELL, Mr. DICKINSON, Mr. HUTTO, Mr. ABERCROMBIE, Mr. BARNARD, Mr. HARRIS, Mr. FOGLIETTA, Mr. HOAGLAND, Mr. BILIRAKIS, Mr. SPRATT, Mr. COX of California, Mr. RIDGE, Mr. LaROCCO, Mr. OWENS of Utah, Mrs. MORELLA, Mrs. BENTLEY, Mr. VALENTINE, Mr. CHAPMAN, Mr. HAMILTON, Mr. ROE, Mr. BREWSTER, Mr. HUBBARD, Mr. FLAKE, Mr. EVANS, Mr. PRICE, Mr. COOPER, Mr. ACKERMAN, Mr. FAZIO, Mr. LEWIS of Georgia, Mr. GILCHREST, Mr. DONNELLY, Mr. GINGRICH, Mr. PASTOR, MR. OXLEY, Mr. FISH, Mr. LEACH, Mr. McHUGH, Ms. MOLINARI, Ms. DeLAURO, Mr. STUMP, Mr. NOWAK, Mr. NEAL of Massachusetts, Mr. GILMAN, Ms. SLAUGHTER, Mr. GALLO, Mr. TORRICELLI, Mr. PALLONE, Mrs. MINK, Mr. HUGHES, Mr. RAY, Mr. CONYERS, Mr. BENNETT, Mr. SAXTON, Mrs. KENNELLY, Mr. PACKARD, Mr. RAMSTAD, Mr. SERRANO, Mr. SMITH of Florida, Mr. YATES, Mrs. COLLINS of Michigan, Mr. HALL of Texas, Mr. SMITH of Iowa, Mr. FORD of Michigan, and Mr. ROTH.

H.J. Res. 531: Mr. EMERSON, Mrs. MEYERS of Kansas, Mr. POSHARD, Mr. DWYER of New Jersey, Mr. FEIGHAN, Mr. HOYER, Mr. JONES of Georgia, Mr. JACOBS, Mr. DE LA GARZA, Mr. FORD of Tennessee, Mr. PALLONE, Mr. DOWNEY, Mr. DONNELLY, Mr. EARLY, Mr. ECKART, Mr. VALENTINE, Mr. ENGEL, Mr. EVANS, Mr. TRAXLER, Mr. WOLPE, and Mr. BUSTAMANTE.

H.J. Res. 540: Mr. INHOFE.

H.J. Res. 543: Mr. BRUCE and Mrs. MEYERS of Kansas.

H.J. Res. 547: Mr. SHAW.

H.J. Res. 549: Mr. PAXON and Mr. SWETT.

H.J. Res. 550: Mr. TRAXLER, Mr. HOUGHTON, Mr. MFUME, Mr. STALLINGS, Mr. FAWELL, Mr. SAWYER, Mr. FEIGHAN, Mr. APPLEGATE, Mr. PASTOR, Mr. FORD of Tennessee, Ms. MOLINARI, Mr. ATKINS, Mr. ACKERMAN, Mr. DARDEN, Mr. BEVILL, Mr. RAHALL, Mr. ANDREWS of New Jersey, Mr. BERMAN, Mr. BREWSTER, Mr. LAGOMARSINO, Mr. BILIRAKIS, Mr. ROWLAND, Mr. CAMPBELL of Colorado, Mrs. COLLINS of Illinois, Mr. BATEMAN, Mr. CLEMENT, Mr. DE LUGO, Mr. FALEOMAVAEGA, Mr. FOGLIETTA, Mr. GUNDERSON, Mr. GREEN of New York, Mr. MURTHA, MR. ROE, Mr. SISISKY, Mr. SAVAGE, Mr. TRAFICANT, Mr. WYDEN, Ms. WATERS, Mrs. BENTLEY, Mr. BORSKI, Mrs. COLLINS of Michigan, Mr. DAVIS, Mr. DONNELLY, Mr. DOWNEY, Mr. EMERSON, Mr. GILMAN, Mr. HALL of Ohio, Mr. LANTOS, Mr. LEACH, Mr. JACOBS, Mr. RAMSTAD, Mrs. ROUKEMA, Mr. SYNAR, Mr. UPTON, Mr. WAXMAN, Mr. MONTGOMERY, Mr. WELDON, Mr. PERKINS, Mr. FORD of Michigan, Ms. PELOSI, Mr. MACHTLEY, Mr. SOLARZ, Mr. KANJORSKI, Mr. GOODLING, Mr. GAYDOS, Mr. ANDREWS of Texas, Mr. FRANK of Massachusetts, Mr. JENKINS, Mr. WHITTEN, Mr. DUNCAN, Mr. AuCOIN, Mr. BLAZ, Mr. TORRES, Mr. ANNUNZIO, Mr. STEARNS, Mr. HOAGLAND, Mr. OBEY, Mr. DE LA GARZA, Mr. JEFFERSON, Mr. FRANKS of Connecticut, Mr. ORTIZ, Mr. PAXON, Mr. VOLKMER, Mr. COX of Illinois, Mr. BOEHLERT, Mr. DICKS, Mr. DORGAN of North Dakota, Mr. FISH, Mr. FLAKE, Mr. MILLER of Washington, Mr. ERDREICH, Mr. COLEMAN of Missouri, and Mr. LAUGHLIN.

H.J. Res. 552: Mr. RAY, Mr. LEWIS of Georgia, Mr. MFUME, and Ms. MORTON.

H. Con. Res. 92: Mr. OBEY, Mr. BEREUTER, Mr. SWETT, Mr. ENGEL, Mr. TAUZIN, Mr. WASHINGTON, Mr. COLORADO, Mr. CRANE, Mr. WHITTEN, Mr. CAMP, Mr. FAZIO, Mr. HAMMERSCHMIDT, Mr. DICKINSON, and Mr. HERGER.

H. Con. Res. 180: Mr. CAMPBELL of California.

H. Con. Res. 296: Mr. NOWAK, Mr. BROOMFIELD, Mr. McNULTY, Mr. BEREUTER, Mr. HARRIS, Mr. GUNDERSON, Mr. MINETA, Mr. WHEAT, Mr. YOUNG of Alaska, Mr. McCOLLUM, Mr. SKELTON, Mr. VISCLOSKY, Mrs. MINK, and Mr. FRANKS of Connecticut.

H. Con. Res. 363: Mr. PORTER, Mr. DOOLITTLE, Mr. BOEHNER, Mr. RIGGS, Mr. ARMEY, Mrs. VUCANOVICH, Mr. HANSEN, Mr. INHOFE, Mr. ZELIFF, Mr. LOWERY of California, Mr. LAGOMARSINO, Mr. SENSENBRENNER, Mr. IRELAND, and Mr. GALLEGLY.

H. Con. Res. 373: Mr. PALLONE and Mr. HENRY.

H. Res. 215: Mr. PAXON.

H. Res. 414: Mr. CAMPBELL of California.

H. Res. 490: Mr. CRAMER.

H. Res. 547: Mr. CRANE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1354: Mr. SLATTERY.

ADJOURNMENT

Mr. DANNEMEYER. Mr. Speaker, I offer a motion to adjourn.

The SPEAKER pro tempore (Mr. ECKART). The Clerk will report the motion.

The Clerk read as follows:

Mr. DANNEMEYER moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 268, nays 38, not voting 126, as follows:

[Roll No. 488]

YEAS—268

Abercrombie
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Archer
Aspin
Atkins
Baker
Barrett
Barton
Bentley
Bevill
Bilbray
Bilirakis
Boehner
Bonior
Boucher
Brewster
Brooks
Brown
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Carper
Carr
Chapman
Clinger
Coble
Collins (IL)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Cramer
Crane
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Ford (TN)
Frank (MA)
Franks (CT)
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hefley
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Hoyer
Hubbard
Hughes

Hunter
Ireland
Jacobs
James
Jefferson
Johnson (SD)
Johnson (TX)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowey (NY)
Markey
Marlenee
Martin
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nussle
Oakar
Obey
Olin
Olver
Orton
Owens (NY)
Oxley
Packard
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Peterson (FL)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Rostenkowski
Roth
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schulze
Schumer
Sensenbrenner
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stenholm
Stokes
Stump
Sundquist
Tallon
Tanner
Taylor (MS)
Thomas (CA)
Torricelli
Towns
Traficant
Upton
Vander Jagt
Visclosky
Walker
Weber
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Young (FL)
Zeliff
Zimmer

NAYS—38

AuCoin
Bennett
Bereuter
Boehlert
Borski
Campbell (CA)
Coleman (TX)
Cox (CA)
Dannemeyer
DeFazio
Dornan (CA)
Early
Edwards (OK)
Gonzalez
Goss
Hopkins
Hyde
Johnson (CT)
Kopetski
LaRocco
Lowery (CA)
Martinez
Mfume
Miller (OH)
Moran
Oberstar
Parker
Pelosi
Ramstad
Ros-Lehtinen
Rose
Schiff
Shays
Staggers
Studds
Thornton
Unsoeld
Whitten

NOT VOTING—126

Ackerman
Annunzio
Armey
Bacchus
Ballenger
Barnard
Bateman
Beilenson
Berman
Blackwell
Bliley
Boxer
Broomfield
Browder
Bryant
Cardin
Chandler
Clay
Clement
Coleman (MO)
Collins (MI)
Combest
Coyne
Cunningham
Darden
Davis
Dixon
Dwyer
Ewing
Fascell
Fields
Fish
Flake
Foglietta
Ford (MI)
Frost
Gallegly
Gallo
Gaydos
Grandy
Green
Guarini
Hammerschmidt
Hatcher
Hayes (LA)
Hefner
Henry
Houghton
Huckaby
Hutto
Inhofe
Jenkins
Johnston
Jones
Kennedy
Kleczka
Klug
Kolbe
Kolter
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Luken
Machtley
Manton
Matsui
Mavroules
McCollum
McDade
McDermott
McEwen
McGrath
Meyers
Miller (WA)
Mrazek
Murphy
Murtha
Nichols
Nowak
Ortiz
Owens (UT)
Perkins
Peterson (MN)
Porter
Pursell
Quillen
Ravenel
Ridge
Roukema
Rowland
Russo
Savage
Schroeder
Sharp
Shaw
Shuster
Sisisky
Smith (FL)
Smith (IA)
Solarz
Stallings
Stark
Stearns
Swett
Swift
Synar
Tauzin
Taylor (NC)
Thomas (GA)
Thomas (WY)
Torres
Traxler
Valentine
Vento
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weldon
Wolf
Yatron
Young (AK)

□ 1238

Mr. ANDERSON changed his vote from "nay" to "yea."

Mr. HOPKINS changed his vote from "yea" to "nay."

So the motion to adjourn was agreed to.

The result of the vote was announced as above recorded. Accordingly (at 12 o'clock and 38 minutes p.m.) (Legislative day, October 5, 1992; Calendar day, October 6, 1992) under its previous order, the House adjourned until Thursday, October 8, 1992, at 12 noon.

PERSONAL EXPLANATION

Mr. CAMPBELL of California. Mr. Speaker, I have just received word from the office of the gentleman from Illinois [Mr. PORTER] that my name has been added to House Concurrent Resolution 458 by error. Mr. PORTER'S staff explained that they had intended to add my name to House Concurrent Resolution 180, but placed my name in House Concurrent Resolution 458 instead. I wish the RECORD to reflect that I did not intend to break my rule against cosponsoring commemoratives, and did not in this case.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2144. An act to restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes;

H.R. 5368. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes;

H.R. 5427. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes;

H.R. 5504. An act making appropriations for the Department of Defense for the fiscal year ending September 20, 1993, and for other purposes;

H.R. 5518. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 20, 1993, and for other purposes;

H.R. 5677. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 20, 1993, and for other purposes; and

H.J. Res. 560. Joint resolution waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the One Hundred Second Congress.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following title:

On October 3:

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research;

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug;

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with the Union forces during the Civil War;

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes; and

H.R. 3508. An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professional, and for other purposes.

On October 5:

H.R. 3379. An Act to amend section 594 of title 5, United States Code, relating to the authorities of the Administration Conference;

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes;

H.R. 5678. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes; and

H.R. 5925. An act to amend title VII of the Civil Rights Act of 1964 to establish a revolving fund for use by the Equal Employment Opportunity Commission to provide education, technical assistance, and training relating to the laws administered by the Commission.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALL of Ohio: Committee on Rules. House Resolution 600. Resolution waiving points of order against the conference report to accompany the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes, and against consideration of such conference report (Rept. 102–1012). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 601. Resolution waiving points of order against the conference report to accompany the bill (H.R. 776) to provide for improved energy efficiency, and against the consideration of such conference report (Rept. 102–1013). Referred to the House Calendar.

Mr. CONYERS: Committee on Government Operations. A report on administrative problems at the Federal Energy Regulatory Commission: How not to establish a Federal day care center and other questionable management activities (Rept. 102–1014). Referred to the Committee on the Whole House on the State of the Union.

Mr. MURTHA: Committee of Conference. Conference report on H.R. 5504 (Rept. 102–1015). Ordered to be printed.

Mr. MILLER of California: Committee of Conference. Conference report on H.R. 429 (Rept. 102–1016). Ordered to be printed.

Mr. GONZALEZ: Committee of Conference. Conference report on H.R. 5334 (Rept. 102–1017). Ordered to be printed.

Mr. DINGELL: Committee of Conference. Conference report on H.R. 776 (Rept. 102–1018). Ordered to be printed.

Mr. DINGELL: Committee of Conference. Conference report on H.R. 3635 (Rept. 102–1019). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 602. Resolution waiving points of order against the conference report to accompany the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, and against the consideration of such conference report (Rept. 102–1020). Referred to the House Calendar.

Ms. SLAUGHTER: Committee on Rules. House Resolution 603. Resolution waiving points of order against the conference report to accompany the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, and against the consideration of such conference report (Rept. 102–1021). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 604. Resolution waiving points of order against the conference report to accompany the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, and against the consideration of such conference report (Rept. 102–1022). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1602. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt actions under State law against persons who engage in unfair insurance claims practices; with amendments (Rept. 102–1023). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1218. A bill to prevent potential abuses of electronic monitoring in the workplace; with an amendment (Rept. 102–1024). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee of Conference. Conference Report on H.R. 3489 (Rept. 102–1025). Ordered to be printed.

Mr. FASCELL: Committee of Conference. Conference Report on H.R. 4996 (Rept. 102–1026). Ordered to be printed.

Mr. de la GARZA: Committee on Agriculture. H.R. 4970. A bill to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands; with an amendment (Rept. 102–1027, Pt. 1) Ordered to be printed.

Mr. CARPER: Committee of Conference. Conference report on S. 347 (Rept. 102–1028). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5000. A bill to amend the Petroleum Marketing Practices Act (Rept. 102–1029). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3642. A bill to amend the Federal Food, Drug, and Cosmetic Act to enhance the enforcement authority of the Food and Drug Administration, and for other purposes; with an amendment (Rept. 102–1030). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3564. A bill to improve the management of public lands used for military purposes, to require assessments of future needs for withdrawals of public lands for such uses, and for other purposes; with an amendment (Rept. 102–1031, Pt. 1). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 607. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3489) to reauthorize the Export Administration Act of 1979, and for other purposes, and against the consideration of such conference report (Rept. 102–1032). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 608. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, and against the consideration of such conference report (Rept. 102–1033). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee of Conference. Conference report on H.R. 11 (Rept. 102–1034). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN (for himself, Mr. Walker, and Mr. Scheuer):

H.R. 6133. A bill to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat Program, to establish a new national land remote sensing policy, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. TAUZIN (for himself, Mr. Fields, Mr. Laughlin, Mr. Young of Alaska, Mr. Ortiz, Mr. Brewster, Mr. Lewis of California, Mr. Condit, Mr. Montgomery, Mr. Dooley, Mr. Chandler, Mr. Rowland, Mr. Hall of Texas, Mr. Stenholm, Mrs. Vucanovich, Mr. Sarpalius, Mr. Parker, Mr. Emerson, Mr. Herger, Mr. Hayes of Louisiana, Mr. Edwards of Texas, Mr. Paxon, and Mr. Johnson of Texas):

H.R. 6134. A bill to reauthorize and amend the Endangered Species Act of 1973 in order to improve and protect the integrity of its programs for the conservation of threatened and endangered species, to ensure balanced consideration of all impacts of decisions implementing the act, to provide for equitable treatment of non-Federal parties and Federal agencies under the act, to encourage non-Federal parties to contribute voluntarily to species conservation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN:

H.R. 6135. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and inspector general, and for other purposes; to the Committee on Science, Space and Technology.

By Mr. MATSUI (for himself, Mr. Downey, and Ms. Pelosi):

H.R. 6136. A bill to provide for the withdrawal of most-favored-nation status from the Republic of Turkey and to provide for the restoration of such status if certain conditions are fulfilled; to the Committee on Ways and Means.

By Mr. MATSUI:

H.R. 6137. A bill regarding a supplemental trade agreement for addressing environmental issues posed by the implementation of the North American Free Trade Agreement; to the Committee on Ways and Means.

By Mr. de la GARZA (for himself and Mr. Skeen):

H.R. 6138. A bill to amend the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

By Mr. HYDE:

H.R. 6139. A bill to impose a criminal penalty for flight to avoid payment of arrearages in child support; jointly, to the Committee on the Judiciary, Education and Labor, and Ways and Means.

By Mr. ACKERMAN:

H.R. 6140. A bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to exclude deposits in escrow accounts which are available only for the payment of taxes on real property from the limitation on the amount of deposit insurance; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ATKINS:

H.R. 6141. A bill to transfer certain jurisdictional rights over a portion of the Fort Devens Military Reservation in the State of Massachusetts to the Secretary of the Interior for inclusion in the Oxbow National Wildlife Refuge and to provide for the transfer of certain real property at Fort Devens to the Town of Lancaster, MA; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. BOEHNER:

H.R. 6142. A bill to permit candidates who receive amounts from the Presidential Primary Matching Payment Account to use more personal funds to pay campaign debts from their primary elections; to the Committee on Ways and Means.

By Mrs. COLLINS of Michigan:

H.R. 6143. A bill to encourage and assist producers, processors, and other handlers of agricultural commodities to donate edible, but unmarketable, agricultural commodities to food banks, soup kitchens, and homeless shelters; to the Committee on Agriculture.

By Mr. FOGLIETTA:

H.R. 6144. A bill to amend title 10, United States Code, to assist members of the Armed Forces who are separated from active duty and civilian employees of the Department of Defense who are terminated to obtain new employment with certain community health centers, hospitals, and nursing homes; to the Committee on Armed Services.

H.R. 6145. A bill to require at least 5 percent of the total amount of funds obligated for contracts by the Department of Defense to be used for contracts entered into with small disadvantaged business concerns, historically black colleges and universities, and certain minority institutions; to the Committee on Armed Services.

By Mr. HASTERT (for himself, Mr. HEFLEY, Mr. GOSS, Mr. COX of California, and Mr. SMITH of Oregon):

H.R. 6146. A bill to amend title II of the Social Security Act to provide for increases in the exempt amount for purposes of the retirement test and to require annual reports by the Secretary of the Treasury regarding the net increases in revenue resulting from such increases in the exempt amount; to the Committee on Ways and Means.

By Mr. HUGHES (for himself and Mr. BOEHNER):

H.R. 6147. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide that unreasonable discrimination in benefits under group health plans affecting benefit claims thereunder constitutes interference with rights protected under such act and to provide for effective remedies therefor, and to provide for effective remedies therefor, and to provide for adequate notice of material changes to group health plans; to the Committee on Education and Labor.

By Mr. MILLER of Washington:

H.R. 6148. A bill to improve fishing safety, conservation, and productivity; to the Committee on Merchant Marine and Fisheries.

By Mr. MORAN:

H.R. 6149. A bill to amend title 5, United States Code, with respect to the rate of interest on deductions from pay under the Civil Service Retirement System after performing sufficient service to earn the maximum annuity allowable; to the Committee on Post Office and Civil Service.

By Mr. ORTON:

H.R. 6150. A bill to rescind certain budget authority, and make certain supplemental appropriations, for international affairs programs for fiscal year 1993; to the Committee on Appropriations.

By Mr. PETERSON of Minnesota:

H.R. 6151. A bill to amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes American Indian tribal governments either as State or local units of government or as nonprofit organizations; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 6152. A bill to amend title 10, United States Code, to establish within the Office of the Secretary of Defense the position of Director of Special Investigations; and for other purposes; to the Committee on Armed Services.

By Mr. SMITH of New Jersey:

H.R. 6153. A bill to amend the Internal Revenue Code of 1986 to provide for the temporary waiver of certain restrictions on the one-time exclusion of gain from the sale of a principal residence; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 6154. A bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under the Safe Drinking Water Act, to modify the definition of public water system, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK:

H.R. 6155. A bill entitled "United States-Japan Partnership to Eliminate the Threat of Nuclear Weapons"; to the Committee on Foreign Affairs.

By Mr. THOMAS of Wyoming:

H.R. 6156. A bill to amend title 31, United States Code, to ensure that the General Accounting Office performs its functions in an impartial, complete, and timely manner in investigating issues of concern to the public; to the Committee on Government Operations.

H.R. 6157. A bill to amend title 31, United States Code, to provide increased contracting opportunities for private firms by encouraging agencies of the Federal Government to enter into contracts for commercial activities performed for State and local government, and for other purposes; to the Committee on Government Operations.

By Mr. TORRES:

H.R. 6158. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WYDEN:

H.R. 6159. A bill to amend the Social Security Act to provide for the establishment of State code demonstration projects for comprehensive health care reform, and for other purposes; jointly, to the Committee on Energy and Commerce, Ways and Means, and Education and Labor.

By Mr. MCCANDLESS:

H.R. 6160. A bill to amend title 18, United States Code, with respect to the use and sale of military medals and decorations; to the Committee on the Judiciary.

By Mr. ROE (for himself and Mr. RAHALL):

H.R. 6161. A bill to designate the Gallipolis Locks and Dam, Ohio River, OH and WV, as the "Robert C. Byrd Locks and Dam"; to the Committee on Public Works and Transportation.

By Mr. ROE:

H.R. 6162. A bill to designate an area for which environmental and other streambank restoration measures are authorized as the "Joseph G. Minish Passiac River Waterfront Park and Historic Area"; to the Committee on Public Works and Transportation.

H.R. 6163. A bill to designate certain Federal buildings; to the Committee on Public Works and Transportation.

H.R. 6164. A bill to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts; to the Committee on Public Works and Transportation.

By Mrs. LOWEY of New York:

H.R. 6165. A bill to amend certain provisions of law relating to establishment, in the District of Columbia or its environs, of a memorial to honor Thomas Paine; to the Committee on House Administration.

By Mr. FAZIO (for himself and Mr. DREIER of California):

H.R. 6166. A bill to amend the Home Owners' Loan Act to modify the separate capitalization rule for the subsidiaries of savings associations that engage in activities not permissible for national banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROE:

H.R. 6167. A bill to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OBERSTAR:

H.R. 6168. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for the portion of fiscal year 1993 ending before May 1, 1993, and to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. BROWN:

H.R. 6169. A bill to amend National Manufactured Housing Construction and Safety Standards Act of 1974 to require each manufactured home to be equipped with a shutoff valve for the water heater supply line; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GEKAS (for himself, Mr. BROOMFIELD, Mr. HYDE, and Mr. SHAW):

H.R. 6170. A bill to amend title 28, United States Code, to reauthorize and modify the provisions relating to independent counsel; to the Committee on the Judiciary.

By Mr. GRADISON:

H.R. 6171. A bill to improve access to health insurance and contain health care costs, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Education and Labor, and the Judiciary.

By Mr. HOAGLAND:

H.R. 6172. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. REED:

H.R. 6173. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Education and Labor.

By Mr. SCHUMER:

H.R. 6174. A bill to amend title 18, United States Code, to require the return to prison of offenders whose sentence is reduced on health grounds if the offenders recover good health; to the Committee on the Judiciary.

By Mr. STARK.

H.R. 6175. A bill to amend the Public Health Service Act and the Internal Revenue Code of 1986 to establish an entitlement of certain individuals to receive payments for attendance at medical schools; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. SYNAR:

H.R. 6176. A bill to amend title XIV of the Public Health Service Act (Safe Drinking Water Act) to provide special rules regarding compliance with certain drinking water regulations for small drinking water systems, and for other purposes; to the Committee on Energy and Commerce.

H.R. 6177. A bill to require the Secretary of the Interior to pay interest on Indian funds invested, to authorize demonstrations of new approaches for the management of Indian trust funds, to authorize demonstration programs to promote the development of energy resources on Indian lands, to clarify the trust responsibility of the United States with respect to Indians, to establish a program for the training and recruitment of Indians in the management of trust funds, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WYDEN (for himself, Mrs. SCHROEDER, and Mr. DEFAZIO):

H.R. 6178. A bill to provide for research on antiprogestin drugs through the National Institutes of Health; to the Committee on Energy and Commerce.

By Ms. KAPTUR:

H.J. Res. 561. Joint resolution designating August 28, 1993, as "National Health Unit Coordinator Day"; to the Committee on Post Office and Civil Service.

By Mr. SWETT:

H.J. Res. 562. Joint resolution recognizing the Desert Shield/Desert Storm Memorial Light at the Shrine of Our Lady of Grace in Columbia, NH, as a memorial of national significance; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY:

H. Con. Res. 376. Concurrent resolution providing for the preparation of official duplicates of certain legislative papers; considered and agreed to.

By Ms. KAPTUR:

H. Con. Res. 377. Concurrent resolution expressing the sense of the Congress that any health insurance reform bill that is enacted should require that family and temporary medical leave be incorporated as a basic or elective option for plan participants under certain circumstances; jointly, to the Committees on Ways and Means, Energy and Commerce, Education and Labor, and Post Office and Civil Service.

By Mr. MILLER of Washington (for himself, Mr. WYDEN, Mr. MCDERMOTT, Mr. MORRISON, Mr. DICKS, Mr. SWIFT, Mrs. UNSOELD, and Mr. CHANDLER):

H. Con. Res. 378. Concurrent resolution concerning U.S. participation in a Cascadia Corridor commission; to the Committee on Foreign Affairs.

By Mr. MONTGOMERY:

H. Con. Res. 379. Concurrent resolution directing the Clerk of the House of Representatives to make certain corrections in the enrollment of the bill H.R. 5006; considered and agreed to.

By Mr. SOLOMON (for himself and Mr. HOUGHTON):

H. Con. Res. 380. Concurrent resolution making corrections in the enrollment of H.R. 11; jointly, to the Committees on House Administration and Ways and Means.

By Mr. BARTON of Texas:

H. Con. Res. 381. Concurrent resolution expressing the sense of the Congress with respect to the use of selective Inspection and Maintenance [I&M] programs as part of State implementation plans under the Clean Air Act; to the Committee on Energy and Commerce.

By Mr. VENTO:

H. Res. 605. Resolution providing for the concurrence by the House with amendments to the amendment of the Senate to H.R. 1216; considered and agreed to.

By Mr. WELDON (for himself and Mr. ANDREWS of New Jersey):

H. Res. 606. Resolution establishing a Select Committee on Disaster Preparedness and Response; to the Committee on Rules.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4357. Communication from the President of the United States, transmitting developments since his last report of April 7, 1992, concerning the continued blocking of Panamanian Government assets, pursuant to 50 U.S.C. 1706(d) (H. Doc. No. 102–404); to the Committee on Foreign Affairs and ordered to be printed.

4358. A letter from the Secretary of Commerce, transmitting the Department's report regarding the Saltonstall-Kennedy [S–K] Grant Program, pursuant to section 713c–3(d)(2) of the Saltonstall-Kennedy Act of 1954, as amended; to the Committee on Merchant Marine and Fisheries.

4359. A letter from the Assistant Attorney General, Department of Justice, transmitting a copy of a report entitled "Searching for Answers—Annual Evaluation Report on Drugs and Crime: 1991," prepared by the National Institute of Justice; jointly, to the Committees on the Judiciary, Education and Labor, Banking, Finance and Urban Affairs, and Energy and Commerce.

4360. A letter from the Secretary of Commerce, transmitting a progress report regarding contracting for the rebuilding of Kuwait, pursuant to Public Law 102–25, section 606(f) (105 Stat. 111); to the Committee on Foreign Affairs.

4361. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 92–49, to drawdown DOD stocks for disaster assistance for Pakistan; to the Committee on Foreign Affairs.

4362. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 92–48, to drawdown DOD stocks for counternarcotics assistance for Colombia; to the Committee on Foreign Affairs.

4363. A letter from the Secretary of the Interior, transmitting a report on the Government's helium program providing operating statistical and financial information for the fiscal year 1991, pursuant to 50 U.S.C. 167n; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

Mr. MOAKLEY: Committee on Rules. House Resolution 609. Resolution waiving points of order against the conference report to accompany the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, and against the consideration of such conference report (Rept. 102–1035). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 9. A bill to modify the antitrust exemption applicable to the business of insurance; with an amendment (Rept. 102–1036). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee of Conference. Conference report on S. 1671 (Rept. 102–1037). Ordered to be printed.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5484. A bill to provide for the establishment of the Civil Rights in Education: Brown versus Board of Education National Historic Site in the State of Kansas, and for other purposes; with amendments (Rept. 102–1038). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4899. A bill to establish an old-growth forest reserve, and for other purposes; with an amendment (Rept. 102–1039, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 2222. A bill to provide a new civil cause of action in Federal law for international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against United States nationals; with an amendment (Rept. 102–1040). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS. Committee on the Judiciary. H.R. 3206. A bill to prohibit the award of costs (including attorney's fees) against a judicial officer for acts or omissions occurring in a judiciary capacity; with an amendment (Rept. 102–1041). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3345. A bill to amend the Immigration and Nationality Act to provide for prompt parole into the United States of aliens in order to attend the funeral of an immediate blood relative in the United States (Rept. 102–1042). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3407. A bill to amend chapter 171 of title 28, United States Code, to allow claims against the United States under that chapter for damages arising from certain negligent medical care provided members of the Armed Forces (Rept. 102–1043). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3910. A bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes; with an amendment (Rept. 102–1044). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS. Committee on the Judiciary. H.R. 5383. A bill to amend the Immigration and Nationality Act to extend for 3 years the authorization of appropriations for domestic refugee assistance (Rept. 102–1045). Referred to the Committee of the Whole House on the State of the Union.

EXTENSIONS OF REMARKS

NEED FOR A NATIONAL WILL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SKELTON. Mr. Speaker, on the 19th day of September, I addressed a forum at technology day at Central Missouri State University. At that time, I discussed our need to increase our global competitiveness and the necessity of developing our national will in this country to meet our goals. I include my address at this point in the RECORD:

COMMENTS OF CONGRESSMAN IKE SKELTON, CENTRAL MISSOURI STATE UNIVERSITY, "TECHNOLOGY DAY," WARRENSBURG, MO, SEPTEMBER 19, 1992

This morning, I speak of a matter which is of great concern to me. The United States is the only country that has the economic, military, and diplomatic power to qualify it as a superpower. And yet we are suffering from a crisis of confidence. In a recent poll almost half of Americans thought that Japan's economy was larger than our own. Actually, ours is more than twice the size of Japan's.

The fact is, the United States remains the single, dominant economic force in the world today. It accounts for 40 percent of the output of industrialized countries, with Japan running a distant second at 15 percent. These numbers all sound good, but as we face more competition from a united Europe and Japan, we must re-evaluate our goals and methods for achieving them.

Today, I would like to spend a few minutes looking at three areas in which we must strengthen our Nation, if we are to stay competitive globally. Not coincidentally, these areas all require us to stay on the cutting edge of technology. To stay competitive, we must: maintain a strong national defense, improve our manufacturing base, and invest in education.

NATIONAL DEFENSE

Today, we find ourselves at a crossroads that could undermine our ability to stay competitive and remain a world leader. The force that has allowed us to assume an even greater leadership role in international affairs is being threatened. Yes, we have seen the collapse of the Berlin Wall . . . democratization in Eastern Europe . . . reform in the Soviet Union . . . victory in the Persian Gulf. But in the midst of this celebration of success, we must take care not to tear apart our Nation's defense.

The administration is seeking a 25-percent reduction in the size of our forces and the size of the defense budget. A further cut of $50 billion over 5 years has been recommended by the President as a result of ongoing reform in the former Soviet Union. Defense Secretary Cheney and Joint Chiefs of Staff Chairman Colin Powell have put together a pretty good plan to reduce the military wisely, rather than gutting what we have built up in the last decade.

Those who would slash our military even further than the planned 25 percent reduction, while sincere and well-meaning, lack an understanding of history's lessons. Time and time again, in this century, we have followed the dangerous and costly path of demobilization, disarmament, and unpreparedness, only to regret that course of action a few short years later. We should never forget that military power is the basis for international diplomacy.

Along this line, those of us from west central Missouri can be pleased with the presence of Whiteman Air Force Base, and that the Air Force responded positively to my recommendation that the B-2 bomber be stationed there. The presence of the B-2 at Whiteman will play a critical role in our national security at a time when other areas of national defense are being cut. Further, I would be remiss if I did not thank this community for the strong support it has given to the men and women at Whiteman.

In 1923, Major George C. Marshall, the future World War II Army Chief of Staff, noted, "The regular cycle in the doing and undoing of measures for the national defense." He observed that, "We start in the making of adequate provisions and then turn abruptly in the opposite direction and abolish what has just been done."

Today, we are in the midst of making one of those changes in direction. We still live in a dangerous and uncertain world. The kaleidoscope of the future is unpredictable. Few foresaw the bombing of Pearl Harbor, the North Korean invasion into the south, or Saddam Hussein's invasion of Kuwait. The American people understand George Washington's wise counsel that "To be prepared for war is one of the most effectual means of preserving peace." I am convinced we must continue to support a strong national defense to stay competitive as we approach the 21st century.

MANUFACTURING

If we are to maintain our competitiveness in this global economy, we must also strengthen our manufacturing base. In other words, we must be a nation that makes things, and makes them better than anyone else.

The United States has always led the world in innovation and the development of new products. And small businesses have often led the way. One program I have been involved with over the years is the Small Business Innovation Research Program, SBIR. By bill to reauthorized the SBIR passed the House earlier this month, and will give even more small businesses around the country an opportunity to develop new products as a part of this program.

The SBIR Program has already generated billions of dollars in sales and investment, which ultimately means jobs. Many of these inventions have also been exported overseas, benefitting our balance of trade.

But somewhere between the development of new products and marketing those products, we have dropped the ball. I recently spent some time reading a new book by Lester Thurow, dean of the Sloan School of Management at the Massachusetts Institute of Technology, entitled "Head to Head". The book deals with the emerging three-way economic competition in the world, between the United States, the European Community, and Japan. If you have some time, I highly recommend this book to you.

While we wrote the book on entrepreneurship, we need to take a look at our priorities and where we place our emphasis in the development of new technologies. American companies spend two-thirds of their money on research and development, and one third on improved ways to make their products. Japanese firms do exactly the opposite, spending two-thirds of their money on new process technologies. Clearly, each country has excelled in this respective area of focus.

But while we have been developing new products, Germany and Japan have concentrated on making them better and more efficiently. And they have moved ahead of us in some areas to the point that many products invented by American firms are now perceived as Japanese or German products.

For example, fax machines, video cameras, and video cassette recorders are all products of American entrepreneurs and inventors. Japanese firms then invested resources into finding better ways to make quality fax machines, video cams, and VCR's and do it more efficiently. In terms of sales, employment, and profits, all have essentially become Japanese products.

The bottom line is clear—companies that can make a high quality product at a lower price will beat the competition. The United States, the country that invented the assemble line, will have to learn to make better products more efficiently if we are to stay competitive.

EDUCATION

Finally, a nation cannot be strong unless it has a highly trained, educated, and disciplined work force.

America has the finest higher education system in the world. More of our students attend college and other post-secondary institutions than any other country. Students from all over the world flock to the United States to study medicine, engineering, agriculture, and business. And in grades kindergarten through 7, our students perform at an equal or greater level than students in Germany, Japan, and other industrialized nations.

But once again, we have a gap to fill in. From grades 7 through 12, our students consistently score lower than their German and Japanese counterparts on science and math. The math scores of the top 1 percent of our students would place them in the top 15 percent in Japan. It is not so much that American student achievement has deteriorated, but that students in other countries are improving at a much faster rate. However, American students who go on to college quickly surpass their foreign counterparts in both undergraduate and graduate programs.

Recent surveys tell us that many American high school students have no idea where the Great Lakes are located within our country or what countries compose Central America. Many schools across the land, particularly the small towns and rural areas I represent, find it difficult to hire math, science, and foreign language teachers. Some schools are in crisis, serving as "babysitters" rather than places of instruction, in-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

formation, and inspiration. And scores of graduates are handed diplomas, yet are unable to pass basic literacy tests.

During the 1980's, millions of rural Americans headed for the cities and suburbs, many attracted to what they perceived as a better quality of life. At today's events, you will undoubtedly see examples of how technology is now improving the quality of life in rural America. It has the potential to revolutionize the way we do business and how we obtain and provide medical care.

But perhaps nowhere can technology play a greater role than in our schools. It is already helping small-town and rural schools with limited resources meet the educational needs of their students. Several rural school districts in Missouri, and many throughout the Nation, already offer foreign languages, physics, chemistry, calculus, and other advanced courses by "videoconferencing" and other interactive video projects. If we are to continue to lead the world in innovation, all students must be able to study advanced math and sciences.

Earlier, we talked about the need to strengthen our manufacturing industry. But we must also be good salesmen and create markets for the products we make. It is difficult to sell products to other countries unless we speak their languages. There are now 10,000 English-speaking Japanese salesmen in the United States, while we only have 500 Japanese-speaking salesmen in Japan.

It worries me that many of our rural, and urban, school districts do not have resources to teach Spanish, French, Japanese, and other foreign languages. Telecommunications can significantly increase course offerings. Since schools in small towns are often the center for a community, computers, videoconferencing, and other technology can improve library and computer services for the entire town.

Education and job training are critical if we are to stay competitive.

Our victory last year in the Persian Gulf showed how important they can be. Beginning in the late 1970's, our Armed forces made a concerted effort to recruit more high school graduates, and the standards for enlistment were raised. At the same time, Congress increased the funds available to the military for training. These initiatives worked.

What had been called the "hollow army" of 1970's became the army of Operation Desert Storm in 1991. If education and training can do this for our Armed Forces, they can do it for our civilian work force. Nothing is more critical to the future of our Nation and State.

A strong national defense . . . a thriving manufacturing economy . . . education for our children. These are three keys to staying competitive as we near the 21st century.

But I have saved the most important element until the end. If you hear nothing else I say here today, hear me now.

The United States cannot become more competitive in the world until we have a national will to do it. And that national will cannot be attained unless we all pull together to work for the common good.

When the people of this Nation pull together, we achieve great things. In world war two, all Americans worked together and gave us a tremendous victory in the war. We are now in the middle of another war—an economic war—and it will take a national will to win as we did in that war fought 50 years ago.

The national will that existed after our victory in the Persian Gulf last year has diminished. "United we stand", the saying goes. But divided we will fall. A basketball team cannot advance to the championship unless all members of the team work together. If our Nation is to stay competitive into the 21st century, we must all be on the same team.

America has had its great moments in the past. Only by a concerted national will, and by pulling together, can we achieve our potential as we near the 21st century. It is my hope and prayer that America, the bastion of freedom on this earth, can unite with a national will and with a unified effort, and will fully achieve our proper station on this globe. We can do it. Let us never doubt that.

It would be well for us to remember the words of Franklin Delano Roosevelt from his undelivered address, scheduled for April 13, 1945, which are just as applicable today as they were then. "The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith."

Thank you, and God bless you.

TROOP 2 CELEBRATES THEIR 75TH ANNIVERSARY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HEFLEY. Mr. Speaker, I would like to extend my sincere congratulations to the oldest, continuously chartered Boy Scout Troop in the Pikes Peak region, Troop 2, on their 75th anniversary.

The troop has been going strong since 1917 under the sponsorship of the First Presbyterian Church of Colorado Springs. Only a handful of Scout troops in the world and none in Colorado Springs have reached this milestone.

On October 19, active troop members will celebrate this special event with the troop alumni at their anniversary banquet. And there is much to celebrate—friendship, camaraderie, and years of devoted service to the community. Their efforts on behalf of the community have not gone unnoticed. Their service, generosity, and spirit have enriched not only their own lives, but those of so many around them. For this, we are grateful. They deserve our strong praise and admiration for 75 years of hard work and commitment.

Further, of the 1,000 members who have joined the troop over the years, over 65 of them have achieved Eagle Scout status. This is far more than the average of one-in-a-hundred Eagle Scouts.

Once again, congratulations! My hope is that Troop 2 will continue to thrive, promote community awareness, and remain committed to the strength of the Pikes Peak community.

TRIBUTE TO THE PARISHIONERS OF ST. LOUIS PARISH IN NOKOMIS, IL

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DURBIN. Mr. Speaker, I rise today to commend the parishioners of the St. Louis Parish in Nokomis, IL, for their efforts as a part of the church's rural life initiative. The volunteer workers picked and processed 42 gallons of sweet corn which they donated to the Missionaries of Charity Soup Kitchen in St. Louis. This act of charity is representative of what is best in America, people helping people. Mr. Speaker, it is my honor to insert the names of these volunteers into the CONGRESSIONAL RECORD:

Mike Hand, Eric Sparks, Michael Sparks, Jason Spears, Casey Spears, Henry Burnett, Hazel Suslee, Anita Vercelone, C.F. Marley, Norma Marley, Lee VandenBergh, Dave Spears, Barbara Spears, Ruth Ann Marley, Father John Burnett, Jennie Roberts, Mimi VandenBergh, Pauline Pehanich, Tim Marley, Aaron Marley.

MARQUETTE HONORS FRANK A. AUKOFER WITH ITS HIGHEST JOURNALISM AWARD

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. OBEY. Mr. Speaker, on Saturday Marquette University in Milwaukee honored one of its most distinguished journalism graduates, Frank A. Aukofer, with its 1992 By-Line Award. The honor is conferred each year on a Marquette journalism graduate who has achieved a lifetime of excellence in the profession.

I would like to offer my own congratulations to Frank who has brought an excellence to journalism that certainly sets a standard for the profession.

The Washington bureau chief for the Milwaukee Journal, Frank spent his early working years as a linotype operator, taking courses at Marquette while working a full 8 hour night shift. After graduation from Marquette in 1960, he joined the Journal as a reporter, taking a pay cut to do so.

He became the Journal's civil rights specialist, covering many of the social upheavals of the 1960's, including the Selma to Montgomery March, the Detroit riots and the aftermath of the assassination of Martin Luther King, Jr. He wrote "City With a Chance," a review of the civil rights movement in Milwaukee.

Frank came to Washington 22 years ago to cover Congress and the U.S. Supreme Court. He has covered national political conventions since 1972.

He is a reporter's reporter and has covered the recent Persian Gulf war and much of the turmoil in Central America. He was a member of the Pentagon press pool which included the first journalists allowed into Saudi Arabia to cover United States troop deployment after Iraq invaded Kuwait.

He has been active in journalistic organizations in Washington, serving as president of the National Press Club, chairman of the National Press Foundation and Secretary of the Standing Committee of Correspondents of Congress.

Frank and his wife, Sharlene, live in Annandale. They have four children and three grandchildren.

I congratulate Marquette University, its Communication Alumni Association and the College of Communication, Journalism and Performing Arts for their collective wisdom in selecting Frank Aukofer for their 1992 By-Line Award.

THE TIME FOR HIGH-SPEED RAIL IS NOW

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. SLAUGHTER. Mr. Speaker, in the past few days the House has approved, with my support, two pieces of legislation important to the development of passenger rail transportation in this country. Yesterday, October 4, 1992, we passed the the conference report on the Amtrak reauthorization bill, H.R. 4250, titled the "Amtrak Capital Acquisition and Technology Development Act." On October 1, 1992, the House approved the conference report on H.R. 5518, the Transportation appropriations bill for fiscal year 1993. An item of particular interest to me and the State of New York in the Transportation appropriations bill was the measure's $5 million in obligation authority from the highway trust fund for the high speed ground transportation technology demonstration program authorized under the Intermodal Surface Transportation Act of 1991.

This demonstration program represents one of the best opportunities for development of high speed rail in the near term. I truly believe that the time has come to get serious in this country about new technology passenger rail service.

The United States is falling farther and farther behind both Western Europe and Japan in this area, as both of these economic competitors with the United States currently have high modernized high speed train systems in use, as well as plans for even more advanced development in the near future. This comes at a time when urban freeway delay in the United States has been projected to increase by as much as 400 percent by the year 2005. As opposed to building an ever-increasing number of additional traffic lanes to our highways, which only puts off a final solution to the problem, high speed rail could provide an immediate and substantial decrease in highway and airport congestion, as well as offer commuters a meaningful choice between auto trips that are too long and airline flights that are wastefully short.

The building of new high speed rail lines would also be a tremendous boost to participating industries, such as engineering firms and subcontractors directly involved in their construction, as well as to local economies that would immensely benefit from multiplier effects. Many technologically based jobs could be realize with the reassignment of former defense industry workers to the development of high speed rail systems, with thousands of additional jobs being created from the operation and maintenance of new raillines.

For these reasons, I recently hosted a high speed rail forum at the Rochester Institute of Technology in Rochester, NY. This event was sponsored by the Northeast-Midwest Congressional Coalition and drew rail development experts from Washington, Albany, the Northeast and Midwest sectors of the country, and Canada. The forum highlighted the probable benefits of high speed rail to New York State, as well as the broad base of business, labor, consumer, and environmental-related support that new technology rail development enjoys. At my request, the Northeast-Midwest Coalition also released a report entitled "High-Speed Passenger Ground Transportation: An Analysis," which outlines the prospects for high speed rail and the economic benefits of such development in the Northeast and Midwest.

A second opportunity for the development of high speed rail in the near term exists with Amtrak itself. The New York State Department of Transportation has proposed to Amtrak a demonstration of high speed equipment on New York's Empire corridor. The Department's proposed demonstration centers on a new generation, dual power locomotive that could be developed using the $14 million made available through Federal appropriations to Amtrak in fiscal year 1991. With regard to this proposal, New York State believes that high speed and light weight are necessarily linked, and have consistently conveyed to me several arguments that emphasize this point.

To begin with, it is New York's intent to utilize existing track to the extent possible. Some of this track has already been improved to FRA class VI standard, and is therefore capable of 110 miles per hour at this time. These improvements were made possible through investments by New York through its own initiative, along with the assistance of Federal funding. With these past investments in mind, New York State feels that it is important to consider the effect that high speed, heavy diesels would have on existing track, as well as on future maintenance costs.

A basic tenet of railroad engineering is that weight and speed combine to create forces where steel wheel meets steel rail. The greater the weight and higher the speed, the greater these forces are. The end result of these greater forces is to require increased maintenance of the rails. Such maintenance is necessary to ensure safe operations and the ride quality the public expects.

In New York's discussions with Amtrak on this subject, Amtrak has stated that diesels of greater than 100 tons could be utilize for 125 mile per hour service. However, in order to do so, Amtrak would require additional horsepower in the diesel locomotives to get the extra acceleration needed to reach 125 miles per hour. While it is proposed that this would enable the diesels to reach that speed, they would probably not be able to go beyond it.

In addition, Amtrak has proposed that these diesels utilize what is called an AIA axle configuration, which is basically three axles per truck—or six axles per locomotive. The middle axle would be unpowered. While Amtrak claims that this would spread the excess weight and reduce the impact on the rails, the New York State Department of Transportation believes that this configuration would instead cause problems in curves. The middle wheels would jump around hunting for the rails, thereby creating a situation where they would not be bearing weight and accordingly, would be causing additional track damage.

In order to initiate truly high speed service, New York believes that it is imperative that there be a genuine improvement in locomotive equipment technology. More specifically, new generation locomotives should be required to be less than 100 gross tons, and to have no more than four axles total. Amtrak has a unique opportunity to develop a technology that can bridge the gap between conventional diesel technology and full electrification, Its application can be national, as more than 98 percent of Amtrak's system is nonelectrified and, as such, offers the real potential of fostering the emergence of a new United States based technology. Further, should the selection be made to develop new technology turbine-powered equipment, this equipment would have the added benefit of greatly reduced emissions, a factor vitally important to cities trying to meet air quality standards.

It should be pointed out that the congressionally sponsored Transportation Research Board report, "In Pursuit of Speed," indicated that turbine power was, far and away, the most cost effective means of achieving high speed rail transportation. Amtrak, unfortunately, appears willing to delay its decision on the allocation of the $14 million appropriated in 1991 for dual-propulsion locomotive construction. While I understand Amtrak's current fiscal problems, the project proposed by New York State deserves Amtrak's immediate full attention or the window of opportunity for a nonelectrified service that can capture the imagination of the rail-riding public, and accordingly, boost revenues for Amtrak, may be lost for a very long time.

Again, I stress to my colleagues, to Amtrak, and to the public, who will rightfully expect a transportation system for the 21st century to be in place when we need it, to recognize now the attributes of high speed rail. With our Nation's future competitiveness on the line, this is an area in which we must make a significant investment as soon as possible.

THE 11TH ANNIVERSARY OF THE RAOUL WALLENBERG HONORARY CITIZENSHIP LEGISLATION—WE MUST CONTINUE THE EFFORT TO FIND WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LANTOS. Mr. Speaker, today marks the 11th anniversary of the signing by President Reagan of legislation making the Swedish Holocaust hero, Raoul Wallenberg, an honorary citizen of the United States. It is important that we mark that anniversary by remembering this great man, through whose courageous and selfless efforts as many as 100,000 Hungarians were saved from Nazi extermination camps during 1944.

As my colleagues know, Mr. Speaker, Raoul Wallenberg gave up the security, comfort, and luxury of his home in Stockholm to go to Budapest in the midst of the war. There he risked his own life to save the lives of tens of thousands of people he did not know from the horrow, brutality, and death that awaited them in Nazi extermination camps.

As my colleagues also know, Raoul Wallenberg disappeared into the Soviet Gulag on January 17, 1945, and he has not been seen outside the prison system since that time. It was our hope 11 years ago that by giving Wallenberg honorary United States citizenship, we might increase our ability to press the Soviet Union to release this great man. As we mark the anniversary of the adoption of our legislation, unfortunately, we must admit that we have not succeeded in that effort.

At the same time, however, we have succeeded in our effort to make known the incredible accomplishments of Raoul Wallenberg. Eleven years ago, when we began the effort to confer honorary American citizenship on Wallenberg, he was virtually unknown. Since that time, his name and honored deeds are known around the world. His selfless actions are remembered—and will be remembered—by men and women everywhere. And in this regard, Mr. Speaker, I want to pay tribute to my wife, Annette, who led the effort to make the deeds of Wallenberg known. Her indefatigable energy and enthusiasm has been a major reason for the success that has been accomplished.

As we mark this 11th anniversary of the Wallenberg honorary citizenship legislation, I want to renew my commitment to continue the effort to press officials of the Russian Government and officials of the former Soviet Union to provide information about Raoul Wallenberg. There is reason to believe that he may still be alive in the remnants of the Soviet Gulag that still dot the countryside of the republics that were formerly part of the Soviet Union.

Mr. Speaker, this is not simply unfounded hope on my part, but it reflects the reality of what has been happening with prisoners who are being found in the former Soviet Union. Let me cite examples.

In mid-September, just a few weeks ago, an 82-year-old Polish citizen died in the Psychiatric Prison Hospital in Raizan, 300 kilometers southeast of Moscow. The Polish prisoner, Mr. Strajinski, was the last of some 100 Polish citizens brought to Raizan from Bailostock and committed to this hospital in January of 1941. He survived 51 years of incarceration, without any contact with family or his Embassy—even during several years of glasnost.

On May 21, the Independent Psychiatric Association of Russia and a human rights and humanitarian group known as the ARK Project of the Russian Relief Fund based on Waterbury, CT, found an American defector in Special Hospital Number 5, 50 kilometers from Moscow. The defector, Victor Hamilton, had languished in this hospital for over 20 years. He had been held in the psychiatric prison hospital system since 1962—nameless, known only as the letter "K". Susan Mesinai, director of the ARK Project, was able to establish Hamilton's identity by reviewing his personal journals over the past 30 years, at the doctor's request. She was, in turn, able to locate Hamilton's family in the United States and by introducing them to the American Psychiatric Association lay the foundation for Hamilton's return.

This past April, Victor Demesco and his mother, Helena, arrived in the United States as refugees. Victor is the son of Michael Demesco of Columbia, CT. Michael was a civilian prisoner of war held from 1941 to 1945 in a Nazi labor camp in Berlin. Afterwards, he was taken into the Soviet Gulag, and released in 1947 when he married a Ukainian woman from Kursk whom he had befriended in a Nazi POW camp. Michael Demesco and his wife were both sent to labor camps in 1949 after a letter Michael wrote to his mother in America describing the horrors of the Gulag was intercepted by the KGB. He was repeatedly sighted in labor camps—his presence was reported to the State Department by the American representative of the Wallenberg Commission and a prisoner of the Gulag also spoke to him through slats in the fence of a labor camp. Demesco's family in the United States learned that he was in a Soviet prison and they came here to Washington to press for his release. As a result, Demesco did receive from the U.S. Embassy in Moscow papers to complete for his return. He filled these out and mailed them, but presumably they also were intercepted by the KGB.

In 1971, Demesco was approached by a Soviet official regarding his immigration to America. He was told that he would have to leave his family behind, that he would be sent to an intermediate point and from there sent to the United States. His family did not want him to go, but Demesco—who had never been allowed to work and was repeatedly punished for his refusal to accept Soviet citizenship—was willing to take the chance.

In 1971, while his son was away in the Army, Michael Demesco disappeared from Kursk. His wife and son pressed for years for news of his fate. In 1987, Helena Demesco was finally informed that her husband had died in 1983. At approximately the same time, Victor, who had courageously been concluding his own investigations into his father's fate, was shot three times in the back and remains a paraplegic to this day. The ARK Project and other investigations have established that Michael Demesco was held from 1971 until his death in 1983 in an asylum for the mentally ill, retarded, elderly, and indigent near Kursk. The doctor who treated him and was with him 5 minutes before he died never knew that he had a family.

The accounts of these three men—Strajinski, Hamilton, and Demesco—should drive home the message that elderly foreign prisoners could be languishing in the Russian psychiatric prison hospital system to this day. Archivists of the Central Clinic in Moscow, through whom most special prisoners were committed to the system, have informed ARK Project directors that there were approximately 15,000 such special cases directly overseen by the KGB. These records are a precious resource which should be opened to the investigative efforts of human rights activists—including those of us seeking to find information about Raoul Wallenberg—to assure that those who remain within the prison system do not die anonymously.

The Wallenberg case is the quintessential case of the foreign prisoner of war held for decades against his will in the Gulag. I urge my colleagues to join me in pressing for a full and complete investigation of the Soviet prison system to identify Raoul Wallenberg—and other Americans and other foreigners—who may have been forgotten in such institutions. These men must not be abandoned or die anonymously, having spent half a century under such appalling conditions.

PREVENTING DISCRIMINATION IN GROUP HEALTH PLANS

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUGHES. Mr. Speaker, today I am introducing legislation along with my colleague SHERWOOD BOEHLERT, to address a practice of health care discrimination that has been sanctioned by our Federal courts. Workers who rely on health benefits offered by their employers have discovered they are often protected only until they get sick.

Our Subcommittee on Retirement Income and Employment has held hearings to examine the adequacy of the Employee Retirement Income Security Act [ERISA] as it relates to all benefit plans. We were alarmed to discover that the safeguards the drafters incorporated into ERISA have eroded over the past 18 years through a series of Federal court decisions. Today's workers and pensioners actually have fewer rights to their benefits than they had prior to the enactment of ERISA.

When ERISA was enacted in 1974, the reliance protection Congress so painstakingly included for pension plans was not addressed in the health and welfare areas. Most of the work force, at that time, received health benefits from traditional group insurance contracts. Today over 65 percent of the workers who are provided health benefits in this country are in self-funded plans. The effect of this drastic switch is that State insurance consumer protection laws are inapplicable, leaving these workers unprotected.

This legislation addresses the specific situation Dr. Frank Greenberg brought to our attention at a recent hearing. He poignantly illustrated the discriminatory actions taken against Jack McGann, an employee of H&H Music Co. of Houston, TX. Mr. McGann was covered by a generous group health insurance plan. He, like most of us, felt protected by his employer's plan. Yet when Mr. McGann was diagnosed with AIDS and began submitting medical reimbursement forms for his treatment, his company reduced the life-time coverage for AIDS-related disorders from $1 million to a mere $5,000.

According to the fifth circuit, ERISA currently allows for this type of retroactive reduction of benefits to take place. How tenuous has employer-provided health coverage become? As health care costs continue to spiral out of control employers have developed ways to control their own health care business expense. Through creative plan design employers now place dollar caps or completely exclude certain diseases from coverage. We understand employers' concerns regarding health care cost control but, we do not believe that ERISA was ever intended to sanction employers from reneging on promises to their employees.

This bill addresses the most egregious aspect of H&H Music—the retroactive reduction in benefits to employees who have relied on benefit coverage promised by their employer. Under this legislation, changes made to eliminate or reduce benefits for employees, who at the time of the change were in a course of treatment which was medically necessary, are now deemed a form of discrimination under ERISA. An exception has been provided to employers who can demonstrate that, but for, the adoption of the change its plan would have to be terminated. The bill continues to allow for nondiscriminatory prospective changes in benefit levels and incorporates clear notice requirements to employees concerning these plan changes.

As evidenced by data and testimony offered at the subcommittee hearings, unless the legal relief section of ERISA is concurrently amended the above protection would be meaningless. Therefore, the remedy section of ERISA has been amended, to include consequential and exemplary damages when appropriate.

We are hopeful that this bill will bring to the forefront the issue of how significant ERISA is to the health care reform debate and look forward to working with all interested parties in enhancing this bill. This legislation should not be mistaken for our response to health care reform. But we cannot stand by and permit employers to pull the health care carpet from under the feet of their employees at the time they are the most vulnerable.

Most workers believe that ERISA safeguards pension and health benefits provided by their employers. Most people rely on ERISA to protect their basic civil right against discriminatory actions and their right to due process. We all must work to ensure that the promises made to American workers in ERISA are kept.

H.R. —

To amend title I of the Employee Retirement Income Security Act of 1974 to provide that unreasonable discrimination in benefits under group health plans affecting benefit claims thereunder constitutes interference with rights protected under such Act and to provide for effective remedies therefor, and to provide for adequate notice of material changes to group health plans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Group Health Plan Nondiscrimination Act of 1992".

SEC. 2. PROTECTION FROM INTERFERENCE WITH RIGHTS.

Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 510."; and

(2) by adding at the end the following new subsection:

"(b) DISCRIMINATION BASED ON BENEFIT CLAIMS UNDER GROUP HEALTH PLANS.—

"(1) IN GENERAL.—In any case in which a plan sponsor adopts a change in group health plan coverage, the adoption of such change shall be deemed a form of discrimination prohibited under subsection (a) if—

"(A) the adoption of such change occurs after submission of a claim under a group health plan maintained by the plan sponsor for provision of, or reimbursement for, a course of treatment which was medically necessary, and

"(B) after such change takes effect, the value of benefits provided to the claimant under the group health plan coverage in the form of provision of, or reimbursement for, such course of treatment is reduced or eliminated.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any claimant in the case of the adoption of any change in group health plan coverage if—

"(A) the plan is unable to pay benefits when due, and, but for the adoption of such change, will be terminated, and

"(B) there is no reasonable, non-discriminatory alternative change within the plan sponsor's control.

"(3) GROUP HEALTH PLAN.—For purposes of this subsection, the term 'group health plan' has the meaning provided in section 607(1).".

SEC. 3. LEGAL RELIEF FROM DAMAGES FOR INTERFERENCE WITH RIGHTS UNDER PLAN.

(a) DAMAGES.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following new paragraph:

"(4)(A) Any person who violates section 510 with respect to any participant or beneficiary under a group health plan shall be liable to such participant or beneficiary for actual damages (including compensatory and consequential damages proximately caused by the violation), except that, subject to subparagraph (B), damages for such violation shall not include punitive damages.

"(B) In any case in which the violation constitutes willful, fraudulent, or malicious conduct, bad faith, or gross negligence, each person liable under subparagraph (A) may, in the court's discretion, be liable to the such participant or beneficiary for exemplary damages equal to not more than the greater of—

"(i) 100 percent of the amount of actual damages awarded, or

"(ii) $10,000.

"(C) For purposes of this paragraph, the term 'group health plan' has the meaning provided in section 607(1).".

(b) ATTORNEY'S FEES.—Section 502(g) of such Act (29 U.S.C. 1132(g)) is amended by adding at the end the following new paragraph:

"(3) In any action for damages under subsection (c)(4) in which the plaintiff prevails or substantially prevails, the court shall award the plaintiff reasonable attorney's fees and other costs of the action, including reasonable expert witness fees and costs, to be paid by the defendant. Fees awarded under this paragraph shall be generally prevailing hourly rates.".

SEC. 4. REPORTING AND DISCLOSURE REQUIREMENTS.

Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) NOTICE OF MATERIAL CHANGES IN TERMS OF GROUP HEALTH PLANS.—

"(1) IN GENERAL.—A group health plan shall issue to each participant and beneficiary, in language calculated to be easily understood by the typical participant beneficiary, a notice of any material change in the terms of the plan.

"(2) TIME FOR DISCLOSURE.—The notice referred to in paragraph (1) shall be issued to each participant and beneficiary not later than 10 days before the adoption of the material change involved. Any material change may not take effect until 60 days after the issuance of such notice.

"(3) SPECIAL REQUIREMENTS FOR SELF-INSURED PLANS.—In the case of a self-insured group health plan, any notice issued pursuant to this section shall include a statement—

"(A) indicating that the plan is a self-insured health plan and is not a policy of insurance,

"(B) indicating that the plan is not subject to State guarantee fund protection,

"(C) identifying the person who is responsible for claim determinations and processing, and

"(D) indicating that, if the plan does not pay all benefits for which participants or beneficiaries are eligible under the plan, responsibility for payment for medical care may to some extent remain with the participant or beneficiary.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 607(1).

"(B) SELF-INSURED PLANS.—A group health plan is 'self-insured' unless all benefits provided under the plan are provided under a contract or policy of insurance issued by a person licensed by a State to engage in the business of insurance.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to changes in group health plan coverage adopted on or after the date of the enactment of this Act.

SUNNYSIDE COMMUNITY SERVICES SALUTES ITS VOLUNTEERS

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MANTON. Mr. Speaker, Sunnyside Community Services has grown from its modest beginnings in 1974 as a senior center to the largest community based social service organization in Western Queens. Today, Sunnyside Community Services plays an increasingly significant role in the life of the community through programs on site, in schools, and in the home. Its activities serve 5,200 seniors and more than 1,000 youth.

None of this would be possible without the support and commitment of the many volunteers who give of their time and effort every day. On October 30, 1992, Sunnyside Community Services will hold its annual volunteer recognition dinner.

Mr. Speaker, I ask unanimous consent to insert in the RECORD the names of all those volunteers who work so hard to improve the quality of life for so many in their community.

Jean Adams, Azy Ajderian, Alicia Amiama, Virginia Annunziata, Patricia Auspos, Bea Badian, Stella Bendahan, Dennis Berry, Leslie Boulware, Dolly Brooks, Jean Buberniak, Rita Buday, Helen M. Burke, Helen Burnette, Rita Button, Cadiz Family, Blanca Calderon, Clemencia Ceballos, Haydee Ceballos, Arelis Cepeda, Norma Chein, Chong Family, Cheryl Cohen, Doris Cohen, Lillian Cohen, Marc Crawford, Joseph Dammacco, Julia de Marasse, Dora Delgado.

Maria Disla, Hanna Dodd, Eileen Downes, Edna Ecker, Alex Edmiston, Gladys Emmanuel, Dolores Ferrante, Lillian Fishberg, Adrienne Fitzgerald, Grace Friedlander, Teogil Gherghel, Gilbert Family, Rita Glass, Katherine Grendi, Marie Grieco, Jane Halpern, Mary Halvey, Tom Halvey, Alice Havlena, Marion Hayes, Betty Hehn, Angela Hernandez, Anne Marie Hofving, Idalie Jean-Jacques, Jennie Jessie, Anna Jones, Beverly Keegan, John Kim, Lotte Klemperer.

Kollar Family, Rose Kryzak, Lana Family, Mildred Lang, Eddie Lavin, Theresa Lawson, Elli Leyser, Mary LiCalsi, Glyn Lloyd, Emma Lopez, Gertrude E. Luckey, Barbara Lynch, Paula Marcisak, Ana Martinez, Rose Marie Mattina, Winnie McHugh, Mireya Molina, Grace Montes, Virginia Morales, Antoinette Morra, Mussi Family, Lillie Navarro, Dorothy Neubauer, Grace Nicotra, Carlos Nieves, Natividad Nieves, Aura Ordonez, Anna Owen.

Judy Pagan, Roberta Pederson, Marguerite Perrin, Perrin Family, Bill Petsco, Alice Pidhorodecky, Luisa Plaza, Ray & Mabel Podolefsky, Mary Polizzano, Herta Popelka, Alice Popp, Esperanza Potenciano, Jack Rainey, Kathleen Reilly, Roger Reynolds, Michael Rinaldi, Luis Rivera, Virginia Roblin, Clarissa Roseman, Zoila Rugel, Robert Salmon, Marie Sanchez, Isabel Saucedo, Patricia Schubert, Sylvia Schwartz, Ana Maria Sepulveda, Benjamin Shaw, Yvonne Sikorski, Guillermina Silva, Spiteri Family, Amparo Suarez, Jose Suarez, Stephen Szabo, Berjoui Touryantz, Mary Vavalis, Dolores Veliz, Ellynor Von Langendorff, Agatha Webb, Wiegmann Family.

THE RETIREMENT OF HON. FRANK ANNUNZIO

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HORTON. Mr. Speaker, I want to pay tribute to Frank Annunzio who will be retiring from the Congress at the end of the year. Frank Annunzio has served this Nation with distinction as a Member of this body for 28 years.

I consider it an honor and a privilege to count Frank Annunzio among my friends. On more than one occasion, I have had the pleasure of traveling with Frank and his wife, Angeline, as part of a congressional delegation. He is a fine gentleman and an excellent example of what a Congressman should be.

During his tenure as chairman of the House Administration Committee, Frank Annunzio made great progress in improving the life of the Members of the House. He was always fair to me as ranking minority member of the Government Operations Committee when I went before his panel to testify about our needs. I am forever grateful for the even-handed treatment which I received.

Frank Annunzio's work on the Banking Committee will also be remembered well. During his tenure on that panel, he worked to ensure that our Nation's banking and lending laws did not leave the little guy behind. As one who shares his view that Government should respond to the needs of the little guy, I salute Frank for his tireless efforts.

My wife, Nancy, joins me in extending our best wishes to Frank Annunzio and his family. We wish him the best of luck in all of his future endeavors.

COMMUNITY FACILITY FINANCING

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. STALLINGS. Mr. Speaker, the pending measure includes important provisions that I sponsored to help rural communities obtain the financing needed to improve or expand water and waste disposal facilities.

Under the bill, the Farm Credit System's banks for cooperatives will be given broader authority to finance the operations of water and waste disposal systems that serve primarily rural areas. This authority will give rural communities another financing option as they strive to meet the regulatory requirements of the Clean Water Act and the Safe Drinking Water Act.

With the enactment of this legislation, the banks for cooperatives will be authorized to finance the installation, expansion, improvement, and all other activities related to the operations of water and waste disposal systems that serve rural areas. In addition to assisting communities meet regulatory requirements, this expanding authority will enable many communities to refinance high-cost debt at today's lower interest rates.

The bill also repeals an outdated provision of current law—section 4.16 of the Farm Credit Act—that prohibits Farm Credit Systems entities from providing credit enhancements for tax-exempt bonds. Such credit enhancements will help small communities obtain lower cost financing.

The repeal of the section 4.16 prohibition is an important step. However, the Internal Revenue Service must now take administrative action to allow rural communities to benefit from such credit enhancements without jeopardizing the tax-exempt status of their debt issues. Such administrative relief has been granted in the past for tax-exempt bond issues enhanced by Government-sponsored enterprises. I believe it would be appropriate to grant such relief for the rural communities that we intend to assist by enacting this legislation.

I urge my colleagues to join me in supporting this bill.

REMARKS ON H.R. 6093

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. OBERSTAR. Mr. Speaker, during the debate on Friday, October 2, on H.R. 6093, the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992, I made some comments on section 117 of the bill which deals with disadvantaged business enterprises. Unfortunately, these comments were not included in the daily edition of the Congressional Record. To complete the legislative history of the bill, these comments were as follows:

Mr. Speaker, I wish to clarify that Section 511(h)(2) of the Airport and Airway Improvement Act of 1982 (AAIA), as amended, does not apply to car rental firms doing business at an airport for the purposes of determining compliance with any requirement imposed pursuant to section 511(a)(17) of AAIA. Administration of DBE assurance for car rental firms shall be governed by section 511(h)(3) of AAIA, as amended.

In addition, I note that Section 511(h)(3)(C) of AAIA, as amended, provides that nothing in the law on DBE assurance "shall require a car rental firm to change its corporate structure to provide for direct ownership arrangements." For example, a car rental firm is not required, but is permitted, by the DBE assurance sections 511(a)(17) and 511(h) of the AAIA, as amended, to transfer corporate assets or engage in joint ventures, partnerships or subleases.

EDUCATION AND THE FOUNDING FATHERS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DANNEMEYER. Mr. Speaker, we live in a time of great social crisis. Our children rank at the bottom of the 19 industrial nations in reading, writing, and arithmetic. The world's narcotic economy is based upon our own consumption of this commodity. If we didn't buy so many powdered dreams, the business would collapse—and schools are an important sales outlet. Our teenage suicide rate is the highest in the world—and suicidal kids are rich kids for the most part, not the poor. In Manhattan, NY, 70 percent of all new marriages last less than 5 years.

These are troubled times. America's problems will not go away by maintaining the status quo. A revolution is in order, a spiritual revolution. We must turn to the roots of our American heritage and rediscover the faith and nature of our experiment in self-government.

Mr. Speaker, I commend the following analysis of David Barton to each of my colleagues. No better time could be spent than for every public official to read and re-read this bit of history.

EDUCATION AND THE FOUNDING FATHERS

(By David Barton)

The *Federalist Papers* were written by three of the prominent Founding Fathers—James Madison, Alexander Hamilton, and John Jay—to explain to the newly United States why it needed a federal Constitution. Currently, there is a law-school professor in Alabama who requires all of his students to read the *Federalist Papers*. After all, since they were written by the Founding Fathers to explain the purpose of the Constitution, they are perhaps the best source from which to understand the Constitution's intent. His students—enrolled in graduate level legal studies—regularly return to him complaining that this is the most difficult book they've ever had to read. He nods his head, "I understand that. This book was not written for someone at your level; this book was written for the common, average upstate New York farmer of 1777. Perhaps someday you'll attain the education level of those New York farmers!"

What an amazing educational system we must have had then, and what a remarkable education our Foundng Fathers must have received. After all, they established the form of government that has now lasted over two centuries securely. We'll look at the educational system that produced these great men and at the steps that the Founding Fathers themselves took to ensure that America would always continue to maintain a successful educational system.

What kind of an educational system produced these remarkable men? Let's examine at some of the schools they attended. Colleges and universities then—just like now—had requirements that prospective students must fill if they wanted to attend that school. Notice the requirements at Harvard. Harvard was attended by Founding Fathers like John Adams, John Hancock, and Samuel Adams. Harvard's requirements very clearly stated that:

"Every student shall be plainly instructed and consider well that the main end of his life and studies is to know God and Jesus Christ and therefore to lay Christ in the bottom as the only solid foundation of all sound knowledge and learning."

To go to Harvard you had to understand that your primary purpose for being there was to know God and Jesus Christ! And Harvard had other requirements as well. For example:

"Everyone shall so exercise himself in reading the Scriptures twice a day that he shall be ready to give such an account of his proficiency therein."

You had to know and study the Scriptures to go to Harvard.

Yale was another school attended by many of the Founding Fathers. Founders like William Johnson, William Livingston—both signers of the Constitution—and Founder Noah Webster went to Yale.

Notice the requirements our Founding Fathers had to fulfill to go to Yale. Yale first expected that it was "a college for the liberal and religious education of suitable youth." It then explained:

"Seeing that God is the giver of all wisdom, every scholar, besides his private or his secret prayer [they expected you to have a private prayer life at Yale] will be present morning and evening at public prayer."

To go to Yale you had to have a prayer life; private prayer, as well as public prayer.

Princeton was another major university. Princeton was established in 1746, just shortly before many of the founders started attending school. Princeton produced nearly one-third of the two hundred-plus Founding Fathers, including men like President James Madison and Signers of the Declaration, Benjamin Rush and John Witherspoon. The founding statement of Princeton University in 1746 records its educational philosophy:

"Cursed is all that learning that is contrary to the cross of Christ!"

Quite a founding statement for a university!

Not only was Christianity the core of education through at the time of the Founding Fathers, it had been the core of education from the founding of America until well after the Founding Fathers.

The first public education law ever passed in America was passed in 1642 in Connecticut and Massachusetts. They preceded from the experiences of the early settlers who had come to America. Those settlers—very strongly religious for the most part—were very concerned about the civil atrocities which had occurred in Europe, many times under the banner of Christianity; for example, the Inquisition and the Crusades. Such atrocities were still fresh in the memory of many settlers who had come to America; they did not want any such civil atrocities to occur in America under the banner of Christ.

They believed they knew the reason such atrocities had occurred in Europe. In their minds, it was because the average person did not have access to the Word of God. The Word of God had been limited only to civil and religious leaders; the commoners did not have access to the Scriptures. The settlers believed that if the common person could have read the Word of God and known what the Word of God had really said—rather than what their religious and civil leaders were telling them—that they never would have allowed the civil governments do what they did in the name of Christ. Therefore, to preclude such a repetition in America, in 1642 those settlers passed "The Old Deluder Satan Act," explaining exactly why they were emphasizing education in America. This first public school law declared:

"It being the one chief project of that old deluder Satan, to keep men from the knowledge of the Scriptures, as in former times . . ." The law explained that because Satan's primary intent is to keep people out of the Scriptures, and thereby allow bad behavior by a lack of knowledge of God's will, they were not going to allow that to happen here in America. The law went on to explain that when fifty families gathered into an area, a teacher was to be acquired, and when one hundred families gathered, a grammar school was to be built "so that the youth can learn and be fitted for the university."

The spirit of that educational law in America continued not only for decades, but literally for centuries. In 1809, Edward Kendall from Great Britain arrived in America to investigate what had made us special. Such a visit was not unusual, for in the early days of America many foreign observers from numerous nations came here to examine America. Edward Kendall traveled throughout the United States in 1807 and 1808, keeping meticulous journals of what he observed from state to state. He would look at politics in this state, or agriculture here, or public transportation there, etc. While in Connecticut he examined education and noted the law in Connecticut at that time (1807–8). It stated:

"This [legislature] observing, that not withstanding our former orders made for the education of children . . . there are still many persons unable to read the English tongue and thereby incapable of reading the Holy Word of God or the good laws of this [state]."

They were concerned about illiteracy, but perhaps not for the reasons we're concerned today. Their concern then was that if you can't read, you can't read the Word of God or the laws of the colony, which means that the state might pass a law that would contradict the Word of God and the people would never stop them, because they couldn't read and therefore didn't know the Word of God. This educational law was well *after* the Founding Fathers and reflected the type of educational system that existed in America from our earliest beginnings to well after the Founders.

The Founding Fathers themselves took steps to ensure that Christian education would remain the center of America. Throughout the American Revolution and prior to the adoption of the federal Constitution, the nation had governed itself under the Articles of Confederation. Under the Articles of Confederation, the Founding Fathers had passed the "Northwest Ordinance" which delineated the provisions whereby territories could become states in the United States. In 1787, the Founders met in Philadelphia to revise the Articles of Confederation, but ended up producing a new constitution to replace the Articles of Confederation. The Founding Fathers, however, wanted the "Northwest Ordinance" to continue as the provision for statehood in the new form of government, so they re-passed it under the new Constitution. On July 17, 1789, the House of Representatives passed it; on August 4, the Senate passed it; and on August 7, George Washington signed it back into law under the Constitution. Significant in the "Northwest Ordinance" was Article III, wherein the Founding Fathers provided for education in those territories. Article III required that if the schools in a territory did not teach religion and morality—as well as knowledge—that the territory was not able to become a state in the United States!

Of further significance is that the Founding Fathers passed the Northwest Ordinance right in the midst of the time that they were working on the First Amendment. The First Amendment was produced June 7 through September 25, 1789, and the Northwest Ordinance was passed between July 17 to August 7—right in the middle of the First Amendment (which the Court now tells us means "separation of church and state"). Is it likely that the Founding Fathers required something by law that they thought violated the First Amendment which they passed at exactly the same time? Certainly not! Yet the Founding Fathers required that our schools teach religion and morality to even become a state in the United States.

The effect of this law was evident in the states which came into the United States under the "Northwest Ordinance". When a state applied for admission into the United States, Congress would grant them an enabling act allowing them to assemble and form a state constitution, so long as it was "not repugnant to the principles of the 'Northwest Ordinance'". For example, on April 30, 1802, Congress granted an enabling act to the Ohio territory permitting them to meet on November 1, 1802, to form their state constitution. The enabling act required that their new state constitution be "not repugnant to the principles of the 'Northwest Ordinance'". Therefore, when Ohio formed its state constitution, it reflected what the Founding Fathers had required for admission to the United States. The Ohio state constitution clearly declared:

"That religion, morality, and knowledge, being necessary to good government, and the happiness of mankind, schools and the means of instruction shall forever be encouraged by legislative provision."

This was a requirement to come into the United States; that's why it was in the state constitutions. The Founding Fathers substantively declared: "You're not welcome in these United States if your schools do not teach religion and morality". The same provision was present when, for example, Mississippi was admitted in 1817. Their state constitution declares:

"Religion, morality, and knowledge, being necessary to good government, to preservation of liberty and the happiness of mankind, schools and the means of education shall forever be encouraged in this state."

This provision is found in state constitutions for decade after decade (e.g., Michigan, 1837; Kansas, 1858; etc.).

Even when Nebraska was admitted in 1875, their constitution contained the same provision. It very clearly states: "Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the legislature to pass suitable laws to encourage schools and the means of instruction."

Again, the reason that this provision appeared in all of these state constitutions is because the Founding Fathers required it—by federal law—in order to become a state in the United States.

This emphasis on religion was evident not only in the state constitutions, but also in the educational system itself. In 1892, a book was prepared by teachers' unions for the commemoration of the 400th anniversary of Columbus Day in America. The teachers' unions wanted to leave a legacy of what education has been like in America, so in the book they expounded on education in America: where it had started, where it had been birthed, etc., and how education, as they explained, "Was nurtured in the lap in the church." They pointed out that as the nation grew, and as we had more and more inhabitants, that the church voluntarily relinquished elementary education to the state. In essence the church said, "State, you take elementary education; we'll keep the higher universities—we'll keep higher education, but you go ahead and start taking elementary education." Notice the comment of the teachers' unions on that decision:

"Whether this was wise or not is not our purpose to discuss, further than to remark that if the study of the Bible is to be excluded from all state schools, if the inculcation of the principles of Christianity is to have no place in the daily program, if the worship of God is to form no part of the general exercises of these public elementary schools, then the good of the state would be better served by restoring all schools to church control."

That's a strong statement! The teachers' unions in 1892 said that if we ever get to where we do not teach the Bible in schools, if we don't inculcate the principles of Christianity, and if we don't have the daily worship of God, let's give all the schools back to the church because the nation would be better off.

This policy statement was not an aberration in American education: 106 of the first 108 colleges formed in America were formed on Christianity, and 123 out of the first 126. At the time of the Civil War there were hardly a half a dozen universities that did not have Christianity as its base, and in 1900 it was extremely rare to find a president of a university who was not an ordained clergyman. Christianity was the basis of education for all of the years of America.

Our Founding Fathers knew that education was the basis of success for the nation; they knew they had to transmit to future generations those principles that would make America successful if America was to exist on into the future. So it was that so many of the Founding Fathers became directly involved in education. They personally took steps to ensure that we would transmit to future generations those principles on which America had been formed, birthed, nurtured, and developed.

John Witherspoon is such an example. John Witherspoon was a member of Congress, a true patriot, and a signer of the Declaration of Independence. John Witherspoon was also a top educator. He was president of Princeton University and trained nearly seventy of the nation's Founding Fathers, although at the time he was training them he had no idea that they would become Founding Fathers. We can now look back and count and see whom he trained in his classes, and it is a distinguished list: John Witherspoon personally trained one President, one Vice-President, three Supreme Court justices, ten cabinet members, twelve governors, twenty-one Senators, and thirty-nine Congressmen—all under the philosophy which declared: "Cursed be all that learning that is contrary to the cross of Christ". And these seventy don't even include the people that he trained for state, local, and municipal offices. Patriot John Witherspoon taught his students what it meant to be a patriot in America; listen to how this signer of the Declaration said that one could identify an American patriot. He stated:

"That he is the best friend to American liberty who is the most sincere and active in promoting true and undefiled religion and who sets himself with the greatest firmness to bear down on profanity and immorality of every kind. Whoever is an avowed enemy of God, I scruple not to call him an enemy to his country."

What a strong statement by one of the Founding Fathers! He explained, "If you're a friend to America you'll promote religion and you'll bear down on profanity, and on immorality." Why? Because the Founding Fathers knew that the government of the nation was always a reflection of the individuals in that nation; if the individuals were profane and immoral, the government would be profane and immoral. So, as a friend to America, you naturally would bear down on profanity and immorality; you would promote personal virtue and you would emphasize religion and morality. Witherspoon further explained that in his view if you opposed God, you opposed America; if someone was an enemy to God, he was an enemy to America, for America stood for what God stood for. This is what a premier Founding Father taught his students!

Another significant Founding Father is Benjamin Rush. He was a patriot and a signer of the Declaration of Independence. He was also an eminent physician during the Revolution, and was a top educator, not only helping found four schools, but also being the first professor of chemistry in the United States, and authoring America's first textbooks in chemistry and psychiatry. He also served in the presidential administrations of his friends and fellow Founding Fathers John Adams, Thomas Jefferson, and James Madison. It was Benjamin Rush who was very instrumental in effecting a reconciliation between John Adams and Thomas Jefferson in their latter years. Benjamin Rush, like most of the Founding Fathers, was an extensive writer. One of his articles was titled "A Defense of the Use of the Bible as a Schoolbook". That article explained why the Bible would always be the primary textbook in American schools. Rush begins this writing by introducing the premise he will develop in his text:

"Before I state my arguments, in favor of teaching children to read by means of the Bible, I shall assume the five following propositions: I. That Christianity is the only true and perfect religion, and that in proportion as mankind adopts its principles and obeys its precepts they will be wise and happy; II. That a better knowledge of this religion is to be acquired by reading the Bible than in any other way; III. That the Bible contains more knowledge necessary to man in his present state than any other book in the world; IV. That knowledge is most durable and religious instruction most useful when imparted in early life; and V. That the Bible, when not read in schools, is seldom read in any subsequent period of life."

This is his beginning proposition, and he then goes through nearly a dozen reasons why the Bible will remain the primary textbook in American schools. Again, this is a Founding Father!

In the last part of this writing, he closes out with a warning on what will happen if we get away from using the Bible as the primary textbook in schools. Realize that at that time, the Founding Fathers did not consider us a democracy, they considered us a republic. As a matter of fact, several of them made significant statements declaring that we are *not* a democracy and *not* to become one; we are a republic. We pledge allegiance to a republic when we pledge to the flag of the United States. Realizing that a republic was important to them, listen to how Rush closes this section on the Bible in schools:

"In contemplating the political institutions of the United States, I lament that we waste so much time and money in punishing crimes and take so little pains to prevent them. We profess to be republicans, and yet we neglect the only means of establishing and perpetuating our republican forms of government, that is, the universal education of our youth in the principles of Christianity by the means of the Bible. For this Divine book, above all others, favors that equality among mankind, that respect for just laws, and those sober and frugal virtues, which constitute the soul of republicanism.

To Benjamin Rush it was very clear that if we did not keep the Bible in schools we would be expending great amounts of time and money in punishing crimes. He saw the Bible as the only source to prevent crimes, because the Bible and religion are the only means by which to deal with the heart, which is actually the source of all crime.

Another significant Founding Father is Gouverneur Morris. Gouverneur Morris is not a name that most of us recognize, but he was the most active member of the Constitutional Convention—speaking 173 times on the floor of the Convention. While many may not recognize the name or face of Gouverneur Morris they do recognize his work. He was the man who physically wrote the Constitution of the United States, he is its penman. He was responsible for taking the rough ideas floating around on the floor of the Convention and translating them on to paper—he literally, physically wrote the Constitution.

Having helped establish our successful form of government, he felt he could be useful to the French in establishing their government. This was a way to assist the French, for they had helped us often during the American Revolution. Gouverneur Morris took his experience from the Constitutional Convention and placed it in two books for the French: *Observations on Government Applicable to the Political State of France* and *Notes on the Form of a Constitution for France*. In these two works, Gouverneur Morris outlined for France some of the aspects we had utilized in our own system and encouraged them to implement them into their government. Notice what Gouverneur Morris—the man who physically wrote our Constitution—told the French about the role of religion and education:

"Religion is the only solid basis of good morals, therefore, education should teach the precepts of religion and the duties of man toward God."

Gouverneur Morris was recommending to France what we already had in America.

Another significant Founding Father was Fisher Ames of Massachusetts. Fisher Ames was a member of the first Congress, originated the idea of two-year terms for members of the House, was a top orator among the Founding Fathers, and on September 20, 1789, proposed the wording for the First Amendment as passed by the House. Fisher Ames—who gave us the wording for the First Amendment (which the Court now says means "separation of church and state", even though those words are *not* contained anywhere in the Constitution or any founding document)—said much about the role of the Bible in schools. Like the other Founding Fathers, Fisher Ames was a prolific writer. In his writings on school books, he observed an unhealthy trend in America whereby we were adding more and more books into our educational system. Ames noted:

"It has been the custom of late years to put a number of little books into the hands of children, containing fables and moral lessons, and this is very well because it is first right to raise curiosity and then to guide it. But many books for children are however, injudiciously compiled."

He continued, noting that these new books naturally required that time be spent on them—reading time which previously had been spent by students on the Bible. The overall effect was that these new books were gradually moving the Bible to the back of the classroom. Fisher Ames strongly objected. In closing his writing on school books, he warned:

"Why then, if these books for children must be retained, as they will be, should not the Bible regain the place it once held as a school book? Its morals are put, its examples, captivating and noble; the reverence for the sacred book that is thus impressed early lasts long, and probably, if not impressed in infancy, never takes firm hold of the mind."

The man who gave us the First Amendment warns that we must take care not to allow other books to push the Bible to the back of the classroom, much less completely out of schools! And yet this has now happened; supposedly in the name of the Founding Fathers.

Noah Webster was another one of the significant Founding Fathers. Yet often when we hear "Noah Webster", we think of him only as an educator; but he was a Founding Father. He was a soldier during the American Revolution, spent nine terms in the Connecticut legislature, three terms in the Massachusetts legislature, and four terms as a judge. He was one of the first to call for the Constitutional Convention, was personally responsible for Article I Section 8 of the U.S. Constitution, and was one of the most active in promoting the ratification of the Constitution. Like other Founding Fathers, Noah Webster knew that they must pass on to future generations those principles which would keep us successful; and that's why he became an educator.

Webster wrote spellers, primers, his dictionary, history books, books on government, books on science and astronomy, etc. He was very prolific as an educational textbook writer.

Founding Father Noah Webster had great impact on the national and on education in ways other than his dictionary. Prior to Noah Webster, there was not a right or wrong way to spell a word in America; however you wanted to spell a word was acceptable, as long as people could tell what you were saying. By reading letters written from different parts of the nation, it was possible to determine where an individual lived simply by the way they spelled their words. Noah Webster felt that spelling must become standardized in the United States, so in the 1780's he came out with his first spellers. His spellers remained the standard for American schools for the next 150 years, becoming known as *Webster's Blue-back Spellers.* Up through 1930, Webster's was the standard for spelling in America.

Often today when a book is printed, nothing is printed on the inside cover or the flyleaf; and that is standard. Webster evidently felt this to be a complete waste of space; if there is blank space put something on it that is useful for students. And so it was that in Webster's own versions, he filled everything: the cover, the fly-leaf, etc. What did he use to fill blank space? What did he feel to be significant and important for the students? Bible verses! For example, the cover of his original speller is filled with the passage from Ecclesiastes 12:

"Remember now thy Creator in the days of thy youth, while the evil days come not, nor the years draw nigh when thou shall say, I have no pleasure in them, etc."

Webster placed Bible verses throughout his texts; he felt there was nothing more significant for the students. Perhaps it is ironic—and quite a commentary on our current interpretation of the Constitution—that our Founding Fathers, who gave us the Constitution, placed in the educational materials the authorized items which today are considered completely unconstitutional!

In those spellers which we used for 150 years, Webster not only provided spelling words, he also provided the opportunity to practice those words in sentences and even in stories. But Webster did not use nonsensical sentences or useless stories; if students were going to practice, let them learn something useful while practicing. In the back of the book he provided several stories from which the students could practice their reading and the use of their spelling words. One story was called "The Fable of the Boy that Stole Apples" and appeared in our text for 150 years; notice the moral content:

"An old man found a rude boy upon one of his trees stealing apples. He desired for him to come down, but the young saucebox told him plainly, he would not come down. 'Won't you?' said the old man, 'then I will fetch you down.' So he pulled up some turf or grass and threw at him. But this only made the youngster laugh, to think that the old man should pretend to beat him down for the tree with grass only. 'Well, well' said the old man, 'if neither words nor grass will do, I must try what virtue there is in stones.' So the old man pelted him hardly with stones which soon made the young chap hasten down from the tree and beg the old man's pardon. *Moral: "If good words and gentle means will not reclaim the wicked, they must be dealt with in a more severe manner."*

This was the type of material that appeared through all of Webster's books for 150 years. Concerning education in the United States, Webster declared:

"The Christian religion is the most important and one of the first things in which all children, under a free government, ought to be instructed. The Christian religion must be the basis of any government intended to secure the rights and privileges of a free people."

His text *The History of the United States* was not only a history text for students, it was also a civics/government text. Webster told the students:

"The brief exposition of the Constitution of the United States will unfold to young persons the principles of republican government, and it is the sincere desire of the writer that our citizens should early understand that the genuine source of correct republican principles is the Bible, particularly the New Testament or the Christian religion."

In that text he told the students what would happen if we moved away from the Bible as the basis of our government:

"The moral principles and precepts contained in the Scriptures ought to form the basis of all of our civil constitutions and laws. All of the miseries and evils which men suffer from vice, crime, ambition, injustice, oppression, slavery and war, proceed from despising and neglecting the precepts contained in the Bible."

What a strong statement! Webster said all the trouble we get into is because we don't follow the teachings of the Bible. He then concluded his section on government by telling the students:

"The religion which has introduced civil liberty is the religion of Christ and his Apostles. . . . This is genuine Christianity, and to this we owe our free constitutions of government."

Founding Father Webster was very explicit throughout all his textbooks about the importance of Christianity to government. His study of the world, of governments, and of the nature of people, caused him to realize that there were only two ways to control behavior. Behavior could be controlled internally by internal restraints (as Benjamin Rush explained, crime could be prevented by teaching the principles of the Word of God), or behavior must be controlled externally through a physical government coercion which will force an individual to do what is right, but this results in a very oppressive regime. Webster explained:

"There are two powers only which are sufficient to control men and secure the rights of individuals in a peaceable administration. These are the combined force of religion and law, and force of fear of the bayonet."

This principle was understood for generations. Robert Winthrop—personally trained by Daniel Webster and a great American statesman as well as a Speaker of the House of Representatives—explained the same principle in these words:

"Men, in a word, must necessarily be controlled either by a power within them, or by a power without them, either by the Word of God or by the strong arm of man, either by the Bible or by the bayonet."

This was the principle that Founding Father Noah Webster had articulated for so long and which appeared in educational material used in the United States for 150 years.

It is interesting to see the way that Noah Webster was described after his death in 1843. The *Webster Spellers* that came out after his death contained a section dedicated to Noah Webster, presenting him as one of the top educators in America as well as a Founding Father. The epigraph given Noah Webster simply stated:

"The man who taught millions to read, but not one to sin."

Another Founding Father was Dr. Jedediah Morse. He was very active on the political scene during the American Revolution and would be considered one of the top three educators in America at that time. Dr. Morse is called the "Father of American Geography", for it was he who instituted the study of geography as a course in American schools. In 1784 he came out with his first book, *Geography Made Easy,* which took students through lessons on geography, government, history, etc. Morse, like Webster, was a prolific writer of textbooks. In his writings he too had much to say about the importance of Christianity to government. For example:

"To the kindly influence of Christianity we owe that degree of civil freedom, and political and social happiness which mankind now enjoys. In proportion, as the genuine effects of Christianity are diminished in the nation . . . in the same proportion will be people of that nation recede from the blessings of genuine freedom. I hold this to be a truth confirmed by experience, and it follows that all efforts made to destroy the foundations of our holy religion ultimately tend to the diversion of also of our political freedom and happiness. Whenever the pillars of Christianity shall be overthrown our present republican forms of government, and all the blessings which flow from them, must fall with them."

What a clear warning! The Founders believed that when we lose the influence of Christianity in the nation, we also lose our political and our social freedoms.

The cousins John and Samuel Adams both had much to say about education in America. Each was an eminent statesman and patriot; each had a distinguished political career. Samuel Adams is called "The Father of the American Revolution" and gave over twenty years of his life in the cause of American liberty. He was behind everything from the Sons of Liberty to the Committees of Correspondence, even to the Boston Tea Party. Samuel Adams had an extended political career after the Revolution: he helped write the Massachusetts state constitution, helped ratify the federal constitution in Massachusetts, he became lieutenant governor of the state under Governor John Hancock, and finally became the state's governor after Hancock left office.

His cousin, John Adams, had an equally distinguished career. It was John Adams who personally recommended George Washington to the Congress as Commander-in-Chief, and who went to Thomas Jefferson and personally asked him to personally pen the wording for the Declaration of Independence. John Adams was one of the three men who negotiated the final peace treaty with Great Britain, was the first vice-president of the United States under George Washington, and became the second president of the United States.

Both John and Samuel wanted to see America continue on the foundation which they had built and so a series of letters went back and forth between these two political, public and governmental officials in 1790. These letters were so significant that in 1802 they were reprinted in the form of a little booklet—a booklet now in the political tract section of Harvard Law library. That booklet was called: *Four Letters, Being an Interesting Correspondence Between those Eminently Distinguished Characters, John Adams, Late President of the United States, and Samuel Adams, Later Governor of Massachusetts, on the Important Subject of Government.* In these letters they recommended and explained to each other what they thought should be done to keep America on a strong foundation. These two did not share common political views—they were diametrically opposed. John Adams, as a leader of the Federalist, thought we needed a strong central government; Samuel Adams, a leader of the anti-Federalist, thought the central federal government should be small and that the people and the states should hold the power. Politically, they held many differences. On October 4, 1790, Samuel Adams made this recommendation to John for keeping America on a firm foundation:

"What is to be done? Let divines and philosophers, let statesmen and patriots, unite their endeavors to renovate age by impressing the minds of men with the importance of educating their little boys and girls, of inculcating in the minds of youth the fear and love of the Diety, and universal philanthropy, and in subordination to these great principles, the love of their country, of instructing them in the art of self-government, without which they can never act a wise part in the government of societies, great or small; in short, of leading them in the exalted virtues in the study and practice of the Christian system."

While John and Samuel agreed on little in these writings, on October 18, 1790, John wrote back to Samuel Adams and said, on this "You and I agree." They both agreed that if we expected to remain a strong nation that we must teach our little boys and girls the exalted virtues of the Christian system.

George Washington also held strong views on education, as indicated by and incident during the American Revolution in 1779. George Washington received strong respect from the Indians—a respect that had been birthed decades before in the French and Indian War when on July 9, 1755, God's direct intervention kept Washington from being killed by the Indians. In 1775 some miraculous events occurred by God's direct intervention, keeping Washington from being killed by the Indians. The Indians had always since respected Washington. Because of their grave respect for him, in 1779, when Washington was encamped on the banks of a river at a military encampment, some Delaware Indian chiefs came to him and brought some of their youth that they wanted trained in America's schools. On June 12, 1779, Washington received those youth, first assuring the chiefs, that "Congress will look on as their own children"—we would look after the Indian youth the same way we would our own American youth. Washington then commended the Delaware chiefs for their decision to bring their children to American schools and told them:

"You do well to wish to learn our arts and our way of life, and above all, the religion of Jesus Christ. These will make you a greater and happier people than you are; Congress will do everything it can to assist you in this wise intention."

According to Washington, what would they learn in American schools "above all"? "The religion of Jesus Christ"! Congress would treat them as they treated their own children; and in American schools—according to George Washington—we taught Christian principles "above all".

Thomas Jefferson also had great impact in helping Christian principles remain in education. Yet today we are told that Thomas Jefferson wanted "separation of church and state". If that is true, either Jefferson didn't practice what he preached, or what they tell us today that Jefferson said must not be what he actually said. While Jefferson was President of the United States, he was also made president of the school board for Washington D.C. public schools. Jefferson authored the original plan for education for Washington D.C. public schools. In his plan of education, Jefferson placed the Bible and Watt's Hymnal as two primary reading texts in Washington D.C. public schools. The Bible we recognize; but was Watt's Hymnal, and why would a hymnal be a reading text in public schools? Watt's Hymnal was considered the purest doctrinal hymnal of the day; Jefferson had students read the hymnal to learn Christian doctrine. These were the two texts that *Jefferson* placed in public schools. Why would Jefferson put the Bible in schools? As he explained:

"I have always said, and always will say, that the studious perusal of the sacred volume will make us better citizens."

John Quincy Adams was a Founding Father with a distinguished political career. Not only was he a President of the United States, but he served 18 years in the House of Representatives, was a U.S. Senator, was Secretary of State, and was foreign ambassador to Russia, England and France. He is also one of the very few Founding Fathers who lived long enough to have a photograph taken of him—made when he was 79 years old.

In his later years John Quincy Adams talked about a textbook that he could still remember: the *New England Primer*—his very first textbook. The *New England Primer* was the first textbook ever printed in America. It was first printed in Boston in 1690, and until 1900 the *New England Primer* was *the* primary text from which students learned to read. Presidents even through James A. Garfield talked about the lessons they learned from the *New England Primer*.

While the *New England Primer* went through reprint after reprint, the cover page might change, but the inside always contained the same the "Rhyming Alphabet", the "Alphabet of Lessons for Youth", and the "Shorter Catechism". The "Rhyming Alphabet" was part of our schools for two centuries:

A—In Adam's fall, we sinned all;

B—Heaven to find, the Bible mind;

C—Christ crucified, for sinners died.

Or notice

G—As runs the glass, our life is passed;

H—My book and heart, must never part.

The picture with "H" was a Bible located inside the heart, taken from Psalm 119: "Thy word have I hid in my heart that I might not sin against thee."

The "Alphabet of Lessons for Youth" was the ABC's in a column down a page, with a phrase written out beside each letter of the alphabet that the students memorized. All of the phrases were Bible verses. Notice what we memorized in schools for over two centuries:

A—A wise son makes a glad father, but a foolish son is the heaviness of his mother;

B—Better is a little with the fear of the Lord than great treasure and trouble therewith;

C—Come unto Christ all ye that labour and are heavy laden, and he will give you rest;

D—Do not the abominable thing which I hate, saith the Lord;

E—Except a man be born again, he cannot see the kingdom of God; etc.

The third section common to every *New England Primer* was the "Shorter Catechism". Recall that the *New England Primer* was the equivalent of a first grade textbook. Even though they didn't have grade levels then, this was the beginning reader—this was where students started, so we would call it a first grade textbook. Notice these "first-grade" questions:

"Which is the fifth commandment?"

"What is required in the fifth commandment?"

"What is forbidden in the fifth commandment?"

"What is the reason annexed to the fifth commandment?"

Or try some of these first grade questions:

"What offices does Christ execute as our Redeemer?"

"How does Christ execute the office of a prophet?"

"How does Christ execute the office of a priest?"

"How does Christ execute the office of a king?"

Or even this question,

"What are the benefits, which in this life, do accompany or flow from justification, adoption, and sanctification?"

This was the *beginning* textbook of schools for two centuries in America!

Another significant influence on early American education was Daniel Webster.

Daniel Webster was born during the American Revolution and grew up listening to the speeches of men like George Washington, John Adams, Thomas Jefferson, and James Madison. Webster was 17 years old when Washington died; he was 44 when Adams and Jefferson departed this life; and he outlived James Madison by only 16 years. Daniel Webster's long tenure in the U.S. Senate was interrupted only to serve as Secretary of State under three different Presidents. Webster—a tremendous lawyer—personally argued and won numerous cases before the United States Supreme Court. It often was the time when an opposing lawyer—upon hearing that Webster would be his opponent—withdrew from the case rather than suffer defeat before Webster's genius.

One of the cases that Webster argued before the Supreme Court dealt with a school in Philadelphia which had decided that it was going to teach its students morality without the aid of religion. The school had been started by Stephen Girard who had moved to America from France. Girard had been a student of the French Enlightenment and believed that you could produce morality without religion. He left $7 million to the city of Philadelphia to establish this school, but with the requirement that no minister be allowed on campus whatsoever; the school would teach morality, but it would have no Christian ministers on campus. It was this provision—among others—which caused the case to reach the Supreme Court.

When this case made the Court, what might have been from any other attorney's lips nothing more that a dry, legal argument, from Webster's lips became an emotional appeal on the importance of instructing students in school on the teachings of Christ. His argument in front of the Supreme Court lasted for three days. Webster explained to the Court:

"When little children were brought into the presence of the Son of God, his disciples proposed to send them away, but Jesus said, 'Suffer the little children to come unto me'. 'Unto me!', He did not send them first for lessons and morals to the schools of the Pharisees or to the unbelieving Sadducees, not to read the precepts and lessons on the garments of the Jewish priesthood. He said nothing of different creeds or clashing doctrine, but he opened at once to the youthful mind, the everlasting fountain of living waters, the only source of eternal truth. 'Suffer little children to come unto me.' And that injunction is of perpetual obligation; it addresses itself today with the same earnestness and the same authority which attended its first utterance to the Christian world. It is of force everywhere and at all times; it extends to the end of the earth, it will reach to the end of time always and everywhere sounding in the ears of men with an emphasis which nothing can supersede. 'Suffer little children to come unto me'."

After Webster's argument before the Court for those three days, how did the Court rule? Interestingly, part of the ruling hinged on the fact that this was a school receiving government aid. A school was capable of teaching anything it wanted as a private school; however, this school was seeking government assistance and that brought it to a different set of requirements. The Court ruled that since it was receiving government assistance it therefore *must* teach religion and the Bible and Christian principles. Notice the ruling:

"Why may not the Bible, and especially the New Testament, be read and taught as a Divine revelation in the schools? It's general precepts expounded and it's glorious principles of morality inculcated? Where can the purest principles of morality be learned so clearly or so perfectly as from the New Testament?"

There was no way the Court was going to have government assisted education in America which did not include Christian principles; to do so would be to violate that for which the founders firmly had stood; it further would violate every educational law up to that time. Because of the Founders' clearly articulated intent, Christianity remained the base for American education long after they departed.

The Founding Fathers had structured education very much the way that Martin Luther had recommended. This statement by Martin Luther was exactly what the Founders believed and was reflected in their laws and writings:

"I am very much afraid that schools will prove to be the great gates of hell, unless they diligently labor in explaining the Holy Scriptures, engraving them in the hearts of youth. I advise no one place his child where the Scriptures do not reign paramount. Every institution where in which men are not increasingly occupied with the Word of God must become corrupt."

That statement accurately described America's educational philosophy.

In the Department of Education is a library containing all the textbooks used in America's schools from 1775 through 1990. The challenge is to go through that library and find *any* area of curricular studies that is not based on the Bible and Christian principles. Virtually any textbook you pick up, from *any* area of study—even the math books—contain Christian principles and Biblical principles right there in the textbooks.

The effect of this education was apparent. Consider the Founder who provided the wording for the First Amendment and who suggested two-year terms for Congressmen: Fisher Ames. Fisher Ames entered Harvard when he was *12 years old;* but that was not unusual. Examining the records of Harvard and Yale, and it was not unusual for a student to enter when he was still *single digit* in age. Benjamin Rush *graduated* from Princeton when he was *fourteen years old.*

Consider John Trumbull. John Trumbull was a protegé of John Adams, learning law from him in 1773. Trumbull was very active in Connecticut politics and served on the Supreme Court of Connecticut. He was an ardent patriot during the Revolution and helped Noah Webster with the dictionary. When John Trumbull was four years old, he had already read through the Bible for the first time; at the age of six he won a Greek contest against his local minister; and when he was 7½ years old, he passed the entrance exam to Yale, but his parents decided to hold him out of Yale till he became 13! But he passed the entrance exam at the age of 7½!

Consider John Quincy Adams: when he was 14 years old—under this system of education—he received a U.S. Congressional diplomatic appointment overseas to the court of Catherine the Great in Russia! Such an act would be unthinkable today, but that was typical of the educational system of our Founding Fathers.

If you believe that these were exceptions and not typical or average, then consider these elementary spelling words from *Webster's Blue-back Speller*. Recall, this is an *elementary* spelling book, used for 150 years in all our schools. Notice the "elementary" spelling words we had: "contumelious", "ichthyology", "bronchotomy", "eschatology", "loquacious", "rapacious", "sagacious", etc. And there were many other words in this "elementary" book that probably most of us have never even seen before! And this was *elementary* spelling in America for 150 years!

Our Founding Fathers had an extremely successful system of education, and that educational system that was built on Christian principles. Their educational system had great impact on the government they formed. Abraham Lincoln, nearly 100 years after the Founders, made this observation:

"The philosophy of the school room in one generation will be the philosophy of government in the next."

And so it was with America's government.

Today we have lost our Founding Fathers. We had nearly 250 Founding Fathers: 56 who signed the Declaration, 55 at the Convention which framed the Constitution, 90 in the first Congress which produced the Bill of Rights, and many other significant Founders; while today we do well if we can name a dozen of those Founding Fathers, such was not always the case in previous years. The textbook called *The Lives of the Signers* was used in schools for decades and dealt with nothing but the 56 men who signed the Declaration of Independence, providing four to eight to twelve pages of biographical information on every one of those men. It taught students what they sacrificed for the cause of liberty, how they pledged their lives, their fortunes, and their sacred honor, and presented to them their personal views as well.

Today, however, the Founding Fathers have disappeared out of our textbooks. In 1985 the Department of Education studied the top 60 history textbooks used in the United States to see how we were teaching history to our students. It said those 60 textbooks were used by 88% of the nation's students. What was found in that study is stunning. In a study of third and sixth grade readers, there were 670 stories that dealt with America's history; Only 5 of the 670 dealt with the founding era. Three of the five stories dealt with Sybil Ludington who—in 1777—hopped on horseback and rode to neighboring villages to tell them the British were coming; one story dealt with a young girl who wanted to serve in Washington's army, was not allowed to, but carried food to them at Valley Forge; and the fifth story dealt with a young boy who single-handedly caught a British soldier stealing vegetables out of his garden. These were the only five stories on the founding era in those student readers! There was *not a single story* on Patrick Henry, Daniel Boone, Nathan Hale, Paul Revere—not a single story; they had completely disappeared.

The problem is, when we lose our founders, we lose their teachings; when we lose their teachings, we lose their ideas. How significant is it that we lose their ideas? A conversation occurred between an American statesman and a French historian some 80 years after the American Revolution. Eighty years after the American Revolution, America was still very successful in it's first form of government; but France, in those same eighty years had already been through several different revolutions and forms of government. And so it was that the French historian, Francois Guizot, looked at the American statesman, James Russell Lowell, and asked him, "Just how long will the American republic endure?" And James Russell Lowell sagely replied, "As long as the ideas of the men who founded it continue dominant."

The problem today is we don't know their ideas, and if we don't know their ideas we can't protect their ideas. We can't protect our foundations if we don't know what they are. We have to become active in going back and relearning about the Founding Fathers, relearning about their teachings, and relearning about their ideas, so we can protect the foundations on which this nation was birthed. And there is no doubt whatsoever that this nation was birthed on Christian principles. Through the textbooks, and throughout the writings of the Founding Fathers it is very, very clear that this nation was built firmly on Christian principles, both in government and in education. And our responsibility is to go back and rediscover our Founding Fathers, rediscover their teachings, and rediscover our American roots.

ESTABLISHMENT OF THE SELECT COMMITTEE ON DISASTER PREPAREDNESS AND RESPONSE

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. WELDON. Mr. Speaker, I rise today to introduce a resolution to establish the Select Committee on Disaster Preparedness and Response. In the aftermath of Hurricane Andrew, many in Congress called for the abolition of the Federal Emergency Management Agency [FEMA] and/or a complete overhaul of our Federal disaster assistance program. Prior to taking any drastic or hasty steps, it is imperative to carefully evaluate the performance of the institutions with responsibility for emergency management and response.

There are 20 subcommittees in both chambers that have jurisdiction over some part of FEMA. Obviously, this overlapping jurisdiction makes it very difficult to comprehensively review FEMA's operations. A select committee would provide the Congress with the broad perspective necessary to make an informed decision about the future of FEMA. In addition to evaluating FEMA's mission and performance, the select committee would examine the roles of the local, State, and Federal Governments and issue recommendations to coordinate their efforts.

The question is not whether another natural or man-made disaster will strike the United States, but when. It is inevitable. For this reason, we must thoroughly examine our Nation's mitigation procedures, preparedness, and emergency response capabilities. As chairman of the Congressional Fire Services Caucus, I am confident that a select committee is the most proper approach.

O'BRIEN ACHIEVEMENT AWARD WINNERS INCLUDE JOSEPH F. CRANGLE

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. NOWAK. Mr. Speaker, it was a pleasure last week to learn that Joseph F. Crangle, a long-time friend and political colleague from Buffalo, NY, was among the recipients of the Democratic National Committee's first annual Lawrence O'Brien Achievement Award.

The DNC and the family of the late Larry O'Brien established the award to "honor persons or institutions that have made a particularly notable contribution to the health and vitality of the Democratic Party."

Unquestionably, Joe Crangle's career in politics, one that spanned three decades, met those criteria.

His service included nearly a quarter century as chairman of the Erie County (NY) Democratic Committee, plus tenure as New York State Democratic chairman and notable work on the National Democratic Committee.

At this point in the RECORD, I would like to insert the biographical sketch of Joe Crangle issued by the DNC, which details his many accomplishments:

Joseph Crangle, of Erie County, New York, served as Chairman of the Erie County Democratic Party for 23 years and Chairman of the New York State Democratic Party for nine years, retiring in 1988. Crangle's dedication and commitment to the Democratic Party led Senator Edward Kennedy to remark, "No one has served the Erie County Democratic or our National Party with more distinction or dedication." At the 1968 Democratic National Convention in Chicago, Crangle presented the minority platform which supported opening up the Democratic Party to minorities. His activism and service to the party led to Crangle's selection as a delegate to every national convention since 1968. From 1969-72 Crangle sat as the only county chairman in the Nation to serve on the O'Hara Rules Committee of the DNC. In 1972 he was the only county chairman to serve on the DNC's Executive Committee and from 1972-74 Crangle was a member of the Charter Commission. In 1974, and again in 1978, Crangle served as a member of the Compliance Review Commission for Democratic Party Conferences and in 1980 he was a member of the Compliance Review Commission for the Democratic National Convention.

Following is an article which appeared in The Buffalo News on September 29, 1992, providing additional details on the awards presentation which took place in Washington:

CRANGLE RECEIVES HONOR FROM DEMOCRATIC PARTY

WASHINGTON.—Joseph F. Crangle, former Erie County and New York State Democratic chairman, is one of the first recipients of the National Democratic Party's Lawrence O'Brien Achievement Award.

The award and a check for $4,000 will be presented today by Democratic National Chairman Ron Brown, Senate Majority Leader George J. Mitchell and House Speaker Thomas S. Foley during a breakfast reception in the U.S. Capitol.

A luncheon will follow in the National Democratic Club. Crangle will be joined by his wife, Rita, their five children and a grandson.

The award, given in honor of a former national chairman, Cabinet officer and assistant to Presidents John F. Kennedy and Lyndon B. Johnson, recognizes those who have "made personal, family or financial sacrifice or otherwise shown unusual or extraordinary dedication to the furtherance of the goals of the Democratic Party, including assistance in campaigns for public office."

Crangle has been active in local, state and national politics for more than 30 years.

Among those nominating him for the award was Sen. Daniel Patrick Moynihan, who said: "He is personally responsible for my presence in the Senate. Not only did he encourage me, he got me elected (no small feat)."

Sen. Paul Simon of Illinois, who also nominated Crangle, wrote: "I remember Hubert Humphrey telling me one time that if he had designated Joe Crangle as his campaign chairman in 1968, he would have been elected president."

STATE CARE ACT OF 1992

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. WYDEN. Mr. Speaker, over the past several years, as the Federal Government has failed repeatedly to come to agreement on a package of national health reforms, States have taken the disputed leadership role in devising strategies to expand access to health insurance and contain the growth of health costs.

The States have been widely praised for this pioneering work by people on both sides of the aisle in Congress, and the administration has repeatedly hailed these groundbreaking State reforms as the laboratories of Democracy. There is good reason for such enthusiasm. Over the years, many of our most cherished Federal institutions got their start in State programs, including Social Security, Medicaid, and child labor laws. More recently, the health care reforms that began two decades ago in New Jersey paved the way for the Medicare hospital reimbursement systems reforms of 1992.

Continued State leadership in health care reform promises to extend health insurance coverage to over 450,000, uninsured Oregonians, and to millions of uninsured Americans living in diverse States including Florida, Minnesota, Vermont, Ohio, and California.

However, these State innovations are running up against a pair of legal barriers to health reform created by the Federal Medicaid law and the Employee Retirement Income Security Act of 1974, or ERISA. States can theoretically gain waivers of Medicaid restrictions, although many States, such as my home State, have found this waiver process to be slow, unpredictable, and occasionally, politicized.

There is, at present, no waiver, allowed from the key provision of ERISA, section 514(a), that preempts State authority to regulate or tax certain employee health benefit plans. More than half of all U.S. workers for employers that are sheltered from State health plan regulation by ERISA.

According to a report prepared by the GAO for Mr. DINGELL and myself, this ERISA preemption is a major hurdle that will be impossible for States to overcome unless Congress creates a waiver mechanism. Mr. Speaker, I would ask permission to include in the RECORD the executive summary of this GAO report at the conclusion of my remarks.

I would urge my colleagues to take note of recent events that make it clear that ERISA preemption is a threat even to existing, as well as proposed, State health reform innovations. In May of this year, a Federal district court, citing ERISA, struck down the longstanding New Jersey system for financing health insurance for the uninsured.

But Mr. Speaker, there is another reason for action on this front. While ERISA blocks State regulatory efforts, it provides for no effective Federal regulation of these plans. As a result, the Federal ERISA preemption has become an irresistible lure for employers seeking to escape from State regulation and taxation. Firms that are too small to successfully self-insure health plans are reorganizing to do just that, with the goal of escaping State oversight.

In one celebrated case, a firm with just 500 employees rewrote their employee health benefits plan after declaring the plan self insured. An employee with AIDS discovered that the new plan differed in one crucial respect: The health benefits available to people with AIDS had been reduced from $1 million to just $5,000. No limitation was imposed on any other catastrophic illness. A Federal court has ruled that Federal regulations provide no relief to this individual or others similarly across the Nation.

Mr. Speaker, I would prefer a single, simple Federal rewrite of ERISA to restore fairness and stability to the current anarchy that allows administrators of any health plan to escape accountability by simply calling the plan self-insured. Ideally, this rewrite of ERISA would be accomplished as part of a national health reform plan.

But agreement on a comprehensive Federal solution appears far away. Under the circumstances of gridlock which prevail on health care reform in Washington, I feel it is the duty of the Congress to take interim steps to remove the barriers that keep States from coming up with their own solutions.

The bill I am introducing today is a companion bill to S. 3180, introduced this summer by Senators PRYOR and LEAHY. It would allow State health reform proposals to be evaluated on a case-by-case basis for a waiver from the ERISA straitjacket. Up to 10 States could receive waivers of rigid ERISA and Medicare requirements from a new Commission on State-based Comprehensive Health Care. States awarded waivers would be granted 5 years for their demonstration project to prove the value of their health reforms.

Aside from creating a limited opportunity for gaining waivers to ERISA, the bill creates another important structural reform that benefits the States. In contrast to the present system, in which States must go to many separate agencies in two separate Cabinet-level departments, the new Commission will have the authority to operate the new waiver program on a one stop shopping basis. States need apply only to the Commission, and are guaranteed a prompt answer to their request, along with an opportunity to appeal a rejection—two badly needed elements missing from the current system.

Mr. Speaker, I have sought to reach a different balance among the interests involved in this debate in putting together the House bill, and as a result it differs in some respects from its Senate companion.

First, the Senate bill would grant States a broad power to tax health plans currently protected from State taxation by ERISA's preemption. In the House bill, such plans could only be taxed if all employers in the State were taxed under a comprehensive health financing system.

This provision is intended to prevent State tax levies from being imposed on too narrow a base. If States were to finance their health reforms solely through taxes on the ERISA plans, these taxes would rapidly become too burdensome on employers that already have the burden of providing health insurance to their own employees, but also pay their competitors' employees' health costs through cost-shifting. This is precisely the circumstance that caused the demise of the long-established New Jersey system, and I can see no reason to duplicate it elsewhere.

The second major difference is in the minimum health benefits package provided for in each bill. Where the Senate bill offers a choice between a "Standard" benefit package and a bare-bones basic package, the House bill establishes the standard package as its minimum health benefits plan. However, under the House bill, both States and employers would be given greater latitude to develop alternative benefits packages that provide equally as effective benefits, as measured by their ability to produce improved health outcomes and reduce the incidence and severity of disability. These standard benefits must be maintained throughout the life of each State's 5-year demonstration project.

Mr. Speaker, some people may be tempted to view the House and Senate State care bills offered by Senators PRYOR and LEAHY and myself as a threat to progress towards a national health reform legislation.

If I thought this were the case, I would not be offering this legislation to my colleagues for their consideration. I am convinced that any national reform bill enacted by Congress will provide—as most of the serious proposals brought forward to date have—for States with innovative programs to opt out of the national system, subject to certain oversight and constraints. With this in mind, I see the State care legislation as not only compatible with national health reforms, but as an integral piece of any such plan that may be developed early in the next Congress.

No legislation is perfect upon introduction, and this bill, seeking to address a profoundly complex problem as it does, is certainly no exception. I offer this legislation to my colleagues and to States and organizations representing employers and employees in the hope that they will analyze and comment on it, and help me to perfect it over the months following the sine die adjournment.

Mr. Speaker, I thank my colleagues for their attention.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, June 16, 1992.

HON. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives.

HON. RON WYDEN,
Chairman, Subcommittee on Regulation, Business Opportunities, and Energy, Committee on Small Business.

This report, prepared at your request, reviews state initiatives to expand access to health insurance and control rising health care costs. The report describes comprehensive plans to provide universal access to coverage, programs to extend access to specific groups, and efforts to control costs by reforming payment mechanisms.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies of this report to interested congressional committees and make copies available to others on request.

This report was prepared under the direction of Janet L. Shikles, Director, Health Financing and Policy Issues, who may be reached on (202) 512-7119 if you or your staff have any questions. Major contributors to this report are listed in appendix I.

LAWRENCE H. THOMPSON,
Assistant Comptroller General.

EXECUTIVE SUMMARY

PURPOSE

Providing health care to every American has become one of the most serious problems facing the nation. The number of individuals without—or with inadequate—health insurance is increasing, while the cost of providing care is growing. Chairmen John Dingell and Ron Wyden asked GAO to report on state initiatives to address the problems of access and affordability in the health care system and federal barriers that limit state options to achieve universal access to health care.

BACKGROUND

State governments have a major stake in financing and providing health care. States are concerned about the growing proportion of their budgets devoted to health—they already spend an average of 20 percent of their total budgets on health-related programs. Yet in some states, almost one-quarter of the population is uninsured.

In responding to the health care crisis, states are constrained by their budgetary problems. In addition, state reforms must comply with federal laws and regulations. The Employee Retirement Income Security Act of 1974 (ERISA) preempts state authority to regulate self-insured employer health plans. While ERISA primarily reacted to problems dealing with the solvency of employer-sponsored pension plans, its impact on employer-provided health benefits has grown as more firms have self-insured for health benefits. Over half of U.S. workers are employed in firms that self-insure, and states cannot require such employers to provide a specific health plan or pay state-imposed premium taxes. In addition, if a state wants to integrate the Medicaid program with a state plan, it needs federal permission to do so.

RESULTS IN BRIEF

States have taken a leadership role in devising strategies to expand access to health insurance and contain the growth of health costs. One hurdle that is difficult for states to overcome, however, is the restrictions imposed by ERISA's preemption clause. This clause effectively prevents states from exercising control over all employer-provided insurance. Hawaii, in part because its law requiring employers to provide health insurance took effect before ERISA was enacted, is the only state with an exemption. Even its exemption, however, has frozen the Hawaiian law in its original form, preventing state officials from making the improvements they would like to make.

Other states that have tried to move toward coverage of all their citizens have had to work within ERISA's constraints. One strategy, used by Massachusetts and Oregon, has been to create "play-or-pay" systems that rely on the state's power to tax. Employers are required to pay a tax to help finance state-brokered insurance; if they provide health insurance to employees, they generally receive a credit for the amount they spend on coverage. These laws, however, are expected to face legal challenges based on ERISA, and the outcome is uncertain.

Some state initiatives have been more narrowly focused, creating programs to assist specific groups, such as low-income children and adults. These have successfully extended coverage to some residents, but state budgetary constraints have limited the programs to serving a small fraction of the uninsured population.

State efforts to help the medically uninsurable and small business employees gain access to coverage through the private health insurance market have also achieved modest results. In addition, while most states have concentrated on expanding access, a few have implemented payment reforms to control medical inflation and reduce administrative costs. Maryland, for example, has lowered cost growth through its hospital rate-regulation system.

GAO'S ANALYSIS

Hawaii approaches universal access with help of ERISA exemption

In some states, debate no longer centers on whether to set a goal of ensuring universal access to health care coverage, but on how to achieve it. Hawaii was the first state to try to extend coverage to all its residents, and its uninsured rate is the lowest of all the states. The principal tool that has allowed Hawaii to approach universal access is its 1974 law requiring employers to provide health care insurance for full-time workers. Hawaii is able to enforce this requirement because its 1974 law is statutorily exempt from the ERISA preemption provision. State requirements that virtually all employers provide insurance and that insurers cover all employees reduce uncompensated care and cost shifting. Most residents not covered by employers or Medicaid are eligible for a state-subsidized insurance program with less extensive benefits. Hawaii officials would like to refine their system, but the ERISA exemption precludes the state from modifying its existing employer-mandate law.

Massachusetts faces delays and obstacles

States adopting universal access plans more recently did not have Hawaii's option of requiring employer-provided insurance and had to devise other approaches. When Massachusetts enacted its package of reforms in 1988, it designed a play-or-pay provision that requires employers to pay a tax to a state-brokered health insurance fund. Employers that provide health insurance to employees may generally deduct their costs for providing the insurance from the required contribution. Although the play-or-pay system was specifically designed to be compatible with the requirements of ERISA, state officials are not sure whether it would withstand a legal challenge. Implementation of the play-or-pay requirement has been delayed until 1995. Programs targeted to specific uninsured groups—such as unemployed workers and disabled people—have been implemented and made some progress in expanding access to insurance, but tight budgets limit their effectiveness.

Oregon's comprehensive approach requires federal waivers

Oregon, too, when enacting a comprehensive package of initiatives in 1989, chose a play-or-pay mechanism in the hope of avoiding an ERISA problem. Its requirement will go into effect in 1995, unless private market reforms are successful in reducing the uninsured population. One of the state initiatives is a Medicaid expansion that extends Medicaid benefits to all residents with incomes below the poverty level, including those who would not normally qualify for federal funds. Certain health services in the current benefits package would no longer be covered. The Medicaid expansion requires a number of waivers from the federal government, and implementation of the play-or-pay requirement cannot proceed unless the state obtains the waivers needed to carry out the Medicaid plan. A decision on the waiver request is expected in June 1992.

New reform efforts in Minnesota, Florida, and Vermont

Proposals to achieve universal access continue to be developed in the states. Recently, Minnesota, Florida, and Vermont enacted comprehensive reform packages. Minnesota's initiative includes a provider tax to finance subsidized health insurance for low-income uninsured residents and measures to contain costs. Minnesota and Florida may seek ERISA exemptions to give them more flexibility.

Programs for low-income populations expand access incrementally

Instead of adopting comprehensive plans, some states have opted for programs targeted to specific uninsured groups, such as children. One in five American children lives in poverty, and one-third of poor children lack health insurance. Several states have created programs to assist these children. Access for low-income children is expanded through state-subsidized private health insurance, such as Minnesota's Children's Health Plan, or expanded Medicaid eligibility, such as Vermont's Dr. Dynasaur program. Both approaches successfully expanded access to some uninsured children, but there remain many uninsured children in both states who do not qualify for assistance.

Low-income adults, many of whom fall into the category of the working poor, are another population states have targeted with insurance and Medicaid expansion initiatives. Washington's Basic Health Plan (BHP) provides subsidized health insurance, and the Maine Health Program expands Medicaid eligibility. Budget constraints limit the extent to which these programs reach the target population: BHP enrolls fewer than 20,000 of the estimated 450,000 eligible, and Maine's program has never covered more than 11,400 of its 113,000 uninsured.

States try to expand access to private insurance

Most states have also adopted measures to make it easier for people with high-cost health conditions and small business owners and employees to obtain affordable health insurance in the private market. Almost half the states have created high-risk pools to make insurance available to the medically uninsurable—people who cannot obtain conventional insurance because of their medical conditions—and to spread the risk of covering them among all insurers in the state. The funding base for the pools is limited because, as a result of ERISA constraints, the insurance assessments that supplement individual premiums do not apply to self-insured companies.

To address problems in the small business insurance market, states have adopted a broad range of initiatives, including subsidies and regulatory reforms, that attempt to make insurance more affordable and accessible. Thus far, most of these efforts have had only a modest effect on the number of small firms newly offering health insurance to their employees.[1]

Payment reform helps control costs

While most states have focused their attention on expanding access to coverage, some have made efforts to control increasing costs. Through changes in methods for reimbursing providers, these states attempt to limit the health care system's cost growth and administrative burden. Since 1972, Maryland has operated a hospital rate-setting system that provides for nearly uniform payments by all insurers. During this period, Maryland hospital costs per admission fell from 25 percent above the national average to 10 percent below.

In an attempt to reduce administrative costs, New York State is now implementing a system to coordinate health care billing and payment procedures. The Single Payer Demonstration Project is expected to reduce claims-processing costs for participating hospitals.

Matters for congressional consideration

States are hampered by the ERISA preemption provision, which makes it difficult to design and implement innovative health care reforms. If the Congress wants to give states more flexibility to develop comprehensive reforms, it should consider whether to amend ERISA so that the Department of Labor can give states a limited waiver from ERISA's preemption clause in order to develop innovative approaches to employer-based health insurance. The Congress could define minimum standards—governing such factors as benefits packages, extent of coverage, and terms under which the waiver might be revoked—that a state must meet to receive and maintain such a waiver.

Agency comments

As requested, GAO did not obtain written agency comments on this report. GAO discussed the report with Department of Labor officials, who did not agree with our suggestion that the Congress consider amending ERISA to give states greater flexibility in developing comprehensive health care reforms. They believe that it is important (1) to maintain a voluntary approach to employee benefits and (2) to preserve the ability of employee benefit plans to serve employees in many jurisdictions without becoming subject to differing state laws. Because the comprehensive reform efforts of states are a response to perceived shortcomings in the voluntary system, GAO continues to believe that the Congress should consider giving states more flexibility.

STATES, COMPANIES FIGHT OVER HEALTH CARE COSTS—FIRMS FEAR LOSS OF REGULATION EXEMPTION

(By Albert B. Crenshaw)

A major fight has broken out on Capitol Hill between a group of states, which are seeking ways of expanding health care coverage without big tax increases, and large companies, which fear that state programs will make their health care plans even more costly and difficult to administer.

The focus of the fight is a 20-year-old federal law that was put on the books to help protect workers' fringe benefits. Although the law was aimed primarily at pensions, it has been interpreted by the courts over the years as overriding state regulation of employee health insurance plans in cases where the employer insures itself.

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[1] For a more detailed discussion of state efforts to modify the health insurance market for small businesses, see "Access to Health Insurance: State Efforts to Assist Small Businesses" (GAO/HRD-92-90, May 1992).

The question is whether this law, as it now operates, truly protects workers, or whether it is slowing the development of new programs that would expand health care and curb rising costs.

As is often the case in the debate over health care, the answers are colored by multiple shades of gray.

Most companies argue that they offer high-quality health care plans and this would only be hampered by increased state intervention. Several states, however, say that there are enough exceptions to this general rule that an increased state role is warranted to make sure that all employees get appropriate coverage.

When the law, the Employee Retirement Income Security Act of 1974, was enacted, such self-insurance was rare in corporate America. Today more than half of all U.S. workers are employed by companies that self-insure, and the federal law's override of state regulations, known as the ERISA preemption, plays an important role in the shaping of employer-provided health insurance.

Almost all large employers, including The Washington Post Co., self-insure. These employers find it cheaper and the exemption allows them to escape a variety of state requirements and to operate health care plans that are uniform across many states.

"Under ERISA we have a pretty good system," said Mark Ugoretz, president of the ERISA Industry Committee (ERIC), an association of large employers.

Ugoretz said that about 150 million people are covered by ERISA plans. "These are some of the best benefits available . . . [But] the linchpin that holds that whole system together is the preemption," he said. "If you pull out that linchpin, the whole system for 150 million people falls apart."

But in a growing number of states, including Oregon, Florida and Minnesota, officials said they are finding that when they try to devise ways to extend health care coverage they are hamstrung by the ERISA exemption.

And Congress's General Accounting Office agrees. In a report prepared for Rep. Ron Wyden (D-Ore.), the agency concluded that while "states have taken a leadership role in devising strategies to expand access to health insurance and contain the growth of health costs," the ERISA preemption is "one hurdle that is difficult for states to overcome."

"That's the heart of it," Wyden said, ". . . ERISA, the way it is presently written, is going to be deep-sixing a lot of innovative state plans or, at best, making it more difficult for them to get off the ground."

He noted that last month a U.S. District Court in New Jersey held that a cost-control plan in that state could not be applied to self-insured plans because of ERISA. And officials in Oregon, Florida and Minnesota have said they fear their plans may be vulnerable to challenge on the same grounds.

Wyden in the House and Sens. David Pryor (D-Ark.) and Patrick Leahy (D-Vt.) are preparing bills that would allow states to seek waivers from the ERISA preemption for new health care programs.

"If the federal government is going to continue to dawdle, at least the states ought to be allowed to stake out bold approaches . . . and not have court decisions and further threats" looming over their plans, Wyden said.

In several cases, the states have attempted to tax health care insurance and use those revenues to extend coverage to the uninsured. However, ERISA bars states from imposing premium taxes on self-insured plans, leaving much of the employment base outside the state's reach.

Defenders of ERISA argue that states prefer this backdoor method of financing health care because their voters will not tolerate a more obvious tax increase.

"They don't need waivers," said Ugoretz.

Extended health care is a social program and should be paid for the way other social programs are—through general taxes, Ugoretz said.

"There isn't any reason you need to tax health care plans. You can tax corporations, raise sales tax, raise income taxes to pay for what is a social benefit, a social welfare plan, just like all the other social programs you provide," he said.

Ugoretz also charged that waivers would spread until the nation again becomes a patchwork of state-regulated systems.

Wyden admitted that this is an issue to which "we must be sensitive" and work with corporations to achieve workable plans.

But he said companies should be willing to help in this because in the long run they would benefit as much as anyone if a real solution to the health care problem emerged from a state intitiative.

POLITICAL PRISONER IN THE UKRAINE

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ALLARD. Mr. Speaker, the case of Alexander Fridson has recently been brought to my attention. In 1973, at the age of 17, Alexander was imprisoned in the Ukraine for alleged hooliganism and pickpocketing. Today, almost 20 years later, Alexander is still in prison. He is being held not because of the petty crimes he was said to have committed but because he is Jewish. In the case of Alexander, the only real crime committed is that of punishing an individual simply because of his religious beliefs.

It is my hope that Alexander, and others being held in prison for political reasons, will soon be set free. Maybe with sufficient prodding, governments involved in political imprisonment will realize the wrongness of their actions. Accordingly, I have written a letter to the President and the Procurator of the Ukraine to ask their help in resolving this persistent problem.

CONGRESSMAN ANDY IRELAND

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. HUTTO. Mr. Speaker, I want to pay tribute to Andy Ireland, my colleague from Florida, who is retiring at the end of the 102d Congress.

Congressman Andy Ireland has served for 16 years in this body and he will be greatly missed by all of us. Andy was first elected to Congress in 1976 and served as a Democrat until about 1984 when he switched to the Republican Party. He has been an asset to each of the parties and it has been Florida's good fortune to have him serve these 16 years.

I first met Andy when I ran for Congress in 1978 and Andy was very helpful to me. I shall not forget the good advice and assistance that Andy provided to me both during that first campaign and afterward when I entered Congress.

Andy is a big Boston Red Sox fan and I guess that would be a natural since the Red Sox for many years have trained in his hometown of Winter Haven. When I first came to Washington Andy Ireland and our Speaker Tip O'Neill were always talking about the Bo Sox and I am sure that Andy will now have more time to get out and root for the Red Sox and perhaps help them to win the World Series that they sought for so long.

As a member of the Armed Services Committee Andy Ireland has been particularly effective and has oftentimes brought out important information that has been beneficial in making needed changes in Pentagon practices. He has been especially active in attacking the so-called "M" accounts at the Pentagon and through his work some important changes have been brought about. Along these same lines he has been very helpful to me and my Readiness Subcommittee in keeping the new Defense business operations fund in check rather than having it expanded and getting out of hand beyond congressional oversight. Yes, Andy has done a good job for our Nation and for the people of Florida. I am sorry to see him go, but take this opportunity to wish him and Nancy much happiness and God's richest blessings as they enter other pursuits.

THE 1-YEAR ANNIVERSARY OF NORTH FULTON SENIOR SERVICES, INC.

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GINGRICH. Mr. Speaker, a very special organization is celebrating their 1-year anniversary and I would like to take a few minutes today to congratulate them on their outstanding achievement.

North Fulton Senior Services, Inc., was established 1 year ago to deliver Meals on Wheels to the Roswell, Alpharetta and the Sandy Springs areas. North Fulton Senior Services utilizes volunteers throughout the North Fulton area to provide this vital service to senior citizens and the disabled.

In addition to the Meals on Wheels service, they also provide daily hot meals at the Roswell and Alpharetta Senior Centers. This massive effort is coordinated by the hard work and dedication of executive director Shayne Escher and Dot Benson, chairman of the board of directors.

I know my colleagues will join me in congratulating North Fulton Senior Services, Inc., for the outstanding quality service they provide in this vital area. I wish them the best of luck for much continued success and will look forward to working with them in the future.

HONORING THE BLACK BAR ASSOCIATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, I would like to use the occasion of its 10th annual installation of officers to recognize the positive work being done by the Black Bar Association of Bronx County. For its members, this organization is a vital link connecting their careers to their community.

Not only does the Black Bar Association allow its members to meet and mingle with their peers, but it also provides a place from which they reach out together to the communities in which they live and work. Some of the ways this is accomplished is through the scholarships awarded to worthy students and the public forums and events planned within the community to inform and enlighten people. These are certainly worthy projects that deserve recognition and commendation.

Therefore, I take this opportunity to thank the Black Bar Association on behalf of my constituents, and I wish the members of the organization further success in the future.

ARTHUR A. McINTYRE—75 YEARS YOUNG

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ANDERSON. Mr. Speaker, I rise today for what may well be the last time in my congressional career in order to salute a distinguished southern California friend, Mr. Arthur A. McIntyre. On October 17, Art McIntyre will celebrate his 75th birthday and I cannot permit that event to take place without paying tribute to a distinguished civic, educational, business, and family man.

A graduate of the University of Southern California and also a recipient of a masters degree from that institution, Art McIntyre had an extremely successful career as a teacher and administrator in the Los Angeles Unified School District. He was an innovative teacher and a very creative administrator with the establishment, construction, and implementation of the Harbor Occupational Center in San Pedro, CA, as perhaps his crowning achievement. This major institution for the purpose of vocational education for adults stands today as one of the unified district's premier training sites. Art McIntyre's name is a legend in vocational education.

Upon the completion of his educational experience, Art became just as successful in business with ventures in training systems, international trade, and investment circles. His stint as Vocational Education Training Administrator for the U.S. Naval Shipyard in Long Beach, CA, was another sterling achievement on Art's record. Cooperative efforts with the Navy came easy to him based on his military experience in the U.S. Naval Reserve for 26 years. He retired as a lieutenant commander from that service.

Mr. Speaker, most tributes entered in the CONGRESSIONAL RECORD would end here. But the record needs to show that Art McIntyre was an active agent for civic and community changes as well. Chamber of Commerce, Maritime Industry Association, Navy League, Fisherman's Fiesta, Propeller Club, Harbor Association of Industry and Commerce, all felt his presence.

There is still another story to be told. Art McIntyre is above all a dedicated family man. His spiritual and religious characteristics are self-evident and his loving family circle, wife, Marilyn, and daughters, Ellen Stratton and Susan Farrell, and grandchildren, Sarah, Rachel, and Christopher, share his deep faith. He brightens their lives as they brighten his, and this reflective light is, indeed, a candle that shines through the darkness to enrich the lives of all who know them.

Mr. Speaker, my wife, Lee, joins me in saluting Art McIntyre on his 75th birthday. We wish the McIntyre family well today and in the years to come.

TRIBUTE TO MR. PHILIP "CHICK" CHASEN

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GEJDENSON. Mr. Speaker, I rise today to express my deep regret at the passing of a dear friend and prominent member of the Norwich, CT, community, Mr. Philip "Chick" Chasen. In his memory, I would like to submit for inclusion in the CONGRESSIONAL RECORD, the eulogy delivered by Rabbi Jon-Jay Tilsen at Mr. Chasen's funeral.

Chick Chasen was a hero in both war and peace time—whether serving in the military during World War II or championing worthy causes back home in Connecticut. He nearly had his life cut dramatically short when his glider crashed during the war. We must consider ourselves very lucky that he survived. He went on to serve our community as enthusiastically and courageously as he served our country. He left us with a legacy of community service and dedication that will be sorely missed.

EULOGY FOR CHICK CHASEN

"How Art the Mighty Fallen."

With these words Scripture describes the death of the son of the first King of Israel. Surely there is no man of Israel more Mighty or more Noble than Philip Chasen.

Mr. Chasen has left us the legacy of dedication and courage.

When his own father passed away when Philip was only 5, he learned the importance of community and family in supporting those in need. That was a lesson that guided his entire life.

Though he faced some adversity, he managed to be a successful 3-sport athlete in high school and to finish at the top of his class. His sports involvement and academic excellence built his character as he learned the importance of team work, dedication and perseverance. He learned to respect people not for their race or religion or economic status but for their character and their deeds. He learned to do his best. And what he learned, he taught by example. His love of sports continued throughout his life; he was a supporter of the Eastern CT State Univ Athletics Funds, and of the E-fund, a founder of the Police Athletic Foundation, and a patron of a myriad of other athletic and civil organizations.

Chick served as the right-hand man to General Gavin during WWII, filling the rank of 1st lieutenant in the 82d Airborne Division. One morning he was declared dead when his barracks was blown to bits by bombs. He turned up that afternoon drinking coffee in a nearby cafe. That was typical of his life. His military career ended when he was almost killed in a glider crash and spent ten months in the hospital. The many stories of what he did during the war are the stuff of legends. The example of his dedication and courage—his willingness to sacrifice his life for a cause—is inspiring. He showed his continuing loyalty by maintaining close contact with other members of the 82d Airborne and by serving as president and in other capacities of organizations such as the Jewish War Veterans and the Veterans of Foreign Wars.

Philip was dedicated to his job. He worked for Kaufman News Company and for New London News for 58 years. A more dedicated, loyal and hard worker could not be found. He was organized and punctual. The special relationship he had with Harry Kaufman had a long lasting influence on his life.

While Chick is most widely reputed for his activism life experience, he is also known as a well-educated man. He was familiar with a half dozen languages and an expert in Greek Mythology. He knew the Hebrew Bible stories thoroughly as well as the stories of the Apocrypha and Midrash.

Mr. Chasen's dedication is the stuff of legend. He did so much for so many people. He sold more raffle tickets than any person this side of the Mississippi. He offered comfort at more houses of mourning than any Rabbi. He visited more friends and relatives in the hospital than doctors.

He helped more kids develop their character through sports than many coaches do. He answered yes to more calls for help than anyone. And he always did his best. Whatever he did, he did with full dedication.

Chick did what he did not because he expected a reward,, not because he expected gratitude, not because he expected reciprocation. All he ever expected was a simple "thank you."

Philip's dedication to Beth Jacob Synagogue was monumental. Shortly before his death, Philip and I talked about the legacy he has left the Synagogue. Chick was here every day. Not once, but twice—he attended every service. And after services here, he went to Brothers of Joseph. Whenever someone was here to mourn, Chick was here. Whenever someone was here to celebrate, Chick was here. When there was a blizzard and nobody else came, Chick was here. And when no one else could conduct the services, Chick would conduct the services. No matter what, Chick would be here.

He left the legacy of his example of dedicated attendance. In addition, he contributed to the work of the Ritual Committee and to many special activities, from plays to raffles to school programs. Chick dwelt in the House of the Lord all the days of his life. No one can surpass his dedication to Beth Jacob Synagogue.

Chick faced all of life's challenges with courage. The loss of his father at an early age, the War, the loss of his beloved wife Celia, and his own declining health were faced with courage. His will to live can only be called inspiring. When I saw him in the hospital as he approached death, he asked me to bring this message to the folks at Beth Jacob: "Tell them I'm still smiling."

LARGEST CANTILEVERED HANGAR IN THE UNITED STATES IS LOCATED IN FORT WORTH, TX

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BARTON of Texas. Mr. Speaker, it is with great pleasure that I rise today to congratulate the new American Airlines maintenance hangar facility at Alliance Airport in Fort Worth, TX. The structure has received the 1992 Outstanding Civil Engineering Achievement Award of Merit from the American Society of Civil Engineers [ASCE]. It is the largest cantilevered hangar in the United States, designed to accommodate seven wide body commercial aircraft simultaneously for heavy maintenance operations. L.A. Fuess Partners Engineers was the hangar project's prime design consultant.

Part of American Airlines' new maintenance and engineering base, the high bay hangar facility measures 1,280 feet in length, 365 feet in width, and has an inside clear height of 75 feet. The 282-foot depth of the hangar floor is spanned with cantilevered trusses providing for a column-free floor and an unobstructed opening of 1,275 feet across the front of the hangar. Besides hangar space, the facility includes 419,000 square feet of support shops, offices, and mechanical space.

The hangar's structural system is a unique combination of structural steel and post-tensioned concrete with a cantilevered roof. Six cantilever trusses were designed to support roof-suspended work docks and bridge cranes weighing 500,000 pounds per bay.

The primary purpose of the facility is to perform heavy C check service on the Boeing 757 and 767 fleet—essentially a complete overhaul of the aircraft. Efficiency of service operations is enhanced with state-of-the-art technology in maintenance equipment. Work platforms suspended from the roof structure engulf the airframe in its parked position and provide ready access to service points without encumbering work space at the hanger floor level. Both nose and main landing gear of the aircraft are serviced, or removed, on electrically operated 100,000-pound capacity elevator platforms that are contained in 18-foot deep pits in the hangar floor. Air start connections, central hydraulics, high-pressure conditioned air, tool air, electric power, and fueling/defueling capabilities are available in floor pits at each aircraft position. Engines and heavy components are removed with overhead suspended 10-ton capacity bridge cranes.

This American Airlines maintenance hangar is an impressive sight. It raises majestically from the fields surrounding Alliance Airport; its doors opening into the 21st century. I join the citizens of Tarrant County in saluting the new American Air lines maintenance hangar and the L.A. Fuess Partners Engineers as recipients of this well-deserved award.

THE INTRODUCTION OF THE ENDANGERED SPECIES REFORM ACT AMENDMENTS OF 1992

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TAUZIN. Mr. Speaker, I am pleased to join with the distinguished gentleman from Texas, Mr. FIELDS, and a number of our colleagues of both political parties, to introduce the Endangered Species Act Reform Amendments of 1992. This legislation reauthorizes and improves the Endangered Species Act of 1973. We would like to thank and commend our colleagues from the States of California, Oklahoma, Mississippi, Texas, New York, Missouri, Washington, Georgia, Alaska, Nevada, and Louisiana for demonstrating strength, courage, and foresight by joining us in our efforts.

The legislation we introduce today is the product of 6 months of debate and discussion among a bipartisan group of House and Senate Members. In these discussions, we have attempted to identify the most rational and responsible approach to reform of the act. Our aim is to retain and strengthen our Nation's strong commitment to species preservation while recognizing the need to also consider the economic and sociological impacts of preservation actions. We introduce this legislation now in the latter days of the 102d Congress to share the product of these discussions with our colleagues and with the public.

Mr. Speaker, let me make clear that, as one who strongly supports the goal of the Endangered Species Act and has supported the reauthorization of this law, I am not advocating or proposing legislation that will weaken this crucial act. The goal of this legislation is to strengthen species protection as the current emergency room application of the law can not achieve the goal of recovering endangered and threatened species. I believe that we must adopt a proactive approach to species conservation that increases populations before placement on the endangered or threatened list becomes necessary.

Furthermore, in the early years of the act's history, conflicts over its implementation were few. Mr. Speaker, this fact is no longer true. In recent years, conflicts over the impacts of the Endangered Species Act have increased substantially. The number of species listed for protection has increased from a couple of hundred to almost 700 listed species—an increase of almost 400 percent in the last 20 years. Moreover, approximately 4,000 additional candidate species from every State await listing. It defies human reason and intelligence to profess that an act which managed several hundred species can successfully manage several thousand species without revision.

Mr. Speaker, it is time to institute needed reforms to the Endangered Species Act to make it work better for species and people. I resist suggestions, as we all must, that the act is perfect and should not be changed in any way. Congress deliberately authorizes legislation for finite periods of time so a law can be modified and improved when necessary. Some groups are already suggesting that the true motive of any legislator who attempts to make changes to the Endangered Species Act is to weaken the act. This is an unwise and unwarranted conclusion. If Congress backs away from this debate, we will not have served the act, our constituents, or the Nation.

As we consider the reauthorization of the Endangered Species Act during the next Congress, we must be willing to debate the act to ensure that it encourages our citizens to be good stewards of our threatened and endangered species. As our Nation changes in order to effectively compete in the global economy, we must ensure that the act provides an efficient and sensible mechanism to manage our resources both for humans and for species. A series of train wrecks occurring in different regions of our great Nation, will eventually undermine public support for this crucial law. Our legislation is designed to avoid these train wrecks by increasing species' populations before placement on the endangered or threatened list becomes necessary and by requiring that the economic effects of species conservation be considered after a species as listed.

Mr. Speaker, the legislation that we are introducing today, the Endangered Species Act Reform Amendments of 1992, maintains the essential elements and purposes of the current Endangered Species Act and improves upon them. Our goal is achieve the following:

The act should be reauthorized for 5 years with substantially increased funding and with meaningful management changes that should be given an opportunity to work;

The listing process should continue to be based solely on biological factors;

All segments of our society including State and local governments, industry, individuals, and landowners should be encouraged to become active partners in species conservation before listing becomes necessary. Such efforts can be encouraged through the use of active management programs, private species enhancement programs, and efforts by the Federal Government to protect habitats containing more than one species.

The act should encourage the development of innovative cooperative management agreements to be approved by the Federal Government and to be implemented before a species requires listing and after a species is listed when appropriate;

When strict Federal mandates are necessary to conserve the species, the act should require greater consideration of the economic impact of such mandates on State and local governments, local businesses, schools, jobs, communities, and landowners; and

The act should be amended to recognize that species conservation should be a shared responsibility rather than a burden that is imposed upon a small segment of our society.

Mr. Speaker, a final word. It will be my goal and my purpose to seek an active and innovative reauthorization of the Endangered Species Act. These are very serious issues impacting the lives of all Americans and the future of the diversity of our plant and animal life. It is time to confront these issues and not one another. It is my fervent hope that we will comport ourselves during this debate with the dignity, composure, wisdom, and strength that these matters deserve.

Mr. Speaker, I look forward to the forthcoming debate. I invite each of my colleagues to read the legislation that we are introducing today and discuss its provisions with us. Early in the 103d Congress, we will reintroduce this legislation, perhaps with revisions based on changes that have been suggested by individuals and groups from around the Nation, as well as our colleagues in the House. I am confident, that with thoughtful discussion and with a spirit of good will, we will reauthorize an Endangered Species Act that will earn the broad support of the American public—an Endangered Species Act that will enable us to preserve and enhance species populations while providing for the continued renewal and prosperity of our country.

HONORING ALBERT VAZQUEZ

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, I rise to join with the friends, family, and colleagues of Albert Vazquez as they celebrate his many years of service and dedication in the New York City School System.

Albert's farewell party is our way of saying thanks for the many positives ways he has touched people's lives. Knowing of Albert's commitment to his profession, I can say that those people include many, many students, teachers, and administrators. Reflecting on the dedication of a person like Albert Vazquez makes one realize that our education system can and must work for the benefit of our youth.

Therefore, I salute Albert Vazquez and wish him health and happiness in all his future endeavors.

VOICE OF DEMOCRACY BROADCAST SCRIPTWRITING CONTEST

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1992

Mr. HEFLEY. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary sponsor the Voice of Democracy Broadcast Scriptwriting Program.

This year's contest attracted 147,000 high school students nationwide to compete for 22 scholarships totaling $76,500. I'm pleased to announce that Sarah Rachel Duncan, a junior at Douglas County High School and resident of Colorado's Fifth Congressional District, won sixth place honors.

Sarah, 16, daughter of Marquita and John Duncan, plans a career in communications or journalism. She was sponsored by VFW Post 10578 and its ladies auxiliary in Castal Rock, CO.

I would like to submit her award winning speech for publication in the CONGRESSIONAL RECORD.

The writing contest was started 45 years ago with the endorsement of the U.S. Office of Education and National Association of Broadcasters, Electronic Industries Association, and State Association of Broadcasters. The VFW took over sponsorship in 1961. Since then, over 6 million students have participated and over $10 million in scholarships has been awarded.

MEETING AMERICA'S CHALLENGE

(By Sarah R. Duncan)

I have discovered America's challenge. We see it every day in a million different ways. From my classmates who don't turn in their homework to the person who ignores the homeless destitute sitting in the street. America's challenge is apathy. Webster's defines apathy as the lack of feeling, passion, emotion or excitement, and indifference to what appeals to feelings or interest.

I could have been apathetic when I first tried to write this speech. Hey, I'm a teenager and teenagers don't feel like writing speeches. If I have to speak, that means I have to think about what I'm going to say, develop an opinion on the matter, and show a little emotion. It's not as if that is particularly hard, but it sure would be a lot easier to just sit and watch TV. Apathy is a problem with which we need to contend. Consequently, it's important to voice this issue.

And there you have it—America's challenge. America has the ability to accomplish literally anything she wants, yet most individuals aren't willing to put forth the extra effort needed to reach their goals.

Thomas Buxton said, "Laziness grows on people; it begins in cobwebs and ends in iron chains. The more one has to do, the more he is able to accomplish."

America has been home to some of the greatest accomplishments of all time. Thomas Edison discovered electricity and invented the light bulb. Charles Lindbergh was the first to fly nonstop across the Atlantic. Einstein developed the theory of relativity; and Emily Dickenson wrote some of the world's best-loved poetry.

That was all in the past though, when America has a lot of catching up to do in order to compete with the powerful countries of the 18th and 19th century. Now we are a major superpower and live in the age of technology, where actually doing manual labor without some kind of a computer is considered a sin. As Lorne Sanny put it, "We have so many labor-saving devices that we go broke keeping them repaired."

The country struggles today because we feel we no longer need to work hard. America already has freedom, democracy, and a capitalistic economy. We are a land flowing with opportunity yet we have grown so used to having opportunity that we refuse to take it. After all, why take opportunity and chances now when they'll always be around?

In order to stop apathy, America simply needs to look at all the goals she wants to accomplish and start taking steps to reach those goals.

We have enormous federal deficit. Why not find ways to cut down on unnecessary spending so taxes won't have to be raised again?

Today there are thousands of homeless people out on the streets who need food and shelter.

Teenage pregnancy and abortion are at an alltime high. Why don't we take the initiative to teach teens that they must be responsible for their actions and accept the consequences of what they do. And everybody knows about the education problem. How do you motivate students to work harder and score higher on tests when most of them are satisfied with where they are?

When I look at all the challenges America is up against, I feel apathetic. I feel like saying, "So what? Those are huge problems and I'm only one person. How can I make a difference?"

The fact is, one person is the only way to start making a difference. One person can write to their congressman protesting government waste in an upcoming bill. One person can volunteer to help build a homeless shelter or work in a soup kitchen. One person can take the time to steer a troubled teenager in the right direction. One person can decide to motivate himself and strive for the best education possible.

When one person decides to rise from the posture of indifference and stretch to the heights of challenge, we begin in solve our biggest problem—apathy. When you take the chance of working, becoming involved and productive, you will find that all of the other problems slowly disappear, bit by bit.

With hard work and caring, we can solve America's challenge of apathy. And bit by bit, our other challenges can begin to be met.

TRIBUTE TO ROBERT J. BLOCK

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MCDERMOTT. Mr. Speaker, later this month one of Seattle's most active and distinguished citizens will celebrate his 70th birthday. Robert Jackson Block has been a leader among us for decades, and I want to recognize his dedication to our community and to the causes we share.

Bob is a fourth-generation Seattleite who has devoted much of his life to the public good. Back in the 1950's, long before the idea of preserving the environment was popular or even acknowledged, Bob, along with his late wife, Dorothy, worked to pass the bond issue that began the cleanup of Lake Washington. That fight required foresight, commitment, and creativity, and Bob delivered—even enlisting his children to pose in their swimsuits as campaign poster kids.

He had another vision for Seattle—creating the Seattle Civic Center, and, again in the 1950's, he accomplished this project as well. That success helped lay the groundwork for what would become the 1962 Seattle World's Fair. In recognition of his contribution to that effort, Bob was enrolled in the Seattle Center Legion of Honor.

Since that time, Bob has worked tirelessly on behalf of countless worthy causes for Seattle—Allied Arts, the Seattle Public Library Foundation, the March of Dimes, the Cornish Institute, the Pilchuck School, and the American Jewish Committee, among others. He did not merely enlist in these causes, he tackled them with relentless commitment.

But Bob is best known for his fierce love of politics. Outspoken, never at a loss for an opinion or an incisive remark, he was and is always ready to help a candidate or a cause. Bob was a candidate for office himself several times—and I know that when I lost an election, I consoled myself with the knowledge that there was always someone else in Seattle who had lost more elections than I had.

Bob did not need to hold elective office to have enormous impact on our city and its people. He has led us with his ideas, his persistence, and the courage of his convictions. Seattle has benefited from his hard work, and those of us who know him have benefited from his wise counsel—whether we asked for it or not.

The thing that sets Bob apart from others is his indomitable spirit. Bob's accomplishments speak for themselves, but they also reflect the tenacity of a man who refused to be slowed by the chronic effects of illness. Bob was stricken with polio in the early 1950's and has fought a heroic and lifelong battle against its complications. He has brought to all his causes the same spirit employed in the fight against his illness, a spirit that embodies Winston Churchill's exhortation: "Never give in, never give in, never, never, never, never—in nothing great or small, large or petty—never give in except to convictions of honor and good sense."

I am delighted to honor Bob today for a lifetime of dedicated service to Seattle. I know that in the years to come, he will continue to give his best and to demand it in return, and for that he has earned our gratitude, our admiration, and our enduring affection.

CONGRESSMAN DAVID O'B. MARTIN

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. HUTTO. Mr. Speaker, it has been an honor and privilege for me to serve with DAVE MARTIN on the Armed Services Committee for the last 10 or 12 years. DAVE is leaving this body at the end of the 102d Congress and this is indeed a big loss for the HASC and for his constituents back in New York State.

DAVE MARTIN is one who is very knowledgeable about the issues relating to defense and our men and women in uniform. He has been a stalwart in trying to take care of our personnel in the Armed Forces around the world. Congressman DAVE MARTIN will be remembered as a friend of the military.

DAVE MARTIN's service as the ranking minority member on the Installations and Facilities Subcommittee of HASC has been outstanding. He has been particularly effective in helping to provide the proper construction for our overseas troops and for the housing of our uniformed personnel throughout the world. He has also served exceedingly well for several years on the Readiness Subcommittee as well as the Morale, Welfare, and Recreation Panel. He will be missed by all who have served with him. I take this moment to wish DAVE and his family much happiness and success as he pursues other avenues of life.

HONORING JIM BUTLER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, on October 9, 1992, hundreds of people associated with the organized labor movement will gather in New York to celebrate the work of a dedicated and charismatic leader, Jim Butler.

Twenty years ago, Jim Butler became president of the New York Public Hospital Workers, Local 420, AFSCME, and since that day the labor movement has never been the same. In Jim Butler, we found a leader who is never afraid to speak his mind and stand up for the rights of his membership. His skills as an organizer and coalition builder enabled him to create a powerful political organization. Many of the gains made by health care workers in New York, and in fact throughout this entire Nation, are directly attributable to the efforts of Jim Butler.

Although it could never make up for all Jim Butler has done for us, his friends and family will try to say thanks to him during this celebration. On behalf of the constituents in my district who owe Jim Butler a debt of gratitude, I too thank him for his contributions and wish him many more years of activity in fighting for solidarity and justice.

GENERAL ACCOUNTING OFFICE REFORM AND REORGANIZATION ACT

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. THOMAS of Wyoming. Mr. Speaker, I am introducing legislation to make substantive changes in the way the General Accounting Office and the Congress do their jobs.

This year, several concerns have been raised in both the House and Senate as to the content of GAO reports. I cannot comment on the statements made by others as to their problems with GAO's work. But I have decided to introduce this legislation based upon my own concerns as the ranking Republican member of the Human Resources Subcommittee in the Government Operations Committee.

On August 5 of this year, the subcommittee conducted an oversight hearing on the potential hazards of animal drug residues in milk. While I have my concerns about the quality of the report itself, I was more disturbed at how it was actually handled at the hearing.

Prior to the hearing, my staffer to the subcommittee asked for a briefing from GAO about this report and a related GAO investigation into bovine somatotropin, a growth hormone. He was denied the briefing because the majority would not give its permission for GAO staff to talk with him.

The final report was not released to the public until GAO actually sat down at the witness table. My staffer was not allowed to see the completed report with its findings and recommendations until just prior to the start of the hearing. Officials from the Food and Drug Administration, including the Center for Veterinary Medicine, participated in close-out conferences with GAO officials at the conclusion of the investigation. But they were not allowed to see the final report with findings and recommendations until GAO officials were actually testifying before the subcommittee.

Witnesses from the Milk Industry Foundation and the American Veterinary Medicine Association were not allowed to see the final report until moments before their testimony. Three of our colleagues, Messrs. STENHOLM, GUNDERSON, and WALSH, never saw the report before they testified.

Essentially we had a questionable GAO report as the central feature of an investigatory hearing, and the only ones who had access to the findings and recommendations were the chairman, his staff and the GAO. This is not the way the oversight process should work.

My legislation is designed to change this process by creating a bipartisan oversight review board in Congress that will require the GAO to conduct its investigations according to commonly accepted guidelines and free from interference by the requesting Member or Members, the committees of Congress and the executive branch. The oversight board will approve requests for investigations after ensuring that the investigation is fair and done in a timely fashion. If questions are raised after a report is issued, then the oversight review panel would have the right to review the process followed by the investigators and issue a report on their findings.

The GAO would be free from constant oversight from the requesting Member and staff once a proposal for an investigation has been approved. The investigators would be required to use outside advisory groups to guarantee all pertinent views be reviewed and considered in the final recommendations. It seems to me that this is the way these investigations should be conducted in the first place.

Mr. Speaker, this legislation is not designed to thwart GAO investigations, or to put pressure on them to change their views on any current investigations. It is an attempt to get this system working in a timely and nonpartisan manner on issues of concern to the taxpayers. It is time that we accepted policies and procedures that will restore the perception of the GAO as an independent and effective oversight agency. I believe this legislation is an important first step.

AMERICA'S GODLY HERITAGE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DANNEMEYER. Mr. Speaker, I commend the following analysis of David Barton to each of my colleagues. No better time could be spent than for every public official to read and reread this bit of history.

AMERICA'S GODLY HERITAGE

(By David Barton)

Does America really have a Godly heritage? Writings from the Founding Era bear written evidence of the fact that fifty-two of the 55 Founding Fathers who worked on the Constitution were orthodox, even evangelical Christians. Ahthough that type of information once appeared regularly in our history texts, we no longer hear that portion of our heritage.

Our history textbooks also once contained an account of George Washington which appeared in virtually every student text in America for nearly 130 years, but which hasn't been seen in the last forty. It was a story of how Washington's life hung in the balance for over two hours in the battle of the Monogahela on July 9, 1755—during the French and Indian War—and how that only by the direct intervention of God was it spared.

In the two-hour battle on that day, of the 86 British and American officers involved in that battle, George Washington was the only officer who had not been shot down off his horse. Following this resounding defeat at the hands of the French and Indians, Washington gathered the remaining troops and retreated back to Fort Cumberland in western Maryland, arriving there on July 17, 1755.

The next day, George Washington wrote a letter to his family explaining that after the battle was over, he had taken off his jacket and had found four bullet holes through it, yet not a single bullet had touched him; several horses had been shot from under him, but he had not been harmed. Washington openly acknowledged God's hand upon him in that battle.

Then in 1770, a time of peace, George Washington and his close friend, Dr. Craik, returned to those same Pennsylvania woods and met with an old Indian chief. The chief told Washington that he had been a leader in that battle fifteen years earlier, and that he had instructed his braves to single out all the officers and shoot them down. Washington had been singled out, and the chief explained that he personally shot at Washington seventeen times, but without effect. Believing Washington to be under the care of the Great Spirit, the chief then instructed his braves to cease firing at him. He then told Washington: "I have traveled a long and weary path that I might see the young warrior of the great battle * * *. I am come to pay homage to the man who is the particular favorite of Heaven, and who can never die in battle." Not only did Washington personally relate this incident, it was also testified to by Benjamin Franklin, Daniel Boone, Mary Draper Engels, British military tribunals, and numerous others. That account appeared in American history textbooks for nearly a century and a half, but today has disappeared!

There are so many things that we no longer hear today. We are now told that our Founding Fathers were atheists, agnostics, and deists, but consider this statement by Patrick Henry: "It cannot be emphasized too strongly or too often that this great nation was founded, not by religionists [pluralism], but by Christians; not on religions, but on the gospel of Jesus Christ!"

One of the many proofs of Patrick Henry's claim is found in the early publictions of the American Tract Society, which today still publishes Christian tracts and Christian literature. The American Tract Society existed in the early 1800s, and in 1813 they bound their loose tracts together into "Volume I of the American Tract Society Tracts." While it is fascinating to read the Bible tracts and the messages they contain, it is even more fascinating to note the authors of those Gospel tracts: several of the founding Fathers who signed our founding documents were writing tracts for the American Tract Society Actually, many of the Founding Fathers helped found the American tract Society; and the American Bible Society, the Philadelphia Bible Society, and the other Bible Societies of that day; and the Society for Promoting Christian Knowledge; and the Christian Constitutional Society; and so many other Christian groups that still exist today in America.

Founding Father John Quincy Adams was an early President who had a lengthy and distinguished political career. His unusual longevity allowed him to be one of a very few Founders who actually lived long enough to have a photo taken; his was taken in 1847 when he was 79 years old. Because of his longevity, John Quincy Adams was a very popular speaker at Fourth of July celebrations during the 1820s and 1830s when the second and third generations of American citizens were growing up. John Quincy Adams understood the reasons for his popularity at Fourth of July celebrations and in his speech on July 4th 1837, at Newburyport, he began with a humorous recognition of the reason he had been asked to address them. He asked the crowd: "Why is it, Friends and Fellow Citizens, that you are here assembled? Why is it, that, entering upon the sixty-second year of our national existence, you have honored with an invitation to address you * * * a fellow citizen of a former age?"

He then answered his own question and concedes that it is because of both his experience and his age that he was selected to address them; for he understood that they wanted to hear about the birth of the nation from someone who was actually there, and so they invited him to address them. He then posed to them a more serious question: "Why is it that, next to the birthday of the Savior of the World, your most joyous and most venerated festival returns on this day [on the Fourth of July]?"

A very appropriate question. Why is it that the Fourth of July and Christmas were our top two holidays in America? John Quincy Adams then answered that question: "Is it not that, in the chain of human events, the birthday of the nation is indissolubly linked with the birthday of the Savior? That it forms a leading event in the progress of the gospel dispensation? Is it not that the Declaration of Independence first organized the social compact on the foundation of the Redeemer's mission upon earth? That it laid the cornerstone of human government upon the first precepts of Christianity?"

John Quincy Adams explained that the reason that the Fourth of July and Christmas were our top two holidays in America is that the two were indissolubly connected, for on the Fourth of July they simply took the principles which had been brought into the world through the birth of Christ and incorporated them into the government of the new nation. In his Fourth of July speech in 1821 John Quincy Adams similarly declared: "The highest glory of the American Revolution was this: it connected, in one indissoluble bond, the principles of civil government with the principles of Christianity."

John Quincy Adams stressed across the decades that the biggest victory won in the American Revolution was that Christian principles and civil government would be tied together in an indissoluble bond. Today we hear just the opposite—we are told that the Founders wanted separation; that's not what they said.

John Adams expressed a similar sentiment in a letter written to Abigail on the very day that they approved the Declaration of Independence. John actually wrote Abigail two letters on that day. The first was short and brief, and John was greatly excited about the official separation from Great Britain which they had just approved. However, his second letter to Abigail on that same day was quite different; it was much longer, and was pensive and contemplative. John had been considering what they had done on that day, and on how future generations would look back upon what they had done. John told Abigail: "I am apt to believe that this day will be celebrated by succeeding generations as the great anniversary festival."

Such an annual celebration seemed appropriate, for certainly it was indeed a significant day. John Adams explained to Abigail what should occur on the Fourth of July in future generations: "It ought to be celebrated as a day of deliverance by acts of solemn devotion to God Almighty."

John Adams—on the day he officially approved in the Declaration of Independence in Congress—predicted that the Fourth of July would become a religious holiday in America! The Founders themselves clearly believed that they had birthed a nation on a religious foundation; are we now to believe that they subsequently created a document intended to separate the nation from its very foundation!

Other significant Founders were outspoken about their Christian beliefs. For example, John Jay, the original Chief Justice of the U.S. Supreme Court and one of the three men most responsible for the Constitution, stated: "Providence has given to our people the choice of their rulers, and it is the duty—as well as the privilege and interest—of our Christian nation to select and prefer Christians for their rulers."

Was John Jay competent to offer such a statement? Yes; he was the original Chief Justice and one of the three men most responsible for our having the Constitution today!

George Washington's "Farewell Address" is another aspect of our heritage which has disappeared from student texts. His Farewell Address once appeared as a separate school textbook for almost a century; students were taught that Washington's Farewell Address was the most significant political speech ever delivered to the nation. And why not? He is the father of the country; spent forty-five years of his life in public service, everything from Commander-in-Chief through two-terms as President; he is the man who was president of the convention that gave us the Constitution; the President of the United States who called for the First Amendment and Bill of Rights, and the man who oversaw its formation. After his final role in public office, his Farewell Address reminded America what had brought us to success, and warned what must be done to continue it.

Why hasn't Washington's Farewell Address been seen in most textbooks for nearly four decades. Doesn't Washington have anything to offer the nation today? Apparently the problem with his Farewell Address today is its religious emphasis, for four of his twelve warnings to the nation were overtly religious. I suggest that the reason his Farewell Address disappeared was apparently due to its religious content is because that in the last five years Washington's Farewell Address has begun to reappear in college textbooks—minus his four religious warnings.

In his Farewell Address, Washington pointed out that the two foundations of politics in America were religion and morality, and that no one could be called an American patriot who attempted to separate politics from its foundations. He explained: "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars."

Washington believed that if an individual attempted to separate religion and morality from politics, he could not be called an American patriot. These types of statements we do not hear much any more, but such were the statements of America's Founders—of America's history.

Our Founding Fathers delivered to us a system of government which has enjoyed unprecedented success; we are now the world's longest on-going constitutional republic. Two hundred years under the same document and under one form of government is an accomplishment unknown among contemporary nations. Russia, Italy, France, and other nations underwent revolutions about the same time as the American Revolution, but with very different results. Consider France as an example: in the last 200 years it has gone through seven completely different forms of government; Italy is now in its 51st; yet we are still in our first.

Where did our Founding Fathers obtain the ideas that produced such longevity; other nations certainly had access to what our Founders utilized, yet evidently selected not to. From what sources, then, did our Founders select their ideas?

This question was asked by political science professors at the University of Houston. They felt—and rightfully so—that they could determine the source of the Founders' ideas if they could collect the writings of the Founding Fathers and see whom the Founders were quoting.

The researchers assembled 15,000 writings from the Founding Era and searched those writings, looking to see whom the Founders quoted. The project required ten years, but at the end of that time, the researchers had isolated, 3,154 direct quotes made by the Founders and had identified the source of those quotes.

The researchers discovered that Baron Charles de Montesquieu was the man quoted most often by the Founding Fathers, with 8.3% of their quotes being taken from his writings. Sir William Blackstone was the second most-quoted individual with 7.9% of the Founders' quotes, and John Locke was third with 2.9%. What the researchers surprisingly discovered in documenting the Founders' direct quotes was that the Founders quoted directly out of the Bible 4 times more often than they quoted Montesquieu, 4 times more often than they quoted Blackstone, and 12 times more often than they quoted John Locke. Thirty-four percent of the Founders' quotes came directly out of the Bible.

The study was even more impressive when identifying the source of the idea taken from Montesquieu, Blackstone, Locke, etc. Consider, for example, the source of Blackstone's ideas. "*Blackstone's Commentaries on the Laws*" was first introduced in America in 1758, and for the next 160 years was THE law textbook of America. Courts quoted Blackstone to settle disputes, to define words, and to look at procedure; Blackstone's was the final word in the Supreme Court. What was a significant source for Blackstone's ideas? Perhaps the best answer to that question can be given through the life of Charles Finney.

Charles Finney is known as a famous revivalist, minister, and preacher from one of America's greatest revivals: the Second Great Awakening in the early 1800s. Finney, in his autobiography, spoke of how he received his call to the ministry. He explained that—having determined to become a lawyer—like all other law students at the time, he commenced the study of "*Blackstone's Commentaries on the Laws.*" Finney explained that "*Blackstone's Commentaries*" not only provided the laws, it also provided the Biblical concepts on which the laws were based. Finney explained that in the process of studying "*Blackstone's,*" he read so much of the Bible that he became a Christian and received his call to the ministry. Finney's personal account of his life story clearly identifies a major source of Blackstone's ideas for law.

Even though 34 percent of the Founders' quotes came directly out of the Bible, another 60 percent of their quotes were taken from men who had used the Bible to arrive at their own conclusions. Ninety-four percent of the Founders' quotes were based—either directly or indirectly—on the Bible.

Numerous components of our current government can be shown—through those early writings—to have their source in Biblical concepts. For example, the concept for three branches of government can be found in Isaiah 33:22; the logic for the separation of powers was based on Jeremiah 17:9; the basis of tax exemptions for churches was found in Ezra 7:24; etc.

It is amazing to read the early CONGRESSIONAL RECORDS and note how often a Congressman came onto the floor of the House or Senate and presented something he had found in the Bible. It would be discussed on the floor of the House or Senate, voted on, and placed into government policy. For example, the CONGRESSIONAL RECORD on September 25, 1789, makes it clear that a lengthy discussion of 2 Chronicles 6 resulted in a unanimous resolution being passed in the House and Senate calling on President George Washington to declare the first official Thanksgiving as a new nation. This is the type of heritage well documented in the official writings, but today we hear little about it.

This Biblical heritage was so well understood during the early years of the nation—and the writings of the numerous Founding Fathers were so well known at that time—that in later years the Supreme Court ruled in the Founder's intention, keeping Biblical principles as the basis. For example, notice this ruling by the U.S. Supreme Court in 1892: "Our laws and our institutions must necessarily be based on and must embody the teachings of the Redeemer of mankind."

This is a strong statement; but the Court continued: "It is impossible for it to be otherwise. In this sense, to this extent, our civilizations and our institutions are emphatically Christian."

What would lead the Court to conclude that the teachings of Christ must be included in our laws and institutions? That we are "emphatically" a Christian nation?

This case was not long (only 16 pages in the Court records), but the Court provided 87 different historical precedents to support its conclusions. The Court quoted the Founding Fathers, the acts of the Founding Fathers, the acts of the Congresses, the acts of the state governments, etc.; at the end of 87 precedents the Court explained that it could continue to cite many additional similar precedents, but that certainly 87 was sufficient to conclude that our laws and our institutions must be based on and must include the teachings of Jesus Christ.

In 1844, a school in Philadelphia announced that it would teach its students morality, but not religion. It believed that it didn't need Christianity and the Bible; it could teach morality without it (sounds just like schools today!). This policy—among others—caused this case to come before the U.S. Supreme Court. Realize that some of the Justices on the Court at this time had been appointed by James Madison. Notice what the Court ruled: "Why may not the Bible, and especially the New Testament * * * be read and taught as a divine revelation in the [school]—its general precepts expounded, its evidences explained and its glorious principles of morality inculated? * * * Where can the purest principles of morality be learned so clearly or so perfectly as from the New Testament?"

The Supreme Court of the United States ruled that a school must teach Christianity and the Bible—the source of morality. We hear just the opposite today; and few realize that today's rulings by the Court often violate rulings delivered by the Founding Fathers themselves.

In 1811 a court made a ruling which was subsequently cited by the U.S. Supreme Court. The court declared: "Whatever strikes at the root of Christianity tends manifestly to the dissolution of civil government."

Although this case dealt with a man who went into a profanity fit, profanity wasn't the problem; it was the intent of his profanity, for it had not been a moment of anger or a temporary loss of control, but a deliberate and planned act; he had taken the time and exerted the effort to write it out and distribute it. In that writing, he had maliciously and capriciously attacked Jesus Christ, declaring that "Jesus Christ is ...X#@X", "God is ...X#@X", "The Bible is ...X#@X", continuing through a whole string of accusations and profanity against Jesus Christ and the Word of God.

The court explained the problem with his writings: an attack on Jesus Christ is an attack on Christianity; an attack on Christianity is an attack on the foundation of the country; therefore, an attack on Jesus Christ is equivalent to an attack on the country. This man was sentenced to three months in prison and a $500 fine for attacking the country by attacking Jesus! Notice the date on that case: 1811, nearly two decades after the First Amendment was in place.

The First Amendment never intended to separate Christian principles from government. Yet today we so often hear "separation of Church and State". The First Amendment simply states: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

The words "separation", "church", "state" are not only not found in the First Amendment, that phrase appears in no founding document! Unfortunately, that phrase has been so over-used in recent years that today only 33% of Americans know that freedom of religion is guaranteed by the First Amendment.

While most recognize the phrase "separation of church and state," few know it, but it is important to understand the origins of that phrase. What is the history of the First Amendment?

The background of the First Amendment makes the intent of Congress abundantly clear; for before they approved the final wording, the First Amendment went through a dozen different iterations which completely revealed the intent. For example, the original version proposed in the Senate on September 3, 1789, stated: "Congress shall not make any law establishing any religious denomination."

Their second version stated: "Congress shall make no law establishing any particular denomination."

The third version was very similar: "Congress shall make no law establishing any particular denomination in preference to others."

The final version they passed that day declared: "Congress shall make no law establishing a religion or prohibiting the free exercise thereof."

The intent was clear. The Founders were saying: "We do not want in America what we had in Great Britain. We don't want one denomination running the nation. We will not all be Catholics, or Anglicans, or any other denomination. We do want God's principles, but we don't want one denomination running the nation."

This intent was well understood, as evidenced by court rulings after the First Amendment. For example, a 1799 court ruling declared: "By our form of government, the Christian religion is the established religion; and all sects and denominations of Christians are placed on the same equal footing."

Again, note the emphasis: "We do want Christian principles—we do want God's principles—but we don't want one denomination to run the nation."

In 1801, the Danbury Baptist Association of Danbury, Connecticut, heard a rumor that the Congregationalist denomination was about to be made the national denomination. That rumor distressed the Danbury Baptists, as it should have. Consequently, they fired off a letter to President Thomas Jefferson expressing their concern. On January 1, 1802, Jefferson wrote the Danbury Baptists, assuring them that "the First Amendment has erected a wall of separation between church and state." His letter further explained that while such a wall would protect the church from the government, that there would be open and free religious expression of all orthodox religious practices (whether public prayer, the use of the Bible, etc.). Jefferson explained that the government would only interfere with a religious activity if that activity were a direct threat to the government or to overall peace and good order (such possible "religious" activities identified by later Supreme Courts in which the government might interfere were human sacrifice, bigamy or polygamy, the advocation of immorality or licentiousness, etc.; if any such activities as these were to occur in the name of "religion," then the government would interfere; but with orthodox religious activity it would not interfere).

Today, all that is heard of Jefferson's letter is the phrase, "a wall of separation between church and state" without either the context or the explanation given in the letter. The understanding of the First Amendment was to prohibit the establishment of a national denomination only; national policies and positions always reflected that interpretation.

For example, in 1853, a small group petitioned Congress to separate Christian principles from government. They desired a so-called "separation of church and state", with chaplains being turned out of the Congress, the military, etc. Their petition was referred to the House and the Senate Judiciary Committees, which investigated for almost a year to see if it would be possible to separate Christian principles from government.

Both the House and the Senate Judiciary Committees returned with their reports. The following are excerpts from the House report delivered on March 27, 1854 (the Senate report was very similar): "Had the people [the Founding Fathers], during the Revolution, had a suspicion of any attempt to war against Christianity, that Revolution would have been strangled in its cradle. * * * At the time of the adoption of the Constitution and its amendments, the universal sentiment was that Christianity should be encouraged, but not any one sect [denomination]."

The report continued: "In this age, there is no substitute for Christianity. That was the religion of the founders of the republic and they expected it to remain the religion of their descendants."

Two months later, the Judiciary Committee made this strong declaration: "The great, the vital, the conservative element of our system [the thing that holds our system together] is the belief of our people in the pure doctrines and the devine truths of the Gospel of Jesus Christ."

The Committees explained that they would not separate these principles, for it was these which had made us so successful—they had been our foundation, our base, our root.

During the 1870s, 1880s, and 1890s, another group challenged specific Christian principles in government. Their challenge finally arrived at the Supreme Court. At that time, the Court chose to quote Jefferson's letter in its entirety, for that letter had been raised by the plaintiffs as an issue. Jefferson's letter had remained unused for years, for as time had progressed after its use in 1802, and after no national denomination had been established, his letter had fallen into obscurity.

But now—over 75 years later—the Court in *Reynolds* v. *United States*, resurrected Jefferson's letter to again prove that it was permissible to maintain Christian values, standards, and principles in government. The Supreme Court used the stand taken in Jefferson's letter for the next 15 years to ensure that Christian principles remained a part of government.

Following this controversy, Jefferson's letter again fell into disuse for another 70 years until 1947, when, in *Everson* v. *Board of Education*, the Court, for the first time did not cite Jefferson's entire letter, but selected only eight words from it. The Court thus announced: "The First Amendment has erected 'a wall of separation between church and state.' That wall must be kept high and impregnable."

This was a new philosophy for the Court. Why would the Justices make such a statement? Why would the Court take Jefferson's letter entirely out of context? Dr. William James, the father of modern psychology and a strong opponent of religious principles in government and education, perhaps explained the Court's new position when he stated: "There is nothing so absurd that if you repeat it often enough people will believe it."

This statement precisely describes the tact utilized by the Court in the years following its 1947 announcement. The Court began regularly to speak of a "separation of church and state," broadly explaining that, "This is what the Founders wanted—separation of church and state. This is their great intent." The Court failed to quote the Founders, it just generically asserted that this is what the Founders wanted.

The courts continued on this track so steadily that, in 1958, in a case called *Baer* v. *Kolmorgen*, one of the judges was tired of hearing the phrase and wrote a dissent warning that if the court did not stop talking about the "separation of church and state," people were going to start thinking it was part of the Constitution. That warning was in 1958!

Nevertheless, the Court continued to talk about separation until June 25, 1962, when, in the case *Engle* v. *Vitale*, the Court delivered a ruling that completely separated Christian principles from education for the first time in America's history. Even the *World Book Encyclopedia 1963 Yearbook* said that this case was the first time that there had been a separation of church and state in education.

In that 1962 case, the Court redefined the meaning and application of a single word: "church." For 170 years prior to that case, the word "church"—as used in the phrase "separation of church and state"—was defined to mean "a federally established denomination." However, in 1962 the Court explained that the word "church" would now mean "a religious activity in public." This was the turning point in the interpretation of the First Amendment. Under the new interpretation, the First Amendment no longer only prohibited the establishment of a federal denomination, it now prohibited religious activities in public settings.

This current doctrine of separation is a brand new doctrine; it is not something from the Founding Fathers and it is not in any founding document. Even outside observers recognize that this policy is a recent one. Yet, notice how much has been relinquished in recent years under this new doctrine.

In 1962 there were only a dozen cases in the national court system which challenged religious expression in public affairs. But under the new definition of the First Amendment, by 1984 the number of cases in the national court system which challenged religious expression in public affairs had skyrocketed to over 6,000!

The removal of school prayer was the first casualty of the redefinition of the First Amendment in the 1962 *Engel* case. School prayer had never before been challenged, for clearly school prayer had never established a national denomination and therefore had always been acceptable under the previous definition; but with the new definition, school prayer definitely was a religious activity in public and was therefore now deemed to be unconstitutional.

That 1962 case which redefined the First Amendment and which removed school prayer was notable in a number of aspects. Recall that the 1892 Supreme Court case offered 87 precedents to maintain the inclusion of Christian principles in our laws and institutions. However, this 1962 case which removed school prayer was the first case in Court history to use zero precedents—the Court quoted "zero" previous legal cases; it gave "zero" historical instances. Without any historical or legal base, the Court simply made an announcement: "We'll not have prayers in schools anymore; that violates the Constitution." A brand new direction was taken in America.

The following year, the Court openly acknowledged its unprecedented decision, declaring: "In *Engel* v. *Vitale*, only last year [1962] * * * the Court, without the citation of a single case [removed school prayer]."

By June of the following year, two more cases had reached the Court: *Abington* v. *Schempp* and *Murray* v. *Curlett*. In its decision on June 17, 1963, the Court not only reemphasized its ban on school prayer, it further reached out and banned school Bible reading as well. This, too, was a radical change; and since the use of the Bible in schools was supported and even mandated by early educational laws and practices, by laws passed by the Founding Fathers, by the writings of the Founders, and by previous Supreme Court decisions, how could the 1963 Court justify its ruling to halt the use of the Bible in schools? In its written decision, the Court explained: "If portions of the New Testament were read without explanation, they could be and * * * had been psychologically harmful to the child."

That's quite a statement! The Court has determined that the Bible has to come out of schools because it causes psychological damage to children?

For the second time in a year, this was a case lacking historical or legal precedent. Again, the Court simply made a new announcement of policy: "No more Bible reading in schools, for Bible reading causes brain damage to students."

The courts continued to extend the new boundary outward. In 1965 in *Reed* v. *Van Hoven*, the court determined that it was permissible for students to pray over their lunch at school so long as no one knew they were praying; they couldn't say words or move their lips, but they could pray if no one knew about it!

In 1967 in *DeKalb* v. *DeSpain*, the court took a 4-line nursery rhyme used by a K-5 kindergarten class and declared the nursery rhyme unconstitutional. The court explained that although the word "God" was not contained in this nursery rhyme, if someone were to hear the rhyme they might think that it was talking about God, and that would be unconstitutional!

This trend continued in case after case, year after year. In one year alone, three cases made the courts challenging the right of students to see the Ten Commandments while at school. The Supreme Court accepted *Stone* v. *Graham* from Kentucky, where a copy of the Ten Commandments was hanging in the hallways of the schools. The Court acknowledged that the Ten Commandments were passive displays; they simply hung on the wall, just like a picture of George Washington; they were not part of any class or any curriculum; they just hung there. A student could look at them if he wanted, and he didn't, fine. Yet the Court ruled: "If the posted copies of the Ten Commandments are to have any effect at all, it will be to induce the schoolchildren to read, mediate upon, perhaps to venerate and obey, the Commandments * * * [which] is not * * * permissible * * * under the Establishment Clause."

That's quite a statement! You can't let kids see the Ten Commandments, because if they do, they might obey them—things like "don't steal," "don't kill"—and that would be unconstitutional! If the Ten Commandments had come from any other source—Plato, Aristotle or anyone else—they would still be allowed in schools. But under the new doctrine of separation, simply because they came from the Bible, they are no longer allowed in schools.

When the Court declares something unconstitutional, it is inferring that our Founding Fathers would have opposed it. However, notice what James Madison—the "Chief Architect of the Constitution"—said about the Ten Commandments: "We have staked the whole future of American civilization, not upon the power of government, far from it. We have staked the future of all our political institutions * * * upon the capacity of each and all of us to govern ourselves, to control ourselves, to sustain ourselves according to the Ten Commandments of God."

Madison—a chief spokesman for the Constitution—explained that the future of America is not in the Constitution, it is in obeying the Ten Commandments! That which the "Chief Architect of the Constitution" considered to be the most crucial aspect of American government, the current Courts have declared to be unconstitutional!

The entire controversy over God and religious activities and teachings in schools had begun with the 22 word prayer in the *Engel* v. *Vitale* case. That 22 word prayer—the prayer that led to the removal of all public prayers from America's schools—simply said: "Almighty God, we acknowledge our dependence upon Thee and we beg Thy blessings upon us, our parents, our teachers and our Country."

That prayer—which only acknowledged "God" and didn't even contain the word "Jesus"—was so bland that eight years later when a court was discussing that prayer, it was described as a "To-Whom-It-May-Concern" prayer! That bland prayer acknowledged God only one time. That one acknowledgement of God is the same number of times that God is acknowledged in the Pledge of Allegiance and only one-fourth the number of times that God is acknowledged in the Declaration of Independence, yet it was unconstitutional!

Since this prayer simply acknowledged God, the Court went so far as to find out what percentage of the nation did believe in God. In the 1963 case, *Abington* v. *Schempp*, the Court reported that only 3 percent of the nation professed no belief in religion—no belief in God. Ninety-seven percent of the nation believed in God; that prayer was consistent with the beliefs of 97 percent.

Nonetheless, the Court took another first: it sided with the 3 percent against the 97 percent. This was the first time in America's history that 3 percent had become a majority. Three percent had always been a minority; but now, the philosophy of the 3 percent would be the philosophy under which the 97 percent must conduct its affairs.

The four categories of that prayer which petitioned God's blessings were: "students," "families," "schools" and "the nation." In all four of these categories, there are numbers of court cases readily available showing that until 1962-63, the courts consistently ruled using Biblical principles and following Biblical guidelines.

For example, in the areas of families, even in twentieth-century cases dealing with divorce a court explained that divorce was allowed for very few reasons and that the reason the court allowed few reasons for divorce was because the Bible allowed very few reasons. The court pointed out that it had not made the family, God had; therefore, it didn't have a right to regulate something it had not made. The courts even went into a Bible lesson, explaining that in the beginning, God made Adam and Eve—God made the first family—and then it continued through a history of God's dealings with the family, concluding that since it was God who had created the family, the court would use His rules in dealing with it.

The same policy was true not only with the courts rulings on families, but also on the nation, schools, and students as well. But in 1962-63 the Supreme Court reversed its position and announced that those rules and policies caused psychological damage. Did the Court's decision to change national policy and to separate God's principles from its rulings make any difference?

Examine each of the four categories, beginning with students. What happened to students following the removal of religious priniciples was perfectly predicted by George Washington in his Farewell Address when he warned: "Let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds * * * reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle."

Washington warned that to remove religious principles was to lose national morality. Notice the accuracy of his warning. For decades prior to 1962-63, birth rates for unwed girls in school had remained relatively stable; however, since the Court's separation of religious principles from students, birth rates for unwed girls have now increased every year since 1962-63. Furthermore, after having declined prior to 1962-63, birth rates for girls 10-14 have increased 553 percent. It is significant that every moral measurement which exists for students breaks violently upward with the separation of religious principles from the lives of students in 1962-63. This is a strong correlation; perhaps it is merely coincidental, but it is both complete and striking.

For example, after having decline for decades, the rate of pre-marital sexual activity has now increased three-fold for 18-year-olds since 1963; four-fold for 17-year-olds; five-fold for 16-year-olds, and ten-fold for 15-year-olds, causing the United States now to have become the Western World's leader in teenage pregnancies, with one-and-a-quarter million adolescent pregnancies each year. Sexually transmitted disease for both 15-19 year-olds and 10-14 year-olds have increased over 200 percent 1962-63.

Again, each of these categories was showing overall declines prior to 1962-63, but then a violent upturn occurred on every chart and in every moral measurement which correlates to the first ever separation of religious principles from students. Perhaps Washington was correct: "Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle."

The next category over which God was acknowledged in that simple prayer and in which the courts had maintained the use of Biblical principles prior to 1962-63 was that of our families—"our parents." What happened when we abandoned the use of God's laws in dealing with families?

Consider the area of divorce. Statistically, the divorce rate had been steadily declining for years, and even decades prior to 1962-63. Then when the Court rejected those standards, another amazing correlation occurs. Beginning in 1963, the divorce rate skyrocketed; between 1963 and 1981, the number of divorces in America tripled every year. The United States has become number one in the world in the rate of divorce.

As with the moral measurements, it is again striking that every measurement related to the breakup of the family statistically skyrocketed in 1963. Single parent families are now up 140 percent; single parent families with children are up 160 percent; even family morality is dramatically different: unmarried couples living together are now up 536 percent. Again, each of these categories had been stable for years prior to 1962-63 and the dramatic increase exactly correlates to the Court's rejection of those standards which had been applied to the family for 170 years previously.

The third category in which God's assistance was petitioned was our schools. What happened when we barred God and His principles from schools?

The SAT test—the Scholastic Aptitude Test—is an excellent indicator. The SAT test has been in America since 1926 and in 1941, it was placed on the same scale that is used today. Prior to 1963, there were never more than 2 consecutive years where the scores either rose or declined; but beginning in 1963, they plummeted for 18 consecutive years—unprecedented!

Scores are now so low that the Department of Education states that this is the first time in America's history that we are graduating out a generation of students who academically know less than did their parents. The SAT test is the same test their parents used—it has been the same since 1941; yet there is nearly a 100-point difference between the two generations.

Following the removal of religious principles from education in 1962-63, there was a marked explosion in the number of religious—particularly Christian—schools. In 1962, there were only 1,000 Christian schools in the nation, but by 1984 that number had reached 32,000! Currently eight-and-a-half million students—approximately 12 percent of the student population—attend private/religious schools. According to the board responsible for the SAT test, the scores of students coming out of private schools are nearly 100 points higher than those coming out of public schools (one hundred points higher is approximately the level of scores prior to 1963). For private/religious schools, it is as if no change had ever occurred; but for public schools, their scores are still continuing to decline. Again, this is only a correlation, but it is very striking.

The final category—the fourth category—was "our country." What happened in the nation when we separated religious principles? What do you think happens when you start telling students, "You can't see the Ten Commandments, you might obey them ("don't steal, "don't kill," etc.)"? Washington, in yet another warning from his Farewell Address, seems again to have accurately predicted what has occurred. He said: "Let it simply be asked, 'Where is the security for life, for reputation, for property, if the sense of religious obligation desert?'"

While his question was rhetorical, the current answer to it is not. The sense of religious obligation has deserted, and clearly there now seems to be no security for life, reputation, or property. For example, after having remained statistically stable for years, the number of violent crimes since 1963 has now surpassed our population growth by 794 percent, causing the United States to become the World's Leader in violent crime.

Perhaps the best explanation for this increase was given by Thomas Jefferson, who succinctly stated why Christianity was the best friend of government. Jefferson explained: "The precepts of philosophy laid hold of actions only * * * [but Jesus] pushed his scrutinies into the heart of man, erected his tribunal in the region of the thoughts, and purified the waters at the fountainhead."

Where the law says "Thou shalt not kill," in Matthew 5 Jesus says: "Don't hate." Clearly if you prevent hate, you prevent the murder. Where the law says: "Thou shalt not commit adultery," Jesus says: "Don't lust in your heart." If you control the lust, you control the adultery. The Founders pointed out that only religion could stop crime before it started, because all crime came out of the heart, and if you could not control the heart, you could not control crime. This is why Christian principles were so valuable to government.

Most of the Founders expressed this belief. In October 1798, in address to the military, President John Adams pointed out that there was no government in the world able to make someone do what was right and control those who did not wish to be controlled. Adams explained: "We have no government armed with power capable of contending with human passions unbridled by morality and religion * * * Our constitution was made only for a moral and a religious people. It is wholly inadequate to the government of any other."

The Founders believed that the Constitution would work for people who had internal restraints and internal controls—people who would use the Word of God as their standard. We have moved away from that, and clearly the Constitution apart from the religious principles is not working the way it should—a fact evident on all the charts and statistics. Since 1962-63—in only three short decades—the United States has undergone marked and dramatic statistical reversals and has become No. 1 in the world in violent crime, No. 1 in the world in divorce, No. 1 in the western world in teenage pregnancies, No. 1 in the world in voluntary abortions, No. 1 in the world in illegal drug use, and No. 1 in the western world in illiteracy (of all industrialized nations, we have the highest illiteracy rate). A White House briefing recently reported that just three years ago, 700,000 students graduated from high school who—after twelve years of school—were unable to read their own diplomas!

Perhaps one other significant teaching from the Founders can be considered as a possible cause for the declines so evident on the charts. The state constitutions authored by the Founding Fathers from 1776-1792 all contain a similar component which revealed a strong and common belief held by the Founding Fathers. Each state constitution contained a requirement stipulating that every public official must acknowledge a belief in future awards and punishments before he could hold office. In other words, he must acknowledge his understanding that when he left office he wouldn't just answer to the voters; the Founders believed that he would be accountable to God for what he had done while in office; he would answer to God Himself.

This concept of individual accountability to God is well understood; it is broadly accepted that we will answer to God in the future. The Founders, however, conducted an interesting discussion on the Floor of the Constitutional Convention. It was clear that an individual answered to God; but did a nation also answer to God? The Founding Fathers believed that it did.

On the floor of the Constitutional Convention they explained the difference between individual and national accountability to God. An individual answers to God in the future, but not a nation; when a nation dies, it is forever dead and will not be resurrected in the future. George Mason explained: "As nations can not be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities."

The Founders believed that God would deal with a nation immediately and in the present for the stands it takes; a nation has no other time to answer to God than the present. Perhaps this is an appropriate explanation of why all the charts broke dramatically in 1962-63, when, for the first time in the nation's history, we officially told God He was no longer welcome in the public affairs of the nation. It is interesting and unusual that all of the statistical measurements break the same year.

The Founders understood and openly discussed the concept of national accountability to God. In perhaps the most famous speech ever delivered by Benjamin Franklin—delivered on Thursday, June 28, 1787 on the floor of the Constitutional Convention—Franklin reminded the delegates that we needed God to be our friend, not our enemy; we needed Him to be our ally, not our adversary; we needed to make sure that we kept His "concurring aid." Franklin warned, "If a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid?" And thus Franklin called for regular, daily prayer to make sure that we kept God alongside what we were doing in the nation.

Jefferson, too, understood this principle. In his statement now inscribed inside the Jefferson Memorial, Jefferson declared: "Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God? That they are not to be violated but with His wrath? Indeed, I tremble for my country when I reflect that God is just and that His justice cannot sleep forever."

A nation does answer to God for what it does and for the stands it takes.

Abraham Lincoln was once asked whether God was on "our" side in the battle—whether God was on the Union side in the Civil War? Lincoln, showing that he understood this principle, replied: "I am not at all concerned about that, for I know that the Lord is always on the side of the right. But it is my constant anxiety and prayer that I and this nation should be on the Lord's side."

This understanding of national accountability to God has been part of our heritage—part of our history. Our Founders understood that a nation needed to take stands which lined up with God's principles so that His blessings and "concurring aid,' as Franklin described it, could rest on the nation.

We have lost ground in recent years as we have lost our understanding of the Founders' intents and teachings. We do have a Godly heritage in America, but we have been robbed—robbed by the 3 percent. We need to recognize that "separation of church and state"—as we have it today—is not a teaching of the Founding Fathers; it is not a historical teaching; and it is not a teaching of law until recent years.

Founding Father Noah Webster accurately predicted what would occur in this nation if we were to depart from our Biblical roots: "All the miseries and evils which men suffer from vice, crime, ambition, injustice, oppression, slavery, and war, proceed from their despising or neglecting the precepts contained in the Bible."

Can we continue to prosper if we ignore the ideas of the men who founded this nation and who placed it on a foundation which has now lasted two centuries? Wisdom suggests that we should reexamine and reapply that which had worked so successfully for so long in America.

THE TRUE VICTIMS OF URBAN DECAY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. CONYERS. Mr. Speaker, in the last 12 years, under the Reagan/Bush administrations, the urban crisis in our country has largely been portrayed as a problem solely of poor minorities. But the truth is that all Americans—black and white, rich and poor—are interdependent upon each other. Every man, woman, and child in this Nation suffers as our cities crumble under the misguided economic and social policies of neglect.

In a July 11th Detroit News Op-Ed, my colleague and friend HOWARD WOLPE cogently argued that we are all paying the cost of continued indifference to urban decay, and therefore we must all unite to arrest the inexorable decline of our urban communities. I urge careful attention to his thought-provoking analysis, which rightly advocates creating multiracial coalitions to rebuild our society.

[From the Detroit News, July 11, 1992]

WORKING TOGETHER TO RENEW SOCIETY

[By Howard Wolpe]

We must stop thinking and talking about America's urban crisis as the problem of the poor and the minorities. To solve the problems of the cities is not to do something "for blacks" or for "the poor", it is to do something for all of us. Unless we understand this essential truth, we will never be able to develop the national consensus necessary to effect and sustain a redirection of national policy.

The economic and social policies threatening the lives and futures of Americans everywhere—suburbanites no less than city dwellers, whites no less than minorities. All Americans are paying increasingly high costs for decades of social and economic neglect. A declining real standard of living, failing school systems, widening economic inequalities, increased crime and explosive violence, heightened fears and insecurities—these are the other consequences of those economic and social policies that have advantaged a very few of our wealthiest citizens at the expense of the middle class and the poor.

It needs to be underscored that all Americans will suffer more and more if our nation's economic decline is not arrested. And it's clear that the only means by which America will be able to hold its own in international competition in the years ahead will be the development of a better educated, more highly skilled workforce. It will not matter whether the uneducated and unskilled are black or white or Hispanic. If American industries cannot recruit workers who are well-educated and trained, our economy will continue to lose ground to our trade competitors in Europe and Asia, and we will all pay an increasingly heavy price.

A renewed attack on urban problems, if it is to succeed, must be framed not as something "we" are doing for "them". It must be understood not as a moral response to the problems facing minorities and the poor, but as a matter of enlightened self-interest and expediency for Americans everywhere. The future of those who live in America's suburbs and rural areas is inextricably linked to those who live in America's cities. Indeed, in the years ahead an increasing percentage of the national workforce will be drawn from minority groups. America's economic future—and the well-being of whites no less than nonwhites—will depend increasingly on the educational and skill levels of our minority population. Our lives and our futures are interdependent. That means that sound social and economic policies—policies designed to attack the root causes of urban despair and hopelessness—would benefit all of us.

The degradation of some comes, ultimately, at the expense of all. This is the real lesson of Los Angeles. Americans have come to see politics as a zero-sum game, in which one person's benefit must be at the expense of another person's loss. In reality, the solution to our economic crisis is not to fight over who gets the limited number of jobs available, but to develop new policies that will create more jobs and ensure that we have enough well-educated and trained workers to fill them.

In Pogo's immortal words, "We have met the enemy, and he is us." It is we, the American people who, in our anger and despair, have walked away from the political process and thereby given a free hand to those leaders and special interests who have produced the economic and social policies that have caused such pain and anguish for Americans everywhere. Rather than come together in powerful multiracial coalitions of common interest to hold our leaders accountable, we have allowed ourselves to be played off against each other.

But it doesn't have to be this way—not if we can develop a deeper appreciation of the power individual citizens have in a democracy. The real challenge is to reject leaders who seek to manipulate our fears and frustrations for their own self-serving political purposes and, in their place, to affirm leaders who will work to bring people together in a united effort to renew our society.

INTRODUCTION OF THE TRANSPORTATION OF PRODUCE ACT OF 1992

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. COLLINS of Michigan. Mr. Speaker, I am pleased to introduce the Transportation of Produce Act of 1992 [TOP]. This bill will stop the waste of millions of pounds of nutritious produce, supplement the diets of impoverished Americans who eat at soup kitchens, and will also create numerous American jobs in the transportation sector.

Each year, millions of pounds of produce are kept off the market to protect the price of certain grower commodities. This year for example, 5 million pounds of peaches and nectarines did not meet market standards. The agreement required the elimination of this fruit from the primary market, even though the fruit was perfect in every way except for its size.

Instead of allowing this undersized fruit to rot, the TOP Act encourages the donation of this produce to food banks, soup kitchens, and homeless shelters, and establishes a system for collecting and delivering these commodities. The funding source to implement this program would be a percentage of the annual surplus from the USDA's contingency fund under section 32.

Mr. Speaker, this bill will cost taxpayers nothing, it will create numerous jobs annually, and help feed millions of Americans. I urge my colleagues to support this legislation upon its reintroduction in the 103d Congress, and to learn more abut this measure through my statement in today's extension of remarks.

TRIBUTE TO EDWARD HARPIN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Edward Harpin for his retirement from the Woonsocket Police Force after 30 years of dedication and loyalty to the career of law enforcement.

Mr. Harpin began his career as a cruiser patrolman at the Woonsocket Police Department in 1962. He quickly rose through the ranks and was soon promoted to the rank of patrol sergeant in 1967. From sergeant, Commander Harpin graduated from Bryant College in 1973, with a degree in law enforcement and was then promoted to rank of captain, uniformed division. He received his commander of operations title in 1984 and has served in that post for the last 8 years. He leaves the Woonsocket Police Department with an unblemished and distinguished record.

His record in the community is also as impressive. He has served as liaison officer between the Woonsocket Police Department and the Woonsocket Housing Authority, presenting security seminars of authority properties. He also serves as a board member to the East Woonsocket Little League.

I again congratulate Comdr. Edward Harpin for his career and I wish him all the best in all of his future endeavors.

HONORING THE ITALIAN CIVIC ASSOCIATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, during this 500th anniversary of the historic voyage of Christopher Columbus, it is fitting that the Italian Civic Association in Mount Vernon is celebrating its 75th anniversary. This organization embodies the American traditions of community and discovery that began five centuries ago and continues to this day.

The members of the Italian Civic Association keep alive the spirit of their forefathers while also contributing to today's society. It is this kind of involvement that keeps our communities viable, and I commend the members of the Italian Civic Association for 75 years of such activity.

I also extend my congratulations to President Ralph Tedesco and to the members, and wish them many more years of success.

RELEASE OF OTA REPORT ON SPECIAL CARE UNITS

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. SNOWE. Mr. Speaker, I rise today to call attention to the release of a report by the

Office of Technology Assessment [OTA] on special care units for persons with Alzheimer's disease. As the primary requester of this study, I am pleased that, once again, OTA has provided Congress with valuable information regarding Alzheimer's disease. The report entitled, "Special Care Units for People with Alzheimer's Disease and Other Dementias: Public Education, Regulatory, and Reimbursement Issues," analyzes both the problems and the opportunities offered by special care units.

From a policy perspective, there are several reasons why the Federal Government should be concerned about the care of persons with dementia. To date, approximately one-half of all nursing home residents in the United States have dementia. As awareness of Alzheimer's disease and other dementias has increased, so have complaints and concerns about the care provided for individuals with dementia in most nursing homes.

The concern about the appropriateness of care of persons with dementia has given rise to the development of alternative care settings for persons with dementia. One example of an alternative to traditional nursing home care is a special care unit. This unit, as defined by OTA, is contained within a nursing home and is dedicated to exclusively providing care to persons with dementia.

The subsequent proliferation of special care units in the United States has raised many questions about the quality and effectiveness of the care provided by special units. According to OTA, 10 percent of nursing homes in America had a special care unit of some size in 1991. But, while the number of special care units is increasing, disagreement still exists about what constitutes special care.

Consumers have been confronted with both positive and negative experiences in looking for special care units. The OTA report finds that "some persons with dementia are clearly receiving excellent care in special care units. On the other hand, some nursing homes use the words 'special care' as a marketing tool, but provide nothing special to their residents."

In response to concerns about the appropriateness of care provided by special care units, many organizations and State and local governments have issued guidelines to assist consumers and surveyors in assessing special care units. These guidelines were developed to suggest basic features that special care units should provide.

In addition, I have prepared a consumer information sheet to assist families and other consumers in selecting a special care unit. This consumer sheet consists of basic information about special care units and a set of questions to ask the nursing home staff when evaluating a special care unit. Mr. Speaker, I ask that a copy of this consumer sheet be printed following my remarks.

The OTA report also discusses that some States have developed regulations to protect consumers from potential abuse. However, the report points out that these regulations may be premature because there is no consensus about the particular features that are important in special care units nor evidence from research to support requirements for any particular features. Consequently, the OTA report suggests that the nursing home reforms contained in OBRA 1987 may provide a better framework for regulating special care units.

Clearly, more research is needed to assess the effectiveness of special care units. The National Institute on Aging [NIA] recently funded 10 grants to evaluate the effectiveness and the costs of special care units in nursing homes. These studies should help to provide information about the appropriateness of special care units in caring for Alzheimer's patients, the relief of burden of care for the patient's family, and how these programs compare in terms of costs and effectiveness to traditional nursing home care. However, the results are still a few years away.

Finally, the fact that many special care units charge more for the services which they provide then regular nursing home care poses serious questions for consumers and the government. While the Federal Government does not pay more for the cost of special care units, this will clearly be an issue for future discussion.

Mr. Speaker, I would like to recognize Katie Maslow, M.S.W., analyst and project director at OTA, for her outstanding work on this report. I also want to thank the Alzheimer's Association for their achievements in this area. Indeed I value the time and commitment both the OTA and the Alzheimer's Association have devoted to those with Alzheimer's disease and their families. I congratulate them on working to fulfil the many needs of persons with Alzheimer's in a most professional and compassionate way. At this time, I ask that a letter from the Office of Technology Assessment regarding the report and a letter of support by the Alzheimer's Association be included in the RECORD.

Mr. Speaker, as an increasing number of individuals suffer from Alzheimer's disease, the human and financial costs to society will continue to grow. I believe that we must make a national commitment to combat this disease and its dreadful effects. I am confident that the release of the OTA report will provide a solid foundation from which we can address the serious needs of persons with Alzheimer's disease and other dementias.

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, September 30, 1992.

Hon. OLYMPIA J. SNOWE,
Subcommittee on Human Services, Select Committee on Aging, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN SNOWE: As you know, the report you requested, "Special Care Units for People With Alzheimer's and Other Dementias; Consumer Regulation, Research, Regulatory, and Reimbursement Issues," has just been published. In response to your request, we analyzed the available information about special care units to determine what is known about their cost and effectiveness and to identify potential options for the Federal Government in regulation, funding, consumer education, and research with regard to special care units.

As described in the report, existing special care units are extremely diverse. Although experts agree about the general principles of care for people with Alzheimer's disease and other dementias, there is still considerable disagreement about the particular features that are important in a special care unit. The available research provides very little information about the effectiveness of different types of special care units of particular features in special care units.

The diversity of existing special care units substantiates the need for consumer education. Families and others who make decisions about nursing home care for individuals with dementia need to know that special care units vary greatly. They need information about the characteristics of the special care units in their area. If that information is not available, they need to know what questions to ask when they call or visit a special care unit. They also need to know that experts disagree about the importance of particular unit characteristics and that their personal preferences and values are relevant in selecting a unit.

The report notes the availability of special care unit guidelines that have been developed by the Alzheimer's Association, the American Association of Homes for the Aging, and several other groups. These guidelines can help families and others evaluate special care units. The guidelines emphasize the general principles of care for people with dementia, the current uncertainty about the most effective methods of care, and the early stage of research on special care units. Although the guidelines do not provide precise standards to evaluate special care units, they do accurately represent what we know about specialized nursing home care for people with dementia.

Given the availability of special care unit guidelines developed by the Alzheimer's Association, the American Association of Homes for the Aging, and other groups, there is no need for federal agencies to develop additional guidelines. Federal agencies that serve elderly people and their families could play a valuable role, however, in disseminating the available guidelines and promoting their use.

Sincerely,

KATIE MASLOW,
Project Director.

ALZHEIMER'S ASSOCIATION,
September 30, 1992.

Hon. OLYMPIA SNOWE,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SNOWE: The report from the Office of Technology Assessment which you are releasing today, "Special Care Units for People with Alzheimer's and Other Dementias," makes an important contribution to the discussion of this rapidly developing segment of long term care in our country. We commend you for your vision in requesting this study and your continuing leadership in the quest for quality care, not just for persons with Alzheimer's disease, but for all residents of nursing homes and other residential care facilities.

The Alzheimer's Association is committed to that same objective. In July, we held an Alzheimer Care Conference, "Practical Approaches, Professional Alliances", attended by nearly 1000 care providers from across the country. At that meeting, we released "Guidelines for Dignity: Goals of Specialized Alzheimer/Dementia Care in Residential Settings", a quide for providers.

The overwhelming response to the conference and the Guidelines convinces us of the interest in this critical issue and the need for information, support, training, and research, to continue the creativity and to expand both our knowledge and the availability of quality Alzheimer care.

The Association will continue its leadership role on both practice and policy related to special care. We look forward to further work with you on this and other matters affecting persons with Alzheimer's disease and thier families.

Sincerely,

STEPHEN MCCONNELL,
Senior Vice President, Public Policy.

WHAT DO WE KNOW ABOUT SPECIAL CARE UNITS?

Today, approximately half of all nursing home residents in the United States have Alzheimer's disease or another disease that causes dementia. As awareness of Alzheimer's disease and other dementias has increased in recent years, so have concerns about care. In response to these concerns, some nursing homes have developed special care units—physically separate units that attempt to provide care that is tailored to meet the psychosocial and physical needs of persons with dementia.

The number of special care units for individuals with dementia has increased rapidly over the past few years. In a recently released report that I requested, the Office of Technology Assessment estimated that 10% of all nursing homes had a special care unit in 1991.

Existing special care units show great variation in every respect, including their mission, physical design, staff training programs, staff-to-resident ratio, activity programs, use of physical restraints and psychotropic medications, admission and discharge criteria and patient care practices.

Because of the diversity of existing special care units, I have developed a series of questions families and other consumers might ask the nursing home staff when evaluating a special care unit:

WHAT SHOULD I ASK ABOUT A SPECIAL CARE UNIT?

1) What is special about the unit? How does this special unit differ from nonspecialized units in this facility?

2) Does the cost of care differ from the cost in nonspecialized units?

3) What are the policies regarding discharge and transfer?

4) Are there behavioral problems that cannot be handled on the unit?

5) How have you trained the unit staff to work with people with Alzheimer's?

6) How are physical restraints and psychotropic medications used in the unit?

7) What steps have you taken to make this a safe environment?

WHERE CAN I GO FOR MORE INFORMATION?

For additional information on special care units, contact my office by writing: Olympia J. Snowe, 2464 Rayburn HOB, U.S. House of Representatives, Washington, D.C 20515-1902 or call 1-800-432-1599.

HELPFUL RESOURCES:

"Special Care Units for People with Alzheimer's and Other Dementias: Consumer Education, Research, Regulatory, and Reimbursement Issues." A copy of the report summary is free of charge by calling 202/224-8996. The full report can be purchased for $11.00 from the Office of Technology Assessment, Report # 052-003-01296-1. Make checks payable to the Superintendent of Documents and mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954 or call 202/783-3238.

For additional information contact: The Alzheimer's Disease Education & Referral Center, P.O. Box 8250, Silver Spring, MD 20907-8250, or phone: 1-800-438-4380.

A TRIBUTE TO THE GERMANTOWN SETTLEMENT

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to join the celebration of the Germantown Settlement, which has been a force for change in Philadelphia for the last 108 years. Since 1884, when 18 women joined together to build a nursery and kindergarten for the residents of Germantown, the Germantown Settlement has been committed to providing educational, medical, and housing services throughout the city.

In the first decades of the 20th century, the kindergarten and nursery expanded to provide emergency medical services to the Germantown community. Later, as the Great Depression left many homeless and without food, the Settlement began to cater to the basic needs of the residents of the Germantown area, making certain that poor families had places to stay, providing clothing to the impoverished, and feeding hungry children. By 1960, the Settlement had developed into a full-fledged human services center, sponsoring programs ranging from community self-help economic initiatives to housing developments and educational endeavors.

Mr. Speaker, the Germantown Settlement is a not-for-profit organization whose members are motivated, not by greed, but by community pride, loyalty, and selfless concern for humanity. The organization has also been dedicated to inclusion of all Philadelphians.

Since World War II, when many men were called away to serve their country, women have played a vital role in the Germantown Settlement, and for the last 45 years, the organization has sought staff and volunteers from diverse ethnic and racial backgrounds. Mr. Speaker, the city of Philadelphia owes a great debt of gratitude to the Germantown Settlement for its tireless efforts to develop its own community. It has become a model for similar programs that are spread around the Nation. I invite my colleagues to join me in honoring a group of people who have added significantly to our city, the Germantown Settlement.

NAACP TO HOLD 37TH ANNIVERSARY FREEDOM FUND DINNER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, October 10, 1992, the Greater Red Bank, NJ chapter of the National Association for the Advancement of Colored People will hold its 37th Anniversary Freedom Fund Dinner. The program and dinner will be held at the Shrewsbury Avenue AME Zion Church in Red Bank.

This year, the branch will honor distinguished and well deserving individuals who have made significant contributions to the Greater Red Bank area: The Rev. William C. Fuller, past president of the Westside Ministerial Alliance and pastor of the Union Baptist Church in Middletown, NJ; and Mr. Julius Ramsey, third vice president of the Red Bank NAACP. Both gentlemen are charter members of the Greater Red Bank Branch.

The distinguished Dr. Donald D. Warner, superintendent of the Red Bank Regional School System, will be the guest speaker for this year's program. Dr. Warner is well respected throughout the State of New Jersey, and his remarks will certainly provide significant and thought-provoking insights into current social problems in our society.

Mr. Speaker, I am sure that this year's program will, as always, be an exciting and rewarding evening. The work of the NAACP is, of course, recognized nationally for its outstanding leadership in the fight for civil and human rights and economic opportunity for all members of our society. What we should also remember is the hard work and often unsung achievements that is done every day of the year in cities and towns across our country by local chapters of this great American institution. People in Monmouth County would, I am sure, agree that the Greater Red Bank Chapter of the NAACP has made our community a better place for all of our citizens.

SOMIS CELEBRATE CENTENNIAL

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GALLEGLY. Mr. Speaker, I rise today to help commemorate the 100th anniversary of the present townsite of Somis, CA, located in the heart of Ventura County.

To help mark this historic occasion, the Pleasant Valley Historical Society is sponsoring a walking tour of the community on Sunday, October 11, during which three historical landmarks will be open to the public.

The tour will begin at the Somis Thursday Club, which was at one time the Somis Schoolhouse. Club members, assisted by the Camarillo Junior Women's Club, will display yearbooks, needlework samples and a collection of antique model fire engines made by Roland Gisler.

The second landmark on the tour is Fulkerson's Hardware, opened in 1912 and continuously owned by the family since then. The last landmark open to the public will be Somis School, built on its present site in 1924. Local artisans, including the Ventura County Quilters Club, and the Ventura County Handweavers and Spinners Guild will be on hand there as well.

Mr. Speaker, although Somis is nestled in the heart of a growing and dynamic county, it retains the country charm of a bygone era. I ask my colleagues to join me in saluting all of the men and women who have worked so hard to make this centennial celebration a success.

NANCY RAPOSO SETS WORLD RECORD FOR WOMEN'S CYCLING

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Nancy Raposo from Newport, RI for her recent record setting event. Nancy recently set the world record for women's cycling record for distance over a 24-hour period.

Despite battling severe muscle cramps and fatigue, Nancy peddled 439.65 miles over the 24-hour period. Her only rest came during three massage sessions, which were necessary to relieve the muscle spasms, and to change her socks. She did not sleep during the event. Battling a steady drizzle and a strong wind Nancy continued to peddle along. The cramps were beginning to take a toll on Nancy's body and her speed began to slow, the women's record was slowly slipping away.

Nancy refused to give in. At 8 a.m., the next morning, Nancy had broken the women's record. This is not Nancy's first long distance event, as she was the winner of the Race Across America, which covers 8,000 miles from California to Georgia.

I congratulate Nancy Raposo for her record setting event and I wish her all the luck in all of her future endeavors.

INTRODUCTION OF LEGISLATION TO ESTABLISH AN INDEPENDENT INVESTIGATORY SEX CRIMES UNIT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. SCHROEDER. Mr. Speaker, today I am introducing a bill to establish a independent investigatory sex crimes unit to investigate sexual assault and sexual harassment in the services. Tailhook brought the harassment and assault that military women endure to our attention, but aftershocks have been felt in all services as women come forward to tell their stories of abuse.

During the Desert Shield and Desert Storm, in the Army alone 33 sex crimes were recommended for prosecution. Many of these women did not report the assault until months later when they were back home because they didn't feel safe. In other words, these women lived and worked with their rapists for months because they felt the services would not help them. Mr. Speaker, military women are more likely to be raped by their fellow soldiers, seamen, airmen, and marines, than captured and raped by a foreign enemy.

If the cases that I have received in my office are any indication, when military women do report incidents of sexual assault or harassment they are harassed, blamed, isolated, punished, referred for psychiatric evaluation, locked up in psychiatric wards, and accused of lying. It is not uncommon to hear that an incident was not investigated at all, or the investigation was botched, or recommendations from an honest investigation are never acted on. All in all the services' irresponsible practice toward these crimes and the safety of their service members have ruined women's careers and lives, and left rapists roaming free and unprosecuted.

The bill I am introducing today will create an Office of Criminal Investigations at the Department of Defense. The office will have jurisdiction over all reports of sexual harassment, abuse, assault, and related offenses. Military personnel will file their complaints directly with this office. In addition, it makes failure by a commanding officer to report sexual misconduct a Federal crime. Investigators in the office will be civilians, and will be authorized to refer any matter which constitute violations of Federal law to the Department of Justice or the appropriate U.S. attorney for prosecution.

This legislation is an attempt to bring justice back into the military.

H.R. 5096, THE ANTITRUST REFORM ACT OF 1992

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PURSELL. Mr. Speaker, for the last two sessions of Congress, I have introduced legislation that would repeal the Newspaper Preservation Act [NPA] of 1970 (15 U.S.C 1801 et seq.). The NPA was enacted under the noble premise of protecting competing editorial voices in cities where economic conditions failed to support more than one daily newspaper. In effect, however, the act has created government-licensed monopolies that eliminate competition in the newspaper publishing business and violate the first amendment guarantee of a free press.

Essentially, the NPA provides a partial exemption from antitrust laws for competing newspapers that enter into Joint Operating Agreements [JOA's] when one of the papers is in probable danger of financial failure. Applications for JOA's are approved at the sole discretion of the Attorney General, with no statutory enforcement authority and absolutely no guarantee of a public hearing on the matter.

The NPA was intended to slow down or stop the continuing disappearance of newspapers in this country by allowing for the merger of commerical and business operations, and maintaining dual editorial voices. Instead, the NPA has resulted in the creation of otherwise unlawful mergers that allow participants to reap record profits, while reducing the amount of news and information available to the public. The NPA allows price-fixing, profit-pooling, and market control, otherwise automatic violations of antitrust law. The act has also been used to sustain below-cost pricing schemes aimed at reducing a healthy, 2-newspaper market to a monopoly press.

The most efficient and cost-effective way to restore competition in the newspaper and information services industry is to repeal the Newspaper Preservation Act. However, legislation reported by the House Judiciary Committee on July 1, 1992, provides additional suggestions on how the act could be reformed.

H.R. 5096, the Antitrust Reform Act of 1992, would reverse the terms of the AT&T modified final judgment consent decree which allows the regional Bell operating companies to enter any of the MFJ services: manufacturing, long distance and information services. In order to enter one of these new lines of business, however, the bill requires that the RBOC must prove to the satisfaction of the Attorney General that there is "no substantial possibility" that the petitioner could "use monopoly power to impede competition in any relevant market for the activity to which the application relates." H.R. 5096 also provides that an aggrieved party may file for a de novo appeal of the Attorney General's decision in the Federal district court.

Generally, I oppose this legislation because it strips the Congress and the Federal Communications Commission of their responsibilities to formulate telecommunications policy for this Nation. Instead, the courts would be deciding who could be involved in which particular industry based on antitrust standards that were written 50 years ago. In other words, telecommunications policy would be developed based on what has happened in the past, rather than looking forward to new technologies and the possibilities of the future.

However, if this legislation is going to move forward, either now or in the future, the Congress should adopt an amendment that I have proposed that would extend the "competitiveness entry test" of HR 5096 to the JOA petition approval process of the Newspaper Preservation Act. Congress should also consider whether the competitiveness entry test should be extended to cover existing JOA's. This amendment would ensure that proposed and existing JOA's would also be evaluated on how they would impact the competitiveness of the newspaper and information services market in any particular area, rather than focusing entirely on the financial condition of the JOA participants.

Because of the possibility that newspapers and the regional Bell operating companies may be competing to provide information services in the future, my amendment will ensure that the RBOC's are not at a competitive or economic disadvantage in the delivery of those services. Since most newspaper organizations are on record in support of HR 5096, there should be no problem with the extension of these antitrust standards, with independent judicial review, to the NPA.

Mr. Speaker, this is the amendment to H.R. 5096 that I have proposed:

AMENDMENT TO H.R. 5096

Add the following new section 10 to H.R. 5096:

SEC. 10. AMENDMENT OF THE NEWSPAPER PRESERVATION ACT.

Section 4 of the Newspaper Preservation Act (15 U.S.C. section 1803) is amended by adding at the end thereof the following new subsections:

"(d) In making the determination set forth in subsection (b), the Attorney General shall grant approval only to the extent that the Attorney General determines that there is no substantial possibility that such joint operating arrangement could impede competition in any relevant market to which the application relates.

"(1) Not later than 10 days after issuing a determination under subsection (b), the Attorney General shall publish the determination in the Federal Register, together with a description of the findings, studies, and analyses relied on for the determination.

"(2) The Attorney General's determination regarding an application made under subsection (b) shall be final unless a civil action with respect to such determination is timely commenced under paragraph (1) of subsection (e).

(e) DE NOVO JUDICAL DETERMINATION.—

"(1) CIVIL ACTION.—Not later than 60 days after a determination by the Attorney General is published pursuant to subsection (d), the party that applied to the Attorney General for approval under subsection (b), or any person who might be injured in its business or property as a result of any determination regarding such party engaging in the activity described in the application, may commence a civil action against the Attorney General, in any district court of the United States in the district in which such party resides or is found or has an agent, for a de novo determination regarding the application. Such party and any such person shall also have the right to intervene in the civil action.

"(2) Judgment.—The court shall enter a judgment granting the approval for which the party applied to the Attorney General only if such party proves that there is no substantial possibility that such joint operating arrangement could impede competition in any relevant market to which the application relates.

"(3) Stay.—A judgment entered under paragraph (2) shall be stayed until the time for all appeals with respect to such judgment has expired.".

A TRIBUTE TO BERNARD BLOOM: A CHAMPION OF PUBLIC SERVICE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SOLARZ. Mr. Speaker, I rise today with great pride to pay tribute to a man whose popularity among friends and colleagues is exceeded only by his modesty. Judge Bernard Bloom, Kings County Surrogate, is a well respected and honorable man who has undoubtedly enriched the lives of those who have been touched by his professional expertise, and those, like me, who have had the privilege of calling him a friend.

In these days of distrust in government, a man like Surrogate Bloom, who represents the finer side of our political system, and who himself has been involved with politics since the age of 13, can truly be touted as a hero of Democracy.

A decorated sergeant in the artillery of the U.S. Army, Bernie Bloom began his distinguished political career as a campaign worker while a member of the democratic law committee of Kings County. Over 40 years later, Judge Bloom is still going strong, leaving behind a rich and impressive record of public service and diverse accomplishments.

I would like to include the following excerpts from the Brooklyn Daily Bulletin of September 21, 1992:

Court Beat

PROFILE: BERNARD BLOOM, KINGS COUNTY SURROGATE

(By Michael Dunbar)

If popularity were the measure of one's success, then Brooklyn Surrogate Bernard M. Bloom would reign supreme as the absolute monarch of the Brooklyn courthouse. A very personable individual who seems to manage a cheerful word for everyone, Surrogate Bloom is a great favorite with the courthouse staff, all of whom are totally unabashed in their praise of the very lovable Surrogate they call "Bernie."

Born in Brooklyn on August 21, 1926, Surrogate Bloom received his early education at P.S. 164, J.H. 223 and New Utrecht Evening H.S. He studied Pre-Law in Brooklyn Evening College and graduated from Brooklyn Evening Law School in 1952.

It was during these years that he entered the Army of the United States (Nov. 13, 1944) and attained the rank of Sergeant in the Artillery, which included overseas duty before being honorable discharged on August 1, 1946. He achieved the rank of Captain in the U.S. Army Inactive Reserve Judge Advocate General Corps.

He served as an Assistant Counsel to the Minority Leader of the N.Y. State Assembly from 1957 to 1960 and spent a number of years as an Assistant Counsel to the Speaker of the Assembly.

He was appointed Confidential Clerk and Law Secretary to the late Hon. Henry L. Ughetts. Appellate Division 2nd Dept. and served in the capacity from Oct. 5, 1960, to Oct. 25, 1967

Appointment as Deputy Public Administrator for Kings County was next in line from 1968 to 1971 and he was appointed a Director for Serviceman's Voting, State of New York, from 1971 to December 1976.

On November 2, 1976, Bernard M. Bloom was elected Judge of the Surrogate's Court of Kings County, the position he currently maintains.

Active in the Democratic Party since the age of 13, Judge Bloom is a former Executive Member of the Andrew Jackson Democratic Club of Brooklyn (in the Boro Park and Flatbush sections of Brooklyn).

He has been a member of the Democratic Law Committee of Kings County since 1950 and an active worker in all campaigns with the Law Committee since 1950. He acted as Assistant Campaign Manager of Kings County in the 1954 Harriman Campaign and served as a delegate to numerous Judicial Conventions and State Conventions.

He also represented the Young Democrats of Kings County at the Democratic Political Institute in 1951 at Syracuse University and at Colgate University in 1958.

He was the Chairman of the Credentials Committee of the State Committee that designated Hugh L. Cary for Governor of New York State in 1974.

Surrogate Bloom is a former Special Counsel to St. Peter's Hospital-Brooklyn, former Special Counsel to Kingsbrook Jewish Medical Center and acted as Assistant Sergeant-at-Arms at the Democratic Convention at Los Angeles in 1960.

He was elected and served as Delegate to the New York State Constitutional Convention representing the 17th Senatorial District of Kings County in 1966 and was appointed Assistant Counsel, N.Y. State Joint Legislative Committee on Congressional Reappointment from 1967–68.

He was elected Democratic State Committeeman 43rd Assembly District, Kings County on January 30, 1969 and served until 1976.

And just in case there was any time not accounted for in the course of his very busy day, it should be noted that the Surrogate is the bearer of another distinguished half-Bloom: that of Brigadier General in the New York Guard and Special Assistant to the Commander.

Acting Surrogate and Supreme Court Justice Joseph Levine had the following comment on his colleague Bloom: "Although I've known Judge Bloom all my adult life, I really didn't get to know the nature of the man and his work as Surrogate until my appointment as Acting Surrogate in the winter of 1991. During Judge Bloom's much needed vacation, I sat in his stead and was overwhelmingly impressed by the professionalism of each and every member of his staff. This expertise can only come about through the leadership of a great Surrogate, a man of compassion and a man who does justice. Judge Bloom is such a man. His humility and generosity make him the best man for this most difficult job."

A widower, Surrogate Bloom is the father of Gwen, an attorney, and Carrie, who works in the advertising and communications field.

Among his many associations and affiliations are the following:

Brooklyn Bar Association.

Y.M.C.A.-Flatbush Branch-Board of Directors.

Kings County Criminal Bar Association.

Brooklyn Law School Alumni Association.

Isaac Albert Research Institute of the Kingabrook Jewish Medical Center-Board of Trustees.

American Judicature Society.

Brooklyn Law School Student Council and served as President of the Law School Student Body in senior year.

Iota Theta Law Fraternity; Prater-Secundus.

Jewish War Veterans-Crown Heights Post.

Former Secretary of the Young Democrats and Kings County.

Judea Center Synagogue-Board of Directors.

Dladson Lodge No. 1119, F. & A.M., New York.

Brooklyn Lawyers Division of the United Jewish Appeal-Trustee.

Yeshiva of Eastern Parkway.

Prospect Park Jewish Center-Board Member.

The Brooklyn HUB Development Corp.

Jay Senior Citizens Center.

Knights of Pythias Landes Lodge.

Co-Judge Advocate Cummings Bros. American Legion Post.

National Narcotic Officers Association.

Member, Board of the Hasidio Corporation for Urban Concerns.

The Flatbush Development Corp.

TITLE IX U.S. ENRICHMENT CORPORATION AND TITLE XI URANIUM ENRICHMENT, HEALTH, SAFETY AND ENRICHMENT ISSUES

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. RHODES. Mr. Speaker, I want to express my support for the work of the conference committee on the title restructuring the Nation's Uranium Enrichment Enterprise into a Government corporation. This issue has been before the Congress for many years and it is significant that at long last the Congress is acting to enable the enterprise to take the needed steps to arrest its certain deterioration into financial ruin.

The conference committee has produced a bill that will place the Nation's uranium enrichment assets in the hands of a five-member Board of Directors with the mandate and authority to compete in the world enrichment markets using sound business principles. American labor and technology will no longer be encumbered by Government bureaucracy, and congressional and OMB meddling, allowing this $1.5 billion business to regain its status as a leader in the world of uranium enrichment services.

I specifically would like to clarify the provision in the conference bill concerning the compromise language on the decontamination and decommissioning fund of the Government uranium enrichment facilities. These enrichment plants were built in the 1940's and 1950's for the necessary purpose of supplying enrichment uranium to support our Nation's atomic deterrence during the cold war. Fortunately, as a result of President Eisenhower's atoms for peace initiative, the enrichment facilities were also put to civilian use enriching uranium to fuel electricity generating nuclear energy plants. This saved taxpayers hundreds of millions of dollars in national defense dollars, and returned over $1 billion to the U.S. Treasury.

It is important that the D&D costs associated with these Government enrichment facilities are fairly collected from those responsible for the mess in the first place, the defense program. DOE has clearly testified that based on their studies, virtually all of the contamination at these sites occurred prior to 1969, during the period that these facilities were being operated exclusively for defense purposes. The Department testified before Congress that the private sector share of the cleanup costs was approximately $1.6 billion.

Even though the bill produced by the conference committee mandates a greater share of contribution of up to $2.25 billion (indexed to inflation) by utilities who generate electricity using nuclear energy, and their ratepayers, nevertheless it importantly ensures that the ratepayer liability is limited to 15 years with a maximum contribution of a $150 million annually. Since Congress mandates this after-the-fact contribution from utilities who are customers of the Uranium Enrichment Enterprise, it is important that the financing issue of decontamination and decommissioning is settled once and for all, and that utilities and their ratepayers are not again asked to contribute in the future.

I would also like to clarify the intent regarding safety oversight of gaseous diffusion plants facilities contained in title XI of the conference bill that could be interpreted as stating that the gaseous diffusion uranium enrichment facilities may not be operated by the Corporation until NRC makes a determination of compliance regarding the safety of these facilities or approves a plan prepared by the Department for achieving compliance.

As written, this language could create a problem with respect to operation of gaseous diffusion plants during the 2-year period in which NRC is establishing safety standards. During this 2-year period, it is intended that the facilities be operated by the newly created Corporation under DOE oversight.

I do not believe it is the intent of Congress that the gaseous diffusion plants be shut down during the period of time that NRC is developing the standards that are needed for oversight of plant operations.

Again, I congratulate this Congress for taking the needed steps for insuring the Nation's supplier of enriched uranium fuel.

EL SALVADOR'S MAYORS IN EXILE: AN AFFRONT TO THE CHAPULTEPEC PEACE ACCORDS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUNTER. Mr. Speaker, Meso-American Studies recently issued a report entitled "El Salvador's 'Mayors in Exile:' An Affront to the Chapultepec Peace Accords" raising serious concerns about the efficacy of the peace accords signed in January 1992 in restoring order to that country's war torn municipalities.

The President, deputies to the General Assembly, and mayors of the municipalities are the only popularly elected public officials in El Salvador—making mayors the basic unit of the democratic process. Mayors of municipalities have also been the prime target of the antidemocratic forces of the Frente Farabundo Marti para la Liberacion Nacional [FMLN] and despite the peace accords the terror against these officials continues. Meso-American Studies executed a survey among the "mayors in exile," those unable to personally oversee the administration of their municipalities because of antidemocratic terror and inadequate oversight from the United Nations observers in El Salvador—ONSUAL. I have enclosed the survey results and its prescriptions for the benefit of my colleagues.

THE SURVEY

Between 18–23 September of 1992, a survey was made of 31 of the 41 Mayors in exile. This represents 75% of all Mayors in exile and is a broad enough sampling to objectively assess the views of the Mayors in question. This survey encompassed five Departments and Mayors of four of the five political parties that have "Mayors in Exile". Seventeen of the Mayors were from the ARENA party which controls approximately ⅔'s of the El Salvador's Municipalities, ten surveyed were members of the Christian Democrat Party (PDC)—the largest opposition party in the National Assembly, three were from the National Conciliation Party and one Mayor was from a splinter group of the Christian Democrats, the Authentic Christian Movement. The percentage of the parties of the Mayors in Exile roughly corresponds with their national representation, though the ARENA party is slightly underrepresented while the other parties are slightly overrepresented. This was random however, as the political affiliation of any given Mayor was unknown until after the survey form had been filled, signed and stamped by each Mayor.

The survey consisted of six major parts:

(1) The physical condition of the Town Hall.

(2) Why the Mayor has not returned to the Municipality.

(3) What, if any, group(s) were impeding their return.

(4) How did the Mayor view the role of ONUSAL in supporting his/her return.

(5) General recommendations to expedite the return of the Mayors.

(6) General observations.

Before an analysis of the survey is made, the surveyor must manifest that a climate of fear was encountered among many of the Mayors. This fear was highly understandable and it was made clear that their responses would be maintained in strict confidentiality and any public document produced as a result of the survey would be "sterilized" to avoid any negative repercussions from either the FMLN or ONUSAL.

In response to question number one: the physical condition of the Town Hall, 45% of the Mayors surveyed responded that the Town Hall was totally destroyed, 45% responded that the Town Hall was semi-destroyed and 9% did not respond (because 31 is not evenly divisible by 100 and the percentages have been rounded to the nearest whole number, the total will not be exactly 100%). All but one that did reply to the question answered either written or verbally that the FMLN destroyed their Town Hall. The one exception stated that the Town Hall was destroyed in an aerial bombardment while the FMLN had control of the town.

The response to question number two: why the Mayor has not returned to the Municipality, 48% replied that they had no security. Because the Accords of Chapultepec eliminated two of the three public security corps, only the National Police is allowed to provide internal security and there simply is not the manpower to provide permanent posts in every Municipality. Another 22% replied that they had received threats from either the FMLN or FMLN front groups. A typical response from one Mayor was that one "comadante" didn't "want to let me return to the population saying that if the members of ONUSAL did not exist I would be dead or hung from a tree and that they (the FMLN) didn't want me as Mayor of the population." Other Mayors who answered this question replied to the poor physical condition of the Town Hall.

In regards to question number three: what, if any, group(s) were impeding their return, 77% identified either the FMLN or FMLN front groups. In the Department of Chalatenango three front groups were identified by name, the CCR, CIR and ANTA. That ANTA was mentioned on more than one occasion (see graph) is interesting as its initials stand for the "National Association of Agricultural Workers." While in 1992 ANTA has been threatening Mayors in Chalatenango in January of 1991 ANTA published an ad stating: "We condemn the United States Government for carrying out massacres against the Iraqi population, to act warlike, leaving to on side the negotiation of this conflict." This would appear not to be your typical agricultural group.

In the eastern Departments of El Salvador, all front groups that have impeded the Mayors return were under the direction of the ERP faction of the FMLN which is the most militant of the five FMLN factions. These groups included CODELUN, CODECA, PADECOM, COMUS, PADECONSM, COSDECSAM and unidentified non-governmental organizations (NGO's).

The response to question number four: How did the Mayors view the role of ONUSAL in supporting his/her return: provided perhaps the most interesting data. Because ARENA and the opposition Christian Democrats (PDC) provided 27 of the 31 surveys, the difference in percentages of the perceptions of members of these two parties is significant. The Mayors were given five choices of evaluating the role of ONUSAL; Very Poor, Poor, Neutral, Positive and Very Positive.

However, the average of all Mayors interviewed bears a first analysis (see chart). While all the Mayors were quite specific in their answers to why they responded very positive, positive, poor, and very poor, their responses for "neutral" gave indication of the fear that still permeates in the rural areas of El Salvador. One Mayor stated in writing that ONUSAL "are like observers". When questioned verbally after receiving the written interview, the Mayor expressed that he feared that if his report were made public that "the ONUSAL would jump all over him". Others stated that the work of ONUSAL is "with the armies and verification," however many verbally stated also their fear of their interview becoming public and that not only ONUSAL but the FMLN would bring reprisals against them. In this context, one Mayor who rated ONUSAL as "very poor" stated in writing that the reason for answering "very poor" was that: "Because that they are very partialized toward the Frente (the FMLN) and this does not give a climate of confidence, because one makes a confidential question and they comment this later to the men of the Frente."

An analysis of the answer of the ARENA "Mayors in Exile" indicates that they, contrary to popular opinion, have a more positive image of ONUSAL than the members of the Christian Democrat opposition party. While 30% of the ARENA members rated the role of ONUSAL as "very positive" or positive," only 20% of the Christian Democrats gave the ONUSAL the same rating (see charts). In the same vein, while 32% of the ARENA Mayors rated the work of ONUSAL as "very poor" or "poor," fully 50% of the PDC Mayors gave ONUSAL the same rating.

In April of 1992, ONUSAL began a propaganda campaign called "On the Road to Peace" to improve its image. This campaign which consisted of paid announcements in radio, TV and newspaper ads cost the U.N. $60,000 and according to the ONUSAL spokesperson, did not achieve the hoped for results. This statement which appeared in a letter to publicity agencies during a solicitude for a new publicity campaign also expressed surprise that after 12 years of civil strife, the Salvadoran people seemed unwilling to "forgive and forget". That Mr. Zamorano of ONUSAL had the audacity to make this statement gives a clear indication of why the "Mayors in Exile" have a generally poor perception of ONUSAL. That this perception is extended into the general population is clear or else the publicity campaigns of ONUSAL to improve their image would not be necessary.

The response to question number six: general recommendations to expedite the return of the Mayors, provided a variety of useful information to alleviate this problem. 22% of the Mayors responded that they needed the establishment of a police force, 16% asked that the FMLN complies with the Accords, 19% replied that the FMLN front groups either disappear or don't interfere with the Mayors and 16% asked for the prompt reinstallation of public services.

The final question of general observations were of such a wide variety of responses that the surveys should be read to gain insight into the myriad problems, and hopes, that face these Mayors.

RECOMMENDATIONS

The fact that less than 10% of the "Mayors in Exile" have been able to return to their municipalities after nine months from the signing of the Accords is simply unacceptable. However, there are two possible means available to the Congress that could quickly end this problem that is a direct affront to the democratic process. Members of Congress from both political parties were present as official election observers in El Salvador's election of 1991 and can attest to the honesty, integrity and transparency of these elections. That a small group continues to defy the democratic process and deny the return of these Mayors has remedies however.

Perhaps the most viable means available was suggested by the Mayors themselves. This consisted in that Congress deny the use of any funds appropriated for El Salvador to be spent in any Municipality where the Mayor is in exile. If the population of these Municipalities were to see that those Municipalities where the Mayors were enjoying their elected functions were being rebuilt and progressing from the Salvadoran National Plan for Reconstruction, pressure by the population would by quickly brought to bear on the FMLN and its front groups.

The second alternative deals with the United Nations, because ONUSAL plays an active role in the return of the Mayors, a reexamination of funds appropriated for the United Nations could bring pressure that the political section of the Human Rights Division of ONUSAL assume their duties in a more professional manner, thus expediting the Mayors' return.

There is high probability that either of these actions would positively effect this situation that is incompatible with the Salvadoran reconciliation and its democratic traditions that have cost so much blood to construct.

McKEES ROCKS: CELEBRATING 100 YEARS

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. COYNE. Mr. Speaker, I rise today to note the centennial celebration of McKees Rocks, PA.

On October 17, 1992, the people of McKees Rocks and friends and neighbors in the surrounding communities of Allegheny County will celebrate the 100 years history of the McKees Rocks Borough. This festival commemorates the proud accomplishment of generations who have lived and worked in McKees Rocks.

While McKees Rocks was recognized formally as an independent borough 100 years ago, the history of this community dates back to the earliest periods of our Nation's past. The land on which McKees Rocks Borough would rise was originally inhabited by the tribes of the Ohio River Valley, which included the Hopewell, the Monongahela, the Shawnee and the Delaware. In 1753, George Washington met in this area with Delaware Chief Shingas to negotiate the terms of future American settlement in Pittsburgh.

Early Americans would settle in western Pennsylvania and help to build a new country. One of these individuals was a frontier trader named Thomas McKees, whose family name is preserved in McKees Rocks. Agricultural products from the fertile farms of the McKees Family and many other settlers would provide much of the food consumed in the rapidly growing city of Pittsburgh.

McKees Rocks was well on its way toward becoming one of America's most robust industrial centers by the latter part of the 19th century. This community became home to a large number of successful plants and mills producing steel, railroad equipment, bridge material, and many other industrial goods which were used in all parts of the United States and the world. McKees Rocks played an integral part of our national effort to make the United States the world's leading industrial power.

This community has been a leader once again in efforts to rebuild local economies. McKees Rocks became one of the first successful urban redevelopment projects in Allgeheny County, Pennsylvania funded by the Federal Government. It is a tribute to the hardworking, industrious and enterprising citizens of McKees Rocks that this community continues to contribute much to the greatness of the Commonwealth of Pennsylvania and the United States of America.

Mr. Speaker, I am proud to join with the people of McKees Rocks in commemorating the centennial celebration of McKees Rocks Borough, PA.

LEGISLATION CONCERNING NAFTA AND THE ENVIRONMENT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MATSUI. Mr. Speaker, today I rise to introduce legislation of paramount importance to the United States and to the future of the global environment.

Last June, I voted in favor of the fast track procedure to allow the administration the opportunity to negotiate a North American free-trade agreement. I believed then, and still do, that NAFTA offers California and the United States a great opportunity. It is probably one of the best things George Bush has done during his Presidency.

However, after having reviewed the NAFTA draft text, hearing from and questioning Ambassador Hills and William Reilly, and listening to public testimony, I have come to the conclusion that, on the environmental front, the proposed agreement does not go far enough. The administration has touted this as the greatest trade agreement ever, but it simply is not good enough. Without effective enforcement mechanisms and concrete funding, the environmental provisions are no more than a wish list of objectives.

Today I am introducing legislation to provide some substance to the currently empty NAFTA promise to protect the environment. My proposal instructs the administration to provide within, or in parallel with, NAFTA for a limited uniform import fee imposed in each of the participating countries on the importation into its customs territory of the goods of each of the other parties. The moneys collected, or the equivalent amount, are to be deposited in a fund dedicated to the NAFTA environmental protection provisions and the parallel cooperative environmental protection plans and activities developed in connection with the proposed agreement. Such import fee is to become effective on the date that NAFTA would become effective.

It is anticipated that the trust funds would be deposited with and apportioned by some sort of trilateral commission. The funds presumably would be used to pay for increased education and training for enforcement officers, the creation and maintenance of a comprehensive compilation of environmental standards and regulations, and cleanup projects, to name a few. Exactly how the funds are to be spent and in what proportion would be the commission's responsibility to determine.

Many have argued that a cross-border transaction tax is a bad idea because it would run counter to the NAFTA goal of eliminating all tariffs between the three countries. This argument is fallacious. First, in light of the fact that tariff and nontariff barriers will not be eliminated for 15 years, it would be incorrect to say that a small cross-border tax would be the only remaining trade barrier between the three countries. More importantly, a fund created to improve environmental conditions or enforcement in all three countries can hardly be characterized as a trade barrier. In fact, I would call it an important and necessary outgrowth of increased cooperation between bordering countries, and a responsibility that must not be shirked if we are serious about the successful future of the North American free trade region.

Mr. Speaker, I believe that we have made a historic step forward by finally acknowledging the link between trade and the environment. We have an opportunity to set a strong precedent here, but we must not settle for half a loaf. This agreement, and a North American free trade region, are too important to sacrifice to vague goals and unenforceable promises. The environmental provisions can, and must, be strengthened. I urge my colleagues to withhold any judgment on the proposed NAFTA at present, to push for better environmental provisions, and to cosponsor this legislation for North American environmental funding.

IN HONOR OF MS. RUTH B. HARPER

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to bring to the attention of my colleagues the accomplishments of one of the most respected members of the Philadelphia community, Ms. Ruth B. Harper. I stand here today to commend her past endeavors, her present activities, and her future undertakings.

Mr. Speaker, Ms. Harper has enriched our community with her unceasing determination and commitment to provide assistance to her fellow Philadelphians. She is an active member of the Zion Baptist Church and currently serves on the boards of the Columbia North Branch of the YMCA and the Afro-American Museum. As a hallmark to her sincerity, the people of Philadelphia have selected Ms. Harper a record eight times as their representative. No doubt, she is truly an exemplary individual.

Mr. Speaker, Ms. Harper is well-decorated for her efforts in the arena of community service. She has received the AFL–CIO Woman of the Year Award; the Pennsylvania Association for Adult Education Award; and the Philadelphia Women's Political Caucus Award. Ms. Harper has also been honored by the United Black Business Association [UBBA], Theta Nu Sorority, for which she received the Gamma Chapter Award; the World Culture Center at Cheyney University for which she received the Outstanding Service Award; and she has also been awarded the Southwest Human Relations Council, Inc. Community Service Award.

Mr. Speaker, Ruth Harper is an outstanding individual, a beacon of her community, and an example for us all to emulate. It is with the foregoing thoughts in mind Mr. Speaker, that I ask my colleagues to join me in honoring this dedicated community servant, Ruth B. Harper.

TRIBUTE TO GEORGE CUDWORTH

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize George Cudworth, who was recently recognized as Veteran of the Year by the Newport Lodge No. 104 of the Benevolent and Protective Order of Elks.

His military career is very impressive. Mr. Cudworth's military career includes 20 years of active service in the U.S. Navy. He began his career in 1945 when he attended boot camp in Williamsburg, VA. He was stationed aboard seven ships and six shore duties, two included trips to Vietnam. Mr. Cudworth has been awarded the World War II Victory Medal, American Theater Medal, U.N. Service Medal, Good Conduct Medal with four Bronze Stars, National Defense Service Medal with one Bronze Star, Korean Presidential Unit Citation, Korean Service Medal, Vietnam Campaign Medal, Vietnam Service Medal, and the Navy Expeditionary Medal.

The Order of Elks Lodge No. 104 chooses yearly a veteran as their Veteran of the Year. In selecting George F. Cudworth, the Elks would like to recognize him for his long and distinguished military career to our country. He is a lifetime member of the Veterans of Foreign Wars, and a member of the Fleet Reserve Association as well as contributing a great deal of time and effort to the Elks' programs that benefit the community and their charities.

I again congratulate George Cudworth for his award and I wish him the best in all of his future endeavors.

LEAVE NO STONE UNTURNED ABOUT OUR POW'S AND MIA'S OF THE WAR IN VIETNAM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MAZZOLI. Mr. Speaker, I rise today to address a very important and serious matter: the fate of those Americans listed as prisoner-of-war [POW] or missing-in-action [MIA] in the conflict in Vietnam. The United States cannot rest until it knows the fate of each and every American POW/MIA.

The pain and suffering of families with loved ones listed as POW/MIA is anguishing to them and to all of us. A famous biblical quotation is appropriate here: "The truth shall set you free" (John 8:32). In this case, the truth about American POW's/MIA's set free their families and each of us from the burdens of that far-away and long ago war.

Over the past weeks, Mr. Speaker, the Senate Select Committee on POW/MIA Affairs has conducted several hearings on what high level Nixon administration officials may have known about American POW's/MIA's in Vietnam, Laos, and Cambodia. Even though witnesses disagreed on whether their administration had knowledge that United States military personnel had been left behind when the United States withdrew its troops from Vietnam, the outside chance that some might have been abandoned requires us—mandates us—to redouble the vigor and the resoluteness of our national effort to locate or, at least, to account for all the citizens who answered the call to arms.

What can we do now, Mr. Speaker? First off, the Defense Department and the intelligence community must produce—publicly to the extent possible—all relevant information in files and archives which could possibly shed light on the present condition and state of U.S. service people.

I have consistently supported legislation to facilitate the fullest accounting of American POW's/MIA's, including H.R. 1147, which I have cosponsored. H.R. 1147 would require all Federal departments, agencies, and personnel to disclose all information in their possession bearing on the POW/MIA question.

Second, the administration and Congress must exert all available pressure on the Vietnamese Government to open all its archives so materials helpful in settling the whereabouts and the fate of the POW's/MIA's can be placed on the table. Normalization of relations with Vietnam is not appropriate—and probably not even politically possible—until there is a full and complete disclosure by the government of Vietnam of all information in its possession affecting our POW's/MIA's.

On a different matter, I am a proud cosponsor of the legislation (H.J. Res. 478) which designated September 18, 1992 as National POW/MIA Recognition Day. This is a modest but entirely deserved gesture by Congress and the Nation to pay tribute to and to pledge our lasting commitment to the POW's/MIA's and their families.

Mr. Speaker, the Nation owes it to every American family affected by the human tragedy of the war in Vietnam to discover the truth about their loved ones. Again, the truth shall set us free.

THE 100TH ANNIVERSARY OF THE D.A. SOKOL MOVEMENT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MANTON. Mr. Speaker, I rise today to recognize the 100th anniversary of the D.A. Sokol movement which originated in New York on March 14, 1892. The centennial celebration will be held on November 15, 1992, to commemorate this memorable occasion.

The development of the D.A. Sokol plan was strongly influenced by the repressive measures of European governments in the 1800's. The revolts of the 1800's in Europe convinced many people to leave their European homes and emigrate to the United States. In the 1890's those emigrants who had arrived from what was then Bohemia, formed a workingmen's gymnastic association called D.A. Sokol.

Mr. Speaker, the D.A. Sokol gymnasiums, libraries, cultural centers, and summer camps were organized based upon the philosophy and bylaws set up by the founding fathers which promoted the ideals of a sound mind in a healthy body. These centers were established in communities and cities in the Greater New York metropolitan area. The training program for membership included regular attendance at the gymnasium for physical activities, amateur theatricals, choral groups, lectures, and debates.

Since the creation of the D.A. Sokol programs, participation has extended to an international as well as national level. Men and Women gymnasts participated in the II and III Olympiad held in Czechoslovakia. An impressive demonstration against the destruction of Czechoslovakia by the Nazis in 1939 was held at the Triboro Stadium in New York. Also, during the New York World's Fair of 1964–65 the membership took part in the gymnastic activities at the Singer Bowl to commemorate Czechoslovak Day.

Mr. Speaker, I salute the D.A. Sokol Program and urge them to continue to inspire the youth of our Nation and contribute to our community and country.

IN HONOR OF THELMA PRESS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BROWN. Mr. Speaker, I rise today to pay tribute to Thelma Press, the chairperson of the San Bernardino County Museum Commission. I would like to honor Mrs. Press for her years of service in the community and acknowledge her many accomplishments.

Throughout the years, Mrs. Press has worked tirelessly and with great effectiveness in her various capacities to increase the city's relations with the rest of the world and increase the community's awareness and support for the creative arts. In the late 1950's, she was an active participant in the Sister City program and in 1974 was appointed as the Sister Cities State representative national chairperson. Mrs. Press was subsequently elected to the National Board of Sister Cities representing the Western United States and served as the educational liaison for 11 Western States.

While actively involved in the Sister Cities program, Mrs. Press also served on the board of directors of Support Creative Arts, Now. In 1977, she was the founder of the city of San Bernardino Historical Society which restored an early victorian house as a house museum for the city of San Bernardino. A year later, the mayor appointed Mrs. Press as director of San Bernardino city's cultural and international affairs where she served as the liaison to the mayor and council for the fine arts commission and assisted in writing the fine arts master plan.

In 1978, Mrs. Press organized a global education workshop with the Kettering Foundation, the unified schools district, and 40 community organizations. This workshop was used as a model program for Sister Cities International U.S.A. A year later, she worked with the State Department to organize a forum on United States and Soviet affairs for academic and civil communities throughout San Bernardino and Riverside Counties.

In the 1980's Mrs. Press served as president of the Sturges Foundation for the Fine Arts and during her tenure we have witnessed the restoration of the Sturges auditorium as a center for the fine arts. In 1989, Mrs. Press was appointed to serve on the San Bernardino County Museum Commission and is currently serving as the chairperson of the commission.

Numerous organizations have honored Mrs. Press for her efforts. Some of the awards she has received are: the Sante Fe Federal Humanitarian Award, the Sister Cities Awards for Exemplary Achievement, the United Nations Award for Distinguished Service, the Citizen of the Year Award for Heritage House, the Hispanic Community Award, the State of California Historical Award for Outstanding Contribution to California History and the Norman Feldheym Award for Raising the Quality of Life in the City of San Bernardino.

I would like to take this opportunity to point out my admiration for Mrs. Press and commend her for her many contributions. I am sure that Mrs. Press will continue her involvement with a variety of programs and we in the community will benefit from her work.

HON. CARROLL HUBBARD, HON. LARRY HOPKINS, AND HON. CHRIS PERKINS

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. NATCHER. Mr. Speaker, our Democrat nominee for the First Congressional District of Kentucky has directed a letter to me concerning the tenure of our three colleagues who leave us at the close of this session of Congress. This letter is as follows:

> I would like to pay my deepest respects to the Representatives of the people of Kentucky who are leaving Congress at the end of the 102nd Congress. These men have been hard working, diligent and dedicated in meeting the pressing needs of our people. Our nation is a leader in the world today in part because of the work of our Kentucky Congressmen in our United States Congress.
>
> TOM BARLOW.
>
> PADUCAH, KY.

THE CRIME BILL AND THE "ONION FIELD DEMOCRATS"

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUNTER. Mr. Speaker, in his 1973 best-seller, "The Onion Field," author Joseph Wambaugh chronicles the events surrounding one of the most celebrated murder cases in California history. In so doing, he clearly illustrates the tragic failure of our criminal justice system.

On March 9, 1963, a pair of career criminals—one of them paroled only days before—kidnapped two Los Angeles police officers at gunpoint and drove them to an isolated area outside Bakersfield, CA. There, on the edges of an onion field, one of the officers was shot five times and left to die in a ditch. The other policeman was able to escape physically unharmed but psychologically battered.

What followed is an incredible illustration of our criminal justice system at work, a system which so often works relentlessly to protect the rights of the criminal while ignoring the plight of the victim.

Ironically, on the day that Police Officer Ian Campbell was laid to rest, a kidnapper-rapist by the name of Ernesto Miranda was arrested, setting off a chain of infamous legal actions which would eventually lead to new trials for the two men convicted and sentenced to death in the Onion Field case. On June 13, 1966, the U.S. Supreme Court threw out the Miranda conviction on the grounds that the defendant was not adequately informed of his rights.

Before the case was finally resolved in late 1969, more than 6 years after Ian Campbell's wife and children buried him in the family plot and long after his partner Karl Hettinger had left the police force suffering from acute psychological problems, the two murderers were able to tie the courts up in knots, filing frivolous motions and appeals, demanding new trials and amassing a court transcript which reached 45,000 pages. Before it was over, an army of attorneys argued and 13 different judges presided over the case.

In the end, the death sentences initially imposed by a jury in 1964 were thrown out—one in a second trial, as a result of the Miranda decision, and the other when the California Supreme Court ruled that capital punishment was unconstitutional. The murderers were spared the fate of their victim and were finally sentenced to life in prison. They would never see the gas chamber.

Unfortunately, the Onion Field example is not an isolated one. In fact, Wambaugh points out that in the 3-year period from 1964 to 1967, 57 California death row residents were granted new trials, usurping prior jury verdicts, with only 26 receiving the death penalty the second time around.

The Onion Field message is just as compelling in 1992 as it was in 1969. The American system of jurisprudence has long been biased in favor of the criminal. The victim of crime has taken a back seat. The criminal has innumerable rights. The victim has precious few.

1992

Déjà Vu. For a number of years, conservatives in the Congress, with the backing of Presidents Reagan and Bush, have attempted to enact anticrime legislation which would restore sanity to the criminal justice system. It has long been our contention that reform should be weighed in favor of law enforcement and the victims of crime. Our liberal colleagues have balked at meaningful reform legislation, citing the need to protect the rights of the defendants. We seek to balance the rights of law enforcement, victims and defendants, and do it properly.

When the 102d Congress convened in January 1991, President Bush announced that a comprehensive crime package would be an integral part of his legislative agenda. Republicans in Congress were quick to embrace his proposals and set out to bring meaningful legislation to the floor. It was not to be an easy task.

For several months, Democratic leaders rebuffed every Republican call for action. Finally, an exasperated President Bush, noting that if American ground forces in Iraq were able to decisively win a war in 100 hours, certainly the Congress of the United States could adopt a long-overdue anticrime bill in 100 days. His challenge to the Democratic leadership went unheeded and it was not until the last weeks of the 1991 session that a bill was to come to the floor. The House and the Senate adopted separate legislation, each adopting some good and some bad provisions.

Republicans who had argued for a strong bill were hopeful that the joint House-Senate conference committee, which would meet to iron out the differences in the two bills, would endorse the strongest anticrime provisions and reject those which would expand the rights of criminals. No such luck. As is so often the case, the liberal Democratic leadership of the House and the Senate was able to stack the deck, filling the conference committee with those of their party who supported a weak crime bill. The conference committee was scheduled quietly on a weekend with little notice to Republican Members and the media. Predictably, much of the strong language from the two bills was deleted and the conference committee consistently adopted the weaker provisions. Senator STROM THURMOND, Republican leader of the Senate Judiciary Committee went so far as to say: "This bill is not an anticrime bill. It is a procriminal bill." And he was absolutely right.

HABEAS CORPUS REFORM

Republicans have always maintained that any omnibus crime bill should contain habeas corpus reform, which would put an end to the seemingly endless appeals filed by death row inmates. As in the Onion Field case, convicted murderers have long been able to use—or abuse—the system in order to endlessly impose the imposition of their sentences. While 2,500 inmates currently inhabit death row, few are ever executed. In fact, in the last 20 years, only 159 have met the fate prescribed in their sentences, with the average length of time between conviction and execution more than 8 years. The liberal-dominated conference committee not surprisingly chose to adopt the weaker of the two habeas corpus provisions.

Reacting to the adoption of the habeas corpus provisions, attorneys-general from 31 States—16 Democrats and 15 Republicans—wrote to President Bush urging him to veto any legislation which contained the liberal position. The U.S. Department of Justice noted that not only did the conference committee fail to adopt a tough position but "actually overrules several recent Supreme Court decisions favorable to law enforcement."

THE DEATH PENALTY

While not all Republicans support the death penalty, it would be fair to say that most do, believing that the threat of capital punishment is a deterrent to violent crime. While the conference-adopted bill would increase the number of crimes covered by the death penalty, it would structure the law as to make such a penalty meaningless and unworkable. Combined with the adopted habeas corpus provisions, the likelihood of a murderer ever being executed would actually be decreased. Furthermore, a Senate-passed provision which would add murder committed with a firearm to the list of death penalty offenses, was also summarily rejected by the conference. In short, the death penalty provisions in the conference report were not worth the paper they were written on.

THE EXCLUSIONARY RULE

President Bush and Republican Members of Congress have long called for reform of the exclusionary rule, which all too often has prohibited the introduction of important evidence, particularly in violent crime and drug cases—in most cases because a police officer has innocently failed to adhere to proper search and seizure procedures. The House-passed version of the crime bill included an expansion of the exclusionary rule which would allow for the introduction of incriminating evidence when an officer had acted in good faith. The liberal-dominated conference committee not only rejected the House-passed provisions but approved language which would actually narrow the good-faith exception to the rule, again broadening the rights of criminals at the expense of victims of crime.

ADMISSIBILITY OF CONFESSIONS

Again, in the conference committee, the rights of the victims of crime were superseded by the rights of criminals when liberals were able to include a broadening of provisions regarding the admissibility of a defendant's confession or statement regarding the commission of a crime. The conference report, without hearings, without discussion, would actually overturn a U.S. Supreme Court decision which would allow a harmless error rule to apply to confessions by criminals. If passed in its present form, more—not fewer—criminals will go free on technicalities. Justice. I don't think so.

SEXUAL VIOLENCE AND VICTIMS' RIGHTS

In the original crime bills, both the House and the Senate adopted provisions which would provide mandatory restitution for victims of rape, child molestation and other crimes. In fact, the Senate bill would provide restitution for victims of all crimes. Sounds pretty reasonable to me. But not to the conference committee. Both measures were rejected.

After stonewalling Republican anticrime efforts for months, the Democratic leadership of the House chose to bring the bill to the floor in the waning hours before the Thanksgiving adjournment. Many Republican Members thought they might get a bill they could support but when they got a look at the 500-page conference report, they learned that most of the strong, anticrime provisions were removed in favor of those protecting the rights of the criminals. My colleague, Congressman HENRY HYDE, of Illinois, a learned lawyer and perhaps the House Republicans' most eloquent spokesman, summed it up: "This is a victory for the ACLU, not law enforcement. I suggest we would do well to listen to the professionals, the prosecutors in a bipartisan, nonpartisan way if we pretend to care and want to do something effective about crime."

"THE ONION FIELD DEMOCRATS"

We live in an era where violent crime has reached epidemic levels. We are accustomed to reading about the homicide records being set in our major cities—New York, Los Angeles, Washington, DC. Now we learn that less-likely communities—Minneapolis, MN, Anchorage, AK, Columbus, OH, Rochester, NY—all saw previous homicide records go by the wayside in 1991. When I travel throughout my congressional district, I try to listen carefully to the constituents who have elected me and the public officials who have to deal with the laws emanating from Washington. Day after day, I hear Californians expressing their concerns about violent crime—their shock, their fear, their anger. I listen to law enforcement officials who marvel at the collective wisdom of Washington as they try to fight crime, all the while wearing the legislative handcuffs provided by the liberals who make the laws in their Nation's Capital.

Few issues unite the public like crime. It seems that everybody knows somebody who has been victimized. Fear and anger have replaced distanced detachment. Crime used to be someone else's problem. Lately, it has become everyone's.

In the 1988 Presidential election, we heard a lot of criticism from our liberal friends about then Vice President Bush's use of the so-called Willie Horton case in his campaign for the presidency. "It's unfair," said the Democrats. "You're making us look like we care more about the criminals than we do about the victims." Well, when you look at the record, you've got to wonder.

The conference report for the 1991 Omnibus Crime Control Act came to the House floor at 6 a.m., on November 27, 1991—the final day of the session, and with it came an avalanche of opposition.

From the President: "I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it and insist that Congress pass a bill that will strengthen our criminal justice system."

From the National District Attorneys Association: "The American people have been mugged again, this time by the leadership of the U.S. Congress."

From the California District Attorneys Association: "Clearly, the present bill now serves only to further the interests of convicted criminals and opponents of the death penalty."

From Attorney General William P. Barr: "In sum, the conferees have let down law enforcement, let down victims and let down those in Congress who voted for tough anti-crime measures."

From the National Association of Attorneys-General: "This proposal favors the convicted murderer, revictimizes the survivors of a murder victim, and penalizes the States."

How does a bill which arouses such obvious disdain in the law enforcement community ever make it to the floor of the House of Representatives in the first place? Well, one must never underestimate the commitment of our liberal leadership to ideas which have been universally rejected. Members were, in fact, surprised when the conference report came to the floor at 6 a.m. on Thanksgiving Eve. Congressman CHARLES SCHUMER, a New York Democrat and supporter of the conference report, told the Congressional Quarterly that when the final week of the session began, he could only find about 70 supporters for the legislation. But by early Thursday morning, the arm-twisting began to pay off and Democrats began to toe the liberal party line. Their leaders were confident that they could bring a bad bill to the floor, sell it as anti-crime legislation and, incredibly, criticize House Republicans and President Bush for failure to support a get tough bill. In the wee hours of Thursday morning, their ducks were lined up and they brought the conference report to the floor.

In the end, criminals from coast to coast breathed a sigh of relief. The so-called crime bill was adopted by a two vote margin, 205 to 203. The House Democratic leadership had counted accurately. Again, the House of Representatives had failed to adopt a comprehensive anti-crime package. My colleague, Congressman LARRY COUGHLIN, a Pennsylvania Republican, perhaps summed it up best: "The conference is not a negotiation between the House and the Senate. It is a negotiation between the ACLU Democrats in the House and the ACLU Democrats in the Senate to get the most criminal bill possible." Strong words? Perhaps. But accurate. Once again, victims of crime came out on the losing end.

All was not lost, however. In the Senate, Republicans resorted to an old tactic known as the filibuster in an effort to block the legislation. Democrats were unable to muster the votes to needed to cut off debate and the conference report was pulled from the floor. A close call. Too close a call.

THE EPILOGUE

Almost 30 years have passed since Officer Ian Campbell lay dying in that California onion field. And the story is still the same. The public cries out for justice. The law enforcement community begs the politicians for tough, effective reform of the criminal system. But in the end, the story never changes. Conservatives seek legislative action and the liberal Democrats who have controlled the House of Representatives for the last 37 years succeed in blocking it. The criminals win. The victims lose.

When we Republicans bring up the crime issue on the floor of the House and in political campaigns, the Democrats accuse us of playing party politics. Call it what you like but I'm inclined to believe that my constituents, both Democrat and Republican, want the Congress to do something about crime. Level-headed Americans know that a gunman doesn't ask about your party affiliation before he pulls the trigger. They don't want to play political games. They want reform.

Republicans are prepared to come back again and again until we adopt a meaningful anti-crime bill. Our constituency is insistent. And we will be responsive.

Mr. Speaker, Democrats should understand that there is no pro-crime constituency. There are more victims than there are criminals. And like it or not, we will remind them.

TRIBUTE TO J. MILTON COGGIN

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. RAY. Mr. Speaker, I rise today to pay tribute to the last police constable of record in the State of Georgia—Mr. J. Milton Coggin.

Constable Coggin began his constabulary career in 1963 when he was elected constable to the State militia district No. 645 of Sharpsburg, GA. He spent part of the day working at the Lakewood General Motors plant, while the rest was spent in his uniform as constable. After 6 years of this duty, he became constable for the Coweta County tax office where he served for 10 more years.

Mr. Coggin points out that constables played a vital role in the local community. While their primary purpose was law enforcement, they also acted as community leaders and human relations experts. "A constable knows the people he is dealing with and has an interest in the people because he is an elected official," Constable Coggin has been quoted as saying.

The position of constable filled a void at a time in America's history when there was a shortage of law enforcement personnel. It is unlikely that we will ever again have the benefit of a statewide constable organization, but I am very proud of Mr. Coggin and his associates who served when needed.

It is in this spirit that I salute Constable Coggin and others who have served their communities, and thank them for their years of service.

LEGISLATION TO WITHDRAW MOST-FAVORED-NATION STATUS FROM TURKEY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MATSUI. Mr. Speaker, I rise today to introduce legislation to address the ethnic cleansing and human rights abuses in Turkey and Cyprus.

The United States and the world community have noted with alarm and have imposed sanctions regarding the ethnic cleansing in the former Republic of Yugoslavia. It is time that we and the rest of the world also focus attention on ethnic cleansing by Turkey in Turkey against its Kurdish and Greek minorities and in Cyprus against the Greek Cypriots.

The United States has never actively condoned Turkey's actions, but the simple fact is that money is fungible, and thus all of our military and economic aid to Turkey indirectly supports Turkey's ethnic cleansing actions against its Kurdish citizens who constitute a 20-percent minority and against the Greek Cypriots.

Unfortunately, Turkey has been involved in a reportedly consistent pattern of gross violations of internationally recognized human rights, and is in obvious violation of sections 116 and 502B of the Foreign Assistance Act of 1961, as amended. According to a New York Times editorial in April of this year,

> [T]urkish Kurds have been subject to systematic human rights violations including torture. * * * The international community is * * * morally bound to demand that * * * Ankara cease [its] ugly repression of Kurdish civilians before it becomes genocide. (April 1, 1992.)

In Cyprus, the Turks still reportedly maintain 35,000 occupation troops and have brought 80,000 illegal colonists to Cyprus in violation of international law. While the U.N. has been sponsoring Cyprus talks, these talks were adjourned in mid-August until October 26, 1992, and are stalled. Turkey and Rauf Denkash, the Turkish Cypriot leader, have been the main obstacles to progress in those talks. According to a New York Times editorial on September 5, 1992, entitled "Ethnic Cleansing, Cypriot Style," "Rauf Denkash * * * shredded all proposals for powersharing and justice for refugees." Talks may be resuming this month, but the simple fact is that Cyprus remains divided because no one is really pressing Turkey to withdraw its illegal occupational forces and illegal colonists.

At present, Representative GREEN and 64 colleagues have legislation pending which puts several conditions on United States foreign aid to Turkey. I believe that more stringent sanctions may also now be necessary so I am introducing legislation to withhold most-favored nation [MFN] treatment for Turkey. MFN status would be suspended so long as Turkey continues its ethnic cleansing by its massive violations of human rights of its Kurdish and other minorities, and so long as that nation continues to occupy Cyprus illegally and does not cooperate in the U.N.-sponsored talks.

I encourage my colleagues to join Representatives DOWNEY, PELOSI and me in sponsoring this important legislation. It is time to let the Turkish Government know that the aid spigot has closed and that trade sanctions will be used pending positive Turkish action to stop its ethnic cleansing actions and all human rights abuses.

TRIBUTE TO CAPT. THOMAS HUGHES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Capt. Thomas Hughes on his retirement after 29 years as a member of the Newport Police Department.

Captain Hughes was sworn in as patrolman on August 1, 1963, and after a 90-day probationary period, he attained permanent classified status as a patrolman. in 1976, Commander Hughes was sworn in as police sergeant. He was placed in charge of department evidence and oversaw the operation of the bureau of criminal identification. In 1982, Commander Hughes was promoted to rank of police lieutenant in capacity of patrol shift supervisor. In 1988, he achieved his final position as captain. He commanded over 60 men in the uniformed patrol division.

In June, Captain Hughes announced his intentions to retire, ending a long, distinguished career with the Newport Police Department.

I again congratulate Capt. Thomas Hughes for his long, distinguished career and I wish him the best in all his future endeavors.

ELM PARK UNITED METHODIST CHURCH ENDS YEAR LONG CELEBRATION

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. McDADE. Mr. Speaker, I want to bring to the attention of my colleagues a very special event that will be taking place next month in northeastern Pennsylvania. On November 22, the Elm Park United Methodist Church of Scranton will be concluding its year-long celebration of the first 150 years of its congregation and the centennial of being in its present sanctuary building.

The Elm Park church is much more than an architectural landmark in the city of Scranton. It also has a long and distinguished history of providing for the spiritual needs of its congregation and facilitating numerous community and cultural functions.

Elm Park is a metropolitan church with a membership that comes from a 30-mile radius to attend services and activities. The church is fully organized according to the discipline of the United Methodist Church and is a member of the Scranton district of the Wyoming Conference.

The finest in architecture from the turn of the century is represented with the church buildings. The great stone tower of Elm Park stands prominently in the central city as a beacon of faith, hope, and charity for all to see. Over 400 community meetings are held in the church buildings each year, and the church provides free food and clothing to those who need assistance. Elm Park is also one of the three central city churches which maintain a safety net program to help those who are not served by social agencies of the city and county.

The future of the church includes a comprehensive capital development program to restore and renovate the great buildings of Elm Park in order to ensure the presence of the church for the next century.

Under the capable leadership of the Rev. Rees F. Warring, Elm Park United Methodist Church celebrates its proud heritage and prepares for continued service to its congregation and the people of the Scranton area. I congratulate them on this landmark celebration and wish them continued success.

TRIBUTE TO CARLETON LIGHTFOOT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the fine work and outstanding public service of Carleton Lightfoot, superintendent of the Etiwanda School District in Etiwanda, CA. He will be honored on November 6, 1992 upon his retirement from education after 42 years of service.

While growing up in southern California, Carleton attended Harding Elementary School and Sturges Junior High School in San Bernardino. He later attended Rosedale High School in Kansas City, KS before returning to California and graduating from San Bernardino High School. Carleton graduated from the University of Redlands with a bachelor of arts degree in communications, and pursued graduate work at the University of Southern California and the University of Colorado. He also served 3 years in the Navy Air Corps.

Carleton began his career in education as a teaching principal in Hesperia in 1951. Two years later, he moved to Highland and worked as a teaching vice principal. In 1955, he became a building principal in Rialto and in 1961, fulfilled his dream of becoming superintendent of the Etiwanda School District.

Little did Carleton know when he became superintendent that he would remain in that position for 32 years. The school district was comprised of one K–8 elementary school when he began and has grown dramatically since that time. Over the years, he has supervised the addition of five schools including Summit Elementary, 1967; East Avenue, 1973; Windrows Elementary, 1987, Caryn, 1988; and West Heritage Elementary, 1989. In addition, the district has three more funded schools on the drawing board.

Mr. Speaker, I ask that you join me, our colleagues, and the many friends of Carleton Lightfoot in recognizing his many educational contributions in what has been a long and distinguished career. His dedication has enriched the lives of thousands of youth, hundreds of staff members, and many people throughout the school system. Carleton Lightfoot is certainly worthy of recognition today by the House of Representatives.

TRIBUTE TO HON. DICK SCHULZE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to say goodbye to my friend and colleague on the Ways and Means Committee, DICK SCHULZE of Pennsylvania.

Mr. Speaker, long before it was fashionable to do so, DICK SCHULZE was warning us to reform our fiscal ways because our trading partners were closing in and soon would pass us. He understood better than most of us that our prosperity isn't God given but that it is earned—that unless we tighten our own belts, others will eventually tighten them for us.

DICK called our attention to the inequities of the world trading system. He believed that the system was stacked against us and he felt it was time for America to stop treating our trading partners with kid gloves and to demand equal treatment in the international market.

DICK SCHULZE was a lawmaker out of the old school. He never courted the media; he never sought publicity for its own sake. He knew he was elected to do a job and he worked hard at representing the voters of Pennsylvania's Fifth District.

It was hard to match DICK SCHULZE for determination when he became convinced that a course of action was right. DICK believed in the power of convictions. One of his most firmly held convictions was that America should promote political freedom in parts of the world where freedom was a scarce commodity.

DICK recognized that America's preeminence in world trade provided a tremendous tool for encouraging governments to liberalize their societies. Just last year when the issue of extending China's most-favored-nation status was before the Ways and Means Committee, DICK spoke passionately about the tragedy of Tianenman Square and about America's obligation to stand up to tyrants. His words served as the committee's conscience and helped guide our decision to impose tough conditions on the Chinese Government.

We will sorely miss DICK SCHULZE—on the Ways and Means Committee and in the House of Representatives. But the people of Pennsylvania will miss him even more. As he leaves public service, we wish him well in all his future pursuits.

OPPOSITION TO THE TRANSFER OF HELICOPTERS AND OTHER MILITARY EQUIPMENT TO THE GOVERNMENT OF LAOS

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DOOLEY. Mr. Speaker, I rise in opposition to plans that the Bush administration has proposed to transfer at least seven UH–1H helicopters to the Republic of Laos. While I recognize that the purpose of this transfer is to aid in the search for American prisoners of war who may still be alive in Indochina, I think my colleagues will agree with me that a gift of arms to a Communist government, especially this Communist government, is a step we should not take.

I have sent a letter to President Bush, signed by myself and two colleagues from California, Mr. LEHMAN and Mr. CONDIT, outlining reasons why we should not grant or sell this equipment to the Laotian Government. I want to take this opportunity to share that letter with the rest of my colleagues by quoting from it:

> Dear Mr. President,
>
> In your administration's commendable efforts to locate former prisoners of war who may still be alive in Indochina, we urge that

you not take what we believe is a misguided action. By giving as many as seven Huey helicopters to the Communist Pathet Lao government in the hopes that they be used for the POW search, the U.S. would again be placing blind trust in a foreign regime that has the worst of intentions—intentions that our government is fully aware of.

What do we know about this government that we are now so eager to trust?

We know that Laos has not cooperated with the U.S. in previous efforts to find POWs. The government in Vientiane has repeatedly refused to allow American search teams to use American helicopters, which is the practice in neighboring Cambodia. Recent history has given us little reason to think that Vientiane will turn around and cooperate with us and use these helicopters for the intended purpose of searching for POWs simply because of our generosity.

We also know that Laos is the third-largest opium-producing country in the world, and its government has actively helped protect and promote the opium and marijuana trade by lending the support of aircraft and army vehicles. As one congressional aide asked in a recent U.S. News and World Report article, "Are we going to give them Huey helicopters to make it easier on them?"

And, worst of all, we know that the Lao People's Army has used its own outdated helicopters to spray poisonous gas on Hmong tribes in the hills near Thailand. The United States would never be able to justify a gift of modern helicopters to Laos if Laos then turns them on the Hmong, a people who saved many American airmen downed during the Vietnam War.

This last point is perhaps the single most compelling reason not to put the powerful helicopters into the hands of the Lao government. The Hmong people have suffered mightily for the support they gave the United States during the 1960s and early 1970s, and for their continuing struggle against Communism in their own country. Since the Laos government fell into the hands of the Communists in 1975, about 70,000 Hmong have died while resisting the totalitarian government.

Now the Hmong people are caught between wanting to leave the war-torn mountains of Laos behind and the prospect of facing heavily armed border guards in Thailand, which has said it wants no more of the thousands of Laotian Hmong who have already sought refuge there.

In this country, 90,000 Hmong refugees have resettled into a peaceful existence. About 35,000 of them have established homes in California's San Joaquin Valley, where they are building reputations as honest, hardworking, tight-knit families who are proud of their ethnic heritage. Many want to return to their homeland and to relatives they left behind, but the promise of endless fighting deters them.

We urge your administration to not forget the allies who bravely helped the U.S. in the past. The least this country can do is to keep arms out of the hands of the very forces that seek to brutally snuff out these courageous people.

We must learn from history: governments that openly oppose American ideals by repressing dissidents within their own country and by brashly ignoring international laws cannot be persuaded to change face simply through a gift of military weapons. Indeed, that gift is sure to backfire.

I urge my colleagues to oppose any request the President may bring to Congress to approve a sale or gift of military equipment to the Laotian Government.

CELEBRATING VALUES AND THE LIBERAL ARTS AT ST. MARY'S COLLEGE OF MARYLAND

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HOYER. Mr. Speaker, I would like to recognize St. Mary's College for being selected in the September 28, 1992, issue of U.S. News & World Report as the No. 1 regional liberal arts college in the North as well as the No. 1 best buy in this category.

St. Mary's College ranked No. 1 among 73 northern regional liberal arts colleges in the U.S. News survey. This was achieved with the help of the Maryland State Legislature, which passed a measure that guarantees St. Mary's College $10.6 million this year and with funding increases over the next 5 years. This No. 1 ranking can be attributed to the fact that the State of Maryland, in spite of this economic recession, knows the importance of education and is not afraid to sacrifice for the betterment of its schools, which in turn means an investment in its youth. This measure, along with other funding, "will allow us to formulate long-term strategic plans," says Brian Clarke, St. Mary's vice president for college advancement. "Before, professors could not make curricular changes because they did not know how much money they would have from one year to the next."

St. Mary's College, which was founded as a high school in 1839, became Maryland's first public junior college in 1927 and became a 4-year college in 1967. It is situated on the shores of St. Mary's city, MD. Considering its location, 12 miles from the Chesapeake Bay, St. Mary's students have an interest in protecting the environment. Also due to its scenic view and waterfront, St. Mary's sailing team annually ranks among the best in the Nation.

Mr. Speaker, I salute St. Mary's College of Maryland for putting values, the liberal arts, and the education of its students first. It offers a quality education to the many students who pass through its corridors.

TRIBUTE TO MAYOR PAUL J. MATACERA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PALLONE. Mr. Speaker, on Friday, October 9, 1992, the Italian-American Social Club of North Brunswick, NJ, will hold its 11th Annual Columbus Day Ball at the Pines Manor in Edison, NJ. This year, the club will honor Mayor Paul J. Matacera in recognition of his many accomplishments and outstanding commitment to the community.

Mr. Speaker, Mr. Matacera has served as mayor of North Brunswick for more than 10 years. During his tenure, he has distinguished development of affordable housing, the preservation of open space, and the development of a long-term program to protect the environment. All of these efforts have been undertaken with one goal in mind—to provide for a high quality of life for all of the people of North Brunswick Township. Mr. Matacera also serves as president of the New Jersey State League of Municipalities and president of the Middlesex County Conference of Mayors. He is also a member of the State Council on Affordable Housing and was recently appointed by Governor Florio to serve as a member of the State Council on Environmental Quality. He is a graduate of the prestigious Leadership New Jersey program.

I am sure that Friday evening's event will prove to be a fitting tribute to a dedicated public official and great friend to his community, and I take great pride in the fact that I will be among those in attendance.

I would also like to take this opportunity to praise all those involved in Friday evening's ball and Sunday afternoon's Columbus Day Parade, in particular: Vito F. Puleio, president; Rocco Adamo, parade chairman; Connie Adamo, ticket chairwoman; and Jeanne Endler, souvenir program chairman. They deserve praise for all their hard work in making possible what I am sure will be a most memorable weekend.

OPEN LETTER OF AMERICAN FINANCIER GEORGE SOROS TO HUNGARIAN PRIME MINISTER JOZSEF ANTALL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LANTOS. Mr. Speaker, in recent months, we have been witness to the revival of disturbing neo-Fascist tendencies in Western as well as Central and Eastern Europe. Recently, however, Hungary has seen one of the most disturbing outbursts. One of the deputy leaders of the leading political party in the Hungary Government, Istvan Csurka, published a highly disturbing political document that echoed some of the worst of the Fascist tenets of the 1930's. That document was followed by a number of disturbing sympathetic reverberations from others in Hungary.

I addressed that issue in a special order, which I called on September 23, and over a dozen of my colleagues from both sides of the aisle joined me in condemning these Fascist elements. I was immensely pleased with the overwhelming response of my colleagues on this issue.

Mr. Speaker, I would like to call to the attention of my colleagues in the House an open letter from the Hungarian-born American financier, George Soros, to the Prime Minister of Hungary, Jozsef Antall. That letter appeared in the New York Times today.

George Soros is an outstanding advocate of democracy and the free market economic system, and he has been willing to contribute literally millions of dollars to support these ideals. He established the Soros Foundation, which has functioned for several years in the former Communist countries of Central and Eastern Europe and in the Soviet Union. He has contributed to the expansion and strengthening of democracy throughout these countries which in the past were dominated by Communist governments.

In the disgusting emergence of anti-Semitic and neo-Fascist ideas in Hungary, George Soros has been viciously attacked. One of the followers of Istvan Csurka criticized Mr. Soros, whose philanthropic foundation has spent some $3 million per year in Hungary for projects to encourage democracy. The foundation was described as labyrinth-like, and it was accused of supporting Jewish-liberal-cosmopolitan-Communist forces in Hungary as part of a conspiracy against the Hungarian Government by the predominantly Jewish international financial world.

Mr. Speaker this vicious racist and anti-Semitic rhetoric has no place in civilized society, it has no place in countries who wish to be fully accepted among the community of nations. Mr. Speaker, responsible leaders have the duty and the obligation to condemn—in no uncertain terms—such abhorrent views and public statements. If we do not condemn them, we are condoning them.

George Soros' letter to Prime Minister Antall is thoughtful and deserves to be given careful and thoughtful attention. I ask that it be printed in the Record.

[From the New York Times, Oct. 5, 1992]

TERMITES ARE DEVOURING HUNGARY

(By George Soros)

In recent months, a series of articles, published in several Hungarian newspapers, attacked me as well as the foundation I established in Hungary. Most of these articles appeared in a newspaper edited by the vice president of the ruling party, Hungarian Democratic Forum (H.D.F.). The authors are not private individuals, they are members of Parliament, and one of them is a vice president of the party. If these attacks were limited to personal insults and slander, I would not feel compelled to turn to you. My intentions and my actions have always been open to scrutiny. It is not the Government's role to defend me. However, what we are dealing with here is more than mere insult.

Leading members of your party have accused me of nothing less than taking part in an international anti-Hungarian conspiracy whose origins can be traced to Israel and whose goal is to extinguish the Hungarian people's national spirit, making them susceptible to foreign domination. Other participants in this conspiracy are, according to them, Jews throughout the world, Hungarian Jews, capitalists, liberals and Communists, as well as "cosmopolitans" and Free-masons. To prove that these astonishing allegations were actually made, please allow me to cite from some of them.

In the July 9 edition of Hungarian Forum, the party weekly, Istvan Csurka [vice president of the Hungarian Democratic Forum and a well known playwright] writes: "George Soros is toying with the idea of leaving [Hungary], but no one should be fooled by this—if Soros does in fact leave, it won't be because he was insulted by the anti-Semitic extreme right, but because official policy in Jerusalem has—perhaps—changed."

"Termites Are Devouring Our Nation—Reflections on the Soros Regime, the Soros Empire" is the title of an article by Gyula Zacsek, an H.D.F. member of Parliament (Hungarian Forum, Sept. 3, 1992). Mr. Zacsek's premise is that "the bouquet of terms—Communism, liberalism, cosmopolitan and anti-Semitism—is inescapable." He claims, moreover, that "in Hungary, the role played jointly by Communists and Jews in their pursuant of power is unquestionable."

Following this article, Mr. Zacsek addressed an open letter to me, which clearly states that he consider Jews foreign elements in Hungary: "I understand and respect your pride in acknowledging you Jewishness," he writes, "though I do not understand what it means to be a 'Hungarian Jew,' just as I wouldn't understand what it would mean if someone claimed to be a Hungarian-German or a Hungarian-Vietnamese or a German-Spaniard. Unless, of course, he was referring to a bilingual dictionary!"

According to Mr. Zacsek, "the change in political system [the demise of the Communist regime in 1989] began as a consciously planned, well-thought-out course of action—a self-engineered coup by cosmopolitans." In other words, the Communist leadership was cosmopolitan, the dissidents were cosmopolitans, and these cosmopolitan clements conspired to preserve each other's power. "The Soros Foundation was a vital tool and resource in laying the groundwork for this transition," Mr. Zacsek asserts elsewhere.

The motivating force behind the Central European University that I established is explained by Mr. Zacsek in the following manner: "Once again the time has come for all the people in the region to subscribe to uniform ideas. The Communist ideologues told us exactly the same thing." And "if this can not be implemented with two-week study courses, let's try it with a one-year program, and if even that doesn't work, let the tanks roll again."

Toward the end of his article, Gyula Zacsek writes this about me: "Naturally, after all of this, it's not at all surprising that [Soros] is being expelled from Romania and Slovakia; perhaps he won't wait until the same happens to him in Hungary." His information is incorrect: I have been expelled from neither Romania nor Slovakia; there would be no legal basis for such action. It is true, however, that the nationalist press in both these countries has savagely attacked me as a Hungarian agent.

I can only regret that Mr. Zacsek enthusiastically supports the Slovak and Romanian nationalists attacks against me and, through me, the attacks aimed at all Hungarians. But it is no accident that rabid nationalists and narrow-minded populists in all three countries consider me their enemy. My foundations seek to promote open societies while they, under the guise of nationalism, are interested in creating closed societies. In order for them to succeed, they need first and foremost an enemy against which they can then mobilize an entire nation, and if there isn't an enemy about, they must invent one.

This is an extremely dangerous process whose ultimate consequences we have already experienced in the Nazi era, and can once again witness in the former Yugoslavia. That is why I take these accusations very seriously, despite the fact that their manner and content are beneath contempt.

In Romania and Slovakia they revile me as a Hungarian agent, in Hungary as a cosmopolitan and a Jew. I accept all three labels—Hungarian, cosmopolitan, Jew—with pride, but I reject with every fiber of my being the ideology which attacks me for it.

I am aware that a representative of the Ministry of Culture and Education has, on one occasion, dissociated himself from these views. However, it seems that this was not sufficient, since the attacks have not ceased. I should like to know the official position of the ruling party, the Hungarian Democratic Forum, and that of the Hungarian Government. I need this clarification because my foundations have frequent contacts with Government agencies and officials. I would greatly appreciate it if you could give me reassuring answers to the following questions:

1. Do you find acceptable the statement that the expression "Hungarian Jewish" can be considered meaningful only when referring to a "bilingual dictionary," that is to say that if one is Jewish, one is alien to Hungarian nationality?

2. Do you find acceptable the statement by Istvan Csurka, the vice president of the Hungarian Democratic Forum, that Hungarian Jews and the Jews of the world participate in an international conspiracy against Hungary?

3. Do you find acceptable the statement that the Soros Foundation is participant in this conspiracy and its activities have been designed to preserve and promote the power of Communists and Jews in Hungary?

4. Do you find it acceptable that a member of your party and a member of Parliament suggests that I leave the country voluntarily rather than wait to be asked to leave?

I have never sought recognition for my philanthropic activities and I am not seeking such recognition now. I am prompted to write to you by my deep concern for the future of democracy and open society in Hungary. I regret having to burden you with my letter. As I consider these questions to be matters of public concern, I intend to make public both my letter and your reply.

TRIBUTE TO HON. MARTY RUSSO

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, this House will be a very different place next year when an extraordinarily large freshman class arrives. None of us knows what changes they will bring. But we do know what changes will be created by the absence of our colleagues who won't be back. That is particularly true in the case of my friend and fellow Chicagoan Marty Russo.

Most obviously, this House and the Committee on Ways and Means will be quieter places without Marty. He is a man of seemingly boundless energy and enthusiasm. I don't think Marty Russo is able to do anything in a halfhearted fashion. In a world that is increasingly cool and calculated and controlled, Marty stands out. He knows that passion is not a dirty word when it comes to questions of public policy.

His advocacy on the issue of reforming our health system has been forceful and positive. His ambition in trying to craft a solution as big as the problem has been a positive challenge to those of us willing to settle for something more incremental.

I think it safe to say that every member of the Ways and Means Committee has loved Marty at one time or another when they were fighting alongside him. And most of them have probably found themselves hating him when they were on opposite sides. That's the price to be paid for his enthusiasm. It never disappeared during 14 years of service.

I don't know what he'll do next, but I suspect I can predict his general direction. He'll fight hard for what he believes to be right. That's an attitude that has served his constituents well in the past and I'm confident that he will serve his colleagues and the public equally well wherever he may be in the months and years ahead.

RECOGNITION OF THE RHODE ISLAND POLISH AMERICAN AWARD WINNERS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize the Rhode Island Polish American Award winners for 1992. The purpose of the awards is to acknowledge men and or women in the State of Rhode Island who have promoted Polish culture or heritage in some way. The three winners this year are Mary Penkala Barr, Jane Droby, Frank Babiec.

Mary Pankala Barr is an active member of the Polish subcommittee of the Rhode Island heritage subcommittee. She has served as past secretary of the Polish subcommittee and has contributed her time to many Polish causes throughout the State.

Jane Droby is also an active member of the Polish subcommittee. She contributes her time by translating Polish immigrants who need help communicating in Rhode Island and she helped coordinate a Polish Heritage Month display at Pawtucket city hall.

Frank Babiec is also a member of the Polish subcommittee. He assisted the Polish ships during the Tall Ships visit to Rhode Island in 1976 and was the Statewide cochairman of the 1981 clothing drive for Poland. He is also an active member of the Friends of Poland, and an active polka dancer.

I congratulate each award winner and I wish them all the best in their future endeavors.

JOE CRANGLE—A GREAT DEMOCRAT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LAFALCE. Mr. Speaker, I rise today to salute Joseph Crangle of Buffalo, NY. Joe is many things: a great Democrat, a great American, a true leader, and a steadfast friend.

Late last month, Joe was honored as one of the initial recipients of the Larry O'Brien Award from the Democratic National Committee. Few could be more deserving. Joe made his mark over 23 years as chairman of the Erie County Democratic Committee.

Joe was one of the great county chairman of our time or any time. He pioneered new techniques, yet got down in the trenches, too, licking envelopes and knocking on doors, doing whatever is needed to be done in a political race. No one had more energy, more devotion, more talent, or more will to climb the mountains and emerge victorious.

Yet Joe was much, much more than "only" a county chairman, important as that role is. He cared. He cared about people, about issues, about the future of the Nation and the world. And that as much as anything else is what set him apart from more typical political operatives.

Many of us in Congress remember the rancorous Democratic National Convention of 1968, held in Chicago. Our memories are filled with images of protectors and police, tear gas and burning draft cards. So some of us might be forgiven if our memories of what happened inside the convention are hazier. But a signal event did occur at that convention.

It was in Chicago that a rules fight occurred. At issue were two matters: the "unit rule," under which an entire States' delegation could be bound to vote for positions or candidates favored by a majority of that delegation; and another rule that allowed delegations to be selected far in advance of the convention itself. The rules committee endorsed continuation of both of these rules, despite clear evidence that they worked to suppress minorities within the party, in particular ethnic minorities.

But this decision did not go unchallenged. And it was Joe Crangle who led the fight. It was Joe who stood before the convention and presented the minority opinion, arguing passionately that these rules were anachronistic and had to go. And what happened? Mr. Speaker, Joe Crangle's "minority opinion" was adopted as the majority opinion of the Democratic Convention, consigning those rules to the ashcan of history.

Joe didn't just stand up for principle, important as that is. He put his principles into action, choosing qualified minority candidates for office, urging them to run and helping them get elected. He may not have been universally loved—there are probably a few Republicans in Erie County who didn't like him now and then—but the fact is that Joe Crangle played a major role giving real substance to Buffalo's nickname, the City of Good Neighbors.

Mr. Speaker, Joe Crangle has retired from politics, but not from life. He's now practicing law and spending time with his wonderful family. But although he may not be on the hustle himself, he's definitely there in spirit, and all of us who have benefited from his wisdom over the years are eternally grateful.

Larry O'Brien. Joe Crangle. Both smiling Irish-Americans, nuts and bolts politicians. Until crunch time came, that is. And that's where these two men showed such similarity. They cared and fought for what they believed in. I was pleased to nominate Joe Crangle for the O'Brien award, and thrilled when I learned that he had been chosen.

Joe, here's to you. May the road rise up to meet you. May the wind be always at your back. May the sun be shining on your face, and may you be in heaven half an hour before the devil knows you're dead.

FOR HEALTH CARE REFORM

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SIKORSKI. Mr. Speaker, Minnesota is world renowned for its prominence in the field of medical technology. My home State is on the technological cutting edge of the medical device industry and is justifiably proud of the benefits to the public health attributable to medical devices. Thousands and thousands of lives have been saved or made more comfortable as a result of these innovations and the contributions of Minnesota companies, many of which are pioneers of this industry. Medtronic—headquartered in Minneapolis, Minnesota—is part of the pioneering medical device industry.

Minnesota's reputation for excellence in health care, whether it's innovative health care delivery systems, alternative health care options or new technologies, is well recognized. With that in mind Mr. Speaker, I commend to your attention the executive summary of Medtronic's health care reform proposal: "Blueprint for Health Care Reform".

EXECUTIVE SUMMARY

Medtronic recognizes that there are no easy answers to the pressing health care problems that face us today—problems of rising costs and limited access for an increasingly aging population. Yet we believe that solutions can be found by unraveling the many complex, often intertwined causes that created the problems in the first place. If we sort through the problems in this way, and then address each of them individually, we can build upon the many strengths of the current system—strengths that foster medical innovation, offer consumers choice, and protect some 87 percent of Americans—while correcting the weaknesses that deny many people access to state-of-the-art care.

GOALS

Medtronic's Blueprint for Health Care Reform consists of three parts:

(1) I would control costs by identifying the inefficiencies in the health system, as well as the individual causes of overutilization of health resources, and it would fix them one-by-one.

(2) It would expand access to health insurance by requiring all employers to provide basic coverage to their employees, by making health insurance coverage more available and affordable for small employers, and by improving the Medicaid program for the poor.

(3) I would improve quality by fostering the development of sound scientific data on the outcomes of medical treatments and by providing this information to physicians and patients, so that they can make objective decisions as they "purchase" health care.

KEY PRINCIPLES

Medtronic's plan is built on several key principles that we believe are necessary ingredients in any reasonable solution.

Government has the obligation to provide the proper framework so that a competitive health care system can operate. By setting appropriate ground rules to start, and by intervening in the marketplace to correct inequities through specific regulatory or payment actions, government can structure a health care system that takes full advantage of competitive forces to secure access for millions of Americans to quality health care at reasonable prices.

We need to promote greater cost consciousness on the part of consumers. We need to structure the health care system so that consumers have a larger financial stake in selecting hospitals, doctors, coverage options, and treatments.

We must build on what works. Through targeted solutions that take on the specific problems at hand, we can build on the strengths of the current market-based health care system that provides coverage for some 87 percent of Americans.

We must provide access to health care for all Americans. Regardless of economic status, all Americans deserve access to high-quality medical care.

We must enhance the role of consumers by preserving freedom of choice and encouraging appropriate utilization. The health care system must allow consumers to use their judgment in selecting health plans and treatment approaches, and it must provide them with incentives that encourage the efficient use of medical resources.

We must correct the perception that health care is a free good. Our current tax law which encourages employers to provide overly rich health benefit plans and prompts employees, as a result, to consume excessive health care services is the most glaring example where government has fallen short in this area.

RECOMMENDATIONS

Medtronic's Blueprint for Health Care Reform contains the following specific recommendations for correcting the problems of cost, access, and quality now plaguing our health care system.

Cost Containment

In order to contain costs, we need to disentangle the thicket of problems that lead to overuse and attack each problem individually. We believe that the growth rate in health care spending will be reduced significantly if we take the following steps:

Cap the tax exclusion for employer-paid health insurance in order to reduce overly generous benefit plans that encourage excessive use of health services and to free up resources to cover the uninsured poor. This means that employers will be able to exclude from taxation only a specified level of what they spend for employee health benefits. This also means that employees will be required to pay personal income and payroll taxes on any health benefits they receive from their employers above this level.

Reform malpractice and product liability laws that create incentives for doctors to perform extra tests and procedures to protect themselves from malpractice suits.

Promote managed care plans that give doctors and patients adequate incentives to use health resources efficiently by overriding restrictive state legislation.

Increase patient cost-sharing and other utilization controls designed to encourage appropriate use of health services and to remove the perception that health care is a free good.

Streamline the administration of insurance through billing, data collection, and other methods to make the health care system run more efficiently and to free up resources to cover the uninsured poor.

Expanded Access

In order to expand access to a basic level of health benefits for all Americans, we should build upon the current system of employer-provided health insurance and close troubling gaps in coverage that now exist. That means we should do the following:

Assure a basic level of health insurance coverage to all Americans. We believe this can be done by taking three critical actions:

Require all employers to provide a basic package of health benefits to their employees. This will close the gaps that now exist in the health coverage provided to workers by companies.

Reform small-market insurance to make health insurance coverage more available and affordable for small companies.

Provide all of the poor with a basic package of health benefits by expanding Medicaid coverage to those now excluded and by providing adequate funding. This will ensure that those without jobs, those with low incomes, and those in poverty have access to health insurance coverage.

Provide consumers with a wide range of choices in health plans, delivery systems, and treatment options.

Streamline cumbersome, uncoordinated government approval mechanisms in order to provide patients with prompt access to state-of-the-art medicine.

Close gaps in health insurance protection by requiring that health insurance coverage be continuous and portable, by funding preventive care programs, and by correcting underutilization of services.

Improved Quality

In order to improve quality, we need to support efforts to develop reliable information about the outcomes of medical treatments and put it at the fingertips of medical practitioners and patients. Medical technology has played a significant role in advancing our medical capabilities and improving the quality of patient lives. We must continue in our efforts to advance the state-of-the-art in medical care, while taking steps to ensure that this care is delivered only where it is appropriate. That means we should:

Collect sound, factual data about the outcomes of medical treatments and use this information to construct practice guidelines that will aid physicians in providing state-of-the-art care.

Empower consumers to make better health care decisions by sharing with them information on the effectiveness of medical treatments and the capability of providers.

Arm physicians with the latest findings on medical technology so their treatment decisions reflect full knowledge of a medical intervention's risks and benefits.

TRIBUTE TO CONGRESSMAN DICK NICHOLS

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROBERTS. Mr. Speaker, as the 102d Congress draws to a close, I want to recognize the contributions of Congressman DICK NICHOLS in the U.S. House of Representatives. Unfortunately, my colleague and friend will not be returning to participate in the 103d Congress.

DICK and his wife, Connie, came to Washington with a strong commitment to represent the Fifth District of Kansas. They did the job both effectively and admirably. DICK held to his longstanding position of fiscal conservativeness, responsibility, and a vision for future generations. He has been the recipient of numerous awards recognizing his accomplishments on behalf of taxpayers. In addition, his participation in the drafting and enactment of the most comprehensive national highway bill should be highlighted.

I share the sense of loss that many Members have that DICK and Connie will not be returning to Washington, DC, next January. They will be missed by their many new friends and colleagues. These last few months have been a difficult and challenging period for the Nichols family and we all wish them the best throughout the future. God bless.

A TRIBUTE TO WEST PHILADELPHIA MENTAL HEALTH CONSORTIUM

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BLACKWELL. Mr. Speaker, I am truly delighted to rise today to honor the accomplishments of the West Philadelphia Mental Health Consortium. On October 23, 1992, this great organization will celebrate its 25th anniversary.

The consortium began its extraordinary work in 1967, under the direction of its founder and first chairman of the board of directors, former Surgeon General of the United States, Luther L. Terry. The consortium opened its doors in response to the needs of our country's community mental health movement.

I am proud of the goals that the consortium has accomplished. It has successfully implemented programs in the areas of mental health, developmental disabilities, mental retardation, addictions treatment, and aging services. Programs of this kind are very meaningful because they address the individual health and well-being needs of adults as well as children.

Moreover, the consortium has been overwhelmingly committed to the citizens of Philadelphia. Because of its accessibility to west and southwest Philadelphia, it has become a permanent fixture in that community and addresses the specific needs of those who live there. The consortium also interacts regularly with schools, churches, social service organizations, and hospitals.

Therefore, Mr. Speaker, I am proud to bring to the attention of my colleagues the exceptional work that is being done, and I congratulate this fine institution for its dedication and valuable service on the occasion of the 25th anniversary of the consortium. The West Philadelphia Mental Health Consortium is certainly an institution of which all Americans can be proud.

TRIBUTE TO HON. ED JENKINS

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, at the end of this Congress, our colleague ED JEN-

KINS will retire. His absence will be a loss to this institution generally, but it will have a particularly significant impact on the Committee on Ways and Means. He was first elected to Congress in 1976 and was one of the few among us selected for Ways and Means membership at the very beginning of his congressional service.

There are many things we couldn't have done without him. And there are more than a few foolish things that we probably would have done without him.

The Ways and Means Committee will be a different place next year because of the absence of ED and others. He is the most senior of our retirees, having first taken his seat in 1976. He's been a Member of this House since 1976. But his institutional memory goes back even further to when he worked on the staff of Representative Phil Landrum.

It is hard to summarize all of ED JENKINS' roles. He has served as a canny country lawyer, urging us to always carefully examine any proposal before acting. He knows that Congress did not enact the law of unintended consequences, but he knows that we must live by this law nonetheless.

ED JENKINS believes, as I do, that government can have a positive role in our society. He has been a champion for those who believe that government should preserve American jobs that are jeopardized by foreign competition. It is probably fair to say that he has saved the jobs of thousands of American workers.

But that does not mean that he sees a defensive role for government. To the contrary, he knows that our Government's economic policies can make life better for our citizens. That is why he has fought for a capital gains cut which he believes would add greater economic vitality to our society.

ED JENKINS believes strongly in these issues, but he has never been dogmatic. He has an appetite for compromise and cooperation. And, because he knows that half a loaf is better than none, he has seldom left the legislative table hungry.

Because of that attitude he will be missed both by his colleagues here in Washington and his constituents in Georgia. We wish him well in whatever he decides to do next.

TRIBUTE TO HON. WALTER JONES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TRAFICANT. Mr. Speaker, several days ago, I was deeply saddened to hear of the loss of a dear friend, Walter Jones. I want to extend my condolences to his family and loved ones, and let them know that they are in my thoughts and prayers. Chairman Jones was a man without peer.

I met the chairman 8 years ago when I first came to Washington. His guidance and leadership was important to the new Members of Congress in 1985. Thinking back, I remember the chairman's energy and exuberance, a quality that I admired. At that time, he had been in Congress for 20 years. Chairman Jones carried that energy and exuberance up until the time he became ill.

I know the people of the First District of North Carolina will surely miss the chairman. Ruling over the Merchant Marine and Fisheries Committee, Chairman Jones was able to set policy on a national level while never losing scope of his roots and constituency. The First District of North Carolina lies along a majority of North Carolina's Outer Banks, which is known for its abundance of industry and jobs based on those great waters. I know that Walter cared deeply about this area and jumped at the chance to chair this important committee in 1981.

Previous to that, the chairman served as chairman of the Subcommittee of Peanuts and Tobacco, again looking out for his constituency and home State's staple crop. Chairman Jones is probably best remembered for his environmental work in the Merchant Marine and Fisheries Committee in the wake of the *Exxon Valdez* oil spill. It was Walter Jones that championed the use of double hulled vessels. Most of all, Chairman Jones had incredible vision when it came to environmental issues.

Chairman Walter Jones' legacy is his great concern for his neighbors—his constituents. No other member of Congress took care of his own people better than Walter Jones. It is my feeling that not only the people of North Carolina, but the rest of the United States, lost a true friend and patriarch. May God bless him.

TRIBUTE TO PAUL FENTON, ANOTHER FIRST FOR SPRINGFIELD

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, my hometown of Springfield, MA has a proud history of achieving many firsts. Among those firsts are the development of the motorized car and the birthplace of basketball. Today, I would like to share with you and the Members the accomplishments of Paul Fenton, the first Springfield native to play in the National Hockey League.

Paul was born in Springfield and attended local schools. He attended Cathedral High where he was a standout hockey player. While at Cathedral, Paul led his team to the State finals in Boston. After graduating from Cathedral, Paul continued his hockey at Boston University. As captain of the hockey team, Paul led his team to the 1982 Beanpot Championship. While at BU, Paul received a bachelor of science degree. With amateur hockey behind him, Paul looked to compete in the professional arena. He first played with Peoria, in the International League. After the 1982–83 season, he was named the "International Hockey League Rookie of the Year."

Paul Fenton's hockey career would continue to rise as he starred in the American Hockey League [AHL]. Again he was named Rookie of the Year. As a member of the Binghamton Whalers he became the first American to score fifty goals in the AHL. After successfully competing in the AHL, Paul was ready to move on to the National Hockey League. He played for a number of teams including the Hartford Whalers, Los Angeles Kings, Winnipeg Jets, and the San Jose Sharks. He retired having scored 100 goals.

Mr. Speaker, I wish to tell you what the statistics do not show about the type a person Paul Fenton is. He has devoted countless hours to charities ranging from Special Olympics to Make-A-Wish Foundation. He has also coached hockey in the West Springfield Youth Sports Program. Paul was recently the keynote speaker at the West Springfield Youth Sports Program annual fund raiser. As a personal friend of the Fenton family, I can assure you Paul will continue to help in these worthwhile causes in the Springfield area.

On October 16, Paul, his wife, Nona Beth and their two sons, Paul Jr. and Owen will be honored at a retirement dinner. Mr. Speaker, please join me in celebrating his accomplishments. He has traveled thousands of miles but never forgot who he was or where he came from.

MIRACLE IN SRI LANKA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BROOMFIELD. Mr. Speaker, in the past few months, Sri Lanka has been used during the Presidential campaign as a symbol of a poor country in economic decline.

However, the situation in this small south Asian country is more complex and should not be casually dismissed and cavalierly stereotyped.

Sri Lanka was a fast-growing, developing country that had turned its back on command economics and adopted the ideas of a market economy long before the Soviet Union and the countries of Eastern Europe decided to do so. Since 1987, Sri Lanka has seen its economic growth seriously hurt by two determined and brutal insurgencies—one by the People's Liberation Front [JVP] which has been virtually defeated, and the second by the Liberation Tigers of Tamil Eelam [LTTE].

Even while fighting these insurgencies, Sri Lanka has continued to grow—though at a much slower pace. The literacy rate remains at nearly 90 percent, and popular elections continue to be held.

The brutality of the insurgencies, however, brought out a darker side of the Government. Serious concerns about the Government's respect for human rights and the rule of law were raised. Thousands of suspects disappeared after being arrested by the security forces or abducted by vigilante groups linked to the security forces. There were also reports of indiscriminate killings of civilians in retaliation for the murders of members of the security forces and torture of detainees in police stations and army camps.

As President Premadasa worked to keep the economy growing and democratic institutions in place, he also worked to improve the human rights record of Sri Lanka. In response to international concerns raised in various fora, President Premadasa worked to improve command and control over the security forces, and to institute greater transparency and accountability in the Government's actions.

Mr. Speaker, we do not know how successful Sri Lanka will be in each of these endeavors. Under the skillful leadership of President Premadasa, there is hope for this country.

Recently, the Washington Post published an editorial by Mr. Milinda Moragoda, the special representative of President Premadasa. A few months ago I met Mr. Moragoda, and found him to be an articulate and sincere advocate of Sri Lanka. I commend Mr. Moragoda's article which provides an accurate picture of Sri Lanka.

[From the Washington Post, Sept. 15, 1992]

Miracle in Sri Lanka

(By Milinda Moragoda)

The name Sri Lanka has recently become synonymous in the lexicon of the 1992 campaign with economic decline, as both Bill Clinton and George Bush have made disparaging references to us. When our name was Ceylon we were never so treated. We wonder if we too have become a victim of the sound bite.

When my country first changed its name from Ceylon to Sri Lanka, all was peaceful, and so many world leaders went along for awhile not even knowing who we were. We started a Western-style economic revolution, but it merited only the inside pages of business newspapers. A few years ago, however, one of our "states" tried to secede from the "union," and in the ensuing civil strife, all hell broke loose. Then we got noticed.

As violence, terrorism and economic tragedy befell my country, the American public finally became aware that there was a country called Sri Lanka, and it was in trouble. All but ignored was its 2,500 years of recorded history, a population as ethnically diverse as New York City's and a strong modern record of democracy and devotion to free enterprise.

Thus it comes as no surprise that the staffs of Messrs. Clinton and Bush would use Sri Lanka as an example of an economic shambles. But it's still a shame they did so. For if the candidates could visit us today, they might find we deserve to be the subjects of a new and very different sound bite. The fact is that Sri Lanka is on the way back to resuming its place as the next Asian economic miracle.

Since 1931 every citizen of my country has enjoyed the right to vote, and all of our governments have been popularly elected. We have a literacy rate of nearly 90 percent—higher than a number of countries in the Western world—and our overall quality-of-life rating has won the praise of international development organizations.

Long before Eastern Europe and the Soviet Union realized the error of their systems, we threw off the yoke of central economic planning and dedicated ourselves to a free market. That popular decision by our electorate 15 years ago led to a difficult period of sacrifice and belt-tightening. We could not have imagined then that one day this noble effort by our people to emulate the success of the Western democracies would be misused in an American-presidential campaign as an example of a poorly performing economy.

Nine years ago our miracle was brought up short. Civil strife broke out in my country when one of our minority ethnic groups sought autonomy. Violence and terrorism were widespread for a time. Sri Lanka was not well prepared for civil war. For decades our economy had concentrated its "peace dividend" on economic development. Our military infrastructure was not able to cope with the terrorism. Thus, we sought the help of our neighbor India to quell the violence. But the violence grew worse, and the Indian peace-keeping force itself became another subject of controversy.

As Sri Lanka began to be noticed in the foreign press for its violence and perceived instability, foreign investors and tourists started avoiding the country. Tourism, a major source of foreign exchange, fell by 75 percent. Growth rates slipped dramatically to the 1.6–2.2 percent range. Prices spiraled. It was inevitable that voices would be heard condemning our flirtation with the free market.

But in their wisdom, the people of Sri Lanka once again rejected central economic planning, and returned to power the United National Party under President Ranasinghe Premadasa. The new president acted quickly to stabilize the nation's security and resolve the conflicts through consultation and consensus. He succeeded in obtaining withdrawal of the Indian peace-keepers.

However, his efforts at conciliation with rebel groups were not rewarded. Only after the government took determined measures to achieve internal security did the armed strife begin to abate. Today life is back to normal almost everywhere in Sri Lanka, with hostilities being confined to two small areas in the north and east.

So to Messrs. Clinton and Bush we say: "All is forgiven. Welcome to Sri Lanka—the next economic miracle."

IN RECOGNITION OF OCTOBER AS CAMPAIGN FOR HEALTHIER BABIES MONTH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. STOKES. Mr. Speaker, on behalf of the March of Dimes Defects Foundation, and particularly the Northeast Ohio March of Dimes Chapter located in Cleveland, I want to take this opportunity to recognize the month of October as "Campaign for Healthier Babies Month." Each year in the United States, 40,000 babies die before their first birthday and more than 250,000 babies are born with birth defects.

In the month of October alone, 350,000 babies will be born in the United States. Tragically, during this same month, more than 20,000 of these babies will be born with birth defects; more than 600 babies will die before their first birthday because of a birth defect; approximately 150 babies will be born infected with the deadly AIDS virus; at least 400 babies will be born with fetal alcohol syndrome; nearly 4,000 babies will enter this world with less severe alcohol-related problems; and up to 60,000 babies will be born to women who have used one or more illicit drugs during pregnancy resulting in nearly 13,000 cocaine-exposed babies and about 50,000 marijuana-exposed babies.

The March of Dimes Birth Defects Foundation has declared October "Campaign for Healthier Babies Month" to call attention to this critical situation and to encourage Americans to support the efforts that will help our Nation's babies to be born healthy.

Each day, with the help of millions of vounteers, the March of Dimes is bringing important messages about prenatal care into cities and villages, factories, and boardrooms. Research and medical breakthroughs are showing us new ways to prevent birth defects and new ways to help infants who might have died to survive and lead perfectly normal lives. But, more still needs to be done.

The campaign includes programs of research to determine the causes of birth defects; community health services to expand prenatal care; education to inform health professionals and the public of ways in which to improve birth outcomes; and advocacy to encourage government support of programs to assist mothers and babies.

During the month of October, I urge my colleagues to watch for their local chapter's October activities and to join in the efforts of the March of Dimes in learning and teaching others about the steps every woman can take to have a healthier baby. This country confronts a dire situation with respect to its newborns and we, as a Nation, must join in the efforts to remedy this critical condition.

TRIBUTE TO HON. DON PEASE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I think I can honestly express a fear that this institution will be less collegial after the retirement of our colleague Don Pease because I always picture him as a professor—polite, patient, probing, practical. Because of that I think it is especially appropriate that part of his next career will involve teaching at Oberlin College.

He became a member of the Ways and Means Committee in 1981, the same year I became chairman. So each of us was then learning a new role. As things turned out, we learned a lot together.

Don Pease has clear positions on many of the issues we confront, but he never tries to force his colleagues to agree with him. Instead he urges them to explore the issue fully, confident that they will often come to share his conclusion.

But his careful analytical skill never obscured his strong beliefs. Don Pease knew who he came to Congress to represent and he was relentless in the service of his constituents. He represents people in northern Ohio who are accustomed to working hard and have been hit by hard times in recent years.

His constituents work in manufacturing businesses that have come under increasing competition from foreign firms. They understand and respect competition. But Don Pease and his constituents understand also that the rules have often been bent, distorted, or even ignored. At times, they've been asked to pay a high price because of this unfairness.

That explains Don's focus on the trade issue and the stance he has taken as we explored the creation of a North American free trade area. His stress on worker rights is entirely appropriate because one of the goals of such arrangements is to create a better life for workers everywhere.

I found DON's skills invaluable when we worked together on the Tax Reform Act of 1986. He had a clear idea of where we should be headed and constantly tried to direct us in that direction. But he also knew that compromises would be necessary to get the job done. When that was required, he could compromise with wisdom and grace.

I don't know how many headlines DON got back home. He wasn't big on public posturing and grand promises. But I do know that the people of his district—and people all over America—got distinguished service from him. He has been a model public servant.

ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. SCHROEDER. Mr. Speaker, one of my proudest accomplishments this Congress has been the enactment of H.R. 1435, the Rocky Mountain Arsenal National Wildlife Refuge Act. H.R. 1435 creates a national wildlife refuge at the Rocky Mountain Arsenal, the former Army chemical weapons factory, in Adams County, CO.

After years of controversy, local, State, and Federal Government officials, and private citizens, have reached an agreement on the wildlife refuge concept. By agreeing that environmental restoration must continue and that a national wildlife refuge should be created at the arsenal, the people of Colorado and our Nation will greatly benefit.

Rocky Mountain Arsenal has an interesting yet controversial history. During World War II, the Army opened the 19,000-acre arsenal in Adams County, CO, 10 miles from downtown Denver. It was created to produce and store chemical and conventional weapons during World War II. After the war, a portion of the arsenal was leased to a company later acquired by Shell Oil Co., for production of pesticides and herbicides. Rocket fuel also was blended at the arsenal.

Wastes produced by these operations at the arsenal were dumped directly into the ground. Although this was commonplace at the time, it was environmentally unsound. Contamination also resulted from the toxic materials and byproducts of the manufacturing operations. The result has been extensive contamination of soil and groundwater.

The arsenal was declared a Superfund site in the mid-1980's. Cleanup efforts have been, and continue to be, ongoing, funded by Defense environmental restoration account appropriations and Shell Oil, under a Federal facilities agreement. Munitions are no longer manufactured or stored at Rocky Mountain Arsenal. The only mission left is environmental restoration.

For years many thought that the arsenal would never be cleaned up. And no one dared believe that the arsenal would ever be attractive to wildlife.

But because of its 27-square mile size and the extensive contamination occurred on only approximately 15 percent of the site, and arsenal hosts a wide variety of wildlife. The arsenal has turned into an informal wildlife haven. No area of comparable size possesses the diversity and density of wildlife that exists at the arsenal.

In 1989, the U.S. fish and Wildlife Service entered into a wildlife management agreement with the Army and instituted public tours, a visitors center and a bald eagle observation point. Last year, over 40,000 visitors took wildlife tours at the arsenal.

By creating a national wildlife refuge at Rocky Mountain Arsenal, H.R. 1435 represents one of those rare opportunities when the Congress turned what could have been a tragedy into a triumph. I thank my colleagues for their support.

CONFERENCE REPORT ON FOREIGN OPERATIONS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BURTON of Indiana. Mr. Speaker, I would like to make just a few remarks about the foreign operations conference report, which I did vote for, albeit with some reservations.

On the plus side, this appropriation has the merit of being $1.1 billion below the administration's request, $1 billion below the budget resolution, and $412 million below the core fiscal year 1992 bill. It also includes the crucial loan guarantees for Israel, at no cost to the American taxpayer. And, finally, it puts an end to military giveaways to our NATO allies.

However, I am distressed that the aid package to the former Soviet Union was tacked on to this bill. I feel strongly that in return for such assistance, we should be receiving significant oil, gas, and mineral rights from these countries, and I am also very concerned that Russia is going ahead with a major tank sale to Iran, one of the world's terrorist countries.

It is unfortunate that we are forced to vote for some of these less palatable items in order to get the whole package.

CLEAN AIR ACT: ASKED TO ADOPT RULES ON REMOTE SENSINGS

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BARTON of Texas. Mr. Speaker, today I am introducing a House Concurrent Resolution that would encourage the Environmental Protection Agency [EPA] to adopt rules to the Clean Air Act that would result in cleaner air, and at the same time save the citizens of the United States perhaps a billion dollars. This resolution would accomplish three goals.

First, it requires the EPA to promulgate rules that allow States to adopt—if they so desire—mobile source pollution strategies that rely wholly or partly on infrared remote sensing. The bill does not change anything in the Clean Air Act, it simply requires EPA to be more flexible in implementing that legislation.

Second, the bill requires that EPA give credit to States for relying wholly or partly on infrared remote sensing programs, and requires that EPA in no event give less credit than the actual pollution reduction achieved by remote sensing, using the data obtained through the remote sensing program.

Three, it directs States to accumulate the data produced through infrared and other forms of remote sensing, and to deliver this data yearly to a central facility, where a panel appointed by the National Academy of Science is to examine and make conclusions about mobile source pollution, including how effective our current strategies are in reducing mobile source pollution.

I am including an article concerning remote sensing taken from an October 12, 1992 Forbes Magazine for the consideration of this and the other body.

NOT INVENTED HERE

[By Leslie Spencer]

Next month 39 cities will be compelled by the Environmental Protection Agency to switch in winter to expensive "oxyfuels"—gasoline mixed with methanol or ethanol—to meet carbon monoxide ceilings.

Good for ethanol distillers, but bad for the economy and pretty pointless for the environment. Extensive tests show that the bulk of automobile pollution is produced by just one in every ten cars. Most are very clean. "Repairing one car in ten reduces emissions more than putting oxygenated fuels in all ten," says University of Denver chemist and inventor Donald Stedman.

Stedman and colleague Gary Bishop have an alternative: a suitcase-size box called a remote sensor. It throws an infrared beam at tail pipe height across an exit or entrance ramp. The beam hits a detector that instantly reads carbon monoxide, carbon dioxide and hydrocarbon levels. A camera photographs dirty cars' licence plates so they can be tracked down.

Federal and state air regulators have resisted Stedman's logic. They prefer to treat all cars as potential violators. But a recent conference of air scientists on smog study results in southern California confirms what Forbes has said about the ineffectualness of the EPA (July 6). "You almost got tired of hearing it," moaned atmospheric chemist Douglas Lawson of Reno's Desert Research Institute. "The way we've been controlling car pollution doesn't work nearly as well as we thought."

What Lawson means is that California's car inspection program, reputedly the most stringent in the country, doesn't make cars cleaner as much as the EPA's computer models predicted it would—exaggerating the effectiveness of car regulation by as much as 300%. The conclusion: Cars are a much bigger source of air pollution than previously thought—even though most cars are relatively innocent. And existing efforts to clean up aren't working.

The EPA's proposed response: Rather than seeking to single out the one in ten that cause most of the problem, it wants to beef up testing requirements for every car. Its new high-tech test, to be required in over 75 cities, measures emissions at different speeds using $150,000 computer-operated treadmills, rather than a simple tail pipe gauge. The rule effectively requires that the test be performed inconveniently and expensively at centralized locations rather than at a local gas station or car dealer.

The EPA asserts that the new program will be three times more effective than the old one. But tighter rules could mean more chance for corruption—already epidemic. According to a recent EPA audit, 70% of inspectors in four states passed cars that should have failed.

Cheating aside, existing methods can't compete with remote sensing in efficiency. And EPA-approved inspection centers will take a day to handle the 1,000 cars Stedman's machine tests in an hour. EPA's new program will cost $17 a car—not counting car owner's lost hours and inconvenience. Leasing Stedman's machine costs around 50 cents a car.

Even so, EPA mobile sources director Richard Wilson tried to keep on-road testing out of the 1990 Clean Air Act amendments. He cites trivial technical objections. His 125 pages of car emissions rules give the technology short shrift.

Why? Because remote sensing threatens the premises upon which current clean air policies are based. It can quickly and cheaply gather masses of real-world data about car emissions across the country. If such data confirm the findings in southern California that the EPA has underestimated the pollution coming from cars, it means the EPA has overestimated the pollution from power plants, refineries and solvents. Regulations governing these "nonmobile sources" could be aimed at emissions that don't exist.

And faulty scientific assumptions could mean the EPA has been trying to clean up smog the wrong way. Hydrocarbons combine with nitrogen oxide when exposed to sunlight to produce ground level ozone, the main cause of smog. The EPA has targeted hydrocarbons because they are cheaper to control than nitrogen oxide. But city air could contain three times more hydrocarbons than previously thought.

"Maybe for the past 20 years we've been going after the wrong ingredient," suggests EPA atmospheric physicist Marc Pitchford.

The EPA plans to fight city smog will cost over half of the $25 billion to $40 billion to be spent annually implementing the Clean Air Act amendments. Even by generous estimates, benefits of this further smog regulation will reach only about $8 billion. But then the EPA's command-and-control bureaucracy seems less interested in facts and science than in building its own empire.

CONGRATULATIONS ON TAIWAN'S 81ST NATIONAL DAY

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ERDREICH. Mr. Speaker, the recent decision to allow the sale of F–16 jet fighters to Taiwan was a breakthrough in United States-Taiwan relations. The sale will enable Taiwan to upgrade its aging air force, promote regional stability, and enhance Taiwan's chances of consolidating a democracy that could one day serve as a model for the Chinese mainland.

In view of Taiwan's capitalistic system and democratic way of life, it is in our interest to help Taiwan become even more prosperous and free. In furtherance of that objective, the United States should work to promote Taiwan's early inclusion in the General Agreement on Tariffs and Trade [GATT] and other international organizations such as the United Nations. If the United States opens the way toward improved relations, it is likely that other nations will follow suit. Taiwan has demonstrated itself to be a willing and valuable resource in world relations and international trade. This spirit of openness should be encouraged and welcomed throughout the world.

I congratulate the people of Taiwan on the occasion of Taiwan's 81st National Day on October 10, 1992, and sincerely hope that the United States will continue to assist Taiwan in its return to the international community, fully recognized as a sovereign nation.

TRIBUTE TO HON. BERYL ANTHONY, JR.

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, when our colleague BERYL ANTHONY retires at the end of this Congress, he will be missed both by the voters in Arkansas and his colleagues here in Washington. He has served here with honor, represented his constituents well and gotten more than a few good things accomplished during his decade of service on the Ways and Means Committee.

Like many of us, BERYL is interested in both policy and politics.

In the policy arena, he ably represented a group that believes we can help the economy by aiding America's small businessmen who create most of the new jobs in our Nation. He fought for action to aid this group, believing that it would assist the entire economy.

Aside from his official responsibilities as a member of the Committee on Ways and Means, he made himself a leader of those who would preserve and protect tax-exempt financing. There are endless arcane questions that come before our committee on this issue and BERYL made himself an ambassador and even translator linking other legislators and the tax-exempt community.

Any student of voter behavior knows that most of the small business community is not affiliated with the Democratic Party—despite our best efforts. And many of those who market tax-exempt bonds are among the most comfortable members of our society—a group that tends to lean Republican. Nonetheless, BERYL worked, and worked closely and well, with these groups because he thought their issues were important.

But he never forgot that he was a Democrat. During his term as chairman of the Democratic Congressional Campaign Committee, he did a hard job well. Because of his hard work, we Democrats were able to maintain our majority in this House.

What strikes me most about his partisan role, though, is that he was never seen as a personal enemy by those on the other side of the aisle. He never allowed partisan business to poison his personal relationships or paralyze his policy choices.

It was that sense of balance, along with an easygoing sense of humor and an enthusiasm that was undimmed by the frustration all of us feel from time to time. His commitment to process and his disdain of polarization should provide a lesson for all of us in the difficult weeks ahead.

A TRIBUTE TO ANTHONY J. PROCASSINI

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FORD of Michigan. Mr. Speaker, one of my constituents, Anthony J. Procassini, will be retiring from the board of trustees at Washtenaw Community College in December, and I'm glad to recognize his 26 years of service to the college and to vocational-technical education.

Tony was born in Lambertville, NJ, the youngest of a large family newly arrived in this country from Italy. When he was only 11, he went to work shining shoes in the lobby of a Newark newspaper, and when the Newark Newspaper Guild went out on strike, he went along and wouldn't cross the picket line. When the dispute was settled, the publisher told the people in charge to kick Tony out for being a union sympathizer. It took him awhile, but eventually Tony got back to the shoe shine stand. He also learned a lesson about managing people that he never forgot.

Thanks to his family's hard work, Tony was able to enroll at the University of Michigan in 1939. When America entered the war, Tony went to the Pacific Theater with the Marine Corps. Wounded in combat, Tony received the Purple Heart, and he has regularly attended the reunions of his old outfit for many years.

After being discharged, Tony completed his studies at Michigan and was hired by the university as a personnel specialist. In 1955, he joined Bendix Corp. and worked in recruitment and compensation, hiring some of the engineers and technicians who build components for our successful efforts in space exploration. At Bendix, he was involved in collective bargaining, though on the side of management. Tony's view in his work life and at Washtenaw was: "Bargain hard, bargain fair, live by the contract, get on with the job." When he retired from Bendix in 1980, he was corporate director of personnel operations. He then formed his own consulting firm and later served as vice president of human resources for KMS, a corporation involved in research into fusion power.

In 1963, members of the Ann Arbor Chamber of Commerce began to discuss the idea of founding a community college. Tony was one of the leaders of this effort, and in 1965 the citizens voted to establish such a college in Washtenaw County. In 1966, he was elected trustee and has continued to serve ever since, holding all the elective offices of the board including Chair, for 4 years.

In 1944, Tony and Dawn Trombley were married, and in subsequent years they raised a family of 10 in Ann Aroor. Tony has always had time for his family while devoting so much effort to community service. Dawn has been his partner in public life, and her sensitive judgment of people has been invaluable in his effectiveness as a community leader.

Tony Procassini's story is an American success story. Throughout his life he has served his country and his community. When duty called, he went; when an opportunity to make a better life for others presented itself, he welcomed the opportunity to serve. All his life he has believed in the possibilities of technology and the priceless value of an educated work force. Washtenaw Community College is a wonderful asset in my district and in the Nation. Tony Procassini has given much to the college, and Mr. Speaker, I am happy to take this opportunity to celebrate his work on behalf of so many.

CONGRESSIONAL RECORD STATEMENT OF MR. AUCOIN

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. AUCOIN. Mr. Speaker, I would like to enter into the RECORD the substance of a colloquy that I had intended to enter into with the chairman of our Interior Appropriations Subcommittee, Mr. YATES, during consideration of the conference report on the fiscal year 1993 Interior Appropriations bill. We were unable to enter into our exchange only because of the swift consideration and adoption of the conference report by voice vote.

Mr. Chairman, I would like to take the time to thank you for your attention to a matter regarding a proposed Forest Service easement development across the Pallette Ranch near the Hells Canyon National Recreation Area.

I understand the committee staff has been in touch with the Forest Service about this matter. I would urge the Forest Service to consider potential alternatives to the easement in other portions of Hells Canyon and that the Forest Service engage in good faith negotiations with the ranch on this matter.

I know that the Interior Appropriations Subcommittee has dealt with similar matters elsewhere, and I know that the chairman joins me in urging the Forest Service to continue negotiations with the owners of the Pallette Ranch to identify a mutually acceptable solution.

HEALTH CARE COSTS TAKE TOLL ON RETIREES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LAFALCE. Mr. Speaker, the reduction and termination of employment-based medical coverage for retirees is one of the most serious hardships facing senior citizens in my district and throughout the Nation. As such, I would like to insert for the benefit of my colleagues, an article I recently wrote on the issue of retiree health care benefits. I hope it is helpful in framing the health care debate that will assuredly take place during the 103d Congress.

RISING HEALTH CARE COSTS CLAIM YET ANOTHER VICTIM—RETIREES

The golden years are often thought of as a time for senior citizens to kick back and reap the rewards of a lifetime of labor. Yet for millions of Americans who retired with the promise of comprehensive medical coverage, the "golden years" have lost their luster.

According to a recent survey conducted by A. Foster Higgins, a New York based consulting firm, nearly two-thirds of employers have altered their retiree health benefit plans over the past 2 years or intend to do so by 1993. For the Nation's present and future retirees, the survey results are an ominous sign.

Thirty percent of respondents increased health insurance premiums for retirees, 26 percent hiked retiree cost-sharing, and 11 percent tightened eligibility requirements. Five percent reduced benefits for future retirees and 3 percent terminated their plans altogether.

Employers began offering retiree health benefits in an effort to attract a stable work force and enhance their competitiveness. However, a number of factors have caused businesses to reassess their retirement plans, most notably, rapid health care inflation, the graying of the population, and new accounting rules.

In the past, companies were able to honor their promise to provide retiree health care benefits because costs were low and relatively predictable. The situation today is markedly different.

Health care inflation has risen twice as much as general inflation over the past decade and no relief is in sight. This is having an especially significant impact on retiree benefits because health care costs for the elderly are already eight times that of individuals under 65 years of age. According to the A. Foster Higgins survey, the average cost of providing health care coverage was $2,486 per retiree last year—up 9 percent from 1990. Compounding the cost problem is the fact that early retirements and longer life-expectancies have translated into a dramatic increase in the number of retirees requiring remuneration.

New accounting rules, which are scheduled to take effect in 1993, will exacerbate the present situation. Pursuant to Financial Accounting Standards Board Statement No. 106, companies are no longer able to account for retirement benefit plans on a pay-as-you-go basis. Instead, they must record future cost considerations for current retirees and active employees as liabilities on their financial statements. The end result, for a number of companies, is likely to be staggering.

Retiree medical costs, as a percentage of payroll and profits, are expected to soar. According to an April 22, 1992, Wall Street Journal report, "The total hit against corporate profits is a record for any accounting rule—as much as $1 trillion for major U.S. companies during the next few years." Hardest hit, pursuant to a Goldman Sachs report, will be businesses that are unionized, labor-intensive, low in employee turnover and high in the ratio of retirees to active employees.

As health care costs continue to consume an ever-increasing percentage of employer payroll and profits, businesses are looking for ways to ease this financial burden. Hence the recent push to reduce or terminate retiree health benefits.

This is troubling news because millions of Americans have come to depend upon these benefits as a crucial source of health insurance. For those retiring before becoming eligible for Medicare at age 65, private health insurance outside of the employment setting is likely to be expensive; and for retirees with preexisting health conditions, perhaps impossible to find. For those retiring after age 65, most will have Medicare, but the absence of employer-sponsored health benefits may result in serious gaps in coverage and inordinate out-of-pocket expenditures. America's elderly had out-of-pocket health care costs of over $67 billion in 1991 alone. Because the majority of elderly live on a fixed income, these expenses are becoming more difficult to absorb and access to medical care is consequently jeopardized.

The crisis which has befallen retiree health benefits is yet one more reason why we must break the nexus between health care and employment, and enact a national health insurance plan.

TRIBUTE TO C. TED LICK

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Mr. C. Ted Lick, of Harrisburg, PA, upon the occasion of his retirement. He currently is past president of Harrisburg Paper Co.

Ted Lick is well known to many people in central Pennsylvania, through his active participation in the business, civic, and sports arenas of our region. Ted guided and built up a successful business enterprise, Harrisburg Paper Co., that continues to thrive today. His smart business sense has been recognized by his peers in the business community, as Ted has served on numerous advisory panels and boards in the paper industry and has been a leader in area-wide business organizations. Ted is past president of the Harrisburg Area Industrial Development Corp. and past president of the Capital Region Chamber of Commerce.

Ted also has devoted much of his time to organizations dedicated to betterment of the community-at-large. He has been involved with the Rotary Club, Goodwill Industries, Tall Cedars of Lebanon, the YMCA, and the Zembo Temple, among many other organizations. On a personal note, I can remember back to Hurricane Agnes back in 1972, which devastated our region, and without hesitation, Ted generously provided desperately needed paper products to the rescue operations that were helping the victims of the floods caused by the hurricane. His selfless commitment to numerous worthy causes has earned him the admiration and gratitude of many people in central Pennsylvania.

Hunting and fishing have always been among Ted's lifelong passions. He has travelled extensively around the world in pursuit of big game, and has come away with an amazing array of trophies. His passion for sports has also led to his involvement with the Lady Keystone Open, which he has chaired, the Keystone Sports Foundation, where he served as president, and the Virginia Slims of Pennsylvania Tennis Tournament, where he also has served as president. Ted recently received a great honor as he was inducted into the Pennsylvania Sports Hall of Fame.

Mr. Speaker, I ask all of my colleagues to join me in congratulating Ted Lick on a lifetime of accomplishments. I know that his wife Nancy, his children Andrew and Holly, and many friends share in our appreciation for what Ted has done in his life, and hope that he enjoys much happiness in the years to come.

IN HONOR OF SADIE WHITE

HON. BERNIE SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SANDERS. Mr. Speaker, I want to take this opportunity to honor and acknowledge one of the outstanding political leaders in the State of Vermont, and a very close friend of mine, Mrs. Sadie White of Burlington, VT.

Sadie White has been, for many decades, one of the leaders in Vermont in fighting to protect the interests of the elderly, the sick, and the frail. Sadie served for many years as a representative from the Old North End in Burlington to the Vermont State Legislature, and from 1981 through 1983, represented that district on the Burlington City Council.

When I was elected mayor of Burlington in 1981, Sadie showed tremendous courage by standing up to powerful and entrenched political forces so that Burlington could move forward in a new and progressive manner. I personally will never forget the strength that she showed in the midst of some very contentious and bitter political debates. If there was ever a time when Sadie's strong streak of Vermont independence came to the fore, it was then.

For decades now, Sadie White has been loved and respected by the people of Burlington and in fact, by people from throughout Vermont. I was very pleased, therefore, when Sadie's neighbors in the Old North End recently came together for a Sadie White Day to honor her and to show their appreciation.

Mr. Speaker, Vermont is a great and unusual State because of the strength of character of many of her citizens. Sadie White represents what is best about Vermont, and we are very proud of her.

FITZSIMONS ARMY MEDICAL CENTER

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. SCHROEDER. Mr. Speaker, with the enactment of H.R. 5006, the 1993 Defense Authorization Act, I am pleased to recognize the approval by the Congress of a replacement facility for Fitzsimons Army Medical Center in Aurora, CO.

Fitzsimons was established in 1918, and its main building was constructed just before the start of World War II. Despite its age and condition, Fitzsimons is fully accredited by the Joint Commission on Accreditation of Health Care Organizations, a tribute to the quality of its staff.

Fitzsimons serves a 12-State region: Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Utah, Wisconsin, and Wyoming, with over 660,000 active duty and retired military personnel and their dependents. Fitzsimons also provides care for public health beneficiaries from the Rosebud and Pine Ridge Indian Reservations in South Dakota.

Fitzsimons has a number of key missions, including health care delivery, complex tertiary medical care for the 12-State region, graduate medical education, and mobilization and surge capability. It has an outstanding record in meeting these missions.

But Fitzsimons is over 50 years old and is long overdue for a replacement facility. The Army has long planned to build a replacement, and included it in its plans, but it continued to be delayed to later years.

Fitzsimons has a 30-year successful relationship with the University of Colorado Medical School, with joint faculty and both undergraduate and graduate training. Fitzsimons also serves as a major source of graduate medical education.

In addition, Fitzsimons has an expansion capability during mobilization from 400 programmed operating beds, to an interim expansion of 478 beds, and emergency expansion capability to 1,770 beds. During World War II, Fitzsimons maintained an inpatient census of 4,000. Because Denver is a transportation hub, it is ideally suited to support expansion capability in wartime.

I salute the outstanding command and staff of Fitzsimons Army Medical Center for their fine work in the past and I look forward to watching the construction of a first-rate medical center in the near future.

I also want to thank the Future of Fitzsimons Initiative, a coalition of civic, veterans, and government groups that organized and demonstrated the tremendous support of the community for Fitzsimons. The coalition did an excellent job, as shown by the approval of the replacement facility by the Congress.

OLDER AMERICANS ACT: A VITAL SAFETY NET FOR SENIORS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MAZZOLI. Mr. Speaker, at long last the 102d Congress has approved one of the most important Federal programs addressing the special needs of our Nation's senior citizens—the Older Americans Act.

In my own congressional district, many agencies dispense many needed and helpful services to many Louisville area older Americans by means of programs authorized by the Older Americans Act.

By reauthorizing this act, Congress has succeeded in patching up at least some of the holes which have developed in the safety net protecting millions of elderly Americans. But there are rips and tears which will have to be stitched in future Congresses.

America's elderly population is increasing, but funding for the important food, nutrition, and support services authorized by the Older Americans Act has not kept pace with this growing demand.

The graying of America is a fact, Mr. Speaker, and new and innovative approaches are needed to solve the problems facing our senior citizens. Such ideas could be developed, and an agenda for the future could be mapped out, by the long-awaited White House Conference on Aging which is authorized in this legislation.

Programs which come under the umbrella of the Older Americans Act and which provide vital assistance in communities all across the country are: The congregate meal and inhome nutrition service; Meals-on-Wheels; legal assistance; elder abuse prevention; inhome services for frail elderly; intergenerational projects; and, important research, education and training for caregivers and those who would enter the field of services to the aging.

Without question the Older Americans Act improves the quality of life for many of America's, Kentucky's and Louisville-Jefferson County's most vulnerable citizens. These programs not only provide nutritional sustenance, but they also allow many elderly citizens to continue to live their lives more independently, with a greater sense of self-respect and peace of mind. The benefits to the social and emotional well-being of elderly citizens cannot be understated.

I have been pleased to support the Older Americans Act over my years in the House of Representatives. It is a most worthwhile endeavor that has enjoyed widespread, bipartisan support on Capitol Hill since its creation in the mid-1960's.

As the dean of the Kentucky congressional delegation, the Honorable WILLIAM NATCHER, often reminds those of us who have had the privilege to serve with him—"* * * when you feed your people and you educate your children, you continue to live in the strongest country in the world." The Older Americans Act honors that commitment to our citizens and I am confident that Congress will continue to provide its full support to these efforts in the years ahead.

SOCIAL SECURITY EARNINGS TEST

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HASTERT. Mr. Speaker, today, I am reintroducing legislation to liberalize the Social Security earnings test. This is a compromise version of my bill entitled, "The Older Americans Freedom to Work Act," that was passed by an overwhelming margin in the House last April and by voice vote in the Senate as an amendment to the Older Americans Act reauthorization. Unfortunately, in an effort to pass the Older Americans Act before the 102d Congress adjourned, the Senate quietly—and without a vote—stripped the legislation of the Hastert amendment.

I am reintroducing the compromise legislation to give notice to the congressional leadership that I intend to press hard for this legislation when the 103d Congress convenes in January. Many candidates all over the country have pledged their support of this commonsense measure and I hope in a new Congress we'll finally get it passed and signed. Seniors have waited too long for fairness on this issue.

The earnings test takes away $1 in Social Security benefits for every $3 a senior earns over $10,200 annually. For a senior earning only $10,000 a year, that amounts to a 56 percent effective marginal tax rate, nearly twice the rate millionaires pay. This legislation would raise the earnings limit to $20,000 by 1997.

We are not giving up the fight for America's older workers. Through fancy legislative subterfuge, the anti-senior forces may have won this battle. But economic common sense and American public opinion are on our side.

In addition to raising the limit, this measure calls upon the U.S. Secretary of the Treasury to determine the net increase in tax revenue that would result if the earnings limit was raised. Critics of the measure have argued that eliminating the penalty would cost the Government money, but supporters argue that more seniors will have the incentive to work and tax revenue will actually increase. The Treasury Department study would attempt to answer that question.

JOHN T. KENNEY VFW POST 973 CELEBRATES 70TH ANNIVERSARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FISH. Mr. Speaker, I rise to recognize and pay special tribute to John T. Kenney VFW Post 973 and Ladies Auxiliary of Newburgh, NY, celebrating their 70th anniversary this year. The post was organized by Daniel Early and Richard Ryan, Spanish-American War veterans, on September 22, 1922, and named for John T. Kenney, Company E, 1st Infantry, New York National Guard, who was killed in action on the Hindenburg Line during World War I. Since then, the post has been a pillar of the community and a model of service for all.

In the 70 years since its founding, the John T. Kenney Post has grown both in membership and popularity. Today, the post sponsors a regionally renowned Drum & Bugle Corps. More importantly, however, are its contributions to the people of Newburgh. Many community ventures are sponsored by the post—most notably, the annual Ralph McKay Scholarship Awards to graduating seniors of Newburgh Free Academy. These scholarships enable three deserving students the opportunity to further their education.

The post is very active with: the VA hospital at Castle Point, holding a bingo tournament at the hospital each month; the Veterans Outreach Center in Beacon; the ROTC at Newburgh Free Academy; and sponsoring events with other veterans organizations. The post also offers their facility free of charge to local nonprofit groups for meeting, proms, and other functions.

In addition, the ladies auxiliary sponsors two annual food, clothing, and toy drives, one at Thanksgiving the other at Christmas, to benefit the needy.

Mr. Speaker, the men and women of the John T. Kenney VFW post 973 were once willing to die to preserve our Nation. Today, they live to uplift our Nation through their community spirit and their proud dedication to the people of Newburgh. I am proud to be associated with such a noteworthy organization. I know they will continue to provide invaluable service to their community in the years to come.

DESERT SHIELD-DESERT STORM MEMORIAL LIGHT IN COLUMBIA, NH

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SWETT. Mr. Speaker, I want to call my colleagues' attention to House Joint Resolution 562, a resolution I have introduced recognizing the Desert Shield-Desert Storm Memorial Light at the Shrine of Our Lady of Grace in Columbia, NH. This resolution will provide congressional recognition for the memorial light which the people of Coos County and the towns of Colebrook and Columbia have erected to honor those who were killed in the line of duty during the Persian Gulf war.

The Shrine of Our Lady of Grace in Columbia is of great significance to the veterans of Coos County. It is the site of traditional gatherings on occasions such as Veterans Day and Memorial Day for the communities of Berlin, Colebrook, Columbia, and Dixville. In 1990, veterans and others in these communities worked hard to erect the memorial light and are now seeking to have it dedicated to those who died in the defense of freedom in Desert Shield and Desert Storm.

Mr. Speaker, I urge my colleagues to support this resolution so that the efforts of the people of Coos County to dedicate their memorial to those who made the supreme sacrifice in the Persian Gulf war can receive national recognition.

FAST TRACK IS THE WRONG TRACK

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, I rise to bring to the attention of my colleagues another problem facing U.S. agriculture under the North American Free-Trade Agreement.

When I led the fight to deny the President fast-track negotiating authority, I said I supported economic opportunity, expanded trade, and America's economic future. As I pointed out, the issue is not whether we should be negotiating free trade agreements, but how they are negotiated and for whose benefit. As each day passes, it becomes ever more evident that we should not have given the President carte blanche to enter into this so-called free trade agreement. Fast track is the wrong track. Unfortunately, having agreed to give the President trade negotiating authority we left for ourselves little opportunity to review and no opportunity to amend the agreement entered into by President Bush. And we left United States agriculture in particular with little recourse against unfair trade practices not addressed in the negotiations.

The Wall Street Journal recently reported that a Mexican investor group has agreed to purchase PPI Del Monte Fresh Produce from financially troubled Polly Peck International. Ironically, the story appeared on the same day next to an article describing President Bush's expected announcement of the conclusion of the NAFTA negotiations. What do the two have in common? Apparently more than may have first met the eye.

Since publication of that initial story, it has become apparent that the Mexican development bank sees an opportunity to use a well-known United States brandname and the elimination of tariff and nontariff barriers to trade to compete, perhaps unfairly, against U.S. agriculture. I have heard that the Mexican national development bank apparently intends to bankroll this venture. It apparently sought out the Mexican investor group that made the bid for this troubled company with no assets in Mexico and then agreed to guarantee 100 percent of the debt and all of the equity underlying this proposed venture. Its financial contribution appears to go well beyond being merely a bridge load. I understand the development bank's financial participation was essential because U.S. banks were unwilling to fund this venture.

As a result, we have the Mexican development bank—funded by the World Bank, the Inter-American Development Bank, our own Export-Import Bank, and other institutions—putting up guarantees and its own cash so that a group of Mexican investors could purchase the worldwide assets of Del Monte Fresh Produce. The Mexican development bank apparently sees great potential export marketing opportunities for fruits and vegetables in the United States under NAFTA. What do we see?

Incredibly, the Bush administration may just stand by and watch this happen, as the jobs of U.S. agricultural workers are put at risk. And we in Congress, having given the President carte blanche to negotiate this so-called free-trade agreement, have restricted our ability to ensure that NAFTA is not used to the detriment of our people or our industries.

As I have said before, I think it is very important that we look more closely at the deal President Bush has asked us to approve. Like other of my colleagues on the Ways and Means Committee, I think it is essential that we consider all the ramifications of this agreement. If we are about to permit a Government-sponsored entity to use a well-known U.S. brandname to compete here, I have to wonder what other surprises the passage of time will bring.

I urge the administration to consider seriously the trade policy ramifications of this proposed venture and to take appropriate action to ensure that our agricultural sector is not unfairly hurt. We need to be sure that this agreement really is about free and fair trade.

ACTION NOW HEALTH REFORM BILL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GRADISON. Mr. Speaker, I rise today to introduce a modified version of the Action Now Health Care Reform Act of 1992, H.R. 5325.

Mr. Speaker, H.R. 5325 was introduced by Republican Leader MICHEL and 82 cosponsors in June. This bill was developed by the Republican Leaders Task Force on Health after many months of thoughtful consideration. H.R. 5325 currently has 98 cosponsors, more cosponsors than any other health reform measure introduced in the House of Representatives this year.

After the introduction of H.R. 5325, the task force sought President Bush's support for the proposal. The task force worked with the administration to iron out minor differences between H.R. 5325 and the President's position on health reform. On September 11, 1992, the President relayed his support for a modified version of H.R. 5325 to the House Republican leader.

The bill I introduce today includes the modifications in H.R. 5325 resulting from the discussions between the task force and the administration.

This bill makes a good proposal even better. I strongly recommend as the Congress considers health reform in the next session that this bill serve as a starting point for deliberations.

TRIBUTE TO JIM SPARLING

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. CAMP. Mr. Speaker, it is not often enough that we thank members of our staff for their hard work. But tonight is an exception because in January Jim Sparling will be retiring after 32 years of service to the people of Michigan.

I have known Jim Sparling for many years and worked with him on many occasions. As administrative assistant to my good friend GUY VANDER JAGT, Jim has served Congressman VANDER JAGT, the Michigan delegation, and the people of Michigan as few could.

Jim's hard work and knowledge of Michigan and the issues is simply unmatched. His retirement means the loss of decades of insight and experience gained during the long hours required to succeed on Capitol Hill.

As administrative assistant first to Jim Harvey for 13 years, and then to GUY VANDER JAGT since 1975, Jim has served Michigan on both sides of the district I now represent. Both Jim Harvey and GUY came to depend on Jim's expertise.

Despite his tremendous responsibility, Jim's willingness to help others and generosity with his time is extraordinary. When I worked as an administrative assistant to a former Member of Congress, I knew I could count on Jim to answer a question, give dependable advice, and provide valuable insights during difficult times. Later, after winning election to the House in 1990, I knew that I could count on him in the same way.

Jim's retirement after 32 years of serving our country in Congress and in the Nixon and Ford administrations, is well-deserved and much earned.

IN RECOGNITION OF NAOMI T. GRAY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. PELOSI. Mr. Speaker, I rise today to recognize a woman who has made a significant contribution both to the health and welfare of African American communities of San Francisco. Naomi Gray has served with distinction in her two terms as a member of the San Francisco Health Commission, displaying a great commitment to increasing access to quality health care for the disadvantaged in the community.

Naomi gained experience in the field of health as both vice president of field services at the national Planned Parenthood office and director of field services at seven regional Planned Parenthood offices throughout the country.

A member of the first San Francisco Health Commission, established by the voters in 1985, Naomi served as vice president of the commission for 2 years. During the course of her two terms, she served as chair of the commission's budget committee, the Joint Conference Committee for Community Public Health, and the Joint Conference Committee for Mental Health, as well as joint conference committees for San Francisco General Hospital and Laguna Honda Hospital.

Among her many accomplishments during her tenure on the Board, Naomi worked to develop a stronger affirmative action program within the Department of Health. She helped to establish affirmative action contract policies with profit and nonprofit contractors in order to increase the number of ethnic and racial minorities on staff and on policymaking boards.

She has long been a champion for AIDS awareness in the African American community, as a founder of the Black Coalition on AIDS and the African American AIDS Leadership Group. Naomi is also the author of a recent publication entitled "AIDS and the African American Community in San Francisco: New Realities—New Directions."

A former president of the San Francisco Black Leadership Forum, Naomi has been consistently active in San Francisco's African American community. She was a cofounder of the African American Education Leadership Group, and serves as a member of the city's African American child task force.

Upon her retirement from the Commission, Naomi continues to work for the good of the community, devoting much of her time to the needs and care of African American foster children.

On Thursday, October 8, in San Francisco, Naomi Gray will be recognized for her years of service on the Health Commission, as well as her many years of service to San Francisco's African American community. I wish her the best and commend her for making a difference in our city.

SECURITY ISSUES SIGHTED

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GINGRICH. Mr. Speaker, I hope all my colleagues read the following editorial that appeared today in the Washington Times by Arnold Beichman titled "Security Issues Sighted."

> [From the Washington Times, Oct. 5, 1992]
>
> SECURITY ISSUES SIGHTED?
>
> (By Arnold Beichman)
>
> Amidst the normal opportunistic presidential campaign jockeying, important issues of national security not only get overlooked, deliberately or negligently, their existence is not even hinted at. One of the meaningful war-and-peace issues that is not being debated or discussed is the failure of intelligence—CIA as well as foreign intelligence agencies—to predict:
>
> (1) The August 1991 coup in the once Soviet Union and the failure of the plotters to anticipate their defeat at the hands of Boris Yeltsin.
>
> (2) The end of communism in Eastern Europe, particularly in Czechoslovakia and Poland.
>
> (3) The uprising in communist China.
>
> (4) The invasion of Kuwait by Iraq.
>
> These failures of intelligence have been discussed as individual phenomena but not as a collective disaster. What can account for such intelligence fiascoes between 1989 and 1991 and what other such fiascoes are imminent?
>
> Brent Scowcroft, the president's national security adviser, admitted on Aug. 20, 1991, that had the CIA known of the coup, "we would have warned President Gorbachev." The United States was not the only country caught by surprise. Britain, Japan, Germany, France and Switzerland, all countries that had longtime Soviet-watching briefs, failed as well to anticipate the coup.
>
> As for the revolutions in Eastern Europe, Le Monde reported last year that French President Francois Mitterand went to East Berlin in December 1989, almost a month after the fall of the Berlin Wall, at the invitation of Erich Honecker, even after Mr. Honecker had been forced out of office. Mr. Mitterrand conferred with Mr. Honecker's Stalinist successors a few weeks before they lost power. Would a well-informed intelligence agency have allowed the head of state to grant a legitimacy to East German tyrants on the eve of their expulsion?
>
> The Soviets themselves didn't anticipate the explosive sequence of events in Eastern Europe. Eduard Shevardnadze, former Soviet foreign minister, told a German newspaper on May 8, 1991, that "there was a certain element of surprise. We knew that the changes in Eastern Europe were unavoidable. . . . However, it was difficult to foresee dates, the order in which things would take place and the consequences."

The KGB in Czechoslovakia thought it was being clever by trying to install a reformed Czech government, hoping thereby to weaken the anti-communist forces and keep Czechoslovakia in the Soviet bloc. Instead, the KGB set off the November 1989 "velvet revolution" that ousted communists from power.

As for Poland, KGB Major-Gen. Vasily Galkin, told a Cracow newspaper Aug. 26, 1990: "[N]one of us, including myself, who were here and observed the turn that history took, could have expected events to take the course that they did. I sometimes think that even God could not have foreseen what happened."

The Tiananmen Square uprising was unpredicted by Western intelligence services. Despite the presence in China of more than 10,000 American students and faculty, U.S. intelligence failed to predict the student-sponsored rebellion.

Probably the most important Western intelligence failure was Iraq's invasion of Kuwait. With exemplary candor, Gen. John Galvin, NATO'S then commander-in-chief, told the German magazine, Der Spiegel, "The decisive thing is that we simply did not consider the [Iraqi] attack possible." Pierre Joxe, the French defense minister, recognized French intelligence failure in the Gulf as due to "inadequate interpretation of available information."

Komsomolskaya Pravda on Feb. 16, 1991, quoted a Russian diplomat as saying that neither the United States nor the then-Soviet Union took seriously a report on the very day of the invasion that Iraq had invaded Kuwait because "We did not expect such effrontery from Saddam Hussein."

The Iraqi incursion also caught Israeli intelligence by surprise. Lt. Gen. Dan Shomron, Israeli Defense Forces chief of staff at the time, conceded that he had only learned of the aggression a few hours after it had begun. Then Israeli Defense Minister Moshe Arens told a Knesset committee at the end of the war that something would have to be done about the Israeli intelligence shortcomings.

When one examines these intelligence fiascoes, all in a matter of a couple of years, and when one considers that the rulers of Iran, North Korea, Syria and Iraq are seeking nuclear weapons that communist China already possesses, there must be some better way for peace-loving countries to protect themselves against the new marauders who await their day.

Electronic intelligence, which can read automobile license plates from 200 miles above the Earth's surface, couldn't read the mind of Saddam Hussein. Apparently, there were no sufficient human intelligence resources that knew more than conjectures.

Well, just for starters: What don't we know—now—about the bellicopolitical intentions of Hashemi Rafsanjani of Iran, Kim Il-sung of North Korea, Hafez Assad of Syria and of Saddam Hussein?

What is needed is a grand inquest to examine the record of failure of intelligence among the democratic powers vis-a-vis their sworn enemies in Asia and the Middle East. Surely, this is a suitable subject for debate and discussion by the men who seek the presidency.

CONGRESS AND NOISE POLLUTION

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SCHULZE. Mr. Speaker, Noise Cancellation Technologies, Inc. of Linthicum, MD [NCT], is a small, 100-plus employee company, traded on NASDAQ, that has established itself as the world leader in the new field of active noise cancellation. NCT started as a research company, expanded to include application engineering and has now grown to begin production of noise cancellation products. Even in these difficult economic times, NCT's fast growing facility in Linthicum has grown from 50 to 120 employees in the past year.

NCT's endeavors in canceling unwanted noise through the application of active counter noise include: quieting kitchen appliances; headsets for military and commercial application that selectively eliminate noise while permitting reception of wanted sound; enclosures to quiet pumps and compressors; quiet mufflers for automobiles and trucks; quieting of industrial motors and equipment; elimination of in-wire noise signals in communications equipment; ridding the Magnetic Resonance Imaging [MRI] machine of its patient terrifying hum; and, making vehicular and aircraft cabins quieter. NCT is actively discussing future product development with the Department of Defense and OSHA.

NCT's joint venture with Walker Muffler of Michigan promises a quiet muffler that may be available on some automobiles hopefully by the 1994 model year. This technology is already in use on MRI equipment, diesel engines, and grain handling equipment. NCT's agreements and joint ventures with Beechcraft, Detroit Diesel, Cooper, Boet, Bosch-Siemens, Foster Corp., Electrolux, Phillips AG, and Analog Devices, among others, have fostered many new products. NCT was one of INC magazines' fastest growing companies in 1991. Future U.S. employment in spin off industries using the technology is virtually unlimited.

Congress, recognizing that NCT's new muffler has the added benefit of increasing the gas mileage of vehicles from 3 to 7 percent, will mandate in this session's energy legislation a Department of Energy study of applications of the new technology as it relates to legitimate Government concerns, such as worker safety in harsh noise environments and increased gas mileage in vehicles.

NCT controls the basic core technology to active noise cancellation through its trade secrets, proprietary computer codes, and, most importantly, its patents. NCT owns dozens of patents, has patents and patent applications pending worldwide and co-owns the 10 seminal patents, known as the Chaplin patents, through a joint royalty sharing company. NCT has full rights to use and develop the Chaplin patents. There are two small privately held American companies who also compete in more narrow fields of active noise cancellation.

This new active noise technology is just crossing the threshold of public awareness and interest. It is truly a newly emerging core technology which is owned and controlled by Americans. At this juncture, this American technology promises to provide unlimited opportunities for American jobs and American profits. NCT's ability to preserve and apply this technology may determine the future competitiveness of U.S. companies across a broad spectrum of industries.

What are we doing to ensure that companies like NCT have a fair chance at placing U.S. companies at the forefront of this technological revolution? The answer is not enough.

Japanese companies are actively engaged in developing products to market in the United States using this active noise cancellation technology. Even though patent protection has been granted in every other foreign country in which application has been made, Japanese patent protection for the technology is either pending or has been denied in Japan. While NCT has been informed that Nissan acquired infringing technology, it is powerless to stop Nissan from infringing in Japan while the patent applications remain pending and denial of a core patent is under appeal. Like other American companies unable to prevent infringement at its source, NCT faces an onslaught in the United States market from Japan.

Nissan Motors has announced that it will introduce a version of its Japanese Bluebird, called the Altima, into the United States in the fall of 1992 with an active noise cancellation system in the car's cabin. This has been reported in Road & Track and in articles copyrighted by Nissan Technology Newsline. While Nissan's technology likely infringes three of the Chaplin patents, it is of little solace to NCT. Since NCT has no way to stop Nissan in Japan, NCT is faced with pitting its resources to defend itself in the United States against the proverbial 800-pound gorilla. NCT, with limited resources, is faced with having to enter into expensive patent and section 337 litigation, perhaps in parallel suits, perhaps on multiple products. The cost of patent suits against Nissan's deep pocket can easily bankrupt NCT.

This situation faced by NCT is all too familiar. The adverse consequences NCT is facing are a result of a problem I attempted to address in my amendment to the special 301 provisions of U.S. trade law, section 182 of the Trade Act of 1974, as amended. This amendment, which was adopted when we considered H.R. 5100—the Trade Expansion Act of 1992—in the Ways and Means Committee earlier this year, would have added the prepatent-grant abuses increasingly associated with the Japanese Patent System to the provisions of special 301. This provision would have required the U.S. Trade Representative to negotiate with those countries determined to be using their prepatent-grant procedures as a form of a nontariff trade barrier. U.S. exporters have raised this problem in numerous instances. Now we see the threat it brings back to our own shores.

I regret that this provision did not become law. However, I am heartened that my good friend, Senator ROCKEFELLER, the principle Senate sponsor of my amendment, intends to reintroduce this measure in the next Congress. I hope it will become law expeditiously.

More importantly, I hope that it will not come too late for Noise Cancellation Technologies and scores of other small- and medium-sized businesses facing similar abuse. Our failure to protect companies like NCT from this gross inequity will rob our children and grandchildren of the industries and jobs that are their rightful heritage of today's U.S. technological leadership.

THE OXBOW NATIONAL WILDLIFE REFUGE EXPANSION ACT

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ATKINS. Mr. Speaker, 18 months ago the Nashoba Valley of Massachusetts was stunned to learn that the heart of the area's economy, Fort Devens, would be closing. Since that decision by the Defense Base Closure and Realignment Commission, the surrounding communities have been engaged in planning for the re-use of this base. One issue that has been in question is the fate of the Fort's riverfront, wetlands, wildlife habitat, and forests. Therefore, I am pleased to introduce legislation today that represents a consensus on how to protect these significant natural resources. Moreover, in resolving the issue of protection of these resources, the communities will be freed up to aggressively pursue an economic development strategy to create jobs for the region.

Fort Devens is made up of some 10,000 acres of largely open space in the heart of the Nashoba Valley. The Army has long maintained the South Post area in an undeveloped state for training purposes. For the last several decades, the Army has managed training activities and has worked cooperatively with outside interests to minimize its impact on sensitive habitat and wetland areas. For instance, the Army has been an active partner in river greenway planning and during the 1970's, it transferred surplus property to the Fish and Wildlife Service to create the original Oxbow National Wildlife Refuge. As a result, the natural resources both on and adjacent to Fort Devens have been well maintained and preserved. The legislation being introduced today would ensure that the most sensitive 4,830 acres lying south of Route 2 will be preserved into the future.

Ten miles of the Nashua River pass through this military reservation. Until a few years ago, the Nashua River was one of the 10 most polluted rivers in the United States, classified as "U"—unsuitable for any use—and the riverfront was virtually worthless. The water used to run different colors—orange, blue, and black—depending on the pollutants being discharged during the day. The citizens of Nashoba Valley, led by environmental pioneers like Marion Stoddart, began a movement to restore the Nashua River watershed. Their efforts have been so successful: today, canoeists paddle in clear water; fish have returned in great numbers; and otters and blue herons have been spotted along the banks. The Department of Defense has been a major partner in the Greenway project along the Nashua, which will be continued and enhanced under this legislation by adding both sides of the riverbank to the Oxbow NWR.

Fort Devens is also home to many wildlife species and important wetlands. The U.S. Fish and Wildlife Service, in a February 1992, report to Congress, found that the diversity of habitats at Fort Devens made the preservation of this area a priority. The extensive wetlands along the Nashua River floodplain have been identified by the North American Waterfowl Management Plan, the Emergency Wetlands Resources Act, and the U.S. Environmental Protection Agency as environmentally important. Many species of waterfowl, wading birds, raptors, shorebirds, passerines, reptiles, and amphibians as well as State- and Federally-listed endangered species depend on this area. For instance, peregrines have been banded and bald eagles have been observed here. Under this legislation, these wetlands and habitats would be preserved intact.

Mr. Speaker, the Oxbow National Wildlife Refuge Expansion Act would transfer the South Post area of Fort Devens to the U.S. Fish and Wildlife Service for inclusion in the existing Oxbow National Wildlife Refuge. Specifically, under this legislation, the Army and the Fish and Wildlife Service would immediately enter into a Cooperative Agreement to manage the South Post of Fort Devens for fish and wildlife purposes. Once the Army determines that the South Post is no longer needed for national defense and the Army has removed and cleaned up any remaining hazardous materials, the property would be transferred to the Fish and Wildlife Service to become part of the Oxbow National Wildlife Refuge. In addition, a small area would be provided to the Town of Lancaster to meet some of its development needs.

This legislation is important to the citizens of the Fifth Congressional District of Massachusetts. Indeed, I have received letters from over 150 residents of the surrounding towns and from several town officials requesting that I introduce this bill. This legislation represents a consensus for the local communities about how this portion of the base should be used, and by introducing it today, I hope that it might be enacted quicker next year. The most important part is, however, that by reaching consensus on this particular issue, the communities will be freed up to plan for the economic development that will bring new jobs to the District. Together, economic development and conservation constitute sustainable re-use of Fort Devens. I am glad to contribute this piece of legislation to the planning process and I hope my colleagues here in the House will help to enact it next year.

INTRODUCING THE ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA ACT

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. REED. Mr. Speaker, I am introducing this bill, the Elementary and Secondary School Library Media Act, at the end of the 102d Congress as a stepping stone to the reauthorization of the Elementary and Secondary Education Act. I hope Congress will act in the ESEA to strengthen school library services and I would welcome discussion, comments, and evaluation of this initial proposal.

All of us in Congress are aware of the rapid change in our world. We depend on a vast multitude of information sources to keep us current so that we can make informed decisions. Imagine school libraries across the country after the demise of the Soviet Union. All of the globes, atlases, encyclopedias, and history books are out of date.

Replacing one hardback volume at the average price quoted by Publisher's Weekly costs $31.86. Juvenile books, like picture books or readers, average $16.64. Unfortunately, the median per pupil expenditure for books in 1989–90 was $5.48. The average elementary school library can purchase a little over one-half book per child.

To make matters worse, according to the American Association of School Libraries, the average copyright date of a book in school libraries nationwide is 1965. Not only does this predate the break-up of the Soviet Union, this is before we landed a manned spacecraft on the moon.

Elementary and secondary school libraries throughout the country are dependent on collections purchased in the mid-1960's under the original Elementary and Secondary Education Act's dedicated funding. The ESEA no longer includes targeted funds for library materials and as a result, school library collections are deteriorating from use, informationally inadequate, and just plain obsolete.

The purpose of this legislation is to provide continued funding for elementary and school library media program improvement, innovation, and technological advancement. Good libraries help students develop important research and analytical skills. More simply, they help students develop a love of learning and reading.

According to a study done this summer by the Colorado Department of Education, test scores rise and fall with the fortunes of library programs. We have heard much this year about the state of education and about how far our students lag behind in international educational comparisons. I recently received a letter from a Rhode Island teacher who told me that because of overcrowding in his school, the library was closed and converted into a classroom. Many schools do not have libraries at all. The concepts included in this bill could provide a much needed and critical infusion of resources where it can really make a difference, by helping to make our school libraries world class.

HAPPY BIRTHDAY "RED" AUERBACH

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KENNEDY. Mr. Speaker, I rise today to honor Red Auerbach, a distinguished American who recently celebrated his 75th birthday.

Red Auerbach, born in Brooklyn, NY, on September 20, 1917, is a prolific author, a family man, a humanitarian and a living legend in Boston sports history and sports history around the world. Among his many honors, Red has been named "greatest coach in the history of the NBA." In fact, the NBA Coach of the Year Trophy now bears his name.

Red attended school in New York as well as here in the Nation's Capital, attending George Washington University where he was GW basketball's leading scorer and defensive specialist.

Red has committed his life to providing Boston sports fans and sports fans everywhere with "Celtics Pride"—pride in what is best in all of us.

When I speak of Celtics pride, I speak of the many contributions that Red Auerbach has consistently made during his 42 years with the Boston Celtics basketball organization as coach, as general manager and now as president, providing 16 National Basketball Association [NBA] championships to Boston, all driven by the passion of Red Auerbach.

For all the individual Celtics players who have contributed to the organization over the years, many have contributed to what has been called "the Celtics mystique." But the Celtics organization has had something else going for it besides the mystique and good fortune and the funny congenial bounces on the parquet floor. That something has been the brains and skill and high octane professionalism of Red Auerbach.

Red Auerbach, above all others, has been and still is the ultimate driving force behind Celtics pride.

Red Auerbach recently said, "No one ever moves ahead by looking behind. You never should take defeat easily, or deal with it well. It makes it too easy to look for alibis in the future."

For Red Auerbach, his legacy is now and always will be: to compete and to win.

Red Auerbach, when asked how he would like to be remembered, has said, "I want to be remembered essentially as a guy who treated people as people. Someone who launched a family concept amongst his players and staff. I have a great life and have made many friends. I hope people know that."

People do, Red.

Mr. Speaker. I know that sports fans across the Nation will join me in thanking Red for the years of excellent basketball and in wishing Red happy birthday and together with Dorothy wish them many, many more.

Happy Birthday Red.

MAKING INDIAN GAMING CONSISTENT WITH STATE LAW

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HOAGLAND. Mr. Speaker, today I am introducing a bill to address what is becoming a growing problem in many States—how to keep gambling sponsored by Indian tribes within the legal parameters of State gambling laws.

In 1988, Congress passed, and the President signed into law, the Indian Gaming Regulatory Act (IGRA) (P.L. 100–497). The law established a system for regulating gaming on Indian lands and attempted to balance the interests of the tribes, the Federal Government and the States. As required, the President then set up the National Indian Gaming Commission, which, commendably, has issued several sets of regulations implementing the law.

In 1988, Indian-sponsored bingo operated in 24 States. Today, many forms of Indian-sponsored gambling is conducted in 25 States. The Interior Department, which under the law must approve tribal-State compacts for high stakes gambling, known as Class III, has authorized 55 tribal-State compacts in 12 States.

Since enactment, there has literally been an explosion of Indian-sponsored gambling—and an explosion of lawsuits. At least five suits have been brought and completed. At least 15 States now are in litigation, according to the Western Attorneys General Association. The law has proven to be ambiguous and replete with holes that have been exploited all too often. In some cases, the law has been used to foist unwelcomed gambling on States, forms of gambling that States do not even authorize for non-Indians. Thus, we are faced with a law laced with loopholes and subject to many interpretations that has brought about an unprecedented clash of tribal interests with State interests.

The bill I introduce attempts to address these problems. While it may not be a perfect bill, I hope that it will encourage discussion and comment that I can use to refine it and reintroduce it in the 103d Congress.

PROBLEM 1: GOING BEYOND STATE AUTHORIZED GAMING

In our legal system, control of gambling has traditionally been vested with the States. Only two States allow full-scale, high-stakes casino gambling; Nevada and New Jersey.

Under the IGRA, Class II gaming is gaming like bingo and pull tabs; it is regulated by the tribes and the National Indian Gaming Commission. A tribe may engage in Class II gaming if the State permits "such gaming." Class III gaming consists of casino-type games like slot machines and parimutuel betting, generally, high-stakes gambling. To conduct Class III gaming, tribes must adopt an ordinance and then negotiate a tribal-State compact which then must be approved by the Secretary of Interior. Congress created the compact process to recognize that States have a legitimate interest—such as taxation and law enforcement—in Indian-sponsored gaming enterprises.

Tribes have argued that if a State allows any form of Class III gaming like Iowa's authorization of limited-stakes riverboat gambling, tribes should be allowed to conduct all forms of gaming, like high-stakes casinos. In Wisconsin, for example, a State that allows only on-track parimutuel wagering and a lottery, the U.S. District Court for the Western District of Wisconsin held, in effect, that unless a particular type of gambling is expressly prohibited, it is permitted in the State. I believe this decision greatly stretches the law and Congress's intent. As a result, high-stakes casinos have been set up in some areas where not explicitly authorized by State legislatures.

The bill addresses this problem by adding into the law the current general provision requiring Indian-sponsored gaming activities to parallel State laws, that aspects of gaming, like methods of play, periods of operation, limitation on wagers, pot sizes and losses, can also not exceed what a State authorizes.

PROBLEM 2: CHARITABLE GAMING A BASIS FOR FULL-SCALE, FOR-PROFIT GAMING?

The second problem is that tribes have sought and courts have sanctioned full-scale gambling in States that under their own laws authorize only charitable gaming, like church and other nonprofit "Las Vegas nights." One case in point is Connecticut. The Connecticut legislature has consistently refused to legalize casinos in the State, but Connecticut permits charitable casino nights. After a court battle, Connecticut has been forced to allow a full-blown, $58 million, commercial casino in Ledyard—sponsored by the Mashantucket Pequot Tribe, but financed by Malaysian casino company—even though the operation of a commercial casino by a non-Indian would violate the State's criminal laws. Because Connecticut allows Las Vegas Nights by charitable organizations, the court found charitable gaming sufficiently similar to commercial casino gambling and therefore subject to a compact. Seven States filed a brief in support of Connecticut.

My bill addresses the charity-gaming problem by making clear that the provision of the law authorizing Class II and Class III gaming in States that permit such gaming applies only in States that authorize gaming as part of a commercial, for-profit business enterprise. In other words, Indian-sponsored gaming could only be conducted where commercial, for-profit gaming is conducted and only to the extent authorized by State law for non-Indian gaming sponsors.

PROBLEM 3: REPRESENTING CLASS III AS CLASS II

As Indian-run casinos have proliferated across the country, so have the forms of gambling in those casinos. Creative gambling promoters have created new video and electronic gambling devices, not contemplated when the law was enacted in 1988. We now have video poker, video bingo and video pull tabs. I have been told that there is a game called Bingojack, a casino table game that is described as bingo, but is actually the traditional casino game of Twenty-One. The California Deputy Attorney General testified in January before the House Interior Committee, on which I serve, that gambling devices are prohibited in the State, yet a number of California tribes have installed slot machine devices in their bingo facilities, arguing that these machines are merely technological aids to permitted Class II games. . . .

I believe Congress intended that electronic and electromechanical facsimiles of games of chance or slot machines of any kind are to be Class III gaming devices and thus subject to tribal-state compacts. The Indian Gaming Regulatory Commission has published regulations on this issue and Congress should certainly look to those regulations for guidance.

My bill attempts to clarify that electronic games are Class III and thus subject to a tribal-state compact. No law can delineate and address every possible form of technology and I am confident that my bill is not the final answer, but I hope it will send a signal to gambling promoters that high-stakes games cannot be electronically disguised as the more innocuous Class II games like bingo and thereby circumvent the required compact with the States.

PROBLEM 4: WHAT IS "GOOD FAITH"?

Under the law, a tribe may sue a State to compel negotiations within 180 days after a tribe's request to enter into negotiations. If a court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a Tribal-State compact governing the conduct of gaming activities, the court shall order the State and the Indian Tribe to conclude such a compact within a 60-day period.

The law then sets forth factors which the court may take into account to determine whether a State has negotiated in good faith. My bill would add to the law that a court cannot consider as bad faith a demand by the State that the gaming activities requested in the compact be conducted on the same basis as gaming activities conducted in the State by non-Indians.

This provision is intended to address what is known as the Wisconsin problem. Wisconsin law allows a lottery and parimutuel racing. The Attorney General of Wisconsin advised his governor that since Class III games sought by the Lac du Flambeau Chippewa tribe were prohibited in the State, they were not subject to negotiation. Based on this opinion, the State refused to negotiate on the Class III gambling sought. The U.S. District Court for the Western District of Wisconsin held that unless a particular type of gambling is expressly prohibited, it is permitted in Wisconsin and must be negotiated. The court ordered the State to negotiate a compact allowing other forms of gambling, including high-stakes casino gambling.

I do not believe Congress intended to force States to ignore their public policy responsibilities in the compact process. I believe the intent was to encourage a true negotiation and reconciliation of genuine conflicts. I do not think States should be subject to a good faith lawsuit for merely trying to keep Indian gaming activities within the same legal boundaries their citizens have set by their State laws.

PROBLEM 5: STATE VOICE ON THE INDIAN GAMING REGULATORY COMMISSION

The 1988 law set up the National Indian Gaming Commission to approve tribal ordinances regulating class II and class III gaming and to approve management contracts for class II and class III gaming. The Commission also has the authority to levy civil fines for violations and to issue orders of temporary closure of gaming activities that violate the law. The Commission is composed of a chairman appointed by the President, with Senate confirmation, and two associate members appointed by the Secretary of the Interior. At least two members must be members of a tribe.

My bill would add two more associate members to represent the States. While I am not certain what the exact numbers of various types of members should be, I do believe that States, because their communities are impacted by Indian-sponsored gaming, should be represented on the Commission.

PROBLEM 6: COMMUNITIES NEAR STATE BOARDERS

Under the law, when tribes apply to the Secretary of the Interior to take land not contiguous to reservations into trust for gaming, the Secretary must consult with the applying tribe, the appropriate State, local officials, and officials of other nearby Indian tribes. The Secretary must determine that a gaming facility would be in the best interest of the Indian tribe and its members and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination.

My bill addresses a problem that has arisen in my home district of eastern Nebraska and makes clear that the term surrounding community includes nearby communities including communities across State borders that would be seriously affected by gaming conducted on such lands. This responds to an application by Harvey's Casino of Lake Tahoe, NV, and two tribes—the first denied, the second pending—to take land into trust across the river from Omaha in Council Bluffs, IA, for building a $67 million casino-convention complex. In this case, Omaha, just a few miles away, which would supply most of the customers, will suffer more than our share of social problems and attendant costs, will have virtually no ability to protect our citizens and will not share in any of the profits. Despite this, with the term, surrounding community, undefined, it is questionable whether under IGRA, the local community of Omaha, or the State of Nebraska will have any voice in the approval of this application. My bill would make it clear that the Secretary must take a bordering States views into account.

Clearly, Congress should look at the larger issue of whether a tribe should be allowed to shop around for real estate and apply to the Federal Government to place the land in trust, thus creating an extension of the reservation and an enclave virtually free of State regulation. The IGRA generally prohibits taking land into trust for gaming after October 17, 1988. Although, the law makes exceptions, it clearly sets a higher standard for allowing gaming on these new Indian lands. My bill is a small step toward addressing what is really a much larger problem, that of gambling promoters and tribes shopping around to take advantage of State laws and putting together creative real estate gambling deals far from the reservation and free from State control. I hope my bill will spark a serious examination of this issue.

CONCLUSION

The bill I introduce today addresses some of the problems of the Indian Gaming Regulatory Act. There are others. My major concern is that gambling promoters, in some cases non-Indian promoters, are able to force unwanted gambling enterprises onto communities, and the States are left powerless to stop them.

I do not argue that many Indian tribes sorely need economic development projects, and I will want to do all I can to help tribes alleviate unemployment and other problems. I do not think that the Indian Gaming Regulatory Act, with all its deficiencies, is the answer to the social and employment problems of native Americans. Furthermore, given the trend the last 4 years and the problems created, tribes may lose more than they have gained as more and more communities rebel against this gambling avalanche that their laws do not sanction.

TRIBUTE TO RALPH E. THOMAS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TRAFICANT. Mr. Speaker, I proudly rise to pay tribute to Ralph E. Thomas, the heart and soul of the Laborers International Union of North America for the past 50 years.

Mr. Thomas was hired into the union after 30 months of duty in World War II. He served as an assistant trustee over local No. 125 and has since held numerous posts in the organization, including assistant business agent, recording secretary and, in 1963, president.

Mr. Thomas was a qualified leader of the union, holding a variety of positions in the construction industry throughout his career. He worked his way to the positions of foreman and general foreman in a variety of construction companies, including A.E. Anderson, J.D. Fowler, and International Chimney. His duties involved the oversight of all components used in the processing of making steel.

Mr. Thomas blazed the trail for union men in his area. He was the first laborer to serve as vice president of the Mahoning County Building Trades Council. He was also an originator and trustee of the local No. 125 pension plan.

Mr. Thomas' vision and organization has also been noteworthy. In 1967 he successfully completed all phases of programming for the Manpower Development and Training Act. The act affected a four-State area that included my own, Ohio. He furthered his efforts in my State by establishing the labor training and upgrading programs for construction workers.

Mr. Speaker, it does not surprise me that Mr. Thomas was honored as "Young Man of the Year" and "Man of the Year" by the Warren Chamber of Commerce, nor does it surprise me that his alma matter, Ohio State, has bestowed upon him the "Alumni Citizenship Award." Mr. Thomas is a man of character and integrity. I am proud of my fellow Ohioan.

Best of luck to you, Mr. Thomas, and congratulations on your 50 years of membership.

JEWISH NURSING HOME OF WESTERN MASSACHUSETTS 80 YEARS OF COMMUNITY SERVICE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I wish to share with you the story of the Jewish Nursing Home of Western Massachusetts as it celebrates 80 years of community service.

Eighty years ago, a group of 18 women and one man joined together in an effort to raise funds that would provide food for the elderly throughout the Jewish community in Springfield. A door-to-door solicitation campaign was launched by the Daughters of Zion who went forth in groups of two, one speaking English and the other Yiddish to overcome any language barrier. Raffle tickets were sold for 10 cents apiece, and as soon as the necessary funds were raised, a home was established at 67 Massasoit Street in Springfield. In 1938, the home was founded for the care of aged citizens of the Greater Springfield Jewish community. When it moved to Copley Terrace in order to provide additional spaces for its residents, it became the Springfield Jewish Home for the Aged. As the home grew and services to the elderly expanded, the women's auxiliary, later to become the women's division, continued with its support, volunteer services, and fundraising.

In 1972, the move to the new facility at 770 Converse Street in Longmeadow was once again supported by women's auxiliary fundraisers and annual donor dinner proceeds. In recent years, the donor dinner has raised in excess of $30,000 which is presented to the home for such purchases as medical equipment, computers, and electric beds.

The women's division of today's Jewish Geriatric Services, following the tradition of the Daughters of Zion, has continued to enrich the lives of our elderly. Through their fundraisers and spiritual guidance, they add comfort and dignity to all those in need of security.

Mr. Speaker, please join me in celebrating the 80 years of the Jewish Home of Western Massachusetts. May they continue their tradition of helping those in need.

THE NATIVE AMERICAN TRUST FUND ACCOUNTING AND MANAGEMENT REFORM ACT OF 1993

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SYNAR. Mr. Speaker, I rise today to introduce the Native American Trust Fund Accounting and Management Reform Act of 1993, legislation to require the Secretary of the Interior to invest and pay interest on individual Indian money [IIM] funds held in trust by the Federal Government; to authorize demonstrations of new approaches for the management of Indian trust funds; to authorize demonstration programs to promote the development of energy resources on Indian lands; to clarify the trust responsibility of the United States with respect to Indians; and, to establish a program for the training and recruitment of Indians in the management of trust funds. Its enactment is necessary to reform the management of the Indian trust fund and to give the 300,000 native Americans for whom the Bureau of Indian Affairs holds money in trust a greater say in the management of their affairs.

The system of trusteeship and Federal management of Indian funds is deeply rooted in Indian-United States history. Treaties are the first and probably most important means by which trust funds were held by the United States for the benefit of individuals or tribes. While the earliest treaties did not provide that the United States retain funds in trust for the tribes, in 1820 the Federal Government adopted the policy of holding tribal funds in trust.

Later, the role of trustee was delegated to the Secretary of the Interior. Since 1918, the Interior Department's Bureau of Indian Affairs [BIA] has had the legal authority to invest Indian trust funds. In 1938, the Bureau decided that all individual Indian money [IIM] funds would be invested and managed by its agency offices to do so. Since 1966, the BIA's Branch of Investment has pooled all IIM accounts for investment purposes. The Bureau allocates interest earned on the investment pool to individual accounts.

Mr. Speaker, in April of this year, the Committee on Government Operations adopted a report, based on a 3-year investigation by the Subcommittee of the Bureau of Indian Affairs' [BIA] management of the $2 billion Indian trust fund. That report, House Report 102–499, demonstrated that the BIA's indifferent supervision and control of the Indian trust funds has consistently resulted in a failure to exercise its responsibility and failed all reasonable expectations of the tribal and individual account holders, Congress, and taxpayers.

The Indian trust fund is more than balance sheets and accounting procedures. These monies are crucial to the daily operations of native American tribes and a source of income to tens of thousands of native Americans. Sadly, however, the Bureau of Indian Affairs [BIA] has failed to fulfill its fiduciary duties to the beneficiaries of the Indian trust fund. The Committee on Government Affairs' report—approved unanimously by my subcommittee and the full committee—outlined these and other problems and made recommendations to improve the management of the Indian trust fund and thereby improve the protection of the account holders.

The Bureau's management of the Indian trust fund has been grossly inadequate in numerous important respects. The Bureau has failed to accurately account for trust fund monies. Indeed, it cannot even provide account holders with meaningful periodic statements on their account balances. It does not consistently and prudently invest trust funds and pay interest to account holders. It does not have consistent written policies or procedures that cover all of its trust fund accounting practices. Under the management of the Bureau of Indian Affairs, the Indian trust fund is equivalent to a bank that doesn't know how much money it has.

Financial management problems in the Bureau of Indian Affairs' management of the trust fund have been neglected for decades. There is a continuing crisis in the BIA's management of the trust fund that can only be cured by radical changes in leadership, organization, accountability, and communication by the Bureau of Indian Affairs and the Department of the Interior.

The real losers in the mismanagement of the Indian trust fund are the tribes and the individual Indian account holders. These account holders are being victimized by the Federal Government. Yet they have had no recourse except to the very agency that is responsible for their predicament.

The legislation I introduce today, the Native American Trust Fund Accounting and Management Reform Act of 1993, was designed to correct these deficiencies. It was prepared with the advice and counsel of many native Americans and tribal officials. It does not contain all the answers for correcting the manifest difficulties presented by the current mismanagement of the Indian trust fund. For example, it does not establish a procedure for directing the settlements for account holders caused by past mismanagement by the BIA, because the dimensions of such losses and any settlement will not be known until many of the known accounting problems are corrected. However, the Native American Trust Fund Accounting and Management Reform Act of 1993 does provide a good starting point for discussion and dialog.

Here is what the Native American Trust Fund Accounting and Management Reform Act of 1993 will do:

Title I amends 25 U.S.C. 162a with the same language as contained in the Native American Trust Fund Equity Act of 1991, H.R. 1756, which I introduced on April 10, 1991. That measure would require the Secretary of the Interior to invest in a productive manner and to pay interest to account holders. It will hold the Secretary accountable for any failure to invest prudently funds held in trust for individual native Americans. Moreover, it will authorize the Secretary of the Interior to pay lost interest resulting from past BIA failures to properly manage IIM investments.

This legislation reinforces our moral and ethical obligations to individual Indian moneys account holders. By its enactment, Congress will create the authority for the Secretary of the Interior to honor our fiduciary responsibilities to native Americans; however, any expenditures under such authority will be subject to the annual appropriations process.

Title II authorizes demonstration programs that will give Indian tribal governments greater control over the management of tribal and individual Indian funds held in trust by the United States; involve tribal governments in instructing the Secretary to invest tribal and individual Indian trust funds in a manner that will promote economic development in Indian communities; and, otherwise demonstrate how the principles of self-determination can work with respect to trust fund management.

Title II, which applies only to those funds that are now held in trust by the United States, establishes standards for demonstration programs that will allow tribes to initiate new approaches for the management of trust funds over 5-year periods. It authorizes experimentation in a controlled atmosphere that should provide the basis for permanent changes in the trust fund laws after a reasonable trial period.

Title III authorizes demonstration programs to promote the development of energy resources on Indian lands. It is consistent with the provisions related to Indian natural resource development contained in H.R. 776, the National Energy Strategy, which Congress is now adopting.

Title IV tracks the Government Operations Committee recommendations to clarify the trust responsibilities of the United States.

Title V authorizes the Secretary to establish a program to assist Indians to obtain expertise in the management of trust funds.

The scope and severity of the gross mismanagement by the BIA headquarters staff is made worse by the inattentive and indifferent leadership within the Bureau of Indian Affairs and the Department of the Interior. This type of trust fund mismanagement would never be tolerated in other, similar Federal trust activities. That it has taken place in the administration of the Federal Government's sacred trust for native Americans can only be described as a national disgrace.

The trust of the Congress, the taxpayers—and most importantly—the tribes and individual Indian money account holders has been misplaced in the Bureau of Indian Affairs. BIA has failed in the performance of its duties to us all.

Mr. Speaker, clearly, the responsibilities imposed by treaties, statutes, and the courts have established a complex set of responsibilities for the BIA. However, accounting for the daily and annual balances of the trust fund has been a continuing point of controversy and rightful criticism of BIA management. There are hundreds of thousands of native Americans who look to the BIA for the help, understanding, and cooperation. They deserve leadership. They deserve support. They deserve accountability. They deserve a fair shake, honest, and competent administration from their Government. They deserve to have greater control over their own destiny. They deserve the Native American Trust Fund Accounting and Management Reform Act of 1993.

I hope my colleagues will study this measure and then join me in cosponsoring this legislation in the 103d Congress. I look forward to working with the House Interior and Insular Affairs Committee and the Senate Select Committee on Indian Affairs to ensure its rapid enactment when Congress reconvenes.

JOHN T. O'LEARY, A DEDICATED PUBLIC SERVANT

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DWYER of New Jersey. Mr. Speaker, I rise today to pay tribute to John T. O'Leary, who will be honored for 35 years of service to the city of South Amboy on October 16. John served South Amboy as a police officer, the most difficult kind of public service. John also was a volunteer fireman for 35 years, beginning when he joined the Protection Engine Company when he was 20 years old. John also served his country, joining the Navy when he was 16 years old.

The dinner in his honor is only one of the many honors bestowed on John. Throughout his career, John has received many awards and commendations. But the one that I know he especially treasures, is the Blue Badge Award that was presented to him in November 1975 for his efforts in saving the life of a young gunshot victim in South Amboy.

John is a lifetime resident of South Amboy. He loves the city and has shown it by raising his family there and by working there and keeping his neighbors and friends safe. I am sure that John does not view his service as a job but as a labor of love to the city he loves. And that affection is reciprocated and will be shown when John is honored by his friends and family on October 16.

TRIBUTE TO MAYOR POLOS OF HIGHLAND PARK, NJ

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PALLONE. Mr. Speaker, on Thursday, October 15, 1992, the Hon. H. James Polos, Mayor of Highland Park, NJ, will be feted at a Greek Night in his honor. This is a very fitting tribute to a fine man and an outstanding community leader.

Mr. Polos currently serves as mayor of Highland Park, a beautiful and thriving Middlesex County community of some 13,500 residents. Prior to becoming mayor, he served three terms as a borough councilman, dating back to 1983. He has held the posts of captain of the Highland Park first aid squad, secretary of the Highland Park planning board, secretary of the Highland Park democratic municipal committee, and member of the Highland Park board of health. He currently is the borough's volunteer emergency management coordinator, a position he has held since 1985, and holds memberships on the executive board of the Middlesex County Council on physical fitness, the legislative and resolutions committees of the New Jersey League of Municipalities, the New Jersey Conference of Mayors, the governor's council on highway traffic safety, and the steering committee on citizens federal budget campaign committee.

In addition to the above activities, Mayor Polos is the producer and host of a cable TV show, "Pressing Issues," which presents discussion on current topics and airs statewide. He also has had a successful business career in Middlesex County.

Mr. Speaker, Mayor Polos has worked hard to earn the support of his constituents in the Borough of Highland Park. It is a pleasure and privilege for me to pay tribute to Mayor Polos and to share some of his many great accomplishments with the Members of this House.

TRIBUTE TO AMERICAN ASSOCIATION OF RETIRED PERSONS DAY IN MICHIGAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize the first annual American Association of Retired Persons (AARP) Day in Michigan. Today, I join the people of Michigan in celebrating an organization dedicated to enhancing the lives of persons 50 years and older.

AARP, made up of over 33 million members, is the Nation's largest organization of Americans 50 and older. Michigan boasts 1,352,451 members. The organization devotes itself to providing needed services to the senior population. In particular, AARP works to assure access to comprehensive, quality, affordable health and long-term care for all. Additionally, the organization is committed to assisting older persons in finding housing as well as employment opportunities. AARP continually strives to make the lives of older Americans the very best they can be.

I am proud to recognize the persistent efforts of AARP in enhancing the lives of, and providing needed services to, persons 50 years and older.

Mr. Speaker, I know you will join me and the people of Michigan in acknowledgment of the American Association of Retired Persons Day in Michigan. The organization's dedication to those who are over 50 is commendable.

ANNIVERSARY OF LAKEWOOD'S VOTE FOR WOMEN'S SUFFRAGE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. OAKAR. Mr. Speaker, in this tumultuous election year, it is with pride that I rise to draw my colleagues' attention to a unique election which took place 75 years ago in an important city which I represent, Lakewood OH.

As you know, throughout the early history of our Nation, the relationship between women and the electoral process was one of struggle and conflict. It was only 62 years ago that women were given the right to vote in Presidential elections. Mr. Speaker, this was a time when reasons for not giving women the vote ran from quoting the Bible, to avoiding the breakup of marriages, to the idea that women would not have the physical strength to enforce the laws they would help make! Such true heroines as Susan B. Anthony, went to jail protesting their American right to participate in the democratic process.

On November 6, 1917, the city of Lakewood, OH, advanced the cause of women's rights with an important vote. On this day, the citizens of Lakewood elected to amend the city charter and give women suffrage in municipal elections. It was not until 2 years later that Congress voted to pass the 19th amendment to the U.S. Constitution, granting women the right to vote on a national basis. I am proud to represent a city that was in the vanguard of the fight for women's rights.

In this the year of the woman, I applaud the forward-thinking citizens of Lakewood on the 75th anniversary of their commendable decision. Let us hope during this historic year that all eligible Americans will take advantage of this inalienable right.

SHUT-OFF VALVE FOR WATER HEATERS IN MOBILE HOMES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BROWN. Mr. Speaker, today I am introducing legislation to amend the National Manufactured Housing Construction and Safety Standards Act of 1974 to require each manufactured home to be equipped with a shut-off valve for the water heater supply line.

The devastation brought about by Hurricane Andrew in Florida has brought to the forefront of the news the need for the Federal Government to review its regulations on manufactured housing construction. The House Banking and Urban Affairs Subcommittee on Housing and Community Development recently held a hearing to review the adequacy of Federal standards governing manufactured housing construction as laid out in the National Manufactured Housing Construction and Safety Standards Act of 1974. While the concentration of the hearing was on installation and wind resistance problems of mobile homes, I believe that this is the opportune time to review all aspects of Federal manufactured housing construction standards.

For this reason, I am introducing this bill today to address the concerns brought up by my constituents regarding the lack of a Federal mandate concerning water heater shut-off valves in mobile homes. Under current law, the water supply line to the water heater is not required to have a shut-off valve in manufactured homes. In many mobile home parks, the shut-off valve to the mobile home unit is placed adjacent to the street and covered by a heavy lid that cannot be lifted without the use of a tool. This is of special concern to me, since many mobile home owners and residents are senior citizens. In addition, without an indoor water heater shut-off valve the water to the entire house has to be turned off if there is work to be done on the water heater. Many times, repairs can take several days and the entire house has to get by without water. These problems could easily be solved, however, if the valves were mandated in mobile homes as they are in residential homes.

I am very pleased to hear that HUD has plans to review the Federal manufactured home construction and safety standards. I am hopeful that this small, but important change will be included in their considerations.

THANKS FOR THE MEMORIES

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. WOLPE. Mr. Speaker, this will very likely be my final statement in the House of Representatives. On March 30, 1992, after studying a wholly unanticipated reapportionment plan, drawn and ratified by a three-judge Federal court panel, which effectively carved my district up and gave pieces to four newly drawn districts, I concluded that I would not seek reelection to Congress. It was not an easy decision. It involved much deliberation, consultation, and soul searching. My 14 years in the House of Representatives have been the best years of my life. I am terribly proud to have served with some of the finest and most decent men and women in our Nation. I speak of my colleagues on both sides of the aisle. Prior to and since my decision, nearly 100 of my colleagues have either decided—or had it decided for them—that they will not be serving in the 103d Congress. I am sure they anguished as I did about the turn of events. These decisions changed our lives.

Congress is like a family—sometimes dysfunctional, sometimes contentious, sometimes united, sometimes supportive—but family. What is often forgotten is that it is a large, extended family and the decisions made regarding our careers and service impact and change others lives profoundly. I would, therefore, like to take this opportunity to pay tribute to the men and women so nonchalantly referred to as staff.

They are the members of this family who rarely get the attention they deserve. They are a special breed who share our hopes, our dreams, our commitment, our purpose, and our idealism. They are the ones who are in the office when we arrive in the morning and are still there when we leave at night. They are committee staff, subcommittee staff, personal office staff, district office staff, and support staff. The caseworkers who solve the problems, the staff assistants who arrange for tours, the schedulers who program our hectic lives, the legislative assistants who tract bills and amendments, the correspondents who are buried under thousands of post cards and letters, the computer system managers who maintain ever-changing data bases, the investigators who follow every lead and research every fact, the press secretaries who keep us in and out of the media, the district staff who face our constituents daily representing us at meetings and events, and our staff directors and administrative assistants who make our offices run. They are our advisers, our gatekeepers, our eyes, our ears, our voices, and sometimes our scapegoats. When we look good it is usually because of their hard work and when something goes wrong they too often shoulder the blame. They are overlooked, overworked, and underappreciated.

Mr. Speaker, in my years here in Congress I have had dozens of staff members come and go. I have seen them leave to return to school, open their own businesses, pursue other careers in public service, start families, or run for public office. Each and ever one of them has been unique and important to my role as a Member of Congress and I thank them collectively.

However, when I leave this Chamber today it will be the end of an era in my life and I would like to take this opportunity to thank my personal and subcommittee staffs who served with me in this my final year in Congress.

Thank you Deb Christenson, Eric Ciccoretti, Sandy Duke, Kate English, Joe Foreman, Barbara Frantz, Yolanda Gomez, Peter Graham, Victor Green, Janeene Hobbs, Edith Holleman, Colleen Keegan, David King, Tricia Knoop, Keith Laughlin, Sarah Lisenby, Link Nicoll, James Paul, Bob Roach, Marda Robillard, Chet Rogers, Keeley Taylor, Mike Tripp, Shirley Watson, Holly Wolfarth, Monica Wroblewski, and John Wyma. It has been a true partnership of dedication and spirit. There will be other causes and pursuits for us, but none will be quite like this. I wish you well.

THE GIFT OF LIFE—BONE MARROW DONORS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GILMAN. Mr. Speaker, I rise today to express my deepest admiration for a constituent of mine, Jay Feinberg, who is desperately searching for a compatible bone marrow donor.

Jay is 23 years old and in June 1991, he was diagnosed with chronic myelogenous leukemia. The only potential cure for this dreadful disease is a bone marrow transplant. Without one, Jay will die because chemotherapy does not alter the natural cause of this disease.

Mr. Speaker, there are over 9,000 patients searching for a bone marrow donor. Last week, the House approved House Joint Resolution 551, Bone Marrow Donor Awareness Week. I have worked with Jay to set up bone marrow drives in my district for this week. Yesterday, 600 people signed up to give the gift of life.

I urge all of my colleagues to set up bone marrow drives in their district. All it takes is 10 minutes and two tablespoons of blood to give the gift of life. Those interested in becoming donors or setting up a drive in their district should contact the National Bone Marrow Donor Program at 1-800-654-1247.

PURSUIT OF COMPREHENSIVE ARMS CONTROL AND DISARMAMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FASCELL. Mr. Speaker, during my 38 year tenure in Congress, I have worked to enhance our country's national security by participating in, and in some cases, leading the Congress in developing a comprehensive arms control and disarmament policy.

In the 1950's, I supported collective security organizations such as the North Atlantic Treaty Organization [NATO]. I also concurred with President Eisenhower's warnings against excessive reliance on the military-industrial complex for solutions to our national security and foreign problems. The availability of multilateral security arrangements and the caution concerning over-reliance on military solutions to security problems laid the groundwork for bans on nuclear weapons testing in the atmosphere and the first round of negotiations in support of a Comprehensive Test Ban Treaty under the leadership of President Kennedy and President Johnson.

In the early 1960's, I participated in the legislative effort to create the Arms Control and Disarmament Agency [ACDA] as a "new agency of peace to deal with the problem of reduction and control of armaments looking toward ultimate world disarmament." A recent Congressional Research Service analysis underscoring the need and relevance of ACDA in the post-cold war era and into the 21st century is included in my remarks entitled, "ACDA's Original Mandate More Important Than Ever" in the September 15, 1992 Congressional Record (E2621).

In the 1970's, I strongly supported the SALT I arms control agreement, approved as an executive agreement by the House on September 30, 1972, and the ABM Treaty. The ABM Treaty has subsequently become a pillar of national security that has effectively precluded extending the arms race into space or into the development of destabilizing exotic weapons systems like SDI. My views on the value of the ABM Treaty and the flawed SDI Program can be found in my remarks entitled "Fascell Calls for a New Space Arms Control Policy," in the May 18, 1984 Congressional Record and the September 26, 1985 Congressional Record (E4207) respectively.

Over the past 10 years we have seen intense arms control activity. Moreover, during the past 3 years alone there has been unprecedented progress in reaching a wide range of bilateral and multilateral arms control and disarmament agreements. As chairman of the Foreign Affairs Committee and its Subcommittee on Arms Control, International Security and Science, I have had an interesting vantage point from which to witness and respond to recent world-shaking events that have made these arms control developments possible.

We have seen the fall of the Berlin Wall, the breakup of the Warsaw Pact the collapse of the Soviet Union, an outbreak of contemptible behavior and subsequent threat to world security from both Saddam Hussein of Iraq and Slobodan Milosevic of Serbia, and the continuation of weapons proliferation in the Middle East and other regions of the world—all posing threats to United States and global security.

These changes have resulted in new and significant developments in our arms control relationship with the former Soviet Union in particular and with the world in general. They underscore the need for a comprehensive arms control and disarmament policy to manage the emerging new world order and to prevent it from falling into disorder and disarray. My October 2 remarks found in the October 3 Congressional Record (E2947) expand upon the urgent need for a comprehensive arms control policy in the post-cold war era.

Under my chairmanship, the Arms Control Subcommittee has acted on a wide range of arms control and national security issues during the 102d Congress. A summary of subcommittee activities during 1991 can be found in the November 26, 1991 Congressional Record (No. 177, part III, E4159).

The following is a brief summary of the committee and subcommittee activities on major arms control and national security issues during 1992, the second year of the 102d Congress. These activities include: reviewing START and other subsequent strategic nuclear arms control agreements with the former Soviet Union; assessing development impacting on multilateral arms control agreements such as CFE and the Chemical Weapons Convention; reviewing IAEA and UNSCOM disarmament and nonproliferation activities; assessing the direction of United States conventional arms transfer policy worldwide with a special emphasis on promoting an arms control policy of multilateral restraint versus a business-as-usual approach to foreign arms sales; establishing a new global security assistance program, the Nonproliferation and Disarmament Fund; initiating a nonproliferation and disarmament program providing nearly $1 billion for the dismantlement of the former Soviet cold war arsenal; continuing review and support for key arms control agencies such as the Arms Control and Disarmament Agency [ACDA] and the On-Site Inspection Agency [OSIA], and urging bans on fissile material weapons production and on nuclear testing.

One of the most important priorities for the Arms Control Subcommittee in 1992 was to encourage the administration to pursue an effective U.S. conventional arms transfer policy of restraint in the Middle East and throughout the world.

Activities in support of this objective included: a joint hearing on March 24 with the Europe and the Middle East Subcommittee; a briefing on May 7 to review the State Department's management and controls of U.S. arms sales overseas; a hearing on May 27 on the status of the negotiations by the permanent members of the U.N. Security Council to establish a multilateral arms restraint regime; a briefing on June 16 on the May 27–28 round of the Perm Five talks, and a joint hearing on September 23 with Europe and the Middle East Subcommittee on the proposed sale of F–15 aircraft to Saudi Arabia.

These activities culminated on September 28 when Rep. Lee Hamilton and I released a year-long study by the Congressional Budget Office entitled, "Limiting Conventional Arms Exports to the Middle East" identifying ways to restrain and control arms sales to the Middle East and throughout the world. Our joint statement on the CBO study can be found in my September 29 floor remarks entitled, "Need for More Restrain Not Sales of Weapons" [Sept. 29, 1992 Congressional Record, E2828].

The subcommittee maintains legislative jurisdiction over funding authorizations for both the U.S. Arms Control and Disarmament Agency [ACDA] and the on-site Inspection Agency [OSIA] as reflected in Public Law 102–228. Accordingly, on May 12, the subcommittee met with OSIA Director Maj. Gen. Robert W. Parker to review the agency's arms control implementation activities and its funding request for fiscal year 1993. On July 30, the subcommittee met with ACDA Director Ronald Lehman to review the agency's contribution to U.S. arms control policy efforts and to discuss the agency's changing role with respect to the post-cold war need to pursue greater nonproliferation and disarmament activities.

NONPROLIFERATION AND DISARMAMENT ACTIVITIES

As part of the subcommittee's jurisdiction over arms control, disarmament, and nonproliferation issues, the subcommittee conducts periodic briefings for members of the House Arms Control Observers Group appointed by the Speaker. For example, executive branch officials briefed Members on July 1: First, the June 17 Bush-Yeltsin summit agreements on further reductions in United States and former Soviet strategic nuclear arsenals beyond the START Treaty, and second, the status of efforts to implement agreements pursuant to the $400 million authorized in Public Law 102–228 for the safe storage, transport, and destruction of nuclear and chemical weapons in the former Soviet Union.

In response to our belief that weapons proliferation represents one of the most serious threats to U.S. and world security, Rep. Bill Broomfield, ranking Republican on the Arms Control Subcommittee, joined me on March 4 to introduce legislation [H.R. 4547] establishing the Nonproliferation and Disarmament Fund, a new global security assistance account to address the new national security, arms control and disarmament challenges and opportunities of the post-cold war era. This Fascell-Broomfield initiative culminated in the authorization of nearly $1 billion in support of disarmament and nonproliferation activities in the Freedom Support Act of 1992. The legislative history of this bipartisan initiative is included in my October 3 floor remarks in support of the conference report 102–964 to S. 2532, the Freedom Support Act of 1992. See the October 3 Congressional Record H11001–11004.

As part of its responsibilities for nonproliferation activities of international organizations, the Arms Control Subcommittee met with the directors of both the International Atomic Energy Agency [IAEA] and the United Nations Special Commission on Iraq [UNSCOM].

On July 22, Director-General Hans Blix of IAEA briefed members on the progress of IAEA inspections of North Korean nuclear facilities. He underscored the importance of increased budget support and cooperation from the United States and the international community to enhance the overall effectiveness of IAEA's inspection regime.

On September 17, Rolf Ekeus, Executive Chairman of UNSCOM, briefed members on the status of implementation of U.N. Security Council Resolution 687 regarding the elimination of Iraqi stockpiles and production capabilities of all of its weapons of mass destruction. A summary of the presentation is included in my October 2 remarks entitled, "UNSCOM Activities in Iraq" (Oct. 2 Congressional Record, E2882).

ELIMINATION OF CHEMICAL WEAPONS

Over the past decade, the Arms Control Subcommittee has taken an active role in promoting a comprehensive policy approach leading to the elimination of all chemical weapons. A subcommittee staff study report entitled, "Nuclear and Chemical Disarmament Issues," was published as a committee print in April 1992. Recommendations and findings from this staff study led Representative Broomfield and I to introduce H.R. 4547, legislation establishing the Nonproliferation and Disarmament Fund, a new global security assistance program. The Fund was subsequently included in the Freedom Support Act of 1992 that has just been approved by the Congress and sent to the President who has pledged to sign the measure into law.

The progress of the multilateral talks in Geneva for a worldwide ban on the production, stockpiling, use and proliferation of chemical weapons have been followed by the subcommittee in briefings to members and staff this year by ACDA Director Ron Lehman and other Government officials. The final draft of the Chemical Weapons Convention will be submitted to the United Nations this fall, then to individual signatory countries for formal ratification in early 1993. A more detailed discussion of this arms control success can be found in my October 2 statement entitled, "Worldwide Elimination of Chemical Weapons" (Oct. 3 CONGRESSIONAL RECORD, E2951).

GAO STUDY ON THE NUCLEAR TRIAD

On May 28, representatives from the General Accounting Office [GAO] briefed members on the findings of a classified eight-volume study on the future of the U.S. strategic nuclear triad. This comprehensive report challenges many of our old cold war assumptions about the Soviet threat as well as the rationale and cost-effectiveness of many elements of the strategic nuclear triad in the post-cold-war world. Improvements suggested by the report could make the United States a safer place and provide defense savings in the $100 billion range. A 12-page unclassified summary prepared by GAO on this comprehensive study is included in my September 29 floor remarks, entitled "GAO Report on U.S. Strategic Nuclear Triad." (See Sept. 29 CONGRESSIONAL RECORD, H9861–4).

WORKSHOP ON THE FUTURE OF ARMS CONTROL

In response to the extraordinary challenges to our country's foreign and arms control policies of the past 40 years caused primarily by the collapse of the Soviet Union, the Arms Control Subcommittee, in conjunction with the Congressional Research Service convened a workshop on "The Future of Arms Control" on January 15, 1992. With CRS acting as moderator, eight arms control experts were invited to present papers on the post-cold-war arms control agenda. The experts pointed out that current trends in the arms control process indicate a shift away from bilateral accords based on tediously negotiated verification requirements to multilateral agreements, regional confidence-building measures, increased transparency, and unilateral and reciprocal actions. These trends, as they continue to develop and take root, will have a significant impact on future arms control and disarmament decisions.

In recognition of the valuable contribution, the subcommittee issued a committee print entitled "The Future of Arms Control: New Opportunities" in April 1992 that includes an executive summary of the January workshop and the complete texts of the papers prepared by the participating arms control experts.

FISSILE MATERIAL AND NUCLEAR TESTING CONTROLS

For the past several years, the Congress has urged the President to negotiate with the former Soviet Union to ban the production of fissile material for weapons purposes. Both the United States and the former Soviet Union have fissile materials stocks available well beyond the 22d century. While the administration finally announced a cessation of United States production of fissile material earlier this year, it did not seek the cessation of fissile material production in the former Soviet Union. In response, the Congress adopted legislation this month urging the President to negotiate a ban on the production of Russian fissile material.

Another area of longstanding interest to the subcommittee is the issue of nuclear testing limitations. For the past several years, the Congress has stood firm in its support for limitations on nuclear testing leading to a comprehensive test ban [CTB] agreement. Just this month, the President signed the latest congressional initiative which includes a 9-month moratorium on nuclear testing and a phasing out of all U.S. nuclear testing as of 1997 provided no other country conducts a nuclear test.

Additional information on fissile weapons bans and on nuclear testing arms control efforts by the Congress in included in my October 2, 1992, remarks entitled "U.S. Arms Control Policy in the Post-Cold-War Era" (Oct. 3 CONGRESSIONAL RECORD, E2947).

As chairman of the Arms Control Subcommittee I would like to take this opportunity to recognize the professional staff who have so ably served me and the other subcommittee members over the past 10 years. Under the leadership of the subcommittee staff director, Ivo Spalatin, the professional staff include: subcommittee staff consultants Janey Hatcher, Dave Barton, and Maryanne Murray; senior staff assistant Jo Weber; full committee staff consultants Toni Verstandig and Mike Poloyac—former subcommittee staff consultants; minority staff consultant J. Walker Roberts and former minority staff consultants Bill Inglee and Bill Fite.

Over the past 10 years, we were fortunate to have a number of congressional fellows and student interns help us on the Arms Control Subcommittee. These include the following congressional fellows: Dennis Jarvi, Michael Gilbreath, Katherine Johnson, and David Scheffer, and student interns: Jennifer Hoke, Victor Huang, Scott Castroll, Erica Runyon, Curt Crawford, Joe Boghossian, Richard Kohout, Patricia Tipon, Howard Steinman, Tammy Haveli, Gaytri Bhalla, Lee Diamond, Claudia Goria, Charlie Chester, Dwight Holton, and George Warren, Jr.

ARMS CONTROL AND DISARMAMENT POLICY FOR THE 103D CONGRESS

The continued development and implementation of a comprehensive arms control and disarmament policy in the post-cold-war era requires persistence by the Congress, effective management by the executive branch and close coordination and cooperation between the two.

Major issues requiring the attention and commitment of both Congress and the executive branch in the 103d Congress and beyond include:

Retaining and revitalizing the Arms Control and Disarmament Agency to meet the challenges of the post-cold-war era;

Continuing the disarmament of the excess stocks of weapons in the former Soviet Union and the world;

Ensuring adequate funding for the new global Nonproliferation and Disarmament Fund;

Pursuing effective restraints on U.S. arms sales leading to a multilateral arms restraint regime;

Solidifying the new legal limitations on nuclear testing culminating in a CTB;

Pursuing a multilateral end to fissile material weapons production and the safe destruction of current stocks;

Solidifying the June 17, 1991 Bush-Yeltsin summit and START Treaty leading to even deeper reductions in strategic weapons;

Continuing constraints on strategic defense consistent with the ABM Treaty, and

Strengthening U.S. nonproliferation policies and international nonproliferation organizations and global regimes.

TRIBUTE TO THE ST. MATTHIUS SCHOOL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to St. Matthius School in my 17th Congressional District of Ohio. This beautiful school with its wonderful church and congregation are celebrating their jubilee year beginning with festivities to start November 1. These celebrations will last for 6 months culminating with a dinner-dance in April of next year.

Mr. Speaker, St. Matthius School has been educating children in Youngstown for 75 years now. St. Matthius and its Slovak Catholic community of parishoners have long demonstrated their commitment to quality parochial education by the integration of Catholic faith and culture. The faculty and staff of St. Matthius believe that a parish school must reflect the teachings of the Catholic Church, rich in its traditions of Christian values, and cherishing the background of its ethnic culture.

Mr. Speaker, St. Matthius School offers a well rounded Catholic education with 13 full time certified teachers, a student/teacher ratio of 28 to 1, many service projects and extracurricular activities, and athletic competitions as well. Some of the best leaders and role models in Youngstown are products of St. Matthius School.

I congratulate them on their jubilee year and wish them the best in the future. I know that the alumni of this great school are very proud.

THE COMMUNITY REINVESTMENT REFORM ACT

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. WATERS. Mr. Speaker, I rise to introduce the Community Reinvestment Reform Act of 1992. We have an economic crisis in America. Our infrastructure is crumbling, our inner cities seethe with frustration and anger, and economic development is closed off for many communities.

There are many reasons for our economic decline. Dramatic reductions in public investment is one. Excessive debt, both public and private, is another. However, critical to a community's ability to empower itself, to revitalize itself, is its ability to access capital. In this regard, our financial services industry has let down low-income and minority communities in a profound way. Banks have redlined entire regions, including my own in south-central Los Angeles. Bank branches have evaporated from inner cities all across the Nation. Low-income small businesspeople, and those who serve low-income areas, cannot get loans to develop and expand enterprises.

Moreover, mortgage discrimination continues in startling terms. The raw data from the Federal Reserve Board recently released its second report on home mortgage disclosure. That report, like the first data released last year, showed that African-Americans and Latinos were three times as likely to be turned down for mortgages as whites in the same income bracket. High-income African-Americans were more likely to be refused a mortgage than low-income whites. These trends held for every region surveyed by the Fed—that is in every region of the country.

Mr. Speaker, the evidence is overwhelming. The financial service sector has fallen well short of its obligation to low-income and minority communities.

For almost 20 years, community activists, housing advocates, and other citizen groups worked for the passage of the Community Reinvestment Act [CRA]. Finally, after years of struggle, in 1977, the CRA became law. This law was a major advancement in the relationship between communities and their financial service providers. In exchange for a public charter and deposit insurance, a financial institution would invest a portion of its capital in the community it serves.

It is not too much to ask that banks, which last year received a $30 billion loan from the taxpayers to shore up the Bank Insurance Fund [BIF], lend in low-income and minority neighborhoods—the same areas that have been victimized by the economic cold shoulder of redlining and discrimination.

Over the years, the CRA has been the only vehicle a community has had to keep banks accountable. It has brought tremendous successes and generated substantial investments. However, the time has come to reform the CRA for the 1990's. While the CRA brought a sense of fairness and established a working relationship between a bank and its region, we must do more.

That is why I am introducing the Community Reinvestment Reform Act of 1992. This legislation recognizes the CRA as the foundation from which communities can access capital. It takes the strengths of the CRA and builds upon them. Let me outline the major components of the legislation:

First, regulators would include data on a bank's home mortgage lending, small business lending, community development, and consumer loans—all differentiated by the type and volume loans by race, income-level and neighborhood.

Second, community representatives would have expanded opportunity to comment on an institution's lending data before its CRA rating has been determined. The comment period would be 75 days under my proposal.

Third, the Home Mortgage Disclosure Act would be amended to require reporting on loans to small businesses, personal loans, and consumer loans on a census tract basis. This would allow citizens and bank regulators to evaluate a bank's performance, not just its intention, in its overall lending patterns.

Fourth, the CRA rating system would be changed to reflect a performance based evaluation. Serious grade inflation characterizes current CRA evaluations as almost 90 percent of all lending institutions receive an outstanding or satisfactory rating. This despite the obvious neglect in inner-city lending and overt and systematic mortgage discrimination. Obviously, to have a truly responsive CRA, we must have a rating system which accurately reflects the lending performance of our lending institutions.

Fifth, private mortgage insurance companies [PMI's] would be brought into the CRA process. PMI's have materially contributed to redlining in minority communities. Disclosure requirements in this bill will bring accountability to PMI's which significantly impact on the marketability of low-income lending.

Mr. Speaker, in conclusion, I hope in the next few months we begin a serious discussion of bank laws as they affect low-income and minority communities. If the rebellion in Los Angeles taught us anything, it is that people are crying out for opportunity. People have been led to believe that things will get better. As long as one of the primary institutions for economic development remains closed to millions of Americans who wish to improve their lot in society, we can only expect more anger, hopelessness, and despair. I believe we can turn this anger into constructive action. I believe we can give people the chance they have waited a lifetime to receive. As we look forward to next year, passage of Community Reinvestment Act reform is one of the most significant changes we can make to include all U.S. citizens in the American dream.

SO LONG CHET, IT'S BEEN GOOD TO KNOW YOU

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MAVROULES. Mr. Speaker, I rise today to salute the distinguished career of a good friend and fellow Bay Stater, CHET ATKINS. As a member of the Appropriations Committee, he has been a tireless worker, not only for his district, but for Massachusetts and the Nation.

His efforts on this major committee has boosted the economic power of the State even further, preserving jobs and creating opportunities in these tough times. He has always been willing to listen to the concerns and interests or our delegation and tried to help, giving his all in every endeavor. I would like to particularly thank him for his unwavering support for the Salem project, a project of vital importance to my district.

It has been a pleasure to serve with CHET, Mr. Speaker, and I am saddened by his departure, knowing that Massachusetts has lost one of its most dedicated public servants. His future, I know, holds even greater accomplishments than the ones that have been so important to the people of Massachusetts.

THE URBAN HEALTH SCIENCES CENTER AT UNIVERSITY OF DETROIT MERCY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KILDEE. Mr. Speaker, I want to bring to the attention of my colleagues a project of great importance to the people of Detroit. The University of Detroit Mercy is proposing to create an Urban Health Sciences Center that will educate nonphysician health care providers in fields such as nursing, dentistry, and medical records professionals. The center will consolidate the university's health care programs, which are now spread out over four locations throughout the Detroit area, into a single facility, thereby providing health care professionals with a broad-based education and training. The university, with a minority student enrollment of 30 percent, will also seek to combat the shortage of minority nonphysician health care providers in the Detroit area.

The University of Detroit Mercy is uniquely poised to lead such an effort. The university is well known for its quality and breadth of programs in these disciplines and its history of commitment to the city of Detroit and its surrounding metropolitan area.

In the past, Federal support has been approved for model demonstration projects similar to the Urban Health Sciences Center at the University of Detroit Mercy, that are committed to providing quality education in health care sciences to our Nation's urban centers. I believe that the proposed center at the University of Detroit Mercy is worthy of such an investment by the Federal Government and I will seek the support of my colleagues for funding of the center in fiscal year 1994. The university will leverage the Federal support against alternate funding sources including local and State governments and private donors.

The proposed Urban Health Sciences Center at the University of Detroit Mercy will address a major need in our education and health care systems, and I look forward to seeing the implementation of this project, which has obvious importance to the health care community of greater Detroit and will serve as a model for other health sciences programs across the country.

THE GENERATION NOW PASSING DESERVES RESPECT

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. JAMES. Mr. Speaker, Paul Donnelly recently published the following telling article. I would like to submit it for the benefit of my colleagues. We should all take the time to stop and honor the living, and thank them for their accomplishments, their sacrifices, and their wisdom. It certainly made me stop and think. I hope it will inspire the same in others.

THE GENERATION NOW PASSING DESERVES OUR RESPECT

(By Paul Donnelly)

They're not getting any younger, and there are fewer every day—America's World War II generation.

They may seem like any other group of old people, mostly retirees now, just old men and women on porches, in nursing homes, parents and grandparents—but they're not.

When they were young, they saved the world.

Remarkable how completely ordinary it seems.

No other generation in world history can make that claim.

Not the Founders of the American Revolution, the ancient Greeks and Romans, nor the baby boomers—not even the early Christians.

Other generations had great struggles; other times had great challenges; but at best here and there were saviors of a town or a country, vanguards of unfulfilled promises, dreamers of visions.

America's World War II generation did not, as a group, achieve the heroism of an individual like Joan of Arc, nor is there any evidence that their "souls were touched by fire," as Oliver Wendell Holmes Jr. described the experience of the Civil War when he had grown old.

But isn't it fitting that victory in the most intense, deadly and important struggle in human history should seem sort of ordinary to those who won it, and those who benefited?

America's World War II generation saved the world because it had to be done, and no one else was available to do it.

It isn't that America's Vietnam generation, for example, both the pro and the con, couldn't or wouldn't have saved the world. They didn't get the chance.

It isn't that Russians, who actually broke the Wehrmacht, or the Chinese, who held Japan's best troops in a death grip, or British or French or any of the rest of the World's peoples, didn't win the war.

But they didn't save the world from an unspeakable global evil.

That was the American's—when, as Winston Churchill said the "new world came to the rescue of the old."

But they weren't vast forces of history, or legendary warriors. They weren't even all combat soldiers, or Rosie the Riveters.

They were ordinary people—Uncle Ed, and your mom and dad who lived in an extraordinary time.

So they did what had to be done.

There was a fair amount of ballyhoo last December, at the 50th anniversary of Pearl Harbor, although it got sticky with tensions in the current U.S.-Japan relationship.

In a few years, there will be lots of half-century anniversaries of V-E and V-J Day, maybe some prayerful ceremonies honoring liberation of the death camps.

The ex-Soviet republics might pause to remember that there was once a place called Stalingrad, and it was very important.

There will be fewer alive then who actually did those things, though.

So what that 50 years ago today, or last week, or next year, a lot of people killed and died for famous victories?

This isn't about anniversaries, or the all World War II newsreel channel that every cable TV system seems to have. It's about the old guy you see on the street, with a little poppy in his lapel, or the blue-haired women who forgets things and who rides the bus.

Let's take a long, last look at these people now, while we still have the chance.

No one has ever done anything like their achievement before and God willing, no one will ever have to do anything like it again.

TRIBUTE TO THE 50TH ANNIVERSARY OF AMERICAN SLOVENE DAY

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SANTORUM. Mr. Speaker, it is with great pleasure that I rise today to recognize the American Slovenes of western Pennsylvania as they celebrate the 50th Anniversary of American Slovene Day. For over a century, Slovenes have travelled to the United States seeking economic prosperity. A great number of these immigrants settled and remain in Ohio, Wisconsin, Michigan, Minnesota, and, I'm happy to say, Pennsylvania.

The first American Slovene Day was held on July 8, 1939, and every year after, except during World War II. This event was meant to promote the purpose of preserving the Slovene heritage for the present generation and for generations to come. Western Pennsylvanian Slovenes have continued in this spirit and, as a community, have kept their heritage alive in many ways. In 1946 they began broadcasting a weekly radio program that brought news of interest along with favorite Slovene melodies to the Slovene community. Slovene musical groups formed in many areas of the United States and remain exceedingly popular. Through bands, dramatic clubs, and national homes, they have served to keep alive their native countries' tradition.

The great majority of Slovene immigrants came to the United States as poor peasants who worked hard to learn English, find work, and to make a life for themselves in this country. At the turn of the century, they made valuable contributions to our country's work force in the copper and iron mines of Michigan's Upper Peninsula, in the Iron Range of Minnesota, and in the coal mines in western Pennsylvania. As the country grew, so did the Slovene influence in every aspect of our Nation, from small business to the arts.

The Slovene community, like so many of our other ethnic groups, must be commended for succeeding in fostering a new life in the United States while maintaining a sense of pride and tradition in their homeland. We must not forget to celebrate and enjoy our country's many ethnic groups which keep our country rich in culture.

A TRIBUTE TO AMBASSADOR JOSEPH VERNER REED

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GILMAN. Mr. Speaker, I would like to give special recognition to Ambassador Joseph Verner Reed, who served as the U.S. Chief of Protocol from February 1989 to October 1991. As Chief of Protocol, Ambassador Reed acted in an exemplary manner on behalf of the United States as host to all foreign Ambassadors. Through his innovative brand of diplomacy, he successfully brought together representatives from all over the world and integrated them into the political life of this country. He was particularly known for his warmth and gracious hospitality toward foreign visitors.

Ambassador Reed has departed Washington for his new post as Under Secretary to the United Nations. He will be sorely missed by all who were familiar with his own special approach to protocol and the art of diplomacy.

For these reasons, I would like to call attention to a very insightful column about Ambassador Reed, entitled "United Nations—USIA Wireless File" and I request that it be inserted at this point in the RECORD:

UNITED NATIONS—USIA WIRELESS FILE—JULY 16, 1992

Joseph Verner Reed is one of the key officials on the staff of new United Nations Secretary-General Bourtros Boutros-Ghali, but he himself is not new to the United Nations or international politicos. His graciousness and genuine affection for people are legendary, not only at the United Nations Headquarters but also in Washington and other world capitals and in business, banking, legislative and media circles.

The Ambassador, a dapper man who often wears a carnation in his lapel, earlier served as Chief of Protocol of the United States and United States Ambassador to Morocco. After graduating from Yale University, he began his career at the World Bank and later became an Assistant to David Rockefeller, then Chairman of the Chase Manhattan Bank. He also was U.S. Ambassador to the United Nations Economic and Social Council during the Reagan Administration and was Under-Secretary-General of the United Nations for Political and General Assembly Affairs under Secretary-General Javier Perez de Cuellar.

Reed's exuberance, energy, and sensitivity to the nuances of international politics serve him well in his new post as Under-Secretary-General and Special Representative of the Secretary-General for Public Affairs—an assignment he compares to the role of "roving ambassador."

In the five months since beginning his current United Nations assignment, Reed has traveled to Kuwait to coordinate United Nations efforts to counter the negative consequences of oil well fires set by retreating Iraqis during the Persian Gulf war, to Vancouver to represent Secretary-General Boutros Boutros-Ghali at a United Nations Conference on the Disabled, and to Washington in conjunction with the Secretary-General's first official visit there.

THE SEASONED DIPLOMAT WILL DIRECT THE UNITED NATIONS FIFTIETH ANNIVERSARY PLANS

Reed assumed responsibility for the Fiftieth Anniversary celebration of the United Nations—perhaps the biggest challenge in his distinguished career. But he obviously has the situation well under control.

The Fiftieth Anniversary of the United Nations "should be a worldwide celebration of a unique period" in history, says Ambassador Joseph Verner Reed, coordinator of events that will commemorate a half century of United Nations achievements in 1995.

"Fifty years in the life of an organization is an extraordinary milestone," says the seasoned diplomat who now serves as United

Nations Under-Secretary-General. "But the Fiftieth Anniversary of the United Nations is much more, for it is not merely the anniversary of the setting up of the world organization. Most importantly, it is the anniversary of 'We the People.' It is everybody's anniversary."

Secretary-General Boutros-Ghali, Reed said in a recent interview, does not see the commemoration as "a lot of bells and whistles celebrating what has been done . . . but one that looks forward to decades ahead."

In April, the General Assembly passed a resolution calling for a formal celebration, so Reed's mandate is defined and the 29-nation preparatory committee has begun meeting. Ambassador Reed envisions a Foundation to receive voluntary contributions to finance Fiftieth Anniversary events as well as an International Advisory Committee.

The United Nations Department of Public Information already has "crates of suggestions from around the world as to what should be done to celebrate the Fiftieth Anniversary," the Ambassador said. Proposals include publications, films, television programs, exhibits, tours, musical performances, conferences, and a special session in San Francisco. "We are moving forward at a high velocity," he said.

When Reed resigned as U.S. Chief of Protocol in October 1991, he was praised by President Bush for his "unprecedented energy," the substantive briefings he arranged for members of the Washington diplomatic corps, and the "personal care and consideration" he had demonstrated.

President Bush lauded Reed's skill in making "our distinguished visitors from abroad feel welcome. This is important. Often visitors from smaller countries have not felt the genuine warmth of a welcome to the USA. You have personally done a great deal to change that."

Ambassador Chimansing Jesseramsing of Mauritius, Dean of the Commonwealth countries, also praised Ambassador Reed's graciousness and "depth of real concern and caring for foreign diplomats from nearly 150 different embassies." Ambassador Reed "will be missed by countries whose economy and population do not compare well with the wealth and size of the United States and whose cultural heritage might not fit easily into what many consider to be the mainstream Western civilization," Ambassador Jesseramsing said.

When Reed received France's prestigious Legion d'Honneur award in 1991, he was cited for his special talents for the profession of diplomacy. "Who can say how much diplomacy—and I am thinking of course not only of United States diplomacy but of diplomacy at large—would have lost if Joseph had not entered its ranks?" said Ambassador of France to the United States Jacques Andreani as he presented the Legion d'Honneur.

WASHINGTONIANS CELEBRATING 100TH BIRTHDAY IN 1992

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. NORTON. Mr. Speaker, today I rise to salute 24 of my constituents who celebrated their 100th birthdays during 1992. These Washingtonians are our connection with the past—the "good old days"—and with their collective wisdom, they are reassuring beacons of hope for the future and the guardians of our heritage.

Mr. Speaker, it is my pleasure to enter into the record of this great body the names of Washington's "living treasures". The 1992 honorees are: Ethel Beverly, Meritt McGruder Burnett, Sarah Roberts Bynum, Helen L. Diggs, Effie Dunnaville, Marie Ellison, Charity Columbus Gillian, Edna S. Griswold, Addie Busby Ellis Harper, Notie Mae Harris, Malissa F. Holoman, Myrian Hyken, Percy L. Jones, Ellen Robertson Langley, Alberta Mackin, Mary Anne McKenney, Emma Pettigrew, Mollie L. Reed, Lillie Bulah Reeves, Maggie Turner, Idolia Isidora Vivanco, George Welch, Victoria Drake Williams, and John Evans, Jr.

Mr. Speaker I invite my colleagues to join me in wishing these wonderful Washingtonians the best of health and happiness for the future.

TRIBUTE TO MRS. LILLIE MAE McENTYRE

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DARDEN. Mr. Speaker, today I rise to recognize a special individual who may be David in size, but Goliath in spirit.

Mrs. Lillie Mae McEntyre, or "Tinkie Bell" as she is fondly known for her massive collection of bells as well as her petite stature, has given a lifetime of service in teaching Christian ways and stories of the Bible to youngsters at First United Methodist Church of Marietta, GA.

Mr. Speaker, oftentimes I take the floor of the House of Representatives to honor individuals on their retirement. Mrs. McEntyre, I am pleased to say, has no such plans. She has been giving of her time and talents at First United Methodist for 65 years.

My children, Christy and George, were taught by Mrs. McEntyre in their elementary school days and recall those times with fondness. For all the love the children of First United Methodist have for Mrs. McEntyre, she returns the affection tenfold. She has been a part of many lives and has made more of an impression on young and old than she will ever know.

Mr. Speaker, I ask my colleagues to join me today in recognizing Mrs. McEntyre for her unending devotion to children and the word of Jesus Christ. I am prayerful that she will continue her good work for many more years to come.

THE NATIVE HAWAIIAN HEALTH CARE ACT

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of S. 2681, the Native Hawaiian Health Improvement Act. This act would extend to the year 2000 the provisions of the Native Hawaiian Health Care Act of 1988, and amend certain provisions of that act.

Mr. Speaker, I continue to be concerned by the criticisms from some of my colleagues that this legislation has been called pork, duplicative, and it has also been called the kind of legislation that leads to uncontrollable and undirected Federal spending.

I am surprised by this criticism because we are talking about improving the health condition of U.S. citizens. I want to share with my colleagues the deplorable and unjustified health condition of the native Hawaiian community—who are citizens of our great Nation.

The overall death rate of all native Hawaiians is 34 percent higher than other races in the United States;

Pure-blooded Hawaiians die at a rate 146 percent higher than other races in the United States;

Native Hawaiians die from diabetes at a rate 222 percent higher than all other ethnic groups in the United States;

Forty-four percent of all infant deaths in the State of Hawaii are native Hawaiian children; and

The breast cancer rate among native Hawaiians is 30 percent higher than among whites in our country.

Mr. Speaker, if that were not enough to warrant critically needed treatment, many of the physiological problems Hawaiians suffer from today are directly attributable to the arrival of Europeans and others, and 100 years ago the United States used its military force to help overthrow Hawaii's form of government.

Now given these circumstances, I would say that the Federal Government owes the few native Hawaiians that have managed to survive the onslaught at least the opportunity to receive medical care that would bring them up to a level of health comparable to the majority of Americans.

It makes infinitely more sense to this Member to spend our declining tax dollars on medical care for Americans, than it does to spend it on maintaining large military forces in countries like Germany, Japan, and Korea. It also makes infinitely more sense to me to spend our tax dollars on medical care for Americans than on the B–1 and B–2 bombers, that may never see combat.

I urge my colleagues to support this bill.

NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT

Amends the Native Hawaiian Health Care Act of 1988 to set forth the Native Hawaiian Health Care Improvement Act.

Sets forth specified health objectives for Native Hawaiians to be met by the year 2000.

Authorizes appropriations for implementing and updating the Native health care master plan.

Makes Papa Ola Lokahi responsible for the: (1) implementation and updating of such plan; (2) training for specified health care practitioners, community outreach workers, counselors, and cultural educators; (3) identification of and research into the diseases that are most prevalent among Native Hawaiians; and (4) development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make carrying out this Act.

Permits Papa Ola Lokahi to receive special project funds that may be appropriated for the purpose of research on the health status of Native Hawaiians or for addressing the health care needs of Native Hawaiians.

Requires Papa Ola Lokahi to serve as a clearinghouse for: (1) the collection and maintenance of data associated with the health status of Native Hawaiians; (2) the identification and research into diseases affecting Native Hawaiians; (3) the availability of Native Hawaiian project funds, research projects, and publications; (4) the collaboration of research in the area of Native Hawaiian health; and (5) the dissemination of information pertinent to the Native Hawaiian health care system.

Directs Papa Ola Lokahi to: (1) coordinate and assist the health care programs and services provided to Native Hawaiians; and (2) act as a statewide infrastructure to provide technical support and coordination of training and technical assistance to Native Hawaiian health care systems.

Makes eligible for grants or contracts for providing health services to Native Hawaiians health care systems (currently, Native Hawaiian health centers or organizations or public or nonprofit private health providers). Limits to five (currently, nine) the number of grant or contract recipients. Revises matching fund requirements for such grants or contracts. Prohibits the awarding of grant or contract funds unless the recipient agrees that the funds will not be expended: (1) for purposes not listed under this Act; (2) to provide inpatient services; (3) to make cash payment to intended recipients of health services; or (4) to purchase or improve real property or to purchase major medical equipment.

Extends the authorization of appropriations for such grants and contracts and for an administrative grant for Papa Ola Lokahi through 2001. Authorizes appropriations for the planning of Native Hawaiian health care systems.

Directs the Secretary to provide funds through a direct grant or cooperative agreement to Kamehameha School/Bishop Estate for providing scholarship assistance for health profession training to Native Hawaiian students who meet certain requirements under the Public Health Service Act. Authorizes appropriations.

WASTE ISOLATION PILOT PLANT [WIPP]

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. LLOYD. Mr. Speaker, I rise in lukewarm support for the legislation that will launch the test phase at the waste isolation pilot plant, or WIPP.

My colleagues, the waste isolation pilot was authorized by Congress in 1979 in response to the national need for long-term, safe methods for disposing of radioactive byproducts from our defense programs. We were wise in our foresight to provide for such a facility, given the nuclear waste disposal problem before us today. The WIPP facility is now ready for its first phase of testing. This legislation is the final step needed to bring 12 years of work to fruition.

Forty-five years of production of nuclear weapons has yielded a tremendous amount of radioactive waste. Throughout the United States there are many temporary storage sites for nuclear waste, including Oak Ridge, TN, in my district. These facilities were not built to become permanent repositories for this waste. These sites need to be cleared out and cleaned up. But if WIPP is not allowed to proceed with its testing, the reality is that they could become permanent disposal sites, and environmental hazards. Those communities that agreed to host a temporary storage facility did so with the understanding that the contents would be moved to an environmentally safe permanent storage site. Let us not let them down.

The legislation before us puts in place more than the necessary compliance and oversight mechanisms to protect the surroundings. In fact, I believe we are regulating the facility too much. But I will accept the bill for the mere fact that we have got to get this project moving. Let us get on with the test phase, prove that WIPP is environmentally safe, and begin the permanent disposal process.

I urge support of the bill.

TRIBUTE TO 1992 VOTER REGISTRATION DRIVE SPONSORED BY THE LEAGUE OF WOMEN VOTERS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. NORTON. Mr. Speaker, the right to vote is the foundation on which our Nation's democracy rests. By exercising their power to vote, Americans ensure that their Government is accountable to them and is responsive to their needs. This year the League of Women Voters—National sponsored Voter Registration Drive 1992.

The League of Women Voters has a slogan, "They can't hear you if you don't vote." However, an estimated 70 million Americans might be rendered mute on election day this year because they are not registered to vote. To give citizens a political voice, the League of Women Voters sponsored a National Voter Registration Drive, from September 12 through September 19, 1992. The nonpartisan registration campaign combined national publicity on the importance of registration and voting with grassroots opportunities for citizens to register in communities throughout the United States.

As part of the drive, 1100 State and local leagues across the country worked in partnership with more than 80 national businesses, organizations, schools, and community groups. They coordinated voter registration events at locations that reached the largest number and diversity of potential registrants, and provided opportunities to register at work, shopping centers, and other gathering places.

Among the groups and companies that participated in the league's drive were Wal-Mart stores, KinderCare learning centers, and the American Association of Retired Persons. As part of the league's effort to register young people between 18 and 24 years of age, the NAACP cosponsored a National Youth Voter Registration Day on Saturday, September 19. Voter registration activities targeted historically black colleges and universities and minority youths.

In addition, the league recruited television networks, such as NBC, the American Movie Classics and Lifetime, and the Video Software Dealers Association, to promote voter registration through public service announcements. The league also enlisted actors Ted Danson, star of the popular NBC television comedy series "Cheers", and John Forsythe of another NBC comedy, "The Powers That Be", to appear in public service announcements urging citizens to vote.

Mr. Speaker, as one who was actively involved in voter registration and the passage of the Voting Rights Act of 1964, I applaud the league and add my support to its campaign to help citizens make themselves heard through the power of the vote.

COMMUNITY POLICING

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HOYER. Mr. Speaker, I rise today to talk about some of the positive efforts that local law enforcement officers in Prince Georges County and Anne Arundel County are taking to control the outrageous surge in crime that we have been experiencing throughout this country.

During consideration of the crime bill which has been stalled in the Senate for some time now, many of my colleagues, myself included, talked about the importance of getting our local law enforcement officers out of their cars and into the communities in which they serve. The "Cops on the Beat" program as it is referred to in the crime bill, represents a return to the old-fashioned, traditional method of policing by getting to know the citizens of their district through partnership and community involvement.

If the crime bill conference agreement had been passed, the bill would have authorized about $3 billion in fiscal year 1992, for hiring more law enforcement officers on the Federal, State, and local levels. Grants to local governments and community groups to either establish or expand existing cooperative efforts between law enforcement and local residents to increase police presence, was a large part of the State and local law enforcement title of the bill. It has been proven that serious crime decreases when police become visible members of the communities in which they serve.

The Prince Georges County, MD, police department in the district that I currently represent, received a 1991 grant from the Bureau of Justice Assistance for $202,000 to establish a community policing program. Officers were enrolled in a series of highly intensive, comprehensive training classes which included instruction in community policing, drug detection and investigation, and crime prevention, all efforts aimed at reducing the demand for drugs and subsequent criminal activity.

With a current total of 22 full-time community policing officers, an additional 25 officers are to be added by the end of next June.

Within 2 years, the department plans to have a total of 101 officers whose sole responsibility will be to patrol the communities in which they serve.

The Prince Georges County community-oriented policing program has been an immediate and tremendous success. The success of this innovative program can be directly attributed to the cooperation between the community and the policing officers. The sector where the program has been fully implemented recorded a 20-percent reduction in violent crime in 1991. No other sector within Prince Georges County recorded such a significant decrease in violent crime.

Without the close interaction between the residents and the police, community policing programs cannot work. Officers work tirelessly to instill a measure of confidence in the community residents and their efforts have reaped positive results. Citizens now provide the necessary information which enable officers to terminate certain criminal activities. Neighbors have provided enough information to close three apartments functioning as crack houses. Apartment managers now share and disseminate information that stop drug dealers from renting apartments, and residents organized to revitalize a playground that was once a haven for drug dealers. Citizens who were once terrorized and intimidated by drug dealers have begun to reclaim their communities.

Aside from the reduction of crime in neighborhoods served by community policing, there is a very significant benefit derived from the positive interaction between officers and people they serve. A mutual desire to see the eradication of crime has restored a measure of confidence in and respect for law enforcement that has been lost in some crime plagued neighborhoods.

Although members of the community policing program are doing their jobs, they sometimes take their responsibilities beyond the call of duty. I recently met with several policing officers in Prince Georges County and they spoke about their service on a very personal level. I would like to take this opportunity, Mr. Speaker, to share with you examples of some of the commitments that these dedicated young officers make to the community in which they serve.

Sgt. Roberto Hylton helped organize a flag football league to provide some of the county's most at risk youth with a fun, yet structured activity. In a relatively short period of time, the league had swelled to some 300 participants. Vandalism, mall hangers, and glass breakage throughout the community declined significantly. These young men between the ages of 9 and 17, had something meaningful to do with their otherwise idle time.

As one who advocates that local business form partnerships with the communities in which they serve, I applaud the Giant, Safeway, and 7-Eleven stores for donating the funds to obtain uniforms and trophies. I encourage the continuation of such partnerships and hope that other businesses realize the important contribution that they can make in the fight against crime.

In Cpl. Diane Salen's district, a 14-year-old youngster determined to be severely emotionally disturbed, had become a neighborhood nuisance. As is true in a great many cases, this young man came from a family with little parental involvement. His father was in drug and alcohol rehabilitation and provided no support for the family. His mother, a welfare recipient, had five other children to care for, and was unable and unwilling, to provide the resources necessary to steer the youth in a positive direction. Through sheer determination, Corporal Salen was able to get this young man into an alternative school better equipped to handle the care that he so desperately needed. Corporal Salen has bought the young man school supplies with her own money, and continues to visit with him on a regular basis. She checks his report cards and offers the sorely needed encouragement and support he needs to help him steer clear of criminal activity.

Pfc. Tony Avendorph, the subject of a recent Washington Post article on community policing, has many success stories under his belt. A business in his area, plagued by loitering, drinking, and drug activity on an adjacent abandoned property, began to lose business because customers no longer wanted to put up with the activity. With cooperation between the community, the owners of the property, and the fierce determination of Avendorph, the property has been cleared of undesirables and customers of the business are no longer afraid to patronize the establishment. In addition, he has been credited with cleaning up a 200 unit subsidized housing project where crack smoking in the hallways and the sound of gunshots were commonplace. The resident manager says that with Avendorph's arrival, she now sleeps better at night. The quality of life has improved for an entire housing community.

An accomplished judo expert, Private First Class Avendorph teaches the martial art to youngsters and participates in the Explorer program, squeezing extra hours of his own time into an already cramped schedule.

A neighborhood under seize by a band of young thugs brought Cpl. Dean Jones and the area residents together to solve their problem. Neighbors complained that they heard frequent gunshots coming from a certain house—juveniles stood in the roads, cursing creating disturbances, exposing themselves and urinating in the shrubs. Once the partnership was formed between the residents and Corporal Jones, the landlord was contacted and the offending inhabitants subsequently evicted.

All of these examples demonstrate the effectiveness of community-oriented policing when a spirit of cooperation exists between the officers and the residents they serve. Cpl. Grady Stevenson started the Kings Square Civil Association and had a back-to-school party for the children, including clowns and drug education displays. The association was also able to obtain much needed donations for school supplies for the kids.

These are just some of the success stories emerging from the streets of Prince Georges County. I am proud of the many hardworking and dedicated young beat officers who risk their lives daily to improve the quality of life for the residents of the communities they serve.

For too long, the general public has become distrustful of our country's police force. The return to a more personal style of policing with neighborhood and local business involvement is a giant step in the right direction. In Anne Arundel County, local politicians, business owners, and community leaders recently organized an effort geared towards educating youngsters to stay away from drugs, improve themselves, and become productive members of their communities.

Since June, about 70 police officers have been spending their off-duty time to work with children in Freetown Village in order to give them an alternative to using drugs. Some of the activities and entertainment provided to the kids are: basketball, softball, ice skating, trips to the U.S. Naval Academy, Anne Arundel Community College, Chesapeake Bay, The National Aquarium, and sporting and cultural events. In addition, they are involved in community service projects, such as repainting recreation centers and visits to senior citizen centers. The program is working because parents and the business community are working with the police in order to save these young kids. Anne Arundel Police Chief Robert Russell says he used to throw rocks at police cars as a kid growing up in Baltimore but stopped when the police department organized a boys and girls club which provided him with positive activities.

It is my hope that the community-oriented policing concept continues to grow and expand, beyond even the urban areas and close suburbs usually associated with crime. Violent crime has increased 21 percent since 1988, and rural communities are no longer immune from this crime.

Although law enforcement is primarily fought at the State and local levels, the Federal Government has a role to play in reducing crime. The crime bill being held hostage by the administration, address the role the Federal Government must play in waging war against crime. In addition to providing funds for more law enforcement officers, it provides funds for fighting drug trafficking in rural areas. The Department of Justice reports that drug abuse violations have increased 3.7 percent in rural America, robbery 14.5 percent, and violent crime overall, which includes murder, rape, and aggravated assault has increased 4.4 percent.

I was dismayed to hear from the sheriff of St. Marys County, MD., where I also maintain a home, that even though crime is on the rise in rural America, the criteria is such that they usually cannot qualify for Federal grants. We must change that. We must ensure that our rural communities are not excluded from protecting their citizens against the scourge of crime. And we must not allow partisan politics to impinge upon our responsibility to assist law enforcement personnel with their fight against crime.

Mr. Speaker, If criminals are allowed to continue to use the intimidation tactics they frequently use to hold citizens hostage in their own homes—afraid to notify the police of criminal activities, the police will not be able to solve their problems. Police officers should be regarded as friends, to protect and serve the law-abiding citizens who want to feel safe walking to the corner store or to let their children play in the confines of their own property.

Mr. Speaker, I applaud and commend our Nation's law enforcement personnel and particularly those men and women who spend their own time and resources to instill hope for a future for those who seemed to have lost their sense of hope.

REMARKS ON S. 12, THE CABLE CONSUMER PROTECTION AND COMPETITION ACT OF 1992

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ECKART. Mr. Speaker, I would like to bring to the attention of my colleagues an extension of remarks that was included in the permanent RECORD on the debate on the conference report on S. 12, the Cable Consumer Protection and Competition Act of 1992. Although this statement will be included as a part of the permanent RECORD for the debate that occurred on September 17, 1992, the House should be aware of the contents of this extension at this time.

STATEMENT BY HON. DENNIS E. ECKART

Mr. Speaker, I wish to clarify the meaning of two sections of the cable bill, sections 314(g)(1) and 315(b)(3)(A). The sections specify the content of the signals that cable operators are required to carry pursuant to the act. The statutory language of these sections is clear, unequivocal, consistent, and controlling. Since the joint explanatory statement of the committee of conference does not fully describe the content of the statutory language, the meaning of these sections should be interpreted using the relevant passages from the House report language which analyze identical language in the House-passed bill, H.R. 4850, which follows:

"SECTION 615

"Subsection (g)(1) [of section 615] requires cable systems to carry the entire primary audio, accompanying video, and line 21 closed caption transmission of each qualified local public television station, unless otherwise agreed upon by the cable operator and the station, including (to the extent technically feasible) program-related material carried in the vertical blanking interval (VBI), on subcarriers or through other enhancements of the signal, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes.

"Public television stations have pioneered the use of broadcast spectrum to deliver closed-captioning, descriptive video and other important program-related services that serve the special needs of vision- or hearing-impaired viewers. For example, to serve visually impaired individuals, PBS uses a channel in the aural subcarrier to provide a descriptive video service, which narrates the key visual elements of programming. Similarly, PBS serves non-English speaking audiences by using a channel in the aural subcarrier to simulcast selected programs in a second language. PBS also delivers lesson plans and other data on the VBI to accompany the educational programming delivered to the Nation's schools."

"SECTION 614

"Subsection (b)(3)(A) [of section 614] requires that a cable system retransmit in its entirety the primary audio and video signal and the closed captioning transmission of each local commercial television station carried on the system, and, to the extent technically feasible, also retransmit any program-related material transmitted by the broadcaster on a subcarrier or in the vertical blanking interval (VBI). The committee intends that the cable operator shall retain discretion whether or not to retransmit other material which may be transmitted in the vertical blanking interval or on subcarriers which may be unrelated to the main program service. Carriage of other program-related material in the vertical blanking interval and on subcarriers or other enhancements of the primary video and audio signal (such as teletext and other subscription and advertiser-supported information) is left to the discretion of the cable operator. The committee does not intend that this provision be used to require carriage of secondary uses of the broadcast transmission, including the lease or sale of time on subcarriers or the vertical blanking interval for the creation or distribution of material by persons or entities other than the broadcast licensee. Moreover, where appropriate and feasible, operators are free to strip signal enhancements (such as ghost-cancelling) from the broadcast signal and employ such enhancements at the system headend. It is the committee's intent that these provisions not impede the use by cable operators of technological improvements that better would facilitate the delivery of broadcast television programming to subscribers.

"The committee encourages cable operators, when retransmitting a commercial or public broadcast station's signal or a cable programming service, to preserve and deliver to consumers intact all enhancements of that signal provided for the purposes of wider access for under-served audiences, including closed captioning which utilizes the VBI, and video descriptions and alternative languages which employ the separate audio program (SAP) channel. The committee also encourages cable operators to pass on to consumers without alteration similar future services which may evolve, such as program information and identification which also may be placed on the VBI.

"The committee notes that television manufacturers estimate that ten million televisions with the caption feature will be sold next year and at least twenty million per year thereafter. The committee believes it is essential that more cable television programming be accessible to people with hearing disabilities, through the greater use of the closed-captioning technology by cable programmers. It has come to the committee's attention that only 4 percent of basic cable programming and 35 percent of pay cable programming is captioned, compared with 70 percent of network television and nearly 100 percent of nationally broadcast public television programming. The committee urges the cable industry to be more responsive to serving this constituency by captioning more of its programming."

TRIBUTE TO RECIPIENTS OF THE TRIUMPH OF THE HUMAN SPIRIT AWARD

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TRAFICANT. Mr. Speaker, I stand here today to pay tribute to four courageous and charitable people from my 17th Congressional District in Ohio who need to be recognized.

Hillside Hospital in Howland, OH, has just awarded its annual Triumph of the Spirit. These recipients have overcome great hurdles in life.

David Dinwoodie has displayed vast amounts of courage and dedication in overcoming his amputation—something he considers a mere inconvenience. Beginning while he was in the hospital and continuing to today, Mr. Dinwoodie has given support and encouragement to fellow amputees, and by his behavior, served as an example of what they could accomplish. As an outgrowth of his counseling new amputees, Mr. Dinwoodie founded the Youngstown Amputee Support Group, of which he is currently president. In addition, this 70-year-young man volunteers with a hospice, has learned sign language and helps the deaf as a volunteer assistant at the Paul C. Bunn School, helps teach a class on death and dying at Cardinal Mooney High School, and is a member of the Christian Clown Ministry.

For most of his adult life, Michael Write depended on his addiction to get through the day. In October 1987, he began to change that when he entered treatment at the ARCH Recovery Center of Hillside. After completing his treatment, he spent the next 14 months at a three-fourth-way house in Youngstown.

He claims that it wasn't until after he underwent intense spiritual development that his life began to fall into place. He became involved with a teenage drug prevention group, the Good News Club, at the Needle's Eye Christian Counseling Center, and credits his continuing sobriety to his acceptance of Christ and his resulting spiritual development.

Today, Mr. Write is an outreach worker for the Mahoning County Chemical Dependancy Program and has returned to Youngstown State University where he plans on finishing his degree in January 1993. He devotes his free time to community youth education through his involvement with Needle's Eye, the Prevention and Neutralization of Drugs and Alcohol [PANDA] and Health and Guidance of Students [HUGS] organization, Boy's Club of Youngstown, the Good News Club, Mahoning Valley People for Progress, and is involved with the Ebony Life Line Support Group. He also serves as a member of the Youngstown Mayor's Task Force on Violence and on the board of directors for Southside Ministries.

John Billock has been selfless in his contributions to the needs of the disabled of our community. Mr. Billock has been involved with the Tricounty Spina Bifida Association, American Amputee Foundation, Trumbull County Easter Seals Board, and the Children's Rehabilitation Center Board of Directors where he is currently on the professional advisory committee. He is also the clinical director for the Limb Bank Program of the Variety Club Charities of Northern Ohio and a member of the Rotary and instrumental in inaugurating the Disabled Person of the Year Award. Additionally, the Warren Rotary sponsored a young Colombian girl who had lost both hands in a chemistry lab explosion. Mr. Billock opened his home to her while fitting her with myoelectric hands.

On a national level, Mr. Billock hosts an annual summer picnic and biannual clinic for children with congenital upper and lower limb deficiencies. He is one of the most sought after presenters in the area of electric powered upper/lower prostheses in the United States.

The rescue mission of Mahoning Valley opened in 1983, and has remained open 24 hours a day ever since. The mission serves 3 meals each day, approximately 105,000 annually, and shelters 75 to 80 residents each night. Participation in rehabilitation programs is mandatory in order to stay at the mission. Rehabilitation programs range from chemical dependancy rehab to GED instruction to financial planning. The mission is run on the tough love concept. Anyone who does not wish to participate in these programs, while able to receive free meals each day, is limited to 5 nights at the mission. The mission offers an opportunity for the Mahoning Valley's homeless, many of whom are chemically dependant, to gain self-respect, dignity, and a change for the future.

Mr. Speaker, I am always happy to recognize the people from my area who take time to help others and make the whole community better. I know that these four individuals have influenced hundreds with their acts of kindness and courage.

CONGRATULATIONS SENIOR ATHLETES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DOWNEY. Mr. Speaker, I rise to offer hearty congratulations to some very spirited constituents of mine who participated in the first annual Babylon Senior Games on September 26 on the campus of State University of New York at Farmingdale in Suffolk County, NY.

These games, which were organized by the town of Babylon's Department of Human Resources, and sponsored by SUNY-Farmingdale, Cybex/Lumex Inc., Pfizer, Inc., and Kraft/General Foods, were an inspiration to watch. I am proud to report that my own parents not only participated, but came away with gold and silver medals in swimming and walking events, respectively. In addition, I am pleased to report that among our participants that day were the president and CEO of Cybex/Lumex Inc., Lawrence Cohen, who received an award in the swimming competition, and the president of the board of trustees of SUNY-Farmingdale, Walter Lynch, who was awarded numerous medals in swimming as well. The oldest participants in the Senior Games were 79 and 80 years old, and both of these athletes were superb in their events. These examples only represent some of the fine athletes who competed that day.

The Senior Games is an organized amateur athletic competition for residents of Suffolk County age 50 and over. It is my hope that the success this first effort enjoyed will be the foundation for an annual program for which seniors can aspire to compete every year. The range of competition varied, but one thing was very clear—all who participated came away from the Senior Games with a strong sense of self satisfaction and personal pride. The purpose of holding these games was not only to provide a healthy recreational opportunity for seniors, but also to stress the importance of combining sports and games with fitness, fun and fellowship.

Approximately 100 seniors braved the side effects of tropical storm Danielle to come run, walk, swim, throw softballs, shoot basketballs—all in the name of fun. The Senior Games opened with a motivational parade of athletes, which I was honored to lead. Then came the running of the Olympic torch by Dorothy Hollander, a participant and medal winner at the New York State Senior Games, followed by the inspirational singing of our national anthem by Ms. Alana Ross, a valued volunteer. Once the official Senior Games torch was lit, participants set out to their scheduled events, and the rest is history.

During lunch, all participants and guests were entertained by our own senior pops orchestra led by conductor Bart Farrara, and President Herb Needleman. I would be remiss If I did not add that my own Aunt Evelyn plays the cello in this very popular and talented orchestra.

As the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I was very enthusiastic about the possibility of holding senior games like these for seniors in Suffolk County. I firmly believe that good health and longer life are directly tied to health promotion and disease prevention, which include staying in shape and eating right. The motto of the games, "You don't stop playing because you grow old, you grow old because you stop playing," is one that should be heeded by all of us who are approaching our golden years.

I would like to salute the organizers of these games, who in a very few months time, put together an event that will long be remembered by all. It was not an easy task, but they accomplished it with style, good humor, and a strong sense of commitment.

These individuals include Commissioner Anne M. Stewart of the Department of Human Resources; Joan Ward, executive assistant, department of human resources; Myrna Taylor, deputy commissioner of human resources; Emily Kandler, director of handicapped services; Norma Prusinski, senior adovate; Sandra Taddeo, deputy for senior citizens department; Terry Sabatino and Elaine Lawler of the department of parks and recreation; the volunteers who ran the individual events, which include Kirk Dove, Dorothy and Hank Hollander, and Roy Kandler, and all members of the planning committee, which also include my mother Norma Downey and Gertrude Van Kirk.

In addition, I would like to thank all the volunteers who braved the rain and showed up early in the morning to help hand out packets, serve lunch and provide much support for our athletes. Among those are members of my own staff, Anne McShane, John Olinger, Karen Scheussler, Judi Reiss, Lorraine Harrington, Doug Eden, Robby Brick, Win Boerckel, and Moya Benoit Thompson.

I hope the spirit of the Senior Games will catch on, and even more seniors will be participating next year. While these games are not currently part of the National Senior Games competition, it is entirely possible that this event could one day be part of that national competition, should our seniors desire it. If not, I feel very confident that our seniors will always benefit from these special games, and I look forward to seeing them next year.

TRIBUTE TO ARTHUR C. LATNO, JR.

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FAZIO. Mr. Speaker, it is with great pride that I salute Arthur C. Latno, Jr., an outstanding Californian, on the occasion of his retirement from Pacific Telesis Group.

Art Latno has served Pacific Telesis Group, the San Francisco community and California with distinction for 40 years. Because I know how deeply he will be missed, it is with mixed feelings that I offer him this tribute.

In his role as executive vice president for external affairs of Pacific Telesis Group, one of the largest employers in the great State of California, Art has shared his wise counsel and great personal integrity with elected officials, community leaders, and employees of Pacific Telesis for his entire tenure. He will be missed.

As chairman of the board for the California Institute, St. Mary's College, the San Francisco 2000 Committee, and Westamerica Bank, he shared his desire for California to be the best she can be and shared his commitment to community improvement. He will be missed.

As an honored member of the Knights of Malta, the recipient of the Antidefamation League's 1990 Americanism Award, and a trustee of the Fine Arts Museum of San Francisco, Art's work in the fields of arts and human understanding is priceless. It will be missed.

As Ambassador-Chairman of the U.S. Delegation Treaty Conference on WATTC and a member of the executive committee of the San Francisco Host Committee, and the International Committee, he represented the beauty and progressive thinking of California and the Nation with our friends overseas. A better source of goodwill, I cannot imagine.

In many ways and through many other means of public and private service too numerous to mention here, Art has unselfishly given of his time, his expertise, his warmth, his wit, and his strength of character to benefit his city, his State, and his country during his long and illustrious career. He will be missed.

I know that in retirement Art will still be lending his many gifts to his community. So, even though we will miss his full-time presence as EVP to Pacific Telesis, I hope his new endeavors will ensure that we continue to see him and work with him as often as possible.

His ability and leadership will be missed by all those who have had the honor of working closely with him. I know my colleagues in the California delegation join with me in wishing Art, his wife Joan, and their lovely family all the best as they embark on this new juncture in their lives.

TEACH FOR AMERICA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GREEN of New York. Mr. Speaker, I want to take this occasion to recognize the outstanding service and accomplishments of Teach for America. This prestigious national teacher corps, which is headquartered in my district of New York City, has sent close to 2,000 competitively selected and highly committed college graduates to serve in at-risk communities in 13 States across the country. This tremendous outreach was accomplished in just a few years of work by dedicated young Americans with a belief that all children deserve an equal opportunity to an education.

This innovative concept was developed by Teach for America's founder and president, Wendy Kopp, in her senior thesis at Princeton University in 1989. This program inspired a spirit of entrepreneurship that has attracted thousands of outstanding students to think about teaching and education in a new way. It gave the profession a status change to the extent that top students suddenly found it more appealing. In fact, a major unforeseen benefit of this program is that it will provide an excellent model that will impact ways that all beginning teachers in this country are recruited, selected, trained and supported.

Very few would deny that public education is fundamental to any quality effort to revitalize our Nation's deteriorating community infrastructure. Teach for America's value as a model is undisputed but I believe that this is a concept that can be expanded and continue to serve an important resource in an era of educational reform and transition. The private sector has recognized Teach for America as a shrewd investment. Diverse corporate and foundation supporters have come forward since the organization's inception to provide millions of dollars. This support has been tremendous and proves the importance of this endeavor to the American people.

Teach for America currently operates on a budget of $7 million, all of which is donated by individuals and private organizations. When one considers that there are between 2 and 3 million teachers in America right now, it is easy to see that this is not a substantial funding base with which to make the kind of difference that this program has the potential to make.

Mr. Speaker, I believe that this is exactly the type of enterprise that the Federal Government should be supporting in partnership with organizations like Teach for America and State and local education agencies. Moreover, in light of the ever-mounting problems facing urban areas such as New York City, Los Angeles, Chicago, and elsewhere, I am hopeful that Congress can consider a partnership that would allow Teach for America to at least continue its service in our undeserved urban and rural areas. Ultimately, I believe this investment will accelerate the educational improvements that must happen in these areas of our country and perhaps inspire others to continue in this spirit of commitment to build a future for our Nation's children.

HEALTH UNIT COORDINATOR DAY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. KAPTUR. Mr. Speaker, I rise to commend the more than 14,000 health unit coordinators across our Nation who have organized patient care for over 50 years and have literally built a profession. This group of dedicated health professionals is smoothing the wheels of our growing health technology by transcribing physicians' orders into a computer format and by keeping communication lines open between units and ancillary departments. They also answer telephones, order unit supplies, and greet patients and visitors.

Today I am introducing legislation to commemorate the profession's founding on August 23, 1980. On that day in Phoenix, AZ, 10 concerned unit clerks and instructors met at the first organizational meeting to develop unit coordinating into a recognized health profession. Since then, the National Association of Health Unit Coordinators has developed a national certification program as well as standards of education and practice.

Join me in support of designating August 23, 1993, as National Health Unit Coordinator Day. In so doing, we will recognize this important profession, and give the coordinators and the persons they serve an opportunity to celebrate the contributions this profession makes to the Nation's daily campaign for good health.

HONORING ROSA ROSARIO-GARCIA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, I take this opportunity to recognize the work of a friend and community leader, Rosa Rosario-Garcia, who is being honored by her colleagues on October 23.

Rosa has served as chairperson of the board of directors of the Hispanic Counseling Center on Long Island, which is celebrating 15 years of service to the community. It is fitting that during this gala event the Hispanic Counseling Center is saluting the effort and dedication put forth by Rosa Rosario-Garcia.

Through the work of Rosa and her colleagues, the chemically dependent, the mentally ill, and their families have been given an opportunity to reach and sustain a productive way of life. By specifically serving people with limited English-speaking ability, the Hispanic Counseling Center has reached out to a population that is often under-served or completely ignored. The center's efforts are indeed a model for other service providers who must help to fill this void.

For these reasons and more, I commend Rosa Rosario-Garcia for blazing this new and exciting trail. The fruits of her labor are most evident in the many lives she has touched in a positive way.

FAIR COMPETITION ACT OF 1992

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. THOMAS of Wyoming. Mr. Speaker, I am introducing legislation today which will provide a new and important protection for the private sector. It strengthens an existing provision within the Intergovernmental Cooperation Act to ensure the Federal Government does not unfairly compete with the private sector.

Current law authorizes Federal agencies to provide services to State and local governments, provided it is done in a manner consistent with the Federal Government's policy of reliance on the private sector. Unfortunately, that policy has not been followed. Each year, Federal agencies use cooperative agreements, cost-sharing arrangements, and memoranda of agreement to perform million of dollars of services for State and local government—services for which there are private sector firms ready, willing, and able to perform. At the 1986 White House Conference on Small Business, government competition ranked third in the list of problems facing the small business community.

The bill I am introducing today clarifies and strengthens current law by requiring a Federal agency to apply a first preference to private contracting when performing commercial activities and State and local governments. Before a Federal agency can provide a commercial activity, it must first issue a public announcement and solicitation to the private sector. If that process yields a qualified private contractor—using the regular and applicable Federal procurement process—then the selected contractor shall perform the service. If the public notification and search of the private sector determines that an activity is of such a unique nature that no private sector provider can perform such services, then the Federal agency is authorized to perform the activity for the requesting agency.

This bill does not discourage Federal interaction with State and local governments. It encourages them to operate in a way that reduces the costs to the taxpayers while helping the private sector. Mr. Speaker, this legislation implements a policy first recommended in 1955, as well as the findings of the 1986 White House Conference on Small Business. We owe it to America's businesses to eliminate unfair government competition. Our Government should act as the umpire between competitors in our free enterprise system, not as the opposing team.

INTRODUCTION OF THE ENDANGERED SPECIES REFORM BILL

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DOOLEY. Mr. Speaker, I am pleased to join with my colleagues in introducing the Endangered Species Reform Act. This bill represents a responsible approach to making needed changes in the Endangered Species Act.

The Endangered Species Act serves a valuable purpose in evaluating threats to the environment and ensuring the protection of threatened and endangered species. I support the goals of the ESA. However, one only needs to pick up the newspaper or watch the evening news to see that it has gotten out of control.

While the northern spotted owl may be the most famous symbol of the Endangered Species Act, it certainly is not the only one. In my congressional district we have confronted the San Joaquin kit fox, the chinook salmon, the delta smelt and the blunt-nose leopard lizard. I have no doubt that other species will be identified in the future.

I represent a district where the entire economy is threatened by the Endangered Species Act. My constituents are scared. They read about other communities and loss of jobs and the closing of businesses and they worry about their families' futures. They cannot understand how a law meant to preserve all creatures could result in the destruction of lives.

This bill takes the right approach to reform the ESA. It begins by ensuring that the listing of a species be based solely on science. It speeds up the timetable for establishing a recovery plan, but allows much more input by the public into the decisionmaking process. The bill does not place economic considerations above scientific, but it does allow more flexibility in designing a plan for the recovery of a species.

Clearly, this is an issue that will have to be dealt with in the 103d Congress. I hope that this bill will be a starting point for discussions.

A TRIBUTE TO MADELYNE BLUNT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. STOKES. Mr. Speaker, recently, the "Every Woman" section of the Cleveland Plain Dealer paid tribute to the late Madelyne Blunt, a longtime resident of my Congressional District. Ms. Blunt, a wizard at producing big results with precious little capital or help left behind a legacy of outspoken advocacy for Cleveland's black women when she died last year at the age of 59. She is remembered for her tireless efforts to improve the images of blacks and to fuse black women together in sisterhood nationwide.

Countless individuals have benefited from the work of this remarkable woman. She was a leader who carried the tourch in so many ways to put black women in the hard-to-attain mainstream. An ideal citizen and advocate. Madelyne Blunt's contributions to society are matched by few.

Mr. Speaker, I am proud to have had such an outstanding citizen as my constituent and I hope my colleagues will have the occasion to read this article chronicling the life and crusade of this extraordinary individual.

[From the Cleveland Plain Dealer, Sept. 29, 1992]

CRUSADER'S IDEALS LIVE ON

(By Margaret Bernstein)

Madelyne Blunt. dabbled in nearly every medium during a 25-year crusade to improve the images of blacks, and to fuse black women together in sisterhood.

She produced television shows. Published magazines. And even took the direct approach, banging on the doors of major corporations and soliciting their support for the Hurray for Black Women festivals she planned and executed.

In July of 1991, she was in her element, friends say, planning her next Hurray conference and working to convert a Hough-area house into a magazine office and women's center. Feeling stomach pains, she went to the hospital.

Routine blood-work showed she had leukemia.

Ten days later, she was dead.

"Unsung and unappreciated," is the way longtime friend Cathy Lewis-Wright described her.

But Blunt's memory will be celebrated in a big way Saturday during the Hurray Festival 1992, organized by a group of women who have vowed to remember and continue her work.

Blunt, a wizard at producing big results with precious little capital or help, left behind a legacy of outspoken advocacy for Cleveland's black women when she died at age 59.

She had one daughter, Rolanda Blunt-Dawson. And a very busy schedule. "Golf was my brother, Hurray for Black Women and mama's magazine were my sisters," says Blunt-Dawson.

Blunt never attended college. That didn't keep her from kicking a toe-hold in the exclusive media industry.

"I was told I couldn't because I knew nothing about publishing, because I'm a woman and because I'm a Negro," Blunt said in a 1965 interview.

With a staff of one—herself—she published her first issue of Designs for Gracious Living in 1965. It featured recipes, fashion, decorating tips and spotlighted prominent black Clevelanders at home; a "McCalls of the Negro community," she called it.

She eventually hired a staff for Gracious Living, but the magazine published sporadically. Blunt later started another publication for Cleveland's black community, Club Date. From 1967 to 1969, she tried her hand at television producing, working on two documentaries including "Black Peace," about the 1968 Glenville shootout.

And in 1969, she launched the self-esteem-raising conferences called "Hurray for Black Women."

Blunt booked many prominent and accomplished blacks for her shows, including entertainer Eartha Kitt, model Iman, and writers Alex Haley, Maya Angelou, the Darden sisters and Marita Golden. She filled public halls with corporate exhibits, and scheduled workshops on social issues, fashion shows and performances by Cleveland Ballet, among others.

"She wanted to show that the black community had a high standard of living," said Lewis-Wright. "She was prepping us to realize that we were consumers. We used a lot of products but (corporations) didn't market to us."

In 1979, the Hurray for Black Women festival hit a Cleveland attendance high of 12,000. Blunt eventually took the show on the road, visiting several Midwestern cities each year.

"I really opened a window * * * for manufacturers and retailers, most of whom have never had a peek through that window before," Blunt commented in a 1973 Plain Dealer interview. Through her expos, "the experts learn about black family lifestyles, and the psyche of black women consumers and why they can't get black women to respond to existing sales promotion and advertising. Black women today have a great deal of money to spend."

Her daughter remembers a conversation Blunt had with the president of Procter & Gamble in the late 1960s. Black people use Tide detergent for everything, from washing dishes to floors, she told him. Her words struck the man so powerfully "that he sent her tons of soap powder to give away at shows," Blunt-Dawson recalled, laughing at the memory of the Tide cartons that were stacked high at her home.

Just watching Blunt in action "gave me my assertiveness," said Khadijah Muhammad, who met Blunt at a Hurray festival and became a loyal volunteer. Blunt asked for her help in bringing Muslim women to the festivals and making them feel welcome. "That's what she was about. She tried to bring all communities together," Muhammad said.

Her festival was "not just a social event," Blunt said. "It's an event to provide people from corporate, retail, cultural and social agencies—anyone with a product, service or an idea—the opportunity to talk with a cross section of black women."

Blunt's pointed message about the power of black women wasn't aimed just at the corporate world—she used it to uplift black women themselves. "She was very good at raising self-esteem, before it was labeled that," said Lewis-Wright.

Blunt plunged ahead with many trends before they became everyday words, her associates say. Before "mentoring" because a buzzword, Blunt was taking college youths under her wing and showing them the workings of her various enterprises. Her Hurray festivals were showing women how to network, even before that term was coined.

She had big dreams, but all who knew her were well aware that her profits never stretched to keep her projects going with regularity.

Her magazines published infrequently. Bills piled up. Whenever any money came dribbling in, she pumped it right back into her businesses.

"Madelyne was a person who believed in getting what needed to be done, done," said Lewis-Wright. "Whenever she had money, she put it all into getting the next step going. It was always an economic push and pull."

A high point in Blunt's life came in 1976, when she put on a landmark-sized Hurray show in Cleveland, funded by a $50,000 National Endowment for the Arts grant. Another followed in 1982 when Blunt, a high school graduate, received an honorary degree from Shaw College in Detroit.

"What Madelyne was trying to do was so important that it needs to be carried on;" said Lewis-Wright. Which is why a group of Blunt's former volunteers have come together to create a foundation that will keep her festivals and her memory alive.

But similar to the struggles that Blunt endured, finances have been hard to drum up, Lewis-Wright said with a sigh. "Just this last year, in trying to set up a foundation—I have gotten so much insight into how difficult it was for her."

MICK SOUZA WINS MR. UNIVERSE TITLE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Mick Souza for his recent bodybuilding title at the 1992 Mr. Universe Championships held in London, England. He became the first Rhode Islander to win the prestigious Mr. Universe title.

The former Mr. America champion had to overcome many obstacles in order to reach the championships. Despite the loss of his mother and grandmother, along with three knee operations, put Mick at a disadvantage. He worked hard to recover and did not give up. He continued his program and eventually got back to top form.

His trip this year was his third attempt at the Mr. Universe title. After finishing fourth in the 1991 contest and seventh in 1990, Mick believed that this was the year, and he was right. The judges picked Mick as Mr. Universe.

I congratulate Mick for his Mr. Universe title. I wish him all the best in his professional career and in all of his future endeavors.

SOUTHERN BELL'S RESPONSE TO HURRICANE ANDREW

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SMITH of Florida. Mr. Speaker, the people of south Florida owe so much to so many people who assisted them after Hurricane Andrew. One organization that should not be forgotten is Southern Bell, the local telephone company.

Following the hurricane, the people of Southern Bell and its parent operating company BellSouth performed remarkably to begin restoring phone service and to provide Andrew's victims with an important link to family and emergency services.

On the Tuesday morning after Hurricane Andrew ravaged south Florida, the committee chairs of the Gold Coast chapter of the Telephone Pioneers of America, an 80-year-old community service group, met to help their neighbors. Using information developed by the South Carolina Pioneer chapter after Hurricane Hugo, the Gold Coast chapter created a two-pronged effort to help bring the lives of employees and the community back to normal.

The Pioneers then focused and continue to focus on daily distribution of special-request and basic supplies and weekly provision of hot meals to all who need them. Their crisis center in a former Western Electric warehouse in Fort Lauderdale served as a collection point for donations and contained a hotline that referred people to needed food and supplies.

In addition to these relief efforts, other members of the Southern Bell family are working to restore phone connections and lines. The Miami Herald noted that the sound of a friend or family member on the other end of a telephone line soothes the brain during a crisis. As the Herald noted:

> [T]hat soothing voice is Southern Bell's essential business. When we needed it most, it was there.

For the benefit of my colleagues, the Herald's complete editorial follows my remarks.

Finally, Mr. Speaker, I hope that the response to BellSouth following Andrew's devastation through Florida and Louisiana will cause some to think twice when considering proposals to hamstring the regional operating companies.

[From the Miami Herald, Aug. 27, 1992]

PREPARATION RINGS THE BELL

The last time so many people owed so much to so few, there were bombs falling on England. That is the sort of comparison that occurs to people describing the uncanny performance of Southern Bell's phone system throughout the worst of Hurricane Andrew.

"When I heard my daughter's voice," one reader told us after the storm, "I couldn't speak, I couldn't move, I could barely breathe. The relief was incredible." In devastated Cutler Ridge, a man with no roof and few remaining possessions could still offer his one valuable resource to his worse-off neighbors; a perfectly functioning telephone. When houses were destroyed, phone connections often went with them. But when individual connections survived, the durable, underlying fiber-optic network of Southern Bell service never failed. Not even in the hardest-hit Homestead office.

Years before Hurricane Hugo slammed in to Charleston, S.C., in 1989, Southern Bell's parent company, BellSouth Telecommunications, had been planning for disaster. The planning paid off in Hugo, and was enhanced immediately after. The general manager of Southern Bell's network department, Linda Eisenhower, drilled hurricane preparedness as if the threat were imminent. The benefit of that obsessiveness, plus an ongoing program to replace copper cable with fiber, spared most South Floridians the horrible silence that nearly everyone expected.

Throughout the storm, staff continued operating the 58 central offices in Dade, Broward, and Monroe Counties. Of those, 39 lost power and had to rely on their own, backup electrical generators. Layers of fallback and fail-safe provisions were in place, and many had to be used. In the end, no central office ever stopped running. Not one.

That's small consolation, of course, to thousands of families still out of touch with relatives and friends. Long lines form daily in South Dade at the working pay phones. And people's desire to reach one another often chokes the full capacity of Southern Bell's network. Even so, remarkably, people are finding phones and hearing each other's voices, albeit sometimes with effort.

Besides the devastation that they wreak, hurricanes are a terror of sound—the evil, still silence before the storm; the unearthly roar of wind; and finally the dreadful, devastating quiet. Those infernal, haunting sounds are driven from the brain by the music of a human voice. Beyond the engineering, planning, and finance that drive a big corporation, that soothing voice is Southern Bell's essential business. When we needed it most, it was there.

THE RETIREMENT OF HON. ROBERT ROE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HORTON. Mr. Speaker, I want to pay tribute to Robert Roe who will be retiring from the Congress at the end of the year. Robert Roe has served this Nation with distinction as a Member of this body for 23 years.

Bob Roe is a Congressman with vision. As a leading proponent of the space program, he has made great efforts to restore the Nation's confidence in NASA after the Challenger tragedy. As the space program leads this Nation into the next century, it will bear many of Bob Roe's fingerprints and leadership.

Bob has also shown an interest in more down-to-earth causes such as highways and other infrastructure items. As chairman of the Public Works and Transportation Committee, he helped craft an outstanding highway bill which will also be a testament to his leadership, long after his retirement.

As a dean of the New York congressional delegation, I have had the opportunity to work with Bob on a number of issues in his capacity as the dean of the New Jersey congressional delegation. The excellent working relationship between the two delegations, which we have fostered, has helped us to achieve significant accomplishments which benefit both of our States. In working with Bob on these issues of mutual interest, I have developed the highest regard for Bob Roe as a person and as a legislator.

My wife, Nancy, joins me in extending our best wishes to Bob. We wish him the best of luck in all of his future endeavors.

BAHRAIN AND GULF REGIONAL SECURITY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FEIGHAN. Mr. Speaker, I want to acknowledge Bahrain's contribution to peace and international cooperation in the Middle East. Bahrain should be commended for its strong support for a negotiated peace in the Middle East.

As a member of the Gulf Cooperation Council, Bahrain has always supported peace and regional stability in the gulf. From the very beginning after the Iraqi invasion of Kuwait, Bahrain supported Kuwait's territorial integrity, sovereignty, and independence. Bahrain was a critical partner in the allied coalition during the gulf war.

Mr. Speaker, Bahrain has been a vigorous proponent of economic progress and private investment. The country is now celebrating 60 years of a United States-Bahraini business partnership. Beginning with United States efforts to develop the first major oil production well in the gulf in 1932, Bahrain has always welcomed American business investment. It is now considered the commercial center of the gulf.

Mr. Speaker, I would like to enter into the RECORD the text of remarks made by His Excellency Abdul Rahman bin Fares Al-Khalifa, Ambassador of Bahrain, submitted at the close of recent discussions on arms control in the Middle East. Most noteworthy is Ambassador Khalifa's comment that "the road to peace begins with a vision of the possibility of peace."

CLOSING REMARKS TO THE MIDDLE EAST ARMS CONTROL TALKS

On behalf of the State of Bahrain, I would like to thank our co-sponsors—the governments of the United States and Russia—for bringing us together for these momentous discussions.

We are indeed grateful for the progress that they have made in their own efforts to limit the proliferation of nuclear arms. Their frank and instructive presentations to this meeting have shown us how the abyss of distrust and rancor among nations can be bridged by commitment to peace and constructive action. In their achievements and in their support of our own cannot come in our time.

The State of Bahrain commits itself to the cause of peace and pledges that it will support all good faith efforts to achieve a comprehensive settlement of disputes in the Middle East.

The road to peace begins with a vision of the possibility of peace. We must continue in the days and weeks that follow to define that vision by our actions.

If we are to achieve a just and durable peace in our region, each nation—no matter what its size or geographic location—must make a similar commitment to the process of arriving at that noble goal.

While much can be achieved through multilateral discussions—such as those we have had here—we must carry away with us from these meetings the courage to embark upon bilateral negotiations as well.

Wherever there is a confluence of peaceful purpose between the United Nations, the Gulf Cooperation Council, and the nations of the region, Bahrain can be counted on to provide support, within its means.

Bahrain supports United Nations resolutions limiting the proliferation of nuclear, chemical, biological and conventional weapons of mass destruction in our region.

Each of us who is present in this room brings with him a legitimate concern for the defense of his own nation. The cause of peace does not demand that we render ourselves helpless in this regard.

However, to achieve a balance between legitimate sovereign concerns and regional stability, a greater measure of transparency is necessary for monitoring the importation of arms into our region.

History may seem to give us reason to be modest in our expectations, but it gives us no license for inaction.

Let us dare to be bold in our vision of a just peace in our region. And let us dare to be great in our efforts to make that vision a reality in our time.

TRIBUTE TO HANON COMBS

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GOSS. Mr. Speaker, as the 102d Congress draws to a close, official congressional business in Washington will conclude until next year. But the hard work done by private individuals to improve things in their own communities continues unabated to fill in where government falls short. Today I'd like to pause a moment to pay tribute to one such individual for his efforts in a distant part of Collier County, FL, immediately after Hurricane Andrew wreaked havoc on the lives of so many people. Mr. Hanon Combs, president of the Goodland Civic Association leapt into action when it became clear that assistance from official sources to handle the damage and debris from the hurricane would be slow in coming. Mr. Combs took the initiative to deal with a troublesome and potentially dangerous situation in his small, remote community on the edge of the Florida Everglades. Rather than worrying about redtape and procedure, Mr. Combs cleared the way for the civic association to respond immediately with relief and cleanup activities. In addition, Mr. Combs used his own resources to hire a dredging crew to clear out an important waterway that had been filled in by the storm, ensuring access to the gulf by boat for more than 80 residents of his community who depend on the gulf for their livelihood.

Mr. Speaker, in times of natural disaster, the American spirit of compassion and can do shines through—and the aftermath of Hurricane Andrew proved no different. There are countless individuals like Mr. Combs who deserve our recognition and our thanks.

JONES MORGAN DESERVES WHAT HE IS DUE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BLILEY. Mr. Speaker, Jones Morgan is a man who deserves what he is due. Mr. Morgan, 109, is our Nation's oldest living war veteran. Unfortunately though, because of incomplete military records, Jones Morgan is being denied veterans benefits.

Jones Morgan was a Buffalo Soldier who served with the 9th Cavalry in Cuba during the Spanish-American War. He ran away from home and joined the Army when he was 15. Mr. Morgan tended Teddy Roosevelt's horses and was present at the Rough Riders' charge up San Juan Hill. Although not used in combat, Mr. Morgan was used for, as he says "domestic stuff * * * anything needed fixing in the place, they sent me." Two years later though, at the age of 17, Jones Morgan's parents finally caught up with him and ended his military career.

Around the turn of the century Jones Morgan's military records were destroyed in a fire. Because complete records were not kept of underage Buffalo Soldiers, no records remain verifying that he was present. It is speculated that Mr. Morgan was a civilian who served with the 9th Cavalry. Frequently civilians were employed to perform nonmilitary duties in those times.

Since Congress has extended wartime veteran status to other civilians who served the military, and since I believe Mr. Morgan was present with the 9th Cavalry, I stand here today committed to sponsoring a bill in the next Congress which will grant Mr. Morgan the benefits that he deserves.

TAIWAN'S NATIONAL DAY

HON. JOHN PAUL HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HAMMERSCHMIDT. Mr. Speaker, on October 10, 1992, the Republic of China on Taiwan will celebrate its 81st National Day. Taiwan is not only our ally but our fifth largest trading partner.

As many of my colleagues know, over the last several years Taiwan has experienced great changes in both the economic and political realms. Their economy has grown at a spectacular rate and the Government has instituted numerous political reforms.

In fact, a little over 2 years ago it was my privilege to be a representative of President Bush at the inauguration of President Lee Teng-Hui. I am delighted to be a witness to the accomplishments of the Taiwanese people and hope that the Republic of China on Taiwan will continue to grow and prosper.

I extend my very best wishes to President Lee Teng-Hui, Premier Hau Pei-Tsun, Foreign Minister Fredrick Chien, and the citizens of Taiwan as they celebrate their National Day.

SALUTE TO SENATOR ED DAVIS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GALLEGLY. Mr. Speaker, I rise today to honor an outstanding legislator, and one of the finest police chiefs in Los Angeles history, California State Senator Ed Davis, as he retires from public life.

Ed Davis has proven himself time and time again to be an outstanding public official, a man who is not afraid to speak his mind or to take politically risky stands if he believes his position is the right one.

During his 12 years as a State senator, Ed Davis earned a reputation as an independent and highly respected lawmaker, strongly supporting law and order, but also championing environmental protection.

But for most of my colleagues, Ed Davis will forever be remembered as the tough police chief who worked hard to keep the streets of Los Angeles safe, as well as ensuring that his department retained the respect of the public and fellow law enforcement professionals as one of the best run big city police forces in the country.

During his 8½ years as Los Angeles' top cop, he led the department through tumultuous times. While his outspokenness and his desire to maintain law and order caused him to be scorned by the ACLU and the editorial page of the Los Angeles Times, he earned the support of the cop on the beat and hundreds of thousands of Los Angeles residents who supported his no-nonsense approach to law enforcement. To them, he was not Crazy Ed, as his detractors called him, but a police officer who held the commonsense belief that criminals ought to be punished.

After his retirement from LAPD, Ed turned to politics, and was elected in 1980 to the Senate. I'm proud to say he's been my State Senator for that entire period, and as his friend, I'm going to miss his thoughtfulness, his sense of humor, and his independence.

Mr. Speaker, as Ed and his charming wife, Bobbie, head up Highway 1 to their new retirement home in Morro Bay—where family and golf, not legislative intrigue, will be the order of the day—I ask my colleagues to join me in saluting Edward M. Davis for his outstanding career as a public servant, and in wishing them well upon his retirement.

THOMAS STONE DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HOYER. Mr. Speaker, on October 3, last Saturday, Maryland celebrated Thomas Stone Day. A signatory to the Declaration of Independence, Thomas Stone has meant a lot to Marylanders and a lot to the people of Charles County, MD, where he was born and where he chose to raise his family.

Thomas Stone was born in 1757, a time when the State of Maryland, like the rest of the country, was under colonial rule. However, before he would die, Thomas Stone not only would see the Colonies declare independence from Britain, but he would play a critical role in this change.

Thomas Stone grew up on Poynton Manor in Charles County and went on to study law in Annapolis under the tutelage of Attorney Thomas Johnson. While he enjoyed the practice of law, Thomas Stone clearly was attracted by the prospect of independence for our country. In fact, within 10 years of being admitted to the bar, Thomas Stone was seated in the Continental Congress working on the committee which helped develop the Articles of Confederation. And within 2 years after that, he had signed the Declaration of Independence.

Not long after helping our country achieve its sovereignty, Thomas Stone was elected a State Senator for Maryland and represented Charles County. In fact, although Thomas Stone moved from Charles County to study law he eventually returned to Port Tobacco in Charles County to build his home, Habre-de-Venture, and raise his family.

Despite the heady issues surrounding the birth of our new Nation, Thomas Stone also recognized the importance of more local issues. During his tenure in the Maryland Senate, he was appointed as one of the commissioners charged with determining the jurisdiction of the bay for Maryland and Virginia. For many Marylanders, his work in this area has also had as great an impact on the quality of life they lead as his work in the Continental Congress and the Congress of the Confederation.

Because of Thomas Stone's esteemed work and all that he means to the State of Maryland, I am pleased to celebrate his life and work today. I am also very proud to join in the ongoing effort to try and restore his home, Habre-de-Venture, and preserve an important piece of American history.

SALUTE TO THE REPUBLIC OF CHINA

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. INHOFE. Mr. Speaker, I would like to offer my best wishes to the Republic of China on Taiwan on the 81st anniversary of the founding of that nation, October 10, 1992.

The Republic of China on Taiwan is a model nation of 20 million hardworking men and women striving for prosperity, individual freedom, and world peace.

President Lee Teng-hui and Representatives Ding Mou-shih should be very proud of the accomplishments of their country and I pledge my continuing support for Taiwan and its people.

THE CRAFT OF CONSTITUTION-MAKING

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SMITH of Florida. Mr. Speaker, with the end of communism in Eastern Europe and the eclipse of the one-party system in many developing states, we are now witnessing a constitutional explosion. There were 10 new constitutions drafted throughout the world in 1990, and 12 in 1992. Four more have been completed this year.

The U.S. Constitution was the first constitution. Our national charter is the most respected and emulated document of its kind, and nations planning a new constitution reflexively look to the American model. It is understood that the American Constitution is not simply a document, but a method for reconciling differences, ensuring national unity, sharing power, and guaranteeing individual rights.

Because of this, nations intent upon constitutional renewal are seeking guidance from American scholars with experience in comparative constitutional law. The American professor who probably has been the most active as a constitutional consultant is Prof. Albert P. Blaustein, emeritus professor of law at the Rutgers University Law School in Camden. Professor Blaustein also serves as president of the Philadelphia Constitution Foundation. Among Professor Blaustein's more than two dozen works is the 20-volume "Constitutions of the Countries of the World," and the 7-volume "Constitutions of Dependencies and Special Sovereignties."

Professor Blaustein prepared the basic outline of the structure and contents of a modern constitution which was translated into Russian for Russia's Constitutional Herald and was used as the agenda for the work of the Russian Constitutional Commission. He also played a major role as counsel and sometimes draftsman in the constitutions of Bangladesh, Nepal, Fiji, Liberia, Zimbabwe, Niger, and Peru. In addition, Professor Blaustein has been a consultant in the preparation of the constitutions of Canada, Poland, Romania, Macedonia, Brazil, Nicaragua, Trinidad, and Tobago, South Africa, the Republic of Korea, and Cambodia.

But what does a constitutional consultant actually do when called upon to advise a foreign nation? Professor Blaustein has written an article on the subject which examines this vital endeavor. I ask unanimous consent that it be reprinted in the RECORD, and I call it to the attention of my colleagues, who, like myself, are anxious to lend support to the spread of democracy throughout the world.

CONSTITUTION-WRITING: THE ROLE OF THE FOREIGN CONSULTANT

(By Albert P. Blaustein)

It is axiomatic that a constitution must be autochthonous—an uncommon word indeed to American and English constitution-writers and other constitutionalists who claim English as their mother tongue or who think English in their constitution drafting. But it is a word readily understood and readily used by their French and Spanish counterparts, for example, who are likewise charged with the formulation of constitutions. They well know the phrase "constitution autochtone or constitucion autochtonia."

Which is?: A native constitution, an indigenous constitution—literally, one sprung from the soil. Or, as I have written so many times elsewhere: "a constitution designed to meet the needs, wants, aspirations—and cultures—of the people for whom it is written."

This being so, it is logical to ask just what a foreign consultant can (and/or should) do to assist another nation as a constitutional adviser and/or counsel, consultant, drafter. What role can the outsider play? More to the point, as we think about democracy in the Third Millennium: what has been, what is and what will continue to be the role of the constitutionalist from America in constitution-making in other countries?

Note the phrase "constitutionalist from America." I so describe myself. For I am a comparative constitutionalist possessing an American passport. The American constitutionalist who knows only the American Constitution can play only a confined, restricted role.

The first question was partially answered in India's 1948 Constituent Assembly Debates by none other than B.R. Ambedkar himself, the father of the Indian Constitution. Some delegates had criticized the constitution draft on the ground that it was not uniquely Indian, that it was not autochthonous. Mr. Ambedkar was overly pro-American in his response:

"One likes to ask whether there can be anything new in a constitution framed at this hour in the history of the world. More than [a] hundred years have rolled over when the first written [the United States] constitution was drafted. It has been followed by many countries reducing their constitutions to writing. What the scope of a constitution should be has long been settled. Similarly, what are the fundamentals of a constitution are recognized all over the world. Given these facts, all constitutions in their main provisions must look similar. The only new things, if there be any, in a constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country."

It thus seems natural (and has seemed natural) for foreign constitutional draftsmen (and draftswomen) to turn first to the American model. For the United States Constitution is not only the oldest in the world but the most successful. And from the earliest days of constitution-making the lawyers of other nations have been studying the American precedent and seeking guidance from American scholars. From America came the teaching that the people are sovereign and that they express their will in a single-document constitution which is the supreme law of the land. It is this concept that we are exporting and not necessarily the two-century-old American model.

The American focus in the early 1990's has centered on constitution-making in Eastern Europe. But this is only one area where new constitutions are being formulated. Constitutions are also needed all over sub-Saharan Africa in the wake of the abandonment of the one-party state. Constitutional changes are being planned for South Africa and Madagascar, Peru and Nicaragua and Cambodia and Burma in the less-developed world; and in the developed nations of Canada, France, Italy and Germany.

HISTORIC BACKGROUND

America's participation in foreign constitution-making dates back to 1776, more than a decade before the actual drafting of the 1787 Constitution. For 1776 was the date of both the Pennsylvania and Virginia state constitutions. The French and other philosophes who gathered in Paris believed that the ever-popular American minister, Benjamin Franklin, had authored the Pennsylvania charter and frequently sought his advice on constitutional matters. They were also attracted to the Pennsylvania model because it was the only state constitution which called for a unicameral legislature, something very important to revolutionaries who were opposed to any legislative house based on privilege.

The Virginia constitution was even more important, for this contained the world's first bill of rights—the document which served as the basis for the even more famous Declaration of the Rights of Man and of the Citizen in 1789. Thomas Jefferson, then American Minister to France, advised and edited drafts of the Declaration; and Governor Morris, chief draftsman of the United States Constitution, in Paris on business for his Philadelphia clients in 1789 and 1790, also provided advice and guidance.

But it was not only advice that Americans gave. Tom Paine actually served as a member of the constituent assembly that drafted the first French Constitution in 1791.

There was significant participation by American lawyers in the preparation of the early constitutions of Latin America and in the drafting of the constitutions of Panama, Cuba and the Philippines after the Spanish-American War—influences which are still reflected in their current constitutions. The American role in the writing of the post-World War constitutions of Germany and Japan are the best known examples. But not to be overlooked was the authorship of the Haiti Constitution in 1916 by then Assistant Secretary of the Navy Franklin D. Roosevelt or the participation of Justice Thurgood Marshall in the Kenya negotiations or Prof. Tom Franck in Mauritius. Prof. Simon Greenleaf of Harvard Law School drafted the first constitution of Liberia in 1847 and I drafted the present constitution in 1982.

ASKING AND ANSWERING QUESTIONS

But never has there been such an outpouring of advising, counselling and consulting (and drafting) as there is today. Nor has there ever before been such interest in such efforts. As the New York Times headline blared forth on February 2, 1990: "Constitution, Anyone? A New Cottage Industry." Having assisted on some two dozen constitutions, people often ask me what I do as a consultant. I usually respond (perhaps, flippantly) that I ask questions and answer questions. And this is perhaps the best summary-answer.

The questions are never the same. The members of the constitutional commissions of developing nations, first of all, seek information on constitutional contents. The secretary to the Yeltsin Constitutional Commission for the Russian Federation, for example sought guidelines on what should be included in a modern constitution. At his request, I prepared a constitutional outline which was then translated into Russian as the working Commission agenda. The drafters of the Bangladesh Independence Constitution knew only the constitutions of India and Pakistan; they wanted more knowledge of other national charters. And commission members in countries like Niger and Uganda sought basic information on what a constitution is and what it does.

It is not this kind of knowledge that is lacking in the developed nations. There is no dearth of constitutional scholars in the European Community, for example—masters in constitutional theory, experts in constitutional practice, authorities in constitutional contents. Rather, much like developing nations, they often stand to benefit from a view from the outside. The forest and trees analogy is as applicable to constitution-writers as to everyone else.

Likewise absent is knowledge of the *practice, mechanisms and procedures involved in the constitution-making process*. Reading constitutional proceedings is no substitute for practical experience. We are inclined to forget that the post-war European constitutions are forty and more years old and that the Italian and German Constitutions are now the sixteenth and nineteenth oldest in the world. How have the other 150-plus countries in the world gone about writing their new constitutions? Are there survivors of the constitution-making procedures in the countries now planning revisions?

The adviser seeking the ideal autochthonous constitution must, of necessity, ask a great many questions. He must know the nation's priorities and the issues which most affect the public. American-espoused freedoms were on the secondary agenda when I worked with the constitutional drafters of Bangladesh in 1971 and Nepal in 1990. For it was essential for the Muslims of Bangladesh and the Hindus of Nepal to decide first whether to have religious or secular states. Wanting to know of experiences in other lands and the views of constitutionalists on the subject, they consulted me on this question. In the end, the Bangladesh Independence Constitution called for a secular state; the wording of the Nepal document professed neither and the actual wording reflected compromise.

But most of the questions asked by the constitutional consultant are really not to obtain information. They are designed to guide the thinking of the local constitution-makers. They are designed to pose the issues which must be decided by the policy makers, i.e. the members of the constitution commission or constituent assembly. Have you thought about constitutional provisions establishing an autonomous electoral commission? Liberia, Fiji, Trinidad and Tobago. What are the limitations which you will want to prescribe for a state of emergency? Zimbabwe, Niger, Russia.

Often the questions are more like suggestions and recommendations than questions *per se*: What about an article prohibiting the one-party state, I asked the Russians and Macedonians. How about a provision which would restrict the jurisdiction of military tribunals solely to members of the military? The Romanians and Poles appreciated this question. Zimbabwe wasn't interested.

And then the American expert must be ready to answer questions. In this role he cannot be Americanocentric. Now he must sometimes even "apologize" for his American passport. He must emphasize that he has not come to "sell" or even extol the United States model. He must be careful to avoid the temptation of explaining the workings and decisions of the U.S. Supreme Court, for he knows that judicial review is little understood or wanted in most of the world—especially the developing world. This was the situation in Fiji, for example, where officialdom wanted everything spelled out in detail in the constitution, with very little left for the courts to interpret.

The judicial review issue was an important one in the preparation of the draft constitution of the Russian Federation. Because Communist practice made the courts largely adjuncts of the executive, training and habit of members of the Commission resulted in opposition to the judicial review concept. And the disinclination grew stronger as some well-meaning American lawyers regaled the Russian lawyers on the details of U.S. Supreme Court decisions. It took a lot of personal persuasion before I convinced Oleg Rumyantsev, secretary of the Yeltsin Constitutional Commission, that a constitutional court was important for the future of Russia. And I am pleased to report that such a court is now in operation.

Answers to questions posed by foreign constitution-makers must be based upon worldwide knowledge and experience. American-oriented answers will not do. South Africans, Canadian aborigines and Romanians have asked me about how other countries handled the "official language" problem. Nepalese sought information about the powers of the monarch in Spain and Thailand. Ugandans asked me about customary court structures in Nigeria. Poles wanted to know how other nations incorporated the features of the welfare state into their constitutions. Brazil and Colombia wanted to know more about the workings of the constitutional courts of Germany and Italy. South Africa continues to seek information about what every other country has done about everything constitutional.

Each country presents a different challenge to the American constitutional consultant. Fiji needed a new constitution which would protect the rights and power of its indigenous people and still meet international equality standards. Nepal needed procedural guidance: how to go about the process of constitution-making, at the same time facing a deadline. Nicaraguans still need constitutional craftsmanship to revise the communist-oriented constitution of the Sandinistas whom the people voted out of office. Colombia's 1886 constitution needed a modern revision. The Russian Federation sought guidance on the nature of a *modern* constitution. Now the other fourteen republics of the former Soviet Union are likewise calling upon constitutional consultants. I know of Americans working in the Baltic Republics and the Ukraine and I have been asked to work on a new constitution for Georgia. And the list goes on.

More than two-thirds of the world's constitutions have been written since 1980 and it is safe to predict that the figure will be more than three-quarters by the turn of the century. At least twenty new constitutions are now in the planning or drafting stages and the number seems to increase monthly. If those constitutions are to be viable, if they are to last, they must be *autochthonous.* This is a great challenge to the future of democracy—and thus a challenge to those of us fortunate to be called upon as constitutional consultants.

HOW THE COMMUNISTS USED RELIGION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. CRANE. Mr. Speaker, I would like to direct my colleagues to the following article detailing how the Soviet Secret Police used men posing as clergymen and religious leaders to aid the atheistic Communist regime in its attempts to subvert the democratic and moral principles of the free world. I recommend its reading as it is a most interesting article.

[From the Edgar Bundy Ministries, Inc., June 1992]

I TOLD YOU SO

Many people do not like to hear the words in the title of this issue of our monthly documentary, especially when they have been wrong in the past, neutral or cowardly. But, something amazing has happened within Mother Russia since the fall of the Union of Soviet Socialist Republics.

Moscow has long been the center of world intrigue, as anyone who has read the daily press or listened to radio or television news well knows; however, there is an aspect to this intrigue which very few people have paid attention to, even when sworn witnesses have gone before the investigative committees of the United States Congress and the Central Intelligence Agency and revealed how the dreaded Soviet Secret Police, known as MVD or KGB, have used men posing as clergymen and messengers of God to aid the atheistic Communist regime in its attempts to subvert the Free World.

Major Edgar Bundy, retired United States Air Force Staff Intelligence Officer for major commands around the world, frequently appeared before Investigative Committees of the United States Congress in both executive (closed) and open sessions and detailed, with stacks of original documents, how the Communists were using religion to subvert the Western World.

For years Major Bundy served as Executive Secretary of the Church League of America and then following his retirement from that organization in September of 1982, after being its Chief Executive Officer for 26 years, he founded the Edgar Bundy Ministries, Inc. which is world wide. He published, in 1966, 153 pages of devastating documentation entitled, "How the Communists Use Religion." This book went around the world and was translated into a number of languages and went into six editions. Not one line in that book was ever successfully challenged. Everything would stand up under oath whether during a congressional committee hearing or in a court of law.

The World Council of Churches, the National Council of Churches, the Russian Orthodox churchmen under Soviet rule and a wild assortment of liberals in the field of religion, scoffed at the documentation and the warning contained in this book; but they were unable to show, without giving themselves away as collaborators with the Soviet Union, that any one statement was incorrect.

In Amsterdam, the Netherlands, in August of 1948, there was formed the World Council of Churches, set up by liberals and run by liberals of mainline denominations, whose doctrinal beliefs and theology were anything but what is found in the Sacred Scriptures of the Bible. Major Bundy warned his audiences around the world that the basis for the embrace of Communism by this strange assortment of supposed clergymen, was first of all a departure from the historic, foundational and fundamental doctrines of Christianity as set forth by the Apostles and the writers in the New Testament. Having created this vacuum in their own lives, they had to fill it with something else. Little did their parishioners realize that it was filled with the satanic doctrines of atheistic Communism.

Now, the whole world is able to obtain the documentation right out of the files of the dreaded KGB which were ordered opened for public view by Boris Yeltsin, the new head of the Republic of Russia.

Only one word can describe this revelation: "Astounding!" Everything which has come out of these files, thus far, provides not only how right Major Bundy was all through the years, but also the much-maligned Dr. Carl McIntire, president of the International Council of Christian Churches, which was formed in that same Amsterdam two weeks before the World Council convened, in order to be an antidote for the radicalism and Communism being spread by the sycophants of the World Council of Churches, herein afterwards referred to as the WCC.

Like Major Bundy, everything Dr. McIntire said from the public platform, over radio and television, and before hundreds of thousands of people in religious congresses around the world, has now been completely vindicated and Dr. McIntire stands taller than ever before.

The very names of the leaders of the sham Russian churches—often called "exhibits A" for gullible westerners—have been found in the files of the KGB with their code names and the various activities they participated in, such as serving as delegations to the meetings of the General Assemblies and Central Committee conclaves of the WCC held on the five continents.

Also, the Communist front organizations, which were set up by the KGB in collaboration with these hypocritical churchmen in the Soviet Union, are also detailed in the KGB files, such as the World Peace Council and the Christian Peace Conference. Volumes could be written on these two organizations alone and the influence they had on unsuspecting millions of people who signed their peace petitions and their propaganda aimed against the United States and other nations of the Western World. Although officials of the Central Intelligence Agency, and top defectors from the KGB appeared under oath before House and Senate committees, also exposing the hypocrisy of these "religious" characters, the publications of the mainline denominations in the United States were deathly silent on such testimony and, by and large, the secular press as well.

Not only did the director of the CIA tell the Congress that the Soviet government funneled millions of dollars into these organizations, but Yuri Rastvorov, former top official of the KGB who defected to the West, spelled out in great detail the names and the activities of these religious Moscow agents of the KGB who were garbing themselves in elaborately embroidered robes and gold mitres, carrying shepherds' crooks in their hands, and helping to serve Communion such as at the World Council of Churches' Central Committee meeting in Buenos Aires, Argentina; with some of them fresh from the meeting of the Church Peace Conference in Prague, Czechoslovakia, where there resolutions were aimed and passed unanimously against the United States of America as the evil force disturbing the peace of the world; and, praising the Soviet Union for its "peace efforts."

Dr. McIntire and Major Bundy faced many of these hypocrites, not only in Buenos Aires but in Vancouver, B. C., Washington, D.C., Philadelphia, York, Pennsylvania; Geneva Switzerland and other world cities.

One of the most amazing things was that the foreign press in the Free World seemed to care a lot more about the activities of these KGB religious puppets than the so-called free press in the United States. For example, when the WCC held its Buenos Aires meeting, upon invitation of a known Communist clergyman in Buenos Aires, a Methodist, the leading newspaper of Argentina, including LA PRENSA and the only English language newspaper in Buenos Aires, the BUENOS AIRES HERALD, published scathing columns against the World Council of Churches and charged them with being conveyors of Communist propaganda under the guise of religion. The World Council, obviously, was devastated by this expose during their meeting, but they could not refute what was published.

Now, it all comes out of the files in Moscow that the Soviet delegations were sent to the Church Peace Conference and to the WCC meetings to manipulate the delegates into passing resolutions and statements promoting the official Soviet line.

Actually, the main purpose for the Soviet Church joining the World Council in 1961 was to find one more propaganda platform from which to spout communist deceit. The Cincinnati Enquirer warned of this very Russian Orthodox purpose in a lead editorial, shortly before the WCC was to convene in New Delhi. Its warnings were soon to be seen as based on solid fact as judged by Russian actions in the WCC right after the Orthodox Church was voted in.

The delegation to New Delhi was headed by 33 year-old Nikodim, successor to Secret Police Agent Nikolai, recently deceased, and new Foreign Secretary for the Church. Nikodim was an ardent and apt pupil of the wily Nikolai. There were 16 in the Russian delegation.

Scarcely had the Russian Orthodox Church been voted into membership when Nikodim arose and addressed the assembly by reading a message from Patriarch Alexei which consisted of political statements favorable to the USSR. Alexei expressed the wish that the WCC Assembly "call upon the governments of the great powers to convene a conference on the highest level to solve the problem of reducing international tension, and begin negotiations at once on universal and complete disarmament."

Any student of post-World War II history would immediately recognize this statement as containing two of the propaganda lines of the USSR which its representatives to the UN and its official organs have repeated over and over again from Moscow to Geneva to New York to Camp David.

Although the Moscow Patriarchate had time and again accused churches of the West of using religion to advocate the "imperialistic" aims of the capitalist countries and that the church should stick strictly to religious activities, the Russian Orthodox Church did a reverse twist in regard to the World Council of Churches after it got on the inside.

In the Journal of the Moscow Patriarchate, Number 9, for 1961, the Red Church leaders set forth their recommended actions for the WCC as follows: "It would merit surprise if Christians strove for mutual understanding only in the field of understanding of religious values, paying no attention to the field of international and interpersonal relations. . . . The question of peace throughout the world has been raised with particularly great acuteness just in our time and this, of course, is not a question of politics alone—The world wars could not but be regarded by Christians as a very great evil. And Christians could not avoid undertaking a struggle against this evil."

This is the same Moscow Patriarchate speaking which so viciously attacked the United States when she intervened in Korea against the invasion of free South Korea by the Moscow-trained and equipped puppet army of North Korea! This is also the same Patriarchate speaking to the WCC which sent the cablegram to U Thant on October 26, 1962, accusing the United States government of committing a "great sin before God" and of bringing the world to the brink of a nuclear war when President John F. Kennedy ordered Fidel Castro to get his Soviet missiles, which were pointed at the United States, out of Cuba or face invasion.

Of course, according to Moscow interpretation, neither of these acts on the part of the United States could be considered as keeping the "peace". But, when Moscow slaughtered the Hungarians or provided Castro or Mao Tse-tung with weapons of war, that is "peace"-keeping, according to Alexei and crowd.

The representatives of the Russian Orthodox Church came to the World Council of Churches meeting in New Delhi claiming to represent two-thirds of the Russian population, although the World Council places the number of Orthodox believers in the USSR at between 30 and 40 million. The higher figure claimed by the Russian delegation was, of course, propaganda for laying claim to bigger representation on the governing body of the World Council, the Central Committee, selection to which is based on total membership in each particular church denomination.

The Soviet delegation met with further success when it influenced the Assembly of the World Council of Churches to adopt a report on foreign policy in which it opposed the arming of West Germany with nuclear weapons, demanded renewal of disarmament talks, and warned against "further acts of provocation" in Berlin.

Alexei's agents also came bearing gifts to the WCC: money, building material and carpets for the World Council's Ecumenical Center Headquarters in Geneva, Switzerland. They were now "in" all the way.

The gullible leaders of the World Council of Churches from the West have said and are still saying that churches functioned in the USSR and that it was necessary to bridge the gap between the Communist East and the Capitalist West through the churches in both countries; but, what they do not tell the rank and file of church people and religious editors in the West is that the important and ultimate issue is the fact that the churches in the USSR were completely dominated by the Soviet Government and that they served the Communist cause most effectively behind the masquerade of religion. Behind this facade were the activities of subverting the West and the East.

Another significant event at the New Delhi meeting of the World Council of Churches was the election of officers and of members of the powerful governing body, the Central Committee. The Russians put six representatives on this policy-making group.

The Soviet "peace" gimmick was, without a doubt, the major strategy for gathering in the gullible western clergymen who followed the Communist Pied Piper like the children in the story. Moscow set up conference after conference under the title of "peace". One of the most notable ones was titled "Conference in Defense of Peace of All Churches and Religious Associations in the USSR" which was held in Troitse-Serglyeva Monastery in Zagorsk, May 9–12, 1952. Those who attended were the leaders of all recognized religions in the Soviet Union. They were unanimous in their condemnation of the United States and their praise of the Soviets; yet a great many of them were welcomed into membership in the World Council of Churches.

As if the orations by the Soviet religious puppets were not enough, as presented from the platform to the ecclesiastical gathering, the Moscow Patriarchate had the audacity to publish a volume based on the stenographic records of the Conference proceedings, so that there could be no doubt as to what was said about the Western World. Furthermore, the proceedings were translated into many languages, including English. A total of 43 speeches were made on the subject of "peace" within the four-day period, most of which consisted in diatribes launched by the leaders of the Russian Orthodox Church, opened the first day's proceedings with a special welcome to the "esteemed guests from foreign lands" who were invited to "unite with us in the great cause of defending peace the world over." Alexei, head of the Soviet-controlled church, condemned the United States of America for "using bacteriological warfare" in Korea as follows:

"The unjust war in Korea, employment of the bacteriological weapons in Korea as well as in China, the preparations for another World War these are the facts which cannot be qualified otherwise than crimes against love and truth; and there can be no doubt that the struggle against these crimes must be the obligatory and sacred duty of every religious person precisely because of his faith."

The participants were then invited to band together to spread this lie and even more heinous lies against the western nations, with target Number One the United States.

Soviet agent Nikolai made the longest speech of all, comparable to Fidel Castro's marathon accusations against the USA. His speech consumed 57 pages in the official proceedings and the slander and abuse heaped upon the United States, Great Britain and the other Western Allies, was scandalous to the ultimate degree.

Nikolai even charged that American soldiers in South Korea took babies away from their mothers, nailed them to fence posts and used them for bayonet practice.

If one were to detail the names of all the so-called Russian church leaders from the various sections of the Soviet Union who were present, the reader would find the names of some of those still living who heaped abuse upon the Western World, at the behest of the KGB, now being thrown out of their church positions such as Metropolitan Filaret of the Ukraine.

Nikolai and his successor in his position, as head of the foreign office (make that propaganda office) of the Soviet Union, Nikodim, who was elected an officer in the World Council of Churches, are both dead. One can only wonder if God Almighty could not stand the lies of these "wolves in sheeps clothing" any longer when Nikodim fell over dead of a heart attack while trying to persuade the Pope of the Soviet Union's goal for world peace.

In April of 1992, a five-day meeting of the genuine Orthodox Christian Church leaders in Moscow took place in which Metropolitan Filaret was faced with his KGB collaborations.

Filaret resigned after the expose. Filaret, at the time, was holding the position of head of the Ukrainian Orthodox Church. Kiev, in the Ukraine, has been considered the cradle of Russian Christianity, brought there by Prince Vladimir centuries before.

Pressure had been mounting on Filaret to step down since June of 1991 when the KGB files were opened and disclosures linked him to the Communist regime in the former Soviet Union.

The Ukraine has long been the Bread Basket of the former USSR and, perhaps, suffered the most in persecution by the late atheistic leaders of the USSR, Lenin and Stalin.

As far back as February, 1983, former Major Stanislaw Lewtschenko, a KGB defector, said in the German magazine Der Spiegel that most of the rank and file members of the peace and international organizations had no idea that they were being used to promote Soviet propaganda, although their leaders knew exactly what they were doing.

Cash for pro-Soviet activities in the United States was hand-delivered to various groups by KGB agents stationed at the Soviet Embassy in Washington. Gus Hall, head of the Communist Party USA, received millions of dollars in cash, not only for the promotion of Soviet foreign policy within the United States, but for creating a life-style for himself that even some wealthy capitalists would be jealous of, such as an estate on Long Island and a townhouse in New York City.

Whenever the Soviet clergymen were invited to speak in the United States, always under the sponsorship of the National Council of Churches (the USA arm of the WCC), Mr. Hall's propaganda organs such as the Daily Worker in New York and the Daily World in California praised the Soviet clergymen to the skies and their American hosts. These Soviet clergymen had busy itineraries within the United States, appearing at NCC headquarters in New York theological seminars and universities and in various prominent churches across the nation.

When Dr. McIntire appeared with a group of protest demonstrators and a bullhorn to expose these people to the public, the press either ignored Dr. McIntire or ridiculed him in its columns. He was put down as a publicity hound and a disturber of the peace. McIntire and several hundred Christian leaders, including Soviet religious exiles, paraded in front of Independence Hall in Philadelphia carrying banners exposing Nikodim when he had the gall to have his picture taken with his hand on America's sacred

"Liberty Bell". Of course, the American people at large, especially church members, had no idea who Nikodim really was because they had not read the official proceedings of the "Peace Conference" in Zagorsk where he launched vile attacks against the United States. If the religious and secular press had done their duties, they would have blasted this man from coast to coast as a KGB agent and the proverbial "wolf in sheep's clothing". At least, Dr. McIntire had his Christian Beacon weekly publication that went to over 100,000 people around the world and his radio programs; but, the sympathizers with these Soviet emissaries of peace worked night and day to remove Dr. McIntire from the 600 stations he was on at the time. They organized in city after city against him; many of them, perhaps, as Christ said during his agony of crucifixion: "They know not what they do".

One can only wonder how these people feel, now, that both religious and secular press seem to be jumping on the revelation band wagon and carrying the news of what has been in the KGB files all along.

Not only did this Communist religious disguise operation take place within the Soviet Union, but the puppets in the satellite states of Eastern Europe followed suit.

When former Communist East Germany was integrated into the German Federal Republic of the West in 1990 and the Berlin Wall was torn down, the files of the East German Secret Police, known by the short word of "STASI" or Staatssicherheitsdienst, were opened, it produced revelations in regard to the collaborations at an almost inconceivable degree of church authorities, both Catholics and Protestants, with the secret police organs.

Joachim Wiegand, who at one time headed Branch XX/4 of the STASI, was supposed to have promised these collaborating church leaders that he would destroy the evidence against them. This was not done and the East German collaborators with the Soviet Union stand extremely embarrassed today. They were also involved with the WCC in the spread of Communist propaganda. Some of these East German collaborators even worked to prevent the reunification of Germany because they asserted that Marxism had upheld the security of human social rights which would all be done away with if West Germany took over.

One can only wonder what definition these religious collaborators with Communism gave for the words "human social rights". Obviously, they did violence to the dictionaries!

The late director of the Federal Bureau of Investigation in the United States, the Honorable J. Edgar Hoover, who served in that capacity longer than any other person and under many presidents of both major political parties, as far back as 1948 appeared before the Committee on un-American Activities of the U.S. House of Representatives and stated as follows:

"It is ghastly to see the monster atheism being nourished in the churches by men who pretend to be Christian leaders."

Mr. Hoover's files were replete with the names of American clergymen who aided and abetted Communist infiltration of the United States with Soviet propaganda. He was the target of abuse, naturally by the Communists, but by others whom Mr. Hoover classified as "fellow travelers", "party sympathizers" and just "plain dupes".

Mr. Hoover brought out a fact which many Americans, somehow or other, refused to see or believe in the days of post-World War II ascendancy of Soviet expansion, namely, that it did not make any difference how you categorized collaborators with the USSR, whether they were members of the party, fellow travelers, front-joiners, sympathizers or dupes. Mr. Hoover said 100 times over that what really mattered was that they were doing the work of the Communists, whether deliberately or unconsciously.

R. Emmett Tyrell, Jr. is the publisher of The American Spectator magazine. Mr. Tyrrell is one of the most erudite publishers in the United States and he has one of the best staffs of capable people in the journalistic field. In the April 1992 issue of The American Spectator is a brilliant article entitled "Classified Information", by the magazine's Russian Presswatch correspondent, Cathy Young. This article is another important one in regard to the opening of the KGB files in Moscow.

Miss Young details what the official Russian newspaper Izvestia of January 22, 1992, contained in an article written by Vyacheslav Polosin, "A priest who chairs the Russian Parliament's Commission on Religions". Izvestia was the major newspaper for mouthing the Communist line in the USSR prior to the downfall of that union. It became free and open after the demise of the Communist regime and began to expose what the Communist leaders had been doing all those years of their reign behind the scenes.

Mr. Polosin revealed how "the Russian Orthodox Church became a handmaiden of the secret police".

All of the religious agents of the KGB who traveled abroad to influence other church groups were given code names and numbers.

Startling is the revelation that the Soviet clergymen were instructed by the KGB what candidate was acceptable to them for the office of Secretary General of the WCC. The one they backed was Emilio Castro of Uruguay, "whose candidacy was supported not only by the Russian Orthodox Church, but by the churches of Socialist countries."

This is a tremendously interesting revelation, because Dr. McIntire and Major Bundy exposed Emilio Castro through the media and the public platforms of South America, when he assumed the office of Secretary General of the WCC, as a Marxist and one who is spouting the Soviet line against the Western World. Castro denied all of this at the time; but, as Christ said, "By their fruits ye shall know them." Both Dr. McIntire and Major Bundy were excellent "fruit" inspectors. The rotten fruits of the organization which Mr. Castro headed were scattered all over the landscapes, not only in Latin America, but on the other continents of the world.

It is most heartening to see that Dr. McIntire and Major Bundy had done their homework well and could not be challenged by the Soviet propagandists. The open KGB files now attest to their truthfulness.

In addition to supporting certain candidates to offices in the World Council of Churches, Miss Young reveals from the Izvestia article that the Central Committee, governing body of the WCC, accepted the KGB-sponsored "state security measures", as they were called, and issued eight public statements and three letters that followed the political line of the Socialist bloc of nations.

ALL IN THE NAME OF RELIGION!

Polosin also revealed that the KGB "tenderly cultivated" the so-called Christian Peace Conference. Here, again, we remind our leaders that the Communist clergymen of the Eastern bloc were official delegates to the World Council of Churches Central Committee meeting in Buenos Aires and had come fresh from Prague with the latest Soviet line which the WCC was spewing in Buenos Aires in the name of the majority of Christians in the world.

The latest and biggest revelation out of the KGB files in Moscow has come within the last several days: Alexei, head of the whole Russian Orthodox Church, has been unmasked as the KGB's top agent in the religious realm!

Perhaps the saddest postlude to all of this is the role that middle-of-the-road, compromising evangelicals played, the majority of whom claimed not to be in sympathy with the World Council of Churches, the National Council of Churches or with Communism. These people and their leaders have been designated by the uncompromising Bible-believing and preaching Christians as "neo" evangelicals, who took the word "evangelical" out of its context and who decried those who called themselves "Fundamentalists" or Bible-believing Christians.

In order for our readers to understand this phenomenon, one has to go back to a tall, lanky young man from North Carolina, who was known only in Youth for Christ circles during World War II and shortly thereafter; and who had not, during that period of time, attained national, public or worldwide status. This man was projected into religious stardom by the Roman Catholic head of the Hearst newspaper empire, when William Randolf Hearst, living with a paramour, Marion Davies (a movie star) at his elaborate estate in San Simeon, California, saw in this young man a human interest news story and sent out over the Hearst wires to all of his newspapers two words: "Puff Graham."

This action on Mr. Hearst's part was the result of a tent campaign conducted by young William Franklin Graham in Los Angeles sponsored by the Christian Businessmen's Committee of that city. Major Bundy attended that campaign and watched and listened. A number of secondary and tertiary entertainers from radio, the early days of television on the West Coast and Hollywood began to hit the Sawdust Trail when the Invitation Hymn was sung at the end of Mr. Graham's sermons. At that time, Billy Graham condemned the Soviet Union and Communism in the most volatile terms, calling it "evil and satanic."

One must pass over the years of Billy Graham's rise as a world figure and leave it to the psychologists and the psychiatrists to try to determine what brought about the radical change in Mr. Graham's earlier views and why it was that he maintained a dead silence on the persecution of millions of Christians by the "Evil Empire" and the collaboration of western clergymen with the religious agents of the KGB.

So radical was the change in Mr. Graham that he appeared on the platforms of the World Council of Churches meetings, the National Council of Churches meetings right alongside of Soviet agents, Communist front-joiners, and collaborators with them. In fact, in his New York City campaign, the top sponsor of the campaign was a Brooklyn Black minister who preached funeral eulogies in his church over the casket of dead Communist leaders.

Hundreds of pages of testimony were given to the Congress of the United States and the FBI in regard to these agents who flimflammed clergymen into treating them with respect. But, Billy Graham, the phenomenon, was not from a liberal, modernistic or radical background. He was the product of a Bible School in Tampa, Florida; had a short stay at Bob Jones University and later transferred and was graduated from Wheaton College in Wheaton, Illinois' training ground for more than 100 years for Bible-believing pastors, missionaries, Christian writers, et cetera. It is striking, however, to note that Mr. Graham did not major in Bible or Theology at Wheaton College. He majored in Anthropology. He had no formal religious training such as in a seminary. The title "Dr." which he has today was an honorary award. He has done no postgraduate work in any religious school.

Through the help of Mr. Hearst, Mr. Graham became a media event and public figure. He dined with kings and queens; he appeared on talk shows with Hollywood celebrities; he played golf with Presidents of the United States and was a guest with his wife in the White House on numerous occasions; and these same presidents sat on his platforms in Texas and in Tennessee, men from out of whose mouths came cursings and vile words, while calling themselves Christians. Great was the downfall of one of them who saw the handwriting on the wall when he was about to be impeached by the Congress of the United States and resigned the presidency, one Richard Nixon.

The sponsors of Mr. Graham's campaigns in cities all across America were a grand mixture of liberals, radicals, Christ-deniers and so-called evangelicals (neo). Fundamental ministers and churches across the United States refused to cooperate with Mr. Graham. Major Bundy's book on Billy Graham has over 500 pages of documentation of Mr. Grahams's compromises and has been a best seller six times over.

Now, in the light of the revelations out of the KGB files, let's take a documented look at Mr. Graham's treks behind the Iron Curtain and what he did and said during the existence of the USSR and its KGB leaders. It's all on the public record. Here are just a few references:

Headline, "Graham, 'wounderful' Soviet have long talk"—Chicago Sun-Times, Sunday, May 9, 1982.

"He met privately with Georgi Arbatov, head of the state-run Soviet Institute of the United States and Canada. Arbatov also is a member of the ruling Communist Party's policymaking Central Committee. The meeting, for three hours and fifteen minutes, was more than twice as long as expected.

"Graham, who once called communists Satan worshippers, pointed to Arbatov and said: 'I have met a very wonderful official here'."

"Graham also said, 'I've learned many things. I'm on a learning mission'."

This story appeared in the press of the world. The Chicago Tribune corroborated what was in the Sun-Times through its Moscow correspondent, Jim Gallagher, veteran writer for that paper who scored Mr. Graham for his "gullibility" and who revealed that President Reagan and George Bush, then head of the CIA, begged Mr. Graham not to make this trip to Moscow to attend what was billed by the Soviet Russian Orthodox Church as the "Conference of Religious Workers for Saving the Sacred Gift of Life from Nuclear Catastrophe".

In fact, the Chicago Tribune in its lead editorial of Wednesday, May 12, 1982, scored Billy Graham under the title "Billy Graham and pig-wrestling". The TRIBUNE showed how the sponsor of this propaganda disarmament conference, billed as "religious", as the Soviet-controlled Russian Orthodox Church which it described as "a tame, controlled and heavily-manipulated creature of the Soviet regime. It would not be a great exaggeration to suggest that in the Soviet Union, the Russian Church is the religious arm of the Soviet KGB."

How prophetic again, written on Wednesday, May 12, 1982, and the KGB files were ordered opened by Boris Yeltsin in 1990 showing how devastatingly right the Chicago Tribune was!

The Chicago-Sun Times and the Chicago Tribune for May 11, 1982, told how Graham sat on the platform of this KGB-sponsored disarmament conference and listened as the Soviet church leaders viciously attacked the United States for hours.

All the press reported that Mr. Graham sat with his mouth closed and not one time did he take issue with the Soviet church leaders.

The Daily World, founded in 1924 as the Daily Worker, in New York City, official Communist Party, USA Newspaper, gave Mr. Graham two entire columns of sympathetic reporting under the title "Graham gives peace sermon", written by Tom Foley, their correspondent, when it came Graham's turn to speak at that same conference. Not once did he defend the United States against the attacks of the Soviet clergymen in whose churches he subsequently preached. Outside those same churches were Christian people, persecuted by the Soviet regime, who walked miles and miles in an attempt to meet with Mr. Graham and seek his help for their plight. These were people who met in the underground and in the frozen forests in the wintertime, whose husbands, mothers, sons and daughters heard the fatal knock of the KGB on their door at night and were led off into what Alexander Solzhenitsyn called the Gulag Archipelago, the prison camps where many of them died, some used as guinea pigs for injections, turning them into vegetables and others later released as human skeletons.

What was the reason Mr. Graham gave to the press for not meeting with these people? He said that his schedule was too full, although Mr. Graham spent three hours and fifteen minutes at lunch with one of the most dangerous KGB heads in the Soviet Union, Georgi Arbatov, whose business it was to study the psychology and reactions of the American people to see how best the Soviets could weaken their resistance to world Communism. This is the man, Arbatov, whom Billy Graham described as a "wonderful Soviet" and had his picture taken with him, both of them smiling and shaking hands with one another. Even the Associated Press described Abatov as "one of the Kremlin's leading experts on the United States."

As if this wasn't enough, the Associated Press reported that "Graham was to have lunch with Metropolitan Filaret, head of the External Affairs Department of the state-organized Russian Orthodox Church."

The same Filaret that the Ukrainian people just got rid of!

Should we quote William Shakespeare: "What fools these mortals be" or should we simply say the "Book of the Revelation tells us that God is keeping the books and recording in them every deed done in the body; and that one day, at that last Great Judgment, the books will be opened."? When those books are opened, the Scripture says that men shall call for the rocks and the mountains to fall upon them and hide them from the wrath of God Almighty.

One of the last things that Jesus Christ told his Apostles and Disciples before he was to go to the Garden of Gethsemane, the judgment, the cross, the tomb, and to ascend back to God the Father from whence he had come was:

"Many shall say to me in that day Lord, Lord, have we not in thy name done many wonderful works?"

The reply of Jesus will be: "Depart from me ye that work iniquity. I never knew you."

Please notice the word "many" is "many", not few. There's a world of difference between "faithfulness" and "popularity."

John, writing in the last book of the Bible, "The Revelation", records these words of Jesus:

"Be thou faithful unto death, and I will give thee a crown of life."

Those who were faithful in warning Christians in the world of what was going on at the time were ridiculed, laughed at, blasphemed, and weren't very popular even with some of their alma maters who had put some of the compromisers on their faculties and boards of trustees; but those faithful ones can say with emphasis: "I told you so."

So did the Lord Jesus Christ say: "I told you so."

TRIBUTE TO HON. BRIAN DONNELLY

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, critics of this House often suggest that legislators here are quickly seduced by Potomac fever and forget their roots. No one has ever made that charge about our colleague BRIAN DONNELLY, who will retire at the end of this Congress. He never forgot the people who sent him here and he has served them well.

When I summarize his distinguished career, I inevitably think of two issues involving healthcare.

The first involves a continuing effort by the administration to require State and local government workers to pay Medicare taxes. This has become a hardy perennial. When BRIAN DONNELLY joined the Ways and Means Committee in 1987, he became the leader of the opposition—and a forceful leader he was.

Some years earlier a compromise was achieved to include newly hired workers in Medicare. But those workers who weren't paying Medicare taxes when this idea was first floated a decade ago still are untaxed. And whether they realize it or not, they owe their status to BRIAN DONNELLY's tenacity on this issue.

When we began to focus on the need for comprehensive healthcare reform this year, he resisted those who called for systemic reform that didn't immediately aid individuals. The solutions might be complex, he said, but the problems were clear and demanded a response—too many people lacked insurance and too many others couldn't afford adequate care despite their insurance. Unless these two groups got some help, he argued, the quest for reform would be hollow, a dangerous combination of provocative politics and misguided policy.

That argument is one reason we did not try to enact comprehensive reform this year. Many of us are frustrated by that outcome, but few would argue with the accuracy of BRIAN DONNELLY's analysis.

Because he never forgot where he came from, he could react nearly instantly to the various proposals that came before us. If it was a bad deal for his people, he was against it.

In an institution where some Members seem to major in slippin' and slidin' such a view was a welcome contrast. BRIAN DONNELLY is a man of strong views.

He came to Washington because he wanted to serve the people. He did. And when he realized that our gridlock made it difficult or impossible to deliver on his promises, he decided it was time to move on.

We will miss him and wish him every success in the next phase of his career.

HONORING ALVIN R. PLATZ

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MATSUI. Mr. Speaker, I rise today to recognize and honor one of Sacramento's outstanding labor leaders, Mr. Alvin R. Platz, who is retiring this month after spending more than four decades in the candy and bakery business as an employee and as an effective representative of working people.

Throughout his career, Al has served his employers, industry, and coworkers with integrity, honesty, and fairness. He began working in the baked goods industry in January 1943, for Channel Bakeries in Sacramento. He served in the U.S. Navy from 1944 to 1946 as a cook-baker on ships in the Pacific theatre during World War II. He then returned to Sacramento where he spent 20 years refining his skills in the baking business.

In 1968, Al joined the Local 85 of the Bakery and Confectionery Workers Union as an assistant business agent. In the 24 years since that time, he has risen to the top leadership post in the union, consolidated its northern and central California operations in Sacramento, purchased its union headquarters building and property, and watched the membership grow from 700 members to 1,900 members today.

Al has served tirelessly and faithfully on numerous boards and commissions related to union activities and the baking industry over the last 40 years. His list of accomplishments includes, service on the negotiating committee of the Pacific Coast States Conference, the executive board of the Coalition of Organized Labor, the Sacramento Central Labor Council, and the Bakers, Confectioners, and Tobacco Workers Union. Additionally, he was president of the union's Northern California Joint Board and chairman of State's Apprentice Baking Program. He also serves as chairman of the Northern California Bakery and Confectionery Health and Welfare Trust Fund, and as a trustee on the Bakery and Confectionery Western Conference Dental Trust.

Mr. Speaker, I ask that my colleagues join me in saluting Alvin R. Platz for his long career of dedicated service to the working people in the baking and candy industry. His outstanding leadership should be highly commended.

UNITED STATES POLICY TOWARD TAIWAN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SOLARZ. Mr. Speaker, President Bush recently announced his administration's intention to sell up to 150 F-16 aircraft to Taiwan. Dr. David Tsai, the president of the Center for Taiwan International Relations, has prepared an analysis of that decision. His essay presents a point of view that deserves consideration by those who care about the security of Taiwan, and I therefore ask that it be printed in the CONGRESSIONAL RECORD and made accessible to our colleagues.

SALE OF F-16S AND TAIWAN'S INDEPENDENCE

(By David W. Tsai)

IN SUPPORT OF THE F-16 SALE

The Taiwanese-American community strongly supports the sale of F-16s to Taiwan. 95% of the Taiwanese in the United States are pro-independence and believe that the F-16 sale is an important step in the eventual establishment of an independent, democrat Republic of Taiwan.

Taiwan has been colonized in succession by Spain, the Netherlands, the Manchus, the Japanese and finally, the Nationalist Chinese Kuomintang party, the KMT. Taiwan, long despised by the Chinese as a frontier area inhabited by savages, was colonized by the Taiwanese for the same reasons that the first Europeans came to America: to escape oppressive economic and political conditions in their homelands. The national identity of the Taiwanese has grown out of this twin experience of colonialism and pioneering, just as the American spirit did.

Today, the KMT still controls Taiwan. Most Americans are unfamiliar with the KMT's 38 years of martial law rule and the terror inflicted on the Taiwanese known as the "White Terror," in which thousands of people disappeared. To be sure, there has been some political liberalization and progress in the last decade, forced upon the KMT by domestic and international pressure. However, the KMT still controls the electronic media. It threatens to ban the opposition, refuses to allow public discussion of the opposition's platform and jails persons opposed to the regime. Despite KMT claims to the contrary, many Taiwanese in exile are still not permitted to return to Taiwan, in violation of the UN declaration on human rights, to which the KMT government is a signatory.

Because both the People's Republic of China and the KMT claim to be the sole legitimate government of "China," they force countries to recognize one or the other. This has meant isolation for the people of Taiwan. The utter bankruptcy of this policy has been exposed by South Korea's recent decision to switch recognition to the PRC. At this time, only one nation of any importance, South Africa, recognizes Taiwan, as China. Taiwan is not a member of major international organizations and its 20 million inhabitants are not represented in the UN. It cannot even be found in World Bank economic statistics.

Independence advocates believe that a democratic Republic of Taiwan is the answer to the twin problems of KMT oppression and Chinese expansionism. An independent, democratic Taiwan would be a welcome addition to the United Nations, the World Bank and other international organizations. At home, stripped of its claim to represent China, the KMT is just another right-wing political party struggling to hold on to its undemocratic and oppressive rule by the shop-worn methods of propaganda, electoral malfeasance and outright terror. In an independent Taiwan, it could not last.

CHINESE EXPANSIONISM AND THE THREAT OF FORCE AGAINST TAIWAN

China's claim to Taiwan and repeated threats to use force against it are the reasons Taiwan needs F-16s. The PRC is clearly an expansionist state. China has from time to time claimed all or part of Korea, Russia, Mongolia, Tibet, India, Vietnam, Singapore, Taiwan, Japan and sundry islands in the seas around it. If China's leaders could hit upon a way to go about it, they would no doubt claim the Chinatowns of Los Angeles and New York too and demand allegiance from Chinese-Americans.

In recent years China has been upgrading its offensive capability. It has acquired the highly-regarded Su-27 and Mig-31 fighters from Russia. China has also purchased an airborne early warning capability and midair refueling technology. It has been pursuing a policy of naval expansion, laying down escort ships and attempting to build or procure an aircraft carrier. It has placed troops on islands in the South China sea, causing grave concern among staunch U.S. allies in Singapore, Manila and Jakarta.

Arthur Waldron, writing in the Wall Street Journal, sketched a scenario in which, without this sale, China's military expansionism might provoke military buildups, perhaps even including nuclear weapons, in Japan and South Korea. Strong, clear signals need to be sent to Beijing about its alarming military build-up. For this reason alone, canceling the F-16 sale would be entirely wrong.

But there are other, more urgent reasons. China has never renounced the use of force to annex Taiwan. The PRC has repeatedly threatened to invade the island if it moves closer to Russia, if there are serious domestic disturbances, if it builds nuclear weapons, if it refuses to negotiate for "unification," or if it declares independence. This expansionism and intransigence are a serious impediment to Taiwan's independence and future existence as a democratic republic.

Taiwan's outmoded air defense forces, consisting of ancient F-104 Starfighters and F-5 export fighters, no longer give the island a credible deterrent. Without some kind of modern fighter, the security of the island and the 22 million people who inhabit it are endangered, for China cannot invade if Taiwan controls the air over the strait separating China from Taiwan. The Taiwan government's negotiations with France for the purchase of the Mirage fighter illustrate the seriousness of the island's needs. Modern fighters are imperative for the island's survival.

THE F-16 SALE AND U.S. POLICY

Independence advocates believe that the sale of the F-16s will help deter Chinese aggression and set the stage for Taiwan's independence from China. We believe further that the U.S. has a responsibility to both the people of Taiwan and to history to sell Taiwan these aircraft. This responsibility is codified under U.S. law as the Taiwan Relations Act (TRA) of 1979.

The TRA charges the United States with the responsibility for the security of Taiwan. In Section 1 the TRA declares that "peace and stability in the area are in the political, security and economic interests of the United States." It goes on to say that it is the policy of the United States "to provide Taiwan with arms of a defensive character." Finally, it directs the United States in Sec 3(a) to "make available such articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." The TRA alone provides sufficient legal basis for approval of the arms sale.

Since the sale was announced, the PRC has been protesting, saying that it is in violation of the 1982 Communique which limits U.S. arms sales to levels in the years pervious to 1982. It is true that under the terms of the 1982 Communique the U.S. can only provide limited arms sales to Taiwan. But this communique is predicated on the fundamental assumption that China will seek a peaceful resolution to the Taiwan question. As the military build-up, border conflicts with India, Vietnam, and the former USSR as well as the massacre in Tiananmen demonstrate, peaceful resolutions are not the PRC's strong suit.

Despite the hiatus of the 1980s, military aid to Taiwan has historically been the position of the United States, Between 1950 and 1979 the United States provided some $4.5 billion in arms and advice to Taiwan. Many of Taiwan's weapons are based on American designs such as the Sidewinder, Sparrow and Harpoon missiles. Currently American technology is aiding Taiwan's manufacture of its own Indigenous Defense Fighter. Contrary to what some observers are saying, the proposed arms sale is not a departure from traditional American behavior towards Taiwan.

Nor can the sale be criticized for escalating military tension in East Asia. Were it not for Chinese expansionism, Taiwan would not now be seeking advanced modern fighters. Unlike China, Taiwan is no threat to its neighbors, nor does it desire to become one. Regrettably, the sale is necessary because the only language China understands is that of force.

RECOMMENDATIONS

The KMT has emphasized that the sale will help guarantee peace and stability in East Asia. In the short term this is true. But in the long-term, the problem of Taiwan isn't going to go away no matter how many fighters the U.S. throws at it.

Taiwan's long-term problem is the conflicting claims of the PRC and the KMT. So long as each side claims the other's territory and ignores the wishes of the Taiwanese, only tension can result. The self-evident solution to this impasse is the island's independence from China. Without a strong military to preserve that independence, such a solution is unworkable. However, given a credible deterrent, it is likely that the problems with the PRC can be resolved peacefully and to the mutual benefit of all involved.

The world has changed mightily in the last decade. Soviet Bloc Communism has been abolished, independent states rising in its stead. There is no longer any need to "play the China card" against the U.S.S.R.

Moreover, previous advocates of the "One China" policy have recently come to question its validity. Publications have been full of articles in the last few weeks questioning America's China policy. Writing in the Spring 1992 Foreign Affairs, Roger W. Sullivan, bluntly urges the administration to discard the out-dated "China card." He believes China's value to the United States has been transformed by the end of the Cold War. Describing current attempts to preserve the old relationship, he says: "This thinking is misguided and policies based on it will not work." Other American experts agree.

More importantly, there have been fundamental changes in the thinking of people on either side of the Taiwan Straits. Within the KMT itself there are serious misgivings about continuing the "One China" policy. High officials of the KMT openly admit that over ninety percent of Taiwan's population would go for independence if the threat of an invasion by the PRC did not hang over the island. Progressive members of the ruling party have formed a caucus, the Wisdom coalition, to push for increased democratization for Taiwan. Though few will speak openly, many in the Wisdom coalition favor independence. The Deputy Director of the Mainland Affairs Commission, the KMT's negotiating body with China, said after South Korea switched recognition that China's policy of isolating Taiwan can only lead to one result: Taiwan independence.

The opposition Democratic Progressive Party (DPP) has long called for an Independent Taiwan policy. Increasingly, Taiwan's scholars have followed suit. Chen Hsiao-ting of the Taiwan government's Institute of International Relations, for instance, recently called on the government to "face international reality." As long as it claims to be the sole government of China, no other nation will recognize it, he said. He went on to describe the relationship between China and Taiwan as an "international relationship," rather than a "bi-coastal" one.

In other words, China policy both here and abroad is clearly proving inadequate to cope with the post-Cold War world. It is in a state of flux. Here is an opportunity for the United States. In the past the U.S. rationalized the alliance with China by saying that it was needed to counter the USSR. But the USSR is history. The U.S. no longer needs China. Indeed, it is quite the other way around.

What can the PRC really do about arms sales to Taiwan or U.S. support for an independent Taiwanese state? Very little. If Beijing threatens to withdraw from international arms control negotiations, how is that different from its behavior in the past? China has a huge trade surplus with the U.S. Who will get hurt in a trade war? It must have Western technology, Western capital and Western markets for its products.

The fact is that China has virtually no cards to play in the Great Game. The Cold War is over. The conflict in Cambodia is on its way to being resolved. It is dependent on the West for technology and capital for development. Economic reform is splitting the country into a stagnant north and a dynamic south. Its leadership is badly divided and analysts speculate about the power struggle likely to break out when Deng dies.

POLICY RECOMMENDATIONS

Never before has the United States had the chance China's weakness now presents to effect real, vital, far-reaching policy changes to secure a peaceful, democratic free-market transition in Asia.

In light of the new realities of East Asian politics we urge the Congress to make the F-16 sale not a barren gesture in a passing election campaign but the basis of a new U.S. policy toward Taiwan and China. The "One China" policy is obviously dead. Taiwan is not and probably will never be a part of China. Writing in the New York Times, former Assistant Secretary of State for Intelligence and Research Morton Abramowitz asserted that the United States can live with an independent Taiwan. More fundamentally, he added, Americans must realize that the decision is in the hands of the people of Taiwan. We ask Congress and the United States to consider the following recommendations:

(1) The U.S. should support a plebescite or some other free and fair method under which the people of Taiwan will have a say in their own fate;

(2) The U.S. should use the F-16 sale to press for progress on human rights and democratization in Taiwan. In particular, Taiwan should release Dr. George Chang, who recently received a 10-year sentence which was overturned by Taiwan's High Court. Taiwan authorities should also stop persecuting political critic Cheng Tzu-tsai and environmentalist Ben P. Liao on trumped-up charges. Remember, the term "political prisoner" in Taiwan covers not just men and women jailed for trying to create a democratic state in Taiwan, but environmentalists and labor leaders as well, Furthermore, Taiwan should cease government monopoly of the television media in the upcoming December elections and ensure fair and equitable use of the electronic media by all the candidates.

(3) America should support a free and independent Taiwan. The hardliners within the KMT want to hand Taiwan over to the Communists through "unification." The opposition wants a free, democratic, independent Taiwan allied with the West. The KMT wants to keep Taiwan's economy closed. The opposition wants to liberalize trade and open closed sectors of Taiwan's economy for the benefit of all. The KMT operates large, subsidized state and party-owned businesses. The opposition wants to break up ruling party monopolies. The KMT has openly threatened to ban the opposition. The opposition supports the continued existence of the KMT in the Republic of Taiwan as a natural outgrowth of the opposition's democratic principles. The KMT refuses to permit public discussion of independence. The opposition welcomes discussion on every issue.

It is clear which side the U.S. should support. Taiwan independence represents what Robert Scalopino, the noted Asian scholar once called "the happy confluence" of America's values and strategic needs.

(4) America should take the lead in formulating a firm, multilateral policy in East Asia to curb China's territorial appetite. Only a tough policy of alliances, weapons sales, and diplomatic initiatives will keep Chinese troops from the territories of states unlucky enough to share a border with her.

CONCLUSIONS

It would seem to be quite a leap from a few squadrons of fighter aircraft to an independent state. But where else can the sale lead? If America furnishes Taiwan with sufficient weapons to keep out of the Chinese grasp, and the majority of Taiwanese support self-determination, then it is only a matter of time before Taiwan becomes a truly independent state. U.S. policy must recognize these simple facts, and act accordingly.

With sale of the F-16s, the time is ripe for a reappraisal of U.S. policy toward Taiwan. America must make the hard choices that forty years of Cold War permitted it to avoid.

It is time to scrap an outmoded and obsolete "One China" policy and replace it with a hard-nosed, no-nonsense policy that recognizes the reality of Taiwanese nationalism and Chinese imperialism.

It is time for open American support for self-determination for the Taiwanese people in an independent, democratic Republic of Taiwan.

Sell the F-16s to Taiwan. But more importantly, make them the basis for new, hard-nosed foreign policy that will guarantee the independence of Taiwan and through that, preserve the peace, security and prosperity of East Asia for peoples everywhere.

THE NATION OF ERITREA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BURTON of Indiana. Mr. Speaker, far too few Americans are aware of the modern day miracle that is playing itself out in the new nation of Eritrea. Born of 30 years of oppression and war, Eritrea won its independence through the sheer grit, determination, and self-reliance of the Eritrean people. What they have already accomplished under the most adverse conditions is nothing short of amazing and inspirational.

Official independence will be declared after the referendum next spring. But already, Eritrea is the most stable place in its troubled region, and a force for good in Africa and in the world.

Recently, the Africa Subcommittee held a hearing on Ethiopia during which time Eritrea was discussed. Unfortunately, no representatives from Eritrea or recent visitors to Eritrea were invited to participate.

I would like to submit for the RECORD the following items: My statement from the hearing on Ethiopia, a letter from the official representative of the Provisional Government of Eritrea, and several articles on Eritrea from the Statesman Journal, the Oregonian, and Focus on Africa.

STATEMENT BY HON. DAN BURTON

Thank you, Mr. Chairman. I would like to express at the outset my sharp disappointment that this hearing is being held. Early this week minority staff was contacted by several trustworthy individuals, Ethiopians and Americans, who urged that this hearing not be held at this time. Because of sensitive mediation efforts now underway, it was felt that a hearing of this nature, and especially the presence of certain individuals bound to make inflammatory statements, would contribute nothing positive to the delicate situation in Ethiopia. Nevertheless, a decision was made to hold the hearing. For what purpose, I do not know. But now that we are here, let's at least try to provide some perspective.

The news from Africa is generally so bleak, that there is unfortunately very seldom anything to cheer about. I believe Mr. Chairman, that Ethiopia of today, although far from perfect, gives us a great deal to cheer about. For the first time ever, Ethiopians have freedom of speech, freedom of assembly, freedom of the press. Elections were held—far from perfect—but a great improvement over the one-party tyranny of the past. This does not mean that we should not encourage the current government to continue to work on freeing the Ethiopian economy and society. But we ought to encourage and support them, and we ought to give them proper credit.

Like the city of Rome, Ethiopian democracy will not be built in a day. Let us have some patience. And let us not forget that the legacy of a brutal Communist dictatorship is a heavy burden indeed. For any people.

Before I conclude, I would also like to commend the people and Government of Eritrea for the remarkable job they have done in the first stage of rebuilding their shattered country. In addition they are playing a very positive role in the region and for this they deserve our admiration and our gratitude. I strongly urge the administration to end the delaying tactics and move forward with support for the Provisional Government of Eritrea. I also urge the administration to prod the United Nations into properly fulfilling its role in the Eritrean referendum.

On that note, I look forward to hearing from our witnesses, especially from Assistant Secretary Cohen.

PROVISIONAL GOVERNMENT OF ERITREA, ERITREAN PEOPLE'S LIBERATION FRONT (EPLF), MISSION TO THE U.S.A. AND CANADA,
September 23, 1992.

Hon. MERVYN DYMALLY,
Chairman, Africa Subcommittee, House Foreign Affairs Committee, Washington, DC.

DEAR REP. DYMALLY: We appreciate your concern for our region of Africa during your chairmanship. We are sure you will continue to support and help African peoples even after you leave the House.

We were very disappointed with the September 17th hearing on Ethiopia. The agenda was supposed to be on the prospects of democracy in Ethiopia. Nonetheless, a significant portion of the presentation as well as the discussion was regarding Eritrea. Neither the Provisional Government of Eritrea (PGE) nor any Eritrean nor individual Americans who have listed Eritrea were invited.

This hearing provided a forum for a compulsive liar who, in his previous senior ministerial post in Mengistu regime, was responsible for the deaths of thousands of Eritreans and Ethiopians. This resulted in a very distorted portrayal of the reality in Eritrea although Eritrea is the only stable and peaceful country in the area at this time. This is not just our view but has been confirmed by a number of foreign visitors to the region.

The PGE has been closely associated with the initiation of the transition process in Ethiopia and continues to be actively engaged in efforts to ensure its success by helping to resolve problems that periodically appear. In fact, the PGE was the only external, neutral party in the Tripartite Committee formed prior to the regional elections to promote a reconciliation between EPRDF and OLF. (This arrangement was later extended to include the US government.) If it had been invited, the PGE could have made a significant contribution to a balanced presentation of views on the situation in Ethiopia.

In these circumstance, we are dismayed about the overall conduct and outcome of the hearing. We hope the subcommittee will take the issues mentioned above into consideration in evaluating the proceedings. We also ask that the subcommittee make greater efforts in the future to monitor the agenda of hearings and to ensure that those testifying are credible individuals who present an accurate and fair picture of the country or countries under discussion.

I would greatly appreciate the opportunity to discuss this matter with you further.

Sincerely,

HAGOS GHEBREHIWET,
Chief Delegate.

[From the Statesman Journal, Jul. 26, 1992]

HUNGER FOR LEARNING DRIVES ERITREAN YOUTHS

(By John Rude)

This is a story about Ethiopia and hunger—but don't quit reading yet. What I'm about to describe is neither gruesome nor pitiful; nor is this true story designed to make you feel guilty for being a rich, well-fed U.S. citizen.

The hunger is strong, and it is real; but when I'm finished, you'll wish you could trade places with these famished Ethiopians.

To be geographically and politically precise, the setting is Eritrea, not Ethiopia. This distinction is important because Eritrea recently won its independence from Ethiopia through a costly guerrilla war that lasted nearly 30 years, decimating Eritrea's population of four million people.

Mendefera, a small town in Eritrea, is at the epicenter of this story of hunger. On the southern outskirts of town, in a eucalyptus grove, several rows of nondescript yellow barracks stand empty. The buildings were once used as a military camp, then a prison, and then in the early 1960s, as a school—St. George School.

In defiance of all probability, St. George became the incubator for some of the best-trained minds in Africa—Dr. Aregai Tecle, expert in forest hydrology at Northern Arizona University; OSU graduate Dr. Asefaw Tewelde, world-renowned cattle breeding scientist; Yemane Russom of Houston, Programmer of the first Ethiopic-language word processing software. Even those who didn't survive (Haile, victim of food poisoning; or Tsehainesh, a teacher with two master's degrees, killed by hyenas during her trek to a Sudanese refugee camp) shone with incandescent brilliance during their brief lives. They were set aflame at St. George School.

Though I taught there briefly, the school's success is still a mystery to me. It was a no-nonsense atmosphere, 40 to 50 students to a class, precious few books, and—until the last few years of Haile Selassie's regime—no science laboratory or vocational equipment. By the time Ethiopians took over St. George in 1979, converting it once again to a military compound, it had graduated hundreds of motivated, ingenious leaders. Even when closed, the school was one of Eritrea's secret weapons in its war with Ethiopia. Today, St. George graduates fill many of the key posts in Eritrea's provisional government.

The Ethiopian army stripped St. George School of everything, leaving it an empty shell. When I visited St. George last month, there were no books, no black-boards, no lights or electricity, no water. All the desks had been burned; all the science equipment was sent south to Ethiopian schools. It would have been a desolate ghost town, except for one palpable remnant of its past glory—the hunger.

Each day since the war ended last summer, 2,800 students have marched from Mendefera out to St. George to fill the school's cavernous auditorium. They sit in front of makeshift blackboards while the teachers deliver their lessons. Because the school lacks desks, each student brings a stone to sit on—and the learning continues. The star students are given textbooks, which they carry reverentially in plastic bags and pass around to other students.

Classes are taught by university students who are given college credit and small stipends to teach in Eritrea's high schools. (This is not pure altruism; the government cannot afford to educate all the students who wish to attend Eritrea's only university, and there are precious few jobs in the war-torn economy.)

St. George student's hunger to learn is most evident at night, however, when Mendefera's generator shuts down, and the only lights in town are street lamps.

Crowds of 20 or 30 students sit under each circle of light for hours, reviewing their lessons. The advanced students help the younger ones, because cooperative learning is simply more efficient—and everyone wants to learn.

The hunger of Mendefera and St. George is a hunger we all share—to know more, to feel connected to something important, to be free and in control of our lives. This hunger transcends the actual physical hunger which many of these Eritrean children feel with their one meager meal a day. Can this hunger also transcend the distractions and comforts of our own children? I wonder.

I watched Mendefera's children walk to St. George School, and their mental picture of the future veritably danced above their heads. It was a profoundly positive vision, despite (or perhaps because of) their desperate, hard-scrabble present.

St. George students see with clarity what U.S. students perceive only dimly, like far-off thunder. The world is changing—and they have a role in helping to change it for the better.

There are great dangers for these students, and there may be great hardship in the years to come.

But St. George students believe that even though they are simple people, they can create a country where the only remaining hunger is the hunger to learn. Do we believe we have the power to change the world? I wonder.

If we believed as strongly as St. George students did, could we make a difference? I wonder.

[From the Oregonian, July 23, 1992]

ERITREA MOURNS SACRIFICES MADE TO GAIN INDEPENDENCE

(By John C. Rude)

ASMARA, ERITREA.—The flags fly at half staff in Asmara, capital city of Eritrea. Blue rectangles with yellow olive branches flutter sadly in a breeze that carries a hint of Red Sea mist.

Eritrea's great moment of euphoria came last year when a negotiated settlement brought an end to 30 years of struggle and 17 years of open warfare with Ethiopia, its land-locked neighbor to the south. The agreement guaranteed Eritrea a referendum on separation from Ethiopia, fulfilling a promise for free elections made by the United Nations in 1952.

Now, in the gap between the arrival of peace last year and the vote on self-determination next April, Eritrea's leaders have declared a period of official mourning for civilians and military victims of their war for independence.

Virtually every family in Asmara was affected by the war. There are only 500,000 people in this city, yet more than 500,000 died trying to recapture it and the surrounding countryside from Ethiopia's occupying troops. As in all guerrilla wars, the exact number of deaths will never be known, but an estimated 1 million Eritreans lost their lives in the past quarter-century through starvation, desert migrations and bombardments of civilians.

I visited the home of one of my friends, sharing the family's grief over a son and brother who never returned. There was little to say or remember about the young man, whom the family had not heard from in 13 years. For most families receiving the official news as the period of mourning started, the shock of death had long since been replace by numb sadness.

Had the price been too high? Would the sacrifices be justified by the building of a new, self-sustaining peaceful economy? In conversations in homes and in Asmara's lively, Italian-style coffee shops, these questions were often asked, but seldom answered.

Eritreans are tasting freedom bought with the blood of their children, and the effect—like the effect on colonial Americans or Israel's sabra fighters—is at once intoxicating and sobering.

Veternas of "the field" (the forbidding terrain where Eritrea's guerrilla war was fought) are call tegadeli. With their khaki dress, unisex bushy hair styles—and in a high percentage of cases, amputated limbs—the tegadeli are treated with respect in Asmara.

Male and female tegadeli speak slowly and softly, with steely looks and sincere humility in their words. If Eritrea is able to make a transition from guerrilla warfare (with its inherent discipline and sacrifice) to a manufacturing and trade economy (requiring individualism and accumulation of capital), it will have to depend on these young people.

One older Eritrean referred to the tegadeli as a "lost generation" educated in the capture of tanks, but unable to comprehend the ways of the world in which they had—against overwhelming odds—emerged victorious.

Eritrea's salvation may arrive in the form of the region's important exports during the past 30 years: business and brains. Throughout Europe, North America and the Middle East, expatriate Eritreans have distinguished themselves as scholars, scientists, lawyers and small businessmen.

Eritrea's guerrilla fighters were financed by the contributions of exiled Eritreans, and now reconstruction capital is coming from the same sources. Experts in engineering, agriculture and international trade are returning from overseas in small numbers, first for short-term visits (often to teach at Asmara University), but eventually as permanent residents.

Isayas Afawarke, Eritrea's respected political leader, insists that overseas Eritreans remain where they are during the initial phase of reconstruction; they can generate more capital abroad and, by postponing their return, their relatively affluent lifestyles will place no further burdens on the country's meager resources.

During my visit to Asmara, 100 to 200 expatriates were visiting their families to pay tribute to "martyrs" who had fallen to secure Eritrea's freedom. Despite general somberness, they did not appear to be brooding over their losses. In coffee shops and hotels, overseas Eritreans were mixing with tegadeli, conducting informal seminars on business techniques and deciding which types of investment would produce the best results.

Innovative ventures—for example, construction of paint factories and the sale of scrap metal from hundreds of captured and destroyed Russian tanks—were bandied about.

Despite a turbulent past and uncertain political climate in Ethiopia, most expatriates and foreign businessmen I talked with were cautiously optimistic about Eritrea's economic future. Mining engineers have discovered rich copper deposits as well as potential oil reserves, and Eritrea controls two Red Sea ports through which all shipments to Ethiopia must pass.

The Horn of Africa—which includes Ethiopia, Eritrea, Djibouti and Somalia—has changed dramatically in the past year. Americans understandably respond with indifference to these changes, especially since the strategic importance of the area to the United States has diminished with the decline of Soviet influence. Apart from the rare Peace Corps or military veterans with personal knowledge of Eritrea, why should anyone here care about what happens there?

The answer is that Africa, with its famines, soaring health problems and bloody ethnic strife, is in desperate need of success models. Eritrea may be the first place on the continent where democracy and free-enterprise capitalism are ready to flourish. The United States can either assist Eritrea along its present trajectory of self help, or pay the eventual costs—both moral and financial—of degradation on a massive scale throughout Africa.

Eritrea has reached a turning point, and so in a different sense has the United States. Direct intervention by the U.S. State Department last year was responsible in large measure for the settlement that led to Eritrea's fledgling independence. Since then, however, there has been a general drift toward isolationism in our relations with African countries—isolationism caused by a perception that Africa's problems are spinning out of control.

It remains to be seen whether U.S. foreign policy and investment strategies will help Eritrea recover completely and lead its neighbors toward full participation in a global economy.

[From Focus on Africa, July–September 1992]

NOW THAT THE WAR IS OVER

In May 1991, the former Ethiopian leader, Colonel Mengistu Haile Mariam, fled his country to exile in Zimbabwe. A few days later, Eritrea's struggle for independence from Ethiopia came to an end. Forces of the Eritrean People's Liberation Front, the EPLF, marched into the Eritrean capital, Asmara and proclaimed a government. Heba Saleh has been to Eritrea where she found a mood of elation despite the enormous challenge of rebuilding a war-and-drought-ravaged economy.

Asmara must be the only capital in the Horn of Africa where there are no armed men on the streets. Eritrea's provisional government, formed last year by the Eritrean People's Liberation Front, does not allow its soldiers to take their weapons into the city. The only armed guards downtown are those in front of the bank. There's a marked absence of political tension in Asmara which is rather ironical for a place that only recently used to be at the heart of the longest-running war in Africa—Eritrea's thirty-year struggle for independence from Ethiopia.

Walking around Asmara today, it's hard to believe that until May 1991, this open, relaxed city of Italian-style villas, palm-lined avenues and freshly painted fences lived under an oppressive security regime which included a nightly curfew for sixteen years. During the war, Asmara was turned into an Ethiopian stronghold housing eighty thousand soldiers. With its airport, road-links and status as a capital, the city could not be allowed to fall into the hands of the separatist Eritrean rebels. Its residents had to submit to such tight controls that even owning a bicycle required special permission. It was also necessary to prevent contact between Asmara's inhabitants and the rebels; therefore, roadblocks and checkpoints limited movement in and out of the city.

These days there is an almost tangible euphoria in Asmara. People are still elated over the departure of the soldiers, the lifting of the curfew and over their new freedom of movement.

The EPLF government is riding high on a wave of popular support that sometimes seems to border on hero worship. Sarah Ogbaye, a young lecturer at Asmara University, says the EPLF fighters are very much in demand as husbands. Her explanation is that they are different from other Eritrean men because they are "civilised", "selfless", and they appreciate educated women. The fighters have agreed to work for two years in the reconstruction of the country without pay. At present, they are involved in activities that range from digging wells and repairing roads to medicine and teaching.

Eritrea is not yet recognized as a sovereign state. This should come after a formal referendum on independence to be held April 1993. Until then, the EPLF says it is governing in a provisional capacity, and it has promised elections after the referendum. But at the moment Eritrea is independent in everything but name. Flights to Asmara leave from the international section of Addis Ababa airport, and no one there checks if you have an Ethiopian visa. But arriving at Asmara, you have to show a permit to enter—obtained from one of the provisional government's offices abroad—before clearing Eritrean customs and currency control.

The Eritreans have been busy wiping away all traces of the Ethiopian presence. The Ethiopian Airlines office in downtown Asmara has been renamed Eritrean Airlines, even though no such airline exists. The large letters forming the word Ethiopia have been removed from the sign hanging outside the Commercial Bank of Ethiopia which is still the main bank of Eritrea. The Ethiopian and Eritrean economies are in fact still linked, if only by virtue of using the same currency, the Birr.

But despite the prevailing euphoria, Eritrea is a country starting from scratch. The combined effects of thirty years of war and a series of severe droughts have devastated its rural-based economy. Last summer, the rains were late and insufficient. Farmers harvested only a quarter of what they had expected. It was the third year in a row that Eritrea has suffered from drought. The Eritrean Relief Association, ERA, estimates that more than seventy percent of the country's 3.5 million people now survive on food aid—mainly shipments of wheat, pulses and vegetable oil.

But even with the current crisis, at the Asmara food market, traders and shoppers alike say that prices have fallen since the end of the war and the lifting of restrictions on the movement of people and goods. The market, which lies in the centre of the city, three hundred metres behind the Italian-built Roman Catholic Cathedral, occupies two vast squares connected by a web of small streets. At first glance, the market looks bustling and prosperous. There are piles of vegetables, huge sacks of cereals and a large poultry section. But a closer look reveals that there are almost as many sellers as buyers, and no signs of affluence on the numerous stallholders who stand chatting to each other in the absence of customers.

Fresh produce is beyond the means of most Eritreans. The cheapest food on the market is the relief wheat provided by the World Food Programme, and that's what the majority of the population eats in the form of the local pancake-like Injera bread, accompanied by spices or lentils. Eritreans prefer Teff for making Injera, but at the moment, it costs more than five times as much as the relief wheat. Yibabe Sebhatleab of the Eritrean Department of Agriculture says the price of spices has also become prohibitive and that lentils, provided as aid from abroad, are not always available.

The end of the war has given Eritreans the opportunity to rehabilitate their agriculture. According to Dr. Tesfay Ghermazion, Minister of Agriculture, much needs to be done before Eritrea can feed itself. Eritrean farmers not only suffer a shortage of inputs such as fertilizers, tractors, oxen, seed and farming implements, but they also have problems of land degradation resulting from drought and soil erosion.

According to Dr. Ghermazion, terracing mountainsides and building earth dams—both means of arresting long-term ecological damage—are an essential part of the Eritrean Department of Agriculture's Emergency Action Plan. The department has started a programme to build twenty-eight dams around the country. One of them is at the village of Haser Albo deep in the parched countryside of Seraye province, south of Asmara. The day I visited the dam site at Haser Albo, a group of middle-aged women were working on the base of the dam—a large trench which they had cleared of tree roots and filled with earth. The women were pouring water on the base and stamping on it with their feet to make the earth compact. To keep costs down, no concrete goes into the construction of the dams, and the labour is provided on a food-for-work basis.

Three hundred villagers, half of them women, were working on the dam. At Haser Albo, one of them, Assegadesh, told me her pay—six kilogrammes of wheat each day. She said it was not enough for her family's needs because she had to exchange some of it for other necessities such as pens and exercise books for her children. But the Eritrean government is strapped for cash, and along with aid organizations, it sees food for work programmes as a practical means of carrying out essential projects and at the same time discouraging dependence on aid. When the dam has been completed, the villagers of Haser Albo will have drinking water for themselves and their animals, and they will also be able to cultivate their land with vegetables. The dam, built between two hills, is designed to trap water from flash floods in a small reservoir. This should raise the water table in the surrounding area so that wells and boreholes that had run dry would fill up once more.

The Eritrean government says it needs $2.3 billion in aid in order to rehabilitate the economy. So far, it doesn't seem that this money is forthcoming. Government to government aid has been slow to come in because foreign donors prefer to wait and see the shape of the government that will be formed after the referendum. Moreover, because Eritrea is not yet recognized as an independent state, it is not eligible for loans from international lending institutions such as the World Bank.

The job of reconstruction is enormous. Agriculture is only one item. Eritrea's infrastructure is in tatters. Its roads have been destroyed by years of relentless military traffic, its water systems leak into the ground and there is a severe shortage of housing, schools and hospitals. At the Red Sea port of Massawa, there is not a single undamaged building. Massawa was bombed eleven times by the Ethiopian airforce after the EPLF captured it in 1991. An Arab-style city with colonnaded low-rise buildings, Massawa now has the atmosphere of a ghost city. There are very few people on the streets, and most of the buildings in the old part of the city stand boarded up and empty. With arches buckling, bits of masonry hanging at dangerous angles and walls pocked with shell-marks, they are beyond repair.

Massawa suffers the worst water problem anywhere in Eritrea. Drought has depleted the reservoir that supplies the town and its asbestos pipe system has not been renovated since the days of the Italian occupation. It is commonplace to see on the streets of Massawa women half-sunk in a hole in the ground collecting the water leaking from the pipe. Most areas in Massawa, and indeed, many areas in Asmara too, receive their water by truck. The Eritrean Minister of Water Resources, Haile Wolde Tensai, says the only solution for Massawa is a desalination plant powered by solar energy. But he adds, the Eritrean government doesn't have the money to finance such a project.

Eritrea's crumbling infrastructure also has to deal with an influx of refugees returning from Sudan where they had moved to escape the fighting. So far, more than sixty thousand people have returned, and it is estimated that at least two hundred thousand will come back over the next 2 years. The Eritrean commissioner for refugees, Dr. Othman Saleh, warned grimly of social and political unrest if the returnees were not properly reintegrated into the community. He says the Eritrean government is unable to do this without help from the international community.

The United Nations High Commissioner for Refugees is budgeting around $50 million for a 2 year repatriation programme. Eritrean and foreign aid officials point out that this works out to a very small sum per capita in comparison with UNHCR programmes in Namibia and South Africa. Dr. Saleh says $200 million are needed in order to absorb the returnees. At the moment, the refugees are coming back to villages where there are no jobs, food, shelter or social services.

Creating jobs is one of the biggest hurdles facing the Eritrean government. With hardly any foreign reserves of its own and scant international assistance, it is proving difficult to reactivate Enitrea's once thriving textile, leather and food processing industries. The Eritrean Minister of Industry, Tesfay Gebr Selassie, says all Eritrean industrial plants are working at a third of their capacity because there is no money to import raw materials or spare parts. The Eritrean government is keen to woo foreign investment and it is encouraging Italians whose families used to own factories to return and take possession of them.

In March, Asmara's largest hotel, the Amboisera, was full of Italians coming to check out investment opportunities. But, the Minister of Industry says, most investors want to wait until the post-referendum political system has been established before they commit any money. Some observers say EPLF officials with their military background remain unable to cede the necessary control for private business to operate freely.

For the moment, Eritrea's economic woes do not seem to have bred discontent with the government. Elation over independence continues to override divisions between those who fought and those who did not, those who prospered in exile and those who suffered under the Ethiopian occupation. But this can't last long. As Asmellash Abraha, a former fighter pointed out. On the battlefield, all fighters were equal, but back in civilian life, some have returned to poor families and some to well-off families.

Eritreans may soon want to see a peace dividend. Without help from abroad, this could prove difficult to achieve. Eritrea can now boast that is it the most stable country in the Horn of Africa. But it is difficult not to ask if the strain of rebuilding a shattered economy in a poor and troubled region would not place this hard-won stability in jeopardy.

TRIBUTE TO HARRY MALONE

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute and offer my warmest best wishes to my long time friend, Harold G. Malone.

My uncle, who was a crew dispatcher with the New Haven-Hartford Railroad, gave Harry his first job as a brakeman back in 1954. He served actively in the local union and has held a number of key union positions. Harry is retiring October 9, 1992 as the State Legislative Director of United Transportation Union, a position he has held since 1978. Through his work in the labor movement many men and women have benefited from his commitment to ensuring that ordinary workers and their families be given a fair shake in the workplace.

I congratulate Harry on his extraordinary work on behalf of his fellow union members and for his dedication in following out his duties in the grievance and legislative departments where he has worked tirelessly. The rail industry, as well as the United Transportation Union, will lose a giant and very valued member.

He has been one of the driving forces in making his union what it is today: a strong, vital, and important organization. His enthusiasm, determination, and persistence on behalf of UTU causes are an inspiration to all.

Harry is, without question, an institution in championing labor causes. At a time when we have a President who looks down upon unions, he understands the need to develop a sense of camaraderie, a common purpose, and the need to keep fighting. It brings me great pleasure to commend the achievements of a devoted and diligent man who is a role model and inspiration to many in the union today.

Mr. Speaker, I salute my good friend Harry Malone on his retirement and wish he and his wife Patricia, along with his daughters, Tracy and Maureen, the very best. I know his retirement years will be especially fulfilling and productive.

BREAST CANCER AWARENESS MONTH

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SWETT. Mr. Speaker, I rise today in recognition of National Breast Cancer Awareness Month. I would like to commend Congresswoman CARDISS COLLINS for her efforts in bringing this important issue into the public spotlight.

Our Nation has sadly neglected the seriousness of the second largest killer of women—breast cancer. Since it is one of the most treatable cancers if discovered early, it is crucial that we focus greater emphasis on its early detection and treatment. National Breast Cancer Awareness Month 1991 was a tremendous success and a significant step in that direction. Cancer organizations scheduled events nationwide to increase public awareness of the disease, its treatment, and how to prevent it. It is hoped that the continuation of this effort will bring us closer to our goal of increasing public awareness of the disease, and ensuring that a greater number of women will seek appropriate diagnostic services and treatment which will result in a decreased breast cancer mortality rate.

With the exception of lung cancer, breast cancer is the leading cause of mortality among women. Unfortunately, as with other types of cancer, we have too little information on how and why breast cancer occurs. We do know that in 1992, over 180,000 women will discover they have breast cancer, and 46,000 will die because of this disease. Research also indicates that one in nine women will contract breast cancer during her lifetime. Breast cancer is most common among single women, women in upper socioeconomic classes, women who have never been married, women in urban areas, and women in the northern United States. This is of particular concern to me, since my constituency is located in a high incidence area. The number of women with this disease is rapidly rising—in fact, it has increased by 1 percentage point every year since the early 1970's.

In spite of these grim numbers, if detected early, breast cancer is one of the most treatable cancers. This is where National Breast Cancer Awareness Month can help. Women must be educated about preventive measures. They need to know when to see a doctor and have these tests done and how to do self-examinations. Self-examinations, which should be performed at least once a month, are very valuable. In fact, 75 percent of all treated cases are found this way. Beginning at the age of 40, women should receive a mammogram at least once a year. Eighty percent of women diagnosed with breast cancer have localized tumors. If these tumors are detected early, 90 percent of the victims will survive 5 years or longer. However, if the tumors are not detected until later, the rate drops to 60 percent. That is why National Breast Cancer Awareness Month is so important.

Mr. Speaker, I urge my colleagues to join the battle against this silent killer. The only way to slow down its victory is to ensure that the women of America are aware of and pursue the proper techniques for detecting and treating this deadly disease. The recognition of National Breast Cancer Awareness Month will help us to achieve that goal.

TRIBUTE TO HON. JIM MOODY

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, there are many complex issues on the agenda of the Committee on Ways and Means. As a result, it isn't surprising that many new Members are a little confused and even intimidated by the broad jurisdiction of our committee. They take a while to get their legislative feet wet as they work to get up to speed on the issues. There's a lot to learn.

Our colleague JIM MOODY is an exception to that pattern. It isn't that he is a quick study as many of us here are. Actually, I don't think he had to study at all. He came to our committee in 1987 with an unusually concrete philosophy that led to a consistent stand on many of the issues we confront. From day one, he was one of the most sophisticated economists on the committee and his presence created a new tone.

Whether the issue was expanding trade and making the rules more equitable or extending health insurance and making the costs more affordable, his queries were always both pointed and helpful.

His questions were so probing and so specific that witnesses sometimes found themselves speechless. In their defense, I might add that even others on the committee were hard pressed to understand some of his questions.

But it was all for a good cause. It wasn't that JIM MOODY was showing off. Rather he was showing how important the issues were to him and how critical it was that we fully understand them before making policy choices.

He tried hard to do the right thing. Sometimes he worked so relentlessly that he even tried my patience. But our legislative result was better because of his efforts. For the past year he has been working to enact a provision that reforms our debt swap regulations. For reasons that are no one's fault, the effort failed in the first attempt because of a revised revenue estimate that crowded his provision out of the package.

JIM bounced back and that provision is now in the tax bill that contains our enterprise zone program.

That sort of determination served him well on our committee. It served his constituents equally well.

SAM BIANCO HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize my very good friend and a legendary labor leader from my district, Mr. Sam Bianco. On October 16, the labor community will gather to honor him upon his retirement as president of the Greater Wilkes-Barre Labor Council.

A World War II veteran, who served in the U.S. Army 10th Armored Division, Sam's union roots took hold in 1955 with the International Ladies Garment Workers Union. Sam served the ILGWU for 26 years as district manager. Sam's able leadership in the union involved him in everything from local contract negotiations to international contracts. He became an expert at negotiation and arbitration. His dedication was rewarded in 1978, when he was elected to his present post as president of the Greater Wilkes-Barre Labor Council.

Sam's labor leadership role took him into the community in various ways. He served on the United Way board of directors for 25 years. He was an active participant on the continuing education board of Wilkes University, was a school director for 6 years, served on the labor-management committee of the chamber of commerce for 8 years, and was active with the American Red Cross—to name just a few of his civic commitments. He has been an outspoken advocate of union issues in the media and in working with all local legislators. I am extremely proud of the close working relationship my office maintains with the labor council and I have often had the pleasure of working with Mr. Bianco during my tenure in the House of Representatives.

Mr. Speaker, it is my honor to pay tribute to my friend, Sam, one of northeastern Pennsylvania's great labor leaders. I join with his union brothers and sisters in paying tribute to his leadership and dedication, wishing him well upon his retirement, and thanking him for his lifetime of service.

GOV. CARROLL CAMPBELL RECEIVES FOOD LION BUILDING BRIDGES AWARD

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TALLON. Mr. Speaker, on September 16, 1992, Gov. Carroll Campbell of South Carolina was chosen to receive the first annual "Food Lion Building Bridges Award," which is presented by Food Lion to the individual or group which best exemplifies the spirit of cooperation between the business and government sectors. The presentation of this award is a unique occasion because both parties—Food Lion as the presenter of the award, and Governor Campbell as the award recipient—are exceptional examples of the spirit of charity and cooperation which is possible between government and private industry.

Cooperation between government and business is the key to tomorrow's success. The 1990's will be an era of collaboration in solving the complex problems facing us today. Because of this, Governor Campbell has been active in assisting businesses such as Food Lion to reach out to their customers and to their fellow citizens by providing a climate in which business is seen as an ally, rather than an adversary, in meeting society's needs.

Food Lion is equally deserving of great praise. The Food Lion Corp. has always been proud to call its 57,000 employees and more than 8 million weekly customers the "Food Lion family." And this is more than a slogan—it is a way of doing business in which the company sees its commitment to customers and employees alike as a long-term obligation, rather than as a way to turn a quick profit.

This is why Food Lion has been a pioneer in promoting all types of community service programs, from adult literacy to the South Carolina Cares for Children Program. Another recipient of Food Lion's support is the Caring for Tomorrow's Children Program, which encourages prenatal care for pregnant women in order to lower the infant mortality rate. Food Lion does even more. It created the "Food Lion Community Ways Days," in which Food Lion matches the charitable giving of individuals to their favorite charity. Food Lion has also promoted the Stay in School Program, which is a way to keep our teenagers in school so they may have a chance at successful futures in our society.

Food Lion is truly an example of the best in corporate America. It is a business which treats its employees so well that it has two or three applications for each new job opening; it is a business which is so popular with its customers that it is the fastest growing supermarket chain in America; creating 5,000 to 8,000 new American jobs each year; it is a business which cares about the communities in which it operates, and backs up its caring with a community commitment. Finally, it is a business which awards its stockholders with solid profits. It would be hard to ask more of any business.

Food Lion has also been very active in providing aid during recent natural disasters involving Hurricane Hugo and Hurricane Andrew. The company and its employees provided over 1 million pounds of food and nonperishable items to the victims of Hurricane Andrew last month, and donated $100,000 to the American Red Cross.

As chairman of the House Agriculture Committee's Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, I am particularly interested in nutrition and consumer programs generally. From my vantage point on the subcommittee, I salute Food Lion.

Mr. Speaker, I am thus extremely gratified to have this brief opportunity to mention my friend Carroll Campbell and salute him in my remarks before the House today.

TRIBUTE TO PABLO HINOJOSA FLOREZ

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to Mr. Pablo Hinojosa Florez, of Corpus Christi, TX. Mr. Florez is retiring from the Corpus Christi Naval Air Station after over 50 years of meritorious service to his country.

Mr. Florez, who faced a variety of adversities throughout his career, provided the Corpus Christi Naval Air Station [CCNAS] with the capability of working with highly technical machinery that very few people can operate. Despite leaving school early to help his parents make ends meet, he overcame the hardships many Mexican-Americans faced during the early 1940's to dedicate himself to the service of the United States in not only one, but two wars.

After an honorable discharge from the service, he returned to the Corpus Christi area to watch the creation of the Naval Air Station. At the Naval Air Station, Mr. Florez became a part of the overhaul and repair division [O&R]. Having joined the USMC Reserve, he was sent to the Korean war. In the 1950's, he returned to the CCNAS transportation department as a heavy mechanic engineer. Only Mr. Florez was able to operate the highly technical equipment at the Naval Station.

His devotion to the Armed Forces of the United States is clear from the consistent level of his work. His wife, Elida Gonzales, and his six children, Richard, Edward, Paul Homer, Rowland Everett, Estela Melinda, Sylvia, and Earl Clyde, stood firmly with him through the anguish of war and his continuous devotion to serve his beloved country.

Please join me in congratulating Mr. Pablo Hinojosa Florez on his retirement after 50 years of devotion to the Corpus Christi Naval Air Station and the United States of America. May he continue to live a joyous life in good health and happiness.

PORTABLE PRACTICAL EDUCATIONAL PREPARATION TRAINING FOR EMPLOYMENT CENTERS [PPEP TEC]

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PASTOR. Mr. Speaker, I am pleased to share with my colleagues the excellent work being done by Portable Practical Educational Preparation Training for Employment Centers [PPEP]. I wish to recognize PPEP TEC as a national model for providing job training for hard-to-serve rural clients in Arizona.

Twenty-five years ago, Portable Practical Educational Preparation, or Project PPEP, began its services to the rural residents of Arizona from a single green, rusted school bus called La Tortuga, by local residents. The bus driver and founder of Project PPEP, Dr. John Arnold, had essentially rediscovered a riding model for delivery of social services which had been used some 300 years earlier by Father Kino, the great mission builder of the Southwestern area later to become the United States. In La Tortuga, Project PPEP traveled from Indian village to farm laborer camps providing services that other citizens of our great Nation take for granted—education, rudimentary health care, assistance in obtaining suitable housing, and clean water to drink.

The primary thrust of Project PPEP was, and still is, to provide job training. It's 12 major programs, administered by 250 employees, dealt with helping rural residents obtain and maintain unsubsidized employment. In 1980, Project PPEP became, and continues to be, the Arizona grantee for the education and training of migrant and seasonal farm workers through the Department of Labor's JTPA program.

In order to share some of the training concepts developed over years of trial and error, Project PPEP has published extensively through the U.S. Department of Education and the National Institute of Education. In 1986, Project PPEP's Training for Employment Centers, or PPEP TEC's were accredited by ACCET, a nationally recognized accredited agency, and approved by the Department of Education by ACCET in 1990 resulted in their awarding of the maximum limit of reaccreditation until 1995.

As a nonprofit postsecondary institution, PPEP TEC is dedicated to reaching out to those persons whom the public system has failed and society has let fall through the cracks and given up.

Such clients include single parent mothers, farm workers, off-reservation Native Americans, other minorities, and rural poor. The school serves these clients with opportunities which are creative, economical, and comprehensive.

PPEP TEC has repeatedly demonstrated its resourcefulness in leveraging Department of Labor funds, direct student financial aid from the Department of Education, and local funding sources. PPEP TEC specializes in training for employment, utilizing very affective approaches. This is a successful program that meets the needs of a population that would otherwise be ignored by the system.

Besides the successful human transition from the ranks of the unemployed to skilled workers and economical self-sufficiency, PPEP TEC has saved the American taxpayer in the millions of dollars. Therefore, I wish to recognize the important mission of the PPEP Training for Employment Centers in providing education and training to rural residents of Arizona.

Furthermore, I wish to recognize PPEP TEC for, in the words of John Florez, the former Deputy Assistant Secretary of Labor, for "responding to needs and making the connections to remove barriers" in the education and training of rural residents.

National leaders, local community leaders, employers, and former students have demonstrated that the PPEP TEC model for delivery of education and training works and works well, and is hereby offered as a model which may be replicated in neglected rural areas throughout the Nation.

And last, I wish to commend the informal partnership of the Department of Labor and the Department of Education culminating in the much-needed PPEP TEC program, which has saved the taxpayer untold dollars in public welfare payments to those rural residents who are now employed taxpayers themselves. PPEP TEC has carried out its mission of successfully serving people from disadvantaged backgrounds.

It is with great pleasure that I submit PPEP TEC as a national model for the education and training of disadvantaged rural residents.

BREAKING THE CYCLE OF CHILD ABUSE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. SCHROEDER. Mr. Speaker, I wish to commend ChildSong, Inc., for its recent cross-country campaign to raise awareness about the scourge of child sexual abuse. When Dr. Catherine Foote arrived in Washington, DC, several weeks ago, it was at the end of her third journey across America, bicycling from San Jose, CA, to Washington to "Brake the Cycle" of child sexual abuse. I had the pleasure to welcome Dr. Foote, Nancy Peters, Melody Nolan, and four of their colleagues on their arrival here, and to accept from them petitions calling for an end to child sexual abuse.

During their 3,700-mile trip, the "Brake the Cycle" participants educated communities in many States on the critical need for a greater investment to end abuse. The bicyclists shared their concerns and experiences with government officials, community leaders, professionals, advocates, and victims of abuse. The petitions they collected bear the names of over 3,100 persons from 40 States and four other countries, calling for an end to child sexual abuse through increased prevention, investigation, treatment, and public awareness.

The "Brake the Cycle" campaign, Oprah Winfrey's recent "Scared Silent" television special, and other prominent anti-abuse efforts keep this epidemic in the public spotlight and emphasize the need for adequate response. The mandate is clear: We must continue to implement ways to prevent abuse from occurring in the first place.

The Select Committee on Children, Youth, and Families, which I chair, has again worked very hard during the 120d Congress to highlight strategies which prevent abuse and strengthen families. Our hearing earlier this year on home visiting and family preservation profiled programs that save taxpayer money, relieve family pressure, and keep families strong. If we value child well-being, we will continue our legislative efforts in the next Congress to ensure that children are able to grow up healthy and free from harm.

I applaud the work of Dr. Foote and her companions who helped to gather the petition signatures, for their ongoing efforts to protect children from abuse.

TRIBUTE TO HON. GUY VANDER JAGT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to say goobye to a good friend and colleague, and a valuable member of the Ways and Means Committee, GUY VANDER JAGT of Michigan.

The son of a farmer, GUY always approached legislative problems with a rock solid common sense that was both refreshing and productive. When the time came for Ways and Means Committee members to get down to business, GUY was always at the table, ready to work.

He understood something that has escaped the grasp of too many of use—that electoral politics is largely theater and when the campaigns are over, the props should be packed up, the partisan rhetoric turned down, and those lucky enough to win their races should turn their attention to solving problems.

In an era when the Ways and Means Committee was in the news more often than not, it would have been easy for GUY to grab attention with some choice sound bites. Few people who have ever served in this body have had his gifts a speaker. But GUY never jumped for the kleig lights and the microphones. He kept a low profile preferring to put his nose to the legislative grindstone rather than in front of a television camera.

Mr. Speaker, GUY VANDER JAGT approached his job with the attitude and skills of a master craftsman. Just recently, he initiated an effort to dramatically simplify one of the most contentious and cumbersome areas in the Tax Code—the tax treatment of intangible assets. It's hard to imagine a tax issue that has produced more billable hours for the Nation's tax lawyers and accountants—and more headaches for the Nation's business community. Streamlining the code in this area has been a long-neglected chore. It's been long neglected it's quite apparent that anyone who takes an active role in reforming this part of the Tax Code is probably going to earn more praise than blame. GUY understood the risks when he took the lead on the intangible assets issue. But he also understood that somebody had to show some courage and leadership and fix this part of the Tax Code.

I will always remember GUY as an extremely able member of the committee. In a time in our history when ideology has had an unhealthy impact on the business of governing, GUY VANDER JAGT never jumped on any ideological bandwagons. He never endorsed a proposal simply because it was the ideologically right thing to do. The bottom line is that you just couldn't sell GUY VANDER JAGT a pig-in-the-poke idea. I think it's fair to say that if we had had more hardnosed lawmakers like GUY VANDER JAGT, we would have avoided many of the mistakes that have left Americans feeling skeptical about their future and about government's ability to make things better.

I'll miss GUY as a colleague but even more, I'll miss him as friend. One of the pleasures of long government service is trading memories of long service with other congressional veterans. When it comes to telling or enjoying old war stories, GUY had no equal.

TRIBUTE TO MR. WONG HAM

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DYMALLY. Mr. Speaker, I rise today to pay tribute to Mr. Wong Ham—1878–1943. Mr. Wong was the only Chinese person who was a merchant in the city of Chicago at the turn of the century. Wong Ham always spoke highly of and embraced the great attributes that make up this country: Democracy, freedom of expression, pursuit of higher education, family values, and the need for progressive development. He was particularly knowledgeable of electrical and engineering applications.

Wong Ham was so well respected that, in 1901, he was one of a very few persons of Chinese descent allowed to travel to China and subsequently return to the United States. His character was attested to by the citizens of Chicago and, in particular, by two bank officers of the Illinois Trust & Savings Bank and verified by the U.S. Commissioner, Northern District, Illinois.

His ability to travel to and from China and the various commendations mentioned above are of significant value as these actions came about during a time of severe anti-Chinese sentiment in this country.

Wong Ham was married to Florence, who was from Australia, and had two sons, Bennie and Lansing. Lansing Wong also had two sons, Thomas and Clarence, continuing the family name and the great legacy of Wong Ham to this day.

RADIO MARTI TO CUBA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BURTON of Indiana. Mr. Speaker, recently, the House passed the Cuban Democracy Act and sent Fidel Castro and his Communist dictatorship a strong message. The United States stands firmly in support of the Cuban people in their intense desire for freedom. I would like to share with my colleagues an excellent article from the Miami Herald by Tony Navarro, the courageous director of Cuba Broadcasting, about Radio Marti, which has played such an indispensable role in the fight for freedom and democracy in Cuba.

[From the Miami Herald, Sept. 23, 1992]

RADIO MARTI: VITAL, REVITALIZED

(By Antonio Navarro)

Recently the Cuban government moved to restrict telephone communications between the United States and Cuba. Part of Havana's motivation was to prevent the voices of dissent on the island from reaching the outside world. Fidel Castro's further attempts to block the free flow of information have made all the more important the mission of Radio and TV Marti, the U.S. Information Agency's broadcast services to Cuba: to provide news and information to the Cuban people.

On May 20, 1991, Radio Marti announced new programming initiatives better designed to meet the needs of our Cuban audience. And for the first time in its history, Radio Marti began consistently broadcasting interviews, achieved via telephone communication, with Cuban dissidents on the island.

These initiatives represented the results of research and analysis intended to gauge potential audience reaction and to fulfill our official mandate "to promote the cause of freedom in Cuba."

It appears that these programming improvements are having an impact inside Cuba. Radio Marti had been broadcasting for six years without substantially revamping its programming. New programs, enhancement of existing ones, and development of telephone interviews within Cuba thus became vital priorities.

100 PERCENT MORE NEWS

This revitalization has succeeded at attracting and retaining the listenership of our Cuban audience. For that we credit Dr. Rolando Bonachea, head of Radio Marti since 1990, and his top executives.

Radio Marti's audience research has always revealed the desire of Cubans on the island to have programming focus on issues that are relevant to them. There's nothing odd about that desire, especially from a people denied access to uncensored news for over three decades.

Cubans surveyed have routinely listed news and informational programming as their main reasons for listening to Radio Marti. Based on this audience research, Radio Marti has increased news and informational programming by more than 100 percent.

We have succeeded in targeting the interests of key sectors of the Cuban population. Such targeted programming is drawing listeners by tailoring information to their specific needs. Radio Marti is currently broadcasting programs aimed at youth, women, laborers, and rural workers. A program directed specifically to the Cuban military is under development and, like others, will be tested on focus groups in Miami.

Another program, titled Democracy: The First Option, explains the democratic system of government in practical terms, to prepare Cubans for the day when they can practice it.

The Cuban exile community is another important resource for information, news, and talent that is now receiving particular attention. Previously, this community went largely ignored by Radio Marti. Ensuring that open, free, and uncensored participation be extended to responsible Cuban exile leaders and organizations has been one of our highest priorities.

Radio Marti has sent news crews all over the world to cover events significant to Cuba. These crews have reported directly from the sites of major international summit meetings such as Cozumel, Moscow, Cartagena, Guadalajara, and Madrid in search of Cuban news-related material. In addition, we have more than 90 permanent stringer reporters who periodically file stories on location in foreign countries.

Radio Marti will persist in providing the Cuban people with news and information that directly affects their lives. For example, since Hurricane Andrew hit South Florida, Radio Marti has broadcast thousands of personal messages from Cuban exiles to friends and family on the island. Calls to 1-800-77-MARTI are running at the rate of 1,300 per day. It is deplorable, though unfortunately not surprising, that the Cuban government has chosen this time of greatest human suffering in South Florida to interrupt communications between troubled families, in a transparent effort to coerce the U.S. government into making purely financial concessions.

Those who tend to think of Radio Marti as propaganda are wrong. In an environment of controlled and censored news that is invariably laden with "ideological content" by the Cuban government, the news, as it is, is effective enough without having to resort to propaganda.

As a result, Radio Marti's programming is now more diverse, responsive, and stimulating. With improved programming, and the successful telephone reporting from within the island, Radio Marti is fulfilling its mission to promote freedom and democracy in Cuba better than at any time in its brief history.

REGARDLESS OF FRONTIERS

Radio Marti will do everything in its power to ensure that Castro's lastest ploy does not succeed. Radio Marti will continue to seek direct communication with internal dissidents in order to report on the abusive treatment of opposition groups, political prisoners, and human rights activists within Cuba.

As Article 19 of the Universal Declaration of Human Rights states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and *regardless of frontier*" (emphasis added).

Oddly enough, Cuba is a signatory to this declaration. It is about time Castro joined the community of civilized nations and began to abide by its mandate. But we're not holding our breath.

As for Radio and TV Marti, we will persevere in our mission—mandated by the U.S. Congress and approved by the President—to provide objective and unbiased news and information to the Cuban people.

THE NEED TO MAKE EDUCATION MORE AFFORDABLE FOR PRIMARY CARE DOCTORS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. STARK. Mr. Speaker, in many neighborhoods, America suffers from a shortage of personal care doctors and family practitioners. While we have a surplus of medical specialists, each year fewer medical school graduates are choosing to become the primary care doctors who fight on the frontlines of preventive medicine. A recent article in the National Journal points out:

> The nation's supply of doctors grew nearly 3.5 times as fast as the general population during the past decade. Yet the percentage of physicians trained in primary care—already well below the 50 percent or more found in many other industrialized countries—has been falling steadily, and now stands at 32 percent. (9/5/92)

Fewer students are choosing careers as primary care doctors because medical specialties pay better—often two or three times better. The average income for the majority of medical subspecialties is well over $200,000 while general and family practitioners earn, on average, half that much. In fact 25 percent of primary care physicians earn less than $65,000.

Most medical school graduates face educational debts averaging $46,000—often exceeding $80,000—and therefore need high salaries to meet extremely high student loan payments. Obviously, lower primary care salaries combined with high educational debt payments discourage many who would otherwise enter this field. The result is an increase in high-paid, high-charging, test-ordering specialists whose income demands worsen the already inflationary cost spiral plaguing our health care system.

Unfortunately, we do not necessarily get better care for this higher cost. The Council on Graduate Medical Education reports that due to the lack of family practitioners, primary care services are increasingly provided by subspecialists who have little or no education in the delivery of primary care.

Today I am introducing a bill which would enable medical school graduates to become primary care doctors without losing their shirts.

My bill creates a medical school assistance trust fund [MSATF] for medical students. Compared to current loan programs, MSATF grants will be easy to administer, more affordable for the recipients, and less susceptible to student loan defaults which add to our $400 billion deficit.

The medical school assistance trust fund's strength lies in its simplicity. With a MSATF grant, qualified health profession students could borrow up to $46,000—the average medical school graduate's debt—to help pay for school. The graduate would then contribute 1 percent of her income every year for the rest of their life into the fund to make more grants available to future generations of students.

The trust fund contribution would be collected by the Internal Revenue Service [IRS] through the contributor's W-4 withholding, making collection easy and automatic both for the participants for the IRS. Additional payments and corrections could be made on the year-end tax return. And since the only certain things in life are death and taxes, the program is certain to decrease the number of people who default on their federally insured loans.

Most importantly, though, MSATF would make it possible for medical school graduates to afford careers in primary care. Unlike current loan programs where commercial lenders let debt payments range up to almost 20 percent of the borrower's income, no MSATF contributor would be charged more than he or she could afford—even during periods of low income.

As I have introduced it today, the trust fund is meant primarily to start discussion. It has several areas which I am especially interested in receiving comments and suggestions before I reintroduce it in the 103d Congress. First, as I have introduced it today, the fund is limited to medical school students. I think this fund should cover other health professional fields like dentistry, optometry, clinical psychology, and others. I would encourage people with expertise in these or other related fields to contact me with their comments and suggestions for appropriate grant amounts for other health professionals.

Next, based on my initial calculations, I believe that a contribution percentage of 1 percent of income should suffice to keep the trust fund solvent. Before I reintroduce this bill in the 103d Congress, I plan to examine the contribution percentage in greater detail and would be interested in hearing from others with information on this matter as well.

Finally, I have not yet come up with a proven means to adjust for the effects of both educational and cost-of-living inflation. I encourage knowledgeable colleagues to contact me with suggestions on how to index the MSATF grants without stimulating inflation in medical schools.

Once again, I urge my colleagues to join me today in supporting this important program which will give us more primary care doctors, make medical school more accessible to middle- and low-income families, and help reduce the Federal deficit.

TRIBUTE TO TED WEISS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LEVIN of Michigan. Mr. Speaker, I had the opportunity to work with Ted Weiss when I served on the Government Operations Committee. As a subcommittee chair, he was a fair and persistent leader. The battles weren't always won, but Ted Weiss fought hard for his point of view.

That was true of the effort to salvage revenue sharing.

That surely was true of his efforts to help alert our Nation to the perils of AIDS and to confront an administration that was asleep at the switch.

I remember vividly a hearing in the mid-1980's. The lead administration witness testified that ample resources were available at Government agencies for treatment, research, and education. It was painfully plain that the testimony was false. In a polite but intense way, Ted Weiss pressed the witness, who was violating two key principles of Ted's life: to tell the truth and to be compassionate.

Eventually, the truth did come out. The resources were grossly inadequate for the challenge of AIDS. Eventually, the gap was narrowed, a tribute to the endeavors of Ted Weiss.

One did not have to agree with Ted Weiss on every issue to respect deeply his unswerving devotion to public service.

Ted Weiss will be deeply missed in this institution—both personally and professionally. We will remember well his warm smile, warm heart and agile mind.

TRIBUTE TO HON. JOHN PAUL HAMMERSCHMIDT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MINETA. Mr. Speaker, I would like to recognize a Member who has made outstanding contributions to the Nation, JOHN PAUL HAMMERSCHMIDT.

There is no individual in the House who is more loved and respected than JOHN PAUL HAMMERSCHMIDT. His honesty, gentleness, decency, and integrity are second to none. Don't be swayed by his quiet manner, because underneath is a man with strong convictions, a sense of purpose, and a keen desire to get things done.

One of the pleasures of being a member of the Public Works Committee is that we try to work out our differences, Democrats and Republicans, to do what is best for America. Few will dispute that it was JOHN PAUL, because of his personality and effectiveness, who many times made the difference in ensuring bipartisan support on key infrastructure legislation.

Congressman HAMMERSCHMIDT, the distinguished dean of the Arkansas delegation, has represented the Third District of Arkansas since January 3, 1967, and has been the ranking member of the Public Works and Transportation Committee since 1987.

JOHN PAUL has also served on the Veterans' Affairs Committee since 1967, as ranking member from the 93d Congress, and ranking member of its Hospitals and Health Care Subcommittee. He has been awarded legislative honors by eight national veterans service organizations.

Few know that he was a combat pilot in World War II, flying 217 missions with the 3d Combat Cargo Group over the Hump in the China-Burma-India theatre. He was awarded the Distinguished Flying Cross with three oak leaf clusters, the Air Medal with four oak leaf clusters, three battle stars, the China War Memorial Medal, by the Republic of China, and the Meritorious Service Award. He retired from the Air Force Reserve as a major.

Before coming to Washington, JOHN PAUL was a lumberman, builder, and building supplies businessman by profession in his hometown of Harrison, AR. He was active in many civic, professional, and veteran organizations before running for Congress, the only elective office he has sought or held.

As you know, JOHN PAUL is retiring at the end of this session. This body is worse for his leaving, but better for his being here. We all wish him well in his retirement.

TRIBUTE TO HON. FRANK GUARINI

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to praise our retiring colleague, FRANK GUARINI of New Jersey.

Throughout his 14-year career in this Chamber, FRANK served on the Ways and Means Committee with dedication and distinction. He approached his work as a lawmaker with wisdom and common sense, using the lessons he learned as a successful lawyer to guide him in representing not only the interests of his constituents but the interests of all Americans.

FRANK GUARINI is what is known as a self-made man. But unlike so many people who succeed, FRANK never lost sight of the people who made his success possible. He always tried to return the favor. FRANK believed that America is the land of opportunity. And just as his legal career proved that he was right, FRANK's public career was dedicated to helping others share the same opportunities he enjoyed.

For FRANK, that meant first and foremost expanding the opportunities for education. He understood the value of education from personal experience. He realized that America's education system holds the key for upward mobility and for a better future for us all.

Over the years, no one on the Ways and Means Committee represented the interests of education more diligently than FRANK GUARINI. On numerous occasions, he singlehandedly rescued a provision in the Tax Code that promotes educational advancement by allowing employees to exclude from income tuition payments made by their employers.

This provision has improved the lives of thousands of Americans, and each and every one of these people has FRANK GUARINI to thank.

Mr. Speaker, we will miss FRANK GUARINI on the Ways and Means Committee and here in the House. A man of integrity, good sense, and modesty, men like FRANK GUARINI come along far too infrequently. We wish him well in all his future pursuits.

RESIDENTS RECLAIM SANTEE NEIGHBORHOOD

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. EDWARDS of California. Mr. Speaker, a year ago, the living conditions in San Jose's Santee neighborhood were highlighted by a high crime rate, dilapidated housing, gang activity, a high percentage of school dropouts, and an extreme drug problem marked by open air, street corner markets and children selling children drugs in schools.

In September of 1991, Mayor Susan Hammer and the San Jose City Council committed $1 million to a proactive policy to end this cycle of destitution and despair. A first of its kind community center, the Santee Neighborhood Action Center, was set up as a one-stop, quick response community service area. This center, set up right on Santee Elementary School grounds, brought together several different departments including parks and recreation, code enforcement for housing violations, as well as police officers for drug enforcement.

As a result of the cooperation of the city departments as well as the people in the neighborhood, results are beginning to surface. Apartments are being inspected regularly. Landlords who are not in compliance with housing codes are being taken to court. Drug markets and gang activity, while still in existence, have shown a decrease in activity. Perhaps even more compelling is the vibrant interest the residents are now taking in their community, oftentimes aiding the police to put a stop to gang violence and drug dealing.

Mr. Speaker, clearly more needs to be done. But less than a year after this endeavor began, Santee, what San Jose city officials had called the city's "most educationally, socially and economically deprived" neighborhood, has turned the corner. This neighborhood, the people and the city have much to be proud of in this collaborative effort. As the neighborhood continues to improve and revitalize with a sense of dignity and pride, I commend them for their actions and their hard work. Many blighted urban areas across our Nation can learn much from Santee.

TRIBUTE TO ORMAND J. WADE, OUTSTANDING BUSINESS LEADER AND VICE CHAIRMAN OF AMERITECH CORP.

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BRUCE. Mr. Speaker, on behalf of the Illinois congressional delegation, I rise today to recognize Ormand J. Wade, vice chairman of Ameritech. He is one of the Nation's outstanding business leaders responsible for building one of the most unique public-private partnerships—the Institute for Illinois [IFI]. IFI was founded 7 years ago by Senator Alan J. Dixon with the bipartisan support of the Illinois congressional delegation. Orm Wade, as a founding director and vice chairman of IFI, has provided critical leadership in attracting the participation and support of the Illinois business community. Today, IFI has an outstanding board of directors composed of delegation members and the CEO's of Illinois' leading corporations and universities. With Orm Wade's leadership the IFI public-private partnership has focused the delegation, in a bipartisan way, on issues, policies and projects that improve the competitiveness of the Illinois economy.

Orm Wade was instrumental in launching the IFI Council of Advisor's for the 101st Congress and the Executives' Council for the 102d Congress. These councils worked by consensus and regularly advised the delegation with action recommendations to enhance economic growth, jobs, and returning a fair share of tax revenues to the State. Through IFI, the delegation and the private sector support key science and technology projects, environmental initiatives, the Illinois information infrastructure, Access 2000 consortium for science and math, defense industrial base, trade with Eastern Europe and the Baltics. IFI's conferences have addressed key Illinois issues of health care, the Clean Air Act, rural development, earthquake risk reduction, and technology transfer.

Orm Wade has been a true champion of fostering a positive relationship between the public and private sector. He was able to see the possibilities for this alliance and direct it for the future. IFI is a model for public-private cooperation that should be emulated by others to bolster international competitiveness.

Orm Wade began his career in 1961 with AT&T Long Lines' engineering department, and during the next 16 years, he advanced through the company's engineering operations, marketing, personnel, and regulatory departments. He came to Chicago, IL, in 1979 as vice president of AT&T Long Lines central region and in 1981 was named executive vice president of Illinois Bell and elected to its board of directors. He became president and chief executive officer of Illinois Bell in 1982. In 1987, Orm Wade was appointed president of the Ameritech Bell Group, and 2 years later appointed to his present position as vice chairman of Ameritech.

In addition to Orm Wade's outstanding business career, he is also a director of Illinois Tool Works, Inc., NBD Bancorp and its subsidiary, National Bank of Detroit, Northwestern Memorial Hospital. He has also donated his time and energy by serving on the board of directors of the United Way/Crusade of Mercy and the National Association of Manufacturers, as well as the board of governors of the Chicago Lighthouse for the Blind. He is also a trustee of the University of Chicago, a member of Northwestern University Associates, and the Commercial and Economic Clubs of Chicago.

Orm Wade's outstanding business and civic career is to be admired. He performs his role with enthusiasm, intelligence, and great sensitivity to the constantly changing relationship between public and private purpose. The Illinois congressional delegation and the Institute for Illinois' Board of Directors are deeply grateful or Orm Wade's continuing leadership and contribution to Illinois.

IN MEMORY OF REV. MATTHEW VANDER BLEEK

HON. JOHN W. COX, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. COX of Illinois. Mr. Speaker, the Reverend Matthew Vander Bleek, age 31, was killed on Thursday, July 9, 1992, when his car slid into an oncoming truck outside of Fulton, IL. This tragedy was devastating to his family, Mr. and Mrs. Clarence Vander Bleek, and his 11 siblings. His significant contributions will be missed by his loyal parishioners of Saint Andrew's Church in Rock Falls, IL. Another of his important roles in life was as a teacher, a role model, and a mentor to his students at Newman Central Catholic High School in Sterling, IL, where he served as assistant principal and spiritual director for the past year. The lives he touched were numerous, and he will be missed greatly.

Rev. Vander Bleek was ordained into the priesthood in 1988. He spent 3 years as associate pastor for Holy Family Church in Rockford, IL, before going to St. Andrew's parish. In his short career as a priest, Father Matthew was known and loved by all. I stand before this body today to celebrate and praise his accomplishments. I also offer my condolences to his family and friends. The talents and gifts he offered will be missed by everyone whose life he touched.

LETHA FERGUSON IS NURSE OF 61 YEARS

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TANNER. Mr. Speaker, Letha Ferguson likes her work. She's a registered nurse who approaches her healing work with the zeal and energy of Red Cross Founder Clara Barton.

She's been at it for 61 years, longer than any active nurse in Tennessee. For her service, she was recently recognized by Tennessee Gov. Ned McWherter, State Labor Commissioner James White, and Brenda Hollis, director of nursing at the Oakwood Nursing Home where Ms. Ferguson now works. She is licensed to practice nursing in Tennessee, Kentucky, and Michigan.

In many areas across our State there are not enough nurses or health care professionals in general. Quality health care is something that is critical to every Tennessean, so it is exciting to see health care professionals like Ms. Ferguson, who have given so much to their work and those they treat.

She told the Union City Daily Messenger recently that her father lived to be 103 years old and remained active until his death. Many of us across Tennessee who admire her concern and determination do not doubt that she will do likewise.

Ms. Ferguson is an example of dedication we can all admire.

Please include in the RECORD the attached article from the Union City Daily Messenger at the close of these remarks.

NO RETIREMENT IN SIGHT FOR NURSE OF 61 YEARS

(By David Bartholomew)

Step aside Clara Barton. Move over Florence Nightingale. Make room for Letha Ferguson.

The duo of Barton and Nightingale, pioneers in the nursing profession, has now become a trio with Ms. Ferguson's recent recognition as Tennessee's longest working nurse. With 61 years of credit to her service, Ms. Ferguson says she still isn't ready to stop counting. "I understand they honor professions on a rotating basis and that nursing comes up every four or five years," she related, "I told them to be watching for me; I'd probably be back the next time around."

How long does she plan to continue? That all depends on her health, the long-term nurse said. She practices a healthy lifestyle, eating a good diet and getting plenty of exercise. Of course, there's always the heredity factor. Her father lived to be 103 and remained active until his death. Plus, with licensure in three states—Tennessee, Kentucky and Michigan—Ms. Ferguson noted that she still has plenty of options open.

Her recognition, which included festivities in Nashville, a personal commendation from the governor and numerous awards and certificates, began when the Department of Labor began its annual search for the oldest category in a specific field—this year in nursing.

Labor Commissioner James R. White said the search produced over 100 nominations with nurses having worked in the 30, 40 and even 50 year range. But no one could top Ms. Ferguson's record.

"Health care is such an important and critical issue for our entire country that it is appropriate to honor the front line professionals," White said, "We owe a great deal to the nurses who have served the people of Tennessee and enhanced the health care workplaces of our state."

Ms. Ferguson graduated from nursing school during the depression and received her first job at a clinic in Union City. Since then, she has practiced almost every form of her craft—working in hospitals, in home health and in nursing homes. She currently divides her time, which averages four to five days a week on the job, between Oakwood Manor Nursing Home in Dyersburg and Parkway Manor Nursing Home in Fulton. It was her employer at Oakwood Manor that nominated her for the coveted award.

Reflecting on the changes over her career, Ms. Ferguson remembers the introduction of penicillin and what a difference it made in treating a number of illnesses. She has watched the introduction of other antibiotics, the development of high tech diagnostic equipment, and rapid changes in such arenas as coronary care. Ms. Ferguson said other changes have also come about, noting the dramatic increase in required paperwork on each patient.

Reflecting on her experiences, Ms. Ferguson said she has been led on to do most everything in the nursing field, from delivering a baby to more mundane tasks.

Recalling that first job, Ms. Ferguson said it paid one dollar a day, one meal a day and free laundry on her uniform. "Our uniforms used to be real starchy back then and there were no pants suits; it meant a lot to get them laundered free," she said.

From that clinic position, other opportunities awaited Ms. Ferguson and she was soon employed by Brown Shoe, working as the first industrial nurse in the county. Since then, she has shared her expertise and professionalism in other arenas, never losing the personal touch she feels is important with each patient.

Ms. Ferguson was hosted at the luncheon by McWherter and White and was accompanied by Ms. Brenda Hollis, director of nursing at Oakwood Manner, and Ms. Regina Sedberry, her niece of Union City.

Talking with Ms. Ferguson gives you the feeling that with her as your nurse, getting sick might not be too bad of an idea. With 61 years of experience at hand, you know the care you're going to get will be first class.

PETER AND HARRIET WILES CELEBRATE THEIR 40TH WEDDING ANNIVERSARY

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. WALSH. Mr. Speaker, I rise today to honor a family whose contribution to the economic vitality and quality of life in central New York cannot be underestimated. I speak of Peter and Harriet Wiles and would like to honor them on the occasion of their 40th wedding anniversary.

Mr. Wiles, founder of Mid-Lakes Navigation Co., Ltd., has been a pioneer of the dinner cruise. His love of the New York State barge canal system has developed into a business enterprise employing many and bringing joy to literally hundreds of thousands. In addition, he has designed a new class of vessel expressly for the canals of New York State—the lockmaster. His firm produces double-deck cruise boats at the Borodino Boatworks on Skaneateles Lake.

Mrs. Wiles' contribution cannot be overstated. She has managed the kitchens and purchasing on the dinner cruises, ensuring that visitors have a memorable experience as they learn about the canal system's impact on central New York, New York State, and the industrial Northeast in general. Although she favors a low profile, she has been a moving force at the Mid-Lakes Navigation Co.

Mr. Wiles has not let the snowy winters slow down his enthusiasm for central New York. He has developed the Tecumseh Country Club and Winter Sports Center in Syracuse, the North Shore Country Club in Cleveland, and the Florisant Ski House and Conference Center in Lyons Falls, NY, adding tremendously to the tourism base in New York State.

The Wiles' love for the outdoors and the best that central New York has to offer has been felt by adults and children alike. Mr. Wiles established an education program on the Erie Canal for school children. With two vessels both Rochester and Syracuse are served, and over 135,000 children have participated in the program.

The Mid-Lakes Navigation Co. is truly a family affair, with four of the Wiles' five children obtaining their captains' licenses, and the other obtaining a doctorate degree. Our youth are certainly our future, and the value of including our heritage in education has not been forgotten by the Wiles, and through their efforts, will not be forgotten by hundreds of thousands of other central New York families.

The accomplishments of Peter and Harriet Wiles far exceed my ability to list them here. They have left their mark on central New York, and are truly American originals.

TRIBUTE TO HON. ROD CHANDLER

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to take this time to say a few words of praise for our energetic colleague from the State of Washington, ROD CHANDLER.

ROD has served on the Ways and Means Committee for many years and in that time, demonstrated a willingness for hard work and cooperation that serves as a model for all elected officials.

ROD came to the committee with a clear idea of what his job was all about. He realized that the task of making good laws and that of grabbing headlines are two very different things. To his credit, he opted for the former.

He displayed an enthusiasm for rolling up his sleeves and performing the nuts-and-bolts chores that are the essence of successful and wise lawmaking. When the committee's work became tedious or when the job got to be frustrating, we could always count on ROD to provide leadership with his sense of humor. He had a knack for pulling us back to Earth and putting things in their right perspective.

Some Members of Congress recoil at the prospect of devoting time and energy to legislative tasks that promise no media reward. Not ROD CHANDLER. From the moment he became a member of the Ways and Means Committee, ROD CHANDLER recognized his responsibilities and pursued them with vigor and intelligence.

He quickly developed a well-deserved reputation for expertise in the area of pensions and employee benefits pension law—two subjects that the media stoutly avoids but two subjects that are tremendously important for millions of Americans.

ROD believed in the goals of our pension and employee benefits laws—but he felt that the means of applying the laws were getting in the way of the ends. In his view, the rules had become so complex that employers were cutting back on benefits. And so ROD decided that what was needed was a dose of simplification.

ROD'S work in this area has provided the foundation for the committee's ongoing efforts to streamline pension law. The Ways and Means Committee and the American worker owe ROD CHANDLER a tremendous debt of gratitude for his ingenuity, insight and commitment to this important area of our tax laws.

Mr. Chairman, as ROD CHANDLER leaves the Ways and Means Committee and this House, we wish him well.

TRIBUTE TO HON. BYRON DORGAN

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, the Western States are known for sending us politicians with a keen appreciation of their constituent's interests, and ability to cut to the core of matters and make their views known without mincing words. Our North Dakota colleague BYRON DORGAN—who is moving on to different, although not necessarily greener, pastures—is out of this mold.

Straightforward, blunt and ready and willing to press forward when he thinks it is in the best interests of his constituents, BYRON has served with distinction on the Ways and Means Committee. North Dakota may have only one voice in the House, but in BYRON DORGAN, it has a voice that speaks with clarity and strength.

After serving as tax commissioner in his own State for many years, it was only natural that BYRON took a seat on the Ways and Means Committee once he was elected to the House of Representatives. BYRON quickly proved that he had a broad knowledge not just of tax issues but fiscal matters in general. He understood the impact that decisions made by the Federal Reserve Board or on Wall Street have on average citizens. He believed that government has a duty to oversee the activities of the financial world because he recognized that left to its own devices, the financial community does not always act with the public interest in mind.

BYRON DORGAN was a ferocious defender of the working man. Farmer or factory worker, it didn't matter. BYRON saw in the common man the modest values that made America great and he doggedly attacked policies that hurt average Americans and vigorously supported policies that protected them.

Over the years, BYRON DORGAN pursued several pieces of legislation to curtail leveraged buyouts. He has consistently cast a skeptical eye on trade agreements with our neighbors to the north and south because he recognized the potential for harm in these agreements. And he has been an outspoken advocate for increasing the deduction for health insurance premiums so that self-employed individuals are not overwhelmed by the cost of insurance coverage.

Mr. Speaker, the House Ways and Means Committee will miss BYRON DORGAN'S down-to-earth influence. The only consolation is that with luck, BYRON will continue to deliver his message on behalf of the common man and his North Dakota constituents on the other side of the Capitol.

TRANSPORT OF PRODUCE ACT EXPLANATION

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. COLLINS of Michigan. Mr. Speaker, I rise to provide a complete explanation of the legislation I introduced this morning, the Transport of Produce [TOP] Act. I introduced this bill for several reasons: To feed undernourished and hungry Americans, to create badly needed jobs, and to open a dialogue on an underutilized fund created by the Appropriations Committee for the Department of Agriculture.

My initial interest in this bill arose when I discovered that there are produce commodities which are currently destroyed or not harvested because the produce does not meet the specifications of a marketing order agreed to by growers of a particular produce commodity. Marketing orders help growers make a profit on their commodity. For example, this year, under the California Tree Fruit Agreement, 5 million pounds of peaches and nectarines did not meet market order standards. The market order required the elimination of this fruit from the primary market, even though the fruit was perfect in every way except for its size.

Out of the 5 million pounds of peaches and nectarines which did not meet the marketing order standards, some of this fruit was brought to secondary markets such as farmers markets, and some was brought to processing plants, such as plants that provide dried fruits, or canned goods. After fruit which can not be sold in the primary market due to a marketing order is removed for the secondary market, multiple tons of edible, nutritious fruit still remain either on the trees, or in heaps on the ground, where it is left to rot. Since there are marketing orders for 43 commodities such as potatoes, onions, and table grapes, try to imagine the amounts of produce that are going to waste. This is truly shameful since each month 20,000,000 Americans rely on food distribution centers for their meals.

Some growers donate this excess fruit, unused because of a market order, to local food distribution sites such as food banks, soup kitchens, and homeless shelters. There is currently no restrictions on growers for donating food, nor should there ever be a need for such restrictions. Growers decide on the marketing order, and growers decide who will receive their excess commodity. Under my bill, none of these factors will change. My bill will simply ensure that food which growers wish to donate, but are unable to because they lack the funds or transportation, will be harvested, collected, and delivered to a food distribution site. Growers can still donate their commodity to their favorite charity, or for whatever reason, allow the produce to be destroyed.

Under my bill, the Department of Agriculture would be required to expend 25 percent of a fund, a contingency fund that contains up to $300 million at the beginning of any fiscal year, for this program. The contingency fund [CF] was established by the Appropriations Committee for the Department of Agriculture [USDA] to be used for emergency food distribution. The CF is part of USDA's section 32 fund, which is used for Federal food and nutrition programs. The section 32 fund is broken down in the following approximate amounts: $4.5 billion to fund food and nutrition service administration; $450 million for entitlements for the School Lunch Program and for removing surplus agricultural commodities; $70 million is transferred to the Department of Commerce—for fishery products, and; $300 million is used for contingency buys in emergency situations. The section 32 fund is replenished annually through customs receipts. The contingency fund is replenished by any year-end surplus in the section 32 fund, and is capped at $300 million.

My research shows that at the beginning of each fiscal year, over the past 10 years, an approximate total of $200 million existed in the CF for the following year. Out of this total, an average of only about $70 million was expended for emergency buys over the course of the year. This still left $130 million for other buys. Twenty-five percent of this total, the amount the bill would require USDA to spend, would have averaged about $30 million annually for the TOP Program. This would still have left an average of a $100 million surplus in the section 32 contingency fund at year's end, which would then be replenished for the following year by excess in the section 32 fund.

I understand that there will be some hesitancy on the part of the Department of Agriculture, and on the part of the Subcommittee on Rural Development, Agriculture and Related Agencies under the Appropriations Committee to utilize this fund. The fund is a sacred cow. I understand their hesitancy, but in the name of fiscal responsibility, in the name of jobs, and in the name of millions of undernourished and hungry Americans, this Congress must use all resources available to the Nation. The section 32 contingency fund is an emergency fund. I believe that 20,000,000 individuals hungry enough to be forced to eat at soup kitchens every month can be called a national emergency, and I believe that the manner in which the proposed allocations would be used is consistent with the purpose of the contingency fund. I believe that Congress should mandate the use of this fund for the purposes of this act.

Permit me to discuss some of the other mechanisms of this bill, and the problems they address. First, assuming growers are willing to donate their food, the undersized or bruised commodity needs to be harvested and stacked for transport. Many growers allow volunteers to retrieve this excess produce and bring it to local food distribution sites. However, in some areas, there may not be volunteers available to pick the produce. In this situation, the Secretary of Agriculture may, should he or she deem it necessary, provide funds to growers to hire gleaners.

Second, once the commodity is harvested, the food needs to be transported to food distribution sites. My bill calls on the Secretary of Agriculture, in conjunction with the Secretary of Transportation, to develop a plan for hiring transportation contractors to collect and deliver these commodities to soup kitchens, homeless shelters, and food banks throughout the Nation.

Third, the act establishes a method for choosing which food distribution sites will be eligible to receive these commodities. Local food distribution sites will be nominated to the State by the local government, with the assistance of nonprofits and other private sector organizations. Each State will then submit an apportionment plan to the Secretary of Agriculture. The Secretary of Agriculture is required by this act to create a plan for allocating the commodities to the States.

The reason this plan must be established is due to the nature of marketing order harvests. These harvests are regional, these harvests occur at different times of the year, and these harvests are perishable. My bill gives the Secretary of Agriculture the flexibility to decide who will collect and deliver this produce, at which locations, to which locations, and at which time of the year. The Secretary would be required to confer with private sector and nonprofit organizations to ensure the fairness of the plan.

Finally, my bill allows the Secretary of Agriculture to increase spending on this program should it prove successful. The 25 percent of the contingency fund that the Secretary of Agriculture would be required to spend under this bill is a minimum requirement. The Secretary of Agriculture may spend more on this program, at his or her discretion.

There has been discussion about eliminating the marketing order system. However, I do not believe that Congress will be able to reach a consensus on ending marketing orders. The reason for this is that marketing orders are agreed to by growers of any particular commodity. The selection of the specifications of the marketing order must in general be agreed upon by two-thirds of growers of a commodity. By decreasing the amount of produce introduced into the primary market, the cost of the produce is increased which increases profits for growers. For this reason, I do not oppose marketing orders, I only oppose the waste of an abundant and nutritious food source.

Mr. Speaker, I believe that my bill is good policy, with low implementation and administrative costs. Precedent exists for the types of contracts which would be established by the Secretaries of Agriculture and Transportation, and for nonprofit and other private sector participation. This bill is fully funded.

In closing, this plan is very simple. It will prevent the waste of tons of unused produce, it will create many jobs in the transportation industry, and it will feed numerous undernourished and hungry Americans. The Federal Government will only act as a facilitator, with a minimum of interaction with the day to day operations of the Transport of Produce [TOP] Program. The benefits of this act far outweigh any gain in protecting the sanctity of the contingency fund, and I urge my colleagues to consider this as they judge the value inherent in this bill.

As the numbers published following this statement in the contingency fund analysis demonstrate, the lowest amount at year's end in the CF—in 1985—was approximately $37 million. Twenty-five percent of this amount is about $9 million. That would mean in 1985, a minimum of $9 million would have been spent to feed Americans and put Americans to work, at no cost to the taxpayer. Even after spending these funds, over $27 million would have remained at year's end in the contingency fund. In 1991, $239 million remained at year's end in the CF. That would have meant that nearly $60 million would have been spent to feed the hungry and create jobs with no added cost to the taxpayer. In 1991, $180 million still would have remained in the contingency fund at year's end.

Allowing this money to sit, unused, in this contingency fund is simply abominable. We have food going to waste while there are mouths to feed, and while there is a dire need to create jobs. We have the resources to accomplish this goal. My bill takes all of these factors into account. I urge my colleagues to support this legislation in the remaining hours of this Congress, and early in the 103d Congress upon reintroduction.

USDA CONTINGENCY FUND [CF] SURPLUS—1983–92

[In thousands of dollars]

	CF	CF spent	CF surplus	25 percent of CF surplus	CF dollars remain
Year:					
1983	281,701	150,671	131,030	32,757.5	98,273
1984	185,355	99,191	86,169	21,692.25	64,476.75
1985	95,218	58,111	37,107	9,276.75	27,830.25
1986	178,830	44,122	134,708	33,677	101,031
1987	158,931	12,054	146,877	36,719.25	110,157.75
1988	221,589	98,325	123,264	30,816	92,448
1989	116,868	7,359	109,509	27,377	82,132
1990	132,717	26,474	106,243	26,560.75	79,682.25
1991	294,168	54,284	239,884	59,971	179,913
1992	262,430	122,700	139,730	34,932.5	104,797.5
Average total	192,780.7	67,329	125,452.1	31,378	94,074.15

Note.—The section 32 contingency fund [CF] is a separate account under section 32. Section 32 (the U.S. food assistance fund) receives annual Federal appropriations through customs receipts. The CF is funded annually through year end surplus appropriations to section 32, and can be replenished up to $300,000,000.

Findings: The average annual USDA Section 32 contingency fund size for the past 10 years is approximately $200,000,000. The average amount spent annually over the past 10 years from the CF is approximately $70,000,000. The average amount in annual CF surplus is $130,000,000. The average amount that would be spent on the TOP Program annually would be approximately $30,000,000. This would still leave an annual average of about $100,000,000 in the emergency contingency fund, after the TOP Program is funded.

THE BLAUSTEIN REGISTER OF LATEST CONSTITUTIONAL REVISIONS OF NEW JERSEY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ANDREWS. Mr. Speaker, as America once again prepares for free elections, we must pause to give thanks for the Constitution which has made it all possible—and remind ourselves of its uniqueness. The Constitution of the United States of America, ratified in 1788, is the oldest national constitution in the world and heads the list of only six constitutions written before this century that are still in existence.

With the breakup of the Soviet Union and Yugoslavia, the number of the world's nations has soared to nearly 200. Of this number, all but six have single document constitutions or are committed to having one. Almost all of the constitutions of ex-Yugoslavia and ex-Soviet Union countries are still in the drafting stages and the constitutions of such nations as Ethiopia, Peru, and Liberia are suspended awaiting future drafting and revisions. Of the six nations which are not committed to the concept of the one-document constitution, three officially designate the Qu'ran as their constitutions. These are Saudi Arabia, Oman, and Libya. The other three—the United Kingdom and its constitutional satellites New Zealand and Israel—have multidocument constitutions and sophisticated constitutional law structures.

These are some of the facts gleaned from the Blaustein Register of Latest Constitutional Revisions, updated to September 20, 1992. The Register is partially a by-product of the 20-volume "Constitutions of the Countries of the World," coedited by Prof. Albert P. Blaustein, professor of law emeritus of the Rutgers University Law School in Camden, NJ, which is in my district. It is also a by-product of Professor Blaustein's work as a constitutional consultant and draftsman of some two dozen constitutions throughout the world.

Professor Blaustein is president of both the Philadelphia Constitution Foundation and Human Rights Advocates International. Representing those organizations, he has played a major role in the preparation of the constitutions of the new Russian Federation, Bangladesh, Nepal, Fiji, Liberia, Zimbabwe, and Niger. In addition he has been a consultant in the preparation of the constitutions of Canada, Poland, Romania, Brazil, Nicaragua, Trinidad and Tobago, South Africa, South Korea, and Cambodia.

The year 1991 was the great year in constitution-making with 14 new constitutions. There were 10 in 1990 and 10 have been promulgated so far in 1992. It is noteworthy that more than two-thirds of the world's constitutions have been written during the past 20 years.

THE BLAUSTEIN REGISTER OF LATEST CONSTITUTIONAL REVISIONS

1788: U.S.A.
1814: Norway.
1831: Belgium.
1853: Argentina.
1868: Luxembourg.
1874: Switzerland.
1901: Australia.
1917: Mexico.
1919: Finland.
1920: Austria.
1921: Liechtenstein.
1937: Ireland.
1944: Iceland.
1945: Indonesia.
1947: China (Rep.).
1947: Italy.

1947: Japan.
1949: Costa Rica.
1949: Germany.
1949: India.
1952: Jordan.
1953: Bhutan.
1953: Denmark.
1958: France.
1960:
Cote d'Ivoire.
Cyprus.
Czechoslovakia.
West Samoa.
1961:
Malta.
Venezuela.
1962:
El Salvador.
Jamaica.
Kuwait.
Monaco.
1963:
Malaysia.
Senegal.
Singapore.
1966:
Barbados.
Botswana.
Dominican Rep.
Malawi.
1967:
Bolivia.
Tonga.
Uganda.
Uruguay.
1968:
Maldives.
Mauritius.
Nauru.
1969:
Kenya.
1970:
Gambia.
Iraq.
Qatar.
1971:
U.A.E.
1972:
Cameroon.
Korea (PDR).
Morocco.
1973:
Bahamas.
Bahrain.
Pakistan.
Swaziland.
Syria.
1974:
Grenada.
Myanma.
Niger.
Turkey.
Yugoslavia.
1975:
Greece.
Papua New Guinea.
Sweden.
1976:
Albania.
Cuba.
Trinidad & Tobago.
1977:
Djibouti.
1978:
Dominica.
Mauritania.
Panama.
Solomon Is.
Spain.
Sri Lanka.
Zaire.
1979:
Ecuador.
Iran.
Kirabati.
Nigeria.
Peru.
St. Lucia.
St. Vincent.
Seychelles.
Somalia.
Togo.
Zimbabwe.
1980:
Angola.
Chile.
Egypt.
Guyana.
Vanuatu.
1981:
Antigua & Barbuda.
Belize.
Cape Verde.
1982:
Canada.
China (PRC).
Equatorial Guinea.
Ghana.
Guinea.
Honduras.
Turkey.
1983:
El Salvador.
Lesotho.
Netherlands.
St. Chris, Nevis.
1984:
Brunei.
Guinea-Bissau.
Liberia.
South Africa.
Vatican City State.
1985:
Guatemala.
Mauritania.
Sudan.
U. Rep. Tanzania.
1986:
Central Africa Rep.
Nicaragua.
Tuvalu.
1987:
Ethiopia.
Haiti.
Korea (Rep.)
Philippines.
Suriname.
1988:
Brazil.
1989:
Algeria.
Cambodia.
Iran.
Lebanon.
Poland.
Portugal.
Tunisia.
1990:
Afghanistan.
Benin.
Fiji.
Hungary.
Laos.
Mozambique.
Namibia.
Nepal.
Sao Tome-Principe.
Yemen.
1991:
Bangladesh.
Bulgaria.
Burkina Faso.
Burundi.
Chad.
Colombia.
Croatia.
Gabon.
Romania.
Rwanda.
Sierra Leone.
Slovenia.
Thailand.
Zambia.
1992:
Comores.
Congo.
Estonia.
Madagascar.
Mali.
Mongolia.
Paraguay.
Slovak Republic.
Turkmenistan.
Vietnam.
No one document constitution:
Israel.
Libya.
New Zealand.
Oman.
Saudi Arabia.
United Kingdom.
Not included:
Andorra.
San Marino.
Afghanistan, 1990.
Albania, 1976.
Algeria, 1989.
Andorra (1868).
Angola, 1980.
Antigua & Barbuda, 1981.
Argentina, 1953.
Australia, 1901.
Austria, 1920.
Bahamas, 1973.
Bahrain, 1973.
Bangladesh, 1991.
Barbados, 1966.
Belgium, 1831.
Belize, 1981.
Benin, 1990.
Bhutan, 1953.
Bolivia, 1967.
Bosnia, draft.
Botswana, 1966.
Brazil, 1988.
Brunei, 1984.
Bulgaria, 1991.
Burkina Faso, 1991.
Burundi, 1991.
Cambodia, 1989.
Cameroon, 1972.
Canada, 1982.
Cape Verde, 1981.
Central African Rep., 1986.
Chad, 1991.
Chile, 1980.
China (PRC), 1982.
China (Rep.), 1947.
Colombia, 1991.
Comores, 1992.
Congo, 1992.
Costa Rica, 1949.
Cote d'Ivoire, 1960.
Croatia, 1991.
Cuba, 1976.
Cyprus, 1960.
Czech Republic (draft), 1992.
Denmark, 1953.
Djibouti, 1977.
Dominica, 1978.
Dominican Republic, 1966.
Ecuador, 1978.
Egypt, 1980.
El Salvador, 1983.
Equatorial Guinea, 1982.
Ethiopia, 1987.
Fiji, 1990.
Finland, 1919.
France, 1958.
Gabon, 1991.
Gambia, 1970.
Germany, 1949.

Ghana, 1982.
Greece, 1975.
Grenada, 1974.
Guatemala, 1985.
Guinea, 1982.
Guinea-Bissau, 1984.
Guyana, 1980.
Haiti, 1987.
Honduras, 1982.
Hungary, 1990.
Iceland, 1944.
India, 1949.
Indonesia, 1945.
Iran, 1989.
Iraq, 1970.
Ireland, 1937.
Israel, N/A.
Italy, 1948.
Jamaica, 1962.
Japan, 1947.
Jordan, 1952.
Kenya, 1969.
Kirabati, 1979.
Korea (PDR), 1972.
Korea (Rep.), 1987.
Kuwait, 1962.
Laos, 1990.
Lebanon, 1989.
Lesotho, 1986.
Liberia, 1984.
Libya, N/A.
Liechtenstein, 1921.
Luxembourg, 1868.
Macedonia, draft.
Madagascar, 1992.
Malawi, 1966.
Malaysia, 1963.
Maldives, 1968.
Mali, 1992.
Malta, 1961.
Mauritania, 1985.
Mauritius, 1968.
Mexico, 1917.
Monaco, 1992.
Mongolia, 1960.
Morocco, 1972.
Mozambique, 1990.
Myanmar, 1974.
Namibia, 1990.
Nauru, 1968.
Nepal, 1990.
Netherlands, 1983.
New Zealand (1852).
Nicaragua, 1986.
Niger, 1960.
Nigeria, 1979.
Norway, 1814.
Oman, N/A.
Pakistan, 1973.
Panama, 1978.
Papua New Guinea, 1975.
Paraguay, 1992.
Peru, 1979.
Philippines, 1987.
Poland, 1989.
Portugal, 1989.
Qatar, 1970.
Romania, 1991.
Rwanda, 1991.
St. Christopher-Nevis, 1983.
St. Lucia, 1979.
St. Vincent, 1979.
San Marino, N/A.
Sao Tome-Principe, 1990.
Saudi Arabia, N/A.
Senegal, 1963.
Seychelles, 1979.
Sierra Leone, 1991.
Singapore, 1963.
Slovak Republic, 1992.
Slovenia, 1991.
Solomon Islands, 1978.
Somali, 1979.
South Africa, 1984.
Spain, 1978.
Sri Lanka, 1978.
Sudan, 1985.
Suriname, 1987.
Swaziland, 1973.
Sweden, 1975.
Switzerland, 1874.
Syria, 1973.
Thailand, 1991.
Togo, 1979.
Tonga, 1967.
Trinidad & Tobago, 1976.
Tunisia, 1989.
Turkey, 1982.
Turkmenistan, 1992.
Tuvalu, 1986.
Uganda, 1967.
United Arab Emirates, 1971.
United Kingdom, N/A.
U. Rep. Tanzania, 1985.
U.S.A., 1788.
Uruguay, 1967.
Vanuatu, 1980.
Venezuela, 1961.
Vietnam, 1992.
Western Samoa, 1960.
Yemen, 1990.
Yugoslavia, 1974.
Zaire, 1978.
Zambia, 1991.
Zimbabwe, 1979.

IN HONOR OF JEAN LAPHAM THOMAS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PANETTA. Mr. Speaker, on Thursday, October 22, Mariposa Hall, Inc., a cooperative organization for nonprofit agencies, will be honoring a woman who has been absolutely vital to their cause and crucial to the establishment and operations of their organization.

Jean Lapham Thomas has been a resident of Monterey for 42 years, having moved there 8 years after she and her late husband C. Mark Thomas were married. She was born and raised in San Antonio, TX, and she graduated from the Madiera School and later graduated cum laude from Smith College.

Immediately after settling in Monterey, Jean chose to get herself involved in the community's activities. She volunteered as a Brownie Troop Leader and became the president of the Carmelo School Mother's Club. Over the next 15 years, Jean helped her husband open and run three businesses: the Hearthstone, Mark Thomas Inn, and the Outrigger. From 1956 to 1958, she was the secretary of the Northern Division California Republican Women's Club. Jean served on the Monterey County Grand Jury from 1956 to 1957. In 1956, Jean was president of the Carmel Women's Club. She visited the Soviet Union in 1960 as a member of the U.S. delegation under the auspices of the Committee for Friendly International Visits. President of the Junior League in 1967, she was honored the very next year as the Quota Club Woman of the Year for her contribution to the community. Jean served on the board of trustees for Monterey Peninsula College from 1973 to 1977. From 1965 to just last year, Jean served in a variety of positions at the Monterey Institute for International Studies, including member, secretary, and chairperson of the board of trustees. In 1979, President Carter appointed her to the Joint Civilian Armed Forces Advisory Committee, and the Monterey Chamber of Commerce presented her with its Outstanding Citizen Award in 1981. More recently, she served on the board of directors of First National Bank of Monterey County from 1985 to 1991.

In 1990, Jean Thomas saw the need to help various nonprofit organizations working within the community to lower their cost of overhead. Jean worked closely with community and nonprofit organization leaders to devise and implement the Mariposa Hall concept. This filled the need for reducing overhead by eliminating duplicated administrative requirements. Also, it fostered close cooperation between organizations in an atmosphere of mutual respect and responsibility for the welfare of the community. Known as the Guardian Angel of Mariposa Hall, Inc., for her hard work to bring significant financial support to the project, Jean brought the proposal to reality.

Mariposa Hall, Inc., now houses 12 nonprofit organizations, ranging from the Monterey Chapter of the American Red Cross to the League of Women Voters of the Monterey Peninsula. Cost reductions make it possible to devote more of each dollar spent to helping those in need, and the close relationship fostered within the organization has a synergistic effect on its contributions to the community-at-large.

In this day and age, one is hard pressed to find someone so selfless in caring for her community and fellow citizens. Jean epitomizes the values that all of us should strive for: leadership, commitment, dedication, compassion, and self-sacrifice. Mother of four, grandmother to six, and pillar of her community, Jean's devotion to those around her has rightfully earned her the respect and admiration of those she has served and will continue to serve.

Mr. Speaker, for the last four decades, through war and peace, prosperity and recession, and across three generations, Jean Thomas has demonstrated the finest qualities a citizen can exhibit. I salute her distinguished record of achievement and contribution, and I ask my colleagues to join me in commending Jean Lapham Thomas on her remarkable contributions to her community.

A TRIBUTE TO THE 102D CONGRESS AND MERVYN DYMALLY, CHARLES HAYES, AND GUS SAVAGE, DEPARTING CBC MEMBERS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TOWNS. Mr. Speaker, the 102d Congress has been an incredible odyssey—a journey punctuated by stark contrasts—exhilarating victories, and admittedly some alarming losses. The members of the Congressional Black Caucus labor in this institution, grappling with the legacies of 12 years of neglect and inertia on issues we view as life and death, while struggling to forge coalitions for change.

The course of recent history has taken a circuitous route. From the Clarence Thomas nomination to the passage of the civil rights bill, from the illusive dream for democracy in South Africa to the unspeakable violence in that region of the world, from the explosion of urban infernos to the ravages wrought by nature's fury, from the dismantling of the Iron Curtain to the explosion of democracy in Eastern Europe, from the drowning of Haitians on the high seas—turned away from American shores—to the gaunt faces and rib cages of the dying children of Somalia—the headlines have been written.

And at every turn, it has been the Congressional Black Caucus which has struggled to change the status quo. It has been these 26 men and women who have demanded that the Congress of the United States be respectful of and responsive to the will of the people. It has been a battle of more than 20 years duration, and youthful sprinters have turned into marathon runners.

Among those who have joined in this extraordinary battle have been three men who have served their constituents with distinction and have brought new vision to the House of Representatives. Each has challenged the status quo and has made their mark on this Congress. The first black foreign national to be elected his State's Lieutenant Governor and then U.S. Representative is MERVYN DYMALLY. The first nationally elected labor official to also be elected to the Congress is CHARLES HAYES. The former newspaper publisher turned Congressman who authored the largest minority set-aside in the history of the United States is GUS SAVAGE. We thank each of them for their tenacity and insatiable appetite for change. We thank them for their never ending courage and their courage and their perceptiveness. We thank them for their collegial spirit and belief in the tenets for which we have built the Congressional Black Caucus.

We are poised now, to write a new chapter in this story of miraculous accomplishment in the face of overwhelming odds. We are emboldened by great expections—old warriors hearing the footsteps of a new, spirited generation of colleagues soon to be among us. We look to have the largest single expansion of the number of black Members of Congress since the founding of this Nation. We are invigorated by these prospects and know that tomorrow promises a new army to don the breastplates of battle, to engage those who ignore and reject the initiatives which address the needs of those we represent.

As the chairman of the Congressional Black Caucus for the 102d Congress, I have been honored to see us grow and expand in our diversity of thought and advocacy. Our collaborative efforts with progressive alliances in this body have created new benchmarks of excellence. As we close this session of Congress, I am reminded of how we began—with the words and impeccable legacy and grace of then Supreme Court Justice Thurgood Marshall who swore in the Members of the Caucus for the 102d Congress.

He exhorted us to respect our singular challenge as African-American Members of the highest legislative body in this land. He challenged us to be the very best at everything we do, to let no attack deter us from our stated duties or diversion keep our eyes from the prize. It is with reverence that we are reminded of how he distinguished that high office and what honor he paid by setting the course for the future of the Congressional Black Caucus. Prayerfully and with great resolve, we approach the new millennium with a deepened understanding of the sacrifices that others have made that we might dream, and fight, and win in this sojourn. As we look forward, we pause with deep respect to bid our fondest farewells and fraternal best wishes to our colleagues, MERVYN DYMALLY, CHARLES HAYES and GUS SAVAGE.

TRIBUTE TO HON. RAY McGRATH

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to salute our retiring colleague, one of the most skilled politicians in the House of Representatives, my friend from Nassau County, RAY MCGRATH.

In an era when most Members were drawing partisan battle lines and administering ideological litmus tests, RAY thought first about representing the people of his district. For RAY, partisan warfare was, at best, a waste of time. At worst, it got in the way of doing legislative business.

It didn't take RAY long to figure out how to exercise influence on the Ways and Means Committee. He understood that the committee chairman preferred writing bills with a bipartisan flavor. RAY recognized that by agreeing to compromise, he could play a key role in the committee's work.

And that is exactly what he did. As a result, he was tremendously effective.

His greatest moment was probably during the 1986 debate over the Tax Reform Act when it appeared as though the State and local tax deduction was about to become history. RAY took the position that by eliminating the deduction, we were placing an unfair burden on people living in the high cost, high tax States like New York.

RAY's persistence won the day. Without RAY MCGRATH's determined effort, it's very likely that the people of New York and other high tax States would have lost that battle.

The role RAY played reforming the Tax Code is typical of the part he has played in the committee's work generally. He approached his job in a clear-minded manner and with a balanced perspective.

He looks out for his constituents—but also has a good sense of what is good for the country. He is aware of party loyalties—but recognizes that waving party banners and spouting political rhetoric is not the way to get things done.

It has been a genuine pleasure to work with RAY MCGRATH. He always approached legislative issues with great zeal and dedication. He never lost sight of the simple truth that the role of a lawmaker is to make government work for the people. He fulfilled that role in a way that would make the Founding Fathers proud. The Ways and Means Committee and the House of Representatives suffer a great loss with RAY MCGRATH's retirement. My hope is that American government will break out of gridlock and do the job it's supposed to do. RAY MCGRATH's service to the Ways and Means Committee and the institution should serve as an example to us all of how Congress can and should work in the best interests of the people we were elected to serve.

TAIWAN CELEBRATES 81ST ANNIVERSARY

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LAROCCO. Mr. Speaker, as the people on Taiwan celebrate the 81st anniversary of the founding of the Republic of China, I extend my warmest praise and congratulations on this special occasion. I join many of my colleagues today in recognizing Taiwan as one of the most prosperous and thriving nations in East Asia.

The Republic of China on Taiwan is an important economically for the United States. Just 2 short months ago, a delegation from the ROC traveled to my home State of Idaho as a part of its nationwide wheat procurement mission. Idaho was proud to host this delegation, and greatly appreciates Taiwan's commitment to purchasing high-quality American goods and services. It is a mutually beneficial partnership, and one which I am confident will continue to grow stronger in the years ahead.

I also applaud the administration's decision to move forward with the sale of F-16 fighter aircraft to Taiwan. This sale will help protect thousands of American jobs, while providing the ROC with a much-needed boost in its air defense capabilities.

Taiwan's vibrant economic success, as well as its political progress such as constitutional reforms, will, I hope, continue to provide an example for other nations. I extend my congratulations to President Lee Teng-hui, Vice President Li Yuan-zu, Premier Hau Pei-tsun, and the people of the Republic of China.

SALUTE TO JAMES R. GARY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GALLEGLY. Mr. Speaker, it is with deep sadness that I rise to report to my colleagues the passing of James R. Gary, one of the most dynamic real estate professionals I have ever been privileged to know.

Besides being a colorful and innovative entrepreneur, Jim Gary has served as a leading civic and business figure in the San Fernando Valley, and he will be deeply missed.

Jim was born in Dallas in 1941, and earned his bachelor's degree in business administration from the University of Denver in 1963. After graduating, he worked as a stockbroker, then entered the Army, where he served for 3 years, rising to the rank of first lieutenant.

After his discharge, he entered the real estate field, and in 1978 opened his own company, James R. Gary & Co., Ltd., in a trailer. He soon moved to a series of showcase offices, turning what usually were pedestrian places for doing business into unique marketing tools.

Jim was also a warm and humorous man who was deeply interested in his Scottish heritage. He sponsored a number of events, including the St. Andrew's day celebration, which drew as many as 4,000 visitors, as well as the Gleann Mor pipes and drums and the Glen Lyon pipes and drums.

As I indicated, he was also intensely involved in community affairs, serving on the boards of the San Fernando Valley Community Legal Foundation, Humana Hospital West Hills, and the Warner Center Association, as well as several chambers of commerce and boards of realtors.

Most of all, I will remember Jim as a friend.

Mr. Speaker, I ask my colleagues to join me in expressing our condolences to his wife, Linda, and their three children, Andrew, Bryan, and Gretchen.

TRIBUTE TO HON. BOB LAGOMARSINO, BILL DANNEMEYER, BILL LOWERY, AND TOM CAMPBELL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PACKARD. Mr. Speaker, I rise tonight to pay tribute to four Members of Congress from my State of California: BOB LAGOMARSINO, BILL DANNEMEYER, BILL LOWERY, and TOM CAMPBELL. I have enjoyed working with these colleagues and have appreciated their hard work and dedication.

Over a span of 20 years. BOB LAGOMARSINO has made significant contributions on legislation affecting our natural resources and international relations. During his long tenure with the Foreign Affairs Committee, BOB has worked tirelessly to promote democracy around the world. Several years ago, BOB and I had a terrific opportunity to travel to the Middle East. As the only two Members of Congress on the trip, I got to know BOB quite well as we journeyed to Amman, Jordan, and Jerusalem. I know I can always count on BOB to offer sound advice and a levelheaded, yet visionary approach to our international relations. But BOB has also left his mark on issues closer to home. He has authored major legislation on natural resources, tax reform, Government efficiency, and school finance. BOB has represented his constituency well and I will miss his presence in our delegation.

I have also had the privilege of working on countless issues with BILL DANNEMEYER and BILL LOWERY. As a fellow Representative from Orange County, I have personally witnessed BILL DANNEMEYER's zeal to promote family values. As a senior member on the Energy and Commerce Committee, BILL has made significant contributions to improve the quality of life in southern California. Through his many years on the Hill, BILL has pushed and prodded Congress to practice fiscal responsibility and be more accountable to the taxpayer. For that reason, I was particularly pleased as BILL secured a seat on the Budget Committee where he was able to make his influence felt. BILL's presence and enthusiasm will be missed.

I have shared a border with BILL LOWERY in San Diego County. Our common interests have crossed paths countless times giving me the opportunity to get to know BILL and see his dedication to the work. BILL has often proved instrumental in securing key legislation for San Diego and has worked closely with the area's large naval presence. I am sure that BILL will take his strong work ethic and determination into whatever lies ahead.

I have had the privilege of working with TOM CAMPBELL on the Science, Space, and Technology Committee. Tom has brought an intelligent and thoughtful viewpoint to the committee's work. I have seen his commitment to increase our competitiveness in the world market and keep our Nation on the cutting edge of technological advancements. In only a few years, TOM has made his mark in the House and I am sorry to lose his presence in the committee.

I send my best wishes with BOB LAGOMARSINO, BILL DANNEMEYER, BILL LOWERY, and TOM CAMPBELL and commend them on their commitment to the affairs of our Nation.

2,500TH ANNIVERSARY OF THE BIRTH OF DEMOCRACY

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SHARP. Mr. Speaker, I want to point out to my colleagues that 1992–93 is the 2,500th anniversary of the birth of democracy in Athens, brought about by the reforms of Cleisthenes in 508–507 B.C. These reforms created the constitutional and social framework for the establishment of the first democracy in the world.

To commemorate this special anniversary, Ball State University plans to hold a special lecture series to explore the inquisitive spirit and love of freedom found then in Athens. The lecture series, arranged by a former colleague at Ball State, Dr. John A. Koumoulides, will feature world-renowned scholars of antiquity such as Sir Anthony Kenny, the Secretary of the Rhodes Trust, and Lord Renfrew, the University of Cambridge's famous archeologist. The lectures will take place on Ball State's Muncie campus, running from October through next April.

The 2,500th anniversary of democracy comes at a pivotal moment in history. Against the background of earthshaking events in Eastern Europe, the former Soviet Union, and the Balkans as well as the plans for European unity after centuries of conflict, we hear the word "democracy" invoked repeatedly as the potential solution to the problems of our modern, complex society. Democracy is the idea to which almost every country in the world now appears to aspire.

While Athens experienced a "Golden Era of Democracy" when many areas of human affairs—drama, philosophy, political theory, science—were greatly expanded, we know that this freedom and intellectual vitality did not last. Our society, which shares many common ideals with ancient Athens, should be mindful of the reasons why democracy flourished and of the underpinnings for its decline.

I commend Dr. Koumoulides and Ball State University for this ambitious undertaking; I am confident that these lectures will produce a most interesting examination of democracy and allow all series participants to reflect on how striving for these qualities, our current world might be improved.

GROWING AWARENESS OF FRANCHISING PROBLEMS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LAFALCE. Mr. Speaker, in May, I introduced two pieces of legislation to address serious problems in business franchising. I believe this is landmark legislation that will help restore equity and balance within the growing franchising sector of our Nation's economy.

Franchising now permeates all aspects of American life and has changed significantly the way Americans do business and the way we purchase goods and services. Some 3,000 companies in 60 industries employ franchising to operate national networks of more than a half-million franchise businesses. These franchises employ 7.2 million people and collectively account for more than $650 billion in annual retail sales.

As with anything this big and this diverse, however, the success of franchising has not been achieved without serious problems and abuses. Press stories provide increasing evidence of a dark side of franchising—of fraudulent franchise offerings, troubled franchise systems, and individuals who lose everything in failed franchise ventures. And although more information is now becoming available, the public continues to have surprisingly little reliable or accurate information about franchising and about specific franchise opportunities.

The legislation I have introduced would address both the inadequacies of current information about franchise opportunities as well as the major abuses within franchise relationships. The first proposal, H.R. 5232, is intended to provide more effective public disclosure and strengthened consumer protections in connection with the sale of franchise opportunities. The second, H.R. 5233, would promote greater fairness and equity in ongoing franchise relationships, establish general standards of conduct in franchising practices, and enhance available legal remedies for franchisees.

A number of developments have occurred since the time I introduced this legislation. The State of Iowa passed what is generally viewed as the Nation's most far reaching franchise relationship law. Proposed franchise legislation could be considered in as many as 18 other States next year, either as franchise relationship statutes modeled after the Iowa law, or as franchise disclosure and registration proposals along lines of a model franchise disclosure bill proposed by the North American Securities Administrators Association.

State securities and franchise regulators are also close to finalizing recommendations to simplify and expand the information required to be disclosed in State franchise offering circulars in an effort to provide prospective franchisees with more pertinent and accurate information about franchise opportunities. Moreover, the Wall Street Journal reports that new initiatives are being circulated within the franchise sector to provide industry self-regulation of franchise abuses. And the International Franchise Association, the trade association of the large franchise companies, is also reported to have begun revising its rather weak code of ethics to address more of the problems and abuses identified by franchisees.

These developments are important and illustrate growing public awareness of the potential risks and pitfalls of franchise business ownership. But these developments, by themselves, are inadequate to remedy the most serious abuses in franchise sales and in the contractual relationship between franchisors and franchisees. More significant efforts are required. The Federal Trade Commission must begin to utilize its authority to enforce current franchise disclosure standards and to police misrepresentation and fraud in franchise sales. And Congress must begin serious consideration of legislation to provide minimum Federal standards of conduct and fairness in franchise practices.

The legislation I have introduced is intended to encourage debate on the appropriate role of Federal law in fostering fair and equitable franchise relationships. I intend to work with Members of Congress and with all parties involved in franchising to enact legislation in the next Congress to assure that the enormous benefits of franchising will be shared by franchisors, franchisees, and the public.

For my colleagues who have not followed this issue, I would like to share an article from last week's National Journal that outlines many of the issues involved in the growing debate over franchising.

FRANCHISING FRACAS

(By Kirk Victor)

Whiny butts. That's what Rep. Andy Ireland, R-Fla., calls the folks who look to Washington to bail them out from bad business judgments or failures and whine if they don't get federal help.

As the senior Republican on the Small Business Committee, Ireland has applied his "whiny butt" characterization most recently to the apparently growing number of restive entrepreneurs who've poured money into franchises only to later complain that their dreams of financial success, fanned by slick or unscrupulous operators, have turned into nightmares of financial ruin.

Ireland, an eight-term veteran who announced his retirement from Congress earlier this year, is skeptical. "I think a franchisee who complains is usually in some sort of self-denial about his own inabilities," he said in an interview. "The world is full of people who either want somebody to guarantee their success—like the government—or they want to blame their failure on somebody else. It doesn't take many of those whiny butts to distort the over-all situation and to have a large political impact."

Ireland fears, in fact, that Congress—reacting to stories of fraudulent and otherwise abusive practices by a small number of franchisors—is going to muck up a booming sector of the nation's economy. "Just to cater to some guy who couldn't hack it because he didn't have the skills and was giving the whole system a bad name," Ireland said, "I don't think is right and will ruin a really good system of delivering capital to small business."

Echoing the theme of the International Franchise Association (IFA), a Washington-based trade group that has potently lobbied against new franchise laws, Ireland touted the virtues of franchising. It is a relationship, he said, that enables those "with ability and smarts to profit."

The IFA is the nation's largest association of franchisors—companies that grant others the right to market a product or a service or both, using their trademark and business system. It has published lots of data to show just how important franchising is to the U.S. economy. At last count, for example, at lease 7.2 million people were employed at more than 540,000 franchise establishments from coast to coast. The industry even grew during the recession in 1991 when, according to the IFA, franchising accounted for more than 18,500 new businesses and 100,000 new jobs. Franchise businesses now generate more than a third of all U.S. retail sales and may generate half of all such sales by the end of the decade.

Despite those figures and Ireland's protestations, an increasing number of angry franchisees are aggressively seeking reform of franchise laws in state legislatures and on Capitol Hill.

"The reason you're finding unhappy people is that people have hocked their homes, gone into debt, taken out their retirement money and spent it on franchises that are marginal at best," said Jack Hadder, the founder and president of Herndon (Va.)-based Franchise Analysis Inc., a market research company that provides data on the financial performance of franchises to potential investors. "Either legislation needs to get passed, or the IFA has got to start policing its own industry and making this data [on franchise performance] available to the public. If the IFA had been more aggressive and responsive to the market-place, I think they would have moved to make this information available themselves a long time ago and probably headed off the need for legislation."

But William B. Cherkasky, the IFA's president, dismissed much of the heightened legislative activity in the states and Congress as the handiwork of well-paid lawyers and lobbyists. "Our fight is not with franchisees," he said in an interview. "It's with thoughtless, ill-conceived legislation, promoted by legislators who don't know what they're getting into—proposals [pushed] by a lobbyist or lawyer who is trying to make himself a sizable fee."

Cherkasky's disclaimers notwithstanding, the IFA has used some especially tough tactics in an effort to pressure the lawmaker who has become the champion of disgruntled franchisees: Rep. John J. LaFalce, D-N.Y., the chairman of the Small Business Committee. In one of what appears to be a series of recent missteps, the IFA hired an aggressive New York City public relations firm whose work helped to generate two newspaper stories in LaFalce's district that highlighted the adverse economic impact of franchise legislation.

The IFA's heavy-handed approach all but ensured that the combative lawmaker would redouble his efforts to push for reform. "They were out to intimidate me." LaFalce said in an interview. "They were out to do an ax job on me, no question about that. I did not like that as a tactic. It was ineffective, but it did come to my attention. It just let me see how they play the game."

In July, not long after the newspaper articles appeared. LaFalce declared that the committee's leisurely pace up to that point in examining abusive franchising practices would shift into "a holy crusade."

Over the past two years, the committee has explored the issue in five hearings, gathering enough evidence about what LaFalce has called "the dark side of franchising" to prompt him to introduce legislation recently that would require franchisors to give potential franchisees more-detailed financial data and a more-accurate projection of the financial results franchisees can reasonably expect.

LaFalce has introduced another bill that would require both parties to act in good faith in performing their contract and impose new standards of conduct on franchisors in dealing with franchisees. Franchisees could even enforce the law themselves by hauling franchisors into court—another new right.

LaFalce suggested that it's difficult to get an accurate reading of the magnitude of the problem because many franchisees fear retaliation at the hands of franchisors. "There's a real muzzling—a de facto muzzling of franchisees," he said. "It's a very similar situation to the situation that existed in the United States in the '20s and '30s between management and employees, when the employees had virtually no rights and started banding together to form unions. Management fought tooth and nail and tried to defeat unions. My legislation is akin to what was done to bring about fair dealing between labor and management in the '30s; I'm trying to bring about fair dealing between franchisors and franchisees in the 1990s."

LaFalce dismisses Ireland's contention that his proposal is based on the notion that the government should guarantee a franchisee's success. "That argument is as phony as a three-dollar bill," he said. "The fact of the matter is that there is a tremendous imbalance in the legal relationship between franchisors and franchisees. They toss a 75-page contract at you and say: 'If you want to deal with us, you sign here. We don't negotiate any provisions.'"

Even as LaFalce pushes his measure, efforts in state legislatures to pass laws aimed at curbing abusive franchising practices are gaining momentum. This year, for the first time in more than a decade, a state—Iowa—passed a sweeping law that grants broad rights to franchisees. The Iowa law has given the IFA's members a bad case of the shakes and prompted the group's leaders to vow to send in heavy lobbying artillery to prevent similar legislation from passing elsewhere.

These developments clearly trouble Ireland, who stopped short of criticizing LaFalce, though the two lawmakers did let a little fur fly at a hearing on franchising in July. Ireland expressed his concern that the whiners were gaining unwarranted sympathy by portraying themselves as victims of greedy, deep-pocketed franchisers. "The old whiny-butt crowd would like to describe this as a David-and-Goliath-type situation, where David doesn't even have a slingshot," he declared. "A politician is a fertile field for these people."

A TALE OF TWO DAVIDS

The last thing that Mary Anna Serverson and Gene Swanzy want to hear is a Member of Congress saying that most franchises complain to escape responsibility for their own lousy business decisions.

"People aren't whining—there's nobody to whine to," said Severson, who plunged into the world of franchising eight years ago when she and Swanzy, her husband, opened a Mail Boxes Etc. outlet in the Crystal City section of Arlington, Va., that offers mail boxes, facsimile and delivery services and so forth. "I have to say that knowing the people who run these stores, I've met an awful lot of people with good reason to whine."

Severson had just switched jobs—from directing the office for womens's activities at the Corporation for Public Broadcasting to being a development consultant for the American Film Institute—when she and her husband got into franchising. "We both had other jobs, and we thought we would invest in a franchise later on in our lives—we would have a retirement, something that would be worth something," she said in an interview.

Severson and Swanzy contend that corporate representatives hyped the potential for profits at Mail Boxes Etc. franchises during several meetings they attended before getting into the business. An officer of the San Diego-based company even said that the most successful Mail Box Etc. outlet made $600,000 in a single year.

At the time, there were only two other Mail Boxes Etc. stores in the Washington metropolitan area, and both were owned by "area representatives" for the franchisor. "We got a skewed perspective because there was one in McLean and one in Bethesda and they were and are excellent stores," Severson said. "There wasn't any way for us to see what was going to happen. I keep saying, how could we have been so stupid?"

"I can see where a Congressman would say that nobody can get fooled, but people can get fooled, especially when somebody is looking to do something after retirement," said Swanzy, who had taken early retirement from his position as the president and chief executive officer of Cue Nationwide Paging when the company changed hands. "You're vulnerable. It's akin to a death in the family, and the funeral director sells you a gold-plated casket."

Over eight years, Severson and Swanzy said, they have worked about 30,000 unpaid hours, invested $250,000 and received no salary. "I'm 61." Swanzy said. "This is my retirement money that we're spending." Although he acknowledged that they talk about just walking away from the business every day, Swanzy said, "I'm not much of a quitter—we just can't let go." And nobody, he said, is willing to offer more than a lowball bid for their business.

Ironically, if they abandoned the business, the franchisor would not suffer at all. "If we decide to close it down, corporate would take it over and it would revert back to the area person," Severson said. "We would lose everything and they would sell it again. They don't have anything to lose."

Swanzy who seems determined to do everything he can to prevent others from repeating the mistakes that he and his wife made, said that laws to regulate franchising are imperative. "They [franchisors] should be required to disclose much more," he said. "They flat lied to us orally, but when you sign the franchise agreement, you agree you're not relying on oral representations. I have to plead temporary insanity: Our area franchisor was our CPA."

(Repeated telephone calls to executives at Mail Boxes Etc.'s corporate headquarters in San Diego were not returned.) As for whether they had been able to examine data on how other Mail Boxes Etc. franchises were performing, Swanzy said that the corporation refused, contending that the Federal Trade Commission (FTC) would not allow it to disclose such information.

"That is a common statement by salesmen," Craig Tregillus, the FTC's franchise rule coordinator, said. "It is not accurate."

At one point, the couple even contemplated forming an association of franchisees to help deal with corporate headquarters. They sent questionnaires to about 1,250 Mail Boxes Etc. franchisees in late 1990 to see if there was interest in the idea. Of the nearly 200 who responded, Severson said, 86 percent favored the formation of a franchisees' association. But the demands of work were such that the couple didn't have time to organize it.

The survey also revealed, Severson and Swanzy said, that their difficulties weren't unusual. More than 40 percent of the respondents said that their stores had not become profitable, even though most of them had been in business for more than three years. Most wanted more information on store costs and income as well as on pricing schemes.

Compounding their difficulties, Severson and Swanzy made what has turned out to be a bad decision to expand three years ago, when Crystal City seemed to be on the brink of a business boom; the Pentagon's expansion plans were on the drawing board, and other business startups appeared likely. In 1989, when their store operated in the black (making a pretax profit of just under $20,000), their landlord offered them a very favorable lease for a second store and they grabbed it.

But then, as the economy soured, so did Crystal City's prospects. "The economy was one factor, but also the corporation's unwillingness to provide understanding and assistance to help us survive was just devastating." Severson said. The economic pressures are intense, because franchisees must pay the franchisor a royalty on gross revenues—whether their stores turn a profit or not.

Looking back on their decision, Swanzy said that it wasn't surprising they got caught up in the venture when their careers were in flux. "They sell you dreams," he said. "They catch you when you're vulnerable. They're good at what they do, but if we can help prevent somebody else from being caught with this tar baby, we will."

FRANCHISORS FIGHT BACK

Severson and Swanzy aren't alone. In a speech to an IFA legal symposium last year, LaFalce cited some of the "disturbing developments" that had come to the committee's attention: "excessively one-sided and unfair" franchise contracts, an increase in fraud reported by state regulators, a significant weakening of the financial condition of most franchisors and evidence of misrepresentation—no longer limited to a few "fly-by-night operators"—in the sale of franchises.

"Even if the problems I am noting are confined to a small percentage of franchise systems, as some maintain, they do need to be addressed," LaFalce said. "Given the pervasiveness of franchising in today's marketplace, even a small percentage of problem systems can result in substantial financial losses and broad public concern."

The franchisor community had been concerned ever since LaFalce's staff produced a study two years ago that found that the rapid growth of the franchising industry hadn't been without "considerable problems and controversy." In what appears to have been an effort to lay the groundwork for legislation, the report pointed to allegations of fraud, misrepresentation, noncompliance and malfeasance that "have continued to plague franchise relationships and prompt calls for new regulation."

The report also highlighted deficiencies in franchising laws and concluded that the regulatory landscape was "confusing." Federal law is limited to a 1978 FTC rule that requires franchisors to disclose certain financial data to potential investors, and the rule has been "weakly enforced," the report concluded. State franchise laws apply to only a third of all franchises and impose requirements and procedures that are inconsistent with one another and with federal rules.

"That study had no input from us at all, and we let it lie around for a year and a half, hoping that it would go away," Cherkasky said. Instead, LaFalce stepped up his attacks on bad-apple franchisors and held a series of hearings. A spate of negative press coverage followed, which gave officials of the IFA a severe case of heartburn.

"He [LaFalce] started to criticize franchising and I think over severely without enough information, really, and without our side of the picture," Cherkasky said. But as the IFA geared up to counterattack in Washington and some states, it made a series of strategic blunders, according to some observers.

The IFA's members were particularly upset at testimony alleging that more than 30 percent of franchises failed in their first five years—a failure rate more than six times the association's own estimate. "That got us nervous," Cherkasky said. A survey of franchisees by the Gallup Organization Inc., which the IFA commissioned in late 1991, showed that almost all—94 percent— of them considered their franchises to be either "very" or "somewhat" successful. Three-fourths of the respondents said they would buy or invest in the same franchise again.

To address the IFA's contention that the sky-high failure rate for franchises used in the hearing was way off base, Cherkasky said, LaFalce agreed to include one of its witnesses in his next hearing on the issue. As it turned out, though, because Russian President Boris N. Yeltsin spoke to a joint session of Congress on the appointed day, the hearing was shortened and the IFA's witness didn't get a chance to testify. "LaFalce wouldn't start the hearing earlier to accommodate us and insisted upon doing it his way, so we had to get our story out," Cherkasky said. "So, we did the usual thing—we hired a public relations firm and made sure that they got our story out with our spin on it."

But by the time New York City-based Howard J. Rubenstein Associates Inc. had finished the job, LaFalce's anger had been fully ignited.

"They [Rubenstein] probably overdid it a bit, because two stories appeared in his district which might have been perceived by him as negative stories about John LaFalce—that he was antigrowth," Cherkasky acknowledged. "He thought that was dirty pool, but for Christ's sake, for two years we've been taking this [committee] study lying down and haven't had a chance to get our story out."

At that point, however, it still wasn't clear how hard LaFalce would push the issue—and how much support he could attract. His committee doesn't even have legislative jurisdiction over the issue, which would have to be bounced to the Energy and Commerce Committee and perhaps also to the Judiciary Committee.

A more prudent approach might have been to soft-pedal the issue and try to isolate La-

Falce, whose sometimes prickly manner and penchant for steering his own course hasn't exactly endeared him to House Democratic leaders anyway. But the IFA, by going the heavy-handed route and employing a PR firm that's known for its hardball tactics in representing such clients as publisher Rupert Murdoch, agitated a Member of Congress who has now shown a determination to pursue the issue with vigor.

"Up until that point, I really thought there was a possibility of working with them," LaFalce said. "All I want to do is to legislate that the common-law principles [that parties must deal in good faith, for example] apply rather than being preempted by the contract. The IFA and Cherkasky will oppose even that. So you know it's complete, absolute, total stonewalling, no matter how fair, how rational, how reasonable, how balanced the legislation."

THE LOOMING SHOWDOWN

Cherkasky said that while the IFA is already gearing up for battles before the House Energy and Commerce and Judiciary Committees in the next Congress, it has an even more relentless war on its hands in state legislatures. Aside from the passage of the sweeping law in Iowa, by Cherkasky's count, 19 other states are looking "seriously" at franchising legislation or at the possibility of introducing such legislation.

Cherkasky freely acknowledged his side's shortcomings in the Iowa battle. "We didn't take it seriously, we weighed in too late and we didn't realize how potent the opposition was," he said. "We've had it our way legislatively for 10–11 years—since the FTC [disclosure] rule was passed—and we've won most of these firefights very quickly and very simply."

And resources don't seem to be a problem. The IFA and its members spent "well in the six figures" in Iowa and are prepared to do that in every state. Cherkasky said. What makes Iowa's new law so troublesome to the IFA is that it reins in the rights of franchisors, who now must show "good cause" before they can terminate a contract or decline to renew one.

Perhaps most galling to the IFA's members is a provision in the Iowa law that forbids franchisors from opening a store in "unreasonable proximity" to an existing location without giving the franchisee a right of first refusal or some compensation. Food franchises in Iowa got even more protection: franchisors cannot open a unit within three miles, or within a 30,000-population market area, of a franchisee's existing location.

The law was pushed hard by angry franchisees of Purchase (N.Y.)-based PepsiCo Inc., which owns Kentucky Fried Chicken, Pizza Hut and Taco Bell. In PepsiCo's 1991 annual report, chairman Wayne Calloway wrote that the company was "redefining" its business from fast-service restaurants to fast-service food "distribution" points.

Rather than selling all Pizza Hut menu items from traditional restaurants, Calloway wrote, the company planned also to sell them in school lunchrooms, shopping malls, airports, hotels and sports arenas. The same pattern would prevail at Taco Bell, whose "self-contained kiosks are starting to multiply like . . . well, rabbits," he added.

The implications of the shift weren't lost on PepsiCo's franchisees, who saw red in the competition that their franchisor was springing on them. As detailed in the Aug. 10 issue of Restaurant Business, the franchisees angrily questioned the company's commitment to franchising.

"They can go across the street and license someone else to sell [Kentucky Fried] chicken in a grocery store, a Wal-mart or a K mart, and we have no protection," Robert Schlutz, who owns 16 Kentucky Fried Chicken franchises in Iowa and Illinois, said. "We're not downgrading the company or trying to do anything to discredit them—wll we're trying to do is to protect our business.

But Gregg Reynolds, the IFA's chairman and Kentucky Fried Chicken's vice president for government relations, suggested that franchisors were merely tring to respond to dynamic markets. "Today, in the fast-food business, consumers view convenience to include proximity," Reynolds said. "And if you want to grow and be successful, you have to have your brand available wherever the people are, and that means not only having traditional restaurants but having nontraditional distribution points. Nowhere did they [PepsiCo] say that franchisees would be excluded from that."

The franchsors are also playing their trump card: threatening to pull out of Iowa altogether. LaFalce chalks it up to scare tactics. "They're telling franchisees that they're not going to renew licenses or permit any new ones." he said. "They simply want to put the fear of God in other state legislatures."

Whether those threats are real or not, the IFA is serious about its war chest, adding significantly to its approximately $4.2 million budget through an additional voluntary assessment program, Cherkasky said. Sounding both cautious and confident, he added that he thought Iowa was an aberration.

But Cherkasky's optimism may be misplaced. Franchisees are increasingly sophisticated, and these days they are frequently drawn from the white-collar community following company shutdowns or, as in Swanzy's case, after early retirement. They are willing to engage counsel and form associations, and they constitute a far greater force than a bunch of isolated "whiny butts."

The IFA may find it comforting to count the Iowa case as a one-of-a-kind situation that was fueled in part by well-connected lobbyists for the franchisees. But, more likely, the fierce struggle there was a precursor to all-out fights in other states. And LaFalce's determination to advance his proposals could make it an equally contentious struggle in Congress next year.

PRESERVING THE WAR POWERS RESOLUTION

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FASCELL. Mr. Speaker, as I prepare to leave Congress and pass over the gavel of the Foreign Affairs Committee, I have looked back over my 38 years in Congress and pondered my participation in framing various legislation affecting our Nation's foreign, national security, and defense policies. It is a record that I am proud to defend. There have been many milestone accomplishments including that of Saturday, when the House overwhelmingly approved the Freedom Support Act of 1992, and I find that somewhat ironic.

When I arrived in Congress in 1955, the cold war was in full gear. The United States was participating in a series of post-World War II alliances that had been assembled to contain imperial Soviet communism. In fact in my very first year in Congress the Southeast Asia Treaty Organization [SEATO] was added to that of NATO. Little did I know then, how much that particular alliance would come into play and affect an entire generation of young Americans. In 1959, the Central Treaty Organization [CENTO] was created and the United States felt somewhat more secure in the knowledge that the alphabet soup that we had assembled [NATO, SEATO, CENTO, and ANZUS] was up and running and maintaining the balance of power between ourselves and that of the Soviet Union and its allies in the Warsaw Pact, Beijing, Pyongyang, Havana, and yes, Hanoi.

As I said, the cold war was in full gear, our alliance systems were up and operating, and the United States was in the opening stages of a global chess game in which both we and the Soviets were competing for the ideological hearts and minds of the peoples throughout the global community of nations. We were also engaged in the opening rounds of nuclear arms and defense race that would consume more than $1 trillion. It was also a race that would produce what was termed as a brush fire war of containment in South Vietnam. Regardless of how it was described, Vietnam was war, real war and war is hell no matter where it occurs or for what purposes it is waged. This was a war in which the United States would suffer the loss of more than 50,000 Americans.

This was a war which I originally lent my support to when I voted in support of the Gulf of Tonkin Resolution that passed the House on August 7, 1964 by a vote of 416 to 0. The Senate approved this measure by a similarly overwhelming vote of 88 to 2 that same day. The Congress was united in our sense of urgency regarding the Gulf of Tonkin incident, as well as in our opposition to Soviet supported Communist expansion in Southeast Asia. And while it is true that the text of the Gulf of Tonkin Resolution encompassed all of Southeast Asia, one should note that section 3 of that resolution stipulated,

> This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of United Nations, or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Thus, even in our initial and united support, the age old constitutional invitation to struggle between the executive and that of Congress on the issue of war powers was again underlined.

Perhaps no other law in the history of executive branch relations with Congress has been steeped in more controversy or been more misunderstood than that of the War Powers Resolution. Nevertheless, as an original framer of the War Powers Resolution, I was proud when Congress enacted the War Powers Resolution over the veto of the President on November 7, 1973. This was no small feat but our war aims in Southeast Asia had lost the support of the American people at home and we all know that President Lincoln was quite correct in his observation that, "a house divided cannot stand." Thus the War Powers Resolution became and remains landmark legislation that clarifies the delineation of power between Congress and the executive on the issue of war powers. The importance of this law cannot be discounted or denied. Simply stated, the War Powers Resolution reaffirms the balance that was created in the Constitution between the President and Congress on questions of peace and war. It stipulates the constitutional directions that the President and Congress must be equal partners in such vital questions—acting together, not in separate ways.

In its elegant simplicity, this law (Public Law 93–148) consists of three central elements. First, it requires the President to make every effort to consult with Congress in advance of any decision to introduce the Armed Forces of the United States into hostilities or into situations in which imminent involvement in hostilities are evident unless there has been a declaration of war or specific authorization by Congress. Second, it requires the President to report to Congress within 48 hours after U.S. Armed Forces become involved in hostilities or imminent hostilities. Finally, it calls upon Congress to determine whether the deployment of U.S. Armed Forces in such circumstances is a wise or unwise decision. Taken together, these elements of the War Powers Resolution serve to reaffirm the constitutionality mandated and exclusive authority of Congress to declare war and to be an active partner with the executive branch in foreign national security and defense policies involving the commitment of U.S. troops into combat or imminent combat.

You need look no further than the CONGRESSIONAL RECORD of January 11–12, 1991, for proof positive that the War Powers Resolution remains a living document. It was on those 2 days that the House and Senate reaffirmed the authorities of the War Powers Resolution when we authorized the use of military force against Iraq by votes of 250 to 183 in the House and 52 to 47 in the Senate. I was also proud that day because we—the House Foreign Affairs Committee and the Congress—had the resolve to meet our constitutional responsibilities in giving our assent, and in providing the legal authority for the President to meet his constitutional responsibilities as Commander in Chief of the Armed Forces of the United States in their participation in Operation Desert Storm.

Let me tell you, this too was no small feat. In the committee's original deliberations with officials from the executive branch, we were advised of their view that "the President already had the authority to use military forces in the Persian Gulf" pursuant to United Nations Security Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, 677, and finally 678. We—the Committee on Foreign Affairs—remained resolute. We specified that no decision to use force could be made absent congressional authorization. Recognizing the political desirability of congressional support, the executive branch sought authorization of the use of force pursuant to the terms and specifications of the War Powers Resolution. Thus, the House of Representatives debated the issue on the simple choice of yes or no. In this regard, House Joint Resolution 62 while not using the constitutional language, was the legal and practical equivalent thereof and met all the constitutional tests of (*Mitchell* v. *Laird* (488 F.2nd 611(1973)) and as such was equivalent to a conditional declaration of war—as specified by the joint resolution, see CONGRESSIONAL RECORD, January 12, 1991, pages H–443–49.

So, as I leave this august body, I look to the War Powers Resolution as one of my crowning achievements and am reminded of the old baseball axiom, "if ain't broke, don't fix it." And, I advise my colleagues that the War Powers Resolution is in perfecting working order. Nevertheless, as a framer of that document, it does remain my belief that the executive branch should seek formal implementation of a joint congressional-executive consultative group which would be comprised of the senior leadership within Congress. This group should meet on a routine basis so as to evaluate the foreign, national security, and defense policy options available to the United States in the post-cold-war era. This group could serve to ensure that any U.S. decision on the future potential use of force would receive broad bipartisan support in Congress, thereby avoiding the development of a fire alarm crisis mentality both within the executive and Congress. This group would also serve to preserve long-term U.S. interests without jeopardizing them over the short term. It is also reasonable to assume, that such a group would also serve to limit the threat to U.S. lives.

Nevertheless, the formation of any such group should not be made at the expense of the War Powers Resolution but rather as a means of enhancing its present configuration. Clearly, we face future decisions with regard to possible U.S. involvement in imminent hostilities as potential peace keepers in such present hot spots as southern Iraq, Bosnia, and Somalia. Further, we have no way to predicting where similar hot spots might occur in the future. Regardless, any decision to use U.S. Armed Forces in any such situation must be made consistent with the terms, strictures, and provisions of the War Powers Resolution.

In closing, the problem has never been with the War Powers Resolution itself but rather with the Presidency which has objected to its specifications. In 1964, Congress yielded its war making authorities to the President despite the inclusion of section 3 of the Gulf of Tonkin Resolution. In 1973, Congress reclaimed its constitutional responsibilities, just as we did on January 11–12, 1991. The constitutional invitation to a struggle will always lie upon the table, but only Congress has the singular authority to declare war—conditional or otherwise.

STATE WILL BE WORSE OFF WITH TERM LIMITS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. CONYERS. Mr. Speaker, much has been said on the subject of term limitations, mostly by political observers disgruntled with the current system of campaign finance and the high reelection percentages on the Federal level. And while many of us in this body are ardent supporters of campaign reform, and have strong electoral support from our constituents, we are continually faced with the question of term limits.

It is often perceived as self-serving for incumbent Members of the House to argue against arbitrary term limitations, regardless of the validity of their analyses. And so, I commend to my fellow Members and to the general public, an excellent article written by our departing colleague, Congressman HOWARD WOLPE. The following is the text of HOWARD'S piece as it appeared in the Lansing State Journal on June 10. His call for civic activism is a welcome beacon in an oftentimes bleak political environment. This article stands as yet another example of the personal integrity and dedication that HOWARD brought to his work here in the House of Representatives, and I am particularly proud to have it printed in the RECORD.

[From the Lansing State Journal, June 10, 1992]

STATE WILL BE WORSE OFF WITH TERM LIMITS

(By U.S. Rep. Howard Wolpe)

I respectfully must dissent from the Lansing State Journal's recent editorial in favor of a statutory limitation on legislative terms.

The Journal is wrong that the present system is limiting the emergence of new political leadership. Indeed, much coverage has been given to the extraordinary turnover in the Congress: It is estimated that well over one-quarter of the next Congress will consist of new faces.

But substantial Congressional turnover is nothing new. It may come as a surprise to many that more than two-thirds of the present sitting members were not yet in the Congress when I was elected in 1978.

The notion of a "permanent" Congress is pure myth, and it is distressing to see the Journal perpetuate such mythology.

More seriously, the Journal argument for term limitations feeds a growing and dangerous tendency to opt for inherently undemocratic solutions to the myriad problems our country faces. Make no mistake about it: The real limitation being sought by term-limit advocates is on the voter. It is the voter who would be denied the right to elect the representative of his or her choice.

The way out of our national political crisis is more democracy and citizen activism, not less.

This political system of ours can be made to work. We need to understand, borrowing from economist Robert Reischauer, that the problem is not the process; the problem is the problem.

For too many years, the White House and the Congress have been gridlocked. It is this impasse over policy that is the source of our national frustration and despair. All the new faces in the Congress will be for naught unless there is a change in the policies emanating from the White House.

There are other factors as well that Journal readers might want to consider before jumping on the term-limit bandwagon.

From a Michigan standpoint, term limitations would be a form of unilateral political disarmament. After the next election, one of every eight members of Congress will come from California; one of every six will come from the three sunbelt states of California, Texas and Florida. There is no way that Michigan and other midwestern and northeastern states can counter that kind of numerical power, except through the leadership positions that more senior members from our states have assumed.

Michigan already has been clobbered by the politics of reapportionment, and a further statutory limitation on remaining members of our delegation would be devastating.

Finally, in my two decades of public service, I have observed no correlation between the length of service of individual legislators and their depth of character.

Some of my colleagues "sold out" the day they arrived in Lansing or Washington. Other colleagues with decades of service have retained their principles and their integrity. A statutory limitation on legislative terms might well have the perverse effect not only of denying people the ability to reelect some of our most talented and committed leaders, but also of strengthening the position of those incumbents who should be rejected at the polls after a single term.

Arbitrary term limitations also would create a large number of lame duck legislators—and I doubt that there is a more frightening and undemocratic prospect than a legislative body composed of large numbers of members who have no reason to contemplate the electoral consequences of their actions.

We would be far better served to cast aside the illusory search for a "procedural fix" and focus, instead, upon the work necessary to make this democracy succeed.

WESTCHESTER-PUTNAM AFFIRMATIVE ACTION: 20 YEARS OF SERVICE AND PROGRESS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. LOWEY of New York. Mr. Speaker, I take great pleasure in rising today to commemorate the 20th anniversary of the founding of the Westchester-Putnam affirmative action program. Under the able direction of my good friend, M. Paul Redd, Westchester-Putnam Affirmative Action has an impressive record of success. On this occasion, four members of the Westchester community are being honored for their support of the ideals espoused by this highly successful organization.

Carole Morris, this year's recipient of the Community Service Award, has accomplished great things. After working 12 years as a nurse, Ms. Morris branched out in new directions, first as coordinator of Community Health Services for the Mount Vernon Model Cities Agency. From there, she became assistant director, and then executive director, of the Mount Vernon Neighborhood Health Center. As executive director for the last 16 years, Ms. Morris has ably led the development and day-to-day operation of a facility which provides services to over 52,000 patients. In doing so, Carole Morris has been an important force committed toward addressing compelling health needs of our community.

Receiving this year's Union Award is Garry Playford, the newly elected executive secretary-treasurer of the Westchester County District Council of Carpenters. Ever since he first joined the Carpenters' Union in 1966, Mr. Playford has been active in union activities, even while serving in a management position with the E.W. Howell Co., a 100-year-old construction firm. Since leaving Howell to represent his union full time, Mr. Playford has become deeply involved in community activities such as directing the rebuilding of Tarrytown's First Baptist Church after it was destroyed in fire. He has also worked to develop affordable housing in Westchester through the Union Building Trades Non-Profit Development Corp., which works with municipal governments throughout Westchester.

The Distinguished Service Awardee this year is New York State Lieutenant Governor Stan Lundine. Long before Stan Lundine was chosen to join Mario Cuomo in 1986 at the helm of State government, he served as one of the youngest mayors in the Nation. As a Member of Congress for a decade, he took a leadership role in human rights, housing, and environmental issues, as well as confronting the problem of Third World debt. Recognized by Governor Cuomo as "someone competent to be Governor immediately," Stan Lundine has built a solid reputation as leader in the fight against drugs in New York. As chairman of the Statewide Labor-Management Committee, he has been able to put his natural abilities as a problem-solver and negotiator to excellent use, in promoting cooperation in labor relations throughout the State. A steadfast supporter of affirmative action, since his days as a Duke student in the 1950's joining in sit-ins at segregated lunch counters, Stan Lundine is a deserving recipient of this year's Distinguished Service Award.

These fine individuals, all of whom I am fortunate to call good friends, have in their own special ways made very concrete contributions to our society. They also reflect the values and aspirations of the Westchester-Putnam affirmative action program and the commitment to building a better society that is central to Paul Redd's every action. It is indeed a privilege to share in celebrating all that they have accomplished over the last 20 years and that they seek to accomplish in the future.

1992 COMMUNITY SERVICE AWARD

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. WELDON. Mr. Speaker, I rise today in recognition of the RETS Education Center in Broomall, PA.

RETS has recently been selected to receive the Career College Association (CCA) 1992 Community Service Award. This award is presented to RETS for its success in one of the nine National Achievement Awards categories. The awards are designed to recognize outstanding member organizations and instructors. Member schools are given the opportunity to nominate programs they have designed and implemented that have made a significant difference. Programs are judged on behalf of their creativity, impact, and the success of their program.

I am proud that RETS has been awarded the Community Service Award. This award recognizes RETS dedication to the community and education excellence. RETS has several community and nonprofit organizations including the American Red Cross, Easter Seals, Girl Scouts of America, March of Dimes, and the U.S. Marines Toys for Tots Campaign.

RETS Education Center has been an invaluable asset to the Delaware Valley area. I salute them in earning this well-deserved award. RETS is an example of community service which should serve as an example for schools across the country. I know the Congress joins me in congratulating them on their success. Once again, I congratulate RETS Education Center on being recognized this year with the CCA Community Service Award.

WE MUST MOVE QUICKLY TO BUILD ON THE RATIFICATION OF THE START AGREEMENT

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MAVROULES. Mr. Speaker, on October 1, with the ratification of the Strategic Arms Reduction Treaty, the United States took a historic step toward the eventual elimination of nuclear weapons. START is the first formal agreement in history that will reduce the number of nuclear arms.

While this landmark agreement is a commendable first step, I would like to point out that it is only a first step. Today I rise to urge President Bush and Yeltsen to move quickly to build upon the ratification of START and make further inroads into the elimination of nuclear weapons worldwide.

The Defense authorization conference bill recently passed by Congress includes language I authored that establishes a framework for long-term nuclear weapons reductions. This language establishes a nuclear weapons reduction policy that sets the following goals:

Acceleration of START reductions;

Bilateral reductions of strategic nuclear weapons to levels between 3,000 and 3,500;

Multilateral negotiations with Russia, great Britain, France, and China to reduce the number of nuclear warheads;

Further multilateral negotiations with all nuclear and nuclear-threshold states to reach subsequent worldwide nuclear reductions;

Continued cooperation to maintain and improve secure command and control over all nuclear forces;

Negotiations within NATO and among other nations to eliminate all tactical nuclear weapons;

Provide assistance to disable, transport, store, and ultimately dismantle nuclear weapons of the former Soviet Union, and;

Achieve a worldwide, verifiable agreement to end by 1995 the production of nuclear weapons materials and the secure stockpiling of existing nuclear weapons materials.

Under this bill, not only will strategic weapons be greatly reduced, but the least secure nuclear weapons—tactical warheads which are so vulnerable to proliferation attempts by Third World nations and terrorist groups—would be completely eliminated.

It is my hope that this policy will eventually lead to a complete reduction of all nuclear weapons. We have laid the groundwork and must stay the course until we are successful.

TRIBUTE TO DONALD L. McLAUGHLIN: DEDICATED, FEDERAL SERVANT

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. MEYERS of Kansas. Mr. Speaker, today, I would like to pay tribute to an outstanding leader in the Kansas City community. On December 31, 1992, Donald L. McLaughlin will be retiring as the Regional Inspector General for Evaluation and Inspections, at the U.S. Department of Health and Human Services [HHS]. On this occasion, I would like to express my deep appreciation for his commitment to Federal service.

His retirement follows 32 years of exceptional dedication to the people of our country. As regional inspection general, Mr. McLaughlin effectively oversaw evaluations of major programs such as Social Security, Medicare, Medicaid, and the Public Health Service. During the past 3 years, Mr. McLaughlin has led evaluations resulting in savings in excess of $1.5 billion to U.S. taxpayers.

Throughout Mr. McLaughlin's prodigious career, awards have highlighted many of his accomplishments. As early as 1971, he was awarded the Bureau of Health Insurance Directors Outstanding Performance Award. In 1985, he earned the Inspector General's Outstanding Performance Award. In 1990, Donald McLaughlin was Manager of the Year for the Office of Evaluation and Inspections, and Federal Executive of the Year for region VII of HHS.

Mr. Speaker, Mr. McLaughlin is to be applauded for his civil service as well as his military achievements. Donald McLaughlin actively participated in the U.S. Air Force from 1953 to 1957.

It is only appropriate that this dedicated gentleman and the years of service he devoted to his community be recognized. I do so proudly today on the floor of the U.S. House Representatives.

NAN GOLDSBERRY, WOMAN OF THE YEAR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SOLOMON. Mr. Speaker, there are many men and women across this great country of ours who make outstanding contributions to their communities without seeking or getting a great deal of recognition.

That's why I'm glad to see that one of these selfless people is finally getting the recognition she deserves. I'd like to tell you about her today.

Her name is Nan Goldsberry, and she has been named Woman of the Year by the Troy Business and Professional Women. For many years, Nan has been an inspiration for everyone concerned about our most socially and economically disadvantaged citizens.

Nan is a graduate of Lansingburgh High School and Troy Business College. She also attended New York State Teacher's College in Albany. She has been with the city of Troy Commission on Human Rights since its creation by the Troy City Council in 1965. She is presently that worthy organization's executive secretary.

But that only begins the story. Presently, she is affiliated with the Rensselaer County Community Housing Resource Board's Fair Housing Committee, the Troy School District Advisory Committee on Family Life Education, the district's Drug Awareness Ad-Hoc Committee, the Rubin Community Fellows Review Board, the TAUM's Martin Luther King Birthday Celebration Committee, and the Fifth Avenue A.M.E. Zion Church

Previously, she has been involved with the Troy NAACP, the Troy YWCA Board of Directors, Volunteer Bureau Board of Directors, the Mayor's Task Force on Homelessness, the Rensselaer County Headstart Policy Advisory Council, the Troy School District's Curriculum Committee, the Rensselaer County League of Women's Voters, the Troy Public Library, the Rensselaer County Criminal Justice Coordinating Council, TINC Coordinating Committee, the Rensselaer County Commission on Economic Opportunity's Affirmative Action Committee, the Charter Revision Committee, and Welfare Rights Coalition.

And, as usual with such selfless people, Mr. Speaker, Nan Goldsberry was dedicated first of all to her family. She and her husband, Irving D. Goldsberry, are the parents of two sons.

Mr. Speaker, Nan Goldsberry will be honored by Business and Professional Women on October 20. I would ask you and all members to join me now in paying our own tribute to an outstanding lady.

RUSSIAN SALE OF ROCKET ENGINES TO INDIA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FASCELL. Mr. Speaker, during Saturday's debate of the Freedom Support Act, several opponents of that legislation pointed to Russia's agreed to sale of cryogenic rocket motors to India as a reason for defeating the conference report. As a strong supporter and proponent of the Missile Technology Control Regime [MTCR], I wanted to set the record straight. For some time, the United States and other MTCR countries have been engaged in negotiations with—first the former Government of the Soviet Union and now with the Russian Government—about the serious concerns we hold with respect to the Russian commercial entity Glavkosmos' agreement to sell rocket engine technology to the Indian Space Research Organization [ISRO]. In fact we are continuing in these discussions. The Hon. Frank Wisner, Undersecretary of State for Security Assistance is currently continuing these negotiations in Moscow today, as we speak.

As you know, the MTCR guidelines establish the agreed to international standards governing such transfers. In this regard, MTCR partners have determined that the Glavkosmos-ISRO transaction was inconsistent with MTCR guidelines. Further, the United States did discuss this matter with both Russia and India and made clear that United States law, Public Law 101–510, the National Defense Authorization Act for fiscal year 1991, requires that strict sanctions be imposed against entities engaged in activities inconsistent with MTCR guidelines.

In this particular case, the facts were clear. The Glavkosmos-ISRO deal was deemed a violation and as such the United States imposed sanctions in accordance with United States law. Specifically, these sanctions are as follows: a 2-year ban on all United States licensed exports to these entities Glavkosmos and ISRO: a 2-year ban on all imports into the United States from these entities; and a 2-year ban on United States Government contracts with these entities. These sanctions were imposed on May 11, 1992. That's right, May 11, 1992. The law is working and its working well.

As stated, the United States is continuing our negotiations with both Russia and India. We have informed both governments that cancellation of this transaction could permit the consideration of the possible waiver of these sanctions. But the main point is the law is working. Sanctions have been imposed. These sanctions are found in chapter 7 of the Arms Export Control Act. They were adopted with an eye toward strengthening the MTCR which they are doing.

One of the key aims of the MTCR is to obtain broad international support and agreement to cooperation with regard to stopping the proliferation of ballistic missile technology. Similarly, that is the aim of the sanctions regime that has been established in the Arms Export Control Act. Hopefully, Russia and India will cancel this arrangement and see fit to join the MTCR so as to avoid additional sanctions. In this regard, I have been informed that the United States is continuing to seek an abrogation of the Glavkosmos-ISRO agreement.

SUPPORT ASIANPACIFIC-AMERICAN HERITAGE MONTH

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. MORELLA. Mr. Speaker, I rise in support of H.R. 5572, a bill to designate May of each year as AsianPacific-American Heritage Month.

I am pleased and proud to strongly support this bill. This legislation serves as a formal recognition of the growing AsianPacific-American impact in our country's future.

Just 2 years ago, President Bush declared May 1990 as AsianPacific-American Heritage Month, extending the celebration of the Asian and Pacific Islander heritage from 1 week to 1 full month. The President's declaration was significant because it allowed AsianPacific-Americans to commemorate their heritage in the same manner as African-Americans in February and Hispanic-Americans in September.

Since then, AsianPacific-American Heritage Month has been reauthorized each year by an act of Congress. This bill permanently recognizes AsianPacific-American Month as an annual event without requiring congressional approval.

This legislation is justified by the proud accomplishments and historic contributions of AsianPacific-Americans. The over 4 million Americans who trace their ancestry to the Asian/Pacific region are the heirs to a rich and ongoing legacy.

AsianPacific-Americans have built, and are continuing to build, our Nation. AsianPacific-Americans can take great pride in achievements in education, business, government, science, the arts, and other fields. The efforts and accomplishments of AsianPacific-Americans are maintaining the United States as a leader throughout the world.

In addition, Asians and Pacific Islanders constitute the fastest growing ethnic minority in the country. Half of all immigrants entering the United States are Asian. By the year 2000, Asians and Pacific Islanders could represent up to 4 percent of our Nation's population.

AsianPacific-Americans throughout this country are also devoting their energies to promoting equity in important United States policies. This is true especially in my home district of Montgomery County. In the county, we have a great number of AsianPacific-Americans who are leaders in the community on issues like civil rights, education, business, hate crimes, and many others—issues that are not only important to AsianPacific-Americans but to all Americans.

Mr. Speaker, AsianPacific-Americans have made many contributions to the rich and diverse tapestry of American culture. To commemorate this AsianPacific-American experience in our Nation, I urge all of my colleagues to pass this important legislation and join with me in celebrating May of each year as AsianPacific-American Heritage Month.

THE SPANISH COMMUNITY PROGRESS FOUNDATION HOLDS RECOGNITION BREAKFAST TO HONOR HISPANIC COMMUNITY LEADERS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. LOWEY of New York. Mr. Speaker, it gives me great pleasure to rise today in tribute to the accomplishments of the Spanish Community Progress Foundation, Inc., a not-for-profit organization in the city of Yonkers, NY, dedicated to the promotion and planning of activities to assist members of the Hispanic community to enhance opportunity in today's society.

As part of the State of New York's Hispanic Heritage Month, proclaimed by Governor Cuomo from September 15 to October 15, 1992, the Spanish Community Progress Foundation is honoring three individuals and one corporate member of the community for their dedication and service to the Hispanic community, in Yonkers and throughout Westchester County.

Mrs Estilita Coloma, a beloved volunteer and senior citizen, has given generously of her time and energy to the Spanish community Progress Foundation for over 15 years. She has been a leader in the Yonkers Latino community and continues to remain active in neighborhood activities.

Police Officers Bob Blair and Chris Palandra of the Yonkers Police Department and Police Athletic League are receiving recognition from the Spanish Community Progress Foundation for the active role they have taken, and innumerable hours spent, in service to the children of Yonkers. Since early in the life of the Foundation, nearly 20 years ago, Officers Blair and Palandra have sponsored recreational activities, trips, and tutoring services that have benefited thousands of children in Yonkers.

In addition to these upstanding citizens, the Spanish Foundation is honoring Cablevision of Westchester, which provides 40,000 Yonkers households with local access channels and educational programming, totalling over 25 community-oriented programs including Spanish language programs. Together with the Spanish Community Progress Foundation, Cablevision of Westchester has worked to encourage pride and awareness of Hispanic culture and heritage in the city of Yonkers.

The Hispanic community of Yonkers has grown to some 33,000 today and is an important and positive force in shaping the city's future. Those honored by the Spanish Community Progress Foundation are doing their part to serve the Hispanic community and their city. They deserve our appreciation and encouragement.

INDIAN HEALTH AMENDMENTS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SYNAR. Mr. Speaker, on October 3, I enthusiastically supported the Indian Health Amendments Act of 1992 which reauthorizes the Indian Health Care Improvement Act of 1976.

According to the Indian Health Service, Indian people still endure the highest mortality rates in this country. Indian people are 400 percent more likely to contract tuberculosis, 400 percent more likely to die from alcoholism, 150 percent more likely to die from diabetes, and 32 percent more likely to die from pneumonia than the average American. The Federal Government has a responsibility to help improve these truly awful statistics.

The reauthorization of this bill will improve the health status of the Indian population by extending and improving programs to address fetal alcohol syndrome, adolescent suicide, child sexual abuse, alcoholism, and diabetes. I am particularly pleased this legislation includes a provision to fund long-term care demonstration projects within Indian tribes. This provision is necessary because the Indian Health Service has signaled to tribes that it lacks the legal authority to fund such demonstration projects. Long-term care issues are a growing concern to native Americans nationwide. Services available to Indian elderly and disabled have lagged substantially behind other private- and public-sector initiatives.

Within the Cherokee Nation alone, there are over 10,000 people 60 years or older, not including Indians from other tribes that live within the Cherokee Nation's boundaries. An estimated 60 percent of these persons need some sort of long-term care.

Today only one adult day care facility serves the 14-county area of the Cherokee Nation. No Federal funding currently is available to tribes who desire the opportunity to provide community-based services such as adult day care, in-home, respite, and intergenerational programs.

Public health nurse visits to Cherokee elderly currently comprise 23 percent of total in-home visits. Many of these visits are to elderly under 65 years of age who do not qualify for Medicare or who lack access to home health agency services.

Native Americans facing HIV or AIDS also need long-term in-home care. An estimated 10 to 12 persons are currently under treatment for AIDS in the IHS health system in the Cherokee Nation's 14-county area, and an estimated 66 to 69 people are HIV-infected. The tribes need a way to care for their members infected with HIV. HIV infection among Indian peoples is a growing problem.

Individuals of all ages, who are functionally disabled, chronically ill, or physically and cognitively impaired face long-term care needs. Indians are not unique in this regard. However, among Indian tribes, many of the disabled include persons with diabetes who are too young to qualify for Medicare. Diabetes is the fifth leading cause of death to Oklahoma Indians.

I am pleased this conference agreement overwhelmingly passed the House and will soon receive the signature of the President. The Indian people desperately need these health care services.

HIGH SCHOOL STUDENTS IN SUPPORT OF FUNDING FOR THE PUBLIC BROADCASTING SERVICE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. ROUKEMA. Mr. Speaker, I rise today to share with my colleagues the very thoughtful and insightful letters that I received from 17 sophomore students from Ridgewood High School in Ridgewood, NJ, in support of continued Federal funding for the Public Broadcasting Service [PBS]. As I indicated in my letter to their English teacher, Ms. Janice Connolly—who was kind enough to share with me these letters, I am very favorably impressed by the high caliber of her students' writing skills. I believe that my colleagues will be persuaded, as am I, both by the students' strong arguments in favor of continued Federal support for PBS and their sincere accounts of the way in which certain PBS programs have touched their lives and the lives of others.

Mr. Speaker, we so often hear criticism of our public schools and the achievement levels of the students who attend them. In reading these letters, and the lovely letter written by Ms. Connolly, I was reminded that despite pronouncements to the contrary, many of our Nation's students do continue to learn and thrive in public schools.

In my view, a dedicated teacher is the single most important component in a successful educational program. Also of tremendous importance in the learning process, as evidenced through several of the students' letters, are concerned parents. Many students who are allegedly failing to receive a quality education lack many of the advantages that only a loving family can provide.

Mr. Speaker, I commend to the attention of my colleagues the sincere letters authored by these fine young people:

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 1, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: I am a 10th grader at Ridgewood High School, New Jersey. I was shocked to learn that some people in Washington were considering stopping funding for Public Broadcasting Service. I don't think it's fair. Channel 13 is the best in the business of educating children and young people.

The purpose of television is to educate, entertain and give us news. This has not happened, because the television programs have been filled with violence. And being what they are, the television characters are copied by kids. If you look around in your neighborhood, you may have seen this, kids in Ninja Turtle outfits trying to live in Sewage. Can you imagine the effect this violent program has on kids!

The Public Broadcasting System has a different approach to television programs. Seeing the Big Bird say, "Hello, my name is Big Bird," you feel relieved there is some decency in television. Channel 13 is a television for children and immigrants who have come to this country and would like to learn English and how to add, subtract, and divide.

My favorite time is when Sesame Street is on, because it teaches math, alphabets, counting and uno, dos, tres, cuatro, cinco. That is one, two, three, four, five in Spanish, which I learned on Channel 13.

French is another language offered, and as this world becomes a global village, it is important to continue funding Channel 13.

Why is it that when something benefits the common man, the elite are quick to cancel or do away with it, instead of looking at the peanuts that will be saved by stopping to fund Channel 13? All the Congressmen and women should be working hard to recover our $500 billion lost in the savings and loans scandal instead.

It is important to say that Hollywood and other superstars have donated their time to Channel 13. Common people do contribute to Channel 13. Public Broadcasting System is a network of the people, and we need it to continue. I urge the House of Representatives to vote to keep on funding Channel 13. Remember, soon I will be able to vote, too.

Sincerely yours,

JOHN WALDERGARD.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, May 29, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: I do not disagree with you for wanting to keep the shows on TV on Channel 13. I feel that some of these shows are very helpful for helping the kids to learn—for example, Sesame Street, Electric Company, Mr. Rodger's Neighborhood, and Bob Ross. I believe the kids need these shows also because it's better for them to watch kids' shows than the movies that come on HBO with the swearing and everything else.

Here are some examples of why I think the shows listed above are good shows for the kids. For Sesame Street it is because they have all the kids' characters. For example, there are Big Bird, Cookie Monster, Oscar the Grouch and Bert and Ernie. They also teach you to count and the meaning of words.

I feel that The Electric Company is good because it is almost related to Sesame Street. They both teach how to count or how to use numbers in different ways.

Bob Ross, I think, should stay on—first, because I am 17, and I love to watch him paint. I think he paints the most beautiful paintings. He also shows you how to make the paintings. For example, you can learn how to make a mountain, how to make a river and trees. I enjoy drawing and painting myself, so I would not want that show to be taken off TV.

Well, you heard my opinion on why I agree with you. Hopefully, they will help out in some kind of way to keep the shows going on Channel 13.

Sincerely,

DRUCILLA REAVES.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 1, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: I am a sophomore in high school. A few years ago I was trying to amuse my younger brother. Nothing I did or said seemed to please him. All of a sudden I started to sing, "Sunny days, sweeping the clouds away," and his eyes lit up, and I had his attention. Although there is eight years' difference in our ages, we found a common ground with the theme song to Sesame Street.

I remember many happy hours watching Sesame Street, Mr. Rogers' Neighborhood, The Electric Company, and 3-2-1 Contact. My parents never felt that this time watching these programs ever fell into the category of "wasted" time or "too much television." These shows were always educational, fun, and never included the violence and improper values that some programs did. Sesame Street showed us how important friends are, and how people of all races and ages could get along well together. Mr. Rogers' Neighborhood was one we all wanted to live in, because everyone helped one another, and each person had a job and took pride in doing it well. The Electric Company was more of a science-oriented program, but that, too, made learning fun. My younger brother still enjoys these same programs as well as new shows on public television.

My parents enjoy some of the old "black and white" movies that are shown, the musical performances and the mysteries. They have contributed to the fundraising that public television must ask for each year. They have always felt that the commercial stations are able to raise incredibly high amounts of money by showing programs whose values are demeaning and insulting. The violence of some of the dramas and the stupidity of the comedies make the amounts of money they generate even more incredible.

Government funding should not only continue but should increase. The programs are educational, entertaining, and present values that are respectable. Even as a sixteen-year-old I remember how those sunny days swept the clouds away.

Sincerely,

JOE CORSELLI.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, May 29, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: The public broadcasting network has offered an alternative in broadcasting which cannot be found on the commercial networks. The baning of the PBS network will show no improvement in the behavior of our generation. We will not solve the problems we are faced with, such as illiteracy, teen-pregnancies, drug habits and other disturbing problems, by taking this network off the air. If television is supposedly the cause of these problems, one channel being terminated will not end them.

In contrast, this one channel can aid in a child's development into an intelligent, well-rounded adult. The PBS network provides a wide variety of arts, sciences and documentaries as well as children's programming which have received recognition and awards for their outstanding quality. For example, Sesame Street was and is a very significant part of many children's lives. Readiness skills can be learned from this program. Children are eager to absorb the knowledge and enjoy the creative presentations. Sesame Street features counting, adding and subtracting and spelling games or exercises that can be imitated by the viewers. Not many other channels have shows which promote the foundation of literacy and encourage reading.

Besides the problem-solving and pre-academics teaching, Sesame Street encourages the development of social skills. There are no prejudices shown, and everyone is accepted. The audience is taught to accept all types. People are always friendly and open-minded, which sets an example of tolerance and understanding. Most of the shows geared toward children stress imagination and creativity as well as learning.

PBS also offers interesting and varied programs for adults as well as children. It features arts, culture, drama and sciences from this country and abroad. PBS documentaries offer in-depth and honest coverage of important, relevant political and environmental issues.

There are many television shows which can be said to be harmful to young people and to send out the wrong messages. But putting the blame on one is not an answer to crime or poor behavior. PBS offers young people an opportunity to see the positive sides of life rather than the sex, crime and violence that are frequently shown on other networks.

Sincerely yours,

TAMARA WEJNERT.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 1, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: I am part of a generation that our government is now labeling as illiterates, delinquents, and failures. Yet, if they knew me, and most of the rest of my generation, they would learn that we are none of these things. It troubles me to hear that the government thinks that our alleged illiteracy is a result of public television. If anything, PBS has taught us how to be a literate and competent generation.

There is absolutely no logic to cutting government funds for PBS. Perhaps if it was teaching children the wrong ideas, but it's not. In fact, it does the opposite. Wouldn't you rather have your child watch Sesame Street and Mr. Rogers rather than violent cartoons and talk shows?

Illiteracy. This is a word that means unable to read and write. I am not denying that there is illiteracy present in my generation, but there is just as much in other generations. I just can't understand how some conservative government officials think that shows like "Reading Rainbow," "Learn to Read," and "Math Works" promote illiteracy. I can see, however, how "A Current Affair," "The Simpsons," and "Hard Copy" might, though. Obviously, PBS has nothing to do with illiteracy or other failures of our young generation.

What I truly believe is that the Conservatives are using the fact that not everyone can read and write to their advantage. Their reasoning for ending PBS is that it is too liberal. Basically, what they're saying is that it is wrong for everyone to be equal; that and other things PBS teaches. Well, excuse us, Jesse Helms for wanting everyone to be considered the same. I feel it's a very poor excuse to say that illiteracy is the reason why they want to end PBS, when it is really the fact that PBS is too liberal.

Whatever the reason, public television is much too important to just sit back and watch disappear. Everyone must get involved to stop this disgrace. We know we're not illiterate, so let's prove it and save Big Bird.

Sincerely,

CLAIRE DUGGAN.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 1, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: I feel that the Federal Government should keep PBS on the air and should concentrate on more important matters. What about banning cartoons about Joe Camel that appeals to kids? What about putting more anti-drug programs out? I think it's not necessary to cancel a station which helped raise a smart, open-minded generation.

I remember all of the programs that I used to watch as a kid. Sesame Street, Mr. Rogers' Neighborhood, 3-2-1 Contact ... it goes on. Most of them just depicted kids having fun, but there was also the part where we learned about numbers and letters and words that were common. I remember 3-2-1 Contact, my favorite show, which taught math and science. Those are two subjects that I am strong in as a student now. The best part is that those shows made my learning fun. It wasn't like a lecture or something that nobody would want to listen to or learn from. Reading Rainbow is also an excellent show. That is what really got me started on reading. I would always get the books that the kids talked about. My parents were very thankful for that show.

Now that I am more mature and have the capability to assess those shows, I feel one of the most important points is that those shows didn't have any prejudices. The Government said that our generation is too liberal and open-minded. Well, where would this country be if each generation turned out exactly like the one before? We have to have new ideas for the future without any prejudices or anything to hold us back. We want to move ahead, not backward, in society, health and government.

Even though I don't watch those children's programs anymore on PBS, I do watch other programs. My parents started taking me to the opera at Lincoln Center when I was ten years old. I did not really appreciate it then, but more recently, when my dad would turn to Channel 13, there would be an opera on, he'd call me down to watch. Most of the time, I can recognize which opera it is, but sometimes it's something new to learn. I also watched a great series from the books by Elizabeth Montgomery, "Anne of Avalon" and "Anne of Avonlea." After I saw that, I got the books to read and others by that author.

I believe that PBS should stay on the air to help other kids, as it helped me and my generation. I think it did a very good job teaching us and leaving a great impression on us.

Sincerely,

SANDY PULJIC.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 1, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: Where would I be today if I hadn't watched Sesame Street? I do not know the answer, but I am glad I did. It presents learning in an interesting fashion, like other Public Television shows. This is one of the benefits of Public Television. For educational programs, you learn directly and indirectly. I believe there should be a non-profit-noncommercial channel, but the cost should not be subsidized by the Federal Government. We as a nation can't afford it. However, the idea of Senator Jesse Helms saying that funding should be cut because Public Television shows are either "too liberal" or "are failures" is simply ludicrous!

After the war in the Persian gulf, New York City wanted to host a ticker-tape parade for the soldiers, but it had a large budget deficit. Despite that, there was enough private funding to pay for the parade. Like the parade, sufficient private funding can be found for Public Television. Keep in mind that a show that is good enough, like a Sesame Street or a Masterpiece Theatre, currently could obtain enough private funding to keep itself supported. Business shows can get grants from foundations set up by major corporations. Well-liked shows, like the ticker-tape parade, will find a way to survive, whether it be through Public Foundations or a drastic increase in viewer-supported Television. This financial set-up will also help weed out low-quality TV shows.

I believe that the government should not support Public Television with a debt over one trillion dollars. All these shows have the power to operate without governmental financial aid. They just would have to put a stronger effort, along with supporting groups, like Public Foundations, the Viewer-Supported Television, and a more generous public. Besides, the people who watch Public Broadcasting today are a small number. Instead of paying for something you don't watch, concentrate your finances on something you do watch. Even though a person who does not watch PBS may be uncultured, or even stupid, it is unfair for him to have to pick up the financial slack through taxes.

A political cartoon, which I am responding to, made the analogy that people are trying to kill PBS, but still allowing people to smoke. In this situation this analogy is invalid. The government is collecting revenues from taxes for smoking, but it is consuming money for Public Television. The analogy does not apply. I do not believe that the shows on this network are "too liberal," as Senator Jesse Helms suggested. These shows provide knowledge, culture, information and discussion about material.

Some of the people who have a Public Television show also have had one on the other commercial networks. John McLaughlin not only has a show on NBC, but one on a PBS station, in addition to his CNBC show. He could easily get one of his sponsors of his Network shows to help sponsor him on PBS. These are the kinds of things needed to help Public TV stop withdrawing money from the Government, and put on a non-commercial, Public Channel. We need the money for other social programs for the government. It would not be easy, but it could be done.

Thank you,

Mike Katz.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 2, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: PBS, the Public Broadcasting System, has been around since I was a kid. Many shows such as The Great Space Coaster, Sesame Street, 3-2-1 Contact, and Mr. Rogers' Neighborhood are supposed to be educational. These shows, many being 10 years old or more, are outdated and don't deal with the level of education needed for today's youth. I believe these shows should be changed or the channel should stop broadcasting. It, now, is a waste of our government's money.

Sesame Street, featuring characters such as birds and cookie monsters is "old" in that kids today are excited by Mutant Ninja Turtles named after Italian Renaissance artists, not an ant-eater named Snofelofogus. The characters on the show get in trouble for dumb things, like taking cookies, not doing drugs. Kids at that age should be introduced to the bad aspects of drugs and their harm. This would have a greater impact on our youth.

Mr. Rogers' Neighborhood tries to show kids that people can mix with any other people. The show has been around for a long time and is again, outdated. Racial tensions are heightened now, and I believe it's time for a new show dealing with the same issues.

As I said earlier, kids are dazzled with space, and cartoons. The Great Space Coaster, a show which combined these two, was a good show which I watched as a kid. However, times have changed, and kids today are not dazzled by space but by Mutant Ninja Turtles. As most PBS shows, it is outdated.

Every couple of years, networks update their programs to deal with today's issues. PBS has not updated its programs and needs to. Kids today are not stimulated by spacemen, but by Mutant Ninja Turtles. The network/station needs to change its programs or get off the air. As for now, PBS is not impacting kids as it should, so government is wasting money.

Sincerely,

PETER LARSEN.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, May 29, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: After years of watching shows like Sesame Street and Mr. Roger's Neighborhood, it is hard to believe that the government could consider canceling funding to these programs. Such shows are the only educational television programs on TV which are free. I grew up watching Sesame Street, and it is an example of a program advocating literacy and promoting knowledge. Not only should the government not cancel funding for educational public TV, but it should provide more money so that these shows can help literacy rates improve. This way, more inner city children without cable TV can have many of the same advantages as those kids with more informative programs on cable television.

Sesame Street and Mr. Roger's Neighborhood are shows designed for kids' learning. Adults who can already read and write cannot understand the importance of these TV shows for kids. They help kids learn letters and numbers, show them about adult life, and present educational shows in a fun manner. Kids can learn more easily when they are having fun, rather than watching a boring documentary about the same information. Educational learning on Public Broadcasting Systems is there for less fortunate children and can be viewed as an essential part of education and the learning process.

If shows like Sesame Street were to be taken off the air, they probably would not be found again, especially on free television. It would than be harder for children to grasp concepts of language, like letters, and understand the adult world without TV programs that teach these ideas. What the United States government does not realize is that the above mentioned programs help kids learn outside of the classroom. Kids may think that they are just watching TV, America's favorite past-time, but they are really learning. Without characters like Big Bird, Grover, and Mr. Rogers, kids would then turn to other role models like Joe Camel (promoting cigarettes), and other not-so-friendly figures in the spotlight.

Conservatives in the government, like Senator Jesse Helms, cannot fathom the reasons for promoting PBS. But, they are more concerned with forcing conservative views upon America's children, rather than having them see more liberal programs on PBS. These views are ones five-year-old kids certainly do not think of. The government and the politicians, especially proven racists like Jesse Helms, should focus on the real issues—helping kids learn. This way, maybe our generation will not be a failed bunch of illiterate children.

What the politicians fail to recognize is that the reason our younger generation is illiterate is because of poor education in schools, not because of PBS. Television programs on the Public Broadcasting System are only helping kids by providing enjoyment for all ages. I feel more money ought to be put into Public Educational TV. I hope that President Bush and Congress will make the right choice and remove money from the defense budget and not place it into useless programs like Star Wars Missile Defense Systems, but put it into what can really help our country: our children.

Sincerely,

GRAHAM SPEIER.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 2, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: The whole matter of cutting funds for public access television is not a matter of saving money for our government, but it is a matter of censorship. Senator Helms feels that such programs are uneducational, and he is right. The public access programs that he is referring to are supposed to be fun and entertaining for children. Let's remember that the majority of these programs are intended for young children that may not have entered school yet.

At three, four, and five years of age, you cannot expect children to handle issues and facts of the modern adult world. Children need to be brought into the spectrum of reality slowly and carefully. If a child sees things a certain way at that young and innocent age, it could have a serious impact on his/her views of life. Public television gives our most cherished possessions, our children, the first understanding of many things that are not taught in the classroom. It not only introduces pre-academic skills, but it also teaches respect for yourself and others, racial harmony, and other qualities that make life easier for children.

Public television must stay. When I think back to my childhood days, I remember watching shows including Sesame Street, Mister Rogers' Neighborhood, and 3-2-1 Contact. And you know what? I did not turn out badly. I am on two varsity sports teams as a sophomore, and carry a "B" average. I am also running for my class presidency. Let's also remember what Hitler tried to do in teaching young children adult skills such as loading a gun and performing first aid on wounded people. He brainwashed an entire generation. Do you want to do that Congresswoman Roukema?

Sincerely yours,

ALEXANDER G. PIPER.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 2, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: I've been watching television since I was five, and throughout these years I have watched many shows, movies, and TV series, but only a few have been memorable. Sesame Street, Mr. Rogers' Neighborhood, 3-2-1- Contact, Reading Rainbow, and Degrassi High are some of these shows. These shows are all on Channel 13 (Public Television) and they have been the most educational. Now Senator Helms and his committee are trying to cancel this wonderful channel. Not only am I upset, but extremely disappointed and shocked. Channel 13 and its shows have taught me so much about a wide variety of subjects, more than my mother or early teachers have taught me. What are Senator Helms' reasons for cancelling Public Television? He thinks their shows are ineffective, that they are the reasons for teenagers today. Being more undisciplined, and unintelligent. I seriously think this committee should reconsider their reasons, and actually think about what they are about to do to the channel and to the future generation.

Each show is specially different. Not only with the characters, but also with their message to children. Sesame Street teaches reading, numbers, letters, shapes, and colors. This show also teaches interacial relationships, not only with humans but with different creatures and animals. It also shows children handicaps that exist within the world. There was a lady who was deaf, they often had people who were in wheelchairs, and puppets who couldn't talk. Mr. Rogers' taught children about problems expressing them through puppets. He also showed how things like crayons or pretzels were made. 3-2-1- Contact focused on science, and Reading Rainbow on reading. Degrassi High is probably the most controversial out of all the shows. It deals with teenagers and adolescent problems. It focused on teenage pregnancies, dating, AIDS, parents, sex, etc. These shows are in fact effective in my case. My mother works full time, and she is a single parent. These shows influenced my personality and contributed to half of what I know now. What is going to happen to all the children who are being raised by single parents who work all the time? They certainly won't learn anything from their parents except that they're never home. What about the children who cannot go to school because they live in the poorest part of town, or can't pay for schooling? Even though Channel 13 doesn't teach every child something, they teach a majority of children, and that's all that matters.

The cartoon that was displayed on the overhead was actually ridiculing this whole situation, but it did bring up a great point. Senator Helms is so against Channel 13 that he would rather cancel it than the rest of the garbage that's on both regular and cable TV. Programs and commecials of sex, violence, and socially accepted drugs are aired nonstop throughout the day. This is why teenagers today are undisciplined and unintelligent not because of Sesame Street and Mr. Rogers' Neighborhood.

It makes me mad to think that such a heartless man has the power to take away the happiness, enjoyment, and education of millions of children. The shows on Channel 13 affected my life and my way of thinking. They are a part of my childhood memories and life. If Senator Helms had grown up watching these shows, he would know how valuable they are to him and to children everywhere.

Sincerely,

RACHELLE ORION.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 1, 1992.

Congresswoman MARGE ROUKEMA,
1200 E. Ridgewood Avenue,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: "Mom, Sesame Street is on! I'm so excited." That is what millions of children say every morning across the world. Channel Thirteen is one of the greatest children's television networks. Kids from ages two months to ten years old watch this channel for laughs, learning, and curiosity. The Senate would be making a big mistake if it cancelled it.

I have a little sister who is four years old who sits in front of the television for hours watching shows ranging from, Sesame Street, to Reading Rainbow. She becomes mesmerized by the actors on the shows. If Channel Thirteen is taken off, then what will she watch? She will watch movies and shows that deal with sex, drugs, and violence, and no four-year-old should be subjected to that kind of material!

To tell you the truth it is not nursery school, or kindergarten that teaches kids to count. It is Channel Thirteen that does the job. When you are that young, one is infatuated by Big Bird and The Count. Children listen to the actors and pick up on it. Children pick up on things very easily. So, if they start watching violent shows at that young age, they do have a big chance of becoming violent. I can guarantee it. I let my sister watch *Pretty Woman* while I was babysitting her, and just from that she wanted to know how to kiss on the mouth. So, if the Senate thinks our generation is into teenage sex and violence, just watch and see what will happen if this children's network is cancelled!

Channel Thirteen is the favorite channel among millions of children. How can the Senate take something away from children that they love?

Sincerely,

LAUREN TOTA.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, May 29, 1992.

Congresswoman MARGE ROUKEMA,
1200 E. Ridgewood Avenue, Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: The government is considering ending funding for public television because its programs are "too liberal" or are failures. I think this is a mistake. Children need the shows on public television, and they can learn from them. Many children who are too young to go to school spend a lot of time watching television. The shows on public television can teach children a lot, and they should not be taken off the air.

The educational programs, such as Sesame Street, shown on public television, teach children the basic skills of counting, spelling, and reading. This gives them a good background for their first years of preschool. Without these programs, children will enter school without knowing much at all. Programs like The Frugual Gourmet teach children the basics of cooking and kitchen safety.

With the increasing amount of violence and sex on television, parents can feel comfortable when their children are watching public broadcasting. Public television never has programs that are inappropriate for young children. Without these shows, children would have to watch channels with violent shows.

The most important thing taught by public television is values. One show that greatly emphasizes the importance of values is Mr. Roger's Neighborhood. It teaches children that all people should be treated the same, regardless of their race. It shows that lying and dishonesty are wrong. Sometimes, these values can't be taught because both parents work and don't spend much time with their children. Public television is very important in teaching values.

The government should continue funding for public television. Public television is very important to young children. It teaches them basic skills like reading, writing and counting. It teaches them values and provides good, family programming. These programs should not be taken off due to lack of funding.

Sincerely,

DAVID WREN.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, May 29, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: Public television (channel 13) has provided children with educational programs and has also served as entertainment for adults. It's the only channel with a great variety of programs for children.

Channel 13 offers many educational programs. Some of them are Sesame Street, Mister Roger's Neighborhood, Reading Rainbow, etc. ... They teach kids the ABC's, how to count, how to read and many other basic things. Other channels don't have special programs just for kids. They show so much violence on other channels that it wouldn't be a good influence on the kids. Channel 13 takes into consideration the fact that children are part of the viewers.

Channel 13 is not only for kids but for adults, too. They provide many entertaining programs. It is useful to watch Channel 13 because it teaches people how to do things by themselves. Some things they teach you how to do are cook, paint, garden, repair a house. They also have Masterpiece Theatre, documentaries, nature programs, movies and the news. It's a great entertainment channel as well as an educational channel.

Channel 13 is appealing to people of all ages because of the variety of programs they have. Some people rely on these programs to help them with their daily life. These programs help people learn more about general things. Children can gain more depth and knowledge from watching Channel 13. It's a part of many people's lives.

As one can see, Channel 13 provides great entertainment and educational programs. It shouldn't be taken off the air, because many people depend on this channel to teach their kids and also because of the variety of programs it offers. In my opinion, it would be like taking a part of childhood away if you take Channel 13 off the air.

Sincerely,

SUNITA SREEDHARANNAIR.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 1, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: The time in which we are living is filled with uncertainty and great unrest. There are few positive aspects of life to look up to and model yourself after. Today's young children should have the privilege of choosing a respectable person or object to emulate.

The Public Broadcasting System (PBS) provides a series of educational shows for young children. For years they have been popular and helpful to many. To take these shows off the air would cut down on the number of children who receive valuable preschool education. The shows get the children involved and give them comedy to help the learning process. It's a good blend of learning and fun that children can focus on.

The characters, as well as the moods of the shows, attract the attention of youngsters. Different characters host different skits, and children do seem to have their favorites. Even grown people remember their favorite muppets and skits from these shows. There is no reason to cancel the shows that have had such an impact on our past and present generations.

A proposal has been made to take these positive, effective, and responsive shows off national television. Right now, we should focus on some other major issues and leave the harmless topic of educational television to the children. If it works for young people, let it be. Don't take away another project that can help people to learn and grow.

Sincerely,

MATTHEW JOHNSTON.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 2, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: For as long as I can remember TV has influenced my life. It all started when I was about three years old, with a big yellow bird teaching and playing with children on TV. ABC's and 123's were discussed and happily learned by the young viewers. I loved to watch these events, and looked forward to it every day. The show was called Sesame Street, and now I was just told that Senator Jesse Helms is in charge of a movement to cancel PBS (Public Broadcasting System), which is the home of Sesame Street.

I strongly disapprove of Senator Helms' opinion. The shows on PBS have been around forever and I can't imagine what TV would be like without it. I actually learned math from Sesame Street. There were also many other programs which taught young children some basic learning skills. These programs helping kids get a head start on learning before they actually enter school. The other programs for the younger viewers include: Reading Rainbow, Mr. Rogers' Neighborhood, 3-2-1 Contact!, and many others. These programs enriched the minds of children.

All that I have already mentioned is for younger viewers, but there are many programs that older viewers can appreciate as well. My personal favorite, (that I still watch to this day, and I am 16 years old) is Degrassi Junior High. Then there are nature shows and opera programs which many people love to watch.

I realize, Senator Helms, that you believe PBS programming is a bad influence on children today, but I truely don't understand your point. I watched Channel 13 all my life and I turned out fine (A's and B's for grades). By getting rid of this station, kids will then be watching programs that have no morals nor require any intelligence to be needed. Thus, children will become couch potatoes. With PBS stations operating, children will benefit, in the long run.

Please, Senator Helms, consider what I've said and keep Channel 13 alive. Children need it and it would be terrible to see it suddenly gone after so very many years (at least the 16 years I've been alive).

Sincerely,

NICOLE GRIFFITHS.

RIDGEWOOD HIGH SCHOOL,
Ridgewood, NJ, June 2, 1992.

Congresswoman MARGE ROUKEMA,
Ridgewood, NJ.

DEAR CONGRESSWOMAN ROUKEMA: Television is a major part of a child's life. Saturday morning cartoons, television movies, and educational programs influence the way a child acts and/or perceives certain situations. Movies are given a rating to prevent children from viewing strong violence, and other negative behaviors that children are taught against.

Public broadcasting stations are public channels that provide all age groups with educational programs. Wildlife shows, classic movies, and child-oriented education programs such as 'Sesame Street', and 'Mr. Rogers' are some examples of the programs aired by public broadcasting stations.

Public television is paid for with taxes, and these stations also depend on donations from viewers as income. Our taxes don't pay for these stations to air the kind of movies you find on cable, or the programs shown on other cable channels. Our taxes pay for quality learning programs.

These shows stress mixing with people from different backgrounds, as well as providing an opportunity for individuals of all ages to acquaint themselves with movies based on classic novels like "Anne of Green Gables," nature shows, and news programs.

As a little kid, I loved watching Big Bird and Mr. Rogers. They were entertaining, but also taught me about numbers and vocabulary.

I feel that the views that these public stations are a negative influence on adolescent behavior are wrong.

By eliminating the public broadcasting stations, children are being denied the opportunity to be educated, as well as entertained.

Sincerely,

TARYN WIRTZ.

DEFENSE AUTHORIZATION FOR FY 1993

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SYNAR. Mr. Speaker, on October 3, I voted against the Defense Authorization Conference Agreement of 1992. Very frankly, much greater defense savings could have been realized in this bill. Although, I applaud the methodology and rationale Chairman ASPIN brought to this year's defense drawdown, I am disappointed in the total funding level; the failure to hold the House position on burden sharing; and the extension of certain missionless, incapable, and costly weapons programs.

I am particularly upset with the deletion of the House provision to cut $3.5 billion for programs supporting United States troops in Europe, Japan, or Korea. The fall of Communism in Eastern Europe and the collapse of the Warsaw Pact allow the United States to spend much less on traditional military forces and hardware spent to defend this threat. Furthermore, we should not be subsidizing the defense of countries who can afford to pay for their own defense.

I am also disappointed the House and Senate conferees did not agree to terminate the Brilliant Pebbles research program on space-based missile interceptors. The conference agreement includes $300 million for this technologically incapable program. I question the wisdom of spending roughly $3 billion more in fiscal year 1993 for continued SDI research. The ballistic missile threat against the United States is at its lowest level in 30 years and there is no reason to waste any more money on a fantasy missile defense system.

As a longtime critic of the B–2 program, I am disappointed the House did not terminate the B–2 program at 15 planes this year. The Bush administration's decision to terminate this program at 20 planes is an admission that B–2 critics have been right all along. Authorizing five more B–2's for fiscal year 1993 is totally unnecessary. I am pleased, however, that the $4 billion authorized cannot be released unless the plane meets technological requirements and Congress specifically votes to approve the release of this money.

The diminished Soviet threat has given the United States a fantastic opportunity to address our economic problems here at home. Given our new security threats, I am confident the bottom-up, threat-based restructuring of our armed forces will more than adequately defend our country for a lot less money. We desperately need these resources for reinvestment in America and to address our $400 billion budget deficit. My vote against this conference agreement is a protest to the timid steps being taken at this time.

HEALTH CARE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GUNDERSON. Mr. Speaker, over 100 bills have been introduced in the 102d Congress pertaining to health care reform. However, after 2 years of discussion, this Congress will adjourn without passing a single health care reform initiative. It is unfortunate that the Democratic leadership has chosen not to bring an issue of this magnitude to the full House for debate and consideration. At the beginning of this Congress, especially at the beginning of this year, the Democratic leaders stated that health care was a priority. However, priority to the Democratic leadership means discussion of the issue in the corridors and in the media, instead of debating the issue in the House Chamber and before the American people.

The health care proposals that have been introduced in this Congress may be divided into four categories: First, universal coverage financed either by the Federal Government or by individual States or a combination of the two; second, establishment of a mandate where employers must provide health care coverage for their employees; third, utilization of tax credits by individuals or groups to purchase insurance premiums; and fourth, expansion of Medicare or Medicaid Programs. Each of these four proposals have both their advocates and detractors.

Earlier this year, I introduced the Farm and Rural Medical Equity Reform [FARMER] Act to especially respond to the accessibility and affordability problems affecting rural America's health care delivery system. This bill is a first response to both concerns and recommendations raised at health care seminars and town hall meetings I have conducted over the last year in western Wisconsin. Key components of the bill include:

A 100 percent deductibility for the self-employed: All self-employed individuals would be entitled to deduct 100 percent of the cost of their health insurance premiums.

Medical savings account: This provision will enable individuals to save, tax free, for medical expenses. Funds in this account may be used for medical expenses, such as long-term care. Funds withdrawn from the account are nontaxable if used for qualified medical services approved by the Internal Revenue Service.

Uniform claim/electronic card/electronic billing: To alleviate the paperwork burden, this provision will establish uniform health claim reimbursement forms for hospitals and physicians. These two forms would be the only forms used by all private health insurers and the Federal Government. In addition, electronic cards would be developed that would store a patient's insurance information and medical records.

Portability: Portability means that no individual will have to fear losing health insurance coverage for any length of time when switching policies or changing occupations. To address this issue, I have included two key portability provisions: First, limits on pre-existing condition exclusions; and second, health insurance carriers would only be allowed to set the maximum percent increase in renewal premiums at 5 percent plus the percent change in the base premium rate. The base premium rate is the lowest premium the insurer may charge for a group with similar demographic characteristics.

Emergency medical services [EMS]: The average U.S. citizen will need emergency care at least twice in a lifetime and that care is not always available, especially in rural communities. Under my EMS component, patients and health professionals in rural communities will be able to link up with medical specialists in larger health facilities for consultations regarding life saving treatment through telecommunications.

Extension of Medicare dependent hospitals: There are over 600 hospitals classified as Medicare dependent. Wisconsin has 22, including 7 in western Wisconsin. Hospitals eligible for this adjustment are rural, have 100 beds or fewer, have 60-percent Medicare patient days or discharges, and are not classified as sole community hospitals. My legislation will enable hospitals to continue their Medicare dependents status for one additional year.

Rural Health Outreach Grants Program: This provision will formally establish a grants program that will deliver health care services to underserved rural populations or will enhance access and utilization of existing available services. This initiative is intended to create additional projects such as the effort currently underway in Balsam Lake, WI. Balsam Lake's KIDSCARE Program provides medical and dental services to children in rural communities who do not have health insurance and are not covered by Medicaid.

In addition to FARMER, I am also an original cosponsor of the Action Now Health Reform Act. One of the key sections of this bill allows small employers, with up to 100 employees, including the self-employed, to form groups for purchasing health insurance. The proposal also mandates that States establish either a reinsurance mechanism or some other system to assure that health risks will be shared among health benefit plans so insurance may be kept affordable. Another key component calls for the implementation of medical malpractice liability reform. The malpractice reform section of the bill would place a cap on noneconomic damages, a cap on attorneys' fees, and requires all medical liability disputes to be considered by a State-sanctioned dispute resolution process prior to entering the State court system.

Several of the elements I have outlined have bipartisan support and could have passed the Congress this year, if given the chance by the Democratic leadership. These include: 100-percent deductibility, easing the limitations on pre-existing condition, small group and malpractice reform. However, we will adjourn without debating and/or enacting any of these proposals.

The next Congress must not allow the health care discussion to be confined to the hallways and the TV talk shows. The next Congress must enact health care reform initiatives, focusing on accessibility and affordability. The elements outlined in my FARMER bill should be passed early in the next session and serve as the foundation for enacting additional legislation that will improve our health care delivery system.

I would like to take this opportunity to outline some of the health initiatives that will comprise my agenda in the 103d Congress. First and foremost, I will reintroduce the FARMER bill and also the small group and malpractice provisions contained in the Action Now proposal which were mentioned earlier. In addition, I will introduce legislation pertaining to: (a) establishment of a voucher/certificate program that will enable low-income families to purchase a basic health care package, (b) the assurance that all Americans will have access to life-saving health care, (d) ensuring that preventive health care services will be covered through private insurance and by Medicare/Medicaid, (e) a comprehensive AIDS proposal that will focus on the role of the Federal Government in combating this disease, and (f) development of rural health care delivery networks that will create greater accessibility to health care services for rural Americans.

The 1991 summer edition of the Brookings Review wrote an article regarding congressional action on health care reform. The title of the article was "Looking Backward: 2001–1991, The History of the Health Care Financing and Reform Act of 1998." That article should serve as a challenge that we enact a comprehensive health care reform initiative next year so that next summer, the Brookings Review can write an article on the Health Care Financing and Reform Act of 1993.

FAA'S BUILDING OUR AMERICAN COMMUNITIES PROGRAM

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. UNSOELD. Mr. Speaker, I rise before you in tribute to three students from my district, Chris Blomber of McClery, Tom Burnside of Cathlamet, and Chris McIntyre of Yelm, WA. I am proud to say that these students are three of the top ten winners in the National FFA's Building Our American Communities [BOAC] Program. They have been recognized for their outstanding individual contributions in building and improving their local communities.

BOAC is a community development program involving more than 4,600 local FFA chapters nationwide. In BOAC, FFA members, and advisors work in cooperation with their local civic leaders to identify their special community needs. The cooperative effort allows FFA members to put into practical application those competencies and skills taught in the high school agriculture classroom. At the same time, they develop leadership skills and work directly with local government and civic leaders in organization and completing local community development projects. Every year, thousands of hours of labor are donated by FFA members to communities through the BOAC program—saving communities more than $9.5 million, and raising additional dollars to fund the projects.

I am so proud of the work that these students have done and proud that they hail from my district in southwest Washington. They have made a real difference in the lives of fellow community members and in their own lives, and I hope that they will continue their efforts to improve the quality of life in their communities.

GEORGE SIMON—GREAT AMERICAN

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FEIGHAN. Mr. Speaker, I rise to pay tribute to a great Clevelander and a great American, George Simon of Brecksville, OH. George is a close friend of mine but that is not why I take this occasion to praise him. The reason I pay tribute to George today is because George personifies both the American dream and the American entrepreneurial spirit.

The son of Lebanese immigrants, George had to work hard for everything he has achieved in this life. He attended college while working full-time. Later, still working virtually around the clock, George obtained a master's degree from Case Western Reserve University in business administration. And now George is studying at that same institution for his law degree. Judging from the conversations I've had with George since school commenced last month, George is going to be a credit to the legal profession.

But, then, George succeeds at everything he tries. In real estate and in the restaurant business George set new standards others will have a hard time matching.

But George's life doesn't revolve exclusively around his business. First and foremost are his wife, Denise, and his two beautiful children. Then there is his work in the community. George is active in support of Cleveland area charities, and particularly in support of Hill House which provides residential services to the physically and developmentally disabled.

George is also involved in political affairs. Although George owns the largest shooting range and gun store in northeast Ohio, George has been a stalwart backer of my efforts to enact the Brady bill and other sensible gun control measures. That shouldn't be a surprise because George is known for putting the interests of the community above his own pecuniary interests.

In short, George is one of those people who make American communities work. In his inaugural address in 1989, President Bush referred to certain special Americans as points of light. Some people said at the time that they didn't understand what the President was talking about. The answer is simple. He was talking about men and women like George Simon. I salute George on the occasion of his entry into law school and look forward to his future contributions to the Cleveland area and to the country he loves so much.

TRIBUTE TO GEORGE KOZMETSKY, AUSTIN, TX

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PICKLE. Mr. Speaker, Mr. Speaker, I rise today to pay tribute to an outstanding American, Dr. George Kozmetsky, on the occasion of his 75th birthday. George is one of the leading experts in this country in the area of high technology and venture capital. His expertise spans the service, manufacturing- and technology-based industries and he regularly advises State and Federal legislators on these issues.

Dr. Kozmetsky epitomizes the entrepreneural spirit that is America. He cofounded and serves as a director of Teledyne, Inc. as well as serving on the boards of several other companies. In addition, he serves as director of the IC2 Institute of the University of Texas at Austin, a major international research center for the study of innovation, creativity, and capital. Dr. Kozmetsky has spent his life sharing his expertise with other entrepreneurs and small companies so that they could benefit from his vast expertise. He also is the chairman of the board of trustees for the National Center for Manufacturing Sciences, the Nation's largest manufacturing technology research and development consortium, again showing his foresight, vision, and concern for business.

Dr. Kozmetsky has received a number of awards during his career for work in management education and technology transfer, including the Dow Jones Award and the Thomas Jefferson Award. Dr. Kozmetsky has also been inducted into the Texas Business Hall of Fame for his business contributions to the State of Texas.

Even now at 75 years of age he manages to teach at the University of Texas, direct the operations of IC2, and write extensively for journals, magazines, and newspapers. I am proud to stand today and recognize such an outstanding American.

UNION CORPORATE CAMPAIGNS

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BALLENGER. Mr. Speaker, I would like to make a few remarks about a successful business which is engaged in an unfair and dirty fight.

The Food Lion chain of supermarkets, which stretches across the 13, and soon 14, southeastern States, including my own great State of North Carolina, has 57,000 employees and more than 8 million weekly customers. In addition, Food Lion will create 5,000 to 8,000 jobs in the next year alone.

Unfortunately, this company is under attack. Mr. Speaker, a vicious campaign launched by the labor unions is aimed at Food Lion.

It all started 8 years ago when a labor union called the United Food and Commercial Workers Union [UFCW] began an effort to convince Food Lion employees to vote for membership in the UFCW. To freely choose to join a labor union is the sacred right of all working Americans, but somewhere along the way, the UFCW union bosses confused this with an obligation to choose unionization. Well, the union bosses were shocked when Food Lion employees disagreed.

The UFCW's union bosses decided that since Food Lion employees obviously did not know what was best for themselves, the union would continue its supposed efforts to help them. The UFCW bosses decided that if they could not attract Food Lion employees to join the UFCW voluntarily, they would achieve this end by intimidating Food Lion's management, against the wishes of the employees.

Now, Mr. Speaker, I grew up reading about the great labor battles earlier in this century, when management bosses ran roughshod over helpless workers. Such inequity in bargaining positions rightly gave birth to unions in the first place. Unions were born as the noble saviors and champions of the working men and women, the "little people." It's unfortunate that unions of today seek to impose their will on workers by intimidating management. Something is obviously wrong when this happens. And this is exactly what is happening today.

In the terminology of the unions, it is called a "corporate campaign." To the rest of us it is pure and simple intimidation. Let me describe how it works.

The goal is simple; make it as costly as possible for management to resist unionization. This is accomplished in a variety of ways. This is how the UFCW has done it in its campaign against Food Lion.

Food Lion's customers have been subjected to an endless stream of propaganda, all of which claim various negative things about Food Lion. For example, the UFCW has repeatedly claimed that the ownership of 50.3 percent of Food Lion's voting stock by a foreign company means that shopping at Food Lion costs American jobs. Nothing could be further from the truth. Not only are there also 30,000 other American stockholders in Food Lion, but the Belgian stockholders in fact play no part in the day-to-day running of the company.

The management team at Food Lion is completely American. But, more importantly, Food Lion's management knows what it is doing. Food Lion employs over 57,000 American workers, with 5,000 to 8,000 being added each year through the tremendous growth of the company. What could be better for America and the American worker than this? Yet you don't get this picture from the UFCW.

There are some in our society today who are threatened by efficiency, and who seek the false security of overregulation, overstaffing, and unproductivity. To them, a system based on assigning work according to the time it takes an average worker to accomplish an average amount of work is overburdensome and threatening. Such people apparently are the UFCW union bosses.

Food Lion's effective scheduling guidelines allow each individual store to plan for and monitor its scheduling of employees during a work week based on its projected sales for that week. This system allows Food Lion to avoid the inefficiencies which plague many competitors and force them to pass on waste to consumers in the form of higher prices. And the objective facts establish that the effective scheduling system is not unfair to Food Lion employees.

Food Lion has an employee turnover rate well below that of many of the unionized supermarket chains which the UFCW represents. It could be argued that this means Food Lion's workers feel less exploited than UFCW members. In fact, this does seem to be the case. How else could one explain the number of job applicants formerly employed by UFCW-unionized chains, who decide to come to work at Food Lion because of the superior benefits and conditions at Food Lion?

The UFCW, and others make the claim that Food Lion workers do not leave because, in these recessionary times, even an exploited person would hesitate to leave a steady job. Yet this phony argument ignores the fact that Food Lion has been in business over 35 years, and has experienced its greatest growth during the nonrecessionary boom times of the 1980's. The simple fact, Mr. Speaker, is that Food Lion jobs are good jobs, and have always been good jobs.

The effort to destroy Food Lion as an efficient and competitive business concern is proclaimed openly by the UFCW executive vice president, has stated that the purpose of the UFCW corporate campaign against Food Lion is "to put it [Food Lion] out of business," unless it accepts the UFCW. This is echoed by another UFCW official, Joe Crump, secretary-treasurer of UFCW Local No. 951, who recommended: "[C]ausing the nonunion employer to spend unbudgeted money to fight you * * * curtailing the unorganized employer's expansion, causing reductions in existing operations, or even putting them out of business."

Unfortunately, such boldly anticompetitive and destructive sentiments all too easily find allies among sympathetic Members of Congress, and the media. Big labor wields a big pocketbook, and come election time, big money talks.

In summary, let me say that we all lose when any institution in our modern society forgets its purpose and charter and seeks to only advance itself at the expense of its rivals. This country has a long and proud history of promoting competition, for the good of all. The exploitation of workers is wrong, whether it was done by the auto companies of the 1940's, or is attempted by the UFCW today. The efforts of the employees and management of Food Lion in resisting the unwanted takeover of the UFCW deserve our praise and respect. They also should serve as a warning and reminder that we must carefully guard our freedoms today as we did in the past, or we could easily lose them.

"WOMEN'S VOICES": A LANDMARK EFFORT TO HEAR WHAT WOMEN SAY

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. SLAUGHTER. Mr. Speaker, I am proud to rise today and inform Congress of an important research project entitled "Women's Voices," which was released last week by the Ms. Foundation for Women and the Center for Policy Alternatives. I want to share it with you because it is the first time a multicultural team of women researchers examined women's economic priorities across race and class.

Today, women face unique challenges including just being heard. For example, did you know that women of all ages and races consider the economy the critical issue today? Health care reform, equal pay, and flextime are additional concerns of theirs. Over 86 percent of the women sampled want guaranteed health insurance for everyone—over 86 percent. Women are worried about these issues because their major concerns are those that drain them of their most valuable resources—time and money.

When given the opportunity to speak, women clearly describe their current economic condition. Over 51 percent of those sampled believe they have fallen behind economically, compared to last year. In addition, 81 percent of women assert that pay equity is a major problem, and 78 percent want to pass equal pay laws.

Further, women believe strongly in women's leadership. Almost 75 percent of them believe that if women constituted 50 percent of America's leaders, this country would be in better shape. The 103d Congress, full of new leaders, may be the place where women's voices can begin to be heard. Congress must pay close attention to all women, especially those who are kept silent. Women's Voices is a crucial public policy document because it begins a national dialog on women's concerns. I commend this report to my colleagues and hope that its recommendations are read, discussed, and addressed. The following is the executive summary of Women's Voices.

ABOUT THE WOMEN'S VOICES PROJECT

Women's Voices is a joint project of the Ms. Foundation for Woman and the Center for Policy Alternatives [CPA]. It began in 1991 from two different perspectives. The Ms. Foundation for Women, established in 1972, supports projects throughout the Nation created to empower women and girls. The Center for Policy Alternatives, established in 1975, works throughout the United States to encourage progressive change at the State level in domestic policies affecting the lives of American women throughout the 50 States.

EXECUTIVE SUMMARY

The Women's Voices project was undertaken with the goal of conducting a unique research effort to explore the diversity of women's lives in the United States. By employing a multicultural polling team, and conducting focus groups among Native American, Latina, African-American, and Asian-American women, this reseach effort was able to hear women's voices in a unique way. Through this project we have been able to discover a multitude of similaries and differences among American women.

Women's lives are marked by change, stress, and satisfaction. They have one foot firmly planted in their home and family, and the other firmly planted in the workplace. Situated thus, women find that juggling work with family, and earning enough money for their family, dominate their day-to-day lives. The two most precious resources to American women are time and money, and they find unequal pay and increasing responsibilities at home and work eating up their reserves of these resources. They are looking for political choices that will help them juggle their priorities and make their lives more manageable and less stressful. At a time when politicians are talking about family values—voters are looking for people who value families enough to give them some real help in their economic lives.

WOMEN AND ECONOMIC SECURITY

Women have a clear issue agenda for themselves and their families, and economic concerns are at the center of this agenda. To a surprising degree, the voices of all women, across race and class, harmonize on this broad agenda. The voices of different women strike slightly different notes, but generally they are in agreement on a broad set of policies to improve their lives. Women, more than anything, want to hear about policies that will improve their economic well-being, and are ready to organize and vote for these goals.

Women's top tier of policies to meet their basic needs are health care reform—an issue of time and money for these caregivers, equal pay—an issue as much about fairness and discrimination as it is about money, and flextime. Women overwhelming support health care reform—86 percent want guaranteed health insurance for everyone, 49 percent say it is a top priority, equal pay—78 percent want equal pay, 30 percent say it is a top priority—and flextime—58 percent of women and 67 percent of women who work full time, say they would prefer flextime to a traditional schedule. Women look around them and they see unequal pay and discrimination in promotions, which results in even more economic disparity. They are ready for public action.

While women's voices are in general agreement, there are still some differences among women, as we would expect. Women who are more economically secure—with higher incomes, more education, and self-identified as being middle and upper class—tend to be more concerned with combining work and family, and having enough time for their families. These women can more easily afford to look beyond their paycheck to consider the quality of their lives. Women who are less economically secure—with lower incomes, less education, and in the working class—are more worried with the immediate concern of making ends meet. On this issue, as on many issues facing women, class—more than race—is the key denominator of opinion. When class is taken into account, many racial differences are muted.

Women support policies that confront their most distressing economic worries. When women talk about their personal worries, their first concerns are that someone in their family may get a serious illness not covered by their insurance, 39 percent, how to make ends meet, 36 percent, or that someone in their family will lose their job, 32 percent.

UNEQUAL PAY

To most women, unequal pay is as much about making ends meet as it is about fairness and discrimination. "I would like for there to be true equality. Equal rights in the sense that I want equal pay for equal work, and that still does not happen," an African-American woman explained. "And if I'm as qualified as you are, I certainly want the amount of money and the recognition. I think we're entitled to that as women." Discrimination in pay is very real to women—nearly a majority cite unequal pay as a problem that they or someone they know has experienced, 44 percent, and fully 81 percent believe it is a problem, 38 percent say major problem. Over three quarters, 78 percent, want to pass equal pay laws, and 74 percent want to pass laws to end discrimination in employment and promotion.

HEALTH CARE

Health care is unique in the realm of economic concerns, because it combines worries about how to afford health care with women's very personal concerns over life and death—for themselves and their families. "I'm afraid to get sick," a professional white women complained. "I'm afraid to go to the doctor if I am sick because the insurance policies change every year as far as what they're going to cover and how much they're going to pay and what it's going to cost us."

After the economy and jobs, health care is women's uppermost concern, 14 percent worry most about health care. When the choice of the economy is removed, even more women, 22 percent, say they worry about health care above any other issue, and older women are even more likely to be concerned about health care. Thirty-one percent of women over 64 years old, for example, choose health care as their No. 1 worry.

FLEXTIME

Most women believe that their primary personal struggle is with their own rigid work schedule, 26 percent of all women. However, they see an appealing solution to their problem—flextime. Fully 58 percent of all women, and 67 percent of women who currently work full time, would prefer a job with flexible hours to a job that requires them to work a regular work week, 13 percent, to not being employed, 11 percent, or even to working part time or working at home, 6 percent each. Counter to the stereotype of the professional supermom trying to have it all, the women who are the most stretched for time are blue collar women, 39 percent of blue collar women, compared to 32 percent of professional women, say they spend too little time with their family.

THE SECOND TIER OF CONCERNS

Overall, women are less worried on personal level about many of the policies that tend to be the focal points of the women's movement, such as child care and abortion right, because these issues are not a part of the daily lives of most women. When these issues become an every day concern, they are of primary importance to women. For example, women with children under 5 cite child care as their own biggest problem in combining work and family, 39 percent. Still, to have broad appeal, issues of time and money are the most appealing.

If the economy were not such a critical issue right now, more women would undoubtedly cite their personal safety as a top concern. Twenty-five percent of women choose safety as their biggest worry when it is defined broadly to include crime, drugs, and rape. The level of concern about safety has been on the rise in surveys in recent months. For women of color it is an especially critical concern. In fact, when asked to name their primary personal concern at work, more Latina, 21 percent, choose getting to work more safely than any other listed concern.

WOMEN'S LIVES: VALUING FAMILIES

A revolution has occurred in the roles of women, and women's work outside of the home has a major impact today on how they feel about their lives and the changes they look for in their own lives and their daughters' lives. Women in America, of all races, ages, and occupational status, are overwhelmingly satisfied with their personal and occupational lives. Overall, 84 percent of women say they are satisfied with their family life, and 84 percent of employed women also say they are satisfied with their jobs. Still, the more economic security women enjoy, the more intensely happy they tend to be in their private lives. Family and work are integrated in women's lives. Women's feelings about their economic security influence their attitudes about their family lives.

Women are not strangers to tough times: A majority of women, 51 percent, say they have fallen behind economically over the last year, while 34 percent believe they have stayed even, and 13 percent believe their family income has increased. Among those who say they have fallen behind over the past year, only 33 percent are very satisfied with their family lives; among those who have stayed even, 48 percent are very satisfied. There is a correlation between economic security and family satisfaction: Women who are less secure financially tend to be less content with their family lives.

Women of all backgrounds are tired and stressed, but they don't want to go back. Even though they feel stretched, they are still satisfied with their families and their work. "This is what I wanted to do," stated an African-American woman. "And I wanted to have it all, and I got it all. I wanted a husband, the kids and a career. And I love it." Much of this stress women feel stems from the fact that they believe they are responsible for holding everything together when it comes to their families. As one white collar woman explained: "I think I'm the cornerstone. I'm the one that keeps everything together. The schedules, the driving, pick up whatever has to be picked up." Yet they also feel that their family is a primary source of pleasure, reward, and support. "They're always backing me no matter what happens," a Latina remarked in a focus-group discussion.

Contrary to the impression created by recent publicity about college educated women's disenchantment with the work world, and their allegedly increasing tendency to stay home to raise their children, college educated women are still more likely than other groups of women to be employed, 69 percent. College educated women who are younger are even more likely to work outside the home, 76 percent. Overall, 54 percent of women with children under 5 years old work, and women who have children between 11 and 18 years old are the most likely to be employed, 73 percent. And while many people believe that women are dissatisfied because they have to juggle family and work, on the whole women are more likely to be satisfied with their work, 44 percent are very satisfied, than men, 38 percent are very satisfied.

WOMEN'S LEADERSHIP FOR CHANGE

Women view the women's movement favorably, 62 degrees on a thermometer scale, and they firmly believe that their lives have improved in the last 25 years, 77 percent say that women's lives are better. They also believe that if half the leaders in this country were women, we'd be better off, 74 percent. They cite increased opportunities for women as the key improvement in women's lives, particularly opportunities in the workplace, and they also cite the importance of a heightened awareness of inequality. "I think it allows women to have a fuller life instead of just having the mother hat on," one woman commented in a focus-group discussion. "Now a woman can wear the mother hat, she can wear the business hat, the sports hat, she can wear different hats if she chooses."

There is a lot of power around the language of equality and rights. Women like groups that are working for women, whether the groups work for women's equality, 71 degrees on a thermometer scale, or women's rights, 66 degrees. Women of color are especially warm to the concept of women's rights: African-American, 79 degrees toward women's rights, Lantina, 71 degrees, Asian-American, 68 degrees, and white, by comparison, is 64 degrees.

Women want change and choices, for themselves and their daughters. And they want their daughters' choices to be easier than the choices they have had to make. Still, many women feel distant from the term feminist, which to them does not seem to share their own priority of family nor the daily struggles of many women who are constantly pulled and stretched for time and money. They are seen by many as being more out for themselves than out for ordinary women and their families. In discussing her view of feminism, a blue-collar woman complained that professional women don't care about other women: "I think women don't help the women under them as much as they should."

Women's organizations will be most successful in organizing locally where women live their lives, and where women are most likely to want to be active. The women's movement needs to look to build coalitions with organizations where 65 percent of women are already active: their religious institutions, parent groups, and community organizations. These are the organizations that form the basis of women's concerns.

Talking about broad economic issues is clearly the way to communicate with women, and tapping into family life and family concerns is probably the most effective way to encourage them to act. Women tend to selflessly focus on others, and can be most successfully mobilized around their families, rather than just themselves.

OREGONIAN WORKS TO CEMENT ARMENIAN FRIENDSHIP WITH AMERICA

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. AuCOIN. Mr. Speaker, I want to commend Dr. Gregory Goekjian for his efforts to promote friendship between Armenia and the United States. Dr. Goekjian, a professor of English at Oregon's Portland State University, is spending the next few months as a visiting lecturer at Yerevan State University.

I want to share Dr. Goekjian's September 25 letter to me, with its description of the very difficult conditions in Armenia. People stand in line all night for bread. Winter is coming and there will be no heat. Yet the courageous citizens of Armenia are determined to prevail against the odds.

I hope we will all heed Dr. Goekjian's plea to support the Armenian people at this critical hour. I'm convinced that American support and aid today will be repaid with lasting friendship from free and democratic Armenia.

I am writing in response to your letter of August 31 asking me to comment on the situation in Armenia, where I am teaching at the State University of Yerevan. I appreciate the opportunity to do so. Since international mail both to and from Armenia is unreliable, I will have this letter hand-carried to Portland for typing and forwarding.

Today, Armenia is in desperate condition. Food, shelter, and medicines of all kinds are in short supply, and what little is available becomes increasingly out of reach of most people. Inflation is palpable, and although prices rise at an observable rate, income does not. The dollar has inflated 5–10% in the few weeks I've been here, and goods and services follow suit. Because there is a severe shortage of grain and fuel, bread lines are long and constant. Many people wait all night in the street to buy a few small loaves. There is little meat, and although fruits and vegetables are abundant in the autumn, the cost of fuel for transport makes their price prohibitive. Nevertheless, people are hoarding for winter, a necessary step, given the hardship of the past winter and the uncertainties of the one to come. There has been and will be no heat; water and electric service are sporadic, and 20 liters of gasoline (mostly diesel, really) costs 2,000 rubles, the average monthly salary of professionals here.

Because Armenia is land locked, she depends on her neighbors Azerbaijan, Turkey, Georgia, and Iran for transit of materiel and supplies. In the Soviet years, the majority came through Azerbaijan, including natural gas and fuel from Siberia. But the Azerbaijani blockade has cut that source completely, and the civil war in Georgia makes supply by that difficult route sporadic at best. For the second winter, people are facing devastating cold and hunger, and although they came through last winter in reasonably good spirits, conditions have not improved this summer. Rather, they have deteriorated, and I'm afraid they'll suffer much more this winter, both materially and psychologically.

The Azerbaijani blockade and the war in Karabagh are surely the primary causes of Armenia's problems. If they were to end, I think Armenia would have a good chance to develop as a self-sufficient nation. But Armenia cannot end the war. The memory of the Turkish genocide of 1915–1923 is too real, and Armenians are well aware of the fate of the overwhelmingly ethnic Armenian population of Karabagh should it fall to the Azerbaijani and Turkish forces now battling the Karabagh militia. The recent pogrom and mass killings in Baku and elsewhere in Azerbaijan make that fate only too clear. Armenians, despite the sacrifice their support of Karabagh entails, cannot abandon their friends and relatives. Nor can they easily give up a territory that contains so much of their history—their churches, their homes, their memories—which, they believe with good cause, would be totally devastated.

This is a proud and resilient nation, with a high level of education and culture. But it is rapidly moving from second- to third-world conditions as the structures of society weaken. I have met very few people who regret the break-up of the Soviet Union, even though living conditions have deteriorated considerably since Soviet rule. "Better thin and free than fat and in prison," as one friend put it. But I don't believe that conditions can deteriorate much more before the society begins to disintegrate.

Although Armenians are extremely pro-American, they fear that the American connection may be broken again, as it was in 1923, on account of Turkish pressure and the value of oil in Azerbaijan. I hope that you and your colleagues will not allow this to happen. American aid, both material and diplomatic, are desperately needed here. Please do what you can to assure that it continues and increases.

Sincerely,

GREGORY F. GOEKJIAN.

SAFE DRINKING WATER ACT ALTERNATIVE COMPLIANCE PROCEDURE FOR SMALL COMMUNITIES

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SYNAR. Mr. Speaker, State and local governments are facing enormous difficulties in complying with the new and more stringent requirements of the 1986 amendments to the Safe Drinking Water Act. This problem is especially acute in small communities. Two years ago, my Subcommittee on Environment, Energy and Natural Resources held hearings on the ability of State and local governments to comply with the requirements of the Safe Drinking Water Act. We found that almost every facet of the drinking water program is in serious trouble, and that the impact on America's drinking water supply could be serious. The hearing also showed that small systems, in particular, have a great deal of difficulty in complying with the act's requirements because they simply do not have the resources to upgrade their systems. Officials of the U.S. General Accounting Office [GAO] testified that small systems had trouble complying with the basic act, and cautioned that problems facing small systems would escalate as the new and more stringent requirements of the 1986 Safe Drinking Water Act amendments are fully implemented over the next few years.

The crisis confronting our small community water systems is starkly illustrated in a new report issued by GAO this past July, which noted that annual compliance costs to all water systems are expected to reach $3 billion for the next two decades, a figure which does not include the cost of needed major capital investments in our water systems. GAO described the sorry state of the drinking water program and its funding shortages in this manner: "[O]ne of EPA's most important programs is approaching a state of disrepair."

Mr. Speaker, I recently sponsored three public forums in northeast Oklahoma to explore in more detail the problems facing my state's local rural water systems and ways that Congress, EPA, the States, and citizens can help water systems address these difficulties. In my discussions with local officials, small and large water systems alike readily recognized the necessity of having a safe public water supply. Few government programs are more fundamental to protection of public health and safety. These officials also realize that funding is scarce and that priorities must be set. A key priority for older systems is to utilize these scarce resources for capital improvements and system upgrades. Many concerns were raised that the additional monitoring and testing costs imposed upon water systems by the 1986 act may be unduly burdensome, especially in instances where particular contaminants are unlikely to be found.

Today I am introducing a piece of legislation which I hope will be a first step in helping small underfunded systems to cope with the extensive testing requirements of the 1986 SDWA amendments without sacrificing drinking water quality. Briefly, my legislation would establish an alternative compliance procedure that small systems could utilize to comply with the SDWA.

This bill would amend the SDWA to provide that States delegated authority to administer the SDWA shall establish a program authorizing waivers of monitoring requirements where sufficient information is available to demonstrate that there has been no previous use of the contaminant in the State or a delineated area within the State. For contaminants where a waiver is not available, the legislation allows for small systems to tailor their monitoring and testing programs to look for the contaminants they are most likely to find.

The alternative compliance procedure requires small systems to test for contaminants identified in the SDWA to get baseline data on what contaminants are present in the service area. The systems would also conduct a vulnerability survey of the service area for potential sources of drinking water contamination, both point and nonpoint sources. Systems would then craft a proposed sampling and testing program designed to look for the contaminants which are most likely to occur based on the baseline testing and the vulnerability survey. The State or EPA would approve the sampling and testing plan. The legislation requires periodic comprehensive testing to check for contaminants the systems do not expect to find and to establish new baseline data. In addition, in circumstances where, for example, a new contaminant is discovered in the water supply or a new business which might be a source of drinking water contaminants enters the service area, the vulnerability survey would be updated to reflect the changed circumstances. Finally, the bill provides for grants to assist States and small communities in carrying out these provisions.

Although existing EPA regulations allow States to offer small systems a waiver of the SDWA monitoring requirements, States have been reluctant to utilize such waivers. The changes proposed in this bill reflect a tailored and, I believe, more sensible approach to addressing safe drinking water issues than the SDWA's current provisions which require small systems, which are often financially strapped, to spend precious resources monitoring and testing for hundreds of contaminants, many of which are not likely to be found in the water.

Mr. Speaker, of course, this legislation does not solve all of the problems facing our Nation's small drinking water systems; and its provisions are not written in stone. I do hope, however, that this piece of legislation can be a starting point for discussions among interested parties between now and January when it is re-introduced. I look forward to working with other Members and interested groups to assure its passage and to provide these small systems with the flexibility they desperately need.

OPERATION OPPORTUNITY CREATING DREAMS AND MAKING THEM A REALITY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. LOWEY of New York. Mr. Speaker, I am truly pleased to rise today to commemorate the 25th year of the Operation Opportunity Program sponsored by Kraft General Foods. This program recognizes the importance of public-private partnerships in helping young Americans make the most of their educational opportunities.

Operation Opportunity, founded as a partnership between General Foods USA and the high schools of Westchester County, NY, is a thriving program that provides for disadvantaged local young people the opportunity to obtain invaluable experience in a business environment. Unique in terms of the benefits it provides, the participants in Operation Opportunity gain not only salaried job experience, but also expert career guidance for the future and matching funds set aside to help finance their higher education.

All too often in America today, young people face problems of such a magnitude that a college education can seem like an impossibility. As college costs have skyrocketed, that feeling that a college education is outside the realm of possibility has become more and more prevalent. Early intervention is essential to turn that around and to give these young people a sense of hope and possibility. In achieving that end, programs such as Operation Opportunity play a critical role. Begun a quarter-century ago by former General Foods President Ervin Shames, and then for 18 years under the able direction of retired General Foods President Lee Archer, Operation Opportunity has accumulated a distinguished and lengthy history of service to underprivileged youth of Westchester County. In doing so, this program has created the kind of hope among these student to inspire them to pursue college careers and dreams for a brighter future.

In the Higher Education Reauthorization which this Congress passed earlier this year, we recognized the critical need for early intervention to encourage disadvantaged young people to stay in school. In light of that, I am sure that my colleagues will join me in expressing deep appreciation for the work of Kraft General Foods as it embarks on the 25 years of Operation Opportunity. This program is an effective component of a multifaceted effort to help all young Americans have the confidence to dream dreams and the opportunity to make them a reality.

TRIBUTE TO JOHN W. DAVIS

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DARDEN. Mr. Speaker, it is with great sadness that I rise to inform this body today of the death of the Honorable John W. Davis.

Mr. Davis passed away October 3. He was 76 years old.

For 14 years, Mr. Davis represented the Seventh District of Georgia, which I currently have the honor of serving. He has made lasting contributions to the State of Georgia, as well as the Nation, in dedicating his life to the pursuit of legal justice. Georgians will remember him for his many accomplishments as well as for his devoted and honorable character.

Mr. Davis was born in Rome, GA, part of the Seventh District that he would later serve in the U.S. House of Representatives. He received a bachelor of arts degree from the University of Georgia in 1937 and a law degree in 1939.

He was a practicing lawyer in Rome and later Summerville, GA, until 1949, when he became solicitor general for the Rome Judicial Circuit. Mr. Davis served in the post for 4 years, when he was appointed to the bench of the Lookout Mountain Judicial Circuit. He was elected to Congress in 1960. Mr. Davis would serve seven terms before being defeated in the 1974 Democratic primary by Larry McDonald. At the time of his retirement in 1990, he was serving as a public defender in Glynn County, GA.

Mr. Davis' first wife, Vivian, preceded him in death in 1969. They had three children: Kathy Mewbourne of Columbus, GA; Mary Adams of Brunswick, GA; and John Davis, Jr., of Rossville, GA. Mr. Davis' wife Bridget Chrisman Davis survives him on St. Simon's Island, GA.

During his years of service in the House of Representatives, Mr. Davis was known for his tremendous support of Lockheed Aeronautical Corp., in Marietta, GA, the State's largest employer at the time. His work in helping Lockheed to grow would be rewarded many times over in the coming years, but perhaps he could understand and appreciate his efforts the most on April 23, 1992. On this day, Lockheed was awarded the largest developmental contract ever—the plan to build the F-22, the next-generation fighter.

At this time, I ask my colleagues to join me in extending condolences to the family of Mr. Davis. He will long be remembered in this body and the Seventh District of the State of Georgia.

HONORING TEMPLE JUDEA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I acknowledge today the 40th anniversary of Temple Judea, a spiritual, social, and communal center located in the Palham Parkway community.

For four decades, Temple Judea has been a leading member of the Union of American Hebrew Congress, the reform wing of Judaism. The rich traditions of the Jewish faith have been kept alive by its members, who have contributed greatly to the communities in which they live.

I commend Rabbi Donald Milrod and the honorees at Temple Judea's anniversary luncheon for giving so much of their time and energy to benefit their neighbors and friends. Their faith is a shining example to us all.

A TRIBUTE TO STEPHEN J. SOLARZ

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, I rise at this time to honor an esteemed member of this body and a close and valued friend, the gentleman from New York, the Honorable STEPHEN J. SOLARZ.

Before the end of the 102d Congress, I want to express my deepest appreciation and respect for the important, tremendous contributions STEPHEN SOLARZ has made to our great Nation over 18 years of distinguished and unmatched service.

I am greatly saddened that STEVE SOLARZ will be departing this institution at the end of this session. However, his accomplishments here in Congress, too numerous to list, speak for themselves.

By his principled and consistent defense of democracy and human rights around the world, STEVE SOLARZ has in so many ways been the conscience of our Nation—and the free world. The legacy of his leadership in Congress, especially in the realm of U.S. foreign policy, is the substance of which history is made.

As a member from the Pacific, I also want to thank STEVE SOLARZ from my heart for bringing greater attention to a region of the world often overlooked by our country—the South Pacific. As in the Philippines and through Asia, where STEVE SOLARZ has often been called Lafayette for his strong, undying support of democratic government and freedom, let me assure you that the people of the South Pacific feel likewise about STEVE.

In working with Chairman SOLARZ on the Asia-Pacific Subcommittee, I know that the United States has gained a much greater understanding of the needs, desires, and aspirations of the peoples and governments of the South Pacific. As a Pacific Islander, I cannot thank STEVE SOLARZ enough for the sensitivity and support he has time and time again shown for my people.

With STEVE SOLARZ' departure from Congress, this grand institution will never be the same. I, and all our colleagues on both sides of the aisle, recognize and honor you, STEVE, for the tremendous knowledge, expertise, and understanding you have brought, not only to the handling of foreign affairs, but to the resolution of the myriad problems facing the United States.

In taking note of your immense contributions to and leadership of our great Nation, STEVE, let me assure you that you are indeed irreplaceable, and will be sorely and greatly missed.

I wish you the best in all of your endeavors, STEVE, and know that they will all be fruitful. Despite your departure from this Chamber, I hope that I, along with Members from both sides of the aisle, will continue to benefit from and draw upon your wisdom and foresight. I cannot begin to thank you enough for all your help and it, indeed, has been a privilege and an honor to serve with you.

THE CONGRESSIONALLY MANDATED INITIATIVE ON CAPITAL PUNISHMENT IN THE DISTRICT OF COLUMBIA

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF THE COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. NORTON. Mr. Speaker, tonight the President signed into law H.R. 6056, the District of Columbia Appropriations Act for fiscal year 1993. Attached to the bill is a provision requiring the District to conduct a referendum on the death penalty within 90 days. The President's action now makes it possible for the measure to be placed on the November 3d ballot. During the weeks ahead, I will be going throughout the District arguing strenuously that D.C. voters should defeat the imposed referendum for several important reasons.

First, this measure usurps local democratic prerogatives at a time when D.C. residents were already well on their way to placing the issue on the ballot. District voters must send a message to Congress that, like free Americans everywhere, they themselves will decide what goes on the ballot. Second, it has been conclusively shown that the death penalty does not deter homicide and thus will not provide the relief we need and seek. Of the top 20 States leading the Nation in homicides, 18 have the death penalty, but their streets are no more safe than ours. Finally, only the passage of national gun control legislation will help to curb the violence. Most of the killings in the District result from the use of guns manufactured and purchased elsewhere and then illegally brought into this community which, itself, has one of the toughest gun control statutes in the Nation.

The death penalty was abolished in the District in 1981. If it is to be reinstituted, it should be done by District residents or their elected representatives. I recently received letters from a majority of the members of the D.C. City Council expressing strong support for this position. Mr. Speaker, I ask unanimous consent that each of them be printed in the RECORD immediately following my remarks.

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, DC, September 24, 1992.

Hon. ELEANOR HOLMES NORTON,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN NORTON: I am writing to restate my unequivocal opposition to Congressional interference in the affairs of the District of Columbia, including matters relating to the issue of capital punishment. I would like for you to share this with your colleagues in the House of Representatives.

As you know, I made public yesterday my support for the death penalty. It appears that my statement has been deliberately used to misrepresent my position regarding the interference of Congress in the affairs of the District of Columbia. I do not condone Congressional interference and intervention on the issue of the death penalty or any other issue.

I reiterate the position I expressed in my September 17, 1992 letter to the House/Senate conferees, urging them to: "vote to accede to the House version of our bill that does not contain a requirement for a death penalty initiative on the District's ballot," and "respect the local decision-making process and the expressed desires of the District electorate with regard to legislation on the death penalty and other issues."

Sincerely,

JOHN A. WILSON,
Chairman.

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, DC., September 24, 1992.

Hon. ELEANOR HOLMES NORTON,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN NORTON: Deciding on an issue as serious as the death penalty should not be forced upon the District of Columbia by members of Congress who are not elected by the residents of the District of Columbia.

The Home Rule Charter has already established a process to enable the residents of the District of Columbia to choose their own path for making this decision. Congress should not violate this process.

Sincerely,

HILDA HOWLAND M. MASON
Councilmember-at-Large.

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, DC, Sept. 24, 1992.

Hon. ELEANOR HOLMES NORTON,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN NORTON: I am sure you would agree that deciding on an issue as serious as the death penalty should not be forced upon the District of Columbia by members of Congress who are not elected by the residents of the District. The Home Rule Charter has already established a process which enables District of Columbia residents to choose their own path for making this very important decision. Congress should not violate this process.

Sincerely,

JAMES E. NATHANSON,
Councilmember, Ward 3.

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, DC, Sept. 24, 1992.
Hon. ELEANOR HOLMES NORTON,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN NORTON: Deciding on an issue as serious as the Death Penalty should not be forced upon the citizens of the District of Columbia by members of Congress who are not elected by those citizens.

The Home Rule Charter has already established a process to enable the residents of the District of Columbia to choose their own path for making this decision. Congress should not violate this process nor the rights of our 600,000 residents.

Sincerely,

HARRY L. THOMAS, SR.,
Councilmember, Ward 5.

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, DC, Sept. 24, 1992.
Hon. ELEANOR NORTON,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN NORTON: I write to express my support for your position against the effort in Congress to mandate that the citizens of the District of Columbia vote to reinstitute the death penalty. Deciding on an issue as serious as the death penalty should not be forced upon the District by members of Congress who are not elected by the residents.

The Home Rule Charter establishes a process to place initiatives and referendums on the ballot. This carefully crafted process establishes our rights, privileges, and responsibilities, as does the United States Constitution, for the Congress, and the state constitutions of the 50 member states. Congress should not violate this process. It should not trample on the rights of our citizens, nor their elected representatives.

Sincerely,

WILLIAM P. LIGHTFOOT,
Councilmember, At Large.

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, DC, Sept. 24, 1992.
Hon. ELEANOR HOLMES NORTON,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN NORTON: Deciding on an issue as serious as the death penalty should not be forced upon the District of Columbia by members of Congress who are not elected by the residents of the District of Columbia.

The Home Rule Charter has already established a process to enable the residents of the District of Columbia to choose their own path for making this decision. Congress should not violate this process.

Sincerely,

HAROLD BRAZIL,
Councilmember, Ward 6.

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, DC, Sept. 24, 1992.
Councilmember, Ward 6.
Hon. ELEANOR HOLMES NORTON,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN NORTON: Deciding on an issue as serious as the death penalty should not be forced upon the District of Columbia by members of Congress who are not elected by the residents of the District of Columbia.

The Home Rule Charter has already established a process to enable the residents of the District of Columbia to choose their own path for making this decision. Congress should not violate this process.

Sincerely,

JACK EVANS,
Councilmember, Ward 2.

SAFE DRINKING WATER ACT AMENDMENTS OF 1986

HON. JOLENE UNSOELD

OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Monday, October 5, 1992

Mrs. UNSOELD. Mr. Speaker, I strongly support the goal of guaranteeing safe drinking water for all Americans—whether they live in small towns or big cities. But I am troubled by the impossible task some communities face in attempting to comply with regulations issued by the Environmental Protection Agency under the Safe Drinking Water Act [SDA] Amendments of 1986.

Many small towns and rural areas have been given regulatory orders to build water filtration and treatment facilities that they simply cannot afford. If the Federal Government is going to mandate this expensive program, it must also provide part of the technical and financial support needed to make the program work.

In the small community of Klickitat, WA, lack of resources to meet Federal mandates set by the SDA is worsened by an already extensive debt from earlier attempts to meet Federal drinking water regulations. In Aberdeen and Centralia, WA, municipalities are required to build water filtration plants even though there may be less expensive ways to meet SDA goals. Despite the best efforts of these communities to provide safe drinking water supply to their people, deadlines set under the act are not being met. These communities need increased flexibility, and they need funding to meet the new mandates.

The SDA affects communities throughout this country, and Congress has taken some small steps to address this problem. In a key funding bill, Congress directed the EPA to provide specific recommendations concerning the reauthorization of the SDA and to modify certain requirements for small system monitoring to reduce costs for water systems serving a population of less than 3,300. While I supported these provisions, I am disappointed that communities with populations over 3,300 will not benefit from these modifications. However, the report from EPA will give us critical direction needed to assist these communities, enact a more comprehensive solution to these problems and allow us to evaluate the various proposals currently before Congress.

Early next year, we must move forward to develop comprehensive legislation to assist our communities in their compliance of SDA regulations. To mandate new programs without providing mechanism to help finance them is wrong and will only impede compliance with the SDA goal of guaranteeing safe drinking water for all Americans.

NEW ROCHELLE HONORS DOM PROCOPIO AT ITS COLUMBUS DAY QUINCENTENNIAL DINNER, OCTOBER 5, 1992

HON. NITA M. LOWEY

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, October 5, 1992

Mrs. LOWEY of New York. Mr. Speaker, Columbus Day has special meaning to all of us, but it is especially important to Americans of Italian descent. This day is more than an observance of one man's exploration. It is a celebration of the rich and varied heritage of the Italian-American community, and we pay tribute to their myriad contributions to the development of our own society.

As part of this year's observance, the city of New Rochelle is honoring Domenico Procopio, an individual who epitomizes the qualities of dedication to community and family, at its Columbus Day Quincentennial Dinner. Dom Procopio has made a tremendous difference to the lives of many throughout our community. A resident of New Rochelle for 32 years, Dom is in his twelfth year as head of the Calabria Mutual Aid Society. His concern for others is also evident in his hard work as chairman of the Human Rights Commission for the city of New Rochelle. And as a member of the Knights of Columbus, Sons of Italy, B.P.O. Elks, and Knights of Pythias, Dom has reached out to his community, to help others in a variety of ways.

Indeed, Dom Procopio's active and full life of service to others reflects the same spirit that Christopher Columbus exhibited as he took on the challenge of exploration. Dom clearly observes a situation and sees potential and opportunity, just as did Christopher Columbus. Those of us who have worked with Dom and have seen what he can accomplish know that that spirit and optimism can make a remarkable and important difference in the lives of others. The honor he is receiving as part of this historic celebration is indeed well deserved.

OCTOBER IS BREAST CANCER AWARENESS MONTH

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Monday, October 5, 1992

Mr. MAVROULES. Mr. Speaker, I rise today to remind my colleagues that October is "Breast Cancer Awareness Month." In recognition of this critical health issue, it is crucial for my colleagues to join me in supporting a determined effort to reverse the numbers of women who are afflicted with breast cancer.

Breast cancer will be diagnosed in over 180,000 women this year. That's one out of every eight women who will contract this form of debilitating cancer. And, sadly, over 45,000 will die from breast cancer. What makes these deaths so tragic is the fact that some of these deaths could have been prevented with early detection and monitoring. I believe early detection through the use of mammography and increased funding for clinical research must be made a top priority of this Nation. Through these efforts we can stem the tide of this dreadful illness.

For these reasons, I cosponsored H.J. Res. 393, designating October as "National Breast Cancer Awareness Month." The first step is awareness, which we have achieved with this very necessary resolution. The next step is education. In June, I held a breast cancer forum that focused on research, detection, and prevention programs that are available to women in my district. This forum was a reflection of my strong support for the fight against this form of cancer.

Congress is taking the lead on this important issue in the hope that many more lives can be saved. Recently, the Select Committee on Aging held series hearings to highlight and review the progress in the committee's effort to expand research, education, early detection, and treatment of breast cancer. On October 3, the House approved an increase of approximately $280,000,000 earmarked for breast cancer research for fiscal year 1993.

Mammographies and early detection are the key to this effort. But so much more needs to be done. In response to the need for Federal standards for mammography screening, the House approved H.R. 5938, a bill that would establish Federal guidelines in the areas of personnel, equipment, quality control, oversight, and enforcement.

Hopefully, the pain and suffering caused by breast cancer will be diminished as we approach a cure. Mr Speaker, with education, prevention, and early detection we can win this fight.

INCOME AVERAGE RESTORATION ACT OF 1992

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. CARR. Mr. Speaker, I rise today to introduce the Income Average Restoration Act of 1992. This bill is the direct result of a meeting that took place in Howell, MI early last month. During my "Listening to Michigan Farmers" meeting I heard many excellent ideas and initiatives, all aimed at helping Michigan family farmers. Among all the good suggestions and proposals, this was universally agreed as essential to the economic well being of the farmers of mid-Michigan.

The 1986 Tax Act repealed a person's ability to average their incomes for tax purposes. For a small farmer, with their year-to-year income at the mercy of the weather and volatile commodity markets, this change was disastrous. The bill I am introducing today will restore income averaging for the family farmer, so that they are not penalized when they have a good year.

Mr. Speaker, there are too many disincentives today to family farming. Our young people no longer have the same choices their fathers and mothers had, that chance to stay on the land and make a go of farming. Government should be encouraging family farmers, not discouraging them. This change in the tax law, together with H.R. 2662, my bill allowing farmers to take a 100-percent deduction for the costs of health care, will go a long way to keeping family farming alive in Michigan and in America.

THE FEDERAL HOUSING ENTERPRISES SAFETY AND SOUNDNESS IMPROVEMENT ACT OF 1992

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PICKLE. Mr. Speaker, after reviewing the statements made on the floor this past Saturday, when the GSE legislation was considered under suspension of the rules, and which was also included in the conference report on the housing authorization bill, I want to ensure that there is a clear understanding on certain provisions included in this legislation.

The GSE legislation defines new program approval authority of the Secretary of Housing and Urban Development. Essentially, under the language included in the bill, the Secretary can deny approval either because a program is inconsistent with the GSE's charter act or because it is not in the public interest. The public interest test was added during consideration of this bill to enable the Secretary to consider a broad range of factors including whether the private sector is adequately providing services which a GSE seeks approval to provide.

Fannie Mae and Freddie Mac receive enormous Federal subsidies. At hearings on this legislation Treasury estimated these subsidies at between $2 and $4 billion. These GSE's pay no Federal guarantee fees or State income taxes, and their securities are exempt from the Nation's security laws. These direct subsidies are in addition to the subsidy they receive from the markets based on the implicit Federal guarantee they have because they are a federally chartered, Government-sponsored enterprise. These subsidies provide them with significant advantages which private sector companies do not enjoy.

The public interest part of this standard under this bill is deliberately intended to allow the Secretary wide discretion to consider requests to establish new programs in light of the competitive advantage the GSE's have been given.

Further, it is critically important that the Secretary have the broadest possible discretion in this area because we cannot now anticipate the new programs which the GSE's may seek to offer in the future. In order to protect the public interest the Secretary must be able to consider all the facts and circumstances which apply at the time such new program authority is requested by the GSE.

IN HONOR OF CONGRESSWOMAN BEVERLY BYRON

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. CARDIN. Mr. Speaker, I rise this evening to honor a good friend and a great Representative from the State of Maryland. It is with a deep sense of regret that we must say goodbye to BEVERLY BYRON. Ever since the death of her husband, Goodloe, in October 1978, Mrs. BYRON has ably represented Maryland's Sixth Congressional District.

I served in the Maryland Legislature with Goodloe and long considered the Byrons to be friends. I have always highly regarded BEV's advice and as I considered a run for Congress, my talks with BEV helped to make up my mind. Since coming to Washington, BEV and her staff have been of tremendous help to me in better carrying out my duties. In fact, during my first week as a Member of Congress BEV and her long-time AA, Brent Ayer, showed up one day in work clothes to help my staff and me move into our new offices in the Cannon attic.

It takes a special person to represent the diverse views encompassed by the Sixth Congressional District, which stretches from suburban Baltimore and Washington through Frederick and Hagerstown out to the western-most edge of Maryland. I remember many evenings when BEV would finish a late session of Congress, only to leave for a 2-hour drive to attend an event in her district.

BEV has also been a strong leader as dean of the Maryland congressional delegation in the House. Given its diversity, this has been a challenge, but through BEV's good work I believe Maryland's eight Representatives have served as one of the most effective State delegations in the House. Our regular delegation luncheons in BEV's office were a fine opportunity to come together for the common goal of serving the people of Maryland.

In addition to her fine work for Maryland and the Sixth District, BEV has been a leader on the House Armed Services Committee. As a national figure on defense matters, BEV served most recently as chairwoman of the Subcommittee on Military Personnel and Compensation. Just this summer we worked together to protect the viability of the Maryland National Guard in carrying out its many responsibilities.

In the future, as one drives through western Maryland the good work of the Byrons will well be remembered. In fact, with completion of improvements to the national freeway, now I–68, one is most likely to travel west into Maryland on a road that is a tribute to BEV's hard work. At one time, few believed the freeway would be a finished four-lane highway in our lifetimes. In addition, through her work on the Interior Committee, BEV secured the addition of lands to, and restoration of some of this Nation's greatest national parks, including the C&O Canal, and the Antietam and Monocacy Civil War Battlefields.

BEV BYRON will be missed in the House of Representatives by the people of the Sixth District, Maryland, and the United States, but

I am sure her service to the Nation has not ended. I look forward to working with BEV in the future in whatever endeavors she might choose.

HONORING RIVERDALE TEMPLE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, It is with great pleasure that I acknowledge today the 45th anniversary of Riverdale Temple, the largest reform temple in the Bronx, with a membership of more than 700 families.

Since 1947, Riverdale Temple has been an active and vital force in the community. Through food drives and interfaith workshops, the Temple has reached out to all the people and worked to improve the quality of life in its immediate neighborhood. The Temple has also been a leader in the Jewish community, as the home of the largest reform religious-Hebrew school in the Bronx and through its charity events to aid Russian Jews.

Under the leadership of Rabbi Stephen D. Franklin and the board of trustees, headed by president Carolyn L. Baron, Riverdale Temple continues to carry on its rich tradition. I thank all the people who have carved out the history of Riverdale Temple and wish them "mazel tov" in the days and years ahead.

NO COMPREHENSIVE HEALTH CARE REFORM THIS YEAR

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KOSTMAYER. Mr. Speaker, to my great dismay, it has become abundantly clear that the Congress will not be able to enact any type of comprehensive health care reform this year. We will do nothing to assist the 38 million Americans who lack any form of health insurance and nothing to assist those whose health insurance premiums have been increasing at twice the rate of inflation.

The current system cannot continue. It is undermining our competitiveness and the health of our citizens.

Today, Mr. Speaker, I am introducing legislation expressing the sense of Congress that health care reform should be enacted by the end of the next congressional session. My resolution set forth my recommendations for this reform.

Mr. Speaker, it is too late this year, but before we leave this week we must make a commitment to reform our health care system. I encourage every Member of this body to join me in letting the American people know that health care reform is not forgotten.

[Resolution]

Expressing the sense of the House of Representatives that a national health care plan should be enacted by the end of the 103rd Congress.

Whereas 38,000,000 Americans, over 13 percent of the population, lack any form of health insurance and as many as 70,000,000 people lack health insurance at some point during the year;

Whereas since 1980, national spending on health care has tripled, and inflation in the health care sector is double the rate of inflation for the rest of the economy;

Whereas despite spending more per capita than any other nation, the United States ranks 22nd in infant mortality and 18th in life expectancy among industrialized nations;

Whereas the United States has the highest administrative cost of any health care system in the world;

Whereas the Government Accounting Office reports that annually there is $130,000,000,000 in waste in the United States health care system;

Whereas citizens in the United States have no health care security if they lose their job or lose their coverage because of a serious illness; and

Whereas health care should be provided to every American as a basic right: Now, therefore, be it

Resolved, That it is the sense of Congress that—

(1) before the close of the 103rd Congress, the House of Representatives shall enact a national health care reform plan which includes the following elements:

(A) Universal access. Access to health care should be provided to all residents of the United States regardless of employment;

(B) Cost containment. Costs should be contained through a system of global budgets and the elimination of fraud, abuse, and waste;

(C) Choice in physician. Individuals should continue to have the ability to choose a primary care physician;

(D) Some private insurance. Individuals should be allowed to purchase supplemental insurance policies from private insurance companies;

(E) Protection for low-income individuals. The poorest in our society should be exempted from out-of-pocket expenses;

(F) A minimum benefits package. States should be required to establish a minimum benefit package which includes preventative care, all medically necessary physician and approved practitioner care, prescription drugs, mental health services, substance abuse treatment, family planning services, hospice care, home care, and nursing home care;

(G) Malpractice reform. States should be provided grants to enact malpractice reform to reduce the incentives to file frivolous claims, reduce the time before resolution of cases, decrease administrative costs, and decrease the costs associated with defensive medicine; and

(H) Long-term care. Comprehensive long-term care coverage should be provided for all Americans; [and]

(2) these reforms should be paid for through savings from the reduction in administrative costs, fraud, abuse, and duplicative services in the current health care system, cuts in spending in unnecessary Federal programs, and if necessary by raising revenue from the wealthiest Americans.

A TRIBUTE TO ROBERT LAGOMARSINO

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, I first met BOB LAGOMARSINO when I was a young staffer here in the House. I was working for Congressman Phil Burton in the late 1970's on the staff of the Interior Committee, and my memories of the period remain fond and vivid.

As most of you know, Phil had then and still has the reputation of being an aggressive lawmaker capable of agreements and forging alliances with the best of any Member this House has seen. Even to this day I still see newspaper articles about the ghost of Phil Burton haunting the 1990 reapportionment of the State of California, and Phil has been dead for many years. But from my perspective, that reputation of Phil is really not accurate.

Phil Burton used to tell me over and over, work with Democrats, and work with the Republicans. You'll never succeed without the Republicans.

I mention my experiences with Congressman Burton during this special order because, in my mind, Congressman LAGOMARSINO has practiced the same philosophy since he came to the House in 1974. Not that he isn't one of the best political in-fighters in the business, because he is, but I attribute his success as a legislator to his knowledge of how to work with the Democrats. And as this election year has heated up, his years of bipartisan work have paid dividends. His constituents will reap the benefits of his work in getting legislation enacted to preserve the natural habitat of the Channel Islands off the coast of California and other Federal land in his congressional district for many years.

Mr. Speaker, I guess much of the work of BOB LAGOMARSINO that I have seen has been with his efforts on the Committee on Interior and Insular Affairs. He is the second senior Republican on the full committee, and the ranking member on the Subcommittee on Insular and International Affairs.

His long affiliation with the Insular Affairs Subcommittee has produced years of bipartisan congressional support for the territories of the United States. Although his name is not as well known in our territories as it should be, the territorial leaders know him well and respect his depth of knowledge about territorial affairs.

Mr. Speaker, for the last two Congresses I have had the privilege of serving with BOB LAGOMARSINO on the Committee on Foreign Affairs also. I deeply respect the tremendous contributions he has made over the years to the formulation of our Nation's policy on international matters. As one of the senior ranking minority members on the Foreign Affairs Committee, BOB LAGOMARSINO has played a crucial and decisive role in the protection of democracy and defense of human rights around the world.

Being a Vietnam veteran, I especially applaud BOB'S strong leadership as chairman of the POW/MIA Task Force. Serving as chairman for three terms, BOB LAGOMARSINO demonstrated unswerving dedication and commitment to resolving questions surrounding our fighting men unaccounted for from that conflict. His important work on the POW/MIA Task Force has acted as salve, healing the festering wounds of families torn asunder by missing loved ones.

I also want to extend my sincere thanks to BOB LAGOMARSINO for the individual assistance and support he has given to the island nations of the South Pacific. From helping the people of Palau in their quest for political autonomy, to lobbying on behalf of the academic scholarships for Pacific Island students, to ensuring the United States keeps its financial commitments to the South Pacific Commission—BOB has always been there.

In working with BOB LAGOMARSINO on the Asia-Pacific Subcommittee, he has, indeed, time and time again proven his concern for the welfare of the people of the South Pacific. As a Pacific islander, I cannot thank BOB LAGOMARSINO enough for the sensitivity and support he has shown to a region of the world often overlooked by our country. Due in great part to his efforts, the United States has been blessed with a deeper understanding of the problems facing the governments of the South Pacific, and needless to say he has been part of the solution.

With your departure, BOB, we have lost a good friend and champion. I cannot begin to thank you enough, and we will never forget your contributions.

HONORING ST. MARY'S CHURCH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, for the past year, the family at St. Mary's Church in Yonkers has been hard at work preparing for the 100th anniversary of the Church of the Immaculate Conception. After cleaning the outside stone, repairing stained glass windows, and enhancing the church's facilities, the day to celebrate has finally arrived.

As a representative of the people of Yonkers, I join in congratulating St. Mary's Church for a century of service to the community. When old and new parishioners meet to celebrate the 100th anniversary, the purpose of their efforts will become clear. Through the leadership of Rev. Hugh J. Corrigan and the pastors who have served before him, St. Mary's has grown into a beacon of faith and community spirit. The people, working together, have built a strong tradition to pass on to their children and grandchildren.

That is the power of family, and family from which our country has always drawn its strength. I thank and commend the people of St. Mary's for keeping that spirit alive in Yonkers for 100 years.

COMMEMORATING THE SIXTH FESTIVAL OF PACIFIC ARTS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, as a Member from the Pacific, I am proud to rise today to commemorate an event of international significance and prominence in the South Pacific, the Sixth Festival of Pacific Arts, that will be held in Rarotonga, Cook Islands, between October 16–27.

As I speak, preparations are underway in the Cook Islands for this colorful celebration of the cultures and arts of Polynesia, Micronesia and Melanesia. The Pacific Arts Festival is held every 4 years, and this year the Cook Islands will host thousands of participants, as well as thousands more spectators, from over 27 countries that are participating.

The theme of the arts festival this year is "ocean going Pacific Islanders," and focuses on the fact that our people, especially the Polynesians, have been deemed the greatest traditional navigators in history. I am proud to note that anthropologists around the world, experts in such matters, concur in this assessment.

Although anthropological debate had raged for years as to whether the islands of the Pacific had been populated by drifting nomads or by purposeful voyagers, in 1976 with the ocean travels of the *Hokule'a*, a replica of an ancient Polynesian voyaging canoe, the matter was definitively settled.

The name *Hokule'a*—which in Hawaiian means "star of gladness" and stands for Arcturus, a star used for centuries by ancient navigators to sail back to Hawaii—was given to this twin-hulled, multisail ocean-going canoe.

The Hokule'a was the creation of the Polynesian voyaging society based in Hawaii, which was founded by Herb Kane, Bob Worthington, Ben Finney, Myron Thompson, and Tommy Holmes. It was the dream of these distinguished men of vision that the legacy of Polynesian voyaging be reclaimed.

In 1976 their dream became a reality. The *Hokule'a*, by sailing thousands of miles of open ocean from Hawaii to Tahiti and back—without using navigational charts, electronic instruments or mechanical power—blazed a path of rediscovery of the ancient journeys of the Pacific islanders.

With navigator Mau Piailug at the helm, using traditional methods of navigation utilizing the stars, experience, and natural signs, the *Hokule'a's* maiden voyage made anthropological history. In repeating the ocean journey from Hawaii to Tahiti in 1980, all doubt was removed as to the validity of the first voyage.

Five years ago, the *Hokule'a* again made history by embarking on a 2-year ocean voyage that traversed the breadth of Polynesia. In navigating over 16,000 miles, entirely by ancient, traditional methods, the *Hokule'a* sailed from Hawaii to Tahiti, the Cook Islands, New Zealand, the Kingdom of Tonga, the Samoas and the Tuamotu Islands, before returning home.

Mr. Speaker, during one of the legs of the *Hokule'a's* pan-Polynesian odyssey, I was accorded the honor of serving on her crew. While doing so, I was privileged to sail with the *Hokule'a's* present navigator, Nainoa Thompson, who many claim is the finest traditional navigator alive. Having voyaged the open ocean for weeks with the gentleman, I can only agree. Nainoa's skill in the ancient methods of navigation is awesome to behold and is unmatched in depth of expertise.

Throughout the region, the voyages of the *Hokule'a* have engendered renewed pride among Pacific islanders, as they have witnessed the re-creation of the spread of the Polynesian people through, what many term, the "spaceship of our ancestors." The voyages of the *Hokule'a*, in short, have laid the foundation for explanation of the common thread that binds all South Pacific people together. The revelation that we shall share the same basic culture and heritage, and that this was spread purposefully by the sea-going voyages of our brave ancestors and not by accident, has been a source of immense pride and renewed interest in our traditions and identity.

It is not surprising, therefore, that the *Hokule'a* has given inspiration to the peoples of the Pacific to enter a renaissance for the construction of traditional, ocean-going canoes.

In honor of the *Hokule'a* and the revival of this ancient art of navigation and voyaging, the Sixth Pacific Arts Festival has as its centerpiece the "*Vaka*," or voyaging canoe, pageant. As host, the Cook Islands has issued a challenge to the participating island nations to build a traditional voyaging canoe and sail by ancient methods from all parts of the Pacific to the site of the festival in Rarotonga.

At this moment, at least 15 *Vakas* from the people of Papua, New Guinea, New Zealand, the Marshall Islands, Tahiti, the Cook Islands and Hawaii have planned journeys to Rarotonga. Many of these vessels are already deep in their journey of rediscovery, as is the *Hokule'a* while en route to the Cook Islands.

On October 16, the Pacific Arts Festival's opening ceremony shall begin with a grand spactacle—the *Hokule'a* leading the arrival of the flotilla of voyaging canoes into Ngatangiia Harbor. While docked, the canoes shall be on display, with exhibitions of canoe construction and carving to take place, along with races among the canoes.

Throuthout the rest of the Pacific Arts Festival, there will be daily sessions highlighting the performing arts and culture of the Pacific people. To be included are exhibitions of traditional arts and crafts, including the preparation of native foods, carving, weaving, sculpting and tapa making. Additionally, demonstrations of traditional dance, music, oratory, and poetry from the diverse island cultures shall be presented.

Supplementing the arts and craft displays will be the fire walking ceremonies of Fiji and French Polynesia, along with a film festival composed entirely of Pacific Island subjects, and the holding of the Pacific games, honoring the traditional island games and competitions engaged in by the people of the Pacific.

In concluding, Mr. Speaker, I want to extend my warmest commendation to Prime Minister Geoffrey Henry and Minister of Culture Jon Jonassen of the Cook Islands Government for their leadership and generosity in hosting the 6th Festival of Pacific Arts. It is through celebrations of this nature that the cultures and traditions of the people of the Pacific shall remain strong, vibrant and an integral, important part of each Pacific islander's existence and identity.

THE MERIT SYSTEMS PROTECTION BOARD [MSPB] ADMINISTRATIVE JUDGES PROTECTION ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GEKAS. Mr. Speaker, I introduced a bill, HR 5239, The Merit Systems Protection Board [MSPB] Administrative Judges Protection Act of 1992, along with my colleague Representative GUS YATRON. The bill was referred to the Committee on Post Office and Civil Service. Unfortunately, the Congress will be adjourning before we have the opportunity for a hearing on this important bill to safeguard the employment rights of Federal workers for fair and unbiased hearings before impartial adjudicators.

Yesterday I received a copy of a letter of support for the bill from the National Association of Postal Supervisors to Representative BILL CLAY, Chairman of the Post Office and Civil Service Committee. The Postal Supervisors agree with me that the bill is important to postal workers, who come before the Merit Systems Protection Board and want to be assured that decisions impacting their future employment are made by administrative law judges [ALJ's] with judicial competence and independence. They, too, support the conversion of qualified administrative judges at the MSPB to ALJ status and protections under the Administrative Procedures Act. They, too, are concerned that important cases at the Board may now be heard by junior civil servants without the required experience and independence associated with the corps of Federal ALJ's. The postal supervisors who are most impacted by the MSPB describe some recent unfair employment actions against the AJ's by the MSPB, which they cite as undermining worker confidence in the MSPB hearing process. I agree that only full ALJ status for the AJ's at the MSPB will protect them from potential Board influence and politicization.

The letter suggests that the Congress address the current employment practices of the Board in regard to the AJ's at the MSPB. I respectfully call upon the Post Office and Civil Service Committee to give the developments described in the letter its oversight attention, even as we are ending this active session. These matters may be reviewed even though we have adjourned. I offer any assistance that might help the committee to investigate this matter by putting them in contact with the appropriate sources. I am sure that when we reconvene, that more will be known about this matter because of our interim oversight activities. We can then have a full public hearing on the bill. I understand that the Government Accounting Office has been contacted by the committee about the downgrading of AJ's at the MSPB and I look forward to their report. I request that the letter be included in the RECORD; the text of the letter follows:

NATIONAL ASSOCIATION OF
POSTAL SUPERVISORS,
Washington, DC, September 26, 1992.

Hon. WILLIAM L. CLAY,
Chairman, Committee on Post Office and Civil Service, Washington, DC.

DEAR CHAIRMAN CLAY: I am writing to express our support for HR 5239 "The Merit Systems Protection Board (MSPB) Administrative Judges Protection Act of 1992", introduced by Rep. Gus Yatron (D-PA) and Rep. George W. Gekas (R-PA), and referred to the Committee on Post Office and Civil Service and the Civil Service Subcommittee chaired by Rep. Sikorski (D-MN).

HR 5239 is important to postal workers who rely on the fairness and integrity of decisions made by MSPB Administrative Judges (AJs) on employment cases. We are concerned that administrative judges (AJs) at the MSPB are now subject to performance appraisals and cash bonus awards based on performance review, which as the Administrative Law Section of the American Bar Association has determined, is inappropriate review of individuals with hearing and decision authority. Such review may compromise the decisional independence of AJs at the MSPB. As a result, we strongly support Administrative Procedure Act/Administrative Law Judge (ALJ) protections for AJs at the MSPB and the ensuring ALJ classification status for MSPB AJs. Federal employees deserve the same rights to an impartial hearing and decision regarding their critical employment rights, as do individuals seeking federal benefits before the Social Security Administration or the Department of Labor.

ALJ status for MSPB AJs is long overdue. There are some recent disturbing employment developments at the MSPB that warrant your oversight and attention. The Board has hired eight AJs at the GS-11 classification. Mr. Paul Katz, a personnel consultant and former assistant director for Classification and Qualifications with the Office of Personnel Management (OPM), was hired by the Board to conduct a classification study of the AJ position and recommend an appropriate level of classification for MSPB AJs. In March 1991 the Board adopted a resolution to compensate AJs at the highest rate permissible under the study (see resolution).

Mr. Katz's study resulted in a GS-15 classification level for the AJ position at MSPB. GS-11 status is appropriate for entry level staff attorneys at MSPB but not for AJs with hearing and signatory powers over important employment decisions impacting our membership. We object to "GS-11 Junior AJs" hearing cases brought by postal workers before the MSPB. Also, the Board, contrary to its Resolution, has failed to convert some GS-14 AJs to GS-15, and these AJs have filed a grievance against the Board. This is the same body that postal workers expect fairness and integrity from in deciding employment cases. It should not be surprising to learn worker confidence in the Board's hearing process is low when their own AJs need to file grievances for fair treatment.

HR 5239 has a January 1992 cutoff date for converting MSPB AJs to ALJs, which avoids conversion of GS-11 AJs and those not meeting OPM standards for the ALJ Register. The enactment of HR 5239 is the best method of stopping the Board from replacing qualified AJs with inexperienced AJs who do not meet the OPM ALJ standards for selection, experience, neutrality or compensation. The sixty-two AJs at the MSPB need the protections of ALJ status as do federal workers who come before them. The Board has demonstrated its bias for control by hiring GS-11 AJs and failing to convert some GS-14 AJs to (see letter), the Civil Service Subcommittee has not conducted a hearing on the bill or on the GS-11 AJ and GS-14 AJ conversion matters. We respectfully request that the full Committee consider those issues and support Senate efforts to address these issues prior to adjournment this year.

Thank you for your assistance with this request, which is of importance to postal workers.

Regards,

BOB MCLEAN.

Attachments.

U.S. MERIT SYSTEMS
PROTECTION BOARD,
Washington, DC, March 8, 1991.

SUNSHINE MEETING

Members Present: Chairman Levinson, Vice Chairman Amador, Member Parks.

Resolved, The Board agreed to contract for a classification review of Administrative Judge grade levels as expeditiously as possible, that will be overseen by Member Parks. It was resolved, further, that the purpose of this undertaking is to ensure that Administrative Judges of the Board are compensated at the maximum permissible rate.

DANIEL R. LEVINSON, *Chairman.*

U.S. MERIT SYSTEMS
PROTECTION BOARD,
Washington, DC, August 19, 1992.

JOHN MARKUNS,
Vice President for Administration, Merit Systems Protection Board, Boston Regional Office, Thomas P. O'Neill, Jr. Federal Building, Boston, MA.

Dear John: This is in response to your memorandum on July 27, 1992, entitled "Bargaining Proposals." As you recall, I had earlier determined, on June 26, 1992, that your request to bargain was untimely submitted. That remains my position. Nonetheless, in the spirit of cooperation, I advised you in my July 15, 1992, response to your request for reconsideration that I was willing to engage in meaningful discussions with you on matters of mutual interest.

Toward that end, I have reviewed the items you have submitted. In the first, you suggest that ORO recommend to the Board that it support specific principles underlying proposed legislation to convert our administrative judge positions to administrative law judge positions. I view this as a policy suggestion which extends to an area that falls within the Board's purview alone. Accordingly, I decline to take the steps you suggest.

In your second suggestion, you ask ORO to direct the chief administrative judges not to assign cases to any GS-11 administrative judge unless ORO and the chief administrative judge first certify that the individual meets the standards that approximate those accorded to administrative law judges. You also ask ORO to direct that no signatory authority be granted to any GS-11 administrative judge unless the individual is first detailed to a journeyman-level administrative judge position. As to the standards accorded to administrative law judges, these are not applicable to administrative judge positions and are exclusively within the control of the Office of Personnel Management. As to the issue of signatory authority, we feel that the approach we are currently taking in the regional offices with regard to assignment of cases for the GS-11 attorneys and the resulting signatory authority is in accordance with the Classification Guide and is working well.

In your third suggestion, you suggest that ORO establish a joint committee of administrative judges and chief administrative judges to design a procedure which would allow all journeyman-level administrative judge an equal opportunity to request GS-11 attorney assistance in specific adjudications. Every administrative judge has an equal opportunity to request assistance in performing research and drafting orders and portions of decisions. It is up to each chief administrative judge, who has overall authority for the operation of his or her regional office, to assign research and drafting-type work to the GS-11 attorney. It also must be remembered that, while these new attorneys will have duties of the type mentioned, they are also to be assigned, and are being assigned, simple cases to adjudicate, consistent with the Board's delegations and the Classification Guide. As noted earlier, this process seems to be working well in the regional offices.

I hope that you will find these responses helpful.

Sincerely,

THOMAS J. LANPHEAR,
Director, Office of Regional Operations.

THE AMERICAN-IRISH ASSOCIATION OF WESTCHESTER HONORS CONNIE DOOLAN AND EILEEN CAREY AT ITS 16TH ANNUAL CELTIC BALL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. LOWEY of New York. Mr. Speaker, it is a true pleasure to rise today to commemorate the Irish-American Association of Westchester's 16th Annual Celtic Ball, honoring Irishman of the Year Cornelius (Connie) Doolan and Distinguished Service Awardee Eileen Carey.

Connie Doolan, originally from the Irish city of Cork, has an entire lifetime of devoted service to the Irish-American community to his credit. Most recently, Mr. Doolan was elected as Grand Marshal of the 1992 St. Patrick's Day Parade in New York City, in recognition of his distinguished and lengthy service. Continuing his community-oriented activities, Mr. Doolan is currently taking an active role in such groups as the County Cork Association, the Knights of Columbus, and the Ancient Order of Hibernians. He was also one of the founders of the Emerald Society of the Licensed Brewers Industry.

Eileen Carey—nee Begley—originally from Cooldelane, Lismore, Waterford, has been actively involved in Irish-American activities since her arrival in the United States in 1958. In addition to being an original member of the American-Irish Association of Westchester, Ms. Carey has held various positions of importance in that association, including a place on their board of directors, her current post of treasurer, and prominent roles with the Heritage Day, Celtic Ball, and Toy Drive Committees. An enthusiastic member of the L.A.O.H. in Westchester, Ms. Carey has served as the Grand Marshal's Aide in the Yonkers St. Patrick's Day Parade. She has also been a delegate to the New York St. Patrick's Day Parade Committee.

Eileen Carey and Connie Doolan, in every aspect of their lives, are giving of themselves with the enthusiasm and energy which are a part of their Irish heritage. In doing so, they are making an important difference both for the Irish community and for all of their neighbors in Westchester. I am sure that my colleagues will agree that their recognition by the Irish-American Association is well deserved.

CONGRESSMAN KILDEE HONORS RUTH BOONE AND MARGIE HARDY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to two women who have spent their lives developing our Nation's most valuable resource, our children. After 61 years of combined service to the Flint community schools, Ruth N. Boone and Margie K. Hardy are retiring. In recognition of the many contributions of these remarkable women, their colleagues have organized a reception to be held on October 15, 1992, at the Sarvis Center in my hometown of Flint, MI.

Mrs. Ruth Boone was born and raised in South Carolina. After graduating from high school, she attended Allen University in Columbia, SC, earning a bachelors of science in elementary education. Mrs. Boone has also obtained a masters of arts degree from Michigan State University.

After moving to Flint in 1957, Ruth Boone was hired by the Flint community schools as a teacher at Roosevelt Elementary School. Because of her dedication and professionalism, she has received several promotions during her tenure with the Flint community schools, retiring as a staff associate in language arts and humanities. As staff associate, Mrs. Boone was responsible for the initiation and implementation of curriculum development for the elementary program of the Flint community schools.

Ruth Boone is a member of Zeta Phi Beta Sorority and has served as basileus, first ante basileus, recording grammateus and corresponding grammateus of the Flint chapter. She has served two terms as recording grammateus of the Michigan State Organization of Zeta Phi Beta. She is also the adviser for the Flint Amicae Auxiliary and the State Organization of Amicae, Zeta Phi Beta.

A member of Vernon Chapel African Methodist Episcopal Church, Ruth Boone and her husband Harold have three children, Audrey, Amye, and Richard.

Mrs. Margie K. Hardy was born and raised in Gaffney, SC. She attended South Carolina State College where she obtained a bachelors degree. She has a masters of arts degree from Eastern Michigan University and has attended graduate courses at the University of Michigan and Michigan State University.

Margie Hardy began her teaching career in her hometown of Gaffney, where she taught for 7 years. For the past 28 years, Margie Hardy has worked for the Flint community schools as a teacher, reading consultant, and most recently as an administrator for the chapter 1 program, serving as staff associate for language arts and humanities.

Mrs. Hardy has served as a presenter of the new definition and direction of reading for the Flint community schools. She has also conducted presentations for many reading conferences.

A faithful member of Vernon Chapel African Methodist Episcopal Church, Margie Hardy has a daughter, Van Jenkins and a granddaughter, Alicia.

Mr. Speaker, it is with great pride that I rise before you and my fellow Members of the 102d Congress to honor Mrs. Margie K. Hardy and Mrs. Ruth N. Boone. They have devoted a lifetime to developing the minds of the future leaders of our great Nation. South Carolina's loss has truly been Flint's gain. Though they are retiring from the teaching profession, I am sure that our community will continue to benefit from their dedication and wisdom.

THE ACCOMPLISHMENTS OF ATTORNEY EDWARD L. MASRY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DYMALLY. Mr. Speaker, I am pleased to bring to the attention of Members the legal accomplishments of Attorney Edward L. Masry. He was born in Paterson, NJ, in 1932. In 1940, as a young boy, Edward traveled with his mother and father to Venice, CA, where prior to their deaths, they became successful real estate and restaurant owners.

In 1950, Edward graduated from Van Nuys High School, CA, where he participated in football and track.

Edward entered Los Angeles Valley College in 1950 where he was Outstanding Athlete of the Year, 1952; Letterman Club president; associated men's student body president and student body president. He graduated with an A.A. degree and matriculated to the University of California at Santa Barbara and UCLA. He entered into Loyola Law School of Los Angeles in 1957 and graduated with juris doctor degree in 1960, and passed the California State Bar in 1960.

While at Loyola Law School he was editor of the Loyola Digest and president of the student body. He also won the finals of the Moot Court Court Competition, the Appellate Court Competition, and was on the winning team of the Trial Court Competition.

In 1960, he entered into a partnership with now superior court judge Ernest J. Williams, and in 1961, Edward started his own firm. He is now the senior partner of Masry and Vititoe with three locations in California.

Mr. Masry has represented U.S. Senators, the Lieutenant Governor of the State of California, Members of Congress, State senators, assembly members, judges on the State and Federal benches, and many, many professional athletes and celebrities.

He and his law firm have been in the forefront of advocating for legislation, and arguing in the courtroom for the rights of common people. He has represented at trial, a varied spectrum of clients, from a medical doctor on a charge of first-degree murder to other persons who were wrongfully accused of felonies. Mr. Masry has achieved a success rate of over 90 percent on all of his criminal trials.

In the fields of personal injury and product liability, Mr. Masry's firm is one of the most aggressive and most successful law firms in all of California. Edward Masry has litigated various personal injury cases from explosions to automobile accidents since 1965, enjoying the highest of reputation among defense attorneys as always well prepared and successful.

We congratulate Edward L. Masry on his 32 years of practice and superior service to the residents of the State of California.

Mr. Masry is currently married to his lovely wife, Joette Masry. They reside in Studio City, CA, and Rancho Mirage, CA.

INTRODUCTION OF LEGISLATION TO EXTEND SUPPLEMENTAL SECURITY INCOME BENEFITS TO ALL CHILDREN OF U.S. MILITARY PERSONNEL STATIONED OVERSEAS

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SLATTERY. Mr. Speaker, I rise today to introduce legislation to extend supplemental security income [SSI] benefits to all children of U.S. military personnel stationed overseas.

I introduced legislation almost 3 years ago, included in the Omnibus Budget Reconciliation Act of 1990, which I hoped would accomplish this. Those provisions were amended during conference, however, to require that children be receiving SSI benefits in the United States in order to continue receiving them overseas. The language thus denies eligibility to children born overseas, and children diagnosed with disabilities after moving overseas. The bill I am offering today would simply eliminate the requirement that children be receiving benefits prior to their move abroad.

This is a simple matter of fairness. The number of children affected is very few: under 50, according to the Department of the Army's Office of the Surgeon General. But to enlisted personnel struggling to care for their disabled children while stationed overseas, the extra benefits are crucial. These soldiers pay U.S. taxes, vote in U.S. elections, and defend U.S. citizens. There is no reason they should be penalized because they are sent abroad by the military. Mr. Speaker, this bill finishes the job I began in 1990, and I urge its adoption.

TRIBUTE TO MICHAEL ANDREW GILBERT

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. RAY. Mr. Speaker, I rise today to pay tribute to Michael Andrew Gilbert of Columbus, GA. Mr. Gilbert was recently awarded the Carnegie Medal by the Carnegie Hero Fund Commission in recognition of his outstanding act of civilian heroism. Recognition is reserved for those who risk their lives to an extraordinary degree while saving or attempting to save the lives of others.

Mr. Gilbert saved Christi Buchanan from burning on September 2, 1991. Miss Buchanan was in a bedroom or her mother's home when a fire broke out in another bedroom late at night. Mr. Gilbert is a neighbor and became aware of the fire. He entered the home through the front door but smoke and flames prevented him from reaching the bedrooms. Mr. Gilbert was then able to break out a window to Ms. Buchanan's bedroom and entered through it. He crawled through the smoke-filled room until he was able to find Ms. Buchanan. He grabbed her, dragged her to the window and pulled her from the house. Both were treated for smoke inhalation.

Mr. Speaker, the Carnegie Hero Fund Commission was established in 1904 by Andrew Carnegie. He sought to recognize persons "in peaceful vocations" who act to "preserve or rescue their fellows." Mr. Carnegie specified that each hero would receive a medal carrying the biblical quotation: "Greater love hath no man than this, that a man lay down his life for his friends."

Mr. Speaker, Mr. Gilbert's selfless courage to save Ms. Buchanan from that burning house was truly heroic. This is the personification of bravery that is to be rewarded by the Carnegie Medal, and I congratulate Mr. Gilbert for this well-deserved recognition.

COMMENTS ON AMENDMENT BILL

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PANETTA. Mr. Speaker, I rise to comment on a bill considered under unanimous consent Sunday night in the House. This bill would amend the Perishable Agricultural Commodities Act [PACA] to clarify and slightly modify the intent of Congress regarding a very specific provision in the act about lenders holding certain assets in trust for the benefit of unpaid growers in the event of a bankruptcy. PACA was enacted in 1930 to promote fair trading in the fruit and vegetable industry by requiring buyers and sellers of fresh and frozen produce to honor the terms of their contracts.

This technical bill represents a very reasonable and fair compromise approach to the problem of ensuring producers get paid for their commodities in a timely fashion. As a member of the House Agriculture Committee and a Representative of one of the most bountiful districts in the country for agriculture, I led the effort in committee to ensure the timely payment of growers when the Congress addressed the PACA law in 1984. It is my understanding the House and Senate Agriculture Committees spent a tremendous amount of time in working with the respective groups involved in trying to reach a resolution on this narrow issue.

This resolution was negotiated in good faith and has the support of both the House and Senate Agriculture Committees. I would strongly urge the Senate to adopt this measure when it is received in their respective Chamber.

IN HONOR OF CONGRESSMAN HERTEL'S STAFF

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HERTEL. Mr. Speaker, I rise today, in the closing hours of the 102d Congress, to pay tribute to the members of my staff. These people have served me and the citizens of Michigan's 14th District for many years, and to them I extend a warm thank you for a job well done. Although I am leaving this body soon, I know I will keep in touch with so many people who have been members of my staff through the years. For without question, I look upon my staff members as not only professionals, but as friends, who I value deeply. The following is a brief profile of each staff member and what he or she contributed to the people of the 14th District.

Six people have been with me over my entire tenure in Congress. Three, Ray O'Malley, Brian O'Malley, and Salome Williams, work in the Washington office. The other three, Paul Donahue, Mary Ellen Walker, and Maureen DeShetler, work back home in the district office.

I first met Ray O'Malley when I began my work for Michigan Attorney General Frank Kelley in the summer of 1973. In fact, at that time, I used to work for Ray. As a fellow graduate of the Frank Kelley School of Good Government, Ray has been stern and steadfast in his dedication and commitment to the public. As my administrative assistant, he has managed my personal and subcommittee staff superbly and professionally. Ray is my trusted friend and adviser. His presence in the office has been invaluable and kept life on Capitol Hill interesting. Indeed, he has taught me more about the intricacies of professional wrestling than I ever knew was possible.

His brother, Brian O'Malley, was actually the first person I hired after I was elected to Congress. Brian was the head of the transition team between my office and Congressman Lucien Nedzi, my predecessor. I first met Brian while serving in the State legislature. Brian has considerable expertise in State government, including environmental law—a subject about which he authored five books—the courts and the developmentally disabled. For the past 12 years, he has been my legislative counsel, specializing in all legislation. This sagacious individual has unique hobbies, including metal working, archeology, stone carving, and ancient languages.

Salome Williams came on board about a month after I took office, in February 1981. Anyone who knows Salome knows she has not only witnessed the fascinating history of the labor movement but has been a part of it. Salome and her former husband, back in 1937, organized every auto plant in the Bay City and Saginaw area. Back in those days, the courageous union organizers literally walked a thin line between life and death. Her real-life stories about the plight of the worker in those exciting and turbulent days, and her involvement in the labor unions, belong in the history books.

In 1947, when Walter P. Reuther was elevated to the presidency of the International U.A.W., Salome returned to the union and served as his personal secretary. For nearly 30 years, after that, Salome worked in the political arm of the union. Over the years with the UAW, Salome had the opportunity to follow and become active in political campaigns. In 1976, she served as assistant to the State director of the Jimmy Carter campaign in Michigan. After Carter's victory, Salome went to Washington to help organize the Carter inaugural. She only intended to stay in Washington for a few months. She has now been here 16 years. In 1981, I had the good fortune of hiring her. Since then, Salome has been invaluable in keeping me in touch with the many unions in my district. She has expressed interest in being a part of the Clinton inauguration, should he be elected. There is no telling where her remarkable career will take her after that.

Mary Ellen Walker is a lifelong Democrat from the city of Chicago. As long as I have known Mary Ellen, she has been active in politics. Indeed, as far back as 1972, Mary Ellen played a role in national politics as a delegate to the Democratic National Convention. She also served for many years on Michigan's Democratic Party State Central Committee. She is one of the most generous and giving individuals I know, and her dedication to my constituents has been immeasurable. Mary Ellen is married to Ken Walker and has four children.

Paul Donahue, a former educator, is well known for his involvement in the community. Indeed, Paul has also been involved in many activities, including work for the needy. Among his accomplishments has been the Hope Fund, a fund offering assistance to those who face catastrophic financial losses. Paul, for several years, was administrative assistant to Congressman Lucien Nedzi, until Lucien retired in 1981. Subsequently, for the past 12 years, Paul has served as my executive administrative assistant. This job requires considerable work after hours, and I recognize and appreciate his commitment.

Finally, Mr. Speaker, I turn to Maureen DeShetler who has worked with me longer than anyone—for over 20 years. We met at Eastern Michigan University, where we were both on student council. She was then my administrative assistant during my terms in the State house of representatives, and is now my district office administrative assistant. There are probably not many people in Michigan's political world who do not know Maureen or look to her for advice. She is an unequivocally likable person who has been the heart of my office and a friend to everyone who comes into contact with her. Maureen is married to Dick DeShetler and has one daughter, Meagen. It is with great pride and pleasure that I thank Maureen for all she has done and for all her friendship through the years.

The rest of my staff, though they have not been with me for the full 12 years, perform as if they have.

Greg Hawkins, a native of Wisconsin, first worked part time as computer specialist in 1982. He became a full member of my staff, subsequently, in 1985, taking care of my scheduling, computer operations, accounting, and general office management. Greg has also been responsible for directing the staff of the U.S. Commission on the Ukraine Famine for Children organization. Since this is an issue very important to me and my constituents, Greg's work in this area has been indispensable. I recognize that Greg probably has the most difficult job in the office, and I have been most grateful for his competence and commitment over the years.

Mary Beth Calandro has worked as a caseworker in my Warren district office since 1987. Nobody has a deeper concern for the community than Mary Beth. She specializes in Social Security and immigration casework, subjects which require a fair amount of patience and understanding. I have always been confident that Mary Beth could be trusted to treat my constituents with respect. Mary Beth is married to David Calandro and has three children, Andrew, Kate, and Christopher. She comes from a long line of community activists as a member of the influential Sullivan family. Mary Beth graduated from Dominican High School and attended Wayne State University.

Marc Gaden had the unique opportunity to work extensively in both my district and Washington offices. He began in 1987, right after he graduated from Rochester High School, by performing the more tedious tasks, like sorting the mail, and typing. By the end of the summer, however, he was doing casework, which he performed full and part time for the next 4 years. After he graduated from the University of Michigan, he moved to Washington to pursue his graduate studies in foreign affairs at the American University and to work as a legislative assistant.

Cathleen Peralta began work in my district office after graduating from Bishop Gallagher High School. Over the years, while attending Wayne State University, Cathleen worked both full and part time, specializing in casework, grant information and constituent services. In 1989, she became press secretary for the district office. Cathleen is very involved in the community, being a part, among other things, of the local Clinton River cleanup efforts and acting as coach of a grade school soccer team. She is engaged to John Simlar and will be married in 1993. It has been my pleasure to know Cathleen and her wonderful family over the years.

Mary Conklin, the newest member of my staff, began in my Washington office in August 1991. In the short time that she has been here, Mary has proven to be invaluable in the day-to-day operations of my office. Mary brings with her impressive qualifications, including work in Senators LEVIN and RIEGLE's offices. Furthermore, Mary was the cofounder of the U.S. Senate child care center. Mary attended Western Michigan University earning a degree in communications and sociology.. When Mary is not immersed in the work at the office, she is busy raising her kids. She is married to Jim Callow and has three children, Andrea, Laura, and Grace.

Several of my current staff members came on board by working first as an intern in either my local or Washington offices. Among those are Cherly Printz, Pam Moceri, Paul DeGiusti, Joe Posch, Cathleen Farrar, Peter Manning, Myra Aurelio, and Katy Fern. I have always believed that experience is the best education. Serving as an intern in a congressional office probably teaches people more about politics than any class in school. These former interns have done a marvelous job in learning the ropes of the Government in order to best serve my constituents.

Cheryl Printz came on my staff in 1987 after completing an internship from the University of Michigan-Dearborn. I was impressed by her willingness to attend after work functions or stay at the office on busy days until the work was done. Cheryl worked as a caseworker, specializing in IRS and military matters, and has been my district office manager since 1990. Cheryl is married to Gary Printz.

Pam Moceri worked with Cheryl as an intern in 1988 before joining the staff in 1989. Between her internship and her employment in my office, Pam represented the State of Michigan as Cherry Blossom Festival Princess. As a staff member, Pam applied her knowledge of the community and her dedication to my constituents to the casework she performed. I could always count on her to treat my constituents in a professional manner and with respect. Pam, the second member of my staff to be engaged, will marry Andrew Callahan, in May 1993.

Paul Degiusti also started out at my district office, while studying at Eastern Michigan University. After graduation, he moved to Washington, DC, and served as a legislative assistant specializing in defense and foreign affairs. As a member of the Armed Services Committee, Paul's intuitive understanding of the military has been quite useful. Paul is the only member of my staff to serve in the National Guard. I wish him luck as he pursues a graduate degree at George Washington University.

Joe L. Posch III, an individual whom I have known for many years, is the only member of my staff who worked as a page for the U.S. House of Representatives. Being a page allows an individual to get a firsthand look at how Congress works, an experience which Joe found valuable when he started working in my office. Joe first worked in my Detroit office as a part-time employee before he attended Boston College. Upon graduation in 1991, Joe moved to Washington, DC, to work as a legislative assistant, covering health care, Social Security, and tax issues. Joe's continued interest and dedication to his job has been a great asset. I thank Joe and his wonderful family for many years of friendship.

Cathleen Farrar was an intern in my Detroit office while a student at Albion College. After her graduation, she moved to Washington to work on environmental and health care issues at my office. She decided to return to Michigan, however, to work in my district office because she enjoyed one-on-one interaction with constituents. I admire her dedication to the public and have been very pleased to have her on board. Cathleen is the third member of my staff to be currently engaged. She plans to marry Bill Stief in July 1993.

Peter Manning, a graduate of Michigan State University, interned at my Warren office before coming to work as a clerk on the Subcommittee of Oceanography and Great Lakes. Subsequently, he returned to Michigan to attend Law School at the University of Michigan. While in law school, Peter worked as a caseworker and staff assistant in my local offices. He is now admitted to the State Bar of Michigan. Peter was a varsity soccer player at Michigan State, and he currently moonlights as a woman's soccer coach at the University of Michigan.

Myra Aurelio is a part-time employee in my Warren district office. She started in 1985 as an intern. In 1990, she returned to assist the staff in administrative work. I found Myra to work very well with the public, a quality essential to constituent service. When she is not in my office, she works at Cottage Hospital in Grosse Pointe.

Last, but by no means least, I turn to Katy Fern, who began work on my staff in 1985, while she was still in high school. Over the years, I have depended on Katy to study a number of issues including human rights, crime and housing. Her abilities as a legislative assistant have been first-rate and she has done a wonderful job comprehensively studying an area of concern and doing the proper followup. She has an intense interest in Irish issues, a subject which she studied at Catholic University.

Finally, Mr. Speaker, I want to thank Debbie Dawson and Mike Quigley, who are the staff members at the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf.

Debbie Dawson, who works as my legislative council on the subcommittee, has over 15 years of experience on Capitol Hill. She acquired a keen knowledge of the appropriations process while working for Representative PANETTA and Senator Burdick. Debbie became a member of the subcommittee staff in 1991 and has done extremely well in researching relevant issues and preparing hearings. She is known for her intense commitment to the job and it is not unusual to see her working long into the night during busy periods.

Mike Quigley brings the scientific expertise to the subcommittee that is so vital in developing oceanographic and Great Lakes policies. Mike is a fellow from the National Oceanic and Atmospheric Administration Great Lakes Environmental Research Laboratory in Ann Arbor, MI. He began his work on the subcommittee in early 1991. It has been a pleasure to work with Mike and I hope he benefited as much from his experience on Capitol Hill as I did having him on the subcommittee staff.

There are a few persons no longer with my staff who served for several years, that I would like to recognize. I have not forgotten the kind dedication of Anne Sullivan, Pat Williams, Elaine Hollis, Christine Bricker, and Roger Playwin.

I am extremely proud of the service and commitment each member of my staff gave me and the constituents of the 14th District. I wish them all well in their future endeavors and express that it has been my honor to work with them.

Finally, Mr. Speaker, let me conclude by extending a special tribute to my wife, Cindy, our children, Heather, Heidi, Katie, and Mark, and my parents, Jack and Marie. As the people who know me can attest, my family is very important to me. Their help, guidance, friendship, and love over the years have enriched my life. I look forward to what the future brings for the Hertel family, and I thank them for standing beside me for all these years.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ACT OF 1992

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SCHEUER. Mr. Speaker, I am pleased to join my colleagues on the Committee on Merchant Marine and Fisheries in support of the National Oceanic and Atmospheric Administration Act of 1992. The bill sent to us by the other body reflects the herculean efforts of the Committee on Science, Space, and Technology; the Committee on Merchant Marine and Fisheries; and the Committee on Commerce, Science and Transportation.

Although NOAA programs—such as the National Weather Service, the Environmental Satellite Service, the National Ocean Service, and others—are critically important to the well-being of this country, it has been more than 5 years since we last had an NOAA authorization bill enacted into law.

The measure before us not only authorizes appropriations for NOAA, it contains important statements of policy regarding the accountability of this agency to the Congress for programs that have fallen behind or failed to live up to the administration's pledges such as the modernization of the National Weather Service.

This bill also includes critically needed provisions providing for the modernization of the technology employed by the National Weather Service.

Mr. Speaker, a study conducted by the National Institute of Standards and Technology [NIST] found that the entire cost of the program to modernize the National Weather Service will be recovered within 2 years of its completion. The study found that improvements in weather forecasting will not only reduce losses from disastrous storms, but also provide significant savings for agriculture, aviation, communications, construction, and other sectors of our economy.

In fact, the study found that the economic paypack of the modernization of the weather service will be nearly $8 for every $1 spent. While providing for the modernization of the technology of the Weather Service, the bill also provides for an orderly restructuring of Weather Service offices.

To my colleagues who are concerned about the possible closure of weather offices, I would like to point out that this bill prohibits the closure of any weather office until after January 1, 1996.

Mr. Speaker, the comprehensive NOAA authorization bill now before us respects the priorities which the House approved, and I urge my colleagues to support the bill.

H.R. 3489

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GILMAN. Mr. Speaker, I rise in support of the conference report for H.R. 3489, the Export Administration Act of 1992 and I commend the distinguished chairman of the Subcommittee on International Economic Policy and Trade [Mr. GEJDENSON], as well as the distinguished ranking Republican member of the subcommittee [Mr. ROTH] for their outstanding work on this measure.

The cold war is over and the policies of our Nation must reflect that fact. For years, our Nation placed severe restrictions on the export of high technology civilian exports. We did so because we believe it was necessary to prevent nations which were ideologically opposed to our own nation from accessing dual use technology. It is time to reassess those policies.

While this legislation does not address every archaic facet of our export control system, it does begin to address some of its problems. This bill takes aim at nation's such as the People's Republic of China, without hitting or otherwise penalizing companies doing business in such countries.

This conference report encourages the State Department and our U.S. companies to work together to promote a code of conduct modelled after the Sullivan principles that would strengthen worker rights, discourage the use of forced labor, and encourage the protection of basic human freedoms.

Another provision prohibits the export of United States origin satellites for launch from a vehicle owned by the PRC and provides that the President may waive the prohibition only on a case-by-case basis upon the certification by the U.S. Trade Representative that PRC is in full compliance with the United States-China agreement regarding international trade in commercial launch services.

The prohibition does not apply to six ongoing projects representing thousands of American jobs. We are being tough on the Chinese Government and its seriously flawed policies of labor and commercial exploitation without hurting our exporters.

In short, this legislation moves the goalpost of our China policy closer toward our end zone without penalizing the home team. Accordingly, Mr. Speaker, I urge its adoption.

H.R. 3489, THE OMNIBUS EXPORT AMENDMENTS ACT OF 1991

HON. FORTNEY PETE STARK

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, October 5, 1992

Mr. STARK. Mr. Speaker, the legislation before us contains some modest, but important measures to help prevent nuclear proliferation.

For many years, nuclear proliferation was a mostly overlooked issue despite the significant threat it posed. But now, with the cold war over and the results in from the U.N. inspections of Iraq, proliferation is finally getting some of the interest and attention it deserves.

For nearly 2 years, a number of us in Congress have labored hard to fix the holes in U.S. nonproliferation policy which nearly allowed Saddam Hussein to deploy the ultimate weapon.

There are three basic steps which must be taken if future Saddams are to be stopped before it's too late.

First, we must strengthen U.S. export controls over sensitive nuclear dual-use equipment and technology. Once our own laws are tightened, we have greater leverage to ensure that other countries, like Germany and Japan, have strengthened controls of their own.

Second, we should enact sanctions to punish and deter foreign countries and governments that sell nuclear technology without the proper safeguards. This has been a significant problem, especially in the instance of Iraq, whom we now know received significant nuclear supplies from Germany, Switzerland, and other Western firms.

Finally, we need to improve the effectiveness of International Atomic Energy Agency safeguards and inspections. The IAEA, despite visiting Iraq twice a year, completely missed Baghdad's elaborate clandestine weapons program.

The legislation before us will help accomplish the second and third of these goals. Title III includes a series of sanctions on foreign companies and countries which help deter and prevent future transfers of nuclear technology. These provisions were drawn from legislation developed by the Senator from Ohio, which passed the Senate last April.

Unfortunately, the sanctions do not include the most effective measure—import sanctions—even though such sanctions passed the House earlier this year with bipartisan and administration support and are not opposed by the Senate. It is my hope that the import sanctions can be addressed again at an early date in the next Congress. We already have such sanctions for chemical and biological weapons transfers—it makes no sense to have weaker laws and punishments for nuclear transfers.

The other significant flaw in Title III is that it does not strengthen U.S. export controls of nuclear dual-use technology. This is especially unfortunate since just last March the Nuclear Suppliers Group [NSG] agreed on new international guidelines for dual-use nuclear exports. The United States had an excellent opportunity to carry out the NSG standards by strengthening our statutory licensing guidelines and criteria. Having done our part, we could then focus attention on our allies to ensure that they carried out their NSG commitments as well, for it is only through concerted, coordinated international efforts that we can prevent countries like Iraq, Iran, and Libya from getting the foreign technology they need to develop nuclear weapons. Nearly everyone stands to gain from stricter U.S. export controls, especially allies like Israel, which are most vulnerable to the nuclear ambitions of despots like Saddam Hussein.

But on balance, the legislation is an important step forward in addressing the leading threat to our national security—the further spread of nuclear weapons. Many of my colleagues worked hard to achieve passage of this bill, especially Representatives MARKEY, WOLPE, and SCHUMER, and Senators GLENN and PELL. There is still much to be done, and I hope that Congress and the President get to work early on this issue next year. It shouldn't have to wait another 2 years.

ASSISTING EXPORTS BY SMALL BUSINESSES

HON. JOHN J. LaFALCE

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, October 5, 1992

Mr. LaFALCE. Mr. Speaker, as chairman of the Committee on Small Business, I am deeply concerned about the difficulties that small businesses face in obtaining export financing. As a result, when the Committee on Banking was marking up the legislation to renew the Export-Import Bank's charter, I took that opportunity to offer two amendments to assist small businesses.

One amendment clarifies the longstanding congressional intent that the Bank direct 10 percent of its assistance to small business exporters. I felt that this amendment was necessary in order to ensure that the program—which was created to help small businesses access the Bank's financing authority—functions properly.

This small business set-aside was enacted in 1983. The statute required the Bank to set aside 10 percent of its financing authority, by 1986, to "finance exports by small business concerns." However, the Bank has been counting the small business content of exports by larger companies against the set-aside. It was not intended that small business subcontracts count as "exports by small business concerns" and the language that I inserted into the Eximbank legislation specifies that only direct assistance to small exporters can count against the setaside.

While I am encouraged by the significant changes in the Bank's small business program recently—including the Bank's recognition that its calculation of the set-aside was contrary to both the spirit and the letter of the 1983 statute—the language underlining congressional intent removes any ambiguity.

I welcome the Bank's renewed commitment to provide export assistance to small businesses and I look forward to working with the Bank to implement this program fully.

The second amendment which I offered to the Eximbank legislation makes more "user-friendly" the delivery of services which the government is already offering in the area of export assistance.

This amendment provides that the Eximbank will work with other Federal agencies to disseminate information about its programs and financing practices and will train personnel in the workings of these programs.

This should facilitate an exporter's ability to learn about and secure working capital, financing and insurance for exporting goods and services. While this should be useful to all businesses, it should be especially helpful to small businesses which are often least able to devote the staff, money, and time to search out information scattered around the 10 different Federal agencies that have export assistance programs.

By establishing this more integrated system of Federal export services and assistance, we can begin to eliminate duplication in Federal programs, identify exporters' needs, fill the gaps, and get down to the business of promoting the export of American goods and services.

TRIBUTE TO CONGRESSMAN DAVID MARTIN

HON. CHARLES E. BENNETT

OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Monday, October 5, 1992

Mr. BENNETT. Mr. Speaker, I join in the praise of our colleague DAVE MARTIN. His leadership for a strong national defense has been an inspiration to all of us. His vigorous support for his constituents and for our country in all ways has set an example for all of us. Congress will surely miss him. There is no one here that does not count him as a personal friend and I am not sure that can be said of many other of us here. Whatever list of fine qualities for a Congressman we might have, DAVE MARTIN is to be found at the top of the list of those who excel.

TRIBUTE TO HON. TOM CAMPBELL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, October 5, 1992

Mr. LAGOMARSINO. Mr. Speaker, there are few people who can come into Congress and make their mark on the House in just 4 years. TOM CAMPBELL can and did.

TOM, in fact, has made a career of being excellent. A graduate of Harvard Law with a doctorate in economics from the University of Chicago, he clerked for Supreme Court Justice Whizzer White, won a White House fellowship, and was Director of the Federal Trade Commission's Bureau of Competition. All this before most people even get started. He was the youngest law professor ever to be tenured at Stanford, and 4 years ago, he decided to apply his talents to Congress, winning the Silicon Valley seat.

In the House, TOM served on the Banking, Finance and Urban Affairs Committee, the Judiciary Committee, and the Science, Space, and Technology Committee—where he was able to demonstrate his mastery of international trade and competitiveness, one of the major issues now facing our Nation.

Tom saw that American business men and women have to compete in the international arena with one hand tied behind their backs. He proposed legislation to relax Federal antitrust laws to allow U.S. companies to engage in joint ventures and cooperative research and development, an advantage many of our overseas competitors already enjoy. He also proposed that we treat foreign investors in the same way that U.S. investors are treated in the foreigner's home country—a tough but pragmatic stance.

I have no doubt that we have only seen the beginning of Tom's career at this point, and that he will continue to make a mark for himself in business, academia, and elective office. He's too smart to sit on the sidelines for long.

IN SUPPORT OF THE CONFERENCE REPORT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BROOMFIELD. Mr. Speaker, I rise in support of this conference report that reauthorizes and updates our export control regime.

The end of the cold war has made it essential that we formulate our policies governing the licensing and oversight of our dual use and high tech civilian exports. The enactment of this measure is the first step toward reaching that goal.

This legislation does not provide the sweeping overhaul of our current multiagency and multifaceted system of controlling the export of the most sensitive goods and technologies to problem countries. That effort has to be left in the hands of the next Congress.

Neither does it resolve the conflict between those who would like to see the Secretary of Defense play a much greater role in the formation of our export control policy and those who would like to see the Secretary of Commerce exercise preponderant authority in this domain.

I would only point out to my colleagues on both sides of this debate that the policy to be set out under this measure gives all agencies, including DOD, Commerce, and State, a say in export control. Also, the President's Enhanced Proliferation Control Initiative has already begun the process of addressing the challenge of controlling the proliferation of weapons of mass destruction to unstable regions of the world.

On the positive side, this conference report does satisfactorily resolve all of the administration's earlier veto threats.

Instead of a backward looking nuclear weapons control regime of the type we considered in our House-passed version, the provisions on nuclear non-proliferation before us today offer a comprehensive approach that is fully consistent with our efforts to control the proliferation of nuclear weapons technology and enhance the role of the Nuclear Suppliers Group.

Equally important, the conference report reflects the new consensus of the Coordinating Committee on Multilateral Export Controls that Russia's telecommunications needs can be met without sacrificing the security interests of the United States or its NATO allies.

Enactment of this conference report will not provide a quick fix for the competing bureaucratic interests vying for control of our export licensing system. It does, however, permit Congress to reenter the export control debate and begin the process of meeting the proliferation challenges of the post-cold war era.

I urge my colleagues to support the conference report.

IRISH FEDERATION OF MONMOUTH COUNTY PAYS TRIBUTE TO JACK MURPHY AND MARY HASSELL

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PALLONE. Mr. Speaker, on Friday, October 16, the Irish Federation of Monmouth County, NJ, will hold its sixth annual charity ball at the Shore Casino in Atlantic Highlands. On this occasion, the federation will honor two of Monmouth County's finest and most generous citizens, Mr. Jack Murphy and Ms. Mary Hassell.

Both Jack Murphy and Mary Hassell have had long associations with the Irish Federation. Mr. Murphy has been a member of the federation since its infancy. His firm, Murphy Bus Co., has always donated its transportation services to the federation, and he has always generously responded to the organization's appeals. Ms. Hassell has held many offices in the federation, and has been the sunshine girl for the past 12 years. She has been a positive force in the community, cheering the sick and consoling the grieving, and federation members cherish her presence at the organization's meetings.

Proceeds from the federation's souvenir ad journal will contribute to three very worthy causes: Project Children, the Rainbow Foundation, and the Irish Federation Charity Fund. Project Children provides a vacation for children from the troubled north of Ireland, regardless of religion. These boys and girls, Catholic and Protestant, stay with host families in the United States, enjoying a respite from the conflict in the homeland and learning that the bitterness that they know should never have been and should stop. The Rainbow Foundation, located in Middletown, NJ, also focuses on children, helping youngsters with catastrophic illnesses, providing transportation, equipment, and medicine, and helping parents in their time of difficulty. The Irish Federation's Charity account helps the unfortunate in their time of need and other charitable causes as the need arises.

The Irish Federation is an active nonprofit organization with a body of elected officers. It has been in existence since 1971, and its purpose is to establish an Irish cultural center in Monmouth County, dedicated to the promotion and study of Irish music, language, dance, and history. Over the years, the federation has raised and donated thousands of dollars to various charities, most prominently the Deborah Hospital, Brown Mills, NJ.

While there are many hard-working and dedicated individuals whose efforts have helped the Irish Federation to grow and prosper, I would like to pay special tribute to Mr. Patrick Gaynor of Middletown, NJ, president of the Irish Federation. Thanks to his efforts, and those of the other members of the Federation, I am sure that Friday's event will be an exciting and memorable one.

INTRODUCTION OF LEGISLATION TO SIMPLIFY ELIGIBILITY REQUIREMENTS FOR RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SLATTERY. Mr. Speaker, I rise today to offer very simple legislation to simplify eligibility requirements for recipients of Aid to Families with Dependent Children [AFDC].

I was contacted last year by Ms. Donna Whiteman, secretary of the Kansas Department of Social and Rehabilitation Services, who advised me that Federal regulations require every adult member of a family to attest personally to their U.S. citizenship. The regulations also require the adult to formally declare that any newborn child is a U.S. citizen, even if the infant is born in the United States. These two requirements delay unnecessarily benefits to eligible individuals. According to Secretary Whiteman, the regulations create a tremendous potential for purely technical errors. The problem is particularly acute in rural areas, where families may have to travel a considerable distance to reach the nearest Social Security office.

Congress recognized this problem in the 1990 farm bill, when we amended the Food Stamp Program, with support from the administration, to allow a single household member to attest to the citizenship status of all members of the household.

I contacted the Department of Health and Human Services' Administration for Children and Families, where official informed me they would support a similar revision to the AFDC program.

Mr. Speaker, this is a very minor change. It does not increase welfare rolls. This simply allows people who are eligible for AFDC, among the poorest citizens of our country, to obtain benefits more quickly. I urge its adoption.

THE 50TH ANNIVERSARY OF BEACON ELEMENTARY SCHOOL

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HERTEL. Mr. Speaker, I rise today in celebration of the 50th anniversary of Beacon Elementary School in Harper Woods, MI.

When Beacon Elementary first opened in September of 1942, it was located in what was then known as Gratiot Township. World War II was being fought and although the emphasis was on learning, much of the school's activities focused on supporting the war effort. The state-of-the-art construction of the school made it an ideal location for an emergency relief station in case of a major disaster. Luckily, it was never called into service for that purpose.

The City of Harper Woods we know today was incorporated as a city in 1951. With an area of 2.63 square miles, it is known as the City of Schools and Beacon Elementary is the oldest of the 10 schools in the city.

When it opened, parents and students alike were excited with the 10-room school. Principal Beth Sheridan and her staff welcomed 400 pupils in grades three through eight.

Many of the early students who attended Beacon have also sent their children to this wonderful school. In a country where transience is the norm, there is comforting stability through the generations at Beacon.

It is with great pride that the present principal, Ellenora Yelensky, a former Beacon student herself, the staff of Beacon, the Beacon Parent Organization and the community of Harper Woods join in honoring Beacon's half century of excellence in education.

TRIBUTE TO RILEY AND MYRTLE RENFROE'S 50TH WEDDING ANNIVERSARY

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. RAY. Mr. Speaker, I rise to pay tribute to a wonderful couple who will soon celebrate their 50th wedding anniversary, Riley and Myrtle Renfroe.

The Renfroe's were married on November 29, 1942, in Kingsland, GA. Riley was originally from Quitman while Myrtle was from Ludowici. They have since led a full life and have two wonderful children, Emily and Jack.

Both Riley and Myrtle Renfroe are extremely patriotic and moral, and have been tremendous public servants. Riley served in England during World War II, and Myrtle played the organ in the First Baptist Church for 40 years. Riley has served as Republican chairman of Charlton County for several years and Myrtle taught school for 36 years.

Mr. Speaker, I am sure that all of my colleagues will join me in wishing the very best to Riley and Myrtle Renfroe on their happy anniversary.

IN HONOR OF BRUCE BAUMGARTNER 1992 OLYMPIC GOLD—AGAIN

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. RIDGE. Mr. Speaker, I rise today before the conclusion of the 102d Congress to pay tribute to a distinguished American, an exceptional athlete, and one of the most widely recognized and respected residents of Pennsylvania's 21st Congressional District—Bruce Baumgartner.

In a Washington Post article, dateline, Barcelona, August 6, 1992, the writer provided one of the most succinct and vivid descriptions of the man we recognize today. He wrote:

> Think of it: the finest heavyweight wrestler in U.S. history, all 6 feet 2, 277 pounds of him charging across a mat with the grace of a dancer and the power of a front end loader. Almost no one stops Bruce Baumgartner when he's in high gear—and he was in some sort of overdrive tonight in his quest for gold.* * *

Bruce won the gold in Barcelona and became the first U.S. wrestler to win three Olympic medals—Gold in Los Angeles; Silver in Seoul; Gold in Barcelona. His accomplishments for more than a decade resonant with one word—champion. He is the five-time World Cup champion, the 1986 Goodwill Games and world champion, the two-time Pan American Games champion and the 14-time U.S. National Freestyle champion.

Mr. Speaker, Bruce, his family and his friends can certainly be proud of these athletic achievements, for they reflect the hard work and dedication of a very unique individual. Long hours and countless sacrifices were required to accumulate such an unprecedented record.

But, it is equally impressive that Bruce's academic and civic resumes reveal the same type of dedication and commitment to excellence. Attending Indiana State University, Bruce achieved a 3.77 undergraduate grade point average, winning one of the NCAA's top five academic-athletic awards, as well as an NCAA post-graduate scholarship to Oklahoma State University.

At home in western Pennsylvania, Bruce's message to young people has won him community-wide praise. Emphasizing that academics come before athletics, he has instilled this code in hundreds of young people he has coached at Edinboro University since 1984. He has taken his message of discipline, sacrifice, commitment, integrity and self-worth to thousands of young people in primary and secondary schools.

On a more personal note, it has been my pleasure to be with Bruce, his wife Linda and their son, Bryan, on several occasions. There is nothing that generates a quicker smile or look of greater personal satisfaction than mention of his family. He is as gentle as he is powerful, as thoughtful as he is dedicated, as decent as he is strong.

It is with great pride and honor that we salute Bruce Baumgartner—Olympic champion.

BELL CO. TELECOMMUNICATIONS EQUIPMENT MANUFACTURING SHOULD BEGIN NOW

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HASTERT. Mr. Speaker, as a cosponsor of H.R. 1523, a bill introduced by our colleague from Ohio, Mr. OXLEY, which would permit the Bell companies to manufacture telecommunications equipment and customer premises equipment, I do not believe that H.R. 5096, the Antitrust Reform Act of 1992, is conducive to this needed relief in any respect.

In this regard, I recently read the additional views in the committee report on H.R. 5096 submitted by our colleague from Illinois, Mr. HYDE, on manufacturing relief. I wholeheartedly agree with his comments on the manufacturing issue and insert them in the RECORD at this point:

ADDITIONAL VIEWS OF CONGRESSMAN HYDE

> I firmly believe that the Regional Bell Operating Companies ("Bell Companies") should be allowed entry without delay into the telecommunications equipment and customer premises equipment manufacturing industries. I made clear this position in March of 1991 when I co-sponsored H.R. 1523, Representative Oxley's legislation allowing the Bell Companies immediate, regulated, entry into these markets. My vote in support of H.R. 5096 in Committee reveals no change of heart. It merely recognizes that H.R. 5096 provides appropriate statutory standards for deciding upon Bell Company entry into the information services industry. Unfortunately, these standards are wholly inappropriate for manufacturing and threaten America's ability to regain preeminence in this vital field.
>
> The seven Bell Companies are among the largest and most technologically sophisticated corporations in America. They take in $80 billion in annual revenue, provide phone service to 80% of our nation's population, and control over half of our telecommunications industry's capital assets. America should be relying on these companies to put us in the vanguard of the worldwide telecommunications revolution. Instead, we have been busy erecting chinese walls preventing them from using their invaluable telecommunications know-how and great store of available funds for manufacturing applications. Since their creation in 1984, the Bell Companies have been forced to turn away small American manufacturers with bold ideas for joint ventures and with urgent needs for venture capital. The Bell Companies have had no choice but to look for investment opportunities overseas. They have plowed back a paltry 1% or so of revenues into research and development because of a lack of ability to market their inventions. And, in the meantime, our telecommunications trade surplus has become a deficit, U.S. companies' share of new telecommunications patents has been plummeting, over 70 U.S. telecommunications companies have merged with or been acquired by foreign concerns, and AT&T, the largest domestic telecommunications manufacturer, has cut 60,000 manufacturing jobs. Over 190 U.S. telecommunications equipment manufacturers have joined in a coalition to support removal of the Bell Company manufacturing restrictions. The two leading unions in the U.S. telecommunications industry, the Communications Workers of America and the International Brotherhood of Electrical Workers, concur. I think we should heed their call.
>
> Certainly, there must be regulatory safeguards ensuring that the Bell Companies will not engage in anti-competitive behavior once they enter the manufacturing industry. Such safeguards to protect independent manufacturers have already been devised and/or implemented. Among these are requirements that the Bell Companies only purchase

equipment at open market prices when purchasing internally (and only from separate affiliates), that they grant independent manufacturers comparable opportunities to sell to them, that they grant these manufacturers all the technical information needed to meet specifications, and of course, that they do not cross-subsidize. After the regulations are implemented, all we must do is give the Federal Communications Commission adequate resources for enforcement.

To revive the American telecommunications manufacturing industry, the Bell Companies should be allowed to enter the fray as soon as possible. We cannot afford to wait the many years that will be required for the litigation generated by H.R. 5096 to run its course. We cannot afford to use a standard of review for Bell Company market entry ("no substantial possibility that [a Bell Company] could use monopoly power to impede completion . . .") that has been used ever since divestiture to keep the Bell Companies out of markets. It may very well be necessary to use the scheme envisioned by H.R. 5096 in contemplating Bell Company sale of information services. The Bell Companies generally have bottleneck control over the provisions of local phone service, and non-Bell information service providers understandably fear pricing and service discrimination should the Bell Companies become their competitors. In the manufacturing field, however, the regulatory problems are not nearly as knotty, and the need for a reinvigorated American marketplace is paramount. I can see no reason to further delay the supervised entry of the Bell Companies into this industry.

RETIREMENT OF HAMILTON McWHORTER

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DARDEN. Mr. Speaker, the Georgia General Assembly is losing a long-time leader and friend. Hamilton McWhorter, who went to the capitol 55 years ago as the senate parliamentarian and has served since 1966 as its Secretary, is stepping down.

At 79, the lifelong bachelor who has devoted his life to helping a succession of lieutenant governors run the chamber has said he would retire in Lexington, GA, where he grew up, or in Athens, GA, home of the University of Georgia and the Georgia Bulldogs.

In addition to his duties at the State capitol, Mr. McWhorter has remained steadfast in his devotion to University of Georgia sports. It has been estimated that he has missed only six or seven football games—home and away—in the past 29 years.

Mr. McWhorter's father was president of the Senate, and he served as parliamentarian of the chamber in 1937–39, after graduating from law school at the University of Georgia. He left to serve in the military intelligence during World War II and it is a legend among senators that he was a CIA agent after the war.

Mr. McWhorter was elected to the senate himself in 1960, but only served one term because he disliked politics, he said. He loved the procedures of the Senate, however, and returned in 1966 as secretary.

Having worked so many years at the State capitol, Mr. McWhorter is considered to be a part of the institution. He knows every nook and cranny of the building like his own home and knows all who frequent its halls like family. His entertaining character and exceptional devotion will be difficult, if not impossible, to replace.

I ask my colleagues to join me in wishing Mr. McWhorter many happy and healthy years to come in his much-deserved retirement.

HEALTH CARE: LET THE PEOPLE SPEND

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. JOHNSON of Connecticut. Mr. Speaker, Michael D. Bromberg, executive director of the Federation of American Health Systems, wrote an excellent op-ed that appeared in the Washington Post on September 29, 1992. I commend it to my colleagues as they think about establishing a global health budget.

[From the Washington Post, Sept. 29, 1992]

HEALTH CARE: LET THE PEOPLE SPEND

(By Michael D. Bromberg)

Imagine the public outcry if Congress passed a "global entertainment budget" limiting the amount of money citizens may spend on movies, fast food and family vacations. That is what the Democratic leaders in Congress and their presidential nominee, Bill Clinton, are advocating for health care expenditures.

Frustrated by their inability to control federal health costs, these liberal lawmakers are suggesting an annual "global health budget" for the private sector. This mechanism would set an arbitrary ceiling on aggregate public and private health care spending. The cap would be enforced by controlling prices, which inevitably would limit health care purchases and lower the quality of care.

Whether applied to entertainment or health care, the concept of a global budget would require a constitutional amendment; our forebears did not grant government the authority to apportion our personal incomes. Congress does have limited authority to ration private consumption of scarce resources such as food and gasoline during national emergencies. Even during peacetime, Congress has invoked its authority to protect the public safety by requiring cars to be equipped with seat belts and by setting a national speed limit.

But the United States is not at war, and health care is hardly a scarce resource. In fact, capping individuals' health care purchasing would have a detrimental impact on public health. The use of a global budget even exceeds the health policies established by countries that embrace socialized medicine. In Great Britain, for example, citizens retain the freedom to purchase supplemental private coverage. Canada, which lacks our constitutional protections, does limit all health spending as well as such individual choices. Fortunately, most Canadians live near the U.S. border, and we provide the state-of-the-art health care they covet.

Our government does have the authority to balance individual rights against the overall welfare of the public, but it must do so cautiously—any restriction on our fundamental rights must stem from an overriding public interest. The Supreme Court has vigorously defended this principle by overruling laws that do not meet this "strict scrutiny" test. In doing so, the high court has cited our Constitution, its amendments and the Declaration of Independence as authority.

For instance, in *Buckley v. Valeo*, a cap on campaign expenditures by private citizens running for office was struck down as a violation of the First Amendment right to freedom of expression. Government-set limits on individual liberties, such as the right to personal privacy, were rejected under the due process clause of the 14th Amendment in *Griswold v. Connecticut* (which voided a state statute prohibiting the use of contraceptives). No overriding public interest would be served by forfeiting to government individuals' freedom to choose what they buy and how much they spend on health care service.

It would be constitutional for Congress to cap federal health spending because that involves the allocation of tax dollars. That would be unwise public policy, however, because a federal health cap would only compound the dilemma of the millions of poor Americans who do not qualify for Medicaid. It also would be legal for Congress to limit tax subsidies for private health expenditures, such as the tax deductions and exclusions for employer-paid insurance.

Reforming our health system to increase access and control costs is essential, and there are many pending proposals to achieve it without raising serious constitutional questions. The examples include:

Changing our tax laws to encourage cost-effective health plans;

Accelerating efforts to measure quality and eliminate unnecessary care;

Reforming malpractice laws to reduce the cost of defensive medicine; and

Establishing purchasing groups to lower the cost of insurance for small business.

But prohibiting private health spending above some magic number—regardless of need—flies in the face of our constitutional guarantees. It is ironic that those who want government to limit our personal decisions on health spending are the first to proclaim their belief that "health care is a right, not a privilege." They ought to realize that under the Constitution, rights belong to the people—not the government.

SISTER FRANCES JEROME WOODS, EMINENT SOCIOLOGIST, WRITER

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GONZALEZ. Mr. Speaker, I rise in tribute to the life of and the important good works of my good friend, the late Sister Frances Jerome Woods, an eminent sociologist and writer, a nun, a great American, and a wonderful human being. She was a member of the Koinonia Community, who entered the postulancy of the Congregation of Divine Providence in 1928.

For 39 years, 1948–87, she taught sociology, social work, and political science at Our Lady of the Lake University in the heart of my congressional district in San Antonio. In addition to being a great teacher, a distinguished professor, she wrote six books on sociology, did research and conducted studies for the writing of dozens of definitive articles and publications, and also contributed to many encyclopedias.

One of the most important studies conducted and written by Sister Frances Jerome, and which I had the honor to have published in 1982, as the chairman of the House Subcommittee on Housing and Community Development, was "The Model Cities Program in Perspective: The San Antonio, Texas, Experience."

Her other books published include: "Cultural Values of American Ethnic Groups," Harper, 1956; "The American Family System," Harper, 1959; "Introductory Sociology," Harper & Row, 1966; "Marginality and Identity: A Colored Creole Family Through Ten Generations," Louisiana State University Press, 1972; "Mexican Ethnic Leadership in San Antonio, Texas," Heritage of the Mexican American collection by Arno Press, Inc., 1977, and "Value Retention Among Young Creoles," the Andrew Mellen Press, 1989.

Sister Frances Jerome also wrote the chapter entitled "Congregations of Religious Women in the Old South," in "Catholics in the Old South," edited by Randall M. Miller and John L. Wakelyn, Mercer University Press, 1983. Twenty years earlier she wrote "Religion, Medicine, and the Humanities" in the book, "San Antonio—A History for Tomorrow," part I, edited by Sam Woolford, the Naylor Co.

She was a contributor to "The World Book Encyclopedia," "Social Casework," "Mental Hygiene," "American Catholic Sociological Review," "Choice," "Exceptional Children," "Social Work," "Social Service Review," "Southwestern Social Science Quarterly," and "The New Catholic Encyclopedia."

Sister Frances Jerome was a former president of the American Catholic Sociological Society, now called the Association for the Sociology of Religion. She was a member of the American Sociological Association and the American Anthropological Association, as well as a member of numerous other professional organizations.

Born in Guthrie, OK, on January 4, 1913, she made her first profession of vows in 1931 and her final vows 6 years later. In 1931, she was assigned to teach in St. Francis Xavier School in Alexandria, LA. She taught at St. Anne's School in Houston in 1935, at St. Anthony's School in San Antonio in 1937, and at Holy Family School in Tulsa in 1942.

In 1989, she received the Alumni Achievement Award given by the Catholic University of America where she had earned a master's degree and a doctorate in political science and sociology. Her bachelor's degree in history was from OLLU in 1940.

When Sister Frances Jerome died in San Antonio on August 9 at McCullough Hall, the hospital for the sisters at Our Lady of the Lake University, she left only one immediate survivor, her sister, Hope Kennedy Pasque of Guthrie, OK. She also left a "telephone directory of devoted friends" as her good friend, Sister Catherine Walker of San Antonio, has said.

Members of this august body, I grieve at the loss of Sister Frances Jerome Woods—her brilliant mind, her deep spirituality, her artistic and writing talents and her tremendous capacity for love and caring.

But her life with us continues in the legacy of good works she has left us. Her spirit has touched so many lives through her writings and the training she gave to hundreds of social workers at the Worden School of Social Work at OLLU which is, this year, celebrating 50 years of service. Sister Frances Jerome's good influence will always be there. We have truly been blessed by her life.

CONGRESSMAN KILDEE HONORS JUDGE CHARLES B. MOSIER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to a man who has become one of Michigan's most respected jurists, the Honorable Charles B. Mosier. Judge Mosier is retiring from a legal career that spans four decades culminating with his service to the 67th district court for the past 22 years. In recognition of the lifetime achievements of Judge Mosier, a dinner is being held in his honor on October 22, 1992, at 6 p.m. at the Davison Country Club.

After graduating from Otisville High School in 1947, Judge Mosier attended the University of Michigan and Park College of Kansas City, MO as an undergraduate student. Judge Mosier completed his graduate studies in journalism at Washington University in St. Louis, MO and obtained his juris doctorate degree in law from the University of Detroit in 1957. Judge Mosier also served for 2 years as a member of the U.S. Army as a staff instructor in the U.S. Nike Guided Missiles Combat Program.

After graduating from the University of Detroit, Judge Mosier became a practicing attorney in Genesee County, with law offices in Flint, Burton, and Otisville. He served also as village attorney for Otisville, MI, city attorney for Clio, MI, and prosecutor for both municipalities.

In 1980, Judge Charles Mosier began his service with the 67th district court, 2d division. While a member of the court, Judge Mosier has served as chairman of the Computer Training and Transition Team and is a member of the District Court Criminal Justice Committee. Judge Mosier initiated the 67th district court's program allowing high school students to receive courtroom training as a part of their school activities. This was accomplished through scheduling visitations, discussion periods, and mock trials monitored by Judge Mosier and volunteer attorneys.

Judge Mosier is the founder of the city of Davison's Community Service Program and the 67th district court's First Offender Program. He has served as the presiding judge of the 67th district court for three terms and has served as chief judge pro tempore, his current post, for three terms.

A widely respected jurist, Judge Mosier is a staff member of the Michigan Judicial Institute and has served as an instructor to judges, magistrates, clerks, and court administrators throughout the State of Michigan. He is also an appointed staff member of the Center for the Administration of Justice at Wayne State University in Detroit, MI. In addition, Judge Mosier has also held statewide seminars for district judges.

Judge Mosier has been an active member of numerous professional and civic organizations including the Genesee County Legal Aid Society, the Genesee County Bar Association, the District Court Committee, and Bench and Bar Committee. He is a past member of the board of directors of the State District Judge's Association, cofounder of the Michigan Magistrate's Association, and the editor of "Bench Marks," a statewide bimonthly publication directed to all Michigan district judges.

Judge Charles Mosier and his wife Dee have been married for nearly 40 years. They have 2 sons, Matt and Mark, and 10 grandchildren.

Mr. Speaker, it is indeed an honor for me to rise before you today to pay honor to the lifetime achievements of this remarkable man. Through his hard work, dedication, and flawless professionalism, Judge Charles B. Mosier has established for himself a place of honor in the annals of Michigan legal history. I am honored to have had the privilege to represent him in the U.S. Congress. I ask you and my fellow members of the 102d Congress to join me honoring this great jurist.

THE MERIT SYSTEMS PROTECTION BOARD [MSPB]

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GEKAS. Mr. Speaker, I introduced a bill, H.R. 5239, the Merit Systems Protection Board [MSPB] Administrative Judges Protection Act of 1992, along with my colleague Congressman GUS YATRON of Pennsylvania. The bill was referred to the Committee on Post Office and Civil Service. Unfortunately, the Congress will be adjourning before we have the opportunity for a hearing on this important bill to safeguard the employment rights of Federal workers for fair and unbiased hearings before impartial adjudicators.

Yesterday I received a copy of the letter of support for the bill from the National Association of Postal Supervisors to Congressman BILL CLAY of Missouri, chairman of the Post Office and Civil Service Committee. The postal supervisors agree with me that the bill is important to postal workers, who come before the Merit Systems Protection Board and want to be assured that decisions impacting their future employment are made by administrative law judges [ALJ's] with judicial competence and independence. They too support the conversion of qualified administrative judges at the MSPB to ALJ status and protections under the Administrative Procedures Act. They too are concerned that important cases at the Board may now be heard by junior civil servants without the required experience and independence associated with the corps of Federal ALJ's. The postal supervisors who are most impacted by the MSPB describe some recent unfair employment actions against the AJ's by the MSPB, which they cite as undermining worker confidence in the MSPB hearing process. I agree that only full ALJ status for the AJ's at the MSPB will protect them from potential Board influence and politicization.

The letter suggests that the Congress address the current employment practices of the Board in regard to the AJ's at the MSPB. I respectfully call upon the Post Office and Civil Service Committee to give the developments described in the letter its oversight attention, even as we are ending this active session. These matters may be reviewed even though we have adjourned. I offer any assistance that might help the committee to investigate this matter by putting them in contact with the appropriate sources. I am sure that when we reconvene, that more will be known about this matter because of our interim oversight activities. We can then have a full public hearing on the bill. I understand that the General Accounting Office has been contacted by the committee about the downgrading of AJ's at the MSPB and I look forward to their report. I request that the letter be included in the RECORD; the text of the letter follows:

NATIONAL ASSOCIATION
OF POSTAL SUPERVISORS,
Washington, DC, September 26, 1992.

Hon. WILLIAM L. CLAY,
Chairman Committee on Post Office and Civil Service, Washington, DC.

DEAR CHAIRMAN CLAY: I am writing to express our support for HR 5239 "The Merit Systems Protection Board (MSPB) Administrative Judges Protection Act of 1992", introduced by Rep. Gus Yatron (D-PA) and Rep. George W. Gekas (R-PA), and referred to the Committee on Post Office and Civil Service and the Civil Service Subcommittee chaired by Rep. Sikorski (D-MN).

HR 5239 is important to postal workers who rely on the fairness and integrity of decisions made by MSPB Administrative Judges (AJs) on employment cases. We are concerned that administrative judges (AJs) at the MSPB are now subject to performance appraisals and cash bonus awards based on performance review, which as the Administrative Law Section of the American Bar Association has determined, is inappropriate review of individuals with hearing and decision authority. Such review may compromise the decisional independence of AJs at the MSPB. As a result, we strongly support Administrative Procedure Act/Administrative Law Judge (ALJ) protections for AJs at the MSPB and the ensuing ALJ classification status for MSPB AJs. Federal employees deserve the same rights to an impartial hearing and decision regarding their critical employment rights, as do individuals seeking federal benefits before the Social Security Administration or the Department of Labor.

ALJ status for MSPB AJs is long overdue. There are some recent disturbing employment developments at the MSPB that warrant your oversight and attention. The Board has hired eight AJs at the GS-11 classification. Mr. Paul Katz, a personnel consultant and former assistant director for Classification and Qualifications with the Office of Personnel Management (OPM), was hired by the Board to conduct a classification study of the AJ position and recommend an appropriate level of classification for MSPB AJs. In March 1991 the Board adopted a resolution to compensate AJs at the highest rate permissible under the study.

Mr. Katz's study resulted in a GS-15 classification level for the AJ position at MSPB. GS-11 status is appropriate for entry level staff attorneys at MSPB but not for AJs with hearing and signatory powers over important employment decisions impacting our membership. We object to "GS-11 Junior AJs" hearing cases brought by postal workers before the MSPB. Also, the Board contrary to its Resolution, had failed to convert some GS-14 AJs to GS-15, and these AJs have filed a grievance against the Board. This is the same body that postal workers expect fairness and integrity from in deciding employment cases. It should not be surprising to learn worker confidence in the Board's hearing process is low when their own AJs need to file grievances for fair treatment.

HR 5239 has a January 1992 cutoff date for converting MSPB AJs to ALJs, which avoids conversion of GS-11 AJs and those not meeting OPM standards for the ALJ Register. The enactment of HR 5239 is the best method of stopping the Board from replacing qualified AJs with inexperienced AJs who do not meet the OPM ALJ standards for selection, experience, neutrality or compensation. The sixty-two AJs at the MSPB need the protection of ALJ status as do federal workers who come before them. The Board has demonstrated its bias for control by hiring GS-11 AJs and failing to convert some GS-14 AJs to (see letter), the Civil Service Subcommittee has not conducted a hearing on the bill or on the GS-11 AJ and GS-14 AJ conversion matters. We respectfully request that the full Committee consider those issues and support Senate efforts to address these issues prior to adjournment this year.

Thank you for your assistance with this request, which is of importance to postal workers.

Regards,

BOB MCLEAN.

CONGRATULATIONS TO ST. FRANCIS R.C. CHURCH

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to St. Francis Roman Catholic Church of Hackensack, NJ as it celebrates its 75th anniversary.

In the year 1917, the city of Hackensack was a small rural community of about 25,000 people. Approximately 4,000 of these were Italian/Sicilian immigrants who came to Bergen County with great hopes of using their skills and love of work to set new roots for their families. Some devoted themselves to agriculture and horticulture; then they were off to work in the local silk, paper, chemical and slipper factories. Others began building homes and highways for the local community. As their roots became stronger, the local community began to feel a deep need to have a church of their own, one which would serve their growing spiritual, emotional, and social needs—in their native language.

The newly formed parish had been using the premises on 53 Fair Street, owned by a Mr. A. Pesaturo, for their services. In August of 1917, the foundations of an old structure on Holt and Lodi Streets were removed to be replaced with a small wooden church. The dedication of this church was on December 9, 1917, taking only 4 months to build. Bishop John O'Connor of Newark graciously sent this new church Father Alexander Petrone as their first priest. Father Petrone stayed in Hackensack until 1925 when he was transferred to Trenton, NJ.

In 1925, St. Francis was entrusted to the Capuchin Franciscan Friars. The first Capuchin pastor was Father Gaetano Costi. In 1931, Father Gaetano left St. Francis and was succeeded by Father Evarist Materazzi. Father Evarist is most noted for two things: First, his project to reconstruct a new church. Second, his program which was to obtain a community of Sisters to instruct the children. Initially, the Capuchin Sisters of Ringwood were ministering the parish. In 1932, however, they were succeeded by the Religious Teachers Filippini. In 1967, a grammar school opened, and the sisters served the St. Francis parish until 1984.

Over these 75 years many of its members have served the parish faithfully out of love, with little or no recompense, save the willingness to serve their church and their community. Additionally, the parish has greatly contributed to the city of Hackensack through its activities and participation within the surrounding community.

Mr. Speaker, I am proud to join in paying tribute to St. Francis as it celebrates its 75th anniversary. I extend my best wishes to the parish of St. Francis of Assisi Church on the occasion of their diamond jubilee celebration.

THIRD DISTRICT, NEW JERSEY, RESIDENTS SPEAK OUT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PALLONE. Mr. Speaker, I recently asked my constituents to speak out about what bothers them about their Government. I sought their suggestions for making Government more efficient and more responsive. I asked them to help me challenge and change the way we do business in Washington.

I would like to share with you some of their comments. Most ideas dealt with tax and spending issues and health care. Because of the overwhelming response and my desire to include a representative cross-section of views, every letter could not be printed. However, each one will receive my careful consideration.

Terry A. Powers, Atlantic Highlands:

I feel it is all of the politicians' responsibility to inform the American public what the deficit means to them. You need to make people realize that if we don't start sacrificing, there will be real trouble with our standard of living.

Jacob H. Graf, Oceanport:

The number one issue is the staggering national debt. Congress must stop spending the country into bankruptcy and must exercise fiscal responsibility.

Janet Reece, Ocean Grove:

The common folks must live within our budget, it's time Congress decided to do the same. It worries me when I realize my grandchildren will have to pay the bill for all the spending.

John Kinneman, Keansburg:

We—Congress and us—have to realize that the hen that lays the golden eggs is just about worn out and the deficit has to be addressed in a meaningful way.

Patrick Pecora, Keansburg:

You guys down there in Washington must get your act together and cut down on your spending. Bite the bullet and even cut those social programs.

Ayala Family, Keansburg:

We taxpayers are fed up with successive and excessive taxation, especially in property taxes. We have no recourse except to sell and move out. We have no money left at the stroke of someone else's pen. It's scary and is absolutely not acceptable.

Frances K. Warrack, Belford:

I think retired people living on a fixed income are being taxed to death and sometimes are unable to maintain homes they worked long and hard to pay for.

P. Brewer, Elberon:

Our number one problem is getting the country back on a sound economic basis. This means creating jobs, rebuilding our infrastructure and protecting the environment. In order to do this, we must provide education to every person who can learn new skills. For those who cannot, low skill and low paying jobs must be subsidized so that people will perform them with pride and live above the poverty level.

Harold H. Dugan, Jr., Spring Lake:

Government should expand and expedite highway and infrastructure repair and upgrading. This will provide badly needed jobs, improve our transportation network (which defense spending will not), and improve our economic situation by providing contracts to the taxpaying private sector.

John Leonard, Long Branch:

I am heartily in favor of taking defense dollars and applying them to an agency to promote a cleaner environment and concomitantly creating more jobs thereby.

Margaret Bovasso, Long Branch:

All inmates, where appropriate, should help rebuild this country's infrastructure. We would be teaching them a skill so they could get a job when they are released. It's such a waste having prisoners sit around or lift weights/exercise all day.

S. Corban, Middletown:

The most important issue is health care in the U.S.A. More and more people are out of work or change jobs and the insurance companies just play on them . . . The whole system is so bad that it becomes a shame for this country. What is the care that this country takes of its people?

Hortensia Stetler, Atlantic Highlands:

Our prescription expenses are sky high and some form of prescription service should be put forward for senior citizens.

Carole White, Oceanport:

I do believe in containing health care costs, but at the expense of the hospitals, doctors, pharmaceutical companies and insurance companies who are reaping obscene profits. There should be some kind of government watchdog agency which reports on overinflated medical profits, not a national health care system.

Clara T. Gilmartin, Union Beach:

I plead with you and all Members to please do something positive to change our current health pay system. It is way out of hand. Drastic changes must be made to control costs to everyone. A band aid approach cannot do the job. A complete overhaul must be undertaken. It can't happen over night, but it's past time to begin.

Irving Frick, Neptune City:

I would like to offer one suggestion for the preservation of the Social Security program. During the past three years, the federal treasury has borrowed more than $150 billion from the Social Security Trust Fund. This practice should be stopped. I hear so many politicians wanting to cut Social Security in order to balance the budget. Social Security funds . . . should never be used to run the federal government. Taking funds from these (Social Security) taxes with the view of paying them back at a later time (with interest) only means that the taxpayer is being taxed twice.

T. and A. Judge, Port Monmouth:

I hope you will impress upon your colleagues the importance of passing the "notch" correction legislation. It means so much to us seniors who are living on a fixed income. My husband had to take a part-time job driving a school bus so that we could make ends meet.

David S. Binion, Middletown:

I cannot understand why Congress ever passed the Notch Act. Most of the people affected by that served during World War II. Since I was born in 1921 and have been retired for the last five years, I figure between my wife and I we have received $860 plus $300 a year less of Social Security. I served four and a half years in the Navy.

Charlotte Kirk De Wyn Gaert, Avon-by-the-Sea:

These (overseas Congressional trips) too could stop. The entire entourage and personnel do not have to go to Bongo Bongo Land to see how the tsetse fly mates! Stay home. Study price gauging, lawlessness, and start making welfare recipients clean up streets, fix potholes, clean beaches and put some pride back in their lives!

Samuel S. Befumo, Spring Lake:

If America wants to make peace in the world, it should stop selling materials to other countries, for without arms or ammunition, they cannot make war.

Wanda J. Bolam, Hazlet:

I feel very strongly about the environment and feel any programs must be expanded to the fullest as quickly as possible using necessary dollars now with the hope that once we are working fully as we need to protect our environment, the cost will become minimal with all programs in place.

W.T. Bell, Jr., Ocean Grove:

One of my great concerns is that my grandchildren will not have drinkable water sometime after the year 2000. Freshwater wetlands are valuable resources for our state and nation. If the fish cannot exist in a stream, who is to say that we can drink the water.

Frank Fusco, Hazlet:

I'm very concerned about the future of this country because of the way things are being done in Washington. I'm 71 years of age and I've seen some very bad times and some good times. What galls me the most is the lack of teamwork to get the things that are necessary done. The President wants this and the Congress wants that and between them, the country gets nothing that is needs.

TRIBUTE TO REV. WILLIAM M. GRAY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to an outstanding citizen from my hometown of Harrisburg, PA, the Reverend William M. Gray. "Billy" Gray is retiring as the executive director of Youth Urban Services of the Harrisburg Area YMCA. Billy has left a legacy of service and dedication to the community that will be hard for anyone to match.

The list of Billy Gray's accomplishments is a long one, dating back to his service in the U.S. Army during World War II in the European Theatre. Those early years also saw Billy Gray's preeminence as a prizefighter, as he was an amateur and Golden Glove champion.

Mr. Speaker, Billy Gray has been a fighter all his life. He has fought for the betterment of the community, fought for improving the lives of others. He has been a member of the Second Baptist Church for more than half a century, a church where he has also been a deacon and associate pastor. He also has a long association with the First Baptist Church of Cornwall. Billy has a long involvement in scouting, as he was an Eagle Scout and a scoutmaster of troop #24 for 10 years.

Billy has been involved with the Harrisburg Area YMCA for more than 20 years. His work as executive director of Youth Urban Services has been comprehensive, involving basic and higher education delivery, job opportunity programs, legal services programs, job counseling, and community outreach. I could go on for many hours to describe all that Billy Gray has done in this capacity, and he has been recognized with numerous awards for his years of distinguished service.

Mr. Speaker, I ask all of my colleagues to join me in congratulating Rev. William M. Gray for a lifetime of accomplishments, and in wishing him well in the years ahead. He is a beacon of our community, a beacon that will continue to shine for many years to come.

TRIBUTE TO THE EDUCATION OPPORTUNITY CENTER

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. NORTON. Mr. Speaker, I rise today to bring to the attention of my distinguished colleagues an organization which was established for the purpose of and remains dedicated to assisting residents of the District of Columbia attain funding for postsecondary education. On October 13, 1992, the Educational Opportunity Center will celebrate 25 years of continuous service to residents of our Nations capital.

The Educational Opportunity Center of Washington, DC, located east of the Anacostia River in ward six, officially opened its doors on July 1, 1976. The center, a community-based counseling program, funded by the U.S. Department of Education and sponsored by the College Board, provides information concerning financial and academic assistance to individuals seeking a college education. Residents of the District of Columbia who are at least 19 years of age, who live at or below the poverty level, and are first-generation college students are eligible for the services of the Educational Opportunity Center. Since its inception, the center's staff has assisted more than 50,000 D.C. residents in planning and carrying out their educational careers.

Committed to providing quality service, the Educational Opportunity Center provides speakers for community sponsored educational forums and workshops and offers career counseling. Throughout its existence, the center has made tremendous strides in providing equal access to higher education.

During the 1991–92 academic year, the center conducted two "early college awareness" programs for D.C. students enrolled in grades seven through nine. The programs, "College Knowledge" and "I'm College Bound" were conducted at several junior high schools, the Patricia Roberts Harris Educational Center, Anacostia Library, and the Richard England Metropolitan Police Boys and Girls Club. Approximately 300 students participated in these programs, which included out-of-town college tours and monthly educational/career speakers.

Mr. Speaker, I am sure that I speak for my constituents when I express my profound appreciation for the dedicated directors, administrators, and staff of the Educational Opportunity Center and the outstanding public service which they have performed for the past 25 years. I ask that you and my colleagues join me in wishing this exceptional organization continued success. I look forward to celebrating the silver anniversary of the Educational Opportunity Center.

NUCLEAR SANCTIONS PROVISIONS OF THE EAA

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Michigan [Mr. WOLPE] and would like to commend him and Mr. MARKEY for their years of effort to address the nuclear threat and for drafting the original title III of the House EAA. This House and the cause of nonproliferation will be poorer for the absence of Mr. WOLPE from this Chamber next year.

I would also like to commend chairmen GEJDENSON and FASCELL for their unfailing commitment to include nuclear controls in this bill. I strongly support those provisions and urge my colleagues to vote for the bill.

While the conference report does not contain every nuclear control provision passed by the House last year, we should not lose sight of the landmark achievement that is retained: the first significant strengthening of our nuclear nonproliferation law since 1978.

No longer will the United States be in the illogical and dangerous position of imposing sanctions on chemical weapons and missile proliferators, but not nuclear. And the sanctions in this bill are tougher than any previously written into law—as well they should be for the heinous crime of proliferating the bomb.

Senator GLENN is to be lauded for drafting the original version of the sanctions, and I would like to thank him and his staff for their cooperation in working out a compromise with the version drafted by myself and Representative STARK.

As has already been noted, the original title III dealt both with sanctions and U.S. export controls. While the bill before us today addresses only sanctions, it is not the end of the story. The title III export controls on bomb-grade uranium, which were based on my bill H.R. 3527, have been included in the Energy bill, which the President has indicated he will sign.

That leaves the question of export controls on nuclear components, technology, and dual-use items, which the House can and must address in the next Congress. Hopefully, the administration in office next year will be less hostile to the concept of restricting exports to countries that truly represent a regional security threat.

Once again, I urge my colleagues to vote for this bill to help prevent the spread of nuclear weapons.

H.R. 4484, MARITIME ADMINISTRATION AUTHORIZATIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BROOMFIELD. Mr. Speaker, I understand that the other body amended H.R. 4484 to include my legislation to scrap the aging, rusting ships of America's ghost fleet.

It is with a mixture of sadness and pride that I take the floor today to urge passage of this bill.

Sadness because this may be the last time I address my colleagues as a Member of this great body.

Pride because I can leave the House with this final legacy in an area that has been important to me throughout my 36-year career—eliminating government waste of taxpayer dollars.

When I first happened upon the weary warriors of World War II rotting in the James River, I would never have believed that it would take almost 4 years just to get the Government to stop paying to store junk.

I naively thought getting rid of these rusting relics would be like cleaning out the attic. You just pull 'em out of storage, sell whatever is of value, and trash the rest.

Instead I have had to wage a major legislative and public relations campaign against this monument to government waste.

Our national debt is a staggering $4 trillion dollars. We are crippling our economy as passing an impossible burden on to our children.

We simply cannot go on spending money we don't have to store ships that won't sail.

The $50 million to $100 million that legislation saves may sound like small potatoes, but if every Member brought in that much, we could cut some $26 billion to $50 billion out of the federal budget. That would certainly be a step in the right direction.

I challenge my colleagues who are returning and the new Members who join them to do just that—fight to eliminate a specific government practice or policy that senselessly wastes taxpayer dollars.

And I hope my colleagues will join me in making a small but significant contribution to fiscal responsibility today by passing H.R. 4484.

CONGRESSMAN KILDEE HONORS RICHARD AND MARGARET DALY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to two outstanding educators, Richard and Margaret Daly, who are retiring after a combined 60 plus years of exemplary service to the Flint Community Schools. In recognition of their many accomplishments and extraordinary careers, their family and colleagues have organized a retirement dinner to be held at Bonaparte's Restaurant, in my hometown of Flint, MI, on Thursday, October 8, at 6 p.m.

Mr. Richard Daly was raised in Detroit, MI, graduated from St. Michael's High School and earned a bachelors degree from Eastern Michigan College. In 1957, he joined the Flint Community Schools as community activities director. Richard received several promotions over the years and in 1967 was assigned to the Recreation Office as a consultant. In 1972 he became a coordinator of physical education recreation and athletics. He served in that capacity for 18 years before being named to his current position as director of physical education, recreation, athletics, and youth services in 1990.

Equal in service to the community, Mrs. Margaret Daly who was born and educated in my hometown of Flint and graduated from St. Michael's High School. After pursuing her education, at Mott Community College, she joined the Flint Community Schools in 1977 as a textbook clerk at Southwestern High School. In 1978, Margaret moved from Southwestern to Merrill, serving 9 years as second clerk until 1987. She was promoted to elementary secretary at Cody School, where she has concluded her service after 14 years.

The Dalys believe that schools and community life are interdependent. They view the relationship between the schools and community as a two way street marked with the signposts understanding, appreciation, and cooperation. Through their gift for planning, thirst for detail, and a sense of ripeness in issues, they have enlisted the entire community in encouraging and guiding students in the development of skills and acquisition of knowledge through lifelong learning.

The Dalys, through their collective energy, enthusiasm, and zeal, have stood as sentinels in the development of our youth into effective citizens. For over 60 years of combined service, they have helped our youth become the kind of citizens who uphold democratic ideals and who will lead America into the 21st century.

Mr. Speaker, it is with great pride that I stand before you today asking that you and my fellow members of the 102d Congress join me in honoring Richard and Margaret Daly. They have spent their lives developing the future leaders of our great Nation. I am pleased to have this opportunity to join with their family friends, and colleagues to extend my deepest thanks for their many contributions and to wish them the very best as they reach this milestone in their lives.

THE CONDITION OF THE NATION'S BANKS: WORTH WATCHING

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KLECZKA. Mr. Speaker, prior to the last presidential election in 1988, there were distinct signs that condition of the Nation's saving and loan industry was deteriorating.

Unfortunately for the taxpayer, the scope and severity of the problem was not addressed comprehensively until 1989, when Congress enacted the Financial Institutions Reform, Recovery and Enforcement Act.

Now there are signs that a sizable number of banks may have to be closed due to lack of adequate capital. Again, these closures now appear likely to occur in the year following the election.

The taxpayer may be at risk if banks are unable to pay the cost of closure of failed institutions themselves through FDIC assessments. At this point, I would like to share with my colleagues an article which appeared in today's Washington Post on this subject.

[From the The Washington Post, Oct. 6, 1992]

BANK FAILURES COULD COST UP TO $95 BILLION: STUDY SEES 1,000 INSTITUTIONS DYING

(By Jerry Knight)

A new round of debate over the health of the nation's banks was opened yesterday with the publication of a study contending that more than 1,000 banks are "dying" and that it will cost the government from $31 billion to $95 billion to protect depositors if those banks fail.

Offering a more pessimistic assessment of the banking system's problems than any previously published, the study argues that a taxpayer bailout for the banks is "virtually certain" because payments from banking industry alone cannot keep the bank insurance find at a level where it can cover all depositors.

The study warns that Congress and the Bush administration, by refusing to recognize the seriousness of the banking industry's problems, are in danger of repeating the mistakes that led to the savings and loan debacle.

The gloomy projection of banking problems was made by Edward W. Hill, a professor at Cleveland State University, and Roger J. Vaughan, a banking expert from Santa Fe, N.M. They are authors of "Banking on the Brink," a book published by a division of The Washington Post Co. that is not part of the news department of The Washington Post.

At a press conference yesterday, Vaughan and Hill released more than 200 pages of computer analysis of financial reports of the banking industry and individual banks, showing, they said, that the banking industry's problems are much more serious than previously known.

They argue that if banks' reports accurately reflect their financial condition, "more than 1,000 of the nation's banks would be judged insolvent," meaning they would not be able to pay all their debts and pay off their depositors. "Perhaps 1,000 more are on the lip of insolvency," the authors concluded.

In contrast, the other 10,000 banks are "strong, profitable and internationally competitive" they said, pointing out that half of the world's 20 most profitable banks are American.

The Hill and Vaughan study estimated that the cost of bank failures could run as high as $95 billion, or two to six times as much as estimates of bank failure costs recently made by other government and private sources. The Federal Deposit Insurance Corp. a year ago estimated bank failure costs over the next few years would be from $39 billion to $48 billion.

After looking at the study for only a couple of hours, FDIC officials said the authors were projecting losses from future bank failures that were far greater than those suffered in past failures. The FDIC also questioned the use of computer models to project industry-wide losses, saying it is more accurate for examiners to determine losses on a bank-by-bank basis after looking at individual loans.

Alexandria banking consultant Bert Ely, well known for his estimates of bank and S&L failure costs, also criticized the study.

"I am at the opposite end of the spectrum and proud of it," he said. Ely, who has done studies for banking industry lobbying groups that object to raising the premiums banks pay for deposit insurance, estimates future bank failures will cost from $15 billion to $20 billion.

Vaughan and Hill make their judgments of banks' health by subtracting what they say are the probable future losses, primarily on real estate loans, from the financial data reported by banks. They contend banks can expect to lose 80 percent of the value of their repossessed real estate and loans more than 90 days past due and to lose 60 percent of their loans that are delinquent less than 90 days or that have been restructured. They also projected losses of from 20 percent to 40 percent on all other real estate loans, even those that are being paid on time.

Those discounts are "ludicrous," said William Isaac, former head of the FDIC, who contends that predictions of impending banking disaster are being proven wrong. "Despite all the crazy things people said would happen, things are looking up. The decline in interest rates has really saved the day for a lot of banks," he said.

Isaac, however, agrees with Hill and Vaughan that federal banking laws need to be updated. "Over the longer pull, if we don't make some structural changes, if we don't reform deposit insurance and permit interstate banking and repeal Glass-Steagall [a law prohibiting banks from expanding into other business lines], I believe the long run outlook for the industry is bleak," Isaac said.

INCREASING ESTIMATES—PROJECTIONS OF THE COST OF BANK FAILURES TO THE BANK INSURANCE FUND

Date released	Author	Estimated cost (Billions)
July 1991	Bank of America	$28–51
August 1991	Government Accounting Office.	30
October 1991	Federal Deposit Insurance Corp.	39–48
January 1992	Office of Management and Budget.	72
April 1992	Congressional Budget Office	43
April 1992	James Barth	36–63
April 1992	Bert Ely	15–20
April 1992	Edward Kane	53
April 1992	Robert Litan	30–50
October 1992	Roger J. Vaughan, Edward W. Hill.	31–95

Source: "Banking on the Brink" by Roger Vaughan and Edward Hill

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DR. MALCOLM STITCH: LASER PIONEER

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MORRISON. Mr. Speaker, Dr. Malcolm Stitch who passed away in Richland, WA, on December 25 this past year of a long illness, was a trailblazer in the development of laser-based military equipment for the United States and its allies. Laser rangefinders and target illuminators contributed in a major way to the precision delivery of bombs, missiles, and tank gunfire in the Desert Storm operation. He was also responsible for the development of several unique and complex nonmilitary laser systems.

Dr. Stitch, who received his Ph.D. in physics from Columbia University in 1948, was a young research physicist at the Hughes Aircraft Company's Malibu Research Laboratory in 1960 when the first ruby lasing action was demonstrated by Dr. T.H. Maiman, a member of the research laboratory staff. Recognizing the potential of this research device as a possibly very accurate range measurement tool for military applications, Dr. Stitch joined the Hughes Radar Development organization in Culver City. This group had the design expertise necessary for producing military-class hardware. Here he created an organization devoted solely to furthering the applications of laser technology.

Under his stimulus and guidance a small group of young engineers and designers put together and demonstrated a laboratory model of a practical laser option rangefinder in January 1961. While radar had been used for many years for determining the distance to remote objects it suffered in its ability to discriminate between various nearby targets because of its relatively wide microwave beam. Being optical the laser, with an aperture of only inches, could focus a pencil beam on and range on small, discrete objects with much greater accuracy and certainty. It was this selectivity which made laser devices so attractive to the military. In 1963, the first small, handheld laser named Colidar II, was demonstrated by Stitch's organization. He then took on personally the responsibility for promoting the unique properties of the laser both here and abroad with hardware demonstrations to key potential customers.

During the ensuing years militarized rangefinders were developed for both the U.S. Armed Forces and those of our allies by the organization Stitch founded. These included the U.S. M60–A1E1 and Abrams tanks and helicopter gunships. Their work on high repetition rate target designators made possible the precision weapon delivery systems so decisive in Desert Storm. In recent years, this group of laser experts grew to over 1,000 employees.

Dr. Stitch left Hughes in the late 1960's to become an executive of Korad in Santa Monica, CA. While there he directed the design and construction of a laser rangefinder for the McDonald Observatory in Texas. This instrument was used for many years to make precision measurements between the observatory and reflectors left on the Moon by our astronauts.

In more recent years Dr. Stitch was responsible, as an executive of Exxon Research and Technology Laboratories in Richland, WA, for putting together an outstanding research team devoted to specifying and developing very high-power dye lasers for use in uranium isotope separation. The resulting dye laser heads are still unique in their power class.

Dr. Stitch was not only a brilliant laser scientist in his own right but he also had a knack for inspiring and bringing out the best in his extremely loyal fellow employees wherever he worked. His recruiting, motivating, and organizing talents were unsurpassed. His contributions to the laser art were unique. He is sorely missed by all those whose path he crossed.

Survivors include his wife, Sharon, two daughters, Wendy and Amy Stitch, at home; four sons, Stefan Stitch, a student at U.S.C., Los Angeles; Matias Stitch, a student at Dartmouth, NH; Andy Odening of Los Angeles and Campbell Odening and wife, Debbie, of Los Angeles; his parents-in-law, Herbert and Rilla Fahlberg, of Princeton, IL; and his brothers-in-law and their wives, Joe and Barb Fahlberg, of Morton, IL, and Bob and Allison Fahlberg of Richland.

STUDENT BILL OF RIGHTS

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. WATERS. Mr. Speaker, I am proud to introduce a student bill of rights. This legislation is long overdue. Students across the country are having their wages, AFDC payments, and unemployment benefits garnished to pay off student loans. Sadly, many of these low-income former students are being saddled with debt because they trusted dishonest private post-secondary school owners. Many poor students, in an effort to give themselves an economic opportunity, have fallen prey to proprietary schools that offer no credible training program. Many of these students never receive a degree because the school literally goes out of business or leaves town. As a result, students with little or no economic means are left with thousands of dollars of student loan debts, with no return on the investment.

A General Accounting Office [GAO] report analyzed nine studies which indicated that 37 to 51 percent of those defaulting on their Stafford loans were unemployed at the time of the default. The same data further revealed that the majority of students made less than $10,000 per year, with 75 percent making less than $15,000 per year at the time of their default.

In terms of tax intercept, there are differences at the State and Federal levels which must be corrected. Federal law provides more protection for the student borrower. We must ensure that these Federal standards for tax interception apply to the States as well where protections are not as strong for students.

Information is a key component of any system of student loan benefits and obligation. Unfortunately, the current system does not make the grade. The legislation I am introducing today is based on the premise that students should be informed of their rights in the loan collection process and collection activities should cease if the student cannot afford payments on the loan because he/she earns a salary at or below the poverty level.

My legislation would do several things to address these problems. It would:

First, prohibit garnishment of wages or any collection of defaulted loans against a student borrower unless the net income of that student's family exceeds 150 percent of the poverty level;

Second, requires lender and loan servicing companies to provide student borrowers with a clear, concise, conspicuous, and complete description of the borrower's rights to forbearance or deferment of payment;

Third, provide that the Secretary of Education at his or her discretion can forgive or compromise the borrower's loans if there is a finding by the guaranty agency, loan servicer, and so forth, that the school has engaged in fraud or systematic law violation; and

Fourth, provide that lenders, guaranty agencies, and any other person involved in collecting a student loans would apply to the Education Department, if the Department were collecting on a loan.

These changes in the law will significantly reform our student loan program and build in fairness for low-income students. Given the beating lower and moderate-income families endured in the 1980's from student loan cutbacks, we owe this modest program of integrity to those who have been robbed of opportunity.

I hope to see this legislation adopted soon after the next Congress convenes. I look forward to working for this legislation's passage with all my colleagues.

MYTH OF A FAILING AMERICA KEEPS COMING BACK TO LIFE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BEREUTER. Mr. Speaker, on what is expected to be the last day of the 102d Congress, I want to call my colleagues' attention to a very important and perceptive editorial in the Omaha World-Herald. It provides some important facts to dispute the distorted image of a failing American economy and decline in the Nation's middle-income bracket. It suggests that these myths are in part being promulgated as a part of the current election campaign.

Members are encouraged to read and carefully consider the following editorial:

MYTH OF A FAILING AMERICA KEEPS COMING BACK TO LIFE

A new look at the American economy by a national business publication demonstrates how distorted America's recent economic history has become when described and interpreted by self-serving politicians and activist groups.

The editors of Money magazine set out to learn who gained and who lost in the American economy since their magazine began publication in 1972. They interviewed demographers, sociologists and economists, studied trends and followed one American family's experiences through the two decades.

Their findings: Some of the most widely held beliefs about the American economy are based on "little more than stray statistics and dinner-party chatter."

And, it might be added, on partisan political rhetoric.

Some of those widely held distortions about the American economy have become part of the Bill Clinton campaign for president and the litany of the Democratic congressional leadership. Clinton seeks votes by depicting a dreary America in which the rich got richer, the poor got poorer and the middle class began a slide into poverty—all because of the policies of Republican presidents.

Money magazine looked at how the middle class fared. The magazine's analysis of Census Bureau figures indicated that households with an income between $25,000 and $50,000, measured in 1990 dollars, dropped from 37 percent of the total in 1972 to 33 percent in 1990.

The middle class, in other words, was smaller. However, if a slide into poverty were the reason, the number of households at the bottom of the income scale should have grown. That number didn't grow. It declined. Only the over-$50,000 households became more numerous.

"The middle class did indeed shrink," the magazine said, "but because more Americans got richer, not poorer." Indeed, nearly half the households with an income in the bottom fifth of all households in 1977 had moved into the middle- or upper-income brackets by 1986. A few of them moved all the way to the top bracket.

Authors of the report acknowledged that poverty is distressingly widespread. They acknowledged that the number of children in low-income households has increased. They said that poor people in 1990 may have been poorer, in some ways, than poor people in 1972.

The federal government didn't make those things happen, however. One of the primary reasons is that more people in the late 1980s were having babies without being prepared to support them, the authors said.

"Young families are struggling," they said, "but chiefly because more and more of today's young parents are unmarried, undereducated and therefore unlikely to get ahead."

One of the greatest single contributors to poverty in America is the fact that births to single women increased from 12 percent of the total in 1972 to 27 percent in 1989—a sad fact over which the federal government has no control whatever.

The "America-is-failing" story has been shot down before by economists and statisticians. But some myths die hard. This particular one keeps returning to life with the help of liberal columnists and commentators who repeat it so often and so persuasively that it often passes for the truth on the campaign trail and the evening news. This is a campaign year. Regrettably, almost anything goes, even something that has been prominently and publicly proven false.

H.R. 5055

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GOODLING. Mr. Speaker, I want to thank the House and Senate conferees on the Coast Guard reauthorization bill for including a study of Coast Guard buoy chain procurement practices. I appreciate the support of Congressman DAVIS and the Merchant Marine and Fisheries Committee—not to mention the assistance of Chairman Walter Jones—whose leadership will most certainly be missed.

I must also recognize the outstanding work of Rebecca Feemster Dye, minority counsel on Merchant Marine and Fisheries. Without her tireless efforts, we would not be able to look into this issue this year. Although a study of procurement practices is not what I had originally intended, I certainly appreciate the cooperation of Chairman HOLLINGS and Senator DANFORTH in allowing us to examine this issue more closely.

It is my constituent, William Westerhold, and several chain manufacturers located in Pennsylvania's 19th Congressional District who brought to my attention the fact that the Coast Guard is not bound by the same procurement policies as is the Department of Defense. As the Coast Guard is part of the Department of Transportation, buoy chain procurements are currently covered by the Buy American Act and the Federal acquisition regulation, which are intended to level the playing field between U.S. domestic bidders and foreign bidders. However, U.S. manufacturers have been virtually shut out of the market due to predatory pricing by foreign competitors, and very few U.S. manufacturers are able to regularly bid buoy chain solicitations.

I am pleased that a study was included in the Coast Guard reauthorization bill to closely examine the effect current policy has on American industry. While this is important from an economic standpoint, it is also vital that we determine the effect our dependence on foreign sources for buoy chain has on national security. I look forward to the results of this study, and am pleased it was included in the conference report.

S. 3312

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. MORELLA. Mr. Speaker, I rise in strong support of S. 3312, legislation introduced by my colleagues from Vermont, Congressman SANDERS and Senator LEAHY. This bill will establish a critically needed national system of statewide cancer registries and will launch a study of breast cancer in the States with the highest breast cancer mortality rates. The Senate approved the bill on October 2, and I urge my colleagues to join me in voting for the legislation today.

Maryland leads the Nation in cancer mortality, and ranks ninth in breast cancer mortality rates. At the same time, the top 10 States with the highest age-adjusted breast cancer mortality rates lie within the North and mid-Atlantic regions. If we are to wage an effective campaign against cancer, it is critical that we establish a national system of statewide cancer registries. Many of our States lack statewide cancer registries and the States with registries are often incomplete and lacking in the resources necessary to adequately track the incidence, stage, and treatment of cancer. A complete and uniform system would allow health professionals to effectively target and evaluate cancer prevention and control efforts.

A national system of registries would also allow us to move forward with a study of the higher incidence of breast cancer in certain States. We must understand the factors behind this phenomenon in order to reverse this tragedy and prevent future cancer deaths across the country.

I congratulate my colleagues from Vermont for taking the lead on this critical issue, and I urge my colleagues to support this important legislation.

S. 1187

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. VUCANOVICH. Mr. Speaker, reserving the right to object—and I do not intend to object—I would like to make an observation to my colleagues about this bill, the Stock Raising Homestead Act Amendments Act. Despite the somewhat deceptive title, this bill is really about hardrock mining claims located on split-estate lands. These are lands in which the surface estate was patented to private individuals—for free, by the way—and the mineral estate was reserved to the United States.

Mr. Speaker, after the raucous Sunday debate on mining law reform, as constituted in H.R. 918, one may believe that the mining industry and its allies in the House are unable to compromise on reform legislation at all. S. 1187 is testament to the fact that miners and surface owners can reach agreement, can work together to ensure the surface owner is notified of entry onto his or her lands, has an opportunity to comment upon proposed operations, and is adequately protected by financial guarantees that reclamation will occur.

Mr. Speaker, I support the reforms of S. 1189 because the ranchers and miners have reached an accord. Sure, ranchers would like to have absolute authority to say "no" to mining of reserved minerals beneath their lands, but then the reservation would be meaningless. Yes, miners may prefer the old days when reclamation bonds were seldom demanded, but legitimate miners will live with these amendments because they do not unduly infringe upon the right to mine their discoveries.

That's the big difference, Mr. Speaker, between mining law reform I can live with, and that which I will fight until the cows come home. Amend the mining law with respect to patenting price, use of the land after patenting, and the reclamation bonding requirements, and I will support you. But, take away the access to prospect and the right to mine the valuable mineral deposits so discovered and you have destroyed the essence of the mining law that it has served the Nation well for 120 years.

Mr. Speaker, I withdraw my reservation, and urge passage of S. 1187, as amended.

H.R. 5055, THE COAST GUARD AUTHORIZATION ACT OF 1992

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FIELDS. Mr. Speaker, as a cosponsor of H.R. 5055, I rise in strong support of this bill which authorizes appropriations for the U.S. Coast Guard.

While this is the second time we have considered this legislation, the refined version we have before us today is the product of careful deliberations with the other body.

Since my good friend and distinguished subcommittee chairman, BILLY TAUZIN, has already thoroughly described this measure, I will highlight only a few of the more important provisions.

First, H.R. 5055 is fiscally responsible in that it authorizes only $25.6 million more than last year's figure.

While I applaud the Coast Guard's ability to conserve our taxpayers' dollars, we must all recognize that this vital agency is being stretched to its absolute limits. Instead of eliminating certain missions, Congress each year mandates new responsibilities for the Coast Guard.

Nevertheless, with this bill, the Coast Guard will be able to replace their seagoing and coastal buoy tenders; to preposition certain oil-spill cleanup equipment at coastal locations throughout the country; to renovate the Coast Guard icebreaker *Mackinaw;* to upgrade our Nation's vessel traffic service system and to arrest those persons bringing illegal drugs into the United States.

Second, H.R. 5055 authorizes the prepositioning of certain Coast Guard oilspill cleanup equipment for the Houston ship channel.

As a representative of the port of Houston, I am committed to ensuring that, if we have any future oilspills, they will be cleaned up quickly and effectively. By having this Coast Guard equipment prepositioned in the Houston ship channel, we are much more likely to minimize any environmental impacts.

Furthermore, there are few, if any, regions of our country that have larger concentrations of petroleum products than the port of Houston and no location which more fully satisfies the prepositioning criteria which I authored in the Oil Pollution Act.

Under this provision, the port of Houston will receive two vessel of opportunity skimmers, 2,500 feet of oil containment boom, and two portable floating bladders. This equipment will supplement that to be provided by the Marine Spill Response Corp. which is a privately funded organization.

Third, H.R. 5055 provides $1.25 million so that the Texas Center for Marine Training and Safety at Galveston, TX, can purchase a marine oilspill management simulator.

This state-of-the-art technology will provide individuals with computer simulations of actual oilspills. By so doing, it will allow hundreds of students, including maritime cadets, Coast Guard personnel, and professional mariners to learn firsthand how to deal with an oilspill under a number of different scenarios.

Using a simulator allows valuable training to take place quickly, cheaply, and repeatedly without risking lives or an environmental catastrophe. Because of this training, an individual will be much more likely to respond correctly when confronted with an actual oilspill.

Mr. Speaker, Texas A&M University has been in the forefront of efforts to educate those involved in the domestic oil and transportation industry. In 1977, the university established the National Spill Control School, which offers a variety of courses on such subjects as oilspill prevention, emergency response training, and safe handling of dangerous cargos. Since its opening, the school has trained 12,500 persons.

I am convinced that the $1.25 million authorized in this bill is a proper investment of oilspill liability trust funds and, with this simulator, Texas A&M University will be able to do even a better job of educating thousands of Americans on how to protect our Nation's coastline from oilspills.

Fourth, I am pleased that incorporated within section 307 of H.R. 5055 is my language to prohibit the collection of any fees for the inspection of our Nation's five State maritime academy training ships.

The Texas *Clipper*, which is the training ship for the Texas Maritime Academy, and the other sailing vessels are owned by the Federal Government and are chartered to the State maritime academies under long-term operating agreements. Since Congress appropriates money each year to the State academies, frankly, it makes no sense to now demand that they pay $7,200 for each Coast Guard inspection. While I would prefer that the Coast Guard simply exempt these vessels from their proposed regulations, it appears that a legislative solution will be necessary.

Fifth, this legislation addresses the issue of Coast Guard enforcement of certain regulations to protect sea turtles. While this bill does not propose to alter or suspend the use of the turtle excluder devices [TED's], a number of individuals who have been accused of violating these regulations have been denied due process of law. Under the Endangered Species Act, all citizens are guaranteed a hearing on their case before any penalties can be assessed.

Regrettably, requests for hearings have been routinely denied and shrimpers in the Gulf of Mexico have not been given their day in court.

This situation must be corrected and H.R. 5055 requires that a memorandum of agreement be signed by the Coast Guard and the National Marine Fisheries Service allowing those accused of a violation to appear for a hearing if a timely request is made.

Mr. Speaker, regardless of whether a Member is for or against the TED enforcement regulations, we must ensure that our citizens' constitutional rights are protected.

Sixth, this bill will improve safety for the 4 million Americans who travel on a foreign-flag cruise ship each year. Section 310 will allow the Coast Guard to prevent the departure of any passenger vessel which does not fully comply with the international convention for the Safety of Life at Sea [SOLAS]. Under SOLAS, to which the United States is a party, inspection authority is unlimited. Therefore, H.R. 5055 amends current U.S. law to allow the Coast Guard to withhold port clearance when they have concerns about the safety or the seaworthiness of a certain cruise ship. It is a long-overdue change that will improve safety for the traveling public.

Finally, we have incorporated within this legislation the text of H.R. 5397, the Abandoned Barge Act of 1992. This bill, of which I am an original cosponsor, was overwhelmingly approved by the House of Representatives on Monday, August 3.

Incredibly, under current law, it is not illegal to abandon a barge and there is no identification system for the thousands of undocumented barges. It is, therefore, almost impossible for the Coast Guard to locate the owners of these vessels.

Mr. Speaker, this legislation will make it unlawful to abandon a barge, will authorize the Coast Guard to remove them, will establish civil penalties for abandoning a barge, and will require all barges of 100 gross tons to be numbered. In this way, the Coast Guard will be able to find the rightful owners and to assess removal and cleanup costs for any environmental damage they may have caused.

Furthermore, the Abandoned Barge Act will send a clear signal to the Coast Guard that Congress believes they should remove abandoned barges before, and not after, they pollute our waterways.

Mr. Speaker, it is for all of these reasons that I strongly support the immediate enactment of the Coast Guard Authorization Act. While H.R. 5055 is not a perfect bill, it will allow the Coast Guard to continue to wage its battle against illegal drugs, to protect our coastline from future oilspills, and to assist thousands of Americans throughout this country.

Mr. Speaker, again, I urge support for H.R. 5055 and compliment Chairman BILLY TAUZIN for his leadership throughout this year. He has done a superb job of moving this vital Coast Guard funding bill.

SHOULD THE PANAMA CANAL TREATY BE MODIFIED?

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. McGRATH. Mr. Speaker, a member of the Board of the Panama Canal Commission, Robert R. McMillan, recently expressed his views on the future of the canal in a speech before the Mid-Nassau Jewish Retirement Club. In the speech, Mr. McMillan suggested treaty amendments which would permit the United States to continue a military presence in Panama and to have some ongoing involvement in canal operations after the scheduled turnover at the end of this century.

I am including Mr. McMillan's discourse for the benefit of my colleagues as the Congress considers future policy regarding Panama. While the views of Mr. McMillan are not necessarily those of the United States or the Panama Canal Commission, they deserve careful consideration both here in this country and in Panama.

IS THERE A FUTURE FOR THE PANAMA CANAL?

(Remarks by Robert R. McMillan)

The metropolitan area depends significantly on the Panama Canal. From estimates by Panama Canal officials, one-third of the total cargo of the Port of New York/New Jersey transits the Canal. That equates to approximately 1,000 ships a year with an economic impact on the region of some 60,000 jobs according to the Port Authority. With such a strong shipping interest centered here, what happens to Panama and the Panama Canal are of obvious vital interest to New Yorkers. I say Panama and the Panama Canal together, because they really cannot be separated. Canal operations and the economy of Panama are just as intertwined as is the stability of Panama with the perception of the Canal's future.

While there has been a steady improvement in the Panamanian economy since President Bush implemented "Operation Just Cause", Panama still remains fragile. With a Gross Domestic Product of some $5.0 billion and a population of 2.3 million people, the Panama Canal represents, from the viewpoint of economists, fifteen to twenty percent of the country's economy. The Panama Canal accounts for some 8,000 jobs in Panama and has revenues of around $500 million. Add to the economic equation United States defense expenditures and you will soon see that the combination of the U.S. military and the Canal account for around twenty-five percent of Panama's G.D.P. While employment has improved, there are still, depending on which figures you accept, ten to eighteen percent of the work force remain unemployed. Stability itself is a major issue facing Panama as the United States positions itself to turn over the Canal in accordance with the Carter-Torrijos Treaty of 1977.

HONORING THE TREATY

To understand the future of the Panama Canal, it is first necessary to understand the history of the Panama Canal Treaty.

The Canal was not our first interest in Panama. U.S. involvement on the Isthmus of Panama dates back to 1849. At that time, we constructed a railroad—incorporated, by the way, under the laws of New York—to speed Americans on their way to the California gold rush. Changing vessels at Panama was much quicker than covered wagon or sailing around South America. Gun boat diplomacy and the "speak softly, but carry a big stick" philosophy of President Teddy Roosevelt soon followed. We have been involved in Panama for over one hundred and forty years.

The U.S. construction of the Canal and the creation of the country of Panama itself came about during the Administration of President Theodore Roosevelt. Our Panamanian thrust followed disastrous attempts by the French in the 1880's to build a water way across the Isthmus. French engineers, fresh from their success in building the Suez Canal, approached the Panamanian project with determination. And, their efforts collapsed while spending over three hundred and fifty million dollars. Disease, corruption, and engineering miscalculations caused the failure. The United States entered the picture in 1904 when we conveniently aided a revolution which carved Panama out of Colombia. Colombia had refused to grant the United States any Canal rights in perpetuity.

Immediately after the revolution, we entered a Treaty with the new government of Panama to build a Canal—one which the United States would have control over in perpetuity. This provision of "perpetuity" would irritate Panamanians through most of the twentieth century. The annoyance subsided somewhat with the adoption of the Carter-Torrijos Treaty of 1977—a Treaty which was only approved by two votes in the United States Senate. The treaty has been the subject of continual attacks in this country with many urging that we not give up the Canal—something we are obligated to do at noon on December 31, 1999. At the same time, we must also withdraw all of our military forces from Panama.

And, permit me at this point to address those in this country who, with good intentions, would call for the unilateral abrogation of the Panama Canal Treaty. Such an action would be a foreign policy disaster for the United States—not only in Panama and Central America, but throughout the world. While there must be changes, they have to be mutually convenient steps for both Panama and the United States. The diplomacy is delicate, because at least one other nation has an eye on the Canal.

THE ROLE OF JAPAN

While the titanic struggle between the Soviet Union and the United States unfolded and both nations spent hundreds of billions of dollars on smarter weapons and more destructive bombs, the Japanese were quietly and efficiently taking full advantage of the confrontation. The results surround us. From computers to automobiles, and from the family television set to the ownership of Rockefeller Center, Pebble Beach and other United States landmarks, the Japanese continue to flex their economic muscles.

Turning specifically to Panama, Japan's current capital investment is a little more than two billion dollars. In comparison, United States' businesses, excluding the Canal, account for some seven billion dollars of investment, and we have been there since 1849!

Japan has also been actively involved in the Canal Alternatives Study Commission. Made up of representatives from Panama, the United States and Japan, the Commission is now looking at three alternatives to the Canal, including the widening of Canal locks. It was also considering the widening of the Panama Canal. That approach has been made academic because of a decision by the Board of the Panama Canal to widen the Canal—a program that has already started. The Japanese were invited to participate in this study commission by the United States—a mistake in my judgment. By seeking Japanese participation, we have given easy access to Panama and created an inevitable competitive situation. Japan would probably like to be in a position to operate the Panama Canal when we turn it over at the end of this century—even though that does not now seem acceptable to the Panamanians.

Japan views Central and South America as a new an untapped market. Its engineers and bankers have been active throughout the Hemisphere. For example, they have committed funds to study a new highway to be built across Panama from the Atlantic to Pacific Ocean. There were even stories, during the trial of Manuel Noriega, implicating Japan business interests in large pay offs to Noriega in order to gain a foothold in Canal operations when we leave in 1999. Japan's interest is understandable, because they are much closer to the Western Hemisphere than Europe or Africa.

If Japan has designs on operating the Panama Canal after we leave in 1999, what should be the policy of the United States with regard to Panama and the Canal? And, should it be of any concern to us who operates the Canal?

The Panama Canal is vital to our commercial interests. More than fifty percent of the cargo passing through the Panama Canal is destined for or from the United States.

How we handle relations with Panama and the steps leading up to the transfer of the Canal in 1999, may well decide whether Japan or any other nation is called upon by Panama to play a significant role in the operation of the Canal. Panamanian government officials are negative about any country playing a role after 1999. They want Panama to be fully in charge. Yet, the lure of the Yen could change all that in seven years.

It is very important that the United States cooperate fully with Panama in the execution of the Panama Canal Treaty. It is also extremely important that we continue to prepare the fine people of Panama to take responsibility for Canal operations. If Panama is fully ready to handle the Canal, there will be no need for assistance from any nation. Cooperation with Panama will also affect how Panama views the United States after the turnover. If assistance is required in the operation of the Canal after 1999, it will be totally Panama's call. These are very delicate times for the United States in Panama.

WHAT SIGNALS SHOULD PANAMA GIVE?

While the United States must be careful to not interfere in the Panamanian decision making process, the Canal Board has provided an informal forum for the exchange of ideas.

One suggestion I have made as a way for the Government of Panama to insure a smooth transition would be to create a "parallel" organization to actually operate certain "businesses" before the December 31, 1999 transfer of the Canal. For example, the ports and railroad might be brought together under one Panamanian "Authority". with common management long before 1999. Prior to the Treaty, the Canal ports and railroad were all operated by the United States. It should be noted that the Government of Panama has already embarked on a program to upgrade the ports.

The Panamanian administrator of the Canal, Gilberto Guardia, and the present Panamanian Board members of the Canal could make up part of the Board of the new "Authority". Thus, at the time of the transfer of the Canal to Panama, an entity with management and policy setting experience would have been in place, permitting a much smoother transfer.

The new "Authority" could also take a look at the current highway across the Isthmus of Panama. A super highway across Panama would enhance the operation of the Canal because of dependence on the roadway for maintenance crews and the transit of returning Canal pilots who have taken vessels through the waterways. And, it would open up a more significant flow of commerce between the Atlantic and Pacific sides of Panama.

In addition to the creation of an Authority, Panama will also have to amend many of its laws to cover aspects of Canal operations now under the laws of the United States, including labor, purchasing and liability—to name only a few. Moving to consider the changes would be reassuring to world shipping interests, particularly if the new "Authority" were to upgrade the current conditions surrounding the ports and the railroad. A tone for the future needs to be created now. There is a great deal to do.

President Endara has recognized the urgency by having created a special planning body. J.J. Vallarino, a Panamanian member of the Panama Canal Commission Board, chairs this group, and they are making progress.

THE FUTURE OF THE CANAL

I have no doubt that Panamanians have the skill and qualified personnel to operate a safe and efficient Canal. I have growing doubts, however, as to whether the nation has the political will and decisiveness to be an effective steward of the Canal when we leave in 1999. We must continue to be supportive. We also must encourage the development of independence which will enable Panamanians to shun the Noriegas of the future. In that connection, it is interesting to note that polls show a majority of Panamanians do not want our presence to completely end.

To insure that the Canal does not become a bucket of rusty bolts and fail to operate with its current safety and efficiency, I believe there should be a renegotiation of the Panama Canal Treaty. Keep in mind that the original Treaty only passed the United States Senate by two votes. It will not be easy here or in Panama to develop a new treaty. Yet, it is critical for the future of the Canal to do so.

Any new treaty should permit the United States to maintain a military presence after 1999. In addition, we should also try to continue to have an operational involvement with the Canal well into the next century. Achieving these objectives, through the diplomatic process, will not be easy. Yet, there are many, including Panamanian Canal executives, who fervently believe that the complete withdrawal of the United States will be disastrous to Canal operations and to Panama as a nation.

Setting the tone for the future, in my opinion, will also mean an eventual restructuring of the Panama Canal Commission. From the implementation of the Treaty, the Secretary of Defense has had authority to oversee Canal operations. Traditionally, the Chairman has been an official of the Department of Defense. If we expect Panama to run the Canal without future military or political interference, such as with the Authority I previously mentioned, the United States should consider setting an example by amending current law and sever the Defense Department ties.

As for the United States public, we have always had a love affair with the Panama Canal. Our ties are deep and emotional. For after all, it was American perseverance, diplomacy, engineering, and medical knowhow which completed the Canal after French failure. And World shipping interests will be watching Panama carefully over the next several years. I look forward to continuing to serve on the Board during a very interesting period of history.

TRIBUTE TO CONGRESSMAN BILL LEHMAN

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUTTO. Mr. Speaker, Congressman BILL LEHMAN was recently lauded after passage of the transportation appropriations bill and rightly so. BILL LEHMAN, as chairman of the House Appropriations Subcommittee on Transportation, has done a tremendous job since assuming this leadership role several years ago.

"Alabama Bill" has been a stalwart member of the Florida delegation for some 20 years and all of us are sorry to see him leave the Congress, but understand that this was a decision that he felt he needed to make. It has been a pleasure for me to serve in the House with BILL LEHMAN. He has been a tower of strength for the State of Florida and our transportation needs. The Sunshine State, with its tremendous growth, has needed someone like BILL in this key position and he has filled this job with much success. We are going to miss BILL LEHMAN'S service in Congress, but I would like to take this opportunity to congratulate him on his 20 years of positive action in Congress and wish him well in his retirement.

ISRAELI HOUSING LOAN GUARANTEES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ACKERMAN. Mr. Speaker, at long last, after much debating and negotiating and hand-wringing, this body has brought for a vote a truly momentous package of loan guarantees for housing in Israel. I shall support this measure with pleasure, and I hope that my colleagues will do the same. It has taken this body a long time, and heaven knows there were some large hurdles which had to be overcome, but when passed, the end result will be well worth it.

The measure before us, H.R. 5368, will provide our staunch ally with a package of $10 billion in housing loan guarantees. Under the plan as enumerated in this package, the United States will guarantee $2 billion per year of commercial loans taken out by Israel, over a 5-year period. These guarantees are made at no risk to the United States; the Israeli Government has never—not even once—defaulted on its debts to any creditor. It will not do so now; what it will do is provide much needed housing for the citizens of that country.

This request is made with the welcome, albeit quite belated, support of our own President. It comes to us after months of difficult, and often rancorous, negotiations between the executive and legislative branches. This has been a painful time for this body, painful because of the obstinate refusal of the President to accept the will of the legislature. The American people support the people of Israel, and through their elected representatives they have spoken in favor of this measure. But President Bush, for his own reasons, has chosen to play politics with a matter of humanitarian assistance.

It ought to be noted, too, that the impasse which resulted was broken not by dramatic action by this body, or by the President, but by the Government of Israel itself. That government has demonstrated in concrete and dramatic fashion its good intentions, and its willingness to heed American concerns.

The tide of world events has swept before it all the nations of the globe. It has brought great and wonderful changes in the Republics of the former Soviet Union, in Eastern Europe, here in the United States, and no less in the State of Israel. Israel is now deluged with immigrants from Eastern Europe; it expects nearly 1 million Soviet Jews to enter in the next 4 years. Over the past 2 years, 40,000 Ethiopian Jews also escaped lives of poverty and persecution to seek new lives in the Holy Land.

For 40 years, the United States has championed the cause of free immigration from the totalitarian countries of the Soviet bloc. The American people have watched with pain the persecution of Jews and other refuseniks, and spoken with one voice on their behalf. The past few years ought to be our moment of triumph, and in most ways they have been. But at the same time as we were finally able to free these captive people, our Government has come perilously close to turn our back on them. How sad is it that we help Soviet Jews to escape their persecutors, but leave them penniless on the doorstep of their new home? What will be our moral position in the world if we do not help to house these people who we so recently set free? Who else in the world will accept our promises of help without cynicism? We have two obligations to these refugees, a political one and a moral one.

These people represent the enormous potential of Israel's future. They are hard-working, educated, and committed to building a new future in their adopted homeland. What they need now is just a helping hand from our country, to get them started and provide them with the basics from which to build. This body has in the past given plenty of foreign aid to nations which squander it and then turn their back on us; here is a program which costs us nothing, and helps directly hundreds of thousands of deserving freedom seeking people.

We are all in this body cognizant of the recent steps toward peace in the Middle East. Reports reach us that even Syria may be willing to reach an accord with its old enemy. In the shadow of Operation Desert Storm there is the possibility of real, lasting settlements. We have a chance here to help that process as well. Israel has shown itself to all the world to be willing to work toward this new era. The Israeli people—and especially the newest citizens of that free country—deserve our support. I urge my colleagues not to withhold it, and to vote in favor of the conference report on H.R. 5368.

IN HONOR OF THE 100th BIRTHDAY OF THE REV. ANTONIO CASTEÑADA NAVA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. STARK. Mr. Speaker, I want to take a few moments out of this last day of the 102d Congress to recognize a constituent who has given so much to his church and community as he celebrates his 100th birthday. Rev. Antonio Nava was born October 4, 1892, in the state of Durango, Mexico, and came to the United States in 1916 to settle.

Reverend Nava is the founder of the Apostolic Assembly of the Faith in Christ Jesus, a Pentecostal Church organization, and was president of the Apostolic Assembly, a 450-church organization, for 30 years. He personally founded three churches, one each in Los Angeles, Yuma, AZ, and Calexico, CA. In 1980, he moved to Union City, CA, and has been active in my district since.

Reverend Nava and his wife, Delores Ochoa, had 8 children, 22 grandchildren, and 18 great grandchildren. On October 17, the Union City Apostolic Church, and its pastor, Rev. Adam Lopez, will join together and honor his many achievements within their organization.

I hope my colleagues will join me, Mr. Speaker, in remembering all that the Rev. Antonio Nava has done as a church and community leader, and all the lives he has touched, over the past 100 years. I wish him good health and happiness.

A SALUTE TO REPRESENTATIVE WILLIAM LEHMAN

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. QUILLEN. Mr. Speaker, I want to take this opportunity to salute my departing colleague and dear friend from Miami, FL, BILL LEHMAN. BILL is retiring after 20 distinguished years as a Member of this House, and his leadership will be missed by all of us.

Being a Congressman is only the latest in a series of different careers that BILL has led—successful businessman, teacher, then school board chairman. Here in the House, BILL has had the difficult job of chairman of the Transportation Subcommittee of the Appropriations Committee. He has demonstrated hard work and skill at shepherding the funds used to build America's highways and airports through the legislative process. It is not an easy task, and BILL LEHMAN has handled it with grace and good humor.

Even though BILL and I are on opposite sides of the aisle, he has always been as fair with me as with every other Member of Congress when it comes to getting help for my district, the First District of Tennessee. His record of even-handedness and bipartisanship on these matters speaks for itself. My constituents and I owe BILL a great debt, as do a lot of others.

I will miss BILL's advice and his friendship, as will so many other Members on both sides of the aisle. I wish him all the best as he returns to private life.

WELFARE REFORM

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. JOHNSON of Connecticut. Mr. Speaker, on October 2 I joined my colleagues, Congressmen SHAW, GRANDY, EMERSON, and ARMEY in introducing two of the administration's welfare reform proposals. The first bill, the Welfare Employment and Flexibility Amendments of 1992 promotes work among families on welfare by encouraging placement of workfare participants in jobs, allowing States to determine maximum workfare obligations, and allowing States to expand emphasis on job search. Further, it would improve child support enforcement by requiring AFDC parents to provide all information necessary for establishing paternity of their children.

Another administration bill, the Community Opportunity Pilot Project Act of 1992, would create broad authority to waive program rules that govern the use of Federal funds to allow new and innovative approaches to create opportunity and promote self-sufficiency. This would allow a community to take Federal transportation, community development, food stamp, job training, and drug abuse treatment funds and devise a multiyear project for a group of youth that would provide them with drug treatment, transportation to jobs outside the community, and training for jobs the project would create in the home community.

A good example of why this waiver authority is needed can be found in my own home town. In New Britain, CT, we have a highly successful education and training program for welfare recipients that does not accept any funding from the JOBS program because of the numerous requirements and restrictions that are attached to the funds. The administration's welfare reform bill is needed because current programs and funding are so inflexible compared to people's real life needs. This bill will give States that needed flexibility.

Two other administration proposals will promote work among food stamp recipients and provide waiver authority for public housing agencies and resident management corporations so they can try new approaches to self-sufficiency and resident empowerment. These bills are, respectively, the Food Stamp Employment and Flexibility Amendments of 1992 and the Housing Assistance Innovation Act of 1992.

Mr. Speaker, the administration's proposals will allow States much needed flexibility to try new approaches to promote personal responsibility and economic independence, and ensure that our welfare system strengthens families. These measures will complement the Welfare Reform Demonstrations Act of 1992, which Congressmen CLAY SHAW, FRED GRANDY, and I introduced October 1.

One of the most important provisions of our legislation, that is not in the administration's proposals, will mean that women on AFDC will begin education and training when their youngest child is 1 year of age, not 3 years of age, if child care is available. Mr. Speaker, it's a crime—and one of the major causes of poverty amongst women and children—that we allow young mothers to put off thinking about how they will become the economic power in their child's life as well as the emotional power able to create love, security, hope, and opportunity. It is a disservice to both women and children that we allow abilities to be fallow in key years. Half of unmarried teen mothers will be on welfare within 1 year of the birth of their child, and an incredible 77 percent within 5 years of the child's birth. If we want to solve the welfare problem, we must start with teen mothers, making sure that they receive the education and training they need to have to move off of welfare and into employment.

Mr. Speaker, I believe we should make these measures the first order of business in the 103d Congress.

TRIBUTE TO SCOTT P. PLOTKIN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to a truly special individual who has contributed significantly to the educational system in California. Scott P. Plotkin has served the past year as president of the California School Boards Association and is concluding his term in December. During his tenure as president, Mr. Plotkin has brought innovative ideas and thoughtful debates to the education community. His outstanding commitment and leadership toward the education program is truly worthy of praise.

Mr. Scott P. Plotkin, is a director of the Office of Governmental Affairs of the California State University system, a Sacramento-based position that has given him insight into the working of the legislature and State executive departments. Since 1981, Mr. Plotkin has been a member of the board of trustees of the Rio Linda Union Elementary School District in Sacramento County and additionally is a valuable member of the State Commission of School District Reorganization, under appointment by the California's Senate Rules Committee.

Mr. Plotkin received his master's degree in government and bachelor of science degree in business administration from the California State University, Sacramento. He pursued additional studies at the California Polytechnic State University in San Luis Obisbo, and the American River College in Sacramento.

As an advocate for improving the quality and efficiency of public education, Mr. Plotkin's dedication as a leader is life long. He was an instructional student assistant in the political science department at California Polytechnic State University and a legislative advocate for the California State University and Colleges Student Presidents Association. Scott exemplified his involvement by holding positions as assistant director and interim director of government affairs of the California State University system and was president of the Sacramento County School Boards Association.

As a community leader, Mr. Plotkin has extended his involvement in a variety of groups and causes including the Private Industry Council, Sacramento Employment and Training Agency, North Highlands and Rio Linda/Elverta Chambers of Commerce, and the Jewish Federation of Sacramento.

Mr. Speaker, I highly commend Mr. Scott P. Plotkin on his accomplishments and contributions to the public education system and I ask my colleagues to join me in congratulating him on his exceptional leadership as president of the California School Boards Association. I extend my best wishes to him in all of his future endeavors.

PRAISE FOR BELLSOUTH

HON. JIM BACCHUS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BACCHUS. Mr. Speaker, I would like to take this opportunity to commend the recent work of a solid corporate citizen, BellSouth.

On Monday, August 24, Hurricane Andrew struck south Florida with devastating force. The powerful storm swept across the State, tearing up the Miami area and the Keys. It regained strength in the Gulf of Mexico before slamming into the gulf coast on Wednesday, August 26.

According to press accounts of rescue and relief efforts in both areas devastated by the storm, very few—if any—institutions or organizations showed a greater commitment to their communities or their customer in a time of need than BellSouth.

The company's employees worked long hours under trying conditions to make sure customers and relief agencies were able to communicate.

BellSouth employees distributed hundreds of cellular phones to relief and recovery crews, civil defense workers, hospitals, media, and shelters in south Florida and Louisiana.

Local BellSouth telephone crews in both States deployed gasoline-powered generators in anticipation of massive power outages. As a result, not a single public central office switch in either State went out of commission.

In fact, in describing the uncanny performance of Southern Bell's phone system throughout the worst of Hurricane Andrew, one press account suggested that the last time so many people owed so much to so few, there were bombs falling on England.

Another read as follows:

"When I heard my daughter's voice," one reader told us after the storm, "I couldn't speak, I couldn't move, I could barely breath. The relief was incredible." In devastated Cutler Ridge, a man with no roof and a few remaining possessions could still offer his one valuable resource to his worse-off neighbors: a perfectly functioning telephone. When houses were destroyed, phone connections often went with them. But when individual connections survived, the durable, underlying fiber-optic network of Southern Bell service never failed. Not even in the hardest-hit Homestead Office.

Still other contributions that BellSouth made to the relief and rescue efforts are worth mentioning:

Thirty days of free MemoryCall service or call forwarding service to hurricane victims displaced from their homes or business;

A "switching office on wheels," the only one of its kind anywhere in the country, was sent to provide temporary telephone service;

Free calling inside the local calling zones through banks of public telephones placed in stricken areas;

Waived connection charges and 1 month's service charge for Call Waiting and electronic mail services.

No less important, BellSouth moved quickly to establish essential communications facilities for Federal Emergency Management Agency [FEMA] operations in both States, and rushed emergency generators to cellular telephone transmitters that had lost power. In short, BellSouth was there for its customers and communities in a time of unparalleled need.

I strongly commend the company and its employees for their efforts during this very difficult time in Florida.

TRIBUTE TO CONGRESSMAN LARRY SMITH

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUTTO. Mr. Speaker, another of our Florida Members who is retiring from the House at the end of the 102d Congress is Congressman LARRY SMITH.

LARRY, after two terms in the Florida House of Representatives, was elected to Congress in 1982. He has served in this body with distinction for the last 10 years.

Congressman SMITH is very forceful in pursuing matters in which he has a strong belief. He has served his constituents in south Florida in many important areas. LARRY has particularly been in the forefront of the fight against drugs. As chairman of the Coast Guard and Navigation Subcommittee in the 100th Congress, I can attest to the fact that LARRY was very much involved, not only from the standpoint of interdiction, but in many other ways, none the least of which was attacking the problem in source countries. This was right down LARRY'S line as he was a very effective member of the Foreign Affairs Committee.

LARRY SMITH will be missed in the House. As he leaves, Nancy and I extend our very best wishes to him, Sheila, and their family.

TRIBUTE TO HON. DOUG BARNARD, JR.

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HASTERT. Mr. Speaker, I rise to pay tribute to my good friend and distinguished colleague DOUG BARNARD, who is leaving Congress after serving the rambling swath of eastern Georgia for almost 16 years.

As a member of the Banking, Finance and Urban Affairs Committee, DOUG has been an influential and hard-working advocate to reform our Nation's banking system. DOUG has complemented his interest in issues involving the banking industry with his chairmanship of the Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs. I have had the pleasure of serving on this subcommittee with DOUG since 1986. As the ranking minority member of this subcommittee, I appreciate the nonpartisan and genuinely fair manner in which DOUG conducted the business of this subcommittee. Indeed, under DOUG's leadership this subcommittee has addressed not only issues affecting financial institutions, but also such important matters as ethics and integrity for senior-level officials at the IRS, foreign trade zones, and monetary policy to name only a few. To be sure, DOUG has been an outstanding chairman.

I am honored to have served with DOUG BARNARD. He has been an excellent public servant and I am sorry to see DOUG go. DOUG, my friend, I wish you Godspeed.

TRIBUTE TO HON. ROBERT J. LAGOMARSINO

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. RINALDO. Mr. Speaker, I rise today to pay tribute to our distinguished colleague, and my dear friend, BOB LAGOMARSINO.

First elected to the U.S. House of Representatives in 1974, Congressman LAGOMARSINO has served the people of California's 19th Congressional District for 10 consecutive terms. During that time, he has risen to the ranking minority member position on the Subcommittee on Western Hemisphere Affairs of the House Foreign Affairs Committee. In this important position, BOB has been a guiding hand in United States relations with Canada, Central America, and South America. He has also been a long-term member of the Asian and Pacific Affairs Subcommittee, focusing his efforts on trade with Pacific rim nations.

Congressman LAGOMARSINO also served as the senior Republican on the House Subcommittee on Interior and Insular Affairs, and he has authored legislation to create the Channel Islands National Park. In addition, BOB has sponsored original measures on trade, foreign affairs, tax reform, government efficiency, and school finance.

In keeping with his strong interest in international issues, BOB has served as an observer at the Geneva Arms Control Talk, chairman of the POW/MIA Task Force, and cochairman of the Congressional Task Force on Afghanistan. And, as chairman of the Republican Institute for International Affairs, Congressman LAGOMARSINO has worked with a group of other national leaders in promoting democracy movements around the world. In this role, he has been instrumental in nurturing the emerging democracies in Eastern Europe and the Republics of the former Soviet Union.

BOB LAGOMARSINO came to Congress in 1974 after 13 years in the California State Senate, where he rose to the position of chairman of the Senate Committee on Natural Resources and Wildlife. During BOB's tenure in the State senate, he forged a reputation as a hard-working, effective legislator. It is a reputation which he has carried throughout his more than 18 years in Congress.

Congress is often judged by its actions as a whole, or by the misdeeds of a few, but seldom by the accomplishments and the integrity of its individual Members. BOB LAGOMARSINO will leave behind a legacy of distinguished leadership, integrity, and a solid record of service to the people of California and the country as a whole. This institution will be losing a great friend and a fine legislator, and I wish him well as he leaves Congress and takes up new challenges in the future.

PROPER TAX TREATMENT FOR CAPITAL GAINS DERIVED FROM FARMER COOPERATIVE ASSET SALES

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, today I wanted to discuss a particular provision clarifying the tax treatment for farmer cooperatives that was included in the conference report for H.R. 11. Specifically, this provision allows nonexempt farmer cooperatives to elect patronage-sourced tax treatment for certain gains and losses derived from the sale of a capital asset.

In recent years, there have been an increasing number of disputes between some farmer cooperatives and the Internal Revenue Service over the proper Federal income tax treatment of gain or loss resulting from the sale of assets used by cooperatives in their patronage operations. The issue in controversy is whether gains or losses arising from such dispositions should be considered to be derived from patronage or nonpatronage sources. This distinction is important because gain from patronage sources is eligible to be distributed to patrons as a patronage dividend which is deductible to a cooperative and taxable to the patron.

Over the years, agricultural cooperatives have taken different approaches toward the classification of the gain or loss derived from the sale of assets used in patronage operations. Some cooperatives, relying on a general standard adopted by the IRS and the courts, have treated this gain or loss as patronage sourced on the grounds that the assets sold actually facilitated the marketing, purchasing or service activities of the cooperatives. Other cooperatives have treated the gain or loss from the sale of assets used in patronage operations as nonpatronage sourced in reliance of an example found in Treasury regulation section 1.1382–3(c)(2) and the IRS' current administrative position that capital gains are automatically treated as nonpatronage sourced.

Cooperatives that have treated the gain or loss as patronage sourced on the basis that such assets actually facilitated marketing, purchasing or service activities of the cooperatives have faced repeated challenges from the IRS, notwithstanding that the courts have consistently applied the actually facilitates test to distinguish patronage versus nonpatronage income.

This legislation is intended to provide cooperatives with a mechanism for avoiding the uncertainties that exist in this area. In general, farmer cooperatives would be permitted to elect patronage-sourced treatment for its gain or loss realized upon the disposition of any asset, provided that the asset was used by the organization to facilitate the conduct of business with or for its patrons. And I am pleased that the conference agreement includes this provision which will end this uncertainty for farmer cooperatives.

In addition, it is my understanding that, by enacting this provision, Congress intends no inference that the IRS' position with regard to the applicability of the facilitative test under present law is correct. And that in viewing the legislation's clarifying thrust, I would encourage the IRS to make every effort to resolve current law disputes with cooperatives which have treated gains or losses from the sale of their assets as patronaged sourced in a manner consistent with the principles of this legislation.

SAN DIEGO BORDER PATROL DOES OUTSTANDING JOB

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUNTER. Mr. Speaker, in the closing minutes of this session of Congress, I want to congratulate the San Diego Border Patrol for doing an outstanding job this year despite the flood of activity at the border and the shortage of resources and manpower. The San Diego Border Patrol's interdiction statistics for fiscal year 1992, released this month, demonstrate the agency's high level of professionalism and commitment:

In 1990, only 6,607 pounds of marijuana were seized. In 1992, 37,642 pounds were captured. That's more than a 500-percent increase. Cocaine seizures are up from 184 pounds in 1990 to an incredible 7,529 pounds this year. More than 565,000 illegal aliens were apprehended this year, an increase of some 100,000 since 1990.

The startling increases in seizures and apprehensions are due in no small part to the dedication of our law enforcement personnel on the border. The border fence project, that Border Patrol Chief Gus de la Vina and I have been working on since 1990, has been a big help as well.

The reinforced border fence now spans the 14-mile smugglers' corridor from the Pacific Ocean to the San Ysidro Mountains. The fence has almost totally shut down drive-through traffic. In some places, we had drug trucks driving through at the rate of more than 300 per month streaming into the California highway system to leave their load of cocaine or marijuana to ultimately poison the young people of America.

The units of Army Reserve Engineers which provided the manpower and equipment for the fence project should be commended for their work as well. This is the exact kind of mission I imagined our troops doing when I drafted the legislation making the Department of Defense the lead agency in the drug war.

In closing Mr. Speaker, I would like to urge my colleagues to recognize the tremendous success the Patrol has had in protecting the integrity of our international borders. Theirs is a basically thankless job, done with effectiveness and heroism, and we owe it to them to recognize their successes.

TRIBUTE TO HON. CLAUDE HARRIS

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. LLOYD. Mr. Speaker, it is sad to see that many of our colleagues will not be part of the new Congress that will convene in January. I would like to recognize a good friend and colleague, CLAUDE HARRIS, who will be leaving this distinguished institution at the end of this session.

CLAUDE has been a friend of mine since he first came to the House of Representatives in 1986. He has served this body well. He has been a great asset to his district, the State of Alabama, and this country. His tenacity, conviction, and concern for his constituents has enabled him to be an effective statesman. CLAUDE'S service on the Energy and Commerce Committee and Veterans' Affairs Committee has been commendable.

CLAUDE, we will miss you and I wish you and your family the best of luck in the future.

IN OPPOSITION TO THE DEFENSE CONFERENCE AGREEMENTS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. VENTO. Mr. Speaker, I rise to express my opposition to the conference reports on both the Defense authorization and appropriations bills for fiscal year 1993.

While the conference agreements move in the direction of real cuts in defense spending, in my view, they do not go far enough in recognizing the profoundly changed political climate in which we now live. The Soviet Union and the Warsaw Pact are gone. The threat of nuclear war, which hung over the world for nearly half a century has been greatly diminished. The new leaders of the former Eastern bloc are reaching out to the United States and other nations in the West for support and assistance as their emerging democracies take their first historic steps toward a new era.

Yet while the scope of these dramatic changes has been reaffirmed during the last year, these conference agreements provide $16.4 billion less in overall Defense spending than was provided last year in fiscal year 1992 when we had extraordinary expenses associated with the Persian Gulf war. While some may point to this reduction as progress, it pales when on examines the bill specifics.

For example, the conference agreements provide $4 billion, or $100 million more than the current funding level, for the strategic defense initiative [SDI], a program that remains of questionable value. Unlike the House-passed bill, the conference agreement also funds the so-called "Brilliant Pebbles" program, a space-based missile interceptor program which in the view of many Members of the House and Senate violates the terms of the 1972 Anti-Ballistic Missile [ABM] Treaty.

Unfortunately, the conference agreement does not include the strong Frank amendment, which I voted for in the House-passed bill which would have made a significant move in the direction of allied burdensharing by cutting $3.5 billion in authorization for programs supporting U.S. troops in Europe, Japan, and Korea. The conference agreement fails to achieve the level of savings provided by the Frank amendment by stretching out the deadlines for achieving troop reductions overseas.

One of the most significant shortfalls on this measure is the fact that it does not include the provisions of the House-passed bill regarding nuclear weapons testing. Instead, nuclear test ban provisions have been included in the fiscal year 1993 energy and water appropriations conference report when the Members of this body know that the proper legislative vehicle to address the issue was in this Defense authorization conference agreement. How can the United States convincingly argue in support of nuclear nonproliferation when we resist changing our own ways by continuing nuclear weapons testing?

Mr. Speaker, in summary, there are simply too many instances in the conference agreement where splitting the difference to provide a political solution with the Senate over funding for weapons systems is a drawback rather than progress. This Nation is mired in a triple-dip recession and structural economic dislocation. Ten million Americans are out of work and real wages have fallen to their lowest level since 1963. While the American people are being asked to tighten their belts in the face of economic austerity, the Pentagon and the Bush administration continue to insist upon a wish list of exotic and expensive weapons systems which are of questionable military value in today's world and which continue to distort our economic base.

The urgent needs of health care, education, economic revitalization, and so much more continue to take a back seat to the old way of doing business. The administration must recognize once and for all that we live in a vastly different world from the one that existed even just last year. For these reasons, I oppose the adoption of the conference agreements on the Defense authorization and appropriations bills.

TRIBUTE TO REPRESENTATIVE LAWRENCE COUGHLIN

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BEREUTER. Mr. Speaker, this Member rises to express his views concerning the distinguished gentleman from Pennsylvania, Representative LAWRENCE COUGHLIN in the special order taken out for the retiring members of the Pennsylvania delegation by the distinguished gentleman from that State, Representative JOHN MURTHA. My comments will be brief, from the heart, and spoken without exaggeration.

Mr. Speaker, our distinguished colleague, LARRY COUGHLIN has had a truly illustrious career in the U.S. House of Representatives. His public service here always has been consistent with the highest and best traditions and principles of this House and our republic. His colleagues have known him, as this Member has, as a person of unquestionable integrity, good humor, keen intellect, unfailing good judgment, and dedication to representing his constituents within the national interest. While he certainly has served his district and State with great success as a member of the Appropriations Committee and in previous committee assignments, LARRY COUGHLIN has also farsightedly addressed the transportation and other future needs of the Nation as a whole. Millions of Americans will benefit from his excellent work here in the House for many years to come. His interest in national security and foreign affairs, undoubtedly springing in part from his service in the U.S. Marine Corps, have also led him to be a highly informed Member in those legislative areas whose opinions have been widely respected by his colleagues.

On a personal note, this Member can only reflect that LARRY COUGHLIN is one of the very finest persons I've ever been privileged to know. He has been a true and loyal friend and I will sincerely miss seeing him on a daily basis.

With LARRY COUGHLIN's retirement from the House it loses one of its very best. He is without exaggeration, a great American. However, he goes with this Member's wishes that he and his wonderful and talented wife, Susan will together have many happy and productive years ahead. Also, it is my hope and conviction that both COUGHLINS have additional important public service to contribute to our Nation. God bless you both!

A SCIENTIFIC SOLUTION

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MOAKLEY. Mr. Speaker, I would like to draw my colleagues' attention to the op-ed article written by Dr. Jean Mayer and carried by the Boston Globe on September 5 of this year. Dr. Mayer recently became chancellor of Tufts University after almost 17 years as the university's president. I think Dr. Mayer's article can give Members of Congress a unique insight into the state of higher education in our country and I urge my colleagues to review the article.

[From the Boston Globe, Sept. 5, 1992]

A SCIENTIFIC SOLUTION

(By Jean Mayer)

We are in the fortunate situation of being able to solve—for comparatively little money—several national problems at once: the loss of thousands of jobs for scientists and engineers in the disappearing defense industry; the fact that most of our schools of engineering are weak and do not contribute enough to America's competitiveness; and the dearth of qualified science teachers in our schools.

The cuts in defense-related industries are deep and will go deeper. In spite of unusually successful attempts by members of Congress to save defense establishments in their own districts, a large number, perhaps one-third, of the mathematicians, physicists and research engineers of this nation are going to be laid off.

And they will be laid off in a situation very different from that in 1945, when the nation was hungry for consumer goods and universities were blessed with a gigantic crop of applicants—young people whose education had been delayed or interrupted by World War II and could go to school under the GI Bill. In 1992 our Big Three automobile manufacturers are in trouble, due in part to their engineering inadequacies; the telephone company has been broken up; and our computer companies, including IBM, are not in a position to do much hiring.

Our engineering schools need help. To be sure, MIT and Caltech remain world-class. But while our universities as a whole, notwithstanding their detractors here, remain the envy of the world, our engineering schools do not get the funds, the equipment or the facilities to lead technologically, nor do they attract the graduate students they need.

In four years, after attending high schools weak in science, our undergraduate engineering students are expected to learn something of the world in which they live, acquire a basic science education, a general engineering education and specialized training in one of the branches of engineering so they can become certified. It really can't be done adequately; hence the importance of at least one year of graduate study and continuing education.

At this point, half or more of our graduate engineering students are from other countries. Many of them will return home, raising doubts about the availability of qualified faculty in the next generation. There are serious areas of weakness in our graduate curriculums, such as in manufacturing engineering and project engineering. Engineering faculties are underpaid, particularly when compared with the practitioners of the health disciplines. This is not unrelated to the fact that, having invented the CAT scanner (Allan Cormack, the Nobel physicist at Tufts), we manufacture less than 10 percent of the world's CAT scanners, and having invented the VCR, no VCRs are manufactured in the United States.

Finally, while interest in better science teaching in schools is increasing, it will not mature into real improvement unless we recruit more and better science teachers. While we should multiply our efforts to attract undergraduates to science and our science undergraduates to science teaching, why not use the scientists and engineers we already have and who are at risk of becoming a lost generation?

If the federal government would subsidize laid-off research scientists and engineers to supplement faculties in schools of engineering and provide them with state-of-the-art laboratories, and if it would provide grants and decent salaries so less-eminent scientists and engineers could teach science in middle and high schools, we could quickly start to solve some of the most vexing national problems.

TRIBUTE TO C. RICHARD BEYDA, RETIRING CHAIRMAN OF THE BOARD OF DIRECTORS, CHILDREN'S HOSPITAL NATIONAL MEDICAL CENTER

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. NORTON. Mr. Speaker, it is with mixed emotions that I call attention to the retirement of one of my constituents, Mr. C. Richard Beyda as chairman of the board of directors of the Children's Hospital National Medical Center. In December of this year, Mr. Beyda will conclude 4 years of service as chairman of this prestigious board.

A graduate of the George Washington University School of Law, Mr. Beyda is a practicing attorney and certified public accountant in the Washington metropolitan area. Mr. Beyda is a member of the D.C. Bar Association and the D.C. Institute of Certified Public Accountants. As both an accountant and lawyer, Dick is a well-known and respected member of the business and legal communities.

Dick Beyda began his association with Children's in 1985 as a member of the Children's Hospital corporate board. Since that time he has demonstrated exceptional leadership and commitment in guiding the growth and development of Children's Hospital as a nationally recognized leader in the delivery of pediatric health care services. Under his excellent leadership, Children's Hospital formulated a strategic plan to give the institution direction and the strategies necessary to fulfill its mission in the swiftly changing environment that confronts all health care institutions today.

Among his many accomplishments were the planning and implementation of a corporate restructuring that enabled Children's Hospital to function more effectively, the completion of an expansion to its parking facility, construction of a new physician's office wing, completion of renovations on patient care areas, and the relocation and upgrading of the hospital's helipad. In 1991, more than 700 infants, children, and youths, were transported in Children's Hospital via helicopter.

Mr. Speaker, Children's Hospital has been a vital resource for our community since opening its doors in 1870. That first hospital—which began in a rented house with only 12 beds—has grown to become a state-of-the-art facility with 279 beds, serving nearly 200,000 infants and children yearly.

Over the years, Children's has championed the needs of the most vulnerable members of our community—our children and their families. Today, Children's continues to speak with a strong voice on the local, regional, and national issues by addressing such problems as lead poisoning, child abuse, and pediatric HIV and AIDS. Mr. C. Richard Beyda has been an integral part of the hospital's advocacy efforts.

Mr. Speaker, I am proud to acknowledge the outstanding work that Mr. C. Richard Beyda has done on behalf of the Children's Hospital and the children of the District of Columbia. It is through his leadership that Children's Hospital has earned the reputation of being one of the premier pediatric health facilities in the United States. I ask my distinguished colleagues to join me in saluting Mr. Beyda for the many years he has dedicated to improving the quality of health care service for the children of the Washington, DC, metropolitan area.

UNANSWERED QUESTIONS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUNTER. Mr. Speaker, as a Vietnam veteran, I am very concerned over the unanswered questions regarding Gov. Bill Clinton's draft status. In recent days, however, I am even more disturbed over his participation in anti-war demonstrations in England and Oslo, Norway. In addition, news reports have uncovered that during the height of the Vietnam war Gov. Bill Clinton went to the Soviet Union. As a veteran, I find this shocking and I believe it is essential that the American people are made aware of these facts.

Over the last several days the Washington Times has reported on this story and I would urge all Americans to read these important articles.

[From the Washington Times, Oct. 5, 1992]

CLINTON TOURED MOSCOW AT WAR'S PEAK

(By Jerry Seper and George Archibald)

Six weeks after he helped organize a massive anti-war, anti-U.S. protest in London, Bill Clinton quietly turned up in the Soviet Union for a visit during the dead of winter and at the height of the Vietnam War.

The unusual trip, according to Clinton campaign officials, occurred while Mr. Clinton was on vacation from Oxford University, which he was attending on a Rhodes Scholarship, and included a week's stay in Moscow as a tourist.

Clinton campaign spokeswoman Dee Dee Myers, responding yesterday to a series of questions from the Washington Times, declined to identify whom Mr. Clinton met with while visiting Moscow other than to say, "He bumped into all kinds of people * * * but he did not do any anti-war organizing while there."

The Democratic presidential candidate refused to be interviewed on the subject of his travels through the Soviet Union but instead relayed his answers through Miss Myers.

Rep. Robert K. Dornan and three of his Republican colleagues have sharply criticized the Moscow trip during eight nights of speeches on the empty House floor that were televised nationwide on C-SPAN, saying there are many "unanswered questions" about why, when and where Mr. Clinton went.

The conservative California Republican has suggested that the former anti-war activist and draft evader may have been duped by Soviet intelligence officials.

The Bush adminstration has been silent on the Dornan challenge, which reportedly has drawn nightly television audiences of about a million people, and has prompted at least one placard at a Clinton campaign stop and countless calls to Capitol Hill, the media and talk radio shows.

Yesterday, however, Bush/Quayle '92 campaign spokeswoman Torie Clarke said: "It is yet another chapter of deception and deceit that has characterized his life. We would join in the chorus of people asking Bill Clinton to come clean on his draft status and anti-war activities."

Despite Mr. Clinton's claims to the contrary, recent statements, newly discovered letters and accounts by longtime friends and associates show that he was actively involved in the anti-war movement as both a participant and an organizer in at least three countries.

Asked if public knowledge of Mr. Clinton's anti-war activities would hurt him at the polls, Miss Myers said yesterday she didn't know. "There hasn't been a national candidate who grew up in that generation until Bill Clinton, so we're seeing it played out for the first time," she said.

"The Republicans want to refight the Vietnam War because they think it's a way to grab that wedge issue back with the American people, and it's our strong sense that they want to move beyond the Vietnam War and the shallow rhetoric," Miss Myers said.

The spotlight on the candidate's trip to Moscow, she said, is a "smear campaign pure and simple. ... It has nothing to do with the real issues in the campaign."

According to Miss Myers, Mr. Clinton toured Europe during a vacation from Oxford. She said he rode alone by train from Helsinki, Finland, and went through Leningrad before arriving in Moscow on New Year's Eve 1969.

Moscow was the only Soviet city Mr. Clinton spent time in, and he visited the usual tourist attractions, Miss Myers said. "He was a tourist. He was a student traveling on a break. He paid for it himself," she said.

"He had a 40-day break in the winter of 1969–70," Miss Myers said. "In that period, he took a trip through northern Germany, Scandinavia, the Soviet Union—Moscow actually—and then went to Prague."

Former U.S., Soviet and British intelligence officials who worked during the period in question said in interviews that Mr. Clinton's explanation raised questions in their minds.

A British Soviet specialist who advises defense and intelligence agencies in England and the United States said the Soviets made solo trips to Moscow by foreigners prohibitively expensive by requiring visitors to stay at first class hotels and hire KGB-controlled Intourist guides so they could be closely supervised.

Angelo Codevilla, an intelligence specialist with the Hoover Institution at Stanford and former Republican Senate Intillegence Committee staff member, said foreign visitors in 1969 and 1970 were under close scrutiny by KGB security police.

"If Bill Clinton's travel was not supervised and arranged by the Communist Party of the Soviet Union, his was the only one," Mr. Codevilla said.

He said all travelers were treated as part of a major government propaganda effort, and Intourist, the Soviet travel agency, made sure that visits would "somehow benefit the Communist Party."

A top official in Britain's MI5 intelligence at the time said Mr. Clinton "fit the profile perfectly" of someone the Soviets might cultivate and recruit as an "agent of influence."

"He was articulate, attractive, popular, an American Rhodes scholar opposed to the war—just the person the Soviets went for," said the official.

A former Soviet official who took part in efforts to influence Western public opinion against the Vietnam War said liberal antiwar activists, such as Mr. Clinton, would have been of great interest to Moscow.

Through various "friendship committees" and fraternal groups, the Communist Party tried to lure liberal Westerners to the country who could be used knowingly or unknowingly in anti-Vietnam War propaganda efforts, said the former official, who declined to be named.

Paul Mercer, author of "Peace of the Dead," which documents Soviet ties to British and European peace organizations in the 1970s and 1980s, echoed this assessment.

"He might have been relatively innocent, opposed to the war, but because he was a Rhodes scholar at Oxford, they [the Soviets] might have been trying to cultivate him," Mr. Mercer said.

The Times has been unable to determine thus far whether information about Mr. Clinton's visit is contained in recently opened Soviet archives.

In a June 12, 1989, article in the Arkansas Gazette, Mr. Clinton first acknowledged he had visited the Soviet Union "in the early '70s" and described the period as a time of "good relations between our two countries."

Rep. Sam Johnson, Texas Republican, remembers the time differently. A POW in Hanoi during Mr. Clinton's visit to Moscow, he said the Soviet Union was actively supplying the North Vietnamese with weaponry and training.

He and Reps. Randy "Duke" Cunningham and Duncan Hunter, both California Republicans, have joined Mr. Dornan on the House floor calling for further explanations by Mr. Clinton of the Moscow trip and his anti-war activities.

Mr. Clinton was studying for a bachelor of philosophy in politics at Oxford at the time but never got his degree because he did not sit for exams or write a required 30,000 word thesis after being at the university for two years, according to Georgina Ferry, the university's press spokeswoman.

Oxford officials have clamped a lid of secrecy on Mr. Clinton's academic and travel records, including information about his trips to other countries and cities. Miss Ferry said the records are confidential.

Mr. Clinton has told Arkansas voters for nearly a decade that while he was opposed to the Vietnam War, he was only an observer in anti-war protests during his days at Georgetown University in Washington and at Oxford.

He told the (Little Rock) Arkansas Gazette in October 1978, for example, that he attended only two protest marches and did so only to listen to the speeches. He said he never did anything with regard to anti-war demonstrations for which he would be "ashamed."

A variety of sources now reveal that Mr. Clinton was actively involved in the protest movement as both a participant and an organizer in at least three countries.

He also was one of 40 student leaders from throughout the United States who attended a closed-door meeting in early-1969 in Martha's Vineyard, Mass., during which anti-war strategy was discussed and nationwide marches and protests were planned.

The Massachusetts meeting is described in a new pro-Clinton book, "Bill Clinton: The Inside Story," by Robert E. Levin, a Wall Street investment broker and author who concluded in the book that Mr. Clinton "has what it takes" to be president.

Mr. Levin said Mr. Clinton attended the weekend retreat shortly after he had begun to actively participate in the anti-war movement—"even helping to organize rallies and protests."

Federal authorities said it was the Massachusetts meeting that led to the creation of the Vietnam Moratorium Committee, which sponsored and coordinated anti-war and anti-American demonstrations throughout this country and Europe.

The Moratorium Committee, along with the New Mobilization Committee to End the War in Vietnam, were the major coordinators of the nation's largest anti-war demonstration in Washington on Nov. 15, 1969.

The Moratorium Committee also was the primary organizer of Oct. 15, 1969, marches in the District, Illinois, Michigan, Indiana, California, New jersey, New York, South Dakota, Kentucky, Massachusetts, Wisconsin, Connecticut, Pennsylvania, Minnesota, Maine, Louisiana, Tennessee and Florida.

Hanoi radio publicly praised the October marches, saying the protests reflected the American people's desire to "save their sons from a useless death in Vietnam."

Mr. Clinton had returned to Oxford in the fall of 1969 and did not attend the November Washington protest.

But David Mixner, a founder of the Moratorium Committee, has credited Mr. Clinton with helping to put the protest together and has recognized him as a major player in the protest movement.

In the book "Bill Clinton: The Inside Story," Mr. Mixner is quoted as saying Mr. Clinton "volunteered his time and efforts to assist us in preparing for" the Washington protest and in anti-war protests in "hundreds of cities and towns around the country."

It was Mr. Clinton and others who organized a March of Death on the U.S. Embassy in London in November 1969. During that march, about 1,200 protestors demonstrated against the war at the U.S. Embassy and later held a torchlight vigil. Many of the protestors wore black robes and painted their faces white.

The London demonstration was praised by the New China News Agency, the official North Vietnamese newspaper Nhan Dan and the then-Soviet Communist Party newspaper Pravda.

"He [Mr. Clinton] didn't break the law, but he was pushing the police and the legalities as far as he could," said the Rev. Richard McSorley, head of the Center for Peace Studies at Georgetown University. "He was one of the main organizers of the American Embassy protest in 1969."

Literature announcing the march and inviting attendance said Vietnamese citizens were being "massacred" by U.S. troops and that the Communist Provisional Revolutionary Government was the "legitimate government of South Vietnam." It described U.S. policy in Vietnam as "bankrupt."

During the London demonstration, Father McSorley said Mr. Clinton joined protestors carrying a coffin with a cardboard effigy containing the name of a dead American soldier. Later, when U.S. officials refused to receive the coffin, he said it was Mr. Clinton who negotiated with police to persuade them to get it inside the embassy compound.

In his 1969 book "Peace Eyes," Father McSorley also described their trip to Oslo, Norway, saying the two visited with conscientious objectors and attended a prayer service the day after the London demonstration. He said he and Mr. Clinton also met leaders of the International Peace Bureau and the Campaign for Nuclear Disarmament. Both organizations had officers at the time who also served with the World Peace Council.

Federal authorities have said the World Peace Council's principal activity in 1969 and 1970 was to organize worldwide propaganda campaigns, coordinated on a regional basis by national peace committees. The British Peace Council is a subsidiary of the World Peace Council.

According to a 1980 report by the Senate Permanent Select Committee on Intelligence, the World Peace Council was a communist KGB front organization that had received about $50 million from the Soviet Union to support Soviet national defense and international military objectives. One of its major goals, according to the report, was to support worldwide anti-Vietnam War campaigns.

[From the Washington Times, Oct. 5, 1992]

TRAVEL RECORDS MAY HAVE BEEN ALTERED

(By Jerry Seper)

Federal authorities confirmed yesterday that they are looking into allegations that State Department records showing Bill Clinton's travel history have been tampered with and that some of the documents are missing.

While Justice and State Department spokesmen refused comment on the report in Newsweek magazine, sources close to the probe who asked not to be identified said a preliminary FBI investigation is under way.

One official said documents are being reviewed and interviews have been scheduled.

The allegations surfaced when three news organizations sought the documents after repeated but unsubstantiated rumors that Mr. Clinton, anguished about the Vietnam War and the possibility of being drafted, sought to renounce his U.S. citizenship in favor of a British passport.

Newsweek, one of the organizations that requested the State Department records through the Freedom of Information Act, reported in today's edition that State Department officials pulled the file and noticed that several pages appeared to have been ripped from it.

The magazine said it was not clear what had happened to the file.

FBI spokesman Mike Kortan yesterday declined comment on the inquiry, refusing to confirm or deny its existence.

State Department spokesman Richard Boucher said he had no immediate comment, suggesting the department might respond to the matter today.

Clinton campaign spokeswoman Avis Lavelle said yesterday there is no truth to the rumor that Mr. Clinton applied for citizenship in another country to avoid the draft or that he considered renouncing his U.S. citizenship.

Spokesmen for the Clinton and Bush campaigns denied any involvement in the alleged file incident, and each suggested that perhaps the other had a hand in it.

[From the Washington Times, Oct. 5, 1992]

CLINTON VISIT FIT KREMLIN'S TAILORED-FOR-TOURISTS MODEL

(By Bill Gertz)

Democratic presidential candidate Bill Clinton toured Moscow at a time when the Kremlin was stepping up its internal repression of dissidents, U.S.-Soviet diplomatic ties were warming and combat deaths in Vietnam were mounting.

From October 1969 to February 1970, the period when Mr. Clinton appears to have been most involved in his anti-war activities, 1,297 American servicemen were killed in fighting against North Vietnamese troops and Viet Cong guerrillas.

On Feb. 7, 1969, the Pentagon reported that a total of 40,446 American servicemen had died in Vietnam war fighting since Jan. 1, 1961.

Heavy bombing of North Vietnam also was under way by U.S. B-52 bombers and more than 6,000 U.S. aircraft had been shot down since 1961.

U.S. investigators in Moscow recently uncovered information that Soviet military personnel took part in shooting down U.S. aircraft during the Vietnam War.

It was also during this period that the Kremlin was in the middle of a campaign of systematic repression against people viewed as dissident writers and intellectuals.

Noted author Aleksander Solzhenitsyn was expelled from the writers union for "anti-social" behavior in early November as the first step in an official campaign of pressure that would lead to his forced exile months later.

Decorated Soviet Gen. Pyotr Grigorenko, who became a dissident and criticized the Kremlin, was ruled insane by Soviet authorities in December 1969. He was held in a psychiatric prison although later investigations found the incarceration was KGB persecution.

Other dissident writers and intellectuals who spoke out against the Soviet regime were imprisoned in labor camps or sent into exile in the fall of 1969 and winter of 1970.

A hunger strike by political prisoners in a Soviet labor camp was reportedly under way in early 1970.

The Clinton campaign has said Mr. Clinton, a student at Oxford University at the time, arrived in Moscow Dec. 31, 1969, and spent a week there alone as a tourist during winter break.

Mr. Clinton told a Soviet reporter in 1989 that he enjoyed riding Moscow trains and eating black bread at the time, which he said was a period of good U.S.-Soviet relations.

Soviet news reports at the time said a delegation of Viet Cong representatives was traveling in the Soviet Union in December 1969, visiting Leningrad, Moscow and several other cities.

Angelo Codevilla, a former Senate intelligence official, said all travel by foreigners at that time was tightly controlled by the Communist Party organs.

"The Soviet government in those days did not look at foreign travel as a casual thing," he said. "Travel in the Soviet Union was highly organized."

Paul Hollander, a University of Massachusetts professor, has written that Western travelers to the Soviet Union were screened from reality and treated well as part of a systematic propaganda program.

Travel, meals and meetings were all designed to manipulate visitors' impressions, Mr. Hollander stated in his 1981 book, "Political Pilgrims."

"It is in totalitarian societies that the art of such impression management reaches its fullest fruition," Mr. Hollander stated. "In many visitors such generous and attentive treatment created a disarming sense of obligation. They were not bribed, but they could not help feeling that it is not nice to turn around and be harshly critical of those who showered them with kindness, who took such good care of them."

Mr. Clinton's visit also came on the heels of the 1968 Soviet invasion of Czechoslovakia, when most Western governments were condemning the first use of the so-called "Brezhnev Doctrine" of preventing democratic reform in pro-Soviet governments.

On the diplomatic front, nevertheless, the Nixon administration began to build a policy of detente with the Kremlin, initiating arms talks on limiting strategic weapons and chemical arms. The nuclear nonproliferation treaty was signed by Washington and Moscow in November 1969.

[From the Washington Times, Oct. 6, 1992]

CLINTON DOES NOT RECOLLECT MUCH OF TRIP

(By Jerry Seper)

Democratic presidential candidate Bill Clinton said yesterday he could not remember whom he met with in Moscow during a visit in late 1969 and early 1970 and would have no further comment on the trip.

Speaking through campaign spokeswoman Dee Dee Myers, the Arkansas governor said he did not "recall" with whom he met during "five or six days" in Moscow and did not remember if he met with other Westerners while in the then-Soviet Union.

"He was a tourist," Miss Myers said of Mr. Clinton, an anti-war activist and draft evader at the time. "He didn't go there and have any meetings or political contacts."

The Bush campaign seized on Mr. Clinton's visit to the Soviet Union at the height of the Vietnam War, releasing a lengthy statement to the media based on a story yesterday in The Washington Times.

"Once again the wheel turns, and this time it lands on Moscow," said Deputy Campaign Manager Mary Matalin. "The discrepancies and distortions in Bill Clinton's draft record now span more than an ocean or a continent."

A source close to the inquiry said the FBI probe is being treated with extraordinary sensitivity and could be completed this week.

The investigation was prompted by the State Department's discovery that several pages were missing from Mr. Clinton's passport file as the department prepared to respond to a Freedom of Information Act request from three news organizations.

The news organizations were responding to repeated but unsubstantiated rumors that Mr. Clinton, anguishing over the possibility of being drafted during the Vietnam War, sought to renounce his U.S. citizenship. Clinton campaign officials have described the rumors as false.

Mr. Clinton refused on Sunday to be interviewed about his Moscow trip and declined to answer all of the written questions concerning the trip submitted to Clinton campaign officials by The Times.

But in an appearance last night on CNN's "Larry King Live," Mr. Clinton said that he had "an interesting week" in Moscow, but he did not discuss specifics.

Mr. Clinton also denied any knowledge of missing pages from his passport and travel file at the State Department. He said he was unaware of such a file until recent press reports alleging that someone had tampered with it.

He also denied that he had ever renounced his U.S. citizenship or that he sought to be a citizen of another country, blaming the Republicans for starting the rumor.

"They are pretty good at stirring things up, but that old dog won't hunt," he said.

The Moscow trip was part of a 40-day vacation Mr. Clinton took in December 1969 and January 1970 while a Rhodes scholar at Oxford University in England. It came six weeks after he helped organize a massive anti-war, anti-America protest in London in November 1969.

Clinton campaign officials, in a statement yesterday, expanded on the information they released Sunday, saying Mr. Clinton visited several countries during the midwinter vacation, including Denmark, Norway, Sweden, Finland, the Soviet Union and Czechoslovakia.

The statement said he visited "a friend from Hot Springs" while in Oslo and "spent Christmas in Finland with the family of a college friend before heading to Moscow, where he spent five or six days touring." Neither of the friends was identified.

In the 1969 book "Peace Eyes," the Rev. Richard McSorley of Georgetown University said he met with Mr. Clinton in Oslo and that the two men visited with conscientious objectors, attended a prayer service and met with leaders of the International Peace Bureau and the Campaign for Nuclear Disarmament, peace groups with ties to Soviet "front" groups.

In yesterday's statement, the Clinton campaign, contesting allegations that Mr. Clinton traveled to Norway for anti-war activities, described the "visit" in Oslo with Father McSorley as "incidental and coincidental."

"The broad Republican distortion and fabrication of Gov. Clinton's European travels is Bush's desperate attempt to deflect attention from his dismal economic record," the campaign said.

Miss Myers told The Times on Sunday that Mr. Clinton arrived in Moscow on New Year's Eve and that he traveled alone, visiting the usual tourist attractions.

Former U.S., Soviet and British intelligence officials said it was unlikely Mr. Clinton traveled alone to Moscow and that foreign visitors in 1969 and 1970 were under close scrutiny by KGB security police.

They said all travelers were treated as part of a major government propaganda effort, and Intourist, the Soviet travel agency, made sure that visits would "somehow benefit the Communist Party."

A top official in Britain's MI5 intelligence at the time said Mr. Clinton "fit the profile perfectly" of someone the Soviets might cultivate and recruit as an "agent of influence."

On CNN, Mr. Clinton said only that he met with friends in Norway and Finland, that he paid for his own trip and that he did not meet with any officials from the KGB "that I know of."

Mr. Clinton's Moscow visit has been criticized by a handful of Republican congressmen in late-night speeches on the empty House floor. The speeches televised on C-SPAN have generated an undercurrent of interest throughout the country in Mr. Clinton's trip and prompted countless telephone calls to media outlets.

The congressmen charge that there are many "unanswered questions" about the trip, including why and where he went, what he did and who paid for it.

Reps. Robert K. Dornan, Sam Johnson, Duncan Hunter and Randy "Duke" Cunningham have suggested that Mr. Clinton may have been duped by Soviet intelligence officials.

State Department spokesman Richard Boucher declined yesterday to comment on the FBI inquiry of the missing Clinton documents. "The FBI, if it believes it appropriate to do so, may comment on this at a later date," he said.

The department maintains nearly 100 million passport files on American citizens.

Mr. Boucher said the files generally contain passport applications, documentation used to establish a person's citizenship and identity, and correspondence between the applicant and the department regarding citizenship and passport matters.

Most of the material, he said, is protected from disclosure to the public by privacy laws.

An investigation into passport file tampering presumably would involve questioning employees of the passport services office and the Washington National Records Center. Spokesmen for both offices declined to comment on the FBI probe.

According to a State Department official, special files are set up for Americans who renounce their citizenship. They said an irrevocable process must be carried out abroad and involves signing several forms. Information about someone who merely inquired about renouncing U.S. citizenship may not be included in the passport file, the official said.

The National Records Center contains passport files going back as far as the 1920s, according to National Archives spokeswoman Jill D. Breet.

TRIBUTE TO HON. BEN JONES

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. PELOSI. Mr. Speaker, I rise today to note with regret that Representative BEN JONES will not be serving here in the 103d Congress. He is a good friend and colleague and his presence in our halls will be greatly missed.

BEN JONES has a unique talent for inspiring through common sense and great presentation. I would like to remind our colleagues of just a few of his best sayings, spoken out of his passion and commitment for human rights and justice, "Whose side are we on?" and one of my favorite gems, "Some people talk the talk, but don't walk the walk." BEN's pithy comments could be counted on to enliven any debate.

When Washington first heard BEN speak at the Freshman Press Dinner, he was hilariously funny and everyone knew that somebody special was in town. Since working with him, particularly on behalf of human rights in China, I have found out just how extraordinary this special man is. BEN is a true champion, for human rights, for the American worker, and for freedom and democracy around the world. I will miss him and look forward to working with him in a new capacity.

TRIBUTE TO HON. BILL LOWERY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LAGOMARSINO. Mr. Speaker, one of the intangible benefits of serving in Congress is the many friendships you make. In that respect, I count myself fortunate to have known and worked with my good friend and colleague BILL LOWERY.

BILL was a member of the great class of 1980, who swept into office along with President Reagan and helped change not only our Nation but the world. It was due to the support of BILL and his classmates that we were able to pass the first tax cuts in many years, as well as the Gramm-Rudman Budget Control Act. All America owes them a vote of thanks for that alone.

But BILL did not stop there. He secured a seat on the prestigious and all-important House Appropriations Committee, where he became the pointman for California on the Republican side, along with his equally talented colleague and fellow Californian, JERRY LEWIS. Together, BILL and JERRY made sure that California's interests were always well protected. I especially appreciated BILL's work on the Military Construction Appropriations Subcommittee, where he helped obtain many important projects for Vandenberg Air Force Base and Port Hueneme and Point Mugu Naval Bases in Santa Barbara and Ventura Counties, as well as protecting and enhancing the important military bases in San Diego, so vital to the Nation and to his constituents.

BILL is a hard worker, who doesn't seem to know the meaning of fatigue, and he was tireless in his work on behalf of San Diego and the Golden State. He was one of the cofounders of the new California Institute, a bipartisan organization dedicated to bringing jobs and prosperity to our State. His service on the San Diego City Council, and as deputy mayor of that beautiful city, laid the groundwork for his service in Congress, where he applied his skills and diligence to improving the lot of San Diegans, Californians, and Americans alike.

I was particularly appreciative of the role he played in getting the Lagomarsino-Lowery-Levine amendment approved in 1990, insuring that offshore oil operations would be subject to the Clean Air Act. That amendment means all the people of southern California can breathe easier.

In conclusion, Mr. Speaker, I'm sad that BILL will not be in Congress next year to protect California's interests. I will miss his smile and his optimism. But I know that whatever he does, he will continue to play a key role in shaping and protecting the future of our great State and Nation.

My wife Norma and I wish all the best for BILL and his beautiful wife Katie.

COMPUTER LEARNING MONTH AT SUSSEX AVENUE SCHOOL

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, times are changing, the world is changing, and so is the teaching and learning experience at Sussex Avenue School in Newark, NJ. On October 22, the Newark Board of Education's Division of Computer Education and Technology will be showcasing its state-of-the-art computer technology. Not only will the technology be highlighted but so will our state-of-the-art young people who use this technology in a variety of ways.

In our global society, technology is not only a reality but a necessity. The students at Sussex Avenue School and other schools throughout the district are being provided with the tools they need to academically move comfortably into the next century. Today's world demands that students be able to gather, manage, manipulate, and analyze large amounts of information. It also demands that our students be able to solve problems, think critically, make sound decisions based upon facts, and work cooperatively. Today, our students are learning how to learn and how to reach out and teach others. Roles are changing. Students are becoming more responsible for their own growth. Their levels of self-esteem are being raised.

Mr. Speaker, on October 22, many activities will be demonstrated, including using the computer to develop and strengthen math, reading, and writing skills. Special recognition must go to the following teachers and their students for their part in expanding public awareness of the growing importance of computers in each of our lives. Mrs. Karen Gordon and her room 21 fifth grade students will show how they use computers to advertise for jobs they can do. Mrs. Carol Hanft and her room 23 fifth grade students are using technology to enhance the science curriculum by focusing on classroom pets. They read, research, write, record, send, receive, and display data about their pets using the computer. Mrs. Susan Piera and her room 25 fifth grade students are exploring science by doing what scientists do. They use a computer and modem to get on-line with other classes in the United States, Canada, and other countries involved in the same project. They collect data, make predictions, compare results, and look for geographic patterns. Mr. Oliver Winters and his room 20 fifth graders are using the computer to strengthen their understanding of multiples and to develop their multiplication skills. Ms. Carolyn Ford and her room 26 sixth grade students are using graphs and spreadsheets to describe themselves. Mrs. Arleatha Gainer and her students in room 22 are developing their writing skills with the help of the computer. They write letters to other students, government officials, companies, authors, et cetera. Some of the letters travel through the regular mail and others travel electronically. Mr. John Farina and his room 28 seventh graders are using laser videodisc technology and the computer to study life science. Room 27 seventh graders and their teacher Ms. Bertha Webb are taking advantage of the computer network. They are gathering information from all other classrooms on the network and have created a newsletter. Mrs. Dianne Palmer and the eighth graders in room 30 are on the campaign trail. Students in this class are focusing on the upcoming Presidential election. They are using the technology in a number of ways to better understand the process. Ms. Joyce Webster and her room 29 eighth graders are using computer simulation software in the study of exploration and colonization.

Mr. Speaker, I would like to especially recognize and congratulate Mrs. Jeanette Parham for her role in developing such worthy programs. Mrs. Parham is the computer lab teacher and local area network administrator for Sussex Avenue School. Her students have consistently brought recognition to the school through all-city computer competitions where they have won first place 2 out of 3 years.

I am proud to have such a comprehensive program in my district. When we hear of urban areas and the problems associated with them, it is always a pleasure to point out the positive. If the United States is to maintain its competitiveness in commerce, industry, and international trade it is essential that each of us becomes involved in understanding the applications of computers. As a former teacher and newly selected Chair of the Congressional Black Caucus Science and Technology Brain Trust, I cannot overemphasize the importance of the integration of computer-based technology into our diverse society.

Mr. Speaker, I am sure my colleagues would like to join me as I offer my best wishes and appreciation to Mr. Eugene Campbell, executive superintendent of schools; Mr. Herbert A. Johnson, principal; Mrs. Marilyn Bowles and Mr. Anthony Orsini, vice principals; Ms. Angela Caruso, director, Office of Computer Education and Technology [OCET]; and Mr. Stan Salegaj, assistant director, OCET.

TRIBUTE TO ED JENKINS

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HARRIS. Mr. Speaker, I could not let this, my last session of Congress, pass without paying public tribute to one of my dearest friends in the House, a man who is also retiring this year, ED JENKINS of Georgia.

ED has been a friend and mentor since I entered the House in 1987. Even though I was not a Member of his State's delegation, he was always willing to help me better understand the ways of the House and the legislation upon which we were called to vote.

For those of us from the South, and especially those of us with a somewhat conservative nature, Washington is frequently a frustrating arena. ED's leadership on any number of issues made clear to the membership of this body that good Democrats could have sound, principled objections to what often appeared to be the reigning orthodoxy. In his bid for the post of majority leader ED made clear his view of the road our party and Nation should follow. I was proud to cast my vote for him as a symbol of support not only for his political views, but for ED JENKINS, the man.

All of us who know ED appreciate his keen wit and ready humor, a humor that doesn't spare Members, the institution, or ED himself. An honorable man, we all knew ED's word was his bond. Possessed of a good legal mind, ED was a real resource to all Members in helping them understand the often complex tax and trade legislation which came out of the Ways and Means Committee on which he so ably served. I especially appreciated his dedication to the textile workers of the South, whose very livelihoods were so often threatened.

When men of ED JENKINS' caliber leave this House, the institution loses the contributions of a valued and talented Member, and we all lose a friend. ED, I wish you well in all that you undertake in the future and I thank you for all that you have meant in the years we have served together.

SUN-MAID GROWERS OF CALIFORNIA RECOGNIZED FOR 80 YEARS OF GROWTH & PROSPERITY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. THOMAS of California. Mr. Speaker, it is my distinct honor to acknowledge the 80th anniversary of Sun-Maid Growers of California, the country's leading producer of raisins. In its 80-year history, Sun-Maid has survived two world wars, the Depression and near financial collapse to emerge as a prosperous and competitive player in the domestic and international market. Currently, half of the raisins sold by American grocers are Sun-Maid products, and foreign markets generate substantial sales annually.

As the industry's leader in research and development of state-of-the-art raisin processing equipment, Sun-Maid has perfected the process of cleaning and sorting its annual raisin crop of 100,000 tons at its 100-acre Kingsburg plant site. Completed in 1964, the Kingsburg plant is recognized as the world's largest and most modern raisin packing facility, employing 600 local citizens to meet the growing demands of Sun-Maid's many clients. During the peak season, the plant can process and ship up to 1,000 tons of raisins daily.

Sun-Maid's success and prosperity rests upon the dedication and hard work of its 1,500 growers who ensure that a high quality crop reaches consumers each year. Many current grower-members represent several generations of membership in the Sun-Maid cooperative.

A committed and learned work force, an efficient and modern processing plant, and years of providing consumers with a high quality product combine to make Sun-Maid Growers one of the most successful and prosperous farmer owned and operated cooperatives in the country. I applaud the growers and employees of Sun-Maid Growers and congratulate them for 80 years of excellence.

TRIBUTE TO ST. EDWARD CHURCH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. TRAFICANT. Mr. Speaker, it is with great joy that I rise to pay tribute to St. Edward Church on its 75th anniversary.

Mr. Speaker, St. Edward has been a religious institution in my district. The church's two and three-quarters acre site was purchased in 1916 for a mere $26,000. The following year, Father Edward Mears turned the first spadeful of earth. The ceremony commenced the construction of not only the church and its adjacent school, but of a Youngstown tradition.

Four months later, the St. Edward School opened. It accommodated 154 students in a mere four rooms. Considered modern by the day's standards, the building was one story brick and reinforced with concrete. Its auditorium was used for church purposes.

Within its first 13 months of existence the church encountered and selflessly responded to its first real test. When the Spanish influenza ravaged the Youngstown community, the chamber of commerce designated St. Edward as an emergency hospital during the trauma.

The parish was rewarded for its role in defeating the epidemic. Gifts poured in, and by 1919 over $100,000 was contributed toward the building program of the church. A new rectory, convent, and community hall now enabled St. Edward to accommodate the growing number of parishoners.

And the parishoners have been in good hands. St. Edward has been the home to a number of prominent religious leaders, including Father William S. Nash. In 1961, Pope John XIII elevated Father Nash to protonotary apostolic, the highest rank of monsignor. Father Nash served the church for 31 years.

St. Edward continued to grow and prosper, adding a kindergarten and The Yellow Brick Road, a preschool day-care center. Today it boasts modern classrooms, computer rooms, and an extended faculty. Support for the schools and its curriculum is demonstrated by active parents, who belong to STEPS [St. Edward Parents and Students]. It is also showcased in Cofraternity of Christian Mothers, where mothers are encouraged to further their children's Catholic education at home.

As you can see, Mr. Speaker, St. Edward is a Youngstown institution rich in tradition. In fact, many of the early members of the church have grandchildren and great-grandchildren worshipping beside them. Their contributions to their community have been numerous and gracious, and I thank them for their charity and spirit.

Contributions on your 75th anniversary, St. Edward, and may God bless.

IN MEMORY OF VINCENT HALLINAN, A LION IN COURT

HON. NANCY PELOSI

OF CALIFORIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. PELOSI. Mr. Speaker, I rise today with deep sadness to note the passing of a great man, Vincent Hallinan, champion of the downtrodden, a legal lion, who passed away, 95 years young, on October 2, 1992.

This House has heard before—as recently as St. Patrick's Day this year—the accolades due to a man who was not only a great American, a great patriot, but a devoted and loving husband and father as well. My heart goes out to my good friend Vivian Hallinan, his wife of nearly 60 years, and their five surviving sons, Patrick, Terence, Matthew, Daniel, and Conn.

His memorial service will be held this Saturday, October 10, at the hall of International Longshoremen's and Warehousemen's Union Local 34. Appropriately, San Francisco will be gathered to commemorate the life of a man at the union long associated with one of Vincent's greatest triumphs: successfully defending the ILWU's International president and founder, Harry Bridges, against deportation proceedings brought by the Government during the McCarthy-era.

Mr. Speaker, Vincent had looked forward to trying a case when he was 100 years old. He will not have that opportunity on this Earth, but his fighting spirit will live on in the hearts of all who know him.

IT'S UP TO US TO SET THE EXAMPLE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, all too often when we discuss teenagers we only hear the negative. The negative messages are permeating all facets of our lives. It is difficult to stand in the sea of contempt and deliver the good message, but I am happy to report that the Emanuel Baptist Church of Newark, NJ, has done just that.

On Saturday, September 12, 1992, the Emanuel Baptist Church, under the leadership of Rev. Leonard Shamberger, held its first annual Youth Recognition Celebration. The church took the opportunity to honor six young people for their academic achievements and community involvement.

As law enforcement officials maintain a grim daily tally of the escalating epidemic of increasingly violent teenage crimes, it is encouraging to know that there are many young people who are not bending under negative peer pressure. Hopefully, in the near future positive peer pressure will outflank the negative and our youngsters will be more comfortable in taking up the gauntlet for good and righteousness.

Mr. Speaker, I am sure my colleagues will want to join me as I congratulate the honorees. They are Zakiya Munnerlyn of Hillside, who won the coveted title of Miss International Talented teen on July 25, 1992 at the Apollo Theatre in New York City; Faith Evans of Newark; Tynaah Morgan of Newark; Shantay Hardy of Orange; Daniel Carr of Irvington; and Quanette Carr of Irvington. Special thanks must also go out to Ms. Mattie Wilson who coordinated the event. Ms. Wilson has been extremely active in working with young people through theatrical workshops for many, many years. Also, let me take this opportunity to convey my best wishes to the officers and congregation of Emanuel Baptist Church, especially Ms. Adrienne Sneed who was one of my YMWCA kids from way back. After raising her own children, two years ago Adrienne adopted a baby girl, Bianca. I believe we must always send out encouraging words and deeds and they will revisit us many times over. The folks at Emanuel Baptist Church demonstrate that.

TRIBUTE TO WILLIAM LEHMAN

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HARRIS. Mr. Speaker, no Member of this body was more helpful to me in meeting the needs of my district than BILL LEHMAN. I say this, having been fortunate enough to have had the help and support of so many of my fellow Members, but BILL LEHMAN went above and beyond the call and really showed what generosity of spirit and concern for the needs of districts and States besides his own.

I represented Mr. LEHMAN's birthplace and counted his kinsmen among my constituents. He was always clear in telling, when a piece of legislation he favored was pending, "CLAUDE, the Selma vote on this is 'aye'."

And it was when I had a problem in Selma that Mr. LEHMAN taught real lessons in perseverance and dealing with an agency which was determined to ignore the will of Congress and the needs of the people we all supposedly serve. Thanks to BILL LEHMAN, Selma, a community abandoned by the U.S. Air Force, lied to by the FAA, now has a functioning instrument landing system to compliment the State's longest runway. That runway and the remaining buildings at Craig Field were the only things the Air Force didn't take with them when that base was closed, but without that ILS, every time it rained, the field was closed for operations. Now it is once again a true all-weather facility and is a major economic asset in a region which is chronically financially depressed.

BILL, I thank you for your help and friendship these past 6 years and look forward to seeing you again in Alabama, where you will always be a favored son.

IN TRIBUTE TO HON. CHET ATKINS

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MOAKLEY. Mr. Speaker, I rise to pay tribute to a great Congressman and true friend, Congressman CHET ATKINS of Massachusetts' Fifth District. Elected in 1984, CHET will be returning home to Massachusetts and will not be back as a Member of the 103d Congress in 1993.

CHET has been an enormous resource to all of Massachusetts since his tenure began. His versatility, intelligence, perseverance, and strength of character have been the hallmark of CHET's career in public service since its beginning at the ripe age of 22. CHET's motivation, his commitment to good government and creative public policy that gets results will be a testament to that 20-year career.

I must publicly pay tribute to the great work that CHET has done over the past 4 years on the House Appropriations Committee. CHET has done yeoman work for many of us in the delegation and the results of his work are evidenced daily in my own district.

The Old South Meeting House renovation and its place as a key element of the Boston National Historic Park System is secured. Dorchester Heights, a seaside park commemorating the British evacuation of Boston Harbor has been repaired, landscaped, and lighted because of CHET's efforts as a member of the Interior Appropriations Subcommittee.

The Afro-American Meeting House in Boston is alive and well and capable of telling its incredible stories of freedom to future generations of Massachusetts' children because of CHET's fruitful efforts in the Appropriations Committee.

We all know how difficult these times of economic and fiscal uncertainty are. That reality is felt daily and personally, I am sure, by all of the appropriators. Membership on that committee has become a very difficult balancing act, but one CHET excelled at.

He was fair, equitable, and responsible. His follow-through was unequalled. His talent, imagination, and legislative genius will be missed by every resident of the Commonwealth and the Nation who has had the good fortune to visit any of Massachusetts' abundant historic treasures that, luckily, fell within CHET's area of oversight on appropriations.

On another front, I must tell you how much I enjoyed working with CHET on his efforts at resolving the unending and tragic civil war in Cambodia. Over the years, I have had first-hand experience seeing the consequences of the violence, treachery, and mayhem which confront that Southeast Asian land.

My former staff director on the House Rules Committee, the late Jack Dooling, whom many in this Chamber knew, loved, and respected as much as I, quickly forged a working relationship with CHET and his staff as they tried to do what they could to assist the many international forces working at a resolution of that crisis.

I wish Jack could be here today to add his own reflection, but I do know how much he appreciated everything that CHET did and continues to do to end this conflict.

CHET is a student of national politics and elections. Throughout his 20-plus years in public life, CHET has immersed himself in local, State, and national politics. He has a reverence for the electorate, a respect for the system, and an understanding of how to get results. I suspect that inside CHET lurks the soul of a frustrated academician.

I am confident that CHET's 20 years of first-hand experience in State and national public policy will serve him well in the years ahead as he devotes his considerable talents to issue areas that have always merited his focus—foreign policy, population studies, and economics. We all know that each of these disciplines is crying out for attention.

I wish CHET well in his next career. Wherever he goes, he can know with certainty that he brings the goodwill and best wishes of the Massachusetts delegation and this Chamber with him. I am sure that his talent, native intelligence, and questioning mind will not rest until it meets its next challenge. I look forward to seeing and working with CHET often in the upcoming months and years.

TRIBUTE TO RONALD H. ORR

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. COX of California. Mr. Speaker, I rise today to pay special tribute to Ronald H. Orr, assistant director of intercollegiate athletics at the University of Southern California.

Ron is perhaps best known for his leadership in founding USC's annual Swim-With-Mike program. Each year for the past 11 years, Ron has single handedly mobilized thousands of staff, faculty, and student volunteers to provide scholarship assistance to physically challenged students. Together, Ron and the volunteers will raise well over $700,000 this year alone, and allow over 20 physically challenged students to obtain scholarship funding that might otherwise not be available to them.

Ron's tireless commitment to the Swim-With-Mike program is a tribute to him and the entire USC community. It is truly an honor to congratulate Ron—and all the men and women who have joined with him over the years—on this outstanding achievement.

CLARIFICATION ON GOVERNMENT-SPONSORED ENTERPRISES

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. KENNELLY. Mr. Speaker, after reviewing the statement made on the House floor this past Saturday when the GSE conference report was discussed, I wanted to ensure that there is a very clear understanding on certain provisions included in that bill.

Among other things, the GSE legislation defines the new program approval authority of the Secretary. The Secretary can deny approval of new powers either because a new program is inconsistent with a GSE's charter act, threatens financial soundness, or because it is not in the public interest. The public interest test has been added to enable the Secretary to consider a broad range of factors including whether the private sector is adequately providing services which a GSE seeks approval to provide.

Fannie Mae and Freddie Mac receive enormous implicit Federal subsidies, estimated during hearings by the Treasury at between $2 billion and $4 billion. These GSE's pay no Federal guarantee fees, no State income taxes, and their securities are exempt from the Nation's securities laws. These direct subsidies in addition to the implicit subsidy they receive because they are a Government-sponsored enterprise provide them significant advantages not afforded to private sector companies.

The public interest part of the standard incorporated in the bill is deliberately broad so as to allow the Secretary the discretion to consider new program request in the light of the competitive advantage the GSE's enjoy. This is appropriate and the standard should be necessarily broad.

CIVIL RIGHTS DISPUTE RESOLUTION ACT OF 1992

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GUNDERSON. Mr. Speaker, today, I am joining with Senator JOHN DANFORTH of Missouri to introduce the Civil Rights Dispute Resolution Act of 1992. Alternative dispute resolution is something everyone talks about as a means of handling burgeoning court caseloads, but not enough has been done to make it a reality. Section 118 of the Civil Rights Act of 1991, for example, provides that the use of alternative dispute resolution procedures, including mediation, is to be encouraged. Our bill would take the first serious step toward creating a structure that aggrieved individuals, government agencies, and employers can use to settle employment discrimination suits without having to resort to protracted litigation.

When the civil rights laws were first established, Congress provided that voluntary settlement through conference, conciliation, and persuasion were to be the preferred means of achieving their objectives. Two decades later, this provision remains a goal rather than an achievement. For example, the Federal Courts Study Committee discovered that since 1970, the number of private employment discrimination cases filed in court has increased by more than 2,000 percent. And because of several new developments, the courts' caseload is expected to be even greater.

Last year, we amended title VII of the Civil Rights Act of 1964 to add jury trials and a substantial amount of compensatory and punitive damages for employment discrimination claims. Title VII's procedures and remedies apply to the employment discrimination provisions of the Americans With Disabilities Act [ADA] which became effective July 26, 1992. The Equal Employment Opportunity Commission expects that these changes will add tens of thousands of charges to the Commission's annual workload. The commission also expects that the average charge processing period will increase from 219 to 330 days in the near future. But we have not provided the necessary funding to support these two important new laws because of the budget crisis facing the Nation.

Because of this workload increase, EEOC will take longer to process charges. The legislation we are introducing today will give the charging party and the EEOC another alternative to litigation.

Today's bill provides the option of mediation before a lawsuit can be filed under title VII, the ADA, or 42 U.S.C. section 1981. Before a suit can be filed, mediation can be requested by the aggrieved party, the respondent employer or union, or the EEOC or relevant State agency. Once mediation has been invoked, the parties would be given 90 days to reach a settlement, and during that time a lawsuit could not be filed. During this period, a mediator will try to work out a settlement which, once signed, will bind the parties. However, no settlement could be imposed, and no one can be bound to an agreement involuntarily. If no settlement is reached within the 90 day period, the parties will be free to go to trial.

The most important feature of this bill is that mediation is done by a true neutral. Indeed, the bill will use the Federal Mediation and Conciliation Service, which has a long and distinguished record settling labor and other disputes, to draft regulations and provide mediators through its good offices. But the parties also can agree to choose their own mediator, as long as their mediator uses the FMCS model procedures to mediate the dispute.

Enactment of this bill also should remove considerable pressure from the overburdened Equal Employment Opportunity Commission. Presently, we expect EEOC to resolve charges by "conference, conciliation and persuasion." While we would intend EEOC to continue these efforts, we have to be realistic and recognize that the EEOC also is a prosecutor. A mediator has a much better chance of working out an acceptable agreement because, as a neutral, the mediator cannot turn around and use confidential information in a lawsuit against the employer.

Congress has to be honest with itself. It cannot continue to pass new anti-discrimination statutes, to underfund the enforcement agencies, and then ignore the burden it has put on the Federal court dockets. Because this legislation encourages the resolution of discrimination charges without taking anything away from the charging party, it would strengthen the civil rights laws and to encourage alternative means of resolving disputes.

I look forward to discussing this bill with my colleagues. During the upcoming recess, we will have the chance to review its provisions and possibly make it more effective. When Congress reconvenes next year, we should be prepared to move forward and enact legislation in this area.

REGULATORY RELIEF: NEEDED CATALYST FOR ECONOMIC GROWTH

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LAFALCE. Mr. Speaker, we are now approaching the final hours of the 102d Congress, and it seems quite clear that Congress will adjourn without taking desperately needed action on one of the key issues facing it—relieving the credit crunch that continues to deny badly needed financing to our small businesses, our consumers, and our communities. We cannot restore the flow of credit without restoring sanity to the regulation of our financial institutions, and that, most regrettably, is not in the cards.

Let us be honest about it. The administration is trying to blame the regulators for our deteriorating economy, urging them to wave some magic wand to restore bank lending. But the regulators only implement the laws the Congress passes and the President signs. If the administration and the Congress want to relieve the serious credit crunch, both must have the courage to reevaluate what they have done.

At the moment, this Nation's banks are doing very little lending of any sort. In many areas of the country, it has become extremely difficult, if not impossible, to get financing to purchase a home, start a business, expand a manufacturing facility, or export a product. This past summer, for the first time in 27 years, banks reached the point where they had more Government securities on their books than business loans. The trend is worsening, and if this trend continues, there is no way we can get this economy moving again.

Who suffers the most when banks fail to lend? Small businesses, with little or no access to the capital markets, who rely disproportionately on bank lending for their financing.

Why has this occurred? Why are banks buying Government debt rather than making small business loans?

It is no accident. It is in my view a direct consequence of the policies this administration and many in the Congress have been inclined to pursue in the regulation of financial institutions. In my view, since the S&L bailout legislation, the administration, and too many in the Congress, have pursued policies that have placed such an extreme emphasis on tightened regulation and the need for our financial institutions to amass large stores of capital in very short order that the flow of credit has been virtually cut off.

The banking bill that Congress passed last year is only the most recent example of this tendency, which continues to this day. The FDICIA legislation gave the banking industry no new potential for profit and diversification, but loaded down the industry with new regulatory burdens that will impose enormous costs. The industry is now spending huge sums of money on regulatory compliance—money that could be used to meet the credit needs of our communities.

Is this Draconian approach necessary? I don't think so. Certainly, regulatory oversight is important, and safety and soundness must be a central concern. But those concerns must be balanced against an appreciation for the key role banks play in stimulating growth, particularly in the small business sector which has historically contributed so much to our economic expansion.

We have made some progress—but it is sadly deficient. Members of the House and Senate who have long opposed any balance regarding the regulation of our financial institutions as forbearance now appear to be supporting certain regulatory relief provisions, including a provision which would extend the time period over which thrifts are required to write down the capital of their real estate subsidiaries. This is a change I long fought for—it has merit, and is long overdue. But it is not enough.

The administration, too, finally recognized the consequences of the approach taken and itself recommended a regulatory relief package. But, like other recent administration actions related to the credit crunch and the needs of the small business community, it was mere election-year window dressing. The administration did little to push that package forward. The only pressure from the administration came on behalf of an emergency regulatory relief package designed to remove unnecessary impediments to the flow of credit in disaster areas.

These minimalist and piecemeal responses only underscore the need for serious, comprehensive change. The sad truth of the matter, which the administration and the Congress must acknowledge soon if our economy is not to continue its spiral downward, is that much of this country is an economic disaster area and this situation cannot be corrected without revisiting basic assumptions regarding the proper approach to the regulation of our financial institutions.

The prospects we now face are grim. Community banks which can and want to lend are spending enormous sums of money on regulatory compliance that they could be spending on building their communities. Viable thrifts holding supervisory goodwill on their books because of past, good faith efforts to assist the Government will continue to be forced into conservatorship because of completely unrealistic statutory requirements that insist they build capital overnight in the recessionary economy which current policy toward our financial institutions has helped to create. Other thrifts may be thrown into Government hands because of an increase in the leverage limit at the same time that some regulators are expressing serious doubts about the very utility of a leverage requirement.

At the same time, the prompt corrective action provisions of FDICIA will precipitate further bank failures which the system is ill-equipped to absorb. This provision provides for more and more Government intrusion in a bank's operations as its capital level declines and comes close to mandating closure when an institution falls below 2 percent. There is some flexibility in that provision as the result of an amendment I offered, but because of the desire of many in Congress and the administration to be tough on the industry, the balance struck was not as reasonable as I would have desired.

If you are a bank president facing these dire consequences, would you lend or would you play it safe and buy Government securities, reducing your need to hold capital and minimizing your risk? The answer is obvious. The problem, however, is that banking is the business of managing and pricing risk, and without some prudent risk-taking there is no economic growth.

In testimony several months ago, then-Chairman Taylor noted that the FDICIA legislation could result in $40 billion in additional bank failures later this year. Members can well imagine what additional dislocation that will cause in local communities and how much more that will restrain credit. This is no nefarious December surprise. It is a direct consequence of the policies this Congress and the administration have adopted in the regulation of our financial institutions. If we do not like the results, we must reassess the policy.

There is absolutely no question that better oversight of our financial institutions to address legitimate safety and soundness concerns is necessary and proper. But, in reaction to the S&L crisis, too many policymakers have lost all sense of perspective, trying to insulate themselves from criticism by removing all risk from the system. It is impossible to do that, and foster a growth-oriented economy at the same time. If regulatory policy includes needed flexibility, individual financial institutions may fail. But, if regulatory policy is unduly restrictive, our economy surely will grind to a halt.

Bank profits are up and, given a chance, our financial sector can slowly regain its strength—but not if it is subjected to endless new burdens and impossible demands. We don't need to force institutions precipitously into conservatorship or regulate them into immobility. We need to work with them to make them strong, encourage prudent lending, and make them better servants of their communities. And, perhaps most importantly, we must allow them to function in a modern, integrated financial system that is a competitive match for any financial system in the world.

This is not a change the regulators can make. It is a change only the administration and the Congress, working together in an atmosphere of balance and reason, can achieve. I am gratified to see that Governor Clinton appreciates and understands the clear link between our current regulatory policies and the credit crunch and is willing to assume responsibility for serious, substantive change. A new direction in financial institutions policy is essential if we are to find a better balance between concerns of safety and soundness and concerns of economic growth.

HONORED TO SERVE

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BARNARD. Mr. Speaker, on this last legislative day of the last session of Congress in which I will serve, I wish to pay tribute to the Members of Congress and staff with whom I have worked and to thank my constituents of the 10th District of Georgia for the honor of serving them.

As you know, I have been unable to attend the last 2 weeks of congressional activity due to unexpected heart surgery. This was not the way I wanted to end my career. It is not my nature to sit idly and watch others work. But nature has a way of enforcing her own sense of priorities.

Let me first pay honor to the Members of Congress and to the institution of the U.S. Congress.

Mr. Speaker, I have served in the U.S. House of Representatives for 16 years under three different Speakers and three Presidents. I have cast thousands of votes, attended countless hours of committee meetings, made numerous speeches, and shaken an army of hands. I have supported leadership positions, administration positions, conservative positions, and unpopular positions. It is true that if you stay in politics long enough you can offend just about everybody.

While I have not been in agreement with everything that Congress did during my tenure, I still have an unshakable love and admiration for the institution and the individuals who make it up. The single greatest strength of America and its system of government is our freedom to criticize it. It is that very freedom which allows disparaging editorials and negative comments about Congress and its Members.

I have been saddened to watch the deterioration of the House which has occurred during my time here. The worst aspect is that, for the most part, it has been a self-inflicted wound.

Now I will not pretend that the House is not in need of reform. But there are many in the House who believe we have to tear down the institution to save it. I think of Sam Rayburn, our former Speaker, who said, "Any jackass can kick a barn down, but it takes a carpenter to build one." Sometimes I think we have so many jackasses around here that the carpenters will never be allowed to make necessary repairs.

For all its widely publicized faults, America still has the greatest system of government in the world. As Churchill said, "Many forms of government have been tried, and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time."

And the individual Members of Congress who carry out the mission of democracy are the finest, most hard-working group of men and women with whom I have had the privilege to be associated. I have come to know the true meaning of the term "public servant" because I have worked with them every day for 16 years.

Of course, we as Members of Congress could not effectively fulfill our goals without the benefit of our staffs. The people who staff the personal offices, the committees, the Cloakroom, and the supporting offices share the same commitment to improving our country as the elected officials. They are a dedicated group who have earned my respect and my thanks.

One other group deserves an expression of my appreciation. And that is my wonderful family. We who serve here know that the price of public service is paid not only by the elected official but by his or her family. I was fortunate in that my children were almost grown by the time I came to Congress. But I still missed events in their lives I would like to have shared. My wife, Nopi, has been a loving helpmate keeping the family together, representing me at events I could not attend, and giving to me of her strength so that I might carry on with my official duties. Thank you Nopi, Pam, Lucy, and Doug.

Mr. Speaker, let me conclude by thanking the citizens of the 10th District of Georgia who have seen fit to send me to Washington eight times to tend their interests. I have always tried to represent their views and their needs accurately through my votes. I have tried to enact changes when appropriate and to ensure stability when necessary to create a world in which my children and all the children of the 10th District may grow up well-educated, prosperous and ready to take over running the store.

It has been my pleasure to serve the 10th District, the State of Georgia, and the Nation, and I hope I have earned their confidence.

I could not conclude my remarks any better than by quoting that great public servant, Thomas Jefferson, who said, "If, in my retirement to the humble station of a private citizen, I am accompanied with the esteem and approbation of my fellow citizens, trophies obtained by the blood-stained steel, or the tattered flags of the tented field, will never be envied. The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government."

S. 2194

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HOPKINS. Mr. Speaker, when the House version of this bill, H.R. 4400, moved through this Chamber, we on the Armed Services Committee added a provision which allowed the head of each agency to review the SBIR Program and, if necessary, interrupt its growth at the 2 percent level if the proposals were failing to maintain the high standard of quality we have come to expect of this program. The determination was to be made by the head of each participating agency after considering the results of a mandated GAO review of this question. The original bill also contained a slow but steady growth schedule to insure that the agency infrastructure could keep pace with the growing number of proposals.

As mentioned by Mr. SKELTON in his opening remarks, I had hoped we could have had a colloquy to address some of these concerns. Instead, I will try to lay out in these brief remarks our remaining concerns with the Senate bill and how I understand the Small Business and Armed Services Committees intend to address them.

I understand that the other body objected to the agency determination process contained in H.R. 4400 and, therefore, downgraded this provision to a simple recommendation by the Secretary of Defense to the Congress should the program quality begin to deteriorate at the 2 percent level. In addition, S. 2194, the bill before the House, accelerates the scheduled increases.

Mr. Speaker, while I will not oppose this bill, I still believe that the concerns raised by the Armed Services Committee remain valid. The true danger to the SBIR Program comes from the prospect of the quality of awards deteriorating if its size begins to outstrip the base of qualified small R&D businesses. This problem would be particularly acute within the DOD SBIR Program since the bill adds a substantial new pool of funds to the SBIR formula which, in effect, triples the size of the DOD Program.

I believe that this problem is well understood by Mr. SKELTON and the Small Business Committee. While the implementation formula adopted by the other body reflects a desire to set out uniform participation levels, there is consensus among the respective committees of the House that the Department of Defense should be allowed reasonable latitude to digest their disproportionately larger increase in the program. Such latitude would mean a good faith effort by the DOD to increase the size of their program to meet the prescribed levels in 1993, 1995, and 1997, the years of scheduled increases. Further, the DOD would be within this reasonable latitude if it waited for 1 year, should the Secretary of Defense make a negative recommendation, before implementing further scheduled increases. In this vein, I believe that it is the intention of both the Armed Services and Small Business Committees to give serious and prompt consideration to any recommendation made by the Secretary of Defense should he deem it necessary once the program reaches the 2 percent milestone.

In closing, Mr. Speaker, let me express my appreciation to my friend and colleague on the Armed Services Committee, Mr. SKELTON, for working with me and other members of the Armed Services Committee in the finest tradition of comity and fairness to address these outstanding concerns with the SBIR bill. It has been a sincere pleasure to work with him on this and the many other issues we faced together during my years in the House.

TAIWAN'S 81ST NATIONAL DAY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, October 10, 1992, marks the 81st National Day for the 20 million people of the Republic of China on Taiwan. Taiwan, our ally and fifth largest trading partner, has much to be proud of. In recent years, Taiwan's economy has grown at a spectacular rate, making it one of the wealthiest countries in the world.

Taiwan—a tiny island nation in the Pacific—leads the world with $84 billion in foreign exchange reserves and is in the early stages of a 6-year $303 billion public works program. Its efforts toward a democratic government are to be admired.

I am sure my colleagues will join me in wishing the people of the Republic of China on Taiwan the best of luck and extend our best wishes to Dr. Ding Mou-shih, Taiwan's top representative in Washington and his staff. They have consistently kept all of us on the Hill fully informed of the economic and political developments in Taiwan.

H.R. 4542, ANTI-CAR THEFT ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. MORELLA. Mr. Speaker, incidents of carjacking, or the crime of stealing a car by force while a driver is in it, has been common over the past several years. There has been an alarming rise of these incidents in several U.S. cities and its suburbs, including my home district of Montgomery County, MD.

The rise of this criminal plague has fueled great concern among my constituents. We need a strong, swift, and immediate response to reverse this growing trend. This need was underscored by a tragic incident just a few weeks ago in a nearby Washington suburb.

On September 8, a mother, Pamela Basu, was forced out of her car at a stop sign near her home while driving her 22-month-old daughter to her first day of preschool in Savage, MD. Attempting to secure her daughter who was left inside the car, her arm became caught in the driver's side seat belt and she was dragged outside about 2 miles before the thieves drove up against a fence to dislodge her body. Mrs. Basu was killed. The thieves then left the daughter on the road in her child car seat a half mile away.

H.R. 2542, the Anti-Car Theft Act, of which I am a cosponsor, addresses this crime. Carjackings would become a Federal crime punishable by up to 15 years in prison. With strong Federal sentencing guidelines to deter carjacking, I believe we can help to curb this random and senseless crime.

Mr. Speaker, this bill is a fair and sensible effort to protect our Nation's neighborhoods and streets. I commend Messrs. SCHUMER and SENSENBRENNER for their leadership and I urge swift and immediate passage of this legislation.

TRIBUTE TO HON. WILLIAM E. DANNEMEYER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LAGOMARSINO. Mr. Speaker, there are few men in this day and age who have the courage to speak out for their principles, especially when those principles are considered politically incorrect by the media mavens of the left.

BILL DANNEMEYER is one of those men—a man who has the courage of his convictions, and that's what I like about him.

BILL dares to speak the truth when no one else will. And in so doing, he helps to frame and forge the debate on public issues and policy. Because of BILL'S efforts in committee and on the floor, the budget deficit is not quite as high as it could be. He holds our feet to the fire when no one else will, and the people benefit. Because of BILL, our taxes are a little bit lower. And because of BILL, the issue of budget deficits will not be shut away in some closet somewhere.

Bill Dannemeyer has always remained true to his principles, regardless of the political consequences. And now he will be leaving this body, because he felt strongly enough about his principles to put them on the line with the voters.

Mr. Speaker, Bill Dannemeyer may well be one of the most politically correct men I know, in the truest sense. I know he will continue the good fight no matter what his forum, and I wish him the best, as a colleague and as a friend. Give em hell, Bill.

My wife, Norma, and I wish all the best for Bill and his wife, Evy.

NATIONAL ENERGY STRATEGY

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MILLER of Ohio. Mr. Speaker, I rise in support of the conference report and commend the conferees on their diligent efforts to work out the differences between the national energy strategy bills as passed by the Senate and the House. For the health of our national economy and our national security, it was imperative that this process move forward as quickly as possible and that a national energy strategy be implemented by this Congress. We can no longer afford to bury our heads in the sand and continue our well documented procrastination on this issue. We must develop and start to implement a long term energy strategy now.

Earlier this year I sent to each of my fellow colleagues here in the House of Representatives a booklet from the Energy Information Administration entitled "Energy Facts 1990." This booklet contained essential information pointing out the need for developing an energy policy and I hope my colleagues will continue to refer to it in the months ahead. While this bill lays the foundation for a comprehensive long-term energy policy which reduces our oil consumption, reduces our dependence on oil imports, encourages the development and use of energy sources other than oil such as ethanol which is produced in South Point, OH, which is in my district, we must remember that it is only a foundation and that it must be built upon and expanded. For if we are to be truly independent we must at some future date look to maximize and provide more incentives for making better use of our domestic resources which are here in this country.

As the following chart from page 34 of "Energy Facts 1990" shows, U.S. Petroleum production in this country has steadily declined over the past 10 years while imports have steadily risen.

U.S. PETROLEUM ACTIVITIES

[Million barrels per day]

	Production[1]	Imports	Exports	Petroleum demand[2]
Year:				
1981	10.2	6.0	0.6	16.1
1982	10.2	5.1	.8	15.3
1983	10.3	5.1	.7	15.2
1984	10.5	5.4	.7	15.7
1985	10.6	5.1	.8	15.7
1986	10.2	6.2	.8	16.3
1987	9.9	6.7	.8	16.7
1988	9.8	7.4	.8	17.3
1989	9.2	8.1	.9	17.3
1990[3]	8.9	8.0	.9	16.9

[1] Includes natural gas plant liquids.

[2] Measured as product supplied. See the glossary for a detailed explanation.

[3] Preliminary data.

Source: Energy Information Administration, "Annual Energy Review 1990."

And yet while our petroleum production has been declining, our demand for petroleum has continued to increase as the chart from page 40 of "Energy Facts 1990" shows.

U.S. PETROLEUM DEMAND[1]

[Million barrels per day]

	Residential/commercial	Industrial	Transportation	Electric utilities	Total
Year:					
1981	1.33	4.27	9.49	0.96	16.06
1982	1.24	4.06	9.31	.69	15.30
1983	1.29	3.85	9.41	.68	15.23
1984	1.34	4.11	9.71	.56	15.73
1985	1.35	4.03	9.87	.48	15.73
1986	1.35	4.09	10.21	.64	16.28
1987	1.37	4.26	10.49	.55	16.67
1988	1.14	4.37	10.82	.68	17.28
1989	1.40	4.26	10.93	.74	17.33
1990[2]	1.33	4.25	10.79	55	16.92

[1] Measured as product supplied. See the glossary for a detailed explanation.

[2] Preliminary data.

Note.—Total may not equal sum of components due to independent rounding.

Source: Energy Information Administration, "Annual Energy Review 1990."

We must recognize that energy is a fundamental commodity in our lives—our factories, our cars and our very way of life depends upon its availability at an affordable price. There is no grandiose ideal answer around the corner and while this bill basically concentrates on the conservation energy option, it is imperative that early in the 103d Congress further exploration and analysis be looked at with regard to changing the tax structure to increase investment in new exploration and production and in enhanced recovery of existing reserves. Also, serious consideration and debate must be given to the opening of Federal lands, onshore and offshore, to petroleum leasing and exploration.

Again, Mr. Speaker, I urge my colleagues to support H.R. 776; however, I hope that they will look at passage of this bill as a beginning and not as an ending for developing a comprehensive energy policy.

HONORING THE FESTIVAL OF AFRICAN-AMERICAN PRIDE, 1992

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROEMER. Mr. Speaker, I have the privilege of speaking out today on one of the most spiritual and joyous celebrations that takes place in Indiana's Third District, which I have the honor of representing.

I am speaking of the Festival of African-American Pride, which consists of many cultural, ethnic, and social events. Of course, it is a celebration of identity and history. It is a recognition of the importance of our country's African-American heritage, empowerment of the black community, and a rededication to a harmony that has always been ours to achieve but has sometimes eluded our grasp.

Mr. Speaker, this festival is about many things—joy, learning and sharing. It is also about the future; we realize that heritage is not just history but about today and what we build for tomorrow.

There are so many events throughout a week of celebration, including: a soul-inspiring gospel music gala, dancing, jazz and blues, childrens' events ranging from storytelling to workshops to a carnival, voter drives, health screening, boat and carriage rides, bands, magicians, fashion shows and far too much more to list.

The events also included an address by one of America's most articulate advocates for social justice and change: Coretta Scott King. This is truly a noteworthy event, and it is one that is sure to have a lasting and positive impact on all our children, and everyone who attends.

Mr. Speaker, I do not want to close before making it clear that this is not just a black community event. The joy and celebration is for everyone who believes in leaving a better world for our children, for everyone who believes in peace and cooperation, for everyone who believes that we have the means to rebuild and strengthen our neighborhoods and cities if we would just have the will.

I would like to salute park coordinator Jay D. Ganger and all of the organizers, participants, and sponsors of the Festival of African-American Pride, 1992. It is a wonderful event and I am proud to play a small part in it.

IN MEMORY OF FRED W. ROSS, CONQUEROR OF GOLIATH

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. PELOSI. Mr. Speaker, I rise today to report the loss of a true trailblazer of the path of empowerment, Fred W. Ross, who died at the age of 82 on Sunday, September 27.

In the year of his 80th birthday, it was my privilege to bring to the attention of this House the life and achievements of a man who set the standard for helping people help themselves. In so doing, he helped the underprivileged find their voice, their courage, and their pride. He helped the Davids of this world conquer their personal Goliaths. Perhaps his greatest achievement was teaching a young man named Cesar Chavez the rudiments of community organizing, and then going with Chavez to organize thousands of Hispanic fieldhands into the United Farm Workers.

And organizing—the ability of people to connect together on behalf of a common cause—is the true living, lasting legacy of Fred Ross.

Mr. Speaker, on behalf of the House of Representatives I express our condolences to his children Fred Jr., Julia, and Robert. His memorial service will be held on October 17, at which time people known and unknown to Fred, but joined to him through his gift for organizing, will gather to remember his life and reaffirm their commitment to carry on his teachings for future generations of Americans.

HOMESTEAD THANKS SOUTHERN BELL SERVICE REPRESENTATIVE WITH KEY TO CITY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BURTON of Indiana. Mr. Speaker, a Southern Bell service representative whose house was destroyed by Hurricane Andrew received the key to the city of Homestead in recognition of his role in providing emergency communications to the city. Eliza Perry, a Homestead council member, took time out from the restoration effort to present the key to Jim Smith.

A lot of the government agencies Southern Bell helped are a crucial part of the recovery. The company arranged to have phone lines installed for the Army, the Red Cross, and U.S. Customs.

As examples of the dislocation that has occurred, Smith, his wife Vanessa, and their two daughters don't want to talk about the night Andrew blew their home apart. Vanessa is back at work as an administrator at South Miami Hospital's Homestead facility. One daughter is staying with relatives in Broward County, so she can attend school. After the storm, Jim went to Southern Bell's central switching office in Homestead.

It is Southern Bell's policy that employees should report to the nearest company facility and volunteer to do whatever job is needed after a hurricane.

As Southern Bell realized how extensive the damage was in Homestead, corporate external affairs area director Bob Self requested extra help. Jim Smith was the first person to come to mind.

"Jim has basically served as the city's unofficial communications director," Self said. "He's ingenious at finding telephone lines even when we think the order is impossible. In a week, he's helped insurance companies, contractors, and waste disposal firms, not to mention the fact that he's kept city hall up and running. He's a real hero to city officials who have their hands full with a crisis at every turn," Self said.

Smith is a 13-year Southern Bell veteran who's worked as an operator, a service representative, and a total quality assurance administrator. All of his previous assignments with the company have one thing in common—a thorough grounding in helping customers. The years of helping people solve tough communications problems have come in very handy in the past 3 weeks.

Still, the past 3 weeks have proven challenging for Smith, who usually handles customers' requests over the phone.

Smith has handled his share of miracles in the past 3 weeks, but he's unfazed with the recognition of Homestead's city key. "It really means a lot to me," he said, "but, I know that every single Southern Bell employee shares this key to the city along with me. Service has a new meaning to all of us."

REGARDING CREATION OF THE KEWEENAW NATIONAL HISTORICAL PARK

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DAVIS. Mr. Speaker, this is a very important day for me personally and for the people of Michigan who have been working so tirelessly on creation of the Keweenaw National Historical Park.

We've beaten all odds, and people who care about copper country will benefit for centuries to come.

I would especially like to thank Sue Cone, Pastor Bob Langseth, Bill Rosemurgy, Tom Tikkanen, Burt Boyum, Stan Dyl, and Bob Pieti for their support, the hours that they put into this project, and their unwavering belief that this park would someday become a reality.

I would also like to thank BRUCE VENTO, chairman of the Subcommittee on National Parks and Public Lands, and the other members of that subcommittee without whose support this bill would never have come to the House floor.

Senator LEVIN and his staff spent many hours on this park bill and, especially in these final months, his work has been essential to the success of the project.

I began working on creating this park about 6 years ago, after reading an editorial in the Houghton Daily Mining Gazette that said the copper country would be a great site for a park to commemorate the copper industry.

The editorial in the February 11, 1987, Mining Gazette said: "Someone * * * should approach U.S. Representative BOB DAVIS. With his Washington connections and a staff of enterprising aides, DAVIS would be the ideal person to discover whether the idea has any grain of plausibility or whether it's just been a lot of fun."

The following day, I formed a task force to look into the feasibility of creating a part in the Keweenaw Peninsula. In March 1987, Brian Swift of my staff and Bob Pieti of Calumet met with government officials in Lowell, MA, to discuss steps taken in creating the Lowell National Historical Park. One month later, the task force and I issued a report urging that the park idea be pursued.

This is the beauty of the legislative process. Someone in the community had the idea. I looked at it and decided it was feasible. Senator LEVIN agreed. And from there we worked with the other Members of Congress to make this happen.

The local people have been untiring in their support and work on this project. Never in my 26 years of public service has one group of people worked so diligently for so long on one project. They never gave up. And thanks to all who have worked so hard, this park will soon become a reality.

CONGRATULATIONS, LESLIE G. GAFFNEY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, on Friday, October 9, 1992, during Kent State University's Homecoming activities, special recognition is being paid to one of my friends and associates. Ms. Leslie G. Gaffney will become the recipient of the Kent State University Alumni Association's 1992 Special Achievement Award.

Ms. Gaffney is director of Community Affairs, Sony Corp. of America. Her position with Sony has afforded her the oppportunity to impact positively on so many. She is responsible for acting as liaison between Sony America and the communities in which it has a presence. She also monitors Sony's support of charity organizations, and educational, civic, and medical institutions. Under her leadership and direction, Sony's philanthropic outreach has made a real difference in communities throughout America.

A more appropriate event than Homecoming could not have been chosen at which to recognize Leslie for her achievements. Many of us have been raised with the notion that we must give something back to the communities that have supported us. Leslie mastered the concept. Being recognized by her alma mater must be heartwarming for her and her family. For it is when we return to our roots that we experience senses of strength, well-being, and love—these nurturing elements help carry us forward.

Mr. Speaker, I ask my colleagues to join me as I congratulate Leslie G. Gaffney for being named Kent State University Alumni Association's 1992 Special Achievement Awardee. I extend my best wishes to her family and especially her husband, Kenneth Wilson, another civic-minded individual who has made a difference in many, many lives.

REPORT ON AID ADMINISTRATOR NOT APPROVED BY COMMITTEE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HORTON. Mr. Speaker, last Thursday, the House Committee on Government Operations convened to consider a number of investigative draft reports. Among the reports scheduled for consideration was one entitled, "Investigation of the Agency for International Development: Administrator's Compliance with Ethical Standards."

Many of the members of the committee were concerned about the fact that the committee was prepared to vote on a report without a hearing on the subject having held, without members having had the opportunity to question witnesses and the targets of the investigation, and without the target of the investigation at least being given the opportunity to present his side of the story to the members.

When it became clear that a majority of members would vote in opposition to the report, the report was pulled from the committee's agenda. I applauded the chairman's decision to pull the report. It was a bad report. It was neither thorough nor professional.

I have since learned that the report was provided to the Washington Post and other newspapers. In fact, the Post had the report before the committee had even adjourned its business meeting. In essence, a report so flawed that a majority of the members of the committee were prepared to reject it, was nevertheless provided to the press as a committee product.

I have devoted 30 years of my career to serving on the Committee on Government Operations. I am proud of the committee's reputation for objective oversight of Federal agencies and departments. But, the premature and inappropriate release of reports, never considered by the members of the committee, diminishes that reputation and detracts from the committee's legitimate oversight responsibilities.

The facts are that nothing new was contained in the report. It covered old ground that has been reviewed by AID's Inspector General, the Department of Justice, the White House Legal Counsel and the Office of Government Ethics, and the General Accounting Office. Mindreader-like, the report made conclusions regarding what certain individuals thought or felt without supporting evidence.

Reprinted below is a letter from White House Counsel, C. Boyden Gray, transmitting the White House legal opinion which found several technical errors on Dr. Rosken's part that were inadvertent and unknowing.

In considering the manner in which the committee's investigation and report have been handled, members should ask themselves: What if it was one of us? What if we were the target of this investigation? Is this the kind of civil rights, due process and sense of fairness to which we subscribe? I think I know the answer to those questions.

I would be the first to participate in a critical, thorough and professional review of AID and its programs and management. This was not such a review. The resulting report should in no way be represented as a product of the Committee on Government Operations. Thank you.

THE WHITE HOUSE,
Washington, DC, November 12, 1991.

DEAR MR. EDELMAN: This letter responds to your letter to me dated October 1, 1991, enclosing a report of the Inspector General of the Agency for International Development (AID) concerning allegations that the Administrator of AID, Dr. Ronald Roskens, may have violated standards of ethical conduct. The enclosed report consists of a September 16, 1991, memorandum to you from the Inspector General, and various attachments including a Report of Investigation prepared by the Inspector General's Office of Investigations, dated April 5, 1991. You sent this report to the White House, as Dr. Roskens reports to the President.

In the course of our review of this report, we have consulted with the Office of Inspector General of AID, the Office of General Counsel at AID, and with the Office of Government Ethics. In addition, we have discussed the allegations in the report with Dr. Roskens directly. Although the synopsis of the Report of Investigation contains several conclusions, the same page of this Report states, "This report contains neither recommendations nor conclusions[,]" and the Inspector General made no conclusions in his September 16 memorandum to you. We therefore consulted with AID General Counsel's office and the Office of Government Ethics in order to ascertain the pertinent standards of conduct to which Dr. Roskens was subject during the events in question. We very much appreciate the cooperation and assistance we received from the General Counsel's office and the Office of the Inspector General.

I know you agree with me that the public disclosure of the contents of the Report of Investigation and the September 16 memorandum, at a time when the review process was ongoing, was highly improper. In light of the conclusions we have drawn from the report and from our other discussions, the premature and selective disclosure of these materials worked an injustice on Dr. Roskens and on the Agency. I sincerely hope that you and the Inspector General will work together to do whatever you can do to prevent the recurrence of this sort of unauthorized disclosure.

The results of our review are set out in full in the attached report prepared by a member of my staff. The conclusions reached in that report have been discussed with AID ethics officials and with senior officials of the Office of Government Ethics, and they concur. We identified and analyzed eleven trips in which twenty-two different ethics issues were presented. Only in connection with two speeches Dr. Roskens gave at Metro Community College in May 1990 did Dr. Roskens fail to comply with applicable standards of conduct. We believe that even here, the violations were inadvertent and unknowing. At the outset of our office's review, Dr. Roskens told us that he would readily reimburse the Government or any outside source if this were necessary or appropriate to remedy a violation or even to avoid any appearance of impropriety. Last week we informed Dr. Roskens of our tentative conclusions. We understand that on Friday, November 8, Dr. Roskens sent Metro Community College a check in the amount of $3580.

We also discussed with Dr. Roskens the need to seek the advice and approval of the AID ethics office in each case before accepting invitations to speak from outside organizations where such organizations offer to pay some or all of his travel expenses or those of his wife, regardless of whether the purpose of the trip is official or personal. Dr. Roskens has indicated to us that he has already delegated to his staff the responsibility to make travel arrangements and to obtain necessary clearances from the ethics and other offices, as may be appropriate.

Our review and our discussions with AID and OGE officials lead us to suggest two additional remedial measures for your agency to consider. First, AID ethics officials should be apprised when a prospective Presidential appointee is hired as an intermittent consultant, and AID ethics officials should provide a full ethics briefing to the person at that time. Although our office provides written ethics guidance to prospective nominees, this advice is lengthy and is provided before the candidate is formally nominated by the President. Often, as was the case here, several months pass before the candidate is confirmed and sworn in. Yet when the candidate is retained as a consultant, even if only to allow the Government to pay for his travel expenses to and from Washington, he becomes subject to a number of ethics restrictions. A briefing by agency ethics officials at that time is essential to avoid unwitting or inadvertent violations.

Second, we believe that AID's Handbooks providing ethics guidance should be reviewed and updated to reflect several recent changes in the law, such as Section 102 of Executive Order 12674 and that those changes made by the Ethics Reform Act of 1989, such as payment of travel expenses by outside organizations (implemented in the GSA travel rule) and honoraria restrictions (implemented in an OGE rule). We understand that AID officials have already begun such a review. Although AID will soon be subject to a single, comprehensive set of ethics standards for the Executive Branch promulgated by the Office of Government Ethics, in the interim, the key statutory and regulatory changes noted above should be relayed to agency employees and any inconsistencies in current AID materials should be resolved.

Please call me or Greg Walden of my staff if you have any questions.

Sincerely,

C. BOYDEN GRAY,
Counsel to the President.

THE MANSFIELD FELLOWSHIP ACT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HAMILTON. Mr. Speaker, I wish to draw to the attention of Members of H.R. 6035, the Mansfield Fellowship Act, a bill that would create a Japan fellowship program for United States Government officials.

Along with Congressman DOUG BEREUTER, I introduced this bill 2 weeks ago. Our bill is a slightly revised version of S. 2763, introduced earlier this year by Senators ROTH and ROCKEFELLER.

Former Senator and United States Ambassador to Japan, Mike Mansfield, for whom this fellowship program would be named, has often described the United States-Japan relationship as the most important bilateral relationship in the world. In a modest but important way, this bill tries to better equip our Government to meet the challenges of the United States-Japan relationship.

If enacted, H.R. 6035 would enable United States Government officials to study Japanese language and politics intensively for 1 year, and then work in a Japanese Government agency the following year. Upon completion of the 2-year program, fellows would be required to return to U.S. Government service for at least 2 years, thereby ensuring that American taxpayers benefit from their investment in the program.

At least 10 fellows would participate in the program each year. Fellows would be chosen through a competitive selection process. Employees from all three branches of our Government would be eligible. The program would be managed by the Mansfield Center for Pacific Affairs, a private, non-profit, and non-partisan institution based in Montana. A review board, comprised of senior officials from all three branches, would oversee the program.

Why would a program of this kind be valuable?

The United States and Japan have become increasingly interdependent in recent years. The United States provides Japan security and its largest export market. Japanese capital and technology support United States economic growth and jobs. Japan buys more United States goods than Germany and Britain combined. Its Government supports United States influence in East Asia. The United States-Japan relationship now touches upon numerous areas of public policy. Many United States Government departments—not just the Department of State—have regular dealings with the Japanese Government.

There is evidence, though, that the U.S. Government may lack the personnel resources necessary to handle this increasingly complex and important relationship. An August study by the Congressional Research Service found that, of the approximately 100 United States Government officials outside the State Department who spend at least half of their time on Japan-related matters, only 40 speak Japanese and only 70 have lived or traveled for substantial periods in Japan. In contrast, hundreds of Japanese officials are conversant in English, and 325 Japanese officials have studied our Government during fellowships since 1974.

If we want our Government to be adequately equipped for the United States-Japan relationship, we need to increase the number of American officials familiar with the Japanese language and knowledgeable about Japan's Government. That is what this bill attempts to do.

Far more ambitious policy steps will be necessary to put United States-Japan relations on a more solid foundation in the years ahead. But the quality of our policies will depend in part upon the skill and confidence with which United States officials are able to interact with their Japanese counterparts. If this bill is enacted, it could substantially expand our Government's expertise on Japan in just a few years.

Japanese Government cooperation will be essential to the success of this program. We will need Japan's help in identifying suitable positions for fellows and in working our logistics. In preliminary discussions, the Government of Japan has reacted positively to this proposal. We appreciate this encouraging response.

H.R. 6035 was introduced too late to be considered by the House during the 102d Congress. We hope that its value will be evident to Members, however, and that a successor bill can be considered by the House and enacted in the 103d Congress.

HONORING THE FIRST INDIANA BREAST CANCER COALITION FIRST STATE RALLY

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROEMER. Mr. Speaker, on October 10, 1992, in Indianapolis, the Indiana Breast Cancer Coalition will hold an important event, the first State rally at the capitol building. This is a solemn occasion, which will both highlight the tragedy that breast cancer is killing thousands of Americans each year, and the need for more and better research and to prevent and cure this disease. I hope that there will be more such events in the future, but fervently wish that they may be celebrations of advances in treatment and research that eradicate this disease from our society.

The mortality rate due to breast cancer has not changed significantly in 60 years. This is an appalling situation in a country whose health care abilities are the envy of the world.

This Nation must increase the awareness of the public on the dangers of breast cancer, and especially the fact that this disease is highly preventable. We need immediate and judicious scale increases in research, diagnostics, prevention, and treatment.

Mr. Speaker, I am also very proud to tell you that my wife, Sally, spends a great deal of her time at home in Indiana touring the Third District talking about the dangers of breast cancer, the importance of self-examination and early detection, and the critical need for public awareness. Sally and I are both committed to educating Hoosiers about this disease. We can all prevent suffering through research and understanding.

I am a proud cosponsor of the National Cancer Institute Amendments of 1992, a bill which would authorize $325 million for breast cancer research and education. This legislation also would authorize $75 million to study gynecological cancers such as cervical and ovarian cancer. Conditions unique to men are also addressed, as $73 million is directed toward prostate cancer research. In total, $2.2 billion is slated for cancer-related studies.

I have also cosponsored the Breast Cancer Safety Screening Act, a bill which would develop and implement quality standards for mammography facilities. The bill was introduced by Representatives PAT SCHROEDER and MARILYN LLOYD to ensure reliable breast cancer detection. Because early detection is essential for successful treatment of breast cancer, the legislation would preserve the health, well-being, and lives of many women.

Mr. Speaker, breast cancer strikes one in every nine women, and this legislation would hopefully go far toward reducing this tragic suffering. Through adequate research funding and intelligent administration, we can look forward with great hope to an eventual cure for this disease.

H.R. 6125

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ESPY. Mr. Speaker, I want to express my strong support of H.R. 6125 and urge my colleagues to support it as well.

The language represents a compromise that has been in the works for the better part of a year, and one that I believe to be fair to both sides involved and more importantly, fair to the borrowers of both banks. I want to once again, thank the chairman of the Agriculture Committee for his diligence in helping us to reach this compromise.

I have been working toward a compromise that would allow the borrowers some say in what would happen to their bank. It is my opinion that the compromise before us does that by allowing them a period of time to seek a merger partner and negotiating a merger plan.

Under this compromise, the Federal Intermediate Credit Bank of Jackson would be given until June 30, 1993, to sign a letter of intent to merge with another farm credit bank and present that letter to the Farm Credit Administration.

During the period of time in which the FICBJ is seeking a merger partner, the FCA, has the same supervisory powers—no more and no less—as it has for the rest of the system's institutions to ensure safety and soundness in operations of the FICBJ until the time of merger. The FCA cannot interfere with the FICBJ's merger efforts during this time except as provided for under the safety and soundness provisions of the Farm Credit Act of 1971. The FICBJ has and will maintain, full authority to operate according to its statutory powers until the time that a merger with a Farm Credit Bank is completed.

If a letter of intent to merge is not presented on or by June 30, 1993, the FCA will issue an order to effectuate the arbitration process. If a letter has been presented and FCA determines that the signatories are proceeding in good faith, FCA will grant an additional period of 4 months in order for the merger to be completed.

The FCA's actions will be subject to expedited judicial review. The judicial review 60-day period would begin within 10 days after the FCA's challenged action.

If, by October 31, 1993, a merger has not been completed between the Federal Intermediate Credit Bank of Jackson and another Farm Credit Bank, the Farm Credit Administration will move the FICBJ into an arbitration process. The arbitration will be binding and will result in a plan of merger between the FICBJ and the Farm Credit Bank of Texas.

After the merger, the Jackson district associations have the same rights to choose to reaffiliate with a different district under the statutory provisions of the Farm Credit Act.

The credit delivery structure has been an issue of utmost concern to the FICBJ. The compromise before us would instruct the arbitrator to propose that agricultural credit associations be chartered in any territory where the arbitrator determines that such a structure would serve the best interests of the borrowers. The delivery structure plans are then subject to borrower approval.

The Agricultural Credit Association [ACA] referendum will allow farmer-borrowers themselves to choose whether they want the advantage and efficiencies of one-stop shopping, as is common in other districts in the Farm Credit System. This approach allows the borrowers to determine the delivery structure they prefer for the future.

Mr. Speaker, as I have stated before, one of my main objectives through this entire process has been to ensure that the borrowers in the Fifth Farm Credit District are treated fairly and are afforded the same rights that the borrowers in every other farm credit district have. I believe that this compromise achieves that purpose.

CHILDREN'S NATIONAL MEDICAL CENTER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HOYER. Mr. Speaker, I wish to draw to the attention of my colleagues the very substantial contributions of Children's National Medical Center to the children and families of the greater metropolitan Washington area.

As health care providers who witness the devastating results of child abuse and maltreatment on a daily and hourly basis, Children's National Medical Center has dedicated itself to strengthening its outreach and advocacy for victimized children. In 1991 alone, children's nationally recognized Division of Child Protection treated nearly 1,800 cases of physical and sexual child abuse, neglect, and other forms of maltreatment.

Unfortunately, the problem of child victimization is not going away. It has grown in magnitude and complexity in the last year, with national and regional statistics on the state of children's health and well-being drawing a horrifying picture of our Nation's standard of pediatric care and prevention programs. The problem is exacerbated by a breakdown in the very system which was designed to prevent child victimization.

Children's Hospital's pilot program in child protection will address in a comprehensive way the root causes of child victimization. Its proposed National Child Protection Center will serve as a national demonstration model for the country by providing economical and efficient health care delivery systems to victimized children in the areas of child abuse prevention and protection, pediatric AIDS/HIV treatment, substance abuse, and critical care.

Mr. Speaker, the District of Columbia Appropriations Subcommittee provided funding in the total amount of $6 million for this important initiative in fiscal year 1991 and fiscal year 1992. Due to the serious budget constraints of this year, the Appropriations Subcommittee lacked sufficient Federal funds in its allocation to continue to fund this project at previous levels in fiscal year 1993. Members of the committee have indicated to me that this does not reflect any diminution in the committees support for Child Protection Center and that they fully intend to continue to support the completion of this project which will enhance services provided to the children of the District of Columbia, the region, and the Nation.

HOSPITAL EQUIPMENT TO LITHUANIA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PALLONE. Mr. Speaker, the Baltic Republics have long been occupied by military forces. Even today, 1 year after the fall of the Soviet Union, over 120,000 Russian troops remain in Lithuania, Latvia, and Estonia. I bring this up today because this intolerable political situation disrupted the mission of a very important medical program and nearly prevented children who badly needed medical attention from receiving it.

Each year children who are born with congenital heart defects die because they are unable to get medical treatment. The Deborah Heart and Lung Center in Brown Mills, NJ, has developed a program called "Children of the World" to bring medical treatment to children who normally would not have access to such care. Through this program, Deborah Hospital sends physicians, nurses, medical equipment, and supplies to sites throughout the United States and all over the world. The medical team leaves the equipment with the hospital and teaches the surgical staff operating techniques and case management.

Recently, Deborah Hospital took this program to Lithuania in order to perform open-heart surgery on 20 children who were born with heart defects. Unfortunately, this life-saving mission almost ended before it began. "Children of the World" used a U.S. military aircraft to deliver the necessary supplies and personnel to Lithuania. The plane was supposed to land in Vilnius, Lithuania, but the commercial airport could not accommodate the plane.

Because of the military occupation, the pilot was denied permission to land at the nearby military base. The plane was forced to go on to Frankfurt, Germany, and the medical team had to find a way to complete the journey over land.

The United States policy is to facilitate the independence of the Baltics and the withdrawal of the troops from the region. Although previously we have not seen any progress toward this goal, the Freedom Support Act which this House passed over the weekend conditions aid to Russia on movement toward the withdrawal of troops from the Baltics. I voted for this bill because I found it outrageous that the United States continued to give aid to Russia, even as the presence of Russian troops disrupted our efforts to bring aid to the Baltics.

I hope that our decision to condition assistance to Russia on the withdrawal of troops from the Baltics will lead to significantly more action in that direction. I am hopeful that this action will bring change to the troubled area. Military occupation of Lithuania is intolerable; it violated international law; it stands in the way of their independence; and it nearly jeopardized the Deborah Heart and Lung Center's mission.

HONORING RIVERDALE TEMPLE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I acknowledge today the 45th anniversary of Riverdale Temple, the largest reform temple in the Bronx, with a membership of more than 700 families.

Since 1947, Riverdale Temple has been an active and vital force in the community. Through food drives and interfaith workshops, the temple has reached out to all the people and worked to improve the quality of life in its immediate neighborhood. The temple has also been a leader in the Jewish community, as the home of the largest reform religious-Hebrew school in the Bronx and through its charity events to aid Russian Jews.

Under the leadership of Rabbi Stephen D. Franklin and the board of trustees, headed by President Carolyn L. Baron, Riverdale Temple continues to carry on its rich tradition. I thank all the people who have carved out the history of Riverdale Temple and wish them "mazel tov" in the days and years ahead.

IN SUPPORT OF THE CONFERENCE REPORT TO H.R. 776, THE COMPREHENSIVE NATIONAL ENERGY POLICY ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. FAWELL. Mr. Speaker, H.R. 776, the Comprehensive National Energy Policy Act, is a visionary piece of legislation, enactment of which will immediately move our Nation closer toward our stated goal of achieving energy independent. As one of the conferees on this national energy strategy, I rise in strong support of the conference report to H.R. 776, which will be remembered as one of the highlights of the 102d Congress.

While every Member of Congress can take pride in this accomplishment, the actions of several individuals merit special attention. President Bush took the first step in this arduous process by sending the first draft of this legislation to Congress. Adm. James Watkins, Secretary of Energy, played a vital role in crafting the outlines of the bill and in shepherding it through Congress. The chairman and ranking minority members of the 12 House committees to which this measure was referred all made substantial and responsible contributions. I want to pay special tribute to Chairman BROWN and ranking minority member WALKER of the House Science Committee and their respective staffs, who I feel did an admirable job of supporting the energy provisions written by the House.

The primary goal of H.R. 776 is to reduce our dependence on foreign oil, and the conference report will achieve this goal in several innovative ways. First and foremost, Mr. Speaker, this legislation will promote increased energy efficiency in both the home and office by setting new efficiency standards for residential building codes, Federal buildings and agencies, electric utilities, and appliances. In so doing, this measure avoids costly mandates on the private sector and forces Government to practice what it preaches by imposing self-financing energy and water conservation improvements on all Federal agencies. Similarly, this bill will encourage the use of cleaner, domestically produced alternative fuels such as ethanol by requiring Federal automobile fleets to phase in the purchase of cars that run on alcohol and natural gas.

The Comprehensive National Energy Policy Act is beneficial to all consumers in that it institutes bold regulatory reforms that will result in more efficient generation of electricity and lower rates. This measure includes incentives for utilities to make investments in energy efficiency, and ensures that they will make wise use of existing generating capacity. It encourages competition by guaranteeing smaller electricity generators access to existing excess transmission infrastructure owned by larger utilities. Most importantly, this act writes into law much-needed reforms providing for streamlined, one-step approval for domestic nuclear powerplants, which are our best hope for achieving cheap, clean, and safe energy independence.

I want to emphasize that this is as much an environmental bill as it is an energy bill. This measure sets out an ambitious series of goals to address global warming, including a phaseout of chlorofluorocarbons and strict limits on carbon dioxide and other greenhouse gases. It authorizes a host of Federal research and development projects designed to burn coal with fewer acid emissions, and creates a technology transfer program to export clean coal and renewable energy to other nations. Moreover, it creates a Government corporation to clean up uranium and radioactive waste.

Finally, Mr. Speaker, this bill contains long-term reauthorization of the important research programs funded by the U.S. Department of Energy that are so crucial to future scientific solutions to our continuing energy problems. It is important to note that past investment in these basic research programs has resulted in the development of some of the technological innovations which this bill will now implement. This bill reauthorizes for 5 fiscal years the basic energy science and advanced reactor research and development programs that fund various high-technology projects at Argonne and Fermi National Laboratories. I believe this responsible investment will soon pay dividends with the successful completion, for example, of the integral fast reactor now under construction at Argonne National Laboratory, and other visionary projects that will constitute the next step toward our goal of energy independence.

For all these reasons, Mr. Speaker, I will cast an enthusiastic vote in favor of the Comprehensive National Energy Policy Act, which I consider to be the crowning accomplishment of the 102d Congress.

H.R. 6017

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. YATRON. Mr. Speaker, I rise in favor H.R. 6017, which is the necessary legislation that would allow the United States to ratify and implement the U.N. Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment.

The convention's implementing language has been on the slow track since the Senate gave its advice and consent to ratification in October 1990. Both bodies have already passed this very same language, so I see no conflict in passing it again today. By becoming a party to the convention and enacting this implementing legislation, victims of torture will be able to seek civil or criminal redress from their torturer when the act takes place outside the United States.

Mr. Speaker, the U.S. ratification of the Torture Convention is long overdue. We will once again demonstrate our commitment to the rights of victims by ratifying the convention and have a renewed voice in the international community on the issue of torture. Ratification now of the convention would be particularly timely before the 1993 World Conference on Human Rights, where the United States plans to take a strong stand against government-sponsored torture.

I want to commend chairman of the Foreign Affairs Committee, DANTE FASCELL, for his leadership and commitment to human rights and for introducing H.R. 6017. Given his career-long fight for human rights around the world, it is only fitting that he is the original sponsor of this important legislation.

Mr. Speaker, I also want to commend Congressmen BROOMFIELD and GILMAN for their leadership on international human rights issues and for their support of this bill. I urge my colleagues to vote in favor of this effort.

TRIBUTE TO NORMA L. COWART

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to my friend Norma L. Cowart, who died January 31, 1992, at age 54 of cancer.

A native of Sebree, in Webster County, KY, Norma L. Cowart was valedictorian of the Sebree High School class of 1955. She attended Western Kentucky University in Bowling Green, KY, St. Louis School of Nursing in St. Louis, MO.

Marriage took Norma to San Diego, CA, in 1968.

From 1985 until her death Norma L. Cowart served as administrative assistant at the California School of Professional Psychology in San Diego. She was an expert in the field of mental health. Norma L. Cowart was of much help to thousands of people with whom she came in contact.

She was known and admired in Kentucky and California.

The session on March 16 of the 1992 Kentucky General Assembly was adjourned in honor of Norma L. Cowart upon a motion by State Senator Henry Lackey of Henderson, KY.

On February 4 this year, at a memorial service honoring the life of Norma L. Cowart, Dr. Thomas F. McGee, director of the California School of Professional Psychology, said at All Saints Episcopal Church in San Diego:

> When Norma Cowart became ill in the summer of 1989 she was beset by considerable pain and uncertainty. Yet she performed her work admirably and also remained available to others. As Norma grappled with a life threatening illness she taught us profound lessons about dignity, determination and quiet courage.

An active member of the California Democratic Party, Norma L. Cowart was a delegate to the California Democratic Convention in 1988 and served several years as treasurer of the Clairemont-Mesa Democratic Club in San Diego.

Norma Cowart's mother, Martine McCurry Wise of Sebree, KY, is one of my favorite constituents, a dear friend and always has been very active in my election campaigns. Martine Wise is a beloved, outstanding Kentuckian who was always so proud of her only child.

Other survivors include Norma's husband, Richard Lee Cowart in San Diego; three sons—Mark Wheetley and Jeff Wheetley, both of Oakland, CA, and Greg Wheetley, of Hudson, FL; and two stepdaughters—Lisa Lucas of San Diego and Sue McBride of Carlsbad, CA.

My wife Carol and I extend to the family of Norma L. Cowart our sympathy.

THE NATIONAL FLOOD INSURANCE PROGRAM AND COMPLIANCE WITH THE MANDATORY PURCHASE REQUIREMENT

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ERDREICH. Mr. Speaker, I rise today to express my disappointment with the lack of reform of the National Flood Insurance Program. After 4 years of investigation and over 10 hearings, my Subcommittee on Policy Research and Insurance has determined that the mandatory purchase requirement was not adhered to nor was it enforced.

The mandatory purchase requirement requires federally insured lending institutions to require borrowers with structures located in special flood hazard areas to purchase flood insurance. The subcommittee's hearing record and independent studies have concluded that the compliance rate is abysmal with only 15 percent of the structures located in special flood hazard areas having the required flood insurance. Furthermore, regulators of financial institutions and Federal agencies have not fully enforced the requirement. Federal agencies and regulators do not have adequate standards or enforcement procedures to ensure compliance.

The lack of enforcement of this requirement falls on the taxpayers' shoulders with mounting taxpayer funded disaster assistance expenditures. As we've seen from Hurricane Hugo and Hurricane Andrew, the devastation and horror for victims is real and the costs for taxpayers is enormous. The time is well overdue for our bank regulators and Federal agencies to think of our Nations' taxpayers and make certain that properties that should be under the flood insurance program are indeed participating in the program. We need comprehensive reform of the National Flood Insurance Program, and we must enforce the mandatory purchase requirement, a law that's been on the books for almost 20 years.

A TRIBUTE TO THE PHILADELPHIA COMMISSION ON HUMAN RELATIONS—40 YEARS OF HARMONY

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today and ask my colleagues to join me in paying tribute to the Philadelphia Commission on Human Relations. The commission was the first municipal agency to be mandated by a Home Rule Charter to enforce antidiscrimination laws.

Mr. Speaker, October 29, 1992, will mark the 40th anniversary of the hard work, dedication and commitment of the Philadelphia Commission on Human Relations. The commission has done an outstanding job over the years in advancing its mission and is well deserving of special recognition.

Mr. Speaker, the commission has planned an awards ceremony in celebration of its anniversary, the highlight of which will be a presentation of the 1992 Clarence Farmer Service Award. I am pleased to report to you that this year's recipient is a man whom the city of Philadelphia holds close to its heart. Bill White, president of baseball's National League, and former player of the Philadelphia Phillies will be honored in recognition for his bold leadership. Mr. White has always spoken out against racism and discrimination in every form, and has consistently advocated the entry and upward mobility of minorities in sports management positions.

It is my firm belief that the Philadelphia Commission on Human Relations, and organizations like it provide our Nation's communities with a much needed voice of conscience and reason. Just as our forefathers envisioned a free and tolerant society, where prejudice and ignorance were disdained, the Philadelphia Commission on Human Relations is consistently upholding these sacred principles. If you want to talk about real family values Mr. Speaker, the ones that go beyond campaign rhetoric, than one need look no further than the work of this dedicated group of men and women.

I look forward to working with the commission, so that we may continue to realize our common goals. I would like to ask my colleagues to rise, and pay our greatest tributes to the Philadelphia Commission on Human Relations. May the next 40 years bring happiness, harmony, and equality for all of our Nation's citizens.

A TRIBUTE TO HAROLD LOCKWOOD, FOUNDER OF THE SAVE-THE-DELAWARE COALITION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. KOSTMAYER. Mr. Speaker, I rise today to pay tribute to Harold Lockwood for his inspired and unwavering commitment to the Delaware River, the heart of our environment in eastern Pennsylvania. The good health of the Delaware River translates into our good health and to the health and welfare of the millions of people who live in the Delaware River watershed. Since I came to Congress in 1976, I have been working to provide protection and good management for the Delaware. Without the extensive personal commitment of Mr. Lockwood, however, my own efforts would have been far less successful.

Mr. Lockwood had a vision for the protection of the Delaware River, and he understood the seriousness of the threat to the free-flowing Delaware. He inspired many others with his vision for the river's preservation. The Save-the-Delaware Coalition, which Lockwood founded in 1970, now encompasses 70 organizations, several of which have national affiliations. From 1970 to 1982, Lockwood attended monthly meetings in Stroudsburg, PA, meeting that took most of a Saturday. Despite dissimilar goals, the members of the coalition were brought together in a unified statement of purpose under Harold Lockwood—protection for the free-flowing Delaware River.

In 1978, Mr. Speaker, my legislation providing wild and scenic designation for parts of the Delaware was signed into law. Harold Lockwood's determination in 1970 and his willingness to stay the course was vital to our shared success 8 years later.

It is only because of the efforts of people like Harold Lockwood that major environmental conservation efforts, such as the Delaware wild and scenic designation, are possible. I commend his accomplishments and his commitment to the preservation of the environment.

EFFORTS TO COMBAT AIDS MUST CONTINUE, IN THE RESEARCH LABS AND IN THE CONGRESS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. STARK. Mr. Speaker, as our work winds down for the 102d Congress, it is important to recognize that the efforts of those on the front lines of the AIDS pandemic continue without pause.

And this work must continue for good reason.

Dr. Michael H. Merson, the leader of the battle against HIV and AIDS at the World Health Organization, spoke this past week on Capitol Hill. For all our benefit, I'd like to enter into the RECORD some of the statistics presented by Dr. Merson. These statistics describe a horrendous, a growing and a 100 percent fatal disease that affects all of us. If there are any Americans left that believe AIDS is a concern only of others, these statistics should provide a strong reality check.

The global situation in regards to HIV infection is as follows: At least 10 to 12 million adult HIV infections; about 1.7 million adult AIDS cases; about 1 million childhood HIV infections; more than 500,000 childhood AIDS cases; the United States counts 16 percent of AIDS cases worldwide, Africa 69 percent; one out of every 35 Africans living in sub-Saharan Africa are infected with HIV; HIV prevalence rates among some high-risk populations in Asian countries are nearing 50 percent; the prevalence of tuberculosis among HIV-positive individuals is rising rapidly; while AIDS is not transmitted by casual contact, tuberculosis can be transmitted by casual contact; HIV will infect three times as many people by the end of the decade than the number of people currently infected; HIV infection among females will soon match that of infection in males; the gains made in reducing child mortality in African countries during the 1980's will be reversed in the 1990's by AIDS-related deaths; and years of productive life lost in Uganda will triple that of all other causes of death for this developing nation.

Finally, Dr. Merson stated that "unless we eliminate the stigmatization and discrimination of HIV infection, we will not be able to fully conquer this epidemic."

In citing the number of HIV infections, we might as well count these as additional deaths attributable to AIDS. There is no cure to the AIDS-causing virus. Once contracted, there is a 100-percent chance of dying from the resulting disease, unless something else kills one first.

I cite these figures for a greater reason than merely to shock. We have all heard the horrific statistics of AIDS. The only difference in the ones cited above are that they are even more disastrous than any I or you have likely heard previously.

These statistics should keep up moving—moving toward discovering more effective means of prevention, educating our children, searching for better treatments. If we ever thought that AIDS was not a concern for ourselves or our constituents, we now know that it is. If we thought the problem was beginning to go away, we now know we were mistaken.

The challenges posed by this virus are many. The responses required are numerous. The AIDS Vaccine Development and Compensation Act which I introduced earlier this year is an attempt to pick apart one of the challenges created by this 21st century menace. From further research, it is evident that fashioning a workable response to the liability concerns generated by the administration of an AIDS vaccine will require the attention of many, the cooperation of some, and greater honesty from a few.

We must push ahead over the next couple months to further address the issue of liability. If we are able to craft a solution to this issue, we will have advanced the work of those on the front lines. Or, if we find that the claims concerning liability are overblown and used merely as a smoke screen for inaction, we will have debunked a myth and in the process have similarly advanced the efforts against the AIDS-causing virus.

Like those on the front lines, let's continue our work here in Congress without pause. On this issue, inaction by some must not be allowed to restrain the efforts of others.

A TRIBUTE TO ROBERT A. GERBER

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ROUKEMA. Mr. Speaker, the Boy Scouts of America are a unique organization. When most think of the Boy Scouts, the image that immediately comes to mind is the young man dressed in his khaki uniform, escorting the elderly woman across the street. While I am sure no Scout would pass up that chance to lend a helping hand, for Robert Gerber and the Bergen Council of the Boy Scouts of America, Scouting has meant so much more. It is for that reason that the Bergen Council of the Boy Scouts of America will gather on November 4, 1992 to recognize Robert A. Gerber with the "Good Scout Award."

The Good Scout Award is presented to an individual who has been extremely supportive of Scouting through his good works in his community and who has distinguished himself in his life work. Few meet these criteria as fully as Robert Gerber. Few more perfectly fit the definition of role model for young Americans. His career as a successful leader of the business community mirrors his dedication to our youth and the quality of life in New Jersey.

A long time resident of New Jersey, Robert Gerber resides in Allendale, NJ with his wife, Jean. He graduated from Pennsylvania State University and received a master's degree from Harvard University. Mr. Gerber has completed executive business courses at the business schools of the University of Michigan and Stanford University.

Robert A. Gerber joined Hackensack Water Co. in 1961. Following a number of assignments with Hackensack Water and its subsidiary, Spring Valley Water Co., he was appointed executive vice president of the two utilities in 1978. In 1979 he was appointed president of the two companies and in 1980 was named president and chief executive officer. The company was restructured in 1983 to create United Water Resources, a holding company, with Mr. Gerber as its president, chief executive officer and a director. Robert Gerber was elected chairman in 1988.

A leader in his field, Robert Gerber was elected chairman of the board of directors of the National Association of Water Companies. He is a director of the National Westminster Bancorp, NJ. In addition, Mr. Gerber is a member of the American Society of Civil Engineers, the American Water Works Association and the Water Pollution Control. Robert Gerber serves as a director of the New Jersey Utilities Association and the Commerce and Industry Association.

Mr. Gerber is a member of the executive board of the Boy Scouts and served as the finance chairman. Always willing to go the extra mile, Robert Gerber's leadership brings great strength and fortitude to the Bergen Council of the Boy Scouts of America. Kindness, perseverance and hard work characterize the world of Robert Gerber. His enthusiasm, respect for his fellow man, and creative ideas have led the youth of Bergen County to great heights.

Finally, Mr. Speaker, Robert Gerber has not forgotten the Scout lessons of community and to help other people at all times. In that effort, Mr. Gerber has served as the chairman of the United Way of Bergen County in 1989 and is a trustee of the Aviation Hall of Fame of New Jersey.

Mr. Speaker, Scouting brings boys of common interest together and provides a camaraderie that builds friendships and nurtures character. I can think of few who are better role models for our youths than Robert Gerber. That is why I urge my colleagues in the U.S. House of Representatives to join with the Bergen County Council of the Boy Scouts of America and me in congratulating Robert A. Gerber as he receives the Good Scout Award.

SALE OF F-15'S TO SAUDI ARABIA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PALLONE. Mr. Speaker, I would like to offer a few comments about the President's proposed sale of 72 F-15 fighter aircraft to Saudi Arabia. This proposal has been in the offing for quite some time. Just recently, however, in the midst of the campaign season, the administration took the opportunity to announce the sale before a receptive audience of defense workers whose jobs may depend on the sale going forward.

My heart goes out to defense workers whose talent and dedication have made possible the peace we now enjoy, but who face the threat of layoffs and cutbacks in the coming defense drawdown. I think it speaks to the paucity of real leadership in our country today that instead of being given a comprehensive defense conversion plan, workers in the defense industry are given hollow promises for a few more seasons of work building weapons for sale to other nations.

Apart from the jobs issue, there is little reason to proceed with a sale of highly sophisticated fighter aircraft to Saudi Arabia and there are many reasons to exercise caution.

We have learned, at great cost, just how dangerous that part of the world can be. Almost 2 years ago, we were forced to send American troops into the desert to fight against Iraq, a recipient of many arms transfers in the years prior to the conflict. The Middle East is a dangerous part of the world in part because it is so heavily armed. It is irresponsible for us to add to the instability of the area.

The affect of this sale goes beyond this singular transaction. The United States could be a leader in global arms restraint. Since the end of the gulf war, the permanent members of the U.N. Security Council have met a number of times to discuss standards for arms sales. Because the United States, along with the other permanent members, account for a majority of the weapons sold, the United State's action in this sale will serve as a model for the other member nations. It is truly unfortunate, that rather than being a leader toward arms restraint, we are leading the world to repeat the same mistakes that we have made in the past, often with disastrous affects.

Naturally, the sale of the 72 F-15's will not mark the end of weapons sales between the United States and Saudi Arabia. The sale will likely drive up the military budgets of both of our countries and as we sell our sophisticated weaponry, we will be forced to develop and produce new weapons in order to maintain technological superiority. Such action moves us farther and farther away from bringing peace to the region, and to the world. For these reasons, I oppose the proposal to sell F-15's to Saudi Arabia, and I hope that you will join me in opposition.

HONORING ST. MARY'S CHURCH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, for the past year, the family at St. Mary's Church in Yonkers has been hard at work preparing for the 100th anniversary of the Church of the Immaculate Conception. After cleaning the outside stone, repairing stained glass windows and enhancing the church's facilities, the day to celebrate has finally arrived.

As a Representative of the people of Yonkers, I join in congratulating St. Mary's Church for a century of service to the community. When old and new parishioners meet to celebrate the 100th anniversary, the purpose of their efforts will become clear. Through the leadership of Rev. Hugh J. Corrigan and the pastors who have served before him, St. Mary's has grown into a beacon of faith and community spirit. The people, working together, have built a strong tradition to pass on to their children and grandchildren.

That is the power of family and family from which our country has always drawn its strength. I thank and commend the people of St. Mary's for keeping that spirit alive in Yonkers for 100 years.

AN ACT TO PROVIDE FOR VOLUNTARY ENVIRONMENTAL RESPONSE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LENT. Mr. Speaker, today I am introducing legislation that, if enacted into law, will dramatically improve the way in which contaminated sites are cleaned up in this country. This bill, which follows the lead of several progressive States would establish a voluntary environmental response program to encourage the prompt cleanup of contaminated sites.

This legislation would allow parties wishing to respond to releases of contaminants at eligible sites to opt in to the voluntary program. By conducting an environmental response under this program, a party would be able to efficiently and expeditiously remediate a site in a separate, simplified regulatory scheme without becoming entangled in the burdensome bureaucratic process currently in place. At the same time, such voluntary responses would be required to achieve standards that ensure the protection of human health and the environment.

This legislation is desperately needed at this time. It is a well-known fact that the remediation of identified contaminated sites in this country has proceeded at a disgracefully slow pace and that Government agencies simply do not have the resources to address these sites. Moreover, the current regulatory and statutory process had led to excessive legal costs with correspondingly little accomplishment in terms of cleanup.

This problem was addressed this past Sunday in a Washington Post article in which former EPA administration Russell Train, Gustave Speth, and Douglas Costle called for a new approach to environmental law in this country that meets our environmental imperatives and provides for economic opportunity. They argue, persuasively I believe, that the current approach to environmental protection, developed in the 1970's, is no match for the environmental and economic challenges we now face. They conclude that what is needed is a revolutionary new way of thinking about environmental governance in the United States that embodies a shift from restrictions to incentives. They specifically call for a rationalization and simplification of our environmental rules and regulations, and for the creation of an alternative regulatory track to test novel regulatory approaches.

In my capacity as the ranking minority member of the Committee on Energy and Commerce, during our numerous hearings on the environmental statutes within the committee's jurisdiction, I have heard firsthand accounts of the inefficiency of command and control regulation. These accounts highlighted the disincentives provided by environmental legislation and regulation to voluntary actions that benefit the environment. I believe that this legislation marks a significant departure from that approach and is a step toward achieving the objectives identified so clearly in the Washington Post article.

This legislation would establish the following straight forward procedures for participation in the voluntary response program. Parties choosing to remediate a site under the program would be required to submit a notification of intent to the EPA and the State, to perform a facility investigation to characterize the site, and to submit for approval the facility investigation and a response action plan describing the response actions to be taken at the site. The party would also be required to agree in advance to pay the reasonable direct costs incurred by EPA or the State in overseeing the response process and to pay $5,000 toward those costs at the time it submits its response action plan.

Under the legislation, EPA would also be required to establish numerical standards for individual hazardous substances or hazardous constituents in soil and ground water. These standards would be set to ensure the protection of human health and the environment. The standards established under this amendment would reflect the actual risks posed by particular exposure situations. For example, separate numerical standards would be established for property without restrictions on use and for nonresidential property subject to institutional controls restricting its use.

The benefits of this alternative environmental response mechanism would be enormous. The program would relieve the pressure on overburdened State and Federal agencies by encouraging private parties to voluntarily undertake response actions. By streamlining the process, response actions would proceed at a more expeditious pace. Furthermore, the significant transaction costs associated with response actions initiated pursuant to current regulatory programs would be greatly reduced.

Mr. Speaker, this legislation intended as a response to the growing backlog of contaminated sites that are not being addressed in a timely manner under the existing statutory cleanup programs. The failure of these programs to result in any meaningful improvement in our Nation's hazardous waste problems is well known. Something must be done to solve this problem.

I am inserting the Washington Post article I referred to earlier in the RECORD. I am also inserting the section-by-section analysis in the RECORD in their entirety.

I believe we all see the problem with the existing law, and are struggling to define an alternative regulatory track that can truly promote both a clean environment and a strong economy. I feel honored to have had the opportunity to work toward that goal during my tenure in the House of Representatives and hope that this bill will provide a sound basis for enacting voluntary remediation legislation next year.

AND GOING FOR THE GOLD—A NATIONAL STRATEGY FOR HELPING AMERICA CLEAN UP BY CLEANING UP

(By James Gustave Speth, Russell E. Train, and Douglas M. Costle)

Whoever is elected president next month is going to need a strategy that meets the public's desire for less pollution and more jobs. The good news is that such policies do exist—and could work a revolution in the U.S. approach to environmental protection.

Business and government must appreciate that they face a new environmental reality. Since World War II, the U.S. economy and the global economy have quadrupled in size. The resulting environmental deterioration has compelled most countries to seek reductions in levels of pollution.

Yet, looking ahead, the phenomenal growth in the scale of the human enterprise is projected to continue. By mid-century, U.S. and world output should quadruple again. If this vast increase in economic activity is accomplished with the technologies now dominant in energy production, transportation, manufacturing and agriculture, global climate, human health and the productivity of natural systems will be drastically affected. Unprecedented transformation is required to replace technologies deployed today in industry and agriculture by new ones that meet exacting environmental criteria.

Guiding and speeding up this transformation will be one of the dominant challenges confronting political leaders around the world in the coming decades. And the business community here and abroad can confidently expect a future in which public demand for environmental performance—already high—will rise steadily and increasingly determine economic viability. Dirty or dangerous activities and products will be regulated or priced out of the market. Instead, the market will place a premium on environmentally advantageous technologies such as emissionless vehicles, photovoltaic electricity, bioengineered pest resistance and zero-discharge manufacturing.

Thus environmental imperatives and economic opportunities can go hand in hand. The nations and companies that seize these opportunities can capture an early share of growing markets. Ambitious environmental laws—at least those that promote innovation and efficiency—can help give the United States a competitive edge.

Japan's experience is instructive. Japan has reduced domestic air pollution more than any other industrial country; it also now has the most energy efficient economy. Japanese companies generate only one-fifth the waste of U.S. companies per dollar of goods produced. Far from hurting competitiveness, environmental measures have given Japan a new generation of economic advantage.

The problem is that the current U.S. approach to environmental protection, a product of the early 1970s, is no match for the environmental and economic challenges we face. Now we rely on a command and control system of regulation with adversarial relations among industry, regulators and environmentalists. This system focuses on cleaning up pollution at the end of the pipe or the top of the smokestack, neglecting the need to consider product design, production process, and environmental factors together.

While the current approach has accomplished a great deal—the air in our cities is markedly cleaner than it was two decades ago—it has peaked in effectiveness. Our system of environmental regulation is ill-suited to emerging global-scale problems. It is also inhibiting innovation that could strengthen U.S. economic performance.

What is needed is a whole new way of thinking about environmental governance in the United States, one reflecting a basic shift in emphasis from restrictions to incentives. While the old system should be held in reserve for scofflaws and laggards, a system based on the following principles should be phased in as it proves itself.

We need to stimulate investment and accelerate the replacement of environmentally burdensome products and processes. Carefully crafted tax incentives could encourage business to make "green" investments in pollution-reducing research and development and in phasing out dirty plants and equipment. Environmentalists should join with business leaders in promoting measures to spur the savings that can pay for these new investments.

Similarly, the Congress should phase out the "grandfather clauses" that protect older facilities from tough federal regulatory requirements and should pursue bounty programs like "cash for clunkers," which pay car owners to scrap the vehicles that generate the most pollution. This program has been tried with some success in California; the Bush administration and Congress are currently considering a federal program.

We need to promote so-called "upstream solutions" that anticipate and "design out" potential environmental problems. Pollution prevention approaches, which the Office of Technology Assessment says can eliminate half of today's manufacturing waste, are catching on more quickly in major chemical companies than in federal regulatory programs. 3M's "pollution prevention pays" program has halted the release of a billion pounds of toxic chemicals and saved the company $500 million in the process.

In the energy sector, hundreds of power plants will wear out in the next 10 years.

Power company officials are likely to shy away from attractive renewable energy options and lock into fossil fuels for another 40-year period—unless government provides regulatory incentives and supports demonstration plants to promote wind and solar power.

Sen. Barbara Mikulski (D-Md.) has proposed that the United States create a program, modeled on the successful Defense Advance Research Projects Agency, that would directly finance development of critical environmental technologies and help make environmental performance a mainstream factor in national technology development. Today, our technology policies virtually ignore environmental needs, and our environmental policies neglect technological opportunities.

We need to adopt economic incentives and market-based mechanisms such as tradeable permits and pollution charges. Such approaches are able to encourage least-cost solutions to environmental problems, to stimulate innovation (for example, by providing economic incentives to companies that go beyond existing environmental standards) and to work with market forces, not against them.

Most important, U.S. policy should seek to ensure that the costs of environmental damage are fully reflected in prices, beginning with the phased elimination of inappropriate subsidies for energy and water consumption, commodity production in agriculture and the automobile.

The United States should also adopt a series of energy taxes and pollution charges—including a tax on emissions of carbon dioxide resulting from fossil fuel combustion. A carbon tax would demonstrate our commitment to preventing the possibility of global warming. A phased-in $60-per-ton carbon tax in the United States would eventually raise $76 billion a year. Such levies can be kept revenue-neutral by using the funds generated to reduce other taxes. In this way, the federal government can shift the tax burden away from things we want to encourage—like saving, investment and labor productivity—and put new taxes on things we want to discourage, like pollution, waste and excessive energy use.

The United States can no longer set environmental policy on its own. We need the cooperation of other countries to protect our own environment from climate change, ozone depletion and marine pollution. Environmental policy increasingly will be set at the international level. Attempting to insulate U.S. companies from this reality is a form of protectionism that may seem like a favor but is actually a great disservice.

The United States should take a page from the European Community and develop environmental strategy, not merely around problems like air pollution, water pollution and toxic waste but by economic sector—manufacturing, agriculture, housing, transportation. Congress moved in the right direction last year when it revamped U.S. transportation policy, shifting emphasis from automobiles and new highways to transit and non-driving alternatives. Needed next is a commitment to dramatic improvements in energy efficiency.

We need to promote voluntary and non-regulatory initiatives to both producers and consumers. Such measures include community right-to-know requirements that inform residents of toxic discharges in their areas; independent environmental audits of companies, which may one day become as important as financial audits; green labeling of consumer products that groups like Green Seal are working to standardize; and recognition for progressive corporate programs such as Dow Chemical's new committee of outside environmental advisers.

These factors can work together. When Congress mandated in 1986 that U.S. companies disclose their release of some 300 toxic chemicals, pressure on companies increased dramatically. A year and a half ago, EPA asked large U.S. companies voluntarily to reduce their emissions of 17 toxic chemicals by one-third in 1992 and one-half in 1995. To date, about 750 companies have responded positively, committing to reduce toxic emissions by some 300 million pounds.

Vigorous enforcement of current environmental laws remains essential, but we need to launch a period of transition. Rationalizing and simplifying the vast body of rules and regulations that have accumulated over the last 20 years is a priority. The world is too complex for environmental regulations to be simple, but there is broad consensus today that these regulations are needlessly complicated, fragmented and sometimes contradictory. Environmental procedures can be made more efficient and more effective as catalysts of innovation without reducing public protection or participation.

To encourage flexibility in environmental regulation, Congress should, on an experimental basis, allow qualifying companies to opt into an alternative regulatory track. There, within careful confines, novel regulatory approaches could be tested and companies could come forward with their own innovative approaches, as long as the end result is just as good or better for the environment.

But a new national strategy to integrate our economic and environmental policies is impossible without a new spirit of collaboration among government, industry and environmentalists. Leading U.S. companies are discovering that environmental performance is in their long-term interest. Likewise, environmentalists are realizing that they have nothing to gain from a weak economy, declining industries and outdated technology.

In the post-Cold War world, economic success, environmental security and international equity are the new arenas for American leadership. The more complementary we make these objectives, the better off we and the rest of the world will be.

SECTION-BY-SECTION ANALYSIS RELATING TO VOLUNTARY ENVIRONMENTAL RESPONSE

This Act, to be known as the "Voluntary Environmental Response Act of 1992," establishes a voluntary environmental response program to encourage the prompt responses to environmental contamination.

Section 101 contains Congressional findings and objectives that form the basis for the Act. Section 102 defines key terms in the Act.

Section 103(a) presents the purpose of the Act, which is to establish requirements applicable to, and criteria for determining the adequacy of, voluntary responses to releases of hazardous substances or hazardous constituents into the environment. This Act creates a separate simplified regulatory scheme under which companies may elect to conduct site remediations.

Sections 103 (b) and (c) explain the applicability of the Act. Generally, any facility at which there has been a release or threat of release of a hazardous substance or hazardous constituent may be eligible for the voluntary response program unless a Record of Decision for the facility has been issued under CERCLA §104 or a remedial action plan has been incorporated in an administrative or judicial order or consent decree. In addition, the voluntary response option would not be available for land disposal units with respect to which a closure notification under RCRA Subtitle C has been submitted; or for facilities at which corrective measures have been selected under a corrective action permit or order.

Section 104(a) provides that States may apply to administer the voluntary response program. Section 104(b) sets forth the procedures by which the Administrator will determine whether to approve a State program.

Pursuant to Section 104(c), a State with approval to administer a voluntary response program has exclusive jurisdiction for implementing and enforcing the requirements of the Act. The Administrator may withdraw approval of a State program if the Administrator determines the State program is not being administered or enforced in accordance with the requirements of the Act. Under Section 104(d), if the Administrator disapproves an application by or withdraws approval from a State, EPA must administer a Federal program under the Act.

Section 104(e) provides that the approval of a voluntary response action by the State shall have the same force and effect as approval by the Administrator.

Section 105 presents the procedures for undertaking voluntary responses under this Act. Commencing six months after enactment, any person may provide notice of intent to conduct a voluntary response. Any person intending to conduct a voluntary response must give written notice to the Administrator and the State in which the response is to occur. This six month waiting period is intended to allow States to apply, pursuant to Section 104, to take over the program. The person providing this notice must agree in advance to pay the reasonable direct costs incurred by EPA or the authorized State in reviewing the response action plan and overseeing the response. The party must make a one-time non-refundable payment of $5,000 at the time it submits its response action plan, which will constitute a set-off against the oversight costs incurred by EPA or the State.

Under Section 105(c), a person wishing to perform a voluntary response under this Act must first conduct or have conducted a facility investigation to characterize the site, the hazardous substances on the site, and the potential exposure pathways. This facility investigation parallels the requirement for a remedial investigation under CERCLA and the National Contingency Plan.

Under Section 105(d), a party must submit a "response action plan" to EPA or an authorized State for approval. The response action plan sets forth the work to be undertaken and the standards to be achieved by the response action, similar to the function performed by the Record of Decision under CERCLA and the National Contingency Plan. The response action plan will describe the response action to be taken, the standards to be attained, the level or standard of control of hazardous substances or constituents that may be discharged or emitted into the environment during the response action, and a schedule for completion of the action. Public participation in the response action process is provided for in Section 105(d)(2).

Pursuant to Section 105(d)(4), the Administrator or an approved State may grant a waiver, after public notice and comment, of the standards at a particular facility where certain criteria are met, e.g., complying with the standards will result in greater risk to human health or the environment than alternative response mechanisms, the voluntary response will attain a level of protection equivalent to that provided by the response standards, or contaminants will not migrate as a result of site-specific conditions or engineered controls, such as a cap.

Section 105(f) requires that, upon completion of a voluntary response, the party performing the response must certify that the response has been performed in accordance with the approved response action plan.

Section 106 contains the response standards to be achieved by voluntary responses undertaken pursuant to the Act. Section 106(b) requires the National Academy of Sciences to conduct a review of the risk assessment methodology used by EPA and to submit a report to the Administrator containing the results of that review. The Administrator must provide an opportunity for public comment on the report and submit the report and a summary of comments received to the Congress.

Section 106(c) requires the Administrator to promulgate within 18 months of enactment risk-based numerical response standards for contaminated soil and groundwater for a minimum of the 100 most commonly found hazardous substances or hazardous constituents in the environment. Standards for soil are to be based on reasonable exposure assumptions, such as dermal contact by exposed persons. EPA is to promulgate numerical response standards only for groundwater that is a drinking water supply. For other groundwater, the response action must address the source of the contamination so as to mitigate future releases and shall include reasonable measures to contain the contamination.

Under Section 106(e), a voluntary response may meet alternative response standards based on site-specific risk assessments taking into account actual exposure scenarios. Prior to the time EPA promulgates numerical standards, a person conducting a voluntary response may elect to meet either the site-specific standards of Section 106(e) or existing Federal or State standards.

Pursuant to Section 107 of this Act, no Federal, State, or local permit shall be required for the portion of a voluntary response conducted onsite in accordance with this Act.

Section 108 sets forth those limited circumstances under which the Administrator or approved State may require a person that has completed a voluntary response under the Act to perform additional response actions. Such additional action may be required only if the Administrator or State determines that the action has not been completed in accordance with the approved response action plan, or if the Administrator or State learns of new significant and reliable information that would have justified the application of substantially different standards or requirements at the time the response action plan was approved and at the time of discovery of such new information.

Pursuant to Section 109, voluntary responses conducted in accordance with an approved response action plan and the other requirements of the Act are deemed to be in compliance with CERCLA, RCRA, TSCA, the Clean Water Act, the Safe Drinking Water Act, the Clean Air Act, the Oil Pollution Act, and equivalent State and local laws, and are not subject to any substantive or procedural requirements of such laws.

THE INTERSTATE CHILD SUPPORT ENFORCEMENT ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. ROUKEMA. Mr. Speaker, I am very pleased to be introducing today the Omnibus Interstate Child Support and Parentage Act. This measure—which is also being introduced today in the other body by my colleague from New Jersey, Senator BILL BRADLEY—is based on the recommendations of the U.S. Commission on Interstate Child Support Enforcement. Also, I am happy to note that President Bush has given his support to a number of legislative reforms to this failed system. I look forward to working on bipartisan solutions in the next Congress.

On August 11, the Ways and Means Subcommittee on Human Resources held a hearing to examine the Commission's findings. I was one of many witnesses who endorsed the work of the Commission. If we are serious about improving the lives of families—of children—we must act swiftly to ensure that all parents provide for their children. Ideally, children should be supported emotionally and financially by two loving parents. Unfortunately, Government cannot ensure that all children will receive the emotional support that they so desperately need from both parents. Government can, however—indeed Government must, take action to ensure that parents live up to their moral and legal responsibility to provide financial support for their children. I believe that this comprehensive interstate child support bill represents a significant step in that direction.

Having worked on two previous child support efforts—the 1988 Family Support Act, and the Child Support Enforcement Amendments of 1984, I recognize that much remains to be done to ensure that noncustodial parents provide financial support for their children. While prior legislation has led to substantial progress in this area, we are still failing miserably when it comes to collecting child support in interstate cases.

Interstate cases are recognized and acknowledged as among the most difficult to enforce. The statistics speak for themselves. Only 43 percent of mothers receiving interstate awards report regular compliance. That means that more than 1.4 million interstate awards remain unenforced, and more than $1.6 billion in interstate awards go unpaid annually.

Moreover, less than half of custodial parents in interstate cases receive the financial award they are due. In fact, one in three receive nothing at all.

The timely payment of court-ordered child support is the fulfillment of a moral and legal obligation. It is not an option for parents, nor is it a bargaining chip for parents embroiled in disputes over visitation. These are separate and distinct issues that are dealt with by State courts.

Nonsupport of children by their parents is one of the most important reasons for families having to resort to the welfare system in the first place. Failure to pay child support is not a victimless crime. Clearly, the children going without these payments are the victims. But in a larger sense, society is the victim, as taxpayers shoulder the burden of paying for enforcement of support, and, ultimately, the welfare payments going to these children whose parents will not meet their legal obligations.

It is clear where the system is failing. We tried in 1984, and again in 1988 to fix things. Why, despite our efforts is the system still failing?

The final report of the Commission—the product of more than 2 years of hearings, investigation, and heated debate among child support experts—makes recommendations on a variety of fronts, from the comprehensive to the technical. This bill encompasses many of the Commission's most significant recommendations.

I believe that we must act expeditiously to streamline the child support process, eliminate contradictions in State laws, give our courts and law enforcement agencies the tools that they need, and get tough with States that fail to do their jobs.

First, an issue that is raised to me by parents, child support workers, county sheriffs, and anyone familiar with child support enforcement: that the patchwork quilt of State laws halts collection efforts with procedural and jurisdictional redtape. This we must fix.

We must make nonpayment of legally ordered child support a Federal crime—as this bill does, and give our courts and law enforcement agencies the tools to reach across State lines to establish and enforce support orders. We must require States to enact long-arm statutes, to ensure that the efforts of police and probation officers to enforce child support laws are not halted at State lines, or by lack of jurisdiction.

As one of New Jersey's county sheriffs said to me, too many delinquent parents walk across the river. Thus, we must enact laws that require States to honor the legal and binding court orders, subpoenas, and warrants issued by another State where jurisdiction was properly asserted. Further, we must ensure that the State in which the child resides has jurisdiction unless the parties involved agree otherwise. This must be central to any child support enforcement effort.

To enable effective wage withholding, we must legalize direct service, and eliminate the paperwork and delay of two State's bureaucracies, thereby transmitting the child support enforcement orders to the employer of the noncustodial parent, regardless of State. As the General Accounting Office reported earlier this year, this is one of the most successful means of enforcing out-of-State orders. Since wage withholding will apply to all child support orders effective in 1994, we must ensure that this direct support payment method can be effectively utilized in interstate as well as in-State cases.

To improve collection of support from noncustodial parents who are self-employed, we must put in place effective alternatives to wage withholding. The Commission report and this legislation call for State licensing and professional boards to withhold licenses of delinquent parents. Also, drivers' licenses and motor vehicle registrations from parents failing to pay child support would be withheld. States would also be required to establish procedures by which liens can be placed on vehicle titles and bank accounts can be seized for child support arrearages. Those noncustodial parents who fail to pay child support would have such delinquencies reported to credit bureaus.

As our Commission's review indicates, in many places appropriate laws are already on the books. It is the enforcement and commitment to these laws that is lacking. And that is absolutely unacceptable. We must, by all means, make State governments, and the Federal Government, vigorously exercise their legal authority.

As one of the architects of the 1988 Family Support Act, I fought for the teeth in our child support laws—namely, cuts in States' welfare funds. I am concerned that in many instances, the States are still not doing enough.

Something is fundamentally wrong. Since enactment of these penalties, only nine States have failed their audits, and had sanctions imposed. At a time when the status quo is clearly failing our Nation's children, it is inconceivable that the Federal Government would find that the vast majority of States are doing a good job in this area. There is no excuse for not implementing the law to its fullest. This means almost axiomatic—but we must remember that child support must be treated as a priority issue, and be assured of its place as an essential cornerstone to welfare reform.

The Commission recommends greatly improved audit standards, and specifics for more aggressive and committed leadership from the Federal Government, and this must begin with an all out effort by the Department of Health and Human Services and the Federal Office of Child Support Enforcement.

Specifically, the Commission recommends—and this legislation would mandate—that we raise the statute of the Office of Child Support Enforcement so that it is headed by an assistant secretary who reports directly to the Secretary of Health and Human Services. This measure would also allow the Office of Child Support Enforcement to have its own legal counsel. This alone is not enough, but it is an important start.

In almost every conversation I have with parents who are owed child support, case workers or enforcement authorities, these States stand out as egregious offenders in failing to comply with Federal laws. It is my understanding that States with good laws and efforts, like my own State of New Jersey, know which States do not make similar efforts. In one State, child support is just not a priority. Another State refuses to honor any support agreement after the child reaches 18 years of age.

Ultimately, the criteria we use to determine whether a State's child support programs are working should not be some bureaucrat's formula or cost-benefit analysis—child support enforcement can only be seen to work when dollar collections are up and the number of delinquent parents and unpaid orders are down.

As the Commission notes, "even if all the necessary legislative reforms are enacted, collections will not significantly improve unless States devote adequate resources to implement the reforms."

This means that the Federal Government and the States must commit the funding and resources necessary for these programs and where they do not, we must take action so that the sanctions we put in law can serve their purpose.

Last, but certainly not least, this bill would mandate—as the Commission recommends—that States put in place programs to streamline and simply procedures for establishing paternity. Specifically, this legislation would require States to provide for hospital-based paternity establishment, thereby taking advantage of the fact that as many as 80 percent of fathers are in contact with their baby's mother while she is still hospitalized. Those States that have already implemented such programs have reported great success in increasing paternity establishments. Anything that we can do to help facilitate the establishment of paternity will certainly increase the chances of collecting more child support dollars from noncustodial parents in both in-State and interstate cases.

Mr. Speaker, this bill is being introduced today in this body and the other body so that we might get a hard start in what will, no doubt, be a very involved process: that of moving comprehensive interstate child support enforcement legislation through the Congress. The issues we are dealing with here are both complicated and difficult. I look forward to working with my colleague in the other body to expand and begin to perfect the numerous and significant reforms that are included in this bill. Based on the input of the other Commission members, the administration, the States, and the various groups and individuals who have a stake in its outcome, we intend to introduce a modified version of this interstate child support enforcement initiative in the first days of the 103d Congress. We will continue to work for expeditious enactment of these much-needed reforms of our present ineffective system for interstate collection of child support.

A TRIBUTE TO PATRICK J. NILAN, LEGISLATIVE DIRECTOR EMERITUS OF THE AMERICAN POSTAL WORKERS UNION, AFL-CIO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GILMAN. Mr. Speaker, I want to take a few of the last remaining minutes of the 102d Congress to draw attention to and pay tribute to, Mr. Patrick J. Nilan, the retiring legislative director of the American Postal Workers Union [APWU] and a gentleman that has helped so many of us over the years to better understand the U.S. Postal Service and the needs of Postal employees. His decision not to stand for re-election and to retire at the end of his term next month has left those of us who care about him and the workers he represents saddened, but proud for we have had the opportunity to know and work with him during our time here. With the succession by election of his assistant, Roy Braunstein, to the position of national legislative director at the end of Pat's term, leaves the APWU well represented on Capitol Hill.

Pat Nilan has worked on behalf of postal workers at the local and national levels for an extraordinary total of 46 years. He got his start as a member of the Minneapolis, MN, area local of the United Federation of Postal Clerks which eventually became the American Postal Workers Union. He went on to serve as secretary and president of his local before becoming the clerk craft vice president representing union members in Minnesota, North Dakota, South Dakota, Wisconsin, Iowa, and Missouri, before being elected in 1964 as the national legislative director.

As the national legislative director, Pat has shepherded through the Congress such legislation as Public Law 89-301, which established a separate, from civil service employees, pay schedule for all postal field service employees. That act dramatically changed the working careers of postal workers by providing statutory guidelines for work weeks, shift schedules, and overtime pay. He was also there at the beginning of what we now know as the U.S. Postal Service, when the Congress enacted Public Law 91-375, the Postal Reorganization Act of 1970. This measure, guaranteed postal workers and their unions for the first-time, union recognition, by law. Pat insured that this legislation, which reshaped the Post Office Department into the U.S. Postal Service provided statutory benefits such as Federal retirement, health benefits, life insurance, and worker compensation as well as for negotiations with postal management on wages for postal workers. All postal workers, not just those he represents for the APWU, have benefited from his service in the legislative arena.

Pat also established, in 1965, the committee on political action [COPA] and has served as its secretary treasurer for the past 26 years. COPA now provides over a million dollars to campaigns during each 2-year cycle. He has also served as the editor of the APWU's News Service and as associate editor of its monthly publication for the entire 28 years that he has been legislative director. Mr. Speaker, at the American Postal Workers Union, AFL-CIO national convention this past August the 4,000 delegates voted overwhelmingly that Patrick J. Nilan be designated as "National Legislative Director Emeritus," a truly well-deserved honor.

Easily spotted by his trademark bow-tie either in the hallways of the Capitol complex or at his working office at the Democratic Club, Pat has always made himself available to Members of Congress and their staffs. The knowledge and experience he has dispensed over the years even to the most junior of congressional staff cannot be quantified and with his retirement and that of so many of our colleagues, it is another example of the amount of wisdom and experience we are seeing departing our hallways at the end of this Congress.

As the ranking minority member on the Committee on Post Office and Civil Service, I can tell you it will not be the same to go to postal hearings and not see Pat in his familiar position at the desk in the rear of our hearing room. I will miss his ready smile and easy-going style. A bouquet of green carnations on St. Patrick's Day is only one example of the little ways Pat has endeared himself to his friends.

On his retirement, Pat can look back on a lifelong career of working for the working men and women of this Nation. He can also, with his lovely wife, Sally, look with great pride on the children they raised during that career: daughters, Mary Kay and Joanie and sons, Patrick, Terry, Joseph, and John. I know this retirement will allow them to spend more time with the children and grandchildren that mean so much to both of them.

Mr. Speaker, I want to take this opportunity to express my personal appreciation to Pat and to wish him and his family many, many years of happiness and future successes. It is my hope that he will stay in touch with those of us who have come to rely upon his experience with the Postal Service as we attempt to work our way through this latest round of postal reorganization in which almost 50,000 postal employees have chosen to retire as part of a total restructuring at the Postal Service under the new Postmaster General, Marvin Runyon.

TRIBUTE TO CONGRESSWOMAN BEVERLY B. BYRON

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. HUTTO. Mr. Speaker, I want to pay tribute to one of our departing colleagues who will not be here in the 103d Congress. We shall greatly miss Beverly Byron who has served in this body for the last 14 years. Mrs. Byron has continued a long tradition of public service in her family. Her predecessor was her husband Goodloe Byron who served with distinction on the Armed Services Committee before his passing in 1978. Beverly has also been an outstanding member of the Armed Services Committee and has served the last several years as chairman of the Personnel and Compensation Subcommittee. She has been a staunch supporter of providing America with a strong national defense. Her diligent support of our men and women in uniform has boosted the morale of our forces worldwide. At this time, even during a tremendous drawdown of the military, Beverly has done a super job of managing the personnel reductions which are painful to many thousands of troops and their families. It has been a distinct pleasure to serve as a subcommittee chairman along with Beverly Byron on the HASC.

Beverly and I have not always agreed on every issue and I vividly recall a few years ago when she and I were on opposite sides of an issue as we went to markup in committee. Although it was a tough battle we were able to negotiate and come to a reasonable agreement and our friendship remained intact.

Beverly Byron served our Nation and her congressional district extremely well over the years. Her compassion for people was evident and I remember that one of the highlights of each summer was the Beverly Byron charity golf tournament held in her district. Quite a number of Members participated in this event in which Beverly was able to raise thousands of dollars for charities in the Sixth Congressional District of Maryland.

Congresswoman Beverly Byron can leave this body with the satisfaction of knowing that she has done a good job of representing the people of western Maryland. We will miss Beverly and I take this opportunity to wish her and Kirk good health and happiness in the years ahead.

ASIAN-PACIFIC AMERICAN HERITAGE MONTH

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. MINK. Mr. Speaker, it is with a deep sense of pride that I join my colleagues in recognition of Asian-Pacific American Heritage Month. The contribution of Asians and Pacific Islanders in every aspect of American life has diversified the foundation and enriched the quality of American society.

Asian-Pacific American heritage is filled with the hope and faith of immigrants seeking life in a new land, defined by bitter struggle and disappointment, strengthened by an abiding belief in the ability to endure hardship and to prevail. Through the values of our culture and tradition, we have defined an America that is a unique blend of the old and new worlds.

Asian-Pacific American Heritage Month is a time to remember our past, to pay homage to our elders who endured the adversity that is part of the immigrant experience, and to reflect on how this experience has shaped Asian-Pacific Americans as a people. It is also a time to address the difficulties that confront us now, and will challenge us in the future.

The immigrant experience is a common thread running through the American people. From this experience, we should acknowledge our similarities as a nation of immigrants rather than accentuate our differences as individual people. America has been the land of opportunity, and liberty has embraced all people who love and seek freedom. The differences in the immigrant people who have settled on these shores have been the basis for racial disharmony and unrest as increasing violence against Asians illustrate. But, the Asian-Pacific experience is one definition of the American experience. It is not a better or a stranger experience, but it is different. We should not begrudge each other for the differences we perceive in each other but accept these differences as the basis of our strength.

Asian-Pacific American Heritage Month is a time of introspection. It is a time to ponder our accomplishments and to look forward to greater achievements in the future. It is a time to revel in our uniqueness, but, as importantly, to recognize our similarities to people of all races, creeds and color in American society.

Mr. Speaker, in this spirit, I urge my colleagues to join me in honoring the legacy and recognizing the contribution of Asian-Pacific people in America.

CONFERENCE REPORT ON H.R. 5368, FOREIGN OPERATIONS APPROPRIATIONS FOR FISCAL YEAR 1993

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of the conference report on the fiscal year 1993 foreign operations appropriations bill.

This bill contains the long overdue approval for $10 billion in loan guarantees to assist Israel in absorbing the massive numbers of refugees from the former Soviet Union and Ethiopia who have fled to Israel in recent years.

Of course, we are pleased that the administration has finally endorsed the urgently needed loan guarantees, but it is tragic that the approval for the loan guarantees was delayed unnecessarily for more than a year, and it is absolutely essential that we enact the guarantees as quickly as possible so that we can speed the rescue of remaining Jews in the former Soviet Union and Eastern Europe.

The extended delay of the loan guarantees was inappropriate and ill-advised. For years, successive U.S. Presidents worked in close cooperation with the Congress to support free emigration from nations which do not respect basic human rights. However, when hundreds of thousands of Ethiopian and Soviet Jews finally were able to flee to Israel, the Bush administration blocked essential loan guarantees—despite the fact that these loan guarantees involve no cost to the American taxpayers.

The administration did so for one reason and one reason alone—to pressure the State of Israel to make unilateral concessions in the Middle East peace process.

But the proper role for the United States in the Middle East peace talks is to act as an honest broker and to facilitate serious negotiations between all of the parties—not to apply undue pressure on any of the parties in the negotiations. Sadly, the administration abandoned this posture in favor of a policy of one-sided pressure on Israel.

At the same time, the administration applied no pressure at all on the Arab States to end their state of belligerency and their economic boycott, or to establish diplomatic relations with Israel.

Now, as we approach the national elections, the administration has expressed support for the loan guarantees. At this point, it is incumbent on Congress to act promptly to ensure that we do not delay the guarantees 1 minute longer. In Israel, unemployment of refugees is extremely high, and a national housing crisis has reached alarming proportions. These crises also threaten the ability of Jews in Eastern Europe and the Soviet Republics to flee to Israel.

The current situation in Eastern Europe and the Republics of the former Soviet Union is reason for grave concern. The changes in those regions, including growing economic difficulties, have reignited long-simmering ethnic rivalries and prejudices, including virulent anti-Semitism. Throughout Europe, political movements espousing extreme nationalism and prejudice have won substantial popular support, and neo-Nazi movements are on the rise.

While many Soviet Jews have been able to emigrate to Israel in recent years, hundreds of thousands continue to live in fear of intimidation, harassment, and outright violence. Many of these Jews want to emigrate to escape these intolerable conditions, but they are afraid to do so unless Israel makes better progress on providing jobs and housing.

As the undisputed leader of the free world, the United States should do everything possible to help facilitate the emigration of individuals in this region who are threatened by ethnic or religious violence. That means passing this legislation right away.

Mr. Speaker, the loan guarantees will not cost American taxpayers one cent. Instead, they will provide urgently needed humanitarian assistance to refugees who have been the victims of brutal oppression for years on end. We must approve the loan guarantees immediately if we are to be able to hold up our heads and say that we stand for freedom—not just in words, but in actions. To do otherwise would be to abandon hundreds of thousands of refugees as they are seeking to start new lives of freedom.

Mr. Speaker, let us now give the loan guarantees our stong approval, recognizing that they are in our best interests and the best interests of the world. And let us work to improve United States-Israeli relations so that we can build a future of security and prosperity for both nations in the post-cold-war era.

Mr. Speaker, I urge all of my colleagues to support this much-needed legislation.

IN HONOR OF JONES MORGAN

HON. L.F. PAYNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. PAYNE of Virginia. Mr. Speaker, I noted with sadness in the paper the other day the recent passing away of the last remaining confirmed veteran of the Spanish-American War. It brought to mind a very special individual who I would like to bring to the attention of Congress, Mr. Jones Morgan of Richmond, VA.

Mr. Morgan has been honored as our Nation's oldest living buffalo soldier, the last living member of the Army's only black regiments during the Spanish-American War. Next month, he turns 110 years old.

The Indians called members of the 9th and 10th cavalry regiments "Buffalo Soldiers" because of their fierce fighting spirit. They are some of the most overlooked soldiers in American military history.

Mr. Morgan in particular has come all the way from tending horses for Teddy Roosevelt and the Rough Riders to fending off muggers on his neighborhood streets. All of his military records were lost in a fire some years ago, and the military has been unable to confirm his military service through their records. The combination of sketchy records among the black units, and his young age at the time, have contributed to his lack of status. As a result, he is not eligible for any veteran's benefits.

Jones Morgan is one of the unsung heroes of our Nation, and I believe we owe him a debt of gratitude for his service to our country in a time of war. Next year, Representative THOMAS BLILEY will introduce legislation to grant Jones Morgan an honorary discharge from the Army, providing him the status of a veteran with all of the associated rights and benefits.

But in the meantime, I wanted to take this opportunity to bring Jones Morgan to the attention of Congress and the American public, and to give him the thanks of a grateful nation.

STATEMENT FOREIGN OPERATIONS CONFERENCE REPORT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. CARDIN. Mr. Speaker, I rise in support of the conference report to accompany the foreign operations appropriations bill for fiscal year 1993 (H.R. 5368).

I am pleased the conference report contains $10 billion in loan guarantees to Israel distributed over the next 5 years. These loan guarantees support the U.S. commitment of more than 20 years to securing the freedom of Jews threatened by religious persecution.

I was disappointed with the opposition of the administration to the loan guarantees for so long. Humanitarian assistance should not be held hostage to political considerations. The linkage of loan guarantees to other issues is unacceptable. Despite this President's assertions, there is a deep sense of concern in the Congress that putting pressure on Israel, while ignoring Arab intransigence, will not advance the Middle East peace process. I remain hopeful that the forthcoming passage of the loan guarantees will spell an end to the political delays and wrangling surrounding this critical humanitarian assistance.

My support for the loan guarantees is based on our Nation's longstanding commitment to the freedom of Jews threatened by religious persecution. The free-emigration principles in Jackson-Vanik amendment are fundamental to our foreign policy and must be upheld.

Israel asked the United States to guarantee loans from private lending institutions in order to allow Israel to remain a safe haven for individuals seeking to escape religious persecution around the world. The influx of immigrants from the former Soviet Union, Eastern Europe, and Ethiopia have exacerbated an already strained economy and housing market in Israel. The loan guarantees are desperately needed to expand the water, sewage, and road systems in Israel.

Mr. Speaker, I along with most of my colleagues support the loan guarantees and the conference report. The loan guarantees will not only further our humanitarian objectives but will assist Israel, our most valuable ally in the Middle East.

GOING HOME—SICK

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. GOSS. Mr. Speaker, soon we will refer to the 102d Congress in the past tense, having failed to finalize an issue that affects every citizen of this country—health care. After we adjourn, our health crisis will continue to worsen, pushing more and more people out from under the umbrella of health insurance. Today there are more uninsured individuals than Medicare beneficiaries, and by the time the 103d Congress convenes, our Medicaid rolls will have swollen beyond capacity to accommodate the growing number of unemployed. This week, we will return to our districts empty handed, having failed to seize the opportunity of H.R. 4280 or H.R. 5325 to implement substantial, bipartisan, cost-effective health reforms.

There is no excuse for this negligence. How can anyone explain legislative paralysis to the sick, scared, and angry residents? Wait until next year? The year after that? When will we offer some relief from the skyrocketing cost of health care?

In a year when promises are easy to make and too easy to break, I challenge my colleagues—don't let this issue fall by the wayside in our rush to adjourn and go home. Health reform has passed the critical stage—let's stay here and do the job we've been elected to do. When the patient is sick, does the doctor just close the office and walk out?

SUPPORT H.R. 5504, THE DEFENSE APPROPRIATIONS CONFERENCE REPORT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MAZZOLI. Mr. Speaker, I rise today to offer words of support for H.R. 5504, the House-Senate Defense appropriations conference report for fiscal year 1993. I urge our colleagues to support it as well.

Recently, Congress approved the fiscal year 1993 Defense authorization bill (H.R. 5006) which provides $274 billion for various national Defense programs. H.R. 5505 appropriates $254 billion of that authorization. This is a reasonable and responsible reduction in Defense spending which keeps our military strength intact.

Mr. Speaker, I want to mention one item which was in the original House version of the bill, but which was not included in the Defense appropriations conference report that would have had an adverse bearing on Quartz Product Co. [QPC] located in my hometown of Louisville.

This provision, section 9111, in the House-passed version of H.R. 5504 would have prohibited the Pentagon from procuring quartz products from companies, such as QPC. I applaud the conferees for its action in deleting section 9111. In this effort, I was pleased to work with Mr. Thomas Larkin, general manager of QPC, and Jefferson County judge/executive David Armstrong and with the conferees in deleting section 9111 from the conference report.

Mr. Speaker, H.R. 5504 is a good bill, and it deserves our full support.

SALUTE TO ST. ANSELM'S ABBEY SCHOOL—A CELEBRATION OF 50 YEARS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Ms. NORTON. Mr. Speaker, St. Anselm's Abbey School, one of the Nation's best college preparatory schools, is celebrating its 50th anniversary. I feel especially proud that St. Anselm's, which serves young men in the Washington metropolitan area, is located in my district. At a time when we hear that our schools too often do not measure up, I ask the House to join me in saluting and congratulating a school that has the highest standards and record of excellence in academics, sports, and other extra curricular activities as well. As we search for model schools, we will find many in our midst. St. Anselm's is surely one of them.

In celebration of 50 years of excellence, I am pleased to offer this summary of St. Anselm's proud history.

ST. ANSELM'S ABBEY SCHOOL, WASHINGTON, DC, CELEBRATES 50TH ANNIVERSARY OF FOUNDING

St. Anselm's Abbey School is a small, Catholic, independent college preparatory school which has been in existence in the northeast section of Washington, D.C. since 1942, under the direction of English Benedictine monks. The academic program provides a genuinely liberal education with maximum intellectual challenges. Since its founding, the school has been firmly committed to a program of academic excellence, taught under the rule of St. Benedict and in the context of Judaeo-Christian moral values as demonstrated by the monks, faculty and staff in their everyday lives. Over the course of five decades, more than 1,000 young men have graduated from St. Anselm's and taken their places as government, business, civic and professional leaders in the District of Columbia, the United States and throughout the world.

In 1942, during the midst of World War II, seven Benedictine monks formed the faculty of what was then known as the Priory School, and admitted a 9th grade class of 18 young men. Rev. Austin McNamee, O.S.B. was named Headmaster. The school's facilities, in one wing of the monastery, were spartan and student activities were limited. Within two years a two-story addition was built to house a library, science laboratory and small recreation area. By 1955, with the enrollment increasing, a separate school building was constructed, providing classrooms and offices as well as an expanded library and a theatre. At the same time, 7th and 8th grade classes were added to the four-year program. The first lay teacher, John Barrett, a member of the Class of 1950, joined the faculty of monks. In 1974 a science wing was added to the school, and the final physical expansion occurred in 1987 when the school doubled in size with the addition of a new wing of classrooms, offices, enlarged computer lab, senior lounge and dining area. The school reached an all-time high enrollment of 215 students in the early 1980's, necessitating this expansion. In 1990 a 6th grade class was added and the school was reorganized into Middle and Upper levels.

When St. Anselm's Priory was elevated to an Abbey by Pope John XXIII in 1961, the school officially changed its name to St. Anselm's Abbey School. But physical expansion and a change of names did not diminish the original purpose of the school: small classes, intellectual challenges and the moral growth of the young men enrolled. During the past ten years, 63.6% of St. Anselm's graduates have been National Merit finalists or commended scholars, and the average SAT scores have been 624 Verbal and 652 Math, all of which place the school among the highest national rankings. There is a 100% acceptance rate at four-year colleges, many from the most prestigious in the country.

Intellectual challenges are combined with other school-related activities to develop the whole person. Its formal athletic program began in 1946 with Fr. Hugh Momonier, O.S.B. as Athletic Director and Bob Dwyer as head coach. Two sports, basketball and baseball, were introduced and remain the backbone of today's athletic program. In 1947 the first invitational Basketball Tournament started, using the newly constructed gymnasium. It continues as an annual tradition today, and is recognized as the oldest continuous high school invitational in the city, played in the oldest high school gym in the area! Baseball, soccer, tennis, wrestling and cross-country are other sports in which the students currently compete. The tennis team has won the Washington Metropolitan Independent Tennis League championship title most years since 1979. Students in grades six through ten also participate in weekly intramural team competitions in a variety of sports, and there are two annual three-mile races on the school's 40-acre campus.

Fr. Stephen Reid, O.S.B., one of the early faculty members, strongly believed that theater should be part of a liberal education, and in 1947 he formed a school drama group known as The Priory Players. Its first production was Shakespeare's *Julius Caesar*. From the beginning, the Players were an inter-school, co-ed group. Through the years young women from more than 20 area schools have participated in a variety of productions. An original play, co-authored by Fr. Reid and senior Michael; Murray, was produced in 1950. Always innovative, the authors staged it as a theater-in-the-round production, thus anticipating by a few months what was to become a popular art form in Washington, D.C. The Players' 100th production, *The Boy Friend*, was staged in 1991, in the restored and renamed Reid Theater.

Other extracurricular activities in which students can currently participate include It's Academic, the Latin Bowl, and Math Counts, which allow them to display knowledge in a variety of subjects; the Abbey Singers, International Film Club, and Theater Club, which offer various aspects of the arts; and a variety of publications including *The Priory Perspective* (yearbook), *The Priory Press* (news magazine) and *The Review* (literary and arts magazine). Student Government activities help to develop leadership potential through participation as a class officer, student council member, or on the student activity committee. The Newman Forensic Society, founded at the school in 1954, allows students to participate in bi-weekly debates. In keeping with the Benedictine tradition of constant academic and intellectual advancement, the Society debates internally on a variety of topics rather than confining itself to one topic which would be the consequence of joining an outside debate league.

St. Anselm's Saturdays, a program sponsored by the school and coordinated by the Parents' Association provides opportunities for the students to meet young women from area schools and offers social activities that are positive and rewarding. Sports, theater, dances and community service projects are planned for one Saturday each month for those in the Upper School. It is a fully chaperoned program and is staffed by volunteer parents, alumni and faculty.

Community service is another important aspect of the St. Anselm's picture. To expand their social awareness, juniors and seniors are required to spend one morning each week assisting in facilities such as nursing homes, day care centers and hospitals.

In the 1992–93 academic year, 183 students are enrolled at St. Anselm's in grade six through twelve. Thirty-one percent come from the District of Columbia, 58% from Maryland and 11% from Virginia. Minorities comprise 26% of the student body: 9% black, 8% Hispanic and 9% Asian; 23% receive financial aid, all based on need.

St. Anselm's is a challenging and demanding school. Since its inception the school has existed to challenge academically gifted boys in the Washington, D.C. area with a demanding and enriching curriculum. The goal is larger in scope, however, than simply having well-developed minds, leadership abilities and physically-fit bodies. St. Anselm's exists to develop the whole person with the hope that the students will grow into men whose lives will be both centered on learning and based on values of essential importance, men free to seek God, to learn, to be gentlemen, and to be gifts to their families, their school, their nation and ultimately to the world. May the past fifty years be a solid foundation on which St. Anselm's builds for the future.

TRIBUTE TO LT. COL. WILLIAM P. STROUD III

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. BONIOR. Mr. Speaker, it is with great pride that I rise today to pay tribute to William P. Stroud III, who retired on September 1, 1992, after 25 years of exemplary service in the U.S. Air Force.

Born at Langley Air Force Base in Virginia in 1945, it seemed only natural for Bill to follow in the footsteps of his father, Maj. William P. Stroud II, who was recently awarded the Pearl Harbor Medal, and enlist in the service.

Bill began his career in the military as a personnel officer in 1967 at Nellis Air Force Base in Nevada. After almost 2 years in this position, Bill enrolled in navigator school. Following a year of intense training, he served in Vietnam. While at Danang, Bill served as a weapons systems officer and flew 311 combat missions. He was often in harm's way as he logged 2,500 hours flight time. Upon completion of his tour of duty in Vietnam, Bill went on to become a flight commander of the F-4E at Torrejon Air Base in Spain from 1971 until 1976.

After returning stateside, Bill became instructor of his division of navigator bombardiers. In the midst of heavy command responsibilities, Bill still found the time to continue his education. In 1977 he earned his masters degree in public administration from the University of Oklahoma.

In 1981, Bill accepted a position as chief of the operations briefing division at Ramstein Air Base in Germany. After a brief stay in Germany, Bill was assigned to a joint United States military group in Madrid, Spain. Concluding his stay in Spain, Bill's military career came full circle when he traveled back to Langley Air Force Base to become deputy director of operations.

Mr. Speaker, it is an honor to rise before you today to pay tribute to a man who has unfailingly served his country for the past 25 years. I ask that my colleagues join me in saluting a man who has fought to preserve freedom and democracy throughout the world. I am delighted to extend to Lt. Col. William P. Stroud III and his wife Jan, my best wishes in all their future endeavors.

CONFERENCE REPORT ON FISCAL YEAR 1993 DEFENSE APPROPRIATIONS

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MILLER of Ohio. Mr. Speaker, I want to take this opportunity to thank the members of both the Defense Appropriations Subcommittee and the full committee with whom I have had the honor of serving with over the years. I especially wish to extend my appreciation to Chairman WHITTEN and Chairman MURTHA, and to JOE MCDADE, our ranking member on both the full committee and the Defense Subcommittee

When I came to Congress in 1967, the cold war was at its height: The United States had troops committed overseas in Vietnam, we were engaged in an arms race with the Soviet Union, and the following year we saw the red army crush a reform movement in Czechoslovakia. I believe the end of the cold war has been the most significant development that has occurred during the time I have served here in Congress. The Defense Appropriations Committee oversaw the defense buildup during the 1980's that was a crucial factor in demonstrating the strength of democracy and a free enterprise economy, and in speeding the demise of communism around the world.

Now we are faced with the task of bringing down defense spending in a manner that responds to the changing international environment but also recognizing that there will be remaining threats to our Nation requiring maintaining capable defense forces. This task is made more difficult as other domestic programs look to the defense budget as a ready supply of cash to offset the pressure of limited budgetary resources. This conference report on the fiscal year 1993 defense appropriations bill is a good product which balances these concerns, and I believe it should have the support of the House. We continue to reduce the size of our Armed Forces and overall defense spending will decline in fiscal year 1993 by $17 billion.

As the size of the defense budget declines, we have come to appreciate how defense spending impacts domestic manufacturers and employment. Funds in the bill are dedicated to defense conversion to aid the transition of the defense industry. There are numerous examples of programs supported in this bill that have dual uses for both military and domestic purposes.

One in which I have a strong interest is the effort to develop improved batteries that will be more efficient, have a longer life, and will weigh less than the current lead-acid battery we have relied upon since the days of Henry Ford. I am pleased to note that this bill includes increases in funding for battery research which I have advocated.

Again, let me say it has been a privilege to be a member of the Appropriations Committee. I have at times voted against appropriations bills and worked to cut spending in the bills reported by the committee. In doing so, it was not without respect for the hard work and dedication of the members of the committee, but out of a deep conviction that more must be done to reduce what the Government spends. It is a disappointment to me that I leave at a time of record deficits and I wish my colleagues greater success in addressing this difficult problem.

REPRESENTATIVE DORGAN ADDRESSES HOUSE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, today marks my last day here in the U.S. House of Representatives, and I want to take just a minute to tell my colleagues how much I have enjoyed the opportunity to serve with them.

This House is, and has always been, a near perfect mirror of those who sent us here. It has been populated by 11,239 interesting men and women; some colorful; some colorless; some loud; some quiet. Some modest; some not so modest. In fact, Mr. Speaker, the king of the braggers in the U.S. Congress was Davy Crocket, who, before he was killed at the Alamo, and long before Walt Disney introduced him to a new generation of Americans, was a Member of Congress.

Davy Crocket once described himself on the floor of the U.S. House this way:

> In one word, I'm a screamer, and I've got the prettiest sister, the surest rifle, and the ugliest dog in the district. My father can whip any man in Kentucky, and I can lick my father. I can out speak any man on this floor and give him 2 hours start. I can out look a panther and out stare a flash of lightning. I can walk like an ox, run like a fox, swim like an eel, fight like the devil, spout like an earthquake, and swallow a bear whole without choking if you butter his head and pin his ears back.

Times have changed over the years. And, no one will quote anything I've said on this floor that has the color of the words of Davy Crocket.

But, I have been proud to contribute in my own way to the debate about the public crisis of the day.

As most of you know, I represent a delegation of one. North Dakota has only one voice in this Chamber. I have been privileged to speak and vote here in the U.S. House on behalf of the people of North Dakota for 12 years. On November 3, I am seeking a seat in the U.S. Senate, and so at the beginning of next year I will either be serving on the other side of the Capitol building, or I will be in the private sector. In either case, I wanted to say a couple of words to my colleagues before I depart the House of Representatives.

When I came here, I was enormously proud to have been chosen to serve in this body. Honored by the trust the people of North Dakota had in me, but proud to come here and enter this Chamber and begin to participate in the democratic decisions of this country. The men and women with whom I have served during these 12 years have been the most dedicated, hard working, honest men and women that I know anywhere. Republicans and Democrats alike, give of themselves, work harder than anyone knows, trying to do the best they know how for their country. That's what I'll remember about my experience here in the U.S. House.

As proud as I've been to serve here during these past 12 years, I must also comment that I have been saddened to watch, especially in recent years, a group of people come to this Chamber whose goal has been to destroy its reputation, to destroy its credibility. The antics on the floor of this House, and language on the floor of this House have been disappointing to me. But the House will survive those individuals. Over time, I think the people of this country still understand that the people serving here are good people trying to do their very best, because they care about this country.

We face enormous challenges in the years ahead. I think we not only must expect more and better from our Government, but also each of us must make a greater commitment individually to help our country. This is not a vending machine for democracy where the effort is no greater than putting in some money and pulling the lever. And it's not a passive consumer model where we go in and shop for what we want. This is a participatory democracy, it's only as good as the people's involvement in it. And all of us must do better.

There have been times, Mr. Speaker, during my tenure here when I've had harsh words for other Members, and I have felt strongly and fought vigorously with other Members about various issues. But as I leave, I want all Members to understand what an enormous amount of respect I have for this legislative body and for each and every one of you who serve in it. I wish all of you well.

A TRIBUTE TO LARRY CONDIT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mrs. ROUKEMA. Mr. Speaker, the Boy Scouts of America are a unique organization. When most think of the Boy Scouts, the image that immediately comes to mind is the young man dressed in his khaki uniform, escorting the elderly woman across the street. While I'm sure no Scout would pass up that chance to lend a helping hand, for Larry Condit and Morris-Sussex Council of the Boy Scouts of America, Scouting has meant so much more. It is for that reason that tonight the Morris-Sussex Council of the Boy Scouts of America will gather on October 14, 1992, to recognize Larry Condit as the Distinguished Citizen for 1992.

The Distinguished Citizen Award is presented to an individual who has been extremely supportive of Scouting through his good works in his community and who has distinguished himself in his life work. Few meet these criteria as fully as Larry Condit. Few more perfectly fit the definition of role model for young Americans. His career as a successful leader of the business community mirrors his dedication to our youth and the quality of life in New Jersey.

A long time resident of New Jersey, Larry began his association with Scouting as a Cub Scout in Newton, N.J. He joined Boy Scouting and advanced to the rank of first class scout. During this time his grandfather and father were both active members of the Morris-Sussex Council. Larry and his lovely wife, Mary Anne have three children, Darrin, Monica, and Luke. Darrin was a Scout and Luke is about to begin his trail to eagle scout.

Mr. Condit graduated from Newton High School and attended Northwood Institute in Midland, Mi. There he earned his B.A. in business management and an associate degree in automotive marketing. Mr. Condit's company, Condit Ford, is the culmination of hard work and perseverance.

A leader in his field, he is the past president of the Sussex County Auto Dealers Association. He is a past regional vice president, New Jersey Auto Dealers Association and past trustee of the New Jersey Auto Dealers Association.

Mr. Condit has served the Morris-Sussex Council of the Boy Scouts of America for 14 years. Through his efforts, hundreds of thousands of dollars have been raised to ensure Scouting's continuation and growth in Morris and Sussex County. Always willing to go the extra mile, Larry Condit's leadership brings strength and fortitude to the Morris-Sussex Council of the Boy Scouts of America. His enthusiasm, respect for his fellow man, and creative ideas have led the youth of Morris and Sussex Counties to great heights.

Finally, Mr. Speaker, Larry Condit has not forgotten the Scout lessons of community and to help other people at all times. In that effort, Mr. Condit is president of Condit Charities, Inc. and serves on the executive board of the Branchville Businessmen's Association. He is a director of the National Bank of Sussex County and a member of the Ford Consumer Appeals Board. In addition, Larry Condit is vice chairman of the North Jersey Health Care Foundation, vice president of the North Jersey Health Care Ventures, treasurer of the Newton Rotary Club and vice chairman of the High Point Financial Corp.

Mr. Speaker, Scouting brings boys of common interest together and provides a camaraderie that builds friendships and nurtures character. I can think of few who are better role models for our youths than Larry Condit. That is why I urge my colleagues in the U.S. House of Representatives to join with the Morris-Sussex Council of the Boy Scouts of America and me in congratulating Larry Condit as he receives the award for the Distinguished Citizen of 1992.

FAMILY VALUES, STATELESSNESS, AND THE HUMAN RIGHTS OF AMERICAN CHILDREN BORN ABROAD

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ALEXANDER. Mr. Speaker, today I introduced a bill to amend section 301 of the Immigration and Naturalization Act.

The following is an explanation of the bill:

AN EXPLANATION OF THE PROPOSED AMENDMENTS TO SECTION 301

Section 2: In the new preamble, inclusion of the words "natural born" makes the language conform to the first Immigration and Nationality Act of 1791 and removes the present ambiguity concerning the Constitutional eligibility of American children born abroad to run for the office of President of the United States.

Section 3 and 4: The amendments proposed for subsections (a) and (b) would include persons born in outlying possessions as U.S. citizens. In view of the amendments proposed for the other subsections of Section 301, this provision is logical and fair.

Section 5: The amendment proposed for subsection (f) would provide for more relaxed requirements for foundlings. The present law provides for the loss of citizenship of a foundling if before the age of 21 years it can be proved that he or she was born abroad. The proposed amendment reduces the age before which loss of citizenship can occur to six years (thereby giving a minimum of one year and a maximum of six years from the time of finding for proof of birth abroad to be brought if citizenship was not desired for the foundling).

Section 6: The amendments proposed for subsection (g) correct a number of difficulties in the present law and essentially return to the principles that were involved during the period 1791 to 1940 for fathers and from 1934 to 1940 for mothers. According to this proposed amendment, any child born abroad to a U.S. citizen father or mother would automatically acquire U.S. citizenship at birth without any prior residence requirement in the United States.

This is the major revision in the law that is proposed by this bill. It is the only simple way to resolve the many ambiguous situations that now arise. It is also the only way to fulfill the promise that all children at birth have the right to a name and a nationality.

Section 7: In view of the fundamental revision and immense simplification brought on by the amendments proposed by this bill, the situations addressed by old subsections (c), (d), and (e) no longer require special attention. The remaining old sections would be renumbered accordingly.

Section 8: This new subsection (e) would make all of the amended Section 301 retroactive back to 24 May 1934, the date on which American citizen mothers were first granted the right to transmit U.S. citizenship to children born abroad. This would enable individuals who had been denied U.S. citizenship under the old law to claim their U.S. citizenship provided they were born after 24 May 1934.

Also I include an essay by Andrew P. Sundberg in support proposition:

FAMILY VALUES, STATELESSNESS, AND THE HUMAN RIGHTS OF AMERICAN CHILDREN BORN ABROAD

(By Andrew P. Sundberg)

If a country is judged by how equitably it promotes the human rights of all of its children, there should be many red faces in Washington. Aware that today some American children are being born stateless, and many more are denied the right to automatically share the nationality of a U.S. citizen parent at birth, the Overseas Democratic Leadership Council proposes a change in U.S. law to address this problem and given every individual American parent the same right to transmit U.S. citizenship to a child at birth, no matter where on earth such a birth may occur. The legislative language which will accomplish this is enclosed in Annex I. We ask for your support to help bring about the prompt enactment of this proposed reform.

Each year, 40,000 children are born overseas to a U.S. citizen parent. Of these 90% acquire U.S. citizenship at birth while 10% do not. Since the right to a nationality at birth is the most fundamental human right of all, as it opens the door to membership in our society and all of other rights that derive therefrom, it is obvious that 4,000 children each year are getting short rations. They suffer this human rights infirmity because they belong to the cultural minority of U.S. citizens, who live abroad and create families abroad, which has been singled out for arbitrary and capricious human rights treatment. The Overseas DLC find this discrimination unacceptable and in urgent need of redress.

Several UN human rights instruments, which were inspired by and drafted with major inputs from the United States, give detailed descriptions of the various categories of human rights that all individuals are supposed to share, without discrimination of any kind.[1]

Despite careful drafting, these documents contain a major lacuna. What is still lacking is a clear definition of which government is supposed to assume the responsibility for its citizens who live away from home. Should it be the country of origin, the foreign host country, or perhaps even both? The U.S. Government could have taken the initiative to show that human rights are far too precious to be left vulnerable to such ambiguity, particularly when it affects the status of American children and leads some of them to be born stateless. Surprisingly, the U.S. Government still stubbornly refuses to be responsible for fulfilling the guarantees, contained in the various UN instruments which it in fact helped draft, that at birth every child has the right to a name and a nationality.

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[1] See Annex II for the promises to parents and children contained in two UN Human rights instruments.

In most countries, the right to acquire citizenship and nationality at birth is based upon one of two distinct legal traditions. The first is "jus soli", a concept that is commonly used in Anglo-Saxon countries including Britain and the United States. The second is "jus sanguinis", a concept which dates at least to Roman times and is prevalent in most of the other countries of the world.

Under "jus sanguinis", the nexus that is recognized by citizenship legislation is the link between the parent and the child. A birth brings an automatic continuity of the citizenship of the parent to the child by virtue of this blood (sanguine) tie. Births that take place outside of the country of origin need not create any legal problem in the continuity of citizenship of such a family. No principle, other than "jus sanguinis", needs to be invoked for human rights to be transmitted equally and ubiquitously, unless, of course, a government chooses to endow only expatriates of one sex with this "jus sanguinis" right. Children born to aliens in "jus sanguinis" countries usually do not acquire any rights to local citizenship by births in these countries. They can be stateless if their parents come from countries that do not allow citizenship to be transmitted to children born abroad.

The situation is different in "jus soli" countries. Here, the nexus recognized by the law is that between the child and the location of birth. This geographic tie qualifies any child to automatically receive such a country's citizenship, usually irrespective of the citizenship or nationality of the parent at the time of birth. Countries with a "jus soli" tradition, and a soft heart, can invoke "jus sanguinis" rules or creative "jus soli" artifices to enable their expatriate parents to transmit citizenship to children born abroad. "Jus soli" countries with a hard heart can and do enact laws in such a way that when some or all of their citizens have children abroad these children do not acquire the nationality and citizenship of their parents, and can quite easily find themselves stateless at birth.

The inconvenience of establishing citizenship law exclusively on the basis of "jus soli" was acknowledged by the English royal family as early as the fourteenth century. King Edward III in November 1365 wrote to his daughter Isabella, who was expecting a child, promising her that all children male or female born to her in France would be capable of inheriting lands in England and considered "as fully naturalized as though they were born in the realm".

The founding fathers of the United States were also of the view that there needed to be some "jus sanguinis" water in the wine of "jus soli" citizenship legislation. It was obvious already in the late eighteenth century that an important number of U.S. citizens were going to be living and founding families outside of the United States. To protect the human rights of children and promote the integrity of families in such circumstances, the First Congress in 1791 decided that U.S. citizenship would be automatically granted at birth to any child born abroad to a U.S. citizen father provided only that the father previously had "ever had a residence" in the United States. This simple qualification for a U.S. citizen father to transmit citizenship to a child born abroad remained a part of U.S. law for the following 150 years, and was subsequently extended to U.S. citizen mothers in 1934.

In 1940, however, overseas Americans got whacked. A new law established a much more draconian requirement of many years of prior physical presence in the United States before American parents married to aliens could transmit citizenship to their children born abroad. With this change, the United States actually took away a basic family-building human right that its citizens had previously enjoyed for 150 years, and many American children started finding themselves stateless. While Congress has fiddled with this law on several occasions, its fundamental flaws remain manifestly evident.

Why any government, and particularly that of the United States, imposes such a dilemma on some of its citizens and their children abroad, and thereby creates "human rights orphans" overseas, goes to the heart of what "family values" really means. As we shall see, it also raises the interesting question of whether the U.S. Government feels that some American families are more valuable than others.

This whimsical law treats overseas Americans neither uniformly nor equally. Acquisition of human rights now depends upon the particular subset of the overseas community to which an overseas citizen belongs, and can involve some curious calculus. For example, if an overseas American works for the U.S. Government, or for an international organization whose name has been inscribed on a special list, any time spent abroad by this person or by any member of this person's household counts as if this individual were still living in the United States to meet the prior physical presence requirements for citizenship transmission abroad. Their U.S. citizen neighbors living and working in the private sector abroad are denied this same privilege. Human rights accrue differently depending on whether or not you work for the "right" employer.

Another peculiarity of this law is that the right to transmit citizenship to a child at birth is not given to citizens as individuals but allocated to them according to their choice of spouse, or marital status. Thus, in a further effort to define those who are supposed to sit at the very back of the human rights bus, the law makes it five times easier for a child born abroad to an unwed U.S. citizen mother to acquire U.S. citizenship at birth than it is for a child born to the same mother if she had chosen to marry the alien spouse before the child was born. What exactly is the message here?

U.S. citizen parents who now must choose between marrying and thereby having stateless children, or avoiding marriage and thereby ensuring that a child will have a nationality at birth, have some options, of course. One is to get divorced before the birth of every child abroad to ensure that each child will have a nationality at birth, and then to remarry after each birth to rebuild the family unit. Another option is to get on an airplane before each birth and return to the United States to qualify under the "jus soli" rules. Citizenship for a child comes automatically for any expectant mother who gives birth in the United States, no matter what her marital status, nationality or attitude toward the United States may be. Exactly what is accomplished by making citizenship acquisition so difficult at birth abroad while so easy at home is unclear. It does suggest that "family values" perhaps have a special geographic relevance and then somehow expire at the water's edge.

These examples show that no matter how exemplary the overall human rights record of the United States might be there are still inequities that need to be addressed. Discrimination against one large cultural minority (the 3 million U.S. citizens living abroad) has crept into and festers in the penumbra of recondite arcana of the law. Overseas Americans have tried to expose this human rights eyesore for a long time and still await appropriate redress, albeit with increasing impatience.

The Overseas DLC believes it is improper for the United States to inhibit the human rights of any of its citizens because the Government disapproves of their choice of domicile, or employer, or spouse or indeed because the government prefers a citizen to remain a single parent rather than marry an alien. Frankly, this is none of the government's business.

The change proposed by the Overseas DLC would make U.S. law manifest equal respect for the human rights of all American children, without discrimination, and reinforce rather than threaten the sacred and intimate ties that bind a child to a parent. Help us achieve this noble objective.

THE IMPORTANCE OF A NATIONAL ENERGY POLICY

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. LEHMAN of California. Mr. Speaker, I want to commend the chairmen of the committees on which I serve, Mr. MILLER, Mr. DINGELL, and Mr. SHARP, for their insatiable pursuit of meaningful, progressive, and comprehensive energy policy. Having played a role in its genesis, I am pleased to see it nearing signature into law.

It is important that we realize our country's most important resource is its ability to overcome obstacles. In order to protect our environment, protect our national security, conserve our dwindling natural resources, and improve our competitive edge, we must have a comprehensive policy that helps the Nation enhance quality of life by focusing its efforts on crafting a more efficient society. We have entered the age of the environment, largely because citizens of this country have become sensitized to the impacts our lifestyles can inflict upon the Nation and the Earth's fragile ecosystem. However, we are also suffering the ills of an interminable recession, an experience that only underscores the dire need for policy that will dramatically improve the efficiency with which the country utilizes its natural resources and produces its goods.

Without any specific or comprehensive energy policy, established government regulations in combination with our free market system, dictate how we produce, distribute and use energy in this country. Our resolve to craft comprehensive energy policy was galvanized by the incursion in the Middle East some 2 years ago. The struggle forcefully punctuated the reality that energy resources themselves are unavoidably linked to our Nation and the world's security. In quieting Saddam Hussein, we realized the limits of our control over a resource as precious as oil and, demonstrated by thousands of burning oil wells, our inability to completely safeguard the environment by limiting just our own excesses.

When we recognize the incredible importance of petroleum to our Nation's economic and political integrity, we acknowledge our vulnerability. This factor underlines the Nation's need to construct a rational and balanced energy policy. The Bush administration had the perfect opportunity to lead the country in a positive direction, but squandered the opportunity. Unlike our Nation's courageous battle with Iraqi troops, our Nation's administration failed to engage in a battle to protect this Nation's flanks with worthwhile energy policy.

Long suffering at a competitive disadvantage with other developed nations and from a needlessly polluted environment, this Nation needs an aggressive energy efficiency policy. The title on energy efficiency we developed in committee will start us on this valuable path, and help us follow the lead of States like California. I feel proud to be from a State like California that is considered one of the Nation's leaders with respect to progressive, forward thinking sustainable energy proposals. I cosponsored Mr. MARKEY's H.R. 2451, which became a basis for the energy efficiency title and I applaud Mr. MARKEY and Mr. SHARP's efforts to dramatically improve the Nation's energy efficiency.

Among the engines that drive this country's growth, electricity efficiency is of paramount importance to a competitive economy and cleaner environment. In the electricity title, we have developed a progressive alternative to the current framework of the Nation's electricity system; and, we discard an arcane 57-year-old constraint on utility holding companies with major reforms of the Public Utility Holding Company Act [PUHCA]. We have also embarked on an effort to move away from a system in which regulated monopolies are the only real players in the electricity market. The transmission access portions of the electricity title create a new generation of independent power producers and encourage competition in the electricity market like that which has not existed in this country.

I have been actively involved in developing the electricity title, in large part because I want to ensure that the changes we make will not detriment existing electricity consumers. As I emphasized in the Energy and Commerce Committee, protection of a utility's native load is essential, and I vowed then to ensure that large customers around whom major parts of utility networks were planned would not be allowed to pick up, leave the system, leave the utility's remaining customers to bear a much larger share of the system's costs. It is for this reason that I developed a compromise with Chairman DINGELL to provide a total ban on retail wheeling of electricity through the Federal Power Act. This ban remains in the bill and ensures that large electricity customers are not cherry-picked from a utility's service area by an independent power producer, leaving the utility and its mostly residential and commercial captive customers with higher prices for their electricity.

Yet I want to be clear, I believe we must also guard against so called sham transactions, entities developed to purchase power supposedly at wholesale and resell power to a utility's retail customers.

I am also happy that the bill includes additional protection for a utility's native load, its own residential, commercial and industrial customers, in the form of assurances that an owner of transmission lines will be reasonably compensated for use of these lines. It is very important that a utility's own customers are held harmless in terms of price and service reliability and I believe with the vigilance of the FERC, this bill will accomplish that end.

Finally, because I believe it is imperative that the country wean itself from dependence on petroleum and the Nation's that produce this resources, I strongly support the alternative fuels title in this bill which, along with last years Clean Air Act, will help our Nation's transportation system meet the needs of the 21st century and improve the environment. But, we must scratch the veneer of issues that are billed as environmentally friendly to be certain they are truly good for the environment.

I have an avid interest in the development of hydroelectric projects on Federal lands as much of my district is composed of Federal forest. With its abundance of free-flowing rivers, these issues are of special importance to California. Two of the hydro provisions in this bill are variations on bills I authored during the 100th Congress. These bills dealt with: First, the Forest Service's responsibility in granting rights-of-way for hydroelectric projects on Federal lands, and second, prohibiting the construction of dams in national parks.

My active interest in the development of hydroelectric projects on Federal lands comes from having battled numerous marginally economically viable projects on streams that flow through the Sierra Nevada Mountains in my district. Specifically, a proposal that first passed the Interior Committee in 1988 amends the Federal Land Policy Management Act [FLPMA] to clarify that the Bureau of Land Management and Forest Service are responsible for issuing and conditioning any rights-of-way related to hydroelectric power projects involving public or National Forest lands. Unfortunately, conferees softened the requirement that plans which accommodate active public participation, and consideration of natural resources, those from the Federal land management agencies, would not take precedence over those of the FERC. I hope that we will revisit this issue in the future. The FERC's licenses must be subject to the terms and conditions established by the land managing agency of jurisdiction. There should be no confusion where there has been confusion in the past; namely, on what agency is to have lead responsibility in cases involving lands managed by more than one agency.

The other proposal specifically prohibit the construction of dams in the National Park System; there are three parks located in my district. This provision is similar to bill that passed the House in 1987 to prohibit any new dams that would be located on or that would flood lands within the National Park System, except National Park Service projects necessary for park purposes.

Both of these provisions are essential to establishing criteria that will adequately check the proliferation of small hydroelectric projects on streams such as those located in the mountains of California. The Public Utility Regulatory Policy Act [PURPA] of 1987 created special incentives for the development of renewable energy resources; in some cases, I believe the act successfully accomplished its end, with little disturbance to environmental resources.

However, in the case of small hydro, I am afraid the act created a breed of entrepreneur with a penchant for ruining the environmental integrity of flourishing riparian ecosystems, and helped develop destructive precedents within certain Federal agencies, such that projects were not adequately analyzed in terms of their effects on recreation, cultural resources and community support. The process to license these projects has inadequately incorporated the concerns of the community in which the project would be built. California's pristine beauty must be protected.

As I stated earlier, in consideration of this energy policy I think it is important that we realize our country's most important resource is its ability to overcome obstacles. In order to protect our environment, protect our national security, conserve our dwindling natural resources and improve our competitive edge, we must have a comprehensive policy that helps the Nation enhance quality of life by focusing its energy on crafting on a more efficient society.

If guided by this Congress and the White House, the Nation will rise to challenges we now and will continue to have before us. Only with these thoughts in mind, could we have drafted a truly coherent energy policy that will successfully succeed us for generations to come. As is said in an old Iroquois proverb, "We must protect this generation as if we are protecting the next seven generations to follow." I commend all who were involved in bringing this bill into law.

TRIBUTE TO GRACE SEIFERT, LEHIGH VALLEY, PA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to Grace Seifert, a constituent, who has been selected by the Traffic Club of the Lehigh Valley to receive their annual President's Award, for her dedication and service to the transportation industry in the Lehigh Valley, PA.

The Traffic Club was first organized in 1934 for the purpose of promoting the transportation business, strengthen communications within the overall industry, and to educate the public. The current president, Frank Kutish, developed a "President's Award" as recognition for those individuals making significant contributions toward the club's goals.

Grace Seifert is one of those individuals. She recently retired from the James River Dixie Products Co. in Easton, PA, where she worked for over 50 years, chiefly in the transportation department. Grace had many obstacles to overcome working in a predominantly male-oriented industry. In 1951, she founded the local Easton chapter of the Delta Nu Alpha Transportation Fraternity and later that year, she became the first female member of the all male organization by registering as Pete Seifert. Today, there are thousands of female members throughout the United States and Canada in the fraternity. Grace served as a delegate and in 1972, she served as president. She also became the first female member of the Traffic Club. In 1976, she became the first woman to receive the Delta Nu Alpha National "Man of the Year" Award.

Grace served on every committee of the Traffic Club, was director for 3 years, then served as second and first vice president and was named president in 1987. She was the first female president.

Mr. Speaker, please join my colleagues and I in heartfelt congratulations on receiving the Traffic Club's President Award. Grace is an outstanding citizen of the Lehigh Valley, who has volunteered much of her time and energy to the transportation industry. The community has benefited greatly from her countless efforts and her knowledge of the business. On behalf of the people of the 15th Congressional District, I express gratitude to her. There is not an individual more deserving of this prestigious award than our own, Grace Seifert.

HONORING TEMPLE JUDEA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I acknowledge today the 40th anniversary of Temple Judea, a spiritual, social and communal center located in the Pelham Parkway community.

For four decades, Temple Judea has been a leading member of the Union of American Hebrew Congress, the reform wing of Judaism. The rich traditions of the Jewish faith have been kept alive by its members, who have also contributed greatly to the communities in which they live.

I commend Rabbi Donald Milrod and the honorees at Temple Judea's anniversary luncheon for giving so much of their time and energy to benefit their neighbors and friends. Their faith is a shining example to us all.

CLARIFICATION OF AMENDMENT 296 IN DEFENSE APPROPRIATIONS CONFERENCE REPORT

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MURTHA. Mr. Speaker, amendment numbered 296 of the conference report on H.R. 5504 (H. Rept. 102–1015) includes section 9168 which enacts S. 2681, relating to native Hawaiian health care, and for other purposes, as passed by the Senate. The amendment incorrectly states the date of passage by the Senate as September 12, 1992. The correct date of passage by the Senate is August 7, 1992. That is the date that should have been stated in the amendment.

CONCERNING GAS IMPORT PROVISIONS IN H.R. 776, THE ENERGY POLICY ACT OF 1992

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1992

Mr. MARKEY. Mr. Speaker, this legislation includes important new statutory assurances that U.S. regulators will not discriminate against imported natural gas. These assurances are critical for maintaining fair competition and thereby protecting the interests of natural gas consumers throughout the United States.

The conference adopted three critical new provisions on imported natural gas. Most importantly, new section 3(b)(2) of the Natural Gas Act provides that the Federal Energy Regulatory Commission may not discriminate against, or give any preference to, natural gas on the basis of its place of production. In short, this language bars regulators from treating natural gas from foreign sources any differently than natural gas from domestic sources.

In addition, section 3(b)(1) of the Natural Gas Act is amended to provide that imported gas, like domestic decontrolled gas, would not be subject to FERC price regulation. Finally, the third provision deems imports of natural gas to be consistent with the public interest, and thereby eliminates the potential anticompetitive disadvantage resulting from cumbersome regulatory approvals of natural gas imports.

These provisions are critical for U.S. consumers. They ensure that U.S. regulators will not discriminate against imported gas in ways that would unfairly and artificially drive up its price. Many United States consumers receive some part of their natural gas from foreign sources, usually in Canada. Moreover, fair competition from Canadian producers results in a competitive gas market throughout the United States, holding down natural gas prices paid by all consumers.

These important new gas consumer protections could not have been enacted without the able leadership of Chairman DINGELL, Subcommittee Chairman SHARP, and our ranking minority member, Mr. LENT, and Mr. MOORHEAD. I applaud each of them for their find work on this important issue.

In addition to being good consumer policy, these imported gas provisions are good environmental policy. Natural gas is an environmentally sound energy source, and keeping the natural gas market fully competitive will create the greatest opportunities for gas use, to the benefit of consumers and of the environment.